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SECOND SESSION

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Congressional Record

PROCEEDINGS AND DEBATES OF THE 101st CONGRESS, SECOND SESSION

SENATE—*Monday, October 1, 1990*

(Legislative day of Monday, September 10, 1990)

The Senate met at 3 p.m., on the expiration of the recess, and was called to order by the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

He hath shewed thee, O man, what is good; and what doth the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God.—Micah 6:8.

Mighty God, in whom is all authority and from whom authority is received, make Thy presence felt here and help us to be sensitive of our accountability to Thee. The decisions made in this Chamber reverberate throughout the Nation and the world, touching every State, county, and city, affecting millions of lives and unnumbered organizations with profound positive or negative impact. For many they determine destiny. Guide Your servants as they make the hard decisions, the unpopular decisions, decisions that will not pay off politically. Give them wisdom to distinguish between what is right and what is wrong and courage to do the right.

To the glory of God and the good of the people. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 1, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. LIEBERMAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the Senate majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, as I announced last night, there will be no rollcall votes today. It is our hope we can proceed to and complete action on the military construction appropriations bill. If any rollcall votes are required with respect to that measure, they will be scheduled for sometime during the day tomorrow.

At 2:15 p.m. tomorrow, the Senate will vote on the concurrent resolution relating to the Persian Gulf and the situation there. Immediately following that vote, or at approximately 2:30 p.m., the Senate will turn to the nomination of David Souter to be a Justice of the Supreme Court. There is no time limit with respect to that matter, and debate will continue as long as Senators wish to address the subject.

It is my hope and expectation, however, without wishing to prevent any Senator from speaking for as long as he or she wishes, to complete action on that nomination and vote on it tomorrow sometime prior to the close of business. I hope that proves to be possible.

Mr. President, I reserve the remainder of my leader time, and I an pleased now to yield to the distinguished Republican leader.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, th Republican leader is recognized.

Mr. DOLE. Mr. President, I woul say in response to the majority leader's statement, I see no problem wit that schedule, except we may hav some problem voting after 6 tomorrow I have one Member who has a rea problem after 6. Maybe that could b resolved between now and tomorrow.

Mr. MITCHELL. I will be pleased t do that. The only reason I had for attempting to get the vote tomorrow wa to accommodate the President and th nominee, Judge Souter. But if there i a problem on the Republican side, w would not have any objection to waiting until the following day.

Mr. DOLE. The problem may g away. But right now, it appears ther is one problem. I will let the majorit leader know.

Mr. MITCHELL. Certainly.

THE BUDGET

Mr. DOLE. Mr. President, let me indicate, as I did last evening, that w need to take a look at the budget package. I would also follow up by sayin we did meet, Republicans met today a 2, Republican Senators. About 31 or 3 of the 45 Republicans were able to b there. It is the first of what I assum to be a number of meetings.

I would say in a general way I wa optimistic and encouraged after th meeting. We had the OMB Director Mr. Darman there; the President' Chief of Staff, John Sununu; and Secretary of the Treasury, Nick Brady All three of these gentlemen were representing the President throughou these discussions on the budget.

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

In addition, the Republicans had myself; the Senator from New Mexico [Mr. DOMENICI]; the Senator from Texas [Mr. GRAMM]; the Senator from Oregon [Mr. HATFIELD]; and the Senator from Oregon [Mr. PACKWOOD] who were also there, and a good number of Senators who had different views on different parts of the package.

We are going to make a real effort to make certain everybody understands as much as we can of the package. There are a lot of details. I was there almost every minute, as was the majority leader, but there are probably some details we do not know about because people were off drafting some. We saw some we had not seen. Some may be surprised in what they do see. There have already been a couple of contradictions raised.

But overall, I wanted to report that we had a good meeting. We do have some differences. There are some who feel that we got less than we should have, some who are satisfied, and some who might have done it differently. But I think overall I can say with some assurance we are on the right track. We ought to be able to produce at least half the Republican Senators for a bipartisan vote in the next couple of weeks, hopefully.

It is still the hope of this Senator if we move quickly, as some of us hope we can do, there will be some chance, maybe, of adjourning by October 14; if not, very early the next week, rather than October 20.

We will have additional meetings and we will meet with my colleagues who were unable to be there today. We will have additional meetings for those who were in attendance. But all in all, it was a good effort.

I want to thank all those who attended, and hopefully we will be able to work together on both sides of the aisle to pass this very historic budget reduction package; $500 billion is a lot of money. It is not easy to put it together. I am certain everyone in America can find fault with parts of it, and maybe with justification. I do not foreclose that reality, either.

But based on the time we spent and the work that was done, in my view, it is a package that should be supported by an overwhelming majority of Republicans and Democrats in both the House and Senate.

THE BUDGET

Mr. MITCHELL. I thank the distinguished Republican leader for his comments and his report on his meeting with his colleagues.

I now report to him, and to all of our colleagues, on a similar meeting that Democratic Members of the Senate just had from 1 until 3, attended by a large majority of the Democratic Members of the Senate. Much of the meeting was devoted to an explanation of the package by the participants, each of whom deserves great credit: Senators BYRD, BENTSEN, SASSER, and FOWLER, and of course the same is true of our colleagues on the Republican side.

There was a spirited discussion. I think, not surprisingly, the comments were similar to those described by the Republican leader. Some expressed concern, indeed strong opposition to individual elements of the package. Some felt that we, the Democratic negotiators, had given away too much; not gotten enough in return. But overall I think it was a positive meeting and a constructive meeting.

While, understandably, most Senators, and appropriately most Senators, are taking the time to study the agreement in detail before making a decision because it is a very important responsibility. I am hopeful that we also will be able to achieve the necessary majority of votes to gain enactment of this package. It is something to which all of the leadership has committed itself and which I have been devoting virtually full time trying to accomplish on our side, as I know the distinguished Republican leader is as well.

Mr. President, we hope very much that when our colleagues review the agreement, when they get over their inevitable displeasure at one or more specific provisions, when they weigh it in the light of the national interest, the interest of our country, which is and must be foremost in every decision that we make as public officials and certainly in a decision of this magnitude, the need to improve our economic future and, most important, to bring interest rates down—to bring interest rates down will be the single most important act to encourage growth in the American economy—I hope that when our colleagues weigh all of this, they will see their way clear to support this agreement, notwithstanding understandable disagreement with some provisions.

I myself am deeply disappointed in some of the provisions and have said so publicly. I know the distinguished Republican leader feels the same way. We agreed on some; disagreed on others. He does not like the fact that some things are in it or that some things are not in it. I do not like the fact that some things are in it and the fact that some things are not in it. Overall, this is in the interest of our Nation, and that must ultimately guide our decisions in this body. I thank my colleague.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein not to exceed 5 minutes each, unless unanimous consent is obtained, and that the period for morning business extend until 3:45 p.m.

The ACTING PRESIDENT pro tempore. Hearing no objection, it is so ordered.

Who seeks recognition?

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, I ask unanimous consent to speak as if in morning business for 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CABLE TELEVISION CONSUMER PROTECTION ACT OF 1990

Mr. WIRTH. Thank you, Mr. President. I appreciate your recognition and courtesy and I appreciate the forbearance of the distinguished chairman of the Appropriations Subcommittee on Military Construction.

Mr. President, I wanted to spend a few minutes, if I might, addressing the current discussions over the Cable Television Consumer Protection Act of 1990. You will remember that on Friday the majority leader asked unanimous consent that the Senate proceed to consideration of the cable act and I objected. We had some significant discussion on Friday and everybody went away, I suppose, wondering where we were going from here. I thought it might be useful to talk about where we may be able to go from here, what is possible, and what I think the problems are.

Let me say, first of all, Mr. President, I have made very clear to the chairman of the committee and to the ranking Republican that I hope we can work this out and I hope that when we do work this out. I have also talked with the distinguished junior Senator from Tennessee [Mr. GORE] about working this out. And I hope after we do work it out we would find the White House willing to continue along.

It is my understanding also at this point that there are a number of people that the White House has asked to object to the legislation, or at least to threaten to do so. I hope, if we do get agreement here, that we will find the White House in agreement and not vetoing the bill, contrary to the intention statement Senator STEVENS placed in the RECORD on Friday.

So, having said that, I believe that this is an absolutely work-outable

problem, and I would like to describe what I think the issues are and the issue are not in the remaining time that I have.

First of all, there are two issues that are real in the bill and a number of issues that are not. The real issues upon which there is a consensus are, one, the rate issue and the fact that there have been some abuses in various cable franchises of the cost of basic services for cable television. That is one of the real issues and I think everybody agrees that that should be addressed in this legislation.

I agree with that. The committee agrees with that. The House has stronger provisions than the Senate provision on that subject; the House agrees with that. So I do not think there is any disagreement over the rate issue, the so-called rate-gouging issue.

The second issue that everybody agrees upon, as well, is an issue of service; a feeling that the cable industry, which has grown very rapidly, has not been as attentive to consumer service, service of its customers when they have problems; that when it gets cut off and the picture goes black or whatever, that the cable industry has not been as attentative to those services as it should have been.

I think that is also a legitimate issue, recognized, I might add, very significant by the cable industry which undertook not long ago a major national program to upgrade its consumer services, saying clearly to the world, we have not done as well as we should have and we are going to increase in this area.

Those two areas, Mr. President, one rate, and second, customer service, those two areas were the reason this bill came about to begin with. That is the foundation upon which this legislation rested. There were famous cases of abuse in South Carolina, and the distinguished chairman of the full committee talked about that.

We are familiar with the deeply, I suppose, insulting rate issues in the State of Hawaii that Senator INOUYE has spoken of so eloquently. The distinguished ranking Republican, Senator DANFORTH, has talked about problems in Jefferson City, MO. These are rate problems and customer service problems. And that is the reason we have this bill.

So the bill started in a relatively modest form to address those issues. But then if was seen by some as an opportunity to add a variety of other things on, and that is where the problem began.

There are a number of other industries who have become, I believe, very threatened by the cable industry; a number of other industries who have not liked the fact that the cable industry has grown very successfully, very rapidly, and is in fact one of the most successful and one of the few, I would say, I think continually successful industries in the United States of America today. There are a number of people who looked at this and they looked at the cable market shares, which has been going up. The percentage of households reached by cable, I believe, has gone beyond 50 percent. They see that happening—cable penetration of the market has gone up, and the other people's share of the viewer market has gone down.

Well, we all know in the economics of the capitalist system that market share is extraordinarily important. People want to have as great a market share as possible, and will spend a great deal of time and income attempting to increase their market share through one way or another—better marketing, better product. In this situation that we are seeing here, there are other industries trying to increases their market share by getting amendments passed on the Senate floor, amendments passed to the cable bill that will damage cable, decrease cable's market share and, therefore, increase their industry's piece of the pie. And that is what the second part of this legislation was all about, Mr. President.

It had absolutely nothing to do with the basic part of the cable bill; had absolutely nothing to with rate; had absolutely nothing to do with customer protection and customer service. It had all to do with the development of a variety of initiatives to attempt to take shots at an industry that was becoming increasingly successful.

Now as a sidebar here, Mr. President, if I sound like an apologist for the cable industry, in part I am and in part I am not. I think that they have abused some of the privilege they had on rates and abused some of the privilege they had on customer service. But I also believe this is an industry that has begun to reach its enormous promise.

The cable industry is the only industry, the only broadcaster, the only provider of video services that does anything, for example, about children's programming. The variety of programs on for children on cable television is not found on commercial television. It is not there in any way, shape or form.

This is an industry that ought to be very proud of its affirmative action agenda that is written into the law, the Cable Act of 1984. No other industry has as tough and aggressive a program for affirmative action. This is an industry that has lots of lease access and public access to the airwaves in the 1984 Cable Act.

This is an industry that has grown, has provided remarkable services like C-SPAN. If it were not for the advent and growth of the cable industry, would we all have been watching what
went on in Tiananmen Square las
year from China? Where was a lot o
the news that came this year relate
to Central and Eastern Europe an
the remarkable events that have bee
going on in the Persian Gulf? Much o
that information came back to u
through CNN. The American publi
watch the deliberations here; some
times it is good, most of the time i
probably is not. But they are watchin
the deliberations here through C
SPAN. Again services reaching th
promise of the cable industry.

So, in part, I believe that this indus
try has abused some of its privileg
and recognize that; in part, I believ
that they are beginning to reach th
promise of this industry.

Getting back to this legislation, Mr
President, what happened with thi
bill? The abuses that were the origina
target of the bill were rates and cus
tomer service. Added on top of tha
were these major attempts to tak
away part of the market share of cabl
television; organized efforts to go righ
back after this industry.

How did they go about doing it? Th
main way they went about doing i
were two provisions. One related to so
called volume discounts and one relat
ed to exclusivity. What does thi
mean? When the cable industry wa
growing, the general comment was
"How is cable going to fill up all o
these channels? Is cable going to b
initiating some of its own program
ming?"

During the 1970's and early 1980's
there was enormous pressure on th
cable industry to start doing origina
programming. There was enormou
pressure on the industry to not jus
rerun programs that had already bee
done, not just to be carrying the signa
from over-the-air broadcasters, but t
start to develop a lot of their own pro
gramming. And cable started to d
that.

Time, Inc. developed a whole pro
gram that they started to develop
Various cable services started to gro
up developing their own programming
investing a great deal of money in this
and then having that programmin
that the program developer goes ou
and sells to the distribution networ
and goes out and sells to the peopl
who are going to show that program
ming.

Let us imagine that we have, for pu
poses of the distinguished occupant o
the Chair, Virginia Programming A
sociates, and they invest a great dea
of money in developing a program
that is going to go out over cable tele
vision. Virginia Programming Assoc
ates has invested tens of millions o
dollars in the program.

They say what we will do now t
recoup our investment in this program
is to sell it to a variety of people wh
are going to carry that program o

cable systems. It is such a good program, what Virginia Programming Associates have done, that there is a lot of demand for that program out there. A lot of different systems would like to get this particular program. So Virginia Programming Associates makes an exclusive arrangement with the distributor out there—one system has that program. They will pay a little bit more for that exclusivity. Then that distribution system can go out and advertise to other people "Subscribe to them because they have this wonderful programming from Virginia Programming Associates." It is something that is done all the time.

Most network programming is done exactly the same way. Programmers do this all the time in the broadcast world. "Cheers," for example, or "The Cosby Show." Do you think when a programmer makes that he sells it to all the networks? Not at all. That programmer sells it to one of the networks and that network has an exclusive arrangement with the programmer and that program is sold only on ABC, on CBS, or on NBC. Cable programmers are no different. They are going to make an exclusive arrangement with a distribution system.

Mr. President, I ask unanimous consent to have a full statement related to exclusivity and how this is reinforced across the board in the Federal law printed in the Record.

The **PRESIDING OFFICER** (Mr. Robb). Without objection, it is so ordered.

(See exhibit 1.)

Mr. **WIRTH**. What the legislation was doing, Mr. President, was saying you can no longer have an exclusive arrangement of this sort; saying to the cable producer you can no longer have an exclusive arrangement with somebody who is distributing your programming. That does not make any sense.

If we take another local example, the Washington Post has an exclusive arrangement with David Broder to carry David Broder. What this would say is David Broder not only gets paid by the Washington Post but anything he writes can be carried by the Washington Times or anybody else as well, and it has to be. It says if a Denver Post reporter has a copyrighted story and that reporter has an exclusive arrangement with the Denver Post, that story cannot be carried exclusively by the Denver Post any more but would have to be carried by everybody else. Who has ever heard of such a thing?

The idea that somebody who creates a program cannot develop an exclusive arrangement with the person who distributes that program runs in the face of all the Federal law, all the precedents, and is flat wrong. That was in the proposed legislation and that had nothing to do with the basic rate issue and nothing to do with the basic issue of customer service. It was simply an attempt to go after an increasingly successful industry.

A second objectionable part of the legislation, Mr. President, relates to so-called volume discounts. If you, going back to Virginia Programming Associates, create a program and say I am going to sell it for x amount per customer out there, but then Colorado Distribution comes to Virginia Associates and says "We have 1 million customers, will you give us a lower rate, a better deal, a lower cost per consumer if we give you a customer base of 1 million consumers," what are you going to say? Of course. We do that all the time as well.

If you are a textile manufacturer in South Carolina and you are producing a volume of textiles and a retail outlet comes to you and says, "If we deliver to you such and such a market, will you give us a lower price because of mass distribution," you are going to say, "Of course."

If you, for example, are in the tour business and you are running tours to Hawaii and there is a group that comes to you and says, "We will take 365 people, fill up one 747 and go to Hawaii, will you give us a lower price on that 747 and give us a lower price in that hotel and those hotel rooms on Waikiki Beach," you as the tour director are going to say, "Of course we will."

Volume discounts are also part of what goes on in this country in terms of the distribution network: wholesaling to retailing. If somebody takes the responsibility of retailing on a mass scale out there, you let them take that responsibility, let them do the work for you, and you in turn give them a lower price for the product.

Take Ford automobiles, automobiles manufactured in the States of Missouri. That manufacturer gives to the wholesale distributor who is going to distribute a whole lot of automobiles a lower rate than the individual purchaser gets when he actually goes to that retailer in the end. That wholesaler distributor is going to take the risk and do a lot of that work.

The second objectionable feature of the legislation that was up on Friday was how it treated volume discounts. It said something that is absolutely within the mainstream of the way in which Americans do business all the time is now going to be precluded.

I do not understand why, when we get ourselves into this situation, attempting to limit exclusivity, limiting the ability to market through volume discounting, that we end up then coming in and calling that a major consumer issue. Tell me how many people in this institution, how many people in the Senate have gotten letters from their constituents saying, "I am not being given a fair opportunity to get an exclusive arrangement on a program into my cable system"?

The last time that occurred was when we had the discussion here on the floor with Senator Gore's amendment a couple of years ago on how people in backyard satellite dish areas were treated. We fixed that entirely by making sure that the rural electric associations were able to market that programming and also get volume discounts which they could get and then market it out to their consumers, and the cable industry was happy to do that, to have the rural electrification associations take the risk on distribution. In return for that, they got programming at a lower level.

Those are the two central issues that relate to my problems with this legislation.

This legislation was not a piece designed to just take care of rates. It did, and that is all right. The House provision was stronger and better. It was not just to take care of customer service. It did. The House provision was good; in fact, better. We should have accepted those, but build on top of this in a way that is endemic to the way legislative business gets done.

Somebody saw an opportunity, saw a vehicle, and tried to build on top of these other issues, the express purpose of which was to go after an industry that is growing in this country, an industry that has been one of the most successful industries in this country, one of the few that is maintaining its head above water and growing in increasing market share and, I might add, Mr. President, an industry that is a very important industry in the State of Colorado.

So it is for those reasons, Mr. President, that I objected when the motion to proceed came up on Friday and unanimous consent was requested.

To repeat, I hope that we can work this out.

I ask unanimous consent to proceed for 2 additional minutes, if I might, Mr. President?

The **PRESIDING OFFICER**. Is there objection? Without objection, the Senator is recognized for 2 additional minutes.

Mr. **WIRTH**. Mr. President, I hope that we can come to an agreement on the real issues, and I think we are in agreement with the rate issue and the customer service issue. There are a number of other outstanding issues, and I think those can be, for the most part, worked out.

There is language on exclusivity in the House bill that talks about when there is abuse of power by a monopoly power group, what happens? It is perfectly acceptable language on exclusivity. In the rare case that it has happened, let us take care of it. The House bill does so. Let us get rid of

this volume discount language and move on.

There is no reason why we cannot arrive at decent legislation that satisfies and meets the legitimate consumer interest, but does not do deep damage to one single industry at the expense of a variety of others who are circling around trying to limit the cable industry's market share, the cable industry's ability to grow and meet its enormous promise.

In summary, Mr. President, on Friday, I objected to the motion to proceed to S. 1880, the Cable Television Consumer Protection Act of 1990. I would like to reiterate that, as I said on Friday, I am not opposed to passing cable regulatory legislation that addresses rates and customer service, the consumer protection issues that we all agree need our attention.

On the contrary, I want to see legislation enacted that addresses these issues. Nevertheless, I have a number of concerns about several specific elements of the Senate bill. These include provisions related to program exclusivity, the authority of the FCC to address vertical and horizontal integration within the cable industry and ownership restrictions on direct broadcast satellites [DBS].

I would like to repeat my request to the sponsors of the legislation. Let us sit down and work these issues out. I think we can reach a compromise. We owe it to cable viewers to reach a compromise. We can and should pass an effective consumer protection bill. I would like to see such a bill and renew my offer to resolve the issues I have raised and pass legislation we all can support.

Some have said that, since the administration is opposed to any reregulation of the industry at this time, we should not spend time trying to reach an agreement that will only be vetoed when we send it to the President. I hope this is not the case. I encourage my colleagues on the other side of the aisle who want a bill to weigh in with the administration in support of the legislation. I have done so and I hope that we can produce a package that the President will sign. We have spent a great deal of time on legislation such as campaign finance reform, child care, and others despite a threatened veto. We should not use a possible veto as an excuse to abandon the cable bill.

If possible, one option that we should consider is to take the House bill from the desk, pass an amended version of that legislation and go to conference. The House bill addresses many of the same issues as the Senate in a more moderate manner. Although I do have concerns about some elements of the House bill as well, I would be willing to take up that proposal if we can obtain an agreement on the legislation and on the amendments that would be in order.

To sum up, I want to see legislation. I think we have an opportunity to pass needed legislation in this area. We should not squander this opportunity. Again, I would be pleased to sit down and discuss my concerrns with the sponsors of the proposal and try to reach an agreement.

I appreciate the forbearance of the President and the distinguished Senator from Minnesota.

I yield the floor.

Exhibit 1

COMPETITION IN THE VIDEO MARKETPLACE

Competition in the distribution of video programming generally occurs between media within a discrete geographic market. There can be little disagreement that CNN and Headline News compete directly with the broadcast networks' news operations; that Arts and Entertainment and the Discovery Channel compete against programming typically found on PBS; or that ESPN competes against sports programming carried by broadcasters. Furthermore, the cable industry has found it highly effective to compete against broadcasters by serving market segments ignored by television stations. Black Entertainment Television, Nickelodeon, children's programming networks, and Spanish-language networks allow cable operators to compete against local broadcasters by serving interests in the community which the latter have largely ignored or abandoned.

EXCLUSIVITY AND FEDERAL LAW

Product differentiation is the key to successful competition in the distribution of video programming. Exclusivity over product is usually the best means to protect diversity, which is why programmers want to determine how and by whom their products are to be exhibited. Federal law has long recognized that by protecting exclusivity rights to intellectual property, one enhances competition and provides for increased diversity of information and entertainment. Indeed, federal policy recognizes that disruption of these exclusive rights works against, not toward, competition.

For example, federal law does not mandate that a local movie theater or even a national chain of theaters is entitled to show any particular movie. It does not mandate that all television stations are entitled to network affiliation agreements, nor does it forbid a network-owned broadcast station from being programmed with the same network's "feed." It is recognized, for example, that NBC may license its wholly-owned and operated broadcast station in Washington, D.C. (WRC-TV) as the only distributor of NBC programming in the Washington area, to the exclusion of other aspiring NBC affiliates. Moreover, federal law does not permit a cable system to use its compulsory license to import network programming over the objection of a local affiliate of that network.

The federal government recently took steps to strengthen broadcasters' exclusive rights to programming. With the reinstatement of syndicated exclusivity for broadcasters earlier this year, federal law forbids cable from using its compulsory license to import programming from distant stations if a local station has the exclusive rights to a market for such programming. At the same time, the FCC broadened the network non-duplication rules by expanding the situations where local broadcast network affiliates can prevent carriage of distant broadcast network affiliates.

In the last Congress, the need to protec program exclusivity was recognized in th Satellite Home Viewer Act of 1988. That la extends a compulsory license to satellit carriers to make broadcast signals availabl to home satellite dish owners. Congress r stricted that license, however, so that hom dish owners may not receive network pr gramming via satellite if they have access t a terrestrial broadcast affiliate of that ne work.

The **PRESIDING OFFICER**. Th Senator from Minnesota [Mr. Bosc witz].

Mr. **BOSCHWITZ**. Mr. President, ask unanimous consent that I be a lowed to proceed as in morning bus ness for a period not to exceed 8 mi utes.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

JUDGE SOUTER

Mr. **BOSCHWITZ**. Mr. President, rise to state that I will vote for Judg David Souter as the Associate Justic of the Supreme Court. The Senate J diciary Committee almost unanimou ly approved Judge Souter's nomin tion, and I commend them for that.

Judge Souter's intellectual qualiti are unquestionable. He is a magn cum laude graduate from Harvard Co lege, a Rhodes scholar, and a graduat of Harvard Law School. His profe sional qualifications are equally i pressive. He succeeded our colleagu Senator Rudman, as New Hampshi attorney general. That certainly is a intellectual challenge, to succeed Se ator Rudman.

While his tenure on the First Circu Court of Appeals has not been a lo one, he did serve for 7 years on th New Hampshire Supreme Court.

So I look forward to voting for hi I believe his confirmation should through this body speedily, and I a pleased to announce my support f Judge Souter at this time.

GLOBAL TRADE NEGOTIATION

Mr. **BOSCHWITZ**. Mr. President, would like to point out that the glob trade negotiations are running in tough days. I see an article in the W Street Journal from the 25th of Se tember saying that Carla Hills, o Trade Representative, suggests th they may, indeed, collapse. Th would certainly be an unfortunate c currence.

I agree with Ms. Hills that should, indeed, move forward and th the Europeans need to, in some wa moderate what they are doing on th world market.

In another article on the 26th September, it is noted in the W Street Journal that the EC, the Eu pean Community, the subsidies a penalties that they impose upon the own people amount to $120 billion a year; that the subsidies to the farmers, and I believe the direct subsidies are at least half that to the farmers, far exceed what we do in this country; and that the penalties they impose upon their consumers are, again, as much as the subsidies they give to their farmers, for a total of $120 billion.

They just do not want to back away from all that. They penalize their own communites; they penalize their own countries. They slow down their economic growth, and they impose a great hardship on the rest of the world.

I hope those talks do go forward. I urge Ms. Hills on, and I suggest that she be tough.

There was a very interesting article, also, on the 25th of September in the Wall Street Journal that was headlined as follows: "Attempts to Assist Farmers in Poland Work Only to Impoverish Them More."

What the article says is that by shipping in food into Poland, we so depress the market for food in Poland that we are, indeed, bankrupting their farmers; that of all of their economic society, they did have some free enterprise in agriculture, but because we drove down the marketplace by sending into Poland subsidized or free commodities, we have caused great hardships to come to their farmers and to their farm communities.

The result is, because they have no infrastructure, that there is much spoilage. They have no place to store their own goods. And since they must store them, because the consumers have this food that has come from foreign countries, they are experiencing considerable spoilage.

I suggest, Mr. President, that the same thing is happening in some of the poorest countries of the world; that the Europeans and, indeed, our own country, as we seek to gain market share around the world, the Europeans being far greater offenders than we, that they dump their commodities into those Third and Fourth World countries. The farmers in those countries are just getting by, barely getting by, and must compete now with subsidized commodities that come in from Europe and, indeed, yes, come in from the United States as well.

So we are imposing great hardship on the farmers in those countries, and in those countries often two out of three people live on the farm. There is no way that Third and Fourth World countries are going to develop unless they do it first through agriculture.

So these subsidies that prevent the free exchange of world trade not only prevent there being fair trade in the world, but exact extreme penalties on Third and Fourth World countries, and on developing parts of the world.

Mr. President, I hope that the negotiators will negotiate away those subsidies, because I believe those subsidies are harmful in every respect.

THE BUDGET SUMMIT AGREEMENT

Mr. BOSCHWITZ. Mr. President, I want to talk about the budget summit agreement.

My friend, Senator GORTON, said—and perhaps he has already said it here on the floor—that Benjamin Franklin, at the conclusion of the Constitutional Convention in 1787, said to some of the delegates who were announcing that they would vote against this document, the Constitution—that it was an imperfect document—that if they sent it back to be renegotiated, it would come out even worse.

And he advised his fellow delegates to the Constitutional Convention, of which he was a senior delegate—at that time, he was 81—to vote for the document that proved to be such a historic document in every way in the history of the world.

So it is with this budget summit. I think if we send those negotiators back to renegotiate, not only would they be most unhappy, having spent day after day and night after night doing this, but they probably would, after this conclusion, come up with a worse result.

I am impressed with this budget agreement on the basis that the reductions are real. Certainly, the increased taxes are real. They always have been. They always seem to work out that way. They will be used to reduce the budget.

But the spending reductions that I see in this package are also real. I have not examined all the smaller ones, but certainly the larger ones are real reductions that will occur.

As I understand it, the enforcement provisions in the budget summit agreement are pretty good, as well, so that I am inclined, Mr. President, to vote for that agreement. I do not announce out and out that I will, but I expect to vote for that agreement.

There are many things in the agreement that I do not like. I think it is going to be hard on the farmers of Minnesota. We are reducing that element to the budget probably more than some other elements to the budget. So that has to be evaluated more carefully.

I also do not like the fact that some of the reductions are, in fact, taxes. The so-called reductions in outlays that occur in Medicare are often just really increases in taxes that are imposed upon Medicare recipients.

But, by and large, it is not a bad package. As I look at the outlay growth of the entire budget, the outlay growth is remarkably slow. In 1991, we expect to spend $1 trillion 360 billion; $1,360 billion.

It goes from there so that 4 years later, in fiscal year 1995, we are only spending $1 trillion 385 billion, a 2-percent outlay growth over a 4-year period.

It is hard to imagine that we can keep that pace. But, nevertheless, we certainly should try.

So, Mr. President, while I am not entirely satisfied and have not concluded all of my examination of the package, it is a package that seems to have real cuts. Therefore, I expect to vote for it, and I will review it yet further.

I yield the floor.

TRIBUTE TO SEYMOUR H. KNOX, JR.

Mr. MOYNIHAN. Mr. President, I rise to report to the Senate the death of an individual of monumental character and accomplishment, Seymour H. Knox, Jr., of Buffalo, NY, a renowned banker, philanthropist, and patron of the arts.

Seymour Knox's long and storied life sparkled with adventure and achievement. In addition to his leadership of the F.W. Woolworth chain of department stores, originally cofounded by his father, Seymour Knox, Sr., he was a hugely successful banker who helped build the extensive Marine Midland empire.

His leadership in business and banking was matched by his passion for sport. Seymour Knox was a championship polo and squash player, ranked among the best players in the world in his youth.

His philanthropy and his vast interest in education were of immense benefit to the University of Buffalo, where he served as a council chairman from 1949 to 1969, and to President Eisenhower, who appointed him to a Presidential Commission on Higher Education in the 1950's.

Seymour Knox may best be remembered, however, for his magnificent contributions to the world of art. He was the catalyst behind the great success of the Albright-Knox Gallery in Buffalo, now recognized as one of the foremost contemporary art galleries in the world. While others strove to build extensive private art collections, Seymour Knox set out to construct a great public gallery of the highest rank. He believed art should be seen by all, not hidden away in a warehouse. Such was Seymour Knox's passion for sharing his love of art.

Mr. President, I ask unanimous consent that the text of two obituaries of Seymour H. Knox, Jr., one from the Buffalo News and one from the New York Times, be printed in the RECORD.

There being no objection, the obituaries were ordered to be printed in the RECORD, as follows:

[From the Buffalo News, Sept. 27, 1990]

SEYMOUR H. KNOX JR., BANKER, PATRON OF THE ARTS, PHILANTHROPIST, DIES AT 92

(By Tom Buckman)

Seymour H. Knox Jr., a pillar of Buffalo banking for nearly 70 years, a philanthropist and honored American art patron, died early today in his Buffalo home. He was 92.

Knox used his wealth and keen eye for abstract painting and sculpture to mold the Albright-Knox Art Gallery into one of the world's foremost contempory art museums.

Under his leadership, the gallery, which marked its 125th anniversary in 1987, gained international recognition for the quality and daring of its holdings. The modern collection is widely regarded as one of the Nation's best.

Among the many honors conferred on him in recent years was the National Medal of the Arts, awarded by President Ronald Reagan in 1984.

A former Marine Midland Bank-Western board chairman, Knox combined business and cultural interests with a love of sport that helped him become a champion on polo and squash player as a young man and later influenced his sons, Seymour H. III and Northrup R., who brought the National Hockey League's Buffalo Sabres into existence.

Knox was born Sept. 1, 1898, into one of Buffalo's most enterprising families. Fifteen years earlier, his father, Seymour H. Sr., and his father's first cousin, Frank W. Woolworth, had opened a "five and 10 cent" store in Reading, Pa., that was the genesis of the F.W. Woolworth chain.

The Main Street store in downtown Buffalo, which opened in 1888 as part of the S.H. Knox chain, was among the first in what became a worldwide retailing empire of thousands of outlets operating under the Woolworth, Woolco, Kinney Shoe and Richman Brothers names.

Seymour Knox Sr. was the first chairman of Marine National Bank, which resulted from the merger of two Buffalo banks in 1913 and eventually grew into today's far-flung Marine Midland empire.

Seymour Jr. was 16 when his father died in 1915 at age 54, but he followed in his footsteps after graduating from Yale University in 1920.

He was elected to the Woolworth board in 1926 and served until reaching mandatory retirement 45 years later, in 1971.

But banking was his true early calling. He became a director of Marine in 1921, vice president in 1926 and chairman from 1943 to 1970. It was that year that construction was under way on Marine's 38-story Main Street tower, which dominates the Buffalo skyline and in which Knox maintained an office until his death.

Knox's energetic business leadership was matched by a passion for polo, cultivated on the rambling East Aurora estate where his father, beginning in the 1890's, had bred champion trotters and pacers as a hobby.

A diminutive man known to close friends as "Shorty," Knox led his Aurora team to the U.S. championship in 1932 and later won a tournament in Europe and barnstormed in South America. His ranking as a seven-goal-handicap polo player was one of his proudest achievements, along with his eight-goal status later achieved by his son Northrup.

Knox was also a top squash player and invited many of the nation's best to compete on the East Aurora estate, where he also raised prize Aberdeen Angus cattle in much the same way that his father had bred swift harness horses.

His love of polo, which he reluctantly gave up in the 1960s, was transcended in later life by a consuming interest in art.

"Buying for the gallery, going to the gallery, were his great passions," recalled Seymour III.

Seymour Knox Jr. credited A. Conger Goodyear, a Buffalonian and family friend who went on to become the first president of New York's Museum of Modern Art, with stimulating his art interest in the late 1920s. While other prominent Americans worked to build great private collections, Knox quietly went about building a public gallery that would join the first rank of the world's art museums.

"Art," he once said, "should be acquired to be seen and enjoyed, not to be stored in a warehouse. There is no point in buying more for myself. Where would I put it?"

The Knoxes' interest in the gallery, the nation's sixth-oldest public art museum, dates to 1915. Through the Seymour H. Knox Foundation, the family over the years has given millions for the construction of additions to the museum and the purchase of art to fill it. The family underwrote the establishment of a Room of Contemporary Art in 1930, the gallery library three years later and the modern north wing, opened in 1962.

Seymour Jr. personally gave the gallery hundreds of paintings, sculptures, drawings and prints whose market value is in the millions. The bulk of these gifts were in the contemporary vein—abstract expressionism, constructionism, assemblage and pop art, areas in which Knox developed a keen interest after age 50. Some were works of younger artists forging in new directions, while others were by such "old masters" of modern art as Picasso, Gauguin, and Giacometti.

"His outlook," former Buffalo News art critic Jean Reeves once said, "was always youthful and adventurous, and he was unfailingly receptive to new ideas and techniques."

Knox, who joined the board of the museum's governing organization, the Buffalo Fine Arts Academy, in 1926, became president in 1938 and was re-elected every year until 1977, when he became chairman.

Soft-spoken and unassuming, Knox assumed responsibility for gallery purchases after 1946, when the funds donated by the family 16 years earlier for the Room of Contemporary Art were exhausted.

Up to that point "I'd put money in from time to time and call the committee together," he recalled later. "It was hard to get agreement on what we would buy."

"Finally, I decided that if I was giving the money I should have more to say about what we bought—with the help of the gallery director, of course."

In Gordon M. Smith, who became director in 1955, Knox found a person of similar tastes and adventuresome spirit, and they set out on an intense search for large, important works in the contemporary field. They were pioneers, choosing the works of painters such as DeKooning, Gorky, Pollock, Motherwell, Guston and others before they gained public acceptance.

As modern art became more respectable—and a good investment risk—the stakes rose. Knox and Smith often found themselves bidding against businessmen and business institutions instead of museum people for the best pieces.

Charmed by the adventurous pair, the irascible abstractionist Clyfford Still sold them two of his paintings, the only ones he had ever sold to a museum, and then in 1964 presented 31 of his works to the gallery. The gift was one of the most extensive collections ever presented by a living artist to a public museum in the United States.

In 1965, the Knox Foundation subsidized the controversial Buffalo Festival of the Arts Today, a review of avant-garde trends in the arts that focused nationwide attention on Buffalo and turned the city's reputation as a stronghold of artistic conservatism on its head.

Knox once said he aimed to find "the best example" of each artist's work. But he freely admitted: "Who knows which is best? We're bound to make some mistakes."

A hands-on executive, Knox kept the gallery staff moving, insisting that pictures be rehung often to keep the museum alive, and frequently taking a hand in the work.

The respect he commanded became apparent in 1961, when the board changed the institution's name from the Albright Art Gallery to the Albright-Knox.

Gov. Nelson Rockefeller named him chairman of the New York State Council on the Arts at its inception in 1960, and under Knox's 15-year stewardship the organization brought professional art, music and dance programs to all parts of the state, fostering grass roots cultural activity.

His philanthropy extended to the Lincoln Center for the Performing Arts and the Whitney Museum of American Art in New York, and he flew to museum and exhibition openings around the country. He also traveled widely in Europe, looking at old and new art—always with an eye to works that might enhance the Albright-Knox collections.

Education was another of Knox's longtime interests. He joined the Council of the University of Buffalo, which later joined the state university system, in 1920 and was its chairman from 1949 until 1969. Over the years the Knox family had been one of UB's principal benefactors.

In awarding him an honorary doctor o arts degree in 1962, the university praised his "unfailing devotion to the cause of education and the arts" and "immeasurable contributions to cultural life and educational opportunity" in Buffalo.

He was a past president of the board o the Aiken Preparatory School in Aiken S.C., where he maintained a winter hom for many years, and in the 1950s was appointed by President Eisenhower to a presidential committee on higher education.

Knox at various times was a director o the New York Central Railroad, American Steamship Co., Hewitt-Robins Inc. and N agara Share Corp., trustee of the Buffal Museum of Science and Yale University Ar Gallery and member of the Yale Universit Council.

He received Canisius College's Distinguished Citizen's Achievement Award, th Buffalo Club's gold medal for civil leadership and the Buffalo and Erie County Historical Society's Red Jacket Award for civi service, all in 1962, and the Frontier Pres Club's Distinguished Citizen Award fo 1964.

The Buffalo News named him a Citizen c the Year in 1952 and in 1987, calling Kno "one of those rare individuals whos achievements warrant recognition mor than once."

Knox's wife of 48 years, the former Hele Northrup, died in 1971.

Besides his two sons, Knox is survived by six grandchildren and seven great-grandchildren.

Funeral plans are incomplete.

[From the New York Times, Sept. 28, 1990]

SEYMOUR H. KNOX IS DEAD AT 92; BUFFALO BANKER WAS ART PATRON

(By Grace Glueck)

Seymour H. Knox, a banker, internationally known art patron and first chairman of the New York State Council on the Arts, died yesterday at his home in Buffalo. He was 92 years old.

Over the years, Mr. Knox, who was known as "the dean of American art patrons," gave more than 700 works of art—most of them in the contemporary field—to the Albright-Knox Art Gallery in Buffalo. In 1961, the gallery's name was changed from the Albright Art Gallery to the Albright-Knox in recognition of the Knox family's contribution toward building a new addition. At his death, Mr. Knox was honorary chairman of the board of the Buffalo Fine Arts Academy, which operates the gallery.

Mr. Knox was a director of several prominent corporations, among them the Marine Midland Bank, F. W. Woolworth Company, the New York Central Railroad, the Penn Central Railroad and the American Steamship Company. He was chairman of the Marine Midland Trust Company of Western New York from 1943 to 1970 and was chairman emeritus at his death. In his younger days, he was also a well-known polo and squash racquets player.

FAMILY ACTIVE IN ART

Mr. Knox—nicknamed Shorty because of his height—was born in Buffalo on Sept. 1, 1898, to one of the city's leading families. In 1888 his father had opened the first of a chain of variety stores, S. H. Knox & Company. The chain grew rapidly, and in 1912 the elder Knox merged it with an enterprise run by a cousin, F. W. Woolworth. The new venture became the F. W. Woolworth chain of 5-and-10-cent stores.

The younger Knox attended Hotchkiss Preparatory School and graduated from Yale in 1920. His interest in the visual arts followed that of his parents, who were active in the Buffalo Fine Arts Academy, and he joined the board in 1925. In 1939 he and his family donated money to establish a room of contemporary art at the gallery in memory of his mother, Grace Millard Knox, enabling the gallery to buy important works by Picasso, Matisse, Miró, Mondrian, Beckmann and Braque.

In the 1950's, with the advice of Gordon M. Smith, then director of the Albright Gallery, he began buying for the gallery the works, then still modestly priced, of the Abstract Expressionist painters, including Willem de Kooning, Arshile Gorky, Mark Rothko, Hans Hofmann and Robert Motherwell. The Albright was the first museum in the world to buy works by Clyfford Still and mounted two important Still shows. In 1964 Mr. Still met Mr. Knox at an airport cafeteria in Washington to announce the artist's gift to the gallery of 31 Still paintings.

Artists represented by major Knox gifts to the gallery also include Jasper Johns, Frank Stella, Alexander Calder, Roy Lichtenstein, Andy Warhol, Robert Rauschenberg, Louise Nevelson, Anthony Caro, Henry Moore, Sonia Delaunay and Helen Frankenthaler.

In the 1960's, Mr. Knox helped organize two festivals in Buffalo that brought critics and audiences from around the world to see new developments in the visual and performing arts. As chairman of the New York State Council on the Arts from 1960 to 1975, he commissioned an important report in 1975 that was intended to make the council more effective as it grew and served more constituencies. In 1986, at a White House ceremony, Mr. Knox was awarded a National Medal of Art by President Ronald Reagan for his contributions to the arts in Buffalo and the nation.

Mr. Knox's wife, Helen Northrup Knox, died in 1971. He is survived by two sons, Seymour H. Knox 3d of Buffalo and Northrup Rand Knox of East Aurora, N.Y.; six grandchildren, and seven great-grandchildren.

ANNOUNCING COL. FRANK NORTON, U.S. ARMY, AS THE CHIEF OF THE SENATE ARMY LIAISON OFFICE

Mr. THURMOND. Mr. President, I rise today to call to the attention of my colleagues that effective today, Col. Frank Norton, is appointed as the chief of the Army Liaison Office here in the Senate.

Few on the staff of this great institution are more widely known and genuinely liked than is Col. Frank Norton. His broad experience in Army matters gives him great credibility, and his views on matters of national security are sought by Members and staff.

Despite assuming the mantel of leadership, I am sure Colonel Norton will continue to contribute to the actions we take in the Senate as he has in the past.

Mr. President, I know that I speak for my colleagues when I say that we are delighted that the Army has chosen Colonel Norton for this important position.

OPERATION SMILE

Mr. WARNER. Mr. President, I would like to bring the Senate up to date on the work of Operation Smile International. In May of this year President Bush, as part of his "thousand points of light," recognized the tremendous work of this Norfolk, VA-based nonprofit organization by awarding to Dr. William Magee and his wife Kathy, founders of Operation Smile International, a voluntary action award for their work overseas.

Operation Smile has affected the live of thousands of children in the Philippines, Vietnam, Ghana, Kenya, Liberia, and Colombia. Thanks to the efforts of more than 1,000 volunteer physicians, nurses and other health-related professionals, more than 4,100 needy young people have received reconstructive surgery in the past 9 years that has changed their lives.

Founded in 1982, Operation Smile has grown to encompass 12 chapters nationally, with support groups in Europe and elsewhere. Around the world, 12,000 health care, education, business, and civic professionals donate their time and talents to promote peace and progress through this program. Volunteers from 70 cities and 6 countries come together to work toward a common goal of restoring dignity, to the disfigured.

Operation Smile was invited into Vietnam in 1989 in one of the first humanitarian American efforts there since the war. Operation Smile worked closely with Gen. John Vessey, Special Presidential Emissary for POW/MIA Affairs, to launch the organization's missions to Vietnam. The team returned for a second visit this past February, not just to Hanoi but also to Ho Chi Minh City, formerly Saigon.

During their 2-week medical missions, Operation Smile volunteers work hand-in-hand with their host country counterparts to provide specialized medical and surgical care to needy children and their families. Operation Smile teams treat children with cleft lips and palates, club feet, burn scars, facial tumors, and urological problems.

A simple 45-minute procedure to repair cleft lip brings about immeasurable results. As a child's life is transformed from one of isolation to one of health and productivity, the entire community is touched.

Operation Smile is truly an international agency reaching out to the world through its volunteers from the United States who serve as ambassadors to the world as well as healers.

OPERATION SMILE

Mr. ROBB. Mr. President, it is my pleasure to join my friend and colleague, JOHN WARNER, in paying tribute to Virginia's outstanding medical volunteer organization, Operation Smile. In doing so, we join President Bush who has already recognized the remarkable efforts of this Norfolk-based organization.

The doctors, anesthesiologists, nurses, and support teams of Operation Smile come from across America. They represent the finest of voluntarism, and in their humanitarian efforts that span the globe, act as ambassadors of good will. They are an inspiration to our people at home, and a ray of hope for those in need abroad.

Bill and Kathy Magee should be given special recognition for their vision, their caring and determination to reach out to deformed and disfigured children of the world and to create a new life for them. Thousands of individuals are challenged in life through overcoming handicaps. Operation Smile helps children with deformities—spanning the globe from Kenya to Colombia, Vietnam, to Ghana—meet and overcome these challenges.

Operation Smile has played a key role as part of the U.S. Government's

commitment to facilitate ongoing efforts of American nongovernmental organizations to address Vietnam's humanitarian concerns in the areas of prosthetics and child health. Working with General Vessey, the Presidential Emmissary for POW/MIA affairs, the team has twice been to Vietnam, most recently last February. This is but one instance of their exemplary, humanitarian activities.

Operation Smile is an organization that expresses to the world that Virginians and Americans care. As Bill and Kathy Magee have said so often, we give asking for nothing in return, but to see the smile of a child.

I commend Bill and Kathy Magee and the 12,000 volunteers of Operation Smile. It has been my pleasure to work with them in the past year, and I look forward to continuing to work with them.

DOGS FOR THE DEAF

Mr. HATFIELD. Mr. President, we spend a great deal of time on this floor discussing the enormous problems which face this country—so much time that we sometimes do not pause to recognize the outstanding achievements and contributions of individual citizens across this country. Today I rise to do just that.

In the small southern Oregon town of Central Point, the staff and volunteers of an organization called Dogs for the Deaf are training hearing ear dogs. These dogs, rescued from Humane Society shelters throughout Oregon, northern California and southwest Washington, are trained and then given free of charge to deaf and severely hearing-impaired people. They have dramatically changed the lives of over 500 people from 40 different States.

What can these dogs do? They let their master know when a fire alarm has sounded or the timer on the oven has gone off. They lead their master to the door when someone is knocking and awaken them in the morning when the alarm clock rings. They alert their master to the baby who has tipped over in a walker and is crying. In short, these highly trained dogs allow deaf and hearing impaired people to engage life in as independent a fashion as the hearing world.

Dogs for the Deaf has the creation of Ray Kabat, a retired Hollywood animal trainer who moved to Oregon more than a decade ago and established the nonprofit agency in 1977. After his death in 1986, his daughter, Robin Kabat Dickson, became the organization's director. Operating without the benefit of any public fundings, Dogs for the Deaf relies on the good will and generosity of countless individuals and organizations throughout the Nation.

Good Sam recreational vehicle clubs around the United States have been primary contributors. Service clubs such as Rotary and Kiwanis have given generous contributions as have such corporations as Purina Mills. Since the cost of training each dog is nearly $4,000, these contributions are vitally important.

With permission of this body, I would like to submit for the RECORD a story of one dog from Dogs for the Deaf, recently highlighted in the May issue of Reader's Digest. It is a story that dramatically demonstrates the profound impact one of these animals can have on a deaf person. Mr. President, this innovative and extraordinarily beneficial program deserves our highest praise. The efforts of its dedicated staff and volunteers—and of course its dogs—already have touched and indeed changed hundreds of lives; and with the continued assistance of all of us, thousands more can be helped.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Reader's Digest, May 1990]

A MUTT NAMED MEKO

(By Jack Fincher)

Her birth in 1953 was difficult. Too little emergency oxygen had been pumped into her small body, damaging immature nerves and leaving Ellen Richau partially deaf. Worse, her doctors in Billings, Mont., said the deafness would increase as Ellen grew older.

Watching their golden-haired daughter play with her two brothers, Jan and Lavio Richau came to a decision: they would not send her to a school for the deaf. "Your father and I feel you should grow up in the hearing world," her mother told her. "You're smart, Ellen. You can make it."

Ellen tried. And, gradually, she became so skilled at lip reading that her father, a cabinetmaker, often forgot her handicap. But once she started school, everything changed.

Classmates thought Ellen was retarded, and they ignored or taunted her. And once, when she missed a command to clear her desk, the teacher slapped Ellen's hands with a ruler. Humiliated, she broke down in tears. The shy little girl drew deeper into herself.

While in grammar school, Ellen was fitted with a clunky hearing aid. The primitive electronics amplified not only speech but the drone of passing cars and the whistle of the prairie wind. One day in class, the device began shrieking. Ellen couldn't hear it, but the other students covered their ears, laughing and pointing.

From then on, the moment she left home in the morning, Ellen stuffed the hearing aid in her book bag and retreated into silence. If something challenged or confronted her, she turned her back on it. When one of her watercolors won a prize, bringing her into contact with others, she quit painting.

In her teens, Ellen met John Raines, a young ranch hand. Before long, she dropped out of school, married John and went to work on their small farm. Then an auto accident accelerated her hearing loss. Soon after, the couple was divorced.

Ellen was determined to build a home for her two babies and, for a time, came out of her shell. She passed the high-school equivalency exam, earned an accounting degree and went to work as a bookkeeper. She even took up ballroom dancing, feeling the beat through the floor and mouthing the lyrics to keep time.

Tests at this point showed her hearing was 95-percent gone. Complications for a series of kidney operations, together with her pain medication, caused her to give up her job. After a rapid weight gain, she also gave up dancing and, once more, withdrew into her private world.

Then one day in 1985 Ellen saw a magazine ad in her audiologist's office about dogs trained to help the deaf the way guide dogs help the blind. Why not? Ellen wondered. I love animals. What do I have to lose?

She got in touch with Dogs for the Deaf Inc, a national nonproft organization in Oregon that trains such dogs. There was long waiting list, but after 15 months Ellen was assigned a dog. Soon an unlikely twosome appeared on her front step in Billings

"Ellen?" a slim woman in her late 20s inquired. "I'm Carole Neff, your trainer. And this is Meko."

Ellen's heart sank. Sitting in the doorway was a small black, brown and white mongrel, wispy-haired and droopy-eared.

"Meko might not look like much, "Carole said, noting Ellen's dismay, "but she' bright, and six months of training have gone into her. This afternonn you'll get acquainted. Tomorrow we'll start teaching her the locations of important sounds in your house."

That night, Ellen lay in bed thinking What have I gotten myself into? She looked at Meko, who was gazing at her from the other side of the bed. My life is a dead end Turning it around is probably too tall a order for a scruffy little mutt.

The next morning when Ellen awoke Meko was snuggled beside her, head to hea on the same pillow. "Meko!" Hearing a voic at the front door, followed by the door bel Meko leaped against Ellen's knees and ra to the doorway looking back for Ellen t follow. Carole was at the front door.

"Now praise her, give her love, Carol said, stepping inside.

"Good dog!" Ellen murmured halfheartedly, petting Meko's moist muzzle. Tail wagging, Meko took Ellen's gift of a tiny tedd bear and strutted off. Their training ha begun.

Gradually Meko would come to lear Ellen's life: the telephone alarm cloc microwave timer, tea kettle whistle, ove buzzer, smoke alarm. Each sound alerte the dog to get Ellen.

"What do you think of her?" Carole aske Ellen the second day.

"She's so . . . short-haired," Ellen replie still resisting the little dog.

Carole paused a moment, smaling. "Gi yourself a chance, Ellen," she said gently.

On the third day, Carole announced, "Yo and Meko have to learn how to work together in public. We're going out to lunch."

Ellen felt a rush of fear. "We can't, she insisted. "Dogs aren't allowed in restaurants

"Not true," Carole assured her. "Certifi hearing dogs are admitted. Just show th card. It lists your dog's rights."

Ellen tensed up. She hated confronatio It only called attention to her deafness.

When the three walked into the restaurant, Ellen had to fight back tears. Swallowing hard, she held out the card to the ho tess, who showed the two women to a table. Meko promptly went to sleep at Ellen's feet.

"There," Carole said "The worst is over."

"No, it isn't," Ellen blurted. "Look. Everyone's talking about us." Only later did she begin to relax.

That evening, after Carole returned to her motel, Ellen took Meko for a walk. She felt confused, uncertain. Did she really want Meko? No, she wanted a dog that didn't need to have daily exercise and that didn't make a fool of her in public. Then she remembered Carole's advice: "Give yourself a chance, Ellen." Yourself, Not Meko.

Ellen looked around. She hadn't walked this far in years. The fresh air felt good, and she was in less pain. This little mutt, she decided, had already accomplished something. Or rather, Ellen realized, she had done it, with Meko's help.

Hearing-ear dogs, Ellen discovered, were new to Montana. One day while she was walking in the park, an official ran up to her.

"Don't you see the signs?" he sputtered. "No dogs permitted!"

Trembling, Ellen stood her ground. "This is a hearing-ear dog, and state law allows us to be together in public parks." She showed the man her card and the cleanup bag she carried.

"Look," the official said grudgingly, "you can walk around the park, but not inside."

Ellen was even more determined now, "Meko and I are going to enjoy the birds and flowers," she said, surprised by her even tone. "Here's our address. If your superior wants to talk about this, we'll be glad to go in and see him."

The man stalked away in a huff, and Ellen and Meko continued on their way.

A few months later, Meko suddenly vanished. Ellen searched the house, then walked to the park and back, hoping Meko might have slipped away to take their daily walk alone. Finally, she went out to her car to drive to the city pound. That's when she realized she hadn't looked in the garage.

As she swung open the door, a small blur of fur shot out and slammed against her knees, bowling her over in the gravel. Ellen saw where paint had been gouged from the door, as the dog fought vainly to answer her calls. She pulled the warm bundle close, "I love you, Meko," she whispered softly. "What would we do without each other?"

Over the three years they've been together, Meko has learned her job well. One winter night, Ellen was doing laundry when Meko raced up to her frantically. Ellen hurried after the dog—into a billowing pall of smoke. A portable heater had set a bed on fire, and the smoke alarm hadn't gone off yet.

Today Ellen Raines is totally deaf. But with Meko at her side, she works as a volunteer computer operator, and after losing 50 pounds exercising with Meko, she has resumed social dancing. "My friends say I actually dance better than I ever did," she says. "I doin't try to lead anymore. I follow my partner." She strokes the small, sleeping figure at her feet, "Meko taught me that. And a lot of other things, as well."

NOMINATION OF JUDGE DAVID H. SOUTER TO BE ASSOCIATE JUSTICE OF U.S. SUPREME COURT

Mr. DODD. Mr. President, I rise to speak on the confirmation of Judge David H. Souter to be an Associate Justice of the U.S. Supreme Court.

The appointment of any nominee to the U.S. Supreme Court celebrates the particular genuis of our Constitution. Two branches of Government, the executive and the legislative, share in the power to determine the membership of the third branch, the judiciary, which then explicates the authority of the other two, the relationship between the National Government and the States, and the rights and liberties of all Americans.

To fulfill the appointment function, both the President and the Senate must respect each other's constitutional role in the process while remaining true to their own. In selecting a nominee, the President should consider the prevaling views of the Senate and the American people while upholding the sole authority to choose a nominee for the Supreme Court. The Senate should refrain from dictating a particular choice to the President while asserting its right to weigh the nominee's intellect, integrity, and character, as well as constitutional and judicial philosophy in its exercise of advice and consent.

Like all of my colleagues, I approach the question of the confirmation of Judge David Souter with enormous seriousness and solemnity. The constitutional responsibility to "advise and consent" on the President's nominee to the Supreme Court is one of the most important responsibilities charged to a U.S. Senator. A Supreme Court Justice has an unparalleled opportunity to influence the most critical issues facing this and future and generations of Americans. Moreover, I believe that the Court now may be at a pivotal point—a time when the future direction of our law is at stake and when the Court is most shaped by the outlook and philosophy of the nine individuals who serve as Justices.

While the framers unquestionably intended that the Senate take an active role in the confirmation process, the Constitution nowhere dilineates those factors by which each Senator should judge the fitness of a judicial nominee. Thus, each Senator must determine for himself or herself the acceptable criteria in judging a Supreme Court nominee.

In my view, each Senator must begin and end his examination of the nominee in the best interest of the United States?

Answering this question in the affirmative first requires that each Senator satisfy himself or herself that the nominee possesses the excellent technical and legal skills which we must demand of all Federal judges. Our next task is to ensure that the nominee is of the highest character and free from any conflicts of interest. Finally, we must vigorously examine the nominee to see whether he or she is capable of and committed to upholding the Constitution of the United States, and protecting the individual rights and liberties guaranteed therein.

We must ask whether the nominee has the commitment and judicial temperament to give life and real world meaning to our Constitution's guarantees. We may disagree about the meaning of the various provisions in the Constitution, but the nominee's views must be within an appropriate and acceptable range, and his or her approach must reflect a deep commitment to our Nation's constitutional ideals.

In that regard, it is up to each Senator to decide for himself or herself at what point a nominee's views become so contrary to what the Senator believes is in the best interest of the Nation to warrant opposition to the nominee.

Clearly, Judge Souter possesses the requisite technical and legal skills for a position on the Supreme Court. He is an individual of outstanding intellectual ability, integrity, and character. He has an excellent academic background—magna cum laude and Phi Beta Kappa at Harvard College, Harvard Law School, and a Rhodes scholar at Oxford University. He has impressive professional experience—extensive practice as a lawyer, attorney general of the State of New Hampshire, trial judge, and associate justice of the supreme court of the State of New Hampshire. The American Bar Association unanimously endorsed Judge Souter, giving him its highest rating.

Mr. President, I believe that Judge Souter's considerable intellectual strengths and professional experience are coupled with a commitment to fundamental constitutional values and principles. Judge Souter's testimony offered this Senator sufficient assurance of his place within the mainstream of Supreme Court jurisprudence—by endorsing an active role for the Court in protecting individual rights, by showing himself to be at ease with modern developments in the law and in the country, and by asserting that he would bring no "personal agenda" to the Court.

The picture of Judge Souter that emerged from the hearings is that of a jurist who is openminded, intellectually flexible, and fair, a judge who understands, as he stated that, "whatever court we are in * * * at the end of our task some human being is going to be affected. Some human life is going to be changed * * * and we had better use every power of our minds and our hearts and our beings to get those rulings right."

Judge Souter also appears to be a man of thoughtfulness, humility and compassion. During the hearings, he

spoke of being a listener, of being committed to preserving the Constitution for present and future generations of people "whose lives will be affected by (his) stewardship."

It also became quite evident that Judge Souter is a proponent of judicial restraint who respects and defers to precedent, but who treats the Constitution as a living document which recognizes changing circumstances and conditions.

Mr. President, during the hearings, Judge Souter did provide, in general, a reassuring discussion of his judicial philosophy. I must point out, however, that I found some of his testimony troubling, as I am sure every Member did at one point or another.

Clearly, there are constitutional issues that all of us are deeply concerned about. These include the constitutional right of a woman to make decisions about reproduction, gender-based discrimination, separation between church and state, and freedom of speech. During the hearings, Judge Souter touched on many of these subjects.

Frankly, I wish he would have been more forthcoming and definitive in his views in these areas. Unfortunately, with respect to one particular area of constitutional law—the area involving the right to privacy in matters relating to reproduction—Judge Souter has determined that the Members of the U.S. Senate and the American people are not entitled to know his views.

He steadfastly and persistently refused to answer any questions relating to this complex area, although he was forthcoming in many other areas of constitutional law which may come before the Supreme Court during this or upcoming terms.

During the course of his testimony, Judge Souter conceded that he did have a view regarding Roe versus Wade at the time the decision was rendered in 1973, but he would not reveal to the members of the Judiciary Committee what that view had been.

He declined to tell the committee what his personal views on the issue of abortion were on the grounds that many people would not believe that his personal views would have no impact on how he might rule in a future case concerning abortion. I would note that other Supreme Court nominees have been more forthcoming and have distinguished personal views from judicial views when appearing before the committee.

I also would note, Mr. President, that Judge Souter did feel free to disclose his views on numerous other issues that will be coming before the Supreme Court in the years ahead. He spoke freely about legal cases and principles regarding such controversial subjects as capital punishment and separation of church and state.

Thus, I am troubled by Judge Souter's refusal to speak not only to a broad right of privacy, but even to the line of cases involving the right of privacy leading up to the Roe versus Wade decision.

However, while Judge Souter's unwillingness to disclose his position on abortion troubles me, I recognize that the law on this issue remains unsettled. It is significant to me that during the hearings, Judge Souter agreed that there is an "unenumerated right of privacy" in the Constitution. Moreover, in many of his statements, he appeared committed to embracing an expansive reading of the nature of constitutional liberties. He specifically committed himself to keeping an openmind when the Court reconsiders Roe versus Wade.

Mr. President, we never have an absolute assurance as to how any nominee or sitting Supreme Court Justice will vote on a particular issue. Requiring a commitment in advance would discourage openmindedness and threaten an independent judiciary. All we as Senators should ask is that the nominee possess intellectual excellence, integrity, judicial temperament, experience, fairness, and a willingness to listen.

Mr. President, I am convinced that Judge Souter is such a nominee. I believe that David Souter is a fair and open-minded jurist. My strong feeling is that he would serve with distinction and would work to preserve and protect our fundamental constitutional values, if confirmed as a Justice of the Supreme Court. There is no indication that his approach to the Constitution, or to the Court's role in interpreting it, would unravel the settled fabric of constitutional law.

During the hearings, Judge Souter described the Justice he hopes to replace on the Supreme Court, Justice William J. Brennan, as "one of the most fearlessly principled guardians of the American Constitution that it has ever had and ever will have." Judge Souter's admiration for the man he would succeed, of course begs the question of how like or unlike Justice Brennan he would be. While I do not expect Judge Souter to take Justice Brennan's place on the Court's ideological spectrum, I am confident that he will not stay in the Court's conservative shadow.

My hope is that, if confirmed, he will grow in his capacity as a Supreme Court Justice and may well become an outstanding justice.

Therefore, I will vote to confirm Judge David Souter to be an Associate Justice of the Supreme Court of the United States.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,025th day that Terry Anderson has been held captive in Beirut.

I ask unanimous consent that an Associated Press article featuring the families of the men held hostage in Lebanon be submitted to the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FAMILIES OF AMERICANS HELD IN LEBANON ARE HOSTAGES IN THEIR OWN WAY

(By George Esper)

Thomas Cicippio is never in bed befor midnight. Each night, he anxiously watche the 11 o'clock news for any word of the si American hostages held in Lebanon, including his brother, Joseph.

Then, as the clock nears the start of ye another day of waiting, he walks to the plywood billboard on the lawn of his Norristown, Pa., home listing the names of eac hostage and the total days they have bee held. Silently, he advances the numbers.

He and other family members of the si men sympathize with the relatives of th new hostages being held in Kuwait an Iraq, but they don't want their husbands fathers, brothers and sons forgotten.

"I feel very badly for them," Cicippio sai of the latest hostage families. "I know wha they're going through. The only differenc is that we really don't know what condition they're being held under. We do know ou hostages are in chains. They're blindfolde They don't see daylight."

On Sept. 12, the fourth anniversary of hi brother's captivity, Cicippio advanced th days to 1,462.

A week earlier, he had posted the 2,000t day for Terry Anderson, chief Middle Eas correspondent for The Associated Press an the longest held of the hostages. Tim enough for the 42-year-old Anderson t spend five birthdays in captivity and face sixth, Oct. 27.

"I feel as though I'm doing something f the hostage families," said Cicippio. At am., he's up again, watching the mornin news, hoping he'll hear something on th hostages' release.

In a sense, the families of the Lebano captives are hostages themselves.

In trying to save the lives of their rel tives, they have given up much of their ow lives. For years, they have felt the unce tainty, the loneliness and the fears no gripping the families of the hundreds hostages being held by Iraq.

Estelle Ronneburg, the 69-year-ol mother of hostage Jesse Turner, pointedl kept her job as a bank accountant in Bois Idaho, to keep her mind occupied with fi ures instead of her son's deprivation. "Th way, I don't get quite as upset," she said.

Turner's wife, Bader, a Lebanese nativ and their 3-year-old daughter, Joanne, le Beirut a little more than a year ago to vis Mrs. Turner's brother in the United Ara Emirates. They never returned because the fighting.

They recently arrived in Boise to spend few months with Mrs. Ronneburg, wh never had seen her granddaughter.

"It's rough," said Mrs. Turner. "They ki napped him six months after we got ma ried. It was a very hard time for me. wasn't around when Joanne was born, an the war was tough. I'm lost without hi Every time I see Joanne, I feel pity that is missing her childhood."

Only by his picture and her mother's words does Joanne know her 43-year-old father, called Jonathan by his family for his middle name. She was born five months after he was kidnapped on Jan. 24, 1987.

When she sees anyone on the street with a beard who resembles her father, she asks, "Is that Daddy Johnny?" And over and over, she presses her mother: "Where is Daddy Johnny? Is he going to come?"

"So I keep her thinking that he's in Beirut with my sister," her mother said.

Mrs. Ronneburg said the sheer number of hostages taken by Iraq have pushed the captives in Lebanon further into the background. "I hope all the hostages in Iraq will be out very soon," she said.

For these days in August 1989, the Cicippio family went through a kind of torture when his kidnappers threatened to kill Joseph Cicippio, then gave him a series of reprieves.

Thomas Cicippio and other family members cried when they watched a chilling videotape released by the captors of Joseph, 60, pleading for his life.

"He said a goodbye to his wife. That was very emotional. He just said something about, 'Don't ever forget me. Keep thinking of me.' That was the first and only time we heard his voice since his captivity."

"I think about him all the time," said Cicippio, 67. "I think about what he's doing. Does he know we are doing everything we can to get him released? Does he know everyone is thinking about him? * * * We wonder about his health and how long will he be able to endure."

The same fears torment Virginia Steen, the wife of hostage Alann Steen.

Like their friends the Turners, the Steens had been married only six months when 51-year-old Alann was kidnapped.

"It's been four years of horror for my husband and for all the other families," said Mrs. Steen, who lives in Clark Lake, Mich.

"I know the horror and the pain the new hostage families must be feeling, the feeling of being separated and not knowing how long it's going to last," she said. "It's horrible. I do believe the hostages in Lebanon are quite different than the hostages held in Iraq and Kuwait right now. As far as I know, people aren't being chained to radiators, beaten and held in dark cells."

Peggy Say, Terry Anderson's sister, regularly shuttles around the United States and keeps an around-the-clock telephone vigil in her tireless campaign to free her brother, Cicippio, Turner, Steen, Edward Austin Tracy, abducted Oct. 21, 1986, and Thomas Sutherland, kidnapped June 9, 1985.

She has made four trips to the Middle East seeking their release. She has pleaded their cases before President Bush, U.N. Secretary-General Javier Perez de Cuellar, Pope John Paul II, PLO leader Yasser Arafat and Archbishop of Canterbury Robert Runcie.

Some days, though, she feels she cannot go on.

"I'm tired," she said at one point this year. "I want to be with my grandkids and my family. I'll feel sorry for myself for about five minutes and then I think about Terry and I think, 'What do you think he would give to be where you are? Just get out and do it.'"

During Anderson's captivity, Mrs. Say, 49, had endured the deaths from cancer of her father and another brother, Rich, within four months of each other in 1986. What will break Anderson's heart, she said, is not having seen them; she doesn't think he even knows now that they have died.

Her memories haunted Mrs. Say so much that two years ago, she moved with her husband from Batavia, N.Y., to a home on a lake near Cadiz, Ky.

"I wanted to get away from the atmosphere and the house because I had taken care of Dad and Rich before they died. Then we lost a grandson the following year. We also lost three aunts. It was needing a fresh start and needing to be not so accessible to the media," she said.

Such a series of tragic events might have destroyed others of lesser strength. But Mrs. Say has remained strong, knowing her brother has done the same.

It is said that Terry Anderson prays with rosary beads that he crocheted from fibers.

"On his last videotape, he was telling us all to stay strong," said Mrs. Say. "He said, 'I'll be praying for you as you're praying for me.' If he can keep his faith and his dignity and his strength under those conditions how can I do any less?"

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee [Mr. Sasser].

Mr. SASSER. I thank the Chair.

MILITARY CONSTRUCTION APPROPRIATIONS, FISCAL YEAR 1991

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar 756, H.R. 5313, the military construction appropriations bill; that the bill be considered under the following limitations: One, that there be 30 minutes for debate on the bill and the committee-reported amendments, and that the only amendments in order, in addition to the committee-reported amendments, be the following, with limitations on time as listed: that there be 20 minutes on a managers' amendment relating to the construction provisions of the bill; that there be an additional 20 minutes on a Grassley amendment to provide a new civil cause of action in Federal law for international terrorism; and that there be 5 minutes on a Grassley amendment to be offered, as I understand, on behalf of Senator Murkowski, relating to construction restrictions against foreign contractors whose home country denies market opportunities for products and services of the United States; that there be 15 minutes on a Baucus amendment to provide for payment of claims by United States nationals against Iraq; that no motion or motions to recommit be in order; that no points of order be waived by this agreement; that the time be divided in the usual form; that when all time is used or yielded back, the Senate proceed to third reading and final passage without intervening action or debate.

I ask unanimous consent for all of the foregoing provisions, Mr. President.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

Mr. SASSER. Mr. President, I yield to my distinguished colleague from Tennessee, Senator Gore, 10 minutes not to be charged against the bill.

The PRESIDING OFFICER. Will the Senator suspend just long enough to report the bill.

The bill clerk read as follows:

A bill (H.R. 5313) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

H.R. 5313

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1991, for military construction functions administered by the Department of Defense, and for other purposes, namely:

Military Construction, Army

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, and for construction and operation of facilities in support of the functions of the Commander in Chief, **[**$747,067,000**]** *$698,167,000*, to remain available until September 30, 1995: *Provided*, That of this amount, not to exceed **[**$95,577,000**]** *$83,577,000* shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Army" under Public Law 99-173, $1,900,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Military Construction, Army" under Public Law 99-500 and Public Law 99-591, $14,905,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Military Construction, Army" under Public Law 100-202, $29,030,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Military Construction, Army" under Public Law 100-447, $26,910,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Military Construction, Army" under Public Law 101-148, $44,000,000 is hereby rescinded.

Military Construction, Navy

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation,

[$1,137,278,000**]** *$1,084,126,000*, to remain available until September 30, 1995: *Provided*, That of this amount, not to exceed **[**$76,951,000**]** *$71,951,000* shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Navy" under Public Law 101-148, $6,200,000 is hereby rescinded.

Military Construction, Air Force

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, **[**$949,446,000**]** *$892,184,000*, to remain available until September 30, 1995: *Provided*, That of this amount, not to exceed **[**$107,741,000**]** *$80,741,000* shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Air Force" under Public Law 100-447, $4,700,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Military Construction, Air Force" under Public Law 101-148, $20,690,000 is hereby rescinded: **[***Provided further*, That, herein and hereafter, the Ballistic Missile Organization shall not be relocated from Norton Air Force Base, California.**]** *Provided further, That none of the funds available to the Department of Defense during fiscal year 1991 may be used, directly or indirectly, to transfer, realign, relocate, or otherwise diminish any part of the 37th Tactical Fighter Wing at the Tonopah Research Site, Nevada, until (1) a final environmental impact statement on any such action is completed by the Secretary of the Air Force; and (2) after the 21-day period beginning on the date on which such Secretary transmits to the appropriate committees a report containing an analysis of the costs and benefits of taking any such action and such report has been reviewed by the General Accounting Office.*

Military Construction, Defense Agencies

(INCLUDING TRANSFER OF FUNDS)

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, **[**$625,326,000**]** *$600,113,000*, to remain available until September 30, 1995: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed **[**$94,285,000**]** *$74,285,000* shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Defense Agencies" under Public Law 100-447, $35,578,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Military Construction, Defense Agencies" under Public Law 101-148, $32,541,000 is hereby rescinded.

North Atlantic Treaty Organization Infrastructure

For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, **[**$250,000,000**]** *$210,400,000*, to remain available until expended: *Provided*, That none of the funds appropriated **[**or otherwise available under the North Atlantic Treaty Organization Infrastructure Account**]** in this **[**or any other**]** Act may be obligated for planning, design, or construction of military facilities or family housing to support the relocation of the 401st Tactical Fighter Wing to Crotone, Italy, *until authorized by Congress.*

Military Construction, Army National Guard

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, **[**$201,558,000**]** *$226,188,000*, to remain available until September 30, 1995.

Military Construction, Air National Guard

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, **[**$135,240,000**]** *$154,830,000*, to remain available until September 30, 1995.

Military Construction, Army Reserve

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, **[**$68,297,000**]** *$75,126,000*, to remain available until September 30, 1995.

Military Construction, Naval Reserve

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, **[**$63,300,000**]** *$75,207,000*, to remain available until September 30, 1995.

Military Construction, Air Force Reserve

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the
Air Force Reserve as authorized by chapte
133 of title 10, United States Code, and mili
tary construction authorization Act
[$37,700,000**]** *$41,100,000*, to remain avail
able until September 30, 1995.

Family Housing, Army

(INCLUDING RESCISSIONS)

For expenses of family housing for th
Army for construction, including acquis
tion, replacement, addition, expansion, ex
tension and alteration and for operatio
and maintenance, including debt paymen
leasing, minor construction, principal an
interest charges, and insurance premium
as authorized by law, as follows: for Con
struction, $61,800,000; for Operation an
maintenance, and for debt paymen
$1,463,967,000; in all $1,525,767,000: *Provid*
ed, That the amount provided for constru
tion shall remain available until Septembe
30, 1995: *Provided further*, That of th
funds appropriated for "Family Housin
Army" under Public Law 100-202, $4,264,00
is hereby rescinded: *Provided further*, Tha
of the funds appropriated for "Famil
Housing, Army" under Public Law 100-44
$8,400,000 is hereby rescinded.

Family Housing, Navy and Marine Corps

(INCLUDING RESCISSION)

For expenses of family housing for th
Navy and Marine Corps for construction, i
cluding acquisition, replacement, additio
expansion, extension and alteration and f
operation and maintenance, including de
payment, leasing, minor construction, pri
cipal and interest charges, and insuranc
premiums, as authorized by law, as follow
for Construction, **[**$185,000,000
$138,607,000; for Operation and maint
nance, and for debt payment, $691,101,00
in all **[**$876,101,000**]** *$829,708,000*: *Provide*
That the amount provided for constructi
shall remain available until September 3
1995: *Provided further*, That of the fun
appropriated for "Family Housing, Na
and Marine Corps" under Public Law 10
148, $11,037,000 is hereby rescinded.

Family Housing, Air Force

(INCLUDING RESCISSIONS)

For expenses of family housing for the A
Force for construction, including acqui
tion, replacement, addition, expansion, e
tension and alteration and for operati
and maintenance, including debt payme
leasing, minor construction, principal a
interest charges, and insurance premiu
as authorized by law, as follows: for Co
struction, **[**$185,100,000**]** *$138,988,000*; f
Operation and maintenance, and for de
payment, $771,442,000; in all **[**$956,542,00
$910,430,000: *Provided*, That the amou
provided for construction shall remain ava
able until September 30, 1995: *Provided f*
ther, That of the funds appropriated f
"Family Housing, Air Force" under Pub
Law 100-202, $1,941,000 is hereby rescinde
Provided further, That of the funds appr
priated for "Family Housing, Air Forc
under Public Law 100-447, $167,000
hereby rescinded: *Provided further*, That
the funds appropriated for "Family Hou
ing, Air Force" under Public Law 101-1
$43,856,000 is hereby rescinded.

Family Housing, Defense Agencies

(INCLUDING RESCISSIONS)

For expenses of family housing for the
tivities and agencies of the Department
Defense (other than the military depa
ments) for construction, including acqui
tion, replacement, addition, expansion, e
tension and alteration and for operati

and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, $500,000; for Operation and maintenance, $20,514,000; in all $21,014,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1995: *Provided further*, That of the funds appropriated for "Family Housing, Defense Agencies" under Public Law 101-148, $300,000 is hereby rescinded.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), $5,100,000, to remain available until expended.

BASE REALIGNMENT AND CLOSURE ACCOUNT

For deposit into the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), [$998,100,000] *$916,500,000*, to remain available for obligation until September 30, 1995: *Provided*, That none of these funds may be obligated for base realignment and closure activities under Public Law 100-526 which would cause the Department's $2,400,000,000 cost estimate for military construction and family housing related to the Base Realignment and Closure Program to be exceeded: *Provided further*, That [$81,600,000 of the] funds appropriated herein shall be available [solely] for environmental restoration.

GENERAL PROVISIONS

Sec. 101. None of the funds appropriated in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

Sec. 102. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

Sec. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

Sec. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

Sec. 105. No part of the funds provided in this Act shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

Sec. 106. None of the funds appropriated in this Act shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriation Acts.

Sec. 107. None of the funds appropriated in this Act for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

Sec. 108. No part of the funds appropriated in this Act may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

Sec. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

Sec. 110. None of the funds appropriated in this Act may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

Sec. 111. None of the funds appropriated in this Act may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan or in any NATO member country, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

Sec. 112. None of the funds appropriated in this Act for military construction in the United States territories and possessions in the Pacific and on Kwajalein Island may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

Sec. 113. The Secretary of Defense is to inform the Committees on Appropriations and the Committees on Armed Services of the plans and scope of any proposed military exercise involving United States personnel thirty days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

(TRANSFER OF FUNDS)

Sec. 114. Unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account during fiscal year 1991, shall be transferred to the appropriations for Family Housing provided in this Act, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

Sec. 115. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

Sec. 116. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such military department by the authorizations enacted into law during the second session of the One Hundred First Congress.

Sec. 117. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with a report by February 15, 1991, containing details of the specific actions proposed to be taken by the Department of Defense during fiscal year 1991 to encourage other member nations of the North Atlantic Treaty Organization and Japan to assume a greater share of the common defense burden of such nations and the United States.

Sec. 118. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

Sec. 119. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

Sec. 120. Of the funds appropriated in this Act for Operations and maintenance of Family Housing, no more than $16,000,000 may be obligated for contract cleaning of family housing units.

Sec. 121. None of the funds appropriated in this Act may be used for the design, construction, operation or maintenance of new family housing units in the Republic of Korea in connection with any increase in accompanied tours after June 6, 1988.

Sec. 122. None of the funds appropriated in this Act for planning and design activities may be used to initiate design of the Pentagon Annex.

Sec. 123. None of the funds appropriated in this Act, except those necessary to exercise construction management provisions under section 2807 of title 10, United States Code, may be used for study, planning, design, or architect and engineer services related to the relocation of Yongsan Garrison, Korea.

Sec. 124. None of the funds herein or heretofore appropriated for Military Construction and Family Housing are available to fund costs associated with military operations in Panama known as Operation Just Cause, notwithstanding transfer authority contained in section 211 of Public Law 101-302.

Sec. 125. The Congress disapproves the deferrals relating to the Department of Defense as set forth in the message from the Comptroller General transmitted to the Congress on June 28, 1990 (H. Doc. 101-210).

Sec. 126. (a) Notwithstanding any other provision of law, the Secretary of the Army shall transfer, no later than September 30, 1991, and without reimbursement, to the Secretary of the Interior the real property, including improvements thereon, consisting of approximately 7,600 acres of Fort Meade, Maryland, located generally south of Maryland Route 198 extended and the power-line right-of-way, as determined under subsection (d).

(b) The Secretary of the Interior shall administer the property transferred pursuant to subsection (a) consistent with wildlife conservation purposes and shall provide for the continued use of the property by Federal agencies to the extent such agencies are using it on the date of the enactment of this Act, including activities of the Department of Defense that are consistent with the recommendations of the Base Realignment and Closure Commission.

(c) The Secretary of the Interior may not convey, lease, transfer, declare excess or surplus, or otherwise dispose of any portion of the property transferred pursuant to subsection (a) unless approved by law.

(d) The exact acreage and legal description of the property to be transferred under this section shall be determined by a survey satisfactory to the Director of the United States Fish and Wildlife Service within the Department of the Interior, after consultation with the Department of the Army and appropriate State and local government officials.

Sec. 127. (a) In General.—(1) Subject to subsections (b) through (e), the Secretary of the Army may convey to the city of Tacoma, Washington, all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, located at 3009 North Star Street, Tacoma, Washington, consisting of approximately 6.7 acres.

(2) The conveyance under paragraph (1) shall be made in consideration for a 50-year leasehold interest in and to Pier 23, Port of Tacoma, made available by the State of Washington to the Department of the Army.

(b) Conditions of Conveyance.—The conveyance authorized by subsection (a) shall be subject to the following conditions:

(1) The property conveyed shall be used for public purposes.

(2) The Secretary may reserve to the United States (and shall include in the instrument of conveyance) such easements and other interest in the property conveyed pursuant to this section as the Secretary determines necessary or convenient for the operations, activities, and functions of the United States.

(c) Reversion.—If the Secretary determines at any time that the property conveyed pursuant to this section is not being used for the purposes specified in subsection (b)(1), all right, title, and interest in and to the property (including improvements thereon) shall revert to the United States and the United States shall have the right of immediate entry thereon.

(d) Description of Property.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the city.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

Sec. 128. None of the funds appropriated in this Act, except for North Atlantic Treaty Organization Infrastructure funds, may be used for planning, design, or construction of military facilities or family housing to support the relocation of the 401st Tactical Fighter Wing from Spain to another country.

Sec. 129. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

Sec. 130. (a) Conveyance.—(1) Except as provided in paragraphs (2), (3), and (4), and subject to subsections (c) and (g), the Secretary of the Army shall convey to the University of Utah all right, title, and interest of the United States in and to the land comprising Fort Douglas, Utah, together with improvements thereon.

(2) The Secretary shall except from the land conveyed under paragraph (1) such land, not in excess of 64 acres, and improvements thereon as may be necessary for the Army to continue conducting Army Reserve activities at the Fort Douglas location.

(3) The Secretary shall also except from the land conveyed under paragraph (1) the land at Fort Douglas constituting the Fort Douglas Post Cemetery, consisting of approximately four acres.

(4) In connection with the land retained for Army Reserve activities and the land constituting the Army Post Cemetery, the Secretary shall reserve to the United States in the land conveyed such rights-of-way and other easements as may be necessary for ingress to and egress from the land retained.

(b) Consideration.—(1) The conveyance under subsection (a) shall be made only on the condition that the State of Utah and the University of Utah waive any entitlements that have not been exercised on behalf of the University of Utah before the date of the enactment of this section and that may be due to the State of Utah or the University of Utah on behalf of the University of Utah under—

(A) section 3 of the Act entitled "An Act to establish the office of Surveyor-General of Utah, and to grant Land for School and University Purposes", approved February 21, 1855 (10 Stat. 611); and

(B) sections 8 and 12 of the Act entitled "An Act to enable the people of Utah to form a constitution and State government, and to be admitted into the Union on equal footing with the original States", approved July 16, 1894 (28 Stat. 110).

(2) The waiver referred to in paragraph (1) shall be executed in such manner as the Secretary of the Army, after consultation with the Attorney General of the United States, determines necessary to effectively waive any unexercised entitlements under those laws.

(c) Condition.—(1) The conveyance provided for in subsection (a) may be made only on condition that—

(A) the State of Utah agree to maintain and operate, as provided in paragraph (2), the Army museum located on the land conveyed to the University of Utah pursuant to this section; and

(B) the University of Utah agree—

(i) to maintain and operate, as provided in paragraph (2), the Army chapel and other historical buildings located on the land referred to in subparagraph (A); and

(ii) to preserve and maintain, as provided in paragraph (2), the parade grounds that are a part of the land referred to in subparagraph (A).

(2) The Army museum, Army chapel, and other historical buildings referred to in paragraph (1) shall be maintained and operated, and the parade grounds referred to in that paragraph shall be preserved and maintained, in a manner consistent with Federal laws and regulations pertaining to the preservation of historical sites, buildings, and monuments, as specified by the Secretary of the Interior.

(d) Reversionary Right.—If the University of Utah uses the land conveyed pursuant to subsection (a) for other than educationa or research purposes, all right, title, and interest in and to such land shall automatically revert to the United States and the United States shall have the right of immediate entry thereon.

(e) Deadline for Conveyance.—The conveyance under subsection (a) shall be made not later than one year after the date of the enactment of this section.

(f) Joint Use of Utility Systems.—The Secretary may enter into an agreement with the University of Utah under which the Army and the University would—

(1) jointly use the existing utility systems located at Fort Douglas at the time of the conveyance provided for under subsection (a);

(2) equitably share the cost of maintaining, operating, and replacing (as necessary) the systems; and

(3) pay on a pro rata basis for the utilities consumed by each of the parties.

(g) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance provided for under subsection (a) as the Secretary considers necessary to protect the interests of the United States.

(h) Additional Excess Land.—In the event that any lands constituting Fort Douglas, Utah, that are not conveyed pursuant to subsection (a) are declared excess to the needs of the Army after the date of the conveyance provided for in that subsection, the Secretary shall convey such lands to the University of Utah. Any lands conveyed pursuant to this subsection shall be conveyed subject to a reversionary clause in favor of the United States as provided in subsection (d).

This Act may be cited as the "Military Construction Appropriations Act, 1991".

CABLE TELEVISION CONSUMER PROTECTION ACT

Mr. GORE. Mr. President, I was in my office when on the monitor I heard the arguments from my friend, the Senator from Colorado, concerning the cable television bill. I have come to the floor to respond to some of those arguments. I appreciate the courtesy afforded me.

Before I respond to the arguments presented a few moments ago, I would like to say that the Senator from Colorado has served for 16 years in the House and now the Senate, and all of our colleagues should know, as they do, that there is no Member of either body who has more experience or expertise in the field of communications policy. I had the privilege of serving under my friend from Colorado when he was chairman of the Communications Subcommittee in the other body. He labored long and hard to improve the communications policy and the communications laws of this entire country. I admire his skill. I respect his experience.

I must say I also admire his consistency on this particular set of issues because he and I have disagreed on this for quite a long time. I would like to respond to some of the points that he just made in hopes that the give and take will illuminate the underlying issue for our colleagues.

Of course, what brings us both to the floor is the heat and friction over the attempt by the Commerce Committee to bring to the floor a major piece of legislation to protect consumers of cable television service and consumers of television service in the multichannel format who would like to receive that service from competing forms of distribution, whether it is a satellite dish in the backyard or a wireless microwave system or one of these so-called sky cable systems that will use those little satellites, if that is ever allowed to proceed.

Let me talk just for a moment about this issue of exclusivity. This is the provision in the current bill which my friend, the Senator from Colorado, has objected to our considering, which protects the cable industry against competition from alternative delivery formats. One of them is backyard satellite dish receivers.

What really caused me to come to the floor is that my colleague and friend said that this problem was fixed when the National Rural Telecommunications Cooperative was established in order to provide these program signals to rural owners of satellite dishes.

Mr. President, at the occasion of our last debate on this matter, the National Rural Telecommunications Co-op had just been established and some argued that it would fix the problem. I expressed great skepticism and doubt because I have dealt with the cable industry on this matter for many years and I know from where they are coming. They do not want competition.

Now the jury is in and nobody can claim that the National Rural Telecommunications Co-op system has fixed the problem. Here is what they say about it. When it was just set up, I might say the officials of NTRC, as we call it, came in and said, "Let's give this industry a chance to see whether they will work this problem out. Maybe they will solve our problem." Well, now we have the evidence. They have refused to deal with them in good faith. The cable industry has shut them out. They are offering the wholesale rate at 460 percent greater cost than they are offering it for the cable subscribers. And a lot of the programmers that make it available to these cable systems refuse to sell at any cost to the National Rural Telecommunications Co-op or to any distributor to satellite dishowners.

So, far from being fixed, this proves our case. The experience of the rural co-ops in trying to help the backyard dishowners has convinced them to completely change their minds about how they view it. Whereas they were coming to defend the cable industry in saying they have agreed to deal with it, let us see how it works out, they say we have tried for 2 years. They throw up their hands and say it is an impossible bunch to deal with; they want it all; they are greedy; they do not deal in good faith—a 460-percent markup.

I will put this in the RECORD. I will not read it all now, but let me just give a couple of examples.

PBS sells to the cable operators at a wholesale rate per consumer of 10 cents per month. Do you know that they change the rural co-op for the dishowners? Ninety cents a month—a 900 percent markup. Why? Well, that is because they want to shut them out. They do not want competition from some other delivery sources. That is what it is all about. They have a monopoly now. They want to hold on for all it is worth.

Next point. My distinguished friend and colleague used broadcasters as an example of exclusivity to justify, attempt to justify, what the cable operators do. First of all, the broadcast signal is on so-called TV. But I must say for anyone defending the cable industry to use broadcasters as an example of executive contracts that work and are fair is really unbelievable to me for this reason: 70 percent of all the people who watch cable television systems are watching broadcast signals that are taken essentially for free by the cable television companies and sold to the subscribers to that cable system.

So it is hardly exclusive. In fact, it is the raw material that makes the cable industry two-thirds of the money it makes. They are getting it from another program source and they are paying practically nothing for it. So I would not say that is a great example that justifies what the cable industry is doing.

The next argument. I heard an analogy to Ford dealers. You know that you can go to one of several Ford dealers in any given population area. In this population area where the Capital is located, you are not locked in to one Ford dealer. If you are in Nashville, TN, Memphis, TN, or Knoxville, you can go to one of several Ford dealers. There is competition. That is not the case with cable television.

Also, when a cable television franchise is given the right to distribute to satellite dishowners, they are restricted from selling outside their own cable area. In other words, they have the right to distribute the program to dishowners if they are a cable system, but they are restricted from going in and competing with the cable system next door in the adjacent area.

So again, that analogy in my opinion just does not work at all.

A lot was made about volume discounts. Is that not the American way? Why can the programmers not do it? Why can the cable industry not do it? Well, they can. I said in the debate last week when we talked about this, as far as I am concerned volume discounts are fine, so long as they are applied on a nondiscriminatory basis. That is what we are asking.

My time is running out. So, let me get to the bottom line on this. We have an anticompetitive marketplace out there in cable television. People who are customers of cable television are screaming bloody murder because their rates have been going right straight up and their service has been declining rapidly.

A lot of folks would like to see some competition from satellite dishes and from some of these other distribution systems that I have mentioned. But the cable television industry has put a noose around the competitors, and they are squeezing it and trying to strangle them. And they have succeeded in some cases. It is the single rawest abuse of monopoly power going on in America today that I have seen. If you talk to some of these satellite dish folks, you will know exactly what I am talking about.

On the last occasion, I addressed this subject and negotiated on this. I know my colleagues who support this legislation have, too. Yet, since that time I have not been contacted by anyone from the industry, or anyone who supports the industry. I will renew the offer and I hope they will take up on it, because this bill ought to be debated. If they have the votes, fine, let us vote on it. But, let us get the bill up, let us vote on it, discuss it, and go through the normal process, Mr. President.

Thank you. Again I thank my colleague for his courtesy.

MILITARY CONSTRUCTION APPROPRIATIONS, FISCAL YEAR 1991

The Senate continued with the consideration of the bil.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. SASSER. Mr. President, I ask that time not to exceed 10 minutes be yielded to the distinguished Senator from Washington and, further, that the time not be charged against the bill.

The PRESIDING OFFICER. Is there objection?

Without objection, the Senator from Washington, Senator GORTON, is recognized for up to 10 minutes.

Mr. GORTON. I ask unanimous consent that my remarks be as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET SUMMIT AGREEMENT

Mr. GORTON. Mr. President, at the opening of the Constitutional Convention in the spring of 1787, Edmond Randolph, Governor of Virginia, introduced into that convention the Virginia resolutions, the prescription for a new Constitution and a strong central Government for the United States.

As spring moved into summer and summer into autumn, however, Governor Randolph vacillated. Ultimately, the day before the signing of the Constitution, he came out in opposition, because the Constitutional Convention had not called for a second constitutional convention to consider all of the objections which various States might have.

Fortunately, however, a day or so later, on September 17, 1787, Benjamin Franklin spoke to the Constitutional Convention. Here is what Benjamin Franklin said:

> I confess that there are several parts of this Constitution which I do not at present approve * * * But I am not sure I shall never approve them.
>
> For, having lived long, I have experienced many instances of being obliged by better information or fuller consideration to change opinions on even important subjects, which I once thought right, but found to be otherwise.

Benjamin Franklin said that he doubted that a second convention could do any better, and was astonished that what the Convention produced approached so near to perfection. He ended his remarks with this statement:

> I consent, sir, to this Constitution, because I expect no better and because I am not sure it is not the best.

This spring, Mr. President, all of us were in favor of deficit reduction. Now it is autumn, and we have a specific proposal, a specific budget in front of us. Each of us must choose to be an Edmond Randolph or a Benjamin Franklin. I will choose the latter course. In his spirit, I accept this budget, because I expect no better and am not sure it is not the best.

Since details of the proposed budget agreement were released, I have listened to Members from the far left and the far right sharply criticize proposed tax increases, spending cuts, or both. The phone has been ringing off the hook with angry constituents—especially those who will be directly taxed or whose favorite programs will be reduced—urging me to oppose the package. Lobbyists from every corner have called to object to one provision or another.

In short, the budget agreement asks that a broad range of Americans make small sacrifices to help return fiscal sanity and economic vitality to this Nation.

In a perverse way, the widespread protest, much like the potshots after political extremists, prove the package to be balanced and that it is real. That, Mr. President, is precisely why I intend to support it.

We are confronted by a sluggish economy and the prospects of a sequester that would cripple the Federal Government, cripple our presence in the Middle East, as well as many other vital domestic programs. The medicine may be bitter, but the alternatives would be far worse.

Mr. President, there is no denying that the budget agreement is far from perfect in the eyes of any individual Member. It was not designed by any single group of draftsmen with similar philosophies. Rather, it is the result of a political compromise among Members of Congress and the administration, Republicans and Democrats, conservatives, and liberals, all of whom fully appreciate the gravity of the situation and the challenges facing this Nation.

Granted, Mr. President, the proposal contains many provisions that I do not support, more taxes and Medicare cuts to identify only two. I have consistently urged the administration to resist Democratic calls for new or increased taxes. Moreover, I have the same concerns about Medicare cuts as I expressed in a letter sent to the Budget Committee in February. And, closer to home, I worry that some of the cuts in agriculture are drastic—though this, too, may be overcome if we forswear new programs and end old ones for minor crops which do little but add to consumer costs, and rather focus on those for basic program crops together with those which strongly and effectively promote exports.

Nevertheless, Mr. President, there are times at which the needs of the Nation are paramount to the demands of the few. This is such a ime. By asking for broad, minor sacrifices, the President, and the congressional negotiators have risen above taking partisan cheap shots, and have set a high standard for leadership to which my fellow Members of Congress and I must rise.

There are, however, two elements, the conspicuous absence of which I wholeheartedly approve. I am relieved that the budget agreement did not include provisions to raise income tax rates. We cannot afford further to depress an already sluggish economy by taking another direct cut out of the income of every American household. Moreover, I am pleased that Social Security benefits were not touched. Such a proposal would almost certainly have doomed the package.

For all of its shortcomings, Mr. President, the budget agreement will set in motion a process for real budget discipline, a discipline that seems to have been lost by a Democratic-controlled Congress. For the first time in a long time, Federal spending programs will not be permitted to grov uncontrollably. For the first time in long time, the budget calculations ar not rife with accounting gimmicks overoptimistic economic assumptions or rosy scenarios.

This budget proposal takes an unvarnished look into the looking glas of economic reality. It calls for future of discipline in which all Americans can take hope. I only regret tha it took a near-fiscal disaster and th threat of shutting down the Federa Government completely to convinc congressional leadership to concede t the long-known dictates of budget reality.

No, Mr. President, the budget proposal is not perfect in my eyes. Alone I would have drafted a far differen one. But this budget proposal is fa preferable to the consequences tha every American would suffer wer Congress to flee from the burdens o its responsibility.

And, finally, Mr. President, there i a simpler reason why each Membe should vote to pass the budget proposal: It is the right thing to do. Not th easiest, and perhaps not the most politically expedient, simply right.

MILITARY CONSTRUCTION APPROPRIATIONS, FISCAL YEA 1991

The Senate continued with consideration of the bill.

The PRESIDING OFFICER. Wh yields time?

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. Th Chair recognizes the Senator fror Tennessee [Mr. SASSER].

Mr. SASSER. Mr. President, I ar pleased to bring before the Senate th military construction bill for fisca year 1991. I would point out to th Chair and to my colleagues that th bill approved by the full Appropriations Committee is $1 billion, 146 million under the amount requested b the President in the budget reques that he sent to the Congress earlie this year. It is also $331 million unde the bill passed by the House of Representatives.

Mr. President, the mix of militar forces in the next decade will be di ferent than the mix of forces toda Military planning is shifting from th potential for confrontation in Wester Europe to more realistic contingencie in the third world. Many of the forc and base structure decisions, whic will define the future national defens priorities, have not yet been made c implemented by the administration.

Therefore, Mr. President, the committee felt that it would not be prudent for the Congress to approve larger military construction inves ment until we know what kind of forc we are going to have in the future an where that force will be based. That is why we have taken such a large reduction in the active forces in this bill.

We have also altered the priorities presented in the budget request. The administration requested a 22-percent increase in overseas funding, primarily in Europe. This at the very time we are poised to dramatically trim forces deployed in Europe.

The administration also sought to cut the most cost effective component, the Army and Air Guard, by over 70 percent.

So, Mr. President, we have substantially increased funding for the Guard and Reserve which, as we have seen in recent days, will be playing a more important role in our national defense.

Mr. President, the budget request includes funding for the NATO infrastructure account in a manner which would support construction of a new $800 million air base in Italy. The bill before us includes a provision that fences funds for this purpose unless authorized by the Congress.

Mr. President, it is my personal view that a full-scale, $800 million F-16 base in Italy is simply not required, particularly not when dozens of bases here at home are being closed.

A case might be made for a continuing military requirement for an appropriate-sized F-16 presence in southern Europe. Events of recent days would indicate that to be true. I have suggested to General Galvin, our NATO commander, that instead of proceeding with a new $800 million base, that we scale the deployment back to a minimum essential base which can support rotational aircraft from bases in the United States.

That is the sensible way to proceed, Mr. President. It would maintain our commitment to NATO and Italy at a greatly reduced cost. I am hopeful that the department and our mission to NATO will carefully consider this approach as an appropriate alternative to building a new $800 million airbase in a foreign country. I am hopeful that the administration will see the wisdom of this approach as the authorization and appropriations bills enter conference committee.

Mr. President, the General Accounting Office has determined that the process utilized by the Department of Defense in support of Secretary Cheney's fiscal year 1990 military construction moratorium is an illegal impoundment and a violation of the Budget and Impoundment Act. The bill approves House language which overturns the illegal deferral of funds.

However, Mr. President, let me emphasize that the committee agrees with the purpose behind the Secretary's moratorium. We should not proceed with building new projects at those locations which may be impacted by base or force structure changes.

We have included report language urging the administration to submit rescissions for those projects which will never be built. I believe that substantial additional savings can be achieved, but the GAO finding requires the DOD and the Congress to follow the law. So, the committee, Mr. President, is not seeking to overturn the Secretary's moratorium. We are merely requiring that the process established in the Budget and Impoundment Act for deferrals and rescissions be followed.

Mr. President, I would add that the committee does believe that the Secretary should release those projects, particularly for the Guard and Reserve, which will not be impacted by force or base structure changes. To continue to withold those projects will only increase the ultimate cost of construction.

Mr. President, the committee has eliminated $10 million requested to initiate design of a billion dollar Pentagon renovation and expansion project.

The committee does not question that the Pentagon is getting old and in need of work. But the Department of Defense has, itself, failed to be a good steward over its own facility. The Department's leadership failed to seek adequate repair and maintenance funds from the annual rent payments made to the General Services Administration. As a result, the Pentagon building was left to slowly deteriorate.

The Department of Defense, the largest and most powerful bureaucracy in the world, merely turned over its annual rent payments to GSA and got nothing in return. Make no mistake about it, Mr. President, the DOD leadership could have gotten a better deal from the GSA if the Department's leadership had truly tried. Instead, the Pentagon has been permitted to fall into disrepair. Now the Department wants to spend a billion dollars to completely rebuild the Pentagon and add 500,000 square feet of space.

Mr. President, we are in a budget crisis. I ask my colleagues, is this the time to be spending a billion dollars for new offices for the Pentagon bureaucracy? I think not.

The Pentagon needs to tighten its belt just like the active services are going to have to do out in the field.

Mr. President, I would add that there is also a dispute between the House and Senate committees of legislative jurisdiction over the future of the Pentagon itself. One House committee wants GSA to maintain the Pentagon building. The Armed Services Committee in the Senate, on the other hand, believes the DOD should be given full control over the building. That dispute must work itself out first before the Department embarks on any renovation activity.

Finally, Mr. President, I would like to discuss briefly the current situation in the Persian Gulf.

The Subcommittee on Military Construction, on August 27, approved a reprogramming to permit the expenditure of up to $30 million by the army for construction activities in Saudi Arabia in support of Operation Desert Shield.

Mr. President, we believe that our troops that are deployed in the inhospitable Arabian Desert should be provided with the facilities necessary to carry out their difficult mission. We do not yet know how long our presence will be required to defend Saudi Arabia and to enforce the international sanctions against Iraq.

However, preliminary costs developed by the Department of the Army indicates that $1.8 billion in fiscal year 1991 military construction may be necessary to support Operation Desert Shield.

Mr. President, I would indicate to the Senate that this bill does not provide direct funding for Operation Desert Shield. We have not received a formal request from the administration. However, the subcommittee will continue to work with the Department of Defense to provide the funding necessary to support our deployment in the gulf.

Mr. President, the subcommittee believes the Department of Defense should seek funding from the host nation and from our allies before utilizing appropriated funds for construction activities in Saudi Arabia. Certainly, we must provide our troops with what they need to do the job. However, the subcommittee believes that our allies, themselves, should be providing more troops and a greater financial contribution to the effort in the Persian Gulf. Certainly if we are to spend $1.8 billion in temporary construction in the gulf, our allies should help us pay that bill. Such expenditures seem tailor made for countries such as Japan and Germany which are unable to directly participate militarily.

Mr. President, the United States only gets 11 percent of our oil from the gulf. Europe gets 27 percent; Japan, 59 percent. And the Persian Gulf countries, themselves, receive hundreds of billions of dollars annually from oil exports to the industrialized world. So, our allies and the gulf countries must contribute more to this effort.

I would also indicate to my colleagues that the subcommittee will exercise its oversight and jurisdiction over Persian Gulf construction activities regardless of the source of funding. The department should be permitted to utilize funds from foreign countries only for projects and activities

approved by the appropriate oversight committees.

So, Mr. President, the subcommittee will carefully monitor events in the gulf and the requirements for military construction.

Mr. President, the full committee reported the bill out on August 1 of this year. The bill itself and the accompanying report have been available for inspection by the membership now for over 2 months. So there has been adequate time for Members to review the contents of this legislation.

Mr. President, I wish to yield to the distinguished ranking member of the subcommittee, but before doing so, I take this opportunity to again express my appreciation to the distinguished Senator from Iowa for the important contribution that he makes to the work of this Military Construction Appropriations Subcommittee.

I look forward to working with the distinguished ranking minority member in the coming years. He makes an enormous contribution to the work of this subcommittee and to the work of the Senate at large, and for that I will express not only my gratitude, but my continued respect.

I yield now to the distinguished Senator from Iowa, Mr. Grassley.

The PRESIDING OFFICER (Mr. Bryan). The Chair recognizes the Senator from Iowa [Mr. Grassley].

Mr. GRASSLEY. Mr. President, I yield myself such time as I use, and I thank the Senator, the distinguished chairman of this committee, for his kind remarks.

I, like the Senator, rise in support of this bill, H.R. 5313, the fiscal year 1990 military construction appropriations bill.

The bill before us recommends appropriations of $7.98 billion for facility requirements for the Department of Defense, including the operation and maintenance of military family housing.

Mr. President, the bill before us is within the subcommittee's 302(b) allocation for budget authority and outlays. The committee recommendation also represents a reduction from the President's budget request of $1.1 billion; a reduction from the House-passed bill of $332 million; and a reduction from the fiscal year 1990 appropriation of $271 million.

Mr. President, the chairman has already given a brief analysis of the bill and has inserted into the Record a longer statement which provides details on the bill. I associate myself with the statement of the distinguished chairman and, therefore, will not go into any detail on the bill, which has been reported and available to Members since mid-August.

Mr. President, I do, however, thank my friend from Tennessee, Chairman Sasser, for the excellent work he has done on this bill. I especially thank him for the spirit of cooperation which is exhibited on this subcommittee. We work together, all members of the subcommittee, to insure that the facility requirements for our military members and their dependents are our No. 1 priority.

Again, Mr. President, I support the bill before the Senate and urge its adoption.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Tennessee [Mr. Sasser].

Mr. SASSER. Mr. President, I thank the distinguished Senator from Iowa for his remarks and comments.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, provided that no point of order shall be considered as having been waived by reason of this agreement, and that the bill as thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, will the distinguished chairman yield for the purpose of a colloquy regarding provisions in the 1991 appropriations transferring land at Fort Meade to the Secretary of the Interior?

Mr. SASSER. I am happy to yield to the Senator from Maryland.

Mr. SARBANES. I thank the chairman.

The bill language states and I quote "the Secretary of the Army shall transfer, no later than September 30, 1991, and without reimbursement, to the Secretary of the Interior the real property, including improvements thereon, consisting of approximately 7,600 acres of Fort Meade, Maryland." The bill also states and again I quote, "the Secretary of the Interior shall administer the property transferred * * * consistent with wildlife conservation purposes."

It is my understanding that the intent of the committee is for this land to be added to the Patuxent Wildlife Research Center and to be administered by the director of that center. It is also my understanding that the committee intends for the land to be managed in such a way that enhances and protects the land's value as habitat for wildfowl and migratory birds, as habitat for other wildlife, as wetlands and undisturbed forest, as part of the Chesapeake Bay watershed, and as a wildlife research and experimentation center. Is this what the committee intends?

Mr. SASSER. The Senator is correct. The committee intends for all of this acreage to be added to the Patuxent Wildlife Research Center for the purpose of wildlife conservation and research.

Mr. SARBANES. The Base Closure and Realignment Act specifies the Department of Defense's responsibility for environmental restoration including its obligations under the National Environmental Policy Act of 1969.

With respect to the 7,600 acres at Fort Meade, it is my understanding that the committee expects the Army to continue all of its investigations of potential contamination, including potential hazardous substance releases, underground storage tanks, and other possible sources of contaminants. Should any of these require cleanup, the Army is expected to utilize funding from the Defense Environmental Restoration Account or other appropriate sources of funding as well as its own personnel to effect timely cleanups and to meet any statutory and regulatory deadlines that might otherwise fall to the Fish and Wildlife Service.

Mr. SASSER. That is the committee's intent. The Army is expected to meet any obligations and deadlines associated with provisions of Superfund, the Resource Conservation Recovery Act, and related Federal and State laws.

Mr. SARBANES. A primary benefit to the Army from this transfer is that they will not have to clean up the unexploded munitions which underlie a considerable portion of the property. It would be necessary to clearcut the forests and drain the wetlands on the property to even begin removing unexploded ammunition. These munitions apparently pose little or no hazard in their present state and it is my understanding that the committee does not intend for the Army or the Fish and Wildlife Service to attempt their removal. Is that correct?

Mr. SASSER. The Senator from Maryland is correct.

Mr. SARBANES. I thank the chairman for his concurrence on these important issues and I want to address one final area of concern. The appropriations bill states and I quote "the Secretary of the Interior * * * shall provide for the continued use of the property by Federal agencies to the extent such agencies are using it on the date of the enactment of this act, including activities of the Department of Defense that are consistent with the recommendations of the Base Realignment and Closure Commission."

It is my understanding that the committee intends for the Fish and Wildlife Service to be able to enter into cooperative agreements and issue special use permits for historic uses of the 7,600 acres provided that they are consistent with all laws pertaining to wildlife refuges and consistent with the purposes of the Patuxent Wildlife Research Center.

Mr. SASSER. The Senator from Maryland is correct. That is the committee's intent.

Mr. SARBANES. Mr. President, I thank my friend from Tennessee for his assurances on these important issues. This land is a notable and appropriate addition to our National Wildlife Refuge System. Future generations of Americans will look favorably upon our foresight in setting aside this acreage for wildlife conservation and I commend the members of the committee for their commitment to this transfer.

Ms. **MIKULSKI**. My colleague from Maryland is correct. The Patuxent Wildlife Research Center performs extremely sensitive and valuable work with the breeding of endangered species and requires a natural and undisturbed area. The center is in the best position to administer the property, which hosts over 106 breeding birds in addition to migratory birds, bald eagles, blue herons, and several rare and endangered species.

Mr. President, the disposition of the Fort Meade property is extremely important to the citizens of Maryland, especially those in Anne Arundel and Prince Georges Counties. In transferring this property to the Department of the Interior, we will create the second largest environmentally protected area in the entire Boston-Richmond corridor. This is a unique opportunity to preserve and protect this valuable land. I thank the chairman for his support in protecting this critical environmental resource.

ENERGY MANAGEMENT AND CONSERVATION

Mr. **KASTEN**. Mr. President, I would like to engage in a colloquy with my colleague from Wisconsin and the chairman and ranking Republican of the Military Construction Subcommittee regarding an important energy conservation initiative which is in the House version of the Defense authorization bill. Specifically, the House Defense authorization bill includes an authorization of $50 million for an energy conservation program. Unfortunately, the Senate version of the bill does not contain this provision, nor is it part of the House or Senate versions of the military construction appropriations bill. Given the importance of this program, particularly in light of events in the Persian Gulf, I would like to receive assurances that the conferees will consider adding funds for the program in conference.

Mr. **SASSER**. Mr. President, I answer to the Senator from Wisconsin that the conferees will consider funding all of the programs that are included in the final version of the military construction sections of the Defense authorization bill. Obviously, an unusual procedural situation has occurred this year with the military construction appropriations bill moving faster than the authorization bill. In conference, we will have to sort out all the discrepancies so that the final version of the two bills are brought into line. We will definitely review the funding request for an energy conservation program if it is authorized in the final version of the Defense authorization bill.

Mr. **KOHL**. Mr. President, I am pleased to hear from the chairman of the Military Construction Subcommittee that, if authorized, the conferees will consider providing $50 million for an energy conservation program. Such a program is sorely needed at the Department of Defense. Over the last decade, investments in energy conservation systems have declined from a total of over $225 million in 1981 to less than $2 million this fiscal year, according to testimony of the Department before Congress in July. Last year the House Armed Services Committee directed the Department to spend $20 million on energy management and conservation systems. Not one dollar of that money was actually spent. At the same time, the Department submitted a report to Congress which lists a small percentage of the energy management and conservation needs of the Department. That report lists a nunber of projects with a payback of less than 1 year—in other words, an investment in energy management or conservation systems would save the taxpayers money in the first year of operation.

With this track record, it is clear that the Department has different priorities and that it will not invest in energy conservation unless required to do so by the Congress.

Mr. **SASSER**. I agree wholeheartedly with my friend from Wisconsin. I strongly support energy conservation. The Department of Defense is the largest consumer of energy in the Federal Government. Total Federal energy purchases last year totaled $8.5 billion of which 80 percent was by DOD. Those costs will only skyrocket next year as oil prices rise. Energy conservation is a sound investment both for the taxpayer and for our national security.

Mr. **KASTEN**. Mr. President, I would also like to thank the chairman of the Military Construction Subcommittee for his support of energy conservation. I have been following this issue for years. Despite several expressions of congressional interest, the Department has failed to take the initiative on this important issue. I am hopeful that the conferees will fund the $50 million to begin again this program. More importantly, I want the Congress to send a clear signal to the Department that energy conservation is a high priority, that Congress will appropriate money for this purpose in future years, and that the Department should include a realistic budget for energy management and conservation in the budget request for next year.

Mr. **GRASSLEY**. Mr. President, I also strongly support the goals of energy conservation. The Defense Department needs to increase its efforts in this area immediately. I believe that the record shows that Congress has always funded the Department's requests for energy conservation purchases in the past. We will continue to do so in the future and, if necessary, will take the lead on this issue.

Mr. **KOHL**. I thank the Senator from Iowa for his expressions of support.

Mr. **STEVENS**. Mr. President, the report accompanying the 1988 military construction appropriations bill included language that directed the Army to replace facilities utilized by the Bureau of Land Management that were destroyed by the Army at Fort Wainwright, AK.

To date, the Army has not complied with the direction of the Congress. The Army and BLM have worked together to resolve what kind of facilities are necessary to support the firefighting mission of the BLM in Alaska.

The Bureau of Land Management has proposed a solution where the Army could construct an addition to an existing facility on Fort Wainwright to support the BLM mission. The estimated cost of this addition is $1.3 million.

Mr. President, the Congress spoke clearly on this issue in the 1988 bill. I ask my chairman and ranking member on the Military Construction Subcommittee if they continue to support the language included in the 1988 bill.

Mr. **SASSER**. Mr. President, I appreciate my colleague, the Senator from Alaska, raising this issue again before the Senate. I share his frustration with the Army's failure to comply with the direction provided by the Congress in 1988. The strategy proposed by the Bureau of Land Management is reasonable, and appears to be the lowest cost solution to this problem. I join Senator STEVENS in urging the Army to reprogram $1.3 million from available 1988 funds to construct this addition at Fort Wainwright.

Mr. **GRASSLEY**. Mr. President, I join the chairman of the Military Construction Subcommittee in support of the project described by the Senator from Alaska. Senator STEVENS serves as a member of this subcommittee, and I will work with him to ensure that this project is completed.

Mr. **STEVENS**. Mr. President, I appreciate the support of the Senator from Tennessee and the Senator from Iowa. As this bill proceeds to conference with the House, may I ask them if this matter might be considered during that conference, to reinforce the 1988 language?

Mr. **SASSER**. If I might respond, Mr. President, I can assure the Senator that this matter will be raised in the conference, where the Senator will be a conferee.

Mr. **STEVENS**. I thank the chairman.

AMENDMENT NO. 2920

Mr. **SASSER**. Mr. President, on behalf of myself and the distinguished ranking member, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. SASSER], for himself and Mr. GRASSLEY, proposes an amendment numbered 2920.

Mr. **SASSER**. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 8, strike "$698,167,000" and insert in lieu thereof "$697,967,000".

On page 3, line 13, strike "$1,084,126,000" and insert in lieu thereof "$1,083,826,000".

On page 4, line 6, strike "$892,184,000" and insert in lieu thereof "$891,784,000".

On page 4, lines 19 through 21, restore the matter stricken.

On page 7, line 9, strike "$226,188,000" and insert in lieu thereof "$235,549,000".

On page 7, line 16, strike "$154,830,000" and insert in lieu thereof "$146,369,000".

On page 7, line 22, strike "$75,126,000" and insert in lieu thereof "$75,226,000".

On page 8, line 22, strike "$61,800,000" and insert in lieu thereof "$61,700,000".

On page 8, line 24, strike "$1,525,767,000" and insert in lieu thereof "$1,525,667,000".

Mr. **SASSER**. Mr. President, the amendment I offer with the distinguished ranking member results in no net increase to the appropriations provided in this bill.

The amendment is offered to make technical corrections in the bill, to provide funding for those projects which were approved by the Senate during the consideration of the authorization bill, completed subsequent to full committee action on the appropriations bill, and to provide funding for other projects, including several National Guard and Reserve projects which were included in the House authorizing bill but were not included in the House appropriations bill.

I might say, Mr. President, that the project additions are fully offset with corresponding reductions.

Mr. President, I ask unanimous consent that a complete description of this amendment be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The amendment includes the following project additions:

Army:	
Alaska: Fort Wainwright, elementary school	$8,300,000
Utah: Toole, Chemical demil facility (increase to project)	9,000,000
Navy:	
California: Monterey Fleet Oceanography Center, meteorological building	6,440,000
Rhode Island: Newport Underwater Systems Center, Integrated propulsion facility	13,700,000
Air Force:	
Arkansas: Little Rock AFB, personnel processing center	5,300,000
New Mexico: Holloman Air Force Base, F-117 facilities	36,000,000
Army National Guard:	
Arizona:	
Bellemont, Consolidated training site	6,522,000
Marana, CMS facility	4,554,000
Indiana: Knox, armory	1,376,000
Iowa:	
Camp Dodge, add vehicle storage facility to STARC armory	575,000
Corning, armory	1,008,000
Council Bluffs, add OMS to armory	528,000
Oskaloosa, amory	1,306,000
Missouri:	
Jefferson City:	
Armory	5,049,000
OMS	942,000
USPFO warehouse	2,800,000
Education facility	2,329,000
Support maintenance shop	7,880,000
New Mexico: Albuquerque, training site	1,549,000
Tennessee:	
Huntingdon, armory	1,319,000
Jackson, armory addition	898,000
Lenoir City, armory	1,230,000
Texas: Houston, Addicks armory and OMS	5,400,000
Utah:	
Camp Williams:	
Armory	4,145,000
Aviation support facility	6,952,000
OMS	799,000
Wisconsin: Beloit, armory	2,200,000
Air National Guard:	
Iowa:	
Des Moines, upgrade aircraft hanger	1,800,000
Sioux City, alter composite support fac	680,000
Maryland: Glen Martin Airport utilities removal	3,700,000
North Dakota: Fargo, jet fuel storage	3,500,000
Army Reserve:	
Tennessee:	
Knoxville, reserve center planning & design	460,000
Memphis, reserve center planning & design	840,000
Army Family Housing:	
Kansas, Fort Riley (250 units)	16,500,000

The amendment includes the following reductions:

Army:	
Deficiency allowance	15,000,000
General reduction	2,500,000
Navy: General reduction	20,440,000
Air Force:	
General reduction (increase)	30,700,000
CONUS unspecified, site unspecified, F-117 facilities	11,000,000
Army National Guard: Deficiency allowance	50,000,000
Air National Guard:	
Arkansas:	
Little Rock AFB, personnel processing center	5,300,000
Deficiency allowance (reduction)	12,841,000
Army Reserve: Deficiency allowance (reduction)	1,200,000
Army Family Housing: Construction improvements (reduction)	16,600,000

CHANGE TO BILL LANGUAGE

The amendment restores the bill language approved by the House relating to the Ballistic Missile Organization.

Mr. **SASSER**. Mr. President, this amendment is cosponsored, I might say, by the ranking minority member. I yield to him for any comments he might wish to make at this time.

Mr. **GRASSLEY**. Mr. President, I have no comments. I am ready for its adoption.

Mr. **SASSER**. Mr. President, I ask that the amendment be agreed to.

The **PRESIDING OFFICER**. Is all time yielded back?

Mr. **SASSER**. Yes, I yield back all time on my side.

Mr. **GRASSLEY**. I yield back all time on my side.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment.

The amendment (No. 2920) was agreed to.

Mr. **SASSER**. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **GRASSLEY**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2921

(Purpose: To provide a new civil cause of action in Federal law for international terrorism that provides extraterritorial jurisdiction over terrorist acts abroad against U.S. nationals)

Mr. **GRASSLEY**. Mr. President, I send my amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for himself and Mr. HEFLIN, proposes an amendment numbered 2921.

Mr. **GRASSLEY**. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . ANTITERRORISM ACT OF 1990.

(a) SHORT TITLE.—This section may be cited as the "Antiterrorism Act of 1990".

(b) TERRORISM.—Chapter 113A of title 18, United States Code, is amended—

(1) in section 2331 by striking subsection (d) and redesignating subsection (e) as subsection (d);

(2) by redesignating section 2331 as 2332 and striking the caption for section 2331 and inserting the following:

"§ 2332. Criminal penalties";

(3) by inserting before section 2332 as redesignated the following:

"§ 2331. Definitions

"As used in this chapter—

"(1) the term 'international terrorism' means activities that—

"(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

"(B) appear to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnaping; and

"(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

"(2) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act;

"(3) the term 'person' means any individual or entity capable of holding a legal or beneficial interest in property; and

"(4) the term 'act of war' means any act occurring in the course of—

"(A) declared war;

"(B) armed conflict, whether or not war has been declared, between two or more nations; or

"(C) armed conflict between military forces of any origin.".

(4) by adding immediately after section 2332 as redesignated the following new sections:

"§ 2333. Civil remedies

"(a) ACTION AND JURISDICTION.—Any national of the United States injured in his person, property, or business by reason of an act of international terrorism, or his estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover three-fold the damages he sustains and the cost of the suit, including attorney's fees.

"(b) ESTOPPED UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 1472 (i), (k), (l), (n), or (r) of title 49 App. shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"(c) ESTOPPED UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"§ 2334. Jurisdiction and venue

"(a) GENERAL VENUE.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

"(b) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of this title, then any civil action under section 2333 of this title against any person may be instituted in the district of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

"(c) SERVICE ON WITNESSES.—A witness in a civil action brought under section 2333 of this title may be served in any district where the witness resides, is found, or has an agent.

"(d) CONVENIENCE OF THE FORUM.—The district court shall not dismiss any action brought under section 2333 of this title on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

"(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

"(2) that foreign court is significantly more convenient and appropriate; and

"(3) that foreign court offers a remedy which is substantially the same as the one available in the courts of the United States.

"§ 2335. Limitation of actions

"(a) IN GENERAL.—Subject to subsection (b), a suit for recovery of damages under section 2333 of this title shall not be maintained unless commenced within 3 years from the date the cause of action accrued.

"(b) CALCULATION OF PERIOD.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or any concealment of his whereabouts, shall not be reckoned within this period of limitation.

"§ 2336. Other limitations

"No action shall be maintained under section 2333 of this title for injury or loss by reason of an act of war.

"§ 2337. Suits against government officials

"No action shall be maintained under section 2333 of this title against—

"(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within his official capacity or under color of legal authority; or

"(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within his official capacity or under color of legal authority.

"§ 2338. Exclusive Federal jurisdiction

"The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter."; and

(5) by amending the table of sections to read as follows:

"CHAPTER 113A.—TERRORISM

"Sec.
"2331. Definitions.
"2332. Criminal penalties.
"2333. Civil remedies.
"2334. Jurisdiction and venue.
"2335. Limitation of actions.
"2336. Other limitations.
"2337. Suits against government officials.
"2338. Exclusive Federal jurisdiction.

(c) TABLE OF CONTENTS.—The table of contents of part 1, title 18, United States Code, is amended by striking:

"113A. Extraterritorial jurisdiction over terrorist acts abroad against United States nationals .... 2331"

and inserting in lieu thereof:

"113A. Terrorism .... 2331".

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to any pending case and any cause of action arising on or after 3 years before the date of enactment of this section.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume, and I will not take much.

Last April, Senator HEFLIN and I introduced S. 2465, the Anti-Terrorism Act of 1990. This legislation would, for the first time, provide for a civil cause of action for American victims of international terrorism.

Current laws already provide for criminal jurisdiction over acts of international terrorism. This amendment will fill the gap in the law by establishing a civil counterpart to the existing criminal statute.

This legislation has strong bipartisan support. Ten of fourteen members of the Judiciary Committee are cosponsors. Cosponsors of S. 2465 include: Senators HATCH, HUMPHREY, BIDEN, SPECTER, SIMON, LEVIN, LIEBERMAN, MURKOWSKI, DECONCINI, COATS, BOSCHWITZ, METZENBAUM, HELMS, BOND, and KOHL. Last July the Subcommittee on Courts and Administrative Practice held a hearing where families of victims of terrorism, legal experts, and the administration testified. Last week, the subcommittee unanimously and favorably polled out this important legislation. The companion bill has been introduced in the House where it has also garnered strong bipartisan support.

Specifically, this amendment provides that any national of the United States, injured by an act of international terrorism, his estate, heirs, or survivors, may sue in U.S. district court for treble damages.

Last June, a New York district court ruled that the U.S. courts have jurisdiction over the Palestinian Liberation Organization. We all remember the hijacking of the *Achille Lauro* cruiseliner when PLO terrorists brutally murdered American Leon Klinghoffer. His wife Marilyn wanted justice so she turned to the American legal system and sued those responsible. When Mrs. Klinghoffer died, their daughters carried on in the pursuit of justice.

Skeptics told the Klinghoffers that it was beyond what most people would try. "Sue the PLO. What? Are you crazy?" They were asked.

At the July hearing, Ilsa Klinghoffer testified that her mother was "determined to find some accountability, some responsibility, some justice for everything she went through." Ilsa explained that she had to continue in her footsteps.

Lisa Klinghoffer explained that suing those responsible—the PLO:

> is a matter of principle. It is not the Judgment. It is not the money. It is not a price tag. It is to legally set responsibility for who gave the orders to murder my father; for who gave the orders to hijack the ship * * * it is a search for justice.

And justice is what the Grassley-Heflin amendment is all about. The Klinghoffers have laid the groundwork. The New York courts have set the precedent. The Grassley-Heflin amendment codifies that ruling and

makes it definitive. It empowers victims of terrorism with the right to their day in court to prove who is responsible for all the world to see.

The United States must take a strong stance against terrorism. The Department of State testified that this bill would add to the arsenal of legal tools that can be used against those who commit acts of terrorism against U.S. citizens abroad.

Mr. President, the latest stream of terrorist threats has been unleashed against Americans. The Butcher of Baghdad, Saddam Hussein, has threatened to attack America and her allies anywhere in the world with his agents of terror.

Just last Friday, Abul Abbas, mastermind of the *Achille Lauro* hijacking, unleashed a new campaign of terror against Americans. Abbas, member of the PLO Executive Committee, convicted murderer of Leon Klinghoffer, leader of the recent May PLO attack on the beaches of Tel Aviv, is alive and well and calling for renewed terrorism against Americans worldwide.

Now is the time for action. Now is the time to strengthen our ability to both deter and punish acts of terrorism.

We must make it clear that terrorists' assets are not welcome in our country. And if they are found, terrorists will be held accountable where it hurts them most: at their lifeline, their funds. With the Grassley-Heflin bill, we put terrorist on notice: To keep their hands off Americans and their eyes on their assets.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SASSER. Mr. President, I understood that this amendment, which is legislative in nature, has been cleared by the majority and minority leadership on the Judiciary Committee, which is the committee of jurisdiction. With that understanding, Mr. President, the majority is willing to accept this amendment on this bill and to take it to conference. Mr. President, I ask that the amendment be agreed to.

The PRESIDING OFFICER. Does the Senator yield back the time reserved to him?

Mr. SASSER. I yield back the time on this amendment.

The PRESIDING OFFICER. Does the Senator from Iowa do the same?

Mr. GRASSLEY. Yes, I do.

Mr. DOMENICI. Mr. President, I wonder if the distinguished manager on our side might just answer a question for the Senator from New Mexico.

Mr. GRASSLEY. On this provision?

Mr. DOMENICI. Yes.

Mr. GRASSLEY. Yes, I am glad to yield to the Senator from New Mexico.

Mr. DOMENICI. Is the amendment he is referring to the so-called managers' amendment that incorporates additional items?

Mr. GRASSLEY. No, it is not. I do not need any time.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back by both the managers in control of the floor.

The question is on agreeing to the amendment.

The amendment (No. 2921) was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2922

(Purpose: To provide for payment of claims by United States nationals against Iraq)

Mr. BAUCUS. Mr. President, I rise to offer an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 2922.

Mr. BAUCUS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. . PAYMENT OF CLAIMS BY UNITED STATES NATIONALS AGAINST IRAQ.

(a) Notwithstanding any other provision of law, the President is authorized—

(1) to vest title in a portion of the property in which transactions have been blocked pursuant to Executive Order 12722 of August 3, 1990, which portion shall be equal to the total amount of obligations owed to United States Government (including the Department of Agriculture and the Commodity Credit Corporation) and United States nationals for which Iraq has suspended repayment; and

(2) to liquidate such property and pay United States creditors the amount of the obligations referred to under paragraph (1).

(b) In the event that property liquidated under subsection (a)(2) is less than the total amount of obligations described in subsection (a)(1), then obligations the repayment of which is guaranteed by the Commodity Credit Corporation shall be given priority in payment of creditors.

Mr. BAUCUS. Mr. President, I rise to offer an amendment to liquidate Iraqi assets to pay Iraq's debts to United States creditors.

Since Iraq's invasion of Kuwait the United States has imposed a number of economic sanctions against Iraq.

On August 3, 1990, the President imposed an embargo on Iraq and froze substantial Iraqi assets in the United States. Precise estimates of the value of the Iraqi assets frozen are not available, but they appear to be worth several hundred million dollars.

In retaliation, Iraq took a number o steps, including suspending payment on debts to creditors in the Unite States.

On September 19, Iraq took the additional step of seizing all assets of nations supporting the U.N. embargo o Iraq.

This included an as yet unspecifie amount of U.S. assets.

Iraq now owes creditors in th United States about $2.6 billion.

This includes about $1.9 billion i loans to Iraq guaranteed by the U.S Department of Agriculture for loan to purchase U.S. agricultural exports.

If Iraq defaults on these debts USDA's Commodity Credit Corporation would be forced to pay off th loans.

These debts would cost the CCC approximately $900 million in fiscal yea 1991 alone.

That would be a tremendous drai on CCC assets that are already draw thin to support the farm program.

My amendment would authorize th President to liquidate a portion o Iraqi assets sufficient to repay thei debts to United States creditors—particularly the Department of Agriculture.

The point of this amendment i simple.

American farmers are already suffering because of the Middle East crisis i many ways.

Farmers are paying drasticall higher fuel prices because of th threat to the flow of oil.

Farmers also stand to lose hundred of millions in sales to Iraq because o the embargo.

But if we do not take action, farme will also be effectively forced to pa off Iraqi debts out of the farm program.

This is simply unacceptable.

Iraq has seized United States assets It is now time for us to follow suit.

This amendment is cosponsored b Senators BOREN, DASCHLE, EXON CONRAD, and KERRY of Massachusetts

It is supported by the National Association of Wheat Growers, the American Farm Bureau, and the Nationa Farmers' Union.

We must move to pass this critica legislation quickly.

I ask unanimous consent that letter of support and an article on thi subject from the Washington Post b printed in the RECORD.

There being no objection, the material was ordered to be printed in th RECORD, as follows:

THE NATIONAL ASSOCIATION,
OF WHEAT GROWERS,
September 26, 1990.

Hon. MAX BAUCUS
U.S. Senate, Hart Senate Office Buildin
Washington, DC.

DEAR SENATOR BAUCUS: This letter is to express our support for your amendment t H.R. 5268, regarding and specifically th provision which directs the President to liquidate frozen Iraqi assets in order to repay Iraqi debt owed to U.S. creditors.

The National Association of Wheat Growers supports the President's August 3 decision to embargo all U.S. trade with Iraq. There should be no question that in this crisis, U.S. wheat producers want to do their fair share. Since the Iraqi invasion of Kuwait, we have lost one of our largest export markets for hard red winter wheat. We also face a significant reduction in net farm income because higher oil prices will result in a higher cost of production.

These are very direct and harmful effects. A more indirect, perhaps more insidious, effect may come in the form of an Iraqi default on the $1.9 billion it owes to USDA's Commodity Credit Corporation. If Iraq defaults on these loan guarantees, the USDA will be held accountable. We are uncertain whether the CCC can sustain such a loss without cutting outlays to already desperately trimmed farm support and export assistance programs.

We respectfully urge you and your colleagues to move quickly on this legislation to ensure that American farmers are not unduly or excessively hurt by the Persian Gulf crisis.

Sincerely,

Del Wiedeman,
President.

Iraq Seizes Assets of States Opposing It

(By Richard Homan)

Iraq declared yesterday that it has seized all assets of countries participating in the U.N.-imposed sanctions against it, but the move appeared likely to have only limited impact against foreign governments and companies since oil and other major industries in the country long have been state-owned. The announcement from Baghdad came as the five permanent members of the

U.N. Security Council reportedly reached agreement to expand the sanctions by allowing countries to intercept aircraft bound to or from Iraq or Kuwait. But diplomatic sources said the proposal, expected to be voted on this weekend, does not allow for the use of force against civilian aircraft because that would violate international aviation conventions.

In an effort to further tighten sanctions, diplomats at the United Nations said, the proposed resolution would also allow countries to "arrest" Iraqi ships in their ports if they are believed to be violating the sanctions imposed by the Security Council August 6, 4 days after Iraq invaded Kuwait.

President Bush warned again yesterday that the United States is prepared to take unspecified "additional steps" if sanctions and the quest for a political resolution to the Persian Gulf conflict do not succeed. A White House spokeswoman said Bush's remarks, at a political fund-raiser in San Francisco, were meant to be a reiteration of what he has said repeatedly—that Iraqi President Saddam Hussein's invasion and annexation of Kuwait last month "will not stand."

In his speech, which came a day after the Pentagon announced that Iraq had added significantly to its troop strength in Kuwait, Bush said the United States was compelled "by the moral compass that guides our nation" to respond to Saddam's "brutally aggressive act of terrorism against international law and order."

Among other developments yesterday, a U.S.-chartered plane flew 416 women and children, most of them Americans, out of Baghdad. Also, Argentina, in a break with its tradition of neutrality in international disputes, said it will send two warships to the Persian Gulf to help enforce the economic blockade. The move would make Argentina the first Latin American state to join the multinational military deployment there.

U.S. officials said it was not immediately clear how Iraq's seizure of foreign assets, decreed by the ruling Revolution Command Council, headed by Saddam, would affect American interests. State Department spokesman Margaret Tutwiler said, "It is not clear from the Iraqi statement in what form or against whom the action will be taken." A Treasury Department spokesman said no determination of the amount of property involved could be made until claims are filed.

Some Western governments said they saw little to be concerned about.

"The U.K. is in the happy position of being a net debtor to Iraq" and thus not likely to suffer seriously, a spokesman for the Bank of England told Reuter. Asked what he thought the effect would be, Belgain Foreign Minister Mark Eyskens told reporters: "Not much, because there isn't much to seize. Saddam Hussein has come up with much more interesting moves."

The Iraqi decree said, "All money, assets and their revenues, belonging to governments, institutions, companies and banks of countries that have taken arbitrary decisions against Iraq are impounded." It barred Iraqi courts from considering legal challenges against the order, and it back-dated it to the start of the U.N.-imposed embargo.

While the order did not mention Kuwait, there was little doubt that it included that country, which Saddam now considers part of Iraq.

Dozens of major foreign companies, many of them American, have worked in Iraq and Kuwait in recent years, primarily in the oil industry, construction and communications. But Iraq, and to a lesser extent, Kuwait, had nationalized major segments of their economies in the 1970s and outsiders were permitted to hold few assets there.

Spokesmen for Morrison-Knudsen and Bechtel Corp., two of the biggest American engineering and construction firms working in the Persian Gulf area, said their companies had no assets in Iraq.

Iraq's largest industry, the production and transportation of oil, has been entirely state-owned since the former British concession was nationalized in 1972. Foreign oil companies have few assets in Iraq except possibly tools and office furniture owned by drilling and maintenance contractors.

The Bank of England said Iraqi deposits already frozen in British banks totaled nearly $3.2 billion while they owed Iraq more than $1.9 billion they could not pay—a windfall in Britian's favor. A spokesman said the British government's only physical asset in Iraq was its embassy compound, Reuter reported.

The proposed air embargo is being sought as reports continue to circulate that Libya has been sending air shipments to Iraq. The nature of the cargo is not known, although several weeks ago the Security Council's Sanctions Committee was told that Libya had been transshipping equipment to build bridges for use by tanks.

There also have been intelligence reports that Libyan planes were being used by Western European companies exporting goods to Baghdad.

On Saturday, French President Francois Mitterrand said he had a list of "companies in our country trying to get around the embargo," and he said several countries were helping Iraq evade the embargo, but he did not identify them.

The main focus of the proposed resolution is to have the countries surrounding Iraq—Iran, Syria, Jordan, Saudi Arabia and Turkey—prevent aircraft from reaching Iraq unless they are carrying medical supplies or are authorized by the U.N. Sanctions Committee. While no force could be used against planes violating the embargo, a Western diplomat said, tracer bullets could be fired and fighter aircraft could signal by waggling their wings.

If aircraft fail to comply, the diplomat said, the information would be noted and the offending company or country could be singled out for punitive action if such moves are authorized by future U.N. resolutions.

At the United Nations, Soviet Deputy Foreign Minister Vladimir Petrovsky told reporters he was optimistic that sanctions and diplomatic action against Iraq would succeed. "I strongly believe in a step-by-step approach," he said. "Not all options have been used. I also believe Saddam will take into account the attitude of the international community." The Soviet Union is one of the five permanent members of the Security Council, along with the United States, Britain, France and China.

News services reported these addditional developments:

Japanese automakers agreed to allow the United States to use three auto transport ships to carry vehicles and other goods to the gulf region.

Jordan's King Hussein, Morocco's King Hassan II and Algerian President Chadli Bendjedid met in Rabat, Morocco, to discuss ways of solving the gulf crisis. Iranian Foreign Minister Ali Akbar Velayati indicated that Tehran would soon open talks with Saudi Arabia for the same purpose.

Vladimir Kryuchkov, chairman of the KGB secret police, told the Associated Press in an interview that the Soviet Union is willing to share intelligence on Iraq with the United States but has not made the offer directly because it has been rebuffed in the past.

The U.S. Defense Department, joining an effort by world relief organizations, has temporarily designated three military cargo planes—two C-5s and one C-141—to supply and transport some of the thousands of foreign refugees from Kuwait and Iraq now in Jordan, the Pentagon said.

Jordanian Finance Minister Basil Jardaneh said his country's economy faces collapse by late November unless it receives substantial financial aid. The embargo against Iraq, a major trading partner, will cost it an estimated $2.1 billion in the first year of the crisis—half of Jordan's annual gross national product—and Jordan also will pay about $30 million to aid refugees from Iraq and Kuwait, he said.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, on our side we can accept the amendment of the Senator from Montana.

Mr. DOMENICI. I understand that we are prepared to accept it on this side.

The PRESIDING OFFICER. Does the Senator from Montana yield back his time?

Mr. BAUCUS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Would that be the request of the Senator from Tennessee, to yield back the time under his control?

Mr. SASSER. Yes, we yield back the time under our control.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2922) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

Mr. SASSER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, at this point, I yield to the distinguished Senator from New Mexico [Mr. Domenici].

Mr. DOMENICI. Mr. President, I will take but a very few moments.

Mr. President, I rise today in support of the amendment that was offered by the distinguished managers of the bill that would increase funding for the construction of the facilities necessary to bed down the 37th Tactical Fighter Wing at Holloman Air Force Base in New Mexico. This amendment will enable the Air Force to remain on schedule with the transfer of the F-117 Stealth fighter from Tonopah to Holloman, and also to ensure at least a $130 million savings during the course of the move.

The Air Force has decided to transfer the 37th Tactical Fighter Wing from Tonopah Air Force Base, NV, to Holloman Air Force base in New Mexico. This is in no way associated with any base closure as some members had originally assumed.

Tonopah was never intended to be the permanent home for the fighter. Tonopah Air Force base is for top secret programs only, and the F-117 Stealth fighter program has been classified until recently. As a result of the program's declassification, the Air Force decided to plan a search for a permanent home for the 37th Tactical Fighter Wing.

The Air Force chose both Holloman AFB in New Mexico, and Nellis AFB in Nevada as the potential homes for the 37th. They conducted indepth studies on the merits of moving the wing to either of the two facilities, based on economic and operational criteria. Based on these criteria, the Air Force found that it was both economically and operationally more beneficial to move the wing to Holloman.

Several questions were raised about the validity of the Air Force numbers, estimates and conclusions. The GAO was commissioned to do a study on the Air Force conclusions. On September 27, we received a preliminary briefing from the GAO on its conclusions. While the Air Force and GAO figures differed slightly, the GAO was in agreement that there were substantial savings to be gained by the transfer of the F-117 to Holloman. The GAO found that $130 million savings could be achieved by the transfer of the 37th Tactical Fighter Wing to Holloman.

The amendment that was offered by Senators Sasser and Grassley will increase funding for this transfer by $25 million in fiscal year 1991. This will bring the total amount associated with military construction costs in fiscal year 1991 to $36 million. It will also ensure that the Air Force remains on schedule and that the savings associated with the move are achieved.

When the Air Force and the President originally submitted their budget request to Congress, Air Force officials were under the impression that hangars to house the plane would not be necessary. Since that time they have found that in order to protect the F-117 from heat, and allow maintenance crews to work on them when needed, 40 operational hangars will be necessary regardless of where the F-117 itself is finally based.

This amendment will provide the funds the Air Force needs for the construction of the hangars in order to keep the transfer schedule on track, and ensure that the cost benefits to be derived from the transfer are fully achieved. The additional funds are offset by other programs that will not be adversely affected.

I would like to thank the distinguished chairman of the subcommittee and the ranking member for their cooperation. We have worked very hard on this issue over the past 5 months, and have been able to get clear, decisive, and conclusive information about the merits of the transfer of the F-117 to Holloman and the cost savings to be achieved. It is time now to move forward with this relocation, and ensure that the savings that can be achieved, are actually achieved.

Mr. President, let me just say to the managers and to all of those that have been involved in this issue, including the distinguished occupant of the chair and the distinguished Senator from Nevada [Mr. Reid] that I am delighted that we have come to a resolution today which will, indeed, provide the moneys needed by the Air Force for the proposed move of the Stealth fighter from Tonopah, in the deserts of Nevada, to a permanent home at Holloman Air Force Base in New Mexico. We have been through some very trying times together, and we have collectively, I believe, in the best traditions of the U.S. Senate, made an effort to make sure that indeed the Air Force was right in its economic assessments regarding the move.

That did delay things for a while, but not to any extent which will cause irreparable harm or unduly delay things, and I want to thank everyone who participated. I believe we are
taking an appropriate step today, pro
viding the construction money and th
money needed for new hangars at thi
base to accommodate this very excit
ing new fighter that will move to Ho
loman Air Force Base, NM, sometim
in the not too distant future.

I thank the managers for includin
in the managers' amendment the rec
uisite moneys for this constructio
and to make this move, eventually,
reality. I thank them for including i
and finding ways to include it withi
the ceilings allocated to them withi
the appropriations process.

I yield the floor.

The PRESIDING OFFICER. Wh
seeks recognition? The Senator fror
Iowa [Mr. Grassley].

AMENDMENT NO. 2923

Mr. GRASSLEY. Mr. President,
send an amendment to the desk fo
Mr. Murkowski, and ask for its imme
diate consideration.

The PRESIDING OFFICER. Th
clerk will report.

The legislative clerk read as follow

The Senator from Iowa [Mr. Grassley
for Mr. Murkowski (for himself, Mr. Hein
Mr. D'Amato, and Mr. Stevens), proposes a
amendment numbered 2923.

Mr. GRASSLEY. Mr. President,
ask unanimous consent that reading o
the amendment be dispensed with.

The PRESIDING OFFICER. With
out objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the followin

Sec. . (a)(1) None of the funds appropr
ated by this Act may be obligated or e
pended to enter into any contract for th
construction, alteration, or repair of an
public building or public work in the Unite
States or any territory or possession of th
United States with any contractor or su
contractor of a foreign country, or any su
plier of products of a foreign countr
during any period in which such foreig
country is listed by the United States Trad
Representative under subsection (c) of th
section.

(2) The President or the head of a Feder
agency administering the funds for the co
struction, alteration, or repair may wai
the restrictions of paragraph (1) of this su
section with respect to an individual co
tract if the President or the head of suc
agency determines that such action is nece
sary for the public interest. The authorit
of the President or the head of a Feder
agency under this paragraph may not b
delegated. The President or the head of
Federal agency waiving such restrictio
shall, within 10 days, publish a notice ther
of in the Federal Register describing
detail the contract involved and the reaso
for granting the waiver.

(b)(1) Not later than 30 days after th
date of enactment of this Act, the Unite
States Trade Representative shall make
determination with respect to each foreig
country of whether such foreign country—

(A) denies fair and equitable market o
portunities for products and services of th
United States in procurement, or

(B) denies fair and equitable market o
portunities for products and services of th
United States in bidding, for constructio

projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information or evidence concerning discrimination in construction projects against United States products and services that are available.

(c)(1) The United States Trade Representative shall maintain a list of each foreign country which—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) Any foreign country that is initially listed or that is added to the list maintained under paragraph (1) shall remain on the list until—

(A) such country removes the barriers in construction projects to United States products and services;

(B) such country submits to the United States Trade Representative evidence demonstrating that such barriers have been removed; and

(C) the United States Trade Representative conducts an investigation to verify independently that such barriers have been removed and submits, at least 30 days before granting any such waiver, a report to each House of the Congress identifying the barriers and describing the actions taken to remove them.

(3) The United States Trade Representative shall publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made after publication of the original list.

(d) For purposes of this section—

(1) The term "foreign country" includes any foreign instrumentality. Each territory or possession of a foreign country that is administered separately for customs purposes shall be treated as a separate foreign country.

(2) Any contractor or subcontractor that is a citizen or national of a foreign country, or is controlled directly or indirectly by citizens or nationals of a foreign country, shall be considered to be a contractor or subcontractor of such foreign country.

(3) Subject to paragraph (4), any product that is produced or manufactured (in whole or in substantial part) in a foreign country shall be considered to be a product of such foreign country.

(4) The restrictions of subsection (a)(1) shall not prohibit the use, in the construction, alteration, or repair of a public building or public work, of vehicles or construction equipment of a foreign country.

(5) The terms "contractor" and "subcontractor" includes any person performing any architectural, engineering, or other services directly related to the preparation for or performance of the construction, alteration, or repair.

(e) Paragraph (a)(1) of this section shall not apply to contracts entered into prior to the date of enactment of this Act.

(f) The provisions of this section are in addition to, and do not limit or supersede, any other restrictions contained in any other Federal law.

Mr. MURKOWSKI. Mr. President, I offer an amendment that would prohibit foreign company participation in public works projects appropriated by the bill, if the U.S. Trade Representative rules that reciprocal access to foreign public works projects is not available.

In 1988, the United States and Japan entered into a bilateral trade agreement aimed at opening the Japanese construction market to American participation. Since its signing, the United States Government has found trade barriers to exist in the Japanese public works construction market through at least two trade investigations—a section 301, and the Airport and Airways Safety and Expansion Act. Although finding unfair trade practices, the USTR has cited the bilateral agreement as a commitment on the part of the Japanese to open this market, and reason to forego United States actions.

Mr. President, there are serious allegations that this agreement has been violated on the first major contract awarded under that agreement, a part of the Kansai International Airport in Japan. The Japanese press is filled with story after story of illegal price fixing in the Japanese construction market. It even has a name: It is called dango in Japanese. We have just learned that the winner of that first major project at Kansai, the Niigata Engineering Co., is one of the 100 Japanese construction companies sentenced by pay damages to the United States this year for illegal price fixing at a United States naval base in Japan.

Let me point out that the Japanese construction market is larger than the United States construction market, some $50 billion larger. And yet the Japanese have around 2.5 billion dollars' worth of construction work in the United States annually, while the United States has done only 200 million dollars' worth of construction work in Japan, in total. Not annually, in total.

Mr. President, the second major contract at Kansai will be awarded any day. This is why we must now take a stand on this issue. We must begin the process today on this appropriations bill which includes funding for public works projects in which foreign countries may participate.

We can no longer afford to sit by and hope that our trading partners will offer us the benefits we offer to them so freely. We definitely cannot sit by and watch our bilateral agreements be brushed aside.

Mr. President, I urge that my colleagues adopt this amendment. Should we find in our bilateral talks that access will undoubtedly be granted to U.S. companies, this amendment can be dealt with in conference. But the message today must be clear—we take our bilateral commitments seriously, and so must our partners.

Mr. GRASSLEY. I reserve my time. I believe this amendment will be accepted.

Mr. SASSER. This is essentially the same amendment the Senator from Alaska has added to a number of appropriations bills for the last several years: It was added to the military construction bill in fiscal year 1989. We have no objection to this amendment.

Mr. GRASSLEY. Mr. President, I yield back the remainder of my time.

Mr. SASSER. I yield our remaining time on this amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 2923) was agreed to.

Mr. DURENBERGER. Mr. President, I rise today in support of the fiscal year 1991 military construction appropriations. I believe the overall bill reasonably reflects our infrastructure requirements, in the context of many of the historic changes occurring around the world. The bill also clearly takes into account our tight fiscal constraints. Each of these factors clearly have an impact on our military construction requirements.

There are a number of construction projects, however, that are particularly important to the Minnesota Air and Army National Guards, and by extension, to the overall National Guard effort. Both the Senate Armed Services and Appropriations Committees have generously funded two of these projects. I have been in touch with representatives of the Minnesota Guard, and they are, indeed, pleased that these projects, both at the Air National Guard facilities at the Minneapolis-St. Paul Airport, have been funded.

I do believe, however, that the two projects that did not receive funding warrant particular consideration. We all well understand the budget constraints under which we must operate, but I believe these projects are ultimately very cost effective, filling an essential need at affordable, reasonable costs.

The first of these projects is a $4.2 million composite support facility to replace four older buildings at the Air National Guard facility at the Minneapolis-St. Paul International Airport, base for the 133d Tactical Airlift Wing. This consolidation of administrative and support functions within a single structure will allow more efficient training and operations, economical use of available land, and economies of scale in mechanical systems. The buildings it would replace are 1950's wooden structures with substandard ventilation and insulation.

The second project is located at the Army National Guard building at Camp Ripley. Camp Ripley is the Army National Guard's primary winter training facility. The Guard wishes to expand the existing maintenance and repair facility with a 35,000 square foot addition, at a cost of $6.1 million. With the new equipment and increased winter operations, the existing facility is insufficient, providing less than half its authorized space.

Mr. President, I believe that these two projects are important to the Guard mission. They are effective and cost-efficient. These several projects are very important to maintaining the readiness of Guard and Reserve forces around the Midwest and elsewhere across the country.

And with the recent changes around the world and most especially the ongoing crisis in the Persian Gulf, it is abundantly clear that we will only increase our reliance on our National Guard and Reserve forces. Our Guard and Reserve forces are performing admirably in the current crisis, answering the President's call to duty with courage, conviction, and commitment.

Mr. President, I do not at this time suggest that the Senate act to fund these two projects. I would remind my colleagues, however, that in its bill, the House does in fact fully fund these projects. I would urge my colleagues, particularly those who will serve on the conference committee, to give serious consideration to adopting the House-passed funding levels for these important and effective Air and Army National Guard projects. I believe our Guard mission and the public will be well-served by these efforts.

Thank you, Mr. President. I yield the floor.

Mr. GORTON. Mr. President, this Senator appreciates the work of the Military Construction Subcommittee of the Committee on Appropriations on this bill. In particular, I note the full funding of Washington State military construction projects that were authorized by the Armed Services Committee. I would like to take this opportunity to underscore the importance of several of these projects.

First, and foremost, the subcommittee approved the requested $22.3 million for the Everett Homeport. Both the administration and the Senate clearly recognize the strategic merit in basing a carrier battle group in the Pacific Northwest. As our lines of trade and communication with the Orient continue to expand, the requirement for Naval Forces to protect those important sealanes becomes more important. As the recent situation in the Middle East makes plain, threats to the continued flow of imported oil make protection of the sealanes from our Alaskan oilfields all the more urgent. Everett is well suited for such a mission.

Second, I thank the subcommittee for approving an authorized $20 million for land acquisition at the Puget Sound Naval Shipyard at Bremerton. The shipyard, which is bursting at the seams, needs this land to alleviate much of the overcrowding that now exists on base.

Third, the subcommittee approved an authorized $2.9 million for the purchase of a pier and building by the Tacoma National Guard to develop a Watercraft Support Training Complex. The recent callup of selected reserves and guard personnel illustrates the importance of a well-trained reserve force.

Finally, the subcommittee followed the recommendation of the Armed Services Committee in deferring military construction funds for operations and training facilities for the developmental A-12 attack aircraft. Given the current troubles of the A-12 program, the subcommittee's action was prudent. I hope however, that when the A-12 program is back on track, Congress will continue to fund the beddown of the A-12 at Whidbey Island, as planned.

I must express concern, however, about the ongoing Navy review of the basing plans for the A-12 attack aircraft. I believe that the Navy made the right decision when it selected NAS Whidbey Island and NAS Oceana as the sites for the A-12. I believe it would be a mistake, both in terms of cost and operations, to alter existing plans by basing the A-12 at NAS Lemoore. What is at stake here is the future of the Navy's tactical training airspace. Potential loss of the Navy's premier Northwest training airspace would adversely affect carrier aviation for decades to come.

Mr. BINGAMAN. Mr. President, I rise today in support of the fiscal year 1991 Military Construction Appropriations Act. I am particularly pleased that the managers have included in their amendment $36 million in funding to relocate the F-117 Stealth Fighter Wing from Tonopah Reservation to Holloman Air Force Base.

Mr. President, the New Mexico and Nevada delegations were recently briefed on the results of a General Accounting Office audit of the costs and savings of the proposed move. The results of that audit confirm the conclusion reached earlier this year by the Air Force that Holloman is the most cost-effective option for basing the F-117's. The audit also upheld the Air Force conclusion that additional military construction funding in fiscal year 1991 would result in a substantial one-time savings from the costs associated with operating the aircraft at Tonopah for an additional year. After receiving the briefing, Senator DOMENICI and I took the results of the audi to Senator SASSER, who agreed to include the additional funding necessar to keep the move on track in thi year's bill.

Mr. President, Holloman Air Base i an important and valued member o the New Mexico community. This legislation will have a significant effec on the quality of life of the people i and around Holloman, and I woul like to thank Senator SASSER for hi assistance in obtaining this funding. urge my colleagues to support this legislation.

Mr. CHAFEE. Mr. President, I wis today to voice my support for a $13. million appropriation for the Nava Underwater Systems Center [NUSC in Newport, RI, in the fiscal year 199 military construction appropriation bill. I would especially like to than the distinguished subcommittee chairman from Tennessee, JIM SASSER fo his assistance in putting together manager's amendment to include thi and other authorized programs in th bill.

NUSC is the Navy's main center fo research, development, testing, an evaluation of submarine weapon an warfare systems and surface sonar systems. It plays a critical role in maintaining the technological superiorit that America's submarine fleet ha over any and all potential adversarie

The program in question would fun the construction of a 100,000-square foot building needed to provide for th testing and development of advance underwater vehicle propulsion/acoustic systems and related components. I will be used to develop unique submarine launched torpedoes; targets; an special purpose vehicles in support o the Navy's Tactical Undersea Vehicle Program. The building will maintain flexible design to allow for incorporation of future systems development requirements. It would also have a high security area for the development an testing of specific special projects i support of submarine launched weapons and special purposes systems. Thi new building will have the capabilit to handle vehicles ranging in size fro a few inches to 36 inches in diamete

This capability is needed to enhanc our ability to develop new quiet submarine technologies necessary for retrofitting the 688-class submarine an to build the next generation *Seawo* submarines. These submarines wi have substantially reduced acousti signatures and the ability to effectively operate undetected at highe speeds. The importance of this effor cannot be overstated at the Sovie military's ability to detect; track, an potentially destroy our present generation of submarines grows.

Funding for this NUSC Program wa provided for in the House-passed ve sion of this bill and was authorized in the recently passed Senate defense authorization bill. I once again thank the Senator from Tennessee [Mr. Sasser] and to urge my colleagues to support this amendment.

FORT MEADE LAND TRANSFER

Mr. SARBANES. Mr. President, I rise in strong support of the military construction appropriations bill for fiscal year 1991.

In addition to meeting many pressing national priorities, this bill provides much-needed funding for a number of important projects in my own State of Maryland. More than $6 million is provided for a new wastewater treatment facility at Indian Head Naval Ordnance Station and an additional $1.8 million is included for replacement of the outdated fire station that serves the eastern half of Andrews Air Force Base. Mr. President, I ask that a list of the projects in Maryland be included in the Record following my statement.

The report language accompanying this legislation also establishes priorities for military construction for fiscal year 1992. That language directs the administration to include three critical projects in its budget submission for next year: First, a cold/dry food storage facility for Aberdeen Proving Ground; second, a new fire station for Fort Ritchie; and third, completion of sanitary sewer improvements at the naval electronics systems engineering activity at St. Inigoes. Mr. President, all three of these projects will address pressing infrastructure needs and I commend the committee for making them top priorities.

Most importantly, Mr. President, this bill contains provisions that will ensure the protection of thousands of acres of ecologically significant property that has been declared surplus at Fort Meade. It transfers approximately 7,600 acres of Fort Meade to the U.S. Fish and Wildlife Service for wildlife conservation purposes.

Mr. President, this transfer has been one of my highest priorities and a priority of the Maryland congressional delegation since the Defense Secretary's Commission on Base Realignment and Closure declared about 9,000 acres at Fort Meade as surplus in December 1988. For the past year, we have worked hard to convince the Department of Defense and the administration that preservation of the bulk of this land is the only responsible and acceptable result of the partial closure of Fort Meade. I am pleased that the Army has recognized that fact and agreed to the compromise included in this bill.

Two important tributaries of the Chesapeake Bay, the Patuxent and Little Patuxent Rivers, flow through and are protected by this property. These rivers are important breeding and wintering areas for migratory waterfowl while the land is home to over 100 species of birds and a variety of wildlife. The swamps near the two rivers on the property contain many Pin Oaks and Sycamores which, along with the dense shrub layer that borders much of the shore area, help to filter the sediments and other pollutants that would otherwise flow downstream, eventually entering the Chesapeake Bay.

The realignment of Fort Meade has presented us with an unprecedented opportunity to preserve much needed open space in one of the fastest-grown urban areas in our Nation—the Baltimore-Washington corridor. The compromise language the Senate is expected to approve today will allow the Department of the Interior to select the 7,600 acres that are most important for wildlife conservation. At the same time, Mr. President, this bill will prevent the Department of the Interior from disposing of those acres without congressional approval. Of the remaining acres, approximately 325 that include wells and landfills will be retained by the Army. Less than 1,000 acres will be available for other uses and will be subject to the strict zoning requirements that I understand Anne Arundel County will enact.

I want to especially thank the distinguished chairman of the subcommittee, Senator Sasser, whose support and leadership was vital in the preservation of these 7,600 acres. I would be remiss if I did not also thank Mike Walker, the subcommittee's staff director, whose support and assistance I very much appreciate.

Mr. President, it is quite unlikely that there will ever be another chance to set aside such a large and ecologically valuable tract of land so close to the Capital of our Nation. Preservation of this land for wildlife conservation is a victory for Maryland, for our environment, and for our Nation. I look forward to prompt passage of this bill and urge my colleagues to support it.

Maryland projects in the military construction appropriations for fiscal year 1991

Aberdeen Proving Ground:	
Relocate/modernize fire barricades	$10,400,000
Security upgrade	1,700,000
Toxicology research facility	33,000,000
Andrews Air Force Base:	
Air National Guard special fuel facility	300,000
Combat arms training facility	1,300,000
Fire/crash rescue station	1,750,000
Bethesda National Naval Medical Center: Bachelor enlisted quarters	9,040,000
Fort Detrick: Storage facility addition	530,000
Glenn L. Martin Airport: Aiter Air National Guard support facility	600,000
Fort George Meade:	
Building 9805 addition	3,425,000
Defense courier station	1,800,000
Defense reutilization and marketing office	9,500,000
Low-voltage power upgrade	8,221,000
OPS Building 2A cooling tower	1,800,000
Substation 1 electrical upgrade	6,025,000
Indian Head Naval Ordnance Station: Industrial wastewater treatment facilities	6,430,000
Naval Electronics Systems Engineering Activity: FACSFAC electronic systems integration	4,020,000
Navai Intelligence Command: Suitland Headquarters, increment II	55,048,000
Patuxent River Naval Air Test Center:	
Security improvements	3,010,000
Test pilot school	6,030,000
Patuxent River Naval Hospital: Aviation physiology training facility	2,510,000
Uniformed Services University of Health Sciences: Complete construction of animal rooms	800,000
Total	167,239,000

Mr. SASSER. Mr. President, I know of no further amendments to this bill.

Mr. GRASSLEY. Mr. President, likewise on this side.

Mr. SASSER. Mr. President, I request third reading.

The PRESIDING OFFICER. There is time remaining.

Mr. SASSER. Let me withhold that request. I believe the distinguished chairman of the Appropriations Committee is seeking recognition. I will yield to him such time as he may consume.

The PRESIDING OFFICER. The senior Senator from West Virginia [Mr. Byrd] is recognized.

Mr. BYRD. Mr. President, I thank the Chair and I thank the distinguished chairman. I will not consume more than 3 minutes.

Mr. President, today we are considering H.R. 5313, the military construction appropriations bill for fiscal year 1991. This measure provides necessary funding for the planning, design, construction, alteration, and improvement of military facilities worldwide, including the operation and maintenance of military family housing. The bill also provides funding for the U.S. share of NATO infrastructure construction costs.

The bill as recommended by the Committee on Appropriations provides net appropriations of $7,979,291,000 for fiscal year 1991. The bill is $1,146,687,000 below the President's request and $331,876,000 below the House allowance. For the benefit of my colleagues, I note that this bill is also $271,284,000 below the amounts appropriated in fiscal 1990 and $981,409,000 below the amounts appro-

priated for fiscal 1989. With respect to the subcommittee's 302(b) allocation, the bill as recommended is within both the budget authority and outlay ceilings.

I wish to commend Senator Sasser, chairman of the subcommittee and Senator Grassley, the ranking minority member, for their excellent work in accommodating the priorities of the Senate within the constraints of the budget agreement. Their work was greatly assisted by the cooperation of their colleagues on the subcommittee and on the full Committee on Appropriations.

As a matter of fact, the subcommittee, which is chaired by Senator Sasser, was willing to have its allocation reduced when the chairman made the allocations to the various subcommittees, and I want to compliment him. At a time when most subcommittees sought to have their allocations increased, for good reason, I think it sets an excellent example when the chairman of a particular appropriations subcommittee says "Well, I will live within my means. As a matter of fact I will give up a little bit of my allocation. That allocation can be helpful to another subcommittee or subcommittees that perhaps have tremendous needs within the constraints under which they are operating."

So, I want to compliment the chairman, Mr. Sasser, and I want to thank him for that. Of course the ranking member has to be thanked likewise, because it affects him as well. So I congratulate them. Their work was greatly assisted by the cooperation of their colleagues on the subcommittee. I also wish to compliment the majority and minority staff for their months of hard work in connection with this legislation: Mike Walker, Mary Marshall, Rick Pierce, and Dona Pate.

The managers have explained in great detail the contents of the measure as recommended to the Senate and I hope now we can get down to the business of considering and passing the bill. As reported by the full committee, it deserves the support of the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee [Mr. Sasser].

Mr. SASSER. Mr. President, I thank the distinguished chairman of the Appropriations Committee and the President pro tempore of the U.S. Senate for his very kind and generous remarks. I might say that it has been an enormous pleasure this year to work with the distinguished chairman of the Appropriations Committee on matters dealing with military construction. He has been very helpful and very sympathetic to our wishes and needs during the year.

Mr. President, I know of no further amendments. And I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Iowa [Mr. Grassley].

Mr. GRASSLEY. Mr. President, I yield back the remainder time on this side.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. All time has been yielded back.

The bill, having been read the third time, the question is, Shall it pass?

So the bill (H.R. 5313) as amended, was passed.

Mr. SASSER. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, I move the Senate insist on its amendments to the bill, H.R. 5313, and request a conference with the House of Representatives and that the Chair be authorized to appoint the conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion was agreed to; and the Presiding Officer (Mr. Bryan) appointed Mr. Sasser, Mr. Inouye, Mr. Reid, Mr. Fowler, Mr. Byrd, Mr. Grassley, Mr. Garn, Mr. Stevens, and Mr. Hatfield conferees on the part of the Senate.

MORNING BUSINESS

Mr. SASSER. Mr. President, I ask unanimous consent for a period of morning business, with Senators to be permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

CABLE TELEVISION CONSUMER PROTECTION ACT

Mr. DANFORTH. Mr. President, late last week the majority leader asked unanimous consent to proceed to the cable television legislation. There was an objection to that unanimous-consent request. Because of that objection, for all practical purposes the issue is dead for this Congress. That, I think, is a very unfortunate result, but it is important to recognize reality.

Had we been able to bring the bill before the Senate, those of us who had supported it were convinced that we could pass it in very short order. Some amendments, I think seven or eight, had been proposed, and we had worked out time agreements with all but a couple.

Of course, the night before the bi was to be brought up, some peopl were slipping proposed amendment over transoms and under doors. Bu still we believed that we could mov forward with the legislation and do s in very short order.

We are now in the last days, hope fully, of this Congress. That mean that to object to a unanimous-consen request to take up a bill is to ensur that the bill will never be brought u

Because we are in the final days c this Congress, the few opponents c the bill are in the position of bein able to kill it. Even if the majorit leader were to move to proceed to th legislation, it could be filibustere Those who oppose the bill say if the can get enough concessions, the might be willing to go forward. It is kind of a take-it-or-leave-it attitude b the opponents. And that puts the ac vocates of cable television legislatio in an exceptionally weak position.

So, as a practical matter, last Frida when the objection was entered to pr ceeding with this legislation, the oppo nents killed it. The results of killin the cable legislation became immed ately apparent just outside the N tion's Capital. Literally within hou of the death of the cable televisio legislation, a firm called Media Gene al of Fairfax County announced a si nificant increase in its cable rates fo that community.

Mr. President, I would not be su prised if the action of those who o posed the cable legislation last Frida would not create something of domino effect around the country, c cable companies saying, "Well, we ar relieved from the threat of congre sional action; let us get with it an continue the trend that has bee going on for the past 3 or 4 years an raise the cable rates for our subscri ers."

Why not? There is no reason not t There is no power on Earth capable c reining in the cable television comp nies when they want to increase rate

We believed a number of years ag when we decided to deregulate cab television that competition was a su stitute for regulation. But, of cours there is no competition for most cab services today. Under the present sta of the law, there will be no effecti competition.

We have said in other areas th where there are natural monopolies that in the absence of competition Government at least will have th power to regulate. Because if there no check by competition, there mu be a check by regulation or else the is no limit to what can be done by u regulated monopolies.

For cable, there is neither regulatio nor competition. What we did whe we introduced this legislation back 1989 was to say that we prefer comp tition, but in the absence of competition, let us at least allow local authorities to regulate. And, to make competition possible, let us give prospective competitors access to programming. There is never going to be meaningful competition if somebody interested in getting into the business is shut out from competing because he cannot get the programming.

That is what we did in the legislation, and the legislation received careful attention in the Senate Commerce Committee. We had 10 days of hearings on cable and related issues, and then we marked up the bill. We reported the bill out of the Commerce Committee by a vote of 18 to 1. I do not know what the vote would be on the floor of the Senate. But, there is no doubt in my mind, Mr. President, that if we had sufficient time, and we do not in this Congress, we could pass the bill by an overwhelming majority—I might say, by a veto-proof majority. That is not to be.

The strong support in the Congress for legislation to deal with the abuses in the cable television industry, is mirrored throughout the rest of the country. The Consumer Federation of America has described this as the most important consumer legislation before Congress this year. Interestingly, even people who answer polls sponsored by the cable industry itself have weighed in very heavily in favor of legislation. On August 24, CNN conducted a poll of its viewers, all of whom were cable subscribers. The question asked was: "Should cable TV be regulated?" Ninety-two percent of those who answered, answered yes, cable should be regulated; 8 percent answered no.

Recognition of the abuses within the cable industry is spreading through this country. The American people know that an unregulated monopoly is taking advantage of them, both in prices and in services. And the American people are speaking out; 92 to 8 in this poll. Their voices are being heard in the Congress.

Yes, there were some differences between the Commerce Committee bill and the House bill. But more important than the differences was the fact that both the Commerce Committee and the House of Representatives were serious about passing cable legislation. We could have come to an agreement with the House. I know that from speaking with Congressman MARKEY, he was very anxious to pass legislation this year. But, unfortunately, we are in a position where a small number of Senators could block the legislation. And they did it, Mr. President.

Mr. President, I congratulate the cable industry on winning the battle. They made a tremendous effort. As Senator HOLLINGS pointed out on the floor, the cable industry is a formidable foe, represented in Washington by some of the ablest advisors in this city. I do not minimize the skill of their legislative endeavors, but I also believe that to win the battle is not the same as winning the war. This is a war that will be fought next year.

It will be fought because legislation is not going to be introduced a month or 6 months or a year into the next Congress. Legislation is going to be introduced as soon as Congress begins. Having spoken with the chairman of our committee, Senator HOLLINGS, and the chairman of the subcommittee, Senator INOUYE, and knowing my own position, if our party is able to win control of the Senate, this is a matter that is going to receive hearings and will receive a markup very early in the next Congress. I believe we are going to pass legislation which will provide for rate regulation. I believe that we will pass legislation that will bar cable programmers from unreasonably refusing to deal with competitors. I believe that the legislation that will be enacted next year will be at least as strong as what we were considering this year. To the cable interests who were able to prevent this bill from passing this year, I extend my congratulations. I am not a sore loser. I would just as soon not lose but I am not a sore loser. I look forward to revisiting this in the Commerce Committee and on the floor of the Senate at an early date in 1991.

The PRESIDING OFFICER. Who seeks recognition?

Mr. AKAKA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii [Mr. AKAKA].

NOMINATION OF JUDGE SOUTER

Mr. AKAKA. Mr. President, after much deliberation, I rise to oppose the nomination of Judge Souter to the Supreme Court. After carefully reviewing his legal background and the Judiciary Committee's hearing record, I have reluctantly come to the conclusion that I cannot support Judge Souter for our Highest Court.

Judge Souter is by all accounts an engaging, thoughtful, and highly intelligent individual. No one questions that his academic and legal qualifications are of the highest standard. However, his record on matters relating to the Constitution is unusually sparse. And what little can be found on his beliefs on a number of fundamental constitutional issues, such as civil rights and the right to privacy, concern me very much.

I am troubled by his defense of New Hampshire's voter literacy test.

I am troubled by the opinion he authored which undermined New Hampshire's rape shield law, an important statute protecting women who have been sexually assaulted. I am troubled by his criticism of the so-called heightened scrutiny test in gender discrimination cases, a standard that has been highly effective in battling discrimination against women. I am also troubled by his defense of New Hampshire's refusal to abide by an Equal Employment Opportunity Commission regulation requiring a racial breakdown of State employees.

And I am especially disturbed by his refusal to acknowledge a fundamental right of privacy beyond that accorded married couples.

Judge Souter's limited view of the right to privacy raises grave questions about his outlook on matters such as reproductive choice. His silence on this issue places a cloud of uncertainty over well-settled legal precedents governing the rights of individuals to make fundamental choices involving themselves, their families, and their relationships with other members of society.

He has also refused to state a view on whether the right to privacy includes the right to use contraception. A retreat in these areas could deny millions of men and women privacy rights which the Constitution guarantees and which previous Supreme Courts have affirmed.

The Constitution invests the Senate with the responsibility to advise and consent on Supreme Court nominations. The Founding Fathers granted us a responsibility equal to that of the President in determining the fitness of an individual for the High Court.

This week, I will cast my first vote as a Senator on a nomination to the Supreme Court. I feel compelled to exercise an abundance of caution in carrying out this responsibility. Because we are deciding on a nominee to our highest court, and because so much is at stake in filling this seat, I would much rather err on the side of caution than to give a nominee merely the benefit of the doubt.

Despite 3 days of Judiciary Committee hearings, Judge Souter's view on major constitutional questions such as abortion and civil rights remain largely a mystery to the American public and the Senate. The American people should not be playing a guessing game with a nominee to the Highest Court of the land.

The concerns I have raised do not relate to a narrow, single issue, but involve an entire field of constitutional law. For these reasons, I will oppose Judge Souter's nomination when it reaches the Senate floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FORMER PRESIDENT JIMMY CARTER ON THE MIDDLE EAST

Mr. METZENBAUM. Mr. President, a recent Washington Post carries a column by former U.S. Ambassador to the United Nations Jeane Kirkpatrick entitled, "Jimmy Carter's Mideast Fictions."

Ambassador Kirkpatrick comments on a September 16 interview that President Carter gave to CNN regarding the current situation in the Middle East. In the interview, the former President asserted that Israel is guilty of ignoring U.S. resolutions regarding withdrawal from the West Bank. He claimed that "there have been six or eight unanimous (resolutions) by the United Nations Security Council calling for Israel to withdraw from the occupied territories. * * * These have the same legal status as the resolutions demanding that Iraq withdraw from Kuwait."

Mr. President, I join Ambassador Kirkpatrick in inquiring as to exactly which resolutions the former President refers. There certainly are U.N. resolutions calling for Israel to withdraw from occupied territory, but this is conditioned upon Arab recognition of Israel's right to exist. Ambassador Kirkpatrick is correct when she suggests that former President Carter was more creative than accurate when totaling up the U.N. resolutions.

It would appear that the former President's goal was to tighten the vise on Israel while supposedly objectively analyzing the current Persian Gulf crisis. His comparison of Israel in the West Bank to Iraq in Kuwait employs some of the most inventive logic we have seen in Middle East analysis. With respect, I would point out to the former President that inventive is not synonymous with accurate. With sadness, I would point out to the former President that his characterization is not only inaccurate, but counterproductive and damaging to long-term efforts for Middle East peace. The former President is confused regarding the difference between a war of self-defense, and a shameless grab for land and resources. Maybe the staff of his fine library can clarify the issue for the former President, as I read Ambassador Kirkpatrick's column, I must confess I had a feeling of foreign policy deja vu. This was not the first time I had heard of former President Carter's unique approach to Middle East analysis. Nearly 6 months ago, March 27, 1990, he briefed Members of the Senate on a trip to the Middle East from which he had recently returned, during that trip, he publicly criticized Israel on its policies in the West Bank and Gaza. Israel was only one stop on Carter's itinerary, however. He also went to Syria. What did he have to say about human rights in Syria? Human rights in Syria where 20,000 people had been totally eliminated, the whole community had been plowed under by Assad and his troops? What did he have to say about that? Not one word.

During the March 27 briefing, I pressed him on this apparent double standard in his public statements on human rights. Former President Carter's response was that Syria did not need public criticism because the Syrian public has no say in decision-making. In other words, the ex-President of the world's most free society felt at liberty to penalize Israel for being an open vibrant society, and did not see fit to say one word about that repressive society that exists in Syria where 20,000—or better people—had admittedly been plowed under, lost, their lives, and the total community lost.

I told the former President that democracies like Israel could take the heat of public criticism. I also told him that fear of offending a dictatorship like Syria ultimately leads to stronger dictatorships. Unfortunately we are now learning this lesson the hard way in the Persian Gulf.

Mr. President, a fringe minority of Middle East analysts have recently linked a permanent resolution of the Iraq-Kuwait crisis to a resolution of the Arab-Israel crisis. I regret that the former President seems to have bought into this self-serving approach.

I applaud former Ambassador Kirkpatrick's effort to maintain a higher standard of intellectual integrity regarding the Middle East, and I ask unanimous consent that a copy of her column appear in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 24, 1990]

JIMMY CARTER'S MIDEAST FICTIONS

(By Jeane Kirkpatrick)

Saddam Hussein was only half-serious when he linked Iraq's conquest of Kuwait to Israel's occupation of the West Bank and Gaza. Former president Jimmy Carter was wholly serious—and wholly mistaken—when he tried to make the case that the two matters "have the same legal status."

In an interview with CNN's Bernard Shaw on Sept. 16, Carter made the weirdly mistaken assertion that, "There have been six or eight unanimous [resolutions] by the United Nations Security Council calling for Israel to withdraw from the occupied territories, to restore the rights of the Palestinians, to come to an international conference—these have the same legal status as the resolutions demanding that Iraq withdraw from Kuwait." But, Carter added, "The world has not marshalled its efforts to make sure that these United Nations resolutions have been fulfilled."

Carter's comments are important because the unanimous Security Council resolutions to which they refer do not exist. This fiction is dangerous to Israel and dangerous t an understanding of realities in the Middl East.

As of Sept. 19, seven Security Council resolutions had been passed concerning Iraq' invasion of Kuwait. The first condemne Iraq's invasion and called for an unconditional withdrawal of Iraqi troops fro Kuwait. The remaining six resolutions buil on this.

There is *no* parallel resolution concernin Israel's presence in the West Bank an Gaza. There is a resolution that calls for Israel's withdrawal from territories occupie in the 1967 war and *also* calls for Arab governments to end "all states of belligerency" against Israel and accept that "every stat in the area," including Israel, has "a righ to live in peace within secure and recognize boundaries free from threats and acts o force."

This, of course, is Security Council Resolution 242, passed at the end of the 196 war, in which Israel successfully fended of an attack by all her Arab neighbors. Resolution 242 is the basis of the famous "land fo peace" formula, which was reaffirmed i Resolution 338 passed after the next Ara war against Israel in 1973 and supplemente by a call for direct negotiations between th parties.

These resolutions were the basis of th 1978 Camp David Accords negotiated by Israel's Menachem Begin and Egypt's Anwa Sadat with the help of then-Presiden Carter. Those accords were a remarkabl achievement because they were the only instance in which an Arab state (Egypt) wa willing to negotiate with Israel or to mak peace with the Jewish state. For the crim of making peace with Israel, Egypt was expelled from the Arab League and Anwa Sadat was murdered.

All other Arab states have ever since refused negotiation, peace or normal relation with Israel. Most have continued to call fo the destruction of Israel, support terrorist attacks against Israel, and have ever since refused to reaffirm Resolutions 242 and 338 (The exception was Lebanon in the brief period of Bashir Gemayel's presidency—als terminated by assassination.)

How could Carter have imagined tha there were "six or eight unanimous Security Council resolutions"? Or—a more basi question—how could he have seen the case of Kuwait and the West Bank as paralle when Iraq invaded and occupied Kuwait, sovereign state, and Israel was itself invaded three times?

The answer, I think, is that a false version of the Arab-Israeli conflict has been so often repeated that many people—including some very high officials—have come to feel that Israel is somehow guilty of aggression. It was, in fact, the victim of repeated wars of aggression. They have also come to feel that Israel's occupation of the West Bank is as clearly "illegal" as Iraq's conquest of Kuwait, when Israel acted in self-defense against neighbors (including Jordan) who not only attacked but have been unwilling to make peace.

These mistakes have serious implications. They lead Carter and others who have come to believe them to feel that Israel is a lawbreaker and that the U.S. failure to "pressure" Israel is evidence of an American double standard.

This mythical version of the Arab-Israeli conflict ignores the reality of the hostility that has surrounded the state of Israel from its founding until today, and makes the Israeli government's concern with survival look like paranoia. It is not.

So far, the only relevance of the Gulf crisis to Arab-Israeli problems is to exacerbate them. Israel's qualitative edge in weapons is being eroded by the United States' proposed massive sales ($23 billion) to Saudi Arabia. Jordan has associated itself with the most radical, rejectionist, terrorist-minded Palestinians. PLO leaders—together at last in Baghdad—have made clearer than ever their commitment to violent politics. Saddam Hussein has threatened that, if attacked, he will retaliate against Israel.

If there is a double standard in this situation, it exists only in the minds of those who, like Jimmy Carter, think there is a parallel between Iraqi aggression and Israeli defense.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Shelby). Without objection, it is so ordered.

OPPOSING THE PERSIAN GULF RESOLUTION

Mr. KENNEDY. Mr. President, tomorrow the Senate will be asked to vote on one of the most important pieces of legislation this body has considered in many years—a concurrent resolution addressing the actions of the President and the role of Congress in the crisis in the Persian Gulf.

I support the steps that President Bush has taken so far, and I commend him for the skillful diplomacy that has marshalled the international community against the aggression of Saddam Hussein. I am also proud of our dedicated men and women who are serving today in Saudi Arabia. All of us understand the potential cost of our commitment to peace in the region, and we admire their ability to endure the harsh conditions of their current deployment. Their courage is what makes America the symbol of freedom and democracy across the globe.

We must be careful, however, not to confuse support for the President's actions so far with a blank check endorsement for future actions. Yet, in my view, that is exactly what the proposed resolution does. It is, in effect, a Tonkin Gulf resolution for the Persian Gulf, and I intend to vote against it.

The broad and sweeping language of the second sentence of subsection (b) can easily be used by President Bush as approval in advance by Congress of military action against Iraq, up to and including the launching of an all-out war.

In rushing to support the President in a time of crisis, Congress must not abdicate its constitutional responsibility. The Founding Fathers bestowed on Congress—not the President—the power to declare war. I do not believe we should abdicate that important responsibility by passing this resolution.

None of us wants war in the Middle East. Our present policy is to give the economic sanctions time to work, and they should be given time to work. But all of us are also aware of the pressures on the President to go to war.

In my view, Congress should not act in any way that encourages the President to do so at this time.

If we are adopting a resolution approving of the President's past actions, let us do so.

But it is wrong for Congress to hint to the President that we are acquiescing now in his resort to force at some future date.

The War Powers Act appears to be unworkable in the current situation. There are those who argue that hostilities are not imminent, and others who claim the act is unconstitutional. But no one is arguing that Congress should abandon its constitutional power. Yet this resolution can easily be interreputed as doing so.

If the President intends to go to war to achieve his objectives, the Constitution requires him to consult with Congress. An attack on Iraq or Iraqi-controlled Kuwait is an act of war, pure and simple. If the President decides he must take such action, and risk tens of thousands of American casualties, then he must do so with the approval of Congress—in advance in specific terms, not by an after-the-fact invitation of an ambiguous resolution, the likes of which we have not seen since the Tonkin Gulf resolution of 1964.

That infamous resolution became a blank check for the Vietnam war, and history must not repeat itself in 1990. I urge the Senate to vote against the Persian Gulf resolution.

Mr. President, I suggest the absence of a quroum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRYAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTINUATION OF EXPORT CONTROL REGULATIONS—MESSAGE FROM THE PRESIDENT—PM 147

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Pursuant to section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b), I hereby report to the Congress that I have today exercised the authority granted by this Act to continue in effect the system of controls contained in 15 C.F.R., Parts 768-799, including restrictions on participation by U.S. persons in certain foreign boycott activities, which heretofore have been maintained under the authority of the Export Administration Act of 1979, as amended, 50 U.S.C. App. 2401 *et seq.* In addition, I have made provision for the administration of section 38(e) of the Arms Export Control Act, 22 U.S.C. 2778(e).

The exercise of this authority is necessitated by the expiration of the Export Administration Act on September 30, 1990, and the resulting lapse of the system of controls maintained under that Act.

In the absence of controls, foreign parties would have unrestricted access to U.S. commercial products, technology, and technical data, posing an unsual and extraordinary threat to national security, foreign policy, and economic objectives critical to the United States. In addition, U.S. persons would not be prohibited from complying with certain foreign boycott requests. This would seriously harm our foreign policy interests, particularly in the Middle East.

Controls established in 15 C.F.R. 768-799, and continued by this action, include the following:

—National security export controls aimed at restricting the export of goods and technologies which would make a significant contribution to the military potential of certain other countries and which would prove detrimental to the national security of the United States.

—Foreign policy controls that further the foreign policy objectives of the United States or its declared international obligations in such widely recognized areas as human rights, antiterrorism, regional stability, missile technology nonproliferation, and chemical and biological weapons nonproliferation.

—Nuclear nonproliferation controls that are maintained for both national security and foreign policy reasons, and which support the objectives of the Nuclear Nonproliferation Act.

—Short supply controls that protect domestic supplies, and antiboycott regulations that prohibit compliance with foreign boycotts aimed at countries friendly to the United States.

Consequently, I have issued an Executive order (a copy of which is attached) to continue in effect all rules and regulations issued or continued in

effect by the Secretary of Commerce under the authority of the Export Administration Act of 1979, as amended, and all orders, regulations, licenses, and other forms of administration actions under the Act, except where they are inconsistent with sections 203(b) and 206 of the International Emergency Economic Powers Act.

The Congress and the Executive have not permitted export controls to lapse since they were enacted under the Export Control Act of 1949. Any termination of controls could permit transactions to occur that would be seriously detrimental to the national interests we have heretofore sought to protect through export controls and restrictions on compliance by U.S. persons with certain foreign boycotts. I believe that even a temporary lapse in this system of controls would seriously damage our national security, foreign policy, and economic interests and undermine our credibility in meeting our international obligations.

The countries affected by this action vary depending on the objectives sought to be achieved by the system of controls instituted under the Export Administration Act. Potential adversaries may seek to acquire sensitive U.S. goods and technologies. Other countries serve as conduits for the diversion of such items. Still other countries have policies that are contrary to U.S. foreign policy or nuclear nonproliferation objectives, or foster boycotts against friendly countries. For some goods or technologies, controls could apply even to our closest allies in order to safeguard against diversion to potential adversaries.

It is my intention to terminate the Executive order upon enactment into law of a bill reauthorizing the authorities contained in the Export Administration Act.

George Bush.

The White House, *September 30, 1990.*

MESSAGE FROM THE HOUSE RECEIVED DURING RECESS

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on September 30, 1990, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 5755. An Act to amend the temporary increase in the public debt limit; and

H.J. Res. 655. Joint resolution making continuing appropriations for the fiscal year 1991, supplemental appropriations for Operation Desert Shield for the fiscal year 1990, and for other purposes.

Under the authority of the order of the Senate of January 3, 1989, the enrolled bill and joint resolution were signed on September 30, 1990, during the recess of the Senate, by the Acting President pro tempore [Mr. Bryan].

MESSAGES FROM THE HOUSE

At 3:32 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 1756) to provide for the reservation and interpretation of sites associated with Acadian culture in the State of Maine; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, each with amendments, in which it requests the concurrence of the Senate:

S. 84. An act to amend title 28, United States Code, to provide Federal debt collection procedures; and

S. 2437. An act to authorize the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2006. An act to expand the powers of the Indian Arts and Crafts Board, and for other purposes;

H.R. 2039. An act to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve adults and to youths, and for other purposes;

H.R. 2754. An act to require the Secretary of the Treasury to mint coins in commemoration of the quincentenary of the discovery of America by Christopher Columbus and to establish the Christopher Columbus Fellowship Foundation;

H.R. 2840. An act to reauthorize the Coastal Barrier Resources Act, and for other purposes;

H.R. 3684. An act to increase public understanding of the natural environment and to advance and develop environmental education and training;

H.R. 3898. An act to require certain procedural changes in United States district courts in order to promote the just, speedy and inexpensive determination of civil actions, and for other purposes;

H.R. 5264. An act to authorize modification of the boundaries of the Alaska Maritime National Wildlife Refuge; and

H.R. 5381. An act to implement certain proposals of the Federal Courts Study Committee, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 172. A concurrent resolution expressing the sense of the Congress that, for purposes of determining child custody, evidence of spousal abuse should create a statutory presumption that it is detrimental to the child to be placed in the custody of an abusive parent; and

H. Con. Res. 362. A concurrent resolution expressing the sense of Congress concerning the need for a national policy to rebuild the infrastructure of the United States.

MEASURES REFERRED

The following bills were read th first and second times by unanimou consent, and referred as indicated:

H.R. 2006. An act to expand the powers the Indian Arts and Crafts Board, and f other purposes; to the Select Committee Indian Affairs.

H.R. 5264. An act to authorize modific tion of the boundaries of the Alaska Mar time National Wildlife Refuge; to the Co mittee on Energy and Natural Resources.

The following bill, previously r ceived from the House of Representa tives for concurrence, was read th first and second times and referred a indicated:

H.R. 4323. An act to amend the Feder Water Pollution Control Act relating water quality in the Great Lakes; to th Committee on Environment and Publ Works.

The following concurrent resolutio were read, and referred as indicated:

H. Con. Res. 172. A concurrent resolutio expressing the sense of the Congress tha for purposes of determining child custod evidence of spousal abuse should create statutory presumption that it is detrimenta to the child to be placed in the custody an abusive parent; to the Committee on th Judiciary.

H. Con. Res. 362. A concurrent resolutio expressing the sense of Congress concernin the need for a national policy to rebuild th infrastructure of the United States; to th Committee on Environment and Publ Works.

MEASURES PLACED ON THE CALENDAR

The following bills were read th first and second times by unanimou consent, and placed on the calendar:

H.R. 2039. An act to amend the Job Trai ing Partnership Act to improve the deliver of services to hard-to-serve adults and t youth, and for other purposes;

H.R. 2754. An act to require the Secretar of the Treasury to mint coins in commem ration of the quincentenary of the discover of America by Christopher Columbus and t establish the Christopher Columbus Fellow ship Foundation; and

H.R. 3684. An act to increase the publi understanding of the natural environmen and to advance and develop environmenta education and training.

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate report ed that on today, October 1, 1990, h had presented to the President of th United States the following enrolle bill and joint resolution:

S. 1738. An act to convey certain Orego and California Railroad Grant Lands in Jo sephine County, Oregon, to the Rogue Com munity College District, and for other pur poses; and

S.J. Res. 57. Joint resolution to establish national policy on permanent papers.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 592. A bill to amend the Federal Rules of Civil Procedure with respect to the examination of prospective jurors (Rept. No. 101-482).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with amendments:

S. 2928. A bill to make certain technical and clarifying amendments to the Indian Self-Determination Act, and for other purposes (Rept. No. 101-483).

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

H.R. 3468. A bill to amend the act entitled "An Act to extend the Wetlands Loan Act", to provide for the expansion of the Stewart B. McKinney National Wildlife Refuge (Rept. No. 101-484).

H.R. 3787. A bill to authorize a joint Federal, State, and Tribal study for the restoration of the fishery resources of the Chehalis River Basin, Washington, and for other purposes (Rept. No. 101-485).

By Mr. NUNN, from the Committee on Armed Services, with an amendment in the nature of a substitute and an amendment to the title:

S. 3026. A bill to amend titles 10 and 37, United States Code, to make members of the Armed Forces involved in Operation Desert Shield or similar operations eligible for certain benefits and to make members of the reserve components of the Armed Forces and retired members of the Armed Forces eligible for certain benefits when ordered to active duty in connection with mobilization.

S. 3087. A bill to amend title 10, United States Code, to authorize the Secretary of Defense to accept gifts of money and property for use by the Department of Defense.

EXECUTIVE REPORTS OF COMMITTEES SUBMITTED DURING RECESS

Under the authority of the order of the Senate of September 30, 1990, the following executive report was submitted on October 1, 1990, during the recess of the Senate:

By Mr. BIDEN, from the Committee on the Judiciary:

David H. Souter, of New Hampshire, to be an Associate Justice of the Supreme Court of the United States (with additional and minority views) (Exec. Rept. No. 101-32).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BREAUX:

S. 3146. A bill to amend the Harmonized Tariff Schedule of the United States to clarify the classification of mixed alkylbenzenes; to the Committee on Finance.

By NICKLES:

S. 3147. A bill to make the 65-mile-per-hour speed limit demonstration project permanent and available to any State; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BREAUX:

S. 3146. A bill to amend the Harmonized Tariff Schedule of the United States to clarify the classification of mixed alkylbenzenes; to the Committee on Finance.

TARIFF CLASSIFICATION OF MIXED ALKYLBENZENES

● Mr. BREAUX. Mr. President, today I am introducing legislation which makes a technical change in the U.S. Harmonized Tariff Schedule to clarify the tariff category of linear alkylbenzene [LAB] used in the production of household detergents. The United States has long recognized the need to maintain a strong tariff on LAB, since the U.S. industry faces direct competition from protected, Government-subsidized overseas producers.

However, after the conversion to the Harmonized Tariff Schedule, and a recent Customs decision, LAB was inadvertently classified with similar products that are eligible for reduced tariffs under the Generalized System of Preferences [GSP].

My bill simply clarifies the tariff treatment for LAB by placing it in the proper tariff category. With the new classification, LAB is not subject to the GSP as has always been the case. Other alkylbenzenes will remain in the proper category and continue to receive preferential treatment under the GSP.●

By Mr. NICKLES:

S. 3147. A bill to make the 65-mile-per-hour speed limit demonstration project permanent and available to any State; to the Committee on Commerce, Science, and Transportaion.

THE 65-MILE-PER-HOUR SPEED LIMIT DEMONSTRATION PROJECT

● Mr. NICKLES. Mr. President, unless Congress acts, 1 year from today States will lose the authority provided them in 1987 to post 65-mile-per-hour speed limits on noninterstate highways that meet interstate standards.

In 1986 Congress provided States permanent authority to set speed limits up to 65 mile per hour on rural highways that are formally part on the Interstate Highway System. The structure of the 1986 law failed to recognize many noninterstate highways are built to the construction design, and safety standards as those in the interstate system and should also be eligible for States to consider as candidates for a 65-mile-per-hour speed limit.

To remedy this situation, I introduced legislation which became law in 1987 and, as ultimately crafted, created a 4-year demonstration project allowing the first 20 States to apply the opportunity to raise the speed limit to 65 on noninterstate highways that meet or exceed the interstate standards.

Sixteen States have taken advantage of this authority, which is contained in section 329 of Public Law 100-202. In the 16 States, 15 percent of the total highway miles posted at 65 mile per hour is on noninterstate highways under the 1987 authority. In my State of Oklahoma, 36 percent of our 65 mile per hour highways are on section 329 qualified highways. Oklahomans strongly support a 65-mile-per-hour limit for roads that meet interstate standards, and to let the provision sunset without being permanently renewed would be met with vocal opposition.

The bill that I am introducing today would provide States the authority to post 65-mile-per-hour speed limits on any highway that meets the stringent design and contruction standards required of the interstates. It continues to be my strong belief that appropriate speed limits can best be determined by each State, not the Federal Government. The States are the best authority and should be the final authority in determining the speeds traveled within their boundaries.

Therefore, I urge my colleagues to support my legislation and would encourage it's timely consideration and passage before the impending deadline.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3147

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the section 329 set out within section 101(l) of Public Law 100-102 (101 Stat. 1329-383; 23 U.S.C. 154, note) is amended—

(1) by striking out subsection (b),

(2) by striking out "(a) Any project" and inserting in lieu thereof "Any project", and

(3) by striking out "in fiscal years 1988, 1989, 1990, and 1991 with respect to a highway located in a State eligible under subsection (b)," and inserting in lieu thereof "for any fiscal year with respect to any highway".●

ADDITIONAL COSPONSORS

S. 2413

At the request of Mr. Kerry, the name of the Senator from Rhode Island [Mr. Pell] was added as a cosponsor of S. 2413, a bill to make eligibility standards for the award of the Purple Heart currently in effect applicable to members of the Armed Forces of the United States who were taken prisoner or taken captive by a hostile foreign government or its agents or a

hostile force before April 15, 1962, and for other purposes.

S. 2591

At the request of Mr. Baucus, the names of the Senator from Minnesota [Mr. Durenberger] and the Senator from Indiana [Mr. Coats] were added as cosponsors of S. 2591, a bill to amend title XVIII of the Social Security Act to provide relief from certain regulations relating to physicians' services.

S. 2601

At the request of Mr. Inouye, the name of the Senator from Washington [Mr. Adams] was added as a cosponsor of S. 2601, a bill to amend the Internal Revenue Code of 1986 to allow individuals who do not itemize deductions a deduction for charitable contributions to the extent in excess of $100 per year.

S. 2629

At the request of Mr. Kennedy, the names of the Senator from Indiana [Mr. Coats] and the Senator from New York [Mr. Moynihan] were added as cosponsors of S. 2629, a bill to amend the Public Health Service Act to extend the immunization program for vaccine-preventable diseases, and for other purposes.

S. 2813

At the request of Mr. Graham, the name of the Senator from Indiana [Mr. Lugar] was added as a cosponsor of S. 2813, a bill to authorize the minting of commemorative coins to support the training of American athletes participating in the 1992 Olympic Games.

S. 2901

At the request of Mr. Pryor, the name of the Senator from Kentucky [Mr. Ford] was added as a cosponsor of S. 2901, a bill to amend the Internal Revenue Code of 1986 to simplify the application of the tax laws with respect to employee benefit plans, and for other purposes.

S. 2925

At the request of Mr. Dixon, the names of the Senator from Florida [Mr. Graham], the Senator from Washington [Mr. Adams], the Senator from Colorado [Mr. Wirth], the Senator from Hawaii [Mr. Akaka], the Senator from New Mexico [Mr. Bingaman], the Senator from Oregon [Mr. Hatfield], the Senator from Rhode Island [Mr. Pell], the Senator from Louisiana [Mr. Johnston], the Senator from New York [Mr. D'Amato], the Senator from Indiana [Mr. Lugar], and the Senator from Vermont [Mr. Leahy] were added as cosponsors of S. 2925, a bill to authorize the minting and issuance of coins in commemoration of the quincentenary of the discovery of America and to authorize the payment of the proceeds of the sale of such coins to the Christopher Columbus Quincentenary Scholarship Foundation for the purpose of establishing a scholarship program, and for other purposes.

S. 2980

At the request of Mr. Baucus, the name of the Senator from Kansas [Mrs. Kassebaum] was added as a cosponsor of S. 2980, a bill to amend the Internal Revenue Code of 1986 to modify the provisions permitting certain entities to elect a taxable year other than the required year.

S. 3002

At the request of Mr. Moynihan, the name of the Senator from Maryland [Ms. Mikulski] was added as a cosponsor of S. 3002, a bill to amend title XIX of the Social Security Act to permit coverage of residential drug treatment for pregnant women and certain families members under the Medicaid Program, and for other purposes.

S. 3030

At the request of Mr. Heflin, the name of the Senator from Kentucky [Mr. Ford] was added as a cosponsor of S. 3030, a bill to provide disaster assistance for agricultural producers, and for other purposes.

S. 3041

At the request of Mr. Sanford, the names of the Senator from Delaware [Mr. Biden] and the the Senator from Maryland [Mr. Sarbanes] were added as cosponsors of S. 3041, a bill to set forth United States policy toward Central America and to assist the economic recovery and development of that region.

S. 3052

At the request of Mr. Gore, the name of the Senator from Massachusetts [Mr. Kennedy] was added as a cosponsor of S. 3052, a bill to amend the Public Health Service Act with respect to providing financial assistance for certain trauma-care centers operating in geographic areas with a significant incidence of violence arising from the abuse of drugs.

S. 3131

At the request of Mr. Heinz, the name of the Senator from Minnesota [Mr. Boschwitz] was added as a cosponsor of S. 3131, a bill to amend titles II and XVI of the Social Security Act to improve procedures for the determination of disability for purposes of eligibility under such titles.

SENATE JOINT RESOLUTION 364

At the request of Mr. Reid, the names of the Senator from Ohio [Mr. Metzenbaum], the Senator from Louisiana [Mr. Breaux], the Senator from Illionis [Mr. Simon], the Senator from Delaware [Mr. Biden], the Senator from New Mexico [Mr. Bingaman], the Senator from Tennessee [Mr. Sasser], the Senator from Texas [Mr. Gramm], the Senator from Michigan [Mr. Levin], the Senator from Missouri [Mr. Bond], the Senator from Connecticut [Mr. Lieberman], and the Senator from Wisconsin [Mr. Kasten] were added as cosponsors of Senate Joint Resolution 364, a joint resolution to designate the third week of February, 1991, as "National Parents and Teachers Association Week."

SENATE JOINT RESOLUTION 296

At the request of Mr. Roth, the names of the Senator from New York [Mr. D'Amato], the Senator from Minnesota [Mr. Boschwitz], the Senator from Missouri [Mr. Bond], the Senator from South Dakota [Mr. Pressler], the Senator from Nevada [Mr. Bryan], the Senator from Alabama [Mr. Heflin], and the Senator from Kentucky [Mr. Ford] were added as cosponsors of Senate Joint Resolution 296, a resolution to express the sense of the Senate to support the Taiwan's membership in the General Agreement on Tariffs and Trade.

AMENDMENTS SUBMITTED

MILITARY CONSTRUCTION APPROPRIATIONS, FISCAL YEAR 1991

SASSER (AND GRASSLEY) AMENDMNET NO. 2920

Mr. SASSER (for himself and Mr Grassley) proposed an amendment to the bill (H.R. 5313) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes, as follows:

On page 2, line 8 strike "$698,167,000" and insert in lieu thereof '$697,967,000".

On page 3, line 13 strike "$1,084,126,000' and insert in lieu thereof '$1,083,826,000".

On page 4, line 6 strike "$892,184,000 and insert in lieu thereof "$1,891,784,000".

On page 4, lines 19 through 21, restore the matter stricken.

On page 7, line 9 strike "$226,188,000" and insert in lieu thereof "$235,549,000".

On page 7, line 16 strike "$154,830,000' and insert in lieu thereof "$146,369,000".

On page 7, line 22 strike "$75,126,000" and insert in lieu thereof "$75,226,000".

On page 8, line 22 strike "$61,800,000" and insert in lieu thereof "$61,700,000".

On page 8, line 24 strike "$1,525,767,000' and insert in lieu thereof "$1,525,667,000".

GRASSLEY (AND HEFLIN) AMENDMENT NO. 2921

Mr. GRASSLEY (for himself and Mr. Heflin) proposed an amendment to the bill H.R. 5313, supra; as follows

At the appropriate place, insert the following:

SEC. . ANTITERRORISM ACT OF 1990.

(a) Short Title.—This section may be cited as the "Antiterrorism Act of 1990".

(b) Terrorism.—Chapter 113A of title 18 United States Code, is amended—

(1) in section 2331 by striking subsection (d) and redesignating subsection (e) as subsection (d);

(2) by redesignating section 2331 as 2332 and striking the caption for section 2331 and inserting the following:

"§ 2332. Criminal penalties":

(3) by inserting before section 2332 as redesignated, the following:

"§ 2331. Definitions

"As used in this chapter—

"(1) the term 'international terrorism' means activities that—

"(A) involve violent acts or acts dangerous to human life that are in violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

"(B) appear to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping; and

"(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

"(2) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act;

"(3) the term 'person' means any individual or entity capable of holding a legal or beneficial interest in property; and

"(4) the term 'act of war' means any act occuring in the course of—

"(A) declared war;

"(B) armed conflict, whether or not war has been declared, between two or more nations; or

"(C) armed conflict between military forces of any origin.".

(4) by adding immediately after section 2332 as redesignated the following new sections:

"§ 2333. Civil remedies

"(a) ACTION AND JURISDICTION.—Any national of the United States injured in his person, property, or business by reason of an act of internatinal terrorism, or his estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover three-fold the damages he sustains and the cost of the suit, including attorney's fees.

"(b) ESTOPPED UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 1472 (i), (k), (l), (n), or (r) of title 49 App. shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"(c) ESTOPPED UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the esential allegations of the criminal offense in any subsequent civil proceeding under this section.

"§ 2334. Jurisdiction and venue

"(a) GENERAL VENUE.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

"(b) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of this title, then any civil action under section 2333 of this title against any person may be instituted in the district of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

"(c) SERVICE ON WITNESSES.—A witness in a civil action brought under section 2333 of this title may be served in any district where the witness resides, is found, or has an agent.

"(d) CONVENIENCE OF THE FORUM.—The district court shall not dismiss any action brought under section 2333 of this title on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

"(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

"(2) that foreign court is significantly more convenient and appropriate; and

"(3) that foreign court offers a remedy which is substantially the same as the one available in the courts of the United States.

"§ 2335. Limitation of actions

"(a) IN GENERAL.—Subject to subsection (b), a suit for recovery of damages under section 2333 of this title shall not be maintained unless commenced within 3 years from the date the cause of action accrued.

"(b) CALCULATION OF PERIOD.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or any concealment of his whereabouts, shall not be reckoned within this period of limitation.

"§ 2336. Other limitations

"No action shall be maintained under section 2333 of this title for injury or loss by reason of an act of war.

"§ 2337. Suits against government officials

"No action shall be maintained under section 2333 of this title against—

"(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within his official capacity or under color of legal authority; or

"(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within his official capacity or under color of legal authority.

"§ 2338. Exclusive Federal jurisdiction

"The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter."; and

(5) by amending the table of sections to read as follows:

"CHAPTER 113A—TERRORISM

"Sec.
"2331. Definitions.
"2332. Criminal penalties.
"2333. Civil remedies.
"2334. Jurisdiction and venue.
"2335. Limitation of actions.
"2336. Other limitations.
"2337. Suits against government officials.
"2338. Exclusive Federal jurisdiction.

(c) TABLE OF CONTENTS.—The table of contents of part 1, title 18, United States Code, is amended by striking:

"113A. Extraterritorial jurisdiction over terrorist acts abroad against United States nationals .... 2331"

and inserting in lieu thereof:

"T13A. Terrorism .... 2331".

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to any pending case and any cause of action arising on or after 3 years before the date of enactment of this section.

BAUCUS AMENDMENT NO. 2922

Mr. BAUCUS proposed an amendment to the bill H.R. 5313, supra, as follows:

At the end of the bill, add the following new section:

SEC. . PAYMENT OF CLAIMS BY UNITED STATES NATIONALS AGAINST IRAQ.

(a) Notwithstanding any other provision of law, the President is authorized—

(1) to vest title in a portion of the property in which transactions have been blocked pursuant to Executive Order 12722 of August 3, 1990, which portion shall be equal to the total amount of obligations owed to United States Government (including the Department of Agriculture and the Commodity Credit Corporation) and United States nationals for which Iraq has suspended repayment; and

(2) to liquidate such property and pay United States creditors the amount of the obligations referred to under paragraph (1).

(b) In the event that property liquidated under subsection (a)(2) is less than the total amount of obligations described in subsection (a)(1), then obligations the repayment of which is guaranteed by the Commodity Credit Corporation shall be given priority in payment of creditors.

MURKOWSKI (AND OTHERS) AMENDMENT NO. 2923

Mr. GRASSLEY (for Mr. MURKOWSKI, for himself, Mr. HEINZ, Mr. D'AMATO, and Mr. STEVENS) proposed an amendment to the bill H.R. 5313, surpa, as follows:

At the end of the bill, add the following:

SEC. . (a)(1) None of the funds appropriated by this Act may be obligated or expended to enter into any contract for the construction, alteration, or repair of any public building or public work in the United States or any territory or possession of the United States with any contractor or subcontractor of a foreign country, or any supplier of products of a foreign country, during any period in which such foreign country is listed by the United States Trade Representative under subsection (c) of this section.

(2) The President or the head of a Federal agency administering the funds for the construction, alteration, or repair may waive the restrictions of paragraph (1) of this subsection with respect to an individual contract if the President or the head of such agency determines that such action is necessary for the public interest. The authority of the President or the head of a Federal agency under this paragraph may not be delegated. The President or the head of a Federal agency waiving such restrictions shall, within 10 days, publish a notice thereof in the Federal Register describing in detail the contract involved and the reason for granting the waiver.

(b)(1) Not later than 30 days after the date of enactment of this Act, the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding, for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information or evidence concerning discrimination in construction projects against United States products and services that are available.

(c)(1) The United States Trade Representative shall maintain a list of each foreign country which—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) Any foreign country that is initially listed or that is added to the list maintained under paragraph (1) shall remain on the list until—

(A) such country removes the barriers in construction projects to United States products and services;

(B) such country submits to the United States Trade Representative evidence demonstrating that such barriers have been removed; and

(C) the United States Trade Representative conducts an investigation to verify independently that such barriers have been removed and submits, at least 30 days before granting any such waiver, a report to each House of the Congress identifying the barriers and describing the actions taken to remove them.

(3) The United States Trade Representative shall publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made after publication of the original list.

(d) For purposes of this section—

(1) The term "foreign country" includes any foreign instrumentality. Each territory or possession of a foreign country that is administered separately for customs purposes shall be treated as a separate foreign country.

(2) Any contractor or subcontractor that is a citizen or national of a foreign country, or is controlled directly or indirectly by citizens or nationals of a foreign country, shall be considered to be a contractor or subcontractor of such foreign country.

(3) Subject to paragraph (4), any product that is produced or manufactured (in whole or in substantial part) in a foreign country shall be considered to be a product of such foreign country.

(4) The restrictions of subsection (a)(1) shall not prohibit the use, in the construction, alteration, or repair of a public building or public work, of vehicles or construction equipment of a foreign country.

(5) The terms "contractor" and "subcontractor" includes any person performing any architectural, engineering, or other services directly related to the preparation for or performance of the construction, alteration, or repair.

(e) Paragraph (a)(1) of this section shall not apply to contracts entered into prior to the date of enactment of this Act.

(f) The provisions of this section are in addition to, and do not limit or supersede, any other restrictions contained in any other Federal law.

TELEPHONE OPERATOR CONSUMER SERVICES IMPROVEMENT ACT

INOUYE AMENDMENT NO. 2924

Mr. BRYAN (for Mr. INOUYE) proposed an amendment to the bill (S. 1660) relating to telephone operator consumer services, and for other purposes, as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telephone Operator Consumer Services Improvement Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the divestiture of AT&T and decisions allowing open entry for competitors in the telephone marketplace produced a variety of new services and many new providers of existing telephone services;

(2) the growth of competition in the telecommunications market makes it essential to ensure that safeguards are in place to assure fairness for consumers and service providers alike;

(3) a variety of providers of operator services now compete to win contracts to provide operator services to hotels, hospitals, airports, and other aggregators of telephone business from consumers;

(4) the mere existence of a variety of service providers in the operator services marketplace is significant in making that market competitive only when consumers are able to make informed choices from among those service providers;

(5) however, often consumers have no choices in selecting a provider of operator services, and often attempts by consumers to reach their preferred long distance carrier by using a telephone billing card, credit card, or prearranged access code number are blocked;

(6) a number of State regulatory authorities have taken action to protect consumers using intrastate operator services;

(7) from January 1988 through February 1990, the Federal Communications Commission received over 4,000 complaints from consumers about operator services;

(8) those consumers have complained that they are denied access to the interexchange carrier of their choice, that they are deceived about the identify of the company providing operator services for their calls and the rates being charged, that they lack information on what they can do to complain about unfair treatment by an operator service provider, and that they are, accordingly, being deprived of the free choice essential to the operation of a competitive market;

(9) the Commission has testified that its actions have been insufficient to correct the problems in the operator services industry to date; and

(10) a combination of industry self-regulation and government regulation is required to ensure that competitive operator services are provided in a fair and reasonable manner.

SEC. 3. AMENDMENT.

Title II of the Communications Act of 1934 is amended by inserting immediately after section 225 (47 U.S.C. 225) the following new section:

"Sec. 226. TELEPHONE OPERATOR SERVICES.

"(a) DEFINITIONS.—As used in this section—

"(1) The term 'access code' means a sequence of numbers that, when dialed, connect the caller to the provider of operator services associated with that sequence.

"(2) The term 'aggregator' means any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for interstate telephone calls using a provider of operator services.

"(3) The term 'call splashing' means the transfer of a telephone call from one provider of operator services to another such provider in such a manner that the Subsequent provider is unable or unwilling to determine the location of the original call and, because of such inability or unwillingness, is prevented from billing the call on the basis of such location.

"(4) The term 'consumer' means a person initiating any interstate telephone call using operator services.

"(5) The term 'equal access' has the meaning given that term in Appendix B of the Modification of Final Judgment entered August 24, 1982, in United States v. Western Electric, Civil Action No. 82-0192 (United States District Court, District of Columbia), as amended by the Court in its orders issued prior to the enactment of this section.

"(6) The term 'equal access code' means an access code that allows the public to obtain an equal access connection to the carrier associated with that code.

"(7) The term 'operator services' means any interstate telecommunications service initiated from an aggregator location that includes, as a component, any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an interstate telephone call through a method other than—

"(A) automatic completion with billing to the telephone from which the call originated; or

"(B) completion through an access code used by the consumer, with billing to an account previously established with the carrier by the consumer.

"(8) The term 'presubscribed provider of operator services' means the interstate provider of operator services to which the consumer is connected when the consumer places a call using a provider of operator services without dialing an access code.

"(9) The term 'provider of operator services' means any common carrier that provides operator services or any other person determined by the Commission to be providing operator services.

"(b) REQUIREMENTS FOR PROVIDERS OF OPERATOR SERVICES.—

"(1) IN GENERAL.—Beginning not later than 30 days after the date of enactment of this section, each provider of operator services shall, at a minimum—

"(A) identify itself, audibly and distinctly, to the consumer at the beginning of each telephone call and before the consumer incurs any charge for the call;

"(B) permit the consumer to terminate the telephone call at no charge before the call is connected;

"(C) disclose immediately to the consumer, upon request and at no charge to the consumer—

"(i) a quote of its rates or charges for the call;

"(ii) the methods by which such rates or charges will be collected; and

"(iii) the methods by which complaints concerning such rates, charges, or collection practices will be resolved;

"(D) ensure, by contract or tariff, that each aggregator for which such provider is the presubscribed provider of operator services is in compliance with the requirements of subsection (c) and, if applicable, subsection (e)(1);

"(E) withhold payment (on a location-by-location basis) of any compensation, including commissions, to aggregators if such provider reasonably believes that the aggregator (i) is blocking access by means of "950" or "800" numbers to interstate common carriers in violation of subsection (c)(1)(B) or (ii) is blocking access to equal access codes in violation of rules the Commission may prescribe under subsection (e)(1);

"(F) not bill for unanswered telephone calls in areas where equal access is available;

"(G) not knowingly bill for unanswered telephone calls where equal access is not available;

"(H) not engage in call splashing, unless the consumer requests to be transferred to another provider of operator services, the consumer is informed prior to incurring any charges that the rates for the call may not reflect the rates from the actual originating location of the call, and the consumer then consents to be transferred;

"(I) except as provided in subparagraph (H), not bill for a call that does not reflect the location of the origination of the call; and

"(J) not bill an interexchange telephone call to a billing card number which—

"(i) is issued by another provider of operator services, and

"(ii) permits the identification of the other provider,

unless the call is billed at a rate not greater than the other provider's rate for the call, the consumer requests a special service that is not available under tariff from the other provider, or the consumer expressly consents to a rate greater than the other provider's rate.

"(2) Additional requirements for first 3 years.—In addition to meeting the requirements of paragraph (1), during the 3-year period beginning on the date that is 30 days after the date of enactment of this section, each presubscribed provider of operator services shall identify itself audibly and distinctly to the consumer, not only as required in paragraph (1)(A), but also for a second time before connecting the call and before the consumer incurs any charge.

"(c) Requirements for Aggregators.—

"(1) In general.—Each aggregator, beginning not later than 30 days after the date of enactment of this section, shall—

"(A) post on or near the telephone instrument, in plain view of consumers—

"(i) the name, address, and toll-free telephone number of the provider of operator services;

"(ii) a written disclosure that the rates for all operator-assisted calls are available on request, and that consumers have a right to obtain access to the interstate common carrier of their choice and may contact their preferred interstate common carriers for information on accessing that carrier's service using that telephone; and

"(iii) the name and address of the enforcement division of the Common Carrier Bureau of the Commission, to which the consumer may direct complaints regarding operator services; and

"(B) ensure that each of its telephones presubscribed to a provider of operator services allows the consumer to use "800" and "950" access code numbers to obtain access to the provider of operator services desired by the consumer; and

"(C) ensure that no charge by the aggregator to the consumer for using an "800" or "950" access code number, or any other access code number, is greater than the amount the aggregator charges for calls placed using the presubscribed provider of operator services.

"(2) Effect of state law or regulation.—The requirements of paragraph (1)(A) shall not apply to an aggregator in any case in which State law or State regulation requires the aggregator to take actions that are substantially the same as those required in paragraph (1)(A).

"(d) General Rulemaking Required.—

"(1) Rulemaking proceeding.—The Commission shall conduct a rulemaking proceeding pursuant to this title to prescribe regulations to—

"(A) protect consumers from unfair and deceptive practices relating to their use of operator services to place interstate telephone calls; and

"(B) ensure that consumers have the opportunity to make informed choices in making such calls.

"(2) Deadlines.—The Commission shall initiate the proceeding required under paragraph (1) within 60 days after the date of enactment of this section and shall prescribe regulations pursuant to the proceeding not later than 210 days after such date of enactment. Such regulations shall take effect not later than 45 days after the date the regulations are prescribed.

"(3) Contents of regulations.—The regulations prescribed under this section shall—

"(A) contain provisions to implement each of the requirements of this section, other than the requirements established by the rulemaking under subsection (e) on access and compensation; and

"(B) contain such other provisions as the Commission determines necessary to carry out this section and the purposes and policies of this section.

"(4) Additional requirements to be implemented by regulations.—The regulations prescribed under this section shall, at a minimum—

"(A) establish minimum standards for providers of operator services to use in the routing and handling of emergency telephone calls; and

"(B) establish a policy for requiring providers of operator services to make public information about recent changes in operator services and choices available to consumers in that market.

"(e) Separate Rulemaking on Access and Compensation.—

"(1) Access.—The Commission, within 9 months after the date of enactment of this section, shall require—

"(A) that each aggregator ensure within a reasonable time that each of its telephones presubscribed to a provider of operator services allows the consumer to obtain access to the provider of operator services desired by the consumer through the use of an equal access code; or

"(B) that all providers of operator services, within a reasonable time, make available to their customers a "950" or "800" access code number for use in making operator services calls from anywhere in the United States; or

"(C) that the requirements described under both subparagraphs (A) and (B) apply.

"(2) Compensation.—The Commission shall consider the need to prescribe compensation (other than advance payment by consumers) for owners of competitive public pay telephones for calls routed to providers of operator services that are other than the presubscribed provider of operator services for such telephones. Within 9 months after the date of enactment of this section, the Commission shall reach a final decision on whether to prescribe such compensation.

"(f) Technological Capability of Equipment.—Any equipment and software manufactured or imported more than 18 months after the date of enactment of this section and installed by any aggregator shall be technologically capable of providing consumers with access to interstate providers of operator services through the use of equal access codes.

"(g) Fraud.—In any proceeding to carry out the provisions of this section, the Commission shall require such actions or measures as are necessary to ensure that aggregators are not exposed to undue risk of fraud.

"(h) Determinations of Rate Compliance.—

"(1) Filing of Informational Tariff.—

"(A) In general.—Each provider of operator services shall file, within 30 days after the date of enactment of this section, and shall maintain, update regularly, and keep open for public inspection, an informational tariff specifying rates, terms, and conditions, and including commissions, surcharges, any fees which are collected from consumers, and reasonable estimates of the amount of traffic priced at each rate, with respect to calls for which operator services are provided. Any changes in such rates, terms, or conditions shall be filed no later than the first day on which the changed rates, terms, or conditions are in effect.

"(B) Waiver Authority.—The Commission may, after 4 years following the date of enactment of this section, waive the requirements of this paragraph only if—

"(i) the findings and conclusions of the Commission in the final report issued under paragraph (3)(B)(iii) state that the regulatory objectives specified in subsection (d)(1) (A) and (B) have been achieved; and

"(ii) the Commission determines that such waiver will not adversely affect the continued achievement of such regulatory objectives.

"(2) Review of informational tariffs.—If the rates and charges filed by any provider of operator services under paragraph (1) appear upon review by the Commission to be unjust or unreasonable, the Commission may require such provider of operator services to do either or both of the following:

"(A) demonstrate that its rates and charges are just and reasonable, and

"(B) announce that its rates are available on request at the beginning of each call.

"(3) Proceeding required.—

"(A) In general.—Within 60 days after the date of enactment of this section, the Commission shall initiate a proceeding to determine whether the regulatory objectives specified in subsection (d)(1) (A) and (B) are being achieved. The proceeding shall—

(i) monitor operator service rates;

"(ii) determine the extent to which offerings made by providers of operator services are improvements, in terms of service quality, price, innovation, and other factors, over those available before the entry of new providers of operator services into the market;

"(iii) report on (in the aggregate and by individual provider) operator service rates, incidence of service complaints, and service offerings;

"(iv) consider the effect that commissions and surcharges, billing and validation costs, and other costs of doing business have on the overall rates charged to consumers; and

"(v) monitor compliance with the provisions of this section, including the periodic placement of telephone calls from aggregator locations.

"(B) Reports.—(i) The Commission shall, during the pendency of such proceeding and not later than 5 months after its commencement, provide the Congress with an interim report on the Commission's activities and progress to date.

"(ii) Not later than 11 months after the commencement of such proceeding, the Commission shall report to the Congress on its interim findings as a result of the proceeding.

"(iii) Not later than 23 months after the commencement of such proceeding, the Commission shall submit a final report to the Congress on its findings and conclusions.

"(4) Implementing regulations.—

"(A) In general.—Unless the Commission makes the determination described in subparagraph (B), the Commission shall, within 180 days after submission of the report required under paragraph (3)(B)(iii), complete a rulemaking proceeding pursuant to this title to establish regulations for implementing the requirements of this title (and paragraphs (1) and (2) of this subsection) that rates and charges for operator services be just and reasonable. Such regulations shall include limitations on the amount of commissions or any other compensation given to aggregators by providers of operator service.

"(B) Limitation.—The requirement of subparagraph (A) shall not apply if, on the basis of the proceeding under paragraph (3)(A), the Commission makes (and includes in the report required by paragraph (3)(B)(iii)) a factual determination that market forces are securing rates and charges that are just and reasonable, as evidenced by rate levels, costs, complaints, service quality, and other relevant factors.

"(i) Statutory construction.—Nothing in this section shall be construed to alter the obligations, powers, or duties of common carriers or the Commission under the other sections of this Act.".

ADDITIONAL STATEMENTS

THRESHOLD TEST BAN AND PEACEFUL NUCLEAR EXPLOSIONS TREATIES

● **Mr. GORTON.** Mr. President, while for the past 14 years the United States has observed the 150-kiloton threshold limit of the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty, I am pleased that the United States and Soviet Union have agreed to effective verification procedures that now make formal ratification of these treaties possible. Although advances in verification technology make this possible, it has been the political changes in the Soviet Union and the commensurate improvement in United States-Soviet relations that, to my mind, has contributed most toward this achievement.

It is the responsibility of the Armed Services Committee to assess the national security implications of these nuclear testing agreements. During testimony before the committee, both the Chairman of the Joint Chiefs of Staff and the Secretary of Defense recommended ratification of the treaties. Their only caveat was an assurance that the United States maintain the national resolve to carry out the verification methods permitted by the protocols to the treaties and that there be congressional support for the safeguards enumerated in the resolution of ratification.

In addition to the safeguards, which I wholeheartedly support, the resolution of ratification, as prepared by the Senate Foreign Relations Committee, contains a declaration regarding follow-on negotiations that bears some discussion and clarification. I am referring to paragraph II.

> The United States shares a special responsibility with the Soviet Union to continue the bilateral nuclear testing talks to achieve further limitations on nuclear testing, including the achievement of a verifiable comprehensive test ban.

While most of us would support an eventual ban on nuclear testing, I think it important to include a caveat that the administration makes plain: The United States should only enter into new negotiations on further limitations that, in the words of National Security Adviser, Brent Scowcroft:

> Make sense from a national security standpoint, contribute to stability, and still guarantee a reliable, safe, and effective deterrent.

It is clear that there exists a difference of opinion between the Foreign Relations Committee and the administration as to what the appropriate next step should be. The administration makes it clear in numerous statements that it would be prudent to evaluate the operation of the new treaties before deciding whether further limitations on testing would be tolerable. The Foreign Relations Committee on the other hand, would like to see every effort made to achieve a verifiable comprehensive test ban as soon as possible.

The central difference between the two positions is that while both support an end to all nuclear testing, the administration views this in association with a program that would reduce and ultimately eliminate our dependence on nuclear weapons for national security. Supporters of immediate negotiations leading to a CTB, by contrast, have concluded that nuclear testing is no longer essential for our security and that a ban on testing will make the world a safer place.

There are many arguments in favor of continued testing; I would like to mention only three: first, we need to assure ourselves—and prospective opponents—that our nuclear deterrent is reliable and effective. Despite advances in supercomputing, there is no substitute for actual testing to determine the reliability of the existing stockpile.

Second, as we continue to reduce our arsenal through arms control and normal attrition, we will need to modernize those residual forces. A smaller force needs to be a more survivable force. Nuclear testing will be required to develop new systems that do not necessarily add to the destructive capability of our forces, but improve its survivability.

Finally, and this reason is of immediate concern to the people of my State, testing is required to improve the safety and security features of existing nuclear weapons. I note the recent problems associated with the W79 artillery shell and the SRAM-A missile. The latter was removed from alert B-52 bombers stationed at Fairchild AFB. According to the directors of our nuclear weapons labs, nuclear testing played an important role in discovering these problems associated with our nuclear forces.

Still, despite these reasons to continue testing many argue that a ban on nuclear testing would make an important contribution toward improved United States-Soviet relations and would set an example for other states that are on the verge of testing nuclear weapons.

I would argue, however, that these arguments now before us are a result of improved relations, not a factor contributing to them. In the same vein, a CTB can only be a result of a new strategic environment in which nuclear deterrence has become irrelevant, not the other way around. As for setting an example, third countries do not acquire nuclear weapons to face the United States, but to enhance their regional positions. Restraint on our part has little impact on such regional power balances and antagonisms.

To conclude, Mr. President, I would hope that the Congress not force the administration's hand with respect to follow-on negotiations on nuclear testing. Let us first see how well these two treaties now before us work before we take the final step toward a complete ban on nuclear testing. Most important, however, is that when we begin down that path, we make certain that we are joined by the entire international community. For it would be folly for the United States—and the Soviet Union—to halt nuclear testing while other nations continue to develop nascent nuclear capabilities.●

S. 1860, A BILL TO FURNISH OUTPATIENT CARE FOR FORMER POW'S

● Mr. D'AMATO. Mr. President, I rise today to add my support to legislation that will correct an injustice that affects a select and courageous group of veterans; former prisoners of war. These veterans, after suffering the indignation of imprisonment by our enemies while in service to our country, are not always assured the medical care they deserve. Currently, former POW's with less than a 50 percent disability may or may not receive needed outpatient care. It is time to correct this inequity and provide a consistent health care policy for all former POW's. That is why I am cosponsoring S. 1860. This bill guarantees that outpatient medical services for any disability of a former POW will be furnished by the Department of Veterans Affairs.

I must admit that until recently I was not aware that former POW's were not guaranteed this service. However, when it was brought to my attention, I could not believe that this great Nation would deny medical care to these brave individuals. How can we tell these people that their service, in effect, didn't count? How can we tell the soldiers of tomorrow that our Nation will not be there for them should they become POW's? Our former POW's fought to preserve the freedoms we hold dear, and in so doing, became captives. They have a right to these medical services.

As we all know, our Nation faces difficult budget choices, but the $1 million cost estimated to provide health services to these veterans is money well spent. I commend Senator Boren for introducing this bill and I urge my colleagues to join me in cosponsoring this legislation.●

S. 110—FAMILY PLANNING AMENDMENTS

● Mr. KERRY. Mr. President, I rise today to voice my disappointment at the recent failure of this body to pass S. 110, the family planning amendments. This valuable piece of legislation, of which I am an original cosponsor, would have reauthorized the programs under title X of the Public Health Service Act for an additional 5 years.

Since 1970, title X has been the core of our national family planning effort. Each year, 4,500 public and private clinics around the country provide medical and educational services to over 4 million low-income women and teenagers. While the primary focus of title X is contraceptive services, title X supported clinics offer preventive health services, and are often the first place low-income women—and especially teenagers—receive formal medical care.

Unfortunately, our Nation's 20-year program of family planning services is dying. Under the Reagan administration, the title X program suffered severe funding cuts and crippling programmatic assaults. In addition, Congress has not reauthorized the program in 5 years. As a result, the program ekes by on continuing appropriations, continually at risk of having its funding completely eliminated. Funding for the program has declined from $162 million in 1981 to less than $140 million today.

Title X works in Massachusetts, with services provided at 77 clinic sites throughout the State. In Massachusetts, we have nearly 250,000 teenage and poor women at risk for unintended pregnancy and these services are much needed. Despite the need, title X funding in Massachusetts has declined by 13 percent over the last decade.

Title X is a cost-effective program that works. Title X provides needed health care services; prevents unintended pregnancies and the corresponding need for abortion; and it effectively addresses teen pregnancy.

Each year, family planning services prevent 1.2 million unintended pregnancies which could result in 509,000 unwanted births and 516,000 abortions. According to a 1988 study by the Alan Guttmacher Institute, every public dollar spent to provide contraceptive services saves $4.40 in taxpayer funds that otherwise would go toward medical care, welfare, and other social services—an overall total of $1.8 billion in savings annually. Dollars well invested in title X today clearly result in savings down the road.

Title X is an important program that needs to be reauthorized with adequate funding levels. While efforts to provide this support have been temporarily defeated, I want to assure my colleagues that this Senator will continue to fight to see that the needs of thousands of Americans do not go unmet.●

ORDER OF BUSINESS

Mr. BRYAN. Mr. President, all of the following unanimous-consent items which I will be addressing to the Chair in a few moments have been cleared on the Republican side.

COPYRIGHT REMEDY CLARIFICATION ACT

Mr. BRYAN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3045.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendments of the Senate to the bill (H.R. 3045) entitled "An act to amend chapters 5 and 9 of title 17, United States Code, to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of copyright and infringement of exclusive rights in mask works, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private person or against other public entities," and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Kastenmeier, Mr. Crockett, Mr. Berman, Mr. Moorhead, and Mr. Coble be the managers of the conference on the part of the House.

Mr. BRYAN. Mr. President, I move that the Senate insist on its amendments, agree to the conference requested by the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer [Mr. Shelby] appointed Mr. DeConcini, Mr. Leahy, Mr. Kennedy, Mr. Hatch, and Mr. Grassley conferees on the part of the Senate.

EISENHOWER CENTER FOR THE CONSERVATION OF HUMAN RESOURCES AT COLUMBIA UNIVERSITY

Mr. BRYAN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Resolution 327 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 327) to recognize and commend the establishment of the Eisenhower Center for the Conservation of Human Resources at Columbia university.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 327) and its preamble are as follows:

S. Res. 327

Whereas the Conservation of Human Resources Project at Columbia University is now in its fifth decade;

Whereas General Dwight David Eisenhower, as president of Columbia University from 1948 to 1953, invigorated the Conservation Project with energy and direction;

Whereas the Conservation Project was established to examine economic transformations from the viewpoint of human resources and to analyze responses by educational, training, and employer institutions to such transformations;

Whereas the Conservation Project has published some 250 books and reports on human resources; and

Whereas in recognition of Dwight David Eisenhower's service to his country and to Columbia University, the Conservation of Human Resources Project has been renamed the Eisenhower Center for the Conservation of Human Resources; Now, therefore, be it

Resolved, That, in this centennial year of Dwight David Eisenhower's birth, the newly rechristened Eisenhower Center for the Conservation of Human Resources at Columbia University has the full and enthusiastic support of the United States Senate.

Mr. BRYAN. Mr. President, I move both to reconsider and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BRYAN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged en bloc from further consideration of the following: House Joint Resolution 482, Irish American Month; House Joint Resolution 398, regarding the Yosemite Park; and S. 2111, the Asian/Pacific-American Heritage Month, and that the Senate then proceed to their immediate consideration, that the joint resolutions and bill be deemed read a third time and passed, that a motion to reconsider be laid upon the table, and that the preamble be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRISH-AMERICAN HERITAGE MONTH

The joint resolution (H.J. Res. 482) designating March 1991 as "Irish-American Heritage Month" was considered, ordered to a third reading, read the third time, and passed.

YOSEMITE NATIONAL PARK

The joint resolution (H.J. Res. 398) commemorating the centennial of the creation by Congress of Yosemite National Park was considered, ordered to a third reading, read the third time, and passed.

ASIAN/PACIFIC-AMERICAN HERITAGE MONTH

A bill (S. 2111) designating the month of May as "Asian/Pacific-American Heritage Month" was considered, ordered to a third reading, read the third time, and passed, as follows:

S. 2111

Be it enacted be the Senate and House House of Representatives of the United States of America in Congress assembled, That Public Law 95-419 be amended by—

(1) inserting "annually" in between "proclaim" and "the";

(2) striking "seven-day perid beginning on May 4, 1979" and inserting "thirty-one-day period beginning May 1, 1990";

(3) striking "Week" and inserting "Month";

(4) inserting "annually" in between "to issue" and "a proclamation";

(5) striking "seven-day period beginning on May 4, 1979" and inserting "thirty-one-day peiod beginning May 1, 1990";

(6) striking "Week" and inserting "Month";

(7) striking "week" and inserting "month";

(8) inserting "programs," in between "appropriate" and "ceremonies".

MEASURE INDEFINITELY POSTPONED—SENATE JOINT RESOLUTION 283

Mr. BRYAN. Mr. President, I now ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 283 and that the measure then be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged en bloc from further consideration of Senate Joint Resolution 369, the "Year of Thanksgiving for the Blessing of Liberty" and Senate Joint Resolution 351, the "National Trauma Awareness Month," that the Senate proceed to their immediate consideration; that the resolutions be deemed read a third time, and passed; that the motion to reconsider be laid upon the table; that the preambles be agreed to; and that the consideration of these items appear individually in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

YEAR OF THANKSGIVING FOR THE BLESSINGS OF LIBERTY

The joint resolution (S.J. Res. 369) designating 1991 as the "Year of Thanksgiving for the Blessings of Liberty" was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. Res. 369

Whereas the people of the United States have expressed gratitude by celebrating a national season of thanksgiving since the 17th century;

Whereas the War for Independence was won and the Constitution written and adopted to secure the blessings of liberty for citizens;

Whereas after the first Congress drafted
Bill of Rights to be added to the Constitu
tion, established a Federal judicial system
created departments of administration, an
established the Government of the Unite
States under the Constitution, it requeste
President Washington to issue a proclama
tion of national thanksgiving;

Whereas in the first Presidential procla
mation, President Washington called on th
people of the United States to acknowledge
by thanksgiving, the blessings of civil an
religious liberty;

Whereas by December 15, 1791, three
quarters of the United States had ratifie
the proposed Bill of Rights;

Whereas 1991 is recognized as the officia
observance of the bicentennial of the ratifi
cation of the Bill of Rights; and

Whereas for 200 years the people of th
United States have enjoyed the blessings o
liberty under the Constitution and the Bil
of Rights, embodied in the first 10 amend
ments of the Constitution: Now, therefore
be it

Resolved by the Senate and House of Rep
resentatives of the United States of Americ
in Congress assembled, That 1991 is desig
nated as the "Year of Thanksgiving for th
Blessings of Liberty", and the President i
authorized and requested to issue a procla
mation calling upon the Governors of th
several States, the chief officials of loca
governments, and the people of the Unite
States to observe the year with appropriat
ceremonies and activities.

NATIONAL TRAUMA AWARENESS MONTH

The joint resolution (S.J. Res. 351
to designate the month of May 1991 a
"National Trauma Awareness Month"
was considered, ordered to a thir
reading, read a third time, and passed

The preamble was agreed to.

The joint resolution, with its pream
ble, is as follows:

S.J. Res. 351

Whereas more than eight million individ
uals in the United States suffer traumati
injury each year;

Whereas traumatic injury is the leadin
cause of death of individuals less than forty
four years of age in the United States;

Whereas every individual is a potentia
victim of traumatic injury;

Whereas traumatic injury often occur
without warning;

Whereas traumatic injury frequently ren
ders its victims incapable of caring fo
themselves;

Whereas past inattention to the cause
and effects of trauma has led to the inclu
sion of trauma among the most neglecte
medical conditions;

Whereas the people of the United State
spend more than $140 billion on the prob
lem of trauma;

Whereas the problem of trauma can b
remedied only by prevention and treatmen
through emergency medical services an
trauma systems; and

Whereas the people of the United State
must be educated in the prevention an
treatment of trauma and in the proper an
effective use of emergency medical systems
Now, therefore, be it

Resolved by the Senate and House of Rep
resentatives of the United States of Americ
in Congress assembled, That May, 1991 i
designated as "National Trauma Awarenes

Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

MEASURE PLACED ON THE CALENDAR

Mr. BRYAN. Mr. President, I ask unanimous consent that H.R. 2754, the Christopher Columbus Quincentenary Coins Act, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

TELEPHONE OPERATOR CONSUMER SERVICES IMPROVEMENT ACT

Mr. BRYAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 793, S. 1660, the Telephone Operator Consumer Services Improvement Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1660) relating to telephone operator consumer services, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to the consideration of the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telephone Operator Consumer Services Improvement Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the divestiture of AT&T and decisions allowing open entry for competitors in the telephone marketplace produced a variety of new services and many new providers of existing telephone services;

(2) the growth of competition in the telecommunications market makes it essential to ensure that safeguards are in place to assure fairness for consumers and service providers alike;

(3) a variety of providers of operator services now compete to win contracts to provide operator services to hotels, hospitals, airports, and other aggregators of telephone business from consumers;

(4) the mere existence of a variety of service providers in the operator services marketplace is significant in making that market competitive only when consumers are able to make informed choices from among those service providers;

(5) however, often consumers have no choices in selecting a provider of operator services, and often attempts by consumers to reach their preferred long distance carrier by a telephone billing card, credit card, or prearranged access code number are blocked;

(6) a number of State regulatory authorities have taken action to protect consumers using intrastate operator services;

(7) from January 1988 through February 1990, the Federal Communications Commission received over 4,000 complaints from consumers about operator services;

(8) those consumers have complained that they are denied access to the interexchange carrier of their choice, that they are deceived about the identity of the company providing operator services for their calls and the rates being charged, that they lack information on what they can do to complain about unfair treatment by an operator service provider, and that they are, accordingly, being deprived of the free choice essential to the operation of a competitive market;

(9) the Commission has testified that its actions have been insufficient to correct the problems in the operator services industry to date; and

(10) a combination of industry self-regulation and government regulation is required to ensure that competitive operator services are provided in a fair and reasonable manner.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "aggregator" means any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for interstate telephone calls using a provider of operator services;

(2) "call splashing" means the transfer of a telephone call from one provider of operator services to another such provider in such a manner that the subsequent provider is unable to determine the actual originating location of the call and, because of such inability, is prevented from billing the call on the basis of such actual originating location;

(3) "Commission" means the Federal Communications Commission;

(4) "consumer" means a person initiating any interstate telephone call using operator services;

(5) "equal access" has the meaning given that term in Appendix B of the Modification of Final Judgment entered August 24, 1982, in United States v. Western Electric, Civil Action No. 82-0192 (United States District Court, District of Columbia), as amended by the Court in its orders issued prior to the enactment of this Act;

(6) "equal access code" means a carrier-specific number that allows the public to obtain an equal access connection to that carrier;

(7) "operator services" means any interstate telecommunications service that includes, as a component, any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an interstate telephone call through a method other than—

(A) automatic completion with billing to the telephone from which the call originated; or

(B) completion through a carrier-specific access code number used by the consumer, with billing to an account previously established with the carrier by the consumer;

(8) "person" includes an individual, partnership, association, joint-stock company, trust, or corporation; and

(9) "presubscribed provider of operator services" means the interstate provider of operator services to which the consumer obtains access when the first digit dialed is the number "0".

SEC. 4. RULEMAKING REQUIRED.

(a) Rulemaking Proceeding.—The Commission shall conduct a rulemaking proceeding pursuant to title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) to prescribe regulations to—

(1) protect consumers from unfair and deceptive practices relating to their use of operator services to place interstate telephone calls; and

(2) ensure that consumers have the opportunity to make informed choices in making such calls.

(b) Deadlines.—The Commission shall initiate the proceeding required under subsection (a) within 30 days after the date of enactment of this Act and shall prescribe regulations pursuant to the proceeding not later than 180 days after the date of enactment of this Act. Such regulations shall take effect not later than 90 days after the date the regulations are prescribed.

(c) Contents of Regulations.—The regulations prescribed under this section shall—

(1) contain provisions to implement each of the requirements of section 5(c);

(2) contain such other provisions as the Commission determines necessary to carry out section 5 and the purposes and policies of this Act; and

(3) for purposes of administration and enforcement, be treated as regulations prescribed by the Commission pursuant to title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.).

SEC. 5. MINIMUM REQUIREMENTS.

(a) Requirements for Providers of Operator Services.—(1) Within 30 days after the date of enactment of this Act, each provider of operator services shall, at a minimum—

(A) identify itself, audibly and distinctly, to the consumer at the beginning of each telephone call and before the consumer incurs any charge for the call;

(B) permit the consumer to terminate the telephone call at no charge before the call is answered;

(C) disclose immediately to the consumer, upon request and at no charge to the consumer—

(i) a quote of its rates or charges for the call;

(ii) the methods by which such rates or charges will be collected; and

(iii) the methods by which complaints concerning such rates, charges, or collection practices will be resolved;

(D) ensure, by contract or tariff, that each aggregator for which such provider is the presubscribed provider of operator services is in compliance with the requirements of subsection (b) and, if applicable, subsection (g);

(E) withhold payment of any compensation, including commissions, to aggregators (i) at locations at which blocking of access by means of "950" or "800" numbers to interstate common carriers occurs in violation of subsection (b)(1)(B), and (ii) if the Commission establishes the requirement described in subsection (g)(1), at locations at which blocking of equal access codes occurs;

(F) be prohibited from billing for unanswered telephone calls in areas where equal access is available, and be prohibited from knowingly billing for unanswered telephone calls where equal access is not available;

(G) be prohibited from call splashing, unless the consumer requests to be transferred to another provider of operator services, the consumer is informed prior to incurring any charges that the rates for the call may not reflect the rates from the actual originating location of the call, and the consumer then consents to be transferred; and

(H) be prohibited from billing an interexchange telephone call to a billing card number which—

(i) is issued by another provider of operator services, and

(ii) permits the identification of the other provider,

unless the call is billed at a rate not greater than the other provider's rate for the call, the consumer requests a special service that is not available under tariff from the other provider, or the consumer expressly consents to a rate greater than the other provider's rate.

(2) In addition to meeting the requirements of paragraph (1), during the 3-year period beginning on the date that is 30 days after the date of enactment of this Act, each presubscribed provider of operator services shall—

(A) identify itself audibly and distinctly to the consumer, not only as required in paragraph (1)(A), but also for a second time before placing the call and before the consumer incurs any charge; and

(B) state clearly to the consumer at the beginning of the call, "Our rates are available on request.".

(b) Requirements for Aggregators.—(1) Each aggregator, within 30 days after the date of enactment of this Act, shall—

(A) post on or near the telephone instrument, in plain view of consumers—

(i) the name, address, and toll-free telephone number of the provider of operator services;

(ii) a written disclosure that consumers have a right to obtain access to the interstate common carrier of their choice and may contact their preferred interstate common carriers for information on accessing that carrier's service using that telephone; and

(iii) the name, address, and telephone number of the consumer affairs division of the Commission, to which the consumer may direct complaints regarding operator services; and

(B) ensure that each of its telephones presubscribed to a provider of operator services allows the consumer to use "800" and "950" access code numbers to obtain access to the provider of operator services desired by the consumer and that no charge by the aggregator to the consumer for using such an "800" or "950" access code number is greater than the amount the aggregator charges for calls placed to the presubscribed provider of operator services.

(2) The requirements of paragraph (1)(A) shall not apply to an aggregator in any case in which State law or State regulation requires the aggregator to take actions that are substantially the same as those required in paragraph (1)(A).

(c) Requirements To Be Implemented by Regulations.—The regulations prescribed under section 4 shall, at a minimum—

(1) establish minimum standards for providers of operator services to use in the routing and handling of emergency telephone calls; and

(2) establish a policy for requiring providers of operator services to make public information about recent changes in operator services and choices available to consumers in that market.

(d) Competitive Pay Phone Compensation.—The Commission shall consider the need to prescribe compensation (other than advance payment by consumers) for owners of competitive public pay telephones for calls routed to providers of operator services that are other than the presubscribed provider of operator services for such telephones. Within 9 months after the date of enactment of this Act, the Commission shall reach a final decision on whether to prescribe such compensation.

(e) Technological Capability of Equipment.—Any equipment manufactured or imported more than 12 months after the date of enactment of this Act and installed by any aggregator shall be technologically capable of providing consumers with access to interstate providers of operator services through the use of equal access codes.

(f) Fraud.—The Commission shall require such actions or measures as are necessary to ensure that aggregators are not exposed to undue risk of fraud.

(g) Facilitation of Access.—The Commission, within 9 months after the date of enactment of this Act, shall require—

(1) that all aggregators ensure that each of its telephones presubscribed to a provider of operator services allows the consumer to obtain access to the provider of operator services desired by the consumer through the use of an equal access code; or

(2) that all providers of operator services make available to their customers a "950" or "800" number for use in making operator services calls from anywhere in the United States; or

(3) that the requirements described under both paragraphs (1) and (2) apply.

SEC. 6. DETERMINATIONS OF RATE COMPLIANCE.

(a) Filing of Informational Tariff.—The Commission shall require each provider of operator services to file, within 30 days after the date of enactment of this Act, and to maintain and keep open for public inspection, an informational tariff specifying rates, terms, and conditions, and including commissions, surcharges, or other fees which are collected from consumers, with respect to calls for which operator services are provided. The Commission may, after three years following the date of enactment of this Act, waive the requirements of this subsection but only if the findings and conclusions of the Commission in the final report issued under subsection (b)(2)(C) state that the regulatory objectives specified in section 4(a)(1) and (2) have been achieved.

(b) Proceeding Required.—(1) Within 30 days after the date of enactment of this Act, the Commission shall initiate a proceeding to determine whether the regulatory objectives specified in section 4(a) (1) and (2) are being achieved. The proceeding shall—

(A) monitor operator service rates;

(B) determine the extent to which offerings made by providers of operator services are improvements, in terms of service quality, price, innovation, and other factors, over those available before the entry of new providers of operator services into the market;

(C) report on, in the aggregate, operator service rates, incidence of service complaints, and service offerings;

(D) consider the effect that commissions and surcharges, billing and validation costs, and other costs of doing business have on the overall rates charged to consumers; and

(E) monitor compliance with the provisions of section 5, including the periodic placement of telephone calls from aggregator locations.

(2)(A) The Commission shall, during the pendency of such proceeding and not later than 5 months after its commencement, provide the Congress with an interim report on the Commission's activities and progress to date.

(B) Not later than 11 months after the commencement of such proceeding, the Commission shall report to the Congress on its interim findings as a result of the proceeding.

(C) Not later than 23 months after the commencement of such proceeding, the Commission shall issue a final report to the Congress on its findings and conclusions.

(c) Authority to Establish Rate Ceilings.—If the Commission finds in the report required under subsection (b)(2)(C) that consumers are not benefiting from a competitive market for operator services, the Commission shall have the authority to establish ceilings for the rates charged by providers of operator services, based upon the rates charged by the largest carrier in the interstate operator services market.

SEC. 7. PENALTIES; FORFEITURES.

The provisions of title V of the Communications Act of 1934 (47 U.S.C. 501 et seq.) shall apply to violations of this Act or regulations prescribed under this Act in the same manner and to the same extent as to violations of the Communications Act of 1934 or rules and regulations under that Act, including—

(1) criminal penalties for willful and knowing violations of statutory provisions consisting of a fine of no more than $10,000 or imprisonment for no more than 1 year, or both, for a first offense, and a fine of no more than $10,000 or imprisonment for no more than 2 years, or both, for any subsequent offense;

(2) criminal penalties for willful and knowing violation of Commission rules, regulations, conditions, and restrictions, consisting of a fine of not to exceed $500 for each day in which an offense occurs; and

(3) forfeiture penalties for the willful or repeated failure to comply with statutory provisions or Commission rules, regulations, or orders—

(A) of not to exceed $100,000 for each violation or each day of a continuing violation by a common carrier subject to title II of the Communications Act of 1934, or by an applicant for any common carrier license, permit, certificate, or other instrument of authorization issued by the Commission; and

(B) of not to exceed $10,000 for each violation or each day of a continuing violation by a person that is not such a common carrier or applicant.

AMENDMENT NO. 2924

(Purpose: To make an amendment in the nature of a substitute)

Mr. BRYAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. BRYAN] for Mr. INOUYE, proposes an amendment numbered 2924.

Mr. BRYAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telephone Operator Consumer Services Improvement Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the divestiture of AT&T and decisions allowing open entry for competitors in the telephone marketplace produced a variety of new services and many new providers of existing telephone services;

(2) the growth of competition in the telecommunications market makes it essential to ensure that safeguards are in place to assure fairness for consumers and service providers alike;

(3) a variety of providers of operator services now compete to win contracts to provide operator services to hotels, hospitals, airports, and other aggregators of telephone business from consumers;

(4) the mere existence of a variety of service providers in the operator services marketplace is significant in making that market competitive only when consumers are able to make informed choices from among those service providers;

(5) however, often consumers have no choices in selecting a provider of operator services, and often attempts by consumers to reach their preferred long distance carrier by using a telephone billing card, credit card, or prearranged access code number are blocked;

(6) a number of State regulatory authorities have taken action to protect consumers using intrastate operator services;

(7) from January 1988 through February 1990, the Federal Communications Commission received over, 4,000 complaints from consumers about operator services;

(8) those consumers have complained that they are denied access to the interexchange carrier of their choice, that they are deceived about the identity of the company providing operator services for their calls and the rates being charged, that they lack information on what they can do to complain about unfair treatment by an operator service provider, and that they are, accordingly, being deprived of the free choice essential to the operation of a competitive market;

(9) the Commission has testified that its actions have been insufficient to correct the problems in the operator services industry to date; and

(10) a combination of industry self-regulation and government regulation is required to ensure that competitive operator services are provided in a fair and reasonable manner.

SEC. 3. AMENDMENT.

Title II of the Communications Act of 1934 is amended by inserting immediately after section 225 (47 U.S.C. 225) the following new section:

"Sec. 226. TELEPHONE OPERATOR SERVICES.

"(a) DEFINITIONS.—As used in this section—

"(1) The term 'access code' means a sequence of numbers that, when dialed, connect the caller to the provider of operator services associated with that sequence.

"(2) The term 'aggregator' means any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for interstate telephone calls using a provider of operator services.

"(3) The term 'call splashing' means the transfer of a telephone call from one provider of operator services to another such provider in such a manner that the Subsequent providers is unable or unwilling to determine the location of the origination of the call and, because of such inability or unwillingness, is prevented from billing the call on the basis of such location.

"(4) The term 'consumer' means a person initiating any interstate telephone call using operator services.

"(5) The term 'equal access' has the meaning given that term in Appendix B of the Modification of Final Judgment entered August 24, 1982, in United States v. Western Electric, Civil Action No. 82-0192 (United States District Court, District of Columbia), as amended by the Court in its orders issued prior to the enactment of this section.

"(6) The term 'equal access code' means an access code that allows the public to obtain an equal access connection to the carrier associated with that code.

"(7) The term 'operator services' means any interstate telecommunications service initiated from an aggregator location that includes, as a component, any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an interstate telephone call through a method other than—

"(A) automatic completion with billing to the telephone from which the call originated; or

"(B) completion through an access code used by the consumer, with billing to an account previously established with the carrier by the consumer.

"(8) The term 'presubscribed provider of operator services' means the interstate provider of operator services to which the consumer is connected when the consumer places a call using a provider of operator services without dialing an access code.

"(9) The term 'provider of operator services' means any common carrier that provides operator services or any other person determined by the Commission to be providing operator services.

"(b) REQUIREMENTS FOR PROVIDERS OF OPERATOR SERVICES.—

"(1) IN GENERAL.—Beginning not later than 30 days after the date of enactment of this section, each provider of operator services shall, at a minimum—

"(A) identify itself, audibly and distinctly, to the consumer at the beginning of each telephone call and before the consumer incurs any charge for the call;

"(B) permit the consumer to terminate the telephone call at no charge before the call is connected;

"(C) disclose immediately to the consumer, upon request and at no charge to the consumer—

"(i) a quote of its rates or charges for the call;

"(ii) the methods by which such rates or charges will be collected; and

"(iii) the methods by which complaints concerning such rates, charges, or collection practices will be resolved;

"(D) ensure, by contract or tariff, that each aggregator for which such provider is the presubscribed provider of operator services is in compliance with the requirements of subsection (c) and, if applicable, subsection (e)(1);

"(E) withhold payment (on a location-by-location basis) of any compensation, including commissions, to aggregators if such provider reasonably believes that the aggregator (i) is blocking access by means of "950" or "800" numbers to interstate common carriers in violation of subsection (c)(1)(B) or (ii) is blocking access to equal access codes in violation of rules the Commission may prescribe under subsection (e)(1);

"(F) not bill for unanswered telephone calls in areas where equal access is available;

"(G) not knowingly bill for unanswered telephone calls where equal access is not available;

"(H) not engage in call splashing, unless the consumer requests to be transferred to another provider of operator services, the consumer is informed prior to incurring any charges that the rates for the call may not reflect the rates from the actual originating location of the call, and the consumer then consents to be transferred;

"(I) except as provided in subparagraph (H), not bill for a call that does not reflect the location of the origination of the call; and

"(J) not bill an interexchange telephone call to a billing card number which—

"(i) is issued by another provider of operator services, and

"(ii) permits the identification of the other provider,

unless the call is billed at a rate not greater than the other provider's rate for the call, the consumer requests a special service that is not available under tariff from the other provider, or the consumer expressly consents to a rate greater than the other provider's rate.

"(2) ADDITIONAL REQUIREMENTS FOR FIRST 3 YEARS.—In addition to meeting the requirements of paragraph (1), during the 3-year period beginning on the date that is 30 days after the date of enactment of this section, each presubscribed provider of operator services shall identify itself audibly and distinctly to the consumer, not only as required in paragraph (1)(A), but also for a second time before connecting the call and before the consumer incurs any charge.

"(c) REQUIREMENTS FOR AGGREGATORS.—

"(1) IN GENERAL.—Each aggregator, beginning not later than 30 days after the date of enactment of this section, shall—

"(A) post on or near the telephone instrument, in plain view of consumers—

"(i) the name, address, and toll-free telephone number of the provider of operator services;

"(ii) a written disclosure that the rates for all operator-assisted calls are available on request, and that consumers have a right to obtain access to the interstate common carrier of their choice and may contact their preferred interstate common carriers for information on accessing that carrier's service using that telephone; and

"(iii) the name and address of the enforcement division of the Common Carrier Bureau of the Commission, to which the consumer may direct complaints regarding operator services; and

"(B) ensure that each of its telephones presubscribed to a provider of operator services allows the consumer to use "800" and "950" access code numbers to obtain access to the provider of operator services desired by the consumer; and

"(C) ensure that no charge by the aggregator to the consumer for using an "800" or "950" access code number, or any other access code number, is greater than the amount the aggregator charges for calls placed using the presubscribed provider of operator services.

"(2) EFFECT OF STATE LAW OR REGULATION.—The requirements of paragraph (1)(A) shall not apply to an aggregator in any case in which State law or State regulation requires the aggregator to take actions that are sub-

stantially the same as those required in paragraph (1)(A).

"(d) GENERAL RULEMAKING REQUIRED.—

"(1) RULEMAKING PROCEEDING.—The Commission shall conduct a rulemaking proceeding pursuant to this title to prescribe regulations to—

"(A) protect consumers from unfair and deceptive practices relating to their use of operator services to place interstate telephone calls; and

"(B) ensure that consumers have the opportunity to make informed choices in making such calls.

"(2) DEADLINES.—The Commission shall initiate the proceeding required under paragraph (1) within 60 days after the date of enactment of this section and shall prescribe regulations pursuant to the proceeding not later than 210 days after such date of enactment. Such regulations shall take effect not later than 45 days after the date the regulations are prescribed.

"(3) CONTENTS OF REGULATIONS.—The regulations prescribed under this section shall—

"(A) contain provisions to implement each of the requirements of this section, other than the requirements established by the rulemaking under subsection (e) on access and compensation; and

"(B) contain such other provisions as the Commission determines necessary to carry out this section and the purposes and policies of this section.

"(4) ADDITIONAL REQUIREMENTS TO BE IMPLEMENTED BY REGULATIONS.—The regulations prescribed under this section shall, at a minimum—

"(A) establish minimum standards for providers of operator services to use in the routing and handling of emergency telephone calls; and

"(B) establish a policy for requiring providers of operator services to make public information about recent changes in operator services and choices available to consumers in that market.

"(e) SEPARATE RULEMAKING ON ACCESS AND COMPENSATION.—

"(1) ACCESS.—The Commission, within 9 months after the date of enactment of this section, shall require—

"(A) that each aggregator ensure within a reasonable time that each of its telephones presubscribed to a provider of operator services allows the consumer to obtain access to the provider of operator services desired by the consumer through the use of an equal access code; or

"(B) that all providers of operator services, within a reasonable time, make available to their customers a "950" or "800" access code number for use in making operator services calls from anywhere in the United States; or

"(C) that the requirements described under both subparagraphs (A) and (B) apply.

"(2) COMPENSATION.—The Commission shall consider the need to prescribe compensation (other than advance payment by consumers) for owners of competitive public pay telephones for calls routed to providers of operator services that are other than the presubscribed provider of operator services for such telephones. Within 9 months after the date of enactment of this section, the Commission shall reach a final decision on whether to prescribe such compensation.

"(f) TECHNOLOGICAL CAPABILITY OF EQUIPMENT.—Any equipment and software manufactured or imported more than 18 months after the date of enactment of this section and installed by any aggregator shall be technologically capable of providing consumers with access to interstate providers of operator services through the use of equal access codes.

"(g) FRAUD.—In any proceeding to carry out the provisions of this section, the Commission shall require such actions or measures as are necessary to ensure that aggregators are not exposed to undue risk of fraud.

"(h) DETERMINATIONS OF RATE COMPLIANCE.—

"(1) FILING OF INFORMATIONAL TARIFF.—

"(A) IN GENERAL.—Each provider of operator services shall file, within 30 days after the date of enactment of this section, and shall maintain, update regularly, and keep open for public inspection, an informational tariff specifying rates, terms, and conditions, and including commissions, surcharges, any fees which are collected from consumers, and reasonable estimates of the amount of traffic priced at each rate, with respect to calls for which operator services are provided. Any changes in such rates, terms, or conditions shall be filed no later than the first day on which the changed rates, terms, or conditions are in effect.

"(B) WAIVER AUTHORITY.—The Commission may, after 4 years following the date of enactment of this section, waive the requirements of this paragraph only if—

"(i) the findings and conclusions of the Commission in the final report issued under paragraph (3)(B)(iii) state that the regulatory objectives specified in subsection (d)(1) (A) and (B) have been achieved; and

"(ii) the Commission determines that such waiver will not adversely affect the continued achievement of such regulatory objectives.

"(2) REVIEW OF INFORMATIONAL TARIFFS.—If the rates and charges filed by any provider of operator services under paragraph (1) appear upon review by the Commission to be unjust or unreasonable, the Commission may require such provider of operator services to do either or both of the following:

"(A) demonstrate that its rates and charges are just and reasonable, and

"(B) announce that its rates are available on request at the beginning of each call.

"(3) PROCEEDING REQUIRED.—

"(A) IN GENERAL.—Within 60 days after the date of enactment of this section, the Commission shall initiate a proceeding to determine whether the regulatory objectives specified in subsection (d)(1) (A) and (B) are being achieved. The proceeding shall—

(i) monitor operator service rates;

"(ii) determine the extent to which offerings made by providers of operator services are improvements, in terms of service quality, price, innovation, and other factors, over those available before the entry of new providers of operator services into the market;

"(iii) report on (in the aggregate and by individual provider) operator service rates, incidence of service complaints, and service offerings;

"(iv) consider the effect that commissions and surcharges, billing and validation costs, and other costs of doing business have on the overall rates charged to consumers; and

"(v) monitor compliance with the provisions of this section, including the periodic placement of telephone calls from aggregator locations.

"(B) REPORTS.—(i) The Commission shall, during the pendency of such proceeding and not later than 5 months after its commencement, provide the Congress with an interim report on the Commission's activities and progress to date.

"(ii) Not later than 11 months after th commencement of such proceeding, th Commission shall report to the Congress o its interim findings as a result of the proceeding.

"(iii) Not later than 23 months after th commencement of such proceeding, th Commission shall submit a final report t the Congress on its findings and conclusions.

"(4) IMPLEMENTING REGULATIONS.—

"(A) IN GENERAL.—Unless the Commissio makes the determination described in subparagraph (B), the Commission shal within 180 days after submission of th report required under paragraph (3)(B)(iil complete a rulemaking proceeding pursuan to this title to establish regulations for implementing the requirements of this titl (and paragraphs (1) and (2) of this subsection) that rates and charges for operato services be just and reasonable. Such regula tions shall include limitations on th amount of commissions or any other compensation given to aggregators by provider of operator service.

"(B) LIMITATION.—The requirement o subparagraph (A) shall not apply if, on th basis of the proceeding under paragrap (3)(A), the Commission makes (and include in the report required by paragraph (3)(E (iii)) a factual determination that marke forces are securing rates and charges tha are just and reasonable, as evidenced by rat levels, costs, complaints, service quality, an other relevant factors.

"(i) STATUTORY CONSTRUCTION.—Nothing i this section shall be construed to alter th obligations, powers, or duties of commo carriers or the Commission under the othe sections of this Act.".

Mr. INOUYE. Mr. President, I offe today a substitute version of S. 166 the Telephone Operator Consume Services Improvement Act of 199 This may be one of the most signifi cant pieces of communications legisla tion to pass the Congress this yea This bill will go a long way towar solving the problems that hav plagued consumers who attempt t make operator-assisted calls from telephones made available to the publi This bill seeks to protect the consume from unfair and deceptive practices b these new operator services companies. At the same time, the bill establishes reasonable ground rules for th promotion of competition in the operator services market.

The need for this bill is well know by any consumer that has attempte to make an operator-assisted call fro a hotel, airport, hospital, or othe public location over the past fe years. Four years ago, several ne companies entered the market to provide telephone operator services i competition with AT&T. These ne companies, known as "alternate operator services", or "AOS", companie often engaged in unfair and deceptiv practices that generated thousands o complaints by disgruntled consumer According to these consumer complaints, these AOS companies often refused to identify themselves, charge rates significantly higher than th rates that consumers expected to b charged, blocked consumers from reaching their carrier of choice through the 950 or 800 access codes, billed for calls that were never answered, and, when consumers asked to be transferred to AT&T, issued bills that indicated the calls were made from locations that were hundreds of miles away from the consumer's actual location.

In 1988, the Telecommunications Research and Action Center, a consumer group known as TRAC, filed a complaint with the FCC against five AOS companies. In ruling on this complaint, the FCC declared that blocking of access was illegal and ordered the carriers to stop blocking access to other carriers. The FCC declined, however, to take any further action. It refused to regulate or even investigate these carriers' rates, and it refused to adopt rules or initiate a rulemaking proceeding to govern the entire operator services industry. The FCC further permitted the industry to apply for waivers of the nonblocking requirements, and virtually all the carriers submitted waiver requests.

After the FCC's ruling, the FCC continued to receive more complaints about AOS companies than about any other problem. Congress stepped forward to respond to these concerns. Last year the House took the lead and passed legislation sponsored by Congressman Cooper to establish reasonable regulations to govern this industry and protect the consumer. The House bill was a significant achievement that reflected a great deal of hard work and compromise.

In the Senate, Senator Dixon introduced a bill that was very similar to the House-passed bill, and Senator Breaux introduced a companion bill to the House-passed bill. After a hearing on February 7 and several additional rounds of negotiating, the Senate Commerce Committee was able to report a substitute bill to S. 1660 by voice vote on June 27 of this year. That substitute will made only small changes to the strong foundation laid by the House.

After several additional rounds of negotiations among the industry participants and the FCC, we have emerged with a consensus bill that is supported by almost all the members of the industry and the key sponsors of legislation in the Senate and the House. I would, in particular, like to note that the FCC now supports this legislation and has expressed its commitment to resolving the problems in the operator services industry. In fact, the FCC has been very cooperative and helpful in offering suggestions for improving the bill. The bill now includes several provisions that should assist the FCC in taking action to protect consumers of operator services. I fully expect that the FCC will act in good faith to carry out the provisions of this bill as expeditiously as possible. I also expect that the FCC will act quickly on several petitions that are now pending at the commission that are not specifically addressed in this bill.

Senator Hollings, Senator Danforth, and Senator Packwood have all contributed to the drafting of this bill and have indicated their support. Of course, Senators Breaux and Dixon made significant contributions by introducing the two operator services bills and by continuing to work on the drafting of this substitute. Several other Senators have worked closely on this bill, including Senators Robb, Kohl, Burns, Lott, Gorton, and Pressler.

I would also like to commend the chairman of the House Subcommittee on Telecommunications and Finance, Mr. Markey, the ranking Republican member of that committee, Mr. Rinaldo, and the original sponsor of this legislation in the House, Mr. Cooper, for their leadership in recognizing the need for this legislation early on and for crafting a balanced piece of legislation that went 90 percent of the way toward solving the problems in this industry.

In short, this bill reflects hours of hard work by both Houses of Congress and on both sides of the aisle. I appreciate the spirit of cooperation shown by all these members and their staff. It is my hope and expectation that this substitute can be passed by the Senate today and taken up by the House shortly thereafter. I believe that this substitute deserves the strong support of all the members, and I urge its passage.

Mr. HOLLINGS. Mr. President, I rise today to support the substitute amendment being offered by Senator Inouye to S. 1660, the Telephone Operator Consumer Services Improvement Act of 1990. The operator services industry is the latest example of the deregulation gone mad approach to public interest regulation. It used to be that you could pick up a telephone, dial "0", and make your telephone call with the assurance that your rates would be reasonable and your service quality high.

Today, the consumer has no such assurance. You can dial "0" in an emergency and find that no one picks up the line. You can place a long distance call from one State and be billed for a call from another State. You can find that your charges are four times higher than they used to be. And you can be charged for calls that were never answered.

I applaud the efforts of Senator Inouye, Senator Breaux, and Senator Dixon for taking up this cause. It is time that we get back to ensuring that the public interest includes the interests of the telephone consumer as well as the interests of the telephone industry.

At the same time, there is no reason to penalize the entire operator services industry for the misguided actions of a few competitors. Consumers are not complaining about the rates and practices of AT&T. It does not seem fair to me to put the burden on AT&T to solve their problems.

I thus believe that the approach taken by this bill, to refer the difficult issue of unblocking and 800 numbers to the FCC, is the proper resolution. The new administration at the FCC has indicated that it is ready to work with Congress and to establish reasonable regulations to protect the consumer and to promote competition. I think it is time to let this FCC do its job.

Once again, I express my appreciation for the hard work of Senator Inouye and the other Senators on the committee who have worked to craft this consensus bill. I urge my colleagues to support the passage of this substitute and of S. 1660, as amended.

Mr. BREAUX. Mr. President, for generations after the introduction of Alexander Graham Bell's marvelous invention, the regulated telephone industry became one that Americans could rely on for reliable, near-impeccable service at fair prices. You placed your call from anywhere in the country, at a hotel or motel, on the side of a country road or major highway, in a hospital, airport, train or bus depot, at a high school or university and you knew what to expect. From any place you called, you knew what to expect in rates and service. In fact you rarely consciously considered per-minute rate charges. You were so familiar with the service that you could approximate the cost of a call by its total time.

No more. Now it is a case of transit telephone user beware. The aftermath of the deregulation of long-distance telephone service in 1984 has brought hundreds of new telephone service providers in various markets. With them have come, in the name of competition, varying service offerings at unfamiliary, usually higher, costs to consumers. Many traveling telephone users calling homes or businesses have subsequently suffered telephone bill rate shock.

A most recent example is illustrated in a letter I received from a constituent just a few days ago on September 13. She told me that her husband is on the road for 8 to 10 months of the year. he calls home frequently. The telephone, she says, "is the lifeline to our marriage." They had not had problems with the amounts of their long-distance bills until 2 or 3 months ago. For an unexplained reason, her recent billings were from various telephone companies other than her chosen carrier, AT&T.

My constituent's bitter complaint is that she is charged on her August 4 billing $208.66 for calls that, according to her AT&T comparison, would have cost $65.28. The difference is over 200 percent. This family had a similar experience on August 29, receiving charges totaling $80.90 which would have been $26.19 at AT&T rates. I have copies of these bills, including the AT&T rate comparisons.

This kind of problem repeated hundreds of times around the country is what prompted me to introduce S. 1660, the basis of the Senate Commerce Committee substitute which will be voted out of the Senate today. In fact, over 4,000 similar consumer complaints were filed in the FCC from January 1988 through February 1990. And, the stream of complaints is still flowing.

The House of Representatives first addressed this issue after nearly a year of negotiations with consumer and telephone industry representatives. By voice vote the resulting legislation, H.R. 971, the Telephone Operator Services Consumer Protection Act, cleared the House in September 1989. Significant compromises were forged in several knotty issues. I introduced in the Senate the companion bill, S. 1660, the Telephone Operator Consumer Services Improvement Act. S. 1660 is intended to curb abusive pricing and billing practices of some operator service provider [OSP] long-distance telephone companies.

My constituent complains that she has been stripped of her rights to use the service which she requested in using her calling card. S. 1660 will protect a consumer's right to choose, yet avoid a premature imposition of rates and commissions penalties.

Among other important provisions, it requires OSP's to identify themselves to callers, and upon request at no cost to the consumer, give rates, billing procedures, and procedures for filing complaints. OSR's will be prohibited from billing a long-distance telephone call to a billing card number which is issued by another OSP unless the call is billed at a rate no greater than that other OSP's rate for that call. OSP's must file their rates at the FCC, and they are required to justify questionable charges.

Within 18 months, S 1660 requires that telephone for transient use such as on highways, in motels, hotels, airports, and hospitals must be technically capable of connecting callers to long distance carriers of choice. Meanwhile, S. 1660 would prohibit the blocking of access to chosen carriers. If a no-blocking law cannot be enforced at the FCC, penalties such as denials of commissions on telephone service collections paid by OSP's to hotels and motels, et cetera, would then be in order.

Moreover, criminal penalties for willful and knowing violations of the Communications Act, consisting of fines of up to $10,000 or imprisonment for up to a year may apply. Violators may also be subjected to forfeiture penalties of up to $100,000 a day for willful or repeated failure to comply with statutory provisions or FCC Commission rules, regulations or orders.

OSP owners have made major investments in operations and equipment, and some provide enhanced services and job opportunities in their communities. S. 1660 is more than a consumers benefits bill; it offers OSP's an opportunity to improve operations and prove consumer acceptance in the marketplace.

The Congress will know soon enough whether in fact there is industry compliance with this much-needed legislation. S. 1660 requires the FCC to conduct a 9-month study of whether additional regulation is needed. If OSP industry improvements do not materialize, I will support more stringent regulation.

I want to thank Senate Communications Subcommittee chairman, Senator Inouye and the committee staff, particularly John Windhausen and William Heyer, for long hours of extraordinarily effective work that they contributed in the successful effort to move this legislation to this point of passage.

Mr. BURNS. Mr. President, I rise today in support of S. 1660, the Telephone Operator Services Improvement Act of 1990.

Throughout this past year, my colleagues on the Senate Commerce Committee and I have worked diligently to formulate a measure that not only will provide a foundation to promote competition in operator-assisted services, but will preserve the needs and interests of consumers using these telephone services.

It is a well established fact that multiple providers on any communications service ultimately will bring benefits to the public in the form of new services and cheaper rates. Because the operator service industry is so new, these benefits have been slower in coming. Before the advent of alternative operator service providers, as they were first known, consumers knew who the operator was and how to reach them since there was only one provider, AT&T. However, new providers have resulted in an inevitable confusion as consumers struggle to understand how best to utilize the new services. As this transition process occurs, more and more consumers are beginning to learn of operator service providers, [OSP's], and the varied benefits and innovations they may offer.

Such a transition process is not unique to the communications industry. The divestiture of AT&T clearly has brought the American public innovative telecommunication services, lower prices, and spurred competition in the long-distance field. Through MCI, US Sprint, ITT, and hundreds of other smaller long-distance carriers, the American public has been granted the freedom to choose and as a result of this freedom, competition has flourished. In the end, it is hoped that a market of competitive providers will one day lead to a more fully deregulated regulatory structure. All of us would welcome that. While the battle between AT&T and new competitors has been a long and difficult one, as a whole the American public is reaping the benefits of competition.

The same principle holds true for competition in the operator-assisted services. While we all agree there have been problems with the operator service industry, just as there were in the newly deregulated long-distance industry, the array of new services and state-of-the-art technology being offered by many operator service companies in just 3 short years of existence is phenomenal. If competition had not entered this marketplace, consumers would be the losers.

Mr. President, there have been some critical problems with the operator service industry and if we are to promote competition, these problems need to be addressed. I am very pleased to see that S. 1660 will require the FCC to help resolve many problems and to monitor industry compliance. One particular concern I have is for consumers to continue to have a choice. Individuals who call from any phone in the country should have the right to use the carrier of their choice—either the operator service company provided by that particular phone or any any other carrier. The legislation establishes this principle, and it is my hope that the FCC will make it workable as implementing regulations are issued.

We have all heard frustrating stories of customers being denied access to the carrier of their choice while traveling. There are several reasons why this may occur. First, there may be purely technical problems preventing connection to a particular carrier. Second, the carrier of choice may not make available its data base to the operator service company. Without access to this data base, an operator service provider cannot validate and bill the card number and as a result must deny the caller use of the carrier. Third, at times the carrier of choice may deny the transfer of a call from an operator service provider even though the caller wants to access that carrier. Fourth, not all carriers provide a uniform method of access for their customers to reach them. These access problems need to be resolved, and I strongly urge the FCC to investi-

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gate universally available solutions that will facilitate ease of access.

Finally, I would like to elaborate my concerns surrounding the current billing, collection, and validation arrangements in the operator service industry, an issue which was left unaddressed in S. 1660. During the discussion on the legislation, I became aware of the disparities in costs and availability of billing and validation services between AT&T and other operator service providers. I understand several local exchange carriers [LEC's] which provide billing, validation and collection services to AT&T do not offer those same services to other OSP's at any price. The LEC's that do provide these services to OSP's sometime charge them a significantly higher amount than they do to AT&T. OSP's are totally dependent on the LEC's for calling card validation, billing and the collection of calls. The inability to obtain such services causes many competitive problems that need to be corrected if we expect consumers to use all OSP services.

I believe billing and collection disparity raises the question of fair competition, and any solution that attempts to satisfy the customer, must address this inequity. Again, I would encourage the Commission to consider this issue in the context of the rulemaking required in the bill.

While it is my hope that this legislation will address the problems and concerns surrounding the operator service industry, the need for continual oversight remains. If any abuses persist by operator service companies, the Commisson may find it necessary to use the authority given by this bill to crack down on the bad players. I, for one, believe Congress has an important role to play in providing continuing oversight in this industry.

In closing, I want to express my support for this measure. I want to thank my colleagues, particularly Chairmen Hollings and Inouye, for their diligence on this complex issue and commend the staff for their hard work in piecing together a bill that provides consumers with the necessary information to make informed choices, while allowing a new industry to develop in a competitive marketplace. Since the bill will cover every company providing operator services, we are guaranteed upon implementation of the bill's terms, many of the problems plaguing consumers of operator services should disappear. This will be a welcome development. I also want to thank the operator service industry, the consumer groups, and the Federal Communications Commission for their assistance and willingness to work with us on reaching an acceptable compromise.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii.

The amendment (No. 2924) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. BRYAN. Mr. President, I move to reconsider the votes by which the amendments were agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. BRYAN. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 971, the House companion; that the Senate then proceed to its immediate consideration; that all after the enacting clause be stricken and that the text of S. 1660, as amended, be inserted in lieu thereof; that the bill be advanced to third reading and passed; and that the motion to reconsider the passage of the bill be laid upon the table and that S. 1660 then be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 971), as amended, was passed.

ORDERS FOR TUESDAY, OCTOBER 2, 1990

Mr. BRYAN. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m., Tuesday, October 2; that following the time for the two leaders, there be a period for morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each, and that Senator Biden be recognized for up to 15 minutes; and that the Senate stand in recess between the hours of 12:30 and 2:15 p.m., Tuesday, in order to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTENT TO PROCEED TO S. 3037, THE MONEY LAUNDERING BILL

Mr. BRYAN. Mr. President, the majority leader asked me to announce for the information of Senators that at 10:30 tomorrow morning, it is his intention to seek consent to proceed on Calendar No. 819, S. 3037, the money laundering bill.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BRYAN. Mr. President, there appears to be no further business to come before the Senate today, so I now ask unanimous consent that the Senate stand in recess, under the previous order, until the hour of 10 a.m., Tuesday, October 2, 1990.

There being no objection, the Senate, at 6:57 p.m., recessed until Tuesday, October 2, 1990, at 10 a.m.

HOUSE OF REPRESENTATIVES—*Monday, October 1, 1990*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:[H01OC0-V1]{H8435}prayer

As we look to the opportunities and possibilities of each new day, we are yet reminded, O God, that there are many who are filled with anxiety and apprehension and do not share in Your gift of peace and serenity. O gracious God, we particularly remember in our prayer those who are separated from their families and those they love in distant places of our world and even within our own communities and families. May relationships be strengthened, O God, by the healing and comforting power of Your spirit—a spirit that brings us together, that bridges every chasm, that transcends all time and space, and gives to all the gift of faith, hope, and love. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Georgia [Mr. Jones], please come forward and lead the House in the Pledge of Allegiance.

Mr. JONES of Georgia led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill and joint resolutions of the House of the following titles:

H.R. 3007. An act to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to provide additional authorizations for appropriations;

H.J. Res. 469. Joint resolution to designate October 6, 1990, as "German-American Day"; and

H.J. Res. 603. Joint resolution to designate the month of October 1990 as "Country Music Month."

The message also announced that the Senate had passed with an amendment in which the concurrence of the House if requested, a bill of the House of the following title:

H.R. 5725. An act to extend the expiration date of the Defense Production Act of 1950.

The message also announced that the Senate agrees to the amendments of the House to the amendment of the Senate to the bill (H.R. 1243) "An act to require the Secretary of Energy to establish three Centers for Metal Casting Competitiveness Research."

The message also announced that the Senate had passed bills and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 657. An act to authorize a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors;

S. 1657. An act for the relief of Trevor Henderson;

S. 2981. An act to amend the Federal charter for the Boys' Clubs of America to reflect the change of the name of the organization to the Boys & Girls Clubs of America;

S. 3016. An act for the relief of Janice and Leslie Sedore and Ruth Hillman;

S. 3091. An act to amend the act incorporating the American Legion so as to redefine eligibility for membership therein;

S.J. Res. 270. Joint resolution to designate the period commencing February 17, 1991, and ending February 23, 1991, as "National Visiting Nurse Associations Week";

S.J. Res. 293. Joint resolution to designate November 16, 1990, as "National Philanthropy Day";

S.J. Res. 307. Joint resolution designating November 11 through November 17, 1990, as "National Women Veterans Recognition Week";

S.J. Res. 323. Joint resolution designating November 11 through 17, 1990, as "Geography Awareness Week";

S.J. Res. 340. Joint resolution designating the week beginning November 11, 1990, as "National Disabled Veterans Week";

S.J. Res. 347. Joint resolution designating April 7 through 13, 1991, as "National County Government Week";

S.J. Res. 349. Joint resolution designating October 1990 as "Italian-American Heritage and Culture Month";

S.J. Res. 353. Joint resolution to designate September of 1991 as "National Rice Month";

S.J. Res. 358. Joint resolution to designate February 7, 1991, as "National Women and Girls in Sports Day";

S.J. Res. 362. Joint resolution to designate the period commencing on November 18, 1990, and ending on November 24, 1990, as "National Adoption Week";

S.J. Res. 366. Joint resolution to designate March 30, 1991, as "National Doctors Day"; and

S.J. Res. 367. Joint resolution to designate the week of November 11 through 17, 1990, as "Gaucher's Disease Awareness Week."

The message also announced that the Senate agree to the amendments of the House to the bill (S. 647) "An act to amend the Federal securities laws in order to provide additional enforcement remedies for violations of those laws," with an amendment.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill and joint resolution on Sunday, September 30, 1990:

H.R. 5755. An act to extend the temporary increase in the public debt limit; and

H.J. Res. 655. Joint resolution making continuing appropriations for the fiscal year 1991, supplemental appropriations for Operation Desert Shield for the fiscal year 1990, and for other purposes.

CONSENT CALENDAR

The SPEAKER. This is the day for the call of the Consent Calendar. The Clerk will call the first eligible bill on the Consent Calendar.

AUTHORIZING LEASE OF LANDS ON MILLE LACS INDIAN RESERVATION

The Clerk called the bill (H.R. 3618) to authorize the lease of lands on the Mille Lacs Indian Reservation for a term not to exceed 99 years.

There being no objection, the Clerk read the bill as follows:

H.R. 3618

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MILLE LACS INDIAN RESERVATION LEASE TO MINNESOTA STATE HISTORICAL SOCIETY

The first section of the Act of August 9, 1955 (25 U.S.C. 415), is amended by inserting "the Mille Lacs Indian Reservation with respect to a lease to the Minnesota Historical Society," after "the Navajo Reservation,".

With the following committee amendment:

Committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

SECTION 1. MILLE LACS INDIAN RESERVATION LEASE TO MINNESOTA STATE HISTORICAL SOCIETY.

The first section of the Act of August 9, 1955 (25 U.S.C. 415), is amended by inserting "the Mille Lacs Indian Reservation with respect to a lease between an entity established by the Mille Lacs Band of Chippewa Indians and the Minnesota Historical Society," after "the Navajo Reservation,".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING RUMSEY INDIAN RANCHERIA TO CONVEY A CERTAIN PARCEL OF LAND

The Clerk called the bill (H.R. 3703) to authorize the Rumsey Indian Rancheria to convey a certain parcel of land.

There being no objection, the Clerk read the bill as follows:

H.R. 3703

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) the Rumsey Indian Rancheria, a part of the Wintun Tribe of Indians, is a federally recognized Indian tribe, located in Rumsey, California, where eighty-three and thirty-nine hundredths acres of land are held in trust for the Rancheria by the United States;

(2) in February, 1987, fee simple title to property located at lot 23, Sierra Meadows subdivision, unit 5A Washoe County, Nevada, commonly known as 978 O'Callahan Street, Sparks, Nevada, was transferred to the Rancheria which it presently holds under the name Wintun Indian Tribe;

(3) such property is located approximately one hundred twenty-five miles from the Rancheria trust land base in California, and ownership of such land, which is in a residential area, provides no significant benefit for the tribal members;

(4) the most beneficial use of such land is to sell it at its present market value and to utilize the proceeds for the improvement of the tribe's economic and social welfare; and

(5) section 2116 of the Revised Statutes (25 U.S.C. 177) prohibits the conveyance of any lands owned by Indian tribes without the consent of Congress.

SEC. 2. CONVEYANCE OF LAND.

(a) AUTHORITY.—Notwithstanding section 2116 of the Revised Statutes (25 U.S.C. 177), Rumsey Indian Rancheria is authorized to convey that land known as lot 23, Sierra Meadows subdivision, unit 5A, Washoe County, Nevada, commonly known as 978 O'Callahan Street, Sparks, Nevada, to any bona fide purchaser for value.

(b) PROCEEDS.—Proceeds from the conveyance of land pursuant to subsection (a) may be used only for the economic development and social welfare of the Rumsey Indian Rancheria.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SAN CARLOS MINERAL STRIP ACT OF 1990

The Clerk called the bill (H.R. 4593) to transfer to the Secretary of the Interior the administration of the surface rights in approximately ten thousand six hundred and fifty acres of land presently within the boundaries of the San Carlos Indian Reservation, Arizona, and managed by the Forest Service as part of the Coronado National Forest.

There being no objection, the Clerk read the bill as follows:

H.R. 4593

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "San Carlos Mineral Strip Act of 1990".

SEC. 2. DECLARATION OF BOUNDARY.

Congress hereby affirms that the San Carlos Indian Reservation includes those lands consisting of more or less ten thousand six hundred and fifty acres and generally depicted on the map entitled "San Carlos Apache Mineral Strip—Coronado Division" and dated April 24, 1990, which shall be on file and available for public inspection in the offices of the Chief, Forest Service, and the Assistant Secretary for Indian Affairs, Department of the Interior, and the tribal offices of the San Carlos Apache Tribe. The boundary of the Coronado National Forest is hereby modified as depicted on the map referred to in this section.

SEC. 3. DATE OF ESTABLISHMENT.

The lands referred to in section 1 shall be deemed to have been held in trust by the United States for the benefit of the San Carlos Apache Tribe since December 14, 1872.

SEC. 4. ADMINISTRATION OF LANDS.

All right, title, and interest in the lands referred to in section 1 shall hereafter—

(1) be administered by the Secretary of the Interior; and

(2) be held in trust by the United States for the benefit of the San Carlos Apache Tribe and to be a part of the San Carlos Indian Reservation for all purposes.

SEC. 5. SAVINGS PROVISION.

Nothing in this Act is intended to affect or modify any valid entries under the mining laws of the United States.

With the following committee amendment:

Committee amendment: Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "San Carlos Mineral Strip Act of 1990".

SEC. 2. DEFINITION.

For the purposes of this Act, the term "San Carlos Apache Mineral Strip" means that portion of the San Carlos Apache Reservation which was conditionally ceded to the United States, as described by the Agreement dated February 25, 1896, and ratified by the Act of June 10, 1896 (29 Stat. 360).

SEC. 3. CONFIRMATION OF BOUNDARY.

Congress hereby affirms that the San Carlos Apache Reservation, as established and described by the Executive orders of November 9, 1871, and December 14, 1872, includes all lands which lie within the San Carla Apache Mineral Strip which are presently managed by the Forest Service as part of the Coronado National Forest. The boundary of the Coronado National Forest is hereby modified to exclude such lands.

SEC. 4. DATE OF ESTABLISHMENT.

The lands referred to in section 3 which were managed by the Forest Service before the effective date of this Act shall be deemed to have been held in trust by the United States for the benefit of the San Carlos Apache Tribe since December 14, 1872. Nothing in this Act may be construed to establish, in any action brought by the San Carlos Apache Tribe, whether or not the tribe is entitled to payment for damages arising from the management of such lands by the Forest Service before the date of enactment of this Act.

SEC. 5. ADMINISTRATION OF LANDS.

All rights, title, and interest in the lands referred to in section 4 shall hereafter—

(1) be administered by the Secretary of the Interior; and

(2) be held in trust by the United States for the benefit of the San Carlos Apache Tribe.

Such lands shall be a part of the San Carlos Apache Indian Reservation for all purposes.

SEC. 6. PURCHASE OF RANGE IMPROVEMENTS.

If offered by the Secretary within 180 days after the date of enactment of this Act, the Secretary shall acquire the permanent improvements on the grazing allotment located on the lands referred to in section 4 which are subject to a grazing permit from the Forest Service on the date of enactment of this Act. The Secretary shall pay $122,842 for such improvements.

SEC. 7. SAVINGS PROVISION.

Nothing in this Act shall affect or modify any valid entry or other valid existing rights under the mining laws of the United States.

SEC. 8. EFFECTIVE DATE.

Sections 3, 4, and 5 of this Act shall take effect upon certification by the Secretary that the provisions of section 6 have been satisfied.

Mr. KYL. Mr. Speaker, I rise in support of H.R. 4593, the San Carlos Mineral Strip Act of 1990.

The bill will resolve a dispute, which dates back to the early part of this century, over the administrative control over between 10,650 and 13,850 acres of land on what is known as the San Carlos Mineral Strip.

Mr. Speaker, it might be helpful if I outlined very briefly some of the history that underlies this legislation.

The south boundary of the San Carlos Reservation was originally established by President Ulysses S. Grant in 1872.

In 1896, the San Carlos Tribe conditionally ceded a total of 232,000 acres of mineral strip land to the United States. In ratifying the agreement, Congress expressly provided that "the lands so surrendered shall be open to occupation, location, and purchase under the provisions of the mineral-land laws only."

San Carlos mineral strip lands were subsequently added to the Crook National Forest—now known as the Coronado National Forest—by Presidential proclamations on July 1, 1908 and March 21, 1917. These actions were prohibited by the act of June 10, 1896. They also violated section 24 of the act of March 3, 1891, which authorized the Federal forest reserves to be created from public

lands, not Indian lands, as well as section 10 of the 1891 act which stated "[t]hat nothing in this act shall change, repeal or modify any agreements or treaties made with any Indian tribes for disposal of their lands, or of any land ceded to the United States to be disposed of for the benefit of such tribes. * * *"

In 1963, Under Secretary of Interior Carr issued an order restoring the subsurface rights in the mineral strip to the San Carlos Apache Tribe, subject to any valid existing rights.

In 1969, Secretary Udall issued an order restoring the surface rights in the mineral strip to the tribe. However, the Forest Service objected that national forest lands were not subject to the authorities under which the Secretary of the Interior's order was issued, and that there was no other authority by which the Secretary of the Interior could legally transfer national forest lands to the tribe.

Mr. Speaker, H.R. 4593 settles this dispute once and for all. The bill affirms that the mineral strip lands are a part of the San Carlos Apache Reservation as established by Executive orders in 1871 and 1872.

A new survey is to be conducted pursuant to those Executive orders and the correct boundary is to be fenced. I would estimate that the amount of acreage that will be affected is 11,853 acres. The boundaries of the Coronado National Forest will be modified accordingly.

Since the tribe has indicated that it may seek damages against the United States as a result of Federal occupancy of the lands—and it would be inappropriate to try to influence the outcome of that potential litigation here—we have included language to make it clear that nothing in the act can be construed to enhance or diminish any such claims. The tribe will have to make its case in the courts should it choose to do so.

Finally, the bill includes language directing the Secretary of the Interior to acquire the permanent improvements on the grazing allotment located on the mineral strip lands which are subject to a grazing permit from the Forest Service on the date of enactment. The Secretary is directed to pay $122,842 for such improvements, an amount based upon a BIA-obtained appraisal in 1978.

Before closing, Mr. Speaker, I want to thank the chairman of the Interior Committee, Mo UDALL, and his staff for moving this bill so quickly.

This is a fair settlement to an old problem, and I urge my colleagues' support.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to transfer to the Secretary of the Interior the administration of the surface rights in certain lands presently within the boundaries of the San Carlos Indian Reservation, Arizona, and managed by the Forest Service as part of the Coronado National Forest, and for other purposes."

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBER OF PRESIDENT'S COMMISSION ON FEDERAL APPOINTMENT PROCESS

The SPEAKER. Pursuant to the provisions of section 203(b) of Public Law 101-194, the Chair appoints Mr. Werner Brandt, executive assistant to the Speaker, to the President's Commission on the Federal Appointment Process.

COMMUNICATION FROM THE MINORITY LEADER

The SPEAKER laid before the House the following communication from the Honorable ROBERT H. MICHEL, Republican leader:

HOUSE OF REPRESENTATIVES,
Washington, DC, September 24, 1990.

Hon. THOMAS S. FOLEY,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Sec. 203 (b) of Public Law 101-194, I hereby appoint Mr. William R. Pitts, Jr. to serve as a member of the President's Commission on the Federal Appointment Process.

Mr. Pitts is an employee in the legislative branch, serving as a Floor Assistant in the House of Representatives, and I have the ultimate confidence in his ability to make a significant contribution to the important work of this Commission.

Sincerely yours,

ROBERT H. MICHEL,
Republican Leader.

GENERAL LEAVE

Mr. GORDON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation passed earlier today.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

CARE IN VETERANS' HOSPITALS

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. I, along with thousands of others who watched ABC's "Primetime Live" on TV last Thursday evening, were dismayed with the segment concerning the Cleveland VA Medical Center. The hidden camera showing the unfeeling attitude of one of the members of the nursing staff in caring for a paralyzed veteran patient was inexcusable. I have talked with Secretary Derwinski. We want the matter straightened out and he is sending the medical inspector general to the hospital to conduct an investigation. If it is found that the ABC report is correct, those responsible should be dismissed.

Unfortunately, Mr. Speaker, the piece by Diane Sawyer creates the impression that the Cleveland episode is typical of what goes on in VA hospitals throughout the country. It simply is not true. Veterans watching that program will be fearful of going to the VA for their health care thinking the quality of care is not what it should be. I am confident that is not the case. Quality of care in VA hospitals is as good as in private hospitals due to VA's affiliations with more than 100 top medical schools throughout the country. Veterans live longer and with less pain because of our VA health care facilities. It is true that budget shortfalls have resulted in many veterans being denied care, but for those who are admitted, quality of care has not been sacrificed.

Mr. Speaker, there is no excuse for the incident at Cleveland. But I would remind my colleagues that if a hidden camera is taken into any medical facility in the country, it will find incidents that none of us condone. In those cases, the individuals should be fired. But let us not lose sight of the fact that VA employees who work tirelessly in hospitals throughout the United States should be commended for the care they give to thousands of veterans every day.

RECIPE FOR A RECESSION

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, I have sadly come to the conclusion that the summit budget is a recipe for a recession. A deep, painful recession where hundreds of thousands of people lose their jobs.

It is sheer folly to impose a massive tax increase and substantial spending cuts at a time when we are already on the brink of a recession. This is a Herbert Hoover budget which will do the wrong thing at the wrong time in the wrong way. This is the same policy that Great Britain followed after World War I in an attempt to reduce their deficit by raising taxes and reducing spending. What they got were breadlines and stagnation.

For example, what sense does it make to impose a massive fuel tax at a time when the price of oil is already skyrocketing? A tax on fuel is a tax on production because 80 percent of our fuel use is production related, and a fuel tax is not only regressive, but grossly unfair on rural Americans who must drive twice as many miles as urban Americans.

Although I voted against most of the appropriations bills this year, and would find it distasteful, a better alternative would be to change the Gramm-Rudman targets, hold the line on taxes, and adopt more modest spending cuts, rather than inflict this recipe for a recession on the American people.

□ 1210

BUDGET AGREEMENT PLACES UNFAIR BURDEN ON WORKING CLASS AND ELDERLY

(Mr. BRENNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRENNAN. Mr. Speaker, I commend our leaders for their tireless efforts to reach a budget agreement. But I have deep concerns about the fairness of this agreement. It results in an unfair burden being placed on the backs of working class Americans, and it is especially tough on our older citizens. This agreement imposes a 12-cent-a-gallon increase in gasoline taxes, on top of the huge increases since the Mideast crisis.

This will unduly hurt working Americans, many who commute long distances to their jobs in rural States like Maine. I think that is unfair and unacceptable.

The agreement will make our older citizens pay twice as much for Medicare coverage.

And the agreement will double the amount of deductibles that those same older citizens will have to pay at a time in their lives when they are physically unable to earn additional money.

For these reasons I think the agreement does not meet the fairness test and I will have to oppose it.

THE END OF WALSH'S FISHING EXPEDITION

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, I know many of my fellow Members were happy to read that Lawrence Walsh may shut down the investigation of Iran-Contra next year.

This may be the major spending cut the budget negotiators were looking for. When he finally closes up shop, his investigation will have taken 4 years—as long as the American Civil War—cost the taxpayer more than $20 million, and in the end done little but enrich a bunch of lawyers.

In July, I introduced a bill which would put a 2-year sunset provision on independent counsels, unless an extension is approved. I urge my fellow Members to support this bill so that future special prosecutors won't be able to conduct endless fishing expeditions.

TAX MORT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, students hear it. Veterans hear it. Seniors hear it. Truck drivers hear it. Everybody can hear it except the people in Washington.

Mr. Speaker, ladies and gentlemen, today the fat lady is singing in Washington, DC. This tax deal stinks.

Let me remind this body that mom and dad and the beer drinkers did not get us into this mess. It was champagne guzzlers and the Pentagon, and today they are laughing their brass off.

Roosevelt gave us a New Deal. Reagan gave us a raw deal. This administration is turning Uncle Sam into an IRS agent.

As a Democrat today on the floor, and I am going to be hit with all this demagog stuff, I am against any more taxes on American people who cannot afford to pay it, especially in my area where you have not even offered me rustproof paint for a steel industry that is going belly up.

I am against this tax bill, and Congress should put a title on it. They should call it "tax mort."

THE AMERICAN PEOPLE DO NOT WANT MORE TAXES

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, I think we see today that both sides of the aisle are upset with this debacle that we call an agreement. There is no question that people on both sides of the aisle do not want this tax increase.

But do not lay all the blame on President Bush. The Democratic leadership on that side participated in it just as the Republican leadership. A pox on everybody's house.

The American people do not want more taxes. Listen to this, a 10-cent-a-gallon tax increase on gasoline is going to cost each household in this country $120 a year. The energy costs are going to be $140 more per year on each household. The overall revenue increases, tax increases, are going to be $134 billion. That includes alcohol taxes, cigarette taxes, the first national sales tax, which is ultimately going to be lowered to include everybody in the not-too-distant future.

The fact of the matter is this is a disaster for the American economy, one that should be shelved. We have a 4-percent program which would limit spending to 4 percent over last year. It is called the 4-percent solution. We ought to look at that. We ought to look at that as a substitute.

THE GREATER GOOD OF THE COUNTRY IS AT STAKE

(Mr. SMITH of Vermont asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Vermont. Mr. Speaker, the President and his budget summit have made their decision, and I have made mine. I support this agreement, because it is time for this country, but more particularly this Congress, to act on the budget-deficit crisis. We are faced with stark and difficult choices. If we do not act on this package, we risk a severe recession, economic chaos and massive increases in unemployment.

Again, we risk more devastating cuts from Gramm-Rudman.

When my children ask me where was I when we tried to put the country back on track, I want to be able to tell them that I was part of the solution and not part of the problem.

Politics as usual are going to try to duck this, push it away, vote no, do anything. I disagree on the right, I disagree on the left.

The good of the country calls us to put politics as usual aside, because politics as usual will lead to no agreement, and no agreement will lead to severe and deep recession as well as drastic Gramm-Rudman cuts. The greater good of the country is at stake.

Parts of this agreement disappoint me, and I do not agree with all of its provisions, but as painful as this budget agreement is, for people in Vermont and all over this country, there will be far greater pain if we fail once again to lead this country as this Congress.

LET US COOL THE RHETORIC AND EXAMINE THE PACKAGE

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, the budget-deficit agreement is unfair, painful, and might result in a lot of us losing our seats. But what is the alternative? Recession, the market is going crazy, and $100 billion in automatic cuts crippling our domestic and military programs, furloughing more than a million Federal workers.

Mr. Speaker, let us stop demagoging this issue. Let us keep our powder dry before deciding how to vote. Let us examine this package. Let us try to make it better.

There is no question, this agreement hits everybody smack in the teeth, senior citizens trying to get health care, those who smoke and drink, those who drive, those from energy States, those students planning on going to school, those planning to buy

a Mercedes or mink coat. Other than those mentioned, you are OK.

Mr. Speaker, seriously, let us be responsible. Let us cool the rhetoric and examine this package before proceeding.

CALLING FOR A FAIR AND COMPASSIONATE DEFICIT REDUCTION PACKAGE

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, I rise today to express my vehement opposition to the recently proposed deficit reduction agreement. This deficit cutting proposal is irresponsible and mean-spirited. Once again we are asking those who can least afford it, to pay for the irresponsible spending practices of the past: $60 billion cut from Medicare, $2.7 billion cut from veterans programs, and punishing excise taxes.

This proposal will devastate the quality of life for millions of Americans. It not only guts the most critical of quality of life programs but it takes money directly from the pockets of the hardest working Americans, who are just barely getting by as it is.

Rather than being offered a responsible and compassionate proposal, the American people are staring down the barrel of a gun loaded with a bucket full of punishing taxes and outrageous cuts in quality-of-life programs. It is time to retire the private club of summiteers and get on with our constitutional duty of providing for the needs of the American people. All of us in Congress have a constitutional right to a direct voice in the setting of Federal spending policies. Let us vote this down and get to work on crafting a fair and compassionate deficit reduction package.

□ 1220

MILITARY WOMEN DESERVE FIRST-CLASS STATUS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, American women today are stationed in the desert of Saudi Arabia, subject to all the threats that American men are that are stationed there. On top of that, they are also being subjected to the second-class status that women have in the Saudi Arabian culture.

Last month, our own Pentagon released a very devastating survey. It showed that 64 percent of our women in the military said that they have been subjected to sexual harassment or rape; that 80 percent said that they have been subjected to sexual teasing on the job. We have not heard anything from the Pentagon about this.

Furthermore, we saw very sad stories about some of our young men at Annapolis one more time getting in trouble. Now, there may not be much we can do about the second-class status of women in Saudi Arabia, but I would certainly hope that the Pentagon takes much more active action on this whole area, and starts seeing if we cannot get some first-class status for women in our military.

NO MORE "TRUST US"

(Mr. CRAIG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAIG. Mr. Speaker, I have had less than 24 hours to examine the budget summit package of tax increases and spending reductions. I finally made it through the tax increases, only to determine that it is tough for Idahoans and tough for Americans. Now I am trying to convince myself that the House has entirely changed its colors and removed its stripes.

What am I saying? I am saying that we are all going to agree to hold the line, to follow the cuts, and to adhere to all of these things that our summiteers say we are going to.

Well, Mr. Speaker, Ronald Reagan tried to convince me of that in 1982 and he did not. I voted against TEFRA, and I was right. He and the House were wrong. Where are the absolute ironclad guarantees that these spending reductions will come about? I am only talking about the rates of increase. There are no guarantees. The pledges will be, "Oh, absolutely, we will guarantee them. Trust us. Trust us." Well, I do not "Trust us."

The habit to spend is here, and the habit to spend will stay, and now we are going to give more money to feed the habit.

LIVE BY SPIRIT OF AGREEMENT

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, I support the spirit and many of the programs that were in the budget summit agreement that was released yesterday. We have only a short time to work, and what we must do is roll up our sleeves and get to work, and get this agreement passed. Not every word, not every dotted "i" and cross every "t," but we should live by the spirit of it, and we can live by the spirit of it.

I hope and trust that 2 weeks from now when we have to bring to the floor the tax packages and the other spending cuts that are here, that there will be enough Members that rally to gether and get this job done. Americ needs that, American can stand n less.

REJECT AGREEMENT

(Mr. COX asked and was given permission to address the House for minute.)

Mr. COX. Mr. Speaker, the budge summit agreement has been describe by some as a bittersweet package tha no one will like. It contains, we ar told, spending cuts and tax increases Half that story is true. No one will lik this, certainly, and it does contain ta increases, 134 billion dollars' wort over 5 years.

However, except for defense spending, it contains no spending cuts. repeat, no spending cuts. Specifically domestic discretionary spending ove the next 5 years is planned to increas by $150 billion. Specifically, entitlement program spending is projected t increase over the next 5 years by $54 billion—one-half trillion dollars. Ther is no enforcement in this agreement t keep even those huge spending increases in check. There are caps o spending programs, but these cap may be changed to accommodate "economic and technical reestimates," an in an agreement that is based on economic assumptions of 4.1 percent rea GNP growth in 1993 and 2.8 percen inflation in 1995, those readjustment will be forthcoming.

The fact is, this is a pig in a poke and we ought to turn it down.

SUPPORT TEXTILE BILL

(Mrs. LLOYD asked and was give permission to address the House for minute and to revise and extend he remarks.)

Mrs. LLOYD. Mr. Speaker, this wee in all probability the textile bill will b before the House of Representative again. We will hear once again the argument that this bill is anticonsumer Nothing could be further from th truth, Mr. Speaker.

To show Members the fallacy of thi argument, I have two suits I found a a major retailer in my district. Thi one was made in the United States This one was made overseas. The sam brand, same price, different colors same cut.

So, Members be the judge: Is it a anticonsumer bill? Certainly not. I will certainly not hurt the consumer and it will help the 2.3 million textil workers who are trying to put food o their table and support their families I ask Members to support the textil bill again this week.

REGARDING THE PASSING OF BRIG. GEN. W.H.L. "MOON" MULLINS, RETIRED

(Mr. CONTE asked and was given permission to address the House for 1 minute.)

Mr. CONTE. Mr. Speaker, it is a most painful task to pass on the news of the death of retired Brig. Gen. W.H.L. "Moon" Mullins. Moon was a close friend and great pal to so many in this body.

He was killed in a crash on Saturday during aerobatics in a restored World War II P-51 near the Chatham, MA, Airport on Cape Cod.

I suppose if Moon had to choose a way to go, this would be it. He was a true fighter pilot in every respect and his love of flying was a paramount part of his life even in retirement.

He was a highly decorated pilot who flew 146 combat missions in the Vietnam theater. Then he came back to head the Air Force congressional liaison in the House where his straight talk and warm personality won the respect of everyone.

He was the first to make the rank of general in his West Point class of 1957 and the youngest general in the Air Force at that time. But that was to be expected.

He was tops in his class, captain and all-American selectee in lacrosse and head of the Glee Club. Nothing meant more to him than the military life and the Air Force except his family. He married the beautiful and charming Florine Magnani and they have two boys, Todd who works in Senate Veterans' Affairs and Dan who just graduated from the Air Force Academy and is now a second lieutenant in flight training.

He chose to retire early from the Air Force in 1979 even though he was described as having a brilliant career ahead of him. He simply wanted to spend more time with the family. Since that time he has headed the government and congressional affairs office at General Dynamics.

Moon was more than the all-American boy, he was a tough leader with a sense of caring for the Nation and a hearty concern for each of his fellows. God endowed Moon with the finest Irish tenor voice on either side of the ocean. He kept that voice vibrant through the years. He sang at parties, at dedications, and at passings. Whether it was at the bedside of Pete Murphy, our since-departed Defense Appropriations Subcommittee director or at the funeral of Gen. "Maggie" Maglione, the sweet, clear lilt of his gorgeous voice brought tears down every cheek.

Mr. Speaker, if we listen carefully now we can hear his haunting, beautiful version of "Danny Boy" telling us that the "pipes, the pipes are calling" Moon Mullins home. Former Speaker "Tip" O'Neill loved Moon like one of his family. We all loved him like a brother. So to Flo and the boys we offer our deepest sympathy on his passing and thank them from the bottom of our hearts for sharing that man among men with us for all these years.

PRESIDENT REJECTS TAIWAN AID

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, when we are in a time period when the Congress and the President are trying to find new moneys, Mr. Bush has turned down $100 million from Taiwan to help pay for the Persian Gulf fiasco. Why? Because we do not want to offend the Chinese, our friends the Chinese. They happen to sit as a permanent member on the U.N. Security Council with veto power.

☐ 1230

These are the same Chinese who just 2 days ago violated the U.N. boycott on Iraq by sending them very precious chemicals to help them develop missile fuel to send poison gas and nuclear weapons maybe to us.

It is the same China who through the good graces of the Reagan and Bush administration now has 15 percent of the United States textile market.

It is the same China who murdered thousands of their own people who only wanted to have a little bit of freedom to be able to speak and to congregate, and these are supposed to be our friends.

Well, with friends like that, who needs enemies. I say we ought to dump them.

COMISKEY PARK, A MOST HALLOWED BATTLEGROUND

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, one of America's most hallowed battlegrounds disappeared on Sunday. Old Comiskey Park in Chicago saw its last game and slipped into the legend of American baseball.

Up in the corner of right field in Comiskey, you could stand in those half-light shadows, surrounded by wooden-slatted seats and look out on a grassy field, real grass, where real heroes thrilled wide-eyed kids every season. There at 35th and Shields on the south side of Chicago, legends of the game put on their spikes and stepped up to the plate—Minnie Minoso, Babe Ruth, Nellie Fox, Lou Gehrig, Joe DiMaggio, Ty Cobb, Luke Appling, Ted Williams, Luis Aparicio, and Carlton Fisk, a baseball pantheon.

In eight decades of the game, Comiskey saw the best and it endured, through the shame of the Black Sox, the horror of the Disco Demolition and the fireworks of the game's greatest showman, Bill Veeck.

A hide-covered ball made old Comiskey a temple and a wrecking ball will make it a parking lot, but the Baseball Palace of the World will survive in the memories of 78 million of us fortunate enough to have been there and millions more who will always wish they could have.

REMEMBER TIANANMEN SQUARE

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, last year following the brutal massacre in Tiananmen Square the House of Representatives reaffirmed itself as a bastion for democracy throughout the world by coming to the defense and protection of the Chinese students in America. Since that time repression in China has intensified. There have been many executions, many without due process and we have the names of at least 1,000 prisoners of conscience arrested after the Tiananmen Square massacre.

For this reason, Mr. Speaker, I was very dismayed to learn that our own Department of State has sent a letter to the Immigration and Naturalization Service recommending that there be no asylum granted to dissidents because there is no well-founded fear of persecution in China on the basis of political opinion.

How can this be? It must be a mistake.

Today many of our colleagues are joining me in a letter to Secretary of State Baker to call his attention to this situation and asking him to disassociate himself from this letter and to change the conditions which are sent to the Immigration and Naturalization Service from the Department of State.

I urge my colleagues to join us in this fight. We promised we would never forget the martyrs of democracy in Tiananmen Square.

THE PUERTO RICO SELF-DETERMINATION ACT

(Mr. DE LUGO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LUGO. Mr. Speaker, I expected that Chairman UDALL will submit the Interior and Insular Affairs Committee's overwhelmingly favorable report on H.R. 4765, the Puerto Rico Self-Determination Act, later today.

The bill would authorize a referendum on Puerto Rico's future political status next year and provide for development and consideration of legislation on a status that won a majority in the referendum. That legislation would only become effective, if approved by both the Congress and the Puerto Rican people, in 1992.

This bill has been the priority project of the Insular and International Affairs Subcommittee that I am privileged to chair this Congress. I sponsored it along with the subcommittee ranking Republican, Mr. LAGOMARSINO, Resident Commissioner FUSTER, and other Members. It has also received the support of the Speaker and that of the minority leader.

This important and sensitive legislation was developed through intensive and extensive bipartisan negotiations with the advocates of three status options in Puerto Rico and the White House. I hope that it will come to the floor shortly and that my colleagues will support it.

CONTINUATION OF EXPORT CONTROL REGULATIONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-242)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, and together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs, and ordered to be printed:

(For message, see proceedings of the Senate of today, October 1, 1990.)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if suspended, will be taken after debate has been concluded on all such motions to suspend the rules.

SUPPORTING THE PRESIDENT WITH RESPECT TO IRAQI AGGRESSION AGAINST KUWAIT

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 658) to support actions the President has taken with respect to Iraqi aggression against Kuwait and to demonstrate United States resolve.

The Clerk read as follows:

H.J. RES. 658

Whereas the Government of Iraq without provocation invaded and occupied the territory of Kuwait on August 2, 1990, has brutalized the population of Kuwait, has taken large numbers of innocent hostages, and has disregarded the rights of diplomats, all in clear violation of international law and the norms of international conduct;

Whereas Iraq's actions have caused great suffering among the hundreds of thousands of innocent people who have been displaced by this crisis;

Whereas the President condemned Iraq's unprovoked and naked aggression and undertook a series of actions, including imposing comprehensive economic sanctions on Iraq and freezing Iraqi and Kuwaiti assets in the United States;

Whereas the United Nations Security Council in a series of resolutions condemned these actions as blatantly unlawful, imposed mandatory economic sanctions (including maritime and air embargoes) designed to compel Iraq to withdraw from Kuwait, called on all states to take appropriate measures to ensure that these sanctions are enforced, called for the immediate release of all hostages, strongly condemned aggressive acts perpetrated by Iraq against diplomatic premises and personnel in Kuwait, and reaffirmed the right of individual and collective self-defense in this situation;

Whereas the President, in response to requests from governments in the region and in exercise of the inherent right of individual and collective self-defense as specified in the Charter of the United Nations, has deployed United States Armed Forces into and around the Arabian Peninsula as part of a multinational force that includes Arab, Islamic, nonaligned, North Atlantic Treaty Organization members, and other states to deal with this armed aggression, to protect American lives, and to assist in enforcement of sanctions and the defense of friendly states in the region;

Whereas friends and allies have provided critical leadership in, and support for, the international efforts to impose sanctions on Iraq and otherwise oppose Iraqi aggression; and

Whereas these actions have thus far deterred Iraq from initiating hostilities against other friendly states in the region or against United States forces: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This resolution may be cited as the "United States Policy on Iraqi Aggression Resolution".

SEC. 2. DECLARATION OF UNITED STATES OBJECTIVES AND POLICIES.

(a) UNITED STATES OBJECTIVES.—United States policy in the Persian Gulf, as stated by the President and hereby affirmed by the Congress, is directed toward—

(1) the immediate, unconditional, and complete withdrawal of all Iraqi forces from Kuwait;

(2) the restoration of Kuwait's legitimate government;

(3) the security and stability of the Persian Gulf region;

(4) the protection of American citizens abroad, and the release of all those held hostage by Iraq; and

(5) the fostering of a new world order, freer from the threat of terror, stronger in the pursuit of justice, and more secure in the quest for peace.

(b) IMPORTANCE OF SECURITY AND STABILITY OF THE REGION.—The United States and the international community recognize the importance of the security and stability of the Persian Gulf region and adequate access to its energy resources. The United States and the international community must continue to oppose Iraq's armed aggression against Kuwait, a flagrant violation of international law which threatens global economic security and constitutes a serious challenge to international efforts to build a stable and peaceful environment in the post-Cold War era.

(c) CONDEMNATION OF IRAQ—The United States and the international community—

(1) should continue to condemn Iraq for its flagrant aggression, its abysmal human rights record, its support for international terrorism, its efforts to destabilize the region, its taking of civilian hostages, its terrorism of diplomats and violations of diplomatic premises, and its continuing efforts to develop and its demonstrated willingness to use weapons of mass destruction; and

(2) should hold Iraq and its leaders accountable for such actions.

(d) SUPPORT FOR DEPLOYMENT OF UNITED STATES ARMED FORCES.—The Congress—

(1) supports the deployment by the President of United States Armed Forces to the Persian Gulf region in response to Iraq's military aggression;

(2) expresses its appreciation to and support for the members of the Armed Forces who have been deployed to that region and to the members of the Ready Reserve and the National Guard who have been ordered to active duty; and

(3) declares its support for them as they perform their vital role in the achievement of United States objectives.

(e) UNITED STATES EFFORTS TO PROMOTE INTERNATIONAL COOPERATION.—The Congress commends the President for his successful efforts to promote international consensus and cooperation in response to this crisis. The United States should continue its efforts to—

(1) strengthen the international consensus against Iraq's aggression, through broadening cooperation with the Soviet Union, other members of the international community, and the United Nations;

(2) obtain additional and substantial commitments of air, sea, and ground forces from other nations in support of the multinational forces deployed in the Persian Gulf region in response to Iraq's aggression;

(3) obtain increased financial assistance and other support from other nations for those multinational forces;

(4) obtain substantial tangible international assistance for those nations that have suffered financial losses as a result of their support for the United Nations trade embargo against Iraq; and

(5) obtain adequate international humanitarian assistance for those foreign nationals who have fled Iraq and Kuwait.

(f) OTHER UNITED STATES ACTIONS.—The United States should also—

(1) continue to seek international consensus—

(A) to contain Iraq's conventional, chemical, biological, and nuclear weapons and ballistic missile programs, and

(B) to stop the export to Iraq of dual use technology and military components, including technology and components of direct or indirect United States origin;

(2) continue to seek international consensus to address regional problems of arms proliferation, including conventional weap-

ons, ballistic missiles, and weapons of mass destruction (chemical, biological, and nuclear weapons), and to seek to ensure that conventional weapons transfers to the region reflect legitimate security needs of the recipient nation;

(3) continue its stated policy to maintain Israel's economic well-being and qualitative military advantage in the Middle East (including through means such as technology transfers and defense cooperation), and continue its efforts to achieve an Arab-Israeli peace settlement; and

(4) continue promoting respect for internationally recognized human rights and the rule of law, and support the development of democratic institutions, throughout the region.

(g) Support for Actions of the United Nations.—

(1) Commendation of the United Nations.—The United Nations should be commended for its timely, unified, and strong response to Iraq's armed aggression against Kuwait.

(2) Commendation of Security Council Members.—The member states of the United Nations Security Council who formulated a coordinated and unprecedented international policy response to Iraq's aggression through the adoption of Resolutions 660, 661, 662, 664, 665, 666, 667, and 668 should also be commended.

(3) Affirmation of Resolutions.—The Congress affirms its support for those Security Council resolutions.

(4) International Implementation of Resolutions.—The Congress calls on all nations to fully support and comply with the resolutions adopted by the Security Council and to strengthen the enforcement of the sanctions imposed by the United Nations against Iraq.

(5) Continuation of Diplomatic Efforts.—The United States and other members of the international community should continue efforts to achieve a diplomatic solution to the crisis in the Persian Gulf region through implementation of those resolutions.

SEC. 3. EFFORTS TO ACHIEVE UNITED STATES OBJECTIVES AND POLICIES.

The Congress supports the President's emphasis on diplomatic efforts, international sanctions, and negotiations under the auspices of the United Nations to achieve the United States objectives and policies set forth in section 2. The United States shall continue to emphasize the use of diplomatic and other nonmilitary means in order to achieve those objectives and policies, while maintaining credible United States and multinational deterrent military force.

SEC. 4. WAR POWERS FINDINGS.

The Congress finds that—

(1) on August 9, 1990, the President reported to the Congress that he had ordered the deployment of substantial elements of the United States Armed Forces into the Persian Gulf region in response to the threat posed by the actions of Iraq;

(2) in this report, the President stated that the report was being provided "consistent with the War Powers Resolution";

(3) the War Powers Resolution requires, in sections 4(a)(2) and 4(a)(3), that the President report to the Congress whenever, in the absence of a declaration of war, United States Armed Forces are introduced into the territory, airspace, or waters of a foreign nation while equipped for combat (except for deployments which relate solely to supply, replacement, repair, or training of such forces) or are introduced in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation;

(4) the War Powers Resolution also requires, in section 4(a)(1), that the President report to the Congress whenever, in the absence of a declaration of war, United States Armed Forces are introduced into hostilities or situations where imminent involvement in hostilities is clearly indicated by the circumstances;

(5) consistent with that requirement, the President declared in his August 9th report, "I do not believe involvement in hostilities is imminent"; and

(6) the President has consulted with the Congress and has kept the Congress informed with regard to the deployment of United States Armed Forces into the Persian Gulf region.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida [Mr. Fascell] will be recognized for 20 minutes and the gentleman from Michigan [Mr. Broomfield] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. Fascell].

Mr. FASCELL. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of House Joint Resolution 658 and urge its adoption. This resolution is the result of extensive and positive deliberations between the majority, the other side of the aisle, and the administration on what must be the most important of the shared powers of Congress and the executive—the issue of what may be war, but will hopefully be, a peaceful resolution to the current situation in the Persian Gulf. This resolution was crafted by members of the committee in close consultation with the highest representatives of the administration and represents that which can be achieved when there is consensus among Americans with regard to our principles of constitutional democracy and that our traditional role of opposing illegal and naked aggression, be it against Poland in 1939, Pearl Harbor in 1941, or Kuwait in 1990.

Simply stated, House Joint Resolution 658 affirms and congratulates the President on the actions he has taken to date with respect to the current situation in the Persian Gulf and the Arabian Peninsula as a result of the Iraqi invasion of Kuwait. House Joint Resolution 658 is not, nor can it be interpreted as a wide open measure that could be compared to the Gulf of Tonkin resolution. As a matter of fact, House Joint Resolution 658 serves to reaffirm that Congress and the executive have an equal role in the determination of such matters as that as the Iraqi invasion, purported annexation, and occupation of Kuwait, and the United States coordinated multinational response to that barbaric act.

By unanimous voice vote last Thursday, The Committee on Foreign Affairs approved House Joint Resolution 658 as a demonstration of our firm resolve against Iraq's terrorist and barbaric actions. The bipartisan leadership in the House, led by Majority Leader Gephardt and Minority Leader Michel, joined 37 members of the Foreign Affairs Committee as original sponsors of House Joint Resolution 658.

The Foreign Affairs Committee's September 27 action on House Joint Resolution 658 was preceded by many extensive meetings and briefings with the President and his senior advisors in the White House, including his National Security Advisor, and the Secretary of State, that started almost immediately after the August 2 Iraqi invasion of Kuwait.

Some key events include:

On August 9, President Bush submitted a war powers compliance report to Congress formally announcing the deployment of United States troops equipped for combat in Saudi Arabia and the Persian Gulf region. This report included the President's judgement that U.S. troops were not being introduced into imminent hostilities.

On August 28, President Bush conducted a briefing for Members of Congress at the White House on the status of efforts to deter further Iraqi aggression.

During the week of September 3, a bipartisan group of House leaders, including myself, presented the President with our findings based on our visit to Saudi Arabia and Egypt.

On September 4, Secretary of State Baker testified before the Foreign Affairs Committee in which he described the need for U.S. resolve and sought the support of Congress for the President's actions.

On September 18, the Subcommittee on Europe and the Middle East of the Foreign Affairs Committee held a hearing to receive testimony from State Department witnesses on recent developments in the Middle East.

On September 26, members of the Subcommittees on Arms Control, International Security and Science and Europe and the Middle East, met to consider a draft resolution on the Iraqi aggression, resulting in a number of recommendations for full committee consideration.

On September 27, the full committee met and favorably reported House Joint Resolution 658 with 37 cosponsors from the Foreign Affairs Committee, led by myself and the Ranking Minority Member, William S. Broomfield. The committee's 37 cosponsors were joined by Majority Leader Gephardt and Minority Leader Michel.

As I have stated, this reolution—which has the power of law—was developed in close consultation between the Executive branch and the Congress. It reflects a bipartisan consen-

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sus that our actions to date are a postive influence with regard to this first crisis that confronts the post cold war environment, newly created since the dramatic dismantlement of the Berlin Wall. In reviewing this legislation, my colleagues, as well as the American public will find that the purpose of this legislation is to affirm congressional support for the actions that the President has taken to date with respect to Saddam Hussein's aggression against his former ally—Kuwait—as well as to demonstrate collective United States resolve against those actions.

This resolution is straightforward in condemning Iraqi actions which include the invasion of Kuwait, the taking, and terrorizing of hostages, the brutalization of the peoples of Kuwait, as well as Iraq's blatant disregard of world opinion, in the forms of United Nations actions, against such acts. In addition, this resolution specifies, as well as commends, its support for the President in assembling global unity and cooperation toward the achievement of specified objectives. These objectives include:

The immediate, unconditional, and complete withdrawal of all Iraqi forces from Kuwait;

The restoration of Kuwait's legitimate government;

The security and stability of the Persian Gulf region; and

The protection of America citizens abroad, and the release of all those held hostage by Iraq.

This resolution also goes on to endorse the President's concept of achieving the establishment of a world order which condemns international terrorism, believes in the concept of the pursuit of justice, and remains committed to the pursuit of peace.

This resolution condemns Iraq for its flagrant aggression, its abysmal human rights record, its support for international terrorism, and its continued and dedicated efforts to develop and use weapons of mass destruction. As you know, these weapons include those of chemical and biological weapons, nuclear weapons, and their means of time urgent delivery—those of ballistic missile systems. At the same time, this resolution cites United States efforts to achieve international cooperation through consultations with the Soviet Union, and that of immediate action within the United Nations Security Council—which has passed eight resolutions in condemnation of Iraqi actions under the leadership of Saddam Hussein.

In this regard, House Joint Resolution 658 seeks to obtain additional international support of United States actions on behalf of Kuwait, as well as to build an international diplomatic and other nonmilitary means of consensus against that of the actions of Saddam Hussein. Furthermore, House Joint Resolution 658 cites unified consensus and opinion between that of the executive and Congress with regard to the achievement of our policies by specifying our peaceful commitment to the resolution of this crisis.

A concern by some is that the Iraqi resolution is but another Gulf of Tonkin resolution that grants unconditional open-ended authority to the President. House Joint Resolution 658 does not grant an unconditional or open-ended authorization to the President to use any means he deems necessary. The normal constitutional and legislative processes still apply. Compare the operative clause of the two resolutions.

The Gulf of Tonkin resolution reads: "The Congress approves the determination of the President to take all necessary measures * * * to prevent further aggression." And, declares that "the United States is, therefore, prepared, as the President determines, to take all necessary steps including the use of armed force, to assist [Vietnam]."

The Iraqi resolution reads: "The U.S. shall continue to emphasize the use of diplomatic and other nonmilitary means * * * while maintaining credible United States and multinational deterrent military force."

The key difference between the Iraqi resolution and the Gulf of Tonkin are as follows:

Iraqi Resolution	Gulf of Tonkin Resolution
Endorses past Presidential actions but does not grant open-ended authorization to the President.	Endorsed Presidential action and granted open-ended authority to the President.
Defines U.S. policy objectives to redress Iraqi aggression.	No comparable provision.
Emphasizes international and nonmilitary solutions.	No comparable provision.
Endorses the deployment of U.S. military as a deterrent force.	Authorizes the President to use Armed Forces in any way he determines.
Finds the President to be acting consistent with War Powers and presumes he will continue to do so.	No comparable provision.

The last point is significant because the War Powers Resolution was not enacted until 1973.

Far more than any other President since 1973, President Bush understands and, I believe, respects the purpose and spirit of War Powers. As a former House Member and now the Chief Executive of the land, he understands the value of our constitutional principles of checks and balances and shared powers.

Most importantly, however, House Joint Resolution 658 confirms the viability of what has been a bone of contention between the Congress and the executive branch and by that I mean the war-making provisions of the Constitution. House Joint Resolution 658 reflects a consensus of opinion on the War Powers findings that I developed in conjunction with my colleague from Michigan, the Honorable William S. Broomfield, who serves as the ranking minority leader of the Committee o
Foreign Affairs, and the administr
tion.

House Joint Resolution 658 en
bodies the legal requirements of th
War Powers Resolution, which r
quires the President to report to Co
gress under any of the following thre
different conditions in which he ha
introduced U.S. Armed Force
equipped for combat:

First, whenever the President has i
troduced such forces into the territor
of a foreign nation. The President s
reported in his August 9 War Powe
compliance report to Congress.

Second, whenever the President's i
troduction of such forces has substa
tially enlarged U.S. forces already in
foreign nation. The President so r
ported in his August 9 War Powe
compliance report to Congress.

Third, whenever the President ha
introduced such forces into hostiliti
or imminent hostilities. The Preside
reported in his August 9 War Powe
compliance report to Congress and
quote: "I do not believe involvement
hostilities is imminent."

As a matter of fact, the Preside
adds in his August 9 report to Co
gress, following his statement that h
does not believe U.S. troops have bee
introduced into imminent hostiliti
"To the contrary, it is my belief th
the deployment will facilitate a peace
ful resolution of the crisis."

Accordingly, House Joint Resoluti
658 specifies that the President: Firs
reported to Congress his decision
deploy substantial elements of Unit
States forces to the Persian Gulf o
August 9, 1990, in response to Iraqi ag
gression; second, was doing so "consist
ent" with the War Powers Resolutio
third, did not "believe imminent hos
tilities" were evident; and fourth, con
sulted with and has kept Congress in
formed with regard to United State
deployments in the Persian Gul
region. These particular specificatio
should be important to my colleague
on both sides of the aisle.

These specifications are importa
because they assert a unified congres
sional and executive view that: Firs
regardless of future actions in the Per
sian Gulf and on the Arabian Penin
sula, a congressional decision on th
issue of war or peace would have to b
made through joint consultatio
second; the Congress accepts th
President's view with reactions
date; and third, the Founding Father
entrusted within us the wisdom to ac
together and not alone upon the sub
ject of war and peace—long before th
issue of "sweet light crude" becam
important to the western democracie

In the immediate days after th
August 2 Iraqi invasion of Kuwait, th
President acted decisively.

Under our President's leadership, a
unprecedented international coaliti

was forged within days and subsequent weeks through eight United Nations Security Council Resolutions to counter Iraqi's aggression.

The President himself fully recognized that unilateral executive branch actions cannot and should not do it all. The President knows that there must be close consultation, coordination, and ultimately concurrence with the U.S. Government—the very underpinnings of the War Powers Resolution—for our efforts to be successful.

At the August 28 White House briefing before some 150 Members of Congress, the President said:

> Meeting the challenge of the Persian Gulf is not something that I or this administration can do by ourselves.

The President wisely added:

> We can only succeed if all of us—Executive and Legislative, Republicans and Democrats—work together.

Over the past 2 months since the Iraqi invasion of Kuwait, a strong consensus has developed within this country—among Democrats and Republicans alike—to respond with dispatch, resolve, and clarity. We must address and redress Iraqi aggression, terrorism, and its subsequent inhumane and barbaric behavior both in Kuwait and in the neighboring Middle East area.

Inaction by Congress breeds suspicion and potential disarray. It will be at the expense of our troops in the field. It would only serve the benefit of the international tyrant and bully, Saddam Hussein.

Accordingly, this resolution against Iraqi aggression is before us today.

To the tyrant Saddam Hussein, this resolution says:

> Your illegal and barbaric actions against all peoples of the world, including your very own, will no longer be tolerated and must be redressed.

To all Americans in the Middle East—our troops, our diplomats, and those held hostage—this resolution says:

> Your Government—the Executive and Legislative branches—stand firmly and together with you.

To other countries in the world, this resolution says:

> You must do more in diplomatic, economic, and military measures and actions to assure success.

To the United Nations, this resolution says:

> We commend you for your solidarity to date and underscore our preference to restore international order and peace through the United Nations.

To our President, this resolution says:

> You have acted consistently with the War Powers Resolution and we assume and expect you will continue to do so.

To the American people, this resolution says:

> Your Government, the Congress and the President, are united in purpose and resolve. We seek your continued support to restore international law and order, and economic stability in the world.

Fundamental U.S. foreign policy decisions such as committing U.S. troops and U.S. dollars overseas must be made with the understanding and support of the American people and the Congress.

Accordingly, that's why House Joint Resolution 658 is before us today.

President Bush has united the world against Iraq.

The resolution says that the President and the Congress must remain united against Iraq to demonstrate United States resolve and ultimate success.

In other words, Mr. Speaker, House Joint Resolution 658 is an expression of reality and consensus.

It expresses our unity of purpose in opposing blatant and naked aggression.

It also express our agreement that we—the people—are committed to this unity of purpose.

It expresses our resolve to see this crisis through together—the President, the Congress, and as such the American people—in seeking our unified and resolved response to those repugnant actions that have been taken by that of Saddam Hussein and his henchmen.

House Joint Resolution 658 is not a declaration of war, nor should it be interpreted as such. House Joint Resolution 658 is, however, a declaration of principle which specifies our mutual—Executive and congressional—support and resolve against Iraqi aggression.

☐ 1240

In sum, Mr. Speaker, questions have been raised with regard to the openendedness of any resolution such as House Joint Resolution 658 that comes before Congress.

I would say to those who have those questions to simply read House Joint Resolution 658. I remember very vividly both the Kennedy resolution and the Gulf of Tonkin resolution, as well as the Lebanon resolution. In two of those resolutions, the Kennedy and Gulf of Tonkin resolutions, the President was authorized to use whatever armed force necessary in any way that he determined.

Similar language does not appear in this resolution. Our objective here is to demonstrate the unity that exists among the American people, between the political parties, between the Congress and the President, with regard to the action that we deem as essential, and that action has been to condemn Iraqi aggression and to support the tremendous effort made by the administration in seeking international support and cooperation in this effort.

Now, a legitimate question that could be asked is, "Well, what is next? What about tomorrow?" This resolution does not address future actions. It assumes and presumes that any further action that would be taken would be taken pursuant to the normal constitutional and legislative processes.

This resolution does not anticipate the future. Rather, it specifies where we are and where we stand. It states our support for the objectives of the U.N. resolutions, and those of the administration in gaining international support in condemnation of Iraqi aggression. It states our support for the objectives that are the present policy of the United States, which are restated here and were stated by the President.

This then raises a second question, which is, "What is the purpose of the resolution?"

The purpose of the resolution is to show that the Congress has acted affirmatively. It shows that the Congress has a responsibility and that we have accepted and lived up to that responsibility. We could have said nothing; we could tacitly have ratified and confirmed the actions of the President without saying a word. We could do it indirectly by simply approving the supplemental appropriations bill, which in effect would be a ratification of the acts of the President of the United States in support of his policy.

We have that right. But for us to stay silent, in my judgment, would be a tragic error. Those who support War Powers and even those who are opposed to the concept of War Powers need to join in on this one issue, which is that the hottest places in hell are reserved for those who in time of crisis remain silent.

In this regard, House Joint Resolution 658 clearly demonstrates that Congress chooses not to remain silent. We say that we are in full support with what the President has done and what the policies of this country are right now. We do it in an affirmative sense rather than in a negative or indirect sense or doing so by not saying anything.

Thus, the very spirit of War Powers is carried out by virtue of the fact that we bring this resolution to the floor so Members can vote for it—and I hope they will—or against it—and I hope they will not vote against it—because without that we have nothing.

We would be saying, in effect, "Let the President take the lead and do whatever he wants to; we will sit back and see which way the wind blows and then decide what we are going to do or how we are going to do it or what we are going to say about it."

We are saying to you right now that this is an opportunity to step up and fulfill our constitutional responsibilities. This bill does not add one thing or take away one thing from the President's powers. We cannot by legislative act either aggrandize or diminish the powers of the President. However,

by the same virtue, Mr. Speaker, we do not diminish one iota the right of the Congress to determine what should be done.

I would just conclude with this: Any further action that the President desires to take with respect to the situation in the Persian Gulf, we assume and demand that the President follow the constitutional and legislative processes. For these reasons, I again urge the immediate adoption of House Joint Resolution 658.

I include the following material in the RECORD: A copy of the President's speech before a joint session of Congress on September 11, 1990; the President's August 9 War Powers letter; the Gephardt statement on the House delegation to Bahrain, Saudi Arabia, and Egypt; remarks by the President at his August 28 briefing to Members of Congress; and the text of the Gulf of Tonkin resolution.

ADDRESS BY THE PRESIDENT OF THE UNITED STATES

Mr. President, Mr. Speaker, Members of the United States Congress, distinguished guests, fellow Americans, thank you very much for that warm welcome.

We gather tonight, witness to events in the Persian Gulf as significant as they are tragic. In the early morning hours of August 2d, following negotiations and promises by Iraq's dictator Saddam Hussein not to use force, a powerful Iraqi Army invaded its trusting and much weaker neighbor, Kuwait. Within 3 days, 120,000 Iraqi troops with 850 tanks had poured into Kuwait, and moved south to threaten Saudi Arabia. It was then I decided to check that aggression.

At this moment, our brave servicemen and women stand watch in that distant desert and on distant seas, side by side with the forces of more than 20 other nations.

They are some of the finest men and women of the United States of America. And they're doing one terrific job.

These valiant Americans were ready at a moment's notice to leave their spouses, their children, to serve on the frontline half-way around the world. They remind us who keeps America strong. They do.

In the trying circumstances of the gulf, the morale of our servicemen and women is excellent. In the face of danger, they are brave, well-trained, and dedicated.

A soldier, Private First Class Wade Merritt of Knoxville, Tennessee, now stationed in Saudi Arabia, wrote his parents of his worries, his love of family, and his hopes for peace. But Wade also wrote: "I am proud of my Army and its men . . . I am proud to serve my country."

Let my just say, Wade, America is proud of you. And grateful to every soldier, sailor, marine, and airman serving the cause of peace in the Persian Gulf.

I also want to thank the Chairman of the Joint Chiefs of Staff, General Powell, the Chiefs here tonight, our commander in the Persian Gulf, General Schwartzkop, and the men and women of the Department of Defense—what a magnificent job you are doing. Thank you very, very much.

I wish I could say their work is done. But we all know it is not.

So if ever there was a time to put country before self and partiotism before party, that time is now. Let me thank all Americans, especially those in this Chamber tonight, for your support for our forces and their mission.

That support will be even more important in the days to come.

So tonight, I want to talk to you about what is at stake—what we must do together to defend civilized values around the world, and maintain our economic strength at home.

Our objectives in the Persian Gulf are clear, our goals defined and familiar:

Iraq must withdraw from Kuwait completely, immediately—and without condition.

Kuwait's legitimate government must be restored.

The security and stability of the Persian Gulf must be assured.

American citizens abroad must be protected.

These goals are not ours alone. They have been endorsed by the United Nations Security Council five times in as many weeks. Most countries share our concern for principle. And many have a stake in the stability of the Persian Gulf. This is not, as Saddam Hussein would have it, the United States against Iraq. It is Iraq against the world.

As you know, I've just returned from a very productive meeting with Soviet President Gorbachev, I am pleased that we are working together to build a new relationship. In Helsinki, our joint statement affirmed to the world our shared resolve to counter Iraq's threat to peace. Let me quote:

"We are united in the belief that Iraq's aggression must not be tolerated. No peaceful international order is possible if larger states can devour their smaller neighbors.

Clearly, no longer can a dictator count on East-West confrontation to stymie concerted United Nations action against aggression.

A new partnership of nations has begun.

We stand today at a unique and extraordinary moment. The crisis in the Persian Gulf, as grave as it is, also offers a rare opportunity to move toward an historic period of cooperation. Out of these troubled times, our fifth objective—a new world order—can emerge: A new era—freer from the threat of terror, stronger in the pursuit of justice, and more secure in the quest for peace. An era in which the nations of the world, east and west, north and south, can prosper and live in harmony.

A hundred generations have searched for this elusive path to peace, while a thousand wars raged across the span of human endeavor. Today that new world is struggling to be born. A world quite different from the one we've known. A world where the rule of law supplants the rule of the jungle. A world in which nations recognize the shared responsibility for freedom and justice. A world where the strong respect the rights of the weak.

This is the vision I shared with President Gorbachev in Helsinki. He and other leaders from Europe, the Gulf and around the world, understand that how we manage this crisis today, could shape the future for generations to come.

The test we face is great—and so are the stakes. This is the first assault on the new world we seek, the first test of our mettle. Had we not responded to this first provocation with clarity of purpose; if we do not continue to demonstrate our determination; it would be a signal to actual and potential despots around the world.

America and the world must defend common vital interests. And we will.

America and the world must support the rule of law. And we will.

America and the world must stand up to aggression. And we will.

And one thing more—in the pursuit of these goals America will not be intimidated

Vital issues of principle are at stake Saddam Hussein is literally trying to wipe a country off the face of the Earth.

We do not exaggerate.

Nor do we exaggerate when we say Saddam Hussein will fail.

Vital economic interests are at risk as well Iraq itself controls some 10 percent of the world's proven oil reserves. Iraq plus Kuwait controls twice that. An Iraq permitted to swallow Kuwait would have the economic and military power, as well as the arrogance, to intimidate and coerce its neighbors—neighbors who control the lion's share of the world's remaining oil reserves. We cannot permit a resource so vital to be dominated by one so ruthless. And we won't.

Recent events have surely proven that there is no substitute for American leadership. In the face of tyranny, let no one doubt American credibility and reliability.

Let no one doubt our staying power. We will stand by our friends.

One way or another, the leader of Iraq must learn this fundamental truth.

From the outset, acting hand-in-hand with others, we've sought to fashion the broadest possible international response to Iraq's aggression. The level of world cooperation and condemnation of Iraq is unprecedented.

Armed Forces from countries spanning four continents, are there at the request of King Fahd of Saudi Arabia to deter and, if need be, to defend against attack. Muslim and non-Muslims, Arabs and non-Arabs, soldiers from many nations, stand shoulder-to-shoulder, resolute against Saddam Hussein's ambitions.

We can now point to five U.N. Security Council resolutions that condemn Iraq's aggression. They call for Iraq's immediate and unconditional withdrawal, the restoration of Kuwait's legitimate government, and categorically reject Iraq's cynical and self-serving attempt to annex Kuwait.

Finally, the United Nations has demanded the release of all foreign nationals held hostage against their will, and in contravention of international law. It is a mockery of human decency to call these people "guests." They are hostages, and the whole world knows it.

Prime Minister Margaret Thatcher, a dependable ally, said it all: "We do not bargain over hostages. We will not stoop to the level of using human beings as bargaining chips Ever."

Of course, our hearts go out to the hostages and their families. But our policy cannot change. And it will not change America and the world will not be blackmailed by this ruthless policy.

We are now in sight of a United Nations that performs as envisioned by its founders We owe much to the outstanding leadership of Secretary-General Perez de Cuellar. The U.N. is backing up its words with action The Security Council has imposed mandatory economic sanctions on Iraq, designed to force Iraq to relinquish the spoils of its illegal conquest. The Security Council has also taken the decisive step of authorizing the use of all means necessary to ensure compliance with these sanctions.

Together with our friends and allies, ships of the United States Navy are today patrolling mideast waters. They have already intercepted more than 700 hundred ships to enforce the sanctions. Three regional lead ers I spoke with just yesterday told me that these sanctions are working. Iraq is feeling the heat.

We continue to hope that Iraq's leaders will recalculate just what their aggression has cost them. They are cut off from world trade. Unable to sell their oil. And only a tiny fraction of goods gets through.

The communique with President Gorbachev made mention of what happens when the embargo is so effective that children of Iraq literally need milk, or the sick truly need medicine. Then under strict international supervision that guarantees the proper destination, then food will be permitted.

At home, the material cost of our leadership can be steep. That's why Secretary of State Baker and Treasury Secretary Brady have met with many world leaders to underscore that the burden of this collective effort must be shared. We are prepared to do our share and more to help carry that load; we insist others do their share as well.

The response of most of our friends and allies has been good. To help defray costs, the leaders of Saudi Arabia, Kuwait, and the United Arab Emirates have pledged to provide our deployed troops with all the food and fuel they need. Generous assistance will also be provided to stalwart frontline nations, such as Turkey and Egypt.

I am also heartened to report that this international response extends to the neediest victims of this conflict—the refugees. For our part, we have contributed $28 million for relief efforts. This is but a portion of what is needed. I commend, in particular, Saudi Arabia, Japan, and several European nations who have joined us in this purely humanitarian effort.

There is an energy-related cost to be borne as well. Oil-producing nations are already replacing lost Iraqi and Kuwaiti output. More than half of what was lost has been made up. We are getting superb cooperation. If producers, including the United States, continue steps to expand oil and gas production, we can stabilize prices and guarantee against hardship. Additionally, we and several of our allies always have the option to extract oil from our strategic petroleum reserves, if conditions warrant. As I have pointed out before, conservation efforts are essential to keep our energy needs as low as possible. We must then take advantage of our energy sources across the board: Coal, natural gas, hydro, and nuclear. Our failure to do these things has made us more dependent on foreign oil than ever before. Finally, let no one even contemplate profiteering from this crisis. We will not have it.

I cannot predict just how long it will take to convince Iraq to withdraw from Kuwait. Sanctions will take time to have their full intended effect. We will continue to review all options with our allies, but let it be clear: We will not let this aggression stand.

Our interest, our involvement in the gulf, is not transitory. It predated Saddam Hussein's aggression, and will survive it. Long after all our troops come home, and we all hope it is soon, very soon, there will be a lasting role for the United States in assisting the nations of the Persian Gulf. Our role, with others, is to deter future aggression. Our role is to help our friends in their own self-defense. And something else: To curb the proliferation of chemical, biological, ballistic missile, and above all, nuclear technologies.

Let me also make clear that the United States has no quarrel with the Iraqi people. Our quarrel is with Iraq's dictator, and with his aggression. Iraq will not be permitted to annex Kuwait. That's not a threat, or a boast, that's just the way it's going to be.

Our ability to function effectively as a great power abroad depends on how we conduct ourselves here at home. Our economy, our Armed Forces, our energy dependence, and our cohesion all determine whether we can help our friends and stand up to our foes.

For America to lead, America must remain strong and vital. Our world leadership and domestic strength are mutual and reinforcing; a woven piece, as strongly bound as Old Glory.

To revitalize our leadership capacity, we must address our budget deficit—not after election day, or next year, but now.

Higher oil prices slow our growth, and higher defense costs would only make our fiscal deficit problem worse. That deficit was already greater than it should have been—a projected $232 billion for the coming year. It must—it will—be reduced.

To my friends in Congress, together we must act this very month—before the next fiscal year begins October 1—to get America's economic house in order. The gulf situation helps us realize we are more economically vulnerable than we ever should be. Americans must never again enter any crisis—economic or military—with an excessive dependence on foreign oil and an excessive burden of Federal debt.

Most Americans are sick and tired of endless battles in the Congress and between the branches over budget matters. It is high time we pulled together—and get the job done right. It is up to us to straighten this out.

This job has four basic parts.

First: The Congress should, this month, within a budget agreement, enact growth-oriented tax measures—to help avoid recession in the short term; and to increase savings, investment, productivity, and competitiveness for the longer term. These measures include extending incentives for research and experimentation; expanding the use of IRA's for new homeowners; establishing tax-deferred family savings accounts; creating incentives for the creation of enterprise zones and initiatives to encourage more domestic drilling; and, yes, reducing the tax rate for capital gains.

Second, the Congress should, this month, enact a prudent multiyear defense program—one that reflects not only the improvement in East-West relations, but our broader responsibilities to deal with the continuing risk of outlaw action and regional conflict. Even with our obligation in the gulf, a sound defense budget can have some reduction in real terms, and we are prepared to accept that. But to go beyond such levels, where cutting defense would threaten our vital margin of safety, is something I will never accept.

The world is still dangerous. Surely that is now clear. Stability is not secure. American interests are far-reaching. Inter-dependence has increased. The consequences of regional instability can be global. This is no time to risk America's capacity to protect her vital interests.

Third, the Congress should, this month, enact measures to increase domestic energy production and energy conservation—in order to reduce dependence on foreign oil. These measures should include my proposals to increase incentives for domestic oil and gas exploration, fuel-switching, and to accelerate the development of Alaskan energy resources, without damage to wildlife.

As you know, when the oil embargo was imposed in the early 1970's the United States imported almost 6 million barrels of oil per day. This year, before the Iraqi invasion, U.S. imports had risen to nearly 8 million barrels per day. We had moved in the wrong direction. Now we must act to correct that trend.

Fourth, the Congress should, this month, enact a 5-year program to reduce the projected debt and deficits by $500 billion—that is, by half a trillion dollars. If, with the Congress, we can develop a satisfactory program by the end of the month, we can avoid the ax of sequester—deep across-the-board cuts that would threaten our military capacity and risk substantial domestic disruption.

I want to be able to tell the American people that we have truly solved the deficit problem. For me to do that, a budget agreement must meet these tests:

It must include the measures I've recommended to increase economic growth and reduce dependence on foreign oil.

It must be fair. All should contribute, but the burden should not be excessive for any one group of programs or people.

It must address the growth of government's hidden liabilities.

It must reform the budget process, and further: It must be real.

I urge Congress to provide a comprehensive 5-year deficit reduction program to me as a complete legislative package—with measures to assure that it can be fully enforced. America is tired of phoney deficit reduction, or promise-now, save-later plans. It is time for a program that is credible and real.

Finally, to the extent that the deficit reduction program includes new revenue measures, it must avoid any measure that would threaten economic growth or turn us back toward the days of punishing income tax rates. That is one path we should not head down again.

I have been pleased with recent progress, although it has not always seemed so smooth.

But now it is time to produce.

I hope we can work out a responsible plan. But with or without agreement from the budget summit, I ask both Houses of the Congress to allow a straight up-or-down vote on a complete $500 billion deficit reduction package—not later than September 28.

If the Congress cannot get me a budget, then Americans will have to face a tough, mandated sequester.

I am hopeful, in fact I am confident, the Congress will do what it should. And I can assure you, we in the executive branch will do our part.

In the final analysis, our ability to meet our responsibilities abroad depends upon political will and consensus at home. This is never easy in democracies—where we govern only with the consent of the governed. And although free people in a free society are bound to have their differences, Americans traditionally come together in times of adversity and challenge.

Once again, Americans have stepped forward to share a tearful goodbye with their families before leaving for a strange and distant shore. At this very moment, they serve together with Arabs, Europeans, Asians, and Africans in defense of principle and the dream of a new world order. That is why they sweat and toil in the sand and the heat and the sun.

If they can come together under such adversity; if old adversaries like the Soviet Union and the United States can work in common cause; then surely we who are so fortunate to be in this great chamber—Democrats, Republicans, liberals, conservatives—can come together to fulfill our responsibilities here.

Thank you, good night, and God bless the United States of America.

Thank you all very much.

[Applause, the Members rising.]

At 9 o'clock and 40 minutes p.m., the President of the United States, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Doorkeeper escorted the invited guests from the Chamber in the following order.

The members of the President's Cabinet.

The ambassadors, ministers, and charges d'Affaires of foreign governments.

THE WHITE HOUSE,
Washington, DC, August 9, 1990.

Hon. THOMAS FOLEY,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: On August 2, 1990, Iraq invaded and occupied the sovereign state of Kuwait in flagrant violation of the Charter of the United Nations. In the period since August 2, Iraq has massed an enormous and sophisticated war machine on the Kuwait-Saudi Arabian border and in southern Iraq, capable of initiating further hostilities with little or no additional preparation. Iraq's actions pose a direct threat to neighboring countries and to vital U.S. interests in the Persian Gulf region.

In response to this threat and after receiving the request of the Government of Saudi Arabia, I ordered the forward deployment of substantial elements of the United States Armed Forces into the region. I am providing this report on the deployment and mission of our Armed Forces in accordance with my desire that Congress be fully informed and consistent with the War Powers Resolution.

Two squadrons of F-15 aircraft, one brigade of the 82nd Airborne Division, and other elements of the Armed Forces began arriving in Saudi Arabia at approximately 9:00 a.m. (EDT) on August 8, 1990. Additional U.S. air, naval, and ground Forces also will be deployed. The Forces are equipped for combat, and their mission is defensive. They are prepared to take action in concert with Saudi forces, friendly regional forces, and others to deter Iraqi aggression and to preserve the integrity of Saudi Arabia.

I do not believe involvement in hostitities is imminent; to the contrary, it is my belief that this deployment will facilitate a peaceful resolution of the crisis. If necessary, however, the Forces are fully prepared to defend themselves. Although it is not possible to predict the precise scope and duration of this deployment, our Armed Forces will remain so long as their presence is required to contribute to the security of the region and desired by the Saudi government to enhance the capability of Saudi armed forces to defend the Kingdom.

I have taken these actions pursuant to my constitutional authority to conduct our foreign relations and as Commander in Chief. These actions are in exercise of our inherent right of individual and collective self-defense. I look forward to cooperation with the Congress in helping to restore peace and stability to the Persian Gulf region.

Sincerely,

GEORGE BUSH.

STATEMENT OF THE HON. RICHARD GEPHARDT, HOUSE MAJORITY LEADER AND CHAIRMAN OF THE BIPARTISAN DELEGATION TO BAHRAIN, SAUDI ARABIA, AND EGYPT

At the direction of Speaker Thomas S. Foley, a bipartisan House delegation, led by me and Robert Michel, House Minority Leader, has just completed a brief study mission to Bahrain, Saudi Arabia, and Egypt that included visits with U.S. service men and women and meetings with the Amir Sheikh Isa of Bahrain, King Fahd of Saudi Arabia, President Mubarak of Egypt, and leaders of the Kuwaiti government in exile.

As we stated on our departure from Washington, we strongly support the actions of President Bush in countering Iraq's invasion of Kuwait. This is a matter of principle in opposing aggression and upholding the rule of law.

Our delegation was impressed with the morale of the men and women in the U.S. Army, Navy, Air Force, Marine Corps, and Coast Guard with whom we visited. They are serving under extremely difficult climatic conditions. Yet our men and women in uniform are bearing up well in this harsh and inhospitable environment, while maintaining a high state of combat readiness. These U.S. soldiers, sailors, marines, and airmen deserve our respect and admiration for the job they are doing. We believe that a number of relatively modest initiatives should be taken soon to help improve conditions under which they are serving. These include mail service and fair adjustments to pay and allowances.

During our visit, we were struck by the massive logistical operation, which is still underway, to move large numbers of U.S. forces to the region of the Persian Gulf. That buildup has been successful. U.S. military leaders told us that the forces now in place are already sufficient to defend against Iraqi aggression directed against Saudi Arabia, the principal goal of Operation Desert Shield. In their view, multinational forces are also building rapidly to a level that would permit offensive operations.

We were told that 22 nations have either sent or are sending forces or are otherwise engaged in this multinational operation. Units from several Arab nations are already in Saudi Arabia, on the front lines directly opposite Iraqi forces. We were also told that U.S.-and non-U.S. forces are approximately equal in number, and that there is good coordination among various forces.

We strongly believe that other nations—particularly our NATO allies—must make more significant contributions through the dispatch of additional troops.

The delegation also firmly believes that the financial burden of supporting multilateral military deployments in the Persian Gulf area must be shared equitably. We were encouraged by a pledge from King Fahd that the Saudi government will continue to be forthcoming both in this area and on increasing oil production.

Clearly, other nations with a significant stake in the Persian Gulf must contribute to the common effort. We thus strongly support President Bush's efforts to press our allies and others for such contributions.

We asked many officials in the region about the effectiveness of the U.N.-mandated blockade of Iraq. U.S. military leaders believe that the multilateral interdiction effort has virtually stopped seaborne commerce to and from Iraq. It remains unclear, however, how long the blockade will have to continue before it begins to have a critical impact. Furthermore, some shipments from Libya continue by air to Iraq over the territories of Jordan and Sudan. These shipments only prolong Saddam Hussein's intransigence and must end.

We also asked officials of regional nations whether a military strike against Iraq will become necessary. Some regional-state officials believe that that is a possibility. Most, however, wish to see first how the U.N. sanctions work and called attention to the unprecedented level of cooperation achieved so far within the Security Council.

As we return to Washington, we will immediately face the issue of the 1991 defense budget. It is obvious that additional funds must be provided, in both this fiscal year and next, to support the continued presence of U.S. forces in the Persian Gulf. We pledge to do our part in providing necessary funds and in revising defense spending priorities to take into account lessons to be learned in connection with Operation Desert Shield, especially regarding the role of airlift and sealift.

Some program investments appear to have worked well—such as the prepositioning of equipment overseas in the theater. A key unresolved issue is whether more U.S. National Guard and Reserve combat units should be called up for duty in the Persian Gulf during the current crisis. We detected reluctance on the part of U.S. force commanders to employ such units because of limitations on tours of duty. Congress will need to review this issue, as part of its consideration of the role to be played by the Guard and Reserves within the overall structure of the U.S. armed forces.

REMARKS BY THE PRESIDENT TO MEMBERS OF CONGRESS, AUGUST 28, 1990

Let me just start off by thanking all of the members of Congress who were able to get back here to discuss this situation of deep concern to every American. What we will do is, I'll make a few remarks here and then we'll go into executive session, and I will be glad to respond to your questions as best I can and—backed up ably by the team that's here with me.

But meeting the challenge in the Persian Gulf is not something that I or this administration can do by ourselves. We can only succeed if all of us—Executive and Legislative, Republican and Democrats—work together. And that was one of the reasons I wanted you to come here today. Let no one at home doubt that—my commitment to work with the Congress, and let no one abroad doubt our national unity or our staying power.

Let me begin by providing some background to the unfolding drama in the Gulf. And then later, I want to hear from you and, as I say, respond to questions.

First, the background, when this administration began, we sought to strengthen the cease-fire between Iran and Iraq and to improve relations with Iraq. We held no illusions about that. We hoped, along with many in the Congress, that Iraqi behavior might be moderated. But even before the current crisis, though, Iraq was moving at odds to our interests and to the interests of many around the world. So we suspended the provisions of the CCC agricultural credits, stopped the export of furnaces that had the potential to contribute to Iraq's nuclear capabilities.

You all know the events of the last several weeks. Iraq threatened Kuwait, lied about its intentions, and finally invaded. In three days, Iraq had 120,000 troops and 850 tanks in Kuwait, moving south toward the Saudi border. And it was this clear and rapidly escalating threat that led King Fahd of Saudi Arabia to ask for our assistance. We knew that an Iraq that had the most powerful military machine in the Gulf and controlled 20 percent of the world's proven reserves of oil would pose a threat to the Persian Gulf, to the Middle East and to the entire world.

We responded to this quickly, without hesitation. Our objectives were obvious from the start: the immediate, complete and unconditional withdrawal of all Iraqi forces from Kuwait; the restoration of Kuwait's legitimate government; security and stability of Saudi Arabia and the Persian Gulf; and the protection of American citizens abroad.

Our actions to achieve these objectives have been equally clear. Within hours of the assault, the United States moved to freeze Iraq's assets in this country and to protect those of Kuwait. I asked Dick Cheney, Secretary Cheney, to go to Saudi Arabia, Egypt and Morocco to arrange for military cooperation between us in key Arab states. And I asked Jim Baker, Secretary Baker to go to Turkey and to Brussels to rally the support of our NATO allies. Both of these missions were extraordinarily successful. The world response to Iraq was a near unanimous chorus of condemnation.

With great speed, the United Nations Security Council passed five resolutions. These resolutions condemned Iraq's invasion of Kuwait, demanded Iraq's immediate and unconditional withdrawal, and rejected Iraq's annexation of Kuwait. The U.N. has also mandated sanctions against Iraq, those chapter 7 sanctions, and endorsed all measures that may be necessary to enforce these sanctions. And the United Nations has demanded that Iraq release all foreign nationals being held against their will without delay.

The United Nations sanctions are in effect and have been working remarkably well, even on a voluntary basis. Iraqi oil no longer flows through pipelines to ports in Turkey and Saudi Arabia. And again, I want to thank both the Saudis and the Turks for their lead role in all of this. And today, reports indicate that traffic through Aqaba has come virtually to a halt.

U.S. military forces stand shoulder to shoulder with forces of many Arab and European states to deter and, if need be, defend Saudi Arabia against attack. And U.S. naval forces sail with the navies of many other states to make the sanctions as water-tight as possible. This is not, as Saddam Hussein claims, the United States against Iraq. It is truly Iraq against the majority in the Arab world, Iraq against the rest of the world.

And so the basic elements of our strategy are now in place. And where do we want to go? Well, our intention and, indeed, the intention of almost every country in the world is to persuade occupation; that it will pay a stiff price by trying to hold on and even stiffer price by widening the conflict. And, of course, we seek to achieve these goals without further violence.

The United States supports the U.N. Secretary General and other leaders working to promote a peaceful resolution of this crisis on the basis of Security Council Resolution 660.

I also remain deeply concerned about the American and other foreign nationals held hostage by Iraq. As I've said before, when it comes to the safety and well-being of American citizens held against their will, I will hold Baghdad responsible.

That's the general comments I wanted to make for public consumption. And then I'd now like to suggest that we all remain, if we could, and excuse our friends from the press and go into executive session here so I can just make one or two more comments and then respond to the questions that may come to me or any of the others here. But thank you all very much for attending.

Gulf of Tonkin Resolution

Whereas naval units of Communist regime in Vietnam, in violation of the principles of the Charter of the United Nations and of International law, have deliberately and repeatedly attacked United States naval vessels lawfully present in international waters, and have thereby created a serious threat to international peace; and

Whereas these attacks are part of a deliberate and systematic campaign of aggression that the Communist regime in North Vietnam has been waging against its neighbors and the nations joined with them in the collective defense of their freedom; and

Whereas the United States is assisting the people of southeast Asia to protect their freedom and has no territorial, military, or political ambitions in that area, but desires only that these peoples should be left in peace to work out their own destinies in their own way: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression.

Sec. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

Sec. 3. This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, except that it may be terminated earlier by concurrent resolution of the Congress.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am delighted that the day has finally arrived when the House will be given a chance to express its support for the President's actions in the Persian Gulf.

There was a time when I was concerned that Congress would be the only institution in the world outside of the governments of Libya and Cuba that would fail to support the President's policies in the gulf.

In this time of crisis, it appeared for a while that the Commander-in-Chief of America's Armed Forces could count more on the support of the Soviet Government than he could on his own Congress.

But through the fine efforts of Chairman Fascell and others on the Foreign Affairs Committee, it now appears that Congress will have a chance to go on record today in support of the President's leadership in this crisis.

The resolution says many important things. It may not be a perfect expression of every Member's position, but I believe that in the imperfect workings of democratic government this is as close as we will come to a resolution that all can support.

To me its central message is that Congress supports not only the President's leadership and his actions, but also clearly endorses his objectives and policies in the gulf.

In doing so, it sends a message to four important audiences. To the President and his close advisers, it says you are on the right course. It gives them the confidence, that what they are doing, has the support of a wide spectrum of American opinion. And it gives them added authority, as they deal with other world leaders.

To the courageous men and women who have left their homes and their families to defend our interests in the Persian Gulf, it says that the United States is behind you.

It wasn't so long ago that a divided America sent millions of its young people to the jungles of Southeast Asia with the impression that they were risking their lives over nothing.

I recently visited our troops in Saudi Arabia with a delegation of my fellow House Members. These troops are facing a long stay in a harsh climate where the temperature rises to more than 120 degrees during the day.

Sand gets in their uniforms, clogs up their weapons, and makes it hard to get about. Despite these hardships, they are in high spirits and proud of the job they are doing under very difficult conditions.

Yet they want the confidence that comes from knowing that they are there for a reason, that Americans are united behind them. This resolution should help give them that confidence.

This resolution also sends a message to Saddam Hussein. He may be under the impression that he can wait out the United States. He may think he is facing a house divided, and that America no longer has the patience and the will to sustain great undertakings.

Access to oil from the Persian Gulf is a vital interest of the United States. There are some interests we can ignore. Oil is not one of them.

The President did the right thing, and this resolution will show Saddam that Congress and the American people are fully prepared to do what's necessary to force Iraq to back down.

This resolution also sends a message to leaders of other nations. The forceful response of the President was critical to world order.

The 45-year standoff between the superpowers is over, and right now there is a power vacuum. Some nations may get the idea that they now have a free hand in their regions and take this opportunity to settle some old scores.

This resolution backs up the President's actions, and serves notice on those who would imitate Saddam Hussein that they will not get a free ride.

Through its support of the President's efforts to promote international cooperation, this resolution assures many Arab leaders that their decision to oppose a fellow Arab had the broad political, moral, and military support of the rest of the world.

This great multilateral operation should demonstrate that the world will no longer tolerate this kind of piracy on a large scale.

The unified response of so many nations should succeed not only in forcing Saddam Hussein to back down, but should also help create a climate for peace and cooperation among the nations of the world.

This resolution should tell the leaders of other nations that international cooperation has widespread support within the American Government, and that on critical issues like this, America speaks with one voice.

Mr. Speaker, this is a resolution that should have the support of every Member of this House. I urge my colleagues to vote for it.

□ 1250

Mr. FASCELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California [Mr. Levine].

Mr. AuCOIN. Mr. Speaker, will the gentleman yield?

Mr. LEVINE of California. Mr. Speaker, I yield to the gentleman from Oregon.

Mr. AuCOIN. Mr. Speaker, I oppose the Persian Gulf resolution.

I do so with considerable reluctance, because I support the current deployment of United States and Allied Forces in opposition to the brutal aggression of Saddam Hussein. I also support the first three sections of this resolution, and I commend the Foreign Affairs Committee for producing them.

But I cannot support the fourth section, dealing with the War Powers Act. This section fails to meet the very specific requirements set down by the War Powers Act, and thereby undermines that law.

Section 4 of the War Powers Act provides that, when U.S. Armed Forces are introduced into a situation in which hostilities are imminent, or in which they substantially enlarge the U.S. combat presence in a foreign nation, the President must, within 48 hours, submit a report to Congress stating the circumstances, authority, scope, and duration of the commitment. President Bush's August 9 letter to the Speaker arguably does that, but in a minimal way. A minimal explanation of the purpose, scope, and duration of our commitment may have been all that was possible on August 9, but surely the President knows more now. President Bush should have and should now send an update. The American people whose loved ones may shortly be bleeding in the desert deserve a maximal, not minimal, explanation.

Section 5 of the War Powers Act then provides that, if hostilities are imminent, the forces must be withdrawn within 60 days of the report unless Congress declares war, provides a specific authorization for a continued presence, or extends the period by another 60 days.

After spending 3 days with the troops in Saudi Arabia, I have not the slightest doubt that hostilities are imminent. They are not certain, but they are more probable than not.

We are now within a week of the 60-day limit. Therefore, the War Powers Act requires us to take one of the specified actions, or the troops must be withdrawn. I believe we should now be voting, not on this resolution, but on a 60-day extension.

I would vote for such an extension. But this resolution isn't it. Instead, it simply repeats the President's claim that hostilities are not imminent, when clearly they are.

The War Powers Act was passed for a reason. But what we have here is an evasion of the responsibilities of the War Powers Act. It strikes me as uncomfortably reminiscent of Lyndon Johnson's Tonkin Gulf resolution. And the memory of the Bush-Baker team's dishonesty in handling the Willie Horton, flag desecration, and Boston Harbor issues does not inspire confidence that they are above another Tonkin Gulf deception.

So I will vote against this resolution—not because of anything it contains, but because it does not contain that which it should.

Mr. LEVINE of California. Mr. Speaker, I want to commend the chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. Fascell], and I also want to commend the minority leadership of the committee, particularly the ranking member, for their leadership in putting before both the committee and this body an important resolution that has gained consensus support in the Committee on Foreign Affairs and that I hope will gain consensus support on the House floor on both sides of the aisle.

Mr. Speaker, the resolution before us today is an important statement of congressional support for the President's conduct in the Persian Gulf crisis thus far. This resolution, most significantly, drives home the message to Saddam Hussein that the American Government and the American people, as expressed through the U.S. Congress, stand united in opposition to Saddam Hussein's brutal occupation and annexation of Kuwait and that the United States stands together with the vast majority of nations throughout the globe to condemn and to reverse the Iraqi invasion and occupation of Kuwait.

It is important to note at the same time that this resolution is not prospective. It only deals with activities that have occurred thus far. While it clearly expresses congressional endorsement of the President's actions to date, as I believe it should, it neither authorizes, nor encourages, any particular course of action in the future.

While the President's actions, since August 2, I believe, merit our very strong bipartisan support, we would be remiss if we did not question the lenses through which this administration has viewed the Mideast, and, at least, note that the mixed messages that this administration sent to Saddam Hussein prior to this crisis may have unfortunately helped lead him to believe that he could attack Kuwait with virtual impugnity. Therefore, it is important that this resolution emphasizes, as it does, the importance of continued consultation between the administration and the Congress. It is critical, Mr. Speaker, that these consultations include careful and thorough discussions about the wisdom of using this crisis as an excuse to send additional billions of dollars in weaponry to this explosive region. Because, Mr. Speaker, if this crisis teaches us anything, it should teach us that fueling unrestrained armed races in this volatile and unstable region of the world which is fraught with conflict, fraught with danger, fraught with instability, that such regional arms races make this part of the world even more dangerous than they would otherwise be.

I hope, Mr. Speaker, that the President will exercise the skill that he did in leading the international community to isolate Saddam Hussein to develop arms control and an arms control framework for the region and to develop mechanisms to defuse, rather than fuel, regional tensions once this crisis is over. I do believe that it is important that we be commending the President for his actions since August 2 until today, and not beyond that, and that is what this particular resolution does.

In intentionally keeping all future options open, this resolution stresses the importance of continued consultation between the administration and the Congress in all future operations in the Persian Gulf.

This resolution in no way gives a blanket approval to any course of conduct in the gulf. It implicitly assumes Congress and the the president will continue to work together closely to formulate a policy in response to Iraqi aggression that has broad-based support among Congress and the public.

Mr. FASCELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. Studds].

Mr. STUDDS. Mr. Speaker, I rise in support of the President's action to date in the Persian Gulf and in reluctant support of this resolution.

Mr. Speaker, I believe that the Committee on Foreign Affairs has done a good job, under the leadership of Chairman Fascell and Mr. Hamilton, in drafting the language of the resolution. They avoided a host of potential minefields, and should be commended.

But I must say that I am not convinced of the need for Congress to consider any resolution of this sort at this time. It is no secret to Saddam Hussein or to anyone else that there exists a strong and bipartisan consensus of support for administration policy in the Persian Gulf thus far. There also exists what I would like to believe is a universal hope that the combination of diplomacy, economic sanctions, and military deterrence now being used will lead to a peaceful and successful conclusion of the current crisis.

For these reasons, I am not sure that this resolution adds much to the current debate.

Based on certain clarifications of purpose that were made by the Committee on Foreign Affairs, however, I will vote to support it.

The first clarification is that this resolution does not, in any way, or under any circumstances, authorize the offensive use of military force by the United States.

Second, the resolution does not, in any way, relieve the President of his legal responsibility to comply in full with the War Powers Resolution. This means that, if the time should come when the involvement of our troops in hostilities is imminent, the President is required to submit a report under section 4(a)(1) of that resolution. If Congress did not then act within 60 days to extend the development of U.S. troops, the troops would have to come home.

Third and last, I want to make it clear that although this resolution affirms each of the President's policy objectives in the Persian Gulf, it does not—and should not—imply that all of these objectives are of equal importance.

The fact is that the goals sought by the President and cited in the resolution include the essential, Iraq's withdrawal from Kuwait and the release of hostages; the general, stability in the Persian Gulf; the controversial, restoration of the monarchy in Kuwait; and the merely rhetorical, creation of a new world order. I trust that our troops will not be tied to the desert sands waiting for a new world order to emerge from the choatic present, and I would personally oppose any policy that risks American lives for the sole purpose of restoring the Emir of Kuwait to his golden throne. It was my understanding that the United States generally accepts democracy as an alternative to monarchy, and that we have even been known, under some circumstances, to insist upon it.

In closing, I would like to make two points about the issues addressed, and intentionally not addressed, by this resolution.

First, I strongly support the efforts taken thus far by the President to deter further aggression from Iraq.

The President was right to stand up to Saddam Hussein, and he has gone about it the right way; marshaling international support, using the United Nations, and orchestrating what is potentially the toughest set of international economic sanctions in world history.

Second, I hope the President will ignore the rising chorus of armchair generals and unemployed cold warriors urging him to abandon multilateral action and strike out on his own. It is awfully easy to order air strikes on Iraq from your own living room; it is a lot harder when you have to bear the full consequences of such an action as Commander in Chief. Let us support the President, but let us not goad him into action that may be unwise or premature or unsuccessful. Let us not set the standard for success in this crisis at so high a level that the President's only choices become apparent failure and certain folly.

Our respone to aggression in the Persian Gulf has already achieved much. With continued domestic and international support, it can succeed. That is the message of the past 8 weeks. And that—no more and no less—is the message we seek to convey in approving this resolution this afternoon.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Kansas [Mrs. Meyers].

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in support of House Joint Resolution 658. Congress should support and commend the President for his decisive action in the Persian Gulf. A vote for this resolution is a way to make our position known. A vote for this resolution says that Congress is a participant in this action in the gulf. Congress should indicate that it will stand behind the President's stated objectives to restore the sovereignty of Kuwait and to protect American lives and interests.

I would especially like to thank and commend the gentleman from Florida [Mr. Fascell] for including my language that urges the international condemnation of Iraq for its taking of civilian hostages and terrorizing of diplomats. I believe it is important that the international community concentrate on the actions of Iraq during its brutal occupation of Kuwait. The explicit use of civilian hostages as human shields is a tactic worthy of Attila the Hun and Genghis Khan, and a blatant violation of all norms of international law and civilized behavior. The activities of the Iraqi occupying forces in Kuwait must also be a focus of the condemnation of the world.

Mr. Speaker, Saddam Hussein's forces are committing unspeakable atrocities in Kuwait. Accounts of rape and murder reach the outside world daily. While killing and driving out the native Kuwaitis, the Iraqis are also systematically dismantling the infrastructure of Kuwait. They are removing and sending to Iraq everything from museums and factories to the traffic lights.

It is good that the United Nations has stood together to condemn this wanton disregard of international law. President Bush deserves all the credit for rallying the international community to this consensus. Congress should stand behind him and express its support for the diplomatic efforts of the President by passing unanimously this joint resolution.

Mr. FASCELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. Weiss].

Mr. WEISS. Mr. Speaker, I want to express my appreciation to the distinguished gentleman from Florida [Mr. Fascell], chairman of the Committee on Foreign Affairs, for yielding this time to me.

Mr. Speaker, I rise in support of House Joint Resolution 658, a resolution to support the actions taken by President Bush with respect to Iraqi aggression against Kuwait.

This resolution outlines U.S. objectives in the Persian Gulf, as articulated by President Bush, and expresses congressional support for the actions he has taken thus far. The resolution commends the President for his efforts to resolve this crisis through diplomatic and other nonmilitary means.

This resolution also commends the outstanding work of the United Nations during this crisis. In the aftermath of Iraq's invasion of Kuwait on August 2, the United Nations has proven to be an indispensable forum for the development and articulation of a coordinated international response to that aggression. This resolution commends President Bush and his administration for their successful efforts to promote this international consensus and cooperation.

Mr. Speaker, I would also like to echo the sentiments of the prime sponsor of this resolution, the distinguished Chairman of the Foreign Affairs Committee Mr. Fascell. During and consistently since, committee consideration of this resolution, Chairman Fascell has reiterated his view that this legislation is not intended as a congressional authorization for any future offensive military actions by the United States.

The resolution is strictly focused on the President's actions thus far. I would like to thank Chairman Fascell for making several last-minute changes in the final version of the resolution on Friday in response to concerns I had about his issue.

With those changes it is emphatically clear that this resolution does not authorize, nor encourage any future offensive military actions by the United States in the Persian Gulf.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the distinguished

gentleman from California [Mr. Lagomarsino].

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of House Joint Resolution 658, the resolution we crafted in the Foreign Affairs Committee expressing congressional support for the President's reaction to the Iraqi invasion of Kuwait. This resolution has the support of both minority and majority members of the Foreign Affairs Committee.

I believe it is very important for Congress to go on record fully supporting the President's very responsible and intelligent actions in response to the brutal invasion of peaceful Kuwait by Iraqi Dictator Saddam Hussein. The threats to regional stability, western economic security and Saudi sovereignty by Iraq are very real. This resolution is making it clear, beyond a doubt, that the Congress is fully supporting the President, his actions and his objectives. There will be no internal dissension regarding the war powers issue, thanks to this resolution. Because this resolution recognizes that the President's report to Congress were provided, "consistent with the war powers resolution", the potentially divisive war powers debate is avoided.

Congressional-executive branch unity is a critical foundation upon which we have and continue to build solid, international responses to this blatant Iraqi aggression. This resolution further bolsters our position in Saudi Arabia by letting the Iraqis know Congress stands behind the President and our deployment of troops to the region. We are prepared for any contingency.

While there are parts of the resolution I would have crafted differently, on the whole, I believe it is important to pass this resolution without delay and without focusing too critically on the portions each of us would modify in some way. The bottom line is that Congress fully backs the President and his actions—especially those concerning Iraq and attracting further positive, supportive reactions from the international community.

Mr. FASCELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Oregon [Mr. DeFazio].

□ 1310

Mr. DeFAZIO. Mr. Speaker, I regret that I must rise in opposition to this joint resolution. I agree with much of what is contained in the resolution. I am outraged by Iraq's cynical and brutal invasion of Kuwait.

I stand behind the committee's support for greater international cooperation in the Persian Gulf. I share the view that other nations should be urged to contribute both militarily and economically to the effort there, and I certainly support the resolution's statement that the President shall continue to emphasize diplomatic and other nonmilitary means to achieve our objectives in the region. I oppose it not so much for what it says but what it does not say.

The President in his August 9 letter to the Speaker said that he did not believe involvement in hostilities is imminent. Section 4 of this resolution repeats that bold assertion and with a wink and a nod undermines the War Powers Act and Congress' obligation under article 1, section 8 of the Constitution.

More than 300,000 heavily armed troops face one another, divided by a mere line in the sand. This is the largest buildup involving United States forces since the Vietnam war.

Ask our young men and women in the Saudi Arabian region, on the Saudi border in the sands, at the air bases in the Middle East, ask our sailors in the Persian Gulf. They think that hostilities are imminent. Ask our allies in this undertaking. They think hostilities are imminent. Go home and ask your constitutents. They believe that hostilities are imminent. Only here in the Halls of Congress and down the street at the White House do we try to ignore the reality of the Persian Gulf confrontation and these tough constraints of the law.

The report accompanying the War Powers Resolution was unequivocal in defining "hostilities."

> The word "hostilities" was substituted for the phrase "armed conflict" during the subcommittee drafting process because it was considered to be somewhat broader in scope. In addition to a situation in which fighting has actually begun, "hostilities" also encompasses a state of confrontation in which no shots have been fired but in which there is a clear and present danger of armed conflict.

This resolution is a dangerous mix of policy statements that most of us support and silent on the means to achieve its goals. We have to demand more of the President than this.

Mr. Speaker, I appreciate the statement of the committee chairman that this resolution does not extend open-ended authority to the President as in the Gulf of Tonkin. Unfortunately, those assurances do not meet the requirements of article 1, section 8 of the Constitution as strictly defined under Public Law 93-148, the War Powers Act.

We cannot duck our responsibility. We must demand a 4(a)1 report from the President defining the scope, the duration, and objectives of our deployment in the gulf, and then we must vote aye or no on the written record.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Iowa [Mr. Leach].

Mr. LEACH of Iowa. Mr. Speaker, I thank the gentleman for yielding time to me.

Let me say that I rise in reluctant support of this resolution, reluctant not regarding its contents, but regarding the circumstance. However, the circumstance is one defined less by our actions than by the aggression of Saddam Hussein

In this regard, several comments about the Gulf of Tonkin are in order because I think many Members are thinking implicitly about it.

We must realize that the Gulf of Tonkin resolution was precipitated by an episode which, if it occurred, was an attack by a wooden boat with rifle fire, perhaps semiautomatic, against the American Navy. This resolution is rooted not in civil war, but border changing. It is based upon an incident where for the first time in the post World War era, a country has attempted to swallow another country and make it a province of that state. With the possible exception of Goa and East Timor, such has not happened in half a century, but that is what Iraq is attempting to do with Kuwait, and neither this country nor the international community can duck the consequences.

So I would simply stress, that from an international legal perspective from the perspective of a cause, this Congress has no reason to be reluctant to support the President of the United States in his actions to date.

All of us recognize the truly tougher decisions are to come. As the chairman of the committee and others have pointed out, this resolution is not prospective as the Gulf of Tonkin resolution was by implication. It simply underscores the importance of the circumstances and endorses Presidential policies to date.

In that regard, I think every Member of this body can, not with enthusiasm for war, but with cautious recognition of the challenges with which we are confronted, give the benefit of the doubt to the President and, most importantly, note that as we look into the future, the President of the United States has asserted, as is reflected in this resolution, that he is looking to "a new world order," one in which conflicts will be resolved by collective resistance, through strict adherence to international law and the utilization of international organizations.

Mr. Speaker, I stress in this regard, again, that this is in stark differentiation with the Vietnam war and the Tonkin Gulf resolution. This country is leading the world because we are the only ones capable of leading in this kind of event. By the same token, the President of the United States is looking to international law, he is abiding by domestic law, and he is being very careful in conform his actions to his understanding of the Constitution itself.

Mr. Speaker, I would urge adoption of this resolution, understanding that it is not an issue that America wanted to confront, but it is one which Congress has an obligation to speak to.

Mr. FASCELL. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio [Ms. Kaptur].

Ms. KAPTUR. Mr. Speaker, I rise in very, very qualified support of this joint resolution, and commend the chairman of the committee for not letting the Congress be silent, as we witness the largest U.S. troop deployment in the last two decades.

There is no question that Iraq must be brought into the world order of states, and whether this can happen with Saddam Hussein as head of that nation is highly unlikely. The national boundaries the Western World and the United Nations accept in the Middle East do not necessarily reflect how families and forces in the region view themselves.

Who in America would want to question our President under such circumstances? Yet questions must be asked. It is incumbent upon this body to question whether the involvement of thousands of U.S. ground troops and other forces is the proper way to achieve stability in the region. Even with the support of Egypt, Syria, and Saudi Arabia, our country ends up in the position of chief policer in the Middle East. For how long must we be there?

The objective is still too muddled. I have always believed that for U.S. service men and women to be victorious in any military operation, they must be convinced of the merit of their cause. Yet we read in the papers even today that some of our troops are saying we are in the Middle East to fight for cheaper gas. Some are saying we are there to stop Saddam Hussein. Some are asking why we are not fighting on the offensive.

America has paid a heavy price in the past for murky military objectives that precede clear foreign policy objectives. So far our involvement has cost us higher gas prices here at home and worry by those families who have their sons and daughters deployed in that region. Profits flowing into the Arab oil states are phenomenal as a result of the prices we are paying here at home. I think those nations should pay for the cost of their own defense.

In the final analysis, Arab nations will have to run their own affairs. In voting on this resolution today, let me say this is one Member of Congress who is not voting for a long-term commitment of our ground forces in that region, who is not voting for our continued dependence on Middle East oil, and who is not voting for America's sons and daughters to be the chief police force in the region.

The SPEAKER pro tempore (Mr. Mazzoli). The Chair wishes to advise that the gentleman from Florida [Mr. Fascell] has 5 minutes remaining and the gentleman from Michigan [Mr. Broomfield] has 8 minutes remaining.

Mr. BROOMFIELD. Mr. Speaker, I reserve the balance of my time.

Mr. FASCELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. Bennett].

Mr. BENNETT. Mr. Speaker, I congratulate the chairman of the committee and the ranking minority member and all the committee members for bringing this resolution to Congress for a decision. I would have preferred that it had been under an arrangement where we could have had an amendment offered to it, because several weeks ago I introduced a resolution which addresses the same subject matter. This is what it said:

> The Congress finds further that the Constitution of the United States vests all power to declare war in the Congress of the United States. Any offensive action taken against Iraq must be explicitly approved by the Congress of the United States before such action may be initiated.

□ 1310

Mr. Speaker, we do not really have to look very far. We can just look to the constitutional convention itself and Supreme Court decisions on the matter. Madison said in his presentation of these constitutional things:

> Every just view that can be taken of this subject admonishes the public of the necessity of a rigid adherence to the simple, the received, the fundamental doctrine of the Constitution, that the power to declare war, including the power of judging the cause of war, is fully and exclusively vested in the legislature; that the Executive has no right in any case to decide the question whether there is or is not cause for declaring war.

Mr. Speaker, this is something that disturbs me very greatly because thousands of people, hundreds of thousands of people could be lost in this war without a decision on the part of the Congress of the United States, and a careful and judged debate on the question. We need to debate the question as to whether or not it is in the best interests or the responsibility of our country to do war.

Mr. Speaker, I feel that we would be better off if the situation in that area were controlled by a police organization under the United Nations, in which event we would not be challenged ourselves if we decided that it was not in our best interest to continue, with our limited support from allies.

Mr. Speaker, I feel very deeply about this, and I would appreciate everybody thinking about it, and also in connection with the War Powers Act, which in my opinion gave powers to the President which the Constitution deprived him of. So we really should look at this question and carefully protect our country from going to a war which the Congress has not passed upon.

Mr. FASCELL. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I thank the gentleman for his comments. I would say his letter was very seriously considered by the committee and his suggestion in his bill. All of the general thoughts that he has expressed are encompassed in this bill I believe.

In the final analysis, the option to declare war, if that is what we want to do, has been preserved by Congress. There is no way we can take it away from Congress, nor should we, and this resolution is very clear on the point that this is not an authorization into the future based on certain conditions, absolutely not.

So the constitutional responsibility remains right where it has been, I would say to the gentleman, but I thank him for his contribution, which is very useful.

Mr. BENNETT. I thank the chairman.

Mr. FASCELL. Mr. Speaker, I yield my remaining 2½ minutes to the gentleman from Indiana [Mr. Hamilton], chairman of the Subcommittee on Europe and the Middle East.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Speaker, I thank the distinguished gentleman for yielding, and I rise in opposition to the resolution.

Mr. Speaker, I find it painful to oppose my Democratic leadership and the President in this matter, but I believe the resolution is not in the national interest and, as a matter of conscience, I am compelled to dissent. The United States can no longer be the world's policeman. We need to come home to America. It is our own serious economic problems here at home that deserve our attention and our resources.

While I agree with the resolution's characterization of the reprehensible actions of Saddam Hussein and the Government of Iraq, and the resolution's endorsement of severe economic sanctions and the freezing of Iraqi and Kuwaiti assets in the United States, can anyone honestly believe that our military would be in the sands of Saudi Arabia today except for oil.

There is simply no threat to the American homeland. We are there plainly and simply because under that sand is oil. And, I believe, no American life is worth sacrificing for the oil that powers the economies of the Western European and Far Eastern nations that are our economic competitors.

In short, Mr. Speaker, I want to see this Nation become energy independent; I want to see our troops brought home; and I want to see this country rebuilding the human and physical infrastructure that is so urgently needed for the economic warfare that is already upon us.

Ironically, should war break out—and I believe it will—the economic costs of guaranteeing this oil to our foreign economic competitors will, in my judgment, far exceed the $40 billion in savings provided for in the just proposed budget summit deficit reduction plan.

Last, Mr. Speaker, I do pledge my support for the pending appropriations necessary to sustain our military forces, because I would not do anything to jeopardize their lives or fighting capabilities.

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, I want to commend Mr. Fascell, chairman of the House Foreign Affairs Committee; Mr. Broomfield, the ranking minority member; Mr. Hamilton, chairman of the Subcommittee on Europe and the Middle East; and members of the committee for their role in bringing to the floor a resolution which, while it expresses support for the President's initiatives to respond to the Iraqi invasion of Kuwait, is careful not to implicitly embrace any future military action which could involve the United States in a war in the Persian Gulf. This is a far cry from resolutions in the past, such as the Tonkin Gulf resolution during the Johnson Presidency or the Lebanon resolution during the Reagan Presidency, which gave congressional approval to Presidential actions which eventually ended in tragic consequences for the United States.

Also, I agree with that portion of the resolution which commends the President for obtaining international cooperation and the support for the United Nations in diplomatic initiatives against Iraq and for his insistence upon the restoration of international law and order in the Persian Gulf.

What then, Mr. Speaker, is it that causes me to oppose this resolution?

Section (d)(1) states that the Congress "supports the deployment by the President of United States Armed Forces to the Persian Gulf region in response to Iraq's military aggression." I obviously agree with the economic sanctions imposed against Iraq and I accept our air and naval presence in the Persian Gulf theater to assist in the defense of Saudi Arabia. However, I am concerned about the deployment of United States ground forces in Saudi Arabia. My sense of history and experience has shown that the decision to involve large numbers of United States ground forces in far distant lands, such as Southeast Asia and Lebanon, inevitably Americanizes such engagements and stretches American interests in these regional conflicts. Because of these past experiences, I am unable to support this resolution.

I have no objection to sections (d) (2) and (3) which express our appreciation for our military personnel who are stationed in the Persian Gulf region. One month ago, I visited the Persian Gulf region with 21 other Members of the House and I spent time with some of our servicemen in their defensive positions. For their sacrifices, they deserve our support.

With respect to section 4 and the War Powers finding, I am not sanguine about this. It is widely understood that the President had not really communicated to us as the law required, and these new findings conform the history of this situation to a different conclusion.

Also, as one who voted for the Gulf of Tonkin resolution, as everyone else in the House did, I many times have regretted that vote. It should not come as a surprise that I and, in fact, many in this Chamber do not presume to support a military resolution to the Persian Gulf crisis. However, the overwhelming approval of this resolution will be read as given the President unfettered support for whatever policy he chooses to pursue in the Persian Gulf. In fact, there are those who are pressing the President to seek early military action against Iraq and it has been reported this past weekend that the President's patience is wearing thin.

Mr. Speaker, I fear that this overwhelming approval by the Congress, however unintended, will be used as a blank check to convey support for policies which I could not endorse. The weakness of the War Powers Act in self-evident, and I will not vote to give the President a blank check to lead our Nation into war.

Mr. HAMILTON. Mr. Speaker, I rise in support of House Joint Resolution 658, a resolution to support actions the President has taken with respect to Iraqi aggression against Kuwait and to demonstrate United States resolve.

It is appropriate for Congress to act and to speak out on this crucial policy issue. It is not an issue to duck. With some 165,000 American ground forces in Suadi Arabia and with some 26 nations involved in the international effort to confront Iraqi aggression, there are important national interests at stake.

Mr. Speaker; I would like to add four brief comments to what has been said about this resolution:

First, this document is a consensus resolution and it reflects the views of different Members. It also reflects the hard work of the chairman of the committee, Mr. Fascell, and of the ranking member of the committee, Mr. Broomfield, to reach broad agreement. The resolution is the product of thorough consultations among Members on both sides of the aisle. It may not address the concerns of every Member, but it certainly represents a strong consensus.

Second, the resolution is intended to be supportive of present policy, of what has happened over 8 weeks since the Iraqi invasion of Kuwait. There is an effort here to state where we are, not an effort to say where we should go.

Third, this resolution does not represent a blank check. It cannot be construed as a Gulf of Tonkin resolution. It does not support future actions except those actions that continue current policy. If policy changes or new circumstances require different actions, Congress would expect to act again.

Finally, Mr. Speaker, I regard the vote on this resolution as important, and I hope that we can have a strong vote in support of it despite the uncertainties about the future and despite the debate which has arisen regardin United States policy toward Ira before August 2.

It is crucial that we show the Amer can people, to Iraq, and to the worl community that there is today n major division on present policy in th Persian Gulf and over what has bee done in the gulf in the last 8 weeks.

Mr. Speaker, there is today a conse sus in the United States and in th international community on our polic toward Iraq. This resolution reflect that consensus. I urge my colleague to join in supporting this resolutio and in sending a strong signal to allie to friends, and to Baghdad. What w do today can help maintain the con sensus at home and abroad so that th united broad international military re sponse to Iraqi aggression remain strong. That is the best hope fo achieving a nonmilitary, diplomatic so lution to the crisis and an Iraqi with drawal from Kuwait.

I urge adoption of House Joint Reso lution 658.

Mr. BROOMFIELD. Mr. Speaker, yield 1 minute to the gentleman fro Florida [Mr. Fascell].

Mr. FASCELL. I thank the gentle man for yielding.

Mr. Speaker, I just want to commen on the remarks just made by our dis tinguished colleague from Indiana. I was a very clear and concise an strong statement about our effort and what this resolution does an what it does not do. I would also lik to say that without his, as usual, clear headed contributions to our delibera tions we might not be where we ar today. I wanted to express my appre ciation to him for his efforts.

I wanted to take time also to than the distinguished gentleman fro Michigan [Mr. Broomfield], the rank ing member of the Foreign Affair Committee, for all of his hard wor and for the cooperation from bot parties on this matter to get this, a the gentleman from Indiana has point ed out, truly consensus resolutio worked out with the administration. I was that effort that produced th clear statement of exactly what ou policy is. Support for this resolutio demonstrates to the world where th United States and its people are wit regard to this particular act of Iraq aggression.

Mr. BROOMFIELD. Mr. Speaker, also join Chairman Fascell in hi statement and pay tribute obviously t the gentleman from Indiana [M Hamilton], who did play an extremel important role in resolving the differ ences between both parties and the ad ministration. This truly has been on of our finest hours in the committee i working out this legislation.

Mr. GILMAN. Mr. Speaker, I rise to expres strong support for House Joint Resolutio 658, a joint resolution to support actions th

President has taken with respect to Iraqi aggression against Kuwait. I would like to commend our Foreign Affairs, distinguished chairman, the gentleman from Florida [Mr. FASCELL] along with the distinguished ranking Republican member, the gentleman from Michigan [Mr. BROOMFIELD] for working tirelessly to achieve a consensus. It's not always easy, but with Mr. FASCELL and Mr. BROOMFIELD'S leadership of our committee we have been known to achieve the almost impossible. I would also like to commend our former minority chief of staff Steve Berry, who in his new capacity as Principal Deputy Assistant Secretary of State for Legislative Affairs, was instrumental in working out the final versions of this bill. Our loss in the Foreign Affairs Committee was certainly the State Department's gain.

On August 2, 1990, the Government of Iraq took the despicable step of ruthlessly invading, and subsequently occupying the sovereign nation of Kuwait. That reprehensible action has had a serious impact on the world community. Throughout the Congress there is very strong bipartisan support for the President's actions.

If it is possible to view this crisis in any positive light, I think we must recognize that the unprecedented action of the United Nations Security Council gives all of us hope that in an environment where East-West tensions are diminishing on a daily basis, multinational organizations such as the United Nations, will be able to play a constructive and productive role in maintaining international law and order.

The President has set forth our objectives in the gulf clearly. The achievement of those objectives are critically important to our overall ability to function as a preeminent world power.

Mr. Chairman, The Iraqi Government must be condemned for its abysmal human rights record, its sustained support for international terrorism, its use of foreign nationals to serve as human shields in an abhorrent attempt to protect Iraqi strategic targets, and finally for the Iraqi regime's demonstrated willingness to acquire and use weapons of mass destruction. I was heartened to learn that Iraq's irresponsible President was kind enough to retract the statement he earlier made request a list of Americans at our Embassy in Kuwait so that he could have them executed. Each day brings another despicable Iraqi outrage.

This legislation sends precisely the right message to the world: "The Congress and the President are united in the attempt to contain naked aggression, to prevent the despicable outlaw regime of Saddam Hussein from annexing Kuwait, and sending the strongest possible international signal that we will stand by our allies for better or for worse." Our President, as well as our Secretary of State have done an outstanding job. I commend the administration for its timely consultation with the Congress, and I would like to salute our uniformed forces in the gulf, as well as our fine diplomatic corps, including Ambassador Howell and Charge Wilson for the selfless dedication to duty they have exhibited. May G-d be with them in the weeks ahead.

Mr. Speaker, this is a bipartisan measure. We have worked hard to achieve a on it. Accordingly, I urge unanimous support for this bill.

Mr. HOPKINS. Mr. Speaker, it seems to me that the question before the House today is not whether the President's actions were consistent with the War Powers Resolution as this resolution states, but whether the President has actually complied with the War Powers Resolution. Looking at sections 4 and 5 of the War Powers law, it appears fairly clear that the President has not complied with these provisions as required.

Today's resolution proposes to enshrine this arrangement of mutual convenience between the Congress and the White House that holds that whenever the issue comes up "we will both agree to look the other way on War Powers."

While this may make political sense, it also ignores the law. The law says that the President shall report and that he shall remove the troops 60 days later. Anything less, in my view, simply ignores the requirements of this law.

I want the record to be clear that I am not defending these requirements because I have consistently stated that the War Powers law on the books is flawed, unworkable, and possibly dangerous to our troops in the field.

What I am saying is that we are not doing any one any favors by looking the other way on the War Powers issue.

We shouldn't ignore the issue hoping it goes away.

We should be fixing this law.

We should remove the arbitrary withdrawal clock and come up with a better and more realistic mechanism to involve Congress in decisions of War Powers. Today's approach of ignoring the law just serves to perpetuate the problem and postpone the fact that one of these days someone will hold the Presidency to the unreasonable and dangerous requirements of the law.

I will reluctantly support this reolution because it does express strong support for the President's actions in the Persian Gulf and it puts Congress on the record with that support. However, I must state that I find the provisions which assert that the War Powers issue has been properly addressed to be self-serving delusion and a gross evasion of responsibility.

Mr. DELLUMS. Mr. Speaker, House Joint Resolution 658 further undermines the constitutional responsibility of the Congress. On February 7, 1984, in the wake of the United States invasion of Grenada, I sought a congressional resolution of inquiry to investigate the President's exceeding his legal mandate under article I, section 8 of the Constitution and the War Powers Act of 1973. I was told that the invasion was a fait accompli and that there was nothing the Congress could do about it. In response, I stated that my legislative initiative was a conscious effort to prevent another Grenada from occurring somewhere else in the Third World.

My proposal for a full congressional investigation of this critical issue was rejected. Subsequently we witnessed the disaster of the Iran-Contra episode and the Presidential invasion of Panama while the Congress was out of session last December. Last month, again while Congress was out of session and with virtually no congressional consultation, the President responded to the illegal, immoral Iraqi invasion of Kuwait by sending almost 200,000 United States Army military personnel to Saudi Arabia and the Persian Gulf region.

From the outset I have urged the President to initiate any action in this crisis only under the aegis of a collective United Nations mandate, and only after full consultation with Congress, our allies in the region and Europe, and the Soviet Union. I have further urged the President to maximize his diplomatic efforts to achieve a negotiated settlement that restores the territorial integrity of Kuwait and secures Iraqi release of all foreign hostages being held in Kuwait and Iraq. I have also exhorted him not to increase arms sales and transfers to any nation in the region, because it will exacerbate tensions throughout the region and make more difficult any constructive long-term resolution of pervasive problems that have cost the people of the Middle East so much in blood and treasure.

Finally, given the wording of this resolution, I do not share the authors' assertions on the House floor that this resolution "does not represent a blank check" for further unilateral military action by the President. I am very concerned that the passage of this resolution will only provide a congressional public relations mandate for the President to accentuate a military resolution of this crisis, rather than sustained diplomatic negotiations with all parties concerned. We have put hundreds of thousands of our uniformed military personnel in harm's way. We have a moral obligation to them, to the American people, and to the people, of the Middle East to achieve a just resolution of this crisis without recourse to further bloodshed and devastation.

Mr. DEFAZIO. Mr. Speaker, I have to rise in opposition to a resolution which does little more than endorse the President's failure to comply with the clear requirements of the War Powers Resolution and the U.S. Constitution as they apply to the use of our Armed Forces in Saudi Arabia and the Persian Gulf. Worse than that, it offers implicit endorsement for any further military moves the President may choose to make.

Just over 3 years ago, when American servicemen were dying in the Persian Gulf to protect Kuwaiti oil shipments, I made the point that the United States was in the 37 year of a constitutional crisis. The crisis began when President Harry Truman introduced a large American military force into the Korean conflict without any congressional authorization whatsoever. His administration advanced the unheard-of theory that "the President, as Commander in Chief of the Armed Forces of the United States, has full control over the use thereof."

For the first time in American history, a President claimed the full share of the war-making powers granted to Congress by the U.S. Constitution. Today, Mr. Speaker, we are in the 40 year of that constitutional crisis, and Congress is still failing in its responsibility.

The framers of the Constitution clearly intended that the power to initiate war, whether declared or undeclared, should reside in the legislative branch of Government. Not only did they give Congress the power "to declare war [and] grant letters of marque and reprisal, and make rules concerning captures on land and water," they also gave Congress the power to "make rules for the government and regulation of the land and naval forces," the power to "define and punish piracies and felonies committed on the high seas, and offenses against the law of nations," and the power to "raise and support Armies * * * [and] a navy."

If that weren't enough, Congress is given perhaps the broadest grant of power in the Constitution, the power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all others powers vested by this Constitution in the Government of the United States or in any department or officer thereof."

The President's vaunted power as Commander in Chief of the Armed Forces, according to Alexander Hamilton, who among the framers was the champion for a strong Presidency, was limited to "nothing more than the supreme command and direction of the military and naval forces," as opposed to the British King, whose power included "the declaring of War and * * * the raising and regulating of fleets and armies."

The framers sought to create a chief executive, not another King. The power to lead the Nation into a costly overseas military adventure was a power they explicitly denied to the President of the United States. James Madison spoke for all of his colleagues when he wrote, in a letter to Thomas Jefferson:

> The constitution supposes, what the history of all governments demonstrates, the Executive is the branch of power most interested in war and most prone to it. It has accordingly, with studied care, vested the question of war in the Legislature.

Presidents up until Harry Truman by and large honored the constitutional scheme. But since that time, the President has increasingly asserted the power to make war at the expense of the Constitution and the legitimate role of the U.S. Congress.

The constitutional crisis came to a head with the Vietnam war and the Gulf of Tonkin resolution. The Gulf of Tonkin resolution was a loosely worded declaration supporting the President's actions to defend United States Armed Forces in Southeast Asia and deter aggression. Members of the Senate rose to make it clear that the resolution was not intended to authorize a wider war, but two U.S. Presidents read it differently.

Only two Members of Congress opposed the Gulf of Tonkin resolution. One of them was Wayne Morse of Oregon, and in opposing this resolution today I am proud to echo his words on the floor of the Senate in 1964:

> I believe history will record that we have made a great mistake by subverting and circumventing the Constitution of the United States * * * by means of this resolution. As I argued earlier today * * * we are in effect giving the President warmaking powers in the absence of a declaration of war. I believe that to be a historic mistake.

History vindicated the Senator from Oregon.

The War Powers Resolution, passed in 1973 over President Nixon's veto, was a response not only to the excesses of the Executive during the Vietnam war, but also to the near-total abdication of responsibility during that period by Congress. The resolution was intended to:

> Insured that the collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations.

The resolution requires the President to report to Congress under section 4(a)(1) whenever he introduces U.S. Armed Forces into hostile situations. Congress must act within 60-days to authorize their continued presence, or they must be withdrawn. Unfortunately, Presidential compliance with the reporting and consulting requirements of the resolution has been nearly nonexistent.

The CONGRESSIONAL RECORD is equally dismal. In 1987, when President Reagan used the U.S. Navy to escort reflagged Kuwaiti tankers, both the House and Senate repeatedly ducked the war power issue. Despite a major military buildup in the gulf—despite the fact that 37 U.S. seamen aboard the U.S.S. *Stark* were killed by an Iraqi missile, the fact that a number of vessels were damaged by mines, and the exchange of hostile fire between United States and Iranian forces, the President did not submit a report pursuant to section 4(a)(1) of the War Powers Resolution and Congress did not demand one.

It was left to a number of my colleagues and I to seek relief in the Federal courts. The courts judged the matter to be an unjustifiable political question. Today we have arrived at the final and complete unravelling of the War Powers Resolution. The President has once again failed to properly comply with the law, and Congress has offered him its congratulations.

The near-war in which we find ourselves is a classic case of bad policy choices coming home to haunt us. Iraq has a long history of aggression in the region, an abysmal human rights record, and has violated international conventions against the use of chemical weapons, going so far as to use them against its own population. Despite that, the Reagan and Bush administrations over the decade of the 1980's increasingly tilted United States policy toward Iraq. Their bad judgement was compounded, of course, by both administrations' failure to develop a national energy policy and their systematic cuts in Federal support for conservation and renewable energy development.

Today, a large American force sits uneasily in the Arabian desert. They don't have a clear idea why they are there, the American people don't have a clear idea why they are there, and Congress doesn't have a clear idea why they are there.

Mr. Speaker, if we should have learned anything from the military misadventures of the last 40 years, it is that U.S. military might should not be committed to battle without a clear statement of U.S. objectives and the broad support of the American people.

Will our citizens support an indefinite United States presence in the Arabian peninsula? Will they support a war to put back in power the autocratic billionaire oil sheiks of Kuwait? Will they support the President if he decides to invade Kuwait and Iraq? These are the kinds of questions we could answer with a debate in Congress on the continued deployment of ou forces in Saudi Arabia.

The resolution passed by the House today is notable for what it lacks. It lacks any authorization for a continued U.S. presence in the region, yet it lacks any statement that it does not constitute an authorization.

The committee's resolution is notable for its lack of any congressional demand that the President submit a section 4(a)(1) report or a finding that one is necessary. It merely restates the reporting requirements of the law and notes that the President does not believe hostilities are imminent.

If this is not a situation requiring a section 4(a)(1) report, then nothing short of a major land war will do. Congress once again fel short of fulfilling its responsibility. It's a sad day for the U.S. Constitution.

Mr. KENNEDY. Mr. Speaker, while the Persian Gulf resolution signals congressional support for the President's initiatives to honor our security relationship in the Middle East, it does not give the President carte blanche on America's action in the gulf, nor does it relinquish the questions that remain regarding this military action.

The administration's resolve to seek a diplomatic resolution prior to the August 2, 1990 invasion certainly needs further inquiry. Iraq's signals were clear before the invasion, yet the United States made little effort to resolve the critical situation before Iraq's movement across the Kuwait border.

Most recently, the actions taken by the President to provide certain financial incentives to nations participating in this deployment may be an honorable deed, yet the effects to the U.S. economy will need further examination before Congress can ratify his promises.

Finally, the lack of burden-sharing raises concerns about the international makeup of this venture. The administration has consistently referred to the Persian Gulf deployment as an international effort. Yet to date, the affair has not reflected a true international endeavor. The lion's share of this campaign remains heavily on the shoulders of Americans.

As Representatives, we must begin to ask the tough questions. And we must expect the proper answers. We have a responsibility to assure the American people that our young men and women are not risking their lives 10,000 miles away from home for an empty rationale.

Congress still reserves the right to exert its authority and participate in the pursuit of America's policy objectives. And now is the time to use that influence.

Mr. SMITH of New Jersey. Mr. Speaker, am an original cosponsor of this resolution, House Joint Resolution 658, outlining congressional agreement with the resolve of the President against Iraqi's invasion and annexation of Kuwait.

Following the August 2 invasion of Kuwait by the Armed Forces of Iraqi President Saddam Hussein and Iraq's subsequent annexation of Kuwait, a multinational Armed Force has responded to the call for help made by neighboring Saudi Arabia. While the United States has committed the largest contingency of combat soldiers and military hard ware, there are over 25 nations represented in the military operation, providing men and material.

In unprecedented diplomatic maneuvers, the United Nations Security Council has unanimously approved a series of carefully worded resolutions condemning Iraq's maneuvers. In short, the resolutions condemn the invasion of Kuwait, declare the annexation of that country null and void, establish an embargo of all trade with Iraq and occupied Kuwait, authorize the use of force to enforce the blockade against Iraq, call for the release of all hostages, strongly condemn the aggressive acts against diplomatic premises and personnel in Kuwait, reaffirm the right of individual and collective self-defense in this situation.

Mr. Speaker, I commend the President for his commitment to diligently consult with Congress and work to maintain support for his policy among the leadership of both the House and Senate. Furthermore, I strongly support the President in his determination to isolate Iraq, position the troops to deter further aggressive actions by Iraq, and coordinate Operation Desert Shield with U.S. allies and countries in the region.

As reiterated in this resolution, Mr. Speaker, the President has forged a sound policy in the Persian Gulf to press for the complete, immediate and unconditional withdrawal of all Iraqi forces from Kuwait as mandated by the U.N Security Council; the restoration of the Government of Kuwait which was in place on August 1; the protection of the lives of American citizens held hostage by Iraq, both in Iraq and in Kuwait; and the security and stability of the Persian Gulf region.

Mr. Speaker, I commend President Bush for his steadfast commitment to these principles and his tireless efforts to build an international consensus and appropriate response, and I urge my colleagues to support this resolution unanimously.

Mrs. BOXER. Mr. Speaker, I vote for this resolution because I want this Congress to clearly send a message to Saddam Hussein that we are of one mind on several issues:

First, no country can wipe another country off the face of the Earth.

Second, innocent citizens must never be taken as hostages.

Third, diplomatic solutions must be pursued.

Fourth, this effort must be multinational and U.N. oriented. These principles are embodied in the resolution.

I do have doubts about the wisdom of sending so many American ground forces to Iraq, while other nations have sent so few.

I am disappointed that one of the first acts of the President was to press for an outrageously huge arms sale to Saudi Arabia. Such arms sales in the past have led to heavily armed leaders such as Saddam Hussein. I disapprove of this proposed arms sale.

I am also concerned that our President is doing so little to put together an energy policy for our Nation to lead our country to energy independence. This is essential.

This resolution speaks to the past and not to the future.

I am fearful of the future for our young men and women and therefore my vote on this resolution hinges on the words that call for diplomacy, United Nations leadership, and a strong multinational effort.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). All time has expired.

The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and pass the joint resolution, House Joint Resolution 658.

The question was taken.

Mr. BROOMFIELD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PERSONAL EXPLANATION

Mr. HOUGHTON. Mr. Speaker, I missed four votes while attending my mother's 90th birthday celebration. Had I been here I would have voted:

"Yea" on House Joint Resolution 658, "yea" on House Joint Resolution 418, "yea" on House Concurrent Resolution 329, and "yea" on H.R. 3954.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 658, the joint resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PROTECTING ANTARCTICA AS A GLOBAL ECOLOGICAL COMMONS

Mr. YATRON. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 418) calling for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty Consultative Parties, for the full protection of Antarctica as a global ecological commons, as amended.

The Clerk read as follows:

H.J. RES. 418

Whereas Antarctica, like the great oceans and the atmosphere, is a part of the global commons;

Whereas the Antarctic region, including the continent and the Southern Ocean, is a fragile ecosystem that supports an amazing abundance of life, and is, in turn, crucial to other life on Earth;

Whereas Antarctica is a critical area in the study and documentation of global change;

Whereas negotiations of the Antarctic Treaty Consultative Parties have resulted in the Convention on the Regulation of Antarctic Mineral Resource Activities;

Whereas the Convention on the Regulation of Antarctic Mineral Resource Activities, while requiring consideration of environmental impacts prior to allowing minerals development in Antarctica, does not guarantee preservation of the Antarctic environment; and

Whereas the challenge to humankind is to ensure that Antarctica is stewarded in a manner that conserves its unique environment and preserves its value for scientific research: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That—

(1) Antarctica is a global ecological commons and should, therefore, be subject to a new agreement or protocol which supplements the Antarctic Treaty of 1959, either of which should be subject to periodic review and, for an indefinite period, establish Antarctica as a region closed to commercial minerals development and related activities;

(2) under the agreement described in paragraph (1), information about mineral or other resources in Antarctica should be obtained under strictly controlled arrangements and be openly shared within the international scientific community;

(3) the Convention on the Regulation of Antarctic Mineral Resource Activities, though a considerable step forward, is not adequate to provide the necessary level of protection for the fragile environment of Antarctica and has the potential to actually stimulate movement toward commercial exploitation;

(4) pending the negotiation and entry into force of a new agreement or protocol which supplements the Antarctic Treaty of 1959 and ensures the full protection of Antarctica as a global ecological commons, the Convention on the Regulation of Antarctic Mineral Resource Activities should not be presented to the Senate for advice and consent to ratification;

(5) until an agreement described in paragraph (1) is entered into, the United States should support the interim restraint measures in force among the Consultative Parties to the Antarctic Treaty of 1959; and

(6) the negotiation of a new agreement or a protocol, which supplements the Antarctic Treaty of 1959, providing full protection of Antarctica as a global ecological commons and establishing Antarctica as a region closed to commercial minerals development and related activities for an indefinite period, should be a major item on the agenda of the November 1990 meeting of the Antarctica Treaty Convention Parties in Santiago, Chile.

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. YATRON] will be recognized for 20 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentlement from Pennsylvania [Mr. YATRON].

□ 1320

Mr. YATRON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support House Joint Resolution 418. Let me commend the gentleman from Utah, Congressman OWENS, for this important initiative and for his outstanding leadership in protecting the environment of Antarctica. I also want to acknowledge the efforts of Chairman FASCELL, and Congressman BEREUTER for all their efforts on the issue of Antarctica.

The hearings on Antarctica conducted by the Subcommittee on Human Rights and International Organizations, have highlighted the need for greater environmental protection. Antarctica is of tremendous value to scientific research. It serves as the habitat for an abundance of species. It plays a key role in maintaining climate stability. Unfortunately, its unique, near-pristine, and fragile environment is being increasingly threatened by various kinds of human activity.

If any minerals operators are eventually allowed to proceed in Antarctica, they could result in severe and irreparable damage. I am concerned that the recently negotiated minerals convention will encourage such activity.

House Joint Resolution 418 constitutes a major advancement in protecting Antarctica's environment. It calls for an indefinite moratorium on minerals activities, and for a new international agreement to establish the area as a global ecological commons. It urges the President not to submit the minerals convention to the Senate for ratification, pointing to its deficient environmental protections.

Mr. Speaker, the Foreign Affairs Committee approved the resolution after adopting some amendments offered by Congressman OWENS which addressed the concerns of the administration.

I ask my colleagues for their support of this critical measure.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this resolution, which calls for the United States to promote further negotiations to protect the Antarctic environment.

The remotest continent, the Antarctic has been relatively unaffected by man. This is fortunate, since the Antarctic ecosystem is extremely fragile. It is also of great interest to scientists and has great natural value.

In recent years, the United States participated in negotiation of a Convention on the Regulation of Antarctic Mineral Resource Activities. This agreement was intended to provide for strict environmental safeguards in the event the Antarctic Continent was opened for mineral activities.

Since the Convention was negotiated, concerns have grown that having such a system in place could actually encourage mineral development. This was not the intent of the United States. Our Government's policy has consistently been to protect the Antarctic by maintaining the consensus among the parties to the Antarctic Treaty of 1958.

The current resolution calls for a new agreement among the Antarctic Treaty parties to provide comprehensive protection for the Antartic environment. It will reinforce the administration's approach and improve the prospects of consensus among the Antarctic Treaty partners. It has the support of the State Department and the administration.

I commend the sponsor, Mr. OWENS of Utah, for his concern about this issue and also his willingness to work with the administration to craft a constructive approach. I also commend the chairman of the subcommittee with jurisdiction, Mr. YATRON, as well as the ranking Republican member, Mr. BEREUTER. I also wish to thank Chairman FASCELL for calling up this matter. The chairman and I were privileged to join in personally discussing this issue with Capt. Jacques Cousteau when he appeared before the subcommittee a few months ago.

I hope all Members will support this timely resolution. It will demonstrate congressional concern prior to the new round of international negotiations on this subject which commence in November.

Mr. YATRON. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Florida [Mr. FASCELL], the chairman of the Committee on Foreign Affairs.

Mr. FASCELL. Mr. Speaker, I rise in strong support of this resolution, and I commend the chairman of the Subcommittee on Human Rights and International Organizations and others who have taken the lead in this matter.

In the world today, right at the top of the list of important issues that confront people all over the world is the question of our ecology and our environment and the efforts that are being made to preserve what little we have left. So I am pleased to join in supporting this resolution.

The measure before us represents a carefully crafted balance among the various interests involved, including the administration, environmental groups, and majority and minority members of the committee. At the outset I wish to commend the sponsor of the resolution, the gentleman from Utah, the Honorable WAYNE OWENS, for his leadership and very conscientious efforts in shaping this legislation into its present consensus form. Also I wish to compliment the Human Rights and International Organizations Subcommittee, and in particular Chairman GUS YATRON and the Honorable DOUG BEREUTER, ranking minority member, for their diligent efforts in considering the resolution. The resolution before us, which was cosponsored by 73 Members, was reported from the Committee on Foreign Affairs by a unanimous voice vote.

Further, I would like to specially thank the Honorable WALTER B. JONES, chairman of the Subcommittee on Merchant Marine and Fisheries, for his committee's willingness to waive its request for sequential referral, without prejudice to its jurisdiction, in the interest of expeditious consideration of House Joint Resolution 418, as amended.

The Antarctic Treaty System provides the framework to guide international cooperation and activities on the Antarctic continent. In addition to the basic treaty of 1959, it also includes conventions to conserve seals, marine living resources, and flora and fauna. The most recently negotiated component, the Convention on the Regulation of Antarctic Mineral Resource Activities [CRAMRA], which is unlikely ever to enter into force, is the precipitating factor in the current debate. That proposed new entity to the treaty system would establish a regime under which Antarctic mining could occur. CRAMRA is thus perceived as the camel's nose under the tent leading to wholesale mining activity and consequent environmental degradation of the pristine continent. CRAMRA is widely regarded as inadquate to protect the Antarctic environment.

The resolution before us today, House Joint Resolution 418, as amended, urges that a new agreement or protocol be negotiated to supplement the Antarctic Treaty which would close Antarctia to minerals activities, and fully protect the environment. Testimony before Congress by Capt. Jacques Cousteau, and various environmental organizations underscored the necessity for achieving those objectives. Congressional sentiments are clearly in support of those goals.

The language of the resolution, however, is carefully worded to provide flexibility in negotiating an accord to achieve those ends. Use of the words "indefinite" and "subject to periodic review" regarding a mineral ban were judiciously chosen. They are intended to assure that the United States might not be forever disadvantage should circumstances and technologies radically after. It is conceivable that at a future time, access to some critical mineral might be desirable, and extraction feasible by a yet undiscovered technology which is environmentally benign. The language leaves the door open for future negotiations under such an eventuality, and maintains the United States on an equal footing with other nations. In the interim, the United States would pursue an agreement for Antarctica's comprehensive environmental protection, and which would preclude minerals activities for an indefinite period. It is important to note that at present, there are no commercially viable minerals on Antarctica, according to a recent OTA study.

The resolution also does the following:

It encourages the exchange of minerals information among the international scientific community;

It recognizes the CRAMRA, although a significant step forward is, on its own, not adquate to protect the Antarctic environment, and urges that CRAMRA not be submitted for Senate ratification;

It urges the United States to continue to support the interim restraint measures currently in force until a new agreement is effectuated; and

Finally, it is timely in noting the upcoming Santiago meeting of consultative parties, and recognizes this issues as a central theme to be discussed there.

Mr. Speaker, this is a constructive resolution which will further the objectives we all share for properly safeguarding Antarctica as a global ecological commons. It should strengthen the hand of U.S. negotiators on this issue. I urge its immediate adoption.

Mr. YATRON. Mr. Speaker, I yield 5 minutes to the gentleman from Utah [Mr. Owens]. Again, let me commend him for his outstanding leadership on this very important resolution.

Mr. OWENS of Utah. Mr. Speaker, I express my appreciation to the chairman, the gentleman from Florida [Mr. Fascell], who for so many years has been involved in these issues and to our chairman, the gentleman from Pennsylvania [Mr. Yatron], the gentleman from Nebraska [Mr. Bereuter], the gentleman from Michigan [Mr. Broomfield] for those kind remarks, and the gentleman from Massachusetts [Mr. Conte], who is doing so much for Antarctica who has agreed to travel with me to see that desolate land this winter.

Mr. Speaker, the continent of Antarctica is one of the great gifts given mankind. What we do with it in the next century will speak volumes about our respect for the planet and our perception of our place on it.

The United States has always been the world's leader in environmental protection. From John Muir's call in the late 19th century for preservation of our Nation's beauty, and the establishment of the National Park Service and the National Forest Service, concern for the environment has been a distinguishing hallmark of our unique heritage as Americans. We have deservedly earned, over the last century, an international reputation that we zealously guard. We gave the world the first national parks, the first national forests, the first Clean Water Act, the first Clean Air Act, the first laws governing hazardous waste. Our system of environmental protection, despite its occasional failings, is still the envy of the world.

But far away, at the furthest reaches of the planet, the United States has been lagging behind a significant and growing movement to protect the Antarctic ecosystem from mineral development. Instead of leading, America has thrown up roadblocks and obstacles which made the ideal of secure protection for the Antarctic and its living creatures more difficult to achieve, obstacles which have puzzled other environmentally committed nations which expect more of us. Australia, France, Belgium, and Italy have already stated their intention to pursue a complete ban on mineral activities in Antarctica. New Zealand, the Soviet Union, Poland, and India have also expressed their sympathies with this goal. the biggest obstacle to real progress in protecting Antarctica from mineral development came, ironically, from the United States, where the Bush administration stubbornly resisted this growing tide. The administration seemed unalterably committed to pushing the Convention on the Regulation of Antarctic Mineral Resource Activities, or CRAMRA, even though it seemed likely that this document, though well-intended, could provide the impetus for unwise mineral activities.

Thankfully, that has changed. Over the last year, since the introduction of House Joint Resolution 418, we have seen a tremendous shift in attitudes and thinking concerning the Antarctic, particularly from the administration. I have conducted long and careful negotiations with the State Department on the question of mineral development in Antarctica and I have been very gratified by the progress we have made in coming together on this question. As public attention has focused on the Antarctic, the necessity for its preservation in as natural a state as possible, including a closure to mineral development, has become conventional wisdom.

In late November, in less than 2 short months, the consultative parties of the Antarctic Treaty will meet in Santiago, Chile, and discuss a comprehensive environmental agreement which will serve to protect Antarctica better than the existing regimen—and much better than CRAMRA could. The negotiating posture our team takes, coupled with the growing sentiment organized by Australia and France and many other parties to the Antarctic Treaty, will mean all the difference in finding a way to fully protect Antarctica. Because of international opposition and increased awareness of Antarctica's irreplaceable status, CRAMRA appears to be dead in the water. I am delighted to have seen a major shift in State Department thinking over the last few months. I was certain that this shift would occur eventually, but I am surprised and pleased at its speed. I am pleased that it has occurred in time to move this resolution through the Congress before the meeting in Santiago. For a time, the United States appeared willing to abdicate its leadership role on this issue of international environmental preservation, but I now believe that our negotiating team in Chile will perpetuate the tradition of American leadership in the global environment as it works toward establishing a comprehensive environmental treaty and a minerals closure.

It has become increasingly clear, for reasons of ecology, climate monitoring, and esthetics that the Antarctic, the last continent more or less untouched by man, should be preserved from unwise development, particularly mineral development, which would likely put its tremendous natural resources at risk. As Capt. Jacques Cousteau expressed it at a hearing this past spring, the wreck of the *Exxon Valdez* in Alaska would pale in comparison to the nearly eternal and far-reaching effects of a similar spill in the Antarctic. We cannot allow that scenario to take place.

I do not believe we need to explore Antarctica for minerals. I do not believe we need its oil, if indeed there is any. We certainly do not need its coal, the only mineral clearly in abundance. The highest value for that frozen continent lies in its preservation, left in its natural state as much as possible in this interconnected world, as a reservoir of life, and as a laboratory for science. We do not need Antarctica's minerals; we need a pristine Antarctica. We need it for baseline measures of alarming global trends toward global warming and ozone depletion. We need it for its undisturbed ecosystem, which helps to feed the world. We are not that desperate for fossil fuels, even with the gulf crisis, to put this precious ecosystem at risk for a few more days or months of oil.

Antarctica is as far away as any place on the planet can be. It is impossibly cold and hostile. It is thoroughly inhospitable. At its best, the temperature barely creeps above freezing. At its worst, the climate approaches that of Mars. It is the world's highest, coldest, most desolate desert.

Yet, it has captured our collective imagination—and it has commanded our attention, not just in this committee, not just in this Congress, and not just in this country. Most of us will probably never see Antarctica firsthand. But it is still vital that we work for its preservation.

What happens there, so far away, affects what happens here and in my home State of Utah. Nothing stands completely independent in our environmentally connected world. It is not necessary to exploit every corner of this planet to survive, and that which we leave untouched—in Antarctica, on the North Slope of Alaska, in the wilderness region of Utah—is a testimony to our confidence in ourselves. As Thoreau said, "A man is rich in proportion to the number of things he can afford to leave alone." We are rich enough to leave Antarctica alone.

☐ 1330

Mr. BROOMFIELD. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Nebraska [Mr. Bereuter], a cosponsor of this legislation.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. Mr. Speaker, I yield to the gentleman from Minnesota [Mr. Vento].

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding. I just wanted to rise in support of this resolution. I think it is a step in the right direction. I want to associate myself with the able chairman of the subcommittee [Mr. Yatron] and the gentleman from Utah [Mr. Owens], as I heard his remarks and support this initiative.

I wish that we could do more. However, I think this is the least that we can do.

Mr. Speaker, I rise in support of this joint resolution. I commend its sponsor, the gentleman from Utah [Mr. Owens], for introducing it and I appreciate his support as a cosponsor of my bill, the Antarctica World Park and Protection Act of 1990.

Mr. Speaker, Antarctica is a unique and very special region of the world. With 90 percent of Earth's fresh water, it is both a fragile ecosystem that supports many forms of life, and an indispensable part of the atmospheric and oceanographic systems that moderate the world's weather and maintain the habitability and productivity of our planet.

Since 1961, the Antarctica Treaty has provided a framework for peaceful and cooperative international activities in Antarctica. America can be proud of its leadership role in the development and implementation of the treaty, as well as the scientific research and other activities that have taken place in Antarctica under the treaty.

However, there is now a growing concern about the need for new steps to assure that Antarctica will remain unspoiled and dedicated to peaceful research, especially since the 1988 signing of a convention on the regulation of Antarctica mineral resource activities—or "CRAMRA"—that would for the first time constitute a framework for possible prospecting and other mineral exploration and development activities in Antarctica.

I believe that CRAMRA was a mistake and a step in the wrong direction. Instead of pushing forward with it, the United States should be exercising leadership toward prohibiting mineral exploration and development in Antarctica, as called for by this joint resolution.

Our Nation's special contribution to Antarctica's future should be the national park concept, an idea born in our country that has won converts around the globe. We should adopt this joint resolution and then go forward with legislation that will put America where it should be, in the forefront of those working to make Antarctica the first world park.

We will likely not have time to complete action on such legislation in this Congress. But it should be high on our agenda next year. Meanwhile, we should adopt this joint resolution to reverse past mistaken policies and to again make American a leader in working for full protection of Antarctica.

Mr. BEREUTER. Mr. Speaker, as ranking minority member of the subcommittee considering environmental matters, I rise in support of House Joint Resolution 418.

Mr. Speaker, there is little or no disagreement among Americans that the pristine environment of Antarctica should be preserved. Among many other important environmental reasons it is essential to protect Antarctica for ongoing research on such important matters as ozone depletion and global climate change. Antarctica and its surrounding waters are home to a phenomenally large and diverse network of living creatures. Antarctica is a living laboratory, a laboratory which promises to help mankind unlock answers to some of the most pressing environmental questions of our time. The survival of our planet as a desirable living environment may well be at stake.

Clearly, no one wants that continent to suffer ecological degradation. However, Antarctica is threatened from a number of forces. An upsurge in tourism, improper waste disposal, oilspills, a significant upsurge in fishing, and the possibility of mineral resource activity all threaten Antarctica's pristine nature. Moreover, there is growing agreement that existing international agreements do not provide adequate safeguards for this fragile environment. In short, Mr. Speaker, Antarctica must be protected against ecological degradation.

House Joint Resolution 418 makes an important contribution toward the goal of preserving the Antarctica ecosystem. It calls for tough new international conventions that would protect Antarctica against mineral resource activities and improper waste disposal. And, pending the enactment of such a new treaty regime, House Joint Resolution 418 calls for the United States and the other Antarctic Treaty parties to adopt a policy of restraint toward the exploitation of mineral resources.

Mr. Speaker, this Member would commend the author of House Joint Resolution 418, the gentleman from Utah [Mr. Owens] for his leadership on this important matter. The gentleman worked long and hard to craft a resolution that enjoys broad bipartisan support in this body, and has the support of the State Department. This gentleman would commend him for drafting legislation that allows this body and the administration to speak with one voice. The consensus reflected in this resolution will be particularly important as the United States goes into the international conference on Antarctica next month.

The efforts of the gentleman from Pennsylvania [Mr. Yatron] were also instrumental in the crafting of this resolution. As usual, the chairman of the Subcommittee on Human Rights and International Organizations has been a leader in advancing international environmental awareness. In addition, this Member would like to commend the gentleman from Florida [Mr. Fascell] and the gentleman from Michigan [Mr. Broomfield] for their support of House Joint Resolution 418, and for facilitating its consideration.

Mr. Speaker, as a cosponsor of this resolution, this Member urges its adoption.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Lagomarsino].

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of House Joint Resolution 418 which supports measures to preserve the pristine environment of the most remote continent of the planet. However, the remoteness of Antarctica does not lessen the current and potential impact of activities of man to the world's ecological health.

Science has shown that the health of the Earth is connected in many different ways to the environment in the south polar region. The profound effect of the hole in the atmosphere above Antarctica is being further studied and documented. The coastal areas of Antarctica contain some of the most prolific marine oganisms crucial to the oceans grand food chain. It is incumbent upon mankind to take whatever steps are necessary to insure the continuation of the virgin environment of Antarctica.

Sensing the need for concrete action to protect Antarctica, I joined my colleague, Bruce Vento, in April of this year in introducing H.R. 4514, the Antarctica World Park and Protection Act of 1990. A hearing on the Antarctica World Park legislation was recently held by the Subcommittee on Insular and International Affairs of the Committee on Interior and Insular Affairs, thus advancing this proposal before the Congress.

The United States should take the lead in pressing for international cooperation in preserving and protecting Antarctica, particularly before any new mining regime is instituted. The resolution before the House today sends a clear message of the sense of Congress to responsibly act on preserving the environment of Antarctica while cautiously considering any further expansion of mankind's presence.

Mr. SMITH of New Jersey. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. Mr. Speaker, I yield to the gentleman from New Jersey [Mr. Smith].

Mr. SMITH of New Jersey. Mr. Speaker, I rise in strong support of House Joint Resolution 418, and just want to commend my good friend, the gentleman from Pennsylvania [Mr. Yatron] and the gentleman from Utah [Mr. Owens] for their leadership, as well as the gentleman from Nebraska [Mr. Bereuter] for their work on behalf of this resolution.

We had a series of hearings on this very important topic of preserving Antarctica, and a number of distinguished witnesses came forward and provided Members with very useful testimony. This is a good resolution and deserves the support of the membership.

Mr. Speaker, the resolution before us outlines a sound environmental policy with respect to the fragile ecosystem of Antarctica, and delineates what I believe should be the appropriate response to the special protections which the Antarctica requires. I commend the gentleman from Utah [Mr. OWENS] for his diligence and persistence in writing this resolution, and I commend the gentleman from Pennsylvania [Mr. YATRON] for his leadership in bringing this measure before the House.

Next month, in Santiago, Chile, the Antarctica Treaty Consolutative Parties will be meeting, and, as the resolution recommends, I believe the negotiation of a supplemental agreement to the Antarctic Treaty should provide full protection of Antarctica as a global ecological commons. Antarctica could then be closed, for an indefinite period, to commercial mineral development and other ecologically destructive activities.

Mr. Speaker, the Subcommittee on Human Rights and International Organizations held a number of hearings on Antarctica and the current and potential threats facing its fragile, yet preistine ecosystem. There is grave concern that the current convention does not provide adequate environmental protections against mineral exploitation. This resolution asks that the Convention on the Regulation of Antarctic Mineral Resource Activities not be presented to the Senate for advice and consent to ratification, until additional agreements are made within the Antarctic Treaty system which would ensure full protection of Antarctica as a global ecological commons.

The scientific importance of the Antarctic region, with its abundance of life, and the immense value of its resources and atmosphere for scientific research of such things as global climate change, cries out for further protection in international treaties. Mr. Speaker, I believe this resolution helps clarify that commitment which must be made for the preservation of Antartica, and urge my colleagues to support the measure.

Mr. BROOMFIELD. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, I rise in strong support for House Joint Resolution 418, Congressman OWENS' resolution to "protect Antarctica as a Global Ecological Commons." It is particularly gratifying to speak on behalf of Congressman OWENS, because he has testified before the Merchant Marine and Fisheries Committee on my own Antarctica bill, the Antarctic Protection and Conservation Act of 1990.

Although this area is thousands of miles from our shores, Mr. Speaker, Antarctica is an important conservation issue for the United States. Antarctica is the most important feeding ground in the southern hemisphere for whales and dolphins. It is the home to two-thirds of the world's seals. And it hosts a myriad of fish and wildlife species.

Peaceful study of this natural treasure should not be interrupted by commercial exploitation. And this resolution before the House today will help make the United States an international leader in the protection and conservation of this last frontier.

My bill, which I hope to bring to the floor before the end of this session, will give teeth to Congressman OWENS' resolution and provide protection of Antarctica from mineral exploration or exploitation with the force of law. It will also extend the protections of NEPA—the National Environmental Policy Act—to all Federal Government sponsored activities in Antarctica.

Mr. Speaker, thanks are due to those who have worked to protect pristine Antarctica. Chairmen WALTER JONES DANTE FASCELL, GERRY STUDDS, and GUS YATRON as well as such distinguished minority members as BILL BROOMFIELD, BOB DAVIS, and DOUG BEREUTER have put forth yeoman efforts to help make this legislation possible.

Please join me and support Congressman OWENS' resolution.

Mr. DE LUGO. Mr. Speaker, I rise in support of House Joint Resolution 418, the resolution introduced by a member of the Interior and Insular Affairs Committee, Congressman WAYNE OWENS. The bill calls for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty Consultative Parties for the full protection of Antarctica as a global ecological commons. The timing is of the essence since the consultative parties, which include the United States, are scheduled to meet in Chile in November.

The Subcommittee on Insular and International Affairs, which I chair, has jurisdiction over matters regarding Antarctica and any claim the United States may assert in future in regard to any part of that territory. I share with my colleague, Mr. OWENS, the sense of urgency regarding the need for the United States to assume a leadership position in urging all the treaty nations to take steps now to permanently protect that great treasury that we call Antarctica. I urge swift passage of this very important environmental measure.

Mr. JONES of North Carolina. Mr. Speaker, I rise in strong support of House Joint Resolution 418, a resolution calling for the United States to encourage immediate negotiations toward a new agreement among the Antarctic Treaty Consultative Parties, for the full protection of Antarctica as a global ecological commons, introduced by Representative WAYNE OWENS.

This resolution urges the United States to take a leadership position in negotiating a new agreement among the Antarctic Treaty parties that will provide comprehensive environmental protection for Antarctica. The resolution recognizes that a new agreement is needed if we are to provide comprehensive and enforceable protection of this unique continent.

The resolution also recognizes that the recently negotiated convention on the regulation of antarctic mineral resource activities, or CRAMRA, is not adequate to protect this fragile environment. The very title of CRAMRA states its purpose—to regulate mining in Antarctica. This agreement is not, as some would have us believe, an agreement to protect the Antarctic environment. Rather, it establishes a framework under which Antarctic mineral resources can be exploited. The development of mineral resources in Antarctica is not only not technologically feasible for the foreseeable future, but brings with it the attendant and unnecessary risks of oilspills and other environmental hazards.

We have all witnessed in the Arctic climate of Prince William Sound, AK, how devastating an oilspill can be, and how helpless we are to clean up a spill of this magnitude. A spill in Antarctica could permanently harm its coastal ecosystem, home to 35 species of penguins and other birds, 6 varieties of seals, 12 whale species, and nearly 200 types of fish.

Finally, I am in full agreement with the resolution's call for the Antarctic Treaty parties to make legally binding the existing informal understanding they now have to forestall any minerals activities until CRAMRA enters into force. Since it is very unlikely that CRAMRA will enter into force in the foreseeable future, the treaty parties must find some other means of enforcing the current, informal moratorium while they are working out a new agreement for comprehensive protection. I urge that a new moratorium prohibit for a lengthy period of time any minerals activities while more comprehensive protections are being negotiated.

Mr. Speaker, the Merchant Marine and Fisheries Committee has a strong interest in the protection of the Antarctic environment. We have recently reported two important Antarctic environmental measures, H.R. 3977, Mr. CONTE's bill to prohibit U.S. citizens from mining in Antarctica, and H.R. 4210, a bill that I introduced to provide additional environmental protection from waste disposal, marine pollution, tourism, and other potentially harmful activities sponsored by U.S. agencies and citizens in Antarctica. However, in the interest of expediting consideration of House Joint Resolution 418, on behalf of the Merchant Marine and Fisheries Committee, I have agreed not to seek a sequential referral of the resolution without prejudice to our jurisdiction but, instead, have exchanged letters with Mr. FASCELL, chairman of the Foreign Affairs Committee, acknowledging our respective committees' interests in this subject matter.

I am especially pleased that the Foreign Affairs Committee has also recently reported H.R. 3977, which was referred jointly to our committees. We are in the process of negotiating some final changes in the text of this bill with the administration, in hopes of bringing this bill to the floor at the earliest opportunity. With the passage of House Joint Resolution 418 and H.R. 3977, the United States will take two steps toward the goal of providing permanent environmental protection for the Antarctic continent.

Finally, I wish to acknowledge the hard work of both Representative OWENS and Chairman FASCELL in bringing House Joint Resolution 418 to the floor. I urge my colleagues to support this resolution.

Mr. YATRON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Pennsylvania [Mr. YATRON] that the House suspend the rules and pass the joint resolution, House Joint Resolution 418, as amended.

The question was taken.

Mr. BEREUTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1340

GENERAL LEAVE

Mr. YATRON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on House Joint Resolution 418, the joint resolution just considered.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REGARDING COUNTRIES WHICH VIOLATE THE MORATORIUM ON COMMERCIAL WHALING

Mr. YATRON. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 329) calling for U.S. sanctions against nations which conduct unjustified lethal whale research, and otherwise expressing the sense of the Congress with regard to nations which violate the International Whaling Commission moratorium on commercial whaling by killing whales under the guise of scientific research.

The Clerk read as follows:

H. CON. RES. 329

Whereas the United States fully supported the adoption by the International Whaling Commission of an indefinite moratorium on commercial whaling to become effective in 1986;

Whereas the United States fully supported the adoption by the International Whaling Commission of resolutions designed to establish criteria for reviewing proposals by Commission member nations to take whales under special (that is, scientific) permits during the commercial whaling moratorium,

Whereas the United States has supported all resolutions adopted by the International Whaling Commission requesting nations engaged in "research" whaling that fails to meet the criteria established by the Commission to refrain from carrying out further such whaling activities;

Whereas Japan has already killed more than 500 whales in spite of these International Whaling Commission resolutions and has publicly declared its intention to take several hundred more whales during the current whaling season;

Whereas Japan was certified by the Secretary of Commerce in 1988 under the Packwood-Magnuson Amendment and the Pelly Amendment for its research whaling activities that diminished the effectiveness of the conservation program of the International Whaling Commission;

Whereas in 1988 Japan was denied permits to fish in the United States Exclusive Economic Zone as a result of this certification, but no additional action has been taken beyond denial of 1989 permits as a result of Japan's whaling activities which continued in 1989; and

Whereas other nations have also continued to kill whales for scientific research despite International Whaling Commission resolutions disapproving their research plans: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) continued whaling and commercialization of whale meat represent a violation of the International Whaling Commission moratorium on commercial whaling;

(2) in accordance with United States statutes, the Secretary of Commerce should certify any nation for continued whaling activities that have been rejected as scientifically invalid by the International Whaling Commission;

(3) the President should use his authority under the Pelly Amendment, and other powers of his Office, to order an embargo on a significant quantity of fishery products entering the United States from nations found to be diminishing the effectiveness of the International Whaling Convention;

(4) the President should use all tools of diplomacy to convince whaling nations to comply with decisions of the International Whaling Commission; and

(5) the President should use all tools of diplomacy to encourage the support of the member nations of the International Whaling Commission for a long-term solution to the problems before the Commission.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Pennsylvania [Mr. YATRON] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. YATRON].

Mr. YATRON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I introduced House Concurrent Resolution 329 last May, with several of my colleagues on the Foreign Affairs Committee as original cosponsors. The resolution was a result of the subcommittee's hearings and related activities to protect whales and other marine mammals. The resolution calls on the President to impose sanctions, provided by U.S. law, on nations which defy decisions of the International Whaling Commission on the killing of whales.

I want to commend Chairman FASCELL and Congressman BEREUTER for all their efforts to preserve whales and marine mammals.

The IWC moratorium on all commercial whaling took effect in 1986, but nations are permitted to take whales for legitimate scientific research. Strict guidelines were established to ensure that nations would not continue to engage in commercial whaling under the guise of scientific research.

However, some nations have continued to kill whales maintaining it was for scientific reasons, but their research plans have been found invalid by the IWC. In addition, resolutions condemning their activities have been adopted at IWC meetings, including the most recent in July.

After the Secretary of Commerce certifies a nation as diminishing the effectiveness of the IWC the President is authorized to impose sanctions on nations which violate IWC rulings. The Packwood/Magnuson amendment provides for a reduction in permits to fish in U.S. waters, and the Pelly amendment allows for an embargo of fishery products.

Japan was certified in 1988, and permits to fish in United States waters were denied in 1988 and 1989. This action has not had much effect because there is little foreign fishing in U.S. waters. An embargo of fishery products would be more meaningful, but has not been imposed. Some other nations have also defied the moratorium, but on a much smaller scale than Japan. No sanctions have been imposed on them.

House Concurrent Resolution 329 calls on the President to use all tools of diplomacy to encourage compliance with the IWC moratorium, and to implement the Pelly amendment on nations which do not.

Mr. Speaker, the United States has strongly and consistently supported the IWC and the moratorium. Enactment of this resolution will reaffirm our commitment to whale preservation. I ask all my colleagues to support this measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I want to thank the gentleman from Pennsylvania and the members of the subcommittee, as well as the sponsors of this resolution, for their leadership and determination in bringing this measure foward.

I will extend my remarks, Mr Speaker, but let me say this. If we, the people of the United States, do not try to bring about world recognition of this very serious problem, if we do not stop that which is illegal and reach an agreement which other countries will adhere to, there will not be any whales left. But the problem goes beyond that. There will be nothing that swims in the oceans. We are destroying, we, meaning mankind, not the United States are destroying our oceans. We have tried to take the lead on preservation efforts because a large amount of the protein that mankind will need to survive is in this ocean. We, again referring to mankind, are polluting the oceans, destroying the waters and destroying the vital resources in them. We need to do everything we know how for our own survival and for the future in order to protect our environment and the very resource that helps keep us alive.

The resolution before us now recognizes that nations have stretched the definition of scientific whaling, and killed whales to suit their own consumptive purposes. Not only is it a contravention of the IWC moratorium, but it undermines the effectiveness of its whale conservation program. The resolution calls for sanctions against countries which continue to kill whales in violation of the International Whaling Commission [IWC] moratorium on commercial whaling. Japan and Norway continue whaling under the guise of science, although their research activities have been determined invalid by the IWC.

The IWC has no enforcement mechanism, therefore, it is up to member states to determine their own enforcement authority. In the United States, there are two statutes to address IWC violations—the Packwood-Magnuson amendment and the Pelly amendment. In 1988 Japan was certified under both amendments by the United States Department of Commerce for its scientific whaling in noncompliance with IWC guidelines and resolutions. Under the Packwood-Magnuson amendment, Japan was denied permits to fish in United States territorial waters. The Pelly amendment, however, was not involved. It calls on the President to embargo a portion of fish imports from offending nations—such embargo authority has never been used by a U.S. President. House Concurrent Resolution 329 calls on the President to exercise that authority, and to also use all diplomatic means to effect compliance with IWC decisions.

This resolution is fully consistent with previous U.S. policy, and votes in the IWC aimed at curbing excessive and specious scientific whaling activities. U.S. policy fully supports the 1986 IWC moratorium on commercial whaling, and its strict guidelines to ensure that no commercial whaling is done under the guise of scientific research. Diplomatic efforts by the United States and domestic legislation underscore that policy.

Mr. Speaker, U.S. policy is clear on this issue. Many signals have been conveyed through the International Whaling Commission, and U.S. diplomacy. Ample warning has been given. It is time to follow through and implement U.S. statutes in furtherance of whale conservation programs. I urge the immediate adoption of House Concurrent Resolution 329.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support House Concurrent Resolution 329, which is aimed at protecting whales from unscrupulous whaling operations by foreign countries. I want to thank Gus Yatron, the chairman, and vice chairman Doug Bereuter for their work in moving this legislation to the floor.

Japan and certain other countries continue to carry on commercial whaling under the guise of scientific research. This violates the spirit of the moratorium on commercial whaling that was imposed by the International Whaling Commission in 1986.

Under existing law, the executive branch has the ability to certify such nations as not in compliance with IWC rules. The President may then respond, by limiting fishery cooperation with these countries.

So far, the administration has not used this authority to impose an embargo on fish imports from nations like Japan. Instead, the administration has tried a combination of diplomatic, public and economic pressure on Japan and other noncomplying countries. There is a danger that imposition of further sanctions could actually lead to Japan's leaving the IWC.

For these reasons, the State Department has some objections to this resolution. Nevertheless, I support the resolution, and I believe most of the other minority members of the committee do as well. This is because we believe the time has come for the President to consider using his legal authorities to take stronger action to improve protection for the whales.

Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. Bereuter], the vice chairman of the subcommittee.

Mr. BEREUTER. Mr. Speaker, as ranking minority member of the subcommittee considering environmental matters, I rise in support of House Concurrent Resolution 329.

Mr. Speaker, this member would begin by commending the author of this resolution, the gentleman from Pennsylvania [Mr. Yatron], for his dedicated work on this subject and for reminding us that, despite an international moratorium, that commercial whaling continues. He has long been a leader on the matter of preserving the oceans' resources. Indeed, the gentleman from Pennsylvania has been active on international environmental issues long before it became popular to do so. He rightly deserves this body's appreciation.

This member would also commend the distinguished gentleman from Florida [Mr. Fascell], the chairman of the Committee on Foreign Affairs, as well as the committees' distinguished ranking member, Mr. Broomfield, for their assistance in expediting this important resolution.

As a cosponsor of this resolution I would note, Mr. Speaker, that House Concurrent Resolution 329 enjoys broad partisan support. Indeed, this member would point to the fact that all minority members of the subcommittee responsible for international environmental affairs, the Subcommittee on Human Rights and International Organizations, are cosponsors of this important resolution.

Mr. Speaker, the International Whaling Commission passed a moratorium on international commercial whaling which has been in effect since 1986. Under the moratorium, whaling was permitted only for very tightly monitored scientific experiments.

In the years since the ban took effect, commercial whaling has been reduced dramatically. The bulk of those nations who were engaged in whaling have abandoned that practice.

Only a very few nations flaunt the commercial whaling ban. Far and away, Japan is the leading violator. They have already killed more than 500 whales since the moratorium took effect, killed 330 whales last year, and will kill hundreds more this year. While the Japanese claim scientific reasons for whaling—a claim the IWC rejects—the whalemeat ends up on Japanese tables. Norway also continues to kill perhaps five whales a year, also allegedly for scientific purposes, and then sells the whale meat commercially to Japan.

House Concurrent Resolution 329 simply calls upon the President, in responding to those nations who continue disregard of the ban in whaling, to exercise the options that already exist in law. Specifically, it urges the President to use the Pelly amendment to embargo a significant quantity of fishery products from entering the United States.

Japan's fishing practices—in whaling as well as other matters such as the use of deadly driftnets—has reflected a disregard for international environmental concerns. The object of the House Concurrent Resolution 329 sends a very direct message that such actions have consequences, and that the United States will not sit quietly by while the world's dwindling resouces are plundered.

Mr. Speaker, this Member finally wishes to commend the interest and strong support of the gentlemen from Washington, Mr. Chandler and Mr. Miller, for protecting the whales, and to urge my colleagues to support this resolution.

□ 1350

Mr. YATRON. Mr. Speaker, I yield 1 minute to the gentleman from Utah [Mr. Owens].

Mr. OWENS of Utah. Mr. Speaker, I rise in strong support of this concurrent resolution and in order to commend my chairman, the gentleman from Pennsylvania [Mr. Yatron].

Mr. Speaker, there is no chairman of any subcommittee in the House who works harder than Gus Yatron. He has taken the lead in this and in so many other important environmental issues. I genuinely want to commend him for his leadership here.

We have introduced similar legislation which would implement the goals which this resolution sets down as the sense of the Congress' feeling toward marine mammals. We were not able to move that legislation in this Congress. It is my hope that we can move it in the next Congress to its implementation.

It is a weak implementation at best, as we all know, when one deals with the oceans, but it is very important that that which we can do we attempt to do, and I hope we can accomplish that in the next Congress.

I commend the gentleman from Pennsylvania [Mr. Yatron] and all those on the minority side and all those who have brought this concurrent resolution forward.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. Smith], a cosponsor of this legislation.

Mr. SMITH of New Jersey. I thank the gentleman for yielding.

Mr. Speaker, I commend the gentleman from Pennsylvania [Mr. Yatron] and the gentleman from Nebraska [Mr. Bereuter] for bringing this matter before the House in a timely manner.

I am an original cosponsor of House Concurrent Resolution 329, which calls on the President to apply economic sanctions against countries which violate the International Whaling Commission moratorium on commercial killing of whales. Mr. Speaker, House Concurrent Resolution 329, as a followup to earlier action taken by the House, calls for an extension of the IWC moratorium. This resolution calls for the Secretary of Commerce to identify and to certify those nations which, using the exemption contained in the moratorium, in actual fact conduct commerical whaling under the guise of scientific whaling.

The IWC current moratorium, which took effect in 1986, must be continued and must be strengthened because the whale population continues to decline. Violations of the moratorium are persistently raised at a diplomatic level with the errant countries and yet the guise of scientific whaling is still being used as a cover for commercial fisheries.

This sham, Mr. Speaker, must come to an end, it must cease.

Mr. Speaker, with the resolution before us, the administration is encouraged to invoke what is known as the Pelly amendment and order an embargo on certain fishery products from the countries identified as violators of the moratorium.

Mr. Speaker, with the continued violation of the protections established for the whale population, I believe this is a logical and prudent next step which must be taken.

We must make the protection of the whale meaningful. I support this resolution and the remedy contained in the resolution and ask that all Members support it today when we have a vote on it.

Mr. YATRON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Washington [Mr. Chandler].

Mr. CHANDLER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of H.R. 329, which calls on the President of the United States to invoke the Pelly amendment sanctions.

I might also say that our colleague from Washington, Mr. Miller, is in the line of succession of that seat, that of Mr. Pelly, from the First District of Washington. He too has been working very hard in this regard to stop the illegal taking of whales.

To me it is absolutely unthinkable that, in spite of the International Whaling Commission moratorium, that Japan last year killed 330 whales and plan to kill several hundred more this year. They do so with the flimsy excuse that this is for research purposes.

Ladies and gentlemen, this is commercial whaling, and that whale ends up on the table of Japanese consumers.

The American people are sick and tired of this kind of behavior by the Japanese. The whaling, the driftnet fishing, the total disregard of the limitation on ocean resources, not to mention being sick and tired of unfair trade practices. Japan righteously condemns Iraqi aggression in the Persian Gulf and yet acts like Saddam Hussein on the high seas.

It it time to invoke the Pelly sanctions. It is time to stop killing whales.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina [Mr. Ravenel].

Mr. RAVENEL. Mr. Speaker, I have spoken to the Members of this House many times before on behalf of the great whales, the most magnificant mammals ever to live on this Earth. In spite of the International Whaling Commission's ban on commercial whaling since 1986, their continued ex
istence is in great peril. I rise today i
support of House Concurrent Resolu
tion 329 introduced by our colleague
Mr. Yatron, urging sanctions agains
those nations who continue the com
mercial slaughter of these greatest o
God's creatures under the guise of sci
entific whaling. Mr. Speaker, the fat
of the whales rests in the hearts an
minds of the American people, wh
want to save them. Today, we, in thi
Congress, have the opportunity t
speak out for our citizens, to tell thos
whose greed is driving the whales int
extinction that we want this slaughte
eliminated, brought to a final stop.

Mr. LAGOMARSINO. Mr. Speaker, today
am rising in support of House Concurrent Res
olution 329, a bill urging sanctions agains
countries which continue to kill whales unde
the guise of scientific research.

As my colleagues may be aware, the Inte
national Whaling Commission adopted an i
definite moratorium on commercial whalin
which went into effect in 1986. This morator
um was a major step in preserving the grea
whales from extinction as a result of overhun
ing. However, the International Whaling Com
mission's moratorium permitted a sma
number of whales to be killed each year fo
scientific purposes.

Unfortunately, some nations have used thi
loophole as a justification for continued larg
scale whaling operations. Since the Interna
tional Whaling Commission's moratorium wen
into effect, Japan has killed over 500 whale
During the current whaling season alone, th
Japanese intend to take several hundre
more whales.

In response to this threat to the world'
dwindling whale populations, I joined severa
of my colleagues in writing to Prime Ministe
Toshiki Kaifu of Japan urging his country t
end their planned harvest of of minke whale
in the waters surrounding Antarctica.

House Concurrent Resolution 329 goes
step further by urging President Bush t
impose various sanctions on nations that d
minish the effectiveness of the Internationa
Whaling Commissions whaling moratorium.

In short, I strongly urge my colleagues t
support current international protecting th
world's whale populations by voting for pas
sage of House Concurrent Resolution 329.

Mrs. KENNELLY. Mr. Speaker, I rise i
strong support for House Concurrent Resolu
tion 329. This resolution is important as it ex
presses that the President should order a
embargo on fishery products entering th
United States from nations which conduct un
justified lethal whale research and violate th
International Whaling Commission [IWC] mor
atorium on commercial whaling.

Every year some 300 minke whales are un
justifiably hunted and killed. And an interna
tional mechanism exists to stop this: an Inte
national Whale Commission Treaty prohibit
the hunting of whales, except when used fo
legitimate scientific research. Yet, the Japa
nese continue to hunt these whales, claimin
they are being used for this purpose, despit
the findings of the Scientific Committee of th
International Whaling Commission stating tha

the minke whale has almost no scientific research value.

The 1990 Meeting of the International Whaling Commission held in Noordwijk, the Netherlands last July represented a historic turning point for the future of all cetaceans. The Commission put it simply, killing whales under the guise of scientific research will not be tolerated.

Once again, I would like to take this opportunity to praise an organization based in my district which participated in the International Whaling Commission Meeting: the Cetacean Society International. Their tireless efforts in raising environmental concerns and educating the public about the importance of maintaining a healthy, bountiful ocean should be commended; it is indeed one of the reasons I stand before you today.

And so, on behalf of the Cetacean Society International, I urge you to join me in support for this resolution. In this world of economic realities, an embargo against fishery products will make a difference. The time is now to stop the senseless purging of these great animals from our international waters—not only by passing resolutions, but by flexing our economic muscles to make our resolutions stick.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Mazzoli). The question is on the motion offered by the gentleman from Pennsylvania [Mr. Yatron] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 329.

The question was taken.

Mr. SMITH of New Jersey. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ESTABLISHING A PEACE CORPS MEMORIAL

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3954) to authorize the establishment of a memorial on Federal land in the District of Columbia to honor individuals who have served as volunteers in the Peace Corps, as amended.

The Clerk read as follows:

H.R. 3954

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO ESTABLISH MEMORIAL.

(a) In General.—The Peace Corps Volunteers Memorial Commission is authorized to establish a memorial on Federal land in the District of Columbia or its environs to honor service in the Peace Corps.

(b) Compliance With Standards for Commemorative Works.—The establishment of the memorial shall be in accordance with the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes" approved November 14, 1986 (40 U.S.C. 1001, et seq.).

SEC. 2. PEACE CORPS VOLUNTEERS MEMORIAL COMMISSION.

(a) Establishment of Commission.—There is established a commission, to be known as the Peace Corps Volunteers Memorial Commission (hereinafter in this act referred to as the "Commission").

(b) Membership.—The Commission shall consist of—

(1) the Director of the Peace Corps, who shall serve ex officio, without the right to vote, and without additional pay, allowances, or benefits for such service; and

(2) a Chairperson (so designated at the time of appointment) and 5 additional members, who shall serve without compensation and shall be appointed by the President, by and with the advice and consent of the Senate, from among representatives of Peace Corps support organizations, former Peace Corps volunteers, and other individuals who are knowledgeable about international volunteerism.

(c) Appointments and Terms.—The first appointments under subsection (b)(2) shall be made not later than 4 months after the date of the enactment of this Act. Members shall serve for the life of the Commission and any appointment to fill a vacancy shall be made in the same manner as the original appointment.

(d) Duties.—In carrying out section 1, the Commission shall—

(1) by contract or otherwise, provide for solicitation and acceptance of private contributions for the memorial and conduct such other activities as may be necessary for the establishment of the memorial; and

(2) maintain appropriate financial and other records, which shall be subject to audit by the Comptroller General.

(e) Quorum.—Four voting members of the Commission shall constitute a quorum.

(f) Support Services.—Upon the request of the Commission, the head of any Federal department or agency may, on a reimbursable basis, provide personnel or administrative support services to the Commission.

(g) Termination.—The Commission shall cease to exist 30 days after the completion of the memorial, or 30 days after the date of the expiration of authority for the memorial under section 10(b) of the Act referred to in section 1(b), whichever occurs first.

SEC. 3. PAYMENT OF EXPENSES.

(a) No Federal Payment.—Except as provided in this section, the United States shall not pay any expense of the establishment of the memorial.

(b) Fund.—There is constituted in the Treasury a fund which, subject to appropriation, shall be available to the Commission for expenses of establishing the memorial. The fund shall consist of—

(1) amounts deposited, and interest and proceeds credited, under subsection (c); and

(2) obligations obtained under subsection (d).

(c) Deposits.—The Chairperson of the Commission shall deposit in the fund such amounts from private contributions as may be accepted under section 2(d). The Secretary of the Treasury shall credit to the fund the interest on, and the proceeds from sale or redemption of, obligations held in the fund.

(d) Investments.—The Secretary of the Treasury shall invest any portion of the fund that, as determined by the Chairperson of the Commission, is not required to meet current expenses. Each investment shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Chairperson, has a maturity suitable for the fund.

(e) Deposit or Refund of Fund Balance.—If, upon payment of all expenses of establishment of the memorial, or upon expiration of authority for the memorial under section 10(b) of the Act referred to in section 1(b), there remains a balance in the fund, the Chairperson of the Commission shall, as determined by the Commission, deposit the amount of the balance in the account provided for in section 8(b)(1) of that Act or refund the amount of the balance, pro rata, to the private contributors.

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. Fascell] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. Broomfield] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. Fascell].

☐ 1400

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3954 authorizes the establishment of a memorial in the District of Columbia to honor service in the Peace Corps. This bill does not authorize any expenditure of funds. It does not place any new burdens on the executive branch. It does propose to honor all those who have served their country as Peace Corps volunteers. I would like to commend Repesentative Conte, the original sponsor of this proposal, and the nearly 100 cosponsors, for their efforts on this piece of legislation.

The bill before us today is an amendment in the nature of a substitute which was reported in identical form by the Committee on Foreign Affairs and the Committee on House Administration. I would like to thank Representative Clay, chairman of the Subcommittee on Libraries and Memorials, and Representative Annunzio, chairman of the committee, and the minority members of the Committee on House Administration, for their cooperation and prompt action on this bill.

This legislation, authorizing a commission to begin planning and fund raising for a Peace Corps memorial, is a fitting action at this time. 1991 will mark the 30th anniversary of the Peace Corps. Representative Conte, Representative Broomfield, and I, and a few others around here, remember the enthusiasm—bipartisan enthusiasm—which greeted the idea of giving

Americans an opportunity to help the people of other countries and to help promote better understanding among people, through service in the Peace Corps.

In these 30 years, approximately 130,000 have served in the Peace Corps, and more than 200 have died while serving as Peace Corps volunteers. They have deserved recognition for their service.

H.R. 3954 does not specify in any way what form a Peace Corps memorial should take. That decision will be the responsibility of the Commission, composed of former Peace Corps volunteers, representatives of Peace Corps support organizations, and other individuals knowledgeable about international voluntarism. Suggestions for a memorial range from a traditional statue, to a living memorial such as a grove of trees, to a plaque in an existing memorial or public building. It will be up to the Commission to determine what the proposed memorial should look like.

I urge all my colleagues to join me in supporting H.R. 3954.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to join my colleagues in support of H.R. 3954, authorizing the establishment of a memorial in the District of Columbia to honor service in the Peace Corps. This bill establishes a commission that will solicit and accept private contributions for the memorial.

Since President John Kennedy announced the creation of the Peace Corps at the University of Michigan in 1961, almost 120,000 individuals have volunteered to serve in the Peace Corps. These men and women have reached out to over 100 countries, providing the skills to help some of the poorest people of the world meet basic living requirements. Today, 6,100 Peace Corps volunteers work in 72 nations on development projects that may well spell survival for the people they work with. They also promote the Peace Corps goals of world peace and friendship between the United States and the countries which host the volunteers.

For 29 years, the volunteers of the Peace Corps have served these goals of world peace and friendship. As the Peace Corps nears its 30th anniversary, I urge my colleagues to support H.R. 3954, a bill that gives service in the Peace Corps the recognition it deserves.

Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. Conte], the principal sponsor of this legislation.

Mr. CONTE. Mr. Speaker, 30 years ago, President Kennedy announced his plan to establish the Peace Corps.

I was one of the original sponsors of the bill which authorized its creation, and few efforts have proven so successful.

Today, we are considering an act authorizing a memorial to the Peace Corps here in Washington, DC.

The act specifies that the memorial will come at no cost to the taxpayer. It takes no position on the form of the memorial, leaving that question to be decided by a Commission established by the President.

The Peace Corps is one of our most successful volunteer programs, and one of our most effective foreign policy efforts. The memorial authorized in this bill will be a tribute to the people who made it possible—the volunteers.

Over the past 30 years, they've done wonders for communities all over the world. Their activities range from helping disabled children and organizing Special Olympics competition in Jamaica; to helping plan and dig fish ponds in rural Zaire; to teaching English in Thailand; to building health clinics in Honduras; and now to helping Eastern Europeans with urban planning and small business skills.

There could be no more appropriate time for this bill. The Peace Corps is growing, both in the number of countries it serves and the types of work it does. Volunteers must be more skilled than ever to meet new needs in these countries, and new challenges are appearing in other nations—for example, teaching environmental conservation techniques, in urban health and housing, and in developing small businesses.

Finally, I want to give my sincere thanks to Chairman Dante Fascell of the Foreign Affairs Committee and Chairman Bill Clay of the Subcommittee on Libraries and Memorials, and to ranking members Bill Broomfield and Paul Gillmor.

They and their staffs have worked hard to bring this bill to the floor late in the session, and I truly appreciate their generous support and assistance.

I urge my colleagues to join me in supporting this bill.

Mr. FASCELL. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. Clay], chairman of the Subcommittee on Libraries and Memorials of the Committee on House Administration.

Mr. CLAY. Mr. Speaker, I thank the gentleman from Florida [Mr. Fascell] for yielding this time to me.

Mr. Speaker, I want to commend my colleagues, the gentleman from Massachusetts [Mr. Conte] for introducing this legislation, and the gentleman from Florida [Mr. Fascell] for bringing this bill to the floor.

Mr. Speaker, the Peace Corps has demonstrated to the rest of the world what is best about our country's values and character. A memorial in honor of those who volunteered and served i the Peace Corps, as provided by thi legislation, is both appropriate an well deserved.

I also want to express my appreciation to the Committee on Foreign Affairs and to the author of the legislation, the gentleman from Massachusetts [Mr. Conte] for their cooperation and willingness to work with th Committee on House Administratio in perfecting this legislation.

Mr. Speaker, H.R. 3954 provides tha the memorial be built solely with private funds raised for that purpose. N Federal funds will be expended on it construction.

The Congressional Budget Offic cost estimate referred to follows:

U.S. Congress,
Congressional Budget Office,
Washington, DC, September 26, 1990.

Hon. Frank Annunzio,
Chairman Committee on House Administration, House of Representatives, Wash ington, DC.

Dear Mr. Chairman: The Congressiona Budget Office has prepared a cost estimat for H.R. 3954, a bill to authorize the establishment of a memorial on Federal land i the District of Columbia to honor Peac Corps volunteers, as ordered reported b the House Committee on House Administration on September 19, 1990. This bill create a Peace Corps Volunteers Memorial Commission, to solicit and accept private contributions for the establishment and maintenance of the memorial. Therefore, CBO estimates this bill to be of no cost to federal state, or local governments.

If you wish further details on this cos analysis, we will be pleased to provide them The CBO staff contact is Diane Celuch (226-2800).

Sincerely,

Robert F. Hale
(For Robert D. Reischauer.)

In addition, Mr. Speaker, this legislation ensures that the memorial wil be planned and built in a manner that is consistent with the Commemorativ Works Act of 1986.

Again I want to thank the gentleman from Massachusetts [Mr. Conte and the chairman of the Committe on Foreign Affairs, the gentlema from Florida [Mr. Fascell] and members of the Committee on Foreign Affairs for their willingness to work with the Committee on House Administration to develop a bill that deserves the support of the Members of this body and I urge the adoption of this resolution.

Mr. BROOMFIELD. Mr. Speaker, yield back the balance of my time.

Mr. FASCELL. Mr. Speaker, I yield back the balance of my time.

The Speaker pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. Fascell] that the House suspend the rules and pass the bill, H.R. 3954, as amended.

The question was taken.

Mr. CONTE. Mr. Speaker, on that demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PERSONAL EXPLANATION

Mr. HOUGHTON. Mr. Speaker, I missed four votes while attending my mother's 90th birthday celebration. Had I been here I would have voted:

"Yea" on House Joint Resolution 658, "yea" on House Joint Resolution 418, "yea" on House Concurrent Resolution 329, and "yea" on H.R. 3954.

THE 30TH ANNIVERSARY OF THE INDEPENDENCE OF CYPRUS

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 465) congratulating President Vassiliou, the Government, and the people of Cyprus on the 30th anniversary of independence.

The Clerk read as follows:

H. Res. 465

Whereas on October 1, 1990, the Republic of Cyprus will mark the thirtieth anniversary of its independence; and

Whereas the United States strongly supports the resumption of meaningful United Nations-sponsored talks aimed at reaching a just and lasting solution to the Cyprus problem in accordance with relevant United Nations resolutions and decisions: Now, therefore, be it

Resolved, That—

(1) the House of Representatives congratulates President Vassiliou, the government, and the people of Cyprus on the thirtieth anniversary of independence; and

(2) it is the sense of the House of Representatives that the United States should continue its strong support of the United Nations Secretary General in his efforts to resolve the Cyprus problem.

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

For what purpose does the gentleman from Indiana [Mr. Burton] seek recognition?

POINT OF ORDER

Mr. BURTON of Indiana. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. BURTON of Indiana. My point of order Mr. Speaker, is to ask the gentleman from Michigan [Mr. Broomfield] if he is opposed to the bill.

Mr. BROOMFIELD. Mr. Speaker, I do not think that is a point of order.

The SPEAKER pro tempore. Under the rule, the gentleman from Michigan [Mr. Broomfield] is required to answer the gentleman from Indiana [Mr. Burton] if he is opposed to the bill.

Mr. BROOMFIELD. Mr. Speaker, I am not opposed to the bill.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. Broomfield] is not opposed.

Mr. BURTON of Indiana. Mr. Speaker, I am opposed to the bill and would like to have the time.

The SPEAKER pro tempore. Under the rule, the gentleman from Indiana [Mr. Burton] will be recognized for 20 minutes.

The gentleman from Florida [Mr. Fascell] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. Burton] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. Fascell].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 465 and urge its adoption. This resolution was introduced by two of the more senior members of the Committee on Foreign Affairs: Mr. Yatron, who diligently serves as chairman of the Subcommittee on Human Rights and International Organizations, and Mr. Broomfield, the distinguished ranking member of the committee. Their determined dedication to seeking a peaceful solution of the conflict on Cyprus is certainly beyond question and, indeed, is to be commended.

Simply stated, House Resolution 465 congratulates President Vassiliou, the Government, and the people of Cyprus on the 30th anniversary of the independence of the Republic of Cyprus. This resolution also stipulates that it remains our sense that the United States should continue its commitment and support for United Nations General Secretary de Cuéllar in his efforts to bring about a just and lasting, as well as peaceful and negotiated end to the tragic division of this island republic.

The resolution reaffirms the longstanding policy of the United States to support a peaceful resolution of the Cyprus conflict that will lead to the reunification of the island under one government. This policy has been forged upon our concern for the people of both Greek and Turkish Cypriot heritage, and because we retain important interests in the eastern Mediterranean, principally among our NATO allies, Greece and Turkey.

In this regard, House Resolution 465 in its elegant simplicity avoids taking part in the dispute that we all know to exist on Cyprus. At the same time, this resolution extends our gracious congratulations to the President, Government, and people of the Republic of Cyprus on the 30th anniversary of their independence, and extends our sincere hopes for the peaceful solution to that dispute. For these reasons, I again urge its immediate adoption.

☐ 1410

Mr. Speaker, I yield such time as he may consume to the ranking minority member of the committee, the gentleman from Michigan [Mr. Broomfield].

Mr. BROOMFIELD. Mr. Speaker, I support this resolution congratulating President Vassiliou and the Cypriot people on the 30th anniversary of the independence of the Republic of Cyprus. House Resolution 465 also urges our Government to continue its support of the United Nation's peace efforts on that divided island.

Let me thank Chairman Fascell and Congresssman Hamilton for their timely consideration on this initiative. I also appreciate Gus Yatron's strong support of this resolution and salute his leadership for the cause of peace on Cyprus.

While all of us have criticized the United Nations in the past for its shortcomings, I want to highlight the good work of that organization in trying to keep the Cyprus problem on the front burner. U.N. Secretary General Perez de Cuéllar deserves our praise for his personal peace efforts on that divided island. I appreciate the challenges he faces and wish him well in his future negotiating efforts.

Let us hope that next year the Republic of Cyprus will celebrate an equally important event in the history of that island, a fair resolution of the Cyprus dispute.

I urge my colleagues to join me in supporting this resolution.

Mr. BURTON of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on the surface, House Resolution 465 appears relatively harmless. After all, what could be wrong with simply congratulating the President, the Government, and the people of Cyprus on their 30th anniversary.

Mr. Speaker, despite what my colleagues may tell you, House Resolution 465 is not harmless. It is a deliberate and calculated slap in the face to both the Turkish Republic of Northern Cyprus and the Republic of Turkey.

Mr. Speaker, for those Members of Congress not familiar with the origin of the Cyprus conflict, I would like to reexamine, for a brief moment, the events which took place on Cyprus from 1960 to 1974. Without a clear understanding of this history, it is impossible to understand the negative ramifications of the resolution.

When Britain relinquished control of Cyprus in 1960, a bicommunal Government, with shared leadership by Turkish Cypriot and Greek Cypriot communities was created by treaty. This compromise recognized the Turkish Cypriot and Greek Cypriot people of the island as political equals, with shared responsibilities and authority.

The Treaty of Guarantee, signed by the Turkish Cypriots, Turkey, Britain, Greece, and the Greek Cypriots, clearly stated that any of its guarantors had the right to intervene should the sovereignty of the island be threatened.

Mr. Speaker, shortly after the Republic of Cyprus was born, its first President, Archibishop Makarios, immediately began to carry out his plan for enosis, which means union with Greece. By 1963, the Greek Cypriots had completely destroyed the bicommunal character of the Republic by ousting, through force, the Turkish Cypriot leaders from their elected positions. They then proceeded to destroy over 100 Turkish villages.

For the next 11 years, Turkish Cypriots suffered great losses, both human and material, in clashes initiated by Greek Cypriots. These clashes were fully supported by the Greek Army. Almost 1 out of every 120 Turkish Cypriots, including women, children, and the elderly, was killed during this period despite the fact that the U.N. peacekeeping troops were present on the island.

Given this tragic repression, Turkey was completely within its rights in 1974 to intervene on Cyprus in order to prevent the annexation of Cyprus to Greece. Turkey was completely within its right to prevent the annihilation of the Turkish Cypriot propulation. In fact, Turkey could have and should have intervened as early as 1963 when the Cypriot Constitution was destroyed by the Greek Cypriots.

I might add, Mr. Speaker, that the Athens Court of Appeals acknowledged the legality of the Turkish peace operation in a decision numbered 2658 on March 21, 1979. It stated this:

> The Turkish military intervention in Cyprus, which was carried out in accordance with the Zurich and London accords, was legal. Turkey, as one of the guarantor powers, had the right to fulfill her obligations. The real culprits * * * are the Greek officers who engineered and staged a coup and prepared the conditions for this intervention.

That was a Greek court that said that, Mr. Speaker.

Resolutions, like House Resolution 465, which ignore the history of the Cyprus issue, resolutions like House Resolution 465, which deliberately fail to recognize the people of the Turkish Republic of Northern Cyprus, and resolutions, like House Resolution 465, which are designed to isolate the people of Northern Cyprus are unworthy of this body. The proponents of this resolution want to deny international recognition to the people of Northern Cyprus. Well I do not, and I will not.

Mr. Speaker, let me add that the resolution we are considering here today is very ill-timed, especially when one looks at what Turkey, one of our most loyal allies, is doing to help us in the gulf crisis.

Of all America's allies, none deserves more credit for their stand against Iraq's invasion of Kuwait than the Republic of Turkey. If the current gulf crisis teaches Members of Congress anything, it should be that the United States needs allies with the inclination, resolution, and wherewithal to share in the responsibilities, and to meet the challenges necessary to promote peace and stability.

Mr. Speaker, I know who America's friends are, and it does not take a genious to know Turkey is one of them. Who was it that denounced Iraq's invasion of Kuwait within hours? It was Turkey. Who immediately endorsed the United States-led initiative in the United Nations Security Council to condemn Iraq's aggression? It was Turkey. Who shut down Iraq's pipelines even though it would cut the country off from its major source of domestic oil, and cost them over $300 million a year? It was Turkey. And now, who is losing over $2 billion a year in trade with Iraq? It is Turkey.

Yet, despite these Turkish economic sacrifices, this body is now considering a resolution which would give President Denktas and the Turkish Cypriots a good kick in the pants, along with their friends in Turkey.

Mr. Speaker, this resolution is unworthy of this body. We can and should be above these political games.

Mr. Speaker, let me sum up my remarks by saying that House Resolution 465 is controversial. It was almost tabled in the Foreign Affairs Committee. We lost by a slim margin of 13 to 9. And it was opposed by a bipartisan group of legislators on the committee.

Mr. Speaker, if this resolution was as noncontroversial as its proponents would have us believe, it would also recognize the President, the Government, and the people of the Turkish Republic of Northern Cyprus. Or better yet—and this was suggested in the committee—it would simply recognize all the people of Cyprus, leaving out all references to Presidents and governments. In that way, there could not have been any controversy like this today.

Mr. Speaker, colleagues, the people of Northern Cyprus are opposed to this resolution. The people of Turkey are opposed to this resolution. And anyone with a modicum of respect for our political and military alliance with Turkey is also opposed to this resolution.

Mr. Speaker, I would like to conclude by saying that if Members know absolutely nothing about the Cyprus issue, I urge them to vote against this resolution here today!

Mr. Speaker, this did not need to happen. We could certainly have passed a resolution that would have been noncontroversial and congratulated all the people on Cyprus instead of singling out only President Vassiliou.

I might add one more thing: That President Vassiliou on January 26, 1989, said this, and I quote:

> Cyprus is a bastion of Greece. The number of islands which are Greek are many, and Cyprus is just one of them.

Mr. Speaker, the people on the Turkish side of Cyprus certainly do not concur with that, and they do not deserve this kind of a kick in the pants.

Mr. FEIGHAN. Mr. Speaker, I yield 3 minutes to the chairman of the Subcommittee on Europe and the Middle East, the gentleman from New York [Mr. Gilman].

☐ 1420

Mr. GILMAN. Mr. Speaker, I rise to express my strong support for House Resolution 465, congratulating President Vassiliou, the Government and the people of Cyprus on the 30th anniversary of that nation's independence.

Frustration continues on the island of Cyprus. Since 1974, Cyprus has been partitioned due to the illegal invasion by Turkish forces of the northern third of that island. Secretary General Péres de Cuéllar has worked tirelessly to bring both sides to the bargaining table. However, the intransigent attitude of Turkish Northern Cypriot Leader Rauf Denktash has made progress virtually impossible.

Our desire is clear. We must do all in our power to bring peace and stability to Cyprus. A permanent peace that will respect the rights of both Greek and Turkish communities on the island.

Mr. Speaker, I would like to commend the distinguished ranking Republican member of the Foreign Affairs Committee, the gentleman from Michigan [Mr. Broomfield], as well as the distinguished chairman of our Subcommittee on Human Rights and International Organizations the gentleman from Pennsylvania [Mr. Yatron], for their outstanding work on this measure.

Accordingly, I urge our colleagues to join in sending this congratulatory message to the people of Cyprus, on their 30th anniversary and in continuing to support the United Nations Secretary General in its valiant efforts to peacefully resolve the Cyprus issue.

Mr. FEIGHAN. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. Porter].

Mr. PORTER. Mr. Speaker, today is the 30th anniversary of the independence of the Republic of Cyprus. This is an occasion of great celebration in Cyprus, as you might imagine. Veterans' Secretary Ed Derwinski, the official United States representative, is attending festivities in Nicosia, the capital of Cyprus.

But while Secretary Derwinski shares our good wishes with the people of Cyprus and their freely elected President, George Vassiliou, I'm sure that he will also feel the cloud that hangs over the island.

On July 18, 1974, 14 short years after Cyprus gained independence, a Turkish force invaded and occupied the northern 40 percent of the island. Today, 35,000 Turkish soldiers are stationed in the north of Cyprus separating the Greek-Cypriot and Turkish-Cypriot populations.

Secretary Derwinski will undoubtedly see the barbed wire and guard towers that comprise the Green Line, the border that separates Cyprus, that runs through the center of Nicosia and serves as an ugly reminder of the foreign troops on Cypriot soil and the unresolved conflict that has dragged on for 16 years.

The legitimately elected Government of Cyprus has been trying to negotiate a settlement which will reunify this small island-nation of 700,000 people while guaranteeing the rights and safety of both Greek-Cypriots and Turkish-Cypriots. Unfortunately, the intransigence of the leadership of the occupied territory, lead by Rauf Denktash, has repeatedly torpedoed these efforts.

The Foreign Operations Subcommittee is looking at ways to use United States aid more creatively to bring other elements of the Turkish community outside of Denktash's reach into cooperative projects. The House Foreign Operations Subcommittee with the strong support of myself and Mr. MRAZEK, reiterated its commitment to resolving the Cyprus issue by earmarking $15 million in this years' appropriations bill for bicommunal projects between Greek-Cypriots and Turkish-Cypriots.

Since all travel from the south to the north of Cyprus has been banned for 16 years, the exchange of ideas between Greek-Cypriots and Turkish-Cypriots has been suspended. There is a real danger that the two groups, separated for so long, will lose touch with each other and fall prey to irreconcilable mistrust and hatred. If this occurs, the division of Cyprus will become much more difficult, if not impossible, to resolve. Bicommunal projects, which bring Cypriots from both sides of the Green Line together, are one of the few ways Greek and Turkish-Cypriots could maintain a dialog.

This resolution congratulates President Vassiliou and the people of Cyprus on the occasion of their 30th year of independence and asserts that the United States should continue its strong support for the U.N. General Secretary in his efforts to resolve the Cyprus problem.

Mr. Speaker, I commend Mr. BROOMFIELD for his leadership and ongoing efforts in behalf of Cyprus and for sponsoring this important legislation. In addition, I thank the Committee on Foreign Affairs for their timely consideration allowing this resolution to come to the floor on the 30th anniversary of Cyprus' independence.

Mr. Speaker, we commend the people of Cyprus—all of them—and their outstanding President, George Vassiliou, on 30 years of independence and we pray that foreign troops will withdraw and the entire island reunited in full independence soon.

Mr. BURTON of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will not belabor the point. We have very serious matters that we need to discuss today. I would just like to say that I have some information that I would like to submit for the RECORD that gives a point-by-point analysis of the situation and goes into the history of the conflict on Cyprus.

I would like to conclude my remarks by saying that we all hope that the problems on Cyprus are resolved peacefully. We hope that both the Greek Cypriots and the Turkish Cypriots can sit down at the conference table and work out their differences. But that is what must be done. It must be done in a bicommunal way. One side or the other cannot usurp the authority of the other side. If that continues to happen, then I think the conflict will continue on into the future.

Mr. Speaker, I hope and pray today that those on Cyprus who are combatants and are confronting one another would listen to what we are saying and sit down and work this out. Hopefully the next time a resolution like this comes up, there will be no controversy, because there will be one unified government on Cyprus.

Mr. Speaker, I submit a history of the Cyprus issue for the RECORD.

HISTORY OF THE CYPRUS ISSUE

The Creation of Cyprus

Britain relinquished control of Cyprus in 1960. The Zurich-London Accords of 1959, led to the establishment of an independent, bilingual, bicommunal republic with a Greek Cypriot President and a Turkish Cypriot Vice President.

The treaty of guarantee was then signed by Great Britain, Greece and Turkey to "ensure the recognition and maintenance of the independence, territorial integrity, and security of Cyprus by preventing direct or indirect partition or annexation by the guarantor states."

The constitution recognized the Turkish Cypriot and Greek Cypriot peoples of the island as political equals, with shared responsibilities and authority.

The Destruction of Cyprus

Archbishop Makarios was elected the Republic's first President.

Although Makarios was one of the signers of the 1960 constitution, as President of Cyprus he immediately began to carry out his plan for enosis (or union with Greece).

To achieve enosis, Makarios initiated the "Akritas Plan" under this plan, the government adopted unilaterally, a series of amendments to the constitution that deprived the Turkish Cypriot community of their constitutional protections.

One of the amendments deprived the Turkish Cypriots of their right to veto legislation in the House of Representatives.

When the Turkish Cypriots rejected these amendments, Makarios ejected, by force, all Turkish Cypriot Government officials and members of the House of Representatives.

Makarios then launched a series of attacks against the Turkish Cypriots.

In 1964, Makarios imposed an economic boycott of the chief Turkish Cypriot enclaves. Government forces surrounded these enclaves with barbed wire and road blocks.

By the end of 1964, the Greek Cypriots had effectively destroyed the bi-communal character of the republic of Cyprus.

In 1967, George Grivas, a lieutenant-general in the Greek Army who was sent by Greece to coordinate military action against the Turkish Cypriots, launched a series of raids against the Turkish Cypriot enclaves.

During the 1967–74 period tensions steadily escalated as enosists (those who wanted union with Greece) intensified their preparations for a final onslaught against the Turkish Cypriots.

Many diehard enosists believed Makarios was not totally committed to their cause.

In order to oust Makarios, Greece engineered a coup code-named "Operation President" in 1974.

Under the plan, the national guard was assisted by 950 soldiers in the Greek Army, permitted on the island by the treaty of alliance, as well as by officers smuggled into Cyprus just before the coup.

On July 15, 1974, Nikos Sampson was installed as the puppet President on Cyprus. In 1969, Sampson was elected to the House of Representatives in 1969 with the slogan "death to the turks!"

The Prime Minister of Turkey, Bulent Ecevit, appealed to Great Britain, urging them to cooperate with Turkey in enforcing the Treaty of Guarantee. Great Britain failed to respond.

Because the international community failed to respond to the coup, Turkey exercised its right of intervention under the Treaty of Guarantee to protect the Turkish Cypriot population.

Greek-Cypriot atrocities

In December 1963, 25 Turkish patients at the Nicosia Hospital disappeared from their beds. A British investigation revealed that the Greek medical staff had slit the patients throats as they lay in their beds, and that their bodies were loaded onto a truck and driven to a farm north of the city, where they were fed into mechanical choppers and ground into the earth.

In February, 1964 when the U.S. Under-Secretary of State, George Ball, visited Cyprus, he concluded that the Greek Cypriots "just want to be left alone to kill Turkish Cypriots."

In June 1964, Prime Minister George Papandreou of Greece initiated clandestine nightly shipments of arms and troops, who arrived in Cyprus in civilian clothes and then joined terrorist organizations. 20,000 officers and men were shipped to Cyprus.

364 Turkish Cypriots were killed in the massacres of 1963–64. Over 25,000 Turkish Cypriots, including the population of 103 villages were chased from their homes. Hundreds of homes were destroyed.

In two separate attacks carried out on the 14th and 15th of November 1967, more than

30 Turkish Cypriots were killed, including three sons of an elderly couple and an eighty-year-old man who were burned alive by being wrapped in a gasoline-soaked blanket and set on fire.

800 Turkish Cypriots disappeared in 1974.

TREATY OF GUARANTEE

Article IV of the 1960 Treaty of Guarantee, signed by the Turkish Cypriots, Turkey, Britain, Greece and the Greek Cypriots, clearly stated that any of its guarantors had the right to intervene should the sovereignty of the island be threatened.

The Athens court of appeals acknowledged the legality of the Turkish peace operation in a decision (No. 2658/79) on March 21, 1979. It stated:

"The Turkish military intervention in Cyprus, which was carried out in accordance with the Zurich and London Accords, was legal. Turkey, as one of the guarantor powers, had the right to fulfill her obligations. The real culprits * * * are the Greek officers who engineered and staged a coup and prepared the conditions for this intervention."

GREEK CYPRIOT ARMS BUILDUP

The Greek Cypriots are undertaking an extensive arms buildup.

In May, they purchased 800 milion dollars' worth of new arms. This includes 4 Gazelle helicopters equipped with antitank missiles, 36 AMX–30 combat tanks, 1,000 Apilas antitank missiles, 40 surface to air Syrian missiles, armored vehicles with 150 mm-diameter guns, and many more.

The U.S. Arms Control and Disarmament Agency (ACDA) reports that the Greek Cypriots imported 320 million dollars' worth of arms between 1983 and 1987. In the last two years, under Vasilious' leadership, they imported 358 million.

GREEK CYPRIOTS SUPPORT TERRORISTS

In January, two members of the Marxist Kurdish Workers Party (PKK) met with members of the Cypriot House of Representatives.

The PKK is a terrorist organization that has been waging a guerilla war in Turkey that has killed thousands.

Intelligence sources estimate that almost 1,500 Kurdish terrorists are being trained in camps in the Syrian-controlled Bakaa Valley in Lebanon.

STATEMENTS BY YASSILIOUS

On January 26, 1989, the Greek Cypriot leader, George Yassilious, said "Cyprus is a bastion of Greece. The number of islands which are Greek are many and Cyprus is just one of them."

CONCLUSIONS

Linking military aid to Turkey to troop withdrawals from Cyprus will not encourage a resolution of the Cyprus issue.

No Greek political leader will exert himself to be accommodating if he can win Turkish concessions as a result of outside pressure.

If the U.S. were to threaten the Turks with aid cuts to force concessions, we would only exacerbate rather Turkish community fears about Greek intentions.

Turkish troops on Cyprus have only one function and that is to safeguard the lives of Turkish Cypriots. The Turkish presence on Cyprus has provided peace and stability on the island for the last 15 years.

The Turkish Cypriots want them to stay, pending a peace settlement to provide protection against repetition of anti-Turkish programs and any further attempt to unite the island with Greece. They do not wish to be again the victims of attacks and massacres.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FEIGHAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the sponsor of the resolution, Mr. BROOMFIELD, for working hard to bring this resolution to the floor in such an expeditious fashion. As you know, today is the anniversary of the independence of the Republic of Cyprus. For 30 years, Cyprus has been a good friend of the United States. Today we celebrate that friendship and congratulate the President, the Government and the people of Cyprus. Our resolution also recognizes that Cyprus remains a divided island and we call for the early resumption of bicommunal talks with a goal of establishing a unified, federal republic that protects the rights of all Cypriots, and does so in accordance with U.N. resolutions. Sadly, those talks have been "dead in the water" since the March 1990 meeting in New York.

Mr. Speaker, I know that Mr. BROOMFIELD and many members of the Foreign Affairs Committee are committed to doing everything we can to see a settlement to the Cyprus issue. It has been a subject of intense interest and debate on our committee and I am afraid that debate is likely to be with us a while longer. The Cyprus issue remains troubling to be because it involves three of our closest allies—Cyprus, Greece, and Turkey. It threatens not only their relations with each other, but also the smooth operation of our military alliance in that part of the world.

I support the language of the resolution. I find it to be straightforward and balanced. I also would point out that in the resolution we renew our support for the U.N. Secretary-General's mission aimed at reaching a just solution to the conflict in accordance with U.N. resolutions. At a time when we are calling for the world to heed the U.N. Security Council resolutions upholding the embargo against Iraq, I hope that we would pay the same amount of attention to U.N. Security Council resolutions that deal with Cyprus.

The resolution is an important statement for the Congress to make. It continues the congressional tradition of keeping the Cyprus issue on the front-burner and I commend the sponsor Mr. BROOMFIELD as well as Mr. YATRON, the distinguished chairman of the Subcommittee on Human Rights, for their continued efforts to promote a responsible, reasonable U.S. policy in the eastern Mediterranean.

Mr. HAMILTON. Mr. Speaker, I rise in support of House Resolution 465, a resolution to commend the Republic of Cyprus on the occasion of 30 years of independence. I want first to commend the gentleman from Mich gan [Mr. BROOMFIELD] and the gentlema from Pennsylvania [Mr. YATRON] for their lea ership in bringing this resolution before us.

We in the United States, through our ow history, understand the difficulties which aris in establishing an independent nation and i unifying a country. We salute today th achievement of the Cypriot peoples and hop that nation has a bright future in peace an unity and with strong ties to Europe.

Cyprus is an important country for th United States and an important friend. Tim and again, the Republic of Cyprus has helpe the United States. For instance, many time during the civil war in Lebanon, Cypru became an important line of communication and travel to and from Lebanon. The Unite States is committed to maintaining good rela tions with both the Greek and Turkish Cypri communities despite the divisions which cha acterize relations between these communitie today.

Since the events of 1974, Cyprus has re mained divided and its peoples have suffere Efforts to negotiate a settlement of the dis pute in Cyprus has so far proven elusive. duel track approach is being pursued by bot sides: Each continues to reinforce its de fenses on the island while at the same tim participating in U.N.-sponsored peace talks Unfortunately, these talks have started an stopped and detoured many times over th years since 1974. Little progress has bee made toward a settlement and bicommuna contacts are woefully few and getting fewer.

As we mark Cyprus' 30th anniversary as nation, I believe we should resolve that effort to achieve progress toward a settlement b redoubled. The United States should giv higher priority to supporting U.N. efforts and t helping the Greek and Turkish Cypriot com munities to achieve a negotiated agreemen and to live peacefully together in one country With this goal, I believe that the United State can assist Cyprus in achieving greater peac and prosperity for its peoples during the nex 30 years of independence.

Mr. Speaker, I urge my colleagues to sup port House Resolution 465 and join in salutin Cyprus on this important milestone.

Mr. YATRON. Mr. Speaker, I strongly sup port House Resolution 465. I want to com mend the sponsor of the bill, my good friend Congressman BROOMFIELD, for all his har work to promote a settlement to the situatio in Cyprus. I also want to acknowledge the out standing efforts of Chairman FASCELL, an Congressmen HAMILTON, GILMAN, and FEIGHAN on the issue of Cyprus.

Mr. Speaker, today marks the 30th anniver sary of the independence of Cyprus. It is mos appropriate that we recognize this importan occasion because maintaining their independ ence has not been easy for the Cyprio people. Peace and stability have often bee elusive. The people of Cyprus have endure much internal strife and bloodshed as they continue their search for a just and lasting settlement.

Mr. Speaker, House Resolution 465 commends the people of Cyprus on their 30th anniversary, and reaffirms American support fo the U.N. Secretary General in his efforts to resolve the Cyprus problem.

Passage of House Resolution 465 will help ensure that the Congress, the administration, and the United Nations continue to focus attention on the situation in Cyprus. It will send an important signal to the world community as well.

I ask all my colleagues for their support of this timely and meaningful initiative.

Mr. OWENS of Utah. Mr. Speaker, congratulations to President Vassiliou and the people of Cyprus on this 30th anniversary of statehood.

I've had the opportunity to visit Cyrpus twice in the past 2 years and talk with President Vassiliou about the challenges and opportunities for Cyprus in the years ahead.

He is an examplary statesman who has kept the U.N.-sponsored peace process alive despite setback after setback. Furthermore, he's succeeded in putting Cyrpus on track for full membership in the European Economic Community.

Since the Turkish invasion of 1974, Cyprus has made a remarkable economic recovery, resettling thousands of refugees and emerging as a thriving commercial center. Today, Cyrpus is a hub for financial services in the Eastern Mediterranean, and is home to one of the largest commercial shipping fleets in the world.

It is appropriate today, as we also consider a resolution on the current crisis in the Persian Gulf, to reflect on the meaning of international law and American foreign policy. The Turkish invasion and continuing occupation in Cyprus is no less a contravention of law than Iraq's invasion and occupation of Kuwait. If we are to have a principled foreign policy, we should be consistent and unequivocal.

Let us hope that the next 30 years will end the division on Curpus and yield continued economic growth and prosperity.

Mr. BILIRAKIS. Mr. Speaker, today, I rise to pay tribute to the valiant people of the island-nation of Cyprus, on this the 30th anniversary of the independence of that nation.

Yes, I proudly rise to extol the steadfast national spirit of the Cypriot people, a national spirit that sadly has been strained for more than half of those 30 years of independence.

Cypriot resolution is tested daily, Mr. Speaker, by the effects of a long and terrible invasion and occupation. Indeed, this past July 20 marked a much darker occasion—the 16th anniversary of the Turkish invasion of Cyprus, an invasion that has split Cyprus in two from that day to this.

It is grim irony that we observe this fact today, October 1, because on the day after tomorrow, free people the world over will join Germany in a celebration of reunification as East and West Germany once again form a single nation.

Freedom is, indeed, sweeping much of East Europe, yet just to the south, in the Eastern Mediterranean, Cyprus remains a dark and unswept corner.

Turkey continues its illegal occupation of northern Cyprus, continues to station more than 30,000 troops there and continues to maintain some 65,000 settlers there. Frequent incidents and disputes scar the populace.

However, it is important to point out that the Republic of Cyprus is not without friends. In fact, Mr. Speaker, this coming weekend a diligent organization headquartered in my district, the Pancyprian Association of Florida, will hold a fundraising event to benefit the children of Cyprus.

We must all take a lesson from organizations such as this one, conscientiously standing watch over the welfare of Cyprus through this long 16-year darkness. All of us must do our utmost to see an end to the division of Cyprus. Like the Berlin Wall, the Nicosia Wall must fall as well.

We in the Congress have a responsibility to use our influence to see Cyprus made whole again, to rescue the thousands of Greek-Cypriots who have become refugees in the land of their birth. Like those faithful Cypriots in my district and elsewhere, we must do our utmost in this cause.

I strongly urge President Bush to elevate this issue on the Foreign Affairs agenda. The United States must demand that this illegal Turkish occupation end. Don't force us to mark another painful July 20; let us celebrate a new independence day for Cyprus with the joy and fervor that we celebrate today.

Ms. PELOSI. Mr. Speaker, I rise today in support of House Resolution 465, a bill to congratulate Cyprus on the 30th anniversary of its independence.

Our message of congratulations to Cyprus is not as celebratory as it should be. Over 16 years ago, the Turks invaded Cyprus and still, the Turkish troops remain. Cypriot cultural artifacts are systematically destroyed and Turkish intransigence at the bargaining table clouds the outlook for a peaceful, bicommunal resolution of the Cyprus conflict.

The Cypriot children bear scars as a result of the unnatural division of their homeland. They are denied the freedom to see the homes of their parents and are growing up in a climate of uncertainty and fear. For the sake of the children of tragically divided Cyprus, we must do everything in our power to promote a solution for a United Cyprus.

House Resolution 465, before us today, expresses the sense of the House that the United States should continue its strong support of the U.N. Secretary General in his effort to find a solution for a united and peaceful Cyprus. The world's new strategic order provides an opportunity for a reevaluation of the old United States-Turkey relationship. Now the United States should push for an end to the impasse on Cyprus. It is important that this historic opportunity not be missed by an administration preoccupied by its desire to stop Saddam Hussein.

With the passage of House Resolution 465, Congress is sending the message that the United States wants Turkey, and Rauf Denktash, to end the Cyprus stalemate. The children of Cyprus deserve a future full of the promise and freedom that has for so long been denied them—a future in which the green line can become a green light for unrestrained movement, unrestricted settlement, and unleashed optimism.

Hopefully, next year when we congratulate Cyprus on its anniversary, it will be a real celebration of a free and united Cyprus. I urge my colleagues to support this resolution.

Ms. SNOWE. Mr. Speaker, I would like to express my strong support for House resolution, a resolution congratulating the Republic of Cyprus on its 30th anniversary of independence.

In many ways, this is a time for unreserved celebration. Cyprus gained its independence from Britain in 1961 during an era of global decolonization. This was a time of great expectations and hope for newly independent nations throughout the world. During the decades of the 1960's and 1970's, however, hopes and expectations in many emerging countries were dashed on the rocks or failed economic policies and self-destructive ideologies.

During this period, up until the Turkish illegal invasion and occupation of northern Cyprus in 1974, the Republic of Cyprus prospered in a turbulent region. We should celebrate no less, however, the tremendous accomplishments of the Republic of Cyprus since 1974, when the people of Cyprus suddenly found their economic infrastructure destroyed by war and the most productive 40 percent of their territory occupied by a foreign power. Since then, the Cypriot people have rebuilt their nation a second time in the face of almost overwhelming adversity.

I urge my colleagues to take this moment of celebration to reflect and rededicate themselves to breaking the deadlock that for 16 years has made this otherwise happy anniversary a bittersweet occasion. At a time when freedom is sweeping the world, Cyprus should join the ranks of divided nations such as Germany, which in 2 days will emerge whole after years of partial foreign occupation and domination. Despite all of the dramatic events of the past year, Europe will never be truly whole nor fully free until Cyprus once again has regained its full independence and territorial integrity.

Mr. Speaker, I once again congratulate the people of Cyprus on their 30th anniversary of independence, and I urge my colleagues to support House Resolution 465.

Mr. MRAZEK. Mr. Speaker, I rise in strong support of House Resolution 465, commemorating the 30th anniversary of the independence of the Republic of Cyprus. The peoples and Governments of the United States and Cyprus have long enjoyed warm, friendly, cooperative relations and this resolution is a proper recognition of that fact.

Mr. Speaker, as this resolution implicitly indicates, the United States and the international community recognize the Government of the Republic of Cyprus as the only legitimate government of all the Cypriot people. In that respect, I am particularly pleased that the resolution mentions President Vassiliou by name. I have had the honor and pleasure of meeting President Vassiliou, and I believe that he is extremely dedicated to and capable of pursuing and reaching a negotiated solution to the sad and thorny problem of the division of Cyprus, perhaps more so than any of his predecessors.

The resolution correctly states strong United States support for U.N. Secretary General Pérez de Cuéllar's mediation efforts on Cyprus. This is the only path to peace. President Vassiliou has worked closely and in good

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faith with the Secretary General. Regrettably, as demonstrated in the U.N.-sponsored talks in New York earlier this year, the same cannot be said of the Turkish-Cypriot leader.

Mr. Speaker, since the subject of the Persian Gulf crisis is so much on our minds, I would like to note that the Government of the Republic of Cyprus strongly supports and is strictly implementing the U.N.-approved economic embargo of Iraq.

I urge my colleagues to support this resolution, and only hope that when it is time to celebrate the next anniversary of independence for Cyprus, that some progress has been made on reuniting the two communities on this troubled island.

Mr. FEIGHAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and agree to the resolution, House Resolution 465.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FEIGHAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on House Resolution 465, the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

□ 1430

AVIATION SECURITY IMPROVEMENT ACT OF 1990

Mr. ANDERSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5732) to promote and strengthen aviation security, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5732

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Aviation Security Improvement Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—AVIATION SECURITY

Sec. 101. Director of Intelligence and Security.
Sec. 102. Annual aviation security report; budget.
Sec. 103. Assistant Administrator for Civil Aviation Security.
Sec. 104. Federal Security Managers and Foreign Security Liaison Officers.
Sec. 105. Air carrier and airport security personnel.
Sec. 106. Assessment of threats to domestic airport security.
Sec. 107. Research and development.
Sec. 108. Deployment of explosive detection equipment.
Sec. 109. Threats to civil aviation; public notification.
Sec. 110. Airport construction guidelines.
Sec. 111. Intelligence.
Sec. 112. Screening of mail and cargo.

TITLE II—UNITED STATES RESPONSE TO TERRORISM AFFECTING AMERICANS ABROAD

Sec. 201. International negotiations concerning aviation security.
Sec. 202. Coordinator for counterterrorism.
Sec. 203. Passenger manifest.
Sec. 204. Department of State notification of families of victims.
Sec. 205. Designation of State Department-family liaison and toll-free family communications system.
Sec. 206. Disaster training for State Department personnel.
Sec. 207. Department of State responsibilities and procedures at international disaster site.
Sec. 208. Recovery and disposition of remains and personal effects.
Sec. 209. Assessment of Lockerbie experience.
Sec. 210. Official Department of State recognition.
Sec. 211. Proposal to increase limit on carrier liability under the Warsaw Convention.
Sec. 212. United States Government compensation for victims of terrorism.
Sec. 213. Overseas security electronic bulletin board.
Sec. 214. Antiterrorism assistance.
Sec. 215. Antiterrorism measures.
Sec. 216. Proposal for consideration by the international civil aviation organization.

SEC. 2. FINDINGS.

Congress finds that—

(1) the safety and security of passengers of United States air carriers against terrorist threats should be given the highest priority by the United States Government;

(2) the report of the President's Commission on Aviation Security and Terrorism, dated May 15, 1990, found that current aviation security systems are inadequate to provide such protection;

(3) the United States Government should immediately take steps to ensure fuller compliance with existing laws and regulations relating to aviation security;

(4) the United States Government should work through the International Civil Aviation Organization and directly with foreign governments to enhance aviation security of foreign carriers and at foreign airports;

(5) the United States Government should ensure that enhanced security measures are fully implemented by both United States and foreign air carriers;

(6) all nations belonging to the Summit Seven should promptly amend the Bonn Declaration to extend sanctions for all terrorist acts, including attacks against airports and air carrier ticket offices;

(7) the United States Government, in bilateral negotiations with foreign governments, should emphasize upgrading international aviation security objectives;

(8) the United States Government shoul have in place a mechanism by which th Government notifies the public, on a case by-case basis and through the application o a uniform national standard, of certai credible threats to civil aviation security;

(9) the United States Government has special obligation to United States victim of acts of terrorism directed against thi Nation and should provide prompt assistance to the families of such victims an assure that fair and prompt compensation provided to such victims and their familie and

(10) the United States must have the national will to take every feasible action t prevent, counter, and respond to terroris activities.

TITLE I—AVIATION SECURITY

SEC. 101. DIRECTOR OF INTELLIGENCE AND SECURITY.

(a) ESTABLISHMENT OF POSITION.—There i established in the Office of the Secretary o Transportation the position of Director o Intelligence and Security.

(b) POWERS AND DUTIES.—The Director o Intelligence and Security shall report directly to the Secretary of Transportation an shall have the following duties and power

(1) Receipt, assessment, and distributio of intelligence information relating to long term transportation security.

(2) Development of policies, strategie and plans for dealing with threats to transportation security.

(3) Other planning relating to transportation security, including coordination o countermeasures with appropriate Federa agencies.

(4) Such other duties and powers as th Secretary may prescribe.

(c) CONFORMING AMENDMENT.—Sectio 106(g)(1) of title 49, United States Code, i amended by inserting after "312-314," th following "315-316 (except for the dutie and powers vested in the Director of Intelligence and Security by or under section 10 of the Aviation Security Improvement Ac of 1990),".

SEC. 102. ANNUAL AVIATION SECURITY REPOR BUDGET.

(a) ANNUAL AVIATION SECURITY REPORT.— Section 308 of title 49, United States Cod is amended by adding at the end the following new subsection:

"(f) TRANSPORTATION SECURITY.—

"(1) ANNUAL REPORT.—Not later than December 31 of calendar year 1991 and of eac calendar year thereafter, the Secretar shall submit to Congress an annual repor concerning transportation security, togethe with such recommendations as the Secretary considers appropriate. Such repor shall not contain information contained i annual reports required by sections 315(a of the Federal Aviation Act of 1958, including information described in section 1115(a of such Act. Such annual report may, a necessary, be submitted in 2 parts with part being classified in nature and 1 par being unclassified.

"(2) CONTENTS OF REPORT.—The annua report required by this subsection shall include—

"(A) a summary of the activities of the Director of Intelligence and Security in the 12 month period ending on the date of suc report;

"(B) an assessment of trends and developments in terrorist activities, methods, an other threats to transportation;

"(C) recommendations for research, engineering, and development activities relatin to transportation security, except research, engineering, and development activities relating to aviation security to the extent such activities are covered by the research plan required by section 312(d) of the Federal Aviation Act of 1958;

"(D) legislative and regulatory recommendations, if appropriate;

"(E) funding and staffing requirements of the Director of Intelligence and Security;

"(F) an assessment of funding and staffing requirements, and attainment of existing staffing goals, for carrying out security functions of the Federal Aviation Administration;

"(G) identification and evaluation of cooperative efforts with other Federal intelligence agencies;

"(H) an evaluation of cooperation with foreign transportation and intelligence authorities; and

"(I) the status of implementation of the recommendations of the President's Commission of Aviation Security and Terrorism and the 1987 Department of Transportation Safety Review Task Force and the reasons for any delays in implementation of such recommendations.".

(b) Passenger Screening Reports.—Section 315(a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1356(a)) is amended by striking "semiannual" each place it appears and inserting "annual".

(c) Annual Budget Submission.—The annual budget submission for the Department of Transportation shall include a specific request for the Office of the Director of Intelligence and Security. In determining the budget request for the Director, the Secretary shall take into consideration recommendations contained in the annual report submitted under section 308(f) of title 49, United States Code.

SEC. 103. ASSISTANT ADMINISTRATOR FOR CIVIL AVIATION SECURITY.

Title III of the Federal Aviation Act of 1958 (49 U.S.C. App. 1341-1358) is amended by adding at the end the following new section:

"SEC. 318. ASSISTANT ADMINISTRATOR OF CIVIL AVIATION SECURITY.

"(a) Establishment of Position.—There is established the position of Assistant Administrator for Civil Aviation Security.

"(b) Authority of Administrator.—The Assistant Administrator shall report directly to the Administrator and shall be subject to the Administrator's direction and authority.

"(c) Responsibilities.—The responsibilities of the Assistant Administrator shall include—

"(1) day-to-day management of and operational guidance to field security resources, including Federal Security Managers;

"(2) enforcement of security-related requirements;

"(3) identification of research and development requirements of security-related activities;

"(4) inspections of security systems;

"(5) reporting to the Director of Intelligence and Security such information as may be necessary to permit the Director to fulfill assigned responsibilities; and

"(6) such other functions as the Administrator considers necessary and appropriate.

"(d) Measures To Strengthen Air Transportation Security.—The Assistant Administrator shall review and, as necessary, develop measures to strengthen air transportation security, including—

"(1) measures to strengthen controls over checked baggage in air transportation, such as measures to ensure baggage reconciliation and inspection of items in baggage of passengers which could potentially contain explosive devices;

"(2) measures to strengthen control over individuals with access to aircraft;

"(3) measures to improve testing of security systems;

"(4) measures to ensure the use of best available x-ray equipment for air transportation security purposes; and

"(5) measures to strengthen preflight screening of passengers.".

SEC. 104. FEDERAL SECURITY MANAGERS AND FOREIGN SECURITY LIAISON OFFICERS.

Title III of the Federal Aviation Act of 1958 (49 U.S.C. App. 1341-1358) is further amended by adding at the end the following new section:

"SEC. 319. FEDERAL SECURITY MANAGERS AND FOREIGN SECURITY LIAISON OFFICERS.

"(a) Federal Security Managers.—

"(1) Establishment of position.—Not later than 90 days after the date of the enactment of this section, the Administrator shall establish the position of Federal Security Manager for each airport in the United States at which the Administrator determines that such a Manager is necessary to meet the needs of air transportation security and begin stationing such Managers at such airports.

"(2) 2-year stationing requirement.—Not later than 2 years after the date of the enactment of this section, the Administrator shall have stationed a Federal Security Manager at each airport in the United States which is designated by the Department of Transportation as a category X airport.

"(3) Responsibilities.—The responsibilities of a Federal Security Manager with respect to an airport shall include the following:

"(A) Receipt of intelligence information relating to aviation security.

"(B) Directing the development of a comprehensive security plan for the airport—

"(i) which establishes responsibilities of each such air carrier and the operator with respect to air transportation security at the airport; and

"(ii) which includes measures to be taken during periods of normal airport operations and during periods when there is a need for additional airport security, as determined by the Federal Security Manager.

"(C) Oversight and enforcement of implementation by air carriers and airport operators of Federal security requirements, including the comprehensive plan developed pursuant to subparagraph (B).

"(D) Serving as the on-site coordinator of the response of the Federal Aviation Administration to terrorist incidents and threats at the airport.

"(E) Coordination of day-to-day Federal activities relating to aviation security at the airport.

"(F) Coordination with local law enforcement efforts relating to aviation security.

"(G) Coordination of activities with Federal Security Managers at other airports, as appropriate.

"(4) Authority of assistant administrator.—A Federal Security Manager shall report directly to the office of the Assistant Administrator for Civil Aviation Security.

"(b) Foreign Security Liaison Officers.—

"(1) Establishment of position.—Not later than 90 days after the date of the enactment of this section, the Administrator shall establish the position of Foreign Security Liaison Officer for each airport outside the United States at which the Administrator determines that such an Officer is necessary for air transportation security and shall begin assigning such Officers.

"(2) 2-year requirement.—Not later than 2 years after the date of the enactment of this section, the Administrator shall assign Foreign Security Liaison Officers for airports outside the United States where extraordinary security measures are in place. The Secretary of State shall give high priority to the stationing of such officers.

"(3) Responsibilities.—A Foreign Security Liaison Officer shall be responsible (A) for serving as the liaison of the Assistant Administrator for Civil Aviation Security with foreign security authorities (including foreign governments and airport authorities) with respect to implementation of Federal security requirements at the airport, and (B) to the extent practicable, for performing the responsibilities set forth in subsection (a)(3).

"(4) Authority of assistant administrator.—A Foreign Security Liaison Officer shall report directly to the office of the Assistant Administrator for Civil Aviation Security.

"(5) Coordination with chief of united states diplomatic mission.—The activities of a Foreign Security Liaison Officer shall be coordinated with the chief of the United States diplomatic mission to which the officer is assigned. All activities of a Foreign Security Liaison Officer pursuant to this subsection shall be consistent with the authorities of the Secretary of State and the chief of mission to a foreign country under section 103 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 and section 207 of the Foreign Service Act of 1980.

"(c) Long-Term Implementation Plan.—Not later than 180 days after the date of the enactment of this section, the Administrator shall submit to Congress a plan to fully implement the requirements of this section. Such plan shall include a schedule for implementation and an assessment of personnel and funding needs.".

SEC. 105. AIR CARRIER AND AIRPORT SECURITY PERSONNEL.

(a) In General.—Section 316 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1357) is amended by adding at the end the following new subsections:

"(g) Air Carrier and Airport Security Personnel.—

"(1) Employment investigations.—

"(A) In general.—In order to ensure the security of aircraft and their passengers, crew, and cargo, the Administrator shall issue regulations to require individuals employed in, and individuals applying for, positions described in subparagraph (B) to be subjected to such employment investigations, including criminal history record check, as the Administrator determines necessary to ensure air transportation security.

"(B) Individuals subject to employment investigations.—An individual shall be subject to an employment investigation under subparagraph (A) if such individual is employed in, or is applying for, a position in which such individual has unescorted access, or may authorize others to have unescorted access, to air carrier or foreign air carrier aircraft or to secured areas of United States airports serving air carriers or foreign air carriers.

"(C) Requirements of air carriers and airport operators.—Any air carrier, foreign

air carrier, or airport operator who employs an individual in a position described in subparagraph (B), or authorizes or contracts for the services of such individual, shall take such actions as may be necessary to ensure that any employment investigation required by the Administrator under subparagraph (A) is performed.

"(2) Criminal history records check.—

"(A) In general.—If, as part of an employment investigation under paragraph (1)(A), the Administrator requires an identification and criminal history record check of an individual in a position described in paragraph (1)(B) to be conducted by the Attorney General, the Administrator (after consultation with the Attorney General) shall designate persons to obtain and transmit fingerprints to the Attorney General. The costs of any such check shall be paid by the employer of such individual. The Attorney General may for the purposes of this subsection make available the results of any such check to persons designated by the Administrator, after consultation with the Attorney General.

"(B) Regulations.—For purposes of administering this subsection, the Administrator shall prescribe regulations to—

"(i) implement procedures for taking fingerprints; and

"(ii) establish requirements for use of information received from the Attorney General under this subsection in order to limit the dissemination of such information and ensure that such information is used solely for the purposes of this subsection.

"(C) Correction of check information.—An individual who, as part of an employment investigation under paragraph (1)(A), is subject to an identification and criminal history records check shall be provided a copy of any record received from the Attorney General and shall have the right to complete and correct the information contained in such check before any final employment decision is made on account of such check.

"(3) Employment restrictions.—

"(A) In general.—Except as provided in subparagraph (B), an air carrier, foreign air carrier, or airport operator shall not employ, or authorize or contract for the services of, any individual in a position described in paragraph (1)(B), if—

"(i) such individual has not been subject to an employment investigation required under paragraph (1)(A); or

"(ii) the results of such investigation establish that such individual in the 10-year period ending on the date of such investigation has been convicted in any jurisdiction of a crime set forth in section 902(b), (c), (h), (i), (j), (k), (l), (m), (n), (q), or (r); a crime set forth in section 32 of title 18, United States Code; murder; assault with intent to murder; espionage; sedition; treason; rape; kidnapping; unlawful possession, sale, distribution, or manufacture of an explosive or weapon; extortion; armed robbery; distribution of, or intent to distribute, a controlled substance; or conspiracy to commit any of the aforementioned criminal acts.

The Administrator may specify other factors which the Administrator determines to be sufficient to make an individual ineligible for employment in a position described in paragraph (1)(B).

"(B) Exception.—It shall not be a violation of subparagraph (A) for an air carrier, foreign air carrier, or airport operator to employ, or authorize or contract for employment of, an individual in a position described in paragraph (1)(B) who has not been subject to an employment investigation required by paragraph (1)(A), if the employment of such individual is carried out pursuant to a plan approved by the Administrator which provides alternate security arrangements.

"(4) Limitation on statutory construction.—Nothing in this subsection shall be construed as requiring investigations or record checks where such investigations or record checks are prohibited by applicable laws of a foreign government.

"(5) Fees and charges.—The Administrator and the Attorney General shall establish reasonable fees and charges to cover expenses incurred in carrying out this subsection. The amount of fees collected under this paragraph shall be credited to the accounts in the Treasury from which such expenses were incurred and shall be available to the Administrator and the Attorney General for paying expenses for which such fees are collected.

"(h) Employment Standards.—Not later than 270 days after the date of the enactment of this subsection, the Administrator shall prescribe standards for the hiring, continued employment, and contracting of air carrier and, as appropriate, airport security personnel. Such standards shall include—

"(1) minimum training requirements for new employees;

"(2) retraining requirements;

"(3) minimum staffing levels; and

"(4) minimum language skills.

"(i) Human Factors.—The Administrator, in coordination with air carriers, airport operators, and other interested persons shall review issues relating to human performance in the aviation security system with the goal of maximizing such performance. Upon completion of the review, the Administrator shall recommend guidelines and prescribe appropriate changes to existing procedures to improve such performance.

"(j) Training of Air Carrier and Airport Security Personnel.—Not later than 180 days after the date of the enactment of this subsection, the Administrator shall prescribe standards for the education and training of—

"(1) ground security coordinators;

"(2) security supervisory personnel; and

"(3) airline pilots as in-flight security coordinators.

Such standards shall include initial training, retraining, and continuing education requirements and methods by which the performance of ground security coordinators and security supervisory personnel shall be measured annually.

"(k) Foreign Air Carrier Security Programs.—

"(1) Continuation of existing approval requirement.—The Administrator shall continue in effect the requirement of section 129.25 of title 14, Code of Federal Regulations, that foreign air carriers must adopt and use a security program approved by the Administrator.

"(2) Level of protection.—The Administrator may approve a security program of a foreign air carrier under the requirement referred to in paragraph (1) only if the Administrator finds that the security program provides passengers of the foreign air carrier with the same level of protection as such passengers would receive under the security programs of air carriers serving the same airports.

"(3) Review of existing programs.—Not later than 1 year after the date of the enactment of this subsection, the Administrator shall take such action as may be necessar to ensure that a security program of a fo eign air carrier approved by the Administrator before such date of enactment meets th requirement of paragraph (2).

"(4) Annual report.—The Administrato shall submit to Congress as part of th annual report required by section 315(a) a assessment of the steps being taken, and th progress being made, in ensuring that fo eign air carrier security programs for ai ports outside the United States—

"(A) at which the Administrator dete mines that a Foreign Security Liaison Off cer is necessary for air transportation security, and

"(B) for which extraordinary securit measures are in place,

are in compliance with this subsection.".

(b) Conforming Amendment.—The portio of the table of contents contained in th first section of the Federal Aviation Act o 1958 which appears under the side headin is amended by adding at the end thereof th following:

"Sec. 316. Air transportation security."

"(g) Air carrier and airport securit personnel

"(h) Employment standards

"(i) Human factors

"(j) Training of air carrier and airpor security personnel

"(k) Foreign air carrier security programs

"(l) Passenger manifest."

(c) Regulations.—Not later than 180 day after the date of the enactment of this Act the Administrator of the Federal Aviatio Administration shall issue regulations implementing subsection (k)(2) of the Federa Aviation Act of 1958 (49 U.S.C. 1357), as inserted by subsection (a) of this section.

SEC. 106. ASSESSMENT OF THREATS TO DOMESTIC AIRPORT SECURITY.

(a) General Assessment.—The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation shall jointly conduct an assessment of current and potential threats to the domestic air transportation system Such assessment shall include consideration of the extent to which there are individuals with the capability and intent to carry out terrorist or related unlawful acts against the domestic aviation system and the methods by which such individuals might carry out such acts.

(b) Analysis and Monitoring.—The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation shall jointly determine and implement the most effective method for continually analyzing and monitoring security threats to the domestic air transportation system.

(c) Assessments With Respect to Individual Airports.—The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation shall jointly conduct periodic threat and vulnerability assessments with respect to the security of individual airports which are part of the domestic air transportation system. Each such assessment shall include consideration of—

(1) the adequacy of security procedures with respect to the handling and transport of checked baggage, cargo, and mail;

(2) space requirements for security personnel and equipment;

(3) separation of screened and unscreened passengers, baggage, cargo, and mail;

(4) separation of the controlled and uncontrolled areas of airport facilities; and

(5) coordination of the activities of security personnel of the United States Customs Service, the Immigration and Naturalization Service, the Federal Aviation Administration, air carriers, and of other law enforcement personnel.

(d) Reports to Congress.—The Administrator of the Federal Aviation Administration shall transmit to Congress an annual report on the progress being made and the problems occurring in implementation of this section, together with recommendations for improving domestic air transportation security.

(e) Remedying Security Deficiencies.—The Administrator of the Federal Aviation Administration shall take such actions as may be necessary to improve domestic air transportation security by remedying any deficiencies in such security discovered as a result of the assessments, analyses, and monitoring conducted under this section.

SEC. 107. RESEARCH AND DEVELOPMENT.

Section 316(d) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1351(d)) is amended by adding at the end the following new paragraphs:

"(3) Program to accelerate research.—

"(A) In general.—The Administrator shall establish and carry out a program to accelerate and expand the research, development, and implementation of technologies and procedures to counteract terrorist acts against civil aviation.

"(B) Review of threats.—Not later than 180 days after the date of the enactment of this paragraph, the Administrator shall complete an intensive review of threats to civil aviation, with particular focus on—

"(i) the explosive materials which present the most significant threat to civil aircraft;

"(ii) the minimum amounts, configurations, and types of explosive material which would likely cause catastrophic damage to commercial aircraft in service and expected to be in service in the 10-year period beginning on such date;

"(iii) the amounts, configurations, and types of explosive material which can reliably be detected by existing, or reasonably anticipated, near-term explosive detection technologies;

"(iv) the feasibility of employing various methods to minimize damage caused by explosive materials which cannot be reliably detected by existing, or reasonably anticipated, near-term explosive detection technologies;

"(v) the ability to screen such different entities as passengers, carry-on baggage, checked baggage, mail, and cargo; and

"(vi) the technologies which might be used in the future to attempt to destroy or otherwise threaten commercial aircraft and the methods by which such technologies can be effectively countered.

"(C) Use of results.—The results of such review shall be used by the Administrator in developing the focus and priorities of the program established under this paragraph.

"(D) Design and implementation.—In designing and implementing the program established under this paragraph, the Administrator shall—

"(i) consult and coordinate with other Federal agencies conducting similar research;

"(ii) identify Federal agencies which would benefit from such research; and

"(iii) seek cost-sharing agreements with such Federal agencies.

."(4) Purpose.—It shall be the purpose of the program established under paragraph (3) to develop and have in place not later than 36 months after the date of the enactment of this paragraph such new equipment and procedures as are needed to meet the technological challenges presented by terrorism.

"(5) Human factors.—The program established under paragraph (3) shall include research and development of both technological improvements and ways to enhance human performance.

"(6) Grants and cooperative agreements.—Amounts appropriated for each fiscal year under paragraph (9) shall be made available by the Administrator, by way of grants, to colleges, universities, and other appropriate research institutions and facilities with demonstrated ability to conduct research described in paragraph (3). Such grants shall be in such amounts, and subject to such terms and conditions, as the Administrator may prescribe. The Administrator may also enter into such cooperative agreements with such governmental entities as the Administrator considers appropriate.

"(7) Review.—In administration of the program established under paragraph (3), the Administrator shall review and consider the annual reports of the Secretary of Transportation submitted to Congress on transportation security and intelligence.

"(8) Scientific advisory panel.—The Administrator shall establish a scientific advisory panel, as a subcommittee of the Research, Engineering and Development Advisory Committee, for the purpose of reviewing, commenting on, and advising the Administrator on the progress of, and any necessary modifications to, the programs established under paragraph (3), including the need for long-range research programs to detect and prevent catastrophic damage to commercial aircraft by the next generation of terrorist weapons. The panel shall consist of individuals with scientific and technical expertise in—

"(A) the development and testing of effective explosive-detection systems;

"(B) aircraft structure and experimentation to determine the type and minimum weights of explosives which an effective technology must be capable of detecting;

"(C) technologies involved in the minimization of airframe damage to aircraft from explosives; and

."(D) such other scientific and technical areas as are considered appropriate by the Administrator.

"(9) Authorization of appropriations.—There are authorized to be appropriated from the Airport and Airway Trust Fund, after completion of the review required by paragraph (3)(B), such sums as may be necessary for the purpose of carrying out the grant program established by paragraph (6).".

SEC. 108. DEPLOYMENT OF EXPLOSIVE DETECTION EQUIPMENT.

Title III of the Federal Aviation Act of 1958 (49 U.S.C. App. 1341-1358) is further amended by adding at the end the following new section:

"SEC. 320. DEPLOYMENT OF EXPLOSIVE DETECTION EQUIPMENT.

"No deployment or purchase of any explosive detection equipment pursuant to section 108.7(b)(8) and 108.20 of title 14, Code of Federal Regulations, or any similar rule, shall be required after the date of the enactment of this section, unless the Administrator determines that an emergency situation requires such deployment or purchase or certifies that, based on the results of tests conducted pursuant to protocols developed in consultation with expert scientists from outside the Federal Aviation Administration, such equipment alone or as part of an integrated system can detect the amounts, configurations, and types of explosive material which would be likely to be used to cause catastrophic damage to commercial aircraft with 60 or more passenger seats.".

SEC. 109. THREATS TO CIVIL AVIATION; PUBLIC NOTIFICATION.

(a) In General.—Title III of the Federal Aviation Act of 1958 (49 U.S.C. App. 1341-1358) is further amended by adding at the end the following new section:

"SEC. 321. REPORTING OF THREATS TO CIVIL AVIATION.

"(a) In General.—Any air carrier, airport operator, travel agent, or individual employed by such an entity, receiving information, other than through a communication directed by the Federal Government, of a threat to civil aviation, shall immediately provide such information to—

"(1) an official of the Federal Aviation Administration;

"(2) the Director of Intelligence and Security; or

"(3) other appropriate officials, as specified by the Administrator.

"(b) Flight Cancellations.—In the event that a determination is made that a particular threat to civil aviation cannot be addressed in a manner adequate to ensure, to the extent feasible, the safety of the passengers and crew of a particular flight or series of flights, the Administrator shall order the cancellation of such flight or series of flights.

"(c) Notification Guidelines.—

"(1) Public notification guidelines.—Not later than 180 days after the date of the enactment of this section, the Administrator, in coordination with the Secretary of State and the Attorney General, shall develop guidelines for ensuring notification to the public of threats to civil aviation in appropriate cases.

"(2) Flight and cabin crew notification guidelines.—Not later than 180 days after the date of the enactment of this section, the Administrator shall develop guidelines for ensuring notification of the flight and cabin crews of an air carrier flight of threats to the security of such flight in appropriate cases.

"(d) Responsibilities.—The guidelines developed under subsection (c)(1) shall identify officials responsible for—

"(1) determining, on a case-by-case basis, if public notification of a threat is in the best interest of the United States and the traveling public;

"(2) ensuring that public notification, when considered appropriate, is made in a timely and effective manner, including the use of a toll-free telephone number; and

"(3) canceling the departure of a flight or series of flights under subsection (b).

"(e) Criteria.—The guidelines developed pursuant to subsection (c)(1) shall provide for the consideration of—

"(1) the specificity of the threat;

"(2) the severity of the threat;

"(3) the credibility of intelligence information related to the threat;

"(4) the ability to effectively counter the threat;

"(5) the protection of intelligence information sources and methods;

"(6) cancellation, by an air carrier or the Administrator, of a flight or series of flights instead of public notification;

"(7) the ability of passengers and crew to take steps to reduce the risk to their safety as a result of any notification; and

"(8) such other factors as the Administrator considers appropriate.

"(f) Selective Notification Prohibited.—In no event shall there be notification of a threat to civil aviation to only selective potential travelers unless such threat applies only to them.

"(g) Distribution.—The guidelines developed pursuant to subsection (c) shall be distributed for use by appropriate officials of the Department of Transportation, the Department of State, the Department of Justice, and air carriers.

"(h) Access to Information.—The Administrator, in cooperation with the Secretary of State, the Attorney General, intelligence agencies, law enforcement officials, and others involved in the collection and analysis of intelligence information relating to aviation security, shall develop procedures to minimize the number of individuals having access to threat information. Any restrictions adopted pursuant to this subsection shall not diminish the ability of the Federal Government to effectively discharge its responsibilities relating to aviation security, including notification of the public and flight and cabin crews under subsection (c).".

(b) Conforming Amendments to Table of Contents.—The portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 relating to title III of such Act is amended by inserting after the item relating to section 317 the following new items:

"Sec. 318. Assistant Administrator of Civil Aviation Security.
"(a) Establishment of position.
"(b) Authority of Administrator.
"(c) Responsibilities.
"(d) Measures to strengthen air transportation security.
"Sec. 319. Federal Security Managers and Foreign Security Liaison Officers.
"(a) Federal Security Managers.
"(b) Foreign Security Liaison Officers.
"(c) Long-term implementation plan.
"Sec. 320. Deployment of explosive detection equipment.
"Sec. 321. Reporting of threats to civil aviation.
"(a) In general.
"(b) Flight cancellations.
"(c) Notification guidelines.
"(d) Responsibilities.
"(e) Criteria.
"(f) Selective notification prohibited.
"(g) Distribution.
"(h) Access to information.".

SEC. 110. AIRPORT CONSTRUCTION GUIDELINES.

(a) In General.—Section 612 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1432) is amended by adding at the end the following new subsection:

"(d) Airport Construction Guidelines.—The Administrator, in consultation with airport authorities, air carriers, and such others as the Administrator considers appropriate, shall develop guidelines for airport design and construction to allow for maximum security enhancement.".

(b) Conforming Amendment to Table of Contents.—The portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 612. Airport operating certificates."

is amended by adding at the end thereof the following:

"(d) Airport construction guidelines.".

SEC. 111. INTELLIGENCE.

(a) International Terrorism Reporting.—Not later than 180 days after the date of the enactment of this Act, the heads of the agencies of the intelligence community shall promulgate policies and procedures to ensure that intelligence reports concerning international terrorism are made available, as appropriate, to other members of the intelligence community, the Department of Transportation, and the Federal Aviation Administration.

(b) Strategic Planning.—The intelligence community shall consider placing greater emphasis on strategic intelligence efforts through the establishment of a unit for strategic planning concerning terrorism.

(c) Central Intelligence Agency Liaison.—Not later than 90 days after the date of the enactment of this Act, the Director of Central Intelligence, in consultation with the Secretary of Transportation, shall designate not less than one intelligence officer of the Central Intelligence Agency to serve in a senior staff position in the Office of the Secretary of the Department of Transportation.

(d) Review of Memorandums of Understanding.—Not later than 180 days after the date of the enactment of this Act, the intelligence community, the Department of Transportation, and the Federal Aviation Administration shall conduct a review of and, as appropriate, revise all memorandums of understanding and other written working agreements between the intelligence community and the Federal Aviation Administration.

(e) Intelligence Community.—For purposes of this section, the term "intelligence community" means the intelligence and intelligence-related activities of the following agencies of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The Drug Enforcement Administration.

SEC. 112. SCREENING OF MAIL AND CARGO.

(a) Study.—The Administrator of the Federal Aviation Administration shall conduct a study to determine whether additional requirements should be imposed to enhance the security requirements for the transportation of mail and cargo by passenger aircraft.

(b) Factors.—In conducting the study under this section, the Administrator shall consider, among other things—

(1) the extent to which it is practicable to require for mail and cargo the same screening procedures as are required for checked baggage;

(2) constitutional limitations on the authority of the United States Government to screen mail;

(3) existing and reasonably anticipated e
plosive detection technologies capable
screening mail and cargo;
(4) the variation in threat presented b
mail and cargo from various locations;
(5) the use of inspection procedures speci
ic to mail and cargo;
(6) the protection, to the extent possibl
of the privacy of the senders and recipient
of mail;
(7) precise detection of explosive materia
which can cause catastrophic damage t
commercial aircraft; and
(8) the desirability of not unduly delayin
the delivery of mail and cargo.
(c) Consultation Requirement.—In co
ducting the study under this section, th
Administrator shall consult with the Pos
master General, the Secretary of Defens
and other interested persons.
(d) Report.—Not later than 180 days aft
the date of the enactment of this Act, th
Administrator shall transmit to Congress
report on the results of the study conduct
under this section, together with such leg
lative and administrative recommendatio
as the Administrator considers appropriat

TITLE II—UNITED STATES RESPONSE T TERRORISM AFFECTING AMERICAN ABROAD

SEC. 201. INTERNATIONAL NEGOTIATIONS CO CERNING AVIATION SECURITY.

(a) United States Policy.—It is the poli
of the United States—
(1) to seek bilateral agreements to achie
United States aviation security objective
with foreign governments;
(2) to continue to press vigorously for s
curity improvements through the Forei
Airport Security Act and the foreign airpo
assessment program; and
(3) to continue to work through the Inte
national Civil Aviation Organization to i
prove aviation security internationally.
(b) Negotiations for Aviation Secur
ty.—(1) The Department of State, in consu
tation with the Department of Transport
tion, shall be responsible for negotiatin
requisite aviation security agreements wit
foreign governments concerning the impl
mentation of United States rules and reg
lations which affect the foreign operation
of United States air carriers, foreign air ca
riers, and foreign international airport
The Secretary of State is directed to ente
expeditiously, into negotiations for bilater
and multilateral agreements—
(A) for enhanced aviation security obje
tives;
(B) to implement the Foreign Airport S
curity Act and the foreign airport asses
ment program to the fullest extent practic
ble; and
(C) to achieve improved availability o
passenger manifest information.
(2) A principal objective of bilateral an
multilateral negotiations with foreign go
ernments and the International Civil Avi
tion Organization shall be improved avai
ability of passenger manifest information.

SEC. 202. COORDINATOR FOR COUNTERTERRORIS

The Coordinator for Counterterroris
shall be responsible for the coordination o
international aviation security for the De
partment of State.

SEC. 203. PASSENGER MANIFEST.

(a) Mandatory Availability of Passenge
Manifest.—Section 316 of the Federal Avia
tion Act of 1958 (49 U.S.C. App. 1357) is fu
ther amended by adding at the end the fo
lowing new subsection:
"(l) Passenger manifest.—

"(1) Not later than 60 days after the date of the enactment of this subsection, the Administrator shall require all United States air carriers to provide a passenger manifest for any flight to appropriate representatives of the United States Department of State not later than 3 hours after any such carrier is notified of an aviation disaster outside the United States which involves such flight.

"(2) For purposes of this subsection, a passenger manifest should include the following information:

"(A) the full name of each passenger;

"(B) the passport number of each passenger, if required for travel; and

"(C) the name and telephone number of a contact for each passenger.".

(b) Implementation.—In implementing the requirement pursuant to the amendment made by subsection (a) of this section, the Administrator shall consider the necessity and feasibility of requiring United States carriers to collect passenger manifest information as a condition for passenger boarding of any flight subject to such requirement.

(c) Foreign Air Carriers.—The Administrator shall consider a requirement for foreign air carriers comparable to that imposed pursuant to subsection (a).

(d) Information from United States Passports.—Notwithstanding any other provision of law, to the extent provided in appropriation acts, for each fiscal year not more than $5,000,000 in passport fees collected by the Department of State may be credited to a Department of State account. Amounts credited to such account shall be available only for the costs associated with the acquisition and production of machine-readable United States passports and visas and compatible reading equipment. Amounts credited to such account are authorized to remain available until expended.

SEC. 204. DEPARTMENT OF STATE NOTIFICATION OF FAMILIES OF VICTIMS.

(a) Department of State Policy.—It is the policy of the Department of State pursuant to section 43 of the State Department Basic Authorities Act to directly and promptly notify the families of victims of aviation disasters abroad concerning citizens of the United States directly affected by such a disaster, including timely written notice. The Secretary of State shall ensure that such notification by the Department of State is carried out notwithstanding notification by any other person.

(b) Department of State Guidelines.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such regulations, guidelines, and circulars as are necessary to ensure that the policy under subsection (a) is fully implemented.

SEC. 205. DESIGNATION OF STATE DEPARTMENT-FAMILY LIAISON AND TOLL-FREE FAMILY COMMUNICATIONS SYSTEM.

(a) Designation of State Department-Family Liaison.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of an aviation disaster directly involving United States citizens abroad, if possible, the Department of State will assign a specific individual, and an alternate, as the Department of State liaison for the family of each such citizen.

(b) Toll-Free Communications System.—In the establishment of the Department of State toll-free communications system to facilitate inquiries concerning the affect of any disaster abroad on United States citizens residing or traveling abroad, the Secretary of State shall ensure that a toll-free telephone number is reserved for the exclusive use of the families of citizens who have been determined to be directly involved in any such disaster.

SEC. 206. DISASTER TRAINING FOR STATE DEPARTMENT PERSONNEL.

(a) Additional Training.—The Secretary of State shall institute a supplemental program of training in disaster management for all consular officers.

(b) Training Improvements.—

(1) In expanding the training program under subsection (a), the Secretary of State shall consult with death and bereavement counselors concerning the particular demands posed by aviation tragedies and terrorist activities.

(2) In providing such additional training under subsection (a) the Secretary of State shall consider supplementing the current training program through—

(A) providing specialized training to create a team of "disaster specialists" to deploy immediately in a crisis; or

(B) securing outside experts to be brought in during the initial phases to assist consular personnel.

SEC. 207. DEPARTMENT OF STATE RESPONSIBILITIES AND PROCEDURES AT INTERNATIONAL DISASTER SITE.

(a) Dispatch of Senior State Department Official to Site.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of an international disaster, particularly an aviation tragedy, directly involving significant numbers of United States citizens abroad not less than one senior officer from the Bureau of Consular Affairs of the Department of State shall be dispatched to the site of such disaster.

(b) Criteria for Department of State Staffing at Disaster Site.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall promulgate criteria for Department of State staffing of disaster sites abroad. Such criteria shall define responsibility for staffing decisions and shall consider the deployment of crisis teams under subsection (d). The Secretary of State shall promptly issue such rules and guidelines as are necessary to implement criteria developed pursuant to this subsection.

(c) State Department Omaudsman.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of an international aviation disaster involving significant numbers of United States citizens abroad not less than one officer or employee of the Department of State shall be dispatched to the disaster site to provide on-site assistance to families who may visit the site and to act as an ombudsman in matters involving the foreign local government authorities and social service agencies.

(d) Crisis Teams.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall promulgate procedures for the deployment of a "crisis team", which may include public affairs, forensic, and bereavement experts, to the site of any international disaster involving United States citizens abroad to augment in-country Embassy and consulate staff. The Secretary of State shall promptly issue such rules and guidelines as are necessary to implement procedures developed pursuant to this subsection.

SEC. 208. RECOVERY AND DISPOSITION OF REMAINS AND PERSONAL EFFECTS.

It is the policy of the Department of State (pursuant to section 43 of the State Department Basic Authorities Act) to provide liaison with foreign governments and persons and with United States air carriers concerning arrangements for the preparation and transport to the United States of the remains of citizens who die abroad, as well as the disposition of personal effects. The Secretary of State shall ensure that regulations and guidelines of the Department of State reflect such policy and that such assistance is rendered to the families of United States citizens who are killed in terrorist incidents and disasters abroad.

SEC. 209. ASSESSMENT OF LOCKERBIE EXPERIENCE.

The Secretary of State shall compile an assessment of the Department of State response to the Pan American Airways Flight 103 aviation disaster over Lockerbie, Scotland, on December 21, 1988, together with guidelines for future Department of State responses to comparable disasters, for general distribution to all United States diplomatic and consular posts abroad.

SEC. 210. OFFICIAL DEPARTMENT OF STATE RECOGNITION.

Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall promulgate guidelines for appropriate ceremonies or other official expressions of respect and support for the families of United States citizens who are killed through acts of terrorism abroad.

SEC. 211. PROPOSAL TO INCREASE LIMIT ON CARRIER LIABILITY UNDER THE WARSAW CONVENTION.

It is the sense of the Congress that the United States should take all appropriate action to increase limits on carrier liability established by the Convention for the Unification of Certain Rules Relating to International Transportation by Air (concluded at Warsaw, Poland, October 12, 1929), commonly known as the Warsaw Convention.

SEC. 212. UNITED STATES GOVERNMENT COMPENSATION FOR VICTIMS OF TERRORISM.

(a) Compensation.—The President shall submit to the Congress, not later than one year after the date of the enactment of this Act, recommendations on whether or not legislation should be enacted to authorize the United States to provide monetary and tax relief as compensation to United States citizens who are victims of terrorism.

(b) Board.—The President may establish a board to develop criteria for compensation and to recommend changes to existing laws to establish a single comprehensive approach to victim compensation for terrorist acts.

(c) Income Tax Benefit for Victims of Lockerbie Terrorism.—

(1) In general.—Subject to paragraph (2), in the case of any individual whose death was a direct result of the Pan American Airways Flight 103 terrorist disaster over Lockerbie, Scotland, on December 21, 1988, any tax imposed by subtitle A of the Internal Revenue Code of 1986 shall not apply—

(A) with respect to the taxable year which includes December 21, 1988, and

(B) with respect to the prior taxable year.

(2) Limitation.—In no case may the tax benefit pursuant to paragraph (1) for any taxable year, for any individual, exceed an amount equal to 28 percent of the annual rate of basic pay at Level V of the Executive Schedule of the United States as of December 21, 1988.

SEC. 213. OVERSEAS SECURITY ELECTRONIC BULLETIN BOARD.

Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and regulations as may be necessary to establish, under the Bureau of Consular Affairs, an electronic bulletin board accessible to the general public. Such bulletin board shall contain all information, updated daily, which is available on the Overseas Security Electronic Bulletin Board of the Bureau of Diplomatic Security.

SEC. 214. ANTITERRORISM ASSISTANCE.

(a) Aviation Security.—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated $7,000,000 for fiscal year 1991 for aviation security assistance under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.), relating to antiterrorism assistance.

(b) Training Services.—Section 573 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa2) is amended in subsection (d) by striking out paragraphs (1), (2), and (3) and inserting in lieu thereof the following new paragraphs:

"(1) Training services (including short term refresher training) provided pursuant to this chapter may be conducted outside the United States only if—

"(A) the training to be conducted outside the United States will be provided during a period of not more than 30 days;

"(B) such training relates to—

"(i) aviation security;

"(ii) crisis management;

"(iii) document screening techniques;

"(iv) facility security;

"(v) maritime security;

"(vi) VIP protection; or

"(vii) the handling of detector dogs, except that only short term refresher training may be provided under this clause; and

"(C) at least 15 days before such training is to begin, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified in accordance with the procedures applicable to reprogramming notifications.

"(2) Personnel of the United States Government authorized to advise eligible foreign countries on antiterrorism matters shall carry out their responsibilities, to the maximum extent possible, within the United States. Such personnel may provide advice outside the United States on antiterrorism matters to eligible foreign countries for periods not to exceed 30 consecutive calendar days.

"(3)(A) Except as provided in subparagraph (B), employees of the Department of State shall not engage in the training of law enforcement personnel or the provision of services under this chapter.

"(B) Subparagraph (A) does not apply to training (including short term refresher training) or services provided to law enforcement personnel by employees of the Bureau of Diplomatic Security with regard to crisis management, facility security, or VIP protection.".

SEC. 215. ANTITERRORISM MEASURES.

(a) Guidelines for International Aviation Travelers.—For the purpose of notifying the public, the Secretary of State, in consultation with the Secretary of Transportation, shall develop and publish guidelines for thwarting efforts by international terrorists to enlist the unwitting assistance of international aviation travelers in terrorist activities. Notices concerning such guidelines shall be posted and prominently displayed domestically and abroad in international airports.

(b) Development of International Standards.—The Secretary of State and the Secretary of Transportation in all appropriate fora, particularly talks and meetings related to international civil aviation, shall enter into negotiations with other nations for the establishment of international standards regarding guidelines for thwarting efforts by international terrorists to enlist the unwitting assistance of international aviation travelers in terrorist activities.

(c) Publication of Rewards for Terrorism-Related Information.—For the purpose of notifying the public, the Secretary of State shall publish the availability of United States Government rewards for information on international terrorist-related activities, including rewards available under section 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(a)) and chapter 204 of title 18, United States Code. To the extent appropriate and feasible, notices making such publication shall be posted and prominently displayed domestically and abroad in international airports.

(d) Sense of Congress.—It is the sense of Congress that the Secretary of Transportation should take appropriate measures to utilize and train properly the officers and employees of other United States Government agencies who have functions at international airports in the United States and abroad in the detection of explosives and firearms which could be a threat to international civil aviation.

SEC. 216. PROPOSAL FOR CONSIDERATION BY THE INTERNATIONAL CIVIL AVIATION ORGANIZATION.

Not later than 60 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of Transportation, shall propose to the International Civil Aviation Organization the establishment of a comprehensive aviation security program which shall include (1) training for airport security personnel, (2) grants for security equipment acquisition for certain nations, and (3) expansion of the appropriate utilization of canine teams in the detection of explosive devices in all airport areas, including use in passenger screening areas and nonpublic baggage assembly and processing areas.[H01OC0-T1]{H8475}areas.

The SPEAKER pro tempore (Mr. Studds). Is a second demanded?

Mr. GILMAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. GILMAN. Mr. Speaker, it is our intention to divide our time for purposes of control with the gentleman from Pennsylvania [Mr. Clinger] representing the Committee on Public Works and Transportation.

The SPEAKER pro tempore. Without objection, so ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. Anderson] will be recognized for 20 minutes, the gentleman from Pennsylvania [Mr. Clinger] will be recognized for 10 minutes, and the gentleman from New York [Mr. Gilman] will be recognized for 10 minutes.

The Chair recognizes the gentleman from California [Mr. Anderson].

Mr. ANDERSON. Mr. Speaker, I yield 10 minutes to the gentleman from Florida [Mr. Fascell], the distinguished chairman of the Committee on Foreign Affairs, and I ask unanimous consent that he be allowed to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5732 is a response to the tragic events of December 21, 1988, when a terrorist bomb destroyed Pan American World Airways Flight 103 over Lockerbie, Scotland, killing 259 passengers and crew and 11 residents of the town.

The bill now before us will substantially improve aviation security and could prevent a repetition of the tragedy of Lockerbie. Prompt enactment of this bill is essential to the safety of our citizens traveling by air. Recent events in the Middle East have raised the potential of terrorist attacks on the airlines of the United States and the countries which support us.

The bill incorporates the recommendations of the President's Commission on Aviation Security and Terrorism, created at the behest of the families of the victims of Pan Am 103. The Commission was expert and bipartisan. It was chaired by Ann McLaughlin, former Secretary of Labor in the Reagan administration, and its members included Edward Hidalgo, a former Secretary of the Navy, Gen. Thomas Richards, former Deputy Commander-in-chief of the U.S. European Command, our colleagues Jim Oberstar and John Paul Hammerschmidt, two of the most knowledgeable Members of the House on aviation, and Senators Lautenberg and D'Amato, who have a long-term interest and expertise in aviation.

H.R. 5732 implements many of the Commission's recommendations. Of particular note is the establishment of a new Director of Intelligence and Security in the Department of Transportation, a new Associate Administrator of the Federal Aviation Administration for Security, and the creation of new positions of Federal security managers and liaison officers to coordinate security at high risk airports. These new positions will enhance the attention aviation security receives from the Secretary and the Administrator. Creation of these positions will go a long way toward ensuring that we are taking all possible measures to protect airline passengers.

The bill also establishes new standards for background investigations and training of security personnel, an expedited program of research and development for explosive detection equipment, a joint FAA-FBI assessment of security at domestic airports, and requirements that foreign air carriers offer passengers on flight to the United States the same level of security as we require of U.S. carriers.

Mr. Speaker, the bill now before us is strongly supported by the group representing the families and friends of most of the victims of Pan Am 103. The bill was reported by voice vote in the two committees which considered it. Amendments have been added to meet concerns raised by the administration

Mr. Speaker, this legislation can make a real difference in aviation security. The legislation will be a lasting legacy to those who died in Pan Am 103 and to the tireless work of their families and friends.

I urge my colleagues to join me in passing this important legislation and helping prevent another Lockerbie tragedy.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise to express my strong support for H.R. 5200, a bill to improve our foreign airport security, and I would like to commend the distinguished chairman of our House Foreign Affairs Committee, the gentleman from Florida [Mr. Fascell], as well as our distinguished ranking Republican member of the committee, the gentleman from Michigan [Mr. Broomfield], for their tireless efforts on behalf of the families of the Pan Am 103 victims, to improve the safety and increase the security standards of our Nation's airlines. I also commend the Public Works and Transportation Committee for their diligent work on this legislation.

Mr. Speaker, four of the victims of the Pan Am 103 debacle were my constituents: Theodora Cohen, Mark Zwynenburg, Kenneth Bisset, and Pamela Posen—four innocent victims of one of the most egregious and despicable terrorist incidents in history.

I am, however, pleased to note that we in the Congress are not alone in this fight. Administration officials have done an outstanding job in pursuit of our mutual concerns. In addition, the report of the McLaughlin Commission's was thorough, unbiased, and characteristic of the outstanding work of our former Labor Secretary, the Honorable Ann McLaughlin.

It is my understanding that the administration has already implemented some 70 percent of the McLaughlin Commission's recommendations. This is heartening because after our airport security hearing last July, it is obvious that an overhaul of our current standards and operating procedures is absolutely necessary.

Mr. Speaker, this legislation is not perfect. But I believe it is a good beginning. Let me commend Members and staff on both sides for trying to work out a compromise that is acceptable to most parties.

I wholeheartedly support the call for a U.S. Government airport security manager. Making someone responsible, on-site at our major international airports is absolutely essential in view of the current activities of several notorious international terrorist organizations. I believe the additional oversight required by this measure will significantly enhance our ability to prevent a Pan Am 103 debacle from ever happening again.

One clause in this bill which I particularly support is the requirement for the President to submit to the Congress recommendations for providing monetary and tax relief compensation to U.S. citizens who are victims of terrorism, and gives limited exemption to victims of Pan Am 103 from income tax payments for tax years 1987 and 1988.

I would also like to commend Ambassador Morris Busbee for the outstanding work he has done during his brief tenure as Ambassador-at-Large for Counterterrorism. If I may I would like to say that his Bureau, State Department's counterterrorism office, which is the agency of primary responsibility for formulating our Nation's international counterterrorism policy, should be the recipient of more funding for research and development.

Mr. Speaker, once again I commend the Members and staff who worked so hard on this bill, and I implore all of our colleagues to unanimously support it.

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support for H.R. 5732, the Aviation Security Improvement Act of 1990, which was jointly referred to the Committee on Foreign Affairs and the Committee on Public Works and Transportation. Both committees unanimously reported H.R. 5732 last week.

I would like to first express my deep appreciation to our colleagues on the Public Works Committee, in particular, Jim Oberstar, the chairman of the Aviation Subcommittee and member of the Pan Am 103 Commission, and his ranking member Bill Clinger, as well as the chairman of the full Public Works Committee, Glenn Anderson, and his ranking member, John Paul Hammerschmidt, also a member of the Pan Am Commission.

I would like to commend the chairperson of the Pan Am Commission, Ann McLaughlin whose testimony before the Foreign Affairs and Public Works Committee contributed immeasurably to the development of this legislation. In addition, the following members of the Foreign Affairs Committee have made important contributions to this process: Bill Broomfield, Steve Solarz, Olympia Snowe, Larry Smith, Ted Weiss, Ben Gilman, and Dan Burton.

I would also like to extend my appreciation to the families of the victims of Pan Am 103 and especially my constituent Vicki Cummock. Their tireless efforts to effect changes and to improve aviation security were a driving force behind this legislation. We can never replace their tremendous loss, but we can make a difference by changing the prevailing business as usual attitude toward aviation security.

H.R. 5732 represents countless hours of negotiations between members and staff of the two committees, the executive branch, and representatives of the families of the victims of Pan Am 103. This legislation, in large part, reflects and implements the recommendations of the President's Commission and will, in my opinion, significantly enhance aviation security.

The bill contains a number of important provisions which I believe upgrades aviation security and which will protect the traveling public. The bill as considered by the Public Works Committee has been ably explained by the gentleman from Minnesota [Mr. Oberstar], the chairman of the Aviation Subcommittee. Briefly the bill, as amended by the Committee on Foreign Affairs, contains:

A provision which clarifies the authority and role of the U.S. Chief of Mission vis-a-vis the new Foreign Security Liaison Officer assigned to embassies overseas for purposes of aviation security. This language was included at the request of the Department of State; and

A provision requiring foreign air carriers to implement higher security standards. In other words, it establishes a "level playing field" and gives the American traveling public a better sense of security whether they are traveling on foreign or U.S. airlines. It requires that the Administrator of FAA issue regulations to upgrade foreign air carrier security within 6 months. In my opinion, this provision of H.R. 5732 ensures comparable security standards because it mandates that foreign airlines flying to the United States provide the same level of protection that is provided by U.S. airlines.

However, I had hoped to be able to reach an agreement to further clarify this requirement by stipulating that the ICAO standards are the floor and not the ceiling for approval of foreign air carriers' security programs. I would like to make the record clear that Congress expects that foreign air carrier security programs be upgraded. Given the administration's assessment that there is a current high threat of terrorism which includes threats to civil aviation as a result of the crisis in the Persian Gulf, we should not tolerate any less than the highest security standards possible.

The committee included a requirement that the current State Department Coordinator for Counter-terrorism also be responsible and accountable for the coordination of international aviation security matters. This implements the Commission's recommendation without creating a new box in the bureaucracy of the State Department. I am, however, disappointed that the Department would not agree to restore the status of this office to Ambassador-at-Large. It seems to me that this is an extremely important issue and, while we are not mandating the restoration of the Ambassador-at-Large for Counter-terrorism, we strongly urge the Secretary to reconsider his downgrading of this office.

In addition, H.R. 5732 contains provisions regarding passenger manifests, the use of passport fees, and authorizes an additional $7 million in fiscal year 1991 for antiterrorism training assistance, specifically for aviation security.

Finally, H.R. 5732 provides limited tax relief to the immediate families of the victims of Pan Am 103 comparable to that which was provided to the U.S. Government employees on that flight. The purpose here is to treat equally all the victims of Pan Am 103.

Mr. Speaker, given that we are nearing the end of this Congress and the time constraints of the legislative schedule we must consider this measure under suspension. As I indicated earlier, the Committees on Foreign Affairs and on Public Works have been working on this bill for some time. Discussions have taken place with all those who were interested in this measure. A number of suggested changes were made at the request of the executive branch and it is my understanding that the administration now supports this bill.

Saddam Hussein is actively working with his legions of terror and actively planning terrorist attacks which would target airlines, airports, commercial establishments in Europe and the Middle East.

Now is the time to improve on aviation security and do all we can to protect the traveling public.

□ 1440

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. Goss], a member of the Committee on Foreign Affairs.

Mr. GOSS. Mr. Speaker, I thank my distinguished colleague, the gentleman from New York, for yielding me this time.

Mr. Speaker, much work and thought have gone into this legislation, and it certainly deserves our support.

Much pain and compassion have also gone into this legislation, because it relates to the testimony and the grief of the families of the victims of air terrorism, most notably those involved in the grisly Pan Am tragedy in Scotland.

Promises have been made that we would do everything we could to respond to the thoughtless, senseless, painful waste of human life caused by the perpetrators of air terrorism involved. This bill is our response, and it is a good piece of work.

However, it would not be fair to say that this bill does everything it could do. In fact, it does not. Because fully meaningful penalties for air terrorism are not included apparently, because of germaneness considerations in the committees of jurisdiction, debate was, indeed, forestalled on the mandatory death penalty for those committing acts of air terrorism that result in the death of innocent victims. This debate should take place, and I would hope that many of my colleagues would agree with me that a mandatory death penalty under such circumstances would be beneficial to our commitment to doing all we can to combat terrorism.

I urge passage of the bill under suspension today, and I congratulate the distinguished leadership of the committees involved.

I also ask the support of that leadership to find a way to bring to the House floor the opportunity to debate the mandatory death penalty for those who kill, maim, and butcher innocent victims by act of air terrorism.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. Solomon].

Mr. SOLOMON. Mr. Speaker, let me commend both committees for an excellent piece of legislation.

I was one of the sponsors of H.R. 5200, on which this present bill is based. Let me just say that last September, when the Aviation Security Act passed the House, I was pleased that the House unanimously adopted my amendment, which was later inserted into the International Narcotics Control Act, that now allows the President to offer rewards of up to $2 million for good, solid information that helps us to prevent terrorist acts and apprehend those who would carry out such despicable acts as the bombing of Pan Am 103.

Because of that law, posters like this now appear in airports and public places all over the world. It says:

> Reward for terrorist information. The United States Government is authorized to make payment of up to $2 million for information aiding in the prevention of terrorist acts outside the United States against U.S. citizens or property or for information leading to the arrest or conviction of any person who has committed a terrorist attack against U.S. citizens or property.

I mention my amendment to that former bill in order to underscore my concern that this bill should not be brought before the House under suspension of the rules.

This kind of legislation, and that which was going to be offered by the gentleman from Oklahoma [Mr. Inhofe], should have come before the Committee on Rules so that we could have been debating an open rule which would have allowed the death penalty amendment to be attached to this bill.

Otherwise, gentlemen, you have got a perfect piece of legislation. I just hope that we can continue to really send the message to Saddam Hussein and to the Iraqi terrorists running around the world and in Europe today, that we will not tolerate actions against American citizens anywhere.

Mr. Speaker, let me take a moment to say this to my colleagues. I am truly fearful that we are on the verge of a new, even more horrifying wave of terrorism—set in motion by a dangerous man in the Middle East, Saddam Hussein. A man, I remind my colleagues, who has chemical weapons and has not hesitated to use them.

Recent press reports have informed us that terrorists, specifically Abu Nidal's group, are now laying plans for new acts of terrorism. In fact, according to one such report, a group of Abu Nidal's terrorists are running around Europe right now.

Mr. Speaker, the United States has let Hussein know that it will hold him and his government responsible for any attacks on American or Allied targets that can be traced to pro-Iraqi terrorist groups. The Congress ought to be backing that warning up in every way it can—including passing a mandatory death penalty for terrorism.

Mr. Speaker, the Congress—should send the message now. Who knows, it might serve to deter an attack somewhere, sometime, and save the lives of countless innocent civilians—maybe right here in Washington.

Mr. GILMAN. Mr. Speaker, we thank the gentleman from New York for his remarks.

Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. Boehlert].

Mr. BOEHLERT. Mr. Speaker, I want to commend to my colleagues this very important piece of legislation. It deals with a very sensitive and critically important subject, and two committees have combined on a bipartisan basis to fashion a bill that we can all be proud of.

Particularly I am proud of that section dealing with the subject of public notification. Nevermore do we want a situation like we had with Pan Am flight 103 when there was a dual system of notification. The insiders had privileged information on a bulletin board in Moscow for the Federal Government's employees where there was posted a notice about the threat. The rest of the world did not know about that threat. We nevermore want to have a situation like that.

We want to have a situation where, if there is a serious, credible threat to an airliner, that the public is assured of notification, and I want to commend the chairman of the Subcommittee on Aviation from our full committee for his willingness to work constructively to fashion a section of the bill that will guarantee to the public that nevermore will we have a situation like that.

In the future, and God forbid, I hope it never happens, but in the future if there is a serious, credible threat, that there is a mechanism built into the system for public notification so that the people can make a choice that is critically important.

Second, I want to commend the committee for looking very constructively, at the Thermal Neutron Analysis System Program. Many of us were led to believe, and I think maybe it is a little wishful thinking, that the TNA would solve the problem. All we have to do is spend $1 million per machine, put them in the airports, and then forever more we can screen out all of the explosive devices. Well, it is not quite that simple. It never really is.

□ 1450

It is not yet clearly proven. However, what we have set up is a demonstration program at the high risk airports. We are moving in the right direction.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, the bill before us now implements the recommendations of the President's Commission on Aviation Security and Terrorism. It was an honor for me to serve with Former Secretary of Labor Ann McLaughlin, our Aviation Subcommittee Chairman Jim Oberstar, and the other distinguished individuals on that Commission.

The destruction of Pan Am 103 is a tragedy that has deeply affected this Nation. It is one that we should not, and will not, soon forget. It has already led to changes in the way we guard the security of our Nation's airlines. And it led directly to the creation of the President's Commission on Aviation Security and Terrorism.

This Commission spent many months examining the events that preceded the bombing of Pan Am 103. We examined the shortcomings of our security system and looked for ways to improve it. As a result of our efforts, several solid recommendations were made to improve aviation security. These recommendations are embodied in H.R. 5732, the bill before us now.

H.R. 5732 sets forth several new approaches, some perhaps controversial, to deal with the terrorist threat.

For example, the bill would require the placement of Federal security managers at each high risk airport; background investigations of airport and airline employees; expedited research on new technologies, procedures, and human factors to counter terrorism; new procedures to deal with bomb threats that would prohibit selective notification of such threats; and study to consider the screening of personal mail.

As a member of the President's Commission on Aviation Security and Terrorism, I support this bill because it implements the Commission's recommendations.

Originally, I was concerned about the procedures being used to bring this bill to the floor. During the consideration of this measure in the Public Works and Transportation Committee, I expressed a preference for bringing this bill up under an open rule rather than under suspension.

I did this because there were several Members who wished to offer amendments that could improve the bill. In addition, the administration was seeking changes to the legislation. This suspension procedure would deny them an opportunity to have their suggestions considered.

However, more recently, discussions have been held between the Chairman, the Secretary of Transportation, and Members on this side of the aisle. As a result, changes have been made that should go a long way toward satisfying many of the objections to the bill. These changes alter the position of DOT's senior security official within that agency's structure and give the administration more flexibility regarding the deployment of bomb detection devices and victims compensation.

It is my understanding that while the administration continues to have reservations about this bill, it no longer opposes its passages in the House.

In light of this, I can fully support this bill and urge its passage by the House.

Mr. Speaker, I yield 3 minutes to the distinguished ranking member of the Subcommittee on Aviation, the gentleman from Pennsylvania [Mr. Clinger].

Mr. CLINGER. Mr. Speaker, I am pleased to rise in support of H.R. 5732, because it will enhance the safety of the commercial aviation industry by proposing a number of new security-related performance requirements for air carriers.

Mr. Speaker, as late as this morning I shared the concern of the gentleman from Arkansas [Mr. Hammerschmidt] about the procedure under which the legislation was coming to the floor. There were a number of Members on our side of the aisle who wanted to offer amendments. The administration had some concerns about what was contained in the legislation, but I am pleased to report that because of some changes which have been incorporated in the committee amendment, I am convinced that the body should pass this legislation expeditiously.

The main concern remaining outstanding is the consideration of capital punishment, and I would have hoped that that amendment might have been made in order so that we could have considered that amendment in this legislation, and I would certainly work with those promoting that amendment in other legislation which may be before Members this year.

The concerns that the administration has had with the bill have been addressed in the legislation we are considering here today. The changes that were incorporated in the committee amendment takes the position of Assistant Secretary which is included in the bill at present, and substitutes for that, the position of Director of Intelligence and Security. The key point here is that this individual will have direct access to the Secretary, so that there will be a very expeditious consideration of any intelligence that is brought to the Director's attention that would evidence a risk to lives, and that word would be able to be taken directly to the Secretary.

It also enhances or provides additional flexibility for the Administrator in emergencies to deploy explosive detection equipment in cases where deployment may be prevented because of certification requirements in the law. I think that is also a very welcome addition to the bill.

I just want to commend our colleagues the gentleman from Minnesota [Mr. Oberstar] and the gentleman from Arkansas [Mr. Hammerschmidt] who were key players in the Commission, which brought forward the recommendations which we are incorporating, basically, in this legislation. They and the other members of the Commission deserve tremendous commendation for the work they have done.

Mr. Speaker, the evidence gathered today clearly highlights a series of aviation failures which led to Pan Am 103's downing. I think that this bill will clearly enhance our ability to deal with acts of terrorism in the future, and I strongly urge my colleagues to support the legislation at this time.

Mr. MAZZOLI. The Chair would advise that the time of the gentleman from New York [Mr. Gilman] has expired. The gentleman from Arkansas [Mr. Hammerschmidt] has 5 minutes remaining, the gentleman from California [Mr. Anderson] has 6 minutes remaining, and the gentleman from Florida [Mr. Fascell] has 5 minutes remaining.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield the balance of my time to a member of the committee, the gentleman from Oklahoma [Mr. Inhofe], a member of the committee.

Mr. INHOFE. Mr. Speaker, I thank the gentleman from Arkansas for yielding. First of all, let me commend the chairman, the gentleman from California [Mr. Anderson], and the chairman from Minnesota [Mr. Oberstar] for the time they spent on this bill and the work that they did.

I am rising in support of the bill that we are considering today. I would like to elaborate, though, a little but on something that is sadly missing from this bill. I am the Member who had the amendment that would call for the death penalty in the case of deaths that result from a terrorist hijacking of an aircraft. There was a ruling that was rather controversial because it kind of went both ways for a while, but apparently the Parliamentarian felt my amendment was not germane. Currently, the law provides that in the event of such a death as I described, there is a choice of either a mandated death penalty, or of life imprisonment.

What I was attempting to do was take life imprisonment out of that with the idea that people, the mentality of individuals who commit this type of an act only understand one thing, and that is the death penalty. There has been a lot of discussion today by a number of people about Pan Am 103, but there are many other tragedies that have occurred. One occurred June 14, 1985. It was TWA 847. At that time, Members might recall that a young Navy SEAL was brutally murdered during the act of a hijacking, and my concern comes from the fact that here we are, not having a mandatory death penalty, but only last week Saddam Hussein came out with an edict that they would have a death penalty for anyone who did so much as harbor a foreigner. I believe that certainly that act is nothing in comparison with the terrorist activity that results in a death.

We have a crime bill that we have considered, and in this crime bill they have implemented further things that were subject to a death penalty. They are murdering Federal officials, mail bombings, murdering civil rights lawyers, murder during the course of robberies, and planting bombs in a plane, train, bus or Federal building.

So we, in fact, right now in the face of all the terrorist activity that is being encouraged by Saddam Hussein, are lessening the punishment for this type of activity. I guess what I want to do, Mr. Speaker, is serve notice that in the event that the House does consider this year or during the next session the crime bill that we definitely must have very, very strong provisions that call for a mandated death penalty in the case of a death that results as a result of the terrorist hijacking of an airplane. I think this bill as dealing with the safety and security of the flying public, must have that type of provision in it.

Mr. FASCELL. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. Bentley].

Mrs. BENTLEY. Mr. Speaker, I thank the distinguished chairman for yielding me this time. I rise in strong support of this legislation. Pan Am 103 cost the lives of many of our beautiful young people. We lost 5 in Maryland, one from my district. The father of Lt. Georgie Williams has been a leader in pushing for this legislation because he knows what it meant for his only son, his only child, to die in this fashion. He has been supported by others who lost their children in this terrorist incident.

□ 1500

The least that we can do in this Congress and in this Government is to make certain another incident of this type cannot occur. This bill would not only be a tribute so that these young people did not die in vain, but it is also for the sake of all Americans everywhere and all peoples who travel throughout the world, but it would particularly let the families of all these young people know that we care.

Again I commend Chairman Fascell, Chairman Anderson, and Ranking Minority Leader Hammerschmidt for moving ahead with this bill.

Mr. FASCELL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANDERSON. Mr. Speaker, I yield back the balance of my time, 6 minutes, to the gentleman from Minnesota [Mr. Oberstar], a member of the President's Commission on Aviation Security.

Mr. OBERSTAR. Mr. Speaker, I appreciate the opportunity to conclude the debate on this legislation.

This bill is both a monument and a monumental step forward in our confrontation with those who would randomly destroy innocent lives by blowing up the most vulnerable means of transportation we have, aviation.

Those of us who served on the President's Commission on Aviation Security and Terrorism, who walked the streets of Lockerbie and paused in prayer at the monument to the victims of Pan Am Flight 103, came away indelibly changed, moved forever. You could not have seen the reconstructed forward section of Pan Am 103 and that gaping hole without realizing this was a random, mindless, destructive act that must not be allowed to be repeated.

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whys and trying to close the gaps, w
spent hours, weeks, months, and no
years in search of means of closing th
aviation security gap.

Oh, yes, no legislation is perfec
This one is probably imperfect, but
will be only as good as our efforts, a
our national will, and without this leg
islation we will simply be lumberin
along.

We need to provide a legal frame
work for the recommendations of tha
Commission, which is one of the fines
works that I have seen of any Pres
dential Commission, which provide
very sound and reasonable and pract
cal and workable guidance.

We have labored very vigorously t
bring forth legislation that will be im
plementable, that will not be subjec
to the good will of one Secretary of
Department and may be ignored b
another Secretary or be done by on
Administrator, but not done by th
next.

We are a nation of laws. Laws guid
us. This law is going to guide u
toward a better security syster
against terrorism.

We have made a number of adjust
ments to accommodate some concern
the administration set forth about th
Assistant Secretary for Security
which the Commission recommende
That position was created in the bi
introduced in July on which hearing
were held, markup was held, and a
the ultimate hour there was concer
about this Assistant Secretary.

The bill does not back away fron
the central principle as we have ad
justed it, and I think the gentlema
from Pennsylvania [Mr. Clinger] ex
pressed it very well. The Commission'
report was that there should be direc
communication from someone at
high level in the Department wit
other agencies concerned with intell
gence and security so that that perso
could report directly to the Secretar
and not have intelligence informatio
on aviation security threats g
through a maze of bureaucracy. W
keep that principle intact in this bi
by establishing in law the Director o
Intelligence and Security in the Offic
of the Secretary as has already bee
established by Secretary of Transpo

tation, Mr. Skinner, who has done a splendid job in responding to the Commission's recommendations.

Now, there was concern about the thermal neutron analysis device. The Commission's report perhaps is a little stronger that the bill's final conclusion, but I think our bill is a more practical realization of what the Commission was concerned about, that we not put in place requirements for airlines to buy and establish and put in place a very costly device whose effectiveness has not yet been demonstrated. The Department's demonstration program will go forward without interruption. It will be reviewed under this legislation by the Scientific Advisory Panel, which will be part of a larger Advisory Committee already established within FAA, which will give the Administrator some guidance in saying the device is ready or not ready for full-scale deployment. That is all we are looking for. That is what the Commission wanted, and that is what the families were looking for.

Under this legislation, the Administrator cannot require the airlines to deploy or purchase explosive detection equipment unless the Administrator determines either that an emergency situation warrants its deployment, or certifies that it can detect the amounts, configurations, and types of explosive material which would be likely to be used to cause catastrophic damage to aircraft. While the legislation does not specify the minimums which equipment should be able to detect, we would expect the Administrator to require any new equipment to be able to detect, at a minimum, the amount, type, and configuration which has already demonstrated the ability to cause catastrophic failure in an airplane—on Pan Am 103.

There is another matter that was in the jurisdiction of the Foreign Affairs Committee and they have adjusted that matter to accommodate the concerns that the Congress not appear to direct the President to report a specific piece of legislation, but to make recommendations to Congress, and that has been accommodated.

So we have worked very, very hard, right down to the last hour before consideration of this bill to accommodate concerns to make sure that we have a bill that is workable, but most of all one that can prevent random acts of destruction against innocent fellow citizens traveling abroad.

Let us keep our eye on the objective, and that to protect the half-billion travelers worldwide each year who are subject to the whims of terrorists.

In conclusion, I urge approval of the legislation. I commend all those who participated, particularly the staff of the Foreign Affairs Committee, Bob Boyer, Toni Verstandy, and Bob Jenkins, if I may return the compliment, and thank my colleague, the gentleman from Arkansas [Mr. HAMMERSCHMIDT] for the splendid work that we did together in the Commission, and the gentleman from Pennsylvania [Mr. CLINGER] for the splendid work on the committee.

Ms. SNOWE. Mr. Speaker, I urge my colleagues to support passage of the Aviation Security Improvement Act of 1990. This bill is the joint product of the Foreign Affairs and Public Works Committees. It will enact all of the essential recommendations of the President's Commission on Aviation Security and Terrorism, chaired by the Honorable Ann McLaughlin.

The McLaughlin Commission issued an extensive report with specific, detailed recommendations last May. Our two committees then worked closely with Commission members, the administration, and family members of the victims in fashioning this bill.

This legislation contains several initiatives I have long advocated, and which are embodied in a bill I introduced last year, H.R. 2488. It also contains the work of other members of both committees, and I would like to particularly recognize the efforts and leadership of the chairman of the Foreign Affairs Committee [Mr. FASCELL], the ranking Republican of the Foreign Affairs Committee [Mr. BROOMFIELD], the gentleman from New York [Mr. SOLARZ], and the gentleman from Indiana [Mr. BURTON].

While the administration may have preferred more flexibility in certain areas than provided in this bill, I believe that the legislation strikes an appropriate balance and I understand that the administration is willing to accept the bill as currently drafted. The administration should be praised for the actions it has taken so far in implementing a number of the McLaughlin Commission recommendations. The Department of Transportation has already implemented administratively 70 percent of the Commission's recommendations. Some of the recommendations, however, require legislative action, and even in those areas where the administration has already taken corrective action, this will ensure that security standards will remain high even when public attention to the issue wanes.

I am particularly pleased about one provision in the bill that I attempted to have included in an aviation security bill our two committees reported out a year ago and was passed by the House, but was never acted upon by the other body. That provision, which is embodied in section 105 of the bill we are considering today, directs the FAA to require foreign air carriers to provide the same level of security as American carriers. Due to opposition from the administration last year, this provision was not included in the previous bill.

Section 105 will end a longstanding and troubling double standard. Although half of all Americans traveling abroad fly on foreign carriers, the FAA has in the past routinely allowed those carriers to maintain significantly lower security standards than are required of U.S. carriers. It is long past time for this inequitable and dangerous practice to end. Because of the overriding importance of this provision and the past reluctance of the FAA to establish a level playing field in the area of aviation security. I wanted to emphasize this bill's clear intention that henceforth the FAA Administrator must issue regulations requiring foreign carriers to maintain security practices equal to or better than practices required of American carriers. My concern is that the FAA not use its ability to certify the adequacy of foreign carrier security plans in such a way as to undermine the provision's intended affect.

Again, I would like to congratulate Chairman FASCELL and Congressman BROOMFIELD for their leadership on this issue, and the willingness of the Public Works Committee to work closely with our committee in fashioning this important bipartisan legislation. I urge my colleagues to support this bill.

Mr. BROOMFIELD. Mr. Speaker, I want to commend Chairman FASCELL for this leadership on the aviation security issue here in Congress and salute his efforts to bring H.R. 5732 to the floor. The Foreign Affairs Committee worked closely with the Public Works and Transportation Committee on this legislative initiative designed to enhance security in the skies.

Let me also thank the familes of the Pan Am 103 victims for encouraging the President to establish the Commission on Aviation Security and Terrorism. They deserve our praise for their commitment to enhancing airport and aircraft security. Without their constructive involvement, we might not be considering the Aviation Security Improvement Act today.

This legislation embodies the recommendation from the report of the President's Commission on Aviation Security and Terrorism. We have learned many lessons from the Lockerbie disaster. We must profit from those lessons and ensure that another incident like Pan Am 103 does not happen again.

Unfortunately, terrorism is still with us. Saddam Hussein's recent threats are a reminder that terrorism remains a tool that can be used against our interests around the world.

As we improve security, we must ensure that foreign carriers using U.S. airports meet the same high security standards that U.S. carries are required to maintain. Many of those foreign airlines carry U.S. passengers who now demand better security. It is time to have a level playing field for the struggling U.S. airline industry.

Our staffs worked with both the Department of Transportation and the Department of State to improve this bill. Progress has been made in addressing the administration's concerns. Further refinements can hopefully be made in the legislative process.

I know that some of the families of the Pan Am 103 victims would like to require the death penalty for those responsible for terrorism in the air. I urge my colleagues to join me in supporting this improved legislation.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ANDERSON] that the House suspend the rules and pass the bill, H.R. 5732, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5732, the bill just passed.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from California?

There was no objection.

FOREIGN CONTRACTING AUDIT EQUITY ACT OF 1990

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4131) to ensure that executive agencies have adequate authority to review the performance of foreign contractors and subcontractors under certain procurement contracts, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Foreign Contracting Audit Equity Act of 1990".

SEC. 2. INSPECTION AND AUDIT REQUIREMENTS FOR CONTRACTS WITH FOREIGN CONTRACTORS.

(a) INSPECTION AND AUDIT CLAUSE.—Each solicitation for competitive proposals issued by an executive agency for a covered contract, and each covered contract awarded by an executive agency, shall include a clause under which the agency or its authorized representatives has the right to inspect the facilities and audit the records of each foreign offeror for the contract or foreign contractor performing the contract.

(b) AUDIT AND DETERMINATION OF REASONABLENESS OF PRICE.—An executive agency shall not award a covered contract using procedures other than competitive procedures, or agree to a modification of such a contract, as a result of a proposal having a price greater than $500,000, unless—

(1) the proposal has been audited in accordance with contract auditing standards that are generally accepted in the United States and the price of the proposal has been determined to be reasonable by—

(A) the head of the agency or the authorized representative of the head of the agency;

(B) a foreign audit entity approved under a memorandum of understanding between the head of the agency, acting on behalf of the United States, and the foreign country; or

(C) the Defense Contract Audit Agency; and

(2) the contracting officer documents in the contract file the basis for the determination.

(c) SUBMISSION OF COST OR PRICING DATA BY FOREIGN CONTRACTORS.—

(1) LIMITATION ON WAIVING REQUIREMENTS.—The head of an executive agency shall not exercise any authority under another law to waive any requirement for a foreign contractor or foreign subcontractor to submit cost or pricing data, unless the head of the agency—

(A) makes a written determination that the price of the contract is reasonable, which sets forth the reasons for such determination; and

(B) includes that determination in the contract file.

(2) DESIGNATION OF FOREIGN AUDIT ENTITY AS AUTHORIZED REPRESENTATIVE.—In exercising any right of the head of an executive agency or the authorized representative of an executive agency to examine records of a foreign contractor, the head of the agency may designate a foreign audit entity as an authorized representative of the agency if the foreign audit entity has been approved under a memorandum of understanding between the head of the agency and the foreign country.

(d) RIGHT OF UNITED STATES TO EXAMINE FOREIGN CONTRACTOR RECORDS.—

(1) IN GENERAL.—In order to verify any certification or statement made by a foreign contractor with respect to a covered contract, the head of an agency that awards a covered contract, acting through any authorized representative of the head of the agency who is an employee of the United States or a member of the armed forces, has the right to examine any records of any foreign contractor under the contract related to—

(A) the proposal for the contract;

(B) discussions conducted on the proposal;

(C) pricing of the contract;

(D) performance of the contract; or

(E) pricing of any change or modification of the contract.

(2) EXPIRATION OF RIGHT.—The right of the head of an agency under paragraph (1) shall expire 3 years after final payment under the covered contract.

SEC. 3. ENFORCEMENT.

(a) SUBPOENA AUTHORITY.—The Inspector General for an executive agency may require by subpoena the production of any records in the performance of functions pursuant to this Act. Such a subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court.

(b) SUSPENSION OF PAYMENTS UNDER CONTRACT.—In any case in which a foreign contractors fails to comply with this Act (including by failing to provide any item requested by an executive agency in accordance with this Act or by a subpoena issued under subsection (a)), the head of the executive agency that awarded the contract to which the failure to comply relates may suspend payment under the contract.

(c) INCLUSION IN SOLICITATIONS AND COVERED CONTRACTS.—The head of an executive agency shall include in each solicitation for competitive proposals issued by the agency for a covered contract, and in each covered contract awarded by the agency, a clause that requires the offeror or contractor to comply with a subpoena issued under subsection (a) and that provides the penalty prescribed in subsection (b).

SEC. 4. EXAMINATION AND AUDITS BY COMPTROLLER GENERAL.

((a) EXAMINATION AND AUDIT OF RECORDS.—Notwithstanding any other law, the head of an executive agency shall include in each covered contract awarded by the agency a clause under which the Comptroller General and his or her authorized representative have the right, until 3 years after final payment under the contract, to examine any records of any foreign contractor under th contract.

(b) CONFORMING AMENDMENT.—Sectio 304(c) of the Federal Property and Admini trative Services Act of 1949 (41 U.S. 254(c)) is amended by striking all after th first sentence.

SEC. 5. REGULATIONS.

Not later than 90 days after the date the enactment of this Act, the Administr tor for Federal Procurement Policy sha revise the Federal Acquisition Regulation implement this Act.

SEC. 6. DEFINITIONS.

In this Act—

(1) the term "competitive procedures" h the meaning given that term by section 4(of the Office of Federal Procurement Polic Act (41 U.S.C. 403(5));

(2) the term "covered contract" means—

(A) a contract (other than a contra awarded using sealed bid procedures) e tered into by an executive agency for th procurement of goods or services that is pe formed by a foreign contractor; or

(B) a subcontract that is performed by foreign contractor under a contract (othe than a contract awarded using sealed bi procedures) entered into by an executiv agency for the procurement of goods services;

(3) the term "executive agency" mea any agency in the executive branch of th Government, and includes any independe establishment or wholly owned Governme corporation;

(4) the term "foreign contractor" means contractor or subcontractor under a cover contract that is organized or existing unde the laws of a country other than the Unite States and its territiories and possession including organizations that are owne wholly or partially by the government such a country; and

(5) the term "records" includes inform tion, documents, reports, answers, account papers, books, or other data or documentar evidence.

SEC. 7. EFFECTIVE DATE.

This Act applies with respect to so licitations issued after the expiratio of the 90-day period beginning on th date of the enactment of this Act.

The SPEAKER pro tempore. Pursu ant to the rule, a second is not re quired on this motion.

The gentleman from Michigan [Mr CONYERS] will be recognized for 2 minutes, and the gentleman from Ne York [Mr. HORTON] will be recognize for 20 minutes.

The Chair recognizes the gentlema from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I yiel myself such time as I may consume.

□ 1510

Mr. Speaker, it is common knowl edge that developments in the pas decade have seriously eroded our com petitive position in world trade, posin an ever greater threat to our econom and to our defense industrial base.

Of particular concern to the Govern ment Operations Committee has bee the extent to which U.S. Governmen procurement has contributed to tha decline. Despite the 1988 amendment to the Buy American Act, a far greate percentage of our Government contracts dollars are available to foreign competitors than foreign governments make available to our contractors. Further, U.S. Government auditors scrutinize American firms far more frequently and strictly than they do foreign firms that win our contracts. In the procurement market, our own Government continues to make life more difficult for American firms than foreign ones.

House Resolution 4131 would require that U.S. Government contracts and solicitations for contracts require that U.S. auditors have the right to examine the facilities and records of foreign contractors with the same standards that American firms are held to. That is critical to ensure against the abuse of American tax dollars that were discovered in a Government operations committee investigation this year.

In The Netherlands contractors refused to provide complete cost and pricing data, making defective pricing audits impossible. British contractors withheld data on the grounds that they were proprietary or not eligible for audit. French auditors did not check for unallowable costs. It was estimated that the differences may have resulted in overcharges to the U.S. Government on foreign contracts of between $400 million and $625 million.

The U.S. taxpayer should not have to pay for procurements which place U.S. contractors at an unfair disadvantage or allow foreign contractors to unjustifiably increase the cost to the United States. This bill will ensure just that.

Mr. Speaker, I reserve the balance of my time.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to join with Chairman Conyers today in supporting passage of H.R. 4131, a bill designed to ensure that foreign firms selling to the U.S. Government adhere to the same stringent audit standards required of American firms.

Under current law, United States and foreign contractors are not being treated equally when it comes to determining fair and reasonable costs. When U.S. firms, big or small, sell to the Government, they are subject to audits which can discover unallowable costs or unfair prices. Unfortunately, because of less stringent audit standards for foreign firms, it is more difficult for contract officers to identify when these companies mischarge, overcharge or illegally charge American taxpayers.

The solution contained in H.R. 4131 is quite simple: If you want to do business with the American Government—whether you are an American firm or a foreign firm—you must allow the Government to audit and inspect your books as they relate to the contract. This would be a condition of the contract and would be contained in any solicitation for competitive bids.

The Department of Defense has entered into memorandums of understanding with 19 trading partners. Five of the agreements include audit annexes which provide that the host country performs audits of contractors without cost to the procuring country.

For example, a United States Government agency would perform audits of American firms doing business for the French Government, while French auditors would perform audits of French contractors performing work for the United States Department of Defense.

These audit annexes have simply not worked. Foreign audits have not been made in accordance with audit agreements and audit reports have been inadequate.

It has not been easy evaluating the performance of foreign auditors. In fact, it took the DOD inspector general 6 months to even get a meeting with anybody in France to discuss their audit coverage. French officials denied the IG access to the auditors and then used language that even the interpreter refused to translate.

The Pentagon purchased nearly $36 billion in goods and services from foreign sources between 1985 and 1988. It is unconscionable to think that we can be denied an opportunity to ensure that those charges are fair and reasonable.

This bill places no new requirements on American business. It does, however, ensure that American firms are not disadvantaged by audit requirements not applied to foreign contractors.

H.R. 4131 is a good bill that addresses a serious shortcoming in existing procurement law. The bill received unanimous bipartisan support in the Government Operations Committee. I fully support its adoption and urge my House colleagues to support the bill.

Response to OMB's Statement of Administration Policy

OMB charge: The bill requires agencies to obtain greater inspection and audit rights from a foreign contractor than from a U.S. contractor.

Response: Not true! The bill simply subjects foreign contractors selling to the U.S. Government to the same requirements as demanded of American contractors. Under the five reciprocal audit annexes, foreign contractors, unlike U.S. contractors, are exempted from GAO, IG and agency audits.

OMB charge: Foreign auditors currently apply U.S. cost principles to determine the allowability of costs on U.S. contracts. Requiring foreign auditors to use U.S. auditing standards would be contrary to the primary rationale for reciprocal audit agreements.

Response: The problem is that foreign auditors are not applying U.S. cost principles. It is a fact that France, Germany, the Netherlands, and the United Kingdom do not conduct defective pricing audits. The IG found 100 percent of the French audit reports to be unresponsive to audit requests from the contracting officer. While reciprocal audit agreements may sound great in the theory, they have been a dismal failure in practice.

OMB charge: The bill would permit examination by the Comptroller General of any records of any foreign contractor.

Response: Not true! The bill authorizes the Comptroller General to examine only those foreign contractor records that relate to the covered procurement contract. It does not provide blanket authority to examine records unrelated to the procurement contract. American contractors are currently subject to GAO audit authority. As currently written, reciprocal audit annexes exempt foreign contractors from such audits.

Why H.R. 4131 Is Needed

DOD purchased approximately $8 billion of goods and services through prime and subcontracts during fiscal years 1985-1988, with the five countries which have signed audit annexes with the United States.

Under those audit agreements the U.S. has no way of knowing when foreign companies are charging costs that are not allowed under U.S. law—such as, interest costs, kennel costs, first class airfare.

U.S. auditors usually question 10 to 15 percent of proposed contract costs. Foreign auditors have only been questioning 1.26 percent of proposed costs. German auditors have actually increased costs by 5 percent!

Current regulations allow DOD to exclude GAO auditors from reviewing foreign contractor data. None of the 5 audit agreements specifically allow for DOD Inspector General access to foreign contractor data. Similarly, the Defense Contract Audit Agency has only a limited role and limited access to contractors in the five countries with which DOD has audit agreements.

Many unallowable costs are established in law and there is no authority to waive those unallowable costs. Without the ability to adequately audit contracts, there is no way to identify unallowables.

The DOD IG found that France, Germany, the Netherlands and the UK did not do defective pricing audits.

The DOD IG found no evidence that DOD attempted to determine what the French procurement law and auditing standards were and whether they could satisfy U.S. contracting requirements for negotiating fair and reasonable prices.

Excerpts From the Inspector General's Testimony on Foreign Audits

We found that France, Germany, the Netherlands, and the United Kingdom do not conduct defective pricing audits.

The foreign auditors were also late on 55 percent of the audit requests for review of contractor proposals that result in audit reports. This ranged from the Netherlands' auditors, who were late on all audit requests, to the German auditors, who were late on 33 percent of the requests.

Overall, the contracting officers whom we contacted considered 65 percent of the European audit reports to be unresponsive to the audit requests. The perceived unresponsiveness ranged from 100 percent for the French reports to 53 percent unresponsive for the German reports.

IG auditors were told that the DOD has no right to know French auditing standards and procedures, or how those procedures were applied when performing field pricing support audits of DOD contracts.

□ 1520

Mr. CONYERS. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I merely want to commend the ranking minority leader of the Committee on Government Operations, the gentleman from New York [Mr. Horton], who has demonstrated, once again, the great detail and the diligence that he brings to all of the legislation that comes through our subcommittee and our full committee. We are indebted to him for his good work, and I might also mention that the inspector general of the Department of Defense was extremely helpful to this staff and its subcommittee in bringing this legislation to the full membership of the House.

Mr. Speaker, there are no further requests for time on my side, and I yield back the balance of my time.

Mr. HORTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Mazzoli). The question is on the motion offered by the gentleman from Michigan [Mr. Conyers] that the House suspend the rules and pass the bill, H.R. 4131, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

COMPUTER MATCHING AND PRIVACY PROTECTION AMENDMENTS OF 1990

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5450) to amend title 5, United States Code, to ensure adequate verification of computer matching information that affects individuals' eligibility for Federal benefits, as amended.

The Clerk read as follows:

H.R. 5450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Matching and Privacy Protection Amendments of 1990".

SEC. 2. VERIFICATION REQUIREMENTS AMENDMENT.

(a) In General.—Subsection (p) of section 552a of title 5, United States Code, is amended to read as follows:

"(p) Verification and Opportunity to Contest Findings.—(1) In order to protect any individual whose records are used in a matching program, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual, as a result of information produced by such matching program, until—

(A)(i) the agency has independently verified the information; or

"(ii) the Data Integrity Board of the agency, or in the case of a non-Federal agency the Data Integrity Board of the source agency, determines in accordance with guidance issued by the Director of the Office of Management and Budget that—

"(I) the information is limited to identification and amount of benefits paid by the source agency under a Federal benefit program; and

"(II) there is a high degree of confidence that the information provided to the recipient agency is accurate;

"(B) the individual receives a notice from the agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and

"(C)(i) the expiration of any time period established for the program by statute or regulation for the individual to respond to that notice; or

"(ii) in the case of a program for which no such period is established, the end of the 30-day period beginning on the date on which notice under subparagraph (B) is mailed or otherwise provided to the individual.

"(2) Independent verification referred to in paragraph (1) requires investigation and confirmation of specific information relating to an individual that is used as a basis for an adverse action against the individual, including where application investigation and confirmation of—

"(A) the amount of any asset or income involved;

"(B) whether such individual actually has or had access to such asset or income for such individual's own use; and

"(C) the period or periods when the individual actually had such asset or income.

"(3) Notwithstanding paragraph (1), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during any notice period required by such paragraph.".

(b) Issuance of Guidance by Director of OMB.—Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall publish guidance under subsection (p)(1)(A)(ii) of section 552a of title 5, United States Code, as amended by this Act.

SEC. 3. LIMITATION OF APPLICATION OF VERIFICATION REQUIREMENT.

Section 552a(p)(1)(A)(ii)(II) of title 5, United States Code, as amended by section 2, shall not apply to a program referred to in paragraph (1), (2), or (4) of section 1137(b) of the Social Security Act (42 U.S.C. 1320b-7), until the earlier of—

(1) the date on which the Data Integrity Board of the Federal agency which administers that program determines that there is not a high degree of confidence that information provided by that agency under Federal matching programs is accurate; or

(2) 30 days after the date of publication of guidance under section 2(b).

The SPEAKER pro tempore. Und
the rule, a second is not required
this motion.

The gentleman from Michigan [M
Conyers] will be recognized for
minutes, and the gentleman from Ca
fornia [Mr. McCandless] will be reco
nized for 20 minutes.

The Chair recognizes the gentlema
from Michigan [Mr. Conyers].

Mr. CONYERS. Mr. Speaker, I yie
myself such time as I may consume.

Mr. Speaker, H.R. 5450 amends th
Computer Matching and Privacy Pr
tection Act of 1988. The origin
matching act regulates the use of co
puter matching conducted by Feder
agencies or the use of Federal recor
subject to the Privacy Act of 1974. Th
purpose was to provide that comput
matching can only be conducted pu
suant to agreements between th
agency providing the records and th
agency receiving the records.

The law has generally worked we
but a few small problems have deve
oped. H.R. 5450 proposes sever
minor amendments to address tho
problems.

Mr. Speaker, I yield such time as h
may consume to the gentleman fro
West Virginia [Mr. Wise], who is th
chairman of the Subcommittee o
Government Information, Justice, an
Agriculture, to explain the details
the amendment.

Mr. WISE. Mr. Speaker, I thank th
gentleman from Michigan [Mr. Co
yers] very much for yielding this tim
to me and for bringing this bill to th
floor in such a timely manner becau
I think it is important that the Hou
act upon it.

Mr. Speaker, H.R. 5450 proposes
fine-tune the Computer Matching an
Privacy Protection Act of 1988, a la
that regulates computer matching
Federal agencies or using Feder
data. H.R. 5450 proposes two min
modifications.

First, the bill changes the requir
ment that all matching information
independently verified. The new pr
cedure permits Federal agencies
share benefit information with th
States without case-by-case verific
tion in circumstances were the veri
cation is unnecessary.

The existing data integrity boar
would play an oversight role to mak
sure that the information being di
closed is accurate. This new procedu
will make it easier for the States
use some information received fro
Federal agencies without unnecessa
bureaucracy.

Second, for benefit programs th
have statutory or regulatory due pro
ess notice periods, the bill allows tho
periods to substitute for the 30-da
notice period otherwise provided for
the act. The 30-day notice period is r
tained for programs without existin
requirements.

This will fix a problem unforeseen when the original matching bill was passed. It should also significantly reduce the cost to the States of complying with the Computer Matching Act.

The Congressional Budget Office estimates that enactment of H.R. 5450 will save the Federal Government $270 million over the next 5 years. CBO estimates that the savings to the States will be $145 million over 5 years.

These estimates are admittedly very uncertain, and we cannot be sure how much money will be saved. We are sure that there will be some savings. We also are sure that there are unnecessary costs that can be avoided if we pass H.R. 5450. The bill is not based on any specific cost savings.

The bill is strongly supported by the American Public Welfare Association and State welfare departments. We also have a letter of support from the Office of Management and Budget.

Finally, I want to acknowledge the work done by Representative KLECZKA and Representative BUSTAMANTE in bringing the problems to the committee's attention. They introduced the first bill on the subject, and we have worked closely together in drafting H.R. 5450. I also want to thank Representative MCCANDLESS for his assistance and cooperation.

Mr. McCANDLESS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 5450, legislation to amend the Computer Matching and Privacy Protection Act of 1988. I would like to commend subcommittee Chairman BOB WISE, his staff and all of the many public interest groups who have worked together in crafting this legislation.

When the computer matching and privacy protection law was enacted 2 years ago, the bill contained language requiring States to independently verify all computer-generated information before acting to suspend, reduce or revoke Federal benefit payments. The act further required States to provide an additional 20-day notice before taking adverse action against a benefit recipient.

Although the measure was intended to provide program recipients with protection against the hasty or faulty reduction of program benefits, it has proven unnecessarily burdensome for federally generated income information. Since passage of the Computer Matching Act, it has become clear that data regarding Social Security, Medicare, and Federal retiree benefit payments is already highly accurate and not readily verifiable by outside State sources.

H.R. 5450 would exempt such highly accurate data from the matching requirements of the Computer Matching Act and preserve the 30-day adverse-action notification period for only those programs without set notification periods of their own.

It is estimated that passage of H.R. 5450 will save the State and Federal Governments between $50 and $90 million a year in administrative costs through the elimination of unnecessary paperwork and reduced processing time. I support this corrective legislation as necessary to preserve the financial integrity of our food stamp, Medicaid and AFDC Programs, while maintaining the safeguards needed to protect our Nation's most vulnerable citizens.

□ 1530

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself 1 minute. It is only to put on the record the assurances I have received again from the distinguished subcommittee chairman, the gentleman from West Virginia [Mr. WISE], and that is the fact that whenever we talk about computers and matching computers and trading information in the Federal Government, it can make some of our citizens nervous. We want to state, even in this record, as we have made amendments to the existing law on that subject, that this would in no way violate any of the privacy laws, the requirement that information gathered by one agency be kept where appropriate within that bounds, and that the rights of every citizen were being very carefully considered as we made these amendments to the original legislation of 1988 and 1989.

Mr. Speaker, I thank the gentleman from West Virginia [Mr. WISE] for those assurances.

Mr. Speaker, I yield such time as he may consume to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I just want to concur in the statements of the gentleman from Michigan [Mr. CONYERS]. All we are doing here is a little tightening of some problems caused by the States. Essentially, the protections in place even before this act was passed are still in place. These amendments were drawn as narrowly as possible to reflect that very concern.

Mr. Speaker, in the moment I have, I would like to thank very much the staffs involved in this, Mary Tripp with the minority and Bob Gellman, who does so much work in this particular area for the committee. I would like to thank them for all the efforts they put into this.

Mr. KLECZKA. Mr. Speaker, I rise today in support of H.R. 5450, the Computer Matching and Privacy Protection Amendments of 1990, of which I am an original cosponsor.

I have had a longstanding interest in computer matching legislation because of its impact on my home State of Wisconsin and my complementary interest in freedom of information issues.

Early this year, I was contacted by Wisconsin secretary of health and social services Patricia Goodrich concerning the large amounts the State of Wisconsin would have to pay due to an oversight in the then recently enacted Computer Matching and Privacy Protection Act.

Based on careful calculations, the new law would have inadvertently cost the State and Federal Government $8.4 million in Wisconsin alone. The Congressional Budget Office estimates the nationwide total cost for fiscal year 1992 to be $55 million, an amount that would increase to $130 million by fiscal year 1995.

Disturbed by these unnecessary expenditures, my good friend Congressman ALBERT G. BUSTAMANTE and I introduced a bill to address this situation, H.R. 4367, the Computer Matching Corrections Act of 1990.

We were assisted in this process by the excellent work of the American Public Welfare Association [APWA], which among its many other functions, works closely with the State human services administrators, the individuals most familiar with this issue.

H.R. 4367 exempted the Medicaid, food stamps, and Aid to Families with Dependent Children Programs from the new 30-day notice period because they already had adequate computer matching verification guarantees.

Having introduced this legislation, I was pleased to work with Chairman BOB WISE of the Government Operations Subcommittee on Information, Justice, and Agriculture, Mr. BUSTAMANTE, the APWA, welfare rights advocates, and various Federal agencies to craft the compromise bill we are considering today.

H.R. 5450 has my strong support because it lifts the burdensome costs on the States and the Federal Government while fully protecting the due process rights of benefits recipients. This measure will allow benefits to go to those who truly deserve them without being diverted to those we know to be ineligible.

It is gratifying that the House has acted so promptly on this important legislation and it is hoped that the other body will approve it just as expeditiously. This timely action is needed to remove the $400 million threat hanging over Wisconsin, the other States, and the Federal Government in the next few years. I urge my colleagues to vote for H.R. 5450.

Mr. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the bill, H.R. 5450, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 5450.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

MAKING IN ORDER ON TUESDAY, OCTOBER 2, 1990, OR ANY DAY THEREAFTER, CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 310, BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEARS 1991-95

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that it be in order tomorrow or any day thereafter for the chairman of the Committee on the Budget to move to take from the Speaker's table the concurrent resolution, House Concurrent Resolution 310, with the Senate amendments thereto, and either to disagree to the amendments of the Senate and to agree to the conference requested by the Senate; or to concur in the Senate amendments with amendments, that all points of order against said motion be waived, that the Senate amendments and motion be considered as read, that debate on said motion continue not to exceed 2 hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget, and that the previous question be considered as ordered on said motion without intervening motion.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Mr. FRANK. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 3897) to authorize appropriations for the Administrative Conference of the United States for fiscal years 1991, 1992, 1993, and 1994, and for other purposes.

The Clerk read as follows:

Senate amendment:

Page 2, line 4, strike out all after "1990," down to and including "1994." in line 6, and insert: "$2,100,000 for fiscal year 1991, $2,200,000 for fiscal year 1992, $2,300,000 for fiscal year 1993, and $2,400,000 for fiscal year 1994.".

The SPEAKER pro tempore. Is a second demanded?

Mr. JAMES. I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes and the gentleman from Florida [Mr. JAMES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, earlier this year the House authorized the continuation of the entity known as the Administrative Conference of the United States, which is a very useful organization. This organization performs a series of very thoughtful studies on matters relating to administrative procedure.

We sent that bill over to the other body. They reported it back with a slight reduction in the authorization figures. We are here asking that the House concur in the Senate amendments, with the lower authorization figures.

Mr. Speaker, I reserve the balance of my time.

Mr. JAMES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3897, a bill to reauthorize the Administrative Conference of the United States.

Following the enactment of the Administrative Procedure Act in 1946, it became apparent that there was a need for a permanent organization to promote uniformity and fairness in Federal regulatory procedures. Finally, in 1964, the Administrative Conference of the United States was established through the enactment of the Administrative Conference Act. The principal purpose of the Administrative Conference is to identify sources of delay, inefficiency, and unfairness in the administrative-regulatory process and to recommend necessary improvements to the President, Congress, Federal agencies, and the courts.

The Conference develops and conducts research in the broad subject area of administrative law; it also acts as an information clearinghouse with respect to developments in administrative procedure in the Federal agencies, and in State and local government. Importantly, the Conference provides a forum for both the regulators and the regulated to come together and exchange thoughts and ideas. The Conference can, and has, "humanized" bureaucracy.

In fulfilling its statutory mandate, the Administrative Conference operates on a comparatively modest budget. That fact is borne out by the bill we considered today. As amended by the Senate, H.R. 3897 proposes the following authorization ceilings for the Conference over the next 4 years:

Fiscal year:	*Million*
1991	$2.1
1992	2.2
1993	2.3
1994	2.

The Administrative Conference, i my opinion, plays a valuable role in as sisting the various agencies in imple menting many of the laws we pass The Administrative Conference ha proven to be a major asset to th workings of both the executive branc and the Congress. I urge my col leagues to support H.R. 3897, with th Senate amendments.

Mr. Speaker, I have no further re quests for time, and I yield back th balance of my time.

Mr. FRANK. Mr. Speaker, I have n further requests for time, and I yiel back the balance of my time.

The SPEAKER pro tempore. Th question is on the motion offered b the gentleman from Massachusett [Mr. FRANK] that the House suspen the rules and concur in the Senat amendment to H.R. 3897.

The question was taken; and (tw thirds having voted in favor thereo the rules were suspended and th Senate amendment was concurred in.

A motion to reconsider was laid o the table.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I as unanimous consent that all Member may have 5 legislative days withi which to revise and extend their re marks and include therein extraneou material on the Senate amendment t H.R. 3897.

The SPEAKER pro tempore. I there objection to the request of th gentleman from Massachusetts?

There was no objection.

MARITIME ADMINISTRATIO AUTHORIZATION FOR FISCA YEAR 1991

Mr. JONES of North Carolina. M Speaker, I move to suspend the rule and pass the bill (H.R. 4205) to au thorize appropriations for fiscal yea 1991 for the Maritime Administratio and for other purposes, as amended.

The Clerk read as follows:

H.R. 4205

Be it enacted by the Senate and House Representatives of the United States America in Congress assembled, That i fiscal year 1991, the following amounts ar authorized to be appropriated for the Mar time Administration:

(1) Any amounts necessary to liquidate o ligations under operating-differential subs dy contracts for the fiscal year 1991 portio of the total of current contract authority.

(2) $35,690,000 for expenses related t manpower, education, and training, includ ing—

(A) $25,205,000 for maritime training the Merchant Marine Academy at King Point, New York;

(B) $8,872,000 for assistance to the Stat maritime academies; and

(C) $1,613,000 for manpower and addition al training.

(3) $28,095,000 for operating programs.

(4) $7,902,000 for expenses related to national security support capabilities, including—

(A) $6,748,000 for the National Defense Reserve Fleet; and

(B) $1,154,000 for emergency planning operations.

(5) $225,000,000 for the Ready Reserve Force, including—

(A) $49,400,000 for fleet additions, replacements, acquisitions, and upgrading of vessels for the Ready Reserve Force;

(B) $171,600,000 for maintenance and operations programs in support of the Ready Reserve Force; and

(C) $4,000,000 for the Ready Reserve Force facilities.

Sec. 2. Section 8(e) of the Act of October 13, 1989 (Public Law 101-115; 103 Stat. 695), is amended to read as follows:

"(e) The Secretary may make awards on an equal matching basis to an institute designated under subsection (a) from amounts appropriated. The aggregate annual amount of the Federal share of the awards shall not exceed $100,000.".

Sec. 3. Section 1303(h)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295b(h)(1)), is amended to read as follows:

"(h)(1) A Board of Visitors to the Academy shall be established, for a term of two years commencing at the beginning of each Congress, to visit the Academy annually on a date determined by the Secretary and to make recommendations on the operation of the Academy.".

Sec. 4. Section 510(i) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1160(l)), is amended to read as follows:

"(i) The Secretary of Transportation is authorized to acquire suitable documented vessels, as defined in section 2101 of title 46, United States Code, with funds in the Vessel Operations Revolving Fund derived from the sale of obsolete vessels in the National Defense Reserve Fleet. For purposes of this subsection, the acquired and absolete vessels shall be valued at their scrap value in domestic or foreign markets as of the date of the acquisition for or sale from the National Defense Reserve Fleet; except that, in a transaction subject to this section, the value assigned to those vessels will be determined on the same basis, with consideration given to the fair value of the cost of positioning the traded-out vessel to the place of scrapping. All cost incident to the lay-up of the vessel acquired under this subsection may be paid from balances in the Fund. Notwithstanding the provisions of sections 9 and 37 of the Shipping Act, 1916, vessels sold from the National Defense Reserve Fleet under this subsection may be scrapped in approved foreign markets.".

Sec. 5. (a) Section 4 of the Act of October 13, 1989 (Public Law 101-115; 103 Stat. 692), is amended:

(1) by inserting "legislative" after "sixty"; and

(2) by adding a new sentence at the end of the section to read: "The Secretary shall not take any vessel, currently in service as a State academy training vessel, out of service for the purpose of implementing any alternative program, including ship sharing, until or unless the vessel is incapable of bing maintained in good repair as required under section 1304(c)(1)(A) of the Merchant Marine Act, 1936.".

(b) Section 3 of the Act of October 13, 1989 (Public Law 101-115; 103 Stat. 692) shall not be effective prior to October 1, 1994.

Sec. 6. (a) Section 1303(e)(3), of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295b(e)(3)) is amended—

(1) by inserting "(A)" immediately after "(3)"; and

(2) by adding at the end the following new sub-paragraph:

"(B) If the Secretary of Defense is unable or unwilling to order an individual to active duty under subparagraph (A), the Secretary of Transportation—

"(i) may recover from the individual the costs of education provided by the Federal Government; and

"(ii) shall request the Attorney General to begin court proceedings to recover the costs of education if the Secretary decides to seek recovery under clause (i).".

(b) The amendment made by subsection (a) shall apply to individuals who sign agreements after the date of enactment of this Act under section 1303(e) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295b(e)).

Sec. 7. Section 1303(b) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295b(b), is amended—

(1) a paragraph (1)—

(A) by striking "Governor of American Samoa (unitl a delegate to the House of Representatives from American Samoa takes office)" and inserting in lieu thereof "Delegate from American Samoa";

(B) by striking "any individuals who is" and inserting in lieu thereof "any individual who is—

(C) by inserting "or" immediately after "Commission," the last place it appears; and

,(D) by striking ", or a resident of American Samoa if the individual is nominated by the Governor of American Samoa";

(2) in paragraph (3)(A)(vi), by striking "Governor of American Samoa (until a delegate to the House of Representatives from American Samoa takes office)" and inserting in lieu thereof "Delegate to the House of Representatives from American Samoa"; and

(3) in paragraph (7)—

(A) in subparagraph (A), by striking "annually", "until September 30, 1995,", and "up to six"; and

(B) in subparagraph (B), by striking "The Secretray shall insure that the Republic of Panama reimburse the Secretary" and inserting in lieu thereof "The Secretary shall be remibursed".

SEC. 8. FISHING VESSELS IN CALIFORNIA.

(a) Definition.—For puposes of the application of section 8103(a), 12102, 12110, and 12111 of title 46, United States Code, to a fishing vessel operating in waters subject to the jurisdiction of the United States off the coast of the State of California, the term "citizen of the United States" includes an alien lawfully admitted to the United States for permanent residence as of October 1, 1990.

(b) Termination.—This section shall termainate on October 1, 2000.

SEC. 9. ACCESS TO PORTS.

So long as the bilateral maritime transportation agreement entitled the Agreement Regarding Certain Maritime Matters Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics, signed on June 1, 1990, remains in force, the ports of Wilmington and Morehead City, North Carolina, shall have the same privileges under Article III of that agreement as those ports listed in Annex I of the agreement.

Sec. 10. Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with appropriate endorsement for employment of the coastwise, and Great Lakes trades, or the fisheries of the United States for the following vessels.

AMERICAN EAGLE (U.S. official number 523873).

ANGELOS (hull identification number HAZ1432C0173 amd State of Hawaii registration number HA1432C).

ARCTIC SOUNDER (U.S. official number 569927).

BOUNTY (U.S. official number 960956).

CAMELOT (U.S. official number 923202).

CHEROKEE V (U.S. official number 570746).

ERNESTINA (U.S. official number 136423).

ESPERANCE (U.S. official number 691732).

FLORA VEE (U.S. official number 526631).

GHOSTRIDER (U.S. official number 906121).

HE'ENALU (State of Hawaii registration number HA843CP).

HELL'S-A-POPPIN (U.S. official number 963543).

HIPPOCAMPUS (U.S. official number 560934).

IMPULSE (U.S. official number 693209).

JOB SITE (U.S. official number 595013).

KAINALU (State of Hawaii registration number HA779CP).

LADY ROSE ANNE (U.S. official number 603040).

MARINER III (U.S. official number 225459).

OCEAN PROWER (U.S. official number 632751).

OH BABY AT LAST (U.S. official number 938936).

OPEN RETURN (U.S. official number 658669).

PACIFIC PEARL (hull identification number MRY10161M76414).

PAULA SUE (State of Maryland registration number MD7449K).

PLAYPEN (U.S. official number 617198).

PUMPKIN (U.S. official number 627259).

ROSE (U.S. official number 928811).

ROUGH POINT (U.S. official number 917958).

SALISA M (U.S. official number 26553).

SEA DEVIL (U.S. official number 569316).

SEAGULL (U.S. official number 958929).

SEA NUGGET (State of Alaska registration number AK2233E).

SEA WIND (U.S. official number 610694).

SINBAD (ex-SANGRIA) (State of Alaska registration number AK3650 and hull identification number 15846).

SOLITAIRE (U.S. official number 521894).

SWEE'PEA (State of Alaska registration number AK8550L and hull identification number PBL32001K990).

SYRINGA (hull identification number 363412; U.S. Customs number 84-129170-6).

WEATHERBIRD (U.S. official number 527918).

WEATHERBIRD II (ex-AUNT BEE (U.S. official number 652213).

Sec. 11. Notwithstanding the first proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), a vessel of less than five hundred gross tons that was sold to and operated by a non-profit corporation organized under United States law, the majority of whose directors are United States citizens, for use by that corporation exclu-

sively as an oceanographic research vessel, has not been "sold foreign" unless the vessel has been placed under the registry of a nation other than the United States during the period of ownership by that corporation.

Sec. 12. (a) The S/V ZODIAC (United States official number 223755) shall be deemed to be less than one hundred gross tons and, in applying the regulations relating to the inspection of passenger vessels, the Secretary of the department in which the Coast Guard is operating shall inspect that vessel under regulations applying to vessels of that weight.

(b) Notwithstanding any other provision of law, the Secretary of the department in which the Coast Guard is operating shall inspect the ZODIAC (United States official number 223755) under subchapter T of title 46, Code of Federal Regulations. Any certification issued by the Secretary under subchapter T for the ZODIAC shall permit that vessel to carry not more than forty-nine passengers on lakes, bays, and sounds service.

Sec. 13. (a) This section may be cited as the "Merchant Mariner Memorial Act of 1990".

(b)(1) Notwithstanding any other law, the Secretary of Transportation may convey to any group of not less than two and not mroe than three nonprofit organizations, without consideration, all right, title, and interest of the United States Government in a vessel which—

(A) is in the National Defense Reserve Fleet on the date of enactment of this section;

(B) is of not less than 4,000 displacement tons;

(C) has no usefulness to the Government; and

(D) is scheduled to be scrapped.

(2) As a condition of conveying a vessel to a group of nonprofit organizations pursuant to this section, the Secretary shall require that each nonprofit organization in the group—

(A) before the date of that conveyance, enter into an agreement with the other nonprofit organizations in that group which requires—

(i) the sale of the vessel for scrap purposes; and

(ii) the equal division of the proceeds of the sale among the nonprofit organizations in that group;

(B) use its share of those proceeds for the expenses directly related to acquiring land for, designing, berthing, refurbishing, repairing, or constructing a memorial to merchant mariners;

(C) have raised, before the date of enactment of this section, at least $100,000 from non-Federal sources for use for establishing a memorial to merchant mariners; and

(D) agree to any other conditions the Secretary considers appropriate.

(3)(A) A nonprofit organization may apply to the Secretary for a conveyance under this section individually or as a member of a group of nonprofit organizations.

(B) The Secretary shall designate, for purposes of this section, groups of not less than two and not more than three nonprofit organizations which apply individually under this section.

(C) A nonprofit organization may not be a member of more than one group of nonprofit organizations for purposes of this section.

(c) The Secretary shall deliver a vessel conveyed under this section to a group of nonprofit organizations—

(1) at a place where the vessel is located on the date of the approval of the conveyance,

(2) in its condition on that date, and

(3) without cost of the Government.

(d) The authority of the Secretary under this section to convey vessels shall expire two years after the date of enactment of this section.

Sec. 14. (a) This section may be cited as the "Non-Vessel-Operating Common Carrier Amendments of 1990.".

(b) Bonding of Non-Vessel-Operating Common Carriers.—Public Law 98-237, 98 Stat. 67 (46 App. U.S.C. 1701 et seq.) is amended by adding a new section 23 as follows:

"Sec. 23. Bonding of Non-Vessel-Operating Common Carriers.

"(a) Bond.—Each non-vessel-operating common carrier, as defined by section 3(17) of this Act, shall furnish to the Commission a bond in a form and an amount determined by the Commission to be satisfactory to insure the financial responsibility of that carrier, but in any event not less than $50,000.

"(b) Surety.—A bond submitted pursuant to this section shall be issued by a surety company found acceptable by the Secretary of the Treasury.

"(c) Claims Against Bond.—A bond obtained pursuant to this section shall be available to pay any judgment for damages against a non-vessel-operating common carrier arising from its transportation-related activities or order for reparations issued pursuant to section 11 of this Act or any penalty assessed against a non-vessel-operating carrier pursuant to section 13 of this Act.

"(d) Resident Agent.—A non-vessel-operating common carrier not domiciled in the United States shall designate a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.

"(e) Tariffs.—The Commission may suspend or cancel any or all tariffs of a non-vessel-operating common carrier for failure to maintain the bond required by subsection (a) of this section or to designate an agent as required by subsection (d) of this section or for a violation of section 10(a)(1) of this Act.".

(c) Prohibited Acts.—Subsection (b) of section 10 of Public Law 98-237 (46 App. U.S.C. 1709) is amended as follows:

(1) Paragraph (13) is amended by striking "or,";

(2) Strike "(14)" wherever it appears and insert "(16)";

(3) A new paragraph (14) is added as follows:

"(14) knowingly and willfully accept cargo from or transport cargo for the account of a non-vessel-operating common carrier that does not have a tariff and a bond as required by sections 8 and 23 of this Act;"; and

(4) A new paragraph (15) is added as follows:

"(15) knowingly and willfully enter into a service contract with a non-vessel-operating common carrier or in which a non-vessel-operating common carrier is listed as an affiliate that does not have a tariff and a bond as required by sections 8 and 23 of this Act; or".

(d) Interim Rules.—The Commission may prescribe interim rules and regulations necessary to carry out this Act.

(e) Effective Date.—This section shall become effective 90 days after the date of its enactment.

Sec. 15. Technical Correction.—Sectio 8103 of title 46, United States Code amended in subsection (i) by striking "Nat ralization" and inserting "Nationality".

The SPEAKER pro tempore. Is second demanded?

Mr. DAVIS. Mr. Speaker, I deman a second.

The SPEAKER pro tempore. With out objection, a second will be consi ered as ordered.

There was no objection.

The SPEAKER pro tempore. Th gentleman from North Carolina [M Jones] will be recognized for 20 mi utes, and the gentleman from Mich gan [Mr. Davis] will be recognized fo 20 minutes.

The Chair recognizes the gentlema from North Carolina [Mr. Jones].

□ 1540

Mr. JONES of North Carolina. M Speaker, I yield myself such time as may consume.

Mr. Speaker, this is the fiscal 199 authorization bill for the Maritim Administration in the Department Transportation.

The authorized figures are precisel what the President requested. We ar in complete conformity with the a ministration's budget.

The bill contains almost $233 millio for national security purposes, inclu ing money for the National Defens Reserve Fleet, and its component, th Ready Reserve Force.

This money has direct implicatio for Operation Desert Shield. We hav broken out over 40 RRF ships to pr vide sealift for our troops in the Pe sian Gulf.

This bill represents a substantial i crease in funding for the Ready R serve Force. Unfortunately, part the increase was made necessary b Congress' failure last year to appropr ate the full amount requested by th President for the RRF. This failur shortchanged needed maintenance o RRF ships, and I have no doubt that contributed to the difficulties we exp rienced in getting some of the vesse ready to go to the Persian Gulf withi their hoped-for schedules. I sincerel hope that Congress does not repeat i mistake this year.

With regard to the reserve fleet, m committee has begun taking a har look at its capabilities and perform ance thus far in Operation Dese Shield. Serious questions have alread been raised about the oldest ship particularly those that date fro World War II. Representatives Broom field and Wyden have encouraged u to question whether these particula vessels are in fact militarily useful whether there retention might actua ly be harmful by lulling us into a stat of complaceny about our sealift asset

The bill makes no fundament changes in our reserve fleet policy, a though it does make it easier fo

Marad to obtain better vessels through a more flexible section 510(i) trade program. I want to put the administration on notice, however, that next year our committee may wish to recommend substantial changes to the reserve fleet policy.

The other large authorization in the bill provides money to pay operating differential subsidy for certain U.S.-flag ship operators. These are contractural obligations. The committee expects to produce a total reform of the ODS program next year. I call upon Secretary Skinner to complete rapidly his maritime policy review and send us an administration package on ODS reform and other changes in maritime policy. There has been too much delay already.

The bill also contains authorizations for the U.S. Merchant Marine Academy at Kings Point, for Federal contributions to State maritime academies, and administrative costs for MarAd.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4205, a bill to authorize appropriations for fiscal year 1991 for the U.S. Maritime Administration.

The bill which provides authorizations for operating differential subsidies, manpower and training and national security support is identical to those sums requested for these programs by the administration. The bill also contains a provision that allows the Maritime Administration to sell old National Defense Reserve Fleet [NDRE] vessels for scrap and put the money into a trust fund to be used to purchase newer vessels for the NDRF. Although this bill contains a number of other important provisions, I wanted to mention this provision and the status of the NDRF and the Ready Reserve Force. Mr. Speaker, it is the Ready Reserve Force ships that have carried the bulk of our heavy equipment to the Persian Gulf. The Merchant Marine and Fisheries Committee has looked at length, at the condition of the RRF and NDRF ships and I urge my colleagues, not only to support the authorizations contained in H.R. 4205, but also to urge members of the Appropriations Committee to full fund these authorizations. I might add that the administration supports these provisions and has worked closely with our committee to obtain the proper and necessary funding.

In closing I urge my colleagues to support H.R. 4205 and to vote for its passage.

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

There are several statutory changes in the bill. Mr. Mineta has worked hard for a provision to allow certain Vietnamese aliens lawfully admitted for permanent residence in California to continue to own and operate their fishing vessels. These hard working people want only to continue to pursue their chosen livelihood, but application of current law would prevent that and might result in throwing them onto the welfare rolls. Who would advocate such a perverse result? This bill will solve their problem.

The bill also encourages the Governments of the United States and the Republic of Panama to expand opportunities for young Panamanians to attend the U.S. Merchant Marine Academy. A Kings Point education would be invaluable for providing skills and background useful for running the Panama Canal. It is in our interest to make sure that young Panamanians possess these skills, and I urge the two governments to be aggressive in seeking out potential Panamanian cadets for Kings Point.

Members of the North Carolina congressional delegation, particularly Mr. Coble, were disappointed with the treatment of their State's ports in the recent bilateral maritime agreement with the Soviet Union, so the bill contains a provision addressing that issue.

The bill incorporates the provisions of H.R. 5206, as reported from committee, to require bonds for nonvessel-operating common carriers. Our committee report on H.R. 5206 provides an explanation and legislative history.

Mrs. Bentley's bill on merchant mariner memorials, H.R. 668, is made a part of this bill. See House Report 101-520.

Finally, the bill provides relief for a number of vessels with documentation and other disabilities.

Mrs. BENTLEY. Mr. Speaker, I rise in support of H.R. 4205, the Maritime Administration Authorization Act for fiscal year 1991.

A provision of the committee's amendment being offered today is the language of my own bill—H.R. 668, the Merchant Mariner Memorial Act, a bill designed to create a funding mechanism for nonprofit organizations dedicated to building and maintaining memorials to our merchant mariners who served so valiantly during World War II.

My language authorizes the Secretary of Transportation to transfer title of obsolete vessels to groups of these non-profit organizations, who will scrap them and share equally in the proceeds.

The proceeds may be used only to build and maintain a memorial.

Mr. Speaker, our merchant mariners provide an invaluable service to their country in times of war or national emergency. The merchant marine is our fourth arm of defense—providing the most efficient logistical support system for our military forces.

It is given the responsibility of carrying to the forward lines the personnel and ordnance so vitally needed to thwart aggressors, who would deprive us or similar people of peace and freedom.

Their contributions to the defense of the United States and the free world, as a whole, are well documented. Their successes did not come easy.

During World War II, the merchant marine had a casualty rate second only to the Marine Corps. Yet, their contributions, their successes, their tragic loss of human life are relatively unknown by today's generation; and as time passes and memories fade, their deeds will be lost forever.

That would be tragic; and that is why it is so important that the few nonprofit organizations dedicated to preserving the life and accomplishments of the U.S. merchant marine for future generations must succeed.

I urge my colleagues to support H.R. 4205.

Mr. MINETA. Mr. Speaker, I rise in strong support of H.R. 4205, the Maritime Authorization for fiscal year 1991.

I want to commend Chairman Jones for his leadership on this legislation.

This authorization bill includes an important provision, which will allow individuals who are permanent residents as of October 1, 1990, and who fish in California waters, to own and pilot smaller fishing vessels. This provision was revised from language in H.R. 4796, legislation which I introduced earlier this year.

We are all very sensitive to any possible openings or loopholes in U.S. maritime law for future foreign competition or labor.

That is why I worked with union representatives and members of the House Merchant Marine and Fisheries Committee to find an adequate resolution to the problem faced on these legal residents, while addressing any legitimate concerns of U.S. citizen fishermen by including a 10-year sunset provision.

This bill is very narrowly crafted to aid legal residents, who have every intention of becoming citizens, and are anxious to be self-sufficient.

Mr. Speaker, why is this provision necessary?

In 1989, the Coast Guard, for the first time in recent memory. Began to enforce this law in the San Francisco Bay area. The only individuals impacted by the Coast Guard actions were Vietnamese fishermen who had applied for citizenship, but have not yet had their applications approved, or who are not yet eligible to apply.

As a result, the Vietnamese fishermen were faced with the dilemma of giving up their professions and living on welfare to support their families or trying to continue fishing while facing fines of $500 each time they were cited. And being threatened by the Coast Guard with the loss of their boats and licenses.

Since a permanent resident must wait 5 years before applying for citizenship, and because it takes approximately 2 years to process a citizenship application, the fisherman would essentially be unable to earn a living for 7 years.

Last October, the Vietnamese Fishermen Association of America and six individuals filed a suit in the District Court of Northern California, seeking an injunction against continued enforcement of the law of the Coast Guard. The suit alleged that the statute was unconstitutional because of its discriminatory impact on permanent residents.

Although a temporary restraining order was issued, a preliminary injunction was denied, leading to an appeal to the 9th Circuit Court of Appeal. On July 20, of this year, the Court heard argument in the case, and after pointed questioning directed at the Justice Department attorney, issued a highly unusual order giving the parties 45 days to work out a compromise before reporting back to the court. The court hearing and subsequent order indicate that the court is extremely sensitive to the inequitable nature of the situation and wants to see a fair resolution.

This court order has added urgency to the pending legislation. All previous attempts by the fishermen to resolve this issue have been rejected by the Coast Guard. The statutes are legally ambiguous so I am personally skeptical the court will be able to adequately resolve the issues presented incorporating the interests of all the parties. Thus, a true solution will ultimately require an exercise of Congress' plenary power.

Recognizing that these permanent resident fishermen are, or all intents and purposes, akin to citizens by virtue of the fact that they pay taxes and support the economy, this legislation will allow them to continue pursuing their trade and supporting their families, instead of being forced into welfare.

I urge my colleagues to support H.R. 4205, the maritime authorization for fiscal year 1991.

Mr. LENT. Mr. Speaker, I rise in support of H.R. 4205, a bill to authorize appropriations for fiscal year 1991 for the Maritime Administration, and for other purposes.

At the outset, I want to thank Chairmam Jones for his efforts in developing this legislation. He has worked with the Members on our side of the aisle to come up with compromises that we all can support.

This legislation was reported to by the Merchant Marine Fisheries Committee on May 16, 1990. The funding level in this legislation is identical to the administration's request—$57,887,000. These funds are for the operating-differential subsidy program; manpower, education and training; operating programs; national security support capabilities; and the Ready Reserve Force [RRF]. This funding level will enable the Maritime Administration to carry out its statutory responsibilities.

I will only make one specific comment with regard to the funding level, and that is to address the amount of money for the Ready Reserve Force [RRF]. As everyone in this Chamber is aware, the U.S. Government has used vessels from the RRF in the sealift mission for Operation Desert Shield in Saudi Arabia. There have been some problems with some of these RRF vessels reported in the news media. Without going into a long explanation, I would like to point out to the Members that some of the problems during the breaking out of these RRF vessels is the direct result of the Congress not making available the funding requested by the administration for maintenance of the RRF vessels. For example, for fiscal year 1990, the administration requested $239 million for the RRF. However, Congress only appropriated $89 million. During hearings held by our committee last week, spokesmen from both the Department of Defense and the Maritime Administration indicated that one of the reasons why some of the RRF vessels were not broken out on time was that the Government had not received the funding necessary to prepare and maintain the ships.

Mr. Speaker, H.R. 4205 also contains a provision that is the result of discussions between our committee and our colleague, the Hon. Norman Mineta, and is drawn from legislation he introduced earlier this year in the form of H.R. 4796. This provision would make special arrangements for Vietnamese fishermen in California, who are in the process of obtaining United States citizenship. Until they have received their citizenship, current law prohibits them from operating fishing vessels in the United States. This section is designed to give these fisherman the opportunity to operate these vessels pending the completion of their citizenship requirements.

Mr. Speaker, we have also included in this legislation, the text of a bill authored by our friend and colleague, the Hon. Helen Bentley, to provide recognition to American merchant seamen who have provided such valiant service to our country. The bill would provide that the Government could convey to several nonprofit organizations a vessel which the Government is currently holding and is scheduled to be scrapped. The purpose of this, is to allow these organizations to obtain funds by selling the vessel for scrap, and then to design and build a memorial for U.S. merchant seamen. There are conditions in the legislation to ensure that the vessel is sold for scrap and that the organizations obtaining it are financially able to carry out their intended purposes.

Mr. Speaker, this legislation also contains the text of a bill that was introduced by Chairman Jones, myself, and the Hon. Robert Davis of Michigan, in response to a request from the Federal Maritime Commission [FMC]. This section of this legislation is called the Non-Vessel Operating Common Carrier Amendments of 1990.

At a hearing held by the Merchant Marine Committee earlier this year, witnesses from the Government and private interests testified in support of this legislation. The basic purpose of this provision is to require that certain non-vessel operating common carriers, which are companies that are in the business of consolidating cargo for shipment overseas, to furnish to the FMC a bond of not less than $50,000 in order to guarantee their performance.

Several years of study by the FMC determined that this legislation is necessary to assist them in correcting problems with NVOCC's failing to deliver on their commitments to provide cargo to vessel operators and to assure completion of shipments. I believe this is an important refinement to the authorities of the FMC. It has received virtually unanimous support from all parties, including organizations that represent the NVOCC's in the United States.

Mr. Speaker, H.R. 4205 also contains provisions that would authorize coastwise privileges for vessels which, for one reason or another, are unable to obtain the necessary Fe eral documents to operate in our domest trade. The committee collected a number vessels that need special congressional a thorization. We have reviewed the circur stances surrounding each of these vesse and we are confident that the inclusion these vessels is appropriate.

This legislation also contains a provision d signed to modify the bilateral maritime agre ment recently negotiated by the United State and the Soviet Union. The agreement lists number of specific ports in each count which will allow vessels of the other count to enter without going through the length procedures for obtaining permission to ent port. This section of H.R. 4205 would speci cally name two ports in the State of Nor Carolina—Wilmington and Moorehead City— the list of approved ports in the United State

Mr. Speaker, this legislation has been car fully crafted and reviewed by the members our committee, and represents an appropria piece of authorizing legislation. I urge my co leagues to join me and the other members the Merchant Marine and Fisheries Committ in supporting this bill.

Mr. DAVIS. Mr. Speaker, I have r further requests for time, and I yiel back the balance of my time.

Mr. JONES of North Carolina. M Speaker, I have no further reques for time, and I yield back the balan of my time.

The SPEAKER pro tempore (M Mazzoli). The question is on th motion offered by the gentleman fro North Carolina [Mr. Jones] that th House suspend the rules and pass th bill, H.R. 4205, as amended.

The question was taken; and (tw thirds having voted in favor thereo the rules were suspended and the bil as amended, was passed.

A motion to reconsider was laid o the table.

GENERAL LEAVE

Mr. JONES of North Carolina. M Speaker, I ask unanimous consent th all Members may have 5 legislati days in which to revise and exten their remarks on H.R. 4205, the bi just passed.

The SPEAKER pro tempore. there objection to the request of th gentleman from North Carolina?

There was no objection.

GREAT LAKES FISH AND WILD LIFE RESTORTION ACT OF 199

Mr. STUDDS. Mr. Speaker, I mov to suspend the rules and pass the bi (H.R. 4299) to authorize a study of th fishery resources of the Great Lakes, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4299

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—GREAT LAKES FISH AND WILDLIFE RESTORATION

SECTION 1001. SHORT TITLE.

This title may be cited as the "Great Lakes Fish and Wildlife Restoration Act of 1990".

SEC. 1002. FINDINGS.

The Congress finds and declares the following:

(1) As the human population of the Great Lakes Basin has expanded to over 35,000,000 people, great demands have been placed on the lakes for use for boating and other recreation, navigation, municipal and industrial water supply, waste disposal, power production, and other purposes. These growing and often conflicting demands exert pressure on the fish and wildlife resources of the Great Lakes Basin, including in the form of contaminants, invasion by nonindigenous species, habitat degradation and destruction, legal and illegal fishery resource harvest levels, and sea lamprey predation.

(2) The fishery resources of the Great Lakes support recreation fisheries enjoyed by more than 5,000,000 people annually and commercial fisheries providing approximately 9,000 jobs. Together, these fisheries generate economic activity worth more than $4,400,000,000 annually to the United States.

(3) The availability of a suitable forage base is essential to lake trout, walleye, yellow perch, and other recreational and commercially valuable fishery resources of the Great Lakes Basin. Protecting and restoring productive fish habitat, including by protecting water quality, is essential to the successful recovery of Great Lakes Basin fishery resources.

(4) The Great Lakes Basin contains important breeding and migration habitat for all types of migratory birds. Many migratory bird species dependent on deteriorating Great Lakes Basin habitat have suffered serious population declines in recent years.

(5) Over 80 percent of the original wetlands in the Great Lakes Basin have been destroyed and such losses continue at a rate of 20,000 acres annually.

(6) Contaminant burdens in the fish and wildlife resources of the Great Lakes Basin are substantial and the impacts of those contaminants on the life functions of important fish and wildlife resources are poorly understood. Concern over the effects of those contaminants on human health have resulted in numerous public health advisories recommending restricted or no consumption of Great Lakes fish.

(7) The lower Great Lakes are uniquely different from the upper Great Lakes biologically, physically, and in the degree of human use and shoreline development, and special fishery resource assessments and management activities are necessary to respond effectively to these special circumstances.

SEC. 1003. PURPOSE.

The purposes of this Act are—

(1) to carry out a comprehensive study of the status, and the assessment, management, and restoration needs, of the fishery resources of the Great Lakes Basin;

(2) to develop proposals to implement recommendations resulting from that study; and

(3) to provide assistance to the Great Lakes Fisheries Commission, States, Indian Tribes, and other interested entities to encourage cooperative conservation, restoration and management of the fish and wildlife resources and their habitat of the Great Lakes Basin.

SEC. 1004. DEFINITIONS.

In this Act—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(2) the term "Director" means the Director of the United States Fish and Wildlife Service;

(3) the term "fish stock" means—

(A) a taxonomically distinct species or subspecies of fish; or

(B) any other aggregation of fish that are geographically, ecologically, behaviorally, or otherwise limited from breeding with individuals from other groups of fish and are capable of management as a unit;

(4) the term "Great Lakes Basin" means the air, land, water, and living organisms within the drainage basin of the Saint Lawrence River at or upstream from the point at which the river becomes the international boundary between Canada and the United States;

(5) the term "Indian Tribe" means any Indian tribe, band, village, nation, or other organized group or community that is recognized by the Bureau of Indian Affairs as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(6) the term "lower Great Lakes" means the region in which is located that portion of the Great Lakes Basin which is downstream from the confluence of the Saint Clair River and Lake Huron near Port Huron, Michigan;

(7) the term "upper Great Lakes" means that portion of the Great Lakes Basin which is upstream from the confluence of the Saint Clair River and Lake Huron near Port Huron, Michigan.

(8) the term "nonindigenous species" means a species of plant or animal that did not occur in the Greak Lakes Basin before European colonization of North America;

(9) the term "Secretary" means the Secretary of the Army; and

(10) the term "State Director" means the head of the agency, department, board, commission, or other governmental entity of each of the States of New York, Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, and the Commonwealth of Pennsylvania which is responsible for the management and conservation of the fish and wildlife resources of that State.

SEC. 1005. GREAT LAKES FISHERY RESOURCES RESTORATION STUDY.

(a) IN GENERAL.—The Director shall conduct a comprehensive study of the status of, and the assessment, management, and restoration needs of, the fishery resources of the Great Lakes Basin and shall provide the opportunity for the Secretary, the Administrator, State Directors, Indian Tribes, the Great Lakes Fishery Commission, appropriate Canadian Government entities, and other appropriate entities to participate in the study. The Director shall complete the study by October 1, 1994.

(b) MEMORANDUM OF UNDERSTANDING.—To provide opportunities for the full participation of all affected entities in the planning and conduct of the study, the Director shall invite the entities identified in subsection (a) to enter into a memorandum of understanding regarding the scope and focus of the study and the responsibilities of each participant for conducting the study.

(c) CONTENT OF STUDY.—A study under this section shall include, but not be limited to—

(1) identifying and describing the component drainages of the Great Lakes Basin (including the drainage for each of the Great Lakes), analyzing how the characteristics and current or expected land and water uses of those drainages have affected, and can be expected to affect in the future, the fishery resources and fish habitats of the Great Lakes Basin;

(2) analyzing historical fishery resource data for the Great Lakes Basin to identify the causes of past and continuing declines of the fishery resources and the impediments to restoring those resources;

(3) evaluating the adequacy, effectiveness, and consistency of current Great Lakes interagency fisheries management plans and Federal and State water quality programs, with respect to their effects on Great Lakes fishery resources;

(4) analysing the impacts of, and management control alternatives for, recently introduced nonindigenous species, including the zebra mussel, the ruffe, and the spiny water flea in accordance with the Aquatic Nuisance Prevention and Control Act of 1990;

(5) developing recommendations regarding—

(A) an action plan to analyze the effects of contaminant levels on fishery resources;

(B) an action plan for the cooperative restoration and enhancement of depleted, nationally significant fish stocks, including lake trout, yellow perch, lake sturgeon, walleye, forage fish, and Atlantic salmon;

(C) planning and technical assistance that should be provided to the, Great Lakes Fisheries Commission, States, and Indian Tribes to assist their fishery resource restoration efforts;

(D) mitigation measures to restore and enhance fishery resources adversely affected by past Federal (including federally assisted or approved) water resource development projects and other activities;

(E) increasing the involvement of the International Joint Commission, the Great Lakes Commission, the Great Lakes Fishery Commission, and other interjurisdictional entities regarding fishery resources protection, restoration, and enhancement;

(F) research projects and data gathering initiatives regarding population trends of fish stocks, including population abundance and structure, interspecific competition, survival rates, and behavioral patterns;

(G) important fishery resource habitat and other areas that should be protected, restored, or enhanced for the benefit of Great Lakes fishery resources;

(H) how private conservation organizations, recreational and commercial fishing interests, the aquaculture industry, and the general public could contribute to the implementation of the fishery resource restoration and enhancement recommendations developed pursuant to this Act; and

(I) appropriate contributions that should be made by States and other non-Federal entities to the cost of activities undertaken to implement the recommendations, including a description of—

(i) the activities that shall be cost-shared;

(ii) the entities or individuals which shall share the costs of those activities;

(iii) the proportion of appropriate project and activity costs that shall be borne by non-Federal interests; and

(iv) how the entities or individuals who share costs should finance their contribution.

(d) PROPOSALS FOR IMPLEMENTING RECOMMENDATIONS.—The Director shall develop proposals for implementing the recommendations of the study developed under subsection (c)(5). The proposals shall be consistent with the goals of the Great Lakes Water Quality Agreement, as revised in 1987, the 1954 Great Lakes Fisheries Convention, State and tribal fishery management jurisdiction, and the 1980 Joint Strategic Plan for the management of Great Lakes fishery resources.

SEC. 1006. GOALS OF UNITED STATES FISH AND WILDLIFE SERVICE PROGRAMS RELATED TO GREAT LAKES FISH AND WILDLIFE RESOURCES.

In administering programs of the United States Fish and Wildlife Service related to the Great Lakes Basin, the Director shall seek to achieve the following goals:

(1) Restoring and maintaining self-sustaining fishery resource populations.

(2) Minimizing the impacts of contaminants on fishery and wildlife resources.

(3) Protecting, maintaining, and, where degraded and destroyed, restoring fish and wildlife habitat, including the enhancement and creation of wetlands that result in a net gain in the amount of those habitats.

(4) Stopping illegal activities adversely impacting fishery and wildlife resources.

(5) Restoring threatened and endangered species to viable, self-sustaining levels.

(6) Protecting, managing, and conserving migratory birds.

SEC. 1007. ESTABLISHMENT OF OFFICES.

(a) GREAT LAKES COORDINATION OFFICE.—The Director shall establish a centrally located facility for the coordination of all United States Fish and Wildlife Service activities in the Great Lakes Basin, to be known as the "Great Lakes Coordination Office". The functional responsibilities of the Great Lakes Coordination Office shall include intra- and interagency coordination, information distribution, and public awareness outreach. The Great Lakes Coordination Office shall include all administrative and technical support necessary to carry out its responsibilities.

(b) LOWER GREAT LAKES FISHERY RESOURCES OFFICE.—The Director shall establish an office with necessary administrative and technical support services to carry out all United States Fish and Wildlife Service operational activities related to fishery resource protection, restoration, maintenance, and enhancement in the lower Great Lakes. The office shall be known as the "Lower Great Lakes Fishery Resources Office", and shall be centrally located in the lower Great Lakes so as to facilitate fishery resource restoration and enhancement activities relating to the lower Great Lakes.

(c) UPPER GREAT LAKES FISHERY RESOURCES OFFICES.—The Director shall establish one or more offices with necessary administrative and technical support services to carry out United States Fish and Wildlife Service operational activities related to fishery resource protection, restoration, maintenance, and enhancement in the upper Great Lakes. Each of the offices shall be known as an "Upper Great Lakes Fishery Resources Office", and shall be appropriately located so as to facilitate fishery resource activities in the upper Great Lakes.

SEC. 1008. ANNUAL REPORTS.

Not later than 1 year after the date of the enactment of this Act and annually thereafter, the Director shall submit a report to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate. Each such report shall describe—

(1) the progress and findings of the studies conducted under section 1005, including recommendations of implementing activities, where appropriate, that would contribute to the restoration or improvement of one or more fish stocks of the Great Lakes Basin; and

(2) activities undertaken to accomplish the goals stated in section 1006.

SEC. 1009. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Director—

(1) for conducting a study under section 1005 not more than $4,000,000 for each of the fiscal years 1991 through 1994;

(2) to establish and operate the Great Lakes Coordination Office under section 1008(a) and Upper Great Lakes Fishery Resources Offices under section 1008(c) not more than $4,000,000 for each of the fiscal years 1991 through 1995; and

(3) to establish and operate the Lower Great Lakes Fishery Resources Office under section 1008(b), not more than $2,000,000 for each of the fiscal years 1991 through 1995.

TITLE II—GREAT LAKES OIL POLLUTION RESEARCH AND DEVELOPMENT

SEC. 2001. SHORT TITLE.

This title may be cited as the "Great Lakes Oil Pollution Research and Development Act".

SEC. 2002. GREAT LAKES OIL POLLUTION RESEARCH AND DEVELOPMENT.

Section 7001 of the Oil Pollution Act of 1990 (Public Law 101-380) is amended as follows:

(1) GREAT LAKES DEMONSTRATION PROJECT.—In subsection (c)(6), strike "3" and insert "4", strike "and" after "California,", and insert "and (D) a port on the Great Lakes" after "Louisiana,".

(2) FUNDING.—In subsection (f) strike "21,250,000" and insert "22,000,000" and in subsection (f)(2) strike "2,250,000" and insert "3,000,000".

The SPEAKER pro tempore. Is a second demanded?

Mr. DAVIS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. DAVIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4299, the Great Lakes Fish and Wildlife Restoration Act, taken together with a bill which will be offered next under suspension by the gentleman from Michigan [Mr. HERTEL] reflects the leadership and hard work of several Members fro the Great Lakes States, including t gentleman from New York, M NOWAK; the chairman of our Subcor mittee on Oceanography and Gre Lakes, Mr. HERTEL; and the rankir member of our Committee on Me chant Marine and Fisheries, M DAVIS.

The bill, as introduced and reporte by our committee, was designed strengthen several Fish and Wildli Service programs in the Great Lak basin and to authorize two offic within the Service to implement tho programs.

This afternoon, we have included our motion to suspend the rules a cor mittee amendment that broadens th scope and increases the importance the bill.

The committee amendment contai two titles. Title I is the bill as origina ly reported.

Title II authorizes an oil pollutic research and development demonstr tion project for the Great Lakes. Th is similar to projects authorized in th recently passed oilspill liability bill f the west, gulf, and east coasts of th United States.

Mr. Speaker, I have been told by m colleagues so many times in recer weeks that what's good for the Gre Lakes is good for America that I' come to believe it.

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H.R. 4299, as I said before, to be fo lowed by H.R. 5390, comprise the mo important proposals for protectin public safety and environmental qua ity of the Great Lakes that we wi consider in this Congress. It is, unden ably, good for the Great Lakes, and is good for the country, and I trust will be approved without controvers today.

Mr. DAVIS. Mr. Speaker, I yiel myself such time as I may consume.

Mr. Speaker, I rise in support H.R. 4299, legislation that address the fish and wildlife resources of th Great Lakes.

The Great Lakes are of great impo tance to both the United States an Canada—specifically the 35 millio Americans and Canadians who live the region. With this population, gre demands on the lakes for boatin recreation, shipping, municipal and i dustrial water supplies, waste disposa power production, and other uses hav burdened these waters. The result that the fish and wildlife resources the lakes have undergone traumat changes in the past 50 years.

Title I of the bill that Congressma NOWAK of New York introduced, cal for a comprehensive study of th status, management, and restoratio needs of the resources of the Gre Lakes. The growing and often confli ing demands placed on the Gre

Lakes will continue to exert pressure on fish and wildlife. These pressures include contaminates, invasion of alien species such as the zebra mussel and sea lamprey, and the destruction of habitat.

The Fish and Wildlife Service, the Great Lakes Fisheries Commission, and State agencies already have the responsibility for managing these resources. Unfortunately, they have not been given adequate funding to address existing problems or put programs in place to prevent new ones. This bill does not.

Simply put, title I of H.R. 4299 directs the Fish and Wildlife Service, the Environmental Protection Agency, the U.S. Corps of Engineers, State fish and wildlife agencies, tribes, and Canadian officials to undertake a comprehensive study of the fish and wildlife resources of the lakes and report to Congress by October 1, 1994. The bill establishes a facility for the coordination of the U.S. Fish and Wildlife Service activities in the Great Lakes basin and authorizes the establishment of an upper and a lower Great Lakes Fisheries Assistance Office to assist in the restoration and enhancement activities relating to the Great Lakes.

Title II of the bill amends the recently enacted Oil Pollution Act to allow an oil spill demonstration program in the Great Lakes. This will compliment existing projects in California, New York, and Louisiana. I hope that in selecting a site for this proposal attention is given to particularly hazardous navigation zones, such as the Straits of Mackinac.

Mr. Speaker, the Great Lakes, America's fourth seacoast are a national treasure and an economic treasure we must protect. Enactment of H.R. 4299 will ensure that the lakes continue to feed us, provide jobs, and be a source of recreation for generations to come.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL. Mr. Speaker, this, with H.R. 5390, is a very important package for the Great Lakes States.

I want to commend the gentleman from Massachusetts [Mr. STUDDS], the gentleman from Michigan [Mr. DAVIS], the ranking member of the full committee, the gentleman from New York [Mr. NOWAK], from the Public Works and Transportation Subcommittee chair that he has for all the hard work that they have done.

Last week we saw a great fire in a ship, an oil ship, in Bay City, MI. In fact, the gentleman from New York [Mr. NOWAK] and I and the gentleman from Michigan [Mr. TRAXLER] were up there with the Coast Guard to investigate and find out how it occurred.

This bill will move a long way in avoiding that kind of condition from ever happening again, that kind of accident from ever happening again.

I commend the gentlemen. This is a very important package, and we hope that the Senate will pass this en bloc.

Mr. DAVIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 4299, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4299, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

AQUATIC NUISANCE PREVENTION AND CONTROL ACT OF 1990

Mr. HERTEL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5390) to prevent and control infestations of the coastal inland waters of the United States by the zebra mussel, and other nonindigenous aquatic nuisance species, as amended.

The Clerk read as follows:

H.R. 5390

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Subtitle A—General Provisions

SECTION 1001. SHORT TITLE.

This title may be cited as the "Aquatic Nuisance Prevention and Control Act of 1990".

SEC. 1002. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the discharge of untreated water in the ballast tanks of vessels and through other means results in unintentional introductions of aquatic nuisance species to fresh, brackish, and saltwater environments;

(2) several aquatic nusiance species, especially the zebra mussel (Dreissena polymorpha), may disrupt the aquatic environment and economy of affected coastal areas;

(3) the zebra mussel is expected to infest over two-thirds of the inland waters of the continental United States through the unintentional transportation of larvae and adults by vessels operating in inland waters; and

(4) the potential economic disruption to communities affected by the zebra mussel due to its colonizing of water inlet and outlet pipes, boat hulls, and other hard surfaces, has been estimated at $5,000,000,000 by the year 2000.

(b) PURPOSES.—The purposes of this Act are to—

(1) prevent the unintentional introduction of aquatic nuisance species into the waters of the United States through ballast water management and other requirements;

(2) coordinate activities of Federal, State, and local agencies involved in the management of the zebra mussel and other aquatic nuisance species;

(3) develop new procedures to prevent and control unintentional introductions of nonindigenous species from routes other than ballast water exchange; and

(4) establish a program of research and technology development and assistance to States in the management and removal of zebra mussels.

SEC. 1003. DEFINITIONS.

As used in this Act—

(1) "aquatic nuisance species" means any nonindigenous species which may adversely affect the ecological stability or the economic and recreational uses of waters of the United States;

(2) "Assistant Secretary" means the Assistant Secretary of the Army for Public Works;

(3) "ballast water" means any water taken on board a vessel to be used to manipulate the trim and stability of the vessel;

(4) "Director" means the Director of the United States Fish and Wildlife Service;

(5) "high seas" means waters beyond the territorial sea of the United States or Canada;

(6) "nonindigenous species" means any species that is not native to an ecosystem, including any such organism transferred from one country to another;

(7) "Secretary" means the Secretary of the department in which the Coast Guard is operating;

(8) "Task Force" means the Aquatic Nuisance Species Task Force established under section 1201; and

(9) "Under Secretary" means the Under Secretary of Commerce for Oceans and Atmosphere.

Subtitle B—Prevention Of Unintentional Introductions of Aquatic Nuisance Species

SEC. 1101. AQUATIC NUISANCE SPECIES IN THE GREAT LAKES.

(a) GUIDELINES.—(1) Not later than 12 months after the date of the enactment of this Act, the Secretary, in consultation with the Task Force, shall issue voluntary guidelines to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through the exchange of ballast water of vessels prior to entering those waters.

(2) The guidelines issued under this subsection shall—

(A) ensure to the maximum extent practicable that ballast water containing aquatic nuisance species is not discharged into the Great Lakes;

(B) protect the safety of the vessel, its crew, and passengers;

(C) take into consideration different vessel operating conditions; and

(D) be based on the best scientific information available.

(b) AUTHORITY OF SECRETARY.—(1) Not later than 24 months after the date of enactment of this Act, the Secretary, in consultation with the Task Force, shall issue regulations to prevent the introduction and spread of aquatic nuisance species into the

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Great Lakes through the ballast water of vessels.

(2) The regulations issued under this subsection shall—

(A) require all vessels that carry ballast water and enter a United States port on the Great Lakes after operating on the high seas to—

(i) carry out high seas exchange of ballast water prior to entering any port within the Great Lakes;

(ii) carry out an exchange of ballast water in other areas if the exchange does not pose a threat of infestation or spread of aquatic nuisance species in the waters of the United States, including the Great Lakes; or

(iii) use alternative ballast water management methods if the Secretary determines alternative methods are as effective as high seas exchange in preventing and controlling infestations of aquatic nuisance species;

(B) provide for sampling or other procedures to monitor compliance with the regulations issued under this section;

(C) prohibit a vessel from operating on waters subject to the jurisdiction of the United States on the Great Lakes unless the master or other individual in charge of the vessel certifies to the Secretary or the Secretary's designee that the vessel has complied with the requirements established under this subsection before the vessel departs from the first lock in the St. Lawrence Seaway;

(D) deny access to United States ports for vessels in violation of regulations issued pursuant to this subsection; and

(E) take into consideration the safety of the vessel, its crew, and passengers, the different vessel operating conditions, and the best scientific information available.

(c) CONSULTATION WITH CANADA.—In developing guidelines and regulations under this section, the Secretary, in consultation with the Secretary of State, is encouraged to develop with the Government of Canada an effective international program for preventing the introduction and spread of aquatic nuisance species in the Great Lakes from the ballast water of vessels.

SEC. 1102. NATIONAL BALLAST WATER CONTROL PROGRAM.

(a) COAST GUARD STUDY.—The Secretary, in cooperation with the Director and the Under Secretary, shall conduct a study to determine the need for controls on vessels entering the waters of the United States to prevent the unintentional introduction and spread of aquatic nuisance species in those waters.

(b) CONTENT.—The study shall include an examination of—

(1) the extent to which aquatic nuisance species are a problem in the waters of the United States;

(2) the degree to which shipping may be a major pathway of transmission of aquatic nuisance species in these waters;

(3) possible alternatives for controlling the introduction of those species through shipping, including the effectiveness of those alternatives in controlling the introduction and spread of aquatic nuisance species;

(4) the feasibility of implementing regional versus national control measures; and

(5) the effectiveness of ballast water exchange in preventing the introduction of aquatic nuisance species between marine ports.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit a report summarizing the results of the study conducted under this section to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate.

(d) REGULATIONS.—30 months after the date of enactment of this Act, the Secretary may issue regulations for preventing the introduction and spread of aquatic nuisance species by vessels in the waters of the United States, if the Secretary determines as a result of the study conducted under this section, that those regulations are warranted.

(e) NEGOTIATIONS.—The Secretary, working through the International Maritime Organization and in consultation with the Secretary of State, is encouraged to enter into negotiations with other nations concerning the planning and implementation of measures for the prevention and control of unintentional introductions of aquatic nuisance species in the waters of the United States.

(f) CIVIL PENALTIES.—Any person who violates a regulation issued under this subtitle shall be liable for a civil penalty in an amount not to exceed $25,000. Each day of a continuing violation constitutes a separate violation. A vessel operated in violation of the regulations is liable in rem for any civil penalty assessed under this subsection for that violation.

(g) CRIMINAL PENALTIES.—Any person who knowingly violates a regulation issued under this subtitle commits a class C felony.

Subtitle C—Aquatic Nuisance Species Control Program

SEC. 1201. AQUATIC NUISANCE SPECIES CONTROL PROGRAM.

(a) TASK FORCE.—There is hereby established a task force to be known as the "Aquatic Nuisance Species Task Force".

(b) MEMBERSHIP.—Membership on the Task Force shall consist of—

(1) the Director;

(2) the Under Secretary;

(3) the Administrator of the Environmental Protection Agency;

(4) the Commandant of the Coast Guard;

(5) the Assistant Secretary;

(6) a representative of the International Association of Fish and Wildlife Agencies;

(7) the Director of the Great Lakes Commission; and

(8) any other individual the Chairpersons deem appropriate.

(c) CHAIRPERSONS.—The Director and the Under Secretary shall serve as co-chairpersons of the Task Force and shall be jointly responsible for carrying out this subtitle in consultation with the other members of the Task Force.

(d) MEMORANDUM OF UNDERSTANDING.—Six months after the date of enactment of this Act, the Director and the Under Secretary shall develop a memorandum of understanding that describes the role of each Federal agency in carrying out this subtitle.

SEC. 1202. DEVELOPMENT OF AQUATIC NUISANCE SPECIES RESEARCH AND CONTROL PROGRAM.

(a) IN GENERAL.—The Task Force shall develop, update annually, and implement a five-year program to coordinate Federal activities related to research, monitoring, control, and eradication of aquatic nuisance species.

(b) CONTENT.—The program developed under subsection (a) shall—

(1) identify the goals, priorities, and approaches for aquatic nuisance species research, monitoring, control and eradication

to be conducted or funded by the Feder
Government;

(2) describe the specific research, monito
ing, control, and eradication activities to
conducted under the program by participa
ing Federal agencies;

(3) coordinate aquatic nuisance speci
programs and activities of participating Fe
eral agencies and affected State agencies;

(4) describe the specific role of each Fe
eral agency in implementing the program
set forth in the memorandum of unde
standing under subsection 1201(d);

(5) include recommendations for fundir
to implement the program; and

(6) develop a demonstration program
research, monitoring, control, and eradic
tion for aquatic nuisance species, particula
ly the zebra mussel, to be implemented
the Great Lakes.

(c) RESEARCH.—The program develope
under subsection (a) shall provide for r
search regarding—

(1) the environmental and economic risl
associated with the introduction of aquat
nuisance species into the waters of th
United States, particularly the Great Lake

(2) the principal pathways by whic
aquatic nuisance species are introduced ar
spread;

(3) possible methods for the preventio
management, and control of aquatic nu
sance species, particularly the zebra musse
and

(4) the assessment of the effectiveness
prevention, management, and control met
ods.

(d) MONITORING.—The program develope
under subsection (a) shall provide for mon
toring to—

(1) detect unintentional introductions
aquatic nuisance species;

(2) determine the dispersal of aquatic nu
sance species after introduction; and

(3) provide for the early detection an
prevention of infestations of aquatic nu
sance species in unaffected drainage basin

(e) TECHNICAL ASSISTANCE.—The progra
developed under subsection (a) shall provid
for technical assistance to State and loc
governments and persons to minimize th
environmental, public health, and safet
risks associated with aquatic nuisance sp
cies, including an early warning system fo
advance notice of possible infestations an
appropriate responses.

(f) REPORTS.—

(1) Not later than 12 months after th
date of enactment of this Act, the Chairpe
sons shall submit a report describing th
program developed under subsection (a)
the Committee on Merchant Marine an
Fisheries of the House of Representative
and the Committee on Environment an
Public Works of the Senate and the Con
mittee on Commerce, Science, and Tran
portation of the Senate.

(2) On an annual basis after the submi
sion of the program, the Chairpersons sha
submit a report to the Committee on Me
chant Marine and Fisheries of the House
Representatives and the Committee on E
vironment and Public Works and the Con
mittee on Commerce, Science, and Tran
portation of the Senate detailing progress
implementing the program and preventin
the spread of aquatic nuisance species.

SEC. 1203. CONTROL AND MANAGEMENT OF AQUA
IC NUISANCE SPECIES.

(a) IMPLEMENTATION.—Each Feder
agency that is participating in the progra
developed under section 2202 may unde

take such activities as may be necessary to implement the program.

(b) Regulations.—Not later than 18 months after the date of the enactment of this Act, the Federal agencies that are represented on the Task Force may, consistent with their authority, issue regulations, which implement the recommendations of the Task Force, for controlling the unintentional introduction and spread of aquatic nuisance species by means other than vessel ballast water.

SEC. 1204. STATE AQUATIC NUISANCE SPECIES MANAGEMENT PLANS.

(a) State Plan.—

(1) In General.—The Governor of each State may, after notice and opportunity for public comment, prepare and submit to the Task Force for approval, a management plan which identifies those areas or activities within the State for which technical and financial asistance is needed to eliminate or reduce the environmental, public health, and safety risks associated with aquatic nuisance species.

(2) Content.—Each plan shall, to the extent possible, identify the management practices and measures that will be undertaken to reduce infestations of aquatic nuisance species, particularly the zebra mussel. The plan shall—

(A) identify and describe State and local programs for the control and eradication of aquatic nuisance species, particularly the zebra mussel;

(B) identify Federal activities that may be needed to control and eradicate aquatic nuisance species and a description of the manner in which those activities should be coordinated with State and local government activities; and

(C) a schedule of implementing the plan, including annual milestones.

(3) Consultation.—

(A) In developing and implementing the management plan, the State should, to the maximum extent practicable, involve local governments and public and private organizations that have expertise in the control of aquatic nuisance species, particularly the zebra mussel.

(B) Upon the request of a State, the Task Force may provide technical assistance in developing and implementing a management plan.

(4) Plan approval.—Within 90 days after the submission of the plan, the Task Force shall review the proposed plan and approve it if it meets the requirements of this subsection or return the plan to the governor with recommended modifications

(b) Grant Program.—

(1) State grants.—The Director and the Assistant Secretary may make grants to States with approved management plans for the implementation of those plans.

(2) Application.—An application for a grant under this subsection shall include an identification and description of the best management practices and measures which the State proposes to utilize with any Federal assistance to be provided under the grant.

(3) Federal share.—The Federal share of the cost of each management plan implemented the Federal assistance under this section in any fiscal year shall not exceed 75 percent of the cost incurred by the State in implementing such management program and the non-Federal share of such costs shall be provided for non-Federal sources.

(4) Administrative costs.—For the purposes of this section, administrative costs for activities and programs carried out with a grant in any fiscal year shall not exceed 5 percent of the amount of the grant in that year.

(5) In-kind contributions.—In addition to cash outlays and payments, in-kind contributions of property or personnel services by non-Federal interests for activities under this section may be used for the non-Federal share of the cost of those activities.

SEC. 1205. RELATIONSHIP TO OTHER LAWS.

All actions taken by Federal agencies in implementing the program developed under section 1202(a) shall be consistent with all applicable Federal, State, and local environmental laws. Nothing in this title shall affect the authority of any State or political subdivision thereof to adopt or enforce control measures for aquatic nuisance species, or diminish or affect the jurisdiction of any State over resident species of fish and wildlife. Compliance with the control and eradication measures of any State or political subdivision thereof regarding aquatic nuisance species shall not relieve any person of the obligation to comply with the provisions of this subtitle.

SEC. 1206. INJURIOUS SPECIES.

For the purposes of section 42 of title 18, United States Code, the Secretary of the Interior shall declare the zebra mussel (Dreissena polymorpha) an injurious species.

SEC. 1207. REPORT ON INTENTIONAL INTRODUCTIONS OF NONINDIGENOUS SPECIES.

Not later than 18 months after the date of enactment of this Act, the Director, in consultation with affected State fish and wildlife agencies, shall prepare and submit a report to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate on the problem of intentional introductions of nonindigenous species into the United States.

Subtitle D—Authorizations

SEC. 1301. AUTHORIZATIONS.

(a) Implementation of Research and Control Program.—There are authorized to be appropriated for each of fiscal years 1991, 1992, 1993, 1994, and 1995 to develop and implement the program required under sections 1203 and 1204—

(1) $1,125,000 to fund zebra mussel prevention and control research at the Great Lakes Environmental Research Laboratory;

(2) $3,375,000 to fund grants for zebra mussel prevention and control research under section 206 of the National Sea Grant College Program Act (33 U.S.C. 1125);

(3) $500,000 to fund Sea Grant Marine Advisory services national education and extension services;

(4) $100,000 to fund aquatic nuisance species prevention and control activities of the Great Lakes Fishery Commission;

(5) $100,000 to fund aquatic nuisance species prevention and control activities of the Great Lakes Commission;

(6) $100,000 to the Secretary to fund the activities of the Coast Guard;

(7) $2,500,000 to the United States Fish and Wildlife Service;

(8) $1,000,000 to the Environmental Protection Agency; and

(9) $1,000,000 to the Corps of Engineers.

(b) Grants Under Section 1204.—There are authorized to be appropriated for each of fiscal years 1991, 1992, 1993, 1994, and 1995 to make grants under section 1204—

(1) $2,500,000 to the United States Fish and Wildlife Service; and

(2) $2,500,000 to the Corps of Engineers.

(c) Enforcement Activities.—There are authorized to be appropriated $2,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995 to the Coast Guard for enforcement activities under subtitle B.

Subtitle E—Cooperative Environmental Analyses

SEC. 1401. ENVIRONMENTAL IMPACT ANALYSES.

(a) International Cooperation.—The Secretary of State, in consultation with the Council on Environmental Quality, is encouraged to enter into negotiations with the governments of Canada and Mexico to provide for reciprocal cooperative environmental impact analysis of major Federal actions which have significant transboundary effects on the quality of the human environment in the United States, Canada, and Mexico.

(b) Modification of National Environmental Policy Act Regulations.—The Council on Environmental Quality shall modify its regulations implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as may be necessary to reflect any agreement entered into under subsection (a).

TITLE IV.—NATIONAL SEA GRANT COLLEGE PROGRAM AUTHORIZATION

SEC. 2001. SHORT TITLE.

This title may be cited as the "National Sea Grant College Program Authorization Act of 1990".

SEC. 2002. NATIONAL SEA GRANT OFFICE.

(a) Maintenance of Office.—Section 203(a) of the National Sea Grant College Program Act (33 U.S.C. 1123(a)) is amended to read as follows:

"(a) The Secretary shall maintain, within the Administration, a program to be known as the National Sea Grant College Program. The National Sea Grant College Program shall consist of the financial assistance and other activities provided for in this Act, and shall be administered by a National Sea Grant Office within the Administration. The Secretary shall establish long-range planning guidelines and priorities for, and adequately evaluate, this program.".

(b) Oversight.—Section 203(b) of the National Sea Grant College Program Act (33 U.S.C. 1123(b)) is amended—

(1) in paragraph (6), by striking "; and" and inserting a semicolon;

(2) in paragraph (7), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(8) oversee the operation of the National Sea Grant Office established under subsection (a) of this section.".

SEC. 2003. AUTHORIZATION.

Subsections (a) through (c) of section 212 of the National Sea Grant College Program Act (33 U.S.C. 1131(a)(c)) are amended to read as follows:

"(a) There is authorized to be appropriated to carry out the provisions of sections 204, 205, and 208 of this Act, an anount—

"(1) for fiscal year 1991, not to exceed $48,750,000; and

"(2) for fiscal year 1992, not to exceed $52,500,000.

"(b) There is authorized to be appropriated to carry out section 206 of this Act, an amount—

"(1) for fiscal year 1991, not to exceed $8,375,000; and

"(2) for fiscal year 1992, not to exceed $10,000,000.

"(c)(1) There is authorized to be appropriated for administration of this Act by the National Sea Grant Office and the Administration, an amount—

"(A) for fiscal year 1991, not to exceed $2,400,000; and

"(B) for fiscal year 1992, not to exceed $2,500,000.

"(2) Sums appropriated under the authority of subsections (a) and (b) shall not be available for administration of this Act by the National Sea Grant Office, or for Administration program or administrative expenses.".

SEC. 2004. REPEAL OF MARINE AFFAIRS AND RESOURCE MANAGEMENT IMPROVEMENT GRANTS.

Section 211 of the National Sea Grant College Program Act (33 U.S.C. 1130) is repealed.

The SPEAKER pro tempore. Is a second demanded?

Mr. DAVIS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. Hertel] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. Davis] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. Hertel].

Mr. HERTEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5390.

The bill which we are considering today addresses many important issues related to the Great Lakes, and specifically H.R. 5390 establishes a comprehensive program of prevention and control of aquatic nuisance species, particularly the zebra mussel in the Great Lakes.

In June, the Subcommittee on Oceanography and Great Lakes held a hearing on the problem of exotic species infestations in the Great Lakes and other coastal regions of the United States. The results of this hearing only served to reemphasize the enormous impact which aquatic nuisance species are having on the economy and the aquatic environment.

These species disrupt coastal environments by competing with native organisms for food and other resources and may have negative economic impact on commercial and recreational fisheries, municipal and industrial water supplies, and shipping interests.

The bill before us today mandates a three-phase program for preventing further introduction of nuisance species in the Great Lakes and elsewhere by requiring the U.S. Coast Guard to issue voluntary ballast control regulations for vessels entering the Great Lakes. Furthermore, this legislation requires mandatory ballast water control for all vessels entering the Great Lakes after 2 years, using appropriate control methods which are to be certified by the Secretary of Transportation.

Finally, this program mandates a national study to determine the extent in which exotic species are posing problems elsewhere in the Nation. H.R. 5390 encourages international negotiations with the Government of Canada to develop a joint program of ballast water control.

The second major effect of this legislation is to mandate development of a comprehensive program of research, monitoring, and control of the zebra mussel and other aquatic nuisance species in the Great Lakes and elsewhere.

NOAA and the U.S. Fish and Wildlife Service would serve as cochairs of the Federal task force. The task force would implement a cooperative program for research on the effects of aquatic nuisance species on the environment and on methods for the control of the spread of nuisance species once in the ecosystem.

Grants to Great Lakes States and other States affected by aquatic nuisance species to implement zebra mussel control and management programs are also provided on a competitive basis. These funds would go toward actual implementation of the program and, finally, over 5 years, the bill would provide authorization for appropriations of over $12 million per fiscal year including $5 million to fund the research activities of NOAA. This money would be used for State grants administered through the Sea Grant Colleges Program and the Great Lakes Environmental Research Laboratory in Ann Arbor. There would be $5 million to the U.S. Fish and Wildlife Service for implementation of a research program and for grants to States to develop a management program; $2 million will go to the Coast Guard to develop regulations and study this program nationally.

Other provisions of H.R. 5390 would be authorized, the National Sea Grant Program Act for fiscal year 1991–92, and authorizes the study of the Great Lakes fishery resources.

Mr. DAVIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5390.

Title I of the bill introduced by Congressman Hertel and myself, that address an immediate problem for the lakes—zebra mussels. In 5 short years after being dumped in the Great Lakes by oceangoing ships, these small clamlike organisms have caused millions of dollars in damage. In Lake Erie and Ontario they have clogged industrial and municipal water intake pipes and boat motors, they have colonized fish spawning reefs and have littered beaches with razor sharp shells.

The potential for severe economic harm is devastating, because these tiny aquatic animals have no natural predators to limit their numbers. Not only have they found their way into each of the Great Lakes, but are gaining a foothold as far west as northern Minnesota's St. Louis River spreading fear of infestation to Minnesota's 10,000 lakes and the Mississippi River.

The bill requires that the U.S. Coast Guard develop voluntary guidelines to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through the exchange of ballast water of vessels. This exchange can be carried out on the high seas or in other areas, as long as it protects against the threat of infestation. Ships may use an alternative ballast water management treatment program if it has been found effective. Within 2 years these requirements would be made mandatory for the Great Lakes. The bill also requires the Coast Guard to initiate a study of other waters of the United States to determine if similar ballast water management is needed.

This bill also establishes a task force of Federal and State agencies and other entities to develop a 5-year program relating to research, monitoring, control, and eradication of aquatic nuisance species. The bill provides State grantes to assist in the carrying out of activities required by the task force and provides authorization to various Federal agencies for their involvement in solving this problem.

Title II of the bill reauthorizes and makes several changes to the National Sea Grant Program.

Mr. HERTEL. Mr. Speaker, I want to thank the ranking member, the gentleman from Michigan [Mr. Davis], for helping so much in being an original cosponsor of this bill, and I especially want to thank the gentleman from New York [Mr. Nowak] for all of his hard work in this entire area. He has even worked with Russian scientists and with the gentlemen from Michigan [Mr. Dingell]. Maybe he could tell us about that. He has done an excellent job, and we thank him for all of his help, especially today in developing this package and allowing this bill to come forward.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. Nowak].

Mr. NOWAK. Mr. Speaker, I rise in strong support of H.R. 5390 and also the Great Lakes Fish and Wildlife Restoration Act of 1990 which I understand just preceded this debate.

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Mr. Speaker, the Aquatic Nuisance Prevention and Control Act of 1990 is certainly one that will help Members greatly, I think, to look at the situation of the zebra mussel and other exotic species that have entered the Great Lakes, and in fact, other waters throughout our Nation.

It is an initiative that, I think, is in perfect timing because I think it is one that hopefully we can, instead of just reacting to a situation, we can finally get out in front of the problem and be able to manage it before it becomes unmanageable.

I just want to thank the chairman, the gentleman from North Carolina [Mr. Jones] and certainly the gentleman from Michigan [Mr. Davis] for all their hard work, but most of all the gentleman from Massachusetts [Mr. Studds] and certainly the gentleman from Michigan [Mr. Hertel] for their initiation of the hearings, and going through the process and bringing this bill to the House floor.

This has been of great interest, and we certainly want to continue that kind of cooperation between our two committees. I commend all involved.

Mr. STUDDS. Mr. Speaker, will the gentleman yield?

Mr. NOWAK. I yield to the chairman, the gentleman from Massachusetts [Mr. Studds].

Mr. STUDDS. Mr. Speaker, I would just like to take one moment to reiterate the understanding of this gentleman and of our two committees that the bill just passed prior to this, the one authorized by the gentleman from New York, and the current pending bill by the gentleman from Michigan [Mr. Hertel], in our judgment, while they are separate freestanding bills, taken together comprise a legislative package designed to address the problems confronting the Great Lakes, a package which both the committees involved are committed to seeing through to final enactment.

The gentleman has managed to introduce Members to a critter named the zebra mussel, and to convince Members of the enormous consequence of our coming to deal with that problem. The two gentlemen together, as we said before, together with the gentleman from Michigan [Mr. Davis] have done yeoman service on behalf of their region of the country and the Great Lakes. I want to assure all the gentlemen concerned that we view this as a legislative package on behalf of the Great Lakes, and will do our best to see both bills are enacted into law.

Mr. HERTEL. Mr. Speaker, I yield myself such time as I may consume. This is the greatest threat we have seen in this century to the Great Lakes. That is why I would really like to commend all members of the Committee on Merchant Marine and Fisheries, and all of my Great Lakes colleagues from Michigan and the other States for their support of this legislation. I would particularly like to single out again, the gentleman from New York [Mr. Nowak], the gentleman from North Carolina [Mr. Jones], the gentleman from Massachusetts [Mr. Studds], the gentleman from Louisiana [Mr. Tauzin], and again the gentleman from Michigan [Mr. Davis], the ranking member. We are proud of Michigan, and thank them for all of their help, and urge support of this legislation.

Mr. NOWAK. Mr. Speaker, I rise in strong support of H.R. 5390, the Aquatic Nuisance Prevention and Control Act of 1990, a bill crafted to respond to the threat of the zebra mussel and other exotic species that find their way into U.S. waters. The zebra mussel in just 2 years has infiltrated the Great Lakes and colonized our water intake infrastructure; it is estimated to cost the Nation over $5 billion in damage and management costs over the next decade as it spreads from the Great Lakes to inland rivers and lakes.

This bill is a comprehensive interagency response to the problem of the zebra mussel, providing resources to NOAA, the U.S. Fish and Wildlife Service, the Coast Guard, the U.S. Army Corps of Engineers, and the Environmental Protection Agency that provides for a coordinated attack on the prevention and control of exotic species. I have worked closely with Representative Dennis Hertel, chairman of the Merchant Marine and Fisheries Subcommittee on Oceanography and the Great Lakes, in the development of this bill and I wish to thank him and other Michigan Members for their vigilance in addressing this critical problem.

Mr. Speaker, I also rise in support of H.R. 4299, the Great Lakes Fish and Wildlife Restoration Act of 1990.

This bill provides badly needed resources to the U.S. Fish and Wildlife Service to assess our Great Lakes fishery and implement management programs critical to the stewardship of the fishery, now worth over $4.5 billion annually to the Great Lakes regional economy. In crafting this bill we consulted extensively with the Fish and Wildlife Service to ensure that this legislation would reflect the true programmatic needs of the Service in this new Great Lakes initiative. This modest Federal investment in the Great Lakes resource is long overdue and will make the U.S. Fish and Wildlife Service a full partner in the multiagency Federal effort to clean up and enhance our valuable Great Lakes fishery.

H.R. 4299 also amends the recently enacted Oil Pollution Act of 1990 to include an oil pollution minimization demonstration project for the Great Lakes. The Great Lakes are a unique ecosystem that take a full 100 years for the water to cycle through. This warrants special consideration for the unique and certain devastation that a major oilspill would have on the system. Again I will thank Chairman Hertel for his excellent work in moving this provision along.

I would like to commend the chairman of the Merchant Marine and Fisheries Committee, Mr. Jones and ranking minority member, Mr. Davis, whom I worked closely with in crafting the fish and wildlife bill.

Finally, special thanks is owed to my colleague, Chairman Studds, for his subcommittee's expeditious consideration of these initiatives. Thanks to his leadership, strong hearing records were developed and legislation moved quickly through the Merchant Marine and Fisheries Committee.

I strongly urge the adoption of these bills.

Mr. DAVIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HERTEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Mazzoli). The question is on the motion offered by the gentleman from Michigan [Mr. Hertel] that the House suspend the rules and pass the bill, H.R. 5390, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

The title of the bill was amended so as to read: "A bill to prevent and control infestations of the coastal inland waters of the United States by the zebra mussel and other nonindigenous aquatic nuisance species, to reauthorize the National Sea Grant College Program, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HERTEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5390, the bill just passed.

The. SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PORTABILITY OF BENEFITS FOR NONAPPROPRIATED FUND EMPLOYEES ACT OF 1990

Mr. ACKERMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3139) to amend title 5, United States Code, to authorize portability of benefits for employees of nonappropriated fund instrumentalities of the Department of Defense when such employees convert to the civil service system, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3139

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Portability of Benefits for Nonappropriated Fund Employees Act of 1990".

SEC. 2. DEFINITIONAL AMENDMENT.

Section 2105(c) of title 5, United States Code, is amended—

(1) by amending paragraph (1) to read as follows:

"(1) laws administered by the Office of Personnel Management, except—

"(A) section 7204;

"(B) as otherwise specifically provided in this title;

"(C) the Fair Labor Standards Act of 1938; or

"(D) for the purpose of entering into an interchange agreement to provide for the noncompetitive movement of employees between such instrumentalities and the competitive service; or"; and

(2) in paragraph (2), by striking "chapter 84" and inserting "chapter 84 (except to the extent specifically provided therein)".

SEC. 3. AMENDMENT RELATING TO ORDER OF RETENTION.

Section 3502(a)(C) of title 5, United States Code, is amended to read as follows:

"(C) is entitled to credit for—

"(i) service rendered as an employee of a county committee established pursuant to section 8(b) of the Soil Conservation and Allotment Act or of a committee or association of producers described in section 10(b) of the Agricultural Adjustment Act; and

"(ii) service rendered as an employee described in section 2105(c) if such employee moves or has moved, on or after January 1, 1987, without a break in service of more than 3 days, from a position in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard to a position in the Department of Defense or the Coast Guard, respectively, that is not described in section 2105(c).".

SEC. 4. AMENDMENT RELATING TO PAY ON A CHANGE OF POSITION.

Section 5334 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(g) An employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) who moves, without a break in service of more than 3 days, to a position in the Department of Defense or the Coast Guard, respectively, that is subject to this subchapter, may have such employee's initial rate of basic pay fixed at the minimum rate of the appropriate grade or at any step of such grade that does not exceed the highest previous rate of basic pay received by that employee during the employee's service described in section 2105(c). In the case of a nonappropriated fund employee who is moved involuntarily from such nonappropriated fund instrumentality without a break in service of more than 3 days and without substantial change in duties to a position that is subject to this subchapter, the employee's pay shall be set at a rate (not above the maximum for the grade, except as may be provided for under section 5365) that is not less than the employee's rate of basic pay under the nonappropriated fund instrumentality immediately prior to so moving.".

SEC. 5. AMENDMENT RELATING TO PERIODIC STEP INCREASES.

Section 5335 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(g) In computing periods of service under subsection (a) in the case of an employee who moves without a break in service of more than 3 days from a position under a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) to a position under the Department of Defense or the Coast Guard, respectively, that is subject to this subchapter, service under such instrumentality shall, under regulations prescribed by the Office, be deemed service in a position subject to this subchapter.".

SEC. 6. AMENDMENT RELATING TO GRADE AND PAY RETENTION.

Section 5365(b) of title 5, United States Code, is amended by adding at the end, as a flush left sentence, the following: "Individuals with respect to whom authority under paragraph (2) may be exercised include individuals who are moved without a break in service of more than 3 days from employment in nonappropriated fund instrumentalities of the Department of Defense or the Coast Guard described in section 2105(c) to employment in the Department of Defense or the Coast Guard, respectively, that is not described in section 2105(c).".

SEC. 7. AMENDMENT RELATING TO PAY FOR ACCUMULATED AND ACCRUED LEAVE.

Section 5551(a) of title 5, United States Code, is amended by adding at the end the following new sentence: "For the purposes of this subsection, movement to employment described in section 2105(c) shall not be deemed separation from the service in the case of an employee whose annual leave is transferred under section 6308(b).".

SEC. 8. AMENDMENTS RELATING TO TRANSFERS BETWEEN POSITIONS UNDER DIFFERENT LEAVE SYSTEMS.

Section 6308 of title 5, United States Code, is amended—

(1) by inserting "(a)" before "The annual"; and

(2) by adding at the end the following new subsection:

"(b) The annual leave, sick leave, and home leave to the credit of a nonappropriated fund employee of the Department of Defense or the Coast Guard described in section 2105(c) who moves without a break in service of more than 3 days to a position in the Department of Defense or the Coast Guard, respectively, that is subject to this subchapter shall be transferred to the employee's credit. The annual leave, sick leave, and home leave to the credit of an employee of the Department of Defense or the Coast Guard who is subject to this subchapter and who moves without a break in service of more than 3 days to a position under a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, respectively, described in section 2105(c), shall be transferred to the employee's credit under the nonappropriated fund instrumentality. The Secretary of Defense or the Secretary of Transportation, as appropriate, may provide for a transfer of funds in an amount equal to the value of the transferred annual leave to compensate the gaining entity for the cost of a transfer of annual leave under this subsection.".

SEC. 9. AMENDMENTS TO INCLUDE ADDITIONAL SERVICE FOR LEAVE ACCRUAL PURPOSES.

(a) In General.—Section 6312 is amended to read as follows:

"§ 6312. Accrual and accumulation for former ASCS county office and nonappropriated fund employees

"(a) Credit shall be given in determining years of service for the purpose of section 6303(a) for—

"(1) service as an employee of a county committee established pursuant to section 8(b) of the Soil Conservation and Allotment Act or of a committee or an association of producers described in section 10(b) of the Agricultural Adjustment Act; and

"(2) service under a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) by an employee who has moved without a break in service of more than 3 days to a position subject to this subchapter in the Department of Defense or the Coast Guard, respectively.

"(b) The provisions of subsections (a) and (b) of section 6308 for transfer of leave between leave systems shall apply to the leave systems established for such county office employees and employees of such Department of Defense and Coast Guard nonappropriated fund instrumentalities, respectively.".

(b) Table of Sections.—The item relating to section 6312 in the table of sections for chapter 63 of title 5, United States Code, is amended to read as follows:

"6312. Accrual and accumulation for former ASCS county office and nonappropriated fund employees.".

SEC. 10. AMENDMENTS RELATING TO THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) Amendments to Section 8331 of Title 5.—Section 8331 of title 5, United States Code, is amended—

(1) by striking "and" at the end of paragraph (1)(J);

(2) by inserting "and" after the semicolon at the end of paragraph (1)(K);

(3) by inserting after paragraph (1)(K) the following new paragraph:

"(L) an employee described in section 2105(c) who has made an election under section 8347(p)(1) to remain covered under this subchapter;";

(4) in paragraph (1)(ii), by striking the matter following "Government employees" through the semicolon and inserting "(besides any employee excluded by clause (x), but including any employee who has made an election under section 8347(p)(2) to remain covered by a retirement system established for employees described in section 2105(c));"; and

(5) in paragraph (7), by striking "and Gallaudet College;" and inserting "Gallaudet College, and, in the case of an employee described in paragraph (1)(L), a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c);".

(b) Amendment to Section 8347 of Title 5.—Section 8347 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(p)(1) Under regulations prescribed by the Office of Personnel Management, an employee of the Department of Defense or the Coast Guard who—

"(A) has not previously made or had an opportunity to make an election under this subsection;

"(B) has 5 or more years of civilian service creditable under this subchapter; and

"(C) moves, without a break in service of more than 3 days, to employment in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, respectively, described in section 2105(c),

shall be given the opportunity to elect irrevocably, within 30 days after such move, to remain covered as an employee under this subchapter during any employment described in section 2105(c) after such move.

"(2) Under regulations prescribed by the Office of Personnel Management, an employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, described in section 2105(c), who—

"(A) has not previously made or had an opportunity to make an election under this subsection;

"(B) is a vested participant in a retirement system established for employees described in section 2105(c), as the term 'vested participant' is defined by such system;

"(C) moves, without a break in service of more than 3 days, to a position in the Department of Defense or the Coast Guard, respectively, that is not described in section 2105(c); and

"(D) is excluded from coverage under chapter 84 by section 8402(b),

shall be given the opportunity to elect irrevocably, within 30 days after such move, to remain covered, during any subsequent employment as an employee as defined in section 2105(a) or section 2105(c), by the retirement system applicable to such employee's current or most recent employment described in section 2105(c) rather than be subject to this subchapter.".

SEC. 11. AMENDMENTS RELATING TO THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM.

(a) AMENDMENTS TO SECTION 8401 OF TITLE 5.—Section 8401 of title 5, United States Code, is amended—

(1) in paragraph (11)—

(A) by striking "and" at the end of subparagraph (A);

(B) by inserting "and" after the semicolon at the end of subparagraph (B);

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) an employee described in section 2105(c) who has made an election under section 8461(n)(1) to remain covered under this chapter;";

(D) by striking "or" at the end of clause (ii);

(E) by inserting "or" after the semicolon at the end of clause (iii); and

(F) by inserting after clause (iii) the following new clause:

"(iv) an employee who has made an election under section 8461(n)(2) to remain covered by a retirement system established for employees described in section 2105(c);"; and

(2) in paragraph (15), by striking "and Gallaudet College;" and inserting ", Gallaudet College, and, in the case of an employee described in paragraph (11)(C), a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c);".

(b) AMENDMENT TO SECTION 8461 OF TITLE 5.—Section 8461 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(n)(1) Under regulations prescribed by the Office, an employee of the Department of Defense or the Coast Guard who—

"(A) has not previously made or had an opportunity to make an election under this subsection;

"(B) has 5 or more years of civilian service creditable under this chapter; and

"(C) moves, without a break in service of more than 3 days, to employment in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, respectively, described in section 2105(c),

shall be given the opportunity to elect irrevocably, within 30 days after such move, to remain covered as an employee under this chapter during any employment described in section 2105(c) after such move.

"(2) Under regulations prescribed by the Office, an employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c), who—

"(A) has not previously made or had an opportunity to make an election under this subsection;

"(B) is a vested participant in a retirement system established for employees described in section 2105(c), as the term 'vested participant' is defined by such system;

"(C) moves, without a break in service of more than 3 days, to a position in the Department of Defense or the Coast Guard, respectively, that is not described by section 2105(c); and

"(D) is not eligible to make an election under section 8347(p),

shall be given the opportunity to elect irrevocably, within 30 days after such move, to remain covered, during any subsequent employment as an employee as defined by section 2105(a) or section 2105(c), by the retirement system applicable to such employee's current or most recent employment described by section 2105(c) rather than be subject to this chapter.".

SEC. 12. AMENDMENTS RELATING TO HEALTH BENEFITS.

Section 8901(3)(A) of title 5, United States Code, is amended—

(1) by striking "or" at the end of clause (ii);

(2) by inserting "or" after the semicolon at the end of clause (iii); and

(3) by inserting after clause (iii) the following new clause:

"(iv) on an immediate annuity under a retirement system established for employees described in section 2105(c), in the case of an individual who elected under section 8347(p)(2) or 8461(n)(2) to remain subject to such a system;".

SEC. 13. APPLICABILITY.

(a) IN GENERAL.—The amendments made by this Act shall apply with respect to any individual who, on or after January 1, 1987—

(1) moves without a break in service of more than 3 days from employment in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard that is described in section 2105(c) of title 5, United States Code, to employment in the Department of Defense or the Coast Guard, respectively, that is not described in such section 2105(c); or

(2) moves without a break in service from employment in the Department of Defense or the Coast Guard that is not described in such section 2105(c) to employment in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, respectively, that is described in such section 2105(c).

(b) RULE FOR INDIVIDUALS WHO MOVED BETWEEN JANUARY 1, 1987, AND DATE OF ENACTMENT.—The Secretary of Defense, the Secretary of Transportation, the Director of the Office of Personnel Management, and the Executive Director of the Federal Retirement Thrift Investment Board, as applicable, shall take such actions as may be practicable to ensure that each individual who has moved as described in subsection (a) on or after January 1, 1987, and before the date of enactment of this Act, receives the benefit of the amendments made by this Act as if such amendments had been in effect at the time such individual so moved. Each such individual who wishes to make an election of retirement coverage under the amendments made by section 10 or 11 of this Act shall complete such election within 180 days after the date of enactment of this Act.

SEC. 14. CLARIFYING PROVISIONS RELATING TO TREATMENT OF INDIVIDUALS ELECTING TO REMAIN SUBJECT TO THEIR FORMER RETIREMENT SYSTEM.

(a) DEFINITION.—For the purpose of this section, the term "nonappropriated fund instrumentality" means a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, described in section 2105(c) of title 5, United States Code.

(b) PARTICIPATION IN THE THRIFT SAVINGS PLAN BY AN INDIVIDUAL ELECTINO TO REMAIN IN CSRS.—(1) If an individual makes an election under section 8347(p)(1) of title 5, United States Code, to remain covered by subchapter III of chapter 83 of such title, any nonappropriated fund instrumentality thereafter employing such individual shall deduct from such individual's pay and contribute to the Thrift Savings Fund such sums as are required for such individual in accordance with section 8351 of such title.

(2) Notwithstanding subsection (a) or (b) of section 8432 of title 5, United States Code, any individual who, as of the date of enactment of this Act, becomes eligible to make an election under section 8347(p)(1) of such title may, within 30 days after such individual makes an election thereunder in accordance with section 13(b), make any election described in section 8432(b)(1)(A) of such title.

(c) PARTICIPATION IN THE THRIFT SAVINGS PLAN BY AN INDIVIDUAL ELECTING TO REMAIN IN FERS.—(1) If an individual makes an election under section 8461(n)(1) of title 5, United States Code, to remain covered by chapter 84 of such title, any nonappropriated fund instrumentality thereafter employing such individual shall deduct from such individual's pay and shall contribute to the Thrift Savings Fund the funds deducted, together with such other sums as are required for such individual under subchapter III of such chapter.

(2) Notwithstanding subsection (a) or (b) of section 8432 of title 5, United States Code, any individual who, as of the date of enactment of this Act, becomes eligible to make an election under section 8461(n)(1) of such title may, within 30 days after such individual makes an election thereunder in accordance with section 13(b)), make any election described in section 8432(b)(1)(A) of such title.

(d) DEDUCTIONS AND WITHHOLDINGS FOR INDIVIDUALS ELECTING TO REMAIN COVERED BY A RETIREMENT SYSTEM ESTABLISHED FOR NAF EMPLOYEES.—If an individual makes an election under section 8347(p)(2) or 8461(n)(2) of title 5, United States Code, to remain covered by a retirement system established for employees described in section 2105(c) of such title, any Government agency thereafter employing such individual shall, in lieu of any deductions or contributions for which it would otherwise be responsible with respect to such individual under chapter 83 or 84 of such title, make such deductions from pay and such contributions as would be required (under the retirement system for nonappropriated fund employees involved) if it were a nonappropriated fund instrumentality. Any such deductions and contributions shall be remitted to the Department of Defense or the Coast Guard, as applicable, for transmission to the appropriate retirement system.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York [Mr. ACKERMAN] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. DAVIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. ACKERMAN].

GENERAL LEAVE

Mr. ACKERMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 3139, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ACKERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Department of Defense employs nearly 200,000 nonappropriated fund employees who comprise the military morale, welfare, and recreation work force. These employees work in such activities as libraries, child care centers, commissaries, and recreation facilities.

The Defense Authorization Act for fiscal year 1989 required the Department of Defense to reorganize this work force, causing up to 8,000 nonappropriated fund employees to be converted to civil service status and up to 2,000 civil service employees to be converted to nonappropriated fund status.

As the Office of Personnel Management testified:

> The employees of the Defense Department's nonappropriated fund instrumentalities are excluded by law from most of the Federal personnel system and, as a result, problems have long arisen when employees move back and forth between nonappropriated fund instrumentalities and regular Government employment.

H.R. 3139 will permit those employees to make that shift without a loss in pay or benefits, such as retirement, leave, and health and life insurance, by permitting the portability of benefits between the nonappropriated fund system and the civil service system.

The Congressional Budget Office estimates that enactment of H.R. 3139 would result in total savings to the Federal Government $22 million in fiscal year 1991.

Mr. Speaker, I want to point out that there is a subtracting error in the authorization and outlay levels contained in the CBO estimate for fiscal year 1991.

The correct figure for fiscal year 1991 should be a $16 million savings in both authorization and outlay totals.

I will insert the entire CBO estimate in the RECORD immediately following my remarks.

Mr. Speaker, there are many employees around the world who are eagerly awaiting enactment of this bill. I urge my colleagues to support H.R. 3139 and I reserve the balance of my time.

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 28, 1990.

Hon. WILLIAM D. FORD,
Chairman, Committee on Post Office and Civil Service, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As you requested, the Congressional Budget Office has prepared the attached cost estimate for the proposed substitute amendments to H.R. 3139, "Portability of Benefits for Department of Defense Nonappropriated Fund Employees Act of 1989."

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,
ROBERT D. REISCHAUER,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, SEPTEMBER 28, 1990

1. Bill number: Amendment in the nature of substitute to H.R. 3139.

2. Bill title: Portability of Benefits for Department of Defense Nonappropriated Fund Employees Act of 1990.

3. Bill status: An amendment in the nature of a substitute to H.R. 3139, as introduced and referred to the Committee on Post Office and Civil Service on August 4, 1989.

4. Bill purpose: To amend title 5, United States Code, to authorize portability of benefits for employees of nonappropriated fund instrumentalities of the Department of Defense when such employees convert to the civil service system, and for other purposes:

5. Estimated Changes to CBO Baseline:

[By fiscal years, in millions of dollars]

	1991	1992	1993	1994	1995
Direct Spending					
Civil service retirement:					
Estimated budget authority	−22	−23	−24	−25	−26
Estimated outlays					
Revenues: Employee contributions and NAF employer contributions	6	6	6	6	6
Net deficit	−6	−6	−6	−6	−6
Authorizations					
Department of Defense:					
Employer contributions:					
Estimated authorization level	−28	−36	−38	−40	−41
Estimated outlays	−28	−36	−38	−40	−41
Pay:					
Estimated authorization level	12	12	13	13	14
Estimated outlays	12	12	13	13	14
Authorization total:					
Estimated authorization level	−14	−24	−25	−27	−27
Estimated outlays	−14	−24	−25	−27	−27

The spending effects of this bill fall in Functions 600 and 050.

Basis of Estimate: The Department of Defense (DOD) operates a wide variety of programs under the umbrella of Morale, Welfare, and Recreation (MWR). These programs include such activities as libraries, movie theaters, and officer clubs. MWR programs are funded through either appropriations, user fees, or a combination of the two. Employees under programs funded by appropriations are considered civil servants and are entitled to all the benefits received by the federal workforce. Employees of programs funded through user fees are considered non-appropriated fund (NAF) employees and are not covered under civil service, but under local health, leave, and retirement systems.

The 1988 Continuing Resolution mandated that DOD restructure its MWR programs, based on funding sources. Because of this, in fiscal year 1991, some programs that had been funded through appropriations are scheduled to be switched to non-appropriated funds, and vice versa. As a result of these changes, employees in the same position will find themselves in new health, leave, and retirement systems. DOD estimates that 8,000 employees will move from NAF to civil service, and 2,000 will move the other way. Under current law, all accumulated benefits in one system are not transferable to the other system and would be lost. The amendment to H.R. 3139 would provide for portability of benefits so that employees involuntarily switched between the two systems would suffer no loss in pay or benefits.

This bill would allow employees who are changed from non-appropriated, NAF, to appropriated, DOD, fund status or vice versa to elect to remain in their current retirement system. If they chose to switch retirement systems, as under current law, they would lose all of their previous retirement credit. CBO has assumed that all employees would choose to remain in their current retirement system. Therefore, the civil service retirement fund would not receive employer and employee contributions for the 8,000 employees who are currently expected to be switched to DOD status and would be covered under civil service in fiscal year 1991. Employee and employer contributions would decline from projected baseline levels by $30 million in fiscal year 1991 and $160 million over 5 years.

Under the provisions of this bill, if a NAF employee is switched to DOD status and elects to remain in the NAF retirement system, DOD would be required to make the employer contribution into the NAF retirement system. Similarly, if a DOD employee is moved into NAF status but elects to remain in civil service retirement, the NAF plan would have to make the employer contributions to the civil service retirement system. Therefore, NAF would have to make employer contributions to the civil service retirement fund to cover the 2,000 employees who will be switched to NAF status but who would remain in civil service retirement. Employee and employer contributions would total approximately $8 million in fiscal year 1991 and $41 million over 5 years. On the other hand, according to information from DOD, most NAF retirement plans currently do not have any employer contributions. Therefore, DOD would not be required to make any contributions to NAF plans for the 8,000 employees who are switched to DOD status but remain in the NAF retirement plans.

In addition, under current law, DOD would make employer contributions to the Thrift Savings Plan for the 8,000 employees who would be switched to FERS. Agencies make two types of contributions for FERS employees. First, agencies automatically contribute 1 percent of an employee's salary to the Thrift Savings Plan. In addition, an employee's contribution to the Thrift Savings Plan is matched dollar for dollar for the first 3 percent of pay and fifty cents on the dollar for the next 2 percent of pay contributed. CBO baseline projections assumed that 55 percent of the 8,000 people would contribute on average 5 percent of their salary beginning in fiscal year 1992 when they would become eligible to participate in the Thrift Savings Plan. The DOD contribution for these employees would total approximately $30 million over 5 years. Under this bill, CBO assumes the 8,000 employees would remain in their NAF retirement plans. Therefore, no government contributions from DOD would be made for these employees.

Unlike the retirement provisions, this bill would require that NAF employees receive health and life insurance benefits from NAF, and civil service employees receive the same health and life insurance benefits as other federal employees. Under current law, the 8,000 employees who are scheduled to switch to DOD fund status are already expected to receive federal health and life insurance benefits. Therefore, this provision would have no additional costs to the federal government.

In addition, this bill would allow people switching from NAF to civil service to retain their full salary. Pay grades under the NAF system are equivalent to those under the general schedule. Under current law, however, when a person transfers from NAF to civil service, any step increases that have accumulated are erased. Thus, a person in grade 9, step 8 reverts back to grade 9, step 1. Section 4 provides that the individual would not lose any salary as a result of a switch. Costs of this section are estimated at $12 million in fiscal year 1991 and $64 million over 5 years. This is based on an average grade of general schedule employees (grade 8, step 6), the difference between a step 6 and step 1 of $3,900, and a net movement of 6,000 employees.

The bill also includes provisions related to transfers between positions under different leave systems. The DOD would be able to provide payment to NAF for annual leave costs and vice versa. The bill would not mandate this, so it is unclear what course of action DOD would take. Generally, if an employee changes agencies, a payment for annual leave is not made, according to information from the Office of Personnel Management. If payments were made between the two systems for all 10,000 employees, there would be savings to DOD of $14 million in fiscal year 1991. This is because NAF would pay more to DOD for losing 8,000 employees than DOD would pay to NAF for losing 2,000 employees. This saving, however, is not included in the estimate because it is not mandated by the amendment.

5. Estimated cost to State and local governments: None.

6. Estimate comparison: None.

7. Previous CBO estimate: None.

8. Estimate prepared by: Cathy Ellman (226-2820), Lisa Siegel (226-2840).

9. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

The SPEAKER pro tempore. The gentleman from New York [Mr. GILMAN] will control the time for the minority side.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3139, the Portability of Benefits for Department of Defense Nonappropriated Fund Employees Act. I thank the gentleman from Texas [Mr. LEATH] for his sponsorship of this legislation and the chairman of the subcomittee of jurisdiction, Mr. ACKERMAN, and the chairman of the full Committee on Post Office and Civil Service, Mr. FORD, for their leadership in bringing this legislation to the floor today.

H.R. 3139 provides for the portability of benefits for Department of Defense employees transferring between the Civil Service System and the nonappropriated fund programs. Nonappropriated fund [NAF] programs are those Department of Defense programs funded through user fees, such as libraries, movie theaters, and officer clubs. Employees of NAF programs are not covered under civil service, but under local health, leave and retirement systems.

In 1988, Congress mandated the Department of Defense restructure its NAF programs based on funding sources. As a result, some programs that had been funded through appropriations are scheduled to be switched to nonappropriated funds, and vice versa. Under current law, employees would lose accumulated benefits in the transfer to another system. H.R. 3139 will provide for portability of such benefits so that employees involuntarily transferred between the two systems will suffer no loss in pay or benefits.

Mr. Speaker, H.R. 3139 is time-sensitive legislation and deserves our swift approval. The administration supports this measure. Accordingly, I urge all my colleagues to join me in support of this legislation.

Mr. ACKERMAN. Mr. Speaker, I yield 4 minutes to the gentleman from North Carolina [Mr. LANCASTER].

Mr. LANCASTER. Mr. Speaker, it gives me great pleasure to speak today in support of H.R. 3139, which addresses the portability of benefits for nonappropriated fund and civil service employees of the Department of Defense. This important measure addresses and alleviates a very fundamental concern on the part of some 200,000 Department of Defense morale, welfare, and recreation employees who will have new opportunities opened to them when this bill is passed into law.

It is somewhat fitting that this bill should come to the floor against the backdrop of the budget impasse which has loomed like a dark cloud over the last several weeks. The long and difficult budget negotiations decimated morale among Government workers faced with the very real possibility of furloughs. Government workers who at best find themselves unable to count on the security of their future and at worst feel like they are pawns in a political budget game as they anticipate the draconian measures which will take place in absence of an agreement.

Within the Department of Defense, some 200,000 employees have been anxious and uncertain about the security of their futures for a much longer period of time. The inevitability of Defense budget reductions combined with a mandate for DOD to become more self-sufficient in its morale, welfare and recreation programs strikes fear in the hearts of many MWR workers, now paid from appropriated funds. DOD's becoming more self-sufficient meant that many activities would no longer receive appropriated funds. Thus when an activity changed status from an appropriated to a nonappropriated activity, its employees changed status, too.

With that change in status, though, came a tough choice. Keep your job, but lose your benefits and transfer into a new benefit system since you are no longer a civil servant paid by appropriated funds. That is a tough choice to make at any point in one's career, and especially at the upper end of the seniority ladder. The irony, too, is that the very people who worked toward the betterment of the quality of life for our soldiers and sailors had their own quality of life diminished dramatically. The anguish felt by many was real.

This bill corrects the inequity in not allowing civil service MWR employees to keep the benefits they had enjoyed as civil servants simply because their status changed to nonappropriated fund employees. It just makes sense to allow the movement back and forth between systems to allow for this circumstance and for the transfer of nonappropriated fund employees into the Civil Service Benefit System. The cost is negligible, and the benefit is invaluable.

Today we have a chance to boost morale among Government workers by sending them a signal that we do understand the impact that Federal budget decisions have on individuals who might otherwise feel alientated and ignored. And as the inevitable funding reductions and realignments continue to impact appropriated and nonappropriated fund activities, those of us who support this legislation can be proud to know that we have done something to significantly improve the lot of a substantial number of Government employees who are working to make life a little more enjoyable for our men and women in uniform.

I commend the gentleman from Texas, MARVIN LEATH, for sponsoring this bill and for his continued efforts to safeguard the benefits of Department of Defense employees. He will be sorely missed when he retires at the end of this Congress.

☐ 1610

Mr. ACKERMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mrs. BYRON].

Mrs. BYRON. Mr. Speaker, I rise today in support of this bill. I think the gentleman from Texas [Mr. LEATH] has corrected an inequity that has plagued DOD employees and managers for years, and that is deserving of our thanks and congratulations for superb piece of legislation.

Mr. Speaker, first and foremost, employees should be able to move freely between nonappropriated funds and Civil Service positions. This will protect the interests of dedicated and loyal employees who would otherwise suffer considerable financial hardship as the services comply with our directive to restructure morale, welfare, and recreation programs. This bill shows our employees that we care about their welfare, as well as good management.

Second, this bill opens a whole new world of opportunity for advancement for some of our most talented employees. Of particular interest to me, as chairman of the Personnel and Compensation Subcommittee, will be the shot in the arm that military child care givers around the world will receive when they realize that they can compete for Civil Service management positions.

Mr. Speaker, many military children will benefit from that awareness. Best of all, Mr. Speaker, portability is cost-neutral. It will not add to our budget woes.

I commend the bill to my colleagues, and recommend its immediate adoption.

Mr. GILMAN. Mr. Speaker, I yield back the balance of my time.

Mr. ACKERMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New York [Mr. ACKERMAN] that the House suspend the rules and pass the bill, H.R. 3139, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PHYSICIANS COMPARABILITY ALLOWANCES REAUTHORIZATION

Mr. ACKERMAN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2588) to amend section 5948 of title 5, United States Code, to reauthorize physicians comparability allowances.

The Clerk read as follows:

S. 2588

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5948(d) of title 5, United States Code, is amended by striking out the second sentence and inserting in lieu thereof "No agreement shall be entered into under this section later than September 30, 1993, nor shall any agreement cover a period of service extending beyond September 30, 1995.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York [Mr. ACKERMAN] will be recognized for 20 minutes and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. ACKERMAN].

GENERAL LEAVE

Mr. ACKERMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on S. 2588, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ACKERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2588, extends the Federal Physicians Comparability Allowance Act of 1978, for 3 years, until September 30, 1993.

The Federal Physicians Comparability Allowance Act of 1978 provides authority for agency heads to enter into service agreements with Government physicians to provide allowances in return for a specified period of service.

Physicians comparability allowances are used by Federal agencies which are experiencing significant recruitment and retention problems.

Currently, payments may not exceed $14,000 per year if the physician has served for 24 months or less as a Government physician at the time the agreement was made or $20,000 per year if the physician has more than 24 months of service.

The continuation of the Federal Physicians Comparability Allowance Act is necessary so that we may continue to attract and retain the best physicians to the Federal Government.

Mr. Speaker, without an extension of the program, Federal agencies would be at a serious disadvantage in competing for physicians in the labor market. I urge my colleagues to support S. 2588, and I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I am pleased to rise in support of S. 2588, the Physicians Comparability Allowance Act. I would like to thank my colleagues the senior Senator from Alaska, TED STEVENS, and my good friend from Massachusetts, SILVIO CONTE, for their hard work in securing passage of this legislation.

The Physicians Comparability Allowance Act extends the current program of allowing agency and department heads to offer service allowances to certain categories of Federal Government doctors and dentists in order to alleviate recruitment and retention problems. Currently, payments may not exceed $14,000 per year if the physician has served for 24 months or less as a Government physician at the time the agreement was made or $20,000 per year if the physician has more than 24 months of service.

Agencies employing physicians have reported to the Office of Personnel Management that this program is instrumental in improving their ability to recruit much needed physicians. Agencies have also reported reduced physician turnover rates since the enactment of this program.

The benefits of recruiting and retaining qualified and competent physicians for the Federal work force are immeasurable. These Federal physicians perform vital functions throughout the public health service in agencies including the National Institutes of Health; the Alcohol, Drug Abuse, and Mental Health Administration; the Centers for Disease Control; and the Food and Drug Administration.

Mr. Speaker, similar provisions to the legislation before us today are included in the comprehensive Federal employee pay reform measure as reported by the Committee on Post Office and Civil Service. While this measure focuses on problems in the recruitment and retention of Government physicians, Congress needs to focus on the Governmentwide problems confronting the Federal work force.

Accordingly, I urge all my colleagues to join me in support of this legislation.

Mr. CONTE. Mr. Speaker, I rise in strong support of passage for S. 2588. This bill simply reauthorizes the physician's comparability allowance through fiscal year 1993. My friend, Senator STEVENS, introduced this bill in the other body and I introduced the companion bill, H.R. 4920, here in the House.

While this is a simple extension, the underlying problem of keeping talented doctors in the Public Health Service is much more complex. The PCA helps to cut the pay gap between the private sector and Government service. But now we are finding that even with PCA, the pay gap is getting bigger and bigger. Overall salaries at NIH are now 50 percent lower than the outside.

I'm trying to fix that problem. We must perform corrective surgery to improve compensation for our best physicians and scientists in the Public Health Service. My senior biomedical research service bill is now an important part of the NIH reauthorization bill. Along with the PCA, SBRS will make pay competitive with the outside.

Both the PCA and the SBRS are essential in bringing our Public Health Service back to robust health. I urge speedy passage of this important bill.

Mr. GILMAN. Mr. Speaker, I yield back the balance of my time.

Mr. ACKERMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. ACKERMAN] that the House suspend the rules and pass the Senate bill, S. 2588.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS PERSONNEL ACT OF 1990

Mr. SIKORSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4174) to establish a comprehensive personnel system for employees of the Administrative Office of the United States Courts, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4174

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Administrative Office of the United States Courts Personnel Act of 1990".

SEC. 2. GENERAL PERSONNEL AUTHORITY.

The Director of the Administrative Office of the United States Courts (hereinafter in this Act referred to as the "Director") may appoint, fix the compensation of, assign, and direct such personnel as the Director determines necessary to discharge the duties and functions of the Administrative Office.

SEC. 3. ESTABLISHMENT OF PERSONNEL MANAGEMENT SYSTEM.

(a) The Director shall, by regulation, establish a personnel management system for the Administrative Office which provides for the appointment, pay, promotion, and assignment of all employees on the basis of merit, but without regard to the provisions of title 5, United States Code, governing appointments and other personnel actions in the competitive service, or the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates. The system shall apply to all Administrative Office employees except those referred to in section 603 of title 28, United States Code, and shall, at a minimum—

(1) provide for a schedule of pay rates applicable to all employees; except as provided in paragraph (10), the basic pay of any person appointed under this section shall not exceed the rate of basic pay for level V of the Executive Schedule;

(2) incorporate pay comparability principles as set forth in section 5301(a) of title 5, United States Code;

(3) provide for the adjustment of the pay of employees at the same time and in the same percentage amount as rates of basic pay are adjusted for General Schedule and prevailing rate employees, as appropriate;

(4) establish procedures for employee evaluations, the granting of periodic pay adjustments, incentive awards, and resolution of employee grievances;

(5) establish procedures for disciplinary actions, including reduction in grade or pay, suspension, and removal, based on unacceptable performance or misconduct, except that—

(A) such procedures shall be consistent with—

(i) section 4303 of title 5, United States Code, to the extent that they relate to adverse actions based on unacceptable performance; and

(ii) chapter 75 of title 5, United States Code, to the extent that they relate to adverse actions covered by such chapter; and

(B) the Director may exempt from these procedures positions of a confidential or policy-determining character, not to exceed 4 percent of the authorized positions of the Administrative Office;

(6) establish procedures for premium pay (including overtime), except that the Director may at his discretion implement flexible and compressed work schedules and may exempt the hours constituting such schedules from premium pay to the extent he deems necessary to implement such schedules;

(7) include the principles set forth in section 2301(b) of title 5, United States Code;

(8) prohibit personnel practices prohibited under section 2302(b) of title 5, United States Code;

(9) prohibit discrimination on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; the Director must promulgate regulations providing procedures for resolving complaints of discrimination by employees and applicants for employment;

(10) provide for the basic pay of not more than 5 percent of the authorized positions of the Administrative Office (excluding the positions referred to in section 603 of title 28, United States Code) to be set at rates not to exceed the rate of basic pay for positions at level IV of the Executive Schedule; the aggregate pay (including basic pay and incentive awards) of any individual whose basic pay is set under this subsection may not exceed the salary of the Director; and

(11) in the case of any individual who would be a preference eligible in the executive branch, provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.

(b) The Director may apply the provisions of sections 5723 and 6304(f) of title 5, United States Code, to the positions referred to in subsection (a)(10) and in section 603 of title 28, United States Code, including the Deputy Director.

(c) The Director may provide for incentive awards for the positions referred to in section 603 of title 28, United States Code, including the Deputy Director, subject to the aggregate pay limitation in subsection (a)(10).

(d) The Chief Justice of the United States or the Judicial Conference of the United States may grant incentive awards to the Director, except that the Director's aggregate pay for any fiscal year, including salary and incentive awards, may not exceed the salary of a United States circuit judge. The Chief Justice or the Judicial Conference may authorize application of section 5723 of title 5, United States Code, to the Director.

(e) The Director may develop and conduct programs to meet the short- and long-range training needs of the agency.

(f) Notwithstanding any other provision of law, an individual who is an employee of the Administrative Office on the day before the effective date of this section and who, as of that day, was entitled to—

(1) appeal a reduction in grade or removal to the Merit Systems Protection Board under chapter 43 of title 5, United States Code,

(2) appeal an adverse action to the Merit Systems Protection Board under chapter 75 of title 5, United States Code, or

(3) file an appeal with the Equal Employment Opportunity Commission under part 1613 of title 29 of the Code of Federal Regulations,

shall continue to be entitled to file such appeal so long as the individual remains an employee of the Administrative Office, except that this provision shall not apply to employees in positions referred to in section 603 of title 28, United States Code, or in positions of a confidential or policy-determining character referred to in subsection (a)(10).

(g) Nothing in this Act shall be construed to abolish or diminish any right or remedy granted to employees of or applicants for employment in the Administrative Office by any law prohibiting discrimination in Federal employment on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition, except that, with respect to any such employees and applicants for employment, any authority granted under any such law to the Equal Employment Opportunity Commission, the Office of Personnel Management, the Merit Systems Protection Board, or any other agency in the executive branch, shall be exercised by the Administrative Office.

SEC. 4. NONCOMPETITIVE APPOINTMENTS.

(a) Notwithstanding any other provision of law, any employee of the Administrative Office who has completed at least 1 year of continuous service under a nontemporary appointment under the personnel system established pursuant to section 3 acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

(b) A period of continuous service performed as a nontemporary employee of the Administrative Office immediately before the personnel system under section 3 takes effect shall, for purposes of subsection (a), be treated as if it had been performed under such system.

SEC. 5. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 602(a) of title 28, United States Code, is amended to read as follows:

"(a) The Director shall appoint and fix the compensation of necessary employees of the Administrative Office in accordance with the Administrative Office of the United States Courts Personnel Act of 1990.".

(b) Section 603 of title 28, United States Code, is amended by striking "of the Deputy Director and" and by inserting after the first sentence the following: "Notwithstanding any other provision of law, the Director shall not be deemed to be an 'employee' for the purpose of subchapter I of chapter 63 of title 5. The salary of the Deputy Director shall be 92 percent of the salary of the Director.".

(c) Section 2301(a) of title 5, United States Code, is amended—

(1) by inserting "and" at the end of paragraph (1);

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(d) Section 2302(a)(2)(C) of title 5, United States Code, is amended by striking ", the Administrative Office of the United States Courts,".

(e) Section 4301(1) of title 5, United States Code, is amended—

(1) by inserting "and" at the end of subparagraph (A);

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(f) Section 4501(1) of title 5, United States Code, is amended by striking subparagraph (B) and redesignating subparagraphs (C) through (H) as subparagraphs (B) through (G), respectively.

(g) Section 4701(a)(1) of title 5, United States Code, is amended by striking ", the Administrative Office of the United States Courts,".

(h) Section 5102(a)(1) of title 5, United States Code, is amended by striking subparagraph (B) and redesignating subparagraphs (C) through (G) as subparagraphs (B) through (F), respectively.

(i) Section 5108(c) of title 5, United States Code, is amended by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(j) Section 5349(a) of title 5, United States Code, is amended by striking "the Administrative Office of the United States Courts,".

(k)(1) Section 5595(a)(1) of title 5, United States Code, is amended—

(A) by striking "and" at the end of subparagraph (C); and

(B) by adding after subparagraph (D) the following:

"(E) the Administrative Office of the United States Courts, the Federal Judicial Center, and the courts named by section 610 of title 28; and".

(2) Section 5595(b) of title 5, United States Code, is amended by adding at the end the following: "However, the Director of the Administrative Office of the United States Courts may prescribe regulations to effect the application and operation of this section to the agencies specified in subsection (a)(1)(E) of this section."

(l)(1) Section 5596(a)(2) of title 5, United States Code, is amended by striking "Courts;" and inserting "Courts, the Federal Judicial Center, and the courts named by section 610 of title 28;".

(2) Section 5596(c) of title 5, United States Code, is amended by striking "employees." and inserting "employees, or to the agencies specified in subsection (a)(2) of this section."

(m) Clause (v) of section 8331(1) of title 5, United States Code, is amended to read as follows:

"(v) an employee of the Administrative Office of the United States Courts, the Federal Judicial Center, or a court named by section 610 of title 28, excluded by the Director of the Administrative Office under section 8347(o) of this title;".

(n) Section 8347 of title 5, United States Code, is amended by adding at the end the following:

"(p) The Director of the Administrative Office of the United States Courts may exclude from the operation of this subchapter an employee of the Administrative Office of the United States Courts, the Federal Judicial Center, or a court named by section 610 of title 28, whose employment is temporary or of uncertain duration.".

(o) Section 8401(11)(i)(I) of title 5, United States Code, is amended by striking "(v),".

(p) Section 8402(c) of title 5, United States Code, is amended by adding at the end the following:

"(7) The Director of the Administrative Office of the United States Courts may exclude from the operation of this chapter an employee of the Administrative Office of the United States Courts, the Federal Judicial Center, or a court named by section 610 of title 28, whose employment is temporary or of uncertain duration.".

(q) Section 602(b) of title 28, United States Code, is amended by striking "604(a)(15)(B)" and inserting "604(a)(16)(B)".

(r) Section 402(a)(1) of the Judicial Improvements and Access to Justice Act (102 Stat. 4650) is amended by striking "redesignating paragraph (18)" and inserting "redesignating paragraph (19)".

SEC. 6. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 1990 and for each fiscal year thereafter such sums as may be necessary to carry out the provisions of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. SIKORSKI] will be recognized for 20 minutes and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. SIKORSKI].

GENERAL LEAVE

Mr. SIKORSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 4174, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. SIKORSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4174 authorizes the establishment of a personnel system for employees of the Administrative Office of the U.S. Courts.

The Administrative Office—as its name states—is responsible for the administration of the U.S. courts, including the probation and bankruptcy systems. Even though it is the administrative arm of the Federal judiciary and an agency of the judicial branch, the Administrative Office is nevertheless currently subject to the control of the executive branch in personnel matters. The U.S. courts which it serves, however, are generally free from such executive branch supervision.

The purpose of this legislation is to authorize the establishment of an independent personnel management system within the Office that is free from executive branch controls and more similar to that serving the rest of the judicial branch.

It should be noted that this legislation is supported by the administration and that the Congressional Budget Office has estimated that there is no significant cost to the enactment of this legislation.

This measure was referred jointly to the Committee on Post Office and Civil Service and the Committee on the Judiciary. It is my understanding from Chairman BROOKS that they have no objection to house consideration of this measure today. I would, however, like to thank Chairman BROOKS and Chairman KASTENMEIER for their cooperation and diligence in this effort.

Additionally, I would like to commend the gentleman from Michigan, Chairman FORD for his efforts on this issue, and also recognize him for all of his hard work as chairman on the Post Office and Civil Service Committee.

□ 1620

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the distinguished chairman of the Civil Service Subcommittee, the gentleman from Minnesota [Mr. SIKORSKI], for bringing this important measure to the floor. This bill would require the Director of the Administrative Office of the U.S. Courts to establish an independent personnel system. I am pleased to report that the administrative costs associated with establishing a personnel management system would not be significant because such a system is largely in place.

Mr. Speaker, this measure has been motivated by and supported by Chief Justice Rehnquist, who, incidentally, is today celebrating his 66th birthday, so it is fitting that we consider this measure today.

Mr. Speaker, I urge my colleagues to join me in support of this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. SIKORSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. SIKORSKI] that the House suspend the rules and pass the bill, H.R. 4174, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

DRUG AND HOUSEHOLD SUBSTANCE MAILING ACT OF 1990

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5209) to amend title 39, United States Code, to make nonmailable any unsolicited sample of a drug or other hazardous household substance which does not meet child-resistant packaging requirements, as amended.

The Clerk read as follows:

H.R. 5209

Be it enacted by the Senate and House of Respresentatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug and Household Substance Mailing Act of 1990".

SEC. 2. MEASURES TO PREVENT INDIVIDUALS FROM BEING INVOLUNTARILY EXPOSED TO POTENTIALLY HAZARDOUS SUBSTANCES RECEIVED THROUGH THE MAILS.

Section 3001 of title 39, United States Code, is amended by redesignating subsections (f) and (g) as subsections (h) and (i), respectively, and by inserting after subsection (e) the following:

"(f) Any matter which is unsolicited by the addressee, which contains a 'household substance' (as defined by section 2 of the Poison Prevention Packaging Act of 1970), and which does not comply with the requirements for special child-resistant packaging established for that substance by the Consumer Product Safety Commission, is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

"(g)(1) Matter otherwise legally acceptable in the mails which contains or includes a fragrance advertising sample is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless the sample is sealed, wrapped, treated, or otherwise prepared in a manner reasonably designed to prevent individuals from being unknowingly or involuntarily exposed to the sample.

"(2) The Postal Service shall by regulation establish the standards or requirements which a fragrance advertising sample must satisfy in order for the mail matter involved not be considered nonmailable under this subsection.".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect 180 days after the date of enactment of this Act, and shall apply with respect to any matter mailed on or after that effective date.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Indiana [Mr. McCloskey] will be recognized for 20 minutes and the gentleman from New York [Mr. Gilman] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCloskey].

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5209, as amended, would declare that any package containing a drug sample or hazardous household substance—as defined by the Poison Prevention Packaging Act of 1970—that does not meet the child-resistant packaging requirements of the Consumer Product Safety Commission is nonmailable matter. The amendments provide that fragrance advertising samples will also be included as nonmailable matter when not properly packaged and that the requirements of the act will become effective 180 days after the act's enactment date. The bill gives the Postal Service the discretion and authority to dispose of the unsolicited samples that are not properly packaged.

I want to take this opportunity to thank the esteemed chairman of the Post Office and Civil Service Committee, Mr. Bill Ford, for his assistance and support in pursuing this potentially lifesaving legislation. As always, his efforts as chairman of this committee provide an example of leadership to those who serve on it.

Earlier this year a potentially lethal accident was prevented in Saline, MI. The incident involved several children, ages 3 to 8, who took Tylenol Gelcap samples from envelopes which had been left in an open mailbox area in an apartment complex. The children reportedly pretended that the potentially dangerous medications were illegal drugs. Thankfully, a concerned resident confiscated the samples before the children ingested a lethal dose of the medication.

The pharmaceutical samples were easily accessible, from the type of solicitation we all receive through the mail, an envelope containing advertising, coupons, and product samples. Pharmaceutical samples are frequently mailed as promotional advertisement. Unfortunately, current law provides no protection for young children who may accidentally eat or drink these potent medicines. Additionally, no protection is afforded for those who may have a severe allergic reaction to the unsealed fragrance stripes often enclosed in mailings.

H.R. 5209, as amended, which has the support of the Postal Service and mailers of pharmaceutical and hazardous household samples, simply mandates that such samples mailed by companies be packaged in child-proof containers to prevent potentially tragic occurrences.

The Postal Service and mailers have been cooperative in helping to correct the problem. And, from the reports I have received it appears that the word is getting out and actions are being taken to assure that child-resistent packaging will be used for drug and hazardous household substance samples sent through the mail. However, I would rather be particularly cautious and mandate the pharmaceutical and household sample packaging requirements than overlook the potential for harm to children.

Again, I want to thank Bill Ford for his leadership and support in promulgating this legislation. I urge Members to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of this measure.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to congratulate our committee's distinguished chairman, the gentleman from Michigan [Mr. Ford] and the distinguished chairman of Postal Operations Subcommittee, the gentleman from Indiana [Mr. McCloskey] for their work on this important measure. Thankfully no tragedy has occurred involving the ingesting of drugs sent through the mail. This legislation provides a simple requirement that all drugs samples sent via direct mail, be enclosed in child resistant containers.

During consideration of this bill, my colleagues, the gentleman from New York [Mr. Horton] and I agreed on an amendment to address a serious problem that individuals may suffer from, when they unknowingly are subject to the strong odor of perfume scents. These scents are often enclosed in bills or as inserts in magazines. Thousands of Americans suffer allergic reactions to the fragrance samples that arrive in the mail without warning.

The amendment would direct the Postal Service to issue regulations on the perfume advertising inserts. The regulations would not place an unfair burden on the cosmetic industry or the manufacturers of the scent samples.

I believe that we have been able to forge a delicate compromise between the industry and our serious concerns over protecting the individuals who have suffered severe reactions to perfume advertising inserts. The U.S. Postal Service supports this bill.

I urge a "yes" vote on H.R. 5209.

Mr. FORD of Michigan. This is a rare instance where we in the Congress have an opportunity to adjust a potential problem before serious harm comes to anyone.

For those of you not familiar with the history of this issue, our legislation was prompted by a March 1990 incident in Saline, MI, where several children, aged 3 to 8, took Tylenol Gelcap samples from direct marketing envelopes which had been placed in the mail box area of an apartment complex. The children were pretending the Tylenol Gelcaps were illegal drugs and were crushing them, possibly to inhale the powder. Fortunately for the children, an adult resident saw what was going on and confiscated the pills—turing them over to Jim Douglas, the police chief of Saline. Mr. Douglas contacted our office with this information, asked for help to prevent the problem in the future, and testified at our committee's hearing. Our bill is the result of this action.

And frankly, our bill is an indication that the Congress really is in touch with what is going on out there in the real world. Where are the cynics now that we have discovered a problem, brought all parties involved in the issue to an agreement, and acted quickly to bring about a solution? The system worked. We did not become tied up in idelogical bickering, or worry about more government intrusion. We saw a problem with our drug sample packaging and mailing standards—it was brought home clearly to us by any incident in a small Michigan town. We acted to prevent injury—not just make repairs after harm has been done.

In the past what this bill proposes to do would have been viewed as an unwarranted intrusion into the private affairs of a commercial enterprise. This is not the case today. All parties; the direct mail and marketing industry as well as the U.S. Postal Service supports the Drug and Household Substance Mailing Act of 1990. Their good will has helped us to produce a good bill.

This is truly a situation where the tightening of rules and regulations could prevent a threat to public safety. I would rather be cautious—I would rather tighten up packaging regulations now than overlook the potential harm to children in the future.

I strongly urge passage of this legislation.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. McCloskey] that the House suspend the rules and pass the bill, H.R. 5209, as amended.

The title of the bill was amended so as to read: "A bill to amend title 39, United States Code, to make nonmailable any unsolicated sample of a drug or other hazardous household substance which does not meet child-resistant packaging requirements, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on H.R. 5209, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

ROBERT McCLORY POST OFFICE

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5007) to designate the facility of the United States Postal Service located at 100 South John F. Kennedy Drive, Carpentersville, Illinois, as the "Robert McClory Post Office," as amended.

The Clerk read as follows:

H.R. 5007

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 100 South John F. Kennedy Drive, Carpentersville, Illinois, is designated as the "Robert McClory Post Office Building".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the facility referred to in section 1 is deemed to be a reference to the "Robert McClory Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Indiana [Mr. McCloskey] will be recognized for 20 minutes and the gentleman from New York [Mr. Gilman] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCloskey].

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5007, as amended, would designate the Postal Facility located at 100 South John F. Kennedy Drive, Carpentersville, IL, as the "Robert McClory Post Office Building."

Congressman McClory, a respected Member of this body for 20 years, represented a constituency from the North Shore of Illinois up until his retirement in 1982.

He was commonly thought of as an independent legislator with a strong belief in civil and constitutional rights. He served as a distinguished member of the House Judiciary Committee and a member of the Permanent Select Committee on Intelligence.

During his tenure in Congress he was a leading supporter of voting rights legislation and efforts to gain statehood for the District of Columbia, and was a House manager of the equal rights amendment.

But, we will best remember Congressman McClory for his leadership during the Watergate hearings as a leading supporter of the article of impeachment charging Nixon with abusing his constitutional powers.

I urge all Members of the House to support this legislation as a fitting tribute to our late colleague.

Mr. Speaker, I reserve the balance of my time.

□ 1630

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, most of us will recall our destinguished former colleague, Bob McClory, and we will need little today by which to remember his many dedicated years of service to this body. Not to mention his friendship.

Bob McClory came to this body in 1963 after many steadfast years in the Illinois State Legislature, served with more than just distinction on the Committee on Judiciary rising to become its ranking minority member before retiring in 1983. Those years were active years on that committee. The Voting Rights Act, the Civil Rights Act and many other important pieces of legislation affecting generations of Americans. Not to mention Impeachment proceedings against a sitting U.S. President.

Thoughout these and many other proceedings Congressman McClory practiced the fine art of legislating until he was one of the most respected Members in this body. His departure from this body in 1983 and his sudden death in 1988 left many of us deeply saddened, but, feeling much better about ourselves for having known him. This small tribute we would pay him today, will ensure that his memory remains with us and his former constituents for many years. I would also like to commend our colleague, Congressman Dennis Hastert, for introducing this measure in honor of Bob.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. Hastert] who introduced this measure in honor of Bob McClory.

Mr. HASTERT. Mr. Speaker, it is honor for me to sponsor this bill that names a post office in Carpentersville, IL, after the former Congressman Bob McClory. Many Members are still here who served with Bob during his tenure in the House from 1962 to 1982, I know that I speak for all of his former colleagues and friends in saying that Bob McClory was one of the most respected Members of this body that has ever served.

Bob was an outstanding public servant with a distinguished record of service to Illinois and our country. He dedicated more than three decades of his life to serving the people of northeastern Illinois, moving from the Illinois House of Representatives to the Illinois State Senate to the U.S. House of Representatives.

During his 20 years here, Bob served on the Permanent Select Committee on Intelligence and was a member of the U.S. delegation to the Interparlimentary Union. Most predominant, of course, was his presence on the House Judiciary Committee, where he climbed to be ranking Republican member before his retirement. His service on the committee gained him a reputation as a Member who worked hard and had an abiding respect for the rule of law.

Throughout his career, Bob understood the important role that congressional spouses play in the service of this body. He worked with his very lovely and charming wife, Doris, on many endeavors of the Congressional Club and the other organizations to which spouses belong.

Bob McClory was a wonderful man and a fine legislator in integrity and principle, and it is fitting that we acknowledge his contributions by naming a Federal post office in his honor.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Illinois [Mr. Hastert] for his sponsorship of this measure.

Mr. Speaker, I yield such time as he may consume to another distinguished colleague, the gentleman from Illinois [Mr. Porter] who worked with Congressman McClory.

Mr. PORTER. Mr. Speaker, I commend my Illinois colleague for his leadership and initiative in recognizing and memorializing the achievements of Congressman Bob McClory.

Our late friend, and colleague, Bob McClory, was one of the most outstanding, most respected, and most beloved members ever to serve in the Congress.

His long and distinguished career of 20 years here was marked with thoughtful judgment, deep concern for people, and a commitment second to none for the rule of law. Bob set standards for all of us—standards of character and integrity, standards of scholarship and attention to legislative detail, and standards of caring and empathy—that we would all do well to emulate, and that led him and his loving wife, Doris, to be loved and respected by all whose paths crossed theirs. Congressman Bob McClory served on the Judiciary Committee and as its ranking member and gained national prominence during the Watergate hearings, when he made clear that partisanship would have no part in his decision regarding President Nixon's conduct. All who knew Bob McClory understood his position would be independently and conscientiously considered and taken, and all of America got to see an example of what a thoughtful, independent and committed U.S. Congressman should be.

His energy and warmth, his decency and humanity inspired all whose lives he touched, and, Mr. Speaker, it is more than appropriate that he be memorialized and his spirit and achievements be recognized in this way.

When redistricting occurred in 1981 according to the new 1980 census, Bob's district was divided three ways, the largest portion, over 50 percent, allocated to a district now represented by our colleague PHIL CRANE, and smaller portions to new distícts now represented by the sponsor of this legislation, our able colleague, DENNY HASTERT, and by myself.

I have been and am currently working with Bob's lovely wife, Doris, to find a suitable way to recognize his life and service to our country within my district. This recognition of Bob within Congressman HASTERT's district where Bob served so ably and so long is to be commended and should be and is strongly supported by all the Members of this body.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Illinois [Mr. PORTER] for his supporting remarks.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. SMITH], a good friend of Congressman McClory.

Mr. SMITH of Texas. Mr. Speaker, today I would like to pay tribute to a Member whose service and integrity stands as a benchmark for all other Members of the House of Representatives.

Mr. Bob McClory, who served the citizens of northeast Illinois so well, is known for many contributions to this great Nation, and to this House. But perhaps his greatest achievement is setting the personal and ethical standards to which all other Members of the House can aspire.

As a member of the Judiciary Committee for example, Mr. McClory during the Watergate hearings retained his characteristic thoughtful approach throughout most difficult and strenuous times.

This bill, rightly honors the inspiring career, public service and personal standards of Representative Bob McClory.

Mr. HYDE. Mr. Speaker, I wish to speak on behalf of my dear friend, whom I miss immensely, Bob McClory. I am so proud that this body has undertaken to put his name on a post office, where it will last much longer than we will. Bob was a great patriot, he was a great friend, he loved the law, he was a superb lawyer, he loved his wife and his family, and Illinois and the Congress lost a great deal when, due to the imperfections of reapportionment, he was deprived of his district. But he stayed around Washington and could be seen at many bar association functions, and was always a spirited good friend with sound advice. When he passed on, Illinois lost a great resource, as did we all.

I am really proud that we have named a post office after him, and I shall drive by it as frequently as I can, looking at the splendid name, and remembering what a wonderful person he was. His lovely wife Doris can be justly proud at this action today.

Mr. CRANE. Mr. Speaker, it is appropriate that the House today votes on the naming of a post office in Carpentersville, IL, in honor of a friend and former colleague, Congressman Bob McClory.

For more than three decades, Bob McClory most ably served those citizens who elected him to represent their interests in the Illinois House of Representatives and Senate in Springfield, as well as here in Washington to handle their affairs with understanding and compassion in the House of Representatives.

Often he struggled in behalf of causes that weren't popular, but they were struggles for causes held to be true. And his decision to retire from Congress following the drawing of the last congressional reapportionment map was but a final demonstration of his dignity as he moved to protect his party from the embarrassment of a primary battle with a Republican colleague.

A post office will well serve as a beacon to the memory of this fine gentleman; this quiet, thoughtful man who served his Nation, his State, and his constituents with such distinction.

Mr. ANNUNZIO. Mr. Speaker, I rise today in strong support for H.R. 5007, a bill introduced by my colleague from Illinois, Congressman J. DENNIS HASTERT, and which I have cosponsored, to designate the facility of the U.S. Postal Service located at 100 South John F. Kennedy Drive in Carpentersville, IL, as the Robert McClory Post Office.

Bob McClory was my close and trusted friend during the 18 years we served in Congress together. As the second-ranking Republican on the House Judiciary Committee, Bob was of great help to me in the passage of my bill to grant a Federal charter to the Italian-American War Veterans of the United States. He was of invaluable assistance in securing the passage of legislation which made Columbus Day a national holiday, and he was a motivating force in providing for the observance of all Federal holidays on Mondays.

First elected to the House of Representatives in 1962, Bob compiled an outstanding record of achievement during the 20 years he served in Congress. He especially earned the respect and admiration of his colleagues during the Watergate impeachment hearings, for his conscientious and statesman-like conduct. His fairness and integrity were an inspiration to all of us in Congress who had the opportunity to know him and to work with him.

It is fitting that a U.S. Postal Service be named after Bob McClory, a man who devoted his life to the service of our country, and I urge the support of my colleagues in the House of Representatives for H.R. 5007, as a much deserved tribute to Bob McClory, a truly dedicated public servant and outstanding citizen of our Nation and of the State of Illinois.

Mr. ROE. Mr. Speaker, I rise in support of H.R. 5007, a bill to honor the late Congressman Bob McClory of Illinois by naming the new post office in Carpentersville, IL, for him.

Bob McClory devoted his life to public service, first in Illinois where he served in both the House and Senate of the Illinois State Legislature, then in the U.S. House of Representatives where he served from 1963–83.

His long and distinguished tenure on the House Judiciary Committee, where he was the ranking Republican member, was marked by staunch advocacy for civil rights and recognition for America's civil right's leaders.

Bob McClory was an independent thinker, a man who argued his positions from well thought out personal analysis. He helped articulate issues from a new perspective and he made us all attentive to his arguments.

Mr. Speaker, whether or not we agreed with Bob McClory in a debate, we always respected and admired him. I believe naming the post office in Carpentersville for him is an appropriate way to honor a distinguished citizen of Illinois, an eminent legislator in the U.S. Congress, and a devoted denizen of his country.

Mr. MICHEL. Mr. Speaker, I want to join our colleagues in support of H.R. 5007 to designate "the Robert McClory Post Office" in Carpentersville, IL.

I feel this action is a fitting tribute to our late colleague, and fellow Illinoisan, Bob McClory. What better way to honor someone who was such an exemplary public servant, than to name in his honor a post office building, a place where so many Americans, on a daily basis, come in direct contact with their Government.

Bob McClory came to us in the election of 1962 after serving with distinction in the Illinois State Legislature. He eventually became ranking Republican member on our Committee on the Judiciary here in the House of Representatives. During his 20 years in the House he proved to be a man of reasoned opinion and prudent judgment. He exemplified the

kind of civility and comity that is so important to the functioning of this institution.

He radiated energy and good will, and was as industrious as he was gracious.

I just want to join our colleagues in saying that the Robert McClory Post Office is a good way of keeping before the public, for years to come, the name of a good man and a fine public servant.

Mr. DREIER of California. Mr. Speaker, how fitting to honor our former colleague Bob McClory in this way. He was one of the most incredible men I've ever known and I miss him greatly. A diligent member of the Judiciary Committee he thrived on his work. We are fortunate to have known him and it's always good to see his lovely wife, Doris, who often visits the Capitol.

Mr. McCLOSKEY. Mr. Speaker I have no further requests for time and I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Indiana [Mr. McCLOSKEY] that the House suspend the rules and pass the bill, H.R. 5007, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the facility of the United States Postal Service located at 100 South John F. Kennedy Drive, Carpentersville, Illinois, as the 'Robert McClory Post Office Building'."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5007, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

JESSE OWENS BUILDING OF THE U.S. POSTAL SERVICE

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5235) to designate the Owens Finance Station of the U.S. Postal Service in Cleveland, OH, as the "Jesse Owens Building of the United States Postal Service."

The Clerk read as follows:

H.R. 5235

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building located at 5600 Woodland Avenue, Cleveland, Ohio, known as the Owens Finance Station is designationed as the "Jesse Owens Building of the United States Postal Service". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the Jesse Owens Building of the United States Postal Service.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the rule, a second is not required on this motion.

The gentleman from Indiana [Mr. McCLOSKEY] will be recognized for 20 minutes and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5235 would designate the postal building located at 5600 Woodland Avenue, Cleveland, OH, as the Jesse Owens Building of the U.S. Postal Service.

The legendary triumph of Jesse Owens in the 1936 Olympic games passes from generation to generation as one of the great moments in American history. We often tell the story of when the son of a sharecropper and grandson of an American slave crushed Hitler's theory of the superior Aryan race.

Jesse Owens returned from those Olympic games as a new American hero, a responsibility he combined with his special concern for the youth of our Nation. He spent the rest of his life reinforcing to all that making dreams into reality takes a lot of determination, dedication, self-discipline, and effort.

I feel the naming of the post office in Cleveland, OH, would be a fitting honor to be bestowed on one of our great American heroes, and I urge Members to support this legislation.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, tributes to Jesse Owens come readily for most of us. A remarkable human being, born in Alabama in 1913, his winning of four gold medals in the 1936 Olympic games, held in Berlin, was the culmination of an outstanding collegiate career and secured for him the status of truly being a legend in his own lifetime. At those games he set new Olympic records in the 100-meter dash, the 200-meter dash, and the long jump and shared in setting a new Olympic record for the 400-meter relay.

In later years he worked as a public relations consultant and received from President Gerald R. Ford the Presidential Medal of Freedom in 1976 and a "Living Legends Award," from President Jimmy Carter in 1979. When Jesse Owens passed away in Tucson, AZ, in March 1980, more than just the sports world paused and took notice of a passing giant from our landscape. I heartedly recommend adoption of the measure before us.

Mr. CLAY. Mr. Speaker, I rise in support of H.R. 5235, a bill to rename a Cleveland postal facility in honor of the Olympic hero, Jesse Owens. I would like to commend my good friend and colleague from Ohio, Representative LOUIS STOKES, for sponsoring this legislation and for his continued efforts to honor this great American.

In 1936, Jesse Owens traveled to Germany for the Berlin Olympics. His memorable performance was a triumph for all Americans. By placing first in the 100- and 200-meter dashes, the broad jump, and the 400-meter relay, Jesse Owens became the first athlete to be awarded four gold medals in one Olympics. Moreover, during a time of great racial tension stemming from Hitler's ideas of white supremacy, this black American was able to clear the hurdles of racism to capture the hearts of all those attending the 1936 Olympic games. People from all countries and races rose together, chanting his name.

Jesse Owens did not stop there. Throughout his life, he maintained his commitment to sportmanship. He spoke on the importance of using the power of sports to conquer racism of all kinds. It is appropriate to honor this man. He was a hero in every sense of the word. I am proud to support this legislation.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. McCLOSKEY] that the House suspend the rules and pass the bill, H.R. 5235.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 5235, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

ARTHUR V. WATKINS POST OFFICE

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5409) to designate the post office building at 222 West Center Street, in Orem, UT, as the "Authur V. Watkins Post Office," as amended.

The Clerk read as follows:

H.R. 5409

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That the post office located at 222 West Center Street, in Orem, UT, shall hereafter be known and designated as the "Authur V. Watkins Post Office Building". Any reference in a law, regulation, map, document, record, or other paper of the United States to that building shall be deemed to be a reference to the Authur V. Watkins Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Indiana [Mr. McCloskey] will be recognized for 20 minutes, and the gentleman from New York [Mr. Gilman] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCloskey].

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5409, as amended, would designate the postal building located at 222 West Center Street, in Orem, UT, as the "Arthur V. Watkins Post Office Building."

This bill shows our appreciation for the accomplishments of Senator Watkins on behalf of the residents of Utah as well as the entire Nation during his 12 years in the U.S. Senate.

During his 12 years in the Senate, Senator Watkins served as the chairman of the Joint Congressional Committee on Immigration and National Policy and was a member of the Judiciary Committee, the Interior and Insular Affairs Committee, the Public Works Committee, the Joint Committee on Economic Report and the Joint Committee on Navajo-Hopi Indian Administration.

Senator Watkins most distinguished role in the Senate was that of chairman of the Select Committee on the Censure of Joseph McCarthy. With many people questioning the wisdom of this selection, Senator Watkins quickly took control of the proceedings and often silenced Senator McCarthy when necessary. The committee successfully handed down a bipartisan recommendation of censure under his leadership.

It is most fitting that this post office in Orem, UT, be named for our late colleague, and I urge all Members to support this legislation.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Arthur Watkins served in the U.S. Senate from 1947 until 1959 and was a member of the Indian Claims Commission until 1967.

Born in Midway, UT, on December 18, 1886, Senator Watkins attended Brigham Young and New York Universities and received his law degree from Columbia University in 1912. Before coming to the Congress, he served as an assistant county attorney for Salt Lake County and as a district judge of the Fourth Judicial District of the State of Utah and was in private practice.

However, most of us will remember Arthur Watkins as a man with the courage of his convictions. A conservative Republican, he served as chairman of the Select Committee on the Censure of Joseph McCarthy and later published his recollections of that event in a volume entitled, "Enough Rope: The Inside Story of the Censure of Senator Joe McCarthy" prior to his death in 1973.

H.R. 5409, introduced by our colleague, Congressman Howard Nielson, designates that the postal facility located at 222 West Center Street in Orem, UT, will be hereafter referred to as the "Arthur V. Watkins Post Office." This is a small measure of respect for the memory of this fine American and the role he played in making democracy work.

Mr. Speaker, I am pleased to yield such time as he may consume to the sponsor of this measure, the gentleman from Utah [Mr. Nielson].

Mr. NIELSON of Utah. Mr. Speaker, first off, let me thank Post Office Committee chairman, Bill Ford, and ranking member, Ben Gilman, for their support and for bringing this legislation to the floor so expeditiously. I also want to thank subcommittee chairman, Frank McCloskey, and ranking member, Frank Horton, whose staff provided invaluable assistance.

H.R. 5409 would name the U.S. Post Office in Orem, UT, after former Senator Arthur Vivian Watkins. I realize passing legislation of this nature is rather routine. However, the contributions and service rendered this country by Senator Watkins was anything but routine.

During his 12 years in office, Senator Watkins served with dignity and distinction, continually confounding the cynics with the firmness of his convictions and the balance of his judgment.

Perhaps his most memorable role was that of chairman of the Select Committee on the Censure of Joseph McCarthy. At the time, many questined the wisdom of naming Watkins chairman, but were soon surprised by the control and forcefulness he demonstrated while in the chair.

Upon the completion of his Senate career, Senator Watkins served as a member of the Indian Claims Commission until 1967.

Time magazine once described Senator Watkins as "a man little known in the past who should be long remembered into the future." I could not agree more, and urge my colleagues to support this legislation.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. McCloskey] that the House suspend the rules and pass the bill, H.R. 5409, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the post office building at 222 West Center Street, in Orem, Utah, as the 'Arthur V. Watkins Post Office Building'.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5409, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

STATE ENERGY EFFICIENCY PROGRAMS IMPROVEMENT ACT OF 1990

Mr. SHARP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 711) to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such Act, and for other purposes; as amended.

The Clerk read as follows:

H.R. 771

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "State Energy Efficiency Programs Improvement Act of 1990".

SEC. 2. STATE ENERGY EFFICIENCY GOALS AND DEFINITIONS.

(a) Goals.—(1) Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

"STATE ENERGY EFFICIENCY GOALS

"Sec. 364. Each State energy conservation plan with respect to which assistance is made available under this part on or after October 1, 1991, shall contain a goal, consisting of an improvement of 10 percent or more in the efficiency of use of energy in the State concerned in the calendar year 2000 as compared to the calendar year 1990, and may contain interim goals.".

(2) The table of contents of such Act is amended by striking out the item for section 364 and inserting in lieu thereof the following:

"Sec. 364. State energy efficiency goals.".

(b) Definitions.—Section 366(4) of such Act (42 U.S.C. 6326(4)) is amended—

(1) by striking out "building or industrial" and inserting in lieu thereof "building, building system, energy consuming device associated with the building, or industrial";

(2) by striking out "the date of enactment of the Energy Conservation and Production Act" and inserting in lieu thereof "May 1, 1989"; and

(3) by inserting "maintain or " before "improve the efficiency" in the first sentence.

SEC. 3. REQUIRED ELEMENTS OF STATE ENERGY CONSERVATION PLAN.

(a) Plan Requirements.—Section 362(c) of the Energy Policy and Conservation Act (42 U.S.C. 6322(c)) is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(6) procedures for ensuring effective coordination among various local, State, and Federal energy conservation programs within the State, including any program administered within the Office of Technical and Financial Assistance of the Department of Energy and the Low Income Home Energy Assistance Program administered by the Department of Health and Human Services.".

(b) Additional Conditions.—Section 363 of such Act (42 U.S.C. 6323) is amended by adding at the end thereof the following new subsections:

"(d) Each State receiving Federal financial assistance pursuant to this section shall provide reasonable assurance to the Secretary that it has established policies and procedures designed to assure that Federal financial assistance under this part and under part G of this title will be used to supplement, and not to supplant, State and local funds, and to the extent practicable, to increase the amount of such funds that otherwise would be available, in the absence of such Federal financial assistance, for those programs set forth in the State energy conservation plan approved pursuant to subsection (b).

"(e)(1) Effective October 1, 1991, to be eligible for Federal financial assistance pursuant to this section, a State shall submit to the Secretary, as a supplement to its energy conservation plan, an energy emergency planning program for an energy supply disruption, as designed by the State consistent with applicable Federal and State law. The contingency plan provided for by the program shall include an implementation strategy or strategies (including regional coordination) for dealing with energy emergencies. The submission of such plan shall be for informational purposes only and without any requirement of approval by the Secretary.

"(2) Federal financial assistance made available under this part to a State may be used to develop and conduct the energy emergency planning program requirement referred to in paragraph (1).".

SEC. 4. OPTIONAL ELEMENTS OF STATE ENERGY CONSERVATION PLAN AND CONSOLIDATION OF SUPPLEMENTAL STATE ENERGY CONSERVATION PLAN.

(a) In General.—Section 362(d) of the Energy Policy and Conservation Act (42 U.S.C. 6322(d)) is amended—

(1) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) programs to increase transportation energy efficiency, including programs to accelerate the use of alternative transportation fuels for State government vehicles, fleet vehicles, taxies, mass transit, and privately owned vehicles;";

(2) by striking out "and" at the end of paragraph (4);

(3) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) programs for financing energy efficiency and renewable energy capital investments, projects, and programs—

"(A) which may include loan programs and performance contracting programs for leveraging of additional public and private sector funds, and programs which allow rebates, grants, or other incentives for the purchase and installation of energy efficiency and renewable energy measures; or

"(B) in addition to or in lieu of programs described in subparagraph (A), which may be used in connection with public or nonprofit buildings owned and operated by a State, a political subdivision of a State or an agency or instrumentality of a State, or an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

"(6) programs for encouraging and for carrying out energy audits with respect to buildings and industrial facilities (including industrial processes) within the State;

"(7) programs to promote the adoption of integrated energy plans which provide for—

"(A) periodic evaluation of a State's energy needs, available energy resources (including greater energy efficiency), and energy costs; and

"(B) utilization of adequate and reliable energy supplies, including greater energy efficiency, that meet applicable safety, environmental, and policy requirements at the lowest cost;

"(8) programs to promote energy efficiency in residential housing, such as—

"(A) programs for development and promotion of energy efficiency rating systems for newly constructed housing and existing housing so that consumers can compare the energy efficiency of different housing; and

"(B) programs for the adoption of incentives for builders, utilities, and mortgage lenders to build, service, or finance energy efficient housing;

"(9) programs to identify unfair or deceptive acts or practices which relate to the implementation of energy efficiency measures and renewable resource energy measures and to educate consumers concerning such acts or practices;

"(10) programs to modify patterns of energy consumption so as to reduce peak demands for energy and improve the efficiency of energy supply systems, including electricity supply systems;

"(11) programs to promote energy efficiency as an integral component of economic development planning conducted by State, local, or other governmental entities or by energy utilities;

"(12) in accordance with subsection (g), programs to implement the Energy Technology Commercialization Services Program; and

"(13) any other appropriate method or programs to conserve and to promote efficiency in the use of energy.".

(b) Energy Technology Commercialization Services Program.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by adding at the end thereof the following new subsection:

"(g)(1) The purposes of this subsection are to—

"(A) strengthen State outreach programs to aid small and start-up businesses;

"(B) foster a broader application of engineering principles and techniques to energy technology products, manufacturing, and commercial production by small and start-up businesses; and

"(C) foster greater assistance to small and start-up businesses in dealing with the Federal Government on energy technology related matters.

"(2) The programs to implement the functions of the Energy Technology Commercialization Services Program, as provided for by subsection (d)(12), shall—

"(A) aid small and start-up businesses in discovering useful and practical information relating to manufacturing and commercial production techniques and costs associated with new energy technologies;

"(B) encourage the application of such information in order to solve energy technology product development and manufacturing problems;

"(C) establish an Energy Technology Commercialization Services Program affiliated with an existing entity in each State;

"(D) coordinate engineers and manufacturers to aid small and start-up businesses in solving specific technical problems and improving the cost effectiveness of methods for manufacturing new energy technologies;

"(E) assist small and start-up businesses in preparing the technical portions of proposals seeking financial assistance for new energy technology commercialization; and

"(F) facilitate contract research between university faculty and students and small start-up businesses, in order to improve energy technology product development and independent quality control testing.

"(3) Each State energy technology commercialization services program shall develop and maintain a data base of engineering and scientific experts in energy technologies and product commercialization interested in participating in the service. Such data base shall, at a minimum, include faculty of institutions of higher education, retired manufacturing experts, and national laboratory personnel.

"(4) The services provided by the energy technology commercialization services programs established under this subsection shall be available to any small or start-up business. Such service programs shall charge fees which are affordable to a party eligible for assistance, which shall be determined by examining factors, including the following: (A) the costs of the services received; (B) the need of the recipient for the services; and (C) the ability of the recipient to pay for the services.

"(5) For the purposes of this subsection, the term—

"(A) 'institution of higher education' has the same meaning as such term is defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

"(B) 'small business' means a private firm that does not exceed the numerical size standard promulgated by the Small Business Administration under section 3(a) of the Small Business Act (15 U.S.C. 632) for the Standard Industrial Classification (SIC) codes designated by the Secretary of Energy; and

"(C) 'start-up business' means a small business which has been in existence for 5 years or less.".

(c) Elimination of SSECP.—(1) Section 367 of such Act (42 U.S.C. 6327) is repealed.

(2) The table of contents of such Act is amended by striking out the item for section 367.

SEC. 5. STATE ENERGY ADVISORY BOARD.

Section 365 of the Energy Policy and Conservation Act (42 U.S.C. 6325) is amended by adding at the end the following:

"(g)(1)(A) There is hereby established within the Department of Energy a State Energy Advisory Board (hereafter in this subsection referred to as the 'Board') which shall consist of at least 18 and not more than 21 members appointed by the Secretary as soon as practicable but no later than September 30, 1991. At least eight of the members of the Board shall be persons who serve as directors of the State agency, or a division of such agency, responsible for developing State energy conservation plans pursuant to section 362. At least four members shall be directors of State or local low income weatherization assistance programs. Other members shall be appointed from persons who have experience in energy efficiency or renewable energy programs from the private sector, consumer interest groups, utilities, public utility commissions, educational institutions, financial institutions, local government energy programs, or research institutions. A majority of the members of the Board shall be State employees.

"(B)(i) Except as provided in clause (ii), the members of the Board shall serve a term of three years.

"(ii) Of the members first appointed to the Board, one-third shall serve a term of one year, one-third shall serve a term of two years, and the remainder shall serve a term of three years, as specified by the Secretary.

"(2) The Board shall—

"(A) make recommendations to the Assistant Secretary for Conservation and Renewable Energy within the Department of Energy with respect to—

"(i) the energy efficiency goals and objectives of the programs carried out under this part, part G of this title, and under part A of title IV of the Energy Conservation and Production Act; and

"(ii) programmatic and administrative policies designed to strengthen and improve the programs referred to in clause (i), including actions that should be considered to encourage non-Federal resources (including private resources) to supplement Federal financial assistance;

"(B) serve as a liaison between the States and such Department on energy efficiency and renewable energy resource programs; and

"(C) encourage transfer of the results of research and development activities carried out by the Federal Government with respect to energy efficiency and renewable energy resource technologies.

"(3) The Secretary shall designate one of the members of the Board to serve as its chairman and one to serve as its vice-chairman. The chairman and vice-chairman shall serve in those offices no longer than two years.

"(4) The Secretary shall provide the Board with such reasonable services and facilities as may be necessary for the performance of its functions.

"(5) The Board shall be nonpartisan.

"(6) The Board may adopt administrative rules and procedures and may elect one of its members secretary of the Board.

"(7) Consistent with Federal regulations, the Secretary shall reimburse members of the Board for expenses (including travel expenses) necessarily incurred by them in the performance of their duties.

"(8) The Board shall meet at least twice a year and shall submit an annual report to the Secretary and the Congress on the activities carried out by the Board in the previous fiscal year, including an accounting of the expenses reimbursed under paragraph (7) with respect to the year for which the report is made and any recommendations it may have for administrative or legislative changes concerning the matters referred to in subparagraphs (A), (B), and (C) of paragraph (2).

"(9) The Board shall continue until terminated by law.".

SEC. 6. ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS.

(a) NON-FEDERAL SHARE OF A PROJECT.—Section 396(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6371e(b)(1)) is amended by adding at the end thereof the following: "The non-Federal share of the costs of any such energy conservation project may be provided by using programs of innovative financing for energy conservation projects (including, but not limited to, loan programs and performance contracting), even if, pursuant to such financing, clear title to the equipment does not pass to the school or hospital until after the grant is completed.".

(b) DEFINITIONS.—Section 391 of such Act (42 U.S.C. 6371) is amended—

(1) in paragraph (1), by striking out "April 20, 1977" and inserting in lieu thereof "May 1, 1989";

(2) in paragraph (2), by striking out "reduce energy consumption" and inserting in lieu thereof "maintain or reduce energy consumption and reduce energy costs" in the material preceding subparagraph (A);

(3) in paragraph (2)(C), by inserting "and load management systems" before the semicolon;

(4) in paragraph (8), by inserting "administrative facilities," after "dormitories,"; and

(5) in paragraph (17)(A), by striking out "and related cost savings" and inserting in lieu thereof "or energy cost savings".

(c) REPEAL OF EDUCATIONAL AGENCY EXCLUSION.—Section 396(e) of such Act (42 U.S.C. 6371e(e)) is repealed.

(d) USE OF FUNDS.—Section 396(d) of such Act (42 U.S.C. 6371e(d)) is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) The"; and

(2) by adding at the end the following new paragraphs:

"(2) A State may utilize up to 100 percent of the funds provided by the Secretary under this part for any fiscal year for program and technical assistance and up to 50 percent of such funds for marketing and other costs associated with leveraging of non-Federal funds for carrying out this part and may administer a continuous and consecutive application and award procedure for providing program and technical assistance under this part in accordance with regulations that the Secretary shall establish, if the State—

"(A) has adopted a State plan in accordance with section 394, the administration of which is in accordance with applicable regulations; and

"(B) certifies to the Secretary that not more than 15 percent of the aggregate amount of Federal and non-Federal funds used by the State to provide program and technical assistance, implement energy conservation measures, and otherwise carry out a program pursuant to this part for the fiscal year concerned will be expended for program and technical assistance and for marketing and other costs associated with leveraging of non-Federal funds for such program.".

SEC. 7. WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS.

(a) COOLING MATERIALS.—Section 412(9) of the Energy Conservation and Production Act (42 U.S.C. 6862(9)) is amended—

(1) by striking out "and" at the end of subparagraph (F);

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by adding after subparagraph (F) the following:

"(G) cooling efficiency modifications, including, but not limited to, replacement air-conditioners, ventilation equipment, screening, window films, and shading devices; and".

(b) RENTAL HOUSING.—(1) Section 413(b)(2) of such Act (42 U.S.C. 6863(b)(2)) is amended—

(A) by striking out "and" at the end of subparagraph (A); and

(B) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) that provide guidance to the States in the implementation of this part, including guidance designed to ensure that a State establishes (i) procedures that provide protection under paragraph (5) to tenants paying for energy as a portion of their rent, and (ii) a process for monitoring compliance with its obligations pursuant to this part; and

"(C) that secure the Federal investment made under this part and address the issues of eviction from and sale of property receiving weatherization materials under this part.".

(2) Section 413(b) of such Act (42 U.S.C. 6863(b)) is amended by adding at the end the following:

"(5) In any case in which a dwelling consists of a rental unit or rental units, the State, in the implementation of this part, shall ensure that—

"(A) the benefits of weatherization assistance in connection with such rental units, including units where the tenants pay for their energy through their rent, will accrue primarily to the low-income tenants residing in such units;

"(B) for a reasonable period of time after weatherization work has been completed on a dwelling containing a unit occupied by an eligible household, the tenants in that unit (including households paying for their energy through their rent) will not be subjected to rent increases unless those increases are demonstrably related to matters other than the weatherization work performed;

"(C) the enforcement of subparagraph (B) is provided through procedures established by the State by which tenants may file complaints and owners, in response to such complaints, shall demonstrate that the rent increase concerned is related to matters other than the weatherization work performed; and

"(D) no undue or excessive enhancement will occur to the value of such dwelling units.

"(6) As a condition of having assistance provided under this part with respect to multifamily buildings, a State may require financial participation from the owners of such buildings.".

(c) ALLOCATION FORMULA.—Section 414 of such Act (42 U.S.C. 6864) is amended—

(1) in subsection (a)(D), by inserting ", such as the cost of heating and cooling," after "necessary"; and

(2) by adding at the end the following:

"(c) Effective with fiscal year 1991, and annually thereafter, the Secretary shall

update the population, eligible households, climatic, residential energy use, and all other data used in allocating the funds under this part among the States pursuant to subsection (a).".

(d) WAIVER OF 40-PERCENT REQUIREMENT.—Section 415(a) of such Act (42 U.S.C. 6865(a)) is amended—

(1) in the first sentence, by striking out "An average" and inserting in lieu thereof "(1) Except as provided in paragraph (2), an average";

(2) by inserting the following before the period at the end of the second sentence: ", and a State may provide in the plan adopted pursuant to subsection (b) for recipients of grants of less than $350,000 to use up to an additional 5 percent of such grant for administration if the State has determined that such recipient requires such additional amount to implement effectively the administrative requirements established by the Secretary pursuant to this part"; and

(3) by adding at the end the following:

"(2)(A) The Secretary shall approve a State's application to waive the 40-percent requirement established in paragraph (1) if the State includes in its plan energy audit procedures and techniques which (i) meet standards established by the Secretary after consultation with the State Energy Advisory Board established under section 365(g) of the Energy Policy and Conservation Act, (ii) establish priorities for selection of weatherization measures based on their cost and contribution to energy efficiency, (iii) measure the energy requirement of individual dwellings and the rate of return of the total conservation investment in a dwelling, and (iv) account for interaction among energy efficiency measures.

"(B) The Secretary shall make information on energy audit procedures and techniques available to States applying for a waiver under subparagraph (A) and shall provide training for State and local agencies in the implementation of such procedures and techniques.".

(e) DWELLING UNIT LIMITATION.—Section 415(c) of such Act (42 U.S.C. 6865(c)) is amended—

(1) in paragraph (1), by striking out "The expenditure" and inserting in lieu thereof "Except as provided in paragraphs (3) and (4), the expenditure"; and

(2) by adding at the end the following:

"(3) Beginning with fiscal year 1991, the $1,600 per dwelling unit limitation provided in paragraph (1) shall be adjusted annually by increasing the limitation amount by an amount equal to—

"(A) the limitation amount for the previous fiscal year, multiplied by

"(B) the lesser of (i) the percentage increase in the Consumer Price Index (all items, United States city average) for the most recent calendar year completed before the beginning of fiscal year for which the determination is being made, or (ii) three percent.

"(4)(A) In addition to the average per dwelling unit limitation applicable in a State under paragraphs (1) and (3), the Secretary shall, upon application by a State, establish a separate average per dwelling unit limitation for dwelling units in such State—

"(i) which conform to program requirements; and

"(ii) which, in addition to any other weatherization modifications, have furnace efficiency modifications made under this part.

"(B) The average per dwelling unit limitation applicable in a State to units described in subparagraph (A) shall not exceed an amount equal to—

"(i) the amount permitted for the expenditure of financial assistance for labor, weatherization materials, and related matters for dwelling units in such State under paragraphs (1) and (3), plus

"(ii) an amount determined by the State to be the average amount that is appropriate for furnace efficiency modifications of dwelling units of the type assisted under this part in such State.".

(f) REPEAL OF PERFORMANCE FUND.—Section 415(d) of such Act (42 U.S.C. 6865(d)) is repealed.

(g) NON-FEDERAL FUNDING REQUIREMENT.—Section 414(b)(3) of such Act (42 U.S.C. 6864(b)(3)) is amended by striking out "and (B)" and inserting in lieu thereof the following: "(B) for using Federal financial assistance under this part to increase the portion of low-income weatherization assistance that the State obtains from non-Federal sources, including private sources, and (C)".

(h) ADDITIONAL REPORTING REQUIREMENT.—Section 421 of such Act (42 U.S.C. 6871) is amended—

(1) by striking out "through 1979"; and

(2) by adding at the end the following: "Such report shall include information and data furnished by each State on the average costs incurred in weatherization of individual dwelling units, the average size of the dwellings being weatherized, and the average income of households receiving assistance under this part.".

(i) INCENTIVE PROGRAM.—Section 415 of such Act (42 U.S.C. 6865) is amended by adding at the end the following:

"(d) Beginning with fiscal year 1992, the Secretary may allocate funds appropriated pursuant to section 422(b) to provide supplementary financial assistance to those States which the Secretary determines have achieved the best performance during the previous fiscal year in achieving the purposes of this part. In making this determination, the Secretary shall—

"(1) consult with the State Energy Advisory Board established under section 365(g) of the Energy Policy and Conservation Act; and

"(2) give priority to those States which, during such previous fiscal year, obtained a significant portion of income from non-Federal sources for their weatherization programs or increased significantly the portion of low-income weatherization assistance that the State obtained from non-Federal sources.

"(e)(1)(A) Beginning with fiscal year 1992, the Secretary may allocate, from funds appropriated pursuant to section 422(b), among the States an equal amount for each State not to exceed $100,000 per State. Each State shall make available amounts received under this subsection to provide supplementary financial assistance to recipients of grants under this part that have achieved the best performance during the previous fiscal year in advancing the purposes of this part.

"(B) None of the funds made available under this subsection may be used by any State for administrative purposes.

"(2) The Secretary shall, after consulting with the State Energy Advisory Board referred to in subsection (d)(1), prescribe guidelines to be used by each State in making available supplementary financial assistance under this subsection, with a priority being given to subgrantees that, by law or through administrative or other executive action, provided non-Federal resources (including private resources) to supplement Federal financial assistance under this part during the previous fiscal year.".

(j) Conforming Amendment—Section 411 of such Act (42 U.S.C. 6861) is amended to read as follows:

"FINDINGS AND PURPOSE

"SEC. 411. (a) The Congress finds that—

"(1) a fast, cost-effective, and environmentally sound way to prevent future energy shortages in the United States while reducing the Nation's dependence on imported energy supplies, is to encourage and facilitate, through major programs, the implementation of energy conservation and renewable-resource energy measures with respect to dwelling units;

"(2) existing efforts to encourage and facilitate such measures are inadequate because—

"(A) many dwellings owned or occupied by low-income persons are energy inefficient;

"(B) low-income persons can least afford to make the modifications necessary to provide for efficient energy equipment in such dwellings and otherwise to improve the energy efficiency of such dwellings;

"(3) weatherization of such dwellings would lower shelter costs in dwellings owned or occupied by low-income persons as well as save energy and reduce future energy capacity requirements; and

"(4) States, through Community Action Agencies established under the Economic Opportunity Act of 1964 and units of general purpose local government, should be encouraged, with Federal financial and technical assistance, to develop and support coordinated weatherization programs designed to alleviate the adverse effects of energy costs on such low-income persons, to supplement other Federal programs serving such low-income persons, and to increase energy efficiency.

"(b) It is, therefore, the purpose of this part to develop and implement a weatherization assistance program to increase the energy efficiency of dwellings owned or occupied by low-income persons, reduce their total residential energy expenditures, and improve their health and safety, especially low-income persons who are particularly vulnerable such as the elderly, the handicapped, and children.".

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) STATE PLAN PROGRAM.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended to read as follows:

"(f) For the purpose of carrying out this part, there are authorized to be appropriated not to exceed $25,000,000 for fiscal year 1991, $35,000,000 for fiscal year 1992, and $45,000,000 for fiscal year 1993.".

(b) ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS.—Section 397 of the Energy Policy and Conservation Act (42 U.S.C. 6371f) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 397. For the purpose of carrying out this part, there are authorized to be appropriated not to exceed $40,000,000 for fiscal year 1991, $50,000,000 for fiscal year 1992, and $60,000,000 for fiscal year 1993.".

(c) WEATHERIZATION ASSISTANCE PROGRAM.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 422. (a) There are authorized to be appropriated for purposes of carrying out the weatherization program under this part, other than under subsections (d) and (e) of section 415, not to exceed $200,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992, 1993, and 1994.

"(b) There are authorized to be appropriated for purposes of carrying out the weatherization program under subsections (d) and (e) of section 415, not to exceed $20,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994.".

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considerd as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. Sharp] will be recognized for 20 minutes, and the gentleman from California [Mr. Moorhead] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. Sharp].

☐ 1650

Mr. SHARP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 711, the State Energy Conservation Programs Improvement Act of 1989 updates, streamlines, and improves DOE's Weatherization Assistance, Institutional Conservation, and State Energy Conservation Programs. It provides incentives to attract more non-Federal funding to these programs and should result in far more energy conservation for the Federal dollar.

These programs were originally created by Congress in the 1970's to improve the energy efficiency of our economy and to reduce our dependence on imported oil. Today, with the events in the Middle East, these goals are as important as ever.

We should not forget, however, that these programs also provide needed assistance to help people, schools, hospitals, and small businesses cut their energy bills.

All three programs have produced many successes. For example:

The Weatherization Program has already upgraded 4 million low-income houses, resulting in average energy savings of 10 to 20 percent each.

The ICP Program has provided over 21,000 grants to local schools and hospitals.

The SECP Program has nurtured a host of innovative programs that are tailored to specific States' needs and had saved an estimated 6.6 billion barrels of oil equivalent cumulatively by 1989 according to DOE. That is about twice the size of the Department of Interior's mean estimate of the amount of oil that might be available in the coastal plain of the Arctic National Wildlife Refuge.

Examples of successful SECP programs geared to specific States' needs are an alternative vehicle fuel progam in California, a Louisiana program to reduce energy use in the commercial shrimp fishing fleet, and an interest rate buy-down program in Maine to provide energy conservation loans to small businesses.

Despite the successes of these programs, there are still over 10 milllon homes in the country that are eligible for weatherization and thousands of schools and hosptials that could benefit from reduced energy bills.

There is still a need for these programs, but some of their requirements no longer make sense. There are also new activities that States could undertake to reduce the burden of energy costs on their citizens. These programs need new goals and greater flexibility to deal with the changed energy realities of the 1990's.

Today I will offer a committee amendment in the nature of a substitute for H.R. 711 as reported by the Committee on Energy and Commerce. This amendment was worked out with extensive input from groups representing the State and local administrators of these programs, the Department of Energy and minority staff. I particularly want to thank my colleagues Mr. Moorhead, Mr. Synar, and Mr. Markey for their help in improving the bill. I would also like to thank my Senate colleagues, Mr. Johnston and Mr. Metzenbaum, for their work on the companion bill in the Senate, S. 247.

I would like to mention just a few of the improvements this bill makes to DOE's State and local conservation programs;

It encourages States to use more sophisticated auditing techniques and heating system modifications by giving them more flexibility on spending limitations under the Weatherization Program if they do.

It authorizes a weatherization incentive fund that rewards States which attract more non-Federal funding and makes it possible to require matching contributions from landlords.

It updates the Institutional Conservation Program by making schools and hospitals built after 1977 eligible for assistance, and by allowing schools and hospitals to use innovative financing methods to make their matching contributions.

It updates the expired goals of the State Energy Conservation Program and authorizes a broader range of activities that States can engage in to meet the specific conservation needs of their citizens.

It reauthorizes spending for these programs at levels that are below the original authorizations but above the fiscal year 1990 appropriations levels.

I would like to discuss just a few of the bill's provisions in a little more detail.

The bill has several provisions to help warmer States better address the needs of their low-income people. First, it gives them more flexibility to install cooling measures through the Weatherization Program. Clearly in some of our Southern States cooling is as much or more of a problem as heating and those States have needed the ability to provide a variety of shading and ventilation measures for their people. This bill gives them the authority to do so.

Many of the Southern States are also fast growing States and had been disadvantaged in the allocation of funds under the Weatherization Program because the Department of Energy had not been updating the data it uses to determine such allocations. This bill requires DOE to immediately update the data it uses for determining the allocation of weatherization funds and to keep it up to date. For example, as soon as the 1990 census data is available it should be incorporated into the formula.

This bill does not, however, require DOE to change the underlying formula it uses to allocate money to the States. I firmly believe that formula is fair because it directs funding to where it will be most cost effective, to those States with extreme climates, both hot and cold.

The program changes I mentioned, along with the higher authorization levels, will make all States better off without making any State worse off.

Another specific change is that we allow both the State Energy Conservation Program and the Institutional Conservation Program to fund projects that provide savings through load shifting or load management, as long as no additional energy use results. Load shifting can result in significant savings to consumers, utilities and society by shifting demand for energy from peak hours of low demand. Schools and hospitals in particular should be able to take advantage of the savings from load management projects. These provisions were not intended to allow financing of simple fuel switching projects.

Another critical improvement provided by this bill is to promote innovative financing of energy efficiency projects under the State Energy Conservation Program. For example, the existing program regulations limit annual expenditures for building retrofits to 33 percent of the yearly State Energy Conservation Program funds a State receives. This bill would specifically eliminate this unnecessary restriction. I expect that immediately upon enactment DOE will not enforce such outdated regulation, so that these innovative programs can be expanded quickly.

In conclusion, this bill will make these three worthwhile programs even

more responsive to the needs of individual States, will allow program managers to take advantage of innovations in technology and finance that were not available when these programs were first passed into law, and will make the programs more cost effective.

I have been working on this bill for 3 years, and given today's perilous international situation, it could not have come the floor at a better time.

A vote for this bill is a vote for energy efficiency and energy security. It is also a vote to help low-income families, schools, and hospitals control their energy costs at a time when those costs are rising.

I urge my colleagues to vote to approve H.R. 711 today.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 711, as amended, the State Energy Efficiency Programs Improvement Act of 1990. This legislation reauthorizes three programs administered by the Department of Energy which help the Nation conserve energy. These programs are low-income weatherization assistance, the schools and hospitals program, and grants to State energy offices, which are primarily used on efforts to conserve energy in the commercial and residential sectors. The bill reauthorizes the Weatherization Program through fiscal year 1994 and the other two programs through fiscal year 1993. These programs have not been reauthorized for 10 years, although each has been extended and funded in annual appropriations acts.

I am pleased to report that we have been able to work with our majority colleagues in a bipartisan manner to develop this legislation. The amendment in the nature of a substitute contained within Mr. Sharp's motion to suspend the rules incorporates an informal agreement on the bill reached between the House and Senate Energy Committees to facilitate swift passage of H.R. 711 before the end of the session.

Most of this bill streamlines the existing programs so that taxpayer dollars are spent more effectively and States are given more administrative flexibility to run the programs within their States. New requirements are kept to a minimum. States must provide for coordination of Federal, State, and local energy conservation programs; establish procedures so that to the maximum extent practicable Federal money does not merely replace State funds; and submit an energy emergency plan.

Much of the earlier effort on this bill was expended in the successful search for a compromise on the allocation formula for the Weatherization Program. I joined 19 of my committee colleagues in asking Chairman Sharp to work with us so that the West and the South will receive a fair share of these funds. We are not making nearly all of the changes in this regard that I would prefer. However, we are taking several constructive steps by expanding the list of eligible cooling measures and by requiring annual updates of the data which is plugged into the existing formula to allocate weatherization money among the States.

Appropriations for these programs have been relatively constant in recent years and substantially less than what they were 10 years ago. H.R. 711 would authorize substantially more money for each of the three programs in the fiscal years covered by the legislation. However, given our understandable desire to restrain Federal spending, particularly in the wake of the budget summit agreement, I want to point out that H.R. 711 has a number of provisions to encourage States to look to non-Federal sources of money for these programs, including an amendment by Mr. Tauke and Mr. Wyden on leveraging non-Federal funds which was adopted by the Committee on Energy and Commerce.

In conclusion, Mr. Speaker, I want to thank Mr. Sharp, the chairman of the Subcommittee on Energy and Power, for working with those of us on this side of the aisle and with the other body to come up with the compromise we bring to the floor today. I urge support for the legislation, as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Oregon [Mr. Wyden].

Mr. WYDEN. Mr. Speaker, I thank the chairman of the subcommittee for yielding time to me. I rise in support of the legislation.

Mr. Speaker, this bill is a key piece in the energy security jigsaw puzzle. I commend the ranking Republican, the gentleman from California [Mr. Moorhead] and the chairman of the subcommittee, the gentleman from Indiana [Mr. Sharp] for their efforts on this bill.

Several States, in particular Oregon and Iowa, have innovative State energy efficiency programs, and at this point I would briefly like to engage the manager of the bill in a brief colloquy with respect to the legislation.

I would like to clarify the intent of subsection 6(d) of the bill, as amended in committee by Mr. Tauke and myself. The amended language lets States that match Federal Institutional Conservation Program [ICP] funds with non-Federal funds use all the Federal money for technical assistance so long as they spend no more than 15 percent of their total funds on technical assistance. States which qualify under this subsection may make their technical assistance grants on an ongoing basis, rather than following the Federal grant cycle.

The House committee report says, "States which only partially take advantage of this subsection * * * must follow the DOE grant cycle for technical assistance * * *."

As I understand it, the phrase "only partially take advantage" refers to States that receive ICP funds but do not attract enough non-Federal funds to the eligible to use all their ICP funds for technical assistance. A State like Oregon, which expects to qualify to spend all its ICP funds on technical assistance, but plans to spend some on other projects, can still award technical assistance grants on an ongoing basis. Is that right?

Mr. SHARP. If the gentleman will yield, Mr. Speaker, yes in the situation you describe, a State would not need to follow the DOE grant cycle for technical assistance grants.

☐ 1700

Mr. WYDEN. Mr. Speaker, I appreciate the response of the chairman of the subcommittee.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. Markey].

Mr. MARKEY. Mr. Speaker, I thank the chairman very much for yielding me this time.

Mr. Speaker, I just rise to congratulate the chairman of the subcommittee and the ranking minority member, the gentleman from California [Mr. Moorhead], for their work on this legislation. I think that it is an excellent piece of work. It will raise from about $200 million to $270 million a year the amount of funding which is available for these very important and very effective time-tested energy conservation programs.

I have here a list of the effective State energy conservation programs that are funded at the Federal level in partnership with the States and local communities, and I think this really does demonstrate that when Federal money is properly targeted, then there is the commitment made by the local and State governments to take programs of this nature and put them into effect and show how they work that we can have success stories.

What we are doing now is updating this law based upon the lessons which we have learned over the last 10 years or so and incorporating it into a new statute. I think that is very helpful, and I congratulate the chairman of the subcommittee and the ranking minority member.

With the boys and young women over in the Persian Gulf right now fighting in large part to ensure that we have a steady flow of oil coming into the world economy. I think it is reassuring to know that we are passing these commensense, smart, up-to-date programs that will protect us in the long run against a repetition of the mistakes of the past.

Mr. SHARP. Mr. Speaker, I yield myself such time as I may consume.

My Speaker, I would just like to indicate that the gentleman from Massachusetts [Mr. MARKEY] has worked extensively on these proposals and others as a member of the Committee on Energy and Commerce, but more significantly as chairman of the predecessor subcommittee dealing with these issues. We are trying to continue to improve upon that work with his continuing help.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.[H01OC0-X1]{H8513}my time.

Mr. SHARP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. SHARP] that the House suspend the rules and pass the bill, H.R. 711, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SHARP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 711, the bill just passed.

The SPEAKER pro tempore. (Mr. MAZZOLI). Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. SHARP. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the Senate bill (S. 247) to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such act, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 247

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "State Energy Efficiency Programs Improvement Act of 1990".

SEC. 2. TABLE OF CONTENTS.—

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. State energy conservation goals.
Sec. 4. Required State energy conservation plan elements and consolidation of energy extension service.
Sec. 5. Optional State energy conservation plan elements and consolidation of supplemental State energy conservation plan.
Sec. 6. Additional conditions for Federal assistance.
Sec. 7. State energy advisory board.
Sec. 8. Update of energy conservation program for schools and hospitals.
Sec. 9. Weatherization assistance for low-income persons.
Sec. 10. Support for technology applications.
Sec. 11. Authorizations of appropriations.
Sec. 12. Territorial energy assistance program.

SEC. 3. STATE ENERGY CONSERVATION GOALS.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

"STATE ENERGY EFFICIENCY GOALS

"SEC. 364. Effective October 1, 1990, each State energy conservation plan with respect to which financial assistance is made available by the Secretary under this part shall contain an energy efficiency goal, and may contain interim goals, for such State, which, as a result of the implementation of such plan, shall achieve at least a 10 percent improvement in the efficiency of use of energy supplies consumed in such State in the year 2000 compared to the projected energy consumption, as of October 1, 1990, for such State in the year 2000. The plan shall specify the assumptions used by the State in the determination of its projected energy supplies and demands taking into account population trends, economic growth, and the effects of Federal, State, and local energy efficiency programs.".

SEC. 4. REQUIRED STATE ENERGY CONSERVATION PLAN ELEMENTS AND CONSOLIDATION OF ENERGY EXTENSION SERVICE.—(a) IN GENERAL.—Section 362(c) of the Energy Policy and Conservation Act (42 U.S.C. 6322(c)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(6) procedures for ensuring effective coordination among various local, State, and Federal energy conservation programs within the State, including any program administered within the Office of State and Local Assistance Programs of the Department of Energy as of December 31, 1987, and the Low Income Home Energy Assistance Program administered by the Department of Health and Human Services;

"(7) in accordance with subsection (f), programs to implement all the functions of the Energy Extension Service, as provided by law on the day before the date of enactment of the State Energy Efficiency Programs Improvement Act of 1989; and

"(8) in a supplementary contingency plan, energy emergency policies and procedures to deal with energy supply disruptions including petroleum products, electricity, natural gas, coal, and other energy supply and delivery disruptions.".

(b) ENERGY EXTENSION SERVICE.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by adding at the end thereof the following new subsection:

"(f) The programs to implement all the functions of the Energy Extension Service, as provided for by subsection (c)(7), shall—

"(1) include programs for identification, development, and demonstration of energy efficiency opportunities, techniques, methods, materials, and equipment (including those that are responsive to local needs or resources) and alternative energy technologies such as solar heating and cooling for agricultural, commercial, and small business operations, individual energy consumers, and new and existing residential, commercial, and agricultural buildings or structures;

"(2) provide for technical assistance, instructions, information dissemination, and practical demonstrations with respect to energy efficiency opportunities;

"(3) provide, to the maximum extent practicable within personnel and funding limitations, active outreach energy extension assistance (including information on end-user technology requirements) at the local level through appropriate offices (including metropolitan offices) and through county agents and technical staff assistance;

"(4) make maximum use of existing outreach or delivery mechanisms or programs and include, to the maximum extent practicable, any State, local, university, college, or other organization's programs for energy information, education, or technology transfer which have activities or purposes similar to those of this part; and

"(5) establish and implement policies and procedures designed to assure that assistance provided under this part does not replace or supplant the expenditure of other Federal or State or local funds for the same purposes, but instead supplements such funds and increases the expenditure of such State or local funds to the maximum extent practicable.".

(c) ELIMINATION OF ENERGY EXTENSION SERVICE.—The National Energy Extension Service Act (title V of Public Law 95-39) is repealed.

SEC. 5. OPTIONAL STATE ENERGY CONSERVATION PLAN ELEMENTS AND CONSOLIDATION OF SUPPLEMENTAL STATE ENERGY CONSERVATION PLAN.—(a) IN GENERAL.—Section 362(d) of the Energy Policy and Conservation Act (42 U.S.C. 6322(d)) is amended—

(1) by striking paragraphs (3), (4) and (5);

(2) by adding at the end thereof the following new paragraphs:

"(3) programs for financing energy efficiency and renewable energy capital investments, projects, and programs—

"(A) which may include loan programs and performance contracting programs for leveraging of additional public and private sector funds, and programs which allow rebates, grants, or other incentives for the purchase and installation of energy efficiency and renewable energy measures;

"(B) in addition to or in lieu of programs described in subparagraph (A), which may be used in connection with public or nonprofit buildings owned and operated by a State, a political subdivision of a State or an agency or instrumentality of a State, or an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

"(4) programs to increase transportation energy efficiency, including programs to accelerate the use of alternative transportation fuels for State government vehicles, fleet vehicles, taxis, mass transit and privately owned vehicles;

"(5) programs for encouraging and for carrying out energy audits with respect to buildings and industrial facilities (including industrial processes) within the State;

"(6) programs to promote the adoption of integrated energy plans which provide for—

"(A) periodic evaluation of a State's energy needs, available energy resources (including greater energy efficiency), and energy costs; and

"(B) utilization of reliable energy supplies, including greater energy efficiency, that meet applicable safety, environmental, and policy requirements at the lowest cost;

"(7) programs to promote energy efficiency in residential housing, such as—

"(A) programs for development and promotion of energy efficiency rating systems for newly constructed housing and existing housing so that consumers can compare the energy efficiency of different housing; and

"(B) programs for the adoption of incentives for builders, utilities, and mortgage lenders to build, service, or finance energy efficient housing;

"(8) programs to protect consumers from any unfair or deceptive acts or practices which relate to the implementation of energy efficiency measures and renewable resource energy measures;

"(9) programs to promote energy efficiency as an integral component of economic development programs conducted by State, local or other governmental entities, and energy utilities;

"(10) programs to modify patterns of energy consumption so as to reduce peak demands for energy and improve the efficiency of energy supply systems, including electricity supply systems;

"(11) programs to encourage integrated energy and environmental planning by other State, county, and local governmental agencies and authorities, including regulatory authorities with jurisdiction over energy utilities;

"(12) in accordance with subsection (g), programs to implement the function of the Energy Technology and Engineering Services Program; and

"(13) any other appropriate method or programs to conserve and to promote efficiency in the use of energy.".

(b) ENERGY TECHNOLOGY AND ENGINEERING SERVICES PROGRAM.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by adding at the end thereof the following new subsection:

"(g)(1) The purposes of this subsection are to—

"(A) strengthen State outreach programs to aid small and start-up businesses;

"(B) foster a broader application of engineering principles and techniques to energy technology product development, manufacturing, and commercial production by small and start-up businesses; and

"(C) foster greater assistance to small and start-up businesses in dealing with the Federal Government on energy technology related matters.

"(2) The programs to implement the functions of the Energy Technology and Engineering Services Program, as provided for by subsection (d)(12), shall—

"(A) aid small and start-up businesses in discovering useful and practical information relating to manufacturing and commercial production techniques and costs associated with new energy technologies;

"(B) encourage the application of such information in order to solve energy technology product development and manufacturing problems;

"(C) establish an Energy Technology and Engineering Services Program affiliated with an existing entity in each State;

"(D) coordinate engineers and manufacturers to aid small and start-up businesses in solving specific technical problems and improving the cost effectiveness of methods for manufacturing new energy technologies;

"(E) assist small and start-up businesses in preparing the technical portions of proposals seeking financial assistance for new energy technology development and commercialization; and

"(F) facilitate contract research between university faculty and students and small start-up businesses, in order to improve energy technology product development and independent quality control testing.

"(3) Each State energy technology and engineering services program shall develop and maintain a data base of engineering and scientific experts in energy technology development and commercialization interested in participating in the service. Such data base shall, at a minimum, include faculty of institutions of higher education, retired manufacturing experts, and national laboratory personnel.

"(4) The services provided by the energy technology and engineering services program established under this section shall be available to any small or start-up business. Such service programs shall charge fees which are affordable to a party eligible for assistance, which shall be determined by examining factors including (A) the costs of the services received; (B) the need of the recipient for the services; and (C) the ability of the recipient to pay for the services.

"(5) For the purposes of this subsection, the term—

"(A) 'institution of higher education' has the same meaning as such term is defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

"(B) 'small business' means a private firm that does not exceed the numerical size standard promulgated by the Small Business Administration under section 3(a) of the Small Business Act (15 U.S.C. 632) for the Standard Industrial Classification (SIC) codes designated by the Secretary of Energy;

"(C) 'start-up business' means a small business which has been in existence for 5 years or less.".

(c) AMENDMENTS TO DEFINITIONS.—Section 366(4) of the Energy Policy and Conservation Act is amended—

(1) by striking "building or industrial" and inserting in lieu thereof "building, building system, energy consuming device associated with the building, or industrial"; and

(2) by striking "the date of enactment of the Energy Conservation and Production Act" and inserting in lieu thereof "May 1, 1989".

(d) ELIMINATION OF SUPPLEMENTAL STATE ENERGY CONSERVATION PLANS.—Section 367 of the Energy Policy and Conservation Act (42 U.S.C. 6327) is repealed.

SEC. 6. ADDITIONAL CONDITIONS FOR FEDERAL ASSISTANCE.—(a) Section 363(b) of the Energy Policy and Conservation Act (42 U.S.C. 6323(b)) is amended by adding new paragraphs (4) and (5) as follows:

"(4) In fiscal years 1991 and 1992, the percentage of available Federal financial assistance provided a State under this part shall be equal to the percentage the State received in fiscal year 1990 of the aggregate financial assistance by all States under this part and under section 506 of the National Energy Extension Service Act (42 U.S.C 7005(i)).

"(5) The Secretary shall by rule establish the formula for the allocations of financial assistance after fiscal year 1992 on the basis of population and other factors the Secretary deems appropriate.".

(b) Section 363 of the Energy Policy and Conservation Act (42 U.S.C. 8322) is amended by adding at the end thereof the following new subsections:

"(d) In order for any State energy conservation plan to be eligible for Federal assistance under this section, the State must submit to the Secretary a supplementary contingency plan pursuant to section 362(c)(8) governing emergencies within such State. The contingency plan shall include an implementation strategy or strategies (including regional coordination) for dealing with such energy emergencies. The submission of such plan to the Secretary shall be for informational purposes only.

"(e) The Secretary shall establish policies and procedures designed to assure that Federal financial assistance under this part, the Weatherization Assistance for Low-Income Persons Program under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861, et seq.), and the Energy Conservation Program for Schools and Hospitals under part G of this Act (42 U.S.C 6371, et seq.), will be used only to supplement, and not be used to supplant, State and local, to the extent practicable, to increase the amount of such funds that otherwise would be available, in the absence of such Federal financial assistance, for those programs set forth in the State energy conservation plan approved pursuant to subsection (b).".

SEC. 7. STATE ENERGY ADVISORY BOARD.—Section 365 of the Energy Policy and Conservation Act (42 U.S.C. 6325) is amended by adding at the end the following:

"(g)(1) There is hereby established within the Department of Energy a State Energy Advisory Board (hereafter in this subsection referred to as the 'Board') which shall consist of not less than 18 nor more than 21 members appointed by the Secretary. Not less than eight of the members of the Board shall be persons who serve as directors of the State agency, or a division of such agency, responsible for developing State energy conservation plans pursuant to section 362. Not less than four members shall be directors of State or local Low Income Weatherization Assistance Programs. Other members shall be appointed from persons who have experience in energy efficiency or renewable energy programs for the private sector, consumer interest groups, utilities, public utility commissions, educational institutions, financial institutions, or research institutions. A majority of the members of the State Energy Advisory Board shall be State employees.

"(2) The Board shall—

"(A) make recommendations with respect to the energy efficiency objectives of the programs carried out under part G of this title, and under part A of title IV of the Energy Conservation and Production Act to the Assistant Secretary for Conservation and Renewable Energy, the Director of the Office of State and Local Assistance Programs, and the Director of the Building and Community Systems Office within the Department of Energy;

"(B) serve as a liaison between the States and such Department on energy efficiency and renewable energy resource programs;

"(C) recommend changes to State and Federal energy policies;

"(D) review State energy conservation plans and the implementation of State energy conservation programs for the purpose of making recommendations to the Secretary regarding programmatic and administrative policies designed to strengthen the programs and improve their effectiveness;

"(E) review implementation by the States, of the Low-Income Weatherization Program and evaluate the performance of such States for the purpose of making recommendations to the Secretary regarding programmatic and administrative policies designed to strengthen the programs and improve their effectiveness, including actions that should be considered to provide non-Federal resources, including private resources, to supplement Federal financial assistance; and

"(F) encourage technology transfer of the results of research and development activities carried out by the Federal Government with respect to energy efficiency and renewable energy resources.

"(3) The Secretary shall designate 1 member to serve as its chairman, 1 member to serve as its vice-chairman, and 1 member to serve as its secretary, who shall serve in those offices no longer than 2 years.

"(4) The Secretary shall provide the Board with such services and facilities as may be necessary for the performance of its functions.

"(5) The Board shall be nonpartisan.

"(6) The Board may adopt administrative rules and procedures.

"(7) Consistent with Federal regulations, the Secretary shall reimburse members of the Board for expenses (including travel expenses) necessarily incurred by them in the performance of their duties.

"(8) The Board shall meet at least three times per year and shall submit an annual report to the Secretary and the Congress on the activities carried out by the Board in the previous fiscal year, including any recommendations it may have for administrative or legislative changes.".

SEC. 8. UPDATE OF ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS.—(a) NON-FEDERAL SHARE OF A PROJECT.—Section 396(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6371e(b)(1)) is amended by adding at the end thereof the following: "The non-Federal share of the costs of any such energy conservation project may be provided by using programs of innovative financing for energy conservation projects, including loan programs and performance contracting even if clear title to the equipment does not pass to the school or hospital until after the grant is completed.".

(b) AMENDMENTS TO DEFINITIONS.—

(1) Section 391(1) of such Act (42 U.S.C. 6371(8)) is amended by striking "April 20, 1977" and inserting in lieu thereof "May 1, 1989".

(2) Section 391(8) of such Act (42 U.S.C. 6371(8)) is amended by inserting the words "administrative facilities," after the word "dormitories,".

(c) ADDITIONAL LIMITATION.—Redesignate section 396(d) of such Act as subsection (d)(1) and add the following new paragraphs (2) and (3):

"(2) A State may utilize up to 100 percent of the funds provided under this part for technical assistance, except that—

"(A) not more than 15 percent of the aggregate funds used by the State to provide technical assistance and for implementation of energy conservation measures pursuant to schools and hospitals programs may be expended for such technical assistance; and

"(B) administration of schools and hospitals activities by such State shall be in accordance with applicable regulations.

"(3)(A) If (i) a State has adopted a State plan in accordance with section 394, the administration of which is in accordance with applicable regulations, and (ii) the State annually certifies to the Secretary that the Federal funds expended for schools' and hospitals' activities by such State are less than 15 percent of the aggregate funds used by the State for the implementation of energy conservation measures pursuant to the schools' and hospitals' programs, then—

"(B)(i) The limitations of paragraph (2) shall not apply to the State schools and hospitals programs under this part, (ii) the State may utilize up to 100 percent of the funds provided under this part for program and technical assistance and up to 50 percent of the funds provided under this part for marketing and other costs associated with leveraging of other non-Federal funds for technical assistance and energy conservation measures under this program, and (iii) the State may administer a continuous and consecutive application and award procedure for providing technical assistance under this part, in accordance with regulations established by the Secretary for this purpose.".

(d) REPEAL OF EDUCATIONAL AGENCY EXCLUSION.—Section 396(e) of the Energy Policy and Conservation Act (42 U.S.C. 6371e(e)) is repealed.

SEC. 9. WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS.—(a) COOLING WEATHERIZATION MATERIALS.—Section 412(9) of the Energy Conservation and Production Act (42 U.S.C. 6862(9)) is amended by deleting "and" at the end of subparagraph (F), redesignating subparagraph (G) as subparagraph (H), and adding the following new subparagraph:

"(G)(i) subject to clause (ii), cooling efficiency modifications including, but not limited to, replacement air-conditioners, ventilation equipment, screening, window films, and shading devices; and

"(ii) the Secretary shall establish criteria for use by States to determine cooling efficiency modifications that qualify for financial assistance as consistent with the purposes of this part; and".

(b) Section 413(b)(2) of such act is amended by—

(1) deleting "and" at the end of paragraph (A);

(2) amending paragraph (B) to read as follows:

"(B) provide guidance to the States in the implementation of this part, including guidance designed to insure that a State establishes (i) procedures to assure that tenants paying for energy as a portion of their rent shall enjoy the protection that paragraph (5) provides, and (ii) a process for monitoring compliance with its obligations pursuant to this part, and"

(3) adding a new paragraph (C) as follows:

"(C) designed to (i) secure the purposes of the Federal investment pursuant to this part, and (ii) address the issues of eviction and sale.".

(c) Section 413(b) of such Act is amended by adding new paragraphs as follows:

"(5) Where the dwelling consists of a rental unit or rental units, the State, in the implementation of this part, shall insure that—

"(A) the benefits of weatherization assistance in connection with such leased units, including units where the tenants pay for their energy through their rent, will accrue primarily to the low-income tenants residing in such units;

"(B) for a reasonable period of time after weatherization work has been completed on a dwelling containing a unit occupied by an eligible household, the tenants in that unit (including households paying for their energy through their rent) will not be subjected to rent increases unless those increases are demonstrably related to matters other than the weatherization work performed; and

"(C) no undue or excessive enhancement will occur to the value of such dwelling units.

"(6) The regulation promulgated pursuant to paragraph (2) shall authorize States to require financial participation from owners of multifamily buildings where weatherization services are being provided.".

(d) REVISION OF ALLOCATION FORMULA.—Section 414 of the Energy Conservation and Production Act is amended—

(1) by adding at the end of subparagraph (C) of subsection (a) before the period; "and their potential for energy savings";

(2) by redesignating existing subparagraph (D) as subparagraph (E) and inserting a new subparagraph (D) as follows:

"(D) The cost of heating and cooling.".

(3) by adding a new subsection (c) as follows:

"(c) Effective fiscal year 1991, and annually thereafter, the Secretary shall update the population, climatic, residential energy use, and all other data used in allocating the funds of the Low-Income Weatherization Assistance Program among the States pursuant to section 414(a). Thereafter, the Secretary shall update these data with the most current data available no less than once every year.".

(e)(1) WAIVER OF LIMITATIONS.—Redesignate subsection (a) of section 415 of the Energy Conservation and Production Act (42 U.S.C. 6865(a)) as paragraph (2) and insert after "SEC. 415." and before the redesignated paragraph a paragraph (a)(1), as follows:

"(a)(1) The limitations of paragraph (2) shall not apply to a State weatherization program under this part if the State or area weatherization plan adopted by a State in accordance with subsection (b), in the judgment of the Secretary, after consultation with the State Energy Advisory Committee, includes—

"(A) evaluation procedures which establish priorities for selection of weatherization measures based on their cost and contribution to energy efficiency;

"(B) standards to be used by the State to determine whether to invest in individual energy efficiency measures based on a rate of return that will ensure that investment in each measure is an appropriate use of low-income weatherization assistance; and

"(C) energy audit procedures and techniques which measure (i) the energy requirements of individual dwellings; (ii) the rate of return of each conservation investment; and (iii) the interaction between energy efficiency measures.".

(2) Amend the redesignated paragraph 415(a)(2), by adding a comma at the end of the last sentence before the period and the following: "except that a State may provide in the plan adopted pursuant to subsection (b) for subgrantees receiving grants in amounts less than $350,000, whom the State has determined require additional financial assistance to effectively implement the ad-

ministrative requirements established by the Secretary pursuant to this part, to use up to an additional 5 percent of the subgrant made under this part for implementation of such administrative requirements".

(f) DWELLING UNIT LIMITATION.—Section 415(c) of such Act (42 U.S.C. 6865(c)) is amended—

(1) in paragraph (1), by striking "The expenditure" and inserting in lieu thereof "Except as provided in paragraphs (3) and (4), the expenditure"; and

(2) by adding at the end thereof the following new paragraphs:

"(3) Beginning with fiscal year 1990, the $1,600 per dwelling unit limitation provided in paragraph (1) shall be adjusted annually by increasing the limitation amount by an amount equal to the percentage increase in the Consumer Price Index for the previous fiscal year multiplied by the limitation amount for such previous fiscal year. The increase under the preceding sentence for any fiscal year shall not exceed 3 percent.

"(4)(A) In addition to the average per dwelling unit limitation applicable in a State under paragraphs (1) and (3), the Secretary may, upon application by a State, establish an average per dwelling unit limitation for dwelling units in such State—

"(i) which conform to program requirements;

"(ii) which, in addition to any other weatherization modifications, have furnace efficiency modifications made under this part; and

"(iii) for which determination is made pursuant to regulations prescribed by the Secretary that such furnace efficiency modifications are a cost-effective use of funds.

"(B) The average per dwelling unit limitation applicable in a State to units described in subparagraph (A) shall not exceed an amount equal to—

"(i) the amount permitted for the expenditure of financial assistance for labor, weatherization materials, and related matters for dwelling units in such State under paragraphs (1) and (3), plus

"(ii) an amount determined by the Secretary to be the average amount that is appropriate for furnace efficiency modifications of dwelling units of the type assisted under this part in such State.".

(g) NON-FEDERAL FUNDING REQUIREMENT.—Section 414(b)(3) of such Act is amended by deleting "and (B)" and inserting the following:

"(B) for employing Federal financial assistance under this part to increase the portion of low-income weatherization assistance that the State obtains from non-Federal sources, including private sources, and (C)".

(h) ADDITIONAL REPORTING REQUIREMENT.—Section 421 of such Act is amended by adding at the end thereof the following: "Such report shall include information and data furnished by each State on the average costs incurred in weatherization of individual dwelling units.".

(i) REPEAL OF PERFORMANCE FUND.—Section 415(d) of such Act (42 U.S.C. 6865(d)) is repealed.

(j) ESTABLISHMENT OF WEATHERIZATION INCENTIVE FUND.—Section 415 of such Act (42 U.S.C. 6865) is further amended by adding new subsections (d) and (e), as follows:

"(d) Beginning in fiscal year 1992, the Secretary, to the extend provided for in the Appropriations Act, may allocate such funds as are provided in the Low-Income Weatherization Incentive Fund to provide supplementary financial assistance to those States which the Secretary determines have achieved the best performance during the previous fiscal year in achieving the purposes of this part. In making this determination the Secretary shall:

"(1) consult with the State Energy Advisory Board pursuant to section 365(g)(2)(E); and

"(2) give priority to those States which have employed Federal financial assistance under this part to increase the portion of low-income weatherization assistance that the State obtains from non-Federal sources, including private sources.

"(e)(1) Beginning in fiscal year 1991, the Secretary may allocate among the States an equal amount, not to exceed $100,000 per State, of the funds appropriated for the purposes of this part. Such funds shall be available to the States to provide supplementary financial assistance to those subgrantees which the States determine have achieved the best performance during the previous fiscal year in advancing the purposes of this part, except that none of such funds may be used for State administration of this program. In making such determination, States shall give priority to those subgrantees who by rule, law, or administrative and executive action have provided non-Federal resources, including private resources, to supplement Federal financial assistance under this part.

"(2) The regulations promulgated by the Secretary pursuant to section 413(b) shall include guidelines to be used by each State in making the determination under paragraph (1). When promulgating such guidelines the Secretary shall consult with the State Energy Advisory Board pursuant to section 365(g)(2)(E).".

(k) ASSISTANCE FOR UNEMPLOYED PERSONS TRAINING PROGRAM.—The Secretary shall make available to States from available funds up to $300,000 in the aggregate to establish training programs for unemployed persons in low-income weatherization auditing and installation skills.

SEC. 10. SUPPORT FOR TECHNOLOGY APPLICATION.—(a) The Secretary shall establish a low-income home weatherization technology applications project and a State energy conservation technology applications project in the Office of Conservation and Renewable Energy. These projects shall identify and evaluate the technologies, measures, and practices, including energy evaluation instruments, which are most effective in increasing energy efficiency. The projects also shall provide mechanisms for assisting State and local providers in applying improvements to their markets and service areas; including but not limited to, technical papers and manuals, training sessions and direct access to technical specialists.

(b) The low-income home weatherization technology applications project and State energy conservation technology applications project shall conduct specialized research and technical assistance to address the needs of warm weather States in implementing cooling measures and developing audits suitable for warm climates.

(c) In the report pursuant to section 421 of the Energy Policy and Conservation Act, the Secretary shall report on progress in the application of energy efficiency technology measures and management practices, including those for cooling measures, for low-income weatherization and other purposes.

SEC. 11. AUTHORIZATIONS OF APPROPRIATIONS.—(a) STATE PLAN PROGRAM.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6324(f)) is amended to read as follows:

"(f) For the purpose of carrying out thi part, there are authorized to be appropriated in accordance with section 660 of th Department of Energy Organization Ac $25,000,000 for fiscal year 1991, $35,000,00 for fiscal year 1992, and $45,000,000 fo fiscal year 1993.".

(b) ENERGY CONSERVATION PROGRAM FO SCHOOLS AND HOSPITALS.—Section 397 of th Energy Policy and Conservation Act (4 U.S.C. 6371f(a)) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 397. For the purpose of carrying ou this part, there are authorized to be appropriated in accordance with section 660 o the Department of Energy Organization Ac $40,000,000 for fiscal year 1991, $50,000,00 for fiscal year 1992, and $60,000,000 fo fiscal year 1993.".

(c) WEATHERIZATION ASSISTANCE PROGRAM.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) i amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 422. (a) There are authorized to b appropriated in accordance with section 66 of the Department of Energy Organizatio Act for purposes of carrying out the weatherization program under this part othe than sections 415 (d) and (e), $200,000,00 for fisca year 1991 and such sums as may b necessary for 1992 and 1993.

"(b) There are authorized to be appropriated in accordance with section 660 of th Department of Energy Organization Act fo purposes of carrying out the weatherizatio program under sections 415 (d) and (e) $20,000,000 for 1991 and such sums as ma be necessary for 1992 and 1993.".

SEC. 12. TERRITORIAL ENERGY ASSISTANC PROGRAM.—(a)(1) The Secretary of Energy pursuant to the Federal Nonnuclear Energ Research and Development Policy Act o 1974 (42 U.S.C. 5901, et. seq.), may grant financial assistance to insular area governments to carry out projects to evaluate th feasibility of, develop options for, and encourage the adoption of energy efficienc and renewable energy measures which reduce the dependency of the insular are on imported fuels and improve the quality of life in the insular area.

(2) Any applicant for financial assistanc under this section must evidence coordination and cooperation with, and suppor from, the affected local energy entities i the area with necessary expertise to successfully effectuate the project, including, bu not limited to, the local energy agencies an power authorities, public works departments, the Army Corps of Engineers, th Pacific International Center for High Technology Research, and the Center for Energ and Environmental Research of the University of Puerto Rico.

(3) In determining the amount of financial assistance to be provided for a propose energy-efficiency or renewable energy measure, the Secretary shall consider—

(A) whether the measure will reduce th relative dependence of the insular area o imported fuels;

(B) the ease and costs of operation an maintenance of any facilities contemplate as a part of the project;

(C) whether the project will rely on th use of conservation measures or indigenous renewable energy resources that were identified in the 1982 territorial energy assessment or are identified by the Secretary a consistent with the purpose of this section

(D) whether the measure will contribute significantly to the quality of the environment in the insular area; and

(E) any other factors which the Secretary may determine to be relevant to a particular project or measure.

(4) The Secretary shall require at least 20 percent of the costs of any project under this section to be provided from non-Federal sources. Such cost sharing may be in the form of in-kind services, donated equipment, or any combination thereof.

(b) For the purpose of this section, the term—

(1) "insular area government" means American Samoa Government, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, Federated States of Micronesia, Government of Guam, Republic of the Marshall Islands, Republic of Palau, and United States Virgin Islands; and

(2) "1982 territorial energy assessment" means the assessment prepared by the Department of Energy pursuant to the Omnibus Territorial Act. (Public Law 96-597, 94 Stat. 3480; as amended by Public Law 99-213, 97 Stat. 1460).

(c) For each fiscal year, there is hereby authorized to be appropriated for the purposes of this section, $500,000.

MOTION OFFERED BY MR. SHARP

Mr. SHARP. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SHARP moves to strike all after the enacting clause of the Senate bill S. 247 and to insert in lieu thereof the provisions of H.R. 711, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 711) was laid on the table.

SECURITIES ACTS AMENDMENTS OF 1990

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 483) to provide for the concurrence of the House to the amendments of the Senate to the bill (H.R. 1396) with an amendment.

The Clerk read as follows:

H. RES. 483

Resolved, That upon the adoption of this resolution the bill (H.R. 1396) to amend the Federal securities laws in order to facilitate cooperation between the United States and foreign countries in securities law enforcement be and is hereby taken from the Speaker's table to the end that the Senate amendment to the text of the bill be and is hereby agreed to with the following amendment:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, H.R. 1396, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Securities Acts Amendments of 1990".

TITLE I—AUTHORIZATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Securities and Exchange Commission Authorization Act of 1990".

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 35. There are authorized to be appropriated to carry out the functions, powers, and duties of the Commission—

"(1) $178,023,000 for the fiscal year ending September 30, 1990; and

"(2) $212,609,000 for the fiscal year ending September 30, 1991.".

TITLE II—INTERNATIONAL SECURITIES LAW ENFORCEMENT

SEC. 201. SHORT TITLE.

This title may be cited as the "International Securities Enforcement Cooperation Act of 1990".

SEC. 202. RELEASE OF RECORDS BY THE COMMISSION.

(a) IN GENERAL.—Section 24 of the Securities Exchange Act of 1934 (15 U.S.C. 78x) is amended—

(1) in subsection (b), by striking "Nothing in this subsection shall authorize the Commission to withhold information from the Congress."; and

(2) by adding at the end thereof the following new subsections:

"(c) The Commission may, in its discretion and upon a showing that such information is needed, provide all 'records' (as defined in subsection (a)) and other information in its possession to such persons, both domestic and foreign, as the Commission by rule deems appropriate if the person receiving such records or information provides such assurances of confidentiality as the Commission deems appropriate.

"(d) Except as provided in subsection (e), the Commission shall not be compelled to disclose records obtained from a foreign securities authority if (1) the foreign securities authority has in good faith determined and represented to the Commission that public disclosure of such records would violate the laws applicable to that foreign securities authority, and (2) the Commission obtains such records pursuant to (A) such procedure as the Commission may authorize for use in connection with the administration or enforcement of the securities laws, or (B) a memorandum of understanding. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552.

"(e) Nothing in this section shall—

"(1) alter the Commission's responsibilities under the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.), as limited by section 21(h) of this Act, with respect to transfers of records covered by such statutes, or

"(2) authorize the Commission to withhold information from the Congress or prevent the Commission from complying with an order of a court of the United States in an action commenced by the United States or the Commission.".

(b) CONFORMING AMENDMENTS.—

(1) INVESTMENT COMPANY ACT OF 1940.—Section 45(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-44) is amended by striking "It shall be unlawful" and inserting "Except as provided in section 24(c) of the Securities Exchange Act of 1934, it shall be unlawful".

(2) INVESTMENT ADVISERS ACT OF 1940.—Section 210(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-10(b)) is amended by striking "subsections (c) and (e) of section 209" and inserting "subsections (c) and (d) of section 209 of this title and section 24(c) of the Securities Exchange Act of 1934".

SEC. 203. SANCTIONS AGAINST BROKER OR DEALER, ASSOCIATED PERSONS, OR PERSONS SEEKING ASSOCIATION.

(a) AUTHORITY OF THE COMMISSION TO SANCTION BROKERS AND DEALERS FOR FOREIGN VIOLATIONS.—Section 15(b) (15 U.S.C. 78o(b)) of the Securities Exchange Act of 1934 is amended—

(1) in paragraph (4)(B), by inserting after "misdemeanor" the following: "or of a substantially equivalent crime by a foreign court of competent jurisdiction";

(2) in paragraph (4)(B)(i), by inserting after "burglary," the following: "any substantially equivalent activity however denominated by the laws of the relevant foreign government,";

(3) in paragraph (4)(B)(ii)—

(A) by inserting after "transfer agent," the following: "foreign person performing a function substantially equivalent to any of the above,";

(B) by inserting after "(7 U.S.C. 1 et seq.)" the following: "or any substantially equivalent foreign statute or regulation";

(4) in paragraph (4)(B)(iii), by inserting after "securities" the following: ", or substantially equivalent activity however denominated by the laws of the relevant foreign government";

(5) in paragraph (4)(B)(iv), by inserting after "United States Code" the following: ", or a violation of a substantially equivalent foreign statute";

(6) in paragraph (4)(C)—

(A) by inserting after "transfer agent," the following: "foreign person performing a function substantially equivalent to any of the above,";

(B) by inserting after "Commodity Exchange Act" each time it appears the following: "or any substantially equivalent foreign statute or regulation"; and

(C) by inserting after "insurance company," the following: "foreign entity substantially equivalent to any of the above,"; and

(7) by inserting after subparagraph (F) of paragraph (4) the following:

"(G) has been found by a foreign financial regulatory authority to have—

"(i) made or caused to be made in any application for registration or report required to be filed with a foreign financial regulatory authority, or in any proceeding before a foreign financial regulatory authority with respect to registration, any statement that was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to the foreign financial regulatory authority any material fact that is required to be stated therein;

"(ii) violated any foreign statute or regulation regarding transactions in securities, or contracts of sale of a commodity for future delivery, traded on or subject to the rules of a contract market or any board of trade;

"(iii) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of any statutory provisions enacted by a foreign government, or rules or regulations thereunder, empowering a foreign financial regulatory authority regarding transactions in securities, or contracts of sale of a commodity for future delivery, traded on or subject to the rules of a contract market or any board of trade, or has been found, by a foreign financial regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and

regulations, another person who commits such a violation, if such other person is subject to his supervision.".

(b) EXTENSION OF DEFINITION OF STATUTORY DISQUALIFICATION TO INCLUDE FOREIGN VIOLATIONS.—Section 3(a)(39) of such Act (15 U.S.C. 78c(a)(39)) is amended—

(1) in subparagraph (A)—

(A) by inserting after "self-regulatory organization," the following: "foreign equivalent of a self-regulatory organization, foreign or international securities exchange,"; and

(B) by inserting after both "(7 U.S.C. 7)," and "(7 U.S.C. 21),", the following: "or any substantially equivalent foreign statute or regulation,";

(C) by inserting after "contract market", the following: "or foreign equivalent";

(2) by striking subparagraph (B) and inserting the following:

"(B) is subject to—

"(i) an order of the Commission, other appropriate regulatory agency, or foreign financial regulatory authority—

"(I) denying, suspending for a period not exceeding 12 months, or revoking his registration as a broker, dealer, municipal securities dealer, government securities broker, or government securities dealer or limiting his activities as a foreign person performing a function substantially equivalent to any of the above; or

"(II) barring or suspending for a period not exceeding 12 months his being associated with a broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or foreign person performing a function substantially equivalent to any of the above;

"(ii) an order of the Commodity Futures Trading Commission denying, suspending, or revoking his registration under the Commodity Exchange Act (7 U.S.C. 1 et seq.); or

"(iii) an order by a foreign financial regulatory authority denying, suspending, or revoking the person's authority to engage in transactions in contracts of sale of a commodity for future delivery or other instruments traded on or subject to the rules of a contract market, board of trade, or foreign equivalent thereof;";

(3) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(4) by inserting after subparagraph (C) the following:

"(D) by his conduct while associated with any broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or any other entity engaged in transactions in securities, or while associated with an entity engaged in transactions in contracts of sale of a commodity for future delivery or other instruments traded on or subject to the rules of a contract market, board of trade, or foreign equivalent thereof, has been found to be a cause of any effective suspension, expulsion, or order by a foreign or international securities exchange or foreign financial regulatory authority empowered by a foreign government to administer or enforce its laws relating to financial transactions as described in subparagraph (A) or (B) of this paragraph;";

(5) in subparagraph (E) (as redesignated by paragraph (3) of this subsection) by striking "(A), (B), or (C)" and inserting "(A), (B), (C), or (D)".

(6) in subparagraph (F) (as redesignated) by striking "(D) or (E)" and inserting "(D), (E), or (G)" and by inserting after "such paragraph (4)" the first place it appears the following: "or any other felony".

(c) CONFORMING AMENDMENTS.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended—

(1) in sections 15(b)(6), 15B(c)(2), 15B(c)(4), 15C(c)(1)(A), 15C(c)(1)(C), 17A(c)(3)(A), and 17A(c)(4)(C), by striking "(A), (D), or (E)" and inserting "(A), (D), (E), or (G)"; and

(2) in section 15C(f)(2), by striking "or the rules or regulations under any such other provision" and inserting "the rules or regulations under any such other provision, or investigations pursuant to section 21(a)(2) of this title to assist a foreign securities authority".

SEC. 204. DEFINITION OF FOREIGN FINANCIAL REGULATORY AUTHORITY.

Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end thereof the following new paragraph:

"(51) The term 'foreign financial regulatory authority' means any (A) foreign securities authority, (B) other governmental body or foreign equivalent of a self-regulatory organization empowered by a foreign government to administer or enforce its laws relating to the regulation of fiduciaries, trusts, commercial lending, insurance, trading in contracts of sale of a commodity for future delivery, or other instruments traded on or subject to the rules of a contract market, board of trade, or foreign equivalent, or other financial activities, or (C) membership organization a function of which is to regulate participation of its members in activities listed above.".

SEC. 205. SANCTIONS AGAINST INVESTMENT ADVISERS OR PERSONS ASSOCIATED OR SEEKING ASSOCIATION WITH A REGISTERED INVESTMENT ADVISER OR INVESTMENT COMPANY.

(a) INVESTMENT COMPANY ACT OF 1940.—Section 9(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(b)) is amended—

(1) by striking "or" at the end of paragraphs (1) and (2);

(2) by striking the period at the end of paragraph (3) and inserting a semicolon; and

(3) by inserting after paragraph (3) the following:

"(4) has been found by a foreign financial regulatory authority to have—

"(A) made or caused to be made in any application for registration or report required to be filed with a foreign securities authority, or in any proceeding before a foreign securities authority with respect to registration, any statement that was at the time and in light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to a foreign securities authority any material fact that is required to be stated therein;

"(B) violated any foreign statute or regulation regarding transactions in securities or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade;

"(C) aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any foreign statute or regulation regarding transactions in securities or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade;

"(5) within 10 years has been convicted by a foreign court of competent jurisdiction of a crime, however denominated by the laws of the relevant foreign government, that is substantially equivalent to an offense set forth in paragraph (1) of subsection (a); or

"(6) by reason of any misconduct, is temporarily or permanently enjoined by any foreign court of competent jurisdiction from acting in any of the capacities, set forth in paragraph (2) of subsection (a), or a substantially equivalent foreign capacity, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security.".

(b) INVESTMENT ADVISERS ACT OF 1940.—Section 203(e) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(e)) is amended—

(1) in paragraph (2) by inserting after "misdemeanor" the following: "or of a substantially equivalent crime by a foreign court of competent jurisdiction";

(2) in paragraph (2)(A), by inserting after "burglary," the following: "any substantially equivalent activity however denominated by the laws of the relevant foreign government,";

(3) in paragraphs (2)(B) and (3)—

(A) by inserting after "transfer agent," the following: "foreign person performing a function substantially equivalent to any of the above,"; and

(B) after "Commodity Exchange Act" each place it appears, the following: "or any substantially equivalent statute or regulation";

(4) in paragraph (2)(C), by inserting after "securities" the following: "or substantially equivalent activity however denominated by the laws of the relevant foreign government";

(5) in paragraph (2)(D) by inserting after "United States Code" the following: ", or a violation of a substantially equivalent foreign statute";

(6) in paragraph (3)—

(A) by inserting after "court of competent jurisdiction" the following: ", including any foreign court of competent jurisdiction,"; and

(B) by inserting after "insurance company," the following: "foreign entity substantially equivalent to any of the above,";

(7) in paragraph (5), by inserting after "this title," the following: "the Commodity Exchange Act,";

(8) by inserting after paragraph (6) the following new paragraph:

"(7) has been found by a foreign financial regulatory authority to have—

"(A) made or caused to be made in any application for registration or report required to be filed with a foreign securities authority, or in any proceeding before a foreign securities authority with respect to registration, any statement that was at the time and in light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to a foreign securities authority any material fact that is required to be stated therein;

"(B) violated any foreign statute or regulation regarding transactions in securities or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade;

"(C) aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any foreign statute or regulation regarding transactions in securities or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade, or has been found, by the foreign financial regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of statutory provisions, and rules and regulations promulgated thereunder, another person who commits such a violation, if such other person is subject to his supervision.".

(c) CONFORMING AMENDMENT.—Section 203(f) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(f)) is amended by striking "paragraph (1), (4), or (5)" and inserting "paragraph (1), (4), (5), or (7)".

SEC. 206. DEFINITION OF FOREIGN SECURITIES AUTHORITY AND FOREIGN FINANCIAL REGULATORY AUTHORITY.

(a) INVESTMENT COMPANY ACT OF 1940.—Section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)) is amended by inserting after paragraph (48) the following:

"(49) 'Foreign securities authority' means any foreign government or any governmental body or regulatory organization empowered by a foreign government to administer or enforce its laws as they relate to securities matters.

"(50) 'Foreign financial regulatory authority' means any (A) foreign securities authority, (B) other governmental body or foreign equivalent of a self-regulatory organization empowered by a foreign government to administer or enforce its laws relating to the regulation of fiduciaries, trusts, commercial lending, insurance, trading in contracts of sale of a commodity for future delivery, or other instruments traded on or subject to the rules of a contract market, board of trade or foreign equivalent, or other financial activities, or (C) membership organization a function of which is to regulate the participation of its members in activities listed above.".

(b) INVESTMENT ADVISERS ACT OF 1940.—Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)) is amended by inserting after paragraph (22) the following:

"(23) 'Foreign securities authority' means any foreign government, or any governmental body or regulatory organization empowered by a foreign government to administer or enforce its laws as they relate to securities matters.

"(24) 'Foreign financial regulatory authority' means any (A) foreign securities authority, (B) other governmental body or foreign equivalent of a selfregulatory organization empowered by a foreign government to administer or enforce its laws relating to the regulation of fiduciaries, trusts, commercial lending, insurance, trading in contracts of sale of a commodity for future delivery, or other instruments traded on or subject to the rules of a contract market, board of trade or foreign equivalent, or other financial activities, or (C) membership organization a function of which is to regulate participation of its members in activities listed above.".

SEC. 207. REIMBURSEMENT OF EXPENSES INCURRED IN PROVIDING ASSISTANCE TO A FOREIGN SECURITIES AUTHORITY.

Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding any other provision of law, the Commission may accept payment and reimbursement, in cash or in kind, from a foreign securities authority, or made on behalf of such authority, for necessary expenses incurred by the Commission, its members, and employees in carrying out any investigation pursuant to section 21(a)(2) of this title or in providing any other assistance to a foreign securities authority. Any payment or reimbursement accepted shall be considered a reimbursement to the appropriated funds of the Commission.".

TITLE III—SHAREHOLDER COMMUNICATIONS

SEC. 301. SHORT TITLE.

This title may be cited as the "Shareholder Communications Improvement Act of 1990".

SEC. 302. AMENDMENTS TO 1934 ACT.

(a) SECTION 14(b).—Section 14(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(b)(1)) is amended by—

(1) striking "section 12 of this title" and inserting "section 12 of this title, or any security issued by an investment company registered under the Investment Company Act of 1940,"; and

(2) striking "or authorization" and inserting "authorization, or information statement".

(b) SECTION 14(c).—Section 14(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(c)) is amended by striking "title" and inserting "title, or a security issued by an investment company registered under the Investment Company Act of 1940,".

SEC. 303. EFFECTIVE DATE.

The amendments made by section 302 of this title shall take effect upon the expiration of 180 days after the date of enactment of this Act.

TITLE IV—TRUST INDENTURE ACT OF 1939

SEC. 401. SHORT TITLE.

This title may be cited as the "Trust Indenture Reform Act of 1990".

SEC. 402. DEFINITION.

Section 303(8) of the Trust Indenture Act of 1939 (15 U.S.C. 77ccc(8)) is amended by inserting "section 305 or" after "provided for in".

SEC. 403. EXEMPTION FROM QUALIFICATION.

Section 304 of the Trust Indenture Act of 1939 (15 U.S.C. 77ddd) is amended—

(1) in subsection (a)—

(A) by striking paragraph (3);

(B) in paragraph (4)(A), by striking ", as heretofore amended,";

(C) by redesignating paragraphs (4)(A) and (4)(B) as paragraphs (3) and (4), respectively; and

(2) by striking subsection (d) and inserting the following:

"(d) The Commission may, by rules or regulations upon its own motion, or by order on application by an interested person, exempt conditionally or unconditionally any person, registration statement, indenture, security or transaction, or any class or classes of persons, registration statements, indentures, securities, or transactions, from any one or more of the provisions of this title, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by this title. The Commission shall by rules and regulations determine the procedures under which an exemption under this subsection shall be granted, and may, in its sole discretion, decline to entertain any application for an order of exemption under this subsection.".

SEC. 404. SECURITIES REQUIRED TO BE REGISTERED UNDER THE SECURITIES ACT.

Section 305 of the Trust Indenture Act of 1939 (15 U.S.C. 77eee) is amended—

(1) in subsection (a)(1), by striking "or has a conflicting interest as defined in subsection (b) of section 310";

(2) in subsection (b)—

(A) by striking "The Commission shall issue" and inserting "(1) Except as may be permitted by paragraph (2) of this subsection, the Commission shall issue";

(B) by redesignating paragraph (1) as subparagraph (A);

(C) by inserting "or" at the end thereof;

(D) by striking paragraph (2);

(E) by redesignating paragraph (3) as subparagraph (B);

(F) in such subparagraph (B), by striking "or has any conflicting interest as defined in subsection (b) of section 310"; and

(G) by adding at the end of subsection (b) the following new paragraph:

"(2) In the case of securities registered under the Securities Act of 1933, which securities are eligible to be issued, offered, or sold on a delayed basis by or on behalf of the registrant, the Commission shall not be required to issue an order pursuant to paragraph (1) of subsection (b) of section 305 for failure to designate a trustee eligible to act under subsection (a) of section 310 if, in accordance with such rules and regulations as may be prescribed by the Commission, the issuer of such securities files an application for the purpose of determining such trustee's eligibility under subsection (a) of section 310. The Commission shall issue an order prior to the effective date of such application refusing to permit the application to become effective, if it finds that any person designated as trustee under such indenture is not eligible to act as such under subsection (a) of section 310, but no order shall be issued except after notice and opportunity for hearing within the periods and in the manner required with respect to refusal orders pursuant to section 8(b) of the Securities Act of 1933. If after notice and opportunity for hearing the Commission issues an order under this provision, the obligor shall within 5 calendar days appoint a trustee meeting the requirements of subsection (a) of section 310. No such appointment shall be effective and such refusal order shall not be rescinded by the Commission until a person eligible to act as trustee under subsection (a) of section 310 has been appointed. If no order is issued, an application filed pursuant to this paragraph shall be effective the tenth day after filing thereof or such earlier date as the Commission may determine, having due regard to the adequacy of information provided therein, the public interest, and the protection of investors.".

SEC. 405. WHEN QUALIFICATION BECOMES EFFECTIVE.

Section 309(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77iii(b)) is amended by inserting after "such Act" the following: ", or the failure of the issuer to file an application as provided for by section 305(b)(2)".

SEC. 406. PERSONS ELIGIBLE FOR APPOINTMENT AS TRUSTEE.

Section 310(a) of the Trust Indenture Act of 1939 (15 U.S.C. 77jjj(a)) is amended—

(1) by inserting at the end of paragraph (1) the following: "The Commission may, pursuant to such rules and regulations as it may prescribe, or by order on application, permit a corporation or other person organized and doing business under the laws of a foreign government to act as sole trustee under an indenture qualified or to be qualified pursuant to this title, if such corporation or other person (i) is authorized under such laws to exercise corporate trust powers, and (ii) is subject to supervision or examination by authority of such foreign

government or a political subdivision thereof of substantially equivalent to supervision or examination applicable to United States institutional trustees. In prescribing such rules and regulations or making such order, the Commission shall consider whether under such laws, a United States institutional trustee is eligible to act as sole trustee under an indenture relating to securities sold within the jurisdiction of such foreign government.";

(2) by striking "The indenture to be qualified shall require that there shall" in paragraph (1) and inserting "There shall";

(3) by striking "thereunder" in paragraph (1) and inserting "under every indenture qualified or to be qualified pursuant to this title";

(4) by inserting "or a corporation or other person permitted to act as trustee by the Commission" before "(referred to" in paragraph (1);

(5) by striking "The indenture to be qualified shall require that such institution" in paragraph (2) and inserting "Such institution";

(6) by striking "such indenture shall provide that" in paragraph (3);

(7) by striking "the indenture to be qualified shall require that" in paragraph (4); and

(8) by inserting "shall" after "the indenture trustee or trustees" in paragraph (4).

SEC. 407. PERSONS INELIGIBLE FOR APPOINTMENT AS TRUSTEE.

Section 310(a) of the Trust Indenture Act of 1939 (15 U.S.C. 77jjj(a)) is amended by adding at the end thereof the following new paragraph:

"(5) No obligor upon the indenture securities or person directly or indirectly controlling, controlled by, or under common control with such obligor shall serve as trustee upon such indenture securities.".

SEC. 408. DISQUALIFICATION OF TRUSTEE.

Section 310(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77jjj(b)) is amended to read as follows:

"(b) If any indenture trustee has or shall acquire any conflicting interest as hereinafter defined—

"(i) then, within 90 days after ascertaining that it has such conflicting interest, and if the default (as defined in the next sentence) to which such conflicting interest relates has not been cured or duly waived or otherwise eliminated before the end of such 90-day period, such trustee shall either eliminate such conflicting interest or, except as otherwise provided below in this subsection, resign, and the obligor upon the indenture securities shall take prompt steps to have a successor appointed in the manner provided in the indenture;

"(ii) in the event that such trustee shall fail to comply with the provisions of clause (i) of this subsection, such trustee shall, within 10 days after the expiration of such 90-day period, transmit notice of such failure to the indenture security holders in the manner and to the extent provided in subsection (c) of section 313; and

"(iii) subject to the provisions of subsection (e) of section 315, unless such trustee's duty to resign is stayed as provided below in this subsection, any security holder who has been a bona fide holder of indenture securities for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of such trustee, and the appointment of a successor, if such trustee fails, after written request thereof by such holder to comply with the provisions of clause (i) of this subsection.

"For the purposes of this subsection, an indenture trustee shall be deemed to have a conflicting interest if the indenture securities are in default (as such term is defined in such indenture, but exclusive of any period of grace or requirement of notice) and—

"(1) such trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of an obligor upon the indenture securities are outstanding or is trustee for more than one outstanding series of securities, as hereafter defined, under a single indenture of an obligor, unless—

"(A) the indenture securities are collateral trust notes under which the only collateral consists of securities issued under such other indenture,

"(B) such other indenture is a collateral trust indenture under which the only collateral consists of indenture securities, or

"(C) such obligor has no substantial unmortgaged assets and is engaged primarily in the business of owning, or of owning and developing and/or operating, real estate, and the indenture to be qualified and such other indenture are secured by wholly separate and distinct parcels of real estate: *Provided*, That the indenture to be qualified shall automatically be deemed (unless it is expressly provided therein that such provision is excluded) to contain a provision excluding from the operation of this paragraph other series under such indenture, and any other indenture or indentures under which other securities, or certificates of interest or participation in other securities, of such an obligor are outstanding, if—

"(i) the indenture to be qualified and any such other indenture or indentures (and all series of securities issuable thereunder) are wholly unsecured and rank equally, and such other indenture or indentures (and such series) are specifically described in the indenture to be qualified or are thereafter qualified under this title, unless the Commission shall have found and declared by order pursuant to subsection (b) of section 305 or subsection (c) of section 307 that differences exist between the provisions of the indenture (or such series) to be qualified and the provisions of such other indenture or indentures (or such series) which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as such under one of such indentures, or

"(ii) the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under the indenture to be qualified and such other indenture or under more than one outstanding series under a single indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as such under one of such indentures or with respect to such series;

"(2) such trustee or any of its directors or executive officers is an underwriter for an obligor upon the indenture securities;

"(3) such trustee directly or indirectly controls or is directly or indirectly controlled by or is under direct or indirect common control with an underwriter for an obligor upon the indenture securities;

"(4) such trustee or any of its directors or executive officers is a director, officer, partner, employee, appointee, or representative of an obligor upon the indenture securities, or of an underwriter (other than the trustee itself) for such an obligor who is currently engaged in the business of underwriting, except that—

"(A) one individual may be a director and/or an executive officer of the trustee and a director and/or an executive officer of such obligor, but may not be at the same time an executive officer of both the trustee and of such obligor,

"(B) if and so long as the number of directors of the trustee in office is more than nine, one additional individual may be a director and/or an executive officer of the trustee and a director of such obligor, and

"(C) such trustee may be designated by any such obligor or by any underwriter for any such obligor, to act in the capacity of transfer agent, registrar, custodian, paying agent, fiscal agent, escrow agent, or depositary, or in any other similar capacity, or, subject to the provisions of paragraph (1) of this subsection, to act as trustee, whether under an indenture or otherwise;

"(5) 10 per centum or more of the voting securities of such trustee is beneficially owned either by an obligor upon the indenture securities or by any director, partner or executive officer thereof, or 20 per centum or more of such voting securities is beneficially owned, collectively by any two or more of such persons; or 10 per centum or more of the voting securities of such trustee is beneficially owned either by an underwriter for any such obligor or by any director, partner, or executive officer thereof, or is beneficially owned, collectively, by any two or more such persons;

"(6) such trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default as hereinafter defined—

"(A) 5 per centum or more of the voting securities, or 10 per centum or more of any other class of security, of an obligor upon the indenture securities, not including indenture securities and securities issued under any other indenture under which such trustee is also trustee, or

"(B) 10 per centum or more of any class of security of an underwriter for any such obligor;

"(7) such trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default as hereinafter defined, 5 per centum or more of the voting securities of any person who, to the knowledge of the trustee, owns 10 per centum or more of the voting securities of, or controls directly or indirectly or is under direct or indirect common control with, an obligor upon the indenture securities;

"(8) such trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default as hereinafter defined, 10 per centum or more of any class of security of any person who, to the knowledge of the trustee, owns 50 per centum or more of the voting securities of an obligor upon the indenture securities;

"(9) such trustee owns, on the date of default upon the indenture securities (as such term is defined in such indenture but exclusive of any period of grace or requirement of notice) or any anniversary of such default while such default upon the indenture securities remains outstanding, in the capacity of executor, administrator, testamentary or inter vivos trustee, guardian, committee or conservator, or in any other similar capacity, an aggregate of 25 per centum or more of the voting securities, or of any class of se curity, of any person, the beneficial ownership of a specified percentage of which would have constituted a conflicting interest under paragraph (6), (7), or (8) of this subsection. As to any such securities of which the indenture trustee acquired ownership through becoming executor, administrator or testamentary trustee of an estate which include them, the provisions of the preceding sentence shall not apply for a period of not more than 2 years from the date of such acquisition, to the extent that such securities included in such estate do not exceed 25 per centum of such voting securities or 25 per centum of any such class of security. Promptly after the dates of any such default upon the indenture securities and annually in each succeeding year that the indenture securities remain in default the trustee shall make a check of its holding of such securities in any of the above-mentioned capacities as of such dates. If the obligor upon the indenture securities fails to make payment in full of principal or interest under such indenture when and as the same becomes due and payable, and such failure continues for 30 days thereafter, the trustee shall make a prompt check of its holdings of such securities in any of the above-mentioned capacities as of the date of the expiration of such 30-day period, and after such date, notwithstanding the foregoing provisions of this paragraph, all such securities so held by the trustee, with sole or joint control over such securities vested in it, shall be considered as though beneficially owned by such trustee, for the purposes of paragraphs (6), (7), and (8) of this subsection; or

"(10) except under the circumstances described in paragraphs (1), (3), (4), (5) or (6) of section 311(b) of this title, the trustee shall be or shall become a creditor of the obligor.

"For purposes of paragraph (1) of this subsection, and of section 316(a) of this title, the term 'series of securities' or 'series' means a series, class or group of securities issuable under an indenture pursuant to whose terms holders of one such series may vote to direct the indenture trustee, or otherwise take action pursuant to a vote of such holders, separately from holders of another such series: *Provided*, That 'series of securities' or 'series' shall not include any series of securities issuable under an indenture if all such series rank equally and are wholly unsecured.

"The specification of percentages in paragraphs (5) to (9), inclusive, of this subsection shall not be construed as indicating that the ownership of such percentages of the securities of a person is or is not necessary or sufficient to constitute direct or indirect control for the purposes of paragraph (3) or (7) of this subsection.

"For the purposes of paragraphs (6), (7), (8), and (9) of this subsection—

"(A) the terms 'security' and 'securities' shall include only such securities as are generally known as corporate securities, but shall not include any note or other evidence of indebtedness issued to evidence an obligation to repay moneys lent to a person by one or more banks, trust companies, or banking firms, or any certificate of interest or participation in any such note or evidence of indebtedness;

"(B) an obligation shall be deemed to be in default when a default in payment of principal shall have continued for thirty days or more, and shall not have been cured; and

"(C) the indenture trustee shall not be deemed the owner or holder of (i) any security which it holds as collateral security (as trustee or otherwise) for any obligation which is not in default as above defined, or (ii) any security which it holds as collateral security under the indenture to be qualified, irrespective of any default thereunder, or (iii) any security which it holds as agent for collection, or as custodian, escrow agent or depositary, or in any similar representative capacity.

"For the purposes of this subsection, the term 'underwriter' when used with reference to an obligor upon the indenture securities means every person who, within one year prior to the time as of which the determination is made, was an underwriter of any security of such obligor outstanding at the time of the determination.

"Except in the case of a default in the payment of the principal of or interest on any indenture security, or in the payment of any sinking or purchase fund installment, the indenture trustee shall not be required to resign as provided by this subsection if such trustee shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that—

"(i) the default under the indenture may be cured or waived during a reasonable period and under the procedures described in such application, and

"(ii) a stay of the trustee's duty to resign will not be inconsistent with the interests of holders of the indenture securities. The filing of such an application shall automatically stay the performance of the duty to resign until the Commission orders otherwise.

"Any resignation of an indenture trustee shall become effective only upon the appointment of a successor trustee and such successor's acceptance of such an appointment.".

SEC. 409. PREFERENTIAL COLLECTION OF CLAIMS AGAINST OBLIGOR.

Section 311 of the Trust Indenture Act of 1939 (15 U.S.C. 77kkk) is amended—

(1) by striking "the indenture to be qualified shall provide that" in the first paragraph of subsection (a);

(2) by striking "The indenture to be qualified shall provide that, if" at the beginning of the third paragraph of subsection (a) and inserting "If";

(3) by striking "four months" and "four months' " each place they appear in subsection (a) and inserting "three months" and "three months' ", respectively;

(4) by inserting at the end of subsection (a) the following: "In any case commenced under the Bankruptcy Act of July 1, 1898, or any amendment thereto enacted prior to November 6, 1978, all references to periods of three months shall be deemed to be references to periods of four months."; and

(5) by striking "may" in the first line of subsection (b) and inserting "shall automatically be deemed (unless it is expressly provided therein that any such provision is excluded) to".

SEC. 410. BONDHOLDER LISTS.

Section 312 of the Trust Indenture Act of 1939 (15 U.S.C. 77lll) is amended—

(1) by striking "The indenture to be qualified shall contain provisions requiring each obligor" in subsection (a) and inserting "Each obligor";

(2) in subsection (a), by striking "indenture securities to" and inserting "indenture securities shall"; and

(3) by striking "The indenture to be qualified shall also contain provisions requiring that, within" in subsection (b) and inserting "Within".

SEC. 411. REPORTS BY INDENTURE TRUSTEE.

Section 313(a) of the Trust Indenture Act of 1939 (15 U.S.C. 77mmm(a)) is amended—

(1) by striking "The indenture to be qualified shall contain provisions requiring the indenture trustee to" and inserting "The indenture trustee shall";

(2) by inserting after "a brief report with respect to" the following: "any of the following events which may have occurred within the previous 12 months (but if no such event has occurred within such period no report need be transmitted):";

(3) by inserting after the paragraph designation at the beginning of paragraphs (1), (4), and (5) the following: "any change to";

(4) in paragraph (1) by striking ", or in lieu thereof, if to the best of its knowledge it has continued to be eligible and qualified under such section, a written statement to such effect"; and

(5)(A) by redesignating paragraphs (2) through (7) as paragraphs (3) through (8), respectively; and

(B) by inserting after paragraph (1) the following:

"(2) the creation of or any material change to a relationship specified in paragraph (1) through (10) of section 310(b);".

SEC. 412. BONDHOLDER COMMUNICATIONS.

Section 313 of the Trust Indenture Act of 1939 (15 U.S.C. 77mmm) is amended—

(1) by striking "The indenture to be qualified shall also contain provisions requiring the indenture trustee to" in subsection (b) and inserting "The indenture trustee shall";

(2) by striking "The indenture to be qualified shall also provide that reports" in subsection (c) and inserting "Reports"; and

(3) by striking "The indenture to be qualified shall also provide that a copy" in subsection (d) and inserting "A copy".

SEC. 413. REPORTS BY OBLIGOR; EVIDENCE OF COMPLIANCE WITH INDENTURE PROVISIONS.

Section 314 of the Trust Indenture Act of 1939 (15 U.S.C. 77nnn) is amended—

(1) by striking "The indenture to be qualified shall contain provisions requiring each" in subsection (a) and inserting "Each";

(2) by inserting "shall" after "thereby" in such subsection;

(3) by striking "to" after the paragraph designation at the beginning of paragraphs (1), (2), and (3) of subsection (a);

(4) by striking "and" at the end of paragraph (2) of subsection (a);

(5) by striking the period at the end of paragraph (3) of subsection (a) and inserting "; and";

(6) by adding at the end of subsection (a) the following new paragraph:

"(4) furnish to the indenture trustee, not less often than annually, a brief certificate from the principal executive officer, principal financial officer or principal accounting officer as to his or her knowledge of such obligor's compliance with all conditions and covenants under the indenture. For purposes of this paragraph, such compliance shall be determined without regard to any period of grace or requirement of notice provided under the indenture.";

(7) by striking "such indenture shall contain provisions requiring" in subsection (b);

(8) by striking "securities to furnish" in subsection (b) and inserting "securities shall furnish";

(9) by striking "The indenture to be qualified shall contain provisions requiring the obligor" in subsection (c) and inserting "The obligor";

(10) by striking "securities to furnish" in subsection (c) and inserting "securities shall furnish";

(11) by striking "such indenture shall contain provisions" in subsection (d) and inserting "the obligor upon the indenture securities shall furnish to the indenture trustee a certificate or opinion of an engineer, appraiser, or other expert as to the fair value";

(12) by striking "requiring the obligor upon the indenture securities to furnish to the indenture trustee a certificate or opinion of an engineer, appraiser or other expert as to the fair value" in paragraphs (1), (2) and (3) of subsection (d);

(13) by striking "If the indenture to be qualified so provides," at the beginning of the penultimate sentence of subsection (d) and inserting "The indenture to be qualified shall automatically be deemed (unless it is expressly provided therein that such provision is excluded) to provide that";

(14) by striking "specified in the indenture" in the penultimate sentence of subsection (d) and inserting "duly authorized to make such certificate or opinion by the obligor from time to time"; and

(15) by inserting in subsection (e) "(other than certificates provided pursuant to subsection (a)(4) of this section)" after "indenture".

SEC. 414. DUTIES AND RESPONSIBILITIES OF THE TRUSTEE.

Section 315 of the Trust Indenture Act of 1939 (15 U.S.C. 77ooo) is amended—

(1) by striking "The indenture to be qualified may" in subsections (a) and (e) and inserting "The indenture to be qualified shall automatically be deemed (unless it is expressly provided therein that any such provision is excluded) to";

(2) by striking "such indenture shall contain provisions requiring the indenture trustee to examine" in subsection (a) and inserting "the indenture trustee shall examine";

(3) by striking "The indenture to be qualified shall contain provisions requiring the indenture trustee to" in subsections (b) and (c) and inserting "The indenture trustee shall";

(4) by striking "That such indenture may" in the proviso in subsection (b) and inserting "That such indenture shall automatically be deemed (unless it is expressly provided therein that such provision is excluded) to"; and

(5) by striking "such indenture may" in paragraphs (1), (2), and (3) of subsection (d) and inserting "such indenture shall automatically be deemed (unless it is expressly provided therein that any such provision is excluded) to".

SEC. 415. DIRECTIONS AND WAIVERS BY BONDHOLDERS; PROHIBITION OF IMPAIRMENT OF RIGHT TO PAYMENT; RECORD DATES.

Section 316 of the Trust Indenture Act of 1939 (15 U.S.C. 77ppp) is amended—

(1) by striking "may contain provisions" after "qualified" in subsection (a) and inserting "may contain provisions" before "authorizing the holders" in paragraph (2) of subsection (a);

(2) by inserting "shall automatically be deemed (unless it is expressly provided therein that any such provision is excluded) to contain provisions" before "authorizing the holders" in paragraph (1) of subsection (a);

(3) by inserting "or if expressly specified in such indenture, of any series of securities" after "principal amount of the indenture securities" in paragraphs (1) and (2) of subsection (a);

(4) by striking "The indenture to be qualified shall provide that, notwithstanding" in subsection (b) and inserting "Notwithstanding";

(5) by striking "thereof" in subsection (b) and inserting "of the indenture to be qualified"; and

(6) by adding at the end thereof the following new subsection:

"(c) The obligor upon any indenture qualified under this title may set a record date for purposes of determining the identity of indenture security holders entitled to vote or consent to any action by vote or consent authorized or permitted by subsection (a) of this section. Unless the indenture provides otherwise, such record date shall be the later of 30 days prior to the first solicitation of such consent or the date of the most recent list of holders furnished to the trustee pursuant to section 312 of this title prior to such solicitation.".

SEC. 416. SPECIAL POWERS OF TRUSTEE; DUTIES OF PAYING AGENTS.

Section 317 of the Trust Indenture Act of 1939 (15 U.S.C. 77qqq) is amended—

(1) by striking "to be qualified shall contain provisions" in subsection (a) and inserting "trustee shall be authorized";

(2) by striking "authorizing the indenture trustee" in paragraph (1);

(3) by striking "authorizing such trustee" from paragraph (2); and

(4) by striking "The indenture to be qualified shall provide that each" in subsection (b) and inserting "Each".

SEC. 417. EFFECT OF MANDATORY TERMS.

Section 318 of the Trust Indenture Act of 1939 (15 U.S.C. 77rrr) is amended—

(1) by striking subsection (a) and inserting the following:

"SEC. 318. (a) If any provision of the indenture to be qualified limits, qualifies, or conflicts with the duties imposed by operation of subsection (c) of this section, the imposed duties shall control.";

(2) by adding at the end thereof the following new subsection:

"(c) The provisions of sections 310 to and including 317 that impose duties on any person (including provisions automatically deemed included in an indenture unless the indenture provides that such provisions are excluded) are a part of and govern every qualified indenture, whether or not physically contained therein, shall be deemed retroactively to govern each indenture heretofore qualified, and prospectively to govern each indenture hereafter qualified under this title and shall be deemed retroactively to amend and supersede inconsistent provisions in each such indenture heretofore qualified. The foregoing provisions of this subsection shall not be deemed to effect the inclusion (by retroactive amendment or otherwise) in the text of any indenture heretofore qualified of any of the optional provisions contemplated by section 310(b)(1), 311(b), 314(d), 315(a), 315(b), 315(d), 315(e), or 316(a)(1).".

SEC. 418. JURISDICTION OF OFFENSES AND SUITS.

Section 322(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77vvv(b)) is amended by inserting "or duty" after "any liability".[H01OC0-X2]{H8522}ability".

The Speaker pro tempore. Is a second demanded?

Mr. RINALDO. Mr. Speaker, I demand a second.

The Speaker pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The Speaker pro tempore. The gentleman from Massachusetts [Mr MARKEY] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 483, which contains the full text of H.R. 1396 as passed by the House with an amendment which in part adopts language added by the Senate in its consideration of that bill H.R. 1396 originated in the House as the International Securities Enforcement Cooperation Act of 1989. This package of reform legislation is yet another step forward in assuring tha the securities markets are fully up to date in order to absorb the revolutionary challenges of globalization and modernization in the securities markets of today.

The House passed H.R. 1396 in its original form on September 25, 1989 The Senate then adopted H.R. 1396 on November 16, 1989, with a package of amendments. Those amendments included the Securities and Exchange Commission authorization, lifting pay cap restrictions on compensation fo SEC employees, the Trust Indenture Reform Act of 1990, the Shareholde Communications Improvement Act of 1990, and two amendments to the Public Utility Holding Company Act of 1935 which would have benefited utilities in Vermont and Kentucky The resolution that now lies before the House would retain the International Securities Enforcement Cooperation Act in its original form as well as the SEC authorization for fiscal years 1990 and 1991, the Trust Indenture Reform Act, and the Shareholde Communications Improvement Act.

This reform package follows naturally from the passage in the last Congress of the Insider Trading and Securities Fraud Enforcement Act of 1989 It also appropriately follows last Friday's House passage of H.R. 3657, the Securities Markets Reform Act o 1990, which now awaits the President' signature, and S. 647, the Securitie Enforcement Remedies and Penny Stock Reform Act of 1990, which the House is passing today. After the boom times of the 1980's, Wall Street must live with the realities of an up-to-date regulatory structure which promotes the healthy operation of the securities markets, identifies problem areas, and facilitates vigorous enforcement and prosecution of the law.

The international enforcement bil which was the original H.R. 1396 com ponent, contains the following elements. First, it grants the SEC an exemption from the Freedom of Informtion Act for records provided to the Commission by foreign securities authorities under certain specified circumstances. Second, it facilitates greater access to Commission enforcement files by domestic and foreign law enforcement officials. Third, it permits the SEC to sanction securities professionals for violations of foreign securities laws. Fourth, it expands the authority of self-regulatory organizations to exclude convicted felons from membership based on violations of foreign laws. Finally, it authorizes the SEC to accept reimbursement for expenses incurred on behalf of foreign governmental authorities in their investigations.

The Trust Indenture Reform Act, introduced as H.R. 1786, and the Shareholder Communications Improvement Act, introduced as H.R. 2780, are before the House for the first time today. The Subcommittee on Telecommunications and Finance marked up both of these measures last November, and the bills were awaiting action by the full Committee when last year's recess arrived. Both bills were introduced by the gentleman from New Jersey [Mr. RINALDO] and the final versions now included within the resolution reflect the input of his hard work and that of his staff to perfect the bills originally sent up by the SEC.

Beyond expanding the SEC's legislative tools in the international arena and elsewhere, this resolution reauthorizes the SEC for fiscal years 1990 and 1991.

Mr. Speaker, this reform package continues the progression of a year of remarkable legislative achievement in the securities area. Market reform, civil remedies and penny stock legislation have all been sent to the President, and we are continuing to move forward in the important area of enhancing the responsibilities of public accountants to root out financial fraud. I hope, working together with out minority, and with Chairman DINGELL, we can continue to produce the type of important, reform-minded legislation that is essential to building an honest, efficient, modern securities marketplace.

In conclusion, Mr. Speaker, I want to again note the tremendous contribution of the minority, Mr. RINALDO and Mr. LENT, as well as Chairman DINGELL, and the staffs on both sides of the aisle, in helping to bring this package to the floor today. It is this bipartisan cooperation that has marked all of our successful efforts at the Telecommunications and Finance Subcommittee, and I look forward to many more trips to the floor with my colleagues on these issues.

I urge my colleagues to support this important resolution.

Mr. Speaker, I would also like to, on this package of legislation, especially note the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], whom I think all who are familiar with his work know the commitment that he has to overhauling and reforming the securities marketplace in the wake of the terrible scandals that have occurred in the 1980's and the globalization which has taken place, and his fingerprints are all over this legislation, and his staff, led by Consuela Washington, has played an integral role. As well, I would like to thank Steve Blumenthal, the staff for the minority, and on my staff, I would like to thank Howard Homonoff and Elise Hoffmann for their work in this legislation, and Herb Brown, the subcommittee staff director for his leadership and guidance as we have moved through the process, and to Steve Cope, the legislative counsel, for his work in this area.

Mr. Speaker, I reserve the balance of my time.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 483.

I am proud to have been an original sponsor of H.R. 1396, the International Securities Enforcement Cooperation Act; H.R. 1786, amending the Trust Indenture Act of 1939; and H.R. 2780, the Shareholder Communications Improvement Act. These three bills make up House Resolution 483 that we consider today.

I am particularly pleased and proud of the investor protection that will be made by the provisions of H.R. 2780, the Shareholder Communications Improvement Act which is included in this bill. This legislation will improve communications between shareholders and the companies in which they invest when their shares are held for their benefit by banks or in street name by brokers. This bill will significantly improve the flow of information to investors in mutual funds.

Mr. Speaker, since the 1960's individual investors have increasingly come to the securities markets by institutionalizing their investments. The diversification of portfolio, professional management of investments, and pooling of funds that make it possible to negotiate commissions, are all advantages that have made mutual funds the investment of choice in the last two decades. I introduced the Shareholder Communication Improvements Act to help ensure that the millions of investors in mutual funds will receive the same corporate reports and proxy information that investors in individual stocks do. They are entitled to no less and they shall receive it.

The provisions of House Resolution 483 will modernize the Trust Indenture Act to simplify its operation. They will eliminate needless duplication and reprinting of boilerplate language of trust indentures, making compliance with the law less difficult and expensive.

To attract domestic and foreign capital to our markets we must maintain public confidence in the integrity of our financial institutions and our ability to regulate them. Sharing information is an essential element of market regulation in today's environment of 24-hour a day, worldwide trading of securities. To that end House Resolution 483 furthers coordination and cooperation between the U.S. Securities and Exchange Commission and its counterpart agencies in other countries. It does this in several ways:

First, it provides the SEC with authority to maintain the confidentiality of information received from foreign governments in conjunction with international enforcement investigations.

Second, it permits the SEC to share its records concerning trade in foreign markets or in foreign securities with appropriate law enforcement authorities in other nations.

Third, it premits the SEC to accept reimbursement for the expenses it incurs in connection with conducting investigations at the request of foreign governments.

And finally, it permits the SEC or the securities industry self-regulatory organizations to exclude from their membership individuals who have been convicted of violating foreign securities laws.

Mr. Speaker, House Resolution 483 enjoys wide support and gives the Securities and Exchange Commission the tools its needs to continue and coordinate the international attack on securities fraud. It streamlines the regulation of the issuance of debt securities and significantly increases the flow of shareholder communications to the owners of mutual funds. I urge my colleagues to support the bill.

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I want to take a moment to acknowledge the hard work of the chairman of the committee, the gentleman from Michigan [Mr. DINGELL] and the ranking member of the full committee, the gentleman from New York [Mr. LENT], but most of all the work of the chairman of the Subcommittee on Telecommunications and Finance, the gentleman from Massachusetts [Mr. MARKEY], who labored long and hard to see that this came to fruition. I do not recall any other year in which this much meaningful, necessary securities legislation was passed by our subcommittee, by the full committee, passed on the floor of the House, and sent over to the President for his signature. That shows that this committee really puts its shoulder to the wheel under the guidance of the chairman, the gen-

tleman from Massachusetts [Mr. MARKEY] and has come up with a number of bills that is certainly going to restructure some of the enforcement provisions of the securities industry as we move into the 1990's and beyond. I want to thank the gentleman, and publicly acknowledge the contributions that he has made.

Mr. DINGELL. Mr. Speaker, I rise in strong support of the Securities Acts Amendments of 1990.

Title I would authorize the Securities and Exchange Commission at $178 million for fiscal year 1990 and $212.6 million for fiscal year 1991. This increase in the SEC's budget will ensure adequate enforcement of the securities laws and oversight of securities markets. After the excesses of the 1980's, which culminated earlier this year with the bankruptcy filing of the junk bond firm Drexel Burnham Lambert, the public policy goal of a strong and fully funded SEC is not subject to question. The primary purpose of this highly regarded, independent agency, don't forget, is to protect the investing public.

Title II contains the text of H.R. 1396, the International Securities Enforcement Cooperation Act, which passed the House by voice vote under suspension of the rules in September of last year. Hearings held in the Energy and Commerce Committee as well as the Committee on Government Operations underscore the need for improved international cooperation and coordination in fighting securities fraud. Prompt enactment of this legislation is necessary to ensure the cooperation of foreign governments and regulatory authorities with several pending SEC international securities fraud investigations.

Mr. Speaker, these amendments are the product of a bipartisan effort. My friend and colleague from New Jersey, Mr. RINALDO, played a significant role in shaping the legislation by introducing at the request of the SEC H.R. 2780, the Shareholder Communications Improvement Act, and H.R. 1786, the Trust Indenture Reform Act, whose provisions make up titles III and IV of this resolution. These provisions will help in streamlining regulation, easing industry compliance with the law, and ensuring that investors have adequate information on which to make sound decisions. I want to thank the gentleman in particular for the many hours he and his principal staff adviser, Stuart Kaswell, spent negotiating legislative language on the Trust Indenture Act with the Securities and Exchange Commission, representatives of the banking industry, and other interested parties. Mr. Kaswell left the staff of the Energy and Commerce Committee earlier this year to pursue a career in the private practice of law and the benefits that will accrue to the investing public as the result of his work are a fitting legacy for his tenure in public service.

Mr. Speaker, unfortunately, not included in today's legislation are provisions for strengthening the funding mechanism for the SEC's important investor protection functions. The President's budget for fiscal year 1991 at page A–1182 recommended increases in fees collected by the SEC to generate slightly over $80 million in governmental receipts. Consistent with that recommendation, title I, as originally proposed by our committee, would have raised SEC fees while also providing for full cost recovery of SEC expenses. Accordingly, the securities industry and other users and beneficiaries of the SEC's services would pay for strengthening the agency; the taxpayer would not get the bill. Historically, the SEC has been underfunded because it has received no credit for its fees which go straight to the U.S. Treasury and which, in recent years, have exceeded its appropriated budgets by more than twice. This pattern must be broken if the public is to be adequately served. This is particularly true given the new authorities and responsibilities thrust upon the agency in recent times. The so-called self-funding proposal passed the House in budget reconciliation last year but was deleted from today's House resolution due to the objections of the Office of Management and Budget and the Committee on Ways and Means, both of whom view the SEC as a cash cow to be raided for deficit reduction purposes. This view is shortsighted and, in the long term, harmful to our capital markets and the economy as a whole. I intend to pursue our full-cost-recovery proposals in separate legislation.

In the meantime, I urge my colleagues to support today's legislation as a first step in strengthening the hand of the Securities and Exchange Commission and advancing the sound public policy goals of the Nation's securities laws.

Mr. LENT. Mr. Speaker, I rise in support of House Resolution 483. As an original sponsor of the International Securities Enforcement Cooperation Act of 1989, the Shareholder Communications Act, and amendments to the Trust Indenture Act which form the basis of this bill, I want to express my strong support for this important legislation.

We live in a time when movements in stock prices on the New York Stock Exchange are transmitted not only to Boston, Chicago, and San Francisco but around the world to markets in London, Frankfurt, Tokyo, and Hong Kong. Today, investment capital flows to opportunities in the most efficient markets without regard to the country in which the exchange is located. Unfortunately, a world of investment opportunities also creates a world of opportunity for criminals who would manipulate, deceive, and defraud.

Using modern telecommunications technology they open accounts in securities firms and banks of many countries. Networks of collaborators develop schemes that can easily escape the surveillance of regulators located in a single country. The answer, of course, is to use the same technology to fight them. By entering into international agreements of cooperation with law enforcement authorities around the world and transferring information among them, we can build a network that ensures no one acting anywhere in the world can manipulate securities markets and escape detection. But without the support of foreign securities regulators, enforcement of our domestic laws by the SEC is made more difficult if not impossible.

Foreign governments have expressed concern over the operation of U.S. disclosure laws that could compromise the confidentiality of law enforcement information they would otherwise be willing to provide. House Resolution 483 addresses this problem by allowing the SEC to protect information provided by foreign securities enforcement authorities from disclosure. As a corollary, it also allows the SEC to provide foreign governments with information we have collected concerning fraud and manipulation taking place in overseas markets.

Mr. Speaker, international securities enforcement is of critical importance but in reality it involves a small number of people. In comparison, millions of people have invested over $1 trillion in the shares of mutual funds. It is these millions of shareholders who will benefit from the better and more timely disclosure of management information that will be the result of the adoption of House Resolution 483. Included in this amended bill are the provisions of H.R. 2780, the Shareholder Communication Improvement Act, which I cosponsored when they were introduced by the ranking Republican on the Subcommittee on Telecommunications and Finance, the gentleman from New Jersey [Mr. RINALDO].

By significantly increasing the amount of information that is transmitted to them, House Resolution 483 will make possible informed decisions by mutual fund shareholders when they are called upon to vote in annual elections of directors and upon resolutions establishing the policies of management. Congressional concern over shareholder governance issues is increasing and considering the enormous growth in the amounts of money and the number of people who invest in mutua funds, in many ways, Mr. Speaker, it may be that the most significant portions of House Resolution 483 deal not with international securities enforcement but with shareholde communications.

House Resolution 483 as we consider i today includes amendments to the Trust Indenture Act of 1939. These amendment were originally contained in H.R. 1786 which was sponsored by my colleague, the gentleman from New Jersey [Mr. RINALDO], and which I cosponsored. As is the case in a technical bills, the public may not appreciate the streamlining of regulation involved in thi legislation. The public does benefit, however from good government and that is the resul of the elimination of unnecessary costs of regulation and the more efficient operation of ou bond markets.

Finally, Mr. Speaker, since its inception the U.S. Securities and Exchange Commission has led the way in ensuring that the securitie markets of our country are the finest in the world and least susceptible to manipulation and fraud. Over the last two decades the growth of the securities markets has been astronomical by any standard. It is not speculation that has been responsible for this growth The capital markets are the foundations o capitalism and provide the mechanism b which corporations raise the money tha become factories and machinery and employment for millions of people. Additionally, the securities markets have become the metho by which pensions, savings plans, and ever form of employee benefit program are funded In today's economy, in one way or anothe everyone is an investor in the securities ma kets and the SEC is responsible for overseeing their regulations.

House Resolution 483 will help to ensure that the SEC is adequately funded to continue to rise to new challenges that will be presented by the increasingly global network of securities markets. Raising the fees charged investors who trade and on companies registering stock offerings provides a user-based fee system that is fair and equitable. The result is in the interest of the Nation, its business community, and its investors.

I would like to compliment the gentleman from Michigan, the chairman of the Energy and Commerce Committee, Mr. DINGELL, for his efforts on behalf of this legislation. I would also like to congratulate the chairman of the subcommittee, Mr. MARKEY, and the ranking Republican on the subcommittee, Mr. RINALDO, for all they did to make this possible. Finally, I take special note of the many fine contributions made to the legislative process on this bill by minority counsel Stuart Kaswell.

Mr. Speaker, I urge all my colleagues to support this important legislation.

Mr. MARKEY. I have no further requests for time, and I yield back the balance of my time.

Mr. RINALDO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the resolution offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and agree to the resolution, (H. Res. 483).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that the House insist upon its amendments to the bill, H.R. 1396, to amend the Federal securities law in order to facilitate cooperation between the United States and foreign countries and securities law enforcement, and request a conference with the Senate thereon.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Massachusetts [Mr. MARKEY]?

There was no objection.

The **SPEAKER** pro tempore. The Chair will appoint conferees upon the Speaker's return to the Chair.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, on House Resolution 483, the resolution just agreed to.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

SECURITIES ENFORCEMENT REMEDIES AND PENNY STOCK REFORM ACT OF 1990

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the House amendments to the Senate bill (S. 647) to amend the Federal securities laws in order to provide additional enforcement remedies for violations of those laws and to eliminate abuses in transactions in penny stocks, and for other purposes.

The Clerk read as follows:

Senate amendment to House amendments:

In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; EFFECTIVE DATE.

(a) SHORT TITLE.—This Act may be cited as the "Securities Enforcement Remedies and Penny Stock Reform Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents; effective date.

TITLE I—AMENDMENTS TO THE SECURITIES ACT OF 1933

Sec. 101. Authority of a court to impose money penalties and to prohibit persons from serving as officers and directors.
Sec. 102. Cease-and-desist authority.

TITLE II—AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

Sec. 201. Enforcement of title.
Sec. 202. Civil remedies in administrative proceedings.
Sec. 203. Cease-and-desist authority.
Sec. 204. Procedural rules for cease-and-desist proceedings.
Sec. 205. Conforming amendments to section 15B.
Sec. 206. Signature guarantees.

TITLE III—AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940

Sec. 301. Civil remedies in administrative proceedings.
Sec. 302. Money penalties in civil actions.

TITLE IV—AMENDMENTS TO THE INVESTMENT ADVISERS ACT OF 1940

Sec. 401. Civil remedies in administrative proceedings.
Sec. 402. Money penalties in civil actions.
Sec. 403. Conforming amendment to section 214.

TITLE V—PENNY STOCK REFORM

Sec. 501. Short title.
Sec. 502. Findings.
Sec. 503. Definition of penny stock.
Sec. 504. Expansion of section 15(b) sanction authority with respect to penny stocks.
Sec. 505. Requirements for brokers and dealers of penny stocks.
Sec. 506. Development of automated quotation systems for penny stocks.
Sec. 507. Voidability of contracts in violation of section 15(c)(2).
Sec. 508. Restrictions on blank check offerings.
Sec. 509. Broker/dealer disciplinary history.
Sec. 510. Review of regulatory structures and procedures.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this Act shall be effective upon enactment.

(2) CIVIL PENALTIES.—

(A) IN GENERAL.—No civil penalty may be imposed pursuant to the amendments made by this Act on the basis of conduct occurring before the date of enactment of this Act.

(B) ACCOUNTING AND DISGORGEMENT.—Subparagraph (A) shall not operate to preclude the Securities and Exchange Commission from ordering an accounting or disgorgement pursuant to the amendments made by this Act.

(3) SPECIAL RULES FOR TITLE V.—

(A) SECTIONS 503 AND 504.—Except as provided in subparagraph (C), sections 503 and 504 shall be effective 12 months after the date of enactment of this Act or upon the issuance of final regulations initially implementing such section, whichever is earlier.

(B) SECTIONS 505 AND 508.—Except as provided in subparagraph (C), sections 505 and 508 shall be effective 18 months after the date of enactment of this Act or upon the issuance of final regulations initially implementing such sections, whichever is earlier.

(C) COMMENCEMENT OF RULEMAKING.—Not later than 180 days after the date of enactment of this Act, the Commission shall commence rulemaking proceedings to implement sections 503, 505, and 508.

TITLE I—AMENDMENTS TO THE SECURITIES ACT OF 1933

SEC. 101. AUTHORITY OF A COURT TO IMPOSE MONEY PENALTIES AND TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.

Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end thereof the following new subsections:

"(d) MONEY PENALTIES IN CIVIL ACTIONS.—

"(1) AUTHORITY OF COMMISSION.—Whenever it shall appear to the Commission that any person has violated any provision of this title, the rules or regulations thereunder, or a cease-and-desist order entered by the Commission pursuant to section 8A of this title, other than by committing a violation subject to a penalty pursuant to section 21A of the Securities Exchange Act of 1934, the Commission may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, upon a proper showing, a civil penalty to be paid by the person who committed such violation.

"(2) AMOUNT OF PENALTY.—

"(A) FIRST TIER.—The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (i) $5,000 for a natural person or $50,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), the amount of penalty for each such violation shall not exceed the greater of (i) $50,000 for a natural person or $250,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the amount of penalty for each such violation shall not exceed the greater of (i) $100,000 for a natural person or $500,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if—

"(I) the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(II) such violation directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons.

"(3) PROCEDURES FOR COLLECTION.—

"(A) PAYMENT OF PENALTY TO TREASURY.—A penalty imposed under this section shall be payable into the Treasury of the United States.

"(B) COLLECTION OF PENALTIES.—If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(C) REMEDY NOT EXCLUSIVE.—The actions authorized by this subsection may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring.

"(D) JURISDICTION AND VENUE.—For purposes of section 22 of this title, actions under this section shall be actions to enforce a liability or a duty created by this title.

"(4) SPECIAL PROVISIONS RELATING TO A VIOLATION OF A CEASE-AND-DESIST ORDER.—In an action to enforce a cease-and-desist order entered by the Commission pursuant to section 8A, each separate violation of such order shall be a separate offense, except that in the case of a violation through a continuing failure to comply with such an order, each day of the failure to comply with the order shall be deemed a separate offense.

"(e) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.—In any proceeding under subsection (b), the court may prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who violated section 17(a)(1) of this title from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 or that is required to file reports pursuant to section 15(d) of such Act if the person's conduct demonstrates substantial unfitness to serve as an officer or director of any such issuer.".

SEC. 102. CEASE-AND-DESIST AUTHORITY.

The Securities Act of 1933 (15 U.S.C. 77 et seq.) is amended by inserting after section 8 the following:

"CEASE-AND-DESIST PROCEEDINGS

"SEC. 8A. (a) AUTHORITY OF THE COMMISSION.—If the Commission finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any rule or regulation thereunder, the Commission may publish its findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision, rule, or regulation, upon such terms and conditions and within such time as the Commission may specify in such order. Any such order may, as the Commission deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Commission may specify, with such provision, rule, or regulation with respect to any security, any issuer, or any other person.

"(b) HEARING.—The notice instituting proceedings pursuant to subsection (a) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Commission with the consent of any respondent so served.

"(c) TEMPORARY ORDER.—

"(1) IN GENERAL.—Whenever the Commission determines that the alleged violation or threatened violation specified in the notice instituting proceedings pursuant to subsection (a), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest, including, but not limited to, losses to the Securities Investor Protection Corporation, prior to the completion of the proceedings, the Commission may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest as the Commission deems appropriate pending completion of such proceeding. Such an order shall be entered only after notice and opportunity for a hearing, unless the Commission determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

"(2) APPLICABILITY.—This subsection shall apply only to a respondent that acts, or, at the time of the alleged misconduct acted, as a broker, dealer, investment adviser, investment company, municipal securities dealer, government securities broker, government securities dealer, or transfer agent, or is, or was at the time of the alleged misconduct, an associated person of, or a person seeking to become associated with, any of the foregoing.

"(d) REVIEW OF TEMPORARY ORDERS.—

"(1) COMMISSION REVIEW.—At any time after the respondent has been served with a temporary cease-and-desist order pursuant to subsection (c), the respondent may apply to the Commission to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior Commission hearing, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Commission shall hold a hearing and render a decision on such application at the earliest possible time.

"(2) JUDICIAL REVIEW.—Within—

"(A) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior Commission hearing, or

"(B) 10 days after the Commission renders a decision on an application and hearing under paragraph (1), with respect to any temporary cease-and-desist order entered without a prior Commission hearing,

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior Commission hearing may not apply to the court except after hearing and decision by the Commission on the respondent's application under paragraph (1) of this subsection.

"(3) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under paragraph (2) of this subsection shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"(4) EXCLUSIVE REVIEW.—Section 9(a) of this title shall not apply to a temporary order entered pursuant to this section.

"(e) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any cease-and-desist proceeding under subsection (a), the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.".

TITLE II—AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

SEC. 201. ENFORCEMENT OF TITLE.

Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended—

(1) by redesignating subsection (d) as subsection (d)(1);

(2) by inserting after subsection (d)(1) the following new paragraphs:

"(2) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.—In any proceeding under paragraph (1) of this subsection, the court may prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who violated section 10(b) of this title or the rules or regulations thereunder from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of this title or that is required to file reports pursuant to section 15(d) of this title if the person's conduct demonstrates substantial unfitness to serve as an officer or director of any such issuer.

"(3) MONEY PENALTIES IN CIVIL ACTIONS.—

"(A) AUTHORITY OF COMMISSION.—Whenever it shall appear to the Commission that any person has violated any provision of this title, the rules or regulations thereunder, or a cease-and-desist order entered by the Commission pursuant to section 21C of this title, other than by committing a violation subject to a penalty pursuant to section 21A, the Commission may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, upon a proper showing, a civil penalty to be paid by the person who committed such violation.

"(B) AMOUNT OF PENALTY.—

"(i) FIRST TIER.—The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (I) $5,000 for a natural person or $50,000 for any other person, or (II) the gross amount of pecuniary gain to such defendant as a result of the violation.

"(ii) SECOND TIER.—Notwithstanding clause (i), the amount of penalty for each

such violation shall not exceed the greater of (I) $50,000 for a natural person or $250,000 for any other person, or (II) the gross amount of pecuniary gain to such defendant as a result of the violation, if the violation described in subparagraph (A) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(iii) THIRD TIER.—Notwithstanding clauses (i) and (ii), the amount of penalty for each such violation shall not exceed the greater of (I) $100,000 for a natural person or $500,000 for any other person, or (II) the gross amount of pecuniary gain to such defendant as a result of the violation, if—

"(aa) the violation described in subparagraph (A) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(bb) such violation directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons.

"(C) PROCEDURES FOR COLLECTION.—

"(i) PAYMENT OF PENALTY TO TREASURY.—A penalty imposed under this section shall be payable into the Treasury of the United States.

"(ii) COLLECTION OF PENALTIES.—If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(iii) REMEDY NOT EXCLUSIVE.—The actions authorized by this paragraph may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring.

"(iv) JURISDICTION AND VENUE.—For purposes of section 27 of this title, actions under this paragraph shall be actions to enforce a liability or a duty created by this title.

"(D) SPECIAL PROVISIONS RELATING TO A VIOLATION OF A CEASE-AND-DESIST ORDER.—In an action to enforce a cease-and-desist order entered by the Commission pursuant to section 21C, each separate violation of such order shall be a separate offense, except that in the case of a violation through a continuing failure to comply with the order, each day of the failure to comply shall be deemed a separate offense.".

SEC. 202. CIVIL REMEDIES IN ADMINISTRATIVE PROCEEDINGS.

(a) The Securities Exchange Act of 1934 is amended by inserting after section 21A (15 U.S.C. 78u-1) the following:

"CIVIL REMEDIES IN ADMINISTRATIVE PROCEEDINGS

"SEC. 21B. (a) COMMISSION AUTHORITY TO ASSESS MONEY PENALTIES.—In any proceeding instituted pursuant to sections 15(b)(4), 15(b)(6), 15B, 15C, or 17A of this title against any person, the Commission or the appropriate regulatory agency may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person—

"(1) has willfully violated any provision of the Securities Act of 1933, the Investment Company Act of 1940, the Investment Advisers Act of 1940, or this title, or the rules or regulations thereunder, or the rules of the Municipal Securities Rulemaking Board;

"(2) has willfully aided, abetted, counseled, commanded, induced, or procured such a violation by any other person;

"(3) has willfully made or caused to be made in any application for registration or report required to be filed with the Commission or with any other appropriate regulatory agency under this title, or in any proceeding before the Commission with respect to registration, any statement which was, at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein; or

"(4) has failed reasonably to supervise, within the meaning of section 15(b)(4)(E) of this title, with a view to preventing violations of the provisions of such statutes, rules and regulations, another person who commits such a violation, if such other person is subject to his supervision;

and that such penalty is in the public interest.

"(b) MAXIMUM AMOUNT OF PENALTY.—

"(1) FIRST TIER.—The maximum amount of penalty for each act or omission described in subsection (a) shall be $5,000 for a natural person or $50,000 for any other person.

"(2) SECOND TIER.—Notwithstanding paragraph (1), the maximum amount of penalty for each such act or omission shall be $50,000 for a natural person or $250,000 for any other person if the act or omission described in subsection (a) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(3) THIRD TIER.—Notwithstanding paragraphs (1) and (2), the maximum amount of penalty for each such act or omission shall be $100,000 for a natural person or $500,000 for any other person if—

"(A) the act or omission described in subsection (a) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(B) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.

"(c) DETERMINATION OF PUBLIC INTEREST.—In considering under this section whether a penalty is in the public interest, the Commission or the appropriate regulatory agency may consider—

"(1) whether the act or omission for which such penalty is assessed involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement;

"(2) the harm to other persons resulting either directly or indirectly from such act or omission;

"(3) the extent to which any person was unjustly enriched, taking into account any restitution made to persons injured by such behavior;

"(4) whether such person previously has been found by the Commission, another appropriate regulatory agency, or a self-regulatory organization to have violated the Federal securities laws, State securities laws, or the rules of a self-regulatory organization, has been enjoined by a court of competent jurisdiction from violations of such laws or rules, or has been convicted by a court of competent jurisdiction of violations of such laws or of any felony or misdemeanor described in section 15(b)(4)(B) of this title;

"(5) the need to deter such person and other persons from committing such acts or omissions; and

"(6) such other matters as justice may require.

"(d) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission or the appropriate regulatory agency may impose a penalty under this section, a respondent may present evidence of the respondent's ability to pay such penalty. The Commission or the appropriate regulatory agency may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of such person's ability to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon such person's assets and the amount of such person's assets.

"(e) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any proceeding in which the Commission or the appropriate regulatory agency may impose a penalty under this section, the Commission or the appropriate regulatory agency may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.".

(b) CONFORMING AMENDMENT.—The heading of section 21A of this title (15 U.S.C. 78u-1) is amended to read as follows:

"CIVIL PENALTIES FOR INSIDER TRADING"

SEC. 203. CEASE-AND-DESIST AUTHORITY.

The Securities and Exchange Act of 1934 is amended by adding after section 21B (as added by section 202 of this Act) the following new section:

"CEASE-AND-DESIST PROCEEDINGS

"SEC. 21C. (a) AUTHORITY OF THE COMMISSION.—If the Commission finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any rule or regulation thereunder, the Commission may publish its findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision, rule, or regulation, upon such terms and conditions and within such time as the Commission may specify in such order. Any such order may, as the Commission deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Commission may specify, with such provision, rule, or regulation with respect to any security, any issuer, or any other person.

"(b) HEARING.—The notice instituting proceedings pursuant to subsection (a) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Commission with the consent of any respondent so served.

"(c) TEMPORARY ORDER.—

"(1) IN GENERAL.—Whenever the Commission determines that the alleged violation or threatened violation specified in the notice instituting proceedings pursuant to subsection (a), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest, including, but not limited to, losses to

the Securities Investor Protection Corporation, prior to the completion of the proceedings, the Commission may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest as the Commission deems appropriate pending completion of such proceedings. Such an order shall be entered only after notice and opportunity for a hearing, unless the Commission determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

"(2) APPLICABILITY.—This subsection shall apply only to a respondent that acts, or, at the time of the alleged misconduct acted, as a broker, dealer, investment adviser, investment company, municipal securities dealer, government securities broker, government securities dealer, or transfer agent, or is, or was at the time of the alleged misconduct, an associated person of, or a person seeking to become associated with, any of the foregoing.

"(d) REVIEW OF TEMPORARY ORDERS.—

"(1) COMMISSION REVIEW.—At any time after the respondent has been served with a temporary cease-and-desist order pursuant to subsection (c), the respondent may apply to the Commission to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior Commission hearing, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Commission shall hold a hearing and render a decision on such application at the earliest possible time.

"(2) JUDICIAL REVIEW.—Within—

"(A) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior Commission hearing, or

"(B) 10 days after the Commission renders a decision on an application and hearing under paragraph (1), with respect to any temporary cease-and-desist order entered without a prior Commission hearing,

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior Commission hearing may not apply to the court except after hearing and decision by the Commission on the respondent's application under paragraph (1) of this subsection.

"(3) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under paragraph (2) of this subsection shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"(4) EXCLUSIVE REVIEW.—Section 25 of this title shall not apply to a temporary order entered pursuant to this section.

"(e) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any cease-and-desist proceeding under subsection (a), the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.".

SEC. 204. PROCEDURAL RULES FOR CEASE-AND-DESIST PROCEEDINGS.

Section 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78w) is amended by adding at the end thereof the following new subsection:

"(d) CEASE-AND-DESIST PROCEDURES.—Within 1 year after the date of enactment of this subsection, the Commission shall establish regulations providing for the expeditious conduct of hearings and rendering of decisions under section 21C of this title, section 8A of the Securities Act of 1933, section 9(f) of the Investment Company Act of 1940, and section 203(k) of the Investment Advisers Act of 1940.".

SEC. 205. CONFORMING AMENDMENTS TO SECTION 15B.

Section 15B(c)(6)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(c)(6)(A)) is amended—

(1) by striking "and the nature" and inserting ", the nature"; and

(2) by striking "proposed action and" and inserting "proposed action, and whether the Commission is seeking a monetary penalty against such municipal securities dealer or such associated person pursuant to section 21B of this title; and ".

SEC. 206. SIGNATURE GUARANTEES.

Section 17A(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78q-9(d)(4)) is amended by adding at the end the following:

"(5) A registered transfer agent may not, directly or indirectly, engage in any activity in connection with the guarantee of a signature of an endorser of a security, including the acceptance or rejection of such guarantee, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest, for the protection of investors, to facilitate the equitable treatment of financial institutions which issue such guarantees, or otherwise in furtherance of the purposes of this title.".

TITLE III—AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940

SEC. 301. CIVIL REMEDIES IN ADMINISTRATIVE PROCEEDINGS.

Section 9 of the Investment Company Act of 1940 (15 U.S.C. 80a-9) is amended—

(1) by redesignating subsection (d) as subsection (g);

(2) by inserting after subsection (c) the following new subsections:

"(d) MONEY PENALTIES IN ADMINISTRATIVE PROCEEDINGS.—

"(1) AUTHORITY OF COMMISSION.—In any proceeding instituted pursuant to subsection (b) against any person, the Commission may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person—

"(A) has willfully violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, or this title, or the rules or regulations thereunder;

"(B) has willfully aided, abetted, counseled, commanded, induced, or procured such a violation by any other person; or

"(C) has willfully made or caused to be made in any registration statement, application, or report required to be filed with the Commission under this title, any statement which was, at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such registration statement, application, or report any material fact which was required to be stated therein;

and that such penalty is in the public interest.

"(2) MAXIMUM AMOUNT OF PENALTY.—

"(A) FIRST TIER.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $5,000 for a natural person or $50,000 for any other person.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), the maximum amount of penalty for each such act or omission shall be $50,000 for a natural person or $250,000 for any other person if the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each such act or omission shall be $100,000 for a natural person or $500,000 for any other person if—

"(i) the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.

"(3) DETERMINATION OF PUBLIC INTEREST.—In considering under this section whether a penalty is in the public interest, the Commission may consider—

"(A) whether the act or omission for which such penalty is assessed involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement;

"(B) the harm to other persons resulting either directly or indirectly from such act or omission;

"(C) the extent to which any person was unjustly enriched, taking into account any restitution made to persons injured by such behavior;

"(D) whether such person previously has been found by the Commission, another appropriate regulatory agency, or a self-regulatory organization to have violated the Federal securities laws, State securities laws, or the rules of a self-regulatory organization, has been enjoined by a court of competent jurisdiction from violations of such laws or rules, or has been convicted by a court of competent jurisdiction of violations of such laws or of any felony or misdemeanor described in section 203(e)(2) of the Investment Advisers Act of 1940;

"(E) the need to deter such person and other persons from committing such acts or omissions; and

"(F) such other matters as justice may require.

"(4) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission may impose a penalty under this section, a respondent may present evidence of the respondent's ability to pay such penalty. The Commission may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of such person's ability to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon such person's assets and the amount of such person's assets.

"(e) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any proceeding in which the Commission may impose a penalty under this section, the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.

"(f) CEASE-AND-DESIST PROCEEDINGS.—

"(1) AUTHORITY OF THE COMMISSION.—If the Commission finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any rule or regulation thereunder, the Commission may publish its findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision, rule, or regulation, upon such terms and conditions and within such time as the Commission may specify in such order. Any such order may, as the Commission deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Commission may specify, with such provision, rule, or regulation with respect to any security, any issuer, or any other person.

"(2) HEARING.—The notice instituting proceedings pursuant to paragraph (1) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Commission with the consent of any respondent so served.

"(3) TEMPORARY ORDER.—

"(A) IN GENERAL.—Whenever the Commission determines that the alleged violation or threatened violation specified in the notice instituting proceedings pursuant to paragraph (1), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest, including, but not limited to, losses to the Securities Investor Protection Corporation, prior to the completion of the proceeding, the Commission may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest as the Commission deems appropriate pending completion of such proceedings. Such an order shall be entered only after notice and opportunity for a hearing, unless the Commission, notwithstanding section 40(a) of this title, determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

"(B) APPLICABILITY.—This paragraph shall apply only to a respondent that acts, or, at the time of the alleged misconduct acted, as a broker, dealer, investment adviser, investment company, municipal securities dealer, government securities broker, government securities dealer, or transfer agent, or is, or was at the time of the alleged misconduct, an associated person of, or a person seeking to become associated with, any of the foregoing.

"(4) REVIEW OF TEMPORARY ORDERS.—

"(A) COMMISSION REVIEW.—At any time after the respondent has been served with a temporary cease-and-desist order pursuant to paragraph (3), the respondent may apply to the Commission to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior Commission hearing, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Commission shall hold a hearing and render a decision on such application at the earliest possible time.

"(B) JUDICIAL REVIEW.—Within—

"(i) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior Commission hearing, or

"(ii) 10 days after the Commission renders a decision on an application and hearing under subparagraph (A), with respect to any temporary cease-and-desist order entered without a prior Commission hearing,

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior Commission hearing may not apply to the court except after hearing and decision by the Commission on the respondent's application under subparagraph (A) of this paragraph.

"(C) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under subparagraph (B) of this paragraph shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"(D) EXCLUSIVE REVIEW.—Section 43 of this title shall not apply to a temporary order entered pursuant to this section.

"(5) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any cease-and-desist proceeding under subsection (f)(1), the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection."; and

(3) in redesignated subsection (g), by striking "subsections (a) through (c) of".

SEC. 302. MONEY PENALTIES IN CIVIL ACTIONS.

Section 42 of the Investment Company Act of 1940 (15 U.S.C. 80a-41) is amended by adding at the end thereof the following new subsection:

"(e) MONEY PENALTIES IN CIVIL ACTIONS.—

"(1) AUTHORITY OF COMMISSION.—Whenever it shall appear to the Commission that any person has violated any provision of this title, the rules or regulations thereunder, or a cease-and-desist order entered by the Commission pursuant to section 9(f) of this title, the Commission may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, upon a proper showing, a civil penalty to be paid by the person who committed such violation.

"(2) AMOUNT OF PENALTY.—

"(A) FIRST TIER.—The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (i) $5,000 for a natural person or $50,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), the amount of penalty for each such violation shall not exceed the greater of (i) $50,000 for a natural person or $250,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the amount of penalty for each such violation shall not exceed the greater of (i) $100,000 for a natural person or $500,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if—

"(I) the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(II) such violation directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons.

"(3) PROCEDURES FOR COLLECTION.—

"(A) PAYMENT OF PENALTY TO TREASURY.—A penalty imposed under this section shall be payable into the Treasury of the United States.

"(B) COLLECTION OF PENALTIES.—If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(C) REMEDY NOT EXCLUSIVE.—The actions authorized by this subsection may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring.

"(D) JURISDICTION AND VENUE.—For purposes of section 44 of this title, actions under this paragraph shall be actions to enforce a liability or a duty created by this title.

"(4) SPECIAL PROVISIONS RELATING TO A VIOLATION OF A CEASE-AND-DESIST ORDER.—In an action to enforce a cease-and-desist order entered by the Commission pursuant to section 9(f), each separate violation of such order shall be a separate offense, except that in the case of a violation through a continuing failure to comply with the order, each day of the failure to comply shall be deemed a separate offense.".

TITLE IV—AMENDMENTS TO THE INVESTMENT ADVISERS ACT OF 1940

SEC. 401. CIVIL REMEDIES IN ADMINISTRATIVE PROCEEDINGS.

Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3) is amended by adding at the end thereof the following new subsections:

"(i) MONEY PENALTIES IN ADMINISTRATIVE PROCEEDINGS.—

"(1) AUTHORITY OF COMMISSION.—In any proceeding instituted pursuant to subsection (e) or (f) against any person, the Commission may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person—

"(A) has willfully violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, or this title, or the rules or regulations thereunder;

"(B) has willfully aided, abetted, counseled, commanded, induced, or procured such a violation by any other person;

"(C) has willfully made or caused to be made in any application for registration or report required to be filed with the Commission under this title, or in any proceeding before the Commission with respect to registration, any statement which was, at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which was required to be stated therein; or

"(D) has failed reasonably to supervise, within the meaning of section 203(e)(5) of this title, with a view to preventing violations of the provisions of this title and the rules and regulations thereunder, another person who commits such a violation, if such other person is subject to his supervision;

and that such penalty is in the public interest.

"(2) MAXIMUM AMOUNT OF PENALTY.—

"(A) FIRST TIER.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $5,000 for a natural person or $50,000 for any other person.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), the maximum amount of penalty for each such act or omission shall be $50,000 for a natural person or $250,000 for any other person if the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each such act or omission shall be $100,000 for a natural person or $500,000 for any other person if—

"(i) the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.

"(3) DETERMINATION OF PUBLIC INTEREST.—In considering under this section whether a penalty is in the public interest, the Commission may consider—

"(A) whether the act or omission for which such penalty is assessed involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement;

"(B) the harm to other persons resulting either directly or indirectly from such act or omission;

"(C) the extent to which any person was unjustly enriched, taking into account any restitution made to persons injured by such behavior;

"(D) whether such person previously has been found by the Commission, another appropriate regulatory agency, or a self-regulatory organization to have violated the Federal securities laws, State securities laws, or the rules of a self-regulatory organization, has been enjoined by a court of competent jurisdiction from violations of such laws or rules, or has been convicted by a court of competent jurisdiction of violations of such laws or of any felony or misdemeanor described in section 203(e)(2) of this title;

"(E) the need to deter such person and other persons from committing such acts or omissions; and

"(F) such other matters as justice may require.

"(4) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission may impose a penalty under this section, a respondent may present evidence of the respondent's ability to pay such penalty. The Commission may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of such person's ability to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon such person's assets and the amount of such person's assets.

"(j) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any proceeding in which the Commission may impose a penalty under this section, the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.

"(k) CEASE-AND-DESIST PROCEEDINGS.—

"(1) AUTHORITY OF THE COMMISSION.—If the Commission finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any rule or regulation thereunder, the Commission may publish its findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision, rule, or regulation, upon such terms and conditions and within such time as the Commission may specify in such order. Any such order may, as the Commission deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Commission may specify, with such provision, rule, or regulation with respect to any security, any issuer, or any other person.

"(2) HEARING.—The notice instituting proceedings pursuant to paragraph (1) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Commission with the consent of any respondent so served.

"(3) TEMPORARY ORDER.—

"(A) IN GENERAL.—Whenever the Commission determines that the alleged violation or threatened violation specified in the notice instituting proceedings pursuant to paragraph (1), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest, including, but not limited to, losses to the Securities Investor Protection Corporation, prior to the completion of the proceedings, the Commission may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest as the Commission deems appropriate pending completion of such proceedings. Such an order shall be entered only after notice and opportunity for a hearing, unless the Commission, notwithstanding section 211(c) of this title, determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

"(B) APPLICABILITY.—This paragraph shall apply only to a respondent that acts, or, at the time of the alleged misconduct acted, as a broker, dealer, investment adviser, investment company, municipal securities dealer, government securities broker, government securities dealer, or transfer agent, or is, or was at the time of the alleged misconduct, an associated person of, or a person seeking to become associated with, any of the foregoing.

"(4) REVIEW OF TEMPORARY ORDERS.—

"(A) COMMISSION REVIEW.—At any time after the respondent has been served with a temporary cease-and-desist order pursuant to paragraph (3), the respondent may apply to the Commission to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior Commission hearing, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Commission shall hold a hearing and render a decision on such application at the earliest possible time.

"(B) JUDICIAL REVIEW.—Within—

"(i) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior Commission hearing, or

"(ii) 10 days after the Commission renders a decision on an application and hearing under subparagraph (A), with respect to any temporary cease-and-desist order entered without a prior Commission hearing,

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior Commission hearing may not apply to the court except after hearing and decision by the Commission on the respondent's application under subparagraph (A) of this paragraph.

"(C) No automatic stay of temporary order.—The commencement of proceedings under subparagraph (B) of this paragraph shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"(D) Exclusive review.—Section 213 of this title shall not apply to a temporary order entered pursuant to this section.

"(5) Authority to enter an order requiring an accounting and disgorgement.—In any cease-and-desist proceeding under paragraph (1), the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.".

SEC. 402. MONEY PENALTIES IN CIVIL ACTIONS.

Section 209 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9) is amended by adding at the end thereof the following new subsection:

"(e) Money Penalties in Civil Actions.—

"(1) Authority of commission.—Whenever it shall appear to the Commission that any person has violated any provision of this title, the rules or regulations thereunder, or a cease-and-desist order entered by the Commission pursuant to section 203(k) of this title, the Commission may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, upon a proper showing, a civil penalty to be paid by the person who committed such violation.

"(2) Amount of penalty.—

"(A) First tier.—The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (i) $5,000 for a natural person or $50,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation.

"(B) Second tier.—Notwithstanding subparagraph (A), the amount of penalty for each such violation shall not exceed the greater of (i) $50,000 for a natural person or $250,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(C) Third tier.—Notwithstanding subparagraphs (A) and (B), the amount of penalty for each such violation shall not exceed the greater of (i) $100,000 for a natural person or $500,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if—

"(I) the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(II) such violation directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons.

"(3) Procedures for collection.—

"(A) Payment of penalty to treasury—A penalty imposed under this section shall be payable into the Treasury of the United States.

"(B) Collection of penalties.—If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(C) Remedy not exclusive.—The actions authorized by this subsection may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring.

"(D) Jurisdiction and venue.—For purposes of section 214 of this title, actions under this paragraph shall be actions to enforce a liability or a duty created by this title.

"(4) Special provisions relating to a violation of a cease-and-desist order.—In an action to enforce a cease-and-desist order entered by the Commission pursuant to section 203(k), each separate violation of such order shall be a separate offense, except that in the case of a violation through a continuing failure to comply with the order, each day of the failure to comply shall be deemed a separate offense.".

SEC. 403. CONFORMING AMENDMENT TO SECTION 214.

Section 214 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-14) is amended—

(1) by inserting after "all suits in equity" the following: "and actions at law brought to enforce any liability or duty created by, or"; and

(2) by inserting after "Any suit or action" the following: "to enforce any liability or duty created by, or".

TITLE V—PENNY STOCK REFORM

SEC. 501. SHORT TITLE.

This title may be cited as the "Penny Stock Reform Act of 1990".

SEC. 502. FINDINGS.

The Congress finds the following:

(1) The maintenance of an honest and healthy primary and secondary market for securities offerings is essential to enhancing long-term capital formation and economic growth and providing legitimate investment opportunities for individuals and institutions.

(2) Protecting investors in new securities is a critical component in the maintenance of an honest and healthy market for such securities.

(3) Protecting issuers of new securities and promoting the capital formation process on behalf of small companies are fundamental concerns in maintaining a strong economy and viable trading markets.

(4) Unscrupulous market practices and market participants have pervaded the "penny stock" market with an overwhelming amount of fraud and abuse.

(5) Although the Securities and Exchange Commission, State securities regulators, and securities self-regulators have made efforts to curb these abusive and harmful practices, the penny stock market still lacks an adequate and sufficient regulatory structure, particularly in comparison to the structure for overseeing trading in National Market System securities.

(6) Investors in the penny stock market suffer from a serious lack of adequate information concerning price and volume of penny stock transactions, the nature of this market, and the specific securities in which they are investing.

(7) Current practices do not adequately regulate the role of "promoters" and "consultants" in the penny stock market, and many professionals who have been banned from the securities markets have ended up in promoter and consultant roles, contributing substantially to fraudulent and abusive schemes.

(8) The present regulatory environment has permitted the ascendancy of the use of particular market practices, such as "reverse mergers" with shell corporations and "blank check" offerings, which are used to facilitate manipulation schemes and harm investors.

(9) In light of the substantial and continuing problems in the penny stock markets, additional legislative measures are necessary and appropriate.

SEC. 503. DEFINITION OF PENNY STOCK.

Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end thereof the following new paragraph:

"(51)(A) The term 'penny stock' means any equity security other than a security that is—

"(i) registered or approved for registration and traded on a national securities exchange that meets such criteria as the Commission shall prescribe by rule or regulation for purposes of this paragraph;

"(ii) authorized for quotation on an automated quotation system sponsored by a registered securities association, if such system (I) was established and in operation before January 1, 1990, and (II) meets such criteria as the Commission shall prescribe by rule or regulation for purposes of this paragraph;

"(iii) issued by an investment company registered under the Investment Company Act of 1940;

"(iv) excluded, on the basis of exceeding a minimum price, net tangible assets of the issuer, or other relevant criteria, from the definition of such term by rule or regulation which the Commission shall prescribe for purposes of this paragraph; or

"(v) exempted, in whole or in part, conditionally or unconditionally, from the definition of such term by rule, regulation, or order prescribed by the Commission.

"(B) The Commission may, by rule, regulation, or order, designate any equity security or class of equity securities described in clause (i) or (ii) of subparagraph (A) as within the meaning of the term 'penny stock' if such security or class of securities is traded other than on a national securities exchange or through an automated quotation system described in clause (ii) of subparagraph (A).

"(C) In exercising its authority under this paragraph to prescribe rules, regulations, and orders, the Commission shall determine that such rule, regulation, or order is consistent with the public interest and the protection of investors.".

SEC. 504. EXPANSION OF SECTION 15(B) SANCTION AUTHORITY WITH RESPECT TO PENNY STOCKS.

(a) Amendment.—Section 15(b)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)(6)) is amended to read as follows:

"(6)(A) With respect to any person who is associated, who is seeking to become associated, or, at the time of the alleged misconduct, who was associated or was seeking to become associated with a broker or dealer, or any person participating, or, at the time of the alleged misconduct, who was participating, in an offering of any penny stock, the Commission, by order, shall censure, place limitations on the activities or functions of such person, or suspend for a period not exceeding 12 months, or bar such person from being associated with a broker or dealer, or from participating in an offering of penny stock, if the Commission finds, on the record after notice and opportunity for a hearing, that such censure, placing of limi-

tations, suspension, or bar is in the public interest and that such person—

"(i) has committed or omitted any act or ommission enumerated in subparagraph (A), (D), or (E) of paragraph (4) of this subsection;

"(ii) has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this paragraph; or

"(iii) is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).

"(B) It shall be unlawful—

"(i) for any person as to whom an order under subparagraph (A) is in effect, without the consent of the Commission, willfully to become, or to be, associated with a broker or dealer in contravention of such order, or to participate in an offering of penny stock in contravention of such order;

"(ii) for any broker or dealer to permit such a person, without the consent of the Commission, to become or remain, a person associated with the broker or dealer in contravention of such order, if such broker or dealer knew, or in the exercise of reasonable care should have known, of such order; or

"(iii) for any broker or dealer to permit such a person, without the consent of the Commission, to participate in an offering of penny stock in contravention of such order, if such broker or dealer knew, or in the exercise of reasonable care should have known, of such order and of such participation.

"(C) For purposes of this paragraph, the term 'person participating in an offering of penny stock' includes any person acting as any promoter, finder, consultant, agent, or other person who engages in activities with a broker, dealer, or issuer for purposes of the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock. The Commission may, by rule or regulation, define such term to include other activities, and may, by rule, regulation, or order, exempt any person or class of persons, in whole or in part, conditionally or unconditionally, from such term.".

(b) Recommendations.—Within 6 months after the date of enactment of this Act, the Securities and Exchange Commission shall submit to each House of the Congress such recommendations as the Commission considers appropriate with respect to further revision of section 15(b)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)(6)). In preparing such recommendations, the Commission shall consider the desirability and effect of expanding the applicability of such section to any promoter, finder, consultant, agent or other person who engages in activities with a broker, dealer, or issuer for purposes of the issuance of or trading in, or inducing or attempting to induce the purchase or sale of, any security (and not just penny stock).

SEC. 505. REQUIREMENTS FOR BROKERS AND DEALERS OF PENNY STOCKS.

Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end thereof the following new subsection:

"(g) Requirements for Transactions in Penny Stocks.—

"(1) In general.—No broker or dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any penny stock by any customer except in accordance with the requirements of this subsection and the rules and regulations prescribed under this subsection.

"(2) Risk disclosure with respect to penny stocks.—Prior to effecting any transaction in any penny stock, a broker or dealer shall give the customer a risk disclosure document that—

"(A) contains a description of the nature and level of risk in the market for penny stocks in both public offerings and secondary trading;

"(B) contains a description of the broker's or dealer's duties to the customer and of the rights and remedies available to the customer with respect to violations of such duties or other requirements of Federal securities laws;

"(C) contains a brief, clear, narrative description of a dealer market, including 'bid' and 'ask' prices for penny stocks and the significance of the spread between the bid and ask prices;

"(D) contains the toll free telephone number for inquiries on disciplinary actions established pursuant to section 15A(i) of this title;

"(E) defines significant terms used in the disclosure document or in the conduct of trading in penny stocks; and

"(F) contains such other information, and is in such form (including language, type size, and format), as the Commission shall require by rule or regulation.

"(3) Commission rules relating to disclosure.—The Commission shall adopt rules setting forth additional standards for the disclosure by brokers and dealers to customers of information concerning transactions in penny stocks. Such rules—

"(A) shall require brokers and dealers to disclose to each customer, prior to effecting any transaction in, and at the time of confirming any transaction with respect to any penny stock, in accordance with such procedures and methods as the Commission may require consistent with the public interest and the protection of investors—

"(i) the bid and ask prices for penny stock, or such other information as the Commission may, by rule, require to provide customers with more useful and reliable information relating to the price of such stock;

"(ii) the number of shares to which such bid and ask prices apply, or other comparable information relating to the depth and liquidity of the market for such stock; and

"(iii) the amount and a description of any compensation that the broker or dealer and the associated person thereof will receive or has received in connection with such transaction;

"(B) shall require brokers and dealers to provide, to each customer whose account with the broker or dealer contains penny stocks, a monthly statement indicating the market value of the penny stocks in that account or indicating that the market value of such stock cannot be determined because of the unavailability of firm quotes; and

"(C) may, as the Commission finds necessary or appropriate in the public interest or for the protection of investors, require brokers and dealers to disclose to customers additional information concerning transactions in penny stocks.

"(4) Exemptions.—The Commission, as it determines consistent with the public interest and the protection of investors, may by rule, regulation, or order exempt in whole or in part, conditionally or unconditionally, any person or class of persons, or any transaction or class of transactions, from the requirements of this subsection. Such exemptions shall include an exemption for brokers and dealers based on the minimal percentage of the broker's or dealer's commissions, commission-equivalents, and markups received from transactions in penny stocks.

"(5) Regulations.—It shall be unlawful for any person to violate such rules and regulations as the Commission shall prescribe in the public interest or for the protection of investors or to maintain fair and orderly markets—

"(A) as necessary or appropriate to carry out this subsection; or

"(B) as reasonably designed to prevent fraudulent, deceptive, or manipulative acts and practices with respect to penny stocks.".

SEC. 506. DEVELOPMENT OF AUTOMATED QUOTATION SYSTEMS FOR PENNY STOCKS.

The Securities Exchange Act of 1934 is amended by inserting after section 17A the following new section:

"AUTOMATED QUOTATION SYSTEMS FOR PENNY STOCKS

"Sec. 17B. (a) Findings.—The Congress finds that—

"(1) the market for penny stocks suffers from a lack of reliable and accurate quotation and last sale information available to investors and regulators;

"(2) it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to improve significantly the information available to brokers, dealers, investors, and regulators with respect to quotations for and transactions in penny stocks; and

"(3) a fully implemented automated quotation system for penny stocks would meet the information needs of investors and market participants and would add visibility and regulatory and surveillance data to that market.

"(b) Mandate To Facilitate the Establishment of Automated Quotation Systems.—

"(1) In general.—The Commission shall facilitate the widespread dissemination of reliable and accurate last sale and quotation information with respect to penny stocks in accordance with the findings set forth in subsection (a), with a view toward establishing, at the earliest feasible time, one or more automated quotation systems that will collect and disseminate information regarding all penny stocks.

"(2) Characteristics of systems.—Each such automated quotation system shall—

"(A) be operated by a registered securities association or a national securities exchange in accordance with such rules as the Commission and these entities shall prescribe;

"(B) collect and disseminate quotation and transaction information;

"(C) except as provided in subsection (c), provide bid and ask quotations of participating brokers or dealers, or comparably accurate and reliable pricing information, which shall constitute firm bids or offers for at least such minimum numbers of shares or minimum dollar amounts as the Commission and the registered securities association or national securities exchange shall require; and

"(D) provide for the reporting of the volume of penny stock transactions, including last sale reporting, when the volume reaches appropriate levels that the Commission shall specify by rule or order.

"(c) Exemptive Authority.—The Commission may, by rule or order, grant such exemptions, in whole or in part, conditionally or unconditionally, to any penny stock or class of penny stocks from the requirements of subsection (b) as the Commission deter-

mines to be consistent with the public interest, the protection of investors, and the maintenance of fair and orderly markets.

"(d) Commission Reporting Requirements.—The Commission shall, in each of the first 5 annual reports (under section 23(b)(1) of this title) submitted more than 12 months after the date of enactment of this section, include a description of the status of the penny stock automated quotation system or systems required by subsection (b). Such description shall include—

"(1) a review of the development, implementation, and progress of the project, including achievement of significant milestones and current project schedule; and

"(2) a review of the activities of registered securities associations and national securities exchanges in the development of the system.".

SEC. 507. VOIDABILITY OF CONTRACTS IN VIOLATION OF SECTION 15(c)(2).

Section 29(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78cc(b)) is amended—

(1) in clause (A), by striking "paragraph (2) or (3)" and inserting "paragraph (3)";

(2) in clause (B), by striking "paragraph (1)" and inserting "paragraph (1) or (2)"; and

(3) by adding at the end thereof the following new sentence: "The Commission may, in a rule or regulation prescribed pursuant to such paragraph (2) of such section 15(c), designate such rule or regulation, or portion thereof, as a rule or regulation, or portion thereof, a contract in violation of which shall not be void by reason of this subsection.".

SEC. 508. RESTRICTIONS ON BLANK CHECK OFFERINGS.

Section 7 of the Securities Act of 1933 (15 U.S.C. 77g) is amended—

(1) by inserting "(a)" after "Sec. 7."; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) The Commission shall prescribe special rules with respect to registration statements filed by any issuer that is a blank check company. Such rules may, as the Commission determines necessary or appropriate in the public interest or for the protection of investors—

"(A) require such issuers to provide timely disclosure, prior to or after such statement becomes effective under section 8, of (i) information regarding the company to be acquired and the specific application of the proceeds of the offering, or (ii) additional information necessary to prevent such statement from being misleading;

"(B) place limitations on the use of such proceeds and the distribution of securities by such issuer until the disclosures required under subparagraph (A) have been made; and

"(C) provide a right of rescission to shareholders of such securities.

"(2) The Commission may, as it determines consistent with the public interest and the protection of investors, by rule or order exempt any issuer or class of issuers from the rules prescribed under paragraph (1).

"(3) For purposes of paragraph (1) of this subsection, the term 'blank check company' means any development stage company that is issuing a penny stock (within the meaning of section 3(a)(51) of the Securities Exchange Act of 1934) and that—

"(A) has no specific business plan or purpose; or

"(B) has indicated that its business plan is to merge with an unidentified company or companies.".

SEC. 509. BROKER/DEALER DISCIPLINARY HISTORY.

Section 15A of the Securities Exchange Act 1934 (15 U.S.C. 78o–3) is amended by adding at the end the following:

"(i) A registered securities association shall, within one year from the date of enactment of this section, (1) establish and maintain a toll-free telephone listing to receive inquiries regarding disciplinary actions involving its members and their associated persons, and (2) promptly respond to such inquiries in writing. Such association may charge persons, other than individual investors, reasonable fees for written responses to such inquiries. Such an association shall not have any liability to any person for any actions taken or omitted in good faith under this paragraph.".

SEC. 510. REVIEW OF REGULATORY STRUCTURES AND PROCEDURES.

(a) Review Required.—The Comptroller General, in consultation with the Securities and Exchange Commission, shall conduct a review of the rules, procedures, facilities, and oversight and enforcement activities of self-regulatory organizations under the Securities Exchange Act of 1934 with respect to penny stocks (within the meaning of section 3(a)(51) of such Act). Such review shall include an analysis of—

(1) the resources devoted by self-regulatory organizations to the detection, investigation, prosecution, and correction of fraud and abuse in the trading of such penny stocks;

(2) the methods and techniques used, and alternative methods which may be used, in those oversight and enforcement activities, including methods and techniques involving coordinated oversight and enforcement activities with other Federal and State authorities;

(3) the adequacy of the rules, procedures, and facilities of such self-regulatory organizations for the prevention of excessive spreads and markups, unscrupulous sales practices, and other conduct inconsistent with high standards of commercial honor and just and equitable principles of trade;

(4) any obstacles to or limitations on the authority of self-regulatory organizations that impair the conduct of those oversight and enforcement activities;

(5) the adequacy of current listing and maintenance requirements and procedures and the potential for erosion of such requirements and procedures due to issuer avoidance of penny stock designation and regulation; and

(6) such other matters as the Comptroller General considers necessary or appropriate.

(b) Report.—Within one year after the date of enactment of this Act, the Comptroller General shall submit a report on the review required by subsection (a). Such report shall include, in addition to a statement of findings with respect to each matter described in paragraphs (1) through (6) of such subsection, such recommendations as the Comptroller General considers appropriate with respect to legislative or administrative changes.

The SPEAKER. Is a second demanded?

Mr. RINALDO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. Markey] will be recognized for 20 minutes and the gentleman from New Jersey [Mr. Rinaldo] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. Markey].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 647, which represents the revised text of H.R. 5325, the Securities Enforcement and Penny Stock Reform Act of 1990. This bill represents the most significant attack on securities fraud and white collar crime in many years. Susan Bryant, the recent president of the North American State Securities Administrators Association, stated with regard to the penny stock provisions, that there is "no other single piece of investment-related legislation before Congress today that would do more to protect so many individuals and their life savings."

The Senate originally passed S. 647 last summer, and shortly thereafter, on July 23, 1990, the House passed H.R. 5325. That bill originated as two separate bills: H.R. 4497, the Penny Stock Reform Act of 1990, and H.R. 975, the Securities Law Enforcement Remedies Act of 1990, both of which were reported from the Committee on Energy and Commerce on July 27, 1990. The committee reports on those two bills constitute the legislative history for the bill before us today.

The problems addressed in this legislation fall within a broader pattern of reckless greed and criminality which has left a dark stain on many of the superficially glossy financial success stories of the 1980's. In response, we are now at the precipice of enacting a host of legislation which should amount to the most comprehensive reform of the securities laws since the 1930's. Alongside legislation on insider trading, market reform, international enforcement cooperation, and others, the bill before us today will give the Securities and Exchange Commission the legal foundation to right the wrongs perpetrated over much of the last decade.

I would like to thank my good friend and colleague and ranking minority member of the Subcommittee on Telecommunications and Finance, Mr. Rinaldo, for his help in bringing this measure to the floor, and note the extraordinary leadership of Chairman Dingell, who introduced H.R. 975 and cosponsored H.R. 4497. I would also like to note the active and critical assistance of the gentleman from Oregon, Mr. Wyden, on the penny stock bill. This combined measure is also cosponsored by Representatives Richardson, Moorhead, McMillen, Slattery, and Bates. I must also acknowledge the key members of the Senate Banking Committee, Senators Dodd, Heinz, Riegle, and Garn and their staffs, for their diligent and

superb efforts in crafting the final language in the bill before us.

Title V of the Senate-passed bill maintains all of the essential pieces which marked the foundation of the penny stock bill as introduced, and as it was enacted by the House last July: Greatly enhanced disclosure for penny stock investors; movement toward a fully implemented automated quotation system for penny stocks; new SEC authority to keep recidivist criminals out of the penny stock business as promoters and consultants; and restrictions of the use of blank check offerings. Make no mistake; this legislation is far more than a hope for future regulatory action. It is a precise and unequivocal directive to the SEC to finish the job of cleaning up the penny stock market.

The penny stock section of the bill would require the SEC to adopt rules requiring brokers and dealers to provide investors with a number of specific types of information concerning the prices of stock they are purchasing and the inherent riskiness of the penny stock market. The Commission is also directed to promulgate rules regulating the issuance of blank check offerings. This section looks in particular to States like Utah as a model, by mandating timely disclosure of actual business plans, limiting the proceeds of blank checks until adequate disclosure is made, and providing shareholders with a right of rescission if that disclosure is deemed unacceptable. The effect of such rules would hopefully be similar to that in Utah: the elimination of blank checks as an easy vehicle for penny stock fraud.

Although the bill now before us today is virtually identical to that passed by the House, I do want to note some clarifying language in the section on disclosure of bid and ask prices to penny stock customers. The new language states that penny stock brokers and dealers must provide investors with these prices unless the Commission by rule determines that other information would be "more useful and reliable" to those investors. The clear and unequivocal intent of the authors of this legislation, as embodied in the language, is that investors receive bid and ask prices. However, the bill does give the Commission flexibility in the event there is in the future some alternative information which would be substantially more useful and reliable to investors.

The first four titles of this bill were previously reported out of the Energy and Commerce Committee as H.R. 975. They reflect the combined efforts of the SEC, which originally recommended this legislation to Congress, Chairman Dingell, the gentleman from New Jersey, Mr. Rinaldo, and the input of many others from the Senate, the securities industry, and the bar.

The two key pieces of H.R. 975 as introduced remain. First, the authority to impose fines for violations of the securities laws. The SEC is limited under present law in its ability to craft civil remedies which are appropriate to the particular violation of law. For cases other than those involving insider trading, which has its own statutory directive on fines, the Commission would now have an effective alternative to the simple slap on the wrist represented by an injunction or the nuclear bomb represented by barring someone from the securities business. The Commission could impose fines for myriad violations including issuance of false or misleading prospectus information, market manipulation in penny stocks, stock parking, and short-selling on a downtick.

This legislation also expressly provides the SEC with the authority to seek through the courts to bar securities law violators from serving as officers and directors of public corporations. This equitable remedy is essential to protect the investing public from corporate theft and corruption.

The bill also adds an important new cease and desist authority which was not in H.R. 975 as originally introduced. This new grant of authority would permit the Commission to issue both temporary and permanent orders through administrative action in order to prevent a significant dissipation or conversion of assets, significant harm to investors or substantial harm to the public interest. This cease and desist authority is similar to that granted the banking regulators in last year's savings and loan legislation and that currently used by the Federal Trade Commission. Due to the serious nature of the potential imposition of temporary orders, the SEC may only impose them against regulated persons such as broker/dealers and investment advisers, among others.

I am particularly pleased that the compromise with the Senate contains the House-passed procedural protections regarding the cease and desist provision. In addition to review of these orders in the courts, the legislation would now mandate that whenever the Commission issues a temporary cease and desist order without the benefit of notice to the alleged violator, the SEC is required to provide a hearing to that party and render a decision reviewing the initial order at the earliest possible time. This tracks the type of procedural protections built into rule 65 of the Federal Rules of Civil Procedure, which govern temporary restraining orders in the Federal courts.

There are many people who deserve thanks for bringing this bill to where it is today, as well as for so much of the success of the subcommittee in the finance area in this Congress. First, to my good friend and colleague Matt Rinaldo, because without his keen interest in bipartisan cooperation and extraordinary public policy, none o this would have been possible. In addition I want to note the extraordinary leadership of Chairman Dingell and the tremendous cooperation of Mr Lent, the ranking minority member o the full committee. On the penny stock bill, I want to thank Mr. Wyden of Oregon, who chaired the subcommittee's first hearing in Oregon and who was tireless in his efforts to bring this bill to fruition. On the staff level I want to thank Howard Homonoff Herb Brown, Sara Morris, and Dolores Daly of the Subcommittee on Telecommunications and Finance; Consuela Washington of the full Energy and Commerce Committee; and Steve Blumenthal from the full committee minority staff. From the SEC, I would like to thank Chairman Breeden and his staff, especially Joe Goldstein Chairman of the SEC Penny Stock Task Force. I would also like to acknowledge the extremely helpful input in the State securities regulators through NASAA.

In closing, I urge my colleagues to support this legislation which will do so much to benefit our markets and the investing public.

□ 1720

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 647.

This bill ranks with the most important legislation we will consider this year. It will bring the longstanding national disgrace of an inadequately regulated penny stock market to a close. It mandates and authorizes the Securities and Exchange Commission to provide greater protection to investors in low-priced securities. In developing this legislation my colleagues and I worked hard to identify the problems of the penny stock market, and we have proposed solutions that will increase investor protection and not interfere with the ability of small businesses to raise capital.

Mr. Speaker, I sponsored the Penny Stock Reform Act with the gentleman from Massachusetts [Mr. Markey] when it was introduced in April 1990. The bill was unanimously reported out of the Energy and Commerce Committee in June and unanimously passed the House of Representatives in July. The Senate passed the bill in September and today, October 1, the legislative process will come to an end. The speed with which we have moved underscores the depth of concern in Congress about this problem.

This legislation is as unique as it is comprehensive. It proposes authority for the SEC that is without precedent in the Federal securities laws. In most cases the sad fact is that by the time a penny stock offering is discovered as being a fraud, all the money is gone and the investors are left with a meaningless right to sue. This bill provides the SEC with the power to restrict the use of funds raised in a public offering until required disclosures have been made to investors. It also gives the SEC authority to grant rights of recision. It is our plan that the SEC will enact regulations to ensure the existence of a pool of money, to protect the public, until investors are sure that the only risks they assume are those they bargain for in the marketplace.

In S. 647 the most important provision is the one authorizing the SEC, for the first time, to prohibit securities law violators from being associated in any way with an offering of penny stocks. Too many people have been thrown out of the securities business for violating the law, only to appear again in penny stock offerings as consultants to the issuer or in some other, nonbroker capacity. We do not want these people underwriting penny stock offerings, promoting penny stock offerings, or even consulting on penny stock offerings. S. 647 will be the Federal law that the SEC uses to keep them out.

S. 647 not only fights fraud; it seeks to improve the operation of the legitimate market in low-priced securities. The penny stock market, which in many ways is more difficult to regulate than the listed securities market, needs an electronic system that delivers quotation and trading information to investors. S. 647 mandates the creation of such a system and we will see such a system brought into existence.

The remaining sections of S. 647, those that contain the provisions of the Securities Law Enforcement Remedies Act, are strong statements of congressional support for greater levels of investor protection. This legislation adds weapons to the SEC's enforcement arsenal, broadening the spectrum of penalties that can be imposed upon securities law violators. Now courts and the SEC will be able to tailor penalties to match the seriousness of the violation in question.

The most potent of the new powers granted in the bill is the authority for the SEC to impose cease and desist orders. Today millions of dollars can be removed from bank accounts electronically in a matter of minutes. Delaying the ability of Federal regulators to restrain such transfers is a prescription for disaster. An equally strong weapon to be wielded by the SEC in protecting investors is the authority to order a violator of the securities laws to disgorge illegally made profits.

Finally, S. 647 authorizes the SEC to seek court imposed monetary fines on violators of SEC cease and desist orders. Monetary fines are considered in between the "kill or kiss' remedies now available in which the SEC must either slap the wrists of violators, or "kill" them with a revocation of license.

Taken together, the provisions of the Penny Stock Reform Act and the Remedies Act make a powerful statement that Congress will never allow the integrity of the securities market to be compromised and that investors will be protected.

Mr. Speaker, this bill is due in large measure to the untiring, dedicated work of the gentleman from Massachusetts [Mr. Markey], the chairman of the Telecommunications and Finance Subcommittee, and to Chairman Dingell of the full committee.

Once again, I certainly want to acknowledge the hard work of Chairman Markey and urge my colleagues to give their unanimous support to this unanimous legislation.

Mr. Speaker, I would also like to acknowledge the contribution of the other sponsors of the legislation, particularly the gentleman from Oregon [Mr. Wyden], the gentleman from California [Mr. Moorhead], and the other people, and particularly the staff who helped make this become a reality.

Mr. MARKEY. Mr. Speaker, I yield as much time as he may consume to the gentleman from Oregon [Mr. Wyden].

Mr. WYDEN. Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, I very much want to associate myself with the remarks of the gentleman from New Jersey [Mr. Rinaldo], who earlier said that this has been an exceptionally productive session for the Telecommunications and Finance Subcommittee.

□ 1730

I think under the leadership of Chairman Markey, with the help of the ranking Republican member, the gentleman from New Jersey [Mr. Rinaldo], we have seen on one issue after another the subcommittee will go forward with important legislation. They have been of great help to this Member. Through the courtesy of the chairman of the subcommittee, the first hearing on penny stock fraud was held in Portland. Whether it has been the penny stock fraud issues or accounting reform or what have you, the gentleman from Massachusetts and the gentleman from New Jersey have worked in an exceptionally bipartisan way to process litigation.

I want to thank both of them for the opportunity that they have given this Member to work with them during this session.

Mr. Speaker, with respect to the penny stock legislation, I think this bill sends a particularly important message. Throughout the 1980's, the focus was primarily on the big investor, whether it was Mr. Boesky or Mr. Miliken. As far as regulation was concerned, when it came time to debate these issues, the focus of Government was essentially on trying to make the market more efficient for the large investors. Now, with this legislation, we have a chance to tip the scales back, tip the scales toward basic fairness for the small investor and do it at a critical time when obviously our stock markets and our financial markets are in a very fragile condition.

So I think this is an important bill. It is a bill that will give the small investors the attention and concern that their needs warrant.

I would like to focus on just one argument that was made as this legislation went forward.

Some said, for example, that this bill could retard the capital formation process, that somehow, by having some minimum basic standards to protect the small investor, this would retard capital formation. I just feel very strongly that that argument is off base. If anything, I think what has happened over the years, has been that capital which small investors have, scarce capital, has been diverted to these penny stock frauds. And if, with additional scrutiny and oversight, we can prevent penny stock fraud, I think that will free up more capital to be invested at this critical time, especially in the small business sector of our economy.

The other point that I think is fundamental, is that we know those who try to perpetrate these frauds are going to look to other areas. Chairman Markey and Chairman Dingell have already begun to contemplate concerns in this area.

I think it is going to be important in the days ahead that we look at the area of Government securities because I think some who have tried to perpetrate penny stock fraud will move quickly to this area as well.

Chairman Markey and Chairman Dingell have been very vigilant in trying to advocate for consumer rights in this area.

I want to commend them and thank them for their efforts.

Mr. LENT. Mr. Speaker, I rise in support of S. 647.

S. 647, the Securities Enforcement Remedies and Penny Stock Reform Act of 1990, is a clear and distinct statement of congressional policy demanding more and better protection of investors. It provides a blueprint for the Securities and Exchange Commission to significantly increase investor protection and to do so in a way that will not interfere with small businesses raising capital. The provisions of the bill will not only fight fraud, they will improve the operation of the legitimate penny stock market by mandating the creation of an electronic trading information system.

S. 647 directs and authorizes the SEC to oversee the evolution of a disclosure system in which confirmations, monthly reports, and quotation and transaction information is taken to new levels in the penny stock market. But the bill does much more than just mandate disclosure. The SEC is authorized to inject itself directly into the underwriting process by restricting the use of funds raised in penny stock public offerings. It is also authorized to adopt rules providing for a shareholder right of recision. While such actions are taken informally by the SEC today as part of negotiated settlements, S. 647 will codify the authority. As such, it is a major departure from the traditional oversight role of the SEC.

S. 647 also adds new weapons to the SEC's enforcement arsenal, including the authority to order a violator of the securities laws to disgorge illegally made profits. S. 647 gives the SEC authority to issue temporary cease-and-desist orders. When this concept was first introduced, these injunction-like powers would have applied to all respondents in SEC proceedings. Negotiations subsequently restricted their application to proceedings involving securities firms and their associated persons. The theory behind the limitation, was that these firms were already subject to an SEC in-house disciplinary structure. The limitation is an important one and I support it.

Similarly, I joined with my good friends, the gentleman from Michigan, Mr. Dingell, and the gentlemen from Massachusetts and New Jersey, Mr. Markey and Mr. Rinaldo, in insisting upon amendments mandating improvements in the due process protections of individuals subject to cease-and-desist proceedings. To that end, this legislation now contains provisions for a timely hearing in temporary cease-and-desist actions and imposes upon the SEC an obligation to adopt rules of practice governing time periods in which the hearing must be held and a decision rendered.

The threat of an SEC-imposed temporary cease-and-desist order is a powerful weapon. I am afraid that without procedural due process safeguards in place, it could become a prosecutorial bludgeon that I could not support. I am pleased that is not the case in S. 647.

Mr. Speaker, the 101st Congress will pass more substantive securities legislation than any Congress in memory, and S. 647 is one of the most significant. For this enormously successful bipartisan effort, I want to recognize the contribution of the chairman of the Energy and Commerce Committee, Mr. Dingell and his counsel, Consuela Washington, as well as the chairman of the Subcommittee on Telecommunications and Finance, Mr. Markey and his counsels, Herbert Brown, Nancy Smith, and Howard Homonoff. Equally deserving of notice of their work on this bill is the ranking Republican member of the subcommittee, my good friend, Mr. Rinaldo, and our minority chief counsel, Margaret Durbin and minority counsel, Steve Blumenthal.

In the six decades that have passed since the enactment of the first of the Federal securities laws, the financial markets of the United States have evolved and transformed into the most dynamic in the world. The securities bills that we are enacting today, will provide a much-needed and long-delayed overhaul of our regulatory structure to ensure that it is adequate to its task. S. 647 is an important part of the effort, and I urge my colleagues to support it.

Mr. DINGELL. I rise in strong support of this bipartisan substitute to resolve the differences between the House and Senate securities law enforcement bills.

The original Federal securities laws of 1933 and 1934 were a remarkable legislative achievement and have well served the purposes of which they were designed for over a half century. Yet no regulation can be static in a dynamic society. Our continuing oversight of the securities markets makes evident the urgent need for some amendments to these laws to make them as effective now as they have been in the past and to raise the entire securities industry to the highest standards.

Accordingly, this House-Senate compromise contains the following elements:

First, it strengthens and broadens the SEC's enforcement powers by authorizing new civil money penalties for a range of securities violations. These fines will deter unlawful conduct by making securities law violators pay for their acts.

Second, the amendment gives the SEC both temporary and permanent cease-and-desist authority. This new authority strengthens the SEC's ability to protect investor funds, and it permits the SEC to use its administrative procedures to curb a wider range of securities violations.

Third, the bill expressly authorizes the courts to bar certain individuals who have engaged in fraudulent activities from serving as officers or directors of public companies. We believe this will protect investors from those whose past unlawful conduct demonstrates their unfitness to serve as an officer or director.

Finally, the compromise amendment adopts the penny stock reform provisions of H.R. 5325. A November 20, 1989, Business Week editorial called penny stock fraud a national embarrassment and urged law enforcement officials to finally start taking this crime seriously. The importance of the capital markets to our national economic progress does not permit anything less than the most fair, honest and efficient operations. I commend the leadership of the Senate Banking Committee for their willingness to accept the House legislation and to meet us more than halfway on this legislation.

By agreement with the Senate, the House and Senate committee reports on H.R. 5325 and S. 467 shall constitute the legislative history for the amendment in the nature of a substitute that we pass today. Mr. Speaker, I commend the chairman of the Subcommittee on Telecommunications and Finance, Mr. Markey, and the subcommittee's ranking Republican, Mr. Rinaldo, for their determined efforts to see the penny stock legislation to final passage.

I urge the President to sign this legislation.

Mr. MARKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RINALDO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Mazzoli). The question is on the motion offered by the gentleman from Massachusetts [Mr. Markey] that the House suspend the rules and concur in the Senate amendment to the House amendments to the Senate bill, S. 647.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment to the House amendments was concurred in.

A motion to reconsider was laid on the table.

CHILDREN'S TELEVISION ACT OF 1990

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 1677) to require the Federal Communications Commission to reinstate restrictions on advertising during children's television, to enforce the obligation of broadcasters to meet the educational and informational needs of the child audience, and for other purposes.

The Clerk read as follows:

Strike out all after the enacting clause and insert:

SHORT TITLE

Section 1. This Act may be cited as the "Children's Television Act of 1990".

TITLE I—REGULATION OF CHILDREN'S TELEVISION FINDINGS

Sec. 101. The Congress finds that—

(1) it has been clearly demonstrated that television can assist children to learn important information, skills, values, and behavior, while entertaining them and exciting their curiosity to learn about the world around them;

(2) as part of the obligation to serve the public interest, television station operators and licensees should provide programming that serves the special needs of children;

(3) the financial support of advertisers assists in the provision of programming to children;

(4) special safeguards are appropriate to protect children from overcommercialization on television;

(5) television station operators and licensees should follow practices in connection with children's television programming and advertising that take into consideration the characteristics of the child audience; and

(6) it is therefore necessary that the Federal Communications Commission (hereafter referred to as the "Commission") take the actions required by this title.

STANDARDS FOR CHILDREN'S TELEVISION PROGRAMMING

SEC. 102. (a) The Commission shall, within 30 days after the date of enactment of this Act, initiate a rulemaking proceeding to prescribe standards applicable to commercial television broadcast licensees with respect to the time devoted to commercial matter in conjunction with children's television programming. The Commission shall, within 180 days after the date of enactment of this Act, complete the rulemaking proceedings and prescribe final standards that meet the requirements of subsection (b).

(b) Except as provided in subsection (c) the standards prescribed under subsection (a) shall include the requirement that each commercial television broadcast licensee shall limit the duration of advertising in children's television programming to not more than 10.5 minutes per hour on weekends and not more than 12 minutes per hour on weekdays.

(c) After January 1, 1993, the Commission—

(1) may review and evaluate the advertising duration limitations required by subsection (b); and

(2) may, after notice and public comment and a demonstration of the need for modification of such limitations, modify such limitations in accordance with the public interest.

(d) As used in this section, the term "commercial television broadcast licensee" includes a cable operator, as defined in section 602 of the Communications Act of 1934 (47 U.S.C. 522).

CONSIDERATION OF CHILDREN'S TELEVISION SERVICE IN BROADCAST LICENSE RENEWAL

SEC. 103. (a) After the standards required by section 102 are in effect, the Commission shall, in its review of any application for renewal of a television broadcast license, consider the extent to which the licensee—

(1) has complied with such standards; and

(2) has served the educational and informational needs of children through the licensee's overall programming, including programming specifically designed to serve such needs.

(b) In addition to consideration of the licensee's programming as required under subsection (a), the Commission may consider—

(1) any special nonbroadcast efforts by the licensee which enhance the educational and informational value of such programming to children; and

(2) any special effort by the licensee to produce or support programming broadcast by another station in the licensee's marketplace which is specifically designed to serve the educational and informational needs of children.

PROGRAM LENGTH COMMERCIAL MATTER

SEC. 104. Within 180 days after the date of enactment of this Act, the Commission shall complete the proceeding known as "Revision of Programming and Commercialization Policies, Ascertainment Requirements and Program Log Requirements for Commercial Television Stations", MM Dockct No. 83-670.

TITLE II—ENDOWMENT FOR CHILDREN'S EDUCATION TELEVISION

SHORT TITLE

SEC. 201. This title may be cited as the "National Endowment for Children's Educational Television Act of 1990".

FINDINGS

SEC. 202. The Congress finds that—

(1) children in the United States are lagging behind those in other countries in fundamental intellectual skills, including reading, writing, mathematics, science, and geography;

(2) these fundamental skills are essential for the future governmental and industrial leadership of the United States;

(3) the United States must act now to greatly improve the education of its children;

(4) television is watched by children about three hours each day on average and can be effective in teaching children;

(5) educational television programming for children is aired too infrequently either because public broadcast licensees and permittees lack funds or because commercial broadcast licensees and permittees or cable television system operators do not have the economic incentive; and

(6) the Federal Government can assist in the creation of children's educational television by establishing a National Endowment for Children's Educational Television to supplement the children's educational programming funded by other governmental entities.

NATIONAL ENDOWMENT FOR CHILDREN'S EDUCATIONAL TELEVISION

SEC. 203. (a) Part IV of title III of the Communications Act of 1934 (47 U.S.C. 390 et seq.) is amended—

(1) by redesignating section 394 as section 393A;

(2) by redesignating subparts B, C, and D as subparts C, D, and E, respectively; and

(3) by inserting immediately after section 393A, as so redesignated, the following new subpart:

"Subpart B—National Endowment for Children's Educational Television

"ESTABLISHMENT OF NATIONAL ENDOWMENT

SEC. 394. (a) It is the purpose of this section to enhance the education of children through the creation and production of television programming specifically directed toward the development of fundamental intellectual skills.

"(b)(1) There is established, under the direction of the Secretary, a National Endowment for Children's Educational Television. In administering the National Endowment, the Secretary is authorized to—

"(A) contract with the Corporation for the production of educational television programming for children; and

"(B) make grants directly to persons proposing to create and produce educational television programming for children.

The Secretary shall consult with the Advisory Council on Children's Educational Television in the making of the grants or the awarding of contracts for the purpose of making the grants.

"(2) Contracts and grants under this section shall be made on the condition that the programming shall—

"(A) during the first two years after its production, be made available only to public television licensees and permittees and noncommercial television licensees and permittees; and

"(B) thereafter be made available to any commercial television licensee or permittee or cable television system operator, at a charge established by the Secretary that will assure the maximum practicable distribution of such programming, so long as such licensee, permittee, or operator does not interrupt the programming with commercial advertisements. The Secretary may, consistent with the purpose and provisions of this section, permit the programming to be distributed to persons using other media, establish conditions relating to such distribution, and apply those conditions to any contract or grant made under this section. The Secretary may waive the requirements of subparagraph (A) if the Secretary finds that neither public television licensees and permittees nor noncommercial television licensees and permittees will have an opportunity to air such programming in the first two years after its production.

"(c)(1) The Secretary, with the advice of the Advisory Council on Children's Educational Television, shall establish criteria for making contracts and grants under this section. Such criteria shall be consistent with the purpose and provisions of this section and shall be made available to interested parties upon request. Such criteria shall include—

"(A) criteria to maximize the amount of programming that is produced with the funds made available by the Endowment;

"(B) criteria to minimize the costs of—

"(i) selection of grantees,

"(ii) administering the contracts and grants, and

"(iii) the administrative costs of the programming production; and

"(C) criteria to otherwise maximize the proportion of funds made available by the Endowment that are expended for the cost of programming production.

"(2) Applications for grants under this section shall be submitted to the Secretary in such form and containing such information as the Secretary shall require by regulation.

"(d) Upon approving any application for a grant under subsection (b)(1)(B), the Secretary shall make a grant to the applicant in an amount determined by the Secretary, except that such amounts shall not exceed 75 percent of the amount determined by the Secretary to be the reasonable and necessary cost of the project for which the grant is made.

"(e)(1) The Secretary shall establish an Advisory Council on Children's Educational Television. The Secretary shall appoint ten individuals as members of the Council and designate one of such members to serve as Chairman.

"(2) Members of the Council shall have terms of two years, and no member shall serve for more than three consecutive terms. The members shall have expertise in the fields of education, psychology, child development, or television programming, or related disciplines. Officers and employees of the United States shall not be appointed as members.

"(3) While away from their homes or regular places of business in the performance of duties for the Council, the members of

the Council shall serve without compensation but shall be allowed travel expenses, including per diem in lieu of subsistence, in accordance with 5703 of title 5, United States Code.

"(4) The Council shall meet at the call of the Chairman and shall advise the Secretary concerning the making of contracts and grants under this section.

"(f)(1) Each recipient of a grant under this section shall keep such records as may be reasonably necessary to enable the Secretary to carry out the Secretary's functions under this section, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such grant, the total cost of the project, the amount and nature of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purposes of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to a grant received under this section.

"(g) The Secretary is authorized to make such rules and regulations as may be necessary to carry out this section, including those relating to the order of priority in approving applications for projects under this section or to determining the amounts of contracts and grants for such projects.

"(h) There are authorized to be appropriated $2,000,000 for fiscal year 1991 and $4,000,000 for fiscal year 1992 to be used by the Secretary to carry out the provisions of this section. Sums appropriated under this subsection for any fiscal year shall remain available for contracts and grants for projects for which applications approved under this section have been submitted within one year after the last day of such fiscal year.

"(i) For purposes of this section—

"(1) the term 'educational television programming for children' means any television program which is directed to an audience of children who are 16 years of age or younger and which is designed for the intellectual development of those children, except that such term does not include any television program which is directed to a general audience but which might also be viewed by a significant number of children; and

"(2) the term 'person' means an individual, partnership, association, joint stock company, trust, corporation, or State or local governmental entity.".

(b) Section 397 of the Communications Act of 1934 (47 U.S.C. 397) is amended—

(1) in paragraph (2) by striking "subpart C" and inserting in lieu thereof "subpart D"; and

(2) in paragraph (15)—

(A) by inserting "and subpart B" immediately after subpart A"; and

(B) by striking "subpart B, subpart C" and inserting in lieu thereof "subpart C, subpart D".

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **RINALDO**. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER**. The gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. **MARKEY**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 1677, the Children's Television Act of 1990. This consensus legislation is the result of bipartisan effort and compromise. It represents the product of prolonged negotiations between public interest groups and broadcasters, and enjoys the strong support of public interest advocates, as well as many broadcasters. Passage of the legislation would be an important step toward ensuring that our Nation's children obtain the fullest benefit from our most pervasive communications medium: television.

During the 14 years that I have served in Congress, the status of children's television has been a recurring issue of concern. For decades, the Federal Communications Commission and the courts recognized the importance of broadcaster service to the child audience. Unfortunately, during the deregulatory excesses of the FCC during the 1980's, many of the Commission's regulations affecting children, particularly those affording children special protections, were abolished. Advocates for children assert, and many studies confirm, that deregulation of children's television has caused an increase in the commercialization of children's television and a decline in educational and informational programming for children. The Children's Television Act of 1990 addresses these problems.

The bill before us today contains language identical to that approved by the House on July 23, 1990. It also incorporates, with several changes, the major provisions of S. 797, the National Endowment for Children's Educational Television Act of 1989, which passed the Senate last year.

Specifically, the legislation reinstates commercial time guidelines for children's television programming, applicable to both broadcasters and cable television operators. The legislation does not apply to licensees of low power television stations. Such guidelines limit commercial time during children's programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays. In light of the committee's concerns about the changing nature of the video marketplace, the legislation provides that after January 1, 1993, and after notice, public comment, and a demonstration of the need for modification, the FCC may modify these time standards in accordance with the public interest. It is the intent of the authors of this legislation that nothing in the act be construed to subject a cable operator to liability for violation of the Commission's rules, promulgated pursuant to this act, for any secondary transmission of a primary transmission of a broadcast television station.

The legislation also provides a congressional recognition, for the first time, that broadcasters' public interest responsibilities include a responsibility to provide educational and informational programming for children. The bill provides the Commission broad discretion, during the license renewal process, to review a station's commitment to educational and informational programming for children. The legislation does not require the FCC to set quantitative guidelines for educational programming, but instead, requires the Commission to base its decision upon an evaluation of a station's overall service to children. Under the legislation, the FCC would consider the extent to which the licensee has complied with the Commission's commercial time restrictions and has served the educational and informational needs of children through its overall programming, including programming specifically designed to serve such needs. In its evaluation, the Commission also could consider any special nonbroadcast efforts by the licensee that enhance the educational and information value of programming for children.

Further, the bill addresses the issue of "program length commercials," which long has been a source of debate and contention. The legislation requires the Commission to complete its review of program length commercials within 180 days after the date of enactment of this act. I remain strongly opposed to any practice that contributes to the commercial exploitation of children, and I will monitor closely the result of the Commission's proceeding on this issue.

The legislation also establishes, under the direction of the Secretary of Commerce, a National Endowment for Children's Educational Television. Television holds great promise as an educator for the Nation's children and is especially important in an era where literacy and the comptetitive position of the United States are linked so closely. However, a perennial scarcity of funding for high quality informational and educational programming for children historically has limited the use of this potentially valuable tool. Creation of the National Endowment will assist in addressing this problem.

The bill authorizes the Secretary of Commerce $2 million for fiscal year 1991 and $4 million for fiscal year 1992 to fund television programming specifically designed to develop children's intellectual skills. Under the legisla tion, the Secretary either may contract with the Corporation for Public Broadcasting to create and produce informational and educational children's programming or make grants directly to the creators and producers of such programming. Any programming developed with the assistance of the Endowment may be exhibited only on public television during the first 2 years after its production, although the Secretary may waive this requirement. Thereafter, the programming will be available to other distribution entities, including commercial broadcasters and cable operators, provided the programming is shown free of commercials.

It is the committee's intent that the Secretary distribute the funds authorized by this legislation in a fashion that maximizes the amount of Endowment-funded programming and minimizes overhead and administrative costs. The Secretary, however, will retain discretion as to whether the public interest is best served by concentrating funding on a few significant projects or by distributing grants among many smaller projects.

For far too long, we have allowed children's television to be driven principally by commercial considerations. It is time to put the interests of the children themselves back into the equation. Passage of the Children's Television Act of 1990 will provide broadcasters and children's program producers incentives to educate our Nation's creatively, rather than to exploit them economically. Children's television should and can be the video equivalent of textbooks and the classics, rather than the video equivalent of a Toys-R-Us catalog.

President Bush repeatedly has stated that he wants to be the Education President, and that he wants to put education on the top of the national agenda. This bill helps to accomplish that goal. The legislation is tough but fair and flexible. Further, the cost to taxpayers is small when compared to the huge dividends it will pay for years to come in terms of more and better programming for children. I hope and expect that President Bush will sign it into law.

This legislation is the product of the combined efforts of many members of the Committee on Engery and Commerce and the Subcommittee on Telecommunications and Finance. Particularly to be commended are Representatives Bryant and Bruce for their continued leadership on the legislation. I also want to thank and commend Mr. Rinaldo, the ranking minority member of the subcommittee, for his efforts both this Congress and last Congress in developing this legislation, which represents a bipartisam approach to this important issue. In addition, I want to thank the full committee chair, Mr. Dingell, for his support and wise guidance on this legislation. Finally, the national television networks, the National Association of Broadcasters, the Association of Independent Television Stations, and numerous public interest groups deserve credit for this legislation. In particular, I want to recognize Action for Children's Television, under the tireless and tenacious leadership of Peggy Charen. Without the hard work and dedication of Peggy and the Action for Children's Television staff, this legislation would not have been psooible.

Passage of the Children's Television Act of 1990 would be the most important congressional statement on children's television in a generation. I urge my colleagues to support this landmark initiative.

Mr. Speaker, I would like to congratulate the gentleman from New Jersey [Mr. Rinaldo] for his work on this legislation. It would not have been possible without him. He deserves a great deal of credit for helping us to get the bill to this point.

In addition, I would like to expressly point out the chairman of the full committee, the gentleman from Michigan [Mr. Dingell], and his staff, and also the gentlemen on the staff, David Leach, for their work in helping to maneuver this bill through the process and getting it to this point today.

I would like to thank the national television networks, the National Association of Broadcasters, the Association of Independent Television Stations, and numerous public interest groups who deserve credit for this legislation.

In particular, I want to recognize Action for Children's Television under the tireless and tenacious leadership of Peggy Charen. Witout her hard work and dedication and Action for Children's Television staff, this legislation would not have been possible. This legislation is very largely attributable to the tireless efforts of Peggy Charen over the last two decades so that we are here today. This bill today is the fruition of all of her efforts.

On our subcommittee I would like to particularly point out the work of Congressman Bryant from the great State of Texas, who has worked tirelessly through his entire tenure in Congress to advance the goals which are embodied in this legislation. I am going to recognize him on his own time a little bit later.

□ 1740

However the gentleman from Texas [Mr. Bryant] deserves a lot of the credit for the legislation which we are passing here today, as well as the gentleman from Illinois [Mr. Bruce], who has similarly committed an enormous amount of time and effort to this endeavor, along with Members like the gentleman from New Mexico [Mr. Richardson], the gentleman from Washington [Mr. Swift], and many other members on our committee. We have brought this bill out to our colleagues on a bipartisan basis, and I want to congratulate them all, because this bill really should have each and every one of their names at the top of the list. That is the kind of commitment they all made to the passage of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. RINALDO. Mr. speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1677, the Children's TV Act, as amended by the other body.

The House passed H.R. 1677 on the Suspension Calendar on July 23. Earlier today, the other body approved this bill with one amendment: The creation of a children's TV programming endowment. I support the endowment, for reasons which I will get to in a moment.

The Telecommunications Subcommittee has labored long and hard over children's TV legislation in the last two Congresses. In 1988, we produced a bill that passed both bodies overwhelmingly, only to see the bill pocket-vetoed.

Now, we are back with a very similar piece of legislation, of which I am an original sponsor. I am pleased that the Telecommunications Subcommittee has continued to make passage of children's TV legislation one of its highest priorities. I commend the subcommittee's chairman, the gentleman from Massachusetts [Mr. Markey], for his tireless efforts in this important area.

America's young people watch 20 hours of TV a week—and as much as 15,000 hours by the time they're 16 years old. There is little doubt that television can influence children in ways that can cause parents great concern. Unfortunately, in many cases, television competes with the family and the classroom for the attention of children.

Too often, the great potential of television to educate and entertain children has been lost. Although there are bright spots, much children's programming is commercially oriented to selling toys, games, and cereals. Since the FCC got rid of its commercial time guidelines 5 years ago, the number of commercials aired during children's programs has increased noticeably.

Congressional concern with this situation has boiled over. Our subcommittee concluded that Congress had to intervene to make sure that broadcasters' special obligation to their child audiences was being fulfilled. The result of the subcommittee's efforts is H.R. 1677, the legislation before the House today.

The underlying purpose of this legislation needs to be emphasized, so there is no doubt in the minds of Members of Congress or the affected industries about what it will accomplish. The bill reaffirms the essential obligations of broadcasters to serve children, not just entertain them.

The bill identifies particular problems with children's programming, and corrects them with a minimum of government interference. We do not attempt to solve every real or imagined problem with children's TV programming. This bill should give TV stations, networks, and program producers ample incentive to improve children's TV programming in substantive ways. I hope that the industry can show us through its programming that further legislation will not be necessary.

The industry should not forget that more is at stake with children's TV than just entertainment. This programming has a profound effect on the development of this Nation's most precious resource—its children.

After passage of H.R. 1677 by the House in July, we entered into extensive discussions with interested Senators on the details of a provision included in the other body's children's TV bill, S. 1992. The Senate bill created a federally funded endowment for children's TV programming.

The endowment provision added to H.R. 1677 by the other body earlier today is a significant compromise, and a significant improvement, over the endowment originally contained in the children's TV bill passed by the other body.

This compromise is the result of numerous discussions between Chairman Dingell, Chairman Markey, Mr. Lent, and I with Senators Hollings, Inouye, and Danforth. I wish to thank all of them for their interest and hard work in bridging our differences and compromising on the details of the endowment provision.

The children's programming endowment contained in H.R. 1677 is authorized to be funded at $2 million in fiscal year 1991 and $4 million in fiscal year 1992. This is a great improvement over the original Senate proposal of $10 million in fiscal 1991. This endowment would contribute to the creation of children's TV programming that is directed specifically at the educational and informational needs of children, and which would be available both to public and commercial TV stations eventually.

The endowment will be administered by the Commerce Department's expert telecommunications agency, NTIA, which can contract with the Corporation for Public Broadcasting [CPB] to let CPB make the programming grants. NTIA also can make direct grants itself.

The statutory language of H.R. 1677 gives NTIA flexibility in administering the endowment. But to make the endowment as efficient and effective as possible, NTIA should make the greatest possible use of CPB in the grant-making process. CPB has been making programming grants for over 20 years, and already has the apparatus and expert staff to do the job effectively.

The use of CPB would make sure NTIA's own staff is not overburdened. CPB's participation also would help to assure that these funds go for the production of programming to the greatest extent possible, and are not swallowed up in administrative costs.

This endowment is not intended to turn NTIA into a flowthrough mechanism for television funding which circumvents or supplants CPB's central role in that process. It also should not be seen as a signal that Congress is changing the way Federal funds for public broadcasting are administered. as the congressionally created entity responsible for administering Federal funds appropriated for public television, CPB's wealth of experience should be used extensively by NTIA in administering this programming endowment.

There is a vast, unexplored gap between children's TV shows that are purely educational, and those which are purely entertainment. Bridging that gap is an important challenge before the TV industry today. This legislation should give the TV industry the necessary push to improve children's TV programming.

I support H.R. 1677 as amended by the Senate, and I urge all Members of the House to support it as well. I intend to do my utmost to make sure President Bush signs this legislation as soon as possible.

Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. Bryant].

Mr. BRYANT. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. Markey] for yielding to me, and I want to express my great happiness that the Children's Television Act of 1990, in its final form, is before the House today. I want to especially thank the gentleman from Michigan [Mr. Dingell], the chairman of the Committee on Energy and Commerce, and the gentleman from Massachusets [Mr. Markey] for their persistence in getting this bill to this, the last step in the legislative process. They deserve the lion's share of the credit for having made this possible, and I want to express my very sincere appreciation to them for persisting in this effort. I also want to acknowledge the hard work of many other colleagues, but especially the gentleman from New Jersey [Mr. Rinaldo], the ranking Republican on the Telecommunications Subcommittee, who, as well, persisted in insisting that this matter be brought forth, and I also want to acknowledge the gentleman from Illinois [Mr. Bruce] who joined in sponsoring and fighting for legislation to insure substantial improvement in the quality of children's television programming with a minimum of commercialization. Of course mention has already been made of Peggy Charen from Action for Children's Television. She indeed is the mother of this concept and deserves the recognition as well.

Mr. Speaker, the bill before us combines two important concepts; first, reinstatement of the previous Federal Communications Commission limitation on commercial advertising during children's program to 10½ minutes per hour on weekends and 12 minutes per hour during the week, and a requirement that the Commission consider at the time of license renewal whether broadcast licensees have adequately served the educational and informational needs of children in their programming as a prerequisite to renewal of their broadcast license.

Now in the past I have supported much stronger programming standards. I believe that commercial broadcasters should, at a bare minimum, air 7 hours a week of educational and informational programming to meet the needs of children under 12 years old. Studies indicate, as the gentleman from New Jersey [Mr. Rinaldo] said a moment ago, that an American child on average watches 15,000 hours of television before they finish their schooling, which is more than they have spent in the classroom. I think it is manifestly clear that the power of television in our society is awesome and is beyond debate, and its influence on our Nation's children is overwhelming. I believe a stronger measure than the one we are passing today is needed, but this measure is the best compromise which we can achieve in this Congress, and I think it is a significant step forward for which we all should be grateful for the opportunity to support.

□ 1750

Since today's Federal Communications Commission has refused to maintain rules or regulations to ensure that broadcasters meet their public interest obligations to children, the legislation we reported from the Committee on Energy and Commerce which is before us today is absolutely essential.

The limits we propose are reasonable and are necessitated by the over commercialization of children's programming, including the advent of program length commercials. The purpose of this bill is to ensure that stations will not fail to provide a reasonable amount of quality programming with strict advertising limits, specifically for children, or else be in jeopardy of not having their licenses renewed.

Mr. Speaker, this is a noble effort to improve children's television programming and to prevent further commercialization, contrary to the interest of our children.

Mr. Speaker, I trust the support of numerous groups which promote the education and physical and emotional and mental health of our Nation's children will persuade not only the Congress, but also our President, that this bill, a small step forward for quality children's television, fits into his program as a kinder and gentler President, who responds to family concerns, that will build a kinder and gentler America, and, if we can pass this bill today, will sign it into law.

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. Cooper].

Mr. COOPER. Mr. Speaker, I would like to enter into a colloquy with the gentleman from Massachusetts [Mr. Markey], the chairman of the subcommittee.

I would like to commend the leadership of this committee, particularly the chairmen and ranking members of the subcommittee and full committee for making this bill possible. I'm confident that it will bring great benefits to children all across America.

A broadcast license is a public trust, carrying very special obligations. These obligations will now formally extend to the area of children's programming. And that is something for which the Congress can be very proud.

Overcommercialization of the public airways is of great concern to all of us, and I hope this bill will succeed in preventing overcommercialization during children's viewing hours.

Along these lines, I would like to seek clarification of the bill's application to televised home shopping services. Chairman Markey, to the extent that these shopping services use broadcast stations as a mode of delivery, would this bill apply?

Mr. MARKEY. If the gentleman will yield, Mr. Speaker, yes, the bill would apply to all broadcast stations, including those with home shopping programming.

Mr. COOPER. Now, from what I can tell, these shopping services do not transmit very much information or entertainment. Instead, their programming is virtual non-stop sales presentations, some of which are directed towards children, and others attempt to sell children's products. Mr. Chairman, am I correct that sections 102 and 103 of this bill apply to these shopping stations?

Mr. MARKEY. The gentleman is correct. In order to have a license renewed, such a shopping station would have to demonstrate that it has met the obligations contained in this bill along with all other renewal criteria.

Mr. COOPER. I thank the Chairman and commend him for his fine work on this legislation. I know that the Chairman will work with me to follow this matter closely as the Federal Communications Commission implements the requirements of this bill, as we do not want any broadcaster, particularly a home shopping station, to ignore the educational and developmental needs of America's children.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from New Mexico [Mr. Richardson], a leader on this legislation.

Mr. RICHARDSON. Mr. Speaker, I would like to commend my chairman for his diligence and unfailing energy in bring this important piece of legislation to the floor. While the quality of children's television may pale in comparison to the problems of hunger, malnutrition, and disease, it is in no sense unimportant.

For those familiar with what is offered to children on our public airways there is much reason for dismay—excessive advertising, little differentiation between program and product advertisement, and little to stimulate young and growing minds.

There is little doubt that it is in the national interest to develop active young minds and bodies. As such, it is entirely appropriate that the Federal Communications Commission be given the authority at license renewal time to review a broadcast licensee's services to children.

Imposition of time limits on advertising during children's programming is also not too much to ask—10.5 minutes of advertising per hour on weekdays and 12 minutes per hour on weekends is simply not that restrictive. We have the right to expect that our broadcast stations will be more than a medium for the sales of merchandise.

Though I understand the broadcasters point of view that cable television operators have not had similar requirements imposed upon them, addressing the needs of children is not much to ask in exchange for the right to use the public's airwaves.

Mr. RINALDO. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. Chandler].

Mr. CHANDLER. Mr. Speaker, I rise today in support of H.R. 1677, the Children's Television Act of 1989. This bill is intended to contribute to the creation of children's television programming that is directed particularly at the educational and informational needs of children.

Specifically, the legislation requires the Federal Communications Commission to reinstate advertising time guidelines for children's television. The FCC would be required to set standards for commercial television broadcast licensees to limit the amount of time that commercials may be shown during children's programs.

Quite simply, the bill limits time spent advertising products on children's programs to 12 minutes per hour on weekdays and 10½ minutes per hour on weekends. These are reasonable limits. Parents will no longer have the concern about Saturday morning television—where programs consist of a steady stream of commercials, interrupted by an occasional cartoon or two. Our children deserve better than what they're getting.

In addition, the FCC is called upon to review the service that broadcasters provide children.

Not long ago, I was extremely disturbed by an episode of Mighty Mouse, a popular children's cartoon hero, when he sniffed what appeared to be cocaine in order to rejuvenate himself after a tough session of crime-fighting. This is not the message we wish to convey to the children of our Nation. I was outraged and contacted the head of the network that aired it, and the scene was later deleted.

We must put program producers on notice that Congress is watching. Our children deserve more than garbage—violence especially—in the programs they watch.

Mr. Speaker, this bill is a step in the direction of improving the overall quality of children's television programs. I urge my colleagues to vote in favor of this necessary and worthwhile legislation.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume, just to say that I have no further requests for time. I would like to thank, though, Larry Irving, Herb Brown, and Lisa Gursky from my staff, and from the minority staff I would like to thank Terry Haines, who has risen from his sickbed in Baltimore to come here today. That is how important this legislation is to him. I think it is a tribute to him that this legislation is out here today.

Mr. Speaker, I yield back the balance of my time.

Mr. RINALDO. Mr. Speaker, I yield 2 minutes to the gentleman from Montana [Mr. Marlenee].

Mr. MARLENEE. Mr. Speaker, I thank the gentleman for yielding.

It is time, America. It is time, America, to wake up and take a hand in our future. To children, every program is educational. On TV, every morsel of smut is absorbed by young minds; every act of violence is rationalized as normal; every act of perversion is viewed as an everyday involvement.

To be entertained today, it seems one has to endure violence, perverts, smut. Television executives and television producers have chosen to ignore the fact that there is an audience of people out there who prefer something else, who prefer not to have their children exposed to this, to their slide into the sewer.

I want to congratulate the authors of this legislation and those who have

worked on this legislation. I think it helps us turn that corner for wholesome, educational, and, yes, entertaining programs, that are educational to our children and are beneficial to the future of this Nation.

Mr. Speaker, I would like to endorse this legislation and congratulate the sponsors of it.

Mr. LENT. Mr. Speaker, I rise in support of H.R. 1677, the Children's TV Act, as amended by the other body.

I particularly commend the work of the principal sponsors of this legislation, the gentleman from Texas, [Mr. Bryant], and the gentleman from New Jersey, the ranking Republican member of the Telecommunications Subcommittee [Mr. Rinaldo] for their hard work on this legislation.

I also with to extend special thanks to the full committee chairman, the gentleman from Michigan [Mr. Dingell] and the subcommittee chairman, the gentleman from Massachusetts [Mr. Markey]. Without their willingness to work on a bipartisan children's TV bill, this legislation would never have made it to the floor.

The provisions of this bill are not complex. It requires reasonable limits on commercial time during children's shows, and directs TV stations to comply with those limits.

The bill also directs the FCC to consider whether a TV station has served the educational and information needs of children in its overall programming. Of course, TV stations already are required to serve their child audiences. But now, the FCC will be directed to gauge whether TV stations are actually meeting that obligation. While this may be a special provision, it is meant to improve programming to children, who unquestionably are a special audience with distinct programming needs.

This bill is not a cure all. It does not pretend to be. Rather, the committee has taken a hard look at children's TV in the last two Congresses, and has tried to encourage sensible behavior toward children by television licensees. We can do no more and still be consistent with the first amendment.

Television is a pervasive medium. What comes out of the tube has a great impact on all who watch. That impact is measurably greater on children, who often lack the capability to appreciate that they are being sold as well as entertained.

The Bryant/Rinaldo bill provides a modest correction to excesses in children's TV advertising practices. It also strongly encourages TV stations to improve their children's programming.

I hope every Member of the House would agree that these improvements are needed if TV programming for children is to live up to its potential.

The Senate amended H.R. 1677 to add a children's programming endowment. This provision was added after extensive discussions between both Houses. It is much improved from the endowment originally approved by the Senate last year, and its funding levels are drastically scaled back from the original $10 million in fiscal year 1990 to $2 million in fiscal year 1991 and $4 million in fiscal year 1992. I can support this provision with those changes.

Once again, I commend Mr. Bryant and Mr. Rinaldo, and everyone involved with this legislation for their efforts. I encourage my House colleagues to vote in favor of H.R. 1677.

Mr. RINALDO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Mazzoli). The question is on the motion offered by the gentleman from Massachusetts [Mr. Markey] that the House suspend the rules and concur in the Senate amendment to H.R. 1677.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the Senate amendement to H.R. 1677.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

TELEVISION DECODER CIRCUITRY ACT OF 1990

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4267) to require new televisions to have built-in decoder circuitry, as amended.

The Clerk read as follows:

H.R. 4287

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Television Decoder Circuitry Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) to the fullest extent made possible by technology, deaf, and hearing-impaired people should have equal access to the television medium;

(2) closed-captioned television transmissions have made it possible for thousands of deaf and hearing-impaired people to gain access to the television medium, thus significantly improving the quality of their lives;

(3) closed-captioned television will provide access to information, entertainment, and a greater understanding of our Nation and the world to over 24,000,000 people in the United States who are deaf or hearing-impaired;

(4) closed-captioned television will provide benefits for the nearly 38 percent of older Americans who have some loss of hearing;

(5) closed-captioned television can assist both hearing and hearing-impaired children with reading and other learning skills, and improve literacy skills among adults;

(6) closed-captioned television can assist those among our Nation's large immigrant population who are learning English as a second language with language comprehension;

(7) currently, a consumer must buy a Tele-Caption decoder and connect the decoder to a television set in order to display the closed-captioned television transmissions;

(8) technology is now available to enable that closed-caption decoding capability to be built into new television sets during manufacture at a nominal cost by 1991; and

(9) the availability of decoder-equipped television sets will significantly increase the audience that can be served by closed-captioned television, and such increased market will be an incentive to the television medium to provide more captioned programming.

SEC. 3. DISPLAY CLOSED-CAPTIONED TELEVISION.

Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following:

"(u) Require that apparatus designed to receive television pictures broadcast simultaneously with sound be equipped with built-in decoder circuitry designed to display closed-caption television transmissions when such apparatus is manufactured in the United States or imported for use in the United States, and its television picture screen is 13 inches or greater in size, measured diagonally.".

SEC. 4. SHIPPING OR IMPORTING.

(a) Regulations.—Section 330 of the Communications Act of 1934 (47 U.S.C. 330) is amended by redesignating subsection (b) as subsection (c), and by adding after subsection (a) the following new subsection:

"(b) No person shall ship in interstate commerce, manufacture, assemble, or import from any foreign country into the United States, any apparatus described in section 303(u) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section. Such rules shall provide performance and display standards for such built-in decoder circuitry. Such rules shall further require that all such apparatus be able to receive and display closed captioning which have been transmitted by way of line 21 of the vertical blanking interval and which conform to the signal and display specifications set forth in the Public Broadcasting Service engineering report numbered E-7709-C dated May 1980, as amended by the Telecaption II Decoder Module Performance Specification published by the National Captioning Institute, November 1985. As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that closed captioning service continues to be available to consumers. This subsection shall not apply to carriers transporting such apparatus without trading it.".

(b) Conforming Amendment.—Section 330(c) of such Act, as redesignated by this Act, is amended by deleting "and section 303(s)" and inserting in lieu thereof "and sections 303(s) and 303(u)".

SEC. 5. EFFECTIVE DATE.

The amendments made by sections 3 and 4 of this Act shall take effect on July 1, 1993.

SEC. 6. RULES.

The Federal Communications Commission shall promulgate rules to implement the amendments made by this Act within 180 days after the date of its enactment.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Massachusetts [Mr. Markey] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. Rinaldo] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. Markey].

□ 1800

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4267, the Television Decorder Circuitry Act of 1990. This legislation requires all new television sets with screens 13 inches or larger to have built-in decoder circuitry to display closed captions. Passage of this legislation would represent a giant step forward toward ensuring full and equal access to television for all Americans.

Throughout the 1990's and into the next century, the central and essential role television plays in our lives is certain to grow. A recent study estimated that Americans watch 7 to 8 hours of television every day. Undeniably, television is our most important source of news, information, and entertainment programming. And as technological breakthroughs involving fiber optics, high definition and digital television, and direct broadcast satellites occur, the role television plays in our homes, businesses, and communities will become even more pronounced.

However, all Americans have not been able to participate in the video revolution on an equal basis. Specifically, deaf and hearing-impaired people presently do not have full and equal access to the television programming that most Americans take for granted. Although closed captioning enables the deaf and hearing-impaired community to share in the television experience with the hearing world, access to captioned programming historically has been restricted by the limited number of set-top decoders in use. The National Captioning Institute estimates the installed base of decoders at only 300,000 units, a small fraction of the 24 million deaf and hearing-impaired population.

The limited penetration of decoders is threatening the continued availability of closed-captioning services. In order to enhanced commercial incentives for private funding of captioning, the audience for captioned programs must grow. We reached a milestone in 1989 when, for the first time, all prime-time programming shown on the three major commercial television networks was captioned. But captioning is much less prevalent on local, daytime, and basic cable programming. The legislation before us today is an essential tool for increasing the use of captioning.

Let me emphasize that the deaf and hearing-impaired population is only one of a number of groups that will benefit from this legislation. The potential audience for captioning also includes individuals seeking to acquire or improve literacy skills, including 24 to 27 million functionally illiterate adults, 3 to 4 million immigrants learning English as a second language, and 18 million children in grades kindergarten through 3, learning to read. A significant portion of this audience presently fails to benefit from captioned television because of the cost of purchasing a decoder and the perceived stigma attached to its purchase and use. These problems are particularly acute for the nearly 40 percent of America's elderly with moderate or severe hearing loss.

The Television Decoder Circuitry Act of 1990 was crafted in a spirit of bipartisanship and cooperation. It reflects consensus reached during discussions of the last few months between Members of Congress, members of the deaf and hearing-impaired community, the captioning industry, and television manufacturers. Specifically, this legislation requires all television sets, with picture screens 13 inches or larger, manufactured or imported for use in the United States, to be equipped by July 1, 1993, with built-in decoder circuitry designed to display closed-captioned television transmissions. This provision would eliminate the need for consumers to purchase expensive set-top decoders in order to view closed captions. The legislation further requires the Federal Communications Commission to prescribe rules that provide performance and display standards for such built-in circuitry. Finally, the bill empowers the Commission to take action to ensure that closed-captioning service continues to be available to consumers as new video technologies, including high-definition television, are developed.

Let me note that this legislation would not mandate the inclusion of any particular chip or circuitry in television sets. In fact, it is my strong expectation that competition in the marketplace for such circuitry will spur the development of innovative approaches to the provision of captioning.

Before concluding, I want to thank the full committee chairman, Mr. Dingell, for his active support and involvement on this important issue. I also want to thank and commend my colleagues, especially Senator Harkin and Congressman Owens, without whom this legislation would not be before us. In addition, I want to thank Mr. Rinaldo, the ranking minority member of the subcommittee, for working in a bipartisan fashion to improve the legislation. Finally, I note that development of consensus support for this critical legislation would not have been possible without the immense help and cooperation of the Caption Center, the National Captioning Institute, the National Center for Law and the Deaf, the Electronic Industries Association, and Zenith Electronics Corp.

For a small cost—estimated by most experts at no more than $15 per television set—we can ensure that the promise of the information age is accessible to all Americans. I urge my colleagues to join me in supporting this essential legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, closed captioning has been an important invention. It enables the deaf and hearing impaired to fully experience the magic of television for the first time. It has many other uses: For example, it can also be used to teach new languages, spelling, and many other skills.

Closed captioning is widely available on television. So it should be possible to widely receive it. Unfortunately, that has not happened for three reasons. First, the price of decoders remains high. Second, many people, especially senior citizens, find the decoders difficult to install.

Finally, there is an understandable stigma associated with using a decoder: You do not want to call attention to your hearing loss.

Technology usually solves most problems of this kind. There is a technological solution to the decoder problem: An inexpensive computer chip which could be placed inside every television set.

This chip technology seems to be too good a technology not to build into televisions. With this chip, and the rate at which Americans buy televisions, closed captioning could be available to nearly every home in America within the next decade.

As the ranking Republican member both of the Telecommunications Subcommittee and the Select Committee on Aging, I am proud to encourage the spread of low-cost technology which guarantees access for every citizen to our communications systems.

The House has achieved that goal in other areas, particularly in laws which enable all our deaf and hearing impaired citizens to make full use of the world's best telephone network. Now, we can do so again today, in legislation which will permit the hearing impaired full access to television for the first time.

This closed captioning legislation should be seen as an important part of the House's overall effort to guarantee equal access to communications for all of our deaf and hearing impaired citizens.

H.R. 4267, as amended by the committee, made a variety of technical changes to improve the original legislation. The amended bill now assures that TV set makers will have the maximum flexibility to meet the decoder requirement through whatever captioning technology is most technically advanced and widely used.

These changes, which are similar to ones approved by the Senate Commerce Committee, will assure that the TV Decoder Circuitry Act receives wide congressional and public support, and becomes law this year. I urge my colleagues to support this important and necessary legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to thank the staff for their work, to compliment Mr. Haines, Mr. Irving, and Ms. Gursky from my staff, as well as Sara Morris, Herb Brown, the subcommittee staff director, and once again Matt Rinaldo for his work on this legislation, and all of the organizations in the disabled community that have worked with us to put this piece of legislation together.

Mr. LENT. Mr. Speaker, this legislation is the brainchild of my New York colleague, Ed Towns. I commend him for his efforts. I also want to applaud the fine work of the chairman of the Energy and Commerce Committee, Mr. Dingell, as well as the chairman and ranking Republican member of the Telecommunications Subcommittee, Mr. Markey and Mr. Rinaldo, for their fine work in bringing this TV decoder legislation to the floor.

Requiring television sets sold in this country to be able to decode and display closed captioning for the deaf and hearing impaired is a small burden for manufacturers and the public to bear. But this minor action will yield major benefits.

Television has become the principal source for news and information in this country. In fact, access to television is virtually a necessity in the electronic information age. Passage of this legislation will make it much easier for our deaf citizens to experience fully the magic of television.

The intent of the TV Decoder Act is the same as the intent of another of the House's major legislative achievements this year—the Americans With Disabilities Act, which was signed by the President this summer. The ADA will provide full access to the telephone network for the deaf and hearing impaired. The decoder legislation before the House today does the same thing: It will help to provide, for the first time, full and equal access to the major mass medium in the United States.

That is a worthy goal. It is one which I am proud to support, and one which I urge all my colleagues to support by approving H.R. 4267, the Television Decoder Circuitry Act.

Mr. RICHARDSON. Mr. Speaker, I thank the chairman for the time and rise in support of the bill. I commend the gentleman from Massachusetts for his effort in bringing this bill to the floor. Requiring decoders in all television sets will help enfranchise many individuals who are currently unable to take advantage of our most popular medium. Our society depends on television for news and entertainment. For better or worse it is the glue which binds much of our Nation together, though many are excluded because they are deaf or hard of hearing. The limited number of programs which are captioned and the high cost of decoder devices has limited the growth in this important area.

By requiring that new TV sets include a decorder, which can be done at much lower cost during the production stage than in the aftermarket, we open up many new possibilities—for the deaf and for others. Children's programs, could for example, provide reading instruction through closed captioning, or stations could provide simultaneous translation.

In closing, I urge quick passage of this legislation.

Mr. OWENS of New York. Mr. Speaker, today the House considers H.R. 4267, the Television Decoder Circuitry Act of 1990, which I introduced this session of Congress along with Congressmen Markey, Gunderson, Bonior, Berman, Lloyd, Slattery, Synar, Wyden, Bilirakis, and Chandler.

We are proud of our monumental achievement this session—the passage of the landmark Americans With Disabilities Act (ADA). The ADA provides our Nation's 43 million citizens with disabilities the rights to full and equal access to employment, services provided by State and local governments, transportation, public accommodations, and telecommunications. However, a vital area was not covered in the ADA, that of full and equal access to television programming.

We take television for granted. It has become much more than a medium of entertainment. It has become the central way we share information in our society. Yet, the benefits of television are not fully accessible to millions of deaf and hard-of-hearing citizens. While closed captioning has opened the door for television viewing, the maintenance and growth of this technology depends on the wide use of decoders.

In a letter to the Commission on the Education of the Deaf, ABC noted:

> * * * [if] decoders were more widely used and viewership [were] to grow, the marketplace can be relied upon to increase captioning because more viewers would be reached at a decreased per capita cost. Increased decoder ownership—not just more captioning—is required for a strong, self-sustaining captioning service.

The National Captioning Institute [NCI] concurs that the future of closed captioned television is:

> * * * inextricably tied to the number of households who access it. In order to eliminate the need for ongoing federal funds and to make the captioned service economically viable and self-sustaining, captioning must reach into at least 500,000 homes and ideally 1,000,000 by 1990.

According to NCI, because of the cost of separate decoders, less than 300,000 have been sold since 1979. The Commission on the Education of the Deaf [COED] has stated that this modest number of consumer purchases served as a disincentive to private industry funding necessary for a self-sustaining captioning service.

Technology offers an alternative solution to the survival of closed-captioned programming. Companies are currently working on this technology, and have indicated that by the end of 1991, a decoder circuitry chip can be built into new television sets at a nominal cost. This will greatly increase the audience that can be served by closed-captioned television. Closed-captioned television programs will reach more than 24 million deaf and hard-of-hearing Americans, including 38 percent of senior citizens.

Closed-captioned programming has also been shown to have tremendous benefits for teaching literacy skills. Several studies have indicated that exposure to closed-captioned television improves students' word recognition, reading comprehension, and language retention skills, and is a motivational tool for learning. This increased potential audience for television will be a real incentive to the television broadcasting industry to provide more closed-captioned programming. In order to reach this potential audience and ensure a strong, self-sustaining captioning service, we need this legislation which mandates built-in decoder circuitry.

I wish to thank Congressman Markey for his strong leadership and excellent efforts on this legislation; Congressman Rinaldo for his support; and Congressman Dingell for his efforts in expediting action on this bill. Finally, I want to thank Sy DuBow of the National Center for Law and the Deaf and the staffs of the subcommittee involved for his efforts in making this bill a reality.

Mr. GUNDERSON. Mr. Speaker, you and I take for granted that we can tune in our TV sets at any time of the day or night and learn what is happening all across the country and around the world. We can tune in and enjoy programs that set our thoughts astir; or programs that simply make us laugh and forget the cares of the day.

Now, with the passage of the Television Decoder Circuitry Act, of which I am proud to be a chief cosponsor, this Nation's 24 million Americans who are deaf or hard of hearing will have equal access to these same television offerings. The development of television closed-captioning has made it possible for millions of persons with hearing losses to see what television has to say. But many deaf and hard of hearing people have not benefited from closed-captioned programming because the cost of purchasing a separate stand-alone decoder represents a particular economic hardship.

The Television Decoder Circuitry Act requires that television sets with screens 13 inches or larger be equipped in the factory with a decoder circuit chip which allows closed circuit television transmissions. The cost will be nominal. This legislation has the broad bipartisan support of Congress, as well as that of the electronics industry.

But, we must remember that it is not only the deaf and hard-of-hearing citizens who will benefit from this legislation. There are some 23 million functionally illiterate Americans who will be able to use the captions on TV programs as a valuable tool in learning to read.

Children, as well, can enjoy the added reinforcement of the written word as they watch their favorite programs, thus improving their reading skills. Moreover, our Nation's ever-increasing immigrant population attempting to learn English as a second language will receive a real leg up through captioning.

Mr. Speaker, it is no secret to you and to my colleagues here in Congress that one of my most rewarding experiences continues to come through my service as a member of the board of trustees at Gallaudet University. I treasure the interaction this position affords me in learning more every day about a silent culture, and which has helped open my ears and mind to the concerns of my deaf and hearing impaired friends.

I am proud to join my colleagues today in the passage of the Television Decoder Circuitry Act which is a major step toward ensuring full accessibility to television programming for all Americans.

Mr. **MARKEY**. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 4267, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. **MARKEY**. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the Senate bill (S. 1974) to require new televisions to have built in decoder circuitry, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. **RINALDO**. Mr. Speaker, reserving the right to object, I yield to the chairman of the subcommittee to explain the Senate bill.

Mr. **MARKEY**. Mr. Speaker, I thank the gentleman for yielding.

This bill is identical in substance to the bill just approved by the House. I am making this unanimous consent request in order to clear the bill for swift presentation to the President for his signature.

Also, because I forgot, I want to compliment David Leach of the full committee staff for his work on all of this legislation as well.

Mr. **RINALDO**. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Television Decoder Circuitry Act of 1990".

FINDINGS

SEC. 2. The Congress finds that—

(1) to the fullest extent made possible by technology, deaf and hearing-impaired people should have equal access to the television medium;

(2) closed-captioned television transmissions have made it possible for thousands of deaf and hearing-impaired people to gain access to the television medium, thus significantly improving the quality of their lives;

(3) closed-captioned television will provide access to information, entertainment, and a greater understanding of our Nation and the world to over 24,000,000 people in the United States who are deaf or hearing-impaired;

(4) closed-captioned television will provide benefits for the nearly 38 percent of older Americans who have some loss of hearing.

(5) closed-captioned television can assist both hearing and hearing-impaired children with reading and other learning skills, and improve literacy skills among adults;

(6) closed-captioned television can assist those among our Nation's large immigrant population who are learning English as a second language with language comprehension;

(7) currently, a consumer must buy a Tele-Caption decoder and connect the decoder to a television set in order to display the closed-captioned television transmissions;

(8) technology is now available to enable that closed-caption decoding capability to be built into new television sets during manufacture at a nominal cost by 1991; and

(9) the availability of decoder-equipped television sets will significantly increased the audience that can be served by closed-captioned television, and such increased market will be an incentive to the television medium to provide more captioned programming.

REQUIREMENT FOR CLOSED-CAPTIONING EQUIPMENT

SEC. 3. Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following:

"(u) Require that apparatus designed to receive television pictures broadcast simultaneously with sound be equipped with built-in decoder circuitry designed to display closed-captioned television transmissions when such apparatus is manufactured in the United States or imported for use in the United States, and its television picture screen is 13 inches or greater in size.".

PERFORMANCE AND DISPLAY STANDARDS

SEC. 4. (a) Section 330 of the Communications Act of 1934 (47 U.S.C. 330) is amended by redesignating subsection (b) as subsection (c), and by inserting immediately after subsection (a) the following new subsection:

"(b) No person shall ship in interstate commerce, manufacture, assemble, or import from any foreign country into the United States, any apparatus described in section 303(u) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority by that section. Such rules shall provide performance and display standards for such built-in decoder circuitry. Such rules shall further require that all such apparatus be able to receive and display closed captioning which have been transmitted by way of line 21 of the vertical blanking interval and which conform to the signal and display specifications set forth in the Public Broadcasting System engineering report numbered E-7709-C dated May 1980, as amended by the Telecaption II Decoder Module Performance Specification published by the National Captioning Institute, November 1985. As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that closed-captioning service continues to be available to consumers. This subsection shall not apply to carriers transporting such apparatus without trading it.".

(b) Section 330(c) of such Act, as redesignated by subsection (a) of this section, is amended by deleting "and section 303(s)" and inserting in lieu thereof ", section 303(s), and section 303(u)".

EFFECTIVE DATE.

SEC. 5. Sections 3 and 4 of this Act shall take effect on July 1, 1993.

RULES

SEC. 6. The Federal Communications Commission shall promulgate rules to implement this Act within 180 days after the date of its enactment.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 4267) was laid on the table.

GENERAL LEAVE

Mr. **MARKEY**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative day to revise and extend their remarks on several bills just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4300, FAMILY UNITY AND EMPLOYMENT OPPORTUNITY IMMIGRATION ACT OF 1990

Mr. **MOAKLEY**, from the Committee on Rules, submitted a privileged report (Rept. No. 101-786) on the resolution (H. Res. 484) providing for the consideration of the bill (H.R. 4300) to amend the Immigration and Nationality Act to revise the system of admission of aliens on the basis of family reunification and to meet identified labor shortages, and for other purposes, which was referred to the House Calendar and ordered to be printed.

FORT McDOWELL INDIAN COMMUNITY WATER RIGHTS SETTLEMENT ACT OF 1990

Mr. **RICHARDSON**. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5063) to provide for the

settlement of the water rights claims of the Fort McDowell Indian Community in Arizona and for other purposes, as amended.

The Clerk read as follows:

H.R. 5063

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This act may be cited as the "Fort McDowell Indian Community Water Rights Settlement Act of 1990."

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATIONS

(a) The Congress finds that—

(1) it is the policy of the United States, in fulfillment of its trust responsibility to Indian tribes, to promote Indian self-determination and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation;

(2) meaningful Indian self-determination and economic self-sufficiency depend on development of viable Indian reservation economies;

(3) quantification of rights to water and development of facilities needed to utilize tribal water supplies effectively is essential to the development of viable Indian reservation economies, particularly in arid western States;

(4) On September 15, 1903, the United States Government established a reservation for the Fort McDowell Indian Community in Arizona north of the confluence of the Salt and Verde Rivers tributary to the Gila River;

(5) the United States, as trustee for the Community, obtained water entitlements for the Community pursuant to the Kent Decree of 1910; however, continued uncertainty as to the full extent of the Community's entitlement to water has severely limited the Community's access to water and the financial resources necessary to develop its valuable agricultural lands and frustrated its efforts to reduce its dependence on federal program funding and achieve meaningful self-determination and economic self-sufficiency;

(6) proceedings to determine the full extent and nature of the Community's water rights and damages thereto are currently pending before the United States District Court in Arizona, the United States Claims Court, the Superior Court of the State of Arizona in and for Maricopa County, as part of the General Adjudication of the Gila River System and Source, and before various federal agencies under the Federal Tort Claims Act;

(7) recognizing that final resolution of pending litigation will take many years and entail great expense to all parties, continue economically and socially damaging limits to the Community's access to water, prolong uncertainty as to the availability of water supplies and seriously impair the long-term economic planning and development of all parties, the Community and neighboring non-Indian communities have sought to settle disputes over water and reduce the burdens of litigation;

(8) after more than five years of negotiation, which included participation by representatives of the United States Government, the Community and neighboring non-Indian communities of the Salt River Valley, who are all party to the General Adjudication of the Gila River System and Source, the parties have entered into an agreement to resolve all water rights claims between and among themselves, to quantify the Community's entitlement to water, and to provide for the orderly development of the Community's lands;

(9) pursuant to the agreement, the neighboring non-Indian communities will transfer rights to approximately twelve thousand acre-feet of surface water to the Community; provide for the means of firming existing water supplies of the Community, and make substantial additional contributions to carry out the agreement's provisions; and

(10) to advance the goals of Federal Indian policy and to fulfill the trust responsibility of the United States to the Community, it is appropriate that the United States participate in the implementation of the agreement and contribute funds for the rehabilitation and expansion of existing reservation irrigation facilities so as to enable the Community to utilize fully its water entitlements in developing a diverse, efficient reservation economy.

(b) Therefore, the Congress declares that the purposes of this Act are: (1) to approve, ratify and confirm the agreement entered into by the Community and its neighboring non-Indian communities, (2) to authorize and direct the Secretary of the Interior to execute and perform such agreement, and (3) to authorize the actions and appropriations necessary for the United States to fulfill its legal and trust obligations to the Community as provided in the agreement and this Act.

SEC. 3. DEFINITIONS

For purposes of this Act—

(a) "Agreement" means that agreement among the Fort McDowell Indian Community; the State of Arizona; the Salt River Project Agricultural Improvement and Power District; the Salt River Valley Water Users' Association; the Roosevelt Water Conservation District, the Arizona cities of Chandler, Glendale, Mesa, Phoenix, Scottsdale, and Tempe, and the Arizona Town of Gilbert; and the Central Arizona Water Conservation District, together with all exhibits thereto, as the same is approved and executed by the Secretary of the Interior pursuant to Sections 11(d) and 12(a)(8) of this Act.

(b) "CAP" means the Central Arizona Project, a reclamation project authorized under Title III of the Colorado River Basin Project Act of 1968 (43 U.S.C. 1521 et seq.).

(c) "CAWCD" means the Central Arizona Water Conservation District organized under the laws of the State of Arizona, which is the contractor under a contract with the United States, dated December 15, 1972, for the delivery of water and repayment of costs of the Central Arizona Project.

(d) "Community" means the Fort McDowell Indian Community, a community of Yavapai Indians organized under Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 987, 25 U.S.C. 476), and duly recognized by the Secretary.

(e) "HVID" means the Harquahala Valley Irrigation District, an irrigation district organized under the laws of the State of Arizona.

(f) "Kent Decree" means the decree dated March 1, 1910, entered in Patrict T. Hurley versus Charles F. Abbott, and others, Case Numbered 4564, in the District Court of the Third Judicial District of the Territory of Arizona, in and for the County of Maricopa, and all decrees supplemental thereto.

(g) "RWCD" means the Roosevelt Water Conservation District, an irrigation district organized under the laws of the State of Arizona.

(h) "Secretary" means the Secretary of the United States Department of the Interior.

(i) "SRP" means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona, and the Salt River Valley Water Users' Assocation, an Arizona corporation.

SEC. 4. KENT DECREE REREGULATION

(a) To permit the Community to more fully utilize its water rights under the Kent Decree as provided in the Agreement and subsection (b) of this section, the agreement between the United States and the SRP dated June 3, 1935, as amended on November 26, 1935, relating to the Verde River Storage Works, and the agreement among the SRP, Phelps Dodge Corporation, and the Defense Plant Corporation dated March 1, 1944, including, but not limited to, the provisions of such agreements by which SRP saves and holds harmless the United States, and the rights of the United States and SRP to Verde River storage, are hereby ratified, confirmed and declared to be valid; Provided, however, that the priority date and quantification of these storage rights, and such other storage rights as may exist, shall be determined in an appropriate state proceeding in the State of Arizona. Nothing in this Act or the Agreement shall affect the validity or invalidity of any permit, right-of-way, license or grant held by Phelps Dodge Corporation for the utilization of land or water within the San Carlos Apache Reservation.

(b) The Secretary is authorized and directed to contract with SRP, for a period of not more than 25 years from the date the authorizations contained in section 9(b) of this Act become effective, for the utilization of up to three thousand acre-feet of the existing storage right of the United States and SRP behind Bartlett and Horseshoe Dams on the Verde River for the reregulation of the Community's rights to water under the Kent Decree. This storage space shall be for seasonal regulation only, with no annual carryover past October 1.

SEC. 5 RATIFICATION AND CONFIRMATION OF CONTRACTS

(a) The contract between the SRP and RWCD dated October 24, 1924, together with all amendments thereto and any extension thereof entered into pursuant to the Agreement, is ratified, confirmed, and declared to be valid.

(b) The Secretary is authorized and directed to revise the subcontract of the RWCD agricultural water service from the CAP to include an addendum substantially in the form of exhibit "10.3.2" to the Agreement and to execute the subcontract as revised. Notwithstanding any other provision of law, the Secretary shall approve the conversions of agricultural water to municipal and industrial uses authorized by the addendum at such time as the conditions authorizing such conversions, as set forth in the addendum, are found to exist.

(c) The lands within the RWCD and the lands within the SRP shall be free from the ownership limitations of Federal reclamation law and all full cost pricing provisions of Federal law.

(d) Neither SRP nor the RWCD shall become subject to the provisions of the Reclamation Reform Act of 1982 (43 U.S.C. 309aa et seq.) by viture of either of their participation in the settlement or their execution and performance of the Agreement, including, but not limited to, any exchanges provided for in the Agreement.

SEC. 6. OTHER WATER

(a) The Secretary is authorized and directed to acquire for the Community thirteen thousand nine hundred thirty-three acre-feet of water from one or a combination of the following sources:

(1) CAP water permanently relinquished by the HVID pursuant to contract with the Secretary.

(2) CAP municipal and industrial water and CAP Indian priority water permanently relinquished by the City of Prescott, the Yavapai-Prescott Tribe, the Yavapai-Apache Indian Community of the Camp Verde Reservation, the Cottonwood Water Company or the Camp Verde Water Company pursuant to contract with the Secretary. Any water acquired by the Secretary pursuant to this section shall be acquired with the consent of the contracting entity and shall be assigned to the Community in partial satisfaction of the Secretary's obligation under this section.

(3) In the event that the Secretary cannot acquire thirteen thousand nine hundred and thirty-three acre-feet of water, solely or in combination, from the sources identified in subsections (a)(1) and (a)(2) of this Section, then the Secretary is authorized to acquire, from all water resources at the disposal of the United States, water in amounts necessary to meet the requirements of this section.

HARQUAHALA VALLEY IRRIGATION DISTRICT

(b) The Secretary is authorized to contact with the HVID for the permanent relinquishment of any portion of HVID's rights to CAP agricultural water.

(1) The Secretary may use HVID water its original CAP agricultural priority or may convert it, at the rate of one acre-foot per CAP-eligible acre, to a maximum of thirty-three thousands two hundred and sixty-three acre-feet of CAP Indian priority water. Up to thirteen thousands nine hundred thirty-three acre-feet of such water shall be made available to the Community by contract with the Secretary.

(2) As consideration for the fair value of water relinquished under subsection (b) of this section, the Secretary is authorized:

(i) to credit the HVID with an appropriate share of its outstanding CAP distribution system debt, with such share reflecting the relationship between the amount of HVID CAP rights acquired by the Secretary and the total CAP allocation of the HVID; and

(ii) to offset the annual repayment requirements of the CAWCD under repayment contract numbered 14-06-W-245 in amounts which total the balance of the fair value of the water acquired and not accounted for under (i) above until such value is exhausted.

(3) In the event that the Secretary acquires all or a part of the CAP water rights of the HVID, the following shall apply:

(i) The Secretary is authorized to transfer title to existing federal facilities within HVID that are no longer needed for CAP purposes to the CAWCD or to other non-federal entities.

(ii) The Secretary is authorized to approve or execute any agreements that are necessary to accomplish the transfer of HVID's CAP agricultural water rights to the Secretary for Indian water rights settlement purposes. As a condition of the transfer of such entitlement, the lands which are purchased by non-federal interests within HVID must be excluded from HVID. Except as provided for in Article 8.7 of the December 1, 1988, contract between the United States and CAWCD, the excluded lands shall not be entitled to a supply of CAP water for agricultural purposes and shall not be subject to the ownership limitations of Federal reclamation law and all full cost pricing provisions of Federal law.

(iii) The agreement implementing the transfer of HVID's CAP agricultural water rights to the Secretary shall provide that any lands which remain in HVID or its successor shall continue to be subject to the ownership limitations of Federal reclamation law and all full cost pricing provisions of Federal law as long as HVID, or its successor, has a Federal repayment obligation for the cost of the CAP distribution system. The agreement implementing the transfer shall provide that lands remaining in HVID, or its successor, will not bear costs of operation, maintenance, and replacement for the CAP distribution system greater than that which they would have in the absence of the transfer of HVID's CAP agricultural water rights.

(4) Water acquired by the Secretary for the Fort McDowell Indian Community pursuant to this subsection shall be delivered to the Community as provided for in the Agreement. Any remaining water acquired by the Secretary pursuant to this subsection (b) shall be used only in the settlement of water rights claims of other Indian tribes having claims to the water in the Salt and Verde River system.

VERDE RIVER WATERSHED

(c) Providing that the Secretary first acquires at least seven thousand acre-feet of CAP water from one or more of the entities named in subsection (a)(2), of this section, the Secretary is authorized to acquire, by purchase from willing sellers, land and water rights in the Big Chino Valley of the Verde River watershed, in an amount sufficient to replace all such water so acquired.

(1) The Secretary shall not acquire any land or water rights in the Big Chino Valley of the Verde River watershed until he has completed a study to determine whether, through the construction of water diversion, collection, and conveyance facilities to deliver water to a point near Sullivan Lake in Yavapai County, Arizona (hereinafter referred to as the "Sullivan Lake delivery point"), the exercise of such water rights will not have an adverse effect on the flow or the biota of the Verde River and that such exercise is not likely to jeopardize the continued existence of Meda fulgida (spikedace) or any other threatened or endangered species. The Secretary shall make the study required by this paragraph available to the public for inspection and comment upon its completion.

(2) The Secretary is authorized to enter into an agreement with the City of Prescott to reimburse the city for not to exceed $800,000 advanced to the Secretary by the city for the purpose of expediting completion of the study required in subsection (c)(1) of this section.

(3) If the Secretary determines, based upon the findings of the study, that the exercise of water rights will not have an adverse effect on the flow or the biota of the Verde River and is not likely to jeopardize the continued existence of Meda fulgida (spikedace) or any other threatened or endangered species, the Secretary shall be authorized to acquire land in the Big Chino Valley and to construct diversion, collection, and conveyance facilities sufficient to deliver the water to the Sullivan Lake delivery point.

(4) The Secretary shall develop and implement a continuous monitoring program to ensure that groundwater pumping from land acquired pursuant to this subsection (c) shall not adversely affect the flow or the biota of the Verde River and to ensure that it will not jeopardize the continued existence of Meda fulgida (spikedace) or any other threatened or endangered species. The program shall be developed prior to and implemented concurrent with the construction of the facilities described in subsection (c)(3) of this section.

(d) If the Secretary acquires the CAP contract or subcontracts of the Yavapai-Apache Indian Community of the Camp Verde Reservation, the Cottonwood Water Company or the Camp Verde Water Company, the Secretary is authorized to construct water conveyance facilities from the Sullivan Lake delivery point to a point downstream on the Verde River. Subject to the study required in subsection (d)(1) of this section and all applicable law, the Secretary is further authorized to place into the Verde River at the point downstream an amount of water sufficient, including all losses, to replace the water assigned by such entity or entities pursuant to this subsection.

(1) The Secretary shall not construct any water conveyance facilities from the Sullivan Lake delivery point to any point downstream on the Verde River to replace water assigned pursuant to subsection (a)(2) of this section, until he has completed a study to determine whether the flow of the Verde River may be augmented without jeopardizing the continued existence of Meda fulgida (spikedace) or any other threatened or endangered species and, if the flow of the Verde may be so augmented, at what point or points downstream from the Sullivan Lake delivery point such augmentation would be most appropriate.

(2) The Secretary shall, in conjunction with arrangements for the delivery of water pursuant to this subsection (d), develop and implement a monitoring program to ensure that the augmentation of the Verde River will not jeopardize the continued existence of Meda fulgida (spikedace) or any other threatened or endangered species.

(e) If the Secretary acquires the CAP contract or subcontract of the Yavapai-Prescott Tribe or the City of Prescott, the Secretary is authorized to construct water conveyance facilities from the Sullivan Lake delivery point to the City of Prescott's existing pumping facilities in the Little Chino Valley, Yavapai County, Arizona. If the Secretary constructs such water conveyance facilities, the City of Prescott shall repay the Secretary for the costs thereof. Nothing in this subsection shall be construed to prevent the City of Prescott from constructing such conveyance facilities itself.

(1) The Secretary shall deliver water to the City of Prescott's existing pumping facilities or to such other point as the Secretary and the City of Prescott may agree, in an amount sufficient, including all losses, to replace the water acquired from the City of Prescott and the Yavapai-Prescott Tribe.

(2) The Secretary is authorized and directed to enter into such agreements as are necessary to ensure that the Yavapai-Prescott Tribe will receive its share of the water to be developed by the Secretary pursuant to this subsection (e). Such agreement shall set forth the cost and other terms of delivery of such water.

(3) The Secretary is authorized and directed, at the request of the Yavapai-Prescott Indian Tribe, to enter into and renew agreements granting the Yavapai-Prescott Indian Tribe long-term grazing privileges on the land acquired by the Secretary pursuant to subsection (a)(2) of this section; Provided, that the exercise of such privileges by the Yavapai-Prescott Indian Tribe shall not interfere with the exercise of water rights upon such land except for water reasonably needed by the Yavapai-Prescott Indian Tribe in connection with grazing.

(f) The Secretary is authorized to contract to deliver replacement water to the entities identified in subsections (d) and (e) of this section which relinquish CAP water to the Secretary for the benefit of the Community. The replacement water shall be delivered by the Secretary at the Sullivan Lake delivery point unless otherwise agreed by the Secretary and the entity to receive the water. No replacement water may be delivered to any entity other than those identified in subsection (a)(2) of this section or their agents, and no replacement water may be used directly or indirectly outside Yavapai County, Arizona.

(g) The entities which relinquish CAP water to the Community pursuant to subsection (a)(2) of this section shall not be required to repay costs incurred by the United States pursuant to subsections (c) and (c)(3) of this section. The entities identified in subsection (d) of this section, except for any entity which is an Indian tribe, shall repay the United States so much of the cost of the undertaking identified in subsection (d) as the entities and the United States shall agree. The costs of any undertaking pursuant to this subsection (g) allocated to an Indian tribe shall be nonreimbursable.

(h) The Secretary is authorized and directed to study the sources and cost of the water supplies, other than those identified in this section, that can be used to satisfy the water rights of the Yavapai-Prescott Indian Tribe and of the Yavapai-Apache Indian Community of the Camp Verde Reservation. A separate study shall be made for each tribe. Each study shall be commenced within 180 days after the enactment of this Act and shall be completed within one year after it is commenced. Copies of such studies shall be provided to the Committee on Interior and Insular Affairs of the U.S. House of Representatives and the Select Committee on Indian Affairs of the U.S. Senate.

(i) If the Secretary acquires water for the Community pursuant to subsection (a)(2) of this section, then the Secretary shall exclude, for the purpose of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract No. 14-06-W-245 between the United States and CAWCD dated December 15, 1972, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be non-reimbursable.

(j) The Secretary shall, in the exercise of the authorities provided in subsection (a) of this section, comply with all applicable environmental law.

(k) If the Secretary acquires at least seven thousand acre-feet of CAP water from the entities identified in subsection (a)(2) of this section, there is authorized to be appropriated not to exceed $30,000,000 to pay the costs of acquiring the land and water resources identified in subsection (c) of this section and the costs allocable to the construction of diversion, collection, and conveyance facilities described in subsection (c); costs allocable to the construction or diversion, collection, and conveyance facilities shall be adjusted by such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved therein.

(l) There is authorized to be appropriated such sums as may be necessary to provide for the studies required in subsections (c)(1), (d)(1), and (h) of this section and for the monitoring programs described in subsections (c)(4) and (d)(2) of this section.

SEC. 7. WATER DELIVERY CONTRACT AMENDMENTS; WATER LEASE

(a) The Secretary is authorized and directed to amend the CAP water delivery contract between the United States and the Community dated December 11, 1980 (herein referred to as the "Community CAP Delivery Contract"), as follows:

(1) to extend the term of such contract to December 31, 2099 and to provide for its subsequent renewal upon terms and conditions to be agreed upon by the parties prior to the expiration of the extended term thereof;

(2) to authorize the Community to lease the CAP water to which the Community is entitled under the Community CAP Delivery Contract to the City of Phoenix under the terms and conditions of the Project Water Lease set forth in exhibit "20.2.2" to the Agreement for a term commencing January 1, 2001, and ending December 31, 2099.

(b) Notwithstanding any other provision of law, the amendments to the Community CAP Delivery Contract set forth in exhibit "20.2.1" to the Agreement and the terms and conditions of the Project Water Lease set forth in exhibit "20.2.2" to the Agreement are hereby authorized, approved, and confirmed.

(c) The United States shall not impose upon the Community the operation, maintenance and replacement charges described and set forth in section "6(b)" of the Community CAP Delivery Contract or any other charge with respect to CAP water delivered or required to be delivered to the City of Phoenix as lessee of the Project Water Lease herein authorized.

(d) The Community and the Secretary shall lease to the City of Phoenix, for a term commencing on January 1, 2001, and ending December 21, 2099, for consideration in an amount agreed to by the Community and the City to be paid by the City to the Community, upon those terms reflected in the Project Water Lease set forth in exhibit "20.2.2" to the Agreement, the four thousand three hundred acre-feet of CAP water to which the Community is entitled under the Community CAP Delivery Contract. The Project Water Lease shall specifically provide that—

(1) the City of Phoenix, in accordance with its obligations under the Project Water Leases, shall pay all operation, maintenance and replacement costs of such water to the United States, or, if directed by the Secretary, to the CAWCD; *Provided*, That such payments shall not be commenced earlier than October 1, 1999;

(2) except as otherwise provided in the Projects Water Lease, the City of Phoenix, shall not be obligated to pay water service capital charges or municipal and industrial subcontract charges or any other charges or payment for such CAP water other than the operation, maintenance, and replacement costs and lease payments as set forth in this subsection.

(e) For the purpose of determining the allocation and repayment of costs of the CA as provided in Article 9.3 of Contract Numbered 14-06-W-245 between the Unite States of America and the CAWCD date December 15, 1972, and any amendment o revision thereof, the costs associated wit the delivery of CAP water pursuant to th Project Water Lease referred to in subsection (d) shall be nonreimbursable, and suc costs shall be excluded from CAWCD's repayment obligation.

(f) Notwithstanding any other provisio of statutory or common law, the Community may with the approval of the Secretary lease water provided to the Communit under section 6 of this Act for its fai market value for a term not to exceed 10 years as provided in the Agreement but i no event for use outside Pima, Pinal or Maricopa Counties, State of Arizona. If some o all of the water provided to the Communit under section 6 of this Act is CAP water, th provisions of subsections of (a), (b), (c), (d and (e) of this section 7 shall apply to an lease of such water.

(g) Except as authorized by this sectio no water made available to the Communit or its members pursuant to the Agreemen may be sold, leased, transferred, or in an way used off the Community's reservation.

(h) If water is acquired from the Salt an Verde watershed pursuant to sectio (6)(a)(3), no such water may be sold, lease transferred, or in any way be used off of th Community's reservation.

SEC. 8. FORT McDOWELL INDIAN COMMUNITY DEVELOPMENT FUND; LOAN

(a) As soon as practicable, the Communit shall establish the Fort McDowell India Community Development Fund into whic shall be deposited—

(1) by the Secretary, the funds appropriated pursuant to subsection (b) of this section; and

(2) by the Senate of Arizona, $2,000,00 required by paragraph 21.4 of the Agreement.

(b) There is hereby authorized to be appropriated, together with interest accruin from one year after the date of enactmen of this Act at a rate determined by the Secretary of the Treasury taking into accoun the average market yield on outstandin Federal obligations of comparable maturity $23,000,000 which the Secretary shall depos it into the Community Development Fun for the Community to use in the design an construction of facilities to put to beneficia use the Community's water entitlement an for other economic and community development on the Fort McDowell Indian Reservation.

(c) As of the date the authorizations contained in section 9(b) of this Act become effective, the Community, in its discretion may use the Development Fund, principa and income, to fulfill the purposes of th Agreement and this Act: *Provided*, That n amount of the Federal or State appropriations deposited into the Development Fun may be used to make per capita payments t members of the Community.

(d) As of the date the authorizations contained in section 9(b) of this Act become effective—

(1) the Secretary shall have no furthe duties or responsibilities with respect to th administration of, or expenditures from, th Development Fund, and

(2) the United States shall not be liabl for any claim or cause of action arising fro

the Community's use and expenditure of moneys from the Development Fund.

(e) The Secretary is authorized and directed to provide to the Community a loan pursuant to the Small Reclamation Projects Act (Ch. 972, 70 Stat. 1044, 43 U.S.C. 422a, as amended), in the amount of $13,000,000, to be repaid over a term of fifty years without interest, for the purpose of constructing facilities for the conveyance and delivery of water on the Fort McDowell Indian Reservation: *Provided*, that any requirements for qualifying for the loan are hereby waived, including, but not limited to, the provisions of Section 3, 4(b)(2), 5(a) and 5(c) of the Small Reclamation Projects Act.

(1) The Community shall establish an account into which the Community shall deposit $1,000,000. The principal and all accrued income shall be retained in such fund until such time as the Community's obligation to repay the loan under subsection (e) is fulfilled.

(2) No appropriations for the construction of the CAP made after the date of enactment of this Act shall be used to plan, design, construct, or operate any facilities on the Fort McDowell Indian Reservation.

SEC. 9. SATISFACTION OF CLAIMS

(a) The benefits realized by the Community's members under this Act shall constitute full and complete satisfaction of all members' claims for water rights or injuries to water rights under Federal and State laws (including claims for water rights in groundwater, surface water, and effluent) from time immemorial to the effective date of this Act, and for any and all future claims of water rights (including claims for water rights in groundwater, surface water, and effluent) from and after the effective date of this Act.

(b) The Community and the Secretary on behalf of the United States are authorized, as part of the performance of the obligations under the Agreement, to execute a waiver and release of all present and future claims of water rights or injuries to water rights (including water rights in groundwater, surface water, and effluent), from time immemorial to the effective date of this Act, and any and all future claims of water rights (including water rights in groundwater, surface water, and effluent), from and after the effective date of this Act, which the Community and its members may have, against the United States, the State of Arizona or any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona.

(c) Except as provided in paragraphs 19.2 and 19.5 of the Agreement, the United States shall not assert any claim against the State of Arizona or any political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona in its own right or on behalf of the Community based upon—

(1) water rights or injuries to water rights of the Community and its members; or

(2) water rights or injuries to water rights held by the United States on behalf of the Community and its members.

(d) In the event the authorizations contained in subsection (b) of this section do not become effective pursuant to section 12(a), the Community shall retain the right to assert past and future water rights claims as to all reservation lands.

SEC. 10. ENVIRONMENTAL COMPLIANCE

(a) Execution of the settlement Agreement by the Secretary as provided for in section 11(d) shall not constitute major federal action under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance, except as specifically directed otherwise herein, during the implementation phase of this settlement.

(b) There is hereby authorized to be appropriated such sums as may be necessary to carry out all necessary environmental compliance associated with this settlement, including mitigation measures adopted by the Secretary.

(c) With respect to this settlement, the Bureau of Reclamation shall be designated as the lead agency in regard to environmental compliance, and shall coordinate and cooperate with the other affected Federal agencies as required under applicable environmental laws.

(d) Except as specifically set forth herein, the Secretary shall comply with all aspects of NEPA and the Endangered Species Act (ESA) (16 U.S.C. 1531 et seq.), and other applicable environmental acts and regulations in proceeding through the implementation phase of this settlement; Provided, however, that in regard to NEPA compliance, the Secretary is precluded from studying or considering alternatives to the Community's on-reservation agriculture development plans which will be facilitated by the settlement, or performed under the Small Reclamation Projects loan made pursuant to section 8(e).

SEC. 11. MISCELLANEOUS PROVISIONS

(a) In the event any party to the Agreement should file a lawsuit in Federal District Court relating only and directly to the interpretation or enforcement of this Act or the Agreement, naming the United States of America or the Community as parties, authorization is hereby granted to join the United States of America and/or the Community in any such litigation, and any claim by the United States of America or the Community to sovereign immunity from such suit is hereby waived.

(b) The United States of America shall make no claims for reimbursement of costs arising out of the implementation of this Act or the Agreement against any lands within the Fort McDowell Indian Reservation, and no assessment shall be made with regard to such costs against such lands.

(c) Water received by entities other than the Community pursuant to the Agreement shall not affect any future allocation or reallocation of the CAP supply.

(d) To the extent the Agreement does not conflict with the provisions of this Act, such Agreement is hereby approved, ratified, and confirmed. The Secretary is authorized and directed to execute and perform such Agreement. The Secretary is further authorized to execute any amendments to the Agreement and perform any action required by any amendments to the Agreement which may be mutually agreed upon by the parties.

(e) As of the date the authorizations contained in section 9(b) of this Act become effective, section 302(a) of the Colorado River Basin Project Act (43 U.S.C. 1522(a)) shall no longer apply to the Community.

(f) An easement for the construction, operation and maintenance of the Community's water diversion system on and within the lands identified in the Community's special permit extension application dated July 12, 1990 filed with the United States Forest Service, Department of Agriculture, is hereby granted in perpetuity.

(g) As of the date the authorizations contained in section 9(b) of this Act and in section 10(b) of the Salt River Pima-Maricopa Indian Community Water Rights Settlement Act (102 Stat. 2549) become effective, subsection 4(a) of this Act shall become effective as to the Salt River Pima-Maricopa Indian Community and the United States.

(h) Section 7(a) of the Salt River Pima-Maricopa Indian Community Water Rights Act (102 Stat. 2549) is hereby amended by striking the date "1990" and inserting in lieu thereof "1991."

SEC. 12. EFFECTIVE DATE

(a) The authorizations contained in section 9(b) of this Act shall become effective as of the date the Secretary causes to be published in the Federal Register a statement of findings that:

(1) the Secretary has signed a contract with the SRP for the storage and regulation of the Community's Kent Decree water pursuant to section 4;

(2) the RWCD subcontract for agricultural water service from CAP has been revised and executed as provided in section 5(b);

(3) the Secretary has acquired water pursuant to section 6 and made it available for delivery for the benefit of the Community;

(4) the funds authorized by section 8(b) have been appropriated and deposited into the Community Development Fund;

(5) the loan authorized by section 8(e) has been provided to the Community;

(6) the State of Arizona has appropriated and deposited into the Community Development Fund the $2,000,000 required by paragraph 21.4 of the Agreement;

(7) the stipulation which is attached to the Agreement as exhibit "19.5" has been approved; and

(8) the Agreement has been modified to the extent it is in conflict with this Act and has been executed by the Secretary.

(b) If the actions described in paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) of subsection (a) of this section have not occurred by December 31, 1993, sections 4, 5(a), and 5(b), if they have not theretofore become effective pursuant to the provisions of the Act of October 20, 1988 (P.L. 100-512), and sections 7, 8(a), 8(b), 8(e), 9(b), 9(c), 11(a), 11(b), 11(c), 11(d), 11(e) and 11(f) of this Act and any contracts entered into pursuant to those provisions shall not thereafter be effective, and any funds appropriated pursuant to section 8(b) of this Act shall revert to the Treasury, and any funds appropriated pursuant to paragraph 21.4 of the Agreement shall revert to the State of Arizona.

SEC 13. OTHER CLAIMS

Nothing in the Agreement or this act shall be construed in any way to quantify or otherwise adversely affect the land and water rights, claims or entitlements to water of any Arizona Indian tribe, band or community, other than the Community.

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON].

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, I am very pleased to support H.R. 5063.

This bill provides for the settlement of the water rights claims of the Fort McDowell Indian community.

The settlement should enable this Yavapai Indian community to achieve the economic self-sufficiency that is key to any notion of self-determination.

It will quantify the community's water rights.

It will provide funds for the community to develop those rights.

It includes State and local contributions valued at roughly half the total settlement cost.

The bill before us includes changes that respond to the administration's objections to the bill as reported by the Interior Committee.

With these changes I understand that the administration will accept it.

I congratulate and commend the community and the other Arizona parties to the settlement for their diligent efforts.

I applaud Interior Secretary Lujan, whose big picture approach to Arizona's water disputes has led to major progress on some very old and complex issues.

I complement my House colleagues, Mr. RHODES and Mr. KYL, and Senators MCCAIN and INOUYE for their leadership and hard work on this legislation.

Mr. Speaker, the bill before us is fair and a credit to all concerned.

I strongly urge the House to pass it.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5063, the Fort McDowell Indian Community Water Rights Settlement Act of 1990. I rise in support of this bill because it embodies a prudent and just settlement of the federally reserved water rights of the Fort McDowell Indian Community as against the other water users in central Arizona. This bill reflects the following worthy principles:

It is a settlement negotiated over the course of several years by the tribe, the Untied States, the State of Arizona, and all affected non-Indian water users in the locale.

It is a settlement that has as its basis and agreement that allows the tribe to put its water rights to use in a meaningful way, and that brings, certainty to the water rights of the affected non-Indian water users and stability to the local economy.

It is a settlement that has considerable local cost share and contribution—local water users will contribute approximately half of the water that is to be confirmed as the tribe's water entitlement; they will contribute about some cash to the settlement to enable the tribe to put its water to use; and they will provide storage capability for tribal water in local reservoirs.

It is a settlement that serves to redress some of the wrongs committed against the Fort McDowell Indian community over the past century—aborted attemtps by the Federal Government to remove the tribe from its reservation; failure of the Federal Government to provide assistance to the tribe in developing the reservation's land and water resources earlier in the century; and continued threats by the Federal Government from 1950 to 1987 to construct Orme Dam and flood the most valuable two-thirds of the reservation.

For the foregoing reasons, I urge my colleagues to support H.R. 5063.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KOLBE. Mr. Speaker, I rise in support of H.R. 5063, the Fort McDowell Indian Water Rights Settlement Act. This bill is the result of over 5 years of negotiations and the product of the dedicated efforts of many people. I commend all parties involved, especially Arizona delegation members JAY RHODES, MO UDALL, JON KYL and Senator JOHN MCCAIN, for their hard work, perseverance and spirit of compromise. With so many varied interests, and such longstanding, contentious issues, H.R. 5063 is a landmark achievement.

This legislation, when enacted, will quantify the Fort McDowell Indian community's entitlement to water and settle all claims between the community and neighboring non-Indian communities. Costly, time-consuming and uncertain litigation would be avoided. This water settlement will provide a basis for substantial economic development of the reservation and improving the quality of life on the reservation.

Again, I want to extend the highest praise to the parties to this settlement. This bill is fair, balanced and necessary. Its creation should be a model for how to resolve complex and controversial issues, especially those involving water rights settlements. This bill is good for the Fort McDowell Indian community, it's good for neighborhood non-Indian communities, it's good for the State of Arizona, and its good for the Federal Government. I urge your support.

Mr. RICHARDSON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Th
question is on the motion offered b
the gentleman from New Mexico [Mr
RICHARDSON] that the House suspen
the rules and pass the bill, H.R. 506
as amended.

The question was taken; and (tw
thirds having voted in favor thereo
the rules were suspended and the bil
as amended, was passed.

A motion to reconsider was laid o
the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debat
has been concluded on all motions t
suspend the rules.

Pursuant to clause 5, rule I, th
Chair will now put the question o
each motion to suspend the rules o
which further proceedings were pos
poned earlier today in the order i
which that motion was entertained.

Votes will be taken in the followin
order:

House Joint Resolution 658, by th
yeas and nays;

House Joint Resolution 418, by th
yeas and nays;

House Concurrent Resolution 32
by the yeas and nays; and

H.R. 3954, by the yeas and nays.

The Chair will reduce to 5 minut
the time for any electronic vote aft
the first such vote in this series.

☐ 1810

SUPPORTING THE PRESIDEN WITH RESPECT TO IRAQI AG GRESSION AGAINST KUWAIT

The SPEAKER pro tempore (M
MAZZOLI). The pending business is th
question of suspending the rules a
passing the joint resolution (H.J. Re
658).

The Clerk read the title of the joi
resolution.

The SPEAKER pro tempore. T
question is on the motion offered
the gentleman from Florida [Mr. FA
CELL] that the House suspend the rul
and pass the joint resolution (H.
Res. 658), on which the yeas and na
are ordered.

The vote was taken by electron
device, and there were—yeas 380, na
29, answered "present" 1, not voti
23, as follows:

[Roll No. 394]

YEAS—380

Ackerman
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Bruce
Bryant
Buechner

Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Conte
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Dannemeyer
Darden
Davis
de la Garza
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (VA)
Pease
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Russo
Sabo
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stearns
Stenholm
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Traficant
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NAYS—29

AuCoin
Bates
Clay
Collins
Conyers
DeFazio
Dellums
Edwards (CA)
Gonzalez
Hayes (IL)
Jacobs
Kastenmeier
Lehman (FL)
McDermott
Mfume
Miller (CA)
Payne (NJ)
Pelosi
Rangel
Roybal
Savage
Schroeder
Serrano
Stark
Stokes
Torres
Traxler
Washington
Yates

ANSWERED "PRESENT"—1

Williams

NOT VOTING—23

Alexander
Borski
Brown (CO)
Crane
Crockett
Douglas
Engel
Frenzel
Gingrich
Hatcher
Hawkins
Hiler
Houghton
Ireland
Michel
Morrison (CT)
Owens (NY)
Rowland (CT)
Saiki
Schuette
Solarz
Torricelli
Towns

☐ 1830

Mrs. COLLINS, Mr. SERRANO, Mrs. SCHROEDER, and Messrs. RANGEL, MFUME, LEHMAN of Florida, STOKES, BATES, and PAYNE of New Jersey changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all additional motions to suspend the rules on which the Chair has postponed further proceedings on today.

PROTECTING ANTARCTICA AS A GLOBAL ECOLOGICAL COMMONS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the joint resolution (H.J. Res. 418) as amended.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. YATRON] that the House suspend the rules and pass the joint resolution (H.J. Res. 418) as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 398, nays 11, not voting 24, as follows:

[Roll No. 395]

YEAS—398

Ackerman
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery

Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—11

Dannemeyer
DeLay
Fields
Hall (TX)
Hammerschmidt
Hancock
Hansen
Lightfoot
Marlenee
Stump
Vucanovich

NOT VOTING—24

Alexander
Borski
Brown (CO)
Crane
Crockett
Douglas
Engel
Frenzel
Gephardt
Gingrich
Hatcher
Hawkins
Hiler
Houghton
Ireland
Michel
Morrison (CT)
Owens (NY)
Rowland (CT)
Saiki
Schuette
Solarz
Torricelli
Towns

☐ 1840

So (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REGARDING COUNTRIES WHICH VIOLATE THE MORATORIUM ON COMMERCIAL WHALING

The SPEAKER pro tempore (Mr. MAZZOLI). The pending business is the question of suspending the rules and agreeing to the concurrent resolution (H. Con. Res. 329).

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. YATRON] that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 329), on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 412, nays 0, not voting 21, as follows:

[Roll No. 396]

YEAS—412

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—21

Borski
Brown (CO)
Crane
Crockett
Engel
Frenzel
Gephardt
Gingrich
Hatcher
Hawkins
Hiler
Houghton
Ireland
Morrison (CT)
Owens (NY)
Rowland (CT)
Saiki
Schuette
Solarz
Torricelli
Towns

☐ 1848

So (two-thirds having voted in favo thereof), the rules were suspended an the concurrent resolution was agree to.

The result of the vote was a nounced as above recorded.

A motion to reconsider was laid o the table.

ESTABLISHING A PEACE CORPS MEMORIAL

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3954, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and pass the bill, H.R. 3954, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 409, nays 0, not voting 24, as follows:

[Roll No. 397]

YEAS—409

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Flake
Flippo
Foglietta
Ford (MI)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—24

Borski
Brown (CO)
Crane
Crockett
Engel
Fish
Ford (TN)
Frenzel
Gephardt
Gingrich
Hatcher
Hawkins
Hiler
Houghton
Ireland
Morrison (CT)
Owens (NY)
Ray
Rowland (CT)
Saiki
Schuette
Solarz
Torricelli
Towns

□ 1855

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The title of the bill was amended so as to read: "A bill to authorize the establishment of a memorial on Federal land in the District of Columbia or its environs to honor service in the Peace Corps.".

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent for rollcall No. 394, House Joint Resolution 658—supporting actions the President has taken with respect to Iraqi aggression against Kuwait; rollcall No. 395, House Joint Resolution 418—the treaty to protect Antarctica; rollcall No. 396, House Concurrent Resolution 329—sanctions against commercial whaling; and rollcall No. 397, H.R. 3954—establishing a Peace Corps memorial. Had I been here, I would have voted "aye" for each one.

CONFERENCE REPORT ON S. 1824, EDUCATION OF THE HANDICAPPED ACT AMENDMENTS OF 1990

Mr. MARTINEZ submitted the following conference report and statement on the bill (S. 1824) to reauthorize the Education of the Handicapped Act, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-787)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1824) to reauthorize the Education of the Handicapped Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SECTION 1. SHORT TITLE; REFERENCE.

(a) Short Title.—This Act may be cited as the "Education of the Handicapped Act Amendments of 1990".

(b) REFERENCE.—Except as otherwise provided in section 901, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Education of the Handicapped Act.

TITLE I—GENERAL PROVISIONS

SEC. 101. DEFINITIONS.

(a) HANDICAPPED CHILDREN.—Section 602(a)(1) (20 U.S.C. 1401(a)(1)) is amended to read as follows:

"(1) The term 'children with disabilities' means children—

"(A) with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

"(B) who, by reason thereof need special education and related services.".

(b) SPECIAL EDUCATION.—Section 602(a)(16) (20 U.S.C. 1401(a)(16)) is amended by striking "including classroom instruction" and all that follows and inserting the following: "including—

"(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

"(B) instruction in physical education.".

(c) RELATED SERVICES.—Section 602(a)(17) (20 U.S.C. 1401(a)(17)) is amended—

(1) by striking "recreation," and inserting "recreation, including therapeutic recreation and social work services,"; and

(2) by inserting ", including rehabilitation counseling," after "counseling services,".

(d) TRANSITION SERVICES.—Section 602(a) (20 U.S.C. 1401(a)) is amended by redesignating paragraphs (19) through (23) as paragraphs (20) through (24), respectively, and by inserting after paragraph (18) the following new paragraph:

"(19) The term 'transition services' means a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.".

(e) INDIVIDUALIZED EDUCATION PROGRAM.—Section 602(a)(20), as redesignated by subsection (d) of this section, is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) a statement of the needed transition services for students beginning no later than age 16 and annually thereafter (and, when determined appropriate for the individual, beginning at age 14 or younger), including, when appropriate, a statement of the interagency reponsibilities or linkages (or both) before the student leaves the school setting,", and

(2) by inserting after subparagraph (F) (as so redesignated) the following: "In the case where a participating agency, other than the educational agency, fails to provide agreed upon services, the educational agency shall reconvene the IEP team to identify alternative strategies to meet the transition objectives.".

(f) PUBLIC OR PRIVATE NONPROFIT AGENCY OR ORGANIZATION.—Section 602(a)(24)(A), as redesignated by subsection (d) of this section, is amended by inserting before the period the following: "and the Bureau of Indian Affairs of the Department of the Interior (when acting on behalf of schools operated by the Bureau for children and students on Indian reservations) and tribally controlled schools funded by the Department of Interior".

(g) ASSISTIVE TECHNOLOGY DEVICE.—Section 602(a), as amended by subsection (d) of this section, is amended by adding at the end the following new paragraph:

"(25) The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.".

(h) ASSISTIVE TECHNOLOGY SERVICE.—Section 602(a), as amended by subsection (g) of this section, is amended by adding at the end the following new paragraph:

"(26) The term 'assistive technology service' means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in the individual's customary environment;

"(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

"(E) training or technical assistance for an individual with disabilities, or, where appropriate, the family of an individual with disabilities; and

"(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.".

(i) UNDERREPRESENTED.—Section 602(a), as amended by subsection (h) of this section, is amended by adding at the end the following new paragraph:

"(27) The term 'underrepresented' means populations such as minorities, the poor, the limited English proficient, and individuals with disabilities.".

SEC. 102. NOTICE OF INQUIRY

(a) PUBLICATION.—Not later than 30 days after the date of the enactment of the Education of the Handicapped Act Amendments of 1990, the Secretary shall publish a Notice of Inquiry in the Federal Register for the purpose of soliciting public comments regarding the appropriate components of an operational definition under such Act for the term "attention deficit disorder" (hereinafter referred to in this section as the "disorder") in accordance with subsection (b)(2).

(b) PUBLIC COMMENT.—

(1) The Notice of Inquiry published under subsection (a) shall provide for a 120-day period for public comment.

(2) The Notice of Inquiry shall request comments concerning the following issues:

(A) How should the disorder be described operationally for purposes of qualifying a child for special education and related services under part B of the Education of the Handicapped Act.

(B) What criteria should be included in the definition to qualify children with the disorder whose disability is comparable in severity to other children with disabilities currently determined to be eligible for special education and related services under part B of the Education of the Handicapped Act.

(C) What specific manifestations of the disorder, if any, should be included in the definition.

(D) Whether the definition should include references to characteristics or circumstances that produce transient inattentive behaviors that, in and of themselves, would not make a child eligible for special education and related services under the definition of the disorder.

(E) Whether the definition should address the concurrence of this disorder with other disabilities such as specific learning disabilities or serious emotional disturbance, and if so addressed, the manner in which such is to be accomplished.

(F) Whether guidelines should be provided to State and local educational agencies regarding their obligation to conduct an evaluation of a child suspected of having this disorder, and a description of such guidelines.

(G) Who should be authorized to conduct an assessment of a child having or suspected of having the disorder and whether the assessment should be conducted by more than one individual (such as a teacher and a psychologist).

(H) What provisions should be included in the definition and what additional steps, if any, not currently required by the regulations implementing part B of the Education of the Handicapped Act, should be included to ensure that racial, ethnic, and linguistic minorities are not misclassified under this definition.

(c) REPORT TO COMMITTEES.—Not later than 30 days after the close of the comment period referred to in subsection (b)(1), the Secretary shall transmit the public comments received in response to the Notice of Inquiry in a usable form, accompanied by a document summarizing such comments, to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.

SEC. 103. ABROGATION OF STATE SOVEREIGN IMMUNITY.

Part A (20 U.S.C. 1400 et seq.) is amended by inserting after section 603 the following new section:

"ABROGATION OF STATE SOVEREIGN IMMUNITY

"SEC. 604. (a) A State shall not be immune under the eleventh amendment to the Constitution of the United States from suit in Federal court for a violation of this Act.

"(b) In a suit against a State for a violation of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in the suit against any public entity other than a State.

"(c) The provisions of subsections (a) and (b) shall take effect with respect to violations that occur in whole or part after the date of the enactment of the Education of the Handicapped Act Amendments of 1990.".

SEC. 104. REPORTS, EVALUATIONS, FINDINGS, AND OTHER PROVISIONS GENERALLY APPLICABLE TO PARTS C THROUGH G.

Part A (20 U.S.C. 1400 et seq.) is amended by adding at the end the following new section:

"ADMINISTRATIVE PROVISIONS APPLICABLE TO PARTS C THROUGH G AND SECTION 618

"SEC. 610. (a) The Secretary shall maintain a process for developing a program plan for the implementation of each of the programs authorized under section 618 and parts C through G. The plan shall include program goals, objectives, strategies, and priorities. In conducting the process, the Secretary shall involve individuals with disabilities, parents, professionals, and representatives of State and local educational agencies, private schools, institutions of higher education, and national organizations who have interest and expertise in the program.

"(b) In awarding grants, contracts, and cooperative agreements under parts C through G, the Secretary, where appropriate, shall require applicants to demonstrate how they will address, in whole or in part, the needs of infants, toddlers, children, and youth with disabilities from minority backgrounds.

"(c) In awarding grants, contracts, or cooperative agreements under parts C through

G the Secretary, where appropriate, may require applicants to address the various transitions that a child with a disability may face throughout such child's years in school, including—

"(1) the transition from medical care to special education for those children with disabilities, including chronic health impairments, who may require individualized health-related services to enable such children to participate in, or benefit from, special education;

"(2) the transition between residential placement and community-based special education services; and

"(3) the transition between a separate educational placement and the regular classroom setting.

"(d) The Secretary shall conduct directly, or by contract or cooperative agreement with appropriate entities, independent evaluations of the programs authorized under section 618 and under parts C through G, and may for such purpose use funds appropriated to carry out such provisions. The findings of the evaluators shall be utilized in the planning process under subsection (a) for the purpose of improving the programs. The evaluations shall determine the degree to which the program is being conducted consistent with the program plan and meeting its goals and objectives. The Secretary shall submit to the appropriate committees of the Congress the results of the evaluations required by this subsection.

"(e) The Secretary shall report on the program plans required in subsection (a) and findings from the evaluations under subsection (d) in the annual report to the Congress required under section 618.

"(f) The Secretary shall develop effective procedures for acquiring and disseminating information derived from programs and projects funded under parts C through G, as well as information generated from studies conducted and data collected under section 618.

"(g) The Secretary shall, where appropriate, require recipients of all grants, contracts, and cooperative agreements under parts C through G to prepare reports describing their procedures, findings, and other relevant information in a form that will maximize the dissemination and use of such procedures, findings, and information. The Secretary shall require their delivery, as appropriate, to the Regional and Federal Resource Centers, the Clearinghouses, and the Technical Assistance to Parents Programs (TAPP) assisted under parts C and D, as well as the National Diffusion Network, the ERIC Clearinghouse on the Handicapped and Gifted, and the Child and Adolescent Service Systems Program (CASSP) under the National Institute of Mental Health, appropriate parent and professional organizations, organizations representing individuals with disabilities, and such other networks as the Secretary may determine to be appropriate.

"(h)(1) The Secretary shall convene, in accordance with paragraph (2), panels of experts who are competent, by virtue of their training or experience, to evaluate proposals under section 618 and parts C through G.

"(2) Panels under paragraph (1) shall be composed of individuals with disabilities, parents of such individuals, individuals from the fields of special education, related services, and other relevant disciplines.

"(3) The Secretary shall convene panels under paragraph (1) for any application that includes a total funding request exceeding $60,000 and may convene or otherwise appoint panels for applications that include funding requests that are less than such amount.

"(4) Panels under paragraph (1) shall include a majority of non-Federal members. Such non-Federal members shall be provided travel and per diem not to exceed the rate provided to other educational consultants used by the Department of Education and shall be provided consultant fees at such a rate.

"(5) The Secretary may use funds available under section 618 and parts C through G to pay expenses and fees of non-Federal members of the panels.

"(i) The Secretary shall conduct at least 1 site visit for each grant, contract, and cooperative agreement receiving $300,000 or more annually under parts C through G.

"(j)(1) With respect to the discretionary programs authorized by parts C through G, the Congress finds as follows:

"(A)(i) The Federal Government must be responsive to the growing needs of an increasingly more diverse society. A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals.

"(ii) America's racial profile is rapidly changing. While the rate of increase for white Americans is 3.2 percent, the rate of increase for racial and ethnic minorities is much higher: 38.6 percent for Hispanics, 14.6 percent for African-Americans, and 40.1 percent for Asians and other ethnic groups.

"(iii) By the year 2000, this Nation will have 260,000,000 people, one of every three of whom will be either African-American, Hispanic, or Asian-American.

"(iv) Taken together as a group, it is a more frequent phenomenon for minorities to comprise the majority of public school students. Large city school populations are overwhelmingly minority, e.g., Miami, 71 percent; Philadelphia, 73 percent; Baltimore, 80 percent.

"(v) Recruitment efforts within special education at the level of preservice, continuing education, and practice must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of special education.

"(vi) The limited English proficient population is the fastest growing in our Nation, and the growth is occurring in many parts of our Nation. In the Nation's 2 largest school districts, limited-English students make up almost half of all students initially entering school at the kindergarten level. Studies have documented apparent discrepancies in the levels of referral and placement of limited-English proficient children in special education. The Department of Education has found that services provided to limited-English proficient students often do not respond primarily to the pupil's academic needs. These trends pose special challenges for special education in the referral, assessment, and services for our Nation's students from non-English language backgrounds.

"(B)(i) Greater efforts are needed to prevent the intensification of problems connected with mislabeling and high dropout rates among minority children with disabilities.

"(ii) More minority children continue to be served in special education than would be expected from the percentage of minority students in the general school population.

"(iii) Poor African-American children are 3.5 times more likely to be identified by their teacher as mentally retarded than their white counterpart.

"(iv) Although African-Americans represent 12 percent of elementary and secondary enrollments, they constitute 28 percent of total enrollments in special education.

"(v) The drop out rate is 68 percent higher for minorities than for whites.

"(vi) More than 50 percent of minority students in large cities drop out of school.

"(C)(i) The opportunity for full participation in awards for grants and contracts; boards of organizations receiving funds under this Act; and peer review panels; and training of professionals in the area of special education by minority individuals, organizations, and historically Black colleges and universities is essential if we are to obtain greater success in the education of minority children with disabilities.

"(ii) In 1989, of the 661,000 college and university professors, 4.6 percent were African-American and 3.1 percent were Hispanic. Of the 3,600,000 teachers, prekindergarten through high school, 9.4 percent were African-American and 3.9 percent were Hispanic.

"(iii) Students from minority groups comprise more than 50 percent of K-12 public school enrollment in seven States yet minority enrollment in teacher training programs is less than 15 percent in all but six States.

"(iv) As the number of African-American and Hispanic students in special education increases, the number of minority teachers and related service personnel produced in our colleges and universities continues to decrease.

"(v) Ten years ago, 12.5 percent of the United States teaching force in public elementary and secondary schools were members of a minority group. Minorities comprised 21.3 percent of the national population at that time and were clearly underrepresented then among employed teachers. Today, the elementary and secondary teaching force is 3 to 5 percent minority, while one-third of the students in public schools are minority children.

"(vi) As recently as 1984-85, Historically Black Colleges and Universities (HBCUs) supplied nearly half of the African-American teachers in the Nation. However, in 1988, HBCUs received only 2 percent of the discretionary funds for special education and related services personnel training.

"(vii) While African-American students constitute 28 percent of total enrollment in special education, only 11.2 percent of individuals enrolled in preservice training programs for special education are African-American.

"(viii) In 1986-87, of the degrees conferred in education at the B.A., M.A., and Ph.D levels, only 6, 8, and 8 percent, respectively, were awarded to African-American or Hispanic students.

"(D) Minorities and underserved persons are socially disadvantaged because of the lack of opportunities in training and educational programs, undergirded by the practices in the private sector that impede their full participation in the mainstream of society.

"(2) The Congress further finds that these conditions can be greatly improved by providing opportunities for the full participation of minorities through the implementation of the following recommendations:

"(A) Implementation of a policy to mobilize the Nation's resources to prepare minorities for careers in special education and related services.

"(B) This policy should focus on—

"(i) the recruitment of minorities into teaching; and

"(ii) financially assisting HBCUs and other institutions of higher education (whose minority student enrollment is at least 25 percent) to prepare students for special education and related service careers.

"(C)(i) The Secretary shall develop a plan for providing outreach services to the entities described in clause (ii) in order to increase the participation of such entities in competitions for grants, contracts, and cooperative agreements under any of parts C through G.

"(ii) The entities referred to in clause (i) are—

"(I) Historically Black Colleges and Universities and other institutions of higher education whose minority student enrollment is at least 25 percent;

"(II) eligible institutions as defined in section 312 of the Higher Education Act of 1965;

"(III) nonprofit and for-profit agencies at least 51 percent owned or controlled by one or more minority individuals; and

"(IV) underrepresented populations.

"(iii) For the purpose of implementing the plan required in clause (i), the Secretary shall, for each of the fiscal years 1991 through 1994, expend 1 percent of the funds appropriated for the fiscal year involved for carrying out parts C through G.

"(3) The Secretary shall exercise his/her utmost authority, resourcefulness, and diligence to meet the requirements of this subsection.

"(4) Not later than January 31 of each year, starting with fiscal year 1991, the Secretary shall submit to Congress a final report on the progress toward meeting the goals of this subsection during the preceding fiscal year. The report shall include—

"(i) a full explanation of any progress toward meeting the goals of this subsection; and

"(ii) a plan to meet the goals, if necessary.".

TITLE II—ASSISTANCE FOR EDUCATION OF ALL HANDICAPPED INDIVIDUALS

SEC. 201. SETTLEMENTS AND ALLOCATIONS.

Section 611(f) (20 U.S.C. 1411(f)) is amended—

(1) in paragraph (1), in the first sentence, by inserting "(A)" after "reservations" and by inserting before the period the following: ", and (B) for whom services were provided through contract with an Indian tribe or organization prior to fiscal year 1989"; and

(2) by adding at the end the following new paragraph:

"(3) Before March 1, 1991, the Secretary of the Interior shall submit to the appropriate Committees of the Congress a plan for the provision of services under this Act to all children with disabilities residing on reservations, whether or not such reservation is served by a B.I.A. funded school. Such plan shall provide for the coordination of services benefiting these children from whatever source, including Tribes, the State in which the child resides and entities of such State, the Indian Health Service, other B.I.A. divisions and other Federal agencies. In developing such a plan, the Secretary shall consult with all interested and involved parties. Such a plan may not be based upon a blanket assumption or interpretation that denies Federal or Interior responsibility for any group or class of children or settings, but shall be based upon the needs of the children and the system best suited for meeting those needs, and may involve the establishment of service agreements between the B.I.A. and other entities.".

SEC. 202. STATE PLANS.

Section 613(a)(3) (20 U.S.C. 1413(a)(3)) is amended to read as follows:

"(3) describe, consistent with the purposes of this Act, a comprehensive system of personnel development that shall include—

"(A) a description of the procedures and activities the State will undertake to ensure an adequate supply of qualified special education and related services personnel, including—

"(i) the development and maintenance of a system for determining, on an annual basis—

"(I) the number and type of personnel, including leadership personnel, that are employed in the provision of special education and related services, by area of specialization, including the number of such personnel who are employed on an emergency, provisional, or other basis, who do not hold appropriate State certification or licensure; and

"(II) the number and type of personnel, including leadership personnel, needed, and a projection of the numbers of such personnel that will be needed in five years, based on projections of individuals to be served, retirement and other leaving of personnel from the field, and other relevant factors;

"(ii) the development and maintenance of a system for determining, on an annual basis, the institutions of higher education within the State that are preparing special education and related services personnel, including leadership personnel, by area of specialization, including—

"(I) the numbers of students enrolled in such programs, and

"(II) the number who graduated with certification or licensure, or with credentials to qualify for certification or licensure, during the past year; and

"(iii) the development, updating, and implementation of a plan that—

"(I) will address current and projected special education and related services personnel needs, including the need for leadership personnel; and

"(II) coordinates and facilitates efforts among State and local educational agencies, institutions of higher education, and professional associations to recruit, prepare, and retain qualified personnel, including personnel from minority backgrounds, and personnel with disabilities; and

"(B) a description of the procedures and activities the State will undertake to ensure that all personnel necessary to carry out this part are appropriately and adequately prepared, including—

"(i) a system for the continuing education of regular and special education and related services personnel;

"(ii) procedures for acquiring and disseminating to teachers, administrators, and related services personnel significant knowledge derived from education research and other sources; and

"(iii) procedures for adopting, where appropriate, promising practices, materials, and technology.".

SEC. 203. EVALUATION.

Section 618 is amended to read as follows:

"EVALUATION AND PROGRAM INFORMATION

"SEC. 618. (a) The Secretary shall, directly or by grant, contract, or cooperative agreement, collect data and conduct studies, investigations, analyses, and evaluations—

"(1) to assess progress in the implementation of this Act;

"(2) to assess the impact and effectiveness of State and local efforts, and efforts by the Secretary of the Interior, to provide—

"(A) free appropriate public education to children and youth with disabilities; and

"(B) early intervention services to infants and toddlers with disabilities; and

"(3) to provide—

"(A) Congress with information relevant to policymaking; and

"(B) State, local, and Federal agencies, including the Department of the Interior, with information relevant to program management, administration, delivery, and effectiveness with respect to such education and early intervention services.

"(b)(1) In carrying out subsection (a), the Secretary, on at least an annual basis (except as provided in subparagraph (E)) shall obtain data concerning programs and projects assisted under this Act and under other Federal laws relating to infants, toddlers, children, and youth with disabilities and such additional information, from State and local educational agencies, the Secretary of the Interior, and other appropriate sources, including designated lead agencies under part H (except that during fiscal year 1992 such entities may not under this subsection be required to provide data regarding traumatic brain injury or autism), including—

"(A) the number of infants, toddlers, children, and youth with disabilities in each State receiving a free appropriate public education or early intervention services—

"(i) in age groups 0-2 and 3-5, and

"(ii) in age groups 6-11, 12-17, and 18-21 by disability category;

"(B) the number of children and youth with disabilities in each State, by disability category, who—

(i) are participating in regular educational programs (consistent with the requirements of section 612(5)(B) and 614(a)(1)(C)(iv));

(ii) are in separate classes, separate schools or facilities, or public or private residential facilities; or

(iii) have been otherwise removed from the regular education environment;

"(C) the number of children and youth with disabilities exiting the educational system each year through program completion or otherwise, by disability category, for each year of age from age 14 through 21;

"(D) the number and type of personnel that are employed in the provision of—

"(i) special education and related services to children and youth with disabilities, by disability category served; and

"(ii) early intervention services to infants and toddlers with disabilities; and

"(E) at least every three years, using the data collection method the Secretary finds most appropriate, a description of the services expected to be needed, by disability category, for youth with disabilities in age groups 12-17 and 18-21 who have left the educational system.

"(2) Beginning with fiscal year 1993, the Secretary shall obtain and report data from the States under section 613(a)(3)(A), including data addressing current and projected special education and related services needs, and data on the number of personnel who are employed on an emergency, provisional, or other basis, who do not hold appropriate State certification or licensure, and other data for the purpose of meeting the requirements of this subsection pertaining to special education and related services personnel.

"(3) The Secretary shall provide, directly or by grant, contract, or cooperative agreement, technical assistance to State agencies providing the data described in paragraph

(1) and (2) to achieve accurate and comparable information.

"(c)(1) The Secretary shall make grants to, or enter into contracts or cooperative agreements with, State or local educational agencies, institutions of higher education, public agencies, and private nonprofit organizations, and, when necessary because of the unique nature of the study, private-for-profit organizations, for the purpose of conducting studies, analyses, syntheses, and investigations for improving program management, administration, delivery, and effectiveness necessary to provide full educational opportunities and early interventions for all children with disabilities from birth through age 21. Such studies and investigations shall gather information necessary for program and system improvements including—

"(A) developing effective, appropriate criteria and procedures to identify, evaluate, and serve infants, toddlers, children, and youth with disabilities from minority backgrounds for purposes of program eligibility, program planning, delivery of services, program placement, and parental involvement;

"(B) planning and developing effective early intervention services, special education, and related services to meet the complex and changing needs of infants, toddlers, children, and youth with disabilities;

"(C) developing and implementing a comprehensive system of personnel development needed to provide qualified personnel in sufficient number to deliver special education, related services, and early intervention services;

"(D) developing the capacity to implement practices having the potential to integrate children with disabilities, to the maximum extent appropriate, with children who are not disabled;

"(E) effectively allocating and using human and fiscal resources for providing early intervention, special education, and related services;

"(F) strengthening programs and services to improve the progress of children and youth with disabilities while in special education, and to effect a successful transition when such children and youth leave special education;

"(G) achieving interagency coordination to maximize resource utilization and continuity in services provided to infants, toddlers, children, and youth with disabilities;

"(H) strengthening parent-school communication and coordination to improve the effectiveness of planning and delivery of interventions and instruction, thereby enhancing development and educational progress; and

"(I) the identification of environmental, organizational, resource, and other conditions necessary for effective professional practice.

"(2)(A) The studies and investigations authorized under this subsection may be conducted through surveys, interviews, case studies, program implementation studies, secondary data analyses and syntheses, and other appropriate methodologies.

"(B) The studies and investigations conducted under this subsection shall address the information needs of State and local educational agencies for improving program management, administration, delivery, and effectiveness.

"(3) The Secretary shall develop and implement a process for the on-going identification of national program information needed for improving the management, administration, delivery, and effectiveness of programs and services provided under this Act. The process shall identify implementation issues, desired improvements, and information needed by State and local agencies to achieve such improvements, and shall be conducted in cooperation with State educational agencies that can ensure broad-based statewide input from each cooperating State. The Secretary shall publish for public comment in the Federal Register every 3 years a program information plan describing such information needs. Such program information plan shall be used to determine the priorities for, and activities carried out under, this subsection to produce, organize, and increase utilization of program information. Such program information plan shall be included in the annual report submitted under section 618 every 3 years.

"(4) In providing funds under this subsection, the Secretary shall require recipients to prepare their procedures, findings, and other relevant information in a form that will maximize their dissemination and use, especially through dissemination networks and mechanisms authorized by this Act, and in a form for inclusion in the annual report to Congress authorized under subsection (g).

"(d)(1) The Secretary shall enter into cooperative agreements with State educational agencies and other State agencies to carry out studies to assess the impact and effectiveness of programs, policies, and procedures assisted under this Act.

"(2) The agreements referred to in paragraph (1) shall—

"(A) provide for the payment of not more than 60 percent of the total cost of studies conducted by a participating State agency to assess the impact and effectiveness of this Act; and

"(B) be developed in consultation with the State Advisory Panel established under section 613(a)(12), local educational agencies, and others involved in, or concerned with, the education of children and youth with disabilities and the provision of early intervention services to infants and toddlers with disabilities.

"(3) The Secretary shall provide technical assistance to participating State agencies in the implementation of the study design, analysis, and reporting procedures.

"(e)(1) The Secretary shall by grant, contract, or cooperative agreement, provide for special studies to assess progress in the implementation of this Act, and to assess the impact and effectiveness of State and local efforts and efforts by the Secretary of the Interior to provide free appropriate public education to children and youth with disabilities, and early intervention services to infants and toddlers with disabilities. Reports from such studies shall include recommendations for improving programs and services to such individuals. The Secretary shall, beginning in fiscal year 1993 and for every third year thereafter, submit to the appropriate committees of each House of the Congress and publish in the Federal Register proposed priorities for review and comment.

"(2) In selecting priorities for fiscal years 1991 through 1994, the Secretary may give first consideration to—

"(A) completing a longitudinal study of a sample of students with disabilities, examining—

"(i) the full range of disabling conditions;

"(ii) the educational progress of students with disabilities while in special education; and

"(iii) the occupational, educational, and independent living status of students with disabilities after graduating from secondary school or otherwise leaving special education.

"(B) conducting pursuant to this subsection a nationally representative study focusing on the types, number, and intensity of related services provided to children with disabilities by disability category.

"(C) conducting pursuant to this subsection a study that examines the degree of disparity among States with regard to the placement in various educational settings of children and youth with similar disabilities, especially those with mental retardation, and, to the extent that such disparity exists, the factors that lead such children and youth to be educated in significantly different educational settings.

"(D) conducting pursuant to this subsection a study that examines the factors that have contributed to the decline in the number of children classified as mentally retarded since the implementation of this Act, and examines the current disparity among States in the percentage of children so classified.

"(E) conducting pursuant to this subsection a study that examines the extent to which out-of-community residential programs are used for children and youth who are seriously emotionally disturbed, the factors that influence the selection of such placements, the degree to which such individuals transition back to education programs in their communities, and the factors that facilitate or impede such transition.

"(F) conducting pursuant to this subsection a study that examines (i) the factors that influence the referral and placement decisions and types of placements, by disability category and English language proficiency, of minority children relative to other children, (ii) the extent to which these children are placed in regular education environments, (iii) the extent to which the parents of these children are involved in placement decisions and in the development and implementation of the individualized education program and the results of such participation, and (iv) the type of support provided to parents of these children that enable these parents to understand and participate in the educational process.

"(f) The Secretary shall make grants to, or enter into contracts or cooperative agreements with, State or local educational agencies, institutions of higher education, other public agencies, and private nonprofit organizations to support activities that organize, synthesize, interpret, and integrate information obtained under subsections (c) and (e) with relevant knowledge obtained from other sources. Such activities shall include the selection and design of content, formats, and means for communicating such information effectively to specific or general audiences, in order to promote the use of such information in improving program administration and management, and service delivery and effectiveness.

"(g)(1)(A) The Secretary is authorized to conduct activities, directly or by grant, contract, or cooperative agreement, to prepare an annual report on the progress being made toward the provision of—

"(i) a free appropriate public education to all children and youth with disabilities; and

"(ii) early intervention services for infants and toddlers with disabilities.

"(B) Not later than 120 days after the close of each fiscal year, the Secretary shall transmit a copy of the report authorized under subparagraph (A) to the appropriate committees of each House of Congress. The annual report shall be published and disseminated in sufficient quantities to the education and disability communities and to other interested parties.

"(2) The Secretary shall include in each annual report under paragraph (1)—

"(A) a compilation and analysis of data gathered under subsection (b) and under part H; and

"(B) a description of findings and determinations resulting from monitoring reviews of State implementation of this part.

"(3) In the annual report under paragraph (1) for fiscal year 1991 (which is published in 1992) and for every third year thereafter, the Secretary shall include in the annual report—

"(A) an index of all current projects funded under parts C through G; and

"(B) data reported under sections 622 and 634.

"(4) The Secretary shall include in each annual report under paragraph (1) the results of research and related activities conducted under part E that the Secretary determines are relevant to the effective implementation of this Act.

"(5) The Secretary shall, in consultation with the National Council on Disability and the Bureau of Indian Affairs Advisory Committee for Exceptional Children, include a description of the status of early intervention services for infants and toddlers with disabilities from birth through age 2, and special education and related services to children with disabilities from 3 through 5 years of age (including those receiving services through Head Start, developmental disabilities programs, crippled children's services, mental health/mental retardation agencies, and State child-development centers and private agencies under contract with local schools).

"(h) There are authorized to be appropriated $12,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 through 1994 to carry out the purposes of this section and not more than 30 percent may be used to carry out the purposes of subsection (e) of this section.".

TITLE III—CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF HANDICAPPED INDIVIDUALS

SEC. 301. REGIONAL RESOURCE AND FEDERAL CENTERS.

(a) AMENDMENTS TO SUBSECTION (a).—Section 621(a) (20 U.S.C. 1421(a)) is amended—

(1) in the first sentence, by striking "regional resource centers." and inserting the following: "regional resource centers that focus on special education and related services and early intervention services.";

(2) in the second sentence—

(A) by striking "training to State" and inserting "training, as requested, to State"; and

(B) by inserting after "agencies providing" the following: "special education and related services and";

(3) in the third sentence, by striking "center" the second place such term appears and all that follows and inserting "center."; and

(4) in paragraph (3), by striking "relevant projects conducted by" and inserting "relevant programs and projects conducted under parts C through G and by".

(b) AMENDMENTS TO SUBSECTION (b).—Section 621(b) (20 U.S.C. 1421(b)) is amended by striking "shall consider" and inserting "shall utilize criteria for setting criteria that are consistent with the needs identified by States within the region served by such center, consistent with requirements established by the Secretary under subsection (f), and, to the extent appropriate, consistent with requirements under section 610, and shall consider".

(c) AMENDMENTS TO SUBSECTION (d).—Section 621(d) (20 U.S.C. 1421(d)) is amended by inserting at the end thereof the following new sentence: "Such coordinating technical assistance center is authorized to—

"(1) provide information to, and training for, agencies, institutions, and organizations, regarding techniques and approaches for submitting applications for grants, contracts, and cooperative agreements under this part and parts D through G, and shall make such information available to the regional resource centers on request;

"(2) give priority to providing technical assistance concerning the education of children with disabilities from minority backgrounds;

"(3) exchange information with, and, where appropriate, cooperate with, other centers addressing the needs of children with disabilities from minority backgrounds; and

"(4) provide assistance to State educational agencies, through the regional resource centers, for the training of hearing officers.".

(d) NEW SUBSECTION.—Section 621 (20 U.S.C. 1421) is amended by adding at the end the following new subsection:

"(f)(1) The Secretary shall develop guidelines and criteria for the operation of Regional and Federal Resource Centers. In developing such criteria and guidelines, the Secretary shall establish a panel representing the Office of Special Education Programs staff, State special education directors, representatives of disability advocates, and, when appropriate, consult with the regional resource center directors.

"(2) Such guidelines and criteria shall include—

"(A) a description of how the Federal and Regional Resource Centers Program will be administered by the Secretary;

"(B) a description of the geographic region each Center is expected to serve;

"(C) a description of the role of a Center in terms of expected leadership and dissemination efforts;

"(D) a description of expected relationships with State agencies, research and demonstration centers, and with other entities deemed necessary;

"(E) a description of how a Center will be evaluated; and

"(F) other guidelines and criteria deemed necessary.

"(3) The Secretary shall publish in the Federal Register by July 1, 1991, for review and comment, proposed and (then following such review and comment) final guidelines developed by the panel.".

SEC. 302. SERVICES FOR DEAF-BLIND CHILDREN AND YOUTH.

(a) AMENDMENTS TO SUBSECTION (a).—Section 622(a) (20 U.S.C. 1422(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting "local educational agencies, and designated lead agencies under part H" after "State educational agencies";

(B) in subparagraph (A) by—

(i) inserting "infants, toddlers," before "children and youth"; and

(ii) striking "special education and related services" and inserting in lieu thereof "special education, early intervention, and related services";

(C) in subparagraph (B), by amending such subparagraph to read as follows:

"(B) make available to deaf-blind youth (who are in the process of transitioning into adult services) programs, services, and supports to facilitate such transition, including assistance related to independent living and competitive employment.";

(2) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5) respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) For purposes of this section, the term 'deaf-blind', with respect to children and youth, means having auditory and visual impairments, the combination of which creates such severe communication and other developmental and learning needs that they cannot be appropriately educated in special education programs solely for children and youth with hearing impairments, visual impairments, or severe disabilities, without supplementary assistance to address their educational needs due to these dual, concurrent disabilities.";

(3) by amending paragraph (3) (as redesignated by paragraph (2) of this subsection) to read as follows:

"(3)(A) A grant, cooperative agreement, or contract may be made under paragraph (1)(A) only for programs providing—

"(i) technical assistance to agencies, institutions, or organizations providing educational or early intervention services to deaf-blind infants, toddlers, children, or youth;

"(ii) preservice or inservice training to paraprofessionals, professionals, or related services personnel preparing to serve, or serving, deaf-blind infants, toddlers, children, or youth;

"(iii) replication of successful innovative approaches to providing educational, early intervention, or related services to deaf-blind infants, toddlers, children, and youth;

"(iv) pilot projects that are designed to—

"(I) expand local educational agency capabilities by providing services to deaf-blind children and youth that supplement services already provided to children and youth through State and local resources; and

"(II) encourage eventual assumption of funding responsibility by State and local authorities;

"(v) the development, improvement, or demonstration of new or existing methods, approaches, or techniques that contribute to the adjustment and education of deaf-blind infants, toddlers, children, and youth; or

"(vi) facilitation of parental involvement in the education of their deaf-blind infants, toddlers, children, and youth.

"(B) The programs described in subparagraph (A) may include—

"(i) the diagnosis and educational evaluation of infants, toddlers, children, and youth who are likely to be diagnosed as deaf-blind;

"(ii) programs of adjustment, education, and orientation for deaf-blind infants, toddlers, children, and youth; and

"(iii) consultative, counseling, and training services for the families of deaf-blind infants, toddlers, children, and youth.";

(4) in paragraph (4) (as so redesignated)—

(A) in subparagraph (A), (i) by striking "organizations serving, or proposing to serve," and inserting the following: "organizations that are preparing deaf-blind adolescents for adult placements, or that are preparing to receive deaf-blind young adults into adult living and work environments, or that serve, or propose to serve,", and (ii) by striking "who have attained age twenty-two years"; and

(B) in subparagraph (C), by inserting "supervised," after "rehabilitative,";

(5) in paragraph (5) (as so redesignated), by amending such paragraph to read as follows:

"(5) In carrying out this subsection, the Secretary is authorized to enter into a number of grants or cooperative agreements to establish and support single and multi-State centers for the provision of technical assistance and pilot supplementary services, for the purposes of program development and expansion, for children and youth with deaf-blindness and their families.".

(b) Amendments to Subsection (c).—Section 622(c)(1) (20 U.S.C. 1422(c)(1)) is amended—

(1) in clause (A), by inserting "sex," after "severity,";

(2) in clause (C), by inserting before the period the following: "and the setting in which the services are provided"; and

(3)(A) by striking "and" at the end of clause (B);

(B) by striking the period at the end of clause (C) and inserting "; and"; and

(C) by adding at the end the following new clause: "(D) student outcomes, where appropriate.".

(c) Amendments to Subsection (d).—Section 622(d) (20 U.S.C. 1422(d)) is amended to read as follows:

"(d) The Secretary shall make a grant, or enter into a contract or cooperative agreement, for a national clearinghouse for children and youth with deaf-blindness—

"(1) to identify, coordinate, and disseminate information on deaf-blindness, emphasizing information concerning effective practices in working with deaf-blind infants, toddlers, children, and youth;

"(2) to interact with educators, professional groups, and parents to identify areas for programming, materials development, training, and expansion of specific services;

"(3) to maintain a computerized data base on local, regional, and national resources; and

"(4) to respond to information requests from professionals, parents, and members of the community.".

(d) Amendments to Subsection (e).—Section 622(e) (20 U.S.C. 1422(e)) is amended to read as follows:

"(e) In carrying out this section, the Secretary shall take into consideration the availability and quality of existing services for deaf-blind infants, toddlers, children, and youth in the country, and, to the extent practicable, ensure that all parts of the country have an opportunity to receive assistance under this section.";

(e) Amendments to Subsection (f).—Section 622(f) (20 U.S.C. 1422(f)) is amended by striking "with," and all that follows and inserting the following: "with organizations or public or nonprofit private agencies, as determined by the Secretary to be appropriate, to address the needs of children and youth with deaf-blindness, for—

"(1) research to identify and meet the full range of special needs of such children and youth; and

"(2) the development and demonstration of new, or improvements in existing methods, approaches, or techniques that would contribute to the adjustment and education of children and youth with deaf-blindness.".

SEC. 303. EARLY EDUCATION FOR HANDICAPPED CHILDREN.

(a) Amendments to Subsection (a).—Section 623(a)(1) (20 U.S.C. 1423(a)(1)) is amended—

(1) in the matter preceding subparagraph (A), in the first sentence, by striking "problems of such children." and inserting "needs of these children.";

(2) in subparagraph (A), by inserting "or other communication mode and" after "speech"; and

(3) in subparagraph (B), by inserting before "encourage" the following: "provide family education and include a parent or their representative of such child, as well as";

(4) in subparagraph (C), by striking "problems" and inserting "special needs";

(5) in subparagraph (D)—

(A) by inserting after "practices" the following: ", including interdisciplinary models and practices,"; and

(B) by inserting before the comma the following: "and to the parents of such children";

(6) in subparagraph (E), by inserting before the period the following: ", including the involvement of adult role models with disabilities at all levels of the program"; and

(7) by striking out "and" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a comma, and by adding after subparagraph (E) the following:

"(F) facilitate and improve the early identification of infants and toddlers with disabilities or those infants and toddlers at risk of having developmental disabilities,

"(G) facilitate the transition of infants with disabilities or infants at risk of having developmental delays, from medical care to early intervention services, and the transition from early intervention services to preschool special education or regular education services (especially where the lead agency for early intervention programs under part H is not the State educational agency),

"(H) promote the use of assistive technology devices and assistive technology services, where appropriate, to enhance the development of infants and toddlers with disabilities, and

"(I) increase the understanding of, and address, the early intervention and preschool needs of children exposed prenatally to maternal substance abuse.".

(b) Amendments to Subsection (b).—Section 623(b) (20 U.S.C. 1423(b)) is amended by adding at the end the following: "This technical assistance development system shall provide assistance to parents of and advocates for infants, toddlers, and children with disabilities, as well as direct service and administrative personnel involved with such children. Information from the system should be aggressively disseminated through established information networks and other mechanisms to ensure both an impact and benefits at the community level. The Secretary shall ensure that the technical assistance provided under this subsection includes assistance to part H State agencies on procedures for use by primary referral sources in referring a child to the appropriate agency within the system for evaluation, assessment, or service.".

(c) Amendments to Subsection (c).—Section 623(c) (20 U.S.C. 1423(c)) is amended by adding at the end the following: "Such institutes shall disseminate this information in the manner prescribed in section 610(g).".

(d) Amendments to Subsection (d).—Section 623(d) (20 U.S.C. 1423(d)) is amended by inserting before the period the following: ", including programs to integrate children with disabilities into regular preschool programs".

(e) Amendments to Subsection (f).—Section 623(f) (20 U.S.C. 1423(f)) is amended by inserting before the period the following: ", including infants and toddlers with disabilities".

(f) New Subsection (g).—Section 623 (20 U.S.C. 1423) is amended by adding at the end the following:

"(g) The Secretary may make grants to, or enter into contracts or cooperative agreements with, institutions of higher education and nonprofit private organizations to synthesize the knowledge developed under this section and organize, integrate, and present such knowledge so it can be incorporated and imparted to parents, professionals, and others providing or preparing to provide preschool or early intervention services and to persons designing preschool or early intervention programs.".

SEC. 304. PROGRAMS FOR SEVERELY HANDICAPPED CHILDREN.

(a) Amendment to Section Heading.—The heading for section 624 (20 U.S.C. 1424) is amended to read as follows:

"PROGRAMS FOR CHILDREN WITH SEVERE DISABILITIES".

(b) Amendments to Subsection (a).—Section 624(a) (20 U.S.C. 1424(a)) is amended—

(1) in the matter preceding paragraph (1), by amending such matter to read as follows: "The Secretary may make grants to, or enter into contracts or cooperative agreements with, appropriate public agencies and nonprofit organizations to address the special education, related services, early intervention, and integration needs of infants, toddlers, children, and youth with severe disabilities through—";

(2) in paragraph (1), (A) by inserting after "special needs" the following: ", including transportation to and from school", and (B) by inserting "education, related services, and early intervention" after "special";

(3) in paragraph (3), (A) by inserting "special and regular education, related services, and early intervention" before "personnel", (B) by inserting "infants, toddlers," after "such", and (C) by striking "youth, and" and inserting the following: "youth, including training of regular teachers, instructors, and administrators in strategies (the goal of which is to serve infants, toddlers, children, and youth with disabilities) that include integrated settings for educating such children along side their nondisabled peers,";

(4) in paragraph (4), by striking "children and youth." and inserting the following: "children and youth by utilizing existing networks as prescribed in section 610(g) and"; and

(5) by adding at the end the following new paragraph:

"(5) statewide projects, in conjunction with the State's plan under part B, to improve the quality of special education and related services for children and youth with severe disabilities, and to change the delivery of those services from segregated to integrated environments.".

(b) New Subsection.—Section 624 (20 U.S.C. 1424) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, public or private nonprofit private agencies, institutions, or organizations for the development and operation of extended school year demonstration programs for infants, toddlers, children, and youth with severe disabilities.".

(c) Further New Subsection.—Section 624, as amended by subsection (b) of this section, is amended by adding at the end the following new subsection:

"(e) In awarding such grants and contracts under this section, the Secretary shall include a priority on programs that increase the likelihood that these children and youth will be educated with their nondisabled peers.".

SEC. 305. POSTSECONDARY EDUCATION.

(a) Amendments to Subsection (a).—Section 625(a) (20 U.S.C. 1424a(a)) is amended—

(1) in paragraph (1), by adding at the end the following new sentence: "Such model programs may include joint projects that coordinate with special education and transition services.";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "and" after the semicolon;

(B) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) for outreach activities that include the provision of technical assistance to strengthen efforts in the development, operation, and design of model programs that are adapted to the special needs of individuals with disabilities."; and

(3) in paragraph (6), by striking "$2,000,000" and inserting "$4,000,000".

(b) Amendments to Subsection (b).—Section 625(b) (20 U.S.C. 1424a(b)) is amended to read as follows:

"(b) For purposes of subsection (a), the term 'individuals with disabilities' means individuals—

"(1) with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

"(2) who, by reason thereof, need special education and related services.".

SEC. 306. SECONDARY EDUCATION AND TRANSITIONAL SERVICES FOR YOUTH WITH DISABILITIES.

(a) Amendments to Subsection (a).—Section 626(a)(1) (20 U.S.C. 1425(a)(1)) is amended by inserting "independent and community living," after "continuing education,".

(b) Amendments to Subsection (b).—Section 626(b) (20 U.S.C. 1425(b)) is amended—

(1) in paragraph (2), by inserting "independent living," after "training,";

(2) in paragraph (8), by striking "handicapped youth" and all that follows and inserting the following: "some youth with disabilities remain to complete school programs while others drop out,";

(3) in paragraph (9), by striking "developing" and all that follows through "techniques" and inserting "developing curriculum and instructional techniques in special education and related services";

(4) in paragraph (10)—

(A) by inserting "or adapted" after "specially designed"; and

(B) by striking "to increase" and all that follows and inserting the following: "to facilitate the full participation of youths with disabilities in community programs."; and

(5) by striking "and" at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting in lieu thereof ", and", and by adding after paragraph (10) the following:

"(11) developing and disseminating exemplary programs and practices that meet the unique needs of students who utilize assistive technology devices and assistive technology services as such students make the transition to postsecondary education, vocational training, competitive employment (including supported employment), and continuing education or adult services.".

(c) Amendments to Subsection (d).—Section 626(d)(3) (20 U.S.C. 1425(d)(3)) is amended by striking "to the extent appropriate,".

(d) New Subsection (e).—Section 626 (20 U.S.C. 1425) is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e)(1) The Secretary shall make one-time, 5-year grants, on a competitive basis, to States in which the State vocational rehabilitation agency and State educational agency submit a joint application to develop, implement, and improve systems to provide transition services for youth with disabilities from age 14 through the age they exit school.

"(2) In the case of a State whose vocational rehabilitation agency does not participate regarding a joint application described in paragraph (1), the Secretary may make a grant under such paragraph to the State if a joint application for the grant is submitted by the State educational agency and one other State agency that provides transition services to individuals who are leaving programs under this Act.

"(3) States that receive grants shall use grant funds to:

"(A) Increase the availability, access, and quality of transition assistance through the development and improvement of policies, procedures, systems, and other mechanisms for youth with disabilities and their families as such youth prepare for and enter adult life.

"(B) Improve the ability of professionals, parents, and advocates to work with such youth in ways that promote the understanding of and the capability to successfully make the transition from 'student' to 'adult'.

"(C) Improve working relationships among education personnel, both within LEAs and in postsecondary training programs, relevant State agencies, the private sector (especially employers), rehabilitation personnel, local and State employment agencies, local Private Industry Councils (PICS) authorized by the Job Training Partnership Act (JTPA), and families of students with disabilities and their advocates to identify and achieve consensus on the general nature and specific application of transition services to meet the needs of youth with disabilities.

"(D) Create an incentive for accessing and using the expertise and resources of programs, projects, and activities related to transition funded through this section and with other sources.

"(4)(A) In order to receive funding under this subsection, a State vocational rehabilitation agency and State educational agency shall describe in their application how they will use the first year, if necessary, to plan how to implement transition services, the second through fourth years to develop and implement transition services, and the fifth year to evaluate transition services. The application shall describe how the grant funds will be used during the planning period and phased out during the evaluation period to ensure the continuation of transition services. Such applications shall also include—

"(i) a description of the current availability, access, and quality of transition services for eligible youth and a description of how, over 5 years, the State will improve and expand the availability, access, and quality of transition services for youth with disabilities and their families as such youth prepare for and enter adult life;

"(ii) a description of how the State will improve and increase the ability of professionals, parents, and advocates to work with such youth in ways that promote the understanding of and the capability to successfully make the transition from 'student' to 'adult';

"(iii) a description of how the State will improve and increase working relationships among education personnel, both within LEAs and in postsecondary training programs, relevant State agencies, the private sector (especially employers), rehabilitation personnel, local and State employment agencies, local Private Industry Councils (PICS) authorized by the JTPA, and families of students with disabilities and their advocates to identify and achieve consensus on the general nature and specific application of transition services to meet the needs of youth with disabilities; and

"(iv) a description of how the State will use grant funds as an incentive for accessing and using the expertise and resources of programs, projects, and activities related to transition funded through this section and with other sources.

"(B) The Secretary shall give preference to those applications that, in addition to clearly addressing the requirements under subparagraph (A), describe how the State will—

"(i) target resources to school settings, such as providing access to rehabilitation counselors for students with disabilities who are in school settings;

"(ii) target a substantial amount of grant funds, received under this subsection, to case management, program evaluation and documentation of, and dissemination of information about, transition services;

"(iii) provide incentives for interagency and private sector resource pooling and otherwise investing in transition services, especially in the form of cooperative agreements, particularly with PICS authorized by the JTPA and local branches of State employment agencies;

"(iv) provide for early, ongoing information and training for those involved with or who could be involved with transition services—professionals, parents, youth with disabilities, including self-advocacy training for such youth, and advocates for such youth as well as PICS authorized by the JTPA and local branches of State employment agencies;

"(v) provide for the early and direct involvement of all relevant parties, including PICS authorized by the JTPA and local branches of State employment agencies, in operating and planning improvements in transition services, and the early and direct involvement of all relevant parties in planning and implementing transition services for individual youth;

"(vi) provide access to training for eligible youth that matches labor market needs in their communities;

"(vii) integrate transition services with relevant opportunities in communities, including those sponsored by PICS authorized by the JTPA and local employment agencies;

"(viii) use a transition services evaluation plan that is outcome oriented and that focuses on individual youth-focused benefits; and

"(ix) ensure that, when appropriate and no later than age 22, eligible youth who participate in transition services under this program would be served as appropriate in the State section 110 and/or title VI, part C program authorized under the Rehabilitation Act of 1973.".

(e) Amendments to Former Subsection (e).—Section 626(f), as redesignated by subsection (d) of this section, is amended—

(1)(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end of paragraph (1) (as so designated) the following new sentence: "Such organizations and institutions shall disseminate such materials and information as prescribed under section 610(g).";

(2) by adding after paragraph (1) (as so designated) the following new paragraph:

"(2) The Secretary shall fund one or more demonstration models designed to establish appropriate methods of providing, or continuing to provide, assistive technology devices and services to secondary school students as they make the transition to vocational rehabilitation, employment, postsecondary education, or adult services. Such demonstration models shall include, as appropriate—

"(A) cooperative agreements with the Rehabilitation Services Administration and/or State vocational rehabilitation agencies that ensure continuity of funding for assistive technology devices and services to such students; and

"(B) methods for dissemination of exemplary practices that can be adapted or adopted by transitional programs for secondary school students with disabilities."; and

(3) by adding at the end the following new paragraph:

"(3)(A) The Secretary shall award one, five-year cooperative agreement through a separate competition to an institution of higher education, or nonprofit public or private organization. The purpose of this agreement will be to evaluate and document the approaches and outcomes of the projects funded under subsection (e). The results of this agreement shall be disseminated through the appropriate clearinghouses, networks, and through direct communication with Federal, State, and local agencies.

"(B) The evaluation carried out pursuant to subparagraph (A) of transition services under subsection (e) shall include an evaluation of—

"(i) the outcomes of the transition services provided under such subsection, including the effect of the services regarding postsecondary education, job training, employment, and other appropriate matters;

"(ii) the impact of including in the individualized education program a statement of needed transition services (as required under section 602(a)(20)(D));

"(iii) the extent to which, in the provision of the transition services, agencies are cooperating effectively, including evaluation of the extent of coordination of the staff of the agencies, of procedures regarding confidentiality, assessment of needs, and referrals, and coordination regarding data bases and training;

"(iv) the extent to which obstacles exist regarding cooperation and coordination among agencies in the provision of the transition services, and the extent to which Federal law creates disincentives to such cooperation and coordination; and

"(v) the extent to which the transition services have been provided in a cost-effective manner.

"(C) The evaluation carried out pursuant to subparagraph (A) shall include recommendations on the manner in which the program under subsection (e) can be improved.

"(D) In the annual report required under section 618(g), the Secretary shall include a report of the activities and results associated with the agreement under subparagraph (A).".

(f) Amendments to Former Subsection (f)—Section 626(g), as redesignated by subsection (d) of this section, is amended by inserting before the period the following: ", the Job Training Partnership Act (JTPA), and the Carl D. Perkins Vocational and Applied Technology Education Act".

SEC. 307. PROGRAMS FOR CHILDREN AND YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE.

Section 627 (20 U.S.C. 1426) is amended to read as follows:

"PROGRAMS FOR CHILDREN AND YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE

"Sec. 627. (a) The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, institutions of higher education, State and local educational agencies, and other appropriate public and private nonprofit institutions or agencies to establish projects for the purpose of improving special education and related services to children and youth with serious emotional disturbance. Such projects may include—

"(1) studies regarding the present state of special education and related services to such children and youth and their families, including information and data to enable assessments of the status of such services over time;

"(2) developing methodologies and curricula designed to improve special education and related services for these children and youth;

"(3) developing and demonstrating strategies and approaches to reduce the use of out-of-community residential programs and the increased use of school district-based programs (which may include day treatment programs, after-school programs, and summer programs);

"(4) developing the knowledge, skills, and strategies for effective collaboration among special education, regular education, related services, and other professionals and agencies; or

"(5) developing and demonstrating innovative approaches to assist and to prevent children with emotional and behavioral problems from developing serious emotional disturbances that require the provision of special education and related services.

"(b)(1) The Secretary is authorized to make grants, on a competitive basis, to local educational agencies in collaboration with mental health entities to provide services for children and youth with serious emotional disturbance. Such demonstration projects shall—

"(A) increase the availability, access, and quality of community services for such children and youth and their families;

"(B) improve working relationships among education, school, and community mental health and other relevant personnel, families of such children and youth, and their advocates;

"(C) target resources to school settings, such as providing access to school and/or community mental health professionals and other community resources for students with serious emotional disturbance who are in community school settings; and

"(D) take into account the needs of minority children and youth in all phases of project activity.

"(2) Funds received under this subsection may also be used to facilitate interagency and private sector resource pooling to improve services for such children and youth and to provide information and training for those involved with, or who could be involved with, such children and youth. "(c) Each project assisted under this section shall—

"(1) apply existing research outcomes from multi-disciplinary fields;

"(2) use a grant evaluation plan that is outcome-oriented and that focuses on the benefits to individual children and youth;

"(3) report on the effectiveness of such project; and

"(4) disseminate the findings of such project, where appropriate, in accordance with section 610(g).".

SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

Section 628 (20 U.S.C. 1427) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 628. (a) There are authorized to be appropriated to carry out section 621 $8,525,000 for fiscal year 1991, $9,300,000 for fiscal year 1992, $10,140,000 for fiscal year 1993, and $11,052,000 for fiscal year 1994.

"(b) There are authorized to be appropriated to carry out section 622 $21,900,000 for fiscal year 1991, $24,100,000 for fiscal year 1992, $26,500,000 for fiscal year 1993, and $29,200,000 for fiscal year 1994.

"(c) There are authorized to be appropriated to carry out section 623 $31,400,000 for fiscal year 1991, $34,235,000 for fiscal year 1992, $37,325,000 for fiscal year 1993, and $40,705,000 for fiscal year 1994.

"(d) There are authorized to be appropriated to carry out section 624 $9,500,000 for fiscal year 1991, $10,500,000 for fiscal year 1992, $11,600,000 for fiscal year 1993, and $12,700,000 for fiscal year 1994.

"(e) There are authorized to be appropriated to carry out section 625 $9,470,000 for fiscal year 1991, $10,230,000 for fiscal year 1992, $11,050,000 for fiscal year 1993, and $11,930,000 for fiscal year 1994.

"(f) There are authorized to be appropriated to carry out section 626 (except subsection (e)) $9,800,000 for fiscal year 1991, $10,800,000 for fiscal year 1992, $11,900,000 for fiscal year 1993, and $13,050,000 for fiscal year 1994.

"(g) There are authorized to be appropriated to carry out section 626(e) $27,500,000 for fiscal year 1991, $30,250,000 for fiscal year 1992, $33,275,000 for fiscal year 1993, and $36,602,000 for fiscal year 1994.

"(h) There are authorized to be appropriated to carry out section 627 $6,500,000 for fiscal year 1991, $8,000,000 for fiscal year 1992, $9,500,000 for fiscal year 1993, and $11,500,000 for fiscal year 1994.".

TITLE IV—TRAINING PERSONNEL FOR THE EDUCATION OF HANDICAPPED INDIVIDUALS

SEC. 401. GRANTS FOR PERSONNEL TRAINING.

(a) Amendments to Subsection (a)(1).—Section 631(a)(1) (20 U.S.C. 1431(a)(1)) is amended—

(1) in subsection (a)(1), by striking "special education and early intervention" and inserting "special education, related services, and early intervention";

(2) in subparagraph (A), by striking "adaptive physical education" and inserting "adapted physical education and instructional and assistive technology services";

(3) in subparagraphs (B) through (D), by amending such subparagraphs to read as follows:

"(B) related services to children and youth with disabilities in educational settings, and other settings,

"(C) special education and other careers in preschool and early intervention services for infants and toddlers with disabilities,

"(D) special education leadership, including supervision and administration (at the advanced graduate, doctoral, and post-doctoral levels), special education research, and special education personnel preparation (at the doctoral and post-doctoral levels), and".

(b) Further Amendments to Subsection (a).—Section 631(a) (20 U.S.C. 1431(a)) is amended—

(1) in paragraph (2)(A), (A) by striking "for the personnel" and inserting "for special education, related services, early intervention, and other personnel", and (B) after "shortages" inserting ", including the need for personnel in the provision of special education to children of limited English proficiency";

(2) in paragraph (2)(B), by inserting before the period the following: ", and that include in their applications a detailed description of strategies that will be utilized to recruit and train members of minority groups and persons with disabilities";

(3) in paragraph (3), by adding at the end the following new sentence: "Such institutions shall give priority consideration in the selection of qualified recipients of fellowships and traineeships to individuals from disadvantaged backgrounds, including minorities and individuals with disabilities who are underrepresented in the teaching profession or in the specializations in which they are being trained."

(c) New Paragraphs in Subsection (a).—Section 631(a) (20 U.S.C. 1431(a)) is amended by adding at the end the following new paragraphs:

"(5) In making grants under subsection (a)(1), the Secretary may determine that a portion of training supported through such grants shall be conducted on an interdisciplinary basis, and shall be designed to assist special educators in properly coordinating service provision with related services personnel. To the extent feasible, training programs funded under subsection (a)(1)(B) and (a)(1)(E) shall require practica to demonstrate the delivery of related services in an array of regular and special education and community settings.

"(6) Nothing in this subsection shall be construed to prevent regular education or special education personnel from benefiting or participating in training activities conducted under this subsection on a preservice or inservice basis.

"(7) The Secretary, in carrying out paragraph (1), shall make grants to Historically Black Colleges and Universities, and other institutions of higher education whose minority student enrollment is at least 25 percent.".

(d) Amendments to Subsection (b).—Section 631(b) (20 U.S.C. 1431(b)) is amended by striking "nonprofit agencies" and all that follows and inserting the following: "nonprofit agencies and organizations to develop and demonstrate effective ways for preservice training programs to prepare regular educators to work with children and youth with disabilities and their families; for training teachers to work in community and school settings with school students with disabilities and their families; for inservice and preservice training of personnel to work with infants, toddlers, children, and youth with disabilities and their families; for inservice and preservice training of personnel to work with minority infants, toddlers, children, and youth with disabilities and their families; for preservice and inservice training of special education and related services personnel in the use of assistive and instructional technology to benefit infants, toddlers, children, and youth with disabilities; and for the recruitment and retention of special education, related services, and early intervention personnel. Both preservice and inservice training shall include a component that addresses the coordination among all service providers, including regular educators.".

(e) Amendment to Subsection (c).—

(1) Section 631(c)(2) (20 U.S.C. 1431(c)(2)) is amended—

(A) by amending subparagraph (A) to read as follows:

"(A) be governed by a board of directors of which a majority of the members are parents of infants, toddlers, children, and youth with disabilities, particularly minority parents, and that includes members who are professionals, especially minority professionals, in the field of special education, early intervention, and related services, and individuals with disabilities, or, if the nonprofit private organization does not have such a board, such organization shall have a membership that represents the interests of individuals with disabilities, and shall establish a special governing committee of which a majority of the members are parents of infants, toddlers, children, and youth with disabilities, particularly parents of minority children, and which includes members who are professionals, especially minority professionals, in the field of special education, early intervention, and related services, to operate the training and information program under paragraph (1), and parent and professional membership of these boards or special governing committees shall be broadly representative of minority and other individuals and groups having an interest in special education, early intervention, and related services;";

(B) in subparagraph (B)—

(i) by striking "children" and inserting "infants, toddlers, children, and youth"; and

(ii) by striking "handicapping" and inserting "disabling"; and

(C) in subparagraph (C), by inserting before the period the following: ", and, for purposes of paragraph (1), network with clearinghouses, including those established under section 633 and other organizations and agencies, and network with other established national, State, and local parent groups representing the full range of parents of infants, toddlers, children, and youth with disabilities, especially parents of minority children".

(2) Section 631(c)(2) (20 U.S.C. 1431(c)(2)) is amended by adding after subparagraph (C) the following: "Nothing in subparagraph (A) shall be construed to authorize or permit the denial to any person of the due process of law required by the United States Constitution.".

(f) Amendments to Subsection (c)(4).—Section 631(c)(4) (20 U.S.C. 1431(c)(4)) is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting a comma; and

(3) by adding at the end the following new subparagraphs:

"(C) serve parents of minority children with disabilities representative to the proportion of the minority population in the areas being served, and

"(D) be funded at a sufficient size, scope, and quality to ensure that the program is adequate to serve the parents in the area.".

(g) New Paragraph in Subsection (c).—Section 631(c) (20 U.S.C. 1431(c)) is amended by adding at the end the following new paragraph:

"(9) After the establishment in each State of a parent training and information center, the Secretary shall provide for the establishment of 3 experimental centers to serve large numbers of parents of children with disabilities located in high density areas that do not have such centers and 2 such centers to serve large numbers of parents of children with disabilities located in rural areas.

"(10) Effective for fiscal year 1991 and every year thereafter, the Secretary shall obtain data concerning programs and centers assisted under this subsection on—

"(A) the number of parents provided information and training by disability category of their children,

"(B) the types and modes of information or training provided,

"(C) strategies used to reach and serve parents of minority infants, toddlers, children, and youth with disabilities,

"(D) the number of parents served as a result of activities described under subparagraph (C),

"(E) activities to network with other information clearinghouses and parent groups as required in subsection (c)(2)(C), and

"(F) the number of agencies and organizations consulted with at the national, State, regional, and local levels.

The Secretary shall include a summary of this information in the annual report to Congress as required in section 618(g).".

(h) Further Amendments to Subsection (c).—Section 631(c) (20 U.S.C. 1431(c)) is amended—

(1) in paragraph (1), in the first and second sentences, by striking "parents of handicapped children" each place such term appears and inserting "parents of infants, toddlers, children, and youth with disabilities";

(2) in paragraph (5)—

(A) in subparagraph (E), by amending such subparagraph to read as follows:

"(E) obtain appropriate information about the range of options, programs, services, and resources available at the national, State, and local levels to assist infants, toddlers, children, and youth with disabilities and their families, and"; and

(B) in subparagraph (F), by striking "handicapped" and all that follows and inserting the following: "infants, toddlers, children, and youth with disabilities under this Act."; and

(3) in paragraph (7)—

(A) by striking "with appropriate agencies which" and inserting the following: "and network with appropriate national, State, regional, and local agencies and organizations, such as protection and advocacy agencies, that"; and

(B) by striking "handicapped children and youth" and inserting "infants, toddlers, children, and youth with disabilities and their families".

SEC. 402. GRANTS TO STATE EDUCATIONAL AGENCIES AND INSTITUTIONS FOR TRAINEESHIPS.

Section 632 (20 U.S.C. 1432) is amended—

(1) in subsection (c) by—

(A) inserting "special and regular education, related services and early intervention" after "prepare"; and

(B) by striking the period at the end thereof and inserting a comma and "and to assist the State in developing and maintaining such systems and conducting personnel recruitment and retention activities."; and

(2) by inserting at the end thereof the following new subsection:

"(d) The Secretary is authorized to provide directly or by grant, contract, or cooperative agreement, technical assistance to State educational agencies on matters pertaining to the effective implementation of section 613(a)(3).".

SEC. 403. CLEARINGHOUSES.

Section 633 (20 U.S.C. 1433) is amended to read as follows:

"CLEARINGHOUSES

"SEC. 633. (a) The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, public agencies or private nonprofit organizations or institutions for the establishment of three national clearinghouses: on children and youth with disabilities; on postsecondary education for individuals with disabilities; and on careers in special education, to—

"(1) collect, develop, and disseminate information,

"(2) provide technical assistance,

"(3) conduct coordinated outreach activities,

"(4) provide for the coordination and networking with other relevant national, State, and local organizations and information and referral resources,

"(5) respond to individuals and organizations seeking information, and

"(6) provide for the synthesis of information for its effective utilization by parents, professionals, individuals with disabilities, and other interested parties.

"(b) The national clearinghouse for children and youth with disabilities shall:

"(1) Collect and disseminate information (including the development of materials) on characteristics of infants, toddlers, children, and youth with disabilities and on programs, legislation, and services relating to their education under this Act and other Federal laws.

"(2) Participate in programs and services related to disability issues for providing outreach, technical assistance, collection, and dissemination of information; and promoting networking of individuals with appropriate national, State, and local agencies and organizations.

"(3) Establish a coordinated network and conduct outreach activities with relevant Federal, State, and local organizations and other sources for promoting public awareness of disability issues and the availability of information, programs, and services.

"(4) Collect, disseminate, and develop information on current and future national, Federal, regional, and State needs for providing information to parents, professionals, individuals with disabilities, and other interested parties relating to the education and related services of individuals with disabilities.

"(5) Provide technical assistance to national, Federal, regional, State and local agencies and organizations seeking to establish information and referral services for individuals with disabilities and their families.

"(6) In carrying out the activities in this subsection, the clearinghouse will include strategies to disseminate information to underrepresented groups such as those with limited English proficiency.

"(c) The national clearinghouse on postsecondary education for individuals with disabilities shall:

"(1) Collect and disseminate information nationally on characteristics of individuals entering and participating in education and training programs after high school; legislation affecting such individuals and such programs; policies, procedures, and support services, as well as adaptations, and other resources available or recommended to facilitate the education of individuals with disabilities; available programs and services that include, or can be adapted to include, individuals with disabilities; and sources of financial aid for the education and training of individuals with disabilities.

"(2) Identify areas of need for additional information.

"(3) Develop new materials (in both print and nonprint form), especially by synthesizing information from a variety of fields affecting disability issues and the education, rehabilitation, and retraining of individuals with disabilities.

"(4) Develop a coordinated network of professionals, related organizations and associations, mass media, other clearinghouses, and governmental agencies at the Federal, regional, State, and local level for the purposes of disseminating information and promoting awareness of issues relevant to the education of individuals with disabilities after high school and referring individuals who request information to local resources.

"(5) Respond to requests from individuals with disabilities, their parents, and professionals who work with them, for information that will enable them to make appropriate decisions about postsecondary education and training.

"(d) The national clearinghouse designed to encourage students to seek careers and professional personnel to seek employment in the various fields relating to the education of children and youth with disabilities shall:

"(1) Collect and disseminate information on current and future national, regional, and State needs for special education and related services personnel.

"(2) Disseminate information to high school counselors and others concerning current career opportunities in special education, location of programs, and various forms of financial assistance (such as scholarships, stipends, and allowances).

"(3) Identify training programs available around the country.

"(4) Establish a network among local and State educational agencies and institutions of higher education concerning the supply of graduates and available openings.

"(5) Provide technical assistance to institutions seeking to meet State and professionally recognized standards.

"(e)(1) In awarding grants, contracts, and cooperative agreements under this section, the Secretary shall give priority consideration to any applicant with demonstrated, proven effectiveness (at the national level) in performing the functions established in this section; and with the ability to conduct such projects, communicate with intended consumers of information, and maintain the necessary communication with national, regional, State, and local agencies and organizations.

"(2) In awarding grants, contracts, and cooperative agreements under this section, the Secretary shall give priority consideration to any applicant with demonstrated, proven effectiveness (at the national level) in providing informational services to minorities and minority organizations.

"(f)(1) Beginning in fiscal year 1991, and for each year thereafter, the Secretary shall obtain information on each project assisted under this section, including—

"(A) the number of individuals served by disability category, as appropriate, including parents, professionals, students, and individuals with disabilities;

"(B) a description of responses utilized;

"(C) a listing of new products developed and disseminated; and

"(D) a description of strategies and activities utilized for outreach to urban and rural areas with populations of minorities and underrepresented groups.

"(2) A summary of the data required by this subsection shall be included in the annual report to Congress required under section 618.".

SEC. 404. REPORTS TO SECRETARY.

Section 634(a) (20 U.S.C. 1434(a)) is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(3) information described in section 631(c)(9) and section ,633(f)(1), as applicable.".

SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

Section 635(a) (20 U.S.C. 1435(a)) is amended to read as follows:

"(a)(1) There are authorized to be appropriated to carry out this part (other than sections 631(a)(6), 631(c), and 633) $94,725,000 for fiscal year 1991, $103,255,000 for fiscal year 1992, $113,580,000 for fiscal year 1993, and $123,760,000 for fiscal year 1994.

"(2) There are authorized to be appropriated to carry out section 631(a)(6) $19,250,000 for fiscal year 1991, $21,175,000 for fiscal year 1992, $23,292,500 for fiscal year 1993, and $25,621,750 for fiscal year 1994.

"(3) There are authorized to be appropriated to carry out section 631(c) $11,000,000 for fiscal year 1991, $12,100,000 for fiscal year 1992, $13,300,000 for fiscal year 1993, and $14,600,000 for fiscal year 1994.

"(4) There are authorized to be appropriated to carry out section 633 $2,900,000 for fiscal year 1991, $2,465,000 for fiscal year 1992, $2,710,000 for fiscal year 1993, and $2,960,000 for fiscal year 1994.".

TITLE V—RESEARCH IN EDUCATION OF INDIVIDUALS WITH DISABILITIES

SEC. 501. RESEARCH AND DEMONSTRATION PROJECTS IN EDUCATION OF CHILDREN WITH DISABILITIES.

Section 641 (20 U.S.C. 1441) is amended to read as follows:

"RESEARCH AND RELATED ACTIVITIES

"SEC. 641. (a) The Secretary may make grants to, or enter into contracts or cooperative agreements with, State and local educational agencies, institutions of higher education, other public agencies and nonprofit private organizations for the purpose of advancing and improving the knowledge base and improving the practice of professionals, parents, and others providing early intervention, special education, and related services, including professionals who work with children and youth with disabilities in regular education environments, to provide such children effective instruction and enable them to successfully learn. The activities supported under this section shall support innovation, development, exchange, and use of such advancements in knowledge and practice designed to contribute to the improvement of instruction and learning of infants, toddlers, children, and youth with disabilities. In carrying out this section, the Secretary may support a wide range of research and related activities designed to—

"(1) advance knowledge regarding the provision of instruction and other interventions to infants, toddlers, children, and youth with disabilities including—

"(A) the organization, synthesis, and interpretation of current knowledge and the identification of knowledge gaps;

"(B) the identification of knowledge and skill competencies needed by personnel providing special education, related services, and early intervention services;

"(C) the improvement of knowledge regarding the developmental and learning characteristics of infants, toddlers, children, and youth with disabilities in order to improve the design and effectiveness of interventions and instruction;

"(D) the evaluation of approaches and interventions;

"(E) the development of instructional strategies, techniques, and activities;

"(F) the improvement of curricula and instructional tools such as textbooks, media, materials, and technology;

"(G) the development of assessment techniques, instruments (including tests, inventories, and scales), and strategies for measurement of progress and the identification, location, and evaluation of infants, toddlers, children, and youth with disabilities for the purpose of determining eligibility, program planning, and placement for special education, related services, and early intervention services. Particular attention should be given to the development of alternative assessment procedures and processes for minority individuals and those with limited English proficiency;

"(H) the testing of research findings in practice settings to determine the application, usability, effectiveness, and generalizability of such research findings;

"(I) the improvement of knowledge regarding families, minorities, limited English proficiency, and disabling conditions; and

"(J) the identification of environmental, organizational, resource, and other conditions necessary for effective professional practice; and

"(2) advance the use of knowledge by personnel providing special education, related services, and early intervention services including—

"(A) the improvement of knowledge regarding how such individuals learn new knowledge and skills, and strategies for effectively facilitating such learning in preservice, inservice, and continuing education;

"(B) the organization, integration, and presentation of knowledge so that such knowledge can be incorporated and imparted in personnel preparation, continuing education programs, and other relevant training and communication vehicles; and

"(C) the expansion and improvement of networks that exchange knowledge and practice information.

"(b) In carrying out subsection (a), the Secretary shall consider the special education, related services, or early intervention and research experience of applicants.

"(c) The Secretary shall publish proposed priorities under this part in the Federal Register not later than 12 months preceding the fiscal year for which they are being announced, and shall allow a period of 60 days for public comments and suggestions. The Secretary shall, after analyzing and considering the public comments, publish final priorities in the Federal Register not later than 90 days after the close of the comment period.

"(d) The Secretary shall provide an index (including the title of each project and the name and address of the funded organization) of all projects conducted under this part in the prior fiscal year in the annual report described under section 618.

"(e) The Secretary shall—

"(1) coordinate the priorities established under subsection (b) with research priorities established by the National Institute for Disability and Rehabilitation Research and other appropriate agencies conducting research pertaining to the education of individuals with disabilities; and

"(2) provide information concerning priorities established under subsection (b) to the National Council on Disability and to the Bureau of Indian Affairs Advisory Committee for Exceptional Children.

"(f)(1) The Secretary shall make grants or enter into contracts or cooperative agreements for the establishment of a center or centers designed to organize, synthesize, and disseminate current knowledge relating to children with attention deficit disorder with respect to the following:

"(A) Assessment techniques, instruments, and strategies used for identification, location, evaluation and for measurement of progress.

"(B) Knowledge and skill competencies needed by professionals providing special and regular education and related services.

"(C) Environmental, organizational, resource, and other conditions necessary for effective professional practice.

"(D) Developmental and learning characteristics.

"(E) Instructional strategies, techniques, and activities.

"(F) Curricula and instructional tools such as textbooks, media, materials, and technology.

"(G) Strategies, techniques, and activities related to involvement of families.

"(2) In awarding grants, contracts, and cooperative agreements under paragraph (1), the Secretary shall give priority consideration to applicants with—

"(A) demonstrated knowledge concerning the disorder;

"(B) proven effectiveness in performing the functions established in this subsection; and

"(C) the ability to—

"(i) conduct such projects;

"(ii) communicate with intended consumers of information; and

"(iii) maintain the necessary communication with national, regional, State, and local agencies.

"(g)(1) The Secretary shall make grants, or enter into contracts or cooperative agreements, for the establishment of model demonstration programs, of which some will be school-based models, that provide the services of an ombudsman to assist in resolving problems that are barriers to appropriate educational, related services, or other services for children and youth with disabilities.

"(2) Programs under paragraph (1) shall provide or identify personnel to assist children and youth with disabilities, their parents or guardians, special and regular education teachers, State and local education administrators, and related services personnel to resolve problems in a timely manner through dispute mediation and other methods, notwithstanding due process procedures, in order to further the delivery of appropriate education and related services. Participation in this program does not preclude or delay due process under part B of this Act.

"(3) Ombudsman services for progrums under paragraph (1) shall be provided by social workers, parent advocates, psychologists, and persons with similar qualifications designated by the Secretary.".

SEC. 502. RESEARCH AND DEMONSTRATION PROJECTS IN PHYSICAL EDUCATION AND RECREATION FOR CHILDREN WITH DISABILITIES.

Section 642 (20 U.S.C. 1442) is amended by striking "recreation for handicapped children" each place such term appears and inserting "recreation for children with disabilities, including therapeutic recreation".

SEC. 503. PANELS OF EXPERTS.

Part E (20 U.S.C. 1441 et seq.) is amended by striking section 643 and by redesignating section 644 as section 643.

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

Section 643, as redesignated by section 503 of this Act, is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 643. For purposes of carrying out this part, there are authorized to be appropriated $21,100,000 for fiscal year 1990, $24,650,000 for fiscal year 1991, $27,400,000 for fiscal year 1992, $30,200,000 for fiscal year 1993, and $33,200,000 for fiscal year 1994.".

TITLE VI—INSTRUCTIONAL MEDIA FOR INDIVIDUALS WITH DISABILITIES

SEC. 601. PURPOSES.

Section 651 (20 U.S.C. 1451) is amended—

(1) by striking the subsection designation;

(2) in paragraph (1)—

(A) by inserting "and hard of hearing" after "deaf" each place it appears;

(B) in subparagraph (A), by inserting "and television programs" after "those films"; and

(C) in subparagraph (B), by inserting " and television programs" after "these films";

(2) in paragraph (2), by striking "and" after the semicolon at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and", and by adding at the end the following new subparagraph:

"(D) utilizing educational media to help eliminate illiteracy among individuals with disabilities;"; and

(3) by striking the period at the end of paragraph (2) and inserting "; and" and by adding at the end the following new paragraph:

"(3) the general welfare of visually impaired individuals by—

"(A) bringing to such individuals an understanding and appreciation of textbooks, films, television programs, video material, and other educational publications and materials that play such an important part in the general and cultural advancement of visually unimpaired individuals; and

"(B) ensuring access to television programming and other video materials.".

SEC. 602. CAPTIONED FILMS AND EDUCATIONAL MEDIA FOR INDIVIDUALS WITH DISABILITIES.

Section 652 (20 U.S.C. 1452) is amended—

(1) in the heading for such section, by inserting ", TELEVISION, DESCRIPTIVE VIDEO," after "FILMS";

(2) in subsection (a), by inserting ", descriptive video," after "captioned films";

(3) in subsection (b)—

(A) in paragraph (3), by striking "captioning of films" and inserting "captioning for deaf and hard of hearing individuals and video description for the visually impaired, of films, television programs, and video materials"; and

(B) in paragraph (4)—

(i) by striking "captioned films" and inserting "captioned and video-described films, video materials,"; and

(ii) inserting "or entities" after "agencies";

(C) in paragraph (8), by inserting "and hard of hearing" after "deaf";

(4) in subsection (c), by—

(A) inserting "and other appropriate nonprofit organizations" after "Inc."; and

(B) striking "theatrical" and inserting "cultural";

(5) in subsection (c)(1), by inserting "and hard of hearing" after "deaf";

(6) in subsection (c)(2), by inserting "and hard of hearing" after "deaf"; and

(7) in subsection (c)(3), (A) by inserting "and hard of hearing" after "deaf", and (B) by inserting ", educational, and social" after "cultural".

(8) by adding at the end the following new subsection:

"(d)(1) The Secretary is authorized to make a grant or enter into a contract for the purpose of providing current, free textbooks and other educational publications and materials to blind and other print-handicapped students in elementary, secondary, postsecondary, and graduate schools and other institutions of higher education through the medium of transcribed tapes and cassettes.

"(2) For the purpose of this subsection, the term 'print-handicapped' refers to any individual who is blind or severely visually impaired, or who, by reason of a physical or perceptual disability, is unable to read printed material unassisted.".

SEC. 603. AUTHORIZATION OF APPROPRIATIONS.

Section 653 (20 U.S.C. 1454) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 653. For the purpose of carrying out section 652 there are authorized to be appropriated $20,010,000 for fiscal year 1991, $22,010,000 for fiscal year 1992, $24,200,000 for fiscal year 1993, and $26,600,000 for fiscal year 1994.

TITLE VII—TECHNOLOGY, EDUCATIONAL MEDIA, AND MATERIALS FOR INDIVIDUALS WITH DISABILITIES

SEC. 701. FINANCIAL ASSISTANCE.

Section 661 (20 U.S.C. 1461) is amended—

(1) in the matter preceding paragraph (1), in the first sentence, by striking "provision of early intervention" and inserting "provision of related services and early intervention services";

(2) in paragraph (1)—

(A) by inserting "assistive technology," after "technology,"; and

(B) by striking "more effectively" and inserting "most effectively, efficiently, and appropriately";

(3) in paragraphs (2) through (4), by striking "new technology," each place such term appears and inserting "technology, assistive technology,";

(4) in paragraph (4), by inserting before the period at the end the following: ", where appropriate, to entities described in section 610(g)";

(5)(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting a comma; and

(C) by adding at the end the following:

"(5) increasing access to and use of assistive technology devices and assistive technology services in the education of infants, toddlers, children, and youth with disabilities, and other activities authorized under the Technology-Related Assistance for Individuals With Disabilities Act of 1988, as such Act relates to the education of students with disabilities, and

"(6) examining how these purposes can address the problem of illiteracy among individuals with disabilities."; and

(6) by inserting "(a)" after the section designation and by adding at the end the following new subsection:

"(b)(1) With respect to new technology, media, and materials utilized with funds under this part to improve the education of students with disabilities, the Secretary shall make efforts to ensure that such instructional materials are closed captioned.

"(2) The Secretary may not award a grant, contract, or cooperative agreement under paragraphs (1) through (4) of subsection (a) unless the applicant for such assistance agrees that activities carried out with the assistance will be coordinated, as appropriate, with the State entity receiving funds under title 1 of Public Law 100-407.".

SEC. 702. AUTHORIZATION OF APPROPRIATIONS.

Section 662 (20 U.S.C. 1462) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 662. For the purpose of carrying out this part, there are authorized to be appropriated $11,900,000 for fiscal year 1991, $12,860,000 for fiscal year 1992, $13,890,000 for fiscal year 1993, and $15,000,000 for fiscal year 1994.".

TITLE VIII—INFANTS AND TODDLERS WITH DISABILITIES

SEC. 801. DEFINITIONS.

Section 672(2)(E) (20 U.S.C. 1472(2)(E)) is amended—

(1) by striking "and" after the comma at the end of clause (ix) and inserting "and" after the comma at the end of clause (x); and

(2) by adding at the end the following new clause:

"(xi) social work services,".

SEC. 802. REQUIREMENTS FOR STATEWIDE SYSTEM.

Section 676(b) (20 U.S.C. 1476(b)) is amended—

(1) in paragraph (6), by inserting before the comma the following: ", including the preparation and dissemination by the lead agency to all primary referral sources of information materials for parents on the availability of early intervention services, and procedures for determining the extent to which primary referral sources, especially hospitals and physicians, disseminate information on the availability of early intervention services as required under this paragraph to parents of infants with disabilities"; and

(2) in paragraph (8), by inserting before the comma the following: ", including training of primary referral sources respecting the basic components of early intervention services available in the State".

TITLE IX—TECHNICAL AMENDMENTS

SEC. 901. TERMINOLOGY AND TECHNICAL AMENDMENTS.

(a) Revision in Short Title.—

(1) Section 601(a) (20 U.S.C. 1400(a)) is amended by striking "This title" and all that follows and inserting in lieu thereof the following: "This title may be cited as the 'Individuals with Disabilities Education Act'.".

(2) The following Acts are each amended by striking "Education of the Handicapped Act" each place it occurs and inserting in lieu thereof "Individuals with Disabilities Education Act": Carl D. Perkins Vocational Education and Applied Technology Act; Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988; Department of Education Organization Act; Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987; Education for All Handicapped Children Act of 1975; Education of the Deaf Act of 1986; Elementary and Secondary Education Act of 1965; Medicare Catastrophic Coverage Act of 1988; Omnibus Trade and Competitiveness Act of 1988; Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978; and Technology-Related Assistance for Individuals With Disabilities Act of 1988.

(3) Any other Act and any regulation which refers to the Education of the Handicapped Act shall be considered to refer to the Individuals with Disabilities Education Act.

(b) Terminology Amendments.—The Education for the Handicapped Act is amended in—

(1) section 601(b)(1) (20 U.S.C. 1400(b)(1)) by striking "handicapped children" and inserting "children with disabilities";

(2) section 601(b)(3) (20 U.S.C. 1400(b)(3)) by striking "handicapped children" and inserting "children with disabilities";

(3) section 601(b)(4) (20 U.S.C. 1400(b)(4)) by striking "handicapped children" and inserting "children with disabilities";

(4) section 601(b)(5) (20 U.S.C. 1400(b)(5)) by striking "handicapped children" and inserting "children with disabilities";

(5) section 601(b)(5) (20 U.S.C. 1400(b)(5)) by striking "handicaps" each place such term appears and inserting "disabilities";

(6) section 601(b)(7) (20 U.S.C. 1400(b)(7)) by striking "handicapped children" and inserting "children with disabilities";

(7) section 601(b)(8) (20 U.S.C. 1400(b)(8)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(8) section 601(b)(9) (20 U.S.C. 1400(b)(9)) by striking "handicapped children" and inserting "children with disabilities";

(9) section 601(c) (20 U.S.C. 1400(c)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(10) section 602(a)(1) (20 U.S.C. 1401(a)(1)) by striking "handicapped children" and inserting "children with disabilities";

(11) section 602(a)(13) (20 U.S.C. 1401(a)(13)) by striking "handicapped children" and inserting "children with disabilities";

(12) section 602(a)(15) (20 U.S.C. 1401(a)(15)) by striking "handicaps" each place such term appears and inserting "disabilities";

(13) section 602(a)(16) (20 U.S.C. 1401(a)(16)) by striking "handicapped child" and inserting "child with a disability";

(14) section 602(a)(17) (20 U.S.C. 1401(a)(17)) by striking "handicapped child" and inserting "child with a disability";

(15) section 602(a)(17) (20 U.S.C. 1401(a)(17)) by striking "handicapping" and inserting "disabling";

(16) section 602(a)(19) (20 U.S.C. 1401(a)(19)) by striking "handicapped child" and inserting "child with a disability";

(17) section 602(a)(19) (20 U.S.C. 1401(a)(19)) by striking "handicapped children" and inserting "children with disabilities";

(18) section 602(a)(22) (20 U.S.C. 1401(a)(22)) by striking "handicapped children" and inserting "children with disabilities";

(19) section 602(b) (20 U.S.C. 1401(b)) by striking "handicapped youth" and inserting "youth with a disability";

(20) section 602(b) (20 U.S.C. 1401(b)) by striking "handicapped chila" and inserting "child with a disability";

(21) section 603(a) (20 U.S.C. 1402(a)) by striking "the handicapped" and inserting "individuals with disabilities";

(22) the section heading to section 606 (20 U.S.C. 1405) by striking "HANDICAPPED INDIVIDUALS" and inserting "INDIVIDUALS WITH DISABILITIES";

(23) section 606 (20 U.S.C. 1405) by striking "handicapped individuals" and inserting "individuals with disabilities";

(24) section 608(b) (20 U.S.C. 1407(b)) by striking "handicapped children" and inserting "children with disabilities";

(25) section 611(a)(1)(A) (20 U.S.C. 1411(a)(1)(A)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(26) section 611(a)(3) (20 U.S.C. 1411(a)(3)) by striking "handicapped children" and inserting "children with disabilities";

(27) section 611(a)(5)(A)(i) (20 U.S.C. 1411(a)(5)(A)(i)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(28) section 611(a)(5)(A)(ii) (20 U.S.C. 1411(a)(5)(A)(ii)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(29) section 611(a)(5)(A)(iii) (20 U.S.C. 1411(a)(5)(A)(iii)) by striking "handicapped children" and inserting "children with disabilities";

(30) section 611(c)(4)(B) (20 U.S.C. 1411(c)(4)(B)) by striking "handicapped children" and inserting "children with disabilities";

(31) section 611(d) (20 U.S.C. 1411(d)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(32) section 611(f) (20 U.S.C. 1411(f)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(33) section 612(1) (20 U.S.C. 1412(1)) by striking "handicapped children" and inserting "children with disabilities";

(34) section 612(2)(A) (20 U.S.C. 1412(2)(A)) by striking "handicapped children" and inserting "children with disabilities";

(35) section 612(2)(B) (20 U.S.C. 1412(2)(B)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(36) section 612(2)(C) (20 U.S.C. 1412(2)(C)) by striking "handicapped," and inserting "disabled,";

(37) section 612(2)(C) (20 U.S.C. 1412(2)(C)) by striking "handicap," and inserting "disability,";

(38) section 612(3) (20 U.S.C. 1412(3)) by striking "handicapped children," each place such term appears and inserting "children with disabilities,";

(39) section 612(3) (20 U.S.C. 1412(3)) by striking "handicaps" and inserting "disabilities";

(40) section 612(4) (20 U.S.C. 1412(4)) by striking "handicapped child," and inserting "child with a disability,";

(41) section 612(5) (20 U.S.C. 1412(5)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(42) section 612(5) (20 U.S.C. 1412(5)) by striking "handicapped," and inserting "disabled,";

(43) section 612(5) (20 U.S.C. 1412(5)) by striking "handicap" and inserting "disability";

(44) section 612(6) (20 U.S.C. 1412(6)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(45) section 612(7) (20 U.S.C. 1412(7)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(46) section 612(7) (20 U.S.C. 1412(7)) by striking "handicapped individuals" and inserting "individuals with disabilities";

(47) section 613(a)(2) (20 U.S.C. 1413(a)(2)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(48) section 613(a)(4)(A) (20 U.S.C. 1413(a)(4)(A)) by striking "handicapped children" and inserting "children with disabilities";

(49) section 613(a)(4)(B)(i) (20 U.S.C. 1413(a)(4)(B)(i)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(50) section 613(a)(9)(B) (20 U.S.C. 1413(a)(9)(B)) by striking "handicapped children" and inserting "children with disabilities";

(51) section 613(a)(11) (20 U.S.C. 1413(a)(11)) by striking "handicapped children" and inserting "children with disabilities";

(52) section 613(a)(12) (20 U.S.C. 1413(a)(12)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(53) section 613(a)(12) (20 U.S.C. 1413(a)(12)) by striking "handicapped individuals" and inserting "individuals with disabilities";

(54) section 613(a)(13)(A) (20 U.S.C. 1413(a)(13)(A)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(55) section 613(b) (20 U.S.C. 1413(b)) by striking "handicapped children" and inserting "children with disabilities";

(56) section 613(d)(1) (20 U.S.C. 1413(d)(1)) by striking "handicapped children" and inserting "children with disabilities";

(57) section 613(d)(2)(A) (20 U.S.C. 1413(d)(2)(A)) by striking "handicapped children" and inserting "children with disabilities";

(58) section 613(e) (20 U.S.C. 1413(e)) by striking "handicapped children" and inserting "children with disabilities";

(59) section 614(a)(1)(A) (20 U.S.C. 1414(a)(1)(A)) by striking "handicapped" and inserting "disabled";

(60) section 614(a)(1)(A) (20 U.S.C. 1414(a)(1)(A)) by striking "handicap" and inserting "disability".

(61) section 614(a)(1)(C) (20 U.S.C. 1414(a)(1)(C)) by striking "handicapped children" and inserting "children with disabilities";

(62) section 614(a)(1)(C)(ii) (20 U.S.C. 1414(a)(1)(C)(ii)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(63) section 614(a)(1)(C)(ii) (20 U.S.C. 1414(a)(1)(C)(ii)) by striking "handicaps" and inserting "disabilities";

(64) section 614(a)(2)(B) (20 U.S.C. 1414(a)(2)(B)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(65) section 614(a)(3) (20 U.S.C. 1414(a)(3)) by striking "handicapped children" and inserting "children with disabilities";

(66) section 614(a)(5) (20 U.S.C. 1414(a)(5)) by striking "handicapped child" and inserting "child with a disability";

(67) section 614(c)(1) (20 U.S.C. 1414(c)(1)) by striking "handicapped children" and inserting "children with disabilities";

(68) section 614(d) (20 U.S.C. 1414(d)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(69) section 614(e) (20 U.S.C. 1414(e)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(70) section 614(f) (20 U.S.C. 1414(f)) by striking "handicapped children" and inserting "children with disabilities";

(71) section 615(a) (20 U.S.C. 1515(a)) by striking "handicapped children" and inserting "children with disabilities";

(72) section 615(b)(1)(A) (20 U.S.C. 1415(b)(1)(A)) by striking "handicapped child" and inserting "child with a disability";

(73) section 615(d)(1) (20 U.S.C. 1415(d)(1)) by striking "handicapped children" and inserting "children with disabilities";

(74) section 615(e)(4)(B) (20 U.S.C. 1415(e)(4)(B)) by striking "handicapped child or youth" and inserting "child or youth with a disability";

(75) section 615(f) (20 U.S.C. 1415(f)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(76) section 616(a)(2)(B) (20 U.S.C. 1416(a)(2)(B)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(77) section 617(a)(1)(A) (20 U.S.C. 1417(a)(1)(A)) by striking "handicapped children" and inserting "children with disabilities";

(78) section 617(a)(1)(D) (20 U.S.C. 1417(a)(1)(D)) by striking "handicapped children" and inserting "children with disabilities";

(79) section 619(a)(1)(C) (20 U.S.C. 1419(a)(1)(C)) by striking "handicapped children" and inserting "children with disabilities";

(80) section 619(a)(2)(A)(i) (20 U.S.C. 1419(a)(2)(A)(i)) by striking "handicapped child" and inserting "child with a disability";

(81) section 619(a)(2)(A)(ii) (20 U.S.C. 1419(a)(2)(A)(ii)) by striking "handicapped children" and inserting "children with disabilities";

(82) section 619(a)(2)(A)(ii)(I) (20 U.S.C. 1419(a)(2)(A)(ii)(I)) by striking "handicapped child" and inserting "child with a disability";

(83) section 619(a)(2)(A)(ii)(II) (20 U.S.C. 14198(a)(2)(A)(ii)(II)) by striking "handicapped children" and inserting "children with disabilities";

(84) section 619(a)(2)(D) (20 U.S.C. 1419(a)(2)(D)) by striking "handicapped child" and inserting "child with a disability";

(85) section 619(a)(2)(F)(i) (20 U.S.C. 1419(a)(2)(F)(i)) by striking "handicapped child" each place such term appears and inserting "child with a disability";

(86) section 619(b)(1)(B) (20 U.S.C. 1419(b)(1)(B)) by striking "handicapped children" and inserting "children with disabilities";

(87) section 619(b)(3) (20 U.S.C. 1419(b)(3)) by striking "handicapped child" and inserting "child with a disability";

(88) section 619(c)(1)(A) (20 U.S.C. 1419(c)(1)(A)) by striking "handicapped children" and inserting "children with disabilities";

(89) section 619(c)(1)(B) (20 U.S.C. 1419(c)(1)(B)) by striking "handicapped children" and inserting "children with disabilities";

(90) section 619(c)(2)(A) (20 U.S.C. 1419(c)(2)(A)) by striking "handicapped children" and inserting "children with disabilities";

(91) section 619(c)(2)(B) (20 U.S.C. 1419(c)(2)(B)) by striking "handicapped children" and inserting "children with disabilities";

(92) section 619(c)(3)(A) (20 U.S.C. 1419(c)(3)(A)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(93) section 619(c)(3)(B) (20 U.S.C. 1419(c)(3)(B)) by striking "handicapped children" and inserting "children with disabilities";

(94) the heading to part C by striking "HANDICAPPED INDIVIDUALS" and inserting "INDIVIDUALS WITH DISABILITIES";

(95) section 621(a)(1) (20 U.S.C. 1421(a)(1)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(96) section 621(a)(1) (20 U.S.C. 1421(a)(1)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(97) section 621(a)(2) (20 U.S.C. 1421(a)(2)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(98) section 621(a)(2) (20 U.S.C. 1421(a)(2)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(99) section 621(a)(4) (20 U.S.C. 1421(a)(4)) by striking "handicapped infants, toddlers, children, and youth" and inserting "infants, toddlers, children, and youth with disabilities";

(100) the heading to section 623 (20 U.S.C. 1423) by striking "HANDICAPPED CHILDREN" and inserting "CHILDREN WITH DISABILITIES";

(101) section 623(a)(1) (20 U.S.C. 1423(a)(1)) by striking "handicapped children" and inserting "children with disabilities";

(102) section 623(a)(1)(D) (20 U.S.C. 1423(a)(1)(D)) by striking "handicapped children" and inserting "children with disabilities";

(103) section 623(b) (20 U.S.C. 1423(b)) by striking "handicapped children" and inserting "children with disabilities";

(104) section 623(c) (20 U.S.C. 1423(c)) by striking "handicapped children" and inserting "children with disabilities";

(105) section 623(d) (20 U.S.C. 1423(d)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(106) section 623(f) (20 U.S.C. 1423(f)) by striking "handicapped children" and inserting "children with disabilities";

(107) the heading to section 624 (20 U.S.C. 1424) by striking "SEVERELY HANDICAPPED CHILDREN" and inserting "CHILDREN WITH SEVERE DISABILITIES";

(108) section 624(a) (20 U.S.C. 1424(a)) by striking "severely handicapped children and youth" and inserting "children and youth with severe disabilities";

(109) section 624(a)(1) (20 U.S.C. 1424(a)(1)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(110) section 624(a)(2) (20 U.S.C. 1424(a)(2)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(111) section 625(a)(1) (20 U.S.C. 1425(a)(1)) by striking "handicapped individuals" and inserting "individuals with disabilities";

(112) section 625(a)(2) (20 U.S.C. 1425(a)(2)) by striking "handicapping" and inserting "disabling";

(113) section 625(a)(2)(A) (20 U.S.C. 1425(a)(2)(A)) by striking "handicapped individuals" and inserting "individuals with disabilities";

(114) section 625(a)(2)(B) (20 U.S.C. 1425(a)(2)(B)) by striking "handicapped individuals" and inserting "individuals with disabilities";

(115) section 625(a)(2)(B) (20 U.S.C. 1425(a)(2)(B)) by striking "nonhandicapped" and inserting "nondisabled";

(116) section 625(a)(3) (20 U.S.C. 1425(a)(3)) by striking "handicapped persons" and inserting "persons with disabilities";

(117) section 625(b) (20 U.S.C. 1425(b)) by striking "handicapped individuals" and inserting "individuals with disabilities";

(118) section 625(b) (20 U.S.C. 1425(b)) by striking "visually handicapped" and inserting "visually disabled";

(119) the heading to section 626 (20 U.S.C. 1426) by striking "HANDICAPPED CHILDREN AND YOUTH" and inserting "CHILDREN AND YOUTH WITH DISABILITIES";

(120) section 626(a)(1) (20 U.S.C. 1426(a)(1)) by striking "handicapped youth" and inserting "youth with disabilities";

(121) section 626(a)(3) (20 U.S.C. 1426(a)(3)) by striking "handicapped students" and inserting "students with disabilities";

(122) section 626(b) (20 U.S.C. 1426(b)) by striking "handicapped youth" each place such term appears and inserting "youth with disabilities";

(123) section 626(b) (20 U.S.C. 1426(b)) by striking "handicapping" each place such term appears and inserting "disabling";

(124) section 626(b)(9) (20 U.S.C. 1426(b)(9)) by striking "handicapped students' acquisition of the skills" and inserting "the acquisition of skills by students with disabilities";

(125) section 626(d)(2) (20 U.S.C. 1426(d)(2)) by striking "handicapped youth" and inserting "youth with disabilities";

(126) section 626(d)(3) (20 U.S.C. 1426(d)(3)) by striking "handicapped students" each place such term appears and inserting "students with disabilities";

(127) section 626(e) (20 U.S.C. 1426(e)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(128) the heading to part D by striking "HANDICAPPED INDIVIDUALS" and inserting "INDIVIDUALS WITH DISABILITIES";

(129) section 631(a)(1)(B) (20 U.S.C. 1431(a)(1)(B)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(130) section 631(b) (20 U.S.C. 1431(b)) by striking "handicapped children" and inserting "children with disabilities";

(131) section 631(c)(1) (20 U.S.C. 1431(c)(1)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(132) section 631(c)(2)(A) (20 U.S.C. 1431(c)(2)(A)) by striking "handicapped children" and inserting "children with disabilities";

(133) section 631(c)(2)(A) (20 U.S.C. 1431(c)(2)(A)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(134) section 631(c)(2)(A) (20 U.S.C. 1431(c)(2)(A)) by striking "handicapping" and inserting "disabling";

(135) section 631(c)(2)(B) (20 U.S.C. 1431(c)(2)(B)) by striking "handicapping" and inserting "disabling";

(136) section 631(c)(4)(B) (20 U.S.C. 1431(c)(4)(B)) by striking "handicapped children" and inserting "children with disabilities";

(137) section 631(c)(5)(A) (20 U.S.C. 1431(c)(5)(A)) by striking "handicapping" and inserting "disabling";

(138) section 631(c)(5)(B) (20 U.S.C. 1431(c)(5)(B)) by striking "handicapped children's educational programs" and inserting "educational programs of children with disabilities";

(139) section 631(c)(5)(D) (20 U.S.C. 1431(c)(5)(D)) by striking "handicapped child's individualized educational program" and inserting "the individualized educational program of a child with a disability";

(140) section 631(c)(5)(E) (20 U.S.C. 1431(c)(5)(E)) by striking "handicapped children" and inserting "children with disabilities";

(141) section 631(c)(5)(F) (20 U.S.C. 1431(c)(5)(F)) by striking "handicapped children" and inserting "children with disabilities";

(142) section 631(c)(7) (20 U.S.C. 1431(c)(7)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(143) section 632(c) (20 U.S.C. 1432(c)) by striking "handicapped infants, toddlers, children, and youth" and inserting "infants, toddlers, children, and youth with disabilities";

(144) section 633(c) (20 U.S.C. 1433(c)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(145) the heading to section 643 (20 U.S.C. 1443) by striking "HANDICAPPED CHILDREN" and inserting "CHILDREN WITH DISABILITIES";

(146) section 643 (20 U.S.C. 1443) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(147) section 644(a)(1) (20 U.S.C. 1444(a)(1)) by striking "handicapped individuals" and inserting "individuals with disabilities";

(148) section 644(a)(2) (20 U.S.C. 1444(a)(2)) by striking "handicapped individuals" each place such term appears and inserting "individuals with disabilities";

(149) the heading to part F by striking "HANDICAPPED INDIVIDUALS" and inserting "INDIVIDUALS WITH DISABILITIES";

(150) section 651(a)(2) (20 U.S.C. 1451(a)(2)) by striking "handicapped individuals" each place such term appears and inserting "individuals with disabilities";

(151) section 652(a) (20 U.S.C. 1452(a)) by striking "handicapped individuals" each place such term appears and inserting "individuals with disabilities";

(152) section 652(b)(5) (20 U.S.C. 1452(b)(5)) by striking "handicapped individuals" each place such term appears and inserting "individuals with disabilities";

(153) the heading to part G by striking "HANDICAPPED INDIVIDUALS" and inserting "INDIVIDUALS WITH DISABILITIES";

(154) section 661 (20 U.S.C. 1461) by striking "handicapped students" each place such term appears and inserting "students with disabilities";

(155) section 661 (20 U.S.C. 1461) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(156) section 661 (20 U.S.C. 1461) by striking "handicapped individuals" each place such term appears and inserting "individuals with disabilities";

(157) the heading to part H by striking "HANDICAPPED INFANTS AND TODDLERS" and inserting "INFANTS AND TODDLERS WITH DISABILITIES";

(158) section 671(a) (20 U.S.C. 1471(a)) by striking "handicapped infants and toddlers" each place such term appears and inserting "infants and toddlers with disabilities";

(159) section 671(a)(3) (20 U.S.C. 1471(a)(3)) by striking "handicapped individuals" and inserting "individuals with disabilities";

(160) section 671(b)(1) (20 U.S.C. 1471(b)(1)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(161) section 671(b)(3) (20 U.S.C. 1471(b)(3)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(162) section 672(1) (20 U.S.C. 1472(1)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(163) section 672(2) (20 U.S.C. 1472(2)) by striking "a handicapped infant's or toddler's developmental needs" and inserting "the developmental needs of an infant or toddler with a disability";

(164) section 673 (20 U.S.C. 1473) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(165) section 675(d) (20 U.S.C. 1475(d)) by striking "handicapped children" and inserting "children with disabilities";

(166) section 676(a) (20 U.S.C. 1476(a)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(167) section 676(b)(2) (20 U.S.C. 1476(b)(2)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(168) section 676(b)(3) (20 U.S.C. 1476(b)(3)) by striking "handicapped infant and toddler" and inserting "infant and toddler with a disability";

(169) section 676(b)(3) (20 U.S.C. 1476(b)(3)) by striking "handicapped infant or toddler" and inserting "infant or toddler with a disability";

(170) section 676(b)(4) (20 U.S.C. 1476(b)(4)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(171) section 676(b)(6) (20 U.S.C. 1476(b)(6)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(172) section 676(b)(9)(D) (20 U.S.C. 1476(b)(9)(D)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(173) section 676(b)(14) (20 U.S.C. 1476(b)(14)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(174) section 677(a) (20 U.S.C. 1477(a)) by striking "handicapped infant or toddler" and inserting "infant or toddler with a disability";

(175) section 677(d)(2) (20 U.S.C. 1477(d)(2)) by striking "handicapped infant or toddler" and inserting "infant or toddler with a disability";

(176) section 677(d)(7) (20 U.S.C. 1477(d)(7)) by striking "handicapped toddler" and inserting "toddler with a disability";

(177) section 678(b)(5) (20 U.S.C. 1478(b)(5)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(178) section 679 (20 U.S.C. 1479) by striking "handicapped infants and toddlers" each place such term appears and inserting "infants and toddlers with disabilities";

(179) section 680(4) (20 U.S.C. 1480(4)) by striking "handicapped infant or toddler" and inserting "infant or toddler with a disability";

(180) section 680(5) (20 U.S.C. 1480(5)) by striking "handicapped infant or toddler" each place such term appears and inserting "infant or toddler with a disability";

(181) section 681(b) (20 U.S.C. 1481(b)) by striking "handicapped infants and toddlers" and inserting "infants or toddlers with disabilities";

(182) section 682(e)(3) (20 U.S.C. 1482(e)(3)) by striking "handicapped infants and toddlers" and inserting "infants or toddlers with disabilities";

(183) section 683(2) (20 U.S.C. 1483(2)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(184) section 683(2) (20 U.S.C. 1483(2)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities"; and

(185) section 684(b)(1) (20 U.S.C. 1484(b)(1)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities".

(c) TECHNICAL AMENDMENTS.—Section 612(3) (20 U.S.C. 1412(3)) is amended by inserting "category" after "disability".

(d) HEAD START ACT.—Section 640(d) of the Head Start Act (42 U.S.C. 9835(d)) is amended by—

(1) striking "handicapped children" and inserting "children with disabilities"; and

(2) striking "handicapping" and inserting "disabling".

(e) HIGHER EDUCATION ACT OF 1965.—Section 465(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087ee(a)(2)) is amended by striking "handicapped children" each place such term appears and inserting "children with disabilities".

(f) IMPACT AID.—Public Law 81-874 (20 U.S.C. 258) is amended in—

(1) section 3(d)(2)(C), by striking "handicapped children" each place such term appears and inserting "children with disabilities"; and

(2) section 403(10), by striking "handicapped" and inserting "disabled".

(g) TEMPORARY CHILD CARE FOR HANDICAPPED CHILDREN AND CRISIS NURSERIES ACT OF 1986.—Section 205(d)(2) of the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117c(d)(2)) is amended by striking "handicapped children" and inserting "children with disabilities".

TITLE X—GENERAL PROVISIONS

SEC. 1001. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1990.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

AUGUSTUS F. HAWKINS,
WILLIAM D. FORD,
M. R. OWENS,
MATTHEW G. MARTINEZ,
DONALD M. PAYNE,
JIM JONTZ,
BILL GOODLING,
STEVE BARTLETT,
CASS BALLENGER,
PETER SMITH,
Managers on the Part of the House.
EDWARD M. KENNEDY,
TOM HARKIN,
HOWARD M. METZENBAUM,
PAUL SIMON,
ORRIN HATCH,
DAVID DURENBERGER,
JAMES M. JEFFORDS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1824) to reauthorize the Education of the Handicapped Act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

PART B

TITLE

1. The Senate bill titles the Act the "Education of Individuals with Disabilities Act of 1989." The House amendment names the bill the "Education of the Handicapped Act Amendments of 1990." (See note 229 for new name for the entire Act.)

The Senate recedes.

DEFINITIONS

2. Sec. 602(a)(1) of the Act as amended by both the Senate bill and the House amendment adds a new category to the definition of handicapped children. The Senate uses the term, "head injuries" while the House uses the term, "traumatic brain injury."

The Senate recedes.

The conferees intend that children and youth with traumatic brain injuries receive a free and appropriate public education which emphasizes special education and related services designed to meet their unique needs.

The conferees incorporate by reference the explanation regarding this amendment set out in House Report 101-544 at pages 5-6.

Sec. 602(a)(1) of the Act as amended by the House amendment, includes "attention deficit disorder" under the handicapping condition "other health impairments".

The Senate bill contains no comparable provision.

The House recedes with an amendment requiring the Secretary to publish, within 30 days of enactment, a Notice of Inquiry for the purpose of soliciting public comments regarding the appropriate components of an operational definition under the Education of the Handicapped Act for the term "attention deficit disorder." The Notice shall provide for a 120-day comment period for response to specific issues and for the transmittal of these comments to the appropriate committees of Congress. The conferees do not intend that any court or administrative hearing officer shall interpret the action of the conferees of rejecting the House provision or of including particular terminology in the Notice of Inquiry for the purpose of assisting it in interpreting the term "children with disabilities" under section 602 of the Education of the Handicapped Act.

The conferees recognize that as a matter of policy, the Office of Civil Rights of the Department of Education has determined that "attention deficit disorder" can be a handicapping condition under the regulations implementing section 504 of the Rehabilitation Act of 1973. OCR has also determined that such determination must be made on a case by case basis. Conferees strongly encourage the Assistant Secretary for Civil Rights to disseminate to educational agencies, parents, and other interested persons, through the issuance of policy interpretations or other means, OCR's current policies regarding ADD. The inclusion of section 102 in the legislation concerning the Notice of Inquiry should in no way be construed to affect OCR's current policies regarding ADD.

The Notice of Inquiry process, agreed to by the conferees, is intended to be a useful way to sort out conflicting positions and should provide Congress with the widest possible range of advice on the issue. It is the intent of the conferees that in both the Notice of Inquiry to be conducted by the Department of Education and in congressional consideration thereafter, no perspective on the issue of ADD should be excluded.

This amendment additionally requires the establishment of a center or centers (under section 641(f) of the Act) designed only to organize, synthesize, and disseminate current knowledge relating to children with this disorder. It is the managers' intention that funding should be given to applicants who have demonstrated knowledge of this disorder and proven effectiveness in performing the required functions.

3. Sec. 602(a)(16) of the Act as amended by the House amendment, clarifies the settings covered by special education.

The Senate bill contains no comparable provision.

The Senate recedes.

4. Sec. 602(a)(17) of the Act as amended by the House amendment clarifies that the term "recreation" includes "therapeutic recreation" and clarifies that the term "counseling" includes "rehabilitation counseling."

The Senate bill contains no comparable provision.

The Senate recedes.

Both the House and Senate committee reports of the EHA Amendments of 1986 included language clarifying the intent of Congress to include rehabilitation counseling as a related service. The conferees incorporate by reference the explanation regarding this amendment set out in House Report 101-544 at pages 7-8.

5. Sec. 602(a) of the Act as amended by the House amendment adds a new definition of "translation services."

The Senate bill contains no comparable provision.

The Senate recedes with an amendment clarifying that the listed activities are only examples of different types of post-school activities. The conferees incorporate by reference the explanation regarding this amendment set out in House Report 101-544 at pages 9 and 10.

6. 602(a)(20) of the Act as amended by the House amendment adds a statement on transition services to the required components of an individual education program for students no later than the age of 16, and where appropriate, beginning at the age of 14 or younger.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment providing for the reconvening of the IEP team where a participating agency, other than the educational agency, other than the educational agency, fails to provide transition services.

7. Sec. 602(a)(24)(A) of the Act as amended by the House amendment includes the Bureau of Indian Affairs and tribally-controlled schools in the definition of private, nonprofit agency or organization.

The Senate bill contains no comparable provision.

The Senate recedes.

STATE IMMUNITY

8. Sec. 604(a) of the Act as amended by the Senate bill uses the term "waiver."

Sec. 604(a) of the Act as amended by the House amendment uses the term "abrogatiion."

The Senate recedes.

ADMINISTRATIVE PROVISIONS

9. Part A of the Act as amended by both the Senate bill and the House amendment adds a new section 610.

The Senate bill titles this section "Administrative Provisions."

The House amendment uses "Administrative Provisions Applicable to Parts C Through G and Section 618."

The Senate recedes.

10. The House amendment [under section 610(a)] includes a general mandatory direction to the Secretary to create a program planning process and stipulates certain entities to be consulted in the process.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment clarifying that the Secretary shall maintain a process for developing a program plan.

11. The Senate bill [under section 610(a)] includes a requirement, where appropriate, that grantees demonstrate how they will address the needs of students from a "diversity of racial, ethnic, and linguistic backgrounds."

The House amendment contains no comparable provision.

The House recedes with an amendment to replace "diversity of racial, ethnic, and linguistic backgrounds" with "minority backgrounds."

12. The House amendment [under section 610(b)] requires independent evaluations of all programs under section 618 and Parts C through G.

The Senate bill contains no comparable provision.

The Senate recedes.

13. The amendment [under section 610(c)] requires inclusion of the program plans and evaluations required by this section in the annual reports to Congress.

The Senate bill contains no comparable provision.

The Senate recedes.

14. The House amendment [under section 610(d)] requires the development of effective information acquisition and dissemination procedures for programs and projects under Parts C through G, and studies under section 618.

The Senate bill contains comparable language elsewhere in its bill.

The Senate recedes.

15. The Senate bill [under section 610(b)] requires dissemination by all grant recipients and states the Secretary "may require" distribution to "appropriate networks that exchange practice and knowledge." The networks are named.

The House amendment authorizes [under section 610(d)] the Secretary, "where appropriate," to require grant recipients to conduct dissemination, but says the Secretary "shall require" the delivery of documents produced, as appropriate, to named networks, and "such other networks as the Secretary may determine to be appropriate."

The Senate recedes to the House and the House recedes to the Senate with an amendment clarifying that where appropriate all recipients are required to disseminate and deliver all documents they have produced.

16. The Senate bill [under section 610(c)] requires at least one site visit for every grant receiving $300,000 or more annually under Parts C through G of this Act.

The House amendment contains no comparable provision.

The House recedes.

17. The House amendment [under section 610(d)] makes the following changes to the current panels of experts provision: moves the provision to this section and repeals section 643; adds that panels be competent "by virtue of their training or experience;" adds persons from "related services;" deletes requriement for experience and expertise in the content areas and age levels addressed; and adds that the Secretary may use funds from section 618 for this activity.

The Senate bill contains no comparable provision.

The Senate recedes.

18. The House amendment [under section 610(g)] adds a new provision on "Goals for Minorities and Underserved Persons." The provision includes:

(a) findings [610(g)(1)].

(b) a statement of policy [610(g)(2)].

(c) a process for awarding grants, contracts, and cooperative agreements for activities under Parts C through G to certain entities having expertise in serving these groups [610(g)(2)(C)].

(d) a definition of the entities covered [610(g)(2)(c)(ii)].

(e) a requirement for outreach (by the Secretary) to those entities [610(g)(2)(D)].

(f) a reservation of 1% of the amount appropriated for Parts C through G for certain entities [610(g)(2)(D)(iii)].

(g) a requirement for an annual report to Congress on the implementation of these provisions [610(g)(4)].

(h) a definition of minority and underserved [610(g)(5)(i)].

The Senate bill contains no comparable provision.

The Senate recedes with an amendment:

(a) striking [610(g)(2)(C)] and [610(g)(5)(i)].

(b) requiring that the 1% reserved for outreach sunset at the end of the authorization, at which time the Congress will evaluate the need for continuation of this provision.

(c) substituting "underrepresented" for "underserved" throughout the bill.

SETTLEMENTS AND ALLOCATIONS

19. Sec. 611(f) of the Act as amended by the House amendment amends the current provisions on Indians by requalifying those entities which received grants prior to FY 1989, but which were then held ineligible for grants; and by requiring the B.I.A. to submit to Congress, by March 1, 1991, a report on the coordinated provision of services to all children residing on reservations.

The Senate bill contains no comparable provision.

The Senate recedes.

STATE PLANS

20. Sec. 613(a)(3) of the Act as amended by the Senate bill uses the term "describe" and sets out the requirements for the Comprehensive System for Personnel Development (CSPD).

Sec. 613(a)(3) of the House amendment uses the term "set forth," and includes a general description of the CSPD plan and its requirements.

The House recedes.

21. Sec. 613(a)(3) of the Act as amended by the Senate bill requires the State to determine levels of personnel and uses the term "who do not hold appropriate State certification or licensure." With regards to five-year projections, it uses the term "retirement and other leaving of personnel from the field and other relevant factors."

Sec. 613(a)(3) of the Act as amended by the House amendment also requires the State to document the personnel figures, but does not include language on appropriate State certification. With regards to five-year projections, it requires documentation of the types of exemptions and uses the term "projected rates of personnel attrition and other factors."

The House recedes.

22. Sec. 613(a)(3) of the Act as amended by the Senate bill requires the provision of student information on an annual basis; uses the term "the numbers of students enrolled in such programs," including graduates "with credentials to qualify for certification or licensure, during the past year;" and requires the development, updating, and implementation of the CSPD to meet current and projected needs.

Sec. 613(a)(3) of the Act as amended by the House amendment uses the term "number of personnel being trained," and requires a report on the "extent to which this meets or will meet State personnel needs."

The House recedes.

23. Sec. 613 (a)(3) of the Act as amended by the Senate bill adds a requirement for coordination with a number of entities to recruit, prepare, and retain qualified personnel, including personnel from diverse racial, ethnic, and linguistic backgrounds and personnel with disabilities.

Sec. 613(a)(3) of the Act as amended by the House amendment requires a description of State plans to recruit and retain qualified personnel to "overcome current and projected shortages," including those caused by lack of licensure or certification, and the extent of success.

The House recedes with an amendment to replace "diverse racial, ethnic, and linguistic background" with "minority background."

24. Sec. 613(a)(3) of the Act as amended by the Senate bill requires a description of procedures and activities to "ensure that all personnel necessary . . . are appropriately and adequately prepared;" specifically includes regular education personnel in the continuing education provision and the information dissemination provision.

Sec. 613(a)(3) of the Act as amended by the House amendment requires that "special education . . . personnel, including leadership personnel" be included in the continuing education provision and the dissemination of information provision. Also requires reports on success in meeting needs and on the extend of information dissemination.

The House recedes.

25. Sec. 613(a)(3) of the Act as amended by the Senate bill requires a procedure for adopting, where appropriate, "promising practices, materials and technology".

The House amendment contains no comparable provision.

The House recedes.

26. Sec. 613(a)(3) of the Act as amended by the House amendment requires the State to increase the supply of personnel from racial and ethnic minority groups and individuals with disabilities.

The Senate bill contains no comparable provision.

The House recedes (see note 23).

27. Sec. 613(a)(3) of the Act as amended by the House amendment gives a specific timeline for compliance with this provision.

The Senate bill contains no comparable provision.

The House recedes.

ADMINISTRATION

28. Sec. 617 of the Act as amended by the House amendment includes a provision relating to the acquisition of a computerized information managment system.

The Senate bill contains no comparble provision.

The House recedes.

EVALUATIONS

29. Sec. 618 of the Act as amended by the House amendment titles this section "EVALUATION AND PROGRAM INFORMATION."

The Senate bill contains no comparable provision.

The Senate bill recedes.

30. Sec. 618 of the Act as amended by the Senate bill deletes from current law the general authority for the Secretary to "conduct studies, investigations, and evaluations."

The House amendment contains no comparable provision.

The Senate recedes.

31. Sec. 618(a) of the Act as amended by the House amendment adds to current law the authority to do "analyses."

The Senate bill contains no comparable provision.

The Senate recedes.

32. Sec. 618(a)(3)(B) of the Act as amended by the House amendment adds the term "delivery" after "information on effectiveness."

The Senate bill contains no comparable provision.

The Senate recedes.

33(a). Sec. 618(b) of the Act as amended by the House amendment includes lead agencies "established" under Part H.

The House recedes.

33(b). Sec. 618(b) of the Act as amended by the House amendment states that for FY 1991 information may not be required "regarding traumatic brain injury and autism."

The Senate recedes.

34. Sec. 618(b)(1) of the Act as amended by the Senate bill deletes in current law (1) the requirement that the data collected be "as is necessary for the implementation of this Act", and (2) the annual collection of data on services for students exiting this system (see note 39).

The House recedes.

35. Sec. 618(b)(1) of the Act as amended by the Senate bill rewrites the current provision by applying the term "by disability category" to all clauses.

The House amendment contains no comparable provision.

The House recedes.

36. Sec. 618(b)(3) of the Act as amended by both the Senate bill and House amendment rewrites the current provision on numbers of students exiting the system. The Senate bill uses the term "age 14 through 21." The House amendment uses the term "14 and above" and requires a sampling of data for lower age levels.

The House recedes.

37. Sec. 618(b)(3) of the Act as amended by the Senate bill deletes in current law the provisions requiring data on expenditure levels and services needed for full implementation of the Act.

The House amendment contains no comparable provision.

The House recedes.

38. Sec. 618(b)(3) of the Act as amended by the House amendment adds a data requirement on the number of students who exit preschool programs under Part B and enter regular education programs at the first grade level.

The Senate bill contains no comparable provision.

The House recedes.

39. Sec. 618(b)(3) of the Act as amended by the Senate bill requires, at least every three years, a description of anticipated services for students who have left the educational system.

The House amendment contains no comparable provision.

The House recedes.

40. Sec. 618(b)(5) of the Act as amended by the Senate bill requires, by FY 1992, data on the number of personnel needed under the Comprehensive System of Personnel Development (CSPD), as well as other data.

Sec. 618(b)(5) of the Act as amended by the House amendment requires, by FY 1991, information on the implementation of the CSPD, but does not specify what information is to be included (see note 21).

The House recedes with an amendment changing the implementation date of this provision from FY 1992 to FY 1993.

41. Sec. 618(b)(5) of the Act as amended by the Senate bill requires the Secretary to provide technical assistance to State agencies which provide CSPD data.

The House amendment contains no comparable provision.

The House recedes.

42. Sec. 618(c) of the Act as amended by the Senate bill deletes the current provision on evaluation studies and places it on other provisions in Part E.

The House amendment contains no comparable provision.

The Senate recedes.

43. Sec. 618(c) of the Act as amended by the Senate bill titles this section "Program Management and Effectiveness."

Sec. 618(c) of the Act as amended by the House amendment titles this section "Implementation Inquiries."

The House recedes to the Senate and the Senate recedes to the House with an amendment deleting the title.

44. Sec. 618(c) of the Act as amended by the Senate bill permits general program management grants to private, for profit organizations if this study has a unique character. Grants would be made for studies and investigations.

Sec. 618(c) of the Act as amended by the House amendment does not specify the tax status of the organizations; expands on the list of eligible activities, including case studies, secondary data analyses, syntheses, and program implementation inquiries (see note 51).

The House recedes.

45. Sec. 618(c) of the Act as amended by the Senate bill includes projects to develop effective "racially, ethnically, and linguistically apprrpriate criteria and procedures."

Sec. 618(c) of the Act as amended by the House amendment has a more general provision for the development of criteria and procedures, with emphasis on those from minority backgrounds.

The House recedes with an amendment to replace the term "racially, ethnically, and linguistically" with "those from minority backgrounds."

46. Sec. 618(c) of the Act as amended by the House amendment includes projects on the relationships between placement procedures and the outcomes of placement decisions.

The Senate bill contains no comparable provision.

The House recedes.

47. Sec. 618(c) of the Act as amended by the House amendment includes projects on planning and delivery of services at points of transition, expecially for youth.

The Senate bill contains no comparable provision.

The House recedes.

48. Sec. 618(c) of the Act as amended by the House amendment requires recipients to prepare their findings in a way which maximizes dissemination and use. Stipulates dissemination mode and report to Congress.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment that moves this provision to section 618(c)(4).

49. Sec. 618(c) of the Act as amended by the Senate bill includes a general project to develop and implement a Comprehensive Personnel Development System (CSPD)

Sec. 618(c) of the Act as amended by the House amendment gives authority to support improvements in such systems, to improve resource allocation and use, interagency coordination, continuity of services, and parent-school communication and collaboration.

The House recedes (see note 50).

50. Sec. 618(c) of the Act as amended by the Senate bill includes projects to: develop capacity to implement practices to integrate children with diabilities; effectively allocate and use human and fiscal resources; strengthen programs and services to improve progress in programs and in transition; achieve interagency coordination; strengthen parent-school communication and coordination; and improve professional practices.

The House amendment contains no comparable provision.

The House recedes.

51. Sec. 618(c) of the Act as amended by the Senate bill stipulates some of the methods for these studies and requires that the studies and investigations address information needs of State and local educational agencies.

The House amendment contains no comparable provision.

The House recedes.

52. Sec. 618(c) of the Act as amended by the Senate bill requires the development and implementation (in cooperation with State and local entities) of an on-going system for determining national program information needs and requires that a program information plan be published in the Federal Register every three years, and be included in the annual report to Congress.

Sec. 618(c) of the Act as amended by the House amendment requires that proposed funding priorities be published in the Federal Register every three years for review, and that comments be taken into consideration when priorities are set.

The House recedes.

53. Sec. 618(d)(1) of the Act as amended by the Senate bill moves the current provision on cooperative agreements with SEA's to Part E.

Sec. 618(d)(1) of the Act as amended by the House amendment retains the current provision and adds procedures and policies to the list of activities to be studied.

The Senate recedes.

SPECIAL STUDIES

54. Sec. 618(e) of the Act as amended by the House amendment requires that proposed priorities for special studies be submitted to Congress and published in the *Federal Register.*

The Senate bill stipulates that each study include recommendations.

The Senate recedes with an amendment changing the date upon which proposed priorities must be submitted to Congress from "not later than July 1 of each year beginning 1991" to "beginning in fiscal year 1993 and for every third year thereafter."

55. Sec. 618(e) of the Act as amended by the Senate bill mandates certain studies.

Sec. 618(e) of the Act as amended by the House amendment allows discretion to fund specified studies.

The Senate recedes.

56. Sec. 618(e) of the Act as amended by the Senate bill is more specific with respect to the longitudinal study.

The House amendment contains no comparable provision.

The House recedes.

57. Sec. 618(e) of the Act as amended by the House amendment includes three studies: (1) factors contributing to the decline in numbers of students classified as mentally retarded and the current disparity between State counts; (2) the degree and reasons for placement in separate educational facilities; and (3) the status, progress, and variation in the implementation of policies, procedures, and programs governing the provision of services.

The Senate bill amendment contains no comparable provision.

The Senate recedes with an amendment that renumbers the position of this study within the special studies provision.

58. Sec. 618(e) of the Act as amended by both the Senate bill and the House amendment requires a study of the types, number, and intensity of related services.

Sec. 618(e) of the Act as amended by the Senate bill requires that this study be "nationally representative."

The House recedes.

59. Sec. 618(e) of the Act as amended by the House amendment includes two studies: selection and use of out-of-community placements for students who are seriously emotionally disturbed; and the variables affecting the placements of minority children (see note 135).

The Senate bill contains no comparable provision.

The Senate recedes with an amendment to:

(a) renumber these studies and place them within the existing special studies provision.

(b) modify [618(e)(2)(F)(iii)] on the study on minority placements by inserting "in the development and" after "decisions and" and before "implementation of."

60. Sec. 618(e) of the Act as amended by the Senate bill includes studies of: the disparities between States in placements of students with similar disabilities, especially those with mental retardation; and the factors which have contributed to the decline of students with specific disabilities (see note 57).

The House amendment contains no comparable provision.

The House recedes with an amendment to renumber these studies and place them within the existing special studies provision.

61. Sec. 618(e) of the Act as amended by the Senate bill includes a specific provision which authorizes activities that "organize, synthesize, interpret, and integrate" information from these studies with information from other sources (see note 69).

The House amendment contains no comparable provision.

The House recedes with an amendment requiring the inclusion of that aspect of the House provision which requires that "such activities shall include selection and design of content, formats, and means for effectively communicating such information."

62. Sec. 618(f) of the Act as amended by the House amendment adds the heading "Annual Report."

The Senate bill contains no comparable provision.

The House recedes.

63. Sec. 618(f)(1) of the Act as amended by the Senate bill authorizes the Secretary to conduct activities to prepare an annual report, which "shall be disseminated . . . to the education community at large and to other interested parties."

Sec. 618(f)(1) of the Act as amended by the House amendment directs the Secretary to prepare such a report, for dissemination "to the education and disability communities," and requires that Part H data be included in the report.

The House recedes with an amendment modifying the Senate provision to include dissemination to the "disability communities" and Part H data in the annual report.

64. Sec. 618(f)(2) of the Act as amended by the House amendment requires the annual report to include an index and summary of each activity related to program information undertaken under certain subsections.

The Senate bill contains no comparable provision.

The House recedes (see note 66).

65. Sec. 618(f)(2) of the Act as amended by the Senate bill requires inclusion of a description of findings and determinations resulting from State monitoring.

The House amendment contains no comparable provision.

The House recedes.

66. Sec. 618(f)(2) of the Act as amended by the Senate bill requires that the Secretary provide an annual index to all projects funded under Parts C through G and data from sections 622 and 634; deletes current provisions requiring the reporting of information related to vocational education programs, least restrictive environment, and recommendations for changes in the Act.

The House amendment contains no comparable provision.

The House recedes.

67. Sec. 618(f)(4) of the Act as amended by the Senate bill deletes current requirements for information on special populations, and substitutes the requirement to provide information on the results of research and related activities conducted under Part E that the Secretary determines as relevant to the effective implementation of the Act.

The House amendment contains no comparable provision.

The House recedes.

68. Sec. 618(f)(5) of the Act as amended by the Senate bill deletes from current law the reference to a specific date and the term "inclusive" from the reference to age.

The House amendment contains no comparable provision.

The House recedes.

69. Sec. 618(g) of the Act as amended by the House amendment includes a general provision which authorizes activities to organize, synthesize, interpret, and integrate information from this section with information from other sources, and stipulates design of content and means for communicating such information.

The Senate bill contains no comparable provision.

The House recedes.

AUTHORIZATIONS

70. Sec. 618. (g) [as redesignated (h)] of the Act as amended by the House amendment authorizes for each of the fiscal years 1991 through 1994, that 1% of the amounts appropratied for the Senate assistance grants under Part B be reserved to carry out section 618; of the 1%, not more than 25% may be used to carry out the special studies.

Sec. 618. (g) [as redesignated (h)] of the Act as amended by the Senate bill authorizes $3.594 million for FY 90-94 to carry out section 618.

The Senate recedes with an amendment to delete the 1% provision and replace it with a $12 million authorization for FY 91, and such sums as necessary for FY 92-94, and change the ceiling on special studies from 25% to 30%.

Part C

REGIONAL RESOURCE AND FEDERAL CENTERS

71. Sec. 621(a) of the Act as amended by both the Senate bill and the House amendment adds "special education, related services, and early intervention" to the focus of the Regional Resource Centers.

Sec. 621(a) of the Act as amended by the House amendment adds the caveat that centers provide training "as requested;" deletes the Secretary's authority to set priorities for the centers; and specifies the projects covered under dissemination activities.

The Senate recedes.

72. Sec. 621(b) of the Act as amended by the House amendment adds specific criteria relating to regional needs for the Secretary to utilize in making grants for the centers.

The Senate bill contains no comparable provision.

The Senate recedes.

73. Sec. 621(d) of the Act as amended by the Senate bill expands the authority of the National Coordinating Technical Assistance Center to: provide training and information to a wide range of entities regarding techniques and approaches for submitting applications, and to make such information available to other regional centers; give priority in providing technical assistance concerning education of students from diverse racial, ethnic, and linguistic backgrounds; exchange information and cooperate with other centers addressing the needs of students from diverse racial, ethnic, and linguistic backgrounds; and provide assistance to States—through regional centers—for the training of hearing officers.

The House contains no comparable provision.

The House recedes with an amendment to replace "diverse racial, ethnic, and linguistic backgrounds" with "minority backgrounds."

74. Sec. 621 of the Act as amended by the House amendment adds a new subsection which directs the Secretary to develop, in consultation with a panel, guidelines and criteria for the operation of Regional and Federal Resource Centers; stipulates elements to be included under the guidelines and criteria; directs the Secretary to publish (in the *Federal Register* by July 1, 1991) proposed guidelines for review and comment, and to publish final guidelines developed by the panel.

The Senate bill contains no comparable provision.

The Senate recedes.

DEAF BLIND SERVICES

75. Sec. 622(a)(1)(A) of the Act as amended by the Senate bill adds lead agencies under Part H, adds infants and toddlers to those to be served, and adds "early intervention" to the services to be provided.

The House amendment contains no comparable provision.

The House recedes.

76. Sec. 622(a)(1)(B) of the Act as amended by the Senate bill deletes the term "youth" and adds the term "individuals" in reference to eligibility.

Sec. 622(a)(1)(B) of the Act as amended by the House amendment rewrites the provision, adding "supports" and "including assistance related to independent living and competitive employment" to facilitate transition.

The Senate recedes.

77. Sec. 622(a)(2) of the Act as amended by the House amendment redesignates this paragraph as 3 and adds a definition of deaf-blind.

The Senate bill contains no comparable provision.

The Senate recedes.

78. Sec. 622(a)(2) of the Act as amended by the Senate bill adds "early intervention services" to the provision regarding technical assistance and replication of successful innovative approaches.

The House amendment contains no comparable provision.

The House recedes.

79. Sec. 622(a)(2) of the Act as amended by both the Senate bill and the House amendment adds pilot projects to expand the capability of local educational agencies to provide services, and encourage State and local authorities to assume funding responsibility for these projects.

. Sec. 622(a)(2) of the Act as amended by the Senate bill adds youth to the population to be served.

The House amendment contains no comparable provision.

The House recedes.

80. Sec. 622(a)(2) of the Act as amended by the Senate bill authorizes projects for: research to identify and meet the full range of special needs of this population; the development, or demonstration of new or existing methods, approaches, or techniques that contribute to the adjustment and education of this population; and facilitation of parental involvement.

The House amendment contains no comparable provision.

The Senate recedes to the House and the House recedes to the Senate with an amendment deleting projects on research to identify and meet the full range of special needs of this population.

81. Sec. 622(a)(2) of the Act as amended by the Senate bill adds infants and toddlers to the population to be served.

The House amendment contains no comparable provision.

The House recedes.

82. Sec. 622(a)(2) [as redesignated (3)] of the Act as amended by the Senate bill deletes the age requirement.

The House amendment contains no comparable provision.

The House recedes.

83. Sec. 622(a)(3) [as redesignated (4)] of the Act as amended by the House amendment expands eligibility criteria for grantees.

The Senate bill contains no comparable provision.

The Senate recedes.

84. Sec. 622(a)(3) [as redesignated (4)] of the Act as amended by the Senate bill requires that the Secretary, in carrying out this section, shall consider the availability and quality of existing services and the need for services in all parts of the country.

The House amendment contains no comparable provision.

The House recedes.

85. Sec. 622(b) of the Act as amended by the Senate bill authorizes single and multi-state centers for the provision of technical assistance and adds "pilot projects" as entities to be served.

Sec. 622(a)(4) [as redesignated (5)] of the Act as amended by the House amendment authorizes single and multi-state centers for the provision of technical assistance and "pilot supplementary services."

The Senate recedes.

86. Sec. 622(c)(1) of the Act as amended by the House amendment expands the data to be reported: sex, service settings, and where appropriate, student outcomes.

The Senate bill contains no comparable provision.

The Senate recedes.

87. Sec. 622(d) of the Act as amended by the Senate bill authorizes a cooperative agreement with stipulated entities for the establishment of a National Center on Deaf-Blindness to disseminate materials and information on effective practices in working with deaf-blind infants, toddlers, children, and youth.

Sec. 622(d) of the act as amended by the House amendment authorizes a grant, contract, or cooperative agreement to establish a National Clearinghouse for Children and Youth with Deaf-Blindness to identify, coordinate, and disseminate information on deaf-blindness; to respond to information requests from a broad range of constituents; to interact with educators and others to identify areas for programming, materials development, training and expansion of specific services; and to maintain a computerized data base of resources.

The Senate recedes with an amendment stating that the information to be disseminated by this clearing house should emphasize "information on effective practices in working with this population."

The conferees note that Gallaudet University was awarded a cooperative agreement to operate the Deaf-Blind Clearinghouse. Un fortunately, the Department of Education decided not to fund it, but instead to include this function under another technical assistance project.

Information for educators and parents on the unique and intense instructional needs of deaf-blind children is lacking and sometimes inaccessible. Information which may be available is often difficult to identify and locate and may not have the depth and breadth to provide support to educators and parents in making satisfactory program decisions and design. It is the intention of the conferees that experience and expertise specific to deaf-blindness must be considered when making this award.

88. Sec. 622(e) of the Act as amended by the House amendment deletes severely handicapped from the provision that authorizes extended school year programs.

The Senate bill contains no comparable provision.

The House recedes.

89. Sec. 622(e) and (f) of the Act is amended by the Senate bill repeals the two provisions related to the extended school year programs and the crossover authority for funding of joint projects serving deaf-blind and severely handicapped populations.

The House amendment contains no comparable provision.

The House recedes.

90. Sec. 622(f) of the Act as amended by the House amendment authorizes research to identify and meet the full range of special needs of this population, and the development and demonstration of new or improvements in existing methods, approaches, or techniques that would contribute to the adjustment and education of this population.

The Senate bill contains no comparable provision.

The Senate recedes.

EARLY EDUCATION

91. Sec. 623(a)(1) of the Act as amended by the House amendment replaces the term "problems of such children" with "needs of these children."

The Senate bill contains no comparable provision.

The Senate recedes.

92. Sec. 623(a)(1) of the Act as amended by the Senate bill adds "other communication mode" to the list of services and activities.

Sec. 623(a)(1) of the Act as amended by the House amendment replaces the term "speech" with "communication."

The House recedes.

93. Sec. 623(a)(1)(B) of the Act as amended by the House amendment expands the list of activities and services to include family education with mandatory participation of a parent or representative.

The Senate bill contains no comparable provision.

The Senate recedes.

94. Sec. 623(a)(1)(C) of the Act as amended by the House amendment replaces the term "problems of such children" with "special needs of these children."

The Senate bill contains no comparable provision.

The Senate recedes.

95. Sec. 623(a)(1)(D) of the Act as amended by the House amendment adds interdisciplinary models and practices to the training activities, and includes parents in the service population.

The Senate bill contains no comparable provision.

The Senate recedes.

96. Sec. 623(a)(1)(E) of the Act as amended by the House amendment adds the involvement of adult role models with disabilities to the adoption of exemplary models and practices.

The Senate bill contains no comparable provision.

The Senate recedes.

97. Sec. 623(a)(1) of the Act as amended by the Senate bill adds new subparagraphs to list new activities and services: facilitate and improve early identification of infants and toddlers; facilitate transition of infants; promote use of assistive technology devices and services; and increase understanding of, and address, early intervention and preschool needs of children exposed prenatally to maternal substance abuse.

The House amendment contains no comparable provision.

The House recedes.

98. Sec. 623(b) of the Act as amended by the House amendment expands the service population of the technical assistance development system to include parents, advocates, direct service and administrative personnel, and Part H State agencies; and requires aggressive dissemination of information from the system.

The Senate bill contains no comparable provision.

The Senate recedes. The conferees incorporate by reference the explanation regarding this amendment set out in House Report 101-544 on page 34.

99. Sec. 623(c) of the Act as amended by the House amendment specifies modes for dissemination of information.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment specifying that reference be made to section 610(g) whenever modes of dissemination are mentioned.

100. Sec. 623(d) of the Act as amended by the House amendment adds projects on integration into regular preschool programs to the list of research activities.

The Senate bill contains no comparable provision.

The Senate recedes.

101. Sec. 623(f) of the Act as amended by the House amendment clarifies the eligibility population by including infants and toddlers.

The Senate bill contains no comparable provision.

The Senate recedes.

102. Sec. 623 of the Act as amended by the Senate bill adds a new subsection (g) to include an authority to synthesize knowledge developed under this section; and to organize, integrate, and present this knowledge to maximize its utility and dissemination.

The House amendment contains no comparable provision.

The Senate recedes to the House and the House recedes to the Senate with a technical amendment.

CHILDREN WITH SEVERE DISABILITIES

103. Sec. 624 of the Act as amended by the Senate bill titles this section "Programs for Children with Severe Disabilities."

Sec. 624 of the Act as amended by the House amendment titles this section "Programs for Severely Handicapped Children."

The House recedes.

104. Sec. 624(a) of the Act as amended by the Senate bill uses the term "early intervention."

Sec. 624(a) of the Act as amended by the House amendment uses the term "integration needs;" deletes the authority of the Secretary to determine eligible organizations or institutions, replacing it with designated entities; and adds infants and toddlers to the population to be served.

The Senate recedes with an amendment to include the "early intervention."

105. Sec. 624(1)(1) of the Act as amended by the House amendment includes transportation to and from school as one of the special needs that can be researched.

The Senate bill contains no comparable provision.

The Senate recedes.

106. Sec. 624(a)(3) of the Act as amended by the Senate bill stipulates the categories of personnel eligible for training services, and adds infants and toddlers to the population to benefit from training.

Sec. 624(a)(3) of the Act as amended by the House amendment includes "regular teachers, instructors, and administrators" to thse eligible for training, and adds integrated settings as a training category.

The Senate recedes to the House and the House recedes to the Senate combining the langauge from the Senate bill and the House amendment.

107. Sec. 624(a)(4) of the Act as amended by the House amendment stipulates certain dissemination modes.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment deleting the specific modes of dissemination and substituting a reference to section 610(g).

108. Sec. 624(a) of the Act as amended by the House amendment adds a new paragraph (5) which authorizes statewide projects to improve the quality of special education and related services, and to change the delivery of those services from segregated to integrated environments.

The Senate bill contains no comparable provision.

The Senate recedes.

109(a). Sec. 624 of the Act as amended by both the Senate bill and the House amendment authorizes extended school year programs for this population.

109(b). Sec. 624 of the Act as amended by the House amendment redesignates (b) as (c) and adds a new (b) to include infants and toddlers in the population to be served, and allows the funding of grants that would include the participation of non-disabled students if there is non-Federal matching funds.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment to delete the provision regarding the funding of grants that would allow participation of non-disabled students.

110. Sec. 624 of the Act as amended by the House amendment adds a new (e) which establishes a priority for funding projects which increase the likelihood of non-segregated settings.

The Senate bill contains no comparable provision.

The Senate recedes.

POSTSECONDARY EDUCATION

111. Sec. 625(a) of the Act as amended by the House amendment clarifies that these model programs may include joint projects that coordinate with special education and transition services.

The Senate bill contains no comparable provision.

The Senate recedes.

112. Sec. 625(a)(2) of the Act as amended by the House amendment adds a new subparagraph (C) to include outreach activities in the list of those authorized.

The Senate bill contains no comparable provision.

The Senate recedes.

113. Sec. 625(b) of the Act as amended by both the Senate bill and the House amendment clarifies the population to be served. The Senate bill uses the terms "individuals" and "head injuries." The House amendment uses the terms "children" and "traumatic brain injury," and includes attention deficit disorder as a specific health impairment.

The Senate recedes with an amendment deleting attention deficit disorder as a specific health impairment.

114. Sec. 626 of the Act as amended by the Senate bill titles this section "Secondary Education and Transition Services for Handicapped Youth."

Sec. 626 of the Act as amended by the House amendment titles this section "Secondary Education and Transition Services for Children and Youth with Disabilities."

The Senate recedes.

115. 626(a)(1) of the Act as amended by the House amendment adds "independent and community living" to the list of general activities.

The Senate bill contains no comparable provision.

The Senate recedes.

116. Sec. 626(b)(2) of the Act as amended by the Senate bill adds "independent living" as an emphasis under the authority for demonstration model projects.

The House amendment contains no comparable provision.

The House recedes.

117. Sec. 626(b)(9) of the Act as amended by the House amendment revises current law to include "reasons why some youth with disabilities remain to complete school" as a factor to be studied.

The Senate bill contains no comparable provision.

The Senate recedes.

118(a). Sec. 626(b)(9) of the Act as amended by both the Senate bill and the House amendment includes the term "related services" in the provision on developing curriculum and instructional techniques.

116(b). Sec. 626(b)(9) of the Act as amended by the House amendment revises the current provision by changing the placement of the term "special education."

The Senate recedes.

119. Sec. 626(b)(10) of the Act as amended by the House amendment adds the term "or adapted" to the physical education and therapeutic recreation programs that can be funded, and substitutes the phrase "to facilitate the full participation of youths with disabilities in community programs" for the current phrase "to increase the potential of handicapped youths for community participation."

The Senate bill contains no comparable provision.

The Senate recedes.

120. 626(b) of the Act as amended by the Senate bill adds a new paragraph (11) which authorizes the development and dissemination of exemplary programs and practices regarding the use of assistive technology devices and services.

The House amendment contains no comparble provision.

The House recedes.

121. Sec. 626(d)(3) of the Act as amended by the House amendment revises current law to require participation of students and parents in planning, developing, and implementing these projects.

The Senate bill contains no comparable provision.

The Senate recedes.

NEW TRANSITION STATE GRANTS

122. Sec. 626(e) of the Act as amended by both the Senate bill and the House amendment redesignates (e) as (f) and adds a new (e) which authorizes a new initiative to fund joint State educational agency/State vocational rehabilitation agency (SEA/SVRA) applicants to implement and improve transition services for youth.

The Senate bill requires at least five grants to joint State educational agency/State vocational rehabilitation agency (SEA/SVRA) applicants to provice services for youth ages 14-21. Priority would be given to joint projects which target resources to school settings, provide on-going information and training, and provide for cooperative arrangements for interagency funding to ensure service to youth in accordance with the Rehabilitation Act of 1973.

The House amendment requires one-time, 5-year grants; authorizes joint applicants other than SVRA, but only in the case when the SVRA does not participate; provides services for youth from age 14 through the age they exit school. Gives preference to applicants that will: (1) target resources to school settings; (2) target grant funds to case management, program evaluation, and documentation and dissemination of information on transition services; (3) provide incentives for interagency and private sector resource pooling; (4) provide for early ongoing information and training; (5) provide for early and direct involvement of all relevant parties; (6) provide access to training for eligible youth; (7) integrate transition services with relevant opportunities in communities; (8) use a transition services evaluation plan; and (9) ensure that eligible youth be served in accordance with the Rehabilitation Act of 1973.

The Senate recedes.

123. Sec. 626 of the Act as amended by the Senate bill adds a new subsection (h) which includes a new authority for projects that address transitions that children with disabilities may face throughout their school years. Examples of these transitions and activities are stipulated. Coordination of programs and geographic dispersion are required.

The House amendment contains no comparable provision.

The House recedes with an amendment to move this provision to section 610.

124. Sec. 626(e) [redesignated as (f)] of the Act as amended by the House amendment adds specified modes for information dissemination.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment specifying that reference be made to section 610(g) whenever modes of dissemination are mentioned.

125. Sec. 626(e) [redesignated as (f)] of the Act as amended by the House amendment requires the Secretary to fund one or more demonstration models designed to establish appropriate methods of providing, or continuing to provide, assistive technology devices and services to secondary students as they transition to a number of environments. Such demonstration models shall include, as appropriate, cooperative agreements with rehabilitation entities to ensure continuity of finding, and methods for the dissemination of exemplary practices (see note 120).

The Senate bill contains no comparable provision.

The Senate recedes.

126. Sec. 626(e) [redesignated as (f)] of the Act as amended by the House amendment requires the Secretary to award one five-year cooperative agreement with a stipulated entity to evaluate and document projects funded under the transition services initiative. Specific requirements are included; and documentation and evaluation results are to be included in the Secretary's annual report.

The Senate bill contains no comparable provision.

The Senate recedes.

127. Sec. 626(f) [redesignated as (g)] of the Act as amended by the House amendment adds a requirement to coordiante programs under this section with projects under the Job Training Partnership Act (JTPA) and the Carl D. Perkins Vocational Education and Applied Technology Act.

The Senate bill contains no comparable provision.

The Senate recedes.

SERIOUS EMOTIONAL DISTURBANCE

128. Sec. 627 of the Act as amended by the Senate bill uses the term "serious emotional disturbances" in the title for this section.

Sec. 627 of the Act as amended by the House amendment uses the term "serious emotional disturbance" in the title for this section.

The Senate recedes.

129. Sec. 627 of the Act as amended by both the Senate bill and the House amendment authorizes projects to improve special education and related services to children and youth with serious emotional disturbance.

The Senate bill is more descriptive regarding the type of projects.

The House amendment is broader in terms of the funding mechanisms.

The Senate recedes with an amendment changing the term "shall" to "may" after the term "projects."

130. Sec. 627 of the Act as amended by both the Senate bill and the House amendment includes as a project activity studies regarding the state of special education and related services to this population, including an assessment of the status of these services.

Sec. 627 of the Act as amended by the Senate bill adds "youth" to the population to be studied and uses the term "including the establishment and maintenance of data bases for assessing."

Sec. 627 of the Act as amended by the House amendment uses the term "including information and data to enable assessments."

The Senate recedes.

131. Sec. 627 of the Act as amended by both the Senate bill and the House amendment includes as a project activity the development of methodology and curricula.

The Senate bill uses the term "programming" to describe special education and related services.

The Senate recedes.

132. Sec. 627 of the Act as amended by the Senate bill includes projects to develop effective collaboration between types of programs (see note 136).

The House amendment contains no comparable provision.

The House recedes with an amendment to delete the term "projects to" and replace the term "develop" with the term "developing."

133. Sec. 627 of the Act as amended by both the Senate bill and the House amendment includes as a project activity the development and demonstration of innovative approaches which would avert the deterioration of this condition.

The Senate bill uses the term "to prevent."

The House bill uses the term "to assist."

The Senate recedes with an amendment adding "and to prevent" after "to assist."

134. Sec. 627 of the Act as amended by the Senate bill includes the authority to synthesize and disseminate information.

The House amendment contains no comparable provision.

The Senate recedes (see note 136).

135. Sec. 627 of the Act as amended by the Senate bill requires at least one study on out-of-community residential programs and factors that surround such placements.

The House amendment contains no comparable provision.

The Senate recedes (see note 59).

136. Sec. 627 of the Act as amended by the House amendment authorizes grants to local educational agencies to collaborate with mental health entities to provide services through demonstration projects. Funds could be used to facilitate interagency and private sector resource pooling to improve services, and to provide information and training. Sets out activities to be inlcuded and stipulates evaluation and dissemination requirements.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment specifying that reference be made to section 610(g) whenever modes of disemination are mentioned.

137. Authorizations (Part C—Centers and Services)

(a) Regional Resource Centers

Sec. 628 of the Act as amended by the Senate bill authorizes the following figures:

1991: 8,100,000
1992: 8,750,000
1993: 9,450,000
1994: 10,204,000

Sec. 628 of the Act as amended by the House amendment authorizes the following figures:

1991: 8,950,000
1992: 9,850,000
1993: 10,830,000
1994: 11,900,000

The Senate recedes to the House and the House recedes to the Senate with an amendment substituting the following figures:

1991: 8,525,000
1992: 9,300,000
1993: 10,140,000
1994: 11,052,000

(b) Deaf-Blind Programs

Sec. 628 of the Act as amended by the Senate bill authorizes the following figures:

1991: 19,220,000
1992: 20,760,000
1993: 22,420,000
1994: 24,220,000

Sec. 628 of the Act as amended by the House amendment authorizes the following figures:

1991: 21,900,000
1992: 24,100,000
1993: 26,500,000
1994: 29,200,000

The Senate recedes.

(c) Early Education

Sec. 628 of the Act as amended by the Senate bill authorizes the following figures:

1991: 29,600,000
1992: 31,970,000
1993: 34,530,000
1994: 37,290,000

Sec. 628 of the Act as amended by the House amendment authorizes the following figures:

1991: 33,200,000
1992: 36,500,000
1993: 40,120,000
1994: 44,120,000

The Senate recedes to the House and the House recedes to the Senate an amendment substituting the following figures:

1991: 31,400,000
1992: 34,235,000
1993: 37,325,000
1994: 40,705,000

(d) Severely Handicapped

Sec. 628 of the Act as amended by the Senate bill authorizes the following figures:

1991: 7,020,000
1992: 7,580,000
1993: 8,190,000
1994: 8,840,000

Sec. 628 of the Act as amended by the House amendment authorizes the following figures:

1991: 9,500,000
1992: 10,500,000
1993: 11,600,000
1994: 12,700,000

The Senate recedes.

(e) Postsecondary Education

Sec. 628 of the Act as amended by the Senate bill authorizes the following figures:

1991: 9,470,000
1992: 10,230,000
1993: 11,050,000
1994: 11,930,000

Sec. 628 of the Act as amended by the House amendment authorizes the following figures:

1991: 8,00,000
1992: 8,780,000
1993: 9,660,000
1994: 10,630,000

The House recedes.

(f) Secondary Education and Transition

Sec. 628 of the Act as amended by the Senate bill authorizes the following figures:

1991: 12,000,000
1992: 15,000,000
1993: 18,000,000
1994: 21,000,000

Sec. 628 of the Act as amended by the House amendment authorizes the following figures:

1991: 9,800,000
1992: 10,800,000
1993: 11,900,000
1994: 13,050,000

The Senate recedes.

(g) New Transition Initiative

Sec. 628 of the Act as amended by the House bill authorizes the following figures:

1991: 27,500,000
1992: 30,250,000
1993: 33,275,000
1994: 36,602,000

The Senate recedes.

(h) Serious Emotional Disturbance

Sec. 628 of the Act as amended by the Senate bill authorizes the following figures:

1991: 5,000,000
1992: 6,000,000
1993: 7,000,000
1994: 8,000,000

Sec. 628 of the Act as amended by the House amendment authorizes the following figures:

1991: 8,000,000
1992: 10,000,000
1993: 12,000,000
1994: 15,000,000

The Senate recedes to the House and the House recedes to the Senate with an amendment substituting the following figures:

1991: 6,500,000
1992: 8,000,000
1993: 9,500,000
1994: 11,500,000

PART D

PERSONNEL TRAINING

138. Sec. 631(a)(1) of the Act as amended by the House amendment clarifies that both inservice and preservice training is included.

The Senate bill contains no comparable provision.

The House recedes (see note 147).

139.Sec. 631(a)(1)(A) of the Act as amended by the House amendment substitutes the term "adapted" for "adaptive" and adds "instructional and assistive technology services."

The Senate bill contains no comparable provision.

The Senate recedes. The conferees recognize that there are severe gaps in the training of personnel in the use of assistive technology. As a result, this category has been added to the list of areas for training personnel under Part D of the Act. The provisions are intended to increase awareness of, and access to, assistive technology services and devices in meeting the educational and related service needs of students with disabilities.

140. Sec. 631(a)(1)(B) of the Act as amended by the House amendment adds "infants," "toddlers," and "other settings" to the related services training provision.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment deleting "infants and toddlers."

141. Sec. 631(a)(1)(C) of the Act as amended by the House amendment adds a special provision relating to training of preschool and early intervention services.

The Senate bill contains no comparable provision.

The Senate recedes.

142. Sec. 631(a)(1)(C) of the Act as amended by the Senate bill combines the training of leadership personnel with special education pre-school and early intervention services personnel (currently under paragraph E).

Sec. 631(a)(1)(D) of the Act as amended by the House amendment keeps leadership training separate; specifies that leadership training includes supervision and administration at the advanced graduate, doctoral and post-doctoral levels, and research and special education personnel preparation at the doctoral and post-doctoral levels.

The Senate recedes.

143. Sec. 631(a)(2)(A) of the Act as amended by the Senate bill stipulates the types of personnel to be considered when determining shortages.

Sec. 631(a)(2)(A) of the Act as amended by the House amendment retains the current language, but specifically includes the need for personnel to serve children of limited-English proficiency.

The Senate recedes to the House and the House recedes to the Senate combining provisions in the Senate bill and the House amendment.

144. Sec. 631(a)(2)(B) of the Act as amended by the House amendment adds application requirements for recruitment and training of minority groups and persons with disabilities.

The Senate bill contains no comparable provision.

The Senate recedes.

145. Sec. 631(a)(3) of the Act as amended by the House amendment adds a provision giving minority students a priority in the receipt of any fellowships or traineeships.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment to add the following language: "Such institutions shall give priority consideration in the selection of qualified recipients of fellowships and traineeships to individuals from disadvantaged backgrounds, including minorities and individuals with disabilities, who are underrepresented in the teaching profession or in the specializations in which they are being trained."

146. Sec. 631(a)(4) of the Act as amended by the House amendment deletes the current provision to reserve 5% of funds to prepare personnel where shortages exist, and substitutes a requirement that students who receive financial assistance shall either repay such assistance or work in the field for a equivalent period of time.

The Senate bill contains no comparable provision.

The House recedes. The conferees are aware of the shortages of personnel in the filed of special education and related services, and would strongly suggest that the Secretary fully implement the current provision.

147(a). Sec. 631(a) of the Act as amended by the Senate bill adds a new paragraph (5) which allows regular and special education personnel to benefit from both preservice or inservice training.

Sec. 631(a) of the Act as amended by The House amendment adds a new paragraph (5) which allows the Secretary to determine that a portion of the training funds be used for interdiscipilinary training to assist special educators in coordinating the provision of services with related services personnel. Requires practica to demonstrate the delivery of related services in an array of regular and special education and community settings.

The Senate recedes with an amendment changing the requirement regarding practica from mandatory to discretionary by inserting the term "to the extent feasible."

147(b). Sec. 631(a) of the Act as amended by the Senate bill adds a new paragraph (6) which states that "nothing in this subsection shall be construed to prevent regular education or special education personnel from benefiting from or participating in training activities conducted under this subsection on a preservice or inservice basis.

The House amendment contains no comparable provision.

The House recedes.

148. Sec. 631(a) of the Act as amended by the Senate bill adds a new paragraph (6) which establishes two priorities; the recruitment and retention of personnel from a diversity of racial, ethnic, and linguistic backgrounds, and individuals with disabilities; the preservice preparation of these personnel to serve individuals from a diversity of racial, ethnic, and linguistic backgrounds.

Sec. 631(a) of the Act as amended by the House amendment requires the Secretary to make grants to Historically Black Colleges and Universities and other institutions of higher education whose minority student enrollment is at least 25 percent.

The Senate recedes.

149. Sec. 631(b) of the Act as amended by the Senate bill broadens the range of students that teachers can be trained to work with the community and school settings by subtituting the term "secondary school students" with "students."

Sec. 631(b) of the Act as amended by the House amendment substantially expands the number of eligible trainees to include those working with infants and toddlers (and their families), minority students, and students using assistive and instructional technology; stipulates that preservice and inservice training include a component that addresses coordination among all service providers, including regular educators.

The Senate recedes to the House and the House recedes to the Senate combining provisions in the Senate bill and the House amendment.

PARENT TRAINING

150. Sec. 631(c)(2)(A) of the Act as amended by the House amendment expands the representation on the broad of directors of the parent training projects to include minority parents and professionals and that the broad "be representative of the proportion of minority individuals in the area."

The Senate bill contains no comparable provision.

The Senate recedes with an amendment adding the following after subparagraph (C): "Nothing in subparagraph

(A) shall be construed to authorize or permit the denial of any person of the due process of law required by the United States Constitution" and substituting "broadly representative" for the phrase "be representative of the proportion. . . ."

151. Sec. 631(c)(2)(B) the House amendment expands the service population to include infants, toddlers, and youth.

The Senate bill contains no comparable provision.

The Senate recedes.

152. Sec. 63 1(c)(2)(C) The House amendment adds a requirement that applicants show the ability to network with certain entities, especially minority parent groups.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment changing the term "especially minority parent groups" to "especially parents of minority children."

153. Sec. 631(c)(4)(A) of the Act as amended by the House amendment gives priority to the establishment of five (5) new experimental parent training and information centers serving high density areas which do not have such centers.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment clarifying that these experimental centers can be established only after there is a parent training center in each State, and that three of the five experimental centers must be located in high-density areas; two in rural areas.

154. Sec. (c)(4) of the Act as amended by the House amendment adds new subparagraphs (C) and (D) with requirements that grantees serve minority parents "to the proportion of the minority population in the areas being served;" and that grants be adequately funded.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment deleting "level adequate to serve the parents in the area" and inserting "sufficient size, scope, and quality to ensure that the program is adequate to serve the parents in the area."

155. Sec. 631(c) of the Act as amended by the House amendment adds a new paragraph (9) and a new provision on the collection of specific data by the Secretary.

The Senate bill contains no comparable provision.

The Senate recedes with an amendmen changing "minority parents" to "parents o minority infants, toddlers, children, and youth with disabilities."

156. Sec. 631(c)(1) of the Act as amended by the House amendment expands the service population of the training centers to include infants, toddlers, and youth.

The Senate bill contains no comparable provision.

The Senate recedes.

157. Sec. 631(c)(5)143(E) of the Act a amended by the House amendment, changes the requirement that parent training centers assist parents in obtaining information by: deleting the degree to which the programs, services, and resources are appropriate; including information about the range of options and information that is available at the national, state, and local levels; and expanding the service population to include infants, toddlers, and youth, and their families.

The Senate bill contains no comparable provision.

The Senate recedes.

158. Sec. 631(c)(5)(F) of the Act as amended by the House amendment updates the current requirement of the parent training centers to assist parents to understand the provisions of the Act by including infants, toddlers, and youth.

The Senate bill contains no comparable provision.

The Senate recedes.

159. Sec. 631(c)(7) of the Act as amended by the House amendment revises the requirement that parent training centers consult with appropriate agencies by adding a stipulation that they network with certain entities whose service population includes infants, toddlers, and youth, and their families.

The Senate bill contains no comparable provision.

The Senate recedes.

160. Sec. 632(c) of the Act as amended by the Senate bill clarifies the types of personnel to receive preservice and inservice training.

The House amendment contains no comparable provision.

The House recedes.

161. Sec. 632(c) of the Act as amended by both the Senate bill and the House amendment authorizes a new provision to assist the State in developing and maintaining its CSPD and conducting recruitment and retention activities.

The Senate uses the terms "to assist," "developing and maintaining such systems," "conducting personnel recruitment."

The House uses the terms "assisting," "develop and maintain its comprehensive system of personnel development," and "conduct recruitment."

162. Sec. 632 of the Act as amended by the Senate bill adds a new subsection (d) which authorizes technical assistance to States in effective implementation of the required comprehensive personnel development system.

The House recedes.

CLEARINGHOUSES

163. Sec. 633(a) of the Act as amended by the Senate bill deletes the current authority for other dissemination and technical assistance support projects and transfers all or part of the support language under each in-

dividual clearinghouse; changes the language from permissive to mandatory by substituting the term "shall make" for the term "authorized to make."

Sec. 633(a) of the Act as amended by the House amendment retains the current permissive language, includes a general prefatory section on the three clearinghouses [redesignated as (b), (c), and (d)] and adds cooperative agreement as a funding mechanism.

The Senate recedes.

164. Sec. 633(a) of the Act as amended by both the Senate bill and the House amendment require the collection, development, and dissemination of information.

The Senate bill includes the term "synthesize" and stipulates that information be collected on a national basis and disseminated to specific groups.

The House amendment requires that information be collected on the characteristics of the populations served and on programs, legislation, and services related to the education of those served.

The Senate recedes.

165. Sec. 633(a) of the Act as amended by both the Senate bill and the House amendment requires the clearinghouse to participate in programs in order to provide outreach, technical assistance, and information collection and dissemination.

The Senate bill includes referrals to appropriate national, State, and local agencies and organizations.

The House amendment includes participation in services related to disability issues and promotes networking with appropriate national, State, and local agencies and organizations.

The Senate recedes.

166. Sec. 633(a) of the Act as amended by the Senate bill uses the term "coordinate outreach activities" and stipulates that coordination be with other sources of information, programs, and services, including organizations representing individuals with disabilities; stipulates the population to be served.

Sec. 633(a) of the Act as amended by the House amendment establishes a coordinated network to conduct outreach activities for the promotion of public awareness of disability issues.

The Senate recedes.

167. Sec. 633 (a) of the Act as amended by the Senate bill requires the clearinghouse to provide the Secretary data on information needs.

Sec. 633(a) of the Act as amended by the House amendment requires the clearinghouse to collect, develop, and disseminate such data on a broad range of information needs.

The Senate recedes.

168. Sec. 633(a) of the Act as amended by the Senate bill authorizes participation in dissemination of research and demonstration models and projects.

The House amendment contains no comparable provision.

The Senate recedes (see Note 14).

169. Sec. 633(a) of the Act as amended by the House amendment requires that the clearinghouse include strategies to disseminate information to underrepresented groups such as the limited-English proficient.

The Senate bill contains no comparable provision.

The Senate recedes.

170. Sec. 633(b) of the Act as amended by the Senate bill uses mandatory language on the establishment of a national clearinghouse on postsecondary education.

The House amendment does not mandate this clearinghouse.

The Senate recedes.

171. Sec. 633(b) of the Act as amended by both the Senate bill and House amendment requires the national clearinghouse on postsecondary education to collect and disseminate information.

The Senate bill includes the synthesis of information, stipulates those to receive the information, and includes programs and resources for rehabilitation and retraining of adults.

The House amendment uses the term "after high school" rather than "postsecondary," and includes programs and resources which can be adapted to include individuals with disabilities.

The Senate recedes.

172. Sec. 633(b) of the Act as amended by the Senate bill includes information "regarding postsecondary education for individuals with disabilities."

The House amendment contains no comparable provision.

The Senate recedes.

173. Sec. 633(b) of the Act as amended by both the House amendment authorizes the development of new materials (in both print and nonprint form), especially by synthesizing information from a variety of fields affecting disability issues and the education, rehabilitation, and retraining of individuals with disabilities.

The Senate bill contains no comparable provision.

The Senate recedes.

174. Sec. 633(b) of the Act as amended by both the Senate bill and the House amendment requires the clearinghouse on postsecondary education to disseminate information and promote awareness of issues relevant to individuals with disabilities.

The Senate bill requires the coordination with professionals, relevant government agencies, and appropriate organizations.

The House amendment calls for the development of a coordinated network of professionals, related organizations and associations, mass media, other clearinghouses, and governmental agencies (including regional); uses the term "after high school" rather than "postsecondary," and refers individuals requesting information to local resources.

The Senate recedes.

175. Sec. 633(b) of the Act as amended by the House amendment requires the clearinghouse to respond to requests for information.

The Senate bill contains no comparable provision.

The Senate recedes.

176. Sec. 633(b) of the Act as amended by the Senate bill authorizes cooperative agreements as a funding mechanism for the careers clearinghouse.

The House amendment substantially restates the current law.

The Senate recedes (see note 163).

177. Sec. 633(c) of the Act as amended by both the Senate bill and the House amendment authorizes assistance to institutions.

The Senate bill adds new paragraph (6) which stipulates that the assistance be to institutions of higher education, States, and others to recruit persons for professional careers in special education, related services, and early intervention, including strategies for recruiting individuals from the diversity of racial, ethnic, and linguistic backgrounds and individuals with disabilities.

The House bill stipulates that the assistance be to institutions seeking to meet State and professionally recognized standards.

The Senate recedes.

178. Sec. 633(b) of the Act as amended by both the Senate bill and the House amendment stipulate qualifications of applicants seeking grants.

The Senate bill adds new paragraph (3) which states that "particular attention" be given to those with demonstrated experience at the national level in providing information services to "racially, ethnically, and linguistically diverse" consumers, rural and urban consumers, other consumer organizations, and professionals.

The House amendment redesignates this subsection as (e) and states that "priority attention" be given to those with demonstrated experience at the national level in providing information services to minorities and minority organizations.

The Senate recedes with an amendment to include "demonstrated, proven effectiveness."

179. Sec. 633(b) [redesignated as (e)(3)] of the Act as amended by the House amendment authorizes the clearinghouses to subcontract with profit-making organizations only when necessary for materials or media access.

The Senate bill contains no comparable provision.

The Senate recedes.

180. Sec. 633 of the Act as amended by the House amendment adds a new subsection (f) which includes specific requirements on information collection and dissemination from each project funded under this section.

The Senate bill contains no comparable provision.

The Senate recedes.

181. Sec. 634(a) of the Act as amended by the House amendment adds to this section a requirement on specific information on the number of parents served, and on clearinghouse activities.

The Senate bill contains no comparable provision.

The Senate recedes.

182. Authorizations (Part D—Training Personnel)

(a) Personnel Training

Sec. 635 of the Act as amended by the Senate bill authorizes the following figures:

1991: 93,850,000
1992: 101,360,000
1993: 111,500,000
1994: 120,420,000

Sec. 635 of the Act as amended by the House amendment authorizes the following figures:

1991: 95,600,000
1992: 105,150,000
1993: 115,660,000
1994: 127,100,000

The Senate recedes to the House and the House recedes to the Senate with an amendment substituting the following figures:

1991: 94,725,000
1992: 103,255,000
1993: 113,580,000
1994: 123,760,000

(b) HBCU's

Sec. 635 of the Act as amended by the House amendment authorizes the following figures:

1991: 19,250,000
1992: 21,175,000
1993: 23,292,000
1994: 25,621,000

The Senate recedes.

(c) Parent Training

Sec. 635 of the Act as amended by the Senate bill authorizes the following figures:

1991: 10,000,000
1992: 11,000,000

1993: 12,000,000
1994: 13,000,000

Sec. 635 of the Act as amended by the House amendment authorizes the following figures:

1991: 11,000,000
1992: 12,100,000
1993: 13,300,000
1994: 14,600,000

The Senate recedes.

(d) Clearinghouses

Sec. 635 of the Act as amended by the Senate bill authorizes the following figures:

1991: 2,160,000
1992: 2,230,000
1993: 2,520,000
1994: 2,720,000

Sec. 635 of the Act as amended by the House amendment authorizes the following figures:

1991: 2,420,000
1992: 2,700,000
1993: 2,900,000
1994: 3,200,000

The Senate recedes to the House and the House recedes to the Senate with an amendment substituting the following figures:

1991: 2,290,000
1992: 2,465,000
1993: 2,710,000
1994: 2,960,000

RESEARCH

183. Sec. 641 of the Act as amended by the Senate bill titles this section "Research and Related Activities."

Sec. 641 of the Act as amended by the House amendment titles this section "Improvement of Instruction and Learning of Children with Disabilities."

The House recedes.

184. Sec. 641(a) of the Act as amended by both the Senate bill and the House amendment authorize grants for research activities.

The Senate bill stipulates that grants be used to assess and improve the practice of personnel, and the roles of other appropriate persons, and authorizes demonstration activities.

The House amendment stipulates that grants be used by States for purpose of advancing and improving the knowledge base; includes the improvement of professionals who work with children and youth with disabilities in regular educational environments; and states that activities shall support innovation, development, exchange, and use of such advancements in knowledge and practice designed to contribute to the improvement of the instruction and learning of the population to be served.

The Senate recedes.

185. Sec. 641(a) of the Act as amended by the Senate bill uses the term "skill competencies."

Sec. 641(a) of the Act as amended by the House amendment uses the term "skill competency."

House recedes.

186. Sec. 641(a) of the Act as amended by the House amendment stipulates the types of assessment instruments; includes location to determine eligibility; includes the term "program planning and placement;" and stipulates that particular attention be paid to the development of alternative assessment procedures and processes for minority individuals and those with limited-English proficiency.

The Senate bill contains no comparable provision.

The Senate recedes.

187. Sec. 641(a) of the Act as amended by the House amendment includes the identification of environmental, organizational, resource, and other conditions necessary for effective professional practice.

The Senate bill contains no comparable provision.

The Senate recedes to the House and the House recedes to the Senate with a technical amendment.

188. Sec. 641(a) of the Act as amended by both the Senate bill and the House amendment requires the improvement of knowledge regarding families.

The Senate bill uses the terms "racial and ethnic diversity, and disabling conditions."

The House amendment uses the terms "minorities, limited-English proficiency, and handicapping conditions."

The Senate recedes to the House and the House recedes to the Senate with an amendment substituting "minorities" for "racial and ethnic diversity;" "disabling conditions" for "handicapping conditions" and including "limited-English proficiency" within this provision.

189. Sec. 641(a) of the Act as amended by both the Senate bill and the House amendment requires the advancement of knowledge utilization.

The Senate bill uses the term "personnel."

The House amendment uses the term "professionals and others."

The House recedes.

190. Sec. 641(a) of the Act as amended by both the Senate bill and the House amendment requires the improvement of knowledge regarding how those providing special education, related services, and early intervention learn new knowledge, skills, and strategies.

The Senate bill adds continuing education as a vehicle for learning.

The House recedes.

191. Sec. 641(a) of the Act as amended by both the Senate bill and the House amendment requires the organization, integration, and presentation of knowledge so that it can be incorporated in relevant training and communication vehicles.

The House amendment includes the term "imparted."

The Senate recedes to the House and the House recedes to the Senate with an amendment combining the language from the Senate bill and the House amendment.

192. Sec. 641(a) of the Act as amended by both the Senate bill and the House amendment requires the expansion and improvement of networks.

The House amendment gives examples of networks.

The House recedes.

193. Part E of the Act as amended by the Senate bill creates a separate section for general research provisions.

The House amendment retains the format of current law.

The Senate recedes.

194. Sec. 641(c) of the Act as amended by both the Senate bill and the House amendment requires the Secretary to publish proposed priorities for research grants.

The Senate bill redesignates this provision as 645(b) which stipulates that proposed priorities be published not later than 12 months preceding the fiscal year for which they are being announced, and that the final priorities be published 90 days following the review and comment period.

The House amendment stipulates that proposed priorities be published no later than July 1, every two years, and that the final priorities be published 60 days following the review and comment period.

The House recedes with an amendmer changing "60 days" to "90 days."

195. Sec. 641(d) of the Act as amended b both the Senate bill and the House amen ment rewrites the existing provision to i clude an index in the annual report.

The House amendment requires the Se retary to make reports of research project available to the education community large and to other interested parties.

The Senate bill contains no comparabl provision.

The House recedes.

196. Sec. 641(d) [Redesignated as 645(c of the Act as amended by the Senate bi adds the requirement to coordinate the r search priorities with those established b "other appropriate agencies conducting r search pertaining to the education of ind viduals with disabilities."

The House amendment contains no con parable provision.

The House recedes with a technic amendment.

196(A). New Sec. 641(f)—for discussion the new Attention Deficit Disorder researc center, see note 2.

197. Sec. 641 of the Act as amended by th House amendment creates a new subsectio (g) which authorizes the establishment model demonstration programs to provic the services of an ombudsman to assist resolving problems that are barriers to a propriate educational, related services, other services for children and youth wit disabilities.

The Senate bill contains no comparab provision.

The Senate recedes with a technic amendment.

198. Sec. 642 of the Act as amended by th House amendment includes research therapeutic recreation.

The Senate bill contains no comparab provision.

The Senate recedes.

199. Part E of the Act as amended by th House amendment repeals section 64 Panels of Experts, which is incorporate into new section 610.

The Senate bill contains no comparab provision.

The Senate recedes (see note 17).

200. Authorizations (Part E—Research]

(a) Research and Innovation

Sec. 644 of the Act as amended by th Senate bill authorizes the following figure

1991: 25,000,000
1992: 28,000,000
1993: 31,000,000
1994: 34,000,000

Sec. 644 of the Act as amended by th House amendment authorizes the followin figures:

1991: 24,300,000
1992: 26,800,000
1993: 29,400,000
1994: 32,400,000

The Senate recedes to the House and th House recedes to the Senate with an amen ment substituting the following figures:

1991: 24,650,000
1992: 27,400,000
1993: 30,200,000
1994: 33,200,000

INSTRUCTIONAL MEDIA

201. Sec. 651 of the Act as amended by th House amendment deletes the subsectio designation, (a).

The Senate bill contains no comparab provision.

The Senate recedes.

202. Sec. 651(a)(1) of the Act as amended by the Senate bill adds the term "and hard of hearing" after the term "deaf" each place it appears.

The House amendment contains no comparable provision.

The House recedes.

203. Sec. 651(a)(1) of the Act as amended by the House amendment adds new subparagraph (D) which requires the utilization of educational media to help eliminate illiteracy.

The Senate bill contains no comparable provision.

The Senate recedes.

204. Sec. 651(a) of the Act as amended by the House amendment adds a subsection (3) to make available educational publications and materials, as well as films, TV programs and video materials to individuals with visual impairments.

The Senate bill contains no comparable provision.

The Senate recedes.

205. Sec. 652(a) of the Act as amended by the House amendment adds descriptive videos to the loan services provision.

The Senate bill contains no comparable provision.

The Senate recedes.

206. Sec. 652(b) of the Act as amended by both the Senate bill and the House amendment provide for the captioning of films and video materials.

The Senate bill includes the terms "hard of hearing individuals" and adds audio description of video materials for blind and visually impaired individuals.

The House amendment uses the terms "hearing impaired" and adds video description for the visually impaired.

The Senate recedes with an amendment to add "hard of hearing."

207. Sec. 652(b)(4) of the Act as amended by both the Senate bill and the House amendment add video material for distribution.

The Senate bill also adds audio described video materials.

The House amendment also adds video-described films.

The Senate recedes.

208. Sec. 652(b)(8) of the Act as amended by the Senate Bill includes hard of hearing.

The House amendment contains no comparable provision.

The House recedes (see note 202).

209. Sec. 652(c) of the Act as amended by the Senate bill adds other appropriate nonprofit organizations as eligible recipients for grants.

The House amendment contains no comparable provision.

The House recedes.

210. Sec. 652(c) of the Act as amended by the Senate bill substitutes the term "cultural" for "theatrical."

The House amendment contains no comparable provision.

The House recedes.

211. Sec. 652(c)(1) of the Act as amended by the Senate bill includes hard of hearing.

The House amendment contains no comparable provision.

The House recedes (see note 202).

212. Sec. 652(c)(2) of the Act as amended by the Senate bill includes hard of hearing.

The House amendment contains no comparable provision.

The House recedes (see note 202).

213. Sec. 652(c)(3) of the Act as amended by the Senate bill includes hard of hearing.

The House amendment contains no comparable provision.

The House recedes (see note 202).

214. Sec. 652(c)(3) of the Act as amended by the House amendment adds educational and social experiences to promote the integration of hearing and deaf people.

The Senate bill contains no comparable provision.

The Senate recedes.

215. Sec. 652 of the Act as amended by the House amendment adds a new subsection (d) which authorizes a contract for services with the Recording for the Blind, Inc. to produce stipulated materials. This subsection also defines the term "print-handicapped."

The Senate bill contains no comparable provision.

The Senate recedes with an amendment to delete "Recording for the Blind, Inc."

216. Authorization (Part F—Instructional Media)

(a) Instructional Media.

Sec. 653 of the Act as amended by the Senate bill authorizes the following figures:

1991: 17,863,000
1992: 19,292,000
1993: 20,835,000
1994: 22,502,000

Sec. 653 of the Act as amended by the House amendment authorizes the following figures:

1991: 20,010,000
1992: 22,010,000
1993: 24,200,000
1994: 26,600,000

The Senate recedes.

TECHNOLOGY

217. Sec. 661 of the Act as amended by the House amendment adds related and early intervention services to the areas covered by grants to promote new technology.

The Senate bill contains no comparable provision.

The Senate recedes.

218. Sec. 661(1) of the Act as amended by the House amendment adds assistance technology as one of the elements to be studied in the education of individuals with disabilities.

The Senate bill contains no comparable provision.

The Senate recedes.

219. Sec. 661(1) of the Act as amended by the House amendment tightens the standard for judging the use of technology by adding the term "efficiently and appropriately."

The Senate bill contains no comparable provision.

The Senate recedes.

220. Sec. 661 of the Act as amended by both the Senate bill and the House amendment delete the term "new" each place it appears in this section.

The House amendments adds the term "assistive technology" in paragraphs (2) through (4).

The Senate recedes.

221. Sec. 661(4) of the Act as amended by the House amendment stipulates modes of disseminating technology information.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment specifying that reference be made to section 610(g) whenever modes of dissemination are mentioned.

222. Sec. 661 of the Act as amended by the Senate bill adds a new paragraph (5) which adds an activity to increase access to, and use of, assistive technology devices and assistive technology services.

The House amendment contains no comparable provision.

The House recedes.

223. Sec. 661 of the Act as amended by the House amendment adds a new paragraph (5) which adds a new activity to address the problem of illiteracy among individuals with disabilities.

The Senate bill contains no comparable provision.

The Senate recedes.

224. Sec. 661 of the Act as amended by the House amendment adds a new subsection requiring the Secretary to ensure that instructional materials are close-captioned, and that grantees coordinate activities with the State entity receiving funds under Title I of Public Law 100-407.

The Senate recedes.

225. Authorizations (Part G—Technology, Media and Materials)

(a) Technology, Education Media, and Materials

Sec. 662 of the Act as amended by the Senate bill authorizes the following figures:

1991: 11,900,000
1992: 12,860,000
1993: 13,860,000
1994: 15,000,000

Sec. 662 of the Act as amended by the House amendment authorizes the following figures:

1991: 13,300,000
1992: 14,700,000
1993: 16,140,000
1994: 17,800,000

The House recedes.

Part H

DEFINITIONS

226. Sec. 672(E) of the Act as amended by the House amendment adds social work services to the definition of early intervention services.

The Senate bill contains no comparable provision.

The Senate recedes.

STATEWIDE SYSTEM

227. Sec. 676(b) of the Act as amended by the House amendment adds a requirement that materials for families on the availability of early intervention services be prepared and disseminated; and that procedures be developed for determining the extent to which these materials are made available.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment including this provision in paragraph (6) of the existing law.

STATE INTERAGENCY COORDINATING COUNCIL

228. Sec. 682 of the Act as amended by the Senate bill changes the size and composition of the State Interagency Coordinating Council by stipulating minimal membership requirements; stipulates that certain councils are "grand-fathered" if they meet certain of the prior requirements, and includes an amendment to conform the statute to this change.

The House amendment contains no comparable provision.

The Senate recedes.

TECHNICAL CHANGES

229. Both the Senate bill and the House amendment replace the term "handicapped" and its various forms with the term "disability" and its various forms.

The House amendment also changes the name of the Act.

The House recedes to the Senate format and the Senate recedes to the change in the name.

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230. Sec. 612(3) of the Act as amended by the Senate bill makes two technical changes.

The House amendment contains no comparable provision.

The House recedes.

231. The Senate bill amends technology in the Head Start Act by replacing the term "handicapped children" with "children with disabilities."

The House amendment contains no comparable provision.

The House recedes.

232. The Senate bill amends the terminology in the "Higher Education Act of 1965 "by replacing the term "handicapped children" with "children with disabilities."

The House amendment contains no comparable provision.

The House recedes.

233. The Senate bill amends the terminology in Public Law 81-874 (Impact Aid) by replacing the term "handicapped children" with "children with disabilities."

The House amendment contains no comparable provision.

The House recedes.

234. The Senate bill amends the terminology in the "Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986" by replacing the term "handicapped children" with "children with disabilities."

The House amendment contains no comparable provision.

The House recedes.

GENERAL PROVISIONS

235. The Senate bill stipulates that the amendments of this Act shall take effect on the date of enactment of this Act, except that any amendment that the Secretary determines would cause substantial disruptions to programs or substantial lapses in services if effective on the date of enactment of this Act, shall take effect on October 1, 1990.

The House amendment stipulates that the amendments made by this Act shall take effect on October 1, 1990, or upon the date of the enactment of this Act, whichever occurs later.

The Senate recedes with an amendment making the effective date October 1, 1990.

Augustus F. Hawkins,
William D. Ford,
M.R. Owens,
Matthew G. Martinez,
Donald M. Payne,
Jim Jontz,
Bill Goodling,
Steve Bartlett,
Cass Ballenger,
Peter Smith,
Managers on the Part of the House.
Edward M. Kennedy,
Tom Harkin,
Howard M. Metzenbaum,
Paul Simon,
Orrin Hatch,
David Durenberger,
James M. Jeffords,
Managers on the Part of the Senate.

EXTENDING EXPIRATION DATE OF THE DEFENSE PRODUCTION ACT OF 1950

Ms. OAKAR. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5725) to extend the expiration date of the Defense Production Act of 1950, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment:

Page 1, line 5, strike out "20" and insert: "5".

Ms. OAKAR (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the Record.

The SPEAKER pro tempore. (Mr. Mazzoli). Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentlewoman from Ohio?

Mr. PARRIS. Mr. Speaker, reserving the right to object, I yield to the gentlewoman from Ohio [Ms. Oakar].

(Ms. OAKAR asked and was given permission to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, the other body has sent us a short-term extension of the Defense Production Act [DPA] until October 5, and I urge its approval.

As Members will recall, last Monday, September 24, the House voted to suspend the rules and passed H.R. 486, the Defense Production Act Amendments of 1990, by a vote of 295 to 119.

Subsequently, faced with the possibility that work would not be completed on this legislation by the September 30, 1990, expiration date, the House passed a simple extender bill—H.R. 5725—to continue the authorities of DPA until October 20.

Last evening, the Senate considered this matter and amended H.R. 5725 to extend the legislation to October 5, 1990. I know all in this House are aware of the role played by the Defense Production Act in directly supporting the deployment in the Persian Gulf, and our forces elsewhere in the world. I would ask that a letter from the Deputy Secretary of Defense, Mr. Donald Atwood, to this effect be placed in the Record at this point.

So, we have before us our own bill, as amended by the Senate to extend the DPA until October 5. The most practical course is that we approve this bill, and I urge that we do so at this time. I thank the Speaker, the minority, and all who have collaborated to make possible expeditious action on this legislation.

The Deputy Secretary of Defense,
Washington, DC, September 24, 1990.

Hon. Thomas S. Foley,
Speaker of the House of Representatives,
Washington, DC.

Dear Mr. Speaker: I urge the Congress to extend for two years the provisions of the Defense Production Act (DPA). Although the Administration would prefer that Congress make the DPA permanent law, with the September 30, 1990, expiration of the Act approaching quickly the Administration
urges that Congress extend the Act for tw
more years. Continuation of the Depar
ment's authority under the DPA witho
any lapse is particularly important whe
units of the United States Armed Forces a
deployed, as they are now in the Midd
East, in situations in which they could fa
combat.

The DPA enables the Nation's industry
give priority to weapons and military equi
ment production to meet defense nee
under the Defense Priorities and Alloc
tions System established pursuant to Title
of the Act. The Department has found
necessary to invoke this authority hundre
of times each year to ensure that the Arm
Forces have the items they need when th
need them.

The authority granted by the DPA is e
sential to keep the Armed Forces suppli
with spare and consumable items, such
aviation fuel, munitions, chemical protecti
suits, and combat meals because the Depar
ment's suppliers would otherwise be unab
to obtain the necessary inputs on a priori
basis to produce these products. Since Ope
ation Desert Shield began, DPA authori
has been necessary to procure missile co
tainers used to ship and store missiles, ele
tronic countermeasures pods and radom
for Marine and Air Force tactical aircra
secure computer workstations, and vario
components of the Bradley Fighting Veh
cle.

We prefer that Congress consider acti
favorably on the legislative recommend
tions of the Administration. However, exp
ditious extension of the DPA, without o
jectionable provisions that will complica
the enactment of the legislation is essenti
I urge the Congress to proceed swiftly
ensure that the law is extended before it e
pires on September 30, 1990. Such an exte
sion could include several provisions of H.
4766, H.R. 486, or S. 2168 that are direct
related to the energy aspects of the curre
situation in the Persian Gulf.

A similar letter has been sent to Senato
Mitchell and Dole and Congressman Mich

Sincerely,

Donald Atwood

Mr. PARRIS. Mr. Speaker, furth
reserving the right to object, I will n
object. I strongly support the rea
thorization of the Defense Producti
Act. The act expired on September 3
1990—just yesterday. The Hou
passed a bill that would have extend
it to October 20, 1990. The Sena
amendment will extend it to only O
tober 5, 1990. I wish that they wou
have passed the House bill cleanly, b
they did not. Now, we have no choi
but to pass the bill with the Sena
amendments.

This act is vital to our military ope
ations in the Middle East. As I ha
made clear before, provisions of t
DPA are being used right now to pr
cure important weapons for our troo
in Saudi Arabia. If the act expir
both our troops and defense contr
tors will be put at risk.

Mr. Speaker, I withdraw my reser
tion of objection.

The SPEAKER pro tempore.
there objection to the initial reque
of the gentlewoman from Ohio?

There was no objection.

A motion to reconsider was laid on the table.

NATIONAL BREAST CANCER AWARENESS MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from futher consideration of the Senate joint resolution (S.J. Res. 301) designating October 1990 as "National Breast Cancer Awareness Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

□ 1900

The SPEAKER pro tempore (Mr. Mazzoli). Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, during this reservation I would like to acknowledge the work of the gentlewoman from Illinois [Mrs. Collins], the chief sponsor of House Joint Resolution 570.

Mr. Speaker, I yield to the gentlewoman from Ohio [Ms. Oakar].

Ms. OAKAR. Mr. Speaker, I want to thank the ranking minority member and the chairman of the committee for yielding to me.

I want to commend the gentlewoman from Illinois [Mrs. Collins] for introducing on the House side this resolution.

Mr. Speaker, every 13 minutes a woman contracts breast cancer in this country. During the Vietnam war, when we lost 57,000 men and women in this country who served our country, we lost more than 300,000 women and a small number of men to breast cancer. Yet the issue of breast cancer in terms of research and prevention is not on the front burner in this Congress, nor frankly with the administration, although many individuals have promised that we will see some resolution.

This year, 43,000 women and about 300 men we estimate will die of breast cancer. It is a catastrophic disease. Yet we have minuscule amounts of money for direct research.

Mr. Speaker, one out of nine women will contract breast cancer. We spend a minuscule amount of money in direct research, only $18 million.

I have always supported AIDS research, but just to give a comparison, where 1 out of 1,000 individuals contracts AIDS in this country, our research is up to about $2.4 billion for AIDS research. It is interesting that with that relationship and that commitment, we are finding and seeing some movement in preventing AIDS and finding a cure for it.

Mr. Speaker, I think we should do the same for this terrible disease.

Mr. Speaker, whereas we have $150 million in increased money for cervical and breast cancer research, because they told us that within a certain period of time they could find a cure if we had a commitment to finding a cure to that devastating disease, the Senate has zero. It think the families in America ought to ask why that is not a priority in the Senate.

In addition to this, in the last session of Congress we had folded mammography into the catastrophic bill. We know that we can prevent breast cancer if there is self-examination and if women and men are able to have a mammography to have early detection.

We know that when you have early detection, if you just take Medicare as an example, the cost for an individual who finds breast cancer at an early stage is $10,000 or less, and the person has a 95-percent chance of recovery.

When a person does not find breast cancer at an early stage, it costs the Federal Government $65,000 to $125,000, and the person has less chance of survival. So let us have a commitment to finding a cure and preventing this disease.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. MYERS of Indiana. Mr. Speaker, reserving the right to object, I certainly shall not. Having had some personal experience with this dreaded problem, this disease, it certainly is a growing one in the Nation. More and more people, and I say people because men experience breast cancer also, not as frequently as women, but both experience this and it is growing.

Mr. Speaker, more women and more men are suffering each year from the discovery that they have breast cancer. Certainly early discovery is one of the keys to success. Oncologists are making great strides and gaining a lot. However, we need to give this more attention.

Mr. Speaker, there is some possibility that for those people in the high-profile sector that there may be a drug now coming on the scene that might prevent cancer in those people in the high-profile sector, people who have had breast cancer in the past, or mothers or sisters that have had it.

Mr. Speaker, this is an area that our Nation needs to give more attention to. Not that it has been ignored, but we need to give it more attention. There is something that can be done, and it can be eliminated, if properly handled.

Mr. Speaker, I certainly congratulate the gentlewoman from Ohio [Ms. Oakar], who has frequently spoken on this, has had hearings on it. The whole country is concerned about it. It is time the Nation gets on board.

I thank the gentlewoman and the committee for bringing this bill to our attention today.

Mrs. MORELLA. Mr. Speaker, I am pleased to rise in support of House Joint Resolution 570, to designate the month of October as "National Breast Cancer Awareness Month." This resolution is intended to expand public awareness of the lifesaving potential of early detection and treatment of breast cancer.

Currently, breast cancer is expected to strike 1 in 9 women, up from only 1 in 20 in 1961. The American Cancer Society estimates that 10,500 breast cancer deaths could have been prevented in 1989 by early detection and treatment. Less than one-third of women over the age of 40 have ever had a mammogram. The number of women receiving regular mammography screening is even lower. A study by the American Cancer Society concluded that cost is the primary reason why women fail to receive this vital service.

I urge my colleagues to join me in approving this resolution, and to support efforts to ensure that every woman, regardless of economic status, have access to mammography screening.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of House Joint Resolution 570 which designates October 1990 as "Breast Cancer Awareness Month," and I would like to commend the gentlewoman from Illinois [Mrs. Collins] for her efforts in bringing this measure to the floor.

Mr. Speaker, I continually find the statistics on breast cancer, and the mortality rate from breast cancer very disturbing. In 1989, 43,000 women died of breast cancer—one in every 9 women will contract breast cancer in this lifetime, yet only 150,000 cases will be diagnosed this year.

In spite of these shocking statistics many women do not practice routine breast examinations or utilize today's advanced mammography technology. I hope making October, Breast Cancer Awareness Month, will reveal to all Americans the importance of prevention and early detection, because, 1 in every 5 deaths from breast cancer could be avoided by early detection.

Statistics show that women with early stages of breast cancer, when the disease is still "localized", experience a 90-percent survival rate, while the survival rate for women with more advanced regional cancer is only a 68 percent. Even more tragic, is the fact that the survival rate for women with breast cancer which has advanced to more severe stages is only 18 percent.

Surely this is a disease for which "an ounce of prevention is worth a pound of cure." National Breast Cancer Awareness Month can help get this message out, and can actually save women's lives.

I urge my colleagues to vote in favor of House Joint Resolution 570.

Mrs. COLLINS. Mr. Speaker, today, we have the opportunity to vote to designate October 1990 as "National Breast Cancer Awareness Month." Joining me in sponsoring this resolution, which the Senate has already passed, is Congresswoman Morella. Our collaboration underscores the point that the diagnosis and treatment of breast cancer is an issue of concern to everyone, immune from partisanship.

Breast cancer has become the second leading cause of cancer death for American

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women. It is estimated that there will be 150,000 new cases of cancer diagnosed in 1990, 44,000 of which are expected to result in death. Breast cancer incidence rates have increased about 1 percent per year since the early 1970's, including a 20-percent jump in the first half of the 1980's; 1 in every 10 American women will be diegnosed with breast cancer. Additionaly, about 900 American men will be diagnosed with breast cancer during 1990, of whom about 300 are expected to die.

In short, breast cancer incidence remains at a staggering level with no decrease in sight. However, the rate of breast cancer mortality is entirely subject to change.

Early detection of breast cancer, through self-examination, clinical examinations, and screening mammography, can result in a 5-year survival rate of nearly 100 percent and significantly minimize its consequences. Studies have documented the decrease in breast cancer deaths attributable to early detection, particularly due to screening mammography's ability to detect cancers too small to be felt by even experienced examiners. Mammograms can also reveal additional lesions too small to be felt once an initial lump has been detected.

Yet, vast numbers of American women do not regularly avail themselves of the advantages of early detection. In some cases it is due to the lack of access to screening mammography because of socio-economic factors. In other cases, the cost of a mammogram or physical exam keeps women from requesting them. In still other cases it is simply due an absence of information or a presence of fear.

One of the first steps we must take is to further educate both the public and physicians about the importance of and means for early detection of breast cancer. Women must be encouraged to request procedures for early detection and physicians must be encouraged to recommend them. An awareness of the disease and its mitigation must become better integrated into America's medical routines.

Although today we take a step toward increasing reliance on breast cancer early detection and treatment, the next steps must follow promptly. National Breast Cancer Awareness Month is a good start, but we must not settle for commemoratives.

In 1988, my effort to offer mammography benefits to Medicare patients was successful, as coverage was extended through the Catastrophic Care Act. But, with the act's repeal last year, no mammography benefits remained. Consequently, I introduced H.R. 4701 to restore those benefits. Other Members have introduced bills that follow this same philosophy.

These bills must be the real focus of our efforts. National Breast Cancer Awareness Month must be proclaimed. The month must be utilized, however, to extend the coverage that we are promoting. It is a perfect opportunity to put our money where our mouths are.

Mr. Speaker, I urge my colleagues to support this resolution.

Mrs. MORELLA. Mr. Speaker, I am pleased to rise in support of Senate Joint Resolution 301, to designate the month of October as National Breast Cancer Awareness Month. This resolution is intended to expand public awareness of the lifesaving potential of early detection and treatment of breast cancer.

Currently, breast cancer is expected to strike 1 in 9 women, up from one 1 in 20 in 1961. The American Cancer Society estimates that 10,500 breast cancer deaths could have been prevented in 1989 by early detection and treatment. Less than one-third of women over the age of 40 have never had a mammogram. The number of women receiving regular mammography screening is even lower. A study by the American Cancer Society concluded that cost is the primary reason why women fail to receive this vital service.

I urge my colleagues to join me in approving this resolution, and to support efforts to ensure that every women, regardless of economic status, have access to mammography screening.

Mr. MYERS of Indiana. Mr. Speaker, I withdraw my reservation of objection.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 301

Whereas breast cancer will strike an estimated 150,000 women and 900 men in the United States in 1990;

Whereas one out of every ten women will develop breast cancer at some point in her life;

Whereas the risk of developing breast cancer increases as a woman grows older;

Whereas breast cancer is the second leading cause of cancer death in women, killing an estimated 43,000 women and 300 men in 1989;

Whereas the 5-year survival rate for localized breast cancer has risen from 78 percent in the 1940s to over 90 percent today;

Whereas most breast cancers are detected by the woman herself;

Whereas educating both the public and physicians about the importance of early detection will result in reducing breast cancer mortality;

Whereas appropriate use of screening mammography, in conjunction with clinical examination and breast self-examination, can result in the detection of many breast cancers early in their development and increase the survival rate to nearly 100 percent;

Whereas data from controlled trials clearly demonstrate that deaths from breast cancer are significantly reduced in women over the age of 40 by using mammography as a screening tool;

Whereas women do not have mammograms for a variety of reasons, such as the cost of testing, lack of information, and fear;

Whereas access to screening mammography is directly related to socioeconomic status;

Whereas increased awareness about the importance of screening mammography will result in the procedure being regularly requested by the patient and recommended by the health care provider; and

Whereas it is projected that more women will use this lifesaving test as it becomes increasingly available and affordable: Now, therefore, be it

Resolved by the Senate and House of Re
resentatives of the United States of Ameri
in Congress assembled, That October 1990
designated as "National Breast Canc
Awareness Month", and the President is a
thorized and requested to issue a proclam
tion calling upon the people of the Unite
States to observe the month with appropr
ate programs and activities.

The Senate joint resolution was o
dered to be read a third time, was rea
the third time, and passed, and
motion to reconsider was laid on th
table.

ENDING HUNGER MONTH

Mr. SAWYER. Mr. Speaker, I as
unanimous consent that the Commi
tee on Post Office and Civil Service b
discharged from further consideratio
of the joint resolution (H.J. Res. 61
designating October 1990 as "Endin
Hunger Month," and ask for its imme
diate consideration.

The Clerk read the title of the join
resolution.

The SPEAKER pro tempore.
there objection to the request of th
gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reservin
the right to object, I yield to the ge
tleman from Florida [Mr. Smith], th
chief sponsor of this joint resolution.

Mr. SMITH of Florida. Mr. Speake
I thank the gentleman from Pennsy
vania [Mr. Ridge] for yielding. I wa
to commend the gentleman from Oh
[Mr. Sawyer] and the gentleman fro
Pennsylvania [Mr. Ridge] for the
help and patience in this and the
continued dedication to this, which
now the second year that we ha
been able to bring this to the floor.

Mr. Speaker, I am grateful for th
opportunity to address the House a
bring attention to a very importa
resolution, House Joint Resolutio
610, which will designate the month
October as "An End to Hunge
month.

Hunger afflicts more than 1 billi
people worldwide and takes the liv
of almost 18 million men and wome
every year, three-fourths of whom a
children. This resolution is designed
promote activities that will increa
education and heighten public awar
ness about the extent and devastati
impact of hunger, including its caus
and its consequences. This resoluti
does not seek to appropriate Feder
funds. It is simply designed to increa
public awareness about the reality
systemic hunger worldwide.

Mr. Speaker, I might add parenthet
cally, this is as timely as it can b
This weekend in the United Nations 7
nations join to talk about the Year
the Child and to talk about children
problems in the world, foremo
among which was hunger. Althoug
they did not appropriate money, the
all signed pledges. That is a good sta

Due in a large part to the energetic work of Jan Solomon, Debra Anderson, Eileen Hasday, and Tony Ciscan of the 16th District in Florida, and Rosemary Lukens, Jim Winders, and Leslie Butler of the hunger project, this resolution received broad support.

I would like to dedicate this year's resolution to the memory of Margaret Holuczak, a teacher from MacArthur High School in Hollywood, FL, who was brutally murdered on September 5, 1990, standing at a bus stop. Two young teenagers accosted her and killed her for $6 in her handbag. She taught her students about the trauma of hunger, the pain of children who are hungry, and she paid the price in a society where unfortunately violence is as prevalent as hunger.

By passing this important resolution, the collective voice of the U.S. Congress is calling upon the public to recognize that hunger is an everyday tragedy for millions of people just like ourselves, and people like Margaret Holuczak need to have their memories enshrined, a woman who left now an orphaned 13-year-old daughter.

□ 1910

For all of the children of the world, Mr. Speaker, we thank the House for passing this resolution, and again I thank the gentleman for yielding.

Mr. SAWYER. Mr. Speaker, I am pleased to rise in support of House Joint Resolution 610, to designate the month of October 1990, as "Ending Hunger Month."

No one wants any man, woman, or child to go hungry.

However, it is the hunger of children that hurts us the most, both emotionally and practically.

All of our efforts to achieve world peace, to save our planet, and to create economic stability will mean nothing if we cannot feed the children.

In the United States more than 5,000 children suffer from malnutrition.

Worldwide, there are over 150 million children who do not have enough to eat.

Many of these children are born with low birthweights or are sickly at birth because their mothers were malnourished during pregnancy.

It will be almost impossible for these babies to grow into the kind of self-sufficient adults the world needs—adults who have the skills they need to survive and to take care of their own children.

We must ensure that all children are well-nourished, starting from the time of their conception.

Their growing minds and bodies should have first call on the world's resources, in good times and in bad.

This is not charity—this is taking of the world's future.

Finally, Mr. Speaker, I want to commend Congressman Larry Smith for all of his efforts in getting this worthwhile resolution to the floor today.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. Mazzoli). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 610

Whereas hunger affects the lives of 500,000,000 to 1,000,000,000 people in the world and takes the lives of 13,000,000 to 18,000,000 people each year, 75 percent of whom are children under the age of 5;

Whereas, while famines often gain widespread media attention and the subsequent response of the public, little attention is focused on the problem of chronic hunger;

Whereas schools and communities should conduct educational programs that lead to the development of viable methods for alleviating hunger;

Whereas there is a need to promote continuing activities that increase education and heighten public awareness about the extent of hunger, its causes, and consequences;

Whereas a society educated about the pervasiveness of hunger is equipped to respond to the needs of hungry people around the world; and

Whereas the United Nations and the United States Congress have designated October 16, 1990, as World Food Day and have called upon all people to take appropriate actions: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1990 is designated as "Ending Hunger Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

YEAR OF CLEAN WATER

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 181) to establish calendar year 1992 as the "Year of Clean Water," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, under my reservation I simply want to identify the gentleman from New Jersey [Mr. Roe], as the chief sponsor of this legislation.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of House Joint Resolution 369, designating 1992 as Clean Water Year.

Over the past decade our Government has taken several major steps toward ensuring clean water for all Americans, however much more needs to be done. The continued presence of PCB's in the Hudson River, and the poisoning of our water supplies by toxic chemicals remain vital concerns.

With the many complex issues facing our enviornment, it is time to celebrate a year of clean water; a year for everyone to celebrate our planet and become actively involved in solving the many problems facing our environment.

Mr. Speaker, I urge my colleagues to join in exploring the many benefits of a healthy environment and clean water and support House Joint Resolution 369, designating 1992 as the "Year of Clean Water."

Mr. ROE. Mr. Speaker, it is my pleasure, as an original sponsor of House Joint Resolution 369, commemorating the 20th anniversary of the Clean Water Act, to urge the passage of this legislation. I am pleased to have over 200 of my colleagues as cosponsors, including the distinguished members of the Public Works and Transportation Committee: Glenn Anderson, Henry Nowak, John Paul Hammerschmidt, and Arlan Stangeland.

With this resolution, recently adopted by the Senate, we are celebrating the accomplishments of our Federal Clean Water Act, and even more importantly we are reaffirming our national commitment to the goal of truly safe, clean water. Water quality in America was at a critical point in 1972 when Congress passed the Clean Water Act. Rivers, lakes, coastal waters, and aquifers were being contaminated by industrial wastes, municipal raw sewage, and runoff. Existing and future public and private water use were threatened. Fish and wildlife were disappearing at an alarming rate.

Congress moved to correct this travesty nearly 20 years ago and the results have been highly effective. Great progress has been made in cleaning up many water pollution problems and preventing additional degradation. Rivers and lakes once choked with pollution and devoid of healthy populations of aquatic life have been reborn and are clean and vital once more. In our back yard, the Potomac River is a stellar example. And, there are success stories in every State. However, the job is not complete. Serious problems persist throughout the Nation. There is also much left to do in implementing what we have already authorized.

The Nation renewed its efforts in 1977, 1981, and finally in 1987 with the passage of the most recent Clean Water Act amendments which provide new initiatives to assist municipalities in constructing municipal sewage treatment plants using State revolving loan funds, controlling toxic pollutants, reducing nonpoint sources of pollution, and protecting environmentally sensitive area such as estuaries and coastal waters.

This resolution designates 1992 as the Year of Clean Water and October 1992 as Clean Water Month. The commemoration of the 20th anniversary of the Clean Water Act is a national effort, coordinated by the American Clean Water Foundation to: Enhance citizen involvement in clean up efforts and promote personal stewardship on the Nation's water resources; expand educational opportunities for America's youth; increase opportunities to transfer information on water issues and management techniques among national and international policy makers and environmental professions' report on the trends in water quality between 1972 and 1992; and commemorate the 20th anniversary with festivities in the Nation's capital and the 50 State capitals.

We cannot deny the great progress that has resulted from the Clean Water Act. And, yet to rest on our laurels would be a tragic mistake. Pollution, drought and ever increasing demand our problems which continue to threaten our water resources. As a founding member of America's Clean Water Foundation board of governors and as a public servant who has battled environmental problems and been an advocate for clean water at every level of government, I am convinced of the need for each of us to take stock of our accomplishments, consider impacts of our daily activities, evaluate our future needs, and reaffirm our commitment. I am proud to be associated with this important effort, and I encourage each of you to join in support of this resolution.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 181

Whereas, clean water is a natural resource of tremendous value and importance to the Nation;

Whereas, there is resounding public support for protecting and enhancing the quality of this Nation's rivers, streams, lakes, wetlands, and marine waters.

Whereas, maintaining and improving water quality is essential to protect public health, to protect fisheries and wildlife, and to assure abundant opportunities for public recreation;

Whereas, it is a national responsibility to provide clean water as a legacy for future generations;

Whereas, substantial progress has been made in protecting and enhancing water quality since passage of the 1972 Federal Water Pollution Control Act (Clean Water Act) due to concerted efforts by Federal, State, and local governments, the private sector, and the public;

Whereas, serious water pollution problems persist throughout the Nation and significant challenges lie ahead in the effort to protect water resources from point and nonpoint sources of conventional and toxic pollution;

Whereas, further development of water pollution control programs and advancement of water pollution control research, technology, and education are necessary and desirable; and

Whereas, October of 1992 is the 20th anniversary of the enactment into law of the Clean Water Act: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, the Congress of the United States hereby designates calendar year 1992 as the "Year of Clean Water" and the month of October 1992 as "Clean Water Month" in celebration of the Nation's accomplishments under the Clean Water Act, and the firm commitment of the Nation to the goals of that Act.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 602) designating October 1990 as "National Domestic Violence Awareness Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I yield to the gentlewoman from New York [Ms. Slaughter], who is the chief sponsor of this joint resolution.

Ms. SLAUGHTER of New York. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding, and I also thank Chairman Sawyer and Mr. Ridge because, with their help, I am pleased today that the House stands ready, again, to approve a resolution designating October as National Domestic Violence Awareness Month. In this way we can raise awareness of the problem that is the single largest cause of injury to women in the United States. Every day, nearly 5,800 women are beaten and abused—victims of domestic violence. Many of these women feel trapped in their own homes and are afraid to seek help out of fear they will suffer even more abuse. Even those who do seek assistance often find few resources available to them. Today, for every two abused women admitted to shelter programs, another is turned away due to lack of space.

In voting for this resolution, we affirm every woman's right to live her life free of abuse and violence and we recognize as well the important contributions that many local volunteers and community shelter programs are making in treating abused women. Please join me in support of this resolution.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 602

Whereas it is estimated that a woman is battered every 15 seconds in the United States;

Whereas domestic violence is the single largest cause of injury to women in the United States, affecting 6,000,000 women;

Whereas urban and rural women of all racial, social, religious, ethnic, and economic groups, and of all ages, physical abilities, and lifestyles are affected by domestic violence;

Whereas 31 percent of female homicide victims in 1988 were killed by their husbands or boyfriends;

Whereas one-third of the domestic violence incidents involve felonies, specifically rape, robbery, and aggravated assault;

Whereas in 50 percent of families where the wife is being abused, the children of that family are also abused;

Whereas some individuals in law enforcement and the judicial system continue to think of spousal abuse as a "private" matter and are hesitant to intervene and treat domestic assault as a crime;

Whereas in 1987, over 375,000 women, plus their children, were provided emergency shelter in domestic violence shelters and safe homes, and the number of women and children that were sheltered by domestic violence programs increased by 164,000 between 1983 and 1987;

Whereas 40 percent of women in need of shelter may be turned away due to a lack of shelter space;

Whereas the nationwide efforts to help the victims of domestic violence need to be expanded and coordinated:

Whereas there is a need to increase the public awareness and understanding of domestic violence and the needs of battered women and their children; and

Whereas the dedication and successes of those working to end domestic violence and the strength of the survivors of domestic violence should be recognized: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1990 is designated as "National Domestic Violence Awareness Month", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the month by becoming more aware of the tragedy of domestic violence, supporting those who are working to end domestic violence, and participating in other appropriate efforts.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the various joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

LAWRENCE F. O'BRIEN—1917-90

(Mr. NEAL of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Speaker, I rise to pay tribute to one of the greatest Americans to ever come out of my home city of Springfield, MA. I am referring to Lawrence Francis O'Brien, Jr., who passed away last Friday.

Larry O'Brien left a legacy of service to the Democratic Party and to this country that stands as a model for all of us in political life. In the early 1950's, then-Congressman John F. Kennedy asked Larry O'Brien to help with Kennedy's campaign for the U.S. Senate. O'Brien accepted and managed Kennedy's successful Senate campaign in 1952, despite running in the face of the Eisenhower landslide at the top of the ticket. O'Brien then ran Kennedy's 1958 reelection campaign, as well as the tough 1960 Presidential campaign. He was in Dallas in November of 1963 when the President was killed. In 1968, while working to get Robert Kennedy elected President, he was by the Senator's side when an assassin's bullet ended the campaign and stunned the Nation. His organizational skills, from ward politics in Springfield to a Presidential campaign, were legendary. He always had a clear plan and he rarely lost. He also served his country ably in a number of posts.

Mr. Speaker, there is not enough time here to list all of Larry O'Brien's accomplishments. I will inlcude for the Record a Washington Post piece on O'Brien, as well as an excellent appreciation from the Springfield Union-News.

I would like to extend my condolences to his wife, Elva and his children, Larry and Mary. Many of us here in the House knew Larry O'Brien and we know what a valuable asset he was to both the Democratic Party and the Nation. Larry O'Brien will be greatly missed.

[From the Washington Post]

KENNEDY AIDE, NBA CHIEF LAWRENCE F. O'BRIEN DIES

(By J.Y. Smith)

Lawrence F. O'Brien Jr., 73, a master of modern political organization who was an assistant to presidents Kennedy and Johnson, and an innovative commissioner of the National Basketball Association, died of cancer Sept. 27 at New York Hospital-Cornell Medical Center in New York City.

He also spent three years in the Johnson Cabinet as postmaster general and had served as chairman of the Democratic National Committee.

Known everywhere as Larry O'Brien, he played important parts in the nation's political drama from the changing of the generational guard that occurred with the election in 1960 of Kennedy—the first White House occupant to be born in this century—to the impeachment and resignation of President Nixon in 1974.

Mr. O'Brien first came to national prominence as the organizer of Kennedy's 1960 primary and presidential campaigns. Thereafter he was Kennedy's liaison with Capitol Hill. He helped persuade a Congress dominated by Repubicans and southern Democratic conservatives to back such measures as the establishment of the Peace Corps and the Arms Control and Disarmament Agency and the extension of the Civil Rights Commission. And he was with Kennedy when the president fell to a sniper's bullet in Dallas on Nov. 22, 1963.

When Johnson succeeded to the presidency, he asked Mr. O'Brien to be his postmaster general. In that job, he produced a report that resulted in the establishment of the U.S. Postal Service and the removal of the postmaster generalship from the Cabinet. He also reported to Johnson on the political consequences of the rising tide of dismay at the war in Vietnam.

In 1968, when Johnson announced he would not seek another term in the White House but instead would concentrate on seeking an end to the war in Southeast Asia, Mr. O'Brien heeded a call from Robert F. Kennedy to assist him in his own bid for the presidency. He was with Robert Kennedy when he was shot to death in a hotel in Los Angeles on June 6, 1968, just after winning the crucial California primary.

Mr. O'Brien later worked in the presidential campaigns of Hubert H. Humphrey and George S. McGovern, and he twice served as chairman of the Democratic National Committee.

He was head of the DNC in June 1972, when his office at the Watergate complex in Washington was broken into by burglars who wanted to wiretap his conversations to gain political intelligence. The incident precipitated the scandal that led to Nixon's impeachment and resignation two years later.

From 1975 to 1984, Mr. O'Brien was commissioner of the NBA. In an interview in 1980, he told Washington Post sportswriter Thomas Boswell that he had been a "ref baiter and a screamer" of a basketball fan since his boyhood in Springfield, Mass., where the game was invented. Despite this description, Boswell said the commissioner was so pleasant and self-effacing that if he were "assigned to command the pearly gates in heaven, he could convince you that he was nothing more than a humble night watchman."

Mr. O'Brien became commissioner at a time when the NBA was far from the wonderous blend of riches, skill and passionate enthusiasm that it is today, with millions of fans all over the world. One of Mr. O'Brien's early tasks, in fact, was to bring it into its present organizational form by bringing about a merger of the NBA and the American Basketball Association.

He also negotiated a landmark $74 million television contract with CBS that ensured the financial stability of the league, and he instituted various measures to keep the teams competitive with each other, including a limit on the salary each team can pay at a given time. To make the game more interesting, he instituted the three-point shot. The NBA's world championship cup has been named "The Larry O'Brien Trophy" in his honor.

Mr. O'Brien's most far-reaching contribution, however, may have been in the field of political organization. He was a founder of the modern school of politics in which success is defined by degree to which people get involved.

In his book "The Making of the President, 1960," Theodore H. White said that the difference between the old and new politics is the difference between inclusion and exclusion. "In a tight old-fashioned machine," he wrote, "the idea is to operate with as few people as possible, keeping decision and action in the hands of as few inside men as possible. In the new style . . . the central idea is to give many people as possible a sense of participation; participation galvanizes emotions, gives the participant a live stake in the victory of the leader."

Mr. O'Brien told how to do this in a publication called "O'Brien's Manual," a 64-page outline of all of John F. Kennedy's campaigns from his reelection to the House of Representatives in 1950 through his elections to the Senate in 1952 and 1958.

In 1958, for example, the Kennedy organization circulated a nominating petition among Massachusetts voters that was signed by 256,000 people. At the same time, the campaign was swamped with offers to help from 1,800 volunteers for whom there was nothing to do. Mr. O'Brien's solution was to put the 1,800 to work sending thank-you notes to every one of the petition signers. Thus the signers had the satisfaction of thanks while the volunteers could be proud of their service.

Mr. O'Brien's organizational work in the crucial West Virginia primary in 1960, White said, was "a masterpiece."

Lawrence Francis O'Brien Jr., was born on July 7, 1917. The place of his birth was the Roland Hotel in Springfield, which was owned by his father. His mother was the former Myra Sweeney. Both parents had immigrated to Massachusetts from County Cork, Ireland.

The senior O'Brien got into Democratic Party politics as a reaction to anti-Irish prejudice. By the time his son was 15, he was following his father's footsteps as a part-time party worker. The boy also played basketball and was a member of the debating team at Cathedral High School. He earned a law degree at Northeastern University by going to night school, and during World War II he served in the Army.

After the war, he went into the family real estate business and opened a cafe in Springfield. Before long, he was running a congressional campaign for Foster Furcolo, a longtime friend. Furcolo lost in 1946, but he was successful in 1948. Mr. O'Brien accompanied him to Washington as his administrative assistant. In 1950, their partnership broke up in unexplained recriminations, and Mr. O'Brien went back to Springfield.

Soon after, John Kennedy called him. Then a member of the House of Representatives, Kennedy had his eye on the U.S. Senate seat held by Henry Cabot Lodge, and he wanted to test his chances in the 1952 election. That campaign was successful, despite a Republican landslide with Gen. Dwight D. Eisenhower at the head of the GOP's national ticket, and Kennedy was reelected by a wide margin in 1958. The following year, Mr. O'Brien joined Kennedy in planning his run for the White House.

In his memoirs, "No Final Victories," published in 1974, Mr. O'Brien recalled his first contacts with Kennedy in 1950. The congressman wanted him to arrange a meeting with leaders in the Springfield area, and Furcolo, as the local congressman, objected on the ground that Kennedy had not cleared this with him. He also said Mr. O'Brien had legal problems.

Without hesitation, Kennedy took Mr. O'Brien aside. Mr. O'Brien wrote that he sometimes thought back "to that time when [Kennedy] had to make a quick judgment between Furcolo and me, Furcolo was a member of Congress; I was a cafe owner whom Kennedy knew precious little about. . . . But Kennedy chose to trust me rather than Furcolo, and I would have to say that I don't know another man in politics who would have made the same decision."

That was the sort of thing that Mr. O'Brien cherished in politics. But after the

1968 presidential campaign, he decided he had had enough. He left Washington and moved to New York City as president of McDonnell & Co., an investment banking firm. From 1970 to 1972, he returned to the political wars as head of the DNC and then was a consultant in New York until heading the NBA.

Mr. O'Brien's survivors include his wife, the former Elva Brassard, whom he married in 1944, of New York City; a son, Lawrence F. O'Brien III of Washington; a sister, Mary Blaczek of Wilbraham, Mass.; and two grandsons.

[From the Springfield Union News, Sept. 29, 1990]

MAN OF MANY TALENTS

Lawrence F. O'Brien, a Springfield native, was introduced to the rough and tumble world of politics as a child, went on to achieve national prominence as a presidential campaign strategist and played key roles in two presidential administrations.

A man of many talents, he served for 10 years as commissioner of the National Basketball Association and later for several years as president of the Basketball Hall of Fame in his hometown, where the game was born.

Among his other accomplishments was service as postmaster general under President Lyndon B. Johnson. But it may be that Larry O'Brien is best remembered nationwide for the fact that he was chairman of the Democratic National Committee when his office at committee headquarters in the Watergate complex in Washington was burglarized in June 1972.

What began as a routine police investigation into a break-in, wiretap and burglary mushroomed into a political scandal and cover-up that shook the nation and led to the resignation of President Richard M. Nixon.

For those who knew him well, however, O'Brien is remembered as a man who enjoyed great success in politics, government, the world of sports and business, and seemed to be equally at home in all of those occupations.

Yet as long-time friend and political consultant Joseph Napolitan said: "Politics was always Larry's first love and he never forgot his roots."

His roots were in the Mattoon Street neighborhood where he grew up, the son of Irish immigrants. His father owned a downtown saloon, located where the Springfield Civic Center now stands. As a boy, he accompanied his father on walks into city neighborhoods, taking nomination petitions from door to door.

O'Brien graduated from Cathedral High School and Northeastern University and received honorary degrees from a number of colleges and universities.

If he had one skill that exceeded all others, it was managing political campaigns.

He directed Foster Furcolo's successful campaign for Congress in 1946. The success that made his national reputation was the 1960 campaign that carried John F. Kennedy into the White House following tough primary contests with Sen. Hubert H. Humphrey, and then a very close election win over Nixon.

That campaign erased, once and for all, some deep-rooted national doubts about the possibility of electing a Catholic to the highest office in the land.

The, in 1968, O'Brien undertook what was probably his second most difficult political assignment when he managed Vice President Humphrey's presidential campaign against Nixon—set against the tumultuous background of the Vietnam War and strong opposition to it at home.

Far behind at the start, Humphrey gained ground rapidly and just narrowly missed overtaking Nixon.

O'Brien's death Thursday in New York City, at age 73, saddens all who knew and admired this sandy-haired Irishman with the engaging smile who served so well in many different capacities.

It can be said that he died too young because he had more to give. Yet it can also be said that he accomplished more in his 73 years than others who are blessed with longer lives.

We join in the tributes to Larry O'Brien and extend our sympathy to his family.

CHICAGO'S 1990 COLUMBUS DAY PARADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, This year, on Monday, October 8, 1990, the Joint Civic Committee of Italian Americans will again sponsor the Chicago Columbus Day Parade, the greatest patriotic parade in the city of Chicago, celebrating the discovery of America by Christopher Columbus, and highlighting the contributions of Italians and Italian Americans to world civilization. In addition to paying tribute to Columbus, the theme of this year's parade, "A Salute to Italian Fashion and Design," will honor the numerous fashion designers who have made Milan the fashion capital of the world as well as the many prominent Italian-American fashion designers located in Chicago.

This year we are delighted that baseball great and living sport's legend, Joe DiMaggio, and the Italian Ambassador, Rinaldo Petrignani, will be joining us as the guests of honor. Other participants in the parade will include Mayor Richard M. Daley of the city of Chicago, Gov. James R. Thompson of the State of Illinois; Congressman MARTY RUSSO, serving as general chairman of this year's parade; and many other civic and political dignataries, as well as myself.

Mr. Speaker, this week, the President of the United States, the Honorable George Bush, will be issuing a proclamation commemorating the discovery of America by Christopher Columbus. Also, the Governor of the State of Illinois, the Honorable James R. Thompson, and
the Mayor of the city of Chicago, the Hono
ble Richard M. Daley, have issued proclam
tions, and copies of these proclamatio
follow:

STATE OF ILLINOIS—PROCLAMATION

Whereas, Christopher Columbus prov
that having visions, determination, and p
severance helps mankind; and

Whereas, the discovery Columbus made
1492 is a symbol of pride, freedom, and j
for all Americans; and

Whereas, Columbus and many other d
tinguished Italians have contributed to t
growth of civilization. The Italian commu
ty is joined by Americans of every eth
background in recognizing Columbus Day;

Therefore, I, James R. Thompson, Gov
nor of the State of Illinois, proclaim Oc
ber 8, 1990, as Columbus Day in Illinois.

JAMES R. THOMPSON,
Governo

CITY OF CHICAGO—PROCLAMATION

Whereas, the Joint Civic Committee
Italian Americans (JCCIA) is sponsoring
annual Columbus Day Parade on October
and

Whereas, the courage and visiona
wisdom displayed by Christopher Columb
in his intrepid voyage of discovery is exe
plary of the Italian-American communi
and

Whereas, those qualities of our Itali
American brothers and sisters are evident
the many contributions to the arts, politi
sports and socio-economic life of Chica
and

Whereas, the Chicago Department of C
tural Affairs is presenting its annual exhi
and program series in honor of Italian H
itage Month in October, and the public is
vited to attend; and

Whereas, this year's parade honors t
Italian contribution to fashion and design;

Now, therefore, I, Mayor Richard
Daley, Mayor of the city of Chicago,
hereby proclaim October 8, 1990, to be C
lumbus Day Parade in Chicago and urge t
people of Chicago to recognize the histori
observance in honor of the great navigat
Christopher Columbus.

RICHARD M. DALEY,
Mayo

Mr. Speaker, Chicago's Columbus Day cel
bration will begin at 9 a.m. with a concelebr
ed Mass at Our Lady of Pompeii Church
Chicago. Arrangements for this year's Ma
have been made by the Reverend Lawren
Cozzi, C.S., chairman of the religious progra
and organizations committee and Rev. Dona
Craig. The main celebrant will be the Auxilia
Bishop of Chicago, John R. Gorman, D.
and the host for the liturgy will be the Reve
end Angelo Carbone, C.S., pastor of Our La
of Pompeii Church. Concelebrants at t
Mass will include: Rev. Lawrence Cozzi, C.
of Scalabrini Village, the Italian-American o
people's residence in Northlake, IL; Rev. Nic
olas Marra of St. Lucy's Church in Chicag
Rev. Vincent Zarlenga of St. Vincent Ferrer

River Forest, IL; and Deacon Frank DeVita of Divine Providence Parish in Westchester, IL.

An introduction before the Mass will be given by Theresa Petrone, the theme coordinator of this year's parade, and the cochairperson of the programs and arrangements committee. Robert Allegrini, executive director of the Joint Civic Committee of Italian-Americans, and coordinator of the programs and arrangements committee, will serve as the commentator. Lectors will be Judy Guzaldo, president of the JCCIA women's division, and Lilia Juarez, president of the JCCIA west suburban women's division. The prayer of the faithful will be offered by Mark Farina, president of the JCCIA young adult division. Norman Boccio will be the carrier-of-the cross, and members of the offertory procession will include Dina Marie Bair, queen of the Columbus Day Parade; Joe Annunzio, who will be portraying Christopher Columbus in this year's parade; Marie Palello, executive secretary of the JCCIA, chairperson of the bands, marchers, transportation, and floats committee, and coordinator of this year's parade; Marge Porcelli, secretary of the JCCIA; and Ann Sorrentino, chairperson of the authentic Italian costumes committee.

Music will be provided by the Italian Cultural Center Chorus of Chicago, under the direction of Leonora LiPuma, and the organist will be Frank Pugno. Serving as ushers will be Nick Bianco, John DeBella, Michael Palello, Lawrence Spallitta, chairman of the floats personnel committee, and Anthony Lanzito. The Fourth Degree Knights of Columbus will serve as the honor guard, including Ben Daniel, master, 4th degree, and Joseph Nardi, admiral, LaSalle Assembly.

After the Mass at 10:15 a.m., a wreath laying ceremony will take place at the Columbus Statue at Arrigo Park, cosponsored by the Grand Lodge of the State of Illinois, Order of the Sons of Italy in America, and the Joint Civic Committee of Italian-Americans. Coordinating this event will be Thomas Baratta and Sam Garnello of the Order of the Sons of Italy in America, aided by the color guard of the Italian-American War Veterans of the State of Illinois. The invocation at the wreath laying ceremony will be given by Auxiliary Bishop John R. Gorman, D.D., and the host of this ceremony will be Congressman Marty Russo, chairman of the Columbus Day Parade Committee. Posting of the colors will be under the direction of James Sarno, state commander of the State of Illinois Italian-American War Veterans. Also, participating in the ceremony will be the ladies auxiliary of the Italian-American War Veterans with Nancy Colasuomo, state auxiliary president. At the conclusion of the wreath laying ceremony, a breakfast will be prepared and served by the Our Lady of Pompeii Mother's Club.

The 2-hour parade with step off at Dearborn and Wacker Drive in Chicago at 1 p.m. Joseph Ahern, president of the WLS–TV in Chicago, has scheduled this parade to be broadcast via delayed telecast on WLS–TV, channel 7, on Saturday, October 13 from 12 noon to 2 p.m. Narrating the telecast for WLS–TV will be Mary Ann Childers and Jim Gibbons of WLV-TV, joined by Dominic DiFrisco, president of the Joint Civic Committee of Italian-Americans, and Theresa Petrone, vice chairman of the board of trustees of the JCCIA. Both this year are also serving as cochairpersons of the program and arrangements committee.

Over 200 floats, bands, and marching units will participate in this gala celebration, and in keeping with the theme of this year's parade, there will be a floating fashion show consisting of 10 floats featuring clothing from Italy's current top designers.

This floating fashion show will be produced for the Joint Civic Committee of Italian-Americans by Karen Baker of Marchetti's Special Events. Also, other floats will carry members of the Italian-American community wearing traditional costumes from various regions in Italy. In addition, featured in the parade will be Joe Annunzio portraying Christopher Columbus and Angela Petrone portraying Queen Isabella.

Anthony Fornelli, past parade chairman, will serve as grand marshal of the parade, and Ben Affetto will serve as parade marshal. Other chairmen and cochairmen include: Alderman William J.P. Banks, chairman of the finance and souvenir committee, and State representative James DeLeo, chairman of the television sponsors committee.

The televisions sponsors of this year's parade include: Paul Butera of Butera Foods, Nello Ferrara of Ferrara Pan Candy Co., Dominick DiMatteo of Dominick's Finer Foods, Inc., Joe Marchetti of Como Inn Restaurant, Nick Celozzi of Celozzi Ettleson Chevrolet World, State Farm Insurance Co., Illinois State Lottery, Hilton Hotels Corp., Alitalia Airlines, and Commonwealth Edison.

One of the highlights of the Chicago Columbus Day celebration is the selection each year of the queen of the parade. Judged on her beauty, poise, and personality, Dina Marie Bair of Chicago was chosen to reign as this year's Italian-American community queen. She received a $2,500 check which was presented by the Joint Civic Committee of Italian-Americans, Festa Italiana-Amerital Unico, and the James E. Coli chapter of the Italo-American National Union. Other prizes for the queen of the parade included a scholarship to the John Powers Modeling School, wearing apparel from Karen Stefani of Avanti's Boutique in River Forest, a wristwatch donated by Tina Amico, dinner for two at the Como Inn courtesy of Joseph Marchetti, dinner with Chicago Sun Times food columnist Pat Bruno, an opportunity to be an extra in a movie to be made in Chicago, and a queen's trophy.

The members of the queen's court include: Gemma Celeste Marsalli of Park Ridge, IL, Donna Marie Santolli of Chicago, IL, Dina Marie Fazio of Elmwood Park, IL, and Ann Signorelli of Hinsdale, IL.

The chairman of the queens contest is Fred Mazzei, and the cochairperson is Josephine Bianco. Judges for the contest include: Pat Bruno, restaurant critic for the Chicago Sun Times; Joseph Cosentino, editor of FRA NOI, the Italian-American community newspaper; Dr. John Drammis, Jr., cosmetic plastic surgeon and director of Cosmetic Surgery Center of Chicago; Robert J. Durkin, executive director of the John Roberts Powers School of Modeling; Mary Laney, director of the Chicago Tourism Office and president of the Chicago Tourism Council; Adrienne Levatino, vice president of the Illinois Hospital Assoc.; Laura Spingola, president of Trade Resources Ltd.; and Barabra Drammis, store manager of Bailey, Banks & Biddle.

The Joint Civic Committee of Italian-Americans, under the able leadership of its president, Dominic DiFrisco, chairman of the board of trustees, Michael Coli, and executive director, Robert Allegrini, is comprised of more than 65 Italo-American civic organizations in the Chicagoland area and sponsors the Columbus Day Parade and related activities. Founded in 1952 to fight prejudice and discrimination toward Italian-Americans, the Joint Civic Committee has grown over the last three decades into a formidable organization for addressing the broadened social, cultural, and educational concerns of more than one-half million Italian-Americans living in the metropolitan area of Chicago.

The Columbus Day celebration will close with a reception at the Como Inn Restaurant in Chicago at 3:30 p.m., sponsored in part by the Italian Government Travel Office, and in honor of the guests, the officers, committee chairmen, and members who are participating in making the 1990 Columbus Day Parade a monumental success.

On this 20th celebration of Columbus Day as a national legal holiday, as the honorary parade chairman of the Columbus Day parade, I would like to take this opportunity to commend the members and officers of the Joint Civic Committee of Italian-Americans for their outstanding efforts in making this year's parade a memorable and exciting event.

The officers and members of the 1990 Columbus Day Parade Committee are as follows:

List of the Officers and Members of Chicago Columbus Day Parade Committee

COLUMBUS DAY PARADE COMMITTEE

Congressman Marty Russo, Chairman.
Anthony Fornelli, Grand Marshal.

JCCIA OFFICERS

Dominic DiFrisco, President.
Fred Mazzei, 1st Vice President.
Thomas C. Baratta, 2d Vice President.
John Ciolfi, 3d Vice President.
Pat Naples, 4th Vice President.
Joseph Annunzio, 5th Vice President.
Emil Venuti, Treasurer.
Tena Amico, Secretary.
Lawrence Spallitta, Sergeant-At-Arms.
Rev. Lawrence Cozzi, C.S., Chaplain.
Robert Allegrini, Executive Director.

BOARD OF TRUSTEES

Michael Coli, Chairman, Congressman Frank Annunzio, Vice Chairman, Theresa Petrone, Vice Chairman, Tena Amico, Joseph Annunzio, Thomas C. Baratta, Merrill Becker, Mr. and Mrs. Nick Bianco, Rudolph Bilotta, Dick Biondi, Shirlee Biacconeri, Norman Boccio.

Anthony Bottalia, Richard Caifano, Richard Calderazzo, Dominic Candoloro, State Representative Ralph Capparelli, Enrio Caputo, Pasquale Caputo, Harry Caray, Gilbert Cataldo, Dr. James Catanzaro, Frank Paul Catrambone, John Ciolfi, John Coli, State Treasurer Jerry Cosentino.

Joseph Cosentino, Rev. Lawrence Cozzi, C.S., Rev. Gino Dalpiaz, Cook County Commissioner Frank Damato, Marlene Dantino, Marie Davino, Billy DeCiccio, State Representative James A. DeLeo, Carl DeMoon, Pat S. DeMoon, State Senator Vince DeMuzio.

Alfonso DiBenedetto, Dominic DiFrisco, Joseph DiLeonardi, Dominick DiMatteo, Ettore DiVito, Cook County Commissioner Marco Domico, Joan Esposito, Anthony Falduto, Peter Felice, Paul Finnamore, Bernard J. FioRito, Anthony J. Fornelli, Camille Fotopoulos, Anthony Fratto.

Joseph F. Frederick, Jr., Sam Garnello, Andy Gatuso, Joe Gentile, Ronald Giordano, Dan Goduto, Tom A. Graziano, Kenneth J. Kolnicki, Ernest Kumerow, Joseph LaCalamita, Alderman Anthony Laurino, Angelo Lencioni, Leonora LiPuma, Joseph Lizzadro, Jr., Joseph Locallo, Jr., Nick Lombardi, Steve Lombardi.

Jerry Lonigro, Charles LoVerde, Joseph Lucania, Anthony Lupo, Dr. Gregory Macaluso, Robert Macari, Frank Mancari, Roy Marcucci, Pay Marcy, Jr., Peter Martino, Louis Masotti, Joseph Mazza, Fred Mazzei, Marino Mazzei, Amy Mazzolin, Gildo Mazzolin.

Rudolph L. Milasich, Sr., Joseph Monastero, Pat Naples, Michael Nardello, Nick Nitti, Marion Ortale, Vincent Pagone, Michael Palello, Dewey Paoletti, George Paulik, Pat Pavini, Molly Pavone, Richard P. Pellegrino.

Charles J. Porcelli, Dino Porto, Lawrence Pucci, Nunzio Raimondi, Fred Randazzo, Ron Rascia, Joe Rizza, Frank A. Romano, Michael Rongo, Nat G. Rosasco, Ray Rosato, Tom Roti, Francis J. Russo, Anthony E. Sacco.

Ann M. Sassetti, Joseph Scala, Phyllis Schoene, Sam Scott, Fred Serpe, Jr., John Serpico, Lawrence Spallitta, Andrew Storniello, Dr. Raffaele Suriano, Sam Tenuta, Anthony Terlato, Anthony Tolitano, Joseph Tolitano, Denise Tomasello, Lester Trilla, Ange Tufano, John Tufo, Renato Turano, Emil Venuti.

EXECUTIVE COMMITTEE

Richard Caifano, John Coli, Rev. Lawrence Cozzi, C.S., Rev. Gino Dalpiaz, Carl De Moon, Mark Farina, Anthony Fornelli, Sam Garnello, Judy Guzaldo, Lilia Juarez, Pat Pavini, Charles J. Porcelli, Fred Randazzo, John Serpico.

WOMEN'S DIVISION OFFICERS

Judy Guzaldo, President.
Carmella Tolitano, 1st Vice President.
JoAnne Spata, 2d Vice President.
Frances Passaglia, Recording Secretary.
Marie Palello, Corresponding Secretary.
Mary Ann Ciolfi, Treasurer.
Marion Ortale, Advisor.

WEST SUBURBAN WOMEN'S DIVISION OFFICERS

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YOUNG ADULT DIVISION OFFICERS

Mark Farina, President.
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Vita Conforte, Treasurer.
Linda Renella, Recording Secretary.
Bill Del Cerno, Corresponding Secretary.

CHAPLAIN

Rev. Lawrence C. Cozzi, C.S.

THEME COORDINATOR

Theresa Petrone.

RELIGIOUS PROGRAM AND ORGANIZATIONS

Rev. Lawrence Cozzi, C.S., Chairman.
Rev. Donald Craig.
Nick Bianco.
John DeBella.
Mike Palello.
Lawrence Spallitta.

TV ADVERTISEMENTS

State Representative James DeLeo, Chairman.

AUTHENTIC ITALIAN COSTUMES

Ann Sorrentino, Chairperson.
Elena Frigoletti.
Lilia Juarez.
Mary Spallitta.

FINANCE AND SOUVENIR BOOK

Alderman William J.P. Banks, Chairman.
Angeline Annunzio.

BANDS, MARCHERS, TRANSPORTATION, AND FLOATS

Marie Palello, Chairperson.

PROGRAM AND ARRANGEMENTS

Dominic DiFrisco, Cochairman.
Theresa Petrone, Cochairperson.
Robert Allegrini, Coordinator.
Alderman William J.P. Banks.
Mark Farina.
James DeLeo.

QUEEN CONTEST

Fred Mazzei, Chairman.
Josephine Bianco, Cochairperson.
Anita Louise Bianco.
Marie Palello.
Mike Palello.
Mark Farina.
JoAnne Spata.
Fred Randazzo.

FLOAT PERSONNEL

Lawrence Spallitta, Chairman.
Norman Boccio.

PARADE MARSHALS

Ben Affetto, Chairman, John DeBella, Nick Bianco, Pasquale Caputo, Ettore DiVito, Tom Bellino, Frank A. Lato, Mike Palello, Ron Onesti, Lewis Affetto, Mark Affetto, Nat Caputo, John Fay, Len Vekkos, Emilio Stramaglia, Mark Presto, Rich Onesti, Mike Simi, Jeff Garzonetti, Tony Agosto, Gene McBride.

STAFF PHOTOGRAPHER

Sam Bruno.

PUBLIC RELATIONS

Fred Randazzo.

OFFICE VOLUNTEER

William Travers.

THE 50TH ANNIVERSARY OF THE BATTLE OF BRITAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker, if you will recall, when we adjourned last Thursday, before we adjourned I took the well to talk about a new friend of mine, 82 years young, the highest ranking living ace from the world's greatest battle, the only battle ever totally decided in the air, what the world has come to call the Battle of Britain. We are celebrating during this 3-month period that ends on October 31 the 50-year anniversary of that titanic clash between the British Royal Air Force standing alone and the German Luftwaffe coming off an unbroken string of victories from September 1 to the conquering of France in June, 50 years ago.

I had spoken on the night of September 27 because that was the da when Witold Urbanowicz, then a fligh lieutenant with the RAF, but flying a a Pole, shot down 4 of his 17 victorie on the 27th. And then last night th House adjourned so quickly after majority caucus on the floor that was unable to keep my promise that would return to the floor on September 30 when Witold Urbanowicz duplicated his feat and shot down 4 mor Luftwaffe airplanes, bringing his scor to 15. And then during this month o October 50 years ago, he shot down hi 16th and his 17th victory.

The four he shot down 50 years ag last night was a Dornier, two-engin bomber, Dornier 215, and then he sho down three Messerschmitts. The they were called BF-109's, and the the name of the company was change to the name of Willy Messerschmit the chief designer of Beoflugverks The ME-109's he shot down were the the world's biggest fighters, and h shot down two of them with two quic bursts in a matter of 3 seconds.

Witold, I repeat, came back to th United States after the battle of Britain, or came for the first time to th United States, flew on a Sunderlan from Britain, through Africa, Sout America, lost an engine in the Caribbean, and finally came to Washingto DC and landed on the Potomac, or fo all I know, at the Patuxent Naval Ai Station. Then he became the deput air attache for the Polish Embass the embassy that we betrayed later a Yalta, and here in Washington a cocktail parties, asked the worl famous founder and leader of th Flying Tigers, Gen. Claire Chennaul to rescue him from a desk and to tak him to China.

□ 1920

And Chennault did that quickl where Witold Urbanowicz, as a Flyin Tiger, achieved 2 more aerial victorie and 9 victories on the ground, bringin his score to 28. He then later wen back to Europe, and using his fighte as a fighter-bomber, supported ou ground forces in their advanc through France into Germany.

In all of those combat missions, hundreds of them, his plane was only h once by one bullet, and he himself wa personally never touched. It is a amazing career that this gentlema had.

I would only hope that, given th youthful vigor God has still given hi at 82 years young, that someday might have the honor, as I suggeste to him, to arrange a trip for him to g back to Poland now that that betray has been undone, and Poland is trul on the verge of being as free a natio as it was on the evening of Septembe 1, 1939, when Hilter staged that snea attack into that country whic brought Great Britain into World War II; Great Britain and France and eventually the United States.

I want to, in my concluding moments, Mr. Speaker, recommend to you and all of my colleagues a book about the Battle of Britain. Amazingly, in the last 50 years with all of the excellent books written on this titanic air struggle, dozens of books, somebody inadvertently failed to use the simplest title of all, "The Battle of Britain," and it was left to two gentlemen, excellent writers, one of them the official historian for the Royal Air Force for decades, Richard Hough, and the other, a great writer of history, Denis Richards. These two gentlemen have, I believe, compiled the definitive book on the Battle of Britain.

I completed this at the end of about seven or eight other books that I started reading earlier in the year so that I would be a worthy representative for President George Bush at the 50th anniversary of the Battle of Britain ceremonies during the Farnborough air show earlier last month, the first week of September, and if you can only find the time to read one book, not forgetting the history of Western civilization or even, heaven forbid, even forgetting what happened, just what happened 50 years ago, this is the one book to read on today, October 1.

I will close with this, Mr. Speaker: "It was the beginning of the end in October. Yesterday, 48 German airplanes were shot down to 20 British. Today a fair day, October 1, 1940. Six German Luftwaffe planes shot down, four British. A month of fighting still to go," and as Churchill said so ringingly, and it is quoted over and over beautifully in this book, "We prevented Western civilization from entering a new Dark Age."

Please, read this book, "The Battle of Britain."

WHEN WILL WE LEARN?

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. I am constantly amazed that the American Government too often acts more like an Uncle Patsy who hoping to get rich quick falls for an scheme presented to him than to the once proud Uncle Sam who was the symbol to lead our armies in World War II.

Wars are fought sometimes over land and power or an idea. The end means or war is control of the production of your former enemies. In that regard, America is different. We have not sought to take control of means of production of the countries we defeated, but have helped them as we did with the Marshall plan in Europe, and—don't forget—we helped to rebuild Japan.

We are continuing to be helpful to those countries who are now our allies although, we are engaged in an economic war with them over U.S. territory—and that territory is the American ability to control the means of production for our own country.

We are losing that battle for a number of reasons and the effects over the long term can and will be devasting.

The economic war we are in today is no less deadly, economically, to Americans than a shooting war in terms of loss of lifestyle, opportunities for education, jobs, and home ownership.

My friend, Pat Choate, had aptly pointed out how this has happened to America in his book "Agents of Influence." Pat explained why access to people in powerful government positions is important for foreign governments and businesses.

In a review of his book in the September issue of Harvard Business Review, Pat stated "The Japanese help finance both the Republican and Democratic parties, make major contributions to political action committees, and count on their payrolls top political advisers to the president, to members of Congress, to Governors, and to mayors."

Pat supported this statement with the following:

> A 1986 General Accounting Office survey identified 76 former federal officials who left officie between 1980 and 1985 and then became registered foreign agents. The list—which the GAO acknowledges is only partial—includes 8 special assistants to the president, 5 assistants to the president, 2 deputy assistants to the president, 1 presidential counselor, a deputy White House press secretary, a chief of staff to the vice president, a chairman and vice chairman of the U.S. International Trade Commission, 2 deputy U.S. trade representatives, 6 senators, 9 representatives, 12 senior Senate staff, 5 senior House staff, and 4 retired generals. Together these 76 former top-ranking U.S. officials represented 166 foreign clients from 52 countries and 2 international organizations—20 of them went to work for Japan."

That is quite a list when you consider the network of contacts these people have established. As we all know, a person's contacts in government are his or her livelihood and the quickest means of getting something done in government. Contacts are a good source of information for a lobbyist. They are essential to be effective in government—or in business.

Just how this ultimately translates was explained in a section about Japan's intelligence gathering in the Harvard Business Review article.

Pat explained that early in the Bush administration everyone involved in trade, and those interested in Government appointments were curious who would be the next U.S. Trade Representative.

According to Pat Choate, the Japanese knew who it was before the American newspapers had the story. He said;

> One week before the appointment was announced, a Japanese official bragged to an American friend that "the lady" who would be named was "most acceptable" to Japan. Two days before the appointment was announced, a Japanese newspaper, the Nihon Keizai Shimbun, broke the story in Tokyo.

The point of Pat Choate's statements is the former Government officials not only know how our Government works and how to get something done, but through their contacts can keep up a steady flow of information for their client. We all know that knowledge is power—and the United States is losing the knowledge game right in our own backyard—our American Government.

Another example of how we are losing is in textiles. We hear a deal has been made to give away 20,000 of our textile jobs to another country regardless of the need to provide jobs to working Americans and to maintain a full-blown textile industry in the United States.

Our American textile jobs may be the price to Turkey because of its help to the United States in the Middle East. We can lose those 20,000 jobs by raising the textile and apparel quotas for Turkey.

This is not the only way in which America contributes textile jobs abroad. We currently contribute 20 percent of the funds to the World Bank, and the Bank has projects to establish textile factories. Turkey is to receive $32 million to build a weaving mill to make fabric for apparel exports.

It also receives $6.11 million to expand capacity to make trousers and jackets for export. Finally, it receives $7.12 million for a mill to make sewing thread for all these additional garment exports.

After this generous help from Uncle Sam or should I say Uncle Patsy and the World Bank, will Turkey then be able to come back and remind us of their help in the Middle East and obtain even more textile jobs from us? Because of Uncle Sam's largesse use abroad, this could happen.

Another way we are losing out in this economic war is through patent abuse. The President of an American chemical company recently came into my office with yet another version of the familiar story of patent abuse and how the Japanese unfairly treat and abuse American companies.

As I listened to Salvatore Monte, president of Kenrich Petrochemicals, Inc., and his wife, Erica, vice president of Kenrich, I thought of similar stories I have heard, and I wondered when will we Americans learn how the Japanese really do business?

Mr. Monte's firm makes organo-metallic compounds, the chemicals which serve as a molecular glue between or-

ganic and inorganic materials in making a complex product.

The compounds go into everything from rocket fuels and ammunitions to tires, cars, paints, coatings, photocopier toner to making blue pencil leads stronger. Some of his chemical compounds make products biodegradable and increase the conductivity of electricity.

There is a 200- to 500-percent improvement in products using minute amounts of Mr. Monte's organic-metallic compounds. Steel is stronger, tires are better, the strength of plastic crates is increased, and ammunition is more effective. Kenrich's patents on these organo-matallic compounds are Mr. Monte's invention. They should be of paramount interest to the U.S. Government.

The story Mr. Monte told me about the Japanese delaying and stalling tactics on Kenrich patents and contracts is all too familiar.

His story about Kenrich dealings with the Japanese follows:

In the midseventies, Mr. Monte was approached by Ajinomoto officials to bring his product to Japan, but emphasized he had to have a Japanese partner.

On July 1, 1976, the Japanese trading company Nitto Shoji, Ltd., started the approval for the first Kenrich product [KR TTS] to be sold in Japan. At that time 26 Kenrich patents were filed.

By January 1977, 15 distinct Kenrich chemicals were licensed through Nitto Shoji to the Ajinomoto Co. [ADJICO].

During this time Mr. and Mrs. Monte were treated to only first-class treatment by the Japanese. They stayed in the best rooms at the best hotels, ate at the five star restaurants, and were chauffered everywhere. The Montes were given only the most polite and courteous treatment. As a result of this respectful treatment the Montes were certain they were being fairly treated by the Japanese.

By 1984—8 years later—the Montes had transferred all of the Kenrich technology to the Japanese. Mr. Monte estimated that Ajinomoto's sales of Kenrich products exceeded $1,000,000. I say estimated because Mr. Monte waited for a sales report on Kenrich products from Ajinomoto products but never received it.

During this time the Japanese were testing Kenrich's products under the Japanese Government's New Substance Act. Mr. Monte was informed the Japanese had received customer complaints about the quality of Kenrich products. He found this curious because Mr. Monte had not had trouble with products in any other country.

The Japanese also used another ploy in addition to the nonreporting of sales and testing the product. They went through another company, Nippon Soda, Inc., to sell the Kenrich products under another name. As Mr. Monte said, "it is ingenious, they set up a company to compete with themselves so they can protect the technology." The big loser in this is, of course, the American company.

After 14 years of doing business with the Japanese, Kenrich still is receiving only $50,000 a year in royalties. Based on reports from sales representatives in Southeast Asia it is estimated that Ajinomoto sales containing the Kenrich products are close to $50 million so a 5-percent royalty would certainly be more than $50,000. It would be around $2,500,000.

In fact, the Japanese company even wanted to reduce the $50,000 royalty. By now there were over 200 Japanese patented applications of Kenrich products, yet the sales were still supposedly less than $1 million. On the other hand, the Mexican agent for Kenrich is expected within 3 years to do better than the Japanese after all this time.

At this time some of Kenrich's products had been developed under an alternate titanate technology and sold by Nippon Soda, Inc., in the United States. They even threatened action against Mr. Monte if they continued to sell the Kenrich product in the United States.

Since Monte was the inventor of these products that took a lot of chutzpah to challenge him, but Mr. Monte is a fighter and he did not give in. His company, Kenrich, is not large enough to take on a Japanese trading company in a patent battle—but under the American system he has a right to a reward for his talents and labors.

Before I go on, I would like to add another way in which American businesses are seriously undermined since it pertains directly to Kenrich. A banker friend of mine told me that if a pending sale of Fidelcor goes through to CIT then all the financing for Kenrich will be 60 percent owned by the Japanese via Daijon Bank.

Therefore, whenever Kenrich needs a bank loan it will have to provide all its paper work for examination by the bank that is a majority owned foreign bank.

This means that the information on whatever Kenrich ships to the United States Navy, or to any military installation and in what amount will be in the hands of the Japanese. This is less than satisfactory, given the Japanese track record in dealing with Kenrich.

In the United States system we do not pass along privileged information from companies to their competitors as the Japanese do, either in the American banking or the patent system.

The role of patents in our economy was described in the September issue of National Defense in an article titled "Patents and Scofflaws" by Robert J. Berens.

It stated:

> A fair and orderly system for protecting intellectual property is essential to all nations as they struggle to catch up or stay ahead in today's frenetic economic environment.
>
> As the United States is being reminded so painfully, a nation's relative economic, political and military position depends to a great extent on intellectual properties and who uses them.

Just what this means to us according to the National Defense article was described in a recent report by Northwestern University Annenberg Washington Program. It stated, "Piracy of copyrights patents and other intellectual property costs the U.S. economy tens of billions of dollars and thousands of jobs every year."

The article further explained that "a 1988 report of the U.S. International Commission found 431 American companies suffered aggregate worldwide losses of almost $24 billion in 1986 because of inadequate intellectual property protection." For your information each billion dollars translates roughly into 25,000 jobs—multiply that by 24 billion and that equals 600,000 jobs.

Patent theft and nonpayment of taxes is just one way in which we lose jobs from our economy.

We should consider just exactly what it means when we give away our manufacturing jobs—or just plain jobs—to other countries. Our economy has rapidly shifted from a manufacturing base to a service economy. In 1949, the manufacturing jobs were 33 percent of the labor force and although they have increased in number—manufacturing jobs today are only 18 percent of our labor force. The jobs in our economy are weighted to service and retail on an average of $9.77 versus manufacturing at $10.80 per hour.

It doesn't sound like that much but $8 more a day multiplied by hundreds of thousands of persons over a period of a year amounts to substantial funds and for a broader tax base for the U.S. Government.

We need to be concerned about that tax base and make sure that all companies, both domestic and foreign, pick up their fair share of the tax burden.

It should not rest on the working American, but they are the ones who pay the price when the foreign companies escape their responsibility to the Government.

Back in February we were shocked to learn that, "as a group, the more than 36,000 foreign-owned companies filing tax returns in the U.S. reported negative taxable income." The Wall Street Journal, February 20, 1990. In that story, the Journal reports that "many of the subsidiaries the tax agency is examining are owned by corporations from Japan, this country's stiffest economic competitor, but the IRS said it hadn't gone after Japanese companies specifically."

Several weeks ago, Chairman Jake Pickle conducted hearings in his Ways and Means Oversight Subcommittee which shed light on how this avoidance has been managed. The loss to the American taxpayer has been estimated to be as high as $50 billion over the last several years.

Fifty billion. Imagine what that money could do for our budget woes. Through accounting tricks and fancy manuevering, Japanese corporations have managed to dodge the tax man. Moreover, no penalties have ever been paid to the Internal Revenue Service by any of these corporations on their income tax underpayments.

It is time to ensure that foreign corporations operate equitably under our laws and shoulder their responsibility for the fair treatment Americans give them, by paying their fair share of the taxes.

Working men and women should be rewarded for their work and not have to pay the price for foreign companies not paying their taxes, nor because of the Government's political reasons, give up their jobs to a foreign country.

The Bible states in Deuteronomy 28 that you are rewarded for the work of your hands. Surely, this country could ensure that American citizens be rewarded for their efforts by protecting the ideas of men like Salvatore Mone, or the opportunity for jobs of textile workers. It is time for us to take a stand on behalf of America. We can and do manufacture quality products and provide innovative services. If we don't, we won't even have a park bench to sit on to watch the pigeons, or a tin cup to ask for handouts.

We need American plants and products and ideas of men like Salvatore Monte to create jobs and to remain a strong Nation. The choice is ours. I vote to help American business.

□ 1940

WE ARE ON A BUDGET TRAIN RIDE TO OBLIVION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. Burton] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I have a prepared statement that I would like to make and then I will involve myself in some information about the budget and also involve myself in a discussion with my colleague, the gentleman from Texas [Mr. DeLay] and others who might want to speak on this subject.

Mr. Speaker, I awakened the other night thinking about our budget problems and although I was sick with a cold, I could not stay in bed because I could feel the weight of the problem.

We have been told by our leaders that we must not rock the boat—we must realize that even if we can't vote for a budget compromise—that includes large tax increases coupled with additional spending—that to speak out might cause either side of the aisle—Democrat or Republican to lose one or two votes which would deny that side the majority which would stop this compromise. Well I must speak out. We must speak out.

We are on a train ride to oblivion. If we don't get control of spending now—then when? If not us—then who?

There are literally hundreds—perhaps thousands of reasons to keep on spending by passing this budget and only one reason not to—because it is wrong. It's wrong to increase taxes because it will reduce the Nation's purchasing power and put us into a deep recession. It's wrong to continue to increase the spending being proposed because we are all in over our heads, and increasing spending only increases the mortgage on our children's future.

We're selling this Nation's birthright for a mess of potage.

The train we're on is picking up speed and heading downhill, and instead of putting on the brakes, we're throwing more coal into the furnace to create more speed. There is going to be a wreck. A real economic disaster. But never mind because if we continue to forestall the day of reckoning by actions like we are about to take, it may not be on our watch—we hope. But it might yet be.

In any event, if we continue on the path we're on—if we don't reduce spending—if we keep on saddling the American people with more and more taxes, then there will be economic disaster—and the form of government we now enjoy might very well crumble thus denying our posterity the blessings which we as a free people, living in a free republic, have enjoyed.

There are alternative budgets that have been proposed—but they have not seen the light of day. Budgets that would hold the line on spending and not raise taxes. But, we have been told they can't pass because of the political pressure they would create. Because it would pinch the toes of many areas of our society—and I think, that's right, it would cause some discomfort. But that discomfort is nothing compared to what pain will be felt by the entire Nation down the road if we don't act responsibly today.

No nation—no matter how great—can live beyond it's means indefinitely—and we are no exception.

We will either have hyperinflation, in which case the bubble will break and we'll have tragedy, or we'll have Government try to control inflation by using such tools as raising interest rates, in which case the economy will grind to a halt and we'll have a depression. Either way we end up in the same place. There's only one answer—stand up and be counted now. Vote against more spending. Vote against more taxes. Vote for a progrowth budget even though in the short run it may pinch America's toes. If we don't, America may lose her legs.

□ 1950

I yield to my colleague from Texas.

Mr. DeLAY. I appreciate the gentleman from Indiana yielding to me. I appreciate him taking out this special order.

Mr. Speaker, it takes a lot of courage for the gentleman from Indiana to come down to the well and make statements about a package, and an agreement that could very well hurt both of us, for that matter.

In standing up and talking about this package, one of the things that the proponents of the agreement continue to bring up in all the meetings that have been held in the last 2 days on the agreement is, No. 1, what the gentleman just addressed, "What is your alternatives?" Well, we do have an alternative. It was introduced this afternoon. There are two other alternatives being worked on by other groups.

We had an alternative that showed those areas of cuts and program eliminations and revenues that we would be willing to vote for, that we brought out before the August recess, and those have been dismissed out of hand. No one even wants to discuss them.

So if the proponents of the agreement do not want to talk about alternatives, that they have an agreement and intend to pass it, then they pose the question: What happens if the agreement goes down?

Well, you either have to vote for this agreement or you have sequester, with which I disagree. You may have sequester for a few days, but we still are a Congress, and we still can meet and still do our job, if the agreement goes down.

So I have got to weigh the agreement versus what might be possible if the agreement goes down, and Congress actually does its job for a change.

In looking at the agreement. I must admit I have not totally analyzed all of the agreement, but in looking at it on its face and in general terms, and looking at it I truly feel, as the Heritage Foundation feels, that this agreement would do serious damage to our economy, that it would drive us to a recession if we are not already in one.

If we are in a recession, we will make that recession deeper.

The least that will happen is stagflation, which is to me in some cases especially in some parts of the country, is worse than a recession.

But among the most damaging aspects of the agreement, I would like to list some of them, just to let the American people and this House understand what we are looking at.

We are looking at a huge tax increase that will lower living standards for most Americans. The increase in gasoline tax alone is particularly harsh. The overall tax increase, especially in time of rising oil and gasoline prices, and the overall tax increase that is being proposed, probably would push the United States into that full-blown recession.

We have spending which continues to rise in the agreement, despite the misleading claims that spending has been cut drastically, or has been frozen.

The few tax credits for businesses, while not bad in themselves, follow the national industrial policy approach to the economy; rather than cutting taxes across the board, the Government targets particular kinds of investors for special privileges. There really is no strong enforcement mechanism.

The agreement, for example does not contain a line-item veto nor the elimination of current service budgeting or multiple Gramm-Rudman sequesters or threats of multiple Gramm-Rudman sequesters.

Where spending increases in popular programs are limited, Congress can and will likely restore those funds after the full agreement is accepted.

The numbers released by the Office of Management and Budget are so confusing that few Senators and Congressmen can figure out exactly what it is they are being asked to vote on. The agreement is the most successful use of blue smoke and mirrors to date by those budget summiteers.

However, a number of facts do stand out. In fiscal 1991, total Federal spending would still increase by 4.5 percent or $55 billion over fiscal 1990 levels, excluding the cost of the S&L crisis. But by fiscal 1995, total Federal spending will be $222 billion higher than fiscal 1990 levels, an increase of 18.4 percent. In fiscal 1991, tax revenues are projected to grow by $77.7 billion over fiscal 1990 levels; with the summit agreement raising $16.2 billion in new taxes, total tax revenues in 1991, this fiscal year, will be $93.6 billion higher than the fiscal 1990 level.

The gross national product is projected to grow by $1.8 trillion during the next 5 years. This assumption is highly questionable. Even if such growth does occur, $133.4 billion tax increase will take 7.44 percent of every dollar of economic growth over the next 5 years.

Defense spending bears 100 percent of the reductions in discretionary spending during the first 3 years of the agreement. During the first 3 years, domestic discretionary spending will rise by almost $24 billion, an increse of 12 percent.

We are being asked to put everything up front, higher taxes, massive cuts in defense, a small adjustment in entitlement programs and trust this Congress to give us the "lower increases of spending in the out years."

Mr. BURTON of Indiana. If the gentleman would allow me to interrupt for just a second, I think that is a very salient point. We are asking the American people to trust us in the outyears. The fact of the matter is if they have watched the history of this body, they know Congress has never really stuck to budget proposals in the outyears in the past. Spending goes on unabated, and I think this will probably be no exception.

I yield to the gentleman.

Mr. DeLAY. We had the same sort of proposal in 1982 where Congress promised President Reagan, that if he would raise taxes, they would give him spending cuts to offset those tax increases.

Mr. BURTON of Indiana. Yes, more than offset. They said they would give $3 in spending cuts for every $1 in new taxes, and none of the spending cuts were ever realized, only the new taxes.

□ 2000

History proves this out, and, every time we talk about 5-year plan, we change the 5-year plan every year. So, next year; we will be back here looking for a new 5-year plan, and one must picture this. If this agreement calls for a 5-year plan, and most of the slowdown in the increases in spending, and they are not cuts, they are slowdowns and increases in spending, are in the outyears, then what is to say that next year we will come back in and do a new 5-year plan? So, we never reach that fifth year that we are talking about.

Mr. BURTON of Indiana. Sure.

Mr. DeLAY. So, we have raised taxes, we have had massive cuts indefense spending, and yet we will be waiting for that fifth year in a slowdown in spending.

I do not think that is a good agreement. I do not think it is, quote, fair to everyone concerned, and I certainly do not think it is fair to the American taxpayer.

Mr. DOUGLAS. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. Before I yield, if I just might make one more comment?

There are some other things that I am sure my colleagues from Texas and also New Hampshire are well aware of, and that is they are going to be increasing or starting for the first time a national sales tax, and the gentleman from New Hampshire [Mr. Douglas] so eloquently went into this the other night, and that sales tax is the camel's nose under the tent. It is going to be a luxury items, big-ticket items, $30,000 cars and higher, and jewelry, and furs and so forth, but in the years to come there is no doubt, when we start hitting another economic church, and this kind of a budget will precipitate those kinds of economic crunches, there is no doubt in my mind that they will say, "OK; let's just lower the level that we're going to tax. Let's lower the $30,000 car to a $15,000 car to a $10,000 car," and on down to zero so that we will have a national sales tax that will be pervasive. It will hit everybody in our society.

Mr. DeLAY. Mr. Speaker, will the gentleman yield on that point?

Mr. BURTON of Indiana. I yield to the gentleman from Texas.

Mr. DeLAY. If my colleagues go back and check the history, at least of Texas, and I am sure of many other States that instituted sales taxes, an local entities, they always started with the luxury tax. They always started with those items that only the rich could afford and sold it to the taxpayer as, "Look, we're going to tax expensive cars, expensive furs, expensive jewelry. They won't touch you. Just let us have that tax."

And not only do they lower the threshold on those items, but they expand the number of commodities and products that they start taxing.

So, this is a brand-new tax that we are bringing to the American people.

Mr. DOUGLAS. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from New Hampshire.

Mr. DOUGLAS. Mr. Speaker, I thank the gentleman from Indiana for yielding.

I wanted to follow up on that, too, because I happen to come from a State, the only one in the Nation other than Alaska, who, I guess, is in the similar situation. But we do not have a sales tax, and we do not have an income tax in New Hampshire. And the reason we do not have a sales tax is just, as the gentleman from Indiana [Mr. Burton] pointed out.

I say to my colleagues, "Once you start, you can just keep moving more columns this way to be counted by the sales tax. You increase the rate."

This one starts out very high, at 10 percent, and, as my colleagues know, and I know, the papers we were handed yesterday, some of them indicated that electronics and aircraft were included. Now it turns out, apparently, that it was a last-minute deal, they were taken out, but the mere fact that they were on the sheet of paper tells me as clear as a bell that our TV's, our VCR's, all of that electronics equipment, is the next phase.

Mr. BURTON of Indiana. We will be saying, "They're back."

Mr. DOUGLAS. Yes, "They're back."

The amount, as the gentleman said, will be dropped. The number of things that get picked up will be increased, and I guess, to me, the real problem is this is an especially bad way to go because it is a truly new tax. We do not have a national sales tax on any consumer items right now. But if this bill passes, the foot will be in the door, and we will have begun down the road that we started with the graduated income tax at the turn of the century and will end this century with a national sales tax.

I think that is absolutely outrageous to think that, rather than cutting budgets, real cuts, not the phony Washington, Disneyland stuff, but real dollar reductions, we are not doing that. Is a single bureaucrat being laid off as a result of this painful package? Is one single agency shut down? The answer is "no."

Chase Manhattan just had to lay off 5,000 employees because they are faced with a deficit, and we, with 2 million employees, are not even letting one person go.

And I look at this branch that we work for, and it is shocking to me to think that 37,000 people are employed by the U.S. Congress. Now that is easily 10,000 more than we need, and, if we really want to make some cuts, we can start right here and make some real reductions in the outrageous spending that this branch is involved in.

Mr. BURTON of Indiana. If I just might interject one thing that a lot of our colleagues may not be aware of: 10 years ago, in fiscal year 1981, we were getting about $599 billion in tax revenues of all sorts, and this next fiscal year, without any tax increases; in fact, because of the tax cuts that Reagan passed, which created 21 million new jobs, the economy has grown to where we are going to receive $1.2 trillion in tax revenues. That is more than double what we had 10 years ago.

We are getting about $80 billion in new revenues yearly now, but that is not enough. These fellows want more. They want more to spend more.

Mr. DELAY. Mr. Speaker, will the gentleman yield on that?

Mr. BURTON of Indiana. If I could just say one thing, and then I will be happy to yield to my colleague from Texas.

I would just like to read down the litany of taxes that are going to be increased, and the gentleman alluded to some of these a few mintues ago. Energy taxes; they are going to have a 2-percent petroleum tax that is going to hit home heating and all kinds of energy costs. We are going to have a 10-cent-a-gallon gas tax. We are going to increase tobacco taxes, increase beer, wine, distilled spirits taxes. The 10-percent luxury excise tax we talked about.

Here are some others we have not heard about earlier: ozone-depleting chemical excise taxes; that is a new one on me. Lost deductions in salvage values for insurance companies, which is going to amount to a tax. Increased airport trust fund aviation excise taxes over 5 years. Increase the harbor maintenance tax. And so on and so forth.

Plus we are going to hit the senior citizens with higher deductibles on their Medicare and more expenses to them as well.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Texas.

Mr. DELAY. The gentleman from Indiana [Mr. BURTON] has already started presenting my point.

There are, in addition to the, quote, $134 billion in suggested tax revenue increases, there are many hidden tax increases in this agreement, and several of them are under the, quote, spending cut portion of the agreement.

For example, the gentleman already alluded to the monthly tax that senior citizens pay to Medicare will be increased. Yet the revenues generated by that change are counted as a spending cut. And 17 different fees are to be increased, generating an additional $14.2 billion in revenue for the Government over the next 5 years. Yet the revenue is to be counted as a spending cut. Nearly $5.4 billion of the supposed spending cuts are actually revenues from the Postal Service, which is now off-budget, resulting in no real savings, and the agreement contains an automatic tax increase. Thus every tax cut must be offset by a tax increase.

At the very least, this provision effectively eliminates any opportunity to pass tax cut legislation to pull the economy out of a recession which the budget agreement would cause.

Mr. BURTON of Indiana. Mr. Speaker, I think the point the gentleman from Texas [Mr. DELAY] is making is that a lot of these so-called spending cuts are nothing more than smoke and mirrors, and I was on a television show with one of my colleagues from the other side of the aisle not too long ago, and he was talking about this budget was a real budget without smoke and mirrors, and the gentleman from Texas [Mr. DELAY] just pointed out that there is a ton of smoke and mirrors in this thing.

Mr. DOUGLAS. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from New Hampshire.

Mr. DOUGLAS. Does this not actually give smoke and mirrors a bad name?

I mean, one of the concerns that I have in there which has gotten very little attention in the last 24 hours is that, when we were told that this whole process was going to be worth it, the bottom line was fundamental reform. There is no line item veto in this budget package. There is no balanced budget amendment in this budget package. There is not an end to current services, base line budgeting and they move to zero budgeting in this package. An we have not moved to a 2-year budget cycle.

Mr. BURTON of Indiana. And no rescission authority for the President.

Mr. DOUGLAS. Exactly. None of those things are in here.

What we have is the traditional, "We'll pass a law that will settle these targets and numbers, and everyone will comply with it for the next 5 years."

Now we have already had a law that we passed 5 years ago called Gramm-Rudman. That law expires, and theoretically tomorrow, or today rather, we should be at balance. Am I correct? Was it not a 5-year plan to balance the budget?

Have we balanced it? No. We have a bigger deficit now than I think we did 5 years ago when we started this balanced budget statutory approach.

Mr. DELAY. If the gentleman would yield, in defense of Gramm-Rudman I must say that the projected deficits before Gramm-Rudman passed were much higher than the dificits are now.

□2010

The gentleman is right in my opinion that the deficits are larger than we would like to see and larger than we were promised when we passed Gramm-Rudman, but they are lower than if we did not pass Gramm-Rudman.

Mr. BURTON of Indiana. The point needs to be made that without Gramm-Rudman, my gosh, no one knows where we would be. We need budgetary constraint. I think the point the gentleman from New Hampshire [Mr. DOUGLAS] is making is even with the teeth we put in with Gramm-Rudman, spending is almost out of control.

Mr. DOUGLAS. Basically that is my point, not that there is something wrong with Gramm-Rudman that means we should not have done it. It is better than any other option, which is to do nothing. But the practical problem is that Gramm-Rudman is a statute, and this will be a statute, and there is no lasting mechanism.

I have felt all along that if we wanted something meaningful, then we would have the balanced budget amendment enacted by the House and the Senate as part of at least the rainbow that we could have worked toward, the pot of gold at the end of that rainbow 5 years from now. Because if the summiteers are correct, that in 5 years we are going to be down to inflation of 2.8 percent, interest rates at 4.2 percent, and a budget that is balanced, if we have reached that Nirvana in 5 years, then they ought to have the balanced budget amendment voted on, enacted by the House, by the Senate, and sent to the States, so that 5 years from now, after they have ratified it and it has taken effect, effective 1995, this statute will end and we will be in truly a phenomenal situation, with a balanced budget, the 4-percent interest rates and the under 3 percent inflation, and everyone will be deliriously happy.

If they do not think they are really going to do that, then that explains why they did not put the balanced budget amendment in here.

Mr. BURTON of Indiana. I think the gentleman makes a number of salient points. I think one thing we ought to point out is even though we are on the floor of the House, in this well, talking about the problems with this budget, we are not just slamming this budget proposal without some alternative.

The gentleman from Texas [Mr. DELAY] alluded to several budgets that we have proposed in the past, and maybe we ought to talk a little bit about the 4-percent solution and what that will do for the country in lieu of this budget, which we think would be an economic disaster.

The 4-percent solution, for the benefit of Members who may be paying attention to what we are doing here, is a budget that starts with last year's spending as a base. Not with the current services budgeting procedure attached to it, but the 4-percent solution starts with last year's spending as a base, real spending as a base, and allows the spending to increase by 4 percent per year over the next 5 years.

That, coupled with a capital gains tax cut and one other small cut I think in the Social Security taxes of about 2.3 percent, which many people favor and which would not jeopardize in any way the Social Security trust fund, but that 4-percent solution with those other benefits would lead us to a balanced budget by 1995, and even give us an $11 billion surplus.

So I think this is something we should, as Members, look at seriously if this thing goes down, which we hope it will.

The problem is that budget and another budget which the gentleman from Texas [Mr. DELAY] and I worked on for some time, has never even been considered, even though we sent it to all 535 Members of the House, the Senate, the White House, and everybody else involved in this process.

So I am hopeful the budget we proposed, both budgets we proposed, will at least be given some look-see in the next few days, if it looks like this particular budget that we do not like goes down.

Mr. DELAY. I do not think we are going to hold our breath waiting for them to look at it, but I think it is at least at this period of time a responsible approach. It is very easily understood. You do not have to have a lot of number crunching like you do in this proposal, where the numbers do not exactly jive where they are hidden and Members cannot quite understand where this baseline is and that baseline is, and how much we really are going to be spending, and when we are going to spend it.

A 4-percent solution is I think even very generous. It is more generous than most taxpayers face when they are looking at a deficit in their own family budgets. You cannot be assured of an automatic 4-percent increase for the next 5 years or the next 7 years if you are trying to raise a family and trying to do a good job. When you are running a deficit, you have to look at what you are spending your money on and prioritize under the amount of revenues that you are receiving.

No less should happen to our Government. Maybe because of its simplicity, it shows a little too much genuineness for many of our leaders to pick up.

Mr. BURTON of Indiana. If I might just interject, today when we had our meeting on the budget with leaders from the White House and others, I think one of the leaders, and I will not mention the name, indicated that the 4-percent solution we talked about was not doable. We know as a legislative body you can do almost anything you want to if you have the votes.

The fact of the matter is, if we want to curtail spending, limit it to a 4-percent growth across the board, pass the capital gains tax and other cuts we have talked about, it is doable.

Our solution does not even include the cuts in defense that we think would be added to it which we think we could accept, which would give us a brighter picture with this budget.

This is something that is doable. We as the Congress with the executive branch, working together, can make the 4-percent work. All we need is the intestinal fortitude to do it.

Mr. DELAY. Not only that, it is up front moneys. We ran some preliminary numbers on it. In the budget agreement the first-year savings is $40 billion. So the budget summiteers did not even reach the $50 billion target that they set for themselves.

Mr. BURTON of Indiana. But it was supposed to be higher than that before. It was supposed to be $114 billion, as I recall.

Mr. DELAY. I think the gentleman is right. The 4-percent solution, in looking at the preliminary numbers, and they are preliminary, look like the first-year savings, with the revenue package and everything that we are talking about, is a savings of $43 billion, $3 billion more than the budget agreement that took over 4 months to put together.

So we are talking about moneys and savings being up front, and presenting them to the American people first, rather than promising so that we can cook numbers and get through this crisis for another year and face it again next year. We will have a real plan, with the savings up front, that are real.

They force this Congress into setting priorities under caps, and that is what we ought to be doing. Time and time again, how many times have we seen down here on this floor passing program after program, spending after spending, increasing existing spending, increasing spending on existing programs, with little or no regard to the total picture in the budget?

Yet this would bring discipline to that. This Congress could not pass a new program unless they took money from an existing program. Then when an existing program needed more money, then you would have to say well, you would have to establish priorities and say yes, the need here is greater than the need over in this agency, so we are going to move the spending in that way, staying under a 4-percent cap.

Mr. BURTON of Indiana. We would have to make tough choices. But that is what we were elected to do. We have not been doing it. We have been caving in to more spending year in and year out.

I would like to add one more thing. Some Members think a group of us got together and threw this package together. The fact of the matter is we worked for months with leading think tanks around town, the Heritage Foundation, the U.S. Chamber of Commerce, and other leading organizations.

Mr. DELAY. Citizens For a Sound Economy.

Mr. BURTON of Indiana. Citizens For a Sound Economy, who really have some grasp of the problem. I think this is a very well-thought-out solution. I am glad the gentleman from Texas has taken such a leadership role in the fight for sanity around this place.

Mr. DELAY. I just really feel that we really have got to look at this very closely. I am still looking at it. It would be nice to find something in here that you could take and say yeah, that is good enough for me to vote for this package. It is a very complicated package, I must say.

Mr. BURTON of Indiana. It would be something that if we wanted to get out of here and go home and just get on with the campaign, that we could vote for and just leave. But it would be an irresponsible thing for you or me or most Members to vote for this package, knowing the long-term damage it is going to do to the American economy.

Mr. DeLAY. If we defeat this agreement, the world does not come to an end.

□ 2020

Other packages can be put together. Congress can do its job and send packages to the President, spending bills and tax bills and budget reconciliations to the President. If he does not like them, he can veto them. They can work something out using those vehicles, or they can pass our solution. There are other ways of doing it.

The world does not come to an end, and I hope this House, and particularly the American people, are not duped by the doomsday sayers that are out there claiming fiscal chaos if we go into sequestration or if this agreement does not pass, that this agreement is the only thing available to us, and it is now or never, and scaring the American people into once again, once again accepting higher spending and higher taxes to pay for it.

Mr. BURTON of Indiana. I thank the gentleman.

Mr. DeLAY. I thank the gentleman for taking this special order.

Mr. BURTON of Indiana. I thank my colleague from Texas for his valuable contribution tonight. I hope our colleagues who may be paying attention to this special order will at least look at the logic, what I think is the logic of the 4-percent solution.

Mr. Speaker, I yield the balance of my time.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Engel (at the request of Mr. Gephardt) for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Ridge) to revise and extend their remarks and include extraneous material:)

Mr. DeLay, for 5 minutes, today.

Mr. Douglas, for 5 minutes, today.

Mr. Dornan of California, for 5 minutes, today.

Mr. Dreier of California, for 60 minutes each day, on October 2, 3, 4, 5, 9, 10, and 11.

(The following Members (at the request of Mr. McNulty) to revise and extend their remarks and include extraneous material:)

Mr. Bonior, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Durbin, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Traxler following Mr. Hamilton on House Joint Resolution 658.

Mr. Nowak, during general debate on H.R. 4299, the Great Lakes Fish and Wildlife Restoration Act of 1990.

Mr. Hyde, prior to the passage of H.R. 5007.

(The following Members (at the request of Mr. Ridge) and to include extraneous matter:)

Mr. Kyl.

Mr. Gingrich.

Ms. Ros-Lehtinen.

Mr. McDade.

Mr. Gilman in two instances.

Mr. Conte.

Mr. Bilirakis.

Mr. Schaefer.

Mr. Rinaldo.

Mr. Bereuter.

Mr. Gunderson.

(The following Members (at the request of Mr. McNulty) and to include extraneous matter:)

Mr. Dyson.

Mr. Donnelly.

Mr. Anderson in 10 instances.

Mr. Brown of California in 10 instances.

Mr. Annunzio in six instances.

Mrs. Lloyd in five instances.

Mr. Hamilton in 10 instances.

Mr. de la Garza in 10 instances.

Mr. Crockett.

Mr. Weiss.

Mr. Stark.

Mr. Wolpe.

Mr. Dorgan of North Dakota.

Mr. Bonior.

Mr. Clay.

Mr. Lehman of California.

Mr. McMillen of Maryland.

Mr. AuCoin.

Mr. Towns.

Mr. Tallon.

Mr. Bruce.

Mrs. Kennelly.

SENATE BILLS REFERRED

Bills and joint resolutions of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1657. An act for the relief of Trevor Henderson; to the Committee on the Judiciary.

S. 2981. An act to amend the Federal charter for the Boys' Clubs of America to reflect the change of the name of the organization to the Boys & Girls Clubs of America; to the Committee on the Judiciary.

S. 3016. An act for the relief of Janice and Leslie Sedore and Ruth Hillman; to the Committee on the Judiciary.

S. 3091. An act to amend the Act incorporating the American Legion so as to redefine eligibility for membership therein; to the Committee on the Judiciary

S.J. Res. 270. Joint resolution to designate the period commencing Februray 17, 1991, and ending February 23, 1991, as "National Visiting Nurse Associations Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 293. Joint resolution to designate November 16, 1990, as "National Philanthropy Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 307. Joint resolution designating November 11 through November 17, 1990, as "National Women Veterans Recognition Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 323. Joint resolution designating November 11 through 17, 1990, as "Geography Awareness Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 340. Joint resolution designating the week beginning November 11, 1990, as "National Disabled Veterans Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 347. Joint resolution designating April 7 through 13, 1991, as "National County Government Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 349. Joint resolution designating October 1990 as "Italian-American Heritage and Culture Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 353. Joint resolution to designate September of 1991 as "National Rice Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 358. Joint resolution to designate February 7, 1991, as "National Women and Girls in Sports Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 362. Joint resolution to designate the period commencing on November 18, 1990, and ending on November 24, 1990, as "National Adoption Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 366. Joint resolution to designate March 30, 1991, as "National Doctors Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 367. Joint resolution to designate the week of November 11 through 17, 1990, as "Gaucher's Disease Awareness Week"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles which were thereupon signed by the Speaker:

H.R. 3007. An act to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to provide additional authorizations for appropriations.

H.R. 5755. An act to extend the temporary increase in the public debt limit; and

H.J. Res. 655. Joint resolution making continuing appropriations for the fiscal year 1991, supplemental appropriations for "Operation Desert Shield" for the fiscal year 1990, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills and a joint resolution of the House of the following titles:

On October 1, 1990:

H.R. 5755. An act to extend the temporary increase in the public debt limit;

H.J. Res. 655. Joint resolution making continuing appropriations for the fiscal year 1991, supplemental appropriations for "Operation Desert Shield" for the fiscal year 1990, and for other purposes; and

H.R. 5747. An act to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

AJOURNMENT

Mr. BURTON of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 22 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, October 2, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Senate's table and referred as follows:

3977. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Turkey for defense articles (transmittal No. 91-01), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3978. A letter from the Secretary of Defense, transmitting his certification that the current 5 defense program fully funds the support costs associated with the Family of Heavy Tactical Vehicles Program; to the Committee on Armed Services.

3979. A letter from the Secretary of Education, transmitting a copy of the Stafford Loan, Supplemental Loans for Students, PLUS, and Consolidation Loan Programs—Notice of Interpretation, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3980. A letter from the Assistant Secretary for Conservation and Renewable Energy, Department of Energy, transmitting the annual report for fiscal year 1989 on Federal Government Energy Management and Conservation Programs, pursuant to 42 U.S.C. 8253 nt.; to the Committee on Energy and Commerce.

3981. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Turkey for defense articles and services (Transmittal No. 91-01), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3982. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to Germany (Transmittal No. 17-90), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

3983. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, transmitting a followup summary of activities proposed for funding in Peru during fiscal year 1990 by AID's Latin America and Caribbean Bureau, pursuant to 22 U.S.C. 2151u(e); to the Committee on Foreign Affairs.

3984. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of the President's determination that the "Agreement on Trade Relations Between the Government of the United States and the Government of the Czechoslovak Federative Republic" will promote the purposes of the Trade Act of 1974 and is in the national interests, pursuant to 19 U.S.C. 2437(a); to the Committee on Ways and Means.

3985. A letter from the Comptroller General, General Accounting Office, transmitting the initial analysis of the estimated costs of the assistance agreements the FSLIC entered into during 1988 and 1989 (GAO/AFMD-90-81, September 1990), pursuant to 12 U.S.C. 1441a nt.; jointly, to the Committees on Banking, Finance and Urban Affairs and Government Operations.

3986. A Communication from the President of the United States, transmitting notification of the President's intention to exercise authority under section 506(a) of the Foreign Assistance Act of 1961, as amended, in order to provide military assistance to Israel, pursuant to 22 U.S.C. 2318(b)(2); jointly, to the Committees on Foreign Affairs and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3960. A bill to increase the amounts authorized to be appropriated for the Colorado River Storage Project, and for other purposes; with an amendment (Rept. 101-764, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.J. Res. 647. Joint resolution disapproving the recommendation of the President to extend nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China (Rept. 101-772). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.J. Res. 649. Resolution approving the extension of nondiscriminatory treatment (most favored nation treatment) to the products of Czechoslovakia (Rept. 101-773). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Science, Space, and Technology. H.R. 37. A bill to authorize the water resources research activities of the United States Geological Survey, and for other purposes; with amendments (Rept. 101-774, Pt. 1). Ordered to be printed.

Mr. ROE: Committee on Science, Space, and Technology. H.R. 2734. A bill to inaugurate a comprehensive program of environmental research, development, and demonstration relating to contamination and depletion of ground water and ground water resources; and to establish an Interagency Ground Water Research Committee to improve coordination among Federal agencies and provide assistance for implementation of State management programs; with an amendment (Rept. 101-775, Pt. 1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1747. An act to provide for the restoration of Federal recognition to the Ponca Tribe of Nebraska, and for other purposes; with amendments (Rept. 101-776). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 2680. An act to provide for the conveyance of lands to certain individuals in Stone County, Arkansas (Rept. 101-777). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5063. A bill to provide for the settlement of the water rights claims of the Fort McDowell Indian Community in Arizona and for other purposes; with an amendment (Rept. 101-778). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2582. A bill to amend the Historic Sites, Buildings, and Antiquities Act; with amendments (Rept. 101-779). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5004. A bill to amend the Wild and Scenic Rivers Act to designate certain segments of the Mills River in the State of North Carolina for potential addition to the Wild and Scenic Rivers System; with an amendment (Rept. 101-780). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5402. A bill to amend the Wild and Scenic Rivers Act to designate certain segments of the Allegheny River in the State of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes; with amendments (Rept. 101-781). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 2059. An act to establish the Weir Farm National Historic Site in the State of Connecticut with an amendment (Rept. 101-782). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4630. A bill to exchange certain lands in the State of New Mexico, and for other purposes; with amendments (Rept. 101-783, Pt. 1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5428. A bill to designate certain public lands in the State of Illinois as wilderness, and for other purposes (Rept. 101-784, Pt. 1). Ordered to be printed.

Mr. JONES of North Carolina. H.R. 5206. A bill to provide for the bonding of nonvessel-operating common carriers, and for other purposes; with an amendment (Rept. 101-785). Referred to the Committee of the Whole House on the State of the Union.

Mr. BONIOR: Committee on Rules. House Resolution 484. Resolution providing for the consideration of H.R. 4300, a bill to amend the Immigration and Nationality Act to revise the system of admission of aliens on the basis of family reunification and to meet identified labor shortages, and for other purposes (Rept. 101-786). Referred to the House Calendar.

Mr. HAWKINS: Committee of conference. Conference report on S. 1824 (Rept. 101-787). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GOODLING (for himself, Mr. Hawkins, Mr. Clay, and Mrs. Roukema):

H.R. 5759. A bill to amend the Age Discrimination in Employment Act of 1967 to clarify the application of such act to employee group health plans; to the Committee on Education and Labor.

By Mr. DELLUMS (for himself and Mr. Bliley):

H.R. 5760. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to establish a predictable and equitable method for determining the amount of the annual Federal payment to the District of Columbia and to simpify congressional review of District acts; jointly, to the Committees on the District of Columbia and Rules.

By Mr. ARMEY (for himself, Mr. Kasich, Mr. DeLay, Mr. Burton of Indiana, Mr. Craig, Mr. Douglas, Mr. Inhofe, Mr. Hancock, Mr. Denny Smith, Mr. Emerson, Mr. Herger, Mr. Kyl, Mr. Ballenger, Mr. Parris, Mr. Smith of New Hampshire, Mr. Dannemeyer, Mr. Walker, Mr. Lightfoot, Mr. Nielson of Utah, Mr. Packard, Mr. Holloway, Mr. Shumway, Mr. McEwen, Mr. Rohrabacher, and Mr. Hunter:

H.R. 5761. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to limit increases in outlays to 4 percent per year, to provide for midyear sequesters in order to assure that deficit and outlay targets are achieved, and to amend the Congressional Budget Act of 1974 to extend the deficit targets; jointly, to the Committees on Government Operations; Banking, Finance and Urban Affairs; and Rules.

By Mr. CROCKETT (for himself and Mr. Lagomarsino):

H.R. 5762. A bill to promote Caribbean regional development; to the Committee on Foreign Affairs.

By Mr. JACOBS:

H.R. 5763. A bill to amend the Internal Revenue Code of 1986 to clarify that Social Security taxes shall not apply to payments made to State and local government employees under laws in the nature of workmen's compensation acts; to the Committee on Ways and Means.

By McDADE (for himself and Mr. LaFalce):

H.R. 5764. A bill to amend the Small Business Act to exempt the Small Business Administration and financial and lending institutions from liability under certain Federal environmental laws with respect to property when title or control of the property is acquired by the Administration or the financial or lending institution under the terms of a business or disaster loan; jointly, to the Committees on Small Business and Energy and Commerce.

By Mr. MANTON:

H.R. 5765. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide a lump sum payment to public safety officers who become totally and permanently disabled as a result of a catastrophic injury sustained in the line of duty, and for other purposes; to the Committee on the Judiciary.

By Ms. MOLINARI:

H.R. 5766. A bill to amend the Federal Charter for the Boys' Clubs of America to reflect the change of the name of the organization to the Boys & Girls Clubs of America; to the Committee on the Judiciary.

By Mr. SHARP:

H.R. 5767. A bill to establish a national energy strategy for the United States that reflects concern for the global environmental consequences of current trends in atmospheric concentrations of greenhouse gases, and for other purposes; to the Committee on Energy and Commerce.

By Mr. TAUZIN (for himself and Mr. Hayes of Louisiana):

H.R. 5768. A bill to provide for the creation, restoration, protection, enhancement, and conservation of coastal wetlands, to conserve North American wetland ecosystems, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

By Mr. WHITTEN:

H.J. Res. 660. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes; to the Committee on Appropriations.

By Mr. SERRANO (for himself, Mr. Dellums, Mr. Engel, Mr. Hawkins, Mr. Owens of New York, Mr. Payne of New Jersey, Mr. Schumer, Ms. Slaughter of New York, Mrs. Unsoeld, and Mr. Washington):

H.J. Res. 661. Joint resolution designating October 31, 1990, as "Pediatric Aids Awareness Day"; to the Committee on Post Office and Civil Service.

By Mr. WEISS (for himself and Mr. Leach of Iowa):

H.J. Res. 662. Joint resolution to designate December 1, 1990, as "World AIDS Day"; to the Committee on Post Office and Civil Service.

By Mr. BRUCE (for himself, Mr. Applegate, Mrs. Bentley, Mr. Burton of Indiana, Mr. Costello, Mr. Dingell, Mr. Durbin, Mr. Eckart, Mr. Evans, Mr. Gaydos, Ms. Kaptur, Mrs. Lloyd, Ms. Long, Mr. Poshard, Mr. Scheuer, Mr. Tauzin, Mr. Traficant, Mr. Wise, and Mr. Wolpe):

H. Con. Res. 377. Concurrent resolution regarding the negotiation of a free trade agreement with Mexico; to the Committee on Ways and Means.

By Mr. MARKEY (for himself, Mr. Dingell, Mr. Lent, and Mr. Rinaldo):

H. Res. 483. Resolution to provide for the concurrence of the House to the amendment of the Senate to the bill (H.R. 1396) with an amendment.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

504. By the SPEAKER: Memorial of the Legislature of the State of California, relative to military bases; to the Committee on Armed Services.

505. Also, memorial of the Legislature of the State of California, relative to military base closures; to the Committee on Armed Services.

506. Also, memorial of the Legislature of the State of California, relative to earthquake insurance; to the Committee on Banking, Finance and Urban Affairs.

507. Also, memorial of the Legislature of the State of California, relative to the Transition Program for Refugee Children; to the Committee on Education and Labor.

508. Also, memorial of the Legislature of the State of California, relative to Federal motor vehicle safety standards for multipurpose passenger vehicles; to the Committee on Energy and Commerce.

509. Also, memorial of the Legislature of the State of California, relative to television violence; to the Committee on Energy and Commerce.

510. Also, memorial of the Legislature of the State of California, relative to corporations; to the Committee on Energy and Commerce.

511. Also, memorial of the Legislature of the State of California, relative to a national health care plan; to the Committee on Energy and Commerce.

512. Also, memorial of the Legislature of the State of California, relative to broadcasting emergency information; to the Committee on Energy and Commerce.

513. Also, memorial of the Legislature of the State of California, relative to Lithuania; to the Committee on Foreign Affairs.

514. Also, memorial of the Legislature of the State of California, relative to a sister State agreement; to the Committee on Foreign Affairs.

515. Also, memorial of the Legislature of the State of California, relative to rain forests; to the Committee on Foreign Affairs.

516. Also, memorial of the Legislature of the State of California, relative to the Israeli Plan for Free and Democratic Elections; to the Committee on Foreign Affairs.

517. Also, memorial of the Legislature of the State of California, relative to the Bodie Mining District; to the Committee on Interior and Insular Affairs.

518. Also, memorial of the Legislature of the State of California, relative to fish and wildlife; to the Committee on Interior and Insular Affairs.

519. Also, memorial of the Legislature of the State of California, relative to creditors committees in bankruptcy proceedings; to the Committee on the Judiciary.

520. Also, memorial of the Legislature of the State of California, relative to coastal waters; to the Committee on Merchant Marine and Fisheries.

521. Also, memorial of the Legislature of the State of California, relative to air transportation; to the Committee on Public Works and Transportation.

522. Also, memorial of the Legislature of the State of California, relative to industrial development and mortgage revenue bonds; to the Committee on Ways and Means.

523. Also, memorial of the Legislature of the State of California, relative to Vietnam veterans exposed to agent orange; to the Committee on Veterans' Affairs.

524. Also, memorial of the Legislature of the State of California, relative to civil rights; jointly, to the Committees on Education and Labor and the Judiciary.

525. Also, memorial of the Legislature of the State of California, relative to tuna product labeling; jointly, to the Committee on Energy and Commerce and Merchant Marine and Fisheries.

526. Also, memorial of the Legislature of the State of California, relative to Hawaiian

rain forests; jointly, to the Committee on Energy and Commerce and Interior and Insular Affairs.

527. Also, memorial of the Legislature of the State of California, relative to oilspills; jointly, to the Committee on Merchant Marine and Fisheries and Public Works and Transportation.

528. Also, memorial of the Legislature of the State of California, relative to the unemployment insurance shortfall; jointly to the Committee on Ways and Means and Appropriations.

529. Also, memorial of the Legislature of the State of California, relative to retirements; jointly, to the Committee on Ways and Means and Energy and Commerce.

530. Also, memorial of the Legislature of the State of California, relative to gasoline prices; jointly to the Committee on Energy and Commerce, Ways and Means, and the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1400: Mr. Flake.

H.R. 2037: Mr. Young of Alaska.

H.R. 2418: Mr. Jenkins.

H.R. 3513: Mr. Parris.

H.R. 4392: Mr. Jontz.

H.R. 4495: Mr. McCrery and Mr. Hoagland.

H.R. 4814: Mr. Sundquist.

H.R. 4840: Mr. Brennan and Mr. Valentine.

H.R. 5176: Mr. Bennett.

H.R. 5203: Mr. Jacobs.

H.R. 5244: Mr. Fish.

H.R. 5367: Mr. Richardson.

H.R. 5416: Mr. Fields.

H.R. 5426: Mr. Owens of Utah.

H.R. 5464: Mr. Dymally and Mr. Gray.

H.R. 5562: Mr. Vander Jagt and Mr. Shays.

H.R. 5592: Mr. Bateman, Mr. Holloway, Mr. Lipinski, Mr. Lagomarsino, Mr. Gilman, Mr. Herger, Mr. Shumway, Mr. Applegate, Mr. Solomon, Mr. Ritter, Mr. Donald E. Lukens, and Mr. Rogers.

H.R. 5596: Mrs. Saiki, Mr. McDermott, Mr. Mrazek, Mr. Horton, Ms. Pelosi, and Mr. Roe.

H.R. 5601: Mr. Fish.

H.R. 5616: Mr. Frank.

H.R. 5630: Mr. Fish.

H.R. 5671: Ms. Kaptur, Mrs. Patterson, Mr. Dwyer of New Jersey, and Mr. Tallon.

H.R. 5677: Mr. Miller of Washington and Mr. Horton.

H.R. 5690: Mr. Rose, Mr. Berman, Mr. Horton, Mr. Gilman, Mr. Wolf, Mr. Hertel, and Mr. Bliley.

H.R. 5707: Mr. Synar and Mr. Wise.

H.R. 5736: Mr. Sarpalius, Mr. Boucher, Ms. Kaptur, Mr. Solomon, Mr. Horton, and Mr. Roe.

H.J. Res. 214: Mr. Wolpe, Mr. Wilson, Mr. Tauzin, Mr. Slattery, Mr. Savage, Mr. Stangeland, Mr. Owens of Utah, Mr. Murphy, Mr. Pallone, Mr. McMillen of Maryland, Mr. McDermott, and Mr. Vento.

H.J. Res. 353: Mr. LaFalce and Mr. Panetta.

H.J. Res. 509: Mr. Sundquist, Mr. Wise, and Mrs. Bentley.{H01OC0-K1}{H8595●Res. 595

H.J. Res. 595; Mr. Murphy, Mr. Bates, Mr. Chandler, Mr. de Lugo, Mr. Dicks, Mr. DeWine, Mr. Evans, Mr. Guarini, Mr. Hefner, Mr. Hunter, and Mr. Hyde.

H.J. Res. 613: Mr. Eckart, Mr. Young of Alaska, Mr. Stenholm, Mr. DeFazio, Mr. Bunning, Mr. Sabo, Mr. Pursell, Mr. Whittaker, Mr. Wylie, Mr. Pickle, Mr. Hiler, Mr. Thomas of California, Mr. Nagle, Mrs. Byron, Mr. Rhodes, Mr. Ballenger, Mr. Wyden, Mr. Rogers, Mr. Sikorski, Mr. AuCoin, and Mr. Poshard.

H.J. Res. 658: Mr. Lantos and Mr. McCloskey.

H. Con. Res. 91: Mr. Flippo and Mr. Jacobs.

H. Con. Res. 177: Mr. DeFazio.

H. Con. Res. 259: Mr. Slattery, Mr. Natcher, Mr. Dymally, Mr. Flake, Mr. Geren of Texas, and Mr. Nagle.

H. Con. Res. 346: Mr. Lagomarsino, Mr. Fish, Mr. Solomon, and Mr. Roe.

H. Con. Res. 371: Mr. Jontz and Mr. Gejdenson.

H. Con. Res. 372: Mr. Olin, Mr. Weiss, Mr. Hughes, and Mr. Pease.

H. Con. Res. 374: Mr. Thomas of California, Mr. Ritter, Mr. Lent, and Mr. Fish.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

238. By the SPEAKER: Petition of the Seventh Northern Marianas Commonwealth Legislature, relative to the United Nations Global Convention on the Rights of the Child; to the Committee on Foreign Affairs.

239. Also, petition of the Governor of the State of New Jersey, relative to the reauthorization of the Delaware River & Bay Authority Compact as passed by the New Jersey Legislature; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

EDUCATIONAL CHOICE: MORE REASONS TO GIVE IT A CHANCE

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. GINGRICH. Mr. Speaker, the following remarks were made by the Honorable Pete DuPont at the Rotary Club of Wilmington, DE, on September 13. His speech reinforces my belief that educational choice, not more money, is the only solution that will save our education system from its current destruction from irresponsible bureaucratic control.

I think it is important for all my colleagues to read this speech and realize that choice education is indeed a step in the right direction to solving the problems of our education system. It is time to give our young people a chance to obtain a better education by eliminating bureaucracy and allowing individuals to take charge of their education.

The remarks follow:

THE POWER TO CHOOSE: AN EDUCATION SCHOLARSHIP PLAN

(REMARKS OF HON. PIERRE S. DUPONT IV)

During my eight years as Governor, I spent a great deal of time working to improve our education system. An explosion of new programs were enacted: student testing, teacher testing, gifted and talented programs, special programs for learning disabled children—the list was long and comprehensive. I served as Chairman of the Education Commission of the States so that we could learn from the other 49 states about their ideas, to help us in putting effective reforms into place in Delaware.

You remember those years, the years in which everyone was talking about education and the need to do something about it. The national dialogue began in 1983, with the National Committee on Excellence in Education's widely published report, "A Nation at Risk". One sentence from the report said it all: "If an unfriendly foreign power had attempted to impose on America the mediocre educational performance that exists today, we might well have viewed it as an act of war. As it stands, we have allowed this to happen to ourselves."

In response, Delawarean's gathered expert advice, we marshalled our resources and launched an all-out effort to improve education.

The experts said decrease class size, so we did, by 11% since 1982.

The experts said increase teachers' salaries, so we did. Since 1980, teachers' salaries in Delaware have risen twice as fast as the salaries of others; today, the average teacher's salary is $33,400, 39% more than the average worker's salary in our state.

The experts said increase the number of math and science courses that students must take. We now require two additional courses for graduation.

The experts said to begin teaching children earlier to allow them to have a longer academic career, so we did that too, through mandatory kindergarten.

And the experts said to spend money—and, oh my, did we spend money.

Spending on education across America, since 1983, has grown twice as fast as inflation (education expenditure is up 70%; inflation up 30%). In Delaware, spending per pupil has increased 102% since 1980, while inflation during the same time has increased 66% (see chart). In Delaware, we spend an average of $5,900 educating each student, compared with the national average of $4,900.

So for all our time, for all our efforts, for all of this "cash register mentality," just what have we accomplished? Sadly, not very much.

Twenty-nine percent of American students who enter the ninth grade fail to graduate from high school; at some of our worst schools, this dropout rate exceeds 50%. Half of our high school seniors cannot identify Robert E. Lee; cannot locate France on a map, and cannot identify the century in which the first world war occurred. The number of high school seniors scoring above 750 on the combined verbal and math sections of the SAT's is 50% lower than it was 10 years ago. On international math and science tests, American students score twelfth best in the world.

In Delaware, we are not doing much better. Delaware students rank fortieth from the top of the 50 states in their scores on the armed forces qualification test. Delaware's high school dropout rate is 31%, up from 26% in 1980. In 1980, Delaware's SAT scores were 10 points higher than the rest of the United States. Today we have fallen back to the national average.

For more than a decade, we have worked at the margins, and we have failed. We have spent money, huge sums of money, and we have failed. While we reformed and spent, and spent and reformed, performance has continued to decline. Spending is up, performance is down. Clearly something is very, very wrong.

You know, when I left office in 1985, I was proud of the job we had done in education and the foundation I thought we had laid to see that future generations of Delawareans were better prepared to meet the challenges of life in the Twenty-first Century. It turns out in addition to being proud, I was also mistaken. We have not succeeded in increasing the ability of children to learn; indeed, while we have spent our resources our children have fallen further and further behind their counterparts in other nations. Our national wealth—the ability of our young to learn—has been quietly slipping through our fingers.

But how can this be? With all the effort, all the resources, the partnerships and the good intentions, how can it be that it has come to naught, that we are losing out in the race for knowledge?

For two reasons, I think. One is that the world has changed, dramatically changed, in the past decade.

All of us have read articles and listened to reports telling us that America needs to keep pace with changes around the globe. It's true—the world is a very different place than it once was. It seems like only yesterday when the world superpowers could measure their economic influence by sheer numbers—numbers of factories, the amount of copper they could mine, power they could generate, steel they could forge, the amount of capital they could control. In that era, the U.S. was on top.

But today, the world is a very different place. Borders no longer contain competition. A nation's wealth is no longer measured by the ton of product. The 1980's brought the technology of the information age, and today information is capital; instead of wealth and power coming from material resources; it comes now from information—information generated by the imagination and creativity of free people.

Nations which have played by the old rules, stifling individual initiative denying freedom, placing stock in huge bureaucracies to manage their economies, have failed.

One quick look at the Soviet Union and Eastern Europe proves that centrally planned economies have failed. They cannot grow wheat, or put oranges on the grocery shelves, or provide a decent standard of living for their people. The triumph of individual creativity in the West over centralized planning in the East is obvious to all.

In this new era, when the fundamental driving force for an improved standard of living and increased wealth for all of us is knowledge, it is truly a wonder that one of the last remaining vestiges of monopolistic bureaucracy lies in the education system of the United States of America.

Think about it. In the United States, the government decides where our children go to school, when our children go to school, who teaches them, what books they read, what tests they take, what results are to be achieved, and even what they eat for lunch. Education in America is a system of total government control forced on all of us by rule of law.

I believe that is the second reason we are falling behind, because as knowledge has become more important in our world, our centrally planned education system has been unable to keep up, so American students have continued to fall farther and farther behind.

During the 1970's and 1980's, our nation's productivity growth suddenly fell from nearly 3% a year to 2%. Professor John Kendrick of George Washington pointed out that one of the key reasons accounting for approximately 70% of the decline is the "knowledge factor." It should come as no surprise that when the most precious commodity of the information revolution—knowledge—is provided by a bureaucratic system which would be the envy of the Soviet Union, productivity in our country would fall.

Now, instead of wringing our hands and talking about the continued decline in American education, it's time for us to all agree that we've been on the wrong course, and we need to set a new one. We need to admit to ourselves that a school system is not an island unto itself. It is buffeted by the same winds of change that have overcome so many other institutions in our new world.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

In virtually every segment of our society we have a rolling, 24-hour referendum by consumers on the products they accept. It is this ability to switch horses, to change products, to abandon the inferior and embrace the superior that gives free enterprise its fundamental superiority—both morally and practically—over centrally planned economies. Do you think General Motors would ever have attempted to improve its automobiles without Japanese competition? Do you think that the cost of electronic equipment would have come down as fast as it has without competition? Do you think you would be able to get the kind of food, clothing, and other consumer items you desire at a price you can afford if there were only one source of supply? Of course not. And yet, we have but one source of supply in education—where the government supplies the "one best product."

I recently read a humorous piece in the Wall Street Journal written by a good friend, Phil Wingate, formerly of the Du Pont Company, who lives here in Wilmington. Phil recounted an amusing encounter with a Soviet government official in a Wilmington drug store. The Soviet was perplexed by the numerous varieties of aspirin available to the American consumer, wondering whether the government enforced controls to ensure each brand was adequately allocated to each city and town across the country. While Boris might not understand the variety and the force of competition in our aspirin market, I am sure he would understand the "one best product" system of our educational establishment.

But America did not come to grow and prosper through 200 years with the government providing "one best product." It is time to bring the proven American values of choice and competition into education, to replace a centrally planned education system run from Washington and Dover, with a customer drive system in which parents choose the schools for their children and schools must compete for their students.

We should have dozens, if not hundreds, of different kinds of schools which offer choices to our children. We should have schools which specialize in mathematics; schools which specialize in English and grammar; schools which specialize in discipline; in the arts and science, schools which meet in the evenings and in the summer. Education is an industry in which a thousand flowers should bloom. And they can bloom, not by the wise decisions of well-intentioned government planners, but only by thousands of free choices made by millions of free people in a free society.

Allowing parents to choose their schools makes all kinds of sense. Choice ends the stifling bureaucracy that has given us the twelfth best schools in the world.

Choice means fairness—giving all families access to the best schools now within the economic grasp of only the few. It is poor and middle class working families whose children are most often trapped in inferior schools.

Choice means power—the power of every parent to choose the school best suited to each child—the power to choose our child's education as we choose our jobs, our houses, our churches and our leaders.

But most of all, choice forces all schools to improve to survive in the competitive marketplace and this raises the quality of education in every classroom in every school.

A choice program would be relatively easy to implement in Delaware. We are small enough, homogenous enough, and because state government provides 70% of the total funding for education, implementation is manageable.

Here's how a choice plan might work. Beginning in 1992, each school district in Delaware would have the option of adopting an "Education Scholarship Program", either by majority vote of the School Board or by the voters in a referendum. No district would be required to participate in the plan.

Once a choice plan has been approved by the School Board or by the voters of a particular district, it would be phased into elementary schools, one grade at a time to avoid disruption, beginning with first grade in 1992. The parents of each first grade student would in the spring make a selection, choosing to send their child to any government first grade school in their home school district, or to any government school in another district which would accept the student, or, in the alternative, parents could accept a $2,150 scholarship for their child to attend any accredited private first grade school within or outside Delaware. The $2,150, will more than cover the tuition at 31 of the 39 private schools in Delaware. Once choice is fully phased into elementary schools, school districts could elect to move more quickly to bring choice to the remaining grades.

Parents thus have one of three choices to make: to send their child to a government school in the school district in which they live; to send their child to a government school in another district which would accept that child; or to send the child to a private school of the family's choice using the scholarship to cover the cost of tuition.

This proposal is a win-win proposal for all segments of the educational community. For parents, it provides a choice of schools to which to send their children, to insure that each child learns in the best environment possible for that individual child.

Local school districts win too. Because the cost of operating Delaware's government schools is so much greater than tuition at private schools ($6,000 per student versus $2,100 per student), there will be extra dollars to educate children choosing government schools. For every student that departs a government school, approximately $2,000 of the $6,000 it cost to educate the departing student will be retained by the district to upgrade programs for the remaining students. While the local school district would have less total dollars, it would have more dollars per student to run its programs for the remaining students.

Such a plan would have special provisions to deal with Federal dollars, the transportation of students, disadvantaged and handicapped students. No district would be allowed to discriminate in accepting or rejecting any student on the basis of race, creed or color and each local school district would continue to have the same desegration obligations which it has under existing court orders.

All of us know we must do better, that America is losing out, that our current education system is failing us. Teachers know it. Education professionals know it. Parents know it. So do you and I. I know it from the perspective of a state legislator, a Congressman, a Governor, Chairman of the Education Commission of the States and a parent. I have spent a career in, around, and part of the government education system of America. And you know it from your own first-hand experience. What we have is not good enough. We need a dramatic change for the better.

It is time for the citizens of Delaware to demand a better system of education for our children. Complacency is easy and understandable. The most fortunate on the economic ladder feel secure because their children are in the government schools that are perceived to be the best—in the Brandywine District, for example. But its a false sense of security. While parents may think that Brandywine schools are superior to some of the other schools in our state, they are nowhere near as good as the best schools around the globe which are turning out students with which Brandywine's students must compete. And that is where true competition will come, in the years ahead. Parents shouldn't be content if their children are in schools perceived to be better than others in Delaware; they should be worried to death by the Japanese schools, the German schools, schools of the Pacific Rim and the emerging democracies.

The struggle for choice will not be easy, for virtually every entrenched bureaucracy will fight to the death to preserve its monopoly position.

Choice will be opposed by some elected officials in the State of Delaware, by many educational bureaucrats, by vocal members of the teachers' union, all of whom believe, of course, that they are better able to make education decisions for your children than you are. Criticism may come in a scholarly way from traditional-thinking school superintendents, none of whom have ever had to compete with other schools for students, and from the 1960's thinking of some members of our press corps. There will be technical criticisms too—of transportation formulas, funding balances, and the like.

But change we must, for we are losing out. We must bring choice to parents, competition into our system and opportunity into our classrooms. We must fundamentally restructure education in Delaware. We have the tools, we have the educated populace, we have a compact state, we have the financial resources, and we have the leadership.

In the coming months, let us begin a dialogue within our community—with parents, teachers, government leaders, business groups, community activists—to make a choice plan work for Delaware. I hope you will join me and bring your views into the debate.

Now is the time to end the government stranglehold on the education of our children, to bring excellence, opportunity and a world-class education into every classroom, and place the power of choice on the kitchen table of every Delaware family. Delaware's future—and the future of the next generation of Delawareans—depends upon it.

EXPOSING ISRAELI VIOLENCE

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. CROCKETT. Mr. Speaker, for the past several weeks, all of our attention seems to have been focused on the crisis in the gulf. I would hope, however, that we would not lose sight of the need to solve another ongoing crisis in the Middle East—the Israeli-Palestinian conflict.

Today, I would like to call my colleagues' attention to two thoughtful and revealing pieces on that situation: A column entitled, "Exposing Israeli Violence," written by Colman McCarthy of the Washington Post and factsheets taken from the Swedish Save the Children report on "The Status of Palestinian Children During the Uprising in the Occupied Territories." These pieces document Israel's brutal response to the Palestinian uprising—now approaching its third year.

I believe that they raise important enough questions to want to bring it to the attention of Members of Congress because our Government's policy has been to turn a blind eye to the kinds of injustices these pieces discuss. I submit that unless U.S. policy changes—unless this country holds Israel to the same standards its sets for other governments and encourages the Israeli Government to compromise—no peace will be possible in that troubled region of the world.

I, therefore, ask that Mr. McCarthy's column and the Swedish Save the Children factsheets be included in today's CONGRESSIONAL RECORD.

EXPOSING ISRAELI VIOLENCE

(By Colman McCarthy)

A headline in a recent Jerusalem Post captured the current low state of Israeli justice in the Occupied Territories: "Soldier Kills Man, Gets 4 Months; Youth Stones Bus, Gets Two Years."

The soldier was a sergeant who fired bullets into a West Bank group of Palestinian demonstrators who were fleeing an Israeli military raid. A 22-year-old man, unarmed, fell dead. The youth was a Palestinian boy of 16 who hurled stones at an Israeli bus in the Bethlehem area. No bus rider was hurt.

What was reported in the Jerusalem Post didn't make the Western press. By ordinary news judgment, why should it? Double-standard Israeli justice has become normalized to the point that the frequency of horror stories has sapped them of impact. It's enough only to notice that in recent months a few nonpartisan groups have continued to report on the brutalization of Palestinians by the Israeli government, and to say that no matter how commonplace the violence becomes the world will be told.

In May, a 1,000-page study from the Swedish Save the Children organization, funded by the Ford Foundation, documented that the Israeli army has systematically become a child-killer. Between December 1987 and December 1989, 159 children under age 16 were killed by soldiers. The average age of the dead was 10. Between 50,000 and 63,000 children were beaten, gassed or wounded. More than half of the slain were not near a demonstration when killed. Only 19 percent were involved in stone throwing. Even after slaughtering children, the Israelis weren't content: Soldiers disrupted or interfered with more than half of the funerals.

A month before the Swedish study, Physicians for Human Rights, a Boston advocacy group, reported on health-care services for Palestinian inmates in the three Israeli prison systems. The physicians found the delivery of health services to be "poor," sanitation conditions "unacceptable," health screening "not routinely provided," with no complete medical examinations given to detainees held for weeks or months in police stations. Nor are Israeli health professionals "fulfilling their obligation to prevent physical abuse of the prisoners."

When not killing children or mistreating prisoners, the Israeli military has found other outlets for violence. In May, Amnesty International documented allegations of torture and harassment of Palestinian members of a joint Israeli-Palestinian group called Runners for Peace. The athletes, wearing T-shirts calling for peace between Israelis and Palestinians and jogging through West Bank villages to promote friendship, are seen as threats.

Taken together, these reports and studies, as well as a run of others, ought to be reason enough for the United States to raise Palestinian human rights and civil liberties as a major condition for continued U.S. aid to Israel. A stand is needed now more than ever. The new Shamir government is more militaristic, more self-righteous and more disdainful of Israeli moderates and peace groups than any in Israel's history.

If George Bush can lecture Nelson Mandela on the virtue and necessity of nonviolence, why not the same message to the Shamir government, which needs to hear it a hundredfold more? An irony here is that the Palestinian resistance in recent years has put more faith in nonviolent tactics—strikes, boycotts, demonstrations—than in guns. It was Palestinian moderates, including its pacifists, who unilaterally acted to try to break the cycle of violence. Israel's response? Kill children, bulldoze homes, jail the innocent.

Instead of pressuring Israel, so long overcapitalized with U.S. aid that it is now overbearing in its demands for more, the United States keeps a firm opposition to Palestinians, Jerome M. Segal, president of the Jewish Peace Lobby and a research scholar at the University of Maryland, writes in the current Nation magazine: "Close to 100 countries have now recognized the State of Palestine. The U.S., on the other hand, has set itself sharply in opposition to this emergence of a Palestinian entity, threatening to cut off funds to U.N. agencies that accept Palestine as a member state. But as a recent Rand Corporation report commissioned by the Defense Department maintained, sooner or later there will be a Palestinian state."

It will be later—or better, never—for Sen. Robert Packwood, the Oregon Republican who has sent out a four-page fund-raising letter based on his pro-Israel, anti-Arab voting record. Senatorial duties come second in Packwood's list of urgencies: "Instead of spending all my time raising money for my own reelection campaign, I'd prefer to devote my time and energies to protecting and defending the security of Israel."

Packwood might also devote time to reading what some Swedes and U.S. physicians, plus Amnesty International have been learning about his beloved Israeli government.

FACT SHEET: CHILD DEATH AND INJURY

[9 December 1987-9 December 1989]

A child is defined for this report as under the age of 16 years.

Compared with the first year, second year child death and injury patterns showed:

A 27% increase in child deaths, from 70 to 89. Child gunshot deaths showed a 103% increase, from 35 to 71. Recorded tear gas deaths dropped by 81%.

A 46% increase in total recorded child injuries; the total estimated number of child injuries increased to 30,000-37,000, up from 20,000-25,000.

A 191% increase in child gunshot wounds from high-velocity or plastic bullets; if metal-ball bullets are added, total child gunshot wounds show an increase of 491%. As a percent of all child injuries, high-velocity and plastic bullet wounds increased to 15%, up from 7%; if metal-ball bullets are added, the percent of all gunshot wounds increased to 30%, up from 7%.

A 56% increase in total recorded child beating injuries requiring medical treatment.

A drop in conventional crowd-control weapons injuries requiring medical treatment. Tear gas injuries dropped in number by 34% and dropped as a proportion of all child injuries to 16%, down from 35%. Rubber-coated bullet injuries dropped in number by 59% and dropped as a proportion of all child injuries to less than 3%, down from 9%.

An increased proportion of child casualties (deaths and injuries) among total casualties in gunshot (32%, up from 28%), metal-ball bullets (44%), and beating (36%, up from 35%); and a decreased proportion of tear gas casualties (38%, down from 54%) and rubber-coated bullet casualties (46%, down from 55%).

A 160% increase in the number of children aged 0 to 11 years who were shot dead. The average age remained the same at 12.5 years.

A 30% increase in the number of injured children aged 10 years and under.

A 360% increase in the number of high-velocity and plastic bullet wounds to children aged 10 years and under; if metal-ball bullet wounds are added, total gunshot wounds to these children increased by 1,400%. High-velocity and plastic bullet wounds as a proportion of all injuries sustained by children aged 10 and under increased by 260%; if metal-ball bullets are added, the percent of gunshot injuries increased by 1,100%.

A 140% increase in beating injuries sustained by children aged 10 years and under, and a 116% increase in the age group 5 years and under.

At the end of the second year of the intifada, total two year child death and injury patterns showed:

One hundred fifty-nine children are known to have been killed by gunfire, beating, tear gas, and other intifada-related causes. Gunfire was the leading cause of death over the two years, accounting for 67% of the child deaths; in the last 18 months of the period, gunfire accounted for 78% of the child deaths.

Military personnel were responsible for 94% of the children's deaths.

An estimated 50,000 to 63,000 children, or one out of every 15 to 20 children required medical treatment for gunshot, beating, tear gas, rubber-coated bullet, and other intifada-related injuries during this same period. Nearly half (47%) of the injuries in the sample were caused by beating; 21% by tear gas, and 22% by gunshot (high-velocity, plastic, and metal-ball bullet).

In U.S. population terms, these numbers represent 9,680 American children killed and 3-3.8 million American children injured.

Children accounted for 21% of all recorded deaths and 38% of all recorded casualties (deaths and injuries).

The average age of all children killed was 10 years; the average age for children shot dead was 12.5 years.

Forty percent of the injured children were aged 10 and under.

The sample of 14,117 collected child injury records includes 6,934 child beating

injuries: 2,150 of these beating injuries were sustained by children aged 10 and under and 439 were sustained by children aged 5 and under. Of the 1,689 child gunshot injuries recorded, 229 of the gunshot injuries were sustained by children aged 10 and under, and 39 were sustained by children aged 5 and under.

Although 57% of the children killed were from the West Bank (including East Jerusalem), children in the Gaza Strip, with its smaller population, were 1.4 times more likely to be killed as their counterparts in the West Bank. Two thirds (66%) of the West Bank children killed were from the three northern districts of Jenin, Tulkarem, and Nablus.

More non-camp (city, town, and village) children died than in-camp refugee children. But, since in-camp refugees account for 18% of the total population (though only 58% of all refugees), in-camp refugee children are 4.1 times more likely to be killed than other children.

The largest single group of children killed were non-camp residents of the West Bank, but if population distribution is considered, children living in Gaza refugee camps are at greatest risk.

Fifty-two percent of the children killed were not in the vicinity of a protest activity when killed; another 28% of the children killed were observing or passing a demonstration, hanging a flag, dismantling a barricade, participating in a silent march, dispersing from a demonstration, fleeing from soldiers, marching in a funeral, helping injured demonstrators, or trying to prevent the arrest of a neighbor or friend. Less than a fifth (19%) of the children killed were involved in a stone-throwing demonstration when killed; one was known to have been throwing a stone when shot. Several others were killed after they had thrown their stones.

In the case of recorded tear gas deaths in particular, 94% of the children killed were not involved in a protest activity when exposed to lethal quantities of gas; they were at home. In 84% of the cases a gas canister or grenade was launched into the house or within five meters of the house.

In the case of gunshot deaths in particular, 32% of the children were not in the vicinity of a demonstration when shot dead; another 41% who also were not participating in a stone-throwing demonstration were shot dead in the circumstances described above. A quarter (27%) of the children were participating in a stone-throwing demonstration when shot dead.

Forty percent of all children who died were at home or within ten meters of the house when they were killed. In the case of the gunshot deaths in particular, 18% of the children were at home or within ten meters of the house when shot dead. One of these children was dragged out of the house and killed in the street.

Forty-eight percent of the children killed by gunfire were shot in the head or neck; 17% died of multiple bullet wounds.

Seventeen percent of the children killed by gunfire were shot from behind, above, or from the side.

Thirty-nine percent of the dying children whose families and rescuers sought medical treatment were obstructed or delayed by soldiers; 14% of these children were detained by soldiers after being wounded, were denied prompt and proper treatment for their wounds, and died in army custody. In only two (2%) cases known did the party responsible provide assistance to the dying child.

Fifty-four percent of the children's funerals were violently disrupted or interfered with in some way by the army. In the case of the funerals of child gunshot victims, 76% were violently disrupted or interfered with in some way.

Excluding tear gas deaths which rarely drew the attention of the military authorities and actions taken at the children's funerals, 60% of the families interviewed reported degrading, humiliating, or intimidating treatment in connection with the children's death. This treatment occurred while the family was seeking medical care for the dying child, obtaining permission from the military authorities to bury the child, or during military investigations into the child's death.

FACT SHEET: CHILDREN UNDER CURFEW

[9 December 1987—9 December 1989]

During the first two years of the intifada in the refugee camps, where an average of ten people live in small two- or three-room houses (which may not have running water and electricity):

All children were subjected to curfew. (18% of the Palestinian child population live in refugee camps.)

On an average day, 43,000 children were under curfew. (This represents 25% of all in-camp refugee children.)

Seventy-nine percent (34,000) of the children under curfew each day were from Gaza camps. (Children in Gaza refugee camps represent 72% of all in-camp children.)

The entire Gaza Strip was under night curfew for 21 of the 24 months.

99,000 children in seven camps were under curfew for 6.5 to 9.4 months, or for 27% to 39% of the first two years of the intifada. (This represents 57% of all in-camp refugee children.)

The 116,000 children in all eight Gaza refugee camps spent 41% of the months March through June 1989 under curfew. Over 19,000 children in four West Bank refugee camps spent 61% of the months September through November 1989 under curfew.

The number of curfew incidents increased by at least 9% in the second year.

Three thousand five hundred sixty-five curfew incidents were recorded, giving a Cumulative Curfew Population, the summation of daily populations under curfew, of over 62 million persons.

In the first six months of the intifada, when curfews on all Palestinian communities (cities, towns, villages, and refugee camps) were able to be tracked systematically:

Seventy-two percent (674,000) of all children living in the West Bank and Gaza Strip were subjected to curfew at least once. Children in 156 communities experienced curfew at least once.

One hundred one thousand children in 10 communities were under curfew for 1.6 to 3.2 months, or for 27% to 53% of the time.

On an average day, 75,000 children were under curfew:

Thirty-four thousand Gazan children in two camps

Eleven thousand West Bank children in three camps

Thirty thousand children in five other communities

Forty-three thousand children living in 11 West Bank towns were subjected to long consecutive curfews, lasting for two to five weeks; 85,900 children living in ten refugee camps were subjected to long consecutive curfews lasting for two to six weeks.

Children living in camps experienced almost 20 times more curfew than children in other communities.

FACT SHEET: HOUSE DEMOLITION AND CHILD HOMELESSNESS

[9 December 1987-9 December 1989]

In the first year of the intifada:

Military authorities demolished or sealed (completely or partially) at least 547 houses for either "security" or "licensing" reasons. Approximately 2,500 children were left homeless.

184 of these houses were demolished or sealed for "security" reasons. This number represents a 426% increase from 1987 levels and, specifically, a 1,240% increase in "security"-related complete demolitions.

At least 363 additional houses were demolished for "licensing" violations, a 282% increase from 1987.

In the second year of the intifada:

Military authorities demolished or sealed (completely or partially) at least 551 houses for either "security" or "licensing" reasons. Approximately 2,500 children were left homeless.

There was less than a 1% increase in the total number of demolitions and sealings compared with the first year, but there was a difference in the pattern. Specifically:

There was a 12% increase in the number of houses that were completely demolished for "security" reasons, and a 35% decrease in the number of houses only partially demolished for "security" reasons.

There was a 193% increase in total sealings (complete and partial) for "security" reasons.

There was a 17% decrease in reported "licensing" demolitions.

By the end of the second year of the intifada:

At least 1,098 houses had been demolished or sealed (completely or partially) for "security" or "licensing" reasons. Of these, at least 1,011 were complete demolitions or sealings, which left at least 9,768 people, including 4,883 children, homeless.

The equivalent numbers of children deliberately made homeless in selected countries, relative to the respective populations, are:

Two hundred ninety-seven thousand American children

Fifty-nine thousand four hundred United Kingdom children

Eight thousand four hundred thirty Swedish children

Seven thousand seven hundred Israeli children

PEDIATRIC AIDS AWARENESS DAY

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. SERRANO. Mr. Speaker, I rise today on Child Health Day to introduce a joint resolution to designate October 31, 1990, as "Pediatric AIDS Awareness Day."

I chose to introduce this resolution today because we must continue our rescue mission for our children from all destructive forces. I think that it is only fitting that October 31, which is traditionally recognized as Halloween, be designated as a day to recognize those children who cannot participate in the festivities. More importantly, this resolution is designed to focus more attention on one of this country's most explosive health problems.

AIDS has become the No. 1 killer in America. It is a national health emergency affecting individuals, their families, and the health care system in all 50 States. The Centers for Disease Control [CDC] reports that to date, more than 150,000 Americans have been diagnosed with the disease and nearly 90,000 have died. Conservative estimates suggest that the numbers in America will more than double in the next 2 years. Sadly, more than half those diagnosed include children and these numbers are expected to increase at an alarming rate.

Mr. Speaker, pediatric AIDS refers to patients under the age of 13 at the time of diagnosis with HIV. The CDC reports that 2,525 cases of pediatric AIDS have resulted in 1,328 deaths as of August 1990. The highest numbers of pediatric AIDS as reported by the CDC in metropolitan cities include New York City with 671 cases; Miami with 151 cases; Newark with 121 cases; Los Angeles with 86 cases; Washington, DC, with 61 cases; and Houston with 40 cases. Other major cities also report increases in the numbers of children with AIDS.

These figures are alarming, but what is really alarming is that for every child born with or diagnosed with the disease is a mother who also is infected, and a father, who too carries the disease. Certain groups of women are especially vulnerable to contracting AIDS, solely as a result of their own intravenous drug use, or of their relations with men who are intravenous drug users, or with other men who engage in nontraditional relations with other men. According to the CDC, one of the fastest growing components of the epidemic are women.

Mr. Speaker, my congressional district, the Bronx, is home to a large share of the economically and socially disadvantaged of New York City, and it is bearing more and more of the brunt of the AIDS assault. Nationally, women make up 8 percent of AIDS cases; 12 percent of all of New York City, while in the Bronx, they comprise a 21-percent share. AIDS is already the leading cause of death among women age 20 to 24, and will soon be the leading cause among all women of reproductive age.

A vast disproportionate share of pediatric AIDS cases are African-American or Latino children. Ninety-one percent of all pediratric AIDS cases in New York City are African-American or Latino; and for my district, the Bronx, the figure is 94 percent. That AIDS is the leading cause of death of children ages 1 to 4 in the city is an indication of the dimension of the problem. The Bronx newborns have the highest incidence of HIV seropositivity in the city. The Bronx alone has 10 percent of the Nation's pediatric AIDS cases.

These figures are consistent with worldwide predictions. The World Health Organization predicts that during the 1990's, AIDS will be the leading cause of death among women between the ages of 20 and 40 in major cities in this country, and in Western Europe and sub-Saharan Africa. Further, the Lancelot, London's leading medical journal, reports that more than 3 million women and children will die from the disease during the 1990's, more than six times the number of the 1980's.

We know that there is no cure for this disease, but some therapies are showing promising results. The only sure thing that is available is an effective public education campaign aimed at providing information to all persons and especially to high risk groups about the consequences of the disease. While the CDC suggest a possible slowdown in the growth of new AIDS cases among certain groups, it also reports a slow but steady increase of human immunodeficiency virus among cases among the heterosexual population, thus increasing the need to continue the campaign of education, our most effective weapon in the fight against the spread of AIDS.

America faces enormous challenges in meeting the current and future health care needs of our people, and no challenge is greater than finding a cure for AIDS. Confronting this dilemma posses complex issues and will require a sustained national commitment to action. Educational tools sensitive to the different ethnic and high-risk groups, and especially children, must be devised and deployed in our cities to further help curtail the spread of this disease.

I urge my colleagues to join with me, along with Representatives DELLUMS, ENGEL, HAWKINS, OWENS, PAYNE, SCHUMER, SLAUGHTER, UNSOELD, and WASHINGTON, and cosponsor this measure, which designates October 31, 1990, as "Pediatric AIDS Awareness Day."

OPEN SEAT ELECTIONS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. STARK. Mr. Speaker, an editorial in today's Roll Call newspaper makes a very important point about the advantages of incumbents in House elections. When there is no incumbent in a race, providing no incumbent advantages, the Republicans are often a good bet to lose. What the editorial does not point out, is that frequently the Republican Congressional Campaign provides their challengers with greater resources than the Democratic candidates. In spite of that advantage and because of the strong vision Democrats have of how government can improve people's lives, we are winning those open seats.

> OPEN-SEAT ELECTIONS
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> Those who complain that Congressional elections are rigged should take note of Roll Call's survey of this year's open-seat races, which begins on page 15. Such contests occur on a level playing field; the incumbent has no advantage because there are no incumbents. There are 30 open-seat races, 18 for seats currently held by Republicans and 12 for seats now held by Democrats. It appears almost certain that Democrats will get the better of these elections. If they do, they will be continuing a recent trend. In 1986 and 1988, Democrats also were net gainers of open seats.
>
> While we don't want to make too much of this phenomenon, it certainly casts doubt on the contention that the reason the GOP can't make headway in the House is the unfair advantage of incumbency. The truth is that the GOP can't make headway on a level playing field either. Seats currently held by Republicans are in jeopardy of going Democratic in Connecticut (John Rowland's district), Idaho (Larry Craig), Illinois (Lynn Martin), Nebraska (Virginia Smith), New Hampshire (Bob Smith), New Jersey (Jim Courter), and Rhode Island (Claudine Schneider). Democrats will lose some seats now in their party's hands as well, but it's not the Democrats who have been grousing about the unfair nature of Congressional elections and calling for such draconian and dangerous remedies as a 12-year tenure.
>
> When you look carefully at individual races, you find that the GOP's main deficiency is a lack of good candidates. By the very nature of their political philosophy, the Democrats should be expected to have a larger talent pool; after all, Democrats believe in governments, so they have more soldiers serving that cause. But a second and more important reason for the lack of strong GOP candidates is that, in recent years, the party seems to have taken up Congress-bashing itself as a cause—rather than focusing on solid, conservative policy issues. Really, now, is it hard to understand why it's difficult to find men and women who want to devote their careers to serving in an institution that party dogma says is rotten? Sure, if they win, such candidates could reform Congress, but getting franking rules changed is hardly the sort of thing that inspires smart people to run for office. To get good candidates, Republicans need to stress issues that do inspire.

DALE HARTGERINK, KALAMAZOO CITY TREASURER

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. WOLPE. Mr. Speaker, I want to pay tribute to a very special constituent of mine, Mr. Dale Hartgerink, treasurer of the city of Kalamazoo. This evening Dale will be honored by his friends and colleagues as he retires from over four decades of distinguished public service.

Dale began his career as deputy treasurer for the city of Kalamazoo in September 1950; 20 years later, in 1970, he became the city's chief financial officer, a post he has had to this day. I began my own public service as a Kalamazoo city commissioner just prior to the time Dale assumed the treasurer's post, and I remember well the consistency and excellence of his financial stewardship. No one could have been more deserving of the prestigious Dr. Jackson R.E. Phillips Award for outstanding leadership in the management of public funds, an honor bestowed on Dale last year.

Dale's contributions, however, have not been limited to his exemplary service as Kalamazoo city treasurer. He has committed both time and energy to a vast array of community and professional organizations: cofounding the Michigan Municipal Finance Association and the Michigan Municipal Treasurers Institute at Michigan State University; serving as treasurer of the Westside Kiwanis of Kalamazoo, and as a board member of the Suburban Kiwanis of

Kalamazoo; serving as president of the Arcadia Parent-Teachers Association and as a deacon of the Bethany Reformed Church.

Mr. Speaker, over the years, Dale Hartgerink has distinguished himself as a dedicated public servant. His integrity, his deep commitment to his community and its welfare, and his professional skill have earned him the respect and admiration of all who have been privileged to know and to work with him. I know my colleagues will want to join me in congratulating Dale upon his retirement and in wishing him and his family all possible happiness in the years ahead.

WORLD AIDS DAY

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. WEISS. Mr. Speaker, the World Health Organization [WHO] estimates that there are now more than 1 million cases of AIDS worldwide. Another 8 to 10 million people have already become infected with the human immunodeficiency virus [HIV].

In response to the urgent need for worldwide action to stop this pandemic, WHO has crafted a global program on AIDS, which has helped to stimulate and establish programs throughout the world to stop the transmission of HIV and to meet the challenges of AIDS.

For the last 2 years, WHO has organized a "World AIDS Day" to focus international attention on the need for education, compassion and action on AIDS in every country in the world. In 1989, "World AIDS Day" was centered on young people, because they are so critical to HIV/AIDS prevention and control. This year, WHO has chosen to focus on the issue of "Women and AIDS."

More women are expected to become ill with AIDS during the next 2 years than the cumulative total of AIDS cases reported to WHO in the first decade of the pandemic. This devastating disease has profound effects on women, both as an illness and as a social and economic challenge. As health care providers, educators, and mothers, women play a crucial role in preventing infection with HIV and caring for people with AIDS. This disease also presents extremely complex decisions for women regarding fertility, pregnancy, and child rearing. Furthermore, women's lack of status within the family and society heightens their vulnerability to infection and to the consequences of the epidemic. And the stigma attached to AIDS often subjects women to discrimination, social rejection, and other violations of their rights.

The World Health Organization deserves special commendation for drawing worldwide attention to this important dimension of the AIDS crisis. WHO's contribution—including the annual commemoration of "World AIDS Day"—plays an important part in the international effort to stop this disease.

Today, on behalf of myself and Congressman JIM LEACH, I will introduce a resolution to designate December 1, 1990, as "World AIDS Day," This legislation, like a similar resolution approved by the House last year, calls on the people of the United States to join the global effort in response to this tragic disease.

I urge my colleagues to join Congressman LEACH and myself in supporting "World AIDS Day."

The text of the resolution follows:

H.J. RES. —

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas infection with the human immunodeficiency virus (HIV) and the incidence of acquired immunodeficiency syndrome (AIDS) is a global problem of urgent proportions;

Whereas the World Health Organization has estimated that the actual worldwide total number of AIDS cases as of August 1990 was over one million and that eight to ten million people have already become infected with HIV, approximately one-third of whom are women; and that more women are expected to become ill with AIDS during the next two years than the cumulative total of AIDS cases reported to WHO during the first decade of the pandemic;

Whereas World AIDS Day in 1988 and 1989 brought messages about the need for action, compassion, and understanding about AIDS to every country in the world; urged people in communities around the world to "Join the Worldwide Effort" to fight AIDS; involved families, schools, villages, governments, local organizations, and others in activities which focused attention in 1990 on the need to address young people in the epidemic of AIDS;

Whereas the World Health Organization has chosen to focus on the issues of Women and AIDS on World AIDS Day in 1990 because AIDS has a profound effect on women, as an illness and as a social and economic challenge;

Whereas women plan a crucial role in preventing infection with HIV and caring for HIV-infected people and people with AIDS as care providers, health workers, educators, and mothers; AIDS presents extremely complex decisions for women regarding fertility, pregnancy, childbirth, and raising children; women's lack of status within the family and society heightens their vulnerability to infection and consequences of the epidemic; and the stigma attached to AIDS can subject women to discrimination, social rejection, and other violations of their rights;

Whereas the World Health Organization Global AIDS Strategy, undertaken by the WHO Global Progamme on AIDS, and forged in the light of this worsening pandemic, has achieved impressive results in establishing and stimulating the urgent, worldwide response that has led to the establishment of programs or activities against HIV/AIDS in every country of the world;

Whereas the one hundred and sixty-seven Member States of the World Health Organization, in concert with intergovernmental and nongovernmental organizations around the world, have accepted the responsibility to safeguard the health of everyone and control the spread of HIV infection through national policies and programs, and in conformity with the WHO Global AIDS Strategy;

Whereas the World Summit of Ministries of Health and AIDS Prevention in London in 1988, recognizing that the widest possible dissemination and exchange of information and education messages is vital to AIDS prevention and control efforts, created the basis for the declaration of World AIDS Day as a day of information, education, action and compassion on AIDS: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress, assembled, That December 1, 1990, is designated "World AIDS Day", and that the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities, with a special focus in 1990 on women and AIDS.

CHINA'S VIOLATION OF U.N. EMBARGO OF IRAQ

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. GILMAN. Mr. Speaker, an article appeared in today's Washington Post and London's Independent on Sunday about the People's Republic of China's [PRC] flagrant breach of the U.N. embargo in making a secret $1.5 million deal 10 days ago with Iraq to sell Baghdad about 7 tons of lithium hydride. Mr. Speaker, lithium hydride is used to fuel ballistic missiles. As the Post pointed out:

> Its military applications include the manufacture of hydrogen and atomic bombs, and as a precursor for lithium aluminum hydride, an extremely powerful reducing agent that has potential for use in production of nerve gas.

London's Independent, September 30, 1990, reported:

> It is thought most likely that Iraq wants the chemical for use in fuel for ballistic missiles. It is working on rockets capable of reaching Tel Aviv, Riyadh and southern Europe.

Mr. Speaker, how much longer will we tolerate our special treatment of the People's Republic of China? Will the death of our men and women in the Saudi desert or the destruction of Israel with People's Republic of China assistance put an end to this policy blunder? Will we have to wait that long? If the massacres in Tiananmen Square and Tibet did not serve as a wake-up call, I shudder to think what it will take to understand that it is not in our Nation's interest to continue a special relationship with the People's Republic of China and that we should treat that nation accordingly.

The House is scheduled to vote this week on the question of extending most-favored-nation [MFN] status for the People's Republic of China. I hope that my colleagues will consider the People's Republic of China's violations in considering their vote with regard to the extension of MFN. Let's not wait for our young men and women to suffer the consequences of a few special interests.

Today, on the 41st anniversary of the founding of the People's Republic of China—national day—I could think of more appropriate gifts to the world than the proliferation of the deadliest weapons to the deadliest of dictators.

Mr. Speaker, in order to share the information concerning this extremely serious breach of the embargo on Iraq by the People's Republic of China, I request that the London Independent article by Tim Kelsey, on Sunday, September 30, 1990, and the Washington Post article by Lena Sun, October 1, 1990, be inserted at this point in the RECORD:

[From the London Independent on Sunday, Sept. 30, 1990]

CHINA SHIPS VITAL NUCLEAR CARGO TO IRAQ

(By Tim Kekey)

In flagrant breach of the United Nations embargo, China has sold Iraq large quantities of a rare chemical used in the manufacture of nuclear weapons and missile fuel. The Independent on Sunday has learned that, in a secret deal 10 days ago, a subsidiary of North China Industries Corporation (Norinco), a Chinese state company, agreed to supply about seven tons of lithium hydride to Baghdad.

The revelation is likely to have grave diplomatic repercussions, since it jeopardises Peking's attempts to remove the stain of Tiananmen and to improve its reputation in the West. As a permanent member of the UN Security Council, China has aligned itself with the West on a number of crucial votes, including resolution 661 in August, which banned trade with Iraq. It is possible that the central government in Peking may not have been made aware by Norinco of the deal.

Intelligence reports relating to possible sales to Iraq by Norinco have already aroused concern in Washington. Earlier this week, the US embassy in Peking advised the Chinese of US anxiety over the company's activities. It is not known if this related to the lithium hydride deal.

The sale has shocked and alarmed scientists and weapons proliferation experts. "In view of its potential nuclear applications, it is very serious indeed," said Frank Barnaby, a former Aldermaston scientist and author on military technology.

The most frightening, but in an Iraqi context least likely application of lithium hydride, is in hydrogen bombs. Only five countries, including China and Britain, have tested hydrogen bombs, and scientists agree that Iraq will not have the know-how to build such a weapon for at least a decade. But defense experts say that Saddam Hussein is stockpiling components for future development of such a weapon. Lithium hydride is also of use in making the atom bomb, although alternatives are available which can perform the same functions. Intelligence sources believe Iraq may be able to build an atom bomb within five years.

It is thought most likely that Iraq wants the chemical for use in fuel for ballistic missiles. It is working on rockets capable of reaching Tel Aviv, Riyadh, and southern Europe.

Scientists are also worried that lithium hydride could be used in the manufacture of nerve gasses. "It is a precursor for lithium aliuminum hydride, which is an extremely powerful reducing agent, and potentially of use in the production of nerve gasses," said Julian Perry-Robionsin, an internationally-respected authority on chemical weapons. John Hassard, a weapons proliferation expert at Imperial College, London, said: "This is extremely disturbing, particularly in view of Iraq's proven use of nerve gas in the past. It is a very grave potential problem."

Lithium hydride has very few civil applications. It is used in pharmaceuticals, and in the computer industry, but only in minute quantities. Iraq is believed to have tried to buy the chemical in the past, but there are only three manufacturers in the West, all of whom would have been suspicious of an order even one-tenth this size.

The sale was conducted in great secrecy. Just before the UN arms embargo was imposed, sales material was sent from Peking to five arms dealers worldwide, including three in Europe and one in Latin America. The Independent on Sunday has obtained copies of some of the documents. They suggest potential uses for the chemical "in the space industry as a high energy fuel" and "as as excellent catalyst used in the organic-synthesis industry" which could include the manufacture of poison gas.

The Chinese offered 10 tons for sale, priced at around $210,000 a ton. The offer was open to any purchaser, but within days. Iraq agreed to buy around seven tons, at a total cost of approximately $1.5m, according to defense sources. Delivery was to be within 20–30 days of purchase.

It is likely that the lithium hydride is still in China. Sources suspect the Chinese planned to fly it to Tehran, and then foward it as "pharmaceuticals" to Baghdad.

It was clearly intended to be a pilot sale: it was confirmed to parties approached by the Chinese that additional quantities of lithium hydride were available. This has underscored the worst fears of weapons proiferations experts in the West. "There has always been a tension between commercial expedience and their concern for international security," said one. "It's hard to imagine a more cynical deal than this one."

[From the Washington Post, Oct. 1, 1990]

CHINESE SAID TO SELL CHEMICAL TO IRAQ

(By Lena H. Sun)

BEIJING, September 30.—China, in apparent violation of the U.N. trade embargo against Iraq, has sold Baghdad large quantities of a chemical used in the manufacture of nuclear weapons and missile fuel, a British newspaper reported today.

The Independent, in a story from London, said a subsidiary of North China Industries Corp., one of China's largest defense conglomerates, agreed to supply about seven tons of lithium hydride to Baghdad for about $1.5 million in a secret deal 10 days ago. The Independent said it had some documents relating to the sale.

The Chinese Foreign Ministry today denied that China had violated the embargo and called the Independent's report "totally groundless."

An unidentified spokesman quoted by the official New China News Agency said: "China is a responsible country. We have been holding a very serious attitude toward the implementation of Resolution 661," which was passed by the Security Council on Aug. 6 and bars U.N. members from trading with Iraq.

The newspaper report said the Iraqis most likely want the chemical for fuel for ballistic missiles. It said Iraqi President Saddam Hussein has previously tried to obtain lithium hydride, but that the three Western manufacturers of the chemical are suspicious of large orders.

China, a permanent member of the U.N. Security Council, has aligned itself with the West on sanctions against Iraq, imposed after Iraqi troops invaded Kuwait on Aug. 2. China is said to hope its cooperation with the West in the Persian Gulf crisis will lead to improved relations with the United States and other Western countries and to the lifting of sanctions imposed after the Chinese army crackdown on demonstrators for democracy last year.

But ever since the U.N. embargo against Iraq was approved, rumors have circulated in Beijing about possible violations by the Chinese, Western diplomats said. Officials from the U.S. Embassy here have met several times with Chinese officials "about the question of enforcement," one U.S. diplomat said, including a meeting last week.

That meeting included discussion about U.S. concern over North China Industries Corp's activity, diplomats said. But a U.S. official declined to say whether the reported sale of lithium hydride was discussed. "We talked to the Chinese about three or four things concerning their overall posture on sanctions" against Iraq, said the official, who declined to elaborate.

"We have no evidence that China has broken the embargo,"he said.

The newspaper report said it was possible that China's central authorities were not aware of the deal. In the past, Chinese officials have said they have little control over the activities of China's numerous arms companies.

According to the newspaper, lithium hydride has few civil uses, although it can be used in pharmaceuticals and in the computer industry in minute quantities. Its military applications include manufacture of hydrogen and atomic bombs, and as a precursor for lithium aluminum hydride, an extremely powerful reducing agent that has potential for use in production of nerve gas.

TRIBUTE TO JUDGE ROBINSON O. EVERETT

HON. H. MARTIN LANCASTER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. LANCASTER. Mr. Speaker, on September 30, 1990, Robinson O. Everett of Durham, NC, retired after serving more than a decade as chief judge of the U.S. Court of Military Appeals. Under his brilliant and effective leadership, the Court of Military Appeals has evolved into one of the most respected and innovative courts in America. The indefatigable, personal effort he exerted toward realizing this goal represents one of the most remarkable examples of judicial commitment and dedication that could be displayed.

His concern has always been to reconcile the demands of justice with the requirements of military discipline. He has written hundreds of judicial opinions, many of which have resolved some of the most difficult questions in military and constitutional law. His many landmark decisions will surely have a lasting influence on military jurisprudence for decades to come.

Chief Judge Everett's other major accomplishments are equally remarkable. Within a year after his arrival at the court, he revamped the court's docketing system, which resulted in a great reduction in the cost of managing and retaining the court's recorded docket entries on all cases. This electronic capability also gave the court instantaneous access to all the court's docketing records. Furthermore, during his first year as chief judge, the court accomplished an astonishing 82 percent increase in the court's final dispositions on the

master docket over the previous year, cutting in half the number of cases pending on the master docket. In recent years, the year-end pending cases have been reduced to a record low, and the time required to process cases before the court has also been dramatically reduced.

Judge Everett has been a model educator who has relentlessly sought to improve the professional skills of both military and civilian practitioners. In 1983, he reshaped the court's annual Homer Ferguson Conference and redesigned it not only to give military lawyers—but civilian lawyers as well—an opportunity to develop and maintain excellent skills required for appellate court practice within the military justice system and elsewhere. To make these training programs readily available to all lawyers, he had the conferences videotaped and made special arrangements to have portions of the conferences televised on C-SPAN. He also conceived and developed a documentary videotaped program produced for use by military lawyers and military educational institutions, as well as distribution and use by civilian law schools and community education programs both in the United States and overseas. This video, the first of its kind, explained the entire process of trial and appellate procedures in a military court-martial case with particular emphasis on the appellate judicial responsibilities of the civilian U.S. Court of Military Appeals.

The Judge has been exceptionally devoted to promoting public awareness of the fairness and progressiveness of military justice. He has never been to busy to accept invitations to address military and civilian conferences, seminars, training workshops, meetings of various bar associations, and law schools throughout the country.

These judicial visitations and speeches have kept the military and civilian communities fully apprised of the court's responsibility in the administration of military justice; have improved the professional and legal education of military and civilian lawyers; have provided an interchange of ideas beneficial to the military community in general; have provided the court an opportunity to ascertain the impact of its decisions on the administration of military justice; and have helped to develop a better appreciation of the operational problems in the various services.

One of Chief Judge Everett's most innovative programs was reaching out and taking the court to the people. For the first time in the court's history, the judges traveled outside their own courthouse to hear oral arguments in several actual appeal cases. Some of the cases were held at various law schools and at the West Point Military Academy. These convenient hearings provided an excellent opportunity for members of the academic community, military, civilian judges, lawyers, law students, and future military leaders of the United States military academies to meet with the judges and view how court-martial cases are presented by appellate advocates for decision by the court.

The court had televised an actual hearing conducted in their courtoom, which was later televised nationwide on the C-SPAN Television Network as part of a 3-hour special program on military justice and the appellate review of court-martial cases under the Uniform Code of Military Justice. The court's remarkable success in allowing the first telecast of an actual federal court proceeding may have been the catalyst of the recent decision of the Judicial Conference of the United States to reverse a ban in effect for decades in this country to allow television in some of the Article III lower courts in a 3-year experimental program.

There are few judges who have so enthusiastically and relentlessly devoted so much time at promoting better understanding of the American legal system by the youth of our country than Judge Everett has. In 1987, Judge Everett directed the National Student Law Day Project, which has been described as "one of the truly most ambitious and most successful projects ever undertaken" in an effort to celebrate the Bicentennial of the U.S. Constitution. The project won the first-place award in the American Bar Association's 1987 Law Day USA Competition.

Chief Judge Everett was exceptionally well-prepared for his judicial service. Earlier he had served as a Commissioner on the Court. He has been a law professor at Duke University for almost 35 years. Also, he had practiced law in North Carolina as well as in the District of Columbia and has held many positions in the organized Bar. In fact, he was the Chairman of the American Bar Association Committee on Military Law from 1977 to 1979. During the early 1960's, he served as a special counsel to Senator Sam Ervin's Subcommittee on Constitutional Rights in conducting the hearings and studies which led to the Military Justice Act of 1968. He has written a book "Military Justice in the Armed Forces of the United States" and numerous articles on military law, criminal procedure, and evidence. Prior to his retirement in 1978 as a colonel in the Air Force Reserve, Judge Everett had acquired many years experience as a judge advocate. Moreover, during his tenure as the chief judge, he served as the chairman of the Federal Bar Association's Judiciary Committee and the chairman of the FBA's Administration of Justice Section.

Chief Judge Everett will be returning to the Duke Law School, where he has been a tenured professor for many years. Fortunately, as a senior judge, he still will be available to assist the Court of Military Appeals from time-to-time. We wish to express our gratitude to this very distinguished jurist from our home State of North Carolina, for his extraordinary service and dedication to his country. We extend to him our best wishes for the future.

THE 260TH MILITARY INTELLIGENCE BATTALION, FLORIDA NATIONAL GUARD IS ACTIVATED

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize today the 260th Military Intelligence Battalion of the Florida National Guard.

This unique unit will be federally activated today in Miami. The mission of this unit is to provide foreign language support, counterintelligence and signals intelligence. Utilizing the many different cultures of Miami's citizens, the battalion provides language support in Spanish, Haitian-Creole, Korean, Quecha, Italian, German, and Greek. It also provides vital intelligence support of Federal law enforcement agencies and the U.S. Customs Service in the war on drugs.

In recognition of this latest addition to our Nation's defenses, I will be presenting the battalion with an American flag flown over the Capitol today, at a ceremony on December 2 I would like to thank the entire 260th Military Intelligence Battalion for kindly including me in this event, and in particular their commanding officer, Lt. Col. Stanley L. Shively.

ON THE BUDGET SUMMIT AGREEMENT

HON. JON L. KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. KYL. Mr. Speaker, I recently received a very thoughtful and poignant letter from a constituent, Mr. Delbert Haney, who expressed frustration at Congress' inability to come to grips with many of the problems our Nation faces today.

His letter is particularly timely given that the House is poised to take up the budget summit agreement—an agreement which I believe dodges the real cause of our deficit problem, that is, excessive Government spending, in favor of higher taxes.

I ask that Mr. Haney's letter be reprinted in the RECORD at this point for the benefit of our colleagues:

SEPTEMBER 18, 1990.

Hon. JON KYL,
Washington, DC.

DEAR REPRESENTATIVE KYL: I am writing a letter to you that is long overdue. I am enclosing a copy of two recent articles that appeared in the Arizona Republic that strike a resounding chord with me and with my family. The bottom line is that we are fed up with the combination of actions and inactions that the congress (both houses) either take or fail to take to solve the difficulties that the country faces.

At this point it is really beyond partisan politics; both parties in our opinion have contributed to the stalemate that we are in. We are unable to see how the difficulties are going to be resolved within the existing approach and processes. . . . We are tired and unwilling to allow this process to continue on endlessly while the country goes down the tubes. The often quoted "fiddling while Rome burns" is not an overstatement!

I ask you, in the best interest of the country—setting aside your and your staff's personal stake—to examine and support the underlying positions that are reflected in these articles. The suggestions go a long way towards unraveling the stalemate that we are in . . . It may not completely solve the problem and it may bring other issues to the forefront, but at least there will be movement.

In addition I would like to add the following specific comments and observations that reflect how I feel.

1. Unfortunately, I feel that as a group the entrenched congressional members are at a core level unresponsive to the interest of the country. Although the situations vary from member to member, they are seemingly held captive by the collection of special interests, their personal interest, their personal and professional career objectives, their fear of offending a vocal special interest group, or their anxiety about being on the wrong side of a media viewpoint. Seemingly somewhere further down the list is the priority of what is in the best interest of thé country as a whole, particularly when viewed from a longer term perspective. I feel that we need a new process where entrenchment isn't the norm—where new and fresh approaches are examined and accepted or rejected based upon their merit; not their political origin, not the grandstanding for the media and special interest groups and not the rhetoric that has become the norm and succeeds in confusing every single issue no matter now simple it is.

2. We feel that too much power, money and control over recent years have been allowed to flow to the congressional branch of the government. They have repeatedly demonstrated their inability to manage even their own simple affairs and unfortunately even more graphically those of our country. We can't believe the amount and high levels of attention that seemingly flow to the minor non-issue items pursued with such vigor and enthusiasm with the objective of embarrassing the "other party", while critical and core problems of our country go unattended or pushed from year to year without being effectively dealt with. It's obvious that the Peter Principle is in operation here. It's also clear that based on how they conduct themselves and the results, there is too much power, control, and responsibility vested in the congress and they have become the stumbling block seemingly trying to maintain their own petty fiefdoms at tremendous cost to the rest of the country. A major shift and decentralization must occur transferring responsibility, control, power and money from the Congress specifically and the Federal Government generally if we are to survive as a free and democratic nation.

3. We are fed up with more government programs, in particular those that spend more money. It is clear that we as a country cannot afford many of these programs, particularly when administered thru the government. We feel that the next session of congress should focus on repealing government programs and administration as a starting point. And only if necessary provide a transition period while the responsibilities, burdens, control and objectives are shifted or eliminated entirely. While the idea of having national programs sounds good, in practice it has been a fiscal nightmare and in general has added tremendously to the problem rather than solving the problem.

4. We are appalled at the moral (I should say Immoral) climate that exists in the congress of the United States. Contrary to what has been coming out of Washington, There Is a Right and a Wrong. And it is critical that the congressional words, deeds and actions strongly, clearly articulate this for the rest of the country. Otherwise we will send messages to our society that it is acceptable to disobey the law, flaunt the legal, moral and ethical standards of our community, and take advantage of circumstances and technicalities to escape responsibility for their actions. There is a direct relationship between the failure to follow moral, ethical and legal standards in congress and that failure in the rest of the country. We feel strongly that congress has failed to adequately police its own members and lacks the guts and will to so. Until they can demonstrate an ability to administer the responsibilities of policing their own members, this should be transferred outside of their control. We must have a high and unequivocal standard of moral and ethical conduct from all of our elected officials. This is no less than a FOUNDATION STONE of a free and democratic society.

5. We are fed up with the National Debt Problem, the seemingly endless and unlimited spending that congress engages in and all of the accompanying rhetoric and finger pointing. . . Both of our recent Presidents have spoken out strongly on reducing budget deficits and government spending and have been unable to overcome the congressional actions to spend even more money. Congress is clearly responsible for failing to impose on itself spending restraints, and has left the nation clearly vulnerable, unable to absorb even minor setbacks, and then when the major ones hit—S&L debacle, the crisis in the Middle East, a recession—there is no cushion to absorb even a portion of the blow. This must be reversed! To me the most bitter ironic twist of our current government spending practices is that government spending on open ended entitlement programs which are targeted to help the disadvantaged is directly and clearly causing inflation and high interest rates—which directly and with great cruelty strike the poor, the elderly and the disadvantaged—those who are least able to offset these debilitating effects and must reduce their standard of living or become further dependent on welfare and social programs. Then we pump more money into these social and entitlement programs to offset the cruel effects of high interest rates and high inflation—and this then feeds another spiraling cycle of inflation and high interest rates and on and on we go. If we want to truly help the poor, the elderly and those in need then we will reduce our government spending, only embark on programs that the country can afford, and reduce the national debt. This will do more to stablize and keep prices of goods within their reach than any other single thing we can do. We want Government spending reduced and the deficit eliminated and a foolproof plan to eliminate the national debt as a top priority.

I am aware that this letter has turned out to be much longer and in greater detail than I had expected. But once I got started the cumulative frustration just came pouring out. This is the point with which I started the letter, "a lot of people are really fed up with the way things are and feel that it time to change the way that we are operating our government". I ask you to join the effort to effect serious reform in our governmental processes. I ask you to speak up clearly and strongly in favor of these proposals and join with the rest of your constituents in setting a new course for the nation.

Sincerely yours,

DELBERT HANEY.

STOP FOREIGN COMPANIES FROM CHEATING ON THE EMBARGO

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. STARK. Mr. Speaker, every day there are reports of cheating on the Iraqi embargo. This is unfortunate as the embargo is still our best hope for a diplomatic solution to the crisis, the alternative being a bloody, costly war, with many dead Americans.

Even a small amount of basic supplies leaking in could go a long way to alleviate Iraq's economic pain. Worse, there is the possibility of smugglers bringing in key strategic components or information, like satellite battlefield photos.

Beyond this, the embargo has another purpose: To diplomatically isolate Saddam Hussein, pressuring him into a settlement on our terms. Cheating lets him know that he still has allies out there, that there are still people who will deal with him.

Two weeks ago I introduced the Iraq Embargo Enforcement Act (H.R. 5622) which would put sanctions on foreign companies found violating the embargo. Upon determining a company a violator, the President would prohibit its goods from entering this country. We should shut off the U.S. market from these embargo profiteers.

Among the cheaters are respectable Western companies. Let's pass this bill and hit these folks on their bottom line, which is apparently all they care about.

The following are several news accounts of embargo violations:

[From the AP, Sept. 27, 1990]

DIGEST BRIEFS

NICOSIA, CYPRUS.—The six-week-old U.N. economic embargo has not kept Iraq from receiving food and supplies by truck from Jordan, jetliner from South America, via smugglers from Syria and Iran, and even by mule from Turkey.

The embargo has halted virtually all of Iraq's oil exports and drastically reduced cargo shipments to the country, but supplies are slipping in thanks to sympathetic governments, pro-Iraqi groups and opportunistic smugglers.

[From the Economist, Sept. 22, 1990]

SANCTIONS: FOOD FOR SOME

"There are lots of ways for an innovative shipper to avoid a blockade, and as the prize goes up, they become more innovative," said Capt. Paul Prokop, commander of the U.S. Coast Guard teams enforcing the embargo in the Persian Gulf.

The amount of slippage is difficult to determine. Before Iraq invaded Kuwait on Aug. 2, prompting the international community to impose the sanctions, it imported about three-quarters of its food supplies.

[From the Sunday Times, 1990 Times Newspapers Ltd., Sept. 2, 1990]

SADDAM SEARCHES FOR A LIFELINE AS SCREW TIGHTENS

Some goods are still getting into Iraq by road from Jordan and along the mountainous tracks from Iran and Turkey. Other

supplies are arriving by air from Jordan, Libya and Yemen. And some companies are still working in Iraq, in contravention of the embargo: a West German company is working on Basra airport, a Dutch firm is dredging near the port of Umm Qasr.

SADDAM SEARCHES FOR A LIFELINE AS SCREW TIGHTENS

(By Mark Hosenball)

Evidence of successful efforts to bust the United Nations sanctions against Iraq is arousing deep concern in intelligence circles on both sides of the Atlantic.

Though the blockade is effectively preventing Iraq from exporting its oil, basically because the pipelines through Turkey to the north and Saudi Arabia to the south have been shut off, imports into Iraq are still getting through.

The list of countries suspected of shipping military equipment or civilian supplies to Iraq in violation of the UN embargo includes Libya, North Korea, Sudan, Yemen and Algeria. But officials believe American and British companies are also joining in.

"Where we find them we will stamp on them," said a British government official yesterday, who confirmed that some British companies were suspected of sanctions busting.

American intelligence also claims to have evidence that some supplies of military equipment from the Soviet Union are still arriving in Baghdad by air, without the knowledge or permission of President Mikhail Gorbachev. Iran is said to be allowing some sanctions-busting traffic across the land border with its former enemy.

Even if the UN manages to seal the land fronters, Saddam can still rely on regular supplies by air, at least for the present. The Pentagon believes the Libyan airlift to Iraq reported by The Sunday Times last week has intensified during the past seven days.

There is now a regular procession of Soviet-made transport planes picking up supplies of both war materials and food in Libya and delivering them to Baghdad, the flights routinely fly across Saudi airspace, sources said. They indicated that both the American and Saudi governments were aware of the sanctions-busting flights, but so far had not moved to stop them.

It is understood that President George Bush has been reluctant to order that planes violating the embargo should be shot down, largely because it would probably provoke a war before he is ready.

Iraq's clandestine airlift it made possible by its large fleet of commercial jet liners, supplemented by large stocks of spare parts taken from Kuwait airport after the invasion.

However, the emerging evidence of airborne sanctions-busting produced hints in Washington last week that the Pentagon was studying the possibility of mounting an air blockade of Iraq to complement the naval blockade.

Iraq, which exports only oil, is heavily dependent on imports of food. Figures produced by the UN Food and Agriculture Organisation say Iraq imports all its tea and coffee, 99% of its vegetable oil, 99% of its sugar, 78% of its wheat and 65% of its meat.

Faced with 17m of its own mouths to feed, and a further 1.5m Kuwaitis, superficially it appears to have a problem. But Western diplomats in Baghdad say that Saddam's position has been strengthened by a bumper harvest in some crops, with wheat four times more plentiful than in 1989. Analysts believe farm production is capable of further increases, while consumption will fall as belts are tightened.

American intelligence last week detected orders placed recently with American food brokers for huge quantities of foodstuffs to be shipped to Jordan. Officials believe the food is really being ordered for Iraq, and are considering ways of blocking the purchases.

"They are trying to buy more stuff than you would need to feed everyone in Jordan," one official involved in the investigation said.

There are also reports that the Levantine traders of the eastern Mediterranean, based in the Christian enclave of Lebanon and Cyprus, have formed an unofficial and effective network to keep Iraq supplied with food. The profits now available on normally innocuous items such as margarine and rice make it worth their while to supply Iraq in a roundabout, but so far perfectly safe route.

The network, adopting the classic tactics of weapons dealers who often use false "end user" documents, is thought to be employing a variety of false cargo manifests.

One route that came to the notice of Western intelligence last week involves regular shipments from East Beirut to Jordan, via Damascus. Only in Amman are the manifests changed to state the true destination: Baghdad.

On Friday, Margaret Thatcher tackled King Hussein of Jordan about the open breach of the UN sanctions order between his country and Iraq. The king replied that he accepted the principal of applying them, but was anxious about the cost to his fragile economy. The UN is putting together a financial package to compensate countries such as Syria and Turkey for their loss of trade with Iraq; Jordan could qualify for a large part of it.

The United States and Britain have been greatly impressed, however, with the willingness of Turkey the only country where Iraq could realistically hope to swap its oil for food to co-operate in applying the sanctions.

But analysts reckon Iraq could hold out until well into next year, by which time the UN's resolve to enforce sanctions could have faltered and the eight years of the war with Iran has given Saddam great experience in knowing how to survive the imposition of suffering on the Iraqi people. In 1986, six Iraqi businessmen were shot for corruption: Saddam's threats to execute hoarders will not be taken lightly within Iraq's leaky borders.

INNOCENT LENDER LIABILITY RELIEF ACT OF 1990

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. McDADE. Mr. Speaker, today I am introducing legislation to provide relief to small business owners and operators across the Nation who are encountering difficulty in complying with Federal hazardous waste liability laws. They are finding it a challenge to obtain financing to clean up property contaminated by hazardous waste, replace underground storage tanks, and otherwise improve existing facilities. Recent court interpretations of the Comprehensive Environmental Response Compensation and Liability Act [CERCLA], more commonly known as the Superfund statute, have held that a secured lender who forecloses on a property or a facility that is contaminated by hazardous waste may be liable for the costs of cleanup, even though the lender did not cause or contribute to the contamination. Costs associated with such efforts may be excessive, even reaching into the millions. Often these costs exceed the tangible value of the property itself, yet CERCLA imposes no limit on the amount of financial responsibility.

The threat of this liability has caused uneasiness among lenders. Their reaction has been fully predictable. They have assiduously avoided approving loans to businesses which could possibly encounter toxic waste contamination problems. This lender reluctance has severely affected small firms, those least able to cope. Without the capital needed to finance the federally mandated cleanup of contaminated sites, replacement of underground storage tanks, or installation of pollution-control equipment, small business owners could face the possibility of court-ordered closure of their businesses. Such action could trigger any number of harmful financial consequences for affected small business owners and the communities they serve.

In testimony before the Committee on Small Business, a representative of the Independent Petroleum Marketers Association of America explained that small gas station owners had been ordered by the Environmental Protection Agency to replace underground storage tanks. However, good-faith efforts to obtain needed financing to comply with the EPA edict were unsuccessful because of lender concern—and fear—over the issue of liability. The inability of these individuals—the vast majority of whom are small business men and women—to secure loans to comply with EPA regulations placed them in direct violation of the law. Many could have faced an ordered shutdown. This would have had a devastating effect on small gas station owners and the local businesses and residents who depend on them. Rural communities, like those in my district, would have been extremely hard hit by a shutdown. However, strong congressional support for relaxing EPA's deadline for tank replacement eventually resulted in a postponement of the effective date. While this delay will provide temporary relief to independent petroleum marketers and other affected small business owners, the problem of obtaining financing remains.

Other small business owners are already or could be affected by the lack of available financing to clean up contaminated sites, replace underground storage tanks, or reduce emissions through the installation of pollution-abatement equipment. Dry cleaners, wood product manufacturers, metal finishers, and other small businesses in a wide range of industries spread across a broad geographical spectrum are equally affected. The full scope of this problem will become clear as more small businesses come forward and make their concerns known. The fear of Superfund liability has chilled the willingness of lenders to make loans to small businesses. Unless some measure of permanent relief is provided soon, many small business owners will find themselves in serious violation of Federal environmental laws.

The legislation I am introducing today addresses the vexing problem of lender liability and offers a solution that will relieve innocent lenders of the responsibility for the costs of cleanup. Specifically, the bill would amend the Small Business Act to exempt the U.S. Small Business Administration and SBA lenders from liability for the cleanup of contaminated sites under the Superfund and Solid Waste Disposal Acts when title or control of a property is conveyed to the SBA or the lender as a result of foreclosure. However, this exemption would not apply to the SBA or financial institutions when either, by any act or omission, caused or contributed to a release or threatened the release of a hazardous substance.

Extending this protection to the SBA and its lenders should help in overcoming lender resistance to making loans to small business owners to finance the cleanup of contaminated sites and installation of pollution-control equipment. In addition to this benefit, the legislation, which is a simple change to existing law, would have no revenue impact.

Mr. Speaker, we have seen a resurgence of interest in and concern for protecting and preserving our natural resources. It is important that all Americans do their part to clean up contaminated sites and reduce pollution. Small business owners are willing to do their part. However, they have been hampered in their ability to achieve this aim because of the justified concerns of lenders. This legislation would help allay the concerns of the SBA and lenders and enable them to assist small business owners to meet their responsibilities under Federal environmental laws. I would urge my colleagues to support this measure which will help our Nation's small businesses.

EFFECTIVENESS OF THE RESEARCH AND DEVELOPMENT TAX CREDIT

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. DONNELLY. Mr. Speaker, one of the many problems with the recently announced budget summit agreement is the recommendation to extend the research and development tax credit. At a time when Congress is being asked to reduce the Federal budget deficit by one-half a trillion dollars, I fail to see why we should be asked to spend $600 million to extend a tax credit that is of limited value and a subsidy for America's largest corporations.

Last year, I asked the General Accounting Office to prepare a study on the effectiveness of the R&D tax credit. Although that study is too long to print entirely in the RECORD, I ask unanimous consent that the executive summary be included. Some major findings of the GAO study are:

The existing credit has stimulated little additional research. In fact, the credit has cost the Federal Government $7 billion, but has only stimulated $1.5 billion in new research. The Federal Government would be far better off subsidizing research directly rather than through the tax laws.

Corporations with assets of over $250 million claimed 80 percent of the credit. This ends the myth that the credit helps smaller startup firms.

The Internal Revenue Service questioned 79 percent of the corporations claiming the credit. Of that 79 percent, 88 percent had at least a portion of the claimed credit disallowed.

Mr. Speaker, if Congress is serious about reducing the budget deficit, the inefficient and wasteful R&D tax credit should expire. At a time when we are asking lower and middle income Americans to shoulder the vast bulk of deficit reduction, it is unconscionable to be giving tax subsidies to corporations worth more than a quarter of a billion dollars.

EXECUTIVE SUMMARY

PURPOSE

In 1981, Congress enacted a temporary research and experimentation tax credit. Lawmakers wanted to provide an incentive for businesses to invest in research because they were concerned about the competitiveness of American firms. Congress has renewed the credit twice. It is scheduled to expire December 31, 1989.

This report responds to a December 1987 request from Congressman Brian Donnelly and the mandate in the Technical and Miscellaneous Revenue Act of 1988. The act required GAO to report on the operation of the credit, its effectiveness, and alternatives to the credit's current structure.

BACKGROUND

Beginning July 1981, taxpayes could reduce their tax liability by 25 percent of qualified research and experimentation expenditures that exceeded a base amount. Qualified expenditures are for product innovation, but not product development. The base amount is equal to the taxpayer's most recent 3-year average of qualified expenditures or 50 percent of the taxpayer's current year expenditures, whichever is greater. Congress designed the credit to stimulate additional research spending.

The credit, never a permanent part of the tax code, expired on December 31, 1985, but was reenacted by the Tax Reform Act of 1986 and made retroactive to January 1, 1986. The 1986 act, however, modified the credit by (1) reducing the rate to 20 percent and (2) more narrowly defining qualified expenditures. The credit was again reenacted in November 1988. It was unchanged except that taxpayers must reduce their deductions for research expenses by an amount equal to 50 percent of the credit they claim.

Current congressional and administration proposals would change various features of the credit. The major change would replace the moving-average base with a base that would initially be computed as the taxpayer's average spending over a fixed period (1984 through 1988) and then be indexed to the growth in the Gross National Product (GNP). Another change would allow taxpayers to use an optional credit with a lower rate and a smaller base.

As with other business tax credits, the research credit is primarily used by large corporations. Between 1981 and 1985, corporations with assets of $250 million or more claimed about 80 percent of the credit, or $4.7 billion.

RESULTS IN BRIEF

GAO estimates that the credit stimulated between $1 billion and $2.5 billion of additional research spending between 1981 and 1985 at a cost of $7 billion in tax revenues. Thus, each dollar of taxes foregone stimulated between 15 and 36 cents of research spending. Although the amount of spending stimulated by the credit was well below the credit's revenue cost, total benefits may be much higher. If, as many presume, research activities are more beneficial to society than nonresearch activities, the credit may still be sound tax policy.

The credit could provide more of an incentive if the moving-average base were replaced with a fixed base indexed to the growth in GNP or another indexing factor. Assuming companies' patterns of research spending are similar to those of the early 1980s, the "effective rate" of the proposed credit—the actual tax benefit that a company receives for spending an additional dollar on research—would be about 14 percent instead of below 4 percent as it is under the current credit. To ensure that the credit continues to provide an attractive incentive to most taxpayers at an acceptable revenue cost, the base and index should be reviewed periodically and adjusted as needed.

The Internal Revenue Service [IRS] administers the research and experimentation tax credit primarily through corporate audits. From a survey of IRS revenue agents, GAO concluded that the current credit is relatively difficult for IRS to administer. IRS questioned the credit claimed by 79 percent of the corporations that had their credit audited. The amount questioned represented 20 percent of the amount of credit claimed. However, some corporations have appealed the amounts IRS questioned. Many revenue agents reported that the definition of qualified research expenses was unclear. The Treasury recently issued regulations that should help resolve such definitional questions. Consequently, it is premature at this time to suggest legislative changes to make the credit easier to administer.

GAO'S ANALYSIS

Effectiveness of the Credit

GAO analyzed income tax return data for a sample of 800 corporations with assets over $250 million. The analysis showed that the research and experimentation credit provided some incentive to increase spending. Because the credit is earned only for increases in research spending above a moving-average base, the effective rate of the credit is well below 20 percent; GAO estimated the rate to be about 4 percent for 1981 through 1983. The credit is calculated in such a manner that a company's decision to spend an additional dollar on research in a given year generally increases the amount of credit that the company earns that year but decreases the credit earned in 3 succeeding years. As a result, the effective rate provided by the credit depends on a company's pattern of spending over several years and can vary considerably across firms. The effective rate measures the reduction in the price of a unit of research due to the credit. By combining GAO's estimates of the average effective rate of credit with estimates of firms' responsiveness to price reductions, GAO estimated the stimulative effect of the credit to be $1 billion to $2.5 billion in additional research spending between 1981 and 1985. (See pp. 24-29.)

Structure of the Credit

GAO concluded that the greatest potential for improving the credit's stimulative effect lies in modifications that would (1) break the link between current spending and future base expenditures and (2) make the base more accurately reflect the research spending that would have occurred without the credit. For example, replacing the 3-year moving-average base with a fixed base, indexed to the growth in GNP, would substantially increase the average incentive provided per dollar of revenue cost. This revision would break the link between taxpayers' current spending and the amounts of credit they earn in future years. The average incentive of such a credit would depend on the distribution of research spending across companies—how much research spending is done by companies that are rapidly increasing their spending above previous years compared to spending by companies that are only modestly increasing, or even reducing, their spending. If the distribution remains similar to what it was in 1985, the effective rate of credit would be about 14 percent instead of below 4 percent as it is under the current credit. Of course, future growth in research spending may differ from its earlier pattern, affecting the long-run revenue cost and average incentive. (See pp. 31-48.)

GAO's analysis also showed that other proposed changes to the credit will involve tradeoffs among the objectives of (1) providing each taxpayer a significant incentive, (2) making this incentive available to as many taxpayers as possible, and (3) keeping the revenue cost at an acceptable level. For example, retaining a minimum base period amount of 50 percent of current year expenditures could play a critical role in containing the revenue cost of the credit. However, this would reduce the incentive for companies that are rapidly increasing their research expenditures. GAO's analysis showed that additional revenues could be saved by modifying the proposed credit to reduce the amount of credit earned for expenditures taxpayers would have made without the credit. The tradeoff for this modification is to reduce the credit's incentive for a relatively small number of taxpayers. (See pp. 48-51.)

Administration of the Credit

IRS routinely audits the research credit as part of its special program auditing the largest corporations. From a GAO survey of IRS revenue agents who had recently completed such audits, GAO estimates that (1) IRS audited about 74 percent of the large corporations claiming the credit, (2) these corporations claimed about $1.8 billion of credits, and (3) the audits resulted in adjustments to the credit for 341 corporations, or 79 percent of those that had their credit audited. In these audits, IRS disallowed an estimated $368 million of credit claimed by 303 companies and allowed an additional $7 million of credit for 38 companies. (See pp. 18-19.)

The GAO survey showed that revenue agents most frequently cited corporations claiming unqualified expenditures as the reason for adjusting the credit. The types of unqualified expenditures revenue agents reported as being either difficult or very difficult to audit were expenditures for adapting existing capability, routine or cosmetic alteration, overhead and administration, and ordinary testing. Overall, about a fifth of the agents reported that the definition of qualified expenditures was unclear. In May 1989, Treasury reproposed regulations that should help clarify the definition of qualified expenditures. (See pp. 20-21.)

RECOMMENDATIONS

GAO is not making any recommendations.

AGENCY COMMENTS

GAO discussed the information contained in this report with responsible officials at IRS and Treasury. They suggested some technical clarifications, which were made to the report.

A TRIBUTE TO JAMES L. RIVERS

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. CONTE. Mr. Speaker, today I rise in honor of Mr. James L. Rivers, who is leaving the Central Berkshire Regional School District after 32 years of dedication and service.

Mr. Rivers has enjoyed many triumphs during his tenure in public education. Mr. Rivers has taught science, mathematics, and psychology. He has been a guidance counselor for the Central Berkshire Regional School District since 1969 and became director of the guidance department in 1975. Mr. Rivers has initiated many programs over the years, including a work/study program at Wahconah Regional High School and groups involved in peer counseling and alcohol and drug abuse prevention. The Massachusetts School Counselors Association recently honored Mr. Rivers for his commitment and tireless efforts on behalf of all the children in the Central Berkshires.

Taking heart in the age old notion that a sound mind is best supported with a sound body, Mr. Rivers has served as a football and baseball coach in the Dalton School System. He amassed a 66-percent winning record as the helmsman for the Waconah High School varsity baseball team from 1966 to 1977. Coach River's teams made eight trips to the Western Massachusetts regional baseball playoffs, which led him to his induction into the Massachusetts State Baseball Coaches Hall of Fame in 1984.

With a man so thoroughly involved and prosperous in public education, it is hard to imagine him having the time and energy left to give any more to his community. And yet, Mr. Rivers has found the resources to be an active member of his neighborhood Youth Corps. He has also been an active member of St. Agnes Church, teaching religious education and serving on the St. Agnes school board for a year.

Mr. Rivers has recently accepted the position of principal at the Notre Dame School in Pittsfield. Jim has termed this post a new adventure for himself. I am confident that the students of the Notre Dame School will benefit greatly from Mr. Rivers' proven leadership and the successes he is certain to have as he ventures into the future.

SONS OF ITALY, ITALIAN MINI
TRY OF CULTURE COMMENI
ED FOR "IN ITALIANO"

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. FASCELL. Mr. Speaker, on the eveni
of September 18, 1990, a reception was he
in the Foreign Affairs Committee room to cel
brate the launching of "In Italiano," an instru
tional television series for Italian language a
culture airing weekly on cable TV. Broadca
via the Learning Channel, this 26-episode pr
gram began transmission to more than 1,2
affiliate stations and 20.5 million cable viewe
throughout the United States last month.

Italian language instruction in the Unit
States has been a top cultural and educatio
al priority of the Italian Government and t
Order Sons of Italy in America [OSIA]
many years. After several years of prepar
tion, the Italian national television netwo
RAI, in collaboration with the president of t
Council of Ministers and the Italian Univers
of Foreigners of Perugia, produced "In It
liano." The Sons of Italy Foundation, mea
while, has continued to support and promo
Italian language and culture through its sch
arship program and the excellent work of
national education committee. The Sons
Italy Foundation bestows in excess
$600,000 annually on deserving young sch
ars.

In addition to OSIA and the Italian Minis
of Culture, I am proud to have served as a c
sponsor of this reception with our colleague
the Senator from New Mexico, Mr. DOMENI
the Senator from Vermont, Mr. LEAHY; t
gentleman from Massachusetts, Mr. CONT
His Excellency, Ambassador Rinaldo Petr
nani; the RAI Corp.; the National Cable Tele
sion Association; the Learning Channel; a
the National Education Association.

Speakers at the event included our dist
guished colleague from Massachuset
Deputy Chief of Mission, Embassy of Ita
Paolo Janni; Dr. Gastone Orefice Orto
chief editor, RAI Corp.; Dr. Harold E. Mors
chairman and CEO, the Learning Chann
Albert J. Riccelli, Sr., national president, OSI
and Dr. Phillip R. Piccigallo, national executi
director, OSIA. Special thanks are also ow
to OSIA California State president Frank
DeSantis and OSIA national education c
chairperson Peter C. Tubiolo; the Learni
Channel's vice president for programmi
Robert Sestili; and Gerlando Butti, Ph.D., a
Vincenzo Coniglio, Ph.D., directors of the It
ian Cultural Institutes of Los Angeles and S
Francisco, respectively.

Throughout my service on the House Co
mittee on Foreign Affairs, I have work
toward expanding and enhancing the public
examination of U.S. foreign policy, foreign
lations, and multicultural activities. Certai
the study and knowledge of languages is t
surest pathway to improved understanding
the world around us and to achieving tr
multicultural literacy.

I heartily endorse the new instruction
series, "In Italiano," and I commend all tho

who contributed to its production, promotion and widespread distribution.

TRIBUTE TO YOSEMITE PARK ON ITS CENTENNIAL CELEBRATION

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. LEHMAN of California. Mr. Speaker, Yosemite National Park celebrates its centennial today, October 1, 1990. I have the distinct privilege of having this premier national park and World Heritage Site within my district. Having hiked and cross-country skied in Yosemite all of my life, I can attest to the magnificent beauty and incomparable majesty of this park. Today as a tribute to the centennial of Yosemite, I would like to offer a brief history about this most popular park which brought over 3.4 million visitors to its gates this past year.

On October 1, 1890, President Benjamin Harrison signed into law an act to set aside reserved forest lands surrounding Yosemite Valley. It is this date which has been formally recognized as the establishment of Yosemite as a national park for all the people of the United States.

Covering over 1,200 square miles, Yosemite National Park lies in the Sierra Nevada Mountains in central California with the San Joaquin Valley to the west and the Great Basin to the east. Yosemite contains the headwaters of the Tuolumne and Merced Rivers and is known worldwide for such landmarks as Half Dome, Bridalveil Fall, El Capitan, and Yosemite Valley.

Historians say that native Americans first inhabited the magnificent landscape of Yosemite and the Sierra about 3,000 years ago. Ancestors of the Sierra Miwok, known as the Ahewahneechee or Yosemite Indians, entered higher elevations of the Sierra from the Central Valley of California. Non-Indian adventurers did not arrive until 1833 when, it is believed, the famous Joseph Walker party skirted the cliffs of the Yosemite Valley in search of new furtrapping territory. In 1851 Maj. James D. Savage led the Mariposa Battalion into Yosemite Valley in pursuit of Indians.

The first tourists came to Yosemite in 1855 with a party organized by James M. Hutchings, who was the publisher of California magazine. Hutchings' visit marked the beginning of Yosemite as an attraction for nature lovers and tourists. One of those early visitors to Yosemite was Horace Greeley, who wrote: "I know no single wonder of Nature on Earth which can claim a superiority over Yosemite." Later when John Muir came to Yosemite in the 1860's and was among the first to recognize that Yosemite Valley was a product of glacier movement, he described the glaciers as nature's landscape architect.

In the mid-1860's the state of California administering of Yosemite Valley and the Mariposa Big Trees continued until 1906 when California relinquished its ownership and President Theodore Roosevelt signed a Federal law accepting the return of Yosemite. Yosemite was thus combined with the 1890 back-country Federal forest reserve to constitute Yosemite National Park.

Although universally regarded as a premier park and natural experience, much of Yosemite's history has included controversy over the way in which it has been managed. Perhaps the most notable issue of contention regarding the management of the park was the construction of the Hetch-Hetchy Dam within park boundaries in 1913. But, decades before that occurred people had been arguing over access, accommodations, and development within the park. That controversy continues today as Yosemite celebrates its centennial.

Americans have much to celebrate during Yosemite's centennial; as we approach the 21st century at Yosemite, we have even more to contemplate. The challengers of natural preservation in concert with public use at Yosemite have existed from the very beginning. In the late 1920's and 1930's, Yosemite Park Superintendent Charles Goff Thomson summed up these challenges very well. Thomson described it as reconciling two conflicting objectives: "First, the National Park Service is controlled by an earnest determination to preserve the parks for posterity. Our second responsibility is to make Yosemite as useful as possible to the people of this generation." Superintendent Thomson's words hold just as true today as they did six decades ago.

WSMV—A HISTORY OF EXCELLENCE

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. CLEMENT. Mr. Speaker, I rise today to pay tribute to not only one of the best local television stations in America, but one of the best stations in the history of televised broadcasting—station WSMV in Nashville, TN.

This year WSMV is celebrating its 40th anniversary on the air. The NBC affiliate is the most honored television station in America, receiving more major national broadcasting awards in the past 5 years than any affiliated station in America, according to a survey tabulated by a national accounting firm.

The survey included 20 national awards received by affiliated stations in each of the top 50 televisions markets during the 5-year period 1985–89. Awards surveyed included the George Foster Peabody Award, the Dupont-Columbia Award, the George K. Polk Award, the National Emmy, J.C. Penney-Missouri, Broadcast Promotion and Marketing Executives [BPME], Ohio State and others.

WSMV Nashville received a total of 41 of the pretigious national awards.

WSMV signed on the air on September 30, 1950, and has become a national leader in broadcasting. In Nashville, it serves as the market leader in news and is known for its outstanding service to the community through the 5-year-long campaign known as 4-The-Family.

During its history, WSMV has seen an extraordinary number of its on-air talent move on to hold positions in the largest television markets in the Nation. Among them are game show host Pat Sajack of the popular show "Wheel of Fortune," Dan Miller who appeared with Sajack on his CBS late-night variety show, John Tesh who is the cohost of "Entertainment Tonight" and former anchors Lonnie Lardner and Carol Marin.

During its first 32 years, the NBC affiliate was owned by the National Life and Accident Insurance Co. In 1964, WSM became the first television station in the Nation to receive satellite weather map photos transmitted from NASA's Nimbus satellite.

In 1965, WSM brought color programming to the Nashville market and in 1975 channel 4 became the first Nashville television station to broadcast an hour-long news program.

Serving as channel 4's first news anchor, Jud Collins began broadcasting in 1950 what he termed a primitive 15-minute newscast. The newscast aired at 10 p.m. featuring news, weather and sports information.

Channel 4 was the first station in the market to report live with Collins' outstanding stories on a prison riot in 1960. He convinced the Governor of Tennessee to allow television cameras inside the prison for the report and WSM remained on the air throughout the night.

In 1963, another major personality joined WSM, Ralph Emery. Emery who is now both the host of the Ralph Emery Show on channel 4 and host of Nashville Now on the Nashville Network, has the longest running and highest rated early morning lead-in to the Today Show in America.

I also want to recognize one of the outstanding news directors in the country, Mike Kettenring. Mike was recently honored, as part of the station's 40th anniversary and his 15th year with the station, with a surprise roast that resulted in the establishment of the Michael J. Kettenring Journalism Scholarship at Middle Tennessee State University.

Mike Kettenring is one of those rare individuals whose outstanding work has benefitted not only WSMV, but an entire geographic region in Tennessee and Kentucky where channel 4's signal reaches. His contributions through a hard working commitment to quality local programming, public service, news and special family oriented themes are unparalleled.

I grew up in Nashville and I have watched channel 4 most of my life. Nashville is indeed fortunate to have a television station of this caliber.

I ask my colleagues to join me in celebrating the 40th anniversary of one of the best television stations in broadcasting history, and I wish WSMV many more successful anniversaries.

DARE TO BE DRUG-FREE

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. SCHAEFER. Mr. Speaker, I rise today to honor a group of young people in Lakewood, CO, who have chosen to become the front line in our Nation's fight against drugs. The

Drug Abuse Resistance Education [DARE] program, cosponsored by the Lakewood Public Schools and the Lakewood Police Department, has graduated yet another class of courageous students from Hutchinson Elementary School who have dared to stay drug-free.

Despite the best efforts of local law enforcement, Federal drug prevention programs, and even parents, our children's schools remain the place in our society most vulnerable to drug pushers. DARE—a joint effort between students, local law enforcement officers, teachers, and school administration officials—is working to combat escalating drug use in schools the most effective way possible * * * through prevention. While law enforcement is responsible for reducing the supply of drugs, it is the students—with the encouragement and guidance of the community—who must take the front line in eliminating the demand for drugs.

If cost projects are an indication of the severity of our Nation's drug problem, there is legitimate reason for concern. The figures are staggering—in the coming year alone the U.S. Government will spend $10.6 billion on drug control activities. Last year we spent over $12 billion solely on drug-related incarcerations. The key to overcoming this seemingly insurmountable problem lies in the next generation * * * our Nation's future depends on their choice to stay drug-free today.

I commend the courage of those students who resist drugs, the dedication of all the law enforcement officers, teachers, parents and administrators who empower youth to resist drugs and the Lakewood community for their commitment to a drug-free future.

FDIC REFORM SHOULD NOT PENALIZE CONSUMERS

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. RINALDO. Mr. Speaker, recent reports indicate that the FDIC Bank Insurance Fund is at a historically low level. The FDIC is crucial to maintaining the confidence that the American people have in our financial system.

Millions of Americans' savings are protected by the FDIC. This is especially true of older Americans, whose financial independence and retirement are based on the money that they have saved over a lifetime of work. We cannot endanger their futures.

However, some experts have suggested that the way to reform the system is to reduce the amount of an individual's deposit that is covered by FDIC insurance. I strongly oppose this suggestion.

We cannot break our convenant with the American people. Millions of Americans depend on the FDIC to protect their savings, and we in Congress cannot violate this trust by reducing the amount of a savings deposit that is covered. The small depositor should not have to pay for the mistakes of government regulators and high-flying speculators.

There are many ways to strengthen the FDIC other than to penalize individual depositors. Federal Reserve Chairman Alan Greenspan has said that lowering the $100,000 per account coverage will not appreciably reduce the FDIC's costs.

Instead, financial institutions should be required to increase their capital levels and to reduce their dividends when their earnings drop. Congress should also change the FDIC premiums from a flat percentage of deposits to a system that takes into consideration the amount of risk that each financial institution poses to the FDIC.

A conservative, well-managed bank should not have to pay the same premium that an institution with high-risk investments would pay. The depositors at the conservative bank end up subsidizing the other's risky investments.

I would prefer a system that measures the risk of each financial institution's investments and sets their premiums accordingly. This would also provide an incentive for banks to move to safer, more secure lines of investment.

In addition, the financial regulators must step up their examinations of financial institutions. The key to reducing FDIC losses is early detection and rapid corrective action.

Congress must make some tough decisions about the structure of our financial industry that reduce the risks to the FDIC while encouraging an innovative financial system.

TRIBUTE TO CHIEF WARRANT OFFICER 2 ANDREW PAUL PORTER

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. BONIOR. Mr. Speaker, last year during the American invasion of Panama, one of our casualties was a young man from my district in Michigan. CWO2 Andrew Paul Porter served his country proudly, bravely, and with distinction. Andy felt it an honor to wear the uniform of the United States and he never hesitated to risk his life in the line of duty. He died early on December 20, 1989. He was 25 years old.

As a tribute to his sacrifice and in recognition of a truly fine young person, I am pleased to enter into the CONGRESSIONAL RECORD, a beautiful remembrance of Andy written by his mother, Mrs. Marlene Porter.

REMEMBERING ANDY

It has proven to be a very difficult task to send out all the thank you notes for the many kindnesses shown our family since Andy was killed. It is not difficult thanking people for their kindness, but I feel bad so many people did not have the good fortune to know Andy. In this message, I want to thank everyone and give people who never met Andy, an idea of what a neat man he was.

First, my family and I thank everyone for all the support and help. We had help from people from the first moments we learned Andy was missing in action. It was the next day we learned he had been killed. People came to our home with food, helped with anything that was needed, and friends and family stayed with John and the girls while I flew to California to help Sue. The servicemen who came to the funeral were picke
up and driven back to the airport by friend
and other family members. There wer
flowers from many people and many memo
rials to Save the Whales Foundation an
the Helicopter Museum. Some of the memo
rial donations were to other organizations i
Andy's name. There are five trees planted i
Israel in his name also. We received hur
dreds of cards and letters from people al
over the United States. Some from peopl
who lost sons in Vietnam. There was much
coverage on television, some people tape
the different channels and give us copies o
the tapes. The local police departments of
fered much help the day of the funeral an
our neighbor took care of a press release t
the TV networks. People at the Methodis
Church, the Vietnam Veterans' Administra
tion, and the St. Clair Inn provided a beauti
ful luncheon after the service. The St. Clai
Inn provided rooms for the visiting servic
men for however many days needed. Peopl
are still sending cards of encouragement t
let us know we have not been forgotten.

There was a great amount of press o
Andy's life and achievements in the militar
but little about his sunny disposition, eas
going manner and super sense of humo
that made life fun.

The most important thing in Andy's lif
was his family. He always looked out for hi
sisters, Lisa and Bronwyn. As all kids, the
would fight with each other, but let anyon
else say or do anything to the girls it wa
another story. It was great knowing tha
with all the normal fighting and teasin
that went on, these three kids were friend
and allies and really loved each other.

Andy always felt responsible for th
family. He had always told John and I h
would take care of us. He even looked
property that had two homes on it so h
could see that we were taken care of. H
had discussed taking care of us many time
with his wife, he felt very strongly abou
this. We assured him this was not necessar
but Andy just went on with his plan. It wa
comforting knowing he was there if w
really did need him.

Andy was forever calling home to se
what we thought of this or that. He alway
discussed things that were going on in hi
life with us. He valued our opinion and mos
always took our advice. That quality i
Andy is something few parents have the op
portunity to experience.

He sent money home to use for anythin
we wanted. He felt he owed us for just doin
what parents do, taking care of him, feedin
him, helping him, caring for him when h
was sick and just plain raising him. Lovin
him through it all.

Andy had a great deal of compassion fo
other people. When Brian Madrid was kille
in Panama, Andy was unable to accompan
Brian home to his parents. It bothered hi
that a man who did not know Brian wa
taking him home, so Andy wrote them
seven-page letter telling them of the
friendship and what a wonderful perso
their son was and how much Andy love
Brian. Brian's folks have let us know ho
much that letter and Andy's phone cal
meant to them.

A fellow pilot and friend, said of hin
"Andy was always way ahead of me in th
goodness department and I have always fe
unworthy of his friendship. His goodnes
was just intoxicating. That is something
will never get over.

Andy always kept track of his friends an
how they were. If anyone needed help c
any kind of just encouragement, he wa

there for them. Andy always looked for the good in people, not their faults.

I'm told that the other pilots knew flying with Andy could cost them money as Andy would hit them up for funds for candy. He then would fly over the slums of Panama and throw candy to the kids.

Bronwyn said of Andy, "he was so special and a joy to be around, unless you knew him you would never believe what a wonderful person he was." "A man who took a hold of life and lived it to the fullest—trying to include everyone in the joy of it all the way."

Andy loved children. He had two daughters that came with his marriage to Sue. He loved to take the girls on trips and spend time with them doing things as a family. He bought them bikes and loved to take them to the beach. Andy and Sue wanted one child of their own and intended to fill their family with adopted children. He felt there were many children who needed love and Andy had more love to give than any young man I've ever known.

Andy was interested in many things. He liked to try things at least once. He learned to brew his own beer. He was a success at this venture and his buddies helped down the supply to encourage his newfound hobby. He brought some home one Christmas for the family to try, it was agreed that his brew was good stuff.

He took up boxing at Ft. Rucker and was a 1983 welterweight champion. After he received his boxing trophy, his friends wanted him to join them in running competitions between the companies. He was a 10 K runner. At home he would do his running with Nugget, his dog, and sometimes Sue would join them.

Growing up in Michigan you learn to do many sports. Swimming, diving, water skiing and even a little boating. However, the one thing he loved was skiing in the snow. Andy loved this downhill sport. He went to Garmisch, Germany skiing while stationed in Germany in 1984.

While in Panama, Andy got his scuba certification in two days. Andy and Brian were scuba buddies until Brian was killed.

Andy loved motorcycles and cars. He was always on the lookout for special autos. While in service, and bought a 1973 MG Midget, 1969 SS Chevelle, Triumph Spitfire, Triumph TR 250, and a 1969 Jaguar. We bought his Midget and his wife will keep the Jaguar. He sold the rest to friends.

Andy knew how fragile life was, he had lost three friends to crashes this year. He made sure his family knew how much he loved them. He sent Sue a pearl necklace from Panama for Christmas. She was worried because it was so expensive, but Andy told her you can't take it with you. He called the night before he died to thank us for the presents and cookies we sent and tell us how much he loved us. He had even opened his presents.

Andy touched many lives with love and friendship. He will be missed by more people than I will ever know.

Ft. Ord has asked for information on Andy's life. They were considering naming a Day Care Facility after him. After they received the information they felt it would be more fitting to name the new Youth Center after him. The decision is not definite yet, but just being considered is an honor.

Andy was a neat kid. He was always a hero to his friends and family, but in all the confusion of the last moments of his life, we learned he saved the lives of two of his friends. A missile was going to hit their helicopter, he radioed them and they moved from the path of the missile. When they radioed Andy back to see if he was alright and tell him the missile had missed them, Andy was already down. He is credited with saving the lives of many men when he destroyed the anti-aircraft gun at the Amador location. Andy died December 20, 1989 in the early dawn hours of the invasion.

I hope this gives you some insight as to the type of person Andy was. I'm sure you can see Andy was one in a million, a true gift from God. We are all put on this earth to do a job. Andy got his done in twenty five years and has gone on to better things. The rest of us may be here for a hundred years and never accomplish what Andy did in twenty five.

WORLD BANK ADDRESS BY BARBER CONABLE

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. BEREUTER. Mr. Speaker, on September 25, 1990, our former colleague and President of the World Bank, Mr. Barber Conable, gave a stirring annual address to the Board of Governors of the World Bank. He first spoke on the gulf crisis and changes in Eastern Europe, then outlined in the remaining two-thirds of his speech a comprehensive strategy for reducing the abject poverty in which 1 billion of our fellow humans beings continue to live. This Member believes that Barber Conable speaks eloquently to all of us about how to seize today's historic opportunity to secure economic and social progress for all people. Accordingly, this Member recommends reading the following excerpts from the Conable speech, in part because they correspond so closely to legislation enacted last year by the Congress, which encouraged the World Bank to take exactly the initiatives he has enunciated.

Excerpt of Mr. Conable's speech follows:

Address by Barber B. Conable

As the 1990s unfold, success in reducing poverty should be the measure of global economic progress.

Reducing poverty is possible. Developing countries, bolstered by international support, have made impressive advances against poverty. In the two decades after 1965, developing country annual consumption per capita rose from $590 to $985 in real terms; life expectancy rose from 51 to 62 years; and the net enrollment rate in primary education increased from 73 to 84 percent. These are not mere statistics. They speak of real achievements which have improved the quality of peoples' lives—achievements to which the World Bank has contributed considerably over many years, achievements of which we can all be proud.

Development on this scale and at this speed is unprecedented.

Despite these impressive advances, poverty has proven a stubborn foe. For instance, three of the world's most populous nations—India, China and Indonesia—have made great progress toward reducing poverty. Even so, more than one billion people, half of them in South Asia, still live on less than a dollar a day. Over the next ten years, the population of the developing world is likely to increase by at least 850 million people, many of whom will be born into absolute poverty.

Some regions have regressed economically. Living standards in Latin America have fallen below those of the 1970s. Parts of Sub-Saharan Africa have suffered a veritable collapse of living standards, institutions and infrastructure. Given Africa's rapidly rising population, the number of poor people will continue to increase, even if economic growth accelerates. There, poverty reduction faces its greatest challenge.

Poverty reduction is an integrating theme for the many facets of the Bank's work, and it is the raison d'etre for our operational emphasis. Our World Development Report 1990 sets out a clear strategy for reducing poverty.

The premise of the strategy is that the poor's most abundant asset is their labor. Experience suggests two related ways of improving and utilizing that asset. First, economic growth which encourages the productive use of labor by removing policy biases will increase income-earning opportunities for the poor, particularly in farming and small and medium enterprise. Second, expanded and better directed educational and health services for the poor will augment their income-earning potential.

These two elements form the core of this poverty reduction strategy. In addition, carefully targeted transfers and social safety nets are necessary to assist those most vulnerable—for instance, the children, the aged, the sick and the handicapped—who, through no fault of their own, will not be reached. We can, we must reduce the suffering of these dependent poor.

This strategy derives from years of experience and a growing consensus in the development community about what is needed to reduce poverty.

The precondition for restoring growth in many countries is structural adjustment. Major economic imbalances must be redressed; the poor suffer most from distortions such as high inflation.

Inadequate restructuring hurts the poor, by reducing consumption and availability of social services. We have seen in programs in Ghana and Bolivia, however, that social services can be preserved and even expanded, depite budgetary constraints.

In fact, the poor benefit from restructuring. Indonesia's restructuring mainly affected industry, while Tanzania's was directed chiefly at agriculture. Demand for labor is rising in both countries.

Economic growth is driven by the entrepreneurial spirit of individuals. A vibrant private sector, therefore, is vital. Most of the income-earning opportunities for the poor are generated by the private sector, many in the dynamic informal urban sector and in the labor-intensive agriculture sector.

The World Bank is rapidly increasing its lending for the social sectors—primary education where we are tripling our lending, basic health care, family planning and nutrition. Our special focus on women in development seeks to expand economic opportunities, while easing their burden in securing food, water and health services for their families. We have intensified our support for efficient food production and for targeted nutrition progams to replace costly general food subsidies. We are helping countries design better delivery system for social and public services, and are encouraging the involvement of communities, NGOs and the private sector.

Together, we can reduce poverty.

Any poverty reduction strategy is sustainable only if it respects the natural environment.

Poor people and poor countries suffer most from environmental degradation.

As the World Bank pursues poverty reduction, our commitment to environmentally sustainable development will continue. We will encourage ecologically sound patterns of energy use, agricultural development, industrialization and human settlement.

Implementation of the poverty reduction strategy could reduce the number of poor people in developing countries by at least 300 million, roughly one-third, by the year 2000. Child mortality rates could decline with improved health services, and primary education could become almost universal.

This progress is achievable, despite rapidly rising populations, including an expected increase of about 100 million poor people in Sub-Saharan Africa. The World Bank is determined to press Africa's recovery. Special and sustained action is required from the entire international community. I welcome the support given to the second round of the Special Program of Assistance for Africa.

In Africa and elsewhere, governments must be committed to poverty reduction. Scarce resources—financial, natural and human—must be used more effectively. People are seeking better choices and more control over their individual destinies.

Development is most likely to succeed where government is honest, competent, responsive and just; where accountable institutions function according to objective rules; and where red tape is minimized.

Successful implementation of the strategy also depends a great deal on the external economic environment, which is largely determined by industrial countries.

A satisfactory outcome to the Uruguay Round is crucially important.

In addition to removing trade restrictions, industrial countries must provide adequate financial resources and sound investment to support the strategy. Otherwise, poverty reduction will remain an ambitious dream.

Private direct investment is a powerful engine of growth. Developing countries must improve their investment climates to attract private capital—whether it be foreign, domestic or flight capital.

Despite recent debt-reduction agreements, debt remains an obstacle to growth in many developing countries. We must continue to pursue ways to lighten further the load of both private and official debt.

Increased flows of official development assistance are also needed, if developing countries are to succeed in implementing poverty reduction strategies.

The Gulf crisis has dampened hopes for a peace dividend. But it should not. Just as an example, if members of NATO cut their military outlays by only 10 percent, they could double their development aid. Moreover, developing countries spend around $200 billion a year on weapons; many spend more on arms than on health and education combined. Financial resources must be redirected to higher priorities.

Development is a slow process, a constantly moving tapestry. Success in reducing poverty will require patience. It will also require determined, collective action. The cooperative spirit in which the international community has responded to the Gulf crisis should inspire our approach to other common causes, especially poverty.

Let me suggest four ways in which we can work together to reduce poverty.

First, developing country governments should establish sustainable growth policies and spending priorities for poverty reduction. They must marshall and make efficient use of scarce resources. The World Bank will work with interested nations to formulate and implement the specific programs which will bring the strategy to life. Others must also help.

Second, we should agree on ways to measure better how country policies affect the poor. Good intentions are not enough; objective standards must be built into our efforts to improve the quality of life. Indicators such as child mortality, primary school enrollment, nutrition, real unskilled wages, and real agricultural producer prices could be used to measure progress in reducing poverty.

Third, good performance should be increasingly important in allocation of development assistance. Where recipients do not pursue a broad poverty reduction strategy, assistance should be limited and carefully directed towards the neediest groups. Where countries adopt effective strategies, resource flows should be increased to reinforce their implementation. IDA already gives considerable weight to a country's efforts to reduce poverty, in allocating its scarce concessional funds.

Fourth, the entire international community should be committed to substantial poverty reduction. The UNDP's Human Development Report 1990, the Bank's World Development Report, and the extraordinary Children's Summit this coming weekend in New York are fresh evidence that the international community has common concerns, directions and strategies. We must tap the international reservoir of skills and experience to translate this common concern into action.

Lifting poverty's burden from hundreds of millions of people means new freedom for them—freedom from hunger; freedom from ignorance; freedom from avoidable ill health; freedom to determine their own destinies; freedom to participate in growth and improvement—in short, freedom for a future brighter than the past. Together, we can, and I believe we will, reduce poverty.

SEYMOUR H. KNOX, JR., AN EXTRAORDINARY MAN

HON. BILL PAXON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. PAXON. Mr. Speaker, last week, Buffalo lost a dear friend, a dear friend indeed. At the age of 92, the passing of Seymour H. Knox, Jr., brought to a close a long life of vision, passion, and generosity.

The impact Seymour Knox had on our community is extraordinary. As a banker, an educator and a philanthropist, Mr. Knox left us a legacy that will remain long, long after he is gone.

Mr. Knox served for 27 years as chairman of the Marine Midland Bank. He saw it grow from a small local bank to a global money center—and he built Buffalo's tallest building—an appropriate symbol of his significance in our community.

For 20 years, Mr. Knox served as chairman of the University of Buffalo. He led the university into the State University of New York system, transforming it into an internationa recognized institute of higher education.

But I think he would want to be remer bered most for his love of art, a love he gr ciously shared with all of us. Just as Seymo Knox was more than an ordinary banker, ar more than an ordinary educator, he was als more than an ordinary patron of the arts.

The Albright-Knox Art Gallery, which M Knox served over the course of his life a president, chairman, and benefactor, clain one of the most renowned collections modern art in the world.

It was Seymour Knox who said that, "A should be acquired to be seen and enjoye not to be stored in a warehouse."

That quote eloquently yet modestly summ rizes Seymour Knox's sense of civic respon bility. All of Mr. Knox's accomplishments we shared and experienced by the whole comm nity. He never did things solely for his ov gratification; he always strove to inclu others.

Always dedicated to his family, Seymo Knox's legacy will live on in the lives of h two sons, Seymour III and Northrup, coowne of the Buffalo Sabres, and his six grandch dren. As a matter of fact, Seymour Knox was just born a few months ago.

His extraordinary accomplishments, co bined with his extraordinary generosity, h guaranteed a lasting place of prominence Seymour Knox in the history of Buffalo.

HAITI'S FRAGILE HOPES

HON. BRYON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. DORGAN of North Dakota. Mr. Speak the ebb and flow of democratic trends in H has left most of us confused and perplexe Several disappointing turns have also caus many of my colleagues to wonder wheth Haiti can ever build a real democratic gove ment and open society.

These fears would certainly be nourished a recent article in the Christian Science Mo tor, which I would bring to the attention of colleagues. The author reports that Hai precarious experiment with democracy see headed for the scrap heap. The report delays in voter registration, the election po ponement, the failure to arrest Duvalieri Roger Lafontant and Williams Regala, a conflicts between Interim President Er Pascal Trouillot and the Council of State portend dark days for Haiti.

Yet some friends of Haiti still hold out ho that democratic elections will be held, a that the will of the Haitian people may yet expressed. I would urge President Bush a Secretary of State Baker to do everything p sible to turn that hope into reality. I encoura them to continue their efforts of pressuring interim government to proceed with fair el tions without the threat of violence or hara ment. And to that end, they must persist calling for the arrest or exile of Regala a Lafontant.

The article from the September 26, 19 Christian Science Monitor follows.

[From the Christian Science Monitor, Sept. 26, 1990]

HAITIAN ELECTIONS LOOK DOUBTFUL

(By Kathie Klarreich)

Haiti's fragile political system appears to be coming apart at the seams, casting doubt on whether elections will be held this year as planned.

An appointed interim president, Ertha Pascal Trouillot, and the 19-member Council of State took office six months ago. Their primary purpose, aside from governing the country temporarily, was to organize free and fair presidential elections.

Since then, voter registration has been postponed twice. Elections have been delayed until December. Crime and killings, widely seen as part of a campaign of intimidation by antidemocratic forces, are on the rise. There were 29 murders in August alone.

Following a furor last month over Mrs. Trouillot's unwillingness to consult with the Council of State, the body severed all ties with the president on Aug. 15 and has since called for her resignation. An alternative government was proposed, but Trouillot has ignored the idea.

"Never in Haitian history has any president had such possibility of doing well," says the Rev. Antoine Adrien, a Roman Catholic priest and negotiator who helped appoint Trouillot and her government. "Trouillot could have been queen, but instead she chose to be the puppet of the Army."

Trouillot quickly lost the confidence of the Haitian people by ruling in the fashion of previous dictators, political observers here say. This style, they contend, includes making autonomous decisions and standing aside while public coffers are pilfered.

The State Council, after announcing it had exhausted negotiations, declared its "right to veto." They accused the government of fraud, nepotism, "incompetence, favoritism, and corruption of the financial management of the state to the detriment of the national economy."

"Anything Trouillot signs is illegal now," says Council President Louis Roy. "She has never once responded to our accusations, but continues to conduct business as normal. She is acting like a dictator, ignoring a situation which is explosive."

Despite this, the Provisional Electoral Council (CEP), which is in charge of organizing the elections, and the State Council agree an election can still take place, if there is the security for it and if efforts are made to improve public confidence by halting the current crime wave.

The Army, headed by Gen. Herard Abraham, is reported to favor elections. Army representatives have met members of the CEP to discuss electoral security. But the Army has done little to shake suspicions it is passive toward, if not involved in, much of the recent violence and crime.

Working with inadequate resources, CEP officials say their organizing efforts were to be budgeted at $1 million a month. The government is required by law to give the CEP a monthly payment, but CEP officials say they have never received any money. Canada last weekend gave $1.2 million to the CEP. The US has indirectly contributed $3.5 million toward elections and $2 million in election equipment.

Despite such obstacles, CEP member Emmanual Ambroise says: "If we didn't think we could change things, we wouldn't be here. We believe the people want elections, and we'll do everything possible to help them. But we won't make the same mistakes we made before." Mr. Ambroise was a member of the CEP that organized the last election, on Nov. 29, 1987, when more than 34 voters were killed at the polls.

Williams Regala, one of the alleged architects of the 1987 massacre, returned to Haiti in July along with former Defense Minister Roger Lafontant. Mr. Lafontant is believed to have been chief of the Tonton Macoutes, former dictator Jean-Claude Duvalier's paramilitary henchmen.

Although there is a warrant out for his arrest, Lafontant has been seen travelling in the countryside with military escorts. He is campaigning for president although the country's Constitution forbids associates of Mr. Duvalier from running for office for 10 years. Former US President Jimmy Carter on Saturday urged Lafontant to abandon presidential ambitions and go into exile.

"The Macoutes don't have popular support," says Victor Benoit, leader of the moderate Konakom Party. "But they can buy people, which could lead to destabilization."

Marc Bazin, leader of the Movement for a Democratic Haiti, wants elections held at any cost. Mr. Bazin, a former World Bank employee, is widely thought to have the backing of the United States government. Some say Bazin has signaled a willingness to overlook the past.

"We do not think justice is going to give us elections," Bazin said at a recent rally. "We think it is elections that are going to give us justice."

There is, however, no clear favorite in the race.

A number of parties are forming coalitions to broaden their popular support. Some Hatians say they are waiting for the situation to become clearer before they commit themselves. Others want to see what happens when registration starts Oct. 5. There is a general desire for change, but not at any cost.

"The candidates are like unmarked bottles," Dr. Roy says. "You don't know if the bottle you pick will be poison or the cure."

FRANCISCAN SISTERS OF ST. JOSEPH CELEBRATE 50TH ANNIVERSARY OF SERVICE TO ST. MARY'S HOSPITAL OF BROOKLYN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. TOWNS. Mr. Speaker, today I rise to pay tribute to a magnificent institution which has rendered compassionate and competent care to the people of Brooklyn for half a century.

On October 4, 1990, St. Mary's Hospital, an affiliate of the Catholic Medical Center of Brooklyn and Queens, Inc., will be celebrating the 50th anniversary of the Franciscan Sisters of St. Joseph's service at St. Mary's.

St. Mary's Hospital, a 270-bed acute care facility located in Bedford-Stuyvesant has been caring for the physical, emotional, and spiritual needs of the citizens of Brooklyn since opening its doors in 1882.

Today, the hospital, staffed by the Franciscan Sisters of St. Joseph of Hamburg, has expanded its facilities to assure service and care to the people of this community. This tradition of compassionate and humble care led the hospital to establish diverse residency programs to serve the total health care needs of the community. These programs include obstetrics, gynecology, medicine, surgery, pediatrics, and pathology. It is through the vision and courage of the Franciscan Sisters that St. Mary's remains a respected institution in the Brooklyn Community.

I commend this wonderful institution for their unwavering devoted service to the people of this community.

FAMILY UNITY IN OUR IMMIGRATION POLICY

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. AuCOIN. Mr. Speaker, we will soon consider H.R. 4300, the Family Unity and Employment Opportunity Immigration Act. As a cosponsor of this legislation I urge my colleagues to vote for passage of this bill which maintains family unity as the cornerstone of our immigration policy.

The act amends section 5 of the Immigration Marriage Fraud Amendments of 1986 to bring the provision into conformity with other provisions of the Immigration and Nationality Act. Current law prohibits the filing or approval of any visa petition that is based on a marriage between an American citizen and his or her alien spouse if the marriage occurs while the alien is subject to deportation or exclusion proceedings, unless the alien spouse resides in the United States for 2 years. In place of the automatic 2-year foreign exile requirement, the H.R. 4300 would impose a statutory presumption of fraud that would prohibit marriages entered into during the pendency of deportation proceedings from constituting the basis for a visa petition unless the Attorney General is satisfied that the marriage is bona fide and not entered into for the purpose of evading the immigration laws.

Section 5 was enacted to insure that aliens who were in the process of being ejected from the country could not escape deportation by entering into a sham marriage with a U.S. citizen. The change in section 5 rendered by this act will in no way diminish the ability of the INS to detect and prevent fraudulent marriages.

What it will do is permit couples whose marriages are bona fied and whom Congress did not intend to punish when it enacted section 5, to demonstrate the validity of their marriage without first being compelled to suffer the hardship and trauma of separation or exile. The deterrent effect and presumption of fraud would be preserved, but the irrebuttable and unwarranted penalty imposed on valid marriages would be removed. I urge my colleagues to maintain this provision of the Family Unity and Employment Opportunity Act.

TAIWAN'S NATIONAL DAY

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. TALLON. Mr. Speaker, with the approach of Taiwan's National Day, its 79th anniversary of independence, on Wednesday, October 10, we have a chance to celebrate the phenomenon that it the modern Republic of China. A great debt is owed Taiwan's leaders past and present, most notably Generalissimo Chiang Kai-shek, President Chiang Ching-kuo, and President Lee Teng-hui. Together these leaders have created a viable democratic polity out of backward and feudalistic beginnings.

To President Lee Teng-hui of the Republic of China and to his representative in Washington, Dr. Cing Mou-shih, we send our congratulations on Taiwan's 79th birthday as we applaud Taiwan's spectacular successes of the last 79 years.

FREE TRADE AGREEMENT WITH MEXICO

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. BRUCE. Mr. Speaker, I am pleased to introduce this concurrent resolution which highlights some concerns present in a potential free trade agreement with Mexico.

This week, President Bush expects to formally notify Congress of his intent to put FTA negotiations with the Mexican Government on a fast track. Let me begin by saying that this resolution does not oppose the formation of such a trade agreement with Mexico. However, it emphasizes that the potential impact of an FTA on the competitiveness of many sectors of our economy needs to be thoroughly assessed before we enter into a landmark trade agreement.

This resolution instructs the U.S. Trade Representative to complete an impact assessment on U.S. industries, while recognizing that the requirements of the Omnibus Trade and Competitiveness Act of 1988, regarding consultations with Congress and the relevant committees in the development of an FTA be strictly observed.

The administration has indicated that, because of our experience gained in negotiating an FTA with Canada, we have the ability to iron out a free trade agreement with Mexico in an even shorter period of time. This sense of euphoria needs to be received with caution. While the Canadian economy is quite similar to our own, the Mexican economy is not as developed.

Currently, United States workers in the manufacturing sector are earning between $5 and $10 per hour along with many nonwage benefits, while Mexican workers are earning between $5 and $10 per day for the similar work. Additionally, United States producers must adhere to increasingly stricter clean air, clean water, and waste disposal regulations while pollution standards in Mexico are weaker than our own and frequently unenforced. These labor and environmental standards in our country, although necessary, exact a cost on United States business which is not paid by our Mexican competitors. For these reasons, I do not believe that we can afford to view a United States-Mexico free trade agreement as an extension of our recently signed FTA with Canada.

Another concern addressed in this resolution is the potential for an FTA to allow Mexico to become a gateway for foreign products into the United States. Our trade negotiators need to devote close attention to domestic content and rule of origin provisions to ensure we are not inviting third parties to take unfair advantage of tariff and nontariff reductions which become part of this bilateral agreement.

If you have concerns about the impact of a United States-Mexico free trade agreement on United States competitiveness, I urge you to join me in supporting this resolution.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, October 2, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 3

9:30 a.m.

Environment and Public Works

Toxic Substances, Environmental Oversight, Research and Development Subcommittee

To hold hearings to review the Office of Technology Assessment's report, "Neurotoxicity, Identifying and Controlling Poisons of the Nervous System," and to examine related research and regulatory issues.

SD-406

Governmental Affairs

To hold hearings on the Office of Management and Budget's response to the Federal government's management failures.

SD-342

10:00 a.m.

Commerce, Science, and Transportation

To hold hearings on the nominations of Wayne L. Berman, of New York, and Craig R. Helsing, of the District of Columbia, each to be an Assistant Secr
tary of Commerce.

SR-25

Judiciary

To hold hearings to review the propose
United States refugee resettlement a
missions program for fiscal year 199

SD-22

3:00 p.m.

Foreign Relations

To hold hearings on the nominations
Linton F. Brooks, of Virginia, for th
rank of Ambassador as Deputy Hea
of Delegation to the Nuclear ar
Space Talks, Juliette C. McLennan,
the District of Columbia, for the ran
of Ambassador as U.S. Representativ
on the Commission on the Status
Women of the Economic and Soci
Council of the United Nations, Paul
Dobriansky, of Virginia, to be Asso
ate Director for Programs, Unite
States Information Agency, ar
Robert A. Flaten, of Minnesota, to
Ambassador to the Republic
Rwanda.

SD-41

OCTOBER 4

9:00 a.m.

Environment and Public Works

Business meeting, to consider pendi
calendar business.

SD-4

9:30 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings on whistleblower pro
lems in the Federal Grain Inspecti
Service, Department of Agriculture.

SR-428

Commerce, Science, and Transportation

Aviation Subcommittee

To hold hearings on S. 2822, to promo
and strengthen aviation security.

SR-2

Governmental Affairs

To continue hearings on the Office
Management and Budget's response
the Federal government's manag
ment failures.

SD-3

10:00 a.m.

Foreign Relations

To hold hearings on proposed arms sal
to Saudi Arabia.

SD-4

Judiciary

Business meeting, to consider pendi
calendar business.

SD-2

2:00 p.m.

Armed Services

To hold hearings on implications of t
Treaty on the Final Settlement Wi
Respect to Germany (Treaty Doc. 10
20) for NATO strategy and U.S. mi
tary presence in Europe.

SR-2

OCTOBER 5

9:00 a.m.

Governmental Affairs

Permanent Subcommittee on Investig
tions

To resume hearings to examine alleg
fraud, waste and abuse in Federal st
dent loan programs, focusing on acti
ties of the Culinary School of Was
ington.

SD-3

9:30 a.m.
Joint Economic
To hold hearings on the employment-unemployment situation for September.
2359 Rayburn Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the nomination of Mary S. Brunette, of Virginia, to be an Assistant Secretary of Housing and Urban Development.
SD-538

Foreign Relations
To hold hearings on the nomination of Ryan C. Crocker, of Washington, to be Ambassador to the Republic of Lebanon.
SD-419

2:00 p.m.
Judiciary
To hold hearings on the nominations of Thomas G. Nelson, of Idaho, to be United States Circuit Judge for the Ninth Circuit, Joseph M. McLaughlin, of New York, to be United States Circuit Judge for the Second Circuit, Donna M. Owens, of Ohio, to be Director of the Bureau of Justice Assistance, Department of Justice, Diane G. Weinstein, of the District of Columbia, to be a Judge of the United States Claims Court, and James B. Loken, of Minnesota, to be United States Circuit Judge for the Eighth Circuit.
SD-226

OCTOBER 9

9:30 a.m.
Governmental Affairs
To hold hearings to examine proliferation in the 1990's.
SD-342

OCTOBER 10

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to review the sale of Semi-Gas Company, focusing on antitrust issues and the Committee on Foreign Investment's views.
SR-253

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine alleged fraud, waste and abuse in Federal student loan programs.
SD-342

OCTOBER 11

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study to examine the bleaching of Atlantic tropical coral caused by the coral releasing algae and the resulting deterioration of the species.
SR-253

FEBRUARY 26

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of the Disabled American Veterans.
345 Cannon Building

FEBRUARY 28

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Paralyzed Veterans of America, Blinded Veterans Association, Vietnam Veterans of America, Military Order of the Purple Heart, and Non-Commissioned Officers Association.
345 Cannon Building

APRIL 17

9:00 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of AMVETS, Ex-Prisoners of War, Jewish War Veterans, and World War I Veterans.
345 Cannon Building

SENATE—*Tuesday, October 2, 1990*

(Legislative day of Monday, September 10, 1990)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable CHARLES S. ROBB, a Senator from the State of Virginia.

The PRESIDING OFFICER. Today's prayer will be offered by a guest chaplain, the Reverend Dr. Donald M. Meisel, Westminster Presbyterian Church, Minneapolis, MN.

PRAYER

The guest chaplain, the Reverend Dr. Donald M. Meisel, senior minister, of the Westminster Presbyterian Church, Minneapolis, MN, offered the following prayer:

Let us pray:

Dear Lord of All, by Your design our lives are a succession of single days. One day we were born. One day we shall take our leave of this planet. All we have for certain is the given day—this day. May we live it well.

May we be sensitive today to those who have preceded us here, who gave their all to the succession of their days—by virtue of which we are much the wiser and profoundly indebted.

May we be sensitive today to those for whom this day is fraught with pain and confusion and uncertainty and want. Wherein it is in our power to fashion a better tomorrow for them, let that be our first order of business.

May we be sensitive today, Lord, to those who have yet to see the light of day. May the world they enter be a better rather than a lesser place because of the decisions made here.

May we be sensitive today to the lingering, persistent shadow of the threat of war. May something as positive as the invasion of Kuwait was negative be added to the mix leading to a better hope for tomorrow for millions of people.

Lord, the men and women in this room are ordinary people with extraordinary responsibilities.

May the day, by Your grace, find them equal to the possibilities that exist.

And may they have some joy in reaching for them.

In the strength of Your name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 2, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHARLES S. ROBB, a Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ROBB thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning following the time for the two leaders, there will be a period for morning business, not to extend beyond 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each. During the period for morning business, Senator BIDEN will be recognized for up to 15 minutes.

At 10:30 this morning, it is my intention to seek consent to proceed to Calendar No. 819, S. 3037, the Money Laundering bill. Should consent not be granted, it is my intention to move to proceed to the bill.

The Senate will recess from 12:30 to 2:15 p.m. for the party conferences. Upon reconvening at 2:15 today, there will be a rollcall vote on final passage of Senate Concurrent Resolution 147, regarding the Persian Gulf situation. Once that vote is concluded, the Senate will go into executive session to begin consideration of the nomination of David Souter to be an Associate Justice of the U.S. Supreme Court.

CONGRATULATIONS TO FORMER SENATOR HUGH SCOTT ON HIS 90TH BIRTHDAY

Mr. MITCHELL. Mr. President, or
behalf of Senator DOLE and myself
Mr. HEINZ, and Mr. SPECTER, I send
resolution to the desk congratulating
former Senator Hugh Scott on hi
90th birthday, and I ask for its imme-
diate consideration.

The ACTING PRESIDENT pro tem
pore. The clerk will report the resolu
tion.

The legislative clerk read as follows

A resolution (S. Res. 331) to congratulat
Senator Hugh Scott on his 90th birthday.

The ACTING PRESIDENT pro tem
pore. Is there objection to the immedi
ate consideration of the resolution?

There being no objection, the Senat
proceeded to consider the resolution.

The ACTING PRESIDENT pro tem
pore. The question is on agreeing t
the resolution.

The resolution (S. Res. 331) wa
agreed to.

The preamble was agreed to.

The resolution, with its preamble,
as follows:

S. RES. 331

Whereas Senator Hugh Scott of Pennsy
vania, was the Senate Republican leader f
eight years, and

Whereas Senator Scott was the Senate A
sistant Republican Leader for two year
and

Whereas Senator Scott was Chairman
the Republican National Committee 194
49, and

Whereas Senator Scott was a Member
Congress for 33 years, including eight term
in the House of Representatives and thr
terms in the Senate, and

Whereas Senator Scott voluntarily retir
at the end of his term in January 1977, a

Whereas Senator Scott served his count
in the United States Naval Reserve in Wor
War II, and saw duty aboard the carri
Valley Forge during the Korean War: no
therefore, be it

Resolved, That the Senate extends its be
wishes to Senator Hugh Scott on his 90
birthday, November 11, 1990.

Mr. MITCHELL. Mr. President,
move to reconsider the vote.

Mr. DURENBERGER. I move to la
that motion on the table.

The motion to lay on the table w
agreed to.

THE RESOLUTION ON THE GUL CRISIS

Mr. MITCHELL. Mr. Presiden
today the Senate will have an opport
nity to express itself on the Persia
Gulf crisis. The resolution upon whic

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

we will vote expresses support for the President in this difficult and dangerous time in the Persian Gulf.

It commends the President for steering the U.N. Security Council toward its strong condemnation of Iraq's unprovoked aggression against Kuwait.

It expresses Congress' approval of the actions taken to date in support of the goals outlined by the U.N. Security Council.

It supports continued American action in accordance with U.N. Security Council decisions and in accordance with our constitutional and statutory processes.

Finally, it calls upon other nations to strengthen enforcement of U.N. sanctions against Iraq and to provide assistance to States adversely affected by sanctions or harboring refugees from the crisis.

That is what the resolution is. Let me now state what I believe the resolution is not.

This resolution is not an authorization for the use of force, now or in the future.

Nor does this resolution represent approval of all future actions taken by the President in the gulf.

This resolution is not a blank check. This resolution is not a Gulf of Tonkin resolution.

Congress cannot responsibly provide such approval in advance. Nor should Congress attempt to do so.

Future actions must be judged on their own merits, in view of the circumstances at the time.

Moreover, constitutional and statutory processes govern the process for making decisions that might lead to war or for formally declaring war.

The War Powers Resolution requires the President to consult with and formally report to the Congress when U.S. Armed Forces are introduced into situations where imminent involvement in hostilities is clearly indicated by the circumstances.

The Constitution makes plain that only Congress can provide a declaration of war.

The President of the United States has no legal authority, none whatsoever, to commit the United States to war.

So the Senate, then, will be involved in future grave decisions should the crisis expand and the shadow of war approach.

I fully expect that the President will follow America's constitutional and statutory procedures for involving Congress in the weighty decisions that might lead to war.

No one of us wants war in the Persian Gulf.

I believe the President has acted wisely in leading the U.N. Security Council toward the strong stance that it has adopted. It is critically important to maintain the unity of the international community in confronting Iraq's belligerence.

I hope that the current course of international economic and diplomatic sanctions will convince Saddam Hussein of the futility of his aggression and demonstrate the power of unity within the United Nations.

I am pleased that this body can express its support for the President's actions in this regard.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and I reserve all of the leader time of the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

THE 1990 OCTOBER QUARTERLY REPORTS

The mailing and filing date of the October quarterly report required by the Federal Election Campaign Act, as amended, is Monday, October 15, 1990. All principal campaign committees supporting Senate candidates in the 1990 races must file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510-7116. You may wish to advise your campaign committee personnel of this requirement.

The Public Records Office will be open from 8 a.m. until 9 p.m. on Monday, October 15, to receive these filings. In general, reports will be available 24 hours after receipt. For further information, please do not hesitate to contact the Office of Public Records on (202) 224-0322.

Mr. COHEN. Mr. President, may I inquire of the majority leader, would there be any objection to extending the morning hour until 10:35? I know the Senator from Minnesota wants to express some words about the message that was delivered this morning from a minister from his State. Senator BIDEN has 15 minutes, which will take until 10:30, and I would like to make a few comments on the resolution if that will be possible.

Mr. MITCHELL. Mr. President, I am pleased to accommodate the request and, indeed, since there may be other Senators who wish to speak, I will now ask unanimous consent that the period for morning business be extended until 11 a.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE RESOLUTION ON THE GULF CRISIS

Mr. DURENBERGER. Mr. President, I am looking forward to the comments of my colleague from Maine on the subject that the majority leader raised. I know my colleague from Maine is going to talk about the War Powers Act, and it is most appropriate, particularly given his understanding and his respect on this issue. I hope that all of us will be cognizant of what our colleague has to say.

THE GUEST CHAPLAIN

Mr. DURENBERGER. Mr. President, this morning it is for me a personal honor and a pleasure to have the Senate session begin with a prayer from my friend Pastor Don Meisel, of Westminster Presbyterian Church of Minneapolis.

I say to my friend Don Meisel that, while there are not many Members on the floor, his inspirational words have gone out throughout the Senate and to a national CNN audience this morning and it actually reaches millions of people via the CONGRESSIONAL RECORD. I am not sure whether that makes him a television preacher or not, but as a very close friend for the last 19 years, I appreciate not only his words but the act of his being here.

I say to my colleagues and to those who are concerned about the chaplain for the day that Don Meisel has been an especially good servant in the highest sense of that word. I can only speak to his service to the people of the Twin Cities for the last two decades. He was born in St. Paul, graduated from Macalester College in St. Paul and was educated at Princeton Seminary and Edinburgh, Scotland, like so many good Presbyterian ministers are.

I came to know Don and his wife Ellie and their family 19 years ago when we moved in almost next door to them in south Minneapolis. He and Ellie are two of the most unique people I have ever met in their relationship, their love for the Lord, and their love for other people; 37 years of a beautiful marriage; four children, Donny, Nancy, Wayne, and Tim, who happens to be an especially close friend of my son David. They have two grandchildren, Robin and Maura, and the grandchildren are a constant source of sermon illustrations for the 3,000 members of Westminster Church.

Pastor Meisel and his congregation of 18 years provide a special service to the downtown community in Minneapolis and also to a much larger community now through the Westminster

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town hall forums. And I dare say there are a number of our colleagues, present and past, who have been asked to participate in these very special forums. For 10 years Pastor Meisel and that congregation have brought in outstanding artists, authors, poets, social commentators, and other thoughtful people to provide intellectual stimulation and informed dialog. These forums now are known throughout the region and are broadcast by American public radio.

The people of Minnesota are proud of their serious approach to public issues and ideas. Today we have been blessed not only in the prayer but in the person of Pastor Meisel and, through him, the people of Westminster, who have provided us all the valuable opportunity to learn more about ourselves in the world for which we are responsible.

This opportunity to lead the world's greatest deliberate body in prayer is a fitting tribute to Don Meisel's life, to his family, and to his years of service to the people of Minnesota and elsewhere.

Mr. President, I yield the floor.

THE RESOLUTION ON THE GULF CRISIS

Mr. COHEN. Mr. President, I rise today in support of Senate Concurrent Resolution 147, which expresses support for the President's actions in response to Iraq's invasion of Kuwait. I believe that the President has shown strength and wisdom by pursuing a policy toward Iraq that emphasizes international cooperation and makes clear that Iraq's unprovoked aggression against Kuwait is completely unacceptable. If the President had not reacted in the firm and effective manner that he was, we would be risking the extortion of the civilized world by a ruthless tyrant bent on regional conquest.

In fact, if Saddam Hussein's character appeared in a novel, it might appear to be implausible on the grounds that no human could be so unambiguously evil. Yet it is a matter of record that he has engaged in the use of chemical weapons and of torture against his own people; that he has personally executed opponents; that he has twice launched unprovoked attacks on his neighbors; and that he has bankrupted a country with immense oil reserves through his obsessive efforts to expand his arsenal of weapons of mass destruction and long-range delivery systems. For his neighbors and his opponents, Saddam Hussein has been not only a nightmare but a daymare for many years, but his most recent act of aggression poses a threat that extends well beyond the Middle East. I believe that the entire civilized world has a compelling interest in enforcing international sanctions against Iraq, and I commend the President and the administration for working so skillfully through the United Nations to fashion the broad alliance that now confronts Saddam Hussein.

I also wish to associate myself with the words spoken just a few movements ago by my colleague from Maine, the majority leader, Senator MITCHELL, about what is not in Senate Concurrent Resolution 147. I agree with his interpretation that this does not provide any sort of a legislative record that would give a blank check to President Bush to conduct a war without consulting Congress, indeed without resorting to us for a declaration of war.

I am also rising to express my dissatisfaction with this resolution. I am dissatisfied with the role that has been relegated to Congress in determining our policy toward Iraq. We are left with essentially two options, either to declare war or allow the President to wage war and then just ask Congress to pay the bills. This is simply unacceptable.

The resolution that we are voting on later today is useful in that it will express support for our President and his policies to date. But it is not a resolution pursuant to or even consistent with the War Powers Resolution. We are operating today on the false premise that our troops in the Persian Gulf, facing over 400,000 Iraqi forces in and around Kuwait, are not in imminent danger. I simply do not accept that.

Last week, in the Senate Armed Services Committee, we authorized imminent danger pay for U.S. forces participating in Operation Desert Shield. We did that, I believe, not only because duty in the Persian Gulf is difficult and dangerous, because on that basis we would have had to authorize imminent danger pay for forces in many parts of the globe. We took that action, which I believe the Senate is going to follow and support, because we know that in this instance the potential for war could easily turn upon a small misadventure or miscalculation. We know that Saddam Hussein has weapons of mass destruction, and a vast army, and has demonstrated a will to use them. And he has been absolutely unrepetent and uncompromising regarding his invasion of Kuwait. He has abducted—perhaps even murdered—hundreds if not thousands of individuals in Kuwait. He continues to make bellicose statements regarding the United States and our allies in the region. So I think that the risk of armed conflict remains high and that our troops that in fact in a situation of involving imminent hostilities. In that regard, commenting on this situation, Secretary of Defense Cheney warned last week that Saddam Hussein, "may seek to use military force to break the

stranglehold that the embargo has in
posed." He also referred to the U.S
commitment in the Persian Gulf a
"open-ended."

It seems to me that this extraord
nary commitment of U.S. forces to th
Persian Gulf, which clearly has th
potential to involve the United State
in hostilities, is precisely the sort o
situation envisioned when the Wa
Powers Resolution was enacted. If
was not intended to bar "open ende
commitments and force Congress t
either specifically authorize or negat
deployments that might involve th
United States in a war, then I wond
what was the War Powers Resolutio
intended to do? And I wonder, how ca
we, who enact the Nation's laws, sub
sequently disregard them without un
dermining respect for the rule of la
itself?

At the same time, I could not agre
more with those who maintain th
the War Powers Resolution has n
worked as we hoped it might and
was intended to. The debates that w
had during consideration of the Pe
sian Gulf reflagging operation
couple of years ago demonstrated th
many problems inherent in curren
law. But if the law is flawed, as mo
would agree that it is, then we have a
obligation to change it rather tha
ignore it. Certainly we should repeal
if not change it.

I believe that Congress and the exe
utive branch both need to participa
in decisions that could lead to wa
That was clearly the intent of ou
Founding Fathers, who wisely sough
to ensure that we have unity at hom
before we risk conflict abroad. Th
power to declare war, which our Co
stitution invests in the legislati
branch, is an important safeguar
against impetuous presidential actio
that must be preserved. The existenc
of nuclear weapons in the arsenals
the superpowers in my view mak
that safeguard not irrelevant, bu
more important than ever, since an
overseas involvement contains the p
tential for escalation. And for tho
more limited engagements that pr
dominate in the world today, it is ne
essary for Congress and the Preside
to stand united in order to be effecti
and minimize the risks to our men an
women in uniform.

That is why, Mr. President, I join
with a number of my distinguish
colleagues, including Senators BYR
MITCHELL, NUNN, WARNER, BOREN, an
DANFORTH, in introducing a bill, S. 2,
remedy the problems inherent in cu
rent law. The measure we have intr
duced would establish what we ho
will be an effective process for consu
tation between the Presidency an
Congress, as well as an effective an
clearly constitutional mechanism f
Congress to circumscribe U.S. involv
ment overseas if necessary.

As envisioned in this legislation, the consultative process would involve regular meetings between key congressional leaders and the President, together with his leading advisers. Members of the permanent consultative group would include the leadership of the House and Senate, as well as the chairman and ranking minority members of the Foreign Relations, Armed Services, and Intelligence Committees of both Houses of Congress. In extraordinary cases involving vital U.S. security interests, the President could limit these meetings to the leadership of the House and Senate. It is also important to point out that this legislation preserves the provisions in existing law which require the President to provide written reports to Congress regarding the commitment of U.S. forces to situations involving imminent hostilities, as well as the separate statutory requirements that covert actions be reported to the two Intelligence Committees.

In my view, this approach makes more sense than the one currently in place but bilaterally ignored today. If these consultations succeed in building a consensus, it will ensure either that the United States does not commit forces to situations involving hostilities, or that such forces are committed with the support both of Congress and the President. That is the ideal we should strive toward—discussing and I hope resolving contentious foreign policy issues before we commit our military to situations with the potential for conflict or escalation. That is the optimal approach both from the standpoint of effectiveness and of fairness to our military personnel.

Of course, it may not always be possible to achieve a consensus between the executive and legislative branches, and this legislation provides for that contingency by establishing a flexible and clearly constitutional mechanism for Congress to express itself on issues involving the use of force. By a majority vote of its members, the chairman and vice chairman of the congressional consultative group would be able to introduce a resolution that would be considered under expedited procedures. This resolution might require the President to submit a report. It might withhold funding for a military operation, or specifically authorize such as operation, or place limits on such an operation. It is completely flexible. But it ensures that Congress will have the opportunity to express itself regarding policies that could lead to war. This process would substitute for the current procedure under which U.S. forces must automatically be withdrawn from the area of conflict after 90 days without specific congressional authorization for their continued involvement in hostilities.

It is true, of course, that the President could veto this resolution. But even if his veto is sustained, it will at least be clear that money may not be available in the following budget cycle to continue an operation opposed by a majority in Congress. And unlike the present system, which is tough in theory but weak in practice, this procedure will undoubtedly be constitutional and enforceable. Finally, by setting a high standard, this legislation will mitigate against congressional micromanagment of U.S. foreign policy. In short, I believe this approach makes more sense than the current arbitrary 90-day deadline after which U.S. forces must automatically be withdrawn in the absence of specific congressional authorization.

Mr. President, we cannot guarantee that this approach will be effective, but it has become clear that a new approach is needed. At the present time, we have a ticking bomb lodged in our constitutional system that could explode if tensions increase and support for the President's policies in the Persian Gulf decline in the months ahead. By failing either to comply with the War Powers Resolution or to change it, I fear that we are not resolving this important issue but only delaying it to our disadvantage. If S. 2 is enacted, I believe we can defuse this bomb, sparing our country needless divisions and controversy and increasing the effectiveness of our foreign policy.

In sum, Mr. President, while I support the President's policies, I am very troubled by the predicament we find ourselves in today. I have indicated before that I think the President would serve his own decision and America's cause well by complying with the provisions of the War Powers Act and asking for an explicit vote to authorize Operation Desert Shield as called for by the War Powers Resolution. Unfortunately, the resolution we will be voting on this afternoon is crafted in such a fashion that it does not provide such an authorization. I strongly hope that the administration does not conclude that we as a body do not seek to bear our fair share of the weighty burden involved in decisions that could lead to conflict. I believe that it would be extremely unfortunate if the administration or the American people believed that we are abdicating our legal and constitutional responsibilities.

Mr. President, I believe that this is a matter of great importance, and I hope that in light of the current situation in the Persian Gulf my colleages on both sides of the aisle will give S. 2 careful consideration and support efforts to ensure that it is considered at the earliest opportunity. We need to repair the War Powers Act rather than meekly surrender congressional power to the executive branch. In the meantime, however, I believe that the administration and Congress should comply with the law as written.

I also am advised that the Senator from Delaware [Mr. BIDEN] may offer another statutory approach to this particular issue on war powers. I have not had an opportunity to review it, but I certainly will give it careful consideration.

The final message is that we should enforce compliance, insist on compliance with the War Powers Act as written. If we do not do that, we ought either to modify it or nullify it.

Mr. President, I yield the remainder of my time.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE CONCURRENT RESOLUTION 147—NO BLANK CHECK

Mr. SIMON. Mr. President, we have and will be voting this afternoon on Resolution 147 regarding the President's action in Kuwait. I think the President has handled it very, very well up to this point and that portion of the resolution which supports what the President has done up to this point I think is excellent.

There is one phrase in here that disturbs me, and I do not know what we can do about it. I understand it would take unanimous consent to modify anything in this resolution and I assume that unanimous consent would be difficult to achieve. But when it says, "the Congress supports continued action by the President," I do not know what that means. And if that is a blank check, I do not want to sign it.

Again, I think what the President has done up to this point has been good. I think the President has handled this exceedingly well. Oh, we might differ on some minor points, any one of us, but I think on balance it has been exceedingly well handled. But no President, no Secretary of State, no Secretary of Defense, should in any way misunderstand what we are doing here. We should not hand a blank check to the President.

When it says in this resolution, "the Congress supports continued action by the President," I do not know what that means. I am concerned about that phrase, and I hope as we enter into debate on this, between now and 2:15 when we vote, there will be some attention to this. My own preference would be that that particular phrase be dropped.

I see two of my colleagues who have been very active in this whole field,

one of whom has been a leader in supporting international law, my colleague from New York, Senator MOYNIHAN, is here.

I am concerned by the words, "the Congress supports continued action by the President." I would like to see that modified and I hope maybe we could get unanimous consent to have that modified.

Everything else in the resolution is fine. The President has handled this exceedingly well. The United Nations has worked as it should work. But for this Senate to pass a resolution that says among other things, "the Congress supports continued action by the President," that concerns me. I do not know what that means. I do not want to give any blank checks to any President, any administration. That is my concern.

The ACTING PRESIDENT pro tempore. The chair recognizes the Senator from California [Mr. CRANSTON].

PATIENCE

Mr. CRANSTON. Mr. President, I urge President Bush to resist the pressures of propaganda and pursue a policy of patience for peace. We should not be pushed into military action by stories of Iraqi atrocities in Kuwait. There probably never was a war in the history of the world in which atrocities were not committed against civilians. That is one of the reasons why war is so terrible and why we should do our utmost to avoid war.

I have seen estimates that American casualties could climb to 30,000 or more if an intensive ground tank war was to break out over the Iraq situation. I feel absolutely certain that, given the choice between 30,000 American casualties or sweating it out until the embargo and the blockade work, Americans would be almost unanimous in urging sweat it out.

I want to respond to the President's reported statement that the plundering of Kuwait may reduce the time we have to allow the embargo to work. I say patience for peace should be America's watchword.

President Bush sent our troops to Saudi Arabia to deter further Iraqi aggression and to prevent a power-hungry dictator from dominating oil supplies vital to the world. But we should not send millions of Americans into a bloody and destructive shooting war, simply because we are repelled by Iraqi atrocities. We cannot, unfortunately, correct all the evils of the world.

I was on a trip in the Middle East recently with other Senators. It was a delegation headed by Senator PELL. Of all the Arab leaders we spoke to, President Mubarak of Egypt was the most optimistic that the embargo could get Iraqi President Saddam Hussein to withdraw from Kuwait. But even President Mubarak talked in terms of months, not days or weeks.

I feel very strongly that the United States should not initiate military action agains Iraq without careful, cautious forethought and without the approval of Congress and without the approval of the United Nations. Going it alone would alienate our friends in and out of the Arab world and destroy whatever good we have accomplished so far. If we get into a war, win or lose, Saddam Hussein could be transformed into a hero in Arab eyes for taking on the U.S. military Goliath.

Mr. President, I support the pending resolution with the very clear understanding that it does not approve any military actions against Iraq without the approval first of Congress and the United Nations.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from New York [Mr. MOYNIHAN].

PERSIAN GULF RESOLUTION

Mr. MOYNIHAN. Mr. President, I rise to say I am in complete agreement with the Senator from California. He and I have spoken about this on the floor now for several weeks, as have the Senator from Illinois and the Senator from Maine. Our resolution says that—

> The Congress supports continued action by the President in accordance with the decisions of the United Nations Security Council, and in accordance with the United States constitutional and statutory processes, including the authorization and appropriation of funds by Congress to deter Iraqi aggression and to protect American lives and vital interests.

I want to speak in a moment about the President's speech yesterday that he addressed to the U.N. General Assembly, which I found very positive. I want to congratulate him for that speech.

It also came as a relief because, very simply, Mr. President, all this weekend a transparently orchestrated series of statements came from what can only be described as "the war party" within the administration. It does not take a great deal of textual analysis to spot 15 people from the Pentagon briefing reporters from the New York Times, Washington Post, and Newsday, and we can just go down the list of national periodicals.

I will give my colleagues an example. On Sunday a New York Times report said: "Kuwaitis Say U.S. Doubts Embargo Will Get Iraq Out." The article said:

> For at least a week, the administration has been giving a bleak prognosis in private discussions with congressional leaders and diplomats.

Then the Washington Post had a story which reported:

> After 8 weeks, the administration remains highly uncertain whether the Persian Gulf crisis will be resolved peaceably or lead to war.

Mr. SIMON. Will my colleague yield?

Mr. MOYNIHAN. I will be happy to yield.

Mr. SIMON. What he is saying is the very thing that concerns me. As my colleagues read this resolution, when we say, though it is qualified, by U.N. action and the U.S. constitutional processes, when we read that, and we read this resolution that says the Congress supports continued action by the President, is this resolution—and I know that my distinguished colleague from New York is a cosponsor of it—but does this in any way give a blank check to the President?

Mr. MOYNIHAN. I will respond to my able, learned, and determined friend, no, it does not.

Mr. SIMON. I thank the Senator.

Mr. MOYNIHAN. And I want to say to those people who are giving these stories, no, it does not give a blank check. One official, we learned from the Washington Post, says: "Bush is preparing the country for possible military action." On Saturday, we were told President Bush had given a "pessimistic assessment of the chances for a peaceful solution."

Another story began with this sentence:

> Iraq will have to be ousted from Kuwait by military action because diplomatic efforts and trade sanctions are likely to have little impact in Iraqi President Saddam Hussein, U.S. Government analysts concluded recently.

Finally, on that point, Mr. President, Michael Kramer, writing in Time, began an article with the sentence: "War by Christmas or perhaps sooner." He says:

> U.S. officials openly discuss the use of tactical nuclear weapons against Iraq.
>
> And then this sentence, a concluding sentence as I recall the article:
>
> A Bush adviser who countenances tactical nuclear weapons, as easily as the Arab official, says their use has yet to be discussed seriously because everyone is confident that a war against Iraq will resemble a turkey shoot.

That strikes me as the kind of talk that comes from someone who has never been in one of them there turkey shoots, unlike the distinguished Presiding Officer.

And so, Mr. President, I would like to turn, if I may, to the President's address yesterday. I ask unanimous consent for 5 additional minutes.

The ACTING PRESIDENT pro tempore. The Senator's time of 5 minutes has expired. There is no one else seeking the floor. The Senator may extend his time as he may need.

THE PRESIDENT'S SPEECH TO THE UNITED NATIONS

Mr. MOYNIHAN. President Bush's speech yesterday could not have been more consonant with the concurrent resolution which we will be voting on at 2:15. It was described as the most detailed elaboration of his policy in the gulf that he has yet given, and he gave it in an appropriate setting—the United Nations—which has been the locus of the policy we have pursued.

I have several times made the point that under article 25 of the U.N. Charter, member nations are bound to comply with U.N. Security Council resolutions. The charter is a treaty. The treaty is the supreme law of the land. The President need not, in the first instance, explain why he is complying with a Security Council resolution. He needs to, of course, properly explain why our representative on the Council supported the resolution with which we are complying.

He said yesterday:

> We're hopeful that the machinery of the United Nations will no longer be frozen by the divisions of the cold war.

He asked:

> Can we work together in a new partnership of nations? Can the collective strength of the world community expressed by the United Nations unite to deter and defeat aggression?

And then he said in a nice sentence:

> Because the cold war's battle of ideas is not the last epic battle of this century.

He went on to talk about the rule of law. He said:

> Let me take this opportunity to make the policy of my Government clear. The United States supports the use of sanctions to compel Iraq's leaders to withdraw immediately and without condition from Kuwait. We also support the provision of medicine and food for humanitarian purposes, so long as distribution can be monitored.

He said:

> Our quarrel is not with the people of Iraq. We do not wish them to suffer. The world's quarrel is with the dictator who ordered the invasion.

That is an important statement. We have not yet heard from the President whether food will be part of the embargo. The term "humanitarian purposes" does not quite tell us all we need to know about whether we are going to feed people or not, or allow them to be fed.

He said:

> Let me also emphasize that all of us here at the U.N. hope that military force will never be used. We seek a peaceful outcome and a diplomatic outcome.

Mr. President, when we talk in these terms we are not speaking as people who would never contemplate the use of force. More important, we need to recognize that economic sanctions are a use of coercion, and they are not any prettier to contemplate than military action.

We are going to find out whether such sanctions can work. It may be they cannot. They never did under the League. They have not really been effective under the United Nations. Here is the chance. The cold war is over. The Soviet Union, United States, all the permanent members, all the countries of the world—Cuba and Yeman excepted—are united.

The President speaks of a new partnership of nations that transcends the cold war, a partnership based on consultation, cooperation, and collective action, especially through international and regional organizations united by principle and the rule of law, a partnership whose goals are to increase democracy, increase prosperity, increase peace, and reduce arms.

That is not a man talking about a turkey shoot. He should shut those people up. He is Commander in Chief. They are not. They have no business committing the United States to any kind of war until the President has determined it has to be done, goes to the Security Council and comes to the Congress, as the Senator from California said. We support his actions. I think all of us do. He has taken a position of acting through the United Nations. It is not because we are caught up in what my good friend and fellow New Yorker, Henry Kissinger, spoke of over the weekend: the heady glow of internationalism. No, not the heady glow of internationalism. We know exactly what the chances are this will work. They are not that great. But, oh, my God, if it did, would that not be an event in the history of the world, not just another election or anything like that.

The President in my view said the right thing, just as many of his advisers were speaking very differently. I hope it was not a deliberate two-track approach. I think everybody on this floor and the Presiding Officer will know it is not the first time a nice President has said one thing and a bad adviser another. I hope that is not the case. I think the President spoke his true intentions. What he said is so consistent with how he has so far conducted himself that I see no grounds for questioning him.

The Senate will empahsize in this resolution, that we will support what he does through the Security Council and he should consult with the Congress before going to the Security Council on matters so very large import. But there is no blank check. There is no statement to do whatever you want, such as the military steps "informed sources" have been discussing over the weekend. That is not the case.

Mr. CRANSTON. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield to the distinguished ranking deputy Democratic leader of the Senate.

Mr. CRANSTON. I thank the Senator from New York for his leadership on this virtually important issue. Several of our colleagues have expressed concern about the pending resolution, fearing that it might turn out to be another Gulf of Tonkin resolution that would be interpreted as a blank check.

Does the Senator feel that it has been written strongly enough in expression by him and others on the floor, including myself, to make plain it is not another Gulf of Tonkin resolution?

Mr. MOYNIHAN. I say to my friend that, as he knows, this specific subject came up as we discussed, in our various meetings, what kind of resolution we wanted. This is not a Gulf of Tonkin resolution. It is a resolution that says we have to act in the world. We have principles. We have a U.N. system, and the U.N. system seems to be working, and we will work through the United Nations. That was the great agony of Vietnam, that we were so much and so singularly alone out there. But we are not withdrawing from the world, and we do not think this is a kinder, gentler world that will be nice if we just say nice things. Economic sanctions are not nice things. And things could go beyond economic sanctions. We know that. But we are saying that the President has been acting within the U.N. system and we urge him to continue to do. He said yesterday he will. I do not see why there should be any reason for any ambiguity. There is none in the mind of this Senator. I think there is none in the mind of the Senator from California.

I see the Senator from Maine has risen. Knowing the respect he is held within the Chamber, I would be interested to hear what he says, and also the Senator from Washington.

Mr. CRANSTON. I have another question I want to address to the Senator, but I will wait until the Senator from Maine has had his chance.

Mr. MOYNIHAN. Perhaps the Senator will do it now.

Mr. CRANSTON. It is on a related matter but a little bit separate. The Senator and I agree, and I know others do, that this is not a Gulf of Tonkin resolution, which was interpreted by the President as a blank check to take action that turned out to be military in nature.

There is another question that has arisen over the President's speech of yesterday, and I gather the Senator from New York has had more time to study that speech than I, plus subsequent clarifying statements from the President. But there was some concern after his speech, that he might be suggesting following the Mitterrand line

of some overall negotiations tied to a retreat of Saddam Hussein from Kuwait after he was satisfied that certain things would follow that he would like thereafter, particularly relating to an overall settlement of the Palestinian issue and the problems between the Arab world and Israel. I have not seen it. I gather the President afterwards said he did not suggest any such thing, that there is going to be no discussion of anything with Saddam Hussein until he is out of Kuwait and back to Baghdad. Is that the Senator's understanding of what transpired?

Mr. MOYNIHAN. That is exactly how I would read the speech. He said that we are not going to accept the grim nightmare of anarchy in which the law of the jungle supplants the law of nations. The law of nations says Suddam Hussein must get out of Kuwait.

Mr. CRANSTON. I thank the Senator. That clarifies one point.

Mr. ADAMS. Will the Senator yield for a question?

Mr. MOYNIHAN. I guess the Senator from Maine was first. I am happy to yield.

Mr. COHEN. Will the Senator yield for a question of the Senator from New York?

The Senator from New York, as I understand it, sees this resolution merely as endorsing the actions the President has taken pursuant to various U.N. resolutions.

Mr. MOYNIHAN. That is correct.

Mr. COHEN. It should be made very clear that the President of the United States does not recognize that Congress has any constitutional authority, short of declaring war or appropriating dollars, in this entire process. The President has stated, for example, that he would welcome an expression of support initiated by the Congress but not initiated pursuant to the War Powers Resolution. In other words, the President invites Congress to say it supports his action as it is currently being carried out, but President Bush does not recognize Congress as having any role to play short of a declaration of war. And, of course, there has been no declaration of war since World War II. There were none for Korea, Vietnam, Grenada, or Panama.

So we have the unique situation today in which Congress is left in limbo—either we have the power to declare war, which has not been done for well over 40 years, or we can simply appropriate the dollars necessary to pay the bill for deploying troops to an area which the administration does not recognize as involving imminent hostilities. So we are in somewhat of a no man's land.

I think it is imperative that we move to correct the situation so we do not have this President or some other President point to a resolution of support recognizing his inherent authority to commit 100,000-plus troops to a region that everyone recognizes involves imminent hostilities.

Mr. MOYNIHAN. I must respond tentatively, because I do not have any greater insight than the Senator from Maine as to how exactly we should proceed. I do know one thing: We better be asking the kind of question the Senator from Maine just asked. I do believe—and I do not know if anyone in the Chamber shares this view—that we are in a new region of international behavior. The framers of the Constitution, a 19th century document, had no experience and very little, if any, anticipation of any formal organization of nations. They divided the powers of international affairs deliberately and ambiguously. I am not surprised to find us not quite sure who is responsible for what. It was an invitation to this kind of discussion.

A. U.N. action takes place in a different era, an age where there is a world organization, the second of its kind and one that was designed to try to prevent the failures of the first; where the nations have given an organization, the Security Council, with five permanent members, the power to take action, including military action.

It was specifically contemplated by the United States and by this Congress in the United Nations Participation Act of 1945 that the President would negotiate an agreement with the Security Council that would make forces available to it—let it have on call, shall we say, the 82d Airborne Division—which the Security Council could commit to battle.

Such a commitment of U.N. forces would have to be with the unanimous agreement of the permanent members. Therefore our President would have to agree. Our U.N. Ambassador would have to agree. It is a terrifying thought because I once served in that position.

Congress said that the agreement between the United States and the Security Council would have to be approved by us. No agreement was ever reached. It took 5 years' negotiation.

But the President ought to be thinking, as we ought to be thinking, "All right, if we are acting in this new context, what forms of consultation do we need?"

We are not going to war. It is a peacekeeping action—maintaining the Charter. A declaration of war probably does no more really than change legal status of the belligerant parties, but I do not want to press that point.

But in any event, that is not what we are doing. We are doing something different, which we contemplated we would do. That takes some further thought about how do we do it. We do not want to have an expression of world unity and have a huge division at home. It is the last thing a President should want, any President, or Congress.

Is that at all coherent to the Senator from Maine, that we are in new territory here?

Mr. COHEN. I think clearly we are in new territory. But the Senator from Maine is simply raising the issue of the proper role for Congress within that new area. Is it simply to acquiesce in an action that has already been taken? Is it a consultative process which would then require some kind of expedited review procedure, a voting procedure, to say, "Yes, we specifically authorize this?" Or are we relegated to turning over that authority to the President to act through the United Nations, with the Senate and the House simply funding the decisions made by the President of the United States? That is the kind of question I have.

Mr. MOYNIHAN. That is exactly the right kind of question.

Mr. ADAMS. Will the Senator from New York yield?

I want to follow on the questions of the Senator from Maine. I want to ask the Senator from New York: As we were trying to work on this concurrent resolution we stated specifically, "The Congress supports continued action by the President in accordance with the United States constitutional and statutory processes."

I want to be certain this resolution is specifically sufficient to make clear that if hostilities are eminent, or if the President decides for the launch of a military offensive, this body expects the President to comply with the War Powers Resolutions, and with the Constitution.

I have stated since this is a concurrent resolution, and so stated on September 28, at great length during the debate, that we had a consultative body created between the House and the Senate, to be debatable for consultation before action. The second thing was to create a resolution since we are not under 4(a)(1), which has the 60-day withdrawal provision, which would specifically state that for further actions to take place the President must come to the Congress.

We need to be very certain, and it is certainly this Member's understanding that this is not a Gulf of Tonkin resolution. This is a resolution to approve this debate. And as a member of the Appropriations Committee I certainly intend to exercise whatever powers I may have there that as additional requests are made, and if they were made for offensive action, those would be questioned and it would be tied to the consultative process.

I hope that Senator NUNN will also enter into this debate. I know I have discussed this matter with him. We both are of the opinion—we tried seven times, I say to the Senator, in the Persian Gulf, to use the War Powers Act. It was blocked each time by the President refusing to send a letter and by our inability to get to the expedited procedures.

So I am prepared to go either way, the War Powers Act to be filed, and with a substantive resolution that would state that we have approved to this point; we may well approve further but that he must come to the Congress for money and for all portions of a War Powers Act, and acts of war are included within that.

So I wanted to take this time with the Senator from New York, because I know there are others who are concerned about this—that this is a Gulf of Tonkin resolution. Let us let the President say so and we will all vote against it. We will vote item-by-item on appropriations.

We have tried to make this a concurrent resolution—this does not have to be signed by the President—which states the position of Congress, which is in support of giving money for the troops that are there now, and the actions of the United Nations, as the Senator from New York has so well stated. But I would like to have the Senator from New York assure me of my question; that this resolution is sufficiently clear where we say in accordance with the U.S. constitutional and statutory processes it does not authorize the President to launch a military offensive when we are out of session, and that this body expects the President to comply with the statutes and with the Constitution as he takes his actions in the Persian Gulf area.

That is my basic question.

Mr. MOYNIHAN. I say to my friend from Washington that I would seek the counsel of our colleagues—that certainly this is not a Gulf of Tonkin resolution. If it were, it would not be on the floor. That we set out not to do.

I have to say I owe complete candor to the body, and to the professionalism of my colleague. I am not prepared to say that the President cannot act in concert with the Security Council before consulting with Congress. Clearly he thereafter has to come to us for appropriations, and clearly, as the Senator from Maine said, he ought to be thinking about a process in which he does. Else appropriations will not be forthcoming and so forth.

But I think that in ratifying the U.N. Charter—a treaty which is the supreme law of our land—we have obligated ourselves as a nation and given the power to act in the first instance to the President through our permanent Representative.

I see the learned Senator from Maryland is on his feet. I would look to him for counsel on that point.

It would be refreshing if somebody from the administration came by to talk with us about these matters. But here we are.

Mr. SARBANES. Will the Senator yield?

Mr. President, first of all I think the Senator from Maine is making a very substantial contribution by asking the kind of questions that he put earlier. This obviously is a new area. There has to be some way for this body to express its support of what the President has done thus far in dealing with this situation in the Middle East, which has commanded a consensus internationally, and I think commanded a consensus domestically.

It seems to me we have to find some way to express support for that without providing some sort of sweeping authorization for the President then to do other things which have not been presented to us. We do not know the circumstances under which they would be proposed to be done. There is no way we can make a judgment, in advance of having a concrete situation, whether in fact we would approve or not.

We should not be put in the position of trying to approve something in advance that we really are not able to understand in concrete terms. I think this resolution is designed to avoid that pitfall, and at the same time express some strong support.

My reaction to the question put by the Senator from Washington was that, leaving aside, for the moment, the working through the United Nations, which the Senator from New York mentioned, I would think any other action by the President would have to meet the criteria that the Senator was enunciating.

Having said that, the question remains on the United Nations. And the Senator from New York, I think, has raised a very interesting theory. If you read the commitment to the charter, it is clear that that action could not be taken by the United Nation, unless it commanded a majority of the Security Council, including all the members thereof who possess a veto, since a single one of their votes could negate any action, even if all of the other 14 are for it.

So you have all the veto-possessing powers, which includes the United States; and a sufficient number of others to constitute a majority. I would want to look further into that before making a definitive judgment.

I think the Senator was wise to put that as a possible commitment that the Nation has undertaken. Putting that to one side, I think any commitment of the court, which the Senator from Washington was talking about, that the President undertook, would be outside of the context of the United Nations on the premise of his question, and would have to meet the standards and the criteria that he put forward.

This is a difficult situation. We want to support—at least I believe we want to support—what the President has done to date, strongly, with a consensus vote. We ought to be able to do that, without somehow being perceived as being in the position of giving the President a blank check. I think this resolution accomplishes that. I do not think it gives the President a blank check for future action. I do think it expresses support for past action.

My own view on past action is that the President has handled the matter thus far with skill, and I particularly commend him for going to the international community and working through the United Nations. And, of course, this concurrent resolution is very strong in emphasizing that aspect of the President's actions. Therefore, I hope this resolution will be supported strongly in this body on that basis.

I noticed the majority leader, when he was on the floor earlier, said that future actions must be judged on their own merits, in view of the circumstances at the time. And that moreover, constitutional and statutory processes govern the process for making decisions that might lead to formally declaring war. He then made reference both to the War Powers Resolution and the war power in the Constitution, and that the President does not have the legal authority to make that kind of commitment absent the participation of Congress.

I must say, I want to commend those who have worked in putting this resolution together, because I understand the difficulties which were involved. The House was considering a joint resolution which seems to be more reaching in its implications. I think it actually passed the House as of yesterday.

I do think this Senate Concurrent Resolution 147 that is before us will accomplish the purpose of not providing a blank check for future action, simply of supporting what the President has done. What we want to do here is to send an important message to the international community that the President finds support in the Congress and, therefore, across the country, for the actions he has taken to date.

The PRESIDING OFFICER (Mr. BRYAN). The Chair informs Senators that the period for morning business has expired.

Mr. MOYNIHAN. Mr. President, the Senator from Maine has been on the floor and on his feet for some time. Is it possible to extend morning business for 5 minues? The Senator from Washington is also here.

The PRESIDING OFFICER. That would be possible by a unanimous-consent request, if the Senator so requests.

EXTENSION OF MORNING BUSINESS

Mr. MOYNIHAN. I ask unanimous consent that we may add 10 additional minutes for morning business so the Senators from Maine and Washington may speak to the matter.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Maine [Mr. COHEN] is recognized.

Mr. COHEN. Mr. President, I rise again to address a question to my colleagues from New York, Maryland, and Washington.

When we refer to the "appropriate constitutional statutory provision," what are we referring to? Are we referring to the War Powers Act, which we ourselves have apparently decided is unworkable? We have decided it is unworkable, because it is arbitrary in the setting of deadlines. It may very well only lend courage to our adversaries, rather than to our supporters. It is seen as being cowardly on the part of the U.S. Congress, because we have to do nothing, simply let time go by to reverse the President's decision. So we have concluded that it is unworkable.

Well, most Presidents, if not all, have determined that the War Powers Act is unconstitutional, and they are not going to be bound by it. They have not been bound by it, including this President, who does not recognize its constitutionality.

So the question really becomes, what is going to be our role in the future? If, in fact, we do not support the War Powers Act any longer ourselves, should we not be about the business of modifying it, changing it, or expressing our support for nullifying it? To leave a law on the books that we do not recognize as being effective, and say we are going to ignore it, only invites a contempt for the process.

Presidents hold it in contempt. They think that is not a constitutional exercise on the part of Congress. So if we are dissatisfied for a different reason, then why is it on the books? I think we have to be careful in terms of where we go as a body in the future.

The Senator from Washington, when we were reflagging Kuwaiti vessels, tried on, I believe, seven occasions to get a vote pursuant to the War Powers Act. He was frustrated in that regard. I believe he stated earlier, a few moments ago, that the War Powers Act should not be invoked now, because there is no danger of imminent hostilities. I disagree.

I think the current situation in the Persian Gulf, with the commitment of 400,000 Iraqi forces, well in excess of 100,000 American forces, plus the other 25 or so nations currently involved, in a situation in which we have the most massive amount of military equipment confronting each other's forces, is clearly a situation involving imminent hostilities.

The Senator from New York spent 5 minutes detailing statements coming out of the administration to the effect that it looks like we will have to go to war; that this is going to be a turkey shoot. We recently had an Air Force Chief of Staff who was forced to resign because of statements he made.

I think the War Powers Act contemplated precisely the kind of situation that we are in today. We have 100,000-plus forces in the vicinity of the Persian Gulf. Something could happen: A miscalculation; someone strays over the line, and there is a retaliation; or hostages starve to death or are executed. We could easily find ourselves at war.

Where is Congress in this process? We have not, I think, spent enough time debating amongst ourselves exactly what role we intend to have in this process. I think we have to do something before the fact rather than simply complaining about our role after the fact.

Mr. MOYNIHAN. Mr. President, will the Senator yield for a question?

Mr. COHEN. I yield.

Mr. MOYNIHAN. First, a comment. The legal scholar John Hart Ely recently wrote of the War Powers Act that repeal "would greatly improve compliance." Does the Senator not think we ought to hear from the administration what they think the sequence of responsibility is when acting in a security council situation?

Mr. COHEN. I do. I think the administration should state its beliefs with respect to the Security Council and our statutory processes. What does that mean? Does that mean war powers? You say it does not. Does it mean appropriations? I suggest they procedurally view the appropriations process as, "Send us the money to carry out the war if it should come." I do not expect it means anything but that to the administration. I would welcome any clarification on their part.

Mr. MOYNIHAN. Will the Senator entertain the thought "war" may not be the correct word? The "enforcement actions" of the Security Council under the charter is something apart from war. It is designed, in the words of the charter to put an end "to the scourge war." I offer the thought. Will the Senate agree this is something that should be talked about?

Mr. COHEN. I think the Senator from New York has indicated earlier this is an entirely new area that we ought to give considerable focus and attention to, including discussion on the floor.

The PRESIDING OFFICER. The Chair will instruct the time of the Senator from Maine has expired.

The Senator from Washington [Mr. ADAMS].

Mr. ADAMS. Mr. President, I stated on last Friday, when we debated this, that I intend to put in a second concurrent resolution to answer the question of the Senator from Maine. I believe the War Powers Act is constitutional. If the President wishes to challege it in court, he should do so. Four times we have been to court, and four times the court has said it is a political question.

However, what we have started in this process is, first, to have a concurrent resolution that dealt with things up to today and to authorize the appropriation of money and the fact that troops had landed. There is a special provision in the War Powers Act for that, 4(b)(1), and that, to me, is where we are today. That is why I did not file a 4(a)(1) resolution which said you must withdraw troops within 60 days.

The two parts will follow, which I mentioned last Friday and mention again today: Second, we should set up the consultative group—and I intend to introduce that today as a concurrent resolution—set up under the rules of the House and Senate, a consultative group that the President should and must consult with.

The third thing is a resolution that I am prepared to introduce. I would go under the War Powers Act 4(a)(1)—we can do the other—but a resolution that sets forth a system that does not require the withdrawal within 60 days, because I finally round, after resolutions, that was a better way to go about it. But this resolution states clearly the procedures of consultation that must take place before an offensive action other than under the United Nations. There may be U.N. power that exists. But under the powers of the U.S. Constitution and under the statutory powers that exist, this would be tied to two things: First, the consultation, and then this consulting body would have the right to file a resolution, so you would not have the President triggering it and being able to block it up here, but filed within the constitutional bodies, the legislative bodies themselves. The second part would be that appropriation would be based upon that. So the appropriations hammer is used to provide the resolution.

This new system is something that I think could eventually lead to a change in the War Powers Act and provide a better system. We have the God-given opportunity here of a few moments of time to debate and place in position this new type of operation, where it would be a continual consultative body and a body with power to put in the resolution. Otherwise, we are thrown back on the War Powers Act.

I have pleaded with the President, I have pleaded with my colleagues not to force us into that position. We want to be supportive and we can be supportive through a series of actions if it is taken step by step. But, as I stated in my remarks on Friday and I repeat again, the Founding Fathers deliberately avoided the power to wage war from the power to declare war. The power to declare war and the foreign policy implications and the domestic implications of that were given deliberately to the Congress so that no one person, no matter how wonderful as a President, could act with the power of a king and be able to both declare war or start one and then carry it out.

I agree that many times in the history of this Republic the Congress has not done it duties. We have let Presidents do it. There has been a movement of power under the separation of powers from the Congress to the administration. I have served in the administration; I served as a Cabinet officer. I know the powers that are available within an administration to both be persuasive and to move funds around and to move people around. But that is not what it was all about with the founding of the Constitution and our Founding Fathers. That is all I plead with my colleagues, that we have a constitutional responsibility to say to the President, "We will carry out our part of this and we are, with this, approving what you have done to date. But we are not approving"—and I hope we give this message clearly to the President—"that when we leave town you can then proceed under some powers which you call Commander in Chief to carry on a war. This is not the power to carry on. That has to be voted here. Call us back if you want, call us back for resolutions. Call us back for the war powers and, if you want not to fight, we will give you a different kind of resolution that says the troops can be there this long and appropriate this amount of money."

This is the way the system was created. I beg of you, please let us keep that system because, otherwise, we are placed at the mercy of a group of people talking to one another, very good people, very intelligent people, but I know the Senator from Maine has been, just as I have have, in on these meetings of intelligent groups and Joint Chiefs, and so on. Pretty soon you get to talking to yourself rather than talking to the people and talking to the elected representatives. There is in this body a great body of knowledge and experience on wars and their horrors and what happens and how to raise money and with what occurs, and people have served in them, and this experience and this ability should be shared with the President as the Founding Fathers wanted, so that we move together as one.

This does not take a lot of time. This does not prevent action by this Nation. This Nation can move very rapidly, and I cannot think of anything more important than we move together. That was the lesson of the Vietnam war which we do not want to repeat. But I was in a declared war, and it was very comfortable to know that everybody agreed with the declaration of war and we did not have recriminations when we suffered terrible defeats and heavy casualties because we were all in it and all understood it. The problem we have had in past undeclared wars is the people have not all been there and as we have been appropriating moneys and doing things, groups have begun to splinter off.

The PRESIDING OFFICER. The Chair will inform the Senator from Washington the period for morning business has expired.

Mr. ADAMS. I appreciate that. I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, this debate has been informative and important on this resolution that will be voted on at 2:15. I ask unanimous consent that I may be permitted to speak for 5 minutes on the subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I was in my office preparing a statement on the subject when I heard the morning business debate and came over.

I commend my colleagues, Senator Cohen, Senator Moynihan, Senator Adams, and others for the discussion which has occurred so far because I think it is a very, very important matter. I have a concern that in the course of our debate some, perhaps those in Iraq, may read this as some lessening of our support for the President or some tying of his hands, which I know is not the intent of those who are on the floor today. It is possible that when we talk about the deliberative process and debate on the Senate floor as to a declaration of war, we may be setting the stage for some preemptive action by our opponents in the Persian Gulf. I know we do not intend to have that as our result.

I think that the distinguished Senator from New York [Mr. Moynihan] has raised a very important consideration on a redefinition of war because the U.N. Charter speaks in terms of use of force, and we may be past the day when war is carried out as the complete destruction of our opponents and it is a use-of-force concept and personality.

When my distinguished colleague from Maine, Senator Cohen, raised the issue about the War Powers Resolution and perhaps the desirability of acknowledging that it does not work, I would disagree respectfully on the ground that its constitutionality is uncertain, but it keeps the President and the Congress, both of us, on our toes as to what is going to happen next.

I think it is important to focus on the fact that the War Powers Resolution does not authorize the President to act. It only requires under certain circumstances—hostilities—that the Congress approve the action that has been taken or else the action is a nullity.

So that it is a limitation on Presidential action and it is very important that these issues be considered by this body. We do not wish to give the President a blank check. There have been quite a number of comments about the scope of this resolution not authorizing the initiation of action. But at the same time we do not wish to create a record here which will suggest the tying of a President's hands, and the resolution in its current form is ambiguous, perhaps deliberately ambiguous.

One concern which this Senator has is that aside from brief moments of discussion—and discussion is enhanced very substantially when there are a number of Senators on the floor exchanging ideas, an event which is all too rare on this floor—we have not had the benefit of hearings on the subject to really get into the substantive questions as to where we have gone on the concept of war or on the concept of use of force, and how we make an appropriate balance as to the authority of the Commander in Chief as contrasted with the authority of Congress to declare war.

It would be unseemly and hard to contemplate that we would be debating this kind of an issue while time might be present for a preemptive strike by our opponents in the Mideast.

The pending resolution raises constitutional issues of far-ranging importance. In the light of: First, the undeclared Korean war; second, the undeclared Vietnam war; third, the Gulf of Tonkin resolution which has led some to argue Congress authorized the Vietnam war; and fourth, the War Powers Resolution, it is obvious that there is a very difficult issue in reconciling the sole authority of the Congress to declare war contrasted with the President's authority as Commander in Chief.

We live in a vastly different world from 1787 when those constitutional provisions were adopted. In the modern era, the concept of war where one nation may seek to totally destroy an opponent has given way to the refined concept of "use of force" and the proportionality of such force. The U.N. Charter, for example, repeatedly references "the use of force" as contrasted to a state of war.

Our history provides many precedents for Presidential action under exigent circumstances; but it must be remembered that the War Powers Resolution does not give the President authority to act. Instead that resolution limits Executive authority by requiring congressional approval under certain circumstances in a specified timeframe to permit Presidential action to stand once it has been taken.

It may not be happenstance that 18 years after the adoption of the War Powers Resolution, its constitutionality remains in doubt. This uncertain status of the constitutionality of the War Powers Resolution keeps both the President and the Congress cautiously on their respective toes, leaving substantial flexibility in the system.

Given the precarious position of U.S. military personnel and our allies in the Mideast, it is difficult to contemplate congressional debate on the declaration of war with rollcall votes without inviting a preemptive strike by Iraq.

At the same time, we must remain mindful of the constitutional mandate on Congress' role authority to declare war and we must remain equally mindful of the Vietnam experience that a war cannot be maintained without public support including appropriate congressional action in our representative democracy.

Consultation differs vastly from authorization. Consultation by the President with the Congress necessarily involves limited participation by only some Members of Congress; and consultation may involve little more than notification.

Further complex issues are added by collective action under the U.N. Charter. As a matter of public policy, it is certainly desirable to have collective action by the U.N. on sanctions contrasted with unilateral U.S. action.

Doctrinal authority is present in that treaties—like the U.N. Charter—are the supreme law of the land and action by a majority of the Security Council with the concurrence of the five permanent members is binding on all member nations.

Since the United States has the veto power, that necessarily requires U.S. assent; but that is satisfied by the President's action contrasted with the U.S. constitutional requirement for congressional authorization for war.

I am concerned with the limited consideration which the Congress has given to these important issues. Hearings have not been held on the resolution to probe these complex matters.

Our Senate debate has been limited in time and the all-consuming budget issues which have confronted the Congress simultaneously with the events in the Mideast.

The absence of extensive and intensive debate on these issues may reflect a subconscious desire to avoid explicit consideration. Certainly, no one wants to do anything which would give aid and comfort to the enemy or would make it more difficult to deal with the difficult military issues in the Persian Gulf. Nevertheless, my sense is that in a democracy, all the issues should be confronted, considered, and resolved head on.

Senator Pell, the chairman of the Foreign Relations Committee and floor manager of the pending resolution, summarized the views of many Senators when he stated:

> It is important to add, however, that this resolution does not * * * constitute authority for the President to initiate unprovoked military action against Iraq.

The President has performed extremely well in dispatching U.S. military forces to the Mideast and in his diplomatic successes in stimulating U.N. resolutions for collective action. The pending resolution, subject to the limitation summarized by Senator Pell, is an appropriate step at this time.

Mr. President, I regret that my time is up.

Mr. ADAMS. Will the Senator from Pennsylvania yield for a question?

Mr. SPECTER. Yes.

Mr. ADAMS. I expect to put in—and this colloquy this morning we have had produces this—the concurrent resolution which we discussed, which was to set up a consultative body of the Senate and the House to talk with the President as these matters go along.

Would the Senator support such a step as that as one more step is moving toward having these matters discussed in greater detail and by parties which are well experienced and informed in it before decisions are made?

Mr. SPECTER. With all due respect to my distinguished colleague from Washington, I would not want to answer that question on one foot. I am a little bit suspicious of consultation because when the Executive says they will consult with the Congress, that is a long way from authorization. I have found that consultation frequently has the import of really being limited to notification.

There was a fascinating discussion on this subject when the air strike was ordered on Libya—a strike that I totally concurred with. When the planes were in the air, the congressional leadership—it was a very small group, none of those who are present on the floor today—were meeting with the President and the Secretary of State and others on whether or not the congressional leadership had the standing to disagree, which would have caused the return of the planes.

Mr. ADAMS. I would ask the Senator a further question.

The PRESIDING OFFICER. The Chair would inform the Senator that his 5 minutes has expired.

Mr. ADAMS. I ask unanimous consent to be allowed to continue for 1 additional minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ADAMS. I would ask the Senator if you were to give this group the power to file the joint resolution which now is often blocked to start the processes of the Congress having an expedited procedure for handling the matter, if the Senator would feel that that consultative group would then be consulted rather than just talked to?

Mr. SPECTER. I would respond to my distinguished colleague by saying that it is hard for me to fashion a process of consultation and a process of congressional action and deliberation while there is an emergency and while some of our opponents somewhere may take preemptive action. Not wishing to answer a question with a question, how would you accommodate——

Mr. ADAMS. I think we are all agreed that with preemptive action, we are certainly entitled to defend ours. We have a minute in time here, a momentary point of time when we have, under 4(b) of the act, troops armed in another country who are not yet in hostilities. That is why this period of time is important in our history where we can debate this before the actual hostilities.

Mr. SPECTER. But the response which I make to my colleague, which I think is very important, is while we are consulting and deliberating, that may set the occasion for someone to take preemptive action which would be disastrous.

The PRESIDING OFFICER. The Chair would inform the Senator the 5 minutes with the limited extension has expired.

PERU: THE TRAGEDY CONTINUES

Mr. CRANSTON. Mr. President, I had the honor a few days ago to receive in my office a delegation from the Human Rights Coordinating Board, a coalition of Peru's major human rights organizations.

The group was in Washington to receive the prestigious "Letelier-Moffitt Memorial Human Rights Award." They met with me to express their concern about the continuing problem of human rights violations in Peru.

Mr. President, I share their worry. For the third year in a row, Peru has had the highest number per capita of forced disappearances of people, according to the United Nations.

Despite this, security force wrongdoing—in the form of hundreds of kidnapings and secret executions of suspected dissidents—has gone unpunished. The Human Rights Coordinating Board was hard pressed to come up with the name of a single military officer who has been tried for rights violations.

I should mention that the recent surge in violence directed in particular against human rights groups does not come from the military alone. The leftwing fundamentalist guerrilla group Shining Path has also stepped up actions against the rights activists.

Nonetheless, in my office members of the delegation said they wanted particularly to underscore their concern about the recent extension of so-called emergency zones, in which military control is established over civilian authorities, in Peru. Today, some 50 percent of the national territory is under such rule.

Exacerbating the problem, the rights leaders told me, is the increasing tendency to equate the production of coca leaf by peasant smallholders with support for the Shining Path. They worry that United States assistance to the Peruvian military—ostensibly for the purpose of fighting narcotics—will reinforce the trend of confusing peasant producers with guerrilla insurgents, and killing them.

"And that," human rights leader Hortensia Munoz said, "could convert Sendero Luminoso into a so-called national liberation movement when, up to now, they have very little support among the people."

Mr. President, the Human Rights Coordinating Board members told me—and I agree—that the solution to the problem of Peruvian coca production rests in economics and support for civilian law enforcement efforts, not an increase in the militarization of the Andean drug war.

I ask unanimous consent that a statement prepared by the delegation be printed in the Record:

There being no objection, the statement was ordered to be printed in the Record, as follows:

A Report by the Peruvian Human Rights Coordinating Board

"PERU 1989-1990: NATIONAL COORDINATOR OF HUMAN RIGHTS"

Peru has a population of 20 million inhabitants and more than 1.2 million sq. kms. of territory. As we enter the final decade of the century, Peruvians are faced with an official annual inflation rate of 2,775 percent and a minimum monthly salary of less than $50. Hunger and under-employment are daily occurrences.

In the poorest regions of the country, one out of every eighth child dies before its first birthday, and the death rate of children under five is 53 percent, or 195,000 child deaths per year. In the poorest areas, the life expectancy is less than 50 years for adults.

Moreover, four out of five houses lack water, sewerage and electricity. Forty percent of the population, which includes 60 percent of the country's children, receives less than 10 percent of the nation's income.

In this context, the political violence which has haunted the country since 1980 is unfolding.

The social cost of the political violence is incalculable. In terms of human lives alone, at least 17,763 Peruvians have been killed and more than 3,000 have been disappeared. Material losses due to the violence are more than $17 billion, equal to Peru's external debt.

The increasing damages brought about by these 10 years of violence threaten to destroy, or at least block, the advancement of alternative development projects which respect life, the consolidation of democracy and the viability of a system that guarantees social justice.

1. Violations of human rights in Peru are a permanent and systematic practice

Since December 1982, the subject of greatest concern in Peru is the administration of the armed forces. Their strongest presence is in the departments of Ayacucho, Apurimac and Huancavelica. These are central highland zones with traditional populations of Quechua speaking peasant communities. The per capita income in these departments has been consistently among the lowest in the country.

In May 1980, amidst the process of reintroducing formal democracy to the country, Sendero Luminoso (SL) initiated its violent actions in Ayacucho. The same day as the presidential elections, an SL column assaulted the community of Chuschi and destroyed the electoral ballots. SL declared this as "the beginning of armed conflict."

Since then, SL has maintained its activity in the country via actions which include gross human rights violations; assassinations of unarmed civilians, including old people, children and pregnant women; threats against community and district leaders and the use of terrorist acts against many sectors of the population. SL's terrorist acts have also provoked the systematic destruction of the State's infrastructure.

Since the beginning of SL's activity it has been clear that the State is incapable of articulating a democratic response to confront such subversion.

At first, the State denied the importance of Sendero. Then, following SL's increasing terrorism, the State applied a series of police measures against "common insurgency." Finally, the State virtually abdicated democratic authority over an ever widening area of Peruvian territory to the administration of the armed forces, under the name of "special regimes," under whose control now figure the "Political-Military Commands."

Since November 1982, the date in which the first Political-Military Command was formed, the increase in the number of human rights abuses shows that we are not dealing with isolated and extreme cases of over zealous military personnel assigned to the conflict zones.

Instead, the number of accusations and proofs of abuses show the existence of a policy, effectively designed and applied, which has as its final objective the eradication of subversion, but which in turn uses practices that systematically abuse human rights.

The interference of the Political-Military Commands in the normal administration of justice is public and notorious. Judges assigned to areas under the control of these Commands are systematically prevented from complying with rules of habeas corpus. In order to collect evidence they must obtain permission to travel into the interior. This permission, however, is seldom granted by the military authorities. There have even been cases in which once a disappearance complaint has been successfully made, the judicial authorities are then negated access to the jails in which the illegally held prisoners are kept.

In these circumstances, the right of all citizens to the judicial system is systematically denied by members of the Political-Military Commands.

The military judiciary has covered up all cases in which the civil courts have attempted to bring to trial members of the armed forces for crimes against humanity. This systematic cover-up is against Peruvian law.

According to Article 324 of the Military Justice Code: "Military justice also recognizes that public offenses committed while in service are subject to the civilian Penal Code."

The Supreme Court of the country has also abdicated its functions and, contradicting the specific and clear texts of national laws, has facilitated the military judicial system to try civilian human rights abuse cases.

The processes followed by the military courts in these cases have resulted in minor or suspended military sentences, such as disobedience or abuse of authority, negating the possibility of more severe charges such as murder, rape and torture.

2. Human rights violations during 1989 and 1990: disappearances and extra-judicial executions

According to documents (E/CN.4/1989/19 and E/CN.4/1989/18) of the United Nations Work Group on Forced Disappearances, Peru had the highest number of forced disappearances in 1987 and 1988 (79 and 170 people disappeared in respective years). According to Peruvian human rights organizations, in 1989 no less than 300 people were victims of this criminal practice. From January to May 1990, there have been 160 accusations of detained/disappeared people. Of these, only 44 have reappeared and 116 are still missing. In this period, the department of Ayacucho has registered the highest number of disappeared: 47 people, which is equivalent to 40 percent of the still unknown cases. The armed forces are responsible for 90 percent of the disappearances. Peasants make up 40 percent of those missing.

One recent case is the disappearance of Guadalupe Ccalloccunto, member of the Ayacucho regional office of SERPAJ (Regional Justice and Peace Office) who was detained and disappeared by members of the armed forces in the early morning of June 10, 1990, in the city of Ayacucho. According to family members, military personnel using face masks and heavily armed, violently entered Ccalloccunto's home.

In the presence of her four young children and other family members, she was forcefully taken away. So far, the armed forces deny having detained or imprisoned her. Nonetheless, others who suffered military arrest but managed to get free, have confirmed that they saw Ccalloccunto in the Cabitos Prison in the city of Ayacucho.

Human rights workers have also been the victims of forced disappearance. Angel Escobar Jurado, administrative secretary of the Committee for the Defense of Human Rights in the department of Huancavelica, for example, was detained/disappeared by members of the armed forces on Feb. 27, 1990 in the city of Huancavelica.

The arbitrary executions which go on in Peru increase the responsibility of the State in murder.

In 1988, the United Nations released its special report on summary or arbitrary executions. The report made special reference to the life of witnesses, from the Cayara massacre—a massacre denied by the armed forces and the Peruvian government—and made an appeal to the government to guarantee the lives of the witnesses (Document E/CN.4/1989/25).

Today, the majority of the witnesses have been killed, one by one. The last was Martha Crisostomo Garcia, a 21-year-old nurse. She was assassinated on September 8, 1989.

Special Prosecutor Dr. Escobar Pinedo, who investigated the massacre and concluded his inquiry by charging a general of the Peruvian army before the civil courts, was fired from his job and forced to leave the country because of numerous death threats.

During this period, lawyer Jorge Huamali was killed in Pasco on Aug. 23, 1989; labor leader Aladino Melgarejo was assassinated on June 17, 1989 and dozens of other people were also killed.

Among all the documented cases, the one which caused the most public outcry was that of the murder of 12 defenseless peasants in the community of Nanrapata, province of Chumbivilcas, Cusco (which had not yet been declared an emergency zone).

According to the accusations, on April 26, 1990, members of the Peruvian army forced members of the community to meet in the town square and then ordered the men, women and children to undress. Some of the women were raped and then the army, with their list in hand, selected 12 people who they savagely tortured in the presence of the rest of the community. These 12 people were later killed in front of the population.

Forensic examinations conducted on 11 of the 12 dead bodies showed multiple internal and external wounds, cigarette and hot water burns, as well as other signs of torture. All but one of the victims, who was poisoned, also showed multiple gunshot wounds.

Despite public outcry and denunciations against the army by members of the Catholic hierarchy of the southern Andes region, the authorities of the State have so far not fulfilled their responsibility to identify the guilty.

3. The use of the civilian population

Ever since the armed forces assumed control of internal order in the declared emergency zone, the military has forced the creation of civil defense committees to be used as civilian patrols in the counterinsurgency campaign.

Although there are parts of the country where these "rondas" have formed on their own initiative in order to ward off SL, it is also undeniable that the military has controlled their development, using the civilian population in this way to "clean" territories with presumed Sendero presence.

In many cases, there have been charges that these civilian patrols have been involved in massacres, usually assisted by the military.

Even a cursory reading of the first reports on the human rights situation in Peru shows the way in which these rondas have been coverted into one of the principal agents of human rights violations in the country (see Amnesty International 1983 letter to President Belaunde).

Since 1989, and especially under the previous rule of Gen. Petronio Fernandez Davila as head of the Political-Military Command of Ayacucho, the military's anti-subversive strategy has increasingly used civilian populations as the front line attack against Sendero.

This new strategy consists of forcing the remaining civilian population in the zone into artificial communities.

These newly created geopolitical entities are organized militarily, based on the model of ronda civil defense units, such that "each zone has its authorities, a lieutenant governor, a civil defense rondas president, a subcommander and a commander." (Chavez, Jorge, "Menos sangre, mas ideologia," La Republica, 7/8/90, page 19).

By this means of regrouping the civilian population, the military is effectively destroying traditional community patterns.

At the same time, the rondas have been accused of committing human rights violations, in particular, extrajudical executions.

For example, at the end of March 1990, ronderos from Naylamp de Sonomoro, in the district of Pangoa, provice of Stipo, Junin, assulated the village of Cajiriari and killed civilians with machetes and old hunting rifles. This operation was carried out with the help of a contingent of police. Days later, in the same town of Naylamp de Sonomoro, a civilian patrol assassinated an entire family of colonizers who they accused of belonging to Sendero.

4. Extension of the conflict zone

The territory under the administration of the armed forces—presumably responsible for the increasing numbers of registered deaths—continues to expand. Since the end of 1989 all the provinces of the departments of Lima, Apurimac, Huancavelica, San Martin, Junin, Pasco, Ayacucho, Huanuco and Ucayali, plus the constitutional province of Callao, have been under emergency military control.

Since Aug. 7, 1990, with the approval of the newly elected government of President Alberto Fujimori, areas under emergency control have increased even further. In addition to those provinces listed above, the provinces of Arequipa, Cusco, Punco, Piura, Trujillo, Chiclayo, Chimbote, Mayns and Huaraz have been added.

Approximately 70 percent ot the Peruvian population is now living under a regime where their basic human rights have been suspended.

There are three Political-Military Commands in charge of the penal system in conflict zones. The oldest, created in December 1982, is in the city of Ayacucho and controls the emergency zones in the southern Andes.

In the last two years, two more Commands have been formed in the central highlands (in the city of Huancayo) and in the Alto Huallaga, an area associated with drug traffic. In addition, the armed forces maintain a strong presence in the emergency zones of San Martin and Ucayali.

That the conflict zones now cover nearly half the national territory shows that the risk of being murdered is one of the realities which represents everyday life in Peru.

5. The permanent, systematic and indiscriminate practice of torture

Torture constitutes a social wound in Peru which gets worse every year, and is practiced every day. The existence of torture in Peru was described in the 1988 U.N. special report on torture and other cruel, inhuman or degrading punishments (Document E/CN.4/1989/15).

Among the many cases denounced in Peru is the case of Carlos Reano, M.D. in September 1989. According to a member of the Medical Association of Peru, Dr. Reano suffered irreversible damage to his right arm.

Another example is that of Alberto Lopez Bautista, who in October 1989, was tortured in the Cabitos prison of Ayacucho. In November of that year, 10 mine workers who were held in army jails in Jauja and Huancayo were medically certified as having been tortured.

6. Persecution of social movements

The unjustified accusations of terrorism, and disturbing the public peace or property, leveled against labor leaders and workers, has become a pretext to use the repressive State apparatus against these people. This has resulted in the indiscriminate use of violence, including arbitrary detentions, torture and dismantling of local unions.

Since 1988, these arbitrary detentions have made it ever more dangerous for the labor movement to organize. In August 1989, 44 miner leaders were arrested during a strike, falsely accused of terrorism. They were then held in jail for two weeks before being released.

During 1989, two Catholic priests, the Rev. Jorge Alvarez Calderon and the Rev. Luis Hernot, were also detained and falsely accused of being involved in terrorist acts.

Three hundred university students from the medical school of San Marcos University were detained in Lima as they were in class.

Also during 1989, there are registered cases in which the national police used small caliber bullets against demonstrators resulting in serious wounds among the victimized population.

At the end of the first six months of 1990, approximately 10,000 people have been subjected to arbitrary mass arrests, a "preventive" practice of the police against "possible" future crime.

7. Human rights violations committed in confronting drug traffic

In Peru, there are drug growing areas which are totally tied to the international traffic of drugs: the Alto Huallaga, which has some 50,000 hectares in coca production, and the Central Huallaga with 30,000 hectares under production. In addition, there are numberous dispersed areas in other parts of the country where coca is grown and eventually converted into cocaine paste.

The ever increasing amount of rural land dedicated to growing coca is the result of the relative comparative advantage this crop provides to an already improverished peasant population, working on small individual plots and with no State assistance. Government agrarian policies provide no profitable alternative.

The substitution of traditional crops of the zone—coffee, cacao, achiote, palm oil, corn, rice and palm—for coca, has been stimulated by international demand for cocaine which is sold to international cartels by intermediaries.

It is true that the production of coca leaves is, for the most part, in the hands of local peasants; small landholders whose crops cover little more than one hectare on average. But, the processing, circulation and distribution of the crop is carried out by intermediaries tied to international drug traffic networks.

This differentiation between a basically peasant economy, which grows coca to supply those who produce the cocaine paste, and the international drug traffic networks which process and distribute the drug, generates a fundamental contradiction in the zone. This contradiction is between the coca growers and marketers who increase their margin of participation through the value added in the process.

The further development of this contradiction will only generate conflicts, which are likely to remain unresolved.

Sendero Luminoso is assuming the role of mediator between coca-growing peasants and the marketers, and is establishing the terms of exchange and agreement fulfillment. With this base, SL has imposed a system of social control based on terror in the zone. Their system includes the systematic and summary executions of those people accused of not accepting the rules of the game.

The presence of SL in the zone implies an eventual radical confrontation with the authorities of the State. Armed SL attacks against police stations are leading to militarization of the area as the State's answer. Already the area is a declared emergency zone, organized in the above referenced Political-Military Command of the Alto Huallaga.

There is enough evidence to show that the increased militarization of the zone implies an increase in the repressive capacity of the State in the area, and the potential that repression will be used against the peasant population, who is erroneously viewed as part of the international drug traffic system on the one hand, and as allied to Sendero, under whom they are subject to a system of social control based on terror, on the other.

It remains clear that this evolving repressive capacity of the State puts into question the existence of guarantees and full vigilance of human rights in the zone, as has already been partially verified by events in 1989—553 violent political murders in the areas of the Alto Huallaga, the central jungle, Ucayli and Loreto. In the first five months of 1990 there have been 453 assassinations.

The militarization of the zone implies, therefore, an increase in the risk of death for the peasant population which grows coca in the area.

All international help—such as that recently offered by the United States in the context of the Bennett Plan—that results in the increased operational capacity of the armed forces in the internal control of the Alto Huallaga area, is only justified when the international community also commits itself to collaborate in guaranteeing the full vigilance of human rights. Such aid should be conditioned in an effective manner to respect the life and dignity of the people living in the region.

It is precisely for this reason that the international community must be prepared to provide the necessary oversight in the future of the evolving operational capacity of the armed forces in the internal control of the coca producing areas.

The international community cannot allow the military of one country to give aid to the armed forces of another when that aid will be used to produce more deaths; to maintain permanent, systematic, indiscriminate and unsanctioned violations against human rights.

We must not forget that in the name of national security, children, old people, pregnant mothers and other innocent civilians in Peru are being killed. Moreover, the principles of democracy have been so distorted that absolute impunity is given to individuals responsible for massacres against the civilian population.

REFORMING IMET WILL HELP FORTIFY EMERGING DEMOCRACIES

Mr. CRANSTON. Mr. President, I rise today to urge the substantive reform of the International Military Education and Training [IMET] Program.

The task is an urgent one, given the current scarcity of funds and the fact that, up to now, programs such as IMET have not always fully reflected U.S. policy concerning democratization and the civilian control of the military.

A remarkable transition to democracy is now underway in Eastern Europe, Latin America, and other parts of the globe.

Autocrats and totalitarian systems are being swept away and replaced by citizens eager to participate in the public life of their nations.

Fully aware that democracy is the result of more than just a collective desire for freedom, the new leaders of these countries are painstakingly crafting practices and institutions to ensure that liberty endures, a process that harkens back to the early years of our own democracy.

To ensure that the trend toward democracy continues, one of the most important changes that must occur is that a nation's military is fully under the control of civilian authority.

At the same time, the armed forces must develop a professional mission that prepares them to defend the Nation's territorial sovereignty, while keeping them at the margins of partisan politics.

Since its inception the IMET Program has provided important linkages between U.S. and foreign military forces. However, as a recent study by the General Accounting Office has noted, the content and impact of the training currently provided has not sufficiently promoted the consolidation of democracy.

It seems to me that what is needed is a program that promotes healthier civil-military relations by empowering representatives of elected civilians with the skills and techniques needed to exercise informed oversight and direction over military forces.

Mr. President, in many—if not most—emerging democracies the corps of civilian managers that forms an integral process of military management in the United States simply does not exist.

In some countries, particularly in Latin America, this is due to a seemingly unending pendular movement from military regimes, to elected governments, then back again.

In others, such as in Eastern Europe, the cadre of civilian democratic managers does not exist because what oversight there was came from the Communist party apparatus.

As former Vice President Walter F. Mondale noted in a recent book, "Towards a New Relationship: The Role of the Armed Forces in a Democratic Government":

> The lack of continuity in democratic political institutions can mean a loss of historical memory, gaps in technical training and an absence of personal ties between military officers and civilians which sustain good will in times of crisis.

Elected legislators, their staffs, members of nongovernmental organizations and personnel from Finance, Foreign Relations, Defense and Presidential ministries should be among the civilian participants of the new IMET Program.

At the same time, a reformed IMET Program would effectively promote the concept of national defense of territory and sovereignty as the sole military mission, thereby discouraging their performance of police functions.

Mr. President, I believe that the IMET curriculum should emphasize that the success and prestige of the American Armed Forces and those of many other nations have been immeasurably advanced by their unquestioned subordination to civilian political authority and their strict adherence to a mission of national defense of territory and sovereignty.

Several initiatives might be taken in this regard, such as the use of exchange programs, joint studies and structured visits to the United States by military and civilian personnel to learn how this country has successfully managed its own civil-military relationship.

There are also professional military ethics and responsibilities that are universal and particularly appropriate for inclusion in IMET training if the 1990's are to be an era in which democracy continues to expand.

First, that the military does not play a partisan political role, and follows the orders of freely elected civilian authority;

Second, that it is a military officer's duty to prevent human rights abuses of civilians or captured or surrendered military personnel, and

Lastly, that professional military strictures are incorporated into their daily routine concerning the constitutional limits on military authority; the proper response to illegal orders, and the misuse of power to further personal goals.

Mr. President, I believe that in the next fiscal year it is important that testing methods should be developed that would help evaluate IMET trainees' attitudes toward professional military ethics and responsibilities. One component would be an evaluation of the program's impact on these attitudes during instruction and in later careers. These testing efforts should

be refined as time goes on in order to improve the curriculum.

The GAO study also raises serious questions about the possible negative effect on civilian authority in developing countries of the training of military forces in so-called nation-building skills. It specifically suggests that in one country surveyed the use of military forces in nation-building was undesirable because of a tenuous civil-military relationship.

The GAO study also pointed out that officials in both the agency for international development and the United States Information Agency in two of the six nations studied indicated that nation-building should be undertaken by the civilian sector, and that their agencies were capable of providing nation-building training to civilians.

Mr. President, this issue is more than an academic debate or a bureaucratic turf-battle. The GAO analysis hearkens back to the 1960's and early 1970's, when the strengthening of foreign militaries' nation-building missions appeared to help tip the balance of power away from elected civilian leaders and toward unelected military rulers in many nations.

According to a 1971 Rand Corp. study by Luigi Einaudi and Alfred Stepan III:

> A rationale sometimes used for certain U.S. military assistance programs is that 'professionalism' contributes to lessened political involvement on the military's part, and to their concentration on exclusively military affairs. Logic, however, suggests that to the extent that military expertise, or professionalism, is increased in areas of counter-insurgency, nation-building and multisector development planning, the military would tend to become more rather than less involved in politics.

By encouraging militaries to take on greater civic action or nation-building responsibilities, the United States gives the militaries legitimacy in assuming roles that put them in direct competition with civilian authorities. As Panama City Mayor Cochez has noted:

> By assigning the military a civic action role the U.S. strengthens their hand. When they build a bridge, the military will get the credit. If a road is constructed, the billboard says, "your National Guard is working for you." Meanwhile, we cash-strapped politicians cannot get financing for our own projects, but are sure to get the blame when things, a lot of times less exciting things, don't get done.

Mr. President, I hope that in instructuring the IMET curriculum in the coming years, these views are taken into consideration. It is clear that nation-building studies conflict with the broader U.S. policy goals of support for democratic leadership. Therefore, I would suggest that, with the exception of mapmaking, such courses should be curtailed.

Further, I would urge that—before scarce training resources are used for nation-building—we are certain that within the country in question there are no civilians qualified for such training, and that no civilian agency, governmental or private, could reasonably expect to undertake the specific task.

Mr. President, because the United States has a highly successful experience in the civilian control of the military, it can provide a valuable model for study for officers and others coming from newly emerging democracies.

For this reason, I urge that immediate action be taken to ensure that a significant part of the IMET curriculum be devoted to the study of democratic institutions and practices.

Among the issues upon which the cirriculum should focus are the close interaction and contract between civilians and military throughout our command and control structure; the scores of nongovernmental agencies which help to inform and to shape military policy and how they operate, and the role played by Congress and other governmental agencies in policy formulation.

The importance of the Posse Comitatus Act, which has helped keep our military from involving itself in partisan political activity by keeping it at the margins of internal security, should also be stressed.

At the same time, I believe it is vital that a certain number of the IMET training slots, 20 percent in the first year, should be earmarked for civilians broadly representative of the political community and nongovernmental organizations in the countries in which IMET is offered.

By seeking to train significant numbers of civilians over time, we will be both empowering civilian managers and assuring an instance of democratic oversight which is sadly lacking in many of these nations.

In expanding the scope of IMET training, I believe that it is important that the administration seek to contract the services of nongovernmental entities to assist both in the training of civilians and in rounding out the curriculums offered to the military.

A variety of these—such as the center for democracy, the National Democratic Institute for International Affairs [NDI], and the Institute for Representative Government—have experience in studying or improving civil-military relations in foreign countries. They should be consulted with during the process of reformulation of IMET.

Similarly, certain countries have an urgent need for this type of training. Certainly the nations of Eastern Europe are candidates, given the heavy legacy of Soviet-trained security forces and domination by local communist parties. Countries such as Argentina, Bolivia, Chile, Brazil, El Salvador, Thailand, the Philippines, Korea, and Nicaragua should also be considered for Democratic military education and training.

The United States has had the good fortune to have enjoyed more than 200 years of Democratic Government. Part of the strength of our system has been the undeniable success with which we have handled our own civil-military relationship. This is perhaps one of the most important lessons we can provide a world still struggling to find its own democratic institutions and procedures. We must do so, and quickly.

Mr. President, I know my good friend and distinguished colleague, Senator LEAHY, chairman of the Foreign Operations Subcommittee with jurisdiction over IMET, has been looking into the issue of reforming IMET as well. I look forward to working with him on this.

SHABAN KASTRATI RELEASED FROM JAIL

Mr. DOLE. Mr. President, about a week ago, I came to the floor and discussed the tragic human rights situation in Kosova, Yugoslavia, which I witnessed when I led a Senate delegation to Yugoslavia. In that statement, I mentioned that the police state created by the Serbian Government in Kosova had not only been abusing the rights of the Albanian population living there, but the rights of American citizens, as well.

I told my colleagues about 19-year-old Shaban Kastrati who was arrested by Serbian authorities on August 29, the day our Senate delegation visited Pristina, the capital of Kosova. According to the State Department, he was sentenced under false charges to 60 days imprisonment.

I can say, after spending just 1 day in Kosova seeing the oppression of the Albanian people there, I cannot even imagine what 60 days in a Serbian prison must be like for an ethnic Albanian.

But happily, after serving 1 month in jail, Shaban Kastrati has finally been released. For 30 days, I along with many of my colleagues, made phone calls, sent cables and letters on Shaban's behalf. Most recently, according to reports, Representative HELEN BENTLEY raised this matter with the President of Serbia, while in Yugoslavia for the weekend.

Some may be inclined to breathe a sigh of relief—thinking that the job is done now that Shaban Kastrati is out of jail. It is not. Yes, Shaban Kastrati is now a free man once again, but the bottom line is that Shaban should not have been put in jail in the first place. He was arrested under false charges, beaten and imprisoned. In other words, Shaban was treated the very same way that thousands of Albanians have been treated for the past year or two.

In my view, our job here in the Congress is not done until we let the Republic of Serbia know that we are fed up with the Serbian Government bullying not only Americans, but the ethnic Albanians who make up 92 percent of the population in Kosova. We need to let the Serbian authorities know that the free world is fed up with Communist regimes and tyranny aimed at crushing democratic movements and the people who support them. We also need to let the federal government of Yugoslavia know that it is not welcome in world community as long as it is complicitous in perpetuating this human rights nightmare.

Mr. President, I am relieved that Shaban Kastrati has been released. But, I am convinced that we in the Congress must continue to work on behalf of those still suffering in Kosova.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business is closed.

ADJOURNMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in adjournment for 1 minute; that when the Senate reconvenes, the call of the calendar be waived, no motions or resolutions come over under the rule; that the morning hour be deemed to have expired following the second reading of the bills and joint resolution that have been read for the first time; and that the Journal of the proceedings be approved to date.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, at 11:26 a.m. on Tuesday, October 2, 1990, the Senate adjourned until 11:27 a.m., the same day.

AFTER ADJOURNMENT

TUESDAY, OCTOBER 2, 1990

The Senate met at 11:27 a.m., pursuant to adjournment, and was called to order by the Presiding Officer [Mr. BRYAN].

ACREAGE LIMITATION PROGRAM FOR 1991 CROP OF WHEAT

The PRESIDING OFFICER. The Chair lays before the Senate S. 3018, which was read the first time on the previous legislative day. The clerk will read the bill for the second time.

The legislative clerk read as follows:

A bill (S. 3018), to require the Secretary of Agriculture to announce an acreage limitation program for the 1991 crop of wheat.

Mr. SYMMS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. Pursuant to rule XIV, the bill will be placed on the calendar.

MONEY LAUNDERING ENFORCEMENT AMENDMENTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to Calendar Order No. 819, S. 3037, the money laundering bill.

The PRESIDING OFFICER. Is there objection?

Mr. SYMMS. I object.

The PRESIDING OFFICER. Objection is noted.

Mr. MITCHELL. Mr. President, I move to proceed to Calendar Order No. 819, S. 3037, the money laundering bill.

The PRESIDING OFFICER. The question occurs on the motion to proceed. The question is debatable. The Senator from Idaho [Mr. SYMMS] is recognized.

Mr. SYMMS. Mr. President, I make this objection not so much for the actual text of the bill, as I am not a member of the committee, and have not had the opportunity to study the bill in detail, but it is my understanding that the objective of the next 2 weeks in this Congress was to try to resolve the question of the Federal budget.

We are operating here under a 5-day rule to waive the Gramm-Rudman-Hollings sequester, and there are many of us that think 5 days is long enough to waive that. There are many of us that believe that the President has the power, inherent in his authority as President of the United States, to waive a sequester on anything that impacts public safety such as air traffic controllers, such as meat inspectors and others; that we probably would serve this Nation about as well as we can serve it by continuing on this railroad track effort for this budget agreement that has been reached by several of our colleagues and the White House, by getting the sequester underway.

I am not advocating we have to do it that way, but it would appear to me that we really do not have time to be talking about a money laundering bill, or most any other bill for that matter, that is of this importance. This may be a bill that I may turn out to be for. However I will have some questions when it finally comes before the floor, and I have asked my staff to find information for me to see if this is another excuse by Congress to get more power to delve into the very private, financial lives of all American citizens in the name of drug war. I do not know the answer to that question, but I think it is a question that does need to be answered.

I note also, by looking at the minority views and additional views of Senators GARN, HEINZ, and BOND—and I call my colleagues' attention to this—that they had a vote in the committee by 11 to 10, where Senator GARN offered an amendment to retain the temporary availability period for local checks. The vote on this amendment was 11 to 10. The closeness of the margin suggests that this issue should be revisited when the legislation comes to the Senator floor.

Mr. President, the Chairman of the Federal Reserve supports the amendment to retain the 3-day availability for local checks which was reduced to 2 days. This obviously needs a full airing here on the Senate floor.

Mr. KERRY. Will the Senator yield for a moment?

Mr. SYMMS. I will be happy to yield.

Mr. KERRY. With respect to the issue the Senator raises on the closeness of that vote, there has now been an agreement worked out with the committee, and the managers jointly are prepared to offer an amendment that is, in fact, not at all contentious.

If I could simply say to my distinguished colleague from Idaho, this bill has a companion bill in the House of Representatives that passed by 406 to 0, and it came out of the Banking Committee unanimously.

The Senate majority leader has informed me there is no issue of time here. We are prepared to debate this all day. We are prepared to debate it tomorrow. The budget is not yet ready to come to the floor so there is really not an issue of time.

I will be happy to discuss the merits of it but this, as I say, is a bill that passed unanimously in the Banking Committee, unanimously in the House of Representatives. There is time to pass this legislation. It is supported by the Senator from Utah, Senator HATCH, Senator GARN. It is supported by Senator D'AMATO. It is supported on our side. It has broad bipartisan support—the Senator from Illinois.

I think in terms of the tools we need to fight a drug war it would be a tragedy if we did not proceed.

Mr. SYMMS. I thank my colleague for his comments. As I said, this Senator has not come to a conclusion on this bill. But both parties are going to go to their caucuses at the hour of 12:30, and when we come back this afternoon, we are going to dispose of the nomination of Judge Souter. I inquire of the manager of the bill, is it his intention to bring it to a vote between now and 12:30?

Mr. KERRY. That depends really on the level of opposition and the level of the amendments that might or might not suddenly appear. It was our understanding there really has not been any objection or any opposition to this bill.

There might be an amendment that might draw some opposition. But the bill as it stands now has, as I said, emerged from the committee with very broad support, bipartisan support. I do not think it is one that would necessarily require even a rollcall vote. Depending on what happens with amendments.

But I urge the Senator to permit us to proceed under the normal process and see if this body cannot pass a piece of legislation that is important to our efforts in the drug war.

Mr. SYMMS. Mr. President, if I might reclaim my time to carry on, I appreciate the concerns my colleague from Massachusetts brings up.

I might say, just as an editorial comment, Mr. President, that just because legislation has passed a committee unanimously—there may have been Senators on the committee who just did not want to go to the trouble to raise certain concerns they had about the bill and therefore they end up not objecting to the vote and it passes without a recorded vote—although there may have been some concerns and apprehension about it. Just because a bill passes the House of Representatives by a unanimous vote, there may be time when people would not want to go on record on a bill. Particularly if it passes on the suspension calendar where there is only 20 minutes per side, 40 minutes equally divided, for debate to fully air what is in a bill, people would not necessarily want to go on record about it.

In this age of perestroika behind the Iron Curtain, where people are trying to deregulate their economies, where the enlightened intelligent people are saying what it is that you in America and the free world have had is so much better than what we have had—I might just say, here we go again. Unanimous votes, bipartisan votes, are what have given the American people $3 trillion worth of debt and excessive burdens of regulation.

There are some things in the savings title of S. 3037 that I think ought to be talked about. In my office a couple of weeks ago we had the chairman of the largest bank in my State. He was in the office and I asked him, how are you folks doing? He said we are doing fairly well as a bank because the agriculture community is doing well; they have paid back their notes, so financially we are doing fairly well. But he pointed out to me the banks are already overwhelmed by a sea of regulation.

In less than 7 years, Congress has passed seven consumer banking regulations relating to expedited funds availability, adjustable rate mortgage caps, credit cards disclosures, Equal Credit Opportunity Act, home equity line disclosures, the Community Reinvestment Act, and the Home Mortgage Disclosure Act. These new regulations are in addition to existing regulations.

The list of consumer legislation alone—what had already passed, these are new things that have been passed in less than 7 years—the Truth in Lending Act, Electronics Funds Transfer Act, Consumer Leasing Act, Equal Credit Opportunity Act, the Real Estate Settlement Procedures Act, the Fair Credit Reporting Act and the Fair Housing Act.

What that means is it costs more money to run a bank in the United States. Maybe some people wonder why it is most of the big banks in the world are not United States banks any more. I think the concern that I have heard from the bankers in my State is more and more these statutes are unrelated to safety and soundness but they require them to hire additional staff devoted to compliance with more Federal regulations.

One effect of the accumulation of regulations is the additional staff devoted entirely to compliance. Even small banks in country towns must employ an entire staff devoted exclusively to compliance. Some banks have reported, for example, that they employ three or more persons who are devoted entirely to the single regulation, the Community Investment Act.

This costs money. I think before this Congress acts on legislation like this we have pending before us right now, Mr. President, this week, a $500 billion so-called deficit reduction package, of which a great part is going to require that the working men and women in America pay more money for gasoline, more money for a list of other items that they use which will be very costly to these men and women. We are taking money out of the family till, that they would use to raise their families, to pay for an ever-growing Government. The one thing that Washington, DC, inside the Beltway, in the Halls of Congress, never wants to slow down is the ever-growing size and scope and interference of the U.S. Government.

This Senator does not know exactly what this bill does in terms of how far and how intrusive it is. But the money laundering bill, just in title, sounds like it is put out here because it will read good in the newspapers. Congress has solved the problem of the drug launderers.

In the process they take all the other people in America that are law-abiding citizens and probably interfere in their private economic decisions and transactions.

So, in addition to the additional staff devoted to compliance, there is a reduction then when you have to apply your staff to work on compliance with Federal regulators that have nothing to do with the safety and solvency of the bank, we have a reduction in service and products. Truth in savings could have a chilling effect on new product designs. The cost of potential liability and regulatory compliance will inhibit new products. Regulations already in place illustrate this chilling effect. For example, some banks have determined that the disclosure requirements for adjustable rate mortgages are so complicated that they cannot afford to offer them. Consumers are thus denied a valuable, desirable product because of a regulatory burden. I want to repeat that, Mr. President. Some banks have determined that the disclosure requirements for adjustable rate mortgages are so complicated that they cannot afford to offer them.

I think it is unfortunate in this modern day that what we have done is we no longer leave enough time for Members of Congress to go home and run their own businesses. We do not have people in Congress any more who run their businesses so they live under the laws that they pass. I have long been a believer that it would be healthy for America if we had a Congress that met for 6 months every year and were allowed to go out and practice law, if they are a lawyer, or run a bank if they are a banker, so they can keep their hand in the business community, in the real world, if you will, to know just exactly what is going on out in real America, outside the Beltway, outside the hallowed Halls of Congress, here in the cave of the winds, Mr. President.

I think what happens is it is very easy to pass a bill that sounds good on the surface, and maybe this bill will pass this Senate by a unanimous vote, but I do believe that it is a bill that should not be discussed this year. If it is that important that we do it, then I think that it would be something that could be brought up in the next Congress and could be brought before the Congress and deliberated with due time. I do not believe Senators this week will have the opportunity——

Mr. KERRY. Will the Senator yield?

Mr. SYMMS. I want to finish my point and then I will yield to my colleague.

I do not believe the Senators this week in any way will be able to focus attention needed on a bill this important.

I just add again, Mr. President, in the last 7 years, we have had expedited funds availability, adjustable rate mortgage caps, credit card disclosures, Equal Credit Opportunity Act, home equity line disclosures, Community Reinvestment Act, the Home Mortgage Disclosures Act, on top of already Truth in Lending Act, the Electronic Funds Transfer Act, the Consumer Leasing Act, the Real Estate Settlement Procedures Act, the Fair Credit Reporting Act, and the Fair Housing Act, and now we want to add another layer of regulation on the bank and this is your little country banker who will have to charge your constituents more money to have a bank account in that bank because of more regulatory burden.

While no single regulation, Mr. President, is too burdensome, when you add all this up, the aggregate burden of the litany of banking regulations ultimately affects the banks' operations and their ability to serve customers effectively. The aggregate burden consumes valuable officer and staff time and deprives consumers of products with which the associated regulatory compliance costs are prohibitive. The cost of compliance with consumer regulation adds significant cost to the business of banking with a substantial impact on the bank's bottom line.

We have all been reading in the papers about the situation American banks are in today. One of the big Eastern banks I notice recently laid off 5,000 emloyees in one fell swoop. The regulatory costs ultimately are passed on to consumers in the form of higher fees and lower interest rates on deposit instruments and higher fees and higher interest rates on loans. Elements of the expense which apply to all regulations, now get this, Mr. President, extra costs which apply to all regulation including the Truth in Savings Act, include legal fees for interpretation and implementation, collection and destruction of old forms, devising new forms, labor, meetings, preparation of reports, development of new technology, computer technology, computer resources, printing new forms, postage, handling inquiries and misunderstandings, purchasing compliance education and auditing tools, training and retraining personnel, monitoring compliance and assisting compliance examiners.

While compliance with requirements of truth in savings may appear to be simple and inexpensive, as other earlier statutes have shown, an apparent simple statute translates into an expensive regulation, for example, direct costs of a single provision is estimated to be in excess of $123.8 million. That figure only covers the requirements that the depository institution mail to all account holders and a copy of account schedule fees, terms and conditions of deposit accounts.

It may be that this is a cause that is worthy of spending $123 million for one regulation. It may be, Mr. President, that it is all well and good and it is worthy of that and that is what this Congress ought to do. But I think before we do it, before we leap, we ought to have some serious study and consideration just how much money Congress wants to require of our small, little country bankers to comply with a regulation that may or may not impact and help affect fighting the drug war. I think all Senators would like to see a successful victory in the drug war. There is no question about that. But are we going to do it so we throw the baby out with the bathwater? Are we going to add on more legal fees, et cetera, for these little banks so they can comply with another regulation? That is really a question that I think all Senators should have time to study.

Mr. President, from what some of my banker friends have told me in my State, that is an invitation to expensive litigation. This bill is an open-ended invitation. As the history of the Truth in Lending Act and other consumer statutes have demonstrated, banks and other financial institutions pay dearly for minor and inadvertent compliance mistakes. Such statutes invite expensive class action suits regardless of the merits of the suits.

The truth in savings title presents the same invitation—more unnecessary legislation. That is the final thing my friend from Idaho said to me: "Do we really need more unnecessary legislation just so Members of the Senate and Congress can pass a bill and go home and say we took care of that problem; we have now solved the money laundering problem?"

There is no great outcry from the consumers, I am told, that they are being misled or uninformed about fees, charges and interest rates on deposit accounts. Indeed, most banks already provide disclosures which are substantially similar to those required by the truth in savings title. Nonetheless, if this bill passes, banks will incur significant expenses to do what they are already doing. Banks will be required to pay to review the new regulations and current disclosures, revise and redesign and reprint and mail new disclosures, monitor compliance, and the list is endless on end. This will be one more area where Congress will be overkilling as the benefits do not outweigh the costs of the truth in savings regulations.

Mr. President, I just will say before I yield the floor to my colleagues, and I would like to have an understanding here that this Senator thinks that we should go to our policy luncheons, hash out what we are going to do about the problem with the Federal budget. Are we going to support the majority leader and the minority leader package; are we going to support that package or are we not? That is much, much more important than for us to be diverting our attention from this.

There is another very important issue coming up. Are we going to confirm Judge Souter or not? That is an issue that is very important. The Supreme Court has now convened for their fall session. It would appear to this Senator that it is more important for the Senate to get on with the confirmation process with Judge Souter so that we know whether he is going to be confirmed or not than whether or not the Senate is going to go forward with this legislation.

So I might ask an inquiry of the managers of the bill, Senator GARN and Senator KERRY, is it the intention to agree to this motion before 12:30 today upon the recess?

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KERRY] is recognized.

Mr. SYMMS. I have the floor. I only ask a question. I did not yield the floor.

Mr. KERRY. I will be delighted to answer the Senator's question. There is no preconceived time, there is no preconceived notion in either Senator GARN's or my head about when a vote would occur.

We are trying to move this forward in the normal fashion that business ought to be conducted on the floor of the Senate. I might simply say I find it somewhat incredible that my colleague suggests that we neither have time nor that we should proceed on a matter that somehow does not have complete agreement prior to coming to the floor. That is precisely what we are supposed to be doing.

I respectfully say to him that the very provision to which he objects has previously passed the Senate as part of the Proxmire Reorganization Act. So the Senate has previously deliberated it. I applaud what he has said with respect to the little person out there who is going to wind up paying more taxes. That is precisely why this is an important piece of legislation. There is $100 billion a year in money laundering going on, and Mr. Seidman has suggested a significant portion of the savings and loan scandal is reflected in money laundering. U.S. attorneys around the country are prosecuting people today for taking the hard-earned taxpayers' dollars and sending them to other countries.

The question here is whether we are going to save the taxpayer money. That is what is at stake in this legislation.

I simply say to my colleagues I would like to proceed and debate it. Let us proceed on the merits. There is no preconceived notion of having a vote before or after the caucus. We want to consider whatever amendments; whatever issues the Senator would like to raise, we would like to debate. But we would not like to have this issue slowed down with the notion that we should not be deliberating it.

Mr. SYMMS. Mr. President, I reclaim my time. I do not think I quite know for sure what the managers of the bill intend to do. If I understand the parliamentary situation, we are on the motion to proceed to the bill; is that not correct?

The PRESIDING OFFICER. The Senator from Idaho is correct.

Mr. SYMMS. I guess what the Senator is saying, Mr. President, is I do not wish us to move forward until after we have had a chance to discuss it in our Policy Committee meetings.

Mr. KERRY. I would be delighted, Mr. President, if the Senator will yield, to agree there is no preconceived notion. If the Senator wants to have some time to discuss with colleagues this legislation, I think that is important. There is no rush to judgment. I would be happy to agree that we would not have a vote, we would proceed to discuss some of the merits of the bill, and pick it up afterward.

Mr. SYMMS. That is the point I would like to make. I would like to have time. I have just been handed another list of concerns for some of my friends in Idaho who are bankers about problems that they have. A survey shows they have aleady spent $129 million to do precisely what Congress is asking for them to do in this bill.

So if my colleagues will give this Senator the assurance that between now and the hour of 12:30 there will be no unanimous-consent agreement agreed to on a time certain to vote on the motion to proceed, and they want to discuss the issue, I will be happy to yield the floor; otherwise, the Senator will be inclined to put in a quorum call.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho has the floor.

Mr. DIXON. Will the Senator yield for a question?

Mr. SYMMS. I will be happy to yield to my friend from Illinois for a question.

Mr. DIXON. If I may say to my distinguished friend from Idaho, I had intended to rise in opposition to his position on this and to articulate my views about why we ought to turn to this legislation. But if I understand the position of my friend from Idaho, he is hopeful that we can consume the time until 12:30 until we go to party conferences and take this up afterward. If that is his position, then I would like to suggest to him that I am glad to take it up after our party conference today.

I would like to then take 5 minutes as though in morning business to introduce a piece of legislation. I have been here since 10:30. I am very much interested in this issue, but if we cannot resolve this I would like to do something else while we have a little time remaining .

Mr. SYMMS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KERRY] is recognized.

Mr. KERRY. Mr. President, without losing my rights to the floor, I would like to yield to the distinguished Senator from Utah, who would like to make a unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah [Mr. GARN] is recognized.

Mr. GARN. I thank the distinguished Senator from Massachusetts. If I could, without him losing his right to the floor, just assure the Senator from Idaho that there was no intention on the part of either manager to even seek a unanimous-consent agreement. We did not have expectation of passing this bill that quickly, because there are other Senators from the Banking Committee, Senator MACK and others, who wanted to speak. So I can certainly add to the assurance that in the natural course of events that would not have taken place.

PRIVILEGE OF THE FLOOR

Mr. GARN. Mr. President, I ask unanimous consent that Ruth Amberg be given privileges of the floor during the consideration of S. 3037.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts has reclaimed the floor.

Mr. KERRY. Mr. President, I know the distinguished Senator from Connecticut and the distinguished Senator from Illinois would like to speak. I have a number of comments I do want to make at some point. I do not need to necessarily make them right now.

I simply like to say to the Senator from Idaho that the issue he just raised with respect to the CTR's is not contained in this bill. It is not contained in this legislation.

Second, this legislation has been worked on with the support of the banking community and it has the support of the American Banking Association. It does not come to the floor without having run a lot of hoops and a lot of hurdles to date. That does not mean Senators will not have some concerns that do not need to be expressed.

I emphasize to the Senator from Idaho that this legislation does not solve the problem of money laundering but it goes a fair distance toward improving the tools in order to enable us to try to recoup some money that the taxpayer is losing. We have countless banks failing around the country that have been already taken over by the RTC. We are all concerned about that.

There are indictments around the country, a number of indictments of people accused of laundering money out of the savings and loans into other bank accounts. That ought to concern us very deeply.

What this legislation does, with the support of Senator GARN, Senator HATCH, Senator D'AMATO, Senator BOND, and others, is it tries to tighten up the tools available to our enforcers to permit them to be able to represent the taxpayers adequately in court and to be able to try to recoup money as well as to be able to hold accountable those who are robbing this money from our taxpayers.

I cannot think of a better effort in conjunction with the budget efforts right now. I would certainly be willing personally to sit with the Senator from Idaho or any other Senator, as I know Senator GARN would, in an effort to try to work out these differences.

Mr. President, I yield the floor.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois [Mr. DIXON] is recognized.

Mr. DIXON. Mr. President, I look forward to engaging in this debate after lunch. I have been here since 10:30. If my colleagues will indulge me, I ask unanimous consent to proceed as though in morning business for not more than 5 minutes to introduce a bill and make a brief statement.

The PRESIDING OFFICER. Is there objection? The Chair hears none. The request of the Senator is agreed to.

Mr. DIXON. I thank the Chair.

(The remarks of Mr. DIXON pertaining to the introduction of S. 3148 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. KERRY. Mr. President, since we are basically agreed at this point that we are not going to do anything except introductory comments with respect to the legislation prior to the conferees, I will proceed to do that now, as I think will the Senator from Utah, and try to explain what this bill is about a little bit so that colleagues can have a chance to reflect about it during the conferences. Hopefully, we can work out whatever differences might exist.

I would like to thank the distinguished chairman of the Banking Committee, Senator RIEGLE, and the majority leader. I would like to thank Senator GARN, who has worked closely on this legislation. I would like to thank them for trying to get this matter before the U.S. Senate before we face adjournment this year.

I personally believe that the stakes of what is happening with respect to money laundering in this country, and in other parts of the world as a result of what is happening here, that it would really have been irresponsible for us not to consider this prior to leaving, particularly given the overwhelming vote in the House of Representatives in companion legislation. I think it is the overwhelming sentiment of the Banking Committee.

There are several components to this bill. It is not just money laundering. There is the component of title I, which has the money laundering enforcement amendments. There is the

Truth in Savings Act portion, which has been referred to by the Senator from Idaho.

There are some amendments to the Expedited Funds Availability Act which were debated on the floor not so long ago. There is the home equity consumer portion and the Counterfeit Deterrence Act, and finally a Coin Redesign Act; very simple and straightforward.

Let me just quickly discuss each component. I think the most important component, at least to this Senator, is the money laundering component. First, more than a year ago, a subcommittee of the Foreign Relations Committee which I chaired, the Narcotics Terrorism Subcommittee, issued a report based on a hearing that had been held in which it had been found that drug money laundering, with the aid of banks in this country through other countries, was really a very significant factor; and that we ought to consider as a matter of policy whether or not we were willing to revoke the charter of a bank where there was clear evidence that the senior officials or the directors within that bank had knowledge of and had personally participated in the process so that, in effect, you had a corporate policy that was dedicated to the process of money laundering. And we felt that was a de minimis standard which we ought to try to adhere to.

Obvioulsy, the vast majority of bankers in this country are law abiding; the vast majority of banks in this country do not engage in this practice. And there is no effort here to somehow suggest that it is otherwise. But notwithstanding that, money laundering is about a $100 billion-plus problem.

Mr. DODD. I thank my colleague from Massachusetts.

Mr. President, I first of all thank my colleague from Massachusetts, as well as my colleague from Illinois, who is the chairman of the subcommittee that deals with this matter.

For purposes of background, this was a matter that actually originated, as the distinguished Senator from Utah will recall, in the 100th Congress. We passed it then but it was not enacted into law and has been sort of lingering around in the 101st Congress trying to find a proper vehicle on which to work out some of the details. It emerges today as a part of this particular process that is now before us.

The bill before us, frankly, as the Senator from Massachusetts pointed out, whatever controversy surrounded this matter was resolved, I say to my colleagues, to such a degree that we ended up with a unanimous vote out of the committee. Weeks were spent pretty much trying to sort out the problems that the banking community may have had over these pieces.

It worked out to their satisfaction. Certainly, they would have preferred in some cases not to have anything at all. That is nothing new. But to the extent we were going to try to do something here in terms of disclosure, they were satisfied that what we had done here was not going to be onerous or burdensome or create new additional costs that would make it impossible for them to function as institutions.

As a result of weeks of work, this was not a question where we ended up with a 9-to-8 vote, trying to force something on the institution here. Of course, as the Senator from Massachusetts pointed out, a good part of this, I believe, was adopted by the House in the last Congress.

This is not exactly what you would call a highly controversial issue at all. Basically, it comes down to one word and one word only: disclosure. That is the heart of it. There are two basic provisions in here that allow consumers, in trying to make decisions about their financial matters, to have as much information as possible in deciding where to do business. That is all this really amounts to.

So I would like to, at least, for those who may be somewhat confused by the debate and argument—I know our colleague from Idaho went on at some length. Frankly, he is talking about, in good part, things that have been done a long time ago. Whether or not he agreed, though, is another matter.

But frankly, what is included here is nothing more than disclosure. I will take just a couple of minutes to outline, and I will come back again after the recess and go back and debate some of these matters with the Senator from Idaho, or anyone else who cares to, to explain fully what we do in this legislation, and why it enjoyed the kind of unanimous support it received out of the committee; and why it received the same reaction from the House.

The truth in Savings and Investments Act is designed to address the impact of banking deregulation on consumer savings vehicles. The deregulation of interest rates that began in 1980 has resulted in the availability of higher returns for depositors. This benefit, however, has been accompanied by an almost mind-numbing variety of terms and conditions that affect the actual amount earned, provisions that are impossible for consumers to sort out.

You need almost a Ph.D. degree to figure this stuff out. If you sit down with two-income earners and families trying to expedite how they handle the financial matters, we decided here to make it clear to consumers without having to hire a lawyer and an accountant to decide what is the better opportunity, to make it clear what it is. That is all it is.

Let me explain a little bit how it works.

Let me briefly discuss just two of the major provisions. First, a glance through most newspapers will reveal advertisements of returns based on simple interest, APR's and APY's, the annual percentage rates and annual percentage yields. Since each of these methods has a different basis for computation, it is not possible for consumers to know which produces a higher yield.

You really could not draw that conclusion just based on that piece of information. Is 8 percent simple interest higher or lower than 7.9 percent compounded daily for instance? If you only saw those two figures, you would not necessarily know.

In order to correct this problem, the bill requires depository institutions to disclose only one figure—an annual percentage yield to be determined by the Federal Reserve Board by a formula that takes into account the interest rate and the frequency of compounding for a 365-day period.

So it just is a guiding light for consumers; that is all it is. You can go and rant and rave about what it is. All these provisions do is make it clear what is included here so the average consumers today will make the right choice or have a right to make a choice as to which institution they want to do business with.

The result will be much simpler for consumers. Every time they see two or more figures advertised, they will know that the higher number will always produce a higher return for the consumer. That is all they need to know. That will make life easier for the consumer and it will benefit the depository institution that is truly offering the highest return.

It is good for institutions that are competitive; this will assist them as well. Those who complain about it are those who do not want to offer high rates of return and advertise that and do not want to lose the business. It is clear where the opposition is coming from. The institutions that are competitive are for this. They believe the consumer ought to have that kind of information.

A second example is the balance calculation provision contained in section 309 of the bill. It mandates that banks use either an average daily balance method or a day of deposit to day of withdrawal approach. They can choose one or the other. These two methods give consumers their money's worth; balances are calculated on the amount of money they have in their accounts each day. Roughly, 90 percent of all depository institutions use one method or the other. The importance of this provision lies in the fact that some institutions use other methods that can have very adverse effects on consumers.

So we are dealing with a fraction of those institutions that do not use these other two, and let me explain why they can have an adverse impact. For example, our hearings in 1987—Mr. President, that is how long this debate goes back—revealed that the same interest rates paid on the same balances over a 6-month period produced returns that varied from as much as $75.30 to $44.93, depending upon whether the bank used a day of deposit to day of withdrawal method or a low balance method, one that pays interest on the lowest balance for the month. Section 309 of the bill will outlaw such an unfair result. That may be a burden for some institutions, but be that as it may, that is what it is designed to do. So for those few who are engaging in unfair practices of these, they do not like it.

Before turning to the amendments to other provisions in the bill, I would just like to point out that the problems presented by noncomparable information and the failure to disclose relevant other terms and conditions are especially important in the 1990's when there are more and more two-worker families and people simply do not have the time, as I mentioned a moment ago, needed to identify everything the bankers are not telling them.

With respect to the changes to the Expedited Funds Availability Act, I just want to comment on the provision that would give nonproprietary ATM's an additional 4 years to meet the schedule for local checks. When we enacted this provision, it was designed as a technology-inducing provision. Unfortunately, the technology for nonproprietary ATM's to differentiate local from nonlocal checks has not changed enough to permit them to do so at a reasonable cost. So, therefore, we extended the time to accommodate the banks when they pointed this particular out. By extending the time for these ATM's to meet this schedule, we are maintaining the legislation's goal, which we think is an important one, but recognizing the reality that it cannot be reached by the date in the original legislation.

The banks came to the committee and said, "That is a problem for us. Can you help us?" We said it makes good sense; we can work that out. The legislation already does things the banks clearly needed to have done. By rejecting that legislation, we go back, one could argue, to the earlier provision that required them to meet that earlier standard. The suggestion, however, this is legislation that is totally onerous to the banking communities is patently false.

Finally, I just want to address the rationale for proposing a change to the home equity loan statute so soon after its adoption in 1988. As with the matter I just discussed regarding expedited funds, a problem has arisen that needs attention. In this case, the problem is the result of a misinterpretation of the statute by the Federal Reserve Board and a Federal court. Our main goal in that legislation was to require lenders to disclose the key cost terms to consumers. In variable rate loans, the consumer needs to know two things in order to know what interest rate will be charged—the index that is being used, which is typically some version of the prime rate, and the margin, which is a fixed percentage rate that is added to the index to produce the interest rate. Thus, the 1988 legislation requires the disclosure of "any index or margin to which such changes in the (annual percentage) rate are related."

For example, if a borrower's rate will be based on the Wall Street prime plus a 2-point margin, then I believe, and I think all of us do on the committee, the consumer needs to know both those facts and that is the intention of the legislation. Instead, the Fed did not require disclosure of the margin and the United States District Court for the District of Columbia recently upheld the Fed's viewpoint, holding that:

> In the normal case, the change in the interest rate of a variable HEL is not related to the margin but to the index; the margin is generally a fixed figure which will not be responsible for a change in the interest rate. Accordingly, the lenders would only be required to describe how the interest rate would change over time due to the index.

The Fed's and the court's interpretation vitiate the intention of the provision which was for lenders to disclose what index they were using and what the margin was. Without the disclosure of both of these terms, the consumer cannot determine what interest rate will be applied. That is why this amendment is included in the legislation.

To correct this problem, section 318 of title III requires the creditor to provide, as part of the disclosures given with the application form, the specific margin which applies to the creditor's Home Equity Plan. Mr. President, as they are soliciting business, there is the business they want. So when you are taking the application forms the consumers will have a better idea.

The amendment allows creditors that offer more than one margin to use a single disclosure form so long as the creditor specifies the amount of the credit line to which the margin is tied or clearly sets forth and describes the feature to which the margin is tied. Disclosure of specific margins would not preclude creditors from providing lower margins under certain circumstances.

Mr. President, I realize this is a bit technical, but as is often the case, matters that come before the Banking Committee dealing with financial institutions are technical, and words of art are important here, and this is legislation.

Again, I emphasize and say to my good friend from Idaho, who I know is legitimately concerned about the cost of added burdens, and so forth, that you can complicate these matters and a lot of times a few institutions that are frankly concerned about the purely competitive environment are not going to like some of them. What this is designed to do here is really to make sure that constituents of his and mine who do business with these institutions, when they read the advertisements in the paper, get a good idea so it is not a shell and pea game, so when they say interest rates are such and such, they can count on them, so those two-income families the Senator from Idaho and I have in our States who read that in trying to make a decision to go to bank X or Y they are not going to be fooled by a simple disclosure application. Clearly, when we are trying to encourage competition within the lending institutions and make sure the consumers are getting the deal they think they are getting, these kinds of provisions really should not provoke and have not provoked any controversy at all except for the few institutions that, frankly, do not want to really be competitive when it comes to offering higher yields for people's money.

So when you wade through all of these and read the language, as technical as it is, the bottom line is, do we believe that the consumers in this country ought to know what, in fact, the yields are going to be or not? Or do we want to allow a few institutions to continue to play a game that would require the average person to go out and virtually hire a lawyer to determine what, in fact, the yields are going to be.

I opt for the former. The few pennies it may cost an institution to provide that information is hardly, it seems to me, worth the opposition that is being expressed to this kind of provision in these bills.

I gather we may debate it a little further this afternoon after our caucus luncheons. But I would hope that my colleagues—and I will be delighted to have private conversations with them about the bill, what is in it and so forth, and our staffs will be available.

This was a unanimous vote by the House committee and a unanimous vote by our committee. It is not a controversial matter except for a handfull of institutions that have always objected to disclosure. That is all that is required of this legislation.

I thank my colleague from Massachusetts for giving me an opportunity to lay out the details of what these two provisions really are in this legislation.

I yield the floor.

Mr. LEAHY. Mr. President, I do not want to interfere with my distinguished colleague from Massachusetts because I always try to give the utmost respect to those Southern States, but I wonder, if he has no objection, if I might be able to proceed for just 3 or 4 minutes on a subject of some major concern.

Mr. President, I thank Senator KERRY. As always he is showing his unfailing courtesy in helping other Senators.

NUTRITION BUDGET

Mr. LEAHY. Mr. President, this past weekend, President Bush joined world leaders at the United Nations in calling for a renewed attack on child hunger and mortality. The words he used reflect my own concern for the world's, in particular for the U.S. children. Indeed, a hungry child is an empty promise. The President is correct in recognizing that.

But I am disappointed to see that the President's budget priorities speak, unfortunately, a lot louder than his words. The administration's budget has put hunger relief on a starvation diet in this country.

Last spring I introduced the Mickey Leland Memorial Domestic Hunger Relief Act in the Senate. We did this to honor the memory of a brave Congressman who was dedicated to the world's desperately poor citizens and, in fact, died on a trip to try to bring food to some of the hungriest of this world. Our bill expanded our domestic nutrition programs to meet the needs of our own hungry, especially the one out of five children in this country who live in poverty.

Think about that when we are talking about the children of the world, Mr. President; one out of five children in the United States lives in poverty. The same one out of five live in hunger in the wealthiest, most powerful Nation on Earth.

The administration opposed this bill. They opposed the Mickey Leland bill right from the beginning. And they continued their opposition for many months. And now this living tribute to Mickey Leland has died because of the budget priorities of the administration.

The Mickey Leland bill is only one of the victims of the administration's starvation budget. This year the administration proposed almost $500 million in cuts for child nutrition programs, including at least $180 million in cuts in the school lunch program. President Bush campaigned for more day care but his proposed budget cut funding for meals provided to children in day care. Cuts of over $280 million for both child and adult day care tell how those campaign promises have come out.

The supplemental food program for women, infants, and children, the WIC Program, has been shown by study, after study, after study, to significantly increase the health of newborn infants. It reduces the cost of child health care. We want to find something in the Year of the Child that helps children, that saves children's lives. WIC does. It saves children's lives. It saves the Nation money at the same time. It is in many ways, Mr. President, the perfect program—if we really mean what we say about helping children.

Now, in the Presidential debates, President Bush strongly supported WIC. Governor Dukakis strongly supported WIC. Everybody strongly supported it. But President Bush had a chance to do something about it, and he did not propose increases in the WIC program. In fact, he refused my offer to support full funding for WIC. And because of this funding shortfall, WIC fails to serve over 40 percent of those women and young children who are eligible.

We have to ask ourselves also, in a year we are talking about this attack on child hunger and mortality, how many children die needlessly at birth because they do not have access to the WIC Program? How many children have health problems for the rest of their lives because they did not have access to the WIC Program?

Why is it that the United States lags so far behind other nations in child mortality statistics, the number of children who die at birth, or are hampered throughout their life, because Of a low birth weight? One reason is we do not fully fund the WIC Program. The President also asked in his budget for a significant cut in the nutrition assistance program for Puerto Rico—over a $100 million cut.

Mr. President, all of us like to give speeches with the flags flying and the bands playing, and with pride and with patriotism we speak of being the richest and most powerful Nation on Earth because, indeed, we are. But sometimes we do not talk about the millions of Americans who go to bed hungry every single night, not by choice, but by necessity. Hunger is not limited to the homeless living on our street corners or in our subway stations. There are Americans in every city and every State who live with hunger every day.

Mr. President, you and I, or any of the other 98 Members of this body could go into any community in this country, whether we had ever been there before or not, and find pockets of hunger in this, the wealthiest, most powerful nation on Earth. We know that poor nutrition and hunger jeopardize the future of our entire Nation. When children go to school hungry, they do not learn. If our Nation's children are not learning, our Nation's future is seriously at risk, and we must not surrender our future. A hungry child is an empty promise.

It is time for the administration to stop pretending that it cares about children and start acting to protect them. Stop giving lofty speeches about the rest of the world, necessary though they might be, and look at the hungry children in America. Statistics show that across our Nation, the rich get richer and the poor get poorer. The gap between rich and poor in our Nation is as wide as it has ever been since World War II.

The budget deal reached by Congressional leaders and the administration takes steps to reduce the income gap as well as the deficit. I applaud the negotiators for their patience and their hard work, patience sometimes in the face of arrogant obstinance. But I cannot agree that merely holding our ground in the fight against hunger is enough. I cannot accept the fact that the most powerful nation in recorded history cannot feed the hungry or heal the sick or provide any Federal employment to the able-bodied. We have to continue the moral struggle against hunger and poverty in the United States.

In conclusion, I would say, Mr. President, that we have to take a leadership role on these issues internationally. As chairman of the appropriations subcommittee dealing with foreign aid, I intend to support those United Nations and other international programs for children. I want to see more funding for UNICEF, for child survival, for AID-supported children's programs. I support the world summit for children. I hope the summit will lead to prompt ratification of the Convention on the Rights of the Child, and I hope this Nation will back up its rhetoric with the necessary money and will back up the symbolism with some substance. It is time to fulfill the promise of the child.

The PRESIDING OFFICER. The Chair informs the Senator from Massachusetts and the Senator from Utah, the floor managers respectively, that under the previous order——

Mr. KERRY. Mr. President, I ask unanimous consent simply to be able to proceed to clarify a number of points, and then I think the Senator and I agree not to delay the Senate at this point.

I ask unanimous consent granted when I originally asked the RECORD not show me interrupted by the previous speaker also not show me interrupted by the Senator from Vermont nor by the recess, and when we reconvene after the recess I be allowed to continue.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I understand there is an order for a vote at that time.

I will continue at such time as this bill is resumed in debate and it be shown at that moment.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order the hour of 12:30 having arrived, the Senate will stand in recess until the hour of 2:15 this afternoon.

Thereupon, at 12:30 p.m., the Senate recessed until 2:15 p.m., whereupon the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

SUPPORTING THE ACTIONS TAKEN BY THE PRESIDENT WITH RESPECT TO IRAQI AGGRESSION AGAINST KUWAIT

BIPARTISAN SUPPORT FOR PRESIDENT'S POLICY IN THE PERSIAN GULF

Mr. DOLE. Mr. President, I am pleased to join the majority leader in offering this resolution. I would also like to affirm that the administration supports the resolution.

The resolution is important for what it says—and equally important for what it does not say.

It does express the strong, bipartisan support in the Senate for the President's leadership, policies, and actions in the Persian Gulf crisis.

In doing that, it will send another strong and important message to Saddam Hussein: The United States is united in its determination to achieve the goals of the President's policies. Saddam Hussein is not going to get what he wants, period; and he surely is not going to get what he wants because of indecision or dissent in the U.S. Senate.

The resolution also includes a strong call to all nations in the world, to keep up the pressure on Saddam; and, at the same time, to respond to the needs of those adversely affected by the enforcement of the sanctions.

As an aside, I might note that I have recently met with a large number of foreign leaders—Presidents, Prime Ministers, and Finance Ministers. Every one of them spoke of their governments' commitment to cooperate in the "squeeze Saddam" strategy, but many of them, too, pointed out the severe costs to their countries of that cooperation.

President Zhelev of Bulgaria, to cite just one example, not only pledge continuing commitment to the embargo of Iraq, but announced that Bulgaria will send some ground units to Saudi Arabia, if asked.

But he also pointed out that Saddam has quit payment on the multibillion dollar debt that Iraq owes Bulgaria, even as Bulgaria—increasingly cut off from Soviet oil and natural gas supplies—must pay much higher costs for those commodities on world markets. So it is a double or triple whammy on many of these countries. And it is important that we acknowledge that in this resolution.

But, as I said, this resolution is also important for what it does not say.

Most importantly, while properly reaffirming the constitutional processes by which our foreign policy is developed and implemented, the resolution does not plunge us into a pointless and damaging confrontation over war powers.

There is a time and a place for everything. And one of these days, we must confront this war powers issue, and get it resolved in a manner that is consistent with the Constitution, preserves the legitimate role of the Congress, and serves the national interest.

But debates here on the floor of the Senate can be misunderstood, when translated into headlines, or soundbites in the media around the country, and around the world.

A debate right now, which could be misunderstood or misreported as evidence of an erosion of support for the President's stance, would serve no one's interest—except Saddam Hussein's.

So this is a good resolution. I commend the administration, which urged us to pursue this resolution, and the majority leader, who has been very involved in working out this draft.

It was a bipartisan process, which has resulted in a bipartisan product. That is the way we ought to deal with these serious foreign policy issues.

I urge all Senators to vote for this resolution.

Mr. PELL. Mr. President, before we cast our votes with respect to this resolution, I wish to bring one matter to the attention of the Senate which is a matter of some concern.

Back in August, while the Senate was still in recess, and after the President's initial deployment of troops to the Persian Gulf region, I wrote to the President asking for certain documents relating to those deployments. I reminded the President, by way of background, that in 1983, when the United States was participating in a multinational peacekeeping force in Lebanon, the Senate Foreign Relations Committee had had the opportunity to examine the exchange of letters between the Governments of the United States and Lebanon which provided the basis for that participation. Accordingly, this past August I wrote with respect to the Persian Gulf deployments—

> I assume that in recent days there have been similar exchanges of letters with the Governments of Saudi Arabia, Kuwait and other nations with respect to the military deployments and other actions recently undertaken by the United States. For instance, the official Saudi request was mentioned in your August 9 letter to Congress, and the Kuwaiti request was mentioned in Acting Secretary of State Kimmitt's letter to Congress last week.
>
> As required by the Case-Zablocki Act and consistent with the detailed information the Committee was provided in connection with drafting the Lebanon resolution, I would appreciate your having provided to me copies of any exchanges of letters that the Executive Branch may have had with Saudi Arabia, Kuwait and other Governments, and also the content of any oral agreements.

I have not yet received a reply to my letter, although the State Department has assured us that we will have the requested items next week. I mention this at this time, because at least with respect to the specifics of the arrangements and commitments we might have undertaken with other governments, we are, in a way, operating in the dark. I trust that when we receive the reply, we will find no surprises and not have to revisit the findings contained in this resolution.

Mr. KOHL. Mr. President, I firmly believe that the President's response to the invasion of Kuwait by Iraq has been fundamentally sound. Iraq's behavior has been unjustified and unacceptable. The President's ability to forge an international response to this aggression has been both skillful and effective. The actions he has taken so far have my support and deserve the thanks of the civilized world.

Having said that, Mr. President, I must also say that I am less than pleased with the resolution now before us. To begin with, I believe that the President should have sought congressional approval for the actions he has taken—approval which he would have gotten—as required by the War Powers Resolution. The President may not like the War Powers Resolution but it is the law of the land and one of the issues at stake in the Persian Gulf is respect for the rule of law. The law requires congressional approval of deployment of American forces in situations in which hostilities are imminent. Hostilities are, unfortunately, imminent in the gulf. And that means that the President is required to seek congressional authorization for his actions.

Second, I believe that the President should have been—and should be—working more closely with the Congress in developing our Nation's ongoing response to events in the Persian Gulf. So far, I am afraid, the executive branch is working with the other nations of the world but not with the Congress of our own country. I understand the realities of the modern world: Secrecy is often essential, events take place quickly, responses have to be almost instantaneous. But planning is going on now. And the Congress, perhaps represented by a leadership group, ought to be aware of what options are developed, and involved in the process of evaluating those choices.

Third, I am concerned about the specific language of the resolution because some may read it as giving the President a blank check for future action. That is simply not the case with this Senator. I do support the actions the President has taken so far. But I cannot signal my support for future actions unless I know what strategy will guide them and what operational details will control them. Of course I support "continued action * * * to deter Iraqi aggression and to protect American lives and vital interests in the region." But what does continued action mean? Military action? Diplomatic action? Capitulation to Iraq? The resolution does not define its terms—and that disturbs me deeply and offends greatly. Military action may be essential at some point. But I do not want to see us take any military action until that point is reached. By committing us to "support continued action by the President" some may see the resolution as a grant of authority to the President. Perhaps it is wishful thinking, but I read the language of the resolution more restrictively; after all, there is at least the requirement that such action be in accordance with the decisions of the United Nations and our own domestic legal processes. That, I hope, is enough to suggest that additional authorization or approval would be required before our actions move in a new direction or shift their current emphasis.

Finally, while I recognize the value of this resolution, I also recognize its limitations. This resolution doesn't really endorse or encompass or create a comprehensive policy in the Persian Gulf; at best it simply speaks to the current crisis. And that is precisely what is wrong with the resolution and with our policy: It only addresses the immediate crisis. Look at some selective recent history: 2 years ago we tilted toward Iraq because they were fighting Iran—now Iraq has tilted against us and who knows where Iran is; 2 months ago Syria was branded a terrorist state—now we invite them to lunch; today we are all frightened by the proliferation of weapons and military might in the region—so we propose to sell an additional $21 billion in arms to Saudi Arabia. Mr. President, over the past few years we have bounced from one policy extreme to another: We have shifted goals, altered alliances, modified the means we are willing to use. It is really time for us to figure out what our policy in the region is going to be. This resolution, as important as it may be, simply does not help us do that.

Despite these concerns, Mr. President, when all is said and done, I will vote for this resolution. I will do so because I agree with what the President has done so far and because I want to send a clear signal of American unity to Iraq and to all other nations. But I also want to send a clear signal to the President of the United States that increased consultation and involvement is necessary if that support is to be sustained and that unity is to be maintained. The American people have a right to fully understand what we are doing; the Congress has an obligation—a legal, constitutional and moral obligation—to be involved in, and give approval to, American action in the gulf. And our nation has a need to develop a comprehensive and consistent policy in the Middle East.

Mr. KERRY. Mr. President, I support this resolution which I believe sends an unequivocal signal to Saddam Hussein that the Senator is in total agreement with the President and the international community in actions taken thus far to force the Iraqi, withdrawal from Kuwait.

In so doing, it should be pointed out that this resolution is not a Gulf of Tonkin resolution on the Persian Gulf. Quite the contrary, this resolution reflects the near unanimity of the global community in condemning this aggressive act by a brutal dictator.

Unlike our experience in Vietnam, the United States is not acting unilaterally in the Persian Gulf. We are not acting in the absence of an international consensus in support of our presence in the region. The emphasis that the President is placing on the role of the United Nations is a critical element of our policy in dealing with this crisis. The President has done a superb job in mobilizing the international consensus, as manifested by the eight resolutions passed by the U.N Security Council in response to the Iraqi invasion.

The success of U.S. policy will be largely contingent upon the maintenance of this international solidarity. It is imperative that the United States continue to operate under the auspices of the United Nations.

While the resolution is not statutorily binding upon the President, I would like to differ with its characterization offered by our distinguished colleague from Oregon [Mr. HATFIELD]. Subsection (b) of the resolved clause expresses support for the President's actions, or continued action, in "accordance with the decisions of the United Nations Security Council and in accordance with United States constitutional and statutory processes, including the authorization and appropriations of funds by the Congress."

Mr. President, I believe this phase appropriately defines the limit of our support. We are telling the administration that Congress will support continued action so long as this action is in accordance with the decisions of the U.N. Security Council, in accordance with the U.S. constitutional and statutory processes. I would submit that since the War Powers Resolution is part of our statutory process, this resolution is covered in the legislation we are considering today.

And quite frankly, if the Congress is so predisposed to correcting a perceived policy miscalculation, the ultimate weapon we have is the power of the purse. As one who fought and bled for my country, the failure of the Congress to cut off funding for the Vietnam war for so many years represented the ultimate derogation of the responsibilities of this institution.

I am a strong supporter and advocate of the War Powers Resolution. But the War Powers Resolution, and its invocation, should not be used as an excuse for not exercising the most effective tool we have to decide these issues—the power of the purse.

Mr. President, I am supporting this resolution because it is my belief that it does not authorize the President to operate unilaterally either apart from the U.N. framework, or without specific authorization from the Congress. The success of the President's policy, thus far, has been the international consensus behind our efforts and those of our allies—a consensus which has contributed to, and strengthened, the broad base of support among the American people.

I would caution anyone in the administration who would be inclined to engage in a twisted or convoluted interpretation of this resolution that we are not giving the President carte blanche to wage offensive military action unilaterally. All our actions must be predicated upon support from the Congress, the American people, and under the continued sanction of the United Nations.

I am concerned that the Iraqi invasion of Kuwait may be an ominous omen of the potential dangers facing the global community in the post-cold war era.

The global community has emerged from 45 years of superpower competition, during which the threat of unclear confrontation was never far from our consciousness. Fortunately, the cold war did not bring our worst fears to fruition.

The end of the cold war era, however, does not mean the world is safe from global catastrophe. The greatest danger to international security and stability can come from traditional regional hot spots which, if left unattended, could be the spark that could turn local confrontations into more widespread conflagration.

Today, we are confronted by a regional power, Iraq, which has attacked a weaker state, Kuwait, for both territorial gain and control of an important resource. The crisis is even more threatening by virtue of the fact that Iraq has developed a chemical weapons capability, and is pursuing a nuclear weapons development program. And Saddam Hussein has demonstrated a willingness to use such weapons of mass destruction in the past, whether in his war against Iran or against his own Kurdish population.

That is why I support President Bush's response thus far to the crisis and our demand—the demand of the international community as manifested through the Security Council resolutions of the United Nations—for the unconditional and total Iraqi withdrawal from Kuwait.

The fundamental issue associated with the Iraqi invasion of Kuwait, in my estimation, has nothing to do with oil prices or who controls how much of the world's petroleum reserves. The fundamental issue has nothing to do with our rushing in to support, or prop up, so-called feudal monarchies in the Persian Gulf.

Even the question of energy independence, or the failure to develop a national energy policy, is peripheral to what should concern us, our Western allies, and our new-found allies in the region.

If local or regional aggressions are allowed to go unchallenged, then the entire global community could open itself up to nuclear and/or chemical weapons blackmail, particularly if a despot's appetite has been whetted by local or regional successes.

That is the potential reality being played out in the Persian Gulf today. Yes, there are risks inherent in the current massive development of U.S. military power in the region. But one has to weigh those risks against what, potentially, could be a more catastrophic outcome. Do we want to risk this possibility?

While the threat of all-out nuclear war between the United States and the Soviet Union has hung so heavily over the world for the past 45 years, there has also been concern for local and regional conflicts escalating into nuclear or chemical wars. We have succeeded, for the most part, in keeping that genie in the bottle. It would be disastrous if that genie were ever allowed to pop out of the bottle. It would establish a precedent that would make it difficult to influence other potential hot spots around the globe.

We are currently in a transition period from the cold war era to an era in which the superpowers no longer have surrogates over whom they could exercise influence in times of crisis. Saddam Hussein has certainly proven that to his former ally, the Soviet Union. There are leaders, such as Saddam Hussein, who will exploit this new reality to pursue their own nefarious ambitions.

Yet, no one nation alone can carry the burden for responding to such threats which could escalate into confrontations with global implications. We need to focus on strengthening the capabilities of the U.N. to meet future aggressions, because, unfortunately, there are other Saddam Husseins lurking in the world's future. The global community has to be prepared to respond quickly and credibly to avert larger catastrophies which might lurk in our future.

We have to get serious about the conventional arms race around the world. Iraq is a frightening example as to the need for the international community to get serious in bringing to an end the proliferation of chemical, biological, and nuclear weapons throughout the world. We have to get serious about nonproliferation.

The current crisis, and the response of the international community to the Iraqi aggression, does provide us an opportunity to strengthen a multilateral capacity to deal with future threats.

The President speaks of a new world order. And to a large degree we are seeing the unfolding of a new world order. But for the principle of collective security to become a functional reality, we have to take the leadership in supporting a system based upon the rule of international law.

If there is one lesson, among many, to be learned from this crisis, it is the fact that the West, and the United States as the leader of the West, has to realize that unilateral action will threaten seriously our own long-term security. In the coming decades, we could find ourselves in a world at least as dangerous and unfriendly as that of the cold war. Only by promoting a truly international security system based on the rule of international law and the United Nations can our Nation hope to promote both our own and wider global security.

The fact that the President has been sensitive to the need for responding to this crisis under the United Nations auspices and framework, has been a very important consideration in my support for his policy. He has been skillful in working with the United Nations to establish an international partnership to respond to this aggression. In the process, I believe the United States is making an important contribution in the long overdue requirement for strengthening multilateral responses to present and future crises which do and will, face this global community of ours.

Mr. BIDEN. Mr. President, 8 weeks have passed since American troops were sent to the Arabian peninsula to deter further aggression by the nation of Iraq.

We have seen the largest buildup of American forces since the Vietnam war—in a fraction of time that it took to make a similar commitment in Indochina, with a fraction of the debate.

It is now October 1, nearly 2 months since the first United States soldiers arrived in Saudi Arabia, and 3 weeks since Congress reconvened after the August recess.

In these 2 months, the U.N. Security Council has approved no less than eight resolutions regarding the gulf crisis.

Yet the Senate has remained, as an institution, largely silent.

A NEW AMERICAN DOCTRINE

The debate on this policy is long overdue. For the deployment of United States Forces in the Persian Gulf is not just, to use the President's words, "a line drawn in the sand."

It is a new American doctrine to justify massive United States intervention in the Middle East.

Ten years ago, in response to the Soviet invasion of Afghanistan, President Carter articulated a doctrine that now bears his name. He said:

> An attempt by any outside force to gain control of the Persian Gulf region will be regarded as an assault on the vital interests of the United States.

The American people understood that we could not accept an alien hand—at the time, a Soviet hand—grabbing control of this essential resource.

But President Bush has responded to a new threat—not from an outside power—but from an Arab aggressor seeking to control Arab oil.

This is a dramatic shift in American foreign policy—a Bush corollary to the Carter doctrine.

We have declared to the world that we will not permit an unfriendly Arab nation to control gulf oil.

A commitment potentially limitless in its scope that at a minimum, could well mean a long-term presence of U.S. Forces—at least Naval Forces—in the Persian Gulf Region.

Congress must play a role in helping to more clearly define this long-term commitment, just as Congress must play a role in the current deployment of U.S. Forces.

To date, Congress has been simply an observer, heartily congratulating the President for his brilliant diplomatic skills and praising American soldiers for their service to the country.

Such praise has not been un-deserved.

The President has done a tremendous job thus far in uniting the world in opposition to Iraq's aggression.

And American forces have been heroic in their rapid deployment to the Middle East and in their commitment to duty under harsh conditions.

But to continue in this sideline role would be not merely an evasion of responsibility, but an abdication of congressional power.

CONGRESS AND THE WAR-MAKING POWER

That Congress has the power to declare war is unambiguous in our Constitution.

But students of the doctrine of original intent would perhaps be surprised to learn that the framers did not intend for congressional involvement in the use of force to end there.

Indeed, an early draft of the Constitution reserved exclusively for Congress the power to make war.

Later this was changed to declare war. But the reason for this change is instructive.

At the Constitutional Convention, James Madison and Elbridge Gerry argued for the amendment for one reason—to allow the President "the power to repel sudden attacks."

In fact, the framers had no interest in the ceremonial aspects of declaring war—which has only been used five times in our history as a nation.

Even then, as Alexander Hamilton noted, "the ceremony of a formal denunciation of war" had "of late fallen into disuse." (Federalist 25).

The real issue was authorization of war, which the framers did not intend to give to the President.

Even so staunch an advocate of Presidential authority as Hamilton emphasized that the President's power as Commander in Chief would be "much inferior" to that of the British King.

Amounting to "nothing more than the supreme command and direction of the military and naval forces" (Federalist 69).

The framers of the Constitution wanted Congress involved, on an equal basis, in any decision on the use of force—the most fundamental decision a nation can make—for two important reasons:

First, to balance power within our Government; and

Second, because congressional support is a sound barometer of a policy's wisdom and a prerequisite of a policy's sustainability.

SUPPORTING THE CURRENT POLICY

Congress must have a role to play in authorizing the current deployment of troops in the Middle East, as well as any further action.

It cannot be merely reduced to providing the funds to continue the military operation, "which as a practical matter is guaranteed, since Congress rarely uses the power of the purse to cut off support when American soldiers are on the brink of war."

The question then becomes: By what form does Congress add its voice to the policy?

I believe the best approach would be to provide a statutory authorization, rather than the hortatory resolution before us today.

In truth, I do have concerns about the resolution now before us.

The best that can be said about it is that it is only a concurrent resolution, and thus has no force of law.

I would be happier if we set down some guidelines for U.S. policy, in order to clarify our objectives in the gulf, and to provide signposts for future actions.

The resolution's ambiguity leaves open the possibiity that the President will interpret this resolution very broadly and consider it as the first and last word of Congress on this matter.

It mentions neither future actions by Congress, nor of the need to seek a declaration of war if hostilities occur.

It merely "supports continued action by the President."

Now we must make declarative statements about the intent of Congress in approving this resolution.

But we must remember that Presidents have not hesitated to ignore legislative history when it suited them.

We need only to recall the Vietnam experience, where the Johnson administration cited the Gulf of Tonkin resolution—enacted in response to alleged North Vietnamese attacks on the U.S.S. *Maddox* and the U.S.S. *Turner Joy*—as an authorization to escalate the war.

Despite the fact the resolution said nothing about authorizing anyone to do anything.

We know these resolutions are subject to selective interpretation—and abuse.

The words of Nicholas Katzenbach are instructive. While serving as Johnson's Attorney General, Katzenbach acknowledged in an internal memorandum that there was some legislative history to indicate that in passing the Gulf of Tonkin resolution, Congress did not intend to approve a large-scale land war in Asia.

But later, as Under Secretary of State, Katzenbach testified to Congress that the Gulf of Tonkin resolution constituted the "functional equivalent" of a declaration of war.

A similarly clever administration official might use this resolution as justification for military action.

Let me read from the operative section of the measure:

> The Congress supports continued action in accordance with the decisions of the United Nations Security Council and in accordance with United States constitutional and statutory processes, including the authorization and appropriation of funds by the Congress, to deter Iraqi aggression and to protect American lives and vital interests.

Now I, and many other Senators, take the reference to the U.S. constitutional and statutory processes to mean that the President must continue to seek authorization from Congress.

But because the current administration appears to believe that the Executive's warmaking powers are almost limitless, the reference could be rendered meaningless.

For example, the wording about the authorization and appropriation process might be construed later—if we go ahead and appropriate the funds—as constituting the necessary congressional approval for any military activities which the President decides to undertake.

I hope and expect that President Bush will reject such interpretation.

A STATUTORY AUTHORIZATION

I believe the Congress, the Nation, and the troops sweltering in the Saudi desert would be better served if Congress clarifies American policy in the gulf with enactment of a statutory authorization, which could demonstrate robust support for the President, guide the administration's policy, as well as make clear that Congress has not granted a blank check to the President and that further authorization is necessary for the initiation of hostilities.

Such a resolution would also lay out principles that should govern U.S. policy, providing a framework for action on the part of the President and Congress.

This is well within the range of our responsibilities as the legislative branch.

And it would help ensure public support for this policy.

I have drafted such a resolution, and submit it now in the Record for the consideration of my colleagues.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Statutory Authorization

A joint resolution providing statutory authorization for the deployment of United States Armed Forces in the Persian Gulf region to deter and, if necessary, defend against further Iraqi aggression and to participate in multilateral efforts to restore the sovereignty of Kuwait and promote the security and stability of the region

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This joint resolution may be cited as the "Collective Security in the Persian Gulf Resolution".

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.—Congress finds that in response to the act of aggression by Iraq against Kuwait, which began on August 2, 1990, the United States has—

(1) participated in decisions of the United Nations Security Council, as follows:

(A) Resolution 660, demanding immediate and unconditional withdrawal of Iraqi forces from Kuwait and restoration of the sovereignty, independence, and territorial integrity of that nation;

(B) Resolution 661, imposing economic sanctions against Iraq;

(C) Resolution 662, declaring null and void Iraq's annexation of Kuwait;

(D) Resolution 664, demanding the release and safe passage of innocent civilians;

(E) Resolution 665, authorizing appropriate measures to halt maritime shipping to and from Iraq and Kuwait as necessary to enforce economic sanctions;

(F) Resolution 666, directing that food supplied to Iraq for humanitarian purposes be conveyed solely through the United Nations;

(G) Resolution 667, condemning Iraq for the violation of diplomatic protections in Kuwait; and

(H) Resolution 670, extending the economic embargo to include material transported by aircraft.

(2) acting in response to the request of threatened nations and in accordance with the United Nations Charter, deployed United States Armed Forces in Saudi Arabia and elsewhere in the Persian Gulf region in conjunction with military deployments by other United Nations member-states, in order to—

(A) deter and, if necessary, defend against further Iraqi aggression; and

(B) assist in enforcing economic sanctions against Iraq pursuant to United Nations Security Council Resolutions 661, 665, and 670.

(b) Purpose.—Congress intends this joint resolution to constitute specific statutory authorization for continued United States military participation in collective security actions in the Persian Gulf region.

SEC. 3. GOALS OF UNITED STATES POLICY.

(a) Immediate Goals.—The immediate goals of United States policy in the Persian Gulf region shall be:

(1) unconditional withdrawal of Iraqi forces from Kuwait;

(2) restoration of the sovereignty of Kuwait; and

(3) protection of the lives of American citizens held hostage in Iraq and Kuwait.

(b) Long-Term Goals.—Over the long term, United States policy in the Persian Gulf region shall seek to achieve:

(1) the security and stability of the region; and

(2) by unprecedented and effective use of the mechanisms of collective security action, the promotion of a new world order.

SEC. 4. PRINCIPLES GOVERNING UNITED STATES POLICY.

United States participation in collective security actions relating to the Persian Gulf region shall be governed by the following principles:

(1) Collective responsibility.—The United States shall continue to emphasize adequate sharing, by countries of the region and of the industrialized world, of the responsibilities, including the costs of military deployments and participation in economic sanctions, associated with collective security actions in the Persian Gulf region.

(2) Emphasis on united nations.—The United States shall continue to emphasize and rely upon the procedures and instrumentalities of the United Nations system in order to sustain effective multilateral support for collective security actions in the Persian Gulf region.

(3) Role of regional and other forces.—The United States, having taken urgent measures to lead a collective security action in the Persian Gulf region, shall seek to promote—

(A) greater participation in ground-force defense by countries of the region; and

(B) greater sharing of responsibilities, among countries having vital interests in the region, for the deployment and support of armed forces needed for regional stability.

(4) Compliance with the law of nations.—The United States shall, in cooperation with other nations, seek to achieve substantial compliance by Iraq with the Law of Nations, including:

(A) the United Nations Charter;

(B) the International Covenant on Civil and Political Rights;

(C) the Convention on the Prevention and Punishment of the Crime of Genocide;

(D) the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare;

(E) the Treaty on the Non-Proliferation of Nuclear Weapons; and

(F) the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction.

Accordingly, the United States shall seek effective multilateral participation in such restrictions on trade with the current government of Iraq as may be necessary to ensure a cessation of transfers to that regime of military technology and equipment, including all material and technical assistance that could contribute to the development or employment of ballistic missiles and nuclear, biological, and chemical weapons.

SEC. 5. AUTHORIZATION FOR USE OF FORCE.

(a) Authorization.—The President is authorized to continue to deploy United States Armed Forces in the Persian Gulf region—

(1) to deter and, if necessary, defend against further Iraqi aggression;

(2) to respond as may be necessary, proportionate, and effective to any acts of intended harm to American citizens or nationals; and

(3) to participate in collective security actions in the event that the United Nations directs the use of military force to counter threats to regional security posed by the Iraqi regime.

(b) Further Authorization.—

(1) Before initiating a use of force against Iraq beyond those uses authorized by subsection (a), the President shall—

(A) consult and seek the advice of the Combined Congressional Leadership Group created pursuant to section 7 of this Resolution;

(B) set forth to Congress and the American people his explanation of the imperatives mandating such use of force in the absence of a United Nations directive; and

(C) seek a declaration of war or other statutory authorization.

(2) In light of evolving developments in and relating to the Persian Gulf, Congress shall from time to time consider further measures of authorization; and authorization for military action shall at no time be inferred from the authorization or appropriation of funds for the Department of Defense.

SEC. 6. REPORTS TO CONGRESS.

(a) Report on Principles and Goals.—Not later than January 31, 1991, and every three months thereafter for so long as United States Armed Forces continue to participate in collective security actions in the Persian Gulf region, the President shall transmit to the Speaker of the House of Representatives and chairman of the Committee on Foreign Relations of the Senate a report providing a detailed description of such participation, the circumstance requiring the continuation of such participation, and the results of United States efforts undertaken in accord with the goals and principles set forth in sections 3 and 4.

(b) Reports on Developments in the Persian Gulf Region.—In the event of developments in the Persian Gulf region that involve or appear likely to involve the United States Armed Forces in hostilities, the President shall, in accord with the reporting requirements of the War Powers Resolution, report fully and promptly to the Congress on the circumstances and the implications thereof.

SEC. 7. CONGRESSIONAL LEADERSHIP GROUP.

(a) Establishment.—To facilitate congressional deliberation and Executive-Legislative consultation on critical decisions relating to United States participation in collective security actions pursuant to this Resolution, there shall be established in each House of Congress, as an exercise of the rulemaking authority of that House, a Leadership Group which shall be comprised as follows:

(1) in the House of Representatives—

(A) the Speaker, who shall serve as chairman;

(B) the Majority and Minority Leaders;

(C) the chairmen and ranking members of the Committee on Foreign Affairs, the Committee on Armed Services, and the Permanent Select Committee on Intelligence; and

(2) in the Senate—

(A) the Majority Leader, who shall serve as chairman;

(B) the President pro tempore and the Minority Leader;

(C) the chairmen and ranking members of the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence.

(b) Combined Congressional Leadership Group.—When the chairmen of the two groups deem it appropriate and practical for purposes of congressional deliberation or Executive-Legislative consultation, they shall arrange for the two Groups to assemble as a Combined Congressional Leadership Group, on which the two chairmen shall act as co-chairmen.

(c) Consultation Regarding the Use of Force.—The President shall, unless urgent circumstances do not permit, consult and seek the advice of the Combined Congressional Leadership Group designated pursuant to this section, prior to key decisions relating to the disposition or commitment of United States Armed Forces authorized by this Resolution to be deployed in the Persian Gulf region.

Mr. BIDEN. In my view, this resolution would be preferable:

It specifically authorizes the current deployment of U.S. troops;

It authorizes their use to defend against further Iraqi aggression and to respond, in a proportionate manner, to acts of intended harm to American citizens;

It does not endorse a preemptive strike; it does, however preauthorize American forces to participate in collective security actions in the event that the United Nations directs the use of military force to counter threats to regional security posed by the Iraqi regime;

It also requires the President to seek a declaration of war or other statutory authorization if significant hostilities break out; and

It calls for further measures of authorization by Congress, making clear that no blank check is being endorsed over to the President.

I hope my colleagues will take a close look at the resolution.

To suggest that the resolution before us is imperfect, as I have, is not to imply that the Senate is on the verge of enacting a 1990 version of the Gulf of Tonkin resolution.

Indeed, the circumstances are far different.

Today we have a clear act of illegal aggression against a sovereign nation, rather than a contrived attack against U.S. naval vessels.

Today we have the United Nations Security Council unanimously condemning the nation of Iraq, rather than the United States acting largely on its own.

Today we have thousands of troops from Arab and Islamic nations alongside U.S. soldiers, rather than a token force of Asian troops providing minimal diplomatic cover for American boys.

Despite my reservations and concerns about this resolution, I intend to vote for it, but only on the assumption that the language does not constitute congressional support in advance for a Presidential decision to use force in the gulf—in the absence of prior authorization by Congress or a decision by the U.N. Security Council under article 42 to undertake a collective action designed to remove Iraqi forces from Kuwait.

In other words, congressional support for "continued actions" does not mean that the President can take any action that does not contradict existing Security Council decisions or that he can use force to implement existing Security Council decisions without seeking authority from Congress.

Mr. HARKIN. Mr. President, I rise to cast my vote in support of Senate Concurrent Resolution 147, but do with the explicit understanding that this resolution will not serve as a blanket authorization for the President to go to war in the Persian Gulf or as approval of the President circumventing the War Powers Act.

Specifically, this resolution does not give the President the authority to conduct military operations against Iraq without additional authorization from Congress. It does endorse the deployment of United States forces for defensive purposes, to deter Iraqi aggression against Saudi Arabia. It does endorse the use of economic sanctions and diplomatic means to pressure Iraq into withdrawing from Kuwait. And it does embrace the United Nations and the five Security Council resolutions which condemn Iraq's aggression in the Persian Gulf.

I support the resolution's expression of support for the actions the United States has taken so far to deter further Iraqi aggression in the Persian Gulf. President Bush has done a masterful job of mobilizing the support of the United Nations through the numerous resolutions approved by the Security Council.

Furthermore, there is unanimous support in the world community—with the exceptions of Iraq and its very small group of allies—for the goals enunciated in those Security Council resolutions, specifically: First, the immediate, complete and unconditional withdrawal of Iraqi forces from Kuwait; second, the restoration of Kuwait's sovereignty; third, the release and safe passage of foreign hostages held by Iraq; fourth, the imposition of economic sanctions against Iraq; and fifth, the maintenance of international peace and security in the Persian Gulf.

I urge that the United States go further in involving the U.N. in the gulf crisis. The United Nations should not be just supporting the United States Armed Forces in Saudi Arabia and the gulf, it should be directing those forces. A multilateral force under U.N. command, including such countries as the Soviet Union, would be the most effective to deter further Iraqi aggression and in persuading Saddam Hussein to withdraw his forces from Kuwait.

Accordingly, I had hoped that this resolution would advocate the option of putting U.S. forces, along with the troops of other countries now stationed in the gulf, under the command of the United Nations.

In addition, the meaning and intent of paragraph (b) of the resolution needs to be clarified so that the President does not interpret it as a blank check for future military action in the Persian Gulf. Specifically, that provision expresses the support of Congress for continued action by the President in accordance with the decisions of the United Nations Security Council and in accordance with U.S. constitutional and statutory processes.

This provision puts the Congress on record in support of U.S. policy and actions to date. It does not endorse the President going to war, or committing U.S. troops into hostilities, in the Persian Gulf.

It also should be established for the record that the phrase U.S. constitutional and statutory processes refers to the War Powers Act. Specifically, in order for U.S. Armed Forces to go to war for longer than 60 days, section 4(a)(1) of the War Powers Act requires that Congress authorize such a commitment, or else troops have to be withdrawn.

No resolution, no matter how loosely drafted, can absolve Congress of its constitutional and legal mandates. Simply put, we have an obligation to approve sending U.S. forces into combat, if that unfortunate situation were to occur.

The American people deserve no less from their elected representatives. After all, we are asking nearly 200,000 of our young men and women to risk their lives in defense of our national interest in the Persian Gulf. The least that Congress can do is fulfill its legal and constitutional responsibilities.

Mr. SANFORD. Mr. President, I intend to vote for Senate Concurrent Resolution 147 because it is a useful expression of support for our policy of working through the United Nations. I approve of the President's immediate deployment of our Armed Forces to block any possible invasion of Saudi Arabia by Saddam Hussein. I also note with approval the emphasis that this resolution places on the actions taken by the United Nations, the goals it has established, and the methods implemented for achieving those goals.

However, I want the record to show that I share the firm position of many Senators that this resolution does not authorize the President to conduct offensive military operations against Iraq without additional and specific authorization from the Congress. The resolution states that the Congress supports continued action by the President in accordance with the decisions of the United Nations Security Council and in accordance with United States constitutional and statutory processes. This does not mean a strained or forced reading of the U.N. resolutions or U.S. law. This is not a Gulf of Tonkin resolution and, if an attempt is made to so interpret it, I will strenuously object.

Mr. NUNN. Mr. President, I rise today as one of the original sponsors of this bipartisan concurrent resolution. I want to emphasize at the outset that this is not legislation, which would be in the form of a joint resolution that would have to be signed by the President or enacted over his veto if he chose to veto it. It is a concurrent resolution. Nevertheless, it is an important measure for a number of reasons.

First, it is important because it expresses the strong approval of the Congress for the leadership of the President in working with the U.S. Security Council. The Security Council has to date passed eight separate resolutions dealing with Iraq's aggression and its violations of the U.N. charter and fundamental principles of international law.

It is also important because it expresses congressional approval of the President's actions in achieving and supporting the Security Council's resolutions and in involving friendly governments.

Finally, and most importantly, the concurrent resolution expresses congressional support for the President's continued action in accordance with the decisions of the Security Council and in accordance with U.S. constitutional and statutory processes, including the authorization and appropriation of funds by the Congress, to deter Iraqi aggression, and to protect American lives and vital interests in the region.

It is this last point that I would like to discuss briefly this afternoon. The concurrent resolution doesn't express congressional support for every future action by the President. Rather it limits congressional support for the President's actions that are in accordance with the Security Council's decisions and with U.S. constitutional and statutory processes. The Constitution grants to the Congress the power to declare war; to raise and support armies; and to provide and maintain a navy. Additionally, the Constitution provides that "no money shall be drawn from the Treasury, but in consequence of appropriations made by law." Without wanting to get into a prolonged discussion concerning the strengths or weaknesses of the War Powers Resolution, I believe it is worth emphasizing that in the final analysis the Congress can most appropriately and most effectively play its proper role in matters such as this through the power of the purse. For after all is said and done, no President can use the Armed Forces of the United States unless the Congress authorizes and appropriates funds to support and sustain such action.

Secretary Cheney has estimated in testimony before the Armed Services Committee on September 11 that the peacetime presence of U.S. Armed Forces in support of Operation Desert Shield will have an incremental cost of approximately $15 billion on an annual basis during fiscal year 1991. I want to emphasize that it will cost $15 billion in the absence of hostilities. If hostilities should occur, and I fervently hope that the White House goals can be achieved without the use of force, the cost will be far in excess of that amount. In such an event, the President will have to come to the Congress to seek authorization and appropriation of additional funds to support Operation Desert Shield.

I want to point out that the continuing resolution that the Congress passed on Sunday contains a provision, reflecting a bill reported out by the Armed Services Committee, that revises the procedures for accepting and using contributions from foreign countries, and requiring that any moneys, along with the proceeds from the sale of any property received, would be available to the Department of Defense only in accordance with standard congressional authorization and appropriation procedures. That action ensures that all funds, whatever their source, will be subject to the authorization and appropriation process.

In conclusion, then, I want to express my support for the concurrent resolution. I am pleased to note, moreover, that the administration supports the resolution. This is especially noteworthy in view of the emphasis that the resolution places on the constitutional and statutory role that the Congress will have in the event that hostilities should occur in the Persian Gulf.

Mr. DODD. Mr. President, I rise to express my support for the pending resolution regarding the President's actions with respect to Iraqi aggression against Kuwait.

This resolution, in my view, deserves the full backing of both the Senate and the House of Representatives.

The resolution is balanced and appropriate for the occasion. First, this is a concurrent resolution. It is purposefully designed to express a point of view. That's important, to be sure. But that's all it does. By definition this resolution has no legal, binding effect.

Second, this resolution emphasizes support for concerted multilateral action to deal with the Persian Gulf situation. It recognizes President Bush's leadership role in engaging the attention of the United Nations Security Council and securing its approval for a variety of multilateral actions against Iraq, including the establishment of a full economic sanctions regime.

Third, Concurrent Resolution 147 lays down markers with respect to future Presidential actions designed to deal with Iraq's military occupation of Kuwait. It pegs such actions to decisions by the U.N. Security Council and to the requirements of our own constitutional processes and procedures.

Mr. President, there is a strong desire on Capitol Hill to commend the President for his handling of the Persian Gulf situation but to do so without handing him and the administration a blank check on the war powers issue.

I firmly believe Senate Concurrent Resolution 147 strikes the proper balance between these competing requirements. I hope this resolution is adopted overwhelmingly.

Mr. BRADLEY. Mr. President, the American people are about to enter our third month of a full-fledged military, political, and economic commitment to protect the vital interests of our Nation in the Persian Gulf. With this resolution, Congress affirms that we support the President's efforts and his leadership in assembling an international consensus to deter Iraq's aggression toward its neighbors. But neither the administration nor the American people should interpret this resolution as a blank check for military action in the region. Nor should it be interpreted as waiving the War Powers Act. The language of the resolution itself cites the need to defend American interests "in accordance with the decisions of the U.N. Security Council and in accordance with U.S. constitutional and statutory processes, including the authorization and appropriation of funds by the Congress."

Iraq's sudden invasion of Kuwait 2 months ago posed a direct threat of widespread disruptions of world oil supplies, as well as a threat that the balance of power in this vital, oil-rich region would be supplanted by the domination of a hostile dictator. Ever since the invasion, the President and his administration have mobilized an unprecedented coalition of nations who understand the threat and are willing to contribute to the defense of Iraq's neighbors by supporting economic sanctions and aiding the countries that are bearing the heaviest economic costs. But reminding Saddam Hussein that the international community, not just the United States, will oppose his actions, the President has improved the chances that this conflict will end peacefully, as Saddam realizes the magnitude of the challenge he faces. The President further deserves credit for taking full advantage of our changing relationship with the Soviet Union to join in a cooperative effort in the Persian Gulf that would have been inconceivable even a year ago.

At the same time, there is a growing view that, regardless of how well the administration has handled the situation since the Iraqi invasion, they failed to pursue policies that might have deterred Saddam Hussein from invading in the first place. To the extent this failure derives from lack of clarity as to the nature of America's vital interests in the region, it bears not only on which the administration neglected to do to deter Iraq's aggression, but also on our future actions.

Mr. LAUTENBERG. Mr. President, I rise in support of Senate Concurrent Resolution 147, which supports the President's actions to counter Iraqi aggression in the Persian Gulf. It also expresses Congress' support for continued action by the President in accordance with both United Nations resolutions on Iraq, and the United States Constitution and laws, to deter Iraqi aggression, to protect American lives and vital interests in the region.

I am voting for this resolution because the President has done an excellent job in marshaling the world community against Iraqi aggression, and deserves our backing. I also support the resolution because I believe it was right to send American troops in defense of the critically important national interests at stake in the gulf. The President's hand will be strengthened in dealing with Iraq and the world community by having a united Congress behind him.

One issue that has arisen with respect to this resolution is whether it gives the President a blank check to go to war in the gulf, or relieves him of the need to consult, closely and often, with the Congress on our strategy in the gulf. Mr. President, I do not believe it does. The resolution clearly states that the President has our support for continued action, but only within the confines of the Constitution, the authorization and appropriation process, and the U.N. resolutions on Iraq. The resolution thus acknowledges that Congress retains the power of the purse over the gulf operation, and the constitutional power to declare war, which is the basis for the War Powers Act.

This resolution does not authorize the President to go to war. This would require clear congressional authorization, which should be sought under the War Powers Act or through a declaration of war. No President should commit American troops to war without the support of both the Congress and the American people. I am confident that the President would not rush precipitously to war without consulting Congress or without winning our support.

I urge my colleagues to pass this resolution.

YES TO SENATE CONCURRENT RESOLUTION 147, NO TO A UNITED STATES-IRAQ WAR

Mr. HOLLINGS. Mr. President, I will vote for Senate Concurrent Resolution 147 supporting the President's actions in rallying the United Nations and the international community to oppose Iraqi aggression. In a time of crisis, such as we now face in the Persian Gulf, we Americans have only one President, and we must give him the benefit of the doubt. But while I give President Bush the benefit of the doubt, nonetheless the doubt remains. Indeed, let me be very blunt in saying that I vote for this resolution with the gravest of reservations about the wisdom of our evolving policy in the Persian Gulf.

Let's go right to the point of these U.N. Security Council resolutions. Taken in isolation, each one of the eight resolutions is correct and unobjectionable. Of course we demand that Iraq withdraw its forces from Kuwait. Of course we support the international embargo of Iraq. Of course we are outraged by Iraq's violation of foreign embassies and by its abduction of foreign nationals, including thousands of Americans.

But, as history amply demonstrates, Security Council resolutions, in and of themselves, are impotent and innocuous. What deeply concerns me is that the administration has used these Security Council resolutions as sugar coating for what remains, in essence, a unilateral U.S. response in taking on Saddam Hussein. We have willy-nilly committed an extraordinary U.S. expeditionary force, including an air and sea armada not seen since the Vietnam war, to back up President's Bush's assertion that Saddam's aggression "will not stand."

Let me be very clear on the following point. I supported the initial United States deployment for the express and limited purpose of defending Saudi Arabia from the clear and present danger of attack by Iraq. There was a fire raging out of control on Saudi Arabia's border, and the United States had the only available fire brigade. We did what we had to do. But we have now moved beyond that limited purpose. The administration has stated that it is United States policy to compel Iraq to leave Kuwait, and to restore the Kuwaiti emir to his throne and riches. I do not believe—and prior to August 2 the United States Government did not believe—that preservation of Kuwait territorial integrity and the emir's regime is a vital interest of the United States justifying the expenditure of American blood.

Almost as an afterthought to U.S. deployment in early August, the administration cajoled other nations to send troops and treasure to back up the U.S. commitment in the gulf. But, nonetheless, it remains overwhelmingly a U.S. initiative. I am also troubled by the fact that, in order to retain the U.N. imprimatur, we are going to have to yield control of U.S. forces to questionable U.N. policymaking and to questionable U.N. military command.

If there is war in the Persian Gulf, as it now stands it will clearly be a war between Iraq and the United States, not between Iraq and the United Nations. Whether or not we win such a war, it would have catastrophic consequences for future U.S. relations vis-a-vis the Persian Gulf and the nations of the Arab masses. In the wake of a United States offensive against Arab Iraq, so great would be the tidal wave of anti-U.S. reaction that even those Arab governments now favorably disposed toward us would be compelled by public opinion to break with the United States. We would win the war but lose the peace.

In early August, we were the only fire brigade available, but that situation has now changed. We need to recall two lessons from the Vietnam war. The first lesson is that there will be no Gulf of Tonkin resolution this time around. Senate Concurrent Resolution 147 is limited in its scope, and neither explicitly nor implicitly gives license to the President to wage an unprovoked offensive against Iraq. The second lesson from Vietnam is that, this time around, we need to do the "-ization" before hostilities break out. President Nixon came up with his Vietnamization policy only after tens of thousands of American boys had been killed. We must Arabize this present conflict, and we must do so before American GI's are sacrificed by the thousands. Our imperative is Arabize the forces and voices opposing Saddam Hussein.

Bear in mind that Saddam is not primarily our problem. He is the Arab world's problem. Accordingly, it is up to the Arabs, in concert with the Iranians, to deal with him. If they lack the political and military will to contain him, then our own sacrifices would be for nought. An American-Iraq war would be as futile as it would be disastrous for our country.

IRAQI AGGRESSION AGAINST KUWAIT

Mr. CONRAD. Mr. President, I rise to lend my support to the resolution expressing the Congress' approval of the actions the President has pursued thus far in response to Iraq's outrageous aggression against Kuwait.

As so many of my colleagues have said here today, the President has done a good job in responding quickly and firmly to Saddam Hussein's flagrant violations of international law. The President has pursued a firm but careful policy in a dangerous, highly volatile situation. My vote today represents an endorsement of the actions he has taken to date.

My vote is also an expression of support for and pride in the men and women in our Armed Forces who are holding the line in the desert and on the seas against further Iraqi aggression. Theirs is the toughest of missions. They have the prayers and support of us all.

As I cast my vote today, I remain hopeful that the gulf crisis can be resolved without war. I thought the President's address to the United Nations was very helpful, and I urge him to continue to work with our allies and through the United Nations to restore peace and stability to the gulf.

I would also say that while I am supportive of the President's approach in general to this crisis, I remain deeply dissatisfied with our allies' response to our appeals to share the burden. I hope the administration will press even harder on this front. The current allied response is simply unacceptable.

Finally, a resolution like the one we are voting on today cannot help but revive memories of the Gulf of Tonkin resolution. Let me state unequivocally that my vote today should not be construed as unqualified support for any future actions the President may take in the gulf. I reserve the right to pass judgment of future policy through the authorization and appropriations process, and the mechanisms of the War Powers Act.

The PRESIDING OFFICER. Under the previous order, the hour of 2:15 p.m. having arrived, the Senate will now proceed to vote on Senate Concurrent Resolution 147, which the clerk will report.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 147) supporting the actions taken by the President with respect to Iraqi aggression against Kuwait.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 3, as follows:

[Rollcall Vote No. 258 Leg.]

YEAS—96

Adams
Akaka
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McClure
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wirth

NAYS—3

Hatfield
Kennedy
Kerrey

NOT VOTING—1

Wilson

So the concurrent resolution (S. Con. Res. 147) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 147

Whereas on August 2, 1990, the armed forces of Iraq invaded and occupied the State of Kuwait, too large numbers of innocent hostages, and disregarded the rights of diplomats, all in clear violation of the United Nations Charter and fundamental principles of international law;

Whereas the President condemned Iraq's aggression, imposed comprehensive United States economic sanctions upon Iraq, and froze Iraqi assets in the United States;

Whereas the United Nations Security Council, in a series of five unanimously approved resolutions, condemned Iraq's actions as unlawful, imposed mandatory economic sanctions designed to compel Iraq to withdraw from Kuwait, called on all states to take appropriate measures to ensure the enforcement of sanctions, called for the immediate release of all hostages, and reaffirmed the right of individual and collective self-defense; and

Whereas, in response to requests from governments in the region exercising the right of collective self-defense as provided in Article 51 of the United Nations Charter, the President deployed United States Armed Forces in the Persian Gulf region as part of a multilateral effort: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That (a) the Congress strongly approves the leadership of the President in successfully pursuing the passage of United Nations Security Council Resoltuions 660, 661, 662, 664, 665, 666, 667, and 670, which call for—

(1) the immediate, complete, and unconditional withdrawal of all Iraqi forces from Kuwait;

(2) the restoration of Kuwait's sovereignty, independence, and territorial integrity;

(3) the release and safe passage of foreign nationals held hostage by Iraq;

(4) the imposition of economic sanctions, including the cessation of airline transport, against Iraq; and

(5) the maintenance of international peace and security in the Persian Gulf region.

(b) The Congress approves the actions taken by the President in support of these goals, including the involvement of the United Nations and of the friendly governments. The Congress supports continued action by the President in accordance with the decisions of the United Nations Security Council and in accordance with United States constitutional and statutory processes, including the authorization and appropriation of funds by the Congress, to deter Iraqi aggression and to protect American lives and vital interests in the region.

(c) The Congress calls on all nations to strengthen the enforcement of the United Nations imposed sanctions against Iraq, to provide assistance for those adversely affected by enforcement of the sanctions, and to provide assistance to refugees fleeing Kuwait and Iraq.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

EXECUTIVE SESSION

NOMINATION OF DAVID H. SOUTER, OF NEW HAMPSHIRE, TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session, and proceed to the consideration of the nomination of David H. Souter, to be an Associate Justice of the Supreme Court of the United States.

The nomination will be stated.

SUPREME COURT OF THE UNITED STATES

The assistant legislative clerk read the nomination of David H. Souter, of New Hampshire, to be an Associate Justice of the Supreme Court of the United States.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, let me begin by suggesting that the committee has worked diligently over the weekend to provide all Members of the Senate with a copy of the committee report laying out in some significant detail the rationale for the committee's position, along with the dissenting view that was put forward.

Mr. President, let me say before we begin this process, that neither Judge Souter nor his chief supporter, my distinguished colleague from the State of New Hampshire, has urged me as chairman of the committee to rush this process. But the President has urged us to rush the process.

The Supreme Court sat for the first time this year, yesterday. Today is the second day of their sitting. And although, God willing, if Judge Souter becomes Justice Souter, he will sit for as long as his predecessor Justice Brennan did, which would mean for another 34 years. A couple days will not make a difference. But apparently it makes a great deal of difference to the President of the United States.

So I would say to my colleagues I do not want to in any way curtail anyone speaking as long as they would like and feel the need to speak on such an important nomination. But there is a rumor drifting around here that, if we do not finish by 6 o'clock, somehow we are not going to get to vote on Judge Souter.

I hope either we finish before 6, or, if we do not, we stay tonight until we finish voting on such an important matter, particularly in light of the fact that the President has publicly gone on television and exhorted me as chairman of the committee to move the process along.

We have waived the 48-hour rule that is ordinarily observed from the time a report on a nominee is submitted to the Senate until the time we take up the nomination. Even those who have opposed Judge Souter, and stated so publicly, have participated and are willing to allow the process to go beyond its ordinary timeframe; that is, move faster than the rules call for.

So with that brief introduction, let me suggest that I hope that my colleagues are prepared to come to the floor to speak on behalf or, if they are opposed, in opposition to Judge Souter so we can move as rapidly as possible.

I have a relatively long, about a 20-minute statement, on behalf of Judge Souter's nomination. But I see that some of my colleagues who wish to speak are here. I will have time to make the statement because I am here for the duration.

So rather than take the time at the outset, I yield to my distinguished colleague from South Carolina, if he wishes to speak first. If not, I would move to recognize one of our colleagues. But I will withhold my statement which I will make at some point today on behalf of Judge Souter.

Mr. THURMOND. Thank you very much.

The PRESIDING OFFICER. The Senator South Carolina.

Mr. THURMOND. Mr. President, today, the U.S. Senate is considering the nomination of Judge David H. Souter to be an Associate Justice of the Supreme Court of the United States. The Judiciary Committee had earlier undertaken its task of holding extensive hearings and reviewing the qualifications of Judge Souter, a most important responsibility.

Last Thursday, the Judiciary Committee considered this nominee. The committee favorably reported this nomination to the full Senate by a vote of 13 to 1. I repeat, a vote of 13 to 1. This vote is certainly a strong recommendation to the full Senate in favor of Judge Souter, an individual who has outstanding qualities to serve on this Nation's highest court.

Briefly, I would like to comment on Judge Souter's confirmation hearings which spanned 5 days. The committee conducted a hearing which was equitable, thorough, and diligent. Judge Souter's 3 days of exhaustive testimony provided the opportunity to carefully examine and review his intellectual capacity, moral character, and personal and professional background. Additional witnesses who testified made a contribution to the committee's consideration of Judge Souter's nomination to this esteemed position. Finally, I would like to commend the distinguished chairman of the Judiciary Committee, Senator BIDEN, for his handling of the hearing on this nominee which was conducted in a fair and equitable manner.

My review of Judge Souter's background convinces me that he possesses the necessary qualities to be an outstanding member of the Supreme Court. His intellectual credentials are impeccable: Phi Beta Kappa, Rhodes scholar, magna cum laude graduate of Harvard, law degree from Harvard, and graduate study at Oxford University. His experience is extraordinary: Currently serving as a judge of the U.S. Court of Appeals for the First Judicial Circuit; formerly an associate justice of the New Hampshire Supreme Court for 7 years; previously served as a judge on the New Hampshire Superior Court for 5 years; served as the attorney general for the State of New Hampshire; held positions as deputy attorney general, assistant attorney general, and practical law in the private sector.

Mr. President, the American Bar Association carefully scrutinized the professional competence, integrity, and judicial temperament of Judge Souter. The ABA determined that Judge Souter deserved its highest rating based on its extensive investigation which included such comments as:

> Judge Souter is highly competent and possesses the scholarly, analytical, and writing skills necessary to serve on the Supreme Court.

As well, Judge Souter had previously received the highest rating from the ABA for his current position on the First Circuit Court of Appeals.

Regarding the hearings on this nominee, Judge Souter's impressive testimony before the committee demonstrates he is a man of keen intellect who is devoted to the law. His thorough understanding of the law and answers to the vast number of probing questions on a wide range of legal topics assures me that he possesses the substantial knowledge and understanding to make an outstanding Supreme Court Justice. Judge Souter showed that he clearly comprehends the majesity of our constitutional system of government and spoke eloquently about the lessons he has learned during his years of service on the bench. The first lesson, he said, is

> Whatever court we are in * * * where we are on a trial court or an appellate court, at the end of our task some human being is going to be affected.

The second lesson, he stated, is

> If * * * we are going to be judges, whose rulings will affect the lives of other people * * * we had better use every power of our minds and hearts and * * * beings to get those rulings right.

I strongly believe that Judge Souter will temper scholarly, knowledgeable decisions with sensitivity for those individuals who will be affected by them.

Many distinguished witnesses testified in favor of Judge Souter. Several of these witnesses have known Judge Souter for years—they are well aware of the outstanding qualities that this individual possesses.

Governor Baliles, who was formerly attorney general and a former Governor of Virginia, stated:

> Judge Souter is an individual who [will] bring objective intellect, integrity, and centered view of judicial procedure to the Nation's highest Court * * * not a populist but a rationalist, one who is moderate in tone and expression.

Ms. Deborah Cooper, a lawyer in private practice in Lebanon, NH, testified:

> I have unshakable confidence that Judge Souter * * * will approach the issues before the Supreme Court * * * not with a pre-established political agenda or ideology, but with superior legal skills, intellect and unparalleled integrity.

A former Attorney General of the United States also testified in his favor.

Members of the law enforcement community strongly endorsed Judge Souter, testifying, he is "extremely well-qualified to serve on the highest court in the United States."

There were certainly many other distinguished witnesses who spoke out strongly in favor of Judge Souter for a position on the Supreme Court. Time does not allow me to reiterate all of that testimony.

Mr. President, the framers of our Constitution created the judicial branch as an impartial, independent branch of government. A member of the Supreme Court must consider hundreds, even thousands of issues during his or her tenure. While any one issue may now be more prominent than others, as times change, so will the issues before the Court. A member of the Supreme Court makes decisions in a vast array of areas and is not put in place to make short-term decisions to satisfy any political constituency, any one individual, or any particular group. This nominee should be judged on his integrity and intellectual and professional qualifications—not on his willingness to endorse the views or position of any one particular person or political constituency.

In summary, this nominee, as does any nominee, comes to the Senate with a presumption in his favor. As the President is called upon under our Constitution to make judicial appointments, I strongly believe it is up to the opponents of a nominee to overcome the presumption in his favor. The burden of proof is not placed on the nominee to prove that he is fit to serve. Clearly, those few who oppose Judge Souter have not overcome the presumption in his favor.

In closing, Judge Souter has been thoroughly scrutinized by the Judiciary Committee. He has received the bipartisan endorsement by 13 of the 14 members of the committee. Without question, he has a keen sense of justice, a clear view of the concept of fairness, and a deep understanding of the impact his decisions will have on the individuals affected by them. Judge Souter will make an outstanding addition to the Supreme Court.

I urge the Members of the Senate to vote in favor of this nominee.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I am going to make my statement now, but before I begin, let me acknowledge something I think is probably unique in the annals of American history, although I cannot swear to that at this moment.

The reason that I yielded—in the ordinary processes the chairperson of the committee speaks first on an important matter like this—the ranking member of this committee, Senator THURMOND, has sat on and deliberated over and voted on, I suspect, although I am not certain, more Supreme Court nominations than any other person in the history of the United States of

America. I just want to say that it is an extraordinary pleasure working with him and it is an extraordinary undertaking working with him because you never quite know exactly what he is going to do or say no matter how many of these nominees he has deliberated over. But one thing always is certain, whatever he says always ends up on point.

I think it is 23 appointees, nominees, to the Supreme Court of the United States, that Senator THURMOND of South Carolina has voted on.

And he pointed out to me——

Mr. THURMOND. There were 105 nominees.

Mr. BIDEN. See what I mean? You never know exactly what is going to happen. He just pointed out to me there were 105 nominees in our entire history. So about 20 percent, between 20 and 25 percent of all the nominees, about 20 percent of all the nominees that have ever been nominated for the Court, my friend from South Carolina has voted on them.

We have not always voted the same. I suspect I will be observing him voting on nominees long after I have left this Chamber, and I suspect we will not agree on all the nominees. But we do agree on this one, and we have agreed on more than we have disagreed.

Ten weeks ago, Mr. President, President Bush began the solemn task of filling Justice Brennan's seat on the U.S. Supreme Court by nominating Judge David Hackett Souter to assume that high post. Today, the Senate exercises its constitutionally assigned role in the process by deciding whether we will give our consent to the President's nomination.

Over these past 10 weeks, the members of the Judiciary Committee have devoted literally hundreds of hours to studying Judge Souter's record, his credentials, and his judicial opinions. We held extensive hearings on this nomination—the third longest set of hearings on any Supreme Court nominee in our history.

And most importantly, we used these hearings to question Judge Souter in depth on matters of judicial philosophy and constitutional law. Judge Souter was questioned for the second longest time of any Supreme Court nominee; for almost 20 hours, we had an opportunity to examine this man and his views.

We had the need—the duty—to learn as much about Judge Souter as possible. No nominee in a quarter century had come to this committee with less known about his or her constitutional philosophy than David Hackett Souter. And no nomination—at any time since the 1930's—had come before the Senate at a moment of such importance, in terms of setting the future direction of the Supreme Court, and, I might add, in turn, the United States of America.

At this critical moment—what I called a constitutional crossroads, 3 weeks ago today—I referred to it as that and I contend it is that, a constitutional crossroad—I mentioned to this Chamber that our committee had an obligation to learn all that it could about David Hackett Souter's constitutional philosophy.

And at this critical moment—and where I disagree with my friend from South Carolina—the burden of proof rests, as it always has and always should, on the nominee to demonstrate that he is the person whom we should confirm to sit on the Nation's highest court.

As I see it, Judge Souter has met this burden of proof with respect to some matters; he has failed it with respect to others. His philosophy was neither proven to be wholly inappropriate or wholly acceptable for confirmation.

In my "additional views" in the Judiciary Committee report, I have detailed my personal assessment of what we have learned about Judge Souter's philosophy in nine key areas. Today, I would like to briefly summarize these views, starting with the most positive aspect of Judge Souter's record, at least as far as this Senator is concerned.

First, in the area of freedom of speech, Judge Souter indicated his support for Justice Brennan's landmark precedent of New York Times versus Sullivan; for the Supreme Court's ban on prior restraint of the press; and for the Brandenburg decision that permits speech that urges civil disobedience.

Thus, Judge Souter showed a very strong dedication to the key principles at issue in this area.

In the field of free exercise of religion, Judge Souter indicated that he had "no reason to raise questions about the appropriateness of the strict scrutiny test" for laws that impair religious practice. Thus, Judge Souter suggested that he disagreed with the Supreme Court's recent and restricted decision in Employment Division versus Smith, a decision that in my view undermines religious freedom in our country. And again I found his disagreement with that decision very encouraging.

In the area of stare decisis, Judge Souter detailed a philosophy that shows what I beleive to be a proper respect for precedent. He particularly emphasized that before the Supreme Court reverses, a prior ruling, it should take into account "whether private citizens * * * have relied upon [the precedent] in their own planning to such a degree that * * * it would be a great hardship in overruling it now."

This, in my view, favorably distinguishes Judge Souter from other nominees who said that they would look only at whether the Government structures and social institutions have been built up around a particular decision before deciding to reverse the case, and not whether or not individuals as well had come to rely upon that decision, a distinction with a significant difference, as I read what Judge Souter is saying.

Finally, for this side of the ledger—the ledger where he has, in my view, unquestionably met what I believe to be the burden of proof he must meet—and most importantly, Judge Souter categorically rejected the arch-conservative judicial philosophy of original intent, a philosophy, I might add, were it to be adhered to by the Supreme Court, would require the Court to overturn, as Judge Bork accurately stated, a couple dozen landmark decisions.

And that view of original intent, the view that the meaning to the constitutional provisions should be limited to the specific intentions of the Framers of the Constitution at the time they wrote the Constitution, that is what I mean and most people mean by original intent.

This doctrine—was Judge Souter himself acknowledged—would undermine many of the most important decisions the Supreme Court has given us through the years. To name a few, Brown versus the Board of Education, a decision outlawing, making it illegal, and recognizing as unconstitutional the doctrine of separate but equal; separate facilities for black children in America were no longer deemed to be constitutional.

Another decision where I beleive it would overrule that view of the Constitution is the one person, one vote ruling, those decisions which said that they can no longer allow one part of a State with a very small population to have a disproportionate say in the affairs of that State, giving, in effect, the people in the metropolitan areas less than an equal vote with people in rural areas.

And there are the Court's precedents that outlawed discrimination against women, a whole number of cases that over the past years have recognized that the 14th amendment embraces the notion that when they say equality, we are talking about equality for men and women, equality among the sexes. All of those areas of the Court's decisions would be, in fact, in jeopardy if the doctrine of original intent were adhered to by the Court or this nominee.

And Judge Souter said that this "original intent" doctrine, and I am now quoting him, is "not * * * the appropriate criterion for constitutional meaning."

In a response to my question, and the question I asked was this: "Does the correct interpretation of a constitutional provision * * * change over time?" Judge Souter responded: "Principles don't change, but our perceptions of the world around us and the need for those principles do."

As a matter of fact, the very thing that gave me heart and gave my friend from Iowa, who is on the floor, cause and pause, the very thing that made me look at Judge Souter and say, "Well, we have a Judge here that will interpret the Constitution, use a methodology that is consistent with the way the Court has ruled in the recent past, and is necessary for the well-being of America," is the very thing that my friend from Iowa very skillfully questioned the Judge about, because it gave him great concern.

In all of these critical respects that I have mentioned, Judge Souter clearly proved that his judicial philosophy was sound and, I would argue, commendable. In all of these critical respects Judge Souter met his burden of proof and then some.

In other areas, though Judge Souter compiled a more mixed record in this Senator's view. And these are the four areas I would like to address for a moment. The first is that there is the first amendment prohibition on the establishment of religion. In that area his record is mixed, in my view. Here Judge Souter criticized the prevailing Supreme Court rule in Lemon versus Kurtzman—which, by the way I might add is not an exceptional view; many people have criticized it—but he did so without indicating what guarantees of religious liberty he would impose in its place. As a result, we are left with a very unclear picture of how Judge Souter approaches this important question. We have very little idea of how high he thinks the wall of separation between church and state ought to be.

The second area that gives me concern is the area of race discrimination. Here, too, some things Judge Souter said were quite hopeful. He called the struggle for racial equality the most tragic problem confronting the Nation, and he suggested that at least some types of affirmative action, some types of affirmative action programs, are permissible, in his view; again giving me reason for hope, giving some of my colleagues pause for concern. Yet aspects of Judge Souter's record as Attorney General and his testimony before our committee were troubling. Again, the record is a mixed one.

Third, there is the area of gender discrimination. Judge Souter criticized the Supreme Court's current middle tier scrutiny for laws that discriminate on the basis of gender and even implied that the basis for his criticism was that the Court's existing standard fails to provide adequate protection for women's rights. As the Chair knows; there are three general tiers of scrutiny. Strict scrutiny—the Court says the State has to have some overwhelming right to be able to justify the existing practice saying women cannot do something men can do. The middle tier level says, we will listen to it, but it better be a pretty strong reason why you are allowing a discrimination between men and women based upon something a woman may want to do. And then there is the rational basis test which basically says, if the State comes up with any reason that is rational. There used to be cases where a woman could not be a bartender, and the rationale was "unless they happened to be married to or the child of the owner of the bar." A rational basis test basically was, it is rational to want women to be home, not in the bar. That is kind of a preposterous notion under our thinking today, if we would say women cannot be a bartender based on that reason. But under a rational basis test, were one in existence, the State would be able to pass such laws.

So, which tier of scrutiny—very high, middle, or low—that the judge would apply in dealing with gender discrimination cases is of great consequence to the people of this country, obviously to the women of this country. Yet I found, notwithstanding the fact he criticized the middle tier and implied that his criticism was based on the fact that one could not be certain enough, that it was not strong enough, he never did tell us what standard he would apply. I found that disappointing, his failure to clearly indicate whether his standards in this area would be in fact more or less rigorous than the current law. The judge's tone suggests that he was headed in the right direction, from my perspective—that is, it should be a very much stronger test the State should have to prove in order to be able to discriminate against women for anything—but we do not know for sure whether he wants a test that is stronger or weaker. I would have felt much more comfortable had he been willing to tell us. And had he told us, he would not in any way be telling us how he would rule in a future case. He would just be telling us what methodology he would apply in order to interpret the facts in any given case.

Finally, there is the area of privacy and reproductive choice, probably the single most significant area that Judge Souter failed to speak to. Choice; here Judge Souter did say some encouraging things. He agreed there is a marital right to privacy and the right of married couples to make choices about procreation, to use his phrase, "at the core of" the fundamental right to privacy. That is, the right to determine whether or not to become pregnant is "at the core of" the right to privacy recognized in the marital right to privacy.

He agreed that the Constitution protects unenumerated rights, unlike some who have come before us in the recent past, and, more specifically, that there is a substantive content in the due process clause of the 5th and 14th amendments, important guarantees of liberty for all Americans.

He even said he would give meaning to the words of the ninth amendment, which was the most refreshing of all that I heard. One recent brilliant nominee said the ninth amendment was little more—and I think I am quoting precisely when I say "little more than a water blot on the Constitution." It was nice to see a justice come along and say there was a ninth amendment and it meant something and it was another potential protection for individual freedoms.

Perhaps most importantly to me, Judge Souter flatly rejected the position being advanced by Chief Justice Rehnquist and Justice Scalia for determining when in the future privacy rights will be recognized by the Court. Judge Souter said that he "could not accept their view." I find that incredibly encouraging.

When we brought that out—I will not take the time of the floor at this moment, but in footnote 6 of the Michael H. case, the very erudite and articulate Justice Scalia set out a rational for the conditions under which the Court should go back in history to examine the social mores of a society to determine whether or not it was ever intended to be protected. But it was a formula for disaster. By taking his rational and applying it, it would be very, very difficult—very difficult—for anyone in the future to find that there were rights of privacy that existed that individuals have. It would have made it very difficult, using Justice Scalia's rationale set out in footnote 6, to have come to the conclusion on a number of cases that are already law. Loving versus Virginia, that outlawed the antimiscegenation laws—applying the rationale as most understand it, set forward by Justice Scalia in footnote 6, it would be very difficult to figure out how anyone, that Court, could have come to the proper conclusion of saying antimiscegenation laws were unconstitutional. So, when Judge Souter, rejected that rationale, it was a significant step, in my view, toward his meeting the burden of proof that I believe he need meet in order to be on the Court.

But at the opposite end of the spectrum, Mr. President, on the privacy area, I found some troubling things. I found most troubling Judge Souter's initial refusal to discuss whether unmarried persons have any fundamental right of privacy and, worse still, his ultimate declaration that whether such rights exist, that is such rights of privacy for unmarried individuals—I asked whether they existed or not. "Do unmarried individuals have rights to privacy?" His ultimate declaration was that whether such rights exist is an open question.

Mr. President, in my view this is not an open question. Individuals do have a constitutionally protected right of privacy and it is a fundamental right of privacy, and the Supreme Court, in 26 cases written by 10 different Justices over the past 17 years, has recognized this fundamental right. In calling the existence of a right to privacy an open question, Judge Souter, I believe, was plainly wrong.

Mr. GRAHAM assumed the chair.

Mr. **BIDEN**. Mr. President, yet, between the privacy issues on which Judge Souter met his burden of proof and the issues on which Judge Souter failed is one vital privacy issue which Judge Souter declined to speak to altogether. And that is whether a woman's fundamental right not to be pregnant continues after her birth control fails.

As I explained in detail during the hearings, I felt that Judge Souter could have told us far more about his views in this area without compromising his judicial independence or indicating how he would vote on a request to overrule Roe versus Wade. Judge Souter's refusal to talk at all about his philosophy in this area frustrated Senators and frustrated our ability to exercise one of our constitutional responsibilities and, needlessly so. For example, Judge Souter was not at all reluctant to tell us, at least in what general categories he would apply, what methodology he would apply on gender discrimination cases. Yet, he would not discuss that at all in these other cases.

The real issue here is, in the most fundamental form without speaking to Roe is, if we recognize that a woman has a fundamental right to determine in the first instance whether or not she should become pregnant, and that is basically what the Connecticut case, Griswold, was all about. A married couple said as a married couple, we have a right to use birth control. Connecticut State law, to oversimplify it, said you do not. It went to court. The court said there is a fundamental right to determine questions of procreation. So if a husband and wife decide they do not want to have a child at that moment and use a birth control device and that is recognized as a fundamental right of privacy to use that, what happens when it fails? Does that right vanish the moment a woman becomes pregnant? What constitutes the legal definition of pregnancy? When does that right expire? And does it continue to be fundamental or is it a mere liberty interest, as every justice has acknowledged it could be?

What about contraceptive devices that, in medical terms, impact upon ending a pregnancy after the sperm and the egg meet? What is that? How do you make those distinctions? Someone constitutionally has to do that. We were not asking Judge Souter how he ruled on any particular case, but when does that fundamental right, he acknowledges, exist. How does it expire, if it does?

In sum, he did not speak to that question, and I have not said this before, but I say it now. I believe the reason many of us have given him a bye, if you will, on insisting that he answer every one of those questions, is not because we did not have a right to ask those questions, and we did ask them, but it became clear to me that Judge Souter had concluded that he would not speak to anything, anything at all, that got him remotely close to that issue.

And so, if you look at the sum of his testimony relative to privacy, relative to what he did not speak to, it is a tough decision, and I can see how someone could conclude that on the basis of that, they would not vote for him. I, on the other hand, concluded that on the basis of the whole record, I would vote for him.

So, in sum, today the Senate has before it a nominee who has satisfied his burden of proof with respect to some issues, straddled the line on others, failed in some, and left us with a question mark on still other matters. This mixed picture makes this nomination a very, very hard case; hard for me, as one Senator and as chairman of the Judiciary Committee, to determine what my proper role and responsibilities command me to do. But after weighing the evidence very closely and, believe me, I have read and reread and listened and prepared as well as I possibly could, I believe, and weighed as closely and as fairly as I could, and studied the record as intensely as I could, I on balance have decided to support the confirmation of Judge Souter as an Associate Justice to the Supreme Court.

Taking Judge Souter at his word and rereading those words quite carefully several times, I have come to the belief that Judge Souter is not an ideological rightwing conservative. And I do not mean only that he has proved himself not to be an extremist.

Judge Souter went much further still. He clearly distinguished himself from an even broader school of legal conservatism, including some conservative positions now being taken by members of the current court. He rejected Justice Scalia's cramped formula for determining when fundamental rights and unenumerated rights could be acknowledged. He rejected two key principles of rigid interpretism, saying that the due process clause does protect substantive liberties and that the meaning of the constitutional provisions cannot be limited to the original intent of the framers.

He rejected the Court's recent majority opinion in the Smith case on religious freedom, and he rejected the conservative view that courts must stay out of the realm of addressing profound social problems. Indeed, Judge Souter insisted that the Court must intervene in these areas when a vacuum of responsibility exists.

This repeated rejection of the precepts of modern archconservative leadership of legal interpretism, proved to be what Judge Souter was not; namely, he is not the sort of man who, if confirmed, would run roughshod over the important precedents handed down by the Supreme Court over the past three decades.

But that alone is not enough. Beyond proving what he was not, Judge Souter also proved to me affirmatively that much about his philosophy, about his approach to dealing with the issues of the future merit our consent to his confirmation.

Weighing most heavily on me in this respect were Judge Souter's following statements: That he believed that judges must vindicate rights not explicitly stated in the Constitution; that the due process clause protects unenumerated liberties; that a fundamental right to privacy exists; that he would use a broad and not narrow methodology in deciding when the court should recognize such rights; and, lastly, but importantly, that judges must use the Bill of Rights to protect the rights of minorities.

These statements, of course, give us no clear sense of how Judge Souter is going to rule on any particular case, and I want to emphasize that point. I have no notion how he is going to rule on any particular case. None of us here today, none of us, know how Judge David Souter will rule on any specific case if he becomes Justice Souter. But this is how it should be.

As we emphasized over and over again during our hearings, our committee was not looking for case specific commitments from the nominee. What Judge Souter's statements to the committee do indicate is that he has an approach on most issues far more conservative than I would hope for the court, nonetheless an acceptable one.

I said that this was true of most issues. Unfortunately, Judge Souter's flat refusal to discuss reproductive choice leaves us with no indication at all where he will come out on this issue and, indeed, it leaves us with no indication at all of even how he thinks about this constitutional question.

What Judge Souter did tell us, however, was this: "I have not made up my mind and I do not go on the Court saying that I must go one way or the other."

This statement goes a step beyond refusing to tell us his view on reproductive freedoms and tells us, if Judge Souter is to be believed, and I do believe him—he was under oath—that his mind is open.

I am not undecided on the underlying question to which he would not speak. I strongly believe that a woman's right to choose is a fundamental right, a fundamental right protected by our Constitution.

I believe that any attempts to read that right out of the Constitution are misdirected and, if they were read out of the Constitution, would reflect a mistaken understanding of the true majesty of the liberty clause of the 14th amendment to our Constitution.

But I also known that the President of the United States has a diametrically opposed view to mine. President Bush has pledged to see Roe overruled because he believes it to be wrong. He obviously has no intention of submitting, and will never submit, a nominee who adheres to my very different view on this matter. I know that and we all know that.

It is one thing to reject a nominee who would come to the court opposed to reproductive freedom. If the President attempted to send such a nominee, one who shared his view, he or she would get a serious fight up here. Although it is always dangerous to predict the outcome of this body, I submit that that nominee would have at best an even chance of surviving the advise and consent process of the Senate. That is just one person's view.

But if the Senate goes a step further and also rejects a nominee who genuinely seems to be open minded on this question, neither committed to the President's view nor the opposing view—if we make that a litmus test for confirmation, particularly in light of the fact that the nominee has gone so much further on so many other issues that I have mentioned earlier leading us to the inescapable conclusion that he is not of the school of thought that views the Constitution in such cramped and narrow terms—we will have an eight-member Court for as long as the President is President.

Under the circumstances of sharp division between the White House and the Senate, I believe the best we can hope for is a judge who has an expansive methodology for interpreting privacy rights generally and genuinely—and I emphasize genuinely—has an open-minded view of a woman's privacy right after conception occurs.

Judge Souter is not the sort of judge I would nominate had the President asked me who to nominate, but I think he is about the best that we can expect, from my perspective, from this administration.

With this realistic lens as my perspective, I will vote for Judge Souter's confirmation. I do not so enthusiastically, although I have come to have an incredibly high regard for David Souter as an individual. I do not do so without reservation, for I have stated those reservations as clearly as I know how. But nonetheless, I will support him.

In closing, I express the hope that the administration will not learn the wrong lesson from what will probably be a lopsided vote in Judge Souter's favor today.

Our overwhelming approval, in my view, is not a sign that the Senate intends to be lax about exercising its advise and consent power or intends to use that power only to screen out extremist nominees. Rather, it is a sign that we take this power seriously and that we intend to exercise it responsibly—and in doing so Judge Souter falls within the sphere of candidates acceptable to the Senate.

Based on the statements made, I might add, in the committee when we voted, this vote could have very easily been an 8-to-6 vote instead of a 13-to-1 vote, for there were five other Senators who said this was an incredibly close call for them.

I believe the burden of proof—I will end where I began, and this is where my friend from South Carolina and I differ—I believe the burden of proof is on the nominee. Just as the burden is on the President to convince the American people to vote for him to be President, is on every Senator and Congressperson to convince the people in their State to vote for them to have this power, it is also a burden that is on the nominee to be given such awesome power for a lifetime. Any future nominee who fails to meet that burden—and I emphasize again how close I believe this nominee came to that line—will be vigorously opposed, at least by this Senator. Other nominees possessing a more cramped view of the Constitution and an unwillingness to acknowledge broad, unenumerated rights already recognized, and in the future probably needing to be recognized, could well fall outside the sphere of acceptability. For example, a nominee who criticizes the notion of unenumerated rights or the right to privacy would be unacceptable in my view and I do not believe would pass muster here. A nominee whose view of the 14th amendment's equal protection clause has led him or her to have a cramped vision of the Court's role in creating a more just society for women would be unacceptable in my view. A nominee whose vision of the first amendment's guarantees of freedom of speech and religion would constrain those provisions in their historic scope would I believe be unacceptable to many here.

But Judge Souter is not such a nominee. His vision of the Constitution is not mine, but it is clearly not that of hardliners who believe that the Constitution is meant to be read very narrowly. Neither is he a man whom I would nominate, but he is a man whose nomination I will support.

Today we make a determination that will alter the course of this Nation for decades to come, for if we consent to Judge Souter's nomination we put him in a position of awesome power and responsibility, a position he is almost certain to hold for a long time after most of us are gone from the Senate floor. No one knows, no one can imagine what questions will be before the Supreme Court in the year 2024, the year until which Judge Souter will serve if he is confirmed today and matches Justice Brennan's tenure on the Court.

But if history is any guide, tomorrow's issues, whatever form they will take, will pit government against personal liberty. That has always been the case. It has always been the conflict—government versus personal liberty. It will pit majority tyranny against individual rights. That has always been at issue in our constitutional battles. It will pit the danger of discrimination against the dream of equality for all Americans.

For 200 years, Mr. President, the Supreme Court has served as the court of last resort in the struggles that I have mentioned. For 200 years the Supreme Court has been the final guardian of our fundamental rights. So it was for our parents and our gradparents and so it should be for our children and our grandchildren for decades to come. If we confirm him today, Judge David Souter will decide what our Constitution means for the next generation. It is an awesome power, an awesome power that we are giving one man. While he would not be my choice to exercise that power, I believe he is the best we could hope for from this administration.

Thus, it is with a hopeful heart and with open eyes that I will vote for the confirmation of Judge David Hackett Souter.

I now yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise in support of the nomination of Judge David Souter. I do so because I believe he understands the proper role of the courts—especially the Supreme Court—in our constitutional system.

To me, this has always been the touchstone of a great justice.

Early in the 19th century, when our great experiment in democratic self-government was still new and fragile, the Supreme Court confronted an important question concerning the power of the central government. The case moved Chief Justice John Marshall to write that the "judicial power, as opposed to the power of the laws, has no existence. Courts are the mere instruments of the law, and can will nothing."

That was the constitutional deal as that great Chief Justice saw it, and as it was universally understood when our system was created. In return for life tenure on the bench, and in the absence of direct intervention by the other branches, the courts were to play a limited and objective role, without any policymaking function.

That is the way it has to be in our constitutional democracy, because nothing in the theory or history of separation of powers would make sense if the courts can simply hijack the power of Congress to legislate, or the power of the Congress, the States, and the people to amend the Constitution. While the executive and the legislative check the excesses of each other, and the judiciary checks them both, there is no direct check on the unconstitutional decisions of the Supreme Court. The only check on these nine men and women is their own sense of self-restraint.

But rather than the restraint of a John Marshall, we have labored under the limitless authority of others, such as a later Chief Justice, who used to ask, of a position advanced before the Court, not if it was constitutional, but merely if it was good. The result: The personal preferences, overriding the people's government, and nullifying the rule of law.

These judges—including some who have served on the Supreme Court—seem to have forgotten that they are appointed, not anointed. Some are so intoxicated with power and good intentions that they forget any sense of restraint. Their actions call to mind the warning of Daniel Webster that—

> Good intentions will always be pleaded for every assumption of power. It is hardly too strong to say that the Constitution was made to guard the people against the dangers of good intentions. There are men in all ages who mean to govern well, but they mean to govern. They promise to be good masters, but they mean to be masters.

The other branches—especially Congress—have been all too willing conspirators in this new order, largely out of self-interest. After all, if we consciously let the courts make all the controversial policy decisions, and allow the courts to enact an agenda that could never pass the legislature, we can tell our constituents to blame the courts, rather than us. But we have paid a heavy price for this conspiracy. For if we are to expect the people to respect and obey court decisions, the people must believe that the courts—and in particular the Supreme Court—are governed by the rule of law, not a rule of man. Unfortunately, many people have lost faith in the judiciary as an impartial, nonpolitical branch. They see the courts not as an umpire, but a partisan player—one that, to cite but one example, intentionally favors a criminal defendant over a victim and the law enforcement.

Over the past 3 weeks, we heard much about rights; rights granted by Government and rights unenumerated. But if our Constitution means anything it means that we have the right to govern ourselves pursuant to the rule of law. That law applies not just to people in Des Moines, or Cedar Rapids, or Council Bluffs in my home State; it has to apply to the Supreme Court as well. The Supreme Court must be every bit as governed by the Constitution as the rest of us are.

Judge Souter has earned my vote to be Justice Souter because I conclude that he understands the limited role of a judge in a constitutional democracy. I believe he understands what Justice Frankfurter meant when the Justice said that nothing new can be added to the Constitution except by the amendment process and nothing old can be removed except through that same process.

Let me underscore this: Irrespective of David Souter's impressive résumé and his great intellect, he would be disqualified to be a Supreme Court Justice unless he is both willing and able to subject himself to the self-restraint which enables him to accept the Constitution as his rule for decision, and makes him refrain from attempting to revise or update that instrument according to his personal views. If David Souter lacked either the ability or willingness to exercise self-restraint, he would not truly support the Constitution, no matter his respect for that document or his oath of office that he will soon take.

Fortunately, in his 12 years as a trial and appellate judge, Judge Souter has many times demonstrated his commitment to judicial restraint and is fidelity to a written Constitution.

Mr. President, I questioned Judge Souter closely on the issue of judicial restraint. I was comforted to hear him state that judges stray from their role when they decide cases according to their own views of public policy rather than according to the dictates of law. When I asked him about the potential of judges to roam over the social landscape to address problems and issues at will, Judge Souter explained that the very legitimacy of judges in a democracy rests on their appeal to a law that is outside themselves, as he testified:

> What we are trying to do to avoid that roving quality, that knight errancy, is to try to find an objective source of meaning which constrains us, as well as the rest of the Republic, which was intended by the people who drafted and the people who adopted the constitutions and the statutes that we are dealing with, because it is only if we try to search for a source of meaning outside ourselves and our preferences or the preferences that may be fleeting at the moment do we really deserve, as members of a judicial system, the respect and the acceptance which ultimately is the foundation for the rule of law in the Republic or in any republic.

Mr. President, I followed up Judge Souter's answer by seeking his reaction to the legal philosophy of Judge Robert Bork, that—to quote Bork:

> In a constitutional democracy, the moral content of law must be that of a framer or legislator, never that of the morality of the judge.

Judge Souter agreed entirely. As he elaborated, quote:

> We have not been placed upon courts, in effect, to impose our will. We have been placed upon courts to impose the will that lies behind the meaning of those who framed and by their adoption intended to impose the law and the constitutional law of this country upon us all.

In the nominee's view, therefore, a judge must follow the law, and not his personal views of morality or policy. In recognizing this fundamental limitation on a judge, Judge Souter has demonstrated that he possesses the single most important qualification for service in the judiciary in our system of divided powers.

Mr. President, a fair amount has been made of Judge Souter's seeming endorsement during the hearings of an activist judiciary when the political branches of Government are slow to act. A close reading of the transcript however, belies this hope on the part of fans of judicial activism.

Judge Souter emphasized that the courts are not super-legislatures, responsible for addressing every social ill or injustice, but rather play the more limited role of protecting those liberties and rights conferred by the Constitution or otherwise retained by the people.

To be sure, I was troubled by his introduction of the concept of legislative vacuums that could be filled by courts when others were slow to act. But upon my further questioning, Judge Souter made an important distinction—that the jurisdiction of the Federal courts can never be derived from perceptions of the moment about what ought to be done. As Chief Justice Hughes wrote:

> Extraordinary conditions do not create or enlarge constitutional power.

Judge Souter agrees. As he put it:

> The Supreme Court should only act and can only act when it has the judicial responsibility under the 14th amendment or any other section of the Constitution.

Judge Souter thus believes that courts may act only when they are empowered to do so, and not simply when they perceive that a social problem has gone unaddressed or unremedied.

This principle of restraint is not, as some argue, a controversial or extreme tenet of "modern arch-conservative legal thought." Rather, it is the cornerstone or our constitutional system. It is the defining characteristic of the judiciary in our Government of divided powers.

I am therefore encouraged by Judge Souter's view of the properly limited role of the Federal courts.

Mr. President, Judge Souter's 12 years on the bench shows a faithfulness to the text and original meaning of the Constitution and statutes.

This is a most sound and appropriate method of judging. Judge Souter believes that judges must decide cases according to principles of law not their own personal predilections or preferences. For example, in response to another of my questions, Judge Souter said:

> It is essential for us to have some idea of the criterion that we are going to employ to find values which are not simply reflections of our own feelings at the moment and our own feelings about the desirability of the claims that may be pressed before us.

Judge Souter also properly recognizes that a judge must always be on his guard lest he substitute his own views for those of the framers of the Constitution or the Congress. Judge Souter's colloquy with me on this point is revealing, and even reassuring. He said:

> We have not been placed upon courts * * * to impose our will. We have been placed upon courts to impose the will that lies behind the meaning of those who framed and by their adoption intended to impose the law and the constitutional law of this country upon us all.

Mr. President, this original meaning approach is in the best traditions of constitutional adjudication. Its origins come right from the beginning of our Nation. As the great Justice Joseph Story wrote in 1833:

> The first and fundamental rule in the interpretation of all [written] instruments is, to construe them according to the sense of the terms and the intentions of the parties.

To this day, apparently, some insist on mischaracterizing this as an arch-conservative, or discredited philosophy. They are in error when they allege that acceptance of original meaning would freeze the Constitution as it was two centuries ago. No one of the interpretivist school believes this, and the critics know it.

The genius of the Constitution, which was contributed to its longevity, is that it was not meant to be a code of laws covering all situations. The practitioners of original meaning understand this. Rather, they see the document as setting up a structure and a set of principles for governing. And it is these principles that judges like David Souter are faithful to.

Thus, it is wrong to suggest that there is some inconsistency between Judge Souter's approach to Brown versus Board of Education and his dissent in Estate of Dionne. In Dionne, Judge Souter relied on historical evidence—in that instance reaching back to Magna Carta—in order to understand the meaning of a constitutional provision that descended from the Magna Carta.

As Judge Souter explained to our committee, the principle contained in the New Hampshire constitution was in his view a fairly narrow one. He therefore believed that the New Hampshire Supreme Court had no power to broaden it, replacing the Constitution's principle with its own feelings. Whatever the historical merits of Judge Souter's explanation of the text in that case, I agree with him that the court's responsibility was to apply the original principle.

To be perfectly candid, I was not comfortable with every answer from Judge Souter. But I understand and appreciate that our committee hearings have increasingly become matters of political theatre—where nominees are now forced to show allegiance to certain pet theories of Senators. I place more weight on 12 years as a judge, over 3 days as a candidate before the committee. Having said that, I also assume that there will be decisions by Judge Souter with which I will disagree. But no Senator has a right to insist on his own issue-by-issue philosophy, at least not if judicial independence is to mean anything.

You see, to be a "conservative" when it comes to the Court has nothing to do with particular outcomes, or even counteracting the past liberal activism. Conservative activism is no better than liberal activism.

Rather, a true conservative philosophy gives the constitution a full and conscientious interpretation, but where the constitution is silent, leaves the policy struggles to the Congress, the President and the people of the 50 States.

Many, however, who oppose this nominee are frankly not interested in a justice who will respect the people's choices, or even one who will be fair, open-minded, and without a private agenda. Indeed, some are openly hostile to the idea of a Justice who will decide cases as they come, without prejudgment. Rather, they want a judge who will rule their way, every time. No one—Senator or interest group—is entitled to this.

It is gratifying that the Senate is so overwhelmingly rejecting the extremist view, a view that unfortunately predominated during the debate in the fall of 1987.

Finally, Mr. President, I must object in the strongest possible terms to a new idea floated during these hearings, either implicit or explicit, that a nominee must meet a burden of proof to be confirmed.

A nomination is not in any way a trial, nor should it be confused with one through the introduction of such legal terms. To speak in terms of burden of proof begs other questions: Is it the burden of production or the burden of persuasion? Is the burden met only by a preponderance of the evidence or must the nominee prove himself fit beyond a reasonable doubt?

As deployed in the committee report, and that is in the additional views of that report, however, this whole subject becomes clear that a nominee meets his burden only by agreeing with a Senator's views on past precedents or legal philosophy. The burden of proof is thus simply a litmus test by another name. I reject this test and am confident that most Senators do, as well.

Mr. President, I support the nomination, and I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, first of all, I join those who pay tribute to the chairman of the Judiciary Committee for the manner in which he conducted the hearings, the forum of the hearings themselves, the balance that he developed in the presentations of a wide variety of witnesses. Both in regard to this nominee and I must say also with regard to the controversial nomination of Judge Bork, I think all of the members of that committee and all of us in the Senate owe a great debt of gratitude to our chairman, Senator BIDEN, and I think the American people who had the good chance to watch these hearings must also share in that opinion, and I acknowledge the work of Senator THURMOND, as well. This has been a result of a bipartisan effort of both the chairman and the ranking minority member, and I pay tribute to his contribution in developing these hearings.

From the beginning of our Nation, the Senate of the United States and the President of the United States have had a shared responsibility in the appointment of Justices to the Supreme Court.

That responsibility is assigned to the President and the Senate by the specific terms of the Constitution itself.

For 200 years, it has been among the highest responsibilities that any Senator has. Today, it is more important than ever, because of the central place of the Supreme Court in the life and the liberty of our Nation.

In fact, in the original drafts of the Constitution in 1787, the Founders of our country gave the Senate the sole responsibility for appointing Federal judges. But in the final draft, after the great debates that determined the future course of our Nation, the concept of dual or shared responsibility was adopted, as one of the major checks and balances of our system of Government. For two centuries, it has ensured that neither Congress nor the President has excessive influence over the Supreme Court.

Today, as always, our responsibility as Senators is to make our own independent assessment of the qualifications of Supreme Court nominees. In exercising that responsibility, our chief obligation is to determine whether the President's nominee possesses a sufficient commitment to the core constitutional values at the heart of our democracy. If we have serious doubts about the sufficiency of that commitment, our own responsibility as Senators is clear.

We are not only entitled to reject the President's nominee—we are obliged to do so. No President has a blank check in appointing members of the Supreme Court.

As I stated at the outset of the hearings, Judge Souter has a distinguished background. But aspects of his record on the bench and in the New Hampshire attorney general's office raised troubling questions about the depth of his commitment to the role of the Supreme Court and Congress in protecting individual rights and liberties under the Constitution.

Far from dispelling these concerns, Judge Souter's testimony before the Senate Judiciary Committee reinforced them. In particular, my concerns center on the fundamental constitutional issues of civil rights, the right of privacy, and the power of Congress and the courts to protect these basic rights.

Judge Souter's record and testimony on issues related to civil rights is particularly troubling. As attorney general of New Hampshire, Judge Souter defended Gov. Meldrim Thomson's decision to refuse to provide data on the racial composition of the State government work force required by regulations of the Equal Employment Opportunity Commission pursuant to title VII of the Civil Rights Act of 1964.

Attorney General Souter took the position that it was unconstitutional for Congress to require employers to compile and report such statistics. No other State advanced such a specious argument. His petition to the Supreme Court even took the extraordinary position that the EEOC was violating a worker's constitutional right to privacy by requiring employers to report the overall racial composition of their work force.

Judge Souter repeatedly defended the appropriateness of his actions as attorney general in challenging the EEOC regulation. It was only after repeated questioning that Judge Souter finally admitted that the courts had been correct in rejecting his arguments.

His unenthusiastic after-the-fact endorsement of the Court's decision does not dispel the doubts raised by Judge Souter's reactionary arguments in the case.

Discrimination is a national problem, and Congress is entitled under the Constitution to seek national solutions.

Attorney General Souter's participation and persistence in this case is troubling, because it suggests an extremely narrow view of the power of Congress to end race discrimination or other evils in our society.

As attorney general, Judge Souter was not merely acting as a lawyer for his client, the Governor. True, he had that obligation. But he also had a higher obligation. As part of his oath of office, he also made a commitment to support the Constitution of the United States. Yet in this case, he showed himself willing to make an argument that no other State in the Nation was prepared to make, an argument that the Court flatly refused to accept.

Similarly, in the area of voting rights, Judge Souter was quick to challenge congressional legislation when New Hampshire's opposing practice was at stake. In landmark legislation, the Voting Rights Act of 1965, Congress banned the use of literacy tests in States where the tests had been used for discrimination.

Extending the act in 1970, Congress determined that literacy tests were inherently discriminatory, and banned the use of literacy tests in voting nationwide.

New Hampshire had a literacy test, and in 1970, it refused to comply with the Federal law. So the United States brought suit to prohibit New Hampshire from enforcing its State test for the 1970 elections.

In opposing the suit, Judge Souter represented the State and argued all the way to the Supreme Court that Congress did not have the constitutional authority to ban literacy tests, in the absence of evidence that the specific tests had been used in a discriminatory fashion.

A three-judge Federal court rejected that argument, and struck down New Hampshire's literacy test. In Oregon versus Mitchell, the Supreme Court ruled unanimously—9 to 0—that the ban on literacy tests was a constitutional use of congressional power.

As an assistant attorney general, Judge Souter participated extensively in the litigation over the New Hampshire test. What I find most disturbing about his position on this issue was the conclusion, advanced in his briefs, that citizens who cannot read cannot cast meaningful ballots.

Judge Souter either chose to ignore, or was unaware, of ways in which voters who cannot read can be assisted in casting ballots. In fact, at the time he filed his brief, people who could not read had been voting for years in other States, and blind voters were guaranteed assistance at the polls in New Hampshire.

His insistence that literacy tests could be used to exclude such voters demonstrates a willingness to discriminate against those who have been less formally educated, but who can still make intelligent, well-informed decisions about candidates and issues in elections.

As Father Theodore Hesburgh, Chairman of the Civil Rights Commission, noted in a letter to President Nixon when Congress was considering the Voting Rights Act of 1970:

> The lives and fortunes of illiterates are no less affected by the actions of local, state and federal governments than those of their more fortuante brethren. Today, with television so widely available, it is possible for one with little formal education to be a well-informed and intelligent member of the electorate.

In fact, when the Federal district court rejected Judge Souter's arguments and issued an order to suspend the literacy test, New Hampshire did establish procedures so that citizens who could not read were still able to vote.

In this case, as in the case involving the EEOC, Judge Souter took the position that Congress did not have the power to deal with a serious national problem. Also, as in the EEOC case, the Federal courts unanimously rejected his view.

Obviously, these are gray areas where plausible arguments can be made that Congress has exceeded its constitutional powers. But in these two cases, Judge Souter's positions were categorically rejected by the Supreme Court.

In effect, in challenging congressional power in these two cases, he was willing to defend the indefensible.

I asked Judge Souter about the literacy case during his confirmation hearings. Defending his view that the votes of people who cannot read would dilute the votes of people who can read, he called it simply "a mathematical statement * * * essentially a kind of statement of math."

The manner with which he dismissed the right of the poor and uneducated in his State to vote is all the more troubling because his response was one of the rare spontaneous moments of the hearing.

Prior to the committee hearing, news reports of a 1976 commencement address at Daniel Webster College by Judge Souter when he was Attorney General had received widespread media attention. According to contemporaneous reports of the address in several newspapers, Attorney General Souter had described affirmative action programs as affirmative discrimination.

When questioned about the remark at his confirmation hearing, Judge Souter replied, "I hope that was not the exact quote because I don't believe that." Judge Souter went on to acknowledge that he had seen the news reports on his speech at the time he gave it, but did not indicate that he denied the statement attributed to him or sought a correction. During his testimony, Judge Souter never denied making the statement.

Instead, he attempted to defend his remark by arguing that he had been referring to affirmative action programs which were not linked to remedial purposes, bút were merely distributing benefits for the sake of reflecting some formúla of racial distribution.

Judge Souter's record on sex discrimination also raises troubling questions. Until the 1970's, the Supreme Court applied a weak standard to cases involving claims of such discrimination under the equal protection clause.

The courts accepted any rational basis for laws that treated men and women differently. Under this approach, women were routinely excluded from many occupations and subjected to forms of discrimination that almost all of us would regard as intolerable today. I believe the chairman of our committee reviewed the problems caused by this approach in his statement, for example, women were denied the opportunity to work in bars, and women were prohibited from being on juries in this country.

In the 1970's, however, the Supreme Court began to apply a higher standard of review to classifications based on sex, and struck down laws that discriminated against women. Judge Souter challenged this new standard as Attorney General Souter, and in a 1978 case, he urged the Supreme Court to "define, shape, limit or even eliminate" the standard.

The case involved the New Hampshire statutory rape law. A man convicted under the statute claimed the law was unconstitutional, because it did not apply to women. The Supreme Court refused to review the case, but a few years later, in another case, the Court made clear that under its higher standard of review, statutory rape laws are valid, even if they do not apply to women.

It is disturbing that Judge Souter's brief suggested that the Supreme Court eliminate the higher standard of review in sex discrimination cases. If he were genuinely concerned about the rights of women, the obvious argument to have made was that even under a higher standard of review, statutory rape laws are valid. But he did not take that course. Instead, he suggested that the Court go back to the old law, which had permitted sex discrimination to flourish.

When asked during his testimony before the committee whether legislative classifications based on sex should be accorded heightened or intermediate scrutiny under the three-tier equal protection analysis applied by the Supreme Court, Judge Souter endorsed some type of scrutiny between the weakest level, or rational basis test and the highest level, or strict scrutiny test. But he did not commit himself to a standard for sex discrimination that is at least as exacting as the standard currently used by the Court to invalidate many gender-based laws. Thus, there is significant doubt that Judge Souter will apply a sufficiently rigorous constitutional standard to make protection against sex discrimination a meaningful constitutional right for the women of America.

On the issue of whether the Constitution protects a right to privacy, Judge Souter said he believes that "the due process clause of the 14th amendment does recognize and does protect an unenumerated right of privacy." However, Judge Souter refused to reveal whether he believed there is any fundamental privacy right outside the marital relationship. Specifically, in discussing the constitutional status of abortion, Judge Souter would go no farther than to say that abortion "would rank as an interest to be asserted under liberty."

In his opening prepared statement to the committee, Judge Souter spoke disarmingly about his constant awareness that his decisions as a judge would affect real people.

But when asked at the hearing about the consequences facing women if Roe versus Wade is overruled, he first described the situation as a problem of federalism. Asked a second time about the impact on women, he described it as a law enforcement problem. Finally he observed that "whatever the Court does, someone's lives, and indeed thousands of lives, will be affected, and that fact must be appreciated." Judge Souter said that he had not made up his mind about Roe versus Wade, but these answers are more alarming than disarming.

In fact, Judge Souter's reluctant comments, while ambiguous, suggest that, in fact, he takes an excessively restrictive view of the right to privacy, and that he is likely to side with the Justices on the Court who are prepared to overrule Roe versus Wade, or leave it as a hollow shell.

Judge Souter's reluctance to discuss specific constitutional issues relating to abortion and the right to privacy, contrasted sharply with his willingness to discuss, in great detail, his views on other constitutional issues likely to come before the Supreme Court, including church-state issues and capital punishment.

I am troubled that if Judge Souter joins the current closed divided Supreme Court, he will solidify a 5-to-4 anticivil rights, antiprivacy majority inclined to turn back the clock on the historic progress of recent decades.

If so, literally millions of our fellow citizens will be denied their rights as Americans to equal opportunity and equal justice under law.

I hope I am wrong. But I fear I am right. To a large extent, in spite of the hearings we have held, the Senate is still in the dark about this nomination. And all of us are voting in the dark. The lesson of the past decade of the Senate's experience in confirming justices to the Supreme Court, is that we must vote our fears, not our hopes. If nominees do not meet the test of demonstrating a convincing good-faith, in-depth, abiding commitment to the core constitutional values of the kind so obviously at stake at this turning point in our history. They can—and should—be rejected by the Senate. To apply a lesser standard is to fail our own constitutional responsibility in the confirmation process.

In my view, Judge Souter does not meet that test. In good conscience, I cannot support this nomination.

The PRESIDING OFFICER (Ms. MIKULSKI). The majority leader is recognized.

THE BUDGET RESOLUTION CONFERENCE REPORT

Mr. MITCHELL. Madam President, as in legislative session, I note the presence on the floor of the distinguished Republican leader with whom I had a number of discussions today regarding the procedure with respect to the budget resolution conference report.

I apologize to our colleagues for interrupting this debate. This will just take a few moments.

Because there has been a great deal of interest by the press and, through the press, the public in the procedure that we would use, I thought it would be useful to bring the membership of the Senate up to date on how we are progressing in that regard.

As the Members of the Senate know, we are dealing with a conference report on the budget resolution. The original schedule called for the House to take the matter up first, which would be the case in the ordinary course of events and, following action by the House, to have the matter taken up in the Senate.

It is my understanding that the House is now considering taking the matter up during the day on Thursday, which means that if the conference report were approved in the House, we in the Senate would be taking it up sometime Thursday afternoon. I would like, if I might, to yield to my distinguished colleague for further discussion in that regard.

Mr. DOLE. We had discussed the possibility, maybe, of initiating the action on the Senate side based on the hope that we have the votes on the Senate side, on each side of the aisle, to pass the conference report, and then send it to the House where that may be more in doubt. But there are some procedural difficulties that could be encountered there, as we have discussed privately, and I would guess for the present are still under review, as I understand it, because there could be a motion to recommit offered; that could be amended. That could present problems.

But the important thing, I think, is that we get to it as quickly as we can and act in a positive way because if not we are going to be faced again on Friday with another continuing resolution and extending the debt ceiling and delaying sequester or letting the Government come to a halt. I hope my colleagues in the Senate and my colleagues in the House fully appreciate the consequences if we do not act in a positive way.

Mr. MITCHELL. Madam President, I have discussed this with the distinguished Republican leader and with the Speaker today, both in person and by telephone. Just for the information of Senators, under the rules of the Senate, conference reports are subject to motions to recommit if the House has not yet acted on the conference report. And of course such motions to recommit could include instructions. The instuctions themselves would be subject to amendment.

By contrast, if the House has already acted, the conference is dissolved and the matter is before the Senate not subject to either motions to recommit or amendment and therefore there would simply be one vote on it.

I want to make very clear we are talking here about the budget resolution which legally binds only as to the aggregate budget figures. The specific law changes which create, in effect, the subparts that lead up to those totals would not be effectively changed as a result of the budget resolution, but rather would be in the reconciliation bill which will follow. And under the agreement that we reached on Sunday, would follow not later than October 19.

At that time, in the Senate the reconciliation bill will be fully open to amendment and debate. So I wanted to make clear we are not attempting in any way to foreclose Senators from offering amendments to the reconciliation bill to change that. That is the relevant and appropriate stage in the process at which amendments can be offered and both the distinguished Republican leader and I fully expect such amendments to be offered. What we are trying to do not is to start the process in motion that will produce a reconciliation bill and that requires as a first step enactment of the conference report on the budget resolution.

So we are going to continue to consider the measure and determine the manner most likely to produce the desired result, which is the adoption of the conference report of the budget resolution, enabling us to proceed to send the matter to the committees who will report back. And then we will have a reconciliation bill on the floor that will include all of the specific law changes and be open to amendment by Members.

Mr. DOLE. If the Senator will yield for 1 additional moment, he put his finger on it in the last sentence or two. The ultimate, the bottom line, is to get the conference report adopted and the reconciliation. The leadership along with the President has committed itself to this course. We want it to be successful. There is a lot riding on it. Not the leadership or not the President, but there are lot of people in the country who I think are looking for leadership on this particular issue, as painful as it may be to some. We have to devise a strategy that will try to make certain that will happen.

We are continuing to review it. The normal procedure would be it would go to the House and come to the Senate. I just urge my House colleagues to think very seriously about the consequences—some of my House colleagues.

Mr. MITCHELL. Madam President, if I might add, in conclusion, I share the concern of the distinguished Republican leader and hope very much that the conference report will be approved in the House and in the Senate.

Again, so Members of the Senate understand that they are not agreeing to a procedure that would prohibit all amendments. When we come back with a reconciliation bill, as we have in the past, that bill would of course be subject to the provisions of the Budget Act, that is the time for debate would be limited and there are certain tests which apply to amendments to that bill under the Budget Act. But within those constraints of the Budget Act which traditionally have applied to the reconciliation bill, Senators would be free to offer their amendments and have them debated and voted on here in the Senate. That is, of course, the appropriate stage in the process to accomplish that.

I am going to continue our discussions with the Republican leader and the Speaker. I merely wanted through this exchange to inform Senators of the current state of the process and summarize it. It now appears that the House will act on the conference report Thursday during the day and then it will come to the Senate and hopefully we will have it on the Senate floor for action during the day on Thursday. That is our present plan. That is of course subject to change. But I will keep Members fully advised as soon as any final decision is made.

I thank the distinguished Republican leader and I thank particularly my friend and colleague from Utah for yielding to permit us to have this exchange.

NOMINATION OF DAVID H. SOUTER, OF NEW HAMPSHIRE, TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES

The Senate resumed consideration of the nomination.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I have listened to the remarks made thus far. I do not think any person wants to see anybody go on the bench who is a radical activist judge either on the left or on the right. I think what we want is we want judges who basically are going to be people who I think, frankly, look, act, talk, and think like Judge David Hackett Souter.

He calls himself an interpretist. I would use the term interpretivist. In other words, he indicates he is going to determine the constitutional decisions that come before him, and the legislative decisions and other decisions, based upon the original meaning of those documents.

That does not mean necessarily that he is going to go back into the mind of James Madison and the other Founders. But he will follow the broad meaning, which the Founders anticipated within their language that they used in these various documents.

We are founders today as we pass legislation. Maybe not as significant or as important, but nevertheless our original meaning should be given great weight with regard to constitutional principles.

He knows that by going into the original meaning, that those original Founding Fathers knew that our country was going to grow, it was going to become more modern, it was going to have great inventions, it was going to become more sophisticated. So that comprises a broad set of considerations for anybody who really wants to adhere to the original meaning of the Constitution.

He also understands that the Constitution provides for a means to overcome that which the Constitution does not cover. It provides a number of means, but one in particular is in article V to the Constitution, which provides for a means of amending the Constitution. He understands that if the Constitution is silent on some issue that is of overwhelming importance to the public, that we can amend the Constitution and that is the way you do it. You do not do it by ad hoc activist judicial decisionmaking from one's own viscera. And unfortunately that is what has been going on for too many years.

The right to amend the Constitution is a safety valve that basically allows us to make changes if we want to, or if we have to, if there is an overwhelming support for it. And as we all know there have been 26 times that that right has been exercised.

Judge Souter understands the need to protect the minority, as well as the majority, within the terms in the original meaning of the Constitution and that which would be naturally extrapolated from that original meaning.

David Hackett Souter, I am convinced—and I think most people who watched the proceedings on television are convinced—is a person of integrity, competency, intelligence, compassion. He is a person who appears to be—and I think anybody watching would have to conclude is—a kind person, considerate of other people. He is a person of considerable eloquence, especially when he is talking about the law of the land.

I think he showed that he is a person of fairness—5 years on the trial bench, 7 years on the Supreme Court of New Hampshire, and 1 year on the First Circuit Court of Appeals—and he is a decent man. He is a person who has the health to do this job. He clearly stood up to all the pressures of those hearings. I think he is a person of humility. He is teachable. He is someone who acknowledges that others might understand things even better than he does form time to time, and he is willing to listen. He is a person of independence.

With humility, he proved himself to be a listener, somebody who was considerate of other people's views. To me, that is pretty important.

He has shown through his lifetime that he is a person of public spirit—serving on hospital boards, serving in his own church and doing other things that were in public spirit and he has given a lifetime to public service—just exactly the type of person with a broad background that we need on the Supreme Court.

I have heard some of the criticisms that have come up. Some of them have come from my good friend from Massachusetts. I hesitate to point out that he stands alone on the Judiciary Committee, as the only one against this nomination made by the President who had the support of 40 States in the last election.

No one who listened to Judge Souter's testimony could believe that he takes a limited view of the ability of Congress to remedy civil rights; no one believes that unless you were not listening or unless you just do not want to listen.

As a matter of fact, he took just the opposite viewpoint, which was very interesting to a lot of people who were there.

There was no objection raised here today that Judge Souter had argued that enlarging the franchise dilutes the votes of those who previously were entitled to vote. That objection is frivolous. Voter dilution cases are standard forms of voting rights challenges recognized by the Supreme Court.

I hasten to point out when he made that statement in his brief, Judge Souter was an advocate, arguing an advocate's position based upon the then current law as established by Justice Byron White and even Justice Hugo Black who made exactly the same statements in opinions of the Supreme Court; yet Judge Souter is now being criticized for, as an advocate, making exactly the same point on appeal.

So I point out that he was an advocate at the time. Literacy tests at the time were legal. No matter how much we dislike them today, they were legal at that particular time. He was sworn to uphold the law, not to remake it. He was advocating for his State at that particular time. He was an assistant attorney general of the State of New Hampshire, advocating a position that had already been advocated by his predecessors and, I might hasten to add, under the then existing law.

So it is not right to go back in hindsight and say he should not have done that; that that shows something wrong with him. Come on, that is what advocates do.

If we are going to start using a nominee's briefs against him in the confirmation process, we are going to be setting a shocking precedent. Every client is entitled to zealous advocacy. It is an advocate's job to make arguments to sway a court, including plausible arguments based on extension of principles established by then current case law. It would be a very, very dangerous message to send to lawyers: If you have any ambition to be a judge, you lawyers, do not represent controversial clients and be careful what you say on behalf of a client because you might be held responsible for the fact that the law was as it was at the time you made the statement.

In my view, positions taken by Judge Souter in any legal brief representing a client are not fair game for inquiry, other than as a reflection of his writing ability and his ability as an advocate. They are pieces of advocacy in fulfillment of his duty as a lawyer to his client. What is, in fact, important is not what he said as an advocate but what he believes the role of the U.S. Supreme Court is or should be in our Federal system.

Suppose the President nominates a criminal defense lawyer to be a Supreme Court Justice? This person may have defended murderers, rapists, drug kingpins—you name it. It would have been his job zealously to advocate their interests, extend the reach of procriminal defense legal theories on the inadmissibility of physical evidence and the inadmissibility of the defendant's own words. He may have harshly cross-examined rape victims; he may have questioned them about their own behavior in ways we might find offensive in retrospect. Should that lawyer be disqualified because of his or her advocacy on behalf of their clients?

Virginia Attorney General Mary Sue Terry has defended the male-only admissions policy at the Virginia Military Institute, a State institution against a legal challenge by the Federal Government. Should this count against her in the nomination process, were she to be nominated to the Federal court or Supreme Court?

One consequence of this trend is that academic writings, even of a speculative nature, even ones where the nominee has since changed his or her mind, can be misused to discredit a nominee.

This can be a double-edged sword. Of course, if the traditional roles of the nomination process are permanently changed, are we now going to witness the misuse of a lawyer's role as an advocate in the nomination process? Will the message be not only do not write anything potentially controversial, but also do not represent anyone or any institution who is controversial or unpopular? Do we wish to discourage lawyers from taking the tough cases, from taking on such clients if they have any, and especially if they have any aspirations to be a judge? I hope not. That, too, in my opinion, is a double-edged sword and something we have to consider.

Mr. President, it seems to me that several of my good friends on the other side of the aisle, particularly on the Judiciary Committee, are rent by self-doubt, angst, and some guilt in voting for Judge Souter. I believe, however, it is fair to say, based on his opinions, and testimony that Judge Souter is clearly well within the reasonable and respectable range of an appropriate nominee. It also seems to me, Mr. President, that today's debate is largely about Judge Souter's nomination and our colleagues, a few of them, are concerned. They are concerned about some of his opinions and his testimony, because it has not fit every niche that they want it to fit.

His nomination has really been conceded for some time, and it should be. He should be overwhelmingly confirmed today. I think everybody knows that.

I want to respect my colleagues who have stood up on both sides of the Judiciary Committee and have stood up for Judge Souter, as they should. I appreciate it. But what we are hearing from some of my thoughtful friends on the other side of the aisle is really an opening salvo in the next round if President Bush has an opportunity to nominate another person. It is pretty much a foregone conclusion that Judge Souter is going to be Justice Souter after today.

Accordingly, we have heard in the last few weeks an exposition of views on various legal and constitutional issues in an effort to characterize and limit the spectrum of constitutional thought. Thus, at length, we have been treated to various legal thoughts: How certain cases should be decided under each school, which school is doctrinaire, which is entirely OK. In my opinion, these are interesting but relatively more edifying as an insight into the views of those who expound them for anything else.

Even more disturbing, some of what we are hearing from the other side appears to be in large part a thinly veiled extraordinary, unfortunate, and, in my view, unconvincing effort to set the parameters on President's Bush's next Supreme Court nomination, if he has the privilege of having one.

It may be that some pundits or interest groups will suggest that if such a future nominee is thought to be clearly "more conservative than Judge Souter," as measured according to many of the notions we are hearing from Judge Souter's reluctant supporters in this body, no matter how reasonable and responsible the nominee's views may be, such nominee is "automatically out of the mainstream."

The committee would be well advised in such a case to determine whether such suggestions themselves emanate from the brackish backwaters, before assuming they constitute the mainstream.

Madam President, it is not easy in this day and age to get a person on the Supreme Court who fills the needs of everybody in this body. In fact, I venture to say that nobody can meet that test. If we are going to adopt litmus tests as the way to determine whether or not a person comes on the Court, and especially a single litmus test, no matter how important it may be, then I think that is a tremendous mistake.

Nobody knows what will happen to these people once they go on the Court, with experience, with time, with facts, with cases, with other problems that come up. Nobody really knows how they are going to rule in the future, and many Presidents have been upset at how some of their nominees have ruled as they have watched both in the remaining years of their Presidency, and after they are retired from the Presidency.

The fact is it is ridiculous to impose any single litmus test on any candidate for this high office, this high position. If we follow the lead of the litmus testers, to preprogram the responses in the judicial process, then the job could be done by computers, and judges would not really be necessary.

Yet what has made the Supreme Court great for over 200 years—what has allowed it to occupy such a distinguished, unique, and important place in American society—a role shared by no court in any other nation in history—is the quality of judgment that has been shown by the persons who have served with distinction on the Court.

Madam President, I did not mean to take this much time. I do not see how anybody who watched the hearings, watched the difficult questions, watched the problems that were raised, and watched Judge Souter in response to those problems and those questions, could conclude that he is not a worthy person to go on the Supreme Court of the United States of the America. I really have difficulty seeing why anybody would feel that way.

On the other hand, I respect the feelings of some of our colleagues who are going to vote against Judge Souter for whatever reason. I do not see a logical reason for it. I do not see a legal reason for it. I do not see a confirmation reason for it. Frankly, I hope that the litmus test mentality is not used in the future, because if it is I can think of at least 150 litmus tests that people feel strongly about around here that would make it almost impossible for any great nominee to make it on the Court.

Judge Souter is a great nominee. He is not just a nominee. I first became acquainted with him when Senator RUDMAN brought him to my attention after the Bork nomination failed. I am fully aware of his career from that point. I have a tremendous and inestimable respect for this man. I expect him to go on to become a Supreme Court Justice who will please the vast majority of people in this society, because as I have said he is honest, he is decent, he is a person of integrity, he is a person of competence, of ability, and all of those other wonderful attributes that I hope we can find in other Judges on any court in this country, let alone the Supreme Court of the United States of America.

Madam President, I hope our colleagues will see fit to vote for Judge David Hackett Souter to be a Justice on the Supreme Court of the United States of America. It is the right thing to do. It is the important thing to do. This is an important office, and it is important that we dignify it with important arguments. I have not seen good arguments used against him yet, either in committee, since the committee has held its hearings, or on the floor today.

Madam President, I hope our colleagues will vote for Judge Souter.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. HEINZ. Madam President, will the Senator from Wisconsin yield for a brief unanimous consent request?

Mr. KOHL. Yes.

VISIT TO THE SENATE BY CHILEAN DELEGATION

Mr. HEINZ. Madam President, as in legislative session, earlier today I notified the leadership that there is present in the Capitol today a delegation of senators from the Republic of Chile.

RECESS

Mr. HEINZ. Madam President, I ask unanimous consent that we might stand in recess for not to exceed 2 minutes. The Senator from New Hampshire has indicated he would yield me 2 minutes, if such was necessary to accommodate the Senate. I ask that no time be taken from the Senator from Wisconsin.

There being no objection, at 4:36 p.m., the Senate recessed until 4:38 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer [Mrs. MIKULSKI].

NOMINATION OF DAVID H. SOUTER, OF NEW HAMPSHIRE, TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES

The Senate continued with the consideration of the nomination.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KOHL. I thank the Chair.

Madam President, First, I congratulate Chairman BIDEN for his work on the Souter nomination. The chairman and his staff made a difficult process run smoothly. The hearing was well-focused and illuminating on a host of issues. His impartial and fair handling of the hearing allowed us—on behalf of the American people—to conduct a thorough examination of the nominee.

Madam President, I intend to vote for Judge Souter, but this was not an easy decision. In the course of reviewing the nominee's record and listening to him at the hearing, two different pictures of David Souter emerged: one revealed a conservative New Hampshire attorney general and jurist; the other, a reasurring pragmatist without an ideological agenda. I am voting to confirm the second Judge Souter despite my reservations about the first.

As attorney general—where he was required to be an advocate—Judge Souter took several stands that he acknowledged he would not take today. He defended lowering the American flag on Good Friday; he supported the continued use of literacy tests for prospective voters; and he argued against supplying civil rights data to the Federal Government as required by law. More than that, while on the New Hampshire Supreme Court, he issued a number of troubling rulings and dissents.

In his testimony before our committee, however, we heard a different Judge Souter. He demonstrated admirable personal qualities and expounded moderate judicial views.

Without question, Judge Souter revealed a remarkable intellect, one that equals or even exceeds the traditionally high standards required of a Supreme Court Justice. And he showed a warmth and humor that belied his image as a man out of touch with modern life. In my opinion, Judge Souter clearly has the competence, character, and integrity necessary to sit on our Nation's Highest Court.

At the hearing, Judge Souter's judicial philosophy was reassuring. He displayed an understanding of and respect for the values which form the core of our constitutional system of government.

Judge Souter firmly rejected the doctrine of original intent, which would undermine many of the Court's most important achievements. Brown versus Board of Education, which desegregated public schools, would never have been decided if the Supreme Court had interpreted the 14th amendment using original intent. And our fundamental right to privacy would have been severely cramped had the Court applied this doctrine to the Bill of Rights.

Fortunately, the Judge Souter who testified before our committee does not seem locked to the past. I was heartened by his strong words of praise for former Justice William Brennan, the Court's leading opponent of original intent. David Souter told us:

> Justice Brennan is going to be remembered as one of the most fearlessly principled guardians of the American Constitution that it has ever had and ever will have.

And Judge Souter spoke of the need "to make the Constitution a reality for our time." Clearly, these are not the words of a conservative ideologue.

Still, the hearing did not paint an entirely complete picture of Judge Souter's judicial views. I would like to have heard a clearer statement in support of civil rights and the struggle for racial equality.

Similarly, I am concerned that Judge Souter did not explicitly recognize—or even address—a woman's constitutional right to reproductive choice. This fundamental right should not hang by the thread of a shrinking Supreme Court majority. And so I have joined as a cosponsor of the Freedom of Choice Act, which would write into Federal statutory law the abortion provisions on Roe versus Wade.

Let me conclude on this note: It is not just a Supreme Court seat that is at stake here; in my judgment it is also the entire confirmation process. I believe the nominee was candid in his testimony, and I was persuaded by watching and listening to him at the hearing. But if Justice Souter turns out to be a rigid ideologue—and not the moderate that he appeared to be—then both the Senate and the American people will have been deceived. That would call into question the value of having nominees appear before our committee. We might be justified—or even required—to ignore personal presentations entirely, and rely exclusively on the written record.

Madam President, in reaching my decision, I had to determine whether the conservative public servant from New Hampshire matured into the moderate nominee who appeared before the Judiciary Committee. I believe that he has. And while I was troubled by parts of Judge Souter's record, I was impressed by the man himself. And so, despite my reservations, I will support Judge Souter as someone who is capable of personal growth, shows an open mind and rejects ideological extremism. I will vote my aspirations rather than my fears.

Thank you, Madam President.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Madam President, I will shortly propound a unanimous-consent request setting the vote for 6 p.m. I understand that has been cleared on both sides. We are now checking to make absolutely certain that it is agreeable so that no Senator feels he or she has not had the opportunity to speak. I will do that momentarily. In the meantime, I am pleased to yield to other Senators.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I have already spoken at some length on the Senate floor on my view in support of Judge Souter. So I will refer anyone who might conceivably be interested in those views to the CONGRESSIONAL RECORD on September 19, 1990, a week ago Wednesday.

But there are a few other comments which I think appropriate to make at this time, that relate to the very important principle, that was established in our hearings, that a nominee should not be required to answer the ultimate question on how the nominee would rule on a case which may come before the Supreme Court even where that question is as important as the nominee's views on what will happen to Roe versus Wade. The issue of choice, the issue of abortion is, I think, the most divisive issue which has confronted the United States since the country's inception perhaps with the exception of slavery, Madam President. There were many who came forward and strongly urged that Judge Souter should be required to say how he would rule on Roe versus Wade.

It is my expectation that there will be a very strong vote in support of Judge Souter today. Certainly the vote on the Judiciary Committee of 13 to 1, where many who voted in favor of Judge Souter were those individuals who were very strongly in favor of upholding Roe versus Wade, established a very important principle that people in our society were willing to abide by the system as to what would happen in the regular context where a case was decided in the context of specific facts, briefing, argument, consultation among the Justices, and that a nominee would not be required to answer a question as to how the nominee would rule on a case yet to come before the Court.

Madam President, I have expressed my view, both on this floor and otherwise, about my support of the choice position. Although I am very much opposed to abortion as a personal matter, I do not think it is something that the Government can regulate. But, notwithstanding my own views on the subject, I took the strong position that Judge Souter should not be compelled to say how he would rule when the issue of Roe versus Wade came before the Court again.

At the same time, Madam President, I think it is important to emphasize, that if the Supreme Court moves further on the road to deciding ultimate positions of public policy as a superlegislature, that the Supreme Court runs the risk of losing its standing, and the nominees run the risk of losing their standing to decline to answer the ultimate questions.

This Senator is very much concerned about a series of Supreme Court decisions illustrated by the Griggs case, the Wards Cove case, the National League of Cities versus Usury, and Garcia versus San Antonio Transit Authority, where the Court has moved in the direction of being a superlegislature.

The Civil Rights Act was passed in 1964, and, in 1971, a unanimous Supreme Court in the opinion written by Chief Justice Burger, not known for any expansive interpretations, defined discrimination in the disparate impact situation. I will not speak at length about what that means, because it is not necessary to illustrate the point.

Eighteen years later, last year, 1989, the Supreme Court of the United States reversed Griggs in Wards Cove and did so with five Justices changing the law in the context where the Congress of the United States had let the Griggs opinion stand for 18 years, giving full force and vitality to what is realistically a conclusive presumption of congressional assent to the Griggs opinion as interpreting congressional intent.

Four of those Justices who reversed Griggs had appeared in the Judiciary Committee during the course of the past decade and put their hands on

the Bible and had sworn not to be judicial activists but to interpret rather than to make the law.

I would suggest, Madam President, that if the Court, if the Justices are to become superlegislators, they will not be immune from stating their positions on such issues, just as candidates for the Senate are not immune from stating our position on matters of public policy.

There is a similar issue involved in the case of National League of Cities versus Usury, where the Supreme Court of the United States in 1975, defined the relations between Federal and State governments, local units of government. That position was reversed in Garcia versus San Antonio Transit Authority, 9 years later, in 1984. In writing in dissent, Chief Justice Rehnquist and Justice O'Connor, in separate opinions, said that the Garcia opinion was really like a railroad ticket. As Justice Roberts said years ago, "this day and this train only." Chief Justice Rehnquist and Justice O'Connor said, when the issue came before the Court, with a change in membership and constituency, the opinion would be reversed.

I was on the point that if the decisions of the Supreme Court on important constitutional doctrines, like Federal and State relations, depend upon the constituency of the court, then I think nominees are going to be asked how they are going to decide these issues on public policy.

On the man himself, Madam President, I think Judge Souter presents a record of qualification. His record, academically, in law school, Rhodes scholar, record as a practitioner, attorney general, trial judge, State supreme court justice, his judicial opinions, his testimony before the committee, was exemplary.

I do not agree with some of my colleagues who have supported Judge Souter, based upon a change in position before the committee. I believe that Judge Souter took expansive views when he testified before the Judiciary Committee, but that is understandable. The opinions of Judge Souter were the basis for my reliance on evaluating Judge Souter, and he was much more restrained and restrictive in those opinions than the testimony he gave before the Judiciary Committee.

Madam President, even in those opinions, in the Richardson case, Judge Souter found a liberty interest. In the criminal law cases, he had a good balance recognizing defendants' rights as well as the interest of law enforcement.

So whether you take the more expansive views of Judge Souter testifying before the Judiciary Committee, or the more restrictive views that he exhibited in his opinions, I believe he is well within the continuum of constitutional jurisprudence and ought to be confirmed.

In view of the limitations of time, although there is much more that could be said, that summarizes my views. I thank the Chair and yield the floor.

Mr. SIMON. Madam President, I rise briefly to explain my views to my colleagues. I think there are three basic points.

One is, does Judge Souter meet the basic standards that we are looking for? In terms of ability, in terms of scholarship, in terms of someone who is willing to listen, it is very clear that he does.

On two points I would like to have seen a stronger nominee. One is, I want someone who is a champion of civil liberties. The second thing I would like is someone who will lead for those less fortunate. Unfortunately, in the Souter record there is no evidence that Judge Souter will be a leader in either of these areas.

The second question then is, if he does not meet these latter two standards, should he be considered? If I were to go solely by the record, candidly, I would vote against him. But his testimony showed an appreciable growth, if you want to make that assumption, or it showed political dexterity, if you want to make that assumption. But his testimony clearly was better than his record. If I had gone just by his record, as I have indicated, I would have voted against Judge Souter in committee, and I would be voting against him now.

In the area of civil rights, at least one statement he made while he was attorney general was a statement that concerned me. But in response to my specific questions, he was more forthcoming and encouraging, though he made one statement that still concerns me; and that is that there is no discrimination in New Hampshire. I wish that were the case in any one of our 50 States. It is more of an indication that his continued growth is still in need.

On the much publicized Roe versus Wade case, my own belief, my own impression, is that he will vote to sustain Roe versus Wade. It is made up of several reasons. One was his counseling of a young woman who was about to have an illegal abortion under Massachusetts law. The second was his vote as a member of the hospital board, where they authorized that hospital to have abortions performed at that hospital. A third came in response to a question by Senator SPECTER, in which Judge Souter said, so far as he knew, the court had never taken away a right that had been given. Finally then, it was the impression that I have from him of great reverence for precedent.

On the basis of those things, I will personally be surprised if he votes to overturn Roe versus Wade, though no one can know the answer for sure.

Finally, we face a very difficult question. That is, is it likely that President Bush will send a nominess with more moderate views than Judge Souter? As you look at the list of those who are considered, I have come to the reluctant conclusion that that is very unlikely. If I were to vote against the nominee, it would be a signal to the President that it does not matter who you send up, you are automatically going to get votes against that nominee from those who want to see the Court as a champion of civil rights and civil liberties.

Finally, I add, Madam President, the departure of Justice Brennan means, unquestionably, no matter what the votes of Judge Souter, the Court is going to be shifting to the right. That means that the basic defense of civil rights and civil liberties, I think inevitably, is going to shift from the Supreme Court to the Senate and the House. It makes our responsibilities more awesome, and I hope we will live up to those responsibilities. I will vote to confirm Judge Souter.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Madam President, this Senator is pleased to report that his impressions have been confirmed. Those are impressions of a man I met over a decade ago, David Hackett Souter, a man who now awaits the advice and consent of the Senate of the United States to confirm him as the 105th Associate Justice of the Supreme Court of the United States.

While I was attorney general of the State of Washington and president of the National Association of Attorneys General, I first met David Souter, who was then attorney general of New Hampshire. I was not happy to meet David Souter under those circumstances, because my friend WARREN RUDMAN had just left that position. He turned it over to an individual whom I did not know, and about whom I knew nothing. But I learned quickly that David Hackett Souter was a thoughtful, courageous, and intelligent man, a man of integrity and steadfast purpose.

The Nation watched as Judge Souter's fitness for a seat on the bench was questioned by the Senate Judiciary Committee for the second longest period of time of any Supreme Court nominee in history.

(Mr. SIMON assumed the chair.)

Mr. GORTON. I believe we observed the courage and independence of a man confronted on each side by those who wanted to hear clear and preconceived notions. I can say that had he told the committee what many of its members wished to hear, he would not gain this Senator's vote today to become Justice David Souter. President Lincoln once observed under similar circumstances, "We cannot ask a man what he will do, and if we should, and he should answer us, we should despise him for it."

Why? Because the Constitution requires of our jurists the impartial balancing on the scales of justice the facts which are presented to them. Our Federal Code states:

> Any justice, judge, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned. (28 U.S.C. 455(a)).

To be impartial, a judge must divorce his personal feelings from the philosophical analysis which he is charged to employ for the benefit of every citizen. Impartiality is and must be a prerequisite to the grant of the awesome power of this position. Judicial independence fostered by that impartiality is the touchstone by which our law lives.

The report of the Judiciary Committee on this nominee concluded:

> We believe that Judge Souter struck an appropriate balance in this testimony; that his testimony and the record before the committee enabled us fully to discharge our constitutional responsibility of advice and consent; and that a requirement of greater specificity would gravely compromise the independence of the judiciary and the separation of powers. Such independence is explicitly mandated by the Constitution, by Federal statute, and by the canons of judicial ethics.

I am proud to have witnessed Judge Souter withstand the test. And I can think of no qualities which are more important for a position on the Supreme Court of the United States than those which David Souter demonstrated in those 20 hours, a constant willingness and ability to listen, to learn, to grow from experience. Judge David Souter has the integrity and the dedication to ideals which made this country great.

Mr. President, I think none of us, even Members of the Senate of the United States, can fully appreciate the awesome and lonesome responsibility of being a member of the Supreme Court of the United States and having the Constitution of this great country in his or her hands. My conviction is that David Souter can take on that responsibility thoughtfully, responsibly, with an open mind, and with the ability to contribute greatly to the development of legal institutions in this country. Judge Souter has earned my vote for his confirmation, and I hope my colleagues will find that he has also earned their vote as well.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. WIRTH. Thank you very much, Mr. President

I want to spend a few minutes sharing my own thoughts and experiences with my colleagues about my own decision related to Judge Souter and the decision facing the Senate this week.

As you know, I am not a lawyer and I therefore come at this with perhaps a bit of a different window than those who are looking at the record, reading cases, and so on.

I would like to do two things today. One, to talk a little bit about the issue of Roe versus Wade in front of us and, second, sketch what I think is a very interesting and informative profile of David Hackett Souter as I gathered it over the last 10 weeks.

First, the issue of Roe versus Wade is clearly the issue many of us, commentators and observers, have come back to. This is one of the dominant issues of this time, if not the dominant issue on the Court right now. I would hope that David Hackett Souter will be voting to uphold Roe versus Wade. I am sorry——

(Disturbance in the Visitors' Galleries.)

Mr. WIRTH. Mr. President, the issue, as we all know, elicits all kinds of responses and emotions, and it would be my hope that the concern for precedents, the concern for privacy, would lead Justice Souter in this direction. I would also think it is absolutely appropriate for everybody to be asking questions on this front and I am sorry we did not get more specific answers on it but you know that is the judgment that was made by David Souter.

Beyond question, the Supreme Court is now at a crossroads. Judge Souter's role on the bench may well be pivotal. Because I take the advice and consent role of a Senator very seriously, I met with Judge Souter, have reviewed the hearing record and some of his decisions and have spoken with many people associated with him professionally. Given my division with the President on many of the issues the Supreme Court may hear, the best I could hope for would be a skilled judge who comes to the bench with an open mind—I believe Judge Souter does just that.

I do have some reservations, similar to many of my colleagues. Upfront I must admit that I hope he holds fast to the approach he cited when discussing fundamental rights during his hearing. He stated that he would use the approach identified with Justice John Marshall Harlan—that the question of weighing the value of asserted rights cannot be approached without an inquiry into the history and the traditions of the American people, in order to try to find, on a historically demonstrable basis, their commitment to a set of values which either do or do not support the claim that a particular right in question is fundamental.

During his testimony, Judge Souter stated that he has not made up his mind as to whether or not he would vote to uphold Roe versus Wade. Judge Souter did not address the fundamental right to privacy with as much clarity as I would have liked. But he did indicate his commitment to certain matters of privacy, and I hope that during what is expected to be a long term on the bench, he continues to support the fundamental individual rights.

When Judge Souter was asked about the equal protection clause in the 14th amendment, he stated that his approach in interpreting the Constitution would be to determine the meaning or principle that the framers intended—not the specific application they had in mind at the time. Should this be the case, when a question of protecting individual rights of privacy were to come before the Supreme Court, I expect that Judge Souter will set fit to see to decide the case with the breadth of our time, not be limited to the scope our framers had when writing the Constitution.

To go on, Mr. President, let me talk a little bit about what I understand and have learned about David Souter over the last 10 weeks. David Souter and I were in the same class in college. We lived in the same living unit, a very large dormitory kind of unit that had its own dining room, and so on. There were probably 350 undergraduates in this unit. We were in the same class. We did not know each other. We knew who the other person was but did not know each other.

As an aside, I might say a friend of mine came up and said, how could you vote for someone when you did not even know him when you were there? I said he did not know me either. I think that is appropriate commentary on the fact it is a large institution. In any case, I was surprised it came up in the same class.

So soon after his nomination was sent up, became public, I got on the telephone and I made a variety of calls in August and let me flesh out, if I might, the profile that emerged. This was in early August. That profile, and these are my notes that I picked up off my desk the other day in summary of all these conversations. I must have talked to 10 or 15 classmates who knew David Souter.

Smart, courteous, little fastidious, devotion to precedents, extraordinary intelligence, great integrity, a man who puts principle before expediency, a man of old New England values, intensely private. Asked a liberal Democrat, does Bush know any more than we do? How could he? He is an intensely private man, describing David Souter. Devoutly Episcopalian. Another said, no reservations, an individual of great principle and underlying humanity.

Another, without qualification. And then he said, I also am a liberal Democrat. He said my view of George Bush just jumped up. Sense of many as a person, concerned sense of a person who does not exist any more.

Said one, an individual who is joyous within his own house and his own library. I believe he is truly interested in judicial restraint, not an individual who has commented to me and through the years on politics.

That was a profile in August as I talked to people. All of these individuals were close to David Souter and very positive.

I picked this up again at the beginning of last week and made another round of calls and let me just share these last reactions and I will stop.

From one individual in our class who is a reporter for a major national newspaper: He said, having called around himself—this is a secondary research—my general sense of those who are—this is a man who chooses to live his own life although he is not a hermit by any means, he maintains friendships of individuals who themselves are from moderate and a progressive stripe. The people who are close to him are not ideologs. His friends describe him as being bright, thoughtful and idealistic. This is a profile from our classmate reporter who had talked to other classmates. While he may be cautious, from a conservative State, he is not a Reagan Justice, or someone you would think George Bush would appoint.

None of the people had a conversation with him about Roe versus Wade. I checked and cross-checked them for over an hour. None believed with his own belief in precedents that he will overturn Roe versus Wade, and his own instincts will lead him in the direction of supporting precedent.

Men and women say the same thing. Among the people who know him well I get the same reading. If I were a conservative I would be petrified by this guy. There is no guarantee he will do what they want, not a Scalia clone.

That is the secondary research of this last week from a reporter friend of mine, a classmate who talked to a variety of other individuals. I have done a lot of my own primary research and again let me close with reactions of this week.

None of these people obviously do I want to identify. I asked one gentleman who is again a liberal Democrat, a clergyman and a very, very thoughtful and bright individual whom I knew also 30 years ago. I asked him, would you vote for David Souter? He said, I think I am sure I would vote yes. I was a little surprised by this statement on Brennan; I did not know he would say that. He is very honorable. He simply would not fake it. I was asking what he thought about the Souter testimony on the girl at college, and so on. He said he simply would not fake it. What you see is who he is. When we were undergraduates this classmate said he lived and breathed the Supreme Court and judicial process, so much that we used to call him then Justice Souter. He has great respect for precedent, he is a student of Holmes, did his senior thesis on Holmes and Holmes' judicial philosophy, has a deep abiding interest and respect for the Court and American history; certainly not likely to be an extremist in any way. Nothing would suggest that that is the case. With time, in fact, I believe he will be a coherent force on the Court.

He is a wonderful and amusing friend. "Something I have always wanted to do," said David to me. After I called him when I heard about the appointment, he said, "This is something I have always wanted to do. But if it doesn't work out, I can be blissfully happy on this court in New Hampshire."

It is sort of an accident of fate that someone who is so nonpolitical would be washed up on these shores. As part of the research this last week, let me conclude with this morning's telephone calls, if I might, Mr. President.

"David Souter, simply stated, is one of the greatest individuals I have ever known. He is extraordinarily brilliant, intellectually gifted in an openminded way, not a bully like some who are that smart. He can then carefully and calmly come to a conclusion having put his force of mind to work on it."

And "I am a liberal Democrat. This will be one of George Bush's great appointments."

"On predictability, on the issue that everyone is talking and asking about, and given the caveats of Supreme Court decisions—and having spent so much time with him, as has my wife and daughter; I am a lawyer—I do not think he will kick over the traces. He will get people talking together like Justice Powell."

And, "I imagine he will be a jealous guardian of individual liberties, sort of a New England-like approach to guarding the individual against the State."

And, "Watching the hearings confirmed what I know about him personally. What you see is what you get. He is not partisan. He is not an ideolog. He is not a zealot. I did not vote for Ronald Reagan or for George Bush. My guys have not done very well. But even given the presumption that they can appoint anybody who they want, he is really a fine appointment."

I was very impressed, Mr. President, with this catalog of individuals, the perspective was very broad. Most of them are people who are more progressive rather than conservative. But these are people who have known David Souter for 30 years. What emerges is that profile that I have described. I am going to vote for David Souter. I believe that this profile is one that I can trust. I did the best that I could in the research available to me, read the record, looked at the hearings, watched David Souter testify, and I have talked to the lawyers. But maybe more importantly I have put together this human dimension which I wanted to share with my colleagues and with the country today.

Thank you very much, Mr. President.

I yield the floor.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. ADAMS. Mr. President, I have previously stated my position with regard to the nomination of David Souter in the CONGRESSIONAL RECORD of September 27 at the beginning of that day on S14035.

But I felt that it was necessary during the course of this debate, during this executive session, that I once again make a few very brief remarks to not reiterate what I stated on that day, which I still believe and feel is an important part of this record, but to simply state again the concern and the real lack of substantial position that many of us feel with regard to nominee David Souter concerning his feelings on the right to privacy and in particular the right to privacy contained within the U.S. Constitution as it affects the right of women to make a choice on their reproductive rights.

I was very impressed with the comments of my very good friend, Senator WIRTH, as to the personal integrity and the intelligence of David Souter. I have not doubted this. But it was refreshing to hear his analysis of the people he had talked to and the hope that he has that we will have—from a President who has deliberately stated he wishes Roe versus Wade overturned and has nominated this man—a man that may indeed be another Lewis Powell or a Blackmun and may be his own person on the Supreme Court.

I am opposing the nomination of David Souter because in this position as a Senator of the United States, I am 1 of 100 who give their advice and their consent to the creation, along with the President, of the third branch of Government under this Constitution. In the creation of that branch, we had, during the course of our history, created some good, some bad, some mediocre Supreme Courts.

We have the present situation in the United States where we have a President committed to one position. We have probably a majority of the U.S. Senate committed to another position on this right to privacy as it affects the right to choose of over half of our people. And we have a Supreme Court that has been appointed over a series of years that is either evenly balanced or is balanced in favor of overturning a basic right of privacy.

As a lawyer and as a person who has tried many lawsuits and been involved in both the Congress—the House, the Senate—and in the administration as a Cabinet officer, I take very seriously the duty that we are to give both advice and consent on a person who, in this particular case, gave a very good presentation on nearly all matters.

I think he will make an excellent judge on the first circuit, and after a number of years might well be considered, as he has made decisions on Federal cases involving the Constitution, for a Supreme Court position by this President. And it may well be, as my friend, Senator WIRTH said, that we have gotten lucky and that this is a person that would be far better than any other we might ever get.

But I am struck by the fact that we had testimony—and I followed it carefully—with regard to David Souter's position on the death Penalty. I happen to agree with his position on the constitutional effect of the death penalty. But 2,000 people on death row know where he stands on that and his general philosophy—not a particular case but his general philosophy—and yet over 100 million law-abiding women in the United States of America do not know what his position is on what had been a settled fact of law for over 17 years in Roe versus Wade and a basic right that we very often—98 men in this body, and 8 on the Supreme Court—pass on the rights that we know not all about.

So this is a very important question for a lot of people, and a lot of people view this not as some deep political question but as a deep constitutional question—the fundamental right of privacy. I am always struck by those who would deregulate everything in this country but would regulate a women's most private rights.

I am concerned and, therefore, I shall vote against the nomination of David Souter. I hope that I am proven wrong and that the statement that was just made on the floor that this might be a great surprise to all of us and this might be a person who would vote to uphold, by stare decisis or otherwise, a constitutional interpretation that has existed for 17 years.

The Constitution, Mr. President, of the United States is a shield not a sword. It is a shield for individuals against the power of the State. It is a shield, in this case, for over half of our population, who happen to be female, from having their right of privacy deeply invaded and regulated, whether it be by the State or by the Federal Government. And it is something that very often is debated without their presence being a major factor.

I, therefore, feel in the case of David Souter, this body should wait awhile. Let him show his mettle on the First Circuit. Because an appointment to the Supreme Court is very different than an appointment to any other court in the land. A person appointed need not be a lawyer. A person appointed need not have any particular set of qualifications. A person appointed becomes one of nine, rather than 535, or rather than an individual, as one of the three parts of the U.S. Government.

The decisions that will be made by this appointee will probably last in this country for the next 30 years. The Senate has to give its advice and its consent. My advice is that we appoint someone who will uphold the traditions of the Court and use the Constitution as a shield, particularly as it involves the rights of the women in this country. My consent is withheld because I have not been convinced that this would occur. I hope it will.

As I said in my earlier comments in the CONGRESSIONAL RECORD several days ago, if I am proven wrong and he protects these fundamental rights of the women of our country, I will appear on this floor and I will offer him a personal apology that I misjudged him. But all I have at this point is the judgment that I can render based upon the testimony that he gave, the testimony that others gave, and the record that he has. I must admit that record is very limited so far as the Court is concerned.

So let us all hope David Souter is what he appears to be; according to Senator WIRTH, a person of independence, a person who will follow the traditions of the Constitution, who will treat it as a shield, who believes in the right of privacy and will enforce it and, therefore, will not go to the Court and join a group to overturn a 17-year-old decision.

I realize many if not most of my colleagues may disagree with me on this, but I have felt it very important that the President of the United States understands and that my colleagues understand that many of us, as a matter of conscience, cannot support this nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, obviously I am supporting the nomination of Judge David Souter. I think the remarks of Senator WIRTH of Colorado were so appropriate and very moving to talking with regard with the people who know him best. That is the test of any human being. I think that is one of the most impressive relations of support that I have heard on any nomination. And to speak as a classmate of the man, men who knew him, and the other classmates as they remember him, and many happening to be of liberal Democratic philosophy, that I think says it all.

I have a strange view of politics. I always like to see how a person does in his home precinct as he runs for political office. How does he do right there among the people who supposedly know him best? I think that is a pretty good test, and one we should use.

I must also respond to the comments of some who suggest that Judge Souter came to the confirmation process bearing some burden of proof. This is a particularly inappropriate use of that phrase, in my opinion. The Senate Judiciary Committee was not sitting as some omniscient body sitting in judgment of executive nominations. Our proper role, under the advice and consent clause of article II, section 2, of the Constitution, in my view, is to provide an additional, more personal, information gathering mechanism through which our colleagues, the full Senate, may make an informed decision whether or not to confirm a nominee. Our job was to look not only to the nominees paper trail, academic credentials but to also try to see into the nominee's heart. I commented on those perceptions last Thursday and will not restate those here. I am troubled, however, about this perception that a nominee must prove something to the committee and the Senate before he or she is fit to assume a position on the Supreme Court.

I just want to comment briefly on the burden of proof issue that came up, and continues to pop up. It is my personal view there is no burden of proof on a nominee to assure the Senate that he or she will vote in the manner dictated by the particular politics of the moment, either according to some specified political philosophy or to a specific outcome on any particular issue, abortion being a classic example.

I happen to feel that a woman should have the choice, indeed, in that ghastly situation known only to them. But if there is indeed any form of burden of proof, that burden is, in my mind, upon any Senator who comes into the confirmation process with a personal agenda. That is where the burden of proof falls, heavily and clearly.

The burden is on those who would vote against the nominee only because they disagree with the choice made by the American people when they elected the President of the United States. The burden is on those Members who approach the process with a closed mind, or who have made up their mind. It is their burden to prove to the American people that they are discharging their constitutional duties, rather than acting most energetically out of personal bias or purely political motives.

I think it is unfortunate the confirmation process has indeed become overly permeated with politics in the partisan sense. It will always necessarily be present, but not as an overweening component.

We expect our judges and Justices to approach cases with pure objectivity. We demand they shed their personal feelings while sitting in judgment of others and while passing on the important constitutional issues of the day. I am concerned we in the Senate, while considering the equally crucial question of confirmation of a Presidential nominee to our highest Court, appear reluctant to impose upon ourselves an equally stringent standard of objectivity in performing our duties under the advise and consent clause.

So any burdens, I think, are upon those who seek for any reason to destroy the presumption in favor of the President's appointment.

That is not to say we should not be critical. It is not to say we should not question. We do not blindly accept, but we should never demand to know how a future case will be decided as a condition to a favorable confirmation vote, because such conditioning, in my opinion, undermines the basic requirement that our judges approach each case objectively and that their decisions in those cases be based purely on the law.

I hope we will have a successful vote. I know we will, in a few moments. I am convinced that the record leads—and any thoughtful person who reads it will be led—to only one conclusion, the conclusion reached by an overwhelming vote of the committee, by a 13-to-1 vote of my colleagues: That David H. Souter will be one splendid and fine addition to the Supreme Court; and, as Justice Souter, he will not be swayed in his decisions by sheer numbers. He is not afraid to depart from the majority of his colleagues if his interpretation of the law leads to a result different from others. He will listen.

We hear that again and again. That is a key aspect of this man. He will set aside his own personal and political beliefs when deciding cases brought before him. He will not legislate, nor will he be afraid to make the politically unpopular decisions if the law requires a politically unpopular result.

David Souter will be a Justice—a Justice in the purest and finest sense of that word—and our country will be well served by his presence on the Court. He is a most impressive man, a sincere and authentic and kind human being. He will be a tremendous Justice. He is going to make us all very, very proud. I say God bless him in his deliberations on that bench, and in his stewardship of our enduring Constitution.

Go back and look at his opening statement before the committee. That said it more beautifully than I can.

I thank the Chair.

Mr. DECONCINI. Mr. President, there are several major issues of the utmost importance presently facing this body and the American public. The controversy in the Persian Gulf has yet to be resolved and requires our constant attention. The budget summit agreement is on the mind of every Member in this body. Both of those issues involve two of Congress's most important powers: The power to declare war and the power of the purse. Today, Mr. President, we execute a power entrusted to the Senate that can weigh just as heavily as those two other powers. For through our role of advice and consent on Supreme Court nominees, we determine, with the President, which individuals will be interpreting the Constitution for future generations.

President Bush has nominated Judge David Hackett Souter to a position of extraordinary importance in our country. I spent a great deal of time prior to his confirmation hearings studying the record of Judge Souter. I was indeed impressed with his background. As a member of the Judiciary Committee, I with my colleagues questioned him on the great constitutional issues of our day. In the end, I felt secure that Judge Souter would protect the rights embodied in our Constitution that we all so cherish. For that reason I decided to vote to confirm his nomination.

In Judge Souter, President Bush nominated an individual who appeared to possess the intellect, integrity, experience and judicial temperament to serve on the Supreme Court. The committee hearings gave him the opportunity to confirm those impressions.

I was very impressed with Judge Souter's testimony before the committee. I was especially pleased by his openness in answering committee members' questions, He heeded the advice of several of my colleagues and myself to be forthcoming. Yet he drew a reasonable line in his response. Judge Souter adequately and properly protected his need to withhold answers in certain areas that will still come before the Court. At the same time, he discussed at length his approach to constitutional interpretation and his legal opinion on settled law.

The hearings made clear that Judge Souter did not have a hidden agenda he would attempt to impose upon the Court. Instead, Judge Souter is a proponent of judicial restraint. He respects and defers to precedent. He understands the respective powers of the three branches of Government. Most importantly, he understands the role of the Court in our system and its duty to protect individual liberties. He will not attempt to protect the "haves" at the expense of the "have nots."

Mr. President, no one in this body will ever be satisfied with every response of a nominee. I would have liked to have heard Judge Souter's own standard for gender discrimination under the equal protection clause of the 14th amendment. But I feel confident that he will not attempt to dismantle the protections the Cour has provided in this area.

We have no absolute assurances how any nominee or sitting Supreme Cour Justice would vote. The Constitution does not entitle the Senate to such a guarantee. Our ability to predict a Justice's future decisions is limited. Justices have changed their positions from time to time. Throughout their careers they face constitutional issues never contemplated at the time of their nomination. Thus, the ultimate question we as Senators must ask ourselves is whether we feel secure entrusting him with the tremendous responsibility of protecting the rights embodied in our Constitution. I am confident that Judge Souter will guard these rights judiciously.

Changes in the Court's composition are disruptive but inevitable. Justice Brennan's retirement is indeed a turning point in the history of the Supreme Court. Although I disagreed with some of Justice Brennan's decisions, no one can deny his mark on the Court or his place in history. In that respect, Judge Souter, as he so candidly admitted, has some pretty big shoes to fill. He will, I believe, serve the Court and out country well.

Mr. President, I hope that the Souter nomination will serve as an example for President Bush and future Presidents on the nomination process President Bush fulfilled his appointment duty by presenting us with a nominee who possesses competence integrity, judicial temperament, and experience. Through the committee the Senate fulfilled its role of examining and questioning the nominee on the great constitutional issues of our day. We conclude that duty today by exercising our advice and consent authority. Chairman BIDEN and the ranking member, Senator THURMOND of the Judiciary Committee should be commended for conducting very thorough hearings. I believe the committee asked extensive but fair questions and I further believe that Judge Souter responded with fair and thoughtful answers.

I have concluded that Presiden Bush chose Judge Souter because he will be an openminded jurist. And most importantly, as he so often stated during the hearing, he wil listen. He was not chosen to turn back the clock on the great constitutiona principles of our day. Through the hearings the Senate and the American public heard an individual with a grea understanding of the Constitution and the role of the Court in protecting ou individual liberties.

Mr. President, today this body wil be entrusting Judge Souter with a position of immense power. Soon, he wil begin making decisions affecting the lives of each of us far into the future

His decisions will also impact on our children and their children. We cannot reverse the course that Judge Souter will pursue. Thus, we can only be secure in believing that we made the right decision based on what we know today. I am secure in voting to confirm Judge Souter to the Supreme Court. And I am confident he will fulfill our expectations.

Mr. BIDEN. Mr. President, to bring the Chair and my colleagues up to date here, I think we only have three more people who wish to speak on this nomination. One is on his way, as I speak—Senator CRANSTON—who indicates he would like to speak on the nomination for about 10 minutes. And then I believe the only two people left who indicated a desire to speak on the nomination—I say this for the convenience of my colleagues in determining when the vote is likely to take place—is the distinguished Senator from New Hampshire, the real justice. I should not be so facetious. We have all been kidding him so much because he has an intense interest in and is a close friend of the nominee.

The Senator from New Hampshire is on the floor and, after Senator CRANSTON speaks, he will be the last speaker on the Republican side, and then Senator MITCHELL would like to close. He indicates he has about 7 minutes worth of comments. So if all goes well in the next few minutes, we should be able to be voting on this nomination by 6 o'clock, hopefully maybe as early as 10 minutes of 6. In the meantime, I suggest the absence of a quorum awaiting the arrival of the Senator from California.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, as the Senate deliberates on the nomination of Judge David H. Souter to serve as an Associate Justice of the U.S. Supreme Court, I am reminded of a statement uttered by one of our greatest Presidents, Abraham Lincoln, nearly 136 years ago. Referring to the great strife that was dividing our Nation at that time. Lincoln stated, "No man is good enough to govern another man without that other's consent."

Although circumstances differ, President Lincoln's statement still rings true today. In considering the nomination of Judge Souter to serve on our Nation's Highest Court, we are offering the Senate's consent—the people's consent—to selecting Judge Souter to decide some of the most important and controversial issues that will be coming before the Supreme Court.

This is a very sobering responsibility, and one that I do not take lightly. The cases that will be considered by the Supreme Court this coming year, and the next several years, are sure to be among the most contentious for many decades. During this term alone, the Supreme Court will be deciding cases involving such controversial issues as abortion, sex discrimination, punitive damages, and challenges to the death penalty. Therefore, I am concerned that the individual who receives my consent—indeed, the Senate's consent—brings an open mind and a tempered judicial willingness to thoroughly review the facts and circumstances of these cases.

Mr. President, I have reviewed Judge Souter's background. I am much impressed by his academic and professional credentials. Judge Souter's testimony before the Senate Judiciary Committee indicates that he possesses an agile legal mind and a keen intellect, reflective of a well-reasoned and experienced judicial philosophy. Judge Souter has the background and the legal knowledge that should serve him well in deciding vital constitutional issues of our time. He received the highest judicial rating possible from the American Bar Association's judicial screening panel. Judge Souter's academic record is flawless, boasting two undergraduate degrees—one from Harvard and one from Oxford where he studied as a Rhodes Scholar. Subsequently, Judge Souter earned his law degree at Harvard University, where he was named Phi Beta Kappa.

Judge Souter's professional background demonstrates a commitment to public service that is lacking in many lawyers with his distinguished academic credentials. He served as an associate with the New Hampshire law firm of Orr and Reno for 2 years after graduating from Harvard. He then turned to public service, as both assistant attorney general and associate attorney general for the State of New Hampshire before being named attorney general of that State in 1976. In 1978, Judge Souter was appointed to the New Hampshire Superior Court, and 5 years later, he was appointed to the New Hampshire State Supreme Court. Most recently, Judge Souter was appointed to the First Circuit U.S. Court of Appeals, where he has been serving since this past April.

Mr. President, I do not casually offer my support to any nominee. After much study and review, I am satisfied that this nominee is eminently qualified and will provide a well-reasoned and an aptly tempered approach to the cases that will be coming before him. I approve of Judge Souter because he offers a unique combination of qualities that will serve him well on the U.S. Supreme Court. I recall a statement that he made during his confirmation hearings that a few of us here in the legislative branch would do well to remember. He said, "* * * at the end of our task some human being is going to be affected * * *," and judges, therefore, "had better use every power of our minds and our hearts and our bodies to get those rulings right."

I am certain that Judge Souter will wrestle to the utmost to get those rulings right. His brilliant legal mind, combined with his human approach to the law, will serve our country well. I hope my colleagues will join with me in offering their consent for approval of this nominee.

Mr. DURENBERGER. Mr. President, I rise to support the nomination of David Souter to the U.S. Supreme Court.

Judge Souter will replace a legend, Associate Justice William Brennan, who after 34 great years on our Nation's Highest Court has stepped down. Justice Brennan's powerful intellect, winning personality, and willingness to take on the tough issues have served the Nation well and will be hard to replace. He has left a legacy of wisdom and service that will grow in history. His shoes cannot be filled by anyone, nor should they be.

On July 23, 1990, President Bush nominated David H. Souter to fill Justice Brennan's vacated Supreme Court seat. I believe the President's choice is a wise one and am very glad that he has acted so swiftly to fill the seat. The Court will be asked to address many complicated and important issues this fall and it is very important that all nine chairs be filled.

I take my constitutional role of advising and consenting on judicial nominees very seriously. It is one of the most important responsibilities assigned to each Senator and one that I have devoted a great deal of time to in the last couple months. Accordingly, I have evaluated Mr. Souter's nomination very carefully. I listened to his hearing testimony, and that of other witnesses, read many pertinent documents, and spoken with many Minnesotans about Souter's nomination.

Mr. President, shortly after I was elected to the U.S. Senate in 1978 I was faced with my first appointment. President Jimmy Carter had nominated Congressman Abner Mikva to the U.S. Court of Appeals for the District of Columbia. I grappled with the choice of standards for evaluating judicial nominees. Article II, section 2 of the Constitution provides that the President's power to appoint important public officials is to be exercised "by and with the advice and consent of the Senate." Alexander Hamilton, in No. 76 of the Federalist Papers stated that the purpose of advice and consent was "to prevent the appointment of unfit characters." Senators have interpreted this power in different ways.

Under one standard, the one I have come to use, it is the Senate's role to evaluate the nominee on the basis of his competence and integrity. This standard is premised on the view that the President, elected by all the people, was empowered by the Constitution to appoint officeholders who would further his philosophy and goals. The other standard, a distinctly minority and different view, was that a Senator would vote his perference on the political views of the nominee. The second standard was, and is, very tempting. Abner Mikva's views were much more liberal than mine. But, after careful analysis I decided that politics did not belong. As I stated at the time:

> The power to "advise and consent" on judicial nominations has never been viewed as authority for the Senate to substitute its judgement for the President's on the qualifications of a nominee. For two centuries that power has been regarded as authorizing rejection of nominees for only two reasons—lack of integrity or lack of competence. No judicial nominee has even been rejected simply because the Senate disagrees with his political views.

So, I swallowed hard and voted to confirm Abner Mikva. I have employed that standard for every judicial nomination since. I did for Judge Bork, and I will apply it to the Judge Souter's nomination today.

In sum, my constitutional advise and consent role is to evaluate a nominee's fitness to serve as a judge. My goal is to insure that members of the Supreme Court are able jurists, honest, and will fairly interpret the Constitution and laws of the land. I do not have a litmus test; such tests are not appropriate. I do not look for a political agenda or philosophical bias. Competence and integrity are what matter.

Mr. President, Judge Souter is competent and has an unblemished history of legal and public service. His career is one of high intellectual achievement and personal integrity. While watching his confirmation hearing before the Senate Judiciary Committee, Judge Souter showed me that he is a man of deep intellectual character; a man who will approach every case presented to the High Court with a willingness to listen carefully to both sides, and then cast his vote based upon the principles embodied in our Constitution. He does not bring a personal or political agenda to the court. The only agenda Judge Souter has is to interpret the Constitution and law consistent with the principles of fairness and justice.

I was most struck by a comment Judge Souter made about the awesome power that any judge must have, especially a member of the Supreme Court. Let me quote Judge Souter when he described his judicial role: "Whatever court we are in * * * at the end of our task some human is going to be affected. Some human life is going to be changed by what we do * * * (therefore) * * * We'd better use every power in our minds and our hearts and our beings to get those rulings right."

Mr. President, I conclude David Souter is fit to serve on the Supreme Court of the United States. This very intelligent, scholarly, and refreshingly private man well understands the imposing authority, power, and responsibility that he will have on the highest court in our land. He will not abuse that awesome power, but will interpret the Constitution of this land fairly and with compassion. These are the essential characteristics of a judge and make him fit to serve, and serve well on the Supreme Court.

Mr. HEINZ. Mr. President, on July 23, 1990, President Bush nominated David Hackett Souter, presently a sitting justice on the U.S. Appeals Court for the First Circuit, to fill the Supreme Court seat left vacant with the retirement of Associate Supreme Court Justice William Brennan.

As is the case with every recent Supreme Court vacancy, Judge Souter's nomination has engendered public debate and public scrutiny. The public has a compelling interest in the character and capabilities of individual justices who would serve on the Supreme Court, the highest court in the land. A nomination to the U.S. Supreme Court is a lifetime appointment, and the nine justices of the Court are, therefore, a select group. Together, they represent the final arbiters of the Constitution, the framework of our democracy and the guarantor of our individual liberties.

Because of the importance of the position, the Senate is required, under the Constitution, to give the President our advice and consent to the nomination. I approach this decision with an especially keen sense of responsibility. The process is demanding and challenging. In the discharge of my duties, I owe to my constituents, and Judge Souter, an impartial and fair decision in casting my vote.

In the 2½ months since the President nominated him, the Nation has learned a lot about David Souter, the person and the jurist. His entire life has been put under a microscope, leaving not a single aspect of his career uninvestigated. The Senate Judiciary Committee and numerous interest groups examined hundreds of his decisions as a member of the Supreme Court of the State of New Hampshire. They probed the actions he took and the briefs he wrote as attorney general and assistant attorney general of New Hampshire. They looked into his finances, his education, and his pastimes. The committee itself questioned Judge Souter for 20 hours in open session—more time spent before the committe by any other Supreme Court nominee in history save one.

Mr. President, the record demonstrates that Judge Souter is eminently qualified to sit on the Supreme Court. As an alumnus of Harvard College and Law School, a Rhodes scholar, private practitioner, New Hampshire attorney general and State supreme court justice, Judge Souter has shown the scholarship, legal acumen, professional achievement, integrity, fidelity to the law and committment to the constitution to serve on our highest court.

A standard I have applied in all nomination considerations is to determine whether the nominee is an extremist or activist. If so, the nominee should be rejected. I believe this test is fair and impartial, preventing extremism of both the right and left, either a conservative activist or liberal activist from joining our highest court. In responding to direct inquiries from committee members, Judge Souter articulated a judicial philosophy that is within the mainstream of constitutional thought. His answers on the issues of original intent, stare decisis, statutory construction and judicial restraint revealed a judge committed to rendering an honest interpretation of constitutional rights and liberties. He strongly and convincingly indicated his commitment to precedent regarding previous interpretations of the Bill of Rights, due process and the equal protection clause of the Constitution.

One of the highly controversial aspects of this nomination revolved around how Judge Souter would rule on cases coming before the Court which challenged the premise of the Supreme Court's decision in Roe versus Wade. Several Senators directly, and some others indirectly, asked Judge Souter his position on this controversial case. Judge Souter declined to answer this line of questioning, as is his perogative, since cases concerning abortion rights are scheduled to be heard by the Supreme Court in the near future. Judge Souter did comment on the constitutional underpinnings to that decision—the right to privacy. He stated that he believed that there is a fundamental if unenumerated right to privacy in the Constitution, and that the right of married couples to make choices about procreation is at the core of that fundamental right. His response may not have satisfied either side of the abortion debate, but it did reveal a person with a scholarly appreciation of the competing constitutional interests and with the integrity to render judgment in accordance with those interests.

Finally, Mr. President, I found this nominee to be both learned and eloquent. In his opening statement, and I recommend it to all my constituents interested in gaining a measure of this man, Judge Souter acknowledged that the actions of a jurist cannot be rendered without thought to its effect. He recognized that his actions will affect human beings, that some human life is going to be affected in some way. His comments suggest to me a man who is capable of bringing depth and compassion to the Supreme Court.

Therefore, Mr. President, I will vote in favor of the nomination of David H. Souter to the Supreme Court of the United States.

Mr. DOLE. Mr. President, after 3 days of testimony and 18 hours of often grueling congressional questioning, Judge David Souter has demonstrated to America that he deserves a seat on our Nation's highest court.

Throughout his legal career—as New Hampshire attorney general, as an associate justice on the New Hampshire Supreme Court, and as the author of more than 200 judicial opinions—Judge Souter has consistently distinguished himself with his keen intellect, with his evenhandedness, and with his commitment to the rule of law.

Most importantly, Judge Souter understands that in a three-branch democracy such as ours, the role of a Federal judge is to interpret the Constitution strictly, and not to legislate one's own personal or political agenda from the bench.

So, Mr. President, it is no wonder that the American Bar Association has given Judge Souter its highest rating—well qualified.

And it is no wonder that—last week—the Judiciary Committee gave Judge Souter its stamp of approval—for the second time in less than a year.

JUDGES, NOT POLITICIANS

Throughout the confirmation process, Judge Souter has consistently refused to answer specific questions about specific cases now pending on the Supreme Court's docket.

This reticence may disappoint some of the beltway special-interest groups, but it does not disappoint the American people.

The American people have always cherished, and jealously guarded, the independence of their Federal judiciary. And they understand that this independence is endangered—gravely endangered—by the brazen intrusion of special-interest politics into the confirmation process.

To his credit, Judge Souter has gamely resisted these political pressures. And, for this, he has earned the Senate's—and the Nation's—respect and gratitude.

Mr. President, it is my hope that the experience of this nomination will help set the standard for Senate review of future Supreme Court nominees.

Without a doubt, Senators have a constitutional obligation to probe a nominee's judicial and legal philosophy. They have the right to ask tough questions. And they may properly examine personal qualities that are of critical importance to a nominee's fitness to serve—qualities like openmindedness, integrity, a commitment to equal treatment under the law for all Americans, and an ability to understand real life people and their real-life problems.

These topics are all fair game. And no Senator should feel reluctant to press a nominee hard in these areas, and to reject that nominee if he or she falls short of the mark.

But, Mr. President, no nominee to the Supreme Court—or to any court, for that matter—has the obligation to explain how he or she will vote once confirmed.

Simply put, Federal judges should judge only from the Federal bench. They should not, and must not, prejudge cases from the bench of a Senate confirmation hearing.

In a recent article, former Chief Justice Warren Burger gave us all ample warning about the dangers of transforming Federal judges into politicians.

And I quote:

> No nominee worthy of confirmation will allow his or her position to become fixed before the issues are fully defined in detail before the Supreme Court with all the nuances that accompany a constitutional case. Presidents and legislators have always had platforms and agendas, but for judges the only agenda should be the Constitution and the laws agreeable with the Constitution.

THE SUPREME COURT'S FALL TERM

Mr. President, yesterday, the Supreme Court began its fall term. There are many important cases now pending on the Court's docket—cases involving the death penalty, the right to legal counsel, school desegregation, and the constitutionality of punitive damage awards.

With these important issues now under consideration, the Supreme Court deserves a ninth Justice who has the intellectual capacity to hit the ground running, to make a contribution to the intellectual life of the Court right from the start.

By any standard, Judge Souter has demonstrated an intellectual ability, skills as a lawyer and jurist, and a quiet, but firm, personal and judicial temperament that leave little doubt that he will make a significant contribution to the Court from day one.

Very simply, Judge Souter deserves to be confirmed by the Senate, and he deserves to be confirmed today.

Finally, Mr. President, I want to thank the distinguished chairman of the Judiciary Committee, Senator BIDEN, and the committee's ranking member, Senator THURMOND. They have conducted fair and comprehensive hearings. And they have greatly assisted the Senate in discharging its constitutional responsibilities.

I also want to congratulate my good friend and colleague, Senator WARREN RUDMAN. As most of us know, Senator RUDMAN's interest in this nomination extends beyond "advice and consent" to the bonds that flow from of a long and enduring friendship.

The success of Judge Souter before the Judiciary Committee, and almost certainly before the Senate later today, is as much a testament to the qualities of the Senator from New Hampshire as it is to the considerable qualifications of this fine nominee.

Mr. PACKWOOD. Mr. President, I rise today to discuss the nomination of Judge David Souter to be an Associate Justice of the U.S. Supreme Court.

No duty of a U.S. Senator is more important or deserving of careful consideration than that of a nomination to the Supreme Court. If confirmed, a nominee may well serve for decades, and his or her written opinions and ability to persuade fellow Justices will profoundly affect our lives, and the lives of future generations.

In the days since the Senate Judiciary Committee completed its hearings on Judge Souter, I have given this nomination a great deal of thought.

First, I have examined transcripts of Judge Souter's testimony before the committee.

Second, constituent organizations have shared their concerns with me about this nominee. This input was welcome and helpful in directing my attention to aspects of Judge Souter's record as well as the hearing proceedings.

Third, I have listened with interest to the reasoning of my Senate colleagues as they announced their respective positions on this nomineee.

Ultimately, of course, each Senator must keep his or her own counsel in a matter of this magnitude. I welcome this opportunity to share my decision on this nomination and the thinking which led me to it.

First, and I will not belabor this point because so many other Senators have covered it quite eloquently, Judge Souter has a superb educational background and impressive legal experience. The number of years he served as a State court judge, and State attorney general, leave no doubt of his legal competence.

In addition, those who know Judge Souter personally, gave him positive references almost without exception. This is true of: hearing witnesses; the judge's friends and associates who have been quoted in the media; and individuals of long acquaintance with Judge Souter who personally shared with me their high regard for him.

Judge Souter's associates find him personable, compassionate, and possessed of great integrity.

As important as outstanding professional competence and excellent char-

acter are, those qualities alone do not a Supreme Court Justice make. The Senate's constitutional duty to provide advice and consent in the matter of Supreme Court nominations demands that we look beyond these qualities to the most critical issue: what kind of steward of the Constitution would this nominee be?

There is absolutely no doubt that the next Justice to the confirmed will be the deciding vote on a number of issues of critical importance to Americans.

Keeping this in mind, as well as the duty of Congress to safeguard constitutional rights, I reviewed with particular interest Judge Souter's testimony on privacy, gender discrimination, civil rights, and freedom of religion.

Judge Souter was questioned on freedom of religion by committee members concerned about two of his actions as State attorney general:

First, his defense of an executive order calling for the lowering of flags on Good Friday, and

Second, his statement that the beliefs of Jehovah's Witnesses who refused to display the words "Live free or die" on their license plates were "mere whimsy."

Mr. President, I, too, felt concern about these positions which the judge had taken. Freedom of religion, one of the basic tenets on which our Nation was founded, means nothing if a State can establish one sect as more legitimate by its actions, or prevent the free exercise of religion. I was therefore gratified to note that the hearing record reflects that Judge Souter would apply strict scrutiny to laws that impair the free exercise of religion. His answer about the reasoning he would apply in cases where a State is alleged to violate the establishment clause was somewhat less clear. However, on balance, I am satisfied that the positions he took as Attorney General would not be reflected in his philosophy as a Justice.

Civil Rights is another area I red flagged for careful review, due in part to Judge Souter's now-famous alleged quote that "affirmative action is affirmative discrimination." I was also interested in the novel position he took as State attorney general that employee privacy rights prohibited the State from revealing its minority hiring practices to the Federal Equal Employment Opportunity Commission. However, Judge Souter's testimony again did much to allay my concerns. He did not reject the concept of affirmative action, and indicated that he would find it appropriate in certain circumstances. He also showed, in my view, a sensitivity to the degree that race discrimination affects our Nation, recognizing it as a tragedy. Finally, he left no doubt that Brown versus Board of Education is to him a matter of well-settled law.

On the issue of gender discrimination, Judge Souter indicated dissatisfaction in his testimony, as he has in his writings as an attorney and a judge, with the so-called middle tier of constitutional protection generally used. He is not the first to find fault with this standard. More important to me than his criticism of midlevel scrutiny, is what standard of protection he would apply in gender discrimination cases: Strict scrutiny? The rational basis test? Or a newly fashioned, more acceptable middle tier standard? This issue is of more than academic concern to American women, and I wish the record were more illuminating in this regard.

Finally, let me address the issue of the constitutional right to privacy. In this area of the law, more than any other, Judge Souter was reluctant to discuss his views, and he has been widely criticized for this. Judge Souter agrees that there is a fundamental marital right of privacy as found in Griswold versus Connecticut, which includes the right to use contraceptives. However, he stopped short of expressing his opinion of the reasoning in Eisenstadt versus Baird, in which the court found that the right to use contraceptives extends to unmarried persons.

He did this, I believe, out of an overabundance of caution rather than any desire to frustrate the factfinding efforts of the committee. It is obvious from the record that Judge Souter believed that any discussion of a case coming anywhere near Roe versus Wade in the line of privacy cases might cause him to comment on the merits of Roe. I disagree with his position that answering the committee's questions on Eisenstadt would have been improper. However, each nominee must decide for him or herself what the bounds of propriety are for discussing issues they feel may come before the ~~court.~~

~~I also~~ disagree with Judge Souter as to whether the right to choose recognized in Roe is a matter of settled law. However, in the face of my dissatisfaction and disagreement with some of his responses in this area, I keep coming back to one statement he made. In response to Senator KOHL's question: "Do you have an opinion on Roe versus Wade?" Judge Souter replied, "I have not got any agenda on what should be done with Roe versus Wade, if that case were brought before me. I will listen to both sides of that case. I have not made up my mind, and I do not go on the court saying, I must go one way or I must go another way."

My distinguished colleagues, based on what we know of Judge Souter's character, and the totality of his testimony, I take him at his word. And knowing that he is of an open mind on the question of abortion, I find encouragement in his statements about how he would evaluate a claim that a particular right is fundamental. Judge Souter voiced approval for Justice Harlan's approach, taking into consideration the history and traditions of the American people. If he applies that analysis, the right to choose must, I believe, be found to be fundamental because the legal structures against abortion in this country are of comparatively recent origin. Indeed, at the time our Constitution was written, abortion was permitted under the common law.

Further, I am convinced that Judge Souter is cognizant of the legal chaos that would ensue if the right to choose is struck down. He testified that the practical consequence of overturning Roe would be "a range of protection afforded which would raise complicated federalism issues." When asked by Senator METZENBAUM whether he would consider consequences, such as the death of women from botched illegal abortions, in determining whether the right to choose is fundamental, Judge Souter indicated strongly in the affirmative.

Although I take these as encouraging signs that this nominee would recognize that the right to choose is fundamental, I am not so naive as to assume what his decisions in individual cases would be on this or any other issue. To paraphrase an apt statement, which one Senator made in committee, I cannot be accused of making my decision on Judge Souter based on the single issue of abortion, because I do not know where he will come down on that issue. I do not believe we will be sent a nominee in the foreseeable future whose position on Roe and abortion will be easily discerned. Given those circumstances, and based on the totality of the record, I will vote to confirm Judge David Souter to the U.S. Supreme Court.

This does not mean that I believe it is inappropriate to ask nominees where they stand on the right to choose. Nor does it mean that if a nominee clearly indicated that he or she would overturn Roe that I would not mount a vigorous campaign against that nominee's confirmation. However, this nomination is not the occasion to wage that battle. The record simply does not indicate to me that Judge Souter would go to the Court with the intent to overturn Roe, or that he has an agenda to weaken constitutional protection against discrimination or freedom of religion.

Mr. President, I will vote to confirm Judge Souter, believing that the scholarly mind and compassionate heart which he evidenced during the confirmation hearings, will serve him and the American people well in his years on the Court.

Mr. McCONNELL. Mr. President, I rise today in support of the confirmation of U.S. Court of Appeals Judge David H. Souter as an Associate Justice to the Supreme Court of the United States.

Before addressing the nominee's qualifications, I would first like to speak to the standard by which I examine nominees to the highest court in the land.

Over 20 years ago, as a legislative assistant in the Senate, I began to review and study the intent of our Founding Fathers in this important constitutional process. As a result, I devised a standard that I believe to be the Senate's role in this process. It was during this time that I wrote a law review article on this topic. Mr. President, I request that my article, "Haynsworth and Carswell: A New Standard of Excellence," Kentucky Law Journal (Volume 59, 1970-71), be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[Article not reproducible in the RECORD.]

Mr. McCONNELL. Mr. President, an examination of the Senate's historic role in this confirmation process should begin with the political writings contemporaneous with the drafting and approval of the Constitution. In the Federalist, No. 76, in discussing the nomination process, Alexander Hamilton clearly defines the limits of the Senate's "advice and consent" power:

> To what purpose then require the cooperation of the Senate? I answer, that the necessity of their concurrence would . . . be an excellent check upon a spirit of favoritism in the President, and . . . prevent the appointment of unfit characters from State prejudice, from family connection, personal attachment, or a view to popularity.

Clearly, a test of ideology and politics was not contemplated. Also, the very structure of the proposed government, and the relationship of each branch to the other, supports this view. The framers intended for three separate and independent branches of government. The judiciary was to be free from political influences, insulated from the whims of a changing majority and answerable only to the law and a public that expected the judicial branch to despense justice free from the taint of popular politics. Any attempt to deny confirmation on the basis of a philosophy, that is within the mainstream of American political and judicial thought, is an assault on this tripartite structure of government. It is clear under our form of government that the advice and consent role of the Senate in judicial nominations should not be politicized.

Therefore, from Hamilton's description of the Senate's role in the nomination process, I have identified five basic criteria for reviewing nominations to the Supreme Court: Competence, temperament, judicial propriety, judicial achievement, and personal integrity.

Obviously, there are other theories to apply regarding the correct confirmation test, at various times during the history of Senate confirmation proceedings of Supreme Court nominations, the personal or political philosophy of the nominee has become the principle, and sometimes the only, criteria for fitness to the Court. Most recently, we went through the shameful debacle of the Bork confirmation process. The Bork proceeding was, thus far, the nadir of the 20th-century version of the bitter battles of the 18th and 19th century where judicial nominees were rejected because of partisan and ideological differences. The political judgment of a nominee's fitness for judicial office has found modern day validation in the writings of Yale Law School Professor Charles Black.

In my opinion, Senator KENNEDY stated the correct view during the confirmation of Justice Thurgood Marshall. Justice Marshall's nomination was strenuously opposed by Senate conservatives. The senior Senator from Massachusetts said:

> I believe it is recognized by most Senators that we are not charged with the responsibility of approving a [Supreme Court Justice] only if his views always coincide with our own. We are not seeking a nominee for the Supreme Court who will express the majority view of the Senate on every given issue, or on a given issue of fundamental importance.
>
> We are interested really in knowing whether the nominee has the background, experience, qualifications, temperament, and integrity to handle this most sensitive, important, responsible job.

There is no doubt that fundamental differences continue to exist as to what standards of fitness to apply. However, unlike the competency, integrity criteria, the successful application of the political fitness test requires an environment of intense political activity. As the Bork nomination proved, an extensive record of written achievement can create such a fertile environment.

However, the ideological litmus test may be applied differently when the nominee has neither written nor stated sufficient views on particular issues. Thus, the mechanism for determining whether the candidate will pass the political litmus test, may itself become the test. For example, during the Souter hearings, ideological opposition evolved to opposition based upon the nominee's failure to answer specific questions relating to issues that are most certainly to come before the Court.

With this new approach, those opposed to Judge Souter have tried to apply their political litmus test in a different fashion. Unhappy that the nominee has not provided any so-called controversial material—disagreement with the questioner's position—upon which to oppose the nominee, some would reject him for not commenting on issues of a future case before the Court. It started with general concerns about the open-mindedness of the candidate:

> David Souter must assure the Senate and the public that he has an open mind, is forward-looking and has a vision of the Constitution which respects individual rights. If he fails to meet this burden, the Senate should withhold its consent. (Nan Aron, Director, Alliance For Justice)

Later, the demand for David Souter's personal views on specific constitutional issues arose.

While I agree that a nominee should have an open mind, any questioning beyond a genuine effort to determine this openness is clearly inappropriate. Likewise, any attempt to elicit a specific response regarding an issue which is reasonably expected to come before the Court in the future is fundamentally unfair to any future parties and a violation of the judicial canons of ethics.

Moveover, such tactics begin to impinge upon an even greater principle, the constitutional doctrine of separation of powers. Warren E. Burger, in commenting on what he characterizes as a new assault on the independence of the judiciary, refers to this line of questioning as an inquisition. He states that the practice of calling upon Supreme Court nominees to answer questions in advance of how they would vote on specific constitutional issues is demeaning to, and a corrosive action upon, the Court and its necessary independence:

> Does such an inquisition not demean and undermine our historic separation of powers? If Senators can commit a future justice as to how he or she will decide a particular case, who then is construing the Constitution? Where does this place the high duty of constitutional interpretation?
>
> Now the question is whether the American people are witnessing a confirmation process in which special interest groups have flooded Senators with questions demanding advance commitment from the nominee as to what his or her vote will be on some pet subject.

Justice Burger was further quoted as saying:

> Of course, no nominee worthy of confirmation will allow his or her position to become fixed before the issues are fully defined in detail before the Supreme Court with all the nuances that accompany a constitutional case.
>
> To expect a nominee to make commitments, or even to engage in substantive discussion of a case yet unseen, borders on the preposterous. Judges, like Senators and Presidents, while entertaining general impressions on a subject, have been known to change their minds when they have all the facts and circumstances as distinguished from some hypothetical proposition.

Lloyd N. Cutler, counsel to former President Jimmy Carter, in a written article disapproving of this type of questioning of Judge Souter, wrote:

> As Prof. Charles Black has noted, the Court is the great legitimator of our government, the final arbiter of whether or not the executive and legislative branches have exceeded or abused their limited powers. To perform this vital function, the Court must be, and must appear to be, as independent of the President and of the Congress as humanly possible. While the President must appoint and the Senate must confirm or reject the nominee, it is vital to the integrity of the process that neither they nor the rest of us insist on knowing in advance how a new Justice is going to vote in a particular case.
>
> The key to the Court's critical constitutional role lies in the mystery of its future actions. If the Justices appear to have committed their votes to the President, who appoints them, or to the Senate which confirms them, we will no longer trust them as our ultimate authority on the Constitution's meaning.

In August, speaking before the American Bar Association, Supreme Court Justice John Paul Stevens warned against either the executive or legislative branches trying to determine in advance the views of the nominee:

> You really wouldn't want a judge who would say in advance how he or she would vote on particular issues. That's not part of the independent judiciary that's such an important part of our tradition and our history.

I continue to believe that the Senate should reject the political litmus test. I also believe the Senate should reject any test requiring a nominee to state in any substantial way how he or she will vote on a particular issue that may come before the Court.

Mr. President, regarding Judge Souter's qualifications, it is quite obvious that after 5 days of hearings and 40 witnesses, Judge Souter's competency is certainly not in doubt. The American Bar Association's standing committee on the Federal judiciary has given him its highest rating, "well qualified." As both a lawyer and judge, his peers have spoken of his brillance and his outstanding intellectual capacity.

As to the second criterion, judicial achievement, Judge Souter is also very qualified. He has served with distinction in the following New Hampshire offices—assistant attorney general, attorney general, State superior judge, and State supreme court judge. Most importantly he has a depth of judicial experience including the hands on experience of a trial judge, a significant skill and perspective to take to the Higher Court. With his current position on the U.S. Court of Appeals, Judge Souter has 12 years on the bench. In fact, he has more judicial experience than all but one of the current Justices had at the time of their confirmation. John Broderick, a former New Hampshire Bar Association president, said of his judicial ability, "he's a judge's judge, extraordinarily talented and impeccably fair."

Judge Souter clearly meets the exacting standard of excellence. Academically, Judge Souter, a Phi Beta Kappa, graduated magna cum laude from Harvard College. Afterward he studied at Oxford University for 2 years as a Rhodes scholar. He completed his academic and professional studies at Harvard Law School. A "first rate scholar," says a former president of the New Hampshire Bar Association.

Last, a thorough examination of his background has found his judicial propriety and personal integrity to be above reproach. Even his most severe critic makes no challenge regarding Judge Souterh's personal or professional honesty. The ABA's standing committee stated that "Judge Souter's integrity, character, and general reputation appear to be of the highest order and without blemish."

In conclusion, Mr. President, under these standards of fitness I will vote to confirm Judge David H. Souter as Associate Justice to the Supreme Court.

Mr. COATS. Mr. President, in the last several years the Senate's constitutional role of advise and consent has lost its way in a thicket of policy debates and partisan agendas. Recent confirmation fights have scarred the process with bitterness and distortion. Senate hearings have become political inquisitions, rehashing the shifting debates of current elections.

But with the nomination of Judge Souter, we have the opportunity to defy the recent past.

To begin with, we must relearn a basic principle, a principle concerning how the Senate should treat the President's Supreme Court appointments. A principle about what the power of nominations means.

This is not a debate we conduct in a vacuum. The doctrine of advise and consent was given considerable attention by the founders. Alexander Hamilton wrote that the Senate should approve a president's nominee unless there were "*Special and strong* [emphasis mine] reasons for refusal." And further, that when the Senate oversteps its proper bounds, the result is "the full display of all the private and party likings and dislikes, partialities and antipathies, attachments and animosities, which are felt by those who compose the assembly."

Senator George Cabot of Massachusetts wrote in 1799, "I have always rejected the idea of non-concurrence with a nomination merely because the nominee was less suitable for the office than thousands of others: He must be positively unfit for office, and the public duty not likely to be performed by him, to justify in my mind the non-concurrence. It has always appeared to me that a departure from this principle would soon wrest from the President altogether the essence of nominating power, which is the power of selecting offices."

A judicial nomination is not properly a political struggle for the direction of the court between executive and legislature. That decision was made in a national election 2 years ago. The president has earned the right to make his choice under the Constitution. The Senate, quite simply, has no political role in this process at all. The criteria for our judgment is character, experience, and intelligence—these minimum standards of fitness. These limited determinations exhaust our appropriate involvement.

But with Judge Souter, we can say more than the undisputed fact he is fit for office. We can say he will bring exceptional talents, temperament, and knowledge to the court. This nominee merits more than grudging acceptance. He deserves our strong support.

His academic record is unexcelled. His service to New Hampshire as attorney general was outstanding. His tenure on the New Hampshire supreme court was distinguished. He is a scholar of the law and an individual of personal loyalty and religious conviction.

But above all, he takes it as his purpose to ensure fidelity to the words of the Constitution and the original intent of the framers. In a 1986 case Judge Souter wrote that "the court's interpretive task is to determine the meaning of * * * [constitutional language] as it was understood when the framers proposed it."

Some have attempted to define this approach as a variety of extremism. But it was once the dominant view of constitutional law.

Justice Nathan Clifford, in 1874, summarized this attitude, "courts cannot nullify an act of the legislature on the vague ground that they think it is opposed to a general latent spirit supposed to pervade or underlie the Constitution. * * * Such a power is denied to the courts, because to concede it would be to make the courts sovereign over both the Constitution and the people, and convert the government into a judicial despotism." Justice Felix Frankfurter, about 90 years later, reflected, "as a member of this court I am not justified in writing my private notions of policy into the Constitution, no matter how deeply I may cherish them or how mischievous I may deem their disregard."

I am convinced that the job of the judge is the application of the law, not the creation of new laws. The Supreme Court should be an instrument to check Federal expansion, not an instrument of Federal expansion. It is a principle, by every indication, that Judge Souter supports.

The alternative is to turn the court into a source of unpredictable interventions in policy debates. Judges become oriented toward political outcomes. Courts become political tribunals, and the consequences for democracy are profound.

Important decisions are taken out of the hands of voters and put into the hands of unelected judges. "If this is all that judges do," wrote Alexander Bickel, "then their authority over us is totally intolerable and totally irreconcilable with the theory and practice of democracy." Justice Hugo Black, who was occasionally guilty of the sin he condemns, warned that the Nation could "cease to be governed by the law of the land and instead become one governed ultimately by the rule of judges." He preferred to put his faith in the words of the written Constitution itself rather than to rely on the shifting, day-to-day standards of the fairness of individual judges." Abraham Lincoln said that under an activist court, "the people will have ceased to be their own rulers, having to that extent practically resigned their government into the hands of that eminent tribunal."

We cannot predict what decisions the court will be forced to make in future years. Issues change from decade to decade, even from year to year. The things that seem most important today may be relegated to footnotes in the dissertations written when the century turns. The most important attribute of a judge is his judicial philosphy and temperament, not his stand on current and shifting political debates.

By this standard, the president has made an excellent choice. He has appointed a candidate of judicial distinction and judicial restraint—a judge who will leave to legislators the business of legislation. And I hope the Senate will respond with its careful consideration and overwhelming support.

Mr. COHEN. Mr. President, the Senate's role in judicial appointments, and particularly the appointment of members of the U.S. Supreme Court, is one of its most important functions. In fulfilling its constitutional duty of advice and consent, the Senate shares with the President the critical responsibility of shaping the quality of the Federal judiciary and, therefore, the quality of justice in our Nation.

Although there may appropriately be a strong presumption in favor of a Presidential nominee, each Senator has an obligation to evaluate the qualifications and competence of those individuals nominated by the President in order to meet the responsibility imposed by the Constitution. After reviewing with some care David Souter's academic and professional qualifications, and his writings and testimony before the Judiciary Committee, I believe that Judge Souter should be confirmed for a seat on the U.S. Supreme Court.

The Judiciary Committee's hearings on the Souter nomination were lengthy and comprehensive. With few exceptions, the members of the committee and those who watched the hearings were impressed with Judge Souter's intelligence, his thoughtfulness and his strong streak of independence. His background is equally impressive, from his notable educational credentials to his experience as a State attorney general, trial judge, and New Hampshire Supreme Court justice.

The Standing Committee on the Federal Judiciary of the American Bar Association unanimously found Judge Souter to be "well qualified," its highest rating. The president of the New Hampshire Bar Association testified that "those of us who have witnessed Judge Souter's judicial performance firsthand can, in good conscience, report to this committee that he possesses * * * a first-rate legal mind, a flexible and curious appetite for the law, an unbiased ear for argument, an uncommon civility and * * * a quiet compassion."

There is, of course, uncertainty on how Judge Souter will rule on issues of considerable importance, particularly the issue of abortion. Many individuals and organizations who support a woman's right to choose, including myself, have reservations about what Judge Souter will do once he is on the Court. However, I am convinced by Judge Souter's testimony that he brings no personal agenda to the Court, and that he will be an open minded, fair and compassionate jurist.

I do not believe that Judge Souter's intelligence, his integrity, his respect for the rule of law and the Constitution, or his commitment to the fundamental principles of justice and equality can be questioned. It is by these standards, together with professional competence, that Judge Souter and other nominees to the Federal judiciary should, in my opinion, be judged. I believe Judge Souter has demonstrated the kind of qualities that will make him a fine addition to the U.S. Supreme Court.

Mr. ROBB. Mr. President, I rise to declare my support for the confirmation of Judge David H. Souter to the Supreme Court of the United States.

I followed Judge Souter's testimony before the Judiciary Committee with interest. He was questioned at great length and, at times, sharply. Yet I did not hear anything which would cause me to vote against his nomination.

Judge Souter's objective academic qualifications are superb. More persuasive, though, was the subjective evidence offered on his behalf by a number of witnesses, including two former Democratic attorneys general of Virginia, one of whom was my successor as Governor.

Many people have raised concerns not about what was said in the Judiciary Committee, but about what wasn't said. While I share the concerns of many about critical issues, including the right to privacy, I was impressed by Judge Souter's apparent willingness to listen to the arguments presented to him. In casting my vote on his behalf, I add my fervent hope that Judge Souter's openness and willingness to listen remain hallmarks of his service as Associate Justice of the Supreme Court.

Mr. HATFIELD. Mr. President, I will vote to confirm the President's nomination of Judge David Souter to the Supreme Court when the Senate turns to this matter later today. Like the majority of my colleagues, I was enormously impressed by Judge Souter's personal decency, intellectual capacity and legal expertise during his recent testimony before the Senate Judiciary Committee. I will cast my vote for Judge Souter with full confidence that his will be a voice of reason and fairness on the bench in the years ahead.

The fact that this nomination comes at a time when our Nation's attention is focused on Roe versus Wade has forced all of us to think long and hard about how we view the Supreme Court and how we approach the Senate's confirmation process. I want to share briefly with my colleagues some thoughts on this nomination, on this process and on the complicated and sometimes polarizing times in which we live.

Undoubtedly, there are organizations and individuals who will accuse those of us who vote to confirm Judge Souter of being insensitive to their concerns and to their depth of commitment. That charge cuts to the heart of what I believe is a very serious misunderstanding of this confirmtion process.

If part of our constitutional responsibility to give our advice and consent regarding a judicial nomination involved making sure that the nominee's views on specific issues match our own, I am afraid I would never be able to support a judicial nomination. I certainly would not be able to support this one. Why? Because I know where Judge Souter stands on an issue I care and feel deeply about: the death penalty. Unlike abortion rights activists whose opposition to this nomination stems from the fact that they do not know where Judge Souter stands on Roe, I know where he stands on the death penalty. He stands firmly on the other side of the issue. As deeply and strongly as some people feel about Roe I feel just as deeply and strongly that the death penalty is not merely wrong but fundamentally immoral.

Perhaps there are those who will argue that my opposition to the death penalty is somehow rendered meaningless by my willingness to confirm a Supreme Court nominee who disagrees with my position—just as there are those who will question the commitment of abortion rights Senators who vote for a nominee whose position on abortion they do not know. But, Mr. President, I do not exaggerate when I suggest that this single-minded vision, if it prevails, could destroy our democracy.

Our population is infinitely diverse in race, ethnic origin, economic status, religion, and personal values. Our States and regions are equally diverse in history, geography, and economic base. This pluralism and individualism argues against our survival as a nation. But we have survived—despite often bitter debate and a bloody Civil War. We have survived because our forefathers gave us a constitutional government based on pluralism and individualism, and a Supreme Court free of daily political pressures.

To apply a single-issue litmus test to a Supreme Court nominee would be to contravene the fundamental principles of American democracy. As the Oregonian stated in its September 20, 1990 editorial "* * * spokesmen for abortion-rights and women's groups are wrong in trying to make Souter's position on Roe versus Wade [sic] the sole test of whether he should be confirmed." I agree and refuse to apply such a test in the case of Judge Souter.

Unfortunately, Mr. President, I am convinced that the highly charged political atmosphere in which Judge Souter has found himself is largely a problem of our own making. On one hand, I give great credit to my colleagues who refuse to allow this nomination, and indeed this entire process, to become a series of political litmus tests. But on the other hand, I am increasingly convinced that the very fact that all judicial nominees are now greeted with more questions about politics than about principles is a direct indictment of us and of what this process has become.

We have allowed this political polarization to occur—indeed we have fostered an environment in which single-issue politics flourishes and prevails—by being more interested in ducking the tough issues than a taking responsibility for them. This legislative paralysis has resulted in people looking to the courts for political activism. That is not only wrong, it is also dangerous.

We live in enormously complicated and increasingly polarized times. But that fact simply underscores the urgent need for both the continued integrity of the Supreme Court and for Congress to take responsibility for the tough issues at hand. Voting to confirm Judge David Souter's nomination will ensure the former. But only we can ensure the latter.

Ms. MIKULSKI. Mr. President, the Constitution requires that Members of the U.S. Senate advise and consent to a Presidential nomination for a vacancy on the Supreme Court.

Once consent is given, a Supreme Court Justice may serve for the rest of his or her life, virtually unaccountable to any person or group.

This is as it should be. We don't want our Supreme Court to be swayed by momentary Presidential passions, or forced to choose between justice and votes.

In return for our consent, however, the Members of the U.S. Senate have a right to know for whom we are voting.

I have no doubt that Judge Souter is professionally competent. Nor do I question his personal integrity.

But I cannot cast my vote to confirm a man who has been silent, vague, or evasive every time he has been asked if he would uphold fundamental constitutional rights—rights of concern to every American and particularly of concern to America's women.

Judge Souter has refused to discuss how the Constitution's guarantee of equal protection under the law protects women against gender discrimination; and he has refused to discuss the fundamental right of privacy.

Through most of the Senate's confirmation hearings, Judge Souter dazzled us with his wit and intelligence. He discussed at great length many areas of the law with which he will have to deal. He spoke on issues of desegregation, the death penalty, and the separation of church and state.

But whenever questioning turned to the constitutional rights of women the eloquent Judge Souter became the intractable and laconic New Englander of legend.

And so today, we do not know if Justice Souter would vote regarding women under the protection of the Constitution.

We don't know if Justice Souter would vote to protect a woman's right to decide when and if to bear a child.

Mr. President, women were not even allowed to vote in this country until 1920. Only 16 women have ever stood on the floor of this Chamber as a U.S. Senator. Only in the last generation have many women truly started to gain control over their lives, their careers, and their families.

And we still have far to go.

We have worked too hard and come to far to accept silence and evasion from a Supreme Court nominee.

The U.S. Senate represents 250 million Americans. We cannot act on their behalf without candor and from men like Judge Souter.

I respectfully submit that it is not acceptable for a Supreme Court nominee to conceal his views of the critical constitutional issues of the right of privacy.

I cannot make a leap of faith for Judge Souter. I will vote against his confirmation.

Mr. KERRY. Mr. President, as I contemplate a vote on this nomination, I know that Judge Souter will be confirmed overwhelmingly. I doubt there will be more than 10 votes against him. So I am voting on a nomination that is not in doubt.

Judge Souter has been impressive in the confirmation process. He is obviously extraordinarily bright and articulate, and worthy of the high regard in which he has long been held by my friend Senator RUDMAN, whom I respect greatly.

There is no question of the potential for Judge Souter to make a significant contribution to the Supreme Court, in the tradition of Justice Harlan—a goal he has set for himself.

He may well be as some have said, "the best nominee we could expect from this President."

But while there is a great deal that commends this nonimee to me and urges me to vote for him, I want my vote to underscore my deep concern about two areas.

On civil rights and on women's rights there are significant questions about Judge Souter which loom large enough to justify a vote against this nominee. This seat is a critical seat on the court at a critical moment in its history.

Many of my colleagues have come to the floor and bemoaned the gaps in their knowledge and in the record about Judge Souter's philosophy in these areas. They have also expressed concerns about some of the things he did say.

For example, in his testimony, Judge Souter distinguished between "marital privacy" which he stated "can and should be regarded as fundmamental" and other privacy, "not every aspect of [which] may rise to a fundamental level."

Judge Souter suggested that in the privacy area, one had to engage in a balancing test, under which any fundamental State interest can be balanced against the fundamental interest of the individual to determine which interest shall prevail—the individual's right of privacy, or the "fundamental right" of the State, which Judge Souter did not define.

There are two problems here, and both are serious.

First, because Judge Souter is vague as to what might constitute a "fundamental interest" of the State, in theory, he might find that almost any interest of the State could be determined to be "fundamental." Judge Souter's balancing test here might be interpreted as requiring only something more than a rational relationship test. The test implies that Judge Souter might well agree to loosen current constitutional restraints on the ability of Government to intervene in people's private lives.

Second, Judge Souter explicitly, carefully, and definitively distinguished the right of privacy of people who are married from those who are not. The former have a fundamental right, according to Judge Souter, looking back to the intent of the Founding Fathers; the latter have some rights, but these may not be fundamental, Judge Souter testified.

This is an odd and disturbing distinction. Unfortunately, Judge Souter refused to answer other questions which would have more fully explained the practical meaning of the distinction, so it is difficult to understand the meaning of the distinction. Nevertheless, it is a troubling one.

These are examples only, but they suggest why so many of us find this nomination to be, as in the words of Senator BIDEN, "a hard case," requiring a difficult choice.

In the past, I have voted for Justices whose judicial philosophies were far from the approach that I would like to see taken by the Supreme Court, including Justice Scalia and Justice Kennedy.

Today, I have decided to make a different choice to carry out my responsibility of advise and consent. I choose with my vote to express my concern about the future of civil rights and women's rights, and therefore will vote against this nomination.

Mr. HUMPHREY. Mr. President, my remarks will be brief, since Judge Souter's eminent qualifications for confirmation as a Supreme Court Justice have been thoroughly demonstrated and discussed.

Needless to say, New Hampshire is extremely proud of Judge Souter. His legal and judicial accomplishments, and his lifelong commitment to public service, were already well-established before the confirmation hearings began.

But if there were any doubts about Judge Souter's fitness for the High Court, they were demolished by his impressive demonstration of legal knowledge and unflappable judicial temperament during the ordeal of confirmation hearings. Once his testimony was completed, even the skeptics understood what those from New Hampshire have known for years: Judge Souter has the "right stuff" to serve with distinction on the U.S. Supreme Court.

Of course, no nominee for the Supreme Court can be "all things to all people", and Judge Souter is no exception. To his credit, he declined to yield to the demands of those who sought a pre-confirmation commitment on crucial issues that will be coming before the Supreme Court in future cases. Ironically, Judge Souter's demonstration that he would listen with a fair and open mind to the arguments on such issues was attacked as grounds for opposing him by those who demanded a pledge to rule their way in future abortion cases.

I am pleased to see that these blatant assaults on the principle of judicial independence have failed to carry the day. Many of the same groups that conspired to defame Judge Bork 3 years ago have called for the rejection of the moderate Judge Souter because he has declined to endorse their liberal agenda before taking a seat on the Court.

Although a few Members have heeded that call, I am confident that an overwhelming majority of the Senate will reject it. Any other result would cause irreparable damage to judicial independence.

In that regard, it is also important to recognize that portions of Judge Souter's testimony were of little comfort to those who seek a more conservative judiciary. I readily admit that some of his testimony was a bit disturbing to this Senator. For example, I do not share his assessment that Justice Brennan has been a peerless defender of the Constitution—at least not the Constitution that I know. His testimony also indicated that Judge Souter needs to be more sensitive to the dangers of judicial usurpation of legislative powers. I suspect that this may be attributable to the fact that he has spent his judicial career in the relatively sane environment of the New Hampshire courts. After a few months exposure to the excesses of some of the Federal courts, I am confident that he will develop a keener appreciation of this problem.

While Senators on both sides of the aisle may have their individual reservations on various issues, it is clear that Judge Souter is a sound and solid choice for the Supreme Court at this time. The American people entrusted President Bush with primary responsibility for selecting Supreme Court Justices in the last election, and he has chosen well.

Judge Souter has demonstrated a rare combination of qualities which will serve the American people well—a keen understanding of the Constitution coupled with a strong sense of fundamental fairness. I strongly support his confirmation and urge my colleagues to do the same.

Mr. LIEBERMAN. Mr. President, after careful consideration, I have decided to support the nomination of Judge David Souter to the U.S. Supreme Court. This is based upon my own conversations with Judge Souter, the material we have received from both supporters and opponents of his nominations, Judge Souter's testimony before the Judiciary Committee and the committee's report and additional and dissenting views.

I have concluded that Judge Souter is extremely well-qualified for the position of Associate Justice of the U.S. Supreme Court. He has received the highest rating of the American Bar Association's Standing Committee on the Federal Judiciary. His long experience as an attorney general, a trial judge, and a State supreme court justice gives him a great deal of perspective on, and sensitivity to, the effect of his decisions on litigants and the judicial system. He clearly is very intelligent, and capable of rendering well-reasoned decisions solidly grounded in both the facts of the case and the law as he interprets it.

I, of course, have no greater insight than any of my colleagues into what result Judge Souter would reach in specific future cases. I nevertheless will vote to give advice and consent to his nomination because I believe that he will approach the issues before him with an openmind in an attempt to reach a fair and reasoned conclusion. A judge must decide each case in the light of the facts and arguments presented, and the law as it stands at the time judgment is rendered. I believe Judge Souter will do this, that he will not decide these cases in the abstract, and that he will not join the Supreme Court with an agenda to fulfill.

I am comfortable that, in voting to confirm Judge Souter, we will place on the Supreme Court a man who will approach the new legal issues of the next century in a careful, methodical, and analytical manner. I believe Judge Souter will serve with honor and distinction. I will, therefore, vote to confirm Judge Souter as an Associate Justice of the U.S. Supreme Court.

Mr. HEFLIN. Mr. President, I come to the floor today to reaffirm my announced position on the confirmation of Judge David Souter to be Justice on the U.S. Supreme Court. I strongly believe that Judge Souter has the necessary qualities to be a Justice on the Court, and I will vote in favor of his confirmation.

I believe that Judge Souter will bring to the Supreme Court strong credentials will serve him well over the course of his tenure on the Court. His academic background is clearly outstanding, and his legal experience more than adequately qualifies him to sit on this Nation's Highest Court. Further, I believe that Judge Souter will bring the reflected values of a small town that is tightly knitted, that cares about its neighbors, and that reflects traditional American concepts of respect for the rights of others and respect for a fair and just society.

I accept Judge Souter's responses to the committee's questions on a wide range of legal issues. I believe that he will respect precedent and be a faithful guardian of the Constitution. Further, I know that Judge Souter will bring a historical perspective and a clear-headed approach to the analysis of issues which will come before him.

In conclusion, I wish to add my voice to the chorus of support which has followed this nominee, and I urge my colleagues to vote in favor of his confirmation.

Mr. CONRAD. Mr. President, I rise to speak in support of the nomination of David H. Souter to be an Associate Justice of the U.S. Supreme Court.

Judge Souter was nominated by President Bush to replace one of this century's most vigorous defenders of individual liberties, Justice William Brennan. In his 34 years on the Supreme Court, Justice Brennan authored more than 1,200 opinions. He leaves a legacy that extends from Baker versus Carr—a decision that enunciated the one-man, one-vote principle and opened the courts to litigation over voting rights—to the case New York Times versus Sullivan—a case which is the basis for the expansion of first amendment speech and press guarantees that we have seen in this century. Justice Brennan's principled application of constitutional protections has made this country a better place to live for many Americans.

Justice Brennan's departure also means that his replacement will step onto a court fiercely divided over issues like the separation of church and state, the question of exclusion of illegally seized evidence from State and Federal trial proceedings, and the issue of privacy, to name just a few. It is indeed a pivotal time for the U.S. Supreme Court.

Mr. President, in the fall of 1987, the Senate and this Nation experienced one of the most divisive confirmation battles in our history. It was during that year—my first in the Senate—that I realized that there were few Senate responsibilities more solemn than the constitutional duty of advise and consent. Nominees to the High Court face the prospect of deciding cases when every Member of this body is long gone. They may cast deciding votes on issues which we cannot even imagine today. Our decision to approve a nominee cannot be amended. There is no omnibus bill to revisit approval of a nominee. It is a decision we can only make once, and it must be wisely made.

I hold deeply to the view that the Senate has a coequal role in the nomination of Supreme Court Justices. It surprises advocates who argue for Presidential deference to know that in one early draft of the Constitution, the U.S. Senate was the body which chose nominees to the High Court. The current partnership between the Senate and the White House was settled on to provide an appropriate balance between the branches.

While the Constitution confers on the Senate the duty to share the responsibility of nominating a Justice, it does not give guidance on the criteria for evaluation of such nominees. Each Senator must develop his own standards. The nominee must be intelligent, honest, and competent. The nominee must also possess a deep understanding of the constitutional issues that have been crucial in this nation since its inception: State and Federal powers and the rights and liberties of all individuals.

Our duty in this body, then, is to elicit the views and thoughts of Supreme Court nominees. Accordingly, I closely followed the nomination of Judge Souter. I watched or reviewed the tesimony from his confirmation hearings. I solicited the views of members of the bar of my own State of North Dakota. I conferred with Members of this body on the nomination of Judge Souter. And, finally, I was fortunate to have the opportunity to meet and spend some time with Judge Souter.

From this examination, a very clear picture of Judge Souter has emerged: A highly intelligent, dedicated jurist who has an impressive command of the issues that may come before the U.S. Supreme Court.

Judge Souter is clearly qualified to serve on the Supreme Court. His legal career is very impressive, and his experience spans almost all aspects of the legal profession. His decision to dedicate much of his career to public service is laudable. Colleagues who have opposed him in Court, or who have lost cases before his court, have universally applauded his intellect, his dedication to fairness, and his judicial temperament.

His appearance before the Senate Judiciary Committee demonstrated that he possesses an impressive command of modern constitutional issues. He spoke knowledgeably about issues that have occupied the Court in the 20th century, including the separation between church and state; civil rights; Federal affirmative action programs; the guarantees of free speech and the free exercise of religion; the constitutionality of the death penalty; the relationship among the various branches and levels of Government; the powers and limits on powers of the State; and the rights and liberties of individuals.

I will vote to confirm Judge Souter, but I had one concern. While I understand the Judge's personal view that he could not comment on issues which might prejudge cases that could come before the Court, I was dismayed with what I thought was selective application of this principle.

For instance, when asked by Senator SPECTER about his view of the free exercise clause as expressed in the case involving the use of peyote by drug counselors, Judge Souter said:

> On the free exercise question, I have to be circumspect to a point because I believe that the Smith case is subject to a motion for rehearing presently before the Court. But I think there are some things that with a reasonable degree of specificity I can say.
>
> The first is that I do not come here and prior to the decision of that case or after it I have not had personal reason to want to reexamine the strict scrutiny test which has been applied in a lot of cases since Shurbert. I recognize the reasoning of the majority opinion. I mean I can follow it; I understand what the Court was saying in the Smith case. But I also recognize I think the fact that case could also have been examined under the Shurbert standard. As you mentioned or indicated a moment ago, that, of course, is exactly what Justice O'Connor did in her concurring opinion in that case. (Transcript, September 14, pp. 47-48)

This amplification of views on the free exercise clause is utterly appropriate, in my view. And, yet, in response to questions in any way related to Roe versus Wade or the War Powers Resolution, for example, Judge Souter invoked his prohibition on responding. In response to the very next question posed by Senator SPECTER, Judge Souter stated:

> The first is, of course—and I know you recognize this—that because of the reasonable likelihood that the constitutionality of the War Powers Resolution could come before the Court in some guise, I cannot give an opinion on the constitutionality of that.

Judge Souter, in fact, refused to reflect in any way on some key constitutional questions. I agree that he should not have to indicate how he would vote in particular cases, but he could discuss his views on many issues without revealing the way he might vote.

This pattern greatly concerns me because I fear it may betray a lack of candor on issues which might provoke opposition from this body. I oppose the single-issue politics which may have fostered this strategy, yet I believe Judge Souter could have forthrightly replied to many of the questions that he declined to answer without jeopardizing his independence or integrity on the bench. His refusal to answer these questions has left the Senate to consider his nomination without knowing his views on the pivotal issues of civil rights and race and gender discrimination, the right to privacy, Federal powers, biomedical ethics, and many others. He has tried to calm the fears of concerned Senators by assurances that he will listen. I believe that he will listen, but I fear that he has not fully revealed views that should appropriately be discussed.

I hope, Mr. President, that I am wrong and this was not a concerted strategy, but I must agree with my colleagues on the Judiciary Committee and express my dismay at Judge Souter's unwillingness to answer crucial questions on some major constitutional issues of our day.

Mr. President, despite this concern, I shall support the nomination of Judge Souter to the U.S. Supreme Court. I found him in our meeting together to be an open, learned individual. I believe his statement that he shall listen to those who come before the Court. I believe that he truly understands that millions of Americans' lives may be affected by decisions he renders. This is an awesome responsibility, and he has convinced me that he is worthy of the trust and confidence of the American people.

Mr. NUNN. Mr. President, I rise today to announce my support for the nomination of Judge David H. Souter to the U.S. Supreme Court. I believe that he is a well-qualified individual who will serve with distinction on our Nation's highest court.

Judge Souter has an impressive academic record and a career of distinguished public service. Following his graduation from Harvard College in 1961, he was selected as a Rhodes scholar and attended Magdalen College, Oxford, between 1961 and 1963. He then enrolled in Harvard Law School and was graduated in 1966.

In his first job out of law school, Judge Souter practiced law in a private firm in Concord, NH, and 2 years later began 10 years of service with the State attorney general's office. In 1976, he was appointed attorney general for the State of New Hampshire, a position he held for 2 years until he was appointed to the superior court bench. Five years later, he was named an associate justice of the New Hampshire Supreme Court. Earlier this year, President Bush nominated Judge Souter to the First Circuit Court of Appeals.

I believe that Judge Souter's life time commitment to public service makes him a good candidate for the Supreme Court. From my review of the Judiciary Committee's hearing records and from my conversations with colleagues, I am convinced that Judge Souter will not be an ideologue with an agenda, but rather a temperate jurist. I believe that he has the intellect and integrity to fulfill his constitutional duties as an Associate Justice of the Supreme Court.

Finally, I believe that Judge Souter will not be judicially rigid. Instead, it is my hope that he will decide the cases that come before him with a healthy application of common sense. It is my view that our Founding Fathers intended to set forth general principles which would remain the foundation of our Nation and that they viewed the Constitution as a living document to be interpreted with common sense in light of changing circumstances and conditions. Mr. President, I believe that Judge David Souter will use such a standard and will serve our Nation well.

Mr. DOMENICI. Mr. President, I rise today to express my support of the confirmation of Judge David Souter to be an Associate Justice of the U.S. Supreme Court.

Under the Constitution, the Senate has the duty to offer advice and consent on judicial nominees. Our primary concerns when confirming a nominee for the Supreme Court should not focus on specific issues, but rather on the nominee's ability to serve on our Nation's Highest Court.

The Senate must determine whether the individual that the President has nominated has the competence, integrity, temperament, and respect for the basic principles of our constitutional system necessary to serve as a Justice of the Supreme Court. I am convinced that Judge Souter possesses these qualities.

First, a Justice must be a person who has exhibited exceptional competence in the law: He or she should be learned in the law and have extensive experience in the practice of the law.

Judge Souter graduated magna cum laude and Phi Beta Kappa from Harvard University in 1961. He continued his education as a Rhodes scholar at Oxford University in England and then returned to Harvard, where he earned his law degree.

After 2 years of private law practice, Judge Souter entered public service. He was an assistant attorney general of New Hampshire for 3 years, deputy attorney general for 5, and attorney general—the State's chief law enforcement official—from 1976 to 1978.

In 1978, he was appointed to the New Hampshire Superior Court on which he served for 5 years until he was appointed to the New Hampshire Supreme Court. In 1990, Judge Souter was unanimously confirmed by the Senate to be a judge on the U.S. Court of Appeals for the First Circuit, where he currently serves. With his 12 years on the bench, Judge Souter has more judicial experience than all but one of the current Justices has at the time they were appointed to the Supreme Court.

During his confirmation hearings, Judge Souter demonstrated an impressive knowledge and command of constitutional law. Clearly, by reason of his intellect, his education, and his experience, Judge Souter possesses the competence that the American people demand of their Supreme Court Justices. That is why the American Bar Association gave Judge Souter its highest rating and declared him to be "well qualified" to serve on the Supreme Court.

Second, a Justice must be a person with unquestioned integrity: He or she should be honest, ethical, and fair.

Those who know Judge Souter best—his peers in the legal profession in New Hampshire—are united in their opinion that Judge Souter is an impeccably fair man who adheres to the highest ethical standards of the legal profession. His honesty is beyond reproach.

Third, a Justice must be a person with a judicial temperament: He or she should be even-tempered, firm, compassionate, and able to listen to different points of view.

Judge Souter ably demonstrated during his confirmation hearings that he has the right temperament to serve as a judge. His answers were calm and thoughtful. He engaged in a scholarly discussion with the members of the Judiciary Committee, listening to their viewpoints and explaining his with utmost courteousness. Judge Souter also movingly demonstrated that he is a man of compassion when he related his experience of advising a woman who was confronted with an unwanted pregnancy.

Some would question whether an unassuming man who would rather live in a small town, who enjoys the solitude of nature, who prefers books to television, who goes to church every Sunday, and who is devoted to his family and friends has sufficient real-life experiences to function effectively as a judge.

Frankly, Mr. President, I'm not sure I understand this criticism. In any event, Judge Souter—as an active and involved member of his community and as a practicing lawyer and a judge—has been exposed to a broad spectrum of real-life problems. He knows that deciding a case is not an abstract intellectual exercise, but rather is a serious activity that can potentially affect millions of people. As Judge Souter testified:

> Whatever court we are in, at the end of our task some human being is going to be affected. Some human life is going to be changed and we had better use every power of our minds and our hearts and our beings to get those rulings right.

Fourth, a Justice must be a person who respects the basic principles of our constitutional system: He or she should not be burdened by an ideology that would prevent him or her from being an impartial judge.

During his confirmation hearing and throughout his 12 years as a judge, Judge Souter demonstrated a profound respect for and devotion to the philosophical underpinnings of our American democracy—federalism, separation of powers, freedom of speech and religion, individual rights, equal protection, due process, and the rule of law.

I am convinced that he will adhere to the doctrine of judicial restraint and will interpret and apply the laws, not impose his own political views. He

has an independent mind and has no ideological agenda that he seeks to fulfill, except to preserve the Constitution of the United States.

Mr. President, in the case of Judge David Souter, President Bush has nominated an individual who has demonstrated throughout his lifetime that he possesses those traits. He is extremely well-qualified to sit on the Supreme Court, and I will vote to confirm him.

Mr. BUMPERS. Mr. President, few events in my career have struck as close to home as Justice Brennan's decision to retire. The Senate's duty to advise and consent to a successor to a Justice of such unique stature is especially heavy. That successor will likely be serving out a life term at the top of our third branch of government long after most of us in this body are gone from here. When Justice Brennan announced his retirement, I hoped the President would put aside any ideological agenda and try to find the best qualified person in the country for this job. I have no way of knowing whether Judge Souter is that person or not.

Many things in his record commend him for service on the Court. First, he will be the first former trial judge in recent memory to serve on the Nation's Highest Court. As a former trial lawyer, it gives me great comfort to think that someone who has actually tried lawsuits will be sitting in judgment over important cases. One of the most well-founded criticisms of the Court, it seems to me, is that too often the Justices have little familiarity with the realities of trial practice.

Without belaboring the facts, Judge Souter has an enviable record of accomplishment as a lawyer. He was graduated from Harvard University and Harvard Law School. He has been deputy attorney general, attorney general of New Hampshire, a trial judge and State supreme court justice, and earlier this year he was confirmed by the Senate as U.S. circuit judge for the First Circuit.

My hesitation is not over any qualms about Judge Souter's character. From every report, he is a man of unquestioned integrity and certainly has an outstanding educational and professional background. He appears to be a very traditional New Englander, conservative in his appearance, manner and thinking.

I am somewhat reassured that Judge Souter is highly recommended by a respected Senator on the other side of the aisle, WARREN RUDMAN.

I have studied the record of the confirmation hearings before the Judiciary Committee. It goes without saying that when the Constitution is being discussed I pay attention to what's being said. Judge Souter said little with which I would disagree, and he was genial and accommodating. Frankly, his answers were not very reassuring for the right wing of the President's party.

Yet, still, there are those who say he is a wolf in sheep's clothing who will give a narrow berth to constitutional liberties. There are at least two kinds of conservatives—those who believe the State can do no wrong and those who believe that governmental restraints on the individual must be strongly justified. For too long, the former have dominated the debate. Judge Souter seems to have a Jeffersonion streak about him.

I cannot see into David Souter's mind and know what he will do when faced with issues surrounding Roe versus Wade and its progeny. The Court has already ensured, however, that there will be plenty such cases on the docket. We have seen draconian measures enacted in Guam and Louisiana, and more are sure to come. While I wish I knew more of Judge Souter's true feelings on a number of issues, I think he acquitted himself well enough in his hearings to receive the benefit of the doubt. I will resolve that doubt in his favor.

Mr. KERREY. Mr. President, I plan to vote to confirm Judge Souter as a Associate Justice of the Supreme Court.

This is my first vote on a Supreme Court nomination, and I wish to set out the standards that I believe should guide such decisions. I believe there are three. While I have reservations about Judge Souter's record, which I will discuss, I believe he has met these three standards.

The first standard I would invoke asks whether the nominee has a distinguished judicial record. While Judge Souter's credentials as a nominee do not rise to the level of some of the titans of the Supreme Court's history, his record is nonetheless distinguished. He has served as a State attorney general; a State superior and supreme court justice; and a judge for the Federal court of appeals. He is known in the legal community for an inquiring and exacting legal intellect. He received the highest rating from the American Bar Association's Standing Committee on the Federal Judiciary. His personal integrity and ethical standards are beyond reproach.

The second standard asks whether the nominee is within the Nation's judicial mainstream. Judge Bork was not. Judge Souter is. In the hearings, he accepted certain high standards of protection for the essential freedoms of speech and religion. He indicated his support for certain remedies for racial discrimination. He committed himself to the important concept of deference to precedent, and rejected notions that we should in all cases return to the "original intent" of the Constitution's framers. Judge Souter is, to be sure, a very conservative jurist. But that is hardly surprising or objectionable given that he was nominated by a conservative President.

The final standards asks whether the nominee has the judicial temperament necessary to sit on our highest court. As I will explain, I am concerned about Judge Souter's sensitivity to political, social, and economic minorities. I am troubled he was willing to act as an advocate, as New Hampshire attorney general, for some official initiatives that smacked of intolerance. Yet Judge Souter's judicial record, which I believe is far more important, suggests that he receives the opinions of all parties before him with an attentive, fair, and open mind. The willingness to listen respectfully to diverse arguments is essential to the credibility of our judicial process.

While I will vote for confirmation, it is with reservations. First, I have serious reservations about Judge Souter's position on abortion. My reservation is that I, like the rest of America, do not know what his position is on the right of women to make the most fundamental choices about reproduction. That is a troubling gap in the record. I am troubled that this nominee and the administration that nominated him do not recognize the right to make such a choice as fundamental. I am troubled that on the difficult choice over abortion they are willing to substitute their moral judgments for those of individual Americans.

At the same time, I find it comforting that Judge Souter recognizes an implicit constitutional right of privacy as "fundamental." And I must take Judge Souter at his word when he says he has not made up his mind concerning Roe versus Wade. We can only hope the Court's other eight Justices will approach this divided and divisive issue with equally open minds.

Second, I have reservations about the level of Judge Souter's sensibilities about society's treatment of women, racial minorities, and religious minorities. Our society today is not the society of 1789. One of the journeys of our time has been toward expanded participation in our economy and society by those who had been excluded in the past. Judge Souter's experience and views, to the extent he revealed them during his confirmation hearings, seem remote from that defining American odyssey.

Let me cite one example. At one point in the hearings, Judge Souter said, "the State of New Hampshire does not have racial problems." Perhaps Judge Souter was characterizing what others would say about his home State; there is some possibility of that from the context. Perhaps all Judge Souter meant is that New Hampshire is racially homogeneous in relative terms. I can understand that. I am also from a State that has a relatively small proportion of residents who are racial minorities.

Yet one of the Constitution's chief missions is to protect those who are not part of the majority. Thus it speaks to the rights of political, social, and racial minorities of all sizes—not just those who are near-majorities. I am aware that even in Nebraska there are racial problems. Yet the record sadly suggests it might surprise Judge Souter to learn, as I did, that over a dozen racial discrimination complaints were brought over the past year to his State's human rights commission, and that his State has seen many serious racial incidents over the years, as the testimony of witnesses during the hearings made clear.

I hope Judge Souter will hear this message from me and others as he takes his seat on the Supreme Court: Racial discrimination, unfortunately, still exists in every town in America. Sexual discrimination and harassment, unfortunately, still exist in every industry. I hope Judge Souter's constitution, like mine, listens for the voices of victims of discrimination and has something to say to their pain.

Subject to those reservations, Mr. President, I will cast my vote in favor of confirming Judge Souter's nomination.

Mr. WARNER. Mr. President, I rise to join in this debate, for a second time, to express my respect for the work done by the Senate Judiciary Committee and to encourage Senators to give their support for this outstanding nominee for the Supreme Court of the United States.

During the consideration of this nomination, I have solicited the views of a wide range of my fellow Virginians. Clearly the majority—a very significant majority—express confidence in Judge Souter's ability to serve our Nation in this position.

Today, I ask the Senate to consider the opinions of a man whom I respect greatly— Andrew Miller, Esq. In 1978 this distinguished former attorney general of Virginia opposed me in the election for the seat in the U.S. Senate I am now privileged to hold. Our campaigns were fair, by today's standard unbelievably fair and honest. I won by a narrow margin, which reflects the confidence and respect many Virginians held, and still hold, for Andrew Miller.

In the time that has ensued, Mr. Miller has worked with me on a number of public issues. He is very successful in the private practice of law and continues to contribute of his time and wisdom for the public betterment of others.

I greatly value his friendship and have confidence in his views on this nomination.

Mr. President, I will now read to the Senate a letter from Andrew Miller to the President of the United States:

WASHINGTON, DC,
September 24, 1990.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: As a former Attorney General of the Commonwealth of Virginia, I write in support of your nomination of David H. Souter as an associate Justice of the United States Supreme Court. I became acquainted with Mr. Souter shortly after I was sworn in as Attorney General of the Commonwealth of Virginia in January 1970. At that time he was serving as an Assistant Attorney General of the State of New Hampshire. From 1970 to 1975, we worked closely together in representing the interests of the Atlantic Coastal States in the case of *United States* v. *Maine, et al.*, 420 U.S. 515 (1975).

During this period, I became very impressed with Mr. Souter's legal abilities. Not only was he willing to work hard but his intellectual brilliance, scholarly research and thoughtful analysis all contributed to the enhancement of the States' position. While the Supreme Court ultimately decided against the States, the Court had greater difficulty in doing so as a consequence of Mr. Souter's contributions in the drafting of the States' papers. Moreover, on a personal level, I found our association extremely pleasant because of his courteous and considerate demeanor.

While Mr. Souter has held a variety of public offices, in the discharge of his responsibilities he has never been political. Indeed, he has not sought opportunities to exercise legislative or executive authority. As you know, the Attorney General of New Hampshire is appointed, not elected by popular vote. During his tenure in that office, and subsequently on the bench, I know of no instance in which his integrity was questioned. He has chartered his course as a lawyer and judge dedicated to excellence in the performance of duty in the justice system.

As a judge Mr. Souter has understood the role of oral argument in ensuring that issues are fully examined. He also has recognized that not every issue brought before a Supreme Court has constitutional implications. I believe that as an Associate Justice his State background will bring a useful perspective to the Court's deliberations. I am also confident that he will not engage in public rhetoric about his fellow justices or about political leaders, which circumspection should benefit the Court institutionally.

The foregoing views are undoubtedly shared by many others who have known Mr. Souter for an extended period of time. I feel compelled to write this letter of endorsement, however, out of my own experience as Attorney General, in light of some of the concerns expressed in the confirmation process about his performance as Attorney General of New Hampshire. The gist of these concerns appears to be that Mr. Souter as Attorney General defended State policies with which those expressing the concerns did not agree.

If such expressions of concern were intended to be justifiable criticism, they were wide of the mark. All Attorneys General take an oath to uphold the Constitution of the United States and their respective States. What engenders constitutional litigation, of course, are differences of opinion as to the meaning of the Constitution to be upheld. Assuming that the State's policy is not frivolous, an Attorney General has a legal and moral obligation as its chief legal officer to advocate that position, whether established by its legislature by statute or its governor by executive order.

As is the case with any lawyer representing a client, an Attorney General may not on occasion agree with his client's, i.e., the State's, policy. His individual views are not relevant to his obligation to see that the State's position is fairly and effectively presented before the judicial tribunal where it is being challenged. Thus, in defending policies of the State of New Hampshire with which he or others disagreed, Mr. Souter far from breaching his commitment to uphold the Constitution was in fact discharging his constitutional obligation as Attorney General of that State. This is so even though in certain instances the judiciary ultimately decided that the questioned policies of New Hampshire failed to pass constitutional muster.

I respectfully submit that the fact that these State positions did not withstand judicial scrutiny has nothing to do with whether Mr. Souter withstands Senatorial scrutiny. As the confirmation record demonstrates, he has passed personal and professional muster with distinction. Those of us who have worked with him and had the pleasure of this acquaintance over the years are not surprised.

Sincerely yours,

ANDREW P. MILLER.

Mr. President, I will vote for this distinguished American and urge others to do so.

Mr. BIDEN. Mr. President, in the interest of time, but also in the interest of clarity and fairness, this is usually done after the vote takes place, but I would like to do it prior to the vote because these people very seldom get the recognition they deserve.

I would like to recognize for particular thanks staff people who played a key role in putting these hearings together. They devoted hundreds of hours and late nights to making the committee's consideration of Judge Souter's nomination orderly and fair: John Bauer, Jamie Daniel, John Dichtl, Ted Hosp, Kim Kachmann, Lisa Meyer, Ross Mansbach, Anne Rung, Henry Noyes, Phil Shipman, Pam Yonkin, Brooke Thomas, Justin Tillinghast, and Grace Lescelius.

And special thanks to two staff members who put in countless hours to make sure that the hearings went smoothly: Joel Feyerherm and Sally Shafroth, who has done so much for the committee for so long. They really went above and beyond the call of duty.

These attorneys and professionals on the Judiciary staff helped us study Judge Souter's record, assemble that record, and conduct a thoughtful analysis of it. Their intellectual skill and contribution was first rate: Scott Schell, Annette Anthony, Harriet Grant, and Andy Tartaglino.

Five professional staff people deserve particular credit for their contributions:

Paul Bland, our committee's chief nominations counsel, who supervised

our study and review of Judge Souter's record and writings. His performance on this nomination, as with the many others he has worked on, was superb.

David Strauss, a University of Chicago law professor who joined our staff to work on the Souter nomination, and did a fantastic job of working with constitutional scholars and conducting vital research into the complex constitutional questions at issue here.

Chris Schroeder, of Duke University Law School, who volunteered his time to help with briefings, and the preparation of materials for the hearings. As always, Chris' intellectual insights were of great value.

Jeff Peck, our committee's general counsel, who spearheaded my preparation for the hearings. Quite simply, there is no constitutional lawyer anywhere in this country who has thought as intelligently or deeply about the role of the Senate in confirming Supreme Court Justices.

And last, but not least, Diana Huffman, the committee's staff director, who supervised the committee's preparation for the hearings, and the conduct of those hearings. Her tireless and savvy work in putting together the hearings was essential in our success in balancing the committee's need to be thorough with its duty to be fair.

Now I see my colleague from California is here, and I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. I thank the distinguished chairman of the Judiciary Committee for his courtesy.

Mr. President, last Monday, September 24, I addressed the Senate at some length on the reasons why I will vote "no" on the nomination of David Souter to succeed Justice William Brennan as an Associate Justice of the U.S. Supreme Court. My view of my constitutional responsibilities to exercise advice and consent to a lifetime appointment to the highest court of the land compels me to vote no. I am not voting against Judge Souter because we disagree on the issue of abortion or on the Supreme Court's decision in Roe versus Wade, since I have no idea what his position is on abortion or Roe versus Wade.

I am voting no because I have no idea what his position is on the level of scrutiny to be applied in right-to-privacy cases. I am voting no because I have no idea what his position is on the constitutional right of individuals, married or unmarried, to use contraceptives. No Member of the Senate, to my knowledge, knows the answer to any of these questions because Judge Souter has declined to answer them. He did not decline to answer questions on other important constitutional issues ranging from the constitutionality of capital punishment to his views on cases involving the religious freedom provisions of the first amendment, but on constitutional issues involving the right to privacy of millions of American men and women, we know little.

Mr. President, Judge Souter told the Judiciary Committee that he did not know how he would rule on any prospective future specific case involving reconsideration of Roe versus Wade and would listen to the arguments made on both sides. That is a position which any judicial nominee is obligated to take. Indeed, any nominee who cannot make that commitment should be rejected out of hand. A commitment not to prejudge an issue prior to hearing the arguments is an essential element of justice. No member of the Judiciary Committee of the U.S. Senate asked Judge Souter to state how he would rule on any prospective case.

I am voting against Judge Souter's confirmation because he has asked us to take him on faith in this critical area of constitutional rights. That I cannot do. Many, many Senators have expressed similar concerns about Judge Souter's refusal to answer questions in this important area of constitutional law. Many who will vote for him have expressed the hope that they are making the right choice and that he will not cast a fifth vote on the Court which will dismantle the long line of cases recognizing and securing the right of Americans to privacy in matters relating to procreation, including the right to abortion.

I intend to do more than just hope for the best. Mr. President, to the millions of American women who fear that by its action today in confirming Judge Souter, as is about to happen, the U.S. Senate is placing their lives in jeopardy, I make this pledge to them: If the unhappy day comes when David Souter casts a fifth and deciding vote to overturn Roe versus Wade, I will take action to bring before the Senate the Freedom of Choice Act. The Freedom of Choice Act is legislation I have introduced which will make freedom of choice Act would have the effect of nullifying a Souter vote to overturn Roe versus Wade. This legislation provides simply that a State may not restrict the right of a woman to choose to terminate a pregnancy before fetal viability, or at any time, if necessary, to protect her life or her health.

Mr. President, Congress has the authority under section 5 of the 14th amendment to the Constitution to enact legislation to protect the liberty interests of Americans where the Supreme Court cannot find a specific right protected under the Constitution.

Many Members of the Senate from both sides of the aisle who are committed to protecting the rights of women to make these most fundamental decisions for themselves free of Government interference have already joined as cosponsors of this important legislation. I hope that other Members who share these concerns will join as cosponsors of this legislation and help us work to ensure that this country does not return to the dark days of back alley abortions and Government interference with private, personal decisions of Americans.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, the Senate will today undertake its constitutional obligation to advise and consent on the nomination of Judge David Souter to be an Associate Justice of the Supreme Court.

Such votes are never easy to cast. Because each Justice has the ability to affect—indeed, to alter—the very fabric of our Nation, I believe that every Senator has a deep responsibility to evaluate thoroughly every nominee before deciding how to vote.

As you know, Mr. President, the Judiciary Committee held 5 days of hearings to examine Judge Souter on his qualifications and record. In addition, numerous distinguished witnesses representing themselves and/or their organizations testified for and against this nominee. In my view, each witness contributed to the mosaic that the Senate has created on the very private Judge Souter.

I must say that I share the frustration of those Senators and witnesses who wanted to learn more. While questions were asked and answers were given, many of us continue to feel uncertain about the real views of a man who could change the course of our history. In particular, I wanted to know more about his views in the areas of privacy—including a woman's right to choose an abortion, racial and gender discrimination, and religious freedom.

In the absence of certainty, Mr. President, I must rely on the two things that a Senator must always rely on: Judgment and experience. During my almost 30 years in the Senate, I have faced votes on more than a dozen different nominees to the Supreme Court. I have also seen those nominees, once on the Court, both please and disappoint the American people and the Senators who voted to confirm them. It is my fervent hope that Judge Souter, whom I believe will be confirmed by the Senate, will bring to the Court and to the Nation compassion, understanding, and wisdom.

In deciding how to vote, Mr. President, I have also looked back on my prior decisions. Over the years, I have voted both for and against various nominees to the Court. I have voted against nominees when it was clear to me that the national interest would be harmed, and I have voted for nominees—even those who do not share my views or philosophy—when I was confident that the nominee was professionally and personally qualified.

Mr. President, unlike some of my colleagues, I do not subscribe to the theory that Senators should not inquire into a nominee's personal views. Rather, I believe it is incumbent upon each Senator to ensure that the Supreme Court is composed of judges of compassion, intelligence, and integrity. If intensive questioning is the best way—or the only way—to make this determination, then it is fair and necessary that it be done.

Still, it is often difficult to tell, in advance of Senate confirmation, whether a nominee has the qualities that are necessary in a guardian of our constitutional rights and liberties. In this instance, I have concluded—from the Judiciary Committee hearings and a review of the record—that Judge Souter seems to be a person of integrity who has the professional and personal qualifications necessary to sit on the Nation's highest court.

In reaching this decision, I have been cognizant of—and troubled by—the concerns of individuals and organizations who share my views on issues of great consequence to our society. I have weighed carefully those concerns, and I appreciate the effort and commitment of many who have shared their concerns with me. In my view, however, Judge Souter—the nominee of a Republican President who was elected on the coattails of the most conservative President in recent history—is probably the best and most moderate nominee we can expect from this administration.

Mr. President, I think it is entirely possible that Judge Souter will serve this Nation well. I hope that the Judiciary Committee hearings, and the words and advice of concerned Senators and citizens, will help Judge Souter remember every day that he serves on the Court his own eloquent testimony: "if [judges] * * * are going to change * * * lives by what we do, we had better use every power of our minds and our hearts and our beings to get those rulings right."

I wish Judge Souter well, and wish for the country that the Senate is vindicated in its decision to confirm this nominee.

Mr. SYMMS. Mr. President, I rise on this second day of the Supreme Court's 1990-91 term to announce my support for the nomination of U.S. Circuit Judge David H. Souter to be an Associate Justice of the U.S. Supreme Court. President Bush announced his nomination of Judge Souter just 10 weeks ago yesterday, and I am pleased the majority leader and Senator Biden, the chairman of the Judiciary Committee, have brought the nomination to the full Senate in time for Justice Souter to be seated for all but a few days of the Court's new term.

I have reviewed Judge Souter's record as a jurist in both the Federal and New Hampshire State courts and, prior to that, as the attorney general of New Hampshire. In addition, I was pleased to be able to watch a good deal of the Judiciary Committee's confirmation hearings.

Clearly, there are a few issues, such as abortion, on which Judge Souter does not have a well-established record of personal opinion or judicial decisions. And that fact probably serves him well in this confirmation process. On the other hand, there are many legal and constitutional issues where Judge Souter's writings from the bench or as attorney general have left a paper trail that was explored in depth during the Judiciary Committee's hearings and by which Senators can garner a pretty clear picture of the kind of jurist this man is likely to be.

As attorney general, Judge Souter was a staunch defender of the right of law-abiding citizens to be protected against society's criminal element. He demanded respect for State law and those who threatened public order were dealt with firmly and fairly. He was a no-nonsense chief prosecutor for the State, and the citizens of New Hampshire benefited greatly by the attention Attorney General Souter paid to the serious responsibilities of his office.

As a judge, he has written numerous decisions involving important constitutional issues such as freedom of association, due process rights, and protection against unwarranted search and seizure and self-incrimination, as well as legal issues relating to important questions of family, labor, and criminal law. What this record establishes clearly is that David Souter is a careful, precise, keenly intellectual jurist who believes in the court's limited constitutional role as the interpreter, rather than the creator, of law. He accepts and applies traditional standards of statutory and constitutional interpretation by referring to "the plan meaning of the language employed," and in constitutional cases, he applies "the clear rule that 'the language of the Constitution is to be understood in the sense in which it was used at the time of its adoption.'"

In a response to a question on the Judiciary Committee's questionnaire regarding his general approach to judging, Judge Souter said:

> The obligation of any judge is to decide the case before the court, and the nature of the issue presented will largely determine the appropriate scope of the principle on which its decision should rest. Where that principle is not provided and controlled by black letter authority or existing precedent, the decision must honor the distinction between personal and judicially cognizable values. The foundation of judicial responsibility in statutory interpretation is respect for the enacted text and for the legislative purpose that may explain a text that is unclear. The expansively phrased provisions of the Constitution must be read in light of its divisions of power among the branches of government and the constituents of the federal system.

Mr. President, in that statement and in terms far more eloquent that I could muster, Judge Souter has aptly described the approach to judging that I look for and highly approved in any nominee to serve on the Federal bench but particularly so for nominees to the Supreme Court. On that basis, I feel confident that David H. Souter is eminently qualified and will be a very able Associate Justice of the Supreme Court. I hope he will be overwhelmingly confirmed.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, since we are about to conclude the debate on Justice Souter, I wish to take this opportunity to express my deep appreciation to several members of my staff who have done such a fine job preparing for the hearings, during the hearings, for floor consideration today. They are Terry Wooten, who is chief counsel and staff director on the Judiciary Committee; Melissa Riley, who does outstanding work in connection with the judges on the committee; Duke Short, who is now my chief of staff but formerly was in charge of nominations and continues to take a great interest in this work; and Melinda Koutsumpas, the minority chief clerk whose efforts were very beneficial. I thank them for their good work.

I also commend several members of Senator Biden's staff who have been cooperative and helpful during this process: Jeff Peck, Ron Klain, and Diana Huffman.

Senator Biden and I have a fine relationship. Our staffs have a good relationship, and it is very nice that we can all work together.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Delaware is recognized.

Mr. BIDEN. I believe the Senator from New Mexico has indicated that he would like to speak to this nomination.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I will vote for the nomination of Judge David Souter for a position on the Supreme Court. My vote is determined by two considerations:

First of all, the information which has come out during the hearings on Mr. Souter's nomination in my view has been favorable to him. Based on his intellectual capacity, education, and his reputation for integrity, he seems eminently qualified to serve on the Supreme Court.

Second, I firmly believe that the Senate's responsibility is to give its consent to a President's nominee unless there is a basis in the record of the nominee that renders him unfit for the position to which he is nominated.

Many are apprehensive about Judge Souter's views on the right to privacy and, more particularly, about his views on the right of a woman to choose to have an abortion. I share those concerns and I hope that he will have the wisdom to leave established law in place on that extremely sensitive issue.

I believe my duty under the circumstances is to give him the opportunity to exercise his judgment. I fervently hope, as do many of my colleagues, that judgment proves to be good.

I thank the Chair. I yield the floor.

Mr. BIDEN. Mr. President, there is an additional colleague who wishes to speak, and I am told that he is on his way to the Chamber. I believe that will be the last person to speak until we have the closing statements by the distinguished Senator from New Hampshire [Mr. Rudman] and the majority leader.

So while we are waiting for the Senator to arrive, I suggest the absence of a quorum.

Mr. THURMOND. Mr. President, if the distinguished Senator will withhold, I would like to take this opportunity to commend Senator Rudman for being so active in behalf of Justice Souter. I do not think I have known any Senator in my 36 years here who has taken more interest in a nomination than has Senator Rudman. They have been friends for many years. They know each other well. His opinion, I am sure, has had a great influence on many other Senators.

I just want to pay him that tribute and tell him he has done a fine job in connection with this nomination.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Thank you, Mr. President. I will not be long, because I know that my colleagues wish to get on with this matter.

Mr. President, as I said earlier in the Senate Judiciary Committee, I will consent to the nomination of David Souter to be the next Justice of the United States Supreme Court. In debating this nomination and Judge Souter's qualifications, the U.S. Senate carries out one of its most profound responsibilities.

The President "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint * * * Judges of the Supreme Court."

Those 20 words are in article II of the Constitution, and they lay out the guidance for the President and the Senate as we come together to select members of the Judiciary. In confirming judges, we should neither rubberstamp the President's choice nor make the process partisan.

I think the Judiciary Committee has fulfilled its responsibility with care and deliberation. Chairman Biden deserves a great deal of credit for this. Senator Thurmond, too, deserves credit. Others have done a tremendous job as well. Senator Rudman went to every one of his colleagues, both Democrat and Republican, who had any question whatsoever about this nomination. He very frankly and honestly filled us in.

Whenever the Senate completes its work of advice and consent, I always ask myself whether we have served the Constitution and the American people in confirming or rejecting a nominee. In this case, we probed deeply into Judge Souter's professional and intellectual qualifications. But we always do.

I will put into the Record some of my findings of his qualifications.

I just want to take a moment to talk about "Advice and Consent" because some people lose sight of exactly what that means. There was some grumbling even in the Judiciary Committee that the Senators asked too many questions. I thought the questions were tough and probing, and fair and thorough, as they should be. Some used the time to talk about past confirmations, but most Senators asked significant, difficult, probing, and exhaustive questions.

Advice and consent in the Constitution demand thorough questions. It does not demand excuses for asking them. We demean ourselves and we demean the Constitution if any of us apologizes for asking thorough questions.

The more answers we get, the more the American people know about an individual, especially an individual who will make important decisions about our lives and our country; and the better the Constitution is served. The Court and the Constitution were well served by the Senate hearings on Judge Souter. This body, the U.S. Senate, was also well served and I believe, through it, the American people.

We understand that the framers of the Constitution and the Bill of Rights did not entrust certain fundamental liberties entirely to the good intentions of the executive and legislative branches. For that reason, we have an independent judiciary. And we Senators are the ones who have to make sure that we preserve that.

So let us never make excuses for upholding the Constitution through advice and consent. After all, we take an oath of office to do just that. It is an obligation none of us should ever forget. We want members of the Judiciary Committee to take that to heart in probing the nominee's views on constitutional law. We asked whether Judge Souter will respect the fundamental rights and liberties that Americans have fought for two centuries to preserve.

Over the last 2 months since Justice Brennan resigned, we have reviewed every aspect of Judge Souter's judicial and legal career. We have questioned him about his tenure in the Attorney General's office, his years in the New Hampshire State courts, and his current views on a wide range of legal and social issues. The committee concluded, in a strong bipartisan vote reflecting the thoroughness and quality of the hearings, that Judge Souter should be confirmed.

I will not go back through all of this. I will put that in the Record.

I have said before I do not believe that Judge Souter has answered all my questions, to the extent that I wish he had. But he has demonstrated a belief in the Constitution and a willingness to approach issues fairly. He is not, in my mind, an ideologue.

If we offer our consent to President Bush's nominee, as I believe we will, he will be entrusted with the awesome responsibility that Justice Brennan fulfilled so well, so nobly, and so magnificently.

As the honorable man that I believe he is, Judge Souter is not going to forget the valuable lesson he learned as a trial judge, that the decisions he will make will have an impact for the rest of the life on an individual and sometimes on many individuals.

So through us the American people express their faith in Judge Souter's ability to preserve the essence of the American tradition. My vote today represents my faith that he is a nominee worthy of that trust.

The Senate must take great care in asking questions during confirmation hearings because the individual who ascends to the Supreme Court this term will help to mold the course of American jurisprudence well into the next century. As we look ahead we will lose much of that little message on the American penny—E Pluribus Unum, bringing from the many, one; bringing from diversity, a unity of purpose and spirit—if we do not preserve the quality, dignity, and independence of the Supreme Court.

Time after time, throughout our history, when other branches of Government were either unwilling or unable to protect fundamental rights, Americans have turned to the courts and, ultimately, to the Supreme Court. It would be a foolish dereliction of our duty to give any nominee this power without understanding—as fully as we can—where the nominee thinks the Court should go. Our advice and consent structure epitomizes the framers' genius for the separation of powers, which guarantees the protection of the freedoms in our Constitution.

To maintain this historical role for the Court, it is up to both the White House and this body, walking separate but parallel paths, to chart the future course of judicial selection. Presidents consistently should pick nominees from the very large list of able, experienced, tested, and well-known men and women whose lives make them natural choices as protectors and expositors of the Constitution. The ultimate critics or our advice and consent task are the American people, and their oversight is utterly impossible if this Senate performs nothing more than polite or perfunctory review.

What are the factors the Senate must consider during the advice and consent process?

The threshold qualifications are competence, honesty, and integrity. Judge Souter's record, combined with his performance in 2½ days of testimony, convinces me that he is intelligent, learned, forthright, and honorable. But those attributes are no more than prerequisites for the job, and mark only the beginning of our deliberations.

We must also ask whether Judge Souter will respect the fundamental rights and liberties that Americans have fought for two centuries to preserve.

Does Judge Souter accept the first amendment as protecting our right to speak and worship as we believe, to articulate our grievances and express them to our Government, and to benefit from a free press?

Does Judge Souter respect the freedom from government interference in our private lives that Americans have come to expect and enjoy?

Does Judge Souter commit himself to ensuring that the rights and opportunities that uniquely characterize our society will be equally available to all, regardless of race or gender?

After listening to Judge Souter at the confirmation hearings, examining his writings and speaking privately with him twice, I decided to support his nomination.

Mr. President, that decision was a difficult one. Judge Souter did not give the committee all of the answers—either in content or breadth—to which I believe the Senate is entitled.

I questioned Judge Souter extensively about his views on the establishment clause of the first amendment and remain troubled that he would not commit himself to Jefferson's idea of a "wall of separation" between church and state. I trust that if Judge Souter is confirmed and called upon to consider the establishment clause, he will keep in mind our discussion of the poignant experiences of his friends WARREN RUDMAN and Tom Rath or the similar experience that my friend from Vermont, Jerry Diamond, described in his appearance before the committee.

I trust Judge Souter will understand that government has no business flying flags at half-mast on Good Friday, and will recognize that the moral and religious beliefs of Americans, even small minorities, must not be disparaged by the state as "mere whimsy." The first amendment has made this Nation tolerant, united, and strong. I do not believe that Judge Souter will view this legacy lightly.

I remain troubled by Judge Souter's reticence in answering questions on the scope of fundamental privacy rights. In response to my question about whether Roe versus Wade is settled law, Judge Souter declined to respond, saying he drew "a fine line" at Griswold versus Connecticut.

That line was the wrong line. Although we do not expect a judicial nominee to comment on a specific case before the court, the public we represent should know how the nominee regards fundamental rights.

While he refused to comment on Roe versus Wade, Judge Souter assured us that he would not approach challenges to this important case with any agenda or preconceived ideas about the results. The majority of Americans expect that David Souter will share their view that decisions about reproduction are best left to the individual. This is one realm of life where the State has little interest or right to interfere.

Judge Souter spoke movingly about an incident in which he counseled a young woman who was contemplating a self-induced abortion. I hope Judge Souter learned that day that while abortion decisions are traumatic under any circumstances, abortions in the pre-Roe era were dangerous, beyond the means of most women, and often life-threatening. American women cannot be plunged into the dark ages ever again.

I wish there would never be the need for another abortion, but that is a decision for a woman, not for a legislature or a court. During the hearing, I reminded Judge Souter of my own experience with illegal, pre-Roe abortion. As a prosecutor in Vermont, I received a call from the police. It was 3 o'clock in the morning and a woman in the emergency room of the local hospital had nearly died from a botched abortion.

I prosecuted the man who arranged for this and other women to travel from Burlington, VT to Montreal for abortions performed by a nurse who learned her trade from the SS at Auschwitz. This nurse nearly killed a young woman, who ended up sterile. And this woman was not the only victim. Several other women, after having abortions performed illegally, were blackmailed for money or sex by the man who arranged the dangerous procedure. Quite a racket.

Abortion is not an easy question, but none of us wants women to endure this pain and exploitation again. Let us be realistic, if abortion is outlawed again, women will retreat to back alleys and back rooms where they will be vulnerable to the kind of piranha I prosecuted in Vermont. Judge Souter and I discussed this incident during the hearing. I hope he will not lose sight of its message.

I also believe that Judge Souter will not approach constitutional questions as a strict constructionist. Judge Souter recognizes that the equal protection clause was properly applied in the landmark case of Brown versus Board of Education, that the Constitution protects unenumerated rights, and that changing social attitudes and traditions must be considered in identifying such rights.

Another area that disturbed me was Judge Souter's role as New Hampshire attorney general when 1,414 protesters were arrested at the site of the Seabrook nuclear powerplant in 1977. I questioned Judge Souter about the State's establishment of a private fund to help finance its costs. I was alarmed that the utility donated $74,000 to the fund, while the prosecutions were pending. This arrangement evoked images of "rent-a-prosecutor."

Attorney General Souter—as the chief law enforcement officer in charge of the prosecutions—should have prevented an interested party from influence the judicial process. I welcomed Judge Souter's remarks that he now understands he should have opposed the fund.

Nonetheless, Mr. President, Judge Souter demonstrates that he approaches issues fairly and reveres the Constitution. Once confirmed, Judge Souter will take the seat of Justice William Brennan. Justice Brennan is a remarkable jurist, who will long be remembered for his fierce, unyielding support of individual rights—even in the face of popular prejudice and scorn.

At critical moments in history we have depended on the Supreme Court—and justices like William Brennan—to be our unifier, to being together a divided society, to bridge deep gulfs in understanding, to help explicate complex problems thrust on us by modern times. As Judge Souter acknowledged during his confirmation hearing, "Justice Brennan is going to be remembered as one of the most fearlessly principled guardians of the American Constitution that it has ever had and will ever have."

As a Supreme Court Justice, David Souter will serve as the guardian of the liberty and cherished freedoms of all Americans.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. I thank the Chair.

Mr. President, first let me say in all sincerity, that I have no words to express my thanks to the chairman of the Judiciary Committee, Senator BIDEN of Delaware, and the ranking member, Senator THURMOND of South Carolina, for their unfailing courtesy through a rather interesting, and I would say, difficult period for my friend, David Hacket Souter.

The conduct of the hearings was scrupulously fair and thorough. I think in many ways, they set a standard on both sides of the dias, for what hearings should be.

I also want to pay a particular note of thanks to two people who also went the extra mile to make it possible for David Souter to get to those hearings, feeling that all of the logistics of the details had been prepared. They are Diana Huffman of Senator BIDEN's staff, and Duke Short of Senator THURMOND's staff. To all others, I give my personal thanks.

To my colleagues, I would say it is a unique situation in which a nominee to the U.S. Supreme Court happens to be one of the dearest and closet friends of a Member of the U.S. Senate. That is a unique situation. To all of my colleagues who came to me to ask questions about the nominee, I tell you now as I told you then, I have tried to be frank and candid and direct, as we expect of each other.

Mr. President, I can only think back to a day 20 years ago when I met a young man as an assistant in my office, when I became attorney general of our State. I recognized how extraordinary he was soon after I met him. And the most extraordinary thing for me standing here today is that in 1973 I had a conversation with him, which I remember very distinctly. After he had done an extraordinary piece of work, I remember saying to him, "I do not know what you your future will be, I do not know what path you have charted for your life, but it seems to me that you ought to have an interest in being on the bench. Hopefully the State bench and maybe someday the Federal bench."

I remember saying very clearly: "And when you get there, as I expect you will, I hope you will aspire to the highest possible place that you can be," never thinking, Mr. President, that I would be given the privilege by the Republican leader, which I appreciate, of giving the closing remarks in behalf of my very dear friend on this very special October day.

Mr. President, David Souter is my friend. I have trusted him, I have respected him, and I like him. He has made all of us, who know him, think, and to laugh, and to reflect. When I became attorney general of New Hampshire, our office was small. He helped me build it to one of the top law firms in the State. He succeeded me and excelled what I did.

He did so by recruiting a staff of extraordinarily talented young men and women, some of them who the committee heard from, who are hired on the basis of talent, not politics or ideology. He had a staff that was the envy of the law firms of the region. Those lawyers today are judges, public servants, and partners in major law firms in New Hampshire and across the country.

David Souter served with great distinction as a judge. Everyone who practiced before him lauded his fairness and his wisdom.

Moveover, I believe that his days as a judge on the trial court impressed upon him some very interesting lessons. One of those, I think struck all members of the committee, when he said it. I will quote it from those hearings. He said:

> When those days on the trial court were over, there were two experiences that I took away with me and the lessons remain with me today. The first lesson, simple as it is, is that whatever court we are in, whatever we are doing, whether we are on a trial court or in an appellate court, at the end of our task some human being is going to be affected. Some human life is going to be changed in some way by what we do.
>
> The second lesson that I learned is that if we are going to be judges, whose rulings will affect the life of other people, we had better use every power of our minds and our hearts and our beings to get those rulings right.

During the hearings, the Senator from Wisconsin [Mr. KOHL] asked David Souter why he wanted to sit on the Supreme Court. After noting with absolute candor that he did not seek the position, David Souter said:

> I want to try the best I can to exercise that responsibility to give the Constitution a good life in the time that it's entrusted to me, to preserve that life and to preserve it for the generations that will be sitting in this room long after you and I are gone.

That struck me as one of the most eloquent statements I have ever heard in my days of public service. His devotion to the Nation and its constitutional principles were made clear when he said this, in answer to a question:

> I would not be true to my own sense of constitutional principle if I did not say that the Senate ought to be looking for someone who, in going through the very difficult process sometimes of seeking constitutional meaning, would seek for something outside that judge's personal views for that moment, who would seek to infuse into the Constitution a sense of enduring value, not of ephemeral value, and who would try to rest the process on as objective an inquiry as can be possible for these massive and magnificent generalities that are committed to us.

Mr. President, that is the kind of a Justice of the U.S. Supreme Court that this Nation sorely needs.

As those of us from New Hampshire have known for many years, and millions of Americans came to realize when he testified before the Judiciary Committee, this is the kind of Supreme Court Justice we will get in David Souter. His life has been rooted in our rocky soil and nurtured by a lifelong commitment to public service. David Souter is a good person—one who will bring honor to the Supreme Court and to our constitutional system.

So, Mr. President, it is with unbounded enthusiasm and with conviction that I consider it a special privilege today to urge my colleagues to join me in voting for this magnificent man from New Hampshire.

I thank the Chair.

Mr. BIDEN. Mr. President, while we are waiting for the majority leader, let me just say that David Souter is indeed fortunate to have such a friend.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LIEBERMAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, I begin by commending the distinguished chairman of the Judiciary Committee, Senator BIDEN of Delaware, for the fair and thorough manner with which this nomination was considered. And, also, the members of his staff, most especially Ron Klain, who did an outstanding job in organizing the hearings and organizing the prompt action by the Senate.

I also commend my thanks to the distinguished ranking member of the Judiciary Committee, Senator THURMOND, and of course to Senator RUDMAN, whose support for, sponsorship of, and diligent effort on behalf of the nominee, has in my view been a major factor in the reception received by the nominee in the Senate.

I will say in all candor that the fact that Judge Souter has a long history of association with Senator RUDMAN and is strongly endorsed by Senator RUDMAN was an important factor in my own consideration of this matter, and I know the same to be true of all of the Members of the Senate who so respect our distinguished colleague from New Hampshire.

Mr. President, I will vote to confirm the nomination of Judge David Souter to the Supreme Court of the United States.

I do so not because I feel confident that I can predict his future course on the Court. Rather, because I believe that in outlining the broader framework within which he views constitutional protections and the responsibility of the judiciary to adjudicate cases, Judge Souter reflected a reasoned approach and a sound understanding of the Constitution.

In a discussion with the committee chairman about the development of the Bill of Rights, Judge Souter made the following observation:

> * * * the starting point for anyone who reads the Constitution seriously is that there is a concept of limited governmental power which is not simply to be identified with the enumeration of those specific rights or specifically defined rights that were later embodied in the bill [of Rights].
>
> If there were any further evidence needed for this, of course, we can start with the Ninth Amendment. * * *
>
> * * * it was * * * an acknowledgment that the enumeration [or rights in the Bill of Rights] was not intended to be in some sense exhaustive and in derogation of other rights retained.

I agree with that statement and the approach to the Constitution that it reflects. Our Constitution was not written to prescribe specific remedies for particular problems. It was, rather, intended to prevent a concentration of power by any group or individual so as to preserve the liberties of the people.

In his testimony, Judge Souter acknowledged the responsibility of the Court in fulfilling that purpose. He said, "* * * courts must accept their own responsibility for making a just society." Judge Souter repeatedly acknowledged that the rights of Americans are not exhausted by the specific rights listed in the text of the Bill of Rights, but that they also include rights implicit in the text of the Constitution.

He made it clear that what is implicit in the text of the Constitution is not limited to the particular factors present at the time of writing, but includes broader principles.

His interpretation, as he put it, is not that original intent is determinative, but original meaning.

He said, for example, "If you were to confine the equal protection clause only to those subjects which its framers and adopters intended it to apply to, it could not have been applied to school desegregation," because those who wrote and adopted the 14th amendment lived at a time when segregated schools were the standard.

He went on to say, "What we are looking for, when we look for original meaning, is the principle that was intended to be applied * * * ."

The distinction Judge Souter drew between original intent and original meaning is a useful distinction. It permits the underlying principles to be applied to new needs without limiting the broad rights of our people today to the political or social circumstances of the 18th or 19th centuries.

Judge Souter's understanding, in particular, of the significance and reach of the 14th amendment in the constitutional system reflects an understanding of our Nation's history and of the central role that the tragic fact of racial prejudice has played in our history.

Judge Souter said no social problem is "* * * more tragic or demanding of the efforts of every American in the Congress and out of the Congress than the removal of societal discrimination in matters of race * * *." He also said, in response to a question about judicial activism, "The obvious and significant fact of history * * * is the adoption of the 14th amendment."

As we all know, Judge Souter declined to address specifically the question of abortion and the Court's past rulings on that matter. He acknowledged a core right of privacy but would not be drawn into discussion of how broad or how enforceable against government such a right would be.

For that reason, those who are particularly concerned that the Supreme Court may in the near future dramatically tighten or even reverse the right of a woman to choose to terminate a pregnancy have suggested that Judge Souter's nomination ought to be rejected.

I respect the view that this factor is so central that no other factor should be considered. But, on reflection, I do not share that view.

The hearings focused to a substantial degree on the subject of privacy.

That is understandable at a time when developments in medicine and technology are altering our ability to intervene medically to save and prolong life and to intrude technologically into the most private recesses of individual thought and behavior.

There is little doubt that future cases before the Supreme Court will develop the legal boundaries of privacy, individual autonomy, conscience, and related concepts.

Advances in genetics have already raised questions about the legal ownership rights an individual may have to his or her physical body. Advances in voice transmission have raised questions about the expectation of a privacy in conversations conducted over certain telephone equipment. Medical advances have raised the exceedingly difficult issue of the State's relationship to an individual's death from natural causes.

But while this new and expanding area of law will continue to play a central role in the development of constitutional doctrine and the protection of individual rights, we must remind ourselves that the Supreme Court is not the sole source of legal development in the American system.

The Congress and the executive branch also have their responsibilities in meeting the new challenges that face our society.

I said at the outset that I do not have a feeling that I can predict how Judge Souter would vote on cases that may come before him on the Supreme Court.

I have, therefore, rested my decision on his nomination on the approach that he uses to determine the source of individual liberties, the breadth with which he sees constitutional guarantees, the emphasis he places on the structure of the constitutional system and its purpose, and the criteria he would use to determine if an individual liberty is enforceable against the government.

These factors do not give me an infallible guide as to his future rulings. But they do not give such a guide to anyone else either.

Those who argue that Judge Souter should be opposed because they are certain they know how he will vote have no objective basis for that certainty.

But there is one certainty over which there can be no dispute: No matter what the pressing controversy of the moment is, Judge Souter or any other nominee will occupy a seat on the Supreme Court for many years after the hot controversies of today are settled law.

I believe that if Judge Souter brings to those future controversies the breadth of experience, understanding, and the careful judgment which his testimony before the Judiciary Committee reflected, then his decisions in those cases will continue to reflect the fundamental American constitutional tradition.

For those reasons, I shall vote to confirm his nomination.

Mr. President, I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of David H. Souter, of New Hampshire, to be an Associate Justice of the Supreme Court of the United States? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 90, nays 9, as follows:

[Rollcall Vote No. 259 Ex.]

YEAS—90

Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Breaux
Bryan
Bumpers
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
D'Amato
Danforth
Daschle

DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kerrey
Kohl
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McClure
McConnell
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wirth

NAYS—9

Adams
Akaka
Bradley
Burdick
Cranston
Kennedy
Kerry
Lautenberg
Mikulski

NOT VOTING—1

Wilson

So the nomination was confirmed.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Disturbance in the Visitors' Galleries.)

Mr. BYRD. Mr. President, may we have order in the Galleries?

The PRESIDING OFFICER. The Galleries will refrain from any noise. Order will be restored.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has confirmed the nomination of Judge David Souter.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. FORD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

THE INTERNATIONAL FUND FOR IRELAND

Mr. KENNEDY. Mr. President, the International Fund for Ireland has now been in operation for 4 years. In that time, it has grown from a hopeful idea in the Anglo-Irish Agreement on Northern Ireland in 1985, through a troubled initial phase, to what it has become today, a worthwhile participant in the search for a peaceful settlement of the violence and divisions that have plagued the people of Northern Ireland for over 20 years.

The United States has a substantial interest in promoting this search for peace. After a difficult start, the Fund has turned out to be an effective means for us to help achieve the goal that all of us share for the future of Northern Ireland. Annual appropriations from the United States have played a major role in the Fund's success. An appropriation of $20 million for fiscal year 1991 has strong support in Congress, and I hope that it will be enacted.

From the beginning, the mandate of the Fund was clear—to encourage economic development in the areas most affected by the violence in Northern Ireland. In article 10 of the Anglo-Irish Agreement, the Governments of Ireland and Great Britain pledged to

> Cooperate to promote the economic and social development of those areas of both parts of Ireland which have suffered most severely from the consequence of the instability of recent years, and shall consider the possibility of securing international support for this work.

The International Fund for Ireland was subsequently created to carry out this purpose. In the initial phase of its operations, the Fund established seven key programs:

First, two investment companies operating according to strict commercial criteria;

Second, a business enterprise program to stimulate job creation;

Third, an urban development program to revitalize town centers, including 24 towns in Northern Ireland, and 12 in the South;

Fourth, a tourism program to develop one of the region's principal industries;

Fifth, an agriculture and fisheries program to stimulate new enterprises;

Sixth, a science and technology program to emphasize practical research likely to lead to early economic benefits;

Seventh, a wider horizons program to encourage new skills through practical work experience, training, and education overseas.

At the outset, however, the Fund had difficulty in developing and implementing its mission. Projects were funded that were difficult to justify on the basis of the priority intended to be given to areas most affected by the violence. These areas include over a third of the population of Northern Ireland, and are concentrated in West and North Belfast, Derry, and along the border with Ireland. As a result of its missteps, the Fund was legitimately and increasingly criticized, and there were growing doubts in Congress about the desirability of U.S. support.

To its credit, the Fund responded to these concerns. A new series of initiatives was developed with special emphasis on disadvantaged areas, and the Fund has received high marks in the past year for its work in implementing these initiatives.

At a meeting of the Anglo-Irish Intergovernmental Conference on September 14, the conferees noted with particular satisfaction the growing evidence of the Fund's success in promoting economic regeneration to the direct benefit of the entire community, particularly in the most disadvantaged areas.

There is tangible evidence of this success. In all, 1,300 projects have been supported by the Fund; 8,000 jobs have been created; and substantial assistance has been made available to disadvantaged areas, with special emphasis on economic development projects in North Belfast, West Belfast, and Derry.

For the vast majority of the people on both sides of the conflict in Northern Ireland, the Fund has become a symbol of hope for a better future. It is helping to reduce the violence, mistrust, and discrimination that have plagued Northern Ireland for too long. In my view, the Fund deserves credit for resolving its early difficulties. It is coming into its own today, and it deserves continued support from the United States.

Mr. President, a four-part series of articles by Niall Kiely in the Irish Times last August provides an excellent analysis of the Fund. I believe that the articles will be of interest to all of us in Congress, and I ask unanimous consent that they may be printed in the RECORD, along with a subsequent editorial in the Irish Times.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Irish Times, Aug. 20, 1990]

FUND'S U.S. BACKERS DISAPPOINTED BY DUBLIN

(By Niall Kiely)

Beset by radical critics drawn from the ranks of Sinn Fein supporters in the United States, the International Fund for Ireland could have done without this year's unpublicised differences between the Irish Government and its most important supporters, the Friends of Ireland (FoI) group in the American Congress and Senate.

It was doubly unfortunate that it was the Government's absorption in Ireland's six-month EC presidency that proved instrumental in ruffling feathers on Capitol Hill. As 1992 nears, and the Euro-USA trade disagreements take on more rancorous forms, American aid to Community member-states has become increasingly vulnerable.

Although the Minister for Foreign Affairs, Mr. Collins, finally stepped into the breach in June with a warm speech of thanks to the board of the IFI, some of the fund's staunchest backers in Washington regarded the Minister's effort as rather little, and delivered pretty late in the day. The pressure of local criticisms, however unjustified most of them probably were, had taken its toll of FoI enthusiasm and the image of the fund had been belittled and smeared.

The critics were both forthright and cunning. The campaign was co-ordinated by prominent figures in Noraid, the Irish American Unity Conference and the Ancient Order of Hibernians. Their tactics were standard practice in modern American politics: identify vulnerability, distort some facts if necessary and paint the critical slogans with broad, populist strokes. As tactics go, it can be difficult to counter such have-you-stopped beating your wife attacks, and in the event, the response of the IFI and its official backers proved dilatory and hapless.

In effect, the fund's supporters in Dublin and London were up against the bare-knuckle gougers against whom they fielded nobody with the street-smart nous or official authority to slug back appropriately. British diplomats in Washington have always had difficulties dealing with contentious issues involving the Irish-American community, not least because their accents and perceived cultural values grate on the sensibilities of Americans with green-and-white views on the North. This factor in practical terms left defence of the IFI and its American funding largely to the Irish embassy.

The staff in Washington, particularly the political counsellor, Brendan Scannell, who laboured mightily on the Hill to counteract the efforts of the anti-fund lobbyists, did their best—and to notable eventual effect. Whatever distress signals they sent back to Dublin, however, made little impact on a Government engrossed in its half-year task of Community presidency. The summits, the shuttling and the time-consuming pomp and protocol took apparent precedence over what may have seemed a storm in a Washington teacup.

"The emphasis was all 'Europe,' Europe at the time and whatever it was the embassy did, it didn't get the big guys in Dublin off their asses," says one seasoned observer of Irish-American politics. "It left a clear feeling (in Washington) that the Irish Government hadn't done enough to counteract the charges against the fund and back up its friends. There was also a sense in the States that the Government was taking the Irish-American lobby's support for granted."

Nor could the fund and its operators in Dublin and Belfast escape all the flak. Their intent was admirable when they tried briskly from the start to get money out on the ground and produce results; and it made practical sense to avoid creating an expensive administrative tail, instead piggybacking on existing official networks, North and South. One result, perhaps inevitable, of all this hustle and hurry was that the mesh of IFI's check-and-balance net was never particularly fine.

And there may have been an element of innocence by well-meaning public servants who believe that because they were basically doing good works, such small mistakes as cropped up would be understood, corrected and forgiven: but that was naivety indeed by people who underestimated the determination of the critics who waited in ambush.

It was not just that some specific projects were funded which offered near-perfect material for the critics to exploit, such as the facelift for an AIB frontage in Strabane, or that ventures were assisted which invited apparently reasonable censure on the grounds that they were frivolous, "unsuitable" or already had recourse to private/public cash; it also transpired that the fund's defenders failed to justify with sufficient vim and rigour its *raison d'etre* and operating principles.

"Frankly, the (IFI) secretariat seemed to be clueless when it came to reacting to the criticisms of the fund's work," one well-connected Washington source told *The Irish Times* "You wouldn't have to be paranoid about Noraid to see them coming a mile off. Their connections are public and they certainly would like to destroy the Anglo-Irish Agreement, but the secretariat not alone let them make all the running—they floundered around the place when it came to hitting back."

It was not appreciated in Dublin or London how relatively insignificant an issue the IFI was, even for the committed FoI men, considered in the context of a year in their political lives, the source added. "These guys in the House (of Representatives) and Senate reckoned they'd done their bit by getting the money. Then they found themselves being sniped at—and by other Irishmen!," he explained, "Their attitude was: if the Israelis got another 20 million bucks, you wouldn't get some of them bitching later about how a few thousand was misspent here and there."

[From the Irish Times, Aug. 21, 1990]

TAKING ISSUE WITH THE "WELL-HEELED" AIR OF FUND PROJECTS

It's a long way from Ballymurphy to Stormont. As the crow flies, probably only a handful of miles, but the contrasts are not just the blatant ones. The gulf separating the Rev. Des Wilson and Irvine Devitt has much more to do with background, personal philosophy and Northern nuance.

Devitt is one of the joint directors general of the International Fund for Ireland (IFI). His room in the monolithic former parliament building in east Belfast is beside what used to be the Northern Ireland prime minister's office in pre-1972 days. In Dublin, his counterpart is Donal Hamill of Foreign Affairs who operates from an office in Iveagh House: St. Stephen's Green, Wilson might reasonably argue, is also some distance from Ballymurphy.

The sincerity of all three men could not be doubted, yet they hold diametrically opposed views on the fund and its application. A serious link between their positions is provided in the bulky shape of John McGuckian, who was appointed last autumn to a three-year term as IFI chairman. A successful businessman in his late 40s, McGuckian was once taught by Father Wilson and still admires him.

Sitting in the homely but down-at-heel Springhill community house, set in a west Belfast housing estate where jobless figures are so high as to be almost meaningless as statistics, it is easy to understand how the 55-year-old priest finds much of the IFI's funding priorities anathema. He considers tourism, for instance, to be ar already well-heeled and oversubscribed industry "that produces the lousiest jobs and the most anti-social hours;" he is bitter after a lifetime watching funds either misspent or not spent at all in Catholic working-class areas. And he is angry at the fund's refusal to fund a proposed project in the local Conway Mill.

Devitt, whose background was in the textile industry and with the NI Development Board (NIDB) before joining the department of commerce, has a simple explanation: although the IFI's day-to-day operations are independent and impartial, the British and Irish Governments do have an ultimate veto on any project considered unsuitable, and London exercised that veto on the mill. (A House of Commons answer last December stated that the mill had been refused public funds ". . . because of the nature and extent of paramilitary influence within the Mill.")

The "leverage concept" finds its way into much of Irvine Devitt's defence of the fund and its operations. He understands how the Americans in particular appreciate the concept of using public funds to lever further investment from private enterprise and local communities. In the North, the IFI has used its cash to encourage back-up financing from the Local Enterprise Development Unit (LEDU), the local councils, the Departments of Environment (DoE) and agriculture and community groups.

He describes as rubbish the claims of fund critics that most of the IFI spending in the North is east of the Bann, and that funding has favoured the Protestant community disproportionately. "There's no secret about the projects. Thirty-five per cent of the population lives in disadvantaged areas, and about 70 per cent of our spending has gone into those areas," he says. "And I'd reckon myself that the population is 80 to 90 per cent Catholic in the locations involved".

The emphasis has been on promoting an "enterprise culture" in which people who wish to start up or diversify in business can get assistance varying from workspace to training, expert advice to cash. Established and new enterprise centres have taken much of the IFI's Northern spending, with each disadvantaged area receiving £50,000 over two years to pay for a development officer whose role is to help local communities identify and develop suitable projects.

McGuckian believes that the American politicians who were instrumental in securing the initial US funding for the IFI understood perfectly well why the administrators had to concentrate during the first year or so on private enterprise companies and individuals: it was essential to get the money working quickly, and it took time to establish mechanisms through which suitable and realistic community schemes could be found and encouraged. "One of the problems was and still is to get good, viable projects in the disadvantaged areas where they were and are most needed," he says. "But as we got programmes underway and learned more ourselves, we got the development consultants out on the ground to research and recommend the right types of projects."

Devitt stoutly defends tourism projects as justifiable schemes for IFI assistance. "Sure, these schemes are easy targets," he agrees, "but economic regeneration is the name of the game. Take our assistance towards the building of the Plaza "budget" Hotel in central Belfast. The 10 per cent of costs we provided at a crucial stage nudged that project towards reality. Now consider what that hotel will mean: there will be great employment during construction, it will probably be staffed by people from west Belfast, it will bring visitors to Belfast—and it will bring confidence to the city."

He believes the IFI's work has already begun to have practical effect. "I think the impact is now visible on the economic and social landscape of the North of Ireland. If you look honestly at Derry and Belfast, you'll surely agree that there are signs of confidence in both cities. Because of that, and with the help of our projects, I feel other towns will follow suit."

Last year, five of the IFI's six directors were replaced to coincide with McGuckian's arrival. The likes of Mr. Neil McCann, the Dublin fruit importer; Mr. Paddy Duffy, the Co Tyrone solicitor, Belfast merchant banker, Mr. John Craig; Mr. Pat Kenny, of accountants Deloitte Haughey Boland; retired Stormont civil servant Mr. Denis Calvert, and Fruit of the Loom MD, Mr. Willie McCarter from Buncrana, give of their time unstintingly to the fund.

None does so with more alacrity than McGuckian who also manages clothing and property interests, a farm and is a director of AIB and several other companies including some in the U.S. He is also pro chancellor of Queen's University, Belfast, deputy chairman of Ulster Television and vice-chairman of Laganside Corporation, a government body promoting the development of inner city Belfast.

It is impossible to doubt his conviction when he explains his motivation for devoting two and sometimes three days of his working week to IFI business. "The reason I'm involved is because it seems to be a chance to ease the misery, unemployment and deprivation in the most disadvantaged parts of this country," he says. I'm also hoping to help in a process that may bring peace in Ireland.

[From the Irish Times, Aug. 22, 1990]

FEW ATTACKS ON FUND DISBURSEMENTS STAND UP TO SCRUTINY

The most celebrated and trivial item of notoriety associated with the International Fund for Ireland (IFI) was certainly the cash allocated towards refurbishing the frontage of the Allied Irish Bank branch in Strabane, Co. Tyrone. Typically, Sinn Fein's allies in the United States got it half-right when they alleged that the fund had paid $10,000 to help to pay for the facelift.

In fact, the sum involved was $2,500 and it had seemed justified under the terms of the urban development programme in operation by the IFI at that time (four years ago). It was never used because an embarrassed AIB refunded the money. The grant-aid was ill-advised, perhaps, but scarcely scandalous.

"I'm sure we took some wrong options, and only a fool would say we didn't make some mistakes but we didn't make all that many," says the Co. Antrim businessman, Mr. John McGuckian, who has been fund chairman since last October. "There were very few things we couldn't defend in some way, but with the benefit of hindsight, we could have avoided some difficulties that arose later. Given that we have been or are involved in 1,500 projects, some were bound to be less than perfect.

He will not accept that the fund's checking of applicants has failed because it has steadfastly refused to develop an expensive and cumbersome bureaucracy of its own, relying instead on a secretariat drawn from officials in Dublin and Belfast. "There are other benefits for this arrangement, also, in that people from both sides of the Border at all sorts of levels are working well together," he says, adding with a rare but undisguised sarcasm. "Maybe some people wouldn't like that."

Criticisms of the fund have been most stinging from U.S. sources, mainly emanating from a combination of Irish Northern Aid (Noraid), the Irish American Unity Conference and the Ancient Order of Hibernians, although it is difficult at times to keep track of the cross-affiliations and memberships of various critics.

When examined individually and viewed in the context of overall IFI activities few, if any, of the attacks on fund disbursements really stand up to reasonable scrutiny. A potted selection of examples follows:

That the IFI bought the Townsend Street centre in Belfast from the British government but laundered the money through the Catholic Church to obscure the deal. Facts: the centre was purchased from the Northern Ireland Development Board by the centre's enterprise board, a bona fide community group; the IFI has helped in creating some 200 jobs on the peaceline site.

That the IFI financed foreign "junkets". Facts: true but done as part of the fund's "wide horizons" programme to provide training abroad for religiously mixed groups of young people and done specificially to meet the conditions laid down by Canada on the spending of its Can$10 million contribution.

That the fund bought a fishery vessel for the British government. Facts: true, but a research boat being used by the Northern Ireland Department of Agriculture in collaboration with the Department of the Marine in Dublin for the mutual benefit of both fishing industries.

The U.S. General Accounting Office has been very critical of the IFI's management and accountability. Facts: untrue. The IFI agreed to provide improved economic indicators of achievement, and a Peat Marwick study found that the fund was meeting its intended purpose and donor wishes; and the U.S. Agency for International Development, to which the GAO reports, has confirmed to Congress in each of the past four years that the IFI has carried out its mandate.

America is "propping up the Hillsborough deal scam" with the fund "while starving Eastern Europe and doing nothing for sub-Sahara Africa". Fact: this rather gives the game away with its strong implication that the real target of the critics is the Anglo-Irish Agreement signed in 1985 by Dublin and London. The IFI was indeed set up (in 1986) under the framework of the agreement and to give practical expression to its aspirations "to promote the economic and social development of those areas of both parts of Ireland which have suffered most severely from the consequences of the instability of recent years." The annual U.S. contribution to the fund constitutes one-quarter of one percent of the total U.S. foreign aid budget.

Grants have been given to anti-Catholic employers. Facts: the most recent USAID report to Congress on the IFI, dated March, 1990, stated that "disbursements from the IFI are distributed in accordance with the principle of equality of opportunity and non-discrimination in employment, without regard to religious affiliation, and address the needs of both communities in Northern Ireland."

It is worth mentioning in a general sense also, vis-a-vis the Canadian insistence on youth training expenditures, that the US money was provided with the clear understanding that it would, where possible, be utilized to provide practical momentum towards job creation, i.e., to stimulate private enterprise in the direction of "commercial entrepreneurship". Thus, the fund can justify, if such be needed, its provision of grant-aid to private businesses on the grounds that its seed-money helped prompt entrepreneurial activity.

In this context, one final example. It was alleged in the US that Lacey's wine bar, in Coleraine, Co Derry, had received a grant of $100,000 from the IFI before being sold for $½ million at considerable profit. The facts, not surprisingly, are quite at variance with this tale. The bar, located in a rundown area, did indeed receive $100,000 as 30 percent funding and its development provided 25 jobs and stimulated other economic activity in the vicinity. Its owners are indeed considering selling the business, but any new owners will have to repay the IFI grant in full before they will get legal title to the property.

[From the Irish Times, Aug. 23, 1990]

FUND'S ACTIVITIES GENERATING QUITE A BIT OF HOPE AND OPTIMISM

Even his best friends wouldn't describe Mr. Charles Brett as laid back or hail-fellow-well-met. A 61-year-old Belfast solicitor and architectural historian with a lifetime's involvement in public service and the arts, his style might easily be characterised as autocratic and aloof, although nobody would have doubted his capability or his commitment during a three-year term chairing the International Fund for Ireland (IFI).

It was perhaps as well, however, that a knighthood came after the end of his IFI stint last autumn. The longer than usual hair, the natty dress style and an accent honed at Rugby and Oxford could at times have an unfortunate effect, particularly in the United States: having to address the abrassive IFI chairman as "Sir Charles" might have put the tin hat on it even for the fund's staunchest American supporters.

His successor, Antrim businessman John McGuckian, could scarcely be more different. Separated from the *de rigueur* Mercedes and the sober suits, he might perhaps pass for a cheerful, down-to-earth cattle dealer. There is even a certain enthusiastic naivety to his character, a factor which cost him dearly last April when an ABC television news item on the IFI viciously "edited" a lengthy McGuckian interview in a manner which reflected little credit on the network.

A palpable sincerity has served him well in most respects, however, not least during a briefing delivered last Friday morning in Iveagh House on St. Stephen's Green. The occasion represented something of a coup for the Department of Foreign Affairs and its embassy in Washington, both of which have been fighting a rearguard action to counteract Sinn Fein-inspired critics of the fund in the US. Seven members of the House of Representatives had been persuaded to stop over in Ireland en route to Eastern Europe on a fact-finding trip and all, bar one, were members of crucial appropriations (i.e. fund-dispersing) committees.

The two most important members of the delegation were probably David Obey, a Wisconsin Democrat who is proudly Irish-American (family name originally Aubey) and who chairs the foreign operations subcommittee of the appropriations committee; and New York Democrat Matt McHugh, another appropriations member and staunch Friend of Ireland (FoI). But the other three Democrats, William Lehman (Florida), Les AuCoin (Oregon) and William Lipinski (Illinois), and two Republicans, Connie Morella (Maryland) and John Porter (Illinois) will also have influential roles to play in this autumn's final acts of the appropriations committees' drama.

The politicians had a packed flying trip on Friday, taking in lunch with Northern Secretary Mr. Brooke at Stormont and visiting three of the IFI-funded enterprise centres in Belfast before flying to Shannon. That night in Adare they were impressed by the arrival of Mr. Collins, the Minister for Foreign Affairs, who jetted in from his hectic Middle Eastern mission with the EC's ministerial troika and hosted dinner. The delegates reportedly left Shannon on Saturday with positive impressions.

It was important for the IFI that they did so. Thus far, the U.S. has contributed 80 per cent of the total funding, with $120 million in 1986–'88, another $10 million in 1989 and a further $20 million this year. In addition, the EC has provided ECU45 million for the 1989–'91 period. Canada supplied Can$10 million and New Zealand NZ$0.3 million. For next year the fund hopes to have a budget of some $50 million, made up of $20 million from the US plus the held over cash and other contributions.

Right now, according to Mr. McGuckian, some $60 million is spendable this financial year, bringing to $166 million the amount available to the end of 1990 (the comparable total to the end of 1991 would be $220 million, at least on paper).

Although the US contribution is reducing as a proportion of total funds available, its significance in symbolic and practical terms remains very substantial, not least for the boost its loss would deliver to opponents of the Anglo-Irish Agreement. In the present circumstances, only a brave man would make firm predictions about this autumn's budgeting battle in Washington, but Mr. McGuckian remains reasonably optimistic that the $20 million proposed for 1991 IFI funding will survive the appropriations haggling.

There are inchoate but distinct signs, too, that IFI supporters may be winning the war of attrition in the US. For all the undoubted annoyance of the Friends of Ireland in the House and Senate earlier this year over what they concluded was an offhand, even blasé, assumption, in Dublin that FoI support could be taken for granted, they remain firmly behind the Anglo-Irish Agreement and the Irish Government's approach to the British problem in the north.

No one has been more important in support of this stance than Congressman Brian Donnelly. FoI chairman and one of the more effective gut-politicians of the present generation of elected Irish-Americans—a group of almost incalculable importance to Dublin in that they form the first really effective pro-Ireland political lobby in a country where 40 million claim Irish ancestry, but where extraordinarily effective pro-Israel lobbyists have for decades made a comparative mockery of their relatively insignificant voting aggregate.

Mr. Donnell is also a rising star of whom the Irish Government must take serious notice in coming years. The House of Representatives Speaker, Mr. Thomas Foley will almost certainly appoint his own team this year to succeed that which he inherited from his predecessor, and Mr. Donnelly is well-placed to prosper.

And for all the warning shots the FoI leader has fired across the Irish Government's bow about the IFI's spending policy, he has been going his own combative way about sorting out the Stateside opposition. Very recently, he was pleased to receive a letter from one of his erstwhile foes in the Irish American Unity Conference pledging support for US funding of the IFI, albeit with reservations on the nature of projects supported.

The Ancient Order of Hibernians PRO, Mr. Mike Cummings, whose bitter epistolary attacks on the IFI helped fuel US doubts about the fund, may also be about to lose his power base. In May, the AOH president, Mr. Michael Coogan, was busily disowning Mr. Cummings' letters as not representing the organization's views, but it seemed rather like a belated shutting of the order's stable-door. This summer's biennial AOH convention elected St. Louis man, Mr. George Clough as national president, however, and it is generally assumed that his pro-IFI leadership team will not include Mr. Cummings.

This reporter recently visited randomly selected IFI-supported projects in counties Monaghan, Tyrone, Leitrim, Derry, Donegal and Antrim. The evidence on the ground indicated clearly that the fund is having an impact that is not less than positive in all locations and is strikingly effective in some. And although it is sometimes difficult to measure the effect of certain projects on the spirit and confidence of a disadvantaged community, it was impossible to avoid the conclusion that IFI activities are generating quite a bit of hope and optimism, quite apart from the practical matter of creating jobs. A huge breadth and variety of activities has been covered by the 1,520 projects helped or initiated to date and The Irish Times tour took in a mixed sample. They included a high-tech mushroom-compost plant near Monaghan town which supplies 220 local growers who feed a company most of whose produce is exported to the UK; a business enterprise centre in Omagh with 30 of its 37 units functioning and expert advice available on "outreach" to communities all over Fermanagh and most of Co Tyrone; depressed but picturesque Manorhamilton where £75,000 in IFI cash prompted a further £100,000 of Leitrim county council spending, transformed the town's appearance and sparked local pride to improve shopfronts and homes; resurgent Derry, where IFI seed-money looks set to help create community-based commercial hearts in the windblown housing estates west above the city; Donegal, where development officer Mr. Pat Bolger—white-bearded visionary of the country's co-op movement—was fulsome in praise of the psychological lift the £278,000 IFI spending to date has provided in a county where tourist numbers are only now reaching 1966 peaks again and where "every shrub, every lick of paint helps"; and of course, Belfast, where International Fund money helps stimulate five enterprise centres already busy with local small businesses, manufacturing as well as service industries.

Sitting in the busy offices of the Townsend Street centre which straddles the peaceline between the Falls and Shankill roads, the West Belfast Enterprise Board chairman, Mr. Frank Murphy, spoke with pride of the bustle in the units outside and said simply: "Nothing would have happened here without the International Fund money."

[From the Irish Times, Aug. 27, 1990]

A FUND OF HOPE

It's ironical that any project designed to promote reconciliation on this island should be considered suspect by those who most stridently proclaim their dedication to unity; ironical but, in the nature of things, virtually inevitable.

The International Fund for Ireland is not just any project. It was established by the Irish and British Governments, one of the by-products of the Anglo-Irish Agreement. Its purpose is to channel financial support for the agreement from the United States, Canada, New Zealand and the European Community. Its most substantial contribution so far, $150 million, has come from the United States.

These, in the eyes of its critics, were features of the fund which lent weight to suspicions that were deepened by the tactic of using public funds to lever investment from private enterprise and local communities. And in some instances at least the local projects helped bore the marks of hasty choice. But as Niall Kiely demonstrated in his reports in The Irish Times last week, many of the criticisms were ill-founded or based on distortions emanating from partisan American-Irish opponents of the Anglo-Irish Agreement.

These groups included Noraid, the Irish American Unity Conference and the Ancient Order of Hibernians. In their angry world distance lends disenchantment to any view of Ireland which is not painted in black and white and from which the usual characters from the familiar cast of demons are missing.

The fund's organisers have made mistakes. Some of them might have been avoided if they had given more thought to how their work might appear to people ready to bite any helping hand. They have probably gained from the experience. And Ireland North and South has benefited from a fund which started or helped more than 1,500 projects since 1986—generating, as the last of The Irish Times reports had it, quite a bit of hope apart from the practical matter of creating jobs.

Focusing American attention on the hopeful and practical rather than the tragic in Irish life would be a worthwhile achievement in itself. The fund's energetic new chairman, John McGuckian, is conscious of both the symbolism and the practical results. The Government, which occasionally allows its attention to stray from the fund's potential, would do well to contribute more forcefully to the effort.

TRIBUTE TO BRIG. GEN. WILLIAM H.L. MULLINS

Mr. WARNER. Mr. President, it is with great sadness that I rise today to pay tribute to the late William H.L. "Moon" Mullins, a retired Air Force brigadier general and former corporate vice president for government affairs of General Dynamics Corp. General Mullins died September 29 as a passenger in a restored P-51 Mustang, World War II fighter plane, with the pilot, George F. Enhorning, in Chatham, MA.

General Mullins was a heavily decorated combat veteran of the Vietnam war who led a distinguished military career for 22 years of service to our

Nation. His military decorations included the Distinguished Flying Cross with 4 Oak Leaf Clusters, the Bronze Star Medal, the Meritorious Service Medal with 1 Oak Leaf Cluster, the Air Medal with 12 Oak Leaf Clusters, the Air Force Commendation Medal with 1 Oak Leaf Cluster, and the Air Force Outstanding Unit Award with 1 Oak Leaf Cluster for Valor.

General Mullins was born in Independence, MO, on February 9, 1935. He began his military career in 1957 as a commissioned officer of the U.S. Military Academy at West Point. Following graduation, he attended flight training and received his pilot wings in 1958. As a trained F-100 pilot, he completed his first operational assignment with the 8th Tactical Fighter Wing at Itazuke Air Base in Japan, serving from June 1959 to June 1961. Over the next 2 years, General Mullins was the aide-de-camp to the Commander of the 13th Air Force at Clark Air Base, Republic of the Philippines, while remaining combat-ready in the F-100.

In July 1963, General Mullins served as an F-4 instructor pilot at MacDill Air Force Base, FL, and later at Davis-Monthan Air Force Base in Arizona. Following graduation in 1967 from the Air Command and Staff College at Maxwell Air Force Base, AL, he rejoined the 8th Tactical Fighter Wing in Ubon Royal Thai Air Force Base, Thailand, as the Wing F-4 standardization and evaluation chief. During his years in Thailand, he flew 146 combat missions, 116 of them over North Vietnam.

General Mullins received a master's degree in business administration from the University of Arizona and later served in the Pentagon from 1968 to 1971 as a staff officer for Headquarters, U.S. Air Force, in the Directorate of Operations and the Directorate of Budget. As a graduate of the National War College in 1972, he served as the assistant deputy commander and later as the deputy commander for operations, at the 4th Tactical Fighter Wing at Seymour Johnson Air Force Base in North Carolina.

In 1974, General Mullins distinguished himself as a member of the Six-Man Group for the Chief of Staff of the U.S. Air Force. He retired from the Air Force in 1979, after serving as the Deputy Director of Legislative Affairs, and joined General Dynamics as its deputy director of legislative affairs.

General Mullins is survived by his wife, the former Florine Lucy Magnani, who lives in Alexandria, VA, and their two sons, Dan, a second lieutenant in the U.S. Air Force, who is stationed in Mississippi, and Todd of Alexandria.

Mr. President, we mourn the tragic loss of General Mullins but remember and honor his many years of distinguished military service to our Nation.

NOTIFICATION FROM THE PRESIDENT ON FREE TRADE NEGOTIATIONS WITH MEXICO

Mr. BENTSEN. Mr. Chairman, earlier this week President Bush formally notified me, as chairman of the Finance Committee and pursuant to section 1102(c) of the Omnibus Trade and Competitiveness Act of 1988, of his intent to enter into free trade negotiations with Mexico. President Bush further informed me that the United States will be consulting with Canada and Mexico in coming months concerning whether Canada also will participate in the negotiations.

In order to provide all Members with full information on this notification from the President, I hereby request that a copy of the President's letter appear in the CONGRESSIONAL RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, September 25, 1990.

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In a letter to me of August 21, President Salinas formally proposed initiation of negotiations for a free trade agreement between the United States and Mexico (copy enclosed). As you know, President Salinas and I had endorsed the objective of a free trade agreement at a meeting in June, and our respective Trade Ministers, Secretary Serra and United States Trade Representative Hills, had so recommended in a joint report of August 8 (copy enclosed).

Mexico is our third largest trading partner, and you are aware of the dynamic, market-oriented reforms undertaken by President Salinas. We see substantial opportunities for mutual benefit in further lowering impediments to bilateral trade in goods and services and to investment.

Accordingly, I welcome the recommendations in the joint report and President Salinas' proposal. Negotiation of a comprehensive free trade agreement is consistent with the efforts of both my Administration and the Congress to eliminate barriers to the flow of goods, services and investment and to protect intellectual property rights.

Therefore, pursuant to Section 1102(c) of the Omnibus Trade and Competitiveness Act of 1988, I am hereby notifying the House Committee on Ways and Means of trade negotiations with Mexico.

I also want to inform you that the Government of Canada has recently expressed a desire to participate in the negotiations, with a view to negotiating an agreement or agreements among all three countries. I welcome the opportunity to work with our two neighbors towards this end. We, with the Canadian and Mexican Governments together, will be consulting in the coming months to explore the possibilities in his regard, which we will also discuss with your committee. I will send a further or revised notice to your Committee as appropriate, depending on the outcome of our consultations.

I want to emphasize that such trilateral consultations will not affect the continued validity of the existing free trade agreement with Canada. Further, in all these discussions, we expect to build on our multilateral negotiating efforts in the Uruguay Round, which is scheduled to conclude at the end of this year.

Ambassador Hills has already begun consultations with your Committee, and the Administration will continue that process throughout the negotiations.

Sincerely,

GEORGE BUSH.

DR. JOHN HARTE

Mr. WIRTH. Mr. President, I rise today to share with my colleagues a recent article about the cutting edge scientific work that is occurring in Colorado under the leadership of Dr. John Harte, a brilliant researcher out of the University of California at Berkeley.

One of our best kept scientific secrets is the Rocky Mountain Biological Laboratory, which is based in Gothic, CO. Every summer, many of the Nation's best and brightest scientific minds gather at RMBL to preside over scientific investigations in Colorado's high country. The cast of characters includes Dr. Harte, the renowned population biologists Anne and Paul Ehrlich, as well as John Holdren, who is probably our foremost nuclear physicist and one of the Nation's best minds. And every summer as I travel through the State, we get together at RMBL and I have the opportunity to learn a great deal about science in those wonderful later afternoons.

I was reminded of this, Mr. President, when I came across the October issue of Discover magazine. Anyone who is concerned about the issue of global warming needs to be aware of the Discover article that details an exciting new experiment that John Harte has established in Colorado. Scientists know a great deal about global warming—that our atmosphere acts like the walls of a greenhouse; that the gases that have the ability to warm the atmosphere are increasing rapidly in concentration; and that the Earth has warmed by about one degree during the past century. On the other hand, the state of science has not advanced to the point where scientists can tell us exactly what will happen as the Earth warms in the future. Dr. Harte's research in the mountains of Colorado will provide important new information about the effect of global warming on our biologic resources.

I highly recommend this article to all of my colleagues. And I applaud the work of Dr. Harte and all of his colleagues at the Rocky Mountain Biological Laboratory.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Hot Spot

(By Glen Martin)

This high mountain meadow in the middle of the Colorado Rockies hardly seems the place for apocalyptic research. Groves of quaking aspen dip down to vales covered with blue-flowered larkspur and a few yellow dandelions. Pea plants called lupines are beginning to unfurl long banners of pink, white, and blue blooms. A creek murmurs nearby, gorged with spring snowmelt and mountain trout. High above, a bald eagle rides the thermals.

And sweating profusely in the bright June sun, John Harte struggles to tighten a web of cables that crisscross a section of the meadow. "This project has really made me admire the engineering skills of spiders," Harte grumbles.

Harte, a 51-year-old ecologist from the University of California at Berkeley, has stretched a 12-foot-high grid of shiny cables above 300 square yards of turf. The cables are supported by four steel towers, one at each corner of the grid. And hanging down from the cables are ten infrared heat lamps, each about three feet long.

By heating up the meadow, this bizarre assemblage is supposed to simulate what many see as the coming apocalypse. "The scientific community is virtually unanimous about global warming," says Harte. "By 2050, if we continue to load trace gases—mainly carbon dioxide—into the atmosphere at our current rate, we can expect Earth's temperature to increase by anywhere from three to nine degrees. The Vostok record confirms that."

That record is a series of cores drilled from the ice in Vostok, Antarctica. The ice has been deposited at various times throughout the past 160,000 years, and bubbles trapped within it give geologists pristine samples of Earth's atmosphere at the time the ice was formed. By comparing the gas in these bubbles with other geologic evidence that indicates how warm or cold Earth's climate was then, researchers can relate greenhouse gases to increased temperatures.

They gauge the change in global temperature from the relative amounts of two isotopes of oxygen, O_{18} and O_{16}, in the fossilized shells of marine animals. During extended cold periods the lighter O_{16}, instead of readily evaporating from the seas and then returning as icemelt or rain, gets trapped in the planet's growing ice caps. Shells formed then thus have higher than normal concentrations of heavy O_{18}. In warmer times, the ratio of the two isotopes is less extreme.

Matching isotope ratios with Vostok bubbles has revealed that atmospheric carbon dioxide levels and global temperatures track each other unerringly: when CO_2 goes up, so does temperature. "But we don't know much about the mechanisms involved," says Harte. And that has led him to his meadow.

Harte is trying to learn whether greenhouse warming could start a vicious cycle that would cause the effects to be even worse than are now predicted. "We know that trace gases—mainly carbon dioxide, methane, and nitrous oxide—heat up the atmosphere," he says. "Now we need to know whether that heat stimulates further trace-gas releases from the soils. It's possible that the increased temperatures can stimulate the activity of soil microorganisms."

When a soil microbe sits down to a hearty meal of such typical soil nutrients as nitrogen and phosphorous, it discharges considerable amounts of carbon dioxide, nitrous oxide, and methane as waste products. What concerns Harte is that warmer soils could mean hungrier microbes and more gas—and thus more heat.

Harte's spider web is designed to reveal whether this is likely to come to pass. He has divided his grid into ten sections, each covering 30 square yards of meadow. Infrared lamps will heat every other section by 2.5 degrees, the increase expected in this part of the Rockies for the middle of the coming century. The unheated sections in between allow researchers to compare the effects of the lamps with the natural state of the meadow.

The experiment will begin this December and run for a minimum of three years. Once a week, Harte will take gas samples from buckets turned upside down for ten minutes at a time on both the heated and unheated strips. He'll draw the samples through fitted nipples at the bottoms of the buckets via syringes, then analyze them with a gas chromatograph. "We'll be able to plot any changes in the meadow very precisely," he says.

Some of those changes could be alterations in the very fabric of the seasons. With a 2.5-degree rise in temperature snow at high elevations might melt up to two months sooner. In Colorado that would mean March instead of May. The result would be soil that is drier and warmer by the time May rolls around "You'd be expanding summer at the expense of winter," says Harte.

That could have particularly grim consequences for specialized plants and animals. In the past, species that favor cool climes have responded to great episodes of global warming by migrating north, or to higher, colder elevations. But these adjustments, Harte points out, "took place over thousands of years. In the current episode of global warming we're talking fifty or sixty years. That's probably not enough time for most plants and animals to adjust."

Harte's "greenhouse meadow" runs along a slope and covers three different zones of vegetation. Species that require dry soil, like sage, thrive at the top, water-loving plants like veratrum grow at the bottom, and moderate-moisture fans—larkspur and lupine among them—favor the middle. Over the next three years, Harte expects, this situation will change. "We expect less biological diversity, although we don't know to what degree," he says. But plants favoring the wettest soil might be knocked out of the picture altogether.

Early warming can have other, more insidious effects. Some plants, such as larkspur, bloom when the snow first melts. But one of larkspur's most important pollinators, the broad-tailed hummingbird, times its migrations by the sun. As the days get longer, the hummingbird follows the sun north, where it finds its favorite flower in full bloom.

"If the atmosphere warms abruptly," says Harte, "we could see the larkspur bloom weeks before the first hummingbirds get to it. That would be harmful for both species." Without flowers to attract the birds, larkspur will have difficulty reproducing. And without larkspur to eat, the birds will starve.

Harte doesn't expect anything dramatic to happen when he turns on the grid in December—the current will simply turn on the infrared lamps. The real drama lies three years down the road, when the results are in. Harte does not expect them to be comforting: "If I had to hazard a guess, I'd say this project will confirm what we suspect—that we don't have any time to waste."

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,026th day that Terry Anderson has been held captive in Beirut.

DETERIORATING HUMAN RIGHTS CONDITIONS IN KENYA

Mrs. KASSEBAUM. Mr. President, last Friday the Kenyan Government, under President Daniel arap Moi, banned the Nairobi Law Monthly—a popular and influential journal which had championed political freedom, basic civil rights, and multiparty democracy. This action is the most recent in a series of strong-armed tactics by the Moi regime to stifle its peaceful critics.

The 1989 State Department human rights report described the increasingly repressive political environment in Kenya—including forced deportations, police brutality, detentions, and growing signs of executive manipulation of the judicial system.

During the 1989 markup of the foreign aid authorization bill, I expressed strong concern about the deteriorating human rights situation in Africa and had language included in the legislation linking Kenya's human rights performance to its foreign aid. Since that time, President Moi's policies have only become harsher.

Earlier this summer, President Moi ordered the imprisonment of dozens of prominent lawyers and human rights activists, including Gitobu Imanyara, editor of the now banned Nairobi Law Monthly, and two former Cabinet ministers who had spoken out for democracy, Charles Rubia and Kenneth Matiba. Mr. Rubia and Mr. Matiba remain in jail, held without charge.

As human rights conditions deteriorate, the United States Government continues to supply Kenya with nearly $50 million in aid, the largest amount for a nation in sub-Saharan Africa. For fiscal year 1991, the House has passed the foreign operations appropriations bill which provides $33 million in economic aid and $9 million in military aid to Kenya.

Mr. President, I believe that the situation in Kenya has reached the point where we must send a clear and firm message to the Government in Nairobi that we will not tolerate the continued suppression of basic human rights and civil liberties. In order to convey our strong disapproval of the current policies, I support the cessation of all military aid and economic support funds to Kenya until the human rights situation improves.

Furthermore, I believe that Congress should adopt legislation requiring the administration to notify Congress 15 days in advance of any obligation of aid to Kenya. This position was supported by the committee in 1989. Through this mechanism, Congress would be able to closely follow the status of human rights in Kenya, and would be able to maintain pressure on the Kenyan Government to respect civil liberties and basic human rights.

This is an encouraging time for those of us who watch events in sub-Saharan Africa. Many former oppressive, one-party African states have opened up—increasing respect for basic civil liberties and political rights. Yet, the Government of Kenya, an important United States ally in Africa, is moving in the opposite direction—closing their society by choking free speech and suppressing civil liberties.

MESSAGES FROM THE HOUSE

At 11:55 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, each without amendment:

S. 1974. An act to require new televisions to have built-in decoder circuitry; and

S. 2588. An act to amend section 5948 of title 5, United States Code, to reauthorize physicians comparability allowances.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 3897) to authorize appropriations for the Administrative Conference of the United States for fiscal years 1991, 1992, 1993, and 1994, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 5725) to extend the expiration date of the Defense Production Act of 1950.

The message also announced that the House agrees to the amendment of the Senate to the amendments of the House to the bill (S. 647) to amend the Federal securities laws in order to provide additional enforcement remedies for violations of those laws.

The message further announced that the House has passed the bill (S. 916) to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes; it insists upon its amendment to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. Roe, Mr. Brown of California, Mr. Nelson of Florida, Mr. Hall of Texas, Mr. Volkmer, Mr. Mineta, Mr. Torricelli, Mr. Nagle, Mr. Hayes of Louisiana, Mr. Tanner, Mr. Walker, Mr. Sensenbrenner, Mr. Lewis of Florida, Mr. Packard, Mr. Buechner, and Mr. Campbell of California as managers of the conference on the part of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 3007. An act to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to provide additional authorizations for appropriations.

The enrolled bill was subsequently signed by the President pro tempore [Mr. Byrd].

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 12:09 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 2588. An act to amend section 5948 of title 5, United States Code, to reauthorize physicians comparability allowances;

H.R. 5725. An act to extend the expiration date of the Defense Production Act of 1950; and

S.J. Res. 301. Joint resolution designating October 1990 as "National Breast Cancer Awareness Month."

The enrolled bills and joint resolution were subsequently signed by the President pro tempore [Mr. Byrd].

At 2:42 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 198) to amend title 17, United States Code, the Copyright Act to protect certain computer programs; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4567. An act to authorize an exchange of lands in South Dakota and Colorado;

H.R. 5144. An act to provide for the study of certain historical and cultural resources located in the city of Vancouver, Washington, and for other purposes; and

H.R. 5316. An act to provide for the appointment of additional Federal circuit and district judges, and for other purposes.

The message further announced that pursuant to the provisions of section 203(b) of Public Law 101-194, the Speaker appoints Mr. Warner Brandt; and the minority leader appoints Mr. William R. Pitts, Jr., to the President's Commission on the Federal Appointment Process.

At 4:18 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills and joint resolutions, each without amendment:

S. 1128. An act for the relief of Richard Saunders;

S. 1229. An act for the relief of Maria Luisa Anderson;

S. 1683. An act for the relief of Paula Grzyb;

S. 1814. An act for the relief of Wilson Johan Sherrouse;

S.J. Res. 181. Joint resolution to establish calendar year 1992 as the "Year of Clean Water"; and

S.J. Res. 301. Joint resolution designating October as "National Breast Cancer Awareness Month."

The message also announced that the House disagrees to the amendments of the Senate to the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the U.S. Government for the fiscal years 1991, 1992, 1993, 1994, and 1995; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. Panetta, Mr. Gephardt, and Mr. Frenzel as managers of the conference on the part of the House.

The message further announced that the Speaker appoints the following additional conferees and modifications in the appointments previously made in the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2830) entitled "An Act to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes":

From the Committee on Foreign Affairs, for consideration of titles IX (except sections 1124, 1125, 1134, 1137, and subtitle E), XXIII (except section 2306), sections 114, 1423, 1551, 1751-60, 1763, and 1765 of the Senate bill, and title XII (except sections 1241 and 1243-46) and sections 415, 1313(a), and 1833 of the House amendment, and modifications committed to conference: Mr. Fascell, Mr. Hamilton, Mr. Yatron, Mr. Solarz, Mr. Wolpe, Mr. Crockett, Mr. Gejdenson, Mr. Dymally, Mr. Kostmayer, Mr. Levine of California, Mr. Broomfield, Mr. Gilman, Mr. Lagomarsino, Mr. Leach of Iowa, Mr. Roth, and Mr. Bereuter.

From the Committee on Foreign Affairs, for consideration of subtitle E of title XI, sections 1931-1935 and 1937-1939 of the Senate bill, and title XXX of the House amendment, and modifications committed to conference: Mr. Fascell, Mr. Hamilton, Mr. Yatron, Mr. Gejdenson, Mr. Broomfield, and Mr. Roth.

From the Committee on Merchant Marine and Fisheries, for consideration of subtitle E of title XI of the Senate bill, and title XXX of the House amendment, and modifications committed to conference: Mr. Jones of North Carolina, Mr. Studds, Mr. Hubbard, Mr. Tauzin, Mr. Hertel, Mr. Lipinski, Mr. Davis of Michigan, Mr. Young of Alaska, Mr. Lent, and Mr. Fields.

From the Committee on Merchant Marine and Fisheries, for consideration of sections 1238, 1286, and 1422 of the Senate bill, and sections 1314 and 1602 of the House amendment, and modifications committed to conference: Mr. Jones of North Carolina, Mr. Studds, Mr. Hertel, Mr. Davis of Michigan, and Mr. Young of Alaska.

From the Committee on Ways and Means, for consideration of section 902, those portions of section 1121 adding new sections 101(5), 103(5), 113(c)(2), 114, 204(c)(2)(B), 404-05, 503(b)(3), 504, and 601 (c) and (f) to the Agricultural Trade Act of 1978, sections 1122, 1124-25, 1137, 1716(c), that portion of section 2123 adding a new section 7A(e) to the Cotton Research and Promotion Act, sections 2140, 2155(g), 2178, 2188, 2203, 2306, 2452, and 2454 of the Senate bill, and sections 614, those portions of section 1221 adding new sections 101(4), 105(a), 106, 402 (c) and (f) to the Agricultural Trade Act of 1978, sections 1223(i), 1241, 1243, 1245-47, 1428, 1445(g), 1468, 1475(3), 1485(d) and 1494 of the House amendment, and modifications committed to conference: Mr. Rostenkowski, Mr. Gibbons, Mr. Jenkins, Mr. Archer, and Mr. Crane: Except, that, for consideration of sections 2203, 2452, and 2454 of the Senate bill, Mr. Jacobs is appointed in lieu of Mr. Jenkins.

From the Committee on Ways and Means, for consideration of sections 1134, 1721, and 1730A of the Senate bill, and modifications committed to conference: Mr. Rostenkowski, Mr. Gibbons, Mr. Pickle, Mr. Jenkins, Mr. Downey, Mr. Pease, Mr. Russo, Mr. Guarini, Mr. Matsui, Mr. Anthony, Mr. Archer, Mr. Vander Jagt, Mr. Crane, Mr. Frenzel, Mr. Schulze, and Mr. Thomas of California.

From the Committee on Energy and Commerce, for consideration of sections 1761 and 1762 of the Senate bill, and modifications committed to conference: Mr. Dingell, Mr. Waxman, Mr. Scheuer, Mr. Wyden, Mr. Sikorski, Mr. Bruce, Mr. Rowland of Georgia, Mr. Synar, Mr. Hall of Texas, Mr. Eckart, Mr. Lent, Mr. Dannemeyer, Mr. Whittaker, Mr. Tauke, Mr. Bliley, and Mr. Fields.

From the Committee on Energy and Commerce, for consideration of sections 1495, 1497, and 1498 J-L of the Senate bill, and modifications committed to conference: Mr. Dingell, Mr. Waxman, Mr. Rowland of Georgia, Mr. Lent, and Mr. Tauke.

From the Committee on Energy and Commerce, for consideration of section 1437 of the Senate bill, and section 1367(b) of the House amendment, and modifications committed to conference: Mr. Dingell, Mr. Waxman, Mr. Eckart, Mr. Lent, and Mr. Tauke.

From the Committee on Energy and Commerce, for consideration of title XVI (except sections 1615-16, 1620 (b), (c), (d), and (f)) and section 1716 of the Senate bill, and sections 1495 95G, 1495 J-95L, 1495M (a), (e), and (g) and 1495 N-95V of the House amendment, and modifications committed to conference: Mr. Dingell, Mr. Waxman, Mr. Bruce, Mr. Lent, and Mr. Tauke.

From the Committee on Energy and Commerce, for consideration of subtitle C of title XVII of the Senate bill, and modifications committed to conference: Mr. Dingell, Mr. Waxman, Mr. Wyden, Mr. Lent, and Mr. Bliley.

From the Committee on Energy and Commerce, for consideration of section 1773 of the Senate bill, and modifications committed to conference: Mr. Dingell, Mr. Waxman, Mr. Rowland of Georgia, Mr. Lent, and Mr. Whittaker.

From the Committee on Energy and Commerce, for consideration of section 1772 of the Senate bill, and section 1376A of the House amendment, and modifications committed to conference: Mr. Dingell, Mr. Thomas A. Luken, Mr. Swift, Mr. Lent, and Mr. Tauke.

From the Committee on Energy and Commerce, for consideration of section 1948 of the Senate bill, and modifications committed to conference: Mr. Dingell, Mr. Thomas A. Luken, Mr. Swift, Mr. Lent, and Mr. Whittaker.

From the Committee on Energy and Commerce, for consideration of sections 2033(3)(F), 2079, and 2081 of the Senate bill, and modifications committed to conference: Mr. Dingell, Mr. Markey, Mr. Swift, Mr. Lent, and Mr. Tauke.

From the Committee on Energy and Commerce, for consideration of sections 1339, of the House amendment, and modifications committed to conference: Mr. Dingell, Mr. Waxman, Mr. Towns, Mr. Lent, and Mr. Bliley.

From the Committee on Agriculture, for consideration of those portions of section 1121 adding new sections 101(5), 103(5), 113(c)(2), 114, 204(c)(2)(B), 404-05, 503(b)(3), 504, and 601 (c) and (f) to the Agricultural Trade Act of 1978, of the Senate bill, and those portions of section 1221 adding new sections 101(4), 105(a), 106, 203 and 402 (c) and (f) to the Agricultural Trade Act of 1978, of the House amendment, and modifications committed to conference: Mr. Espy, Mr. Harris, Mr. Sarpaulis, Mr. Emerson, and Mr. Robert F. Smith.

From the Committee on Education and Labor, for consideration of sections 1496(b), 1498-1498N, 1965, 1966, 2471, 2474, 2476, and 2479 of the Senate bill, and sections 1382, 1774, 1842(b) of the House amendment, and modifications committed to conference: Mr. Hawkins, Mr. Ford of Michigan, Mr. Gaydos, Mr. Goodling, and Mr. Tauke.

From the Committee on Science, Space, and Technology, for consideration of sections 1921-30, 1940, and 1944-46 of the Senate bill, and modifications committed to conference: Mr. Roe, Mr. Scheuer, Mr. McMillen of Maryland, Mr. Walker, and Mr. Schneider.

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 1350 of the Senate bill, and modifications committed to conference: Mr. Erdreich, Mr. Kanjorski, Mr. Carper, Mr. Bereuter, and Mr. Roth.

In the appointment of conferees previously announced from the committee on Agriculture:

The appointment of Mr. Condit is amended by deleting section 1215 from the exception for title XII of the House amendment.

The appointment of Ms. Long is amended by deleting section 1215.

Mr. Robert F. Smith is appointed in lieu of Mr. Marlenee for title XII of the Senate bill and title XVI of the House amendment.

Mr. Morrison of Washington is appointed in lieu of Mr. Marlenee for title XIII of the Senate bill and title XXIX of the House amendment.

Mr. Grandy is appointed in lieu of Mr. Hopkins for all provisions except title VII and section 1962 of the Senate bill, and title VIII and section 1249 of the House amendment, on which Mr. Hopkins will remain a conferee, and Mr. Lewis of Florida is appointed in lieu of Mr. Hopkins for subtitle A of title XVII of the Senate bill and title XIV of the House amendment.

The message also announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 1608. An act to strengthen nutrition monitoring by requiring the Secretary of Agriculture and the Secretary of Health and Human Services to prepare and implement a 10-year plan to assess the dietary and nutritional status of the United States population, to support research on, and development of, nutrition monitoring, to foster national nutrition education, to establish dietary guidelines, and for other purposes;

H.R. 4491. An act entitled the "Coast Guard Omnibus Act of 1990";

H.R. 5063. An act to provide for the settlement of the water rights claims of the Fort McDowell Indian Community in Arizona, and for other purposes; and

H.J. Res. 658. Joint resolution to support actions the President has taken with respect to Iraqi aggression against Kuwait and to demonstrate United States resolve.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 329. Concurrent resolution calling for U.S. sanctions against nations which conduct unjustified lethal whale research, and otherwise expressing the sense of the Congress with regard to nations which violate the International Whaling Commission moratorium on commercial whaling by killing whales under the guise of scientific research.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 4491. An act entitled the "Coast Guard Omnibus Act of 1990"; to the Committee on Commerce, Science, and Transportation.

H.R. 4567. An act to authorize an exchange of lands in South Dakota and Colorado; to the Committee on Energy and Natural Resources.

H.R. 5144. An act to provide for the study of certain historical and cultural resources located in the city of Vancouver, Washington, and for other purposes; to the Committee on Energy and Natural Resources.

H.J. Res. 658. Joint resolution to support actions the President has taken with respect to Iraqi aggression against Kuwait and to demonstrate United States resolve; to the Committee on Foreign Relations.

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5746. An act to extend the Export Administration Act of 1979, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 329. Concurrent resolution calling for United States sanctions against nations which conduct unjustified lethal whale research, and otherwise expressing the sense of the Congress with regard to nations which violate the International Whaling Commission moratorium on commercial whaling by killing whales under the guise of scientific research; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 3018. A bill to require the Secretary of Agriculture to announce an acreage limitation program for the 1991 crop of wheat.

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2840. An act to reauthorize the Coastal Barriers Resources Act, and for other purposes.

H.R. 3898. An act to require certain procedural changes in the United States district courts in order to promote the just, speedy, and inexpensive determination of civil acquisitions, and for other purposes.

H.R. 5063. An act to provide for the settlement of the water rights claims of the Fort McDowell Indian Community in Arizona, and for other purposes.

H.R. 5316. An act to provide for the appointment of additional Federal circuit and district judges, and for other purposes.

H.R. 5381. An act to implement certain proposals of the Federal Courts Study Committee, and for other purposes.

ENROLLED BILLS SIGNED

The ACTING PRESIDENT pro tempore (Mr. Akaka) announced that on September 27, 1990, he had signed the following enrolled bills which had previously been signed by the Speaker of the House:

S. 535. An act to increase civil monetary penalties based on the effect of inflation;

S. 2075. An act to authorize grants to improve the capability of Indian tribal governments to regulate environmental quality;

H.R. 2761. An act to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United Services Organization; and

H.R. 4962. An act to authorize the minting of commemorative coins to support the training of American athletes participating in the 1992 Olympic Games.

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, October 2, 1990, he had presented to the President of the United States the following enrolled bill and joint resolution:

S. 2588. An act to amend section 5948 of title 5, United States Code, to reauthorize physicians comparibility allowances; and

S.J. Res. 301. Joint resolution designating October 1990 as "National Breast Cancer Awareness Month".

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 591. A bill to amend the Federal Rules of Criminal Procedure with respect to the examination of prospective jurors (Rept. No. 101-486).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 1742. A bill to further the goals of the Paperwork Reduction Act and provide for comprehensive information resources management of Federal departments and agencies, and for other purposes (Rept. No. 101-487).

By Mr. PELL, from the Committee on Foreign Relations, with an amendment in the nature of a substitute:

S. 2436. A bill to amend the Peace Corps Act to extend the authorizations of appropriations for the Peace Corps through fiscal year 1992, to provide for limited exceptions to the limitation on reemployment by the Peace Corps, and to establish a Peace Corps foreign fluctuations account, and for other purposes.

By Mr. PELL, from the Committee on Foreign Relations, without amendment and an amended preamble:

S. Con. Res. 113. A concurrent resolution expressing the sense of the Congress on international nuclear sales to South Asia.

By Mr. PELL, from the Committee on Foreign Relations, with amendments and with a preamble:

S. Con. Res. 141. A concurrent resolution expressing the sense of the Congress regarding the deteriorating human rights situation in Kenya.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

James O. Mason, of Utah, to be Representative of the United States on the Executive Board of the World Health Organization;

The following-named persons to be Representatives and Alternate Representatives of the United States of America to the Forty-fifth Session of the General Assembly of the United Nations:

Representatives: Thomas R. Pickering, of New Jersey. Alexander Fletcher Watson, of Massachusetts.

Alternate Representatives: Jonathan Moore, of Massachusetts. Jacob Stein, of New York. Shirin R. Tahir-Kheli, of Pennsylvania. Milton James Wilkinson, of New Hampshire.

Katherine D. Ortega, of New Mexico, to be an Alternative Representative of the United States of America to the 45th Session of the General Assembly of the United Nations;

Scott M. Spangler, of Arizona, to be an Assistant Administrator of the Agency for International Development;

Cheryl Feldman Halpern, of New Jersey, to be a member of the Board for International Broadcasting for a term expiring April 28, 1991; and

William H.G. Fitzgerald, of the District of Columbia, to be a Member of the Board of Directors of the African Development Foundation for a term expiring February 9, 1996.

The following-named persons to be Members of the U.S. Advisory Commission on Public Diplomacy for terms expiring July 1, 1991:

William J. Hybl, of Colorado and Richard B. Stone, of the District of Columbia.

Eugene L. Scassa, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belize.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Euguene Luigi Scassa
Post: Ambassador to Belize
Contributions, amount, date, and donee:
1. Self, none.
2. Spouse, none.
3. Children and spouses names, Susan, (wife) David and Eugene (children), none.
4. Parents, both parents are deceased.
5. Grandparents, both deceased.
6. Brothers and Spouses names, Angelo Scassa (brother) and his wife Sylvia, none.
7. Sisters and Spouses, none.

Richard C. Brown, of Maryland, a Career Member of the Senior Foreign Services, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Oriental Republic of Uruguay.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nonination and ending on the date of the nomination.)

Nominee: Richard C. Brown
Post: American Embassy, Montevideo
Contributions, amount, date, and donee:

1. Self, none.

2. Spouse Elizabeth Ann Brown, none.

3. Children and spouses names, Tara (daughter) Justin (son), none.

4. Parents names, Helen F. Brown, Charley C. Brown (deceased).

5. Grandparents names, deceased for 20 yrs.

6. Brothers and spouses names, Jerry D. Brown, Billie Brown (spouse),none.

7. Sisters and spouses names, Charlene Larsen, Bud Larsen (spouse), none.

Michael Martin Skol, of Illinois, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraorinary and Plenipotentiary of the United States of America to the Republic of Venezula.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nonination and ending on the date of the nomination.)

Nominee: Michael Martin Skol.

Post: Ambassador to Venezuela.

Contributions, amount, date, and donee.

1. Self, $200, January 11, 1988 Steven Kramer for Congress (Democratic primary, New Mexico).

2. Spouse, Claudia Serwer Skol, none.

3. Children and spouses names, none.

4. Parents Ted Skol (deceased), Rebecca Skol, none.

5. Grandparents names (Clara Grossman, Al Williams, Max Skolnik, Sophie Skolnik) (all deceased prior to 1986).

6. Brothers and spouses names, David Skol (no spouse), none.

7. Sisters and spouses names, none.

Edward P. Brynn, of Vermont, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Burkina Faso.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Edward Byrnn.

Post: Ouagadougou.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names, Edward Cooke Brynn, Anne Elizabeth Callahan Brynn, Justin Oliver Norsworthy Brynn, Kierman Patrick Flynn, Sarah Frailey Flynn.

4. Parents names, Walter and Mary Brynn (Deceased).

5. Grandparents names, Soeren and Agnes Brynn, Lawrence and Ellen Callahan (Deceased).

6. Sisters and spouses names, Katherine and Charles Walther, Mary Anne and Terrence O'Brien.

7. Brothers and spouses names, Thomas and Claudia Brynn, Lawrence and Heather Brynn, David and Louise Brynn.

Stephen H. Rogers, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Swaziland.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Stephen H. Rogers.

Post: Swaziland.

Contributions, amount, date, and donee:

1. Self, 2. Spouse (Joint contributions) $50, January 20, 1986, Democratic Nat'l Comm. (DNC), $50, March 8, 1986, Milliken for Congress, $25, June 16, 1988, Dem. Campaign Comm., $100 ea. on March 28, 1987, August 28, 1988, November 14, 1988 and January 19, 1989, DNC.

3. Children and spouses names, Kryston R. Fischer, $100, 1988, DNC.

4. Parents names, deceased.

5. Grandparents names, deceased.

6. Brothers and spouses names, John W. Rogers (Mrs.) Barbara H. Rogers.

7. Sisters and spouses names, deceased.

Other Children: F. Halsey Rogers—none, Julia L. Rogers—none, John H. Rogers—none.

Arlene Render, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of The Gambia.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Arlene Render.

Post: Gambia.

Contributions, amount, date, and donee:

1. Self, Arlene Render.

2. Spouse, N/A.

3. Children and spouses names, N/A.

4. Parents names, Oscar Render, Isabella Render, deceased.

5. Grandparents names, Rueben and Francice Render, deceased. Oscar and Susie Martin, deceased.

6. Brothers and spouses names, Richard Render, Jeffrey Render.

7. Sisters and spouses names, Carol Lockette, Rosalyn Hill.

Herbert Donald Gelber, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mali.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Herbert Donald Gelber.

Post: Ambassador to Mali.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names, Michael S., Esther L., Miriam.

4. Parents names, deceased.

5. Grandparents names, deceased.

6. Brothers and spouses names, Harvey, Natalie.

7. Sisters and spouses names, none.

Gordon L. Streeb, of Colorado, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zambia.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Gordon L. Streeb.

Post: Zambia.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names, Kurt, Kent, Kerry-Lynn Streeb, none.

4. Parents names, Gerhard O. Streeb, none.

5. Grandparents names, Hans and Frieda Streeb, deceased. Alex and Mary Martin, deceased.

6. Brothers and spouses names, none.

7. Sisters and spouses names, Imogene and Alfred Clay, none. Amelia Streeb, deceased.

Harmon Elwood Kirby, of Ohio, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Togo.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Harmon E. Kirby.

Post: Ambassador to Togo.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names, Caroline P. Kirby, Christopher H. Kirby, none.

Parents names, Julia E. Kirby (Mother), Cecil Kirby (Father) deceased.

5. Grandparents names, John B. Tucker, deceased, John Vance-Kirby, deceased, Sarah Tucker, deceased.

6. Brothers and spouses names, none.

7. Sisters and spouses names, none.

Leonard H. O. Spearman, Sr., of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Lesotho.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Dr. Leonard H. Spearman

Post: Amb. to the Kingdom of Lesotho

Contributions, amount, date, and donee:

1. Self, and

2. Spouse, Valerie B. Spearman:

Reported for 1987 Clearance:

$200.00, Sept. 30, 1984, Harris County Council of Organizations. $130.00, Jan. 7, 1985, Donohoe for State Office, $30.00 Oct. 24, 1985, Elizabeth Spates for Houston Independent School Board, $75.00, Aug. 16, 1986, Jack Fields for Congress, $100.00, October 7, 1986, Bill Clements Hqtrs. in Black Community, $700.00, Oct. 29, 1986, Republican Party of Harris County, Texas, $370.00, Jan. 5, 1987, Texas Inaugural Committees, $50.00, March 2, 1987, The Texas Committee of 300, and $50.00, March 2, 1987, Circle R Republican Club.

New Contributions Reported for 1990 Clearance:

$2,000.00, 1988, George Bush Campaign (Presidential). $1,300.00, Dec. 16, 1988, Republican Senatorial Inner Circle, $41.50, July 1, 1989, Republican Party of Texas, $100.00, July 19, 1989, Congressman Tom DeLay, $100.00, Feb. 13, 1990, Republican Party of Texas, and $1,000.00, March 27, 1990, Senator Phil Gramm.

3. Children and spouses names, Lynn Spearman McKenzie-Michael McKenzie (none), Charles M. Spearman-Jacinthe D. Spearman (none), Leonard H. O. Spearman, Jr. (none).

4. Parents names, Elvis W. and Tryphenia Spearman (none).

5. Grandparents names, Rosa Lawrence (deceased), Rawn Mitchell (deceased), Adell Spearman (deceased), Rose Spearman (deceased).

6. Brothers and spouses names, Elvis Ohara Spearman (deceased), Frankie Spearman (none), Rawn W. Spearman (none), Daisey L. Spearman (deceased).

7. Sisters and spouses names, Viv. T. Spearman Coleman-Hyron Coleman (none), Agenoria S. Paschal, Alonjo Paschal (none).

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DIXON (for himself, Mr. Byrd, Mr. D'Amato, Mr. Ford, Mr. Heinz, Mr. Helms, and Mr. Reid):

S. 3148. A bill to condition funding for coproduction with South Korea of the F/A-18 aircraft on receipt by Congress of the relevant Memorandum of Understanding (MOU) and to extend the 30-day congressional review period until the MOU is received; to the Committee on Foreign Relations.

By Mr. HOLLINGS:

S. 3149. A bill to amend title XVIII of the Social Security Act to provide coverage under part B of Medicare for air fulidized based bed therapy in nursing facilities; to the Committee on Finance.

By Mr. PELL:

S. 3150. A bill to amend the Merchant Marine Act, 1936; to the Committee on Commerce, Science, and Transportation.

By Mr. Riegle (for himself, Mr. Heinz, and Mr. Pryor):

S. 3151. A bill to amend title II of the Social Security Act to provide for the entitlement of deemed spouses to benefits under such title despite the entitlement of a legal spouse, to waive the 2-year waiting period for entitlement to divorced spouse's benefits, and for other purposes; to the Committee on Finance.

By Mr. GORTON:

S. 3152. A bill to authorize the issuance of certificates of documentation for certain inflatable vessels; to the Committee on Commerce, Science, and Transportation.

By Mr. SIMON:

S. 3153. A bill to assure equal justice for women in the courts; to the Committee on the Judiciary.

By Mr. BIDEN (for himself, Mr. Roth, Mr. Bradley, and Mr. Lautenberg):

S.J. Res. 373. Joint resolution granting the consent of the Congress to amendments to the Delaware-New Jersey Compact, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for Mr. Dole, (for himself, Mr. Mitchell, Mr. Heinz and Mr. Specter):

S. Res. 331. A resolution to congratulate Senator Hugh Scott on his 90th birthday; considered and agreed to.

By Mr. HEFLIN:

S. Res. 332. A resolution to refer S. 1301, entiteld "For the relief of Hoar Construction, Inc., of Birmingham, Alabama, to settle certain claims filed against the Small Business Administration" to the Chief Judge of the United States Claims Court for a report thereon; to the Committee on the Judiciary.

By Mr. ADAMS:

S. Con. Res. 149. Concurrent resolution to create a Congressional Leadership Group; to the Committee on Rules and Administration.

By Mr. FORD (for Mr. Harkin):

S. Con. Res. 150. Concurrent resolution directing the Secretary of the Senate to make corrections in the enrollment of S. 1824; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DIXON (for himself, Mr. Byrd, Mr. D'Amato, Mr. Ford, Mr. Heinz, Mr. Helms and Mr. Reid):

S. 3148. A bill to condition funding for coproduction with South Korea of the F/A-18 aircraft on receipt by Congress of the relevant memorandum of understanding [MOU] and to extend the 30-day congressional review period until the MOU is received; to the Committee on Foreign Relations.

CONDITIONS ON SALE OF AIRCRAFT TO KOREA

Mr. DIXON. Mr. President, the administration on Friday, September 7, 1990, sent official notification to the Senate that it had reached an agreement with the South Korean Government on the sale of F/A-18's to that country.

Just 2 weeks ago, I asked the State Department to provide me with a copy of the proposed memorandum of understanding and any relevant side letters of agreement. I was told "No." Word was relayed back that officials would brief me or my staff. We could ask questions, but we could not review the actual documents. I then placed a call to Mr. C. Boyden Gray, White House chief counsel, to request these documents—a simple request. As a Member of the Senate, I think I am entitled to a positive reponse. I made this simple request 10 days ago. I have yet to get any answer.

Mr. President, the Constitution of this great Nation in article 1, section 8, gives Congress the authority to "* * * regulate commerce with foreign nations * * *" South Korea may well be an important ally, but South Korea is still a foreign nation within the meaning of article 1, section 8, of our Constitution.

What we are being asked to do is to allow an agreement between the President of the United States and a foreign government to be approved without anybody elected to the Senate or the House of Representatives being permitted to look at the document.

The President only has the authority to enter into these agreements because Congress permits it. Congress, however, did not abandon its responsibilities. In the delegation of authority provided by the statute, Congress explicitly reserves for itself the right to overturn individual sales that Congress believes are unwise by enacting a joint resolution of disapproval. How can Congress intelligently exercise this power without seeing the terms of the proposed sales as outlined in the memoranda of understanding?

Mr. President, together with Senators Byrd, D'Amato, Ford, Heinz, Helms, and Reid, I am today introducing legislation designed to remind the administration of its duties under the law. It does not withdraw the President's authority to negotitate sales agreements. Instead, the bill merely requires the administration to give the Speaker of the House and the President pro tempore of the Senate the actual memorandum of understanding with South Korea, as well as any side letters of agreement. The bill also says that the 30-day period during which Congress has to consider the agreement will not begin until we have received these documents.

Mr. President, I simply want to conclude by saying this is the most remarkable experience I have ever had in public service. The law under the Arms Export Control Act says that those of us in the U.S. Senate and those of us in the Congress passed upon these memoranda of understanding and side agreements that our country enters into with foreign countries, and here is the administration saying to a U.S. Senate Member and other U.S. Senators that they will not let us see the memorandum of understanding and the accompanying papers.

How can any member of the U.S. Senate make an intelligent judgment call on whether it is a good MOU and a good contract without looking at it? I think it is remarkable. I am not passing upon the virtue of this instrument or the subjective or other parts of the agreement itself. I am simply saying we have a right to see this memorandum of understanding.

I yield the floor. I thank my colleagues.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3148

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL DOCUMENTS REQUIRED FOR PROPOSED COPRODUCTION OF F/A-18 AIRCRAFT.

(a) Prohibition.—None of the funds appropriated or otherwise made available by any provision of law shall be available for the export, or the licensing for export, of any items or technology to South Korea in connection with the coproduction of F/A-18 aircraft until at least 30 days after the Congress has received the proposed memorandum of understanding between South Korea and the United States regarding that coproduction and all documentation and background material, including agreements concluded through the exchange of letters, relating thereto.

(b) Extension of the Congressional Review Period.—No Presidential certification under subsection (b), (c) or (d) of section 36 of the Arms Export Control Act with respect to the sale or export of items or technology for the coproduction of the F/A-18 aircraft with South Korea shall be deemed to have been received by the Congress until the President submits to the Congress the documents described in subsection (a).

By Mr. HOLLINGS:

S. 3149. A bill to amend title XVIII of the Social Security Act to provide coverage under part B of Medicare for air fluidized bead bed therapy in nursing facilities; to the Committee on Finance.

MEDICARE COVERAGE OF AIR FLUIDIZED BEAD BED THERAPY IN NURSING HOMES

● Mr. HOLLINGS. Mr. President, today I am introducing legislation which would amend title XVIII of the Social Security Act to provide coverage under part B of Medicare for air fluidized bead bed therapy in nursing facilities. Currently Medicare covers air fludizied bead bed therapy under part A for up to 100 days per spell of illness. My bill calls for placing all patients with medical necessity on air fluidized support beds until they are completely healed, with Medicare B picking up any treatment days not covered under part A.

As many of my colleagues are aware, pressure sores are one of the most devastating problems facing the health care industry from both a patient recovery and financial perspective—an annual estimated cost of $2 to $7 billion. Nursing home patients comprise the largest group for developing pressure sores. All too often, when the covered period expires, a patient is removed from an air fluidized bead bed without due consideration of medical condition or excess costs. Replacement beds are not adequate to completely heal pressure sores, resulting in complications such as sepsis, osteomyelitis, protein loss, and exacerbation of certain co-existing conditions. And, unnecessary costs are incurred when the patient's condition escalates to the point that hospitalization is required and Medicare must pay the higher costs of an acute care facility.

The total estimated cost for curing a single stage 4 pressure ulcer is between $30,000 and $40,000. With the part B coverage for air fluidized bead beds, the treatment costs for patients with pressure sores would decrease substantially because the beds allow them to heal completely and reduce the amount spent on existing sores. Also, the coverage would reduce complications associated with pressure sores because patients would be placed on products that would deter further skin breakdown reducing the worsening of existing sores.

Mr. President, because I am convinced that expansion of air fluidized bead bed therapy is cost effective, my bill also requires that the Secretary of Health and Human Services monitor the impact of total Medicare expenditures of the addition of the air fluidized bead bed therapy furnished to patients in nursing facilities. It is estimated that utilization of this appropriate therapy would reduce the cost of pressure sores in hospitals 36 percent to approximately $7,104—a 10.4 percent reduction in length-of-stay costs alone. The cost reduction will be even more substantial in skilled nursing care facilities where costs are usually less.

The current program of not healing the sores and allowing them to worsen results in astronomical treatment costs in both nursing and hospital settings. Earlier intervention and complete healing of pressure sores will reduce suffering and decrease the cost to the patient and to the Medicare Program.

Mr. President, there simply is no need to continue to spend enormous amounts of money on pressure sores in nursing facilities when this simple change in the law could save us money. I urge my colleagues to lend their full support to my measure.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3149

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MEDICARE PART B COVERAGE OF AIR FLUIDIZED BEAD BED THERAPY IN NURSING FACILITIES TO TREAT PRESSURE SORES.

(a) In General.—Section 1861(s) of the Social Security Act (42 U.S.C. 1395(s)) is amended—

(1) by striking "and" at the end of paragraph (15);

(2) by striking the period at the end of paragraph (16) and inserting "; and"; and

(3) by inserting after paragraph (16) the following new paragraph:

"(17) air fluidized bead bed therapy, in accordance with utilization guidelines to be developed by the Secretary, furnished in a nursing facility.".

(b) Monitoring of Cost of Benefit.—The Secretary of Health and Human Services shall study and monitor the impact on total medicare expenditures of the cost of coverage under title XVIII of the Social Security Act of air fluidized bead bed therapy furnished to individuals in nursing facilities.

(c) Effective Date.—The amendment made by subsection (a) shall become effective with respect to items and services furnished on or after January 1, 1991.●

By Mr. PELL:

S. 3150. A bill to amend the Merchant Marine Act, 1936; to the Committee on Commerce, Science, and Transportation.

AMENDMENTS TO FEDERAL SHIP MORTGAGE INSURANCE PROGRAM

● Mr. PELL. Mr. President, today I am introducing legislation designed to help the fishing industry through some very difficult times.

When I look at the problems faced by Rhode Island fishermen, it seems to me as if life itself is conspiring against them. Lately, there seems to be nothing but bad news those who make their living at fishing.

The credit crunch. New England is in the midst of a serious economic downturn and these bad times have all but dried up the credit available to fishermen for vessel operation.

The crisis in the Middle East. Events far away from Narragansett Bay have driven the price of energy through the roof and this increase is a significant and unexpected financial burden for fishermen.

Foreign competition. Aggressive or unsound fishing practices employed by foreign-based fishermen are challenging the competitiveness of our domestic fishing industry and this challenge may force some fishermen out of business.

Depleted fishing stocks. Over-fishing of popular fishing stocks along with a lack of expertise in the marketing of underutilized species have hit fisherman hard and placed the future viability of the industry in grave doubt.

All of these forces are working against Rhode Island fishermen. The fishermen are trying to meet these challenges by working longer hours, fixing their boats by themselves, and setting out to sea on days when conditions are potentially hazardous.

There are many ways those of us in Congress can help our fishermen. This week, I received an outstanding suggestion for a good place to start.

The Rhode Island Fisheries Preservation Alliance has asked me to introduce legislation that will change the Federal Ship Mortgage Insurance Program to better meet the needs of fishermen in the 1990's and beyond. I am proud to introduce that legislation here today.

The Federal Ship Mortgage Insurance Program Act Amendments of 1990 will address perhaps the most pressing need of Rhode Island fishermen, the unavailability of credit.

Under this act, the Federal Government will back loans made to fishermen for general working capital needs.

In the current program, loans are only backed if they are for the construction, reconstruction, or reconditioning of fishing vessels.

The legislation I am introducing today would expand the Federal Ship Mortgage Insurance Program to cover loans made for the equipping, maintaining, repairing, or operating a fishing vessel.

In closing, I should emphasize that this new legislation was developed by a group of Rhode Islanders that have made an effort to change the fishing industry for the better. The Rhode Island Fisheries Preservation Alliance was recently formed to bring about real solutions to the problems facing the fishing industry.

The Federal Ship Mortgage Insurance Program Act Amendments of 1990 is a tribute to the perseverance of the men and women that make up this group, including its chairman, Rhode Island State Senator William O'Neill, Mr. Fred Benson, Mr. Norbert Stamps, Mr. John Kilcommons, and Mr. John Kennedy.

Mr. President, as introduced, this is good legislation, but I am open to suggestions for further improvement. For example, it may be desirable to increase the guarantee fee for fishery loans under this program because the risks involved may be somewhat greater than in the existing program. In addition, the Rhode Island Fisheries Preservation Alliance has explicitly recognized that one of the problems confronting the industry is overcapitalization. If safeguards in addition to those already in the program are required to assure that these loan guarantees do not add to the overcapitalization problem, then those additional provisions can be added.●

By Mr. RIEGLE (for himself, Mr.Heinz, and Mr. Pryor):

S. 3151. A bill to amend title II of the Social Security Act to provide for the entitlement of deemed spouses to benefits under such title despite the entitlement of a legal spouse, to waive the 2-year waiting period for entitlement to divorced spouse's benefits, and for other purposes; to the Committee on Finance.

ENTITLEMENT TO BENEFITS OF DEEMED SPOUSE AND LEGAL SPOUSE

● Mr. RIEGLE. Mr. President, today I am introducing with my distinguished colleagues, Senators Heinz and Pryor, a bill that would remedy an injustice that deprives widows and widowers of Social Security benefits—benefits that they may need to survive. Most often affecting widows rather than widowers, current law denies the benefits of a deceased worker to a widow if the deceased worker had a preexisiting common law marriage that was not terminated and the wife from that marriage, the legal wife, applies for dependent benefits on the deceased worker's record. This is true even if the widow had no knowledge of this prior marriage.

These widows, in good faith, believed that they were legally married and relied upon the fact that when they become old, they would be eligible for benefits on their husband's records. As it stands, many of these women have little or no income. Despite long relationships with men they believed to legally be their husbands, they are left without any Social Security coverage when their husband dies. This bill would restore benefits to good faith wives even if the legal wife receives benefits. It would also waive the 2-year waiting period after a divorce for divorced spouses who are eligible for dependent spouse benefits and would continue disability benefits during appeal.

I became painfully aware of the dilemma of good faith wives when Lillian Snowden, a Michigan resident, contacted my regional office. At that time, she requested my assistance regarding entitlement to Social Security widow's benefits on the record of her deceased husband, Mr. Jack Snowden.

Lillian married Jack Snowden ceremonially on November 6, 1950. She remained entirely committed and fully dependent upon Jack for 31 years until his death in 1981. After Jack died, Lillian, who was listed as Jack's wife in his application for retirement benefits, became entitled to widows benefits. For 2½ years, Lillian received the benefits she needed and deserved. The payments enabled her to sustain herself.

In March 1984, Mrs. Snowden received notice from the Social Security Administration that she was no longer entitled to benefits because a woman who had lived with Mr. Snowden for 10 years prior to his meeting Lillian, had applied for widow's benefits. Their relationship was considered a common law marriage and was determined to have remained in effect until Mr. Snowden's death. Therefore, Lillian Snowden's marriage to Jack was deemed invalid, leaving Lillian, who was not responsible, nor aware of this problem, without any survivor's benefits. Jack's previous, common law wife had not lived with him since before 1950 but remains the sole beneficiary of his survivor's insurance.

My office contacted the Social Security Administration immediately to verify the information that Lillian received and was told that the decision to revoke Lillian's benefits was correct and in accordance with their rules and regulations. In addition, they would not even consider a waiver of the divorce requirement. Despite many phone calls, the decision to revoke Lillian's benefits stood.

Mr. President, today Lillian Snowden receives only $281 in SSI benefits per month. Obviously, this is not enough for anyone to make ends meet. To resolve this situation, I am introducing this legislation, to amend title II of the Social Security Act to provide benefits to a widow or widower who in good faith married unaware that their marriage was invalid and who lost their entitlement to benefits because another entitled spouse claimed those benefits.

The plight of Lillian Snowden is tragic, but not unique. Indeed, there are many in this Nation who would benefit from the correction of this injustice. To continue to adhere to the promises of Social Security and to the ideals it professes, we must correct these inequities.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the Record immediately following my remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ENTITLEMENT TO BENEFITS OF DEEMED SPOUSE AND LEGAL SPOUSE.

(a) Continued Entitlement of Deemed Spouse Despite Entitlement of Legal Spouse.—Section 216(h)(1) of the Social Security Act (42 U.S.C. 416(h)(1)) is amended—

(1) in subparagraph (A)—

(A) by inserting "(i)" after "(h)(1)(A)"; and

(B) by striking "If such courts" in the second sentence and inserting the following:

"(ii) If such courts"; and

(2) in subparagraph (B)—

(A) by inserting "(i)" after "(B)";

(B) by striking "The provisions of the preceding sentence" in the second sentence and inserting the following:

"(ii) The provisions of clause (i)";

(C) by striking "(i) if another" in the second sentence and all that follows through "or (ii)";

(D) by striking "The entitlement" in the third sentence and inserting the following:

"(iii) The entitlement";

(E) by striking "subsection (b), (c), (e), (f), or (g)" in the third sentence and inserting "subsection (b) or (c)";

(F) by striking "wife, widow, husband, or widower" the first place it appears in the third sentence and inserting "wife or husband";

(G) by striking "(i) in which" in the third sentence and all that follows through "in which such applicant entered" and inserting "in which such person enters";

(H) by striking "For purposes" in the fourth sentence and inserting the following:

"(iv) For purposes";

and

(I) by striking "(i) and "(ii)" in the fourth sentence and inserting "(I)" and "(II)", respectively.

(b) Treatment of Divorce in the Context of Invalid Marriage.—Section 216(h)(1)(B)(i) of such Act (as amended by subsection (a)) if further amended—

(1) by striking "where under subsection (b), (c), (f), or (g) such applicant is not the wife, widow, husband, or widower of such individual" and inserting "where under sub-

section (b), (c), (d), (f), or (g) such applicant is not the wife, divorced wife, widow, surviving divorced wife, husband, divorced husband, widower, or surviving divorced husband of such individual";

(2) by striking "and such applicant" and all that follows through "files the application,";

(3) by striking "subsections (b), (c), (f), and (g)" and inserting "subsections (b), (c), (d), (f), and (g)"; and

(4) by adding at the end the following new sentences: "Notwithstanding the preceding sentence, in the case of any person who would be deemed under the preceding sentence a wife, widow, husband, or widower of the insured individual, such marriage shall not be deemed to be a valid marriage unless the applicant and the insured individual were living in the same household at the time of the death of the insured individual or (if the insured individual is living) at the time the applicant files the application. A marriage that is deemed to be a valid marriage by reason of the preceding sentence shall continue to be deemed a valid marriage if the insured individual and the person entitled to benefits as the wife or husband of the insured individual are no longer living in the same household at the time of the death of such insured individual.".

(c) TREATMENT OF MULTIPLE ENTITLEMENTS UNDER THE FAMILY MAXIMUM.—Section 203(a)(3) of such Act (42 U.S.C. 403(a)(3)) is amended by adding after subparagraph (C) the following new subparagraph:

"(D) In any case in which—

"(i) two or more individuals are entitled to monthly benefits for the same month as a spouse under subsection (b) or (c) of section 202, or as a surviving spouse under subsection (e), (f), or (g) of section 202,

"(ii) at least one of such individuals is entitled by reason of subparagraph (A)(ii) or (B) of section 216(h)(1), and

"(iii) such entitlements are based on the wages and self-employment income of the same insured individual, the benefit of the entitled individual whose entitlement is based on a valid marriage (as determined without regard to subparagraphs (A)(ii) and (B) of section 216(h)(1)) to such insured individual shall, for such month and all months thereafter, be determined without regard to this subsection, and the benefits of all other individuals who are entitled, for such month or any month thereafter, to monthly benefits under section 202 based on the wages and self-employment income of such insured individual shall be determined as if such entitled individual were not entitled to benefits for such month.".

(d) CONFORMING AMENDMENT.—Section 203(a)(6) of such Act (42 U.S.C. 403(a)(6)) is amended by inserting "(3)(D)," after "(3)(C),".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to benefits for months after December 1990.

(2) TERMINATED BENEFICIARIES AND DIVORCED DEEMED SPOUSES.—In the case of individuals whose benefits under title II of the Social Security Act have been terminated under section 216(h)(1)(B) of such Act before January 1, 1991, or who would be entitled to benefits under such title for any month after December 1990 as a divorced spouse or surviving divorced spouse solely by reason of the amendments made by this section, the amendments made by this section shall apply only with respect to benefits for which application is filed with the Secretary of Health and Human Services after December 31, 1990.

SEC. 2. WAIVER OF 2-YEAR WAITING PERIOD FOR INDEPENDENT ENTITLEMENT TO DIVORCED SPOUSE'S BENEFITS.

(a) WAIVER FOR PURPOSES OF DEDUCTIONS ON ACCOUNT OF WORK.—Section 203(b)(2) of the Social Security Act (42 U.S.C. 403(b)(2)) is amended—

(1) by striking "(2) When" and all that follows through "2 years, the benefit" and inserting the following:

"(2)(A) Except as provided in subparagraph (B), in any case in which—

"(i) any of the other persons referred to in paragraph (1)(B) is entitled to monthly benefits as a divorced spouse under section 202 (b) or (c) for any month, and

"(ii) such person has been divorced for not less than 2 years,

the benefit"; and

(2) by adding at the end the following new subparagraph:

"(B) Clause (ii) of subparagraph (A) shall not apply with respect to any divorced spouse in any case in which the individual referred to in paragraph (1) became entitled to old-age insurance benefits under section 202(a) before the date of the divorce.".

(b) WAIVER IN CASE OF NONCOVERED WORK OUTSIDE THE UNITED STATES.—Section 203(d)(1)(B) of such Act (42 U.S.C. 403(d)(1)(B)) is amended—

(1) by striking "(B) When" and all that follows through "2 years, the benefit" and inserting the following:

"(B)(i) Except as provided in clause (ii), in any case in which—

"(I) a divorced spouse in entitled to monthly benefits under section 202 (b) or (c) for any month, and

"(II) such divorced spouse has been divorced for not less than 2 years,

the benefit"; and

(2) by adding at the end the following new clause:

"(ii) Subclause (II) of clause (i) shall not apply with respect to any divorced spouse in any case in which the individual entitled to old-age insurance benefits referred to in subparagrph (A) became entitled to such benefits before the date of the divorce.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits for months after December 1990.

SEC. 3. CONTINUATION OF DISABILITY BENEFITS DURING APPEAL.

Subsection (g) of section 223 of the Social Security Act (42 U.S.C. 423(g)) is amended—

(1) in paragraph (1)(i), by inserting "or" after "hearing,", and by striking "pending, or (iii) June 1990." and inserting "pending."; and

(2) by striking paragraph (3)●

By Mr. GORTON:

S. 3152. A bill to authorize the issuance of certificates of documentation for certain inflatable vessels; to the Committee on Commerce, Science, and Transportation.

DOCUMENTATION OF CERTAIN INFLATABLE VESSELS

● Mr. GORTON. Mr. President, the bill I am introducing today would provide for a Jones Act exemption for certain small inflatable boats known as Zodiacs which are used by Wilderness Cruise Lines of Seattle, WA.

Wilderness Cruise Lines operates passenger cruise ships from Seattle to Alaska or off the coast of Baja, CA. Zodiacs are used to carry passengers from the cruise ships for sightseeing trips near or on the shore. Each Zodiac can carry up to 15 people and costs approximately $11,000.

The U.S. Coast Guard has recently labeled the use of the Zodiacs as coastwise trade. As the boats are manufactured in Canada, they do not qualify for the needed documentation to obtain a coastwise license. I am therefore introducing a bill to allow these vessels to obtain the necessary documentation.

I ask unanimous consent that the text of the bill be printed in the RECORD following this statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3152

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue certificates of documentation for eight inflatable vessels identified, respectively, as follows:

(1) Serial number 3968B, model number J990.

(2) Serial number 4581B, model number J990.

(3) Serial number A501A, model number D989.

(4) Serial number A502A, model number D989.

(5) Serial number 6291C, model number G091.

(6) Serial number 6300C, model number G091.

(7) Serial number 7302C, model number G091.

(8) Serial number 7305C, model number G091.●

By Mr. SIMON:

S. 3153. A bill to assure equal justice for women in the courts; to the Committee on the Judiciary.

EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT

● Mr. SIMON. Mr. President, I rise today to introduce the Equal Justice for Women in the Courts Act of 1990. This bill will address one of the remaining barriers to equal justice in our States and Federal judicial proceedings—gender bias by judges and supporting personnel.

The Equal Justice for Women in the Courts Act would authorize funds for the State Justice Institute and the Federal Judicial Center for use in the development and dissemination of model programs designed to train judges and their personnel on rape laws, sexual assault, domestic violence and other gender-motivated crimes.

Training would include such topics as the physical, economic, and psychological effects of rape and domestic violence on the victim and their costs on society; statistics on the nature and incidence of domestic violence; and the application of rape shield laws and other limits on the introduction of evidence in court. Both the State and the Federal model programs would be developed with the assistance of law enforcement officials, victim's advocates, prosecutors, defense attorneys, and legal and social science experts.

The Federal Courts Study Committee report released in April recognized the crucial need for the type of judicial education and training this bill will provide. The Study Committee noted that studies of many State systems reflect the presence of gender bias in State judicial proceedings. The committee concluded, "[w]e believe education is the best means of sensitizing judges and supporting personnel to their own possible inappropriate conduct and to the importance of curbing such bias when shown by attorneys, parties, and witnesses."

Two years ago, the Illinois State Bar Association, the Illinois Women's Bar Association, and the Chicago Bar Association established the Task Force to Study Gender Bias in the Courts. The task force recently released its exhaustive study of the manifestations of gender bias in domestic relations cases, criminal cases, civil damage awards, and courtroom dynamics in the Illinois system. The report related such specific instances of bias as a judge's comments in a case where a husband engaged in an automobile chase of his estranged wife and her companion. The woman and her companion were killed in the chase. As he sentenced the defendant to probation, the presiding judge stated, "[t]his was no drunken idiot trying to run someone off the road. This was a sober man trying to reclaim his wife."

But this is just one of many examples of blatant gender bias uncovered by the task force. The report catalogs other, far more subtle, instances of bias throughout the justice system and strongly recommends judicial education as an important component in any effort to eliminate such bias.

I too believe that educational training for State and Federal judges on the issues of sexual assault, spousal abuse, and domestic violence is extremely important and necessary in order for judges and court personnel to have a clear sense of the traumatic effects of such crimes on the victims.

The Equal Justice for Women in the Courts Act builds on landmark legislation introduced by Senator BIDEN in April. That bill, S. 2754, the Violence Against Women Act, is a comprehensive measure designed to make our Nation's streets, homes, and college and university campuses safer for women. The bill increases the penalties for sexual assault and creates grants to States to train police and prosecuters. Senator BIDEN's bill also grants interstate enforcement of protective orders and creates a civil rights remedy for victims of sexual assault. This bill has been the subject of extensive hearings in the Judiciary Committee and I am proud to count myself among its bipartisan cosponsors.

Mr. President, statistics compiled by the Judiciary Committee reveal that in 1989, more women were abused by their husbands than the number of women who got married, and since 1974, the rate of assaults against young women age 20-24 has risen 48 percent. In that same period of time assaults against young men age 20-24 dropped 12 percent. In my home State of Illinois, the rate of sexual assaults has risen roughly 18 percent since 1986.

Yet rape is the most underreported of all major crimes—it is believed that only about 7 percent of all rapes are reported to police. One of the reasons they go unreported is the perceived, and often actual, insensitivity of law enforcement officers and officers of the court to the victims of crimes of this nature.

The bill I introduce today will provide meaningful protection of the rights of those who are victimized by sex crimes and other gender-motivated crimes. When the Judiciary Committee considers S. 2754, I intend to offer the Equal Justice for Women in the Courts Act as an amendment. The Equal Justice for Women in the Courts Act will take us all one step closer to realizing equal justice under the law.

Mr. President, I commend this bill to my colleagues and invite their cosponsorship and support.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD following this statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3153

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Equal Justice for Women in the Courts Act of 1990".

TITLE I—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN STATE COURTS

SEC. 101. GRANTS AUTHORIZED.

The Attorney General shall make grants through the State Justice Institute for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 102. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this title may include—

(1) current data on the nature and incidence of rape and sexual assault by strangers and non-strangers, marital rape, and incest;

(2) current data on the undereporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of law and attitudes of rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that subjects victims to improper sex stereotyping and harrassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant and the inappropriateness of holding such victims in contempt of court;

(10) current data on the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' failure to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel; and

(18) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims.

SEC. 103. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The Attorney General shall ensure that model programs carried out pursuant to grants made under this title are developed in conjunction with, and with the participation of, law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts drawn from the legal and social science professions.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1991, $600,000 to carry out the purposes of this title. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

TITLE II—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN FEDERAL COURTS

SEC. 201. EDUCATION AND TRAINING GRANTS.

(a) STUDY.—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use data collection techniques such as reviews of trail and appellate opinions and transcripts, public hearings and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) MODEL PROGRAMS.—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 102 of title I; and

(B) all procedural and substantive aspects of the legal rights and remedies, for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

SEC. 203. COOPERATION IN DEVELOPING PROGRAMS.

In implementing this title, the Federal Judicial Center shall ensure that the study and model programs are developed in conjunction with, and with the participation of, law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts drawn from the legal and social science professions.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1991, $400,000 to carry out the purposes of this title. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 201(a) of this title.●

By Mr. BIDEN (for himself, Mr. ROTH, Mr. BRADLEY, and Mr. LAUTENBERG):

S.J. Res. 373. Joint resolution granting the consent of the Congress to amendments to the Delaware-New Jersey Compact, and for other purposes; to the Committee on the Judiciary.

CONSENT OF CONGRESS TO AMENDMENT TO THE DELAWARE-NEW JERSEY COMPACT.

● Mr. BIDEN. Mr. President, I am joined by Senators ROTH, BRADLEY, and LAUTENBERG in introducing legislation to grant congressional consent to amendments to an interstate compact between Delaware and New Jersey. The amendments, which have been passed by both State legislatures, allow the Delaware River and Bay Authority to engage in economic development activity.

The original compact was consented to in 1962. Allowing an interstate authority of this type to engage in economic development is fairly common. In fact, New Jersey already has similar arrangements with interstate authorities it has established with her two other neighbors, Pennsylvania and New York.

The compact explicitly requires that environmental concerns be met before proceeding with any economic development activities. Delaware has long supported strong protective measures for the State's coastline. In approving the compact, Delawareans made sure that the authority would have to comply with strict environmental standards. In fact, steps that will improve environmental conditions in the Delaware River and Bay are specifically listed as qualifying economic development projects.

The compact amendments enjoyed strong bipartisan support in the Delaware and New Jersey legislatures. I hope that Congress will be able to grant its consent to the compact changes before the end of the session.

I ask that a copy of the joint resolution consenting to the compact be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 373

Whereas the State of Delaware and the State of New Jersey, pursuant to legislative authority adopted by each State, being 53 Laws of Delaware, chapter 145, and Public Law 1961, chapter 66 of the Laws of New Jersey, have provided, subject to the consent of Congress, for a compact, known as the Delaware-New Jersey Compact, establishing "The Delaware River and Bay Authority" for the development of the area in both States bordering the said Delaware River and Bay; and

Whereas the State of Delaware and the State of New Jersey, pursuant to legislative authority adopted by each State, have provided subject to the consent of Congress, for an amendment to the Delaware-New Jersey Compact to authorize the Delaware River and Bay Authority to undertake economic development projects, other than major projects, at its own initiative, and to undertake major projects after securing only such approvals as may be required by the legislation of the State in which the project is to be located, except the Authority is prohibited from undertaking any major project to be located in the Delaware River and Bay, including, without limitation, any deep-water port or superport, without the prior approval, by concurrent legislation, of the two States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSENT OF CONGRESS.

The Congress consents to the amendments to the Delaware-New Jersey Compact which have been enacted by the States of Delaware and New Jersey, so that the Delaware-New Jersey Compact reads substantially as follows:

"DELAWARE-NEW JERSEY COMPACT

"Whereas the States of Delaware and New Jersey are separated by the Delaware River and Bay which creates a natural obstacle to the uninterrupted passage of traffic other than by water and with normal commercial activity between the two States thereby hindering the economic growth and development of those areas in both States which border the River and Bay; and

"Whereas the pressures of existing trends from increasing traffic, growing population, and greater industrialization indicate the need for closer cooperation between the two States in order to advance the economic development and to improve crossings, transportation, terminal, and other facilities of the area; and

"Whereas the financing, construction, operation and maintenance of such crossings, transportation, terminal, and other facilities of commerce and the overall planning for future economic development of the area may be best accomplished for the benefit of the two States and their citizens, the region and Nation, by the cordial cooperation of Delaware and New Jersey by and through a joint or common agency or authority; and

"Whereas the Delaware-New Jersey Compact, enacted pursuant to 53 Laws of Delaware, Chapter 145 (17 Del. C. § 1701) and Public Law 1961, c. 66 (C. 32:11E-1 et seq.) of the Pamphlet Laws of New Jersey, with the consent of the United States Congress by Joint Resolution being Public Law 87-678, 87th Congress, H.J. Res. 783, September 20, 1962, created the Delaware River and Bay Authority with the intention of advancing the economic growth and development of those areas in both States which border the Delaware River and Bay by the financing, development, construction, operation, and maintenance of crossings, transportation, or terminal facilities and other facilities of commerce, and by providing for overall planning for the future economic development of those areas; and

"Whereas the economic growth and development of areas of both States will be further advanced by authorizing the Authority to undertake economic development projects, other than major projects, as defined in Article II, at its own initiative, and to undertake major projects after securing only such approvals as may be required by legislation of the State in which the project is to be located, except that the Authority is prohibited from undertaking any major project, to be located in the Delaware River or Bay, including, without limitation, any deep-water port or superport, without the prior approval, by concurrent legislation, of the two States; and

"Whereas the natural environment of those areas in the two States which border the Delaware River and Bay would be better preserved by requiring that the projects, other than crossings, of the Authority shall be in complete compliance with all applicable environmental protection laws and regulations before the Authority may undertake the planning, development, construction, or operation of any project, other than a crossing:

"Now, Therefore, the State of Delaware and the State of New Jersey do hereby solemnly covenant and agree, each with the other as follows:

"ARTICLE I

"SHORT TITLE

"This Compact shall be known as the 'Delaware-New Jersey Compact'.

"ARTICLE II

"DEFINITIONS

" 'Crossing' means any structure or facility adapted for public use in crossing the Delaware River or Bay between the States, whether by bridge, tunnel, ferry, or other device, and by any vehicle or means of transportation of persons or property, as well as all approaches thereto and connecting and services routes and all appurtenances and equipment relating thereto.

" 'Transportation facility' and 'terminal facility' means any structure or facility other than a crossing, as herein defined, adapted for public use within each of the States party hereto in connection with the transportation of persons or property, including railroads, motor vehicles, watercraft, airports and aircraft, docks, wharves, piers, slips, basins, storage places, sheds, warehouses, and every means or vehicle of transportation now or hereafter in use for the transportation of persons and property or the storage, handling or loading of property, as well as all appurtenances and equipment related thereto.

" 'Commerce facility or development' means any structure or facility adapted for public use or any development for a public purpose within each of the States party hereto in connection with recreational and commercial fishery development, recreational marina development, aquaculture (marine farming), shoreline preservation and development (including wetlands and open-lands acquisition, active recreational and park development, beach restoration and development, dredge spoil disposal and port-oriented development), foreign trade zone site development, manufacturing and industrial facilities, and other facilities of commerce which, in the judgment of the Authority, are required for the sound economic development of the area.

" 'Appurtenances' and 'Equipment' mean all works, buildings, structures, devices, appliances, and supplies, as well as every kind of mechanism, arrangement, object, or substance related to and necessary or convenient for the proper construction, equipment, maintenance, improvement, and operation of any crossing, transportation facility or terminal facility, or commerce facility, or development.

" 'Project' means any undertaking or program for the acquisition or creation of any crossing, transportation facility or terminal facility, or commerce facility or development, or any part thereof, as well as for the operation, maintenance, and improvement thereof.

" 'Major Project' means any project, other than a crossing, having or likely to have significant environmental impacts on the Delaware River and Bay, its shorelines or estuaries, or any other area in the State of Delaware or the New Jersey counties of Cape May, Cumberland, Cloucester, and Salem, as determined in accordance with State law by the environmental agency of the State in which the major project is to be located.

" 'Tunnel' means a tunnel of one or more tubes.

" 'Governor' means any person authorized by the Constitution and law of each State to exercise the functions, powers, and duties of that office.

" 'Authority' means the Authority created by this Compact or any agency successor thereto.

"The singular whenever used in this Compact shall include the plural, and the plural shall include the singular.

"ARTICLE III

"FAITHFUL COOPERATION

"They agree to and pledge, each to the other, faithful cooperation in the effectuation of this Compact and any future amendment or supplement thereto, and of any legislation expressly in implementation thereof hereafter enacted, and in the planning, development, financing, construction, operation, maintenance, and improvement of all projects entrusted to the authority created by this Compact.

"ARTICLE IV

"ESTABLISHMENT OF AGENCY; PURPOSES

"The two States agree that there shall be created and they do hereby create a body politic, to be known as 'The Delaware River and Bay Authority' (for brevity hereinafter referred to as the 'Authority'), which shall constitute an agency of government of the State of Delaware and the State of New Jersey for the following general public purposes, and which shall be deemed to be exercising essential government functions in effectuating such purposes, to wit:

"(a) The planning, financing, development, construction, purchase, lease, maintenance, improvement, and operation of crossings between the States of Delaware and New Jersey across the Delaware River or Bay at any location south of the boundary line between the State of Delaware and the Commonwealth of Pennsylvania as extended across the Delaware River to the New Jersey shore of said River, together with such approaches or connections thereto as in the judgment of the Authority are required to make adequate and efficient connections between such crossings and any public highway or other routes in the State of Delaware or in the State of New Jerey; and

"(b) The planning, financing, development, construction, purchase, lease, maintenance, improvement, and operation of any transportation or terminal facility within the State of Delaware or the New Jersey counties of Cape May, Cumberland, Gloucester, and Salem, which facility, in the judgment of the Authority, is required for the sound economic development of the area; and

"(c) The planning, financing, development, construction, purchase, lease, maintenance, improvement, and operation of any commerce facility or development within the State of Delaware or the New Jersey counties of Cape May, Cumberland, Gloucester, and Salem, which in the judgment of the Authority is required for the sound economic development of the area; and

"(d) The performance of such other functions as may be hereafter entrusted to the Authority by concurrent legislation expressly in implementation hereof.

"The Authority shall not undertake any major project or part thereof without having first secured such approvals as may be required by legislation of the State in which the project is to be located.

"The Authority shall not undertake any major project, or part thereof to be located in the Delaware River or Bay, including, without limitation, any deep-water port or superport, without having first secured approval thereof by concurrent legislation of the two States expressly in implementation thereof.

"The Authority shall not undertake any major project or part thereof without first giving public notice and holding a public hearing, if requested, on any proposed major project, in accordance with the law of the State in which the major project is to be located. Each State shall provide by law for the time and manner for the giving of such public notice, the requesting of a public hearing and the holding of such public hearings.

"ARTICLE V

"COMMISSIONERS

"The Authority shall consist of twelve Commissioners, six of whom shall be residents of and qualified to vote in and shall be appointed from the State of Delaware, and six of whom shall be residents of and qualified to vote in and shall be appointed from the State of New Jersey; not more than three of the Commissioners of each State shall be of the same political party; the Commissioners for each State shall be appointed in the manner fixed and determined from time to time by the law of each State respectively. Each Commissioner shall hold office for a term of five years, and until his successor shall have been appointed and qualified, but the terms of the first Commissioners shall be so designated that the term of at least one Commissioner from each State shall expire each year. All terms shall run to the first day of July. Any vacancy, however created, shall be filled for the unexpired term only. Any Commissioner may be suspended or removed from office as provided by law of the State from which he shall be appointed.

"Commissioners shall be entitled to reimbursement for necessary expenses to be paid only from revenues of the Authority and may not receive any other compensation for services to the Authority except such as may from time to time be authorized from such revenues by concurrent legislation.

"ARTICLE VI

"BOARD ACTION

"The Commissioners shall have charge of the Authority's property and affairs and shall, for the purpose of doing business, constitute a Board, but no action of the Commissioners shall be binding or effective unless taken at a meeting at which at least four Commissioners from each State are present, and unless at least four Commissioners from each State shall vote in favor thereof. The vote of any one or more of the Commissioners from each State shall be subject to cancellation by the Governor of such State at any time within 10 days (Saturdays, Sundays, and public holidays in the particular State excepted) after receipt at the Governor's office of a certified copy of the minutes of the meeting at which such vote was taken. Each State may provide by law for the manner of delivery of such minutes and for notification of the action thereon.

"ARTICLE VII

"GENERAL POWERS

"For the effectuation of its authorized purposes, the Authority is hereby granted the following powers:

"(a) To have perpetual succession.

"(b) To adopt and use an official seal.

"(c) To elect a chairman and a vice chairman from among the Commissioners. The chairman and vice chairman shall be elected from different States and shall each hold office for two years. The chairmanship and vice chairmanship shall be alternated between the two States.

"(d) To adopt bylaws to govern the conduct of its affairs by the Board of Commissioners, and it may adopt rules and regulations and may make appropriate orders to carry out and discharge its powers, duties, and functions, but no bylaw or rule, regulation, or order shall take effect until it has been filed with the Secretary of State of each State or in such other manner in each State as may be provided by the law thereof. In the establishment of rules, regulations, and orders respecting the use of any crossing, transportation, or terminal facility or commerce facility or development owned or operated by the Authority, including approach roads, it shall consult with appropriate officials of both States in order to insure, as far as possible, uniformity of such rules, regulations, and orders with the laws of both States.

"(e) To appoint or employ such other officers, agents, attorneys, engineers, and employees as it may require for the performance of its duties and to fix and determine their qualifications, duties, compensation, pensions, terms of office and all other conditions and terms of employment and retention.

"(f) To enter into contracts and agreements with either State or with the United States, or with any public body, department, or other agency of either State or of the United States or with any individual, firm, or corporation deemed necessary or advisable for the exercise of its purposes and powers.

"(g) To accept from any government or governmental department, agency, or other public or private body, or from any other source, grants, or contributions of money or property as well as loans, advances, guarantees, or other forms of financial assistance which it may use for or in aid of any of its purposes.

"(h) To acquire (by gift, purchase, or condemnation), own, hire, lease, use, operate, and dispose of property, whether real, personal, or mixed, or of any interest therein, including any rights, franchise and property for any crossing, facility, or other project owned by another and which the Authority is authorized to own and operate.

"(i) To designate as express highways, and control public and private access thereto, all or any approaches to any crossing or other facility of the Authority for the purpose of connecting the same with any highway or other route in either State.

"(j) To borrow money and to evidence such loans by bonds, notes, or other obligations, either secured or unsecured, and either in registered or unregistered form, and to fund or refund such evidences of indebtedness, which may be executed with facsimile signatures of such persons as may be designated by the Authority and by a facsimile of its corporate seal.

"(k) To procure and keep in force adequate insurance or otherwise provide for the adequate protection of its property, as well as to indemnify it or its officers, agents, or employees against loss or liability with respect to any risk to which it or they may be exposed in carrying out any function hereunder.

"(l) To grant the use of by franchise, lease, or otherwise, and to make charges for the use of any crossing, facility, or other project or property owned or controlled by it.

"(m) To exercise the right of eminent domain to acquire any property or interest therein.

"(n) To determine the exact location, system, and character of and all other matters in connection with any and all crossings, transportation, or terminal facilities, commerce facilities or developments or other projects which it may be authorized to own, construct, establish, effectuate, operate, or control.

"(o) To exercise all other powers not inconsistent with the Constitutions of the two States or of the United States, which may be reasonably necessary or incidental to the effectuation of its authorized purposes or to the exercise of any of the foregoing powers, except the power to levy taxes or assessments, and generally to exercise in connection with its property and affairs, and in connection with property within its control, any and all powers which might be exercised by a natural person or a private corporation in connection with similar property and affairs.

"ARTICLE VIII

"ADDITIONAL POWERS

"For the purpose of effectuating the authorized purposes of the Authority, additional powers may be granted to the Authority by legislation of either State without the concurrence of the other, and may be exercised within such State, or may be granted to the Authority by Congress and exercised by it; but no additional duties or obligations shall be undertaken by the Authority under the law of either State or of Congress without authorization by the law of both States.

"ARTICLE IX

"EMINENT DOMAIN

"If the Authority shall find and determine that any property or interest therein is requried for a public use in furtherance of the purposes of the Authority, said determination shall not be affected by the fact that such property has theretofore been taken over or is then devoted to a public use, but the public use in the hands or under the control of the Authority shall be deemed superior to the public use for which it has theretofore been taken or to which it is then devoted. The Authority shall not exercise the power of eminent domain granted herein to acquire any property, other than a crossing, devoted to a public use, of either State, or of any municipality, local government, agency, public authority or commission, or of two or more of them, for any purpose other than a crossing, without having first secured the authorization of the holder of the title to the land in question and such other approvals as may be required by legislation of the State in which the project is to be located. The Authority shall not exercise the power of eminent domain in connection with any commerce facility or development.

"In any condemnation proceedings in connection with the acquisition by the Authority of property or property rights of any character in either State and the right of inspection and immediate entry thereon, through the exercise by it of its power of eminent domain, any existing or future law or rule of court of the State in which such property is located with respect to the condemnation of property for the construction, reconstruction, and maintenance of highways therein shall control. The Authority shall have the same power and authority with respect thereto as the State agency named in any such law, provided that nothing herein contained shall be construed as requiring joint or concurrent action by the two States with respect to the enactment, repeal, or amendment of any law or rule of court on the subject of condemnation under which the Authority may proceed by virtue of this Article.

"If the established grade of any street, avenue, highway, or other route shall be changed by reason of the construction by the Authority of any work so as to cause loss or injury to any property abutting on such street, avenue, highway, or other route, the Authority may enter into voluntary agreements with such abutting property owners and pay reasonable compensation for any loss or injury so sustained, whether or not it be compensable as damages under the condemnation law of the State.

"The power of the Authority to acquire property by condemnation shall be a continuing power, and no exercise thereof shall be deemed to exhaust it.

"ARTICLE X

"REVENUE AND APPLICATION

"The Authority is hereby authorized to establish, levy, and collect such tolls and other charges as it may deem necessary, proper, or desirable in connection with any crossing, transportation, or terminal facility, commerce facility or development or other project which it is or may be authorized at any time to construct, own, operate, or control, and the aggregate of said tolls and charges shall be at least sufficient (1) to meet the combined expenses of operation, maintenance and improvement thereof, (2) to pay the cost of acquisition or construction, including the payment, amortization, and retirement of bonds or other securities or obligations assumed, issued, or incurred by the Authority, together with interest thereon, and (3) to provide reserves for such purposes; and the Authority is hereby authorized and empowered, subject to prior pledges, if any, to pledge such tolls and other revenues or any part thereof as security for the repayment with interest of any moneys borrowed by it or advanced to it for its authorized purposes and as security for the satisfaction of any other obligations assumbed by it in connection with such loans or advances. There shall be allocated to the cost of the acquisition, construction, operation, maintenance, and improvement of such facilities and projects such proportion of the general expenses of the Authority as it shall deem property chargeable thereto.

"ARTICLE XI

"COVENANT WITH BONDHOLDERS

"The two said States covenant and agree with each other and with the holders of any bonds or other securities or obligations of the Authority, assumed, issued, or incurred by it and as security for which there may be pledged the tolls and revenues or any part thereof of any crossing, transportation, or terminal facility, commerce facility or development or other project, that the two said States will not, so long as any of such bonds or other obligations remain outstanding and unpaid, diminish, or impair the power of the Authority to establish, levy, and collect tolls and other charges in connection therewith, and that neither of the two said States will, so long as any of such bonds or other obligations remain outstanding and unpaid, authorize any crossing of the Delaware River or Delaware Bay south of the line mentioned in Article IV(a) of this Compact by any person or body other than the Authority, unless, in either case, adequate provision shall be made by law for the protection of those advancing money upon such obligation.

"ARTICLE XII

"SECURITIES LAWFUL INVESTMENTS

"The bonds or other securities or obligations which may be issued by the Authority pursuant to this Compact, or any amendments hereof or supplements hereto, are hereby declared to be negotiable instruments, and are hereby made securities in which all State and municipal officers and bodies of each State, all banks, bankers, trust companies, savings banks, building and loan associations, saving and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees, and other fiduciaries and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of either State may properly and legally invest any funds, including capital, belonging to them or within their control, and said obligations are hereby made securities which may properly and legally be deposited with and shall be received by any State or municipal officer or agency of either State for any purpose for which the deposit of bonds or other obligations of such State is now or may hereafter be authorized.

"ARTICLE XIII

"TAX STATUS

"The powers and functions exercised by the Authority under this Compact and any amendments hereof or supplements hereto are and will be in all respects for the benefit of the people of the States of Delaware and New Jersey, the region and Nation, for the increase of their commerce and prosperity and for the enhancement of their general welfare. To this end, the Authority shall be regarded as performing essential governmental functions in exercising such powers and functions and in carrying out the provisions of this Compact and of any law relating thereto, and shall not be required to pay any taxes or assessments of any character, levied by either State or political subdivision thereof, upon any of the property used by it for such purposes, or any income or revenue therefrom, including any profit from a sale or exchange. The bonds or other securities or obligations issued by the Authority, their transfer and the interest paid thereon or income therefrom, including any profit from a sale or exchange, shall at all times be free from taxation by either State or any subdivision thereof.

"ARTICLE XIV

"JURISDICTION; USE OF LANDS

"Each of the two States hereby consents to the use and occupancy by the Authority of any lands and property of the Authority in such State for the construction, operation, maintenance or improvement of any crossing, transportation, or terminal facility, commerce facility or development, or other project which it is or may be authorized at any time to construct, own, or operate, including lands lying under water.

"ARTICLE XV

"REVIEW AND ENFORCEMENT OF RULES

"Judicial proceedings to review any bylaw, rule, regulation, order, or other action of the Authority or to determine the meaning or effect thereof may be brought in such court of each State, and pursuant to such law or rules thereof, as a similar proceeding with respect to any agency of such State might be brought.

"Each State may provide by law what penalty or penalties shall be imposed for violation of any lawful rule, regulation, or order of the Authority, and, by law or rule of court, for the manner of enforcing the same.

"ARTICLE XVI

"NO PLEDGE OF CREDIT

"The Authority shall have no power to pledge the credit or to create any debt or liability of the State of Delaware, of the State of New Jersey or of any other agency or of any political subdivision of said States.

"ARTICLE XVII

"LOCAL COOPERATION AND AGREEMENTS

"(a) All municipalities, political subdivisions, and every department, agency, or public body of each of the States are hereby authorized and empowered to cooperate with, aid and assist the Authority in effectuating the provisions of this Compact and of any amendment hereof or supplement hereto.

"(b) The Authority is authorized and empowered to cooperate with each of the States, or any political subdivision thereof, and with any municipality, local government, agency, public authority or commission of the foregoing, in connection with the acquisition, planning, rehabilitation, construction or development of any project, other than a crossing, and to enter into an agreement or agreements, subject to compliance with the laws of the State in which the project is to be located, with each of the States, or any political subdivision thereof, and with any municipality, county, local government, agency, public authority, or commission or with two or more of them, for or relating to such purposes.

"(c) The Authority and the city, town, municipality, or other political subdivision in which any project, other than a crossing, is to be located are hereby authorized and empowers, subject to compliance with the laws of the State in which the project is to be located, to enter into an agreement or agreements to provide which local laws, resolutions, ordinances, rules, and regulations, if any, of the city, town, municipality, or other political subdivision affected by such project shall apply to such project. All other existing local laws, resolutions, ordinances or rules and regulations not provided for in the agreement shall be applicable to the project, other than a crossing. All local laws, resolutions, ordinances or rules and regulations enacted after the date of the agreement shall not be applicable to such projects unless made applicable by the agreement or any modification thereto.

"ARTICLE XVIII

"DEPOSITARIES

"All banks, bankers, trust companies, savings banks and other persons carrying on a banking business under the laws of either State are authorized to give security for the safekeeping and prompt payment of moneys of the Authority deposited by it with them, in such manner and form as may be required by and may be approved by the Authority, which security may consist of a good and sufficient undertaking with such sureties as may be approved by the Authority, or may consist of the deposit with the Authority or other depository approved by the Authority as collateral of such securities as the Authority may approve.

"ARTICLE XIX

"AGENCY POLICE

"Members of the police force established by the Authority, regardless of their residence, shall have in each State, on the crossings, transportation or terminal facilities, commerce facilities or developments and other projects and the approaches thereto, owned, operated, or controlled by the Authority, and at such other places and under such circumstances as the law of each State may provide, all the powers of investigation, detention, and arrest conferred by law on peace officers, sheriffs, or constables in such State or usually exercised by such officers in each State.

"ARTICLE XX

"REPORTS AND AUDITS

"The Authority shall make annual reports to the Governors and Legislatures of the State of Delaware and the State of New Jersey, setting forth in detail its operations and transactions, and may make such additional reports from time to time to the Governors and Legislatures as it may deem desirable.

"It shall, at least annually, cause an independent audit of its fiscal affairs to be made, and shall furnish a copy of such audit report together with such additional information or data with respect to its affairs as it may deem desirable to the Governors and Legislatures of each State.

"It shall furnish such information or data with respect to its affairs as may be requrested by the Governor or Legislature of each State.

"ARTICLE XXI

"BOUNDARIES UNAFFECTED

"The existing territorial or boundary lines of the States or the jurisdiction of the two States established by said boundary lines shall not be changed hereby.

"ARTICLE XXII

"ENVIRONMENTAL PROTECTION

"(a) The planning, development, construction, and operation of any project, other than a crossing, shall comply with all environmental protection laws, regulations, directives, and orders, including, without limitation, any coastal zone laws, wetlands laws, or subaqueous land laws or natural resources laws, now or hereinafter enacted, or promulgated by the State in which the project, or any part thereof, is located.

"(b) The planning, development, construction, and operation of any project, other than a crossing, to be located in the Delaware River and Bay shall comply with all environmental protection laws, regulations, directives, and orders, including, without limitation, any coastal zone laws, wetland laws, subaqueous land laws or natural resource laws now or hereinafter enacted or promulgated by either State.

"(c) The planning, development, construction, and operation of any project, other than a crossing, located in the coastal zone of Delaware (as defined in Chapter 70 of Title 7 of the Delaware Code, as in effect on January 1, 1989), shall be subject to the same limitations, requirements, procedures, and appeals as apply to any other person under the Delaware Coastal Zone Act, Chapter 70 of Title 7 of the Delaware Code, as in effect on January 1, 1989. Nothing in this Compact shall be deemed to pre-empt, modify, or supersede any provision of the Delaware Coastal Zone Act, Chapter 70 of Title 7 of the Delaware Code, as in effect on January 1, 1989. The interpretation and application of this paragraph shall be governed by the laws of the State of Delaware and be determined by the courts of the State of Delaware.

"(d) The planning, development, construction, and operation of any project, other than a crossing, located in New Jersey, shall be subject to the provisions of New Jersey law, when applicable, including but not limited to the Wetlands Act of 1970, N.J.S.A. 13:9A-1, et seq. and the Coastal Area Facility Review Act, N.J.S.A. 13:19-1, et seq.".

SEC. 2. FEDERAL JURISDICTION NOT AFFECTED.

Nothing contained in the compact set forth in section 1 shall be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the area which forms the subject of such compact.

SEC. 3. AUTHORITY FOR ADDITIONAL TOLL BRIDGES.

Section 4 of the Act entitled "An Act to authorize the State of Delaware, by and through its State highway department, to construct, maintain, and operate a toll bridge across the Delaware River near Wilmington, Delaware" approved July 13, 1946 (60 Stat 533), as amended by the Act of June 27, 1951 (66 Stat. 91) and the Act of October 3, 1962 (76 Stat. 741-742), is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and", and

(3) by adding after paragraph (4) the following:

"(5) to pay the cost of any project which the Delaware River and Bay Authority is or may be authorized to construct, own, operate, or control, under the Delaware-New Jersey Compact, as consented to by the Congress,".

SEC. 4. REQUIREMENTS OF OTHER LAWS.

In addition to any other requirement of law, any project constructed by the Delaware River and Bay Authority in and over the navigable waters of the United States shall be subject to the procedural requirements of section 2(a) of the Fishing and Wildlife Coordination Act (16 U.S.C. 662(a)).

SEC. 5. CONSTRUCTION.

Nothing in this resolution shall be construed as—

(1) amending or superseding the provisions of the Act of September 27, 1961 (75 Stat. 688); or

(2) granting advance consent of Congress for the performance by the Delaware River and Bay Authority of other functions, as contemplated by Article IV, paragraph (d) of the compact set forth in section 1 or for the assumption by the Authority of additional powers, as contemplated by Article VII of such compact.

SEC. 6. DISCLOSURE OF INFORMATION.

The right is reserved to the Congress or any of its standing committees to require of the Delaware River and Bay Authority the disclosure and furnishing of such information and data as it is deemed appropriate by the Congress or any committee thereof having jurisdiction of the subject matter of this resolution.

SEC. 7. RESERVATION BY THE CONGRESS.

The right to alter, amend, or repeal this joint resolution is expressly reserved.●

● Mr. ROTH. Mr. President, I am pleased to rise today and to join my colleagues Senator Biden, Senator Bradley, and Senator Lautenberg in introducing legislation that amends the Delaware and New Jersey compact which created the Delaware River and Bay Authority. The compact was created to advance the economic growth and development in those areas of both States which border the Delaware River and Bay. The compact, which has been unchanged since 1963, currently empowers the Delaware River and Bay Authority to finance and develop crossings, transportation or terminal facilities in both New Jersey and Delaware. The compact was created by the U.S. Congress by joint resolution, Public Law 87-678, on September 20, 1962.

This year after extensive public hearings, strong bipartisan support, and enactment of legislation by both the Delaware General Assembly and the New Jersey State Legislature, we are asking that the restrictions on the authority's ability to use its toll revenues be lifted. We are proposing that besides crossings other economic development projects may be undertaken by the authority. Of course, any such project shall be in complete compliance with all applicable environmental laws before the authority may undertake the development of the project.

For the compact amendment to become effective, the original joint resolution of Congress approving its creation must be amended by both bodies of the Congress. In the U.S. House of Representatives Mr. Hughes has introduced House Joint Resolution 657 which would do just that. We are introducing the identical legislation in the Senate today. I urge my colleagues to join us in supporting this legislation.●

ADDITIONAL COSPONSORS

S. 52

At the request of Mr. Inouye, the name of the Senator from Hawaii [Mr. Akaka] was added as a cosponsor of S. 52, a bill to amend section 1086 of title 10, United States Code, to provide for payment under the CHAMPUS Program of certain health care expenses incurred by certain members and former members of the uniformed services and their dependents to the extent that such expenses are not payable under Medicare, and for other purposes.

S. 730

At the request of Mr. Coats, the name of the Senator from Minnesota [Mr. Boschwitz] was added as a cosponsor of S. 730, a bill to request the President to award gold medals on behalf of Congress to Frank Capra, James M. Stewart, and Fred Zinnemann, and to provide for the production of bronze duplicates of such medals for sale to the public.

S. 731

At the request of Mr. Coats, the name of the Senator from Minnesota [Mr. Boschwitz] was added as a cosponsor of S. 731, a bill to request the President to award a gold medal on behalf of Congress to Robert Wise and to provide for the production of bronze duplicates of such medals for sale to the public.

S. 1400

At the request of Mr. Kasten, the name of the Senator from Connecticut [Mr. Lieberman] was added as a cosponsor of S. 1400, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 1661

At the request of Mr. Pryor, the name of the Senator from Michigan [Mr. Riegle] was added as a cosponsor of S. 1661, a bill to amend the Internal Revenue Code of 1986 to provide for a tax credit for qualifying disability expenses.

S. 1808

At the request of Mr. Breaux, the name of the Senator from Pennsylvania [Mr. Specter] was added as a cosponsor of S. 1808, a bill to amend section 468A of the Internal Revenue Code of 1986 with respect to deductions for decommissioning costs of nuclear powerplants.

S. 1815

At the request of Mr. Boschwitz, the names of the Senator from South Carolina [Mr. Hollings] and the Senator from New York [Mr. D'Amato] were added as cosponsors of S. 1815, a bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer Social Security taxes on cash tips.

S. 2754

At the request of Mr. Biden, the name of the Senator from Nevada [Mr. Reid] was added as a cosponsor of S. 2754, a bill to combat violence and crimes against women on the streets and in homes.

S. 2767

At the request of Mr. McCain, the name of the Senator from California [Mr. Wilson] was added as a cosponsor of S. 2767, a bill to provide for retention of certain Medicare catastrophic benefits provided by health maintenance organization.

S. 2796

At the request of Mr. Cohen, the name of the Senator from Iowa [Mr. Grassley] was added as a cosponsor of S. 2796, a bill to amend title IV of the Higher Education Act of 1965 to allow resident physicians to defer repayment of their title IV student loans while completing a resident training program accredited by the Accreditation Council for Graduate Medical Education or the Accrediting Committee of the American Osteopathic Association.

S. 2898

At the request of Mr. Harkin, the names of the Senator from Massachusetts [Mr. Kerry], the Senator from Massachusetts [Mr. Kennedy], the Senator from California [Mr. Wilson], the Senator from Michigan [Mr. Levin], the Senator from North Dakota [Mr. Conrad], the Senator from Alabama [Mr. Shelby], and the Senator from Alabama [Mr. Heflin] were added as cosponsors of S. 2898, a bill to improve counseling services for elementary schoolchildren.

S. 2925

At the request of Mr. Dixon, the names of the Senator from Iowa [Mr. Harkin], the Senator from West Virginia [Mr. Byrd], the Senator from Michigan [Mr. Riegle], the Senator from California [Mr. Cranston], and the Senator from New Mexico [Mr. Domenici] were added as cosponsors of S. 2925, a bill to authorize the minting and issuance of coins in commemoration of the quincentenary of the discovery of America and to authorize the payment of the proceeds of the sale of such coins to the Christopher Columbus Quincentenary Scholarship Foundation for the purpose of establishing a scholarship program, and for other purposes.

S. 2959

At the request of Mr. Baucus, the names of the Senator from Florida [Mr. Graham], the Senator from Nebraska [Mr. Kerrey], the Senator from Ohio [Mr. Metzenbaum], the Senator from Arkansas [Mr. Bumpers], the Senator from Kentucky [Mr. McConnell], and the Senator from Kansas [Mrs. Kassebaum] were added as cosponsors of S. 2959, a bill to amend the Railroad Retirement Solvency Act of 1983 to extend for 2 years the transfer to the Railroad Retirement Account of income tax revenues from tier 2 benefits.

S. 2979

At the request of Mr. Mitchell, the name of the Senator from California [Mr. Cranston] was added as a cosponsor of S. 2979, a bill to protect the public from health risks from radiation exposure from low-level radioactive waste, and for other purposes.

S. 2989

At the request of Mr. Heinz, the name of the Senator from Utah [Mr. Hatch] was added as a cosponsor of S. 2989, a bill to amend title XIX of the Social Security Act to provide for an expansion of Medicaid benefits to low-income pregnant women and children, and to raise the tax on cigarettes to fund such Medicaid expansion.

At the request of Mr. Heinz, the name of the Senator from Alabama [Mr. Shelby] was withdrawn as a cosponsor of S. 2989, supra.

S. 3076

At the request of Mr. Pryor, the name of the Senator from Massachusetts [Mr. Kerry] was added as a cosponsor of S. 3076, a bill to provide for permanent extensions of expiring health-related waiver of liability provisions.

S. 3136

At the request of Mr. Burns, the name of the Senator from Utah [Mr. Hatch] was added as a cosponsor of S. 3136, a bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to limit increases in outlays to 4 percent per year, to provide for midyear sequesters in order to assure that deficit and outlay targets are achieved, and to amend the Congressional Budget Act of 1974 to extend the deficit targets.

SENATE JOINT RESOLUTION 351

At the request of Mr. Byrd, the name of the Senator from Ohio [Mr. Glenn] was added as a cosponsor of Senate Joint Resolution 351, a joint resolution to designate the month of May 1991, as "National Trauma Awareness Month."

SENATE JOINT RESOLUTION 363

At the request of Mr. Riegle, the name of the Senator from New York [Mr. D'Amato] was added as a cosponsor of Senate Joint Resolution 363, a joint resolution to designate the week of October 22 through October 28, 1990, as the "International Parental Child Abduction Awareness Week."

SENATE JOINT RESOLUTION 371

At the request of Mr. Pryor, the name of the Senator from Illinois [Mr. Dixon] was added as a cosponsor of Senate Joint Resolution 371, a joint resolution to recognize the week of October 1-7, as "National Nursing Home Residents' Rights Week."

SENATE CONCURRENT RESOLUTION 149—CREATING A CONGRESSIONAL LEADERSHIP GROUP

Mr. ADAMS submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. Con. Res. 149

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. CONGRESSIONAL LEADERSHIP GROUP.

(a) Establishment.—To facilitate congressional deliberation and Executive-Legislative consultation on critical decisions relating to United States participation in collective security actions pursuant to this Resolution, there shall be established in each House of Congress, as an exercise of the rulemaking authority of that House, a Leadership Group which shall be comprised as follows:

(1) in the House of Representatives—

(A) the Speaker, who shall serve as chairman;

(B) the Majority and Minority Leaders;

(C) the chairmen and ranking members of the Committee on Foreign Affairs, the Committee on Armed Services, and the Permanent Select Committee on Intelligence;

(D) such other members as the chairman of the Group may designate; and

(2) in the Senate—

(A) the Majority Leader, who shall serve as chairman;

(B) the President pro tempore and the Minority Leader;

(C) the chairmen and ranking members of the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence; and

(D) such other members as the chairman of the Group may designate.

(b) Combined Congressional Leadership Group.—When the chairmen of the two groups deem it appropriate and practical for purposes of congressional deliberation or Executive-Legislative consultation, they shall arrange for the two Groups to assemble as a Combined Congressional Leadership Group, on which the two chairmen shall act as cochairmen.

(c) Consultation Regarding the Use of Force.—The President shall, unless urgent circumstances do not permit, consult and seek the advice of the Congressional Leadership Groups or the Combined Congressional Leadership Group designated pursuant to this section, prior to committing United States Armed Forces to hostilities in the Persian Gulf region.

SENATE CONCURRENT RESOLUTION 150—AUTHORIZING CORRECTIONS IN THE ENROLLMENT OF S. 1824

Mr. FORD (for Mr. Harkin) submitted the following concurrent resolution; which was considered and agreed to:

S. Con. Res. 150

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 1824), an Act to reauthorize the Education of the Handicapped Act, and for other purposes, the Secretary of the Senate shall make the following correction:

(1) In the amendment made by section 405, strike out "631(a)(6)" each place that such occurs and insert in lieu thereof "631(1)(7)".

SENATE RESOLUTION 331—CONGRATULATING FORMER SENATOR HUGH SCOTT ON HIS 90TH BIRTHDAY

Mr. MITCHELL (for Mr. Dole, for himself, Mr. Mitchell, Mr. Heinz, and Mr. Specter) submittted the following resolution; which was considered and agreed to:

S. Res. 331

Whereas Senator Hugh Scott of Pennsylvania, was the Senate Republican Leader for eight years, and

Whereas Senator Scott was the Senate Assistant Republican Leader for two years, and

Whereas Senator Scott was Chairman of the Republican National Committee 1948-49, and

Whereas Senator Scott was a Member of Congress for 33 years, including eight terms in the House of Representatives and three terms in the Senate, and

Whereas Senator Scott voluntarily retired at the end of his term in January 1977, and

Whereas Senator Scott served his country in the United States Naval Reserve in World War II, and saw duty aboard the carrier Valley Forge during the Korean war: Now, therefore, be it .

Resolved, That the Senate extends its best wishes to Senator Hugh Scott on his 90th birthday, November 11, 1990.

SENATE RESOLUTION 332—TO REFER THE BILL S. 1301 TO THE COURT OF CLAIMS

Mr. HEFLIN submitted the following resolution; which was referred to the Committee on the Judiciary:

S. Res. 332

Resolved, That the bill S. 1301, entitled "For the relief of Hoar Construction, Inc., of Birmingham, Alabama, to settle certain claims filed against the Small Business Administration" now pending in the Senate, together will all the accompanying papers, is referred to the Chief Judge of the United States Claims Court. The Chief Judge shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Codes, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusion thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due to the claimant from the United States.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate 9:30 a.m., Tuesday, October 2, 1990, for a hearing to receive testimony on the key elements of a national energy policy that can effectively address U.S. dependence on oil and the actions Congress must take to implement such a policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NUCLEAR REGULATION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Nuclear Regulation, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, October 2, beginning at 9:30 a.m., to conduct a hearing on the Federal program for the disposal of spent nuclear fuel and high-level radioactive waste.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NEW STUDY ON WEAPONS COSTS

● Mr. PRYOR. Mr. President, I would like to submit into the Record a recent publication of the Project on Government Procurement, a nonprofit organization dedicated to uncovering and eliminating Government waste.

This recent study is entitled "Weapons Unit Costs: Current versus Predecessors and Current versus Future." It attempts to compare the costs of current procurement items in the defense budget with similar items in past budgets. The study uses data supplied by the Defense Department.

The study is provocative and interesting and I recommend it to my colleagues for review.

Mr. President, I ask that the text of the study be printed in the Record at this point.

The text follows:

[Project on Government Procurement, June 11, 1990]

Weapons Unit Costs Current versus Predecessors and Current versus Future

(Prepared by Greg Williams, Research Associate)

The following tables are meant to illustrate the cost of technology as it is applied to new weapons systems. Obviously, improvements in technology bring benefits as well. For instance, the Mx missile carries three times as many warheads as does the Minuteman III to which it is compared. The questions is—Does this make it worth twelve times as much money?

In an effort to be objective, we have used the Defense Department's own figures as much as possible in the composition of these tables. In Chart I, with the noted exceptions, all of the figures are DoD's own estimates of how much weapons cost. They are taken from DoD's budget requests from the years indicated. They all refer to the acquisition unit costs of the weapons: In other words, how much it would cost to buy a single example of that weapon, not counting the R&D and other associated costs.

The figures in the second chart come from a greater variety of sources, and are specifically footnoted. These figures will be further discussed below that chart.

We have used DoD's approved method of incorporating inflation in the cost of weapons systems. All of the figures are inflated or deflated to 1990 dollars using the Major Commodity Deflators for total obligation authority listed in *National Defense Budget Estimates for FY 1990/1991*. This document is published by the Office of the Assistant Secretary of Defense (Comptroller).

The weapons compared, again, are not meant to be equivalent in performance. They represent consecutive generations of a given class of weapons. For instance, the C-5 and C-17 are both heavy lift aircraft. However, the C-17 is intended to carry material much closer to the front than is the C-5, and to land on shorter airstrips. On the other hand, the C-17 is also significantly smaller. Nonetheless, the C-17 represents the current incarnation of the Air Force's ideal airlifter. Information on all of these weapons systems is too voluminous to include here. The Project staff will be happy to answer any questions you may have on these items.

CHART I.—PRICES DEFLATED WITH DOD MAJOR COMMODITY DEFLATOR

System	Last price	Number bought	Predecessor	Year bought	Number bought	1990 price (millions)	Percent price increase
Mx missile	148.9	12	Minuteman III	75	61	$12.3	1,111
B-1B bomber	180.8	48	B-52G	57	100	46.3	290
F-15E fighter	49.3	36	F-4E	73	48	10.4	374
C-5B cargo plane	102.1	21	C-141	65	284	30.9	230
CG-47 missile cruiser	873.8	5	CGN-41	75	1	673.9	30
SSN-688 Attack submarine	903.9	2	SSN-637	69	2	320.0	182
EA-6B EW plane (refurbish)	104.0	3	EA-6B (new)	89	9	56.7	83
F-14 (refurbish)	70.2	12	F-14 (new)	87	15	46.0	53
Trident II missile	28.1	52	Trident I	84	52	15.5	81
M1 Tank	2.9	481	M60	77	886	1.1	164
AH-64 Attack helicopter	11.7	132	AH-1S	81	15	4.2	179
			AH-1T	88	34	7.4	58
Average							236

All of the above figures are acquisition expenditure requests, taken from DoD testimony submitted to Congress with the following exceptions:

The 100 B-52's purchased were cited in *Weapons and Warfare*, edited by Bernard Fitzsimmons, Phoebus Publishing, 1978. See Vol. 22, p. 2405. The program cost listed is from hearings on the FY 1957 Defense Budget, before the House Appropriations Committee, H.R. 10986, p. 826. This cost included spares and supporting facilities, in addition to the actual aircraft.

The 284 C-141's are listed as having cost $1,783 million in 1965 dollars in *U.S. Military Aircraft Data Book, 1989*, prepared by Ted Nicholas and Rita Rossi of Data Search Associates. Procurement was spread over three years, starting in 1963.

Acquisition costs do not include research, development and support items. Requests are the budgets submitted to Congress by the executive branch. They are a reflection of what the military planned to spend, not

what they actually did spend. These figures are used because they are the most consistent, and widely available.

CHART II.—PAST PROJECTIONS VERSUS CURRENT PROJECTIONS OF FUTURE WEAPONS COSTS

Weapon system	Promised price	Current price	Percent increase	Performance issues
Mx Missile	87.0	148.9	71	
B-2 stealth bomber.	321.6	570.5	77	No testing of its stealth characteristics, or weapons delivery.
Advanced tactical fighter.	80.0	105.3	32	No flight testing whatsoever.
C-17 cargo plane.	115.7	293.7	154	Prototypes have not flown, and computer software is experiencing problems.
DDG-51 destroyer.	873.7	696.6	−20	No active ECM. No testing at sea. Limited antimissile defenses.
SSN-21 Sub: lead.	1,867.7	1,959.0	4	Computer Software problems, and limited weapons carriage. No testing at sea.
Follow-ons	1,098.7	1,469.1	34	
Trident II missile.	45.2	28.1	−38	Safety concerns.
M1 tank	1.7	4.3	153	Never met its reliability requirements. Not fuel efficient.
Average			52	

The purpose of this chart is to show how weapons system costs often grow beyond early projections. With the exception of the ATF, all of the above systems are included in this year's procurement budget as production items. The prices listed show how those projections line up with the actual budget requests when production starts. Bear in mind, however, in most of the cases listed in this chart, not a single unit has been completed yet. The prices of DDG-51, SSN-21, the C-17 and the Advanced Tactical Fighter could all increase significantly by the time they actually enter service. But even now one can see how far off projections can be.

On the other hand, the costs of these weapons should go down as production continues. However, the M1, D-5 and Mx are all well into production. And the Seawolf SSN-21 "class" price is for the third submarine of that design (the Navy often buys several ships of a new class before the first is completed.). So it is unclear that this "learning curve" will bring weapons costs back to their original projections.

The figures used in the chart above were collected from many sources, including testimony and budget material submitted to Congress by DoD, magazine and newspaper accounts, and military service public affairs officers. Generally, this chart compares past projections of program costs to present projections of acquisition. Program costs include all research and development and other associated costs, in addition to the price paid for the actual equipment. Acquisition costs are the costs only covering the purchase cost of the weapons system itself. This comparison paints a somewhat unrealistically favorable picture of the situation. We arranged the chart in this way because, before a weapon actually enters production, program costs are often the only figures available, and after a weapon is in production, the acquisition cost is the most meaningful figure available. Once a weapons program reaches maturity, it is difficult to separate out what costs are directly connected with the weapon and which aren't. The acquisition cost is the standard DoD price, given in well-defined terms while a weapon is in production. When we have been unable to get the desired figures, we have sometimes substituted program for acquisition costs, or vice-versa. However, we have in no case compared a past acquisition cost to a present program cost. This would be unfair since the additional R&D and other costs would make the price seem to grow more than it actually had. Thus, in the cases in which we have been unable to develop more accurate data, we have given the military the benefit of the doubt.

Specific source citations for these figures are included in the endnotes.●

AMTRAK: CELEBRATING 20 YEARS OF FAILURE

● Mr. ARMSTRONG. Mr. President, the Senate will soon adopt a resolution for the curious purpose of commemorating 20 years of subsidizing Amtrak, so I want to review whether Amtrak has provided, as one supporter hoped at its creation, "a long-awaited answer to the disappearing passenger train dilemma."

The answer should have been evident in 1970, since passenger travel by train had already been on a near continuous decline for over 70 years. The train's heyday was 1895 when trains carried 95 percent of intercity traffic. But, the invention of the automobile and Henry Ford's affordable Model T, and the Wright brothers' discovery of flight signaled the end of the line was near for the passenger train. Railroads' last profitable year for passenger traffic was 1936. By 1970, the Interstate Highway System and jet air service were well-established, and the railroads simply did not have enough people riding trains to offer passenger service any longer.

Congress, though, had high hopes that passenger trains could be revived. Congressional supporters of Amtrak explained, "the number of intercity travelers continues to grow each year * * * rail passenger service can play a valuable role in intercity transportation." They thought the objective could be accomplished with a facelift, "an alert, imaginative program, thoroughly promoted and publicized, can recreate an acceptable image for railroad passenger travel, and bring this mode of transportation back into profitable use." Another proponent thought an answer might lie in the future: "Hopefully new developments in high speed rail technology will enable Amtrak to eventually become solvent." So, Congress provided a $40 million grant and a $100 million loan with high expectations that travelers would soon again flock to the trains.

The subsequent 20 years have been disillusioning for Amtrak's well-intentioned supporters. Cars continue to be the dominant and preferred mode of travel, accounting for 80 percent of intercity travel. In 1978, air travel was deregulated and increased 68 percent over the next 10 years. Now, 17 percent of intercity travel is by airplane. Amtrak, however, continues to lag behind. It accounts for only one-third of 1 percent of intercity travel today, a slight decrease from its one-half of 1 percent share in 1970. In fact, Amtrak can hardly claim to be predominantly an intercity carrier, since about 45 percent of its passengers are commuters.

While Amtrak is a blip in the overall transportation scheme, it has also failed to find a particular market niche. Its rigid, skeletal route structure has less than 500 stops, so it is not a viable alternative for most areas. In fact, Amtrak does not even stop in South Dakota, Wyoming, Oklahoma, Maine, or Alaska. According to a GAO study, Amtrak subsidies compete with bus service, a more important transportation mode in rural areas. Even in the Northeast corridor, where Amtrak ridership is the highest, it carries less than 10 percent of the total intercity traffic among cars, planes, and trains.

Amtrak has failed as a transportation mode despite having a monopoly in passenger train service and being heavily subsidized. Over $14 billion has been spent on Amtrak subsidies since 1970. The resolution says Amtrak hopes to cover 100 percent of its operating costs by the year 2000, but this is probably just more wishful thinking. The resolution does not mention if Amtrak will ever cover its capital costs, and of course it will not. Congress, moreover, recently approved legislation to increase Amtrak's subsidies from $656 million in 1990 to $712 million in 1992. At this rate, taxpayers could be socked for another $7 billion before the end of this century.

Mr. President, trains have a nostalgic appeal, but there is no dilemma about the disappearance of the passenger train; it can't compete with the auto and airplane. There is no more likelihood that passenger trains will become a viable transportation mode today than if the Government had subsidized the steamship and stagecoach at the turn of the last century.●

THE PENSION RESTORATION ACT

● Mr. COATS. Mr. President, I am pleased to be an original cosponsor of S. 3120, the Pension Restoration Act. This bill was introduced to provide partial redress for those unfortunate workers who lost their vested pension benefits when their employers' pension plans terminated with insufficient funds prior to the enactment of the Employee Retirement Income Security Act [ERISA].

On the morning of December 9, 1963, the 11,000 employees at the Studebaker auto plant in South Bend, IN, reported to work only to be told that the company was closing its plant and moving to Canada, and they discovered suddenly that they had not only lost their jobs, but also their pensions as well.

As a consequence of this experience, and similar disasters that befell retiring workers in other States, the Congress in 1974 passed ERISA. Prior to its enactment employers were legally obligated to pay earned pension benefits up to the limit of the pension plan's assets; if the assets were insufficient to pay the benefits when the plan was terminated, the employees were left high and dry. Under ERISA's pension insurance program, pension plan participants are guaranteed that their basic benefits will be paid by the Pension Benefit Guaranty Corporation should their plan collapse for some reason.

Today some 40 million workers and their surviving spouses are protected by the Pension Benefit Guaranty Corporation. Unfortunately some 46,000 Americans who had their pensions terminated between 1942 and 1974 and lost their vested benefits through no fault of their own were not covered under ERISA. According to the Department of Labor, some 13,000 plans terminated during those years, and 6,000 of those plans did not have sufficient funds to pay the benefits that thousands of workers had worked their lifetimes to earn.

It is a tragic irony that the very people whose losses resulted in the passage of ERISA, including those Studebaker retirees, were overlooked and were left uncompensated pursuant to that act. The Pension Restoration Act of 1990 is designed to provide some compensation for the people who were still left unprotected when ERISA was enacted. Many of these pension losers have died. In 1974 there were 115,000 living individuals who had lost vested benefits despite ERISA. Today the estimated 65,000 survivors are old and aging, living on meager resources, in many cases. Surely justice dictates that finally the Congress should rectify its mistake and provide some restitution for these remaining pre-ERISA pension losers who were overlooked 16 years ago.

Under this bill each individual pension loser would be compensated $75 a year for each year worked under a pension plan. Thus, a retiree who worked 20 years under a plan would receive $1,500 a year. A surviving spouse would receive half that amount. Payments would be made once annually beginning with the effective date of the legislation. The Pension Benefit Guaranty Corporation would administer this program, which would be paid entirely by Pension Benefit Guaranty Corporation premiums.

The estimated cost of this program would be less than $50 million in 1990 to compensate an estimated 26,674 retirees and 14,392 widows and widowers. This cost will continue to decrease each year as the number of beneficiaries decreases. No increase in Pension Benefit Guaranty Corporation premium levels will be required to meet the payments. This is a modest amount to pay compared to the significant benefits lost by these retirees.

Mr. President, I urge speedy consideration of this legislation so that those thousands of pension losers in Indiana and elsewhere will be provided some of the pension funds they earned and were promised but lost through plan termination and congressional oversight, but no fault of their own.

In conclusion, Mr. President, I wish to pay tribute to Odel Duke Newburn, who was three time president of UAW Local No. 5 when Studebaker closed its plant. It is due to the determination of this Hoosier to stir the Congress into action and his tireless efforts to help his fellow former workers at Studebaker that this bill is being proposed today.●

WE NEED TO STOP VIOLENCE AGAINST WOMEN

● Mr. SIMON. Mr. President, Senator BIDEN has introduced a bill, which I am proud to cosponsor, to combat violence against women. The bill is a comprehensive measure designed to make streets safer for women through increased penalties and grants to States and localities for training programs for police and prosecutors. In efforts to diminish violence against women in their own homes—domestic violence—the bill encourages arrests of abusing spouses and grants interstate enforcement of protective orders. Finally, the bill creates a civil rights remedy for victims of sexual assault.

When the bill comes before the committee later this week, I intend to propose an amendment calling for educational training of State and Federal judges on the issue of sexual assault. I believe such training is extremely important and necessary in order for judges to have a clear sense of the traumatic impact of sexual assault on the victim. I have spoken with the National Network for Victims of Sexual Assault, the NOW Legal Defense and Education Fund, as well as the Illinois Coalitions Against Domestic Violence and Sexual Assault, and they strongly support this measure. They believe that lack of education leads to outdated attitudes in sexual assault cases, and that judicial training is needed in order to better protect victims' rights. Additionally, this amendment is consistent with a provision in title II of Senator BIDEN's bill calling for judicial training on domestic violence.

Also is support of judicial education are the findings of a 1990 Illinois Task Force sponsored by the Chicago Bar Association, the Illinois State Bar Association, and the Women's Bar Association of Illinois. Their report documents the need for legal and judicial reform in cases involving women and again stresses the need for judicial education and training. To my knowledge, Illinois is the first State to take such a comprehensive look at gender bias. Their review and recommendations go beyond the legal system. I ask to print the executive summary in the RECORD and urge my colleagues to read it.

The executive summary follows:

EXECUTIVE SUMMARY

In 1988, the Illinois State Bar Association, Chicago Bar Association, and the Women's Bar Association of Illinois established a Task Force to study and report on gender bias in the Illinois courts. The 44-member Task Force was comprised of judges, lawyers, academics, and lay experts from throughout the State of Illinois. Its members were selected with an eye to assuring representation of each judicial circuit, both sexes, the bench, bar and lay communities, and people with different types of both criminal and civil law experience, as well as minorities and different age groups. Subdivided into a number of committees charged with investigating different substantive areas of law, the Task Force carried out its empirical research by means of public hearings, specialized roundtables, interviews, and surveys. The report which follows this Executive Summary represents the results of that research.

The Report is divided into four main areas of particular concern: (1) domestic relations, (2) criminal law, (3) civil damage awards, and (4) courtroom dynamics. One topic—domestic violence—is treated both in the chapter on domestic relations and in the chapter about criminal law, because it involves both civil and criminal remedies. Each section or sub-section contains a lengthy description of the substantive findings concerning that area of the law, followed by a summary of findings and a list of recommendations for reform. A detailed description of the history of the Task Force and the methodology which each committee used is also included in the full report. This Executive Summary describes the main findings contained in each section and also sets forth the recommendations proposed in relation to each area of the law. Preliminarily, however, the Task Force believes that the following procedural recommendations are essential to the success of any reforms which may result from this Report:

(1) The Illinois Supreme Court and the sponsoring bar associations should establish an implementation committee charged with the task of seeing that the recommendations set forth in this Report are implemented as soon as possible.

(2) If it appears desirable after review of this Report, the Illinois Supreme Court and the sponsoring bar associations should convene a "Phase II" Task Force on Gender Bias to investigate additional areas relevant to the issue of gender bias in the courts.

I. DOMESTIC RELATIONS

The investigation of gender bias in domestic relations law focused upon four issues: (1) property distribution, maintenance, and litigation expenses; (2) child support; (3) child custody and visitation; and (4) domestic violence.

Property distribution

Although the Illinois Marriage and Dissolution Act of 1977 mandates an "equitable

distribution" of property upon the dissolution of marriage, the Task Force found that the typical distribution awarded by the courts disadvantages women in a variety of ways. First, many lawyers believe that the courts ignore certain statutorily mandated factors when distributing marital property, such as each party's ability to acquire future assets, the dissipation of assets, and whether property is in lieu of maintenance. Typically, dissolution decrees instead simply divide tangible marital assets and expect that the two spouses will subsequently be independent.

This division works to the advantage of the spouse, usually the husband, who has been actively involved in the work force and to the disadvantage of homemakers, whose efforts have in fact contributed to the creation of their husbands' career assets. Moreover, wives typically request and are awarded the marital home, in order to maintain stability for the couple's children. This results in assigning the majority of the couple's liability, in the form of the mortgage, to the partner who typically earns the smallest amount of the family income. Men, on the other hand, typically retain the majority of the couple's liquid assets, such as stocks, bonds, and business assets, and are thus able to gain a fresh start after marriage with little debt and decreased expenses.

Finally, the Marriage and Dissolution Act does not effectively impose a duty upon the parties to a divorce proceeding to preserve the marital assets during the pendency of that proceeding. Surveys carried out by the Task Force lead it to believe that the courts also fail to take into consideration the dissipation of assets when distributing marital property, thus compounding the problems which the typical distribution of property creates.

Maintenance awards and litigation expenses

Awards of maintenance (formerly called alimony) have become less frequent and of shorter duration under the new Marriage and Dissolution Act. If awarded at all, support is usually limited to "rehabilitative maintenance," that is, support "for the time necessary to acquire sufficient eduction or training to enable the party to find appropriate employment." This change has resulted in serious disadvantages to older women upon the dissolution of marriages of long duration. The reality is that older women who have devoted their lives to homemaking and caretaking of children often cannot find suitable training and employment. The Task Force believes that the homemakers' contributions to their families are inappropriately undervalued, both in the distribution of marital property and in the allocation of maintenance.

Under Illinois' new modified "no-fault" divorce law, moreover, some domestic relations attorneys believe that women have lost a significant source of leverage which helped them attain more favorable settlements in the past, by simply refusing to agree to divorce. This change in bargaining position is aggravated because women typically do not have access to legal representation equal to that of their divorcing spouses. Even if a woman may be entitled to an award of attorney's fees at the end of a dissolution proceeding, courts are reportedly reluctant to award prospective fees during the pendency of that proceeding, making it difficult for some women to obtain adequate representation. Moreover, in many parts of the state, no legal services are available for domestic relations cases involving poor people.

Women's lack of access to legal representation places women at a disadvantage during settlement negotiations, when most domestic relations cases are resolved. Moreover, the fact that attorneys recover their fees earlier in a settlement may have the effect of forcing settlements on terms that are disadvantageous to women.

Finally, one further problem which the Attorney Registration and Disciplinary Commission called to the attention of the Task Force is the incidence of sexual relationships between domestic relations attorneys and their clients. The Task Force is concerned that such relationships, during the pendency of a divorce, may conflict with the attorney's fiduciary responsibility to the client, possibly prevent any reconciliation of the parties, or affect the negotiation of property rights and custody.

RECOMMENDATIONS

A. Legislature

1. As the Illinois State Bar Association has already suggested, the Marriage and Dissolution Act should be amended to provide for an automatic temporary restraining order "freezing" marital property during the pendency of dissolution proceedings and temporary support should be awarded from the proceeds of this property.

2. The Marriage and Dissolution Act should also be amended to require the court to review maintenance awards periodically to determine whether there continues to be a disparity of incomes and whether the spouse receiving maintenance can show due diligence in seeking employment and job training opportunities.

B. Judiciary

1. The courts should adopt an "investment partnership" model of marriage and its dissolution, which would place emphasis not on the equal treatment of spouses at the time of divorce but on each spouse receiving equal benefits of the marriage and thus of all the assets acquired during the period of the marriage.

2. Judges should be required to make findings for the record concerning the factors being used to determine equitable distribution of property, including career assets that take into account the future earning potential of the parties.

3. In order to reduce problems that attorneys and courts may have in placing a value on future earnings, economic formulae should be adopted incorporating principles found in computer models that analyze the long-term consequences of divorce judgments.

4. In cases involving older women who have primarily served as homemakers and caretakers of children in long-term marriages, courts should not be averse to awarding long-term maintenance when justified.

5. If a spouse does not have access to liquid marital property, judges should routinely award prospective attorney's fees early in the proceedings to guarantee adequate legal representation for both parties; and the Illinois Supreme Court should adopt a rule implementing this recommendation.

6. An amendment to the Rules of Professional Conduct should be drafted concerning sexual relationships between attorneys and their clients in pending divorce proceedings, incorporating a presumption that such relationships are inherently unethical and unprofessional.

C. Bar Associations

1. Education concerning the problems and issues raised in this report should be included in programs of continuing legal education.

D. Attorney Registration and Disciplinary Commission

1. The ARDC should use all of its fact-finding powers to investigate each complaint alleging an improper attorney-client sexual relationship, as it would any other complaint.

2. Complaints concerning attorneys-client sexual relationships should be assigned to panels including female and male members, as well as members from fields outside the domestic relations bar.

E. Law Schools

1. Discussion of the problems and issues raised in this report should be included in classes concerning legal ethics and family law.

Child support

Illinois law now provides statutory guidelines for the amount of child support to be awarded upon the dissolution of marriage. However, the Task Force heard testimony that these guidelines, which were intended to be minimum awards, are used instead as maximums; and courts appear reluctant to modify child support awards as children grow older, to adapt to their changed needs.

Moreover, the enforcement of child support awards in Illinois is inadequate to ensure that the custodial parent, usually the mother, has the resources necessary to meet the needs of the couple's children. Statistics reviewed by the Task Force show that the majority of child support awards are paid irregularly, partially, or not at all. Although the adoption of a statutory provision for automatic income withholding in Illinois has resolved enforcement problems in cases were the non-custodial parent works at a regular job, there continue to be significant problems enforcing child support awards against self-employed or irregularly employed fathers.

Witnesses testified at the Task Force public hearings that they were forced to return to court repeatedly to enforce child support awards. Moreover, courts are reluctant to impose even very brief prison sentences on delinquent parents and do not consistently impose interest on past-due child support judgments, although such interest is now statutorily mandated. Finally, the federally funded Child Support Enforcement Program, which provides free legal representation, has apparently not provided or marketed its services statewide. Although Illinois Supreme Court Rule 296, promulgated in 1988, provides for the automatic monitoring and enforcement of child support awards, this program is also not available in all counties.

RECOMMENDATIONS

A. Legislature

1. The legislature should change the law on modification of child support orders to provide cost-of-living increases every three years in certain circumstances or to set forth more clearly the standards for modification of child support orders.

2. The legislature should explore new remedies for enforcement of child support from self-employed parents, including attachment of business assets and suspension of professional licenses.

3. The legislature should fund a program of automatic child support enforcement

under Supreme Court Rule 296 for all persons for whom federal funds are not available.

4. The legislature should implement a quasi-judical process, using hearing officers working in conjuction with judges, to set and enforce child support awards, especially in larger counties.

5. The legislature should add as a remedy under the IMDMA that lost wages may be reimbursed to custodial parents who are required to take time off from work to appear in court to enforce their child support and maintenance awards.

B. Judiciary

1. Judges should receive education and training on the effectiveness of jail as a remedy in child support cases, especially where the delinquent parent is known to have the financial means to comply but repeatedly flaunts the court's orders.

2. Smaller counties should be encouraged to implement Supreme Court Rule 296, which provides for monitoring and automatic enforcement of child support awards.

3. Judges should receive education concerning the cost of quality care, food, and clothing for children.

C. Court Administration

1. The Child Support Enforcement Program, which provides free legal representation to enforce child support awards, should market its services to custodial parents throughout the state.

2. Counties adopting Supreme Court Rule 296, which provides for automatic monitoring and enforcement of child support awards, should market these services as well.

Child custody and visitation

Although the presumption that custody of children should be awarded to their mothers has been abolished by statute in Illinois, custody of children is nonetheless awarded to mothers in the vast majority of cases. This may result either from the preference of the parties or from a continuing judicial preference for maternal custody. An informal continuation of the "tender years" presumption against awarding custody of children under the age of five to the father may also place men at a disadvantage in child custody decisions. In addition, roundtable participants reported that some courts even refused to give overnight visitation rights to fathers of very young children, without considering the capacity of the individual men to care for those children. Finally, some women deny visitation inappropriately in retaliation for their ex-husbands' failure to pay child support.

The Task Force believes that the genuine contributions of each parent to caregiving should be taken into account in decisions about custody and visitation. Moreover, preference should not be given to the parent of superior economic means, thus discriminating, typically, against low-income women.

Domestic relations attorneys who testified at the Task Force roundtables believe that there is now a near-presumption in favor of joint custody in Illinois and that this presumption has become yet another weapon in litigation over property distribution and child support. Non-custodial parents sometimes threaten to seek joint or sole custody in order to reduce their financial obligations to their families or to harass an ex-spouse.

Joint custody may be appropriate in some circumstances, but only where divorced parents are able to communicate and to reach shared decisions about the child's welfare. The courts should carefully scrutinize the facts concerning joint custody in each case; and joint custody should only be awarded when both parties consent and have filed a Joint Parenting Agreement with the court, specifying each parent's rights and responsibilities for all major decisions involving the education and care of the child.

RECOMMENDATIONS

A. Legislature

1. The statute should be amended to provide that joint custody be awarded only when both parents consent.

B. Judiciary

1. Judges should receive training on problems associated with joint custody.

2. The court should carefully scrutinize the facts concerning joint custody in each case, and joint custody awarded only when the parents have filed a Joint Parenting Agreement with the court.

3. Judges should appoint trained guardians ad litem or attorneys for the child to represent the interests of the child and should order family background investigations in contested custody cases.

4. Both violations of child support orders and violations of visitation arrangements should be enforced strenuously, without the need for repeated court appearances which deter parents who cannot miss work or who must hire sitters from pursuing their rights.

5. The courts should be more sensitive to economic disparities between the parties and should correct disparities by increasing maintenance and child support rather than by awarding custody to the wealthier parent.

Domestic violence

Although the Task Force treated domestic violence primarily as an issue for the criminal justice system, a number of related problems were nonetheless mentioned in connection with domestic relations cases. Domestic violence advocates complained that some court clerks refuse to assist women filling out court forms to obtain judicial remedies in domestic violence cases, even though such assistance is statutorily mandated. Courts also frequently, though improperly grant "mutual" orders of protection protecting both parties from abuse by the other in cases where only one spouse has filed pleadings requesting an order of protection. Additionally, mediation is usually required of the parties in domestic relations cases, although it may be counter-productive in cases involving a history of domestic violence. Finally, some judges refuse to order that abusive spouses' visitation of children be subject to supervision, although visitation in such cases may provide an occasion for further abuse of either the children or the abused spouse.

RECOMMENDATIONS

A. Legislature

1. Legislation should be passed to require mediation in which the two parties meet separately and not together in cases where there has been a history of abuse, to help protect the interests of an abused spouse who may be unable to express views conflicting with those of her batterer in his presence.

B. Judiciary

1. Judges should require that visitation be supervised in cases where there has been a history of abuse and the victim requests such supervision.

2. The statute prohibiting the granting of mutual orders of protection where both parties have not filed written pleadings should be strictly enforced.

3. Judges should not require mediation in cases involving domestic violence.

C. Courtroom Administration

1. Court clerks should be directed to comply with the statutory mandate to assist domestic violence victims in filling out the forms to obtain orders of protection.

II. CRIMINAL JUSTICE

In relating to the criminal justice system, the Task Force concentrated on three areas which raise concerns about the possibility of gender bias in the Illinois courts: sexual assault, domestic violence, and criminal sentencing.

Sexual assault

Rape is a crime whose adult victims are almost invariably women. Yet victims may be reluctant to prosecute rape crime, at least in part because of the treatment they receive from the justice system. Lengthy continuances, repeated court appearances, and lack of communication with prosecutors make victims inclined to drop rather than to follow through on charges which, at best, are emotionally difficult to prosecute. In some instances, moreover, victims' names continue to be published in court opinions, potentially deterring prosecution of sexual assault cases.

In 1984, Illinois passed a new law to govern sexual assault, the Criminal Sexual Assault Act. Although this statute has demonstrably increased the number of prosecutions for rape in Illinois, significant problems remain. At least in part because of fear of the treatment which victims receive from the criminal justice system, rape remains a substantially underreported crime. When it is reported, police and prosecutors screen out large numbers of cases. Although the police are reported to take sexual assault complaints more seriously since passage of the new law, only one-half of all cases result in arrest or other closure. Moreover, prosecutors consistently fail to prosecute cases in which the victim was acquainted with or had previously had sex with the offender and are especially reluctant to prosecute cases involving spousal sexual abuse, although the new law also covers those cases.

There also appears to be a continuing suspicion of the credibility of sexual assault victims on the part of police, prosecutors, judges, and juries. Although rape is rarely committed before eyewitnesses and is often not reported immediately, prosecutors and investigators seek corroboration, including evidence of a "prompt complaint." Judges and juries also expect more corroboration in sexual assault cases than in other cases of a similar class.

Cases involving "date" or "acquaintance rape" are particularly susceptible to dismissal for lack of corroboration, such as evidence of physical force, or because the prosecutor fails to believe the victim. In addition, evidence of the victim's past sexual activity continues to be introduced in these cases, although the "Rape Shield Statute" prohibits its introduction as to prior activity with persons other than the defendant himself. Finally, bail and sentencing appear to be more lenient in cases where the victim was aquainted with her assailant than in cases of "stranger rape."

RECOMMENDATIONS

A. Legislature

1. Additional funding should be appropriated to provide victim advocates and other support services to victims.

2. Enforcement provisions should be added to the Crime Victims' Bill of Rights.

B. Bar Associations

1. Bar associations should coordinate and provide continuing legal education courses for bar members concerning sexual assault and especially about problems of acquaintance rape.

2. Bar associations should discourage attempts to abrogate or circumvent the Rape Shield Statute.

C. Judiciary

1. Education concerning current research on sexual assault, and especially on acquaintance rape, should be included in training and educational programs for judges.

2. Pre-trial continuances in sexual assault cases should be limited, whenever possible, so that victims with work and child care responsibilities will not be deterred from prosecuting sexual assault cases.

3. The same standards should be applied in setting bail and sentencing offenders in acquaintance cases as are applied to cases in which the victim and defendant are strangers.

4. The Rape Shield Statute should be enforced consistently.

5. Judges should discourage and discipline attempts to abrogate or circumvent the Rape Shield Statute.

6. The Illinois Supreme Court should promulgate a rule prohibiting the publication of the names or identities of victims in judicial opinions concerning sexual assault.

D. Law Enforcement (Police, Prosecutors)

1. Education concerning sexual assault, acquaintance rape, and rape trauma syndrome should be mandatory for both police and prosecutors.

2. Investigative techniques used by police and prosecutors should be improved, so as to include victim-sensitive interviewing in sexual assault cases.

3. Police and prosecutors should comply more consistently with the mandates of the Crime Victims' Bill of Rights.

4. Specialized units for the prosecution of sexual assault cases should be established in all jurisdictions, to promote vertical handling of sexual assault cases.

5. Victims of sexual assault by an acquaintance should be treated with the same seriousness as those who are sexually assaulted by a stranger.

6. Statistics should be maintained concerning charging decisions in sexual assault cases, in order to improve enforcement of the sexual assault laws.

E. Court Administration

1. A safe waiting place should be provided for victims of sexual assault during court proceedings, so that they do not need to wait in the same area as their assailants.

2. The publication of victims' names and identifying information in published case opinions should be prohibited.

3. Resource information on the dynamics of sexual assault and educational programs which incorporate current research on sexual assault should be provided to the judiciary.

4. Statistics should be maintained concerning prosecution and conviction rates in sexual assault cases, in order to improve enforcement of the sexual assault laws.

F. Law Schools

1. Courses dealing with current sexual assault laws and on understanding the dynamics of sexual assault should be provided.

Domestic violence

Domestic violence against women is a widespread problem in Illinois, affecting an estimated 253,000 women each year. In 1982, Illinois passed a new Domestic Violence Act, which provides, among other things, for the issuance of an Order of Protection against a domestic violence offender and for criminal sanctions. However, public acceptance of the intent to effectively criminalize acts of domestic violence has been slow, and there remain pervasive problems in the attitudes of those charged with enforcement of the statute.

Although most law enforcement personnel in Illinois now demonstrate a knowledge of the rights of domestic violence victims and concern for those victims, there are still some police who do not regard domestic violence as a serious crime and who enforce the law selectively. Moreover, although a majority of prosecutors are willing to prosecute domestic violence cases, a significant minority of prosecutors still believe that these cases belong in civil court and are very selective about which cases they will prosecute. Domestic violence cases are rarely charged as felonies.

Like sexual assault, domestic violence is an area in which victims are likely to drop charges, both for emotional reasons and for reasons related to court procedure, such as the length of proceedings and number of court appearances. The provision of support services to victims seems to make a difference; but these services are not consistently available throughout the state.

The majority of Illinois judges treat victims of domestic violence with respect and sensitivity and are knowledgeable about their rights, although isolated cases of judicial insensitivity were reported to the Task Force. However, judges rarely sentence domestic violence offenders to time in prison. Instead, the penalty imposed in the majority of cases is simply to require counseling.

Finally, the situation of the battered woman who kills her abusive mate presents special problems for the criminal system. Studies show that women who use deadly force do so only after they have become convinced that they will themselves be killed. However, such women may have a difficult time meeting the legal standard for self-defense, which is based upon an assumption that the antagonists are of equal strength and that the defender strikes back at the moment of being attacked. Thus, battered women convicted of killing their abusers have sometimes received disproportionately severe sentences, which have been relieved only by the exercise of executive clemency.

RECOMMENDATIONS

A. Legislature

1. Additional funds should be appropriated for victim advocate services to provide adequate court support to victims.

2. The privilege protecting the confidential communications between domestic violence victims and their advocate-counselors should be strengthened.

3. The statutory penalty for repeated convictions of domestic violence should be increased.

B. Police

1. Pro-arrest policies should be established for violations of orders of protection, misdemeanors, and felonies in domestic violence cases.

2. Written guidelines should be developed for implementation of the Illinois Domestic Violence Act and Domestic Battery Statute.

3. Specific training guidelines should be established concerning the dynamics of domestic violence and the effect of immediate criminal justice intervention.

4. The proivision of the Illinois Domestic Violence Act which requires notification to victims of their rights under the Act should be strictly enforced.

5. Domestic violence reports should be tracked accurately, in order to improve enforcement of the law.

C. Prosecutors

1. Pro-prosecution policies should be established for domestic violence cases.

2. Either vertical prosecution or a special unit for handling domestic violence cases should be established in all jurisdictions.

3. Specific training guidelines should be established concerning the dynamics of domestic violence and the effect of immediate criminal justice intervention.

4. Mandatory educational programs should be provided to all prosecutors concerning the battered woman syndrome.

5. Dismissals or failures to prosecute domestic violence cases should be tracked, in order to improve enforcement of the law.

D. Defense Attorneys

1. Defense attorneys should educate themselves concerning the battered woman syndrome and the cycle of domestic violence and learn to recognize when domestic violence is a mitigating factor for battered women charged with committing violence against their abusers.

2. Defense attorneys should become knowledgeable about support services for battered women.

E. Judiciary and Court Administration

1. Specific training guidelines should be established about the dynamics of domestic violence and the effect of immediate criminal justice intervention.

2. Safe waiting areas should be set up in the courts to provide protection to domestic violence victims awaiting court hearings.

3. Judges should more frequently mandate counseling for batterers.

4. Judges hearing domestic violence cases should consider the appropriateness of ordering plenary relief, including decisions on custody and finances, in one forum, in order to reduce the number of times a domestic violence victim must appear at court hearings.

5. Where necessary, judges hearing domestic violence cases should issue orders requiring domestic violence defendants to vacate the domestic premises.

6. Judges should consider the appropriateness of imposing sentences involving imprisonment for domestic violence offenders and for violations of orders of protection.

7. The probation department should be required to examine issues of domestic violence in presentence reports.

8. Members of the judiciary should recognize the appropriateness of admitting evidence concerning the battered woman syndrome, where relevant, in cases where a battered woman is on trial for killing her abusive mate.

F. Bar Associations

1. Bar associations should coordinate and provide legal education on the dynamics of domestic violence, the battered woman syndrome, and the use of expert testimony in domestic violence cases.

G. Law Schools

1. Education concerning the dynamics of domestic violence and its effect on the criminal and civil court systems should be included in the curriculum.

Criminal sentencing

Participants in the criminal justice system believe that gender enters into decisions concerning bail and sentencing in Illinois. However, there is disagreement concerning whether the differential treatment works to the benefit or detriment of women. Prosecutors and defense attorneys hold the majority perception which is that female offenders receive lower bail and shorter sentences than male offenders for similar crimes, without regard to their responsibilities for child care. However, groups and individuals who work on a regular basis with convicted and incarcerated female offenders, including court and correctional personnel, hold a minority view. These groups believe that female offenders are treated more harshly than males or, at a minimum, are not given appropriate consideration for their familial responsibilities. Statistics indicate that this is a plausible hypothesis. However, there is no reliable data base in Illinois to prove or disprove either of the conflicting perceptions.

RECOMMENDATIONS

A. The Judiciary

1. Education should be provided for judges in the area of sentencing standards and alternatives, in order to encourage sentences based upon appropriate statutory factors in aggravation and mitigation, and not upon gender alone.

2. The Supreme Court should convene a task force to examine the treatment of juvenile offenders in the juvenile and criminal justice systems.

B. Law Enforcement Personnel

1. Charging procedures and decisions should be reviewed, to ensure that gender alone is not the dispositive factor in enforcing the law.

C. Court Administration

1. A uniform reporting system should be developed and implemented for bail, conviction and sentencing data, which includes data concerning gender, prior criminal history, familial responsibilities, and other significant factors.

III. CIVIL DAMAGE AWARDS

A number of gender-based assumptions appear to enter into the process by which damage awards are determined in civil cases (*e.g.*, personal injury cases) in Illinois. First, both judges and juries are likely to assume that women should receive higher damages for injuries affecting physical attractiveness than men and that men should receive higher damages for injuries affecting physical strength and capacity for manual labor than women. These assumptions, although gender-based, may in fact reflect disparate burdens and expectations which society is perceived to impose upon women and men.

Second, because of assumptions about women's earning capacity and their tendency to leave the work force, at least temporarily, in order to care for children, the typical female plaintiff is likely to receive a smaller award for loss of future income than is a male plaintiff. The application of this assumption to the individual case may produce a gender-biased award if it does not reflect the facts pertinent to the individual female plaintiff. Such assumptions are also gender-biased because they ignore women's non-market services as homemakers in the calculation of lost income.

Third, trial attorneys appear to make a number of gender-based assumptions which can affect the choice and presentation of witnesses, jury selection, and the ultimate award of damages. Some personal injury lawyers assume, for example, that women are more credible witnesses than men with respect to testimony about pain, both their own and that of others. Female jurors are perceived to be jealous of female attorneys who are too "aggressive" and of female attorneys, litigants, and witnesses who are "too attractive." The gender of an expert witness may also enter into the consideration of whether she should be selected to testify at trial, particularly if the litigation "team" includes other females. These assumptions may impact upon the number of female attorneys and experts selected to participate in the trial of personal injury cases.

Finally, the Illinois Pattern Jury Instructions, which are used in almost all civil cases, consistently use male pronouns to describe parties, witnesses, and litigants. Although attorneys may redraft the instructions to reflect the appropriate genders in a particular case, the exclusive use of the male pronoun represents an institutional use of a gender term which may reinforce and perpetuate gender-biased assumptions.

RECOMMENDATIONS

A. The Judiciary

1. The Illinois Supreme Court Committee on Jury Instructions in Civil Cases should revise the pattern jury instructions for use in civil cases to make them gender-neutral.

2. The Illinois Supreme Court Committee on Jury Instructions in Civil Cases should develop a jury instruction which specifies factors to consider to recognize the economic value of a spouse's work in the family.

3. Judges should manage the environment in their respective courtrooms in such a way as not to exhibit or to tolerate gender-biased attitudes in the conduct of a trial.

B. Court Administration

1. The Administrative Officer of the Courts should undertake a review of the materials used for juror education, both videos and hand-outs, to determine whether these materials should include admonitions that jurors should disregard race and gender in reaching their conclusions.

C. Bar Associations

1. Bar associations should hold seminars for lawyers, arbitrators, and judges which address the economic status of women as workers, mothers and wives.

IV. COURTROOM DYNAMICS

The proportion of the Illinois attorney population which is female has increased from 8% in 1980 to 20% in 1989; and women make up more than 40% of the typical law school student body. However, women continue to be underrepresented in the field of litigation and to have less diverse caseloads than men. This may be the result of the fact that women tend more often than men to practice in institutional settings—government, private industry, and legal aid or public defender work—where litigation is less frequent or the case load less varied. Possibly as a result of this imbalance, women make up only 8% of the judiciary in Illinois, a fact which many attorneys and litigants decry.

Although there are indications that overt discrimination against women in the courtroom is diminishing, there is also evidence that more subtle forms of bias persist, affecting women as lawyers, as litigants, and as witnesses. One-third of the female attorneys responding to a survey which the American Bar Foundation designed and administered reported that they had personally experienced some form of derogatory behavior or remarks which judges directed at them within the preceding 12 months. They reported instances of (1) judges' use of informal address or terms of endearment to female counsel, (2) judges' comments on female counsel's dress or physical appearance, (3) less attentiveness to female counsel's statements than to those of male counsel, (4) judicial comments about the proper role of women, and (5) exclusion of female counsel from camaraderie between judges and male counsel. Survey respondents agreed that incidents of judicial bias placed female attorneys at a disadvantage and had an effect on the interests of the parties. However, in the overwhelming majority of cases, the female attorney did not object to the offending conduct, for fear of an adverse effect on her client's interests.

Incidents of derogatory of demeaning behavior on the part of male attorneys toward female attorneys are far more common than such behavior on the part of judges. Fifty-seven percent of the female attorneys responding to the survey reported that they had experienced derogatory treatment by male litigators during the preceding 12 months. They mentioned, for example, forms of address and remarks that denigrated the professional status of female attorneys, as well as conduct which was simply dismissive of female counsel, such as refusing to acknowledge her presence, interrupting her presentation, or monopolizing the physical area in front of the bench. When female attorney's objected and the judge was present, judges were reported to have intervened in the majority of cases. Much of the derogatory behavior directed at female attorney's by male attorneys, however, took place out of the presence of the judge.

Female litigants and witnesses were also reported to have been subjected to derogatory or demeaning treatment which would not have been directed at their male counterparts. Interestingly, female counsel are apparently even more likely than male counsel to use informal forms of address to litigants and witnesses. Male counsel, however, were reported to be more likely to exhibit inattentiveness to female litigants and witnesses, to note their physical appearance, and to make remarks about their appropriate social roles.

Finally, men and women in the legal profession appear to have very different perceptions of gender bias. There are marked disparities in the percentages of men and women attorneys who report that they have observed differential or biased behavior toward women. One likely explanation is that men simply fail to notice instances of derogatory treatment when they occur, because they are not themselves the victims or because they are not sensitive to bias in its more subtle forms. Men also may interpret certain behavior, such as overly solicitous treatment of female attorneys by judges, as helpful to women, while female attorneys experience it as derogatory.

Nonetheless, the Task Force study reveals that a significant portion of the female lawyer population in Illinois believes that the professional community they have chosen to join has not fully accepted them. Moreover, any differential treatment which women do receive in the Illinois courts is a cause for serious concern, not only because it may potentially affect the outcome of litigation, but also because it may undermine public confidence in the fairness and impartiality of our institutions of justice.

RECOMMENDATIONS

A. The Judiciary

1. The Illinois Supreme Court should direct a policy statement to all judges in Illinois, declaring that all forms of bias, including gender bias, have no place in the courts of Illinois.

2. The Illinois Supreme Court should mandate that training directed to issues of gender-biased conduct by both judges and attorneys be a component of judicial education programs.

3. Judges, who are responsible for the management of their courtrooms, are also responsible for ensuring that gender bias play no role in the courts.

4. As part of their responsibility to ensure that attorneys and litigants are treated fairly in the courts of Illinois, the presiding and chief judges in each district should take a leading role in preventing gender bias from playing any role in the courtrooms within their jurisdictions.

5. The presiding and chief judges should be responsible for becoming aware of gender bias issues in their jurisdictions and should take appropriate action when they become aware of a problem.

6. All judges should be models of unbiased behavior in their own conduct at the bench, at sidebar, and in their chambers.

7. Judges should take care to intervene whenever they see an instance of gender bias by an attorney.

8. Judges should exercise whatever control they have over non-judicial court personnel, to ensure that gender bias does not enter into those employees' conduct toward female attorneys or litigants.

B. Bar Associations

1. The Illinois State Bar Association, Chicago Bar Association, and Women's Bar Association, in conjunction with the Illinois Supreme Court, should establish an ongoing committee composed of representatives of each organization, a judge designated by the Supreme Court, and a law school representative to oversee implementation of the recommendations contained in the Task Force Report.

2. The bar associations should issue a policy statement that gender-biased conduct by attorneys is unacceptable and unprofessional behavior.

3. The bar associations should highlight the Task Force Report and recommendations during 1990-91

4. The bar associations should include attention to issues of gender bias as a component part of all continuing legal education courses.

5. The bar associations should also provide educational activities which focus on values and social policy, including the problem of gender bias in courtroom interactions and in law firms.

6. The bar associations should encourage and assist women and members of minority groups to seek judicial appointments and election.

7. Bar association committees charged with evaluating candidates for judicial office should be sensitive to issues of gender bias.

8. Bar asociations which interview judicial candidates in the course of evaluating them should probe those candidates' understanding of and sensitivity to issues of gender bias.

C. Court Administration

1. In selecting personnel, setting personnel policies, and exercising control over nonjudicial court personnel, the Administrative Office of the Illinois Courts should pay attention to issues of gender bias.

2. The clerk's offices in each district should review and revise the court forms used in their respective areas, in order to eliminate the use of gender-biased language in them.

D. Law Schools

1. Issues of gender bias should be included in law school curricula, not only in legal ethics courses but in other courses as well.

2. Law school professors and deans should be especially sensitive to issues of gender bias and serve as role models for the profession in this respect.

E. Courtwatcher Groups

1. Courtwatcher groups should educate themselves about gender bias issues and should report incidents of gender bias which their members observe to the courts.●

ENVIRONMENTAL POLICY MUST BE GUIDED BY SCIENCE

● Mr. MOYNIHAN. Mr. President, if there has been one point that I have tried to make as a member of the Committee on Environment and Public Works, it is this: environmental policy must be guided by science.

Recent accounts would indicate that the process of making environmental policy may yet be moving in this direction. This past Wednesday, September 26, 1990, Environmental Protection Agency Administrator William Reilly delivered an address before the National Press Club on the occasion of the release of a report by the EPA Science Advisory Board entitled, "Reducing Risk: Setting Priorities and Strategies for Environmental Protection."

What the report tells us, and what Administrator Reilly emphasized, is most significant. Put simply, the Advisory Board recommends that we rank our environmental problems on the basis of risk, and regulate accordingly. Risk to be determined by rigorous, hard, sound science.

I do feel that the very suggestion of such a change in policy is worthy of my colleagues' consideration and attention. To that end, I ask unanimous consent that a copy of Administrator Reilly's speech and related Science article be inserted in their entirety into the RECORD.

The material follows:

[From Science, Aug. 10, 1990]

COUNTING ON SCIENCE AT ERA

(By Leslie Roberts)

William Reilly, the Administrator of the Environmental Protection Agency, and his top advisers are plotting a quite revolution. They have embarked on a process that could fundamentally change the way EPA does business; an attempt to focus the agency's resources on the environmental problems that pose the biggest risks rather than those that have attracted the most political attention. "It's an effort to inject science more prominently into the policy process," says Hank Habicht, deputy administrator of the agency and Reilly's right-hand man.

That may not sound revolutionary, but Reilly is trying to reverse nearly 20 years of piecemeal environmental policy-making. Congress, reflecting public concerns, has written numerous laws instructing EPA to deal with individual environmental problems—hazardous waste one year, toxic substances or pesticides another, and medical wastes still another. The results: EPA's budget and priorities have been shaped more by "what the last phone call from Capitol Hill or the last public opinion poll had to say" than by a scientific assessment of risk, says Frederick Allen of EPA's office of policy analysis.

Now, Reilly has asked his Scientific Advisory Board to tell him which problems pose the biggest environmental or public health threats. The board's analysis, a draft of which has been obtained by Science, reveals that the environmental problems that dominate public concerns—and EPA's budget—are often not those that Reilly's scientific advisers deem the biggest threats (see table below). Radon and climate change, for example, are at the top of the list for EPA but near the bottom in the public's view.

But turning the agency around would be no mean feat, and even within EPA, opinion is divided on whether Reilly can pull it off. Without question, he starts with several strikes against him. For one thing, the EPA administrator has very little discretion in allocating funds: most of the agency's budget is needed to just to implement the major environmental laws, like Superfund, already on the books. And for another, Reilly faces inertia from within EPA, a bureaucracy that has a vested interest in maintaining the status quo. And then there is the public, which EPA is beholden to, whether or not it agrees with the latest scientific study. Reilly's new effort is "laudable," says Richard Morgenstern, director of the office of policy analysis and an old hand at EPA. "I am bullish on it. But I wouldn't bet the store on it."

But Terry Davies, assistant administrator for policy, planning and evaluation and one of the architects of the new plan, voices no doubts. "We're already doing it," he exclaims. "We are changing the way the agency thinks." But not even the optimists expert major shifts overnight. Deputy adminstrator Habicht, for instance, talks about "a rapid evolutionary change, not a revolutionary one," but he is convinced that it will be a different agency—if they can pull it off.

The new effort actually had its origins before Reilly came to EPA, in a much discussed 1987 report, Unfinished Business. In that time, EPA staff tried, for the first time, to take a broad look at all the environmental problems the agency deals with and figure out which pose the greatest risk to human health and the environment. Risk ranking, per se, was nothing new—people often ranked one air pollutant against another, for example. And EPA had even attempted to rank the cancer risks within small geographic areas, like Philadelphia and Silicon Valley. But this was different: it was an attempt to look at toxic air pollutants versus pesticides versus global warming.

The task proved to be a methodological nightmare, given the paltry data, uncertain techniques, and value-laden questions such as how to rank loss of wetlands against, say visibility degradation. But Morgenstern, who directed the study, and 75 senior staff plunged in nonetheless using whatever data they could muster and falling back on professional judgment when they couldn't. They ended up with a list of 31 problems, essentially in rank order. To their credit, they never pretended scientific rigor; they never claimed, for instance, that problem number 2 was definitely worse than problem 3, but said that it was certainly worse than 13, and 13 in turn was worse than 26.

Their list showed that the old assumptions were wrong. Many of the things that the public was most concerned about—and that EPA was devoting vast resources to—like hazardous waste and underground storage tanks, posed relatively small risks, while the biggest problems, like radon and climate change, were being virtually ignored. In 1987 the agency was spending several billion dollars for waste cleanup, for example, as opposed to several million for indoor air pollution and climate change.

"*Unfinished Business* revolutionized how people thought," says Jonathan Lash, a former environmental activist with the Natural Resources Defense Council who is now the secretary of natural resources in Vermont.

But while *Unfinished Business* may have changed thinking, it didn't change practice much at EPA, mostly because "you don't turn a tanker on a dime," says Morgenstern. Its impact was also limited by the fact that many in the agency saw the study as an "unscientific" first cut—not the kind of hard analysis on which to force a change in environmental policy.

But the study did influence Reilly. Soon after he was appointed but before he was confirmed as EPA administrator, Reilly was sitting around the World Wildlife Fund/Conservation Foundation headquarters with his colleagues, including Terry Davies and Dan Beardsley, a deputy assistant administrator for policy at EPA who was then on loan to the conservation group, talking about what he should do at EPA, and how. All were frustrated with the "chemical of the month" phenomenon and the sense that EPA was not spending its money as wisely as it could, recalls Davies. They wanted to find a way to focus the agency's resources where they would get the biggest payoff—which means, as Davies says, factoring in not only how risky a problem is but how feasible and costly the various "fixes" are.

They decided upon a two-part strategy: take another look at *Unfinished Business* and the whole issue of comparative risk; and at the same time, get the senior managers at EPA to start thinking about what actions would have the biggest payoff in terms of reducing the most significant problems.

Reilly wasted little time. Soon after he arrived at EPA he asked the agency's Scientific Advisory Board (SAB) to essentially peer review *Unfinished Business*—to go over the data again, see whether they agreed with the methodology and rankings, and, if not, to come up with their own. The board set up a committee of 45 experts, mainly scientists but a few people from state government as well, like Vermont's Johathan Lash and Fred Hansen, director of Oregon's Department of Environmental Quality, to keep the effort focused on political reality. Lash and Raymond Loehr, an environmental engineer at the University of Texas, Austin, cochair the committee.

That committee, in turn, divided itself into three subcommittees: one headed by William Cooper, an ecologist at Michigan State University, to look at ecological, economic, and aesthetic effects; another, headed by Arthur Upton, director of the Institute for Environmental Medicine at New York University Medical Center, to look at health risks; and a third, chaired by Alvin Alm, director and senior vice president of Science Applications International and a former deputy administrator of EPA under William Ruckelshaus, to look at strategies for reducing the major risks.

The SAB committee spent more than a year sifting through studies, all the while bemoaning the scanty data and uncertain analytical techniques, which make accurately characterizing a risk, much less ranking it against another, a tenuous business at best. Though they applauded Unfinished Business for its pioneering work, the committee had lots of problems with it, from the fact that the EPA staff had divided up the universe into problem areas that essentially reflect the agency's existing programs—which "makes no damn scientific sense," says Cooper—to some of its conclusions, which they call "provisional."

But for all their complaints, the SAB committee concluded that Unfinished Business was not that far off in its conclusions. Most of the "baddies" identified in the report—like climate change, stratospheric ozone depletion, air pollution, and radon—still looked bad. The earlier group had, however, overlooked a couple of big ones, habitat destruction and species extinction, which the SAB committee added. And once again, the things the public cares the most about, like hazardous waste, ended up in the middle or at the bottom of the heap.

Not everyone in the group, however, was willing to follow their predesesors out onto a scientific limb and actually rank the problems. Cooper's ecological effects group was perfectly willing to rank them, but Upton's health effects group wasn't, which led to some tussles on the committee. In the end, they agreed to simply list the 11 problems that everyone agreed were high risk—with the caveat that this is not an inclusive list.

Some of these problems, like the loss of biodiversity, do not fit handily into EPA's statutory mandate, but the committee urged EPA to exert leadership anyway. The committee also urged EPA to give greater weight to ecological risks, which they say have been given short shrift while EPA has concentrated on combating pollutants that pose a threat to public health. And perhaps most important, in terms of the agency's overall direction, the SAB committee gave its scientific seal of approval to comparative risk assessment, flawed as it is, as the best way to set priorities. They recommended that EPA set up a permanent process for comparing risks and then make its policy and budgetary decisions, as much as possible, on the basis of those risks. And they said, EPA should move beyond the conventional "end-of-the-pipe" approach and use alternatives, such as pollution prevention and market incentives.

The committee's final report will go to Reilly in late September. At this stage, it is not at all clear how the public and the environmental community will receive it because in the Reagan era, at least, "setting priorities was a euphemism for cutting," says Johathan Lash. "I don't see that happening here," he adds.

But Reilly and his aides have already embraced the report; in fact, they are using it in shaping the agency's 1992 budget. Their problem, of course, is that 80% of the budget is essentially cast in stone, estimates Dan Beardsley of the policy office. EPA must spend these dollars implementing the laws, paying salaries and rent, and so on. The administrator technically has discretion over perhaps 15% of the budget, but in reality, that too is sacrosanct. "You would be out of your political mind to exercise it," says Beardsley, since Congress has clearly indicated, if not insisted on, how that money ought to be spent.

That leaves only 5% of the budget that is truly flexible. While working to wrest more discretion and more flexibility from Congress, Reilly's aides are concentrating on that 5%. Last November, Reilly and Habicht asked the heads of the various programs to submit 4-year plans, describing where they want to go and how they are going to get there. The guiding principle, they were told, should be risk reduction—and not, say, how to meet the latest court-ordered deadline. In identifying the big risks, the program heads were to take direction first from Unfinished Business, and then, when it became available, the SAB report.

By all accounts, the first round "engendered grave suspicions," as Don Barnes, director of the SAB, puts it. "Any time a program is challenged, people wonder if the real goal is to take money away," he says. The plan did cause some resentment, concedes Habicht. But after some initial grumbling most, if not all, have come around.

But if this new thinking is really going to make a difference—if Reilly is really to get the greater flexibility and discretion he wants—then he and his aides will have to change the culture not only at EPA but in Congress and the Office of Management and Budget. Proponents of the effort point to some encouraging signs from Congress, such as rising budgets for global climate change and radon, while funding for hazardous waste has remained relatively steady.

"It is a big agenda, but you have to start somewhere," says Habicht. "We are planting seeds, most of which won't bear fruit until after we have left."

EPA'S TOP 11 (NOT IN RANK ORDER)

Ecological Risks: Global climate change; Stratospheric ozone depletion; Habitat alteration; Species extinction and biodiversity loss.

Health Risks: Criteria air pollutants (e.g. smog); Toxic air pollutants (e.g. benzene); Radon; Indoor air pollution; Drinking water contamination; Occupational exposure to chemicals; Application of pesticides; Stratospheric ozone depletion.

Scientists and the public draw different conclusions about the seriousness of various environmental problems. Above: the worst environmental problems, as identified by EPA's Scientific Advisory Board. Right: the public's top concerns, as reflected in a March 1990 Roper Poll. (Figures in parentheses are the percentages that rated each problem "very serious;" highlighted items also appear on EPA's list.)

PUBLIC CONCERNS (IN RANK ORDER)

1. Active hazardous waste sites (67%)
2. Abandoned hazardous waste sites (65%)
3. Water pollution from industrial wastes (63%)
4. Occupational exposure to toxic chemicals (63%)
5. Oil spills (60%)
6. Destruction of the ozone layer (60%)
7. Nuclear power plant accidents (60%)
8. Industrial accidents releasing pollutants (58%)
9. Radiation from radioactive wastes (58%)

10. Air pollution from factories (56%)
11. Leaking underground storage tanks (55%)
12. Coastal water contamination (54%)
13. Solid waste and litter (53%)
14. Pesticides risks to farm workers (52%)
15. Water pollution from agricultural runoff (51%)
16. Water pollution from sewage plants (50%)
17. Air pollution from vehicles (50%)
18. Pesticide residues in foods (49%)
19. Greenhouse effect (48%)
20. Drinking water contamination (46%)
21. Destruction of wetlands (42%)
22. Acid rain (40%)
23. Water pollution from city runoff (35%)
24. Nonhazardous waste sites (31%)
25. Biotechnology (30%)
26. Indoor air pollution (22%)
27. Radiation from x-rays (21%)
28. Radon in homes (17%)
29. Radiation from microwave ovens (13%)

RANKING THE RISKS PROVES CONTENTIOUS

If the deliberations of EPA's Scientific Advisory Board committee are any indication, then ranking environmental risks, as William Reilly is proposing to do, will not be easy. Indeed, the committee members almost came to academic blows over just how far they were willing to go on admittedly squishy data. The scientists fell out basically along subcommittee lines, with the ecological group taking a bolder or more foolhardy stance, depending on your perspective. But this says as much, if not more, about the personalties of the two subcommittee chairmen as it does about the nature of the problems they were wrestling with.

William Cooper, an ecologist at Michigan State who headed the subcommittee looking into ecological effects, dove right in. His group discarded the methodology of the earlier report, Unfinished Business, as unscientific and divided up the universe in a new way, and then promptly ranked the problems. His group came up with a complex set of matrices for evaluating risk, but the bottom line, says Cooper, is that problems are worse if they affect a broad area and have a long "time horizon"—in Cooper's words, a measure of how long it takes, once you shut off the stress, for the ecosystem to recover. According to their new scheme, global climate change and stratospheric ozone depletion came out way on top, as they did in Unfinished Business, and so did two other problems the earlier biodiversity toxics, toxics in surface water, and pesticides and herbicides.

While Cooper's group bulldozed through the uncertainties, a subcommittee on health effects, headed by Arthur Upton of the Institute for Environmental Medicine at New York Univesity Medical Center, got bogged down early on in the problems of missing data and inconsistent assumptions. The upshot was they declined to rank anything. "It was not scientifically feasible. It was more than a committee of scientists could do on a part-time basis over a few months," says Upton, especially since they were given the unenviable task of somehow combining cancer and noncancer risks. Instead, they laid out in great detail how one would go about ranking risks in a scientiically defensible way, if one had the time and money to do so. And central to that, they say, is separating out individual agents, like lead, instead of lumping it in with other "criteria air pollutants."

Their cautious stance was immensely frustrating to some committee members, like Jonathan Lash, secretary of natural resources in Vermont, and Fred Hansen of Oregon's Department of Environmental Quality, who pointed out that EPA and State agencies do not have the luxury of waiting for the definitive study but have to make decisions now. But Upton sticks to his guns. "In many cases, we simply don't have the data, either on human exposure to various agents or their toxicity." Upton recently chaired the National Academy of Sciences report, known as BIER V, which wrestled over the effects of ionizing radiation. "When you turn to chemicals, the information is even more incomplete," says Upton. "Unless one gets more data, these assessments will remain highly uncertain, Sure, one can rank risks, but the confidence one has in the rankings will not be great." And though Upton thinks comparative risk assessment is a good tool for setting priorities, he cautions that "you can carry it to absurd extremes."

The committee reached a compromise of sorts, with Upton's group identifying seven problems that would rank high by almost any reckoning: criteria air pollutants (for example, smog), toxic air pollutants (for example, benzene), radon, other indoor air pollutants, drinking water, worker exposure to chemicals, and worker application of pesticides. And though the data were "less robust," they threw in stratosphereic ozone depletion as well, because it looms so large compared with other problems. For all of these high-risk problems, the common denominator was direct exposure, says Upton, not something passed up through the food chain.

Upton cautions that this is not the final word; other problems—such as pesticide residues in food or exposure to consumer products, which were described as high risk in the earlier report—might also rank high if more data were available. But until they are, Upton's committee has "no problem" with Reilly giving extra attention to the seven they have identified.[S02OC0-M1]{S14404}dentified.

AIMING BEFORE WE SHOOT: THE "QUIET REVOLUTION" IN ENVIRONMENTAL POLICY

(Address by William K. Reilly, Administrator, U.S. Environmental Protection Agency)

The Bush Administration is now 20 months old. In two months the Environmental Protection Agency will be 20 years old. My message today is relevant to both milestones.

A year ago I spoke here at the National Press Club. Now, almost midway through President Bush's first term, I propose to take stock of where we are.

I am also here today to share a proposal for a way to begin charting a new course for environmental policy. This new course is suggested by a report that I am releasing today, a report by EPA's Science Advisory Board. In drawing attention to this report I want to stimulate a broad national debate on a fundamentally important question: How can our society, or any similarly developed country, most effectively use its resources to achieve the greatest possible benefits to human health and to the planet that sustains us? The answers to the environmental policy questions we pose today will determine just how green the next decade will be.

KEEPING OUR PROMISES: A REPORT CARD

First, I want to ask you to go back in time a year and a half or so ago. You remember where environmental policy was then.

Clean air legislation had been stalemated in Congress for ten years. Now it is on the point of passage, and I sincerely hope that the Congress will soon send the President a cost-effective clean air bill he can sign.

Acid rain was on the research agenda, but no President had ever proposed to do anything about it. Now Congress is close to approving a ten-million-ton reduction of sulfur dioxide, reducing by half the acid rain precursors, and doing so through a highly innovative and cost-effective new emissions trading system that will allow government to set the goals, and leave utility companies and their plant managers to choose the cheapest ways to achieve them.

Toxic air emissions would come down 70 to 90 percent if the Congress passed the President's air toxics initiative.

These proposals came from President Bush. He broke the stalemate.

President Bush has for nearly ten years been a prophetic and pioneering voice for clean fuels. After years in which we ignored the contribution of fuels to air pollution, the President proposed a new thrust, of requiring clean fuels in our most polluted cities. The debate has been fierce—clean fuels do represent a departure from past policies—but his proposal would significantly reduce air pollution in our cities, and also reduce this nation's dependence on foreign oil imports.

We learned from the great Alar/apple controversy and proposed sweeping new food safety reforms, including measures to reduce by half the time it takes to cancel a bad pesticide. I've said before that this nation suspends trading in a bad stock far faster than it stops sales of a bad chemical. The President proposed legislation to address this defect in our food safety laws, and this Congress should act to achieve this long-overdue reform of our pesticide laws.

We proposed to make it unlawful to ship hazardous waste to any nation with which we do not have an agreement that reassures us the waste will be safely disposed of. And we signed the Basel Convention committing the United States to that policy.

We've proposed a 12 percent increase in the crucial operating fund for EPA, added almost 2,000 more personnel bringing us close to 17,000, and begun to increase by 500 the number of staff working on Superfund enforcement.

I've set a new "enforcement first" priority for Superfund and it's no coincidence that last year we issued more administrative cleanup orders and entered into more settlements for responsible party action than in any previous year. And that pace only quickened further in 1990. Through the third quarter of this fiscal year, we issued 47 percent more emergency administrative cleanup orders than in the same period two years ago, and 16 percent more than in 1989. Civil referrals to the Department of Justice for court action for the same period were also up sharply—71 percent higher than two years ago, and 10 percent higher than last year.

We've made a record steady, far-reaching regulatory decisions, some of which had been pending for ten years: We moved to phase out asbestos use, significantly reduced exposure to benzene, proposed cancelling most food crop uses of the pesticide EBDC, set regulations to reduce the volatility of gasoline, required removal of sulfur from diesel fuel, proposed a rule to recapture evaporation from car engines, and proposed another regulation to make recycling and source separation a condition of approving new incinerators.

Those are a few of our domestic initiatives. Add to them the President's proposal to plant a billion trees a year for the next ten years and to fund the Land and Water Conservation Fund, zero-budgeted in Administration proposals for years, at $250 million. Then there's the delay in drilling on sensitive offshore oil leases in California and Florida, foregoing a half billion dollars in revenues, in order to ensure a full measure of protection for the environment.

A major thrust of our foreign policy has been to give full expression to the nation's environmental priority. We have accordingly established a new Assistant Administrator for International Activities at EPA. At Secretary of State Baker's invitation, EPA is now part of the annual binational meeting with Mexico and we are working on border issues, proposing to fund construction of a new treatment plant for Tijuana, and advising on Mexico City's air pollution.

In July, I began in Ottawa on the President's behalf the process which will culminate in a new accord with Canada on acid rain and other air pollutants. With this accord we will achieve a long-sought objective, removing the one serious issue in contention from an otherwise congenial relationship. Such an accord, as Prime Minister Mulroney reminded me, has been priority of Canadian foreign policy for 15 years. And we will next move with Canada to give a higher priority to getting the toxics, the pesticides and the fertilizers out of the Great Lakes.

The President proposed a new Center on the Regional Environment of Central and Eastern Europe, and last month I represented him at the opening of this center. Known throughout the region as the Bush Center, this initiative represents a new venture in institution-building for the new East European democracies, and it promises to greatly strengthen the environmental policies of the region's countries—all of which seem to feel they are not totally responsible for the problem, since half their pollution comes from their neighbors.

Incidentially, let anyone who doubts the wisdom of pollution control—or who believes there is a conflict between economic growth and environmental protection—let them go to Eastern Europe. Let them see as I have seen, rivers like the Vistula in Poland, so corrosive it is useless over 80 percent of its length even for cooling machinery; let them experience sulfur dioxide levels in Cracow, where 500-year-old statues and monuments have crumbled in just 40 years; let them see the high rates of infant mortality, lung disorders, worker absenteeism and premature deaths, the vast land areas contaminated by heavy mental pollution. Poland's Environment Minister Kaminsky estimates that environmental contamination represents a drag on Poland's gross national product of 15 percent. Policies in Communist Europe designed to stimulate economic development by foregoing pollution controls ended by wrecking the economy and also ravaging the environment.

More than a year ago the President proposed that the United States fully phase out production and use of chemicals that destroy the world's stratospheric ozone, which functions as a shield against skin cancers and cataracts. In June the United States led the way on an agreement to commit the world community to that policy, and agreed to contribute funds to help the developing countries make the transition to subsitutes for CFC's.

In June of 1989 the President announced a ban on imports of elephant ivory. The European Community and Japan later acted also, and as a result, the price of ivory has plummented and the incentive to kill African elephants is diminished. Some 80 percent of East Africa's elephants fell to the poachers' machine guns in the 1980s; now, there is new hope for the elephants, thanks to a President and Secretary of State who believe in animal conservation.

Just last month the President proposed his Enterprise for the Americas Initiative, including a new readiness to renegotiate public debt owed to the U.S. government by Latin American countries and to apply the interest on the new debt to environmental protection and conservation. Altogether Latin American nations owe the United States some $12 billion in public debt. They owe governments in Europe and Japan another $38 billion. This proposal, which has been very warmly received in Latin America, has gone almost unnoticed here at home. And yet the prospects are that the budgets of parks and pollution and forest agencies can be substantially enhanced as a result of this decision. Should other creditor countries follow our example, this major new debt-for-nature commitment could serve to refocus the priorities of countries so rich in forests and species of plants and wildlife, and so burdened by debt.

Concern for the rapid loss of forests worldwide—new data suggest they are being lost twice as fast as had been believed—that concern led the President to propose an agreement on forestry at the G-7 Economic Summit last July. We hope that agreement will be signed no later than 1992, and will help arrest the destruction of the great forest systems, so many of which will be gone, at present rates of destruction, within 10 to 15 years.

Ah, but what about global climate change? When will you get serious about this issue, I often am asked.

In the first place, there is no question that this President clearly places a very high priority on the importance of the global change issue. Early on, he set up a special group under the Domestic Policy Council to address the issue, directing it to use "the best scientific and economic information available." He asked his Science Advisor, Dr. Allan Bromley, to chair that effort to help ensure that we develop our global change policy and actions using the best expertise available. I can tell you from my own participation on that group that some of the most senior Cabinet officers in our government are working hard to find the best approaches for our country to the challenge of the global change issue.

A number of nations have made ambitous commitments to reduce carbon dioxide emisions, or to arrest their increase by the year 2000. I would encourage the press to ask their leaders how they propose to achieve these reductions. I don't doubt for a moment the seriousness of some of these commitments. But I can tell you that answers to questions about specifics are difficult to come by.

Why? Because large reductions are hard to get without substantial new carbon or energy taxes, and without expansion of nuclear energy. The policies of several European nations will no doubt rely on one or both of these measures, with the French nuclear program filling a critical supply requirement.

And while other talk about ambitious—and perhaps unattainable—carbon dioxide emissions reductions in the future, the United States has been spending hundreds of millions of dollars a year—growing to more than $1 billion in the coming fiscal year—to learn more about the scope, causes, effects, and responses to the problem.

Nor are we sitting on our hands waiting for the science to jell. We already are committed to a series of actions that make sense in their own right and will yield benefits should climate change prove to be, as some have suggested, a problem of serious consequence. (It is also possible, as White House Science Advisor D. Allan Bromley points out in a soon-to-be-published article, that other global issues such as ozone depletion, deforestation and loss of genetic diversity "may * * * turn out to be more serious in terms of human impact than global climate change.")

As as a result of proposals we already have made—several pending in the Congress, others likely to be implemented—the United States should be generating no more greenhouse gas emissions in the year 2000 than we did in 1987. By passing a new Clean Air Act, phasing out CFC's, carrying out the President's "America the Beautiful" reforestation initiative, and promoting energy conservation—if all of these steps are taken effectively—we will reduce greenhouse gas emissions by about 25 percent from their projected levels in the year 2000.

Finally, the President has offered to host the opening session of international negotiations next February on a climate change framework convention.

So the next time you feel the urge to write about climate change, you might consider the question: "How many other countries can point to real action on this issue—and back it up?" How many others have laid before the public the details—if these even exist—of how they plan to cut greenhouse gas emissions while maintaining economic growth?

In total, by any objective measure, this Administration is serious, determined, and dedicated to the pursuit of an aggressive, innovative environmental agenda. Public expectations are high, and we have probably raised them further. President Bush has moved the environment from the margins to the mainstream. As a result, the opportunities for genuine environmental progress have never been greater than they are today.

THE COST OF A CLEAN ENVIRONMENT

At the same time, we in this Administration are profoundly conscious of the need to achieve continued environmental progress in harmony with the nation's economic aspirations. The Administration's policies are firmly grounded in the recognition that we do not have to choose between a healthy environment and a healthy economy. We can, and must, have both.

Our country's environmental gains over the past two decades—in cleaner air and water, in strict controls on hazardous waste, in protection of wildlife and valuable ecosystems—have not come cheaply. Our economists are now working on a report entitled, "The Cost of a Clean Environment," showing that total annual costs for pollution control in the United States, in 1986 dollars, went from $27 billion in 1972 to $85 billion in 1987. This is slightly more than any other Western industrialized nation for which we have data. For this year, we estimate that the public and private sectors are spending

more than $90 billion, also in 1986 dollars, for pollution control.

This increase in spending has been accompanied by, has in fact been made possible by, the nation's robust economic growth over much of the same period—a growth of 70 percent in real GNP. This is compelling evidence that environmental quality and economic expansion, far from being mutually exclusive, can go hand in hand. Economic growth financed higher standards of environmental protection. Higher environmental expectations made the growth we achieved good growth.

We also estimate that by the year 2000, pollution control costs from programs now in place will grow to about $155 billion a year, again in 1986 dollars, or about 2.7 percent of GNP. These figures represent only the "cost of clean," without taking into account any of the benefits from this investment; those benefits are, of course, substantial. Our economists are now looking at ways to add up the benefits of pollution control as well.

Most of the growth in costs over the next ten years will not be in the traditional areas of air and water pollution control, but instead will be in expenditures for cleaning up pollution on land—primarily from hazardous waste sites, Federal facilities, and leaking underground storage tanks. (Incidentally, speaking of Federal facilities, we now have in place about 70 new interagency agreements to clean up more athan 80 Federal facility sites on the Superfund list, and within the next six months we expect to have all 115 Federal facilities on that list covered by cleanup agreements. These agreements include cleanup targets, deadlines, enforceable penalties and fines. We are carrying out the President's policy of applying the same requirements to Energy Department and Defense Department facilities as we apply to the private sector. Only one interagency cleanup agreement was achieved prior to 1989.)

PIECEMEAL POLICY-MAKING

Given these substantial and growing costs, it seems only prudent to ask ourselves: Are we spending all this money on the right things? Are we spending it in the most effective possible way? Are society's resources being used in ways that will contribute most directly to the health and well-being of our citizens and our environment?

Not long after my EPA appointment was announced, I made the customary rounds of the members of the Senate Environment and Public Works Committee, to whom it would fall to consider my confirmation.

One of my most memorable visits was with Senator Pat Moynihan; as I expect many of you know, conversations with Senator Moynihan are always memorable.

He sat me in a very nice Windsor chair, about which he said, "This is a Republican chair * * * this is appropriate, I think, for the new EPA Administrator to sit in."

Then he perched his little half-reading glasses down on his nose, and he fixed these two fingers, picador-like, on me. And looking over his glasses, he said, "Above all—above all—do not allow your agency to become tansported by middle-class enthusiasms!"

What he meant was, "Respect sound science; don't be swayed by the passions of the moment."

All too often in the past, I think, the guiding principle for making environmental policy has been what has been referred to as the "ready-fire-aim" principle. Budget Director Dick Darman has described the Federal budget as a great "PacMan," gobbling up resources. Well, I have looked for a video game analogy for how the nation has made environmental policy.

Perhaps some of you have played a somewhat primitive, pre-Nintendo video game called "Space Invaders." In that game, whenever you see an enemy ship on the screen, you blast at it with both barrels—typically missing the target at least as often as you hit it. You never run out of ammunition, so even though you miss a lot you stay committed to the game.

The last two decades of environmental policy in this country have been similar in some ways to that video game: Every time we saw a blip on the radar screen, we unleashed an arsenal of control measures to eliminate it. In the late 1960s we saw that we had an air pollution problem, so we enacted ambitious clean air laws. At about the same time, we became aware of serious water pollution and passd an equally ambitious clean water act. We saw that exposure to toxic chemicals was causing human health problems and passed a sweeping law to control toxic substances. And so it went through the 1970s and 1980s: drinking water, radiation, pesticides, hazardous waste, medical wastes—each problem dealt with essentially in isolation, without reference to all the others.

As I noted, many of those efforts have been successful—up to a point. But the upshot of this piecemeal approach to pollution control has been that we have set our pollutant- and medium-specific goals over the last 20 years without adequately addressing our overall environmental quality objectives. Rarely did we evaluate the relative importance of individual chemicals or individal environmental media. We didn't assess the combined effects on ecosystems and human health from the total loadings of pollutants deposited through different media, through separate routes of exposure, and at various locations. We have never been directed by law to seek out the best opportunities to reduce environmental risks, in toto; nor to employ the most efficient, cost-effective ways of proceedings.

As a result of this fragmentation, today more than 80 congressional committees and subcommittees dip their spoons into the broth of environmental policy. EPA is pulled in many directions at once by Congress, other agencies of government, the public, constituency groups, the courts, and of course the news media. We answer to many taskmasters. Many problems, such as local land-use issues, are not in our jurisdiction, yet we tend to be held responsible for solving them. For its part, the press sometimes tends to focus on the "pollutant of the week," regardless of its importance relative to other environmental problems—or to other social problems, for that matter. This kind of crisis management is certainly not unique to the environment—but when we're dealing with critical issues of public health and safety every day, at significant economic cost, I think it's imperative that we step back from time to time and take a broader view.

SETTING RISK-BASED PRIORITIES

As we gear up to deal with the environmental problems of the 1990s and beyond, I think the time has come to start taking aim before we open fire. In short, we have to find a better way of setting environmental priorities. And this is where sound science comes in. Sound science can help us establish priorities and allocate resources based on risk, to the extent that statutory mandates allow. Obviously there are a number of other important factors that go into shaping our priorities—public values and perceptions, economic constraints—but sound science is our most reliable compass in a turbulent sea of siren songs. Science can lend much-needed coherence, order and integrity to the often costly and controversial decisions that must be made.

Risk is a common metric that lets us distinguish the environmental heart attacks and broken bones from indigestion or bruises. Despite the inherent uncertainties, comparative risk assessment is still one of the best indicators of where we should be directing our resources. I am very pleased that EPA's own efforts to bring more uniformity to our risk assessments are to be reenforced by Allan Bromley's initiative to ensure greater coherence Government-wide in risk assessment.

Four years ago my predecessor, Lee Thomas, recognized the need to do a better job of setting priorities across the range of EPA's programs. He instructed EPA's in-house scientists and environmental managers to look at the problems we deal with and to try to rank them based on risk. The result of this exercise was a brave and visionary report published in 1987 under the title, "Unfinished Business: A Comparative Assessment of Environmental Problems."

One of my first actions as Administrator was to ask EPA's Science Advisory Board, a distinguished and objective panel of independent scientists, engineers, and other technical experts, to review "Unfinished Business," assess its rankings applying the best technical and scientific knowledge available, and suggest ways to improve the comparative risk assessment process.

I also asked them to extend the original analysis and to identify risk reduction strategies that could be particularly effective for specific problems, or that could help to mitigate many problems at the same time.

The science board has done its job with great patience and perseverance, and it has produced a thoughtful and significant contribution to the debate over the future of environmental protection in this country. Let me take a moment to express my special thanks to the co-chairmen of this study: Dr. Ray Loehr of the University of Texas, who is the chairman of the Science Advisory Board, and Jonathan Lash, until recently the Secretary of the Agency of Natural Resources for the State of Vermont and now director of the Environmental Law Center at Vermont Law School.

The new report, which I am releasing today, is called, "Reducing Risk: Setting Priorities and Strategies for Environmental Protection." It builds on the pioneering work of the "Unfinished Business" report in comparing disparate environmental problems according to the degree of risk they pose. But the new report goes well beyond the earlier effort by spelling out a set of fundamental principles for achieving broader, more integrated, and more carefully targeted environmental policy-making. Taken together, these principles provide a basic framework for addressing some of the daunting environmental problems of the 1990s and beyond.

TARGETING RESOURCES FOR RISK REDUCTION

The report's first and most basic recommendation reflects the point I made a moment ago: We must do a better job of setting environmental priorities. We—EPA and society at large—must locate and focus our attention on the most promising opportunities for reducing risk to the environment and to human health and welfare.

To help us move toward that goal, the Science Advisory Board carefully reviewed the risk comparisons in the "Unfinished Business" study. Within the constraints of the limited information and analytical methodology now available—and we clearly need to do a great deal of work to improve both—the Board identified several problems that continue to pose relatively high risks to human health or the environment despite the progress of the last two decades. The human health risks highlighted in the report, based primarily on overall degree of direct public exposure to known toxic agents, are ambient air pollution, worker exposure to chemicals in industry and agriculture, indoor air pollution, including radon and other pollutants, and drinking water contamination. Additional data, which EPA is now working to gather and analyze, may reveal that other areas also pose high risk.

The report also identifies specific high-risk ecological problems, based especially on their geographic scope and the amount of time it will take to reverse them: habitat alteration and destruction, species extinction and loss of genetic diversity, stratospheric ozone depletion, and global climate change.

Let me be clear: the Science Advisory Board is not suggesting, nor am I, that conventional approaches to environmental problems not cited as high risks, such as hazardous wastes, should be abandoned. EPA is, in fact, firmly committed to continued, intensified enforcement of the environmental laws already on the books, as evidenced by our record enforcement figures last year. But we do need to think carefully about where our limited resources can most effectively be spent.

TOWARD INTEGRATED ENVIRONMENTAL POLICY

That brings me to a second basic principle discussed in the "Relative Risk" report: how we spend our resources is an important as what we spend them on. It's common sense to spend our money where we can do the most good, to best protect health and reduce risk. If we choose to do otherwise, we should at the least know why.

The traditional approach to environmental protection—prescriptive, command-and-control regulations—has brought us a long way. But by themselves, technology-based regulations are no longer sufficient to do the job before us. In some cases, they can actually be counterproductive, serving only to inhibit innovation and to discourage regulated industries from going beyond minimum legal requirements.

We need to take a broader, more integrated look at the range of environmental programs we administer, and the response tools available to us, with an eye toward finding the most efficient and effective ways to reduce risk. Among the tools identified by the Science Advisory Board are research, public education and information, technical assistance, and market incentives. And above all, we need to mobilize a national effort to prevent pollution before it's created in the first place. Based on the industry response so far, it is clear that one of the most effective instruments for reducing toxic air emissions has been the Community Right-to-Know law requiring industries to estimate and publicly announce them, by plant and by chemical.

RETHINKING THE ENVIRONMENTAL AGENDA

I am today, therefore, calling for a broad, robust national dialogue on the Science Advisory Board's findings and recommendations—including hearings before the relevant Congressional committees, and wide-ranging discussions by environmental and industry groups, scientists, academicians, and citizens everywhere. Clearly any effort to set environmental priorities based on relative risk—to rethink the environmental agenda for the 1990s and the 21st Century—is going to be difficult and contentious. There are many uncertainties inherent in such a process. But this report takes an essential first step. Much more information is needed; but now at least we have a better idea of what we do need, as well as some basic principles that can help us to better target our resources.

Changing the nation's environmental agenda will not be easy, and it won't happen overnight—but many of the science board's principles and recommendations already are being adopted by EPA. What Science Magazine recently called a "quiet revolution" in the way EPA does business is in fact well under way.

To further that revolution in our culture, all EPA programs are conducting a broad strategic planning effort which is aimed at focusing our attention and resources on areas of greatest risk and greatest potential for risk reduction.

Our budget decisions already are being guided by the risk reduction principles of EPA's long-term strategic planning process. Pollution prevention has become the slogan for all EPA programs, from municipal wastewater treatment to toxic air pollution to stronger, carefully targeted multi-media enforcement strategies to integrated ecosystem-wide programs, such as our new initiative to clean up the Great Lakes. The Great Lakes program also reflects the agency's stepped-up emphasis on ecology, in recognition of the fact that the health of natural systems is the foundation for economic health and the well-being of society at large.

Economic incentives, highlighted by the Science Advisory Board as an innovative option, have been central to the Administration's efforts to craft a cost-effective environmental policy—for example, in the groundbreaking emissions trading provisions of the President's Clean Air Act amendments.

A COMMITMENT TO RESULTS

Now, let me suggest a far-reaching response to the Science Advisory Board's report. I propose an ambitious strategy of toxics reduction, not just in air or water or land but wherever toxic chemicals may be found. Recently we asked each EPA program to identify the 15 or so toxics of greatest concern to them—the really "bad actors" in terms of health risk. We are now selecting those chemicals that are associated with serious environmental and health problems; the list is likely to include a number of heavy metals such as lead and mercury, as well as certain volatile organic compounds of concern across several programs.

Nationwide, releases of these contaminants are in the range of one billion pounds a year. By coordinating our activities and targeting our efforts, I want to achieve real and measurable reductions in these emissions—and the health risks they pose—over the next year.

I therefore propose the goals of reducing the total releases of these contaminants by one-third by the end of Fiscal Year 1992, and by more than half by 1995, through the most cost-effective methods possible.

These are ambitious goals, but they are within our reach. Our success with the phase-out of CFC's, and most recently our success in securing an industry commitment to reduce butadiene emissions by 80 percent through voluntary actions—accomplished through negotiations with nine chief executive officers of major chemical and petrochemical firms—demonstrates our ability to obtain results through cooperative action with the regulated community. This is not to say that we will in any way abandon our regulation and enforcement responsibilities. To the contrary, these new efforts will only have meaning if there is a credible regulatory and enforcement presence at EPA. But let us not forget that the public is expecting results—and accordingly, when voluntary action can obtain results more expeditiously, it should be employed.

With respect to recycling, I also want results. We have advocated a 25 percent recycling goal by 1992, and our proposed rules on municipal waste combustors and other initiatives should go a long way toward achieving that goal. But our commitment to recycling and solid waste reductions cannot be limited to command-and-control approaches. We need to stimulate demand and to fulfill our Federal role by providing technical assistance to help create markets.

In that spirit, I propose to:

—One, ask the Federal Trade Commission and the U.S. Office of Consumer Affairs to undertake a cooperative effort to begin defining the terms "recyclable," "recycled content," "bio-degradable," and so on, so that the consumer can make intelligent choices;

—Two, establish a nationwide network and clearinghouse to find markets for recycled goods; and

—Three, work with other Federal agencies to ensure that the Federal government uses all its current authority to procure recycled goods.

ENVIRONMENTAL STEWARDSHIP FOR A SUSTAINABLE FUTURE

Last year in this room I asserted that the Bush Administration has a clear, ambitious and unambiguous environmental vision:

—A vision of a nation moving steadily to provide a greater measure of protection for human health and for natural systems;

—A vision of a public informed and knowledgeable about its realistic choices in an industrialized, economically developed society;

—A vision of a people infused with an ethic of environmental stewardship, working to secure the vital link between sound, sustainable economic growth and a healthy, productive environment.

The broad review and re-evaluation of the nation's environmental agenda that I am calling for today can play a central role in turning that vision into reality. The decisions about how best to go about the task of environmental protection and risk reduction must be discussed and debated in the kitchens of American homes, in school classrooms, in the halls of Congress, the boardrooms of industry, the conference rooms of our vigorous environmental groups, in policy councils at all levels of government.

From those discussions and debates will emerge a new approach to environmental policy, and a new generation of environmental programs—programs that will carry the nation forward through the 1990s and into the 21st Century. The great and dramatic environmental battles are between "white hats" and "black hats," and there are still a good many around. But the significant new progress we need is with ourselves—our lifestyles, our energy use, the goods we buy and use and the waste we generate.

The questions we raise today can lead us to the answers we will need to safeguard our environmental legacy to future generations.

Thank you.●

WASHINGTON TOWNSHIP CELEBRATES ITS 150TH ANNIVERSARY

● Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to the 150th anniversary of the incorporation of Washington Township in Bergen County.

Originally settled by the Dutch in the 1600's, Washington Township has a special place in our history. Legend has it that George Washington once stayed in the community, hence the name. The town can take pride in its role in New Jersey history and future. Today, the town is a wonderful place to live, the atmosphere is that of a rural town with all of the luxuries of a big city nearby. The streets are filled with trees instead of traffic. The lifestyle in Washington Township is secure, with friendly neighbors and a school system geared toward providing individual attention. This community remains steadfast in their commitment to remember the past while working toward a better tomorrow.

I extend my warmest wishes to all the citizens of Washington Township and wish them well in the future.●

EDUCATION OF THE HANDICAPPED ACT AMENDMENTS

Mr. FORD. Mr. President, I submit a report of the committee of conference on S. 1824, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1824) to reauthorize the Education of the Handicapped Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of today, October 2, 1990.)

Mr. HARKIN. Mr. President, I rise today to urge approval of the conference report to S. 1824 which reauthorizes for the next 4 years the discretionary programs of the Education of the Handicapped Act [EHA].

In the 15 years since the passage of Public Law 94-142, the Education for All Handicapped Children Act (part B of EHA), great strides have been made in providing a free appropriate public education for all children with disabilities. Parts C through G of the EHA support discretionary programs to keep our Nation's special education system on the cutting edge. With this reauthorization, we reaffirm our commitment to provide students with disabilities the opportunity to better themselves through quality education programs.

The legislation is responsive to the changing needs of students with disabilities and their families, research findings, and new technological advances which promise to enhance the learning capacity of students. An investment in education for students with disabilities will enable them to take full advantage of the recently passed Americans With Disabilities Act, which affords persons with disabilities increased opportunities to become independent and productive members of society.

I would like to thank Senator Durenberger, the ranking minority member of the Subcommittee on Disability Policy, for all his help and guidance in crafting this legislation. I also thank Senators Kennedy and Hatch for their contributions. Special thanks to Senators Dole, Simon, Jeffords, Coats, Dodd, Pell, Metzenbaum, Adams, Mikulski, Chafee, Inouye, and Kerry for their cosponsorship.

I would also like to recognize Congressmen Owens and Bartlett for their work in developing the House companion bill and in crafting the conference agreement.

In addition, I would like to thank the Consortium of Citizens with Disabilities for their assistance in keeping the Education of the Handicapped Act as cutting edge legislation, Ms. Carla Lawson, director of the Iowa exceptional parents center, Fort Dodge, IA and the other witnesses who testified at the April 1989 hearings.

Finally, I would like to thank my staff, inluding Bob Silverstein, Chris DeGraw, Terry Muilenberg, and Stan Vitello, for their contributions.

The Senate bill addessed the major concerns raised in the testimony presented to the subcommittee. We included provisions to improve the effectiveness and efficiency in the management of discretionary programs. We addressed the immediate need to train a sufficient number of special education teachers and related services personnel, with a requirement to recruit individuals from minority backgrounds. We addressed the repeated plea that more be done to disseminate and translate research findings into classroom practice. We responded to the necessity of improving parent training programs.

In addition, we also recognized the need to strengthen discretionary programs for students with severe handicaps, serious emotional disturbance, and visual impairements. We included numerous provisions which addres the important role assistive technology plays in enhancing opportunitie for children with disabilities. We responded to the urgent need to develo programs to increase the understanding of, and address the early intervention and preschool needs of childre exposed prematurely to maternal substance abuse, including the use o crack cocaine.

Finally, what may be regarded b some as an insignificant matter is th change in the title of the legislatio from "The Education of the Handicapped Act" to "The Individuals wit Disabilities Education Act." The use o the term "individuals with disabilities instead of "handicapped" represent our effort to make use of up-to-date currently accepted terminology. I regard to this legislation, as well as i other contexts, the Congress has bee apprised of the fact that to many individuals with disabilities the terminology applied to them is a very significan and sensitive issue.

I am pleased to report that this reauthorization of the EHA, parts C through G, contains all of the majo provisions in the Senate bill. Set ou below is a more thorough descriptio of the major provisions in the legislation.

GENERAL PROVISIONS

The legislation amends the curren definition of the term "children wit disabilities" to include children wit "autism" and children with "traumati brain injury."

The legislation also amends curren law to clarify the settings in whic special education services are to be delivered, including instruction in th classroom, in the home, in hospital and institutions, and in other settings The legislation also adds "social wor services' under the definiton of relate services, and clarifies recreation services to include therapeutic recreatio and counseling services to include rehabilitation counseling.

The legislation also adds a definitio of transition services. The definitio of individualized education program i amended by the legislation to includ a statement of transition services fo students no later than the age of 1 years and, where appropriate, beginning at the age of 14 years or younger

Definitions of "assistive technolog device" and "assistive technology service" are also added to current law Over the last few years, assistive technology has emerged as a critical support for many people with disabilitie which can assist them in leading live of dignity, choice, and independence In terms of education, assistive technology can empower the student wit the means to become an active participant in the school. I would like t compliment the office of special education programs for its interpretation concerning the obligations of public agencies under part B to provide assistive technology to children with disabilities. This interpretation should be broadly disseminated to public agencies to ensure consistent implementation across the country.

One issue that prompted the concern of both bodies of Congress was how to address the developmental disorder now commonly referred to as attention deficit disorder [ADD]. ADD is a developmental disorder which is characterized by marked impairment of attention, often associated with impulsivity or hyperactivity. H.R. 1013 recognized ADD under the subcategory other health impaired in the definition of children with disabilities and included clarifying language in the report accompanying the bill. S. 1824 recognized ADD in report language under the category of "specific learning disability' to be included under the term "minimal brain dysfunction."

The final bill does not adopt either approach. Instead, we have set forth a notice of inquiry and the establishment of a national resource center. The notice will solicit public comments to describe the appropriate components of an operational definition under the Education of the Handicapped Act for the term "attention deficit disorder." I believe that over the coming months a consensus definition will be developed that recognizes the legitimate concerns of the parents with children who have ADD as well as the concerns enumerated by the education and minority communities. The center will help organize, synthesize, and disseminate current knowledge related to ADD.

STATE IMMUNITY

A new section is added to clarify the intent of Congress that a State is not immune under the Eleventh amendment of the Constitution of the United States from suit in Federal court for a violation of the Education of Handicapped Act. Not only does the legislation confer upon children with disabilities an enforceable substantive right to a free appropriate public education, it also explicitly authorizes any aggrieved party to bring an action in State or Federal Court, including an action for tuition reimbursement. This provison overturns the Supreme Court decision in Dellmuth versus Muth.

ADMINISTRATION

The legislation adds a new section increasing the administrative accountability of the Secretary of Education in the implementation of programs. Program plans for implementation must involve a number of special education groups, including parents and professionals. In awarding grants, there must be increased recognition and responsiveness by the Federal Government to the needs and problems in the education of minority populations. Independent evaluations of each program are required. Panels of experts to evaluate grant proposals are to be selected by the Secretary who are competent by virtue of their training and experience. The Secretary is required to conduct at least one site visit for each grant funded at $300,000 or more annually.

To the maximum extent possible, the Secretary is required to develop effective procedures for disseminating information derived from programs and projects funded under parts C through G, as well as information generated from studies and data collection.

EVALUATION

The legislation amends current law to specify the types of evaluations and special studies that are to be conducted to determine progress in implementation, program effectiveness, and studies which provide information for program and system improvement.

REGIONAL RESOURCE AND FEDERAL CENTERS

The legislation amends current law to give the Secretary authority to develop guidelines and criteria for the operation of regional resource and Federal centers. With regard to the regional centers, the priority needs identified by the States are to be addressed and these priorities need not be the same as those in federally mandated areas.

DEAF-BLIND

The legislation amends current law by expanding programs which enhance the adjustment and education of deaf-blind infants, toddlers, children and youth. Services are expanded to provide early intervention and transition from school to work. Preparation for independent living and competitive employment are emphasized. The Secretary is authorized to award a grant to establish a national clearinghouse for children and youth with deaf-blindness for the purpose of identifying, coordinating, and disseminating information on effective practices.

EARLY EDUCATION

The legislation amends current law to encourage an interdisciplinary approach in the delivery of early education programs. In continuing to recognize the important role of parents, the legislation also supports aggressive information dissemination to parents. Programs to facilitate the transition of infants with disabilities from medical care to early intervention programs, and from early intervention to preschool programs are authorized. The Secretary is also authorized to fund programs to promote the use of assistive technology devices and assistive technology services, where appropriate, to enhance the development of infants and toddlers with disabilities. Programs are also to be developed to address the early intervention needs of children exposed to maternal substance abuse.

SEVERELY HANDICAPPED

The legislation amends current law to focus more attention on the early intervention, transportation, and integration needs of infants, toddlers, children, and youth with severe disabilities. Given that instruction for students with severe disabilities must be continuous if they are to attain a level of self-sufficiency, a new section in the law provides for the development and operation of an extended school year demonstration program.

POSTSECONDARY EDUCATION

The legislation amends current law to encourage outreach activities that include the provision of technical assistance to strenghten efforts in the development, operation, and design of model programs that are adapted to the special needs of individuals with disabilities. Another amendment increases the minimum amount of funding for the four regional postsecondary programs for the deaf from $2 million to $4 million.

SECONDARY EDUCATION AND TRANSITION SERVICES

The legislation amends current law to strengthen transition services for youth with disabilities. Provisions not only address the development of job skills to transition into the workplace, but also the development of independent and community living skills to facilitate the full participation of youth with disabilities into community life. In an effort to build a cooperative relationship between special education and rehabilitation groups toward ensuring optimal transition, the legislation authorizes the Secretary to award 5-year grants upon joint State special education and rehabilitation agency application, to improve systems to provide transition services for youth with disabilities.

Another provision authorizes the development and dissemination of exemplary programs that meet the unique needs of students who utilize assistive technology devices and assistive technology services, as such students make the transition to postsecondary education, vocational training, competitive employment—including supported employment—and continuing education or adult services.

SEVERE EMOTIONAL DISTURBANCE

The legislation adds a new section which focuses attention on students with severe emotional disturbance. Projects will be supported to provide these students improvided special education and related services. Included among those projects are the development and demonstration of innovative approaches to assist and to prevent children with emotional and behavioral problems from developing serious emotional disturbance that require special education services.

PERSONNEL TRAINING

In recognition of the shortage of teachers and other special education personnel to serve students with disabilities, the legislation continues to provide support to prepare an adequate number of qualified early intervention, special education, and related services professionals. The need to prepare special education leadership, including administration and research personnel, is also emphasized. The legislation requires greater efforts be made to recruit, prepare, and retain qualified personnel from minority backgrounds, and persons with disabilities. The training of personnel to instruct children of limited English proficiency is also authorized.

PARENT TRAINING

If parents are to participate in providing their children an appropriate education, they must be trained and be provided with needed information. The legislation supports the continuation of existing parent training and information centers in each State, and is amended to establish additional centers in high density urban areas and rural areas serving large numbers of parents of children with disabilities. The importance of parent training and information is reflected in the creation of a separate line item, which significantly increases the authorization for this program.

CLEARINGHOUSES

The legislation continues support for the three national clearinghouses on children and youth with disabilities, postsecondary education, and careers in special education with amendments to expand their function to include: information dissemination, technical assistance, outreach activities, networking with other relevant national, State, and local organization information, and referral resources. Clearinghouses are also to provide for the synthesis of information for its effective utilization by parents, professionals, individuals with disabilities, and other interested parties.

RESEARCH

The legislation is amended to support research to advance and improve the knowledge base and practice of professionals, parents, and others providing early intervention, special education, and related services. Research outcomes are to be directed at providing students with disabilities effective instruction that enables them to learn successfully. To bridge the gap between research and teaching, increased efforts to synthesize and disseminate knowledge are supported.

INSTRUCTIONAL MEDIA

The legislation amends current law to specify that instructional media will be used to eliminate illiteracy among individuals with disabilities. This section is further amended to include the visually impaired as part of the population for whom this section is intended. Under a new section, the Secretary is authorized to bring to the visually impaired an understanding of textbooks, films, television programs, video material, and other educational publications and materials that play such an important part in their general and cultural advancement. The legislation continues the authorization of captioning for the hearing impaired and the awarding of grants to promote the integration of hearing and deaf individuals through shared cultural, educational, and racial experiences.

TECHNOLOGY

Legislation amends current law to include the awarding of grants to advance the use of assistive technology, and to determine how technology can be used more effectively, efficiently, and appropriately, in the education of individuals with disabilities. Another amendment ensures the access and use of assistive technology and other activities authorized under the Technology-Related Assistance Act of 1988.

Mr. SIMON. Mr. President, I am pleased to join my colleagues in support of the conference report for the Education of the Handicapped Act Amendments of 1990. This legislation, S. 1824, takes positive steps forward in our continuing efforts to improve the educational opportunities for children with disabilities.

I am pleased to note that among the amendments agreed to is a change in the name, to the Individuals with Disabilities Education Act. Some of us who have worked for years in this area may need some time to adjust to referring to the IDEA rather than the EHA. But it is not insignificant that we move away from terminology that focuses on a condition rather than a person. As we did in passing the Americans With Disabilities Act, we are recognizing the individual first. This is particularly appropriate in the IDEA since its educational services are designed to meet the needs of the individual.

I congratulate Senator HARKIN and his staff on the Subcommittee on Disability Policy for, once again, achieving consensus on difficult areas of controversy—and in a way that moves us forward. Specifically, I am pleased that agreement was reached on the issue of attention deficit disorder. There is a great deal of evidence indicating that this is a biologically based brain disorder, and that not all children who are educationally handicapped by this disorder, are receiving appropriate services.

This legislation requires the Secretary of Education to publish a notice of inquiry in the Federal Register to solicit comments on the appropriate components of an operational definition for attention deficit disorder under the IDEA. The inquiry will seek comment on aspects of the definition, the appropriate qualifications of those determining the existence of the disorder and what steps may be needed to ensure that racial, ethnic, and linquistic minorities are not misclassified under this definition. The summarized comments will be available to us when we reauthorize part H of the act next year.

In addition, this legislation calls for the establishment of a center or centers to gather and disseminate information on attention deficit disorder.

In a hearing I held in Springfield IL, in July 1989, it became clear that there are a number of areas in which we need improvement in the implementation of part B of this act, the permanently authorized Public Law 94-142. Through the amendments to the discretionary parts of the act, S 1824 responds to those areas of need These include attention to the critical shortage of personnel in special education and to the specific problems faced by minority group children. I am concerned, for example, that misclassification and overclassification of African-American children appears to be continuing. In Springfield, for example, 3 of 10 African-American children are labeled as handicapped; nationally about 1 child in 10 is classified as handicapped. In Chicago, a retesting of Educable Mentally Handicapped [EMH] children found 2,300 who did not belong in that category. These are children who were taken out of the regular classroom and placed in inappropriate settings.

In regard to Hispanic children, testimony at the hearing indicated that they are severely underidentified, underserved and inappropriately served Although about 25 percent of the school population in Chicago is Hispanic, we were told that only 46 of the 3,500 special educators is Hispanic The provisions of this current legislation that increase the involvement of minorities in all aspects of the Individuals with Disabilities Education Act should help to solve some of these remaining difficult problems, but it is an area that I will want to continue to watch for improvement in the future

In these and other crucial areas such as services for the severely emotionally disturbed, this legislation covers new important ground and should be significantly helpful. Again, I commend Senator HARKIN and his hardworking staff for their diligent and successful work on this legislation.

Mr. KENNEDY. Mr. President, during this Congress we have reached several significant milestones in mainstreaming people with disabilities. By passing the Americans With Disabilities Act, the most sweeping civil rights legislation to be enacted since the Civil Rights Act of 1964, we began a new era of opportunity for the 43 million Americans who had been denied full and fair participation in our society.

The Education of the Handicapped Act, which we are reauthorizing today, is another milestone in mainstreaming people with disabilities. This legislation reauthorizes the discretionary grants program of the EHA and ensures that a free and appropriate public education will continue to be the right of all children, regardless of their special needs.

One of the most contentious issues during the reauthorization was whether attention deficit disorder [ADD] should be recognized as a handicapping condition in order to qualify children for special education services. While some school systems have admitted ADD children to special education classes, others have not. The advocates of ADD children say that the only way to remedy this exclusion is for ADD to be explicitly recognized in the statute as a handicapping condition, thereby entitling them to a free and appropriate education under Public Law 94-142.

Opposition to including ADD as a handicapping condition arose from minority and child advocate organizations. They argued that the inclusion of ADD would lead to mislabeling and over-referral of minority, poor, and limited-English proficient children, thus exacerbating an already pervasive condition. As the House committee found, more minority children continue to be served in special education than would be expected from their percentage in the general school population; poor African-American children are 3½ times more likely to be classified as mentally retarded; and the limited-English school population with potential handicapping conditions are not well served by special education.

After much discussion with ADD experts and parents of ADD children, with child advocacy and civil rights groups, and with school professionals and administrators, the conferees adopted a compromise that directs the Secretary of Education to solicit public comments regarding an operational definition of ADD and permits the establishment of a center or centers to organize, synthesize, and interpret current knowledge relating to the disorder. That information will be available for use by the Congress when we reauthorize part H of the Education of the Handicapped Act next year.

It is the intent of the conferees that in both the notice of inquiry to be conducted by the Department of Education, and in congressional consideration thereafter, no perspective on the issue of ADD should be excluded, and that the potential benefits of identifying children as having ADD should be weighed against potential harm of misidentifying children when they do not.

Our Nation needs the skills and talents of all its people. The reauthorization of the Education of the Handicapped Act ensures that children and youth with disabilities receive a free and appropriate public education to enable them to participate fully in society.

Mr. HATCH. Mr. President, I am pleased that we have an agreement on this bill which provides for the education of children with disabilities. Both sides of the aisle have worked cooperatively to ensure that children would be able to receive an appropriate education in an environment which is best suited to their needs. I am proud of this legislation.

One of the more difficult issues we had to wrestle with in conference was the issue of children with attention deficit disorder. All of us agree that children should receive services that are needed. However, in our struggle to determine whether or not these services are appropriate for these children and, if so, what criteria should be used, we finally concluded that we needed more information. I hope that this study will help us make decisions about how we can best serve this group of children.

I also want to express my appreciation to the many teachers who work with children with disabilities. Congress can pass a lot of excellent legislation to ensure that children with disabilities receive services; but, it is ultimately the warm, caring teacher in the classroom who helps these children and creates an educational system that enables them to achieve their full potential. I salute those teachers in Utah and elsewhere who serve this Nation as teachers of young citizens with disabilities.

Mr. JEFFORDS. Mr. President, I rise in support of the conference agreement on S. 1824, the reauthorization of Education of the Handicapped Act [EHA] of 1989. The bill before us reauthorizes the discretionary programs under EHA and represents one of the most far-reaching programs for children with disabilities.

The discretionary programs provide support for research and demonstrations, dissemination, technical assistance, and training. The main goal is the improvement of the educational and related services provided to handicapped infants, children, and youth.

S. 1824 is the tangible evidence of the compromise reached between the House and Senate and the leadership provided by the chairman of the Subcommittee on Disability Policy, Senator HARKIN. I wish to commend him for his hard work and dedication to this bill.

Although I am pleased to see the final passage of this important bill, I must express my concern regarding one critical issue: the possible inclusion of attention deficit disorder [ADD] as a separate category under the statutory definition of "handicapping condition." Because of the confusion existing among professionals in the field as to the definition, prevalence, and even the very existence of this disorder, the conference committee agreed to require the Department of Education to gather professional input on this issue through the publication of a "Notice of Inquiry." Although I am pleased that the notice of inquiry will give us more time to gain expert, professional guidance on ADD, I do not believe that the language contained in the inquiry addresses the primary policy question: Is a change in EHA necessary to meet the needs of children with ADD?

Many experts, including psychologists, special education teachers, and others contend that students with ADD who require special education and related services are eligible for those services under other definitions, such as learning disability and serious emotional disturbance. We must ask ourselves, do students who do not qualify for services under the existing definitions belong in special education? Are we really helping a child when we give him/her a label and put him/her in special education when that child can and should be served by regular education? Clearly, a child must be adequately served, regardless of the disability—and I hope there is no question of that goal. However, does placing a child under a separate category actually help?

As we all know, once we give a child a label, it does not go away—that child has it for the rest of his/her school career. In Vermont, our schools are working hard to develop innovative methods for helping children, as much as possible, remain and succeed in the regular classroom. Rather than labeling children who are at risk of failing as handicapped in order to get them services, we have schools that are trying to provide children with the services they need in the regular classroom before they fail.

At this time, our schools must work to move forward and provide services to our growing at risk population in the regular class. Adding another category to EHA, when it may not be necessary to meet the needs of students believed to have ADD, will only take us backward—toward the unnecessary labeling and stigmatizing of children. Instead we should concentrate our efforts on educating students, not labeling them.

Mr. DURENBERGER. Mr. President, I rise in support of the conference report on S. 1824 the reauthorization of the discretionary programs under the Education of the Handicapped Act.

The discretionary programs under the Education of the Handicapped Act supports a wide variety of programs that include research and demonstrations, personnel training, technical assistance, and dissemination of information. This reauthorization process has given us the opportunity to reassess these programs to make sure they are doing what they were intended to do.

We found, Mr. President, that for the most part, these programs were working well. And the bill before us reflects that position. The conference report makes important improvements, however, in the parent training centers, minority participation, personnel preparation, and adds new programs to address gaps in current service levels for children with serious emotional disturbances and for transitional services between school and work or other postsecondary options. I think these are important improvements that will help assure the vitality of the entire special education program.

I would like to take a moment to speak about the one issue that caused the most controversy during the conference, that is the issue of including attention deficit disorder within the definition of disabling conditions As you are aware, the House provision included statutory language that added ADD under the definition of "other health impaired." The Senate did not contain a similar provision. A number of questions were raised during the conference about how ADD could be added to the act to ensure that only those with severe ADD would be served, the medical feasibility to make such a diagnosis, what the addition of ADD would mean to the rest of the special education program, what special services are needed for ADD children, and whether or not the addition of ADD would lead to a disproportionate number of minority students being classified as ADD. These were just a few of the questions facing the committee.

It was our inability at this time to answer these questions to the satisfaction of all the members that lead us to reject the House provision and to propose an alternative that would require the Department of Education to publish a "Notice of Inquiry" in the Federal Register to gather information on ADD and to report back to Congress within 6 months. It is my hope that this notice of inquiry will be all inclusive so as to provide Congress with the best available information for which to base future decisions on the inclusion of ADD under Public Law 94-142. Mr. President, the issue of whether or not to include ADD under the act has been a very difficult one. But I think the bill before us strikes a reasonable balance that will allow us the time and provide us with the information to make the decision that will be in the best interest of all children with disabilities and their parents.

Again, Mr. President, I would like to thank all the members and their staffs who have worked so hard on this bill. I urge my colleagues to support the conference report.

The PRESIDING OFFICER. Is there further debate on the conference report? If not, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the conference was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTIONS IN THE ENROLLMENT OF S. 1824

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the concurrent resolution I now send to the desk on behalf of Senator HARKIN directing the Secretary of the Senate to make technical corrections in the enrollment of S. 1824.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 150) directing the Secretary of the Senate to make corrections in the enrollment of S. 1824.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. Is there debate on the concurrent resolution? If not the question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 150

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 1824), an Act to reauthorize the Education of the Handicapped Act, and for other purposes, the Secretary of the Senate shall make the following correction:

(1) In the amendment made by section 405, strike out "631(a)(6)" each place that such occurs and insert in lieu thereof "631(a)(7)".

Mr. FORD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TEMPORARY EXTENSION OF THE AUTHORITY FOR THE EXECUTIVE EXCHANGE PROGRAM

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5643, regarding a temporary extension of the authority for the Executive Exchange Program, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5643) to grant a temporary extension on the authority under which the Government may accept the voluntary services of private-sector executives; to clarify the status of Federal employees assigned to private sector positions while participating in an executive exchange program; and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, I urge passage of H.R. 5643, a bill passed by the House under suspension of the rules on September 28.

The purpose of this bill is twofold—to grant a temporary 90-day extension of the Executive Exchange Program Voluntary Services Act of 1986 and to clarify that Federal executives participating in this program are on detail rather than leave-without-pay status.

The Executive Exchange Program was established to allow Federal executives to work for 1 year in the private sector, and private sector executives to work for 1 year in the Federal Government. The benefits to both groups can be great.

However, the disparity between private sector salaries and Government salaries created problems. Most of the private sector executives who were very interested in participating in the program would have to take a significant reduction in salary in order to do so.

The Voluntary Services Act established an experimental program to allow the private sector employer to reimburse the Government for the salaries of these executives during their detail to the Federal Government. The authority for the Government to accept this reimbursement for the services of these executives expires on September 30, 1990.

Mr. President, the September 30 expiration of this program will result in the early termination of the services of several executives, some of whom are serving overseas. This bill would simply extend the termination of this experimental program for 90 days in order to allow them to complete their assignments.

Section 2 of this bill clarifies that Federal executives who participate in this program are considered to be on detail from their employing agencies rather than on leave-without-pay status. This would allow these Federal executives to continue to receive full benefits during that year. This is only fair. Our employees should not be disadvantaged because they are selected to gain additional knowledge and expertise from the private sector which they will then use when they return to the Federal Government.

Mr. President, I urge immediate passage.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 5643) was ordered to a third reading, was read the third time, and passed.

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURES PLACED ON CALENDAR—H.R. 3898, H.R. 5316, AND H.R. 5381

Mr. FORD. Mr. President, I ask unanimous consent that the following bills received from the House be placed on the Senate Calendar: H.R. 3898, the Civil Justice Court Reform Act; H.R. 5316, the Federal Judgeship Act, and H.R. 5381, the Federal Courts Study Commission Implementation Act of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

ACQUISITION OF ADDITIONAL LANDS FOR KNIFE RIVER INDIAN VILLAGES NATIONAL HISTORIC SITE

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1230.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1230) entitled "An Act to authorize the acquisition of additional lands for inclusion in the Knife River Indian Villages National Historic Site, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. ACQUISITION OF ADDITIONAL LANDS.

(a) The Secretary of the Interior is authorized to acquire by purchase with donated or appropriated funds, donation, or exchange the lands comprising approximately 465 acres and described in subsection (b) as an addition to the Knife River Indian Villages National Historic Site, North Dakota: *Provided*, That no such lands may be acquired without the consent of the owner thereof unless the Secretary determines that, in his judgment, the property is subject to, or threatened with, uses which are having, or would have, an adverse impact on the archaeological, historical, or other values for which the site was established.

(b) The lands referred to in subsection (a) are those lands depicted on the map entitled "Proposed Boundary Knife River Indian Villages National Historic Site" numbered 468-80,039A and dated July 1990.

SEC. 2. ADDITIONAL AUTHORIZATIONS.

Section 104(c) of Public Law 93-486 (88 Stat. 1462) is amended by striking "$600,000" and inserting in lieu thereof "$1,000,000" and by striking "$2,268,000" and inserting in lieu thereof "$4,000,000".

Mr FORD. Mr. President, I move that the Senate concur in the House amendments.

The motion was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REGARDING RETIREMENT OF MEMBERS OF CAPITOL POLICE

Mr. FORD. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5641, regarding retirement of members of the Capitol Police just received from the House.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5641) to amend title 5, United States Code, with respect to retirement of members of the Capitol Police.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 5641) was ordered to a third reading, was read the third time, and passed.

Mr. FORD. I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURES PLACED ON CALENDAR—H.R. 4299, H.R. 5390, H.R. 2840

Mr. FORD. Mr. President, I ask unanimous consent that the following be placed on the calendar when received from the House: H.R. 4299, regarding Great Lakes Fisheries; H.R. 5390, regarding zebra mussels; and H.R. 2840, the coastal barriers bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISCHARGE AND REFERRAL OF S. 2948

Mr. FORD. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of S. 2948, regarding certain lands in Illinois as wilderness, and that the measure be referred to the Agriculture Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 99-498, reappoints Lynn M. Burns, of Rhode Island, to the Advisory Commission on Student Financial Assistance.

ORDERS FOR WEDNESDAY, OCTOBER 3, 1990

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10 a.m. Wednesday, October 3; that following the time for the two leaders, there be a period for morning business, not to extend beyond 11 a.m., with Senators permitted to speak therein for up to 5 minutes each; and that the Senate stand in recess from 12:30 to 2:30 p.m. on Wednesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTENT TO PROCEED TO S. 1379, THE DEFENSE PRODUCTION ACT

Mr. FORD. Mr. President, the majority leader asked me to announce for the information of Senators that on tomorrow at 11 a.m., he will seek consent to proceed to the consideration of Calendar No. 697, S. 1379, the Defense Production Act bill, and that if consent is not granted, it would be his intention to move to proceed to the bill.

RECESS UNTIL 10 A.M. TOMORROW

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate now stand in recess under the previous order until 10 a.m. on Wednesday, October 3, 1990.

There being no objection, the Senate, at 7:07 p.m., recessed until Wednesday, October 3, 1990, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate October 2, 1990:

SUPREME COURT OF THE UNITED STATES

DAVID H. SOUTER, OF NEW HAMPSHIRE, TO BE ASSOCIATE JUSTICE OF THE SUPREME COURT THE UNITED STATES.

HOUSE OF REPRESENTATIVES—*Tuesday, October 2, 1990*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May our eyes be lifted, gracious God, to see not only what must be accomplished in our lives and in our work, but also to see what should be accomplished. Make us aware and sensitive to what it means to be Your people doing the works of justice and mercy. May that word of justice and mercy give light to our tasks and open our minds so we can honestly see our goals and our daily responsibilities. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Oklahoma [Mr. Inhofe] please come forward and lead the House in the Pledge of Allegiance.

Mr. INHOFE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment joint resolutions of the House of the following titles:

H.J. Res. 398. Joint resolution to commemorate the centennial of the creation by Congress of Yosemite National Park, and

H.J. Res. 482. Joint Resolution designating March 1991 as "Irish-American Heritage Month."

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3045) "An act to amend chapters 5 and 9 of title 17, United States Code, to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of copyright and infringement of exclusive rights in mask works, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private person or against other public entities" disagreed to by the House, agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. DeConcini, Mr. Leahy, Mr. Kennedy, Mr. Hatch, and Mr. Grassley, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 2017. An act to provide a permanent endowment for the Eisenhower Exchange Fellowship Program;

S. 2415. An act to encourage solar, wind, waste, and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Policies Act of 1978, and for other purposes; and

S.J. Res. 342. Joint resolution designating October 1990 as "Ending Hunger Month."

APPOINTMENT OF CONFEREES ON S. 916, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION MULTIYEAR AUTHORIZATION ACT OF 1990

The SPEAKER. The Chair appoints the following conferees on the Senate bill (S. 916) National Aeronautics and Space Administration Multiyear Authorization Act of 1990: Messrs. Roe, Brown of California, Nelson of Florida, Hall of Texas, Volkmer, Mineta, Torricelli, Nagle, Hayes of Louisiana, Tanner, Walker, Sensenbrenner, Lewis of Florida, Packard, Buechner, and Campbell of California.

MODIFICATIONS AND APPOINTMENT OF ADDITIONAL CONFEREES ON S. 2830, FOOD AND AGRICULTURAL RESOURCES ACT OF 1990

The SPEAKER. Pursuant to the authority granted on September 19, 1990, the Chair appoints the following conferees and modification to the appointments previously made to the Senate bill, S. 2830, Food and Agricultural Resources Act of 1990:

From the Committee on Foreign Affairs, for consideration of titles XI (except sections 1124, 1125, 1134, 1137, and subtitle E), XXIII (except section 2306), sections 114, 1423, 1551, 1751-60, 1763, and 1765 of the Senate bill, and title XII (except sections 1241 and 1243-46) and sections 415, 1312(a), and 1833 of the House amendment, and modifications committed to conference: Messrs. Fascell, Hamilton, Yatron, Solarz, Wolpe, Crockett, Gejdenson, Dymally, Kostmayer, Levine of California, Broomfield, Gilman, Lagomarsino, Leach, Roth, and Bereuter.

From the Committee on Foreign Affairs, for consideration of subtitle E of title XI, section 1931-35 and 1937-39 of the Senate bill, and title XXX of the House amendment, and modifications committed to conference: Messrs. Fascell, Hamilton, Yatron, Gejdenson, Broomfield, and Roth.

From the Committee on Merchant Marine and Fisheries, for consideration of subtitle E of title XI of the Senate bill, and title XXX of the House amendment, and modifications committed to conference: Messrs. Jones of North Carolina, Studds, Hubbard, Tauzin, Hertel, Lipinski, Davis, Young of Alaska, Lent, and Fields.

From the Committee on Merchant Marine and Fisheries, for consideration of sections 1238, 1286, and 1422 of the Senate bill, and sections 1314 and 1602 of the House amendment, and modifications committed to conference: Messrs. Jones of North Carolina, Studds, Hertel, Davis of Michigan, and Young of Alaska.

From the Committee on Ways and Means, for consideration of section 902, those portions of section 1121 adding new sections 101(5), 103(5), 113(c)(2), 114, 204(c)(2)(B), 404-05, 503(b)(3), 504, and 601(c) and (f) to the Agricultural Trade Act of 1978, sections 1122, 1124-25, 1137, 1716(c), that portion of section 2123 adding a new section 7A(e) to the Cotton Research and Promotion Act, sections 2140, 2155(g), 2178, 2188, 2203, 2306, 2452, 2454 of the Senate bill, and section 614, those portions of section 1221 adding new sections 101(4), 105(a), 106, 402(c) and (f) to the Agricultural Trade Act of 1978, sections 1223(i), 1241, 1243, 1245-47, 1428, 1445(g), 1468, 1475(3), 1485(d) and 1494 of the House amendment, and modifications committed to conference: Messrs. Rostenkowski, Gibbons, Jenkins, Archer, and Crane.

Except that, for consideration of sections 2203, 2452 and 2454 of the Senate bill, Mr. Jacobs is appointed in lieu of Mr. Jenkins.

From the Committee on Ways and Means, for consideration of sections 1134, 1721 and 1730A of the Senate bill, and modifications committed to conference: Messrs. Rostenkowski, Gibbons, Pickle, Jenkins, Downey, Pease, Russo, Guarini, Matsui, Anthony, Archer, Vander Jagt, Crane, Frenzel, Schulze, and Thomas of California.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

From the Committee on Energy and Commerce, for consideration of sections 1761 and 1762 of the Senate bill, and modifications committed to conference: Messrs. Dingell, Waxman, Scheuer, Wyden, Sikorski, Bruce, Rowland of Georgia, Synar, Hall of Texas, Eckart, Lent, Dannemeyer, Whittaker, Tauke, Bliley, and Fields.

From the Committee on Energy and Commerce, for consideration of sections 1495, 1497, and 1498J-L of the Senate bill, and modifications committed to conference: Messrs. Dingell, Waxman, Rowland of Georgia, Lent, and Tauke.

From the Committee on Energy and Commerce, for consideration of sections 1437 of the Senate bill, and section 1367(b) of the House amendment, and modifications committed to conference: Messrs. Dingell, Waxman, Eckart, Lent, and Tauke.

From the Committee on Energy and Commerce, for consideration of title XVI (except sections 1615-16, 1620(b), (c), (d), (f)) and section 1716 of the Senate bill, and sections 1495-95G, 1495J-95L, 1495M(a), (e) and (g) and 1495N-95V of the House amendment, and modifications committed to conference: Messrs. Dingell, Waxman, Bruce, Lent, and Tauke.

From the Committee on Energy and Commerce, for consideration of subtitle C of title XVII of the Senate bill, and modifications committed to conference: Messrs. Dingell, Waxman, Wyden, Lent, and Bliley.

From the Committee on Energy and Commerce, for consideration of section 1773 of the Senate bill, and modifications committed to conference: Messrs. Dingell, Waxman, Rowland of Georgia, Lent, and Whittaker.

From the Committee on Energy and Commerce, for consideration of section 1772 of the Senate bill, and section 1376A of the House amendment, and modifications committed to conference: Messrs. Dingell, Thomas A. Luken, Swift, Lent, and Tauke.

From the Committee on Energy and Commerce, for consideration of section 1948 of the Senate bill, and modifications committed to conference: Messrs. Dingell, Thomas A. Luken, Swift, Lent, and Whittaker.

From the Committee on Energy and Commerce, for consideration of sections 2033(3)(F), 2079, and 2081 of the Senate bill, and modifications committed to conference: Messrs. Dingell, Markey, Swift, Lent, and Tauke.

From the Committee on Energy and Commerce, for consideration of section 1399 of the House amendment, and modifications committed to conference: Messrs. Dingell, Waxman, Towns, Lent, and Bliley.

From the Committee on Agriculture, for consideration of those portions of section 1121 adding new sections 101(5), 103(b), 113(c)(2), 114, 204(c)(2)(B), 404-05, 503(b)(3), 504, and 601(c) and (f) to the Agricultural Trade Act of 1978, of the Senate bill, and those portions of section 1221, adding new sections 101(4), 105(a), 105, 203 and 402(c) and (f) to the Agricultural Tradt Act of 1978, of the House amendment, and modifications committed to conference: Messrs. Espy, Harris, Sarpalius, Emerson, and Robert F. (Bob) Smith.

From the Committee on Education and Labor, for consideration of sections 1496(b), 1498-1498N, 1965, 1966, 2471, 2474, 2476, 2479 of the Senate bill, and sections 1382, 1774, 1842(b) of the House amendment, and modifications committed to conference: Messrs. Hawkins, Ford of Michigan, Gaydos, Goodling, and Tauke.

From the Committee on Science, Space, and Technology, for consideration of sections 1921-30, 1940, and 1944-46 of the Senate bill, and modifications committed to conference: Messrs. Roe, Scheuer, McMillen of Maryland, Walker, and Ms. Schneider.

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 1350 the Senate bill, and modifications committed to conference: Messers. Erdreich, Kanjorski, Carper, Bereuter, and Roth.

In the appointment of conferees previously announced from the Committee on Agriculture:

The appointment of Mr. Condit is amended by deleting section 1215 from the exception for title XII of the House amendment.

The appointment for Ms. Long is amended by deleting section 1215.

Mr. Robert F. (Bob) Smith is appointed in lieu of Mr. Marlenee for title XII of the Senate bill and title XVI of the House amendment.

Mr. Morrison of Washington is appointed in lieu of Mr. Marlenee for title XIII of the Senate bill and title XXIX of the House amendment.

Mr. Grandy is appointed in lieu of Mr. Hopkins for all provisions except title VII and section 1962 of the Senate bill, and title VIII and section 1249 of the House amendment, on which Mr. Hopkins will remain a conferee, and Mr. Lewis of Florida is appointed in lieu of Mr. Hopkins for subtitle A of title XVII of the Senate bill and title XIV of the House amendment.

The Clerk will notify the Senate of the change in conferees.

☐ 1010

PRIVATE CALENDAR

The SPEAKER pro tempore (Mr. Montgomery). This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

WILSON JOHAN SHERROUSE

The Clerk called the Senate bill (S. 1814) for the relief of Wilson Johan Sherrouse.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1814

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Wilson Johan Sherrouse shall be held and considered to be a child within the meaning of section 101(b)(1)(E) of such Act upon approval of a petition filed on his behalf by Victoria Sherrouse, a citizen of the United States, pursuant to section 204 of such Act. No natural parent, brother, or sister, of Wilson Johan Sherrouse shall, by virtue of such relationship, be accorded any right, privilege or status under such Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FIONA LAMONT DuVAL

The Clerk called the bill (H.R. 3920) for the relief of Fiona Lamont DuVal.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MICHAEL WU

The Clerk called the bill (H.R. 2863) for the relief of Michael Wu.

There being no objection, the Clerk read the bill as follows:

H.R. 2863

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding paragraph (2) of section 312 of the Immigration and Naturalization Act (8 U.S.C. 1423(2); relating to the requirement of a demonstration of a knowledge and understanding of the fundamentals, and of the principles and form of government, of the United States), Michael Wu may be naturalized at any time after the date of enactment of this Act if he is otherwise eligible for naturalization under the Immigration and Naturalization Act.

With the following committee amendment:

Committee amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. NATURALIZATION OF MICHAEL WU.

(a) In General.—For purposes of section 322(a) of the Immigration and Nationality Act, Michael Wu shall be considered a child under 18 years of ago.

(b) Deadline for Application.—Subsection (a) shall apply only if a petition under section 322(a) is filed by Chi Shiang Wu or Caroline Wu, citizens of the United States, within 2 years after the date of the enactment to this Act.

Mr. SENSENBRENNER (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SONANONG POONPIPAT (LATCH)

The Clerk called the bill (H.R. 2961) for the relief of Sonanong Poonpipat (Latch).

There being on objection, the Clerk read the bill as follows:

H.R. 2961

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMMEDIATE RELATIVE STATUS FOR SONANONG POONPIPAT (LATCH).

(a) IN GENERAL.—Subject to subsection (b), for the purposes of the Immigration and Nationality Act, Sonanong Poonpipat (Latch), the widow of a citizen of the United States, shall be considered to be an immediate relative within the meaning of section 201(b) of such Act, and the provisions of section 204 of such Act shall not be applicable in this case.

(b) DEADLINE FOR APPLICATION.—Subsection (a) shall only apply if Sonanong Poonpipat (Latch) applies to the Attorney General for relief pursuant to such subsection within 2 years after the date of the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PAULA GRZYB

The Clerk called the Senate bill (S. 1683) for the relief of Paula Grzyb.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1683

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMMEDIATE RELATIVE STATUS FOR PAULA GRZYB.

(a) IN GENERAL.—Subject to subsection (b), for the purposes of the Immigration and Nationality Act, Paula Grzyb, the stepmother of a citizen of the United States, shall be considered to be an immediate relative within the meaning of section 201(b) of such Act, and the provisions of section 204 of such Act shall not be applicable in this case.

(b) DEADLINE FOR APPLICATION.—Subsection (a) shall only apply if Paula Grzyb applies for an immigration visa pursuant to such subsection within two years after the date of the enactment of this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARIA LUISA ANDERSON

The Clerk called the Senate bill (S. 1229) for the relief of Maria Luisa Anderson.

There being no objection, the Clerk read the Senate bill as follows:

S. 1229

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That in the administration of the Immigration and Nationality Act, Maria Luisa Anderson shall be classified as a child within the meaning of section 101(b)(1)(E) of that Act (8 U.S.C. 1101(b)(1)(E)), upon filing of a petition filed on her behalf by her adoptive parents, citizens of the United States, pursuant to section 204 of that Act (8 U.S.C. 1154). No natural parent, brother, or sister, if any, of Maria Luisa Anderson shall, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CATHERINE ANNE BARDOLE AKA KATHLEEN BARDOLE, ET AL

The Clerk called the bill (H.R. 2071) for the relief of Catherine Anne Bardole aka Kathleen Bardole and her minor children, Lisa Anne Farley, and Elaine Mary Farley.

There being no objection, the Clerk read the bill as follows:

H.R. 2071

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That (a) subject to subsection (b), for the purposes of the Immigration and Nationality Act, Catherine Anne Bardole, Lisa Anne Farley, and Elaine Mary Farley shall be considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees.

(b) Subsection (a) shall only apply to a beneficiary under that subsection if the beneficiary applies to the Attorney General for permanent residence status under that subsection within two years after the date of enactment of this Act.

(c) Upon the granting of permanent residence to a beneficiary under subsection (a), the Secretary of State shall instruct the proper office to deduct one number from the total number of immigrant visas which are made available to natives of the country of the beneficiary's birth under section 203(a) of the Immigration and Nationality Act or, if section 202(e) of that Act is applicable to the country, from the total number of immigrant visas which are made available to natives of such country under that section.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MRS. JOAN R. DARONCO

The Clerk called the bill (H.R. 3134) for the relief of Mrs. Joan R. Daronco.

There being no objection, the Clerk read the bill, as follows:

H.R. 3134

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDITABLE CIVILIAN SERVICE.

(a) TIME OF CREDITABLE CIVILIAN SERVICE.—For the purposes of the entitlement of Mrs. Joan R. Daronco, of Pelham, New York, the widow of Judge Richard Daronco (a deceased judge of the United States District Court for the Southern District of New York), to benefits under section 376 of title 28, United States Code, Richard Daronco shall be deemed—

(1) to have completed eighteen months of creditable civilian service as a judicial official prior to his death on May 21, 1988, in addition to any other creditable civilian service, computed in accordance with subsection (k) of that section, he may have had;

(2) to have actually made the salary deductions as provided by subsection (b) of that section for those eighteen months; and

(3) to have received the salary paid to Federal district court judges for the eighteen-month period ending on the date of his death.

(b) EFFECTIVE DATE.—Subject to section 6, this section shall be effective as of May 21, 1988.

SEC. 2. LUMP SUM PAYMENT.

(a) APPROPRIATION OF LUMP-SUM PAYMENT.—Subject to section 4, the Secretary of the Treasury shall pay to Joan Daronco, out of any money in the Treasury not otherwise appropriated, an amount equal to the amount determined pursuant to paragraph (1) of section 3 less the amount determined pursuant to paragraph (2) of section 3. If the amount determined pursuant to this subsection is less than zero, the Secretary shall withhold any monthly annuity Joan Daronco may be entitled to under this Act until such deficit is eliminated.

(b) PAYMENT INTO FUND.—The Secretary of the Treasury shall pay into the Judicial Survivors' Annuity Fund, out of any money in the Treasury not otherwise appropriated, an amount equal to the amount determined pursuant to paragraph (2) of section 3.

(c) LIMITATION OF ATTORNEYS' AND AGENTS' FEES.—It shall be unlawful for an amount of more than 10 per centum of the amount determined pursuant to paragraph (1) of section 3 to be paid to or received by any attorney or agent for any service rendered in connection with the benefits provided by this Act. Any individual who is found guilty of a violation of this subsection shall be fined not more than $1,000.

SEC. 3. DETERMINATION OF AMOUNT OF PAYMENT.

The Director of the Administrative Office of the United States Courts shall determine, and certify to the Secretary of the Treasury, each of the following:

(1) AMOUNT OF ANNUITIES.—The amount equal to the total amount of annuities Joan Daronco would have received under section 1(a) for the period beginning on the effective date of section 1 and ending on the last day of the month which follows the month which this Act takes effect.

(2) AMOUNT OF SALARY DEDUCTIONS.—The amount equal to the sum of—

(A) the total of salary deductions, as provided by section 376(b) of title 28, United

States Code, that would have been deducted and withheld from the salary Judge Richard Daronco is deemed to have received under section 1(a)(3) had such deductions and withholdings been made for eighteen months prior to his death on May 21, 1988; and

(B) the amount of interest, computed at 3 per centum per annum compounded on December 31 of each year, that would accrue on the amount determined pursuant to subparagraph (A) of this paragraph.

SEC. 4. APPLICATION FOR ANNUITIES.

The lump sum payment, and any annuity, Joan Daronco is entitled to be paid pursuant to section 2(a) shall be paid only if she files an application for such payment with the Secretary of the Treasury within one year after the date of enactment of this Act.

SEC. 5. OTHER BENEFITS.

Benefits under this Act shall be paid notwithstanding Joan Daronco's eligibility or receipt of other Federal, State, or local benefits.

SEC. 6. EFFECTIVE DATE.

This Act shall be effective on the date the application referred to in section 4 is filed.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NORMAN R. RICKS

The Clerk called the bill (H.R. 5001) for the relief of Norman R. Ricks.

There being no objection, the Clerk read the bill, as follows:

H.R. 5001

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REIMBURSEMENT FOR REAL ESTATE EXPENSES.

The relocation of Norman R. Ricks by the National Oceanic and Atmospheric Administration in June 1989 shall be considered to be a transfer from 1 official station to another for which reimbursement is permitted under section 5724(a)(4) of title 5, United States Code.

SEC. 2. LIMITATIONS ON AGENTS AND ATTORNEYS FEES.

No amount exceeding 10 percent of a payment made pursuant to section 1 may be paid to or received by any agent or attorney in consideration for services rendered in connection with the payment. Any person who violates the provisions of this section shall be guilty of an infraction and shall be subject to a fine in the amount provided under title 18, United States Code.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RODNEY E. HOOVER

The Clerk called the bill (H.R. 2937) for the relief of Rodney E. Hoover.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

JOHN BARREN

The Clerk called the bill (H.R. 4356) for the relief of John Barren.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin.

There was no objection.

BANFI PRODUCTS CORP.

The Clerk called the resolution (H. Res. 308) referring the bill (H.R. 3894) for the relief of Banfi Products Corp. to the chief judge of the U.S. Claims Court.

There being no objection, the Clerk read the resolution, as follows:

H. RES. 308

Resolved, That the bill (H.R. 3894) entitled, "A bill for the relief of Banfi Products Corporation", now pending in the House of Representatives, together with all accompanying papers, is referred to the chief judge of the United States Claims Court pursuant to section 1492 of title 28, United States Code, for proceedings in accordance with section 2509 of such title.

With the following committee amendment:

Committee amendment: Page 1, line 1, strike "3894" and insert "5148".

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

The resolution was agreed to.

The title was amended so as to read: "Resolution referring the bill (H.R. 5148) for the relief of Banfi Products Corporation to the chief judge of the United States Claims Court."

A motion to reconsider was laid on the table.

TRANSFERRING A PARCEL OF LAND LOCATED IN THE LOS PADRES NATIONAL FOREST, CA

The Clerk called the bill (H.R. 1330) to transfer a parcel of land located in the Los Padres National Forest, CA.

There being no objection, the Clerk read the bill as follows:

H.R. 1330

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND TRANSFER.

The Secretary of Agriculture shall transfer, without consideration, to Florence F. Brown of Goleta, California, all right, title, and interest of the United States in and to the parcel of land located in the Los Padres National Forest which is comprised of approximately 40 acres and more particularly described as T. 5 N., R. 30 W., S.B.M., Section 18, NE¼ SW¼.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RICHARD SAUNDERS

The Clerk called the Senate bill (S 1128) for the relief of Richard Saunders.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1128

Be it enacted by the Senate and House o Representatives of the United States o America in Congress assembled,

SECTION 1. Notwithstanding the Act o March 4, 1931 (46 Stat. 1530), or Executive Order 5843 or any land classification based thereon, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to convey to Richard Saunders (hereinafter referred to as the "beneficiary"), subject to the provisions o section 2, approximately 15.69 acres of land in township 6 south, range 32 east, Mount Diablo Meridian, section 21, northeast ¼, in Inyo County, California, as depicted on map entitled "BLM Land Conveyance to Richard Saunders/Inyo County, California" and dated April, 1990.

SEC. 2. The Secretary shall convey the land referred to in section 1 upon receipt o the fair market value of such land, as determined by the Secretary. Such land shall be conveyed subject to valid existing rights and any documentation of conveyance shall contain a reservation of all mineral rights to the United States. The beneficiary shall reimburse the Secretary for all administrative costs associated with the implementation o this Act, including, but not limited to the costs of a survey, if required.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WE NEED PRESIDENTIAL LEADERSHIP

(Mr. FAZIO asked and was given permission to address the House for minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, last night on Air Force One, when asked about the reaction of senior citizens to cuts in Medicare, President Bush said, " just didn't have the horses to do what I wanted in this budget agreement." Well, just what would the President have done if he had his horses?

He would have reduced benefits for all retirees including Social Security recipients by an additional $40 billion a lot more than the summit package He would have given additional tax breaks to the wealthiest among us while imposing still higher taxes on middle-income taxpayers. In fact those making more than $200,000 year would have received another $26,000 tax break.

He would have extracted still more money from the hide of Medicare beneficiaries, another $6 billion more than agreed to in the summit package

It is all right here in the administration's working papers in the summit The President needs to speak to the American people and to his own party's conference in the House.

If this compromise package is to pass, we need his leadership. We do not need recriminations.

SUMMIT VIOLATES 40-YEAR PACT WITH THE AMERICAN PEOPLE

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, the budget summit violates a 40-year compact between Congress and the American people. We promised the American people that, "We will impose a gas tax on you. It will be paid for by the users of our highways. That money will go into a trust fund to build a better transportation system for America, the fairest tax there is, and the users pay."

Now this summit comes along and says, "No, we are going to break that promise. We are going to put a 12-cent gasoline and petroleum tax on you." That is going to raise $57 billion, and an aviation tax that raises $12 billion, a total of $69 billion, or, get this, 42 percent of all the taxes raised come out of the transportation sector even though we have a crumbling infrastructure that we have got to deal with.

□ 1020

This is supposedly unfair to hit one sector of our economy so hard. Where is Wall Street on this agreement? Why not a transfer tax on stocks and bonds? Yet there are special breaks in this agreement for those who were luckiest to serve on the summit. Special break for Kansas. It escapes taxes on its airline industry. I salute the senior Senator from Kansas. A special break for Texas, a billion dollar break for oil drilling. Yes, $4 billion for the whole country, Texas at least a billion. Yes, yes, the senior Senator from Texas has buried in this bill a requirement that 90 percent of all highway dollars go back to the State from which they came without regard for what our transportation needs are. Guess who benefits most from this provision? Yes, it is Texas, even though 30 States lose.

This is a bad agreement. We should defeat it, set aside Gramm-Rudman, and start over.

ALTERNATE PLAN OFFERED

(Mr. INHOFE asked and was given permission to address the House for 1 minute.)

Mr. INHOFE. Mr. Speaker, it seems to be very popular to budget summit bash these days, and I guess I have to join that group because I cannot go for the agreement that they came out with.

However, they did work hard. They tried. The President cannot be blamed. He was in an uphill battle. I think we all know that.

I think the two objectionable things about the products that came out. No. 1, the gasoline tax increase which is on the backs of every American, rich, the poor. If anything, it is regressive. Second, the cuts in Medicare, which balance our budget on the backs of the senior citizens of this country. I find these two things I cannot support.

If we add these together over the next 5 years, they project these would bring a total of $118 billion. I have sent a letter out to Members, Mr. Speaker, offering an alternative. Instead of that, instead of raising the gas tax, instead of cutting the Medicare, I propose that we make a 12½-percent cut in the nondefense discretionary accounts, and leave it up to the appropriate committee in Congress or the budgeteers, whoever wants to do it, to decide which should be cut. A 12½ percent over the next 5 years would produce the $188 billion, and it would be a wash. I would find that more acceptable, and I think the American people would, too.

FURTHER DEFENSE CUTS WOULD IMPROVE BUDGET PACKAGE FOR AMERICANS

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, we have heard the gentleman from California [Mr. FAZIO] talk about what the President said about not "having the horses" in Congress. What he also said in response to the question, why was he proposing the deep Medicare cuts was, "You can't keep everybody happy," so he chose to keep the defense establishment happy," so he chose to keep the defense establishment happy. What the heck, we are only giving back in defense less than what defense received in 2 years of increases in the first 2 years of Ronald Reagan's term, but we are going to cut Medicare, which has been cut every year, another $60 billion.

The President did not have the horses to accomplish what he wanted. What he wanted was to keep the tax breaks for the rich and to take more out of, as the previous speaker just said, nondefense discretionary spending like that on children, poor people, Meals on Wheels. Just name it, that is what he wanted to cut.

The Democrats were able to stave that off, but frankly in staving that off, I think we have a package that is, for the American public a lousy package, too. We did not have to have excise taxes. We did not have to have raises in gasolines taxes. All we had to do was cut the defense budget a little bit more to accommodate what is a new world reality, but no, the President did not want that. The gentleman is right, he did not have the horses. Nobody wanted to pull his wagon.

INTRODUCTION OF PETROLEUM PRODUCERS BURDENSHARING ACT OF 1990

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, our economy is bleeding and the big oil sharks have gone on a feeding frenzy. Listen to what the Department of Energy says about how high oil prices affect our country.

DOE tells us that an oil price hike to just $30 per barrel $6 less than the current price means a 1.1-percent loss in GNP, a 0.5-percent increase in unemployment, and a total economic loss of approximately $94 billion.

Sound bad? It is, 1.1 percent of our GNP is approximately $50 billion. And a 0.5-percent increase in unemployment means the loss of about half a million jobs.

Big oil's making a killing at the expense of the American people. We know about the price hikes at the pump. We know that heating oil's up over a dollar a gallon. But like the DOE says, it's not only the consumers who are getting skinned. It is the whole economy.

Mr. Speaker, even the oil companies admit these hikes have nothing to do with a shortage—the chairman of British Petroleum himself said last week that supply and demand do not justify them.

And if we tell the oil companies that price gouging won't get them anywhere—if we levy a windfall profit tax—maybe we can rescue our economy before more damage is done. Cosponsor the Petroleum Producers Burden Sharing Act of 1990.

THANK GOODNESS DEMOCRATS CONTROL CONGRESS

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, the President was lamenting last night that he did not "have the horses" in Congress to get everything he wanted in the budget summit agreement.

What did the President want in this agreement? We all know it is not working papers, even deeper Medicare cuts to the elderly, cuts in Social Security, cuts in child support enforcement, cuts in foster care, cuts in the School Lunch Program. And all the while, the President was participating in the

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World Summit for Children, saying "The noblest thing we can do is give our children a bright future." And then at midnight on Saturday, when $1 billion was needed, the President's horses were fighting for lower taxes on yachts and furs. They succeeded in getting luxury airplanes out of the luxury tax.

But the cruelest of all, and thank God he did not have the horses to do this, the President's men proposed $1 billion of cuts from the poorest, most vulnerable in this Nation, children with crippling disabilities. These children had been protected in the Supreme Court case, the Zebley case. The President's horses wanted to overturn that case.

So Mr. President, your horses are crueler horses, and I, for one, am glad that you did not have more of them. I, for one, am glad that this Congress is controlled by the Democrats.

PARLIAMENTARY INQUIRY

Mr. WALKER. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman will state his parliamentary inquiry.

Mr. WALKER. Is it not the policy of the House that the Members are to address the Chair, and not persons outside of the body, including the President of the United States?

The SPEAKER pro tempore. The gentleman is correct.

Mr. WALKER. And further parliamentary inquiry, Mr. Speaker, is it not true that several Members have been reminded of that rather consistently, and seem to disobey it regularly on the House floor?

The SPEAKER pro tempore. The Chair has not been here during the 1 minutes for several weeks.

Mr. WALKER. I thank the Chair, but the caution of the Chair—further parliamentary inquiry. If the caution of the Chair is not obeyed by Members, is there any action that the Chair can take?

The SPEAKER pro tempore. The Chair will make that decision if this would happen again, and the gentleman would call it to the Chair's attention.

Mr. WALKER. I thank the Chair.

PORK ON THE PLATE AT SUMMIT

(Mr. THOMAS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of California. Mr. Speaker, the Washington Post tells us, "Prime rib was on the menu at the summit, but it is clear that pork was on the plate."

□ 1030

While congressional leaders were "crafting plans to save America" they could not resist wetting their fingers to pick up crumbs off the tablecloth.

Reading some of the tax portions of the summit agreement tells you more about where those congressional leaders were from than it does about the needs of America.

For example, why is a $31,000 car a luxury, but a $90,000 yacht is not?

And why is a $31,000 car a luxury, a $101,000 yacht a luxury, but an airplane at any price is not a luxury?

Summiteers, if you want a majority of the House to vote for this package, you have two choices: Put our pork in, or take yours out.

LEADERSHIP AT LONG LAST THAT DIDN'T LAST LONG

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, when the President stood with the congresssional leadership announcing a budget summit agreement, he was fulfilling one of the promises of his Presidency. He was at long last giving fiscal leadership to America, but it did not last long. Within hours he was speculating about how it would have been different if he had had his way, his own plan for solving our fiscal mess.

What was his plan? Devastating deep cuts in Medicare, postponing Social Security COLA's, reducing school lunches for children and housing programs for the elderly.

Yes, Mr. Speaker, the President did not have his way with the budget, and because of that, senior citizens, students, and the vulnerable were saved ravaging cuts, cuts which I see are bringing laughter to Republican Members of this House, but none to Democrats.

There is still time. If the President is going to lead us out of this fiscal difficulty, he has to start being President again and stop being just the leader of the Republican Party.

ADMINISTRATION'S PAYOFF TO TURKEY, 20,000 LOST U.S. TEXTILE AND APPAREL JOBS

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, The Bush administration is considering giving in to Turkey's request and doubling Turkey's textile and apparel quotas into the United States market. This payoff was requested by the Turkish President yesterday and would increase Turkey's guaranteed access to the United States textile and apparel market to over 400 millio square yards.

By doubling Turkey's share, the ac ministration would trade away th jobs of 20,000 United States textil and apparel workers—the number c workers required to produce 200 mi lion square yards of textile products.

The tragic irony of the situation that under the Textile, Apparel, an Footwear Trade Act of 1990 legislatio which President Bush intends to vet Turkey's demands could have bee met without costing any United State jobs. Under the bill, the administra tion can allocate textile and appare quotas in any way it chooses—rewar ing friends, taking away from other transferring unused quotas.

Unfortunately, President Bush ap parently prefers to take jobs and pro duction from U.S. workers to rewar or pay for favors of other goverr ments.

TIME TO FISH OR CUT BAIT ON THE BUDGET

(Mr. TALLON asked and was give permission to address the House for minute and to revise and extend hi remarks.)

Mr. TALLON. Mr. Speaker, thi budget package is a bitter pill to swa low for us all, but it is time to fish c cut bait.

There are only two games in tow right now to take care of our fisc woes—automatic across the board cut or the bipartisan budget package.

Out of the choices available, the ne gotiated budget package is the on that offers managed controlled defic reduction alternatives versus the dra matic automatic cuts that could wrea financial pandemonium on our alread soft economy.

Virtually every American is going t feel some effect of the widespread de icit reduction attempts in the form c revenue increases and spending cuts.

This package offers a number c mandates that I do not like; howeve reality demands that we do somethin and do something now.

There is no denying that we are at fiscal crisis point—we can eithe manage the crisis or let it manage u

BUDGET HAS NO REAL DEFICIT REDUCTION

(Mr. HENRY asked and was give permission to address the House for minute and to revise and extend hi remarks.)

Mr. HENRY. Mr. Speaker, when th negotiators met yesterday they at prime rib and they doled out pork fo their own districts. They gave beans t the rest of the American people, bu with the beans came gas.

Now, you read the headlines and i says, "Deficit reduction accor reached," but there is no deficit reduction. Taxes go up. Spending goes up. The deficit goes up.

In fact, the capital cost of the deficit for this 1 fiscal year alone will exceed the S&L bailout capital cost four times.

Now, the American people are just beginning to understand what S&L bailout cost is going to do to them. This accord in 1 year is four times the cost of the capital cost we put into the S&L thus far.

Let us remember that there was not one vote for the phony numbers in the original Presidential budget sent over here in the spring.

Then let us also remember this House went ahead and passed budget bills without a budget resolution.

Now, if we are going to deal with this crisis, we have to address the phoniness of the process, and this accord presumes gasoline at the pump selling for less than $1 a gallon. I will vote yes on this accord when I see gasoline at less than $1 a gallon at the pump.

BALANCE THE BUDGET WITHOUT TAXING MOM AND DAD TO DEATH

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, defense spending doubled the national debt and the deficit doubled. It is as simple as that. Let us not make brain surgery out of this.

Everybody is saying we have a better defense. I want to just caution you about a GAO report that says that $12 billion spent on the Apache antitank helicopters was worthless because they cannot fly for more than 2½ hours in peacetime, no less. Their rotors were supposed to last 1,600 hours, but they only last and turn about 140.

Now, figure this out. We got generals giving away battle secrets. We got missiles that cannot fly straight. We have helicopters, an Apache helicopter that Geronimo literally would not be caught dead in.

Let us cut the defense budget down to $250 billion.

Let us cut NATO spending and quit paying for the protection of Japan and Germany and let us balance the budget without taxing mom and dad.

What the hell is wrong with Congress?

CRUELEST PORTION OF SUMMIT PROPOSAL IS HIT ON SOCIAL SECURITY RECIPIENTS

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, the cruelest portion of the summit proposal is the $60 billion hit it makes upon Social Security recipients by raising Medicare premiums and deductibles. Tragically, Social Security is all that millions of Americans have to exist on. As these folks age, their health bills escalate. If this reduction of their incomes is approved by this Congress, tens of thousands of our citizens will be destitute and fall below the poverty line losing their dignity and independence. Why have the committees of this House abandoned their constitutional responsibility to recommend income and outgo for the consideration of our whole membership? Something has gone terribly wrong here and we, us, this House, needs to get it straight and quick.

OVERRIDE VETO OF TEXTILE BILL

(Mrs. PATTERSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. PATTERSON. Mr. Speaker, one day last week I took my 13-year-old daughter shopping. She bought several items. The most expensive item she bought was a simple cotton shirt. It was the only item I allowed her to buy that was not made in the U.S.A. It was made in China, China where human rights abuses are rampant and where wages are slave wages.

At the same time, a shirt factory in my district is closed, a factory where shirts were made of better quality and sold for a cheaper price. Those people cannot buy the clothes that I bought for my children because they are out of work.

Now, we hear from retailers, "Oh, but we need to have imports." Let me tell you, last week alone in my district 300 textile and apparel people lost jobs. I know of no retail business in my district that employs 300 people.

So I say to our President, please do not veto our bill. Think about the American worker and the American consumer.

If the President does veto the bill, I urge my colleagues, vote for the American worker and for the American consumer. Vote to override the textile veto.

□ 1040

LET US STOP POLITICS AS USUAL

(Mr. SMITH of Vermont asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Vermont. Mr. Speaker, according to today's Burlington Free Press, the budget agreement is neither very brave nor very wise, but compared to the ideas of its instant congressional critics the agreement seems to be the bravest and wisest proposal going.

Said one Democratic Senator worried about reelection, "I may have to vote against it and hope it passes." Voters must refuse to countenance such hypocrisy, that is what they say.

There are parts of this budget summit agreement that I do not like, but the failure to pass it would be far worse for America. We must choose between devastating budget cuts and economic decline on the one hand and economic stability, jobs, and deficit reduction on the other. It is a fundamental test of whether the system works, whether this time we can bridge the widening gap between politics and usual and governing this country. The budget deficit is spinning out of control, and our failure to solve it risks a depression. Skyrocketing interest rates, economic decline, massive unemployment, those are the costs of politics as usual this time.

How can we ask our American men and women to protect the world's security in the Middle East if we are not willing to protect America's security here in Congress? That, Mr. Speaker, is what is at stake.

OMNIOUS TALK OF LINKAGE AT U.N. GENERAL ASSEMBLY DOES NOTHING MORE THAN ENCOURAGE VIOLENCE

(Mrs. LOWEY of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LOWEY of New York. Mr. Speaker, recent references at the United Nations to a possible connection between an Iraqi pullout from Kuwait and settlement of the differences between Palestinians and Israel send the wrong message to international renegades like Saddam Hussein. Any implication of linkage at all between outrageous acts like the invasion of Kuwait and the resolution of other disputes will only encourage further acts of horror and terror.

French President Mitterand last week spoke of connections between the Kuwaiti occupation and the West Bank. Yesterday, President Bush made veiled references to opportunities, with specific reference to the conflict "that divides Arabs and Israel." Administration officials deny that implies any linkage. But I call on the President today to reiterate the unambiguous terms what has heretofore been U.S. policy: there is not and never will be any linkage between ending the Iraqi's illegal occupation of Kuwait and settlement of other differences in the region.

BUDGET CONTAINS SECOND LARGEST TAX INCREASE IN AMERICAN HISTORY

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, this House will soon consider a budget package whose primary distinction is that it contains the second largest tax increase in American history. As our economy teeters on the brink of recession, Government by committee has come up with the bright idea of massively increasing taxes. Mr. Speaker, a patient cannot be bled back to health; our economy cannot be taxed into expansion. Too much bleeding can kill the patient; too high a tax load will kill the economic vitality of this country.

This compromise is a roadmap to recession; it should be opposed vigorously.

We hear a chorus of big spenders singing the tune that our high level of deficit spending can be traced back to the Reagan tax cuts of the last decade. Some of us remember the economic decline, the high interest rates, the inflation, the malaise and stagflation of the days when tax policy was determined by liberal big spenders.

Mr. Speaker, they have been chipping away at the Reagan policy and, as they have, economic strength has been bled from our private sector.

If we had the same level of economic growth as we did under the Reagan policy in 1985, our deficit spending problem would be under control. Let us go to growth-oriented policies instead of high taxes for the American people.

AMERICAN TROOPS IN THE PERSIAN GULF SUBJECT TO NEW FORM OF CHEMICAL WARFARE

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, American troops in the Persian Gulf could be subjected to a new form of chemical warfare with the full approval of the U.S. Department of Defense.

Brown & Williamson of Louisville, KY, recently announced it was shipping free cigarettes to the U.S. troops in the Middle East to show their company's support and patriotism.

So, American servicemen, bored silly in the desert, will be invited to pass the time developing a nicotine addiction. Then they can return home like their fathers and grandfathers who served in World War II, hooked on smoking. What a magnificent show of patriotism by Brown & Williamson, to addict America's young men and women in uniform to a product which causes emphysema, lung cancer, heart disease, and stroke. What a stirring love of country for Brown & Williamson, to introduce our troops to a deadly habit which claims 1,000 American lives from tobacco-related diseases.

If Brown & Williamson really wants to help America's cause overseas, why don't they send their lethal products to the Iraqi army?

MEDICARE CUTS IN BUDGET PACKAGE

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, the budget package that has been handed to Congress is a horrible one that places the majority of deficit reduction on the backs of those who can least afford to pay for it. It is true we must all make sacrifices, but the American people will only agree to a budget deal that is sensible and fair. This package is neither.

I am especially upset over the proposal to cut Medicare. Here we are proposing to cut benefits and raise premiums in order to balance the budget. Raising taxes on seniors and cutting their benefits at the same time is wrong. The senior citizens of this country are already paying too much, and they are already burdened with incredible costs. We should not be placing a higher burden on their backs but instead should be looking forward to ways to solve the problems that already exist.

Additionally, this bill is geographically biased.

In Florida, the State that I am from, it is very dependent upon gasoline; there is a tax. In Florida, the State that I am from, there is a very heavy population of veterans. There is a $2.7 billion cut there. In addition, of course, we have 2.5 million people, 5 times the population of the State of Wyoming, who receive Medicare benefits. So it is geographically biased and it is an excessive burden on my State as it is on many of the States.

LET US OVERRIDE THE PRESIDENT'S VETO ON THE TEXTILE BILL

(Mrs. LLOYD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LLOYD. Mr. Speaker, in all probability the House will be asked to reconsider the textile bill this week as the President is likely to veto the bill.

I ask my colleagues to seriously consider the devastating plight of the textile industry.

Ninety-one American textile apparel plants have closed in just 9 months. This decline in the textile business this year has made its impact on community after community in this Nation.

So far, there have been 47 textile plants shut forever, 45 apparel plants shut down forever.

The total of persons involved in these closings alone amounted to 16,000 workers.

With busines conditions as poor as they are, it is unlikely that these people will ever be reemployed in their former jobs.

There may well be more than the numbers that are actually reported because there are so many mom-and-pop operations that merely disappear.

Then these plant closings have such a devastating impact on community after community. The alternatives to unemployment are almost nonexistent. Their groceries have to be paid, their doctors have to be paid, and on and on.

So far this year, over 70,000 textile apparel workers have been laid off. Most of them are probably permanent. In fact, over the past 5 or 6 years, we can count 300 textile plants alone that have disappeared from production. It is a loss not only to these communities but to our Nation as a whole. It increases our trade deficit and reduces our gross national product; therefore, it is a loss and has an impact on the lives of all Americans.

I ask my colleagues to override the veto.

□ 1050

THE 2-CENT TAX ON HEATING OIL SHOULD BE WHITED OUT, TOO

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, these are difficult days for all of us. We are trying to balance representing the good of the Nation with representing and looking out for our home districts.

To add a third element to this, we must now try to understand why one individual would look to zap one particular part of the country. This is something beyond the bounds of what we should be involved in here.

Mr. Speaker, we cannot allow the 2-cent tax on home heating oil to stand as part of the deal. My understanding is that the exemption was whited out at the request of one individual in the other body.

We in New England do not just arbitrarily choose whether or not we heat our homes. If we do not turn on the heat, the pipes freeze. We just cannot say to the elderly, "Put on a sweater, and tough it out."

We in New England are facing the possibility of tripling our home heating bills. We are fighting to have low-income assistance for home heating oil increased, not decreased.

So, Mr. Speaker, I stand here today saying, "If one can defend petrochemicals being exempted from that 2-cent tax, it's beyond my understanding why we can't go back to the original piece of paper that said the 2-cent tax on heating oil is not part of the deal." I will stand here and say, "That only makes good sense, Mr. Speaker."

REPORT ON H.R. 5769, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION BILL, 1991

Mr. YATES, from the Committee on Appropriations, submitted a privileged report (Rept. No. 101-789) on the bill (H.R. 5769) making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1991. The bill provides regular annual appropriations for the Department of the Interior (except the Bureau of Reclamation) and for other related agencies, including the Forest Service, the Department of Energy, the Smithsonian Institute, and the National Foundation on the Arts and the Humanities which was referred to the Union Calendar and ordered to be printed.

Mr. CONTE reserved all points of order on the bill.

THE BATTLEGROUND FOR 1992

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michgan. Mr. Speaker, make no mistake. Reflecting who controls the White House, the budget summit agreement is more Republican than Democratic. Just look at who pays for the economic mess created by the 10 years of supply-side economics. Seniors face higher medical bills. Workers would pay more for gas, beer, and cigarettes. And the unemployed will wait longer for their checks.

However, Mr. Speaker, the wealthy will hardly feel the pain. What else should we expect from an administration that came to office on the pledge of no new taxes, for the very wealthy, as it turns out. John Sununu was an architect of that pledge and now claims the President has kept his promise. Basic tax rates for the wealthy are sacred, while taxes on middle class people will be higher.

This may well be the best deal that could be achieved under the circumstances. The budget deficit imperils this Nation, and this country must act now.

But this agreement cannot obscure the deep differences between Republicans and Democrats. The rhetoric of Republicans has been economic growth; their policies have meant economic decline.

There will be another day. Our differences will be the battleground for 1992.

GUNS FOR HIRE

(Mr. HARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARRIS. Mr. Speaker, the Japanese say that influence in Washington is for sale. The Japanese should know for sure, they have brought a lot in both places. The British think America has the most advanced influence-peddling industry in the world. Washington's culture of influence-for-hire is uniquely open to all buyers, foreign and domestic. Its lawful ways of corrupting public policy remain unrivaled. The Dutch, experienced internationalists for centuries, believe that a big part of the problem is that Americans can be bought so easily. We don't even pretend to be troubled by it all. For Americans, it is becoming more obvious that the real scandal in Washington is not what is done illegally, but what is done legally. Where else do top government officials become other nations' top lobbyists? What other nations have foreign-funded think tanks that determine these nation's long-term role in the world economy? What other nation tolerates so much foreign interference in its domestic affairs? As we get ready to vote on the veto override, perhaps we should ask how many of the thousands of foreign agents in Washington are lined up for and how many are lined up against the Textile, Apparel and Footwear Trade Act of 1990? Whose interests are your allies paid to represent? Override this veto.

THE CLEAN AIR BILL IS OUT OF WHACK WITH REALITY

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, a recent article in the Washington Post says that scientists have gathered preliminary evidence that sulfur dioxide, which is the major component part of acid rain, may be, in fact, helping to reduce global warming.

I ask my colleagues, "You hear that; reducing global warming"?

Perhaps, Mr. Speaker, this is only preliminary. The point is that we do not have all of the facts at our finger tips to pass a clean air bill.

The NAPAP study, which cost the taxpayers $600 million, also supports this by saying, "There is no environmental crisis."

Let us take a look at it. I think that Congress is rushing to judgment far too quickly, costing American businesses and residences $50 billion a year, and wait until we start getting our utility bills. Each week more truth and fact comes forth to support this.

Mr. Speaker, the conference committee is in complete disarray. They do not understand how to be able to deal with a bill that is completely out of whack with reality.

CIVIL RIGHTS ACT OF 1990 SHOULD BECOME LAW

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, either today, or very soon, the House and the other body will come to grips with the conference report on the Civil Rights Act of 1990. I rise in support of that conference report. I urge my colleagues in the House to support it, and I hope the Members of the other body will as well.

Everyone agrees that something has to be done with respect to the Supreme Court decisions of recent years which have wittingly, or unwittingly, weakened the Civil Rights Act of 1964's protection of people who are minorities, and people who because of gender, or age or disability are discriminated against. The difference between us is how to do it.

And, I believe that the question about quotas was resolved in this Chamber when we debated the bill, and the conference generally went along with the House provision. The question about punitive damages was disposed of in this Chamber and was followed by the conference.

Mr. Speaker, I would just hope that the President would be able to sign this bill into law. He may have some reservations about the bill, and they, I am sure, are good-faith reservations. But, I believe the bill ought to be passed, and I hope that the President will sign it into law.

CONGRESS SHOULD STAY IN SESSION UNTIL A BUDGET AGREEMENT PASSES

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARLENEE. Mr. Speaker, double tax, double talk. Budget agreement; where is it?

Let us not kid the American people. At this time there are not enough votes in this Capitol to pass a budget agreement. Let us be truthful with them. Nobody likes it.

Why would I vote for a budget that would directly fuel inflation with a gas tax? Why would I vote for a budget resolution that would raise interest rates? No deal for me on double tax, double talk.

The people of the United States of America should demand that Congress stay right here in this House of Representatives and in the other body, stay right here until we have a budget that cuts spending and brings revenue streams from utilization of our oil and gas resources, and ANWR, offshore and Rocky Mountain front until we have that budget agreement reached right here.

Join the revolution. Stay in session until the election, if necessary, to pass the budget.

AMERICAN CONSUMERS MUST NOT BE PENALIZED BY PROTECTIONIST LEGISLATION

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, it is true the President of the United States is going to be vetoing the textile bill. Not a great surprise to anyone around here, but it is very important that we sustain that veto.

We are in the midst of a real battle on this budget question, and who knows exactly what kind of cost the American consumer is going to be saddled with when it relates to the final budget package.

Mr. Speaker, if we include with that an incredible tax which says to them that they cannot buy the best quality product at the lowest possible price without our imposing a penalty on them, I think it would be a real mistake.

I hope very much, Mr. Speaker, that all of our colleagues join in lockstep supporting strongly President Bush as he works to ensure that the American consumer is not penalized by protectionist legislation.

UPDATE ON ANGOLA

(Mr. McEWEN asked and was given permission to address the House for 1 minute.)

Mr. McEWEN. Mr. Speaker, in 1975, after the Portuguese had abandoned Angola, the freedom forces were moving to take control under an agreement established under a tripartite arrangement, and yet the Soviets began backing the MPLA to have a Communist regime in which there would be no election, and there would be no democracy. Right when the freedom forces were in sight of the Angolan capital, Luanda, the United States Congress, late in 1975, withdrew support and then voted in the United Nations to have no one else support the freedom forces, and that country has been cast into Communist oblivion for these remaining years.

□ 1100

However, these freedom forces have kept the torch of democracy alive, and they are now moving again, and it looks as though they are about to succeed in establishing a democracy just within a matter of months.

So again we will see an effort on the floor of Congress within the next 10 to 12 days to cut off any aid to those freedom forces.

Now, the Soviet-backed forces have a 15-year supply. They have an air hose from the Soviet Union, and they have as well the petrodollars with which they can purchase arms on the international market. Only those who stand for democracy are aiding UNITA.

Mr. Speaker, there will be an effort on the floor of the House to deny that aid moments before we leave for Christmas. I hope our colleagues are aware—that they understand what is at stake, and that one of the bastions of communism will fall to freedom and democracy.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken at the end of the legislative business day.

NATIONAL NUTRITION MONITORING AND RELATED RESEARCH ACT OF 1990

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1608) to strengthen national nutrition monitoring by requiring the Secretary of Agriculture and the Secretary of Health and Human Services to prepare and implement a 10-year plan to assess the dietary and nutritional status of the U.S. population, to support research on, and development of, nutrition monitoring, to foster national nutrition education, to establish dietary guidelines, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1608

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Nutrition Monitoring and Related Research Act of 1990".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) make more effective use of Federal and State expenditures for nutrition monitoring, and enhance the performance and benefits of current Federal nutrition monitoring and related research activities;

(2) establish and facilitate the timely implementation of a coordinated National Nutrition Monitoring and Related Research Program, and thereby provide a scientific basis for the maintenance and improvement of the nutritional status of the people of the United States and the nutritional quality (including, but not limited to, nutritive and nonnutritive content) of food consumed in the United States;

(3) establish and implement a comprehensive plan for the National Nutrition Monitoring and Related Research Program to assess, on a continuing basis, the dietary and nutritional status of the people of the United States and the trends with respect to such status, the state of the art with respect to nutrition monitoring and related research, future monitoring and related research priorities, and the relevant policy implications;

(4) establish and improve the quality of national nutritional and health status data and related data bases and networks, and stimulate research necessary to develop uniform indictors, standards, methodologies, technologies, and procedures for nutrition monitoring;

(5) establish a central Federal focus for the coordination, management, and direction of Federal nutrition monitoring activities;

(6) establish mechanisms for addressing the nutrition monitoring needs of Federal, State, and local governments, the private sector, scientific and engineering communities, health care professionals, and the public in support of the foregoing purposes; and

(7) provide for the conduct of such scientific research and development as may be necessary or appropriate in support of such purposes.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "comprehensive plan" means the comprehensive plan prepared under section 103;

(2) the term "coordinated program" means the National Nutrition Monitoring and Related Research Program established by section 101(a);

(3) the terms "Interagency Board for Nutrition Monitoring and Related Research" and "Board" mean the Federal coordinating body established by section 101(c);

(4) the term "Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System" means the plan of that title dated August 18, 1981 and submitted by the Department of Agriculture and the Department of Health and Human Services under section 1428 of the Food and Agriculture Act of 1977 (7 U.S.C. 3178);

(5) the term "local government" means a local general unit of government or local educational unit;

(6) the terms "National Nutrition Monitoring Advisory Council" and "Council" means the advisory body established under section 201;

(7) the term "nutrition monitoring and related research" means the set of activities necessary to provide timely information about the role and status of factors that bear on the contribution that nutrition makes to the health of the people of the United States, including—

(A) dietary, nutritional, and health status measurements;

(B) food consumption measurements;

(C) food composition measurements and nutrient data banks;

(D) dietary knowledge and attitude measurements; and

(E) food supply and demand determinations;

(8) the term "nutritional quality" means—

(A) the appropriate levels of individual nutrients in the diet;

(B) the appropriate levels between nutrients in the diet;

(C) the bioavailability of nutrients such as absorption, digestion, and utilization; and

(D) the nutritional importance of non-nutrient substances such as fiber, phytate, and such substances that are naturally found in the food supply; and

(9) the term "Secretaries" means the Secretary of Agriculture and the Secretary of Health and Human Services, acting jointly.

TITLE I—NUTRITION MONITORING AND RELATED RESEARCH

SEC. 101. ESTABLISHMENT OF THE COORDINATED PROGRAM.

(a) In General.—There is established a ten-year coordinated program, to be known as the National Nutrition Monitoring and Related Research Program, to carry out the purposes of this Act.

(b) Implementation Responsibility.—The Secretaries shall be responsible for the implementation of the coordinated program.

(c) Establishment of Board.—To assist in implementing the coordinated program, there is established an Interagency Board for Nutrition Monitoring and Related Research, of which an Assistant Secretary in the Department of Agriculture (designated by the Secretary of Agriculture) and an Assistant Secretary in the Department of Health and Human Services (designated by the Secretary of Health and Human Services) shall be joint chairpersons. The remaining membership of the Board shall consist of additional representatives of Federal agencies, as determined appropriate by the joint chairpersons of the Board. The Board shall meet no less often than once every three months for the two-year period following the date of the enactment of this Act, and when appropriate thereafter.

(d) Administrator.—To establish a central focus and coordinator for the coordinated program, the Secretaries may appoint an Administrator of Nutrition Monitoring and Related Research. The Administrator shall—

(1) be an individual who is eminent in the field of nutrition monitoring and related areas and be selected on the basis of the established record of expertise and distinguished service of such individual; and

(2) administer the coordinated program with the advice and counsel of the joint chairpersons of the Board, serve as the focal point for the coordinated program, and serve as the Executive Secretary for the National Nutrition Monitoring Advisory Council.

SEC. 102. FUNCTIONS OF THE SECRETARIES.

(a) In General.—The Secretaries, with advice of the Board, shall—

(1) establish the goals of the coordinated program, identify the activities required to meet such goals and identify the responsible agencies with respect to the coordinated program;

(2) update the Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System, and integrate it into the coordinated program;

(3) ensure the timely implementation of the coordinated program and the comprehensive plan prepared under section 103;

(4) include in the coordinated program and the comprehensive plan a competitive grants program, to be implemented to the extent funds are available, in accordance with the provisions of this Act to encourage and assist the conduct, by Federal entities, and by non-Federal entities on an appropriate matching funds basis, of research (including research described in section 103(a)(3)) that will accelerate the development of uniform and cost-effective standards and indicators for the assessment and monitoring of nutritional and dietary status and for relating food consumption patterns to nutritional and health status;

(5) include in the coordinated program and the comprehensive plan a grants program, in accordance with the provisions of this Act, to encourage and assist State and local governments in developing the capacity to conduct monitoring and surveillance of nutritional status, food consumption, and nutrition knowledge and in using such capacity to enhance nutrition services (including activities described in section 103(a)(5) and 103(b)(9));

(6) include in the coordinated program each fiscal year an annual interagency budget for each fiscal year of the program;

(7) foster productive interaction, with respect to nutrition monitoring and related research, among Federal efforts, State and local governments, the private sector, scientific communities, health professionals, and the public;

(8)(A) contract with a scientific body, such as the National Academy of Sciences or the Federation of American Societies for Experimental Biology, to interpret available data analyses, and publish every two years, or more frequently if appropriate, except as provided in subparagraph (B), a report on the dietary, nutritional, and health-related status of the people of the United States and the nutritional quality (including the nutritive and nonnutritive content) of food consumed in the United States; or

(B) if the Secretaries determine that sufficient data analyses are not available to warrant interpretation of such data analyses, inform Congress of such fact at the time a report required in subparagraph (A) would have been published, and publish such a report a least once every five years; and

(9)(A) foster cost recovery management techniques in the coordinated program; and

(B) impose appropriate charges and fees for publications of the coordinated program, including print and electronic forms of data and analysis, and use the proceeds of such charges and fees for purposes of the coordinated program (except that no such charge or fee imposed on an educational or other nonprofit organization shall exceed the actual costs incurred by the coordinated program in providing the publications involved).

(b) Biennial Report.—The Secretaries shall submit to the President for transmittal to Congress by January 15 of each alternate year, beginning with January 15 following the date of the enactment of this Act, a biennial report that shall—

(1) evaluate the progress of the coordinated program;

(2) summarize the results of such coordinated program components as are developed under section 103;

(3) describe and evaluate any policy implications of the analytical findings in the scientific reports required under subsection (a)(8), and future priorities for nutrition monitoring and related research;

(4) include in full the annual reports of the Council provided for in section 202; and

(5) include an executive summary of the report most recently published by the scientific body, as provided for in subsection (a)(8).

SEC. 103. DEVELOPMENT OF THE COMPREHENSIVE PLAN FOR THE NATIONAL NUTRITION MONITORING AND RELATED RESEARCH PROGRAM.

(a) Comprehensive Plan.—The Secretaries, with the advice of the Board, shall prepare and implement a comprehensive plan for the coordinated program which shall be designed to—

(1) assess, collate data with respect to, analyze, and report, on a continuous basis, the dietary and nutritional status of the people of the United States, and the trends with respect to such status (dealing with such status and trends separately in the case of preschool and school-age children, pregnant and lactating women, elderly individuals, low income populations, blacks, Hispanics, and other groups, at the discretion of the Secretaries), the state of the art with respect to nutrition monitoring and related research, future monitoring and related research priorities, and relevant policy implications of findings with respect to such status, trends, and research;

(2) sample representative subsets of identifiable low income populations (such as Native Americans, Hispanics, or the homeless), and assess, analyze, and report, on a continuous basis, for a representative sample of the low income population, food and household expenditures, participation in food assistance programs, and periods experienced when nutrition benefits are not sufficient to provide an adequate diet;

(3) sponsor or conduct research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for conducting and reporting nutrition monitoring and surveillance;

(4) develop and keep updated a national dietary and nutritional status data bank, a nutrient data bank, and other data resources as required;

(5) assist State and local government agencies in developing procedures and networks for nutrition monitoring and surveillance; and

(6) focus the nutrition monitoring activities of Federal agencies.

(b) Components of Plan.—The comprehensive plan, at a minimum, shall include components to—

(1) maintain and coordinate the National Health and Nutrition Examination Survey (NHANES) and the Nationwide Food Consumption Survey (NFCS);

(2) provide, by 1991, for the continuous collection, processing, and analysis of nutritional and dietary status data through stratified probability samples of the people of the United States designed to permit statisically reliable estimates of high-risk groups and geographic area, and to permit accelerated data analysis (including annual analysis, as appropriate);

(3) maintain and enhance other Federal nutrition monitoring efforts such as the Centers for Disease Control Nutrition Surveillance Program and the Food and Drug Administration Total Diet Study, and, to the extent possible, coordinate such efforts with the surveys described in paragraphs (1) and (2);

(4) incorporate, in survey design, military and (where appropriate) institutionalized populations;

(5) complete the analysis and interpretation of the data sets from the surveys described in paragraph (1) collected prior to 1984 within the first year of the comprehensive plan;

(6) improve the methodologies and technologies, including those suitable for use by States and localities, available for the assessment of nutritional and dietary status and trends;

(7) develop uniform standards and indicators for the assessment and monitoring of nutritional and dietary status, for relating food consumption patterns to nutritional and health status, and for use in the evaluation of Federal food and nutrition intervention programs;

(8) establish national baseline data and procedures for nutrition monitoring;

(9) provide scientific and technical assistance, training, and consultation to State and local governments for the purpose of—

(A) obtaining dietary and nutrition status data;

(B) developing related data bases; and

(C) promoting the development of regional, State, and local data collection services to become an integral component of a national nutritional status network;

(10) establish mechanisms to identify the needs of users of nutrition monitoring data and to encourage the private sector and the academic community to participate in the development and implementation of the comprehensive plan and contribute relevant data from non-Federal sources to promote the development of a national nutritional status network;

(11) compile an inventory of Federal, State, and nongovernment activities related to nutrition monitoring and related research;

(12) focus on national nutrition monitoring needs while building on the responsibilities and expertise of the individual membership of the Board;

(13) administer the coordinated program, define program objectives, priorities, oversight, responsibilities, and resources, and define the organization and management of the Board and the Council; and

(14) provide a mechanism for periodically evaluating and refining the coordinated program and the comprehensive plan that facilitates cooperation and interaction by State and local governments, the private sector, scientific communities, and health care professionals, and that facilitates coordination with non-Federal activities.

(c) Additional Requirements of Plan.—The comprehensive plan shall—

(1) allocate all of the projected functions and activities under the coordinated program among the various Federal agencies and offices that will be involved;

(2) contain an affirmative statement and description of the functions to be performed and activities to be undertaken by each of such agencies and offices in carrying out the coordinated program; and

(3) constitute the basis on which each agency participating in the coordinated program requests authorization and appropriation for nutrition monitoring and related research during the ten-year period of the program.

(d) Publication of Plan.—

(1) Proposed plan.—Within 12 months after the date of enactment of this Act, the Secretaries shall publish in the Federal Register a proposed comprehensive plan for public review for a comment period of no less than sixty days.

(2) Final plan.—Within sixty days after the comment period under paragraph (1) expires, and after considering any comments received, the Secretaries shall submit to the President, for submission to the Congress and for publication in the Federal Register, the final comprehensive plan.

(e) Prohibition on Construing.—Nothing in this section may be construed as modifying, or as authorizing the Secretaries or the comprehensive plan to modify, any provision of an appropriation Act (or any other provision of law relating to the use of appropriated funds) that specifies—

(1) the department or agency to which funds are appropriated; or

(2) the obligations of such department or agency with respect to the use of such funds.

SEC. 104. IMPLEMENTATION OF THE COMPREHENSIVE PLAN.

(a) In General.—The comprehensive plan shall be carried out during the period ending with the close of the ninth fiscal year following the fiscal year in which the comprehensive plan is submitted in its final form under section 103(d)(2) and shall be—

(1) carried out in accordance with, and meet the program objectives specified in, section 103(a) and section 103(b);

(2) carried out, by the Federal agencies involved, in accordance with the allocation of functions and activities under section 103(c); and

(3) funded by appropriations made to such agencies for each fiscal year of the program.

(b) Existing Law Not Affected.—Nothing in this title may be construed to grant any new regulatory authority or to limit, expand, or otherwise modify any regulatory authority under existing law, or to establish new criteria, standards, or requirements for regulation under existing law.

SEC. 105. SCIENTIFIC RESEARCH AND DEVELOPMENT IN SUPPORT OF THE COORDINATED PROGRAM AND COMPREHENSIVE PLAN.

The Secretaries shall coordinate the conduct of, and may contract with the National Science Foundation, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology, and other suitable Federal agencies for, such scientific research and development as may be necessary or appropriate in support of the coordinated program and the comprehensive plan and in furtherance of the purposes and objectives of this Act.

SEC. 106. ANNUAL BUDGET SUBMISSION

(a) Annual Report.—The President, at the same time as the submission of the annual budget to the Congress, shall submit a report to the Committees on Agriculture and Science, Space, and Technology of the House of Representatives and to the Committees on Agriculture, Nutrition, and Forestry and Governmental Affairs of the Senate on expenditures required for carrying out the coordinated program and implementing the comprehensive plan. The report shall detail, for each of the agencies that are allocated responsibilities under the coordinated program—

(1) the amounts spent on the coordinated program during the fiscal year most recently ended;

(2) the amounts expected to be spent during the current fiscal year; and

(3) the amounts requested in the annual budget for the fiscal year for which the budget is being submitted.

(b) Existing Authority Not Affected.—Nothing in this title is intended to either—

(1) authorize the appropriation or require the expenditure of any funds in excess of the amount of funds that would be authorized or expended for the same purposes in the absence of the coordinated program; or

(2) limit the authority of any of the participating agencies to request and receive funds for such purposes (for use in the coordinated program) under other laws.

TITLE II—NATIONAL NUTRITION MONITORING ADVISORY COUNCIL

SEC. 201. STRUCTURE OF THE COUNCIL.

(a) In General.—

(1) Establishment.—The President shall establish, within ninety days after the date of the enactment of this Act, a National Nutrition Monitoring Advisory Council. The Council shall assist in carrying out the purposes of this Act, provide scientific and technical advice on the development and implementation of the coordinated program and comprehensive plan, and serve in an advisory capacity of the Secretaries.

(2) Membership.—The Council shall consist of nine voting members, of whom—

(A) five members shall be appointed by the President based upon recommendations from the Secretaries; and

(B) four members shall be appointed by Congress, of whom—

(i) one shall be appointed by the Speaker of the House of Representatives;

(ii) one shall be appointed by the minority leader of the House of Representatives;

(iii) one shall be appointed by the President pro tempore of the Senate; and

(iv) one shall be appointed by the minority leader of the Senate.

(3) Ex officio members.—The Council also shall include the joint chairpersons of the Board as ex officio nonvoting members.

(b) Selection Criteria.—Each person appointed to the Council shall be selected solely on the basis of an established record of distinguished service and shall be eminent in one of the following fields:

(1) public health, including clinical dietetics, public health nutrition, epidemiology, clinical medicine, health education, or nutrition education;

(2) nutrition monitoring research, including nutrition monitoring and surveillance, food consumption patterns, nutritional anthropology, community nutrition research, nutritional biochemistry, food composition analysis, survey statistics, dietary-intake methodology, or nutrition status methodology; or

(3) food production and distribution, including agriculture, biotechnology, food technology, food engineering, economics, consumer psychology, or sociology, food-system management, or food assistance.

(c) Particular Representation Requirement.—The Council membership, at all times, shall include at least two representatives from each of the three areas of specialization listed in subsection (b), and shall have representatives from various geographic areas, the private sector, academia, scientific and professional societies, agriculture, minority organizations, and public interest organizations and shall include a State or local government employee with a specialized interest in nutrition monitoring.

(d) Chairperson.—The Chairperson of the Council shall be elected from and by the Council membership. The term of office of the Chairperson shall not exceed 5 years. If a vacancy occurs in the Chairpersonship, the Council shall elect a member to fill the vacancy.

(e) Term of Office.—The term of office of each of the voting members of the council shall be 5 years, except that of the 5 members first appointed by the President, 2 shall be appointed for a term of 2 years, 2 for terms of 3 years, and one for a term of 4 years, as designated by the President at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor of such member was appointed shall be appointed for the remainder of such term. No voting member shall be eligible to serve continuously for more than 2 consecutive terms.

(f) Initial Appointment.—The initial members of the Council shall be appointed or designated not later than ninety days of the date of the enactment of this Act.

(g) Meetings.—The Council shall meet on a regular basis at the call of the Chairperson, or on the written request of one-third of the members. A majority of the appointed members of the Council shall constitute a quorum.

(b) Limitation on Federal Employment.—Appointed members of the Council may not be employed by the Federal Government and shall be allowed travel expenses as authorized by section 5703 of title 5, United States Code.

(i) Executive Secretary.—The Administrator of Nutrition Monitoring and Related Research (if appointed under section 101(d)) shall serve as the Executive Secretary of the Council.

(j) Termination.—The Council shall terminate 10 years after the final comprehensive plan is prepared under section 103.

SEC. 202. FUNCTIONS OF THE COUNCIL.

The Council shall—

(1) provide scientific and technical advice on the development and implementation of all components of the coordinated program and the comprehensive plan;

(2) evaluate the scientific and technical quality of the comprehensive plan and the effectiveness of the coordinated program;

(3) recommend to the Secretaries, on an annual basis, means of enhancing the comprehensive plan and the coordinated program; and

(4) submit to the Secretaries annual reports that—

(A) shall contain the components specified in paragraphs (2) and (3); and

(B) shall be included in full in the biennial reports of the Secretaries to the President for transmittal to Congress under section 102(b).

TITLE III—DIETARY GUIDANCE

SEC. 301. ESTABLISHMENT OF DIETARY GUIDELINES.

(a) Report.—

(1) In general.—At least every five years the Secretaries shall publish a report entitled "Dietary Guidelines for Americans". Each such report shall contain nutritional and dietary information and guidelines for the general public, and shall be promoted by each Federal agency in carrying out any Federal food, nutrition, or health program.

(2) Basis of guidelines.—The information and guidelines contained in each report required under paragraph (1) shall be based on the preponderance of the scientific and medical knowledge which is current at the time the report is prepared.

(b) Approval by Secretaries.—

(1) Review.—Any Federal agency that proposes to issue any dietary guidance for the general population or identified population subgroups shall submit the text of such guidance to the Secretaries for a sixty-day review period.

(2) Basis of review.—

(A) In general.—During the sixty-day review period established in paragraph (1), the Secretaries shall review and approve or disapprove such guidance to assure that the guidance either is consistent with the "Dietary Guidelines for Americans" or that the guidance is based on medical or new scientific knowledge which is determined to be valid by the Secretaries. If after such sixty-day period neither Secretary notifies the proposing agency that such guidance has been disapproved, then such guidance may be issued by the agency. If both Secretaries disapprove of such guidance, it shall be returned to the agency. If either Secretary finds that such guidance is inconsistent with the "Dietary Guidelines for Americans" and so notifies the proposing agency, such agency shall follow the procedures set forth in this subsection before disseminating such proposal to the public in final form. If after such sixty-day period, either Secretary disapproves such guidance as inconsistent with the "Dietary Guidelines for Americans" the proposing agency shall—

(i) publish a notice in the Federal Register of the availability of the full text of the proposal and the preamble of such proposal which shall explain the basis and purpose of the proposed dietary guidance;

(ii) provide in such notice for a public comment period of thirty days; and

(iii) make available for public inspection and copying during normal business hours any comment received by the agency during such comment period.

(B) Review of comments.—After review of comments received during the comment period either Secretary may approve for dissemination by the proposing agency a final version of such dietary guidance along with an explanation of the basis and purpose for the final guidance which addresses significant and substantive comments as determined by the proposing agency.

(C) Announcement.—Any such final dietary guidance to be disseminated under subparagraph (B) shall be announced in a public notice in the Federal Register, before public dissemination along with an address where copies may be obtained.

(D) Notification of disapproval.—If after the thirty-day period for comment as provided under subparagraph (A)(ii), both Secretaries disapprove a proposed dietary guidance, the Secretaries shall notify the Federal agency submitting such guidance of such disapproval, and such guidance may not be issued, except as provided in subparagraph (E).

(E) Review of disapproval.—If a proposed dietary guidance is disapproved by both Secretaries under subparagraph (D), the Federal agency proposing such guidance may, within fifteen days after receiving notification of such disapproval under subparagraph (D), request the Secretaries to review such disapproval. Within fifteen days after receiving a request for such a review, the Secretaries shall conduct such review. If, pursuant to such review, either Secretary approves such proposed dietary guidance, such guidance may be issued by the Federal agency.

(3) Limitation on definition of guidance.—For purposes of this subsection, the term "dietary guidance for the general population" does not include any rule or regulation issued by a Federal agency.

(4) Definition of identified population subgroups.—For purposes of this subsection, the term "identified population subgroups" shall include, but not be limited to, groups based on factors such as age, sex, or race.

(c) Existing Authority Not Affected.—This section does not place any limitations on—

(1) the conduct or support of any scientific or medical research by any Federal agency;

(2) the presentation of any scientific or medical findings or the exchange or review of scientific or medical information by any Federal agency; or

(3) the authority of the Food and Drug Administration under the provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

SEC. 302. NUTRITION TRAINING REPORT.

The Secretary of Health and Human Services, in consultation with the Secretaries of Agriculture, Education, and Defense, and the Director of the National Science Foundation, shall submit, within one year after the date of enactment of this Act, a report describing the appropriate Federal role in assuring that students enrolled in United States medical schools and physicians practicing in the United States have access to adequate training in the field of nutrition and its relationship to human health.[H02OC0-V1]{H8609}health.

The SPEAKER pro tempore. Is a second demanded?

Mr. EMERSON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. de la Garza] will be recognized for 20 minutes, and the gentleman from Missouri [Mr. Emerson] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. de la Garza].

Mr. de la GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1608, the National Nutrition Monitoring and Related Research Act of 1989.

This legislation establishes a 10-year coordinated program to make more effective use of Federal and State expenditures for nutrition monitoring and requires a comprehensive plan to assess the dietary and nutritional status of the people of the United States. The legislation also provides for improvements in the quality of national nutritional and health status data and related data bases, and establishes mechanisms for addressing the nutrition monitoring needs of Federal, State, and local governments and the private sector. A procedure whereby dietary guidance issued by the Federal Government will be consistent with the Dietary Guidelines for Americans is included. Most importantly, the legislation establishes a central Federal

focus for the coordination, management, and direction of Federal nutrition monitoring activities.

The Committee on Agriculture has been involved in nutrition monitoring legislation since 1984 when our Subcommittee on Department Operations, Research and Foreign Agriculture joined with the Committee on Science and Technology's Subcommittee on Science, Research and Technology in public hearings on this subject.

I am very pleased that the problems that have been of concern in the past have been addressed in this legislation. It has the full support of the nutrition community, and the administration has advised us that it has no objection to the legislation.

To expedite consideration of this legislation prior to the end of the 101st Congress, both Chairman Robert Roe of the Committee on Science, Space, and Technology and Chairman John Dingell of the Committee on Energy and Commerce have agreed not to seek a sequential referral of this legislation. I appreciate very much this spirit of cooperation, and I recognize that this action does not in any way impinge on the jurisdiction of either the Committee on Science, Space, and Technology or the Committee on Energy and Commerce. In this regard, I wish to insert in the Record at this point an exchange of letters between Chairman Roe and Chairman Dingell and myself on the matter of each committee's jurisdiction.

Mr. Speaker, the nutritional needs of our population must be addressed in an orderly and coordinated manner. This legislation provides that coordination, and I urge my colleagues to give their full support to H.R. 1608.

House of Representatives,
Committee on Energy and Commerce,
Washington, DC, September 28, 1990.

Hon. E. "Kika" de la Garza,
House of Representatives, Longworth House Office Building, Washington, DC.

Dear Mr. Chairman: On July 18, 1990, the Committee on Agriculture favorably reported H.R. 1608, the de la Garza/Leahy "Nutrition Monitoring Act of 1990." The Committee on Energy and Commerce has requested a sequential referral on this bill, which covers health and related matters that are of concern to the Committee.

Similar bills were passed by the House in both the 99th and 100th Congress, and in both cases the jurisdiction of the Committee on Energy and Commerce was recognized and preserved. On both occasions when the Committee chose to waive its jurisdiction in the interests of expediting consideration of the legislation, the jurisdictional prerogative of the Committee was recognized in the debate on the floor and in letters exchanged with the Chairman of the Committee on Science, Space, and Technology.

I understand that the Committee on Science, Space, and Technology will not seek a sequential referral on H.R. 1608, to allow the bill to be brought to the House for consideration before the close of the 101st Congress. Therefore, in a spirit of cooperation the Committee on Energy and Commerce will also not seek sequential referral of H.R. 1608. However, this action to expedite consideration of the bill should not be interpreted in any respect to waive jurisdiction of the Committee on Energy and Commerce over provisions in H.R. 1608 or any other legislation addressing matters within the jurisdiction of the Committee. I respectfully request that our Committee be included in any future discussions or conference on this bill.

I recognize that this is important and timely legislation, and I stand ready to work with you as the Chairman of the Agriculture Committee to bring this bill to the floor quickly.

Sincerely,
John D. Dingell,
Chairman.

House of Representatives,
Committee on Agriculture,
Washington, DC, September 28, 1990.

Hon. John D. Dingell,
Chairman, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

Dear Mr. Chairman: Thank you for your letter in regard to H.R. 1608, the National Nutrition Monitoring and Related Research Act.

As you know, this bill, as ordered reported by the Committee on Agriculture on July 18, 1990, is widely supported by national agricultural and nutrition organizations. Similar legislation passed the House in both the 99th and 100th Congresses.

The Committee on Agriculture has addressed the concerns of the Administration over several provisions of H.R. 1608, and I have been advised that the Administration will not oppose the legislation.

It has been the intention of the Committee on Agriculture and that of the Committee on Science, Space, and Technology, which has jointly considered similar nutrition monitoring bills with this Committee, to place this legislation on the suspension calendar for passage prior to the end of the 101st Congress.

Since the Committee on Energy and Commerce has a jurisdictional concern with the bill, I appreciate that you are not pursuing at this time your request for sequential referral of the bill in order to expedite House Floor action on H.R. 1608. I recognize that this action is taken without any prejudice to the jurisdictional interests of the Committee on Energy and Commerce.

When H.R. 1608 is considered on the Floor, I will ask to have the relevant correspondence between our Committees relating to this legislation included in the record of the debate.

With best regards, I am
Sincerely,
E. (Kika) de la Garza,
Chairman.

House of Representatives,
Committee on Agriculture,
Washington, DC, July 18, 1990.

Hon. Robert A. Roe,
Chairman, Committee on Science, Space, and Technology, House of Representatives, Washington, DC.

Dear Mr. Chairman: Thank you for your recent letter concerning your Committee's interest in H.R. 1608, the National Monitoring and Related Research Act. We appreciate your decision to expedite consideration of the bill by not seeking sequential referral of H.R. 1608 based on the text of the bill as reported by the Committee on Agriculture on July 18, 1990.

In no respect should this action be considered a waiver of the Committee on Science, Space, and Technology's jurisdiction over provisions of H.R. 1608. I fully support any requests made by your Committee to be represented on any discussion or conference with the Senate concerning this legislation, as well as your continued interest in the appropriate authorizing responsibilities and oversight contained in this legislation.

I view this agreement between the Committee on Agriculture and the Committee on Science, Space, and Technology as a statement of continuing cooperation. I will ask to have included in the Record the correspondence relating to this legislation when it is considered on the floor of the House.

Sincerely,
E (Kika) de la Garza,
Chairman.

House of Representatives,
Committee on Science,
Space, and Technology,
Washington, DC, July 20, 1990.

Hon. E de la Garza,
Chairman, House of Representatives, Washington, DC.

Dear Kika: I am writing in regard to H.R. 1608, the National Nutrition Monitoring and Related Research Act. As you know, similar legislation, H.R. 677 and S. 253 as amended and passed by the Senate on November 7, 1989 were jointly referred to the Committees on Agriculture and Science, Space, and Technology. I understand that on July 18, 1990 the Committee on Agriculture favorably reported H.R. 1608. I further understand that the bill as reported: incorporated H.R. 1608 as reported from the Subcommittee on Department Operations, Research and Foreign Agriculture which substituted S. 253 as passed by the Senate for the entire text of H.R. 1608; adopted the amendments submitted by the Administration and offered by Mr. Brown. The Science, Space, and Technology Committee concurred in the amendments and are pleased to learn that these amendments will alleviate the concerns of the Administration and they will thus not oppose the enactment of H.R. 1608.

Under normal circumstances, the Committee on Science, Space, and Technology would seek a sequential referral of H.R. 1608, especially since the bill now includes the entire text of S. 253 which was jointly referred to our Committee. However, we recognize the importance of H.R. 1608 and congratulate you on your efforts to bring the bill to the House for consideration before the close of the 101st Congress. Therefore, in a spirit of cooperation we will not seek sequential referral of H.R. 1608. However, this action to expedite consideration of the bill should not be interpreted, in any respect, to waive jurisdiction of the Committee on Science, Space, and Technology over provisions in H.R. 1608 or any other legislation addressing matters within the jurisdiction of the Committee on Science, Space, and Technology. Given that the subject matter of the legislation should be referred to our respective Committees, I respectfully request that our Committee be included in any future discussions or conference on this bill. Our Committee will, as we have over the past eight years, continue to share in the oversight and authorizing responsibilities of the legislation.

I am hopeful that the bill can be brought to the House for consideration immediately and that after many years of cooperative efforts between our two Committees on this bill a much needed public law will be realized. To clarify the history on this legislation, I would appreciate a letter confirming my understanding, and that our letters be placed in the Record during House consideration.

Sincerely,

Robert A. Roe,
Chairman.

Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Science, Space, and Technology, the gentleman from New Jersey [Mr. Roe].

Mr. ROE. Mr. Speaker, I thank the distinguished chairman of the committee for yielding this time to me.

Mr. Speaker, I rise in support of H.R. 1608, the National Nutrition Monitoring and Related Research Act.

At this time I want to pay my high regards to our very distinguished chairman of the Committee on Agriculture, the gentleman from Texas [Mr. de la Garza], to the gentleman from Missouri [Mr. Emerson], the ranking member of the Subcommittee on Department Operations, Research and Foreign Agriculture, and to the gentleman from California [Mr. Brown], who is his counterpart on the majority side.

Mr. Speaker, accurate and timely knowledge of the nutritional and health status of our citizens is directly related to the economic well-being of our Nation. We cannot maintain or improve the quality of life of our citizens without an understanding of the nutritional and health status of the population. We cannot develop prudent public policies regarding investments and priorities for research, education, regulation, public assistance, or health promotion and disease prevention programs without knowledge of trends in the nutritional and health status of the public. All other investments we authorize to maintain a strong and competitive U.S. position in science, technology, education, and defense will be of no avail unless we have a healthy America.

Yes, the Federal Government has implemented components of a nutrition monitoring system since the 1930's. However, past and current systems were neither coordinated nor comprehensive. The usefulness of the data to the food and health communities and to policymakers at the Federal, State, and local levels has proven to be limited because of inadequate methods, noncomparable standards, unlike population samples, and the lack of indicators to link food consumption patterns to nutrition and health.

The methods our family physicians use to determine and guide our health status are based on the methods developed for use in the nutrition monitoring system. Therefore, the accuracy of laboratory tests used to determine nutritional status would also be improved as the monitoring system is enhanced.

Scientific methods and technology to assess nutritional and dietary status were declared costly, imprecise, and unstandardized at hearings before the Committee on Science and Technology in 1979, and little has changed more than 10 years later. For example, the Department of Agriculture will release this month data from the 1987-88 decennial nationwide food consumption survey. Concerns have been expressed about the accuracy of the data and built-in bias due to response rates as low as 33 percent. It appears these concerns will become fact, based on preliminary results of the current General Accounting Office investigation requested by our colleague George E. Brown, Jr. If this is the case, our scare resources have been wasted, and once again users of the data will be left with inadequate tools to guide policy.

This situation must be corrected, since policy decisions based on these data and data from the health and nutrition examination survey conducted by the Department of Health and Human Services could affect, either positively or negatively, the physical health of individuals and the economic health of industries. For example, the Environmental Protection Agency relies on the food frequency data of these surveys to calculate risk assessments and to determine safe levels for pesticide use and related regulations. Therefore, these assessments must be as accurate as science and technology permit.

The legislative proposal before us today is designed to correct the deficiencies while maintaining the assets of Federal nutrition monitoring efforts. This is not a new proposal, but rather a slightly modified version of the measure which was passed in the 100th Congress by a vote of 311 to 84 in the House and by unanimous consent in the Senate. The public could have benefited from this measure over the past 2 years, if President Reagan had not pocket vetoed the bill in November 1988.

The Subcommittee on Science, Research and Technology held joint hearings on the bill in September 1989 with subcommittees of the Committee on Agriculture and has worked with the Committee on Agriculture to develop H.R. 1608. Therefore, to expedite passage of the bill, the Committee on Science, Space, and Technology has agreed to not seek sequential referral of the bill through an exchange of letters which Chairman de la Garza will include in the Record. This same procedure was followed in reverse by the Committee on Agriculture when the Committee on Science, Space, and Technology brought a similar bill to the House in the 100th Congress.

We now have a new opportunity to enhance the benefits of our investment in nutrition monitoring. The Senate passed the bill by unanimous consent on November 3, 1989. The Bush administration has indicated they will not oppose H.R. 1608, as reported by the Committee on Agriculture.

I urge my colleagues to support H.R. 1608. The bill will provide the Congress the first opportunity to assess the adequacy of Federal nutrition monitoring efforts before authorizing and appropriating funding levels we deem necessary to meet the nutritional and health data needs of Federal, State, and local policymakers, food and agriculture industries, nutrition and health research communities, and health care providers and educators.

Mr. EMERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1608, the national nutrition monitoring and related research bill. The purpose of this bill is to establish a coordinated national nutrition monitoring and related research program and a comprehensive plan for the assessment of the nutritional and dietary status of the U.S. population. I am advised that the USDA has no objection to this bill, with the addition of amendments in the Committee on Agriculture to the bill concerning contracts, reports, the advisory council, and dietary guidance.

The subject of nutrition monitoring has been before the Agriculture Committee and the Congress for the past several years. Nutrition monitoring legislation, with which I have been involved, began in 1984 with H.R. 4686. That bill was defeated on the floor of the House of Representatives under suspension of the rules. In 1986, the House passed a nutrition monitoring bill, H.R. 2436; however, the Senate did not complete action on a measure and the effort died with the 99th Congress. In 1987 and 1988, nutrition monitoring legislation was again considered by the Congress. Both Houses passed a nutrition monitoring bill, which was later pocket vetoed by the President. That is where we are today.

Two bills were introduced this year in the House of Representatives—H.R. 1608 and H.R. 677. These are similar bills, both of which have as their goals the improvement and coordination of nutrition monitoring activities of the Federal Government.

This issue is one that, as I mentioned earlier, has been before the Congress over the past several years. Maintenance of a proper diet with good nutrition habits plays a vital role in our Nation's health. Additionally, knowing the patterns of food consumption assists the Federal Govern-

ment in linking food production to human nutrition and food needs. It is important that the information gathered by Federal agencies be coordinated and analyzed so that the goal of improvement in the health of Americans through good diets can be achieved.

It is my hope that we will pass a bill in this Congress to improve the nutrition monitoring system and provide more accurate and up-to-date information on the nutritional status of Americans. It must be noted that since 1977 the Federal Government has been moving toward creation of a national nutrition monitoring system.

There are two national surveys that are the basis for data concerning the nutritional status of Americans. They are the national food consumption survey—conducted by the USDA—and the health and nutrition examination survey—conducted by HHS. These are national surveys of a sample of the population that is representative of the entire population. Both are useful in that they identify the general well-being of the population and provide reference points by which other surveys of more limited scope may be evaluated.

In addition, the USDA initiated a new type of survey in 1985 entitled the continuing survey of food intakes by individuals. A nationally representative sample of women from 19 to 50 years of age, at all income levels, and their children, from ages 1 to 5, were surveyed for the dietary intake and eating habits for 12 months. A similar survey was conducted for low-income women and children. This is an important survey because it provides timely information on the adequacy of the diets of a selected group of people and an early indication of dietary change.

Such information, coupled with the work of both USDA and HHS, will serve to improve our knowledge and the programs aimed at bettering the lives of all Americans. No one can conclude that the Federal Government is not active in the area of nutrition monitoring. Nevertheless, improvements can and should be made.

Legislation to accentuate the activities of the Federal Government and to provide the American people with a clear and comprehensive program aimed at assessing the nutritional status of the population is needed.

Another important issue related to nutritional monitoring is that of dietary guidance. We must ensure that the Federal Government speaks with one voice when it disseminates information on dietary guidance to Americans. The bill before the House provides that USDA and HHS must publish the document "Dietary Guidelines For Americans" at least every 5 years. In addition, there is included a procedure whereby all dietary guidance issued by Federal agencies, in whatever format, is consistent with the approved dietary guidelines for Americans and that the Federal agencies are not out in left field when advising Americans of proper and healthful diets.

Mr. Speaker, I support the bill before the House of Representatives today and congratulate the chairman of the committee and the gentleman from California [Mr. Brown] for their hard work.

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Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. de la GARZA. Mr. Speaker, I yield as much time as he may consume to our distinguished colleague, the gentleman from North Carolina [Mr. Valentine].

Mr. VALENTINE. Mr. Speaker, I thank the chairman of the committee for yielding time to me.

Mr. Speaker, I rise in support of H.R. 1608, the National Nutrition Monitoring and Related Research Act.

A nutrition monitoring system is a basic tool necessary to examine the linkages between food consumption patterns, nutritional status, and health status. An effective national nutrition monitoring system is essential to assure: The safety and quality of the food supply; the nutritional needs of the public are met; and an appropriate data base exists for planning and guiding the expenditure of public funds for agriculture, nutrition and health research and intervention programs and policies. The purpose of the measure before us today is to ensure that our citizens receive a full measure of return from the Federal and State funds expended for nutrition monitoring activities.

The 1988 Surgeon General's Report on Nutrition and Health states that:

> Diet has always had a vital influence on health. As the diseases of nutrition deficiency have diminished, they have been replaced by diseases of dietary excess and imbalance—problems that now rank among the leading causes of illness and death in the United States, touch the lives of most Americans, and generate substantial health care costs.

Thus, it is not surprising that today the American public is more concerned, than at any other time in history, about the role that nutrition and diet play in their physical and economic well-being.

A comprehensive national nutrition monitoring system will provide the data necessary to further define the relationship between diet and health and provide an early warning mechanism to identify any significant changes in the nutritional and health status of the population. Thus, the operation of an effective national nutrition monitoring system is imperative.

To achieve maximum benefit from both Federal and State expenditures for nutrition monitoring activities, these governments must coordinate their activities and share expertise and data. Each of our State health departments is charged with the responsibility of promoting and protecting the health of the public. Many States are beginning to develop nutrition monitoring and surveillance systems as a basis for establishing health care and delivery priorities, establishing baseline health status values, and for evaluating the effectiveness of State health and nutrition services and programs. Thus, ensuring that Federal nutrition monitoring activities incorporate State data needs and that technology developed at the Federal level as transferred to States will increase the effectiveness of the system and reduce expenditures.

Recent testimony before the Subcommittee on Science, Research and Technology, by the Association of State and Territorial Public Health Nutrition Directors and the Association of State and Territorial Health Officers, regarding the need for a national nutrition monitoring system stated that:

> Perhaps our greatest need in the states is for technical assistance, the sharing of knowledge and expertise of those who work on these Federal projects with our staffs. Over the years, Federal agencies have become much more open and have shared vast amounts of data with us, but we need more than copies of computer tapes and printed reports. We would like assistance in interpreting and using the data. The plan required by this legislation would give a great deal of impetus to this sharing.

The Federal Government does have components of a nutrition monitoring system in place, but it is not adequately coordinated with all Federal agencies carrying out these activities or with State health agencies. The current system is far from comprehensive, and little attention has been given to developing the methods and technology which could improve the accuracy and usefulness of the resulting data. Improving biochemical methods used to assess nutritional status will not only enhance the value of the data, but the accuracy of the very tools the medical profession uses to determine our individual nutrition and health status.

The development of a coordinated and comprehensive national nutrition monitoring system is a complex task, and the scientists responsible for this task at the Federal level are to be congratulated for the improvements that have been implemented over the past several years. To allow additional improvements to move forward, a strategic plan is needed to integrate the activities of the seven or more agencies involved in nutrition monitoring and to identify budgetary resources the agencies propose to allocate to these activities.

At the present time, the resources each Federal agency either requests or expands for nutrition monitoring cannot be identified, because this activity is not documented in the budgetary request of any agency. Thus, for many years Congress has been blindly authorizing and appropriating funds for a piecemeal approach without any idea of the specific budgetary resources the seven or more agencies involved were allocating to this important national resource. As a result, Congress has had no means to review the direction of Federal nutrition monitoring activities and the funding excesses or deficiencies being allocated to these programs.

H.R. 1608 will sustain the advantages of current nutrition monitoring programs and assure the programs are upgraded through a systematic plan designed to meet the needs of the variety of users who rely on the data to accomplish their mission.

I wish to congratulate my colleagues who have worked so hard and persistently for passage of national nutrition monitoring legislation. I urge all of my colleagues to support H.R. 1608.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleague from North Carolina for his statement.

Before yielding back the balance of my time, let me thank our distinguished colleague from Missouri, Mr. EMERSON, who is a dedicated Member in all aspects of our legislative work, but he is one of our experts in nutrition, nutrition monitoring, feeding the hungry of the world and within our country, and my special thanks to him.

Mr. BOEHLERT. Mr. Speaker, now I know for sure that it's fall. Passage of this bill has become a biennial fall rite. I hope that this can be the last year we need to go through this exercise.

H.R. 1608 is a modest bill that seeks nothing more than to ensure that the Government has a coherent system of nutrition monitoring. This is a step that should have been taken long ago—especially when one considers the enormous public appetite for nutrition information and the health claims for food that are purveyed to the public from all sides.

While the coordination between the agencies in charge of nutrition monitoring has improved in recent years, H.R. 1608 is still a necessary prod to adequate cooperation, consultation and planning.

A very similar bill to H.R. 1608 was passed at the end of the last Congress—our traditional time—but was pocket vetoed by President Reagan. The veto message indicated that no one in the White House had bothered to pay much attention to the bill; the President's complaints did not seem to relate to the bill's actual provisions.

This time around we paid attention to what legitimate concerns the administration did have—small matters, mostly—and my understanding is that President Bush will sign the measure.

The current nutrition monitoring system can devolve to easily into arguments like the one made famous in an old New Yorker cartoon in which a mother says, "Eat your broccoli, dear" and her young responds, "I say it's spinach, and I say the hell with it."

H.R. 1608 is long overdue. I urge its passage.

Mr. WALGREN. Mr. Speaker, I rise in support of H.R. 1608, the National Nutrition Monitoring and Related Research Act.

The Committee on Science, Space, and Technology and the Committee on Agriculture, in concurrence with the Committee on Energy and Commerce, have brought national nutrition monitoring legislation to the House for consideration during the past several Congresses. In the 100th Congress, the House passed legislation similar to that before us today by a vote of 311 to 84. The Senate passed the bill by unanimous consent. A public law to enhance national nutrition monitoring and related research could be in place today, if President Reagan had not pocket vetoed the bill in November 1988.

Over 20 years ago, the White House Conference on Food, Nutrition and Health called for improvements in the Nation's nutrition monitoring system. Since that time numerous reports of scientific and public health organizations, as well as advisory groups to the executive branch, have identified the need for enhancing the existing system and have developed recommendations for increasing the value of the system and the effectiveness of the Federal resources expended.

For example: In July 1986 the first report on Nutrition Monitoring in the United States, prepared by the DHHS-USDA Joint Nutrition Monitoring Evaluation Committee recommended that changes be made to:

> Improve information exchange between data users and gatherers; increase use of data collected under the national nutrition monitoring system; improve methods and techniques for gathering information for assessing nutritional status; and increase resources for the national nutrition monitoring system.

The July 1988 Surgeon General's Report on Nutrition and Health stated:

> Impressive evidence already links nutrition to chronic disease. However, much more information is needed to continue to identify changes in the national diet that will lead to better health for the Nation. Gaps in our knowledge of nutrition suggest further research and surveillance needs.

The March 1989 report of the National Research Council/National Academy of Sciences entitled, "Diet and Health: Implications for Reducing Chronic Disease Risk," recommended:

> Improvement of the methodology for collecting and assessing data on the exposure of humans to foods and dietary constituents that may alter the risk of chronic diseases.

In April 1989, the Human Nutrition Board of Scientific Counselors, a USDA advisory board, adopted several resolutions relating to nutrition monitoring which urged the Secretary of Agriculture to support legislation to establish a plan for a national nutrition monitoring system, provide a mechanism for interdepartmental coordination of the various parts of such a system, and provide for cooperation between Federal and State systems.

In September 1989, DHHS and USDA released the second report on Nutrition Monitoring in the United States before joint hearings of the Subcommittee on Science, Research and Technology, which I chaired, and subcommittees of the Committee on Agriculture. The recommendations were very similar to those of the first report in 1986 and concluded that:

> It is appropriate now to begin efforts to determine the most useful form of the (National Nutrition Monitoring System) NNMS in the future.

The report also notes that:

> In addition, both the USDA and DHHS have developed plans for survey activities, to a large extent, through 1995; thus, recommendations offered now may not be implemented for some time.

This statement exemplifies the history of national nutrition monitoring—recommendations are out of phase with plans or are not included; and implementation and operational plan after plan are developed, but the ultimate goals are seldom achieved.

Witnesses at hearings of the Subcommittee on Science, Research and Technology, held almost every year since 1977, have stressed the importance of the need to improve dietary and nutritional status methods not only to improve the accuracy and value of the assessment to the health of the public, but to improve the costeffectiveness of both Federal and State expenditures.

I was dismayed to learn at our hearing last year that the administration's newest report addressed neither the adequacy of current methods nor specific recommendations for research to enhance nutritional status methods prior to forthcoming assessments already being planned. Administration witnesses conceded, however, that methods research was the most importnt element which could improve the value and usefulness of nutrition monitoring efforts and ensure that our investments produce the best possible data. Yet, the report did not focus on this critical aspect of nutrition monitoring.

Both the Reagan and Bush administration testified that much of the progress made in the nutrition monitoring system over the past 8 years was motivated by the threat of a public law such as the one we are considering today. However, that progress was made in a piece-meal fashion. A comprehensive system to meet the nutritional and health data needs of the 21st century and to ensure that public funds are not wasted on obsolete and ineffective systems is long overdue.

Before further patchwork plans are funded, the Congress and the executive branch must assure a plan is in place that will meet today's needs, and use today's technology and scientific knowledge. These essential elements were the objective of the legislation passed by the 100th Congress which was pocket vetoed by President Reagan in November 1988 and are the purpose of the proposed legislation before us today.

I am pleased to learn the Bush administration does not oppose this measure. I urge my colleagues to join our colleagues in the

Senate and support H.R. 1608 so the bill may be signed into law before the close of the 101st Congress.

Mr. BROWN of California. Mr. Speaker, I rise in support of H.R. 1608, the National Nutritional Monitoring and Related Research Act of 1990. This bill, cosponsored by 50 Members, is virtually identical to S. 257, which passed the Senate last year. H.R. 1608 has several minor amendments which we have incorporated to address the concerns of the administration. I would like to thank those in the administration who helped us perfect the bill this year, in particular I appreciate the assistance of Catherine Bertini, Assistant Secretary of USDA's Food and Nutrition Service. I would also like to thank the members of both the Agriculture and Science and Technology Committees for the efforts they have put into this bill over the past few years. This bill reflects the efforts of members on both committees; in fact, it goes back at least 10 years when we first identified the need to coordinate nutrition monitoring and research activities at the various Federal agencies.

As I've mentioned, this bill has a long history which I will not go into for the sake of time. Let me just say that after many years of refining this bill, we now have legislation that all interested parties have agreed upon. Nutrition groups such as the American Dietetics Association and the American Heart Association support this bill, alongside mainstream agricultural groups like the National Cattlemen's Association. Both the Committees on Agriculture and Science and Technology have perfected and approved versions of this bill. The Committee on Energy and Commerce has also lent the bill their support. Most importantly, those in the agencies who will carry out the provisions in this bill, principally the Departments of Agriculture and Health and Human Services, recognize that this legislation will strengthen and improve nutrition monitoring in this country and are not opposing its enactment.

For those of you who do not know what we mean by "nutrition monitoring," this term refers to all the Federal services which give us information on the diet and the nutritional status of Americans. There are two sides to nutrition monitoring: what we consume—the area where USDA is the expert, and how nutritious and healthy we are—the area where HHS is the expert. One side of this picture without the other is not very useful. That is precisely why we have worked so hard on this bill. For years, researchers have struggled to use disconnected information from various Federal agencies in an effort to get a complete picture of nutritional status in this country. This information is essential to the development of sound food, nutrition, and health policies at all levels of government. While the agencies involved have made great strides in the coordination of nutrition monitoring activities, there is still need for improvement, as has been identified through numerous committee hearings and in an ongoing GAO study which I requested earlier this year.

Again, for the sake of brevity, let me summarize how this bill will improve national nutrition monitoring. H.R. 1608 requires the leading agencies—USDA and HHS—to put together a coordinated nutrition monitoring program and to include specific activities in a comprehensive plan to achieve the goals of the program. Elements of the coordinated nutrition monitoring program include: a competitive grants program to develop uniform and cost-effective methods of measuring nutritional status, assistance to State and local governments to enhance nutrition monitoring capabilities, an interagency budget so that we in Congress know how much we're spending on the various nutrition monitoring activities across the agencies, coordination of publications and other nutrition information from the agencies, and regular reports on the nutritional status of the people of the United States and trends of food consumed in this country. The bill also establishes an advisory board to provide scientific advice on the development and implementation of the national nutrition monitoring system, and to serve as a link to the researchers and policy makers who use nutrition monitoring information. This advisory council will consist of experts from the private sector, academia, agriculture, and public interest organizations, among others. Finally, this bill will facilitate the publishing of nutrition information in this country by setting out specific procedures for the agencies to follow in reviewing nutrition information from sister agencies.

The links between nutrition and health have grown clearly evident in the past decade, and now more than ever we need to make the most of our resources by establishing an effective, interagency national nutrition monitoring system. Coordination of nutrition information and support for nutrition monitoring activities are what this bill provides. Let me just reiterate, that after years of refining this bill, we're all in agreement—the committees of jurisdiction, the nutrition and food and agriculture groups, and the agencies. Therefore, I urge my colleagues to support this bill.

Mr. DE LA GARZA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 1608, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

OLDER WORKERS BENEFIT PROTECTION ACT

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1511) to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes.

The Clerk read as follows:

S. 1511

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Older Workers Benefit Protection Act".

TITLE I—OLDER WORKERS BENEFIT PROTECTION

SEC. 101. FINDING.

The Congress finds that, as a result of the decision of the Supreme Court in Public Employees Retirement System of Ohio v. Betts, 109 S.Ct. 256 (1989), legislative action is necessary to restore the original congressional intent in passing and amending the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), which was to prohibit discrimination against older workers in all employee benefits except when age-based reductions in employee benefit plans are justified by significant cost considerations.

SEC. 102. DEFINITION.

Section 11 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630) is amended by adding at the end the following new subsection:

"(l) The term 'compensation, terms, conditions, or privileges of employment' encompasses all employee benefits, including such benefits provided pursuant to a bona fide employee benefit plan.".

SEC. 103. LAWFUL EMPLOYMENT PRACTICES.

Section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) is amended—

(1) in subsection (f), by striking paragraph (2) and inserting the following new paragraph:

"(2) to take any action otherwise prohibited under subsection (a), (b), (c), or (e) of this section—

"(A) to observe the terms of a bona fide seniority system that is not intended to evade the purposes of this Act, except that no such seniority system shall require or permit the involuntary retirement of any individual specified by section 12(a) because of the age of such individual; or

"(B) to observe the terms of a bona fide employee benefit plan—

"(i) where, for each benefit or benefit package, the actual amount of payment made or cost incurred on behalf of an older worker is no less than that made or incurred on behalf of a younger worker, as permissible under section 1625.10, title 29, Code of Federal Regulations (as in effect on June 22, 1989); or

"(ii) that is a voluntary early retirement incentive plan consistent with the relevant purpose or purposes of this Act.

Notwithstanding clause (i) or (ii) of subparagraph (B), no such employee benefit plan or voluntary early retirement incentive plan shall excuse the failure to hire any individual, and no such employee benefit plan shall require or permit the involuntary retirement of any individual specified by section 12(a), because of the age of such individual. An employer, employment agency, or labor organization acting under subparagraph (A), or under clause (i) or (ii) of subparagraph (B), shall have the burden of proving that such actions are lawful in any civil enforcement proceeding brought under this Act; or";

(2) by redesignating the second subsection (i) as subsection (j); and

(3) by adding at the end the following new subsections:

"(k) A seniority system or employee benefit plan shall comply with this Act regardless of the date of adoption of such system or plan.

"(l) Notwithstanding clause (i) or (ii) of subsection (f)(2)(B)—

"(1) It shall not be a violation of subsection (a), (b), (c), or (e) solely because—

"(A) an employee pension benefit plan (as defined in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2))) provides for the attainment of a minimum age as a condition of eligibility for normal or early retirement benefits; or

"(B) a defined benefit plan (as defined in section 3(35) of such Act) provides for—

"(i) payments that constitute the subsidized portion of an early retirement benefit; or

"(ii) social security supplements for plan participants that commence before the age and terminate at the age (specified by the plan) when participants are eligible to receive reduced or unreduced old-age insurance benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.), and that do not exceed such old-age insurance benefits.

"(2)(A) It shall not be a violation of subsection (a), (b), (c), or (e) solely because following a contingent event unrelated to age—

"(i) the value of any retiree health benefits received by an individual eligible for an immediate pension; and

"(ii) the value of any additional pension benefits that are made available solely as a result of the contingent event unrelated to age and following which the individual is eligible for not less than an immediate and unreduced pension,

are deducted from severance pay made available as a result of the contingent event unrelated to age.

"(B) For an individual who receives immediate pension benefits that are actuarially reduced under subparagraph (A)(i), the amount of the deduction available pursuant to subparagraph (A)(i) shall be reduced by the same percentage as the reduction in the pension benefits.

"(C) For purposes of this paragraph, severance pay shall include that portion of supplemental unemployment compensation benefits (as described in section 501(c)(17) of the Internal Revenue Code of 1986) that—

"(i) constitutes additional benefits of up to 52 weeks;

"(ii) has the primary purpose and effect of continuing benefits until an individual becomes eligible for an immediate and unreduced pension; and

"(iii) is discontinued once the individual becomes eligible for an immediate and unreduced pension.

"(D) For purposes of this paragraph, the term 'retiree health benefits' means benefits provided pursuant to a group health plan covering retirees, for which (determined as of the contingent event unrelated to age)—

"(i) the package of benefits provided by the employer for the retirees who are below age 65 is at least comparable to benefits provided under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.); and

"(ii) the package of benefits provided by the employer for the retirees who are age 65 and above is at least comparable to that offered under a plan that provides a benefit package with one-fourth the value of benefits provided under title XVIII of such Act.

"(E)(i) If the obligation of the employer to provide retiree health benefits is of limited duration, the value for each individual shall be calculated at a rate of $3,000 per year for benefit years before age 65, and $750 per year for benefit years beginning at age 65 and above.

"(ii) If the obligation of the employer to provide retiree health benefits is of unlimited duration, the value for each individual shall be calculated at a rate of $48,000 for individuals below age 65, and $24,000 for individuals age 65 and above.

"(iii) The values described in clauses (i) and (ii) shall be calculated based on the age of the individual as of the date of the contingent event unrelated to age. The values are effective on the date of enactment of this subsection, and shall be adjusted on an annual basis, with respect to a contingent event that occurs subsequent to the first year after the date of enactment of this subsection, based on the medical component of the Consumer Price Index for all-urban consumers published by the Department of Labor.

"(iv) If an individual is required to pay a premium for retiree health benefits, the value calculated pursuant to this subparagraph shall be reduced by whatever percentage of the overall premium the individual is required to pay.

"(F) If an employer that has implemented a deduction pursuant to subparagraph (A) fails to fulfill the obligation described in subparagraph (E), any aggrieved individual may bring an action for specific performance of the obligation described in subparagraph (E). The relief shall be in addition to any other remedies provided under Federal or State law.

"(3) It shall not be a violation of subsection (a), (b), (c), or (e) solely because an employer provides a bona fide employee benefit plan or plans under which long-term disability benefits received by an individual are reduced by any pension benefits (other than those attributable to employee contributions)—

"(A) paid to the individual that the individual voluntarily elects to receive; or

"(B) for which an individual who has attained the later of age 62 or normal retirement age is eligible.".

SEC. 104. RULES AND REGULATIONS.

Notwithstanding section 9 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 628), the Equal Employment Opportunity Commission may issue such rules and regulations as the Commission may consider necessary or appropriate for carrying out this title, and the amendments made by this title, only after consultation with the Secretary of the Treasury and the Secretary of Labor.

SEC. 105. EFFECTIVE DATE.

(a) In General.—Except as otherwise provided in this section, this title and the amendments made by this title shall apply only to—

(1) any employee benefit established or modified on or after the date of enactment of this Act; and

(2) other conduct occurring more than 180 days after the date of enactment of this Act.

(b) Collectively Bargained Agreements.—With respect to any employee benefits provided in accordance with a collective bargaining agreement—

(1) that is in effect as of the date of enactment of this Act;

(2) that terminates after such date of enactment;

(3) any provision of which was entered into by a labor organization (as defined by section 6(d)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)); and

(4) that contains any provision that would be superseded (in whole or part) by this title and the amendments made by this title, but for the operation of this section,

this title and the amendments made by this title shall not apply until the termination of such collective bargaining agreement or June 1, 1992, whichever occurs first.

(c) States and Political Subdivisions.—

(1) In general.—With respect to any employee benefits provided by an employer—

(A) that is a State or political subdivision of a State or any agency or instrumentality of a State or political subdivision of a State; and

(B) that maintained an employee benefit plan at any time between June 23, 1989, and the date of enactment of this Act that would be superseded (in whole or part) by this title and the amendments made by this title but for the operation of this subsection, and which plan may be modified only through a change in applicable State or local law,

this title and the amendments made by this title shall not apply until the date that is 2 years after the date of enactment of this Act.

(2) Election of disability coverage for employees hired prior to effective date.—

(A) In general.—An employer that maintains a plan described in paragraph (1)(B) may, with regard to disability benefits provided pursuant to such a plan—

(i) following reasonable notice to all employees, implement new disability benefits that satisfy the requirements of the Age Discrimination in Employment Act of 1967 (as amended by this title); and

(ii) then offer to each employee covered by a plan described in paragraph (1)(B) the option to elect such new disability benefits in lieu of the existing disability benefits, if—

(I) the offer is made and reasonable notice provided no later than the date that is 2 years after the date of enactment of this Act; and

(II) the employee is given up to 180 days after the offer in which to make the election.

(B) Previous disability benefits.—If the employee does not elect to be covered by the new disability benefits, the employer may continue to cover the employee under the previous disability benefits even though such previous benefits do not otherwise satisfy the requirements of the Age Discrimination in Employment Act of 1967 (as amended by this title).

(C) Abrogation of right to receive benefits.—An election of coverage under the new disability benefits shall abrogate any right the electing employee may have had to receive existing disability benefits. The employee shall maintain any years of service accumulated for purposes of determining eligibility for the new benefits.

(3) State assistance.—The Equal Employment Opportunity Commission, the Secretary of Labor, and the Secretary of the Treasury shall, on request, provide to States assistance in identifying and securing independent technical advice to assist in complying with this subsection.

(4) Definitions.—For purposes of this subsection:

(A) Employer and state.—The terms "employer" and "State" shall have the respective meanings provided such terms under subsections (b) and (i) of section 11 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630).

(B) Disability benefits.—The term 'disability benefits' means any program for employees of a State or political subdivision of a State that provides long-term disability benefits, whether on an insured basis in a separate employee benefit plan or as part of an employee pension benefit plan.

(C) Reasonable notice.—The term "reasonable notice" means, with respect to notice of new disability benefits described in paragraph (2)(A) that is given to each employee, notice that—

(i) is sufficiently accurate and comprehensive to appraise the employee of the terms and conditions of the disability benefits, including whether the employee is immediately eligible for such benefits; and

(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

(d) Discrimination in Employee Pension Benefit Plans.—Nothing in this title, or the amendments made by this title, shall be construed as limiting the prohibitions against discrimination that are set forth in section 4(j) of the Age Discrimination in Employment Act of 1967 (as redesignated by section 103(2) of this Act).

(e) Continued Benefit Payments.—Notwithstanding any other provision of this section, on and after the effective date of this title and the amendments made by this title (as determined in accordance with subsections (a), (b), and (c)), this title and the amendments made by this title shall not apply to a series of benefit payments made to an individual or the individual's representative that began prior to the effective date and that continue after the effective date pursuant to an arrangement that was in effect on the effective date, except that no substantial modification to such arrangement may be made after the date of enactment of this Act if the intent of the modification is to evade the purposes of this Act.

TITLE II—WAIVER OF RIGHTS OR CLAIMS

SEC. 201. WAIVER OF RIGHTS OR CLAIMS.

Section 7 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626) is amended by adding at the end the following new subsection:

"(f)(1) An individual may not waive any right or claim under this Act unless the waiver is knowing and voluntary. Except as provided in paragraph (2), a waiver may not be considered knowing and voluntary unless at a minimum—

"(A) the waiver is part of an agreement between the individual and the employer that is written in a manner calculated to be understood by such individual, or by the average individual eligible to participate;

"(B) the waiver specifically refers to rights or claims arising under this Act;

"(C) the individual does not waive rights or claims that may arise after the date the waiver is executed;

"(D) the individual waives rights or claims only in exchange for consideration in addition to anything of value to which the individual already is entitled;

"(E) the individual is advised in writing to consult with an attorney prior to executing the agreement;

"(F)(i) the individual is given a period of at least 21 days within which to consider the agreement; or

"(ii) if a waiver is requested in connection with an exit incentive or other employment termination program offered to a group or class of employees, the individual is given a period of at least 45 days within which to consider the agreement;

"(G) the agreement provides that for a period of at least 7 days following the execution of such agreement, the individual may revoke the agreement, and the agreement shall not become effective or enforceable until the revocation period has expired;

"(H) if a waiver is requested in connection with an exit incentive or other employment termination program offered to a group or class of employees, the employer (at the commencement of the period specified in subparagraph (F)) informs the individual in writing in a manner calculated to be understood by the average individual eligible to participate, as to—

"(i) any class, unit, or group of individuals covered by such program, any eligibility factors for such program, and any time limits applicable to such program; and

"(ii) the job titles and ages of all individuals eligible or selected for the program, and the ages of all individuals in the same job classification or organizational unit who are not eligible or selected for the program.

"(2) A waiver in settlement of a charge filed with the Equal Employment Opportunity Commission, or an action filed in court by the individual or the individual's representative, alleging age discrimination of a kind prohibited under section 4 or 15 may not be considered knowing and voluntary unless at a minimum—

"(A) subparagraphs (A) through (E) of paragraph (1) have been met; and

"(B) the individual is given a reasonable period of time within which to consider the settlement agreement.

"(3) In any dispute that may arise over whether any of the requirements, conditions, and circumstances set forth in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H) of paragraph (1), or subparagraph (A) or (B) of paragraph (2), have been met, the party asserting the validity of a waiver shall have the burden of proving in a court of competent jurisdiction that a waiver was knowing and voluntary pursuant to paragraph (1) or (2).

"(4) No waiver agreement may affect the Commission's rights and responsibilities to enforce this Act. No waiver may be used to justify interfering with the protected right of an employee to file a charge or participate in an investigation or proceeding conducted by the Commission.".

SEC. 202. EFFECTIVE DATE.

(a) In General.—The amendment made by section 201 shall not apply with respect to waivers that occur before the date of enactment of this Act.

(b) Rule on Waivers.—Effective on the date of enactment of this Act, the rule on waivers issued by the Equal Employment Opportunity Commission and contained in section 1627.16(c) of title 29, Code of Federal Regulations, shall have no force and effect.

TITLE III—SEVERABILITY

SEC. 301. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances shall not be affected thereby.[H02OC0-V2]{H8616}thereby.

The SPEAKER pro tempore. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. Clay] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. Goodling] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. Clay].

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we will consider S. 1511, the Older Workers Benefit Protection Act of 1990, a bill that restores important civil rights protections that were abruptly taken away from older workers last year by the Supreme Court in Public Employees Retirement System of Ohio versus Betts.

I want to express my sincere thanks to the ranking Republican member of the Committee on Education and Labor, Mr. Goodling, and the other Republican members of the committee, for their cooperation. Protection of older workers' rights is obviously not a partisan issue and we are delighted that we were able to resolve our differences and bring this bill before the House today with bipartisan support. This bill is clearly a compromise and, like all compromises, neither side is entirely comfortable with the result. But we do greatly appreciate the support of the gentleman from Pennsylvania.

For more than 20 years, the Age Discrimination in Employment Act [ADEA] has prohibited employers from discriminating against older workers in compensation, a term that includes both pay and employee benefits. Yet the Supreme Court unexpectedly and wrongly concluded that Congress did not intend to include employee benefits when it prohibited age discrimination in compensation. In addition, the Court invalidated regulations that had been promulgated and enforced by six Presidential administrations—Republicans and Democratic alike. In reaching its decision in Betts the court also repudiated virtually every Federal court that had considered the issue.

Immediately after Betts was decided the distinguished chairman of the Special Committee on Aging, Chairman Roybal, introduced legislation H.R. 3200, to reverse Betts. I am proud to be an original cosponsor of that bill with Chairman Hawkins, Mr. Martinez, and Mr. Bilbray. We are joined by over 100 other Members of the House. An identical bill, S. 1511, was introduced in the Senate. Our original bill would merely have reinstated the law to what it was prior to the Betts decision and applied it to all cases that were pending when Betts was decided.

H.R. 3200, as introduced, codified the 20-year-old regulations first issued by the Department of Labor and then adopted by the Equal Employment Opportunity Commission when it assumed jurisdiction over the ADEA in 1979. These regulations contained the so-called equal benefit or equal cost rule. This rule is quite simple. Generally, an employer must provide the same benefits to all workers. But if the cost to the employer of providing a particular benefit to an older worker is greater than the cost of providing the same benefit to a younger worker, the employer is permitted to provide smaller benefits to older workers, so long as the employer spends at least the same amount of money for all workers.

At both House and Senate hearings, the bill was endorsed by the Equal Employment Opportunity Commission, with one caveat: we were asked to clarify that voluntary early retirement incentive plans did not necessarily have to meet the "equal benefit or equal cost" rule, but rather that they should be lawful as long as they furthered the purposes of the ADEA. We agreed to their request.

As the process continued, however, we began to hear from others who were not as supportive of the introduced bill as the administration first appeared to be. Many in the business community and some unions urged us to make certain exceptions to the "equal benefit or equal cost" rule to accommodate practices that they felt were or should be lawful under the ADEA. H.R. 3200, as reported by the Committee on Education and Labor, reflects our efforts to meet their legitimate concerns.

A major controversy quickly emerged on the issue of retroactivity. Some in the business community actually tried to argue that it would be unfair to reinstate the law retroactively since, according to them, the law pre-Betts was unsettled. Some opponents of the bill had the audacity to claim that the regulations—first issued by the Department of Labor in 1969 and later adopted by the EEOC—that had been in existence for 20 years and had been consistently upheld by the courts were not, in fact, an accurate statement of the law. These few companies, many of whom had been successfully sued in the past by their own employees for violating the ADEA, have been trying for months, both on their own and within employer trade associations, to stir up enough confusion to keep this bill from moving forward.

In the course of our work on this issue over the past year, however, two things became very clear. First, while most private employers and State and local governments were complying with the EEOC regulations that formed the basis for pre-Betts law, a fair number of companies and States, including some rather large and vocal ones, were not. The Supreme Court provided these companies and States with an extraordinary and unexpected windfall—the opportunity to continue their blatant discrimination against older workers in employee benefits without penalty. As a result of the Supreme Court's decision, conduct that was clearly in violation of the EEOC regulations before Betts, now might not be unlawful, unless the employer was using the employee benefit plan to discriminate in some other aspect of employment, such as to retire an older worker involuntarily.

The second thing that was clear was that opponents of the bill were desparately trying to avoid dealing with the real issue: the fundamental unfairness and unlawfulness of denying older wokers an employee benefit solely on account of age. Instead, opponents sought to mischaracterize the issue, arguing that H.R. 3200 was another attempt by Congress to restrict employer flexibility to design employee benefit plans, and not a question of fundamental civil rights for older workers.

Opponents tried to argue that pensions and other benefits were already heavily regulated under the Employee Retirement Income Security Act of 1974 [ERISA] and the Internal Revenue Code [the code]. If a practice were lawful under ERISA and the code, it was not and should not be unlawful under the ADEA.

That is nonsense. The rules under ERISA and the code have an entirely different focus. They prohibit an unrelated type of discrimination: skewing the benefit plan to favor high-paid workers. That has nothing to do with age discrimination. A practice can be perfectly permissible under ERISA and the code and at the same time can be discriminatory under our civil rights laws.

For instance, an employer could design a plan that covers only its white employees. As long as this blatant race discrimination does not disproportionately favor high-paid workers, the employer may be in compliance with the code. Similarly, since the code rules prohibiting discrimination do not apply to health insurance benefits provided through insurance companies, an employer could design a health plan that excludes all female employees and not violate the code. Who would say that either of these programs are lawful or should be?

So my colleagues, don't be deceived. This is not a complicated employee benefits issue. It is a fundamental civil rights issue. We do not permit employers to pay an older worker less than a younger worker solely because of age; employers must be prohibited from providing older workers smaller benefits or no benefits solely because of their age or other proxies for age for example, pension or Medicare eligibility. Until the Supreme Court decided Betts last year, that was the law under ADEA since 1967 for private employers and since 1974 for State and local governments. The "equal benefit or equal cost" rule is not some new idea that we came up with in the last few months. It has been the law for many years, although some have clearly chosen to ignore it until now.

The Older Workers Benefit Protection Act reaffirms the original intent of Congress that employers may not discriminate against older workers in employee benefits. It also reaffirms the limited exception to that broad principle: the so-called "equal benefit or equal cost" rule.

Finally, the bill provides carefully crafted narrow and limited exceptions to the "equal benefit or equal cost" rule for certain practices that may have been unlawful under the EEOC regulations before Betts. As floor manager for S. 1511 and chairmán of the Subcommittee on Labor-Management Relations which has primary jurisdiction over employee benefit plans, I have prepared an explanation of this important bill which summarizes the key issues addressed in the bill and briefly explains our concerns. I include this explanation of S. 1511 in the RECORD at this point.

EXPLANATION OF S. 1511

OVERVIEW

In general, the Older Workers Benefit Protection Act clarifies and restores one of the original purposes of the Age Discrimination in Employment Act (ADEA): the elimination of age discrimination in employee benefits. It does so by:

1. specifying that the ADEA's prohibition against age discrimination in "compensation, terms, conditions, or privileges of employment" covers employee benefits and employee benefit plans.

2. making clear that employers seeking to rebut a charge of age discrimination in employee benefits must prove (as an affirmative defense) that they have provided equal benefits to, or incurred equal costs for providing those benefits to, all workers. S. 1511 does this by codifying the regulations originally developed by the Department of Labor and adopted by the Equal Employment Opportunity Commission (EEOC) when it assumed jurisdiction over the ADEA in 1979.

3. reestablishing the principle that employers bear the burden of proving this "equal benefit or equal cost" affirmative defense.

4. clarifying that all forms of age discrimination in employee benefits are forbidden by the ADEA, regardless of whether the discriminatory provisions pre-date the Act.

More specifically, S. 1511:

1. revises section 4(f)(2) of the Act to eliminate the word "subterfuge", thus clarifying that, subject to the next three paragraphs, the only justification for age discrimination in an employee benefit is the increased cost of prividing that particular benefit to older workers. In determining whether the "equal benefit or equal cost" rule is met, the practices that were permissible under the EEOC regulation (29 C.F.R. section 1625.10) remain permissible under the bill (e.g., 5-year age banding to aggregate costs and age-based cost-justified reductions in long-term disability and group term life insurance benefits).

2. protects certain employee benefit practices that might otherwise be challenged under the equal benefit or equal cost rule by creating additional safe harbors, beyond those previously contained in the EEOC regulations. For instance, new section 4(1) protects subsidized early retirement payments and social security "bridge" payments (payments designed to bridge the gap between early retirement and social security eligibility).

3. codifies, with limited exceptions, the strict prohibition contained in the EEOC regulations against using the value of a participant's previously earned pension benefits as a means to deny the participant any other employee benefit. The only exceptions to the prohibition involve disability benefits in certain specified circumstances and severance pay in very limited specified circumstances. These two forms of benefit packaging were not previously permitted under the EEOC regulations.

4. protects voluntary early retirement incentive plans that are consistent with the relevant purpose(s) of the ADEA. The employer has the burden of proving that such plan meets this test. The one purpose of the Act that is always relevant is the purpose of prohibiting arbitrary age discrimination in employment. The other two purposes ("to promote employment of older persons based on their ability rather than age" and "to help employers find ways of meeting problems arising from the impact of age on employment") may be relevant on a case by case basis.

In summary, no employee benefits plans or benefit practices that were lawful under the EEOC regulations that had been the basis for pre-*Betts* law would be unlawful under this bill. Some plans or practices that were either unlawful or questionable under pre-*Betts* law could be lawful for the first time under this bill, provided that these plans or practices do not result in requiring or permitting the involuntary retirement of a worker based on age.

DESCRIPTION OF MAJOR FEATURES OF THE BILL

I. Title I—Overruling Betts

Through this legislation, Congress intends to make unmistakably clear that the ADEA's purpose of eliminating arbitrary age discrimination in employment includes the elimination of age discrimination in all forms of employee benefits. It is little consolation to an older worker to be protected from discriminatory wage payments if an employer is free to discriminate based on age in the broad range of employee benefits that are included as part of an individual's compensation, benefits that often are valued between one-quarter and one-third of earned wages.

The decision of the Supreme Court in *Public Employees Retirement System of Ohio* v. *Betts*, 109 S. Ct. 2854 (1989), incorrectly sanctioned the creation of a two-tiered system of compensation under the ADEA, one in which older workers inevitably will be become targets. The bill clearly avoids this draconian result by overturning both the reasoning and the holding of the Court in *Betts*. Thus, in enacting this bill, Congress explicitly and completely rejects both the reasoning and the holding in Betts.

Congressional reaffirmation of the original "equal benefit and equal cost" principle, subject to the narrow exceptions the Congress has crafted, will ensure that productive older workers, an ever-growing segment of our labor force both in numbers and importance, are not discouraged from remaining actively employed. The elimination of mandatory retirement, the requirement of non-discriminatory pension accruals for employees working beyond normal retirement age, and recent changes in the social security system are designed to eliminate barriers, monetary and otherwise, to the continued employment of older persons.

The provisions of this bill are consistent with those overall changes in national policy and Congress intends, as it does with all remedial statutes, for any ambiguities in statutory language to be resolved in favor of protecting older workers. In addition, because many of the provisions in the bill are identical to or refinements of provisions in H.R. 3200, as reported by the Committee on Education and Labor on August 3, 1990 (H. Rept. 101-664, 101st Cong. 2d Sess.), we hereby incorporate by reference the discussions and explanations of the provisions of the bill contained in that report.

A. Codification of the "Equal Benefit or Equal Cost" Rule

The legislative history of the ADEA in 1967 reflects the awareness of Congress that a tension exists between the two major purposes of the act: promoting the employment of older workers and eradicating arbitrary age discrimination. Under other civil rights statutes, such as those involving race or sex, employers must provide the same employee benefits to all workers. In contrast, the Age Discrimination in Employment Act permits an employer either to provide equal benefits to all workers or to spend the same amount of money for a particular benefit, even though a lesser benefit for older workers might be the result. Congress recognized that the effect of requiring employers to provide all workers the same employee benefits, regardless of the type of benefit involved, might result in discouraging employers from hiring older workers because some types of benefits are simply more costly to provide for older workers.

Thus the EEOC regulations (like prior DOL regulations issued in 1969 and 1979) adopted the "equal benefit or equal cost" rule as a benchmark to assure that any differentiation between the benefits provided to older and younger workers was not the result of arbitrary age discrimination but rather was based on employer-specific, age-related cost justification. (See, *e.g.*, *EEOC* v. *City of Mt. Lebanon*, 842 F.2d 1480 (3d Cir. 1988). Under this approach, an employer that provides a particular employee benefit must generally provide the same benefit to all workers. But if the cost to that employer of providing that benefit is greater for older workers than younger workers, the employer may provide a smaller benefit to older workers, so long as the employer spends at least the same amount of money for all workers.

The bill codifies the "equal benefit or equal cost rule" as articulated in the EEOC regulation (29 CFR section 1625.10) with the enumerated exceptions described below. These exceptions were carefully crafted and should be narrowly construed, not used as the basis for creating further exceptions by analogy or otherwise. Nothing in the amendments to the ADEA contained in S. 1511 is intended to change those provisions in the regulations with respect to the type of benefits covered under section 4(f)(2) (e.g., consistent with the regulation, section 4(f)(2) as amended should not be interpreted to apply to benefits such as paid vacations and uninsured paid sick leave).

Since the ADEA covers only employees and those individuals seeking employment, nothing in the bill would apply the provisions of the ADEA to retirees. Thus, for example, it would not be a violation of the ADEA, if an employer provided an *ad hoc* cost-of-living adjustment to all current retirees above a certain age. Of course, nothing in the bill would alter the current protection under the ADEA for an employee whose retirement or health benefits are discriminatorily structured based on age at the time of retirement. Thus the "equal benefit or equal cost" rule would continue to apply to any such promise upon retirement.

B. Benefit Packaging or Integration

Prior to *Betts*, Federal courts had routinely upheld the long-standing prohibition against combining pension benefits with any other benefit (including specifically severance pay). See e.g., *EEOC* v. *Westinghouse Elec. Corp.*, 725 F.2d 211 (3rd Cir. 1983), cert. denied, 469 U.S. 820 (1984); *EEOC* v. *Borden's, Inc.*, 724 F.2d 1390 (9th Cir. 1984). Under the bill, however, employers are given flexibility to engage in a narrowly drawn form of benefit packaging that prior to *Betts* was unlawful under the EEOC regulations. An employer may not use these techniques if they have the effect of requiring or permitting the involuntary retirement of an individual because of age.

1. Severance

Under S. 1511, employers may use two specific types of benefit packaging in connection with severance. First, when a "contingent event unrelated to age" (i.e., a plan shutdown or layoff) occurs, the employer may reduce the severance benefits that would otherwise be provided to workers by the value of their retiree health benefits. Second, the value of additional pension benefits that are provided to workers solely because of the closing or layoff (so-called "shutdown sweeteners") may be offset against severance pay. In no other instance may an employer reduce or deny severance based on pension eligibility or pension receipt.

With respect to retiree health benefits, an employer may not use this exception to the pre-*Betts* rules governing benefit packaging contained in the EEOC regulation unless the retiree health benefits offered are at least as valuable as Medicare (or at least as valuable as 25% of Medicare for workers over age 65).

In order to simplify the offset calculation, S. 1511 provides specific dollar figures (based on General Accounting Office data) to calculate the retiree health benefit values (both pre-65 and post-65). Separate values also are provided distinguishing between employer promises of retiree benefits that are of limited duration or employer promises that are of lifetime duration. All values are adjusted annually based on the medical component of the Consumer Price Index.

For example, if the employer's promise of retiree health benefits is of limited duration, the employer may offset $3,000 per year up to age 65 for each year of promised benefits and $750 per year thereafter.

Assume an employee is 62 when the plan shutdown occurs and the employer is offering a severance benefit equal to $10,000. If the employer promises only to provide health benefits until the retiree is 65, the employer may only offset $9,300 (3 years × $3,000 per year) against the severance. Thus the employee would be entitled to $1,000 in severance as well as the retiree health benefit.

On the other hand, if the employer's promise of retiree health benefits is of unlimited duration, the employer may offset $48,000 for workers under age 65 and $24,000 for workers age 65 or older. Thus under the example described above, the employer may deny severance benefits to the 62-year-old since the value of retiree health benefits ($48,000) is larger than the severance payment ($10,000).

With respect to shutdown sweeteners, the bill permits the value of such sweeteners to be deducted from severance pay. For instance, suppose an employer provides that if a plant shuts down, pension-eligible employees would be eligible for an extra pension benefit of $100 a month for the next 2 years. The employer may deduct the value of the shutdown sweetener ($100 per month x 12 months x 2 years) from the employee's severance pay, provided that the employee is eligible (on the date of the shutdown) for a pension that is not reduced on account of the employee's age. No deduction is permitted for any employee who, at the time of the shutdown, will only be entitled to a pension that is reduced (either on an actuarial basis or otherwise) because the employee is younger than normal retirement age.

2. Long-term disability benefits

The only other exception to the pre-*Betts* rule governing benefit packaging found in the EEOC regulation relates to long-term disability benefits and pensions.

Under S. 1511, in two instances, long-term disability may be reduced by the amount of certain pension benefits. First, pension benefits which the employee voluntarily elects to receive could be offset. Second, if the employee is entitled to a pension that will not be reduced (either actuarially or otherwise) because of the employee's age, the value of that pension could be offset after the employee reaches the later of age 62 of normal retirement age.

Although the bill authorizes a monetary offset to long-term disability benefits for certain pension benefits, it does not authorize an employer to abrogate any rights an employee may have that are associated with disability (e.g., recall rights, continued pension accruals under section 4(j) of the ADEA), if those rights are otherwise protected under the ADEA.

The offset to long-term disability benefits (like the severance offset described above) may not be made if it requires or permits involuntary retirement. For example, in some cases, the offset may not have the effect of requiring involuntary retirement. An individual with an independent source of income and no immediate short-term income needs may receive a reduced long-term disability benefit and decide not to draw the pension benefit to which he or she may be entitled for several years, thus retaining the option to return to work and/or continuing pension accruals. On the other hand, to reduce the long-term disability benefit of an individual with critical short-term income needs and no other source of income except his or her pension may result in constructively forcing that individual to retire in order to meet those financial needs. Such involuntary retirement would be prohibited under these amendments, as it would be under the *Betts* decision itself.

C. Voluntary Early Retirement Incentive Plans

S. 1511 permits early retirement incentive plans that are both truly voluntary and consistent with the relevant purpose or purposes of the ADEA. In addition, a safe harbor is provided for two prominent types of early retirement programs: subsidized early retirement and social security "bridge" payments (see H. Rept. 101-664, 101st Cong. 2nd Sess. 37 for a description of these programs). As with all affirmative defenses, the employer has the burden of proving that any early retirement incentive plan is consistent with the relevant purpose of purposes of the ADEA when the defense is raised by the employer to rebut a plaintiff's claim of age discrimination.

The phrase "purposes of the Act" has been used as a standard in the ADEA for over 20 years, and the common approach has been to consider only the purpose or purposes that are relevant to the issue at hand. The bill endorses that approach. An early retirement incentive plan or a feature of the plan need not be shown to be consistent with every purpose of the ADEA in order to be found lawful. The one purpose that is always relevant, however, is "to prohibit arbitrary age discrimination in employment." The other two purposes ("to promote the employment of older persons based on their ability rather than age" and "to help employers and workers find ways of meeting problems arising from the impact of age on employment") may be relevant on a case by case basis. If the plan or a feature of the plan is challenged, however, the employer must prove that the plan or feature is consistent with every purpose that is relevant.

Early retirement incentive plans that withold benefits to older workers above a specific age while continuing to make them available to younger workers may conflict with the purpose of prohibiting arbitrary age discrimination in employment. *See Karlen* v. *City Colleges of Chicago*, 837 F.2d 314 (7th Cir.), cert. denied, 486 U.S. 1044 (1988); *Cipriano* v. *Board of Education of North Tonawanda*, 785 F.2d 51 (2d Cir. 1986); *EEOC* v. *Westinghouse Elec. Corp.*, 725 F.2d 211 (34rd Cir.) cert. denied, 469 U.S. 820 (1984); *EEOC* v. *Borden's Inc.*, 724 F.2d 1390 (9th Cir. 1984). This purpose is also undermined by denying or reducing benefits to older workers based on age-related stereotypes or some other commonly recognized proxy for age (e.g., pension eligibility or receipt). In determining whether a program is consistent with the purpose of prohibiting arbitrary age discrimination in employment, non-age related cost to the employer is never an acceptable basis for providing lesser benefits for older workers (*Metz* v. *Transit Mix Inc.*, 828 F.2d 1202, 1206 (7th Cir. 1987)).

D. Burden of Proof

The Supreme Court in Betts erroneously held that section 4(f)(2) of the Act is not an affirmative defense, and therefore, the employee bears the burden of proof under the exception for employee benefit plans. The bill reverses that holding and reestablishes the principle that employers bear the burden of proving the "equal benefit or equal cost" affirmative defense and any other affirmative defenses under sections 4(f)(2) or 4(l). This is consistent with the allocation of burden of proof with respect to other affirmative defenses under the ADEA. For instance, the courts and the executive branch have uniformly held that the "bona fide occupational qualification" exception in section 4(f)(1) is an affirmative defense for which the employer bears the burden of proof. See, *e.g.*, *Heiar* v. *Crawford County*, 746 F.2d 1197-98 (7th Cir. 1984), cert. denied, 472 U.S. 1027 (1985); *Hoefelman* v. *Conservation Commission*, 718 F.2d 281, 283 (8th Cir. 1983). Accord 29 CFR 1625.6. Similarly, the EEOC and some circuit courts have concluded that the "reasonable factors other than age" exception included in section 4(f)(1) is an affirmative defense for which the employer bears the burden of proof. *See Criswell* v. *Western Airlines*, 709 F.2d 544, 552-53 (9th Cir. 1983), affirmed on other grounds, 72 U.S. 400 (1985). Accord 29 CFR 1625.7.

E. Effective Date

The changes made by the bill apply to any employee benefit established or modified on or after the date of enactment and to other conduct occurring more than 180 days after the date of enactment. In other words, existing plans would have 180 days to be brought into compliance, but any new benefit or new plan (or an modification of any existing one) is immediately subject to the changes made by the bill.

S. 1511 contains two exceptions to that general effective date:

1. collectively bargained plans

If a collective bargaining agreement is in effect as of the date of enactment and contains provisions that would be superseded by the amendments to the ADEA contained in this bill, employers and unions would have until the date the contract expires or June 1, 1992, whichever is earlier, to bring their plans into compliance with respect to employees covered under the bargaining agreement, since unilateral employer action is not possible to conform the plan to these amendments.

2. state and local government plans

If a state or local government employee benefit plan contains provisions that would be superseded by the amendments to the ADEA contained in this bill, a deferred effective date for compliance (similar to that for collectively bargained plans) is provided. State and local governments would have two years from the date of enactment to bring their plans into compliance.

Because a number of state and local governments provide disability benefits in a manner that would be superseded by the amendments made by the bill, a special rule authorizing an election by state and local employees who were hired prior to the effective date is also contained in the bill. After reasonable notice and an election period of at least 180 days, these employees could make a one-time election to retain coverage under the old plan for disability benefits or to be covered under new disability benefits that conform to the amendments made by this bill. Of course, no state or local government would be required to offer this election. If the government chose, it could simply provide disability benefits to all its employees—existing and new—under a plan that fully complies with the amendments to ADEA made by the bill.

Finally, the bill requires the EEOC and the Secretaries of Labor and the Treasury to provide assistance to state and local governments in identifying and securing independent technical advice.

II. Title II—Waivers

S. 1511 also amends the ADEA to ensure that older workers are not coerced or manipulated into waiving their rights under ADEA. The bill establishes threshold requirements for judicial consideration of ADEA waivers executed after the date of enactment. A waiver is not valid unless it is knowing and voluntary.

The bill provides certain minimal procedural requirements that must be met: the waiver must be part of a written agreement; the individual may not waive rights that arise after the waiver is executed; the wavier must be in exchange for something of value in addition to whatever the individual is already entitled to receive; the individual must be advised in writing to consult with an attorney; and the individual must have a reasonable period of time in which to consider the agreement.

In addition, if a waiver is requested from a group of employees as part of an exit incentive program, the following additional procedural requirements must be met: the employer must provide specific information about the eligibility factors for inclusion of individuals in the progrm and the age profiles of individuals who are included in and excluded from the program.

Regardless of whether the waiver is requested as part of the settlement of an individual claim of age discrimination or as part of a group exit program, the employer may not mislead or deceive the employee(s) with regard to any information provided as to any subsequent action (e.g., layoffs).

In summary, no employee benefit plans or benefit practices that were lawful under the EEOC regulations that formed the basis for pre-Betts law would be unlawful as a result of the passage of this bill. Some employee benefit plans or benefit practices that were unlawful or questionable before Betts could be lawful for the first time, provided that these practices do not require or permit the involuntary retirement of a worker based on age.

Today we are asking members of the House to accept the bill as it passed the Senate. We are also adopting the statement of managers on the part of the Senate. I include the Senate statment in the RECORD at this point.

S. 1511 FINAL SUBSTITUTE: STATEMENT OF MANAGERS

VOLUNTARINESS

1. The managers wish to make clear that it is the plaintiff's burden under the ADEA to demonstrate that his or her retirement was involuntary. Such a claim would be raised under section 4(a). Under the ADEA, an employer does *not* have to prove that an early retirement incentive plan is voluntary. Of course, no employee benefit plan—including an early retirement incentive plan—may require or permit the involuntary retirement of any individual.

2. The fifth sentence of the second full paragraph on page 27 of the Senate Committee Report is expressly disavowed. [This corresponds to the last sentence on page 43 of H. Rept. 101-664]

3. Because, by definition, early retirement incentive plans are made available exclusively to older workers, relevant circumstances must be carefully examined to ensure that older workers make a voluntary decision. In order to determine whether a voluntary decision has been made, among the factors that may be relevant are (1) whether the employee had sufficient time to consider his or her options; (2) whether accurate and complete information has been provided regarding the benefits available under the early retirement incentive plan; and (3) whether there have been threats, intimidation and/or coercion. The employee retains the burden of proof regarding the issue of involuntariness.

4. Some observers have construed language in the Committee Report to mean that an early retirement incentive offer that was very generous, in other words, almost too good to refuse, might also be challenged on the basis of voluntariness. Nothing in these amendments should be construed to give rise to any challenge to an early retirement incentive plan on the basis that the attractiveness of the offer induces employees to retire. The attractiveness of an early retirement incentive does not call into question the voluntariness of an employee's decision to take advantage of that incentive.

EARLY RETIREMENT INCENTIVE PLANS

1. At the outset, we wish to explain the meaning of the provision requiring that certain early retirement incentive plans must be "consistent with the relevant purpose or purposes of the Act." This standard does not apply to early retirement incentive plans described in paragraph 4(l)(1). It also does not apply to such plans unless a prima facie case of age discrimination has been established under section 4(a).

Under new paragraph 4(f)(2)(B), an early retirement incentive plan must be consistent with the relevant purpose or purposes of the ADEA. The phrase "purposes of the Act" has been used as a standard in the ADEA for over 20 years, and the common approach has been to consider only the purpose or purposes that are relevant to the issue at hand. We endorse that approach. An early retirement incentive plan need not be shown to be consistent with every purpose of the ADEA in order to be found lawful. That would be an impossible burden for an employer to meet. As a general matter, the purpose implicated in considering an early retirement incentive plan or any particular feature of such a plan is the purpose of prohibiting arbitrary age discrimination in employment.

Early retirement incentive plans that withhold benefits to older workers above a specific age while continuing to make them available to younger workers may conflict with the purpose of prohibiting arbitrary age discimination in employment. The purpose of prohibiting arbitrary age discrimination in employment also is undermined by denying or reducing benefits to older workers based on age-related stereotypes. For example, it would be unlawful under this substitute to exclude older workers from an early retirement incentive plan based on stereotypical assumptions that "older workers would be retiring anyway."

2. It is also clear that a wide variety of voluntary early retirement incentive plans would be lawful under the ADEA. For example, early retirement incentives that provide a flat dollar amount (e.g., $20,000), service-based benefits (e.g., $1,000 multiplied by the number of years of service), or a percentage of salary to all employees above a certain age were permissible before the Betts decision and would remain lawful under this substitute. Similarly, early retirement incentives that provide flat dollar increases in pension benefits (e.g., $200 per month) or percentage increases (e.g., 20% would continue to remain lawful. Finall early retirement incentives that imput years of service and/or age would satisfy th ADEA. For example, a plan that gives em ployees who have attained age 55 and wh retire during a specified window perio credit for 5 additional years of service and or age would be lawful.

We recognize that employees may wel come the opportunity to participate in suc programs, and we do not intend to depriv employees of such opportunities or to den employers the flexibility to offer such pro grams rather than resorting to involuntar layoffs.

BURDEN OF PROOF IN SECTION 4(f)

1. Under section 4(f)(2)(A), the substitut provides that the employer bears th burden of proving that a bona fide seniorit system is not intended to evade the pur poses of the ADEA. The managers wish t make clear that this burden of proof doe not disturb or affect the allocation of bur dens of proof for seniority systems unde Title VII.

2. The substitute deletes any reference t paragraphs 4(f) (1) and (3) of the Age Dis crimination in Employment Act (ADEA The Betts decision did not involve interpre tation of those two paragraphs. The tw paragraphs are removed because they ar unchanged by Betts or by this bill.

In particular, the managers declare tha they are not disturbing or in any way affect ing the allocation of the burden of proof fo paragraph 4(f)(1) under pre-Betts law. Prio to Betts, courts had allocated the burden o proof under paragraph 4(f)(1). This bil overturns the Supreme Court's allocation o the burden of proof under paragrap 4(f)(2). Because the allocation of the burde of proof under paragraph 4(f)(1) was not a issue in Betts, the managers find no need t address it in this bill.

ACTUARIAL PRACTICES

The substitute incorporates the equal ben efit equal cost rule into section 4(f)(2). W note that in complying with this provision the employer may base necessary cost dat on generally accepted actuarial principles such as actuarial extrapolation, smoothin and averaging, and on the use of reasonab related data—*e.g.*, as to the effects of agin on disability incidence and costs. In all cir cumstances, the employer must base calcu lations on the best reasonably availabl data.

STATE ELECTION PROCEDURES

The substitute allows state and local gov ernments to offer existing employees a election between existing and newly-create disability benefits. The decision whether t have an election procedure is at the discre tion of the affected state or local govern ment. It is the managers' intent that th election provided for under section 105(c) o the bill be a one-time election to be used i the context of complying with this bill. Th managers intend that once an employe either elects or does not elect to be covere by the new disability benefits under sectio 105(c)(2), the employee may not change hi or her decision. Thus, an employee will no be permitted to opt in and out of the tw plans. The flexibility that the substitut provides for state and local governments i negated if employees are given such discre tion. An employer shall use an effective method of transmitting notice, such as the mailing of notice to an employee's las known address, or the inclusion of notice in the employee's paycheck.

WAIVERS AS A DEFENSE

The managers intend that in any dispute over whether the requirements, conditions and circumstances set forth in paragraph 7(f)(1)(A)-(H) or 7(f)(2)(A)-(B) have been met, the party asserting the validity of the waiver shall have the burden of proving in a court of competent jurisdiction as an affirmative defense that the waiver process satisfied each of the factors in that paragraph. With respect to the allocation of burdens of proof and production on the issue of whether a waiver was "knowing and voluntary," the managers do not intend to disturb the law as it existed prior to passage of this bill, including the law under Rule 12 and Rule 56 of the Federal Rules of Civil Procedure.

RETIREE HEALTH

Many employer-sponsored retiree medical plans provide medical coverage for retirees only until the retiree becomes eligible for Medicare. In many of these cases, where coverage is provided to retirees only until they attain Medicare eligibility, the value of the employer-provided retiree medical benefits exceeds the value of the retiree's Medicare benefits. Other employers provide medical coverage to retirees at a relatively high level until the retirees become eligible for Medicare and at a lower level thereater. In many of these cases, the value of the medical benefits that the retiree receives before becoming eligible for Medicare exceeds the total value of the retiree's Medicare benefits and the medical benefits that the employer provides after the retirees attains Medicare eligibility. These practices are not prohibited by this substitute. Similarly, nothing in this substitute should be construed as authorizing a claim on behalf of a retiree on the basis that the actuarial value of employer-provided health benefits available to that retiree not yet eligible for Medicare is less than the actuarial value of the same benefits available to a younger retiree.

It is critical that we reverse Betts and restore the protection from age discrimination in employee benefits that the Supreme Court took away from older workers last year. I strongly prefer H.R. 3200 as the Committee on Education and Labor reported it. As this bill has evolved, we have had to make many difficult compromises and the Senate bill contains some of the more painful ones. But I have reluctantly concluded that the only way that Congress can pass a law this year is to adopt the Senate bill. Senators Pryor, Metzenbaum, Heinz, and Jeffords reached a compromise with Senator Hatch last week that resulted in the Senate passing the bill by 94 to 1.

If it were not so late in the legislative session, I would be unwilling to accept this Senate compromise. But there is not time for a conference with the Senate and time is of the essence.

Some of you have asked about the position of the administration on S. 1511. If we pass the Senate bill today, we have been informed that the President will sign it.

After all, the Bush Justice Department argued in the Supreme Court in favor of June Betts and in strong support of the EEOC regulations that we are codifying today. The Bush EEOC testified before both House and Senate committees in support of our original bills that were substantially tougher on employers than the bill before us today. The Senate bill addresses each and every concern raised in the letter last March from Roger Porter of the White House domestic policy staff.

The Senate passed S. 1511 by an overwhelming margin: 94 to 1. Today we must close the loophole opened by the Supreme Court in Betts once and for all and reaffirm the right of older workers to nondiscriminatory employee benefits.

I urge passage of S. 1511.

☐ 1120

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I, too, want to congratulate all who negotiated this legislation so that it is now coming to us in this form.

I am getting close to believing in modern miracles. When it left the committee I thought it smelled like a skunk, and now, as it returns from negotiations it almost smells like a rose, almost, as I said. So they have come a long, long way.

My greatest fear, of course, when it left committee was that a year from now we were going to have 50, 55, 60, 62-year-old workers descend upon Washington, DC, hoping that the only thing they were going to throw at us were tomatoes and eggs, because I had a feeling that it was going to be worse than catastrophic health care when they discovered that they believed we in the Congress prevented them from getting the same kind of early out that their neighbor got.

The Older Workers' Benefit Protection Act has been the focus of much discussion in the 14 months since its introduction. This is understandable given the bill's subject, the very complicated legal area of employee benefits and pensions.

While we are committed to ensuring that the rights of older Americans in the work force are protected, some of us have paused at certain of the bill's provisions which we believed were unnecessarily disruptive of existing benefit arrangements and which we felt would result in decreased benefits to workers of all ages.

One of the difficulties in providing older workers with protection against discrimination on the basis of age in the area of employee benefits is that certain benefits are structured around age-related factors. For example, one area where we felt the provisions of H.R. 3200 were particularly problematic were those which called into question the ability of employers to offer early retirement incentives. These popular incentives often use age eligibility criteria and were jeopardized by a combination of the bill's general prohibition on the use of age-based factors and the restrictions on the use of ADEA waivers.

We had similar concerns about the bill's effect on benefit packaging and ERISA features of many plans.

I would like to very quickly review the changes that were made that I think make this an acceptable piece of legislation. In the Hatch compromise, it provides that a voluntary early retirement incentive plan consistent with the relevant purpose or purposes of the act is not a violation of ADEA. It broadens the integration of disability and pension by allowing disability to be offset by pension whenever an employee voluntarily elects to receive a pension or when the employee reaches the latter of age 62 or normal retirement age. It allows severance to be offset by both retiree health benefits and pension sweeteners, that is, additional pension benefits. It provides a 6-month phase in after enactment for application to private employers and clarifies that the bill's provisions do not apply to ongoing benefits that began before the bill's effective date.

It modifies several of the burden-of-proof provisions in the bill and, particularly, clarifies that the employee has the burden of proof on the issue of whether he or she was involuntarily retired. It alters the coverage of State and local plans to provide that current employees may elect to receive either existing disability benefits or the disability benefits as modified to comply with the act and to require that EEOC and the Secretaries of Labor and the Treasury provide States with technical assistance in complying with the act.

It modified the ADEA waivers provision with respect to the burden of proof on knowing and voluntary.

With these changes, we have a bill that I think most people can support, not a perfect bill, but then we do not pass very many perfect bills out of either the House of Representatives or the Senate or out of conference.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I am happy to yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding.

The gentleman from Missouri, the chairman of the subcommittee, alluded to the fact that the administration, in whatever way he described, has joined in the approval of this legislation. I wanted to make sure that that was the case. I have no documentation to indicate that that is so.

Mr. GOODLING. The administration has joined in saying that they would not veto the legislation.

Mr. GEKAS. I thank the gentleman.

Mr. GOODLING. Another member of the committee will tell us what they said, and I am just telling the gentleman what they will not do.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I am happy to yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as I understand the administration's position on this specific bill, it is that the administration has no position, that is, the administration has said specifically that they do not plan to veto the bill, but they are in no way endorsing this bill either.

Mr. GOODLING. They have four concerns left in the legislation.

Mr. CLAY. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I am happy to yield to the gentleman from Missouri.

Mr. CLAY. Mr. Speaker, I think what I said was that we had made many changes in this bill to accommodate the concerns of business, of labor and the administration.

Mr. GEKAS. So we are not in a place where we can say that it is completely settled, but at least the committee has done its work is what the gentleman is saying.

Mr. GOODLING. The administration will not have a signing ceremony where they will invite the gentleman and a band, et cetera, and so forth, because they are in love with the legislation.

Mr. GEKAS. That will not be the first time that I have not been invited.

I thank the gentleman.

Mr. GOODLING. Mr. Speaker, I reserve the balance of my time.

Mr. CLAY. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. Martinez].

Mr. MARTINEZ. Mr. Speaker, I rise to support Mr. Clay and Chairman Hawkins on this legislation to reverse the Betts Supreme Court case, which overturned 20 years of age antidiscrimination laws.

I support the passage of this bill only because it is necessary to clarify that the Age Discrimination in Employment Act does not allow the calculation of employee benefits to discriminate against older workers. But I have some very strong reservations about what we have done to the current ADEA law in order to get this bill through.

In my opinion, H.R. 3200 has violated a sacred principle that we have held for over 20 years, validated by amendments passed in 1987, that, with the exception of pension benefits, which are accrued on the basis of age, age should never be the basis of calculating the amount of benefits one employee receives over another. But in this bill, in order to settle political interests we had to carve out numerous exceptions to this rule, exceptions in areas that previous law governed and prohibited.

However, in the end, it comes down to protecting the interests of older workers. The question for us to resolve is whether the older worker community would be hurt more by us not passing a bill to limit and clarify the benefit discrimination in the workplace or by passing this bill which will dilute concrete laws and precedence in this area.

I have one further concern over the time of coverage of this legislation. All previous discriminatory conduct in benefit settings are immunized. This means that pending lawsuits—the EEOC has at least 130 cases—filed under the previous laws and guidelines, and in place before the Betts Supreme Court decision, are absolved by the newer discrimination standards of this bill. We say to those victims, sorry, but we changed the rules, your case is no longer viable under these newer standards of discrimination.

Mr. Speaker, I state these concerns out of a belief that older workers must be protected from discrimination and not be forced to retire by the conditions dictated against them. In the end, I have decided by a narrow balance that to protect these rights we should pass this legislation. We will be signaling that the Supreme Court was dead wrong in its conclusion of law in that case. What I am not certain is if we have in this bill extended or retreated from the protection of older workers' rights.

I urge my colleagues to vote this bill out of this Congress.

☐ 1130

Mr. GOODLING. Mr. Speaker, I yield 4 minutes to the gentlewoman from New Jersey [Mrs. Roukema], a member of the subcommittee, who has worked on these issues long and hard for many years.

Mrs. ROUKEMA. Mr. Speaker, I rise in support of the compromise embodied in S. 1511, the Older Workers Benefit Protection Act.

Because this compromise represents a very significant improvement over the original bill, I believe this legislation now provides reasonably clear guidance to employers as to what constitutes age discrimination in employee benefits, while preserving some customary benefit practices that are desirable to older workers and younger workers facing involuntary termination.

By no means is this a perfect bill. However, based upon the earlier versions of legislation intended to overturn the Supreme Court's decision in Public Employee Retirement System of Ohio versus Betts, this compromise is perhaps as much as we could hope to achieve in attempting to bring fairness and uniformity to the very complex undertaking of subjecting employee benefits to scrutiny under the Age Discrimination in Employment Act.

The purpose of this legislation is to ensure that older workers do not receive less benefits than younger workers. To that end, older workers cannot receive less severance than younger workers with certain specified exceptions, in the form of offsets for retiree health benefits, and pension sweetners. In addition, the bill provides that workers who are on disability cannot be forced to receive only their pension at retirement age. Under this bill, they will receive the difference between what is typically a lower pension benefit and the higher disability benefit. The end result is that older workers will not find themselves penalized by virtue of their age and pension eligibility when it comes to receiving benefits.

When we considered the original legislation in the Education and Labor Committee, I offered amendments concerning the effects of the bill on early retirement window programs, and its retroactive application to cases dismissed prior to the enactment of the bill. I am pleased to note that these concerns have been substantially resolved by the Senate compromise before us today.

The compromise does not include earlier language that required early retirement plans to be permanent features of benefit plans. As a result, early retirement window plans, which are typically offered for a temporary window in time during downsizing or restructuring, are retained under the Senate-passed version of the legislation. Problems of retroactively have been resolved. Further, these Amendments to the Age Discrimination in Employment Act of 1967 will only apply to conduct occurring 6 months after the date of enactment.

Of particular concern to myself and my Education and Labor Committee colleagues was the effect of this bill on public benefit plans enacted by State statute, and only capable of modification by the affirmative act of State Legislatures or local bodies.

This bill will potentially cost States millions of dollars per year in conforming their disability benefit practices to new law which prohibits placing an employee who is receiving disability payments and who reaches retirement age on their pension which may be less than the disability payments. The prohibition on this practice is still in force; however, affected States have 2 years from enactment to conform their statutory plans to the requirements of this bill. Moreover, those States which have a constitutional prohibition against decreasing benefits may hold an election whereby individual employees may elect to be covered under new disability benefits or to remain under the preexisting plan. This provision mitigates some of the costs to States of conforming to this legislation.

I support this compromise because it addresses many problems contained in the original bill, and because I believe that the Congress should affirmatively bring employee benefits into the orbit of laws against age discrimination. While the compromise is not perfect, it is palatable to many in the business community with whom I have spoken since the Senate passed S. 1511 on September 24. I hope my colleagues will support this bill as being a fair resolution of many business concerns and as a real effort to maintain early retirement programs enjoyed by older workers.

Mr. CLAY. Mr. Speaker, I yield such time as he may consume to the original cosponsor of the bill and the chairman of the Select Committee on Aging, the gentleman from California [Mr. Roybal].

Mr. ROYBAL. Mr. Speaker, as Chairman of the Select Committee on Aging, I rise in support of an important piece of legislation which will preserve the fundamental civil rights of this Nation's older workers. S. 1511, the Older Workers Benefit Protection Act, will overturn the U.S. Supreme Court's decision in Public Employees Retirement System of Ohio versus Betts, and reassert Congress's original intent that the Age Discrimination in Employment Act, the landmark Federal law protecting older workers from age discrimination in the workplace, prohibits arbitrary age discrimination in the provision of employee benefits.

For more than 20 years, older workers have been protected from age discrimination not only in hiring, firing, promotions, demotions, and wages, but also in the critical area of employee benefits. However, on June 23, 1989, the Supreme Court in the Betts decision essentially eliminated the applicability of the ADEA to employee benefits. The Court's view of the ADEA was contrary to the interpretations of the two Federal agencies that have had responsibility for enforcing the ADEA, the Department of Labor, and the Equal Employment Opportunity Commission, and numerous lower Federal courts. Justice Marshall, in his vigorous dissent in Betts stated that the decision gives employers a free hand to fashion discriminatory benefit programs.

In August of last year, I introduced the Older Workers Benefit Protection Act in the House, H.R. 3200, along with Representatives Hawkins, Clay, and Martinez. Identical legislation, S. 1511, was introduced in the Senate by Senators Pryor, Metzenbaum, and Jeffords. The sole purpose of this legislation was to reverse the Betts decision, and to reassert Congress's original intent in enacting the ADEA in 1967 to protect older workers from arbitrary age discrimination in all critical aspects of the employment relationship, including employee benefits. The legislation did this by putting into law the Federal agency rule in effect for 20 years prior to the Betts decision, the equal benefit—equal cost rule, which was invalidated by the Court.

Following the introduction of this legislation, the Select Committee on Aging together with two subcommittees of the House Education and Labor Committee, the Subcommittee on Labor-Management Relations, and the Subcommittee on Employment Opportunities, held a hearing on this matter. At that hearing we heard the moving testimony of Carolyn Betts, the daughter of June Betts, the claimant in the Betts case. We heard Carolyn Betts describe how her mother, who was severely disabled with Alzheimer's disease, was denied disability benefits by her employer simply because she was over the age of 60. I would like to enter into the record at this time a letter recently sent by Carolyn Betts to the White House. We also heard testimony from the EEOC, supporting the reversal of the Betts decision, and stating that if it was not reversed, older workers would face increasing uncertainty about their future benefits.

The House Education and Labor Committee subsequently approved H.R. 3200 on April 4, 1990, amending the legislation to reduce restrictions on certain employee benefit arrangements offered by employers, and providing special transition rules for collectively bargained, and State and local plans. The committee also strengthened the protections for older workers, adding a provision to protect older workers from unknowing and involuntary waivers of their ADEA rights.

The Senate legislation before us today, S. 1511, is a compromise version of the bill originally introduced and that was reported by the Education and Labor Committee. However, I believe this is still a very important and effective bill that will go far to protect the rights of older workers. It retains the basic protections of the House bill, by overturning the Betts decision, and preserving the employment and benefit rights of older workers.

Specifically, S. 1511 makes it clear that the ADEA's prohibition against age discrimination in compensation, terms, conditions, or privileges of employment covers employee benefits and employee benefit plans. Second, S. 1511 codifies the equal benefit—equal cost rule, requiring employers who seek to rebut a charge of age discrimination in employee benefits to prove that they have provided equal benefits to, or incurred equal costs for providing those benefits to all workers. In addition, it reaffirms that employers bear the burden of proving the equal benefit—equal cost affirmative defense. The bill also makes it clear that the ADEA applies to all employee benefit plans, regardless of whether the plans were established prior to ADEA's enactment in 1967.

I would like to make several additional clarifying points about the compromise provisions of S. 1511.

The bill, for the first time, gives employers some flexibility to engage in a very limited form of benefits packaging that was unlawful prior to the Betts decision. I would like to emphasize, however, that an employer cannot use these techniques if they have the effect of requiring or permitting the involuntary retirement of an individual because of age.

With specific regard to severance, S. 1511 allows employers to use two types of benefit packaging. When a contingent event unrelated to age occurs, for example a plant shutdown or layoff, an employer may offset severance benefits by the value of retiree health benefits. In addition, the value of additional pension benefits that are provided to workers because of the closing or layoff—shutdown sweeteners—may be offset against severance pay. S. 1511 does not allow an employer to reduce or deny severance to workers based on pension eligibility or pension receipt in any other instance.

S. 1511 also allows an employer to reduce long-term disability benefits by the amount of certain pension benefits. It should be noted, however, that S. 1511 does not authorize the abrogation of any rights an employee may have that are associated with disability, if those rights are otherwise protected by the ADEA.

With regard to early retirement incentive plans, S. 1511 permits these plans if they are truly voluntary and consistent with the relevant purpose or purposes of the ADEA. If a program is challenged however, the employer has the burden of proving that an early retirement incentive plan is consistent with the relevant purpose or purposes of the ADEA. It should also be noted that early retirement incentive plans that withhold benefits to older workers above a certain age while continuing to make them available to younger workers may conflict with the ADEA's purpose of prohibiting arbitrary age discrimination in employment. Moreover, in determining whether a program is consistent with this purpose of the ADEA, non-age related cost to the employer is never an acceptable basis for providing lesser benefits for older workers.

In closing, I would like to state that while S. 1511 is clearly not as strong as my original bill, I agree with the Senate sponsors that we must we pass legislation in the 101st Congress that overturns the Betts decision, and restores the ADEA to what it was when we passed it in 1967, the landmark Federal law that protects the full employment rights of older workers. S. 1511, will do this and ensure millions of older workers continued equality in the workplace.

Washington, DC, May 9, 1990.

President George Bush,
The White House,
1600 Pennsylvania Avenue, NW.,
Washington, DC.

Dear Mr. President: I am writing to you on behalf of my mother, June Betts. She is unable to write to you herself since she suffers from Alzheimer's disease and is bedridden in a nursing home. My mother is the plaintiff in Public Employees Retirement System of Ohio versus Betts. This is the case in which the Supreme Court said it was permissible for employers to discriminate against older workers in employee benefits.

Until recently, your administration has been a strong and important supporter of my mother's efforts to obtain her full and fair disability benefits from the State of Ohio, after being disabled due to Alzheimer's disease. Your strong support in the Supreme Court, not only in a brief but in oral argument, supporting my mother's case, as well as in testimony before Congress, encouraged my family to continue to fight for my mother's rights after losing our case in the Supreme Court.

Now, you have abruptly abandoned your support for my mother's cause. In a letter to Representative William Goodling dated March 27, 1990, Mr. Roger Porter ignored your administration's prior support for the Older Workers' Benefit Protection Act (S. 1511/H.R. 3200) and threatened a veto of this bill. This legislation was introduced to reverse the Supreme Court's ruling in my mother's case and to insure that she, and thousands of other older workers, do not lose benefits they have already earned.

Today, my mother is unable to recognize her family or to care for herself. She suffers from the final stages of Alzheimer's disease, partial paralysis due to a stroke, and inoperable breast cancer. Before her illness my mother was the most independent and resourceful person I knew. She was committed to public service and helping other, less fortunate people. For almost 30 years, she raised her children and served sincerely and conscientiously as the wife of a parish priest. When her children left home, mother returned to school, obtained a Master's degree and in 1978, at age 54, she began a career as a speech pathologist for retarded children and adults with the Hamilton County (Ohio) Board of Mental Retardation. In 1982, my parents were divorced.

About this time, mother began exhibiting signs of what doctors at first thought was an emotional breakdown. Although her condition got worse and worse, she continued working, paying her taxes and contributing to her church and community. The rapid onset of what was finally diagnosed as Alzheimer's meant that she was demoted to lower paying jobs with less responsibility. By the time she was too ill to work, she was babysitting for retarded adults. Mother was distraught, but not beaten—after losing her job, she continued to volunteer at a camp for retarded children for a short time until that, too, became impossible for her to do.

Mother was forced to leave work because of Alzheimer's at age 61, but Ohio PERS refused her a disability benefit solely because she became disabled after age 60. Frankly, Mr. President, if my mother had given up sooner, and left work when she first became ill at age 58, she would be getting a much higher benefit. But, mother didn't want to quit work and become dependent upon anyone. As a result, my mother receives only $158 per month in early retirement benefits, rather than $350 per month in disability retirement benefits that she would receive if she had left work when she was younger and first became ill.

Ohio PERS is penalizing my mother for working as long as she was physically and mentally able to work, by denying her the benefits she has earned. But, self-sufficiency and work were important to my mother; she would never have considered leaving before she had to. This summer, mother's financial assets will be exhausted and she will become a ward of the State and a recipient of Medicaid assistance. Of all these tragedies, this last is probably the one that would most appall and embarrass her.

My mother sued Ohio PERS for age discrimination, and won in the Federal district and appellate courts. When Ohio PERS appealed to the U.S. Supreme Court, your administration not only filed a friend of the court brief on my mother's behalf, but orally argued before the court, saying that for 20 years, the Age Discrimination in Employment Act [ADEA] had prohibited the type of discrimination Ohio PERS was engaged in. After we lost before the Supreme Court, the EEOC, testifying for your administration before the U.S. Senate and House of Representatives, supported legislation introduced to reverse my mother's case and restore this long-standing interpretation of the ADEA.

Despite all this, Mr. Porter's letter stated that you might veto this legislation. My family and I were shocked and disappointed to learn of this change of heart. Mr. Porter's letter never refers to your administration's Supreme Court brief, oral argument or congressional testimony. Indeed, it directly, and without explanation, contradicts your administration's previous public statements on many of the issues pertinent to this bill.

My family and I cannot understand what has caused this abrupt change in your position. Certainly, no one is more deserving of your support than my mother, who spent her life helping others. She is not asking for a handout—she is asking only for the benefits she worked for and earned.

My mother is just one person among many. And, her problem is one that faces many women who, after one career raising their families, return to the labor force. How many millions of other midlife and older women workers will lose their benefits before employers are once again prohibited from discriminating against them?

It was to prevent what happened to my mother that the ADEA for 20 years prohibited employers from discriminating on the basis of age in employee benefits. Most employers complied with the law; unfortunately for my mother, Ohio did not.

I plead for your support on my mother's behalf, because she is powerless to plead for herself. Please once again support this bill, for the same reasons you supported it before: older workers, like June Betts, deserve to be treated fairly and honestly in all aspects of their employment and deserve the benefits they have earned.

Very truly yours,

Carolyn A. Betts.

Mr. GOODLING. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Texas [Mr. Bartlett].

Mr. BARTLETT. Mr. Speaker, I rise in opposition to this legislation.

I want to start by saying that I am under no illusion that my simple statement here today would be able to defeat this legislation. It appears that it is going to pass by the requisite two-thirds vote, but I rise because House Members need to know what this legislation does and how in many ways it is similar to the catastrophic health insurance legislation that we passed several years ago and subsequently repealed.

Now, I have listened to the speakers here today rather carefully, and in fact the best comment I have heard about this legislation came from one Member who commented that this legislation is not worse than the catastrophic of 2 years ago, but I would contend that while indeed it is not worse than the catastrophic health insurance we passed, it is still catastrophic. The legislation still hurts retirees. It still hurts those workers who are covered by pension plans, and specifically defined benefit plans and it still hurts workers who are seeking retirement and severance benefits suited to their own particular needs, but I am under no illusion about whether the legislation will pass or not. It is likely to be passed and to indeed become law.

I would note, as has been said earlier, that there is no known organized group against this legislation.

I would also note that so far as I know there is no known organized group for this legislation, with the possible exception of the AARP who also advocated the catastrophic legislation some years ago.

I would note that the Department of Labor upon reviewing this legislation is not for it. The administration is not for it. The teachers' retirement systems are not for it. Public pension plans and private pension plan administrators are not for it. Retirees are not for it. The EEOC is not for it. The employer community is not for it.

Those who start or who might start pension plans or who choose to start or to stop pension plans are not for it.

The best that we can say is that there are no organized groups who are against it, and I would suggest the reason there is no organized group against it is that there is a great fear that unless we pass something that is a little bit bad, like this is, then the Congress could come along subsequently and pass something far worse.

I would suggest, Mr. Speaker, that this in fact is a victory for lobbyist groups inside Washington and is a defeat for the Members that they represent in the rest of America. It is a defeat for retirees and it is a defeat for workers.

As each Member thinks about how to vote, I just ask that you judge this legislation against the standard of current law. As measured against current law, this legislation makes it worse for retires who are trying to retire early. It makes it worse for current retirees. It makes it worse for workers who are trying to retain their benefits.

Let me give the House just a little bit of background. First, neither the House nor the Senate, none of the committees of the House or the Senate, have had a chance to examine this legislation. This version of the bill emerged full grown on to the Senate floor, handed to the Senate and with no debate, with some discussion in which one of the Senators acknowledged that he was not sure what all was in it, and he was one of the principal sponsors. It was passed with no hearings, no markup, no debate.

It is being considered today without any consideration by any committee of jurisdiction or any other committee in the House, and it is being considered today under a suspension of the rules, so there is no opportunity today for amendments or any kind of real debate.

Let us talk about what this legislation does at its heart. At its heart this bill, and if you get nothing else, this is what you need to remember before you vote, at its heart this bill prohibits the payment of enhanced severance pay to persons who are not eligible for retirement unless an equal amount is paid to those who are eligible for retirement.

At its heart this bill prohibits an employer from offering on an early retirement package, on a voluntary retirement, this bill at its heart prohibits an employer from offering a package of benefits to workers that they voluntarily choose to accept and which workers who are not yet eligible for retirement receive a dollar amount under what is called severance, and workers who are eligible for retirement receive a package of dollar amounts and other monetary benefits, including their retirement package.

So at its heart this bill hurts the 50-year old worker who voluntary wants to retire and who is offered, Mr. Speaker, money, dollar amounts, an enhanced retirement package to voluntarily retire.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. GOODLING. Mr. Speaker, I yield 4 additional minutes to the gentleman from Texas.

Mr. BARTLETT. So in this case both lose, the worker who wants to retire and receive enhanced severance benefits would not be able to get those benefits, so if you have a 50-year-old worker in your district who wants to retire and go to a lake cabin or start another job and take his enhanced severance package with him, this stops him or her from doing it, and if you have a retiree who wants to get an enhanced retirement package for early retirement, you can forget the enhancement, because employers are prohibited from doing it, unless they make them exactly equal and not count the retirement cost, and not be able to count that, but to require the same dollar amount of severance package.

Second, there are no offsets permitted in this bill. That means that if a retirement system, as many do, offers a dollar amount for a death benefit for a disabled worker who is on a disability benefit, if that pension plan offers a larger dollar death benefit for that 40-year-old disabled worker than they do for a 70-year-old retiree, you can kiss that death benefit goodbye, and their families therefore suffer.

Third, H.R. 3200 requires what is called global information or the totality of information about the whole company's and early retirement packages to be provided in advance to every worker, an invitation to lawsuits. Current law says that each worker gets the total package of information relevant to his or her case.

This would say the global package in some kind of anticipatory way has to be offered, an advantage only to class action plaintiffs' lawsuits.

Last, I want to note that H.R. 3200 does not apply to Congress. Oh, there was an amendment offered in the subcommittee and another one at the full committee and another one at the Rules Committee that would apply just to congressional employees and congressional retirees, but that amendment is not included in this so once again the Congress of the United States is passing a law that we impose new retirement burdens on the rest of the world, everyone except for Federal workers in this case, and specifically for congressional retirees.

Last, defined pension plans, Mr. Speaker, are declining. We have had a 50-percent reduction in the number of defined benefit plans since 1974. This will reduce it further by giving an additional reason that defined benefit plans would not be started and others would be terminated.

□ 1150

I would say to my colleagues that this is catastrophic revisited. The best that you can say about it is this is not as the catastrophic health insurance bill several years ago was, but it is still worse than current law, it still hurts retirees and it hurts workers, young and old. It has not been debated. It has not been thought about. It is not subject to amendment.

We are exempting congressional employees from the coverage of this bill and exempting it deliberately. I would suggest that if the sponsor of the bill were willing to accept an amendment at this time, I have an amendment prepared, and I would say to the sponsor of the bill, to offer that amendment to apply this to Congress, per se, as a congressional protection for our own employees. I would be prepared to offer that at this time.

I would be prepared to offer that subsequent to suspension. I would be prepared to offer that at any time the sponsor of the bill would make it in order to allow an amendment for congressional coverage to be offered.

But I would suggest that that amendment will never be allowed to be offered because the House would be forced to vote for this bill without a debate and without amendments being made in order. Mr. Speaker, I thank the gentleman for the additional time.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in response to the eloquent statement by the gentleman that Federal employees are not included in this bill, I might say to him—and he is carrying the water for the President of the United States—that the Senate adopted a provision covering Federal employees and the White House insisted that that be dropped. So Mr. HATCH, Senator HATCH, offered the motion to drop it, and it carried.

So Federal employees are not covered in this bill because the administration was opposed to them being covered.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. CLAY. I yield to the gentleman from Texas.

Mr. BARTLETT. I thank the gentleman for yielding.

Mr. Speaker, would the gentleman accept the amendment at this time?

Mr. CLAY. I think the gentleman ought to talk to the administration, the one that he is carrying the water for, and see if they would accept it, see if they—if the gentleman calls them and they accept it, yes, I will accept it. Will you call the White House, please?

Mr. Speaker, let me say to the speaker that, despite the objections of the gentleman from Texas, that the Senate passed this bill by a vote of 94 to 1—overwhelmingly, some people might say.

Let me also reemphasize that the bill restores 20-year-old civil rights protections for older workers, unexpectedly stripped away last year in the Betts decision, when the Supreme Court, contrary to the position of both Mr. Bush's and Mr. Reagan's Justice Departments, misinterpreted congressional intent. That is why it is necessary for us to enact this bill today.

Over on the Senate side there was a compromise that was structured by Senator HATCH and Senator PRYOR, and that compromise was approved by a vote of 94 to 1, because it was a fair and a balanced version of the bill, and that is why I do not believe that this bill is going to be defeated here in the House today.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. I thank the gentleman for yielding time to me.

Mr. Speaker, as a cosponsor of H.R. 3200, the House version of the Older Workers' Benefits Protection Act, I rise in support of S. 1511.

Since 1967 the Age Discrimination in Employment Act has guaranteed that equal treatment in all aspects of employment would not be selectively applied on the basis of age. In 1989, the Supreme Court's Ohio versus Betts decision denied this longstanding right for older workers by voiding ADEA coverage of employee benefits.

Congress never intended that age discrimination could be practiced in some areas of employment but not others. S. 1511 makes it clear that the ADEA protects workers from age discrimination in wages, promotions, and hiring—and employee benefits. S. 1511 codifies the equal benefit—equal cost rule, an ADEA regulation which, for over 20 years, has required employers to provide all workers with equal benefits or incur equal costs in all benefit plans. Finally, S. 1511 protects older workers from unknowing waivers of their ADEA rights.

Mr. Speaker, S. 1511 is a compromise measure which carries the support of an esteemed group of Senators on both sides of the aisle. If the House approves the bill today, the President will look favorably upon it. Unfortunately, the clarification of the ADEA comes too late for June Betts, the unhappy plaintiff who contracted Alzheimer's disease at age 61 and was denied disability benefits because of her age. But for millions of older workers in the future, equality in the workplace will once again be secure with the enactment of this bill.

Mr. GOODLING. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, let me just close my 1-minute by saying that the administration as well as Members of the House and Senate all agreed that the Betts decision had to be addressed. While we still have some concerns about the coverage of the employee benefit plans operated by State and local governments and about the restrictions on benefit packages, we believe the version of the Older Workers Benefits Protection Act is a reasonable compromise.

Obviously, in legislation that is the product of compromise, each side has to yield on issues which they believe their position is the correct policy choice. In agreeing to a compromise in this legislation, each of us was uniform in our belief that older workers should be protected from arbitrary discrimination on the basis of age in all phases of employment, including employee benefits.

This belief was strong enough to fuel this compromise legislation which I believe offers significant protection to older workers while retaining some flexibility to employers in developing benefit arrangements.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BRENNAN. Mr. Speaker, I urge my colleagues to join me in support of S. 1511, the Older Workers Benefit Protection Act. This measure reaffirms the basic tenets of the Age Discrimination in Employment Act [ADEA] of 1967—by making clear that discrimination on the basis of age in virtually all forms of employee benefits is unlawful and will not be tolerated.

For over 20 years, the ADEA has been interpreted as prohibiting employers from arbitrarily discriminating older workers in all areas of employment, including employment benefits.

However, last year, in a decision which effectively reduced the rights of older Americans, the Supreme Court ruled to permit age discrimination in employee health benefit plans. Despite a 20 year history of settled interpretations of the ADEA by the courts and Federal agencies, the Supreme Court ruled to allow employers to establish employee benefit plans that clearly discriminate against older workers.

Surely the Congress, in passing the Age Discrimination in Employment Act, did not intend to prohibit discrimination in all but one area of employment. Yet, as interpreted by the Supreme Court, employers are prohibited from discriminating in such areas as hiring, firing, wages, and promotions—but are allowed to discriminate with regard to employee benefits.

This Congress must continue to oppose discrimination in any form. I urge my colleagues to join me in support of the Older Workers Benefit Protection Act, to ensure equity for employees of all ages.

Mr. GUNDERSON. Mr. Speaker, after months of deliberation and negotiation, we finally have an older workers benefits protection package that truly protects older workers' benefits without harming a number of other benefits they currently enjoy. I am pleased to be able to support H.R. 3200.

While I still have reservations about a number of the aspects of this legislation, I appreciate the good faith efforts that went into the compromise we are considering today. In the absence of concerted opposition from the very groups that opposed the original bill, it's safe to say we've arrived at a reasonable solution.

As mentioned, some concerns remain. Specifically, I am still concerned that this bill: unduly restricts the ability of State and loca governments and private employers to integrate benefits in employee benefit plans; requires that a retiree's health plan must have a specified minimum value before an employee is permitted to offset its value from severance payments otherwise due the employee—a provision making early retirement options less likely for older workers; only allows employers to offset the value of pension sweeteners from severance payments in the cases of immediate and unreduced pensions and; sets up a dual standard of judging age discrimination between State and local government and private employers on the one hand, and Federal employers on the other.

However, in the two most contentious areas of the original legislation—and those most objectionable to me and many older workers—an agreement was reached.

First, H.R. 3200 would only apply to prospective cases, not those in effect prior to enactment of this legislation. The original bill would have applied retroactively to all cases pending, allowing many previously agreed to, and pending cases to be reopened. The solution reached protects those older workers who have worked out early retirement programs from having to rehash new agreements.

Second, and most important to protecting older workers' options in "early out" programs, the compromise preserves the right of employers to offer certain severance plans. Prior to this agreement, H.R. 3200 would have eliminated an employee's opportunity for financial severance deals in place of outright layoffs in the event of downsizing by a company. Under the agreement, voluntary retirement incentive plans which are consistent with the relevant purpose of the Age Discrimination in Employment Act [ADEA] would be allowed.

Again, while I would have preferred outright guarantees for older workers' rights to take advantage of early severance plans, this agreement comes a long way. Recalling my efforts in committee deliberations on this provision of the bill, I appreciate the fact that much of my own views are reflected in the final agreement. I look forward to passage of this legislation which carefully and sensitively balances protecting older workers from discrimination in the workplace with assuring their rights to good early retirement opportunities.

Mr. HAWKINS. Mr. Speaker, today we are considering yet another piece of legislation which restores civil rights arbitrarily stripped away by the Supreme Court. In this instance, we are talking of millions of older Americans—and all younger Americans who will one day by older Americans—to equality and fairness in the workplace.

Since the passage of the Age Discrimination in Employment Act in 1967, older Americans have been guaranteed equal opportunity in the workplace. Prior to the Betts decision, no court had ever questioned whether this protection extended to employee benefits. Indeed, for over 20 years executive branch regulations expressly prohibited age discrimination with regard to employee benefits. Employers were required to provide employees with the same benefits regardless of age, unless providing equal benefits would cost more for older workers. Every administration since passage of the ADEA has agreed that this is a proper interpretation of the ADEA.

In Betts, the Supreme Court repudiated this long-standing Federal regulation, leaving employers free to discriminate with regard to employee benefits provided that such discrimination is not a subterfuge for discrimination in hiring, promotion, or other areas of employment. The inequity and illogic of the Court's ruling are obvious: Employers are precluded from discriminating with regard to wages, but are free to do so with regard to benefits, which are simply another form of compensation. On average, employee benefits comprise over a quarter of an employee's overall compensation package, and become more imporant as an employee gets older. Yet under the Betts ruling, employers have virtual free rein to reduce older workers' benefits, or deny them altogether, because of age.

The Older Worker's Benefit Protection Act overturns the Betts decision and restores the equal benefits/equal cost rule. S. 1511 also makes clear that all employee benefit plans are covered by the ADEA regardless of the date on which they were established, contrary to the Supreme Court's reading of the act. Finally, the bill includes guidelines which govern employee waivers of ADEA rights, ensuring that such waivers are both knowing and voluntary. I should note that many of the provisions of S. 1511 parallel those in H.R. 3200, and as such the Education and Labor Committee's report on H.R. 3200 remains a valid and useful source of explanation for the provisions of S. 1511.

The bill before us today, which the Senate approved by an overwhelming vote of 94–1, also contains many provisions which are helpful to employers. Some of these provisions expressly sanction benefits practices which were not permitted by pre-Betts law.

In addition, the ADEA will expressly recognize for the first time that early retirement incentive programs may be lawful if consistent with the relevant purposes of the act. Under this provision, the courts shall continue to evaluate such programs on a case-by-case basis as they have in the past. Consistent with prior case law, early retirement incentive programs that deny benefits to workers above a specific age may conflict with the statutory purpose of prohibiting arbitrary age discrimination in employment. See *Karlen* v. *City Colleges of Chicago,* 837 F.2d 314 (7th Cir.), cert. denied, 486 U.S. 1044 (1988); *Cipriano* v. *Board of Education of North Tonawanda,* 785 F.2d 51 (2d Cir. 1986); *EEOC* v. *Westinghouse Electric Corp.,* 725 F.2d 211 (3d Cir.), cert. denied, 469 U.S. 820 (1984); *EEOC* v. *Borden's Inc.,* 724 F.2d 1390 (9th Cir. 1984).

Of course, these provisions should not be interpreted to alter the fundamental purposes and principles of the ADEA. Thus, subject to the narrow and limited exceptions contained in the bill, pension eligibility and early retirement eligibility continue to be proxies for age, and employment decisions based on such factors are unlawful under the ADEA. See *EEOC* v. *Westinghouse Electric Corp.,* 725 F.2d 211, 223 (3d Cir.), cert. denied, 469 U.S. 820 (1984); *EEOC* v. *Borden's Inc.,* 724 F.2d 1390 (9th Cir. 1984). Nor may an employer reduce or deny an individual's severance benefits based on his pension eligibility or pension receipt, except to the limited extent permitted under these amendments.

Similarly, employment decisions based on years of experience or higher salaries are prohibited where those factors are proxies for age. See *Geller* v. *Markham,* 635 F.2d 1027 (2d Cir. 1980), cert. denied, 451 U.S. 945 (1981); *Metz* v. *Transit Mix Inc.,* 828 F.2d 1202 (7th Cir. 1987). The Federal courts have regularly held that economic considerations are insufficient to justify discrimination based on age. See *EEOC* v. *Westinghouse Electric Corp.,* 725 F.2d at 223; *Leftwich* v. *Harris-Stowe State College,* 702 F.2d 686 (8th Cir. 1983); *Geller* v. *Markham,* 635 F.2d at 1034; *Smallwood* v. *United Airlines Inc.,* 661 F.2d 303 (4th Cir. 1981), cert. denied, 456 U.S. 1007 (1982). These principles will continue to apply in evaluating the legality of early retirement incentive programs as well as other benefit arrangements. Finally, these amendments do not alter existing regulations and case law defining what types of benefits are covered by section 4(f)(2).

The bill the Senate passed, and the bill before us now, fully overturns the Betts decision and its reasoning, although it does not fully restore pre-Betts law. Even with its many concessions and compromises, this legislation remains critically necessary to restore the basic rights of older workers to equal opportunity and equal treatment in the workplace. I therefore urge my colleagues to support and vote for the Older Worker's Benefit Protection Act.

Mr. RICHARDSON. Mr. Speaker, I rise today to express my support for S. 1511, the Older Worker's Benefit Protection Act. I am a cosponsor of similar legislation in the House and am pleased to have the opportunity to voice my support on the floor.

While many Americans continue to experience discrimination in the workplace, Congress is working hard to eliminate it. As a Hispanic, I have seen racial discrimination throughout our country. I have, however, also worked hard to do my share to eradicate such prejudices. That is why it is so disheartening to know that the Supreme Court would condone age discrimination through the Betts decision. Older workers provide an important role in our Nation's work force; they are knowledgeable, loyal, productive, and contribute a great deal to our country. It is unfair for their benefits to be reduced simply because they are older. Such discrimination cannot be tolerated.

S. 1511 restores basic civil rights protection to millions of older workers by preventing discrimination in benefit programs. This important piece of legislation will provide millions of older workers across the country with the knowledge that their benefits are secure.

Mr. Speaker, I am proud to support this legislation and I urge my colleagues to do the same.

Ms. SCHNEIDER. Mr. Speaker, I rise today in support of S. 1511, The Older Workers Benefit Protection Act. This measure will protect older workers from age discrimination in pension and benefit programs. It overrules a recent Supreme Court decision which would have allowed companies to offer reduced benefits to employees over 65 for programs like life insurance—that cost more to provide to an older worker.

Age discrimination is wrong. As our labor force shrinks, older workers will continue to make an increasingly important contribution to our economy. We need the expertise and productivity that our older workers can offer, and the last thing we should be doing is allowing businesses to discourage an important portion of the work force by reducing benefits.

My State of Rhode Island has the fourth highest percentage of elderly in the Nation. These older Americans deserve the right to work without the fear of discrimination. Older workers make a tremendous contribution to our society. We simply can't afford to discriminate against them. It is unfair, it hurts them, and it hurts our national economy as a whole.

The intent of this legislation is to ensure that no employer can discriminate on the basis of age. These provisions apply to private sector employers as well as to State and local governments. It specifically bans age discrimination in compensation, terms, conditions, or privileges of employment and applies to employee benefits and employee benefit plans as well as to wages, hiring and firing. It requires that employers seeking to rebut a charge of age discrimination in employee benefits provide that they have provided equal benefits for employees of all ages. The measure also includes provisions designed to ensure that older workers are not coerced or manipulated into waiving their rights under the Age Discrimination Employment Act.

I am proud to have been a cosponsor of this legislation. It is high time we passed legislation to ensure fair treatment of our older workers.

Mr. GUNDERSON. Mr. Speaker, after months of deliberation and negotiation, we finally have an older workers' benefits protection package that truly protects older workers' benefits without harming a number of other benefits they currently enjoy. I am pleased to be able to support H.R. 3200.

While I still have reservations about a number of the aspects of this legislation, I appreciate the good faith efforts that went into the compromise we are considering today. In the absence of concerted opposition from the very groups that opposed the original bill, it's safe to say we've arrived at a reasonable solution.

As mentioned, some concerns remain. Specifically, I am still concerned that this bill: unduly restricts the ability of State and local governments and private employers to integrate benefits in employee benefit plans; requires that a retiree's health plan must have a specified minimum value before an employer is permitted to offset its value from severance payments otherwise due the employee—a provision making early retirement options less likely for older workers; only allows employers to offset the value of pension sweeteners from severance payments in the cases of immediate and unreduced pensions and; sets up a dual standard of judging age discrimination between State and local government and private employers on the one hand, and Federal employers on the other.

However, in the two most contentious areas of the original legislation—and those most objectionable to me and many older workers—an agreement was reached.

First, H.R. 3200 would only apply to prospective cases, not those in effect prior to enactment of this legislation. The original bill would have applied retroactively to all cases pending, allowing many previously agreed to, and pending cases to be reopened. The solution reached protects those older workers who have worked out early retirement programs from having to rehash new agreements.

Second, and most important to protecting older workers' options in "early out" programs, the compromise preserves the right of employers to offer certain severance plans. Prior to this agreement, H.R. 3200 would have eliminated an employee's opportunity for financial severance deals in place of outright layoffs in the event of downsizing by a company. Under the agreement, voluntary retirement incentive plans which are consistent with the relevant purpose of the Age Discrimination in Employment Act [ADEA] would be allowed.

Again, while I would have preferred outright guarantees for older workers' rights to take advantage of early severance plans, this agreement comes a long way. Recalling my efforts in committee deliberations on this provision of the bill, I appreciate the fact that much of my own views are reflected in the final agreement. I look forward to passage of this legislation which carefully and sensitively balances protecting older workers from discrimination in the work place with assuring their rights to good early retirement opportunities.

Mr. RINALDO. Mr. Speaker, I rise in strong support of H.R. 5794, the Age Discrimination Claims Assistance Amendments of 1990. This bipartisan legislation provides important relief to older workers who have filed age discrimination cases and is very similar to the Claims Act of 1988.

H.R. 5794 would restore the legal rights of older workers. Because of the EEOC's and FEPA's inability to process older worker age discrimination cases within the 2- and 3-year limitation contained in the law, several thousand older workers who filed age discrimination charges under the Age Discrimination Employment Act lost their opportunity to file suits in Federal court.

As an original cosponsor of this legislation, I would like to commend the excellent job done by all the committees involved. Among them, my colleagues: Select Committee on Aging chairman, Edward R. Roybal; Education and Labor chairman, Augustus Hawkins; ranking member of the Education and Labor Committee, William Goodling; chairman of the Subcommittee on Employment Opportunities, Matthew Martinez; and the ranking member of that subcommittee, Steve Gunderson.

In addition, I would like to thank officials at the EEOC for their acknowledgement that a problem currently exists and for their willingness to work with the appropriate committees to grant extensions for persons who filed claims under the ADEA. A permanent solution to this situation must be our immediate next step.

As members of the work force, older workers are an integral part of the economy. They are reliable, exhibit excellent skills, and bring a wealth of experience to their jobs. Unfortunately older workers are often forced out of their jobs to make room for younger employees. Too many times older workers are driven into early retirement, left without severance pay, and saddled with a reduction in their pension benefits. And frequently, older workers are pushed out of their jobs because an employer wishes to avoid paying higher health benefits.

The purpose of the Age Discrimination in Employment Act [ADEA] is to ensure that age discrimination cases I just alluded to are prevented, and that the enforcement process recognizes the abuses against older workers and swiftly acts to correct them.

It is my sincere hope that we are not back here in 2 years confronting this serious problem once again. I look forward to working with my colleagues on both sides of the aisle, and the agencies committed to enforcing the ADEA, to find a permanent resolution. I urge the Members of the House to vote in favor of the Age Discrimination Claims Assistance Amendments of 1990.

Mr. CLAY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Missouri [Mr. Clay] that the House suspend the rules and pass the Senate bill, S. 1511.

The question was taken.

Mr. BARTLETT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1511, the Senate bill just considered.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

APPOINTMENT OF CONFEREES ON HOUSE CONCURRENT RESOLUTION 310, BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEARS 1991, 1992, 1993, 1994, AND 1995

Mr. PANETTA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (H. Con. Res. 310), setting forth the congressional budget for the U.S. Government for the fiscal years 1991, 1992, 1993, 1994, and 1995, with Senate amendments thereto, disagree to the Senate amendments and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, and I do no intend to object, I yield to the distinguished gentleman from Pennsylvani [Mr. Walker] for the purpose of questioning what is taking place.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

I am just trying to ascertain exactly what we are doing here. This is now an action designed to take the budget to conference at this point; the assumption would be that the conferees will then adopt that which has been decided by the budget summit and then the House will be afforded the opportunity to vote on this action when that returns from the conference perhaps as early as tommorrow, is that correct?

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

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Mr. PANETTA. The gentleman from Pennsylvania [Mr. Walker] is absolutely correct. The purpose of this is to develop the conference; the conference will incorporate the summit agreement and then bring that conference report to the floor either tomorrow or Thursday.

Mr. WALKER. Mr. Speaker, will the gentleman from Minnesota yield further?

Mr. FRENZEL. I yield to the gentleman from Pennsylvania.

Mr. WALKER. So that this particular act is simply to get a document in place that has the numbers that should reflect what the agreement has done. There would be no particular point in holding anything up for any of us at the present time who may be opposed to the agreement, but rather our shot is going to come at the time that the gentleman brings the package back to the floor.

Is that correct?

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. PANETTA. The gentleman from Pennsylvania [Mr. Walker] is correct. He will have adequate opportunity at that time.

Mr. WALKER. And maybe many times.

I thank the gentleman from Minnesota [Mr. Frenzel] for yielding.

Mr. FRENZEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following conferees: Messrs. Panetta, Gephardt, and Frenzel.

There was no objection.

AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967 AMENDMENTS RELATIVE TO EMPLOYEE GROUP HEALTH PLANS

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5759) to amend the Age Discrimination in Employment Act of 1967 to clarify the application of such act to employee group health plans.

The Clerk read as follows:

H.R. 5759

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(1)(2) of the Age Discrimination in Employment Act of 1967, as added by the Older Worker's Benefit Protection Act, is amended—

(1) in subparagraph (A)—

(A) in clause (i) by striking "and" at the end,

(B) in clause (ii) by striking the comma at the end and inserting "; or", and

(C) by inserting after clause (ii) the following:

"(iii) the values described in both clause (i) and (ii);", and

(2) by adding at the end the following:

"(G) Nothing in this paragraph shall be construed to require a group health plan covering retirees to provide benefits both to—

"(i) retirees who are below age 65; and

"(ii) retirees who are age 65 and older; in order to make the deduction for retiree health benefits described in this paragraph.".

The SPEAKER pro tempore (Mr. Montgomery). Under the rule, a second is not required on this motion.

The gentleman from Missouri [Mr. Clay] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. Goodling] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. Clay].

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support H.R. 5759, a bill introduced by my colleague from Pennsylvania [Mr. Goodling], the ranking Republican member of the committee. As I said before, I appreciate his cooperation in assuring that important protections for older workers under the ADEA are restored through S. 1511, the Older Workers Benefit Protection Act. I also support his effort to clarify certain provisions in S. 1511 which we have just passed.

S. 1511 authorizes a specific type of benefit packaging in connection with severance pay that was prohibited under the EEOC regulations that formed the basis of pre-Betts law. Under S. 1511, an employer may reduce the severance benefits that might otherwise be provided to an employee by the amount of certain retiree health benefits or certain pension shutdown sweeteners or both. The first amendment contained in this bill is simply designed to clarify that fact.

The second amendment makes it clear that nothing in the paragraph providing for the offset for certain retiree health benefits under S. 1511 requires an employer to provide retiree health benefits for retirees both above and below age 65 in order to make the offset. Examples of how the rule works can be found in House Report 101-664—101st Cong. 2d Sess. In general, however, if the employer is trying to determine the amount of the offset for an employee age 62 in a case in which an employer provides health benefits to only age 65, the employer may only deduct $9,000—$3,000 per year times 3 years—from the amount of severance pay to which the employee might otherwise be entitled.

These two amendments are directed only at the technical issue of what can be offset against an employee's severance payment under the narrow exception for certain offsets under section 4(1)(2) of the ADEA, as added by S. 1511. These amendments are not intended to and do not alter in any way the current protection under the Age Discrimination in Employment Act for an employee who retiree health benefits are discriminatorily structured on age at the time of retirement.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5759 merely provides technical corrections to the Older Workers Benefit Protection Act which we just considered. This bill has the support of the chairman of the Education and Labor Committee and of both the chairman and ranking member of the Labor-Management Subcommittee.

The first provision clarifies the parameters of the offset against severance pay that is available to employers. An employer may offset severance by any retiree health benefits, by any pension sweeteners, or by both retiree health benefits and pension sweeteners. This language is intended to clarify that the offering of retiree health benefits is not a precondition to using the offset for pension sweeteners, and vice versa.

The second provision also relates to the severance offset by clarifying the definition of retiree health benefits. It provides that, in order to use the offset for retiree health benefits, an employer is not required to offer health benefits to both pre-Medicare eligible and post-Medicare eligible retirees. An employer may offer health benefits only to pre-Medicare eligible retirees.

Mr. Speaker, as I mentioned, this bill adds clarity to some of the provisions of the Older Workers Benefit Protection Act. I hope that everyone will support this legislation as we must be as precise as possible in legislating in the area of employee benefits.

Mr. Speaker, I reserve the balance of my time.

Mr. CLAY. Mr. Speaker, I have no further requests for time.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Jersey [Mrs. Roukema].

Mrs. ROUKEMA. Mr. Speaker, I rise in support of passage of H.R. 5759, introduced by ranking member Bill Goodling to provide technical corrections to S. 1511, the Older Worker Benefit Protection Act.

This bill makes two important clarifying changes:

It clarifies that in order to make a deduction for retiree health benefits from severance pay, an employer may have a retiree health plan that covers an employee prior to age 65 or after age 65; that an employer may have a health benefit that covers either age bracket or both age brackets, and still avail of the offset against severance.

Further, this technical corrections bill ensures that the plain language of the statute states that an employer may deduct from severance the value of retiree health benefits, or the value of any additional pension sweeteners, and may deduct both these values in the event that the employer offers both benefits.

This technical corrections bill cures some weak drafting that would have raised interpretive difficulties for those employers attempting to conform their benefits practices to the Older Workers Benefit Protection Act.

Therefore, I join with the distinguished ranking member, Mr. Goodling, and the other cosponsors of this bill, Chairman Hawkins and Labor-Management Subcommittee Chairman Bill Clay, in supporting this bill, and in urging my colleagues to pass H.R. 5759 under suspension of the rules.

Mr. GOODLING. Mr. Speaker, I yield back the balance of my time.

Mr. CLAY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri [Mr. Clay] that the House suspend the rules and pass the bill, H.R. 5759.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ASKING MEMBERS TO ADDRESS CONCERNS ON BUDGET

(Mr. SISISKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SISISKY. Mr. Speaker, today will be the first day of a meeting that the Committee on Armed Services will have on this very important markup. We have pretty well set the date that we will bring back the report from both Houses, a conference report on October 1.

Mr. Speaker, I would ask the membership of this body that, if they have any problems with any part of the bill, that they would see the members of the conference committee and, of course, address the issues there.

The strange phenomena this year is that the budget that the House passed and the budget authority is $282.8 billion. The budget agreement that we will be voting on tomorrow calls for a budget of $289.1 billion. The difference is $6.3 billion.

Mr. Speaker, hopefully we will come to some agreement on how we do this, and again I would ask the Members of the body, if they have any comments concerning this issue, to address their issues to the conferees.

MODIFY CUTBACKS IN MEDICARE FUNDING

(Mr. KLECZKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLECZKA. Mr. Speaker and Members, I take the floor this afternoon to discuss for a short time this budget agreement which is before the Members of Congress.

I guess all of us, as we read the document, can provide some criticism. Somewhere there is a comma misplaced, and a T is misplaced, and some do not like the excise tax increase, but this Member, representing the Fourth District in Wisconsin, has a serious problem as relates to the cutbacks in Medicare funding.

Mr. Speaker, if my colleagues look at the agreement, they will find that about $120 billion in domestic spending is being cut. However one-half of that, or $60 billion, comes from one program, and the program is a Medicare Program. If my colleagues look at the $60 billion cut in Medicare, they are going to find that one-half is cut from providers, doctors, hospitals, the providers of the program. But fully one-half of the other $30 billion comes from the senior citizens around this country, through increased premiums, through increased deductibles.

So, Mr. Speaker, if my collleagues look at the total cuts in this agreement, 25 percent of those are on the backs of the senior citizens. I, as one Member, cannot support the budget agreement in its current form, and to those who did the negotiating, to those in power around here: If, in fact, between now and Friday that one portion could be modified, I am not saying totally eliminated, but modify it, cut it back, be less harsh, and be less cruel; if that could be accomplished between now and Friday, I sure would consider supporting the budget resolution.

SUPPORT THE CIVIL RIGHTS ACT OF 1990

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, as a member of the Hispanic caucus representing a large Hispanic native American constituency, I hope today we do support the conference report on the Civil Rights Act of 1990. By passing this legislation, we send a message to all Americans that we are not going to tolerate discrimination in the workplace. We assured them that we have not abandoned the cause of fairness and justice, as it seemed last year when the Supreme Court stripped away many protections, setting back the clock on civil rights.

Mr. Speaker, we are going to hear the same rhetoric, that this bill is anti-business, and a quota bill, and that President Bush has indicated he will veto it. I am very concerned about these remarks because this bill has been compromised to the hilt, and I am concerned also about the administration's lack of response to recent derogatory comments made by the Japanese justice minister about American blacks. The Japanese had made similar comments about Hispanics some 2 years ago. Such remarks are an affront to all Americans and necessitate a strong response.

Despite this, a struggle for civil rights will endure because of the deep commitment of many who know what is fair and what is right. I say to my colleagues, "Let's move forward, not backward, in providing equal rights for all Americans," and I urge everyone to vote "yes" on this conference report.

☐ 1210

FAMILY UNITY AND EMPLOYMENT OPPORTUNITY IMMIGRATION ACT OF 1990

Mr. BONIOR. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 484 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 484

Resolved, That at any time after the adoption of this resolution the Speaker may pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R 4300) to amend the Immigration and Nationality Act to revise the system of admission of aliens on the basis of family reunification and to meet identified labor shortages, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed ninety minutes, with sixty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, and with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill, as modified by the amendments printed in part 1 of the report of the Committee on Rules accompanying this resolution, as an original bill for the purpose of amendment under the five-minute rule, said substitute, as modified, shall be considered as having been read, and all points of order against said substitute, as modified, are hereby waived. No amendment to said substitute shall be in order except those printed in part 2 of the report of the Committee on Rules. Said amendments shall be considered in the order and manner specified in the report, shall be considered as having been read, shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment except as specified in the report, and said amendments shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. All points of order are hereby waived against the amendments printed in the report. It shall be in order to consider the amendments by Representative Richardson of New Mexico numbered 18 and printed in the report of the Committee on Rules en bloc. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After passage of H.R. 4300, it shall be in order to take from the Speaker's table the bill S. 358 and to consider the bill in the House. It then shall be in order to move to strike all after the enacting clause of S. 358 and insert in lieu thereof the provisions of H.R. 4300 as passed by the House, and all points of order against the motion are hereby waived. It shall then be in order to insist on the House amendment and to request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. Montgomery). The gentleman from Michigan [Mr. Bonior] is recognized for 1 hour.

Mr. BONIOR. Mr. Speaker, for purposes of debate, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. Quillen], pending which I yield myself such time as I may consume.

Mr. Speaker, today we have an opportunity to consider profamily legislation.

H.R. 4300—the Family Unity and Employment Opportunity Immigration Act—substantially revises our Nation's laws to help unite immigrant families.

The number of slots would be expanded so that children and spouses of permanent residents may join their families in this country.

The wait for family reunification can be long and painful. For natives of most countries, the wait averages 3 years. For countries with long backlogs, such as Mexico, families can be separated for as long as 15 years.

Not only is it antifamily to allow such long separations, it is also counterproductive. For it only encourages illegal immigration as the best way to become united with loved ones.

In addition to its family unity provisions, H.R. 4300 would also help diversify our immigrant population by broadening the numbers allowed from countries who have been largely shut out in the last quarter century.

Visas are specifically set aside for natives of Eastern Europe, for instance. The end of the cold war and the dramatic changes of the past year call for a revision in our existing East European immigration policies.

Individuals from countries adversely affected by current law—such as Ireland, Italy, Poland, and Argentina—will now have the opportunity to apply for conditional residence status if they have a firm offer of employment for 1 year.

The rule under which this bill will be considered also makes in order legislation to extend the time that Salvadoran and other political refugees may stay in this country.

Chairman Moakley has worked long and hard on this issue, and the House already adopted similar provisions last October. The continuing wars in El Salvador and Lebanon, and the plunder of Kuwait, make this vehicle timely and appropriate for reconsideration of this issue.

Mr. Speaker, the world is dramatically changing. From time to time we must adjust our policies to reflect such changes.

America has been, and always will be, the beacon of freedom. We must do everything we can to preserve that heritage, and we should not be denying immigrant families the most fundamental right—the chance to be together.

House Resolution 484 is a modified open rule providing 90 minutes of general debate, with 1 hour equally divided between the chairman and ranking minority member of the Judiciary Committee, and 30 minutes equally divided and controlled by the chairman and ranking minority member of the Education and Labor Committee.

All points of order against consideration of the bill are waived.

The rule makes in order a substitute—modified by the amendments printed in part 1 of the report—as an original bill for the purpose of amendment. Part 1 amendments include an amendment by the Ways and Means Committee to strike section 111, relating to admission fees for certain types of employment. A second amendment by Chairman Moakley would provide temporary protected status for national in El Salvador, Lebanon, Liberia, and Kuwait.

All points of order against the substitute as modified are waived.

The rule makes in order no other amendments except the amendments printed in part 2 of the report, to be considered in the order and manner specified in the report, with debate time equally divided and controlled by the proponent and a Member opposed. All points of order against the amendments are waived.

The amendments are not subject to amendment except as specified in the report, nor to a demand for division of the question in the House or in the Committee of the Whole.

The rule makes it in order to consider amendments en bloc printed in the report, if offered by Representative Richardson.

The rule provides one motion to recommit with or without instructions.

Finally, after passage of H.R. 4300, the rule makes it in order to insist on a conference with the Senate.

House Resolution 484 is a fair rule that will expedite passage of compassionate legislation that will allow families to be united.

Mr. Speaker, I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the gentleman from Michigan [Mr. Bonior] has appropriately explained the provisions of the rule.

Mr. Speaker, this rule should be defeated because it prohibits the House from even considering several important amendments which should have been allowed.

During the Rules Committee hearing on this bill, the gentleman from Florida [Mr. McCollum] asked to have made in order an amendment designed to expedite the deportation of criminal aliens.

Out of the several amendments presented in the Rules Committee by the gentleman from Florida, this was the one that he requested be given top priority. But what this rules does is leave out the top priority amendment while making in order two amendments by the gentleman from Florida, which he described as having lower priority. According to testimony in the Rules Committee there have been only 22,000 aliens deported in the last 3 years out of 1.5 to 2 million that were eligible to be deported. From the time of apprehension, through the judge's decision and then through all the appeals the process can take years. The amendment of the gentleman from Florida is designed to expedite the deportation of aliens convicted of serious crimes. It should have been included.

Another amendment which should have been included was one offered by the gentleman from Michigan [Mr. Davis] to preserve traditional shipboard activities, but prohibit the flying in of aliens to load and unload cargo in U.S. ports.

The gentleman from Michigan [Mr. Davis] is the ranking Republican member of the Committee on Merchant Marine and Fisheries. When he appeared in the Rules Committee, he stated that he was also appearing on behalf of the committee's chairman. Such a request should have been honored.

An open rule which would have allowed these and other amendments was offered in the Rules Committee, but it was not accepted.

I ask for a "no" vote on this rule. If this rule is defeated, the Rules Committee could then go back and report a rule to allow the House to consider some of the important issues this rule does not allow.Payroll No.: 78255 - Name: Rogers, J.D. -Folios: 276-279 - Date: 10-01-90 -Subformat:

□ 1220

Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. Solomon].

Mr. SOLOMON. Mr. Speaker, I am compelled to rise in opposition to this rule. H.R. 4300 is far too important a bill than to be considered under the terms of a restrictive rule. Frankly, Mr. Speaker, I consider H.R. 4300 to be the sleeper of the year. This is a bill which has very far-reaching implications. Indeed, it virtually rewrites existing immigration law.

I don't know how many members other than those on the Judiciary Committee are even remotely familiar with what is in this bill. Only four times in the 201-year history of this Government has Congress considered a bill dealing with legal immigration.

The most recent time we did so was 25 years ago. I seriously question whether considering a bill of this importance is appropriate in the closing days of a contentious session of Congress.

However, I am confident that the likelihood of getting a conference report on H.R. 4300 is even smaller than the proportion of Members who know what is in the bill. And even if a conference report is reached, the administration has already announced very emphatically that the bill will be vetoed if it comes up in anything close to its present form.

Moreover, the administration would like to see this rule defeated. Why even waste our time on a bill that is going nowhere? We shouldn't be considering H.R. 4300 at all. But if we must, let's at least consider it under an open rule. Every Member should have a chance to get a crack at this bill.

I would remind my colleagues, particularly those on the other side of the aisle, that restrictive rules cut both ways. For example, in this rule, amendments filed by Mr. Solarz, Mr. Slattery, Ms. Pelosi, and one of two amendments filed by Mr. Dorgan were not made in order. So it's not just Republicans who suffer under restrictive rules.

One particular amendment that was not allowed is the McCollum amendment which would let the Secretary of State and the Attorney General negotiate with other countries to deport illegal aliens who are convicted felons incarcerated in our overcrowded prisons that cost the taxpayers $27,000 a year.

Vote no on this rule.

Mr. BONIOR. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. Brooks].

Mr. BROOKS. Mr. Speaker, I rise in support of the rule for the consideration of H.R. 4300. The bill, which was the subject of many hearings before the Immigration Subcommittee and 2 days of markup before the full Judiciary Committee, is a well-crafted and careful legislative response to serious immigration issues which confront the Nation. The Rules Committee has done an excellent job of sifting through the myriad amendments which were proposed, and coming up with a rule which deals with the majority of issues which are outstanding.

While I know that all Members' amendments were not made in order, the Rules Committee has made a complete analysis of the bill and has made in order a broad range of amendments that will permit full debate and discussion of the major issues in H.R. 4300 while also allowing the House to consider the bill expeditiously and move it forward through the legislative process. That rule is fair and appropriate, and I urge my colleagues to support it.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. Fish].

Mr. FISH. Mr. Speaker, I am constrained to rise and comment on some of the things that have been said here. As one of the original authors of this legislation, I cannot see how this rule can be characterized as a closed rule when there are 23 amendments that have been made in order.

Second, I go back to a period of 11 years ago, and the formation of the Hesburgh Commission. Our results, which went to the President and Congress in January 1981, had basically two components. One dealt with the documented population of the country through employer sanctions and legalization, and the other dealt with legal migration. It took us 6 years to deal with half of that report.

In 1986 we did pass the Immigration Reform and Control Act, which dealt with undocumented aliens in the United States.

The second part of that report, which has been before the Congress now for 11 years, dealt with legal migration. That is what we are dealing with today.

Mr. Speaker, this measure has passed the Senate I think three times. If Members are not familiar with it, it is because of lack of interest in the subject matter. We are dealing with some new facts in that the American business community is interested in the employer-related provisions and the skilled workers that are included in the bill.

The cornerstone of our immigration policy in this legislation remains steadfast, what it has been since the middle 1960's, and that is family reunification. So I think that every argument we have heard can be turned around. This may be the last opportunity, rather than being too late in this session, for us to get it out, get about considering this measure, get to conference, and come back with legislation that will finally end this long trail of needed reform in our immigration laws.

Mr. BONIOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just echo the remarks of the gentleman from New York [Mr. Fish]. I think he is absolutely correct in his assessment and view on this issue. We received I believe 47 amendments in the Committee on Rules. We made half of them in order. Of the 23, 11 were offered by Republicans, close to half.

My only regret is that we did not help the gentleman from Michigan [Mr. Davis]. I thought he had a reasonable request. We were not able to accommodate him. At some future point that may rectify itself.

Mr. Speaker, if a Member has Polish, Italian, Irish, or Lebanese constituents in their district, they ought
to know that they are very, very inte
ested in this bill. Those committee
have a real interest in this bill, i
bringing families together who ema
nate from those particular constituen
cies. So I hope Members will conside
these factors as they consider th
rule.

Mr. Speaker, I yield 4 minutes to th
distinguished gentleman from Co
necticut [Mr. Morrison], an expert o
immigration policies.

Mr. MORRISON of Connecticu
Mr. Speaker, I rise in support of th
rule and commend the Committee o
Rules for doing a superb job with
piece of legislation that is comprehen
sive and complicated, but about whic
there are only a limited number o
really controversial issues.

What the Committee on Rules ha
done is to make in order a balanced se
of amendments that allows propo
nents and opponents of this legislatio
to' put their arguments forth an
allows Members of the House to b
heard and to be counted on exactl
what this legislation should look like.

This is a rule that ought to b
passed. It shows that the Committe
on Rules can craft a rule that is fair t
both sides of the aisle on a complica
ed issue and allows Members to hav
their day before their colleagues t
make their case.

□ 1230

This legislation is important legisla
tion. I thank the gentleman for Ne
York for pointing out how long it ha
been since our legal immigratio
system was reviewed and restructed t
take account of changing times an
suggestions that have been made b
experts who have studied the system.

This legislation accomplishes thre
important goals.

First, it strengthens our system o
family reunification, and it does it b
focusing most on the most immediat
relatives—the spouses and minor chi
dren of permanent residents of th
United States, who under current la
are separated year after year afte
year. This is not a profamily polic
We want to change the immigratio
law to reflect a profamily policy.

Second, it provides to the employe
and the employees of this country
system of legal immigration for pe
manent residents of individuals wh
are needed in our economy, needed t
save American jobs, needed becaus
skilled workers are not availabl
among American workers and their ab
sence is causing factories to close an
factories to go out of the country. Thi
is not just for the benefit of employ
ers; it is for the benefit of all, becaus
it allows for growth in our econom
and growth in American jobs.

Third, and also important, it ensure
long-term diversity in our flow of im
migrants from around the world. It

in the interest of the United States to be a beacon to people from all over the world, and it is absolutely key to political support for our immigration system that all of the diverse groups that make up our country know that our immigration laws understand their interests and the concerns that they have that people from the parts of the world that their ancestors have come from will also be fairly considered under our immigration system.

This is legislation which will enhance and strengthen our immigration laws. The gentleman from New York [Mr. Solomon] suggested that somehow this legislation was not going anywhere because we had heard one of those vague veto threats that too frequently flows across his Chamber. The truth is that as the Wall Street Journal said yesterday, this is legislation that most Republicans should want to support because it is good for the American economy. It is a progrowth measure, and it has a lot of support over in the White House that is growing as people actually pay attention to what this legislation does.

I think this is legislation that, when worked out in conference with the Senate, will receive the President's support and the President's signature, as it should; and this rule certainly should receive the support of my colleagues in the House today.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. McGrath].

Mr. McGRATH. Mr. Speaker, I thank the gentleman for yielding time to me, and I rise in support of the rule.

Mr. Speaker, the bill we are currently debating is the most important immigration legislation to come out of this Congress, and I am proud to voice my support for it. Family unification is the cornerstone of immigration to the United States. Prolonging the separation of spouses from each other, and from their children, is inconsistent with the principles on which this nation was founded. Yet current law, causes this to occur all too often. H.R. 4300 would substantially correct this shortcoming. Spouses and children of U.S. citizens are already exempted from the numerically limited preference system, so that close family members can be together. Recognition of the same special family relationship for the spouses and children of permanent residents would go a long way toward achieving the laudable and humanitarian goal of family reunification. Furthermore such provisions embody sound public policy. An immigration system which provides for the speedy reunification of close family members, will aid in defusing the frustration of separation families that often spurs illegal immigration.

Commonsense and compassion argue for adoption of this bill's provision for reduction of the backlog in the second and fifth preference categories. Lengthy backlogs, such as the ones of as long as 20 years currently suffered by some nationalities under the fifth preference would be substantially shortened. These measures reinforce the position of family values as the cornerstone of U.S. immigration policy.

The family structure is one of our great Nation's strongest assets. Promoting family immigration would show that we still believe that the family is this country's most important social network.

But families separated by harsh immigration policies are not the only ones who deserve to obtain the help this measure provides. The Irish and other adversely affected groups, would gain denied justice in the immigration arena from the enactment of H.R. 4300. Present law, by nearly excluding these groups from the competition for available visas, has virtually eliminated them from the immigration process. This measure would ensure the just treatment of such immigrants. It would establish a long-needed diversity visa program favoring those from currently underrepresented parts of the world, and providing temporary priority for those among these groups who are seeking employment here. Additionally, much-needed transition provisions would let a limited number of natives of adversely affected countries, already living here apply for permanent residence. As one who has witnessed a steady influx of illegal immigrants from these countries, especially the Irish, I am greatly encouraged by the prospect of allowing these people to stop living their lives in the shadows, as the flaws inherent in the present law, force them to do. I look forward to the day when these immigrants are allowed to become content, productive, legal residents of the United States.

Fairness and justice in the immigration system must be achieved. H.R. 4300 would bring fairness and justice to families separated from their loved ones, and to potential immigrants from under represented nations. Much of the frustration which incites illegal immigration would be drastically reduced.

I urge my colleagues to keep these worthy aims in mind, and join me in support of this bill. When the time comes to vote upon this legislation, I will be proud to cast my vote for H.R. 4300.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. Smith].

Mr. SMITH of Texas. Mr. Speaker, I thank my colleague from Tennessee for yielding time to me.

Mr. Speaker, I rise in opposition to this rule.

First of all, I would like to thank the chairman of the Rules Committee for making a number of amendments in order. As he explained a while ago, the minority received about half of the amendments, and that is much appreciated. However, the fact that all amendments are important should not lead us to ignore the fact that many substantive amendments were not made in order, and that is a real concern to me, Mr. Speaker. I am concerned not only for myself, I am concerned for other Members, but I am especially concerned for the citizens of America, because their voice needs to be heard on the House floor, and by having so many amendments not be ruled in order their voice will not be heard.

There is simply no way to discuss so many issues of so much concern to so many people unless we have far more amendments that would have been approved. Other Members of Congress, and especially the administrations would have liked to have seen a number of substantive amendments ruled in order.

The administration itself feels so strongly, is so strongly opposed to this bill, Mr. Speaker, that they have given 14 reasons why they are opposed. The Attorney General, the Secretary of Labor, and the Secretary of Transportation have strongly recommended a veto of this bill.

Of the 14 objections that the administration have, amendments were allowed to respond to only 5. Nine of the administration's objections were not heeded.

□ 1240

Mr. Speaker, where is the amendment that would allow us to reimburse State and local governments for the costs that they are going to incur while providing educational services, health care, and government services to individuals in their communities? If we were to talk to any big-city mayor, if we were to talk to any Governor, we would realize that the expenses that are going to be incurred as a result of increased immigration are very real, yet there is no provision in this rule to allow an amendment to be offered to govern that concern.

Mr. Speaker, where is the amendment that would reply to the needs of the businesses? For example, for the first time ever in this bill, there is a cap on temporary skilled workers. These are individuals who are allowed to come into this country temporarily when there is a proven absence of an American worker who could fill that particular position.

The Wall Street Journal editorial yesterday has been quoted once, and I will quote it again: "The bill's 25,000 annual ceiling on temporary skilled workers makes no economic sense at all."

Mr. Speaker, we have a bill that is going to increase immigration by hundreds of thousands, and yet we put a cap on temporary skilled workers. I see no justification for that.

Mr. Speaker, where is an amendment that would deal with an issue that we all remember all so well, and that is the issue of amnesty? That was a major issue back when FIRCA was debated back in 1986. It was a very controversial issue then. In fact, a compromise was agreed to back in 1986. There was a solemn vow that we would bring up amnesty one time, once, and only once, and there would be no more amnesty. Yet, in this bill, there are two amnesty provisions, and yet no amendments to deal with either one.

Mr. Speaker, back in 1986, the issue of amnesty was so contentious that 192 Members of the House voted to strike the amnesty provision. Yet, those Members who are still in Congress today, the citizens they represent, are not going to be able to be heard when it comes to an amendment.

Mr. Speaker, there is a second amendment we might call the second amnesty program, or we might call it Amnesty II, for individuals who have overstayed their travel visas; they are here illegally, and they are going to be allowed to stay forever if they are from certain oppressed countries, countries like Japan and France.

Mr. Speaker, that is special-interest legislation at its best, and in any case, the whole House should be allowed to decide whether an amendment should be approved or not approved pertaining to that particular concern.

Mr. Speaker, there are other amendments that should have been allowed, amendments that tie an increase in legal immigration to our efforts to control illegal immigration.

The rule has denied the House the opportunity to vote on another very troublesome issue in H.R. 4300 concerning new prohibitions on longshore work. A amendment from the ranking Republican member of the Committee on Merchant Marine and Fisheries was precluded despite the serious adverse consequences that the bill's longshore provisions would have on U.S. ports, U.S. ships, and U.S. businesses.

The rule failed to provide consideration of an amendment by my colleague, the gentleman from Florida [Mr. McCollum], which would have created critical new tools for the Department of Justice to remove criminal aliens.

Mr. Speaker, there are a number of important issues that have not been addressed by the Committee on Rules, and, as such, in my judgment, the rule should be defeated because it does not really respond to the concerns of the other Members, and it does not respond to the concerns of the administration. It does not respond to the concerns of the citizens.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BONIOR. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. Montgomery). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 245, nays 165, not voting 23, as follows:

[Roll No. 398]

YEAS—245

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bateman
Bates
Bellenson
Berman
Bevill
Bilbray
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Browder
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clarke
Clay
Clement
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Costello
Coyne
Darden
Davis
de la Garza
DeFazio
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Gray
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Hoyer
Huckaby
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Manton
Markey
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
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Nelson
Nowak
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Owens (UT)
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Pickett
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Price
Rahall
Ray
Richardson
Roe
Ros-Lehtinen
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weber
Weiss
Wheat
Williams
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)

NAYS—165

Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Dannemeyer
DeLay
Dickinson
Dornan (CA)
Douglas
Dreier
Duncan
Emerson
Fawell
Fields
Frenzel
Gallegly
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Gekas
Gillmor
Gingrich
Goodling
Goss
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Grant
Green
Gunderson
Hall (TX)
Hammerschmidt
Hancock
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Henry
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Hubbard
Hughes
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Hyde
Inhofe
Ireland
Jacobs
James
Kasich
Kolbe
Kyl
Lagomarsino
Leach (IA)
Lent
Lewis (CA)
Lightfoot
Livingston
Lowery (CA)
Lukens, Donald
Machtley
Madigan
Marlenee
Martin (NY)
McCandless
McCollum
McCrery
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Moorhead
Morella
Morrison (WA)
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Sensenbrenner
Shaw
Shays
Shumway
Shuster
Slattery
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stallings
Stangeland
Stearns
Stump
Sundquist
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weldon
Whittaker
Wilson
Wolf
Wylie
Young (FL)

NOT VOTING—23

Boggs
Cox
Crockett
Dellums
DeWine
Downey
Edwards (OK)
Engel
Johnston
Kennedy
Lewis (FL)
McNulty
Myers
Neal (MA)
Neal (NC)
Owens (NY)
Rangel
Regula
Rowland (CT)
Saiki
Towns
Washington
Whitten

□ 1304

The Clerk announced the following pair:

On this vote:

Mr. Engel for, with Mr. Lewis of Florida against.

Messrs. FAWELL, GOODLING, and RIDGE changed their vote from "yea" to "nay."

Ms. MOLINARI changed her vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. (Mr. Montgomery). Pursuant to House Resolution 484 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4300.

□ 1305

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4300) to amend the Immigration of Nationality Act to revise the system of admission of aliens on the basis of family reunification and to meet identified labor shortages, and for other purposes with Mr. Darden in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. Brooks] will be recognized for 30 minutes, the gentleman from Texas [Mr. Smith] will be recognized for 30 minutes, the gentleman from Ohio [Mr. Sawyer] will be recognized for 15 minutes, and the gentleman from Pennsylvania [Mr. Goodling] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Texas [Mr. Brooks].

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, H.R. 4300, the Family Unification and Employment Opportunity Immigration Act of 1990, reforms America's legal immigration quota system. It expands the annual immigration numbers from the current level of 530,000 to roughly 800,000 per year. The Senate has around 630,000 in their bill, and when we go to conference we will obviously have to adjust these numbers. This legislation will ease current U.S. immigration restrictions that hinder the reunification of immediate family members, reduce barrier on immigrants from countries which were traditional sources of immigrants to the United States. Most important, H.R. 4300 marks a shift in legal immigration policy to place greater emphasis on employment-based immigration. It will increase the number of highly skilled or otherwise needed foreign-born workers.

An important aspect of this bill is its provision to allow spouses and minor children of permanent residents to be treated as immediate relatives. This will permit the reunification of families without requiring them to wait at least 2 years under the current law. There are several hundred thousand spouses and children of permanent residents on the waiting list. The enactment of this bill would greatly reduce the backlog.

The provisions of the bill would also correct inequities against would-be immigrants of certain countries. Currently, most immigration is limited to families of recently arrived immigrants. Individuals from countries which are adversely affected by this policy will be able to become eligible for resident status if they have a firm offer of employment for 1 year and have been in the United States continuously since January 1, 1990. As a result, the flow of legal immigration will be restored from countries adversely affected by prior law.

The bill allows 75,000 principals to enter the United States for employment in order to remedy critical labor shortages in specific fields. These immigrants will require employer attestation that U.S. workers will be recruited in the future and that the wages and working conditions of present U.S. workers are not adversely affected.

The legislation also revises the terms and conditions under which foreign workers may come temporarily to the United States. Many of the provisions in this measure broaden the availability of visas to individuals to remedy U.S. labor shortages. Other changes in the bill modernize outdated laws or ease harmful consequences of the 1952 Immigration and Nationality Act.

In summary, Mr. Chairman, H.R. 4300, as amended, is a reasonable and carefully drafted reform of our Nation's legal immigration policy. I particularly want to congratulate the chairman of our Immigration, Refugees and International Law Subcommittee, the gentleman from Connecticut, for his tireless efforts in bringing this bill to the floor today.

□ 1310

I would add one other thing to the Members: I would hope that we could handle all of the amendments today. Those that are acceptable we can agree to; those that are not, we can vote on, and we would preferably not have too many record votes and could finish this bill by 6 p.m. I understand there are a lot of matters going on at 7 p.m. I would hope that would be our program for the afternoon.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Texas [Mr. Smith] is recognized for 30 minutes.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from New York [Mr. Fish], the ranking member of the Committee on the Judiciary.

Mr. FISH. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of H.R. 4300.

The United States of America was built on immigrants. From the English Pilgrims to the Irish and Italians at the turn of the century to the Asian and Hispanics of recent times, this country thrives on the new blood and vitality brought by immigrants.

Mr. Chairman, I believe that H.R. 4300 continues America's longstanding commitment to immigration.

H.R. 4300 enhances the unification of families who have been separated by their own unfortunate circumstances and by our immigration laws. It retains family unification as the cornerstone of American immigration law and policy.

H.R. 4300 also addresses America's needs in a global economy. At a time when the United States needs highly skilled workers—scientists, engineers, computer experts, and other professionals—H.R. 4300 responds to that need. By increasing the number of employment-based visas, H.R. 4300 allows business to import the necessary skills to help it remain competitive in the international economy.

H.R. 4300 rights some of the wrongs caused by past and current immigration laws. It creates opportunities to immigrate to natives of countries who are virtually shut out of the immigration system. The diversity and transition programs of H.R. 4300 will allow the Irish, Africans, Eastern Europeans, Tibetans, Western Europeans, and others to find their way back into the immigration flow which they had been excluded from for 25 years or more.

H.R. 4300 includes these currently disadvantaged without affecting the immigration opportunities of the Asians and Hispanics who, until recent times, were themselves excluded from immigration to the United States.

I do not believe that immigrants are a burden to the United States. Instead, I believe that immigrants are what makes America great.

Everyone knows a recent immigrant who owns the corner store or whose child has graduated first in his or her class. Among whom America counts among its immigrants are scientists and songwriters, athletes and artists, politicians and physicists.

Mr. Chairman, the Senate three times has passed a legal immigration bill. Now is the time for the House to act, go to conference and achieve an updated law this Congress.

I have two amendments which I urge my colleagues to support. The first, offered on behalf of the State Department, extends the Visa Waiver Program which allows short-term visitors from certain countries to enter the United States without a visa. My second amendment extends the deadline of stage 2 of the legalization program from 1 year to 2 years, to achieve the goals of the 1986 Immigrant Reform and Control Act.

H.R. 4300 assures us that our great tradition of immigration will continue and grow.

I urge my colleagues to join me in supporting H.R. 4300.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all I want to compliment my colleagues who have been instrumental in writing this legislation and who support it. I know they are well motivated, and I admire their humanitarian impulses.

I want to say that the administration shares their desire to increase immigration. Where we part ways is on how to bring about that increase in immigration. The administration has different priorities.

The administration would like to give greater priority to immediate families. They would like to see us have more immigrants come in who are mothers and fathers and children. They would like to give less priority to the extended family members; that is, married brothers, sisters, for example, aunts, uncles, and cousins.

The administration would like to give more priority to skilled workers and, perhaps as a result, less priority to unskilled workers.

H.R. 4300 gives only 10 percent of its numbers specifically to skilled immigrants, so-called employment based.

H.R. 4300 is a radical departure from our current immigration laws. I would say that when we consider it today we need to remember several things.

First of all, as we stand here today, we are going to be debating a bill that professes to, proposes to change our immigration policy for only the fifth time in Congress' 203-year history.

The bill is going to have a dramatic impact on America's population, its work force, and the quality of life for decades to come.

I think we need to remember that America right now is already the most generous country in the world. We admit as many immigrants as the rest of the world combined.

We should continue to be the most generous country. No doubt we will continue to admit all those immigrants. We are all very, very familiar with the successes of hundreds of thousands, if not millions, of immigrants.

That is not the point here. The point is America simply cannot admit every single individual who wants to come to our shores.

One of America's most distinguished families, the Kennedy family, a member of that family wrote a book when he was a Senator, and I am referring to John F. Kennedy. He wrote a book in 1956 called "A Nation of Immigrants."

At that point, he said that we do need a limitation upon immigration:

> We not longer need settlers for virgin lands. Our economy is expanding more slowly than in the 19th and early 20th centuries.

Mr. Chairman, when he wrote that, our immigration level was one-half of what it is today. Unfortunately, because we cannot accommodate every individual who wants to come to this country, we are going to have to engage is some degree to some selectivity. We need to have individuals admitted to this country who can contribute to the productivity of America, who can help us better compete in the international workplace.

I know there are those who say that history would disprove those who are opposed to this bill, but that is not the point. We do not support a decrease in the levels of immigration; we do not want a limit as to which countries can have immigrants come to America. We support an increase. The question again is on what priorities should we have as a country.

□ 1320

Mr. Chairman, I think those priorities should be on immediate family members and upon skilled workers.

Mr. Chairman, we are going to hear a lot about fairness today, but I would like to ask my colleagues some questions.

First of all, is it fair for State and local governments to have to pick up almost the complete cost of educating, providing health care and government services to immigrants who will come to this country? And when I say, "Will State and local governments have to pick up the tab," of course I am talking about the taxpayers who ultimately are going to have to shoulder that burden. Is it fair for business, for the first time in history, to put a cap on the number of individuals who can come to this country temporarily as skilled workers.

Mr. Chairman, every study of which any of us is aware of points to the need to have more skilled workers in this country's future. In fact, one survey, called Work Force 2000, said that by the year 2000, 80 percent of our workers would need to be skilled workers. We need to give more preference to immigrants who are skilled workers and possess the necessary skills.

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield for a question?

Mr. SMITH of Texas. I yield to the gentleman from Texas.

Mr. COLEMAN of Texas. Mr. Chairman, I thank the gentleman from Texas [Mr. Smith], my colleague, for yielding, and I think he asked a very important question when he talked about who bears the cost.

However, Mr. Chairman, I think it is also fair to point out that again units of local government and States now bear the cost for those who are here illegally or for those who are inside the United States, residing here undocumented, and once again the Federal Government refuses to participate in providing the research necessary for units of local government and States to provide health care, as well as education, for those children of undocumented workers.

Mr. SMITH of Texas. Mr. Chairman, reclaiming my time, I just say to the gentleman from Texas [Mr. Coleman], my colleague, that I think he makes a legitimate point. But my concern is that we do not add to the burden of State and local governments that the gentleman from Texas [Mr. Coleman] wouild like to see reimbursed, and, if this bill passes, we are putting a massive burden, financial burden, on those same States, cities, and localities, and we do not need to make it a worse situation.

Mr. Chairman, another provision in this bill that I think is unacceptable, as well, is this bill has two amnesty provisions. Sometimes they are labeled using other phrases, but in point of fact we cannot hide two amnesty provisions in H.R. 4300. When we talk about amnesty, we are talking about rewarding law breakers and, in effect, penalizing law abiders. We are talking about giving amnesty to individuals who came to this country illegally, received amnesty and whose family members are now illegal aliens.

Mr. Chairman, we are going to allow illegal aliens who are in this country as recently as January 1 of this year to stay here forever. Meanwhile, we are saying to the other individuals who are likewise permanent residents that, "If you have tried your best to obey the law, if you have said, 'I'll go through the regular process and wait my turn in order to get my family in,'" we are saying to them, "You're a real dummy for obeying the law. You should have had your family come in illegally."

Mr. Chairman, that is no message to send. If this bill becomes law, and the amnesty provision becomes effective, what we are saying to individuals is, "If you have a family in this country, go on and come in illegally because sooner or later there will be another amnesty just like this one." That is going to have an incredible magnet effect, and the result is going to be a dramatic increase in illegal aliens.

I might remind our colleagues, Mr. Chairman, that right now, as we stand here, any individual who has a preference visa, any individual who is a permanent resident, can become a citizen in anywhere from zero to 5 years, and at that point automatically can bring in all immediate family members.

So, Mr. Chairman, there are other alternatives to having an amnesty, and I would say again that, when it comes to amnesty, that issue was debated for long and hard back in 1986, and 192 of our colleagues voted against amnesty back then. That is a provision that was so controversial that there was an agreement made at that time that that would be a once and only amnesty. There would be no more because of this magnet effect, and here we are today talking about not one, but two, amnesty provisions in H.R. 4300.

The second amnesty provision basically says, "If you have come to this country and overstayed your travel visa, and you're now here illegally, and you happen to be from one of 35 so-called disadvantaged or oppressed countries, countries like Japan, and France, and so on, you could stay here forever." Well, Mr. Chairman, that is special interest legislation at its best.

Supposedly, in 1965 we took discrimination out of our immigration laws. What this bill does is to put discrimination back in, and it gives amnesty to illegal aliens, to countries that benefited from the discrimination of the pre-1965 law.

Mr. Chairman, there are a number of studies that have been conducted. Some have endorsed more immigration. Some have opposed any substantial increase in immigration. But I do not know of any study that has unequivocally endorsed this bill, H.R. 4300, because of its dramatic increase in immigration, 60 percent in the next few years. Every study that I am aware of that has endorsed an increase in immigration along the lines of H.R. 4300 has always conditioned their findings. Either they are talking about continued economic expansion being necessary to accommodate those individuals, or they use old data.

Mr. Chairman, let me read excerpts from a book by Julian Simon who is considered sort of the guru of those who would want to dramatically increase immigration levels, and I say that here is an individual who is often cited as someone who favors the levels of, say, H.R. 4300, and yet this is what he says in his book:

There is no doubt that workers in some industries suffer immediate injury from the addition of immigrants in the same category, and he goes on and suggests that immigrants be chosen more for their economic characteristics and less on the basis of family connections.

Mr. Chairman, that is exactly what I am saying, and that is exactly what the administration is saying, is give preference to those individuals who have the skills, who have the education, to be productive members of American society and help us compete in the international marketplace.

Mr. Chairman, the most recent study, and one which has superseded Mr. Simon's work, is one by Prof. George Borjas, and he raises these concerns. He talks about injury to American workers from a massive influx of immigrants. He, too, talks about the need to have skilled and educated immigrants. But more especially he says that contrary to all the other surveys of immigrants who have come to this country, the current wave of immigrants, who came in the 1970's, and we do not have the data on the immigrants who came in the 1980's yet, but those who came in the 1970's are participating in welfare to an extent larger than any other wave of immigrants. He uses the word that America has become a welfare magnet because we give individuals in government transfer payments, many instances more than they make in their own countries.

Mr. Chairman, Mr. Borjas says that the immigrants who came in the 1970's will cost American taxpayers $30 billion in those welfare payments. Well, if H.R. 4300 becomes law, we are talking about at least a 50-percent increase in immigrants. That means $45 billion in welfare payments, but it is actually more than that because one of Mr. Borjas' other findings is, unfortunately, that immigrants coming into this country are not only participating in welfare more than immigrants in the past, but the longer they are here in the country, the more they are taking those government transfer payments.

The point here is not to say that many immigrants are costing us money, because I think relatively few are, but the point is that those who do, have a dramatic impact on our taxpayers in this country.

Mr. Chairman, I point to another study, and this perhaps is the most important study of all, and these are public opinion polls taken over the past 5 years. Every single public opinion poll, whether it be by the New York Times, CBS, Roper, Gallup, whoever have you, has shown that fewer than 10 percent of the individuals in America want to increase immigration. The vast majority, in fact, want it to remain the same or actually have it decreased. Those individuals have a real concern about the cost of immigrants, and I think it is a concern that we need to address.

Every study, including the studies I have mentioned, talk about the need for skilled workers, and yet 4,300 does not go far enough in emphasizing those skilled workers and giving a priority to individual immigrants who might be able to come to this country with the skills and the talents that we need.

□ 1300

Mr. Chairman, there is another study that is often cited that has been the subject of several "Dear Colleague" letters, and that is the deTocqueville study. This is a study, just to put it in perspective for my colleagues, that was based upon opinions, not statistical evidence, not quantitative evidence, but on the opinions of 38 economists. Interestingly enough, this poll was sent out to 58 economists. Only 38 felt it necessary to respond. Obviously the poll picked who they were going to send the survey to, and on the basis of this survey, we are told that 80 percent of these economists want increased immigration.

But the actual question to these individuals was: "Do you think that 20th century immigration, looking backward, has been good for the country?" I think all of us would agree that that has been the case.

Mr. Chairman, let me conclude by simply saying that we also need to be concerned about the impact of immigrants on our own underclass. It is widely thought that immigrants who do not possess the skills and the education that we would think are necessary for them to be productive members of American society are going to, therefore, end up competing with the exact same type of individuals in American society, those who are underskilled when they come to America.

Gov. Richard Lamm of Colorado writes this:

> Why is it that the other industrial countries who are beating us in the international marketplace take few or no immigrants? . . . . We can either import large numbers of low-skilled workers or we can reach down and train our own underclass. We cannot do both . . . . Wave after wave of immigrants arrive to take the jobs that can start our own underclass on the road to success. . . . No other nation in the world has the delusion that it can ignore its own poor while importing a whole generation of poor people every year. . . . Our first duty ought to be to our own poor. We are crazy to think we can bring in millions of low-wage, unskilled immigrants to do our basic work and ignore our own workers. Instead of incorporating our own poor into the economy, we are adding a second underclass to American society, and we shall pay a heavy price for this. America is heading toward an immigration crisis.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Texas. I will be happy to yield in just a moment.

In conclusion, Mr. Chairman, what I do simply say is that H.R. 4300 goes in the wrong direction. While all of us can be in favor of increased immigration and all of us consider ourselves to be pro-immigrant, nevertheless H.R. 4300 has the wrong priorities. We need to given greater priority to skilled immigrants who are coming to this country and greater priority to reunifying immediate family members and perhaps somewhat less priority to the unskilled and to the extended family members.

Mr. Chairman, I reserve the balance of my time.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Texas yield to the gentlewoman from Ohio?

Apparently not.

The gentleman from Ohio [Mr. Sawyer] is recognized for 15 minutes.

Mr. SAWYER. Mr. Chairman, I yield myself such time as I may consume, and I rise representing the Committee on Education and Labor in its particular interest in H.R. 4300, the Family Unity and Employment Opportunity Immigration Act of 1990.

I wish to thank the chairman of the full Committee on the Judiciary, the gentleman from Texas [Mr. Brooks] for his patience in preserving the jurisdictional claims of the Committee on Education and Labor, as well as facilitating our substantive considerations. I wish as well to express my deep appreciation to the gentleman from Connecticut [Mr. Morrison], chairman of the Subcommittee on Immigration, Refugees, and International Law, for the courtesies he has extended to me as chairman of the Education and Labor Task Force on immigration, and for his willingness to recognize the importance of the labor market aspects of this legislation. He encouraged the active participation of the task force in the formulation and the presentation of H.R. 4300, and I thank him for that opportunity.

The Committee on Education and Labor has since 1985 maintained a Task Force on Immigration for the purpose of considering the labor aspects of any immigration proposal. It is clear, under the rules of the House of Representatives, that our committee has jurisdiction over the importation of foreign labor and the setting of wage and labor protections afforded those workers. In the last few years there have been a number of studies, including the one mentioned earlier in this debate today, the Hudson Institute's "Work Force 2000 Report," which graphically illustrates the interrelationship between immigration policies and the demands of the labor market.

These reports simply recognize that both the demographics of the domestic labor force and businesses' demand for both skilled and unskilled workers are changing. This is especially significant as we, as a nation, seek to establish our place in a more competitive global economy in an age of uncertainty, in a time of great change.

As we look toward a world of multinational and transnational corporations and global markets, with a greater and a freer flow of products and people in international commerce, we must also remember that our role in this marketplace should not be built on Third World wages and working conditions. We as a nation have a responsibility to first employ the domestic work force at wages and working conditions which are competitive and not substandard. In the name of global competition, we should not condone the admittance or use of any foreign workers at less than prevailing wages and benefits, particularly when domestic workers are available at those same wages and working conditions. It seems to me a simple proposition that foreign workers should be admitted only when there are real and measurable shortages in the occupation for which they are sought and not simply when an employer states he or she has a need and determines it is cheaper to use foreign workers.

It is also my view that we have a responsibility to not only employ domestic workers first but we have a concurrent duty to educate and train our people for the jobs where shortages now exist or are projected to occur in the future. This is a shared responsibility, and we must begin to take it seriously.

Mr. Chairman, I am pleased that H.R. 4300 reflects this necessary balance between the legitimate needs of business to meet labor shortages in a timely fashion with the equally important need to protect the jobs of American workers at sound wages and working conditions.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. Goodling] is recognized for 15 minutes.

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 4300, the Family Unity and Employment Opportunity Immigration Act of 1990, represents the first major reform of our Nation's legal immigration laws since 1965 and would restructure the system for the admission of employment based immigrants. As reported by the Judiciary Committee, the bill contains numerous provisions that would impact on the supply of and the demand for labor including provisions that modify the existing categories for the admission of priority workers and other employment-based aliens, revise the labor certification process in cases of demonstrated labor shortages, require the payment of fees for the admission of certain employment-based aliens, and amend the Immigration Reform and Control Act.

In today's labor climate, one of the goals of immigration legislation should be to make our system for the admission of aliens more responsive to our need for workers in labor shortage areas. Given the projections in the Workforce 2000 report that the availability of workers in certain occupations may be insufficient to meet the demand, we must begin to develop a strategy to insure that the American enterprise is not handicapped by a shortage of labor. Along with the improving the recruitment, training and education of American workers, our immigration policy can and should play an important role in that strategy.

It is unclear whether H.R. 4300 does in fact make our legal immigration system more responsive to our labor needs. Several of the priority categories for the admission of employment-based aliens are too narrowly defined to allow for the admission of workers with needed skills. The bill also contains a cap on the number of employment-based nonimmigrants which will similarly limit the flexibility of U.S. companies to respond to changing labor needs. The labor attestation process for the admission of workers in labor shortage occupations will cause added delays and costs.

Several of my colleagues had drafted amendments which were directed at making the provisions of H.R. 4300 more receptive to the need for both skilled and unskilled labor while protecting the interests of American workers. I am disappointed that most of these amendments were not made in order. In their current form, the employment-based immigration provisions of H.R. 4300 make our legal immigration policy an obstacle to the ability of American businesses to compete in the world marketplace.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. Brooks].

Mr. BROOKS. Mr. Chairman, I yield 8 minutes to the gentleman from Connecticut [Mr. Morrison].

□ 1340

Mr. MORRISON of Connecticut. Mr. Chairman, I thank the gentleman from Texas [Mr. Brooks], the chairman of the Committee on the Judiciary, for yielding me this time. I thank the gentleman for his leadership in helping us move to the floor of this House a far-reaching and important reform of our immigration system. The last time the Congress acted upon the overall structure of the legal immigration system in this country was in 1965. That is 25 years ago, and those 25 years have seen many changes within the United States and around the world.

Those changes require that our immigration system be adjusted and updated and reformed in order to see to it that its fundamental goals are still pursued in a way that is relevant with the times.

Mr. Chairman, immigration has been a source of great strength to this country. Immigration has been the source of perhaps our greatest strength. It is what makes us a nation by choice, a nation which people have selected as the Nation to which they would come and live. No ethnic group, no religion, no geographical accident defines this Nation. This Nation is defined by a voluntary adherence to far-reaching principles of human rights and democracy.

People have come here in pursuit of these ideals, and to live them out day by day. Only through immigration and the continuation of our open and generous immigration policy can we continue to be for all the world a nation of choice, a nation composed of self-selected strivers, who seek to make their own lives better, to make the lives of their children more hopeful and, in doing so, to make the future of this Nation stronger and better for those who are here already, as well as those who come in the future.

This bill covers three major areas of concern in immigration, and I think it does so in an appropriate way.

First and foremost, it reforms and improves the fundamental principles of our immigration system as reformed in 1965 under the leadership of our esteemed past chairman of the Committee on the Judiciary, Peter Rodino.

That principle is one of a profamily immigration policy. Unifying families, especially the nuclear family, has been a critical priority of our immigration system.

Nonetheless, under our existing law the immediate relatives of people who have been admitted to live permanently in the United States may be prevented from joining their family members for years and years on end.

That is not conducive to good family life, good citizenship, nor is it conducive to adherence to the legal standards of immigration. What family stays apart from its children or its spouse for years and years on end? It does not happen. It ought not to happen. The law ought not to condone it nor seek to enforce those kinds of separations.

Mr. Chairman, this legislation moves in the direction of allowing the immediate families to unite immediately. That is the principle that our law should follow. That is a profamily immigration policy.

The bill also acts to reduce backlogs for other family members who are waiting to join their families here in the United States, a positive commitment to our profamily family unification principles in immigration.

Second, the bill speaks to the changes in the work force of this country. Some people misunderstand the double-edged sword of the lack of needed workers in our economy. Certainly if workers are brought into the United States and allowed to displace Americans from their jobs, that would be wrong. This bill does no such thing.

Equally true, however, is if employers in this country have a need for workers who they cannot find in the United States, and they are denied the opportunity to bring those workers to this country, if they are denied the opportunity to bring needed skilled workers into their work force, American workers are just as certainly displaced. American factories are closed and American workers are laid off. Companies go to other nations in the world to find the workers that they need, and they relocate American jobs out of this country. So those who are concerned about protecting American jobs must understand that this is a double-edged sword, and we must walk the careful path of an immigration law which admits needed workers to the country, but holds them up to the test that they are in fact needed.

This legislation does so. In fact, contrary to what the gentleman from Pennsylvania suggested, the attestation process in this legislation is more expeditious for the companies that would seek to bring skilled workers here than our current law. It is an important improvement.

Mr. Chairman, this moves in the direction of bringing in permanent workers, rather than temporary workers, and it is permanent immigrants who make sure that there is not an undercutting of labor, wages, and conditions here in this country.

In addition to that, this legislation originally contained a provision by which employers who brought individuals to this country would be required to provide funds for education and training. The Committee on Ways and Means objected to that provision as a tax. It has been stricken from the bill. I will offer an amendment that provides for a training requirement in order to see to it that as workers are brought to this country as immigrants because of the lack of necessary workers over here, there will also be a commitment on behalf of those employers to invest in the training of American workers to fill those jobs in the future.

Mr. Chairman, let me say that the employment-related provisions of this bill are employer oriented. They do not delegate to bureaucrats the question of who should come in, but rather provide to employers the choice. That is the answer to those who say they should be more skilled or less skilled. Let us have American employers in our market economy make the selection of which workers are, in fact, needed, rather than have Congress or the Department of Labor seek to make those decisions.

Mr. Chairman, I think that is why even the Wall Street Journal, which has not said nice things about most of my bills here, has said that this is the best Democratic bill they have seen in many years. So I would hope that Republicans would take a close look at it.

Finally, this legislation provides for diversity of immigration and the protection of people temporarily here in this country.

Mr. Chairman, I am pleased to speak today on behalf of H.R. 4300, the Family Unity and Employment Opportunity Immigration Act of 1990.

H.R. 4300 is a comprehensive immigration bill addressing issues of family reunification, employment based immigration, immigration for the purpose of promoting cultural diversity, nonimmigrant employment of aliens, and miscellaneous immigration-related matters.

This bill represents the first major change in the law governing legal immigration in 25 years. In 1980, Congress passed the Refugee Act dealing with refugee and asylum issues. In 1986, the Immigration Reform and Control Act [IRCA] was passed, relating to the legalization of the undocumented and employer responsibility for the hiring of documents workers. But not since 1965 has Congress enacted legislation dealing with the wide scope of legal immigration issues, the family preference system and employment based immigration.

Under current law the United States admits about 530,000 immigrants annually—not including refugees. Under H.R 4300 this figure would go to 775,000, with a temporary increase of 50,000 annually for backlog reduction. These increases, cut way back from the bill as originally introduced, are nominal compared to the overall size of the existing U.S. labor force of 125 million.

The three linchpins of this legislation fully justify the additional numbers. The bill would allow: first, immediate family members to be united; second, U.S. businesses to be more competitive in work markets; and third, immigration from countries that have, in the last quarter century, been largely shut out by U.S. immigration law.

Many of you I'm sure saw the glowing editorial about H.R. 4300 in the Wall Street Journal yesterday. It describes the bill as one that will "* * * spur the economy, create new jobs and make the U.S. more competitive." The Journal quoted a survey of 38 leading economists from John Kenneth Galbraith to Milton Friedman and found that they all concurred that immigration has a favorable impact on U.S. economic growth; 80 percent of them found it to have a very favorable impact.

At the hearings conducted on the bill by my subcommittee, Members heard from a host of witnesses who testified that immigrants have a positive effect on the economy. The experts agree that within the next 50 years this Nation will face a declining rate of population growth. As the baby boom generation ceases to have children, we shall find ourselves with an aging work force.

The average age of an American worker in the year 2000 will be almost 40. More and more of our population will be dependent on Social Security, and fewer and fewer young, skilled, productive workers, will be paying taxes and contributing to the gross national product. Immigration and Naturalization Service [INS] Commissioner Gene McNary was quoted recently in Newsweek magazine as saying: "There is a pretty good argument that we need these people to complement our aging work force." Newsweek stated that Mr. McNary believes a healthy economy can absorb up to 1 million immigrations each year.

A study prepared for the U.S. Department of Labor, Workforce 2000, is one study among several, that indicates that the education and skills of the emerging U.S. labor force will be unable to match U.S. labor market needs. Because it is unlikely that a sufficient number of U.S. workers will be trained quickly enough to meet legitimate employment needs, and because such needs are already unmet, our committee was convinced that immigration has a part to play in an overall strategy creating a workforce that will keep America competitive in the global economy in the 21st century.

FAMILY UNIFICATION

H.R. 4300 makes two important change with respect to family reunification. The first is the provision allowed spouses and minor children of permanent residents to be treated as immediate relatives. Unlike the immediate relatives of citizens, who are allowed to enter the United States in unlimited number, the immediate relative spouses and minor children of permanent residents, under current law, have to wait for as many as 15 years to be reunited with their families.

Keeping nuclear families together is a cornerstone American value. It is a value central to my own concern, and central to this bill. There are over 400,000 spouses and children of permanent residents worldwide on the waiting list. H.R. 4300 will permit up to 115,000 of them to be admitted annually as immediate relatives. Adult children of permanent residents will continue to be admitted in the limited second preference category.

The other provision relating to family unification is the family fairness provision that was restored to the bill at the full committee markup. This provision requires a stay of deportation for spouses and minor children of legalized aliens who entered the United States before January 1, 1990. Its purpose is to allow husbands and wives, and parents, and children to remain together. This provision will keep us from wasting valuable enforcement resources on deporting children and spouses who will ultimately be allowed to enter the country anyway.

EMPLOYMENT BASED IMMIGRATION

The second major concern that H.R. 4300 responds to is the need of employers for certain types of workers. The bill would increase the annual number of employment based visas from slightly more than 20,000 under current law, to 75,000.

There are two groups of employment based admissions. The first is for those with extraordinary ability, executives, and university professors whose entry is in the national interest and for whom there is no U.S. labor displacement. The second category consists of those who fill a vacancy for which no American worker can be found. Important labor safeguards are incorporated into the bill, requiring recruitment efforts by employers and payment of prevailing wages.

Temporary visas would be facilitated under the bill for those of extraordinary ability, entertainers and athletes, people with special business expertise, and others. In order to assure that U.S. workers are not displaced, consultation with labor groups would be required for the issuance of certain employment-based visas. Visas for temporary workers have been expanded in some instances to allow multinationals to transfer employees from abroad for career development.

DIVERSITY

The third significant change rendered by the bill relates to the broadening of the regional bases from which people come to the United States. H.R. 4300 endeavors to reverse the unintended inequities that resulted from the 1965 Immigration and Nationality Act [INA]. Individuals from countries deemed "adversely affected" by the 1965 law, including Ireland, Italy, Poland, Argentina, and Japan, will now have the opportunity to apply for conditional residence status if they have a firm offer of employment for at least 1 year. This program will provide for 25,000 visas annually for 3 years.

Other temporary measures designed to enhance diversity include: First, priority for natives of adversely affected countries for certain employment based visas; second, 15,000 immigrant visas annually for natives of Eastern Europe and from the continent of Africa. Both of these provisions target areas of the world from which immigration to the United States has been notoriously low. Finally, in an effort to maintain an ongoing diverse flow of immigrants, the bill provides for a self-correcting program for natives of foreign states that have sent fewer than 50,000 immigrants to the United States over the preceding 5-year period.

Consideration of a new approach to legal immigration began with the work of the Select Commission on Immigration and Refugee Policy chaired by the Rev. Theodore Hesburgh, which submitted its final report to the President and Congress on March 1, 1981. Congressional focus during the 1980's then shifted to curbing illegal immigration, leaving the second portion of the Commission's recommendations, with respect to legal immigration, for future Congresses.

In the 101st Congress, S. 358 was passed by the Senate on July 13, 1989, by a vote of 81 to 17. On the House side my subcommittee began a series of hearings, sometimes held jointly with the Immigration Task Force of the House Education and Labor Committee, in September 1989. The subcommittee heard from some 50 witnesses, including administration officials, economists, state and local officials, immigrant advocates and immigrant opponents, and representatives of business and labor. On March 19, 1990, I introduced H.R. 4300 and the bill was marked up by the subcommittee in course of the following several weeks. The full Judiciary Committee considered the bill on July 31 and August 1, 1990, and on the latter date ordered the bill, as amended, favorably reported to the House by a recorded vote of 23 to 12.

H.R. 4300 enjoys significant bipartisan support in the House, and wide and diverse support in the community at large. Endorsements run the gamut from right to left; from conservative think-tanks to labor organizations and the Wall Street Journal. Supporters include the Catholic Conference, and the major Hispanic, Asian, Irish, Jewish, and Eastern European groups.

I look forward to the support of all my colleagues as well.

Mr. BERMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I rise in strong support of this bill, particularly the provisions that have to do with the country of Lebanon and the immigrants from Lebanon to this country.

Mr. Chairman, it is a very difficult task to produce a bill which is fair, compassionate, and good for the economy. I believe H.R. 4300 meets these objectives.

Over the years, immigrants have been the lifeblood of this country, both economically and spiritually. I believe we have an obligation to share this experiment in freedom with other people in the world who are oppressed. We cannot shut the doors to them—diversity is good for this country. At the same time, we cannot simply throw the doors open and see what happens. We must control the flow of immigrants into this country so they can become productive members of American society.

I want to especially bring the attention of my colleagues an amendment I offered in the Judiciary Committee to provide some relief to the unfortunate citizens of Lebanon, who have lived trapped and under siege for over a decade. While the media seems to have lost interest in Lebanon, the country is politically very unstable and living conditions are impossible. Since February, over 1,000 people have been killed and 3,500 wounded, mostly in shelling of urban areas. Over half of the population are refugees in their own country, displaced by the war. Public water and electricity are almost nonexistent. Efforts to resolve the war have failed and there is no way of predicting whether all-out fighting will break out again tomorrow.

I venture to say I cannot imagine where else in the world conditions are as bad. I became involved in this crisis when a family member of a constituent was killed while awaiting approval of his application for a visa to come to the United States. There is something wrong when the immigration process puts people whose lives are in jeopardy on a daily basis on a list 8 years long. Fifth preference visa applicants who applied in 1982 are just now getting approval. If you were Lebanese and applied tomorrow for a fifth preference visa, the wait would be 25 years. The Lebanese do not have the luxury of waiting for their turn under the present system. My amendments may save some innocent lives.

My amendment addresses the desperate need of Lebanese trapped in random violence to get out of the country to join family in the United States. It is a curious thing that these people do not qualify as refugees because they are threatened by general anarchy and violence, rather than specific persecution. The amendment attempts to address the backlog of second and fifth preference visa applicants by adding 5,000 new visas in years 1991 through 1995, or 1,000 new immigrant visas each year for 5 years. I want to make it very clear that these are additional visas to those provided in the bill, and that citizens of Lebanon are eligible on an equal footing for the other visas made available under the backlog reduction provisions of the bill. These additional visas should not in any way reduce their chances of obtaining a visa under other sections of H.R. 4300.

I understand concerns about special treatment for citizens of one country, but I fear that if we make them wait their turn in line, they may not be alive when their names are called. I believe this is a humanitarian gesture and the most fair way to do it.

I also want to thank and commend the chairman of the Rules Committee, Mr. Moakley, for his amendment to grant temporary protected status to citizens of Lebanon, El Salvador, Kuwait, and Liberia who are presently to return Nicaraguans with justifiable fear of being sent home to face political persecution and even death. While the situation has changed for the better in Nicaragua, it may be worse in El Salvador. Congresswoman Oakar and I introduced a similar measure specifically directed toward Lebanon last year, and I appreciate the chairman's including Lebanon in his amendment. This is the right thing to do.

I hope my colleagues will join me in supporting this important and worthwhile legislation.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. Porter].

Mr. PORTER. Mr. Chairman, I commend the committee for bringing this bill to the floor in its present form. In drafting H.R. 4300, the committee has shown a deep concern for and understanding of the problems that face Hong Kong as Communist Chinese takeover of the colony in 1997 nears.

After the brutal and bloody massacre at Tiananmen Square and the repression that followed, the people of Hong Kong have become extremely anxious about their homeland reverting to control of the People's Republic of China in 1997. As a consequence, Hong Kong is experiencing a brain drain which will see 62,000 people leave Hong Kong in 1990 alone. Most of those leaving are the better educated who held middle and higher level management positions in Hong Kong. This brain drain threatens to seriously disrupt the colony's economy, and with it United States interests in Hong Kong.

H.R. 4300 contains three provisions specifically designed to alleviate the unstable situation in Hong Kong.

The bill raises the per country ceiling for Hong Kong from 5,000—the allocation for colonies—to 20,000, the present allocation for countries. While we don't want people to leave, if they must leave, frankly we want these job-creating entrepreneurs to come here and help make our economy as vibrant and strong as they have made Hong Kong's.

In addition, H.R. 4300 waives the usual 4-month requirement and permits Hong Kong residents holding United States visas to exercise their visas at any time until 2001. This safety net is extremely important. The goal is not to drain the talented people from Hong Kong, but to give them confidence in the future. The purpose of this provision is to allow visa holders to remain in Hong Kong under Chinese control for several years after 1997. Hopefully, the Chinese under more enlightened leadership will adhere to their promises and many visa holders will choose not to exercise their visas and to stay after 2001.

In the last year, American firms in Hong Kong lost 24 percent of their key employees to emigration from Hong Kong and to transfer to non-American companies—managers, executives, and highly skilled employees who were offered immigration benefits as part of their employment package. The bill responds to this problem by providing an additional 15,000 visas for residents of Hong Kong who are employed in Hong Kong by a United States business and can be similarly employed in the United States.

I commend the committee for its measured and timely response to the problems facing Hong Kong. The provisions in this bill relating to Hong Kong will go far to reassure the people of Hong Kong and make the transition of 1997 tolerable.

□ 1350

Mr. SAWYER. Mr. Chairman, could the Chair clarify the amount of time remaining?

The CHAIRMAN. The gentleman from Ohio [Mr. Sawyer] has 11 minutes remaining; the gentleman from Texas [Mr. Brooks] has 18 minutes remaining; the gentleman from Texas [Mr. Smith] has 8 minutes remaining; and the gentleman from Pennsylvania [Mr. Goodling] has 12 minutes remaining.

Mr. SAWYER. Mr. Chairman, I am pleased to yield 4 minutes to the distinguished gentleman from California [Mr. Roybal].

Mr. ROYBAL. Mr. Chairman, I rise in support of this very important piece of legislation.

Most of my colleagues probably remember that a few years ago I strongly opposed the so-called Simpson-Mazzoli bill. I opposed it at that time because it seemed to me that the presenters of the bill purposely ignored the unification of families, an important provision not included in that bill.

I also remember that that bill had a quota system that ignored the needs of people in this hemisphere, increasing quotas for Europe, but not Latin America; nor Canada.

The recommendations that are made in this bill were recommendations that I made to that bill at that particular time, and therefore, now, a few years later I am pleased that they are included in this piece of legislation before us. I agree that this is a good bill, that it is a real step forward, and of long-term benefit to this country.

I am pleased to see that H.R. 4300 increases the number of visas available to the most backlogged family preference category. It revises the current labor certification process which is designed to ensure that immigrant workers do not take jobs away from qualified Americans, and also establishes a new diversity program to permit increased immigration from countries that have received relatively few visas over the past several decades. These provisions are most important and must be included in this piece of legislation.

My colleagues probably also remember that just a few months ago we passed legislation right here in this House that made possible the immigration of people from Ireland with practically no restrictions whatsoever. I think that that was also good because they too add to the economic welfare of this Nation. But most importantly I see the fact that this piece of legislation establishes a more equitable visa category for spouses and children of permanent residents that would permit more rapid family reunification as they provide 115,000 more slots for permanent residents's spouses and minor children.

It provides also a backlog reduction in visas for second and fifth preference, which is most important. This is something that I proposed, several years ago, but it just seems that no one listened. I am glad that they are included in this piece of legislation.

This bill when passed would also prevent the deportation of spouses and children of legalized permanent residents who arrived in the United States before January 1 of 1990, and this indeed makes this bill a family unification proposal. We passed legislation and we gave amnesty to thousands upon thousands of individuals, but said to them that they can stay in the U.S., work on our farms, work in our restaurants, and our hotels, work wherever there is employment that Americans do not want, but you cannot be reunited with your families. Your children and your wife, we said if they are here will be subject to deportation, if they are elsewhere, they can not enter until they qualify under an unfair quota system, no matter how many years it will take.

What that piece of legislation did at that particular time was encourage the violation of immigration laws, as wives and children did in fact join a spouse or parent in the United States. It was a mistake then to have done what we did, but now this bill will rectify that mistake.

My colleagues, it is most important for the welfare of this Nation that we pass this legislation. The bill does improve immigration policy not only for people in this hemisphere, but improves immigration policy for people coming from all over the world.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. Miller].

At the completion of his message, I yield the balance of my time to the gentleman from Texas [Mr. Smith].

The CHAIRMAN. Without objection, after completion of the statement by the gentleman from Ohio, the remaining time of the gentleman from Pennsylvania [Mr. Goodling] will be controlled by the gentleman from Texas [Mr. Smith].

There was no objection.

Mr. MILLER of Ohio. Mr. Chairman, I appreciate the effort that my colleagues have put forth in order to bring this bill to the House floor, but Mr. Chairman, I must rise in opposition to H.R. 4300.

Though well intentioned, the Family Unity and Employment Opportunity Immigration Act of 1990 in my judgment would create more problems for American families and American workers than it would resolve.

Essentially, this legislation is another amnesty program for those who have been in the United States illegally from 1982 until January 1, 1990. Many of us have constituents, who have come to the United States legally, who have used legal channels to bring their family members to the United States, who have patiently waited for visa numbers to become available, because they wanted to obey the laws of our country. Now, we have again decided to give amnesty to illegal aliens, to people who have circumvented our laws, not honored them. We have already legalized nearly 3.1 million illegal aliens who were residing in this country prior to 1982. Is it fair for those immigrants who have chosen the legal route to come to this country to see us once again swing the door of citizenship open to those who have scorned our laws?

While we have added to the number of visas available to the second—spouses and children of permanent residents—and fifth preference—unmarried brothers and sisters of U.S. citizens—catagories to help eliminate the huge backlogs of individuals waiting to legally come to the United States, this is only a stopgap provision, which will end after 5 years. What is to eliminate another huge backlog of applicants in the future?

The majority of the costs of this program are being thrust upon the State and local governments. No provisions have been made for the Federal Government to share in the costs associated with enlarging the number of immigrants allowed to enter this country, estimates have shown that in the first year after implementation alone, State and local governments will spend approximately $3.8 billion in public welfare programs, food subsidies, housing, and education costs. With the country's current budgetary problems can our States and local governments afford the costs of H.R. 4300?

I agree that our current system of immigration needs to be improved, but, in my judgment H.R. 4300 is not a reform of the current immigration system, but simply an expansion of the current laws which allow for an increase in immigration by further extending amnesty to those who have come to the United States illegally. I feel this is not the way to go and that we have a long way to go if we want to make this legislation fair and equitable for all concerned. In its present form, I feel this is a bad bill and I urge my colleagues to vote against it.

□ 1400

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. Bryant], a distinguished member of the subcommittee and the committee.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. Bryant].

Mr. BRYANT. Mr. Chairman, I rise to oppose H.R. 4300 unless we are able to radically amend it today. The bottom line is simply this: Today the United States of America admits 530,000 people every year, new immigrants, into the United States, which is more than all the countries of the world combined presently admit into their borders.

This bill before the House today would increase that number by over 300,000. I would suggest to the Members that it would take the whole figure up to as high as 900,000 new legal immigrants into the United States every year.

I think the fair question for us to ask is: Why? Why, with all the problems we have in this country, are we taking up a bill that is going to increase the number of people that come into the country every year by such a huge number? We cannot pay our bills. We are in the midst of an enormous debate at the present time about how to finance $200 billion to $250 billion a year in budget deficits. We have a crime rate that is unrivaled anywhere in the Western world. We have an education system that is creaking under the burden that it now has which it is not able to maintain. It is not educating our people adequately. We have street people by the thousands on the streets of every major American city. We have recession in progress. We have unemployment going up to as high as 6 percent projected by the end of the year.

The fact of the matter is we cannot take care of the people we have now. Why in the world are we taking up a bill at the present time that is going to increase the number of new Americans that will come into the country every year beyond the very generous figure of 530,000 that already exists?

There are three good reasons for immigration policy. One is to promote family unity, and if that is all this bill did, I would be standing here speaking for it. I am going to offer an amendment before the day is over that will restrict this bill's purposes to family unity, but this bill goes far beyond that.

Another legitimate purpose would be to take care of refugees and persecuted persons, which has been part of the American tradition, but beyond that legislation with regard to immigration ought to be crafted in such a way that it suits the national interest, not every group of special-interest-pleading organizations that come before the Congress asking that their particular concern be met in this, a patchwork piece of legislation which is designed not to pursue a coherent national purpose but which is designed to satisfy the demands of legions of special-interest groups that have come to this Congress.

They say that we need to increase diversity. We are already the most diverse country in the world. I would ask: How can it be that a bill which extends more visas and the right to enter to more Europeans than we are allowing to enter now which are already the majority group, white Europeans are already the majority group in America, how can that advance the cause of diversity, as though it need to be advanced in a country as diverse as ours already? How can bringing in so many people of the same race as the majority race encourage diversity?

They say we have a labor shortage. We have a job shortage.

Further, to me, we have a job shortage in America. We have an unemployment rate of 5½ percent that our economists tell us is headed up to 6 percent. What about the Americans who are already here who do not have jobs? Our obligation should be to train them to make them ready for the jobs that are available, not bring in a new competing group that is going to make it even more difficult for them ever to be able to work.

Family unity is a legitimate goal of immigration policy, and there are provisions in this bill which would advance family unity, but we can do that without opening up the floodgates to so many other groups who do not fall under that category.

I will offer an amendment toward the end of the day, and in fact it is a substitute, which concentrates on family unity only and strikes the portions of the bill which open up our immigration laws to so many other persons who are not part of a family in the United States, and maintains those portions of the bill which would promote family unity. It maintains the section that prohibits the deportation of spouses and children of aliens who are legalized under the Immigration Reform Act of 1986, the family-fairness provisions. My amendment would hold that in the bill.

My amendment would also maintain the portion of the bill which grants 115,000 visas each year for immediate relatives, spouses and children, that is to say, for the spouses and children of permanent residents who are already in the United States. It would not include brothers and sisters, but it would include spouses and children.

Finally, it would also maintain the provisions of the bill allowing 10,250 visas a year for unmarried adult sons and daughters of persons who are legally present in the United States at the present time.

But that surely is enough. To go beyond that is to pursue a totally different purpose, and in fact, it is to pursue a purpose, which I submit to you, is not a coherent one, but one that results from a simple patching together of demands from special interest groups from across the United States who have come here and said, "We want to be allowed to bring in more and more and more people."

Mr. Chairman, I urge the Members of the House to turn down H.R. 4300 unless we can amend it by limiting its purpose to family unity which I submit to the Members is the only legitimate purpose that would meet the needs of the American people today.

Mr. SMITH of Texas. Mr. Chairman, I yield 4 minutes to my colleague, the gentleman from Florida [Mr. McCollum].

Mr. McCOLLUM. Mr. Chairman, I find there are a number of good things in this bill, but, frankly, the number of bad things well overshadow the number of good.

One of the good things that is in the bill is some changes in the Marriage Fraud Act that several of us worked on a couple of years ago that will make things a whole lot better, I think, from the standpoint of hardships unintentionally created there.

But the problem with the bill basically is the thrust is wrong.

A lot of us believe in the appropriate immigration reform. We think there needs to be an opportunity for seed immigrants to come to this country.

I have been on the Immigration Subcommittee a number of years and fought through the major immigration battle that resulted in the bill in 1986. I think that is probably the one most glaring point that needed to be made, but this bill does not address that problem, in my opinion, correctly.

Instead of simply saying, OK, because of the fifth preference where you have enormous numbers of immigrants being consumed and brought into this country to have family unification with extended brothers and sisters becasue they eat up so many of these numbers, instead of saying, OK, we recognize that fact so we are going to add "X" number of new legal immigrants in a new category or carve out a category for skilled workers, seed immigrants, this bill goes about completely changing the preference, changing the whole system that we operate under in a way, that I think, is detrimental to the system and to the orderly progress, in terms of getting the kind of mix in this country of legal immigration that we need.

As the gentleman from Texas [Mr. Bryant] also pointed out, it adds too many new numbers. I do not think we need to be bringing in that many.

Perhaps, first of all, it has two amnesty provisions in it. If we recall back in 1986, we legalized a lot of folks and brought them into this Nation. I happened to oppose that. I do not think that is a good idea because of the magnet effect. Sure enough, it has brought a lot more illegals into this country since then.

The fact of the matter is that we would, under this bill, be legalizing all of the children and the spouses of those who came forward and were granted legalization without their having to stand in line in the normal process that children and spouses of those who have been legalized in the past would do, and I do not think that is right.

□ 1410

I do not think that is right. That is a wrong, wrong approach from a standpoint of what is moral.

There are thousands, yea millions of people waiting in line to get into the United States legally, in countries throughout the world. Those should be given the priorities. Those should be given the opportunity to come in here first, not the people who come here illegally.

In my judgment, when we get all said and done with this, we do not address one of the most critical problems facing this Nation today in immigration. We do not address the problem of what we are going to do with all the criminals that are in our jails that are illegal aliens that are here. We need to have a process to expedite the deportation of those who are illegally here, and that process has not been granted, either through the committee structure, or through the Committee on Rules through an amendment I suggested might be offered on the floor. That is urgently needed.

What we see is, over the past 3 years, only about 22,000 have been deported from this Nation altogether, whether criminals or otherwise, out of the potential of 1 to 2 million. We do not know exactly how many are here in that category, but we definitely know we are only deporting about 1 or 2 percent of those available for deportation, and a large bulk of those who should be deported are in our jails, criminals flooding our jails in the States around this country. I think that that is the most important single thing that is missing from this legislation.

We need to reform the process for adjudication. We need to speed up the process of getting the criminal element who are here illegally, out of this country, instead of having them fill our jails. We also, at the same time, need to give new resources to the Immigration Service. They do not have enough investigators to go out and handle deportation cases. When we visit local immigration offices, what we notice more than anything else, they say, "Gosh, the case is made over in one division by some folks who know that there are illegals here that ought to be deported, but we do not have the personnel to follow up, so there are a bunch of people out there that ought to be deported that we are never looking into."

The bill takes a wrong thrust. It was a good idea. We need to reform it, definitely need to reform priorities, and we should add a few more in the category system, but we should not go in and screw it all around, changing the third and the fifth preferences, having amnesty and doing lots of other things I think are wrong, so I am opposed to this bill in the present form. I doubt seriously we will adopt amendments that will allow me to support it, but I urge my colleagues to look at the amendment, because there will be good ones offered, and hopefully there will be changes made.

Mr. SAWYER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York [Ms. Slaughter].

Ms. SLAUGHTER of New York. Mr. Chairman, before we vote on the Family Unity and Employment Opportunity Immigration Act of 1990, we are likely to hear a lot about immigration numbers and the effects of the bill on the labor market. What should not go unsaid or unnoticed, however, is that the bill we have before us contains a small but significant provision which will literally free thousands of immi-

grant women from a nightmare of brutal physical abuse and mental cruelty.

Immigrant women are some of the most vulnerable to domestic violence, yet their plight is not well enough known to effect real change. Not long ago, I heard the heart wrenching story of an immigrant woman living in Rochester with her abusive American spouse. She was regularly beaten by her husband and subjected to unspeakable cruelties. She lived with two paralyzing fears—that of her husband's rage and that of being forced back to her native Haiti. The 1986 Marriage Fraud Act leaves this woman trapped in the abusive relationship for at least 2 years or face deportation to a country which is no longer her home.

Responding to this woman's circumstances and those of thousands of alien spouses nationwide, I introduced legislation to amend the Marriage Fraud Act and provide immigrant spouses in a bona fide marriage, an escape from the beatings, the insults and the fear. I thank Chairman Morrison for including my legislation in the Family Unit and Employment Opportunity Act and expanding the battered spouse waiver provisions to protect children as well.

The Immigration Marriage Fraud Amendments Act of 1986 [IMFA] mandates a 2-year period of conditional permanent residency for foreigners who marry American citizens or permanent residents. At the end of this 2-year period, the American spouse with the foreign spouse must file a joint petition to gain full permanent residency for the foreign spouse. Due to a lack of clarity in the IMFA, a battered foreign spouse may be forced to choose between remaining in an abusive relationship or facing possible deportation to a country that is no longer his or her home.

Under the IMFA, if the resident spouse refuses to sign the joint petition, deportation proceedings can be initiated by the Immigration and Naturalization Service. The joint petition requirement may be waived if the foreign spouse can demonstrate: First, that his or her deportation would result in extreme hardship; or second, that she or he entered the marriage in good faith and sought termination of the marriage for good cause—good cause/good faith waiver. These waivers, which require the filing of INS form I-752, allow the foreign spouse to petition independently for permanent residency.

Potentially, an I-752 waiver based on the good cause termination of a good faith marriage can be requested in cases of spouse abuse. However, the likelihood of obtaining an I-752 waiver in States that have no fault divorce laws is unclear. A resident spouse, learning of his or her spouse's intent to file for divorce, need only file for divorce first to obtain the advantage in situations where the waiver of the joint petition requirement is being sought.

Because the law is new—final regulations appeared in the Federal Register on August 10, 1988—and the basis for obtaining a good cause/good faith marriage is vague, it is not always clear to victims of abuse how the IMFA will be applied to them. The lack of clarity in the law has acted as a deterrent to battered foreign spouses who want to leave their spouses but fear deportation if they do so. A further deterrent is the fact that the divorce proceedings bring the foreign spouse back into the physical proximity of the abuser with potentially serious consequences. While the regulations are just over 2-years old, there is no reason to allow more women and men to become victims of domestic violence.

Section 301 of H.R. 4300 would add a third provision to the IMFA that permits the joint petition requirement to be waived. Where a foreign spouse could demonstrate that he or she entered into a marriage with a resident spouse in good faith and could establish through credible evidence that he or she was battered by the American spouse, the foreign spouse would be allowed to waive the joint petition requirement and file independently to have the conditionality of his or her permanent residence removed. This waiver would not force the foreign spouse to seek a divorce and would thus avoid the question of good cause which must be considered in the good cause/good faith waiver and it would make it clear to abused spouses that there was an escape from their situations. In addition, section 301 stipulates that the exact address of the battered spouse would remain confidential during any INS proceeding.

While this additional waiver would not alter the spirit of the IMFA and the conditional permanent residence system established in 1986, it would be beneficial to a large number of persons trapped in abusive relationships. INS reports 3,747 filings of the I-752 form in the first half of fiscal 1989. While I-752 filings do not reflect the exact extent of the problem, they do offer some indication of the scope. The INS has approved many of these petitions, but anecdotal evidence would indicate that these numbers merely represent the tip of the iceberg. Those in this situation are often advised to remain with the abuser until the 2 years of conditional permanent residence have ended because of the lack of clarity in the law. Abused spouses should be sent a clearer signal that there is an escape from their dilemma and that the abusing spouse does not have complete control over their lives.

Section 301 intends to address two situations: the first in which a conditional resident spouse is subjected to battering or extreme mental cruelty by the citizen or resident spouse; the second in which a child or stepchild is subject to battering or extreme cruelty by the citizen or resident parent. By approving H.R. 4300, the House intends that when the citizen or resident spouse engages in battering or cruelty against a spouse or child, neither the spouse nor child should be entrapped in the abusive relationship by the threat of losing their legal resident status. It is the legislative's intent that the Attorney General will grant the waiver when battering of or cruelty to spouse or child is demonstrated. The House intends that the discretion given to the Attorney General to decide to deny waiver requests under this provision be limited to rare and exceptional circumstances such as when the alien poses a clear and significant detriment to the national interest.

As the original author of section 301 of H.R. 4300, I am also concerned with the situation in which the citizen or resident spouse abuses a child or alien child. It is the intent of the legislation, then, that the conditional resident spouse be able to protect the child without fearing that the citizen or resident spouse will refuse to cooperate in the joint petition, joint interview requirements for the alien spouse. In such a situation, the good faith or extreme hardship waiver will be granted to the alien spouse. The existence of a child of the marriage is evidence that the marriage was entered into in good faith. Both a child and the child's alien parent would suffer extreme hardship if the child were denied the protection and support of the alien spouse when the citizen or resident spouse abuses the child.

The group that would be targeted by the clarifications I have proposed is one of the most vulnerable in American society today. The vast majority of abused foreign spouses are women. Most are new to American society and many do not speak English as a first language. This group is in particular need of statutory language that clearly protects them from abusive spouses taking advantage of the necessity of filing a joint petition at the end of the 2 year period.

A "yes" vote on H.R. 4300 says "no" to the domestic violence which terrorizes thousands of immigrant spouses and their children. I urge all of my colleagues to support the bill, giving hope to battered spouses and children that they, too, might soon realize the American dream of living in freedom and safety.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding me this time. I want to salute my colleagues on the Subcommittee on Immigration for the wonderful work they have done on this bill.

Today the House is faced with a challenge, and that is to defy myths, misperceptions, and misplaced fears, and act with intelligence, insight, and reason, by enacting immigration reform. This legislation is the culmination of years of debate and wrangling, and enjoys the broad-based support of ethnic, religious, and civil rights groups, certain business concerns, and organized labor. Getting all those groups together was no small feat.

The bill rightfully recognizes the industry and valuable contributions that immigrants have made throughout the history of our Nation. It is based on the fundamental premise that immigrants are good for America, and despite the fact that immigrants are such an integral and evolving part of our identity as a Nation, our immigration policies have stagnated for the last 25 years. Meanwhile, the world turns.

Clearly, the world of nations has taken a giant leap since 1965 when we last overhauled our laws. Since then an increasingly interdependent and global economy has shown Members that the United States cannot afford to lose sight of one of its most valuable resources. The Einsteins, the Iacoccas, the immigrants from all corners of the world, the Wangs, who choose to live here and enrich citizens immeasurably by their contributions. Not every immigrant is an Einstein. No, many are just courageous, hardworking individuals. The doorman who works at one door 8 to 4, goes across the street and works at another door 4 to 12, to build America. The nurse who works 9 to 5 at a hospital, caring for patients, goes home, takes care of her children, and then goes out on a night job to earn a little more money so that her children might be better provided for.

Every story of an immigrant is the story of an American dream. My colleague from Texas [Mr. BRYANT] had mentioned, why do we need more people when we have so many problems already? That is the reason we need more people. Immigrants do not cause problems. They help solve problems. Immigrants built this country. They bring citizens new vigor and new ideas. They contribute far more than the considerable benefits they get from becoming American citizens. They do not steal jobs. They do not live off the public dole. They are productive members of society who add richness through their ethnic and cultural diversity.

The bill before Members today addresses many inequities in the law. Families divided, who might not be back without this bill, companies that are desperate for a certain kind of engineer, and yet cannot get it because of the immigration laws, people from countries in Europe and Africa who would love to come here but cannot because our laws are locked into the history of the past. The bill will permit families to reunite, will allow employers easier access to works where they can demonstrate they lack workers in the United States and permit greater diversity among the flow of immigrants. Those are three goals. We should not let this opportunity for meaningful reform pass Members by.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, throughout the incumbency which I had been so honored to serve, I have received as many other Members have received, a deluge of letters and calls and expressions of opinion on a thousand different issues. I can say to Members, and I can vouch for a substantial majority of the House of Representatives, that we have not received such deluges on the need, as people would see it, to increase immigration at this time in our history.

We have just undergone, very recently, an immigration act in the form of the amnesty that we granted to illegal aliens, that could have resulted in estimates between 10 and 20 million people becoming eligible for citizenship all in one fell swoop. We just did that in a recent session of the Congress of the United States. A substantial majority of the people of my district and of your district, and if interpolated into the public opinion polls nationwide, would show 75 percent or more of our people do not think it is an American societal need to increase immigration quotas.

□ 1420

Likewise, almost the same number, perhaps fewer than that, opened to those who collect these opinions that immigration quotas ought to be reduced.

Now, I am not here to advocate reduction of the immigration quotas. I am the son of immigrants who benefited from the quota that existed at that time that permitted them to come to this country. It would be unfair to their successors in line on the established system that we had to open up other kinds of capabilities of immigration that would deny the right to X or Y or Z elsewhere in the world waiting with anxiety as my parents did to come to the United States.

Mr. Chairman, I cannot support this bill in its present form. I can help and cast my vote and support any measure that will foster unification of families, but that will not require, notwithstanding the nods and glances of my fellow Members, that will not require opening the floodgates of immigration. We can do it ad hoc case by case and with sophisticated methodology that we can put into the immigration laws as they now exist.

I have had many occasions, as you have had, to be able to solve a family reunification situation out of the prestige of one's own office working with the State Department in many, many instances; so the law is not that much lacking today that would permit us to work on family reunification without opening, as I said, those floodgates.

We will debate this issue. Let us listen to the amendments. I oppose the bill as it now is constituted. If it is improved, I may still vote against it.

Mr. SAWYER. Mr. Chairman, I am pleased to yield 2 minutes to my friend and colleague, and neighbor, the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I rise in support of H.R. 4300, the Family Unity and Employment Opportunity Act of 1990.

We are a Nation of immigrants, and each immigrant has brought to this country something very, very important. Our country is really a gaint mosaic of cultures, and that is really part of the American dream.

I am proud that I grew up in a culturally diversified neighborhood consisting of people who trace their ancestry from all parts of the world. That is what makes our country the greatest country in the world, that we are able to embrace a variety of cultures.

Unfortunately, in my judgment, there is a cyclical discrimination in our immigration policy. It is nearly impossible just to obtain a visa under the current system from some areas of the world. People who want to visit our country, such as those from Poland, Ireland, the Ukraine, Czechs, Slovaks, Serbians, Hungarians, et cetera, are not able to do so under the current policy.

The bill before us gives people from these underrepresented regions of the world a chance.

Our Nation is a great nation because it is culturally diversified. We are stronger because of it. Let us go forward and be fair.

Mr. Chairman, I am delighted that there is a section in the bill that would reunify families of U.S. citizens and residents to relieve the tremendous backlog of applicants.

Mr. Chairman, today we have the opportunity to rectify the unfairness in our immigration policy. Let us not be afraid of cultural diversity. It is the strength of our Nation.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I want to start out by paying great tribute to the commitment of the chairman of our Judiciary Committee and the chairman of the subcommittee for all the work they have done to bring this bill to the floor.

Mr. Chairman, I rise in strong support of H.R. 4300, the Family Unity and Employment Opportunity Immigration Act of 1990. The immigration bill I first introduced 2 years ago contained more generous provisions; others made their own suggestions during our Judiciary Committee proceedings which have been incorporated in the chairman's bill to various degrees. I am convinced that the bill brought before us for our consideration today is the sound and judicious result of the efforts of many concerned members.

Reform of our legal immigration system is urgently needed to update laws that were last revised in 1965. What is more, legal immigration reform is directly related to our efforts to control illegal immigration. As the Select Commission on Immigration and Refugee Policy noted in its final report in 1981, we cannot expect to control illegal immigration until we also reform our system of legal immigration.

I believe strongly that family reunification must remain the cornerstone of our legal immigration system. But as long as spouses and parents and children have to wait over 10 years to be reunited under our present system, illegal immigration is the inevitable result. We can only keep immediate families apart for so long. Frustrating the ability of Americans to be with their close family members betrays our core American values.

That is why H.R. 4300 makes several critically needed changes in family-based immigration: First, allowing American permanent residents to immediately petition to be reunited with their spouses and minor children each year, just as citizens can, but capping the number of visas provided for this purpose at 115,000 per year; second, providing a total of 50,000 backlog reduction visas a year for 5 years in the two most backlogged family categories (second and fifth preferences); and third, barring the deportation of the spouses and minor children of aliens legalized under the Immigration Reform and Control Act of 1986, provided that the legalized alien has attained permanent resident status and has filed a declaration of intent to become a citizen when eligible to do so.

I want to make special mention of how important this legislation is to our fellow Americans of Asian descent. For almost a century, United States law barred the immigration of most Asians. It was not until 1965 that Congress created the present nationality-neutral family preference categories. Only one generation of Asians has been able to enter the United States under the 1965 law and to seek the reunification of their immediate families, which is why most of the countries with the longest waiting lists are Asian. It is also why Asian-Americans will bear so much of the brunt of amendments which will be offered today to eliminate some or all of the relief the bill affords to families attempting to be reunited.

At the same time, H.R. 4300 contains important provisions regarding employer-sponsored immigration which carefully balance the needs of American employers and workers, and provides transition visas to enhance the diversity of immigration to the United States. It is essential that we restore to our immigration system the chance—which for all intents and purposes does not now exist—for people from around the world to immigrate to the United States. Not solely because it is in their interest, but because it is in ours.

To be frank, you may hear this bill castigated as special interest legislation because it is strongly supported by Asian-Americans, Hispanics, Irish-Americans, East European-Americans, the U.S. Catholic Conference, the American Jewish Committee, and others. But these are not special interests; these are the American people, and I am delighted that the bill before us is fair to all of the many communities that comprise our national fabric.

I am delighted to join colleagues from around the country and on both sides of the aisle who have worked hard to bring this legislation before the House today. I urge opposition to amendments to restrict its provisions, and urge its passage.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

I would like to respond to a couple of points made by my colleague, the gentleman from California. He said that H.R. 4300 controlled illegal immigration. Well, yes, it does, but it does so by allowing people who are illegal immigrants to stay in this country indefinitely.

The gentleman made the statement that individuals from a number of countries have to wait 10 years, 12 years, any number of years in order to be admitted under current law.

Well, that is true, too, as far as it goes, but it leaves out a major truth, and that is that individuals who are in this country who are now permanent residents, depending on how long they have been in this country, can wait anywhere from 1 day to 5 years to become an American citizen, and at that point they can have automatically admitted every immediate member of their family.

Mr. BERMAN. Mr. Chairman, will the gentleman yield on that point?

Mr. SMITH of Texas. I am happy to yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, would the gentleman not agree that this bill provides backlog numbers for people in the second and fifth preference who have been on the waiting list in some cases as far back as 1978 seeking to come to this country in legal proper order?

Mr. SMITH of Texas. Reclaiming my time, Mr. Chairman, this bill does provide for backlog reduction, but what I was responding to was the point made by the gentleman from California that individuals were going to have to wait these exorbitant amounts of time. That is not necessarily the case. If they have immediate family in this country who are permanent residents, those individuals who are permanent residents can become citizens in less than 5 years, or 5 years, depending on how long they have been in this country.

□ 1430

At that point automatically the immediate members of their family come to the United States.

Mr. BERMAN. Mr. Chairman, will the gentleman yield just on that point?

Mr. SMITH of Texas. I yield to the gentleman.

Mr. BERMAN. I thank the gentleman for yielding.

Mr. Chairman, I agree with the gentleman. A permanent resident alien who becomes a U.S. citizen after a 5-year waiting period can petition for the immediate family members under present law. But why would we want to promote a policy that separates spouses and children from parents for 5 years of time?

Mr. SMITH of Texas. Let me reclaim my time to make these points:

These individuals who have come to this country and have received amnesty themselves left their family at one time to come to this country. Now that they are here, their families come over here legally. And now they want all those individuals who are here as recently as January 1 of this year to be able to stay here. My point is: If those individuals who received amnesty, who are now permanent residents, went through the process of becoming a citizen—it might be 1 day and it might be as long as 5 years, depending upon how long they are here—they would automatically be able to admit the rest of the members of their immediate families.

Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from New Mexico [Mr. Richardson].

Mr. RICHARDSON. Mr. Speaker, the reason this bill is important is because it is good for American business, it is good for American global competition.

I could proceed and talk about the melting pot and how our country is strengthened culturally. That is important. But I think, once again, all you have to do is read Business Week, Forbes magazine, the Wall Street Journal; this legislation is good for our competitiveness.

That is what we have to ask ourselves in an era of increasing global competition where America must compete for its share of international markets: Are we going to allow outdated assumptions and nativism to hinder our progress and our growth?

There are a lot of myths and misperceptions surrounding this issue. First, immigrants do not cause unemployment. The overwhelming conclusion from economic studies on this issue is that immigration does not cause unemployment. In fact, immigrants create jobs by expanding markets and purchasing power.

Furthermore, immigrants have a higher rate of entrepreneurship than the nonimmigrant population. By starting businesses, immigrants create jobs. They do not drain public assistance programs.

Immigrants typically arrive when they are young and in their prime working years. Elderly immigrants are not eligible for Social Security.

Furthermore, studies have shown immigrant families pay $2,500 into public coffers every year.

Once again, immigrants provide the United States with a skilled and educated work force. Immigrants are more likely to have postgraduate degrees than the nonimmigrant U.S. population.

Mr. SMITH of Texas. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Texas [Mr. Smith].

Mr. SMITH of Texas. I thank the gentleman for yielding.

Mr. Chairman, I missed the source of the quote the gentleman was reading from. What study is that or what book is he reading from?

Mr. RICHARDSON. These are from Julian Simon, an immigration specialist.

Mr. SMITH of Texas. I thank my colleague.

Mr. RICHARDSON. Mr. Chairman, it is critical that we base our immigration policy and position on H.R. 4300 on the full understanding of the benefits stemming from healthy immigration.

A fundamental question we all must ask is: In an era of increasing global competition, where America must compete for its share of international markets, are we going to allow outdated assumptions and nativism to hinder our progress—our growth?

The myths and misconceptions surrounding this issue must be addressed and corrected.

Immigrants do not cause unemployment. The overwhelming conclusion of economic studies on this issue is that immigration does not cause unemployment. In fact, immigrants create jobs by expanding markets and purchasing power.

Furthermore, immigrants have a higher rate of entrepreneurship than the nonimmigrant population. By starting businesses, immigrants create jobs.

Immigrants do not drain public assistance programs. Immigrants typically arrive when they are young and in their prime working years. Elderly immigrants are not eligible for Social Security. Further studies have shown immigrant families pay $2,500 into public coffers every year.

Immigrants provide the United States with a skilled and educated work force. Immigrants are more likely to have postgraduate degrees than the nonimmigrant U.S. population.

Finally, it is critical to consider the family reunification provisions of this legislation. Under present law, children and spouses of new legalized immigrants are subject to deportation. This was never the intent of Congress and it should be corrected.

This bill also addresses the issue of backlog for those separated families awaiting visas. The present backlog presents a 10-year waiting period for permanent residents from Mexico and other nations. This legislation would reduce the backlog and assure fairness in the processing of these visas.

[From the Washington Post, Sept. 1, 1990]

IMMIGRATION FOR A STRONGER AMERICA

(By Julian L. Simon)

High on Congress's agenda in September is immigration. The Morrison bill in the House could do more to advance all the goals of the United States during the next decade or two than any other pending legislation. Yet the Bush administration and organized labor—an unlikely couple—seek to gut the bill because of economic ignorance and nativism.

Worldwide, barriers to freedom have been collapsing. Messages and ideas now penetrate everywhere electronically, cheaply. And financial capital speeds from country to country and, like Mercury, eludes governmental control.

Mobility of goods and people has increased from a walker's pace to jet speed. And political barriers to trade have diminished, despite newspaper stories about trade hassles. All these changes mean more liberty.

Yet there remain barriers to the movement of the most important of "goods"—human beings. Against the economic and cultural welfare of individual nations, and against the interests of all civilization, countries still prevent people from going where they want to go. True, people are no longer penned up in the country in which they are born, except for in the Soviet Union, China, Albania, Vietnam and a few other countries. But without the freedom to enter where they want to go, freedom to leave is of diminished value. We still tell almost all people of talent and energy who wish to join our society, "You may not enter unless you have relatives in the United States."

What foolishness. An unassailable body of recent economic research proves that we are made richer by allowing people to enter freely. We also know from a body of indubitable historical and sociological research that migrants carry valuable ideas with them and create new ideas as a result of having lived in two cultures.

What cheats us of these benefits? Age-old "common sense," economic misunderstanding cum racism (or "nativism," in polite lingo). But sometimes there is an opportunity to drive back the forces of darkness. Now, Rep. Bruce Morrison's (D-Conn.) immigration bill, just voted out of the House Judiciary Committee, promises a bright morning for human liberty.

The main thrust of the Morrison bill is an increase in the number of persons who will be allowed to enter the United States. Keep your eyes focused upon the crucial overall number, and the attempt of the anti-immigration lobby and Sen. Alan Simpson (R-Wyo.) to put a "cap" on immigration. The total matters more than how the overall number will be divided among family reconstitution, skill-based immigration, a point system, this country or that one, etc.

Here are the key demographic and economic facts:

Immigrants do not cause native unemployment, even among low-paid and minority groups. Recent studies all agree that the bogey of "displacement" of natives does not exist. New entrants not only take jobs, they make jobs with their purchasing power and with the new businesses they start.

Immigrants do not rip off natives by overusing welfare services. Immigrants typically arrive when they are young and healthy. Hence new immigrant families use less welfare services than do native families, because immigrants do not receive expensive Social Security and other aid to the aged. And immigrant families pay more taxes than do native families. Therefore, an average immigrant family puts about $2,500 into the public coffers every year—enabling a native breadwinner to retire two years earlier than otherwise.

Immigrants bring high-tech skills that the economy needs badly. Immigrants are not "huddled masses." The proportion of new arrivals with post-graduate education is far higher than the average of the native labor force.

Immigration is low rather than high relative to historical rates of immigration in the peak years at the turn of the century. Immigration as a proportion of population is less than a fourth of what it was earlier. Even in absolute numbers, total immigration is nowhere near its volume a century ago.

The foreign-born population is only about 6 percent now—less than the proportion in such countries as Great Britain, France and Germany, vastly lower than in Australia and Canada and less than half of what it used to be here.

Natural resources and the environment are not at risk from immigration. The long-term trends reveal that our air and water

are getting cleaner rather than dirtier, and our supplies of natural resources are becoming more available rather than exhausted, contrary to common belief. Immigration increases the technical knowledge that speeds these benign trends.

Immigration reduces the social costs of the elderly, which can't be cut. More and more of the U.S. population is retired, with a smaller proportion of adults in the labor force. New immigrants typically are just entering the prime of their work lives and taxpaying years. Immigration is the only feasible way to lighten the Social Security burden of the aging U.S. population. It also reduces the federal deficit, which would not exist if people still lived the short lives and had the large numbers of children that they did early in this century.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. Torres].

Mr. SAWYER. Mr. Chairman, I yield 1 additional minute to the gentleman from California [Mr. Torres].

Mr. TORRES. Mr. Chairman, I rise today to discuss the needed reform of our Nation's legal immigration policy. There was once little factual information on the effects of immigration. Instinctive popular wisdom arguments were accorded respect. But the body of research on immigration contradicts popular wisdom.

It now permits us to make sound and enlightened national choices. H.R. 4300 is a bill which reforms our Nation's system of legal immigration in a manner that safeguards the American worker promotes national economic interests, and is consistent with our most basic value, the unity of families.

H.R. 4300 is a bill which is supported by a bipartisan, multiethnic, liberal, and conservative coalition. It strikes the delicate balance among the interests of the American worker, his labor representatives, and parties seeking to promote diversity in immigration, while also protecting the integrity of the family unit.

And yet the bill allows our Nation to reap the economic prosperity, that social scientists tell us, have historically resulted from increased levels of immigration.

At the turn of the century immigrants made up 2 percent of our labor force. Today they constitute 10 times less that percentage.

This bill provides critically needed immigration reform to ensure that family reunification remains a cornerstone of our immigration law.

The rhetoric in this Chamber on the issue of criminality is just so much bugaboo.

In considering this bill I urge you to remember its important labor safeguards requiring recruitment of American workers, and its payment of prevailing wages. Remember also its provisions to strenghten the diversity of our flow of immigration.

Finally, I ask you to remember its protection of the basic building block of our society, the family.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. Mrazak].

Mr. MRAZEK. Mr. Chairman, I wish to express my admiration for the leadership of the gentleman from Texas [Mr. Brooks], which he has demonstrated on this very important legislation, and also I congratulate the chairman of the subcommittee with whom I hope to have a colloquy in just a moment, the gentleman from Connecticut [Mr. Morrison].

Mr. Chairman, I would like to ask for clarification on the issue of student visas.

I had intended to offer an amendment that would set aside 5,000 1-year visas for students from Czechoslovakia, Poland, and Hungary, that would also permit them to work part time while studying here.

However, it was called to my attention that under current law foreign students can come here without numerical limitation, and that there is a new provision in the bill before us that would allow foreign students to work to support themselves while enrolled in American colleges, again with no numerical limitations.

Mr. MORRISON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. MRAZEK. I yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. I thank the gentleman for yielding.

That is correct. There is no numerical limitation; 5,000 or an even greater number of East European students could come to the United States, and would be eligible for work authorization, providing they meet the requirements set forth.

Mr. MRAZEK. I am very pleased to hear that. From my visit to Czechoslovakia earlier this year, and from numerous discussions with Czechoslovak officials and others, it is clear that there is a great desire for the young people from the emerging democracies of central and Eastern Europe to have at least a brief learning experience in the United States.

I am convinced that no other immigration program could do as much good as a low-cost "learn in America" experience. It would cultivate a firm belief in and support of democratic ideals among the next critical generation of East Europeans.

I appreciate the provisions that are in the bill, but I still think that it may be desirable to create a new program aimed specifically at bringing central and East European students here under favorable circumstances so that they can study and work. I hope that this is something that your subcommittee and other relevant committees will consider in the near future.

Mr. MORRISON of Connecticut. We certainly would be very pleased and happy to work with the gentleman from New York and other Members on such a program. But in the consideration of this bill, I hope that the gentleman will support the bill. As well, I would hope he will oppose the amendment of the gentleman from Texas [Mr. Smith], which would restrict the program the gentleman is referring to.

Mr. MRAZEK. Mr. Chairman, I certainly urge my colleagues to support the gentleman's position.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all, I would like to respond to my colleague from New Mexico when he quoted from Julian Simon and the recent book that he wrote.

First of all, Mr. Chairman, I think it should be pointed out that the data that Mr. Simon used to promulgate massive increases in immigration is data from 1975 or before, and that data has been superseded by George Borjas's volume.

Second of all, I want to read once again a quote from Mr. Simon himself so that we do not have the false impression of this rosy picture of unlimited numbers of immigrants. This is from Mr. Simon's book:

> There is no doubt that workers in some industries suffer immediate injury from the addition of worker immigrants in the same category.

Mr. Simon suggested that immigrants be chosen more for their economic characteristics and less on the basis of family connection.

Mr. Chairman, I favor increased numbers of immigrants; the administration favors increased numbers of immigrants; I think most of our colleagues probably support increased immigration as well. But not in the way that H.R. 4300 dictates.

The simple truth is that America cannot accommodate every single individual who wants to come into our country, as much as we would like to. The question is, What are going to be our priorities?

I think our priorities should be immediate family members, getting them into our country and give priority to immediate family over extended family; give priority to mothers, fathers, children over married brothers, sisters, aunts, uncles, and cousins.

☐ 1440

I think that we ought to give priority to skilled workers. 4300 allows only 10 percent specifically of its members for employment based on skilled workers.

Mr. Chairman, the need, from every study that we have seen, is for more skilled workers so that we can compete better in the international marketplace. That is the priority that should be given, which unfortunately, 4300 does not stop.

Furthermore, 4300 has these fatal flaws: There is no reimbursement for State and local governments for the costs that they would incur for educating, for providing health care and government services to hundreds of thousands of additional immigrants. Mr. Chairman, of course those burdens are going to fall directly on taxpayers. It has two major amnesty provisions. It rewards the lawbreaker, in effect penalizing the law abider, and Mr. Chairman, the amnesty provisions are such that many illegal aliens, who are here as recently as January 1 of this year, will be allowed to stay in this country. There is no attempt in 4300 to count illegal aliens in the total number of immigrants. There is a cap for the first time ever on the number of temporary skilled workers allowed to come to this country; 4300 bows to the pressure of special interest, and it singles out certain countries for special treatment.

Finally, Mr. Chairman, we have family fairness today. It is called citizenship, and those permanent residents can become citizens and can automatically have their immediate families come into this country.

Mr. Chairman, in conclusion we need to give priority to immediate family members, and we need to give priority to skilled workers. So, more immigration, yes. H.R. 4300, no.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. Matsui].

Mr. MATSUI. Mr. Chairman, I rise in support of H.R. 4300, the Family Unity and Employment Opportunity Immigration Act.

Some of the debate surrounding this issue and some of the lobbying which has been undertaken by anti-immigration groups leads me to believe that Americans collectively, seem to have a limited memory regarding the principles upon which this country was founded.

All Americans owe their citizenship to immigration. Immigration built this Nation into the greatest country in the world. And, it should be noted that in proportion to our total population our current immigration levels are five times lower than they were at the peak immigration rates at the turn of the century. Our current immigration rate of three immigrants per thousand residents places the United States, the great melting pot, a mere seventh place internationally.

If this country is to continue to advance economically, politically, and culturally, we must not fear the talents and intelligence of those who want to come to this country and contribute their skills. Moreover, if we as a nation wish to hold our place as a beacon of democracy, we must refine our immigration laws to restore justice and compassion to our system of preferences.

The legislation before us today will advance those goals. It promotes values which are distinctly American—family values, economic growth, employment opportunities, and, most of all, fairness.

Nowhere is fairness more needed in our immigration policy than the priority to which we currently place on family reunification. Right now, there are U.S. citizens who will wait for more than 10 years to be reunited with their family members if we do not change current law.

H.R. 4300 will provide relief for these backlogs through a limited backlog reduction program just as was done in the late 1950's and early 1960's to accommodate European immigrants. The bill would also further distance ourselves from discriminatory policies of the past. For Asians in particular, current backlogs, which could grow to 20 or more years, are a painful reminder of the decades of immigration exclusion based on race, beginning with the Chinese Exclusion Act of 1882.

Mr. Chairman, this legislation will reaffirm the greatest of all American traditions—unifying families from around the world under the umbrella of American democracy. Bringing families together is the foundation of this legislation and of compassionate immigration policy in general. H.R. 4300 is a much-needed refinement of that cornerstone of immigration policy, and I urge my colleagues to support the bill.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. Smith].

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman from Texas [Mr. Brooks] for yielding, and I certainly want to commend him for what he has done in this bill, and I rise in support and commend the gentleman from Connecticut [Mr. Morrison] for his leadership.

Mr. Chairman, as the chairman of the Judiciary Committee knows, south Florida is home to many cruise ships. The owners of these ships fear that section 311 of H.R. 4300 in some way will be interpreted as applying to passenger vessels. I do not believe that this is the case and wonder if you would clarify your interpretation of this provision.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I yield to the gentleman from Texas.

Mr. BROOKS. As the author of H.R. 2138, which became section 311 of H.R. 4300, I recognize that the amendment made to subsection 4(d) of section 274a(h) of the Immigration and Nationality Act defines longshore work as any activity relating or incident to the loading or unloading of cargo in the United States. I would like to clarify that this section will not expand longshore duties that are currently performed on passenger vessels engaged in foreign commerce. Where longshore labor is currently employed to load ship stores or load or discharge baggage, it is not intended that the duties performed by these workers will be expanded to include on-board loading or unloading activities that have not in the past been performed by longshore workers.

Mr. Chairman, I yield back the balance of my time.

Mr. BRENNAN. Mr. Chairman, I rise today in support of H.R. 4300, legislation which will benefit the U.S. economy while underscoring the most deeply-held American values.

It has long been observed by leading economists and historians that periods of high rates of immigration to the United States correspond with periods of economic growth. Research demonstrates that immigrants work hard, work more, save more of what they earn, start more new businesses, are more commonly self-employed, and use fewer social services than native-born Americans. In fact, immigrants pay more in taxes than they take in Government assistance funds. Immigrants do not steal jobs—they create jobs and meet labor shortages.

The current level of immigration is roughly half of what it was during peak immigration periods in our history, and our legal immigration policy has not been updated in 25 years. H.R. 4300 raises visa numbers by about 260,000 to allow for needed increased family-based and employer-sponsored immigration. It will also relieve the huge backlog in visa applications and attempt to correct inequities created by the 1965 immigration legislation, allowing for increased diversity within the immigrant population.

Important provisions of H.R. 4300 address the situation of natives of countries adversely affected by the 1965 legislation who are now living in the United States. The transition program included in this bill will allow a number of these people to apply for permanent residency if they can demonstrate an employment commitment for at least a year. Irish families living crowded together in Manhattan, Boston, and my home city of Portland are an example of those who stand to benefit from this portion of the bill.

Family reunification, one of the bill's highest priorities, reflects the strongest of American values. Americans should not have to wait years to be reunited with their spouses and children. Separations of this kind hinder the potential success of immigrants whose dream is to make better lives for themselves and their families. By not subjecting immediate family members of permanent residents to per-country limits, by reducing the backlog of family members waiting to reunite with American relatives, and by allowing the immediate family members of recently legalized aliens to

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remain, H.R. 4300 demonstrates a real commitment to family unification.

For these reasons I urge my colleagues to support H.R. 4300.

Mr. SERRANO. Mr. Chairman, I rise today to urge my colleagues to join me in supporting the Family Unity and Employment Opportunity Immigration Act of 1990, H.R. 3000. This legislation is desperately needed to revise family sponsored immigration, and to expand employment-based admittance to the United States.

Mr. Chairman, thousands of legal residents of the United States who were granted amnesty under the Immigration Reform and Control Act of 1986, are parents of small children that are excluded from this policy. I am appalled that the Immigration and Naturalization Service regularly deports these children, many as young as 3 years, who do not have adequate documentation, separating them from their parents and families. Often, there is no family waiting to care for them; in essence these children become orphans. If their parents leave the United States to assume their responsibilities, they will lose their legal permanent resident status, and thus yield the right to petition for citizenship. What a deilemma we have created for these parents!

I would like to draw to my colleagues' attention the fact that more than 2 million legal permanent residents of the United States are eligible to sponsor their spouses and minor children for legal entrance to our Nation. Mr. Chairman, at this moment there are approximately 400,000 relatives waiting to be reunited with their families. In some cases, such in the cases of Mexico and the Philippines, immigrants are forced to wait 10 to 15 years to be legally reunited with their spouse or child.

Mr. Chairman, does this facet of our current legal immigration policy not directly encourage the illegal immigration of these family members? As a result of this incompassionate policy that violates the basic human need to live with loved ones, especially children, millions of temporary and permanent residents and U.S. citizens are suffering pain and frustration.

Mr. Chairman, let us never forget that this country was built on the stability and strength of the family. The support from the family has been crucial in the adjustment and success of new Americans throughout the history of our Nation. Is it inconsistent with our country's principles and ideals to promote or enforce so prolonged a separation of spouses from each other and from their families? We must remedy the heartless deportation of infants, and eliminate the tremendous backlog of families waiting to be reunited.

Opponents of this bill would argue that by increasing employer-based immigration, we would encourage new immigrants to take jobs away from American workers. But, a 1989 Department of Labor study shows that immigrants actually increase both aggregate employment and the wages and mobility opportunities for many groups of U.S. workers. These studies show that immigrants contribute to our economy and are easily absorbed by our labor market. I am aware of the concern that an increased number of immigrants would drive down American wages, that they would strain the Nation's natural resources and infrastructure, and that they would abuse our welfare system. However, the Department of Labor has shown that immigrants do not take jobs, instead they create jobs through consumption, and through entrepreneurship. Studies show that periods of heavy immigration have been followed by rates of low unemployment and high economic growth.

Another myth to dispel is that immigrants drain Federal public assistance programs. But the rate of those foreign-born collecting unemployment compensation, food stamps, and other programs is lower than those native born. Tax and welfare data together indicate that, on balance, immigrants contribute to public coffers an average of $1,300 or more per year. Thus, most immigrants pay more in taxes during their lifetime than they receive in Government benefits.

Mr. Chairman, immigrants entering the United States under H.R. 4300 employer-based provisions would be well-educated and highly skilled individuals, earning an estimated average salary of $30,000 a year. Why, in this time of our increasing dependence on the global market, are we depriving ourselves of valuable labor resources? I hope my colleagues would agree that based upon these statistics, immigrants are valuable assets, and not liabilities, to our Nation.

Mr. Chairman, the last significant immigrantion reform was the passage by Congress of the Immigration Act of 1965. This system clearly no longer adequately serves America today in either meeting our economic or social policy objectives. The time has arrived for us to scrutinize our laws and ask ourselves if our Nation's policies are consistent with our Nation's values. H.R. 4300 is urgently needed to reaffirm and sustain our country's commitment to family reunification, long the cornerstone of U.S. legal immigration policy. I strongly urge my colleagues to join me in reforming our immigration policy to reflect the profamily, progrowth attitude that has been the backbone of our Nation.

Mr. RAHALL. Mr. Chairman, I rise today in strong support of H.R. 4300, a measure of extreme importance to the Lebanese-American community. This bill has received widespread support as a vehicle for unification of families split by the quest for a promising future. While the crisis in the Persian Gulf rages on, we cannot forget about the continuing strife in Lebanon. Many Lebanese currently in America came here to escape the turmoil and bloodshed that marks daily life there, and passage of H.R. 4300 will promise that more Lebanese will have the opportunity to join their families in safety here in the United States.

Provisions in this bill allow for the setting aside of 1,000 visas for unsettled Lebanese in fiscal years 1991 through 1995. These visas would cover both spouses and unmarried sons and daughters or permanent U.S. residents, and brothers and sisters of U.S. citizens. While the Nation celebrates the renewal of Ellis Island and our proud immigrant heritage, let us send a message that America is still the light at the end of the tunnel for millions of people worldwide.

The family has always been the building block of American society, and we must show these new Americans that this has not changed. Just as our Irish, German, Italian, Jewish, and Japanese immigrants celebrate their forefathers' journeys across the Atlantic and Pacific, we must not close the door on new Americans. I urge to pass H.R. 4300 and look forward to the day when families—Lebanese-American, Mexican-American, Vietnamese-American and others—celebrate the stories of their families' arrival in the land of hope.

Mr. GILMAN. Mr. Chairman, I am pleased to rise today in support of H.R. 4300, the Family Unity and Employment Opportunity Immigration Act of 1990. I would first like to take this opportunity to commend the gentleman from Connecticut [Mr. Morrison] for his outstanding work in this measure.

I would also like to commend members of the Judiciary Committee for their perseverance in crafting a piece of immigration reform legislation with which we can work and vote upon. In particular, the committee's compromise on the allocation of additional visa numbers is laudable. This legislation would revise our Nation's immigration system to allow the admission of aliens on the basis of family reunification and to meet identified labor shortages. The bill improves our current immigration law and covers many facets of immigration, reworking the reforms enacted in 1986.

In particular, the marriage fraud provisions, required our review and modification. The battered spouse or child waiver of the conditional residence requirement portion would allow the Attorney General to bestow permanent resident status if an alien can demonstrate that, while the marriage was entered into in good faith, evidence has shown that the spouse was battered by, or was the subject of extreme mental cruelty perpetrated by, his or her spouse or parent.

This provision would, in effect, create an avenue of relief for a spouse or child caught in a detrimental relationship. Under current law a damaging situation must be endured in order to maintain legal status in the United States. It would seem unconscionable that any human being should be required by our laws to remain in a situation in which they are abused in order to remain in legal status.

Also of particular note is the provision to make available additional visa numbers for displaced aliens native to Eastern Europe. While we are all pleased with the changes taking place in Eastern Europe, with the turmoil still facing many Eastern Europeans, the availability of these additional visas may be the only hope these good people may have of seeking decent jobs and a quality life.

Mr. Chairman, pursuing immigration reform should be considered an essential facet of our achievements to be listed as a major accomplishment of the 101st Congress. I hope that my colleagues will agree that H.R. 4300 is the appropriate vehicle toward that end and I urge their support for this bill.

Mr. ENGEL. Mr. Chairman, today we have an historic opportunity to take a giant step toward a fairer immigration system. H.R. 4300, the Family Unity and Employment Immigration Act of 1990, is a fair balance between the rights families have to remain united and the need to diversify the sources of immigration. In 1965, our immigration system was overhauled to allow, for the first time, significant numbers into the United States from non-European nations. That goal was accomplished, but over the years the system has progressively tilted in favor of 13 nations who now receive over 65 percent of the visas allocated each year. It is time to rectify these inequities and attempt to set up a system that is balanced and which will remain balanced for years to come.

To achieve this goal, H.R. 4300 contains a crucial regional diversity provision. This provision divides the world into high admission regions and low admission regions. These regions are then given the inverse proportion of diversity visas relative to the percentage of immigrants sent to the United States in previous years. Not only will this provision diversify immigration sources, it is self-correcting. Once a particular region is no longer underrepresented, its share of diversity visas will drop. The Family Unity and Employment Opportunity Act contains two other provisions that will diversify the immigration patterns of this country. The first is the preference given to citizens of the 36 countries adversely affected by the 1965 immigration laws when applying for employment-based visas. From fiscal years 1992 through 1996, 20,800, of a total of 65,000, employment based visas will be made specifically available to citizens of the countries that were hit the hardest by the 1965 law.

Second, section 201 of the bill would provide 25,000 transitional visas per year for natives of adversely affected countries who have entered the United States before 1990 and who have an employment commitment for one year or more. This is also a very important step towards bringing greater diversity to the system and, in addition, meets important needs of American employers.

I want to emphasize that while this bill is crucial to diversifying our immigration system, it also protects family unity, the principle that undergirds our entire immigration system. Waiting times for many relatives of permanent residents and citizens is measured in years and decades. These are spouses and children who are waiting, not second cousins and great grand aunts. This bill provides important relief for those on the waiting lists of the second and fifth preferences. Second preference includes spouses and unmarried sons and daughters of permanent residents and the fifth preference includes brothers and sisters of U.S. citizens. Under the provisions of H.R. 4300, 50,000 visas will be allocated each year for 5 years to address the problem of backlogs in these two preferences.

The Family Unity and Employment Opportunity Act is a compromise bill. It reflects the concerns and interests of the entire range of opinion on immigration matters. It has been carefully scrutinized at both the subcommittee and committee level and has been the subject of extensive hearings. It is not as comprehensive as I had hoped, but I believe it is a fair bill that we can all support. I urge my colleagues to oppose amendments that will upset the delicate balance contained in this bill and to support it on final passage.

Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to H.R. 4300, the bill before the House that would totally restructure U.S. immigration law. While I believe that legal immigration reform is long overdue—the immigration system does need fixing in a serious way—this legislation as reported to the floor is not the answer. With its enactment, I fear we would be moving from bad to worse. This is not real reform and rather than railroad through a poorly crafted, flawed bill during these last few days of Congress and kidding ourselves that it's immigration reform, I recommend that we defeat this measure and, instead, work toward crafting a more reasonable and responsible reform program to be fully considered at the beginning of the 102d Congress.

There are portions of H.R. 4300 that need not be scrapped and could be incorporated into a new immigration reform bill. For example, improved geographical distribution in immigration would increase the diversity of America's newest citizens and makes the immigration process more equal. I also concur with the objective of facilitating the unification of families. Current labor certification procedures are far from perfect and need to be improved. However, while I agree with some of these objectives of H.R. 4300, I have strong reservations about the way this legislation seeks to achieve such results.

Basically, I am opposed to H.R. 4300 for the following reasons:

My No. 1 objection to this bill is its provision for conditional permanent resident status to aliens from so-called adversely affected foreign states. In other words, a new amnesty for illegal aliens who entered the United States prior to January 1, 1990. While I have seen no firm figures, it is estimated that 2 million illegal aliens could receive amnesty. I am strongly opposed to any new amnesties—whether direct or indirect.

The Immigration Reform and Control Act of 1986 granted a one-time-only amnesty for illegal aliens, that, unlike provisions in H.R. 4300, was clearly tied to new controls on illegal immigration. Passing H.R. 4300 only signals that the one-time amnesty was a farce. We're saying, "go ahead, break American law, cross our borders and reside here illegally, disregard those who have and continue to patiently wait for their turn to immigrate. You have nothing to lose because every couple of years Congress will come along and provide you with amnesty, legalizing your illegal actions." Is that the message we want to send? We already have a serious illegal immigration problem. Such a signal would make it 10 times worse.

Second, by granting the immediate relatives of lawful permanent residents the same immigration privileges as those of U.S. citizens, H.R. 4300 would eliminate an incentive for lawful permanent residents to seek naturalized citizenship, impending the full integration into the United States of certain immigrants.

Third, H.R. 4300 drastically increases the numbers of immigrants without compensating in any way the heavy financial impact on State and local governments. California is especially hard hit. Already local schools, hospitals, social agencies, water resources, and housing have been overburdened by illegal immigration. I have seen reports that California is estimated to receive 36.5 percent of the new, additional immigrants entering via H.R. 4300. With each immigrant adding approximately $2,600 in new responsibilities than in revenue for local and State governments, that means California will have to come up with an estimated $310 million annually extra. Neither the House Judiciary Committee nor its product, H.R. 4300, satisfactorily address this pressing issue.

Fourth, H.R. 4300 appears to respond to the demands of every organized special interest group over the interests of the American people and immigration policy in general by expanding the number of visas for legal immigration from 500,000 to a minimum of 840,000—again without considering or trying to accommodate the economic and social impact of increased immigration.

Fifth, H.R. 4300 fails to include the estimated 200,000 illegal aliens in overall immigration flow and legal levels despite their significant economic impact. In other words, H.R. 4300 seems to pretend that there isn't an illegal immigration problem and that illegal aliens do affect local services or economies. With illegal immigration out of control, we should not be doubling legal immigration without seriously addressing the illegal problem first.

Sixth, H.R. 4300 significantly impairs employers from a reasonable use of foreign workers even when the need is well-documented and demonstrated. For example, the bill assesses a fee on domestic employers of foreigner workers to pay for the training and education of American workers. This provision penalizes domestic employers who, in order to hire foreign workers in the first place under existing law, must attest that they have tried and have been unsuccessful in recruiting U.S. workers. The proposed changes in the labor certification procedures are very intrusive and provide third parties, like labor unions, with exceptional veto power where it is not needed or warranted.

Furthermore, H.R. 4300 places a new, arbitrary ceiling on certain nonimmigrant foreign professional experts or prominent individuals. These numerical restrictions would undoubtedly result in the type of horrendous backlogs the United States is currently experiencing with permanent immigrants. This would defeat the very purpose of employing these H–1 specialists in the United States. These foreign specialists have been helpful in creating new jobs and business opportunities. Such actions do not reflect business reality. All in all, they hurt U.S. competitiveness at a time when we need to reduce our trade imbalance and improve our competitiveness.

Another concern I have is that while new classes of employment-based immigration are designated in H.R. 4300, a distinction needs to be made within the permanent immigrant category between highly skilled and less skilled workers, as exists under current law. I understand that both types of workers are needed. However, without subdividing the two categories, one type of worker could easily dominate the immigrant visas at the expense of the other and the U.S. economy.

There is much opposition to H.R. 4300, due to the reasons I have outlined as well as others, some of which are described in the attached letters I've received that I am submitting for the RECORD and my colleagues' review. The U.S. Attorney General and the Secretaries of Transportation and Labor would

recommend a Presidential veto of this bill. The U.S. Chamber of Commerce is opposed to this bill. Hundreds of my constituents who have contacted me are strongly opposed to H.R. 4300. H.R. 4300 is a very flawed and unreasonable measure that should be defeated if it cannot be radically amended. We do need real immigration reform and we do need it now. Unfortunately, H.R. 4300 will do more damage than good and is not real immigration reform.

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC., September 25, 1990.
Hon. HAMILTON FISH,
Ranking Minority Leader, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR CONGRESSMAN FISH: The purpose of this letter is to express the opposition of the Administration to H.R. 4300, the legal immigration reform bill reported by the House Judiciary Committee on September 19, 1990. I understand that this bill is presently under consideration for House floor action. Should H.R. 4300 as reported be presented to the President for signature, the Secretaries of Labor, Transportation, and I would recommend that he disapprove the bill.

Although the bill as passed by the Judiciary Committee lowers somewhat the overall level of immigration from levels proposed in earlier versions of the bill, it fails to ensure that a sufficient number of employment-related immigrant visas would be utilized by skilled workers that we believe the U.S. economy needs. The bill also fails to provide for an appropriate balance of family-connected immigration as supported by the Administration and provided for in S. 358, the Senate-passed bill.

Aside from numerical concerns, the Administration remains opposed to H.R. 4300 because it retains the conceptual framework and modifications of current law to which we expressed opposition in letters to the Judiciary Committee of June 6 and July 30, 1990. Our principal conceptual objections are that the bill would (1) expand the term "immediate relatives" to include immediate relatives of permanent resident aliens; (2) inappropriately and prematurely revise the current employment-related nonimmigrant classifications; (3) assess a fee on employers of foreign workers; and, (4) effectively create an amnesty for aliens from so-called "adversely affected foreign states."

The essence of the Administration's first concern is that treating immediate relatives of legal permanent residents as equivalent to immediate relatives of United States citizens would trivialize the significance of United States citizenship. Furthermore, it would remove an incentive for "green card" holders to naturalize. The consequence of removing this could be a potentially permanent subclass of immigrants. While revisions of immigrant categories may be necessary, we believe that retention of the current distinction between the petitioning rights of legal permanent residents and those of U.S. citizens must not be erased.

Of equal concern to the Administration is the bill's sweeping revisions of the temporary, "nonimmigrant" categories. While we see the need to revise certain aspects of these categories, a legal immigration reform bill such as this is not the appropriate vehicle. Furthermore, many of the problems associated with nonimmigrant classification are due to the need for change in the immigrant classifications. Until reform has been accomplished in this area and its consequences are studied, reform of nonimmigrant classifications is premature.

Third, the Administration is especially concerned with provisions of the bill that assess a fee on domestic employees of foreign workers to pay for the training and education of American workers. This provision would penalize domestic employers who, in order to hire foreign workers in the first place, must attest that they have attempted unsucesssfully to recuit U.S. workers.

The final principal concern of the Administration involves the provision of H.R. 4300 which provide conditional permanent resident status to aliens from so-called adversely affected foreign states. This section of the bill affectively creates amnesty for illegal aliens who entered the U.S. prior to January 1, 1990, and who have maintained continous residence since that date. The Administration stongly objects to the creation of amnesties for illegal aliens subsequent to the 1986 Immigration Reform and Control Act. The 1986 amnesty constituted a one-time only legislation program that, unlike provisions in H.R. 4300, was clearly tied to new controls on illegal immigration.

A number of other provisions, added in the Judiciary Committee's markup of the bill, cause the Administration further concern. For example, the bill now directs immigration emergency funds to states and locatities on the basis of the number of asylum applicants in a particular INS district. This provision not only directs such funds arbitrarily, but it also removes my discretion to target appropriately those funds to true immigration emergencies. Another provision of the bill imposes employer sanctions on foreign vessels not otherwise subject to such sanctions. We have previously expressed our opposition to this provision as embodied in H.R. 2138, independent legislation that passed the House last session.

The Office of Management and Budget has advised this Department that enactment of this legislation would be in accord with the program of the President.

Sincerely,

DICK THORNBURGH,
Attorney General.

STATEMENT OF ADMINISTRATION POLICY

If H.R. 4300 were presented to the President in its current form, the Attorney General and the Secretaries of Labor and Transportation would recommend a veto. The Administration's principal concerns are that H.R. 4300 would:

Grant the immediate relatives of lawful permanent residents the same immigration privileges as those of U.S. citizens. H.R. 4300 would eliminate an incentive for lawful permanent residents to seek naturalized citizenship, impeding the full integration into U.S. society of certain immigrants.

Fail to ensure that a sufficient number of employment-related immigration visas would be utilized by skilled workers.

Fail to provide for an appropriate balance between levels of employment-related and family-connected immigration, as provided for in S. 358 as passed by the Senate.

Rewrite the law relating to "temporary" immigrants, i.e., non-immigrants. Revision to the admissions system for non-immigrants would be premature until the effect of changes to permanent immigration classifications on the demand for non-immigrant visas is ascertained.

As reported by the Judiciary Committee, assess a fee against employers who petition for the admission of foreign workers, even when the employers have attested that they have attempted unsuccessfully to recruit U.S. workers.

Increase FY 1991 outlays by $296 million by expanding the scope of the State Legalization Impact Assistance Grant (SLIAG) mandatory program.

Impose longshore employer sanctions requirements on owners of foreign vessels that would be unnecessary, inappropriate, and extremely burdensome.

Among the Administration's other concerns with H.R. 4300 are that it would:

Provide conditional permanent resident status to aliens from so-called "adversely-affected" foreign states. This would effectively create an amnesty for certain illegal aliens who entered the U.S. prior to January 1, 1990. The Administration opposes any expansion of the amnesty granted by the Immigration Reform and Control Act of 1986.

Remove the Attorney General's discretion to determine which immigration emergencies warrant the disbursement of "immigration emergency funds."

Establish a math and science scholarship program. The Administration urges, instead, enactment of the President's proposed National Science Scholars program.

Create an administrative burden which could not be borne under current budget constraints. The increased numbers of immigrants would require corresponsing increases in consular officers in embassies throughout the world.

Eliminate an essential element in the examination of applications for non-immigrant visas (i.e., whether the applicant had sought an immigrant visa or other permanent status). This provision could result in issuance of non-immigrant visas to all applicants, even those who clearly intend to remain indefinitely in the U.S.

Remove the requirement for exhaustion of administrative remedies and abandon current law regarding the limits of judicial remedies in immigration disputes.

Introduce an "attestation" process for permanent immigrants to replace the current labor certification process for foreign workers. This provision could weaken protections for U.S. workers and would be more costly and difficult to administer than the current process. As one example, it could result in fraudulent "employer" schemes for illegal immigration.

The Administration supports legal immigration reform that would enhance skill-based immigration while facilitating the unification of families Its also supports an increase in immigration levels above those in current law.

Mr. MARKEY. Mr. Chairman, I would like to commend the work of the House Committees on Judiciary and Ways and Means for expediting the consideration of the bill before us today, H.R. 4300, the Family Unity and Employment Opportunity Immigration Act of 1990.

This bill is a much needed and comprehensive remedy to legislation enacted by Congress in 1965 which modified the formula for determining the number of people allowed to immigrate into the United States from particular countries. This 1965 legislation adversely affected the number of visas available for immigrants, and especially from certain European countries, including Ireland.

There has been an effort over the last few years to address this problem and help equalize the visa distribution process. In 1986, Congress passed the Immigration Reform Act which established a framework to increase the number of visas authorized to the countries that the State Department had designated as adversely affected by the 1965 legislation. In 1988 Congress also authorized the State Department to make available 15,000 additional NP-5 visas to these countries in each of fiscal years 1989 and 1990. Although this NP-5 program has been enormously successful in allowing legal entry for thousands of Irish immigrants, much more needs to be done to aid the estimated 200,000 Irish now residing illegally in the United States. H.R. 4300 is certainly a step in that direction.

H.R. 4300 addresses the regional labor shortages by facilitating immigration and unites family members with immigrants now residing in the United States. The bill authorizes the allocation of 25,000 visas per year for 3 years to undocumented aliens of the 35 adversely affected countries. This includes the undocumented Irish and it has been endorsed by the Irish Immigration Reform Movement.

As we celebrate the renovation of Ellis Island, it is important to remember that this is a nation of immigrants. Our country was built by people who left their native lands to seek greater opportunities in America. The majority who land on our shores continue to be hard-working, self-sufficient members of society, taxpaying contributors to State, local, and Federal Governments, and the source of new ambition and ideas necessary to a healthy free market economy. I urge support for H.R. 4300.

The **CHAIRMAN**. Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on the Judiciary, as modified by the amendments printed in part 1 of House Report 101-786 shall be considered as an original bill for the purpose of amendment and is considered as read.

The text of the amendment in the nature of a substitute as modified, is as follows:

H.R. 4300

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Family Unity and Employment Opportunity Immigration Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRATION

Subtitle A—Admission and Status

Sec. 101. Separate levels for family-sponsored and employment-based immigration.
Sec. 102. Preference system for admission of immigrants.
Sec. 103. Labor attestation process.
Sec. 104. Nonimmigrant classifications.
Sec. 105. Admission of aliens in religious occupations.
Sec. 106. Denial of crewmember status in the case of certain labor disputes.
Sec. 107. Effective dates; transition.

Subtitle B—Education and Training of American Workers

Sec. 112. Educational assistance and training.
Sec. 113. Higher education scholarship program for mathematics and sciences.

TITLE II—OTHER PROVISIONS REGARDING IMMIGRANT VISAS

Sec. 201. Transition for aliens who are natives of certain adversely affected foreign states.
Sec. 202. Transition for certain displaced aliens.
Sec. 203. Transition for African immigrants.
Sec. 204. Backlog visa numbers for second and fifth preferences.
Sec. 205. Transition for third and sixth preference.
Sec. 206. Transition for employees of certain United States businesses operating in Hong Kong.
Sec. 207. Treatment of Hong Kong as separate foreign state for numerical limitation purposes.
Sec. 208. Permitting extension of period of validity of immigrant visas for certain residents of Hong Kong.

TITLE III—OTHER IMMIGRATION PROVISIONS

Subtitle A—Provisions Relating to Marriage Fraud

Sec. 301. Battered spouse or child waiver of the conditional residence requirement.
Sec. 302. Bona fide marriage exception to foreign residence requirement for marriages entered into during certain immigration proceedings.

Subtitle B—Provisions Relating to Immigration Reform and Control Act of 1986

Sec. 311. Application of employer sanctions to longshore work.
Sec. 312. Elimination of paperwork requirement for recruiters and referrers.
Sec. 313. Permitting court-ordered remedies in certain circumstances.
Sec. 314. Prohibition of deportation of spouses and children of legalized aliens.
Sec. 315. Treatment of certain legalization applicants.
Sec. 316. Reimbursement through Immigration Emergency Fund of localities impacted by increases in aliens applying for asylum.
Sec. 317. Clarification of authorization of appropriations for the Immigration Emergency Fund.

Subtitle C—Miscellaneous

Sec. 321. Special immigrant status for certain aliens declared dependent on a juvenile court.
Sec. 322. Statistical information system.
Sec. 323. Revision of health grounds for exclusion.
Sec. 324. Temporary Protected Status for Nationals of El Salvador, Lebanon, Liberia, and Kuwait, and other designated foreign states.
Sec. 325. Waiver of English language requirement for naturalization.
Sec. 326. Treatment of service in armed forces of a foreign country.

TITLE I—FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRATION

Subtitle A—Admission and Status

SEC. 101. SEPARATE LEVELS FOR FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRATION.

(a) IN GENERAL.—Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended to read as follows:

"WORLDWIDE LEVEL OF IMMIGRATION

"SEC. 201. (a) IN GENERAL.—Exclusive of aliens described in subsection (b), aliens born in a foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(1) family-sponsored immigrants described in section 203(a) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(a)) in a number not to exceed in any fiscal year 185,000 and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under this paragraph for all of such fiscal year;

"(2) employment-based immigrants described in section 203(b) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(b)), in a number not to exceed 65,000 in each of fiscal years 1992 through 1996, and not to exceed 75,000 in each fiscal year thereafter and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under this paragraph for all of such fiscal year; and

"(3) for fiscal years beginning with fiscal year 1994, diversity immigrants described in section 203(c) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(c)) in a number not to exceed 55,000 in each fiscal year and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under this paragraph for all of such fiscal year.

"(b) ALIENS NOT SUBJECT TO NUMERICAL LIMITATIONS.—The following aliens are not subject to the worldwide levels or numerical limitations of subsection (a):

"(1)(A) Special immigrants described in section 101(a)(27).

"(B) Aliens who are admitted under section 207 or whose status is adjusted under section 209.

"(C) Aliens whose status is adjusted to permanent residence under section 210, 210A, or 245A.

"(D) Aliens provided permanent resident status under section 249.

"(2)(A)(i) Immediate relatives. For purposes of this clause, the term 'immediate relative' means a child or spouse of a citizen of the United States and a parent of a citizen of the United States who is at least 21 years of age, and includes, subject to subsection (c) and beginning with fiscal year 1991, a child or spouse of an alien lawfully admitted for permanent residence. In the case of an alien who was the spouse of a citizen of the United States for at least 2 years at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, the alien shall be considered, for purposes of this clause, to remain an immediate relative after the date of the citizen's death but only if the spouse files a petition under section 204(a)(1)(A) within 2 years after such date and only until the date the spouse remarries.

"(ii) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative.

"(B) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.

"(3) An alien who is provided immigrant status under section 203(d) as the spouse or child of an immigrant under section 203(b).

"(c) TREATMENT OF IMMEDIATE RELATIVES OF PERMANENT RESIDENT ALIENS.—In the case of aliens who are immediate relatives (as defined in subsection (b)(2)(A)(i)) as the spouse or child of an alien lawfully admitted for permanent residence, until otherwise provided by law, the number of such aliens who shall be treated as such immediate relatives in any fiscal year may not exceed 115,000. Visas shall be made available to such immediate relatives in the order in which a petition in behalf of each such alien is filed with the Attorney General as provided in section 204.".

(b) PER COUNTRY IMMIGRATION LEVELS.—Section 202 of such Act (8 U.S.C. 1152) is amended—

(1) in subsection (a), by striking "paragraphs (1) through (7) of section 203(a)" and inserting "subsections (a) and (b) of section 203",

(2) in subsection (c), by striking "a special immigrant" and all that follows through "201(b)" and inserting "an alien described in section 201(b)", and

(3) by amending subsection (e) to read as follows:

"(e) Where it is determined that the maximum number of immigrant visas will be made available under this section to natives of any single foreign state or dependent area in any fiscal year, in determining whether to provide for immigrant visa numbers to natives under section 203(a) or under section 203(b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section and section 203) in a manner so that—

"(1) the ratio of the visa numbers made available under section 203(a) to the visa numbers made available under section 203(b) is equal to 3 to 1; and

"(2) the proportion of the visa numbers made available under each of paragraphs (1) through (4) of section 203(a) is equal to the proportion of the total number of visas made available under the respective paragraph to the total number of visas made available under such section.

Nothing in this subsection shall be construed as limiting the number of visas which may be issued to natives of a state or dependent area under section 203(a) or 203(b) if there is insufficient demand for visas for such natives under section 203(b) or 203(a), respectively.".

(c) REMOVAL OF LIMITATION ON ASYLUM ADJUSTMENTS UNDER REFUGEE NUMERICAL LIMITATION.—Section 209(b) of such Act (8 U.S.C. 1159(b)) is amended by striking "Not more than five thousand of the refugee admissions" and inserting "Refugee admissions".

(d) CLERICAL AMENDMENT.—The item in the table of contents of the Immigration and Nationality Act relating to section 201 is amended to read as follows:

"Sec. 201. Worldwide level of immigration.".

SEC. 102. PREFERENCE SYSTEM FOR ADMISSION OF IMMIGRANTS.

(a) IN GENERAL.—Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended—

(1) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively;

(2) by striking subsection (a) and inserting the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(a)(1) for family-sponsored immigrants shall be allotted visas as follows:

"(1) UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a number not to exceed 30 percent of such worldwide level.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Qualified immigrants who are the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence shall be allocated visas in a number not to exceed 19 percent of such worldwide level, plus any visas not required for the class specified in paragraph (1).

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the married sons or married daughters of citizens of the United States shall be allocated visas in a number not to exceed 16 percent of such worldwide level, plus any visas not required for the classes specified in paragraphs (1) and (2).

"(4) BROTHERS AND SISTERS OF CITIZENS.—Qualified immigrants who are the brothers or sisters of citizens of the United States, if such citizens are at least 21 years of age, shall be allocated visas in a number not to exceed 35 percent of such worldwide level, plus any visas not required for the classes specified in paragraphs (1) through (3).

"(b) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(a)(2) for employment-based immigrants in a fiscal year shall be allotted visas as follows:

"(1) PRIORITY WORKERS.—Visas shall first be made available to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (D), except that not more than 2,000 such visa numbers may be made available in any fiscal year to aliens under subparagraph (D):

"(A) ALIENS WITH EXTRAORDINARY ABILITY.—An alien is described in this subparagraph if—

"(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

"(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

"(iii) the alien's entry into the United States will substantially benefit prospectively the United States.

"(B) OUTSTANDING PROFESSORS AND RESEARCHERS.—An alien is described in this subparagraph if—

"(i) the alien is recognized internationally as outstanding in a specific academic area,

"(ii) the alien has at least 3 years of experience in teaching or research in the academic area, and

"(iii) the alien seeks to enter the United States—

"(I) for a tenured position (or tenure-track position) within a university or institution of higher education to teach in the academic area,

"(II) for a comparable position with a university or institution of higher education to conduct research in the area, or

"(III) for a comparable position to conduct research in the area with a department, division, or institute of a private employer, if the department, division, or institute employs at least 3 persons full-time in research activities and has achieved documented accomplishments in an academic field.

"(C) CERTAIN MULTINATIONAL EXECUTIVES AND MANAGERS.—An alien is described in this subparagraph if the alien, in the 3 years preceding the time of the alien's application for classification and admission into the United States under this subparagraph, has been employed for at least 1 year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and who seeks to enter the United States in order to continue to render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive.

"(D) ALIENS WITH BUSINESS EXPERTISE.—An alien is described in this subparagraph if the alien is coming to the United States to perform services not of a temporary nature in business requiring special expertise and has an advanced degree in a field relating to that special expertise.

"(2) OTHER EMPLOYMENT-BASED ALIENS.—

"(A) IN GENERAL.—Visas made available under section 201(a)(2) for a fiscal year not otherwise made available under paragraph (1) shall be made available to qualified immigrants who are capable of performing specified labor, not of a temporary or seasonal nature, for which a shortage of employable and willing persons exists in the United States.

"(B) LABOR CERTIFICATION REQUIRED.—No immigrant visa shall be issued to an immigrant under this paragraph before the date the consular officer receives a certification made by the Secretary of Labor under section 212(a)(14).

"(C) PRIORITY FOR NATIVES OF ADVERSELY AFFECTED FOREIGN STATES.—

"(i) APPLICATION IN FISCAL YEARS 1992 THROUGH 1996.—Immigrant visas made available under this paragraph for any quarter in fiscal year 1992, 1993, 1994, 1995, or 1996, shall first be issued, in a number not to exceed 5,200 in any quarter, to eligible immigrants who are natives of an adversely affected foreign state (as defined in clause (iii)) in the order in which a petition in behalf of each such immigrant is filed with the Attorney General as provided in section 204. Any remaining visas made available under this paragraph for such a quarter shall be issued to all eligible immigrants in the order in which a petition in behalf of each such immigrant is filed with the Attorney General as provided in section 204.

"(ii) SUBSEQUENT FISCAL YEARS.—Visas made available under this paragraph for any quarter in a fiscal year after fiscal year 1996 shall be issued to eligible immigrants in the order in which a petition in behalf of each such immigrant is filed with the Attorney General as provided in section 204.

"(iii) ADVERSELY AFFECTED FOREIGN STATE DEFINED.—In this subparagraph, the term 'adversely affected foreign state' means a foreign state that is not contiguous to the United States and that was identified as an adversely affected foreign state for purposes

of section 314 of the Immigration Reform and Control Act of 1986.

"(c) DIVERSITY IMMIGRANTS.—

"(1) IN GENERAL.—Visas made available under section 201(a)(3) for a fiscal year shall be made available in each fiscal year to qualified immigrants who are natives of foreign states in a region as follows:

"(A) DETERMINATION OF PREFERENCE IMMIGRATION.—The Attorney General shall determine for the most recent previous 5-fiscal-year period for which data are available, the total number of aliens who are natives of each foreign state and who (i) were admitted or otherwise provided lawful permanent resident status (other than under this subsection) and (ii) were subject to the numerical limitations of section 201(a) (other than paragraph (3) thereof) or who were admitted or otherwise provided lawful permanent resident status as an immediate relative or other alien described in section 201(b)(2) or 201(b)(3).

"(B) IDENTIFICATION OF HIGH-ADMISSION AND LOW-ADMISSION REGIONS AND HIGH-ADMISSION AND LOW-ADMISSION STATES.—The Attorney General—

"(i) shall identify—

"(I) each region (each in this paragraph referred to as a 'high-admission region') for which the total of the numbers determined under subparagraph (A) for states in the region is greater than ⅙ of the total of all such numbers, and

"(II) each other region (each in this paragraph referred to as a 'low-admission region'); and

"(ii) shall identify—

"(I) each foreign state for which the number determined under subparagraph (A) is greater than 50,000 (each such state in this paragraph referred to as a 'high-admission state'), and

"(II) each other foreign state (each such state in this paragraph referred to as a 'low-admission state').

"(C) DETERMINATION OF PERCENTAGE OF WORLDWIDE IMMIGRATION ATTRIBUTABLE TO HIGH-ADMISSION REGIONS.—The Attorney General shall determine the percentage of the total of the numbers determined under subparagraph (A) that are numbers for foreign states in high-admission regions.

"(D) DETERMINATION OF REGIONAL POPULATIONS EXCLUDING HIGH-ADMISSION STATES AND RATIOS OF POPULATIONS OF REGIONS WITHIN LOW-ADMISSION REGIONS AND HIGH-ADMISSION REGIONS.—The Attorney General shall determine—

"(i) based on available estimates for each region, the total population of each region not including the population of any high-admission state;

"(ii) for each low-admission region, the ratio of the population of the region determined under clause (i) to the total of the populations determined under such clause for all the low-admission regions; and

"(iii) for each high-admission region, the ratio of the population of the region determined under clause (i) to the total of the populations determined under such clause for all the high-admission regions.

"(E) DISTRIBUTION OF VISAS.—

"(i) NO VISAS FOR NATIVES OF HIGH-ADMISSION STATES.—The percentage of visas made available under this paragraph to natives of a high-admission state is 0.

"(ii) FOR LOW-ADMISSION STATES IN LOW-ADMISSION REGIONS.—Subject to clauses (iv) and (v), the percentage of visas made available under this paragraph to natives (other than natives of a high-admission state) in a low-admission region is the product of—

"(I) the percentage determined under subparagraph (C), and

"(II) the population ratio for that region determined under subparagraph (D)(ii).

"(iii) FOR LOW-ADMISSION STATES IN HIGH-ADMISSION REGIONS.—Subject to clauses (iv) and (v), the percentage of visas made available under this paragraph to natives (other than natives of a high-admission state) in a high-admission region is the product of—

"(I) 100 percent minus the percentage determined under subparagraph (C), and

"(II) the population ratio for that region determined under subparagraph (D)(iii).

"(iv) REDISTRIBUTION OF UNUSED VISA NUMBERS.—If the Secretary of State estimates that the number of immigrant visas to be issued to natives in any region for a fiscal year under this paragraph is less than the number of immigrant visas made available to such natives under this paragraph for the fiscal year, subject to clause (v), the excess visa numbers shall be made available to natives (other than natives of a high-admission state) of the other regions in proportion to the percentages otherwise specified in clauses (ii) and (iii).

"(v) LIMITATION ON VISAS FOR NATIVES OF A SINGLE FOREIGN STATE.—The percentage of visas made available under this paragraph to natives of any foreign state for any fiscal year shall not exceed 7 percent.

"(2) REGION DEFINED.—Only for purposes of administering the diversity program under this subsection, Northern Ireland shall be treated as a separate foreign state, each colony or other component or dependent area of a foreign state overseas from the foreign state shall be treated as part of the foreign state, and each of the following shall be considered to be a separate region:

"(A) Africa.

"(B) Asia.

"(C) Europe.

"(D) North America (other than Mexico).

"(E) Oceania.

"(F) South America, Mexico, Central America, and the Caribbean.

"(d) TREATMENT OF FAMILY MEMBERS.—A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a), (b), or (c) be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.";

(3) in subsection (e) (as so redesignated)—

(A) by inserting "PRIORITY WITHIN PREFERENCE CLASS.—" before "In considering",

(B) by inserting "or (b)" after "under subsection (a)", and

(C) by inserting "or (b), respectively" after "in subsection (a)";

(4) in subsection (f) (as so redesignated)—

(A) by striking "Immigrant visas" and inserting "PRIORITY OF VISA ISSUANCE.—(1) Except as provided in subsection (b)(2)(C), immigrant visas",

(B) by striking "paragraphs (1) through (6) of subsection (a)" and inserting "subsection (a) or (b)", and

(C) by adding at the end the following:

"(2) Immigrant visa numbers made available under section 201(a)(3) in a fiscal year for natives of low-admission states shall be made available to qualified immigrants who have filed petitions under section 204(a)(1)(F) strictly in a random order established by the Secretary of State for the fiscal year involved.

"(3) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.";

(5) in subsection (g) (as so redesignated)—

(A) by striking the first sentence and inserting "REQUIREMENT FOR PETITION APPROVAL.—", and

(B) by striking "to be an immediate relative" and all that follows through "subsection (a)," and inserting "to be entitled to a status for which a petition is required under section 204(a)(1),"; and

(6) in subsection (h) (as so redesignated)—

(A) by inserting "USE OF ESTIMATES AND TERMINATION OF REGISTRATION.—" before "For the purposes", and

(B) by striking "of subsection (a)" and inserting "under subsections (a), (b), and (c)".

(b) CHANGES IN PETITIONING PROCEDURE.—Section 204 of such Act (8 U.S.C. 1154) is amended—

(1) in subsection (a)(1), by striking "(a)(1)" and all that follows through the end and inserting the following:

"(a)(1)(A) Any citizen of the United States claiming that an alien is entitled to classification by reason of a relationship described in paragraph (1), (3), or (4) of section 203(a) or to an immediate relative status under section 201(b)(2)(A)(i) may file a petition with the Attorney General for such classification. An alien desiring to be classified as an immediate relative under the second sentence of section 201(b)(2)(A)(i) may file a petition with the Attorney General for such classification.

"(B) Any alien lawfully admitted for permanent residence claiming that an alien is entitled to an immediate relative status under section 201(b)(2)(A)(i) or a classification by reason of the relationship described in section 203(a)(2) may file a petition with the Attorney General for such classification.

"(C) Any alien desiring to be classified under section 203(b)(1)(A) (or any person on behalf of such an alien) (relating to aliens with extraordinary ability) may file a petition with the Attorney General for such classification.

"(D) Any employer (or representative of one or more employers) desiring and intending to employ within the United States an alien entitled to classification under section 203(b)(1)(B), 203(b)(1)(C), 203(b)(1)(D), or 203(b)(2) (relating to outstanding professors and researchers, certain multinational executives and managers, aliens with business expertise, and other employment-based aliens) may file a petition with the Attorney General for such classification.

"(E)(i) Any alien desiring to be provided an immigrant visa under section 203(c) (relating to diversity immigrants) with respect to a petitioning period may file a petition at the place and time determined by the Secretary of State for that period. The Secretary of State shall designate a period for the filing of petitions under this subparagraph with respect to one or two fiscal years. Only one such petition may be filed by an alien with respect to any petitioning period, and, if more than one petition is submitted, all such petitions submitted for the period by the alien shall be void. Petitions submitted for consideration with respect to any petitioning period shall be valid only with respect to such period and not with respect to subsequent periods.

"(ii) The Secretary of State shall establish a fee for the filing of such petitions in an amount sufficient to cover the costs of processing petitions under this subparagraph. The Secretary of State shall deposit payments received under this clause in a separate account and amounts in such account

shall be available, without fiscal year limitation, to cover administrative and other expenses incurred in connection with the review of applications filed under this paragraph.";

(2) in paragraph (2)(A)—

(A) by striking "spousal second preference petition" each place it appears and inserting "spousal alien immediate relative petition", and

(B) by striking "preference status under section 203(a)(2)" and inserting "immediate relative status under section 201(b)(2)(A)(i)";

(3) in subsection (b)—

(A) by striking "After an investigation" and inserting "Except in the case of a petition under subsection (a)(1)(E), after an investigation",

(B) by striking ", and after consultation" and all that follows through "203(a) (3) or (6),",

(C) by inserting "or 203(b)" after "203(a)", and

(D) by inserting after the first sentence the following: "In making determinations under section 203(b)(1)(A)(i) (relating to demonstration of extraordinary ability) the Attorney General shall consult with peer groups in the area of the alien's ability, and in making determinations under section 203(b)(1)(B)(i) (relating to international recognition as outstanding in a specific academic area), the Attorney General shall consult with peer groups in the academic area of the alien's recognized ability.";

(4) in subsection (e), by inserting "or 203(b)" after "203(a)";

(5) by striking subsection (f);

(6) in subsection (g)(1)—

(A) by striking "201(b)" and inserting "201(b)(2)(A)(i)", and

(B) by striking "203(a)(4)" and inserting "203(a)(3)"; and

(7) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(c) PROCESSING FEE.—Section 204(b) of such Act (8 U.S.C. 1154(b)) is amended by inserting "(1)" after "(b)" and by adding at the end the following new paragraph:

"(2) The Attorney General shall require by regulation, as a condition for the acceptance and approval of a petition under this section with respect to immigrants described in section 203(b), the payment of a fee to recover the reasonable costs of processing such a petition with respect to immigrants described in such section.".

(d) DEFINITIONS OF MANAGERIAL CAPACITY AND EXECUTIVE CAPACITY.—Section 101(a) of such Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:

"(44)(A) The term 'managerial capacity' means an assignment within an organization in which the employee primarily—

"(i) manages the organization, or a department, subdivision, function, or component of the organization;

"(ii) supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization;

"(iii) if another employee or other employees are directly supervised, has the authority to hire and fire or recommend those as well as other personnel actions (such as promotion and leave authorization) or, if no other employee is directly supervised, functions at a senior level within the organizational hierarchy or with respect to the function managed; and

"(iv) exercises discretion over the day-to-day operations of the activity or function for which the employee has authority.

A first-line supervisor is not considered to be acting in a managerial capacity merely by virtue of the supervisor's supervisory duties unless the employees supervised are professional.

"(B) The term 'executive capacity' means an assignment within an organization in which the employee primarily—

"(i) directs the management of the organization or a major component or function of the organization;

"(ii) establishes the goals and policies of the organization, component, or function;

"(iii) exercises wide latitude in discretionary decision-making; and

"(iv) receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the organization.

"(C) If staffing levels are used as a factor in determining whether an individual is acting in a managerial or executive capacity, the Attorney General shall take into account the reasonable needs of the organization, component, or function in light of the overall purpose and stage of development of the organization, component, or function. An individual shall not be considered to be acting in a managerial or executive capacity (as previously defined) merely on the basis of the number of employees that the individual supervises or has supervised or directs or has directed.".

(e) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)) is amended—

(A) by striking "or" at the end of subparagraph (H),

(B) by striking the period at the end of subparagraph (I) and inserting "; or", and

(C) by adding at the end the following new subparagraph:

"(J) an alien whose deportation was cancelled under section 244.".

(2) Section 212(a)(32) of such Act (8 U.S.C. 1182(a)(32)) is amended by striking "preference immigrant aliens described in section 203(a) (3) and (6) and to nonpreference immigrant aliens described in section 203(a)(7)" and inserting "preference immigrant aliens described in section 203(b)(2)".

(3) Section 245(b) of such Act (8 U.S.C. 1255(b)) is amended—

(A) by striking "or nonpreference",

(B) by striking "202(e) or 203(a)" and inserting "201(a)", and

(C) by striking "for the fiscal year then current" and inserting "for the succeeding fiscal year".

(4) Section 3304(a)(14)(A) of the Internal Revenue Code of 1986 is amended by striking "section 203(a)(7) or".

(5) Section 1614(a)(1)(B)(i) of the Social Security Act is amended by striking "section 203(a)(7) or".

(f) TECHNICAL CORRECTIONS TO IMMIGRATION NURSING RELIEF ACT OF 1989.—

(1) Section 2 of the Immigration Nursing Relief Act of 1989 (Public Law 101-238) is amended—

(A) in subsection (a)—

(i) by striking ", and the immigrant's accompanying spouse and children", and

(ii) by inserting after the first sentence the following:

"Such numerical limitations also shall not apply to the adjustment of status of, or issuance of an immigrant visa to, the immigrant's spouse and children if accompanying or following to join the immigrant."; and

(B) in subsection (b)—

(i) by striking "December 31, 1989" and inserting "September 1, 1989",

(ii) by striking "in the lawful status" and inserting "in the status",

(iii) by inserting "unauthorized employment performed before the date of the enactment of the Family Unity and Employment Opportunity Immigration Act of 1990 shall not be taken into account in applying section 245(c)(2) of the Immigration and Nationality Act and" after "spouse or child of such an alien,", and

(iv) by striking 'lawful status as such a nonimmigrant" and all that follows through "subsection (a)" and inserting 'lawful status throughout his or her stay in the United States as a nonimmigrant until the end of the 120-day period beginning on the date the Attorney General promulgates regulations carrying out the amendments made by section 102(f)(1)(A) of the Family Unity and Employment Opportunity Immigration Act of 1990".

(2) The amendments made by paragraph (1) shall apply as though included in the enactment of the Immigration Nursing Relief Act of 1989.

SEC. 103. LABOR ATTESTATION PROCESS.

(a) IN GENERAL.—Section 212(a)(14) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(14)) is amended to read as follows:

"(14) Aliens seeking admission or status as an immigrant under section 203(b)(2) or as a nonimmigrant under section 101(a)(15)(H)(i)(b) or 101(a)(15)(H)(ii)(b) unless with respect to the aliens the Secretary of Labor certifies to the Secretary of State and the Attorney General that an attestation is on file and in effect under section 212(n) for the employer and occupational classification for which the alien will perform services;".

(b) USE OF ATTESTATIONS.—Section 212 of such Act, as amended by section 3(b) of Public Law 101-238, is amended by adding at the end the following new subsection:

"(n)(1) The attestation referred to in subsection (a)(14), with respect to an alien who is coming to the United States to be employed by an employer in an occupational classification, is an attestation as to the following:

"(A) Subject to paragraph (3), the employer—

"(i)(I) has made and is making positive recruitment efforts, in the recruitment area identified under paragraph (2)(A), reasonably designed to locate and employ able, willing, and qualified (or equally qualified in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or the arts) workers, and

"(II) recites the specific actions the employer has taken with respect to such recruitment; and

"(ii) has been unable to find such workers who are available at the time and place of need.

"(B) The employer is offering and will offer (in the case of an nonimmigrant under section 101(a)(15)(H)(i)(b) or 101(a)(15)(H)(ii)(b), during the period of authorized employment or, in the case of an immigrant under section 203(b)(2), during the first year of employment of the alien by the employer) to aliens and to other individuals employed in the occupational classification and in the recruitment area (identified under paragraph (2)(A)) wages that are no less than the base prevailing wage level (determined under paragraph (6)) and work-

ing conditions that are not less than the prevailing working conditions for the occupational classification in the recruitment area.

"(C) There is not a strike or lockout in the course of a labor dispute.

"(D) The employer, at the time of execution of the attestation, has provided notice of the intention to file the attestation under this paragraph to the bargaining representative (if any) of the employer's employees in the occupational classification and recruitment area for which aliens are sought, or, if there is no such bargaining representative, to such State or local governmental entity as the Secretary of Labor designates (after consultation with appropriate labor and management organizations) for the recruitment area for purposes of this subparagraph.

The obligation to engage in positive recruitment under subparagraph (A) shall not apply to nonimmigrants under section 101(a)(15)(H)(i)(b) and shall terminate on the date that the alien is provided immigrant or nonimmigrant status in response to the attestation.

"(2)(A) With respect to occupational classifications for which attestations may be filed, the Secretary of Labor (in this subsection referred to as the 'Secretary') shall identify recruitment areas which are the areas of traditional or expected labor supply.

"(B) The Secretary shall make available for public examination, within 2 working days after the date on which an attestation under paragraph (1) is filed, in Washington, D.C., a copy of each attestation (and accompanying documentation) filed under paragraph (1). The Secretary shall compile, on a current basis, a list (by employer and by occupational classification) of the attestations filed or in effect under paragraph (1).

"(3)(A) If 10 or more attestations meeting the requirements of paragraph (1) (including paragraph (1)(A)) within a region (as defined by the Secretary) (or 5 attestations within a rural region) have been filed within a 1-year period and are in effect with respect to employees in the same occupational classification, any succeeding attestation filed during the succeeding 2-year period for workers in that occupational classification and region may substitute, for the attestation as to the matters described in paragraph (1)(A), an attestation that the employer has not been able to find, after posting of the job offer and advertising to recruit for hire, workers for the occupational classification at the time and place needed.

"(B) In subparagraph (A), the term 'rural region' means a contiguous area of counties (no county of which is an urbanized area) which is identified by the Secretary as representing a labor market with respect to an occupational classification which is separate and distinct from those for adjoining urbanized areas.

"(4)(A) If a bargaining representative described in paragraph (1)(D) or employee representative, within 30 days after the date the employer files an attestation under paragraph (1), submits to the Secretary a written request for a hearing respecting the matters required to be attested to in paragraph (1) and includes with such request a written statement of particular facts contradicting such attestation, the attestation shall not become effective until the date the Secretary has made a determination, after such a hearing, that the facts attested to are true. No attestation shall be effective under this subsection before the end of such 30-day period.

"(B) Within 7 days after the date of submission of a written request under subparagraph (A), the Secretary shall provide for a determination as to whether or not a written statement of particular facts contradicting the attestation has been included. If it has, the Secretary shall provide for a notice of such determination to the interested parties and an opportunity for a hearing in accordance with section 556 of title 5, United States Code, with respect to the attestation within 30 days of the date of the determination. After such a hearing, the Secretary shall make a determination with respect to whether the attestation meets the requirements of paragraph (1) by not later 30 days after the date of the hearing. In the hearing, the burden of proof on the truth of the facts attested to shall be on the employer.

"(C)(i) An attestation duly filed under paragraph (1) shall be deemed to have been certified by the Secretary and in effect under this subsection at the end of the 30-day period beginning on the date of its filing unless the Secretary otherwise notifies the employer and the Attorney General under clause (ii).

"(ii) If a written request for a hearing has been submitted on a timely basis under this paragraph, the Secretary shall notify the Attorney General and the employer in writing that an attestation, which would otherwise become effective under clause (i), shall not become effective.

"(D) The preceding provisions of this paragraph shall not apply to an attestation under paragraph (1) with respect to nonimmigrants described in section 101(a)(15)(H)(i)(b).

"(E) The Secretary may not refuse to accept for filing a completed attestation filed under this subsection or review in any way such an attestation with respect to which a complaint has not been filed under this subsection.

"(F) Subject to termination under paragraph (5), an attestation shall be effective only for petitions filed during the 1-year period beginning on the effective date of the attestation.

"(5)(A) The Secretary shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to include an element of the attestation required under paragraph (1), failure to meet a condition attested to, or misrepresentation of material facts in an attestation that is in effect under this subsection. Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure or misrepresentation, respectively, or to the extent that the complaint alleges a failure or misrepresentation for which there has been a determination on that issue in a hearing under paragraph (4)(B). The Secretary shall conduct an investigation under this paragraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

"(B) Under such process, the Secretary shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a basis exists to make a finding described in subparagraph (C). If the Secretary determines that such a basis exists, the Secretary shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary shall make a finding concerning the matter by not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same petitioner, the Secretary may consolidate the hearings under this subparagraph on such complaints.

"(C) If the Secretary finds, after notice and opportunity for a hearing, an employer failure or that there was a misrepresentation of material fact in the attestation—

"(i) the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $1,000 per violation) as the Secretary determines to be appropriate, and

"(ii) the Attorney General shall not approve petitions filed with respect to that employer under section 204 or 214(c) during a period of at least 1 year for aliens to be employed by the employer.

"(D) In addition to the sanctions provided under subparagraph (C), if the Secretary finds, after notice and opportunity for a hearing, that an employer has violated a condition of an attestation relating to the payment of wages at a specified wage level, the Secretary shall order the employer to provide for payment of such amounts of back pay as may be required to comply with such condition.

"(6)(A) For purposes of this subsection and section 214(f), the term 'base prevailing wage level', with respect to an occupational classification in an area for which a petition or attestation is filed for purposes of the respective provision of law, means—

"(i) the actual wage level for the occupational classification at the place of employment, or

"(ii) the prevailing wage level for the occupational classification and area determined under subparagraph (B),

whichever is greater, determined as of the time of filing the respective petition or attestation.

"(B)(i) The Bureau of Labor Statistics in the Department of Labor shall periodically determine, for purposes of this subsection and section 214(f), the prevailing wage level for occupational classifications and areas for which determinations of prevailing wage levels are required under this subsection. In the case of a specific occupational classification for which a determination of prevailing wage level is not generally or readily available, the Bureau shall determine such a wage level within 30 days.

"(ii)(I) If the Bureau has not determined a prevailing wage level within 30 days of the date of filing of an attestation, subject to subclause (II), the application of clause (ii) of subparagraph (A) shall be suspended until the date such a determination is made.

"(II) When the Bureau makes such a determination, the employer shall provide, within 30 days of the date of the determination, for such adjustment of wages (including back pay) as provides for the application of such prevailing wage level under subparagraph (A) as though such level had been determined on a timely basis under subparagraph (B).".

(c) Report.—The Secretary of Labor shall conduct a study of the feasibility of determining, for purposes of section 212(n) of the Immigration and Nationality Act, national or regional labor shortages in particular occupational classifications, taking into consideration—

(1) the intensity and duration of each labor shortage;

(2) the supply and demand of workers in occupations affected by the shortage;

(3) industrial and geographic concentration of the shortage;

(4) wages for occupations affected by the shortage and how a 20 percent increase in the prevailing wage in the occupation affects the shortage;

(5) entry requirements for occupations affected by the shortage; and

(6) the need for continuous positive national recruitment.

The Secretary shall report to Congress on the results of the study by not later than 2 years after the date of the enactment of this Act. The Secretary shall include in the report such legislative recommendations as may be necessary to permit the use of national or regional labor shortages in the process of attestations under section 212(n) of the Immigration and Nationality Act.

SEC. 104. NONIMMIGRANT CLASSIFICATIONS.

(a) Treaty Traders.—

(1) Section 101(a)(15)(E)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)(i)) is amended by inserting ", including trade in services or trade in technology" after "substantial trade".

(2) The largest foreign state in each region (as defined in section 203(c)(2) of the Immigration and Nationality Act) which has 1 or more dependent areas (as determined for purposes of section 202 of such Act) and which does not have a treaty of commerce and navigation with the United States shall be considered for purposes of section 101(a)(15)(E) of such Act to be a foreign state described in such section if the foreign state extends reciprocal nonimmigrant treatment to nationals of the United States.

(3) Section 101(a) of the Immigration and Nationality Act, as amended by section 102(d) of this Act, is amended by adding at the end the following new paragraph:

"(45) The term 'substantial' means, for purposes of paragraph (15)(E) with reference to trade or capital, such an amount of trade or capital as is established by the Secretary of State, after consultation with appropriate agencies of Government.".

(b) Students.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(f) With respect to work authorization for aliens admitted as nonimmigrant students described in subparagraph (F) of section 101(a)(15), the Attorney General shall grant such an alien work authorization to be employed in a position unrelated to the alien's field of study and off-campus if—

"(1) the alien has completed 1 year as such a nonimmigrant and is maintaining good academic standing at the educational institution,

"(2) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer (A) has recruited for at least 60 days for the position and (B) will provide for payment to the alien and to other similarly situated workers at a rate equal to not less than the base prevailing wage level (determined under section 212(n)(6)), and

"(3) the alien will not be employed more than 20 hours each week during the academic term (but may be employed on a full-time basis during vacation periods and between academic terms).

If the Secretary of Labor determines that an employer has provided an attestation under paragraph (2) that is materially false or has failed to pay wages in accordance with the attestation, after notice and opportunity for a hearing, the employer shall be disqualified from employing an alien student under this subsection for a period of 3 years.".

(c) H Nonimmigrants.—

(1) Limitation on numbers.—Section 214 of such Act (8 U.S.C. 1184), as amended by subsection (b), is further amended by adding at the end the following new subsection:

"(g)(1) The total number of aliens who may be issued visas or otherwise provided nonimmigrant status during any fiscal year (beginning with fiscal year 1992)—

"(A) under section 101(a)(15)(H)(i)(b) may not exceed 25,000,

"(B) under section 101(a)(15)(H)(ii)(b), may not exceed 66,000, or

"(C) under section 101(a)(15)(P)(i) or section 101(a)(15)(P)(iii) may not exceed 9,000.

"(2) The numerical limitations under paragraph (1) shall only apply to principal aliens and not to the spouses or children of such aliens.

"(3) Aliens who are subject to the numerical limitations of paragraph (1) shall be issued visas (or otherwise provided nonimmigrant status) in the order in which petitions are filed for such visas or status.

"(4) In the case of a nonimmigrant described in section 101(a)(15)(H)(i)(b), the period of authorized admission as such a nonimmigrant may not exceed 6 years.".

(2) Construction respecting intent with respect to abandonment of foreign residence.—Section 214 of such Act, as amended by subsection (b) and by paragraph (1), is further amended—

(A) in subsection (b), by inserting "(other than a nonimmigrant described in subparagraph (H)(i) or (L) of section 101(a)(15))" after "Every alien", and

(B) by adding at the end the following new subsection:

"(h) The fact that an alien is the beneficiary of an application for a preference status filed under section 204 or has otherwise sought permanent residence in the United States shall not constitute evidence of an intention to abandon a foreign residence for purposes of obtaining a visa as a nonimmigrant or otherwise obtaining or maintaining the status of a nonimmigrant.".

(3) Revision of H-1B category.—Subclause (b) of section 101(a)(15)(H)(i) of such Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking "who is of distinguished" and all that follows through "such institution or agency" and inserting the following: "who is coming temporarily to the United States to perform services (other than services described in subclause (a) during the period in which such subclause applies and other than services described in subclause (ii)(a) or in subparagraph (O) or (P)) in a specialty occupation described in section 214(i)(1) and who meets the requirements for the occupation specified in section 214(i)(2)".

(4) Specialty occupation defined.—Section 214 of such Act, as amended by subsection (b) and by paragraphs (1) and (2), is further amended by adding at the end the following new subsection:

"(i)(1) For purposes of section 101(a)(15)(H)(i)(b) and paragraph (2), the term 'specialty occupation' means an occupation that requires—

"(A) theoretical and practical application of a body of highly specialized knowledge, and

"(B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

"(2) For purposes of section 101(a)(15)(H)(i)(b), the requirements of this paragraph, with respect to a specialty occupation, are—

"(A) full state licensure to practice in the occupation, if such licensure is required to practice in the occupation;

"(B) completion of the degree described in paragraph (1)(B) for the occupation; or

"(C)(i) experience in the specialty equivalent to the completion of such degree, and (ii) recognition of expertise in the specialty through progressively responsible positions relating to the specialty.".

(5) Limitation on trainees.—Section 101(a)(15)(H)(iii) of such Act (8 U.S.C. 1101(a)(15)(H)(iii)) is amended by inserting before the semicolon at the end the following: ", in a training program not available in the country of nationality of the alien".

(6) Technical amendment concerning foreign residence.—Section 101(a)(15)(H) of such Act (8 U.S.C. 1101(a)(15)(H)) is amended—

(A) by striking "having a residence in a foreign country which he has no intention of abandoning";

(B) in clause (ii), by striking "who is coming temporarily to the United States (a)" and inserting "(a) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States";

(C) in clause (ii)(b), by inserting "having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States" immediately after "(b)"; and

(D) in clause (iii), by inserting "having a residence in a foreign country which he has no intention of abandoning" after "(iii)".

(d) Establishment of Special Education Exchange Visitor Program.—

(1) In general.—Section 101(a)(15)(J) of such Act (8 U.S.C. 1101(a)(15)(J)) is amended—

(A) by inserting "(i)" after "abandoning", and

(B) by inserting after "212(j)," the following: "or (ii) who is coming temporarily to the United States (for a period not to exceed 18 months) as a participant in an special education training program described in section 214(j)(1),".

(2) Program requirements.—Section 214 of such Act (8 U.S.C. 1184), as amended by subsections (b), (c)(1), (c)(2), and (c)(4), is further amended by adding at the end the following new subsection:

"(j)(1) An alien may not be admitted as (or otherwise be provided the status of) a nonimmigrant described in section 101(a)(15)(J)(ii) unless the alien is entering under a program which provides for practical training and experience in the education of children with physical, mental, or emotional disabilities.

"(2) The number of aliens who may be admitted as (or otherwise be provided the status of) a nonimmigrant described in section 101(a)(15)(J)(ii) in any fiscal year may not exceed 50.".

(e) Au Pair Cultural Exchange Program.—

(1) In general.—Section 101(a)(15)(J) of such Act (8 U.S.C. 1101(a)(15)(J)), as amended by subsection (d)(1), is further amended—

(A) by striking "or" before "(ii)", and

(B) by inserting after "214(j)(1)," the following: "or (iii) who is coming temporarily to the United States (for a period not to exceed 14 months) as a participant in an au pair program under section 214(k)(1),".

(2) Requirements.—Section 214 of such Act (8 U.S.C. 1184), as amended by subsections (b), (c)(1), (c)(2), (c)(4), and (d)(2), is further amended by adding at the end the following new subsection:

"(k)(1) An alien may not be admitted as (or otherwise be provided the status of) a nonimmigrant described in section 101(a)(15)(J)(iii) unless—

"(A) the alien is entering to participate in a program, which participation and program the Secretary of Labor determines meets the requirements of paragraph (2) and will provide the alien a uniquely American cultural experience and additional education; and

"(B) the alien is entering to be placed with a family which has entered into an agreement described in paragraph (3) and which has not been found by the Secretary of Labor to have violated previously the terms of such an agreement.

If the Secretary determines that a sponsoring program no longer meets the requirements described in subparagraph (A), the Secretary shall disqualify the program under this subsection for a period of at least 3 years.

"(2) The requirements of this paragraph with respect to an alien participating in a program are as follows:

"(A) The alien participant must reside with a family that has entered into an agreement described in paragraph (3).

"(B) The alien participant must be enrolled on an on-going basis in a course of study at an educational institution or program approved by the Attorney General under section 101(a)(15)(F).

"(C) The alien participant must be provided, not less often than quarterly, a cultural experience (such as travel to national monuments, landmarks, or institutions) unique or specific to the United States.

"(D) If the alien participant provides child care or related services in connection with participation in the program—

"(i) the alien must be paid wages (as defined in section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) not less than the minimum wage applicable under section 6(a) of such Act (29 U.S.C. 206(a)), and

"(ii) the alien may not provide such care or services for more than 40 hours each week.

"(E) The program must provide a suitable bond or other undertaking, in an amount specified by the Attorney General (not to exceed $5,000 with respect to any alien participant) to assure that the alien departs from the United States at the time of expiration of the authorized period of stay under the program.

"(3) The agreement described in this paragraph between a family and an alien participant shall obligate the family to provide for meeting the requirements specified in subparagraphs (B) through (D) of paragraph (2). Such agreement shall be in a form approved by the Secretary of Labor and may be enforced by the alien.".

(f) Amendments Relating to "L" Nonimmigrants.—

(1) Clarification of treatment of certain international accounting firms.—In applying sections 101(a)(15)(L) and 203(b)(1)(C) of the Immigration and Nationality Act, in the case of a partnership that is organized in the United States to provide accounting services and that markets its accounting services under an internationally recognized name under an agreement with a worldwide coordinating organization that is owned and controlled by the member accounting firms, a partnership (or similar organization) that is organized outside the United States to provide accounting services shall be considered to be an affiliate of the United States partnership if it markets its accounting services under the same internationally recognized name under the agreement with the worldwide coordinating organization of which the United States partnership is also a member.

(2) Use of blanket petitions; deadlines for processing; periods of authorized stay; construction.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended—

(A) by inserting "(1)" after "(c)", and

(B) by adding at the end the following new paragraph:

"(2)(A) The Attorney General shall provide for a procedure under which an importing employer which meets requirements established by the Attorney General may file a blanket petition to import aliens as nonimmigrants under section 101(a)(15)(L) instead of filing individuals petitions under paragraph (1) to import such aliens. Such procedure shall permit the expedited processing of visas for entry of aliens covered under such a petition.

"(B) For purposes of section 101(a)(15)(L), an alien is considered to be serving in a capacity involving specialized knowledge with respect to a company if the alien has a special knowledge of the company product and its application in international markets or has an advanced level of knowledge of processes and procedures of the company.

"(C) The Attorney General shall provide a process for reviewing and acting upon petitions under this subsection with respect to nonimmigrants described in section 101(a)(15)(L) within 30 days after the date a completed petition has been filed.

"(D) The period of authorized admission for—

"(i) a nonimmigrant admitted to render services in a managerial or executive capacity under section 101(a)(15)(L) shall not exceed 7 years, or

"(ii) a nonimmigrant admitted to render services in a capacity that involved specialized knowledge under section 101(a)(15)(L) shall not exceed 5 years.".

(3) Period of prior employment with company.—Section 101(a)(15)(L) of such Act (8 U.S.C. 1101(a)(15)(L)) is amended by striking "immediately preceding" and inserting "within 3 years preceding".

(g) New Classification for Aliens With Extraordinary Ability, Accompanying Aliens, and Athletes and Entertainers.—

(1) In general.—Section 101(a)(15) of such Act (8 U.S.C. 1101(a)(15)) is amended—

(A) by striking "or" at the end of subparagraph (M),

(B) by striking the period at the end of subparagraph (N) and inserting a semicolon, and

(C) by adding at the end the following new subparagraphs:

"(O) an alien who—

"(i) has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim or, with regard to motion picture and television productions a demonstrated record of extraordinary achievement, and whose achievements have been recognized in the field through extensive documentation, and seeks to enter the United States to continue work in the area of extraordinary ability, but only if the Attorney General determines that the alien's entry into the United States will substantially benefit prospectively the United States; or

"(ii)(I) seeks to enter the United States temporarily and solely for the purpose of accompanying and assisting in the artistic or athletic performance by an alien who is admitted under clause (i) for a specific event or events,

"(II) is an integral part of such actual performance,

"(III)(a) has critical skills and experience with such alien which are not of a general nature and which cannot be performed by other individuals, or (b) in the case of a motion picture or television production, has skills and experience with such alien which are not of a general nature and which are critical either based on a pre-existing longstanding working relationship or, with respect to the specific production, because significant principal photography will take place both inside and outside the United States and the continuing participation of the alien is essential to the successful completion of the production, and

"(IV) has a foreign residence which the alien has no intention of abandoning; or

"(iii) is the alien spouse or child of an alien described in clause (i) or (ii) and is accompanying, or following to join, the alien; or

"(P) an alien having a foreign residence which the alien has no intention of abandoning who—

"(i)(I) performs as an athlete, individually or as part of an group or team, at an internationally recognized level of performance, or performs as part of an entertainment group that has been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time and has had a sustained and substantial relationship with that group over a period of at least 1 year and provides functions integral to the performance of the group, and

"(II) seeks to enter the United States temporarily and solely for the purpose of performing as such an athlete or entertainer with respect to a specific athletic competition or performance;

"(ii)(I) performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and

"(II) seeks to enter the United States temporarily and solely for the purpose of performing as such an artist or entertainer or with such a group under a reciprocal exchange program which is between an organization or organizations in the United States and an organization in one or more foreign states and which provides for the temporary exchange of artists and entertainers, or groups of artists and entertainers, between the United States and the foreign states involved;

"(iii)(I) performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and

"(II) seeks to enter the United States temporarily and solely for the purpose of performing as such an artist or entertainer or with such a group under a program that is culturally unique; or

"(iv) is the spouse or child of an alien described in clause (i), (ii), or (iii) and is accompanying, or following to join, the alien.".

(2) Periods of admission, etc.—Section 214 of such Act (8 U.S.C. 1184) is amended—

(A) in subsection (a), by inserting "(1)" after "(a)" and by adding at the end the following new paragraph:

"(2)(A) The period of authorized status as a nonimmigrant under section 101(a)(15)(O) shall be for such period as the Attorney General may specify in order to provide for the event for which the nonimmigrant is admitted.

"(B)(i) The period of authorized status as a nonimmigrant under section 101(a)(15)(P) shall be for such period as the Attorney General may specify in order to provide for the competition, event, or performance for which the nonimmigrant is admitted. In the case of nonimmigrants admitted as individual athletes under section 101(a)(15)(P), the period of authorized status may be for an initial period (not to exceed 5 years) during which the nonimmigrant will perform as an athlete and such period may be extended by the Attorney General for an additional period of up to 5 years.

"(ii) An alien who is admitted as a nonimmigrant under clause (ii) or (iii) of section 101(a)(15)(P) may not be readmitted as such a nonimmigrant unless the alien has remained outside the United States for at least 3 months after the date of the most recent admission."; and

(B) in subsection (c), as amended by subsection (f)(2)—

(i) in paragraph (1), by striking "or (L)" and inserting ", (L), (O), or (P)(i)", and

(ii) by adding at the end the following new paragraphs:

"(3) The Attorney General shall approve a petition—

"(A) with respect to a nonimmigrant described in section 101(a)(15)(O)(i) only after consultation with peer groups in the area of the alien's ability or, with respect to aliens seeking entry for a motion picture or television production, after consultation with the appropriate union representing the alien's occupational peers and a management organization in the area of the alien's ability, or

"(B) with respect to a nonimmigrant described in section 101(a)(15)(O)(ii) after consultation with labor organizations with expertise in the skill area involved.

In the case of an alien seeking entry for a motion picture or television production, (i) any opinion under the previous sentence shall only be advisory, (ii) any such opinion that recommends denial must be in writing, (iii) in making the decision the Attorney General shall consider the exigencies and scheduling of the production, and (iv) the Attorney General shall append to the decision any such opinion.

"(4)(A) A person may petition the Attorney General for classification of an alien as a nonimmigrant under clause (ii) of section 101(a)(15)(P).

"(B) The Attorney General shall approve petitions under this subsection with respect to nonimmigrants described in clause (i) or (iii) of section 101(a)(15)(P) only after consultation with labor organizations with expertise in the specific field of athletics or entertainment involved.

"(C) The Attorney General shall approve petitions under this subsection for nonimmigrants described in section 101(a)(15)(P)(ii) only after consultation with labor organizations representing artists and entertainers in the United States, in order to assure reciprocity in fact with foreign states.

"(5)(A) In the case of an alien admitted as a nonimmigrant and who is authorized to be employed in an occupation, if nonimmigrants constitute a majority of the members of the bargaining unit in the occupation, during the period of any strike or lockout in the occupation with the employer the alien—

"(i) continues to be authorized to be employed in the occupation for that employer, and

"(ii) is authorized to be employed in any occupation for any other employer so long as there is no strike or lockout with respect to that occupation and employer.

"(B) In the case of an alien admitted as a nonimmigrant and who is authorized to be employed in an occupation, if nonimmigrants do not constitute a majority of the members of the bargaining unit in the occupation, during the period of any strike or lockout in the occupation with the employer the alien—

"(i) is not authorized to be employed in the occupation for that employer, and

"(ii) is authorized to be employed in any occupation for any other employer so long as there is no strike or lockout with respect to that occupation and employer.

"(C) With respect to a nonimmigrant described in subparagraph (A) or (B) for whom such a strike or lockout occurs and who does not perform employment not authorized, any limit on the period of authorized stay shall be extended by the period of the strike or lockout.

"(D) In the case of an alien who is provided nonimmigrant status under section 101(a)(15)(H) (other than section 101(a)(15)(H)(ii)(a)) or section 101(a)(15)(P) and who is dismissed from employment by the employer before the end of the period of authorized admission, the employer shall be liable for the reasonable costs of return transportation of the alien abroad.

"(6) If a petition is filed and denied under this subsection, the Attorney General shall notify the petitioner of the determination and the reasons for the denial and of the process by which the petitioner may appeal the determination.

"(7) The Attorney General shall require by regulation, as a condition for the acceptance and approval of a petition under this section with respect to nonimmigrants under section 101(a)(15) (H), (L), (O), or (P)(i), the payment of a fee to recover the reasonable costs of processing a petition under this subsection with respect to such class of nonimmigrants.".

(h) New Classification for International Cultural Exchange Programs.—Section 101(a)(15) of such Act, as amended by subsection (g), is further amended—

(1) by striking "or" at the end of subparagraph (O),

(2) by striking the period at the end of subparagraph (P) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(Q) an alien having a residence in a foreign country which he has no intention of abandoning who is coming temporarily (for a period not to exceed 15 months) to the United States as a participant in an international cultural exchange program designated by the Attorney General for the purpose of providing practical training, employment, and the sharing of the history, culture, and traditions of the country of the alien's nationality and who will be employed under the same wages and working conditions as domestic workers.".

SEC. 105. ADMISSION OF ALIENS IN RELIGIOUS OCCUPATIONS.

(a) As Special Immigrants.—Subparagraph (C) of section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended to read as follows:

"(C) an immigrant, and his spouse and children if accompanying or following to join the immigrant, who—

"(i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;

"(ii) seeks to enter the United States—

"(I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

"(II) in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

"(III) in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986) at the request of the organization in a religious vocation or occupation; and

"(iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i);".

(b) As Nonimmigrants.—Section 101(a)(15) of such Act (8 U.S.C. 1101(a)(15)), as amended by sections 104(g)(1) and 104(h)(3) of this Act, is amended—

(1) by striking "or" at the end of subparagraph (P),

(2) by striking the period at the end of subparagraph (Q) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(R) an alien, and the spouse and children of the alien if accompanying or following to join the alien, who—

"(i) for the 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States; and

"(ii) seeks to enter the United States for a period not to exceed 5 years to perform the work described in subclause (I), (II), or (III) of paragraph (27)(C)(ii).".

SEC. 106. DENIAL OF CREWMEMBER STATUS IN THE CASE OF CERTAIN LABOR DISPUTES.

(a) In General.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184), as amended by section 104, is further amended by adding at the end the following new subsection:

"(l)(1) No alien shall be entitled to nonimmigrant status under section 101(a)(15)(D) if the alien intends to land for the purpose of performing service on board a vessel of the United States (as defined in section 2101(46) of title 46, United States Code) or on an aircraft of an air carrier (as defined in section 101(3) of the Federal Aviation Act of 1958) during a labor dispute where there is a strike or lockout in the bargaining unit of the employer in which the alien intends to perform such service.

"(2) An alien described in paragraph (1)—

"(A) may not be paroled into the United States pursuant to section 212(d)(5) unless the Attorney General determines that the parole of such alien is necessary to protect the national security of the United States; and

"(B) shall be considered not to be a bona fide crewman for purposes of section 252(b).".

(b) Conforming Amendment.—Section 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)) is amended by inserting "or in section 214(l)" after "except as provided in subparagraph (B)".

(c) CONFORMING REPEAL.—Section 315(d) of the Immigration Reform and Control Act of 1986 (100 Stat. 3440) is hereby repealed.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to admissions occurring on or after the date of the enactment of this Act.

SEC. 107. EFFECTIVE DATES; TRANSITION.

(a) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this subtitle (other than by sections 102(f)(1) and 106) shall take effect on October 1, 1991, and shall not apply with respect to visas issued before such date.

(b) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—

(1) EFFECTIVE DATE.—The provisions of sections 201(b)(2)(A), 201(c) and 204(a)(2) of the Immigration and Nationality Act (insofar as they relate to treatment of spouses and children of aliens lawfully admitted for permanent residence as immediate relatives), as amended by sections 101 and 102 of this subtitle, shall be effective beginning with fiscal year 1991.

(2) TRANSITION.—In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1990, for preference status under section 203(a)(2) of such Act (as in effect before such date) as a spouse or child of an alien lawfully admitted for permanent residence, such petition shall be deemed as of October 1, 1990, to be a petition for immediate relative status described in section 201(b)(2)(A)(i) of such Act (as amended by this subtitle).

(c) TRANSITION FOR FOURTH AND FIFTH PREFERENCE.—In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1991, for preference status under section 203(a)(4) or 203(a)(5) of such Act (as in effect before such date), such petition shall be deemed as of October 1, 1991, to be a petition for preference status under section 203(a)(3) or 203(a)(4), respectively, of such Act.

Subtitle B—Education and Training of American Workers

SEC. 112. EDUCATIONAL ASSISTANCE AND TRAINING.

(a) USE OF FUND.—From the fees deposited each year in the account established under section 286(q)(5) of the Immigration and Nationality Act which are not used for scholarships under section 113, the Secretary of Labor shall provide for grants to States to provide educational assistance and training for United States workers. The Secretary shall consult with the Secretary of Education in making grants under this section.

(b) ALLOCATION OF FUNDS.—Within the purposes described in subsection (a), funds in the account used under this section shall be allocated among the States based on a formula, established jointly by the Secretaries of Labor and Education, that takes into consideration—

(1) the location of foreign workers admitted into the United States,

(2) the location of individuals in the United States requiring and desiring the educational assistance and training for which the funds can be applied, and

(3) the location of unemployed and underemployed United States workers.

(c) DISBURSEMENT TO STATES.—

(1) Within the purposes and allocations established under this section, disbursements shall be made to the States, in accordance with grant applications submitted to and approved jointly by the Secretaries of Labor and Education, to be applied in a manner consistent with the guidelines established by such Secretaries in consultation with the States. In applying such grants, the States shall consider providing funding to joint labor-management trust funds and other such non-profit organizations which have demonstrated capability and experience in directly training and educating workers.

(2) Not more than 5 percent of the funds disbursed to any State under this section may be used for administrative expenses.

(d) LIMITATION ON FEDERAL OVERHEAD.—The Secretaries shall provide that not more than 2 percent of the amount of funds disbursed to States under this section may be used by the Federal Government in the administration of this section.

(e) ANNUAL REPORT.—The Secretary of Labor shall report annually to the Congress on the grants to States provided under this section.

(f) STATE DEFINED.—In this section, the term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act.

SEC. 113. HIGHER EDUCATION SCHOLARSHIP PROGRAM FOR MATHEMATICS AND SCIENCES.

Ten percent of the fees deposited each year in the account established under section 286(q)(5) of the Immigration and Nationality Act shall be available to the Secretary of Education for the awarding (in a manner and amount specified by the Secretary) of scholarships to assist in the cost of postsecondary education of needy individuals who—

(1) are enrolled as full-time students in an accredited postsecondary institution,

(2) pursuing a course of study leading to a degree in mathematics or one or more of the sciences, and

(3) maintain satisfactory progress, as determined by the postsecondary institution the recipient is attending.

The Secretary shall enter into agreements with States to provide for the actual awarding of such scholarships by the States.

TITLE II—OTHER PROVISIONS REGARDING IMMIGRANT VISAS

SEC. 201. TRANSITION FOR ALIENS WHO ARE NATIVES OF CERTAIN ADVERSELY AFFECTED FOREIGN STATES.

(a) IN GENERAL.—Subject to the numerical limitations established under subsection (b), the Attorney General shall provide for the adjustment of status to that of an alien lawfully admitted for permanent residence on a conditional basis of an alien who is a native of an adversely affected foreign state (described in section 203(b)(2)(C)(iii) of the Immigration and Nationality Act, as amended by this Act) if the alien—

(1) applies to the Attorney General (beginning on such date as the Attorney General may specify) for such adjustment, and

(2) establishes in the application that the alien—

(A) is a native of such an adversely affected foreign state,

(B) entered the United States before January 1, 1990, and any period of authorized stay as a nonimmigrant expired before such date through the passage of time (and has not been subsequently extended),

(C) has been continuously resident in the United States since before January 1, 1990,

(D) has a firm commitment for employment in the United States for a period of at least 1 year (beginning on the date of adjustment of status under this section), and

(E) except as provided in subsection (d)(1), is admissible as an immigrant.

If the Attorney General receives more than 250,000 applications for adjustment of status under this subsection, the Attorney General may stop accepting applications under paragraph (1) until such date (if any) as the Attorney General determines to be appropriate.

(b) NUMERICAL LIMITATIONS.—

(1) The number of aliens whose status may be adjusted under subsection (a) in each of fiscal years 1991, 1992, and 1993 may not exceed 25,000.

(2) An alien's status may not be adjusted for any fiscal year not specified in paragraph (1).

(3) If the number of aliens eligible for adjustment under this section in any fiscal year exceeds the numerical limitation specified in paragraph (1), consideration shall be given in the order in which the aliens applied for such adjustment.

(c) REMOVAL OF CONDITIONAL STATUS.—

(1) In order for the conditional basis of permanent resident status provided under subsection (a) to be removed, an alien must submit, in a time and a manner specified by the Attorney General, written documentation that the alien has been substantially employed on a full-time basis during the 1-year period beginning on the date the alien was provided such status.

(2)(A) In the case of an alien with permanent resident status on a conditional basis under subsection (a), if the alien fails to submit written documentation required under paragraph (1) by the deadline specified by the Attorney General under such paragraph, the Attorney General shall terminate the permanent resident status as of such date as the Attorney General may specify.

(B) In any deportation proceeding with respect to an alien whose permanent resident status is terminated under subparagraph (A), the burden of proof shall be on the alien to establish compliance with the conditions described in paragraph (1).

(3) The Attorney General, in the Attorney General's discretion, may remove the conditional basis of the permanent resident status for an alien who fails to meet the requirements of paragraph (1) only if the alien demonstrates that extreme hardship would result if the alien is deported.

(4) Section 216(e) of the Immigration and Nationality Act shall apply to conditional permanent resident status under this section in the same manner as it applies to conditional permanent resident status under section 216 of such Act.

(d) MISCELLANEOUS PROVISIONS.—

(1) Aliens shall not be denied adjustment of status under this section on the grounds specified in paragraphs (20), (21), (25), or (32) of section 212(a) of the Immigration and Nationality Act, and the Attorney General may, in his discretion, waive the ground for exclusion specified in paragraph (19) of such section.

(2) Applications under subsection (a) shall be subject to paragraphs (5) and (6) of section 245A(c) of the Immigration and Nationality Act (relating to confidentiality and penalties for false statements) in the same manner as such paragraphs apply to applications under section 245A of such Act.

(3) In the case of a family, a single application for members of the family may be made under subsection (a).

SEC. 202. TRANSITION FOR CERTAIN DISPLACED ALIENS.

(a) AUTHORIZATION OF ADDITIONAL VISAS.—Notwithstanding the numerical limitations

in sections 201 and 202 of the Immigration and Nationality Act, there shall be made available to qualified displaced aliens described in subsection (b) not to exceed 15,000 immigrant visa numbers in each of fiscal years 1991, 1992, and 1993, of which not to exceed 1,000 of the total number of immigrant visas in all of such fiscal years shall only be available for qualified displaced aliens described in subsection (b)(1)(B) (or described in subsection (b)(2) as the spouse or child of such an alien).

(b) ELIGIBLE DISPLACED ALIENS.—

(1) An alien is eligible for a visa under this section if the alien—

(A)(i) is a native of a foreign state in Eastern Europe, and

(ii) since before October 1, 1989, has been continuously residing in another foreign state (other than the United States), but is not firmly resettled in that foreign state; or

(B)(i) is a native of Tibet, and

(ii) since before date of the enactment of this Act, has been continuously residing in India or Nepal.

For purposes of subparagraph (B)(i), an alien shall be considered to be a native of Tibet if the alien was born in Tibet or is the son, daughter, grandson, or granddaughter of an individual born in Tibet.

(2) A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the Immigration and Nationality Act) of an alien described in paragraph (1) shall, if not otherwise entitled to immigrant status and the immediate issuance of a visa under this section, be entitled to the same status, and the same order of consideration, provided under subsection (c), if accompanying or following to join his spouse or parent.

(c) DISTRIBUTION OF VISA NUMBERS.—The Secretary of State shall provide for making visa numbers provided under subsection (a) available—

(1) to displaced aliens described in subsection (b)(1)(A) (or described in subsection (b)(2) as the spouse or child of such an alien) in the same manner as visa numbers are otherwise available to qualified immigrants under section 203(a)(7) of the Immigration and Nationality Act (as in effect as of the date of the enactment of this Act), except that—

(A) preference shall be given to aliens who, before October 1, 1989, filed an application for refugee status with the Immigration and Naturalization Service or otherwise sought such status by registering with a voluntary agency (which is recognized by such Service and provides services to refugees in the Europe) for admission to the United States as a refugee, and

(B) subject to subparagraph (A), visa numbers shall be made available strictly in the chronological order in which the immigrants qualify after the date of the enactment of this Act; and

(2) to displaced aliens described in subsection (b)(1)(B) (or described in subsection (b)(2) as the spouse or child of such an alien) in an equitable manner, giving preference to those aliens who are not firmly resettled in India or Nepal or who are most likely to be resettled successfully in the United States.

SEC. 203. TRANSITION FOR AFRICAN IMMIGRANTS.

(a) AUTHORIZATION OF ADDITIONAL VISAS.—Notwithstanding the numerical limitations in section 201(a) of the Immigration and Nationality Act, but subject to the numerical limitations in section 202 of such Act, there shall be made available to qualified immigrants who are natives of a foreign state or dependent area in Africa not to exceed 15,000 immigrant visa numbers in each of fiscal years 1991, 1992, and 1993.

(b) DISTRIBUTION OF VISA NUMBERS.—

(1) The Secretary of State shall first provide for making visa numbers provided under subsection (a) available to qualified immigrants who have classification petitions approved, as of the date of the enactment of this Act, for a preference status described in paragraph (1), (2), (3), (4), (5), or (6) of section 203(a) of the Immigration and Nationality Act. Subject to paragraph (3), visa numbers shall be made available to qualified individuals under, and in the order of, the respective paragraphs without regard to any percentage limitations specified under any such paragraph.

(2) The Secretary of State shall provide for making any remaining visa numbers available to qualified immigrants strictly in the order in which they apply after the date of the enactment of this Act.

(3) Not more than 3,000 visa numbers may be made available in any fiscal year under this section to natives of any single foreign state or dependent area.

(c) DERIVATIVE STATUS.—A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the Immigration and Nationality Act) of a qualified immigrant under this section shall, if not otherwise entitled to immigrant status and the immediate issuance of a visa under this section, be entitled to the same status, and the same order of consideration, provided under subsection (b), if accompanying or following to join his spouse or parent.

SEC. 204. BACKLOG VISA NUMBERS FOR SECOND AND FIFTH PREFERENCES.

(a) IN GENERAL.—In addition to the number of immigrant visas otherwise made available in each of fiscal years 1991, 1992, 1993, 1994, and 1995 and without regard to the numerical limitations of sections 201 and 202 of the Immigration and Nationality Act, there shall be made available—

(1) to second preference immigrants (as defined in subsection (b)) 10,000 immigrant visa numbers, and

(2) to fifth preference immigrants (as defined in subsection (c)) 40,000 immigrant visa numbers.

Not more than 27 percent of each such worldwide level for a fiscal year shall be made available in any of the first 3 quarters of the fiscal year. In addition to such visa numbers and without regard to the numerical limitations of sections 201 and 202 of the Immigration and Nationality Act, there shall be made available in each of fiscal years 1991, 1992, 1993, 1994, and 1995, 250 immigrant visa numbers to second preference immigrants who are natives of Lebanon and are not firmly resettled in any foreign country outside Lebanon and 750 immigrant visa numbers to fifth preference immigrants who are natives of Lebanon and are not firmly resettled in any foreign country outside Lebanon.

(b) 2ND PREFERENCE IMMIGRANT DEFINED.—In subsection (a)(1), the term "second preference immigrant" means—

(1) an alien who is the beneficiary of a petition approved to accord status under section 203(a)(2) of the Immigration and Nationality Act, if the petition was filed before the date of the enactment of this Act, or

(2) the child of such an alien if accompanying or following to join the alien.

(c) 5TH PREFERENCE IMMIGRANT DEFINED.—In subsection (a)(2), the term "fifth preference immigrant" means—

(1) an alien who is the beneficiary of a petition approved to accord status under section 203(a)(5) of the Immigration and Nationality Act, if the petition was filed before the date of the enactment of this Act, or

(2) the spouse or child of such an alien if accompanying or following to join the alien.

(d) ORDER OF CONSIDERATION.—Immigrant visas shall be made available under this section in the order in which a petition in behalf of each such alien has been filed with the Attorney General under section 204 of the Immigration and Nationality Act.

SEC. 205. TRANSITION FOR THIRD AND SIXTH PREFERENCE.

(a) IN GENERAL.—In the case of any alien with respect to whom a classification petition has been filed under section 204(a) of the Immigration and Nationality Act for a classification described in paragraph (3) or (6) of section 203(a) of such Act (as in effect before the date of the enactment of this Act) before October 1, 1991, there shall be made available, in addition to the immigrant visas otherwise available in each of fiscal years 1991, 1992, 1993, 1994, and 1995, up to 25,000 additional immigrant visas which shall be made available to those aliens (and qualified relatives described in section 203(a)(8) of such Act, as in effect on the date of the enactment of this Act) without regard to section 202(a) of such Act.

(b) ALLOCATION.—Of the visa numbers made available each fiscal year under subsection (a)—

(1) visa numbers shall first be made available, in a number not to exceed 50 percent of the total number available, to qualified immigrants with respect to whom a classification petition was filed under section 203(a)(3) of the Immigration and Nationality Act, and

(2) visa numbers shall be made available in the same priority order in which such numbers were otherwise made available under section 203(a) of such Act.

(c) TRANSITION.—In the case of an alien—

(1) who, as of the date of the enactment of this Act, is in lawful status as a nonimmigrant described in subparagraph (H)(i) or (L) of section 101(a)(15) of the Immigration and Nationality Act, and

(2) for whom an application for labor certification under section 212(a)(14) of such Act has been filed as of such date,

the alien shall be considered to be a qualified alien described in section 203(b)(2) of such Act (as amended by this Act) and to have met the requirements of section 212(a)(14) of such Act if the labor certification is approved. In applying such section 203(b)(2) with respect to such an alien, the priority date shall be the date the application for labor certification was filed.

SEC. 206. TRANSITION FOR EMPLOYEES OF CERTAIN UNITED STATES BUSINESSES OPERATING IN HONG KONG.

(a) ADDITIONAL VISA NUMBERS.—

(1) TREATMENT OF PRINCIPALS.—In the case of any alien described in paragraph (3) with respect to whom a classification petition has been filed and approved under subsection (b), there shall be made available, in addition to the immigrant visas otherwise available in all of fiscal years 1992 through 1994 and without regard to section 202(a) of the Immigration and Nationality Act, up to 15,000 additional immigrant visas, of which not more than 7,500 may be made available in each of fiscal years 1992 and 1993.

(2) DERIVATIVE RELATIVES.—In the case of any alien who is the spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the Immigration and Nationality Act) of an alien entitled to immediate issu-

ance of a visa under paragraph (1), visas shall be made available without regard to any numerical limitation under such Act or this section if accompanying, or following to join, the alien's spouse or parent.

(3) EMPLOYEES OF CERTAIN UNITED STATES BUSINESSES OPERATING IN HONG KONG.—An alien is described in this paragraph if the alien—

(A) is a resident of Hong Kong and is employed in Hong Kong (and has been so employed during the 12 previous consecutive months) as an officer or supervisor or in a capacity that is managerial, executive, or involves specialized knowledge, by a business entity which (i) is owned and organized in the United States (or is the subsidiary or affiliate of a business owned and organized in the United States), (ii) employs at least 100 employees in the United States and at least 50 employees outside the United States, and (iii) has a gross annual income of at least $50,000,000, and

(B) has an offer of employment from such business entity in the United States as an officer or supervisor or in a capacity that is managerial, executive, or involves specialized knowledge, which offer (i) is effective from the time of filing the petition for classification under this section through and including the time of entry into the United States and (ii) provides for salary and benefits comparable to the salary and benefits provided to others with similar responsibilities and experience within the same company.

(b) PETITIONS.—Any employer desiring and intending to employ within the United States an alien described in subsection (a)(3) may file a petition with the Attorney General for such classification. No visa may be issued under subsection (a)(1) until such a petition has been approved.

(c) ALLOCATION.—Visa numbers made available under subsection (a) shall be made available in the order which petitions under subsection (b) are filed with the Attorney General.

(d) FEES.—The provisions of section 286(q) of the Immigration and Nationality Act (relating to fees for admission of certain employment-based aliens), as added by section 111 of this Act, shall apply to the aliens provided lawful permanent resident status under subsection (a)(1) in the same manner as they apply to aliens provided lawful permanent resident status under section 203(b)(2) of the Immigration and Nationality Act.

(e) DEFINITIONS.—In this section:

(1) EXECUTIVE CAPACITY.—The term "executive capacity" has the meaning given such term in section 101(a)(44)(B) of the Immigration and Nationality Act, as amended by section 102(d) of this Act.

(2) MANAGERIAL CAPACITY.—The term "managerial capacity" has the meaning given such term in section 101(a)(44)(A) of the Immigration and Nationality Act, as amended by section 102(d) of this Act.

(3) OFFICER.—The term "officer" means, with respect to a business entity, the chairman or vice-chairman of the board of directors of the entity, the chairman or vice-chairman of the executive committee of the board of directors, the president, any vice-president, any assistant vice-president, any senior trust officer, the secretary, any assistance secretary, the treasurer, any assistant treasurer, any trust officer or associate trust officer, the controller, any assistant controller, or any other officer of the entity customarily performing functions similar to those performed by any of the above officers.

(4) SPECIALIZED KNOWLEDGE.—The term "specialized knowledge" has the meaning given such term in section 214(c)(2)(B) of the Immigration and Nationality Act, as amended by section 104(f)(2) of this Act.

(5) SUPERVISOR.—The term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively recommend such action, if in connection with the foregoing the exercise of such authority is not merely of a routine or clerical nature, but requires the use of independent judgment.

SEC. 207. TREATMENT OF HONG KONG AS SEPARATE FOREIGN STATE FOR NUMERICAL LIMITATION PURPOSES.

In applying section 202 of the Immigration and Nationality Act for fiscal years beginning with fiscal year 1991, Hong Kong shall be treated as a separate foreign state, and not as a colony or other component or dependent area of a foreign state.

SEC. 208. PERMITTING EXTENSION OF PERIOD OF VALIDITY OF IMMIGRANT VISAS FOR CERTAIN RESIDENTS OF HONG KONG.

(a) EXTENDING PERIOD OF VALIDITY.—

(1) IN GENERAL.—Subject to paragraph (2), the limitation on the period of validity of an immigrant visa under section 221(c) of the Immigration and Nationality Act shall not apply in the case of an immigrant visa issued, on or after the date of the enactment of this Act and before September 1, 2001, to an alien described in subsection (b), but only if—

(A) the alien elects, within the period of validity of the immigrant visa under such section, to have this section apply, and

(B) before the date the alien seeks to be admitted to the United States for lawful permanent residence, the alien notifies the appropriate consular officer of the alien's intention to seek such admission and provides such officer with such information as the officer determines to be necessary to verify that the alien remains eligible for admission to the United States as an immigrant.

(2) LIMITATION ON EXTENSION.—In no case shall the period of validity of a visa be extended under paragraph (1) beyond January 1, 2002.

(3) TREATMENT UNDER NUMERICAL LIMITATIONS.—In applying the numerical limitations of sections 201 and 202 of the Immigration and Nationality Act in the case of aliens for whose visas the period of validity is extended under this section, such limitations shall only apply at the time of original issuance of the visas and not at the time of admission of such aliens.

(b) ALIENS COVERED.—An alien is described in this subsection if the alien is chargeable under section 202 of the Immigration and Nationality Act to Hong Kong (or is issued an immigrant visa under section 206(a) of this Act) and—

(1)(A) is residing in Hong Kong as of the date of the enactment of this Act and is issued an immigrant visa under paragraph (1), (2), (4), or (5) of section 203(a) the Immigration and Nationality Act (as in effect on the date of the enactment of this Act) or under section 203(a) or 203(b)(1) of such Act (as in effect on and after October 1, 1991), or

(B) is the spouse or child (as defined in subsection (d)) of an alien described in subparagraph (A), if accompanying or following to join the alien in coming to the United States; or

(2) is issued a visa under section 206(a) of this Act.

(c) TREATMENT OF CERTAIN EMPLOYEES IN HONG KONG.—

(1) IN GENERAL.—In applying the proviso of section 7 of the Central Intelligence Agency Act of 1949, in the case of an alien described in paragraph (2), the Director may charge the entry of the alien against the numerical limitation for any fiscal year (beginning with fiscal year 1991 and ending with fiscal year 1996) notwithstanding that the alien's entry is not made to the United States in that fiscal year so long as such entry is made before the end of fiscal year 1997.

(2) ALIENS COVERED.—An alien is described in this paragraph if the alien—

(A) is an employee of the Foreign Broadcast Information Service in Hong Kong, or

(B) is the spouse or child (as defined in subsection (d)) of an alien described in paragraph (1), if accompanying or following to join the alien in coming to the United States.

(d) TREATMENT OF CHILDREN.—In this section, the term "child" has the meaning given such term in section 101(b)(1) of the Immigration and Nationality Act and also includes (for purposes of this section and the Immigration and Nationality Act) an alien who was the child (as so defined) of the alien as of the date of the issuance of an immigrant visa to the alien described in subsection (b)(1) or, in the case described in subsection (c), as of the date of charging of the entry of the alien under the proviso under section 7 of the Central Intelligence Agency Act of 1949.

TITLE III—OTHER IMMIGRATION PROVISIONS

Subtitle A—Provisions Relating to Marriage Fraud

SEC. 301. BATTERED SPOUSE OR CHILD WAIVER OF THE CONDITIONAL RESIDENCE REQUIREMENT.

(a) IN GENERAL.—Section 216(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1186a(c)(4)) is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) in subparagraph (B), by striking "by the alien spouse for good cause";

(3) in subparagraph (B), by striking the period at the end and inserting ", or";

(4) by inserting after subparagraph (B) the following new subparagraph:

"(C) the qualifying marriage was entered into in good faith by the alien spouse and after the marriage the alien spouse or child was battered by or was the subject of extreme cruelty perpetrated by his or her spouse or citizen or permanent resident parent and the alien was not at fault in failing to meet the requirements of paragraph (1)."; and

(5) by adding at the end the following: "The Attorney General shall, by regulation, establish measures to protect the confidentiality of information concerning any abused alien spouse or child, including information regarding the whereabouts of such spouse or child.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to marriages entered into before, on, or after the date of the enactment of this Act.

SEC. 302. BONA FIDE MARRIAGE EXCEPTION TO FOREIGN RESIDENCE REQUIREMENT FOR MARRIAGES ENTERED INTO DURING CERTAIN IMMIGRATION PROCEEDINGS.

(a) IN GENERAL.—Section 245(e) of the Immigration and Nationality Act (8 U.S.C. 1255(e)) is amended—

(1) in paragraph (1), by striking "An alien" and inserting "Except as provided in paragraph (3), an alien", and

(2) by adding at the end the following new paragraph:

"(3) Paragraph (1) and section 204(h) shall not apply with respect to a marriage if the alien establishes to the satisfaction of the Attorney General that the marriage was entered into in good faith and in accordance with the laws of the place where the marriage took place and the marriage was not entered into for the purpose of procuring the alien's entry as an immigrant and no fee or other consideration was given (other than a fee or other consideration to an attorney for assistance in preparation of a lawful petition) for the filing of a petition under section 204(a) or 214(d) with respect to the alien spouse or alien son or daughter.".

(b) CONFORMING AMENDMENT.—Section 204(h) of such Act (8 U.S.C. 1154(h)) is amended by inserting "except as provided in section 245(e)(3)," after "Notwithstanding subsection (a),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to marriages entered into before, on, or after the date of the enactment of this Act.

Subtitle B—Provisions Relating to Immigration Reform and Control Act of 1986

SEC. 311. APPLICATION OF EMPLOYER SANCTIONS TO LONGSHORE WORK.

(a) IN GENERAL.—Section 274A(h) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULES RESPECTING LONGSHORE WORK.—

"(A) TREATMENT OF CERTAIN LONGSHORE WORK.—For purposes of this section, any person or other entity, including but not limited to ships agents, brokers, charterers, and procurers of labor, acting independently or on behalf of any other such person or entity, who brings into the United States (or coastal waters thereof) an individual who performs longshore work (as defined in subparagraph (D)), shall be considered to have hired such individual for employment in the United States within the meaning of subsection (a) as of the first date that the individual first performs such work.

"(B) PAPERWORK REQUIREMENT FOR LONGSHORE WORK.—In applying the requirements of paragraph (3) of subsection (b) (relating to retention of verification forms) to employment described in subparagraph (A), the person or entity shall designate, in writing to the Attorney General, a person or entity located at a port in the United States in the vicinity of the location of the longshore work involved who agrees to be responsible for the retention and making available for inspection of such forms under such paragraph.

"(C) NO AUTHORIZATION MERELY THROUGH CLASSIFICATION AS ALIEN CREWMEN.—The mere classification of an alien as a nonimmigrant under section 101(a)(15)(D) (without the document or documents described in subsection (b)(1)(E)(i) with respect to the alien) shall not be considered to authorize, for purposes of this section and section 274B, the performance of longshore work by that alien.

"(D) LONGSHORE WORK DEFINED.—In this paragraph and subsection (b)(1), the term 'longshore work' includes activities relating or incident to the loading or unloading of cargo, including the operation of cargo-related equipment, whether or not integral to the vessel, and the securing of the vessel, in the United States or the coastal waters thereof; except that, for purposes of subsection (b)(1)(E)(ii), such term includes such activities with respect to vessels in (or in the coastal waters of) the reciprocal foreign state.".

(b) EMPLOYMENT VERIFICATION SYSTEM.—Section 274A(b)(1) of such Act (8 U.S.C. 1324a(b)(1)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking "or";

(B) in clause (ii), by striking the period and inserting ", or"; and

(C) by inserting after clause (ii) the following new clause:

"(iii) with respect to longshore work, the document or documents described in subparagraph (E)(i)."; and

(2) by adding at the end the following new subparagraph:

"(E) DOCUMENTS ESTABLISHING RECIPROCITY OF LONGSHORE WORK.—

"(i) IN GENERAL.—The document or documents described in this clause with respect to an individual's performance of longshore work are such a document or documents, in a form acceptable to the Attorney General, that establish that—

"(I) the individual is a national of a reciprocal foreign state (described in clause (ii)), and

"(II) the individual will perform such work in connection with a vessel that is documented and enrolled with a reciprocal foreign state.

"(ii) RECIPROCAL FOREIGN STATE DEFINED.—In clause (i), the term 'reciprocal foreign state' means a foreign state which the Attorney General has determined, in accordance with section 553 of title 5, United States Code—

"(I) has in effect immigration laws and regulations which authorize, on a nationwide basis, the performance of longshore work by United States nationals who are crewmembers of vessels which are documented and enrolled in the United States; and

"(II) in the territory or coastal waters of which United States nationals described in subclause (I) have performed such work during the six months preceding the application of clause (i) with respect to a national of the state or vessel documented and enrolled with the state.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed on or after the date of the enactment of this Act.

SEC. 312. ELIMINATION OF PAPERWORK REQUIREMENT FOR RECRUITERS AND REFERRERS.

(a) IN GENERAL.—Section 274A(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)(1)) is amended—

(1) by striking "to hire, or to recruit or refer for a fee, for employment in the United States",

(2) in subparagraph (A), by inserting after "(A)" the following: "to hire, or to recruit or refer for a fee, for employment in the United States", and

(3) in subparagraph (B), by inserting after "(B)" the following: "(i) to hire for employment in the United States an individual without complying with the requirements of subsection (b) or (ii) if the person or entity is an agricultural association, agricultural employer, or farm labor contractor (as defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act), to hire, or to recruit or refer for a fee, for employment in the United States".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to recruiting and referring occurring on or after the date of the enactment of this Act.

SEC. 313. PERMITTING COURT-ORDERED REMEDIES IN CERTAIN CIRCUMSTANCES.

(a) IN GENERAL.—Nothing in the provisions of the Immigration Reform and Control Act of 1986, including the provisions inserted or amended by such Act, (all such provisions referred to collectively in this section as "IRCA") shall be construed—

(1) as preventing judicial review under chapter 7 of title 5, United States Code, under section 1331 of title 28, United States Code, or under section 279 of the Immigration and Nationality Act, of regulations, policies, and practices governing the adjustment of status under IRCA, or

(2) as preventing such a court from ordering, as a remedy in an action brought (before, on, or after the date of the enactment of this Act) challenging such regulations, policies, or practices, the Attorney General—

(A) to accept applications for adjustment of status under IRCA without regard to any application periods established under IRCA for a reasonable period (of not longer than 6 months with respect to any class, except as may be extended as a result of an appeal taken by the Government) specified by the court;

(B) to reopen and readjudicate applications for adjustment of status under IRCA that have been denied; and

(C) to grant temporary stays of deportation and temporary employment authorization for applicants whose applications for adjustment of status under IRCA are reopened or who are permitted to file such applications pursuant to a court-mandated remedy.

(b) EFFECTIVE DATE.—Subsection (a) shall apply as of the date of the enactment of the Immigration Reform and Control Act of 1986.

(c) CONSTRUCTION.—Subsection (a) shall not be construed—

(1) as permitting the Attorney General to appeal any court determination invalidating any rule, regulation, or policy governing the adjustment of status under IRCA if the Attorney General had an opportunity to appeal such a determination but failed to do so in a timely manner, or

(2) as applying to an applicant for adjustment to lawful temporary residence (or from lawful temporary resident status to lawful permanent resident status) who seeks to challenge a denial of an individual application for such adjustment based upon factual determinations made by the Immigration and Naturalization Service regarding the individual applicant's eligibility for such adjustment.

SEC. 314. PROHIBITION OF DEPORTATION OF SPOUSES AND CHILDREN OF LEGALIZED ALIENS.

(a) TEMPORARY STAY OF DEPORTATION AND WORK AUTHORIZATION FOR CERTAIN ELIGIBLE IMMIGRANTS.—

(1) IN GENERAL.—The Attorney General shall provide that in the case of an alien who is an eligible immigrant (as defined in subsection (b)(1)) as of January 1, 1990, who has entered the United States before such date, who resides in the United States on such date, and who is not lawfully admitted for permanent residence, subject to paragraph (2), the alien—

(A) may not be deported or otherwise required to depart from the United States, and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit.

(2) Effective date of applicability.—For purposes of paragraph (1), in the case of an eligible immigrant who is the spouse or child of a legalized alien, paragraph (1) shall only apply on and after the date the legalized alien—

(A) has been granted permanent resident status,

(B) has completed a declaration of intention to become a citizen, and

(C) has submitted a classification petition under under section 204 of the Immigration and Nationality Act to classify the eligible immigrant as a preference immigrant described in section 203(a)(2) of such Act or as an immediate relative described in section 201(b) of such Act.

(3) Termination of applicability.—

(A)(i) Paragraph (1) shall not apply 6 months after the date the Immigration and Naturalization Service has provided the legalized alien with written notice (described in clause (ii)) unless the alien has applied for such naturalization.

(ii) The written notice referred to in clause (i) is a written notice (by certified mail, return receipt requested, in the alien's native language) stating that—

(I) the alien has become (before the date the notice is provided) eligible (by virtue of period of lawful permanent residence) to apply for naturalization, and

(II) application for naturalization must be made within 6 months to continue the benefits of this subsection.

(B) Paragraph (1) shall not apply 2 years after the date of filing a timely application for naturalization unless the alien has been naturalized as a citizen or establishes that the alien has actively pursued naturalization. Time consumed in the Service's processing the application shall not be counted toward the 2-year period.

(b) Eligible Immigrant and Legalized Alien Defined.—In this section:

(1)(A) The term "eligible immigrant" means a qualified immigrant who is the spouse or child of a legalized alien and who, except as otherwise provided under subparagraph (B), is admissible as an immigrant and is not described in subparagraph (C).

(B) In the determination of an alien's admissibility as an immigrant for purposes of subparagraph (A)—

(i) the provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply;

(ii) except as provided in clause (iii), the Attorney General may waive any other provision of such section in the case of individual aliens when it is in the public interest; but

(iii) the Attorney General may not waive—

(I) paragraphs (9) and (10) (relating to criminals) of such section;

(II) paragraph (23) (relating to drug offenses) of such section, except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marijuana;

(III) paragraphs (27) and (29) (relating to national security) of such section; or

(IV) paragraph (33) (relating to those who assisted in the Nazi persecution) of such section.

(C) An alien shall not be eligible for the benefits of this section if the Attorney General finds that—

(i) the alien has been convicted of a felony or 2 or more misdemeanors in the United States, or

(ii) the alien is described in section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)).

(2) The term "legalized alien" means an alien lawfully admitted for temporary or permanent residence who was provided—

(A) temporary or permanent residence status under section 245A of the Immigration and Nationality Act,

(B) temporary or permanent residence status under section 210 of the Immigration and Nationality Act, or

(C) permanent residence status under section 202 of the Immigration Reform and Control Act of 1986.

(c) Application of Definitions.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section.

(d) Temporary Disqualification From Certain Public Welfare Assistance.—Aliens provided the benefits of this section by virtue of their relation to a legalized alien described in subsection (b)(2)(A) or (b)(2)(B) shall be ineligible for public welfare assistance in the same manner and for the same period as the legalized alien is ineligible for such assistance under section 245A(h) or 210(f), respectively, of the Immigration and Nationality Act.

(e) Application of SLIAG Program.—For purposes of section 204 of the Immigration Reform and Control Act of 1986, an alien who is the spouse or child of a legalized alien and whose deportation is suspended under this section shall be treated as an eligible legalized alien for the same period as such legalized alien is.

(f) Construction.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to obtain benefits under this section.

SEC. 315. TREATMENT OF CERTAIN LEGALIZATION APPLICANTS.

(a) In General.—Section 204(c)(1) of the Immigration Reform and Control Act of 1986 is amended by adding at the end the following: "For purposes of subparagraphs (A) and (C), the term 'eligible legalized alien' includes an alien who applies on a timely basis to become an eligible legalized alien beginning on the date that the alien applies for lawful temporary status under section 210, 210A, or 245A of the Immigration and Nationality Act and ending on the date that there has been a final determination with respect to such application.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Immigration Reform and Control Act of 1986.

SEC. 316. REIMBURSEMENT THROUGH IMMIGRATION EMERGENCY FUND OF LOCALITIES IMPACTED BY INCREASES IN ALIENS APPLYING FOR ASYLUM.

(a) In General.—Section 404(b) of the Immigration and Nationality Act (8 U.S.C. 1101 note), as added by section 113 of the Immigration Reform and Control Act of 1986, is amended—

(1) by inserting "to carry out paragraph (2) and" after "to be used",

(2) by inserting "(1)" after "(b)", and

(3) by adding at the end the following new paragraph:

"(2)(A) Whenever a district director of the Service certifies to the Commissioner that the number of asylum applications filed in the respective district during a calendar quarter exceeds by at least 1,000 the number of such applications filed in that district during the preceding calendar quarter, subject to subparagraph (B), funds in the immigration emergency fund provided for under paragraph (1) shall be available for reimbursement of localities that have provided assistance to aliens in that district who have asylum applications pending.

"(B) Not more than $20,000,000 shall be made available for all localities under this paragraph.".

(b) Effective Date.—The amendments made by subsection (a) shall apply with respect to increases in the number of asylum applications filed in a calendar quarter beginning on or after January 1, 1989.

SEC. 317. CLARIFICATION OF AUTHORIZATION OF APPROPRIATIONS FOR THE IMMIGRATION EMERGENCV FUND.

(a) In General.—Section 404(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101 note), as amended by section 316(a) of this Act, is amended—

(1) by inserting "(for fiscal year 1991 and any subsequent fiscal year)" after "appropriated", and

(2) by striking "$35,000,000" and inserting "an amount sufficient to provide for a balance of $35,000,000 in such fund".

(b) Effective Date.—The amendments made by subsection (a) shall be effective as if included in the enactment of the Immigration Reform and Control Act of 1986.

Subtitle C—Miscellaneous

SEC. 321. SPECIAL IMMIGRANT STATUS FOR CERTAIN ALIENS DECLARED DEPENDENT ON A JUVENILE COURT.

(a) In General.—Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)), as amended by section 102(e)(1) of this Act, is amended—

(1) by striking "or" at the end of subparagraph (I),

(2) by striking the period at the end of subparagraph (J) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(K) an immigrant who (i) who has been declared dependent on a juvenile court located in the United States and has been deemed eligible by that court for long-term foster care, and (ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence.".

(b) Waiver of Grounds for Deportation.—Section 241 of such Act (8 U.S.C. 1251) is amended by adding at the end the following new subsection:

"(h) Paragraphs (1), (2), (5), (9), or (12) of subsection 241 (other than so much of subsection (a)(1) as relates to a ground of exclusion described in paragraph (9), (10), (23), (27), (29), or (33) of section 212(a)) shall not apply to a special immigrant described in section 101(a)(27)(K) based upon circumstances that exist before the date the alien was provided such special immigrant status.".

SEC. 322. STATISTICAL INFORMATION SYSTEM.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following new subsection:

"(c) The Commissioner, in consultation with interested academicians, government agencies, and other parties, shall provide for a system for collection and dissemination, to Congress and the public, of information (not in individually identifiable form) useful in evaluating the social, economic, environmental, and demographic impact of immigration laws. Such information shall include information on the alien population in the United States, on the rates of naturalization and emigration of resident aliens, on aliens who have been admitted, paroled, or granted asylum, on nonimmigrants in the United States (by occupation, basis for admission, and duration of stay), and on aliens who have been excluded or deported from the United States. Such system shall provide for the collection and dissemination of such information not less often than annually.".

SEC. 323. REVISION OF HEALTH GROUNDS FOR EXCLUSION.

(a) In General.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) by amending paragraph (1) of subsection (a) to read as follows:

"(1) Any alien who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services)—

"(A) to have a physical or mental disorder, and exhibits a current behavior or has a history of behavior (associated with the disorder) that (i) poses or has posed a threat to property or the safety or welfare of the alien or others and (ii) as to a history of behavior, has occurred so recently (taking into account the naturel of the disorder) as to suggest the likelihood of its recurrence or the occurrence of other harmful behavior, or

"(B) to be a drug abuser or addict;";

(2) by striking paragraphs (2) through (5) and (11) of subsection (a); and

(3) in subsection (g)—

(A) by striking "who is excludable from the United States under paragraph (1) of subsection (a) of this section, or any alien", and

(B) by striking the second sentence and inserting the following: "The Attorney General may waive the application of subsection (a)(1)(A) in the case of any immigrant, in accordance with such terms, conditions, and controls, if any, including the giving of bond, as the Attorney General, in his discretion after consultation with the Secretary of Health and Human Services, may by regulation prescribe.".

(b) Conforming Amendments.—

(1) Section 234 of such Act (8 U.S.C. 1224) is amended by striking "paragraphs (1), (2), (3), (4), or (5)" and inserting "paragraph (1)" each place it appears.

(2) Section 236(d) of such Act (8 U.S.C. 1226(d)) is amended by striking "paragraphs (1), (2), (3), (4), or (5) of section 212(a)" and inserting "section 212(a)(1)".

(3) Section 272(a) of such Act (8 U.S.C. 1322(a)) is amended—

(A) by striking "(1) mentally retarded" and all that follows through "(6) a narcotic drug addict" and inserting "excludable under section 212(a) (1) or (6)", and

(B) by striking "such disease or disability" and inserting "the excluding condition".

(c) Effective Date.—The amendments made by this section shall apply to individuals entering the United States on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 324. TEMPORARY PROTECTED STATUS FOR NATIONALS OF EL SALVADOR, LEBANON, LIBERIA, AND KUWAIT, AND OTHER DESIGNATED FOREIGN STATES.

(a) In General.—The Immigration and Nationality Act is amended by inserting after section 244 the following new section:

"TEMPORARY PROTECTED STATUS

"Sec. 244A. (a) Granting of Status.—

"(1) In general.—In the case of an alien who is a national of a foreign state designated under subsection (b) and who meets the requirements of subsection (c), the Attorney General, in accordance with this section—

"(A) shall grant the alien temporary protected status in the United States and shall not deport the alien from the United States during the period in which such status is in effect, and

"(B) shall authorize the alien to engage in employment in the United States and provide the alien with an 'employment authorized' endorsement or other appropriate work permit.

"(2) Duration of work authorization.—Work authorization provided under this section shall be effective throughout the period the alien is in temporary protected status under this section.

"(3) Notice of rights.—

"(A) Upon the granting of temporary protected status under this section, the Attorney General shall notify the alien of the alien's rights and responsibilities under this section.

"(B) If, at the time of initiation of a deportation proceeding against an alien, the foreign state (of which the alien is a national) is designated under subsection (b), the Attorney General shall promptly notify the alien of the alien's potential rights and responsibilities under this section.

"(C) If, at the time of designation of a foreign state under subsection (b), an alien (who is a national of such state) is in a deportation proceeding under this title, the Attorney General shall promptly notify the alien of the alien's potential rights and responsibilities under this section.

"(D) Notices under this paragraph shall be provided in a form and language that the alien can understand.

"(4) Temporary rights for eligible aliens.—

"(A) In the case of an alien who can establish a prima facie case of eligibility for rights under paragraph (1), but for the fact that the period of registration under subsection (c)(1)(A)(iv) has not begun, until the alien has had a reasonable opportunity to register during the first 30 days of such period, the Attorney General shall provide for the rights described in paragraph (1).

"(B) In the case of an alien who establishes a prima facie case of eligibility for rights under paragraph (1), until a final determination with respect to the alien's eligibility for rights under paragraph (1) has been made, the alien shall be provided such rights.

"(5) Clarification.—Nothing in this section shall be construed as authorizing the Attorney General to deny temporary protected status to an alien based on the alien's immigration status or to require any alien, as a condition of being granted such status, either to relinquish nonimmigrant or other status the alien may have or to execute any waiver of other rights under this Act. The granting of temporary protected status under this section shall not be considered to be inconsistent with the granting of nonimmigrant status under this Act.

"(b) Designations of El Salvador, Lebanon, Liberia, and Kuwait and Foreign States in General.—

"(1) Designation of el salvador, lebanon, liberia, and kuwait.—El Salvador, Lebanon, Liberia, and Kuwait are hereby designated under this subsection.

"(2) Designation of foreign states in general.—The Attorney General, after consultation with appropriate agencies of the Government, shall designate any foreign state (or, in the case of a finding under subparagraph (B), all or any part of such foreign state) under this subsection only if—

"(A) the Attorney General finds that there is an ongoing armed conflict within the state and, due to such conflict, requiring the return of aliens who are nationals of that state to that state would pose a substantial threat to their personal safety;

"(B) the Attorney General finds that—

"(i) there has been an earthquake, flood, drought, epidemic, or other environmental disaster in the state resulting in a substantial, but temporary, disruption of living conditions in the area affected,

"(ii) the foreign state is unable, temporarily, to handle adequately the return to the state of aliens who are nationals of the state, and

"(iii) the foreign state officially has requested designation under this subparagraph; or

"(C) the Attorney General finds that there exist extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety, unless the Attorney General finds that permitting the aliens to remain temporarily in the United States is contrary to the national interest of the United States.

A designation of a foreign state (or, in the case of a determination under subparagraph (B), all or any part of such foreign state) under this paragraph shall not become effective unless notice of the designation (including a statement of the findings under this paragraph and the effective date of the designation) is published in the Federal Register. In such notice, the Attorney General shall also state an estimate of the number of nationals of the foreign state designated who are (or within the effective period of the designation are likely to become) eligible for temporary protected status under this section and their immigration status in the United States.

"(3) Effective period of designation for el salvador, lebanon, liberia, and kuwait.—The designation of El Salvador, Lebanon, Liberia, and Kuwait under paragraph (1) shall take effect upon the date of the enactment of this section and shall remain in effect until the effective date of the termination of the respective designation under paragraph (5)(B). For purposes of applying the succeeding provisions of this section, each of such states shall be considered to have been designated based upon findings described in subparagraphs (A) and (C) of paragraph (2). For purposes of this section, the initial period of designation for El Salvador, Lebanon, Liberia, and Kuwait under paragraph (1) is 3 years.

"(4) Effective period of designation for other foreign states.—The designation of a foreign state (or, in the case of a determination under paragraph (2)(B), all or any part of such foreign state) under paragraph (2) shall—

"(A) take effect upon the date of publication of the designation under such paragraph, or such later date as the Attorney General may specify in the notice published under such paragraph, and

"(B) shall remain in effect until the effective date of the termination of the designation under paragraph (5)(B).

For purposes of this section, the initial period of designation of a foreign state (or part thereof) under paragraph (2) is the period, specified by Attorney General, of not less than 6 months and not more than 18 months.

"(5) Periodic review, terminations, and extensions of designations.—

"(A) Periodic review.—At least 60 days before end of the initial period of designa-

tion, and any extended period of designation, of a foreign state (or part thereof) under this section the Attorney General, after consultation with appropriate agencies of the Government, shall review the conditions in the foreign state (or, in the case of a determination under paragraph (2)(B), all or any part of such foreign state) for which a designation is in effect under this subsection and shall determine whether the conditions for such designation under this subsection continue to be met. The Attorney General shall provide on a timely basis for the publication of notice of each such determination (including the basis for the determination, and, in the case of an affirmative determination, the period of extension of designation under subparagraph (C)) in the Federal Register.

"(B) Termination of Designation.—If the Attorney General determines under subparagraph (A) that a foreign state (or, in the case of a determination under paragraph (2)(B), all or any part of such foreign state) no longer continues to meet the conditions for designation under paragraph (2), the Attorney General shall terminate the designation by publishing notice in the Federal Register of the determination under the subparagraph (including the basis for the determination). Such termination is effective in accordance with subsection (d)(3), but shall not be effective earlier than 60 days after the date the notice is published or, if later, the expiration of the most recent previous extension under subparagraph (C) and, with respect to the designation of El Salvador, Lebanon, Liberia, and Kuwait under paragraph (1), shall not be effective before the end of the 3-year period beginning on the date of the enactment of this section.

"(C) Extension of designation.—If the Attorney General does not determine under subparagraph (A) that foreign state (or, in the case of a determination under paragraph (2)(B), all or any part of such foreign state) no longer meets the conditions for designation under paragraph (2), the period of designation of the foreign state is extended for an additional period of 6 months (or, in the discretion of the Attorney General, a period of 12 or 18 months).

"(6) Information concerning protected status at time of designations.—Within the amounts otherwise appropriated to carry out this Act, at the time of a designation of a foreign state under this subsection (including the designation of El Salvador, Lebanon, Liberia, and Kuwait under paragraph (1)), the Attorney General shall make available information respecting the temporary protected status made available to aliens who are nationals of such designated foreign state.

"(7) Review.—

"(A) Designations.—There is no judicial review of any determination of the Attorney General with respect to the designation, or termination or extension of a designation, of a foreign state under this subsection.

"(B) Application to individuals.—The Attorney General shall establish an administrative procedure for the review of the denial of rights to aliens under this subsection; except that such procedure shall not prevent an alien from asserting rights under this section in deportation proceedings.

"(c) Aliens Eligible for Temporary Protected Status.—

"(1) In general.—

"(A) Salvadoran, Lebanese, Liberian, and Kuwaiti nationals.—Subjects to paragraph (3), an alien who is a national of El Salvador, Lebanon, Liberia, or Kuwait (for the period such respective state is designated under subsection (b)(1)) meets the requirements of this paragraph only if—

"(i) the alien has been continuously physically present in the United States since the date of the enactment of this section;

"(ii) the alien has continuously resided in the United States since September 19, 1990;

"(iii) the alien is admissible as an immigrant, except as otherwise provided under paragraph (2)(A), and is not ineligible for temporary protected status under paragraph (2)(B); and

"(iv) the alien registers under this section within the 270-day registration period (established by the Attorney General) beginning not later than 60 days after the date of the enactment of this section.

"(B) Nationals of designated foreign states in general.—Subject to paragraph (3), an alien, who is a national of a state designated under subsection (b)(2), meets the requirements of this paragraph only if—

"(i) the alien has been continuously physically present in the United States since the effective date of the most recent designation of that state;

"(ii) the alien has continuously resided in the United States since such date as the Attorney General may designate;

"(iii) the alien is admissible as an immigrant, except as otherwise provided under paragraph (2)(A), and is not ineligible for temporary protected status under paragraph (2)(B); and

"(iv) to the extent and in a manner which the Attorney General establishes, the alien registers for the temporary protected status under this section during a registration period of not less than 180 days.

"(C) Registration fee.—The Attorney General may require payment of a reasonable fee as a condition of registering an alien under subparagraph (A)(iv) or (B)(iv) (including providing an alien with an 'employment authorized' endorsement or other appropriate work permit under this section). The amount of any such fee shall not exceed $50.

"(2) Eligiblity standards.—

"(A) Waiver of certain grounds for inadmissibility.—In the determination of an alien's admissibility for purposes of subparagraphs (A)(iii) and (B)(iii) of paragraph (1)—

"(i) the provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) shall not apply;

"(ii) except as provided in clause (iii), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest; but

"(iii) the Attorney General may not waive—

"(I) paragraphs (9) and (10) (relating to criminals) of such section;

"(II) paragraph (23) of such section (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marijuana;

"(III) paragraph (27) and (29) of such section (relating to national security); or

"(IV) paragraph (33) of such section (relating to those who assisted in the Nazi persecution).

"(B) Aliens ineligible.—An alien shall not be eligible for temporary protected status under this section if the Attorney General finds that—

"(i) the alien has been convicted of any felony or 2 or more misdemeanors committed in the United States; or

"(ii) the alien is described in section 243(h)(2).

"(3) Withdrawal of temporary protected status.—The Attorney General shall withdraw temporary protected status granted to an alien under this section if—

"(A) the Attorney General finds that the alien was not in fact eligible for such status under this section,

"(B) except as provided in paragraph (4) and permitted in subsection (f)(4), the alien has not remained continuously physically present in the United States from the date the alien first was granted temporary protected status under this section, or

"(C) the alien fails, without good cause, to register with the Attorney General annually, at the end of each 12-month period after the granting of such status, in a form and manner specified by the Attorney General.

"(4) Treatment of brief, casual, and innocent departures and certain other absences.—

"(A) For purposes of paragraphs (1)(A)(i), (1)(B)(i), and (3)(B), an alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences from the United States, without regard as to whether such absences were authorized by the Attorney General.

"(B) for purposes of paragraphs (1)(A)(ii) and (1)(B)(ii), an alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual, and innocent absence described in subparagraph (A) or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

"(5) Construction.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to apply for temporary protected status under this section.

"(6) Restriction on disclosure of information.—The provisions of section 245A(c)(5) shall apply to information furnished by an alien in order to be granted temporary protected status under this section in the same manner as such provisions apply with respect to information furnished pursuant to an application section 245a.

"(d) Documentation.—

"(1) Initial issuance.—Upon the granting of temporary protected status to an alien under this section, the Attorney General shall provide for the issuance of such temporary documentation and authorization as may be necessary to carry out the purposes of this section.

"(2) Period of validity.—Subject to paragraph (3), such documentation shall be valid during the initial period of designation of the foreign state (or part thereof) involved and any extension of such period. The Attorney General may stagger the periods of validity of the documentation and authorization in order to provide for an orderly renewal of such documentation and authorization and for an orderly transition (under paragraph (3)) upon the termination of a designation of a foreign state (or, in the case of a determination under subsection (b)(2)(B), all or any part of such foreign state).

"(3) Effective date of terminations.—If the Attorney General terminates the designation of a foreign state (or, in the case of a determination under subsection (b)(2)(B), all or any part of such foreign state) under subsection (b)(4)(B), such termination shall only apply to documentation and authorization issued or renewed after the effective date of the publication of notice of the determination under that subsection (or, at the Attorney General's option, after such period after the effective date of the determination as the Attorney General determines to be appropriate in order to provide for an orderly transition).

"(4) Detention of the alien.—Nothing in this section shall be construed to authorize the detention of any alien who is eligible for temporary protected status under this section. An alien provided temporary protected status under this section shall not be detained by the Attorney General on the basis of the alien's immigration status in the United States.

"(e) Relation of Period of Temporary Protected Status to Suspension of Deportation.—With respect to an alien granted temporary protected status under this section, the period of such status shall not be counted as a period of physical presence in the United States for purposes of section 244(a), unless the Attorney General determines that extreme hardship exists. Such period shall not cause a break in the continuity of residence of the period before and after such period for purposes of such section.

"(f) Benefits and Status During Period of Temporary Protected Status.—During a period in which an alien is granted temporary protected status under this section—

"(1) the alien shall not be considered to be permanently residing in the United States under color of law;

"(2) the alien shall not be eligible for any program of cash assistance (furnished directly or through reimbursement) under Federal law, except for treatment for an emergency medical condition as described in section 1903(v) of the Social Security Act;

"(3) the alien may be deemed ineligible for public assistance by a State (as defined in section 101(a)(36)) or any political subdivision thereof which furnishes such assistance;

"(4) the alien may travel abroad with the prior consent of the Attorney General; and

"(5) for purposes of adjustment of status under section 245 and change of status under section 248, the alien shall be considered as being in, and maintaining, lawful status as a nonimmigrant.

"(g) Exclusive Remedy.—Except as otherwise specifically provided, this section shall constitute the exclusive authority of the Attorney General under law to permit aliens who are or may become otherwise deportable or have been paroled into the United States to remain in the United States temporarily because of their particular nationality or region of foreign state of nationality.

"(h) Annual Report.—Not later than March 1 of each year (beginning with 1991), the Attorney General, after consultation with the appropraite agencies of the Government, shall submit a report to the Congress on the operation of this section during the previous year. Each report shall include—

"(1) a listing of the foreign state or parts thereof designated under this section,

"(2) the number of nationals of each such state who have been granted temporary protected status under this section and their immigration status before being granted such status, and

"(3) an explanation of the reasons why foreign states or parts thereof were designated under subsection (b)(2) and, with respect to foreign states or parts thereof previously designated, why the designation was terminated or extended under such subsection.

"(i) Congressional Review of Report.—

"(1) Referral of report.—Each report, when submitted under subsection (h), shall be referred, in accordance with the rules of the respective House of Congress, to the standing committee or committees having jurisdiction over the subjects of the report, and the report shall be printed as a document of the House of Representatives.

"(2) Committee hearings.—No later than 90 days after the date of the referral of a report to a committee, in accordance with the rules of the respective House, the committee shall initiate hearings, insofar as such committee has legislative or oversight jurisdiction, to consider—

"(A) the findings of the report,

"(B) the designations of foreign states under subsection (b), and

"(C) whether it is appropriate to change the designations of foreign states under subsection (b) or otherwise to change the protections afforded under this section.

"(3) Committee report.—No later than 180 days after the date of the referral of such a report to a committee, in accordance with the rules of the respective House, the committee shall report to its respective House its oversight findings and any legislation it deems appropriate.".

(b) Clerical Amendment.—The table of contents of such Act is amended by inserting after the item relating to section 244 the following new item:

"Sec. 244A. Temporary protected status."

(c) No Affect on Executive Order 12711.—Notwithstanding subsection (g) of section 244A of the Immigration and Nationality Act (inserted by the amendment made by subsection (a)), such section shall not supercede or affect Executive Order 12711 (April 11, 1990, relating to policy implementation with respect to nationals of the Peopls's Republic of China).

SEC. 325. WAIVER OF ENGLISH LANGUAGE REQUIREMENT FOR NATURALIZATION.

Section 312(1) of the Immigration and Nationality Act (8 U.S.C. 1423(1)) is amended by striking "is over fifty years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence" and inserting "either (A) is over 50 years of age and has been living in the United States for periods totaling at least 20 years subsequent to a lawful admission for permanent residence, or (B) is over 55 years of age and and has been living in the United States for periods totaling at least 15 years subsequent to a lawful admission for permanent residence".

SEC. 326. TREATMENT OF SERVICE IN ARMED FORCES OF A FOREIGN COUNTRY.

(a) In General.—Section 315 of the Immigration and Nationality Act (8 U.S.C. 1425) is amended—

(1) in subsection (a), by inserting "but subject to subsection (c)" after "section 405(b)", and

(2) by adding at the end the following new subsection:

"(c) An alien shall not be ineligible for citizenship under this section or otherwise because of an exemption from training or service in the Armed Forces of the United States pursuant to the exercise of rights under a treaty, if before the time of the exercise of such rights the alien served in the Armed Forces of a foreign country of which the alien was a national.".

(b) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to exemptions from training or service obtained before, on, or after such date.

The CHAIRMAN. Only amendments printed in part 2 of House Report 101-786 are in order to the substitute as modified. Such amendments shall be considered in the order and manner specified in House Report 101-786, shall be considered as having been read, shall not be subject to amendment, and shall be indivisible. Debate time specified in the report shall be equally divided and controlled by the proponent and a Member opposed.

It is now in order to consider amendment No. 1 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Smith of Texas: Page 4, line 9, insert after "185,000" the following: "(reduced by the fraction described in subsection (d)(1))".

Page 4, line 17, insert after "65,000" the following: "(reduced by the fraction described in subsection (d)(1))".

Page 4, line 18, insert after "75,000" the following: "(reduced by the fraction described in subsection (d)(1))".

Page 5, line 3, insert after "55,000" the following: "(reduced by the fraction described in subsection (d)(1))".

Page 7, line 3, strike all that follows the first period.

Page 7, line 3, insert the following new subsection:

"(d) Worldwide Levels of Immigration.—

"(1) In general.—The worldwide level of immigration described in this subsection for a fiscal year is equal to—

"(A) 630,000, minus

"(B) the number of certain aliens not subject to direct numerical limitations (as computed under paragraph (2)).

If, for any fiscal year, the sum of the numerical limitations for the fiscal year otherwise provided under subsection (a) (without regard to this subsection) is greater than the worldwide level of immigration described in the previous sentence, each of the numerical limitations specified for the fiscal year under paragraphs (1) through (3) of subsection (a) shall be multiplied by a fraction which is the ratio of such worldwide limitation to the sum of such numerical limitations.

"(2) Reduction for exempt aliens.—The number computed under this paragraph for a fiscal year is the sum of—

"(A) the number of aliens described in subparagraph (A) or (B) of subsection (b)(2) who were provided lawful permanent resident status in the previous fiscal year, and

"(B) the number of aliens described in subsection (b)(3) who were provided lawful permanent resident status in the previous fiscal year.

The CHAIRMAN. Under this rule, the gentleman from Texas [Mr. Smith] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Will the gentleman from Texas [Mr. Brooks] seek recognition in opposition to the amendment?

Mr. BROOKS. Yes, Mr. Chairman.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me explain this amendment. What it does is to set the legal immigration level at 630,000 permanent immigrants per year compared to the 500,000 under the current law and compared to about 800,000 proposed under H.R. 4300. The reason for this 630,000 figure is that that is the same amount of immigration that was approved by the Senate earlier. So, the 630,000 figure is somewhere between the current level of 500,000 and that proposed in H.R. 4300 of 800,000.

Other than that, Mr. Chairman, the amendment does not change any definitions. It does not change transition programs.

The 630,000 immigrant level is allocated in this way: 430,000 to family based immigration, 150,000 to employment based immigrants, and 50,000 to diversity immigrants.

Mr. Chairman, once again this amendment focuses on priorities. I think we need to increase, even if it is slightly, the number of visas that go to immediate family members, and we need to increase, even if it is slightly, the percentage of employment based or skilled immigrants. That is the reason for this amendment. There are a number of considerations, Mr. Chairman, when it comes to this particular amendment.

□ 1450

The premise is that we either have to limit immigration or we have to open our borders, and if we are going to limit immigration, surely that means we cannot accommodate everyone who wants to come into this country, and once again some selectivity is absolutely mandatory. That is the core issue.

So my question is, Why not give preference to immediate family members, Why not give preference to employment-based, skilled immigrants?

The needs of this country are clearly demonstrated by a number of studies. I referred to them before, and it is important that we not forget them. That is that every study that has been taken that projects the employment needs of this country going into the future calls for more skilled immigrants and more educated immigrants. We are simply going to have to do that to remain competitive on an international level.

I might point out, Mr. Chairman, that there are two other countries—in fact, they rank second and third after the United States as far as the number of immigrants they admit—who have dramatically changed their immigration policies. I am referring to the countries of Canada and Australia. Just a few years ago those two countries had a very liberal immigration policy. They had an immigration policy that we might say followed along the lines of H.R. 4300. They have changed their immigration policy and are now much more restrictive in the sense that they emphasize skill, they emphasize education, and they regrettably are having to deemphasize the family-based immigration that applies especially to extended members of the family.

Mr. Chairman, these are the types of countries that we have to compete with. These are the countries that have immigration policies far different from ours. I mentioned Australia and Canada. I think it is also of interest that probably our main rival on the international scene, Japan, has virtually no migration. I am not suggesting that the United States have no immigration. In fact, as I said earlier, I favor increased immigration, but what I am pointing to is that the United States is competing with other countries that do emphasize skilled workers, that do emphasize education and skilled immigrants, and as a result those countries are getting from their pool of immigrants in the world many of those same types of individuals.

As George Borjas, the professor who wrote a book and has the most current data on this subject, said recently, we are basically losing the competition for the skilled and educated immigrants of the world, and that is because we have an immigration policy that H.R. 4300 hopes to expand, a policy of not giving enough emphasis to the skilled and educated immigrants who might come here.

Mr. Chairman, when we allow individuals to come into this country in great numbers who do not have the requisite skills and education, those individuals are going to compete directly with Americans who do not have the skills and education that they should have, and my question is this: If we are going to need to train individuals, if we are going to need to provide certain individuals with more education, and if we have limited resources with which to do that, why should we not train and educate American citizens first?

We simply cannot afford to train and educate hundreds of thousands of additional immigrants who are unskilled and do not have the education that is required by our own work force.

Mr. Chairman, there is a real cost associated with any increase in the number of people, whether it be immigrants or others, and this goes for people who might come to the United States, people of any kind from anywhere, and we simply cannot close our eyes to the impact they would have. I would love to be wonderfully idealistic. I would love for us to talk theory, but unfortunately we need to talk to mayors and members of city councils, and to Governors and to other individuals who bear the brunt of so many immigrants coming into their communities. They are the ones who are going to have to foot the bill for educational costs, health care costs, and government services.

It is often said, Mr. Chairman, that immigrants who are allowed to come into this country do so under the provision that they are not going to become a public charge for 5 years. I know individuals will use that as an argument that these immigrants are not going to use government services. But in point of fact, Mr. Chairman, that regulation that immigrants should not be a public charge for 5 years is absolutely meaningless. In 1989 only one immigrant was deported for being a public charge, despite the hundreds of thousands of immigrants who were in fact receiving welfare payments. So, Mr. Chairman, that is simply not an issue.

Mr. Chairman, here is another point: Most immigrants are law-abiding, upstanding individuals who contribute greatly to society. But some are not, and in fact one-third of the inmates in our Federal prisons today are not citizens. The individuals who are not citizens in our prisons today are there at four times their proportion to the population as a whole, and the cost to the criminal justice system is in the billions of dollars. Also, the type of immigrants who are coming into this country is changing. Mr. Borjas points out that years ago they had more skills to offer. Today the immigrants who are coming into this country are, comparatively speaking, less skilled and less educated than those immigrants who have gone before.

Mr. Chairman, this amendment sets priorities, and it sets priorities because we have to be selective in some way. We need to give priorities to immediate families and to skilled workers.

One final point, Mr. Chairman, is that this amendment increases the number of immigrants coming into this country. More than currently, this puts it at about 630,000 which is the same as that in the Senate bill.

Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment of the gentleman from Texas. It would severely limit legal immigration and would cut back on the number of employment-based and diversity immigrants to be admitted to the United States. The effect of this amendment, if adopted, would be to increase the waiting periods for relatives of immigrants who already are in the United States. Some of these waiting periods are already in excess of 5 years.

Mr. Chairman, the immigration numbers that are authorized in H.R. 4300 are the result of a rigorous process of examination and compromise that has gone on throughout this issue's consideration in the Judiciary Committee. These numbers will provide for the reunification of families and for an adequate number of skilled laborers into the United States. Therefore, I would urge rejection of this amendment.

Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. Berman].

Mr. BERMAN. Mr. Chairman, I rise in opposition to the amendment, and joining me in that opposition, I think it is important to point out, is a very interesting coalition of people.

The AFL-CIO is opposed to this amendment, the U.S. Chamber of Commerce is opposed to this amendment, the U.S. Catholic Conference is opposed to the amendment, and so is the National Association of Manufacturers, the Irish Immigration Reform movement, the National Council of LaRaza, and many, many others.

Why are they opposed to this amendment? Because for the first time ever this amendment would impose a cap on immigrants that counts within the numbers the spouses and the minor children of U.S. citizens, thereby impacting on every other form of immigration based on the number of spouses and minor children of U.S. citizens.

This is not rolling back something that was done in this bill. This is not some targeted effort to try to deal with something the gentleman thinks is not appropriate in this bill. This is an effort to set a precedent-shattering cap covering U.S. citizens for the first time that can wipe out employer-sponsored immigration, diversity immigration, and increase dramatically the backlog of family preference immigration.

The gentleman has spent a great deal of time talking about the importance of skill-based immigration and testifying to his belief in that. Nothing could be more destructive of the effort we are trying to make in this bill or even in existing law in permitting these kinds of very limited amendments than placing this kind of a cap on the bill. All sides and all parties involved in this legislation feel very strongly that this amendment is a terribly destructive one.

It is strictly a killer amendment, and I urge a no vote.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Connecticut [Mr. Morrison].

Mr. MORRISON of Connecticut. Mr. Chairman, I rise in opposition to the amendment, and I wish to join in the absolutely on-target comments both of the chairman of the committee and the gentleman from California [Mr. Berman]. I rise to underscore the inconsistency of this amendment with what the gentleman from Texas [Mr. Smith] has been saying ought to be a priority in our immigration system.

The gentleman has said that he wants to see skilled workers brought into the country, and that the legislation needs to focus on that as a priority. This amendment would reduce and could even eliminate entirely the number of visas set aside in the legislation for employment-based immigration.

□ 1500

The amendment is at war with the statement of the gentleman about what his priorities are, and for that reason, as well as the reason that imposing this artificial cap does nothing for the other principles of our immigration system, preserving diversity and unifying families, means that this amendment is really internally inconsistent with the stated goals of the person who is proposing it.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. Ortiz].

Mr. ORTIZ. Mr. Chairman, I do support this bill. It is a good bill. I urge Members to support it.

Mr. Chairman, I rise in support of this bill, the Family Unity and Employment Opportunity Immigration Act, H.R. 4300.

I commend the members of the Judiciary Committee, who have spent many long hours on putting together this bill, which will result in improving our Nation's immigration policy.

I support the bill's provisions which are designed to ensure family unity.

Our country's current immigration policy is simply not adequate to meet the needs of the many individuals who are legitimately seeking to abide by our Nation's laws and are having to endure waiting periods of as long as 15 years to reunite with close family members.

This bill also seeks to increase ethnic diversity in our country by increasing the number of immigrant visas to individuals from European countries while maintaining the the current immigration policy based on family relationship.

I believe this bill is successful in achieving that goal.

I urge my colleagues to support this bill.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first I would like to respond to what the gentleman from Connecticut [Mr. Morrison] just said. I know the gentleman felt like he was making a statement of fact, but I want to set the record straight, and that is that in this amendment there are provisions for 150,000 employment-based immigrants, and that figure will not go down. That will remain constant.

Mr. Chairman, some opponents to the amendment say that a firm limit of 630,000 immigrants is somehow contrary to what I said before, is somehow antiimmigrant. But I want to point out again what this amendment does is raise current legal immigration by about 25 percent.

The level of 630,000 immigrants per year set by my amendment was supported in the U.S. Senate by a vote last summer of 81 to 17. Is this an unreasonable level?

The concept of a firm level of immigration was supported by the U.S. Senate in the 100th Congress by a vote of 88 to 4. This is not unreasonable.

Mr. Chairman, my amendment takes the immigration policy, that is more generous than the rest of the world combined, the current U.S. law, and increases it by about 25 percent. So I do not understand why all the criticism.

The critics of this amendment have fallen prey to a basic illogical fallacy: If you do not support all my increases, you must be supporting a decrease. Well, that is simply not true. This is a 25-percent increase in current levels. If that increase is kept firm and constant, we are going to be better for it. I do not support the 65-percent increase that H.R. 4300 proposes.

There is only one reason why critics of this amendment do not support a firm amendment. The 65-percent increase in immigration levels is apparently not enough, and they have built a system that automatically grows without congressional action. Most Americans do not want those kinds of automatic increases. They want Congress to vote on any significant increases. My amendment would require Congress to vote on such an increase, and limit it to 630,000 immigrants per year.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. Smith].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SMITH of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 143, noes 266, not voting 24, as follows:

[Roll No. 399]

AYES—143

Alexander
Andrews
Applegate
Archer
Baker
Ballenger
Barnard
Beilenson
Bentley
Bereuter
Bevill
Bliley
Broomfield
Browder
Brown (CO)
Bryant
Buechner
Bunning

Burton
Chandler
Chapman
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Crane
Dannemeyer
DeLay
Dickinson
Dorgan (ND)
Douglas
Duncan
Dyson
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Flippo
Frenzel
Gallegly
Gallo
Gekas
Goodling
Goss
Grandy
Hall (TX)
Hancock
Hansen
Harris
Hayes (LA)
Hefley
Henry
Herger
Hiler
Hoagland
Holloway
Hopkins
Houghton
Hubbard
Huckaby
Hunter
Inhofe
James
Jenkins
Johnson (SD)
Kasich
Kyl
Lagomarsino
Lancaster
Leath (TX)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lukens, Donald
Marlenee
Martin (NY)
McCandless
McCollum
McCurdy
McMillan (NC)
Meyers
Miller (OH)
Montgomery
Moorhead
Nielson
Packard
Parris
Payne (VA)
Perkins
Petri
Quillen
Ravenel
Ray
Regula
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Roukema
Rowland (GA)
Sarpalius
Saxton
Schaefer
Schulze
Sensenbrenner
Shaw
Shuster
Skeen
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tallon
Taylor
Thomas (GA)
Thomas (WY)
Traxler
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weldon
Whittaker
Wilson
Wolf
Wylie
Young (AK)
Young (FL)

NOES—266

Ackerman
Anderson
Annunzio
Anthony
Armey
Aspin
Atkins
AuCoin
Bartlett
Barton
Bateman
Bates
Bennett
Berman
Bilbray
Bilirakis
Boehlert
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bustamante
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Clarke
Clay
Clement
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Costello
Courter
Cox
Coyne
Craig
Crockett
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hatcher
Hayes (IL)
Hefner
Hertel
Hochbrueckner
Horton
Hoyer
Hughes
Hutto
Hyde
Ireland
Jacobs
Johnson (CT)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lantos
Laughlin
Leach (IA)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Machtley
Madigan
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Pallone
Panetta
Parker
Pashayan
Patterson
Paxon
Payne (NJ)
Pease
Pelosi
Penny
Pickett
Pickle
Porter
Poshard
Price
Rahall
Rangel
Richardson
Roe
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roybal
Russo
Sabo
Sangmeister
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Serrano
Sharp
Shays
Shumway
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (VT)
Snowe
Solarz
Spratt
Staggers
Stallings
Stangeland
Stark
Stokes
Studds
Swift
Synar
Tanner
Tauke
Tauzin
Torres
Torricelli
Traficant
Udall
Unsoeld
Upton
Valentine
Vento
Visclosky
Walgren
Walsh
Washington
Waxman
Weber
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—24

Boggs
Callahan
Engel
Ford (TN)
Gillmor
Hastert
Hawkins
Martin (IL)
Mavroules
McCrery
McDade
Michel
Miller (CA)
Myers
Owens (NY)
Pursell
Rhodes
Rowland (CT)
Saiki
Schiff
Schuette
Slaughter (VA)
Thomas (CA)
Towns

□ 1528

The Clerk announced the following pair:

On this vote:

Mr. Callahan for, with Mrs. Saiki against.

Messrs. TRAFICANT, DINGELL, ROTH, PAXON and Mrs. BYRON changed their vote from "aye" to "no."

Messrs. QUILLEN, RAY, HALL of Texas, BEILENSON, HAYES of Louisiana, and BEVILL changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. SLAUGHTER of Virginia. Mr. Chairman, I was unavoidably detained at the White House in a meeting with the President concerning the budget proposal. Had I been present for rollcall vote No. 399, I would have voted in the affirmative.

□ 1530

The CHAIRMAN. It is now in order to consider amendment No. 2, printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SMITH of Texas: Page 4, line 9, strike "185,000" and insert "216,000".

Page 5, line 22, strike ", and includes" and all that follows through line 24.

Page 6, line 17, insert closing quotation marks after the period.

Page 6, strike line 18 and all that follows through page 7, line 3.

Page 9, beginning on line 10, strike "30 percent" and insert "25 percent".

Page 9, line 12, strike "UNMARRIED" and insert "SPOUSES AND UNMARRIED".

Page 9, line 14, insert "spouses or" after "who are the".

Page 9, line 16, insert after "lawfully admitted for permanent residence" the following: "and who are under 26 years of age or had a petition approved for classification under this paragraph as of the date of the enactment of the Family Unity and Employment Opportunity Immigration Act of 1990".

Page 9, line 17, strike "19 percent" and insert "32.5 percent".

Page 9, line 24, strike "16 percent" and insert "12.5 percent".

Page 10, line 7, strike "35 percent" and insert "30 percent".

Page 66, strike line 15 and all that follows through page 67, line 10, and redesignate the succeeding subsection accordingly.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. SMITH] will be recognized for 10 minutes, and the gentleman from Texas [Mr. BROOKS] the Member opposed, will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, H.R. 4300 places most of the second preference—spouses and children of permanent resident aliens—into the numerically unlimited immediate relative category, and places a 115,000 visa cap on these numbers. This change will increase overall immigration numbers.

Contributing to the increase in the unlimited category will be the numbers of aliens who have or will receive permanent resident status under the IRCA amnesty and SAW programs, and who may then bring in their families.

The number of persons receiving permanent residence through amnesty could reach 3 million, and the number of persons that amnesty might want to petition for under the second preference is not clear. We need to be able to numerically control this new flow, if the amnesty class petitions are at rates at all similar to traditional legal immigrants.

While this bill limits to 115,000 the additional visas for the second preference, once this change is made, it will be easy to remove the so-called cap and make this category unlimited. With so many amnestied immigrants in the pipeline to bring in their families, this change could bring millions

more into the country. The multiplier effect could be staggering.

Mr. Chairman, not only does this change in the second preference dramatically increase numbers, it would also further dilute the already blurred distinction between U.S. citizenship and permanent resident status. The only remaining distinctions are: First, the right to vote; and, second, the right to bring in close family immediately, and more distant family within certain numerical limits. Further, I believe we remove one of the few incentives left for permanent residents to become U.S. citizens, the incentive to bring in family.

Michael Teitelbaum, a well-respected demographer and expert in international migration and frequent witness before the Subcommittee on Immigration, Refugees, and International Law characterized this bill's change in the second preference as a "breathtakingly bad idea" because it creates another visa to which aliens are entitled. As we all know, Mr. Chairman, from our Gramm-Rudman experiences, entitlements are fine when the Government has lots of money, but they are a real problem when tight budgets are the rule.

The analogy applies here: As long as the country is able to sustain our current record high levels of immigration, H.R. 4300 may not raise too many eyebrows. However, what if our economy goes into a severe recession, or if other factors occur which make it clear we must reduce immigration levels? We should maintain control of the second preference numbers and simply be flexible in their allocation.

Finally, Mr. Chairman, it should be made clear that current law already does reunify existing families. If a person is the beneficiary of a preference visa, he or she may bring in accompanying spouses and dependent children. However, if the person is the beneficiary of amnesty, he or she may be joined by any person who also entered with him or her when the illegal entry was made. Any alien has the right to bring independent family members when that principal alien emigrates.

As my friend Senator ALAN SIMPSON stated in the CONGRESSIONAL RECORD on May 17, the change in the second preference goes beyond the unification of existing families. It rewards less compelling cases of family-connected immigration. That is, an alien who starts a family outside the United States after having emigrated to the United States. In this instance, an alien enters without immediate family, then marries someone from the home country, and petitions for their entry before the principal alien becomes a citizen. I do not find this instance compelling enough to create a whole new immigration entitlement.

Mr. Chairman, the second preference change in H.R. 4300 is also strongly opposed by the administration. My amendment keeps the family preference definitions as they are in current law and keeps the overall numbers the same as in current law. My amendment does, however, adjust current law, and that the percentages ascribed to each preference category are changed to give greater emphasis to nuclear family immigration, and thus a second preference will receive additional visas. My amendment also adopts the definition of the second preference in Senate 358, which enables the spouse and unmarried sons and daughters who are under 26 years of age of permanent resident aliens to obtain permanent residency. I believe that unmarried sons and daughters who are 26 years of age or older should not be considered part of the nuclear family of the permanent resident alien.

If we did not face a situation where there are fewer visas available than demand exists for them, then this amendment would not be necessary. However, we must face reality. We must choose to whom we should give priority. In my book, minor children and spouses should enter before children over 26 years of age are given visas.

Let me emphasize that the adult children over 26 are not completely cut out by the amendment. When their parents become citizens, these adult sons and daughters may be admitted under either the first preference, unmarried sons and daughters of U.S. citizens, or the fourth preference, married sons and daughters of U.S. citizens and their family.

Therefore, any rhetoric about this breaking up of families is simply that, rhetoric. There is no substance to such a charge.

Mr. Chairman, I urge my colleagues to vote for this amendment.

I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, this is the second gutting amendment of this legislation. It cuts the heart out of the pro-family provision of this bill. This legislation allows the immediate families, the spouses and minor children of permanent residents, people who have come to the United States to be here and to be Americans and to be here permanently, their immediate nuclear family would be delayed substantially in coming to reunite the family, if this amendment were adopted.

This amendment reduces the immediate family admissions below what the Senate adopted in its bill, S. 358. This amendment is an antifamily amendment, and it ought to be rejected.

□ 1540

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BUSTAMANTE].

Mr. BUSTAMANTE. Mr. Chairman, I rise before the Members today in support of H.R. 4300, the Family Unity and Employment Opportunity Immigration Act. This is an important bill needed to bring our immigration laws up to date. Today, you have heard many arguments in favor of this legislation and many arguments against it. Of the many amendments to be considered, there are some which address real concerns about H.R. 4300.

However, the attempt to portray this bill as an open-door immigration policy—one which will undercut our labor force, increase our budget deficit by millions of dollars a year, and increase illegal immigration—is a smoke screen which smacks of subtle and sometimes not-so-subtle racism.

The truth is that this bill enjoys broad support and is the result of a concerted effort by dedicated Members from both sides of the aisle, as well as interest groups, both liberal and conservative. The bill is criticized as being antibusiness. Well, just this week, the Wall Street Journal, hardly known for its antibusiness views, came out in support of H.R. 4300. The bill would supposedly displace thousands of American workers. Well, the AFL-CIO supports H.R. 4300.

In addition, this bill contains important family unit provisions, which are cticized by some as opening the flood gates. This is not true.

Family unity is a principle which must be returned to our immigration policy. It reflects and reinforces our own basic social values.

And do we really want to just shut the gates of this country to immigrants? Immigrants built the United States of America. Immigrants are constantly revitalizing the United States of America. If we deny new immigrants, we deny ourselves the benefits of their contributions. My friends, I urge you to support H.R. 4300. It is a good bill which calls for reasonable controls and humaneness in our immigration policy. Please do not support any amendments that will gut the full intent of this bill and destroy the momentum we have built for humanitarian reform of our legal immigration system.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I rise in support of the second amendment of the gentleman from Texas [Mr. SMITH] to this bill. I do so having not supported his first amendment.

I am one who believes in a more libertarian view of immigration, that we ought to have increased immigration; but to the extent that we place limitations on immigration, I believe that the law that we have now is flawed in that we do not put enough emphasis on what is absolutely vital for American competitiveness and for American productivity. We need to put more emphasis on employment-based reasons for immigration.

Now, the amendment that we have before us and the bill that we have before us will permit increased immigration, not perhaps as much as I would like, certainly not as much as some people would suggest we should have, but it does allow for increased immigration.

More importantly, it does allow, it does retain the reunification of the immediate family, that concept of family unity.

Now, the gentleman from Connecticut earlier said that the immediate nuclear family would be excluded. I think those were the words that he used. I think that is an incorrect statement to make, if you look at this amendment.

The fact of the matter is there is a backlog of people with families who are trying to get into this country. There is no way we can accomodate everybody. If we are going to establish some kind of criteria, it makes sense to me that the first ones in line ought to be the younger children. Those ought to be the nuclear families, the members of nuclear families that we give the first priority to.

I would say finally, to come to my original point of the overall reason why I believe this legislation is important, or this amendment is important, and that is that it restores or gives more balance in this legislation than we have today to employment-based reasons.

There is no question, Mr. Chairman, that the United States suffers today from a lack of productivity. It suffers from a lack of our ability to compete with other countries in other parts of the world.

I believe this legislation needs to emphasize more competitiveness.

Mr. MORRISON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I am happy to yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. Mr. Chairman, I have no problem with the gentleman's statement. I am just a little surprised that it is being made in support of this amendment, because the specific change that this amendment makes in the bill is to go after just those numbers that the gentleman brought, in addition to the employment numbers, those numbers set aside for spouses and minor children. That is what is reduced. Other things are not reduced here. That is what reduced in this amendment.

Mr. KOLBE. Reclaiming my time, Mr. Chairman, what is increased is from 24,000 to 75,000, the number of those that would be based on employment-based immigration, and I think that is a vital factor to this amendment and is the reason I rise in support of this amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. Stump].

Mr. STUMP. Mr. Chairman, I rise in strong opposition to H.R. 4300, the Family Unity and Employment Act of 1990, which will increase immigration.

An overall 60-percent increase of immigration from the current level of about 500,000 is among the reasons why I am opposed to this bill. Moreover, the bill does not account for the financial impact on State and local governments and does not account for the number of illegal aliens entering into this country annually. Additionally, H.R. 4300 penalizes business for legitimate use of foreign workers and rewards illegal immigration through amnesty programs. Finally, H.R. 4300 is country specific, unfairly allowing additional visas to only specified countries.

About 500,000 people immigrate to the United States every year. If H.R. 4300 were to become law, the number of immigrants would increase at least 60 percent to an estimated 840,000 annually. We need to recognize the fact that it is the individual States that must foot the bill for the additional costs incurred when Congress mandates an increase in immigration. Health care and education are among such costs that must be incurred by the individual States.

In 1986, the Congress passed the Immigration Reform and Control Act which promised a one-time amnesty for aliens who had entered and been residing in this country illegally. H.R. 4300 violates our understanding of that one-time amnesty by granting amnesty to aliens who entered this country illegally after 1986. I am adamantly opposed to any proposal which would provide amnesty for illegal aliens already in this country. Such a measure is unfair to those who entered this country legally, it would condone law-breaking, and encourage an increased flow of illegal immigration.

A national poll recently conducted by the Roper organization found that an overwhelming majority of Americans oppose legislation doubling the number of legal immigrants admitted to the United States each year. Unfortunately, we do not have the domestic resources to accommodate everyone who would like to immigrate to this country. We can not afford at this time to put an additional strain on our already overstretched domestic resources.

Mr. Chairman, I would encourage my colleagues to join me in voting against H.R. 4300.

Mr. SMITH of Texas. Mr. Chairman, I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. Smith].

The amendment was rejected.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. MORRISON OF CONNECTICUT

Mr. MORRISON of Connecticut. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Morrison of Connecticut: Page 3, strike line 4 and conform the table of contents accordingly.

Page 26, line 16, strike all that follows the first period.

Page 26, after line 16, insert the following new paragraph:

"(3)(A) Except as provided in subparagraph (C), no immigrant visa number may be issued, on or after October 1, 1991, to an alien under subparagraph (A), (B), (C), or (D) of section 203(b)(1) or under section 203(b)(2), and no certification may be issued under section 212(a)(14)(A) unless the alien's employer attests, as part of the attestation under section 212(n), or establishes, as a condition of obtaining the certification under section 212(a)(14)(A), with respect to each such alien, that the employer has entered into an enforceable agreement to do either of the following:

"(i) To provide, through a local school board, for the tutoring of students in mathematics, sciences, or computer skills in a primary or secondary public school for at least the number of hours specified in subparagraph (B) during the 1-year period beginning not later than the date of admission of the alien involved.

"(ii) To provide, in a manner determined to be satisfactory to the Secretary of Labor and for at least the number of hours specified in subparagraph (B) during the 1-year period beginning not later than the date of admission of the alien involved, for training of at least 3 employees of the employer in employment-related skills.

"(B)(i) Except as provided in clauses (ii) and (iii), the minimum number of hours specified under this subparagraph is 100 hours.

"(ii) In the case of a petitioner that—

"(I) has more than 49, but fewer than 200, employees, or

"(II) has 200 or more employees and is a nonprofit, charitable agency or governmental agency,

the minimum number of hours specified under this subparagraph is 50 hours.

"(iii) In the case of a petitioner for a nonimmigrant described in section 101(a)(15)(H)(i)(b) or 101(a)(15)(H)(ii)(b), if the petition seeks the admission of the nonimmigrant for a period of less than 10 months, the number of hours specified under this subparagraph shall equal the number of hours otherwise specified multiplied by the ratio of the number of months of admission being sought to 10 months; except that the minimum number of hours under this clause may in no case be less than 20 hours.

"(C) The requirements of this paragraph shall not apply to—

"(i) the issuance of a visa to the spouse or children of the principal immigrant or nonimmigrant, and

"(ii) an employer which has fewer than 50 employees as of the date of filing the classification petition.".

Page 44, line 16, strike all that follows the first period.

Page 44, after line 16, insert the following new paragraph:

"(5) The provisions of section 204(b)(3) shall apply to the issuance, on or after October 1, 1991, of a nonimmigrant visa to a nonimmigrant described in section 101(a)(15)(H)(i)(b) or 101(a)(15)(H)(ii)(b) in the same manner as such provisions apply to the issuance of an immigrant visa to an alien under section 203(b)(2).".

Page 67, strike line 19 and all that follows through page 72, line 6, and conform the table of contents accordingly.

The CHAIRMAN. Under the rule, the gentleman from Connecticut [Mr. Morrison] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. Morrison].

Mr. MORRISON of Connecticut. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this legislation seeks to make sure that employers in the United States are able to bring into the country workers who are not available to them in the domestic work force. That goal is a very important one for our competitiveness and it is a very important one for American workers, because in the absence of the key employees who are not available, American employers are less competitive, go out of business and move overseas.

□ 1550

All three of those results cost American workers jobs and cost the American economy growth.

That is why it is critically important to see to it that we have an employment-based immigration system that works and one that is driven by employer choice, because we know in this country that we believe in a market economy, one where the judgments about what skills and personnel are needed are made by those people who have to compete in the marketplace, not made by bureaucrats and their theories.

Now, in order to be credible on the issue of bringing in workers from overseas for jobs where Americans are not available, we need to make a commitment to bring Americans into the labor force in those areas that are not now being filled by Americans. Many people have a hard time understanding how in a country of 250 million people it could possibly be true that there would be jobs for which we do not have workers with the necessary skills and that in a country where the unemployment rate is over 5 percent there would be jobs that are not being filled and yet there are workers who do not have jobs.

But the truth is there are mismatches in the skills of the workers to the jobs that are going begging. So the fact is that we must do two things in this legislation. No. 1, we must see to it that the jobs that we need to fill are filled, for the good of the American economy and the American worker.

We also have to see to it that we improve our employment and training commitment.

Now, what this amendment does—and it replaces a provision that was stricken by the Committee on Ways and Means which was based on a tax—what this amendment does is to require those large employers which bring individuals in under the employment-sponsored provisions of the law, requires them to make a commitment to basic training for basic skills for the American work force. It is a fair bargain. In fact, it is a necessary bargain to connect the readiness of Americans to fill our jobs with the short-term lack of Americans to fill particular positions at this time.

If we are to have fairness in our immigration law, we must always strike this balance: See to it that jobs that need to be filled now are filled, see to it that American workers are not prejudiced nor disadvantaged by those rules.

This amendment will make this legislation better with respect to that balance.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is there a Member in opposition to the amendment?

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. Smith] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. Smith].

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would create a new obstacle for U.S. employers to clear before being allowed to use foreign workers.

Mr. Chairman, under this amendment, a U.S. employer would have to attest to the Department of Labor that he or she is either: First, providing employment-related training to his own work force, or second, providing, through local school boards, for the tutoring of schoolchildren in math and the sciences.

If this attestation is not made, no foreign workers may be employed by that business—even if qualified U.S. workers are nowhere to be found.

I do agree that some U.S. workers need more training, and that our schoolchildren could use more assistance in the math and science area. But that is not the question. This goal will not be achieved by requiring another piece of paper to be filed with another Government bureaucracy. And that is exactly what this amendment requires.

U.S. employers who have demonstrated that no U.S. workers are available to fill critical jobs in their companies must nonetheless attest to the Department of Labor that they are providing tutoring to schoolchildren or providing training to their own workers before being able to receive the foreign workers.

Mr. Chairman, this is simply not an efficient way to run a company, nor is it a way to improve our Nation's education system.

For example, what if a French restaurant needs a new chef, and it cannot find a qualified United States chef to prepare French foods? I am not constructing an obscure hypothetical, this is a real example.

What are we going to require here—that the French restaurant tutor children in math and science? I doubt that will be very helpful.

Are we going to require that the restaurant retrain its own workers? About the only thing it could do is train an assistant chef to be the head chef. However, if the restaurant were capable of this, then it wouldn't have sought a foreign worker to be chef in the first place.

Mr. Chairman, this amendment is a classical example of something that sounds good but is actually impractical and will not work. The amendment will result in paperwork, bureaucracy, delays, and redtape for employers, with very few benefits for those Americans needing training or math and science education.

Mr. Chairman, this amendment should be rejected.

Mr. Chairman, I reserve the balance of my time.

Mr. MORRISON of Connecticut. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. Sawyer], the chairman of the Task Force on Immigration of the Committee on Education and Labor.

Mr. SAWYER. I thank the Chairman of the subcommittee, the sponsor of the amendment, for yielding and for this opportunity to speak in support of the amendment.

Mr. Chairman, I rise in strong support of Mr. Morrison's training and education amendment. As I indicated in my opening statement, I believe strongly that as a nation our first responsibility is to hire domestic workers and resort to the importation of foreign workers only when there are not domestic workers available after positive recruitment. It is my view that when this occurs we have a responsibility to educate and train our people for the jobs where shortages now exist or are projected to occur in the future.

This responsibility rests not only with Federal, State, and local units of government but with those who benefit directly from this trained and available pool of workers—U.S. business. Mr. Morrison's amendment makes this a clear responsibility for those businesses which benefit from the use of foreign workers, without being administratively or financially burdensome.

Mr. Morrison's amendment provides businesses with a flexible system by allowing them to either arrange for student tutoring or employee training. The training requirements for businesses also vary according to the size of the company, recognizing the need to protect small businesses. This amendment successfully balances the responsibility that U.S. business has to continually educate and train U.S. workers in fields where there are current or projected labor shortages with their immediate needs for skilled labor and financial flexibility.

Mr. SMITH of Texas. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. MORRISON of Connecticut. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. Chairman. The question is on the amendment offered by the gentleman from Connecticut [Mr. Morrison].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MORRISON of Connecticut. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 194, noes 229, not voting 10, as follows:

[Roll No. 400]

AYES—194

Ackerman
Anderson
Annunzio
Applegate
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Berman
Bilbray
Bonior
Borski
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Carper
Chapman
Clay
Clement
Coleman (TX)
Collins
Conte
Conyers
Cooper
Costello
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Gilman
Glickman
Gonzalez
Gordon
Gray
Hall (OH)
Hayes (IL)
Hertel
Hoagland
Hochbrueckner
Hoyer
Hutto
Jacobs
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Manton
Markey
Matsui
Mavroules
McCloskey
McDade
McDermott
McGrath
McHugh
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Natcher
Neal (MA)
Nelson
Nowak
Oakar
Oberstar
Obey
Ortiz
Pallone
Panetta
Payne (NJ)
Pease
Pelosi
Perkins
Pickett
Poshard
Rahall
Rangel
Richardson
Rostenkowski
Roybal
Russo
Sabo
Sangmeister
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Skaggs
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Staggers
Stark
Stokes
Studds
Swift
Synar
Taylor
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Vento
Visclosky
Walgren
Washington
Waxman
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOES—229

Alexander
Andrews
Anthony
Archer
Armey
Baker
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Jenkins
Johnson (CT)
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Leath (TX)
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Livingston
Lowery (CA)
Lukens, Donald
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Martin (NY)
Martinez
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Ros-Lehtinen
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Smith, Denny (OR)
Smith, Robert (NH)
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Spratt
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Stangeland
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Stenholm
Stump
Sundquist
Tallon
Tanner
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Watkins
Weber
Weldon
Whittaker
Williams
Wolf
Wylie
Young (AK)
Young (FL)

NOT VOTING—10

Boggs
Engel
Goodling
Hawkins
Martin (IL)
Owens (NY)
Pursell
Rowland (CT)
Saiki
Schuette

□ 1615

Messrs. PARKER, GUARINI, BOEHLERT, SHAW, VOLKMER, MARLENEE, and SHAYS, and Mrs. PATTERSON changed their vote from "aye" to "no."

Messrs. THOMAS A. LUKEN, POSHARD, GLICKMAN, HUTTO, and MOLLOHAN, Ms. SLAUGHTER of New York, and Mrs. BYRON changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1620

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. MORRISON OF CONNECTICUT

Mr. MORRISON of Connecticut. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Morrison of Connecticut: Page 31, amend line 12 to read as follows:

SEC. 103. ALTERNATIVE LABOR ATTESTATION PROCESS.

Page 31, line 18, insert after "unless" the following:

"(A) the Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that (i) there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or the arts), and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, (ii) the employment of such aliens will not adversely affect the wages and working conditions of the workers in the United States similarly situated, and (iii) the employer meets the requirement of section 204(b)(3) with respect to such aliens, or (B)".

Page 32, line 4, strike "(a)(14)" and insert "(a)(14)(B)".

The CHAIRMAN. Under the rules, the gentleman from Connecticut [Mr. Morrison] will be recognized for 7½ minutes, and a Member opposed will be recognized for 7½ minutes.

The Chair recognizes the gentleman from Connecticut [Mr. Morrison].

Mr. MORRISON of Connecticut. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, unlike the immediately previous amendment, this is not a controversial amendment. The legislation as reported from the Judiciary Committee provides a new system for employers petitioning to bring workers into the country. That system is known as an attestation system.

The attestation system under the bill would replace the current labor certification system. It was designed and intended to be more efficient for employers than the current system.

The business community has raised a question about whether in fact it will turn out to be more efficient and more expeditious than the current system. For that reason, this amendment makes that attestation system an option rather than a requirement for immigrants being petitioned for by businesses. The business can choose either the new attestation system or the existing certification system.

People who prefer the new attestation system should be in favor of this amendment. People who oppose the attestation system and prefer the certification system should be for this amendment. No one really should be against this amendment. The only objection to it by some was that it does not go far enough, but it certainly goes in the direction of those who want to change from what the bill has in it.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is there a Member opposed to the amendment?

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. Smith] is recognized for 7½ minutes.

Mr. SMITH of Texas. Mr. Chairman, pending the answer to one question that I want to ask the subcommittee chairman, I will not oppose the amendment, even though there are some flaws with it that I would like to describe.

As reported by the Judiciary Committee, H.R. 4300 would have scrapped the existing system called labor certification now used to determine whether qualified U.S. workers are available before foreign workers are imported to fill the positions.

H.R. 4300 replaced the current labor certification system in current law with a labor attestation system. That system was fraught with difficulties for U.S. employers who had a demonstrated need for workers. It was also fraught with opportunities for unions to object to requests for foreign workers and to delay a final resolution of an employer's need for foreign workers by the Department of Labor.

The business community's concerns have been heard by my colleagues from Connecticut, and I believe he is now proposing to let an employer choose whether the certification or the attestation process will be used. I would like to ask my colleague from Connecticut a question.

Does an employer have a clear, unfettered right to choose to use current law's labor certification system over the labor attestation process? Is there no limit to the employer's choice of systems?

Mr. MORRISON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Texas. I yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. Mr. Chairman, with respect to immigrants, the employer has a clear, unfettered choice of either the existing law, certification, or the new attestation procedure. With respect to nonimmigrants there is no existing certification system, and therefore the attestation program which comes after the nonimmigrant has arrived in the country, not before, still applies in the same manner as the rules applying to foreign nurses that was adopted by the Congress last year.

Mr. SMITH of Texas. I thank the gentleman.

Mr. Chairman, the amendment is better than the version of labor attestation in the Judiciary Committee bill, and I will not object to it.

Mr. Chairman, I yield back the balance of my time.

Mr. MORRISON of Connecticut. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut [Mr. Morrison].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Smith of Texas: Page 42, strike line 15 and all that follows through page 43, line 17.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. Smith] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. Smith].

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would strike a provision in H.R. 4300 which allows foreign students on the F visa to work regardless of whether that student has an economic need to work or not.

H.R. 4300 changes the existing foreign student visa regulations which now allow a foreign student to work only after showing that changed economic circumstances which were unforeseen at the time of his entry into the United States make it necessary for him to work now. I believe this portion of H.R. 4300 sends an inappropriate signal to foreign students. It says it is OK to come here and work, even though you may use the ruse of being a student to do so.

I do not doubt that many foreign students come here only to study and would not abuse this provision. However, I am also confident that large number of aliens, perhaps some who today would not enter as students, would use this provision as a loophole to enter the United States and work. I believed that student visas are for studying and work visas are for working. The two should not be confused.

The administration has specifically recommended that we avoid dealing with nonimmigrant visa changes in this legislation, and my amendment heeds that advise.

Mr. Chairman, let us not turn the F visa program into a back door work program. Let us delete this section and retain current law, and also, and as importantly as anything else, make sure American students do not lose their jobs to foreign students who do not need those jobs.

Mr. Chairman, I reserve the balance of my time.

□ 1630

Mr. MORRISON of Connecticut. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment should not be adopted. The gentleman from Texas is incorrect about his interpretation of current law, at least if the Immigration and Naturalization Service is to be believed.

The INS has been in the process of proposing regulations that would have gone far beyond this provision in allowing foreign students to work in the United States, and it was because of that proposed regulatory change by the INS that this amendment was placed in the bill, that this provision was placed in the bill in order to see to it that any extension which would still require the regulations by the INS, but that any extension of the right of foreign students to work in the United States would be carefully tailored and narrow.

The bill requires the following: The students have to be students in good standing. So their cannot be phony students who came here to work. They have to be students in good standing.

No. 2, they can only work 20 hours a week, and it is not easy to support yourself in this country on 20 hours a week, so I doubt we will have people flooding in to work 20 hours a week.

No. 3, the employers have to demonstrate that they have been unable to hire American workers including American students to do these jobs.

No. 4, they must pay comparable wages to the wages paid to American workers.

So what this provision in the bill actually does is strengthen the protection against abuse which could occur under current law as interpreted by the INS, and this is a benefit to American workers while legitimately allowing foreign students who have economic need to work in this country.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me respond very quickly to one point made by my colleague from Connecticut.

The program that he describes earlier in his remarks I do not think has been implemented or authorized. More importantly than that, my concern has nothing to do with whether these foreign students are working 20 hours or 30 hours or 10 hours. My concern there is that we are opening up to foreign students the opportunity to work that they have not had before, and this opportunity to work could well be at the expense of American students who need jobs.

If we allow foreign students to come to the United States, previously they had to show economic need before they would be allowed to work, and under this provision by my colleague from Connecticut, that is in 4300, they no longer would have to show that economic necessity and, therefore, are going to be competing with American students for those limited number of jobs.

Mr. Chairman, this is a clear amendment that basically says let us put American students first. If there is a job to be had out there, let us give it to an American student first before we give it to a foreign student who may not need it.

Mr. MORRISON of Connecticut. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, just to be doubly certain that everyone understands, American students get these jobs first. There must be a demonstration that there are no Americans available to do these jobs before these individuals would be permitted to work.

Mr. SMITH of Texas. Mr. Chairman, I thank my colleague, the gentleman from Connecticut, for his comments.

That still does not allow for the instance, for instance, where wages may rise and attract more American students to those particular jobs. The point is we are opening up a loophole to allow foreign students to work in the United States without any proof of economic necessity to do so. That is a broadening, a liberalization, of current law, and it is sooner or later going to put American students at a disadvantage.

Mr. MORRISON of Connecticut. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I have no further requests for time, and yield back the balance of my time.

Mr. FAWELL. Mr. Chairman, I rise today in opposition to the amendment offered by Congressman Smith to alter provision of the bill relative to the foreign student worker provisions having to show economic need.

This provision establishes an innovative worker program that benefits both business and labor. In fact, the provision has the support of normally adversarial actors, business and labor, Republicans and Democrats.

It carefully balances the needs of employers who are finding it difficult to find employees in certain geographic areas with protections for both United States and alien workers.

Make no mistakes about it, U.S. workers will not be displaced. The provision stipulates that the employer must actively recruit U.S. labor for at least 60 days before hiring a foreign student. The Department of Labor will set forth the regulations employers must follow in their recruitment efforts.

The provisions also protect U.S. workers from having their wages undercut by mandating that the wages paid to these students be the prevailing wage of the area.

The bill retains the ban on any off-campus work for a 1-year period and limits work to 20 hours a week during the academic year to assure that students emphasize their education over their work.

I urge Members to vote against this amendment and ensure that businesses across the country can find the employees they need without displacing American workers.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. Smith].

The amendment was rejected.

The CHAIRMAN. It is now in order to consider amendment No. 6 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. MORRISON OF CONNECTICUT

Mr. MORRISON of Connecticut. Mr. Chairman, I offer amendment No. 6 as printed in the report of the Committee on Rules.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Morrison of Connecticut: Page 45, beginning on line 7, strike "as a nonimmigrant or otherwise obtaining or maintaining the status of nonimmigrant" and insert "as a nonimmigrant described in subparagraph (h)(i)(b) or (L) of section 101(a)(15) or otherwise obtaining or maintaining the status of a nonimmigrant described in such subparagraph".

The CHAIRMAN. Under the rule, the gentleman from Connecticut [Mr. Morrison] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. Morrison].

Mr. MORRISON of Connecticut. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a perfecting amendment of a provision in the bill. I would expect it not to be controversial.

What it does is to make clear that the only individuals who may come to the United States temporarily while also pursuing permanent admission to the country without making a special showing that they do not intend to come permanently are those who come on temporary employment visas for professional jobs or as transfers within multinational organizations.

The bill, as written, takes a much broader view of this question and presents certain problems, so this is in the nature of a narrowing amendment to see to it that there is no abuse but that those individuals who routinely would come first as temporary workers and then become permanent workers for multinational organizations or as professionals would be permitted to do so.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to this amendment.

The CHAIRMAN. The gentleman from Texas [Mr. Smith] is recognized for 5 minutes.

Mr. SMITH of Texas. Mr. Chairman, I rise in strong opposition to the amendment offered by my colleague, the gentleman from Connecticut.

H.R. 4300 purports to solve a problem for those business-based immigrants who also have a permanent visa application outstanding. However, it, instead, would create a real problem for our consular bureau.

This amendment, while narrowing somewhat the scope of aliens covered, would still deny our consular officers the ability to refuse a visa to an alien who is clearly intending to stay in the United States permanently.

In pure and simple terms, this amendment will encourage an avalanche of visa fraud.

Mr. Chairman, I have a cable from the State Department that proves my point. It notes that 80 percent of all H-1 visa applications in India are now being denied. It describes how often those applying for the temporary visas described by this amendment are, in fact, attempting to immigrate permanently to the United States.

As the telegram notes:

> It is extremely difficult for an applicant to convince us that he would voluntarily give up a lucrative position in the United States in order to return to India where he would earn only a small fraction of his U.S. salary. A large portion of that 80 percent presently being denied would be allowed to immigrate under this amendment. I do not think that the executive branch or the American public would kindly look on this amendment's endorsement of fraudulent visa applications.

Mr. Chairman, if these people want to immigrate permanently, then let them apply for permanent visas. Let us not let permanent immigrants masquerade as temporary immigrants.

Unfortunately, H.R. 4300, even as amended by this Morrison amendment, would still let that masquerade go on. It would forbid U.S. consular officers from denying a temporary visa to an H or L visa applicant when it is clear to that officer that the alien really wants to stay permanently in the United States.

Vote against encouraging visa fraud and vote against this amendment.

Mr. MORRISON of Connecticut. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut [Mr. Morrison].

The amendment was agreed to.

□ 1640

The CHAIRMAN. It is now in order to consider amendment No. 7, printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Smith of Texas: Page 44, strike line 17 and all that follows through page 45, line 9.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. Smith] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. Smith].

Mr. SMITH of Texas. Mr. Chairman, this amendment seeks to delete one of the more mischievous provisions of H.R. 4300. H.R. 4300 overrides a rule in the Immigration and Naturalization Act that is now applied by consular officers who issue visas overseas.

If a person is applying for a nonimmigrant visa, that person must prove that his or her intention is truly for a temporary stay in the United States, not for a permanent stay. If that nonimmigrant visa applicant has a permanent visa on file, there is a presumption that this person has permanent intentions to come to the United States. That is common sense, Mr. Chairman.

The provision in H.R. 4300 says in effect, despite the fact that they have a permanent visa application on file, we will overlook it. It forces the consular officers to choose to close their eyes to what would otherwise be strong evidence of an alien's intention to come to the United States on a permanent basis.

What would be the effect of this amendment? Well, perhaps we could have the entire fifth preference backlog applying for nonimmigrant visas. Do we really want that effect? Do we really want people coming to the United States as visitors, when their true intention is to live here permanently? Ultimately, that is the effect that this provision could have because it forces the consular officer to disregard the outstanding permanent visa application in making a determination on the intentions of a nonimmigrant visa application. I urge my colleagues to support this amendment so that current law is preserved, and so that we do not force consular officers to close their eyes to evidence that otherwise indicates that visa fraud is about to be committed.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is the gentleman from Connecticut [Mr. Morrison] opposed to this amendment?

Mr. MORRISON. I am, Mr. Chairman.

The CHAIRMAN. The gentleman from Connecticut [Mr. Morrison] is recognized for 5 minutes.

Mr. MORRISON of Connecticut. Mr. Chairman, the gentleman's amendment relates to the section that was just perfected by the amendment that I offered and was adopted immediately prior to the gentleman offering his amendment. The bottom line here is that we have narrowed the category of people who may pursue jointly a temporary residence in the United States for employment and permanent residence in the United States to two narrow categories: Professional employees of American employers brought in temporarily, and individuals who are employed by multinational organizations who are transferred within the company, but coming into the United States. These are just the individuals that the business community has told Members are constantly put in a difficult problem by this particular provision in existing law.

This provision was put in H.R. 4300 to facilitate the activities of large employers in moving people around. Frankly, I do not think we are talking about a category about which visa fraud is an issue at all. Without the narrowing amendment that the House adopted immediately before the offering of this amendment, the gentleman would probably be correct. With the narrowing amendment, I think the gentleman is incorrect, and the amendment should be defeated.

Mr. SMITH of Texas. Mr. Chairman, first of all, I want to make the point that this amendment obviously goes beyond the amendment by the gentleman from Connecticut that was just passed. I believe there was reference to this doing the same thing, but in point of fact, he would not be opposed if it did the same thing.

The point of this amendment, even though as the gentleman from Connecticut [Mr. Morrison] said, the number of categories of individuals that would be affected is narrowed. That does not erase the fact that individuals are basically going to be able to, on one hand, say they are only coming to the United States temporarily, and on the other side, they are going to be able to apply for a permanent visa as well.

Obviously, those intentions, the sworn testimony conflict, and it is an open invitation for voter fraud. If an individual has applied for permanent status, and also applies for temporary status, we can guess his real motives. Once again, we need to eliminate the opportunity of voter fraud in H.R. 4300. This amendment should be supported.

Mr. Chairman, I yield back the balance of my time.

Mr. MORRISON of Connecticut. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question in on the amendment offered by the gentleman from Texas [Mr. Smith].

The amendment was rejected.

The CHAIRMAN. It is now in order to consider amendment No. 8, printed in part 2 of the House Report 101-786.

AMENDMENT OFFERED BY MR. MCCOLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. McCollum: Page 45, line 22, insert after "214(l)(2)" the following: "or who is coming temporarily to the United States to perform services as a physical therapist".

Page 45, line 23, insert "AND PHYSICAL THERAPIST" after "SPECIALTY OCCUPATION".

Page 46, line 23, strike all that follows the first period.

Page 46, after line 23, insert the following new paragraph:

"(3) For purposes of section 101(a)(15)(H)(i)(b), the term 'physical therapist' means an individual who applies the art and science of physical therapy to the treatment of patients with disabilities, disorders, and injuries to relieve pain, develop or restore function, and maintain performance, using physical means such as exercise, massage, heat, water, light, and electricity.".

Page 83, line 5, insert before the period at the end the following: ", except that priority shall be given to qualified immigrants who are seeking admission to the United States to perform professional services as a physical therapist (as defined in section 214(i)(3) of the Immigration and Nationality Act)".

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. McCollum] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. McCollum].

Mr. McCOLLUM. Mr. Chairman, this amendment concerns physical therapists, and a special concern over whether or not the things that we are doing in this bill would exclude the process by which foreign physical therapists are able to come into this country with a severe labor shortage in that area, much like there is one for nurses. Foreign-trained physical therapists presently work in the United States under the existing H-1 Program. To qualify for H-1 status, a foreign-trained physical therapist must have his or her educational experience certified by a private educational credentialed review agency as at least the equivalent of domestic physical therapy programs. In addition, one must pass a State examination and practice under State licensure.

The bill as written can be interpreted as excluding physical therapists as a profession for inclusion into the H-1B Program. This can occur because a small minority of foreign-trained physical therapists, coming into the United States, graduate from programs with less than a bachelor's degree.

The nationwide shortage of physical therapists requires that the ability to employ foreign-trained physical therapists must not be impeded. The severity of the shortage is reflected in the fact that physical therapists and professional nurses are the only two health care professions that are on the Department of Labor's schedule A, the listing of those professions which are certified as having a labor shortage pursuant to 8 U.S.C. 1182(a)(14).

In 1989, Congress responded to the similar crisis in nursing by enacting the Immigration Nursing Relief Act of 1989.

My amendment would do the same thing with physical therapists, but in reviewing this with staff for both sides, and the gentleman from Connecticut [Mr. Morrison] the chairman of the subcommittee, I believe a colloquy can resolve this matter. I would like to engage in a colloquy with the gentleman now, and perhaps I could clarify that and avoid this section 104(c)(3) establishes a new H-1B category, to be comprised of specialty occupations. For a profession to be designated as a specialty occupation it must require at least the attainment of a bachelor's degree or its equivalent in the specific specialty as a minimum for entry into the occupation, and State licensure is applicable. Graduation from a physical therapy program, which generally carries a bachelor's degree, is required for licensure as a physical therapist. However, a small minority of foreign-trained physical therapists from several countries graduate from programs which are equivalent to U.S. programs in the professional physical therapy education. They are presently permitted to enter United States under the H-1 Program and take State licensure examinations to practice as physical therapists. This is similar to the admissions standards for foreign-trained nurses who take State board examinations.

I would like to ask the gentleman if I am correct in my understanding that it is the intention of the author, the gentleman from Connecticut [Mr. Morrison] of this particular language, that the current process of permitting physical therapists from such programs to enter the country and take State licensure examination would be allowed to continue under the H-1B Program, and not on the grounds of excluding physical therapists from specialty occupation status?

Mr. MORRISON of Connecticut. Will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. The gentleman's interpretation is the correct interpretation of this provision as I intended it in offering the provision, and consistently my intention as to how the H-1B provision should be administered.

Mr. McCOLLUM. With that in mind, I ask unanimous consent to withdraw my amendment, and let this colloquy stand as an interpretation of the law rather than cluttering up the bill with another amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

It is now in order to consider amendment No. 9, printed in part 2 of House Report 107-768.

AMENDMENT OFFERED BY MR. MORRISON OF CONNECTICUT

Mr. MORRISON of Connecticut. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Morrison of Connecticut: Page 47, after line 23, insert the following new paragraph:

(7) Repeal of previous definition.—Section 101(a) of such Act (8 U.S.C. 1101(a)) is amended by striking paragraph (32).

Page 36, strike lines 21 through 23.

Page 38, line 24, strike "(E)" and insert "(D)".

Page 37, after line 2, insert the following new subparagraph:

"(E)(i) The preceding provisions of this paragraph shall not apply to an attestation under paragraph (1) with respect to nonimmigrants described in section 101(a)(15)(H)(i)(b).

"(ii) An attestation duly filed under paragraph (1) with respect to a nonimmigrant described in section 101(a)(15)(H)(i)(b) shall be deemed to have been certified by the Secretary and in effect under this subsection on the date of its filing with the Secretary.

"(iii) The Secretary may not refuse to accept for filing a completed attestation filed under this subsection with respect to a nonimmigrant described in section 101(a)(15)(H)(i)(b) or review in any way (other than under paragraph (5)) such an attestation with respect to which a complaint has not been filed under paragraph (5).

The CHAIRMAN. Under the rule, the gentleman from Connecticut [Mr. Morrison] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. Morrison].

Mr. MORRISON of Connecticut. Mr. Chairman, this is a highly technical amendment. It makes a change is current law to conform it to the provisions of this bill with respect to the definition of a professional, and it makes a correction in the attestation process to ensure that there is no misunderstanding of the requirements in the way in which the attestation procedures will work. I would expect there should not be any objection to this amendment.

The CHAIRMAN. The Chair recognize the gentleman from Texas [Mr. Smith].

Mr. SMITH of Texas. Mr. Chairman, there have been times in the past where I have rightly wanted to be aware of the technical amendments of the gentleman from Connecticut [Mr. Morrison], but this is not one of those times. I have no objection to the amendment.

Mr. MORRISON of Connecticut. Mr. Chairman, I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut [Mr. Morrision].

The amendment was agreed to.

□ 1650

The CHAIRMAN. It is now in order to consider amendment No. 10 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. DONNELLY

Mr. DONNELLY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Donnelly: Page 91, after line 12, insert the following new section (and conform the table of contents accordingly):

SEC. 209. TRANSITION FOR ALIENS WHO HAVE BEEN NOTIFIED OF AVAILABILITY OF NP-5 VISAS.

Notwithstanding the numerical limitations in sections 201(a) and 202 of the Immigration and Nationality Act, there shall be made available in fiscal year 1991 immigrant visa numbers for qualified immigrants who—

(1) were notified by the Secretary of State before May 1, 1990, of their selection for issuance of a visa under section 314 of the Immigration and Control Act of 1986, and

(2) are qualified for the issuance of such a visa but for (A) numerical and fiscal year limitations on the issuance of such visas, (B) section 212(e) of the Immigration and Nationality Act, or (C) the fact that the immigrant was a national, but not a native, of a foreign state described in section 314 of the Immigration Reform and Control Act of 1986.

Visas shall be made available under this section to spouses and children of qualified immigrants in the same manner as such visas were made available to such spouses and children under section 314 of the Immigration and Nationality Act of 1986. The Attorney General may waive section 212(a)(19) of the Immigration and Nationality Act in the case of qualified immigrants described in the first sentence of this section.

The CHAIRMAN. Under the rule, the gentleman from Massachusetts [Mr. Donnelly] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. Donnelly].

(Mr. DONNELLY asked and was given permission to revise and extend his remarks.)

Mr. DONNELLY. Mr. Chairman, this amendment is an amendment which reflects the termination of the so-called NP-5 Program. I will not take much time to explain my amendment, and I urge its adoption by the House.

Mr. Chairman, in 1986, Congress created the NP-5 Program as part of the Immigration Reform and Control Act. The purpose of this temporary program was to enhance immigration from nations which were adversely affected by the 1965 Immigration Act. The Immigration and Naturalization Service identified 36 adversely affected countries.

The NP-5 Program authorized a total of 40,000 visas during its 4-year existence. It was an important and worthwhile program and greatly enhanced immigration from these adversely affected countries, and expired this past Sunday, the end of the fiscal year.

H.R. 4300 does not extend the NP-5 Program. The problem is this: Several applicants for NP-5 visas were notified that they were eligible for a visa under the program. However, before these individuals could respond, the State Department announced that all of the eligible and available visas had been allocated.

Consequently, there are probably on the order of 1,000 individuals in these 36 adversely affected countries who were promised a visa—only to have their hopes dashed by this bureaucratic snafu. My amendment merely authorizes the State Department to award visas to these individuals who were so notified. It is a humane and, I might add, fair response to these people who had such high hopes of coming to America.

As I said, Mr. Chairman, this is a very technical amendment to reflect the termination of the NP-5 Program and I urge its adoption by the House.

Mr. MORRISON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. DONNELLY. I am happy to yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut, Mr. Chairman, I thank the gentleman for yielding to me, and I want to commend the gentleman on his amendment.

I also want to commend the gentleman for his work leading this Congress early on in 1986 to adopt the NP-5 Program and to recognize the adverse effect on certain countries with respect to the admission policy.

I would say to the gentleman that his initial work has borne great fruit in H.R. 4300 in the use of his adversely affected definition for a transition program and in the adoption of a permanent diversity requirement in our immigration law going forward. Without the gentleman's leadership, I doubt we would be at this point in the process of being fair to people from all over the world.

Mr. DONNELLY. Mr. Chairman, I thank the gentleman very much for his very kind words, and I also thank the gentleman for his leadership and the work of all the members of the committee addressing the problems of those 36 adversely affected countries.

Mr. McGRATH. Mr. Chairman, will the gentleman yield?

Mr. DONNELLY. I yield to the gentleman from New York.

Mr. McGRATH. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I rise in support of the gentleman's amendment and congratulate him on the work he has done on this amendment.

Mr. DONNELLY. Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to this amendment.

The CHAIRMAN. The gentleman from Texas is recognized for 5 minutes.

Mr. SMITH of Texas. Mr. Chairman, I would like to ask my colleague, the gentleman from Massachusetts, for several clarifications in regard to his amendment.

First of all, how long will this program last?

Mr. DONNELLY. Mr. Chairman, if the gentleman will yield, as the gentleman knows, the program was terminated on August 1. These individuals who would be covered by this amendment have already been notified by our embassies in the 36 countries that they will be eligible for one of these visas.

The paperwork process could begin immediately on enactment of this legislation and would last, I suspect, no more than 30 to 60 days after enactment of this legislation.

Mr. SMITH of Texas. Mr. Chairman, let me reclaim my time. What I am talking about is how long would this be in effect? For how long will we give entry to these individuals who would be encompassed by this amendment?

Mr. DONNELLY. Only as long as it takes.

Mr. SMITH of Texas. How long is that?

Mr. DONNELLY. Only as long as it takes for the State Department to call those individuals in, those 1,000 individuals that they have already notified and have on the computer to fill out the requisite necessary forms.

Mr. SMITH of Texas. Mr. Chairman, let me reclaim my time, because I think that answers my next question, which is, is there any limit to the number of individuals who might be given entry to the United States under this amendment?

Mr. DONNELLY. Mr. Chairman, if the gentleman will yield further, I have been notified by the people at the State Department who have administered this program that it is in the vicinity of only 1,000 individuals from 36 countries who have already been notified, they have received a visa, they have won the lottery. These were given out by lottery, a fair lottery system, so only those individuals would be eligible and the timeframe would only take a long as is necessary to complete the proper paperwork.

Mr. SMITH of Texas. Mr. Chairman, let me ask the gentleman if he is saying that there is a cap of 1,000 individuals who would be given entry to the United States under this amendment?

Mr. DONNELLY. I have been told that it is in the ballpark of 1,000 from the State Department, but all those individuals who were notified would be eligible.

Mr. SMITH of Texas. It may well be more than a 1,000 individuals?

Mr. DONNELLY. It could be more, but only in the vicinity of 100 or 200 additional, from the information I have received from the State Department.

Mr. SMITH of Texas. Mr. Chairman, I thank the gentleman for his clarification.

Mr. Chairman, I would say that even though we are not talking about an exceptionally large number of individuals who would come in under this program that would be proposed by this amendment, nevertheless we already have three special interest provisions in H.R. 4300 that go to immigrants from adversely affected countries. It seems to me we do not need more special interest legislation or amendments as a part of H.R. 4300.

Mr. Chairman, it has always been my understanding that the best immigration policy would be a policy that is fair and that applies equally to every country. Clearly, this amendment does not go toward that, nor does H.R. 4300.

In 1965, the last year that we passed a legal immigration bill, the whole point of that immigration bill was to make up for past discrimination and come up with a legal immigration bill that would be fair and equal to all countries, and here we are today debating a bill and now debating an amendment that once again is special interest legislation that gives special privileges only to individuals from certain countries. I think that violates the fairness and equity that we all should expect in our immigration laws.

Mr. DONNELLY. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. BROOKS], the chairman of the Committee on the Judiciary.

Mr. BROOKS. Mr. Chairman, I would just like to say that I think the legislation is eminently reasonable at this point. It covers only people who are already on the list. If you are not on the list, you are not covered. How many people are on the list, it might be over a 1,000, as the gentleman has said, but it could not be very many, so I do not think it is going to endanger our immigration policy in the least. I think we ought to pass it. I think there is no problem about it, and we ought to do it now.

Mr. DONNELLY. Mr. Chairman, I thank the gentleman for his kind words and for his support.

Very quickly in conclusion, Mr. Chairman, this amendment only deals with a very small group of individuals who were notified that they had won a lottery, they were eligible to receive a visa to come to the United States of America. Because of a bureaucratic snafu, they were not allotted those visas. I do not think it is fair to dash their hopes because of a Departmental mistake. I think this rectifies it and it is a fair and equitable solution to the problem.

Mr. SMITH of Texas. Mr. Chairman, I yield back the balance of my time.

Mr. DONNELLY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. DONNELLY].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 11, printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BROOKS: Page 95, line 24, insert "(i)" before "In".

Page 95, line 25, insert "except as provided in clause (ii)," after "subsection (b)(1)".

Page 96, line 9, strike all that follows the first period.

Page 96, after line 9, insert the following new clause:

"(ii) The term 'longshore work' does not include the loading or unloading of any cargo where the Secretary of Transportation has, under the authority contained in chapter 37 of title 46, United States Code (relating to carriage of liquid bulk dangerous cargoes), in section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), or in section 4106 of the Oil Pollution Act of 1990, prescribed regulations which govern—

"(I) the handling or stowage of such cargo,

"(II) the manning of vessels and the duties, qualifications, and training of the officers and crew of vessels carrying such cargo, and

"(III) the reduction or elimination of discharge during ballasting, tank cleaning, and handling of such cargo.".

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, section 311 is intended to restrict the performance of traditional longshore work by nonimmigrant alien crewmen. This section contains a definition of longshore work as it is commonly understood in the domestic maritime industry. The amendment which I am offering today would deal with the specialized situation involved with liquid cargoes such as petroleum, chemicals, and natural gas, in which American longshoremen are not used. Liquid cargo systems are sophisticated and individualized to a particular tanker and its cargo, and the slightest error in operations can lead to equipment damage, cargo contamination, spillage, and possibly fire and explosion.

As presently drafted, section 311 would prohibit foreign crewmen from performing any cargo handling work on tankers. I, therefore, am offering this amendment to provide that if the Secretary of Transportation has issued regulations regarding tanker manning, qualification, training, or cargo handling and stowage, section 311 will not apply. My amendment will simply maintain the status quo where bona fide tanker crews operate their vessels' cargo equipment for the enhancement of safety and the protection of the tankers, their crews, and the environment.

☐ 1700

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does any Member rise in opposition to the amendment?

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is an improvement on the language now in H.R. 4300 concerning longshore work, but it still contains very damaging provisions for the U.S. shipping industry and those who rely on it.

The amendment wisely provides an exemption from the "no alien crew may work" rule for oil tankers and other ships carrying hazardous cargo. It is important that specifically trained foreign crewmen be allowed to unload hazardous cargo, so that the danger of oilspills and chemical spills is minimized.

However, two serious problems remain: First, we should not require ships to use longshoremen to unload cargo that is connected to machinery that unloads the cargo automatically, and second, we should not discriminate against foreign ships whose countries allow U.S. crews to unload U.S.-flag ships when our ships are in the ports of that foreign country.

The Governments of Great Britain and Canada have registered formal protests against the longshore provisions of H.R. 4300, and this amendment does not remedy those concerns.

Let me emphasize that this is not an issue of foreign-country protectionism. If this bill is passed with the longshore amendment in it, the United States could fairly be accused of being protectionist in its own shipping and longshore laws.

The Rules Committee made a large error by not allowing Mr. DAVIS' amendment to be in order on this provision. It would have avoided much of the controversy that this provision has caused.

However, I will not oppose this amendment because it takes an awful committee provision and makes it merely bad, but I encourage the conferees to look seriously at deleting the provision entirely at conference.

Mr. Chairman, I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BROOKS].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 12, printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. FISH

Mr. FISH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment:

The text of the amendment is as follows:

Amendment offered by Mr. FISH: Page 109, after line 3, insert the following new section (and conform the table of contents accordingly):

SEC. 318. REVISION AND EXTENSION OF THE VISA WAIVER PILOT PROGRAM.

(a) IN GENERAL.—Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended—

(1) in subsection (a)(2), by inserting ", and presents a passport issued by," after "is a national of";

(2) in subsection (a)(3)—

(A) by striking "ENTRY CONTROL AND WAIVER FORMS" and inserting "IMMIGRATION FORMS"; and

(B) by striking all that follows "such admission" and inserting "completes such immigration form as the Attorney General shall establish.";

(3) by striking paragraph (4) of subsection (a) and inserting the following:

"(4) ENTRY BY SEA OR AIR.—If arriving by sea or air, the alien arrives at the port of entry into the United States on a carrier which has entered into an agreement with the Service to guarantee transport of the alien out of the United States if the alien is found inadmissible or deportable by an immigration officer.";

(4) by adding at the end of subsection (a) the following new paragraph:

"(7) ROUND-TRIP TICKET.—The alien is in possession of a round-trip transportation ticket (unless this requirement is waived by the Attorney General under regulations.";

(5) in subsection (b)—

(A) by striking the heading and paragraphs (1) through (3), and

(B) by redesignating paragraph (4) (and subparagraphs (A) and (B) thereof) as subsection (b) (and paragraphs (1) and (2) thereof, respectively);

(6) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "UP TO 8 COUNTRIES" in the heading and inserting "IN GENERAL", and

(ii) by striking all that follows "may designate" and inserting "any country as a pilot program country if it meets the requirements of paragraph (2)";

(A) in paragraph (2)—

(i) by striking "INITIAL QUALIFICATIONS" in the heading and inserting "QUALIFICATIONS",

(ii) by striking "For the initial period described in paragraph (4), a country" and inserting "A country", and

(iii) by adding at the end the following new subparagraphs:

"(C) MACHINE READIBLE PASSPORT PROGRAM.—The government of the country certifies that it has or is in the process of developing a program to issue machine-readible passports to its citizens.

"(D) LAW ENFORCEMENT INTERESTS.—The Attorney General determines that the United States law enforcement interests would not be compromised by the designation of the country.";

(7) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (d) the following new subsection:

"(d) AUTHORITY.—Notwithstanding the other provision of this section, the Attorney General and the Secretary of State, acting jointly, may for any reason (including national security) refrain from waiving the visa requirement in respect to nationals of any country which may otherwise qualify for designation or may, at any time, rescind any waiver or designation previously granted under this section."; and

(8) in subsection (e)(1), as so redesignated—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting ", and", and

(C) by adding at the end the following new subparagraph:

"(C) to be subject to the imposition of fines resulting from the transporting into the United States of a national of a designated country without a passport pursuant to regulations promulgated by the Attorney General."; and

(9) in subsection (f), as so redesignated, by striking all that follows "the period beginning" and inserting "on October 1, 1988, and ending on September 30, 1994.".

(b) PENALTY FOR TRANSPORT OF ALIENS WITHOUT VALID VISAS.—Section 273 of such Act (8 U.S.C. 1323) is amended—

(1) in subsection (a), by inserting "a valid passport and" before "an unexpired visa", and

(2) in subsection (c), by inserting "valid passport or" before "visa was required".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of the date of the enactment of this Act.

The CHAIRMAN. Under the rule, the gentleman from New York [Mr. FISH] will be recognized for 5 minutes, and a Member opposed to the amendment will be recognized for 5 minutes.

The Chair recognzies the gentleman from New York [Mr. FISH].

Mr. FISH. I yield myself such time as I may consume.

Mr. Chairman, my amendment is designed to extend the visa waiver pilot program that now exists in current law.

This pilot program was created by IRCA in 1986. Its intention was to minimize the formal visa requirements for nationals of eight countries coming to the United States for a visit of 90 days or less. The eight countries to be picked were those with very low visa abuse, overstay, or refusal rates.

The benefits of the program were also only offered to those countries that offered U.S. visitors the reciprocal no-visa requirement. The report on the visa waiver pilot program this year by the Department of State reads:

> Our experience with the visa waiver pilot program convinces us that the visa waiver program has successfully moved toward accomplishing both goals set by the Congress: To improve the use of United States Government resources and to encourage international travel. Through February 1990 more than 3.5 million visitors were admitted into the United States under the program, and 782 have been found ineligible for entry; 97 have been deported (a rate of less than .003 percent).

Importantly, the visa waiver program allows the Consular Bureau of the State Department to allocate its resources more efficiently. It allows the Department to reduce the number of officers that must process visas in countries where visa abuse rates are low, and enlarge the consular staff in countries where visa fraud and abuse is a much greater problem, or where drug trafficking and threats of terrorism require a more careful screening process.

The Department's report on the pilot program has this to say on the impact on consular operations:

> The limited elimination of the visa requirement for some aliens has provided the Department of State with much-needed resources which have been reprogrammed to other areas. As of March 31, 1990 the Department has already transferred eleven Foreign Service officer and six Foreign Service national employee positions to posts in Eastern Europe in need of additional resources because of the historic changes taking place in that region.

Because the current visa waiver program will expire in 1 year, I am offering this amendment to extend and enlarge it.

This amendment would extend the visa waiver program for another 3 years, and it would drop the limitation of eight countries that may qualify. Under the amendment, any country with a sufficiently low visa abuse rate may be designated for visa waiver privileges by joint action of the Secretary of State and the Attorney General. That country must also grant reciprocal benefits to United States visitors.

The State and Justice Departments have also recommended other technical changes to ensure that the program is efficiently and effectively administered, and these changes are incorporated in the amendment.

In addition to our State Department a number of organizations promoting tourism support this amendment. President Bush expressed his interest in having this program extended in a recent meeting he had with European heads of state.

I encourage my colleagues to approve this noncontroversial amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Is there a Member in opposition to the amendment?

Mr. BROOKS. Mr. Chairman, I have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. FISH].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 13, printed in part 2 of House Report No. 101-786.

AMENDMENT OFFERED BY MR. FISH

Mr. FISH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Fish: Page 109, after line 3, insert the following new section (and conform the table of contents accordingly):

SEC. 318. 1-YEAR EXTENSION IN DEADLINE FOR FILING APPLICATIONS FOR ADJUSTMENT FROM TEMPORARY TO PERMANENT RESIDENCE FOR LEGALIZED ALIENS.

Section 245A(b) of the Immigration and Nationality Act (8 U.S.C. 1255a(b)) is amended—

(1) in paragraph (1)(A), by striking "one-year period" and inserting "2-year period", and

(2) in paragraph (2)(C), by striking "thirty-first" and inserting "43rd".

The CHAIRMAN. Under the rule, the gentleman from New York [Mr. Fish] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from New York [Mr. Fish].

Mr. FISH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I offer this amendment on my behalf and on behalf of the gentlewoman from California [Ms. Pelosi].

Mr. Chairman, the Immigration Reform and Control Act of 1986 [IRCA] provided the opportunity of legalization for certain undocumented aliens who had lived in the United States since before January 1, 1982. IRCA established a two-stage process for legalization. In stage 1 of IRCA, persons who demonstrated that they fulfilled various IRCA requirements were given temporary resident status. The majority of applicants became temporary residents during 1987 and 1988, but some stage 1 petitions are still pending. During stage 1, the temporary residents must pursue basic citizenship skills, including a minimal understanding of English and knowledge of history and government. Continuous residence and qualifying as an admissible resident are also requirements.

Under stage 2 of IRCA, these qualified temporary residents are permitted to file for adjustment of status to permanent residence. Here lies the problem: Aliens are required to file for stage 2 permanent residence "during the 1-year period beginning with the 19th month that begins after the date that the alien was granted such temporary resident status," that is, within 31 months after stage 1 applications were approved.

Although IRCA basically requires applicants to make a stage 2 filing within 31 months of stage 1 approval, the law's imprecise statement of this requirement has caused much uncertainty and confusion on the part of not just aliens but the INS itself. The fact that the deadline for each individual applicant is different has made outreach programs very difficult. Due to this confusion, as many as 21,000 temporary residents may already have missed their stage 2 deadlines.

Almost 350,000 temporary residents have not yet filed for this second stage of legalization. They also could miss their deadlines due to this confusion. The result would be that qualified individual's revert to undocumented status.

H.R. 4300, as reported by the Subcommittee on Immigration to the full Judiciary Committee, contained a provision—section 321—that would have given temporary residents 2 years instead of 1 year to file for permanent residence. It was subsequently removed during full Judiciary Committee consideration. My amendment would simply reinstate the 2-year deadline for stage 2 legalization.

This allows the INS and voluntary agencies more time to develop and implement effective outreach programs so as to inform applicants of the importance of applying for stage 2.

Mr. Chairman, if no extension is granted, the legalization process adopted by Congress in 1986 would be undercut. Aliens who qualify for legalization will not be legalized. The undocumented population would swell with all the problems that entails.

Mr. Chairman, I urge the adoption of this amendment.

□ 1710

Ms. PELOSI. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Chairman, I thank the gentleman from New York [Mr. Fish] for yielding and for his hard work on this amendment. I have appreciated the opportunity to work with Mr. Fish on this very important change in H.R. 4300.

Before proceeding on the amendment, I wish to commend the chairman of the full committee, the gentleman from Texas [Mr. Brooks], the chairman of the subcommittee, the gentleman from Connecticut [Mr. Morrison], and the ranking member, the gentleman from New York [Mr. Fish] for their hard work on this Morrison bill, as well as the gentleman from Texas [Mr. Smith], the ranking Republican on the subcommittee.

Mr. Chairman, this bill is legislation of great importance to my distict. In fact, it has been a unifying factor among the Asian-Americans, the Hispanic community and the Irish-American community, all of whom have problems on immigration which are redressed in this bill, so I am very grateful for the Morrison bill, and I thank the leaders of the Committee on the Judiciary for their hard work.

Mr. Chairman, I rise in strong support of the amendment of the gentleman from New York [Mr. Fish], which would prevent thousands of already legalized aliens from being returned to undocumented status. I will not go into the details of the amendment because the gentleman from New York [Mr. Fish] has already done so. I would just like Mr. Chairman, to proceed with two examples from my own district, cases of two individuals from the San Francisco Bay area which demonstrate the serious problems with the stage 2 application process.

A 35-year-old woman, who had already been approved for stage 1, went to an Immigration and Naturalization Service [INS] office on July 19 to find out when she needed to apply for stage 2. The woman is fluent in English and had been in the country for several years. She knew that the temporary resident card, the approval card for stage 1, did not specify the stage 2 deadline. The receptionist at the INS office looked at the woman's temporary resident card and informed her she had 2 months to complete the stage 2 application. When the applicant returned in 2 weeks, she was told that the deadline had been passed and that she missed her deadline.

A second applicant, a wife of a member of the U.S. Navy, tried to contact the INS about her stage 2 deadline. The applicant called an INS legalization hot line, but only encountered a recording. Her letters to the INS were never answered. When she went in person to the INS Office, she was informed that the deadline had passed for her stage 2 application.

These are only two of numerous examples reported by immigrant assistance organizations. It is clear that the immigrants are missing their deadlines because the stage 2 application process is unduly complicated, and the Immigration and Naturalization Service has not done an adequate job of informing applicants of their deadlines.

With all of their good intentions, with the hot line, and outreach, with correspondence, et cetera, the effort has not been good enough. Unlike stage 1, every applicant to stage 2 has a unique deadline. No document provided by the INS, either the stage 1 approval letter or the temporary resident card, identified that individual's deadline. The INS direct mail campaign to inform potential stage 2 applicants missed individuals who had moved or did not receive their mail. In the western region only, and 16 months after the legalization program began, the INS set up a hot line to deal with questions about the process. Numerous immigrant assistance organizations have found that the hot line frequently provided incorrect information. The hot line was eventually discontinued. The amendment of the gentleman from New York [Mr. Fish] would give the INS and private organizations an extra year to perform outreach and inform applicants of their stage 2 deadlines.

Mr. Chairman, 21,000 immigrants have already missed their stage 2 deadline, and an additional 46,000 immigrants may miss their deadlines by the end of the year.

I urge my colleagues to support the amendment of the gentleman from New York [Mr. Fish] and give already legalized immigrants an opportunity to become permanent residents of the United States

Again I thank the gentleman from Texas [Mr. Brooks], the gentleman from Connecticut [Mr. Morrison], and the gentleman from Texas [Mr. Smith] for their hard work on this, and special thanks to the gentleman from California [Mr. Berman] for his hard work as well.

The CHAIRMAN. Is there any Member in opposition to the amendment offered by the gentleman from New York [Mr. Fish]?

Mr. BROOKS. Mr. Chairman, I have no opposition to the amendment, and I see no reason why we should not agree to it now.

Mr. FISH. Mr. Chairman, I want to thank the gentlewoman from California [Ms. Pelosi] for her comments on the Fish-Pelosi amendment, and the examples she gave from her district; I could have given many more across the country of people who are highly literate in the English language who simply got caught up in all the confusion on this, and I thank her for her comments.

Mr. Chairman, I yield back the balance of my time.

Mr. HOYER. Mr. Chairman, I rise in support of the amendment offered by the distinguished minority member of the Judiciary Committee, Mr. Fish, which would extend the visa waiver pilot program for another 3 years.

The 1986 Immigration Reform and Control Act allowed for eight countries to be visa free for a 3-year trial period.

The program had two goals: To facilitate international travel; and to improve the use of scarce Government resources. Countries that were selected for this program offer reciprocal treatment—that is they do not require visas of Americans—and have nationals who cause few immigration problems for us.

The eight that were chosen by workload, that is, number of visas issued in 1986, to have the greatest savings for the U.S. Government. These countries included: Great Britian, West Germany, Italy, Holland, Japan, France, Switzerland, and Sweden.

If we adopt this amendment, Mr. Chairman, I plan to encourage the State Department to add Denmark to this list. Embassy officials indicate that they would be able to cut between two and four staff positions in the Embassy in Copenhagen alone and would facilitate greater tourist and business travel to the United States. It would eradicate a persistent public relations problem in the form of the eternal question, "why do Danes need a visa to visit America when Americans don't need one to come here?"

We issue 80,000 Danish visas a year, denying only 1 out of 600 applicants. We are thus wasting the Danes time and Government resources by continuing to subject them to the visa process.

Mr. Chairman, the visa waiver pilot program has worked very well since its inception in 1986. I encourage my colleagues to continue this program and again thank the gentleman from New York for his amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. Fish].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 14 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Smith of Texas: Page 109, after line 3, insert the following new section (and conform the table of contents accordingly:)

SEC. 318. EXTENSION OF STATE LEGALIZATION IMPACT ASSISTANCE GRANTS.

Section 204 of the Immigration Reform and Control Act of 1986, as amended by title II of Public Law 101-66 (Department of Health and Human Services Appropriations Act, 1990, is amended—

(1) in subsection (a)(1)(A), by striking "three" and inserting "seven", and

(2) in subsection (b)(4), by striking "1994" and inserting "1998".

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. Smith] will be recognized for 5 minutes, and a Member opposed to the amendment will be recognized for 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. Smith].

Mr. SMITH of Texas. Mr. Chairman, on that last amendment, which was passed without objection, we extended the deadlines for this SLIAG program, and, if we are going to do that, to be consistent we should also vote to extend the assistance given to the States for that very same program, and that is what my amendment does.

Mr. Chairman, this amendment would extend from 5 years to 8 the period of Federal financial reimbursement to States to offset their costs incurred due to the 1986 legalization program.

IRCA authorized 4 years worth of reimbursement to States for the public assistance, public health, and education costs that they might incur due to the participation of newly legalized aliens in these programs. This reimbursement provision was called "State legalization impact assistance grants," or "SLIAG."

Last year the 4 years of funding was extended to 5 because of the borrowing of $555 million of SLIAG funds by the Committee on Appropriations from the fiscal year 1990 SLIAG account. My amendment recognizes that illegal aliens will be granted a legal status through the broad family fairness amnesty that is contained in section 314 of H.R. 4300, so State and local governments will now have additional public assistance and education costs that must be reimbursed. This problem was recognized at the Immigration Subcommittee level, and an amendment was added which allowed SLIAG funds to be disbursed to States giving services to aliens receiving family fairness amnesty benefits. However it is not enough merely to use the existing pot of money for a greatly expanded class of aliens who will demand a greatly increased level of services.

Therefore, Mr. Chairman, my amendment would extend the annual appropriation for another 3 years because the family fairness aliens will almost certainly be demanding the services of our State and local governments in those same years.

There is a very simple policy here, Mr. Chairman. If we give immigration benefits to aliens, we have to pay for the State and local financial consequences. Congress recognized in 1986 that legalized aliens would cost the State and local governments money. SLIAG was created to offset those costs.

Mr. Chairman, we are giving benefits now to uncounted thousands of spouses and children of the aliens who received amnesty in 1986, so we should pay for them as well, and SLIAG is the appropriate vehicle.

Some might argue that the States have not used their entire SLIAG allotment so far and that giving them extra money right now is not necessary.

□ 1720

Mr. Chairman, I do not buy that argument. Congress understood that the States may not experience all of the costs immediately. The 4 years of initial SLIAG reimbursement was allowed to be spent over 7 years. My amendment continues that staggered time allowance and recognizes that while all costs might not be manifested immediately, there are certainly some substantial financial obligations for State and local governments looming in the near future.

Let us not grant a wealth of Federal immigration benefits to aliens, and then leave our State and local governments holding the fiscal bag. Mr. Chairman, I urge Members to support this amendment.

Mr. MORRISON of Connecticut. Mr. Chairman, I rise in opposition to this amendment, and yield myself such time as I may consume.

Mr. Chairman, I am frankly shocked at this amendment. This amendment costs $4 billion. Not $4 billion in authorized spending, but $4 billion in appropriated spending. Not in an appropriations bill, not in an authorization bill, but in a regulatory measure that governs our legal immigration system.

Mr. Chairman, in a very unusual procedure, as part of the Immigration Reform and Control Act in 1986, a special fund of money of $4 billion was set aside for special expenses incurred by State and local governments with respect to the legalization program. This amendment seeks to bootstrap onto that program, to avoid the appropriation process in the fiscal years 1992, 1993, 1994, and 1995, in order to spend without further review $4 billion of taxpayer money.

This really is quite something. I wonder whether this $4 billion has been included in the budget summit that has just been concluded, where there was stressing and straining to find a way to save billions upon billions of dollars.

Were this money to be proposed to be spent in these years, the gentleman from Texas [Mr. SMITH] would have to find $1 billion per year in new taxes in order to pay for it. He seeks to avoid that discipline by this type of approach at this time.

Mr. Chairman, this is an irresponsible amendment. We do not have the money. The costs the gentleman is talking about in fact are not being created by anything in this bill.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding. I rise in opposition to the amendment. The gentleman from Connecticut [Mr. MORRISION] has pointed out the very unusual nature of what the gentleman is proposing, a piece of legislation that would appropriate by its own terms $4 billion.

In addition to the unusual nature of the amendment is the unjustified nature of the amendment. The gentleman from Texas [Mr. SMITH] was incorrect in talking about last year we extended SLIAG for 1 year. In 1986 we appropriated $1 billion a year for 4 years to be spent over a period of 7 years through 1994. That is still in place.

Our problem is not getting an addition $4 billion appropriated, it is to get the Committee on Appropriations, and particularly the Senate Committee on Appropriations, to keep faith with what we have in 1986, and to appropriate and not take away the funds we appropriated at that time.

Mr. Chairman, we have large amounts of sums in that original appropriation that not only have not been spent, but are being held back from the States.

Second, the whole logic of the SLIAG program was to cover the education and health benefits of the people in the legalization program. The massive part of this bill deals with legal immigration. We must stop sliding from the costs that many people believe come with illegal immigration, and applying that to the legal immigration system. Study after study shows that those are not people who go on welfare, they are not people who rely on county and public hospitals. They are people with family support, job support. They work. They produce taxes.

The small number of people that will be affected by the family fairness program are people who are here, who are being given a work authorization in the stay of deportation. They are not required to study the English language like the people in the legalization program. The various provisions that required SLIAG funding and justified it back in 1986 do not apply in this situation.

Mr. Chairman, I urge Members to reject the $4 billion appropriation request made in this amendment. It is not right, it is not needed, and it misapplies the term of what we are trying to do in this legislation.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me say first of all that I am absolutely delighted to hear the concern about spending that has been expressed by the gentleman from Connecticut [Mr. MORRISON], and the gentleman from California [Mr. BERMAN]. I can only assume that that represents a change in their political thinking, and I welcome it.

Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, I thank the gentleman for yielding.

This week is a bad week to talk about $4 billion of new money. However, I also remember how many Californians persuaded us in 1986 to stick it in the bill just the way it was so we did have an appropriation in an authorization bill.

But the gentleman from Texas [Mr. SMITH] is raising an important point here, that the chairman of the full committee has raised himself at other times, and that is someone is going to have to pay for this.

This may not be precisely the vehicle, but I am concerned, because the Senate has no counterpart. So I don't know how we would resolve this in conference. But there will be charges that will be borne, not only for the family fairness part of this bill, but for other parts, by States and localities, if some provision is not made in this legislation.

Mr. Chairman, this will be a heavy burden on States. We know the States that normally will be impacted from a measure like this. So I think the gentleman from Texas [Mr. SMITH] has served a great purpose here in bringing this matter to our attention. We should be aware that what we are doing is we are laying a burden on States and localities.

Mr. MORRISON of Connecticut. Mr. Chairman, I yield myself such time as I may consume, just to underscore what the gentleman from California [Mr. BERMAN] said, that, in fact, the costs which were present in the 1986 law, that gave rise to the special appropriation, are not present in this legislation. Trying to bootstrap on that precedent is a very bad idea, and it is a very bad day to be talking about $4 billion in extra spending.

Mr. Chairman, I hope Members will reject the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, a minute ago the gentleman from California [Mr. BERMAN] said that the SLIAG program was unjustifed. Yet that very same program was approved by Congress in 1986.

The main point here is what is fair is fair. If we are going to shoulder States with the additional expense of taking care of those individuals who received amnesty, we ought to help them pay for it.

If the States are going to have the additional responsibility to incur the additional costs that all come with those hundreds of thousands of amnestied aliens, then we ought to do our fair share as well.

Mr. Chairman, I think this is an issue that should be clear to anybody, because it is absolutely essential that the local governments get some help in shouldering the burden of paying for the illegal aliens who received amnesty.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas. [Mr. SMITH].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SMITH of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 53, noes 368, not voting 12, as follows:

[Roll No. 401]

AYES—53

Ballenger
Bartlett
Barton
Bennett
Bentley
Bryant

Campbell (CA)
Combest
Dannemeyer
Davis
DeFazio
DeLay

Fascell
Fields
Gallegly
Gekas
Goodling
Goss

Gradison
Grant
Hall (TX)
Hancock
Hansen
Herger
Hunter
Hutto
Hyde
James
Johnston
Kolbe

Lagomarsino
Leath (TX)
Lehman (FL)
Lowery (CA)
Lukens, Donald
McCollum
Moorhead
Morrison (WA)
Nelson
Packard
Quillen
Ros-Lehtinen

Sarpalius
Schiff
Shaw
Shumway
Skeen
Smith (FL)
Smith (TX)
Smith, Denny (OR)
Stearns
Stenholm
Young (FL)

NOES—368

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Barnard
Bateman
Bates
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Billey
Boehlert
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Crane
Crockett
Darden
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas

Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Inhofe
Ireland
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee

Kleczka
Kolter
Kostmayer
Kyl
LaFalce
Lancaster
Lantos
Laughlin
Leach (IA)
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken, Thomas
Machtley
Madigan
Manton
Markey
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Pallone
Panetta
Parker
Pashayan

Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Sangmeister
Savage
Sawyer
Saxton
Schaefer

Scheuer
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (VT)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke

Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)

NOT VOTING—12

Boggs
Engel
Flippo
Ford (TN)

Frenzel
Hawkins
Martin (IL)
Owens (NY)

Parris
Rowland (CT)
Saiki
Schuette

☐ 1750

Messrs. McCANDLESS, BROWDER, SKAGGS, ARCHER, TOWNS, HOLLOWAY, RINALDO, and ROHRABACHER changed their vote from "aye" to "no."

Messrs. LOWERY of California, KOLBE, NELSON of Florida, LEHMAN of Florida, and FASCELL, changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. PARRIS. Mr. Chairman, I was inadvertently delayed and missed the vote on the Smith of Texas amendment to reimburse the States. Had I been present I would have voted no.

The CHAIRMAN. It is now in order to consider amendment No. 15 printed in part 2 of House Report No. 101–786.

AMENDMENT OFFERED BY MR. DORGAN OF NORTH DAKOTA

Mr. DORGAN of North Dakota. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DORGAN of North Dakota; Page 113, after line 8, insert the following new section (and redesignate the succeeding sections, and conform the table of contents, accordingly):

SEC. 324. LIMITATION ON DETENTION OF CERTAIN ALIENS WITH DEPENDENT CHILDREN.

(a) IN GENERAL.—Section 242(c) of the Immigration and Nationality Act (8 U.S.C. 1252(c)) is amended—

(1) by striking "When" and inserting "(1) Except as provided in paragraph (2), when "; and

(2) by adding at the end the following new paragraph:

"(2)(A) The Attorney General shall not detain any alien described in subparagraph (B) who is deportable under section 241, except in connection with the immediate departure of such alien. The period of such detention shall not exceed a reasonable amount of time (not to exceed 24 hours) based upon the particular circumstances of the alien and the alien's dependent children.

"(B) An alien described in this paragraph is an alien—

"(i) who is not deportable under paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19) of section 241(a); and

"(ii) who is the mother of any child in the United States if the child is not older than 2 years of age and is dependent upon the alien for basic parental care."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any alien subject to a final deportation order on or after the date of enactment of this Act.

The CHAIRMAN. Under the rule, the gentleman from North Dakota [Mr. DORGAN] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

The Chair recognizes the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, the amendment that I have offered today deals with the question of parent and child under immigration procedure.

Let me just tell Members a brief story. It is an anecdote. A woman named Maria Ventura was taken from her children and thrown into jail in Prince George's County for close to 6 days. Maria has three children. One was age 6, another 2½, and another 6 weeks old. A 6-week-old breast-feeding infant who had a viral infection, and the mother was received by the Immigration Service and thrown in jail. A story in the local newspaper pictures the children and describes the plight of the mother in Prince George's County Jail. A young woman who was not a threat to this community or this society was snatched in the jaws of the immigration system and thrown into jail for nearly 6 days.

Apparently, the Immigration Service says, "We don't care about the children. We don't care about a 6-week-old baby that is breast-feeding." We throw the mother in jail, and that should not happen in this country.

Mr. Chairman, my legislation prevents detention, except for 24 hours under deportation order, of a mother with children under 2 years of age. This legislation does not include protection for those involved in criminal activities, violent crime. It does not include detention for those involved in drug activities, but it does say that those illegal aliens that are guilty of infractions, the kinds of infractions such as illegal entry or staying too long, should not be separated from 3-, 5-, and 6-week-old infants who are breast-feeding, and be thrown in jail as common criminals. That is inhumane treatment in this country. My legislation would provide protection for those kinds of people and would prevent the Immigration Service from detaining them for more than 24 hours.

Mr. Chairmam, I reserve the balance of my time.

The CHAIRMAN. Is there a Member in the Chamber in opposition to the amendment?

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. Smith] is recognized for 5 minutes.

Mr. SMITH of Texas. Mr. Chairman, I would like to ask my colleague, the gentleman from North Dakota [Mr. Dorgan], for clarification in regard to his amendment. I very much appreciate and sympathize with the heartwarming story that my colleague just related a moment ago. I also appreciate the humanitarian instinct that has impelled him to offer this amendment.

If we could limit the amendment to the one circumstance that he has described, I would certainly support it. However, as a clarification of this amendment, I would like to ask my colleague several questions with the idea that it might well be an amendment that sweeps too broad.

Let me ask my colleague, first of all, does this amendment mean that if your situation was that a woman who was a single parent who had a child under 2 years old was accused of committing terrorist acts or first-degree murder, would that individual be unable to be detained for 24 hours because of having a child less than 2 years old?

Mr. DORGAN of North Dakota. Will the gentleman yield?

Mr. SMITH of Texas. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. The answer to that is no. First of all, this amendment does not attempt to intercept or impede in any way the jurisdictional process at the State or national level. State and local authorities can charge and detain at will, in the event that accusations are made against any citizen residing in this country.

Second, in the amendment I have described certain exceptions to this policy. Those exceptions include, as I indicated, those persons who are felons, those persons who are involved in drug activity and more.

Mr. SMITH of Texas. I thank the gentleman for that clarification. Let me ask a further question. If we were dealing with individuals who, say, had been detained in south Texas because of their pending adjudication of a solemn claim, and we had a situation where there is a single parent with children under 2 years old, would those individuals have to be released because under your amendment there could be no detention for beyond 24 hours?

Mr. DORGAN of North Dakota. If the gentleman will continue to yield, it would certainly depend upon the conditions under which they were detained.

There are, I think, nearly nine exceptions under my description of alien in this description. I might say, with respect other than these exceptions, my intention with this legislation would be to release those who are detained who have young infant children under the age of 2.

I find it completely unforgivable to have a policy in which the Immigration Service throws in jail a young woman who is breast-feeding a 6-week-old infant, who poses no danger to the society whatsoever.

Mr. SMITH of Texas. I already stated that I agree completely, and I sympathize with the case he has described. I am talking about what I am concerned about is the broadness of his amendment, and the gentleman has assured me on one point. However, I am still concerned it may be too broad.

□ 1800

Mr. DORGAN of North Dakota. Mr. Chairman, would the gentleman go over that again?

Mr. SMITH of Texas. Mr. Chairman, because we are not certain how broad the amendment is, I am going to still urge its rejection, but certainly would work with the gentleman between now and the conference committee to try to work out the situation that he described.

Mr. DORGAN of North Dakota. Mr. Chairman, let me in just 30 seconds say that I have heard objections from the Immigration Service as they insisted on their right to jail someone who had a 6-week-old nursing infant. It is wrong in this country to do that. This legislation is protective of society against those who commit heinous crimes, those involved in drug traffic and more.

I urge that the House adopt this policy by adopting this amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield back the balance of my time.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Dakota [Mr. Dorgan].

The amendment was agreed to.

Mr. DAVIS. Mr. Chairman, I ask unanimous consent to engage the gentleman from Texas [Mr. Brooks], the chairman of the full committee, in a colloquy.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. The gentleman from Michigan [Mr. Davis] is recognized.

Mr. DAVIS. Mr. Chairman, may I say to the gentleman from Texas [Mr. Brooks] this involves section 311, the amendment that was adopted some time ago concerning the handling of cargo on tank vessels. I was not here when we brought that amendment up.

Mr. Chairman, I rise in strong support of the amendment offered by Mr. Brooks on the loading and unloading of cargo on oil tankers and hazardous chemical carriers. This amendment recognizes the significant safety and environmental problems relating to cargo handling on these types of vessels and will continue to recognize the critical role of the crew in these loading and unloading evolutions. This amendment represents a significant improvement to this section of H.R. 4300; however, it does not address an issue of significant concern to vessels transiting the Great Lakes. Although our respective staffs have been working over the last 4 days to deal with this complicated issue, we simply ran out of time. I know the gentleman is well aware of the concerns which relate specifically to the transportation and loading of raw materials such as iron ore and limestone. Is it the gentleman's intention to address these issues in the conference report?

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I am pleased to yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, may I say to my friend, the gentleman from Michigan [Mr. Davis], I want to thank the gentleman for his comments.

To answer the gentleman's specific question, it is in fact my intention to consider the concerns that arise with respect to the so-called self-unloaders which transit the Great Lakes, and I will continue to work toward that end. I would hope that we could reach an acceptable solution.

Mr. DAVIS. Mr. Chairman, I want to thank the gentleman from Texas, the chairman of the full committee, for his assurances. I again urge support for this amendment.

The CHAIRMAN. It is now in order to consider amendment No. 16, printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. MC COLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. McCollum: Strike section 324 (relating to temporary protected status for nationals of El Salvador, Lebanon, Liberia, and Kuwait, and other designated foreign States).

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. McCollum] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. McCollum].

Mr. McCOLLUM. Mr. Chairman, the amendment that I have proposed would strike a provision that has been put in this bill by the chairman of the Rules Committee, the gentleman from Massachusetts [Mr. Moakley] to provide for extended voluntary departure for several countries, that is the illegals that are here from several countries, that is El Salvador, Lebanon, Liberia, and Kuwait.

Mr. Chairman, let me repeat, the amendment would strike the provision that would grant extended voluntary departure to El Salvador, Lebanon, Liberia, and Kuwait illegals who are here for a period of 3 years, just a flat-out grant of that kind of privilege, which the Immigration Service and the Justice Department could do nothing about. It would grandfather in all these folks and say, "You can't deport any of them for any reason."

I think that is fundamentally unsound policy and it is fundamentally wrong to do that.

We have laws on the books to deal with people who may be in reasonable fear of political persecution or religious persecution if they return to their countries of origin. Those laws on the books have been used time and again by the Immigration Service to protect those who are indeed in fear and could be jeopardized or harmed if they went back home.

We would in this provision that has been put into this bill adopt a procedure that we have never adopted before and is certainly not one that I think is good law or makes good sense.

Last year we had a similar debate over this process, did not get it into law, but it was a bill that was out here to be debated that included in addition to El Salvador, China and Nicaragua.

Now, that was also for 3 years, and in the intervening time conditions have changed in both those countries. Most dramatically, we know they have changed in Nicaragua now. The Government has changed, and we would not want to have a 3-year amnesty for the illegals who are here from Nicaragua. That is why I submit they are not in this proposal today.

The same thing could be true for one of these countries in the next year.

I would submit that having a 3-year amnesty for all the illegals is not the way to go. We need to continue to let the Immigration Service use existing laws for political asylum to protect people who are here from those countries that are in trouble and make that work and not bind their hands behind their backs so that we have to keep everybody here.

With regard to El Salvador in particular, we do not have people down there, very many of them, that are in this country who are in fear of being persecuted at all when they go back. We have thousands of Salvadorans here today. I do not advocate that we kick them all out. They are not going to be kicked out under the present laws we have. We cannot even begin to get to them if we wanted to. We do not have the personnel to do it; but if they are in fear of persecution, and there are some of them claiming that, there is a process to go through that is orderly in law today that would allow our Justice Department and its Immigration Service to grant them the kind of extended stay here that is something that we would all want to see happen, and that is called political asylum. That is a process again that is in current law.

The Moakley provisions that my amendment would strike are not only unnecessary, but again that are bad policy. They keep lots of illegals here indiscriminately for extended periods of time.

The administration obviously is very opposed to this provision, and I would urge my colleagues to vote for the McCollum amendment. Strike out this provision that has been put in there for a special 3-year sweetheart deal for amnesty of illegals from these particular four countries and let us go on with procedures that are in law today, make them work. Let them work and not have some extraneous material like this in this bill to clutter it up.

Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Florida, which would delete the provision to grant temporary protective status to certain nationals. Individuals who have fled from El Salvador, Liberia, Lebanon, and Kuwait should not be required to return to their war-torn homelands until the political situation in those countries is stabilized. This grant of temporary protective status is a compassionate and humanitarian action on the part of the United States and is in keeping with the finest of our national traditions. I would urge that this provision remain in H.R. 4300, and that the amendment be rejected.

Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. Smith].

Mr. SMITH of Texas. Mr. Chairman, very briefly, I certainly rise in support of the amendment of the gentleman from Florida [Mr. McCollum].

What we are dealing with here is just another amnesty program for another specific country. We seem to be piling on more special interest legislation on top of more special interest legislation tonight.

Mr. Chairman, this is a situation where we have amnesty now provided for the third time just passed in H.R. 4300.

Amnesty is not the right way to determine our immigration policy. Amnesty is not the right way to be fair to those who have been law abiding, and we should not reward lawbreakers to the detriment of the law abiders.

Mr. Chairman, I support the amendment of my colleague, the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I would just like to urge my colleagues again to vote for this amendment. It is a very positive amendment. It strikes a provision out of this bill that has no business being in here, granting amnesty to a bunch of illegals who are here from four for five countries and picking them out for 3 years.

I am not telling you these are bad people, but I am telling you that if they are in fear and you want to protect them because they are in fear of getting persecuted if they go back to their native countries, that you are talking about laws already on the books designed to protect that.

□ 1810

Instead what you are going to do is lock the hands of the administration and say absolutely under no conditions for 3 years are you going to let these people go. As I said earlier, last year when this was out here on the floor for debate, China and Nicaragua were included. Conditions have changed in less than a year. They are not included this time.

Suppose things change in these countries in less than a year. This is not good public policy. This is bad public policy. We need to let the existing laws work.

They do work, and we have absolutely no business going forward with the kind of proposal that is in the bill today, to lock in 3 years of amnesty for four special countries for all the illegals who are here and not do that same thing for everybody. It is ridiculous. It is absurd.

I urge my colleagues to vote "yes" on the McCollum amendment and strike this out of the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished whip on the Democratic side, the gentleman from Pennsylvania [Mr. GRAY].

Mr. GRAY. Mr. Chairman, I rise in opposition to the McCollum amendment. Should this amendment pass, some 14,000 nonimmigrant Liberians would face the threat of detention and deportation to a country where there is no water, there is no electricity, there is no government and practically no hope.

Mr. Chairman, some 5,000 Liberian civilians have lost their lives in recent months as a result of the anarchy that has descended upon their country. There is a three-sided civil war there.

In addition, tens of thousands have been displaced and hundreds of thousands have had to flee to neighboring countries. The promises of the Department of Immigration and Naturalization Services to provide safe haven to the 14,000 Liberians stranded in this country have not borne fruit.

As a result, there are now as many INS policy responses to Liberians as there are INS offices.

The promised safe-haven status provided by the July 27 INS policy memo has not been implemented. What is needed now is the force of law to protect these people. They need to be removed from the whim of procedural discretion and administration lethargy. This is a matter of human compassion.

Mr. Speaker and my colleagues, we are not asking that these people be given permanent resident status in this country. We are not asking that they be allowed to live indefinitely in this country. We are simply asking that they be spared detention and deportation until the war in their land subsides. No one knows how long that will be. But the Moakley amendment provides a 3-year grace period in this bill.

I urge that we support the language in the bill, the Moakley amendment in H.R. 4300, and reject the attempts of my distinguished colleague, the gentleman from Florida, to strike that section.

I urge my colleagues to defeat the amendment of the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I yield myself the balance of my time, and I would like to take some time to engage the gentleman from Pennsylvania [Mr. GRAY]. I would appreciate it.

I know the gentleman is sincere about that plea. I am as concerned as he is about nationals who are here from Liberia as I am about those from Kuwait, for example. But I am sure the gentleman is aware that there is a procedure in law that some of us helped craft called political asylum, where each case individually has a right to be heard through a very extended process that takes, in many cases, all too long, from my perspective, but years. Everyone who is here can go through that process if they are in fear of being persecuted when they go back or are sent back.

Mr. Chairman, is the gentleman aware of that being in law today, that they have the right to protect themselves and keep from being deported under present law?

Mr. GRAY. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Pennsylvania.

Mr. GRAY. I thank the gentleman for yielding.

Mr. Chairman, asylum is not always fairly administered. There have been numerous examples of how it has been unfairly administered to Salvadorans and others.

Second, not everyone who needs protection meets the strict standard of asylum which is "well-founded fear of persecution."

In the case of Liberians, we are not talking about a well-founded fear of persecution which is the direct text of the law; we are talking about going back to a country where there is a three-sided civil war. People are being butchered.

So therefore the asylum method that the gentleman talks about really does not apply to many of these people. This bill is designed to help those who may qualify for asylum but nonetheless need protection.

Mr. McCOLLUM. Reclaiming my time, I think the gentleman made my point for me. If there is no well-founded fear of persecution, then maybe they ought to go back. If they are having a three-sided civil war over there, there is a well-founded fear of persecution. I do not think our Immigration Service judges are going to let them go back and certainly our courts are not. That is what that whole appellate process is designed for. We had it structured in the old immigration law that has been around here a while, since I have been here.

I would submit that this is the process that we ought to be having work; that the gentleman's concerns are there maybe in some individual cases, but overall, the system works exceedingly well, and we ought to let it work.

Mr. GRAY. I point out to the gentleman that my response was not to make his point but to point out the strict nature of the asylum language. It is often left open to interpretation. It is not administered fairly, particularly in the case of certain groups of immigrants with regard to this country.

I have got to say to the gentleman that as I have looked at the INS policy, we have a twofold policy with regard to defining persecution; one for Europe, one for the Caribbean, and one for the African people.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I rise in opposition to the McCollum amendment. I thank Chairman MOAKLEY for including my bill regarding Lebanese nationals, H.R. 3267. An orderly, systematic procedure for providing temporary protected status for nationals of countries undergoing war, civil war, or other extreme tragedy is needed to replace the current ad hoc haphazard procedure.

The current procedure for extended voluntary departure is so arbitrary and discretionary that aliens are reluctant to come forward. In the case of the Lebanese, this fear is compounded by the fact that Lebanese nationals in many areas of the country are placed into deportation hearings once they apply for extended voluntary departure or deferred departure. These are the same Lebanese nationals whose cases are supposed to be viewed sympathetically by the Immigration and Naturalization Service because of an INS directive last October to that effect. I ask unanimous consent that the telex be entered into the RECORD.

U.S. IMMIGRATION AND NATURALIZATION,
Washington, DC, October 12, 1989.

While there is still no blanket policy to grant deferred departure to nationals of Lebanon in the United States who have overstayed, the civil strife in Lebanon continues. This is to reaffirm that officers should, on a case-by-case basis, view sympathetically requests for deferred departure where such requests are based upon compelling humanitarian need. This is a lesser standard than a fear of persecution based on race, religion, nationality, membership in a social group, or political opinion.

One-third of the population of Lebanon is displaced (one million people) and 15 percent have suffered casualties. The United States Government recently withdrew Embassy personnel from Lebanon, the first time an American presence has been absent since World War II. A travel ban for American passport holders has been in effect for three years. The cease-fire called on September 23, 1989, has already been breached. However, there are some places of relative safety within Lebanon. These circumstances should be kept in mind when assessing individual requests for deferred departure from Lebanese nationals.

GERALD L. COYLE,
Acting Commissioner.

The INS should not be placed into deportation proceedings, if they are supposed to be treated sympathetically. Orders to show cause should not be issued for any Lebanese national. By placing the Lebanese who are trying to obey the law in deportation proceedings, which are terrifying to them, we only cause more immigration lawyers to be hired in this country by frightened people who face a horrible fate if they are forced to return to their home.

Some immigration lawyers have told me that the Extended Voluntary Departure Program is administered so badly that their clients have applied for political asylum, because it seemed that it would be easier for them to receive political asylum than to receive extended voluntary departure. These applications for extended voluntary departure then for political asylum only creates more work for the INS.

Immigration attorneys have also told me about people at the INS, ranging from people in docketing to a regional INS Director, who had not heard of the October INS directive to treat Lebanese applications for extended voluntary departure sympathetically and who had no idea which department within the regional INS Office would handle such a request. This problem is not confined to one office. I have heard this complaint from attorneys from many different areas of the country.

As a result immigration lawyers are reluctant to advise Lebanese nationals to apply for extended voluntary departure, because they have no assurance that their clients will be treated sympathetically.

I and 12 other Members of Congress wrote to the President last year asking for a blanket grant of extended voluntary departure for all Lebanese who are currently in the United States for just 1 year. This was within months of the most violent fighting in Lebanon's civil war.

Five months later I received a response from the Justice Department denying that request. The Justice Department said that the Lebanese nationals would not return to Lebanon and that granting the Lebanese Extended Voluntary Departure would set a bad precedent for people from other strife-torn countries.

While some people in the INS have been sympathetic to the plight of the Lebanese and have worked with the Arab-American community, their efforts have been rebuffed by the Justice Department.

Because the Justice Department is opposed to helping these people, the only solution is legislative. The gentleman from Kansas and I offered a very reasonable bill, H.R. 3267, to address these concerns. I am grateful to Chairman MOAKLEY for including Lebanese nationals in his section of the bill.

Under the Moakley section of the bill, people from Lebanon, Kuwait, El Salvador, and Liberia would be allowed to stay in the United States for at least the next 3 years, until it is safe for them to return home.

These people would register with the INS and would be given a work authorization card so that they can support themselves.

They would not be eligible for any Federal benefits, and State and local governments would not be obligated to provide them with benefits. We are offering them a haven. They will not be a burden.

The program would not act as a magnet, because it is designed only for those people who are here now.

Our Nation should act humanely toward those who are stranded at our doorstep. We cannot, in good conscience, send these people home to face their death.

I urge Members to defeat the McCollum amendment.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, I rise in opposition to this amendment. Mr. Chairman, I commend the gentleman from Massachusetts [Mr. MOAKLEY], for his aggressive pursuit of a better set of rules.

The gentleman from Florida suggests that we have rules to deal with these problems. We do not. We do not have a set of rules to deal with just what the gentleman from Pennsylvania said, not individualized persecution but warfare or famine or some other form of pestilence of violence in the country.

This provision not only specifies four countries to be protected but establishes a standard rule to be applied in future cases in other countries. It is just the kind of legal provision that we need. The gentleman from Massachusetts had been responsible for bringing it to the floor last year, and this House passed it, and the House should stand by its earlier decision and not strike it from the bill.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise today in strong opposition to the McCollum amendment to H.R. 4300, which would strike temporary protection provisions for nationals of Lebanon, Kuwait, Liberia, and El Salvador from the bill.

People who come to America from these countries are searching for some semblance of security in their lives. Unless one is completely oblivious to world events, it is common knowledge that all four of the nations at issue are experiencing civil strife. The United States has always been a leader in recognizing the rights of victims of inescapable violence, whether they are political prisoners or refugees of war, and we should continue to protect those who have no other choice than to leave their homelands. Who are we to argue that those who are willing to leave their lives behind are not worthy of special proteciton in the U.S. immigration system? It is a major adjustment for most Americans to relocate from one city to another, and it does not make sense to challenge the intentions of innocent victims of war who are merely looking for a safe home.

Mr. Chairman, my grandfathers came here from Lebanon. I cannot envison the impact that the McCollum amendment would have had on my family. People who have grown up with the daily hardships of life in war-torn countries covet the values of American freedom, for they do not know life without sudden losses and suffering. I urge my colleagues to extend our special consideration to these people, defeat the McCollum amendment, and maintain America's foremost position as a refuge for those with nowhere else to turn.

□ 1820

Mr. BROOKS. Mr. Chairman, I yield 4 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], the patron saint from El Salvador, Liberia, Lebanon, and Kuwait and the chairman of the Committee on Rules.

Mr. MOAKLEY. Mr. Chairman, let me close with an appeal to both the conscience and wisdom of Members on both sides of the aisle.

Today, by retaining my provision, we have an opportunity to uphold our country's commitment to provide safe haven for the innocent victims of war. We also have an opportunity to act upon our deep moral obligation to protect innocent victims.

I think it is particularly appropriate that we take this action in the case of El Salvador. For 10 long years these brave people of El Salvador—men, women, and children—have suffered the agony of the destruction of their homeland, the violation of their human rights, and the arbitrary killing of their love ones.

Mr. Speaker, El Salvador is the size of my State of Massachusetts. Over 70,000 civilians have been killed in the last decade. It is only human that people who live in fear will flee, seeking safety for their children and families. How can we deny their human needs and our moral obligations?

Mr. Chairman, just last week, Salvadoran President Cristiani reiterated his strong support for this measure. He recognizes that the continuing war in his tiny nation has displaced literally hundreds of thousands of his fellow countrymen who now desperately seek temporary protection.

The reality is that these people are here, but without the protection of our laws. It is long past the time when we should acknowledge their presence and have our laws recognize and regulate this reality. Otherwise, we turn our backs on their humanitarian needs and on the importance that our immigration laws control this situation.

In the cases of Kuwait, Lebanon, and Liberia, I have had urgent requests from colleagues to provide similar temporary protection for similar reasons. I agree that these people—perhaps no more than 15,000 in total—who are now here have an equal claim upon the conscience and good will of the American people. As we seek to restore human decency and peace in the Middle East—as well as in Central America—the last we can do is treat with respect and basic humanity nationals of these countries who now live among us.

The opponents of this measure argue like chicken little, that the sky is falling, and that if we enact this measure America will be overrun by people who somehow pose a threat to our well-being. This is ludicrous and inhumane.

By its specific terms, only people already here today are entitled to temporary protected status. And these are good people, decent people, law-abiding people who are committed to the safety of their families.

By its terms, this measure denies protection to anyone convicted of criminal activity, or who would be inadmissable to the United States under our immigration laws.

By its terms, this measure provides no Federal benefits to those it protects.

By its terms, this measure requires those who are covered to register with the proper authorities.

In addition, this measure establishes a statutory framework for future uses of safe haven protection. It ends the current ad hoc approach to dealing with people in need.

Mr. Chairman, these are good people we seek to protect. Somehow I think we owe it to them.

We also owe it to ourselves to enact this measure.

Mr. Chairman, America is the beacon of freedom and hope for the people of the world because of our values and respect for human life and dignity. This is what makes us great and unique in the community of nations.

We owe it to ourselves to practice what we preach.

We owe it to ourselves to uphold our country's traditions.

We owe it to our posterity to act today in a manner which will make our children proud.

Let it not be said that the America of 1990 does not have the heart and soul to provide this modest temporary protection to refugees from war.

Defeat the motion to strike—and help save some lives.

Mr. BROOKS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Chairman, I would like to rise in opposition to the McCollum amendment. The provisions of the bill to suspend the detention and deportation of illegal immigrants from El Salvador, Lebanon, Liberia, and Kuwait are very important. This bill creates a systematic approach to providing temporary protected status for certain foreign nationals whose countries are in the midst of a war or natural disaster.

Mr. Chairman, as you know, I cosponsored a similar piece of legislation that would have offered this same type of remedy to the Lebanese immigrants who can not return to their homes because of the civil war raging there. I support extending this same status to these four groups of people from Lebanon, El Salvador, Liberia, and Kuwait. I must therefore oppose this amendment because it would continue a policy that is uncertain and arbitrary. Instead, I support the provisions contained in the bill H.R. 4300, because this arbitrary policy will be replaced with a systematic set of procedures that will end the confusion and uncertainty for everyone.

Mr. BONIOR. Mr. Chairman, few of us could ever imagine the struggles faced daily by the people of Lebanon.

We could never imagine the daily battle for survival waged by people who can no longer afford food, find housing, clothe their children. All this while they pray that their family won't be killed in the war fought around them.

And it's hard to imagine the fear of Lebanese nationals residing in this country living under the threat of deportation back to war, back to that daily battle.

It may be hard for us to imagine unless we've lived it. But today, with this bill we have a chance to help. We have an opportunity to assist people living in Lebanon to escape the war and join their families here.

Many of those who hope to join their families here, must wait up to 15 years from the time they apply. Even those who have had their visas approved have to wait up to 6 years because of the quota limitations.

Mr. Chairman, no family should have to wait that long to be reunited. And in the case of the Lebanese, it's not safe—their lives are endangered.

The bill before us would allow visas for an additional 1,000 Lebanese each year beyond the increased number of visas provided for under the expanded preference system. I would work to eliminate the backlog that is literally endangering the lives of Lebanese applicants for visas.

We also have a chance to eliminate the burden of fear for Lebanese nationals in the country. As a member of the Rules Committee, I am proud to have worked with Chairman MOAKLEY to include in this bill protection for the Lebanese living here temporarily.

Under the Moakley provisions, Lebanese citizens residing in this country would not be sent back to their war torn country. They would be provided extended voluntary department status for 3 more years.

As the fighting escalated in Lebanon last year, I wrote to the administration requesting that they act quickly to protect the lives of the people of Lebanon here in this country. But the administration refused. The legislation before us may be our only chance.

Mr. Chairman, I urge my colleagues to support the Moakley provisions and to vote "no" on the McCollum amendment that would remove the protection provided for the Lebanese under this bill.

The CHAIRMAN. All time for debate on the amendment of the gentleman from Florida [Mr. McCOLLUM] has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. McCOLLUM].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded was ordered.

The vote was taken by electronic device, and there were—ayes 131, noes, 285, not voting 17, as follows:

[Roll No. 402]

AYES—131

Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Beilenson
Bereuter
Bilirakis
Bliley
Broomfield
Brown (CO)
Bunning
Burton
Callahan
Chandler
Chapman
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Courter
Cox
Craig
Crane
Dannemeyer
DeLay
DeWine
Dickinson
Dornan (CA)
Douglas
Dreier
Duncan
Fawell
Fields
Frenzel
Gallegly
Gallo
Gekas
Geren
Gillmor
Gingrich
Goss
Grandy
Hall (TX)
Hammerschmidt
Hancock
Hastert
Herger
Hiler
Holloway
Hopkins
Hutto
Inhofe
Ireland
James
Johnson (CT)
Johnston
Kolbe
Kyl
Lagomarsino
Laughlin
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lukens, Donald
Madigan
Marlenee
Martin (NY)
McCandless
McCollum
McCrery
Meyers
Michel
Miller (OH)
Montgomery
Moorhead
Myers
Nelson
Nielson
Ortiz
Packard
Parker
Parris
Paxon
Porter
Pursell
Regula
Rhodes
Ritter
Roberts
Robinson
Rogers
Roth
Roukema
Schaefer
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stangeland
Stearns
Stenholm
Stump
Sundquist
Tauke
Thomas (CA)
Thomas (WY)
Vander Jagt
Vucanovich
Walker
Weber
Whittaker
Wolf
Wylie
Young (AK)
Young (FL)

NOES—285

Ackerman
Anderson
Andrews
Annunzio
Anthony
Applegate
Atkins
AuCoin
Bateman
Bates
Bennett
Bentley
Berman
Bevill
Bilbray
Boehlert
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Browder
Brown (CA)
Bruce
Bryant
Buechner
Bustamante
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Clarke
Clay
Clement
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Costello
Coyne
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
English
Erdreich
Espy
Evans

Fascell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hyde
Jacobs
Jenkins
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moody
Morella
Morrison (CT)
Morrison (WA)
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Owens (UT)
Pallone
Panetta
Pashayan
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Poshard
Price
Quillen
Rahall
Rangel
Ravenel
Ray
Richardson
Ridge
Rinaldo
Roe
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schneider
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (VT)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walgren
Walsh
Washington
Watkins
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—17

Alexander
Aspin
Boggs
Crockett
Davis
Edwards (OK)
Engel
Hansen
Hawkins
Houghton
Martin (IL)
Mrazek
Owens (NY)
Oxley
Rowland (CT)
Saiki
Schuette

□ 1844

Messrs. McCURDY, HOAGLAND, and WILLIAMS changed their vote from "aye" to "no."

Messrs. JOHNSTON of Florida, COLEMAN of Missouri, and DANNEMEYER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. COX. Mr. Chairman, on the McCollum amendment I entered my vote as "aye;" I intended to enter my vote as "no," and time had expired before I could change my vote.

The CHAIRMAN. It is now in order to consider amendment No. 17 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. LIPINSKI

Mr. LIPINSKI. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. LIPINSKI: After section 325, add the following new section (and conform the table of contents accordingly):

SEC. 326. OPPORTUNITY FOR ADJUSTMENT OF STATUS BEFORE TERMINATION OF ASYLUM STATUS.

(a) IN GENERAL.—Section 208(b) of the Immigration and Nationality Act (8 U.S.C. 1158(b)) is amended by adding at the end the following new sentence: "The Attorney General may not terminate such status on the basis that the alien is no longer a refugee unless the alien has been provided notice of such termination and the right to apply for adjustment of status under section 209(b) and an opportunity (of not less than 90 days beginning one-year after the date the alien is granted asylum) to file an application for adjustment of status under such section to that of an alien lawfully admitted for permanent residence.".

(b) CONFORMING AMENDMENT.—Section 209(b) of such Act (8 U.S.C. 1159(b)) is amended by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to termination of asylum status occurring before, on, or after the date of the enactment of this Act. The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

The CHAIRMAN. Under the rule, the gentleman from Illinois [Mr. LIPINSKI] will be recognized for 5 minutes, and a Member opposed to the amendment will be recognized for 5 minutes.

The Chair recognizes the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Chairman, I offer this amendment on behalf of the gentleman from Illinois [Mr. ROSTENKOWSKI] and myself.

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I am pleased to rise in strong support of the amendment offered by Mr. LIPINSKI. This amendment addresses the problem created by the current requirement that an asylee must prove that he or she still meets the definition of refugee in order to adjust his or her status to that of permanent resident.

As Members know, the cornerstone of the definition of refugee is that the person possesses a well-founded fear of persecution should he or she return to the homeland. The dramatic worldwide democratic movement of the past year has made the reproving of that hard-won finding an unfair burden.

It is incongruous that the otherwise welcome demise of a repressive regime in an asylee's home country should make it virtually impossible for the asylee to remain in the United States for failure to prove a continuing well-founded fear of persecution. Yet, under current law, this change in circumstances in the homeland permits the INS to deny adjustment to permanent resident status, to terminate asylee status, and to initiate deportation proceedings.

To make this general situation worse, the INS identified four specific emerging democracies this past July—Poland, Hungary, Panama, and Nicaragua—and strongly suggested that District Directors should henceforth deny adjustment to asyles from those countries. As a direct result, mass denials of status adjustment have begun. Under the INS guidance, termination of asylum status will inevitably follow.

The purpose of the Lipinski amendment is to bring this untoward treatment of Poles, Hungarians, Panamanians, and Nicaraguans to an end in the short run, and to approach the issue more reasonably in the long run. It does this by retaining all current requirements for adjustment to permanent resident status except the requirement that the asylee continue to satisfy the definition of refugee.

The Lipinski amendment also would install new procedural safeguards against summary termination of asylee status. Otherwise, summary termination would be available to the immigration authorities as a mechanism to short-circuit an asylee's attempt to adjust to permanent resident status under the new rules.

In offering this amendment, Mr. LIPINSKI asks us to recognize and acknowledge the very difficult position in which asylees from emerging democracies find themselves. When they left their homelands, they uprooted their lives, abandoned their means of earning a living, gave up their apartments or homes, and left family and personal property behind.

Now, in many cases, there is nothing to which to return. It is true that, in a vast majority of the cases, the fear of persecution has subsided or even disappeared, but the effect of the persecution lives on. The houses and apartments of the asylees have been confiscated, destroyed, or simply snapped up by others desperate for shelter and privacy. Their jobs have been eliminated or given away, while unemployment grows. The economies of these homelands are in shambles and are not likely to improve in the near term.

In the meanwhile, the asylees have begun to set down roots here in the United States. They have homes, and jobs. Their children are in our schools. They have joined American organizations, learned our language, and even taken an intense interest in our domestic and international affairs. Notably, they have also given us the benefit of their energy and their fresh outlook on our own dedication to democracy and freedom.

> In short, they have proven themselves to be good, productive members of our society, reminding us of previous generations which have contributed so much to the growth of America.

I ask my colleagues to remember that these are the very people who did what we wanted them to do in their homelands under repressive regimes. They accosted tyranny, they fomented dissension, they worked in the underground, and they marched in the streets. For this they were persecuted or threatened with persecution. They came to fear for their safety, their lives, and their ability to support their families. So they came to America.

The safe haven we provided to them in their hour of fear and need should not now be taken away solely because their labors in the vineyard of freedom bore fruit.

Mr. Chairman, I thank Mr. Lipinski for his leadership in this important issue and I urge my colleagues to support the Lipinski amendment. It will give asylees from emerging democracies and elsewhere the protection they need and deserve.

Mr. LIPINSKI. Mr. Chairman, I yield myself such time as I may consume and I thank the gentleman from Illinois [Mr. Rostenkowski] for his statement. I would also like to thank his staff who worked very diligently and very long on this particular amendment.

Mr. Chairman, this amendment will permit those who were granted political asylum from Poland, Nicaragua, Hungary, and Panama to apply for permanent residency status without having to prove once again that they still meet the definition of refugees under United States immigration law.

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These people would be permitted 15 months to apply for permanent residency status from the date on which they were originally granted asylum in the United States. We are talking here about 9,000 Nicaraguans, 1,000 Poles, 450 Hungarians, and approximately 350 Panamanians.

I ask the committee to support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment is well intended, but it would prohibit the Attorney General from exercising certain rights that he now has under the Immigration and Naturalization Act regarding persons who receive political asylum, but whose home countries are now safe enough for those persons to return.

Section 208(b) of the INA states:

> Asylum grants may be terminated if the Attorney General determines that the alien is no longer a refugee owing to a change in circumstances in the alien's country of nationality.

The amendment offered by the gentleman from Illinois would not let the Attorney General terminate an alien's asylum grant despite a favorable change in that alien's home country until the alien has an opportunity to adjust to permanent residence.

I am very concerned about the policy behind this amendment. In effect, this amendment states that even though it is safe for an alien to return home now, we are not going to let the Attorney General return that alien.

Let me ask my colleague, the gentleman from Illinois, the following question: If these amendment inspired by the recent changes toward democracy in Eastern Europe whereby many Eastern Europeans in the United States could now safely return home? Would we not think that it would be a good idea for Eastern Europe's best and brightest to return home to help their countries make a smooth and position toward democracy?

If refugee visas were infinite in supply, I would not oppose this amendment. However, there are 15 million refugees worldwide today. The United States accepts 130,000 of them for resettlement each year. Our priorities should be those refugees who truly face persecution, not those who no longer do.

This amendment helps the latter group and unwittingly endangers our ability to help those who truly need refugee status.

Mr. Chairman, this amendment sets a dangerous precedent in refugee law. It removes important authority that the Attorney General now has to rescind refugee status grants when the threat of persecution no longer exists, and I oppose it.

Mr. Chairman, I yield back the balance of my time.

Mr. LIPINSKI. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. Brooks], the chairman of the full committee.

Mr. BROOKS. Mr. Chairman, we support the amendment and hope we can pass it now.

Mr. LIPINSKI. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. Lipinski].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 18 printed in part 2 of House Report 101-786.

AMENDMENTS EN BLOC OFFERED BY MR. RICHARDSON

Mr. RICHARDSON. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc are as follows:

Amendments en bloc offered by Mr. Richardson: Page 114, after line 15, insert the following new section (and conform the table of contents accordingly):

SEC. 327. TIMING OF PAYMENT OF FEE FOR APPLICATIONS TO FILE PETITIONS FOR NATURALIZATION.

Any fee charged by the Immigration and Naturalization Service for the filing of an application to file a petition for naturalization shall be paid by the applicant at the time of the filing of the petition for naturalization and, if no such petition for naturalization is filed, no fee shall be charged for the filing of such application.

Page 114, after line 15, insert the following new section (and conform the table of contents accordingly):

SEC. 327. USE OF IMMIGRANT EXAMINATIONS FEE ACCOUNT FOR PROMOTION OF CITIZENSHIP.

(a) In General.—Section 286(n) of the Immigration and Nationality Act (8 U.S.C. 1356(n)) is amended by adding at the end the following: "Not less than one percent of the funds deposited in the Account shall be expended by the Service to promote the opportunities and responsibilities of United States citizenship. The Attorney General shall submit to Congress annually a report on the promotional activities conducted by the Service under the preceding sentence.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to funds deposited in the Immigration Examinations Fee Account for fiscal years beginning with fiscal year 1991.

Page 114, after line 15, insert the following new section (and conform the table of contents accordingly):

SEC. 327. REPORT CONCERNING ADMINISTRATIVE DENIALS OF APPLICATIONS FOR NATURALIZATION.

The Commissioner of the Immigration and Naturalization Service shall submit to Congress annually a report on the number, and rate of denial administratively, of applications for naturalization. Each such report shall specify, for each district office of the Service and by national origin group—

(1) the number of applications classified as "returns" and the number classified as "non-files", and

(2) the number of applicants who reapply after an application for naturalization has been denied.

The CHAIRMAN. Under the rule, the gentleman from New Mexico [Mr. Richardson] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. Richardson].

Mr. RICHARDSON. Mr. Chairman, increased naturalization benefits our Nation. Legal immigrants who naturalize demonstrate their commitment to this country, and when they participate in our civic life, our democracy is strengthened.

The legal resident community now stands at approximately 9 million individuals and growing. Congress and the INS should work to fully incorporate these individuals into citizenship, with all its rights and responsibilities.

My en bloc amendments aim to reduce barriers to naturalization and promote citizenship in the legal resident community.

AMENDMENT NO. 1

Since December 1989, applicants for U.S. citizenship pay $60 merely to initiate the naturalization process. This gateway fee, imposed by the INS bureaucracy, is the first such charge in the history of U.S. naturalization.

The new fee is charged whether or not the applicant completes the citizenship process and is in addition to an existing $50 fee for filing of a naturalization court petition.

In addition to these new filing fees, applicants frequently, incur substantial costs in obtaining photographs, fingerprints, and legal assistance. These costs are often prohibitive. Hispanic immigrants, for example, have a median annual household income of only $18,000.

My first amendment would ease the hardship resulting from the new fee by shifting its payment back to the moment applicants file the court petition—a time when they have satisfied the application review, and English and civics examinations—when they are on the verge of citizenship.

AMENDMENT NO. 2

The INS is authorized to promote U.S. citizenship in the legal resident community, but has limited its citizenship promotion activities to pamphlets. The legal resident population has been steadily growing over the past 10 years, signaling the need for more aggressive citizenship and naturalization promotion.

There are more than 9 million legal residents in the United States. The majority of them are eligible for naturalization, but delay their application because of lack of information and confusion regarding the application process.

This amendment would require the INS to expend no less than 1 percent of funds deposited into the immigration examinations fee account on promotion of responsibilities and opportunities for United States citizenship. This will result in more active INS efforts to promote citizenship.

Every year thousands of immigrants are denied naturalization administratively by the INS without benefit of judicial review. In 1988, for example, 24 percent of all applications processed by INS resulted in administrative denials.

A 1988 Senate report showed that administrative denial rates appear to be higher among immigrants from certain ethnic and racial backgrounds. These denial rates also vary dramatically between INS district offices. This raises serious questions as to the fairness of naturalization process.

This amendment requires the Commissioner of the INS to report annually to Congress on the numbers of applicants who are denied naturalization administratively. The report would specify rates of denial, return, nonfile, and reapplication for each district office and for each national origin group.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is there a Member in the Chamber in opposition to the amendments en bloc?

Mr. SMITH of Texas. Mr. Chairman, I rise not in opposition but in support of the amendments.

The CHAIRMAN. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. SMITH of Texas. Mr. Chairman, this amendment would spend money to encourage citizenship, and that is a good thing, but it is too bad we need to spend money to encourage naturalization, when there are so many provisions in H.R. 4300 that reduce incentives to become citizens by eliminating differences between citizens and permanent residents.

Mr. Chairman, I will not oppose this amendment. I only wish its provision on naturalization were unnecessary.

Mr. Chairman, one final note, to my knowledge, this is the last amendment that I will be speaking on tonight, and I just wanted to express my personal appreciation to you for the fair way in which you presided today.

The CHAIRMAN. The Chair thanks the gentleman very much.

Mr. SMITH of Texas. Mr. Chairman, I yield back the balance of my time.

Mr. RICHARDSON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from New Mexico [Mr. Richardson].

The amendments en bloc were agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 19 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. MOORHEAD

Mr. MOORHEAD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Moorhead: Page 114, after line 15, insert the following new section (and conform the table of contents accordingly):

SEC. 327. INCREASE BY 1,000 IN BORDER PATROL PERSONNEL.

There are authorized to be appropriated for fiscal year 1991 such additional sums as may be necessary to provide for an increase of 1,000 in the authorized personnel level of the border patrol of the Immigration and Naturalization Service, above the authorized level of the patrol as of September 30, 1990.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. Moorhead] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. Moorhead].

Mr. MOORHEAD. Mr. Chairman, I yield myself 1¾ minutes.

Mr. Chairman, Mr. Lowery, Mr. Packard, and I wish to offer an amendment to increase border patrol personnel by 1,000 in fiscal year 1991. As you know, the U.S. Border Patrol performs a nearly impossible task in policing our land borders with a relatively small group of dedicated personnel. Over the past several years, this task has grown even more difficult. Since mid-1989, there has been a dramatic increase in the number of illegal aliens crossing the U.S. border at vulnerable points in California and Texas. This has caused a disturbing outbreak of violent crime along the southwest border as drug smugglers and armed robbers take advantage of the large groups of aliens attempting to gain entry into the United States. In addition to their primary mission of stopping illegal crossings, the Border Patrol was involved in close to 5,000 narcotics seizures valued at over $1 billion in only the first 6 months of fiscal year 1989. This is greater than the amount seized in all of fiscal year 1988.

This amendment will bring the total border patrol force more in line with my original amendment to IRCA [Immigration Reform and Control Act] authorizing a 50-percent increase for the Border Patrol in fiscal years 1987 and 1988 above the fiscal year 1986 level. When IRCA went into effect, the Border Patrol consisted of approximately 3,600 agents, including support personnel—technicians, supervisors, and so forth. The authorized 50 percent increase should have brought the force up to 5,500 by the end of fiscal year 1988. Unfortunately, this did not happen.

Our Border Patrol force today stands at approximately 4,400 agents including support personnel and has actually decreased in size since December 1988. The lack of appropriations, a budget freeze, reprogramming, inflation and other uncontrollable factors have all been roadblocks to achieving the intended increase authorized by IRCA.

Earlier this year, the House Judiciary Committee approved unanimously by voice vote an amendment I offered to the DOJ authorization bill providing for $55 million in fiscal year 1991 to increase Border Patrol strength by

1,000. Both chairman Brooks and Mr. Morrison, the Immigration Subcommittee chairman, supported this amendment. Unfortunately, a DOJ authorization bill has not been brought to the House floor for a vote in the past decade, and it is not likely that we will have the opportunity to vote on it this year.

In a recent study, the center for immigration studies concluded that in spite of the 1986 Immigration and Control Act, illegal migration is rising because of three factors: First, rapid growth in the working age populations in Mexico, Central America and the Caribbean; second weakening of the 1986 law through use of false documents and other forms of subterfuge; and third, shrinking INS resources including fewer Border Patrol agents.

It is estimated that it will take two to three times the number of agents currently on board to become an effective deterrent to our illegal immigration problem. Illegal immigration along the southwest border has surged in recent months, reversing a 3-year downward trend that started after the enactment of IRCA. In today's climate, where the volume of drugs coming across the United States-Mexican border has exploded and the flood of illegal immigrants seems endless, it is eminently sensible that we increase the strength of our border patrol.

Mr. BROOKS. Mr. Chairman, I rise in support of the amendment and take the opposition's time.

The CHAIRMAN. Without objection, the gentleman from Texas [Mr. Brooks] is recognized for 5 minutes.

There was no objection.

Mr. BROOKS. Mr. Chairman, I rise in support of this amendment. It would provide for 1,000 additional Border Patrol personnel. The Border Patrol performs a vital mission in controlling the flow of illegal immigration across our borders and the need for additional personnel is clear. The amendment of the gentleman from California. [Mr. Moorhead], is consistent with a provision which was adopted by the Judiciary Committee when it acted on the Department of Justice Authorization Act for fiscal year 1991. I would urge its adoption.

Mr. Chairman, I yield back the balance of my time.

Mr. MOORHEAD. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. Lowery].

Mr. LOWERY of California. Mr. Chairman, I want to express my strong support for this amendment which would authorize 1,000 new Border Patrol agents for fiscal year 1991.

Mr. Moorhead, Mr. Packard, and I have offered this amendment to address the long acknowledged need for more Border Patrol agents. The amendment is based on H.R. 4499, which Mr. Moorhead and I introduced earlier this year. It is noncontroversial and was accepted by the Judiciary Committee as an amendment to the fiscal year 1991 Justice Department authorization bill which will probably not be considered by the House. It should be added to this legislation.

The purpose of H.R. 4300 is to improve and expand our current system of legal immigration. Its intent is to give more opportunities for individuals to legally enter the United States. Unfortunately, the present state of security on our southern border is so weak that individuals do not have to wait to enter the country legally because they can enter illegally.

Despite the enactment of the 1986 Immigration Act, it is still far too easy to enter the United States illegally. From October 1989 on July 31, 1990, the Border Patrol apprehended 846,000 undocumented aliens along our southern border—a 25-percent increase over the previous year. In addition, for every alien apprehended, three enter the United States illegally. And this is a conservative estimate. The Border Patrol cannot begin to address this influx with their existing resources.

Mr. Chairman, Congress has not provided the Border Patrol personnel we promised in the 1986 act. The San Diego sector, which witnessed roughly 50 percent of all illegal entries, currently has 785 agents on board, compared to 850 agents prior to 1986.

The 1,000 agents authorized by this amendment will not end illegal immigration, but they will help secure the border and that is a vital step toward insuring the credibility of our system of immigration. The changes and reforms contained in H.R. 4300 cannot succeed without an effective deterrent to illegal immigration. I urge my colleagues to approve the Moorhead-Lowery-Packard amendment.

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Mr. MOORHEAD. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. Packard].

Mr. PACKARD. Mr. Chairman, I rise in support of the Moorhead-Packard-Lowery border guard amendment to H.R. 4300. My district suffers as much from immigration as any other district in the country.

The Border Patrol catches almost 500,000 illegal aliens a year in the 12-mile San Diego border sector.

INS estimates for every one they catch, at least three get away.

These illegal aliens travel through my district to Los Angeles and the rest of the country.

Apprehensions of illegal aliens have increased 25 percent in the last year, and illegal immigration shows no signs of abating.

Mr. Chairman, the city officials and residents of the cities in my district have no answers to the social problems associated with illegal immigration. Local schools and hospitals, county health, housing, local police and law enforcement are overburdened.

One city, Encinitas, threw up its hands in frustration and declared a state of emergency. I don't know what this declaration means, but it indicates how desperate the officials in my district are for solutions.

Mr. Chairman, H.R. 4300 does not address the problem of illegal immigration. It is estimated that 200,000 illegal aliens permanently settle in the United States each year. This fact diminishes respect for immigration laws and inflames the residents of border States.

The Moorhead-Packard-Lowery border guard amendment will augment the Border Patrol by 1,000 agents. We feel this is a small first step toward controlling our borders. I can assure the House that these agents are sorely needed in California. This amendment would send a message in H.R. 4300 that illegal immigration must be controlled.

Mr. DREIER of California. Mr. Chairman, I rise today to cosponsor the Moorhead amendment which would assist the Border Patrol in containing the roughly 200,000 people who stream across our southern borders illegally. An amendment which I coauthored with Mr. Moorhead in 1986 expanded the border patrol funding by 50 percent. This amendment will further that effort.

Presently, our ability to protect our borders is ineffective. Four million illegal immigrants will arrive in the United States this year. At any one time, only 800 patrolmen stand duty along the 1,933-mile United States/Mexican border. Clearly, something has to be done in order to help these overextended officers enforce the law.

Mr. Chairman, we cannot underestimate the effects of illegal immigration on our country. Unfortunately, there is an undeniable connection between illegal immigrants and the war we are currently fighting against drug imports and drug-related crimes. As much as 50 percent of the cocaine entering the United States comes through Mexico. Last year, the Border Patrol confiscated cocaine and heroin valued at $1.2 billion. This year approximately 72,000 illegal aliens will be arrested for drug dealing. Los Angeles County reports that approximately 33 percent of the major crimes are committed by illegal immigrants. Nearly 20 percent of the inmates in Federal prisons are illegal aliens.

The Immigration Reform and Control Act of 1986 granted amnesty to 3.1 million illegal aliens across the country, an estimated 25 percent of these people were in the Los Angeles area. Between 1983 and 1989, Los Angeles spent $768.8 million in unreimbursed health care for illegal aliens alone. Together, with higher expenditures for education, housing, and other social services, Los Angeles can no longer bear the burden of illegal immigration alone.

Proponents of this immigration package feel that offering increased preferences for immediate family members will stem the tide of illegal immigrants. I hope that they are right, but I urge those same people to look at the effect of illegal immigration on the Southwestern States and vote for amendments, such as the Moorhead/Dreier amendment, to ensure that the brunt of reforms will not be isolated to a few areas of the country.

Though reform in legal immigration policies are needed, we also have a constitutional responsibility to defend our borders. The protection of the sovereignty of the United States by our Border Patrol sends a clear message to those who seek citizenship that they must obey our legal procedures.

Mr. SCHEUER. Mr. Chairman, I rise in support of H.R. 4300, the Family Unity and Employment Opportunity Immigration Act of 1990.

Only 2 weeks ago we celebrated the opening of a museum at Ellis Island, the gateway to America for thousands of immigrants over the past century. Immigrants who came to America with dreams in their eyes and heats, immigrants who came to this country with a vision of a better life, immigrants who lived those dreams and built those visions—who helped drive the economic machinery that made this Nation a thriving, productive, economic giant.

Today Ellis Island is an immigration museum. Notwithstanding, immigration has not been relegated to the history books, rather immigration is an ongoing process, an integral part of our heritage.

Yet this Nation's immigration policy, which since 1965 has been based on family reunification, has inadvertently resulted in a narrowly focused influx of immigrants into the United States.

Over the past quarter century, the vast majority of immigrants have hailed from Latin America or from Asia. Immigration from Europe, Africa, and other regions of the world has been virtually shut ott, dwindling to a mere trickle under current immigration policy.

H.R. 4300 sets aside visas for countries like Ireland, Italy, and Poland which are designated as under-represented. The bill seeks to preserve the diversity of the American society that we have come to view as our most valuable asset. It seeks to preserve the United States as the marketplace of ideas.

Mr. Chairman, H.R. 4300 is a well crafted bill that is good for this country.

Mr. MANTON. Mr. Chairman, I rise in strong support of H.R. 4300, the Family Unity and Employment Opportunity Immigration Act. I wish to offer my most sincere appreciation to the gentleman from Connecticut [Mr. Morrison], the chairman of the Immigration Subcommittee, and the gentleman from Texas [Mr. Brooks], the chairman of the full Judiciary Committee, for their tireless efforts in crafting this legislation and bringing it to the floor for consideration. They are to be commended for their fine work and dedication.

Mr. Chairman, H.R. 4300 represents a major reform of our Nation's antiquated and inadequate immigration policies. This much-needed and long-overdue piece revision of our Nation's immigration policies will ensure a more equitable legal immigration system, which will provide for family unification and greater diversity in immigration. The measure will also be helpful in facilitating greater immigration from historic sources, such as Ireland, the homeland of my parents.

Mr. Chairman, as so clearly stated by the Wall Street Journal in a recent editorial:

> [t]he case of greater immigration is overwhelming on both economic and spiritual grounds. As a matter of spirit, immigrants—usually the best and most ambitious from other lands—enliven our society. We need more immigrants because we want to live in a dynamic, creative society * * * As for material benefits, no other issue unites economists from across the political spectrum. Eighty percent said immigrants have had a "very favorable impact" on U.S. economic growth in the 20th century. No one judged any negative effect.

Mr. Chairman, I urge my colleagues to support H.R. 4300. We must set aside unsubstantiated fears about immigration, and we must accept this very well thought out and urgently needed revision of our Nation's immigration polices.

Mr. DONNELLY. Mr. Chairman, I intend to vote in favor of H.R. 4300, but I do so with reservations. I want to take this opportunity to explain my reluctant support for this bill.

Mr. Chairman, much has been said about H.R. 4300, and its benefits for the Irish. The legislation has been embraced by Irish-American groups. The way I see it, there are really three provisions in this bill which will provide some benefit to the Irish: the Diversity Visa Program, the Transitional Visa Program authorized under section 201 of the legislation, and the employment-based visas of the bill. While all provisions have some merit, I am concerned that none go nearly far enough.

Let me address these provisions. The Diversity Visa Program establishes a complicated formula, dividing the world into low admission and high admission regions. Qualified immigrants can apply for a diversity visa on a lottery basis—one application per immigrant.

While I appreciate the underlying premise of the Diversity Visa Program, there are problems with it. First, the program does not begin until 1994—and the only existing immigration program remotely similar to the Diversity Visa Program in H.R. 4300 expires next year. Second, and more importantly, the fact that qualified immmigrants can apply for diversity visas only once blatantly discriminates against countries with low population.

For example, under the bill, Europe is a low admission region. By virtue of sheer numbers, Ireland will be disadvantaged. Ireland has a population of 3 million; Europe has a population of 500 million. Ireland is less than 1 percent of the total. It is not difficult to imagine that Ireland will qualify for very few of the 55,000 diversity visas made available under H.R. 4300.

The transition visas made available under the bill are only available for 3 years, and are targeted to adversely affected countries. This will provide some help to the Irish—but again, in competition with several other countries of the world. Moreover, this provision of the bill has provoked a threatened Presidential veto of H.R. 4300. If the bill is vetoed, Ireland will get nothing.

Finally, the employment-based visa provision of the bill contains some targeted visas to adversely affected countries, but really applies worldwide. there is no guarantee—none—that Ireland will get one of these visas. Again, I agree with the premise, but question the potential outcome.

Mr. Chairman, I am concerned about this bill because it has taken a quarter of a century for Congress to systemically reform America's immigration laws. Ireland was disadvantaged by the 1965 Immigration Act—badly disadvantaged. I do not want to be in a position in a few years of realizing that we did not do enough to address the systemic, long-term problems of America's current immigration structure. H.R. 4300 seems to represent a bottom-line approach to the many problems in our immigration laws—not an ambitious, far-sighted approach that I think is badly needed.

That being the case, I do not want to see a compromise in conference which undercuts the already weak provisions of H.R. 4300. If either the diversity, transition, or employment-based visa provisions are weakened in conference—and let me stress, they should be strengthened, not weakened—I will not be able to support the conference agreement.

I urge all interested parties to carefully consider their support for H.R. 4300. Consider the decades it has taken for Congress to pass legal immigration reform. Consider the limited benefits which H.R. 4300 provides for the Irish. I will support this bill, but with great reluctance.

Mr. Chairman, let us make sure that members of Irish ancestry don't make the same mistake in 1990 that was made in 1965. Then, members were assured that the law would not penalize Ireland—but it did for 25 years. We can't afford to make that mistake again.

Mr. McMILLEN of Maryland. Mr. Chairman, we have before us an immigration reform bill which embodies two ideas of central concern for all Americans: the reinvigoration of our economy and the strengthening of the family unit. My brief remarks today address the issue of the U.S. economy.

Creative spirit and entrepreneurialism, essential ingredients for growth and prosperity, form the backbone of Representative Morrison's bill, H.R. 4300.

American business needs to propel itself and this country into the 21st century. Demographic indicators clearly show that our present population will not be able to fill future labor needs. And, indeed, it cannot do so based on skills now. The provisions in H.R. 4300 which specify the amounts and types of individuals to be granted permanent and temporary nonimmigrant employment-based visas are exemplary. Not only will these provisions enable businesses to fill their labor needs, they will translate into higher productivity and economic growth.

While giving to business the human capital it requires to expand, H.R. 4300 also establishes a system which will prevent the hiring of foreign workers for jobs that can be filled by workers that are U.S. citizens.

It is rare when a bill directly affecting our economic needs, supported by everyone from John Kenneth Galbraith to Milton Friedman, comes before the committee of the House. Today we have such an occurrence. This unprecedented unity on the benefits of increased immigration compels us to support the rationality of codifying the employment-related aspects of this bill. Without these measures, we will be inadvertently facilitating the stagnation of the American economy and egregiously renouncing our claim to be the "land of opportunity."

Mr. MOORHEAD. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MOORHEAD].

The amend was agreed to.

Mr. BROOKS. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HOAGLAND) having assumed the chair, Mr. DARDEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4300) to amend the Immigration and Nationality Act to revise the system of admission of aliens on the basis of family reunification and to meet identified labor shortages, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. McNULTY. Mr. Speaker, I was unavoidably detained earlier today and missed rollcall vote 398, the rule for consideration of H.R. 4300, the Family Unity and Employment Opportunity Immigration Act.

Had I been present, I would have voted in the affirmative.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HOAGLAND). The Chair desires to make an announcement. The vote that was postponed earlier today on S. 1511 will be taken tomorrow.

INTRODUCTION OF A NEW CONTINUATING RESOLUTION TO COMPLETE APPROPRIATIONS ACTION

(Mr. WHITTEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

Yesterday, Mr. Speaker, I introduced House Joint Resolution 660, a new continuing resolution restoring to the Committee on Appropriations 15 days of the 20 days provided in House Joint Resolution 655, the resolution adopted by our committee on September 25, to complete action on the appropriations for fiscal year 1991. Sunday, September 30, during consideration of House Joint Resolution 655, on request of the leadership, that was reduced to 5 days and House Joint Resolution 655 expires this Friday.

Our committee, on request, has delayed completing its necessary action and now we find ourselves in a real jam. We have completed action on 12 bills and have another coming before the committee next week.

The House has passed 10 bills and the Senate has passed only 6 bills. This means we must complete action on 3 bills in the House, have conference, and complete conference action on all 13 and have all bills signed by October 20.

I point out again, appropriations bills are not what caused the problem. Since 1945, the total of appropriations bills has been $173 billion below budget requests. Just since 1974, entitlements and binding contracts, which were to have been controlled, have increased five times.

Mr. Speaker, for the record, here is a copy of my letter to the Rules Committee asking for a rule permitting consideration of House Joint Resolution 660 on Thursday, October 4, which shows the serious situation the Nation faces.

House Joint Resolution 660 is a clean bill. For the orderly continuation of the Government, it is what passed the House by a 382 to 41 vote on Sunday, September 30, and merely extends the date to October 20.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, October 2, 1990.

Hon. JOHN JOSEPH MOAKLEY,
Chairman, Committee on Rules, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As you know, Mr. Chairman, the first continuing resolution expires on October 5. This extension is essential in order to provide time for the Committee and the Congress to complete action on the thirteen appropriations bills. We must pass 3 more bills through the House, go to conference on all thirteen, and secure approval of thirteen conference agreements. We cannot do this if we are forced to spend time every few days extending the expiration date of the existing continuing resolution.

Yesteday, I introduced House Joint Resolution 660, making further continuing appropriations for fiscal year 1991 through October 20, 1990 and suspending sequestration for this period. This will continue the orderly operation of the Government until October 20.

House Joint Resolution 660 does what House Joint Resolution 655, the first continuing resolution, did, except that the expiration date is changed from October 5, 1990, to October 20, 1990. Sections 114, 115, and Titles II and III have been deleted. These provisions related to fiscal year 1990 supplemental funding or to other matters which do not expire on October 5, 1990. What is retained is a clean continuing resolution making restrictive funding available through October 20, 1990, and a suspension of sequestration through that date.

Sequestration must be suspended because it would reduce current operations, programs, and projects by an estimated 30 percent, and would be disastrous not only to the Nation's economy, but it would cause a breakdown of government—air safety meat inspection, law enforcement, war on drugs, education, health, housing, veterans, research, and revenue collection. It would have a dangerous impact on a weak economy. Its effect on the Department of Defense during Operation Desert Shield could not be tolerated.

Appropriations bills are not what cause the problem. Since 1945, the total of appropriations bills has been below budget requests by $173 billion. During that same period, entitlements and binding contracts, which are not discretionary, have increased by five times.

It is evident that there is no possible way to complete our regular bills and have them signed into law by October 5th. Thus, it becomes necessary that this resolution, including the suspension of sequestration, be considered before the first continuing resolution expires.

I ask for the cooperation of the Rules Committee to act to continue the orderly operation of the Government by reporting a rule enabling consideration of House Joint Resolution 660 on October 4, 1990, in the House.

Sincerely,

JAMIE WHITTEN,
Chairman.

I call attention again to the committee report to House Joint Resolution 655 in which we show that unless we suspend sequestration we will have the approximately 32-percent reduction in vital operations of the Government, and it would mean that the whole Government would come to a standstill.

WARNING TO POLITICAL ACTIVITIES

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, this past weekend while I was in Yugoslavia representing the State of Maryland, I was asked by the State Department to aid them in effecting the release from prison of a 19-year-old young man from Illinois who had been arrested in a political demonstration on August 29.

Shaban Kastrati was charged with throwing rocks at the police and treated by the Government as a Yugoslav national. Although his father is Albanian and his mother Croatian, young Shaban was born in Illinois, and should have been recognized as an American.

Since I was in Belgrade, Ambassador Warren Zimmerman requested that I help—if possible—to free him. In a lengthy meeting with Sloboden Milosovic, the President of Yugoslavia Friday evening, I was able to have Shaban released. President Milosovic was most cooperative. Shaban's mother was in Yugoslavia at the time appealing his arrest and we were able to get them together on Sunday. Shaban rejected the offer made by the U.S. Embassy to return to America with me.

This incident should serve as a warning to any young American political activist. Demonstrations in foreign countries are not like demonstrations in the United States. The situation is so critical in Yugoslavia with fighting among the various ethnic minorities, that violent demonstrations could fuel a civil war.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 647, DISAPPROVING MOST-FAVORED-NATION TREATMENT TO THE PEOPLE'S REPUBLIC OF CHINA

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-791) on the resolution (H. Res. 485) providing for the consideration of the joint resolution (H.J. Res. 647) disapproving the recommendation of the President to extend nondiscriminatory treatment—most-favored-nation treatment—to the products of the People's Republic of China; which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 649, APPROVING EXTENSION OF MOST-FAVORED-NATION TREATMENT TO CZECHOSLOVAKIA

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-792) on the resolution (H. Res. 486) providing for the consideration of the joint resolution (H.J. Res. 649) approving the extension of nondiscriminatory treatment—most-favored-nation treatment—to the products of Czechoslovakia, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5422, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-793) on the resolution (H. Res. 487) providing for the consideration of the bill (H.R. 5422) to authorize appropriations for fiscal year 1991 for intelligence and intelligence-related activities of the U.S. Government, the intelligence community staff, and the Central Intelligence Agency retirement and disability system, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 310, BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEARS 1991, 1992, 1993, 1994, AND 1995

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-794) on the resolution (H. Res. 488) providing for the consideration of the conference report on the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the U.S. Government for the fiscal years 1991, 1992, 1993, 1994, and 1995, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN REQUIREMENTS FOR THE CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED FROM THE COMMITTEE ON RULES

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-795) on the resolution (H. Res. 489) waiving the requirement of clause 4(b) of rule XI, against consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF THE H.R. 5269, COMPREHENSIVE CRIME CONTROL ACT OF 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-796) on the resolution (H. Res. 490) providing for the consideration of the bill (H.R. 5269) to control crime, which was referred to the House Calendar and ordered to be printed.

DON'T VETO THE TEXTILE BILL, MR. PRESIDENT

(Mr. RAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. RAY. Mr. Speaker, last Thursday the Hanes Hosiery Co. announced it was closing a plant in LaGrange, GA, in my district.

This action will put over 400 people out of work. This plant as recently as 2 years ago employed over 1,000 people. This plant closing will have a major impact on the local economy and certainly will cause a great deal of pain and uncertainty for the employees who will be forced to look for new jobs.

Unfortunately, Mr. Speaker, this is not an isolated case but is happening in cities around the Nation who are being unfairly impacted by foreign textile imports. However, at this very moment the President is poised with his pen ready to veto the textile bill which the House overwhelmingly passed just 2 weeks ago.

Mr. Speaker, this House should override this veto and protect American workers—not foreign workers.

[From the LaGrange (GA) Daily News, Sept. 27, 1990]

LOCAL HANES PLANT TO CLOSE: 425 WORKERS TO LOSE JOAS

The Hanes Hosiery plant in LaGrange will close on Nov. 30, leaving 425 people without jobs, according to Plant Manager Gene Williams.

The LaGrange plant, which had employed 1,050 people less than two years ago, is among 10 Hanes and L'eggs plants in the Sara Lee Hosiery Division.

"We told our employees this morning" about the closing, Williams said. "Quite a few cried. But there have been a lot of rumors and they're glad to know what the situation is. Now they know a date, so they can make better plans."

Because the LaGrange plant does not have knitting capabilities and is 400 miles from material sources, Sara Lee Hosiery began moving production to other facilities last May to become more efficient, company officials said.

"After further evaluation, the decision was made to phase out the LaGrange plant," according to a prepared statement today by Sara Lee Hoisery, headquartered in Winston-Salem, N.C.

"This decision was a difficult one for us to make because of the impact it will have on our employees and on the community," said Drew Mayse, vice president of operations for Hanes Hosiery." . . . Yet we are in an extremely competitive market and have to take the actions necessary to keep our operations efficient and costeffective. These steps are necessary for the long-term future of Sara Lee Hosiery and of our employees."

Employees will be offered help in finding jobs and receive severance pay of one week's salary for each year of service, according to a source.

Williams said Personnel Manager Roger Orange will assume the same duties at the company's Weeks plant in Winston-Salem. Willams, who has 25 years' service, said he expects the company to offer jobs to himself and the four department heads.

Last March, the LaGrange plant announced it was terminating 380 employees because of over-optimistic sales projections, cutting in half its production of 960,000 pair of pantyhose per week. The company had anticipated a growth of 20 percent or more and "it didn't happen," William said at the time.

The LaGrange plant receives pantyhose that has been knitted at other plants. The garment is sewed and dyed, heat set inspected and packaged.

Hanes began production here on May 7, 1979 at the site of what is now the Kroger store on Commerce Avenue. The plant moved to Cooley Industrial Way, its present location, on Feb. 15, 1980 with about 100 employees. By August 1986, the plant had 555 employees and was making 660,000 pair of pantyhose per week.

In March 1987, the plant started a third shift for the first time. Production reached a peak in late 1988 with 1,050 employees who were shipping 1.5 million pair per week.

The building, owned by Sara Lee, contains 100,000 square feet of manufactuing space, plus 10,000 square feet for offices and other uses.

A spokesman said the building apparently will be offered for sale.

☐ 1910

IF YOU BELIEVE IT, YOU CAN ACHIEVE IT

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. ALEXANDER] is recognized for 5 minutes.

Mr. **ALEXANDER**. Mr. Speaker, Archie Russom believes that if you conceive it, and believe it, you can achieve it.

Archie is a member of the Future Farmers of America Chapter in Delaplaine, a small town in the northeastern part of my district.

Along with the other members of the Delaplaine FFA chapter, Archie helped plan and build a fire truck to protect his community and surrounding area.

The project took on a special urgency and meaning for the residents of that community last January when flames swept through the Delaplaine fire station destroying all of the community's fire fighting equipment.

Immediately after that devastating fire, Archie and his fellow chapter members began working on their project 6 days a week.

Others pitched in to meet the emergency and when all of the planning, welding, grinding, painting and other work was done, Delaplaine had a fire truck.

Archie and his chapter have been recognized as one of the 50 State winners of the National FFA's Building Our American Communities Program.

He's here in Washington this week attending the 1990 FFA Conference on Community Development.

With the Nation facing so many problems, it is sometimes difficult to look to the future with any assurance.

But, when you meet Archie Russom, when you think what Archie and his schoolmates did for their community—the hours they devoted to make Delaplaine and surrounding area a better, safer place to live—your outlook on the future brightens considerably.

If you conceive it, and believe it, you can achieve it. Archie Russom and his fellow FAA chapter members in Delaplaine are living proof of this statement.

I congratulate them.

SUPPORT THE SUMMIT AGREEMENT

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. PORTER] is recognized for 5 minutes.

Mr. **PORTER**. Mr. Speaker, we face a crisis in America today: a national debt of $3.1 trillion and continuing annual deficits of $250 billion and up. This outrageous burden of debt not only saps our current economic strength and forces us to rely on foreign money, but it is also destroying our children's and grandchildren's future opportunities. This is unconscionable, and I believe the time is past due for the Congress to end business as usual and address this crisis.

The budget agreement to come before us satisfies no one completely, and that includes me. It contains elements with which I disagree. I have always said that if it were left up to me, I would solve the deficit problem on the spending side alone. For a number of years I submitted my own budgets freezing all Federal spending by Function. But we have seen a decade of ideological and political gridlock as as each side insists that its way is the only way, and that the budget must be balanced by taking from the other side's priorities.

I believe that on balance, this budget is a tough but reasonable package which will achieve real deficit reduction for the first time in a long time. This budget does not cut COLA's for seniors and contains no increase in income tax rates. Although it may need some fine tuning, in my judgment it provides a balanced and fair distribution of the burdens required to cut the deficit and reach a balanced budget.

We in the Congress have been very good at saying what we won't do to solve the deficit crisis, but for the sake of our country, we must instead say what we will do to address this serious problem. It is time for Members of Congress to find political courage, the courage to say that continuing deficits are destroying our economy and that we must advance a solution and be willing to include some of our priorities in the final package.

Every special interest group in America—and I use the term "special interest" in a descriptive, not a pejorative sense—has become very sophisticated at excluding its programs from being part of balancing the budget. And each group has valid and compelling arguments to defend its priorities. But at a time of crisis we must stop viewing ourselves only as farmers, teachers, students, government workers, seniors, businessmen and women and other discrete groups and see ourselves first as Americans.

To those who reject the summit agreement, I would ask what they suggest as an alternative: automatic, indiscriminate cuts under Gramm-Rudman which unfairly distribute the burden of deficit reduction and don't get the job done? Or continued political impasse and even bigger deficits?

We were not sent to Congress to serve only our area or only certain interests—we were also sent here to serve the country and be responsible for the bottom line. This budget asks us to assume that responsibility, and I believe we must do so.

Mr. Speaker, there is a predicate for my support, and that is enactment of the enforcement provisions of the agreement. These enforcement provisions must be in statute—signed into law before or simultaneously with the revenue provisions—and must provide for no back door entitlement expansions, no backdoor supplemental spending, binding and enforceable reconciliation, and outyear 302(a) appropriations ceilings. If these provisions are in the form of amendments to the Budget Act—waivable at the whim of the Speaker and his Rules Committee—I will not support the budget deal.

These enforcement provisions will make budgeting over the coming years painful. As a member of the Appropriations Committee, no one needs to tell me that this agreement won't carry with it a measure of pain. But we'ver gone through the 1980's ignoring reality, and as a recession now looms, we all must do our part to save the national economy. I believe that real deficit reduction will encourage positive movement on interest rates, and I believe that such movement is critical to our economic well-being.

I hope that all Members will swallow hard, dig deep for political courage and support this budget summit agreement.

PRINCE GEORGES COUNTY'S "MR. AGRICULTURE" DIES

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

Mr. **HOYER**. Mr. Speaker, the "Mr. Agriculture" of Prince Georges County, MD, died in a tragic accident on his farm last Tuesday, September 25. Roland Darcey, who was 63, was part of a vanishing breed, the Maryland farmer, a man born on the farm who lived and worked his whole life on the farm. He was a friend of mine and one of Prince Georges County's great citizens.

In these days of booming housing developments and shopping malls in our county, a life lived as Roland Darcey did his is truly unique.

Roland Darcey was born in Camp Springs, MD, and—despite an early flirtation with the law—followed in the path of his father and grandfather before him and continued the family tradition of farming. By this year, his 150-acre farm near Upper Marlboro—

and another 150 acres in St. Marys County in Congressman DYSON's district, had fruit, vegetables, and a plethora of chrystanthemums—and indeed he once tried raising hogs—but his real love and specialty was always tobacco.

Roland Darcey served for many years as president and vice president of the Prince Georges County Farm Bureau, and became a familiar and well-respected advocate for farming in our county and in our State. Just this year, he helped form the Southern Maryland Tobacco Board.

The Darceys lived in a 100-year-old farmhouse near Upper Marlboro, our county seat, and raised three sons and a daughter.

Roland Darcey watched as Prince Georges County grew from a primarily rural area to the backdoor of the Nation's Capital; he saw the construction of major facilities that are now taken for granted, such as Andrews Air Force Base, the Capital Centre and the University of Maryland. He once said that he did not want to sell out, or retire, and I am sure his family is proud now that he kept his word to the last of his days.

Roland Darcey was a very special person; one who reminded many of us in office that even though Prince Georges County was becoming more suburban, agriculture is still important to our county and our State.

Mr. Speaker, Roland Darcey will be missed by those of us who knew him. Our hearts go out to his wife Mildred and to his four children.

Prince Georges County is a lesser place for the loss of Roland Darcey.

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LET US NOT FORGET OUR HOSTAGES IN BEIRUT AND THROUGHOUT THE MIDDLE EAST

The **SPEAKER** pro tempore. (Mr. HOAGLAND). Under a previous order of the House, the gentleman from California [Mr. DORNAN], is recognized for 60 minutes.

Mr. **DORNAN** of California. Mr. Speaker, I had planned on doing a special order tonight on our hostages in Beirut, the forgotten people in all of the turmoil that is going on in the Middle East right now, with hundreds of Americans, some of them in a "missing" category. They have not been heard from since August 2 in either Kuwait or Iraq. We do not even know in which country they are, with thousands of other European hostages, British hostages, with Saddam Hussein dribbling out nine Frenchmen yesterday, with rumors now that all men over 55 years of age will be released. But there is no real substance yet on that. People forget that there are eight Americans and a dozen or so Europeans still hostage in Beirut. I was going to bring in the remarks of Brian Keenan, the Irishman, the Irish-English dual citizenship school teacher who had just been most recently released. I will probably do that tomorrow night. His words are the most poignant words I have ever seen about what calls the "crucifixion of the person who is held hostage."

Keep in mind the dates, Terry Anderson, who was the bureau chief for Associated Press in Beirut for all of that Middle Eastern area on the Levant of the coastline, he was taken prisoner March 16, 1985. Just a few months later, on June 9, Tom Sutherland, who was the newly assigned person to teach agriculture at American University/Beirut. He was taken on the airport road as he departed from the airport. He was not a free man but a few minutes before he was put into captivity.

He began his sixth year last June 9. These people, I hope everyone will pray for them.

TRIBUTE TO MAJ. GEN. MOON MULLINS, U.S. AIR FORCE, RETIRED

Mr. Speaker, I am going to cut my special order short to talk very briefly about a friend of many, many Members on both sides of the aisle in this House, who died in the crash of a World War II P-51 Mustang warbird up in Massachusetts in the Cape Cod area over the weekend.

Air Force retired Maj. Gen. Moon Mullins was known to many of us in this House over the last decade and a half because he served for years as the commander of the Air Force liaison office on the House side in the Rayburn Building and then was moved up to command both the Senate and the House liaison, stationed at the Pentagon but spending many of his days over here on the Hill. He was the commander of all liaison for the Air Force.

He was a fighter pilot assigned to MacDill Air Force Base, the 1st Air Force Wing, to get the Navy F-4, Phantom—so early that we called it the F-110, then all the numbered system combined into two services and they ended up as one of those integrating the F-4C Phantoms into the U.S. Air Force. He had thousands of hours of flying time. After he left active duty, he rose again quickly to the pinnacle of his chosen profession to be a lobbyist for the aerospace industry.

He served most recently as a vice president of governmental affairs as one of the Nation's two or three largest aerospace companies, General Dynamics.

I saw him just earlier last month at the 50th anniversary of the Battle of Britain in the Farmborough Exposition in London, England. He was full of life, tall, handsome, white-blond hair, Irish ruddy face, just looking for all the world like he was on top on everything.

I told him I had just had a ride in a Spitfire up in Duxford, the old British airfield where we are building a great American museum to complement the British Air Museum that has actually flying aircraft, similar to some of our museums around this country.

I told him that CHARLIE WILSON, one of our colleagues on the majority side, had flown the Spitfire right after me and to be sure to catch CHARLIE and hear about how much we had enjoyed this memorable old warbird, especially during the 50th anniversary of the Battle of Britain.

He said, "I envy you," as I am sure he envied the winner of a golf tournament in Cape Cod Saturday, because the winner had won a ride in the P-51 Mustang. And the man who had won turned to Moon Mullins, who finished second, and said, "Moon, you probably will enjoy this more than I would." To my knowledge, he had never even been in what many people think, arguably, is World War II's greater fighter airplane, the North America, now Rockwell, P-51 Mustang.

Moon took advantage. He did not have to be asked twice. He took advantage of the kind offer and went up in the Mustang. The details are still unclear, but it looks like the pilot whose flying skill Moon was totally captive, with his thousands of hours, I just have a funny feeling that it was a pilot with a few hundred hours in the Mustang. Moon, a big man, would have had trouble getting into the jumpseat of the Mustang. There is only enough room for one person, and they carved out a little area, taking out some older, larger radio equipment.

You get in behind the pilot, you are kind of hunched over. I can barely picture a man of John Wayne's size in that cockpit.

But I am sure he enjoyed the first part of that Mustang flight. For a fighter pilot who loved flying as Moon did—it is too corney to say that is the way he would have wanted to go. He had a lovely family. It is not what his wife planned.

He will be buried tomorrow at 3 o'clock at Arlington National Cemetery. I just pray for God that our schedule around here leaves a gap so that a large delegation from both sides of the House can go across the river to that beautiful cemetery on those bluffs that overlook Washington, DC, and see Moon's mortal remains off on his last great flight.

I know he is up there in the clouds where he spent a great deal of his life. He was a true friend and a great friend of those of us who believe, on both sides of the aisle, that it was a strong defense buildup over the last few years that enabled Germany to have that remarkable ceremony tonight that is still going on at this moment—it is about 1:30 a.m. in the morning in

Berlin—the fireworks have been going on for 3 hours. As of midnight, World War II is finally really ended and Germany is now a unified country.

It is because of people like Moon Mullins serving on active duty, through the ranks up to two stars on each shoulder, serving so effectively as a strong and powerful and articulate proponent for peace through strength and a strong defense buildup. He contributed significantly to the very defense bills that we have before us in the Senate and the House at this very moment.

He will truly, truly be missed. A man who lived a full life and rose to the top of every profession in which he served.

I hope any friends of his who do not know of this sad news from last Saturday, who are in the area, will proceed to the old chapel at Fort Myers up on top of the hill at Arlington Cemetery at 3 o'clock to pay respects to a great American aviator and a great civilian proponent of a strong defense, bringing us a lasting peace.

WE ARE ON A BUDGET TRAIN RIDE TO OBLIVION—CONTINUED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. Burton] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, today and this evening many of my colleagues have made statements both here in the Chamber and elsewhere saying that we should rise above partisan politics and for the benefit of America support President Bush and this bipartisan agreement on the budget.

☐ 1930

Mr. Speaker, I would like to be able to do that, but, unfortunately, I think this is going to be very, very bad for America, and it could end up causing America to be in, not only a recession, but something maybe even a little bit worse.

We have been poised on the precipice of a recession for some time, which has been exacerbated by the problems in the Middle East and the cost of oil going to $40 a barrel. I think it is back down to about $35 a barrel now.

However, Mr. Speaker, because of the economic problems we are facing already, to increase taxes and pass this budget, as it is presently drafted, I think would be disastrous for America.

I would like to just take a few minutes to tell my colleagues exactly what is in this in the form of tax increases, and maybe anyone else who is interested.

This is going to increase the gas tax over the next 12 to 15 months by 10 cents a gallon, costing the American taxpayers $45 billion in purchasing power. That is $45 billion they will not be able to spend on other products such as houses, cars, clothes and so forth, because that will be coming out of their pockets in the form of tax increase, 10 cents a gallon, at a time when our energy costs are going up because of the crisis in the Middle East. There is going to be a doubling of the tax on beer and an increase in taxes on other alcohol. That is going to cost $13.6 billion taken out of the purchasing power of America. It is going to be 2 cents a gallon on imported oil for other energy needs, which is going to cost America dearly as far as providing heat for their homes, electricty, and so forth. As a matter of fact, it is estimated that each American household will have to spend an additional $140 a year to heat and keep electricity in their homes because of that energy tax, and the gas tax is going to cost each American household, on average, another $20 a year in expenditures because of the gas tax. This will be much more for those who live in rural areas. In fact, it has been estimated it would cost an additional $120 on top of the $120 average for those who live in rural areas. It is going to increase the cigarette tax by 8 cents per pack over the next 3 years. It is going to create, for the first time, a national sales tax of 10 percent. It starts out this year on high priced automobiles, furs, jewelry and boats, but, as the needs of this country for spending increase, as has been the case year in and year out over the past 20 to 30 years, they will lower the amount that the cost of the car will be down to from 30,000 down to, maybe, 10,000, maybe all the way down to zero, and every American family will be hit by the sales tax of 10 percent, which is starting this year.

Mr. Speaker, these problems, these taxes, are going to cause, in my opinion, a major, major economic downturn.

In addition to that, the economic assumptions on which this budget is based are in error in my opinion. These economic assumptions include oil being at $21.15 barrel this year and $24.15 barrel next year. Oil is already between $35 and $40 a barrel, so these economic assumptions are extremely low. They are basing this budget on an economic assumption that economic growth will be seven-tenths of 1 percent this year and 3.8 percent in the next 24 months, and I believe, because we are on the precipice of a recession, these economic figures are in error. They are basing the budget on the basis that we will have 5.2 percent inflation this year, and 4.6 percent inflation next year. I think that is an error in judgment as well because, if we increased these taxes, then the cost of goods and services around this country are going to go up dramatically because America moves on the back of trucks, and those trucks run on oil products, and the cost of gasoline is going up 10 cents a gallon.

So Mr. Speaker, I say to my colleagues, "Every shirt you buy, every refrigerator you buy, every car you buy is transported on the back of a truck and is going to go up in cost. It is going to be an inflationary pressure because of this 10-cent-a-gallon gas tax increase."

So, I think those economic assumptions of 5.2 percent inflation this year and 4.6 percent next year are very low.

Now some of the leading pundits, political pundits, if my colleagues will, have been trashing this budget, and I think with some justification. Pat Buchanan said recently that there is a term for what is happening to Republicans. It is called internalizing appeasement; that is, making a cold, calculated judgment as what can reasonably be done with a liberal dominated Congress, then accepting that, rather than defying the Hill, and fighting it out and forcing the people to choose between us.

Mr. Speaker, I agree with that statement.

Paul Craig Roberts, a leading economist, said that, as the United States sinks into recession, Mr. Bush, the Office of Management and Budget Director Richard Darman and Treasury Secretary Nicholas Brady, together with Republican congressional leader Senator Bob Dole of Kansas and Representative Robert Michel of Illinois are engage in a bidding game with Democrats to see who can pile the most onerous new taxes on the voters. I have to take issue with my leaders, but I think that is probably what has happened.

Now many people say there is no alternative to the budget that has been proposed. I want to say to my colleagues that about 3 months ago Congressman DeLay of Texas and myself got together with some other leading Members of Congress. We got together with some leading think tanks, in addition to the U.S. Chamber of Commerce, to try to come up with a budget that we believe would meet the targets without a tax increase and would solve our economic problems, and we worked on that for some time. We came up with a budget. That budget was submitted to all 535 Members of Congress, plus the executive branch and the budget summiteers, but nobody paid much attention to it.

More recently, Mr. Speaker, the Heritage Foundation came up with what was called the 4-percent solution, and what it does basically is freeze spending at no more than 4-percent over last year's actual spending levels. It provides for a capital gains tax cut of lowering the rate to 15 percent, which would create 2½ million new jobs over the next 5 years, which is the only progrowth program that I have heard

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of. And that program would get us to our targets without a tax increase.

As a matter of fact, by 1997, the projections are that this budget would lead us to a surplus of $11 billion. That budget proposal, likewise, has not even been considered by anyone.

Now, if we are successful this week, those of us who oppose this budget program, if we are successful in killing it, then I hope the leaders of this Congress, the budget summiteers and those who are going to be in on the ground floor and are coming up with another budget will at least look at the 4-percent solution because I think it is something that America will embrace. It most certainly will pinch some toes, but it will not cause overly undue harm to any one segment of our society.

What it says very simply is that we are going to stop spending like we have been, going hell-bent for leather to spend this country into oblivion. It stops spending at no more than 4 percent over last year's level, and I think that is a responsible approach. That, coupled with the progrowth aspects of the capital gains cut would create, I think, instead of a recession, economic growth for the next 4 or 5 years.

Mr. Speaker, I want to read into the Record something that I think is very, very important, and it will take me about 5 to 10 minutes, but I think it is something that every one of my colleagues should hear, and I hope it will become part of the Congressional Record. I am sure it will.

The Heritage Foundation put out a statement today that I think is very important, and the title of this statement is "The Budget Summit Agreement: Serious Damage to the Economy, Part 2," and this updates a statement that they made a couple of days ago, and what they say is this:

> After 5 months of negotiations, congressional and administration budget negotiators produced an agreement which can be only described as deplorable. The package combines the largest first year tax increase in America's history, dubious economic assumptions, phony spending cuts, and inadequate enforcement provisions. At a time when annual economic growth has collapsed to less than 1 percent, enactment of the agreement surely would throw the Nation into recession. Among the most damaging provisions in the agreement are; No. 1 new taxes. Tax revenues are already projected to increase by almost 400 billion between 1990 and 1995.

☐ 1940

I want to repeat that. Because of the economic growth created by the Reagan tax cuts of 1982 and the 21 million new jobs that were created, over the next 5 years we are going to see a growth in projected tax revenues coming into the Treasury, without a tax increase, of $397.8 billion, almost $400 billion, between 1990 and 1995. That is an average of $80 billion in new money each year, without a tax increase. $80 billion in new revenues each year, without a tax increase.

Apparently this flood of new tax revenues is not enough to quench Capitol Hill's thirst. Thus, Congress has demanded and obtained from the budget agreement $133.8 billion in explicit tax increases over the next 5 years.

So the $80 billion a year that we are getting right now in new tax revenues is not enough. They want to increase that by almost $134 billion in new taxes over the next 5 years.

Major provisions include a 12-cents-a-gallon increase in gasoline taxes, 2 cents of which will be levied at the wholesale level, raising more than $50 billion over 5 years. To make matters much worse, rather than using gas tax revenues for repair and construction of highways and bridges, the agreement undermines the integrity of the highway trust fund by using half of the money for general Government spending.

This, thus, opens the sluice gates for future gas tax hikes simply to fund general revenue outlays.

Not only is this bad economics, it raises the cost of travel for every American and undermines one of the Nation's most prized characteristics, the easy mobility of Americans.

In addition, there are higher taxes on aviation. I hope everybody gets this. The air passenger ticket will jump by 25 percent.

My colleagues and I fly back and forth to our districts on a frequent basis. You can imagine that is going to cost the Government more, because everyone who travels at Government expense is going to have to pay 25 percent more for those tickets, just as every American will. That is another drain on the taxpayer's pocket, and a drain on Federal revenues.

Domestic air cargo taxes and aviation fuel taxes also will increase by 25 percent. These taxes will take nearly $12 billion from the traveling public. That is in addition to the tax increase that is going to come out of America's pockets.

America is a large country with a highly mobile population. Increasing transportation costs has a particularly deterimental impact on the American economy. Because of the long distances goods are shipped, consumers will be particularly hard hit, making it more expensive to visit family members and making business trips.

The package also increases tobacco, beer, wine, and alcohol excise taxes, raising $10 billion over the next 5 years.

What is most alarming about the kinds of taxes being raised is that the agreement sets the precedent for a national sales tax by imposing a 10-percent tax on so-called luxury items, raising nearly $2 billion.

I think that is just the camel's nose under the tent, because it will be much more down the road.

Exactly what constitutes a luxury is defined by Congress. It is certain that Congress will add new items to the list over time.

The negotiators pulled a tried and true budget gimmick out of the hat. They claimed that through stricter enforcement, the Internal Revenue Service can collect $9.4 billion in new revenues.

I think they have already said that in the past, and it never seems to prove out. They never collect quite what they think they are going to. I think that is a phony figure as well.

In addition to a wide range of taxes on American businesses, the package also destroys the insurance nature of Medicare by raising the cap on income subject to the payroll tax from $51,300 to $73,000.

Furthermore, the agreement undermines the protections in the Tax Code for home ownership, State and local taxation, and charitable deductions, by restricting the use of itemized deductions.

The agreement contains more tax increases than meet the eye. In what surely must be a deliberate attempt by the White House and Congress to deceive the public, they are including several tax increases in the so-called spending cut portion of the package. The monthly tax that senior citizens pay to Medicare will be increased, but the revenues generated by that change are counted as a spending cut.

I think that is misleading.

Seventeen different fees are to be increased, generating an additonal $14.2 billion in revenue for the Government over the next 5 years. Yet this money is to be counted as a spending cut.

Revenue increases, tax increase is counted as spending cuts.

Nearly $5.4 billion of the supposed 5-year spending cuts are actually revenues being transferred to the general budget from the Postal Service, which is now off budget, resulting in no real savings.

That is just a bookkeeping entry.

Worse still, the agreement contains an automatic tax increase provision by requiring that any future tax cuts be offset by tax increases.

This is extremely important, because the tax cuts that came into being in 1982 led to economic recovery and 21 million new jobs. This says that any new tax cuts which might stimulate economic growth have to be accompanied by tax increases. So there would be no incentive to cut taxes to increase economic growth, because you are going to offset those by tax increases.

Had this been in effect, this provision would have prevented the enactment of Ronald Reagan's Economic Recovery and Tax Act in 1981. At the very least, this provision effectively eliminates any opportunity to pass tax cut legislation to pull the economy out of the recession which this budget agreement will cause.

I believe that is absolutely right. It will cause a recession.

Dubious economic assumptions. White House and congressional negotiators agreed to cook the books to minimize the obvious negative effects of the agreement. While most economists agree that the package will reduce economic growth, the budget summiteers somehow make the assumption that enactment of the package will nearly double the rate of economic growth next year from 0.07 percent to 1.3 percent, and almost triple growth in 1992 from 1.3 percent to 3.8 percent.

Herbert Hoover thought tax increases would strengthen the economy in 1930. He was wrong. A recession became a depression.

More ominously, the budget agreement would push taxes to nearly 20 percent of the gross national product. The only two occasions in peacetime that taxes reached 20 percent of GNP, in 1969 and 1981, the economy fell into recession the following year.

So this is a recipe for a definite recession next year.

A recession is the biggest enemy of the budget deficit. The Congressional Budget Office estimates that the deficit would increase by $32 billion for each percentage point that the unemployment rate is higher than projected.

I have been told that figure is more like $40 billion for each 1 percent of unemployment caused by a recession. That is added to the problem we already have.

Negotiators have stated explicitly that they want the Federal Reserve Board to adopt an easy money policy in response to the agreement. Yet they ignore the inflationary impact of such a policy by assuming that the inflation rate as measured by the GNP deflator will fall to 2.8 percent by 1995.

Since Government spending is often tied to the price level, a more realistic inflation estimate would expose how much spending will actually increase compared to what is claimed in the agreement.

Perhaps the most unrealistic element of the package is the assumption that the interest rates will decline. More than $64 billion of the alleged savings hinges on the interest rate on a 3-month Treasury bill falling to 4.2 percent, and rate for 10-year Treasury notes dropping to 5.3 percent.

Since interest rates normally rise and fall with changes in the inflation rate, this assumption has no credibility.

I cannot remember when Treasury bills were down to 4.2 percent or the Treasury notes dropped to 5.3 percent. Since I think we are going to be forcing an inflationary trend, I think these interest rates have to be inaccurate or phony.

Phony spending cuts. The negotiators are trying to sell the agreement as one of shared pain. Other than the fact that the defense budget is projected to decline by $8 billion, from $300 billion this year to $292 billion in 1993, there are absolutely no cuts in spending. None.

Even excluding the cost of the deposit insurance bailout, total spending under the agreement will rise by more than $220 billion over the next 5 years.

Listen to that. Even excluding the cost of the S&L problem, total spending under this agreement will rise by more than $220 billion over the next 5 years. And that is what we have got to get at.

Spending increases. Instead of dealing with that, we are raising taxes by $134 billion, plus other increases that are going to be tacked on to Medicare and so forth.

□ 1950

Since Congress has violated the spending limits in every previous budget agreement, it is a sure bet that spending actually will climb considerably more than the $220 billion already projected. Once realistic interest rate and inflation rate projections are included, any hope of limiting spending increases to $220 billion disappears. Furthermore, if a recession occurs, as many economists predict, spending on welfare and unemployment programs automatically will rise beyond currently projected levels.

INADEQUATE ENFORCEMENT

If history serves as a guide, the meager budget process reforms included in the agreement will fail to break the chronic cycle of tax and spend. Major reforms were completely rejected.

That is one of the things we said and President Bush said had to be in package, budget process reform, and it is just not there. Major reforms are not there.

The package does not include a balanced budget amendment. The President was not granted a line-item veto. The current services budget, the feature that allows the negotiators to pretend they are cutting spending when outlays are actually rising, remains untouched. Minor revisions are made by the agreement to strengthen the Gramm-Rudman Deficit Reduction Act. Yet even with these changes, the law can still be waived by the Rules Committee in the House and by 60 votes in the Senate.

CONCLUSION

In 1982, the Tax Equity and Fiscal Responsibility Act [TEFRA] was enacted with the promise that every dollar of higher taxes would be accompanied by $3 of spending cuts.

That was in 1982. The higher taxes became law, but the spending actually increased. We never realized the $3 in spending cuts for every $1 in new taxes. What we did get was $1 in new taxes and more spending.

The higher taxes became law, but spending actually increased by more than $200 billion over the following 3 years. This week's proposed budget agreement makes TEFRA look good by comparison. That was a rotten move.

If enacted, the current agreement is almost certain to push the economy into a recession. What few savings exist on the spending side are almost wholly dependent on unrealistic economic assumptions. The budget agreement effectively repeals Reaganomics and will put an end to the economic prosperity that America has experienced during the 1980's.

We have seen 21 million jobs created in the last 8 years, and we could see 2½ million more new jobs created if we had the capital gains tax cut accompanied by the 4-percent solution, but we are not going to see that if this budget passes. What we are going to see is an economic recession, higher unemployment, more spending, and a bigger deficit instead of a smaller one, with more new taxes on the backs of the American people at a time when they cannot afford the taxes they are already paying. Americans are already paying for all taxes about 40 cents to 45 cents of every dollar they earn, and we are loading them up with more.

The thing that is most disheartening to me is that I have been a big supporter of President Bush since he ran for office, when he was Vice President, and now as President. I think he is doing an excellent job in the Middle East and in many other areas. But he said to the American people: "Read my lips; no new taxes," many times, and he said he was going to hold out for a pro-growth budget that would include capital gains tax cuts, which would create 2½ million new jobs over the next 5 years. And he said he was going to hang tough for budget process reform, and all of those things have been negotiated away.

The New York Times on the front page had a statement that the Democrats had won, and I submit that this budget is largely drawn up by the Democrat leadership in both the House and the Senate. They have done a very effective job.

But what is most onerous about this agreement, in my opinion, is it is going to look like it is President Bush's budget. It is a Democrat budget, but tonight the President goes on national television telling the American people that this is a solution to our economic woes, that the burden is going to be

spread across the spectrum so everybody feels it, but no one in an undue way or too much, and it is going to be perceived after tonight, after he goes on national television in 1 hour and 5 minutes that it is his budget. And when the recession follows, as it most certainly will, in my opinion, then the President of the United States is going to be saddled with that recession as his recession, and not the recession of both Houses of Congress, and both the Democrat and Republican Parties and the Democrat leadership being participants in it.

Mark my words: In 6 months or a year when the recession hits, the Democrat leadership and the Democrats in this House and the Senate will be saying to the American people it is Bush's recession, and if you want a better economy then elect Democrats to the White House in 1992. And they might well get their wish, because we have bought on to a bad deal.

Mr. President, I think we have made a mistake, and I wish we could reevaluate and go back. I am afraid it may be too late.

I would just like to say that Herbert Hoover in 1930, at a time we were facing recession, raised taxes, and we know what happened, the Great Depression. I just hope that the recession we face is not that bad.

With that, Mr. Speaker, I yield back the balance of my time.

THE BUDGET SUMMIT AGREEMENT

The SPEAKER pro tempore (Mr. HOAGLAND). Under a previous order of the House, the gentleman from Wisconsin [Mr. OBEY] is recognized for 60 minutes.

Mr. OBEY. Mr. Speaker, I am tempted to say that the last speaker took the words right out of my mouth, at least the last sentence or the last paragraph, but I will not say that.

Mr. Speaker, I hate special orders because they are almost always a waste of time. They are almost always a waste of time of the staff who have to stay here and listen to us talk, and they are almost always a waste of time for any member of the public looking in, and they most certainly are almost always a waste of time for the Members of Congress who have to deliver them, because in the interest of honest advertising I think it needs to be noted that there is nobody here, almost nobody. There almost always is never anybody here.

But once in a while, you simply have to use the device of a special order because you are angry enough about what is happening in this country and in this town to comment on it and to sound off. And I am going to sound off tonight about the budget summit, because I intend to vote no on that budget summit agreement, and I would urge every Member who believes that fairness ought to be a cornerstone of government policy to do the same.

I will take every possible step to try to obtain the right to offer an alternative which meets the test of fairness while spending less, taxing less, and borrowing less than the proposed summit agreement, embraced so heartily by President Bush.

The gentleman from North Dakota [Mr. DORGAN] and I testified before the Rules Committee tonight asking that an alternative be made in order which would do just that, and to provide and to restore a sense of fairness to this package.

I fundamentally oppose the package because first of all, based on sound economic assumptions, and on this statement I agree with the gentleman who just spoke, it will not reduce the deficit by nearly the amount promised. I would not be at all surprised to see over the next 5 years this deficit agreement miss the target by somewhere between $100 and $200 billion.

It will also not make our system more fair than it is today. In fact, it will make it more unfair. It continues the march begun in 1981 when the Reagan administration rammed through budget and tax changes which tripled America's deficit and dropped the word fairness from the vocabulary of Government.

Let us repeat a little history. In 1981 the Federal deficit stood at $57.9 billion the day that President Reagan took office. The defense budget was $160 billion. Tax rates at that time ranged from 14 percent in the lowest brackets up to 50 percent on income above $215,000.

The Reagan administration argued at that time that reducing Government involvement in the economy, cutting taxes primarily for high income people, would create a new era of generalized prosperity, and as a consequence, on May 7, 1981, the administration rammed through its Gramm-Latta budget by a vote of 253 to 176. Republicans voted for it 109 to 0, and Democrats opposed it by a vote of 176 to 63. But that was enough votes to pass.

□ 2000

The budget put us on the road to doubling the military budget over 5 years' time. Some 11 weeks later, the Reagan administration rammed through their tax package which reduced revenues by huge amounts.

I offered alternatives to both of those packages, both the budget package and the tax package. Our budget amendments in 1981 would have spent less and borrowed less and taxed less from middle-income people than the budget and tax packages which passed. We were beaten.

The President's package passed; the lion's share of those tax cuts went to the wealthy. Republicans voted for 190 to 1. Democrats voted against it 194 to 48. It passed 238 to 195.

Thus began the Republican experiment in supply-side economics which was described at the time by Senate Republican floor leader Howard Baker as being a riverboat gamble. Vice President Bush, who had described the Reagan supply-side experiment as voodoo economics, correctly so, when he campaigned against Mr. Reagan in New Hampshire, loyally supported the Reagan budget as Vice President.

The Reagan administration promised if their budget and tax package were passed we would create widespread prosperity and that income would rise enough to offset revenue losses, and that we would see the Federal budget balanced within 3 years.

On the passage of the Reagan tax bill, then Secretary of the Treasury Donald Regan said, "Our program is now in place." The results are now in. It is most certainly true that for some, the 1980's produced widespread prosperity, but the record shows that his antitrust litigation has been mothballed, public investment cut by 40 percent, and tax rates on the high-income people cut by more than 50 percent, the purchasing power of workers paid through wages has actually fallen.

Over the 1980's, families on the surface appeared to be keeping up, but only because more and more women went into the work force producing second earners for many American families.

In terms of income, the wealthiest 1 percent of people in our society have seen their incomes rise about 70 percent since the day Ronald Reagan passed his tax package, from slightly over $300,000 to well over $500,000 today. By contrast, the income for the 20 percent of families in the middle rose by a scant 3 percent, and income for the poorest 20 percent of American families has actually declined. The richest 1 million families saw their incomes grow, as I said, from over $300,000 to well over $500,000 today.

The income growth experienced by the wealthiest 1 percent of American families was greater than the income growth for 90 percent of American families combined.

If the tax payments for the richest 1 percent of Americans had kept pace with their income rise through the 1980's, the deficit today would be $75 billion lower. That is more than 50 percent, it is almost double the deficit-reduction package which we are being asked to vote on, the deficit rcduction that would occur for the first year.

Even if their tax had kept pace with their income, they would still have after taxes the largest increase in income of any group in our society.

On the tax side, if we combine all income and payroll taxes, 60 percent of all Americans, the bottom 60 percent, have actually had a tax increase. The second highest 20 percent of all American families have had a tax cut of about $45 on average, but the richest 1 percent have had an average income-tax cut of $12,000.

Yet, in the wake of all this, the President asked us 2 weeks ago when he was standing before us to support a capital gains tax package which would have added over $20 billion to the deficit over 5 years and have given 80 percent of the benefits of those tax cuts to the wealthiest people in our society.

The argument made by the Reagan revolutionaries that average working families would eventually benefit from those policies of the 1980's did not pan out. The evidence is in. The promises were wrong, and the budget summiteers wisely objected and rejected as unfair the President's proposition for yet a new goodie for the people who have had the most goodies in the 1980's.

But in the end, the President's willingness to shut down all of Government if he did not largely get his way backed the budget summiteers into accepting a 5-year budget deal which is even more unfair than the existing Tax Code. I have no quarrel with the Democratic Party leadership's efforts in the summit. I know they offered plan after plan to present the bill for the party of the 1980's to the people who had gone to the party, the high rollers, the well-connected and the wealthy. I know that the Democratic leadership fought to protect the interests of working Americans, but on the issue of tax fairness, be clear about it, they lost to the White House. I do not say that to criticize them. I simply say that to observe a fact.

In 1981 I could not support the Reagan budget and tax schemes because they produced fundamental unfairness to working people, and because I warned at the time that they would lead to runaway deficits. I cannot support this package this week for the same reason.

My objections to the package are many. First of all, it still spends too much money, especially in the area of wasteful defense spending. Oh, yes, the budget agreement eliminates the increases which had been expected in future Defense budgets because of inflation, but with the end of the cold war, we should have been able to do better than that.

In actual spending, the Defense budget outlays of $296 billion for 1991 will decline by only $5 billion over the following 2 years. So much for the peace dividend.

An excuse also used by many to justify these high military spending numbers for defense is that we face significant costs because of the Iraqi situation, but the problem is this budget agreement exempts from the defense spending ceilings money that will be spent on the Iraqi effort, so they get a double bang for the buck. In fact, the Defense budget is still so large that an additional amount of budget authority was added above previously agreed amounts in order to preserve the B-2 Stealth bomber. So much for fiscal sacrifice and discipline at the Pentagon.

This budget spends at least $50 billion too much on military spending over the next 5 years. If the gentleman from North Dakota [Mr. DORGAN] and I are given the opportunity, we will try to offer a substitute which cuts it by at least $35 billion more over the next 5 years.

Please remember this is a military budget which has been doubled over the last decade and could reasonably absorb a cut larger than that. This House just voted for one about a month ago.

In the 1980's, domestic discretionary programs have been reduced by almost 40 percent domestic investment programs have been reduced by almost 40 percent in real-dollar terms, and they should not be reduced more.

In the context of an overall budget agreement requiring fair sacrifice from everyone, we could cut domestic discretionary spending by at least $3 billion more over the next 3 years by eliminating low-priority items such as the $6 billion supercollider.

If given the opportunity, the alternative that the gentleman from North Dakota [Mr. DORGAN] and I would offer would reduce domestic discretionary spending in the fourth and fifth years by an additional amount to be spread also over foreign-aid spending and military spending.

Let us now take a look at taxes. The worst part of this new agreement is that it pounds the middle-class taxpayer, but it hardly lays a glove on the superrich with incomes of $200,000.

This budget raises $50 billion in new gasoline taxes, but it does nothing to guarantee that any of that money will be used to rebuild our energy research programs which were gutted by Reagan budgets in the 1980's. It does nothing to mitigate the effects of the gasoline tax on low-income and moderate-income people with limited purchasing power. It exempts corporate jets from the new tax on luxuries, but it takes away $3 billion from unemployed people by making them wait 2 weeks after they have lost their job to collect their first unemployment check.

The income Tax Code under which we are now operating, as we all know, has a special gimmick to protect the rich. The administration was adamant in refusing to change that gimmick known as the bubble. That gimmick produces the following result, that if you are a taxpayer earning less than $42, 000 a year, under the existing Tax Code which the White House successfully protected, you pay on that income a tax rate of about 15 percent. On income which ranges between $42,000 and about $75,000, you pay a marginal tax rate of 28 percent. On income between $75,000 and roughly $170,000, you pay a marginal tax of 33 percent.

□ 2010

However, on all income above $170,000, the effective marginal tax rate drops to 28 percent. That drop, that special favor for the super rich, costs the Treasury $9 billion a year, and $45 billion in lost revenues over 5 years. Two-thirds of the size of the cut which this package instead takes from Medicare.

Because the super rich were protected by the President's negotiating team at the summit, Medicare will be cut by $60 billion over the next 5 years. I talk to Medicare recipients every month. They do not expect to be exempted from sacrifice, but they should not have to accept a double hit because the super rich avoided even a glancing blow. The amendment that the gentleman from North Dakota [Mr. DORGAN] and I would seek to offer, if given a chance, would cut in half the attack that this budget summit makes on Medicare. That is essential, not just to ease the squeeze on lower and moderate Medicare recipients, but also to prevent hundreds of rural hospitals around this country from being put out of business, exposing millions of rural Americans to the charm and the risk of long-distance health care.

In many ways, this package is amazingly antirural. The gas tax falls most heavily on rural Americans. Medicare cuts will fall most heavily on the rural communities because of the impact on rural hospitals, and even entitlement cuts will fall most heavily on farmers who work and on their urban brothers and sisters who lose their work in the cities.

This budget also mandates an almost $3 billion cut for veterans at a time when we are likely to witness the creation of many more veterans of foreign wars, because of events in the Middle East. Do we really want to send a message to American veterans that we are going to ask them to make yet another sacrifice in their postwar years, while the super rich are avoiding any significant additional sacrifice? Again, I expect that they are willing to take their fair share of budget reductions. That is the veterans I am talking about. However, almost $3 billion a year is simply not fair, and the Obey-Dorgan amendment, if we were allowed to offer it,

would restore $1 billion to veterans' programs.

Mr. Speaker, I was amazed this morning to see the President being interviewed on Air Force One, America's newest flying palace. When he was asked by a reporter how he would handle the outcry from senior citizens because of Medicare cuts, he responded roughly as follows: "You can't keep everybody happy. You just have to do what is right, and you know, I didn't have the horses in Congress to do it my way." Well, all I can say, Mr. President, is thank God that you did not. Because if you look at the President's budget for this year, we would see that he proposed larger Medicare cuts in the first year than were adopted by the Senate or passed by the House in our original budget resolution.

In summit negotiations the administration proposed cuts on seniors almost 50-percent larger than those finally adopted, and those cuts recommended by the administration included long delays of cost-of-living increases for senior citizens. If the President had his way, defense spending would also have been larger. If the President had had his way, foreign aid spending would have been larger. If the President had had his way, it would have been even more tax breaks for the very rich, paid for by the working middle class. But because of the insistence of the White House, the injustice represented by the income tax bubble which protects the wealthiest taxpayers from paying their fair share of taxes, it is made worse by approximately 20 percent.

The nonpartisan congressional budget analysis, the President's budget summit package indicates that the wealthiest people in this society with an average after-tax income before the summit of $428,000 will see their after-tax income reduced by one-half of 1 percent. But the average American family making $33,000 in after-tax income would be hit three times as hard, and their income would go down by 1½ percent a year as opposed to the one-half percent for the super rich. If you have an income of over $700,000, then you will probably have an increase in income because of the creation of new tax shelters in this turkey of a budget summit proposal. That is grossly unfair, and I simply will not support it unless the package is changed to eliminate the middle-class ripoffs imposed on Members by White House negotiators who put the interest of the richest taxpayers in America ahead of the interest of the hardest working families in America.

Mr. Speaker, I want to make the observations that I made on the House floor several weeks ago. Today, government is unfortunately seen as being in cahoots with the high rollers in this society. It is seen accurately as being on the side of the wealthy. It is seen as being the instrument which puts the fix in, so that the wealthy and the well connected can do exactly what they did in the 1980's, increase their income by gargantuan amounts at the same time they are reducing their tax burden in comparison to that income, leaving middle-class taxpayers holding the bag. That has been the sad story of the 1980's on budget and tax policy, and that is what has to change. The single most important thing that any government official can do to restore public confidence is to put government back on the side of average families in this country by seeing to it that our deficit is reduced quickly and fairly. That means resisting the temptation to use the Persian Gulf crisis as an excuse to resurrect spending for every turkey weapons system which drains our strength rather than adds to it. Weapons which have absolutely nothing to do with our ability to fight in the Persian Gulf. I am talking about items like the B-2, star wars, the MX missile, and the like.

The second thing we must do is to say "no" when the President's economic team insists that we protect the interest of the wealthy, while gouging the interests of everyone else. The tax system simply must be made more progressive. Those at the very top income tax scale ought to be paying a higher tax rate so that the rest of Americans do not have to pay twice. Any so-called budget compromise coming out of Andrews Air Force Base that does not meet those changes, fails to meet the fundamental test of fairness, and it should be rejected. We have an obligation to see to it that middle-income families are treated fairly, and to see to it that people who were not invited to the party in the 1980's, do not get stuck with both the bill and the tip.

Now, I have heard the President and several budget negotiators say, "Well, we have to make tough decisions." Well, Mr. Speaker, that is right, but when the political system is tougher on middle-income workers than it is on the wealthiest people of our society, it is not very tough. It is flabby. It simply is not listening to what the American people have been trying to say.

I hope this House has an opportunity to turn down this poor excuse for a budget so that we have an opportunity to offer a substitute, which will be much more fair for working men and women of this country. If we do not have the right to offer a substitute, if the House does not give Members that right to offer a constructive substitute, then they give Members no option but to vote "no" on this package.

Mr. Speaker, a number of years ago when I served in the Wisconsin Legislature, I served with a friend of mine named Harvey Dueholm who was a retired farmer. He was the gutsiest man I have ever known. He observed once that the trouble with our politics is that all too often the poor and the rich get the same amount of ice, but the poor get theirs in the wintertime. This summit negotiation process, dominated by the White House negotiating team, is an outrageous example of just how that happens. It was put together, very frankly, by too many people who are too comfortable wearing suits seven days a week. It would be a quite different package if more people wearing jeans had been at the table when the fix was put in.

□ 2020

That unfortunately is why I have to vote against the package, because it does continue the march to unfairness which began in 1981 and which this budget package will exacerbate. It pounds the middle income taxpayer. It hardly lays a glove on the super rich, because the super rich were protected by their well-connected friends on the White House negotiating team.

I have used some numbers here tonight which have been based upon the CBO, the Congressional Budget Office and the Joint Tax Committee estimates of the budget summit package. I have just received updated estimates which change only slightly the numbers which I have used tonight and which indicate clearly that the wealthiest 1 percent of people still wind up with a kid glove treatment, while the other taxpayers in this country, especially middle class, take it on the jaw and they take it hard.

I have also seen other analyses of the budget which indicate that the tax breaks will once again recreate tax shelters. High income taxpayers will once again be allowed to debt-finance a sizeable portion of the so-called small business investments which are being created in this bill and they will then deduct the full cost of borrowing and obtain tremendous tax benefits on those investments, and those tax shelters will be used obviously by the super wealthy. Those above $700,000 will be able to use them, so that while everybody else in this society is experiencing a loss in after-tax income, they will experience an increase in after-tax income. That, Mr. Speaker, is backwards. That is what I thought the Democratic Party would always oppose. That is what the Democratic Party has tried to oppose.

Unfortunately, because there is only one big gorilla in our political system, and that is the fellow who occupies the big White House and because that fellow was willing to shut down the entire Government in order to get his way, the Democratic Party lost the fight on tax fairness.

I regret it. I wish I could do something about it. I am going to try to do something about it when we take up the budget tomorrow, or the rule on the budget conference report tomorrow, and if we do not get that opportunity to offer a constructive alternative which spends less, borrows less, taxes less, but does it in a much more fair way to protect the interests of the middle class, just a mite for a change, unless we get that opportunity, we have no choice but to vote no, and that is what I will regrettably do if not given that opportunity.

IN SUPPORT OF THE COMPROMISE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. Cooper] is recognized for 60 minutes.

Mr. COOPER. Mr. Speaker, tonight we have had an unsual treat. We have just heard from two of our distinguished colleagues, each of whom is opposed to the President's budget compromise, but each of whom is opposed for almost completely different reasons.

First the gentleman from Indiana [Mr. Burton] opposes the plan because he did not think it was fair to the rich in our society. He thought that the defense cuts were great.

Then we heard from the gentleman from Wisconsin [Mr. Obey] who said that he thought defense was not cut enough and that the rich were taxed enough

During my 8 years in the House, the arguments we have heard tonight are all too familiar. they are a rehash of arguments that we have heard for many years. My friend, the gentleman from Wisconsin [Mr. Obey] will probably never vote for a budget that the gentleman from Indiana [Mr. Burton] is for, likewise the gentleman from Indiana [Mr. Burton] will probably never vote for a budget that the gentleman from Wisconsin [Mr. Obey] is for, and yet these two men, one from the left and one from the right, are each opposed to President Bush's compromise plan.

Well, I stand foursquare behind the President's plan. I am a Democrat, but I want to see the budget deficit problem solved. I am tired of waiting for a solution. I am tired of the endless speeches, each well-reasoned, each thoughtful, each careful, but each in the end turning down a reasonable compromise to the budget deficit problem.

Mr. Speaker, I have had the privilege of serving in the House of Representatives for almost 8 years. During each of those years I have heard countless speeches made by my colleagues saying they really want to reduce the Federal budget deficit. I have given a few myself. Well, Mr. Speaker, this week we will have our first real opportunity in 8 years to reduce the deficit. We have the chance to back up our words with action. I hope that my colleagues have the courage to do what they have said they have wanted to do all these years: Vote for a serious deficit reduction package that has a real chance of passing the Senate and being signed into law by the President.

President Bush will speak to us in 35 minutes. He will speak on live television to every citizen in this Nation. I hope that the people of this country will listen and respond to his plea, because as the President said in his Inaugural Address, he wants Congress to stop bickering. He wants Congress to start acting, and this budget compromise is the best way to start reducing the budget deficit.

Mr. Speaker, those of us who care about reducing the deficit have had to wait many years for this vote. Although the Democrats who were elected in 1982 have been meeting almost every week for 8 years to push for deficit reduction, every previous effort has failed. This week we have our best chance to succeed.

For a decade we have been electing Presidents who have promised us balanced budgets just 4 years off, and the proposed budgets of these Presidents have had so little support in Congress that they have been considered dead on arrival. Many of these Presidential budgets were drafted with such unrealistic economic assumptions or political assumptions that their authors knew they were not serious attempts to solve the deficit problem. While many Democrats have opposed these Presidential budgets, the vast majority of House Republicans have as well. I remember one Reagan budget that was voted on the House floor, and it received only one vote, that of Jack Kemp, who made clear in his remarks that his was only a token vote of support for the President.

To give the apppearance of action on the deficit, Congress finally was presured into passing the Gramm-Rudman Act. This law also promised to give us balanced budgets in five years. Of course the 5 years is already up, and we are as far as we have ever been from a balanced budget.

Only this summer, a majority of the House voted for a balanced budget amendment to our Constitution so that we could prove to our constituents and to ourselves that we really wanted to reduce the deficit. Of course, the amendment failed to get the necessary two-thirds vote for passage, although it came close. And even if it had passed, Congress would still have had to come up with a specific plan to balance the budget, a plan very much like this plan.

Now, this week, we have a chance to do more than posture on the deficit issue. As a result of the budget summit, we have an agreement that the leaders of both political parties, and the leaders of the executive and legislative branches of Government support. The only question is whether a majority of the rank and file of Congress support the plan and the hard work of our own leadership.

My colleagues will recall that President Reagan refused, after 1982, to even conduct a summit with the Congress on the deficit issue.

POST MARKET CRASH SUMMIT

Many of us criticized him for failing to meet with us on such an important national issue. Many of us said that a summit was indispensable for solving the deficit problem. Well, now we not only have a summit, but a successful smmit, and many of my colleagues are regretting that their wish had ever been granted.

TIME TO ACT

Mr. Speaker, if we could only get the vote of every Member who has supported the balanced budget amendment, or who had opposed debt ceiling increases in the name of budget restraint, or who had denounced budget deficits in his speeches, we would not have any trouble passing the budget summit agreement.

What we are discovering, however, is that many Members are losing their courage. They talk tough on the deficit, but will not vote tough. They claim to be fighting against the deficit, but they are fair-weather warriors.

Mr. Speaker, it is time for the House of Representatives to put up or shut up on the deficit. In the last 10 years, we have increased the national debt from about $1 trillion to over $3 trillion. It took every President from George Washington to Jimmy Carter to give us that first trillion in debt, but while George Bush has been Vice President and President, we have added another 2 trillion to that debt.

It is time to stop the bleeding, and, to President Bush's credit, he and his staff have finally negotiated with Congress on a way to stop the fiscal hemorrhaging.

The vote this week may well be the most important vote that we will have cast in this, or any recent, Congress. The real question is whether the President and Congress are competent to govern the fiscal affairs of our Nation. Does our proud democracy still work? Or are we the slaves of parochial and special interests who don't mind our Nation living on borrowed money and borrowed time until we wake up and discover that we are a second-class economic power?

EASY TO CRITICIZE

The primary reason for the past deadlock on deficit issues has been the fact that it is almost impossible to please a majority of House and Senate Members, and the President, on a single deficit reduction package. This has been the tragic legacy of our Nation's longest experiment with divided

Government, with the White House controlled by one political party and most of the Congress by another.

Why has it been hard to achieve a consensus, or even a bare majority, over almost a decade? Because, as any politician can tell you, it is always easier to criticize something than to improve it.

There are many ways to state that fundamental political principle. It is notoriously easy to be a back-seat driver or a Monday-morning quarterback. Speaker Sam Rayburn said it even more strongly, "Any jackass can kick a barn down; it takes a carpenter to build one."

It would be easy for me to kick this budget summit agreement down, as many of our colleagues are doing. I hate the Medicare cuts; I hate the gasoline tax; I hate the lack of progressivity in the package; but I hate the deficit even more.

This is a spinach and broccoli package. We hate it, the President hates it, but it is good for both of us.

It is becoming harder and harder in modern politics to make good decisions in the long-term interest of our Nation and avoid a backlash in the polls and on election day. Put another way, the skills required to get elected to office do not necessarily serve you well once you are in office. There is a split between the needs of politics and the needs of governing. This is all too plain when you talk to our Nation's political experts.

The noted political consultant and pollster firm, the Garin-Hart Strategic Research Group, is quoted in today's Washington Post as saying:

> Voting for a budget settlement may be the most responsible course, but do not expect much credit from voters for doing the responsible thing . . . If you vote for the budget compromise, you should realize that many voters will resent it.

Another noted political adviser and pollster, Harrison Hickman, also realizes that his advice to candidates is against the national interest. He is quoted as saying, "The Republic is better off if no one asks me."

I may be completely wrong, but I think the voters are smarter than the so-called experts give them credit for. I think the voters want their representatives to be honest with them, even when the truth is unpleasant. I think that voters want what it is in the long-term best interests of the Nation, and are tired of politicians deceiving them with false hopes and false promises. I think that voters want the deficit reduced now; in fact I think they wanted the problem solved several years ago. They are tired of hearing about it and tired of us not solving the problem faster.

BEWARE SECRET PLANS

When Richard Nixon was running for President in 1968, he claimed to have a secret plan to end the Vietnam war. He was elected and, of course, he turned out not to have a secret plan. In fact the war escalated, contrary to what most voters had been led to believe by his campaign.

Today, many of our colleagues have, if not secret, at best partial plans to reduce the deficit. Each one of these plans, even if fleshed out and audited by the CBO and OMB, caters to every local interest in that Member's district. For years now, we have been campaigning against the deficit and keeping our plans ready in case any reporter questions us on the specifics. So far these individual plans have been good enough to fool reporters, but no longer. Why? Because individual solutions do not work; only plans with 218 votes have a chance of working.

We all know that there is no majority for any of our personal plans, so there is absolutely no danger of any of them passing. We have had 10 years to see whether there is such a majority. I personally have favored across-the-board budget freezes so that every American would be treated the same, and so that there would be no new taxes. But the last time this idea was voted on, it received 56 votes out of the necessary 218. Other plans have done about the same. I have voted for many of them as well.

When every Congressman has his or her own plan, Congress has no plan. Every congressional district is different and every deficit reduction plan is not only different but often contradictory. Our diversity as a nation has gridlocked Congress on the most important and persistent economic issue of our time.

Members have been unwilling to compromise, to set aside personal and local preferences, for the good of the whole Nation. Each member, and each special interest group across our Nation, wants the power to veto any measure that offends their parochial interest. The phrase "I got mine" has become more popular than "I did it for the good of the Nation."

I would like to suggest that, particularly in this time of prolonged divided Government, it is important for Members to make sacrifices for the good of the Nation. What excuse is going to be good enough for our grandchildren when they ask us why we carelessly piled additional trillions of dollars of debt on their shoulders? The Republicans wouldn't help us? The Democrats bailed out? Folks in my district would have been upset? I was afraid to take the heat?

These answers are not good enough. Individual solutions to a national problem are not good enough. We are a legislature and we must act as a legislature, not as a group of independent operators. While we are busy saving our own political hides, our Nation is getting scalped.

PAINLESSLY PAINFUL

As painful as particular parts of the budget summit agreement are, the pain is mild indeed when compared to a real solution of the deficit problem. This package will reduce the deficit by $40 billion this year, and by $500 billion over the next 5 years, but it is still not enough to guarantee us a balanced budget. We can continue to expect large deficits, just not as large as they would have been.

The most valid criticism of the package is that it is too little, too late. But this is criticism that can only be made by those who are willing to vote for this level of pain, not by those who say they want even more pain but are afraid of even this amount.

Another valid criticism of the package is that it still contains too much false savings, so-called smoke and mirrors. True, this package has less gimmickry in it than most recent reforms, but its' unrealistic interest rate assumptions, increased tax collection assumptions, and the estimated savings from the lump-sum civil service retirement termination, still mislead the public as to the real deficit reduction impact of the package.

For all of these faults, to have a package that makes a serious effort to reduce the deficit this year by $40 billion and by $500 billion over the next 5 years, all without touching Social Security, COLA's, or tax rates, is too good to pass up. The package looks even better when you compare it to the alternatives: Sequestration or continued record deficits.

Mr. Speaker, the hour is late and the stakes are high. This House has a chance to prove that it can responsibly manage the fiscal affairs of this Nation, or it can shirk its responsibility for yet another year. I hope that we will rise to the challenge of preserving the long-term economic health of our Nation by reducing the deficit, instead of thinking only of preserving our own political careers. This is a rare opportunity, to have a bipartisan agreement that begins to solve a painful problem in one of the most painless possible ways, I hope that we will not miss this chance. Let us support the President, let us support our own leadership, and let us support the budget summit agreement.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Engel (at the request of Mr. Gephardt), for today, on account of illness.

Mr. Myers of Indiana (at the request of Mr. Michel), until 4 p.m. today, on account of family medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Porter) to revise and extend their remarks and include extraneous material:)

Mr. Pashayan, for 1 hour, on October 9.

Mr. Porter, for 5 minutes, today.

(The following Members (at the request of Mr. Gonzalez) to revise and extend their remarks and include extraneous material:)

Mr. Hoyer, for 5 minutes, today.

Mr. Alexander, for 5 minutes, today.

Mr. Owens of Utah, for 5 minutes each day, today and on October 4.

Mr. Annunzio, for 5 minutes, today.

Mr. Cooper, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Fawell today on Smith amendment No. 5 in H.R. 4300.

(The following Members (at the request of Mr. Porter) and to include extraneous matter:)

Mr. Coughlin.

Ms. Ros-Lehtinen in four instances.

Mr. Boehlert.

Mr. Baker in two instances.

(The following Members (at the request of Mr. Gonzalez) and to include extraneous matter:)

Mr. Torricelli.

Mr. Gordon in two instances.

Mr. Solarz.

Mr. Mrazek.

Mr. Skelton

Mr. Traficant.

Mr. Sawyer

Mr. McNulty.

Mr. Pallone.

Mrs. Pattfrson.

Mr. Miller of California.

Mr. Morrison of Connecticut.

Mr. Vento.

Mr. McHugh.

Mr. Weiss.

Mr. Bonior.

SENATE BILL AND JOINT RESOLUTION REFERRED

A bill and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1731. An act to provide for the creation, restoration, protection, enhancement, and conservation of coastal wetlands, and to conserve North American wetland ecosystems and waterfowl and the other migratory birds and fish and wildlife that depend upon such habitats, and for other purposes; to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

S.J. Res. 342. Joint resolution designating October 1990 as "Ending Hunger Month"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1243. An Act to require the Secretary of Energy to establish Centers for Metal Casting Competitiveness Research;

H.R. 2372. An Act to provide jurisdiction and procedures for claims for compassionate payments for injuries due to exposure to radiation from nuclear testing;

H.R. 3897. An Act to authorize appropriations for the Administrative Conference of the United States for fiscal years 1991, 1992, 1993, and 1994, and for other purposes;

H.R. 5725. An Act to extend the expiration date of the Defense Production Act of 1950;

H.J. Res. 398 vs. Joint resolution to commemorate the centennial of the creation by Congress of Yosemite National Park;

H.J. Res. 469. Joint resolution to designate October 6, 1990, as "German-American Day"; and

H.J. Res. 603. Joint resolution to designate the month of October 1990 as "Country Music Month."

SENATE ENROLLED BILL AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled bill and a joint resolution of the Senate of the following titles:

S. 2588. An act to amend section 5948 of title 5, United States Code, to reauthorize physicians comparability allowances; and

S.J. Res. 301. Joint resolution designating October 1990 as "National Breast Cancer Awareness Month."

ADJOURNMENT

Mr. COOPER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 44 minutes p.m.), the House adjourned until tomorrow, Wednesday, October 3, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3987. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize urgent supplemental appropriations for fiscal year 1990 for the Department of Defense, and for other purposes; to the Committee on Armed Services.

3988. A letter from the Secretary of Defense, transmitting notification that the Air Force intends to obligate $7 million in active RDT&E funding for the ALQ-181A "Core" program; to the Committee on Armed Services.

3989. A letter from the Secretary of Defense, transmitting a letter urging Congress to extend for 2 years the provisions of the Defense Production Act; to the Committee on Banking, Finance and Urban Affairs.

3990. A letter from the Secretary of Health and Human Services, transmitting the 1989 annual report on expenditures with respect to AIDS, pursuant to Public Law 100-607, section 201 (102 Stat. 3063); to the Committee on Energy and Commerce.

3991. A letter from the Executive Director, National Mediation Board, transmitting the Board's annual report of its compliance with the Government in the Sunshine Act during calendar year 1989, pursuant to 5 U.S.C. 552b; to the Committee on Government Operations.

3992. A letter from the Secretary of Labor transmitting a copy of the annual report in compliance with the Government in the Sunshine Act for calendar year 1989, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3993. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report dated March 20, 1989, from the Chief of Engineers, Department of the Army, on Cattaraugus Creek, NY, together with other pertinent reports; to the Committee on Public Works and Transportation.

3994. A letter from the Secretary of Labor, transmitting a report on the labor market situation for certain disabled veterans and Vietnam Theater veterans, pursuant to 38 U.S.C. 2010A; to the Committee on Veterans' Affairs.

3995. A letter from the Secretary of Health and Human Services, transmitting a letter stating that in lieu of submitting a separate report to fulfill the requirements of section 9111 of Public Law 99-272, the Department will include an evaluation of potential modifications in payment policies for SCH's in the report mandated by section 6003(i) of Public Law 101-239; to the Committee on Ways and Means.

3996. A letter from the Secretary of Health and Human Services, transmitting a letter stating that in lieu of submitting a separate report to fulfill the requirements section 4005(d)(2) of OBRA 1987, the Department will include an evaluation of potential modifications in payment policies for RRC's in the report mandated by section 6003(i) of OBRA 1989; to the Committee on Ways and Means.

3997. A letter from the Secretary of Health and Human Services, transmitting notification that the Department will not be sending the report mandated by section 4049(b) of OBRA 1987 because the provision has been fully implemented and the need for this report is outdated; jointly, to the Committees on Energy and Commerce and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. de la GARZA: Committee on Agriculture. S. 319. An act to effect an exchange of lands between the United States Forest Service and the Salt Lake City Corporation

within the State of Utah and for other purposes; with an amendment (Rept. 101-547, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.[H02OC0-T3]{H8705}GARZA:

Mr. de la GARZA: Committee on Agriculture. H.R. 1608. A bill to strengthen national nutrition monitoring by requiring the Secretary of Health and Human Services to prepare and implement a ten-year plan to assess the dietary and nutritional status of the United States population, to support research on, and development of, nutrition monitoring, to foster national nutrition education, to establish dietary guidelines, and for other purposes; with an amendment (Rept. 101-788). Referred to the Committee of the Whole House on the State of the Union.

Mr. YATES: Committee on Appropriations. H.R. 5769. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes (Rept. 101-789). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4765. A bill to enable the people of Puerto Rico to exercise self-determination; with an amendment (Rept. 101-790, Pt. 1). Ordered to be printed.

Mr. MOAKLEY: Committee on Rules. H.R. 4765. A bill to enable the People of Puerto Rico to exercise self-determination; with an amendment (Rept. 101-790, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHEAT: Committee on Rules. House Resolution 485. Resolution providing for the consideration of H.J. Res. 647, joint resolution disapproving the recommendation of the President to extend nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China (Rept. 101-791). Referred to the House Calendar.

Mr. HALL of Ohio: Committee on Rules. House Resolution 486. Resolution providing for the consideration of H.J. Res. 649, joint resolution approving the extension of nondiscriminatory treatment (most favored nation treatment) to the products of Czechoslovakia (Rept. 101-792). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 487. Resolution providing for the consideration of H.R. 5422, a bill to authorize appropriations for fiscal year 1991 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. 101-793). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 488. Resolution providing for consideration of the conference report on the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the United States Government for the fiscal years 1991, 1992, 1993, 1994, and 1995 (Rept. 101-794). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 489. Resolution waiving the requirement of clause 4(b) of rule XI, against consideration of certain resolutions reported from the Committee on Rules (Rept. 101-795). Referred to the House Calendar.

Ms. SLAUGHTER of New York. Committee on Rules. House Resolution 490. Resolution providing for the consideration of H.R. 5269, a bill to control crime (Rept. 101-796). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. YATES:

H.R. 5769. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

By Mr. THOMAS of California (for himself and Mr. Lagomarsino):

H.R. 5770. A bill to authorize the President to lease Naval Petroleum Reserve Numbered 1 and thereby assure the efficient production of oil, natural gas, and other hydrocarbon resources at that property; to ensure the Federal Government receives fair market value for leasing that property; to upgrade the Nation's energy security assets by establishing a Defense Petroleum Inventory; and to provide for the equitable sharing with the State of California of revenue from Naval Petroleum Reserve Numbered 1; jointly, to the Committees on Energy and Commerce and Armed Services.

By Mr. BARNARD (for himself, Mr. Thomas of Georgia, Mr. Hatcher, Mr. Ray, Mr. Jones of Georgia, Mr. Lewis of Georgia, Mr. Gingrich, Mr. Darden, Mr. Rowland of Georgia, Mr. Jenkins, Mr. Lehman of California, and Mr. McMillen of Maryland):

H.R. 5771. A bill to authorize the minting of commemorative coins to support the training of American athletes participating in the 1996 Olympic Games; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HUCKABY:

H.R. 5772. A bill to provide for Federal recognition of the Jena Band of Choctaws of Louisiana, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PICKETT:

H.R. 5773. A bill to require the President to submit a national energy policy plan, together with implementing legislation, to the Congress by March 31, 1991, and biennially thereafter through 1999, that will provide for energy self-sufficiency for the United States by the year 2000; to the Committee on Energy and Commerce.

H.R. 5774. A bill to amend the Internal Revenue Code of 1986 to allow the one-time exclusion on gain from the sale of a principal residence to be taken before age 55 if the taxpayer is permanently and totally disabled; to the Committee on Ways and Means.

By Mr. RIDGE:

H.R. 5775. A bill to use the income on depository institution reserves at the Federal Reserve banks to protect and enhance the deposit insurance system; to the Committee on Banking, Finance and Urban Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

531. By the SPEAKER: Memorial of the Legislature of the State of California, relative to cable television; to the Committee on Energy and Commerce.

532. Also, memorial of the Legislature of the State of California, relative to the World Summit for Children; to the Committee on Foreign Affairs.

533. Also, memorial of the Secretary of the State of Delaware, relative to the Delaware-New Jersey compact; to the Committee on the Judiciary.

534. Also, memorial of the House of Representatives of the State of Michigan, relative to judicially imposed taxation; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. McCOLLUM:

H.R. 5776. A bill for the relief of Global Exploration and Development Corp., Kerr-McGee Corp., and Kerr-McGee Chemical Corp.; to the Committee on the Judiciary.

By Mr. McCOLLUM:

H. Res. 491. Resolution for the relief of Global Exploration and Development Corp., Kerr-McGee Corp., and Kerr-McGee Chemical Corp.; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 303: Mr. Tauke.

H.R. 446: Mr. Dyson, Mr. Lancaster, Mrs. Smith of Nebraska, Mr. Bliley, Mr. Goss, Mr. Sikorski, Mr. Barnard, Mr. Wylie, Mr. Smith of New Jersey, Mrs. Bentley, Mr. Gallegly, Mr. Frank, Mr. Saxton, Mr. Duncan, Mr. Washington, Mr. Pickett, Mr. Kennedy, and Mrs. Patterson.

H.R. 659: Mr. Geren of Texas.

H.R. 708: Ms. Kaptur and Mr. Tauke.

H.R. 1932: Mr. Dornan of California.

H.R. 2870: Mr. Wise and Mr. Paxon.

H.R. 3004: Mr. Campbell of Colorado.

H.R. 3243: Mr. Geren of Texas, Mr. Gillmor, Mr. Petri, Mr. Hansen, Mr. Walsh, Mrs. Johnson of Connecticut, Mr. Neal of North Carolina, and Mr. Ford of Tennessee.

H.R. 3654: Mr. Rogers and Mr. Roe.

H.R. 3735: Mr. Visclosky and Mr. Neal of Massachusetts.

H.R. 3818: Mr. Eckart and Mr. Geren of Texas.

H.R. 4168: Mr. Eckart.

H.R. 4212: Mr. Hubbard and Mr. Brooks.

H.R. 4233: Mr. Pickle.

H.R. 4424: Mr. Clinger and Mr. Hansen.

H.R. 4494: Mr. Dyson and Mr. Sangmeister.

H.R. 4513: Mr. Pashayan, Mr. Bates, Mr. Atkins, Mrs. Schroeder, Mr. Frenzel, Mr. Condit, and Mr. Waxman.

H.R. 4573: Mr. Brown of California and Mr. Fish.

H.R. 4649: Mr. Owens of New York.

H.R. 4770: Mr. Fish, Mr. AuCoin, Mr. Gordon, and Mr. Dyson.

H.R. 4849: Ms. Kaptur, Mr. Feighan, Mr. Rose, and Mr. Sabo.

H.R. 4948: Mr. Jontz, Mr. Bennett, and Mr. Hochbrueckner.

5185: Mr. Weiss.

H.R. 5212: Mr. Watkins, Mr. Lagomarsino, Mr. Dwyer of New Jersey, Mr. Gephardt, and Mr. Torricelli.

H.R. 5216: Mr. Coyne.

H.R. 5362: Mr. Neal of North Carolina.

H.R. 5368: Mr. Eckart, Mr. Bliley, and Mr. Inhofe.

H.R. 5379: Mr. Pursell, Mr. Edwards of Oklahoma, and Mr. Vander Jagt.

H.R. 5493: Mr. Rowland of Connecticut, Mr. Ritter, Mr. Shays, and Mr. Fish.

H.R. 5505: Mr. Bilbray and Mr. Fish.

H.R. 5544: Mr. Dwyer of New Jersey and Mr. Eckart.

H.R. 5551: Mr. Vento, Mr. Kostmayer, and Mr. Kolter.

H.R. 5568: Mr. Regula, Mr. Applegate, Mr. Evans, Mr. Horton, Mr. Synar, Mr. Wise, and Mr. Bryant.

H.R. 5585: Ms. Long.

H.R. 5603: Mr. Jontz and Mr. Pallone.

H.R. 5639: Mr. Neal of Massachusetts, Mr. Roe, Mr. Smith of Florida, and Mr. Lipinski.

H.R. 5652: Mr. Wolf, Mr. Horton, Mr. Early, Mr. Staggers, Mr. Lagomarsino, Mr. Campbell of Colorado, Mr. McCloskey, Mr. Weldon, Mr. Fauntroy, and Mr. Gallo.[H02OC0-U1]{H8708.5658:

H.R. 5658; Mr. Jenkins.

H.R. 5689: Mr. Evans.

H.R. 5722: Mrs. Martin of Illinois.

H.R. 5726: Mrs. Johnson of Connecticut, Mr. Sundquist, Mr. Walker, and Mr. Thomas of Georgia.

H.R. 5739: Mr. Horton, Mr. Scheuer, Mr. Ackerman, Mr. Downey, Mr. Fish, Mr. Gilman, Mr. Hochbrueckner, Mr. LaFalce, Mrs. Lowey of New York, Mr. McGrath, Mr. Boehlert, Mr. Engel, Mr. Flake, Mr. Green of New York, Mr. Houghton, Mr. Lent, Mr. Manton, Mr. McHugh, Ms. Molinari, Mr. Nowak, Mr. Paxon, Mr. Serrano, Ms. Slaughter of New York, Mr. Solomon, Mr. Walsh, Mr. Martin of New York, Mr. Mrazek, Mr. Owens of New York, Mr. Rangel, Mr. Schumer, Mr. Solarz, Mr. Towns, and Mr. Weiss.

H.J. Res. 87: Mr. Schuette.

H.J. Res. 214: Mrs. Vucanovich, Mr. Rose, Mr. Saxton, Mrs. Roukema, Mr. Hayes of Louisiana, Mr. Rinaldo, Mr. Quillen, Mr. Dicks, Mr. Leach of Iowa, Mr. Goodling, Mr. Dannemeyer, Mr. Shaw, Mr. Henry, Mr. Brown of Colorado, Mr. McHugh, Mr. LaFalce, Mr. Brooks, Mr. Madigan, Mr. Shays, Mr. Bereuter, Mr. Petri, and Mr. Skelton.

H.J. Res. 248: Mr. Anthony, Mr. Chapman, Mr. Clay, Mr. Erdreich, Mr. Flake, Mr. Gibbons, Mr. Hayes of Louisiana, Mr. Johnston of Florida, Mr. Laughlin, Mr. Lehman of California, Mr. Miller of California, Mr. Ortiz, Mr. Parker, Mr. Coleman of Texas, Mr. Darden, Mr. Dicks, Mr. Andrews, Mr. Brown of Colorado, Mr. Coyne, Mr. Flippo, Mr. Gallo, Mr. Hoagland, Mr. Jacobs, Mr. Mineta, Mr. Payne of Virginia, Mr. Pickle, Mr. Ridge, Ms. Molinari, Mr. Skaggs, Mr. Condit, Mr. Geren of Texas, Mr. Walgren, and Mr. Washington.

H.J. Res. 419: Mr. Murtha.

H.J. Res. 543: Mr. Vento, Mr. Upton, and Mr. Oxley.

H.J. Res. 562: Mr. Guarini, Mr. McDermott, Mr. McNulty, Mr. Serrano, Mr. Roe, Ms. Kaptur, Mr. Synar, and Mr. Waxman.

H.J. Res. 571: Mr. Guarini, Mr. Payne of New Jersey, Mr. Hansen, Mr. Lewis of Georgia, Mr. Rangel, Mr. Scheuer, Mr. Synar, and Mr. Mazzoli.

H.J. Res. 583: Mr. Johnson of South Dakota and Mr. Frank.

H.J. Res. 612: Mr. Hefner.

H.J. Res. 628: Mr. Engel.

H.J. Res. 642: Mrs. Martin of Illinois, Mrs. Meyers of Kansas, and Mr. Hyde.

H. Con. Res. 322: Mr. Skelton, Mr. Brooks, Mr. Roe, Mr. Crane, Mr. Frost, Mr. Schumer, Mr. McGrath, and Mr. Hertel.

H. Con. Res. 371: Mr. Fish, Mr. Dwyer of New Jersey, and Ms. Pelosi.

H. Con. Res. 373: Mr. Hughes, Mr. DeFazio, Mr. Kleczka, Mr. Eckart, Mr. Stark, Mr. Applegate, and Mr. Bates.

PETITIONS, ETC.

Under clause 1 of rule XXII,

240. The SPEAKER presented a petition of the Common Council of the city of Sheboygan, WI, relative to support of H.R. 5423; which was referred to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

ROBERT REDFORD SPEAKS OUT ON ENVIRONMENTAL ACTIVISM

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. MILLER of California. Mr. Speaker, for many years I have admired Robert Redford's commitment to environmental protection and improvement. His dedication is a deep and personal one to which he has devoted enormous amounts of effort and resources.

For the past several years, I have worked closely with Robert and the Institute for Resource Management, which he founded to bring together environmentalists, business people, energy producers, utilities, and others in an effort to find solutions to the conflicts over the way we use our Nation's natural resources.

IRM has not just provided a vehicle for speechifying or discussion. Tough compromises have been hammered out on some very challenging and longstanding environmental conflicts, and crucial channels of communications have been opened up that help resolve ongoing disputes. Robert Redford has been the stimulus that kept that effort together and forced IRM's conferences to be as productive as they have been, and through his efforts, he has gained enormous credibility with both sides in disputes over resource use.

Robert has also looked beyond our domestic disputes, recognizing that many of our toughest ecological problems cannot be addressed on a nation by nation basis. Nuclear waste, ozone depletion, acid rain, global warming—all require innovative international cooperation. With that goal in mind, IRM has begun a valuable exchange with the Soviet Union, bringing scientists, political leaders, and environmentalists together.

Mr. Speaker, we all know celebrities who associate with one cause or another, and often, they frankly bring little more than political event. That's not Robert Redford. He has been a knowledgable leader on environmental concerns for more than two decades, and I very much look forward to his increased activity on the national scene, because we desperately need to raise the level of outrage and activism about the ongoing assault on the environment and the wasteful misuse of our natural resources.

Robert talked about his views on environmental issues to the National Press Club yesterday, and I want to share with my colleagues his remarks at that time:

REMARKS BY ROBERT REDFORD

It's always a challenge to step outside the role of an actor. You never know what's going to come your way.

During the 1988 campaign, I spoke at one of the 25,000 toxic dump sites in this country and tried to say that the "environmental candidate," should give us an inkling as to how we clean these places up.

When I finished my talk, one of the best-known national news reporters came running after me with his network crew, and I braced myself for a tough question on the waste problem. He got the camera in my face and shouted, who did I think was better-looking, me or Dan Quayle?

I guess Sam—let's call him Sam—Sam thought I was trying to pull a cover-up on this burning issue. Sometimes I have to face the facts that on some days, that's my environmental impact.

I'm here to share a concern on our environment. I'm not alone in realizing the environment has reached a point of no return. For years the struggle was to raise awareness, but now, thanks partly to the attention from the media, it is not any longer the issue. The issue is what are we going to do about it?

I guess my involvement began before I even knew it, when I was growing up in Los Angeles at the end of the Depression and during and after World War II. I remember the excitement when the country began to open up after the war and rebuild itself. We were the most powerful nation on Earth, no doubt about it. We had won the war, we had kept the world free. Our idea of progress was to build with no limit. It was exciting. We were taught this was our manifest destiny. But then something happened. I watched as the green, open spaces turned into concrete malls and freeways, and the clean, pure air turned into smog alerts. I watched as unbridled development became the order of the day. Oil drills appeared off the beaches, along with oilspills in the water and hunks of tar on the sand. The smell of orange blossoms turned into exhaust fumes.

It felt like my home was being taken away from me. I felt my roots being pulled out from under me. And I began to take it personally.

I had to go further and further away to find places where the natural environment still existed.

We are finding that we can't keep using up one place and moving on to the next. We have created a world that is tipping dangerously out of balance.

Like most people in my generation, I was brought up to believe in progress. I still do. But we're at a point where we have to ask ourselves if we are the beneficiaries of our progress—or the victims? Manifest destiny doesn't work anymore. Progress from now on has to mean something different. We are running out of places, we're running out of resources, and we're running out of time.

Scientists tell us the struggle to sustain life in this Earth's environment could be won in the next decade—or lost. As we approach the year 2000, we've now heard the hard facts.

Over 100 million people—half our population—already breathe air that is unhealthy.

Health experts tell us not to eat the fish from our own rivers, lakes, and oceans.

We've got chemical and nuclear wastes piling up at dump sites and leeching into our land and water.

Our oceans are warming, our ozone's layer's got a hole that's getting bigger—and according to Carl Sagan, a whole football field of rain forests is vanishing—not every hour, not every minute—but every second! With each tick, a field of trees gone.

It's a pretty lousy legacy we've left for our children. We should be apologizing.

Native Americans try to live with seven generations in mind. Recently we have been plunging ahead blindly, without plans for even one generation.

The environmental movement has been growing for over 20 years, and in the seventies, it seemed for a while the Government was responding, passing regulations, supporting research for things like alternative fuels. Some corporations came up with energy plans, and some discovered conservation is good business. But today, when people in every community put more and more concern into the environment, the Government in Washington seems to treat it as just one more special interest to be appeased.

What happened? There was so much good work done in the seventies. Where did we go off track? In the eighties, we had an executive branch whose major policy seemed to be to set loose selfishness. The idea was to open up all our institutions—banking, housing, real estate, energy—to fast-buck kings with a minimum of regulations. What a step backwards!

The results have been catastrophic. I think for the environment, there's never been such a time of naked greed and exploitation as we have seen in the last decade. The damage done we'll feel for a long time.

The Reagan administration filled key appointments with agents of private profit who were put in place to sell off or pay out public assets. There seemed to be a mean-spirited attitude behind them. Their idea of land use policy was just more real estate development. James Watt, Ann Burford, Rita LaValle, Samuel Pierce—all foxes guarding the chicken coop.

When the occasional critic got up to ask if something was going wrong, the strategy was to give a superior little chuckle and dismiss the "prophets of gloom and doom, running down America".

Well, I'm not a prophet of gloom and doom. I've always assumed love of land and love of country go together. I think I'm like a lot of other people who are tired of being humored and handled.

A high-water mark for trying to sucker the voters came during the 1988 campaign. No wonder so many Americans stayed home and didn't vote. The big issue we were always hearing about was who was most effective at manipulating the public.

So instead of policy-makers you hire image-makers. You create some backdrop like a Salem cigarette ad and you announce, "I'm an environmentalist!"

We all remember that famous Bush-for-President ad with sewage pipes emptying into Boston Harbor. But after the election, who was watching when the administration cut $400 million from funds to do the job?

When the President was campaigning and was pressed on global warming and the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

greenhouse effect, he said, "Wait till you see the White House effect!" We've seen it—it's a call for more study. Well, that's an old stall.

Of course scientists disagree on some things—but what they agree on in this matter is more than enough to take action. America has played a big role in causing this problem—and the world looks to us to take the lead in solving it.

You don't solve these problems just by labelling yourself an environmentalist. You solve them by planning and commitment.

I think the press taking political ads and holding them up against the facts is a good thing. I hope we see more of it. And it's important that you're beginning to analyze the contributions to Congress from vested interests. It makes sense to me to trace contributions to Congressmen and Senators from industries connected to the savings and loan scandal. But maybe we should start doing the same thing for the environment.

We need more perspective on messages like "read my lips". There's no point reading lips, if the lips aren't saying anything. That's called lip service. And it's no answer.

It used to be that environmentalism in the minds of some meant camping out, eating granola, and hugging a tree.

I remember Senator Jake Garn of Utah once called environmentalists "back-packing kooks." It later became clear the Senator was out in space.

Today, 3 out of every 4 Americans call themselves environmentalists.

Times have changed. More people see, for instance, that saving the environment is not a trade-off for losing jobs. Saying it is just an old political dodge. Environmentalism is good business. Advances in environmentally safe products can open new economic horizons. Whole industries will be created through energy conservation. And retooling existing industries will create more jobs than it takes away. Jobs with a sense of accomplishment and connection to others. A more human side to economics.

There is some good news. Almost every major city in the United States now has recycling programs—citizens are beginning to question the need when developers come into their neighborhoods. There are wonderful examples all over the country of people and communities taking things into their own hands. But individual action alone cannot solve our environmental problems. Pollution has no boundaries. Solutions require leadership.

We have seen in the last year people rising all over the world asking more from their leaders and beginning to get it. Poll after poll indicates that the people are way ahead of the politicians.

We can't wait around anymore for solutions to come from the top. It isn't going to happen. And as for Congress, the action there is too late, too slow, and too full of compromise.

American democracy has a long history of change won by popular movements—women's suffrage, labor laws, the civil rights movement, the end of the Vietnam War. It seems to me the grassroots activism we see around the country is evidence that there is a movement underway that wants action on behalf of the environment.

What we're living with is the result of human choices. And it can be changed by making better, wiser choices. As we've learned in the past, the media can play an important role in these events. I hope the work continues.

SILVER ANNIVERSARY OF NEW CRACOW FRIENDSHIP SOCIETY

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. MRAZEK. Mr. Speaker, I would like to take this opportunity to highlight the achievements of a group that for the past 25 years has promoted the principles of philanthropy and patriotism both here and abroad. The New Cracow Friendship Society was founded in 1965 for the purpose of gathering Jewish Holocaust survivors from Cracow, Poland, under a banner of friendship, and has for 25 years developed means of assisting the indigent here and abroad.

Remembering the martyrs of the Holocaust and the glorious past of Cracow Jewry has played a central role in the society's activities, benefiting Jews both in Cracow and Israel. In addition to providing scholarships to needy Israeli students, the society's fundraising efforts have benefited such Israeli institutions as the Beit Halochem Disabled War Veterans Society, the Akim Rehabilitation Center for Handicapped Children, and the Haifa Medical Center.

At a dinner dance in Great Neck, Long Island, on October 28, 1990, the society will honor its presidents and pay tribute to its founders. Through the publication of a silver anniversary journal, in conjunction with the October 28, event, the society will leave a legacy of Cracow Jewry's past for future generations, and give thanks for the new life and new opportunities that this country has been able to offer to these heroic survivors.

ICEAGE MAMMALS WORLD PREMIERE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, in celebration of the 41st anniversary of the Miami Museum of Science and Space Transit Planetarium and the world premiere of "Iceage Mammals: the Complete Kokoro Collection," the Science After Hours Committee will be hosting "Bearskin" event. Net proceeds will benefit the Miami Museum of Science.

I would like to make a special recognition to Mr. Russell Etling, executive director of the Miami Museum of Science, and Mr. Jack Horkheimer, executive director of the Space Transit Planetarium. Their devotion to educating our community and creating an enlightened atmosphere is exhibited every day.

There have been several people who have made outstanding contributions to the Miami Museum of Science. Among them are Mrs. Harriet Ehrhard, Mr. Walter Etling, and Dr. J. Manson who act as honorary curators for the museum. They are to be commended for their knowledge and experience which they bring to the operation of the museum.

I would also like to acknowledge the volunteer representatives to the Miami Museum of Science. They are Mrs. James Bedingfield, Ms. Mattie Lou Wessel, Mrs. Gerald C. Case, Ms. Anne Cruxant, Ms. Olga Pouget, Mrs. Stuart Lofberg, and Ms. Helene Schneker.

I would like to congratulate and commend the members of the board of trustees for all of their outstanding work in furthering public awareness of science and space. The board of trustees include: Mr. Jack Admire, Mr. Marcelo A. Alvarez, Mrs. Arthur J. August, Mrs. James Bedingfield, Mr. Herman Berger, Mrs. Bernard Blanck, Mrs. William Bradley, Mrs. Frederick Brenner, Mrs. Gerald C. Case, Mrs. Alvin Cassel, Mrs. William Cleveland, Mrs. Kenrick Clifford, Mr. Douglas Coffey, Mrs. Kenneth H. Constant, Mr. Clark Cook, Jr., Mrs. Leona H. Cooper, Hon. George Corrigan, and Mrs. Salvadore Cruxent.

Also included are: Mr. Mitchell Dauerman, Mrs. Louise Dessaint, Mrs. Albert Ehlert, Mrs. Robert Ellyson, Mrs. Martin Fine, Mr. Dennis Finneran, Mr. Jose A. Garrido, Jr., Mr. Martin J. Genauer, Mrs. William A. Graham, Mr. Dale M. Gregory, Mrs. R.H. Hammond, Mr. Herschel C. Hayo, Jr., Mrs. Jack A. Herget, Dr. William Heuson, Dr. James Hobbs, Mr. Peter E. Houghton, Mrs. John J. Hudiburg, Mrs. Lee Imbrie, Mrs. Charles Kantor, Ms. Annalea Kayar, Dr. Michael Krop, Mr. Harold G. Levell, Mr. Steve Lieberman, Mrs. E. Stuart Lofberg, Mr. Bruce Malec, Dr. Eugene H. Man, Mr. John Mann, Mrs. Ellis McKay, and Mrs. Joel Meyer.

Further included in the board of trustees are: Mr. James M. Miller, Mr. John O'Hare, Jr., Mr. Roderick N. Petrey, Mrs. Micajah Pickett, Dr. James O. Plinton, Mr. Austin Porrfiri, Ms. Olga Pouget, Mr. William F. Quesenberry III, Mr. Ambrosio Rodriguez, Dr. Peter A. Rona, Mr. Stanley Ross, Mr. Jack J. Sapia, Mrs. Marvin Schneker, Mr. James H. Scott, Mr. John Stokes, Mrs. Paul Strauss, Mrs. Edwin J. Tilton, Jr., Ms. Barbara Vicevich, Mr. Jeff B. Weiner, Mr. Albert L. Weintraub, Mrs. George Wessell.

I would also like to recognize the ex officio members of the trustees. They are Mr. Gus Loret de Mola representing the superintendent of schools, Mr. Richard Bezold representing Affiliates' Presidents Club, Mr. Richard S. Farwell representing the department of parks and recreation, and Mr. Tony Ojeda representing the county commissioners.

It is not often that we find museums that encourage our minds to explore. The Miami Museum of Science and Space Transit Planetarium do exactly that. They stimulate our senses and persuade us to broaden our outlook on space and the sciences. I congratulate everyone for their dedication and spirit and wish them much success with the "Bearskin" event.

BRENTWOOD GIRLS TAKE WORLD TITLE

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. GORDON. Mr. Speaker, as the major league baseball play-offs get underway and teams battle for a spot in the World Series, I'd

like Congress to recognize a team of 11- and 12-year-old girls from Brentwood, TN, who won a World Series title of their own this summer.

The Brentwood Civitan Pony Tail American Girls All-Star softball team, outplayed nine other teams from around the country to stake their claim to the title of Pony Tail World Champions during a tournament in Powhatan, VA, August 10–16, 1990.

The 12-member team, selected from the regular season league, won the district title at a tournament in Franklin, TN, July 14–18, to advance to the State tournament. The girls won the State crown in Covington, TN, July 27–31, to earn the right to play in the World Series.

In Congress, we often hear of a generation of youths that's being lost to television, a break-up of the family, and a lack of discipline.

To Congress and the Nation, I offer the Brentwood Civitan Pony Tail American Girls All-Star team as a shining example of what's right with today's youths. The girls combined their individual abilities with teamwork and discipline to win time and again. They worked hard to achieve a common goal but did not lose sight of the fact that it was just a game.

They supported each other in times of adversity. In times of victory, they were gracious winners, displaying a level of sportsmanship beyond their years.

With the support of their families and their community, the girls were able to bring home an experience and a memory they will cherish for life.

The city of Brentwood, the people of Williamson County and citizens of Tennessee should be proud that these girls, their coaches and their families call middle Tennessee home.

The members of the team are Beth Bayrd, Lisa Conn, Kelly Freeman, Jena Hunter, Heather Lannom, Sara Mayes, Leslie Miller, Leanne Parker, Emily Pearman, Brooke Siebel, Amy Whittemore, and Mandy Young. The team's coaches are Chuck Brewer, Len Lannom, and Elizabeth Whittemore.

TRIBUTE TO THE SUCCESS OF LOUISIANA BEACHSWEEP 1990

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. BAKER. Mr. Speaker, today I have the pleasure of honoring over 6,000 Louisiana volunteers who worked diligently on Saturday, September 22 to gather more than 125 tons of garbage from along many miles of gulf coast beaches, waterways, and roadside areas. Volunteers of all ages collected polystyrene cups, beverage cans, bottles, plastic trash bags, milk and water jugs, and egg cartons along 76 miles of grassy beaches and interior waterways. I am happy to announce that a good portion of this debris will be recycled.

I am very proud of the achievements of this program and I wholeheartedly support Louisiana's effort in cleaning up our environment. Louisiana Beachsweep, whose growth and popularity can be attributed to the hard work and commitment of Margie Vicknair and Barbara Coltharp, was first organized in 1985 and has now become a national coordinated event. Besides the many individuals who dedicated their time for the project, I am pleased that 22 corporations were also major participants.

With more and more attention focusing on the environment, it is critical in this day and age that everyone makes a conscientious effort to be good stewards toward our natural resources. Additionally, these individuals serve as an inspiration to all Americans to become involved in their own communities and in serving others.

TRIBUTE TO MR. EVERETT TILDEN

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. MRAZEK. Mr. Speaker, I rise today to pay tribute to Mr. Everett Tilden for his 50 years of dedicated service to the Greenlawn Fire Department.

Mr. Tilden joined the Greenlawn Fire Department in 1940. During his long career as a firefighter, Mr. Tilden served the department in many capacities including fire chief. In addition to his exemplary record as a firefighter, Mr. Tilden served in the Armed Forces of the United States during World War II.

Mr. Speaker, the volunteer fire department is one of the great institutions in America today. Thousands of our citizens freely give their time, effort, and sometimes their lives in order to protect our communities.

For the past 50 years, Everett Tilden has proudly upheld this tradition. On countless occasions, Mr. Tilden answered the call for help in his community without regard to the time of day, or to the possible danger to himself. He has served his community with pride and distinction.

Mr. Speaker, I take great special pride in the many volunteer fire departments throughout the Third Congressional District of Long Island. Those who serve these departments prove that the values of community pride and voluntarism are still alive and well in America today.

On October 12, 1990, the Greelawn Fire Department and the entire community will honor Mr. Tilden at a reception to be held at the Greenlawn Fire Department headquarters. I am honored to add to this tribute and wish Mr. Tilden well in all of his future endeavors.

RECOGNIZING THE NAVY BALL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, the Navy League of the United States has diligently worked to bring to the attention of the American people the importance of our maritime forces. Through the dedication and hard work of members of the Navy League, the American people have expressed their encouragement and support for the maritime services.

On Friday, October 12, the Miami Council of the Navy League will be hosting the 1990 Annual Navy Ball at the Radisson Mart Plaza Hotel.

The committee for the Navy ball include the following outstanding individuals: Ms. Hilda Andrews, Capt. and Mrs. William V. Best, Ms. Carmen Boom, Mr. and Mrs. Jack Elmore, Mr. and Mrs. Paul Gilson, Mrs. Martha Hoskins, Mr. and Mrs. Jean Paul Jordan, Mr. and Mrs. C.W. Bill Kilpatrick, Mr. and Mrs. E. Albert Pallot, Gen. and Mrs. Frank Simokaitis, Mr. and Mrs. S.R. Bob Sprung, Mr. Dale Thorn, and Adm. and Mrs. Austin Wagner. I would also like to make special recognition of Mr. Nicholas Patrick Valeriani, who served as chairman of the ball.

There are many organizations who serve the community, but the Navy League works to serve as well as educate in the field of maritime services. The Navy League has been performing their varied services for communities across the country for many years and I have no doubt that they will continue their fine tradition of excellence.

CORDELL HULL BIRTHPLACE MUSEUM TURNS 1

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. GORDON. Mr. Speaker, 119 years ago today, Cordell Hull, one of this Nation's greatest statesmen, was born in a rented log cabin in the mountains of Pickett County in the Upper Cumberland region of Tennessee.

From those humble beginnings, Cordell Hull went on to serve eight terms in the Tennessee Legislature, served as a circuit court judge for 3 years, and was elected to Congress in 1906. From 1933 until 1944, he served as Secretary of State under President Franklin D. Roosevelt and helped guide the Nation through one of the Nation's worst critical eras from the New Deal to the end of World War II.

He advocated world peace in the midst of constant war and was virtually in complete control of planning for post-war cooperation that laid the foundation for the United Nations. Credited as the "father of the United Nations," he was awarded the Nobel Peace Prize in 1945.

Some of my colleagues in the House may have known Cordell Hull. Most of us certainly have studied his policies and praised the framework he established for the United Nations.

As a young man, Cordell Hull piloted log rafts down the Cumberland River to the Nashville sawmills, following the footsteps of his father.

Through his work and education at Montvale Institute in Celina, TN, and Cumberland University of Law in Lebanon, TN, he learned the value of hard work, lifetime friendships and diplomacy. Those traits were the cornerstone of his service to the people of the United States and the world.

Today, the Cordell Hull Birthplace Museum provides a fitting tribute to the backwoods life that molded the character and policy of Cordell Hull. Located southwest of Byrdstown on Star Point Road, the cabin features the hand-hewn, rough-cut logs that were Cordell Hull's early life. Period furnishings take the visitor back to life in the rural mountains of Tennessee a century ago.

A visitors' center near the cabin contains medals, photographs, and personal memorabilia that chronical Cordell Hull's career and world travels, allowing visitors, tourists, and historians to see and understand his life.

The museum is funded through a combination of private donations and State and Federal grants as well as museum association memberships. The museum's organizers and overseers have used hard work, persistence, and a dedication to their cause—the same attributes for which Cordell Hull himself was known—to build a legacy to the man. From that legacy, an entire nation can learn from the past to build a better future.

On October 6, 1990, the Cordell Hull Birthplace Museum celebrates its first birthday with a party on the grounds.

I hope my colleagues in Congress and people across the Nation will join me in congratulating the Cordell Hull Birthplace Museum on reaching this milestone and in wishing it all the luck in its promising future.

TRIBUTE TO RODOLFO J. AGUILAR

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. BAKER. Mr. Speaker, today I have the distinguished pleasure of recognizing a dear friend and constituent, Mr. Rodolfo Aguilar, who was recently chosen the most outstanding Hispanic of 1990 by the Louisiana State University Hispanic Chamber of Commerce.

As a longtime resident of Baton Rouge, Rudy has been professionally successful in architecture, civil engineering, and real estate. He is also an adjunct professor of real estate in the A.B. Freeman School of Business at Tulane University and a professor emeritus of architecture and finance at Louisiana State University.

Rudy has made an immeasurable contribution to the community and especially to his ethnic heritage. He has served as chairman of the Council for the Development of Spanish in Louisiana and he served for three years as director of the Louisiana State University Center for Latin American Affairs.

I commend Rudy's work ethic commitment and persistence—he is very deserving of this award. The free enterprise system is based on a competitive spirit which has built this country, and I commend Rudy on his success.

U.S. COAST GUARD—ON THE JOB

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. COUGHLIN. Mr. Speaker, every day the dedicated men and women of the U.S. Coast Guard put their lives on the line doing search and rescue, law and fisheries enforcement, marine environmental protection, aids to navigation, and now service in the Persian Gulf. Our constituents benefit, both directly and indirectly, from this wide range of activities.

Congressman BOB WALKER of Pennsylvania received a letter from one of his constituents who was rescued by the Coast Guard this summer. Congressman WALKER shared the letter with me as I am the vice chairman of the Transportation Appropriations Subcommittee which funds the Coast Guard. I want to share it with all my colleagues.

The last line reads "only those who have been rescued at sea can truly appreciate the U.S. Coast Guard's value." I insert the letter in the CONGRESSIONAL RECORD so that it will not take a marine emergency for people to realize the great value of the Coast Guard:

PAUL RISK ASSOCIATES, INC.,
Quarryville, PA, July 24, 1990.

Congressman ROBERT S. WALKER,
50 N. Duke Street, Lancaster, PA.

DEAR BOB: I know you hear from me on issues and concerns that I feel have negative impact on the needs of citizens and business people. However, this letter is written with deep respect and appreciation for one branch of service, the U.S. Coast Guard.

I have read articles both pro and con on their value, probably with a degree of skepticism, wondering if I would ever get stop boarded and cited for a violation. I never expected to be rescued at sea by them.

We were totally demasted on July 5 at 1:30 a.m. about 150 miles off the cost of Norfolk while crewing back from Bermuda on John Gibson's 43½-foot sailboat the *Festive Mood.* All rigging including sails had to be cut loose and dumped overboard. Fortunately, no member of the crew was hurt and the hull was not punctured. All emergency equipment was onboard and functioning. Most of the systems had a backup system with the exception of the motor and it had been worked on in Bermuda. The mechanic assured us we would have no problem starting it but the motor failed our second day out of Bermuda.

This boat has seen many heavy and hard sailing experiences since 1977 such as the Annapolis-to-Bermuda race, which we were returning from, Newport to Bermuda, and the New York Yacht Club race just to name a few. These were all sailed without incident or failures. This most recent trip represented equalizing the law of averages. Whatever could go wrong did.

This response is in deep respect, appreciation, and gratitude for all the Coast Guard members who took part in our rescue and tow nearly 190 miles off Norfolk. In spite of using every effort in sea anchors, the wind and wave action pushed us an additional 40 miles out to sea in the nearly 20 hours it took to reach us.

I wish to express a special thanks to the crew of the 82' sea rescue vessel *Point Arena* out of Little Creek, VA. Especially the three-man boarding party that boarded, inspected the boat, and hooked up the tow harness. There is no question this was accomplished at substantial risk to their own personal safety. The boarding was done at night and in rough, confused wave patterns.

It was my understanding they had returned from a 14-hour mission only 2 hours before they were dispatched to our rescue. Our call for help turned out to be a 50-hour mission to reach and then tow us back to port. We finally arrived at 4:30 a.m., Saturday, July 7. It was also my understanding that our rescue was either the 23d or 27th rescue for this crew and boat since January 1, 1990.

I also want to commend the base communication people both at Little Creek and the radio team at Cape Hatteras. They had to relay all radio communication until *Point Arena* reached us. The station's coordination with the owner's wife and my son could not have been more courteous and helpful as they came with a van and trailer to strip the boat and return us to Lancaster.

The care, concern and courtesy was far above what we could have hoped for from every single Coast Guard person we had voice contact with or observed. They maintained a bridge observer at all times and checked by radio at least hourly on how we were riding and to determine if any problems were developing.

We saw true dedication and experience in action. Otherwise a 50-hour mission under the conditions they faced would have taken its toll attitude wise. Surely, I will never forget those people and the sight of their lights coming over the horizon after 20 hours of drifting.

In closing BOB, if there is any way that I and other members of our crew can ever help the cause and mission of the Coast Guard please let me know. For only those who have been rescued at sea can truly appreciate the U.S. Coast Guard's value.

Sincerely,

PAUL D. RISK,
President.

THE PRIDE OF AMERICANS AND HAITIANS ALIKE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, the recent crowning of Miss America was a great personal triumph for Ms. Marjorie Vincent—but it was equally so for Haitians everywhere. Miami's Haitian community is a sizable one, and doubtless their cheers could be heard in Atlantic City, where Ms. Vincent was crowned Miss America.

Born and raised in Chicago, the 25-year-old Miss America is the daughter of Haitian parents—her father is Lucien Vincent from Cap Haitien, a doorman, and her mother is Florence Bredy Vincent from Port-au-Prince, a seamstress. Mrs. Vincent applied her skills by helping to make some of her daughter's pageant gowns; there were three attempts at the Miss Chicago title and three more for Miss Illinois. Her parent's love and support coupled with Ms. Vincent's perseverance made a longtime dream finally come true on September 10, when Ms. Vincent became Miss America.

That same evening, she also became a beacon of hope for many Haitians. Since becoming the new Miss America, Ms. Vincent has been much celebrated in Little Haiti in Miami, FL, where schoolchildren write essays about her, Creole-language radio stations dedicate love songs to her, and adolescent girls rejoice in her victory, hopeful they too will achieve the same honor.

Only the fourth black to be crowned Miss America since the pageant's beginning in 1921, Ms. Vincent has an impressive list of accomplishments to her name. Trained as a classical pianist, she had aspirations of playing at Carnegie Hall, that is until 3 years ago. It was at that time that she was offered a scholarship to attend Duke University Law School, and is currently in her third year there.

I congratulate Ms. Vincent not only for her achievement in becoming our 1991 Miss America, but also for giving an important group the hope that they too can accomplish anything they set their minds to in this land of opportunity we call America. I wish her great success in the coming year, as she travels the country representing American women everywhere.

TRIBUTE TO THE FIRST ANNUAL "HATS OFF TO KIDS"

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, it is indeed my pleasure to bring to your attention the occasion of the first annual "Hats Off to Kids" to be held on Thursday, October 4, 1990, at the Radisson Center in Miami, FL. Proceeds from this event benefit the Mailman Center for Child Development and the Linda Ray Center for Abused and Abandoned Children. Many organizations will be participating in this worthwhile, charitable event.

The Mailman Center for Child Development of the University of Miami's Department of Pediatrics has helped serve the families of handicapped children for almost 20 years. In that time, the center has emerged as a national leader among child development institutions. This not-for-profit institution operates under a Federal grant with matching gifts from the A.L. Mailman and J.J. Mailman Foundation and the Joseph P. Kennedy, Jr., Foundation. The center has helped disabled children who range in age from birth to 20 years in Dade County and southern Florida, as well as the Caribbean. It is the center's continued hope to create effective therapy and to improve established treatment through diligent research, and lead the way in providing essential care to greater numbers of special children.

The Linda Ray Center for Abused and Abandoned Children began operation in 1987 as an emergency shelter for abused and abandoned children from birth to 1 year of age. The center is operated by Children's Home Society. Because of an increase in the number of reported child abuse cases to HRS, approximately 11,000 per month, the center has had to expand. In 1988, a not-for-profit organization was formed in the name of Infants In Need, Inc., in order to perform the invaluable service of helping to raise funds for the expansion and renovation of the Linda Ray Center. This wonderful organization has helped over 990 infants, many of which have progressed beautifully and meet the goals of their preschool peers.

For their efforts in bringing us this event, I greatly thank the following individuals: Jennifer Getz, chairperson; Linda M. Ray, honorary chairperson; Eric Javits (renowned hat designer), honorary judge; Marlene Berg, charities chairperson; Norman Jean Abraham, sponsorship chairperson; Sheila Natasha Friedman, judges chairperson; committee members Flora Aranson; Bobbie Berkman; Karell Campbell; Marty Cleveland; Leigh Cooper; Connie Danluck; Ana Yvette Diaz; Ann Dunev; Marge Fox; Julie Gaby; Denise Goldson; Garry Harkey; Roni Harkey; Monica Heftler; Janet Herron; Ruth-Ann Kaner; Ana Kardonsky; Areta Kaufman; Barbara McGlynn; Phoebe Morse; Luisita Pacheco; Diane Pastor; Linda Patty; Pat Patty; Elba Pines; Lourdes Sanchez; Bonnie Sepe; Susannah Shubin; Susan Soper; Doris Steele; Joyce Stevens; Ellen Weinkle, Ana Weissman; and Judy Zeder.

DOES THE PRESS ACCURATELY COVER LABOR ISSUES?

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. CLAY. Mr. Speaker, I commend to the attention of my colleagues a recent report conducted on behalf of FAIR [fairness and accuracy in reporting] by Jonattan Tasini. The report, entitled "Lost in the Margins: Labor and the Media," examines media coverage of American workers and their unions and concludes that "the lives of 100 million working people are being routinely ignored, marginalized or inaccurately portrayed in the media."

The study which serves as a basis for the nonclusions of the report reviewed media coverage of events and issues of concern to American workers in 1989 and utilized various methods of analysis—including minute count of nightly network news shows and a questionnaire circulated among the country's leading dailies. The report was issued on September 1, 1990.

In order that I may provide my colleagues with a better understanding of the basis of the study and its disturbing conclusions, I insert the "Introduction" from the report and its "Major Findings" section in the RECORD at this point:

FIRST IN THE MARGINS: LABOR AND THE MEDIA

(Jonathan Tasini has covered labor and work-related issues for seven years for Business Week, New York Times Magazine, The Atlantic, the Village Voice and many other publications. He is currently president of the National Writers Union. Additional research for this study was provided by Sara French, Joy Mitchell and Phil Mattera.)

INTRODUCTION

On Sept. 17, 1989, 98 members of the United Mine Workers of America took over a coal processing plant in southwestern Virginia owned by the Pittston Coal Group which the UMWA had struck in April 1989. For four days, the miners—and a local minister—occupied the facility as thousands of other miners and supporters from around the country, staying up around the clock, blocked the paths and prevented state troopers, federal marshals and heavily-armed, flak-jacketed company security guards from retaking the plant. It was the first major takeover of a plant since the 1937 sitdown strike by autoworkers at the Flint, Michigan, General Motors plant. The event had every element of a good journalistic story: conflict, drama, colorful characters and, for television, tremendous footage.

Yet, as far as the national media was concerned, the historic action did not occur. Unlike the widespread coverage given the Soviet miners strike in June 1989, the dramatic action by U.S. miners was not covered by the New York Times, or any of the three television networks—the four outlets that most influence what television stations and newspapers around the country run and, by extension, what the U.S. public is told is news. It rated one sentence in USA Today (9/19/89) and two brief mentions in the Wall Street Journal (9/20/89, 9/21/89). Miners at the seized plant expressed anger at the blackout. The media do not care about miners in America, they fumed.

This is by no means a feeling restricted to miners in southwestern Virginia. When the United Auto Workers lost a bid to represent workers at the Nissan plant in Smyrna, Tennessee, the New York Times ran a prominent front-page story with a huge picture. Where, several UAW members asked rhetorically, do you think the story would have been placed had the union won? Everywhere one travels—from paper mills in Maine to chemical plants in Louisiana to hotels in Las Vegas—the same complaint is heard: The corprate-owned media is anti-union and will not cover labor stories fairly or at all.

Is this criticism valid? The non-coverage of the Pittston plant takeover inspired a six-month study analyzing coverage of U.S. working people and their unions during 1989. A two-page questionnaire was sent to the 100 largest circulation newspapers. Computer databases—primarily Nexis—were used to analyze newspaper coverage. Using the Vanderbilt Television News Archive abstracts, the study compared an entire year's worth of labor coverage with general business or economic coverage on the three nightly network news broadcasts. Finally, labor reporters, other media professionals and union representatives were interviewed.

The study found that the lives of 100 million working people—those who make the U.S. economy and society run—are being routinely ignored, marginalized or inaccurately portrayed in the media. Although reporting about working people and organized labor has declined since the early 1960s, the last 10 years have seen an accelerated drop. This trend coincides with the rapid pace of concentration of the media in fewer and fewer corporate hands. The 1989 annual report of Time, Inc. (now merged with Warner Communications) brashly predicted that by "the mid-1990s, the media and entertainment industries will consist of a handful of vertically integrated worldwide giants. . . . Time, Inc. will be one of them."

The monopolization of the media has had a direct influence on labor reporting. More than any single institution, the media have turned the corporate executive into a star: the "Iaccocaing" of U.S business. Coversely, the message, stated as well as subliminal, that the lives of workers are less important has spread into newsrooms in every corner of the United States.

MAJOR FINDINGS

Among the study's findings:

In 1989, during more than 1,000 broadcasts (roughly 22,000 minutes, based on 22 minutes of new per broadcast), the three network evening news programs devoted a little more than 2 percent of the total air time—511 minutes—to all workers' issues, including child care, the minimum wage, and workplace safety and health. While this total includes international labor stories, it does not count the massive—and almost entirely favorable—coverage given Poland's Solidarity union, because the story was generally framed as a political and foreign policy story. Of the 511 minutes, only 265 minutes—a little more than 1 percent of the total available air time—dealt with U.S. unions. And this coverage would have been practically undetectable if not for the Eastern strike, which accounted for 192 minutes—72 percent of the air time.

Business and economic reporting, on the other hand, received 1,012 minutes, almost double the time devoted to workers' issues. This figure includes stories on retail sales, the trade deficit, interest rate reports and corporate mergers. It also includes the daily report of the Dow Jones average, a regular feature (with its own special graphics) on all three networks, whose unstated message is that a rise in the Dow is good news for all.

Workers are virtually never interviewed or portrayed as experts, even though they are the people who know the most about safety and health issues, unemployment or equality in the factory. Instead, they are usually relegated to "person-in-the street" interviews featuring the Joe Six-Pack stereotype. They are more likely to be asked for their opinions about Leona Helmsley's tax-fraud conviction or Donald Trump's love affairs than about their work. Of all the people selected by ABC World News Tonight as "Person of the Week" in 1989, not one was a worker singled out for anything to do with work.

In the absence of a strike, stories about the campaigns of workers and their unions have, with few exceptions, virtually disappeared from the printed page and TV screen. Strike coverage itself tends to be superficial. The words Walter Lippmann wrote in 1922 ring even truer in 1990: "If you study the way many a strike is reported in the press, you will find, very often, that the issues are rarely in the headlines, barely in the leading paragraphs, and sometimes not even mentioned anywhere."

Labor, once a respected beat, no longer exists at most large to medium-sized U.S. newspapers. According to top former and current labor reporters, editors and producers simply are not interested in allocating resources—either time or money—to labor issues. Reporters seeking to advance their careers see the labor beat as a dead-end.

"Workplace" beats have replaced labor beats. Typically, workplace beats are under the purview of the business editor, whose coverage is aimed primarily at managers and professionals. As a result, the focus of these stories tends to soften or ignore corporate responsibility for the lack of health care, safe working conditions or dignity on the job. Needless to say, while most newspapers have a daily business section, none have a daily labor section.

There is a growing gap between the experiences of working people in the United States and the individuals who are supposed to report on their lives. In the workplace, workers' real wages are dropping, the female workforce is growing, and people of color are dominating the lowest-paid, dirtiest jobs. According to questionnaire responses and interviews, reporters and editors covering workers' issues are essentially white males from middle-class backgrounds making upwards of $40,000 a year (plus benefits). Only four out of 28 respondents were female; none of the women were full-time labor reporters and only one came from a working-class background.

THE BAKEHOUSE ART COMPLEX SUMMER EXHIBITION OF STUDENT WORK

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, this past summer, on August 12 the Bakehouse Art Complex sponsored the summer exhibtion of student work in Miami, FL. Other sponsors, included the Dade County Commission and Cultural Affairs Council, city of Miami Commission and the WARE Foundation.

The exhibition offered an array of workshops to both children and adults. Adult workshops included, "Papermaking/Sub-Tropical Plants and Betty Kjelson;" "Faux Finishes with Barbara Farrell;" "Basic Jewelry Making Skills with Pat Taylor;" and "Creating a Monotype/Papermaking with Helen Fredericks." Kids' Summer workshops included, "College with Rhoda Bloom;" "Tile Mosaics with David Packer;" "Watercolor with Maggie McClellan;" "Chinese Brush Painting with Sarina Poon;" "Pringting Methods with Norma Newman;" and "Mask Making with Connie Renaud."

The following schools were represented at the exhibition: Orchard Villa Elementary, Nautilus Middle School, Westview Elementary, South Miami Elementary, Booker T. Washington Elementary and U.M.C.A. The exhibition was made possible through the help of community assistants from Maimi County Day School and American Heritage School.

I greatly thank everyone at the Bakehouse Artists, as well as the other sponsors mentioned above, for providing a wholesome activity for our youngsters to further reinforce the concept that there are many positive contributions which our students can make to our society.

NORTHERN TELECOM SEMINAR

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. SKELTON. Mr. Speaker, on Monday, September 17, Northern Telecom inc., held a seminar here in the Capitol for congressional staff on the applications of new telecommunications technologies to the delivery of services in rural areas.

As chairman of the congressional rural caucus, I am pleased that Northern Telecom has been involved in research and development that will assist in delivery of health and education services. As Congress continues its examination of telecommunications policy, it is vital for all of us to understand the potential opportunities these new technologies will create for our domestic telecommunications infrastructure and the positive impact they can have on the quality of life in rural America.

I want to thank Northern Telecom for its efforts in this area and encourage them to continue their work in this most important field.

A POEM BY WAYNE MASON

HON. ELIZABETH J. PATTERSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mrs. PATTERSON. Mr. Speaker, recently, the House passed H.R. 4328, the Textile Apparel and Footwear Trade Act of 1990.

I belive that the poem written by one of my constituents, Mr. Wayne Mason, aptly describes the plight of the textile industry and the millions of American workers whose jobs are in peril. I ask that this poem be printed in the CONGRESSIONAL RECORD.

(To the President of the United States)

DEAR MR. PRESIDENT:

Hearing protection no longer required.
The doors are locked, the sound had died.
Profits now are headed overseas.
Our once-proud industry is now on its knees.

The parking lot is grown over with brush.
It's easy to avoid the shift-change rush.
Not just the plants are closing their doors.
Also machinists, builders, and grocery stores.

"You are unemployed, after 40 years."
Grown men are breaking into tears.
We are not sweatshops anymore.
We're high-tech, efficient, and even more—

We are family and friends, our community's heart.
Your lack of support will tear us apart.
Like it or not, we built the South.
With the stroke of a pen, we can't put food in our mouths.

We are honest, dependable, we are not suits and ties.
Come get to know us, you will get a surprise.
The strength of our country is within our walls.
Will you watch them decay, rot and fall?

Dedicated workers who love their jobs.
Or would you prefer angry mobs?
If our clothing must come from foreign lands,
Who will clothe our fighting men?
Parachutes, uniforms, our glorious flag.
Made in China? A very poor gag.
So please stand beside us, give us the right.
We are fighting back with all our might.

The Korean child working for 10 cents a day.
When she should be able to go out and play.
They cut our prices because labor is cheap.
As suffering, starvation around us heap.

Instead of encouraging a child-labor world,
Let's build a school for this Korean girl,
Throughout the world, our quality is becoming the best.
Must we prove again we can stand the test.

VPB 13 AND 15 PILOTS AND AIRCREWMEN REUNION

HON. JAMES A. HAYES

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. HAYES of Louisiana. Mr. Speaker, it is my pleasure today to call attention to the brave men who served our country as pilots and aircrewmen on the VPB 13 and 15 in World War II. They are recognized as being amongst the most effective and versatile naval aircraft operators of WWII. They performed heroic duties as transport and hospital evacuation teams as well as serving in Pacific combat and Atlantic antisubmarine warfare.

For the first time since WWII, these outstanding men are meeting in my home district, Lafayette, LA, to reminisce about the war and answering to our Nation's call for help. I know that I speak for the rest of my colleagues when I say that their commitment and the sacrifices of their families to the furtherance of peace and democracy is one of the major reasons our Nation enjoys a reputation for being a world power. Their dedication was not without a price; therefore, it is correct that we honor them this month and always for their remarkable service to the United States.

NATIONAL KOREAN WAR MEMORIAL

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. TORRICELLI. Mr. Speaker, the Korean War Veterans Association recently issued the following proclamation, which I would like to bring to my colleagues' attention:

Dear Patriot:11We are now engaged in a fund drive to raise the money needed for the completion of a long overdue National Korean War Memorial in Washington, DC. It will be built near the Lincoln Memorial and will honor those who served our country during the Korean war. That war where our Nation and others of the United Nations did help rescue the Republic of South Korea from communist aggression. It required 38 months and many bitter battles to restore peace.

Many casualties, both military and civilian, resulted from that action. As an act of gratitude and to commemorate victory, South Korea erected many battle monuments. They have remembered that so many of our and their forces fought, suffered and died in that war. Let us now follow their example and contribute to build our own National Korean War Veterans Memorial.

We must show our concern for the following reasons: To properly record the deeds of our valiant forces into American history. Our proud history that has traditionally reflected the deeds of our patriots since the birth of our Nation. That history that does neither glorify nor advocate war; but does show appreciation for those patriots who did fight our wars when called to do so. Our history that has always inspired our schoolchildren with "love of country" and instilled values into them that lasted for life. Those values have been and are still the essence of "Americanism."

The National Korean War Veterans Memorial will acknowledge the fact that about half of them perished. We must also remember that the parents and relatives of the brave fallen have also suffered greatly. We can now show them that we care and will prove it by our donations. Recently in Bergen County, NJ, a Korean War-Veterans Memorial was dedicated. Many speeches were delivered and there was a large audience. We of the Korean War Veterans Association were also there with many members. Soon after the monument was unveiled we noticed an elderly woman walk to and place her hand upon the face of that monument. She briefly stared at it through tearing eyes. Then she quietly departed through the crowd. God bless that dear mother for she now knows that her son has been at last remembered by that county and soon shall be by a grateful Nation; when the National Korean War Veteran Memorial is in place.

Let us join together and achieve a resounding victory in this the symbolic final campaign of the Korean war.

HONORING THE PELHAM BAY TAXPAYERS ASSOCIATION

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 1990

Mr. ENGEL. Mr. Speaker, this month in my district a vital community group, the Pelham Bay Taxpayers and Civic Association, is celebrating its 25th anniversary. I would like to pay tribute to those people who have worked so hard to maintain the quality of life for their friends and neighbors in Pelham Bay.

The Pelham Bay Taxpayers Association was founded in October 1965, following a serious car accident at the intersection of Wilkerson and Mayflower Avenues. A group of local residents, led by Mrs. Florence Colucci and Mr. Michael Crescenzo successfully fought for the installation of a stop sign at the scene of the accident, and the civic association was born.

Since that time, the members of the Pelham Bay Taxpayers Association have worked tirelessly to improve their community. From the construction of the local playground and library, to the repair of streets and traffic lights, to the successful effort to close the Pelham Bay landfill, the Taxpayers Association has been an effective advocate for the community.

I have worked with its members on many issues and I know that they are committed to their cause. I congratulate the officers and members on their achievements, and I look forward to working with them to continue the organization's great tradition.

A TRIBUTE TO FATHER SAM CICCOLINI OF AKRON, OH

HON. TOM SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. SAWYER. Mr. Speaker, I rise today to recognize a most outstanding and selfless individual, Father Sam Ciccolini, from Akron, OH. This recognition is well deserved because of his 20 years of dedication and service to those whose lives have been affected by drugs and alcohol.

When Father Sam, as he likes to be called, walked onto a grassy field in Coventry Township 20 years ago, he saw a city—an imaginary city full of generous, giving people willing to help the destitute, the addicted and the oppressed. Never mind that the 86-acre plot had no more than worn out chicken coops, toolsheds, dilapidated barns, and an old monastery converted from an even older schoolhouse. He had a vision. He knew all the pieces would come together and they have.

Father Sam, highly regarded for his foresight and determination, is watching his vision come true in what is now known as the Interval Brotherhood Home Alcohol Rehabilitation Center. It is a nonprofit, nonsectarian rehabilitation center whose mission is to provide treatment to those who cannot afford private programs. Today the former monastery has grown into a six-building complex, with the most recent addition providing a male adolescent center devoted to the treatment and rehabilitation of young males dependent on alcohol and drugs.

The son of a concert pianist, Father Sam grew up in a rough and tumble neighborhood. Seeing first-hand the prevalence of drugs and violence, Father Sam realized that most of the problems stemmed from untreated alcoholism. "If you can help this kind of person, then as a priest your life will have value," he told himself. But of more value is the quality of life and stewardship he has been able to provide and restore to the hundreds who have passed through the doors of the Interval Brotherhood Home since 1970.

Father Sam is recognized throughout Ohio as the founder of several of my State's first rehabilitation programs:

The first school to provide treatment for drunk drivers.

The first halfway houses for men, women, and adolescents.

The first comprehensive health and rehabilitation center for indigent men, women, and children.

In these times when it is easy to despair because of the seemingly overwhelming problems caused by the abuse of alcohol and drugs, Father Sam Ciccolini stands as a beacon of hope and inspiration to all of us. Equally important, Father Sam's work and commitment confirm that one person can make a difference in the lives of others.

TRIBUTE TO LEVON TER-PETROSIAN PRESIDENT OF THE REPUBLIC OF ARMENTIA

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. PALLONE. Mr. Speaker, tomorrow, October 3, 1990, our Capitol will have the honor of a visit from Levon Ter-Petrosian, the President of the Republic of Armenia.

President Ter-Petrosian is a 45-year-old scholar of ancient Armenian history and a former Soviet political prisoner. Like Czechoslovak President Vaclav Havel and many of the other new leaders of the emerging democracies in the former Soviet bloc, President Ter-Petrosian was until recently a political outsider. His opposition to the bankrupt Soviet Communist system did not waver, even under the severe pressure and intimidation that the Soviet system was able to impose on its dissidents. His life story represents a dedication to the pursuit of truth and a deep love of country that can serve as an inspiration to us all.

Born in Syria, Mr. Ter-Petrosian immigrated to Armenia with his family at the age of one. His entire career has been marked by brilliant scholarship on the history of the Armenian culture, and he has attracted international recognition for his writings in Armenian, Russian, and French. He also has served as a guardian of the Armenian historical tradition in his role as scientific secretary at the Matenadaran Library of Ancient Manuscripts.

Mr. Ter-Petrosian's political activities began in earnest in 1988, when he played a key role in the founding of an organization dedicated to reuniting the disputed Nagorno-Karabagh region of the U.S.S.R. with Armenia. The mountainous enclave, with a predominantly Armenian population, has been under the administration of the neighboring Soviet Republic of Azerbaijan since the 1920's.

After the December 1988 earthquake in Armenia, Mr. Ter-Petrosian was imprisoned in Moscow for his role in organizing nationalist demonstrations in support of democracy for Armenia and reuniting the republic with Nagorno-Karabagh. He was jailed from December 10, 1988, until May 31, 1989. Three months after his release from prison, he was elected as a deputy to the Supreme Council of Armenia and chosen as a member of its Presidium in February 1990. He was reelected to the Armenian legislature in May of this year. Mr. Ter-Petrosian was also elected president of the Armenian National Movement, which now controls more than 50 percent of the seats in the legislature.

Under the leadership of President Ter-Petrosian, Armenia's legislature adopted a declaration of independence from the Soviet Union on August 24 by a vote of 194–0. The declaration, changing the Soviet Socialist Republic of Armenia to the Republic of Armenia, is the basis for a new constitution of a democratic society that guarantees freedom of speech, press, and conscience; separation of powers between the executive, legislative, and judicial branches; a multi-party system; and the de-politicization of law enforcement bodies and the armed services. The declaration also claims control over Nagorno-Karabagh, and extends the right of citizenship to all Armenians living abroad.

Mr. Speaker, 20th Century history has dealt some truly catastrophic blows to the Armenian people. During World War I, millions of Armenians perished as a result of the genocidal policies of the Ottoman Empire—a grave crime against humanity that was never acknowledged by its perpetrators or their successor regime in Turkey. Under decades of control by the Soviet Union, Armenian culture and nationalism were stricktly controlled, but still, somehow, managed to survive and prosper. Most recently, much of the country was devastated by a terrible earthquake. Through it all, the Armenian people drew on the inner strength and centuries—millenia—of proud history.

During much of this time, the United States has maintained a special relationship with Armenia, a long-term commitment recently acknowledged by President Bush. Armenian-Americans have distinguished themselves in virtually every field of endeavor, but have not allowed their success in the United States to cause them to forget their homeland. Now that the democratic reforms in the Soviet Union have made it possible for Armenians to fully claim their national sovereignty, the United States can play a major role in fostering Armenian independence and democracy. Tomorrow, we have the opportunity to meet one of the Founding Fathers of the emerging new Armenian nation and to show him our support.

On this occasion of your first visit to the United States, President Ter-Petrosian, let me say: Diar Nakhakah Paree Ulla Dzer Kaloustda.

DENIAL OF FEDERAL BENEFITS TO WOMEN WITH AIDS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. WEISS. Mr. Speaker, women are becoming infected with the AIDS virus faster than any other group in the United States. Their numbers increased by 30 percent in 1990 as compared with 1989. They are disproportionately black and Hispanic and the majority of them are poor. Most have received inadequate health care during their lifetime and thus, are likely to have medical problems before their encounter with the AIDS virus.

Women with AIDS are being denied access to immediate Social Security benefits because the Government's definition of AIDS does not include many conditions seen in women. Persons with AIDS as defined by the Government are able to get benefits immediately, whereas disabled persons with other forms of HIV disease must wait 60 to 90 days to be declared eligible. Women with AIDS die faster than any other group. A recent study of women in Newark, NJ, found their average life expectancy is only 27 weeks.

I call on the Social Security Administration to remedy this serious inequity by developing a more accurate definition of AIDS that will include women with HIV disease who are now being excluded.

IN TRIBUTE TO THE U.S.S. "SAINT PAUL"

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. VENTO. Mr. Speaker, on October 16–20, the fifth biennial reunion of crew members who served aboard the U.S. Navy cruiser U.S.S. *Saint Paul* will be held in San Antonio, TX. Approximately 400 former crewmembers of this illustrious Navy ship are expected to participate in this reunion.

The U.S.S. *Saint Paul,* named after the capital city of the State of Minnesota, was built at a cost of $43 million which was raised by the citizens of St. Paul, MN, through the purchase of savings bonds and stamps. The ship was commissioned in Boston on February 17, 1945. Although the U.S.S. *Saint Paul* was commissioned in the last year of World War II, nevertheless, the ship and her crew arrived in the Pacific in time to participate in various task force strikes against Japan and helped to expedite an end to the war. The *Saint Paul* was present in Tokyo Bay for the surrender ceremonies of September 2, 1945.

During the Korean conflict, the *Saint Paul* provided support for United Nations forces which were on the Korean Peninsula and helped in the rescue of downed pilots. On July 27, 1953, the *Saint Paul* fired the last salvo of the war only 2 minutes before the cease-fire began.

In 1959, the *Saint Paul* moved to a new home port at Yokosuka, Japan, and served for more than 3 years as the commander, 7th Fleet flagship. The ship hosted nearly a quarter million visitors during its extended Far East assignment. Later, the *Saint Paul* was deployed in the eastern Pacific region. The ship was featured in the movie "In Harm's Way" in 1964, which starred John Wayne and Kirk Douglas. During the late 1960's, the *Saint Paul* was again deployed in the western Pacific for five annual deployments with the 7th Fleet.

In 1970, the U.S.S. *Saint Paul* returned to San Diego. The ship was formally decommissioned at Bremerton, WA, on April 30, 1971.

In more than 25 years of service to the United States, the U.S.S. *Saint Paul* earned 18 battle stars in three wars, and fired more rounds of ammunition than any U.S. Navy cruiser in history. The *Saint Paul* hosted five visiting heads of state. Fifteen of the *Saint Paul's* commanding officers later went on to achieve the rank of admiral.

I hope my colleagues will join me in saluting all of those sailors who served aboard the U.S.S. *Saint Paul* between 1945 and 1971. Obviously, the accomplishments of the *Saint Paul* noted above are attributable to all of those who served their country aboard this important Navy cruiser. They served their ship and their country with dedication and distinction. Many friendships which will last a lifetime were made during those years of service. The reunion of the former crew members of the *Saint Paul* provides a welcome opportunity to renew those friendships. I salute them and wish them and their families a happy and successful reunion.

TRIBUTE FOR FELIX AND CATHERINE YANEK

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Felix and Catherine Yanek of

my 17th Congressional District of Ohio on the special occasion of their 50th wedding anniversary.

Married on October 5, 1940, Felix and Catherine have enjoyed 50 years of wedded bliss with one another. They have spent the majority of these years together in the house that they built on East Florida Avenue in Youngstown, OH. Helping the Yaneks celebrate this momentous occasion are their two children, Jerome F. Yanek and Kathleen Yanek, four grandchildren, Candy Shives, Jay Yanek, Cathryn Yanek, and Robbie Cole, and their great grandchild Tommie Shives.

Felix is a retired pipe inspector from the Republic Steel Co. with 42 years of dedicated service. He has remained active in the Steel Workers Union Local 1331 and is a very active member of St. Matthias Church. Catherine was born in Czechoslovakia and entered the United States in 1929. She is an active member of the Slovak Catholic Sokol Group No. 17, where she is currently filling the position of president of Wreath 54.

Again, it is a great honor to rise today to pay tribute to Mr. and Mrs. Felix Yanek of my 17th Congressional District of Ohio on their 50th wedding anniversary. Their dedication to each other should stand as an example of the sanctity and honor that the institution of marriage should represent.

TRIBUTE TO WILLIAM PACA

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. SOLARZ. Mr. Speaker, I rise today to honor an outstanding Italian-American, Mr. William Paca, on the 250th anniversary of his birthday, October 31, 1740.

William Paca was a great humanitarian, important statesman, and historic role model for Italian-Americans, was a member of the Continental Congress, the only Italian-American to sign the Declaration of Independence, and three-term Governor of Maryland. Paca was by far one of the most accomplished politicians of the Revolutionary era.

William Paca spent his life as a dedicated public servant. John Adams said of Paca, "he acted generously and nobly during the debate over independence." Mr. William Paca was one of the first people to push for American independence and was instrumental in convincing Maryland to support the Declaration of Independence. In 1778, Paca again made history as a member of the Maryland Convention that voted to adopt the Constitution of the United States.

Before his death in 1799, William Paca had helped to frame the Maryland State Constitution, served in the Maryland State Senate, and had been appointed Maryland's chief justice. Moreover, in 1789, George Washington appointed William Paca as a Federal district judge.

The Postal Service has honored William Paca with the issuance of a commemorative cancellation stamp to be used during the month of October, Italian-American Heritage Month. Mr. Speaker, I rise as well to pay tribute to this outstanding man.

CHILD FIND'S 10TH ANNIVERSARY

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, Oct. 2, 1990

Mr. MCHUGH. Mr. Speaker, few concerns tear at the heart of Americans more than the plight of missing children. I therefore wish to recognize today the wonderful work of Child Find of America, Inc., a charitable organization located in my district in New Paltz, NY, which has devoted the last 10 years to bringing these children home.

The problem of missing children is an enormous one. The Department of Justice study "Missing, Abducted, Runaway and Thrownaway Children in America," issued last May, found that nearly a million children a year are missing from their homes and families.

Since its founding by a searching mother in 1980, Child Find has tirelessly worked to educate people about the problem of missing children and how to prevent their own children from becoming statistics. In fact, the presidentially proclaimed May 25, National Missing Children's Day was originated by Child Find.

Child Find has actively searched for these children and has succeeded in bringing many home. Through its wide distribution of missing children photos and active investigations, Child Find in its 10 years has helped locate more than 2,000 missing children, fulfilling the prayers of many anxious parents.

Perceiving that parental abduction accounts for a large number of missing children, Child Find has reached out with help to the often desperate abducting parent. The unique and innovative Child Find Mediation Program, through the 1–800–A–WAY–OUT number, has provided no-cost, confidential mediation services to recover children and even prevent abductions.

I am sure many of my colleagues join me in congratulating Child Find of America for its selfless dedication to the safety and welfare of America's children.

JUDGE BERNARD J. PODCASY HONORED AFTER 19 YEARS ON THE LUZERNE COUNTY BENCH

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. KANJORSKI. Mr. Speaker, I rise today to honor Judge Bernard J. Podcasy who, after 19 years on the Luzerne County bench, retired on August 12, 1990, his 70th birthday.

A highly respected jurist and well-liked member of the community, Judge Podcasy received his law degree from Georgetown University Law School. He served with the 45th Infantry Division of the U.S. Army during World War II where he was wounded three times. He was awarded the Purple Heart Medal and Combat Infantryman's Badge and was promoted from the rank of private to captain.

His honor later served as assistant district attorney, deputy attorney general and solicitor for Ashley Borough. He served for 10 years as Luzerne County prothonotary. Judge Podcasy was first elected to the county court bench in 1971 and was elected for a second 10-year term in 1981.

As a member of the bar, I had the unique pleasure and great distinction in January 1971 of having tried the first case heard by the newly sworn-in judge—some 15 minutes after he took the oath of office.

In tackling the Wyoming Valley Sanitary Authority case, one of Luzerne County's most famous cases, his honor developed is own theories and sensitivities to the issues involved. In doing so, he personally saved the citizens of Luzerne County several millions of dollars denying the award contract to the favored contractor, thus needlessly providing his fairness and impartiality.

Judge Podcasy is not only an active member of his community and a loyal member of the Democratic Party, he is a loving husband of 44 years and a dedicated father and grandfather.

Although retired, no one expects Judge Podcasy to slow down and, in fact, the same day as his retirement, he was assigned by the Commonwealth of Pennsylvania to senior judge status, thus continuing his court work in various counties throughout the State.

Mr. Speaker, it is with great pleasure that I salute Judge Bernard Podcasy today. All of use in northeastern and central Pennsylvania thank him for his service and his dedication. His experience and knowledge on the bench will be missed.

LONGTIME MISSOURI LEADER AND DECORATED WWI MARINE DIES

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. SKELTON. Mr. Speaker, my high school Latin teacher died. But he was more than a Latin teacher, he was a friend and an inspiration throughout the years that I knew him.

Col. James McBrayer Sellers, 95, commandant, superintendent and president of Wentworth Military Academy over a span of 70 years, died September 5. Sellers was born in Lexington, MO, where lived his entire life except for 4 years in college and 3 years in the U.S. Marine Corps during World War I.

As a student at the University of Chicago, Colonel Sellers was a member of Beta Theta Phi and Phi Beta Kappa, graduating in 1917. Colonel Sellers was active in the community of Lexington. He was a Freemason, having served as Grand Master of the Masonic Lodge of Missouri. He was also active in the First Presbyterian Church.

Responding to a Marine Corps offer to commission 10 Westworth graduates, Sellers entered officer training at Quantico, VA with the first contingent to open the base. He received his commission as a second lieutenant and sailed to France in early 1918 as a platoon leader in the Sixth Marine Regiment of the

Second Division. He was seriously wounded in the first American engagement of that war in Belleau Woods on June 6. Returning to the regiment in August as company commander, he participated in major engagements at St. Mihiel, Mont Blanc, and the Argonne. For bravery in action he was decorated with the Distinguished Service Cross, Navy Cross, Silver Star, Purple Heart, World War I Victory Medal with four battle stars, and the French Croixde Guerre. For a number of years he has been the most highly decorated living Marine veteran of World War I. He retired from the Marine Reserves as a lieutenant colonel in 1945.

His wife Rebekah died in 1985, and he is survived by three sons, Stephen Wentworth Sellers, James McBrayer Sellers, Jr., and Fred Evans Sellers; six grandsons; and one granddaughter.

Colonel Sellers was truly a great Missourian. Those who knew him as a student, such as I, had the opportunity to know one of the finest role models in our country. He was my friend, and I will miss him, as will many others whose lives were touched by this outstanding officer and gentleman.

THE 79TH NATIONAL DAY

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. TANNER. Mr. Speaker, I rise today to extend my congratulations and best wishes to the people of the Republic of China on the occasion of their 79th National Day celebrated on the 10th of October.

Taiwan has enjoyed unprecedented prosperity and the fastest rate of modern development ever witnessed in the world. Indeed, Taiwan's rapid rise to the top echelon of industrial and trading power has been called an economic miracle. Today, Taiwan ranks among the top dozen trading countries in the world and is America's fifth largest trading partner worldwide. It ranks as the second wealthiest nation in all of Asia and enjoys one of the highest living standards in the entire Eastern Hemisphere.

In addition, Taiwan is recognized as a leading place to go for a genuine taste of traditional Chinese culture at its best. The human element and friendly people are perhaps Taiwan's greatest asset. This art of hospitality is experienced by all who visit.

Taiwan has blossomed into a model of successful economic development and a shining example of a free democratic nation. We should salute her accomplishments and encourage her continued growth in the future.

SENATE—*Wednesday, October 3, 1990*

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable Richard H. Bryan, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Behold, how good and how pleasant it is for brethren to dwell together in unity!—Psalm 133:1.

E Pluribus Unum. Out of Many One.

God of peace, we thank Thee for the diversity of America. We thank Thee for its unity. We thank Thee that the Senate represents its diversity and is a symbol of its unity. Thank Thee for leaders who are united in their abhorrence of war and who are united in purpose should war be imposed upon them. Grant to Thy servants wisdom to appreciate the immensity of the crises that face our Nation and the world, crises as serious and as threatening as war. Grant to them a vision, Father, of the immense power of their unity and save them from allowing diversity, the essence of the American spirit, to militate against the unity so desperately needed today.

God of peace, brood upon this place. Cover it with Your love and Your peace. In the name of the Prince of Peace. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. Byrd].

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, October 3, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Richard H. Bryan, a Senator from the State of Nevada, to perform the duties of the Chair.

Robert C. Byrd,
President pro tempore.

Mr. BRYAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning following the time for the two leaders, there will be a period for morning business not to extend beyond 11 a.m., with Senators permitted to speak therein for up to 5 minutes each.

At 11 this morning, it is my intention to seek unanimous consent to proceed to Calendar item 697, S. 1379, the Defense Production Act. In the event unanimous consent is not granted, I will move to proceed to the bill.

It remains my hope that we can also proceed to the money laundering bill, important legislation which we have been trying to move to, but with respect to which objection has been made from the Republican side. We hope very much that we can get to that bill and enact it very soon.

The Senate will recess today from 12:30 p.m. until 2:30 p.m.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader, Mr. Dole, is recognized.

THE BIPARTISAN DEFICIT REDUCTION PACKAGE

Mr. DOLE. Mr. President, I want to thank the distinguished majority leader for his response to the President last night. I thank both of them for their efforts to see enacted this bipartisan deficit reduction package. I think, for the reasons stated by the distinguished majority leader and the President of the United States, this is in the best interest of America.

There is no doubt in my mind that we can muster the votes in the U.S. Senate. I just hope the same can be said of the House of Representatives, particularly, in this case, on the Republican side. I hope that my colleagues in the House will heed the words of the President—if not the majority leader, the President; but both—because this was a very difficult task.

It is not perfect; it is imperfect. I assume each of us could find areas where we disagree or would like to add or subtract things that may be in the package. So I hope that the tone set last night in the two statements by the President of the United States and the majority leader will be followed by those of us in the Senate and the House, and that we will move, as we should, very quickly on this budget package.

There has not been much discussion of the alternatives, but the alternatives are a disaster, a disaster for everybody I represent from the State of Kansas, whether they be Federal employees or farmers or Medicare recipients, whoever they may be.

It seems to me that it is not a choice of this budget package or something else. At this moment, it is this budget package, period. I guess there will be fine tuning in some areas, and there probably should be fine tuning in some areas.

There may have been some mistakes made. There was a lot of drafting, a lot of work done in the last few days, and some of the staff were up all night. Sometimes there was not a full consensus on the precise agreement. But, in most areas, I think the negotiators and staff did an outstanding job.

So, again, I urge my colleagues in the House to listen to the President of the United States—he is their leader—and heed his advice, and to ignore the advice of those who may have their own agenda in the other body who never found it possible to cast a tough vote.

Leadership—you pay a penalty for leadership. If you do not want to pay the penalty, maybe you ought to find some other line of work.

RETIREMENT OF JOAN MARIE DONAHUE

Mr. MITCHELL. Mr. President, in the rush from one item of pressing business to the next, too often we do not find the time to acknowledge significant, individual contributions to the national effort. I would like to take just a minute to recognize the admirable career of one individual whose long service to her country is deserving of public recognition.

Joan Marie Donahue is retiring today, after 37 years with the Central

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Intelligence Agency. For 30 of those years, Joan worked in the Office of Congressional Affairs, with responsibility for liaison to Senate and House offices and committees on a range of sensitive issues. Joan somehow managed to represent the Agency and protect its interests, while at the same time providing consistently valuable service to the Congress. Successfully to perform both of those tasks is an acheivement in itself; to do so for 30 years is remarkable.

One of Joan's most valuable contributions was made in the last few years of her career. Over the past 3 years, Joan has worked diligently with the staff of the Office of Senate Security, to implement an improved security program within the Senate. Joan's knowledge, experience and professionalism made easier the sensitive task of coordinating with the Intelligence community the new security program introduced by the joint Senate leadership 3 years ago.

In recognition of her outstanding service, Joan has been awarded the Career Intelligence Medal by the Director or Central Intelligence. To that honor, I would like to add the sincere thanks of the U.S. Senate.

MORNING BUSINESS

The **ACTING PRESIDENT** pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

TRIBUTE TO COL. EDWARD WINSLOW SHAW

Mr. WARNER. Mr. President, it is with great pleasure that I rise today to pay tribute to Col. Edward "Win" Shaw for his dedicated military service to our country.

Colonel Shaw is retiring from active service in the U.S. Army after serving for 29 distinguished years as an armor officer. I came to know Colonel Shaw personally during his last 4 years of military service as the chief of the Army Senate Liaison Office, as he arranged for and accompanied me on several trips throughout the United States and around the world on critical national issues of defense and foreign affairs.

Colonel Shaw was born in Cambridge, MA, on February 21, 1938. He was commissioned as a second lieutenant in 1961 from Norwich University and entered active duty the same year. Throughout his military career, he consistently distinguished himself during times of peace and war, in both command and staff positions, and was highly decorated. Because of his heroic, courageous, and valiant combat efforts in the early days of the Vietnam war, he was recognized several times with some of the military's highest awards—the Silver Star, the fourth such medal bestowed during the entire Vietnam conflict for action that occurred on December 8, 1964; and the Bronze Star for Valor with three Oak Leaf Clusters. His other notable military awards include the Legion of Merit with one Oak Leaf Cluster, Combat Infantryman's Badge, Soldiers Medal, Army Commendation Medal with Valor and second Oak Leaf Cluster, and the Army General Staff Identification Badge.

Colonel Shaw's professionalism and leadership as a military officer has earned him the respect and admiration of his soldiers, fellow military officers, and Members of the U.S. Congress. He is known for his integrity, compassion, and unique ability to inspire and motivate people to exceed their own expectations. It is these qualities that will assure his success in his new endeavors during retirement.

Mr. President, while the Army will understandably miss the service of this devoted military officer, the Nation is proud of the professional and personal sacrifices he made throughout his military career. I salute Colonel Shaw for his distinguished military record and wish him, his wife, the former Sally Matthews Sawyer, and their two daughters, Wendy Mitchell Havens and Elizabeth Winslow Shaw, many years of happiness and good health in his retirement.

TRIBUTE TO WARREN KANE

Mr. RUDMAN. Mr. President, I rise today to pay tribute to a staff member of the Appropriations Committee, Warren W. Kane. After 34 years of Government service, Warren retired at the end of September. We all know him as the guiding light of the Appropriations Subcommittee on Commerce, Justice, and State, the Judiciary and related agencies. He has been a professional staff member of the committee—and I stress the word "professional"—since 1973, when former Senator Norris Cotton of my home State of New Hampshire brought him aboard. Since 1977 he has been assigned to the Commerce Subcommittee, where he has worked with Senator Ernest F. Hollings of South Carolina.

Warren has worked faithfully and conscientiously for every member of the committee, Republican and Democrat. No one can accuse him of partisanship or playing favorites. That is only one of many reasons it is especially unfortunate he is leaving the Senate.

Our loss is his family's gain, since Warren will now have more time to spend with his grandchild, Erica, as well as with two more grandchildren on the way.

I want to express my personal appreciation for Warren's long and devoted service to the Appropriations Committee and the Senate, and I wish him all the best in his retirement.

THE FAMILY SUPPORT ACT OF 1988 IS UNDERWAY

Mr. MOYNIHAN. Mr. President, last Sunday at the United Nations the largest number of heads of government ever to assemble at one place, met at the World Summit for Children. And the world was witness to the indomitable optimism of Canadian Prime Minister Brian Mulroney, the unblinking clarity of Vaclav Havel; in truth a succession of rarely fine addresses.

We may be equally proud of President Bush's remarks; his commitment and concern. One sentence especially notable.

> We want to see the day when every American child is part of a strong and stable family.

The importance of this statement is elemental. Unlike the problems of children in much of the world; age-old problems of disease, new problems of ecological disaster, the problems of children in the United States are overwhelmingly associated with the strength and stability of their families. Our problems do not reside in nature, nor yet are they fundamentally economic. Our problems derive from behavior.

This is worth noting for the day before yesterday, Monday, October 1, 1990, the Family Support Act of 1988 began full-scale operation.

Just 2 years ago the Family Support Act of 1988 became law. In a decade notable for its divisions this legislation was notable for the breadth of support it received. It passed both Houses with broad, bipartisan support, indeed near unanimity in the Senate, and was welcomed when it arrived on the President's desk.

At the time, and since then, and for the foreseeable future, the act was described as "welfare reform." Argument to the contrary was hopeless. Yet it bears repeating that something much larger was involved. Reform means "to restore to an earlier good state." There was no such earlier good state. AFDC—welfare—began as a widow's pension. A little noticed provision of the Social Security Act of 1935, designed to bridge the period until survivors insurance became generally available under Social Security, as it is today. In the meantime, we experienced a vast, still little understood social change involving a huge increase in the number and proportion of children born out of wedlock. Thus in 1988, as recently reported by the National Center for Health Statistics,[1] the proportion of such births for the first time in our history crossed the one-quarter mark. With some 4 million births per year-3,909,519 in 1988—this means more than a million such children are now born each year. The AFDC Program has cared for these children, and their typically youthful mothers.

As this transformation took place the import of the term welfare changed as well. A once honorable standard, a stated public goal, proclaimed in the preamble of the Constitution, welfare became a term of opprobrium. The term even disappeared from the ranks of Cabinet departments. Although it was by far the most important function of the Department of Health, Education, and Welfare, when this Department was split up in the late 1970's, the term welfare vanished. None wished to be associated with the subject.

Hence the Family Support Act, the purpose of which was to establish a new regime to deal with a new reality. Congress laid down a set of mutual obligations. Things society owed to these parents; things these parents owed to society; things owed to children by both.

Society owed single mothers support while they acquired the means of self-sufficiency; mothers owed society the effort to become self-sufficient. Absent fathers owed child support to both.

A tremendous organizational effort would be required at every level, across the Nation, and to jurisdictions as far apart as the Virgin Islands and Guam. Each State and similar jurisdiction was required to have enabling legislation in place by October 1, 1990. For all its rumbling, bumbling antique idiosyncracy, American federalism has done it again. The returns are in; everyone is in compliance. The act is underway.

I know the Senate will wish to congratulate Secretary Sullivan on a huge administrative task well done, and of course especially thank his able and enterprising head of the Family Support Administration, Assistant Secretary Jo Anne B. Barnhart, and Martin Gerry, Assistant Secretary for Planning and Evaluation.

I now have something further to report which I believe will also interest the Senate. Little noticed at the time, and I suppose little noticed still, we wrote into the Family Support Act extensive provisions for the evaluation of the impact of the programs, especially the Job Opportunities and Basic Skills Training Program known by the acronym JOBS. Although our purpose was hardly concealed, at the time, it may be useful to restate it. Welfare had become a contentious, often vindictive area of political conflict in which liberals and conservatives clashed and children were lost sight of. We had one particular objective, which was to establish a set of social indicators which would tell us over time the extent to which child dependency was increasing or decreasing. Our hope was that over time we could wring the rhetoric out of the subject, and get down to facts.

We knew that poverty in the United States was now concentrated in single-parent families. The United States had become the first society in history in which the poorest group in the population were the children. Just last week, for example, the Bureau of the Census issued its annual report, "Money Income and Poverty Status in the United States, 1989." The general comment about the report concerned the fact that the poverty rate seems stuck; that a long period of economic growth, however modest perhaps, but certainly prolonged, had made no impact on the poverty rate. But this is no mystery; 64.7 percent of all poor families with children in 1989 were single-parent families.[2] Nothing changed for them in the 1980's.

Little wonder they were poor. The average payment for the typical AFDC family of 3 was $370 per month in 1988. Not enough to keep body and soul together; indeed, a third less than the value of AFDC benefits 30 years ago when the present crisis settled in.

The present crisis. It is not clear just when it began, but we can date exactly when it first showed up on our screens, if that term may be used. This was the period 1964-65 when data from various sources analyzed in the Bureau of Labor Statistics first revealed a growth in dependency unrelated to economic movements. This subject almost made its way into the antipoverty programs that were begun at this time. Almost but not quite: the data seemed tentative, open to different interpretations, and in understandable ways threatening.

Now, however, we know, finally, just how good that data was. One of the more foresighted initiatives of the War on Poverty was the financing at the University of Michigan's Institute for Social Research of the Panel Study of Income Dynamics, headed by a superb research scientist, Gregory Duncan, which has been systemically following successive cohorts and their earnings for the last several decades. Assistant Secretary Barnhart asked the Institute to calculate the percentage of children born 1967-69 who lived in a family receiving AFDC prior to the 18th birthday. These data have now been received.

Almost one-quarter—22.1 percent—of children born in the late 1960's were dependent on AFDC for at least 1 year of their life before reaching their 18th birthday. Keep in mind that by definition these families were paupers, an old but instructive term.

By race, 72.3 percent of black and 15.7 percent of nonblack children were supported by AFDC at one point or another during childhood.

It should be stressed that this data is subject to further analysis and possible correction. But it gives us the central fact: Welfare dependency is endemic in the United States today. It is a common experience of children.

We are also beginning to collect information on the effects, or the correlates, if that is a better term, of welfare dependency. The Family Support Administration has engaged the Manpower Demonstration Research Corporation [MDRC] in New York to evaluate the JOBS Program, a singularly happy choice in that much of the research data that went into shaping the Family Support Act came from the MDRC, a nonprofit research organization. MDRC has in turn engaged Child Trends Inc., a Washington based nonprofit research institution, to study the effects of the Family Support Act on child development.

In a recent paper given at George Washington University, Nicholas Zill of Child Trends reported on a study in which welfare mothers were given the Armed Forces Qualifying Test. For what it may be worth, the 1964 Department of Labor study "One Third of a Nation," recording the incidence of failure of this test by draft age males, formed the principal data base on which the war on poverty was launched. Zill finds that most AFDC mothers would not qualify for the U.S. Armed Forces. Forty-seven percent of AFDC mothers score more than one standard deviation below the overall mean. Eighty-three percent of a normal distribution will be found within the bounds of one standard deviation above or below the mean. For a particular group to have its mean score one standard deviation below the overall mean is to be, well, way down there. Similarly, Dr. Zill finds that welfare children are twice as likely to fail in school as other children. By the teen years—ages 12-17—36 percent of AFDC teens have repeated a grade, more than twice the 17 percent for nonpoor teens. And thus the data go.

What all this tells us is that it is not going to be easy to make the JOBS Program work, to break the cycle of dependency, to put an end to child poverty. We knew that when the legislation was crafted. We also knew that we face a complex problem concerning teenage pregnancy, the start of the welfare cycle. The plain but mysterious fact is that the species now becomes fertile much earlier—4 to 5 years earlier—today than, say, a century and one-half ago. Or so it would appear. Hence, many otherwise unexplained or unnoticed phenomenon. Who noticed that in the 1970's college dormitories in the United States became sexually mixed after several centuries of the strictest separation? This declining age of menarche places a great pressure on conduct among, well, children. Just Friday Joseph Berger in the New York Times presented a powerful account of the new proposal by the Chancellor of the New York City school system to distribute condoms in the schools. Mr. Berger's report contained this passage:

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[1] Footnotes at end of article.

> Sean, a sturdily-built youngster who said he had been sexually active since he was 10, did not think condom distribution would have much impact, since he and the boys he knows do not like to use them.
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> "It's not really a good sensation," he explained. He might use condoms, he said, only with a girl who is poorly dressed, does not appear to keep herself clean and is sleeping with others. But he said he would not use condoms with his steady girlfriend—whom he calls his wife—even if she might get pregnant.
>
> "If it happens, it happens," he said. "There's nothing I can do about it."

Nor yet his partner or partners. In 1970 a live birth to a mother aged 10 was recorded in New York City.

At minimum these biological changes mean that high rates of births to young, single women will be with us indefinitely. In Canada, always a useful comparison, unmarried mothers now account for one-fifth of all births, as against one-quarter here. But somehow this is not as conspicuous a problem there as it is here. We need to think. And to learn. This is the basic strategy of the Family Support Act. We will not even begin to know whether it is having any effect until at least the year 2000 at the earliest, perhaps the year 2010. To those who may wish to protest that this is too long, I would simply state that they should have thought of that a quarter century ago when we might have got going. But we do already see considerable cooperation between previously divided schools of social thought. Two weeks ago the Progressive Policy Institute here in Washington issued a fine report, "Putting Children First: A Progressive Family Policy for the 1990's"; written by Elaine Ciulla Kamarck and William A. Galston, with essays by Robert J. Shapiro and Margaret Beyer. Kamarck and Galston began one of their chapters with a quotation from Karl Zinsmeister taken from that fine conservative journal the American Enterprise.

> There is a mountain of scientific evidence showing that when families disintegrate, children often end up with intellectual, physical, and emotional scars that persist for life. * * * We talk about the drug crisis, the education crisis, and the problems of teen pregnancy and juvenile crime. But all these ills trace back predominantly to one source: broken families.

Call this tough minded, call it what you will; we need more. At the world summit last Sunday the Americans passed out a 34-page document "Goals for the Year 2000: A National Program of Action for Children." There were two subjects. National Education Goals and National Health Objectives. The Education Goals were those set forth by the President and the Governors at Charlottesville, VA, a year ago September and restated in the State of the Union Address. To be blunt, they are illusory. et cetera.

Goal 4: By the year 2000, U.S. students will be first in the world in science and mathematics achievement.

In 1984 President Reagan set forth essentially the same set of education goals—for the year 1990. By contrast, the health goals, previously set forth by Dr. Sullivan in a publication "Healthy People: 2000" seem doable. "Reduce the death rate for children by 15 percent to no more than 28 per 100,000 children aged 1 through 14. * * *"

What was missing in our presentation at the United Nations was any reference—any—to family stability and its various correlates. Congress and the executive have got to start getting specific. It would be my hunch, for example, that the ratio of children on welfare before age 18 has risen from just over 22 percent for the cohort born in the late sixties to at least 25 percent for those born in the late eighties. Could we hope to get it back down to, say, 20 percent by the late nineties? Not possible? Well what would be possible? The time has come to count.

And to think. The French theologian put it as well as can be done. "The worst, most corrupting lies," he wrote in 1937, "are problems poorly stated." For a generation now we have avoided this central problem of American society with talk of welfare queens and welfare rights. Can we not get back to the children?

FOOTNOTES

[1] Monthly Vital Statistics Report, vol. 39, No. 4, Aug. 14, 1990, p. 7.

[2] "Money Income and Poverty Status in the United States," U.S. Department of Commerce, Bureau of the Census, September 1990, pp. 61-62.

S. 2415—THE SOLAR, WIND, WASTE, AND GEOTHERMAL POWER PRODUCTION INCENTIVE ACT OF 1990

Mr. CRANSTON. Mr. President, I want to take this opportunity to say a few words in support of S. 2415, the Solar, Wind, Waste, and Geothermal Power Production Incentive Act of 1990, which I cosponsored and which passed the Senate last week.

This bill would promote further development of clean, renewable, domestic sources of energy such as solar, wind, and geothermal by removing the 80-megawatt cap that currently exists under the Public Utilities Regulatory Policies Act [PURPA].

Under PURPA, independent producers of renewable energy such as geothermal and solar are exempted from the restrictions of the Public Utilities Holding Companies Act, but only if they produce no more than 80 megawatts of power at a single site. This 80-megawatt limitation prevents these renewable energy sources from taking advantage of economies of scale that would make them even more cost-competitive with traditional sources of energy.

In examining the legislative history of this matter there is no clear rationale for the existence of the cap. Other forms of independent power production which fall under PURPA's jurisdiction, such as cogeneration facilities powered by fossil fuels, are not subject to this limitation. Given the proven success and promise of these renewable sources, the 80-megawatt restriction does not make sense and should be eliminated.

In California, Luz International Ltd. has developed an increasingly cost-effective solar thermal trough technology. Luz is currently serving the people of southern California with the largest solar-powered facility ever built. The optimal size for Luz' system is 150-200 megawatts, not 80 megawatts. At the optimal size, power could be produced at 5 to 6 cents per kilowatt hour instead of the current 8 cents per kilowatt hour.

The California Energy Co., one of the largest and most successful geothermal power developers in the industry today, now supplies the city of Los Angeles with enough electrical power to meet the daily needs of over 250,000 homes.

At California Energy's COSO complex in China Lake, CA, total power generating capacity equals 240 megawatts. However, because of the 80-megawatt per site limitation, the COSO facility actually represents three 80-megawatt sites each placed more than 1 mile apart. The spacing of the sites is not because of technical, engineering, or geothermal reserve considerations. In fact, the spacing is dictated by the need to stay within the current 80-megawatt limit. I am told that with virtually no further investment—simply by turning a few valves—the COSO facility could immediately produce up to 25 more megawatts of electricity if the size limitation was removed.

Nationally, geothermal energy now saves the United States 24 million barrels of imported oil per year—and there is potential from geothermal energy for at least three times that amount. Wind energy has already produced the equivalent of billions of barrels of oil in electricity. Solar energy holds great potential to reduce our dependence on foreign oil.

Global warming, caused primarily by an increase in carbon dioxide, could be slowed by greater use of cleaner alternative energy sources. Geothermal

energy, for example, produces far less than 1 percent of the amount of carbon dioxide produced from either coal or gas. Solar and wind energy produce no carbon dioxide emissions.

It's time to utilize these cleaner sources to halt our growing dependence on foreign oil and address some of our burdensome environmental problems.

To unlock the full potential of these renewable energy resources we must allow these technologies to grow without placing arbitrary restrictions on them. The first step is to enact S. 2415.

Unfortunately, the Energy Committee has attached uranium enrichment legislation onto this bill. Given the time left in this session of Congress and other pressing items that must be dealt with before adjournment, I believe uranium enrichment legislation will only decrease the chances of enactment of the extremely important measure.

S. 2415, by itself, has a good chance of passage, and it should be passed this year. We need to take immediate steps to decrease our consumption of foreign oil and promote development of clean, domestic, renewable sources of energy. S. 2415 is a logical and necessary first step.

THE BUDGET

Mr. HOLLINGS. Mr. President, I want to speak about this budget deal which is being grandly characterized as tough and real. Specifically, the President on last evening characterized it as such. I ask unanimous consent that his comments be printed in the RECORD, his full talk as it appeared last night, at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 3, 1990]

BUSH: BUDGET DEFICIT IS "A CANCER GNAWING AWAY AT OUR NATION'S HEALTH"

(Following is the text of President Bush's televised address last night)

Tonight, I want to talk to you about a problem that has lingered and dogged and vexed this country for far too long: the federal budget deficit. Thomas Paine said many years ago, "These are the times that try men's souls." As we speak, our nation is standing together against Saddam Hussein's aggression. But here at home, there is another threat, a cancer gnawing away at our nation's health. That cancer is the budget deficit. Year after year, it mortgages the future of our children.

No family, no nation, can continue to do business the way the federal government has been operating and survive. When you get a bill, that bill must be paid, and when you write a check, you're supposed to have money in the bank. But if you don't obey these simple rules of common sense, there's a price to pay. But for too long, the nation's business in Washington has been conducted as if these basic rules did not apply. Well, these rules do apply. And if we fail to act, next year alone we will face a federal budget deficit of more than $300 billion, a deficit that could weaken our economy further and cost us thousands of precious jobs.

If what goes up must come down, then the way down could be very hard. But it doesn't have to be that way. We can do something. In fact, we have started to do something. But we must act this week, when Congress will hold the first of two crucial up-or-down votes. These votes will be on a deficit-reduction agreement, worked out between the administration and the bipartisan leaders of Congress. This budget agreement is the result of eight months of blood, sweat and fears—fears of the economic chaos that would follow if we fail to reduce the deficit.

Of course, I cannot claim it's the best deficit-reduction plan possible. It's not. Any one of us alone might have written a better plan. But it is the best agreement that can be legislated now. It is the biggest deficit-reduction agreement ever—half a trillion dollars. It's the toughest deficit-reduction package ever, with new enforcement rules to make sure that what we fix now stays fixed. And it has the largest spending savings ever—more than $300 billion. For the first time, a Republican president and leaders of the Democratic Congress have agreed to real cuts that will be enforced by law, not promises. No smoke, no mirrors, no magic act, but real and lasting spending cuts.

This agreement will also raise revenue. I'm not and I know you're not a fan of tax increases. But if there have to be tax measures, they should allow the economy to grow. They should not turn us back to higher income tax rates, and they should be fair.

Everyone who can should contribute something, and no one should have to contribute beyond their fair share.

Our bipartisan agreement meets these tests, and through specific new incentives, it will help create more jobs. It's a little-known fact, but America's best job creators and greatest innovators tend to be our smaller companies. So our budget plan will give small and medium-size companies a needed shot in the arm.

Just as important, I am convinced that this agreement will help lower interest rates, and lower interest rates means savings for consumers, lower mortgage payments for new homeowners, and more investment to produce more jobs. And that's what this agreement will do.

And now let me tell you what this agreement will not do. It will not raise income tax rates, personal or corporate. It will not mess with Social Security in any way. It will not put America's national security at risk. And most of all, it will not let our economy slip out of control.

Clearly, each and every one of us can find fault with something in this agreement. In fact, that is a burden that any truly fair solution must carry. Any workable solution must be judged as a whole, not piece by piece. Those who dislike one part or another may pick our agreement apart. But if they do, believe me, the political reality is: no one can put a better one back together again.

Everyone will bear a small burden. But if we succeed, every American will have a large burden lifted. If we fail to enact this agreement, our economy will falter, markets may tumble and recession will follow. In just a moment the Democratic majority leader, Senator [George] Mitchell [D-Maine], will offer what is known as the Democratic response—often a rebuttal, but not tonight.

Tonight, the Democratic and Republican leadership and I all speak with one voice in support of this agreement. Tonight, we ask you to help us move this agreement forward. The congressional leadership and I both have a job to do in getting it enacted, and tonight I ask for your help.

First, I ask you to understand how important, and, for some, how difficult this vote is, for your congressmen and senators. Many worry about your reaction to one part or another. But I know you know the importance of the whole. And so second, I ask you to take this initiative: Tell your congressmen and senators you support this deficit-reduction agreement.

If they are Republicans, urge them to stand with the president. Urge them to do what the bipartisan leadership has done, come together in the spirit of compromise to solve this national problem. If they're Democrats, urge them to stand with their congressional leaders. Ask them to fight for the future of your kids by supporting this budget agreement. Now is the time for you, the American people, to have a real impact.

Your senators and congressmen need to know that you want this deficit brought down. That the time for politics and posturing is over and time to come together is now. This deficit-reduction agreement is tough and so are the times. The agreement is fair, and so is the American spirit. The agreement is bipartisan, and so is the vote. The agreement is real, and so is this crisis.

This is the first time in my presidency that I have made an appeal like this to you, the American people. With your help we can at last put this budget crisis behind us and face the other challenges that lie ahead. If we do, the long-term result will be a healthier nation and something more. We will have once again put ourselves on the path of economic growth and we will have demonstrated that no challenge is greater than the determination of the American people.

Thank you, God bless you and good night.

Mr. HOLLINGS. Mr. President, the President claimed the agreement is "real." He said it does not mess around with Social Security. Wrong on both counts. It is supposed to solve the deficit problem. Instead it adds $1.2 trillion to the national debt over the 5-year period. That is using the figures given to us by Director Richard Darman of the Office of Management and Budget. Indeed this agreement expressly abandons any pretense of trying to eliminate the deficits. Instead, it talks about "proposed savings."

In a news conference I am asked about savings, not about the deficit. There is no serious deficit reduction purpose. There is a serious purpose of deceit and fraud upon the American people. They put up the false targets, false interest costs, false GNP growth predictions. And to make absolutely sure that they have free rein, they suspend Gramm-Rudman-Hollings for the first 2 years in order to get us by the 1992 election. What's more, they mess around with Social Security in two ways. One, it requires now-exempt State and local employees to start paying FICA payroll taxes to the tune of $2 billion, and every dime of that new revenue will go into general operating revenues, not into the Social Security Trust Fund. Second, the agreement continues the current practice of raiding the Social Security Trust Fund to reduce the Gramm-Rudman-Hollings deficit and to fund the day-to-day operating expenses of the Federal Government. The agreement explicitly acknowledges that $21 billion will be quote-unquote borrowed from the Social Security Trust Fund in 1991, and a total of $169 will be quote-unquote borrowed over the 5 years of the agreement. So concerning the Social Security Trust Fund, this agreement ensures that there will continue to be no trust and no fund. Read my lips, the budget deal does indeed mess with Social Security.

Politically, they took care of Neil Bush and George Bush and their S&L tarbaby. We in Washington who are responsible, we will not have to listen to that anymore. Neatly tucked away in this agreement is the fact that all expenditures for the S&L bailout will be off budget for purposes of calculating the Gramm-Rudman-Hollings deficit. At the same time, the statutory debt-limit is left open-ended and is extended for a full 5 years. When you put these two provisions together, what you have is congressional authorization of carte blanche for bailout spending by the Resolution Trust Corporation. RTC can spend whatever it needs to cover up its incompetent handling of the S&L liquidations. Those tens of billions won't count against the deficit, and they won't bring about a crisis in terms of exceeding the statutory debt limit. The purposes, of course, is to solve Congress' and the administration's political problem by keeping the S&L mess out of sight and out of mind.

The fact that there was a budget summit this year is due to the pressure of Gramm-Rudman-Hollings. But now Gramm-Rudman-Hollings has been circumvented.

This is a shame, because the law worked. We had a partial sequester for 1986. We did not pass a budget until Christmas 1986. We had a partial sequester of $11 billion. Then we came in and for 1987, we reduced the deficit. People were running around saying, "This will never work." But we reduced the deficit from $221 billion to $150 billion. But then at Christmas of 1988 we had a political problem. We were all looking in 1987 at the 1988 election. We ran over to the White House with President Reagan, concocted a bogus agreement, and pleaded that a deal was a deal. That is how we got an even bigger deficit.

In 1989, less than a year ago, Thanksgiving, we agreed to pretend that we had met the deficit target of $100 billion, and now the President is on national TV, less than a year later, saying the deficit is $300 billion. The truth of the matter is, the deficit is over $400 billion. It is hard to get them to catch up to the truth. We can slightly move them in the right direction, but they sneak out from under us.

Believe me, if you like Gramm-Rudman-Hollings, you will love this latest agreement. I did not like Gramm-Rudman-Hollings. I thought it was a necessary evil, and I worked like the dickens for it and supported it and have continued to, for the discipline it imposes.

The hysteria this year about furloughs and sequesters was grossly overblown. Nobody in his right mind was going to allow a $100-plus billion sequester. Such huge sequesters never were intended back in 1985. We intended to have a balanced budget by 1991. So you would not have to use Social Security moneys, would not have to indulge in all of these monkeyshines.

The President claims that this deal results in the largest deficit reduction yet. The largest was Gramm-Rudman-Hollings. We cut $70 billion in one year. Not $40 billion. It did not cause a recession.

This latest agreement, however, puts government in a box. This is an abuse of parliamentary procedure in order to hog tie and deadlock government.

Under this agreement, the most deliberative body, will not be able to operate. Why not? You have the discretionary spending categories of defense, international, and domestic. We are put in a straitjacket providing only for current services.

Our distinguished chairman of the Appropriations Committee said he added on $14 billion, $1.8 billion of it in 1991. But we will need $7 billion more just this year. We are looking ahead to the space station, shuttle commitments, to the supercollider, to the magnetic levitation train, and so on. These things cannot be funded under this budget. And forget our urgent needs for child care, Head Start, chapter 1 and so on. Forget the Women, Infants, and Children Feeding Program.

We need to gear up to compete with Japan and Europe. But on account of these parliamentary political shenanigans right here in this body, over across the hall, and in the White House, we are going to padlock the Government. The minority party in this body can block any new initiative by exploiting the budget agreement's requirement of 60 votes to waive a point of order if a program exceeds the domestic ceiling.

We are not going to get anything done because, even on supplementals, you cannot amend them, they originate with the President. Reconciliation is for 5 years under this agreement. Once you approve that, you have locked it in. So for defense and foreign aid, and for Government itself to really get something done up here, forget it. Defense never goes below $292 billion under the agreement. Defense is unscathed. The budget agreement officially kills any idea of a peace dividend. Gone are the predictions of DOD's budget being pushed down toward $250 billion over the next several years. Instead, the budget deal locks in DOD budgets at no less than $292 billion annually right through fiscal year 1993. What's more, the cost of Desert Shield is not included under the DOD budget cap—it does not count against DOD's $292-plus billion spending limit. In other words, instead of a peace dividend to fund urgent domestic priorities, the budget deal awards the Pentagon a war dividend by exempting it from significant cuts and giving DOD carte blanche in the Persian Gulf.

Mr. President, I can tell you here and now this is the worst budget document I have ever seen gliding through this body. Everybody is saying, "what else are you going to do?" I have presented alternatives. I fought on this floor against Kemp-Roth, Reaganomics, which George Herbert Walker Bush called voodoo economics. Now he is a high priest of voodoo, a national distributor of voodoo last night on TV, I can tell you that.

I fought for a budget freeze. Then I fought for Gramm-Rudman-Hollings. Then when I saw it did not work, with the sham as I have described it, on Christmas of 1987 I appeared before the Finance Committee with a proposed across-the-board consumption tax to pay the bills. That would impact everything equitably. That would impact beer, wine, cigarettes, oil energy the whole kit and kaboddle.

The European average value-added tax is 17 percent. They are paying their bills, and beating us in world trade.

Out in the Pacific rim, the VAT average is 15 percent; Korea is beating the socks off us. Yet here we sit around providing for our own reelection.

So I proposed a VAT tax.

They said, well, you are going to raise $100 billion. Who is going to vote for it? We had eight in the Budget Committee vote for it; eight Democrats voted for it. I had Republicans vote for it in an earlier Budget Committee meeting. Yes, sir, they will vote for it if everybody gets together here to really solve this problem. When they talk about $100 billion, they act like that is a lot. That is only one-tenth of the deficit problem. We face a trillion-dollar problem, according to GAO. Everyone seems to have bought off on the summit's assumption that $500 billion in deficit reduction between 1991 and 1995 will balance the budget. It won't come close. On September 12, Comptroller General Charles Bowsher released a GAO study which concluded that it would take closer to $1 trillion in deficit reduction between 1991 and 1995 to balance the budget.

The agreement's economic assumptions are basically sound for 1991, but the assumptions for 1992 through 1995 really put the rouge on old Rosy Scenario. Consider 1992, when OMB says we will have robust GNP growth of 3.8 percent and interest rates at only 5.7 percent. Or consider 1995, when OMB promises us 3.5 percent economic growth and 4.2 percent interest rates. These are just not in the real world.

At the same time, the summiteers were so desperate for gimmicks that they actually stole one from Mike Dukakis. The agreement claims some $10 billion in revenue from stricter IRS enforcement—$3 billion of it in 1991 alone. This is just so much fairy dust.

Meanwhile, a large portion of the Social Security, Medicare, highway, and airport trust funds will all be on budget for purposes of calculating the Gramm-Rudman-Hollings deficit. The surpluses in those funds will be used in their entirety to fund the operating expenses of the Government.

Nowhere in the media have I seen reported perhaps the most profound difference in this latest incarnation of Gramm-Rudman-Hollings as outlined in the agreement. Heretofore, Gramm-Rudman-Hollings has been premised on specific deficit targets aimed at achieving a balanced budget. That is now gone. In its place, this budget agreement talks only about targets for proposed savings. In other words, in 1991 we only have to reach the proposed savings of $40 billion, and no one is supposed to notice or care that the deficit skyrockets to $253 billion. By 1995, the last year of the agreement, even the wildly optimistic OMB projection foresees a $63 billion deficit—even after raiding the trust funds, factoring in rosy economic assumptions, and excluding S&L bailout costs. A more accurate deficit projection for 1995 would be closer to $200 billion. In other words, the deficit can continue to grow unchecked in each and every year of this agreement, but as long as we reach our target for proposed savings, then we get to claim that we did our job. Perhaps nothing more clearly illustrates the inadequacy and sham of this agreement. It is the sleaziest off-Broadway show you can find.

Somehow, somewhere it has to stop. We can get together in the House and Senate, on both sides of the aisle, work out a budget that truly gets the job done. We could send it to the President and tell him this is the best product the Representatives of the people in America up here in this national Congress. But, no, instead we are to be given a conference report when they have not even had conferees, with no amendments, and 10 hours of debate, and they say, by the way, we can cut it to 5 hours. They sweeten it by saying that if you want to agree, we will not have to vote on Friday and Monday. What kind of thing is this? The most important bill in a decade and you cannot even get an amendment up. They ask why did I not present something better? I would like to debate the merits of a value-added tax.

I ask unanimous consent to print a description in the Record at this particular point.

There being no objection, the material was ordered to be printed in the Record, as follows:

VAT Description

A value added tax is a broad-based consumption tax that is imposed at each stage of production of goods or delivery of services. I have proposed a "destination-based, invoice-method" VAT of 5 percent, which exempts food, housing and medical care. It is "destination-based" because the tax is paid in the country where the goods or services are consumed. This means goods consumed in the United States are taxed here. Those consumed in other countries are not taxed here.

The "invoice-credit method" refers to the method of calculation of the VAT. The invoice method imposes a VAT at each stage of production and the tax is listed on the invoice. As a taxpayer, I have two entries on my ledger: one for VAT paid on purchases, and one for VAT received on sales. I receive credit for tax paid on purchases and use it to offset tax due on sales. The invoice acts as a paper trail for the IRS. This is repeated at each stage of production up to the point of retail sale.

Obviously, I view the VAT as the cleanest, most efficient method of raising sufficient revenue to eliminate the deficit and debt. It is a common-sense tax that offers a number of collateral benefits. Under the invoice method, the VAT tax is substantially self-enforcing. For instance, if I purchase a product from you, I pay for your value added tax in my purchase price. In order to receive credit for the payment of that tax, I must show, by invoice, offsetting sales including payment to me. My net VAT liability is determined by subtracting the tax paid on purchases from the tax received on sales. So, in order to cheat the government, you have to cheat your customers or your suppliers, and most businessmen are very good at not getting cheated.

Also, because it is destination based, the VAT carries with it very important trade benefits. A VAT is a "border neutral" tax, which means that when a good passes out of the country in which it is produced, the VAT is rebated to the seller. In addition, when the same product is imported into the country where it is to be consumed, that importing country's VAT is added to the product. So, a country without a VAT, like the United States, is getting the worst of both worlds: foreign goods are cheaper here because the VAT is deleted, and United States produced export items are more expensive because a VAT levy is added to the sale price by the importing country. Lester Thurow, Dean of the Sloan Business School at MIT, has said, with good reason, that "The rules of international trade are structured to make you stupid if you don't have a value added tax."

A VAT is also a consumption tax, and as such, has the effect of discouraging consumer binges and hence encouraging savings. The retired Senate sage Barry Goldwater has said, "If you want to discourage something, tax it. If you want to encourage it, subsidize it." Yet, in this country, we perversely tax savings and subsidize borrowing and spending. A VAT would reverse this.

The three most common criticisms of a VAT are that it is inflationary, that it is a machine for expanding by government, and that it is regressive. The first criticism, that it is inflationary, is overblown, and the other two I have addressed in my bill. Experience shows that while modest inflation can be attributed to a VAT, it is a one-time increase which does not feed the tax-price-wage spiral that most people fear. In addition, deficit reduction made possible by a VAT, and the corresponding lower interest rates would largely offset any inflationary pressure. In fact, it will unburden taxpayers from the cruelest tax of all, the $200 billion in annual interest costs on the rising national debt.

As for the regressive nature of a VAT, my version will exempt food, housing and medical care. Since the poorest Americans spend the bulk of their income on these necessities, these exemptions substantially eliminate regressivity.

Finally, the "money machine" argument is moot under S. 442. All of the revenue from the VAT would go into a sacrosanct dedicated Deficit and Debt Reduction Trust Fund. VAT revenues must not and will not go toward starting up the federal gravy train again.

Another important, but often ignored aspect of a VAT is its economic neutrality. One thing we all generally agree on is that free markets do a reasonably good job of guiding economic decisionmaking. As a corollary of this point, most tax experts agree that a "good" tax does not distort the economic decisions made by businesses and consumers, and the VAT I have proposed, with only one rate and minimal exemptions, is closer to the ideal of neutrality than any other method of taxation we currently have in place.

A VAT is also a stimulative tax for business. Under a consumption based VAT like I have proposed, business purchasers are allowed a credit for taxes on all of their expenses—capital, services and the like—and therefore, only consumer goods and services are ultimately taxed.

Mr. HOLLINGS. Mr. President, too many Senators are treating this politically. You go into your caucus and I go into my caucus; we fix this vote, and all those running for reelection say I tried to help the President. That is what got us Reaganomics. Men of reasonable, prudent, and sane minds said we are going to help the President. So they nearly all voted for it.

The debt has soared from $908 billion in 1981 to at least $3.2 trillion. The interest costs have gone to $286 billion. Interest is now going to exceed defense, at least, $286 billion gross interest cost over $200 billion net interest cost. The first thing we do each morning is borrow another $500 million, a half billion, and add to the debt.

The media have done a good job of pointing out that the new taxes in this agreement are overwhelmingly regressive in nature. But they fail to note how paltry these taxes are in the context of our monster deficits. With 10-cent gas tax increases and 8-cent cigarette tax increases, we are literally attempting to nickel and dime a trillion-dollar deficit problem. This agreement calls for only $16 billion in new taxes in 1991. Meanwhile, it calls for fully $5 billion in new tax cuts—all of them targeted for the affluent and wealthy. So excuse me for seeing Mr. Gingrich's walk-out as a trumped-up charade. The fact is that, so far as President Bush's core GOP constituency of well-off voters is concerned, the President has fulfilled his campaign pledge not to raise their taxes. Indeed, he has succeeded in cutting their taxes by at least $25 billion over the 5 years of the agreement.

Mr. President, this proposed agreement brazenly understates the size of the deficit problem. Its solution is inequitable and inadequate. It is a clear and unmistakable admission that the budget mess is out of control. Today, we stand on the brink. It is not too late to step back from that brink and work out an agreement that gets the job done. The bipartisan budget agreement is a sham and a shame.

TRIBUTE TO GEN. CURTIS E. LEMAY

Mr. THURMOND. Mr. President, I rise today to honor the memory of a great American, Gen. Curtis E. Lemay, who passed away on Monday. General Lemay was an extraordinary individual and a true American hero who served his country with vigor and courage in peacetime as well as war. I join with his many friends and admirers in mourning his loss.

Curtis Lemay was born in 1906 in Columbus, OH, and grew up with a deep love for the outdoors. Although he was unable to achieve a childhood dream of attending West Point, he enrolled at Ohio State and joined the Reserve Officers Training Corps. He worked nights in a foundry to pay his way through school.

General Lemay's ROTC experience led to a stint in the Army Field Artillery, from which he transferred to flight cadet school. He was soon commissioned as a pilot and showed outstanding ability early on in his military career.

Lemay rose quickly through the ranks, gaining a reputation for toughness and bravery which grew to near-legendary proportions during World War II. In one of his earlier assignments, he commanded the 305th Bombardment Group, which was among the first U.S. Forces to fight the Germans over Europe.

During his time with the 305th he demonstrated the courage and iron will which were to become his hallmark. Believing that the evasive maneuvers which bombers undertook to avoid flak where causing them to miss targets, he personally led a straight-in bombing run through heavy enemy fire to prove his point.

Lemay later led bombing raids in the Pacific Theatre with conspicuous bravery. He is perhaps best known for relaying the direct order from President Truman to drop nuclear bombs on Hiroshima and Nagasaki in Japan.

The cigar-chewing general was regarded with something approaching awe by the men under his command, who called him "Iron Eagle" or "Old Iron Pants" because of his exacting standards and his blunt, impatient manner. However, he was just as renowned for his fairness and concern for the welfare of his troops, and asked nothing of them which he would not do himself.

General Lemay went on to become Chief of Air Force Research and Development and then commander of U.S. Air Forces in Europe. When fliers under his command were making history during the Berlin Airlift, the general often piloted transports himself, claiming he had a conference to attend in Berlin.

General Lemay served for 9 years as head of the Strategic Air Command, and as both Vice-Chief of Staff and Chief of Staff of the Air Force. He was honest, outspoken, and unapologetically anti-Communist, and he antagonized some with his strongly held views and unsparing candor. However, he was a man who fought fiercely for what he believed, and even those who disagreed with him respected his integrity.

General Lemay won many military honors, including the Distinguished Service Cross, two Distinguished Service Medals, the Silver Star, and numerous air medals. He retired in 1965 and was George Wallace's running mate in his unsuccessful Presidential bid in 1968. He remained a proponent of a strong national defense and a foe of communism all his life.

Mr. President, Curtis E. Lemay was a man of outstanding ability, whose tremendous achievements and flamboyant personality made him a legend in his own time. He was an individual of great physical and moral courage, and a true patriot. Our Nation owes him an enormous debt of gratitude for his faithful service. We are richer for his life and we will never forget him.

Nancy and I would like to extend our deepest sympathy to General Lemay's wife, Helen, and his daughter Jane during this difficult time.

DEFENSE PRODUCT ACT AMENDMENTS

Mr. BOND. Mr. President, the Defense Production Act has served as a tool that the President could use to ensure his ability to mobilize the Nation's industrial resources for defense purposes. Through limited and measured use of the authorities contained in the act, defense planners have, over the years, ensured continued production of critical materials. Even today, the act is being used to ensure supplies of critical items needed by our troops in the Persian Gulf.

Unfortunately S. 1379 goes far beyond the current act—expanding its breadth, creating new layers of Government bureaucracy and adding new layers of Government control on the backs of American companies. The bill starts from the premise that the Defense industrial base is in need of assistance and protection, and goes on to assert that that assistance must come from the Government.

Though I will agree that there are times when it is appropriate for the Government to be involved in assisting private business, I believe this bill goes too far and prescribes the wrong medicine for the ailment in the Defense industrial base that its supporters believe exists. The best thing the Government can do for the companies that make up the Defense industrial base is to reduce the burdens on them, not increase them. This means eliminating paperwork and unnecessary reporting requirements, not increasing them as this bill would do. It means enacting trade laws which facilitate free and fair competition in the world marketplace, not enacting new trade barriers as this bill would do. And it means providing payment and reimbursement policies which encourage research and development and investment in new plant and equipment, one area in which this bill does make some positive steps.

Mr. President, the companies and workers who make up America's defense industrial base would be better served by less far-reaching and better directed legislation. Though I will not oppose the bill today because I believe the sponsors have made positive steps to improve the bill, I would like to make the following points:

First, the bill passed by the House, H.R. 486, is an even more objectionable bill which would, if enacted, do significant damage not only to our Defense industrial base but also to our national security. I am strongly opposed to it, and if a conference report containing the major provisions of that bill comes back to the Senate, I will take all steps within my power to see that it is defeated.

Second, I do not need to remind my colleagues that we are currently involved in a massive overseas deployment of troops. Because of that deployment, the Pentagon is relying on the authorities contained within the DPA on a daily basis. Given these circumstances, it would be irresponsible for us to adjourn without insuring that the President retains his authority under the DPA. Thus, if the conferees are unable to agree on a compromise plan, I hope my colleagues will agree to a short-term extension of the existing act prior to our adjournment so that we do not leave the President unable to support our troops overseas.

I ask unanimous consent that several documents setting forth the opposition of the administration to both S. 1379 and H.R. 486 and expressing their desire to see the act extended be printed in the Record immediately following my remarks.

There being no objection, the documents were ordered to be printed in the Record, as follows:

The Deputy Secretary of Defense,
Washington, DC, September 24, 1990.

Hon. Robert J. Dole,
Minority Leader, U.S. Senate, Washington, DC.

Dear Senator Dole: I urge the Congress to extend for two years the provisions of the Defense Production Act [DPA]. Although the Administration would prefer that Congress make the DPA permanent law, with the September 30, 1990, expiration of the Act approaching quickly the Administration urges that Congress extend the Act for two more years. Continuation of the Department's authority under the DPA without any lapse is particularly important when units of the United States Armed Forces are deployed, as they are now in the Middle East, in situations in which they could face combat.

The DPA enables the Nation's industry to give priority to weapons and military equipment production to meet defense needs under the Defense Priorities and Allocations System established pursuant to Title I of the Act. The Department has found it necessary to invoke this authority hundreds of times each year to ensure that the Armed Forces have the items they need when they need them.

The authority granted by the DPA is essential to keep the Armed Forces supplied with spare and consumable items, such as aviation fuel, munitions, chemical protective suits, and combat meals because the Department's suppliers would otherwise be unable to obtain the necessary inputs on a priority basis to produce these products. Since Operation Desert Shield began, DPA authority has been necessary to procure missile containers used to ship and store missiles, electronic countermeasures pods and radomes for Marine and Air Force tactical aircraft, secure computer workstations, and various components of the Bradley Fighting Vehicle.

We prefer that Congress consider acting favorably on the legislative recommendations of the Administration. However, expeditious extension of the DPA, without objectionable provisions that will complicate the enactment of the legislation is essential. I urge the Congress to proceed swiftly to ensure that the law is extended before it expires on September 30, 1990. Such an extension could include several provisions of H.R. 4766, H.R. 486, or S. 2168 that are directly related to the energy aspects of the current situation in the Persian Gulf.

A similar letter has been sent to Senator Mitchell and Congressmen Foley and Michel.

Sincerely,

D. J. Atwood.

Office of Management
and Budget,
Washington, DC, September 26, 1990.

Statement of Administration Policy

(S. 1379—Defense Production Act Amendments of 1990—Dixon—Illinois)

The Administration opposes S. 1379 and urges Congress to adopt the Administration's proposal, S. 2168, which would provide for permanent re-authorization of the Defense Production Act (DPA). If there is insufficient support for S. 2168, the Administration would support an extension of the existing DPA for two years rather than enactment of S. 1379. Such an extension could include several provisions of S. 2168 that are directly related to the energy aspects of the current situation in the Middle East.

The DPA vests the President with the authority to direct materials and facilities from civilian to Federal use to ensure adequate industrial production and supply for national security purposes. Additionally, it authorizes loans, loan quarantees, purchase guarantees, antitrust protection, and the use of the National Defense Executive Reserves (NDER), S. 1379, however, would change the DPA to a statute which undermines antitrust laws, infringes upon the constitutional authority of the President, encourages protectionism and establishes unneeded authorities and unwarranted reporting requirements.

The Administration strongly objects to section 137 of the bill. This section would create a prior government approval and antitrust immunity program for a wide range of industry consortia engaged in joint research, development, and manufacturing activities. If S. 1379 is presented to the President in a form that includes section 137, the Attorney General would recommend that the President seriously consider vetoing the bill.

Moreover, S. 1379 contains provisions which impinge upon the President's constitutional authority to control diplomatic initiatives and to maintain the confidentiality of the Executive branch deliberative process. The Administration objects to the following sections which infringe upon this authority:

Section 124, which requires that the Secretary of Defense lead an interagency team to consult with foreign governments on limiting the adverse effects of offsets in defense procurement.

Section 125, which requires the Secretary of commerce to report on alternative findings or recommendations submitted to the Department of Commerce on international negotiations related to the DPA.

Furthermore, S. 1379 adds unnecessary new authorities or responsibilities and burdensome, duplicative reporting requirements to the DPA. Most objectionable are:

Section 123, which would establish an unnecessary revolving fund.

Sections 123-126 and 138, which establish or amend reporting requirements to Congress on industrial and technological issues.

Section 152(1), which would repeal the requirement for paying interest on the net amount of Federal capital used under sections 302 and 303 of the DPA.

The Administration opposes Title IV, which amends the International Banking Act and authorizes retaliatory measures against foreign governments found to be in violation of the Omnibus Trade and Competitiveness Act. The Administration consistently has opposed retaliatory measures which could close U.S. markets.

The Administration strongly supports those provisions which amend section 706 to enhance the utility of "voluntary agreements" in responding to serious national emergencies. The Administration also supports section 141 which clarifies contract priority authority. This authority would apply to "services" contracts, such as for standby pipeline repair services for the Strategic Petroleum Reserve. These provisions, which are based on the Administration's bill, S. 2168, are potentially relevant to the U.S. response to the current situation in the Persian Gulf.

Also, in light of the present Persian Gulf crisis, the Administration urges enactment of those provisions of S. 2168 which provide conflict of interest and antitrust protection for the NDER. This would facilitate the development and staffing of an NDER composed of representatives from the petroleum industry, which most oil companies have declined to support because of the lack of such protection.

Office of Management
and Budget,
Washington, DC, September 21, 1990.

Statement of Administration Policy

(H.R. 486—Defense Production Act Amendments of 1990—Oakar—Ohio)

The Administration opposes H.R. 486 and urges Congress to adopt the Administration's proposal, H.R. 4766, which would provide for permanent re-authorization of the Defense Production Act [DPA].

If H.R. 4766 is not adopted, the Administration would support an extension of the existing DPA for two years rather than enactment of H.R. 486. Such an extension could include several provisions of H.R. 4766 or H.R. 486 that are directly related to the energy aspects of the current situation in the Persian Gulf.

The DPA vests the President with the authority to direct materials and facilities from civilian to national defense use to ensure adequate industrial production and supply for national security purposes. Additionally, it authorizes loans, loan guarantees, purchase guarantees, antitrust protection and the use of the National Defense Executive Reserves [NDER]. H.R. 486, however, would change the DPA to a statute which infringes upon the authority of the President and establishes unneeded authorities and unwarranted reporting requirements.

The provisions of H.R. 486 that are most troublesome to the Administration are sections 4, 5, 6 and 10. The Administration also opposes the approach used to remedy the conflicts of interest problem contained in section 8.

Section 4 of H.R. 486 would establish an array of industrial policy initiatives that could be counterproductive to the long term strengthening of the industrial base. Included in the aection are provisions that would require the President to limit the procurement of all "critical" weapons, parts, or components to domestic sources irrespective of cost or other consequences. The section mandates that a detailed cost comparison be made of "all defense-related procurement actions" to determine the respective direct and indirect costs and benefits associated with domestic and offshore acquisition. Included in such analysis would be the estimated cost of complying with any Federal or state law including loss of Federal, state or local taxes.

Another provision (subsection (g)) would require that the procurement restrictions mandated in section 4 be included in all existing and future "Memorandums of Understanding." This would, in effect, be a unilateral amendment to previously negotiated international agreements. Such an override would impinge on the President's authority to conduct foreign policy and adversely affect the credibility of future negotiations.

Section 5 of H.R. 486 would authorize $7 million to enhance the existing Defense Information Network (DINET) and provide for the reporting of specific details on 12 authorized major weapon systems and all such systems started after the enactment of H.R. 486. The existing DINET system, as augmented by already planned improvements, will be adequate for Defense's needs.

Section 6 of H.R. 486 would authorize $130 million per year for Fiscal Years 1991 through 1995 for the loans, loan guarantees and purchase commitments authorized by Title III of the Defense Product Act. The Administration's proposal, H.R. 4766, requested only $50 million per year for these programs. The $50 million per year request contained in the Administration's proposal is considered adequate. Additional funding is not needed.

Section 10 of H.R. 486 would authorize $500,000 for a Congressional Commission on Evaluation of Defense Industrial Base Policy consisting of nine members appointed by Congress. Its purpose would be to develop criteria for evaluating national policy relative to the strength of the defense industrial base. The Commission would report to Congress and the President at the end of its first and second years. The defense industrial base has been studied numerous times over the last several years and further reports such as those proposed by the Commission are not considered necessary.

Finally, although the Administration endorses the purpose of section 8, relating to conflicts of interest, it disagrees with the approach used to remedy the problem. Section 10 of H.R. 4766, the Administration's proposed amendments to the DPA, addresses the need for a national interest waiver in a manner that will not only protect fully the public and any individual receiving such a waiver, but allow for the expanded use of any individual's service during a time of national emergency.

As noted above, several provisions of both H.R. 4766 and H.R. 486 are directly related to the energy aspects of the current situation in the Persian Gulf. These included the bills' improved authority for the use of "voluntary agreements," the clarification that the DPA's priority contract rating authority applies to "services" contracts, and the bills' provisions concerning the NDER. With the caveat just noted about the form of the language concerning the NDER, the Administration urges that these provisions be enacted in the context of any bill that otherwise would extend the existing DPA.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I ask unanimous consent to address the Senate for the next 10 minutes as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE BUDGET AGREEMENT

Mr. LOTT. Mr. President, to quote the great Roman poet and satirist Horace, "It seems to me that the mountains have labored mightily and produced a mouse." Only this mouse is infested with fleas and bloodsucking ticks. That is my opinion of what we see in the budget agreement.

I am somewhat amazed at the tomb, the silence in the Senate with regard to the components of this budget agreement. I realize that Members are trying to find out the details, and I, too, have been trying to do that. It is a very complex, very long budget agreement. But I am afraid it is not a good budget agreement.

We are being told now, "You must support it, because what is the alternative? The alternative is too horrible to contemplate." But why is that the case? Because the budget negotiators negotiated until the final minute. The whole plan was to put it right up against the wall so that the Congress, within 5 days, would have to take it, lock, stock and barrel. It is like swallowing a cannonball, but, "You must do it because the alternative is too horrible to contemplate."

So now we are in a position where we must accept the budget—no matter what is in it—because the alternative would be a budget maybe that is no better, or even a sequester. I do not like the alternatives. I think that is the only legitimate argument for this budget package in that the alternative does not look very good.

I think, though, that the Washington Post said it all on Sunday morning when the lead headline read, "Bargainers Agree on a Tax Package." That is all this really is, a tax package. It is business as usual. There is no difference. This is the way it has been for the last 10 years, when I have been watching budget agreements very closely. We always wind up raising taxes, not cutting spending.

Next year the spending level will be $1.2 trillion and more. Even with this budget agreement, there will be a 4.5-percent increase in Federal spending in fiscal year 1991 over 1990, a $55 billion increase. Who are we kidding? The problem still is we are spending too much money.

But who will the budget package affect the most? Middle income, working, taxpaying Americans, and retired workers. For example, there is the gasoline tax: 12 cents on a gallon. At the Texaco station on the corner of Market Street in Pascagoula, MS, gasoline is $1.66 a gallon. Put 12 cents on top of that, in a poor State like Mississippi? We already have the Federal gasoline tax and a State gasoline tax, and we even have a seawell tax on gasoline.

People say, well, look at the gasoline prices in Italy and Europe. Look, if I wanted to drive in Italy and pay what they pay in Italy, I would move to Italy. This is America.

We are going to raise taxes and fees on everybody. We are going to raise Coast Guard fees. If you have a boat, you are going to have to pay a fee to use the waters off the coast of an area in which you live. If you use a Corps of Engineers park or recreation area, you are going to have to pay a recreational fee. If you are a hunter who would like to go into the national forest and hunt a squirrel for lunch, you are going to have to pay a fee, even though you do not use anything. You use what is yours. But, we are going to charge you a fee.

We are going to charge a fee for the NOAA Weather Service. We are going to charge an additional fee for FEMA flood and crime insurance.

We are going to cut spending in a couple of places. Guess where? Veterans, student loans, and agriculture get hit once again.

In the poorest State in the Nation, Mississippi, working middle-income, low-income people will get hit three times with this budget. First with increased taxes, particularly on gasoline, where you have to drive 60 miles usually to make a minimum wage. We are going to cut agriculture, and we are going to cut Medicare.

Congratulations. This is a good deal?

I do congratulate the Democratic leadership. They did a magnificent job. They waited until the last minute and figured if they stalled and held out, they would get everything they want, and they did just about. They had to give up a couple of minor points.

Are there any incentives to encourage growth in here, advancement? No. I took Economics 101. I tried to listen to my economics professor. He was a pretty impressive guy. One of the things he said is when the economy is soft and shaky, you need to provide incentives for people to buy and sell and invest and get the economy going, get interest rates down, or give them some tax cuts. You do not raise taxes when the economy is soft.

But in Washington we missed Economics 101 apparently. We think that the good thing to do when the economy is soft and on the verge of recession is to raise taxes.

The Democratic leadership, I think, had a political plan, a good strategy, and they knew what substance they wanted. They are to be commended.

Frankly, I find it hard to believe that the President would go on TV and endorse this package. I would like to support the President. I like to support budgets. Over the past 9 years I have supported seven of the budgets. Over the past 10 years I have supported all those tax packages, and I am sorry, I say to the people in this Chamber and to my constituents in Mississippi. I voted for TEFRA, and we got taken to the cleaners. I have promised myself that I am not going to continue to vote to raise taxes so that the Congress can spend it on more programs.

Do not give me this stuff, "We are controlling spending." Look at the numbers. Foreign aid? Zero cuts in international spending. Domestic discretionary spending? Zero cuts. In fact, we are giving it a 4-percent increase.

Oh, yes, the fix is in. I put my colleagues here in the Senate on notice.

We are going to forgive the $7 billion that Egypt owes us. Yes, they have done what they needed to do in the Middle East. But they did what they needed to do in their own interest. We are going to forgive Egypt's $7 billion debt, and we are going to raise the fees that people on Medicare have to pay and the gasoline prices that people have to pay to get to work. It makes no sense at all.

I also want to raise this point with my colleagues here in the Senate who always say they are worried about the elderly and poor. Even the House Ways and Means Committee released a study yesterday showing that the tax increases and benefit program cuts will hit hardest on the poor. The average taxpayer in the poorest fifth of all taxpayers would have after-tax income reduced by 2 percent under this agreement.

I guess this is a good budget because everybody you know gets hurt. Do the Democrats like this; do you like this cut in the poorest of the working poor? Republicans, do you like this tax increase package? What is it we stand for anymore? Capital gains? No, we threw that overboard. Are we opposed to taxes? Who knows any more? Do we want to cut any spending? Not really. You know, we all like to increase spending.

I have been catching pressure from the administration and from the leadership: "You have to vote for this package." I am a team player, but this time I cannot choke it down. This mouse will roar. This deal is going to hurt the economy; it is going to hurt the elderly; it is going to hurt my State of Mississppi. I cannot support it.

I yield the floor, Mr. President.

The ACTING PRESIDENT pro tempore. Who seeks recognition?

Mr. METZENBAUM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Ohio [Mr. METZENBAUM] is recognized.

Mr. METZENBAUM. Mr. President, in this entire debate on the budget, we have heard a good deal of criticism from NEWT GINGRICH over in the House, and we have now heard from my distinguished colleague, TRENT LOTT, criticizing the budget. One would get the impression on that basis, knowing where they come from on so many issues, really, maybe there is something good in that budget for the average person in this country, for the middle-class wage earner, and that the wealthiest people in this country were being hurt. I do not think that is the case.

So it is almost with a little sense of embarrassment that I find myself in the same position as they, only for far different reasons.

Before addressing myself to the budget, I would like to publicly state my own sense of personal gratitude to the untold number of hours, to the dedication, to the devotion, to the effort, to the sincerity which the leader of the Senate, GEORGE MITCHELL, has put into trying to bring about a resolution of this whole issue.

I think the majority leader and those with whom he was working—TIM FOLEY; DICK GEPHARDT; LLOYD BENTSEN; the very able leader of the Budget Committee, JIM SASSER; ROBERT BYRD; WYCHE FOWLER; and so many others—have given much of themselves in order to avoid the need for sequestration. They have brought to us a budget that in my opinion does not do the job, will not do the job, and places the burden unfairly on middle-class Americans and provides new loopholes for the very wealthy, for the corporations of this country.

But I want to say that I do not blame them for having brought this document to us. They are not to be blamed, because the real blame lies with a man who is now out in California, and his successor. The Reagan-Bush proposal, their efforts, their direction over the past 9 years, puts us in this position, a former President, Ronald Reagan, who kept talking to us about balancing the budget and never sent us a balanced budget, who continually criticized the Congress of the United States, and meanwhile led us from a deficit of less than a $1 trillion when he took office to $3 trillion when he left office; and a President who was so much for deregulation that the unbelievable cost of the savings and loan fiasco is not even being put on budget because it is so great that it is just horrendous, and you do not want to even confuse the issue.

And why were the leaders of the Senate and the leaders of the House placed in the position that they were, for not only these 9 years of continued fiasco in leadership from the Presidency, but this President's insistence that capital gains had to be cut, and that was the be-all and the end-all? Capital gains had to be cut so that the rich of this country would not have to pay so much.

They have not been paying so much. Everyone knows that over the past several years, since the 1986 tax bill and even before that, the rich have been paying a lesser proportion of their income and middle-class Americans have been paying a greater proportion of their income. There has been no fairness about it. But that is the way the Reagan-Bush team wanted it to be.

So our leaders in the negotiations first had to deal with these 9 years of fiasco in fiscal leadership from the White House and then had to deal with the President who had made this claim during his campaign, "No new taxes," and also that they were going to lower the capital gains tax.

They had to take care of the wealthy. They could not let them buy and sell their stocks and pay a fair share of the tax; no. They had to pay a lower rate than anybody else. It was only in the closing hours that our leaders were able to bring about some changes with respect to that.

But I am concerned, and I will get to that later, that in bringing about that which looked like a victory, in getting him to back up on the whole issue of capital gains, what went out the front door came in the back door.

This budget that we have before us will not do the job. It is kidding the American people. It is based upon mirrors, and the Office of Management and Budget has to accept the responsibility for being a party to those mirrors. It is they who come up with the figures that tell us how much it is going to cost, and it is they who provide us with the mirrors that you find in this bill.

What am I talking about mirrors? They say that in this budget resolution there will be a savings of $65 billion toward the total savings of $500 billion, because interest rates will be going down. How do they know that? How do they know that by 1993, interest rates will be down on 30-day and 90-day bills to 4.9 percent—they are now at 7.7 percent—and that by 1995, they will be down to 4.2 percent? How do they know that 10-year notes, which are now at 8.7 percent will be down by 1993 to 6.1 percent and 5.3

percent in 1995? That is a pure figment of the imagination.

But at the Budget Office of the White House, that is what they want us to believe, so they can say there is going to be $65 billion in savings toward the $500 billion, and then they use some other assumptions. The inflation rate, they say, is going to be down. Now the inflation rate is 5.2 percent. They tell us in their crystal ball that they know that by 1995 the inflation rate will be down to 2.8 percent, or about half of that amount, and they tell us that our gross national product growth, which is today at 0.7 percent, by 1992 is going to be 3.8 percent.

Who are they kidding? The American people? Do we not have an obligation to level with the American people? As bad as it is, do we have to kid the American people and phony up the figures? I ask that of the White House. They are the ones that are providing these figures.

Let me give you another one. In their figures, they show that during this 5-year period we are going to have $5 billion more in the Bank Insurance Fund, that is the FDIC payments. Do they not realize that others in Government are telling us that there are going to be banks that fail during that period? Do they not realize that the head of the General Accounting Office tells us that one big bank failure at the present time would totally wipe out all the money in the FDIC fund?

So they say that these insurance payments that are going in are going to help balance the budget. But when you have the payments coming in, they fail to talk about the moneys that will be going out. We will be lucky to get away with that much. It is certainly not an income item. It is a phony figures.

(Mr. ROBB assumed the chair.)

Mr. METZENBAUM. They talk about the amount of money paid into the FEMA flood and insurance fund, $200 million. But what about the claims against the FEMA flood and insurance fund?

Then they tell us we are going to have $9.4 billion more income because the IRS is going to be enforcing the law better. Where have they been in enforcing the law for the last 9 years? Why are they not doing it today? Whey do they need a budget bill in order to see that we get stronger IRS enforcement? I know there is something in their proposal about putting on more agents, but that does not mean that you could not have, or should not have had, if their will was there stronger, enforcement. And they tell us we are going to have $9.4 billion in additional income.

That is bad enough on the assumptions and bad enough as to whether we are going to get to the figures that are in the bill, but that is really not why I am standing on my feet. I am standing on my feet because I believe that this is so retrogressive, so unfair to the average American that it would be wrong for me to be quite and not talk about it.

In 1986, we reduced the tax rates across the board at a very substantial amount and at the same time we wiped out many of the special tax credits—oil and gas tax credits, drilling tax credits, numerous other special kinds of tax credits. The idea was, let us get rid of all those tax credits and bring down the rates. And lo and behold, now in 1990, we find in this bill they say that there are $4 billion of energy incentives. What do you need energy incentives for? Look at the price of oil. It is $40 a barrel. That is enough incentive to go out and produce oil and produce natural gas. You do not need to have some special energy incentives. And I must say that I question totally the $4 billion cost of those so-called energy incentives. That is absurd. It is absurd for this President and for this administration to be pushing the Congress for energy incentives while oil is $40 a barrel and at the same time raising the price on gasoline 10 cents a gallon.

Then there is another figure in this budget, about $7 billion in new tax shelters. Well, we will get back to those in a bit.

But what else do we have in it? Who is really going to pay the price? The senior citizens, those least able to pay, those who need Medicare, those who need hospital assistance and doctors' assistance, who need other kinds of medical help. They are the ones that are going to be called upon, to raise the deductible from $75 to $150.

And middle-class Americans are going to be called upon to pay it. If their wages are between $50,000 and $73,000, their taxes are going to be increased for Medicare. But are the wealthy going to pay it? Oh, no. Oh, no. Is there anything in this bill which suggests that the wealthy who receive Social Security ought to be taxed more on that Social Security so that they contribute their fair share to the cost? No. It is the senior citizens that are called upon to bear that share of the burden. And it is middle-class Americans who are called upon for cigarette taxes and liquor taxes and tobacco taxes.

While we are cutting into Medicare, while we are cutting into the human service needs, there is one other item that nobody has talked about, and I would like to talk about it. That is how much we are going to be spending for the defense of our Nation.

I was amazed the other day, delightfully amazed, to have the privilege of meeting in the House Armed Services Committee with the Chief of Staff of the Soviet military and having him talk with us, one on one with a small group, as to what the Soviets are doing and how they are cutting back their military forces and, I believe, telling us about how many of their troops are being moved out of the Western European sector.

We have 310,000 troops in the Western European sector. Certainly, there ought to be an opportunity to bring thousands, tens of thousands, maybe hundreds of thousands of those home and to be saving money. Certainly we ought to be able to save money when the Soviet threat is no longer the Soviet threat that it was. Certainly we ought to be able to change our emphasis. Certainly we ought to be able to have a peace dividend saving some money from all these extravagant expenditures that we made over a period during the Reagan years.

And, yes, the House had concluded that over a 5-year period you could save $250 billion in defense cuts. That was their recommendation out of the House Armed Services Committee, and the Senate Budget Committee had concluded that you could save $220 billion in defense expenditures.

Do you know what is in this budget? Not the $250 billion figure that the House House Armed Services figured; it is not the $220 billion that the Senate Budget Committee had; it is $170 billion in savings over 5 years; $80 billion that could have been saved if we used the House Armed Service figure, and certainly I believe that is a responsible body. I do not claim to be an expert on armed services expenditures, but certainly the House Armed Services Committee is. If there were a difference between the Senate Armed Services Committee and the House Armed Services Committee, then could not the figure have been compromised? But instead what do we have? We have $170 billion in savings, nothing close to the Senate Budget Committee figure, nothing close to the House Armed Services Committee figure. It is shameful. It is shameful and it is embarrassing.

Then we come to the whole question of taxes in this bill, the President going on TV last night and saying that this is a fair bill, a step in the right direction. Well, this bill does not have that capital gains cut that the President was advocating from the front door, but it has a back-door approach to taxing middle-class Americans while making the rich richer. It is a back-door approach.

Let me read you what the New York Times had to say about that subject. The New York Times says, "Tax Rises Seen Hitting Hard at People of Moderate Means." And listen to these figures. If you earn $20,000 to $30,000 a year, under this proposal you will pay 3 percent more on your taxes—$20,000 to $30,000, 3 percent more. If you earn

$30,000 to $50,000, certainly middle-class America, you will be taxed 3.3 percent more. But if you earn a little higher income and you earn $50,000 to $100,000 of income, you will be taxed only 2 percent more. If you happen to do a little better in the economy and you earn $100,000 to $200,000 a year, you will be taxed only 1.5 percent more.

If you are truly doing extremely well and you are earning over $200,000 a year, you will be taxed at one-tenth the rate, the increase will be at one-tenth the rate of those earning $20,000 to $30,000 a year. The increase will be 0.3 percent.

It comes down as you earn more. How unbelievable can we be? How absurd can it be?

Then take a look at a paper that certainly is no advocate of middle-class Americans, poor Americans. It pretty much has a readership of wealthy Americans in this country. Let us see what they say in the Wall Street Journal about the tax provisions in this bill. Let me use some of the language that they use.

There is a provision in the bill, and most people are not aware of it. They are learning a little bit more about it. The President did not get his capital gains tax cut, but what he got was something new. Never before in this country's history have we had a provision that if you buy stock in a company that you have the right to deduct a portion of the price of that purchase. That is absolutely absurd. It is crazy. It is incomprehensible.

If you buy stock, up to 200,000 dollars' worth of stock, you may deduct 25 percent of the cost of that stock. How could anybody come up with that kind of a concept? It is new, innovative and stupid, and unfair. It is creative, but creative in the worst kind of way.

A deduction of 25 percent just for buying the stock? They say it is going to help the smallest companies. This is just to help small business. It will help people buying stock in 63 percent of the companies in this country, those that have a net worth of $50 million or less.

Now I am going to tell my colleagues something else. It will help some that nobody thought we would be helping, and that is those smart boys who were able to put together the leveraged buyouts and they issued all those junk bonds and they had very little equity in the company. If they had very little equity in the company, that would mean that people who invested in their stock would have a right to deduct 25 percent of the cost of that stock.

Let me tell my colleagues what the New York Times says today about that particular point.

> Yet the sense yesterday on Wall Street was that the politicians would probably shudder to know that they were inadvertently helping some large, but overleveraged businesses ranging from R.H. Macy & Company, the New York retailer, to Owens Illinois Inc., the glass-container maker in Toledo, Ohio, as well as the advisers who plunged those companies into debt.

In every LBO, in every leveraged buyout, we had a situation where they got tremendous debt, junk bonds were issued and very little equity invested. People who were able to invest in those companies, to buy stock in a new issue, would be able to deduct 25 percent of the cost. If a larger corporation has a subsidiary or creates a subsidiary and works it out in such a way that they will have a net worth of less than $50 million, a purchase in that company would qualify.

We never had anything like this before in the history of this country. It is unbelievable.

As if that were not bad enough, we have the capital gains in reverse provision, and that is, first of all, instead of affecting the capital gains when you sell the stock, now we give the capital gains deduction when you buy the stock. But there is a second provision. The second provision provides—this does not have to be a company which has a net worth of less than $50 million—when you sell your stock under this proposal, you will be permitted to sell that and pay your taxes in one of two ways.

Either you will be permitted to figure the sales price at half what you get for it—yes, that is right. If you sell it for $100 you only have to pay taxes on $50 of it. If you sell it for $400 you pay taxes on $200. Or you have an alternative. You may take your original cost and if you held it for several years, you may include an inflation factor in order to establish what your cost is. So if the stock cost you $10 several years ago and inflation has gone up whatever percent, 40 percent, 50 percent in that period, then your base now becomes not $10 but $14 or $15.

This is a wonderful bill to place new taxes on cigarettes and alcohol and liquor; place new taxes and cut back on benefits for Medicare, but to take care of the wealthy, to see that they are protected in the sales of their stock and even when they buy new stock.

The Wall Street Journal called it the newest tax dodge for the rich, some of these provisions. The Wall Street Journal said it would revive tax shelters for wealthy investors.

We can read the papers that the smart boys and their lawyers are already starting to put together, the syndicates, in order to use the new deals that will be possible under these provisions. The syndicators are already going to work.

Even Richard Nixon's Commissioner of Internal Revenue said about this pending bill:

> There's a good question of whether benefits of these massive types are really in the national economic interest.

Former Commissioner of Internal Revenue under Richard Nixon.

What we are talking about here is giving the rich a tax break when they buy stock, of somewhere between $14,000 and $16,667—just given to them on a platter for no logical reason that this Senator can understand.

Hobart Rowen today writes an article in the Washingon Post, "Too Much for the Rich?" I would say so.

Mr. President, I ask unanimous consent that article and an article from the New York Times of yesterday, "Tax Rises Seen Hitting Hard at People of Moderate Means," be printed in the RECORD at end of my remarks.

Mr. President, I also ask unanimous consent an article from the Wall Street Journal of yesterday be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. METZENBAUM. Mr. President, let me conclude by saying I would like to be for a budget proposal. I would like to be able to support the leaders who have worked so hard and in whom I have so much confidence. I would prefer that I not be standing here on the floor raising a question about new gasoline taxes of $57 billion and liquor taxes of $6 billion and cigarette taxes of $6 billion while Medicare recipients are being cut and forced to pay more. I would prefer that.

The most logical question one can ask is, well, Senator if you are not for this, are you for sequestration? No, I am not for sequestration.

Then what is our alternative? I will give my colleagues my alternative. I believe that we Democrats and as many Republicans who care to join us, and we have a concern about the kind of country in which we live, ought to send the President the right kind of budget, a fair budget, a budget that is equitable, reasonable, and decent for all people, and no tone that benefits the rich and hurts the middle class Americans; a budget that is based upon factual facts and realistic assumptions and not one that has smoke and mirrors to it.

I think we ought to send him what we think is the right budget. We are a Democratic Congress. We sent it to him. If the President wants to veto it, let him veto it. Let him put the sequestration on his back. But I do not think we ought to capitulate to the President of the United States who has forced our leadership into making some concessions that I know they do not want to make and would not have made, except that they were forced up against the wall.

I think that is our reponsibility. I believe that is what we can do. I believe that is what we should do. I believe that we Democrats, who may have some differences among ourselves as to what that budget could reflect, I think we can effect those compromises ourselves and send that budget down to him promptly before the date for sequestration, before Friday. I believe that the President should have on his desk the chance to decide whether or not he wants to force this country into sequestration.

Mr. President, I yield the floor.

EXHIBIT 1

[From the Washington Post, Oct. 3, 1990]

TOO MUCH FOR THE RICH

(By Hobart Rowen)

At first, I thought that the deficit-reduction package would be better than nothing at all, and that Congress should hold its collective nose and vote for it: without some action, there would be a mindless across-the-board sequester bringing many elements of essential government to a screeching, irrational halt.

But after reflection, my conclusion is that the price is too high: the budget "summiteers" at the last minute sneaked into the deal a slew of new tax shelters that would cost $12 billion over five years.

It breaks faith with taxpayers who bought the 1986 Tax Reform Act, which cut the top tax rate for the wealthy to 28 percent, on the basis that tax loopholes and shelters were to be eliminated. Now, the wealthy would get the low tax rate and tax shelters.

The $12 billion cost is merely the official estimate: once tax lawyers and accountants go to work on such goodies as a 25 percent deduction of the cost of stock in one of the qualified small companies, that figure is likely to soar.

The Bush team appears to have put one over on the Democrats, selling the new tax-shelter provisions at the eleventh hour, ostensibly to provide "new incentives to stimulate economic growth." Billed as a consolation prize for Bush, who gave up his vaunted capital-gains tax-cut proposal, the new plan in some ways is worse than preferential rates for capital gains.

A capital gains tax cut would primarily benefit the rich but also provide some benefits to lower-income persons. The new tax shelter for stock purchases benefits only the rich, who can put up big chunks of money to reap an immediate tax credit.

It is nonsense to suggest, as did The New York Times, that "this year's ugly compromise is acceptable only if Congress rights the wrongs next year." The time to repair the damage of the tax-shelter gimmick is now, before it gets written into law.

Even then, the budget compromise won't be a thing of beauty. It won't help bring the economy out of recession. In fact, the small contraction in the deficit may make it worse, unless there is prompt offsetting action to lower interest rates. Such relief is desperately needed to prevent a collapse of American businesses and banks, which are in deeper trouble than anyone want to admit.

The proposed $40 billion reduction in the deficit for this fiscal year (not the highly ballyhooed $50 billion) doesn't even keep pace with the increase in the deficit as projected as recently as July. Then, the Bush administration estimated the red ink for fiscal 1991 at $231.4 billion. The new estimate has swelled—because of the dip in the economy, a worsening S&L crisis and the cost so far of the military buildup in Saudi Arabia—by $62.3 billion to $293.7 billion.

So the agreed-upon deal, even if the economy doesn't plunge into recession, only nibbles at the accumlated red ink. And whether it works to stimulate growth in the long run depends on the dubious proposition that future Congresses will keep a commitment that this Congress makes to cut spending and raise taxes.

Moreover, the package is regressive because it extracts most of the deficit reductions from lower- and middle-income groups that can least afford it. Excise taxes on beer, wine, liquor and cigarettes obviously take a bigger chunk of income from less-well-off taxpayers than from the rich.

Increased Medicare premiums also place a relatively greater burden on poor taxpayers than on the rich. A better alternative would have been to tax more of the Social Security benefits received by wealthier taxpayers.

Against regressive tax and spending measures, the only progressive element offered is a limitation on itemized tax deductions for taxpayers with incomes over $100,000 a year. That's equivalent to an extra marginal tax rate of 1 percent for richer taxpayers. In addition, there is a 10 percent luxury tax on expensive cars, yachts, jewelry and furs.

Balancing it all out, the Democrats, who promised to shift the burden more to upper-income backets, failed in their objective. As Tennessee Sen. James Sasser, chairman of the Senate Budget Committee, ruefully conceded, the package "has not corrected the regressivity, which has stormed through the tax structure over the last 12 years."

In particular, the package deal raises the question, once again, of whether the Democratic Party is a mere appendage of the Republican Party rather than a true opposition party, as banker Felix Rohatyn suggested earlier this year. Sen. George Mitchell, Speaker Tom Foley and Majority Leader Richard Gephardt have gone along with a compromise that puts the monkey on the back of the lower and middle class. It gets harder to see real differences between them and moderate Republicans such as George Bush, Bob Dole and Minority Leader Robert Michel.

[From the New York Times, Oct. 2, 1990]

TAX RISES SEEN HITTING HARD AT PEOPLE OF MODERATE MEANS

(By Robert D. Hershey, Jr.)

WASHINGTON, October 1.—The substantial tax increases agreed to by Administration and Congressional negotiators over the weekend would be paid mostly by people of moderate means, despite various provisions aimed specifically at buyers of yachts and others with six-figure incomes, private specialists said today.

The taxes, especially the 12-cent increase for gasoline to be phased in by next summer, also appear to cut across economic lines to favor urban over rural Americans and older taxpayers over younger ones.

According to a Government document made available to The New York Times, taxpayers in the income ranges of $30,000 to $40,000 and $40,000 to $50,000 would be hit hardest, paying an average 3.3 percent more under the plan. Those in the range of $20,000 to $30,000 would pay 3 percent more while those in the ranges of $50,000 to $75,000 and $75,000 to $100,000 would see their total tax bills rise 2 percent, assuming they do not alter their spending patterns.

1.5 PERCENT MORE FOR SOME

Taxpayers with incomes of $100,000 to $200,000 are to pay 1.5 percent more and those reporting $200,000 and more are expected to pay an extra three-tenths of 1 percent.

Only those in the lowest income rungs are expected to pay less. A 3.8 percent decline is forecast in overall taxes for those in the $10,000-to-$20,000 bracket and a drop of one-tenth of 1 percent for those with less than $10,000 a year. These taxpayers would benefit heavily from an increase in the earned income tax credit.

Over all, Federal collections—sales as well as income taxes—are to rise 1.6 percent, the calculation showed.

Despite the reduction for those with the lowest incomes, economists generally regarded the tax proposals as mildly regressive. This means that the burden would fall relatively more heavily on those of ordinary means—though the dollar amount of their increases may be no greater—than on the wealthy.

An extra 12 cents for a gallon of gasoline, for example, could be a serious blow to a $350-a-week clerk who drives long distances to work while the additional amount would scarcely be felt by a high-income corporate executive.

Unlike the major tax overhaul enacted in 1986, when economic theory was served by a slash in income tax rates and an expansion in the types of revenue subject to taxation, this year's negotiations were driven by a need to cut the budget deficit in some politically palatable way.

The only major assault on the principles governing the 1986 law appeared to be a limitation on itemized deductions for individuals or couples with adjusted gross incomes above $100,000 a year, a move that has the effect of raising their tax bracket—either 28 percent or 33 percent—by as much as one percentage point. This is to raise $18 billion over the 1991-95 period.

With medical expenses and investment-related interest payments exempted, such taxpayers would lose deductions equal to 3 percent of all income exceeding $100,000.

REGRESSIVITY BALANCED

Other big revenue raisers, $13 billion and $11.7 billion respectively, are an increase, to $73,000, in the cap on wages and self-employment income considered in calculating the tax for Medicare hospital insurance and a requirement that state and local government workers not covered by a public employee retirement system join the Social Security program and pay its taxes.

By including the deduction limitation and raising the cap for health insurance, which hit hardest at the better-off, the negotiators seem to have roughly balanced the regressivity that attaches to the excise levies on cigarettes and alcohol, as well as gasoline.

The package "doesn't seem to be highly regressive at all," said Isabel V. Sawhill, an economist at the liberally inclined Urban Institute.

According to the Congressional Budget Office, American families spent 2.7 percent of after-tax income on gasoline, 2 percent on liquor, wine and beer and 1.1 percent on tobacco. The poorest 20 percent, however, spent 6.9 percent for gasoline, 3.7 percent for alcohol and 4 percent on tobacco. The second-richest 20 percent, with incomes averaging $38,000, spent 2.9 percent for gasoline, 2.2 percent for alcohol and 1.1 percent for tobacco.

The budget office also reported earlier this year that families headed by someone under 30 spent a greater portion of their incomes on all three of these categories than did other age groups. Geographically, rural Americans spent 29 percent more of their incomes for gasoline than did those in the urban Northeast.

Norman Ture, president of the Institute for Research on the Economics of Taxation and a former Treasury Department official in the Reagan Administration, said, "My instinct tells me this is more regressive than not." But he added that this was a highly complex issue not amendable to quick analysis. He observed, for example, that it might be progressive to impose a luxury tax on fur coats as the budget negotiations propose, but a thorough analysis would also consider the fact that mink ranchers or the furriers who sell the coats might lose their jobs if demand fell, a result he called clearly regressive.

Much analyses of progressivity and regressivity, moreover, assume that higher taxes will not induce people to alter their behavior significantly—indeed, the proponents of the measures are counting on people to buy nearly as much gasoline. Otherwise, revenue targets would not be reached. Some groups, however, will undoubtedly cut purchases more than others, shifting the regressivity-progressivity balance.

"The budget process focuses on 'the deficit' to the exclusion of all other issues. No rational policy will emerge as long as this remains true."

Real estate tax and marketing experts suggested today that limits on deductions for people with incomes over $160,000 would probably have little impact on the real estate market. M. Jack Duksin, a partner with the law firm of Berlack, Israels, Liberman, calculated that the total additional Federal tax bill to someone making $250,000 would be about $1,260.

"Nobody making a quarter-million dollars is going to base a big decision about buying a new condo or vacation home on a tax impact of $1,260," he said, adding that he had already taken several calls from clients wondering about the impact of the budget compromise on their real estate purchasing plans.

"I think it's a step in the right direction," Mr. Duksin said, "because it's an attempt to redistribute wealth without seriously damaging the incentive to be a high wage-earner."

THE HARD HIT FAMILY AND ITS INCREASED COSTS

(Consumption figures are averages for each group. Yearly tax totals are for 1991)

Cigarettes: Mr. Hard Hit smokes 1.3 packs per day. The 4-cents-per-pack increase would cost him $18.98.

Medicare: Grandma Hard Hit would find that her monthly premiums for coverage of doctors' fees would go from $28.60 to $54.30, or $308.40 more next year. Her deductible would go from $75 to $100, and will increase $25 a year until it reaches $150.

Paycheck: Mrs. Hard Hit makes $60,000. Since the maximum wage taxed for Medicare increases to $73,000 from $51,300, and the tax is 1.45%, she would pay an additional $126.15.

Boat: The Hard Hits will have to purchase a Coast Guard decal for their boat. This would cost $25.

Car: The Hard Hits use 500 gallons of gasoline each year. The tax increase on gasoline would be 7 cents a gallon in the first half of next year and 12 cents per gallon in the second, so they would pay about $48 more in 1991.

In addition, they plan to buy a $31,000 car in 1991. The new excise tax on luxury items would add $100 to the cost.

Travel: When the Hard Hits go on vacation, they would find an additional 2% tax on their ticket, or $7.98 more on a $399 fare. They will also find it more expensive to visit the national forests, as admission fees would increase.

Wine: The Hard Hits drink a bottle of wine every 10 days. The 22-cents-per-bottle tax increase would mean an additional $8.03 next year.

Liquor: The Hard Hits buy 23 fifths of liquor a year. The increased 30-cent-per-fifth tax would cost them $6.90.

Beer: Mrs. Hard Hit drinks two beers a day. The additional tax of 16 cents per six-pack would cost her $19.47.

[From the Wall Street Journal, Oct. 2, 1990]

CONSOLATION PRIZE: TAX SHELTERS FOR RICH COULD RETURN IN PLAN TO AID SMALL BUSINESS

(By David Wessel and Jeffrey H. Birnbaum)

WASHINGTON.—President Bush calls them "important new incentives to stimulate economic growth." But they could turn out to be the newest tax dodges for the rich.

A surprise package of so-called growth incentives slipped into Sunday's budget accord at the last minute is billed as a way of encouraging investment in the small companies that drive the engine of economic growth. It was a consolation prize to the president, who lost out on his effort to foster economic expansion with a reduced tax rate on capital gains.

But look again. Depending on how the rules are written, the growth incentives may have the unintended effect of reviving tax shelters for wealthy investors. Experts say the law could spawn a new class of companies that give investors up-front write-offs and other tax goodies that could benefit them—not to mention tax lawyers, accountants and syndicators—more than they help the economy.

"These could be the seeds for the tax shelters of the 1990s," says David Brockway, former chief of staff of the bipartisan congressional Joint Committee on Taxation and now a tax lawyer at Dewey Ballantine Bushby Palmer & Wood. "They could be enormous."

SYNDICATORS RETURN

Indeed, Marvin Dickman, a partner at the accounting firm of Arthur Andersen in Chicago who specializes in closely-held companies, is already studying the possibilities. "You will see syndications of investments like this," he predicts.

That's just what worries tax experts in the private sector and in Congress, which essentially killed off shelters in the Tax Reform Act of 1986. "It's highly doubtful policy," Donald Alexander, commissioner of the Internal Revenue Service in the Nixon administration, says of the proposed new tax breaks. "There's a good question of whether benefits of these massive types are really in the national economic interest."

Mr. Bush, in announcing the budget accord Sunday, said that the small-business tax breaks would provide "powerful new incentives for productive investment in the kinds of companies that account for much of America's job growth." Small-business enthusiasts add that besides stimulating a sluggish economy the provisions could also invigorate the market for initial public offerings.

DEFENDING THE PLAN

The Treasury Department, now moving to sell the budget accord to a skeptical Congress, insists that concerns over abuse of the new proposal are ill-founded. "Some people see any tax incentive as a tax shelter," says Roger Bolton, assistant Treasury secretary for public affairs. "This is clearly a tax incentive."

He says that the law creating these new tax breaks, still being drafted, will prevent abuse. Regulators who will draft the fine print of the law will do likewise. "The incentives will do what they are intended to do," Mr. Bolton says. "They will direct new investment to small companies that are growing and creating jobs."

The most generous of the proposed tax incentives—and the one that caught even close budget observers by surprise—is a provision that would allow investors to deduct 25% of their investment in newly issued stock in eligible small companies, up to a maximum deduction of $50,000. In other words, an investor who sinks $200,000 into an eligible company would get an immediate tax break of about $14,000.

Investors in a stunning 2.3 million corporations would qualify, representing 63% of all companies in the U.S., according to the Treasury. These would be distinctly small businesses on the whole, however; they together they hold only 4% of the assets in the U.S.

MORE INCENTIVES

Additional tax breaks would become available when the share were sold. Although the text of the bipartisan agreement carefully avoids describing these as a capital-gains tax break, that's what they are. If an investor holds the shares for five years, he or she would be permitted to choose the more favorable of the following two choices

Pay tax at the ordinary tax rate—28% for the highest-income taxpayers—on exactly half of the sales price, regardless of the amount of the initial investment;

Pay tax at the ordinary rate on the investment profit, adjusted for inflation as well as for initial deduction.

The Treasury says this option would be offered not only to investors who buy newly issued stock, but to investors trading in the secondary market—shares that have been issued in the past. But congressional aides say this particular point wasn't settled by the budget negotiators and remains to be resolved.

Eligible companies are those with paid-in capital and retained earnings of less than $50 million—except finance, insurance, securities, real-estate and personal service companies.

The fabled computer start-up would be covered, of course. So would more prosaic enterprises—cleaners, restaurants and boutiques, for instance. Investors in General Motors Corp. and International Business Machines Corp. wouldn't benefit. Indeed, one risk is that the plan would draw money away from big companies and shift it to smaller ones without increasing the capital available to business as a whole.

Treasury officials and congressional tax staffers swear that several potential loopholes would be closed before the provision is enacted. They say, for instance, that they will prevent big companies from setting up small affiliates to reap the small-business tax breaks. They also say they will prevent bigger companies and takeover artists from subdividing big companies into smaller ones to capitalize on the new incentives.

But some outside tax specialists are skeptical. "How they're going to police it has got to be one of the most serious concerns," says James Gould, a former staff director of the Senate Finance Committee now at the law firm of Vinson & Elkins.

"There's no question that this will provide work for legions of accountants and lawyers to find out how to structure the deals and find out how to deal with the IRS and Treasury in so doing," he adds.

The entire package of incentives was all but an afterthought in the $500 billion, five-year deficit-reduction accord.

Congressional staffers say the portfolio of tax incentives surfaced only Saturday as the Bush administration struggled to find a substitute for the broad capital-gains tax cuts. When the administration concluded it was unable to win a lower capital-gains tax cut for all investments, Treasury Secretary Nicholas Brady explains, it decided, "Why not shift the incentive to those companies who produce the most growth?"

Although pieces of the proposal were drawn from initiatives floating around for years, the package was assembled so hastily that administration negotiators didn't initially have anything put down on paper to show the Democrats. Kenneth Gideon, the Treasury's top tax official, rushed to the talks to explain the incentives. "They were air-dropped in," says a congressional aide.

As a result, details were still fuzzy even yesterday, 24 hours after the agreement was announced. Some specifics won't be clear until congressional tax-writing committees turn the proposals into legislative language.

Tax experts say that a clever investor with a sharp accountant could borrow money to make the initial investment, deduct the interest, deduct 25% of his investment on top of that and then later benefit from the favorable tax treatment when he or she sells the stock.

Even House Majority Leader Richard Gephardt, the Missouri Democrat who served on the eight-member team that put together Sunday's budget package, expressed concerns about the effects. "I am worried about what is finally written and whether it can be abused and used as tax shelters," he said.

Some tax experts say the law and regulations can be written tightly enough to prevent a tax-shelter boondoggle. "I really don't think it's going to open up any stampede of tax shelters," says William Raby, an accounting professor at Arizona State University in Tempe.

And the Treasury promises the rules will keep abuse to a minimum. The agreement states, for instance, the estate of anyone who dies within two years of taking this new deduction will have to pay it back, an attempt to prevent deathbed tax dodges.

But history suggests that lawyers and accountants always find loopholes no matter how tough the rule-writers think they are being. "You never really know all the things people will think up to get around your rules," says Randall Weiss, a former deputy chief of staff at the Joint Tax Committee and now at the accounting firm of Deloitte & Touche.

And even if the abuse is kept to a minimum, others say, the tax break is extremely liberal—particularly the provision that allows an immediate, up-front deduction for investing in eligible companies.

Even Sen. Dale Bumpers, the Arkansas Democrat who chairs the Senate Small Business Committee, is taken aback. "This is a gigantic incentive for people to invest in small business," he says. "It's going to be a bonanza. The question is: Is it too generous?

"It ain't peanuts," he adds.

But Treasury Secretary Brady says that was exactly the point. "We are trying to make it forceful enough so that it has some effect on the economy," he explained.

The Treasury estimates that the new deduction would reduce tax revenues by about $7.3 billion over the next five years, about one-third the cost of Mr. Bush's earlier proposal to slash the top capital-gains tax rate to 15% from the current 33%. Overall, the administration estimates that the package of growth incentives outlined in the budget agreement would cost $12.1 billion over five years.

The costs could rise substantially, undercutting the deficit-reduction goals of the agreement, should investors, accountants, tax lawyers and syndicators exploit the new tax breaks more than the administration figures anticipate.

Clearly, the debate over the little-understood elements in the deficit-reduction plan is just beginning.

"The administration needs to show us that this is more than just expensive window dressing and that it won't open the door to abuse—the sheltering of income for purposes that are either nonproductive or would have occurred anyway," says Rep. Sander Levin, Democrat of Michigan, a member of the House Ways and Means Committee.

And the committee's chairman, Dan Rostenkowski, Democrat of Illinois, says that the plan would be "devastating" to the tax code—a hint that the plan may be altered before it reaches the House floor.

But supporters of the package dismiss the hand-wringing over rip-offs and tax breaks as so much rhetoric, saying it misses the point of these new incentives.

Robert Pavey, a partner in Morgenthaler Ventures of Cleveland and president of the National Venture Capital Association, says the incentives "will provide significant encouragement for early investment by individuals in the new enterprises that make the U.S. more competitive." The American Business Conference, comprising chief executives of successful, fast-growing companies, hails the tax breaks and says they "will spur creation of a whole new generation" of similar companies.

And Secretary Brady says he is convinced that assisting small business is vital to the economy. "The purity that is always alluded to in the Tax Reform Act of 1986 doesn't exactly exist," he says. "I don't think we ought to get hung up over that argument while we try to do something to stimulate the economy, which we absolutely think this will. I believe in the small-businessmen of this country."

The PRESIDING OFFICER (Mr. Robb). Who seeks recognition?

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business is now closed.

DEFENSE PRODUCTION ACT AMENDMENTS OF 1990

Mr. DIXON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 697, S. 1379, a bill to authorize and amend the Defense Production Act.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to object, would my friend and colleague from Illinois be good enough to respond to a question?

Mr. DIXON. Yes.

Mr. METZENBAUM. Is it my understanding that it is the intention of the manager of the bill to pass it as is without amendment?

Mr. DIXON. We have a manager's amendment that deletes the provision my friend from Ohio is concerned about and will satisfy his objections, as I understand it.

Mr. METZENBAUM. I thank my friend from Illinois. That is my concern and, under those circumstances, I have no objection.

Mr. DIXON. I thank my friend from Ohio.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? If not, without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1379) to reauthorize and amend the Defense Production Act of 1950, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Defense Production Act Amendments of 1990".

(b) Table of Contents.—

Sec. 1. Short title.
Sec. 2. Congressional findings.

TITLE I—AMENDMENTS TO THE DEFENSE PRODUCTION ACT OF 1950

Part A—Declaration of Policy

Sec. 101. Declaration of policy.

Part B—Amendments to Title I of the Defense Production Act

Sec. 111. Limitation on actions without congressional authorization.
Sec. 112. Limitations on the use of authority of the Defense Production Act.

Part C—Amendments to Title III of the Defense Production Act

Sec. 121. Expanding the reach of existing authorities under title III.
Sec. 122. Sales or transfers of excess industrial resources.
Sec. 123. Defense Production Act Fund.
Sec. 124. Offset policy.
Sec. 125. Annual report on impact of offsets.
Sec. 126. Assessment of subcontractor and supplier base.

Part D—Amendments to Title VII of the Defense Production Act

Sec. 131. Small business.
Sec. 132. Definitions.
Sec. 133. Delegation of authority; appointment of personnel.
Sec. 134. Rules, regulations, and orders.
Sec. 135. Antitrust protections for voluntary agreements initiated by the President.
Sec. 136. Information on the defense industrial base.
Sec. 137. Antitrust protections for industry consortia.
Sec. 138. Intelligence study.
Sec. 139. Exemption from Administrative Procedure Act.

Part E—Technical Amendments

Sec. 141. Priorities in contracts and orders.
Sec. 142. Loan guarantees.
Sec. 143. Investigations; records; reports; subpoenas.
Sec. 144. Employment of personnel.
Sec. 145. Authorization of appropriations.

Part F—Repealers and Conforming Amendments

Sec. 151. Synthetic fuel action.
Sec. 152. Authorization of appropriations.
Sec. 153. Joint Committee on Defense Production.
Sec. 154. Persons disqualified for employment.
Sec. 155. Feasibility study on uniform cost accounting standards; report submitted.
Sec. 156. National Commission on Supplies and Shortages.

Part G—Reauthorization of Selected Provisions

Sec. 161. Authorization of appropriations.
Sec. 162. Sunset.

TITLE II—ADDITIONAL PROVISIONS TO IMPROVE INDUSTRIAL PREPAREDNESS

Part A—Industrial Capability and National Security

Sec. 201. Industrial capabilities assessment.

Part B—Encouraging Improvement of the Defense Industrial Base

Sec. 211. Recognition of modernized production systems and equipment in contract award and administration.
Sec. 212. Procurement of critical components or critical technology items.
Sec. 213. Sense of the Congress regarding the encouragement of investment.

Part C—Miscellaneous

Sec. 221. GAO study of State foreign investment incentive programs.
Sec. 222. Discouraging unfair trade practices.

TITLE III—AMENDMENT TO RELATED LAWS

Sec. 301. Defense Production Act Fund projects.

TITLE IV—FAIR TRADE IN FINANCIAL SERVICES

Sec. 401. Short title.
Sec. 402. Effectuating the principle of national treatment for banks and bank holding companies.
Sec. 403. Effectuating the principle of national treatment for securities brokers and dealers.
Sec. 404. Effectuating the principle of national treatment for investment advisers.
Sec. 405. Conforming amendments specifying that national treatment includes effective market access.

TITLE V—EFFECTIVE DATES

Sec. 501. Effective dates.

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.) provides essential authority for—

(A) preserving and enhancing the defense industrial and technology base of the United States during peacetime; and

(B) mobilizing the Nation's productive capacity for national defense during periods of national emergency; and

(2) amendments to such Act are needed to—

(A) improve its utility to effectively sustain and develop the efficiency of the Nation's existing productive capacity necessary to meet national defense requirements;

(B) establish a revolving fund for improved management of the resources dedicated to defense industrial preparedness and the conduct of the programs authorized under the Act;

(C) facilitate use of such Act to foster the development of emerging technologies and advanced processes by providing appropriate protections for joint undertakings in research, development, and production; and

(D) eliminate outdated provisions that detract from the Act's usefulness as a primary set of authorities for the maintenance and enhancement of the defense industrial and technology base of the United States.

TITLE I—AMENDMENTS TO THE DEFENSE PRODUCTION ACT OF 1950

PART A—DECLARATION OF POLICY

SEC. 101. DECLARATION OF POLICY.

Section 2 of the Defense Production Act of 1950 (50 U.S.C. App. 2062) is amended to read as follows:

"SEC. 2. DECLARATION OF POLICY.

"The vitality of the industrial and technology base of the United States is a foundation of national security. It provides the industrial and technological capabilities employed to meet national defense requirements, in peacetime and in time of national emergency. In peacetime, the health of the industrial and technology base contributes to the technological superiority of our defense equipment, which is a cornerstone of our national security strategy, and the efficiency with which defense equipment is developed and produced. In times of crisis, a healthy industrial base will be able to effectively provide the graduated response needed to effectively meet the demands of the emergency.

"To meet these requirements, this Act affords to the President an array of authorities to shape defense preparedness programs and to take appropriate steps to maintain and enhance the defense industrial and technology base.".

PART B—AMENDMENTS TO TITLE I OF THE DEFENSE PRODUCTION ACT

SEC. 111. LIMITATION ON ACTIONS WITHOUT CONGRESSIONAL AUTHORIZATION.

Section 104 of the Defense Production Act of 1950 (50 U.S.C. App. 2074) is amended to read as follows:

"SEC. 104. LIMITATION ON ACTIONS WITHOUT CONGRESSIONAL AUTHORIZATION.

"No provision of this Act shall be interpreted as providing for the imposition of wage or price controls without the prior authorization of such action by a joint resolution of Congress.".

SEC. 112. LIMITATIONS ON THE USE OF AUTHORITY OF THE DEFENSE PRODUCTION ACT.

Title I of the Defense Production Act of 1950 is amended by adding at the end the following new section:

"SEC. 104. CHEMICAL OR BIOLOGICAL WARFARE.

"No provision of this Act shall be exercised or interpreted to require action or compliance by any private person to assist in any way in the production of or other involvement in chemical or biological warfare capabilities except—

"(1) in time of war, or

"(2) in time of national emergency (A) as declared by joint resolution of Congress, or (B) upon the written authorization of the President, which power to authorize may not be delegated.".

PART C—AMENDMENTS TO TITLE III OF THE DEFENSE PRODUCTION ACT

SEC. 121. EXPANDING THE REACH OF EXISTING AUTHORITIES UNDER TITLE III.

(a) Guarantee Authority.—Section 301 of the Defense Production Act of 1950 (50 U.S.C. App. 2091) is amended—

(1) in subsection (a)(1), by striking "to expedite production and deliveries or services under Government contracts for the procurement of materials or the performance of services for the national defense" and inserting "to expedite or expand production and deliveries or services under Government contracts for the procurement of industrial resources or a critical technology item for the national defense";

(2) by amending subsection (a)(3)(A) to read:

"(A) the guaranteed contract or operation is for industrial resources or a critical technology item which is essential to the national defense;";

(3) in subsection (a)(3)(B), by striking "the capability for the needed material or service" and inserting "the needed industrial resources or critical technology item";

(4) in subsection (e)(1)(A), by striking "Except during periods of national emergency declared by the Congress or the President" and inserting "Except as provided in subparagraph (D)";

(5) in subsection (e)(1)(C), by striking "$25,000,000" and inserting "$50,000,000"; and

(6) by adding at the end of subsection (e)(1) the following new subparagraph:

"(D) The requirements of subparagraphs (A), (B), and (C) may be waived during periods of national emergency declared by Congress or the President or upon a determination made by the President, on a nondelegable basis, that a specific guarantee must be promptly made to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.".

(b) Loans to Private Business Enterprises.—Section 302 of the Defense Production Act of 1950 (50 U.S.C. App. 2092) is amended—

(1) in subsection (a), by striking "for the procurement of materials or the performance of services for the national defense" and inserting "for the procurement of industrial resources or a critical technology item for the national defense";

(2) in subsection (c)(1), by striking "No such loans may be made under this section, except during periods of national emergency declared by the Congress or the President" and inserting "Except as provided in paragraph (4), no loans may be made under this section";

(3) in subsection (c)(3), by striking "$25,000,000" and inserting "$50,000,000"; and

(4) in subsection (c), by adding at the end the following new paragraph:

"(4) The requirements of paragraphs (1), (2), and (3) of this subsection may be waived during periods of national emergency declared by Congress or the President, or upon a determination made by the President, on a nondelegable basis, that a specific guarantee must be promptly made to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.".

(c) PURCHASES AND PURCHASE COMMITMENTS.—

(1) Section 303(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(a)) is amended to read as follows:

"(a)(1) To assist in carrying out the objectives of this Act, the President may make provision—

"(A) for purchases of or commitments to purchase an industrial resource or a critical technology item, for Government use or resale; and

"(B) for the encouragement of exploration, development, and mining of critical and strategic materials, and other materials.

"(2) Purchases for resale under this subsection shall not include that part of the supply of an agricultural commodity which is domestically produced except insofar as such domestically produced supply may be purchased for resale for industrial use or stockpiling.

"(3) No commodity purchased under this subsection shall be sold at less than—

"(A) the established ceiling price for such commodity, except that minerals, metals, and materials shall not be sold at less than the established ceiling price, or the current domestic market price, whichever is lower, or

"(B) if no ceiling price has been established, the higher of the following: (i) The current domestic market price for such commodity, or (ii) the minimum sale price established for agricultural commodities owned or controlled by the Commodity Credit Corporation as provided in section 407 of the Agricultural Act of 1949 (7 U.S.C. 1427).

"(4) No purchase or commitment to purchase any imported agricultural commodity shall specify a delivery date which is more than one year after the expiration of this section.

"(5) Except as provided in paragraph (7), the President may not execute a contract under this subsection unless the President determines that—

"(A) the industrial resource or critical technology item is essential to the national defense;

"(B) without Presidential action under authority of this section, United States industry cannot reasonably be expected to provide the capability for the needed industrial resource or critical technology item in a timely manner;

"(C) purchases, purchase commitments, or other action pursuant to this section are the most cost-effective, expedient, and practical alternative method for meeting the need; and

"(D) the United States national defense demand for the industrial resource or critical technology item is equal to, or greater than the output of domestic industrial capability which the President reasonably determines to be available for national defense, including the output to be established through the purchase, purchase commitment, or other action.

"(6) Except as provided in paragraph (7), the President shall take no action under this section unless the industrial resource shortfall which such action is intended to correct has been identified in the Budget of the United States or amendments thereto, submitted to the Congress and accompanied by a statement from the President demonstrating that the budget submission is in accordance with the provisions of the preceding sentence. Any such action may be taken only after 60 days have elapsed after such industrial resource shortfall has been identified pursuant to the preceding sentence. If the taking of any action or actions under this section to correct an industrial resource shortfall would cause the aggregate outstanding amount of all such actions for such industrial resource shortfall to exceed $50,000,000, any such action or actions may be taken only if specifically authorized by law.

"(7) The requirements of paragraphs (1) through (6) may be waived during periods of national emergency declared by Congress or the President, or upon a determination made by the President, on a nondelegable basis, that a specific purchase or purchase commitment must be promptly made to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.".

(2) Section 303(b) of such Act is amended by striking "September 30, 1995" and inserting "a date that is not more than 10 years from the date such purchase, purchase commitment, or sale was initially made".

SEC. 122. SALES OR TRANSFERS OF EXCESS INDUSTRIAL RESOURCES.

Section 303(f) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(f)) is amended to read as follows:

"(f) Industrial resources acquired pursuant to the provisions of this section which, in the judgment of the President, are in excess of the needs of programs under this Act, shall be sold for industrial use pursuant to such other Federal Government programs as are authorized by law or transferred to the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.), when the President deems such action to be in the public interest. Sales or transfers made pursuant to this subsection shall be charged against or reimbursed from funds appropriated to such other Federal Government programs or the National Defense Stockpile to which such resources were sold or transferred, at the current domestic market price for such industrial resources. For the purposes of subsection (c)(2), such sales or transfers shall be considered transactions entered into pursuant to the authority of subsection (a).".

SEC. 123. DEFENSE PRODUCTION ACT FUND.

(a) IN GENERAL.—Section 304 of the Defense Production Act of 1950 (50 U.S.C. App. 2094) is amended to read as follows:

"SEC. 304. DEFENSE PRODUCTION ACT FUND.

"(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a separate fund to be known as the Defense Production Act Fund (hereinafter referred to as 'the Fund').

"(b) MONEYS IN FUND.—The following monies shall be credited to the Fund:

"(1) All monies appropriated hereafter for the Fund, as authorized by section 711(c).

"(2) All monies received hereafter on transactions entered into pursuant to section 303.

"(c) USE OF FUND.—The Fund shall be available to carry out the provisions and purposes of this title, subject to the limitations set forth in this Act and in appropriations Acts.

"(d) DURATION OF FUND.—Monies in the Fund shall remain available until expended.

"(e) FUND BALANCE.—The Fund balance at the close of each fiscal year shall not exceed $250,000,000, excluding any monies appropriated to the Fund during that fiscal year. If at the close of any fiscal year the Fund balance exceeds such amount, the amount in excess of $250,000,000 shall be paid into the general fund of the Treasury.

"(f) FUND MANAGER.—The Secretary of the Treasury shall designate a Fund manager. The duties of the Fund manager shall include—

"(1) determining the liability of the Fund in accordance with subsection (g);

"(2) ensuring the visibility and accountability of transactions engaged in through the Fund to the Secretaries of Defense, Treasury, and Commerce, and to the Congress; and

"(3) reporting to Congress each year regarding fund activities during the previous fiscal year.

"(g) LIABILITIES AGAINST FUND.—

"(1) IN GENERAL.—When any agreement hereafter entered into pursuant to this title imposes contingent liabilities upon the United States, such liability shall be considered an obligation against the Fund. The amount of such obligation shall be determined for each fiscal year in accordance with paragraph (2).

"(2) DETERMINATION OF LIABILITY.—For purposes of paragraph (1), the amount of obligations against the Fund shall be equal to the aggregate outlays required by purchase or purchase commitment contracts or financing agreements less (A) the anticipated aggregate receipts from resale of materials purchased with moneys from the Fund, and (B) the anticipated receipts from the direct sale of materials by the producer to customers. Anticipated receipts and anticipated reductions in purchase commitments shall be included under the preceding sentence only if a written plan for sale of materials has been developed, specifying probable customers, amount, time of the sales, and sales price.".

(b) CAPITALIZATION OF FUND.—There shall be transferred to the Defense Production Act Fund, established by subsection (a) of this section, the sum of $200,000,000 from the unobligated balance of the National Defense Stockpile Transaction Fund.

SEC. 124. OFFSET POLICY.

Section 309 of the Defense Production Act of 1950 (50 U.S.C. App. 2099) is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by adding a new subsection (a) as follows:

"(a) OFFSET POLICY.—

"(1) IN GENERAL.—Recognizing that certain offsets for military exports are economically inefficient and market distorting, and mindful of the need to minimize the adverse effects of offsets in military exports while ensuring that the ability of United States

firms to compete for military export sales is not undermined, it shall be the policy of the United States Government that—

"(A) no agency of the United States Government shall encourage, enter directly into, or commit United States firms to any offset arrangement in connection with the sale of defense goods or services to foreign governments;

"(B) United States Government funds shall not be used to finance offsets in security assistance transactions except in accordance with policies and procedures that were in existence as of the date of enactment of this Act;

"(C) nothing in this section shall prevent agencies of the United States Government from fulfilling obligations incurred through international agreements entered into prior to the enactment of this Act;

"(D) the decision whether to engage in offsets, and the responsibility for negotiating and implementing offset arrangements, resides with the companies involved; and

"(E) any exceptions to the policy stated by this section shall be approved by the President after receiving the recommendation of the National Security Council.

"(2) CONSULTATION.—The Secretary of Defense, in coordination with the Secretary of State, shall lead an interagency team to consult with foreign nations on limiting the adverse effects of offsets in defense procurement. The Secretary of Defense shall report annually on the the date of enactment of this Act, on the results of these consultations to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.".

SEC. 125. ANNUAL REPORT ON IMPACT OF OFFSETS.

Section 309 of the Defense Production Act of 1950 (50 U.S.C. App. 2099) (as amended by section 124 of this Act) is amended—

(1) in subsection (b)—

(A) by striking "(b) Not later" and inserting:

"(b) ANNUAL REPORT ON IMPACT OF OFFSETS.—

"(1) REPORT REQUIRED.—Not later";

(B) by striking the second sentence; and

(C) by adding at the end the following new paragraph:

"(2) DUTIES OF THE SECRETARY OF COMMERCE.—The Secretary of Commerce shall—

"(A) prepare the report required by paragraph (1);

"(B) consult with the Secretary of Defense, the Secretary of the Treasury, the Secretary of State, and the United States Trade Representative in preparation of such report; and

"(C) function as the President's Executive Agent for carrying out the requirements of this section.";

(2) by amending subsection (c) to read as follows:

"(c) INTERAGENCY STUDIES AND RELATED DATA.—

"(1) PURPOSE OF REPORT.—Each report required under subsection (a) shall identify the cumulative effects (indirect as well as direct) of offset agreements on—

"(A) the full range of domestic defense productive capability (with special attention to the firms serving as lower-tier subcontractors or suppliers); and

"(B) the domestic defense technology base as a consequence of the technology transfers associated with such offset agreements.

"(2) USE OF DATA.—Data developed or compiled by any agency while conducting any interagency study or other independent study or analysis shall be made available to the Secretary of Commerce to facilitate the Secretary in executing his responsibilities with respect to trade offset and countertrade policy development."; and

(3) by adding at the end the following new subsections:

"(d) NOTICE OF OFFSET AGREEMENTS.—

"(1) IN GENERAL.—If a United States firm enters into a contract for the sale of a weapon system or defense-related item to a foreign country or foreign firm and such contract is subject to an offset agreement exceeding $5,000,000 in value, such firm shall furnish to the official designated in the regulations promulgated pursuant to paragraph (2) information concerning such sale.

"(2) REGULATIONS.—The information to be furnished shall be prescribed in regulations promulgated by the Secretary of Commerce. Such regulations shall provide protection from public disclosure for such information, unless public disclosure is subsequently specifically authorized by the firm furnishing the information. Nothing in this paragraph authorizes the withholding of such information from the Congress.

"(e) CONTENTS OF REPORT.—

"(1) IN GENERAL.—Each report under subsection (b) shall include—

"(A) a net assessment of the elements of the industrial base and technology base covered by the report;

"(B) recommendations for appropriate remedial action under the authorities provided by this Act, or other law or regulations;

"(C) a summary of the findings and recommendations of any interagency studies conducted during the reporting period under subsection (c);

"(D) a summary of offset arrangements concluded during the reporting period for which information has been furnished pursuant to subsection (d); and

"(E) a summary and analysis of any bilateral and multilateral negotiations relating to use of offsets completed during the reporting period.

"(2) ALTERNATIVE FINDINGS OR RECOMMENDATIONS.—Each report shall include any alternative findings or recommendations offered by any departmental Secretary, agency head, or the United States Trade Representative to the Secretary of Commerce.

"(f) UTILIZATION OF ANNUAL REPORT IN NEGOTIATIONS.—The findings and recommendations of the reports required by subsection (b), and any interagency reports and analyses shall be considered by representatives of the United States during bilateral and multilateral negotiations to minimize the adverse effects of offsets.".

SEC. 126. ASSESSMENT OF SUBCONTRACTOR AND SUPPLIER BASE.

Title III of the Defense Production Act of 1950 is amended by adding at the end the following new section:

"SEC. 310. ASSESSMENT OF SUBCONTRACTOR AND SUPPLIER BASE.

"(a) IN GENERAL.—

"(1) REPORT REQUIRED.—At the intervals prescribed by subsection (b), the President shall issue a report of an assessment of those subsectors of the economy of the United States which have been identified as being critical to the development and production of components required for the production of weapons systems and other items of military equipment, and the provision of services, essential to the national defense. The report may provide specific policy recommendations to correct deficiencies identified in the assessment, which would help to strengthen domestic sources.

"(2) MATTERS TO BE CONSIDERED.—The assessment shall consider—

"(A) capacity of domestic sources, especially commercial firms, to fulfill peacetime requirements and graduated mobilization requirements for various items of supply and services;

"(B) trends relating to the capabilities of domestic sources to meet such peacetime and mobilization requirements;

"(C) extent of foreign dependencies for various items of military materiel; and

"(D) reasons for the decline of the capabilities of selected sectors of the United States economy necessary to meet peacetime and mobilization requirements, including stability of defense requirements, acquisition policies, vertical integration of various segments of the industrial base, superiority of foreign technology and production efficiencies, foreign government support of nondomestic sources, and offset arrangements.

"(b) TIME FOR ISSUANCE.—(1) The report required by subsection (a) shall be issued not later than July 1 of each odd-numbered year, based upon data from the prior fiscal year and such prior fiscal years as may be appropriate.

"(2) The first report under this section shall be issued by July 1, 1993.".

PART D—AMENDMENTS TO TITLE VII OF THE DEFENSE PRODUCTION ACT

SEC. 131. SMALL BUSINESS.

Section 701 of the Defense Production Act of 1950 (50 U.S.C. App. 2151) is amended to read as follows:

"SEC. 701. SMALL BUSINESS.

"(a) PARTICIPATION.—Small business concerns shall be given the maximum practicable opportunity to participate as contractors, and subcontractors at various tiers, in all programs to maintain and strengthen the Nation's industrial base and technology base undertaken pursuant to this Act.

"(b) ADMINISTRATION OF ACT.—In administering the programs, implementing regulations, policies, and procedures under this Act, requests, applications, or appeals from small business concerns shall, to the maximum extent practicable, be expeditiously handled.

"(c) ALLOCATIONS UNDER SECTION 101.—Whenever the President invokes the power to allocate any material pursuant to section 101 of this Act, small business concerns shall be accorded, so far as practicable, a fair share of such material, in proportion to the share received by such business concerns under normal conditions, giving such special consideration as may be possible to new small business concerns or individual firms facing undue hardship.".

SEC. 132. DEFINITIONS.

Section 702 of the Defense Production Act of 1950 (50 U.S.C. App. 2152) is amended to read as follows:

"SEC. 702. DEFINITIONS.

As used in this Act—

"(1) CRITICAL COMPONENT.—The term 'critical component' shall include such components, subsystems, systems, and related special tooling and test equipment essential to the production, repair, maintenance, or operation of weapon systems or other items of military equipment as are identified by the Secretary of Defense as being essential to the execution of the national security strategy of the United States.

"(2) CRITICAL TECHNOLOGY.—The term 'critical technology' shall include a technology that is included in one or more of the plans submitted pursuant to section 2508 of title 10, United States Code, unless subsequently deleted, or such other emerging or dual use technology as may be designated by the President. The President shall cause an unclassified list of critical or emerging technologies to be maintained and published at least annually in the Federal Register.

"(3) CRITICAL TECHNOLOGY ITEM.—The term 'critical technology item' shall mean materials directly employing, derived from, or utilizing a critical technology.

"(4) DEFENSE CONTRACTOR.—The term 'defense contractor' means any person who enters into a contract with the United States to furnish materials, industrial resources, or a critical technology, or to perform services for the national defense.

"(5) DOMESTIC SOURCE.—The term 'domestic source' means a business entity—

"(A) that performs in the United States or Canada substantially all of the research and development, engineering, manufacturing, and production activities required of such firm under a contract with the United States relating to a critical component or a critical technology item, and

"(B) that procures from entities described in subparagraph (A) substantially all of the components and assemblies required under a contract with the United States relating to a critical component or critical technology item.

"(6) FACILITIES.—The term 'facilities' includes all types of buildings, structures, or other improvements to real property (but excluding farms, churches or other places of worship, and private dwelling houses), and services relating to the use thereof.

"(7) INDUSTRIAL RESOURCES.—The term 'industrial resources' means materials, services, processes, or manufacturing equipment (including the processes, technologies, and ancillary services for the use of such equipment) needed to establish or maintain an efficient and modern national defense industrial capacity.

"(8) MATERIALS.—The term 'materials' shall include raw materials (including minerals, metals, and advanced processed materials), commodities, articles, components (including critical components), products, items of supply, and such technical information or services ancillary to the use thereof.

"(9) NATIONAL DEFENSE.—The term 'national defense' means programs for military and energy production or construction, military assistance to any foreign nation, stockpiling, space, and directly related activity.

"(10) NONDOMESTIC SOURCE.—The term 'nondomestic source' means a business entity other than a 'domestic source'.

"(11) PERSON.—The term 'person' includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative thereof, or any State or local government or agency thereof.

"(12) SERVICES.—The term 'services' includes any effort that is needed or incidental to—

"(A) the development, production, processing, distribution, delivery, or use of an industrial resource or a critical technology item, or

"(B) the construction of facilities.".

SEC. 133. DELEGATION OF AUTHORITY; APPOINTMENT OF PERSONNEL.

Section 703 of the Defense Production Act of 1950 (50 U.S.C. App. 2153) is amended to read as follows:

"SEC. 703. DELEGATION AND CIVILIAN PERSONNEL.

"(a) DELEGATION OF AUTHORITY.—Except as otherwise specifically provided, the President may—

"(1) delegate any power or authority conferred upon him by this Act to any civilian officer of the Government appointed by and with the advice and consent of the Senate;

"(2) except with regard to title I, authorize redelegation by that officer to an officer or employee of that officer who—

"(A) if a member of the armed forces, is a general or flag officer; or

"(B) if a civilian, is serving in a position in the grade GS-16 or above (or in a comparable or higher position under any other schedule for civilian officers or employees); and

"(3) establish such new agencies as may be necessary to manage Federal emergency preparedness programs.

"(b) CIVILIAN PERSONNEL.—Any officer or agency head may appoint civilian personnel without regard to section 5331(b) of title 5, United States Code, and without regard to the provisions of such title governing appointments in the competitive service, and may fix the rate of basic pay for such personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule, as the President deems appropriate to carry out the provisions of this Act.".

SEC. 134. RULES, REGULATIONS, AND ORDERS.

Section 704 of the Defense Production Act of 1950 (50 U.S.C. App. 2154) is amended to read as follows:

"SEC. 704. RULES, REGULATIONS, AND ORDERS.

"The President may make such rules, regulations, and orders as he deems appropriate to carry out the provisions of this Act. This authority shall be exercised in conformity with section 709 of this Act.".

SEC. 135. ANTITRUST PROTECTIONS FOR VOLUNTARY AGREEMENTS INITIATED BY THE PRESIDENT.

Section 708 of the Defense Production Act of 1950 (50 U.S.C. App. 2158) is amended—

(1) in subsection (a), by striking "subsection (j) of section 708A" and inserting "subsection (i) of section 708A";

(2) by striking subsection (b) and inserting the following:

"(b) As used in this section, the term—

"(1) 'antitrust laws' means—

"(A) the Sherman Act (15 U.S.C. 1 et seq.);

"(B) the Clayton Act (15 U.S.C. 12 et seq.);

"(C) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(D) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9);

"(E) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a); and

"(F) the Webb-Pomerene Act (15 U.S.C. 61-65).

"(2) 'plan of action' means any of one or more documented methods adopted by participants in an existing voluntary agreement to implement that agreement.";

(3) in subsection (c)(1)—

(A) by striking "Except as otherwise provided in section 708A(o), upon" and inserting in lieu thereof "Upon"; and

(B) by inserting "and plans of action" after "voluntary agreements";

(4) in subsection (c)(2), by striking out the last sentence;

(5) in subsection (d)(1), by striking ", and the meetings of such committees shall be open to the public." in the second sentence thereof the inserting in lieu thereof ". Meetings of such committees shall be open to the public unless the individual designated by the President in subsection (c)(2) finds that the matter or matters to be discussed at such meetings fall within the purview of matters described in subsection (b)(1), (b)(3), or (b)(4) of section 552 of title 5, United States Code.";

(6) in subsection (d)(2), by striking out "section 552 (b)(1) and (b)(3)" and inserting in lieu thereof subsections (b)(1), (b)(3), and (b)(4) of section 552";

(7) in subsection (e)(1), by inserting "and plans of action" after "voluntary agreements";

(8) in subsection (e)(3)—

(A) in subparagraph (D), by striking out "subsection (b)(1) or (b)(3) of section 552" and inserting in lieu thereof "subsection (b)(1), (b)(3), or (b)(4) of section 552"; and

(B) in subparagraph (G), by striking out "subsections (b)(1) and (b)(3) of section 552" and inserting in lieu thereof "subsection (b)(1), (b)(3), and (b)(4) of section 552";

(9) in subsections (f) and (g)—

(A) by inserting "or plan of action" after "voluntary agreement" each place it appears; and

(B) by inserting "or plan" after "the agreement" each place it appears;

(10) in subsection (h)—

(A) by inserting "and plans of action" after "voluntary agreements";

(B) by inserting "or plan of action" after "voluntary agreement" each place it appears;

(C) in subsection (h)(3) by striking out "subsections (b)(1) and (b)(3) of section 552" and inserting in lieu thereof "subsections (b)(1), (b)(3), and (b)(4) of section 552"; and

(D) in subsections (h)(7) and (h)(8) by striking out "subsection (b)(1) or (b)(3) of section 552" and inserting in lieu thereof "subsections (b)(1), (b)(3), or (b)(4) of section 552";

(11) by striking subsection (j) and inserting the following:

"(j)(1) There shall be available as a defense for any person to any civil or criminal action brought under the antitrust laws (or any similar law of any State) with respect to any action taken to develop or carry out any voluntary agreement or plan of action under this section (provided that such action was not taken for the purpose of injuring competition) that—

"(A) such action was taken—

"(i) in the course of developing either a voluntary agreement, the making of which was initiated by the President, or a plan of action adopted thereunder, or

"(ii) to carry out either a voluntary agreement authorized and approved in accordance with this section, the making of which was initiated by the President, or a plan of action adopted thereunder, and

"(B) such person complied with the requirements of this section and the rules promulgated hereunder, and acted in accordance with the terms of the voluntary agreement or plan of action.

"(2) Except in the case of actions taken to develop a voluntary agreement or plan of action, the defense provided in this subsection shall be available only if and to the extent that the person asserting the defense demonstrates that the action was specified in, or within the reasonable contemplation of an approved voluntary agreement the making of which was initiated by the President or any approved plan of action adopted thereunder.

"(3) Persons interposing the defense provided by this subsection shall have the burden of proof upon the elements of the defense, except that the burden shall be on the person against whom the defense is asserted with respect to whether the action was taken for the purpose of injuring competition.";

(12) in subsection (k), by inserting "and plans of action" after "voluntary agreements" each place it appears;

(13) in subsection (l), by inserting "or plan of action" after "voluntary agreement"; and

(14) by adding a new subsection (o), as follows:

"(o) In any action in any Federal or State court for breach of contract, there shall be available as a defense that the alleged breach of contract was caused predominantly by action taken during an emergency to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section.".

SEC. 136. INFORMATION ON THE DEFENSE INDUSTRIAL BASE.

Title VII of the Defense Production Act is amended by inserting after section 705 the following:

"SEC. 705A. INFORMATION ON THE DEFENSE INDUSTRIAL BASE.

"(a) IN GENERAL.—The President shall implement a systematic, continuous procedure to collect and analyze information necessary to evaluate the adequacy of industrial capacity and capability in items and technologies essential to the execution of the national security strategy of the United States. Information generated by such procedure shall constitute a basis for decisions made with respect to the use of authority under title III and shall be integrated into the decisionmaking process pertaining to the use of such authority.

"(b) SOURCES OF INFORMATION.—

"(1) CONSULTATION REGARDING THE CENSUS OF MANUFACTURERS.—The Bureau of the Census shall consult with the Office of the Secretary of Defense and the Federal Emergency Management Agency with a view to improving the application of information derived from the Census of Manufacturers to the purposes of this section. Such consultations shall address improvements in the level of detail, timeliness and availability of input/output analyses derived from the Census of Manufacturers necessary to facilitate the purposes of this section.

"(2) ADDITIONAL DATA.—The President shall implement a systematic, continuous procedure to collect and analyze information regarding the extent of foreign dependence in industrial parts, components and technologies essential to defense production. Such procedure shall address defense production with respect to the operations of prime contractors and at least the first two tiers of subcontractors. To the extent feasible and appropriate, the President shall build upon existing methods of data collection and analysis and shall integrate information available from intelligence agencies with respect to industrial and technological conditions in foreign countries. In establishing such procedure, the Secretary may place initial emphasis on the production of parts and components relating to priority lists such as the Commanders' in Chief Critical Items List and the technologies identified as critical in the annual defense critical technologies plan submitted pursuant to section 2508 of title 10, United States Code.

"(c) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.".

SEC. 137. ANTITRUST PROTECTIONS FOR INDUSTRY CONSORTIA.

Section 708A of the Defense Production Act of 1950 (50 U.S.C. App. 2158a) is amended to read as follows:

"SEC. 708A. INDUSTRY CONSORTIA.

"(a) ANTITRUST PROTECTION.—The President may authorize the establishment of industry consortia, in accordance with subsection (e), to provide industrial resources or critical technology items required for the preservation or enhancement of the industrial or technology base of the United States essential to the execution of the national security strategy of the United States. Except as provided in subsection (i) of this section, no action may be brought under the antitrust laws against any participant in an industry consortium for good faith activities conducted in determining whether to establish, in establishing such a consortium, or in undertaking an action if the action is within the scope of the charter of the consortium.

"(b) DEFINITIONS.—As used in this section—

"(1) The term 'antitrust laws' means—

"(A) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies and for other purposes', approved July 2, 1890, commonly referred to as the 'Sherman Act' (15 U.S.C. 1 et seq.);

"(B) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes', approved October 15, 1914, commonly referred to as the 'Clayton Act' (15 U.S.C. 12 et seq.);

"(C) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(D) sections 73 and 74 of the Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894, commonly referred to as the 'Wilson Tariff Act' (15 U.S.C. 8 and 9);

"(E) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a);

"(F) the Act entitled 'An Act to promote export trade and for other purposes', approved April 10, 1918, commonly referred to as the 'Webb-Pomerene Act' (15 U.S.C. 61-65); and

"(G) similar laws enacted by the several States.

"(2) The term 'flexible manufacturing network' means a specified program relating to the joint development, engineering, and production of one or more products by the network's participants for their common benefit, including—

"(A) the coordination of the individual engineering, purchasing, manufacturing, quality assurance, inventory control, and other activities by the participants reasonably required to attain the network's specified program objectives, or the joint undertaking of such activities by two or more of the network's participants;

"(B) the collection and sharing of information among the network's participants relating to manufacturing capacity, production costs, and distribution capabilities for potential markets for the specified products to be produced by such network reasonably required to attain the network's specified program objectives; and

"(C) the collection and sharing of such other technical or business information as may be reasonably required to undertake the network's specified program.

"(3) The term 'industry consortium' means an arrangement among two or more persons for the purpose of undertaking a specific program of basic research, research and development, production, or any specified combination of the foregoing activities, or a flexible manufacturing network, relating directly to industrial resources or critical technology items required for the preservation or enhancement of the industrial or technology base of the United States essential to the execution of the national security strategy of the United States. Such persons may include for-profit business concerns, not-for-profit entities, and educational institutions.

"(c) FORMATION OF INDUSTRY CONSORTIUM.—(1) Except as provided in paragraph (4), persons in the private sector interested in forming an industry consortium may make application to the Attorney General in a form and containing such information as required by the regulations issued pursuant to subsection (g).

"(2) Promptly after an application is received, the Attorney General shall publish a notice in the Federal Register announcing that an application for the establishment of an industry consortium has been submitted, identifying each participating person, describing the activities to be undertaken by such consortium, and providing such other information as may be required by the regulations issued pursuant to subsection (g).

"(3) A copy of the application shall be transmitted by the Attorney General to the Chairman of the Federal Trade Commission.

"(4) Two or more small business concerns shall be deemed to have formed a flexible manufacturing network or other industry consortia conforming to the requirements of subsection (d) of this section, if—

"(A) the aggregate of the total number of employees (or the 3-year annual gross receipts) of each small business concern participating in the network or consortia does not exceed the smallest numerical size standard for an individual small business concern established by the Small Business Administration pursuant to section 3(a) of the Small Business Act (15 U.S.C. 632(a)) for the Standard Industrial Classification which includes the activities to be undertaken by such network or consortia;

"(B) notice has been given to the Attorney General in a form and containing such information as required by the regulations issued pursuant to subsection (g) within 10 calendar days of any meeting at which such small business concerns established such flexible manufacturing network or industry consortia; and

"(C) the Attorney General has not given notice to such small business flexible manufacturing network or industry consortia to cease operations for failure to have established a network or consortia meeting the requirements of subsection (d) or for failure to comply with the regulations issued pursuant to subsection (g).

"(d) CRITERIA FOR APPROVING CONSORTIUM.—(1) A proposed consortium may be approved by the President if it is determined that such consortium—

"(A) will provide at least one domestic source for industrial resources or critical technology items required for the preservation or enhancement of the industrial or technology base essential to the execution of the national security strategy of the United States,

"(B) will not constitute unfair competition or a substantial restraint of trade with respect to other persons within the United States who may be sources of the same industrial resources or critical technology items, and

"(C) will not unreasonably increase, stabilize, or depress prices for the industrial resources or critical technology items that are the subject matter of such consortium's proposed activities.

"(2) Such application for the establishment of an approved industry consortium shall be reviewed by the Attorney General, the Chairman of the Federal Trade Commission, and such other officers of the Executive as may be designated by the President in accordance with the requirements of paragraph (1) and such other evaluation criteria as may be specified in the regulations promulgated pursuant to subsection (g).

"(3) Not later than 90 calendar days after the receipt of an application in accordance with subsection (c)(2) and not earlier than 30 calendar days after the publication of the notice required by subsection (c)(2), the application shall be approved or disapproved. The reasons for any disapproval shall be specified in writing.

"(4) Approval of an application shall be evidenced by the issuance of a charter which shall specify any special terms, conditions, or limitations which are deemed necessary by the President to assure compliance with the requirements of the section.

"(5) Upon approval of an industry consortium, the President shall designate a Federal official as the principal liaison to such consortium.

"(e) Consortium Advisory Council.—An industry consortium is authorized to organize an advisory council, specifying the membership, functions, and operating procedures of such council in its application.

"(f) Charter.—

"(1) Modification.—The charter of an industry consortium may be modified during its term. A request for a modification to the charter shall be considered in the same manner as an original charter application. An approved charter modification shall be implemented by the consortium within 30 calendar days of the receipt of a notice of such modification, or the consortium shall lose its protections under subsection (a).

"(2) Termination.—(A) An industry consortium may be terminated by the President upon a finding that the industry consortium is no longer conducting its activities in conformity with this section or the terms of the consortium's charter. Such notice shall specify the reasons for the determination to terminate the consortium, and afford the consortium at least 30 calendar days to respond, in accordance with appeal procedures specified in the regulations promulgated pursuant to subsection (g).

"(B) An industry consortium may voluntarily terminate its charter upon providing notice of termination (including an effective date) to the Federal official assigned as the principal liaison to the consortium. Upon the effective date of the termination of its charter, the consortium shall lose its protections under subsection (a).

"(g) Regulations.—(1) The President shall promulgate regulations to implement this section. The preparation of such regulations, and modifications thereto, shall include the participation of the Attorney General, the Chairman of the Federal Trade Commission, and such other officers of the Federal Government as the President may deem appropriate.

"(2) In addition to regulations required by this section and such matters as the President deems appropriate for the effective administration of the program, the regulations required by paragraph (1) shall address the following matters:

"(A) Except as provided in subsection (c)(4), persons interested in establishing an industry consortium shall furnish to the Attorney General and the Chairman of the Federal Trade Commission—

"(i) a notice within 5 calendar days of initiating discussions among the prospective participants in the consortium,

"(ii) a notice of and the opportunity for representatives of the Attorney General and the Chairman of the Federal Trade Commission to participate in all subsequent meetings, and

"(iii) a transcript of the proceedings of each such meeting.

"(B) Opportunity shall be provided for designated Government representatives to attend any meeting sponsored by such consortium.

"(C) Opportunity for public attendance in such consortium meetings shall be provided, unless the matters to be discussed at such meetings fall within a category described in paragraph (1), (3), or (4) of section 552(b) of title 5, United States Code.

"(D) Access shall be provided for inspecting and copying, at reasonable times and upon reasonable notice, the records of the industry consortium by representatives of the Attorney General, the Chairman of the Federal Trade Commission, and the Federal official designated as the principal liaison to such industry consortium, pursuant to subsection (d)(5).

"(E) Public access shall be provided to the Government's records relating to the establishment or conduct of an industry consortium, subject to the limitations of paragraphs (1), (3), and (4) of section 552(b) of title 5, United States Code.

"(h) Exemption From Federal Advisory Committee Act.—The activities of an industry consortium (including any advisory council established by such consortium) are exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), and the regulations promulgated thereunder, if such activities are conducted in compliance with this section, the regulations promulgated pursuant to subsection (g), and the terms of the consortium's charter.

"(i) Remedies.—(1) An industry consortium found to be operating outside the scope and limitations of its charter issued pursuant to this section shall be subject to criminal or civil actions under the antitrust laws as defined in subsection (b) of this section.

"(2) Any person who is aggrieved with respect to any act or failure to act committed in connection with the formation or operation of an industry consortium may bring a civil action for injunctive relief if—

"(A) such act or omission occurred—

"(i) in the course of forming an industry consortium pursuant to subsection (c), or

"(ii) while undertaking the activities of the consortium pursuant to its charter, and

"(B) the person committing such act or omission failed to comply with the scope and limitations of its charter or the requirements of this section.

"(3) A person injured as a result of an act or omission described in paragraph (2) may be awarded—

"(A) actual damages, including interest on such damages, and

"(B) in the case of any successful action to enforce liability under this section, the costs of such action together with reasonable attorney's fees.

"(4) Any action commenced under this subsection shall proceed as if it were an action commenced under section 4 or section 16 of the Clayton Act, except that the standards applicable to the industry consortium shall be the requirements of this section, the regulations promulgated pursuant to subsection (g) and the charter of such consortium. The remedies provided in this subsection shall be the exclusive remedies available to a plaintiff.

"(5) Any action under paragraph (2) shall be brought within 2 years of the discovery of the facts giving rise to the course of action, but not later than 4 years from the date the cause of action arises.

"(6) In any action brought under this subsection, if the court finds that the challenged conduct was undertaken by the industry consortium within the scope and limitations of its charter and the requirements of this section and that the action was brought for purposes of harassment or was otherwise without merit, the court may award to the person against whom the action is brought all costs of defending such action (including reasonable attorney's fees).".

SEC. 138. INTELLIGENCE STUDY.

(a) In General.—In order to assist the Congress in its oversight responsibilities with respect to section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170), the Central Intelligence Agency jointly with the Federal Bureau of Investigation shall complete and furnish to the Congress within one year after the date of enactment of this section and upon the expiration of every 4 years thereafter a report which—

(1) evaluates whether there is credible evidence of a coordinated strategy by one or more countries or companies to acquire United States companies involved in research, development, or production of critical technologies for which the United States is a leading producer; and

(2) evaluates whether there are industrial espionage activities directed by foreign governments against private United States companies aimed at obtaining commercial secrets related to critical technologies;

(b) Definition.—For purposes of this section, the term "critical technologies" means technologies identified under title VI of the National Science and Technology Policy, Organization, and Priorities Act of 1976 or other critical technology, critical components, or critical technology items essential to national defense identified pursuant to section 705A of the Defense Production Act.

(c) Release of Unclassified Study.—The report required by this section may be classified. An unclassified version of the report shall be available to the public.

SEC. 139. EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT.

Section 709 of the Defense Production Act of 1950 (50 U.S.C. App. 2159) is amended to read as follows:

"SEC. 709. EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT.

"Any rule, regulation, order, or amendment thereto issued under the authority of this Act shall not be subject to the requirements of sections 551 through 559 of title 5, United States Code. Each proposed rule or regulation, and each amendment thereto, shall be published for public comment in the Federal Register in conformity with the requirements of section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b) and chapter 6 of title 5, United States Code.".

PART E—TECHNICAL AMENDMENTS

SEC. 141. PRIORITIES IN CONTRACTS AND ORDERS.

Section 101 of the Defense Production Act of 1950 (50 U.S.C. App. 2071) is amended—

(1) in subsection (a)(2) by striking "materials and facilities" and inserting "materials, services, and facilities";

(2) in subsection (c)(1) by striking "supplies of materials and equipment" and inserting "materials, equipment, and services";

(3) by striking paragraphs (2) and (3) and inserting the following new paragraph:

"(2) The authority granted by this subsection may not be used to require priority performance of contracts or orders, or to control the distribution of any supplies of materials, service, and facilities in the marketplace, unless the President finds that—

"(A) such materials, services, and facilities are scarce, critical, and essential—

"(i) to maintain or expand exploration, production, refining, transportation,

"(ii) to conserve energy supplies; or

"(iii) to construct or maintain energy facilities; and

"(B) maintenance or expansion of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising the authority specified in paragraph (1) of this subsection."; and

(d) by redesignating paragraph (4) as paragraph (3).

SEC. 142. LOAN GUARANTEES.

Section 301(e)(2)(B) of the Defense Production Act of 1950 (50 U.S.C. App. 2091(e)(2)(B)) is amended by striking "and to the Committees on Banking and Currency of the respective Houses" and inserting "and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives".

SEC. 143. INVESTIGATIONS; RECORDS; REPORTS; SUBPOENAS.

Section 705 of the Defense Production Act of 1950 (50 U.S.C. App. 2155) is amended—

(1) in subsection (a), by striking "subpena" and inserting "subpoena";

(2) by redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively;

(3) in subsection (c) (as redesignated by paragraph (2)), by striking "$1,000" and inserting "$10,000"; and

(4) in subsection (d) (as redesignated by paragraph (2)), by striking all after the first sentence.

SEC. 144. EMPLOYMENT OF PERSONNEL.

Section 710 of the Defense Production Act of 1950 (50 U.S.C. App. 2160) is amended—

(1) in subsection (b), by striking paragraph (6) and inserting the following:

"(6)(A) The Secretary of the Department or head of the agency making the appointment shall publish a notice in the Federal Register including the name of the appointee, the employing department or agency, the title of the position to which such individual is being appointed, the name of such individual's employer when selected for appointment, and a statement that the individual has made a filing in accordance with subparagraph (B) which is available for inspection.

"(B) Each individual selected for appointment under the authority of this subsection shall furnish to the departmental Secretary or agency head making the appointment—

"(i) a list of the names of each corporation, partnership, or other business in which such individual has an interest, and

"(ii) a list of any financial interest such individual had during the 60-day period preceding such appointment, including any office or directorship held in a corporation.

"(C) Each individual shall submit the information described in subparagraph (B) annually on the anniversary of such individual's appointment.";

(2) in paragraph (7) of subsection (b)—

(A) by striking "Chairman of the United States Civil Service Commission" and inserting "Director of the Office of Personnel Management";

(B) by striking "and the Joint Committee on Defense Production"; and

(3) in paragraph (8) of subsection (b), by striking "transportation and not to exceed $15 per diem in lieu of subsistence while away from their homes and regular places of business pursuant to such appointment" and inserting "reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions for which they were appointed in the same manner as persons employed intermittently in the Federal Government are allowed expenses under section 5703 of title 5, United States Code".

SEC. 145. AUTHORIZATION OF APPROPRIATIONS.

Section 711(a)(1) of the Defense Production Act of 1950 (50 U.S.C. App. 2161) is amended by striking "Bureau of the Budget" and inserting "Office of Management and Budget".

PART F—REPEALERS AND CONFORMING AMENDMENTS

SEC. 151. SYNTHETIC FUEL ACTION.

Section 307 of the Defense Production Act of 1950 (50 U.S.C. App. 2097) is repealed.

SEC. 152. AUTHORIZATION OF APPROPRIATIONS.

Section 711 of the Defense Production Act of 1950 (50 U.S.C. App. 2161) is amended—

(1) by striking subsection (b),

(2) by striking "(a)(1) Except as provided in paragraph (2) and paragraph (4)" and inserting "(a) Except as provided in subsection (c)",

(3) by striking in subsection (a) in the parenthetical "and for the payment of interest under subsection (b) of this section", and

(4) by striking paragraph (2) and redesignating paragraph (3) as subsection (b), and

(5) by striking subparagraph (B) of paragraph (4) and redesignating paragraph (4)(A) as subsection (c).

SEC. 153. JOINT COMMITTEE ON DEFENSE PRODUCTION.

Section 712 of the Defense Production Act of 1950 (50 U.S.C. App. 2162) is repealed.

SEC. 154. PERSONS DISQUALIFIED FOR EMPLOYMENT.

Section 716 of the Defense Production Act of 1950 (50 U.S.C. App. 2165) is repealed.

SEC. 155. FEASIBILITY STUDY ON UNIFORM COST ACCOUNTING STANDARDS; REPORT SUBMITTED.

Section 718 of the Defense Production Act of 1950 (50 U.S.C. App. 2167) is repealed.

SEC. 156. NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES.

Section 720 of the Defense Production Act of 1950 (50 U.S.C. App. 2169) is repealed.

PART G—REAUTHORIZATION OF SELECTED PROVISIONS

SEC. 161. AUTHORIZATION OF APPROPRIATIONS.

Section 711(c) of the Defense Production Act of 1950 (as amended by section 143 of this Act) is amended to read as follows:

"(c) There are authorized to be appropriated for fiscal years 1991, 1992, and 1993 not to exceed $250,000,000 to carry out the provisions of sections 301, 302, and 303 of this Act.".

SEC. 162. SUNSET.

Section 717 of the Defense Production Act of 1950 (50 U.S.C. App. 2166) is amended to read as follows:

"SEC. 717. SUNSET.

"(a) In General.—The following provisions of this Act shall terminate at the close of September 30, 1993:

"(1) Title I of this Act, and all authority conferred thereunder.

"(2) Sections 301, 302, 303, and 304 of this Act, and all authority conferred thereunder.

"(3) Sections 701, 702, 703, 704, 705, 706, 707, 708, and 711 of this Act, and all authority conferred thereunder.

"(b) Expired Provisions.—The following provisions of this Act terminate at the close of June 30, 1953:

"(1) Title II and title VI of this Act, and all authority conferred thereunder.

"(2) Title IV and title V of this Act, and all authority conferred thereunder.

"(c) Continuous Effect.—Except as otherwise provided, all other provisions of this Act, and all authority conferred thereunder, shall remain in effect.

"(d) Savings Provision.—The termination of any section of this Act, or any agency or corporation utilized under this Act shall not affect the disbursement of funds under, or the carrying out of, any contract, guarantee, commitment or other obligation entered into pursuant to this Act prior to the date of such termination, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts advanced or paid out in carrying on operations under this Act, or the taking of any action (including the making of new guarantees) determined by a guaranteeing agency to be necessary to accomplish the orderly liquidation, adjustment or settlement of any loans guaranteed under this Act, including actions considered necessary to avoid undue hardship to borrowers in reconverting to normal civilian production; and all of the authority granted to the President, guaranteeing agencies, and fiscal agents under section 301 of this Act shall be applicable to actions taken pursuant to the authority contained in this subsection.".

TITLE II—ADDITIONAL PROVISIONS TO IMPROVE INDUSTRIAL PREPAREDNESS

PART A—INDUSTRIAL CAPABILITY AND NATIONAL SECURITY

SEC. 201. INDUSTRIAL CAPABILITIES ASSESSMENT.

(a) Policy.—The national security of the United States would benefit from greater integration of national economic policies (including tax and trade) and national security policies.

(b) Conduct Assessment.—The President shall promptly conduct, through such means as may be appropriate, an Industrial Capabilities Assessment as described in subsection (c).

(c) Matters To Be Assessed.—The assessment required by subsection (b) shall include:

(1) An analysis, on an ongoing basis, of the demands to be placed upon industry by the national defense plans and industry's capabilities to fulfill those expectations in peacetime as well as in time of war or national emergency.

(2) A review of major Government policies and their impact on the defense industrial and technology base.

(3) A process for periodic industry-wide assessment of technological advancement and production capabilities in relation to national security objectives.

(4) A review of existing industrial policy objectives, laws, and regulations, and recommendations to the President for their modification to foster industrial innovation, modernization, and productivity.

(5) Proposals for selectively expanding national defense production to respond to graduated levels of mobilization.

(6) One or more exercises to assess the capability of the defense industry's capability to respond to increased demands for defense materiel and services under various graduated mobilization response conditions.

PART B—ENCOURAGING IMPROVEMENT OF THE DEFENSE INDUSTRIAL BASE

SEC. 211. RECOGNITION OF MODERNIZED PRODUCTION SYSTEMS AND EQUIPMENT IN CONTRACT AWARD AND ADMINISTRATION.

(a) IN GENERAL.—The President, acting through the Administrator for Federal Procurement Policy, shall prescribe an acquisition policy requiring, to the maximum extent practicable, that the acquisition plan for any major system acquisition, or any other acquisition program designated by the Secretary or agency head responsible for such acquisition, provide for contract solicitation provisions which encourage competing offerors to acquire for utilization in the performance of the contract modern industrial facilities and production systems (including hardware and software), and other modern production equipment, that increase the productivity of the offerors and reduce the costs of production.

(b) AUTHORIZED SOLICITATION PROVISIONS.—Contract solicitation provisions referred to in subsection (a) may include any of the following provisions:

(1) An evaluation advantage in making the contract award determination.

(2) An increase of not more than 10 percent in the amount which would otherwise be reimbursable to a contractor as the Government's share of costs incurred for the acquisition of production special tooling, production special test equipment, and production special systems (including hardware and software) for use in the performance of the contract.

(3) A provision for the contractor to share in any demonstrated cost savings that are attributable to increased productivity resulting from the following contractor actions not required by the contract—

(A) the acquisition and utilization of modern industrial facilities and production systems (including hardware and software), and other modern production equipment, for the performance of the contract; or

(B) the utilization of other manufacturing technology improvements in the performance of the contract.

SEC. 212. PROCUREMENT OF CRITICAL COMPONENTS OR CRITICAL TECHNOLOGY ITEMS.

(a) SUBCONTRACTING.—The President, acting through the Administrator for Federal Procurement Policy, shall prescribe an acquisition policy requiring that any solicitation for the procurement of critical components or critical technology items shall—

(1) specify the minimum percentage of the total estimated value of the contract that is to be performed by one or more domestic firms;

(2) provide for the attainment of such requirement by the firm as prime contractor, or by subcontractors pursuant to a subcontracting plan submitted with the prime contractor's offer;

(3) specify that a source selection factor relating to the requirement specified in paragraph (1) shall accord—

(A) such source selection factor a value not to exceed 10 percent of the total evaluation points for all source selection factors specified in the solicitation; and

(B) such evaluation points in proportion to the extent to which each offer meets or exceeds the specified percentage;

(4) provide that attainment of the percentage specified in the offer of the firm receiving the award shall be a material element of contractual performance; and

(5) require the contractor to—

(A) identify, at the conclusion of contract performance, each subcontractor whose performance is to be counted toward attainment of the contractual requirement specified pursuant to paragraph (1); and

(B) provide prompt notice to the contracting officer after replacing any such subcontractor.

(b) CRITICAL COMPONENTS AND CRITICAL TECHNOLOGY ITEMS.—The President, acting through the Secretary of Defense, shall—

(1) determine the components or items that are critical components or critical technology items; and

(2) publish a list of such critical components and critical technology items in the Federal Acquisition Regulation.

(c) DEFINITIONS.—For the purpose of this section—

(1) the term "domestic firm" has the same meaning as the term "domestic source" in section 702 of the Defense Production Act of 1950; and

(2) the terms "critical components" and "critical technology items" have the same meanings as in section 702 of the Defense Production Act of 1950.

SEC. 213. SENSE OF THE CONGRESS REGARDING ENCOURAGEMENT OF INVESTMENT.

It is the sense of the Congress that, in order to encourage investment to maintain our Nation's technological leadership, to preserve the strength of our industrial base, and to encourage contractors to invest in advanced manufacturing technology, advanced production equipment, and advanced manufacturing processes, the Secretary of Defense as part of his study of the defense acquisition process under the Defense Management Review shall consider—

(1) the full cost allowability of independent research and development/bid and proposal; and

(2) an increase in the progress payment rate on defense contracts.

PART C—MISCELLANEOUS

SEC. 221. GAO STUDY OF STATE FOREIGN INVESTMENT INCENTIVE PROGRAMS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of State incentive programs used to attract foreign investment. In conducting such study, the Comptroller General shall evaluate the costs and benefits of such programs, including job creation and economic growth, as well as potential adverse economic effects on United States firms, and recommend what measures the States might take, if any, to ensure that the economic benefits of such programs warrant the costs.

(b) REPORT.—Not later than 12 months after the date of enactment of this Act, the Comptroller General shall transmit to the Congress a report on the study under subsection (a).

SEC. 222. DISCOURAGING UNFAIR TRADE PRACTICES.

(a) SUSPENSION OR DEBARMENT AUTHORIZED.—A finding that a contractor has engaged in an unfair trade practice, as defined in subsection (b), shall indicate a lack of business integrity or business honesty that seriously and directly affects the responsibility of the contractor to perform any contract awarded by the Federal Government or perform a subcontract under such a contract. Such contractor may be subject to suspension and debarment in accordance with subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation).

(b) DEFINITIONS.—For purposes of this section, the term "unfair trade practice" means the commission of any of the following acts by a contractor:

(1) An unfair trade practice, as determined by the International Trade Commission, for a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337).

(2) A violation of any agreement of the Coordinating Committee on Export Controls or any similar bilateral export control agreement, as determined by the Secretary of Commerce.

(3) A knowingly false statement regarding a material element of a certification concerning the foreign content of an item of supply, as determined by the Secretary of the department or the head of the agency to which such certificate was furnished.

TITLE III—AMENDMENT TO RELATED LAWS

SEC. 301. DEFENSE PRODUCTION ACT FUND PROJECTS.

Section 2502 of title 10, United States Code, is amended by adding at the end the following:

"(d) DEFENSE PRODUCTION ACT FUND PROJECTS.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall review and approve projects recommended for support through the Defense Production Act Fund pursuant to the authorities provided by title III of the Defense Production Act of 1950.".

TITLE IV—FAIR TRADE IN FINANCIAL SERVICES

SEC. 401. SHORT TITLE.

This title may be cited as the "Fair Trade in Financial Services Act of 1990".

SEC. 402. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR BANKS AND BANK HOLDING COMPANIES.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following:

"NATIONAL TREATMENT

"SEC. 15. (a) PURPOSES.—This section is intended to—

"(1) encourage foreign countries to accord national treatment to United States banks and bank holding companies that operate or seek to operate in those countries; and

"(2) seek an end to discrimination against United States banks and bank holding companies.

"(b) ANNUAL REPORTS REQUIRED.—For each calendar year beginning on or after January 1, 1991, the Secretary of the Treasury shall, not later than May 1 of the following calendar year, submit to the Congress a report—

"(1) identifying each foreign country—

"(A) that, according to the most recent report submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, does not accord national treatment to United States banks and bank holding companies; and

"(B) with respect to which no determination under subsection (d)(1) is in effect;

"(2) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(3) describing the results of negotiations conducted pursuant to subsection (c)(1).

"(c) NEGOTIATIONS REQUIRED.—

"(1) IN GENERAL.—The Secretary of the Treasury shall initiate negotiations with any foreign country described in subparagraphs (A) and (B) of subsection (b)(1) to ensure that that country accords national treatment to United States banks and bank holding companies.

"(2) NEGOTIATIONS NOT REQUIRED.—Paragraph (1) does not require the Secretary of

the Treasury to initiate negotiations with a foreign country if the Secretary—

"(A) determines that such negotiations would be fruitless or would impair national economic interests; and

"(B) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(d) DISCRETIONARY SANCTIONS.—

"(1) IN GENERAL.—A Federal banking agency may, in consultation with the Secretary of the Treasury, deny any application, and disapprove any notice, filed by a person of a foreign country if the Secretary has published in the Federal Register (and has not rescinded) a determination that the foreign country does not accord national treatment to United States banks and bank holding companies.

"(2) REVIEW.—The Secretary of the Treasury shall annually review any determination under paragraph (1) and decide whether that determination should be rescinded.

"(e) PREVENTING EXISTING ENTITIES FROM BEING USED TO EVADE THIS SECTION.—

"(1) IN GENERAL.—If a determination under subsection (d)(1) is in effect with respect to a foreign country, no bank, foreign bank described in section 8(a), branch, agency, commercial lending company, or other affiliated entity that is a person of that country shall, without prior approval pursuant to paragraph (3) or (4), directly or indirectly, in the United States—

"(A) commence any line of business in which it was not engaged as of the date on which that determination was published in the Federal Register; or

"(B) conduct business from any location at which it did not conduct business as of that date.

"(2) EXCEPTION.—Paragraph (1) shall not apply with respect to transactions under section 2(h)(2) of the Bank Holding Company Act of 1956.

"(3) STATE-SUPERVISED ENTITIES.—

"(A) This paragraph shall apply if—

"(i) the entity in question is an uninsured State bank or branch, a State agency, or a commercial lending company;

"(ii) the State requires the entity to obtain the prior approval of the State bank supervisor before engaging in the activity described in subparagraph (A) or (B) of paragraph (1); and

"(iii) no other provision of Federal law requires the entity to obtain the prior approval of a Federal banking agency before engaging in that activity.

"(B) The State bank supervisor shall consult about the application with the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act). If the State bank supervisor approves the application, the supervisor shall notify the appropriate Federal banking agency and provide the agency with a copy of the record of the application. During the 45-day period beginning on the date on which the appropriate Federal banking agency receives the record, the agency may, after consultation with the State bank supervisor, issue an order disapproving the activity in question. The period for disapproval under the preceding sentence may, in the agency's discretion, be extended for not more than 45 days.

"(4) FEDERAL APPROVAL.—If the transaction is not described in paragraph (3)(A), the entity in question shall obtain the prior approval of the appropriate Federal banking agency.

"(5) INFORMING STATE SUPERVISORS.—The Secretary of the Treasury shall inform State bank supervisors of any determination under subsection (d)(1).

"(6) EFFECT ON OTHER LAW.—Nothing in this subsection shall be construed to relieve the entity in question from any otherwise applicable requirement of Federal law.

"(f) NATIONAL TREATMENT DEFINED.—A foreign country accords national treatment to United States banks and bank holding companies if it offers them the same competitive opportunities (including effective market access) as are available to its domestic banks and bank holding companies.

"(g) PERSON OF A FOREIGN COUNTRY DEFINED.—A person of a foreign country is a person that—

"(1) is organized under the laws of that country;

"(2) has its principal place of business in that country;

"(3) in the case of an individual—

"(A) is citizen of that country, or

"(B) is domiciled in that country; or

"(4) is directly or indirectly controlled by a person described in paragraphs (1), (2), or (3).

"(h) EXERCISE OF DISCRETION.—In exercising discretion under this section—

"(1) the Secretary of the Treasury and the Federal banking agencies shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(2) the Federal banking agencies, in consultation with the Secretary of the Treasury—

"(A) shall consider, with respect to a bank, foreign bank, branch, agency, commercial lending company, or other affiliated entity that is a person of a foreign country and is already operating in the United States—

"(i) the extent to which that foreign country has a record of according national treatment to United States banks and bank holding companies; and

"(ii) whether that country would permit United States banks and bank holding companies already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's banks and bank holding companies; and

"(B) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purposes of this section.".

SEC. 403. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR SECURITIES BROKERS AND DEALERS.

Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended by adding at the end the following new paragraph:

"(11) NATIONAL TREATMENT.—(A) This paragraph is intended to encourage foreign countries to—

"(i) accord national treatment to United States brokers and dealers that operate or seek to operate in those countries; and

"(ii) seek an end to discrimination against United States brokers and dealers.

"(B) For each calendar year beginning on or after January 1, 1991, the Secretary of the Treasury shall, not later than May 1 of the following calendar year, submit to the Congress a report—

"(i) identifying each foreign country—

"(I) that, according to the most recen report submitted under section 3602 of th Omnibus Trade and Competitiveness Act o 1988, does not accord national treatment t United States brokers and dealers; and

"(II) with respect to which no determination under subparagraph (D)(i) is in effec

"(ii) explaining why the Secretary has no made, or has rescinded, such a determination with respect to that country; and

"(iii) describing the results of negotiation conducted pursuant to subparagraph (C)(i

"(C)(i) The Secretary of the Treasury shal initiate negotiations with any foreign country described in subclauses (I) and (II) o subparagraph (B)(i) to ensure that tha country accords national treatment t United States brokers and dealers.

"(ii) Clause (i) does not require the Secretary of the Treasury to initiate negotiation with a foreign country if the Secretary—

"(I) determines that such negotiation would be fruitless or would impair nationa economic interests; and

"(II) gives written notice of that determination to the chairman and ranking minority member of the Committee on Bankin Housing, and Urban Affairs of the Senat and of the Committee on Energy and Commerce of the House of Representatives.

"(D) The following provisions shall appl if the Secretary of the Treasury has published in the Federal Register (and has no rescinded) a determination that a foreig country does not accord national treatmen to United States brokers and dealers:

"(i) The Commission may, in consultatio with the Secretary of the Treasury—

"(I) deny any application for registratio under this subsection filed by a person c that foreign country; and

"(II) prohibit any person of that foreig country from acquiring control of a registered broker or dealer, irrespective of whe the acquisition was initiated.

"(ii) No person of that foreign countr acting directly or indirectly, shall acquir control of any registered broker or deale unless—

"(I) the Commission has been given notic 45 days in advance of the acquisition, i such form as the Commission shall prescrib by rule; and

"(II) the Commission has not prohibite the acquisition.

"(iii) The Commission may, by orde extend the notice period with respect to an particular acquisition for not more than 6 days.

"(iv) The Secretary of the Treasury sha annually review any determination unde this subparagraph and decide whether tha determination should be rescinded.

"(E) A foreign country accords nationa treatment to United States brokers and dealers if it offers them the same competitive opportunities (including effective marke access) as are available to its domestic brokers and dealers.

"(F) A person of a foreign country is person that—

"(i) is organized under the laws of tha country;

"(ii) has its principal place of business i that country;

"(iii) in the case of an individual—

"(I) is a citizen of that country, or

"(II) is domiciled in that country; or

"(iv) is directly or indirectly controlled b a person described in clause (i), (ii), or (iii

"(G) In exercising discretion under this paragraph—

"(i) the Secretary of the Treasury and the Commission shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(ii) the Commission, in consultation with the Secretary of the Treasury—

"(I) shall consider, with respect to a broker or dealer that is a person of a foreign country and is already operating in the United States—

"(aa) the extent to which that foreign country has a record of according national treatment to United States brokers and dealers; and

"(bb) whether that country would permit United States brokers or dealers already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's brokers or dealers; and

"(II) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purposes of this paragraph.".

SEC. 404. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR INVESTMENT ADVISERS.

Section 203 of the Investment Advisers Act of 1940 (12 U.S.C. 80b-3) is amended by adding at the end the following new subsection:

"(i) National Treatment.—

"(1) Purposes.—This subsection is intended to encourage foreign countries to—

"(A) accord national treatment to United States investment advisers that operate or seek to operate in those countries; and

"(B) seek an end to discrimination against United States investment advisers.

"(2) Annual reports required.—For each calendar year beginning on or after January 1, 1991, the Secretary of the Treasury shall, not later than May 1 of the following calendar year, submit to the Congress a report—

"(A) identifying each foreign country—

"(i) that, according to the most recent report submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, does not accord national treatment to United States investment advisers; and

"(ii) with respect to which no determination under paragraph (4) is in effect;

"(B) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(C) describing the results of negotiations conducted pursuant to paragraph (3)(A).

"(3) Negotiations required.—(A) The Secretary of the Treasury shall initiate negotiations with any foreign country described in clauses (i) and (ii) of paragraph (2)(A) to ensure that that country accords national treatment to United States investment advisers.

"(B) Subparagraph (A) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(i) determines that such negotiations would be fruitless or would impair national economic interests; and

"(ii) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Energy and Commerce of the House of Representatives.

"(4) Discretionary sanctions.—The following provisions shall apply if the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination that a foreign country does not accord national treatment to United States investment advisers:

"(A) The Commission may, in consultation with the Secretary of the Treasury, deny any application, and disapprove any notice, filed pursuant to this title by a person of that foreign country.

"(B) The Commission may, in consultation with the Secretary of the Treasury, prohibit any person of that foreign country from acquiring control of a registered investment adviser, irrespective of when the acquisition was initiated.

"(C) No person of that foreign country, acting directly or indirectly, shall acquire control of any registered investment adviser unless—

"(i) the Commission has been given notice 45 days in advance of the acquisition, in such form as the Commission shall prescribe by rule; and

"(ii) the Commission has not prohibited the acquisition.

"(D) The Commission may, by order, extend the notice period with respect to any particular acquisition for not more than 60 days.

"(E) The Secretary of the Treasury shall annually review any determination under this paragraph and decide whether that determination should be rescinded.

"(5) National treatment defined.—A foreign country accords national treatment to United States investment advisers if it offers them the same competitive opportunities (including effective market access) as are available to its domestic investment advisers.

"(6) Person of a foreion country defined.—A person of a foreign country is a person that—

"(A) is organized under the laws of that country;

"(B) has its principal place of business in that country;

"(C) in the case of an individual—

"(i) is a citizen of that country, or

"(ii) is domiciled in that country; or

"(D) is directly or indirectly controlled by a person described in subparagraphs (A), (B), or (C).

"(7) Exercise of discretion.—In exercising discretion under this subsection—

"(A) the Secretary of the Treasury and the Commission shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(B) the Commission, in consultation with the Secretary of the Treasury—

"(i) shall consider, with respect to an investment adviser that is a person of a foreign country and is already operating in the United States—

"(I) the extent to which that foreign country has a record of according national treatment to United States investment advisers; and

"(II) whether that country would permit United States investment advisers already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's investment advisers;

"(ii) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purposes of this subsection.".

SEC. 405. CONFORMING AMENDMENTS SPECIFYING THAT NATIONAL TREATMENT INCLUDES EFFECTIVE MARKET ACCESS.

(a) Quadrennial Reports on Foreion Treatment of United States Financial Institutions.—Section 3602 of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5352) is amended—

(1) in paragraph (3), by striking "and securities companies" and inserting ", securities companies, and investment advisers"; and

(2) by adding at the end the following: "For purposes of this section, a foreign country denies national treatment to United States entities unless it offers them the same competitive opportunities (including effective market access) as are available to its domestic entities.".

(b) Negotiations to Promote Fair Trade in Financial Services.—Section 3603(a)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5353(a)(1)) is amended by inserting "effective" after "banking organizations and securities companies have".

(c) Primary Dealers in Government Debt Instruments.—Section 3502(b)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5342) is amended—

(1) by striking "does not accord to" and inserting "does not offer";

(2) by inserting "(including effective market access)" after "the same competitive opportunities in the underwriting and distribution of government debt instruments issued by such country"; and

(3) by striking "as such country accords to" and inserting "as are available to".

TITLE V—EFFECTIVE DATES

SEC. 501. EFFECTIVE DATES.

(a) In General.—Except as provided in subsection (b), the provisions of this Act shall take effect on August 10, 1990.

(b) Special Rules.—(1) Title IV of this Act takes effect on the date of enactment of this Act.

(2) The acquisition policies required by title II of this Act shall be incorporated as part of the Federal Acquisition Regulation within 270 days after enactment. Such policies shall apply to solicitations issued 60 days after such regulations are issued.[S03OC0-V1]{S14440}issued.

PRIVILEGE OF THE FLOOR

Mr. DIXON. I ask unanimous consent that Mr. Charles Schneider be given the privilege of the floor during the consideration of S. 1379.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2925

Mr. DIXON. Mr. President, I send an amendment to the desk on behalf of the distinguished chairman and ranking member of the committee, Senators Riegle and Garn, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. Dixon], for Mr. Riegle (for himself and Mr. Garn), proposes an amendment numbered 2925.

Mr. DIXON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 59, line 8, strike "and".

On page 59, between lines 11 and 12, insert the following:

(C) responding to actions occurring outside of the United States which could result in the termination or reduction of the availability of strategic and critical materials, including energy, and which would adversely affect the national defense preparedness of the United States; and

On page 69, line 9, strike "(a) In General.—".

On page 71, strike lines 18 through 22.

On page 85, strike lines 13 through 15 and insert the following:

(1) in subsection (a), by striking "and subsection (j) of section 708A";

Beginning with page 92, line 11, strike all through page 103, line 25.

On page 104, line 11, strike "countries" and insert "foreign governments".

On page 104, line 15, before the semicolon insert the following: "and assesses the extent and character of any such strategy".

On page 104, line 19, strike the semicolon and insert the following: "and assesses the extent and character of any such activities.".

On page 110, between lines 5 and 6, insert the following:

SEC. 152. VOLUNTARY AGREEMENTS.

Section 708A of the Defense Production Act of 1950 (50 U.S.C. App. 2158a) is repealed.

On page 115, strike lines 6 through 9 and insert the following:

(a) In General.—The single Government-wide Federal Acquisition Regulation, referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)), shall be amended to specify the circumstances under which an acquisition plan for any major

On page 115, line 12, after the comma insert "shall".

Beginning with page 115, line 23, strike all thorugh page 116, line 3.

On page 116, line 4, strike "(3)" and insert "(2)".

Beginning with page 116, line 16, strike all through page 118, line 15, and insert the following:

SEC. 212. PROCUREMENT OF CRITICAL COMPONENTS OR CRITICAL TECHNOLOGY ITEMS.

(a) Acquisition Regulations Required.—Within 180 days of the date of enactment of this Act, the single Government-wide Federal Acquisition Regulation, referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)), shall be modified to provide for the solicitation, award, and administration of contracts for the procurement of critical components or critical technology items in accordance with provisions of this section.

(b) Required Solication Provisions.—Except as provided in subsection (c), any solicitation for the procurement of critical components or critical technology items shall—

(1) specify the minimum percentage of the total estimated value of the contract that is to be performed by one or more domestic firms;

(2) provide for the attainment of such requirement by the firm as prime contractor, or by subcontractors pursuant to a subcontracting plan submitted with the prime contractor's offer,

(3) specify that a source selection factor relating to the requirement specified in paragraph (1) shall accord—

(A) such source selection factor a value not to exceed 10 percent of the total evaluation points for all source selection factors specified in the solicitation; and

(B) such evaluation points in proportion to the extent to which each offer meets or exceeds the specified percentage;

(4) provide that attainment of the percentage specified in the offer of the firm receiving the award shall be a material element of contractual performance; and

(5) require the contractor to—

(A) identify each subcontractor whose performance is to be counted towards attainment of the contractual requirement specified pursuant to paragraph (1); and

(B) provide prompt notice to the contracting officer after replacing any such subcontractor.

(c) Waiver of Solicitation Provisions.—(1) The regulations required by subsection (a) may specify circumstances under which the solicitation provisions required by subsection (b) may be waived with respect to a specific solicitation upon a determination by the contracting officer that the use of such solicitation provisions is likely to result in a significant adverse impact on the national interest of the United States.

(2) The contracting officer's determination shall be—

(A) supported by specific written findings which justify such determination; and

(B) approved by the senior procurement executive of the department or agency (designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) or a designee of such officer.

(3) Copies of waiver determinations approved pursuant to subsection (b) (including the supporting written justifications and approvals) shall be made available upon request to—

(A) the public, consistent with the provisions of section 552 of title 5, or

(B) any member, or duly constituted committee, of the Congress.

(d) Critical Components and Critical Technology Items.—The President, acting through the Secretary of Defense, shall—

(1) determine the components or items that are critical components or critical technology items; and

(2) publish a list of such critical components and critical technology items in the Federal Acquisition Regulation.

(e) Definitions.—For the purpose of this section—

(1) the term "domestic firm" has the same meaning as the term "domestic source" in section 702 of the Defense Production Act of 1950; and

(2) the terms "critical components" and "critical technology items" have the same meanings as in section 702 of the Defense Production Act of 1950.

Beginning with page 118, line 16, strike all through page 119, line 4, and insert the following:

SEC. 213. SUSTAINING INVESTMENT.

It is the sense of the Congress that, in order to encourage investment to maintain our Nation's technological leadership, to preserve the strength of our industrial base, and to encourage contractors to invest in advanced manufacturing technology, advanced production equipment, and advanced manufacturing processes, the Secretary of Defense as part of his implementation of changes to defense acquisition policies pursuant to the Defense Management Review shall consider—

(1) full allowability of independent research and development/bid and proposal costs;

(2) appropriate regulatory changes to increase the progress payment rates payable under contracts; and

(3) an increase of not more than 10 percent in the amount which would otherwise be reimbursable to a contractor as the Government's share of costs incurred for the acquisition of production special tooling, production special test equipment, and production special systems (including hardware and software) for use in the performance of the contract.

Beginning with page 119, line 22, strike through page 120, line 6, and insert the following:

(a) Suspension or Debarment Authorized.—Subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation) shall be amended to specify the circumstances under which a contractor, who has engaged in an unfair trade practice, as defined in subsection (b), may be found to presently lack such business integrity or business honesty that seriously and directly affects the responsibility of the contractor to perform any contract awarded by the Federal Government or perform a subcontract under such a contract.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2925) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DIXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DIXON. Mr. President, the principal purpose of this bill is to modernize and strengthen the Defense Production Act of 1950 to meet today's challenges, and to extend the President's authorities under the act through September 30, 1993. Today's events convince me that the Senate needs to give prompt and favorable consideration to this legislation.

During its 40-year history, the Defense Production Act has provided to the President an array of authorities with which to mobilize the Nation's productive capacities for national defense purposes, especially during times of national emergency. Provisions of the act are used during peacetime to give priority to contracts for essential national defense requirements. The demands of Operation Desert Shield have once again vividly displayed the importance of the authorities provided by the Defense Production Act. It is being frequently used on a daily basis today to be certain that our forces deployed in the Middle East have the equipment that they will need to successfully confront and overcome any aggression using conventional or chemical weapons. The bill continues and enhances these important authorities, while offering amendments designed to assure that the use of these significant powers will only be delegated to senior officials of the executive branch.

To preserve and enhance the capacities and capabilities of those segments of the Nation's overall industrial base and technology base essential to the national defense, the Defense Production Act also provides authorities to support private sector initiatives to bring technology advances to production or to demonstrate how existing productive capacities may be made more efficient. These authorities have only been used very sparingly in peacetime during most of the act's 40-year history. The findings of a broad array of assessments of the condition of the Nation's defense industrial base conduct since the 1970's by Congress, the General Accounting Office, the Department of Defense, and various private sector groups suggest that steps must be taken to encourage investment by industry. During the late 1980's, the same concerns began to be voiced about the Nation's technology base supporting national defense, only recently perceived to be virtually unchallenged in its dominance. Through proposed enhancement to current Defense Production Act authorities, and the other provisions aimed at encouraging investment by industry in production modernization and technology advancement, the committee believes that this bill provides a valuable array of stronger tools for use by the President.

S. 1379 is the product of much thorough work spanning a period of almost 2 years. Several discussion drafts of the proposed bill were circulated for informal comment. Discussions were held with various segments of industry, representing small business as well as the leading firms of the aerospace industry. Similarly, informal comments were obtained from individuals in Government who had hands-on experience with the implementation of the Defense Production Act. Discussions were also held with representatives of private and governmental organizations that had conducted some of the most recent reviews of the current state of the defense industrial and technology base.

Mr. President, these informal dialogs continued through most of the committee's deliberations on the bill. We didn't always agree, but everyone had their views heard and carefully considered.

It is also important to note that throughout the committee's deliberations, S. 1379 has enjoyed bipartisan support. My good friend the senior Senator from Pennsylvania [Mr. HEINZ] is the bill's principal cosponsor. We were joined by several of our colleagues from the committee on both sides of the aisle, including Senators SHELBY, WIRTH, and D'AMATO. Although initially approaching many of the bill's provisions from quite different perspectives, an openminded, cooperative spirit generally prevailed under the leadership of the committee's chairman, Senator RIEGLE, and our ranking minority member, Senator GARN. Spirited debates on various issues took place during the hearings and at the markup, but in the end S. 1379 was reported without a dissenting vote.

The bill before the Senate also had the benefit of 6 days of especially thorough hearings before the committee. I will not recite the full litany of experienced and thoughtful witnesses from industry and Government, since it is fully presented in the committee's report. Suffice it to say, Mr. President, the committee had the benefit of many thoughtful comments on the overall health of the Nation's industrial and technology base, suggestions on techniques to strengthen it, the importance of the Defense Production Act, and the provisions of S. 1379.

S. 1379 is ready for action by the Senate. It has been modified in many important respects to address the concerns of various individual Senators and other committees, such as the Committee on Armed Services, on which I also serve. I believe that several of these provisions, deleted from the bill for jurisdictional and other reasons, still have merit. I may well pursue them further in the next Congress.

Mr. President, I ask unanimous consent that a summary of the managers' amendment which was peviously adopted be printed in the RECORD. These amendments make further changes to address additional concerns expressed since the committee reported the bill on May 24.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF MODIFICATIONS TO S. 1379, THE DEFENSE PRODUCTION ACT AMENDMENTS OF 1990 MADE BY THE MANAGER'S AMENDMENT

1. SECTION 2—CONGRESSIONAL FINDINGS

The amendment restores a finding presently in current law that the authorities of the Defense Production Act are available to respond to shortages of strategic and critical materials, including energy, which would adversely affect defense preparedness.

2. SECTION 123—DEFENSE PRODUCTION ACT FUND

The amendment deletes subsection (b) which had provided that the DPA Fund established by Section 123 would be initially capitalized through the transfer of $200 million from the unobligated balance of the National Defense Stockpile Transaction Fund.

3. SECTION 137—ANTITRUST PROTECTIONS FOR INDUSTRY CONSORTIA

The amendment deletes this section. It also makes purely technical changes to Sections 135 and 152 required by the deletion of Section 137.

4. SECTION 138—INTELLIGENCE STUDY

The amendment makes minor technical changes to this section to clarify its purposes.

5. SECTION 211—RECOGNITION OF MODERNIZED PRODUCTION SYSTEMS AND EQUIPMENT IN CONTRACT AWARD AND ADMINISTRATION

The amendment modifies Section 211 to provide that it should be implemented on a government-wide basis through the Federal Acquisition Regulations. It also modifies and transfers to Section 213 provisions relating to reimbursement of costs for the acquisition of production special tooling and test equipment.

6. SECTION 212—PROCUREMENT OF CRITICAL COMPONENTS OR CRITICAL TECHNOLOGY ITEMS

The amendment deletes Section 212 of S. 1379 and replaces it with a new version that assures consistent government-wide implementation of its provisions by mandating changes to the Federal Acquisition Regulations. To provide flexibility in implementation, a waiver provision has been included.

7. SECTION 213—SUSTAINING INVESTMENT

The amendment adds to Section 213 a slightly modified version of the provision previously found in Section 211 relating to reimbursement of costs for the acquisition of production special tooling and test equipment.

8. SECTION 222—DISCOURAGING UNFAIR TRADE PRACTICES

The amendment modifies Section 222 to require that the government-wide Federal Acquisition Regulations be amended to specify the circumstances under which a contractor or subcontractor may be suspended or debarred from contracting with the government for having committed an unfair trade practice as defined in the section.

Mr. RIEGLE. Mr. President, I rise in support of S. 1379, the Defense Production Act Amendments of 1990, which the Senate Banking Committee reported on May 24, 1990. The Defense Production Act [DPA] has been called a "statutory cornerstone of our country's national security." Currently, the DPA gives the President the authority to require priority performance of contracts which have been determined to be necessary for the national defense. This is an authority the President is using right now in regard to Operation Desert Shield to ensure that our forces in the Persian Gulf have the equipment they need to do their job.

Let me read to you from a letter the Deputy Secretary of Defense sent to the majority leader on September 24:

> The DPA enables the Nation's industry to give priority to weapons and military equipment production to meet defense needs under the Defense Priorities and Allocations System established pursuant to Title I of the Act. The Department has found it necessary to invoke this authority hundreds of times each year to ensure that the Armed Forces have the items they need when they need them.
>
> The authority granted by the DPA is essential to keep the Armed Forces supplied with spare and consumable items, such as aviation fuel, munitions, chemical protective suits, and combat meals because the Department's supplies would otherwise be unable to obtain the necessary inputs on a priority basis to produce these products. Since operation "Desert Shield" began, DPA authority has been necessary to procure missile containers used to ship and store missiles, electronic countermeasure pods and radomes for Marine and Air Force tactical aircraft, secure computer workstations, and various components of the Bradley Fighting Vehicle.

Admiral Matthews, the Secretary of Energy wrote to me on September 26 and stated:

> The bill to reauthorize the Defense Production Act of 1950 (DPA) reported by the Committee, S. 1379, contains two provisions that could be extremely helpful in addressing the energy aspects of the current situation in the Middle East. Specifically, section 135 of S. 1379 would amend section 708 of the DPA to enhance the use of "voluntary agreements" in responding to serious national emergencies, and section 141 of the bill would clarify that the DPA section 101 contract priority rating authority applies to "services" contracts such as for standby emergency repair of Strategic Petroleum Reserve pipelines.

The Deputy Secretary of Commerce, Mr. Murrin, wrote to me on September 27 and stated:

> I strongly urge the Congress to extend the authorities of the DPA and, if possible, to enact those energy-related provisions noted in Secretary Watkins' recent letter you, to ensure that the Federal Government can continue to support Operation Desert Shield.

So, it is very important that we proceed to the consideration of this bill without delay and get it enacted so we can go to a conference with the House. The House has already sent us a bill to amend and extend the DPA.

Aside from title I authorities needed for Operation Desert Shield, the DPA gives the President a broad range of economic authorities in the form of purchase agreements, loan guarantees, and loans to help maintain and expand the industrial base supporting national defense. To encourage joint undertakings by industry to improve industrial preparedness, the act also permits such undertakings pursuant to voluntary agreements initiated by the President. Operations under such agreements give companies a defense against suits brought under antitrust laws. The act also gives the President authority to suspend or prohibit the acquisition, merger, or takeover of a domestic firm by a foreign firm if such action by a foreign firm would threaten or impair national security.

S. 1379, a five title bill, significantly amends the Defense Production Act of 1950 and reauthorizes it until September 30, 1993. The bill institutes measures to improve information on the loss of industrial and technological capabilities in areas critical to national defense and begins to formulate methods for the Nation to respond to the continuing erosion of our defense industrial base. Such erosion must be reversed in order to alleviate our growing dependency on foreign suppliers for certain key components and technology items critical to U.S. national security.

Title IV of S. 1379, entitled "Fair Trade in Financial Services," does not amend the defense Production Act. Instead it amends banking and securities statutes in order to encourage foreign countries to offer U.S. financial institutions that operate or seek to operate in them de facto national treatment. Let me first discuss the titles which amend the Defense Production Act before addressing that important title.

Over the last 18 months the Banking Committee has held 12 hearings during which it heard testimony from many expert industry and Government witnesses regarding the declining health of the U.S. industrial and technology base, and global economic trends significant to our Nation's future. Two major themes emerged during these hearings: First, we are experiencing a decline in the ability of U.S. industry to meet our national defense needs; and second, we are also experiencing a growing degree of U.S. dependence on foreign suppliers for the procurement of technologies critical to national security.

The committee's hearings suggested that U.S. industrial competitiveness is being outpaced by the gains of foreign counterparts and that as our productivity growth has lagged, our technological edge is diminishing. One of our many expert private sector witnesses, Norman Augustine, chairman and CEO of Martin Marietta Corp., emphasized this point by stating that, "Our industrial base is being seriously eroded. Productivity growth has lagged, our technological edge is diminishing."

The United States faces stiff industrial and commercial competition from many determined and well-organized foreign counterparts in nearly every major public or private industry undertaking. At the committee's February 28 hearing, the Office of Technology Assessment (OTA) released its report entitled, "Making Things Better: Competing in Manufacturing." The report emphasizes that while American manufacturers have recognized the need for improvements in quality and productivity, it is not enough. According to that same OTA report, our ablest competitors are moving faster than we are, and it will take cooperative efforts on both the part of domestic manufacturers and the U.S. Government to stay competitive in the international marketplace.

The competitive standing of many industries vital to our military-industrial base is in decline. Since 1982, two-thirds of the contractors who sell manufactured goods to the Department of Defense [DOD] have left as suppliers to the DOD. In 1982, there were more than 118,000 companies providing goods to the DOD in relevant defense sectors. In 1987, only 38,000 companies in those sectors provided such goods. This shrinkage is even more remarkable in light of the fact that the defense procurement budget increased almost twofold during the same 5-year period.

The result of the departure of so many suppliers from the defense business combined with quality and productivity deficiencies in our industrial sector have made us increasingly dependent on foreign suppliers for the procurement of parts, components, and systems critical to U.S. national security. Former Secretary of Defense Frank Carlucci emphasized this point during his July 11, 1989, testimony before the committee by stating, "One could single out any number of areas where the Department of Defense is dependent on foreign imports for critical components."

It is my belief that growing dependence on foreign suppliers for critical defense components could be detrimental to the national security of the United States, since it raises the risk that foreign interests may gain undue influence over U.S. foreign and domestic policy by leveraging our need for their products and technology against their policy objectives.

Of equal concern is our ignorance regarding the extent of U.S. dependence on foreign suppliers. Although a great number of American industry and Government leaders believe the United States is dependent in certain defense-related industries, there is no precise knowledge of what those areas are or the extent to which we are dependent on foreign suppliers for key technologies. There is no single Governmentwide, or for that matter DOD-wide, system for gathering data that systematically reflects the extent to which defense contractors are dependent on materials provided by foreign sources. Our current knowledge is based on anecdotal information or on ad hoc studies of the defense industrial base by Government and non-Government organizations. This is not acceptable and the provisions of this bill attempt to deal with it.

The amendments to the Defense Production Act in S. 1379 address the problems I have just outlined. To improve the competitive position of domestic defense suppliers, the act provides the President authority to undertake peacetime projects to preserve and enhance the capacity and capabilities of segments of the Nation's overall industrial and technology base essential to the national defense. To achieve this end, S. 1379 establishes a separate revolving fund to act as a stable source of funding for eligible projects which foster development or utilization of "critical technologies." Throughout the committee's hearings, the establishment of a revolving fund received strong support from both public and private sector witnesses. This fund is seen as an effective mechanism for reversing a long history of anemic and erratic funding for industrial resource projects.

S. 1379 also modifies the act's current offset reporting requirements. Section 309 of current law requires the President to annually prepare and submit a report on the impact of offsets on defense preparedness, industrial competitiveness, employment, and trade to the House and Senate Banking Committees.

Section 125 of this bill requires that a notice be furnished regarding any offset agreement exceeding $5 million. The notice requirement is not a prior approval requirement and any information submitted pursuant to this provision is accorded protection from public disclosure. The provision is merely designed to improve data gathering procedures so that such reports will better address the effects of offsets on our defense industrial base and nondefense industry sectors, including the effects resulting from technology transfers.

In order to better identify and analyze areas of growing U.S. dependence on foreign suppliers for critical defense components and technology items, which I discussed earlier, the bill establishes a continuous data collection and analysis system with respect to the operations of defense contractors and subcontractors. Such a system has become increasingly necessary as technology development and manufacturing have globalized during the 1980's. To the extent the United States builds down its defense posture in response to the thawing of the cold war, our national security will rely increasingly on contingent military capabilities such as our existing industrial and technological potential. It is imperative that we know where our strengths and weaknesses lie in areas of the industrial base that would have to be mobilized to meet a national emergency.

S. 1379 also calls for better integration of national security policy, national economic policy, and industrial capabilities planning. In addition, the bill includes provisions designed to encourage investment in modernized production systems and equipment so as to improve the defense industrial base.

The amendments to the Defense Production Act take an important step toward preserving and enhancing the defense industrial base by enlisting the help of the U.S. Government. Government support can play a crucial role in ensuring that critical technologies make it past the conceptual stage and into the development and production stages. In these latter stages such technologies can attain widespread defense and commercial applicability. They can then become more competitive with emerging foreign technologies which have long had government support.

I do not pretend that these amendments to the DPA will, by themselves, reverse the decline of our defense industrial base. That will take a much larger national effort and will require strong Presidential leadership. But these amendments will start a process of addressing this problem. President Kennedy used to say that a journey of a thousand miles begins with the first step. These amendments to the DPA constitute a first step in the long journey we must make as a nation to reverse our industrial base problems. It is for this reason that I strongly urge my colleagues to support them.

Now let me turn to title IV of S. 1379, Fair Trade in Financial Services, which was reported by the Banking Committee with broad bipartisan support on May 24, 1990. These provisions, which amend the International Banking Act of 1978, the Securities Exchange Act of 1934, and the Investment Advisers Act of 1940, are designed to give Department of Treasury officials new leverage in their negotiations to obtain competitive access to foreign banking and securities markets such as those in Japan.

Section 3602 of the Omnibus Trade and Competitiveness Act of 1988 already requires the Treasury to identify and report to Congress every 4 years on countries that do not grant full national treatment to U.S. banking and securities firms. The first report under that provision is due on December 1, 1990.

The Fair Trade in Financial Services Act amends section 3602 to specify that national treatment includes "effective market access." This is designed to address situations where U.S. firms abroad may receive de jure national treatment—equality according to the letter of the law—but not de facto national treatment—equality of opportunity to compete in actual practice. The fair trade bill further provides that if foreign countries do not provide de facto national treatment to our financial firms, the Treasury Department should negotiate to obtain it.

To strengthen the Treasury's hand in any negotiations, the bill permits our banking and securities regulators, in consultation with the Treasury, to deny applications for regulatory approval filed by banking and securities firms from countries that discriminate against U.S. firms. Any denials would not force foreign financial firms to shrink their existing operations but could limit their opportunities for future expansion.

Before regulators could exercise their authority, however, the Secretary of the Treasury would have to publish in the Federal Register a determination that discrimination against U.S. financial institutions is taking place in a given foreign country. Let me stress that no action is mandated by this legislation. The Treasury Secretary and the regulators have discretion under it whether to use the grant of authority being given to them.

Let me explain why I feel so strongly about enacting the Fair Trade in Financial Services Act. During the 1950's and 1960's, U.S. banks dominated the global banking scene as they helped American companies finance their expanding export markets and funded the growth of overseas subsidiaries. In the 1970's, as the economies of Europe and Japan fully recovered from the war, many foreign banks also began to do business in the United States as companies from their countries expanded their export markets here. This was a direct result of the efforts our country made in the 1950's and 1960's to encourage the economic growth of Europe and Japan.

America, however, had no national policy dealing with the regulation of foreign banks in this country. As a result American banks rightfully began complaining that foreign banks actually enjoyed competitive advantages in their operations here. For example, foreign banks could branch and take deposits nationwide while the McFadden Act prohibited their American competitors from doing likewise.

The Congress responded by passing the International Banking Act of 1978, which established the rules under which foreign banks operate in America. That law was designed to establish a level playing field between American and foreign banks in this country. It did not discriminate against foreign banks and even grandfathered some of the competitive advantages they enjoyed. The Senate Banking Committee's 1978 report on that statute stated:

> Foreign chartered banks are accorded operating privileges in the United States which enable them to compete in the United States on terms which equal or exceed the domestic operating privileges of our own domestically chartered banks.

The report went on to state that with enactment of the International Banking Act of 1978:

> The United States has more than abided by the principles of national treatment for foreign banks operating here * * *. In contrast, our domestic banks operating abroad have not always received equal treatment in foreign countries with their host country competitors.

While Congress was concerned in 1978 about the inconsistency between our national treatment policy and the differing policies of some of our competitors, it hoped these matters could be resolved by U.S. negotiators without further congressional action. It did require the Treasury Department to report to Congress by 1980 on the extent to which American banks were denied national treatment in their banking operations abroad.

In 1978, when the International Banking Act was passed, U.S. banks were still among the largest in the world and controlled the largest share of the international banking market. Two of the three largest banks in the world were American, and U.S. banks made over 30 percent of all international loans. But in 1988, U.S. banks did less than 15 percent of cross-border lending compared to 38 percent for Japan and 31 percent in Europe. Now the largest U.S. bank ranks 24th in the world in size.

Foreign banking institutions currently control over 25 percent of all banking assets booked in the United States. Japanese banks alone have 14 percent of all such assets. In some markets, such as California, Japanese banks have 25 percent of total assets. Furthermore, foreign bank loans in the United States are growing three times faster than domestic bank loans. In contrast, banking assets held by American and all other foreign banks in Japan have continued to decline. In recent years, the United States share of the Japanese market has declined from 3 percent to 1 percent. Foreign banks as a whole have less than a 3-percent share of the Japanese market and that is also declining.

I'm not arguing that a denial of market access for U.S. financial institutions in key foreign markets is the chief cause behind this trend in declining competitiveness of U.S. financial institutions. Certainly, America's macro-economic policies, along with our chronic current account deficits and low savings rates have fueled the growth of foreign banks in this country and have contributed to the new problems U.S. banks now face. However, the lack of competitive opportunity in certain important financial markets has contributed to the decline of the competitive position of U.S. financial institutions in the global marketplace. In fact, U.S. banks are finding it increasingly difficult to compete with foreign banks operating in the United States in part because they are often denied fair access to foreign capital markets that offer lower cost capital than is available in U.S. markets. If access by our financial firms to such markets is limited or denied, the access of U.S. borrowers to such lower cost funds becomes restricted as well. In addition, if foreign banks make use of such lower cost funds to penetrate the U.S. market, they will enjoy a unilateral competitive advantage.

We received testimony in the Banking Committee that the higher profits Japanese banks enjoy in their protected home market gives them the ability to offer lower spreads and lower fees in this country. Therefore, the United States Government must be more aggressive in ensuring that U.S. financial institutions are not discriminated against in Japanese or other foreign markets.

The provisions of this title are designed to give our officials the authorities they need to negotiate aggressively on these matters. I urge my colleagues to read report 101-367, the report filed by the Banking Committee on S. 2028 on July 13, 1990. It gives a fuller explanation of this important piece of legislation.

If we continue to allow unfair trade practices to exist in the international financial services sector, we undermine the profitability, safety, and soundness of U.S. financial institutions at a time when we need to do more to ensure their continued strength and stability. This matter becomes increasingly important because the strength of U.S. financial institutions is critical to the health of the U.S. economy. I strongly agree with the thoughts expressed by Deputy Secretary of State Lawrence Eagleburger in a cable recently sent to U.S. diplomatic posts around the world:

> We as a Government and as a society are going to have to acknowledge that our economic health and our ability to trade competitively on the world market may be the single most important component of our national security as we move into the next century.

I want to particularly commend Senator DIXON for his outstanding work on this legislation, as well as Senators GARN, HEINZ, and all the members of the Banking Committee for the bipartisan manner in which our committee worked to develop the bill being presented to the Senate today.

Making significant improvements to the DPA has been a high priority in the Banking Committee this session. The bill before the Senate achieves the priority we set for ourselves. I urge my Senate colleagues to pass it so we can begin our conference with the House and complete this legislation to renew and reform the Defense Production Act before it expires on October 5 of this year.

Mr. GARN. Mr. President, today I join Senator DIXON in supporting passage of S. 1379, the Defense Production Act Amendments of 1990. It is vital that the Congress act quickly to extend DPA authorities at this time. While I have always felt that the act is vitally needed even in peacetime situations, its authorities are now being used to support Operation Desert Shield. In particular, title I authority is being used to ensure adequate and timely supply of—

Missile shipping containers;

Radio and amplifier systems for satellite communications;

Lap top computers for battlefield use; and

Defense electronic countermeasure pods for Navy and Air Force aircraft.

It would be the height of irresponsibility on the part of the Congress to permit such vital authorities to lapse in a crisis situation.

I should add that my support for the bill goes beyond simple extension of basic authorities. Most importantly, S. 1379 makes several changes that the Department of Energy badly needs to deal with possible disruptions of world energy supplies if the gulf crisis intensifies. These provisions must be added to the law and I would expect to make further modifications needed by the Department that are contained in the House bill when we go to conference.

The bill is modified by a managers' amendment that addresses concerns raised by the administration and by members of the Armed Services and the Judiciary Committees. These changes will remove amendments to our antitrust laws and a shift of receipts from the stockpile fund to a new fund for critical technologies created by the bill that faced strong objections. With these changes, two of the administration's major concerns are eliminated.

Finally, I strongly support title 4 of the bill which incorporates the Fair Trade in Financial Services Act that I introduced with Senator RIEGLE. This legislation is intended to give the Treasury negotiating leverage to open up markets for U.S. financial services companies where they are now being denied national treatment, or equal market access.

Throughout my time in the Senate, I have been a strong proponent of the national treatment standard both as U.S. financial policy and as the international standard to be pursued in negotiations for foreign market access. This notion of equal treatment under domestic law promises fair treatment for all sides, without challenging the right of governments to establish the regulatory framework they judge appropriate within their own borders.

This bill strengthens the standard by including within its definition effective market access. This addition emphasizes that equal treatment must occur in practices as well as in statute. I believe this is a vitally important issue for U.S. competitiveness in world markets. It does not close our markets. Instead, it puts others on notice that we will not wait forever to receive fair play. Nearly identical language has passed the Senate twice before.

I have been disappointed with the administration for its unwillingness to accept even discretionary authority of this kind of pursue market liberalization. I am now happy to report that on further consideration the Treasury has decided that it can accept the provision with minor additional modifications. While we have only just received their suggestions, I hope to accommodate then in conference on this issue as well.

This bill is good legislation. We must pass it and move on to conference. I recognize that there are provisions of the House bill that must be changed if we are to get useful legislation that the President will sign. I hope to achieve that objective and urge my colleagues to pass this legislation so that we can do so.

Mr. SANFORD. Mr. President, I rise today in support of S. 1379, the Defense Production Amendments Act of 1990. I want to commend the bill's sponsor, Senator DIXON, for drafting this legislation and for his efforts and those of Senator RIEGLE, in illustrating for the committee the effects the declining defense industrial base has had on our entire national economy and our national security.

As the hearings began on the DPA in the Banking Committee last summer, the members of the committee were brought face to face with the inadequacies of the defense industrial base and the declining state of our national competitiveness posture in world markets. We heard testimony from industry representatives stressing the need for the United States to develop policies which would encourage them to undertake joint efforts in developing emerging technologies. And we have heard from government representatives citing numerous studies which show the erosion of U.S. leadership in high technology industries which have become vital to our national defense.

The Defense Production Act was originally adopted in 1950, in the early part of the cold war, and provided the President with an array of authorities to mobilize defense production, especially in times of national emergency. The legislation before us today expands the reach of the DPA and adapts it to reflect the changes that have occurred in the industry due to the reliance upon critical technologies that form the basis of defense industries as well as domestic industries.

At issue with this legislation is the sentiment that the defense industrial base and the civilian industrial base have become indistinguishable and that the United States no longer maintains its leadership in producing dual use technologies. As industry representatives have testified before the Senate Banking Committee, our industries today have come to rely increasingly upon foreign sources to supply key industrial products and we have "lost the indigenous capacity to produce key components of weapons systems essential to national defense." Provisions within S. 1379 offer support for American industries to foster new technologies and expand production capabilities.

The competitiveness problems our Nation faces with respect to both defense and civilian industries are critical to the stability of our national economy. The Office of Technology Assessment examined the issue and laid bare the steps we need to take before we see improvements. Those steps include getting out Federal deficit under control; investing in human resources—improving education, training the modern work force, stimulating research at universities; and shifting the focus away from short-term investments to long-term investments. Most of us recognize the need to improve in these areas, but we must not allow ourselves to be satisfied with the small accomplishments we may make in legislation today. We can no longer continue to mask the Federal deficit and get by with the appearances of improving the debt problem. We can no longer continue to make small contributions in the education of our children, offering them our support in name only. We can no longer continue our shortsighted investment practices.

Although S. 1379 does little to remedy our overall competitiveness situation, it has served to highlight the problem and establishes such issues as a priority for future legislation.

I support S. 1379 and the purposes for which it was drafted. I hope that we may build upon it as we work to improve our overall competitiveness position in the world market.

Mr. HEINZ. Mr. President, the procurement of critical components and critical technology items from onshore contractors is essential to the well-being of the U.S. defense industrial base, which is, in turn, an integral part of the entire manufacturing base.

Yet this critical relationship is confronted increasingly with the effects of economic globalization, which have thrown our manufacturing and technology sectors into the ring against foreign competition. The result has been our increasing reliance on offshore subcontractors at the expense of domestic suppliers. This increased dependence on foreign competitors also weakens our entire defense industrial base and in so doing undermines our ability to protect U.S. national interests around the globe. A study released in May 1989 by the Center for Strategic and International Studies, states:

> Some products no longer have more than one domestic provider, including nuclear projectiles, depth charge components, parachute recovery systems, some specialized marine vessels, tanks, several types of machinery, rope, nonmetallic pipe, piezoelectric crystals, and various textile and clothing products.

The semiconductor industry in particular is one which has been a growing source of concern to defense experts. The semiconductor is an American invention; however, its future in the United States is in serious jeopardy. Some of the most strategic weapons employed by the United States are solely dependent on foreign microchips. These include the Global Positioning System (satellites), Defense Satellite Communication System, F-16 Fighting Falcon, AIM-7 Sparrow air-to-air missile, M-1 Abrams MBT, and the FIA-18 Hornet. If in time of war, microchips for these items are needed in large supply on short notice, the United States would be highly vulnerable to the threat of a foreign power delaying or preventing the importation of such supplies into the United States.

The Banking Committee has taken the view that we have been complacent about this problem for loo long. The time has come to strengthen our manufacturing base, not add to its deterioration, and that is precisely what the bill before us would do. Former Under Secretary of Defense for Acquisition, Dr. Robert B. Costello, made the dependency point clear:

> The Department of Defense is becoming increasingly dependent on foreign-sourced hardware and technology in the acquisition of the technologically superior weapon systems that are fundamental to our strategy of offsetting numerical inferiority with technological superiority.

We cannot reasonably expect to offset potential adversaries' numerical superiority with only technological equivalence. The United States is rapidly losing its technological superiority to countries that have destroyed our capability to be self-sufficient in critical technology. For example, the November 1989 report of the National Advisory Committee on Semiconductors, "A Strategic Industry at Risk," refers to the notorious publication by Sony Chairman Akio Morita and former Japanese Minister Shintaro Ishihara, "The Japan That Can Say No." These two men suggest that the changes in the world of high technology:

> Highlights the growing issue of Japan's pivotal role in developing leading-edge military electronics technology that contributes to the United States-Soviet balance of power. They argue that because Japan has such dramaticallly advanced production skills, their semiconductors have achieved a level of sophistication unmatched anywhere. As a result, they contend the United States (where the semiconductor was originally developed) could become almost totally dependent on Japan to supply chips for its weapon systems. They go on to point out that if the supply of advanced Japanese chips to the United States were interrupted, and if Japan were to make these chips available to the Soviet Union instead, the balance of power could change dramatically.

While the prospect of Japan delivering quantities of chips to the Soviet Union may be remote—or no longer as

much a source of concern as it used to be—Japan's slowness in contributing to the United Nations' efforts against Iraq when it is the chief beneficiary of stability in the Middle East should make us think long and hard about the likelihood of timely support from our allies in other situations in the future. It is perhaps sad, but certainly true, that nations do what is good for them, not what is good for us.

We hope in cases like the Persian Gulf that many nations' interests will coincide, and we do our best to persuade everyone of that fact. But in the final analyses, national governments will decide for themselves, and we will have to live with the consequences. If we are dependent on foreign sources for critical defense items—as we are—then those consequences could be devastating indeed.

As Bernard Schwartz, chairman and chief executive officer of Loral Corp. has noted:

> Shipments could be cut off in a protracted crisis or war, either directly or through political pressure on the source nation, crippling this country's ability to sustain its defense effort.

Thus, the good health of American subcontractors at the heart of defense production is fundamental, especially during any protracted war; yet our at home surge capacity for rapid response during emergency buildups is seriously handicapped. The Department of Defense currently has no meaning of determining the full extent to which our defense forces rely upon foreign made components and parts. A report to the Secretary of Defense from his Under Secretary in July 1988 states,

> The Department of Defense does not know the extent to which foreign sourced parts and components are incorporated in the systems it acquires. Preliminary indications show that foreign dependencies are increasing. In a national emergency, the consequences of extensive dependence on foreign sources could be extreme.

Historically, other countries have suffered greatly by overreliance on other countries for critical components. In his study, "The Globalization of America's Defense Industries, Managing the Threat of Foreign Dependencies," Theodore H. Moran of Georgetown University states, "All of the major European powers have experienced the agony of dependence on companies and technologies controlled from abroad."

Starving countries of critical components in times of strife is nothing new—the oil crisis of 1973 proved this beyond any doubt. As I mentioned with respect to Japan, the uncertainties currently surrounding the world's oil supply have led us to question the reliability of some of our allies. Tepid reaction by Japan and Germany demonstrates that we may not be able to rely firmly on anyone. Our own industrial well-being will determine our ultimate fate. If a full scale war does break out in the Middle East, the United States could be held ransom by the very nations it depends on.

Fears of critical component shortages are not only confined to times of crisis. A report prepared by the Air Force Association states:

> The United States has depended for years on uncertain sources overseas for raw minerals. Now it is increasingly dependent on other nations for manufactured goods as well. The domestic industrial base is losing its capability to meet defense needs even in peacetime.

Having a healthy defense industrial base is crucial to U.S. national security and is a primary component of the strategy of deterrence, because increasingly in today's world, a nation's strength is defined in economic terms rather than simply military terms. Our ability to project our interests in far corners of the globe is directly related to others' perceptions of our strength, and that strength is defined in economic and technological terms. From that perspective strength means computers and semiconductors as much as it means tanks and missiles. Maintaining a technological advantage is fundamental to the continuation of our status as a world leader.

If our technological edge erodes, our entire security posture will weaken. A recent article in the New York Times states:

> Our national security is based upon a strategy of deterrence. * * * Deterrence is measured by the strength and competitiveness of our industrial base * * * When our industrial strength comes into question, our ability to deter potential aggressors is diminished and the threat of war increases.

The steady erosion of the U.S. industrial base has raised serious doubts as to whether or not it can meet the criteria for deterrence. In 1988 Under Secretary of Defense Costello stated:

> * * * the vitality of our manufacturing economy in general ultimately determines the war-fighting power of our nation's force structure. The economy's latent capability to enhance current forces in response to strategic threats is a critical element of our deterrence strategy.

The solution lies in nurturing the Defense Industrial Base. Dr. Allan Bromley, Director of the Office of Science and Technology Policy in the White House, put it like this:

> What is happening today is that the relatively small U.S. companies in the semiconductor industry and other high technology industries are competing with their Japanese counterparts that reside in large, vertically integrated corporations. It is an unequal competition.

"Deterrence in Decay," the report from CSIS, calls for the availability of selective incentives for firms in industries that are particularly disadvantaged in globally competitive critical defense markets or for industries in which a domestic production base is vital.

An Air Force Association study reported that many science and technology leaders experienced what they called a seat of the pants feeling that the U.S. technology shelf was not as full as it had been in the past. They contended that the United States could no longer inventory current technology and put together a superior weapon system. Now they said, "It's a challenge."

Import penetration of the defense industrial base has forced dependency on foreign suppliers for critical materiel which would not be available during time of crisis. The CSIS report notes that a 1986 Department of Defense exercise identified 17 critical items that could not be produced at required levels for a certain operational contingency of low-level conflict, even given an 18-month mobilization period of three shifts operating around the clock, with no constraints on funding or skilled production staff. The critical showstoppers were key parts, machine tools, raw materials, and test equipment that came from foreign suppliers that possibly would not be available in time of crisis.

A 1986 report from the Defense Department joint logistics commanders found foreign dependencies in eight of the 13 front-line weapons systems which were investigated. They found severe dependencies in six of them. The actual term "foreign dependency" can be defined as "an immediate serious logistics support problem that affects combat capability of the United States because of the unavailability of a foreign sourced item."

All of the following systems rely on at least one critical foreign part; most rely on several foreign parts.

Sidewinder missiles;

Sparrow air-to-air missile;

Phoenix air-to-air missile;

HARM-air-launched antiradiation missile;

Harpoon antiship missile;

Tomahawk C sea/or sub-launched missile;

Standard sea-to-air missile;

Mark 46 torpedo antisubmarine;

GBU 15 air-to-ground missile;

IR Maverick air-to-ground missile;

Laser Maverick air-to-ground;

Skipper air-to-ship or ground missile;

Copperhead artillery round, antiarmor weapon;

Tow antiarmor missile;

Hellfire helicopter launched antiarmor missile;

Patriot ground-to-air missile; and

Stinger ground-to-air missile.

The most vulnerable are the seeker missiles and designated target equipment missiles. Infra-red, sonar, optical laser systems are highly dependent on foreign parts.

The CSIS report also states that:

> The greatest import penetration in the defense industrial base is in the components

and subassemblies tier, with nearly 19 percent of domestic consumption coming from foreign sources in 1988.

The defense industrial base shrunk dramatically during the 1980's. According to Gen. Alfred G. Hansen, commander, Air Force Logistics Command, U.S. Air Force.

There were 118,000 vendors who sold products to the military in 1982. Within five years, that number had dropped to less than 40,000.

In a recent report released by Ernst and Young concerning the key issues for the 1990's, a majority of industry and Government representatives agreed that conscious efforts must be made to prevent foreign suppliers from becoming predominant on the component/subcontractor level. There was general agreement among all respondents that conscious efforts must be made to "prevent foreign future domination of the industry." The problem of insufficient domestic productivity in the face of foreign manufacturers has reached a crisis point and as a result of "onshore" subcontractors, a smaller and weaker industrial base is evident.

The U.S. Government's support of domestic subcontractors pales in comparison with the investments rendered to foreign manufacturers by their respective governments. Japanese companies are encouraged to use the money alloted to them for specifically targeted research and development, thus cutting out any redundancy. The report, "A Strategic Industry at Risk" says that despite high investment rates relative to other United States industries, the United States microchip industry is being substantially outspent by its major Japanese competitors in research and development and the gap is growing larger. In 1988, Japanese capital spending in the semiconductor industry was almost $2 billion more than in the United States. The low levels of research and development in the United States as opposed to that abroad is robbing the entire defense industrial base of its competitive future.

The consequences are severe for the entire U.S. industrial base, not only the U.S. defense base. Jeff Faux of the Economic Policy Institute has said, "If we fail to become competitive in the next generation of electronic communications technologies, we will undercut the living standards of the next generation of Americans."

In an article published by the New York Times in January 1990 Prof. Susan Sanderson of the Rensselaer Polytechnic Institute's School of Management noted that American companies had gradually decided to pull out of consumer electronics manufacturing at the same time that foreign companies were making a long-term commitment to improving their design and production.

The time has come to support our domestic subcontractors over both the long and short term, to bolster our ailing industrial defense base and restore it to its previous status.

By providing incentives for prime contractors to nurture a domestic subcontractor base, section 212 of the bill, which is modeled after legislation I introduced early in this Congress, S. 495, will help restore our manufacturing competitiveness.

The global environment has changed dramatically over the last two decades, and the place of the United States in that environment is at risk as it never has been before. Our continued ability to lead depends on a strong and viable defense industrial base. That base in turn depends on strong subcontractors and components manufacturers. We need to act now to alleviate our current decline, and section 212 represents an important step in that direction. For that reason I commend it to my colleagues.

Mr. DIXON. Mr. President, I would like to recognize several members of the staff who worked very hard on this bill. They are Bill Mattae, my legislative director, and Charles Smith, my legislative assistant for defense.

From the Banking Committee staff, I would like to recognize our senior counsel, Patrick Mulloy and Chuck Schneider, a Presidential management intern serving with the committee.

Very valuable contributions to S. 1379 were also made by Ric Samans, senior legislative assistant on Chairman RIEGLE's personal staff.

Finally, I want to recognize and thank Bill Montalto, procurement policy counsel to the Committee on Small Business. He served as the principal staff draftsman on the Defense Production Act Amendments of 1990.[S03OC0-V2]{S14447}of 1990.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. DIXON. Mr. President, I ask unanimous consent that the Senate now proceed to Calendar No. 882.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 486) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes.

Mr. DIXON. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and the text of S. 1379, as amended, be inserted in lieu thereof; that the bill be read for the third time and passed; and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 486), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 486) entitled "An act to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes" do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Defense Production Act Amendments of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; Table of Contents.
Sec. 2. Congressional findings.

TITLE I—AMENDMENTS TO THE DEFENSE PRODUCTION ACT OF 1950

PART A—DECLARATION OF POLICY

Sec. 101. Declaration of policy.

PART B—AMENDMENTS TO TITLE I OF THE DEFENSE PRODUCTION ACT

Sec. 111. Limitation on actions without congressional authorization.
Sec. 112. Limitations on the use of authority of the Defense Production Act.

PART C—AMENDMENTS TO TITLE III OF THE DEFENSE PRODUCTION ACT

Sec. 121. Expanding the reach of existing authorities under title III.
Sec. 122. Sales or transfers of excess industrial resources.
Sec. 123. Defense Production Act Fund.
Sec. 124. Offset policy.
Sec. 125. Annual report on impact of offsets.
Sec. 126. Assessment of subcontractor and supplier base.

PART D—AMENDMENTS TO TITLE VII OF THE DEFENSE PRODUCTION ACT

Sec. 131. Small business.
Sec. 132. Definitions.
Sec. 133. Delegation of authority; appointment of personnel.
Sec. 134. Rules, regulations, and orders.
Sec. 135. Antitrust protections for voluntary agreements initiated by the President.
Sec. 136. Information on the defense industrial base.
Sec. 137. Antitrust protections for industry consortia.
Sec. 138. Intelligence study.
Sec. 139. Exemption from Administrative Procedure Act.

PART E—TECHNICAL AMENDMENTS

Sec. 141. Priorities in contracts and orders.
Sec. 142. Loan guarantees.
Sec. 143. Investigations; records; reports; subpoenas.
Sec. 144. Employment of personnel.
Sec. 145. Authorization of appropriations.

PART F—REPEALERS AND CONFORMING AMENDMENTS

Sec. 151. Synthetic fuel action.
Sec. 152. Authorization of appropriations.

Sec. 153. Joint Committee on Defense Production.
Sec. 154. Persons disqualified for employment.
Sec. 155. Feasibility study on uniform cost accounting standards; report submitted.
Sec. 156. National Commission on Supplies and Shortages.

PART G—REAUTHORIZATION OF SELECTED PROVISIONS

Sec. 161. Authorization of appropriations.
Sec. 162. Sunset.

TITLE II—ADDITIONAL PROVISIONS TO IMPROVE INDUSTRIAL PREPAREDNESS

PART A—INDUSTRIAL CAPABILITY AND NATIONAL SECURITY

Sec. 201. Industrial capabilities assessment.

PART B—ENCOURAGING IMPROVEMENT OF THE DEFENSE INDUSTRIAL BASE

Sec. 211. Recognition of modernized production systems and equipment in contract award and administration.
Sec. 212. Procurement of critical components or critical technology items.
Sec. 213. Sense of the Congress regarding the encouragement of investment.

PART C—MISCELLANEOUS

Sec. 221. GAO study of State foreign investment incentive programs.
Sec. 222. Discouraging unfair trade practices.

TITLE III—AMENDMENT TO RELATED LAWS

Sec. 301. Defense Production Act Fund projects.

TITLE IV—FAIR TRADE IN FINANCIAL SERVICES

Sec. 401. Short title.
Sec. 402. Effectuating the principle of national treatment for banks and bank holding companies.
Sec. 403. Effectuating the principle of national treatment for securities brokers and dealers.
Sec. 404. Effectuating the principle of national treatment for investment advisers.
Sec. 405. Conforming amendments specifying that national treatment includes effective market access.

TITLE V—EFFECTIVE DATES

Sec. 501. Effective dates.

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.) provides essential authority for—

(A) preserving and enhancing the defense industrial and technology base of the United States during peacetime;

(B) mobilizing the Nation's productive capacity for national defense during periods of national emergency;

(C) responding to actions occurring outside of the United States which could result in the termination or reduction of the availability of strategic and critical materials, including energy, and which would adversely affect the national defense preparedness of the United States; and

(2) amendments to such Act are needed to—

(A) improve its utility to effectively sustain and develop the efficiency of the Nation's existing productive capacity necessary to meet national defense requirements;

(B) establish a revolving fund for improved management of the resources dedicated to defense industrial preparedness and the conduct of the programs authorized under the Act;

(C) facilitate use of such Act to foster the development of emerging technologies and advanced processes by providing appropriate protections for joint undertakings in research, development, and production; and

(D) eliminate outdated provisions that detract from the Act's usefulness as a primary set of authorities for the maintenance and enhancement of the defense industrial and technology base of the United States.

TITLE I—AMENDMENTS TO THE DEFENSE PRODUCTION ACT OF 1950

PART A—DECLARATION OF POLICY

SEC. 101. DECLARATION OF POLICY.

Section 2 of the Defense Production Act of 1950 (50 U.S.C. App. 2062) is amended to read as follows:

"SEC. 2. DECLARATION OF POLICY.

"The vitality of the industrial and technology base of the United States is a foundation of national security. It provides the industrial and technological capabilities employed to meet national defense requirements, in peacetime and in time of national emergency. In peacetime, the health of the industrial and technology base contributes to the technological superiority of our defense equipment, which is a cornerstone of our national security strategy, and the efficiency with which defense equipment is developed and produced. In times of crisis, a healthy industrial base will be able to effectively provide the graduated response needed to effectively meet the demands of the emergency.

"To meet these requirements, this Act affords to the President an array of authorities to shape defense preparedness programs and to take appropriate steps to maintain and enhance the defense industrial and technology base.".

PART B—AMENDMENTS TO TITLE I OF THE DEFENSE PRODUCTION ACT

SEC. 111. LIMITATION ON ACTIONS WITHOUT CONGRESSIONAL AUTHORIZATION.

Section 104 of the Defense Production Act of 1950 (50 U.S.C. App. 2074) is amended to read as follows:

"SEC. 104. LIMITATION ON ACTIONS WITHOUT CONGRESSIONAL AUTHORIZATION.

"No provision of this Act shall be interpreted as providing for the imposition of wage or price controls without the prior authorization of such action by a joint resolution of Congress.".

SEC. 112. LIMITATIONS ON THE USE OF AUTHORITY OF THE DEFENSE PRODUCTION ACT.

Title I of the Defense Production Act of 1950 is amended by adding at the end the following new section:

"SEC. 104. CHEMICAL OR BIOLOGICAL WARFARE.

"No provision of this Act shall be exercised or interpreted to require action or compliance by any private person to assist in any way in the production of or other involvement in chemical or biological warfare capabilities except—

"(1) in time of war, or

"(2) in time of national emergency (A) as declared by joint resolution of Congress, or (B) upon the written authorization of the President, which power to authorize may not be delegated.".

PART C—AMENDMENTS TO TITLE III OF THE DEFENSE PRODUCTION ACT

SEC. 121. EXPANDING THE REACH OF EXISTING AUTHORITIES UNDER TITLE III.

(a) GUARANTEE AUTHORITY.—Section 301 of the Defense Production Act of 1950 (50 U.S.C. App. 2091) is amended—

(1) in subsection (a)(1), by striking "to expedite production and deliveries or services under Government contracts for the procurement of materials or the performance of services for the national defense" and inserting "to expedite or expand production and deliveries or services under Government contracts for the procurement of industrial resources or a critical technology item for the national defense";

(2) by amending subsection (a)(3)(A) to read:

"(A) the guaranteed contract or operation is for industrial resources or a critical technology item which is essential to the national defense;";

(3) in subsection (a)(3)(B), by striking "the capability for the needed material or service" and inserting "the needed industrial resources or critical technology item";

(4) in subsection (e)(1)(A), by striking "Except during periods of national emergency declared by the Congress or the President" and inserting "Except as provided in subparagraph (D)";

(5) in subsection (e)(1)(C), by striking "$25,000,000" and inserting "$50,000,000"; and

(6) by adding at the end of subsection (e)(1) the following new subparagraph:

"(D) The requirements of subparagraphs (A), (B), and (C) may be waived during periods of national emergency declared by Congress or the President or upon a determination made by the President, on a nondelegable basis, that a specific guarantee must be promptly made to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.".

(b) LOANS TO PRIVATE BUSINESS ENTERPRISES.—Section 302 of the Defense Production Act of 1950 (50 U.S.C. App. 2092) is amended—

(1) in subsection (a), by striking "for the procurement of materials or the performance of services for the national defense" and inserting "for the procurement of industrial resources or a critical technology item for the national defense";

(2) in subsection (c)(1), by striking "No such loans may be made under this section, except during periods of national emergency declared by the Congress or the President" and inserting "Except as provided in paragraph (4), no loans may be made under this section";

(3) in subsection (c)(3), by striking "$25,000,000" and inserting "$50,000,000"; and

(4) in subsection (c), by adding at the end the following new paragraph:

"(4) The requirements of paragraphs (1), (2), and (3) of this subsection may be waived during periods of national emergency declared by Congress or the President, or upon a determination made by the President, on a nondelegable basis, that a specific guarantee must be promptly made to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.".

(c) PURCHASES AND PURCHASE COMMITMENTS.—

(1) Section 303(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(a)) is amended to read as follows:

"(a)(1) To assist in carrying out the objectives of this Act, the President may make provision—

"(A) for purchases of or commitments to purchase an industrial resource or a critical technology item, for Government use or resale; and

"(B) for the encouragement of exploration, development, and mining of critical and strategic materials, and other materials.

"(2) Purchases for resale under this subsection shall not include that part of the supply of an agricultural commodity which is domestically produced except insofar as such domestically produced supply may be purchased for resale for industrial use or stockpiling.

"(3) No commodity purchased under this subsection shall be sold at less than—

"(A) the established ceiling price for such commodity, except that minerals, metals, and materials shall not be sold at less than the established ceiling price, or the current domestic market price, whichever is lower, or

"(B) if no ceiling price has been established, the higher of the following: (i) The current domestic market price for such commodity, or (ii) the minimum sale price established for agricultural commodities owned or controlled by the Commodity Credit Corporation as provided in section 407 of the Agricultural Act of 1949 (7 U.S.C. 1427).

"(4) No purchase or commitment to purchase any imported agricultural commodity shall specify a delivery date which is more than one year after the expiration of this section.

"(5) Except as provided in paragraph (7), the President may not execute a contract under this subsection unless the President determines that—

"(A) the industrial resource or critical technology item is essential to the national defense;

"(B) without Presidential action under authority of this section, United States industry cannot reasonably be expected to provide the capability for the needed industrial resource or critical technology item in a timely manner;

"(C) purchases, purchase commitments, or other action pursuant to this section are the most cost-effective, expedient, and practical alternative method for meeting the need; and

"(D) the United States national defense demand for the industrial resource or critical technology item is equal to, or greater than the output of domestic industrial capability which the President reasonably determines to be available for national defense, including the output to be established through the purchase, purchase commitment, or other action.

"(6) Except as provided in paragraph (7), the President shall take no action under this section unless the industrial resource shortfall which such action is intended to correct has been identified in the Budget of the United States or amendments thereto, submitted to the Congress and accompanied by a statement from the President demonstrating that the budget submission is in accordance with the provisions of the preceding sentence. Any such action may be taken only after 60 days have elapsed after such industrial resource shortfall has been identified pursuant to the preceding sentence. If the taking of any action or actions under this section to correct an industrial resource shortfall would cause the aggregate outstanding amount of all such actions for such industrial resource shortfall to exceed $50,000,000, any such action or actions may be taken only if specifically authorized by law.

"(7) The requirements of paragraphs (1) through (6) may be waived during periods of national emergency declared by Congress or the President, or upon a determination made by the President, on a nondelegable basis, that a specific purchase or purchase commitment must be promptly made to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.".

(2) Section 303(b) of such Act is amended by striking "September 30, 1995" and inserting "a date that is not more than 10 years from the date such purchase, purchase commitment, or sale was initially made".

SEC. 122. SALES OR TRANSFERS OF EXCESS INDUSTRIAL RESOURCES.

Section 303(f) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(f)) is amended to read as follows:

"(f) Industrial resources acquired pursuant to the provisions of this section which, in the judgment of the President, are in excess of the needs of programs under this Act, shall be sold for industrial use pursuant to such other Federal Government programs as are authorized by law or transferred to the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.), when the President deems such action to be in the public interest. Sales or transfers made pursuant to this subsection shall be charged against or reimbursed from funds appropriated to such other Federal Government programs or the National Defense Stockpile to which such resources were sold or transferred, at the current domestic market price for such industrial resources. For the purposes of subsection (c)(2), such sales or transfers shall be considered transactions entered into pursuant to the authority of subsection (a).".

SEC. 123. DEFENSE PRODUCTION ACT FUND.

Section 304 of the Defense Production Act of 1950 (50 U.S.C. App. 2094) is amended to read as follows:

"SEC. 304. DEFENSE PRODUCTION ACT FUND.

"(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a separate fund to be known as the Defense Production Act Fund (hereinafter referred to as 'the Fund').

"(b) MONEYS IN FUND.—The following monies shall be credited to the Fund:

"(1) All monies appropriated hereafter for the Fund, as authorized by section 711(c).

"(2) All monies received hereafter on transactions entered into pursuant to section 303.

"(c) USE OF FUND.—The Fund shall be available to carry out the provisions and purposes of this title, subject to the limitations set forth in this Act and in appropriations Acts.

"(d) DURATION OF FUND.—Monies in the Fund shall remain available until expended.

"(e) FUND BALANCE.—The Fund balance at the close of each fiscal year shall not exceed $250,000,000, excluding any monies appropriated to the Fund during that fiscal year. If at the close of any fiscal year the Fund balance exceeds such amount, the amount in excess of $250,000,000 shall be paid into the general fund of the Treasury.

"(f) FUND MANAGER.—The Secretary of the Treasury shall designate a Fund manager. The duties of the Fund manager shall include—

"(1) determining the liability of the Fund in accordance with subsection (g);

"(2) ensuring the visibility and accountability of transactions engaged in through the Fund to the Secretaries of Defense, Treasury, and Commerce, and to the Congress; and

"(3) reporting to Congress each year regarding fund activities during the previous fiscal year.

"(g) LIABILITIES AGAINST FUND.—

"(1) IN GENERAL.—When any agreement hereafter entered into pursuant to this title imposes contingent liabilities upon the United States, such liability shall be considered an obligation against the Fund. The amount of such obligation shall be determined for each fiscal year in accordance with paragraph (2).

"(2) DETERMINATION OF LIABILITY.—For purposes of paragraph (1), the amount of obligations against the Fund shall be equal to the aggregate outlays required by purchase or purchase commitment contracts or financing agreements less (A) the anticipated aggregate receipts from resale of materials purchased with moneys from the Fund, and (B) the anticipated receipts from the direct sale of materials by the producer to customers. Anticipated receipts and anticipated reductions in purchase commitments shall be included under the preceding sentence only if a written plan for sale of materials has been developed, specifying probable customers, amount, time of the sales, and sales price.".

SEC. 124. OFFSET POLICY.

Section 309 of the Defense Production Act of 1950 (50 U.S.C. App. 2099) is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by adding a new subsection (a) as follows:

"(a) OFFSET POLICY.—

"(1) IN GENERAL.—Recognizing that certain offsets for military exports are economically inefficient and market distorting, and mindful of the need to minimize the adverse effects of offsets in military exports while ensuring that the ability of United States firms to compete for military export sales is not undermined, it shall be the policy of the United States Government that—

"(A) no agency of the United States Government shall encourage, enter directly into, or commit United States firms to any offset arrangement in connection with the sale of defense goods or services to foreign governments;

"(B) United States Government funds shall not be used to finance offsets in security assistance transactions except in accordance with policies and procedures that were in existence as of the date of enactment of this Act;

"(C) nothing in this section shall prevent agencies of the United States Government from fulfilling obligations incurred through international agreements entered into prior to the enactment of this Act;

"(D) the decision whether to engage in offsets, and the responsibility for negotiating and implementing offset arrangements, resides with the companies involved; and

"(E) any exceptions to the policy stated by this section shall be approved by the President after receiving the recommendation of the National Security Council.

"(2) CONSULTATION.—The Secretary of Defense, in coordination with the Secretary of State, shall lead an interagency team to consult with foreign nations on limiting the adverse effects of offsets in defense procurement. The Secretary of Defense shall report annually on the the date of enactment of this Act, on the results of these consultations to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.".

SEC. 125. ANNUAL REPORT ON IMPACT OF OFFSETS.

Section 309 of the Defense Production Act of 1950 (50 U.S.C. App. 2099) (as amended by section 124 of this Act) is amended—

(1) in subsection (b)—

(A) by striking "(b) Not later" and inserting:

"(b) ANNUAL REPORT ON IMPACT OF OFFSETS.—

"(1) REPORT REQUIRED.—Not later";

(B) by striking the second sentence; and

(C) by adding at the end the following new paragraph:

"(2) DUTIES OF THE SECRETARY OF COMMERCE.—The Secretary of Commerce shall—

"(A) prepare the report required by paragraph (1);

"(B) consult with the Secretary of Defense, the Secretary of the Treasury, the Secretary of State, and the United States Trade Representative in preparation of such report; and

"(C) function as the President's Executive Agent for carrying out the requirements of this section.";

(2) by amending subsection (c) to read as follows:

"(c) INTERAGENCY STUDIES AND RELATED DATA.—

"(1) PURPOSE OF REPORT.—Each report required under subsection (a) shall identify the cumulative effects (indirect as well as direct) of offset agreements on—

"(A) the full range of domestic defense productive capability (with special attention to the firms serving as lower-tier subcontractors or suppliers); and

"(B) the domestic defense technology base as a consequence of the technology transfers associated with such offset agreements.

"(2) USE OF DATA.—Data developed or compiled by any agency while conducting any interagency study or other independent study or analysis shall be made available to the Secretary of Commerce to facilitate the Secretary in executing his responsibilities with respect to trade offset and countertrade policy development."; and

(3) by adding at the end the following new subsections:

"(d) NOTICE OF OFFSET AGREEMENTS.—

"(1) IN GENERAL.—If a United States firm enters into a contract for the sale of a weapon system or defense-related item to a foreign country or foreign firm and such contract is subject to an offset agreement exceeding $5,000,000 in value, such firm shall furnish to the official designated in the regulations promulgated pursuant to paragraph (2) information concerning such sale.

"(2) REGULATIONS.—The information to be furnished shall be prescribed in regulations promulgated by the Secretary of Commerce. Such regulations shall provide protection from public disclosure for such information, unless public disclosure is subsequently specifically authorized by the firm furnishing the information. Nothing in this paragraph authorizes the withholding of such information from the Congress.

"(e) CONTENTS OF REPORT.—

"(1) IN GENERAL.—Each report under subsection (b) shall include—

"(A) a net assessment of the elements of the industrial base and technology base covered by the report;

"(B) recommendations for appropriate remedial action under the authorities provided by this Act, or other law or regulations;

"(C) a summary of the findings and recommendations of any interagency studies conducted during the reporting period under subsection (c);

"(D) a summary of offset arrangements concluded during the reporting period for which information has been furnished pursuant to subsection (d); and

"(E) a summary and analysis of any bilateral and multilateral negotiations relating to use of offsets completed during the reporting period.

"(2) ALTERNATIVE FINDINGS OR RECOMMENDATIONS.—Each report shall include any alternative findings or recommendations offered by any departmental Secretary, agency head, or the United States Trade Representative to the Secretary of Commerce.

"(f) UTILIZATION OF ANNUAL REPORT IN NEGOTIATIONS.—The findings and recommendations of the reports required by subsection (b), and any interagency reports and analyses shall be considered by representatives of the United States during bilateral and multilateral negotiations to minimize the adverse effects of offsets.".

SEC. 126. ASSESSMENT OF SUBCONTRACTOR AND SUPPLIER BASE.

Title III of the Defense Production Act of 1950 is amended by adding at the end the following new section:

"SEC. 310. ASSESSMENT OF SUBCONTRACTOR AND SUPPLIER BASE.

"(a) IN GENERAL.—

"(1) REPORT REQUIRED.—At the intervals prescribed by subsection (b), the President shall issue a report of an assessment of those subsectors of the economy of the United States which have been identified as being critical to the development and production of components required for the production of weapons systems and other items of military equipment, and the provision of services, essential to the national defense. The report may provide specific policy recommendations to correct deficiencies identified in the assessment, which would help to strengthen domestic sources.

"(2) MATTERS TO BE CONSIDERED.—The assessment shall consider—

"(A) capacity of domestic sources, especially commercial firms, to fulfill peacetime requirements and graduated mobilization requirements for various items of supply and services;

"(B) trends relating to the capabilities of domestic sources to meet such peacetime and mobilization requirements;

"(C) extent of foreign dependencies for various items of military materiel; and

"(D) reasons for the decline of the capabilities of selected sectors of the United States economy necessary to meet peacetime and mobilization requirements, including stability of defense requirements, acquisition policies, vertical integration of various segments of the industrial base, superiority of foreign technology and production efficiencies, foreign government support of nondomestic sources, and offset arrangements.

"(b) TIME FOR ISSUANCE.—(1) The report required by subsection (a) shall be issued not later than July 1 of each odd-numbered year, based upon data from the prior fiscal year and such prior fiscal years as may be appropriate.

"(2) The first report under this section shall be issued by July 1, 1993.".

PART D—AMENDMENTS TO TITLE VII OF THE DEFENSE PRODUCTION ACT

SEC. 131. SMALL BUSINESS.

Section 701 of the Defense Production Act of 1950 (50 U.S.C. App. 2151) is amended to read as follows:

"SEC. 701. SMALL BUSINESS.

"(a) PARTICIPATION.—Small business concerns shall be given the maximum practicable opportunity to participate as contractors, and subcontractors at various tiers, in all programs to maintain and strengthen the Nation's industrial base and technology base undertaken pursuant to this Act.

"(b) ADMINISTRATION OF ACT.—In administering the programs, implementing regulations, policies, and procedures under this Act, requests, applications, or appeals from small business concerns shall, to the maximum extent practicable, be expeditiously handled.

"(c) ALLOCATIONS UNDER SECTION 101.—Whenever the President invokes the power to allocate any material pursuant to section 101 of this Act, small business concerns shall be accorded, so far as practicable, a fair share of such material, in proportion to the share received by such business concerns under normal conditions, giving such special consideration as may be possible to new small business concerns or individual firms facing undue hardship.".

SEC. 132. DEFINITIONS.

Section 702 of the Defense Production Act of 1950 (50 U.S.C. App. 2152) is amended to read as follows:

"SEC. 702. DEFINITIONS.

As used in this Act—

"(1) CRITICAL COMPONENT.—The term 'critical component' shall include such components, subsystems, systems, and related special tooling and test equipment essential to the production, repair, maintenance, or operation of weapon systems or other items of military equipment as are identified by the Secretary of Defense as being essential to the execution of the national security strategy of the United States.

"(2) CRITICAL TECHNOLOGY.—The term 'critical technology' shall include a technology that is included in one or more of the plans submitted pursuant to section 2508 of title 10, United States Code, unless subsequently deleted, or such other emerging or dual use technology as may be designated by the President. The President shall cause an unclassified list of critical or emerging technologies to be maintained and published at least annually in the Federal Register.

"(3) CRITICAL TECHNOLOGY ITEM.—The term 'critical technology item' shall mean materials directly employing, derived from, or utilizing a critical technology.

"(4) DEFENSE CONTRACTOR.—The term 'defense contractor' means any person who enters into a contract with the United States to furnish materials, industrial resources, or a critical technology, or to perform services for the national defense.

"(5) DOMESTIC SOURCE.—The term 'domestic source' means a business entity—

"(A) that performs in the United States or Canada substantially all of the research and development, engineering, manufacturing, and production activities required of such firm under a contract with the United States relating to a critical component or a critical technology item, and

"(B) that procures from entities described in subparagraph (A) substantially all of the components and assemblies required under a contract with the United States relating to a critical component or critical technology item.

"(6) FACILITIES.—The term 'facilities' includes all types of buildings, structures, or other improvements to real property (but excluding farms, churches or other places of worship, and private dwelling houses), and services relating to the use thereof.

"(7) INDUSTRIAL RESOURCES.—The term 'industrial resources' means materials, services, processes, or manufacturing equipment (including the processes, technologies, and ancillary services for the use of such equipment) needed to establish or maintain an efficient and modern national defense industrial capacity.

"(8) MATERIALS.—The term 'materials' shall include raw materials (including minerals, metals, and advanced processed materials), commodities, articles, components (including critical components), products, items of supply, and such technical information or services ancillary to the use thereof.

"(9) NATIONAL DEFENSE.—The term 'national defense' means programs for military and energy production or construction, military assistance to any foreign nation, stockpiling, space, and directly related activity.

"(10) NONDOMESTIC SOURCE.—The term 'nondomestic source' means a business entity other than a 'domestic source'.

"(11) PERSON.—The term 'person' includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative thereof, or any State or local government or agency thereof.

"(12) SERVICES.—The term 'services' includes any effort that is needed or incidental to—

"(A) the development, production, processing, distribution, delivery, or use of an industrial resource or a critical technology item, or

"(B) the construction of facilities.".

SEC. 133. DELEGATION OF AUTHORITY; APPOINTMENT OF PERSONNEL.

Section 703 of the Defense Production Act of 1950 (50 U.S.C. App. 2153) is amended to read as follows:

"SEC. 703. DELEGATION AND CIVILIAN PERSONNEL.

"(a) DELEGATION OF AUTHORITY.—Except as otherwise specifically provided, the President may—

"(1) delegate any power or authority conferred upon him by this Act to any civilian officer of the Government appointed by and with the advice and consent of the Senate;

"(2) except with regard to title I, authorize redelegation by that officer to an officer or employee of that officer who—

"(A) if a member of the armed forces, is a general or flag officer; or

"(B) if a civilian, is serving in a position in the grade GS-16 or above (or in a comparable or higher position under any other schedule for civilian officers or employees); and

"(3) establish such new agencies as may be necessary to manage Federal emergency preparedness programs.

"(b) CIVILIAN PERSONNEL.—Any officer or agency head may appoint civilian personnel without regard to section 5331(b) of title 5, United States Code, and without regard to the provisions of such title governing appointments in the competitive service, and may fix the rate of basic pay for such personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule, as the President deems appropriate to carry out the provisions of this Act.".

SEC. 134. RULES, REGULATIONS, AND ORDERS.

Section 704 of the Defense Production Act of 1950 (50 U.S.C. App. 2154) is amended to read as follows:

"SEC. 704. RULES, REGULATIONS, AND ORDERS.

"The President may make such rules, regulations, and orders as he deems appropriate to carry out the provisions of this Act. This authority shall be exercised in conformity with section 709 of this Act.".

SEC. 135. ANTITRUST PROTECTIONS FOR VOLUNTARY AGREEMENTS INITIATED BY THE PRESIDENT.

Section 708 of the Defense Production Act of 1950 (50 U.S.C. App. 2158) is amended—

(1) in subsection (a), by striking "and subsection (j) of section 708A";

(2) by striking subsection (b) and inserting the following:

"(b) As used in this section, the term—

"(1) 'antitrust laws' means—

"(A) the Sherman Act (15 U.S.C. 1 et seq.);

"(B) the Clayton Act (15 U.S.C. 12 et seq.);

"(C) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(D) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9);

"(E) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a); and

"(F) the Webb-Pomerene Act (15 U.S.C. 61-65).

"(2) 'plan of action' means any of one or more documented methods adopted by participants in an existing voluntary agreement to implement that agreement.";

(3) in subsection (c)(1)—

(A) by striking "Except as otherwise provided in section 708A(o), upon" and inserting in lieu thereof "Upon"; and

(B) by inserting "and plans of action" after "voluntary agreements";

(4) in subsection (c)(2), by striking out the last sentence;

(5) in subsection (d)(1), by striking ", and the meetings of such committees shall be open to the public." in the second sentence thereof the inserting in lieu thereof ". Meetings of such committees shall be open to the public unless the individual designated by the President in subsection (c)(2) finds that the matter or matters to be discussed at such meetings fall within the purview of matters described in subsection (b)(1), (b)(3), or (b)(4) of section 552 of title 5, United States Code.";

(6) in subsection (d)(2), by striking out "section 552 (b)(1) and (b)(3)" and inserting in lieu thereof subsections (b)(1), (b)(3), and (b)(4) of section 552";

(7) in subsection (e)(1), by inserting "and plans of action" after "voluntary agreements";

(8) in subsection (e)(3)—

(A) in subparagraph (D), by striking out "subsection (b)(1) or (b)(3) of section 552" and inserting in lieu thereof "subsection (b)(1), (b)(3), or (b)(4) of section 552"; and

(B) in subparagraph (G), by striking out "subsections (b)(1) and (b)(3) of section 552" and inserting in lieu thereof "subsection (b)(1), (b)(3), and (b)(4) of section 552";

(9) in subsections (f) and (g)—

(A) by inserting "or plan of action" after "voluntary agreement" each place it appears; and

(B) by inserting "or plan" after "the agreement" each place it appears;

(10) in subsection (h)—

(A) by inserting "and plans of action" after "voluntary agreements";

(B) by inserting "or plan of action" after "voluntary agreement" each place it appears;

(C) in subsection (h)(3) by striking out "subsections (b)(1) and (b)(3) of section 552" and inserting in lieu thereof "subsections (b)(1), (b)(3), and (b)(4) of section 552"; and

(D) in subsections (h)(7) and (h)(8) by striking out "subsection (b)(1) or (b)(3) of section 552" and inserting in lieu thereof "subsections (b)(1), (b)(3), or (b)(4) of section 552";

(11) by striking subsection (j) and inserting the following:

"(j)(1) There shall be available as a defense for any person to any civil or criminal action brought under the antitrust laws (or any similar law of any State) with respect to any action taken to develop or carry out any voluntary agreement or plan of action under this section (provided that such action was not taken for the purpose of injuring competition) that—

"(A) such action was taken—

"(i) in the course of developing either a voluntary agreement, the making of which was initiated by the President, or a plan of action adopted thereunder, or

"(ii) to carry out either a voluntary agreement authorized and approved in accordance with this section, the making of which was initiated by the President, or a plan of action adopted thereunder, and

"(B) such person complied with the requirements of this section and the rules promulgated hereunder, and acted in accordance with the terms of the voluntary agreement or plan of action.

"(2) Except in the case of actions taken to develop a voluntary agreement or plan of action, the defense provided in this subsection shall be available only if and to the extent that the person asserting the defense demonstrates that the action was specified in, or within the reasonable contemplation of an approved voluntary agreement the making of which was initiated by the President or any approved plan of action adopted thereunder.

"(3) Persons interposing the defense provided by this subsection shall have the burden of proof upon the elements of the defense, except that the burden shall be on the person against whom the defense is asserted with respect to whether the action was taken for the purpose of injuring competition.";

(12) in subsection (k), by inserting "and plans of action" after "voluntary agreements" each place it appears;

(13) in subsection (l), by inserting "or plan of action" after "voluntary agreement"; and

(14) by adding a new subsection (o), as follows:

"(o) In any action in any Federal or State court for breach of contract, there shall be available as a defense that the alleged breach of contract was caused predominantly by action taken during an emergency to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section.".

SEC. 136. INFORMATION ON THE DEFENSE INDUSTRIAL BASE.

Title VII of the Defense Production Act is amended by inserting after section 705 the following:

"SEC. 705A. INFORMATION ON THE DEFENSE INDUSTRIAL BASE.

"(a) IN GENERAL.—The President shall implement a systematic, continuous procedure to collect and analyze information necessary to evaluate the adequacy of industrial capacity and capability in items and technologies essential to the execution of the national security strategy of the United States. Information generated by such procedure shall constitute a basis for decisions made with respect to the use of authority under title III and shall be integrated into the decisionmaking process pertaining to the use of such authority.

"(b) SOURCES OF INFORMATION.—

"(1) CONSULTATION REGARDING THE CENSUS OF MANUFACTURERS.—The Bureau of the Census shall consult with the Office of the Secretary of Defense and the Federal Emergency Management Agency with a view to improving the application of information derived from the Census of Manufacturers to the purposes of this section. Such consultations shall address improvements in the level of detail, timeliness and availability of input/output analyses derived from the Census of Manufacturers necessary to facilitate the purposes of this section.

"(2) ADDITIONAL DATA.—The President shall implement a systematic, continuous procedure to collect and analyze information regarding the extent of foreign dependence in industrial parts, components and technologies essential to defense production. Such procedure shall address defense production with respect to the operations of prime contractors and at least the first two tiers of subcontractors. To the extent feasible and appropriate, the President shall build upon existing methods of data collection and analysis and shall integrate information available from intelligence agencies with respect to industrial and technological conditions in foreign countries. In establishing such procedure, the Secretary may place initial emphasis on the production of parts and components relating to priority lists such as the Commanders' in Chief Critical Items List and the technologies identified as critical in the annual defense critical technologies plan submitted pursuant to section 2508 of title 10, United States Code.

"(c) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.".

SEC. 137. INTELLIGENCE STUDY.

(a) IN GENERAL.—In order to assist the Congress in its oversight responsibilities with respect to section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170), the Central Intelligence Agency jointly with the Federal Bureau of Investigation shall complete and furnish to the Congress within one year after the date of enactment of this section and upon the expiration of every 4 years thereafter a report which—

(1) evaluates whether there is credible evidence of a coordinated strategy by one or more foreign governments or companies to acquire United States companies involved in research, development, or production of critical technologies for which the United States is a leading producer and assesses the extent and character of any such strategy; and

(2) evaluates whether there are industrial espionage activities directed by foreign governments against private United States companies aimed at obtaining commercial secrets related to critical technologies and assesses the extent and character of any such activities.

(b) DEFINITION.—For purposes of this section, the term "critical technologies" means technologies identified under title VI of the National Science and Technology Policy, Organization, and Priorities Act of 1976 or other critical technology, critical components, or critical technology items essential to national defense identified pursuant to section 705A of the Defense Production Act.

(c) RELEASE OF UNCLASSIFIED STUDY.—The report required by this section may be classified. An unclassified version of the report shall be available to the public.

SEC. 138. EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT.

Section 709 of the Defense Production Act of 1950 (50 U.S.C. App. 2159) is amended to read as follows:

"SEC. 709. EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT.

"Any rule, regulation, order, or amendment thereto issued under the authority of this Act shall not be subject to the requirements of sections 551 through 559 of title 5, United States Code. Each proposed rule or regulation, and each amendment thereto, shall be published for public comment in the Federal Register in conformity with the requirements of section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b) and chapter 6 of title 5, United States Code.".

PART E—TECHNICAL AMENDMENTS

SEC. 141. PRIORITIES IN CONTRACTS AND ORDERS.

Section 101 of the Defense Production Act of 1950 (50 U.S.C. App. 2071) is amended—

(1) in subsection (a)(2) by striking "materials and facilities" and inserting "materials, services, and facilities";

(2) in subsection (c)(1) by striking "supplies of materials and equipment" and inserting "materials, equipment, and services";

(3) by striking paragraphs (2) and (3) and inserting the following new paragraph:

"(2) The authority granted by this subsection may not be used to require priority performance of contracts or orders, or to control the distribution of any supplies of materials, service, and facilities in the marketplace, unless the President finds that—

"(A) such materials, services, and facilities are scarce, critical, and essential—

"(i) to maintain or expand exploration, production, refining, transportation,

"(ii) to conserve energy supplies; or

"(iii) to construct or maintain energy facilities; and

"(B) maintenance or expansion of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising the authority specified in paragraph (1) of this subsection."; and

(d) by redesignating paragraph (4) as paragraph (3).

SEC. 142. LOAN GUARANTEES.

Section 301(e)(2)(B) of the Defense Production Act of 1950 (50 U.S.C. App. 2091(e)(2)(B)) is amended by striking "and to the Committees on Banking and Currency of the respective Houses" and inserting "and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives".

SEC. 143. INVESTIGATIONS; RECORDS; REPORTS; SUBPOENAS.

Section 705 of the Defense Production Act of 1950 (50 U.S.C. App. 2155) is amended—

(1) in subsection (a), by striking "subpena" and inserting "subpoena";

(2) by redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively;

(3) in subsection (c) (as redesignated by paragraph (2)), by striking "$1,000" and inserting "$10,000"; and

(4) in subsection (d) (as redesignated by paragraph (2)), by striking all after the first sentence.

SEC. 144. EMPLOYMENT OF PERSONNEL.

Section 710 of the Defense Production Act of 1950 (50 U.S.C. App. 2160) is amended—

(1) in subsection (b), by striking paragraph (6) and inserting the following:

"(6)(A) The Secretary of the Department or head of the agency making the appointment shall publish a notice in the Federal Register including the name of the appointee, the employing department or agency, the title of the position to which such individual is being appointed, the name of such individual's employer when selected for appointment, and a statement that the individual has made a filing in accordance with subparagraph (B) which is available for inspection.

"(B) Each individual selected for appointment under the authority of this subsection shall furnish to the departmental Secretary or agency head making the appointment—

"(i) a list of the names of each corporation, partnership, or other business in which such individual has an interest, and

"(ii) a list of any financial interest such individual had during the 60-day period preceding such appointment, including any office or directorship held in a corporation.

"(C) Each individual shall submit the information described in subparagraph (B) annually on the anniversary of such individual's appointment.";

(2) in paragraph (7) of subsection (b)—

(A) by striking "Chairman of the United States Civil Service Commission" and inserting "Director of the Office of Personnel Management";

(B) by striking "and the Joint Committee on Defense Production"; and

(3) in paragraph (8) of subsection (b), by striking "transportation and not to exceed $15 per diem in lieu of subsistence while away from their homes and regular places of business pursuant to such appointment" and inserting "reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions for which they were appointed in the same manner as persons employed intermittently in the Federal Government are allowed expenses under section 5703 of title 5, United States Code".

SEC. 145. AUTHORIZATION OF APPROPRIATIONS.

Section 711(a)(1) of the Defense Production Act of 1950 (50 U.S.C. App. 2161) is amended by striking "Bureau of the Budget" and inserting "Office of Management and Budget".

PART F—REPEALERS AND CONFORMING AMENDMENTS

SEC. 151. SYNTHETIC FUEL ACTION.

Section 307 of the Defense Production Act of 1950 (50 U.S.C. App. 2097) is repealed.

SEC. 152. VOLUNTARY AGREEMENTS.

Section 708A of the Defense Production Act of 1950 (50 U.S.C. App. 2158a) is repealed.

SEC. 153. AUTHORIZATION OF APPROPRIATIONS.

Section 711 of the Defense Production Act of 1950 (50 U.S.C. App. 2161) is amended—

(1) by striking subsection (b),

(2) by striking "(a)(1) Except as provided in paragraph (2) and paragraph (4)" and inserting "(a) Except as provided in subsection (c)",

(3) by striking in subsection (a) in the parenthetical "and for the payment of interest under subsection (b) of this section", and

(4) by striking paragraph (2) and redesignating paragraph (3) as subsection (b), and

(5) by striking subparagraph (B) of paragraph (4) and redesignating paragraph (4)(A) as subsection (c).

SEC. 154. JOINT COMMITTEE ON DEFENSE PRODUCTION.

Section 712 of the Defense Production Act of 1950 (50 U.S.C. App. 2162) is repealed.

SEC. 155. PERSONS DISQUALIFIED FOR EMPLOYMENT.

Section 716 of the Defense Production Act of 1950 (50 U.S.C. App. 2165) is repealed.

SEC. 156. FEASIBILITY STUDY ON UNIFORM COST ACCOUNTING STANDARDS; REPORT SUBMITTED.

Section 718 of the Defense Production Act of 1950 (50 U.S.C. App. 2167) is repealed.

SEC. 157. NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES.

Section 720 of the Defense Production Act of 1950 (50 U.S.C. App. 2169) is repealed.

PART G—REAUTHORIZATION OF SELECTED PROVISIONS

SEC. 161. AUTHORIZATION OF APPROPRIATIONS.

Section 711(c) of the Defense Production Act of 1950 (as amended by section 143 of this Act) is amended to read as follows:

"(c) There are authorized to be appropriated for fiscal years 1991, 1992, and 1993 not to exceed $250,000,000 to carry out the provisions of sections 301, 302, and 303 of this Act.".

SEC. 162. SUNSET.

Section 717 of the Defense Production Act of 1950 (50 U.S.C. App. 2166) is amended to read as follows:

"SEC. 717. SUNSET.

"(a) In General.—The following provisions of this Act shall terminate at the close of September 30, 1993:

"(1) Title I of this Act, and all authority conferred thereunder.

"(2) Sections 301, 302, 303, and 304 of this Act, and all authority conferred thereunder.

"(3) Sections 701, 702, 703, 704, 705, 706, 707, 708, and 711 of this Act, and all authority conferred thereunder.

"(b) Expired Provisions.—The following provisions of this Act terminate at the close of June 30, 1953:

"(1) Title II and title VI of this Act, and all authority conferred thereunder.

"(2) Title IV and title V of this Act, and all authority conferred thereunder.

"(c) Continuous Effect.—Except as otherwise provided, all other provisions of this Act, and all authority conferred thereunder, shall remain in effect.

"(d) Savings Provision.—The termination of any section of this Act, or any agency or corporation utilized under this Act shall not affect the disbursement of funds under, or the carrying out of, any contract, guarantee, commitment or other obligation entered into pursuant to this Act prior to the date of such termination, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts advanced or paid out in carrying on operations under this Act, or the taking of any action (including the making of new guarantees) determined by a guaranteeing agency to be necessary to accomplish the orderly liquidation, adjustment or settlement of any loans guaranteed under this Act, including actions considered necessary to avoid undue hardship to borrowers in reconverting to normal civilian production; and all of the authority granted to the President, guaranteeing agencies, and fiscal agents under section 301 of this Act shall be applicable to actions taken pursuant to the authority contained in this subsection.".

TITLE II—ADDITIONAL PROVISIONS TO IMPROVE INDUSTRIAL PREPAREDNESS

PART A—INDUSTRIAL CAPABILITY AND NATIONAL SECURITY

SEC. 201. INDUSTRIAL CAPABILITIES ASSESSMENT.

(a) Policy.—The national security of the United States would benefit from greater integration of national economic policies (including tax and trade) and national security policies.

(b) Conduct Assessment.—The President shall promptly conduct, through such means as may be appropriate, an Industrial Capabilities Assessment as described in subsection (c).

(c) Matters To Be Assessed.—The assessment required by subsection (b) shall include:

(1) An analysis, on an ongoing basis, of the demands to be placed upon industry by the national defense plans and industry's capabilities to fulfill those expectations in peacetime as well as in time of war or national emergency.

(2) A review of major Government policies and their impact on the defense industrial and technology base.

(3) A process for periodic industry-wide assessment of technological advancement and production capabilities in relation to national security objectives.

(4) A review of existing industrial policy objectives, laws, and regulations, and recommendations to the President for their modification to foster industrial innovation, modernization, and productivity.

(5) Proposals for selectively expanding national defense production to respond to graduated levels of mobilization.

(6) One or more exercises to assess the capability of the defense industry's capability to respond to increased demands for defense materiel and services under various graduated mobilization response conditions.

PART B—ENCOURAGING IMPROVEMENT OF THE DEFENSE INDUSTRIAL BASE

SEC. 211. RECOGNITION OF MODERNIZED PRODUCTION SYSTEMS AND EQUIPMENT IN CONTRACT AWARD AND ADMINISTRATION.

(a) In General.—The single Government-wide Federal Acquisition Regulation, referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)), shall be amended to specify the circumstances under which an acquisition plan for any major system acquisition, or any other acquisition program designated by the Secretary or agency head responsible for such acquisition, shall provide for contract solicitation provisions which encourage competing offerors to acquire for utilization in the performance of the contract modern industrial facilities and production systems (including hardware and software), and other modern production equipment, that increase the productivity of the offerors and reduce the costs of production.

(b) Authorized Solicitation Provisions.—Contract solicitation provisions referred to in subsection (a) may include any of the following provisions:

(1) An evaluation advantage in making the contract award determination.

(2) A provision for the contractor to share in any demonstrated cost savings that are attributable to increased productivity resulting from the following contractor actions not required by the contract—

(A) the acquisition and utilization of modern industrial facilities and production systems (including hardware and software), and other modern production equipment, for the performance of the contract; or

(B) the utilization of other manufacturing technology improvements in the performance of the contract.

SEC. 212. PROCUREMENT OF CRITICAL COMPONENTS OR CRITICAL TECHNOLOGY ITEMS.

(a) Acquisition Regulations Required.—Within 180 days of the date of enactment of this Act, the single Government-wide Federal Acquisition Regulation, referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)), shall be modified to provide for the solicitation, award, and administration of contracts for the procurement of critical components or critical technology items in accordance with provisions of this section.

(b) Required Solicitation Provisions.—Except as provided in subsection (c), any solicitation for the procurement of critical components or critical technology items shall—

(1) specify the minimum percentage of the total estimated value of the contract that is to be performed by one or more domestic firms;

(2) provide for the attainment of such requirement by the firm as prime contractor, or by subcontractors pursuant to a subcontracting plan submitted with the prime contractor's offer;

(3) specificy that a source selection factor relating to the requirement specified in paragraph (1) shall accord—

(A) such source selection factor a value not to exceed 10 percent of the total evaluation points for all source selection factors specified in the solicitation; and

(B) such evaluation points in proportion to the extent to which each offer meets or exceeds the specified percentage;

(4) provide that attainment of the percentage specified in the offer of the firm receiving the award shall be a material element of contractual performance; and

(5) require the contractor to—

(A) identify each subcontractor whose performance is to be counted towards attainment of the contractual requirement specified pursuant to paragraph (1); and

(B) provide prompt notice to the contracting officer after replacing any such subcontractor.

(c) Waiver of Solicitation Provisions.—(1) The regulations required by subsection (a) may specify circumstances under which the solicitation provisions required by subsection (b) may be waived with respect to a specific solicitation upon a determination by the contracting officer that the use of such solicitation provisions is likely to result in a significant adverse impact on the national interests of the United States.

(2) The contracting officer's determination shall be—

(A) supported by specific written findings which justify such determination; and

(B) approved by the senior procurement executive of the department or agency (designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) or a designee of such officer.

(3) Copies of waiver determinations approved pursuant to subsection (b) (including the supporting written justifications and approvals) shall be made available upon request to—

(A) the public, consistent with the provisions of section 552 of title 5, or

(B) any member, or duly constituted committee, of the Congress.

(d) Critical Components and Critical Technology Items.—The President, acting through the Secretary of Defense, shall—

(1) determine the components or items that are critical components or critical technology items; and

(2) publish a list of such critical components and critical technology items in the Federal Acquisition Regulation.

(e) Definitions.—For the purpose of this section—

(1) the term "domestic firm" has the same meaning as the term "domestic source" in section 702 of the Defense Production Act of 1950; and

(2) the terms "critical components" and "critical technology items" have the same meanings as in section 702 of the Defense Production Act of 1950.

SEC. 213. SUSTAINING INVESTMENT.

It is the sense of the Congress that, in order to encourage investment to maintain our Nation's technological leadership, to preserve the strength of our industrial base, and to encourage contractors to invest in advanced manufacturing technology, advanced production equipment, and advanced manufacturing processes, the Secretary of Defense as part of his implementation of changes to defense acquisition policies pursuant to the Defense Management Review shall consider—

(1) full allowability of independent research and development/bid and proposal costs;

(2) appropriate regulatory changes to increase the progress payment rates payable under contracts; and

(3) an increase of not more than 10 percent in the amount which would otherwise be reimbursable to a contractor as the Government's share of costs incurred for the acquisition of production special tooling, production special test equipment, and production special systems (including hardware and software) for use in the performance of the contract.

PART C—MISCELLANEOUS

SEC. 221. GAO STUDY OF STATE FOREIGN INVESTMENT INCENTIVE PROGRAMS.

(a) In General.—The Comptroller General of the United States shall conduct a study of State incentive programs used to attract foreign investment. In conducting such study, the Comptroller General shall evaluate the costs and benefits of such programs, including job creation and economic growth, as well as potential adverse economic effects on United States firms, and recommend what measures the States might take, if any, to ensure that the economic benefits of such programs warrant the costs.

(b) Report.—Not later than 12 months after the date of enactment of this Act, the Comptroller General shall transmit to the Congress a report on the study under subsection (a).

SEC. 222. DISCOURAGING UNFAIR TRADE PRACTICES.

(a) Suspension or Debarment Authorized.—Subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation) shall be amended to specify the circumstances under which a contractor, who has engaged in an unfair trade practice, as defined in subsection (b), may be found to presently lack such business integrity or business honesty that seriously and directly affects the responsibility of the contractor to perform any contract awarded by the Federal Government or perform a subcontract under such a contract.

(b) Definitions.—For purposes of this section, the term "unfair trade practice" means the commission of any of the following acts by a contractor:

(1) An unfair trade practice, as determined by the International Trade Commission, for a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337).

(2) A violation of any agreement of the Coordinating Committee on Export Controls or any similar bilateral export control agreement, as determined by the Secretary of Commerce.

(3) A knowingly false statement regarding a material element of a certification concerning the foreign content of an item of supply, as determined by the Secretary of the department or the head of the agency to which such certificate was furnished.

TITLE III—AMENDMENT TO RELATED LAWS

SEC. 301. DEFENSE PRODUCTION ACT FUND PROJECTS.

Section 2502 of title 10, United States Code, is amended by adding at the end the following:

"(d) Defense Production Act Fund Projects.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall review and approve projects recommended for support through the Defense Production Act Fund pursuant to the authorities provided by title III of the Defense Production Act of 1950.".

TITLE IV—FAIR TRADE IN FINANCIAL SERVICES

SEC. 401. SHORT TITLE.

This title may be cited as the "Fair Trade in Financial Services Act of 1990".

SEC. 402. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR BANKS AND BANK HOLDING COMPANIES.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following:

"NATIONAL TREATMENT

"Sec. 15. (a) Purposes.—This section is intended to—

"(1) encourage foreign countries to accord national treatment to United States banks and bank holding companies that operate or seek to operate in those countries; and

"(2) seek an end to discrimination against United States banks and bank holding companies.

"(b) Annual Reports Required.—For each calendar year beginning on or after January 1, 1991, the Secretary of the Treasury shall, not later than May 1 of the following calendar year, submit to the Congress a report—

"(1) identifying each foreign country—

"(A) that, according to the most recent report submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, does not accord national treatment to United States banks and bank holding companies; and

"(B) with respect to which no determination under subsection (d)(1) is in effect;

"(2) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(3) describing the results of negotiations conducted pursuant to subsection (c)(1).

"(c) Negotiations Required.—

"(1) In general.—The Secretary of the Treasury shall initiate negotiations with any foreign country described in subparagraphs (A) and (B) of subsection (b)(1) to ensure that that country accords national treatment to United States banks and bank holding companies.

"(2) Negotiations not required.—Paragraph (1) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(A) determines that such negotiations would be fruitless or would impair national economic interests; and

"(B) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(d) Discretionary Sanctions.—

"(1) In general.—A Federal banking agency may, in consultation with the Secretary of the Treasury, deny any application, and disapprove any notice, filed by a person of a foreign country if the Secretary has published in the Federal Register (and has not rescinded) a determination that the foreign country does not accord national treatment to United States banks and bank holding companies.

"(2) Review.—The Secretary of the Treasury shall annually review any determination under paragraph (1) and decide whether that determination should be rescinded.

"(e) Preventing Existing Entities From Being Used to Evade This Section.—

"(1) In general.—If a determination under subsection (d)(1) is in effect with respect to a foreign country, no bank, foreign bank described in section 8(a), branch, agency, commercial lending company, or other affiliated entity that is a person of that country shall, without prior approval pursuant to paragraph (3) or (4), directly or indirectly, in the United States—

"(A) commence any line of business in which it was not engaged as of the date on which that determination was published in the Federal Register; or

"(B) conduct business from any location at which it did not conduct business as of that date.

"(2) Exception.—Paragraph (1) shall not apply with respect to transactions under section 2(h)(2) of the Bank Holding Company Act of 1956.

"(3) State-supervised entities.—

"(A) This paragraph shall apply if—

"(i) the entity in question is an uninsured State bank or branch, a State agency, or a commercial lending company;

"(ii) the State requires the entity to obtain the prior approval of the State bank supervisor before engaging in the activity described in subparagraph (A) or (B) of paragraph (1); and

"(iii) no other provision of Federal law requires the entity to obtain the prior approval of a Federal banking agency before engaging in that activity.

"(B) The State bank supervisor shall consult about the application with the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act). If the State bank supervisor approves the application, the supervisor shall notify the appropriate Federal banking agency and provide the agency with a copy of the record of the application. During the 45-day period beginning on the date on which the appropriate Federal banking agency receives the record, the agency may, after consultation with the State bank supervisor, issue an order disapproving the activity in question. The period for disapproval under the preceding sentence may, in the agency's discretion, be extended for not more than 45 days.

"(4) Federal approval.—If the transaction is not described in paragraph (3)(A), the entity in question shall obtain the prior approval of the appropriate Federal banking agency.

"(5) Informing state supervisors.—The Secretary of the Treasury shall inform State bank supervisors of any determination under subsection (d)(1).

"(6) EFFECT ON OTHER LAW.—Nothing in this subsection shall be construed to relieve the entity in question from any otherwise applicable requirement of Federal law.

"(f) NATIONAL TREATMENT DEFINED.—A foreign country accords national treatment to United States banks and bank holding companies if it offers them the same competitive opportunities (including effective market access) as are available to its domestic banks and bank holding companies.

"(g) PERSON OF A FOREIGN COUNTRY DEFINED.—A person of a foreign country is a person that—

"(1) is organized under the laws of that country;

"(2) has its principal place of business in that country;

"(3) in the case of an individual—

"(A) is citizen of that country, or

"(B) is domiciled in that country; or

"(4) is directly or indirectly controlled by a person described in paragraph (1), (2), or (3).

"(h) EXERCISE OF DISCRETION.—In exercising discretion under this section—

"(1) the Secretary of the Treasury and the Federal banking agencies shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(2) the Federal banking agencies, in consultation with the Secretary of the Treasury—

"(A) shall consider, with respect to a bank, foreign bank, branch, agency, commercial lending company, or other affiliated entity that is a person of a foreign country and is already operating in the United States—

"(i) the extent to which that foreign country has a record of according national treatment to United States banks and bank holding companies; and

"(ii) whether that country would permit United States banks and bank holding companies already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's banks and bank holding companies; and

"(B) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purposes of this section.".

SEC. 403. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR SECURITIES BROKERS AND DEALERS.

Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended by adding at the end the following new paragraph:

"(11) NATIONAL TREATMENT.—(A) This paragraph is intended to encourage foreign countries to—

"(i) accord national treatment to United States brokers and dealers that operate or seek to operate in those countries; and

"(ii) seek an end to discrimination against United States brokers and dealers.

"(B) For each calendar year beginning on or after January 1, 1991, the Secretary of the Treasury shall, not later than May 1 of the following calendar year, submit to the Congress a report—

"(i) identifying each foreign country—

"(I) that, according to the most recent report submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, does not accord national treatment to United States brokers and dealers; and

"(II) with respect to which no determination under subparagraph (D)(i) is in effect;

"(ii) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(iii) describing the results of negotiations conducted pursuant to subparagraph (C)(i).

"(C)(i) The Secretary of the Treasury shall initiate negotiations with any foreign country described in subclauses (I) and (II) of subparagraph (B)(i) to ensure that that country accords national treatment to United States brokers and dealers.

"(ii) Clause (i) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(I) determines that such negotiations would be fruitless or would impair national economic interests; and

"(II) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Energy and Commerce of the House of Representatives.

"(D) The following provisions shall apply if the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination that a foreign country does not accord national treatment to United States brokers and dealers:

"(i) The Commission may, in consultation with the Secretary of the Treasury—

"(I) deny any application for registration under this subsection filed by a person of that foreign country; and

"(II) prohibit any person of that foreign country from acquiring control of a registered broker or dealer, irrespective of when the acquisition was initiated.

"(ii) No person of that foreign country, acting directly or indirectly, shall acquire control of any registered broker or dealer unless—

"(I) the Commission has been given notice 45 days in advance of the acquisition, in such form as the Commission shall prescribe by rule; and

"(II) the Commission has not prohibited the acquisition.

"(iii) The Commission may, by order, extend the notice period with respect to any particular acquisition for not more than 60 days.

"(iv) The Secretary of the Treasury shall annually review any determination under this subparagraph and decide whether that determination should be rescinded.

"(E) A foreign country accords national treatment to United States brokers and dealers if it offers them the same competitive opportunities (including effective market access) as are available to its domestic brokers and dealers.

"(F) A person of a foreign country is a person that—

"(i) is organized under the laws of that country;

"(ii) has its principal place of business in that country;

"(iii) in the case of an individual—

"(I) is a citizen of that country, or

"(II) is domiciled in that country; or

"(iv) is directly or indirectly controlled by a person described in clause (i), (ii), or (iii).

"(G) In exercising discretion under this paragraph—

"(i) the Secretary of the Treasury and the Commission shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(ii) the Commission, in consultation with the Secretary of the Treasury—

"(I) shall consider, with respect to a broker or dealer that is a person of a foreign country and is already operating in the United States—

"(aa) the extent to which that foreign country has a record of according national treatment to United States brokers and dealers; and

"(bb) whether that country would permit United States brokers or dealers already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's brokers or dealers; and

"(II) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purposes of this paragraph.".

SEC. 404. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR INVESTMENT ADVISERS.

Section 203 of the Investment Advisers Act of 1940 (12 U.S.C. 80b-3) is amended by adding at the end the following new subsection:

"(i) NATIONAL TREATMENT.—

"(1) PURPOSES.—This subsection is intended to encourage foreign countries to—

"(A) accord national treatment to United States investment advisers that operate or seek to operate in those countries; and

"(B) seek an end to discrimination against United States investment advisers.

"(2) ANNUAL REPORTS REQUIRED.—For each calendar year beginning on or after January 1, 1991, the Secretary of the Treasury shall, not later than May 1 of the following calendar year, submit to the Congress a report—

"(A) identifying each foreign country—

"(i) that, according to the most recent report submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, does not accord national treatment to United States investment advisers; and

"(ii) with respect to which no determination under paragraph (4) is in effect;

"(B) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(C) describing the results of negotiations conducted pursuant to paragraph (3)(A).

"(3) NEGOTIATIONS REQUIRED.—(A) The Secretary of the Treasury shall initiate negotiations with any foreign country described in clauses (i) and (ii) of paragraph (2)(A) to ensure that that country accords national treatment to United States investment advisers.

"(B) Subparagraph (A) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(i) determines that such negotiations would be fruitless or would impair national economic interests; and

"(ii) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Enerjy and Commerce of the House of Representatives.

"(4) DISCRETIONARY SANCTIONS.—The following provisions shall apply if the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination that a foreign country does not accord national treatment to United States investment advisers:

"(A) The Commission may, in consultation with the Secretary of the Treasury, deny any application, and disapprove any notice, filed pursuant to this title by a person of that foreign country.

"(B) The Commission may, in consultation with the Secretary of the Treasury, prohibit any person of that foreign country from acquiring control of a registered investment adviser, irrespective of when the acquisition was initiated.

"(C) No person of that foreign country, acting directly or indirectly, shall acquire control of any registered investment adviser unless—

"(i) the Commission has been given notice 45 days in advance of the acquisition, in such form as the Commission shall prescribe by rule; and

"(ii) the Commission has not prohibited the acquisition.

"(D) The Commission may, by order, extend the notice period with respect to any particular acquisition for not more than 60 days.

"(E) The Secretary of the Treasury shall annually review any determination under this paragraph and decide whether that determination should be rescinded.

"(5) NATIONAL TREATMENT DEFINED.—A foreign country accords national treatment to United States investment advisers if it offers them the same competitive opportunities (including effective market access) as are available to its domestic investment advisers.

"(6) PERSON OF A FOREIGN COUNTRY DEFINED.—A person of a foreign country is a person that—

"(A) is organized under the laws of that country;

"(B) has its principal place of business in that country;

"(C) in the case of an individual—

"(i) is a citizen of that country, or

"(ii) is domiciled in that country; or

"(D) is directly or indirectly controlled by a person described in subparagraph (A), (B), or (C).

"(7) EXERCISE OF DISCRETION.—In exercising discretion under this subsection—

"(A) the Secretary of the Treasury and the Commission shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(B) the Commission, in consultation with the Secretary of the Treasury—

"(i) shall consider, with respect to an investment adviser that is a person of a foreign country and is already operating in the United States—

"(I) the extent to which that foreign country has a record of according national treatment to United States investment advisers; and

"(II) whether that country would permit United States investment advisers already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's investment advisers;

"(ii) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purposes of this subsection.".

SEC. 405. CONFORMING AMENDMENTS SPECIFYING THAT NATIONAL TREATMENT INCLUDES EFFECTIVE MARKET ACCESS.

(a) QUADRENNIAL REPORTS ON FOREIGN TREATMENT OF UNITED STATES FINANCIAL INSTITUTIONS.—Section 3602 of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5352) is amended—

(1) in paragraph (3), by striking "and securities companies" and inserting ", securities companies, and investment advisers"; and

(2) by adding at the end the following: "For purposes of this section, a foreign country denies national treatment to United States entities unless it offers them the same competitive opportunities (including effective market access) as are available to its domestic entities.".

(b) NEGOTIATIONS TO PROMOTE FAIR TRADE IN FINANCIAL SERVICES.—Section 3603(a)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5353(a)(1)) is amended by inserting "effective" after "banking organizations and securities companies have".

(c) PRIMARY DEALERS IN GOVERNMENT DEBT INSTRUMENTS.—Section 3502(b)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5342) is amended—

(1) by striking "does not accord to" and inserting "does not offer";

(2) by inserting "(including effective market access)" after "the same competitive opportunities in the underwriting and distribution of government debt instruments issued by such country"; and

(3) by striking "as such country accords to" and inserting "as are available to".

TITLE V—EFFECTIVE DATES

SEC. 501. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of this Act shall take effect on August 10, 1990.

(b) SPECIAL RULES.—(1) Title IV of this Act takes effect on the date of enactment of this Act.

(2) The acquisition policies required by title II of this Act shall be incorporated as part of the Federal Acquisition Regulation within 270 days after enactment. Such policies shall apply to solicitations issued 60 days after such regulations are issued.[S03OC0-V3]{S14456}issued.

Mr. DIXON. I further ask unanimous consent, Mr. President, that the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. Without objection, the Chair will be authorized to appoint conferees.

The Parliamentarian informs the Chair conferees have not been suggested.

Mr. DIXON. I understand, Mr. President. They will be submitted shortly.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. I ask unanimous consent that I be allowed to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EFFICIENCY IN GOVERNMENT

Mr. KOHL. Mr. President, I wanted to speak for just a few minutes about the budget package, our deficit, and that problem which is so severe that we are facing in our country today. I would like to speak about all the anger and dissatisfaction that we are hearing in Washington from our constituents, a well-deserved anger that they do have about the sacrifice we are asking them to make in behalf of our country.

The President was on television last night and suggested this was a program that had to be enacted; that if we would enact this program, we would be well on our way toward having a balanced budget and this would be the pain and the suffering we would necessarily have to inflict on the citizens of our country in order to get it done.

I come from private enterprise, as some of my colleagues know, and in private enterprise if you do not run an efficient business, sooner or later you lose. Sooner or later you go out of business because more efficient, more effective competitors simply take away your enterprise.

The U.S. Government, on the one hand, is the largest enterprise in the world. On the other hand, it has no competition in our country. We do have competition, however, all around the world from competing economies, whether it is Japan or Germany, and all of us understand how serious that problem is in our country, how our inefficiency costs us jobs, a better standard of living, and all those things that are so precious to us.

In the process of costing us, all must understand that if there is to be warfare in the future between countries, it is mostly going to be economic warfare. People in this country are concerned about whether or not we are prepared to wage that economic warfare which relates to what we are being asked to do today by our President, by our Congress, myself, yourself, and our congressional leaders.

I have not heard anyone talk about the efficiency of our Government or lack thereof and what we intend to do at the same time we are asking the American people to endure pain and sacrifice. What are we prepared to do here? I did not hear the President talk—and frankly in our discussions between ourselves as Congress people, Senators and Representatives, there has not been one serious discussion that I have heard—what action we are prepared to take to assure the American people that all the money they are sending to Washington and the pain we are asking them to endure by way of cuts in service is going to be well used in their behalf.

As we know, people feel that the money they send to Washington to a large extent is not being used efficiently and effectively, and they do not want to send any more money because they feel we do not use it efficiently, we do not use it effectively.

I want to talk about just one aspect on the budget this morning, and I would like to hear from somebody at OMB or our President or congressional leaders, uncollected taxes in this country, something that everybody understands.

The uncollected taxes in this country, corporate and personal, are $100 billion a year. I am not talking about underworld taxes that vanish. I am talking about normally due taxes that people just are not paying for whatever reason—people and corporations, $100 billion a year. Do we have a right to go to the American people and ask them to pony up all the money we are asking from them because we have a budget deficit when a significant part of that deficit is nothing more than uncollected taxes for which we are totally responsible? If we cannot provide the answer to that question, among all the other inefficiencies that exist in our Government, how can we go to the American people and ask them to endure all the pain and suffering we are asking of them? If, in fact, as I have heard, the real deficit is not just $400 billion or $300 billion, we are going to have to go back to the American people next year and the following year and the following year and tell them, as we told them in the past, we underestimated the problem—it is not $400 billion; it is $600 billion; it is $800 billion or as I heard this morning from the head of the GAO, Mr. Bowsher, it may be a trillion dollars.

It would not be surprising, would it, if we had to go back to the American people next year with a reestimate of our deficit, just like the deficit this year, which started out at $100 billion. You will recall that in January, when the President came before the Congress and gave his State of the Union speech, he said our deficit problem is $100 billion this year and it is manageable. How did it grow from $100 billion in January to $300 billion in August or September? What happened? Who is to say that he is not going to come back or we are not going to go back to the country next year with another estimate of half or twice again as big as what it is now?

Is there anybody here who says with a sense of confidence that they know our accounting is right and we know what we are talking about this time or would all of us have to admit to the American public that we do not know what we are saying? I think that is very serious. I think until we are prepared to address that problem, how we are going to assure the American people that we know how to manage this enterprise called the American Government, we have to be very cautious and very reluctant to go out to the American people and say we are going to inflict all kinds of pain and suffering on you if in fact maybe half the reason is because we do not know how to run our business in Washington. They know it and they sense it. That is why they are so upset with us.

So I hope that part of this dialog today and tomorrow, before we vote on the budget, is a dialog that includes the question of management and what we are going to do to assure the American people that their tax dollars are being managed efficiently and effectively in their behalf.

I thank the Chair.

Mr. KOHL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE INDEFINITELY POSTPONED—S. 1379

Mr. KOHL. Mr. President, I ask unanimous consent that S. 1379 be indefinitely postponed.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RECESS UNTIL 2:30 P.M.

Mr. KOHL. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate stand in recess until 2:30 p.m. this afternoon.

There being no objection, at 11:48 a.m. the Senate recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ADAMS].

MONEY LAUNDERING ENFORCEMENT ACT AMENDMENTS

The PRESIDING OFFICER. Under the previous order, the pending business is the motion to proceed to the consideration of S. 3037.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Thank you, Mr. President.

Mr. President, the comanager of this bill, the Senator from Utah, is not yet here. I am not sure. I think this came back on to the order somewhat by surprise for some parties. So we are waiting for him to be able to come to the floor.

We had a discussion yesterday at which time there was some delay in our ability to move forward on the motion to proceed. We agreed with the Senator from Idaho [Mr. SYMMS] that we would wait until after the parties both had an opportunity to have a caucus during which time the issues surrounding this bill would be brought up; that subsequently we would hopefully be able to move forward.

The distinguished Senator from Ohio [Mr. METZENBAUM] I know had the possibility of an amendment. He wants to talk with the Senator from Utah. So there are still a few matters to be worked out with respect to this legislation.

What I might do at this point in time while we are waiting for the Senator from Utah to arrive to the floor is to explain further what this legislation is about. I remind colleagues again as I said yesterday that this is not or should not be controversial legislation. A companion bill passed in the House of Representatives 406 to nothing. This bill came out of the Banking Committee unanimously. There were one or two close issues in the Banking Committee which have subsequently been worked out among the parties. Notwithstanding their closeness, I think all parties are at this point prepared to move forward.

Mr. President, this is a bill with several components. The first component is the money laundering enforcement amendments of 1990. There are two parts to that. The third part is the Truth in Savings Act. Then there are some amendments with respect to Expedited Funds Availability Act, the Home Equity Consumer Protection Act, the Counterfeit Deterrence Act, and finally the Coin Redesign Act, all of which are very straightforward.

As I said yesterday, with respect to the money laundering amendments, Mr. President, there is not any question that the vast majority of banks in this country are diligently trying to ferret out money laundering where it occurs. I think that the cash transaction reporting process which has been in place for a number of years has assisted significantly in our ability to be able to do that. But the fact remains that notwithstanding that requirement there is a very significant money laundering business in this country. And because of the nature of the banking system in this modern age outside of this country they work together.

In point of fact, Mr. President, a year or so ago in conjunction with the passage of the drug bill the Senate faced up to this reality when we passed requirements that our Government negotiate with other banks in other countries in order to have them require cash transaction reports.

Today there is a huge loophole in the law whereby an American bank required in the United States to have cash transaction reports actually can have the ability to circumvent that law with an offshore account. And in the offshore account there is not a similar requirement. That is not in this bill.

I do not want to confuse matters here. None of that is in this legislation. It does not address any aspect of it. But what it does underscore is the fact that there are major loopholes in the law today. Money laundering is obviously a key part of the drug trade. We are fond of trying to deal with laws that deter at the street level. We try to aid our police in being able to make arrests. It is appropriate and proper that we do that. We ought to do more of it in fact.

But the reality is that the big launderer, the big money earner, the big kingpin sits distant from the street deal—sits distant from the havoc that is wreaked in our communities, receives the profits, and then plays some very fancy games with that money while it is sent through various corporate shells or other entities; finally winds up back in a bank account laundered, clean, distant from the drug transaction.

In testimony before the Senate Banking Committee just this month William Seidman, the Chairman of the Resolution Trust Corporation talked about "All the clever schemes employed by the scam artists." He was referring to the S&L's. According to Mr. Seidman "The cleverist schemes revolve around what happened to the money after they got hold of it." Mr. Seidman was talking about money laundering and the savings and loan scandal.

I am convinced that both the savings and loan institutions and savings and loan executives have been significantly involved in money laundering. Let me just note a few examples for the record here.

Last year a thrift in Missouri was indicted along with five individuals including the former executive in the thrift's Dallas office for allegedly laundering nearly a quarter of a million dollars through the purchase of money orders.

Another example, in 1987 a former executive vice president at Centennial Savings and Loan Association in Sonoma County, CA, was indicted for laundering tens of thousands of dollars for a west coast drug ring. The indictment alleged that this individual had invested money from the drug dealers in upscale real estate projects in the booming areas just north of San Francisco.

Another example: the U.S. attorney in Baltimore has indicted several businessmen for charges of looting Community Savings of Maryland of $28 million and of laundering those funds in Swiss banks.

Another example: regulators and examiners told the House Banking Committee this year that one of the top executives of the Lincoln Savings and Loan Association may have sheltered as much as $100 million in bank accounts in Switzerland, Panama, and the Bahamas.

There is a lawsuit now by the shareholders and the U.S. Government in an action to try to recover $40 million, and in conjunction with that action our Government issued a temporary cease and desist order restricting individuals from transferring any assets or funds outside the United States. As the Director of the Office of Thrift Supervision, Mr. Tim Ryan said of Mr. Keating himself that he has been saying to the press and public that he is broke. To quote Mr. Ryan "We just don't believe that."

Another example, the U.S. attorneys office in Houston is investigating the failure of Vision Bank Savings in Kingsville, TX. One former executive is identified in Federal law enforcement records as a known money launderer. He is suspected of having wired as much as $40 million to a company on the Isle of Jersey, which is a well-known tax haven in the English Channel.

Mr. President, here we are having listened to the President of the United States last night talking about the need to ask Americans to ante up more tax dollars. Here we are faced with a budget crisis where Americans are being asked to pay more and more money in order to cover the cost of a savings and loan scandal. Yet here we are with knowledge that money laundering could be a very significant, or some, portion of it—that money that has been looted from those banks.

I do not know how you can turn to people in this country and say pay more taxes unless we have taken all the steps necessary to try to deter that kind of activity, and to try to recoup those funds where possible.

It just does not make sense to me that you ask the middle class or the small wage earner of this country to do that, and we sit here knowing that money laundering is going on and not doing enough to stop it.

So, Mr. President, what this does is very simple. It does not cost money, but it gives the appropriate Federal depository institutions and the regulatory agencies the right to revoke the charter, to terminate deposit insurance, or to remove or suspend officers and directors of depository institutions of either a bank, a savings and loan or a credit union, when they are known to have been involved in money laundering or a monetary transaction reporting offense.

Before a charter can be revoked, the regulator has to consider the following factors. This is not just an arbitrary process. The Senator from Utah [Mr. GARN] and others, who are cosponsors of this, Senator HATCH, Senator BOND, Senator DIXON and others on our side, have worked out a process, and the American Banking Association supports this and believes it is fair.

What we would seek is to have a hearing to determine the degree to which a senior management official knew of or was personally involved in the solicitation of criminal funds of the money laundering operation, and you would examine the effect that a revocation would have on the adequacy of the depository or credit services in the local community. You would examine the institution's cooperation with law enforcement authorities. You would examine the potential losses to the Federal deposit insurance funds and the RTC, if there were to be a revocation, and you would examine whether or not the depository institution's compliance and deterrence programs clearly exceeded the programs that were required by law.

What this legislation does is it gives to our law enforcement officials a new tool in the war on drugs and in the effort to put the savings and loan swindlers in jail. It also contains some money laundering provisions, which were originally introduced by the distinguished Senator from New York [Mr. D'AMATO].

That particular section improves cooperation between Federal and State authorities. It improves the oversight and the enforcement of money laundering compliance programs of nonbank financial institutions. And it addresses wire transfer transactions that are currently not monitored by the detection process of money laundering.

Mr. President, in hearings which the Banking Committee held last fall, we received important testimony on the degree to which there are new problems of money laundering that are appearing in the nonbanking financial institutions. What I am talking about, nonbanking financial institutions are your money transmitters, check cashing boutiques, and money exchange houses.

This legislation makes it a Federal felony for these institutions to transmit money without a license, and the legislation also requires the Secretary of Treasury to issue final regulations concerning recordkeeping for international wire transfers.

We have learned in the course of our hearings that once money has been put into the banking system, there are innumerable ways in which that money can be simply wire transferred to become part of a larger pot of money, so much so that the detection process really becomes complicated, if not almost impossible.

According to the Federal Reserve, an estimated one trillion U.S. dollars in international wire transfers occurs each day. But despite this huge volume of transactions, law enforcement authorities believe there is very important information that can be gleaned from having some kind of restraints on those kinds of transactions, so that you can understand exactly how the system is working and where it originates and what the contributory factors may be to one of those large sums of money.

Senator D'Amato's legislation requires that the Treasury Department, in promulgating regulavtions governing wire transfers, must consider the usefulness of the records in criminal tax or regulatory investigations or proceedings, and that they should factor in those advantages of recordkeeping in the cost and efficiency of the overall payment system.

Title III of the bill was really addressed by the Senator from Connecticut yesterday, and I see no reason, Mr. President, at this point, to go back into that. Title IV of the bill contains the Counterfeit Deterrence Act of 1990 which was drafted by the chairman of the committee, Senator Riegle, and by the ranking minority member, Senator Garn. The Counterfeit Deterrence Act simply modifies current law to further define counterfeit deterrence. I will let the Senator from Utah describe that further, if he desires to.

Title V is the design coin legislation, which authorizes the Secretary of Treasury to select and to mint new designs for the reverses of the half dollar, quarter, dime, nickel, and the cent. These will wind up being revenue raisers for the Government and I think are important in both the revenue they will raise, as well as modernizing some coinage of our country.

Mr. President, that is a brief overview of the legislation which is here before us.

I would be delighted at this point in time to yield to the distinguished ranking member, if he has any comments he would like to add to that.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, this bill provides additional penalties for banks that engage in money laundering violations.

It is a good proposal that I cosponsored.

The bill gives the bank regulators the authority to close down a financial institution that has been convicted of a money laundering crime. It does not mandate that any institution be closed, but simply permits the agencies to act.

In making this decision, the agencies are to consider the degree to which senior management was involved in the criminal activity.

The idea behind this bill is to shut down those institutions that are so riddled with corrupt management and officers that simply punishing the individuals involved is not sufficient.

The bill also encourages oversight by shareholders in the institution, whose investment would be put at risk by the illegal activities of the bank officers.

The bill makes it easier to remove corrupt officers, directors, and employees from an institution for violation of currency reporting requirements.

At my suggestion, the bill was modified so that the agencies also have to consider the effect of closing the institution on the provision of credit and depository services in the community. We do not want to punish honest local businesses that depend upon the financial institution, for the crimes of bank officers or directors.

At my suggestion, the bill also requires that the agencies consider whether closing the institution will result in losses to the FDIC or RTC. It does not make sense to close down a bank or savings association in order to punish its officers and directors, if the action will result in losses to the insurance funds. In this case it would be far better to punish the individuals involved than to shut down the institution.

The bill also contains provisions to improve the ability to the Treasury Department to enforce the money laundering laws, and to provide additional penalties for the operation of an illegal money transmitting business.

The money laundering provisions are supported by the Department of the Treasury.

I might also comment on some of the expedited funds availability amendments. These amendments were suggested by the Federal Reserve in a report to Congress about the implementation of the Expedited Funds Availability Act.

They are intended to fix some technical problems with the sweeping, complex funds availability law that we passed in 1987.

The Expedited Funds Availability Act was passed in response to abusive check hold practices at small minority or depository institutions.

It struck me at the time it passed as overkill and the implementation of the law has not changed my view on this issue.

During the markup of the expedited funds availability amendments, the Banking Committee narrowly rejected an amendment I offered to retain the temporary availability period for local checks. The vote on this amendment was 11 to 10, and the closeness of the margin suggested to me that this issue should be revisited when the legislation came to the Senate floor.

I offered the amendment in response to a letter from Federal Reserve Chairman Alan Greenspan. He urged the Banking Committee to retain the 3-day availability for local checks, which was reduced to 2 days on September 1, 1990, when the permanent schedule under the Expedited Funds Availability Act went into effect.

The Board of Governors urged the Banking Committee to adopt the amendment because with the permanent schedule in effect, banks are exposed to fraud losses since they are now compelled to make funds available before they know if checks have cleared.

The letter from the Federal Reserve stated:

> The Board is very concerned that depository institutions could be exposed to significant risk of fraud loss under the act's permanent availability schedule for deposits of local checks, which becomes effective in September 1990. Therefore, the Board urges the committee to adopt an amendment to retain the current availability for local checks in the permanent schedule. This affords institutions a reasonable opportunity to learn of the return of an unpaid check before being required to make funds available for withdrawal; the availability required in the permanent schedule provides no such protection.

The Federal Reserve also noted:

> More than 75 percent of institutions currently provide availability faster than that required by law, and we expect that they will continue to do so if this amendment is adopted. This amendment is particularly crucial, however, to institutions that are most vulnerable to check fraud, due to the composition of their customer base, and which feel it necessary to place holds on their customers' deposits.

There is compromise language in the managers' amendment which addresses these concerns to some extent. After my amendment was defeated, I asked the Federal reserve for some suggestions for compromise legislation.

Most of the compromise ideas suggested by the Fed were unacceptable to my Democratic colleagues, but we have agreed on the following two provisions in the managers' amendment.

Under current law, the Fed can only suspend the availability schedule for checks if there is an unacceptable level of fraud losses. This amendment gives the Fed authority to modify the availability schedules if there is a significant increase in check fraud losses. This suspension is good for 60 legislative days and the Fed is directed to make recommendations to Congress.

If the Fed were forced to modify the availability schedule, it would be our responsibility here in Congress to act quickly within the 60 legislative days to fix the problem.

The other major provision in the compromise is that the GAO is directed to study the effect of implementation of the permanent schedule on fraud losses in the industry and recommend changes.

This amendment does not completely alleviate the Fed's concerns or my concerns, but it is an improvement over simply letting the banks incur check fraud losses under the permanent schedule.

We are all concerned about the financial soundness of the banking system; it is vitally important to protect the banks and FDIC fund from losses. I felt that keeping the temporary availability for local checks was a simple and effective way to protect the banking industry from fraud losses without inconveniencing consumers, however, I am pleased that we have been able to reach some accommodation on this issue.

TRUTH IN SAVINGS

Truth in savings has been passed by the House and Senate several times, but never been signed into law. The last time it passed the Senate was in 1988 as title VI of the Proxmire Financial Modernization Act. When Senator Dixon and I reintroduced the Proxmire bill (S. 305) in the 101st Congress, truth in savings was again included.

Senator Dodd also introduced a truth in savings bill, S. 307, at the beginning of the 101st Congress. Senator Dodd's bill was the basis for this section of S. 3037.

This legislation ensures that consumers will be able to comparison shop for deposit accounts by standardizing the disclosure of the terms and conditions of these accounts.

While I do have some concerns about any legislation that increases the regulatory burden on the banking industry, I do not believe that truth in savings will be terribly onerous for the industry to comply with.

There is a provision in the managers' amendment which responds to a concern raised by the banking industry about a provision in the committee-passed bill which requires banks to mail out statements describing the terms and conditions of the account to all depositors within 6 months. This has been modified in the managers' amendment to require the banks to mail out a notice within 3 months informing their customers that such information is available if they are interested.

My friend from Connecticut, Senator Dodd, has worked on truth in savings for many years, and I congratulate him on getting truth in savings through the Senate once again.

FAIR LENDING

An amendment may be offered to include the fair lending enforcement bill on the money laundering bill, although I believe that is probably not going to be the case.

The fair lending bill would mandate that the Comptroller of the Currency, and the other banking agencies, establish a separate consumer compliance program.

The bill would mandate a separate onsite consumer compliance examination of each insured institution at least once every 2 years.

Consumer examinations would be conducted by examiners who must specialize in these exams.

In a time when financial institutions are under stress, it makes no sense to mandate that scarce examination resources be devoted to consumer exams.

The lack of adequate financial safety and soundness examiners has been implicated in the savings and loan problem.

Why should we force the agency to conduct consumer exams at the expense of safety and soundness exams?

I do not believe we should micromanage the agencies. They need the flexibility to deal with all different types of problems and economic circumstances.

Mr. President, all things considered, the accommodations that were made in the committee, as well as in the manager's amendment—although I would like to have seen further changes—I think address at least somewhat most of my concerns and therefore I still support the passage of this bill.

We are in a situation where there have been objections to proceeding and that is why we are still on the motion to proceed and the bill is not before us. I believe that at this time my colleagues should be aware that there does not appear to be any objections to the bill. The reason that some of my colleagues do not want it to pass is that they are concerned about certain amendments, and that is still the case. I would prefer to pass the bill clean and get it over to the House of Representatives but at this time it appears that we cannot move forward until we get some assurance. There are a number of amendments that are possible hanging out there.

Mr. KERRY. Mr. President, I thank the Senator.

The PRESIDING OFFICER. Does the Senator from Utah yield the floor?

Mr. GARN. I yield the floor to the Senator from Massachusetts.

Mr. KERRY. I thank the distinguished Senator from Utah, and I appreciate what he has said, and I have communicated that same thought to colleagues on our side of the aisle. It is my belief that it is possible to try to work this out.

What I would like to do is take a few minutes, if I can, so that we could caucus together and perhaps come to that arrangement and then we could hopefully dispose of this legislation very quickly. So with that purpose in mind, I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. Mikulski.). The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I suggest that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Wirth). Without objection, it is so ordered.

Mr. KERRY. Mr. President, we have been trying to work out an expedited process here by which we can begin to move forward on this legislation. The distinguished Senator from Utah has been most accommodating, and I think would like very much to see this legislation go forward. Both of us agreed we would make an effort on both sides to reach an agreement whereby we would have no amendments on either side other than one group of amendments which had been agreed upon by the managers and by the committee members previously.

We have now cleared on our side of the aisle all amendments. There are no amendments pending on this side of the aisle; none whatsoever.

I am told by the Senator from Utah that he has no amendments that pertain to the money laundering and so forth but there remain some objections on the other side of the aisle to proceeding forward.

I would like to underscore the importance of this legislation. We have had an awful lot of rhetoric in Washington and around the country about the problems of the drug war. We are here now facing a potential budget agreement that involves taxes. We are talking about going back to our constituencies—some, anyway—and asking the average American to ante up money.

Here we have a piece of legislation, 406 to 0, not one objecting vote in the House of Representatives, not one objecting vote in the Banking Committee before it comes to the floor, and this legislation has the ability to raise revenue and to fight crime. Notwithstanding that, we seem to be delayed as people want to raise the ugly head of politics which sometimes gets in the way of doing business around here.

It seems to me, Mr. President, it is in the interests of the country and in the interests of this institution to step over those barriers and produce a piece of legislation that does some good.

We had an awful lot of talk on this floor about General Noriega for a long time. A lot of people do not like to be reminded about General Noriega. There was a period of time when an awful lot of people around here were pretty supportive of that fellow and what he was doing down in Panama. Then all of a sudden we began to discover what General Noriega was doing with the banking system of this country, a bank in Florida by the name of BCCI which was subsequently indicted. Then we find BCCI, which has been laundering millions of dollars of drug profits, which was General Noriega's bank, situated in Florida, manages to walk away with a $14 million fine.

A lot of people said what is going on here? Are we serious about money laundering or are we not serious about money laundering? So the Banking Committee and others, after a long series of hearings examining the practices, came up with a tool to permit our banks to do a better job and to permit the law enforcement community to protect us against that kind of brazen corporate activity.

What we had in the BCCI case were bankers who, by admission in court, had a corporate policy of seeking out drug money. In point of fact, Mr. President, we have learned in New York and in other places of banks that have a similar policy. They would compete for certificates of deposit where people would put large amounts of cash in and there was competition among the bankers to get a particular drug dealer or dealers to deposit their funds there.

That is as serious an offense, Mr. President, as the drug dealing itself because it facilitates it. Without the safe harbor, without the safe haven for the money it is impossible for people to be able to make the profits or secure those profits advantageously, to launder them through the process and put them into the legitimate private sector.

Mr. President, this legislation has amendments of Senator D'AMATO, it has some important amendments which were put forward by Senator BIDEN on the crime bill previously, and it has some strengthening tools. It attempts to provide the law enforcement community with an important ability: To be able to punish and deter those who engage in that kind of activity.

If we have learned anything over the course of the last few years it is that the level of this particular activity threatens institutions themselves. If we look at what is happening in Colombia, the Colombian people are facing, day to day, devastation in their streets as a consequence of our ugly habit in this country. There is not 1 day that goes by that we do not read about a bank that has been bombed, a newspaper bombed, an editor killed, a Presidential candidate assassinated, children blown up. That happens as a consequence of drug lords who are able to filter their money through banks and hide it.

We are trying to provide a tool to the law enforcement community and the banking community to better police this process. The question has to be asked why it is that such a unanimously passed bill in the House of Representatives, such an unanimously passed bill from the Banking Committee itself, cannot now proceed.

In good faith the Senator from Illinois [Mr. DIXON] has agreed not to bring forward his amendments which were important with respect to fair lending practices. The distinguished Senator from Ohio [Mr. METZENBAUM] has agreed not to bring forward his amendments with respect to check cashing. So there are no amendments on this side of the aisle, Mr. President.

We are prepared with an agreement with Senator GARN to proceed with this, to voice vote it and to move this measure off the floor. I hope colleagues would think twice, and think hard, whether or not we can do that in order to improve the efficiency of the Congress and the efficiency of the Senate, and to produce a good product at this time.

I yield to my colleague from Utah.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Utah.

Mr. GARN. Mr. President, I think this bill should be passed. With the amendments that have been made to it, it is a good bill and was passed unanimously by the Senate Banking Committee. Therefore on its merits I believe it should be passed and sent over to the House. It would be helpful in some of these illegal problems we have had in the financial services industry.

I am still hopeful we can clear it for passage this afternoon. There are some objections. That is why I have not been on the floor. I have been trying to work out some of those individuals' problems. I can assure the Senator from Massachusetts that I will continue to try to remove those holds and hope we can move the bill today.

Mr. KERRY. I thank the distinguished Senator from Utah and again I appreciate enormously his good faith efforts here, and I know he very much would like to see this moved forward, as I know Senator D'AMATO would.

There are some Senators who wish to speak, I believe, on the money laundering aspects of this who have told me they will be coming to the floor to do so. It seems to me, Mr. President, perhaps we could work it out in the meantime and proceed.

I am certainly prepared to talk for some period of time about the importance of the war on drugs and the importance of money laundering, particularly with respect to that war.

Needless to say, I have no reason to talk other than to try to press the importance of this bill. I would be delighted not to have to do so, but I am prepared at some considerable length to try to wage an effort to guarantee that legislation that is as straightforward and as important and fundamental to a complete drug war pass.

We have had a long struggle with the drug war in this institution. There was a bill passed a couple of years ago around election time which promised $2.7 billion would be spent on the drug war. Lo and behold, after everybody went home and ballyhooed about the drug war, we found out that only $500 million of that money was being spent.

I know as a prosecutor back in 1975, we were able to prosecute because we had $875 million that came from the Federal Government to assist us through the Law Enforcement Assistance Administation. It was only because of that money that a county like Middlesex County, where 1 was the first assistant district attorney, was able to, in fact, prosecute people. We were one of the 10 largest counties in America. We had 12,000 backlog cases. So $875 million was available.

Then here we were a year ago with the declaration of the war on drugs and we had only $450 million in 1990 money, one-half the amount of money in real terms but figuring 15 years of inflation, far, far less than that, notwithstanding the war on drugs.

Here we are today talking about a war on drugs. We have only 19 out of 100 addicts who receive treatment, Mr. President—19 out of 100 addicts. Instead of treatment on demand, we have the paucity of treatment to such a degree that people are left out in the streets spreading the word that nobody is serious.

Only 55 percent of the kids in America receive education about drugs, Mr. President. What happens to the other 45 percent? Are they the forgotten? Are they the ones whose addictions and problems are not going to matter at all? Obviously, these are serious questions about the drug war and this is just one part of it. Money laundering is one part of the drug war. If you are going to tell the people in America that we are serious about a drug war, then you have to evenhandedly spread the pain. We have not been spreading it evenhandedly. There are a lot of people who have been able to secure that money in banks, launder it through with impunity, reap the profits of the drug war and walk away, none more so than the few bankers who have engaged in that kind of illicit practice and the few people who have profited by it.

Here we are with a bill that can do something about it; a bill that can put some teeth into what everybody says is such a critical effort. The question is, will the Senate have the good sense to try to move forward on that, or are we going to become mired and sidetracked by other matters?

It is my hope that we will not, Mr. President, because I think that the American people are getting sick and tired of a Congress that postures and a Congress that pontificates but does

not come through and does not talk reality and does not talk the truth. That is what this is about. We can hear it all over the Nation right now, and we can hear it particularly with respect to issues surrounding the budget. God knows we have seen that in Massachusetts recently in the last couple of years.

People want us to do something. They want us to make things happen. They are tired of the petty political games that stop things from happening. When you have a piece of legislation that passes 406 to nothing in the House and unanimously from the Banking Committee and there is no one on the floor to make an amendment but there are these mysterious things that block it, one can only ask: Are people putting something ahead of the interest of the country? Are people putting something ahead of the interest of the drug war?

I suggest the answer to that may be fairly evident. I hope not. I hope we can move forward on this, Mr. President, As I say, I am prepared to talk at considerable length.

I will now suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are currently on the motion to proceed to S. 3037.

Mr. DANFORTH. I ask unanimous consent to proceed as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET

Mr. DANFORTH. Mr. President, for a part of my Senate career I used to go back to my State and make speeches to Rotary clubs and Kiwanis and the like about the great difficulty of dealing with the Federal budget. After while, I decided that surely there were better subjects to talk about. Every time I would speak about the budget, it was very much like knocking the audience over the head with a club; people would either go to sleep or they would get very angry about the speech. So I decided that there must be better things to talk about than the Federal budget.

That was back maybe 4 or 5 years ago and, of course, matters have become much more urgent since those days. Now, because of the agreement that was reached last weekend among the summiteers, the issue of the budget is necessarily back before the Congress.

Yesterday, at a press conference, Senator BOND and I and Congressman TOM COLEMAN from the northwest corner of our State of Missouri announced that we were going to support the agreement on the budget.

Last night, the President made an appeal to the American people to contact Members of Congress and express their support, and I have received numerous phone calls already today. Total calls to my offices, both in Missouri and Washington as of about an hour or so ago, were 75 calls in support of the President, 280 calls in general opposition to the budget agreement and then, in addition to those 280 calls of general opposition, 233 opposed to any cuts in Medicare benefits, 73 opposed to the gas tax, 34 opposed to any more taxes at all.

About the only constructive suggestions were 4 calls suggesting that we cut congressional pay, and 19 suggested that we cut foreign aid. Of course, if we cut congressional pay to zero—and I am sure that there are a number of my constituents who think that is about what my services are worth—that would be a tiny fraction of 1 percent of the budget deficit. Foreign aid, last time I looked, accounted for something like 1.5 percent of the total budget.

I wish I could tell my constituents that there was some easy way to deal with the budget deficit. After all, politicians like to be popular, and the way to be popular is to tell people what they want to hear. What people want to hear is that we can deal with problems without causing any kind of pain at all. We do not have to raise taxes. We do not have to cut popular programs. All we have to do is cut congressional pay, cut foreign aid, or put in place the Grace Commission reports, which, of course, do amount to very substantial cuts for popular programs—something that does not require anybody to do anything.

I would only say that if there was an easy answer, I would have found it. Like all politicians, I do not relish telling people what they do not want to hear. If there was any easy answer, the budget summiteers would have found the easy answer. They met over a period of 150 days, and finally, literally on the eve of a budget sequester, they came up with their compromise program. Everybody hastens to say, "Well, we hate that program." We do. Everybody does. Nobody likes any part of it.

But if the budget summiteers cannot come up with any better program after 150 days of negotiation, who is going to come up with some better mix now? Are the summiteers supposed to go back to the summit? Are we supposed to write something on the floor of the U.S. Senate? Who has the plan?

The answer is that if it is not this plan, it is not going to be any plan at all, and we are going to be left with two alternatives. One is sequester, and there has been much comment about the practical effects of sequester. If people do not like the budget agreement, just wait until they get sequester.

Or, in the alternative—and I would say this really is the most likely alternative—we end up getting rid of the whole sequester process, finessing that, not putting in place the summit's agreement on the budget, and simply running up the score on the Federal deficit. That, I think, Mr. President, is the most likely thing that we will do.

Will the country collapse if we do that? No, it will not. Will we suddenly see some disaster fall? Well, maybe the stock market will collapse again as it did in 1987. But basically, people will still wake up in the morning and eat their breakfast, go to work, and go to bed at night.

I do not think that a failure to do anything will cause some immediate disaster as though we had fallen off a cliff. But I think if that really is going to be the decision—that anything is too painful, and therefore we should do nothing at all—the effect is that the country is going to get weaker and weaker and weaker and weaker and weaker, that America is no longer going to be a preeminent force in the world, that our economy is going to be shaky month after month, year after year, that job opportunities are not going to be provided for our children, that we are going to become progressively even less competitive with the Japanese or with united Germany or other parts of the world.

Somebody once said that running constant budget deficits is like eating arsenic. It does not kill you all at once; it just makes you weaker and weaker.

Well, we can turn down this budget package, and it may well be that we will. That appears to be the popular thing to do. But it is worth noting that there is a cost for doing so. The cost is that America will be a weaker country in the future than it is today, and our children, instead of inheriting from us a legacy of strength in which they can take great pride, will instead inherit a legacy of debt and a legacy of constant trade imbalances, and a very precarious economic situation in which their prospects for better jobs and better opportunities are much less than they are today.

Mr. BOND. Mr. President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I want to join my distinguished senior colleague. We have received the same kind of mail, the same kind of response to the budget agreement. People do not like a lot of things in it. Many people have not been well informed by the media, and a good portion of my calls are objecting to the fact that Social Security COLA's are being cut, and they are not. Some of them complain about taxation of Social Security benefits. That is not being changed in this budget agreement.

But clearly it is not overwhelmingly popular, even though the President went on television last night, and he was joined by our distinguished majority leader, to say why a budget agreement is necessary. When I campaigned for this job in 1986, I told the people of Missouri that somebody had to go to Washington to make some tough votes on the budget, to get the deficit under control, to do something about our continually increasing problem of spending money that we did not have. I told them that there were not any easy answers but that the future of this country and the future that we leave to our children depends upon whether we really can make some tough decisions, whether we can do something about the budget.

I have to tell you that in the 3½ years that I have been here I have been underwhelmed by the ability of this Congress, this body, to do something tough about the budget. We have done a lot of smoke and mirrors. We have ducked the hard choices. As a result, our economy has grown weaker and our Government has been brought closer to the brink of failure. Congress, too often, has been unwilling to make the needed reforms to implement the needed discipline to make sure that we just balance our checkbooks.

Well, finally, after much laboring and much effort, the summit negotiators have come forward with some tough medicine. I can tell you that it is easy to find things that you do not like in it. I am not excited at all about using the gas tax for deficit reduction. I think it should be used for building roads. I do not like to put the burden on seniors who depend on Medicare. I do not think it is right to single out agriculture, prior to a successful GATT negotiation, for a $13 billion cut. And I do not think it is fair to double the tax on beer.

Mr. President, we all know if easy answers would have done the job it would have been done long ago. I do not think this country or our economy can continue to go down this road where we do not exercise some discipline. We cannot stand more months of uncertainty, political paralysis, while we try to find some alternative.

I am not as optimistic as my colleague. I think if we do not do something, we will not only see a significant downturn in the stock market, but we will see interest rates shoot up as the international market has this weekend confirmed one more time if we are not able to balance our budget, and the costs will escalate at an escalating rate that we may never be able to get hold of.

We cannot afford to put off this package any longer to try to make an incremental improvement in it. Sure, you, Mr. President, or I, or any of us could probably write what we would consider to be a much better program. But the fact of the matter remains that, for the first time since I have been here, this plan includes some very tough discipline for the budget process.

Under it the projections are, by 1995 spending will decline, Federal Government spending, by 18.2 percent of our gross national product, the lowest level since 1966. That compares to 22.6 percent today. Under an agreement, for the first time, there will be a budget agreement with absolute spending caps for 5 full years. The OMB, at the direction of the President, will have the authority to cut spending anytime during the year, if Congress should exceed those caps. Any new spending that we adopt—and I am sure there will be new ideas that will come along—can only be adopted if we pay for them at the time we adopt them. Social Security surpluses will no longer be used to mask the size of the deficit, and there will be additional protections against raiding the Social Security funds.

There are those who do not like specific parts of the program. To them I say, if you want to go back to the table, as far as my State is concerned, it would be a lot worse to have a 25-cent gas tax increase; it would be a lot worse to have an 80-cent increase in the beer tax; it would be a lot worse to cut out agricultural programs entirely, and it certainly would be a lot worse to start messing around with Social Security.

On the other hand, if we try to do those things and fail, as I am sure we would, then the cuts that sequester would bring would be, I think, even worse for the people of my State and the people of this country. Farmers would face a 40 percent cut in their deficiency payments, 40 percent in CRP payments, and meat and poultry inspection would be shut down for 140 days. Our war on drugs would grind to a halt, and 1.2 million college students would lose their grants. I would hope that those who decide to fight this package, whether it is for special interests or their own ideas of the interests, realize that these are the real choices and not some utopian package that cuts the budget without any pain.

The people of our State will suffer greatly from continued stalemate and uncertainty. I really do not think our economy can sustain further delay by Congress in dealing with this very real problem.

Last night, I was most impressed that the President went forward, as many of us urged him to do, to sell the package. And he put his prestige on the line on national television. He asked the American people to join him, and he explained it. I think that we will be able here to get the votes on our side of the aisle, but this is a two-way street.

Mr. President, this morning I read in our St. Louis newspaper a headline story about the chairman of the budget negotiations, the one who led the discussions, the man who conducted the negotiations for the deal. He is quoted to have said, "I detest it; I think it is wrong."

Mr. President, when the President is asking Americans to, in a bipartisan effort, sacrifice for their future, and his partner in those negotiations is saying, "I think it is wrong," I think we have to pull together on both sides of the aisle, on both sides of this Capitol, to take the difficult medicine and to adopt the tough measures that we must, to save our economy, to put us on a path or responsible spending, so we can get about solving the many other problems this Nation faces.

I want to commend the budget summiteers. At one time, I would have loved to have been there to have had a say in it. On the other hand, I know how different it was for all of them. They have crafted an ugly duckling, but it is the only duckling around. It is something that we have to take. I join with my colleague in saying that I am committed to supporting it. I hope we can develop the support we need in this body, and in the other body, because it is essential to the future of this country and, more important, to the future of our children.

Mr. President, I yield the floor and suggest the absence of a quorum.

Mr. BUMPERS. Will the Senator withold that?

Mr. BOND. Mr. President, I told the floor managers I would seek a quorum call, and I suggested the absence of a quorum, subject to whatever action the floor managers wish to take.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I wanted to ask permission to proceed as if in morning business, but I see both floor managers on their feet. I do not want to impede the progress of the bill, if progress is about to be made.

Mr. KERRY. Mr. President, we hope we are still making progress, and the Senator from Arkansas would in no way impede that progress. We look forward to his counsel and wisdom.

The PRESIDING OFFICER. The Senator from Arkansas.

THE BUDGET AGREEMENT

Mr. BUMPERS. Thank you very much, Senator.

There are going to be an awful lot of speeches made on this Senate floor in the next few days, when the budget resolution embodying the budget agreement comes over from the House of Representatives tomorrow or Friday. I will speak further on the resolution at that time but I thought I would seize this opportunity, because I happened to be on the floor, and the pending bill is not making very much progress. I thought I would make a few comments from my own standpoint about the budget agreement.

I speak, obviously, for myself only, as a Senator from the great State of Arkansas.

Mr. President, that brings me to my first point, and that is, how does the budget agreement and the budget resolution affect my State of Arkansas?

Well, first, I would like for my colleagues to know that Arkansas is No. 2 among the 50 States in the percentage of its population over 65. We are just barely behind Florida in that category. We all know what this agreement does to Medicare.

Second, Arkansas is an agricultural State. We are not as dependent on agriculture as we once were, but we still consider ourselves to be an agricultural State. When you include the poultry industry, where my State is No. 1 in the Nation, agriculture is a very big item indeed. It is said in my State that one out of every 10 people in the State work in the poultry industry or some related part of it. We all know what this agreement does to agriculture.

Third, Arkansas holds the distinction—not a proud one—of being the highest consumer of gasoline per vehicle in the Nation. We all know what this agreement does to energy costs, especially gasoline.

Having given you those three statistics, you do not have to be a rocket scientist to know where I am leading in this discussion.

Medicine, agriculture programs and energy costs are the three categories that the budget agreement devastates in my State. A 12-cent gasoline tax, over a 5-year period, will cost Arkansas $1 billion. Mr. President, that is three times the entire budget of the State when I was Governor. It is not now quite enough to run my State for 1 year, but I can tell you that a $1 billion tax increase, for a State that ranks about 47th in per capita income, for gasoline taxes is devastating.

For the roughly 2 to 3 percent of the people in my State who make over $100,000 a year, it will simply be an annoyance, or maybe not even that, maybe not even an inconvenience to pay this tax. But for working people it is about $150 per year.

Senators make $100,000 a year, and I cannot help but notice that in this budget agreement our income category is not asked to make a single sacrifice that we will really feel. The gas tax will affect me, but not like it will affect someone in my State who commutes 60 miles each way into Little Rock to work.

So you are looking at a relatively poor State, and you are saying we want $1 billion in additional taxes from you over the next 5 years. Mr. President, that is a staggering sum of money in my State and it's only one part of this budget agreement.

Then this agreement says that if you receive Medicare, your deductible is going from $75 to $150 and your premiums for part A and part B are going to go up. That increase is $30 billion over 5 years. Think of the impact that has on a State that is relatively poor, but has a very high percentage of elderly people relying on Social Security and Medicare.

We have five rural hospitals in my State just barely hanging on. We have already lost eight hospitals in the last 3 or 4 years, rural hospitals, and we have five more struggling to stay open. The other $30 billion to be saved in the Medicare provisions in the budget agreement come from what they call provider benefits. In other words, we are going to reimburse doctors and hospitals less for the services they provide to Medicare recipients.

Mr. President, the five hospitals in my State that are barely hanging on, if you do not pay them more rather than less, they may go under. But it is almost a certainty that they will go under under the provisions of the budget agreement.

I mentioned agriculture a moment ago, Mr. President. It is now anticipated that the budget resolution will cut Commodity Credit Corporation payments by $13 billion over a 5-year period and that represents 24 percent of the total that would otherwise be spent. If that were the whole story, that would be bad enough. Unhappily, it is only half the story, because the farm bill that the Agriculture Committee is in conference on with the House right now had already provided for a 20-percent cut in those very same programs.

So, Mr. President, if we adopt the conference report that is going to come out of the Agriculture Committees of the two Houses, and the budget agreement you are talking about, a huge, and unprecedented 44 percent cut in agricultural programs. And for a segment of farmers in this country in my State, for example, you cut their agriculture benefits by this amount, and you can just say "adios amigos" to a lot of them. I can tell you it will be devastating to agriculture in my State, and every other State that has a heavy dependency on agriculture.

As I rode to work this morning, I thought, "why is it I am always being asked to sacrifice my values and my principles in the U.S. Senate?"

I want to use that old Patrick Henry quote, "is life so dear or peace so sweet," that I just have to jump in the tank on every compromise that is reached around here hoping that the people won't say "it is Congress' fault."

I want to say to my colleagues on both sides of the aisle the President's finger is longer than anybody's in this town. When it comes to finger pointing. You cannot even stay in the same league with the President when it comes to blame placing. He can command all three networks on a moment's notice. When he walks into the rose garden and coughs, it is front page news. And a Senator can stand on this floor and squeal like a pig under a gate all day long, and you will not see a word of it quoted on the networks or in the press.

Sometimes when I go out and deliver a speech at a political function, somebody will come up to me—I do not mean this to be self-serving Mr. President—and say: "Senator that was a fine speech. You expressed my feelings totally. Why aren't you and other people in the Senate saying that?"

You have to be kidding. That is what I have been saying here for 16 years, at the top of my voice. But there is not one single Senator here, not the majority leader, not the minority leader, the whips, nobody is even in the same league with the President, when it comes to getting the attention of the press and the American people.

When it comes to blame placing, you know, Mr. President, there's a real temptation for the chief executive officer to jump on the legislative body.

When I was Governor, as the presiding officer was also, it was just a given, that any time I wanted to go up in the polls, all I had to do was jump on the legislature. Everybody loved it and I used to do it occasionally, not as often as this President jumps on Congress, but I did it occassionally.

What do you think the American people thought last night after they heard the President's address? No specifics. You did not hear that the deficit is going to go up a trillion dollars more over the next 5 years under this agreement. You heard it said that we are finally dealing with the deficit and this is the final fix. You did not hear, for example, if you make between $20,000 to $50,000 a year, your taxes are going to go up over 3 percent. If you make under $10,000, your taxes go up 7.5 percent. But if you make over $200,000 a year your taxes are going up much less. The New York Times says three-tenths of 1 percent, and others say 1.7 percent. You did not hear that last night.

You heard last night, that if we do not pass this budget agreement, which supposedly cuts the deficit this year by $40 billion—the year that started Monday, October 1—we face an economic disaster.

Do you want to analyze that a second? Listen. The deficit in 1991, counting Social Security trust funds and other trust funds, is going to be $430 billion. I repeat, $430 billion. That is twice as high as the biggest deficit ever in the history of this country.

Now, if we pass the this budget agreement, the deficit this year will be $390 billion. It's being said that a $40 billion cut in the deficit this year—if we do not reduce the deficit by $40 billion this year, we will have an economic disaster. If you do not reduce the deficit from $430 billion to $390 billion you will have an economic disaster.

That's nonsense. Not that we may not have an economic disaster, but that a $40 billion, or 10 cut will avoid it. The stock market had headed south long before Saddam Hussein invaded Kuwait. The market headed south a long time before that for totally different reasons, the budget deficit being one of the major ones.

Mr. President, let me make one other observation here about this budget resolution. Have you looked at the economic assumptions on which this agreement is based? You ought to look on parge 41 of this budget proposal. I think this table came from the Office of Management and Budget. I am not sure. Here are some of the economic assumptions and I invite you to listen carefully. In order to claim a $500 billion savings over a 5-year period of time, as does this budget resolution, interest rates in 1993 would have to be 4.9 percent, and in that same year the economic growth rate has to be 4 percent. Four percent is a fiery growth rate. Believe you me, I would like to believe we were going to be growing at a 4-percent growth rate with 4.9-percent interest rates. But bear in mind, that if we grow 3 percent, which is also a very respectable growth rate, instead of 4 percent, you can add $38 billion to the deficit figure, or rather reduce the $500 billion reduction in deficits by that amount.

Who here believes that 2 years from now interest rates will be 4.9 percent? How long has it been since you have seen an interest rate like that? The last time was when I bought my little house in Charleston, AR, 28 years ago, when I borrowed money on my home at 5¼ percent.

But in 1994 things are supposed to get even much, much better. Interest rates are going to be 4.4 percent. And the growth rate is going to be 3.7 percent.

I could go on and on with these economic assumptions, but there are not 10 people in this body naive enough to believe those estimates, and the whole agreement is based on them.

Mr. President, getting back to the war between the President and the Congress that seems to never end, sometimes I get asked a question, and I always welcome the question, "Why can you not do this, and why can you not do that, and why did the budget negotiators not do a lot better job?"

Let me ask first, "Why did they not come up with a much greater deficit saving." And, No. 2, "Why did they not tax the wealthy in the country?" How is it that the richest people in this country get off Scot-free under a proposal like this?"

Well, I will tell you how that happens. There are 535 Members of the U.S. Congress and the President only has to have the support of 34 of those 535 Members to get his way on anything he wants. Why? Because it takes a two-thirds majority of both Houses to override a Presidential veto. There are 100 Members of the Senate. Therefore if 34 Senators vote to uphold a Presidential veto, it is upheld. It makes no difference if all 435 Members of the House and 66 Senators have voted to override the veto. As long as 34 good, true, solid Republicans and Democrats in this body vote to sustain the veto, it is a done deal. The President wins.

Our negotiators went to the budget negotiating table because the President said, "Everything is on the table, everything is negotiable." And I must say, there are not 5 men on this side of the aisle in the U.S. Senate who have more respect and administration, at least from this Senator, than our negotiators at the summit. They did the best they could do. These negotiations went on for over 140 days. Then you look at the budget agreement that comes before us and you wonder, where did there idea come from since everything was supposed to be on the table? It seems to me nothing was really on the table, unless the President decided it was on the table.

There is a provision in here that says if you invest $200,000 in a small business—and small is defined as being worth $50 million—you can deduct $50,000 of it that same year. Now I think that provision is going to die regardless of what happens to the budget agreement. It is truly outrageous.

Mr. President, I guess the two things I object to more than anything else, and despite the devastation this agreement would do to my State, the two things that I resent more than anything else about this budget agreement, is its lack of fairness and the failure to deal with the deficit problem.

What kind of nonsense is it, Mr. President, when people who make less than $10,000 a year get zapped with a 7.6-percent tax increase under this proposal, and for the people who make over $200,000 a year, counting even the limitation on their itemized deductions, it is only a 1.7-percent increase. People who make $20,000 to $30,000 a year—and that is typical in my State—get an increase in taxes of 3.3 percent, and U.S. Senators, according to this, get only a 1.9-percent tax increase.

Mr. President, the people in this country who make over $100,000 a year will never know this budget agreement went into effect. If you drink liquor, beer, wine, smoke cigarettes, and you make over $200,000 a year, you are going to keep on smoking and drinking. I can tell you for other people it will make a difference. They won't drive as much, and they will make other lifestyle changes.

But what bothers me is that the people of this country who are best able and can afford to help us reduce this deficit, are called on for virtually nothing.

The second thing that I resent about this budget agreement, Mr. President, is it does not go far enough. We are going to be right here next September making these same speeches, these same arguments, about the terrible deficit crisis. No wonder people are cynical. It is difficult for me to believe that the President said what he did last night, that this agreement is the final solution to the deficit. It is no solution. And such as it is, it is palpably unfair.

Mr. President, I have a lot of other things that I will talk about in the coming days about this agreement. But I can tell you that I agree with a column I saw in the Washington Post this morning by Hobart Rowen. He said he initially thought this agreement was better than nothing. And at first was inclined to agree with him on that. I have really been laboring in my own mind: Is it better to vote for something like this in the knowledge that it will do something, even though it comes out of the hides and skins of the people of this country who can least afford it. Is it better to vote for that and do something, or is it better to cling to your values and your principles and say we can do better? Surely, an alternative can be presented to this body.

I do not believe, Mr. President—I may be wrong—but I do not believe the President when he says "I will veto anything else." There are 16 major points in this document that the summiteers agreed to. We have to have a budget resolution finished here by midnight Friday night or a sequester takes place. The resolution is not amendable. The agreement says their resolution has to be passed exactly the way it came back here from the summit. It is as though 95 of us in the Senate do not have any ideas. We are presented with a fait accompli that

says do not touch it, don't uncross a "t," do not undot an "i," because the President says it has to be his way or not at all. You have about 525 of the 535 Members—who were not negotiating this agreement deficit, who might have a few pretty good ideas on this but they will not get a chance to express them.

And then if we pass the budget resolution, the budget reconciliation process begins and we have to vote on that by October 19. Amendments will be in order then. But then under the 16-point agreement of the summiteers, no matter how good an idea you have, no matter if you want to add another $40 billion in deficit reduction, another $300 billion in deficit reduction over the next 5 years, do not think about it, do not even try it, because the President says he will not accept it. Everything must be exactly the way it came back here where 10 people negotiated it. It cannot be changed one iota, for better or for worse. The reconciliation process, once we adopt the budget resolution, has to conform totally to what the summiteers agreed to or the President will veto it.

I hate to be strident about the President. I just do not understand this. It just absolutely chills me to the marrow of my bones to think about this great country, which I love so much and the future of my children who are absolutely everything to me as they are to you—to believe that this is the best we can do. When the people of Arkansas and America sit around the dinner table in the evening and talk about what they love most, it is not that Mecedes in the driveway, it is not the farm out back, or that posh office downtown, or those two station wagons or a boat in the driveway, it is their children.

If we really love our children and we are concerned about the future of the Nation which we all love and we are concerned about their future, their health, their education, their environment, why do we not do here on the deficit what we know we have to do? Why are we trying to finesse this monumental problem one more year when at least 80 Senators in this body know we will be right back here next year fighting the same battle. What about the President, who told us in January the deficit this coming year would be $64 billion and now it is up to $430 billion? What about Budget Director Dick Darman coming out time and again saying, "We miscalculated." Think of the President's assertion in January that the deficit would be $64 billion in 1991—and now we know it's going to be $430 billion and he says he's tired of Congress' phony figures.

You do not have to be a rocket scientists to read this budget document and know what it does to the country—or, rather, what it does not do for the country.

So, Mr. President, I am hoping that something will happen. I do not know what it will be. Maybe the House will send us a substitute budget resolution and we will get a chance to at least offer the Members of the Senate a chance to really bite the bullet; instead of reducing the deficit next year $40 billion, I think we can double that. And we could balance the budget in just years, but not with deceit and happy talk. Unfair as this budget is, I might find it in my heart to vote for it if there were another $30 billion or $40 billion in there and being paid by people who can afford it. I might support it if we were reducing the deficit by $700 billion or $800 billion over the next 5 years instead of by $500 billion.

You know the old saw about "Oh, you cannot do that because it will shove us into a recession." I am not sure we are not already in one. But that old argument that you cannot tax this and you cannot tax that because you will shove us over the edge and we will go into recession. I concluded a long time ago that is just another saw to keep people from paying higher taxes and absorbing spending cuts.

I can tell my colleagues that we can find a lot more deficit reductions in a lot of places where nobody would be seriously effected. But this resolution asks entirely too much from people who are going to be seriously and adversely effected.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BINGAMAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MONEY LAUNDERING ENFORCEMENT AMENDMENT

MOTION TO PROCEED

Mr. D'AMATO. I assure my colleagues, I will yield the floor at any time they request. I would like to make a statement as it relates to the money laundering bill, S. 3037

Let me say I rise in strong support of this legislation. This legislation has come about as a result of a number of years—not 1 hearing, not 2 hearings, not 6 hearings, not 10—but a number of years of intensive work. It has been my privilege to have the opportunity to work with Senator KERRY, going back on the money laundering and the problems attendant to that, to the days when Manuel Noriega was having his army help bring millions and millions of dollars into banks. It goes back some years ago. We held exhaustive hearings.

Now it is time to go after those who would use their establishments, their banks, for the same. One of the important elements of this legislation is the fact that banks could have a revocation of their charters after a hearing and after due process.

Title 1 of this bill addresses this. It was a major point, I believe, in attempting to set the record straight that the financial institutions of this country have a very real obligation to do something and not simply say, oh, well, it is too costly, it is too much paperwork, et cetera.

So I commend the Senator for his work, for that section which deals with money laundering as it relates to the financial institutions, and lets them know there are real penalties for that kind of flagrant abuse of the authority they have. And their charters should be revoked. It should not be just a penalty, if they willingly allow these kinds of activities to take place. Mr. President, for too many years we had far too many financial institutions doing just that.

I have spent a good deal of time on this bill because we have billions and billions of dollars today that are being laundered in many of our urban centers—in my great city of New York. There are hundreds and hundreds of money laundering centers. There are the wire transmitter centers, many illegal, because we have not set about to see that there is a sufficient punishment. Indeed, the State laws against not being chartered or properly registered bring about just a misdemeanor and consequently the Federal Government is not going to pursue a case where there is just a misdemeanor. We do not have the resources to do it.

One of the things this legislation does is it establishes this to be a Federal crime, a felony, so consequently maybe it will attract the kind of attention it should. If we want to stop the money laundering, which I think goes right to the heart of the drug problem, get at the money. They say, "Follow the dough." Here is an opportunity to follow it, to get it, and to get those people who are busy transmitting it.

There are sections after sections of this bill that the entire committee has worked on dealing with governments, dealing with wire transmitters.

I read, with incredible amazement, that our colleagues in the House of Representatives just learned through hearings that there are virtually thousands of people who do not follow the money-reporting requirements as they relate to cash transactions. I am amazed they just are finding that out now.

Of course there are certain things we all just find out. Maybe we should commend them for making that admission. Maybe we should say how is it that heretofore there has not been a greater awareness of the kinds of problems attendant with dealing with the drug epidemic and attacking it. And we attack it by going after the money launderers. That is one of the ways of doing that.

I commend the chairman of the Banking Committee, Senator RIEGLE, for incorporating into the committee bill virtually all of S. 2651, the Money Laundering Enforcement Act, which I introduced on May 17. Why is this bill so important? Because, as the Treasury Department reported on October 31, 1989:

> Worldwide gross drug revenues are estimated to be $300 billion. Illegal drug revenues in the United States are estimated to total $110 billion. Estimates are that only 20 percent of the money generated from narcotics trafficking goes to the cost of goods sold, with 80 percent available for profits. These profits are used to finance other narcotics and criminal activities, and acquire legitimate businesses. * * *
>
> Illegal funds are being transferred from or to the United States and "cycled" through intricate money laundering schemes involving international payments, particularly wire transfers.

One recent case shows how extensive and sophisticated—how internationalized—money laundering has become. This case has come to be known as Operation Polar Cap. When the Attorney General and the Secretary of the Treasury announced a new phase in this investigation on April 17, 1990, they stated:

> 173 banks in 23 States have been ordered to produce records of more than 754 bank accounts into which nearly $400 million in illegal Colombian drug profits were deposited.
>
> Phases I, II, and III of Polar Cap showed that drug sale profits over $1 billion were laundered through New York banks into foreign accounts controlled by the Cartel, mostly in Panama, Uruguay and elsewhere.
>
> Through investigation of these New York and other U.S. accounts, formal requests were made to the governments of Colombia, Panama, Uruguay, Luxembourg, Switzerland, United Kingdom, Canada and Austria for records of accounts believed to be under the control of the Medellin Cartel.

Hearings held by the Senate Banking Committee on November 1, 1989, and May 18, 1990, documented the fact that drug dealers have been laundering billions of dollars not only through our banks, but through illegal storefronts, exchange houses along the United States-Mexico border, and a host of other financial institutions.

The illegal money transmitters operate with complete contempt for the law because the current law enforcement effort is totally inadequate. As one witness testified before the Banking Committee:

> There aren't enough of us to go around. And the State Police and the Attorney General's Office basically have the same problem.

We need this bill because, as the director of special investigations for the New York State Banking Department testified before the Banking Committee:

> As banks became more sophisticated in reporting currency transactions, drug dealers became more creative and began to rely increasingly on unlicensed and illegal money transmitters, on check cashers, and on money order vendors, all users and sources of huge amounts of cash. * * * It is primarily the unlicensed money transmitter who provides the best means of laundering money and is most often used to structure illegal transactions.

On November 15, 1989, then-Assistant Treasury Secretary for Enforcement Salvatore R. Martoche testified before the House Banking Committee:

> Investigations by law enforcement authorities show that wire transfers increasingly are becoming the method of choice to launder money.

In an April 28, 1989, submission to the drug czar, the American Bankers Association stated:

> Wire transfers, which are essentially unregulated, have emerged as the primary method by which high volume launderers ply their trade.

A September 25, 1989, article in the New York Times, entitled, "Unassuming Storefronts Believed to Launder Drug Dealers' Profits" quotes State banking regulators as saying that storefront money-transmitting operations are sending billions of dollars to drug dealers in South America and Asia.

As the House Banking Committee notes in its report (No. 101-446) on its money laundering bill:

> Certain states have recognized a need for more effective regulation of these businesses, but most states have yet to act. Those who have required some form of licensure usually have little manpower available to properly supervise and monitor the activities of these business establishments.

S. 3037 does not solve these problems completely, but it does very significantly increase the Federal role in combating money laundering, both by wire and other transfers, and by unregulated financial institutions.

I urge my colleagues to give this bill their full support.

DETAILS

Among the bill's key provisions are those that: require Treasury to issue regulations by July 1, 1991 requiring that depository institutions—banks, saving associations, and credit unions—identify their nonbank financial institution customers—money transmitters, check cashers, foreign exchange dealers, issuers and redeemers of traveller's checks, and casinos; provide that Treasury will provide a list of such information to State supervisory agencies for supervisory purposes, because, as many witnesses testified before the Banking Committee:

> It is the sharing of information that is crucial in the battle against drug dealing and money laundering;

Makes it a Federal crime to operate a money transmitting business in violation of State law; authorizes Treasury to issue rules requiring financial institutions to have stronger "know your customer" procedures.

While the Treasury Department already has authority to impose special reporting rules on financial institutions in certain geographic areas—for example, they can be required to report cash transactions of less than $10,000—this bill prohibits financial institutions from telling customers they are subject to geographic targeting.

Where the House bill (H.R. 3848) only requires record-keeping regulations for domestic depository institutions making international fund transfers, S. 3037 also requires Treasury to issue record-keeping rules for international fund transfer orders made by money transmitters and check cashers.

S. 3037 permits a Government agency to transfer, without customer notice, financial records to the money laundering investigations divisions within the Treasury Department, including the Financial Crimes Enforcement Network [FINCEN], for criminal or investigative purposes and with a written certification by the transferring agency that the records may be relevant to a violation of Federal criminal law.

S. 3037 also contains an amendment I offered at the Banking Committee markup in July requiring the Treasury Department to report to Congress in 90 days, after consultation with the Department of Justice and Drug Enforcement Administration, on the advantages and disadvantages of changing the size, denominations, or color of U.S. currency, or of providing that the color of U.S. currency in circulation in foreign countries shall be of a different color than currency circulating in the Unites States.

A number of proposals have been suggested in reference to the issue of changing currency.

DRUG ENFORCEMENT ADMINISTRATION PROPOSAL

The DEA, in a December 12, 1989, letter to the Department of Treasury, asked for consideration of printing two distinct forms of currency, one to serve as legal tender exclusively in the United States and the other form for use outside the United States.

The two forms would only be interchangeable at a U.S.-controlled financial institution. The effect on the drug trafficker, according to DEA, could be potentially devastating. Any U.S. currency smuggled out of the United States would be rendered worthless.

DONALD REGAN PROPOSAL

The former Secretary of the Treasury, in a September 18, 1989, New York Times article, advocated a similar idea. His suggestion is as follows: To get at the cash dealings of drug wholesalers, retailers, street pushers, we should print new $50 and $100

bills—either of a different color, or size, than the current ones.

With only a 10-day warning, we should make all $50 and $100 bills obsolete—no longer acceptable as legal tender. Everyone would have to exchange their large bills for new ones.

Banks and other financial institutions would have to keep a record of any cash transactions over $1,000. Reports would be furnished to the Comptroller and IRS by name and taxpayer identification.

Any drug money uncovered could go to financing our war on drugs, including money for treatment of addicts.

Honest, law-abiding citizens would have nothing to fear if we made such changes, but drug dealers and other criminals, who fail to pay billions of dollars in taxes, would find their illegal profits subject to seizure by the Government, because people turning in large amounts of old currency for new bills would have to explain where they got so much cash. Explaining that would be impossible for most drug dealers and other criminals evading taxes.

A LEAP FROM MADMAN TO MADMAN

Mr. D'AMATO. Mr. President, seeing there is no one here who would like to speak, let me take, while we are not in active pursuit of legislation, the opportunity to read into the RECORD a statement which I submitted to one of the great newspapers in our country dealing with the Middle East.

We go from crisis to crisis, but some things never change. I hope maybe things will change.

This piece is entitled; "A Leap From Madman To Madman."

I address this in the form of a narrative, but there is a question.

> Don't we ever learn from history? We embraced Saddam Hussein and Iraq in order to stop the Ayatollah Khomeini, following the proverb that "my enemy's enemy is my friend." We turned a blind eye toward Hussein's use of poison gas against Iran and against Iraq's own Kurdish minority.
>
> Are we now prepared to turn a blind eye toward Syrian President Hafez Assad's cries against humanity—and against Americans? Syria hosts the Popular Front for the Liberation of Palestine—General Command, Ahmad Jibril's notorious terrorist group. This group is reportedly the leading suspect in the December 21, 1988, bombing of Pan Am Flight 103. That attack killed 270 innocent people, mostly Americans who were flying home to be with their families during the holidays.
>
> Have we forgotten the terrible 1983 attack against our U.S. Marine Corps barracks in Beirut that killed 241 of our boys? The attack was reportedly carried out with the sponsorship, knowledge, and authority of the Syrians.
>
> Even now, Syria provides safe haven for Alois Brunner, Adolf Eichmann's former secretary, a hunted Nazi war criminal. Brunner was employed as a "security adviser" to Rifaat Assad, the Syrian President's brother. Brunner reportedly smuggles drugs when he is not teaching the finer points of genocide.
>
> Syria, like Iraq, is heavily armed with Soviet weapons and reportedly has poison gas weapons of mass destruction. Assad leads the hard-line Arab "rejectionist front" and has opposed every move toward Middle Eastern peace settlement, while directly confronting Israel along the Golan Heights, posing a constant threat to Israel and Middle East peace.
>
> We must not forget that Assad has laid claim to Lebanon, has more than 50,000 Syrian troops in Lebanon, and would like to annex it. Only Israel's determination has stopped Assad from building his "Great Syria."
>
> We seek Assad's help against Hussein because Iraq invaded and annexed Kuwait. We must not confuse his support with friendship—and repeat the same mistake we made with Hussein. Assad is using our power to help crush an old enemy—and we are using Syrian support to help hold together the Arab coalition against Iraq. We must not, however, confuse the cold calculations of statecraft with friendship—we must not delude ourselves into thinking we can moderate Assad's policies by being his friend.
>
> We can accept Assad's armored divisions, but we must continue to oppose his policies. The American people cannot be asked to make the sacrifices we are now undertaking to prevent Saddam Hussein's aggression, only to give Assad the opportunity to pursue similar goals under the Syrian flag. It is time to develop a more sophisticated policy for dealing with Arab states not leaping from madman to madman.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT—H.R. 5158

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may proceed to the consideration of Calendar No. 854, H.R. 5158, the VA-HUD appropriations bill, at any time, notwithstanding the provisions of rule XXII; that the bill be considered under a 30-minute time limitation with the time equally divided and controlled between Senators MIKULSKI and GARN or their designees; that the committee-reported amendments be agreed to, en bloc, as original text for the purpose of further amendment; that the only amendments in order be the following, with 5 minutes on each amendment: An amendment by Senator MIKULSKI for Senators MITCHELL and COHEN dealing with the ASRM project in NASA; an amendment by Senator MIKULSKI for Senators ROBB, WARNER, and SARBANES with respect to the relocation of the NSF; an amendment by Senator GARN for Senator DOLE with respect to a homeless project in Kansas; an amendment by Senator GARN for Senator McCAIN transferring funding from HUD to VA for a homeless demonstration project; and a managers' technical amendment with respect to HUD; that no motions to recommit be in order; that no points of order be deemed waived and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I will not object, but I would like to make it very clear, after listening to the amendments that are in there, particularly the ones in Kansas and elsewhere, this Senator, given the difficulties we have had in moving legislation most recently, certainly I think would have some cause to object. I hope that Senators on the other side of the aisle will respond with similar courtesy in an effort to try to see if we cannot move important legislation on the floor. I will withhold an objection with that spirit in mind.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, it is my hope that we will be able to proceed to a vote on the motion to proceed to the money laundering bill. I know that both the distinguished managers, Senator KERRY and Senator GARN, have made statements expressing support for the bill. It is something which I believe the President and the administration support. I see no reason why we cannot proceed to complete action on legislation which, at least all of those who have expressed themselves, have expressed themselves in support of.

So I am shortly going to call up the VA-HUD bill. That will, under the agreement, take a little less than an hour, at which time there will be a vote on that bill. In the meantime, I hope that we can be in a position to get an understanding or a process by which we can at least get on the motion to proceed to the money laundering bill and get on the bill itself so that we can proceed in that regard.

Mr. President, I now ask for the yeas and nays on final passage of the VA-HUD bill.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, just so Senators are aware, I will momentarily exercise the authority granted to me under this consent request. And I believe it has been the subject of discussion with the respective staffs so that it has the clearance of the distinguished Republican leader, that we will then proceed to the VA-HUD appropriations bill. There is a 30-minute time limit on the bill itself and there are four amendments in order, each with a time limit of 5 minutes. If all of that time is used, there will then be 50 minutes and then there will be a vote on the bill. So we are talking about a vote within the next hour.

Then I hope, within that time, we will have been able to work something out with respect to the money laundering bill to which I hope we can proceed at that time.

VETERANS AFFAIRS, HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES, COMMISSIONS, CORPORATIONS, AND OFFICES APPROPRIATION, FISCAL YEAR 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 854, H.R. 5158.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 5158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes, namely:

TITLE I

DEPARTMENT OF VETERANS AFFAIRS

Veterans Benefits Administration

COMPENSATION AND PENSIONS

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 412, 777, and 806, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540-548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $15,684,551,000, to remain available until expended.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34-36, 39, 51, 53, 55, and 61), $502,500,000, to remain available until expended: *Provided, That, funds shall be available to pay any court order, court award or any compromise settlement arising from litigation involving the vocational training program authorized by section 18 of Public Law 98-77, as amended.*

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), $15,410,000, to remain available until expended.

LOAN GUARANTY REVOLVING FUND

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title), $670,200,000, to remain available until expended.

During 1991, the resources of the loan guaranty revolving fund shall be available for expenses for operations related to property acquisition, disposition, and other loan guaranty and insurance operations as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title): *Provided,* That the unobligated balances, including retained earnings of the direct loan revolving fund, shall be available, during 1991, for transfer to the loan guaranty revolving fund in such amounts as may be necessary to provide for the timely payment of obligations of such fund, and the Secretary of Veterans Affairs shall not be required to pay interest on amounts so transferred after the time of such transfer.

During 1991, within the resources available, gross obligations for direct loans and total commitments to guarantee loans are authorized in such amounts as may be necessary to carry out the purposes of the "Loan guaranty revolving fund".

GUARANTY AND INDEMNITY FUND

For purposes of making the credits to the Guaranty and Indemnity Fund authorized by law (38 U.S.C. 1825 and 1829), such sums as may be necessary to remain available until expended.

DIRECT LOAN REVOLVING FUND

During 1991, within the resources available, not to exceed $1,000,000 in gross obligations for direct loans are authorized for specially adapted housing loans (38 U.S.C. chapter 37).

Veterans Health Service and Research Administration

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the Department of Veterans Affairs, and furnishing recreational facilities, supplies, and equipment; funeral, burial, and other expenses incidental thereto for beneficiaries receiving care in Department of Veterans Affairs facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department of Veterans Affairs, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); aid to State homes as authorized by law (38 U.S.C. 641); and not to exceed $2,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 5010(a)(5); **[$12,310,490,000]** *$12,227,066,000,* plus reimbursements: *Provided,* **[**That of the sum appropriated, $7,904,000,000 is available only for expenses in the personnel compensation and benefits object classifications: *Provided further,***]** That of the funds made available under this heading, $278,000,000 is for the equipment and land and structures object classifications only, which amount shall not become available for obligation until August 1, 1991, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by law, to remain available until September 30, 1992, **[$216,795,000]** *$226,537,000,* plus reimbursements: *Provided, That of the sum appropriated, $1,000,000 is available only for a survey and evaluation of the scientific evidence relating to dioxin and other toxic herbicides.*

HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

For payment of Health Professional Scholarship Program grants, as authorized by law, to students who agree to a service obligation with the Department of Veterans Affairs at one of its medical facilities, and for related administrative expenses, $10,606,000.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law, **[$52,047,000]** *$37,123,000,* plus reimbursements.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 632), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, $484,000, to remain available until September 30, 1992.

Departmental Administration

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed **[$7,000]** *$25,000* for official reception and representation expenses; cemeterial expenses as authorized by law; purchase of four passenger motor vehicles, for use in cemeterial operations, and hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; **[$902,514,000]** *$865,415,000***[**, including $616,658,000 for the Veterans Benefits Administration: *Provided,* That, during fiscal year 1991, jurisdictional

average employment shall not be less than 12,550 for the Veterans Benefits Administration**]**: *Provided, That funds shall be available, and authority granted, to enable the Secretary to enter into enhanced-use agreements under the terms and conditions of S. 2532 (101st Cong., 2d Sess. (1990)), as introduced, with respect to facilities located at the Department of Veterans Affairs Medical Center, Baltimore, Maryland (Loch Raven).*

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, **[$26,859,000]** *$24,859,000.*

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, and site acquisition, where the estimated cost of a project is $3,000,000 or more or where funds for a project were made available in a previous major project appropriation, **[$575,456,000]** *$522,459,000,* to remain available until expended: *Provided,* That, except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further,* That funds provided in this appropriation for fiscal year 1991, for each approved project shall be obligated (1) by the awarding of a working drawings contract by September 30, 1991, and (2) by the awarding of a construction contract by September 30, 1992: *Provided further,* That the Secretary shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93-344): *Provided further,* That no funds from any other account except the "Parking garage revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Department of Veterans Affairs of the project or any part thereof with respect to that part only: *Provided further,* That prior to the issuance of a bidding document for any construction contract for a project approved under this heading (excluding completion items), the director of the affected Department of Veterans Affairs medical facility must certify that the design of such project is acceptable from a patient care standpoint: *Provided further,* That not to exceed $3,300,000 of the funds available shall be used for the settlement of contractor claims arising from the modernization of a hospital at the Department of Veterans Affairs Medical Center, New Orleans, LA: *Provided further,* That not to exceed $3,100,000 of the funds available shall be used for the settlement of contractor claims arising from the construction of outpatient improvements at the Department of Veterans Affairs Medical Center, Pittsburgh, PA.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, and site acquisition, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, where the estimated cost of a project is less than $3,000,000, **[$146,140,000]** *$130,640,000,* to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $3,000,000: *Provided,* That not more than $44,420,000 shall be available for expenses of the Office of Facilities, including research and development in building construction technology: *Provided further,* That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department of Veterans Affairs which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

PARKING GARAGE REVOLVING FUND

For the parking garage revolving fund as authorized by law (38 U.S.C. 5009), **[$28,900,000]** *$18,900,000,* together with income from fees collected, to remain available until expended. Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 5009 except operations and maintenance costs which will be funded from "Medical care".

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by law (38 U.S.C. 5031-5037), **[$65,000,000]** *$70,000,000,* to remain available until September 30, 1993.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veterans cemeteries as authorized by law (38 U.S.C. 1008), $3,946,000, to remain available until September 30, 1993.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Any appropriation for 1991 for "Compensation and pensions", "Readjustment benefits", "Veterans insurance and indemnities", and the "Loan guaranty revolving fund" may be transferred to any other of the mentioned appropriations.

Appropriations available to the Department of Veterans Affairs for 1991 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Department of Veterans Affairs (except the appropriations for "Construction, major projects", "Construction, minor projects" and the "Parking garage revolving fund") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Secretary of Veterans Affairs.

Appropriations available to the Department of Veterans Affairs for fiscal year 1991 for "Compensation and pensions", "Readjustment benefits", "Veterans insurance and indemnities", and the "Loan guaranty revolving fund" shall be available for payment of prior year accrued obligations required to be recorded by law against the aforementioned accounts within the last quarter of fiscal year 1990.

Appropriations account available to the Department of Veterans Affairs for fiscal year 1991 shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100-86, 1987, except that if such obligations are from trust fund accounts they shall be payable from "Compensation and pensions".

TITLE II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Programs

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING RESCISSION AND TRANSFER OF FUNDS)

[For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $11,625,086,000, to remain available until expended and in addition, to be transferred to and merged under this head, not to exceed $70,000,000 from the reserve fund authorized by section 236(g), notwithstanding section 236 (f)(3) and (g): *Provided,* That of the new budget authority provided herein, $194,468,000 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb); $550,320,000 shall be for the development or acquisition cost of public housing, including major reconstruction of obsolete public housing projects, other than for Indian families; $2,700,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l), of which $5,000,000 shall be for technical assistance and training under section 20 of the Act (42 U.S.C. 1437r); $890,800,000 shall be for assistance under section 8 of the Act for projects developed for the elderly under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q) and $186,000,000 for amendments to section 8 contracts for projects developed for the elderly and handicapped under section 202 of the Housing Act of 1959, as amended; $1,767,125,000 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f) including project-based section 8 assistance to help implement plans of action approved under title II of the Housing and Community Development Act of 1987, of which $65,150,000 shall be for eligible tenants affected by the demolition or disposition of public housing units (including units occupied by Indian families); $1,370,225,000 shall be available for the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)); $1,883,442,000 for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended, of which $70,000,000 shall be for rental adjustments resulting from the application of an annual adjustment factor in accordance with section 801 of the Department of Housing and Urban Development Reform Act of 1989; up to $1,486,850,000 shall be available for section 8 assistance for property disposition and loan management; and, any amounts of budget authority provided herein that are used for loan management activities under section 8(b)(1) (42 U.S.C. 1437f(b)(1)) shall not be obligated for a contract term that is less than five years: *Provided further,* That of that portion of such budget authority under section 8(o) to be used to achieve a net increase in the number of dwelling units for assisted families, highest priority shall be given to assisting families, who as a result of rental rehabilitation action are involuntarily displaced or who are or would be displaced in consequence of increased rents (wherever the level of such rents exceeds 35 percent of the adjusted income of such families, as defined in regulations promulgated by the Department of Housing and Urban Development): *Provided further,* That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under sections 8(b) and 8(o), respectively, shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act: *Provided further,* That of the $11,625,086,000 provided herein, $321,762,000 shall be used to assist handicapped families in accordance with section 202(h) (2), (3), and (4) of the Housing Act of 1959, as amended (12 U.S.C. 1701q) and $52,000,000 shall be for amendments to contracts under section 202(h) (2), (3), and (4) of the Housing Act of 1959, as amended (12 U.S.C. 1701q); and $25,000,000, shall be for assistance under the Nehemiah housing opportunity program pursuant to section 612 of the Housing and Community Development Act of 1987 (Public Law 100-242), but such amount shall be obligated under title VI of the Housing and Community Development Act of 1987, notwithstanding the sunset provision in section 613 thereof: *Provided further,* That amounts equal to all amounts of budget authority (and contract authority) reserved or obligated for the development or acquisition cost of public housing (including public housing for Indian families), for modernization of existing public housing projects (including such projects for Indian families), and except as hereinafter provided, for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1991, shall be rescinded: *Provided further,* That 50 percent of the amounts of budget authority, or in lieu thereof 50 percent of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628, 102 Stat. 3224, 3268) shall not be rescinded, or in the case of cash, shall not be remitted to the Treasury, and such amounts of budget authority or cash shall be used by State housing finance agencies in accordance with such section: *Provided further,* That notwithstanding the 20 percent limitation under section 5(j)(2) of the Act, any part of the new budget authority for the development or acquisition costs of public housing other than for Indian families may, in the discretion of the Secretary, based on applications submitted by public housing authorities, be used for new construction or major reconstruction of obsolete public housing projects other than for Indian families.]

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $10,810,000,000, to remain available until expended: Provided, That of the new budget authority provided herein, $233,361,000 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb); $733,760,000 shall be for the development or acquisition cost of public housing, including major reconstruction of obsolete public housing projects, other than for Indian families; $2,750,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437i), including funds for the comprehensive testing, abatement, and risk assessment of lead, of which $5,000,000 shall be for technical assistance and training under section 20 of the Act (42 U.S.C. 1437r); $1,657,807,200 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f) including project-based section 8 assistance to help implement plans of action approved under title II of the Housing and Community Development Act of 1987, of which $65,150,000 shall be for eligible tenants affected by the demolition or disposition of public housing units (including units occupied by Indian families) and $48,862,500 shall be for certificates to be used as replacement for units of public housing (including those for Indian families) lost through demolition or disposition; $1,098,516,800 shall be available for the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437(o)); $1,810,442,000 for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended; up to $923,725,000 shall be available for section 8 assistance for property disposition and loan management; and, any amounts of budget authority provided herein that are used for loan management activities under section 8(b)(1) (42 U.S.C. 1437f(b)(i)) shall not be obligated for a contract term that is less than five years: Provided further, That of that portion of such budget authority under section 8(o) to be used to achieve a net increase in the number of dwelling units for assisted families, highest priority shall be given to assisting families, who as a result of rental rehabilitation action are involuntarily displaced or who are or would be displaced in consequence of increased rents (wherever the level of such rents exceeds 35 per centum of the adjusted income of such families, as defined in regulations promulgated by the Department of Housing and Urban Development): Provided further, That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under section 8(b) and 8(o), respectively, shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act: Provided further, That of the $10,810,000,000 provided herein, $35,000,000 shall be for assistance under the Nehemiah housing opportunity program pursuant to section 612 of the Housing and Community Development Act of 1987 (Public Law 100-242), but such amount shall be obligated under title VI of the Housing and Community Development Act of 1987, notwithstanding the sunset provision in section 613 thereof, and, notwithstanding the language preceeding the first proviso of this paragraph, $50,000,000 shall be used for special grants in accordance with the terms and conditions specified for such grants in the Senate Appropriations Committee report on 1991 appropriations for the Departments of Veterans Affairs and Housing and Urban Development (Senate Report 101-474, pp. 46-47): Provided further, That amounts equal to all amounts of budget authority (and contract authority) reserved or obligated for the development or acquisition costs of public housing (including public housing for Indian families), for modernization of existing public housing projects (including such projects for Indian families), and except as hereinafter provided, for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1991, shall be rescinded: Provided further, That 50 per centum of the amounts of budget authority, or in lieu thereof 50 per centum of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628, 102 Stat. 3224, 3268) shall not be rescinded, or in the case of cash, shall not be remitted to the Treasury, and such amounts of budget authority or cash shall be used by State housing finance agencies in accordance with such section: Provided further, That notwithstanding the 20 per centum limitation under section 5(j)(2) of the Act, any part of the new budget authority for the development or acquisition costs of public housing other than for Indian families may, in the discretion of the Secretary, based on applications submitted by public housing authorities, be used for new construction or major reconstruction of obsolete public housing projects other than for Indian families: Provided further, That the paragraph under the Administrative Provisions head in title II of Public Law 101-144 (approved November 9, 1989) (103 Stat. 839, 852-854), setting aside amounts for indemnification with respect to all or parts of claims arising from lead-based paint testing or abatement, is hereby amended by striking out "1992" and inserting "1998".

Of the $10,810,000,000 provided under this head, $586,300,000 shall be used for capital advances for supportive housing for the elderly under section 202 of the Housing Act of 1959, (as amended by section 601 of S. 566 (101st Cong., 2d Sess.), the National Affordable Housing Act (the "bill" in this paragraph)), which provision, and other provisions of the bill cited in this paragraph and the three paragraphs that follow, are deemed as enacted as of the enactment date of this Appropriations Act, of which $60,000,000 shall be for amendments for contracts for projects previously reserved under section 202 (as it existed before the date the bill was deemed enacted), including under section 601(d) of the bill, to remain available until expended: Provided, That to the extent such funds include an amount for a project that does not convert under section 601(c)(1) of the bill to assistance under section 202 (as amended by section 601 of the bill), such amount shall be transferred to the section 202 direct loan account for obligation for such project; and such account shall be maintained as authorized under section 202(a)(4) of the Housing Act of 1959, as it existed before the date the bill was deemed enacted: Provided further, That to the extent that any funds remain after allocations under section 202(e), (as amended by section 601 of the bill), the Secretary shall make grants for retrofitting housing for the elderly in accordance with section 602 of the bill: Provided further, That the Secretary may transfer for use under this paragraph any funds reserved under section 202 (as it existed before the date the bill was deemed enacted) for which no loan has been executed and recorded, to which the Secretary applies section 202 (as amended by section 601 of the bill), as provided by section 601(c) of the bill, and any funds so transferred shall be added to and merged with the amounts otherwise available under this paragraph: Provided further, That at the election of a sponsor of a project under section 202 (as it existed before the date the bill was deemed enacted), the Secretary shall provide funding for amendments either under section 202 (as it existed before or after the date the bill was deemed enacted) or under section 601(c)(1), and any amount for amendments to be provided under section 202 (as it existed before the date the bill was deemed enacted) shall be transferred to the section 202 direct loan account for obligation for such project: Provided further, That of the amounts available under this paragraph, up to $5,000,000 shall be available for contracts for technical assistance in accordance with section 202(k)(1) (as amended by section 601 of the bill).

Of the amounts made available under this head, $449,619,000 shall be used for project rental assistance for supportive housing for the elderly under section 202 of the Housing Act of 1959, as amended by section 601 of S. 566 (101st Cong., 2d Sess.), the National Affordable Housing Act (the "bill" in this paragraph), of which $186,000,000 shall be for amendments for contracts for projects for the elderly previously reserved under section 202 (as it existed before the date on which the bill was deemed enacted), to remain available until expended: Provided, That to the extent such funds include an amount for a project that does not convert to assistance under section 202 (as amended by section 601 of the bill), such amount shall be for obligation for such project as authorized under section 8 of the United States Housing Act of 1937 (as it existed before the date on which the bill was deemed enacted): Provided further, That the Secretary may transfer for use under this paragraph any funds previously reserved under section 8 of the United States Housing Act of 1937 for assistance for projects for the elderly under section 202 (as it existed before the date on which the bill was deemed enacted), for which no loan has been executed and recorded, to which the Secretary applies section 202 (as amended by section 601 of the bill) as provided by 601(c) of the bill, and any funds so transferred shall be added to and merged with the amounts otherwise available under this paragraph: Provided further, That following the election under section 601(c)(2) of a sponsor of a project under section 202 (as it existed before the date on which the bill was deemed enacted) as to whether the Secretary shall provide funding either under section 202, as it existed before or after the date on which the bill was deemed enacted, any theretofore reserved section 8 amounts that remain shall be transferred and merged with any other amounts available under this paragraph, and made available for other supportive housing for the elderly under section 202 (as amended by the bill).

Of the $10,810,000,000 provided under this head, $117,580,000 shall be used for capital advances under section 611 of S. 566 (101st Cong., 2d Sess.), the National Affordable Housing Act (the "bill" in this paragraph) for supportive housing for persons with disabilities (including 500 units for persons disabled as a result of infection with the human acquired immunodeficiency virus), of which $15,000,000 shall be for amendments for contracts for projects for the handicapped previously reserved under section 202(h) of the Housing Act of 1959 (as it existed before the date on which the bill was deemed enacted), to remain available until expended: Provided, That to the extent such funds include an amount for a project that does not convert under section 611(m)(1) of the bill to assistance under section 611 of the bill, such amount shall be transferred to the section 202 direct loan account for obligation for such project; and such amount shall be maintained as authorized under section 202(a)(4) of the Housing Act of 1959 (as it existed before the date on which the bill was deemed enacted): Provided further, That the Secretary may transfer for use under this paragraph any funds reserved under section 202 or 202(h) (as it existed before the date on which the bill was deemed enacted) for which no loan has been executed and recorded, to which the Secretary applies section 611 of the bill, as provided by section 611(m) of the bill, and any funds so transferred shall be added to and merged with the amounts otherwise available under this paragraph: Provided further, That at the election of a sponsor of a project for housing for the handicapped under section 202 or 202(h) (as it existed before the date on which the bill was deemed enacted), the Secretary shall provide funding for amendments either under section 202 (as it existed before or after the date on which the bill was deemed enacted) or under section 611, and any amount for amendments to be provided under section 202 (as it existed before the date on which the bill was deemed enacted) shall be transferred to the section 202 direct loan account for obligation for such project: Provided further, That of the amounts available under this head, up to $5,000,000 shall be available for contracts for technical assistance in accordance with section 611(j)(1) of the bill.

Of the amounts provided under this head, $156,000,000 shall be used for project rental assistance for supportive housing under section 611 of S. 566 (101st Cong., 2d Sess.), the National Affordable Housing Act (the "bill" in this paragraph) for persons with disabilities (including 500 units for persons disabled as a result of infection with the human acquired immunodeficiency virus), of which $52,000,000 shall be for amendments for contracts for projects previously reserved under section 202(h) of the Housing Act of 1959 (as it existed before the date on which the bill was deemed enacted), to remain available until expended: Provided, That to the extent such funds include an amount for a project for housing for the handicapped that does not convert to assistance under section 611 of the bill, such amount shall be for obligation for such project as authorized under section 8 of the United States Housing Act of 1937 and section 202(h) of the Housing Act of 1959 (as such sections existed before the date on which the bill was deemed enacted): Provided further, That the Secretary may transfer for use under this paragraph any funds previously reserved under section 8 of the United States Housing Act of 1937 and section 202(h) of the Housing Act of 1959 for which no loan has been executed and recorded, to which the Secretary applies section 611 of the bill, as provided by section 611(m) of the bill, and any funds so transferred shall be added to and merged with the amounts otherwise available under this paragraph: Provided further, That following the election under section 611(m)(2) of a sponsor of a project for the handicapped under section 202 (as it existed before the date on which the bill was deemed enacted) as to whether the Secretary shall provide funding either under section 202, as it existed before or after the date on which the bill was deemed enacted, any theretofore reserved amounts under section 8 and section 202(h), (as such sections existed before the date on which the bill was deemed enacted) that remain shall be transferred and merged with any other amounts available for use under this paragraph, and made available for other housing under section 202, as amended by the bill.

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

(INCLUDING TRANSFER OF FUNDS)

For assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) not otherwise provided for, for use in connection with expiring section 8 subsidy contracts, $7,734,985,400, to remain available until expended, *of which $3,654,519,750 shall be for existing certificates, $3,102,872,600 shall be for housing vouchers and $977,593,050 shall be for loan management under section 8*: *Provided,* That funds provided under this paragraph may not be obligated for a contract term that is less than five years: *Provided further, That to the extent that the amount that is appropriated under this head is reduced as a result of sequestration under a final order issued under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(b)), the contract term may also be reduced from five years:* [*Provided further,* That to the extent the amount in this paragraph is insufficient, the Secretary may, from the Annual Contributions for Assisted Housing paragraph, transfer to, add to, and merge with the amounts appropriated under this paragraph up to $300,000,000 to fund such insufficiency, and the $1,883,442,000 earmarked for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, in the Annual Contributions for Assisted Housing paragraph, shall be reduced by an amount equal to the amount transferred:] *Provided further,* That the Secretary may maintain consolidated accounting data for funds disbursed at the Public Housing Agency or Indian Housing Authority or project level for subsidy assistance regardless of the source of the disbursement so as to minimize the administrative burden of multiple accounts.

RENTAL REHABILITATION GRANTS

For the rental rehabilitation grants program, pursuant to section 17(a)(1)(A) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437*o*), [$135,000,000] *$70,000,000,* to remain available until September 30, 1993.

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1) is reduced in fiscal year 1991 by not more than $2,000,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

[In fiscal year 1991, $491,570,000 of direct loan obligations may be made under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q), utilizing the resources of the fund authorized by subsection (a)(4) of such section, in accordance with paragraph (C) of such subsection: *Provided*, That such commitments shall be available only to qualified nonprofit sponsors for the purpose of providing 100 per centum loans for the development of housing for the elderly or handicapped, with any cash equity or other financial commitments imposed as a condition of loan approval to be returned to the sponsor if sustaining occupancy is achieved in a reasonable period of time: *Provided further*, That the full amount shall be available for permanent financing (including construction financing) for housing projects for the elderly or handicapped: *Provided further*, That 25 per centum of the direct loan authority provided herein shall be used only for the purpose of providing loans for projects for the handicapped, with the mentally ill homeless handicapped receiving priority: *Provided further*, That the Secretary may borrow from the Secretary of the Treasury in such amounts as are necessary to provide the loans authorized herein: *Provided further*, That, notwithstanding any other provision of law, the receipts and disbursements of the aforesaid fund shall be included in the totals of the Budget of the United States Government: *Provided further*, That of the direct loan authority provided under this heading, an amount necessary to provide for 500 dwelling units shall be used only for the purpose of providing dwelling units for persons who have contracted the disease of acquired immune deficiency syndrome: *Provided further*, That, notwithstanding section 202(a)(3) of the Housing Act of 1959, loans made in fiscal year 1991 shall bear an interest rate which does not exceed 9.25 per centum, including the allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program.

[Section 202(h) of the Housing Act of 1959 (12 U.S.C. 1701q(h)) is amended by adding at the end the following new paragraph:

["(5) Notwithstanding section 504 of the Rehabilitation Act of 1973, the Secretary shall provide assistance under this subsection for housing and related facilities for handicapped families for which occupancy is limited to families and persons having acquired immune deficiency syndrome.".]

In fiscal year 1991, direct loan obligations may be made under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q), using any resources transferred to the fund pursuant to the first proviso of the second paragraph and the first proviso of the fourth paragraph under the head "Annual Contributions for Assisted Housing" in title II of this Act: Provided, That, notwithstanding section 202(a)(3) of the Housing Act of 1959, any such obligations shall bear an interest rate which does not exceed 9.25 per centum, including the allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program.

CONGREGATE SERVICES

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs in accordance with the provisions of the Congregate Housing Services Act of 1978, [$7,000,000] *$12,000,000*, to remain available until September 30, 1992.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), [$2,000,000,000] *$2,001,300,000: Provided, That the Secretary of Housing and Urban Development shall report to the Committees on Appropriations by December 1, 1990, as to whether or not funds provided under this heading are sufficient to satisfy 100 percent of the performance funding system for fiscal year 1991, unadjusted by unrealized or estimated savings.*

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106(a)(1)(iii), and section 106(a)(2), and section 106(c) of the Housing and Urban Development Act of 1968, as amended, [$5,000,000] *$8,000,000*.

FLEXIBLE SUBSIDY FUND

For assistance to owners of eligible multifamily housing projects insured, or formerly insured, under the National Housing Act, as amended, or which are otherwise eligible for assistance under section 201(c) of the Housing and Community Development Amendments of 1978, as amended (12 U.S.C. 1715z-1a), in the program of assistance for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, as amended, all uncommitted balances of excess rental charges as of September 30, 1990, and any collections and other amounts in the fund authorized under section 201(j) of the Housing and Community Development Amendments of 1978, as amended, during fiscal year 1991, [which are in excess of the $70,000,000 authorized to be transferred to the annual contributions for assisted housing account,] to remain available until expended: *Provided*, That assistance to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

FEDERAL HOUSING ADMINISTRATION FUND

For payment to cover losses, not otherwise provided for, sustained by the Special Risk Insurance Fund and General Insurance Fund as authorized by the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), $317,366,000, to remain available until expended.

During fiscal year 1991, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the National Housing Act, as amended.

During fiscal year 1991, additional commitments to guarantee loans to carry out the purposes of the National Housing Act, as amended, shall not exceed a loan principal of $75,000,000,000.

During fiscal year 1991, gross obligations for direct loans of not to exceed $151,125,000 are authorized for payments under section 230(a) of the National Housing Act, as amended, from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved.

[NONPROFIT SPONSOR ASSISTANCE

[During fiscal year 1991, within the resources and authority available, gross obligations for the principal amounts of direct loans shall not exceed $1,100,000.]

DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING

For grants to public housing agencies for use in eliminating drug-related crime in public housing projects authorized by 42 U.S.C. 11901-11908, and for drug information clearinghouse services authorized by 42 U.S.C. 11921-11925, [$100,000,000] *$150,000,000*, to remain available until expended: *Provided*, That $1,000,000 of the foregoing amount shall be available for grants, contracts, or other assistance for technical assistance and training for or on behalf of public housing agencies and resident organizations (including the costs of necessary travel for participants in such training): *Provided further, That funds made available under this heading, with the exception of the $1,000,000 specified in the previous proviso, shall not be made available until September 1, 1991, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change.*

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES

During fiscal year 1991, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721g), shall not exceed $80,000,000,000 of loan principal.

HOMELESS ASSISTANCE

EMERGENCY SHELTER GRANTS PROGRAM

For the emergency shelter grants program, as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, [$75,000,000] *$73,164,000* to remain available until expended.

TRANSITIONAL AND SUPPORTIVE HOUSING DEMONSTRATION PROGRAM

For the transitional and supportive housing demonstration program, as authorized under subtitle C of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, [$150,000,000] *$143,592,000*, to remain available until expended.

SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS

For grants for supplemental assistance for facilities to assist the homeless as authorized under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended [$15,000,000] *$11,263,000*, to remain available until expended.

SECTION 8 MODERATE REHABILITATION

SINGLE ROOM OCCUPANCY

For assistance under the United States Housing Act of 1937, as amended (42 U.S.C. 1437f), for the section 8 moderate rehabilitation program, to be used to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401), [$100,000,000] *$105,000,000*, to remain available until expended.

[SOLAR ENERGY AND ENERGY CONSERVATION BANK

[ASSISTANCE FOR SOLAR AND CONSERVATION IMPROVEMENTS

[All funds previously appropriated under this head that are recaptured or that otherwise are or become available for obligation in fiscal year 1991 or thereafter, including all such amounts affected by the order of the United States District Court, Southern District of New York, in Dabney v. Reagan, 82 Civ. 2231-CSH, dated March 20, 1985, shall be withdrawn, pursuant to 31 U.S.C. 1555 et seq.]

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), [$3,000,000,000] *$3,200,000,000*, to remain available until September 30, 1993: *Provided*, That *$31,930,000 shall be available for grants to Indian tribes pursuant to section 106(b)(7)(A) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301) and* not to exceed $14,500,000 shall be available for "special purpose grants" pursuant to section 107 of [the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301)] *such Act*: *Provided further*, That not to exceed 20 per centum of any grant made with funds appropriated herein (other than a grant using funds under section 107(b)(3) of such Act or funds set aside in the following [proviso] *provisos*) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development: *Provided further*, That $5,000,000 shall be made available from the foregoing [$3,000,000,000] *$3,200,000,000* to carry out a child care demonstration under section 222 of the Housing and Urban-Rural Recovery Act of 1983, as amended (12 U.S.C. 1701z-6 note): *Provided further, That $2,000,000 shall be made available from the foregoing $3,200,000,000 to carry out a neighborhood development demonstration under section 123 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181): Provided further*, That after September 30, 1990, no funds provided or heretofore provided in this or any other appropriations Act shall be used to establish or supplement a revolving fund under section 104(h) of the Housing and Community Development Act of 1974, as amended, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change.

During fiscal year 1991, total commitments to guarantee loans, as authorized by section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), shall not exceed [$140,000,000] *$250,000,000* of contingent liability for loan principal.

REHABILITATION LOAN FUND

During fiscal year 1991, collections, unexpended balances of prior appropriations (including any recoveries of prior obligations) and any other amounts in the revolving fund established pursuant to section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b), after September 30, 1990, are available and may be used for commitments for loans and operating costs and the capitalization of delinquent interest on delinquent or defaulted loans notwithstanding section 312(h) of such Act: *Provided*, That none of the funds in this Act may be used to sell any loan asset that the Secretary holds as evidence of indebtedness under such section 312.

URBAN HOMESTEADING

For reimbursement to the Federal Housing Administration Fund or the Rehabilitation Loan Fund for losses incurred under the urban homesteading program (12 U.S.C. 1706e), and for reimbursement to the Secretary of Veterans Affairs and the Secretary of Agriculture for properties conveyed by the Secretary of Veterans Affairs and the Secretary of Agriculture, respectively, for use in connection with an urban homesteading program approved by the Secretary of Housing and Urban Development pursuant to section 810 of the Housing and Community Development Act of 1974, as amended, and for reimbursement to the Resolution Trust Corporation for properties conveyed by such Corporation for such use, in accordance with section 810(g)(3) of such Act, [$15,000,000] *$13,000,000*, to remain available until expended, and of which not to exceed $250,000 shall be available to provide technical assistance as authorized by section 810(c) of such Act.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z-1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, [$30,000,000] *$27,000,000*, to remain available until September 30, 1992.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended, and section 561 of the Housing and Community Development Act of 1987, [$12,200,000] *$12,410,000*, to remain available until September 30, 1992: *Provided*, That not less than [$5,600,000] *$5,810,000* shall be available to carry out activities pursuant to section 561 of the Housing and Community Development Act of 1987 *and the demonstration period authorized in section 561(e) of such Act shall be deemed to be September 30, 1991.*

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

[For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, $816,466,000, of which $390,342,000 shall be provided from the various funds of the Federal Housing Administration: *Provided*, That during fiscal year 1991, notwithstanding any other provision of law, the Department of Housing and Urban Development shall maintain an average employment of at least 1,396 for Public and Indian Housing Programs.]

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, $828,000,000, of which $396,000,000 shall be provided from the various funds of the Federal Housing Administration: Provided, That during fiscal year 1991, notwithstanding any other provision of law, the Department of Housing and Urban Development shall maintain an average field employment of at least 2,000 staf years for multifamily insured mortgage programs and activities: Provided further, Tha during fiscal year 1991, expenses for trave and transportation of persons under the budget activity "Departmental Management" shall not exceed $283,000, of which not to exceed $100,000 may be expended by the Immediate Office of the Secretary and Under Secretary.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 as amended, [$37,840,000] *$39,283,000*, of which [$8,557,000] *$10,000,000* shall be transferred from the various funds of the Federal Housing Administration.

ADMINISTRATIVE PROVISIONS

[Notwithstanding any other provision of law or other requirement, the City of Lebanon, in the Commonwealth of Pennsylvania is authorized to retain any land disposition proceeds from the financially closed-out Southside Urban Renewal Project (R-635(C)) not paid to the Department of Housing and Urban Development and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Lebanon shall retain such proceeds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such proceeds, including any interest.]

That on the date of enactment of this Act, the note or other obligation represented by loan number 070024914 under such section 312, together with any promise to repay the unpaid principal, unpaid interest that has accrued on the note or obligation, and any other fees and charges payable in connection with it, shall be forgiven, and any other term or condition specified by the note or other obligation shall be canceled.

Notwithstanding any other provision of law or other requirement, the City of Nanticoke, the Borough of Plymouth, and the Borough of Forty Fort, all in the County of Luzerne and in the Commonwealth of Pennsylvania, are authorized to retain any categorical settlement grant funds, urban renewal grant funds, and land disposition proceeds that remain after the financial closeout of the Lower Broadway Disaster Urban Renewal Project (No. B-79-UR-42-0001) in the City of Nanticoke, the Plymouth Disaster Urban Renewal Project (No. PA-R-617 and No. B-79-UR-42-0007) in the Borough of Plymouth, and the Forty Fort Disaster Urban Renewal Project (No. PA-R-613 and No. B-79-UR-42-0003) in the Borough of Forty Fort, respectively, and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Nanticoke, the Borough of Plymouth, and the Borough of Forty Fort shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such funds, including any interest.

[Notwithstanding any other provision of law or other requirement, the City of Pittsfield in the Commonwealth of Massachusetts, is authorized to retain any land disposition proceeds from the financially closed-out Columbus Urban Renewal Project, Parcel 5 (No. Mass. R-90) not paid to the Department of Housing and Urban Development and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Pittsfield shall retain such proceeds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such proceeds, including any interest.]

Of the funds heretofore provided in Public Law 99-500 and Public Law 99-591 for grants pursuant to section 17(d)(4)(G) of the United States Housing Act of 1937, $1,450,000 shall be available for obligation for Dunes East Housing Development Grant project, number GA008HG501, through September 30, 1991, notwithstanding section 152 of the Housing and Community Development Act of 1987 and section 17(d)(4)(G) of the United States Housing Act of 1937.

The Secretary of Housing and Urban Development shall transfer title to the repossessed property known as the Roosevelt Homes Project (No. 074-84006) located in Davenport, Iowa, to a nonprofit organization selected by the city of Davenport. Such property shall be used only for the provision of an integrated program of shelter and social services to the homeless, or for other nonprofit uses, for a period of not less than 20 years following the date of the transfer. Use of the transferred property before the expiration of the 20-year period following the date of the transfer for any purpose other than those described herein shall cause title to revert back to the Secretary of Housing and Urban Development. The city of Davenport is released from any liability in connection with such project.

Notwithstanding any other provision of law or other requirement, the city of New Haven, Connecticut, is authorized to retain any land disposition proceeds or urban renewal grant funds that remain after the financial closeout of the Church Street Urban Renewal Project (No. Conn. R-2), and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of New Haven shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such funds, including any interest.

[Notwithstanding any other provision of law or other requirement, the Borough of East Stroudsburg, in the Commonwealth of Pennsylvania, is authorized to retain any land disposition proceeds from the closed-out Courtland Plaza Urban Renewal Project (No. PA-R-352) not paid to the Department of Housing and Urban Development and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The Borough of East Stroudsburg shall retain such proceeds in a lump sum and shall be entitled to retain and use all past and future earnings from such proceeds, including any interest.]

Notwithstanding any other provision of law or other requirement, the City of Roanoke, in the Commonwealth of Virginia, is authorized to retain any land disposition proceeds from the financially closed-out Downtown East Urban Renewal Project (R-42) not paid to the Department of Housing and Urban Development and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing Community Development Act of 1974. The City of Roanoke shall retain such proceeds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such proceeds, including any interest.

The Secretary of Housing and Urban Development shall cancel the indebtedness of the Town of Fairmount Heights, Maryland, relating to the public facilities loan (project number MD-18-PFL0003) issued July 1, 1969, under title II of the Housing Amendments of 1955. The Town of Fairmount Heights is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any other fees and charges payable in connection with such loan.

Notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall approve the use by the Housing Authority of the City of Seattle of excess residual reserve receipts from the Bay View Tower (No. 127-38044) and Market House Projects (No. WA19-8023-005) for any purpose which inures to the benefit of the low-income tenants of federally or locally financed projects owned by the Authority. Excess residual receipt funds are those receipts in excess of 25 per centum of the average annual operating costs during the immediately preceding five-year period.

[The $784,000 in the Housing Development Action Grant (HoDAG) funding previously awarded to the City of Santa Cruz, California by the Department of Housing and Urban Development under Section 17 of the U.S. Housing Act of 1937 (42 U.S.C. 1437o), as amended, are hereby restored to the City of Santa Cruz from previously appropriated funds for the construction of low-income housing at the site known as the Alborada project.]

Section 17(f) of the United States Housing Act of 1937 (42 U.S.C. 1437o(f) is amended by inserting after "or State of Vermont" the following: "or State of Maryland or City of West Hollywood, California". This amendment to section 17(f) shall also apply retroactively to any structure assisted under a program of the City of West Hollywood.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by striking "(185 percent during fiscal year 1990)" and inserting the following: "(185 percent during fiscal year 1991)".

[During fiscal year 1991, notwithstanding any other provision of law, average employment in the headquarter's offices of the Department of Housing and Urban Development shall not exceed: (1) 28 staff years for the Immediate Office of the Secretary/Under Secretary, (2) 18 staff years for the Deputy Under Secretary for Field Coordination, (3) 29 staff years for the Office of Public Affairs, (4) 28 staff years for the Office of Legislation and Congressional Relations, (5) 1,117 staff years for the Assistant Secretary for Housing—Federal Housing Commissioner, (6) 148 staff years for the Assistant Secretary for Public and Indian Housing, (7) 271 staff years for the Assistant Secretary for Community Planning and Development, (8) 147 staff years for the Assistant Secretary for Policy Development and Research, (9) 170 staff years for the Assistant Secretary for Fair Housing and Equal Opportunity, and (10) 238 staff years for the Office of General Counsel.]

During fiscal year 1991, notwithstanding any other provision of law, average employment in the headquarter's offices of the Department of Housing and Urban Development shall not exceed: (1) 28 staff years for the Immediate Office of the Secretary/Under Secretary, (2) 18 staff years for the Deputy Under Secretary for Field Coordination, (3) 14 staff years for the Office of Public Affairs, (4) 28 staff years for the Office of Legislation and Congressional Relations, (5) 1,142 staff years for the Assistant Secretary for Housing—Federal Housing Commissioner, of which 25 staff years shall be for data management reform and preservation activities only, (6) 157 staff years for the Assistant Secretary for Public and Indian Housing, (7) 271 staff years for the Assistant Secretary for Community Planning and Development, (8) 137 staff years for the Assistant Secretary for Policy Development and Research, (9) 170 staff years for the Assistant Secretary for Fair Housing and Equal Opportunity, and (10) 224 staff years for the Office of General Counsel of which not more than 15 staff years shall be for the Immediate Office of General Counsel: Provided, That the Office of Drug Free Neighborhoods shall be transferred from the Office of General Counsel to the Assistant Secretary for Public and Indian Housing and included within the staff years provided herein therefor: Provided further, That effective October 1, 1990, the Office of Public Affairs shall be terminated and its functions shall not be reassigned to any other element of the Department: Provided further, That no funds may be used from amounts provided in this or any other Act for details of employees from any organization in the Department of Housing and Urban Development to any organization included under the budget activity "Departmental Management."

Prior to the implementation of any final rule or directive imposing new limitations on the ability of any public housing agency or Indian housing authority to secure general liability and property insurance coverage, or special risk coverage for abatement of hazardous substances such as lead-based paint, from non-profit insurance entities owned by such housing authorities, the Secretary of the Department of Housing and Urban Development shall transmit a report to the appropriate Committees of the Congress detailing (1) the intent and purpose of any such rule or directive; (2) the legislative authority and administrative precedent for such rule or directive; and (3) an assessment of the potential impact that such rule or directive will have on the ability of such housing authority-owned insurance entities to continue to effectively offer an alternative to other commercially available coverage on a long-term basis.

Section 102(a)(12) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(12)) is amended by inserting after the period at the end the following new sentence: "Where the boundaries for a metropolitan city or urban county used for the 1980 census have changed as a result of annexation, the current population used to compute extent of growth lag shall be adjusted by multiplying the current population by the ratio of the population based on the 1980 census within the boundaries used for the 1980 census to the population based on the 1980 census within the current boundaries.". The amendment made by this paragraph shall apply to the first allocation of assistance under section 106 that is made after the date of the enactment of this Act and to each allocation thereafter.

TITLE III

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; [$15,900,000] *$15,402,000*, to remain available until expended: *Provided*, That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further*, That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further*, That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it: *Provided further*, That section 509 of the general provisions carried in title V of this Act shall not apply to the funds provided under this heading: *Provided further*, That not more than $125,000 of the private contributions to the Korean War Memorial Fund may be used for administrative support of the Korean War Veterans Memorial Advisory Board including travel by members of the board authorized by the Commission, travel allowances to conform to those provided by Federal Travel regulations.

COMMISSION ON NATIONAL AND COMMUNITY SERVICE

SALARIES AND EXPENSES

For use in establishing and paying the salaries and expenses of the Commission on National and Community Service under subtitle G of title I of the National and Community Service Act of 1990, $2,000,000.

PROGRAMS AND ACTIVITIES

For use in carrying out the programs, activities and initiatives under subtitles B through F of title I of the National and Community Service Act of 1990, $98,000,000.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18, purchase of nominal awards to recognize non-Federal officials' contributions to Commission activities, and not to exceed $500 for official reception and representation expenses, [$37,109,000] *$36,709,000*: *Provided*, That not more than $365,000 of these funds shall be available for personnel compensation and benefits for the Commissioners of the Consumer Product Safety Commission.

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the operation of the U.S. Court of Veterans Appeals as authorized by 38 U.S.C. 4051-4091, [$9,560,000] *$4,127,000*: *Providcd*, That such sum shall be available without regard to section 509 of this Act.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, and not to exceed $1,000 for official reception and representation expenses; $12,236,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed $5,000 for official reception and representation expenses; [$995,000,000] *$949,700,000*: *Provided*, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913).

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, [$37,000,000] *$33,709,000*, of which [$13,107,000] *$11,941,000* shall be derived from the Hazardous Substance Superfund trust fund and [$575,000] *$524,000* shall be derived from the Leaking Underground Storage Tank Trust Fund.

RESEARCH AND DEVELOPMENT

For research and development activities, [$254,900,000] *$249,000,000*, to remain available until September 30, 1992: [*Provided*, That not more than $11,600,000 of these funds shall be available for procurement of laboratory equipment.] *Provided, That not more than $35,600,000 of these funds shall be available for procurement of laboratory equipment, supplies, and other operating expenses in support of research and development.*

ABATEMENT, CONTROL, AND COMPLIANCE

For abatement, control, and compliance activities, [$1,006,525,000] *$985,300,000*, to remain available until September 30, 1992: *Provided*, That up to $2,800,000 shall be available for grants and cooperative agreements to develop and implement asbestos training and accreditation programs: *Provided further, That notwithstanding any other provision of law, from funds appropriated under this heading, the Administrator is authorized to make grants to "Federally recognized Indian tribes" on such terms and conditions as he deems appropriate for the development of multimedia environmental programs*: *Provided further*, That none of the funds appropriated under this head shall be available to the National Oceanic and Atmospheric Administration pursuant to section 118(h)(3) of the Federal Water Pollution Control Act, as amended: *Provided further*, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913), or for support to State, regional, local, and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009 (42 U.S.C. 6948, 6949).

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment for facilities of, or use by, the Environmental Protection Agency, [$34,000,000] *$19,000,000*, to remain available until expended *: Provided, That none of the funds previously appropriated for the design and renovation of a Superfund laboratory at Edison, New Jersey to test and evaluate innovative technologies shall be spent in fiscal year 1991.*

HAZARDOUS SUBSTANCE SUPERFUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), [$1,610,200,000, to be derived from the Hazardous Substance Superfund,] *$1,616,228,000, consisting of $755,328,000 as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and $860,900,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA*, plus sums recovered on behalf of the Hazardous Substance Superfund in excess of $135,000,000 during fiscal year 1991, with all of such funds to remain available until expended: *Provided*, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: *Provided further*, That notwithstanding section 111(m) of CERCLA or any other provision of law, not to exceed [$47,500,000] *$50,000,000* of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of the Superfund Amendments and Reauthorization Act of 1986: *Provided further*, That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 1991: *Provided further, That the Administrator of the Environmental Protection Agency shall pay not more than $7,000 in interest to the City of New Brighton, Minnesota: Provided further*, That no more than $233,000,000 of these funds shall be available for administrative expenses.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, [$75,000,000] *$65,000,000*, to remain available until expended: *Provided*, That no more than $6,000,000 shall be available for administrative expenses.

CONSTRUCTION GRANTS

[For necessary expenses to carry out the purposes of the Federal Water Pollution Control Act, as amended, and the Water Quality Act of 1987, $2,000,000,000, to remain available until expended, of which $1,964,300,000 shall be for title VI of the Federal Water Pollution Control Act, as amended; and $35,700,000 shall be for title V of the Water Quality Act of 1987, consisting of $15,700,000 for section 510 and $20,000,000 for section 513: *Provided*, That the $15,700,000 for section 510 shall be for the United States share of an international wastewater treatment plant in San Diego to treat Tijuana wastewater and these amounts shall only become available upon approval of a Minute of the International Boundary and Water Commission by Mexico and the United States in which Mexico agrees to finance: (1) all operating and maintenance costs of treating Tijuana wastewater at the plant; and (2) all construction, operations, and maintenance costs for any future capacity needed to treat Tijuana wastewater in excess of the 25 million gallon per day capacity to be provided at the international plant: *Provided further*, That, notwithstanding sections 602(b)(6) or 201(g)(1) of the Federal Water Pollution Control Act, as amended, of the funds appropriated in this paragraph, amounts awarded in a capitalization grant to an agency of any State, including funds transferred pursuant to section 205(m), shall be available for providing assistance in that State for the construction of publicly owned treatment works as defined in section 212 of that Act.]

For necessary expenses to carry out the purposes of the Federal Water Pollution Control Act, as amended, and the Water Quality Act of 1987, $2,100,000,000, to remain available until expended, of which $2,083,500,000 shall be for title VI of the Federal Water Pollution Control Act, as amended; and $16,500,000 shall be for making grants authorized under section 104(b)(3) of the Federal Water Pollution Control Act, as amended.

ADMINISTRATIVE PROVISIONS

The Administrator of the Environmental Protection Agency shall, to the fullest extent possible, ensure that at least 8 per centum of Federal funding for prime and subcontracts awarded in support of authorized programs, including [the] *grants, loans, and* contracts for wastewater treatment and leaking underground storage tanks [grants] *grants*, be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6)), including historically black colleges and universities. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

Notwithstanding any provision of the Federal Water Pollution Control Act, the Delavan Lake Sanitary District shall be entitled to retain all funds received under EPA construction grants c550549-01 and c550549-02.

[During fiscal year 1991, notwithstanding any other provison of law, average employment in the headquarter's offices of the Environmental Protection Agency shall not exceed: (1) 44 workyears for the Immediate Office of the Administrator, (2) 50 workyears for the Office of Congressional and Legislative Affairs, (3) 64 workyears for the Office of Communications and Public Affairs, (4) 146 workyears for the Office of General Counsel (5) 52 workyears for the Office of International Activities, (6) 35 workyears for the Office of Federal Activities, (7) 257 workyears for the Office of Policy, Planning, and Evaluation, and (8) 1,095 workyears for the Office of Administration and Resources Management.]

During fiscal year 1991, notwithstanding any other provision of law, average employment in the headquarter's offices of the Environmental Protection Agency shall not exceed: (1) 70 workyears for the Immediate Office of the Administrator, including 1 to support the Superfund program; (2) 52 workyears for the Office of Congressional and Legislative Affairs, including 2 to support the Superfund program; (3) 66 workyears for the Office of Communications and Public Affairs, including 3 to support the Superfund program; (4) 169 workyears for the Office of General Counsel, including 12 to support the Superfund program, 11 to support program management, 1 to support the Leaking Underground Storage Tank Trust Fund program, and 1 to support the implementation of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988; (5) 52 workyears for the Office of International Activities; (6) 35 workyears for the Office of Federal Activities; (7) 245 workyears for the Office of Policy, Planning, and Evaluation, including 13 to support the Superfund program and 1 to support the Leaking Underground Storage Tank Trust Fund program; (8) 1,367 workyears for the Office of Administration and Resources Management, including 263 to support the Superfund program, 9 to support the Leaking Underground Storage Tank Trust Fund program, and 13 to support the implementation of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988.

The Administrator of the Environmental Protection Agency is required, by November 30, 1990, to issue a final decision on the Sanitation Districts of Los Angeles County's pending 301(h) application.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Policy Act of 1969 (Public Law 91-190), the Environmental Quality Improvement Act of 1970 (Public Law 91-224), and Reorganization Plan No. 1 of 1977, including not to exceed $500 for official reception and representation expenses, and hire of passenger motor vehicles, [$2,780,000] *$1,465,000.*

NATIONAL SPACE COUNCIL

For necessary expenses of the National Space Council, including services as authorized by 5 U.S.C. 3109; [$1,000,000] *$1,363,000: Provided*, That the National Space Council shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $1,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, [$3,300,000] *$3,560,000: Provided*, That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

POINTS OF LIGHT FOUNDATION

For necessary expenses of the President in carrying out title III of the National and Community Service Act of 1990 relating to the Points of Light Foundation's promotion of local problem solving through voluntary community service, $5,000,000: Provided, That not later than 6 months after the date of enactment of this Act, the President shall prepare and submit to the appropriate committees of Congress a report describing the use of funds made available by this appropriation.

FEDERAL EMERGENCY MANAGEMENT AGENCY

[DISASTER RELIEF

[For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $100,000,000, to remain available until expended.]

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government program to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $2,500 for official reception and representation expenses, [$143,459,000] *$143,000,000.*

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, [$3,905,000] *$2,751,000.*

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), section 103 of the National Security Act (50 U.S.C. 404), and Reorganization Plan No. 3 of 1978, [$275,423,000] *$267,042,000.*

NATIONAL FLOOD INSURANCE FUND

(TRANSFERS OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973, $11,078,000 shall, upon enactment of this Act, be transferred to the "Salaries and expenses" appropriation for administrative costs of the insurance and flood plain management programs and $46,023,000 shall, upon enactment of the Act, be transferred to the "Emergency management planning and assistance" appropriation for flood plain management activities, including $4,720,000 for expenses under section 1362 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4103, 4127), which amount shall be available until September 30, 1992. In fiscal year 1991, no funds in excess of (1) $32,000,000 for operating expenses, (2) $183,500,000 for agents' commissions and taxes, and (3) $3,500,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated $134,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program pursuant to title III of Public Law 100-77, as amended: *Provided*, That total administrative costs shall not exceed three and one-half per centum of the total appropriation.

ADMINISTRATIVE PROVISIONS

The Superintendent of the Fire Academy, in exercising the powers and authority provided by section 7 of the Federal Fire Prevention Control Act of 1974, shall be subject to the exclusive direction of the Administrator, United States Fire Administration: Provided, That all funds appropriated by this or any other Act, with respect for any fiscal year, or otherwise made available, for the National Fire Academy in Emmitsburg, Maryland, or any Fire Academy field programs, shall be placed under the exclusive control of the United States Fire Administration.

Chapter 35 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"Subchapter VII—Temporary Reemployment for Emergency Disaster Relief

"§ 3598. Temporary reemployment for emergency disaster relief

"(a) For purposes of this section, the term—

"(1) 'active employee' means an employee within the meaning of section 8331(1) or 8401(11) of this title;

"(2) 'annuitant' means an annuitant within the meaning of section 8331(9) or 8401(2) of this title;

"(3) 'emergency' means a major disaster or emergency declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170);

"(4) 'temporary' means employment in any position—

"(A) not in excess of the lesser of—

"(i) 1-year duration; or

"(ii) a period during which appropriations are available for purposes of the emergency for which an individual is employed; and

"(B) which shall be considered strictly temporary for purposes of any provision of law relating to separations, suspensions, or reductions in rank or compensation, or any other provision of this title;

"(5) 'retired or retainer pay' has the meaning given that term by section 5531(3); and

"(6) 'uniformed services' has the meaning given that term by section 2101(3).

"(b)(1) This section shall apply with respect to service in any temporary position within the Federal Emergency Management Agency relating to an immediate and direct effort concerning an emergency.

"(2) In the administration of the provisions of this section, preference in hiring for the temporary positions described in paragraph (1) shall be given by the Director of the Federal Emergency Management Agency to individuals who are residents of the area of the emergency, as defined in subsection (a)(3).

"(c)(1)(A) subject to the provisions of subparagraph (B), an annuitant who becomes reemployed in a temporary position described in subsection (b)(1) shall, with respect to any period of service in such position, be exempt from section 8344 or 8468 (as otherwise applicable).

"(B) The provisions of this subsection shall not—

"(i) apply with respect to any annuitant who, immediately before being placed in the temporary position, was employed in a Government position in which pay for that annuitant was being reduced under either of the provisions referred to in subparagraph (A);

"(ii) have the effect of exempting a reemployed annuitant from section 8344 or 8468 after the expiration of the period of reemployment under this section; and

"(iii) apply to have the effect of reemploying an annuitant for an emergency who separates from service during the period of such emergency.

"(2) Nothing in this subsection shall have the effect of causing a reemployed annuitant to be treated as an active employee for purposes of any provision of chapter 83 or 84.

"(d)(1) Subject to the provisions of paragraph (2), the retired or retainer pay of a former member of a uniformed service employed in a temporary position described in subsection (b)(1) shall, with respect to any period of service in such position, be exempt from section 5532.

"(2) The provisions of this subsection shall not—

"(A) apply with respect to any former member of a uniformed service if, immediately before being placed in the temporary position, the retired or retainer pay of such former member was being reduced under section 5532 (or would have been reduced but for subsection (d)(2) of such section);

"(B) have the effect of exempting a former member of a uniformed service from section 5532 after the expiration of the period of reemployment under this section; and

"(C) apply to have the effect of reemploying a former member of a uniformed service for an emergency who separates from service during the period of such emergency.

"(3) For purposes of this subsection, the term 'former member of a uniformed service' means a member or former member of a uniformed service.

"(e) An individual may be reemployed under this section as successive appointments for any emergency as declared by the President.

"(f) No individual employed under the provisions of this section may receive pay for such service at a rate in excess of the lesser of—

"(1) the maximum rate of pay (payable at the time of such service) for the highest pay grade of which such individual was employed by the Federal Government or served in the uniformed service; or

"(2) the maximum rate of pay payable for GS-12.".

The table of sections for chapter 35 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER VII—TEMPORARY REEMPLOYMENT FOR EMERGENCY DISASTER RELIEF

"3598. Temporary reemployment for emergency disaster relief.".

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $1,540,000, to be deposited into the Consumer Information Center Fund: *Provided*, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $5,500,000. Administrative expenses of the Consumer Information Center in fiscal year 1991 shall not exceed $2,172,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1991 in excess of $5,500,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, [$1,889,000] *$1,964,000.*

INTERAGENCY COUNCIL ON THE HOMELESS

SALARIES AND EXPENSES

For necessary expenses of the Interagency Council on the Homeless, not otherwise provided for, as authorized by title II of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11311-11319), as amended, [$1,214,000] *$1,083,000*, to remain available until expended: *Provided*, That the Council shall carry out its duties in the 10 standard Federal regions under section 203(a)(4) of such Act only through detail, on a non-reimbursable basis, of employees of the departments and agencies represented on the

Council pursuant to section 202(a) of such Act.

National Aeronautics and Space Administration

RESEARCH AND DEVELOPMENT

[For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property, and not in excess of $100,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; purchase, lease, hire, maintenance, and operation of aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; $7,027,994,000, to remain available until September 30, 1992: *Provided*, That not to exceed $35,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive.]

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; $5,600,000,000, to remain available until September 30, 1992, of which $1,587,400,000 is for the Space Station Freedom.

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

[For necessary expenses, not otherwise provided for, including support of space flight, spacecraft control and communications activities of the National Aeronautics and Space Administration, including operations, production, services, minor construction, maintenance, repair, rehabilitation, and modification of real and personal property, and not in excess of $100,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; tracking and data relay satellite services as authorized by law; purchase, lease, hire, maintenance, and operation of aircraft; $6,530,351,000, to remain available until September 30, 1992: *Provided*, That funds provided under this paragraph, with sums provided for "Research and development", may be utilized for the purchase of one mission management aircraft for replacement only (for which partial payment may be made by exchange of at least one existing mission management aircraft and such other existing aircraft as may be considered appropriate).]

For necessary expenses, not otherwise provided for; in support of space flight, spacecraft control and communications activities of the National Aeronautics and Space Administration, including operations, production, services, minor construction, maintenance, repair, rehabilitation, and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, hire, maintenance and operation of other than administrative aircraft; $6,319,132,000, to remain available until September 30, 1992, of which $1,209,732,000 shall be used only for the purpose of reducing all outstanding debt to the Federal Financing Bank.

CONSTRUCTION OF FACILITIES

For construction, repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, [$485,000,000] *$497,900,000*, to remain available until September 30, 1993: *Provided*, That, notwithstanding the limitation on the availability of funds appropriated under this heading by this appropriations Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design: *Provided further*, That no amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriations Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act: *Provided further*, That the Administrator may authorize such facility lease or construction, if he determines, in consultation with the Committees on Appropriations, that deferral of such action until the enactment of the next appropriations Act would be inconsistent with the interest of the Nation in aeronautical and space activities.

RESEARCH AND PROGRAM MANAGEMENT

[For necessary expenses for personnel and related costs and for travel expenses, $1,446,212,000.]

For necessary expenses of research in Government laboratories, management of programs and other activities of the National Aeronautics and Space Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); awards, lease, hire, maintenance and operation of administrative aircraft; purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; and maintenance and repair of real and personal property, and not in excess of $100,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; $2,232,900,000: Provided, That contracts may be entered into under this appropriation for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: Provided further, That not to exceed $35,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense, to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, [$10,500,000] *$11,000,000*.

ADMINISTRATIVE [PROVISION] *PROVISIONS*

The NASA Administrator shall, to the fullest extent possible, ensure that at least 8 per centum of Federal funding for prime and subcontracts awarded in support of authorized programs, including the space station by the time operational status is obtained, be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6)), including historically black colleges and universities. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

During fiscal year 1991, notwithstanding any other provision of law, average employment in the headquarter's offices of the National Aeronautics and Space Administration shall not exceed: (1) 48 staff years for the Office of the Administrator; (2) 162 staff years for the Headquarters Operations; (3) 41 staff years for the Office of Commercial Programs; (4) 10 staff years for the Office of Explorations; (5) 39 staff years for the Office of General Counsel; (6) 180 staff years for Agency Management; (7) 70 staff years for the Office of External Relations; (8) 27 staff years for the Office of Legislative Affairs; (9) 222 staff years for the Office of Space Science and Applications; (10) 136 staff years for the Office of Aeronautics and Space Technology; (11) 233 staff years for the Office of Space Flight, including Level I activity for the Space Station; (12) 60 staff years for the Office of Space Operations; (13) 111 staff years for the Office of the Comptroller: Provided, That no funds may be used from amounts provided in this or any other Act for details of employees from any organization in the National Aeronautics and Space Administration to any organization included under the budget activity "Research and Program Management".

National Credit Union Administration

CENTRAL LIQUIDITY FACILITY

During fiscal year 1991, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: *Provided*, That administrative expenses of the Central Liquidity Facility in fiscal year 1991 shall not exceed $893,000.

[National Institute of Building Sciences

[PAYMENT TO THE NATIONAL INSTITUTE OF BUILDING SCIENCES

[For payment to the National Institute of Building Sciences, $250,000.]

National Science Foundation

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880-1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; [hire of passenger motor vehicles; not to exceed $6,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); rental of conference rooms in the District of Columbia; and reimbursement of the General Services Administration for security guard services; $1,854,000,000] *$1,744,650,000*, to remain available until September 30, 1992: *Provided*, [That of the funds appropriated in this Act, or from funds appropriated previously to the Foundation, not more than $100,000,000 shall be available for program development and management in fiscal year 1991: *Provided further*, That contracts may be entered into under the program development and management limitation in fiscal year 1991 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further*,] That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further*, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

ACADEMIC RESEARCH FACILITIES

For necessary expenses in carrying out an academic research facilities program pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, [$20,000,000] *$20,478,000*, to remain available until September [20] *30*, 1992.

PROGRAM DEVELOPMENT AND MANAGEMENT

For necessary program development and management expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880-1881); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $6,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); rental of conference rooms in the District of Columbia; reimbursement of the General Services Administration for security guard services; $99,000,000, to remain available until September 30, 1992: Provided, That contracts may be entered into under program development and management in fiscal year 1991 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: Provided further, That none of the funds made available by this or any other Act with respect to any fiscal year may be used to relocate the National Science Foundation headquarters, or any of its staff offices, from its current location.

UNITED STATES ANTARCTIC PROGRAM ACTIVITIES

For necessary expenses in carrying out the research and operational support for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875); maintenance and operation of aircraft and purchase of flight services for research and operations support; improvement of environmental practices and enhancements of safety; maintenance and operation of research ships and charter or lease of ships for research and operations support; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; $100,000,000, to remain available until expended: *Provided*, That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation.

UNITED STATES ANTARCTIC LOGISTICAL SUPPORT ACTIVITIES

For necessary expenses in reimbursing Federal agencies for logistical and other related activities for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875); maintenance, and operation of aircraft and purchase of flight services for research and operations support; improvement of environmental practices and enhancements of safety; maintenance and operation of research ships and charter or lease of ships for research and operations support; hire of passenger motor vehicles; not to exceed $75,000,000, to remain available until expended: *Provided*, That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation.

[SCIENCE EDUCATION ACTIVITIES

[For necessary expenses in carrying out science and engineering education programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $285,000,000, to remain available until September 30, 1992: *Provided*, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.]

EDUCATION AND HUMAN RESOURCES ACTIVITIES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $322,350,000, to remain available until September 30, 1992: Provided, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, [$3,000,000] *$2,714,000*, to remain available until September 30, 1992.

Neighborhood Reinvestment Corporation

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101-8107), [$24,500,000] *$25,554,000*.

Selective Service System

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101-4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $26,635,000: *Provided*, That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further*, That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States: *Provided further*, That notwithstanding the provisions of 50 U.S.C. App. 460(g), none of the funds appropriated by this Act may be obligated in connection with the preparation of more than one report each year to the Congress covering the operation of the Selective Service System.

TITLE IV

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1991 for such corporation or agency except as hereinafter provided: *Provided*, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

Federal Deposit Insurance Corporation

FSLIC RESOLUTION FUND

For payment of expenditures, in fiscal year 1991, of the FSLIC Resolution Fund, for which other funds available to the FSLIC Resolution Fund as authorized by Public Law 101-73 are insufficient, [such sums as may be necessary] *$4,398,000,000*: *Provided*, That the Chairman of the Federal Deposit Insurance Corporation shall provide quarterly reports to the Committees on Appropriations beginning November 15, 1989, on the receipts, disbursements, cash balance, estimated Treasury payments required by fiscal year, and total estimated costs to the FSLIC Resolution Fund.

Resolution Trust Corporation

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $10,785,000.

TITLE V

GENERAL PROVISIONS

Section 501. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; to site-related travel performed in connection with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; to site-related travel under the Solid Waste Disposal Act, as amended; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further*, That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

Sec. 502. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

Sec. 503. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Resolution Trust Corporation, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811-1831).

Sec. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Sec. 505. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) The expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

Sec. 506. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of any officer or employee authorized such transportation under title 31, United States Code, section 1344.

Sec. 507. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided*, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

Sec. 508. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS-18, unless specifically authorized by law.

Sec. 509. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to any part of the appropriations contained in this Act for Offices of Inspector General personnel compensation and benefits.

Sec. 510. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

Sec. 511. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

Sec. 512. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

Sec. 513. Except as otherwise provided in section 506, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

Sec. 514. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

Sec. 515. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

[Sec. 516. None of the funds appropriated under title II of this Act under the heading entitled Community Planning and Development, Community Development Grants, to any department, agency, or instrumentality of the United States may be obligated or expended to any municipality that fails to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within the jurisdiction of said municipality against any individuals engaged in nonviolent civil rights demonstrations.]

Sec. 516. After January 1, 1991, and for the duration of fiscal year 1991, within the Department of Housing and Urban Development, the number of noncareer appointees to the Senior Executive Service shall not exceed 13 per centum of the total number of Senior Executive Service positions in such department, unless the Office of Personnel Management approves a waiver to exceed that limitation in accordance with 5 U.S.C. 3134. The Office of Personnel Management, in consultation with the Office of Management and Budget, shall undertake an expedited review of Senior Executive Service positions in the Department of Housing and Urban Development and report its findings, recommendations, and justification for any waiver determination to the Congress by December 15, 1990.

Sec. 517. None of the funds appropriated under title II of this Act, or otherwise available to the Department of Housing and Urban Development, shall be used for first-class travel of any Department official or employee, unless required by medical necessity.

Sec. 518. None of the funds appropriated under title I of this Act, or otherwise available to the Department of Veterans Affairs, shall be used to enter into leases above $50,000, unless specifically provided for in Appropriations Acts.

Sec. 519. Unless otherwise provided for in this Act, no part of any appropriation for the Department of Housing and Urban Development contained in this Act shall be available for any activity in excess of amounts set forth in the budget estimates submitted for the appropriations.

Sec. 520. Funds of the Department of Housing and Urban Development shall be used in accordance with the directives, set asides, tabular material, and reporting requirements included on pages 16 through 39 of House Report 101-556, as modified and added to by the directives, set asides, tabular material and reporting requirements included on pages 35 through 74 of Senate Report 101-474 accompanying this Act, which requirements shall have the force of law, to be modified and added to only by any directives, set asides, tabular materials, and report requirements included in the Joint Explanatory Statement of the Committee on Conference for H.R. 5158.

This Act may be cited as the "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991".

Mr. GARN. Will the majority leader yield?

Mr. MITCHELL. Certainly.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. GARN. I yield such time as is necessary to propound a question to the majority leader. There is an indication on my side that we would like to set a time certain to vote at 6:15. I feel certain we can accomplish it by then.

Mr. MITCHELL. There is absolutely no problem in that regard from my standpoint, if that will be convenient for Senators and for the distinguished manager.

Accordingly, Mr. President, I ask unanimous consent that the vote on final passage of the VA/HUD bill occur at 6:15 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I thank the Chair for the recognition.

I am pleased to bring to the Senate H.R. 5158, the 1991 VA-HUD and independent agencies appropriations bill.

This bill provides $78.6 billion for the VA, HUD, and 22 independent agencies in the Federal Government, about $61 billion of which is discretionary.

H.R. 5158, as reported by the Senate Appropriations Committee, is within the VA-HUD Subcommittee's 302(b) allocation for budget authority and outlays.

The needs of the agencies in this bill are among the most diverse within the Federal Government, and represent 30 percent of all Federal domestic discretionary spending. As a result, we are forced to make tough choices each year, choices that reflect competing priorities between space, basic science, veterans, the environment, housing, and the homeless.

302 (b) ALLOCATION

This year, these choices have been especially difficult because the Senate's VA-HUD 302(b) allocation was $2.1 billion less than House in budget authority, and $630 million in outlays.

We had less to work with because of the Senate Appropriations Committee's lower overall 302(a) allocation for discretionary spending—something which should be partially addressed once there is a reallocation in light of the budget summit agreement.

The net result of the subcommittee 302(b) shortfall is that all programs, in virtually every agency, receive less funds than I, and I know Senator Garn would like. In addition, since the subcommittee's shortfall is most acute on outlays, high outlay programs in the bill, particularly VA medical programs and NASA, face the greatest constraints.

Despite these limits, Senators should know that $3 out of every $4 in new outlays in the bill go to either veterans medical programs or space.

DEPARTMENT OF VETERANS AFFAIRS

For VA, the bill provides about $31 billion, $1.4 billion above last year, $600 million above the President's request, but about $200 million less than House.

VA medical care is funded at the level recommended in the President's budget, about $800 million, or 7 percent above last year.

VA's general operating expenses would receive $865 million, which is $54 million above last year. This is less than we want, it is less than what the veterans deserve, but enough to keep pace with inflation.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The bill includes about $25 billion for HUD, nearly $1.1 billion below the House level, but $3.5 billion above the budget request.

This large increase is somewhat deceiving, since nearly $8 billion of HUD's funds are needed just to renew 300,000 expiring section 8 units. Had it not been for the generosity of the full committee, we could have left 300,000 people homeless because of our failure to meet these obligations

The bill includes funds for 3,000 units of Indian housing, and 12,000 units of elderly and handicapped housing, both in response to the large number of Senators interested in these programs.

In addition, the bill includes $3.2 billion for the CDBG Program, probably HUD's most popular, and certainly one of its most important, programs.

ENVIRONMENTAL PROTECTION AGENCY

For EPA, the bill provides just over $6 billion, $437 million above the President's budget, and almost 10 percent above last year's appropriation.

Sewage treatment grants would receive $2.1 billion, $100 million above the House level and $500 million more than that requested by the President.

The Superfund Program would get an increase of $86 million above last year, and $6 million above the House level—the highest level in the Superfund Program's history.

NATIONAL SCIENCE FOUNDATION

The National Science Foundation would receive an increase of $27 million above the House recommendation, with modest boosts in funds for science education and basic research, above levels proposed in House bill.

It is this Senator's belief that we should do more for the National Science Foundation, but again the constraints of the budget mandate this type of discipline.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Now we turn to NASA. NASA is the one agency in this bill with needs that for exceed what is currently available within our 302(b) allocation.

The bill provides a NASA appropriation of about $13.5 billion, $1.2 billion, or 10 percent above 1990. The committee's recommendation would leave NASA with $1.6 billion less than that requested in the President's budget.

I am a strong supporter of the space program. They have a bit of a rock and roll time, but I know they are developing a navigational chart to take us into the 21st century. In fact, the percentage of new outlays in the bill going to NASA has actually increased from under 30 percent last year to over 33 percent this year.

So it is not that we have not increased funds for space, it is simply that the increase NASA has requested is much larger than what the subcommittee has room for in its current allocation.

In providing funds for NASA, the committee's recommendation tries to preserve NASA's core program:

The space shuttle;

NASA's infrastructure at its field centers; and

Its basic research programs in aeronautics and science.

The space station would be cut $656 million below the House by the bill in its current form. I consider this amount to be too deep to continue to do the station in its current form, but one we must make giving the limits of our 302(b) allocation.

Mr. President, I know our ranking and astronaut member will amplify that, so I will not take the Senate's time, but you should know I support his comments.

It is my desire to provide additional funds for station if and when the subcommittee's 302(b) allocation is enhanced after action on the budget resolution conference report.

CONCLUSION

This appropriations bill does not meet all of our wishes, and it should not. But it does not meet all of our needs, and it should.

It is my hope, that working with our full committee chairman, Senator Byrd, and my ranking member, Senator Garn, we can find ways to more completely address our needs, particularly in the space program.

I want to commend the staff of the subcommittee: on the majority side, Kevin Kelly, the majority clerk, Carrie Apostolou, Jack Durham, Paul Bryant, and Pam Duvall; and for the minority, Stephen Kohashi, the minority clerk, and Paul Brubacher.

Mr. President, I also particularly want to thank the ranking minority member for the comity and civility and thoughtfulness that he brings to this subcommittee's deliberation. I feel confident in what I bring to the Senate because of his advice, counsel, and active participation.

In closing, I urge my colleagues to support the bill as reported by the subcommittee.

Mr. President, I will yield the floor. I know that the ranking minority member has a statement to make.

Mr. GARN. Mr. President, while I rise in support of the legislation before us, as a floor manager, I find myself in the curious position of being strongly opposed to several of its key recommendations. Specifically, levels recommended for the National Aeronautics and Space Administration and for the National Science Foundation are wholly inadequate in terms of making investments critical to our Nation's future leadership, competitiveness, and security.

My concerns in this regard are certainly not new. For years I have protested our unwillingness to adequately fund crucial space and science activities and warned of the consequences. Unfortunately, the annual din of those clamoring for immediate gains and special benefits has virtually swept aside our concerns for investment in activities which promise only future benefits and awards.

What is needed is to ask whether we as a nation are adequately preparing for future needs and concerns.

Sadly, that is a question rarely asked during the consideration of budget measures. All too often we are merely presented with brokered deals reflecting current political demands rather than a balance between current and future needs.

That is the sad failing of the measure before us. Within the severe budgetary constraints imposed on our subcommittee, it was impossible to reach beyond the heavy demands to address the needs of the homeless and poor, medical needs of veterans, and of immediate environmental concerns.

Although substantial sums are recommended for NASA and NSF, the additional amounts needed to carry out these activities in a meaningful and adequate manner were ignored.

Mr. President, it was my original intent to offer an amendment to this bill which would have provided these additional amounts knowing full well that it would breach the subcommittee's budget allocation and be subject to a supermajority waiver vote. I felt strongly that the Senate should be confronted with the question of whether or not the bill adequately addressed the Nation's critical needs in science, space, and technology.

The reason I am not pursuing this course is that, since the bill was reported by the committee, a summit agreement on the budget has been announced which will require the Committees on Appropriations of the House and Senate to produce a new subcommittee budget allocation by next week. Budget caps on discretionary spending in the agreement effectively split the I difference between the lower Senate allocation and that currently used by the House.

I am therefore hopeful that when this bill gets to conference we will have a larger allocation in which to redress shortfalls in the NASA and NSF budgets.

We have been involved in this process long enough to realize that the competition for any additional budgetary resources will be fierce, and we will certainly not get all that we feel we would like or is necessary.

I also know that demands for current social activities are far from satisfied. They will also need to be addressed in conference with the House but I am hopeful that we will better balance these competing demands at that point.

Mr. President, I ask unanimous consent that the amendment that I had originally intended to offer to this bill be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GARN. Mr. President, since the distinguished Senator from Maryland, the chairman of the subcommittee has also summarized the major highlights of the measure, I merely wish at this point to compliment her on her activities, her mastery of this bill in just 2 years. It is a very detailed and complex bill covering the widest variety of services more than any other subcommittee. We deal from Army cemeteries abroad to NASA and NSF, to HUD, EPA, and you name it. We seem to be the catchall.

Under the circumstances of a very difficult and what I think was an unfair budget allocation from the full Appropriations Committee, I think the distinguished Senator from Maryland has done a remarkably good job under those difficult circumstances.

Despite my objections as I have outlined, I urge passage of the bill. It is the best we can do at this time.

EXHIBIT 1

AMENDMENT INTENDED TO BE PROPOSED BY MR. GARN

At the end of the bill, insert the following new section:

SEC. . For an addition amount, to sums otherwise provided by this Act, the following amounts are hereby appropriated for the following accounts and purposes:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

"Research and development", $700,000,000 for the Space Station Freedom, $50,000,000 for CRAF/Cassini, $80,000,000 for space research and technology and preliminary concept analysis of future human space exploratory missions, $25,000,000 for life sciences;

"Space flight, control and data communications", $80,000,000 for space shuttle operations, $40,000,000 for tracking and data communications;

"Research and program management", $20,000,000;

NATIONAL SCIENCE FOUNDATION

"Research and related activities", $25,000,000 for continuing development of the laser interferometer gravitational wave observatory, $25,000,000 for critical technologies research;

"Academic research facilities modernization", $20,000,000;

"Education and human resources activities", $20,000,000 for graduate traineeships in science and mathematics.

Mr. ROBB. Mr. President, as we consider the Veterans Affairs and Housing and Urban Development, and independent agencies appropriations bill for fiscal year 1991, I would like to thank the distinguished Chair of the subcommittee for her commitment to ensuring the American people that they are receiving the greatest value for their tax dollars in the siting and location of Federal agencies. And I would also like to thank the subcommittee chairperson for her help in connection with a relocation request for the National Science Foundation.

National Science Foundation [NSF], consolidation project will improve office automation, satisfy expansion needs, and improve the quality of NSF's facilities. This solicitation was metropolitanwide and initially included 18 sites in Maryland, the District of Columbia, and Virginia. When completed, the consolidation will mean an annual savings of approximately $3.5 million to the Foundation. During this period of Federal budget pressures, any project which can realize savings of this magnitude should be encouraged.

Mr. President, I look forward to working with the subcommittee chairperson to ensure that we continue to improve the process by which Federal agencies are relocated.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, will the distinguished chairman of the subcommittee yield me 3 minutes?

PRIVILEGE OF THE FLOOR

Ms. MIKULSKI. Mr. President, I am happy to yield to the distinguished chairman of the Appropriations Committee. I would like, if the Senator will withhold one second, to ask unanimous consent that Jack Durham, Paul Bryant, and Paul Brubacher of the subcommittee staff have floor privileges during consideration of the VA-HUD bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia is recognized.

Ms. MIKULSKI. I yield to the distinguished chairman of the subcommittee such time as he may need.

Mr. BYRD. Mr. President, I am grateful to Senator MIKULSKI.

Mr. President, today we are considering H.R. 5158, the VA-HUD and independent agencies appropriations bill for fiscal year 1991. This measure provides the necessary funds for the Department of Veterans Affairs, and the

Department of Housing and Urban Development, and the National Aeronautics and Space Administration, the Environmental Protection Agency, the National Science Foundation, and other independent agencies, boards, commissions, offices, and corporations.

The bill is above the President's request but it is below the House allowance. And with respect to the subcommittee 302(b) allocation, the bill as recommended is within both the budget authority and the outlay ceilings.

I wish to commend Senator MIKULSKI for her thoroughness in handling the bill, for her deep dedication, and for her high sense of purpose. And I state without any reservation whatsoever that she is a hard working, always pleasant, courteous and cooperative chairwoman. It is a pleasure to work with her.

I also wish to compliment the ranking member for his excellent work. The Senate is in the debt of both of these fine Senators for accommodating the priorities of the Senate within the difficult constraints of this budget allocation.

Their work was greatly assisted by the cooperation of their colleagues on the subcommittee. I feel that the kind of work that is done by Senator BARBARA MIKULSKI provides a model which should be emulated where possible by all of the subcommittee chairmen. She is a chairman sui generis.

I also commend the staffs of the subcommittee on both sides of the aisle, Kevin Kelly, Stephen Kohashi, Carolyn Apostolou, Pamela Duvall, and Dona Pate. These professionals have worked tirelessly to help get the measure before the Senate today.

I am exceedingly proud, Mr. President, of the chairman and ranking members of these subcommittees. I cannot express adequately, in my feeble efforts, my admiration and high esteem for the highly professional staff of the entire Appropriations Committee, and all of the subcommittees. They demonstrate a willingness to work at all hours, they are untiring, and they are entirely selfless in giving of themselves and their time to the important work of this great committee.

The managers have explained in greater detail the contents of the measure. I, of course, will not attempt to review those highlights. The bill as reported by the Appropriations Committee deserves the support of the Senate.

Again, my thanks to Senator MIKULSKI and Senator GARN.

Ms. MIKULSKI. I thank the chairman for those most gracious words, Mr. President.

AMENDMENTS NO. 2926

Ms. MIKULSKI. Mr. President, I send five amendments to the desk, and ask unanimous consent that they be considered and agreed to en bloc, and the motion to reconsider the votes be laid upon the table en bloc. All amendments have been cleared on both sides. None affect the bill's 302(b) allocation. The provisions modify the bill with respect to the National Science Foundation, designate funds for a portion of the advanced rocket motor project, and the amendment has a set-aside for $1 million for a soup kitchen in Kansas City. It provides funds for an innovative program to assist homeless veterans and a technical modification to portions of the bill related to HUD. I urge adoption of the amendments en bloc.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI] proposes amendments No. 2926, en bloc.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

On page 42, strike the proviso beginning on line 11 through line 16.

On page 94, strike lines 14 through 18.

On page 18, line 18, before the semicolon insert the following: "; from the foregoing $1,098,516,800 for vouchers, up to $23,208,800 shall be drawn from either or both amounts for demonstration projects for the homeless, as designated by the Department of Veterans Affairs, that shall provide the participants with comprehensive supportive services (from funding sources other than the Department of Housing and Urban Development) to more fully address the special needs of such homeless people and, to the extent that any of the $23,208,000 cannot be utilized for projects designated by the Department of Veterans Affairs, remaining balances may be used for similar demonstration purposes as designated by the Department of Housing and Urban Development".

On page 20, line 5, insert before the colon: "including $1,000,000 for the relocation of the St. Mary's Food Kitchen in Kansas City, Kansas".

On page 75, line 25, before the period insert the following: ": *Provided*, That of the amounts provided herein for development and production of the advanced solid rocket motor, $15,000,000 shall be available without fiscal year limitation only for the competitive award of a second domestic development and production source contract for the carbon/carbon integral throat entrance unless the President certifies to the Congress by January 1, 1991, that such application of funds is not in the best interest of the United States space program on the basis of cost, added assurance of reliable supply, expanded technology base, and technical risk reduction.

At page 82, line 14, strike all after the word "year" through line 18, and insert a period.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Maryland?

Without objection, it is so ordered.

The amendment (No. 2926) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE RISKS OF SPACE LEADERSHIP

Mr. HEFLIN. Mr. President, I rise today to express to this body, to this Nation, my continued support of the unparalleled accomplishments of this country's civilian space program. The National Aeronautics and Space Administration has spent the last 32 years expanding this Nation's frontiers, both spatially and technologically. NASA has spent 32 years discovering the undiscovered, inventing the uninvented, and in the eyes of the world, enhancing the United States' stature among men.

How is it, Mr. President, that we have come to the point that this program of excellence has become the target of those who would always find it easier to criticize than to contribute? Fortunately, the record of our civil space program is one of the openness. NASA has always encouraged an open dialog highlighting the successes and confronting the problems.

Innovation, invention, exploration. and research are a risky business. But that's the business NASA is in. There are no guarantees, no insurance policies. Things do not always go right the first time. And yet, we expect NASA to assemble complex systems which have never been assembled before, put them together with limited time and budget, do it under congressional scrutiny of the minutest technical detail, and do it right, the first time—every time.

We in Congress are telling NASA, in effect, that we want total reliability, total safety, and total premonition of all that could ever transpire, while at the same time, expecting invention and discovery to be equally predictable.

We must give NASA the resources it needs to do its job. NASA's funding has fallen by more than two-thirds since Apollo. At that time, the agency received nearly 4 percent of the budget. Now, it is only 1 percent. If we are to expect Apollo era accomplishments, we must provide the funds. It is impossible for NASA, its contractors and subcontractors, to start and stop major programs based on minor events that affect the budget. It lowers the morale of thousands of employees across America whose labor put us in space, stretched out technologies, and maintained our world position. The starting and stopping adds to our budget deficit and reduces NASA's ability to bring to its work the consistency which is necessary to do the job right.

While recent events, more clearly than ever, tell us to be cautious in the restructuring of our defense priorities, it is certain that some reductions are bound to occur. NASA alone cannot absorb the relocation of all the scientists and engineers likely to be displaced. However, it will be vital to the Nation for NASA to be in an expansion posture to assist in preserving this skilled pool of expertise on behalf of our goals in the civil space program.

For the past 3 months, it has been difficult to read a newspaper or watch a television news program without being subjected to a barrage of what I would call, NASA-bashing. The media are giving the American people the impression that the premier space agency in the world is incompetent, mismanaged, and incapable of doing anything right. I submit, Mr. President, that this is a totally false and misleading picture of the most successful mission oriented agency of the U.S. Government. These news reports are often an unwarranted slander of the most technically competent and capable scientists, engineers, technicians, pilots, and administrators in our Government, and indeed in the world.

Nor do these assaults represent the views of the majority of Americans or the substantial majority of this body. I have here, Mr. President, a letter to the Senator from Maryland [Ms. MIKULSKI], the chair of the Committee on Appropriations Subcommittee on Veterans' Affairs, HUD, and Independent Agencies, which is signed by 64 Senators. Several other Senators strongly support the position outlined in the letter, but due to their committee assignments, felt it would be inappropriate for them to sign it.

I would like to quote a portion of this letter from so many of our distinguished colleagues:

> Dear Madam Chair:
>
> We are writing to express our concerns and support for the FY 1991 funding request for NASA and the International Space Station Freedom Program. * * *
>
> Space Station Freedom is the key element of NASA's future space strategy. It will ensure America's continued excellence in space research and technology. The benefits of a robust civil space program are enormous. We use space to ensure our national security, broaden our scientific knowledge, and advance our international competitiveness. * * *

The letter concludes:

> We believe that Space Station Freedom and its central role in our civil space program is an important investment in education, technology, and international leadership.

That, Mr. President, is precisely what NASA is all about. Education, technology, and international leadership.

This Nation was clearly the technological leader of the space-faring nations during the past 32 years. Already, the Soviets, the Europeans, and the Japanese are challenging us, and in some cases, have passed the United States in space technology. Clearly, they recognize the imperative nature of space use and exploration.

There are times when we may, as a body, have a spherical aberration like the Hubble space telescope. But, like the telescope, a repair is possible. While we struggle to deal with budget deficits, defense priorities, savings and loan crisis, housing problems, and literally hundreds of other national problems, it is no surprise that, sometimes, we develop a little myopia. Let us focus on the future. We must wisely invest in the growth technologies of the future. The best way to make this investment is to ensure that the Nation's premier science and engineering agency has the funding to avoid cost and scheduling delays of major programs. We can continue to lead the world's space nations, instill that national pride we've all felt before, provide inspiration for the young who want to become engineers and scientists, and, most importantly, keep this Nation's technology base fed with new innovations, permitting the American competitive spirit to soar with the future of NASA.

This year, we have had the opportunity of hearing Vaslav Hovel and Lech Walesa appear before joint sessions of Congress. A playwright and an electrician have come to remind us to believe in the power of ideas and the value of perseverance. The events in Eastern Europe over the past 12 months which arose from these powerful ideas were unpredictable. But, incredibly, in 1951, Wernher von Braun, through the artist and writer, Chesley Bonestell, predicted a future in space with a reusable space vehicle, a space telescope, and a space station. By the early 1980's, we had the shuttle, and in 1990, the space telescope. In 1955-96, the first element launch of the Space Station Freedom will begin our permanent presence in space, more than 10 years after the launch of the Soviet MIR space station. We, as a nation, are committed. We must not hesitate. As Dr. Benjamin Mays once said, "The tragedy of life doesn't lie in not reaching your goal. The tragedy lies in having no goal to reach. It is not a disgrace to reach for the stars, but it is a disgrace to have no stars to reach for." The leadership to achieve space goals will come from NASA visionary people, and not some nameless, faceless commission providing advice compromised by committee-style management.

So, NASA must push science, technology, and space engineering to the limit. It will cost enormous amounts of money, but the payoffs are even more enormous. Studies have repeatedly shown the payback to the economy to be in the 9-1 range, affecting everything down to the wristwatch that you are wearing, and the car that you drive. But how do you measure the value of the lives that can be extended and even saved by microgravity science research in the fields of cancer and other critical health matters? And perhaps as important, space technology has given us the ability to transmit television pictures instantaneously between continents by space satellites, opening up a new world of communication and understanding that is directly related to and in part responsible for the downfall of totalitarian governments in Eastern Europe. The dramatic Middle East events also demonstrate the value of immediate communication throughout the world, brought to the global population by NASA-developed technology.

NASA has a highly successful program which transfers literally thousands of technology advances to the private sector from the space agency. This technology transfer is a hallmark of a healthy, civilian space program, and it reaches all levels of our industrial base. The rapid transfer of NASA developed technologies is a major contributor to our industrial competitiveness. This is an important factor in making America competitive with the rest of the free world.

If NASA is to push the cutting edge of technology in full view of the public, the risk of failure must not deter the resolve of Congress or of NASA or of the American people to press on. Every success and every failure will be played out in full view of the American public, and, in fact, with the world as an audience. Open debate within NASA on the evolution of technical problems identified for engineering solutions is the way it is done in this agency and is a part of the attraction of NASA. How NASA proposes to solve advance technology issues is the real test. We cannot be intimidated by controversy, but must keep our resolve and insist on the same challenging standards and goals which have become the trademark of America's finest and most innovative group of scientists and engineers ever assembled. NASA must be an organization dedicated to accelerating the development of high-risk technologies.

We have had, over the years, some tragedies in the NASA program. Yet, the agency's safety and success records are comparable to the best in the world. The loss of the crew of *Challenger* was a real test of the American public's understanding of the risks of launching humans into space. They do understand that risk and rightfully insist upon maximum possible safety, as does NASA. But the press continues to misinterpret the openness with which NASA deals with the demanding technological aspects of large-systems engineering.

It seems the announcement that NASA's Hubble space telescope could not focus as perfectly as planned and that the shuttle fleet would be grounded to find and fix a hydrogen leak has permitted the media image-makers an opportunity to drive up the negatives of America's premier research and development agency. Many writers began to follow their own path of logic by offering to the public simplistic but serious solutions to NASA's problems as they saw them. Some of these journalistic proposals are poorly founded in fact, others were merely parochial, while some are just outrageous. Efforts to provide balance in reporting often have done just the opposite and have provided a forum to those with educated opinions but no experience in building space hardware or responsibility in managing major programs. Enormous damage to the public perception of NASA is the result. Maybe we need higher standards for those who write well, but have marginal technical depth.

When evaluating journalistic efforts, we should remember the words of London's Fleet Street sage, Lord Northcliffe, who described journalism as a profession "whose business it is to explain to others what it, personally, does not understand." And we have had too much of this kind of writing about the space program recently.

As a nation, we are confronted by momentous and potentially perilous economic decisions. We face foreign competition that has never been more fierce. Congress is under pressure to reduce the budget deficit and find ways to reduce trade imbalance. This effort is long overdue. However, in the attempt to get our national financial house in order once again, we should take care to do it with a sense of meaningful deliberation.

History has proven, time and time again, that those nations which accept the challenge of exploration are the ones that develop and maintain economic and political leadership. Those who don't meet the challenge fade from the scene.

While we debate the budget for NASA projects such as the space station, the Soviet Union is already in space with its MIR space station, threatening to take the technology lead, learning some of the things we should be learning, accomplishing some of the things we should be achieving. And if that isn't enough to provoke us to action, other space-faring nations are also ready to begin their quest for manned orbiting stations.

Congress needs to solve the Nation's budget dilemma, but it needs to be selective and farsighted in doing so. The long-term benefits that NASA programs such as the space station can bring us as a nation should not be overlooked. Inadequate funding today will have the effect of shortchanging us all in the future.

If we want to challenge technology and explore the unknown we must be willing to deal with the discomforts that go with the rewards. As the Greek philosopher, Epicurus, said, "the greater the difficulty, the more glory in surmounting it. Skillful pilots gain their reputation from storms and tempests."

Mr. President, I am confident that NASA will weather this tempest because the NASA people are out there now, working quietly in the background to understand the problems and fix them. They are optimistic, ambitious, and adventuresome. They have a problem-solving record second to none to justify my optimism. They are frontier people, and they are in an environment where skill, experience, dedication, and innovation will guide their course on behalf of this Nation.

Mr. President, I ask unanimous consent that the letter to which I referred be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
Washington, DC, July 30, 1990.

Hon. BARBARA A. MIKULSKI,
Chair, Subcommittee on VA-HUD-Independent Agencies, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MADAM CHAIR: We are writing to express our concerns and support for the FY 1991 funding request for NASA and the International Space Station Freedom Program. It is with much appreciation that we recognize your outstanding leadership during the FY90 appropriations process and ask for your continued commitment during another critical year.

Space Station Freedom is the key element of NASA's future space strategy. It will ensure America's continued excellence in space research and technology. The benefits of a robust civil space program are enormous. We use space to ensure our national security, broaden our scientific knowledge, and advance our international competitiveness. One of the most important uses of space is to inspire the education of the youth of America and future generations. These national priorities are essential to our country's future economic health. The Space Station Freedom will be a catalyst for advancement in all these important areas.

As you know, the Space Station urgently needs consistent policy and funding support to maintain the program's capabilities and schedule as well as our international commitments.

The challenges facing your Subcommittee in providing for the diverse and important programs under your jurisdiction are considerable. However, we believe that Space Station Freedom and its central role in our civil space program is an important investment in education, technology and international leadership.

Your commitment to the space program has been instrumental in the program's progress to date. With that in mind, we ask for your continued support of the critical funding required to keep the program intact and on schedule. We look forward to working with you to achieve this worthwhile goal.

Sincerely,

Howell Heflin, Trent Lott, Thad Cochran, Chris Dodd, Orrin Hatch, John McCain, Al Gore, Brock Adams, J. Bennett Johnston, Chuck Robb, Bob Graham, Richard Shelby, Wyche Fowler, Jr., Terry Sanford, John B. Breaux, Conrad Burns, Daniel K. Inouye, John Glenn, Lloyd Bentsen, Slade Gorton, David Pryor, Phil Gramm, Dick Lugar, Bill Armstrong, Pete Wilson, Tim Wirth, Bob Dole, Jack Danforth, Steve Symms, Wendell Ford, Daniel K. Akaka, J. James Exon, Joe Lieberman, Jay Rockefeller, Connie Mack, Arlen Specter, Larry Pressler, Alan Cranston, John Warner, Frank R. Lautenberg, Ted Stevens, Tom Harkin, Nancy Landon Kassebaum, Quentin Burdick, Harry Reid, Strom Thurmond, Tom Daschle, Jim McClure, Kent Conrad, Al D'Amato, Dennis DeConcini, Warren Rudman, Don Nickles, Don Riegle, Dan Coats, Jake Garn, David L. Boren, Frank H. Murkowski, Alan J. Dixon, Al Simpson, Malcolm Wallop, Herbert H. Kohl, Rudy Boschwitz, and Bob Kasten.

CHICAGO AIR QUALITY MODEL

Mr. **KASTEN**. The Clean Air Act which this body overwhelmingly adopted provides for very dramatic sanctions for areas that do not meet air quality standards. Those so-called nonattainment areas could face severe restrictions on permitted development, regulation of transportation modes and other actions that constrain activity within the area.

In some cases, the air pollution may be generated outside of the boundaries of the area where these sanctions apply. For example, along Lake Michigan, there are several States that contribute to the air quality problems of the region.

In my home State of Wisconsin, there is a nonattainment area which I believe receives most of its pollution from outside of the State of Wisconsin. The representatives of those other States, however, may disagree on how much pollution generated in their States contributes to our pollution problem. As is often the case, there is not a conclusive body of scientific evidence on where these sources of pollution are and what transport mechanisms operate in the Lake Michigan Basin.

For that reason, our States have agreed to cooperate on implementing a scientifically based program to reduce emissions. However, that cooperation is predicated on the completion of an EPA regional air shed analysis and model.

I am concerned that the Senate legislation has not included a specific earmark for the Chicago area air quality model. This model is essential to coordinating reductions of air pollution in the air shed.

This earmark is contained in the House legislation. I understand the pressures on the subcommittee, but it is my hope that this issue will be favorably resolved in conference.

Ms. MIKULSKI. The senior Senator from Wisconsin has raised an excellent point. I too am concerned about interstate transport. We also get pollution from outside of my State that contributes to our air quality problems.

The Chicago area is especially complex, and the air movement mechanisms are not well understood. Conventional air models do not appear to be adequate to address that region.

Let me assure the Senator, I understand his concerns, and will work to accommodate them. It is clear that the implementation of several State air programs, as well as Federal action, are dependent on the completion of the Chicago area air quality assessment and model.

Mr. KOHL. The Federal Government recognized its obligation to develop this model in signing on to the consent agreement to settle a law suit between Wisconsin and Illinois, and the EPA. The commitment has been made by the Federal Government to help the States by conducting this regional air assessment. This was a key factor in Wisconsin's decision to settle the law suit because the State believes it will confirm our belief that most of the pollution in southeast Wisconsin is generated in other States.

Therefore I join Senator KASTEN in expressing my hope that this issue will be favorably resolved in conference. The $2.75 million included in the House bill represents the Federal Government's second contribution to this project. The information we learn here will directly benefit our State, as well as other States with interstate transport concerns.

FISCAL YEAR 1991 APPROPRIATIONS FOR NASA

Mr. DECONCINI. Mr. President, I rise today to applaud the distinguished chair of the HUD and Independent Agencies Appropriation Subcommittee for her leadership in putting together a well-balanced budget package for NASA in fiscal year 1991. We all know how difficult it is to set priorities, and balance programs during a time when we need to increase restrictions and controls to balance our national debt.

I realize there are many competing interests in our space program, and we need to set priorities. It is my understanding however, that a project critical to my State of Arizona, and the scientific community, the Comet Rendezvous Astroid Flyby or CRAF, has been significantly reduced in fiscal year 1991 as a result of budget trimming. The CRAF initiative is an important part of the CRAF/Cassini mission designed to gather evidence on the prebiotic molecular evolution of our solar system. It includes a penetrator that will be fired directly into the surface of a comet nucleus to measure it's composition. Data from the penetrator will be transmitted back to an orbiting spacecraft for about a week. The University of Arizona was selected in 1986 to design, build and operate the penetrator. I would like to ask the distinguished chair if funding for the CRAF initiative has been reduced below requested levels in fiscal year 1991?

Ms. MIKULSKI. The distinguished Senator from Arizona is correct. The original request of $148 million in fiscal year 1991 for CRAF/Cassini has been reduced by $50 million.

Mr. DECONCINI. It is my understanding that the $50 million reduction in the program would eliminate the entire CRAF project. Is this also the understanding of the Chair?

Ms. MIKULSKI. Yes, it is. Due to overall program increases it is unlikely that the CRAF mission as originally agreed to, is possible under the Senate-approved funding level. Even the funding level of $148 million provided in the House bill will require significant cutbacks to CRAF.

Mr. DECONCINI. I concur with our need to reduce costs and manage CRAF/Cassini within an agreed budgetary cap. The chair can be assured that the University of Arizona, and this Senator are sensitive to the need for curbing our expenditures. I believe that the CRAF mission, even if it is without the penetrator lander, is important science and the mission should be retained. I strongly urge the Chair to consider supporting the House funding level as recommended for CRAF in the conference.

Ms. MIKULSKI. I will certainly consider the House level for CRAF/Cassini in conference and appreciate the Senator's sincere support for the CRAF mission.

Mr. DECONCINI. On the subject of the penetrator lander, NASA's response to current controversies between the Jet Propulsion Laboratory and the University of Arizona is of great concern to me. I would hope that NASA and University of Arizona administrators will meet formally and review the issue of the penetrator's cost. It is the penetrator that truly defines American leadership in new science for comet investigations, as has been confirmed by many prestigious scientific reviews. Before a cancellation of the penetrator lander occurs, this Senator wants to be convinced that a comprehensive effort has been made in resolving the cost issue. Fair and honest people can, and do, disagree. But, I believe it is crucial that a fair and honest understanding of penetrator costs be established as a basis for any program reductions in the CRAF mission, which must be made within the established scientific priorities.

I am also dismayed that elimination of the penetrator lander from CRAF reduces university involvement to an alarmingly low level. NASA centers are becoming the nearly exclusive providers of spacecraft instruments. If we are to infuse NASA programs with new ideas and technologies, and create the next generation of American scientists, this trend must be reversed. I urge NASA to review this situation and take measures to reverse this negative trend.

Ms. MIKULSKI. I agree with the Senator from Arizona and as chair of this subcommittee will join in urging NASA to take these actions.

Mr. DECONCINI. I thank the distinguished chair for clarifying these issues for me. She has again demonstrated her leadership in this very important area. Our country's space program is very important to me, and my State of Arizona, and will continue to have my utmost support.

Mr. McCAIN. Mr. President, the amendment that I am offering today is straightforward. It would allow the Department of Veterans Affairs to receive $23 million in section 8 vouchers from HUD so that the VA can establish residential treatment demonstration projects for homeless chronically mentally ill veterans.

The VA and the Department of Housing and Urban Development [HUD] have proposed this joint project to link long-term housing to clinical support services for our Nation's chronically mentally ill veterans.

This VA/HUD legislative proposal would allow Secretary Kemp the authority to set aside 750 section 8 vouchers for VA's use beginning in fiscal year 1991. At an average cost of $6,000 per voucher per year, these vouchers will expand VA's residential treatment capability for homeless chronically mentally ill veterans by $4.5 million per year and by $23 million over a 5-year period.

VA's contribution to this joint initiative includes ongoing case management services and clinical support for homeless mentally ill veterans receiving the section 8 vouchers. In addition, VA will monitor and evaluate the therapeutic and cost-effectiveness of this long-term housing/treatment program.

The VA is still working on a model for their demonstration project. But they felt it was important that the transfer occur so that VA could be assured of use of the vouchers during this fiscal year.

There are some costs VA would incur that are associated with the enactment of this measure—approximately $1.2 million—but I have been informed that these moneys would come from their substance abuse fund.

VA officials have notified me that they will be working closely with Senator MIKULSKI and her staff on this program, as well as Senator GARN and his staff. In addition, VA will coordinate its efforts on this demonstration program with both authorizing committees.

This amendment offers medical/psychiatric and transitional residential treatment for our homeless veterans and I hope it will merit the support of my colleagues.

HUD RELOCATION AND CONSOLIDATION OF THE HEADQUARTERS OF THE NATIONAL SCIENCE FOUNDATION

Mr. WARNER. Mr. President, I thank the distinguished Senator from the State of Maryland for her willingness to work with the two Senators from Virginia to ensure that an impending effort to relocate and consolidate the operations of the National Science Foundation is not interrupted.

This move is very important to the National Science Foundation for several reasons. It would allow them to consolidate the majority of their operations and their Science Resources Studies Division, responsible for gathering data on Federal R&D issues, both of which are currently located in separate downtown Washington sites. The combination of these two important operations will permit the foundation to streamline its administrative and technical overhead.

Furthermore, this move out of the center of Washington, DC will greatly reduce the office space expenses faced by the Foundation. Allowing for over 300,000 square feet of office space in the new headquarters, this move alone will result in an estimated annual rent savings of over $3.5 million.

Mr. President, I look forward to working with my distinguished colleagues from Maryland to ensure that future solicitations for new office space in the Washington, DC metropolitan area continue to be conducted in a fair and equitable manner taking into account the interests of all parties concerned.

Again, I thank the distinguished floor manager for the majority for her willingness to work with us to achieve a goal that is best for the National Science Foundation.

Mr. President, I wish to acknowledge the very professional assistance rendered to me by my staff assistant Andrew Hyde who worked timelessly to negotiate this matter with other staff.

Mr. GORTON. Mr. President, I rise today to laud the committee's fine work on the appropriations for the Department of Housing and Urban Development, the Department of Veteran's Affairs and the independent agencies for which the committee assumes host of responsibility. In this time of extraordinary budgetary restraint, the committee has done a commendable job of assuring that these important domestic programs are maintained at adequate levels.

I am particularly pleased that the committee, in its infinite wisdom, has seen fit to award a special purpose grant for my State of Washington in the amount of $1,500,000 for low-income housing and economic development to be applied in equal amounts to the highpoint neighborhood in Tacoma, WA, and the central area neighborhood in Seattle, WA.

Mr. President, both of these neighborhoods have long fallen victim to high crime rates and illegal drug activity. It is my hope that with the help of this Federal funding, and the commitment of some outstanding community groups, significant progress can be made toward restoring normalcy and security for the families in those neighborhoods.

In addition to those important economic development benefits, the committee also recognized the need for $2,385,000 in planning and site acquisition for a new national cemetery in the Seattle/Tacoma area as part of its allocations for the Department of Veterans Affairs. Further, the committee earmarked an additional $1,000,000 of Environmental Protection Agency moneys to help in the completion of the Spokane aquifer.

Mr. President, as pleased as I am with the committee's recognition of the needs of Washington State, I must register my concern on a broader issue. It is my understanding that the committee has drastically reduced the staffing levels in a number of offices within the Department of Housing and Urban Development. In particular, the Office of Public Affairs and the Office of General Counsel have been diminished or wiped out completely. It seems to me that as HUD and Secretary Kemp try to rebuild an agency once plagued with abuse—and now tarnished by that reputation—both the Office of General Counsel and the Office of Public Affairs will play a critical role in HUD's ability to restore integrity and confidence to its provisions. Mr. President, I hope that these issues wil be favorably addressed in conference with the House.

Mr. BIDEN. Mr. President, the fiscal year 1991 VA-HUD and independent agencies appropriations bill includes $3.2 million for the second phase of the clinical addition project at the Elsmere VA hospital. This funding represents a nearly 20-year struggle to better meet the health care needs of Delaware's veterans.

Back in 1973, the Veterans' Administration proposed dozens of projects that it said were needed to meet the changing needs of America's veterans. Today, 17 years later, over 90 percent of those projects have been completed. The Elsmere clinical addition is one of the few that has not.

Because of turf wars between the VA and the Office of Management and Budget, the clinical addition project has been shelved year after year. Last year, Congressman CARPER in the House and I in the Senate were able to break that administrative logjam with a $1 million appropriation to update the design plans for the clinical additon. Today, we are able to move one step closer to completing this much-needed project. The $3.2 million provided in this bill will help finish the design plans and begin the site preparation. With any luck, the actual construction will begin no later than fiscal year 1993.

This project is extremely important. Consider this: The current Elsmere outpatient facilities, built in 1948, were designed to serve about 25,000 patients; it has now been asked to handle up to 85,000 visits per year. There's more. The surgery unit was built in 1950 and has never been renovated. The laboratory and radiology services are outdated, cramped, and inadequate. And, veterans waiting for medical tests often stand in cramped hallways wearing only their hospital gowns.

Mr. President, this is not the kind of health care we promised our veterans when they risked their lives for our country. This is not the way we should be treating America's heroes. The veterans of Delaware and several surrounding States have earned and deserve the best health care available. A clinical addition at Elsmere is not enough, but it will go a long way to meeting the changing needs of our veterans.

Recent studies have shown that more outpatient care is desperately needed to meet those changing needs. The VA has recognized that fact for years. Delaware's veterans have known it for years. Congressman CARPER and I have been fighting for it for years. Now, at last, we are acting to meet those outpatient needs.

About 4 months ago, Michael Phaup became the new director of the Elsmere VA Hospital. In what little time I've had to speak with him, I know he is committed to our veterans. With the funding provided in this bill, Congress is showing that it, too, is committed to fulfilling a promise made to our men and women in uniform. At Elsmere, a new outpatient facility and a new director signify a new outpatient facility and a new director signify a new direction in veterans health care—a direction toward better and more convenient care, a direction that reverses the downward trend of the past 10 years.

Finally, Mr. President, I would like to thank Senator MIKULSKI and Senator GARN, the chair and ranking member of the VA-HUD Appropriations Subcommittee. Their commitment to this project has been demonstrated over the past 2 years. On behalf of Delaware's veterans, I thank them for their help and look forward to working with them again in serving our veterans.

Mr. MACK. Mr. President, as we vote on the fiscal year 1991 HUD-VA appropriations, I would like to bring to the attention of my colleagues certain provisions of the bill.

There are numerous objectionable items in this year's appropriations for HUD. I understand the administration strongly opposes many provisions, which have serious implications for the implementation of Secretary Kemp's new housing policies. The Secretary has been a forceful advocate of the redirection of housing policies to focus attention on helping low-income families.

The bill eliminates the Office of Public Affairs; limits of noncareer SES to 13 percent of total HUD SES which cuts by half the number of politically appointed managers and others; limits staff in the Office of General Counsel to 224 staff years and PD&R staff to 137 staff years; incorporates into law all report language, including deadlines and tables; provides 10,000 units of new public housing construction; deletes the $250,000 million for funding for the HOPE Program; and includes $50 million for special projects.

I am told that the President's senior advisers would recommend the veto of this bill if passed in its current form. To avoid a veto of the bill, I strongly urge that the conferees of the bill address these issues with seriousness and diligence in an effort to remove those most objectionable.

I intend to vote against this bill, but I would like to stress that my vote reflects my concerns with these particular issues. It does not reflect my strong support for the renewal of section 8 expiring certificates and vouchers. These are critical programs which need additional appropriations.

On another note, I am pleased to see that my colleague from Idaho, Senator Symms, inserted into the Record an excellent article from today's Washington Times by Paul Craig Roberts entitled "Numerical Chicanery." This is a very timely and important piece and I commend it to my colleagues.

Ms. MIKULSKI. I yield the remainder of the time and I urge the third reading of the bill.

Mr. GARN. Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. The question is on the engrossments of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. Under the previous order, pursuant to unanimous-consent request, the vote will occur at 6:15 p.m.

Ms. MIKULSKI. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I ask unanimous consent that I might proceed as in morning business for 1 minute.

I thank the managers of the bill for the interruption.

The PRESIDING OFFICER. Without objection, it is so ordered.

WASHINGTON TIMES ARTICLES REGARDING THE BUDGET AGREEMENT

Mr. SYMMS. Mr. President, today's commentary section of the Washington Times has what I think are three very, very interesting articles. The articles are entitled: "Lessons From the Duke" by Warren Brookes; "Creatures From the Budget Deep" by Paul Craig Roberts; "Bubba Takes the Tax Hit" by Patrick Buchanan.

I ask unanimous consent that all three articles be printed in the Record, along with a chart attached by Warren Brookes.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Lessons From the Duke

(By Warren Brookes)

Instead of trying to rally his Republican congressional delegation around the alleged deficit reduction, $134 billion tax-increase plan, President Bush would do well to remember who won the 1988 election, and observe what happened to the man he defeated.

While the pundits had a field day with the Sept. 18 political upset in Massachusetts by Boston University president and political neophyte John Silber, who won the Democratic nomination for governor over the party's endorsed candidate, former Attorney General Frank Bellotti, they have largely ignored the real target of that voter backlash, Gov. Michael Dukakis.

At the Democratic party "unity" meeting on Sept. 19, Mr. Dukakis was neither invited nor allowed to say anything. The man who came within 7 points of becoming president has now become the biggest albatross in that state's pungent political history.

While Mr. Silber is indeed an attractively fresh new face and voice for a national party that has sold its soul to every pleading and bleeding special interest, his support came as much or more from people voting against the well-known Dukakis/Bellotti axis as it did from those attracted to Mr. Silber's shocking candor.

To put it bluntly, what happened on Sept. 18 in Massachusetts was a revolution of contempt for the political establishment because of the fiscal nightmare into which Mr. Dukakis and his legislative cronies have led the people of Massachusetts, who have been hit with more than $2 billion in higher taxes and fees since the 1988 presidential campaign started.

Yet, despite those massive tax increases (or because of them?) the state is headed for its fifth straight budget deficit in fiscal 1991, and Mr. Dukakis is threatening to close old soldiers' homes to scare voters against supporting the Citizens for Limited Taxation ballot initiative calling for the rollback of those taxes.

The blatant cynicism of that effort explains why the taxpayers may now hate Mr. Dukakis and all incumbents enough not only to pass the potent CLT petition but throw still more "ins" out.

WHY MASSACHUSETTS IS IN FISCAL CRISIS

[In percent]

	Spending trends		Revenue trends		Cash flow deficit/surplus	
	Mass	All States	Mass.	All States	Mass.	All States
1984	8.9	8.8	12.6	10.9	+3.7	+2.1
1985	9.4	9.2	13.4	10.1	+4.0	+0.9
1986	12.0	8.6	16.6	9.3	+4.6	+0.7
1987	12.8	6.8	8.6	5.3	−4.2	−1.5
1988	8.3	6.9	2.1	6.0	−6.2	−0.9
1989	11.2	7.8	5.2	7.4	−7.0	−0.3
1990	10.4	8.1	2.3	7.7	−12.8	−0.4
1984–90 average	10.4	8.0	9.6	8.2	−2.2	+1.6

Sources: State Budget Data—Massachusetts Civic Interest Council—U.S. Commerce Department.

As the Boston Globe's liberal columnist Mike Barnicle admitted more than a year ago, "hate is not too strong a word to use because the worst thing you can do to the public is regard the people as morons, incapable of figuring out truth and reality. And that is precisely what Dukakis has done: treat citizens like fools . . . and show contempt for those who cough up hard-earned money to float a fat, untouched bureaucracy."

Last week, even as the entire political establishment was warning that CLT would destroy government services, the public found out the state's bloated payrolls had dropped less than 1 percent since last June, and were still nearly 15,000 higher than when Gov. Edward King left office in 1982.

This news came while the Boston Globe was running a five-part investigative series showing a supposedly overburdened municipal court system in which judges with fat payrolls and pensions were routinely working only three- and four-hour days, while moonlighting lawyer/legislators on House and Senate judiciary committees were trading favors to judges for lenient treatment of drunk-driving clients.

All this, while state spending continues to rise well above the rate of inflation despite repeated alleged "spending cuts." In fiscal 1990, ending last June 30, state spending rose 10.4 percent over fiscal 1989, which in turn had risen 11.2 percent over fiscal '88. Yet in both of those fiscal years, Mr. Dukakis and the Legislature had supposedly "slashed services" to the bone. (See Table.)

Tax-cut guru Barbara Anderson, responding to the charge that her petition "went too far," told her fellow CLT members: "I'll tell what's 'too far.' A 92 percent increase in spending over the last seven years with inflation up 25 percent. That's too far. A per capita tax burden that is sixth-highest in the nation, while we're rated third-worst managed state; that's too far!"

In fact, since fiscal 1983, state spending has risen nearly 100 percent, more than triple the total consumer price index in that period (about 30 percent). Massachusetts spending has consistently averaged 20 to 30 percent faster growth than the average for all states. Had the state merely held its spending growth to the average for all states, it would now have a substantial budget surplus *without* the $2 billion in taxes enacted since 1988. This means CLT is merely retroactive fiscal prudence.

Instead, the state chose to outspend even its own incredibly strong revenues, which have grown nearly 20 percent faster than the national average for all states. While Massachusetts revenue growth from 1983-1989 averaged 9.6 percent, spending growth was 10.4 percent.

The predictable result is that a $600 million funds surplus in fiscal 1986 had become an effective $2 billion funds deficit by fiscal 1990 when state spending outraced revenues by $1.4 billion, which then had to be "bonded" in the way normally reserved for capital investments. Even after that bonding, serious observers agree the state is still at least $1 billion or more in the hole.

Yet, when Mr. Dukakis inherited the state in 1983, its economy was indeed in a miraculous turnaround. Its personal income growth in 1983 was third-fastest in the nation, compared with third-worst in 1978. Its total tax burden had fallen from 10 percent above the nation to 5 percent below it, a nearly 20 percent drop. Yet its revenues from 1983 to 1987 grew nearly 13 percent a year, 30 percent faster than all states' average.

But instead of using that "miracle-driven" revenue growth to reinforce the state's trend to lower taxes and a stronger economy, it all went to build a massive political machine. The huge tax and fee increases since 1988, supposedly to balance the budget, have merely kept that machine running, fueled spending growth and *increased* the deficits in a now Depression-style economy.

There's a message in there somewhere. Who's listening?

[From the Washington Times, Oct. 3, 1990]

Creature From the Budget Deep

NUMERICAL CHICANERY

(By Paul Craig Roberts)

The budget deal serves the needs of the handful of Washington insiders who put it together, but it totally ignores the needs of the economy.

Moreover, the agreement is a fraud, pure and simple. In fact, it is outrageously shameful, and it's easy to see why. The numbers reveal it. Do you believe that budget outlays in 1995 will only be $25 billion higher than in 1991-the equivalent of a five-year budget freeze? Over the previous five years (1987-1991) budget outlays rose by $380 billion.

Do you believe that the federal government is going to spend fewer dollars in 1993, 1994 and 1995 than it spends in 1992? Do you believe that the congressional budget negotiators, President Bush and budget director Richard Darman, believe that dollar outlays in 1994 will be $50 billion below the amount the government spends in 1992?

The outlay and revenue numbers agreed upon by the budget dealmakers show that federal outlays for the next five years peak in 1992—an election year—and that revenues are up $100 billion in 1992 over the adjusted base revenue path in 1991. There you have what the budget deal is about—buying the 1992 reelection.

The savings are based on the assumption that spending in absolute dollar terms in 1993, 1994 and 1995 is below the level of 1992. In other words, the savings are based on the assumption of three years of budget cuts that individually are more severe than the threatened 1991 budget sequester, the fear of which has allegedly driven Congress and the White House to a budget deal.

Do you believe that politicans, who fear a sequester that would still allow a spending increase in 1991, are going to implement a budget plan that actually cuts spending, not in relation to some projected growth figure but in relation to a previous year's spending?

And that's not the half of it. Consider the economic assumptions that underlie these "savings." There is no recession in the forecast, which assumes a 3.8 percent average rate of real economic growth over the four years 1992–1995.

We have here a "rosy scenario" with a tax increase! In 1981, when the Reagan administration, with a major tax rate reduction, forecast less real growth than had occurred over the previous five years, it was greeted by critics with hoots of "rosy scenario." Now the government is proposing comparable real growth numbers, but this time they will result from a tax increase.

But the government knows that this is not really true. It has secret paths for outlays and revenues that adjust the figures in the budget summit agreement of Sept. 30, 1990, for revisions in the economic assumptions showing slower growth in 1990 and 1991 than previously projected.

These revisions show that spending will be $75 billion higher than the advertised "agreed" amount for the 1991–95 period, while receipts for the five-year period will be only $8 billion above the previous baseline path. In other words, the economic slowdown eats up all but $8 billion of the $133.8 billion tax increase!

These adjustments reduce the claimed five-year savings from $500 billion to $300 billion, and that's with all the tricks and no recession.

This makes it clear that a progrowth budget would do far more to reduce the deficit than the absurd budget agreement that is before us. If the economy and the budget are to survive, Mr. Bush must quickly find a budget director with a pro-growth budget.

It remains to be seen whether the Reaganite-Kemp-populist members of Congress will allow this fraud against the public, or whether they will demand the resignations of Mr. Darman and the congressional leadership who together concocted this absurd collection of numbers.

Reporters no longer report. They just print whatever tricksters like Mr. Darman hand them. The Wall Street Journal, the New York Times, and The Washington Post all had front page stories on Monday emphasizing that the deal would "soak up $500 billion in federal red ink over five years." Not a single story revealed the unbelievable agreed outlay path that makes this claim ludicrous.

Mr. Darman succeeded in deflecting attention to the claimed deficit reduction and the various features of the proposed new taxes. "Bush May Be Winner in the Long Run" is a headline straight from Mr. Darman's office.

The fraudulent budget agreement is so blatant that it shows the government's total disrespect for the public. The national press' complicity in the fraud shows the media will perpetuate any lie in behalf of a tax increase. It would be a light sentence if the budget negotiators and the reporters were tarred and feathered and run out of town.

Bubba Takes the Tax Hit

(By Patrick Buchanan)

A man defines himself by the choices he makes.

In breaking his pledge of "no new taxes," in surrendering his capital-gains tax cut for a budget "deal" imposing new taxes on the people who elected him, President Bush has defined himself. He is a Big Government man all the way.

What was the alternative to $134 billion in new taxes?

The federal government would have had to accept $85 billion in spending cuts Monday. To Mr. Bush, this was as intolerable as it was to liberal Democrats. He simply could not face the "chaos."

Inescapable conclusion: Mr. Bush believes that the U.S. government, which takes a fifth of America's income in taxes, and spends closer to a fourth, must grow. It cannot be reduced in size. Political conclusion: No major party in America still believes in reducing the size of government.

After this "deal" takes hold, the higher taxes will become a permanent fixture. Yet, somehow, the budget cuts will be restored, lest they result in "hardship." As Ronald Reagan, who called the 1982 budget deal the worst mistake of his presidency, learned, the $100 billion in new taxes he accepted proved permanent; the $300 billion in cuts he thought he had locked in proved illusory.

The Democrats were gracious in victory, as befits champions who have just humiliated their rivals on the field. They talked of what a hard-fought game it had been. But, everyone knows the real score. After a decade of dealing with Reaganite Republicans, the city is rid of them. We were routed, horse, foot and dragoons; George Bush, Big Government Republican, is prince of the city.

Who gets hit? Bubba gets hit. The fellow who was ready to vote Democratic in '88, until he got a look at the Little Duke's record on taxes and prison furloughs, on Willie Horton and gun control, on the American Civil Liberties Union and Pledge of Allegiance.

The price of Bubba's smokes is going up; the price of his Lone Star Beer is going up; the price of the Texaco he needs to commute 80 miles a day is going up. The price of Sunday at the Legion Hall watching Joe Montana lead the 'Niners to glory is going way up. Why? Because our congressional incorrigibles are unable to hold federal spending to that 20 percent of GNP they annually consume in taxes. And because Mr. Bush has thrown in with them. If Bubba takes a walk on the GOP next time out, who can blame him?

Our most successful citizens face an added income tax wallop of $18 billion. Washington is going to skim off the cream of America's investment capital from the individuals who earned it, so Teddy Kennedy and the Democratic Congress can invest the money more wisely. Good Republican doctrine, eh?

There is no modern economic theory—Keynesian, Friedmanite, supply-side—that argues for hitting an economy that is tottering on recession with new taxes. But there is a Republican precedent for what Mr. Bush has done: Herbert Hoover, rest his soul.

Mr. Bush's party has forfeited a grand opportunity. The mortgage interest deduction, the charitable deduction and the deduction for state and local taxes could have been traded in—for a reduction in the top rate on federal income taxes to 20 percent and the bottom rate to 12 percent. Add a 60 percent exclusion on capital gains and interest income—to promote saving and investment—and the Moynihan cut in Social Security taxes to bring along Democrats, and we could have left House Speaker Tom Foley and Senate Majority Leader George Mitchell out there sucking wind. The United States would have become again the most attractive investment bargain in the world; we could have blown Japan's doors off. Instead, we have a tax bill drafted by the firm of Scrooge & Marley.

In the television age, a party is defined in the minds of voters by its leader, and the policies he adopts. Consider, then, the GOP in 1990.

It stands for continued growth in social spending—paid for by cuts in defense—and higher taxes on working folks. It stands for sharpened oversight of business so the private sector does not behave bigotedly toward blacks, women or the handicapped. It stands for owls against loggers, feminists against Virginia Military Institute. It stands beside the Big Spenders and against the conservatives. It stands for a New World Order, where our wealth is spread around the globe through foreign aid and institutions like the United Nations and the World Bank.

Jack Kemp was right when he said in South Carolina that, if Mr. Bush were nominated, the Reagan Revolution would be over. Not only has the Democratic Congress taken the GOP into camp, it has persuaded Mr. Bush to provide political cover for tax increases and a huge congressional pay raise. President Michael Dukakis never could have gotten away with this. The GOP would have raised the roof, stopped him cold, routed the Democrats in '90, as prelude to a total government takeover in '92.

Where are the conservatives? Some are battling bravely in the House. Others, however, have stacked arms. They need the money the Big Man can raise; they need those presidential visits; they need the committee assignments GOP Hill leaders pass out to those who go along. They like going to White House socials, sitting in the president's box at the Kennedy Center. They love it here; they don't want to leave; and they don't want to be left outside in the cold.

Anybody got a fishing trip lined up for Election Day?

Mr. SYMMS. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Harkin). Without objection, it is so ordered.

VETERANS AFFAIRS, HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES, COMMISSIONS, CORPORATIONS, AND OFFICES APPROPRIATION, FISCAL YEAR 1991

The Senate continued with the consideration of the bill.

Mr. BUMPERS. Mr. President, I would like to engage the distinguished chairman of the subcommittee on three or four items, and I will be very brief. But there are three or four things in this bill that I'd like to ask about—I am not offering an amendment to take them out.

I regret that I did not spend more time in analyzing some of these programs. But I wanted to ask the distinguished floor manager if she could tell me how much money, if any, is in this bill for the so-called Moon-Mars Mission that President Bush has been talking about?

Ms. MIKULSKI. I will be happy to answer the questions of the Senator from Arkansas. First, the President of the United States really actively, along with his Vice President, urged a Moon-Mars project initially that would have encompassed an expenditure of $360 million.

Mr. BUMPERS. Three hundred and sixty million?

Ms. MIKULSKI. Three hundred and sixty-one million. That would have been this year. And our committee was gravely concerned about that because of our skimpy allocation that we had to work with and needed programs. We were concerned about the fact that this program could mushroom into $500 billion. But at the same time we tried to see what could strengthen our future human exploration of space. So we proposed $33.9 million for propulsion technology work in two programs which were worked on NASA Shuttle C and the advanced on to Mars system which we need anyway for our manned space program.

We do not believe we can afford any more, given our current allocation. And we have discussed the manned mission back to the Moon or on to Mars with both NASA and the President saying we needed a sustainable revenue source and a clear navigational chart about what exactly this program would entail.

Mr. BUMPERS. I want to commend the Senator for that very clear and precise answer. The reason I asked the question is precisely the reason she has just pointed out as to why the subcommittee decided to cut back on this $361 million request. When we are embarking on something that could cost $500 billion, these programs, which, in my opinion, are highly desirable but not necessarily affordable, have a tendency in this body to take on a life of their own. The first thing you know, you have $5, $10, $20 billion invested and then the argument becomes that we have so much invested we cannot quit.

So this is also to say that I am going to be—I do not mean just for myself—but I personally am going to be looking at this closely, given what is going on in the country right now and what we are all preoccupied with here now, namely, the budget. In my opinion this is no time to be taking on a $500 billion mission to Mars, as desirable as that might be.

I know the projected cost of the space station has risen very dramatically over the last 3 or 4 years. As a matter of fact, I think the first figure I ever saw on the space station—and I want the Senator to correct me if I am wrong—was $11 or $12 billion. I understand that that program is now projected to cost well over $30 billion.

So my questions are, No. 1, are those statements accurate, and, No. 2, how much is in this budget for the space station?

Ms. MIKULSKI. The original estimate of the space station was $8 billion. It is now estimated that the cost of the station will be $33 billion. To this date, the U.S. Government has spent approximately $4 billion on the development of a space station, and it continues to be at the design stage. What this committee did was fund the space station at the level of $1.6 billion. The President's figure was $2.4 billion. So we are below the President's for the space station.

Mr. BUMPERS. That is also a very clear and cogent answer. I started to say that my recollection was that the original estimate of the cost of the space station was $8 billion, but I thought since it now up to $33 billion that I must be wrong about that. But in any event, what year was that $8 billion projection made?

Ms. MIKULSKI. Our records indicate that that was a 1984 budget estimate.

Mr. BUMPERS. So in a period of 6 years the cost has gone up about 400 percent, is that correct?

Ms. MIKULSKI. That is correct.

Mr. BUMPERS. A little over 400 percent, as a matter of fact.

Ms. MIKULSKI. It is 400 percent plus $1 billion.

Mr. BUMPERS. So the cost estimates of the space stations have gone up about 70 percent a year.

Mr. GARN. Would the Senator yield for a comment?

Mr. BUMPERS. Yes.

Mr. GARN. My distinguished classmate of 1974. First of all, I think we need to put these figures in perspective. You cannot just run from $8 billion to $33 billion without factoring in inflation because, if we want to start playing those kinds of numbers, I can talk about the explosion of Senate staff and the payroll around this place or most any other budgets. You have

to at least take out the inflation factor and not leave the impression that it is all increased cost, and you also have to consider the fact that you have had delays and that if we had had provided more money up front.

One more point, because we are almost out of time. I do not know how you can place a value on certain things. I look back at arguments that were made against parts of the space program earlier, and a heart pacemaker came out of space research and development. I do not know how you place a value on a human life. There are tens of thousands of people walking around with pacemakers who are alive because of that development.

Now, I think when you talk about a space station, it is unfortunate that we are cutting the President's budget by $800,000, because we will save lives, we will have development out of that space station that will benefit every man, woman, and child on the face of this Earth, in curing disease, Mission to Planet Earth, ozone levels, global warming, all of that sort of thing. We make a terrible mistake if we do not proceed with that program.

Mr. BUMPERS. If the Senator will permit, I yielded for that observation, which is a perfectly good one. I want to make two comments and then we will go ahead and vote. I fully agree that this space station is a very laudable undertaking. But when you consider the cost of the space station, when you consider the cost of the Moon-Mars mission, you have to ask yourself, are those really that critical when we are running these kinds of deficits and this country is faced with this kind of budgetary trauma?

Second, let me just say we are putting $1.6 billion in the space station this year, and the Senator makes a perfectly cogent point about the medical experiments that can be conducted in space. But I would also point out that right here in Washington, DC, where the National Institutes of Health are located, the number of research grants that we have been able to make, good grants, has declined from about 35 percent of the grants submitted which are deemed worthy of funding. The Presiding Officer, who chairs the subcommittee that funds that operation, the National Institutes of Health, knows that this is correct. The number of grants we can fund has been declining steadily for 5, 6, 7 years. And if we were to put $1.6 billion into NIH, I submit we might get a lot more lives saved than we will on this program.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Under the previous order the hour of 6:15 having arrived, the question is on final passage. The question is, Shall the bill, H.R. 5158, pass? The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. Johnston] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. Wilson] is necessarily absent.

The result was announced—yeas 90, nays 8, as follows:

[Rollcall Vote No. 260 Leg.]

YEAS—90

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Heinz
Hollings
Inouye
Jeffords
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
McCain
McClure
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Warner
Wirth

NAYS—8

Armstrong
Helms
Humphrey
Kasten
Mack
Roth
Symms
Wallop

NOT VOTING—2

Johnston
Wilson

So, the bill (H.R. 5158), as amended, was passed.

Ms. MIKULSKI. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. MIKULSKI. Mr. President, I move that the Senate insist upon its amendments to H.R. 5158 and request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Acting President pro tempore [Mr. Bryan] appointed Ms. Mikulski, Mr. Leahy, Mr. Johnston, Mr. Lautenberg, Mr. Fowler, Mr. Kerrey, Mr. Byrd, Mr. Garn, Mr. D'Amato, Mr. Grassley, Mr. Nickles, Mr. Gramm, and Mr. Hatfield conferees on the part of the Senate.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President and Members of the Senate, there will be no further rollcall votes this evening. I will be discussing with the distinguished Republican leader and the managers the best way to proceed with respect to the pending legislation, and we will have an announcement later this evening as to the schedule for tomorrow. But there will be no more rollcall votes this evening.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask unanimous consent I might proceed for 5 minutes as if in morning business.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

VOTING RIGHTS OF MILITARY PERSONNEL

Mr. FORD. Mr. President, I have received a number of inquiries about what is being done to assure that our service men and women stationed abroad, and especially those now serving in the Middle East, will be able to vote in the elections next month. Today I asked my staff to meet with Henry Valentino, Director, and Phyllis Taylor, Deputy Director, of the Federal Voting Assistance Program in the Department of Defense to determine just what steps that office was taking to protect the voting rights of our military personnel and their dependents.

I am pleased to advise the Senate that the Federal Voting Assistance Program appears to have the situation well organized to make sure that all service men and women who wish to vote will be able to do so. Mr. President, I ask that a copy of the material provided me entitled "Summary of Military Voting Actions" and a copy of a letter sent to every Secretary of State advising them as to how they may be of assistance in this program be printed in the Record. I believe that this information will answer most of the inquiries about this matter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL VOTING ASSISTANCE PROGRAM, OFFICE OF THE SECRETARY OF DEFENSE,
Washington, DC.

SUMMARY OF MILITARY VOTING ACTIONS

The week of August 27 was Armed Forces Voters Week. During that week, commanders at all levels of command held a training session on the importance of voting and handed a Federal Post Card Application (FPCA) form to each member of their command. Additional forms were also given to eligible dependents.

Special distribution of FPCA's has been made to Desert Shield units in the event the FPCA was not submitted before deployment. In addition, 200,000 Federal Write-In Absentee Ballots have been pre-positioned with Desert Shield units.

In order to minimize the possibility that reservists who are called to active duty may be disenfranchised because of the timing of the callup, the following actions have been implemented:

Each reservist called to active duty is advised of his or her right to vote and how to do it. Any reservist who can register and vote before reporting to active duty is advised to do so.

The reservist is given an FPCA and provided assistance to register and/or request an absentee ballot.

If orders to report to active duty appear to disenfrancise a reservist, i.e. he/she has no time to register and vote or deadlines have passed to request a regular absentee ballot, the command has been instructed to provide the Federal Voting Assistance Program (FVAP) office immediately with the reservist's name, SSN, and legal residence address, to attempt to resolve the problem.

In order to expedite mail handling in the Middle East the military postal service has added 40 APO/FPO facilities. All units currently have daily mail service. Special instructions have been issued to all military postal clerks to expedite handling of voting materials which have the standardized markings prescribed by FVAP. All voting materials will receive priority handling in loading return mail, i.e. the mail pouch with voting materials will be loaded on the plane first.

We have arranged to use the Desert Fax service recently announced by AT&T so that in an emergency we can fax a ballot to an individual in Saudi Arabia who could then vote it and return it by mail to the local election official. We are also trying to arrange special phone circuits so military in the Middle East can access the DoD Voting Information Center for messages from candidates.

We have asked the States:

To be sure absentee ballots are mailed in a timely manner.

Accept the Federal Write-In Absentee Ballot for statewide offices, at least for Governor. Presently it can only be used to vote for federal offices.

Accept the Federal Write-In Absentee Ballot as a combination registration and actual ballot—waive the requirement for previous registration and request for a regular absentee ballot.

Accept a signed facsimile of an absentee ballot, or a preferred alternative, accept and count an electronic transmission of a voted vallot.

Allow the counting of ballots for all offices where they now allow late counting for federal offices. Some States count absentee ballots received after the election, but only for federal offices, this request would expand it to include all offices.

FEDERAL VOTING ASSISTANCE PROGRAM, OFFICE OF THE SECRETARY OF DEFENSE,
Washington, DC, September 17, 1990.
The Honorable SECRETARY OF STATE.

DEAR ——: The deployment of military units as a part of the Desert Shield operation in the Middle East and the callup of reservists to active duty, have prompted numerous questions pertaining to voting by these citizens. I want you to be aware of the specific actions we have taken and ask your assistance in possible alternatives to ensure these members of the military have the opportunity to vote and that their votes will be received in sufficient time to be counted.

This week of August 27 was Armed Forces Voters Week. During that week, commanders at all levels of command held a training session on the importance of voting and handed a Federal Post Card Application (FPCA) form to each member of their command. Additional forms were also given to eligible dependents.

Special distribution of FPCA's has been made to Desert Shield units in the event the FPCA was not submitted before deployment. In addition, 200,000 Federal Write-In Ballots have been pre-positioned with Desert Shield units.

In order to minimize the possibility that reservists who are called to active duty may be disenfranchised because of the timing of the callup, the following actions have been implemented:

Each reservists called to active duty is advised of his or her right to vote and how to do it. Any reservist who can register and vote before reporting to active duty is advised to do so.

The reservist is given an FPCA and provided assistance to register and/or request an absentee ballot.

The return address used for the reservist is where he/she will be during the first part of October. If that is unknown, arrangements will be made to forward election materials expeditiously to the individual. Spouses or dependents have been advised how to forward mail to the reservist.

If orders to report to active duty appear to disenfranchise a reservist, i.e. he/she has no time to register and vote or deadlines have passed to request a regular absentee ballot, the command has been instructed to provide this office immediately with the reservist's name, SSN, and legal residence address, and we will attempt to resolve the problem.

In order to expedite mail handling in the Middle East the military postal service has added 40 additional APO/FPO facilities. All units currently have daily mail service. Special instructions have been issued to all military postal clerks to expedite handling of voting materials which have the standardized markings prescribed by this office. All voting materials will receive priority handling in loading return mail, i.e. the mail pouch with voting materials will be loaded on the plane first.

We are trying to arrange for the availability of fax service so that in an emergency we might be able to fax a ballot to an individual who could then vote it and return it by mail to the local election official. I don't know if we can have this ready in time for the general election. We are also trying to arrange special phone circuits so they can access the DoD Voting Information Center for messages from candidates and incumbents.

The following are actions you can take to help:

Please make sure your absentee ballots are mailed in a timely manner. We will be monitoring the mailing dates and while we have allowed some flexibility in the past, we plan to seek court action if there are delays. We need at least 35 days ballot transit time. Be sure the proper envelopes are used.

In those states where there are statewide offices on the ballot, consider accepting the Federal Write-In Absentee Ballot for these offices, at least for Governor.

Consider accepting the Federal Write-In Ballot as a combination registration and actual ballot—waive the requirement to have been registered and have requested a regular absentee ballot.

Accept a signed facsimile of an absentee ballot which is returned by mail, or a preferred alternative, accept and count an electronic transmission of a voted ballot.

Those states that count, for federal offices, absentee ballots received after the election if mailed from overseas, allow the ballot to be counted for all offices.

Use the time slot allocated to you in the Voting Information Center to communicate special information for military from your state. If you haven't recorded your message, now is the time to do it. If you have a message in the system, check it to be sure it is timely. Enclosed are the procedures to follow to record messages. We are averaging about 100 calls a day now and this will increase as election day approaches.

You have always been most cooperative in facilitating absentee voting by military, their dependents and overseas citizens. I'm sure you realize that with Desert Shield we have a unique situation that may require special exceptions. I am confident that you will do everything within your resources to ensure citizens from your state who are a part of Desert Shield will not be disenfranchised. Please do not hesitate to contact me if you have any comments or suggestions. I can be reached at (202) 695-9330 or fax (202) 693-5507. We appreciate your continued support.

Sincerely,

HENRY VALENTINO,
Director.

A GIFT TO CONGRESS

Mr. FORD. Mr. President, one of my constituents, a Mr. Lowell Howard of Middlesboro, KY, recently presented me with a gift that I would like to share with my distinguished colleagues at this time.

At a time when the public's perception of Congress seems to be at an all-time low, the sentiments expressed by Mr. Howard—both in his letter to me and the poem he has written in honor of the U.S. Congress—should function as a reminder to us all of our purpose in being here.

I ask unanimous consent that Mr. Howard's letter and poem be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MIDDLESBORO, KY, *September 27, 1990.*

DEAR SENATOR FORD: This is one of two letters, the other is to Senator Byrd. I have much respect for you and Senator Byrd. I feel that you and Senator Byrd have done much for our wonderful Nation. I also wish to thank you for the things you've done for our great State of Kentucky. We are lucky to have a man such as yourself in Washington.

Sir, the reason I'm writing is to ask a great favor. I would like to show my appreciation not only to you, but to the Congress as a whole. I love this land and thank God that he has blessed it so.

I have enclosed to you, a poem I would like to present to Congress. I know Congress has been given many honored gifts, by people far more important than myself, for I'm just an ordinary citizen of this great land wishing to show my appreciation to its lawmakers.

As I told Senator Byrd, I will leave it up to your judgment as to if it would be possible to present this poem to Congress. No matter what your judgment I would like you to have it with my sincere thanks, and in closing it is my hope that God shall continue to bless our great land and may all decisions be weighed in the scales of the mutual comprehension of the ideal of true liberty, that our liberties and the Constitution that gives us these unparalleled freedoms shall only be enhanced.

Respectfully yours,

LOWELL HOWARD.

THESE VENERATE HALLS

(By Lowell Howard)

You are a chosen few that walk these venerate halls,
You walk by portraits of great men before,
That hang upon this building's walls.
Throughout our country's history,
You've helped to shape a nation.
Sometimes you've had our scorn,
Other times our admiration.
You are but mortal men and women,
We hold in high esteem.
The laws you make they shape our lives,
For good or bad they effect a people's dreams.
In times of peace, in times of war,
You've done the best you can.
In many matters perhaps you've been guided
By an unseen hand.
We've put our trust in you, that you'll do your best,
Our Nation is still standing, its stood the winds of change, this shows you've passed the test.
When others after you shall walk these venerate halls,
They may look and see your portraits hanging on its walls.
Knowing they are walking in footprints that shall be hard to fill.
But with the help of God, they will do their best upon Capitol Hill.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum haveing been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET AGREEMENT

Mr. CRANSTON. Mr. President, as the Senator from California, the State with more voters than any other State in the Union, I want to second President Bush's call for public support of the budget agreement which he and Congress worked so hard and long to achieve. I urge all Californians, I urge all Americans to phone your Senator and your Congressman to support this do or die budget.

This budget agreement is part of a $500 billion deficit reduction plan which we must approve if we are to avoid dire economic consequences. Hardly anybody likes this budget in its entirety. It calls for tax increases, which nobody likes. It calls for spending cuts in many important Government programs, programs which I, and many Members of Congress, strongly support. But while hardly anybody likes this budget, almost everybody hates the alternative, if they understand what that alternative is. As the President said, this is George Bush, "If we fail to enact this agreement, our economy will falter, markets may tumble, and recession will follow."

If that were to happen, everybody would lose. With this budget agreement, at least we have a chance to win, but only if we resist the temptation to pick the agreement apart and kick it around for political purposes; only if we resist the temptation to insist on protecting our own special interest; and only if we face up to making difficult choices among competing needs and priorities.

We face an all-or-nothing alternative. We either support this budget or we end up with something that probably almost surely will be far, far worse for everybody. We must all make sacrifices if we are to succeed in balancing the budget and reducing the deficit. Personally, I would have crafted a very different budget which would have better reflected our country's priorities and needs.

But the budget negotiators deserve a world of credit. They did the best they could to avert national disaster. But now the Congress as a whole must act.

If Congress fails to adopt a budget agreement and sequester ensues that means across-the-board sharp, heavy reductions, public health and safety could be compromised, social programs could be slashed, and our Nation's economy could severely suffer.

Clearly the most important aspect of the agreement is to the projected $500 billion deficit reduction. If the projected savings occur we will have taken a significant step toward bringing our vast national debt under control. By working together we will ensure a brighter future for all of Americans.

Mr. President, what I have heard around the Senate today is that more calls are coming in against the agreement than for the agreement. That is true in my case in calls from California. Now is the time for those that understand what is at stake and to put the general interest of the whole country and the avoidance of recession, the avoidance of very heavy meat-ax approaches in cutting many programs that millions of people depend upon. If those people will call in to say we do not like the program totally but we think that all in all it is the best that can be done now and the alternative is terrible, then we will have a better chance of passing this vitally necessary budget agreement. So now is the time to phone your Senator and your Congressman or women and tell them you will stand behind them if they support this deficit reduction budget.

I yield the floor.

MORNING BUSINESS

Mr. CRANSTON. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE CONCURRENT RESOLUTION 147

Mr. AKAKA. Mr. President, I join with my colleagues in approving President Bush's decisive action in sending U.S. military forces into the Persian Gulf. This action was needed as an immediate deterrent against any possible continuation of a march by Iraq from Kuwait through Saudia Arabia and beyond.

Mr. President, I have completed a review of the events and circumstances which led to the introduction of U.S. troops into the area. I feel the President had little alternative but to act in the manner that he did. There is no question that this action was necessary and appropriate in the face of Iraq's Hitler-like invasion and occupation of neighboring Kuwait. Such unprovoked aggression by any nation cannot be tolerated in a world governed by laws. The respect for international boundaries is fundamental to the maintenance of world peace.

It is for these reasons, Mr. President, that I am supporting the passage of Senate Concurrent Resolution 147.

It is important to note that Senate Concurrent Resolution 147 in no way authorizes the use of force against Iraq. It merely expresses support for the actions taken by the President to date and specifically endorses the resolutions that have been adopted by the U.N. Security Council with respect to economic sanctions against Iraq.

Mr. President, as a veteran of World War II, I believe militay force should be used only if absolutely necessary. The presence of multinational forces in the region have already discouraged Iraq from invading Saudi Arabia, and with time on our side, the economic embargo should result in Iraq's withdrawal from Kuwait.

Again, Mr. President, I want to make clear that nothing in this resolution authorizes President Bush to initiate offensive actions in the Persian Gulf region. Our presence at this point in time is solely for the purpose of defense and deterrence.

If circumstances change, I anticipate that President Bush will follow the guidelines set forth in the War Powers Resolution which was passed by Congress in 1973 to insure that both Congress and the President share in making decisions that may involve the United States in war.

Mr. President, there is one further point I would like to pursue concerning the involvement of U.S. military forces in the Persian Gulf region. It has to do with the emergence of the United Nations as a positive force in pursuing a peaceful resolution of the problems at hand.

Perhaps the time has come to give serious consideration to the creation of an effective peace-keeping force under the auspices of the United Nations. With the end of the cold war, it's time to explore collective security through the United Nations. The establishment of such a force would strengthen our position in the Persian Gulf. And the longer the time, the greater the strength we gain from relying on the United Nations to settle this matter.

For the first time in its history, Mr. President, I believe the United Nations has the capacity to play a pivotal role in fostering peace and securing justice not just in the Persian Gulf, but throughout the world.

GERMAN REUNIFICATION

Mr. AKAKA. Mr. President, on September 12 the four World War II powers that defeated Nazi Germany signed a treaty with the two Germanys sanctioning their unification. This action heralded the return of full sovereignty to the German people.

Today, Mr. President, the two Germanys become one. This is truly a historic event.

It is even more remarkable because this event occurs just 1 year and 1 day after thousands of East Germans in Leipzig participated in antigovernment demonstrations. These demonstrations led to the opening of the Berlin Wall and the subsequent collapse of 40 years of Communist rule.

The political unification of the two Germanys is just the first step in an integration and restructuring that will profoundly affect the entire world community. The deep wounds left in the aftermath of World War II have mostly healed. I sense the time is right to embark upon a new beginning.

The events which led to reunification prove that fundamental political and economic changes can occur under responsible leadership within the framework of a democratic process. Divided Germany was the focus of the cold war playing host to a collection of the most destructive weapons we know. The reunited Germany creates a new frontier as we pursue tolerance, understanding and a world at peace.

Mr. President, it saddens me to note, however, that the process leading to the reunification of Germany stands in stark contrast to the deplorable events we see occurring in the Persian Gulf. As a veteran, I know the human pain and devastating anguish families the world over suffer when armed conflicts occur. Resources that otherwise might be devoted to humanitarian activities are needlessly wasted on the acquisition of military hardware and the buildup and maintenance of an armed forces to be used for other than defensive purposes.

And so Mr. President, it is for these reasons that I welcome the unification of Germany, and I look forward to the practical impact it will have on the community of nations. I also look forward to a reduction of U.S. Armed Forces stationed in Europe; I look forward to an expansion of cultural and economic activity throughout the entire region; I look forward to emerging new governments focused on meeting basic human needs as the first order of business; and most of all Mr. President, I look forward to a new political order which accepts the concept of participatory democracy as its fundamental driving force.

It is, indeed, a pleasure for me to welcome the new Germany, the reunited Germany into the community of nations. I am confident, moreover, that our Government's support of this action has enabled us to take one giant step toward achieving lasting world peace.

Today Mr. President, we can all stand shoulder to shoulder with the German people and declare: "Ich bin eine Berliner."

THE NATIONAL CENTER FOR ATMOSPHERIC RESEARCH

Mr. WIRTH. Mr. President, I rise to point out a continuing problem I have had regarding the National Science Foundation and its allocation of funding to the National Center for Atmospheric Research. In constant 1982 dollars, NCAR's budget from NSF has declined by 11.6 percent during the past 5 fiscal years. Over the same time, the NSF budget has increased by 11.5 percent.

During that period, NCAR has lost 23 PhD. scientists—lured away by institutions with stable or expanding research programs. Most troubling, the team of researchers from different disciplines is breaking apart.

While this has been happening, the Nation's program for atmospheric research has been growing rapidly. Concerns about global warming and environmental degradation has spawned a massive Federal program to understand how our planet's environmental systems work. In this effort, there is no finer institution that we should be turning to than the National Center for Atmospheric Research. Don't take my word for it, listen to what the President's Science Adviser told me earlier this year. He said:

> The NCAR group is recognized worldwide as among the leaders, if not indeed the leaders, in the development of the large-scale general circulation models that require enormous mathematical investment. . . . It is one of the leading centers worldwide.

When he made that statement, the President's science adviser said that he, too, was extremely concerned about NCAR's funding problems. He told me that he would do something to help correct this situation. Dr. Bromley said that he could see the possibility of the Department of Energy support for NCAR and pledged to contribute to such a cooperative relationship.

I have also met with the Department, with OMB, and with others about developing a cooperative relationship among DOE and NCAR. My impression has always been that these officials thought this was a good idea. But nothing has happened and one of the Nation's research treasures is slowly but surely eroding.

NCAR is highly dependent on funding from the National Science Foundation—an agency that has numerous priorities and numerous demands. I can't say that I agree with all of NSF's funding priorities, but I respect the right of these experts to make the allocations. I could ask my colleagues to earmark NSF funds for NCAR, but that is bad policy and bad science.

I bring this up, Mr. President, not because I intend to insist on bad policy by offering an amendment to earmark funds for NCAR. Rather, I raise this issue to let it be known that President's Global Change Program is a sham if we are not fully funding the programs at the National Center for Atmospheric Research. I intend to follow this issue, and I can tell you that if this situation does not turn around, I'm going to ask that we convene some oversight hearings on this subject. I'm learning more and more about the Nation's investment in global change research, and at least some of those investments are highly questionable.

In conclusion, Mr. President, let me just say that it is nonsensical that NCAR is hemorrhaging at a time when the entire world wants to know more about atmospheric and global climate systems. I intend to continue doing all that I can to turn this situation around. And I want to say publicly that I intend to make sure this issue is discussed openly next year when we go through this process again.

NATIONAL WOMEN VETERANS RECOGNITION WEEK

Mr. CRANSTON. Mr. President, on Friday, September 27, the Senate passed Senate Joint Resolution 307, a joint resolution which I sponsored designating November 11 through 17, 1990, as National Women Veterans Recognition Week. The measure is substantively the same as House Joint Resolution 543, which was introduced in the House by Representative BILIRAKIS on April 4.

Because of my commitment to women veterans, I have, for the past 6 years, sponsored legislation designating a week near Veterans Day as National Women Veterans Recognition Week. I am proud to have sponsored this legislation for so many years and am equally proud of the strong support it has received from my colleagues in the Senate.

The goals of designating a week to honor these courageous women are twofold: To make the public more aware of the contributions of women veterans, and to make women veterans more aware of the many benefits available to them because of their service. These women, who served with honor and dedication, are a group of veterans who have too often been underestimated, forgotten, or ignored. For far too long, the term "veteran" has meant "male veteran". The American people have been quick to praise male combat veterans, but have been slow to acknowledge the valuable support provided by women who have served as medical and supply personnel in noncombat positions, for example, as medical and supply personnel. We must continue our efforts to change this distorted perception and to acknowledge the contributions women veterans make to our national defense. Women are performing a wider range of tasks in the Armed Forces than ever before, as demonstrated by the participation of women in the recent military action in Panama and in the current Operation Desert Shield.

Women veterans comprise approximately 4.2 percent of the total veteran population, a percentage that is growing as the percentage of women in the active military and in the reserves continues to grow. At the present time, 11 percent of active duty service personnel are women.

Many women veterans are not aware of the various benefits and services for which they are eligible, such as health care, home loans, and educational and employment assistance. We have a responsibility to inform them of these benefits and services, in order to ensure that they use them to at least the same extent as male veterans. We must ensure that they are provided equal and appropriate services, particularly in the area of health care, where there are important differences between the needs of men and women veterans. In response to that concern, I have requested that the General Accounting Office review VA's followup efforts regarding implementation of the recommendations for improving women veterans' access to VA health care which GAO made in its 1982 report.

Mr. President, the joint resolution designating the week of November 11 as National Women Veterans Recognition Week will continue the momentum built over the last 6 years to call attention to this important but often overlooked group of veterans. I want to thank my colleagues once again for supporting this joint resolution and women veterans.

GERMAN REUNIFICATION

Mr. DASCHLE. Mr. President, today marks a historic and happy occasion. The events of the past 24 hours signify the triumph of the forces of freedom, democracy, and progress. We have witnessed the birth of a new nation, perhaps I should say, the rebirth of an old, historic nation as we have witnessed the reunification of Germany.

This is a time to reminisce in our celebrations because this achievement marks the close of one of the turbulent chapters of World War II and the beginning of a new, more hopeful one.

We must never forget the lessons of World War II. But today's events highlight the opportunity we now have to move beyond that terrible time.

Closed also is another chapter in what we hope are the final days of the cold war—a war that has threatened a generation with the end of civilization. A divided Germany has been in the middle of a long twilight struggle that has seen the Berlin airlift, the Berlin Wall, and a young American President standing in front of that wall and declaring that all free people are citizens of Berlin. "Freedom is indivisible," President Kennedy proclaimed that day, "and when one man is enslaved, all are not free."

This is a time for celebration. The reunification of Germany will help restore the economic and political stability of Europe, as well as lift the curtain that once fell from Stettin in the Baltic to Trieste in the Adriatic. Families will be reunited. Divided cities as well as divided countries will be whole again.

It is a time for celebration because this reunification illustrates that wars are not always won with guns, but with ideas, perseverance, hope, and dedication to the causes of freedom and the right of people to choose their own leaders and destinies.

While this is a time for reminiscing and celebrating, this is also a time for looking toward the future. Reunification will be a crucial step in the rebuilding of Eastern Europe. For the United States, it provides an opportunity to strengthen our trade and cultural relations with Europe while reducing our military commitment there.

Toward that end, I am proud to say that the people of South Dakota have initiated their own efforts. Earlier this year the city of Sioux Falls signed a historic sister city agreement with Potsdam to strengthen the growing ties between the United States and Germany and to show their solidarity with the German people who have won the struggle for freedom.

"Real, lasting peace in Europe," proclaimed President Kennedy, "can never be assured as long as one German out of four is denied the elementary right of free men, and that is to make a free choice." This is a time to look forward because this historic event will help bring peace and prosperity to a world that has not seen enough of either.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,027th day that Terry Anderson has been held captive in Beirut.

On Sunday, September 30, family and friends from Fishkill to Beacon welcomed Robert Polhill home. Treatment of Mr. Polhill's throat cancer delayed the reunion by 5 months. But, in his wife Ferial's words, the ceremony on Sunday demonstrated that "Robert was not forgotten."

Mr. President, I rise today with the hope that Terry Anderson and the other hostages still in Lebanon will not be forgotten. I ask unanimous consent that an Associated Press article recounting Sunday's Parade be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TOWN WELCOMES FORMER HOSTAGE ROBERT POLHILL HOME

(By Michael Hill)

BEACON, NY.—Fluttering flags and yellow ribbons marked Robert Polhill's return home after 39 months as a hostage in the Middle East and five months fighting throat cancer.

Looking gaunt but happy, Polhill waved to well-wishers Sunday during a parade.

"The warmth of your welcome overwhelms me," Polhill, who was unable to speak, said in a statement read by his wife, Ferial. "I regret that I am not sufficiently fluent to greet you myself."

Telephone poles and signposts were festooned with ribbons along the eight-mile parade route from Fishkill, about 50 miles north of New York City, to Beacon. People held balloons, waved American flags and wore yellow ribbons.

"I'm overwhelmed with all these people," said Polhill's mother, Ruth, who lives in Fishkill. "It was a remarkable greeting."

Polhill, 56, was an accountant and assistant business professor at Beirut University in Lebanon when he and three other faculty members were captured by Moslem extremists on Jan. 24, 1987.

He was released April 22 but was hospitalized for diabetes and malnutrition. At Walter Reed Army Medical Center in Washington, a growth removed from his vocal cords was found to be cancerous. Polhill's voice box was removed during the operation.

The original homecoming plan this spring was scuttled while Polhill received treatment at Walter Reed, living in housing on the hospital grounds.

Folk singer Pete Seeger dedicated "God Bless America" to Polhill on Sunday. Police flanked the route, and fire trucks and a small band joined the procession, which was held in conjunction with Spirit of Beacon Day.

"It makes me happy to see that Robert was not forgotten," said Ferial Polhill. "Forgetfulness would have been easy and understandable."

Asked if he felt like a hero, Polhill shook his head.

"I don't care what he thinks. In my eyes he's a hero," his wife said.

EXTENSION OF PERIOD FOR MAXIMUM EFFICIENT RATE PRODUCTION OF THE NAVAL PETROLEUM RESERVES MESSAGE FROM THE PRESIDENT—PM 148

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Armed Services:

To the Congress of the United States;

In accordance with section 201(3) of the Naval Petroleum Reserves Production Act of 1976 (10 U.S.C. 7422(c)(2)), I wish to inform you of my decision to extend the period of maximum efficient rate production of the naval petroleum reserves for a period of 3 years from April 5, 1991, the expiration date of the currently authorized period of production.

I am transmitting herewith a copy of the report investigating the necessity of continued production of the reserves as required by section 201(3)(c)(2)(B) of the Naval Petroleum Reserves Production Act of 1976. In light of the findings contained in that report, I hereby certify that continued production from the naval petroleum reserves is in the national interest.

George Bush.

The White House, *October 3, 1990.*

MESSAGES FROM THE HOUSE

At 2:35 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the bill (S. 1511) to amend the Age Discrimination on Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes, without amendment.

The message also announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 3134. An act for the relief of Mrs. Joan R. Daronco;

H.R. 3139. An act to amend title 5, United States Code, to authorize portability of benefits for employees of nonappropriated fund instrumentalities of the Department of Defense when such employees convert to the civil service system;

H.R. 3618. An act to authorize the lease of lands on the Mille Lacs Indian Reservation for a term not to exceed 99 years;

H.R. 3703. An act to authorize the Rumsey Indian Rancheria to convey a certain parcel of land;

H.R. 3954. An act to authorize the establishment of a memorial on Federal land in the District of Columbia or its environs to honor service in the Peace Corps;

H.R. 4131. An act to ensure that executive agencies have adequate authority to review the performance of foreign contractors and subcontractors under certain procurement contracts, and for other purposes;

H.R. 4205. An act to authorize appropriations for fiscal year 1991 for the Maritime Administration, and for other purposes;

H.R. 4299. An act to authorize a study of the fishery resources of the Great Lakes, and for other purposes;

H.R. 4593. An act to transfer to the Secretary of the Interior the administration of the surface rights in certain lands presently within the boundaries of the San Carlos Indian Reservation, AZ, and managed by the Forest Service as part of the Coronado National Forest, and for other purposes;

H.R. 5007. An act to designate the facility of the United States Postal Service located at 100 South John F. Kennedy Drive, Carpentersville, IL, as the "Robert McClory Post Office Building";

H.R. 5209. An act to amend title 39, United States Code, to make nonmailable any unsolicited sample of a drug of other hazardous household substance which does not meet child-resistant packaging requirments, and for other purposes;

H.R. 5235. An act to designate the Owens Finance Station of the United States Postal Service in Cleveland, Ohio, as the "Jesse Owens Building of the United States Postal Service";

H.R. 5390. An act to prevent and control infestations of the coastal inland waters of the United States by the zebra mussel and other nonindigenous aquatic nuisance species, to reauthorize the National Sea Grant College Program, and for other purposes;

H.R. 5409. An act to designate the post office building at 222 West Center Streat in Orem, Utah, as the "Arthur V. Watkins Post Office Building";

H.R. 5450. An act to amend title 5, United States Code, to ensure adequate verification of computer matching information that affects individuals eligibility for Federal benefits;

H.J. Res. 602. Joint resolution designating October 1990 as "National Domestic Violence Awareness Month"; and

H.J. Res. 610. Joint resolution designating October 1990 as "Ending Hunger Month."

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 1230. An act to authorize the acquisition of additional lands for inclusion in the Knife Rive Indian Villages National Historic Site;

S. 1974. An act to require new televisions to have built in decoder circuitry;

HR. 1243. An act to require the Secretary of Energy to establish Centers for Metal Casting Competitiveness Research;

H.R. 2372. An act to provide jurisdiction and procedures for claims for compassionate payments for injuries due to exposure to radiation from nuclear testing;

H.R. 3657. An act to amend the Securities Exchange Act of 1934 to strengthen regulatory oversight of the United States securities market, improve supervision of financial market participants, and improve the safety and efficiency of market mechanisms, and for other purposes;

H. R. 3897. An act to authorize appropriations for the Administrative Conference of the United States for fiscal years 1991, 1992, 1993, and 1994, and for other purposes;

S.J. Res. 181. Joint resolution to establish calendar year 1992 as the "Year of Clean Water";

H.J. Res. 398. Joint resolution to commemorate the centennial of the creation of Congress of Yosemite National Park;

H.J. Res. 469. Joint resolution to designate October 6, 1990, as "German-American Day"; and

H.J. Res. 603. Joint resolution to designate the month of October 1990 as "Country Music Month."

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore [Mr. Byrd].

At 6:19 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the bill (S. 247) to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such act, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1330. An act to transfer a parcel of land located in the Los Padres National Forest, California;

H.R. 2071. An act for the relief of Cathernine Anne Bardole aka Kathleen Bardole and her minor children, Lisa Anne Farley, and Elaine Mary Farley;

H.R. 2863. An act for the relief of Michael Wu;

H.R. 2961. An act for the relief of Sonanong Poonpipat (Latch);

H.R. 4174. An act to establish a comprehensive personnel system for employees of the Administrative Office of the United States Courts, and for other purposes;

H.R. 5001. An act for the relief of Norman Ricks; and

H.R. 5759. An act to amend the Age Discrimination in Employment Act of 1967 to clarify the application of such Act to employee group health plans.

MEASURES REFERRED

The following bills and joint resolution were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1330. An act to transfer a parcel of land located in the Los Padres National Forest, CA; to the Committee on Energy and Natural Resources.

H.R. 2071. An act for the relief of Catherine Anne Bardole aka Kathleen Bardole, and her minor children, Lisa Anne Farley, and Elaine Mary Farley; to the Committee on the Judiciary.

H.R. 2863. An act for the relief of Michael Wu; to the Committee on the Judiciary.

H.R. 2921. An act for the relief of Sonanong Poonpipat (Latch); to the Committee on the Judiciary.

H.R. 3134. An act for the relief of Mrs. Joan R. Daronco; to the Committee on the Judiciary.

H.R. 3618. An act to authorize the lease of lands on the Mille Lacs Indian Reservation for a term not to exceed 99 years; to the Select Committee on Indian Affairs.

H.R. 3703. An act to authorize the Rumsey Indian Rancheria to convey a certain parcel of land; to the Select Committee on Indian Affairs.

H.R. 3954. An act to authorize the establishment of a memorial on Federal land in the District of Columbia or its environs to Honor service in the Peace Corps; to the Committee on Energy and Natural Resources.

H.R. 4131. An act to ensure that executive agencies have adequate authority to review the performance of foreign contractors and subcontractors under certain procurement contracts, and for other purposes; to the Committee on Governmental Affairs.

H.R. 5001. An act for the relief of Norman R. Ricks; to the Committee on the Judiciary.

H.R. 5235. An act to designate the Owens Finance Station of the United States Postal Service in Cleveland, OH, as the "Jesse Owens Building of the United States Postal Service"; to the Committee on Governmental Affairs.

H.R. 5409. An act to amend to designate the post office building at 222 West Center Street in the Orem, UT, as the Arthur V. Watkins Post Office Building"; to the Committee on Governmental Affairs.

H.R. 5450. An act to amend title 5, United States Code, to ensure adequate verification of computer matching information that affects individuals eligibility for Federal benefits; to the Committee on Governmental Affairs.

H.R. 5759. An act to amend the Age Discrimination in Employment Act of 1967 to clarify the application of such act to employee group health plans; to the Committee on Labor and Human Resources.

H.J. Res. 602. Joint resolution designating October 1990 as "National Domestic Violence Awareness Month"; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bills and joint resolution were read the first and second times and placed on the calendar:

H.R. 4205. An act to authorize appropriations for fiscal year 1991 for the Maritime Administration, and for other purposes.

H.R. 4299. An act authorize a study of the fishery resources of the Great Lakes, and for other purposes.

H.R. 5007. An act to designate the facility of the United States Postal Service located at 100 South John F. Kennedy Drive, Carpentersville, IL, as the "Robert McClory Post Office Building."

H.R. 5390. An act to prevent and control infestations of the coastal inland waters of the United States by the zebra mussel and other nonindigenous aquatic nuisance species, to reauthorize the National Sea Grant College Program, and for other purposes.

H.J. Res. 610. Joint resolution designating October 1990 as "Ending Hunger Month."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2850. A bill to authorize demonstration projects in connection with providing health services to Indians (Rept. No. 101-488).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1831. A bill to direct the Secretary of Agriculture to convey certain lands to the town of Taos, NM (Rept. No. 101-489).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 2165. A bill to establish the Glorieta National Battlefield in the State of New Mexico (Rept. No. 101-490).

S. 2262. A bill to designate segments of the Sudbury, Assabet, and Concord Rivers as a study area for inclusion in the national wild and scenic rivers system (Rept. No. 101-491).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 2527. A bill to direct the Secretary of Agriculture to conduct a study to determine the need for a National Forest Information Center and an expanded environmental education program in New Mexico (Rept. No. 101-492).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2684. A bill to authorize a study of methods to protect and interpret the nationally significant fossil trackways found in the Robledo Mountains near Las Cruces, NM (Rept. No. 101-493).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 2804. A bill to amend the Act of May 15, 1965, authorizing the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, and for other purposes (Rept. No. 101-494).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2949. A bill to authorize a study of nationally significant places in American Labor History (Rept. No. 101-495).

H.R. 4111. A bill to amend the Mining and Mineral Resources Research Institute Act of 1984, and for other purposes (Rept. No. 101-496).

By Mr. BIDEN, from the Committee on the Judiciary, with amendments:

S. 3043. A bill for the relief of Nebraska Aluminum Castings, Inc.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROTH:

S. 3154. A bill to provide for the establishment and evaluation of performance standards and goals for expenditures in the Federal budget, and for other purposes; to the Committee on Governmental Affairs.

By Mr. RIEGLE:

S. 3155. A bill to extend the expiration date of the Defense Production Act of 1950 to October 20, 1990; considered and passed.

By Mr. CRANSTON (for Mr. Johnston):

S. 3156. A bill to correct a clerical error in Public Law 101-383; considered and passed.

By Mr. PELL (for himself, Mr. Kennedy, Mrs. Kassebaum, Mr. Metzenbaum, Mr. Jeffords, Mr. Cochran, and Mr. Adams):

S.J. Res. 374. Joint resolution to declare it to be the policy of the United States that there should be a renewed and sustained commitment to Federal aid to elementary and secondary education; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CRANSTON (for Mr. Mitchell (for himself and Mr. Dole)):

S. Res. 333. A resolution to authorize certain appointments; considered and agreed to.

By Mr. AKAKA (for himself and Mr. Inouye):

S. Con. Res. 151. Concurrent resolution expressing the sense of the Congress of the desirability of promoting energy efficiency and conservation, setting energy efficiency and conservation goals for the United States, and calling an energy summit; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PELL (for himself, Mr. Kennedy, Mrs. Kassebaum, Mr. Metzenbaum, Mr. Jeffords, Mr. Cochran, and Mr. Adams:

S.J. Res. 374. Joint resolution to declare it to be the policy of the United

States that there should be a renewed and sustained commitment to Federal aid to elementary and secondary education; to the Committee on Labor and Human Resources.

COMMITMENT TO FEDERAL AID TO ELEMENTARY AND SECONDARY EDUCATION

● Mr. PELL. Mr. President, I am very proud to introduce this joint resolution in celebration of the 25th anniversary of the landmark Elementary and Secondary Education Act of 1965. This historic legislation has been the major Federal effort devoted to ensuring that our Nation's economically disadvantaged children have access to an education of the finest quality.

I am also proud to have been one of the authors of the original act in 1965, to have helped reshape and improve this critical legislation over the years, and to be the Senate author of its most recent reauthorization legislation.

In 1965, those of us concerned about educational policy rejoiced in the passage of this legislation. No one expressed a greater hope for the potential impact of the ESEA than President Johnson. Words he spoke after signing the ESEA into law have, over the past 25 years, rung true time and time again:

> I will never do anything in my entire life, now or in the future, that excites me more, or benefits the Nation I serve more, or makes the land and all its people better and wiser and stronger, or anything that I think means more to freedom and justice in the world than what we have done with this education bill.

For over the course of the past 25 years, the ESEA has reached out again and again to address the educational needs of an increasing number of needy populations. Over time, the act was amended to serve children who were previously ineligible to receive chapter 1 assistance. This includes specific provisions for migrant children, neglected and delinquent children, and youth in correctional institutions.

The ESEA was amended in 1966 to include the massive Education for all Handicapped Children Act, which later became an independent act. Programs were added in 1968 to provide educational assistance for limited-English-proficient students, particularly the growing number of childern of recent immigrants. Today, that program, the Bilingual Education Act, serves hundreds of thousands of childern. In addition, the ESEA has been amended to include programs for native Americans and Hawaiians.

In serving our Nation's most economically disadvantaged children, the ESEA has helped to advance the education of women and minorities since its inception. In 1978, however, this mission became more targeted with the inclusion of the Women's Educational Equity Act. This important act was created to enforce nondiscrimination requirements of law and to support educational activities which promote educational equity for women and girls in the United States. The Women's Educational Equity Act continues to be a key source of Federal funds for equity projects in elementary, secondary and postsecondary education.

Federal assistance for desegregation efforts through the school systems has also become a strong mission of the ESEA. The current Magnet Schools Assistance Act provides well over $110 million to school districts which have either voluntarily implemented or are under court order to implement desegregation plans. This program uses the carrot of a magnet school offering quality education in a specific field to attract students from diverse racial backgrounds to the same school.

The ESEA has also reached out to address the needs of illiterate adults. The Adult Education Act and the Even Start Act—both part of ESEA—provide critical reading and mathematics skills to adults and to families so that the generational cycles of illiteracy can be eliminated.

As part of the 1988 reauthorization, the ESEA was amended to include the School Dropout Demonstration Assistance Act, the Jacob K. Javits Gifted and Talented Students Education Act, the Basic Skills for Secondary School Students Act and the Drug Free Schools and Communities Act. And, the ESEA also reflects a strong Federal commitment to improve math, science, and foreign language instruction, both through the Education for Economic Security Act and the Star Schools Program.

The FIRST Program was added to the ESEA to improve educational performance; improve teacher certification procedures; strengthen links between schools, families, and the community; and increase the number of minority teachers.

It is readily apparent that the Elementary and Secondary Education Act is really a compendium of targeted educational assistance designed to address the specific needs of special populations, to address areas of critical national interest such as math and science, and to provide leadership and incentives for educational quality and excellence.

The ESEA has assisted so many children, adults, and families in our country in so many ways it is impossible to estimate the many benefits to the Nation and the individual. That work, however, is far from complete. We have yet to reach the goal that all children who are eligible for these critical educational services receive them. We must renew our efforts to see to it that children be they poor, bilingual, handicapped, or minority be afforded the educational opportunities and assistance necessary to overcome the barriers that impede the full development of their talents.

I take great pride in celebrating the 25th anniversary of the passge of this most important legislation, which has made so significant a contribution to the goal of advancing equal opportunity and quality in education in this country.

I commend this resolution to my colleagues, and would ask that its full text be printed following my remarks. I would also ask that this anniversary serve to remind us not only of the importance of this act, but also of the need to fulfill, once and for all, the commitment we made to our children and our Nation a quarter of a century ago.●

ADDITIONAL COSPONSORS

S. 1676

At the request of Mr. Pell, the name of the Senator from Maine [Mr. Cohen] was added as a cosponsor of S. 1676, a bill to strengthen the teaching profession, and for other purposes.

S. 2056

At the request of Mr. Harkin, the name of the Senator from California [Mr. Wilson] was added as a cosponsor of S. 2056, a bill to amend title XIX of the Public Health Service Act to provide grants to States and implement state health objectives plans, and for other purposes.

S. 2246

At the request of Mr. Bradley, the name of the Senator from Arizona [Mr. McCain] was added as a cosponsor of S. 2246, a bill to amend title XVIII of the Social Security Act to provide improved medicare home health benefits, and for other purposes.

S. 2574

At the request of Mr. Chafee, the name of the Senator from Indiana [Mr. Lugar] was added as a cosponsor of S. 2574, a bill to amend the Social Security Act to improve old-age, survivors, and disability insurance benefits and supplemental security income benefits, and for other purposes.

S. 2614

At the request of Mr. Grassley, the name of the Senator from Massachusetts [Mr. Kerry] was added as a cosponsor of S. 2614, a bill to amend the Public Health Service Act to establish and coordinate research programs for osteoporosis and related bone disorders, and for other purposes.

S. 2729

At the request of Mr. Chafee, the name of the Senator from New Jersey [Mr. Bradley] was added as a cosponsor of S 2729, a bill to amend the Coastal Barrier Resources Act, and for other purposes.

S. 2782

At the request of Mr. Wilson, his name was added as a cosponsor of S. 2782, a bill to amend the Coastal Zone Management Act of 1972 to authorize appropriations for fiscal years 1991 through 1995 and to require State coastal zone management agencies to prepare and submit for the approval of the Secretary of Commerce programs for the improvement of coastal zone water quality, and for other purposes.

S. 2902

At the request of Mr. Pryor, the name of the Senator from Rhode Island [Mr. Chafee] was added as a cosponsor of S. 2902, a bill to amend the Internal Revenue Code of 1986 to clarify portions of the Code relating to church and welfare benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits and for other purposes.

S. 3501

At the request of Mr. Pressler, the name of the Senator from Hawaii [Mr. Akaka] was added as a cosponsor of S. 3051, a bill to reduce the pay of Members of Congress corresponding to the percentge reduction of the pay of Federal employees who are furloughed or otherwise have a reduction of pay resulting from a sequestration order.

S. 3142

At the request of Mr. Dole, the name of the Senator from Illinois [Mr. Dixon] was added as a cosponsor of S. 3142, a bill to provide for recognition of costs of certain nursing and allied health education programs as allowable direct costs reimbursable to a hospital on a reasonable basis for purposes of payment under title XVIII of the Social Security Act, and for other purposes.

S. 3145

At the request of Mr. Akaka, the name of the Senator from Hawaii [Mr. Inouye] was added as a cosponsor of S. 3145, a bill to amend the Internal Revenue Code of 1986 to permanently extend qualified mortgage bonds and low-income housing credit, and for other purposes.

SENATE JOINT RESOLUTION 263

At the request of Mr. Helms, the name of the Senator from Nevada [Mr. Reid] was added as a cosponsor of Senate Joint Resolution 263, a joint resolution to designate October 11, 1990, as "National Society of the Daughters of the American Revolution Centennial Day."

SENATE JOINT RESOLUTION 329

At the request of Mr. Kasten, the name of the Senator from Wisconsin [Mr. Kohl] was added as a cosponsor of Senate Joint Resolution 329, a joint resolution to designate the week of June 17, 1990 through June 23, 1990 as "National Week to Commemorate the Victims of the Famine in Ukraine, 1932-1933", and to commemorate the Ukrainian famine of 1932-1933 and the policies of Russification to suppress Ukrainian identity.

SENATE JOINT RESOLUTION 350

At the request of Mr. Byrd, the names of the Senator from North Dakota [Mr. Burdick], the Senator from Nebraska [Mr. Exon], the Senator from Kansas [Mrs. Kassebaum], the Senator from Wisconsin [Mr. Kohl], and the Senator from Kentucky [Mr. McConnell] were added as cosponsors of Senate Joint Resolution 350, a joint resolution to designate October 18, 1990, as "National Hardwood Day".

SENATE JOINT RESOLUTION 356

At the request of Mr. Dole, the names of the Senator from Louisiana [Mr. Johnston], the Senator from Mississippi [Mr. Lott], the Senator from Ohio [Mr. Metzenbaum], the Senator from Alaska [Mr. Murkowski], the Senator from Hawaii [Mr. Akaka], the Senator from Montana [Mr. Baucus], the Senator from Missouri [Mr. Bond], the Senator from Mississippi [Mr. Cochran], the Senator from Illinois [Mr. Dixon], the Senator from Georgia [Mr. Nunn], the Senator from California [Mr. Wilson], the Senator from New York [Mr. D'Amato], and the Senator from New York [Mr. Moynihan] were added as cosponsors of Senate Joint Resolution 356, a joint resolution designating November 4-11, 1990, as "National Key Club Week."

SENATE JOINT RESOLUTION 364

At the request of Mr. Reid, the names of the Senator from North Carolina [Mr. Helms], the Senator from Nebraska [Mr. Exon], and the Senator from New York [Mr. D'Amato] were added as cosponsors of Senate Joint Resolution 364, a joint resolution to designate the third week of February, 1991, as "National Parents and Teachers Association Week."

SENATE JOINT RESOLUTION 371

At the request of Mr. Pryor, the name of the Senator from Mississippi [Mr. Cochran] was added as a cosponsor of Senate Joint Resolution 371, a joint resolution to recognize the week of October 1-7, as "National Nursing Home Residents' Rights Week."

SENATE JOINT RESOLUTION 296

At the request of Mr. Roth, the names of the Senator from Kansas [Mrs. Kassebaum] and the Senator from Louisiana [Mr. Johnston] were added as cosponsors of Senate Joint Resolution 296, a resolution to express the sense of the Senate the support of Taiwan's membership in the General Agreement on Tariffs and Trade.

SENATE CONCURRENT RESOLUTION 151—RELATIVE TO ENERGY EFFICIENCY AND CONSERVATION AND SETTING A NATIONAL ENERGY POLICY AND GOALS

Mr. AKAKA (for himself and Mr. Inouye) submitted the following concurrent resolution; which was referred to the Committee on Energy and Natural Resources:

S. Con. Res. 151

Whereas the United States imported nearly half of the oil it consumed in early 1990;

Whereas the crisis in the Persian Gulf has cut off an important supply of oil to the United States and disrupted the United States' domestic economy;

Whereas the rise in oil prices in the United States resulting from the Iraqi invasion of Kuwait on August 2, 1990, and the subsequent United Nations embargo against Iraq, represents the 3d significant rise in oil and fuel prices in the United States since 1989;

Whereas other significant oil price increases came after the Exxon Valdez ran aground in Alaskan waters in March 1989 and during the severe cold weather of December 1989;

Whereas the United States' dependency on foreign oil could be significantly reduced through energy efficiency and conservation measures;

Whereas energy efficiency is important in ensuring the Nation's economic stability, promoting the national security, ensuring the health and well-being of the people of the United States, and protecting the environment of the Nation and the world;

Whereas the Federal Government's energy efficiency and conservation programs received severe budget cuts throughout the 1980's;

Whereas the Federal Government is a major consumer of the Nation's energy resources;

Whereas programs to promote energy efficiency within the Federal Government and programs undertaken by the Federal Government to encourage and promote energy efficiency throughout the Nation are an integral part of reducing the United States dependency on foreign oil; and

Whereas other industrialized nations have adopted policies aimed at encouraging the efficient use of energy resources: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the legislative and executive branches share the responsibility of developing and overseeing energy efficiency and conservation policies. In furtherance of meeting that responsibility, the Congress—

(1) calls on the President to convene, before the end of 1991, a national energy summit to discuss and formulate new priorities and firm goals for the use of renewable and nonrenewable energy resources in the United States by the year 2000;

(2) urges the President, when convening the national energy summit, to include experts on energy and the environment from the Administration, the private sector, State and local governments, and the Congress;

(3) urges the President to utilize the energy summit to—

(A) explain to the people of the United States the current state of energy supplies in this Nation and the world, and the rate of energy consumption in the United States;

(B) set goals to be attained for future energy efficiency and consumption;

(C) renew the United States' commitment to a national policy of energy efficiency;

(D) provide information to the people of the United States regarding issues of energy efficiency and conservation;

(E) adopt measures to make the Federal Government among the most efficient consumers of the Nation's energy sources; and

(F) set forth energy efficiency policies and measures that, in the event of an energy crisis, would protect the United States economy from volatile swings in the world energy prices; and

(4) believes the National Energy Strategy, being developed by the Department of Energy, should be an important part of the discussion of the future of energy efficiency and consumption in the United States at the energy summit.

SENATE RESOLUTION 333—AUTHORIZING CERTAIN APPOINTMENTS

Mr. CRANSTON (for Mr. Mitchell, for himself and Mr. Dole) submitted the following resolution; which was considered and agreed to:

S. Res. 333

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the President of the Senate pro tempore, the Majority Leader of the Senate, and the Minority Leader of the Senate be, and they are hereby, authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

AMENDMENTS SUBMITTED

DEFENSE PRODUCTION ACT AMENDMENTS

RIEGLE (AND GARN) AMENDMENT NO. 2925

Mr. DIXON (for Mr. Riegle, for himself and Mr. Garn) proposed an amendment to the bill (S. 1379) to reauthorize and amend the Defense Production Act of 1950, and for other purposes, as follows:

On page 59, line 8, strike "and".

On page 59, between lines 11 and 12, insert the following:

(C) responding to actions occurring outside of the United States which could result in the termination or reduction of the availability of strategic and critical materials, including energy, and which would adversely affect the national defense preparedness of the United States; and

On page 69, line 9, strike "(a) In General.—".

On page 71, strike lines 18 through 22.

On page 85, strike lines 13 through 15 and insert the following:

(1) in subsection (a), by striking "and subsection (j) of section 708A";

Beginning with page 92, line 11, strike all through page 103, line 25.

On page 104, line 11, strike "countries" and insert "foreign governments".

On page 104, line 15, before the semicolon insert the following: "and assesses the extent and character of any such strategy".

On page 104, line 19, strike the semicolon and insert the following: "and assesses the extent and character of any such activities.".

On page 110, between lines 5 and 6, insert the following:

SEC. 152. VOLUNTARY AGREEMENTS.

Section 708A of the Defense Production Act of 1950 (50 U.S.C. App. 2158a) is repealed.

On page 115, strike lines 6 through 9 and insert the following:

(a) In General.—The single Government-wide Federal Acquisition Regulation, referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)), shall be amended to specify the circumstances under which an acquisition plan for any major

On page 115, line 12, after the comma insert "shall".

Beginning with page 115, line 23, strike all thorugh page 116, line 3.

On page 116, line 4, strike "(3)" and insert "(2)".

Beginning with page 116, line 16, strike all through page 118, line 15, and insert the following:

SEC. 212. PROCUREMENT OF CRITICAL COMPONENTS OR CRITICAL TECHNOLOGY ITEMS.

(a) Acquisition Regulations Required.—Within 180 days of the date of enactment of this Act, the single Government-wide Federal Acquisition Regulation, referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)), shall be modified to provide for the solicitation, award, and administration of contracts for the procurement of critical components or critical technology items in accordance with provisions of this section.

(b) Required Solication Provisions.—Except as provided in subsection (c), any solicitation for the procurement of critical components or critical technology items shall—

(1) specify the minimum percentage of the total estimated value of the contract that is to be performed by one or more domestic firms;

(2) provide for the attainment of such requirement by the firm as prime contractor, or by subcontractors pursuant to a subcontracting plan submitted with the prime contractor's offer,

(3) specify that a source selection factor relating to the requirement specified in paragraph (1) shall accord—

(A) such source selection factor a value not to exceed 10 percent of the total evaluation points for all source selection factors specified in the solicitation; and

(B) such evaluation points in proportion to the extent to which each offer meets or exceeds the specified percentage;

(4) provide that attainment of the percentage specified in the offer of the firm receiving the award shall be a material element of contractual performance; and

(5) require the contractor to—

(A) identify each subcontractor whose performance is to be counted towards attainment of the contractual requirement specified pursuant to paragraph (1); and

(B) provide prompt notice to the contracting officer after replacing any such subcontractor.

(c) Waiver of Solicitation Provisions.—(1) The regulations required by subsection (a) may specify circumstances under which the solicitation provisions required by subsection (b) may be waived with respect to a specific solicitation upon a determination by the contracting officer that the use of such solicitation provisions is likely to result in a significant adverse impact on the national interest of the United States.

(2) The contracting officer's determination shall be—

(A) supported by specific written findings which justify such determination; and

(B) approved by the senior procurement executive of the department or agency (designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) or a designee of such officer.

(3) Copies of waiver determinations approved pursuant to subsection (b) (including the supporting written justifications and approvals) shall be made available upon request to—

(A) the public, consistent with the provisions of section 552 of title 5, or

(B) any member, or duly constituted committee, of the Congress.

(d) Critical Components and Critical Technology Items.—The President, acting through the Secretary of Defense, shall—

(1) determine the components or items that are critical components or critical technology items; and

(2) publish a list of such critical components and critical technology items in the Federal Acquisition Regulation.

(e) Definitions.—For the purpose of this section—

(1) the term "domestic firm" has the same meaning as the term "domestic source" in section 702 of the Defense Production Act of 1950; and

(2) the terms "critical components" and "critical technology items" have the same meanings as in section 702 of the Defense Production Act of 1950.

Beginning with page 118, line 16, strike all through page 119, line 4, and insert the following:

SEC. 213. SUSTAINING INVESTMENT.

It is the sense of the Congress that, in order to encourage investment to maintain our Nation's technological leadership, to preserve the strength of our industrial base, and to encourage contractors to invest in advanced manufacturing technology, advanced production equipment, and advanced manufacturing processes, the Secretary of Defense as part of his implementation of changes to defense acquisition policies pursuant to the Defense Management Review shall consider—

(1) full allowability of independent research and development/bid and proposal costs;

(2) appropriate regulatory changes to increase the progress payment rates payable under contracts; and

(3) an increase of not more than 10 percent in the amount which would otherwise be reimbursable to a contractor as the Government's share of costs incurred for the acquisition of production special tooling, production special test equipment, and production special systems (including hardware and software) for use in the performance of the contract.

Beginning with page 119, line 22, strike through page 120, line 6, and insert the following:

(a) Suspension or Debarment Authorized.—Subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation)

shall be amended to specify the circumstances under which a contractor, who has engaged in an unfair trade practice, as defined in subsection (b), may be found to presently lack such business integrity or business honesty that seriously and directly affects the responsibility of the contractor to perform any contract awarded by the Federal Government or perform a subcontract under such a contract.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND SUNDRY AGENCIES, COMMISSIONS, CORPORATIONS, AND OFFICES APPROPRIATIONS ACT, FISCAL YEAR 1991

MIKULSKI (AND GARN) AMENDMENT NO. 2926

Ms. MIKULSKI (for herself and Mr. Garn) proposed an amendment to the bill (H.R. 5158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes, as follows:

On page 42, strike the proviso beginning on line 11 through line 16.

On page 94, strike lines 14 through 18.

On page 18, line 18, before the semicolon insert the following: "; from the foregoing $1,098,516,800 for vouchers, up to $23,208,800 shall be drawn from either or both amounts for demonstration projects for the homeless, as designated by the Department of Veterans Affairs, that shall provide the participants with comprehensive supportive services (from funding sources other than the Department of Housing and Urban Development) to more fully address the special needs of such homeless people and, to the extent that any of the $23,208,000 cannot be utilized for projects designated by the Department of Veterans Affairs, remaining balances may be used for similar demonstration purposes as designated by the Department of Housing and Urban Development".

On page 20, line 5, insert before the colon: "including $1,000,000 for the relocation of the St. Mary's Food Kitchen in Kansas City, Kansas".

On page 75, line 25, before the period insert the following: ": *Provided*, That of the amounts provided herein for development and production of the advanced solid rocket motor, $15,000,000 shall be available without fiscal year limitation only for the competitive award of a second domestic development and production source contract for the carbon/carbon integral throat entrance unless the President certifies to the Congress by January 1, 1991, that such application of funds is not in the best interest of the United States space program on the basis of cost, added assurance of reliable supply, expanded technology base, and technical risk reduction.

At page 82, line 14, strike all after the word "year" through line 18, and insert a period.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a hearing on October 4 at 9:30 a.m. in SR-328A. The purpose of the hearing is to investigate whistleblower problems in the Federal Grain Inspection Service. Senator Baucus will preside. For further information, please contact Tamara McCann in the Small Business Committee.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 3, 1990, at 10 a.m. on the nomination of Wayne Berman and Craig Helsing to be an Assistant Secretary of Commerce.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on October 3, 1990, at 10 a.m., to hold a hearing on refugee consultation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, October 3, 1990, at 9:30 a.m. to hold a hearing on the subject: OMB's response to government management failures.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TOXIC SUBSTANCES, ENVIRONMENTAL OVERSIGHT, RESEARCH AND DEVELOPMENT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on Toxic Substances, Environmental Oversight, Research and Development, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, October 3, beginning at 9:30 a.m., to conduct a hearing on the OTA report, "Neurotoxicity, Identifying and Controlling Poisons of the Nervous System," and related research and regulatory issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

POLISH BUILDING TRADES CRAFT TRAINERS—MEMBERS OF SOLIDARITY

● Ms. MIKULSKI. Mr. President, I am delighted to welcome 11 Polish craftsmen from Warsaw, Poland, who came to the United States on September 12, 1990, as a result of an agreement reached between Robert Georgine, president, Building and Construction Trades Department, AFL-CIO and Elizabeth Dole, Secretary of Labor, U.S. Department of Labor. These individuals who are members of Solidarity will learn the latest teaching techniques at the George Meany Center, Silver Spring, MD, and will be instructed in modern U.S. construction techniques in Chicago.

On November 8, 1990, the Polish trainers will return to Warsaw along with five American Polish speaking trainers where they will set up the Pragda Training Center with the latest U.S. equipment and begin teaching other Polish trainers and workers. The skills they learn will enable the Poles to construct housing at a much faster rate which will help reduce the critical housing shortage. At the present time, a Polish family may have to wait 25 to 30 years to procure an apartment.

This Polish initiative is supported by Lane Kirkland, President, AFL-CIO Lech Walesa, Solidarity, the Polish and American Governments. The five building and construction trades crafts involved in this program are the International Brotherhood of Electrical Workers headed up by President John J. Barry; International Union of Bricklayers & Allied Craftsmen headed up by President John T. Joyce; United Brotherhood of Carpenters & Joiners of America, headed up by President Sigurd Lucassen; International Association of Bridge, Structural & Ornamental Ironworkers headed up by President Jake West and, the United Association of Journeymen & Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada headed up by President Marvin J. Boede.

The 11 Polish trainers are Ryxzard Dabrowski, Leszek Szymanski, Piotr Sosnowski, Jan Bujarski, Czeslaw Nowak, Miroslaw Napiorkowski, Jozef Lecki, Marek Kurowski, Wieslaw Janowski, Jan Szubierajski, Marian Polinski, and Jadwiga Tworek. They visited the Capitol on September 12, 1990, along with Raymond J. Robertson, general vice president of the Ironworkers and chair of the Building Trades Joint Apprenticeship Committee who is coordinating this program along with George Bliss, Plumbers & Pipefitters; Dennis Scott, Carpenters;

Bruce Voss, Bricklayers; and Ken Edwards, Electricians.

I would like to note that, Senator Paul Simon, Democrat, Illinois had an opportunity to welcome the Polish delegation and talk with the group for several minutes.●

AVENUE OF THE SAINTS

● Mr. GRASSLEY. Mr. President, today I rise to update my colleagues on the status of a project popularly known in the Midwest as the Avenue of the Saints. This is a major north-south highway which would connect the cities of St. Paul, MN and St. Louis, MO.

The Avenue of the Saints Study Committee, which consisted of the departments of transportation from Iowa, Illinois, Wisconsin, Missouri, and Minnesota as well as the Federal Highway Administration [FHWA], was commissioned to determine the best route for the Avenue of the Saints. After exhaustive study, they determined that the best route would start in St. Louis and pass through the following communities: Hannibal, Keokuk, Mount Pleasant, Iowa City, Cedar Rapids, Waterloo/Cedar Falls, Mason City and up to Minneapolis/St. Paul.

It was expected that the Department of Transportation would support this recommendation by the study committee. In mid-May the DOT submitted its report which was to contain its decision on the best route. Unfortunately, the report was more of a nondecision and did not advocate any specific route. This nondecision opened the door to the possibility of two or more routes being considered for the Avenue of the Saints.

Needless to say, I was not happy with this nondecision. I called Secretary Sam Skinner and voiced my complaint to him personally. I also talked with Tom Larson, Administrator of the FHWA—both by phone and at a public hearing of the Senate Transportation Appropriations Subcommittee—and with Dean Carlson, Executive Director of the FHWA. I followed up these conversations with a formal letter expressing my dismay and requesting that the DOT revisit this issue and render a clear decision as to which route the DOT supported.

My office stayed in almost daily contact with the DOT continuing to lobby for a clear, unequivocal decision from the DOT on the best route for the Avenue of the Saints.

I was very pleased that in late July, Secretary Skinner responded to my lobbying and sent a letter to me stating that the DOT fully supports the Iowa route for the Avenue of the Saints.

Mr. President, I ask that the contents of this letter from Secretary Skinner be placed in the Record at this point.

The letter follows:

The Secretary of Transportation,
Washington, DC, July 26, 1990.

Hon. Charles E. Grassley,
U.S. Senate,
Washington, DC.

Dear Senator Grassley: Thank you for your letter concerning the proposed Avenue of the Saints. I understand the concern you expressed for this project as you discussed it with Tom Larson at the appropriations hearing and as underscored in your letter to me.

As you pointed out, the Federal Highway Administration (FHWA) was to "* * * include recommendations concerning * * * the best route for such a highway * * *" in the report. In fact, the report did include a recommendation. I am writing to assure you that our recommendation is for Route B, based on the overall benefit/cost ratio in the technical data submitted with the FHWA's report.

What seems to have caused confusion is Tom's timely observation that we do not have an authorized Federal-aid highway program beyond next year. A project such as the Avenue of the Saints is an example of the type of highways to be included in a system of national significance, a Federal highway program envisioned for post-Interstate reauthorization. He also mentioned that this proposed system may include more than just the one route in this important corridor. Let me reinforce Tom's assurance, though, that his observations should not be construed as a lack of support for the development of Route B, such as the Iowa Department of Transportation's present efforts to improve segments of the route.

I hope this clarifies the Department's position. I look forward to working with you as we approach surface transportation reauthorization. I appreciate your dedicated concern for all of America's transportation needs.

Sincerely,

Samuel K. Skinner.

This support will make the job of including the Avenue of the Saints in the 1991 highway bill that much easier. It is important to know that the Bush administration supports the route recommended by the study committee for the Avenue of the Saints.

Now it is up to the U.S. Congress to authorize and appropriate funds in order to make the Avenue of the Saints a reality.

In March, I introduced authorizing legislation for the Avenue of the Saints, S. 2299. This legislation was cosponsored in the Senate by my colleagues Senators Bond, Danforth, and Boschwitz. Identical legislation was introduced in the House of Representatives. This legislation authorizes the Avenue of the Saints as a demonstration project.

In the 1987 highway reauthorization bill, there were 149 demonstration projects, so there is precedence for this type of approach. I recognize that this approach is frowned upon by some of my colleagues, especially those on the Environment and Public Works Committee, who are presently dealing with the 1991 highway bill. In fact, Mr. President, I agree with my colleagues that this approach is not the best approach for funding the infrastructure needs of our country. But, if there are going to be demonstration projects as part of this legislation, I would ask my colleagues to please give serious consideration to making the Avenue of the Saints one of those projects.

There are other possible methods to funding the Avenue of the Saints, such as designating it as a "highway system of national significance" and funding it through this category. This idea is not a new one. This concept has been discussed for many years and it is a concept that I support. In fact, during the Senate Transportation Appropriations Subcommittee at which Tom Larson appeared, I discussed this funding option with Mr. Larson at length. This approach to funding the Avenue of the Saints is potentially the best approach to completing this project in the near future. It allows the States the flexibility to fund the projects that are most important to them, instead of those of us in Washington making that decision.

Should my colleagues in the Senate and the House have other innovative legislative vehicles that would authorize and fund the Avenue of the Saints, I will be glad to cosponsor and support these vehicles. My only interest is to get the Avenue of the Saints funded—not in who gets credit for funding it.

I look forward to working with my colleagues on the 1991 highway reauthorization bill, and specifically on approaches to making the Avenue of the Saints a reality. This is the most important transportation project that the Midwest United States has seen in many years. I respectfully ask my colleagues to give it serious consideration.●

THE NEED FOR THOUGHTFUL CONSIDERATION OF OUR NATION'S MINERAL RESOURCE NEEDS

● Mr. McCLURE. Mr. President, in the present-day competition to be known as the best, or at least the most vocal, environmentalist, it would be easy to forget about a few things. I mean things such as jobs, cultural progress, and the continuation of a way of life which human beings have fought and struggled for millennia to achieve. I rise today to remind my colleagues of these precious possessions of the human race and of a few facts in danger of being lost amid increasingly jingoistic rhetoric.

Mr. President, it is possible to regulate ourselves into a box. I see it happening. I see us wringing our hands and painting blame for past environmental indiscretions so vigorously that we are limiting our own vision of

future possibilities. Particularly in the regulation of the minerals and mining industries we are in danger of limiting our future. We have a great and ongoing need for the supplies of civilization which come from the earth. They are ubiquitous in our society and there are no substitutes for them. Yet, incredibly, we are limiting our access to those very ingredients of our progress. I recently came across an article which makes these points very well, and I ask that it be inserted into the Record for the benefit of my colleagues who wish to consider all aspects of the so-called "environmental" issue. I am indebted to Mr. David S. Brown of the Bureau of Mines for his skill at summarizing and communicating complex ideas, and to the trade publication "Minerals Today" for publishing his thoughts in its May 1990 issue.

The article follows:

Minerals in the Environmental Decade

(By David S. Brown)

No other problem has such a sense of urgency and poses as profound consequences to the quality of life and the creation and distribution of societal wealth as how we protect the environment. Certainly, the environment is the single biggest issue facing mining and mineral activities in the new decade.

The so-called "green issues" raise sharply divergent world views and value judgments. At the heart of the current debate is the relative importance of economic growth and whether that growth is still achievable or even desirable.

On the one hand, there is the view of a profligate world rapidly using up finite resources leaving an increasingly despoiled planet. General economic growth and technologic progress are seen, on balance, as making the world worse, not better. Extractive industries, like mining, are viewed as ecologic pariahs which give nothing worthwhile back to the world.

Counterpoint is the view that sees natural resources being extended through new sophisticated technologies, scientific knowledge and human ingenuity to meet rising expectations for higher standards of living. Economic growth and technology, on balance, are good, because they turn developing nations into developed nations. Modern mining is seen as not only compatible with a quality environment, but necessary for it.

NATURE VERSUS PEOPLE

This is not the first time that limits to the Earth's resources and carrying capacity have been hotly contested. More recently, in the early 70s, the Club of Rome report took a Malthusian-like view, forecasting dire resource depletions and irreversible pollution. While that report's methodologies and Armageddon assumptions were soon discredited, efforts persist to oversimplify the incredibly complex, mysterious world in which we live. There continues to be a preoccupation with the natural environment, to the near exclusion of the human environment. People, and particularly their economic activities and aspirations, are seen as unwarranted intruders on physical nature.

Last July, Newsweek magazine published a special report on the environment entitled "Cleaning up." That report asserted: "In the aftermath of events like the Exxon Valdez oil spill, every reference to the environment is prefaced with the adjective "fragile." Nothing could be further from the truth. The environment is damned near indestructible. It has survived ice ages, bombardments of cosmic radiation, fluctuations of the sun, reversals of the seasons caused by shifts in the planetary axis, collision of comets and meteors bearing far more force than man's doomsday arsenals. Though mischievous human assaults are pinpricks compared with forces of this magnitude, nature is accustomed to resisting."

While the environment itself may persist, there are nevertheless serious, legitimate environment problems that must be addressed if conditions for human life are to be sustained. Newsweek's somewhat interesting observation does suggest, however, that these problems should be approached with a realistic perspective about the natural world itself.

Much is not known or understood about climatic forces, natural earth processes that impact air, water and soils, and the overall ecologic webbing of our world. The physical world's resiliency and ability to regenerate itself from natural and man-made assaults indeed are remarkable. Mankind's knowledge about past and present interplay with the environment is imperfect and, in many ways, rudimentary, particularly as a basis for trying to project the future. In his zeal to protect and preserve the environment from man's impact, man himself cannot be left out of the policy equations, nor denied resources and freedom to improve his material wellbeing.

There should be a reasonableness in how to go about dealing with the natural environment. Public policy making should not be driven by fear or sensationalism. Quick fixes often reap unintended or underestimated results. It is said that when someone comes up with an unduly complicated solution to a problem you have not a solution but a new problem. Before society moves ahead with major policy initivatives, there needs to be a reasonable understanding of the technical and economic consequences of the policy options themselves. Science should not be bent to fit preconceived notions of what is practical or feasible but should be a dynamic source of innovative thought that leads to real progress and effective solutions.

Mankind should strive to balance realistic environmental goals with other competing societal goals, such as creating jobs, homes and hope for the millions in the world who are jobless, homeless, hungry and despairing. The environment cannot be considered in isolation from these kinds of human needs. Nor should a single-minded concentration on health risks of pollution blind decision makers to the health risks associated with joblessness, poverty and despair when economic growth is stymied.

In the White House annual report to the Congress, the President's Council of Economic Advisors states: "Environmental policies that pursue unrealistic goals through inflexible regulation waste the nation's resources. Such poorly designated programs not only slow economic growth and eliminate jobs, their exessive costs also reduce support for the goal of environmental protection."

The Council further observes: "Regulatory targets should be chosen by careful cost-benefit analyses, and the methods of regulation should minimize the cost and disruption of reaching their targets. Cost minimization often requires carefully structuring the incentives faced by the private sector, as well as granting firms and their workers flexibility in meeting regulatory requirements. Government policies should generally be designed to strengthen, not weaken, market forces and, when appropriate, to harness them in the public interest."

The collapse of central planning throughout the world and the increasing embrace of market principles should serve as a reminder. Paternalistic command and control regulations put government in the implausible position of picking and imposing technologies. Such regulations work against innovation and diversity in the marketplace. Government command and control not only imposes greater and greater complexities, but also can lead to industrial concertration and business oligopoly. Flexible, cost-effective market-oriented regulations can better achieve both a strong economy and a clean environment. For instance, in the case of high-volume, low-hazard mine waste, regulations should be waste-specific, sitespecific and risk-based.

In the final analysis, environmental ethics are a matter of stewardship. As delegated stewards, this generation is expected to leave the created order, and the people who live in it, in better condition than it found them. This means not only cleaner air and cleaner water, but more freedom, more economic opportunity, more market competition, more diversity, and more security from war, disease and famine. These objectives are achievable through market-oriented policies. Good stewardship means making decisions on the use of natural resources for the common good, as well as for resource preservation. President John F. Kennedy once stated: "Our entire society rests upon and is dependent upon-our water, our land our forests, and our minerals. How we use these resoures influences our health, security economy and well being."

President George Bush and Interior Secretary Manuel Lujan, Jr., have established a stewardship program that among other things marshals millions of volunteers to help protect and enhance our natural resources so they can be used and enjoyed by this generation and future generations of Americans.

Economic growth provides the wherewithal to protect the environment. Only economically progressive nations can be good stewards of the natural environment. Where there is economic deprivation, environmentally devastating practices abound. Nations where economic growth is supported and innovation encouraged are the most willing and able to allocate significant resources to protect the environment. While developed nations may make impressive strides in cleaning up pollution within their respective borders, improving the global environment will require strong economic growth in the developing world.

If strong economies and a healthy environment go hand-in-hand, then minerals are necessary for both to work together effectively. These minerals are the building blocks of the complex human environmntal called civilization. Everything in the world that cannot be grown is taken from the earth, processed, refined, and used to make things, including so-called advanced materials which have become key to international competitiveness. These new mineral-based materials promise improved product performance, decreased energy consumption, longer service lives, and successful introduction of revoluntionary enabling technologies.

While air and water are recognizable resources, the role and importance of minerals is less appreciated, because their identity is often hidden in finished products. The food we eat, the clothing we wear, skyscrapers, satellites, transportation, toothpaste, computers, modern medicine—a thousand and one gadgets and conveniences that enrich, sustain and protect our lives are made possible only by the minerals drawn from the earth. Minerals are the source of new wealth that cannot be created from the sale of services.

Reducing pollution and cleaning up the environment also require minerals. For example, reductions in automobile emissions rely on the catalytic properties of platinum, palladium and rhodium to capture harmful gases in an iron and steel encased device hanging underneath 160 million automobiles in the United States. The environmental importance of these platinum group metals and their availability grows ever more significant, as the demands for cleaner air become stronger. The European Economic Community, for instance, is accelerating its schedule to impose tougher emission standards using the U.S.-style catalytic convertors on two-thirds of European automobiles.

Low-temperature superconductors promise to revolutionize transportation, communications and energy transmission, making them safer, cleaner and more efficient. Yet, these new materials will require enormous new quantities of special enabling mineral elements such as rare earths that will have to be located, mined, and processed.

Over the next 20 years, rebuilding a deteriorating U.S. infrastructure—roads, highways, ports, airports, bridges, waste disposal and treatment facilities, water and sewer systems, and public buildings will require unprecendented tonnages of sand, gravel, asphalt, and stone to be mined or quarried, not to mention steel and other structural materials.

Minerals are found where nature has placed them, not where people want them to be. Often, society would like minerals to be located more conveniently. Scenic natural beauty that is highly valued may be underlain with mineral wealth. The same geologic forces that created spectacular, mountainous grandeur also formed the mineral concentrations. Consequently, when the landscape is managed, use conflicts can arise. To be good stewards of the land, nations need to find out what they are managing by conducting careful inventories of their various resource values. Locking away land without knowing its resource potential, including its mineralization, is not good stewardship. Mankind cannot make use of resources that it doesn't know it has.

With careful planning, modern technologies and reasonable mitigation, society can have minerals as well as most other values. It must be remembered that mineral activity is an interim use of the land, not a final use. Moreover, in many cases, the reclamation work associated with mineral activities can enhance other values. As Interior Secretary Lujan has stated: "Mineral development on public lands does not need to be at the expense of the environment, nor does protection of the environment need to eliminate the mineral development that this country needs, if we expect to maintain our status as a leading world power, and if we wish to maintain our high standards of living."

Outside their geologic setting, minerals are also found stored in more organized form in finished products and byproduct wastes. In either case, the mineral values can be retrieved through recycling and processing. These stored minerals are increasingly important new resources to be used again to benefit consumers.

Under current superfund policy in the United States, cleaning up certain hazardous mine and processing wastes is considered strictly a pollution problem. If these waste piles were to be viewed as a resource, as ore bodies that contain commercial mineral values, the private sector could come in with appropriate recovery technology, turn a profit, increase overall minerals, availability, and, in the process, leave a cleaner, safer site. Yet, because of the present superfund legal liability, there is little incentive for the private sector to touch a metals contamination site in an attempt to remine waste dumps or tailing ponds. Here is an instance where a more flexible approach that encourages technologic innovation could harness the ingenuity and efficiency of industry to better achieve both environmental goals and increased resource availability.

Finally, it should be noted that it is the U.S. policy to foster economically sound and stable domestic mineral industries and encourage the orderly development of the nation's mineral resources. The United States is likewise committed to a healthy, sustainable natural environment. Protecting and enhancing valuable natural resources, as well as proceeding with their development in an environmentally sound manner, are not mutually exclusive. We can do both. We do not have to choose one over the other. With common sense, good science and flexible, market-based policies, we can be responsible stewards of our natural heritage.

(David S. Brown is Associate Director for Information and Analysis for the Bureau of Mines. This article was adapted from his address on March 21, 1990, at Globe '90 in Vancouver, B.C., Canada.)●

BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR COMMISSION

Mr. CRANSTON. Mr. President, I ask that the Chair lay before the Senate a message from the House on S. 830, a bill to authorize the Blackstone River Valley National Heritage Corridor Commission to make grants for preservation and restoration.

The **ACTING PRESIDENT** pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 830) entitled "An Act to amend Public Law 99-647, establishing the Blackstone River Valley National Heritage Corridor Commission, to authorize the Commission to take immediate action in furtherance of its purposes and to increase the authorization of appropriations for the Commission," do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. IMPLEMENTATION OF THE PLAN.

Section 8 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647, 16 U.S.C. 461 note) (hereinafter referred to as the "Act"), is amended by inserting the following at the end thereof:

"(c)(1) In furtherance of the purposes of this Act, the Secretary is authorized to undertake a limited experimental program of financial assistance for the purpose of providing demonstration funds for projects within the corridor which exhibit national significance or provide a wide spectrum of historic, recreational, or environmental education opportunities to the general public in a manner consistent with the purposes of this Act.

"(2) Applications for funds under this section shall be made to the Secretary through the Commission. Each application shall include the recommendation of the Commission and its findings as to how the project proposed to be funded will further the purposes of this Act.

"(3) The Secretary is authorized to provide funds for the following purposes—

"(A) preservation and restoration of properties on or eligible for inclusion on the National Register of Historic Places;

"(B) design and development of interpretive exhibits to encourage public understanding of the resources of the Blackstone Valley; and

"(C) cultural programs and environmental education programs related to environmental awareness or historic preservation.

"(4) Funds made available pursuant to this subsection shall not exceed 50 percent of the total costs of the project to be funded. In making such funds available, the Secretary shall give consideration to projects which provide a greater leverage of Federal funds. Any payment made shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this Act, as determined by the Secretary, shall result in a right of the United States of compensation of all funds made available to such project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Act is amended by inserting "(a)" after "Sec. 10", striking "250,000 for the next five fiscal years" and inserting "350,000 for each year in which the Commission is in existence" and inserting at the end thereof the following:

"(b) Demonstration Funds.—There are authorized to be appropriated to carry out the provisions of section 8(c), $1,000,000 annually for fiscal years 1991, 1992, and 1993, to remain available until expended.".

Mr. PELL. Mr. President, I am delighted that we are about to consider final passage of S. 830, a bill that I introduced to authorize the Federal funding programs needed for the Blackstone River Valley National Heritage Corridor Commission to carry out its mission of preserving and interpreting an important legacy of our nation's past.

We take a great deal of pride in the fact that America's industrial revolution was born on the banks of the hardworking Blackstone River, which flows from Worcester, MA, to Pawtucket, RI. This legislation will help to spotlight that legacy for the Nation.

I want to express my profound thanks to the Senior Senator from Arkansas [Mr. Bumpers], chairman of

the Senate Subcommittee on Public Lands, and to the senior Senator from Wyoming [Mr. Wallop], the ranking minority member of that subcommittee, and their staff members—particularly Tom Williams—for their assistance and guidance.

The national historic value of this area, and its role as cradle of our industrial revolution, was recognized by the Congress with the enactment of the Blackstone Valley National Heritage Corridor Act (Public Law 99-646) in 1986.

The Blackstone Corridor Commission, created by this law, has done an excellent job of planning to create a chain of linear parks along the banks of the river to preserve, protect and tell the national story of the Blackstone Valley.

This is truly a bipartisan effort and I am delighted that my colleagues, the junior Senator from Rhode Island [Mr. Chafee], the senior Senator from Massachusetts [Mr. Kennedy], and the junior Senator from Massachusetts [Mr. Kerry] joined me in introducing this important measure.

Likewise, I am pleased that the true bipartisan nature of this effort continued in the House of Representatives, where Representative Machtley of Rhode Island, joined by Representatives Early and Atkins of Massachusetts, introduced a companion bill that recently passed that body.

When I testified in 1986 in support of the original authorization, which was sponsored by my colleague, the junior Senator from Rhode Island [Mr. Chafee], I noted that the Blackstone River is our link not only to the past, but to the future.

That, I think, is the most important point we can make about the Blackstone River Valley Heritage Corridor. By preserving and highlighting our pioneering industrial past, we can foster a better future and an increasing sense of pride for our citizens.

That was the vision I had back in the spring of 1983. It was then I initiated the first meeting of the National Park Service, the Rhode Island and Massachusetts Departments of Environmental Management and representatives of Congressional Delegations from both Rhode Island and Massachusetts to coordinate plans for the Blackstone River.

The birthplace of the American industrial revolution is well worth preserving and we, on the Federal level, should do what we can to support that effort. When we look at historic battlefields throughout America, we should not overlook one of our most important battles—the economic battle of the industrial revolution.

In these times of increasing international competition throughout the world's marketplaces, we owe it to ourselves and our children to make sure that this economic battle site is preserved and that we learn from its lessons.

Mr. CHAFEE. Mr. President, I welcome the final approval of S. 830, the amendments to the Blackstone River Valley National Heritage Corridor Act. I would like to thank the members of the Senate Energy Committee and the House Interior Committee for moving this bill forward, and especially Representative Machtley, who has worked tirelessly on this bill. I would also like to give a great deal of credit to Jim Pepper and Bob Bendick and the other members of the Blackstone Valley Commission, all of whom have turned this project into a reality.

For centuries, the Blackstone River has been winding through 45 miles of Massachusetts and Rhode Island countryside. Slater's Mill, the river's first textile mill, was built in 1793, signaling the true beginning of our country's Industrial Revolution. The Blackstone Canal opened, the Providence-Worcester Railroad was inaugurated, and the valley flourished.

The sense of community that was so strong over a century ago still exists today. The people living in the Blackstone Valley—from Grafton to Uxbridge to Pawtucket—are proud of their region and are enthusiastic about its preservation and revitalization.

Conservation efforts are underway on all levels. With the help of the Rhode Island and Massachusetts congressional delegations, these efforts culminated in the 1986 act to establish the Blackstone River Valley National Heritage Corridor. This legislation established a unique type of urban park: A park to highlight the cultural, historic, and economic resources of the corridor.

As an author of the original Blackstone Valley legislation, I am pleased with the corridors steady progress. New land has been acquired, new projects have been started, and a comprehensive management plan has been developed. On June 4, with my urging, Secretary Lujan approved the Blackstone River Valley Cultural Heritage and Land Management Plan—a strong vote of confidence by the Federal Government in this project.

I would like to emphasize that the State of Rhode Island fully recognizes that this project is a joint effort between the States and the Federal Government. We have put into the corridor a significant amount—more than $2 million—of State resources.

We in Rhode Island, and our neighbors in Massachusetts, are ready to commit resources toward enhancing the corridor. But, as Congress recognized 4 years ago, we do need some Federal help.

S. 830, as amended by the House, will help the Commission achieve the goals set forth in the cultural and land management plan by fine tuning the original legislation. As I mention, some modifications were made to the bill. The funding for potential Blackstone Valley projects now will be routed, with an accompanying recommendation from the Commission, through the Office of the Secretary of the Interior for approval.

The bill provides for the necessary funding for the corridor's completion. It increases the Commission's annual operating funding by $100,000 to $350,000 for each of the next 3 years. In addition, $1 million is provided for fiscal year 1991-93. With these moneys, the Commission will be able to develop visual exhibit centers, restore historic structures, and establish educational and cultural programs on the environment.

This act has widespread support, from the local communities to the Governors of both States to the National Park Service. Thanks to these groups' hard work, the corridor has gone far and fast. It is truly on its way to becoming a "living corridor," and the passage of this bill goes a long way toward that goal.

Mr. PELL. Mr. President, subsection 8(c)(4) of this act would require that the funds made available do not exceed 50 percent of the total cost of the project to be funded. I would like to make it clear what that means.

A good example is the plan to build a visitor center in Woonsocket, RI. The city, the chamber of commerce and the State of Rhode Island are investing $4 million to restore an historic building for the visitor center. They have asked for assistance from the Blackstone Commission and the National park Service to develop the interpretation exhibit inside the center.

The initial indications are that the Commission would request pursuant to section 8(c) approximately $250,000 to $500,000 to develop the interpretive exhibit.

Since the total cost of the project includes the cost of restoring the building, that $4 million could be used to match the $250,000 requested for the exhibit. Is that a correct understanding of the intent of the Senate in approving this legislation?

Mr. BUMPERS. Mr. President, the senior Senators from Rhode Island [Mr. Pell] is correct in his understanding. With the example given, it would not be necessary for the Secretary to find a 50-percent match for the cost of the exhibit itself.

The Secretary could agree to fund the cost of the exhibit, and the restoration work of this building—which I understand is listed on the National Register—could be used as a match because that work is part of the total cost of the project.

Mr. PELL. Am I correct that there is nothing in this bill which would prevent the Commission from being the recipient of the demonstration project funding provided that the project qualified in all other respects under the law?

Mr. BUMPERS. That is correct.

Mr. PELL. A final clarification, Mr. President. Under the existing law the Commission's exhibits can be developed by the National Park Service on a reimbursable basis.

Using the same example in Woonsocket, S. 830 would continue to allow the Secretary, the Commission if it was the recipient, or other parties to the demonstration project to use the design services of the National Park Service on a reimbursable basis when appropriate.

I understand that the National Park Service is working closely with the interpretative projects in the corridor in an effort to keep the design standards high.

Mr. BUMPERS. That is correct. When appropriate, parties involved may agree to develop the project through the National Park Service, using demonstration project funds.

Mr. PELL. I thank the senior Senator from Arkansas [Mr. Bumpers], the chairman of the Energy and Natural Resources Committee's Subcommittee on Public Lands, National Parks, and Forests, for his assurances and for his expert knowledge and guidance.

Mr. KERRY. Mr. President, I want to add my strong support for passage of S. 830, the Blackstone River Valley Heritage Commission.

This important legislation provides the Federal authority and framework for the development of this important region of central and southern Massachusetts and Rhode Island. This area, the Blackstone River Valley, represents enormous economic, cultural, historical, and recreational resources, not only to New England, but to our Nation.

The Blackstone River Valley Commission will be the focal point around which protection of our heritage and creation of tomorrow's heritage from Worcester to Grafton to Milbury, to Blackstone and into Rhode Island, will be designed, coordinated, planned, and stimulated.

This extraordinary private-public venture of 2 States and 20 communities is critically needed at this moment of great economic distress in central and southern Massachusetts. It is a critically important initiative to preserve and enhance the valuable resources in this important area, and I am very pleased to have played a role in enacting this important measure.

Mr. CRANSTON. I move that the Senate concur in the amendment of the House.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NOMINATIONS PLACED ON THE EXECUTIVE CALENDAR

Mr. CRANSTON. Mr. President, as in executive session, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be discharged of the following nominations and that they be placed directly on the executive calender:

Wayne L. Berman, to be an Assistant Secretary, Department of Commerce; Craig R. Helsing, to be an Assistant Secretary, Department of Commerce; Christopher L. Koch, to be a Commissioner, Federal Maritime Commission; Gail C. MCDonald, to be a member of the Interstate Commerce Commission; Sigmund R. Petersen, to be rear admiral and Director, Office of NOAA Corps Operations, National Oceanic and Atmospheric Administration; and Mary Sterling, to be inspector general, Department of Transportation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STUDENT ATHLETE RIGHT-TO-KNOW ACT

Mr. CRANSTON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 580.

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the amendment of the House to the bill (S. 580) entitled "An Act to require institutions of higher education receiving Federal financial assistance to provide certain information with respect to the graduation rates of student-athletes at such institutions", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Hawkins, Mr. Ford of Michigan, Mr. Williams, Mr. Owens of New York, Mr. Perkins, Mr. Goodling, Mr. Coleman of Missouri, and Mr. Henry be the managers of the conference on the part of the House.

Mr. CRANSTON. Mr. President, I move that the Senate insist on its amendment, agree to the request of the House for a conference on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees.

The motion was agreed to, and the Acting President pro tempore [Mr. Bryan] appointed Mr. Kennedy, Mr. Pell, Mr. Dodd, Mr. Metzenbaum, Ms. Mikulski, Mr. Hatch, Mrs. Kassebaum, Mr. Thurmond, and Mr. Cochran conferees on the part of the Senate.

CORRECTION TO RESOLUTION OF RATIFICATION

Mr. CRANSTON. Mr. President, as in executive session,

I ask unanimous consent that the resolution of advice and consent to ratification, signed September 18, 1990, accompanying the Tax Convention with the Federal Republic of Germany approved by the Senate on that date, be superseded by a resolution correcting a clerical error as follows:

On page 1, line 8 of the understanding to the resolution, strike out the word "Federal" and insert the word "German".

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution is as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the United States of America, and the Federal Republic of Germany for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital and to Certain Other Taxes (the Convention), together with a related protocol, signed at Bonn on August 29, 1989 (Treaty Doc. 101-10), subject to the following understanding:

That in the event that the German Democratic Republic and the Federal Republic of Germany unite under the Government of the Federal Republic of Germany, the Convention will apply, according to its terms, to residents of the area currently comprising the German Democratic Republic, and to income from sources within, and to capital situated in, such area, only at such time as the laws imposing the covered national taxes in the area currently comprising the German Democratic Republic and the laws imposing the covered national taxes in the area currently comprising the Federal Republic of Germany are identical in substance. The preceding sentence shall not affect the application of the Convention to any income or capital to which the Convention would apply absent unification.

ADDITION OF LANDS TO VICKSBURG NATIONAL MILITARY PARK

Mr. CRANSTON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2437.

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2437) entitled "An Act to authorize the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause and insert:

TITLE I—VICKSBURG NATIONAL MILITARY PARK

SEC. 101. ADDITION OF LANDS TO VICKSBURG NATIONAL MILITARY PARK.

(a) Grant's Canal, Louisiana.—The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") is authorized to acquire by donation, exchange, or purchase with donated or appropriated funds, approximately two and five-tenths acres of land in Madison Parish, Louisiana, known generally as the Grant's Canal property.

(b) Warren County, Mississippi.—(1) The Secretary is authorized to acquire by donation approximately two and eighty-two one-hundredths acres of land adjacent to the entrance of Vicksburg National Military Park owned by Warren County, Mississippi.

(2) The Secretary may contribute, in cash or services, to the relocation and construction of a maintenance facility to replace the facility located on the land to be donated, all in accordance with an agreement between the Secretary and the Board of Supervisors.

(3) The Secretary is authorized to restore and landscape the property acquired pursuant to this subsection.

(c) Boundary Revision.—Upon acquisition of the properties referred to in subsections (a) and (b), the Secretary shall, after the publication of notice in the Federal Register, revise the boundary of Vicksburg National Military Park (hereinafter in this title referred to as the "park") to reflect the inclusion of such properties within the park.

SEC. 102. EXCLUSION OF LANDS FROM PARK.

(a) Exclusion of Certain Lands.—The park boundary is hereby revised to exclude those lands depicted as "Proposed Deletions" on the map entitled "Vicksburg National Military Park" numbered 306-80,007 and dated May 1990, which map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. Exclusive jurisdiction over the lands excluded from the park is hereby retroceded to the State of Mississippi.

(b) Transfer to Adjacent Owners.—(1) For a period ending four years after the date of enactment of this title and subject to the provisions of paragraph (2), the Secretary is authorized to convey title to all or part of the lands referred to in subsection (a) to an owner of property adjacent to such lands, upon the application of such owner.

(2) No property shall be conveyed unless the application referred to in paragraph (1) is accompanied by a payment in an amount equal to—

(A) the fair market value of the land to be conveyed; and

(B) the administrative costs of such transfer incurred by the Secretary, including the costs of surveys, appraisals, and filing and recording fees.

(c) Excess Property.—Any lands not conveyed pursuant to subsection (b) shall be reported to the Administrator of General Services as excess to the needs of the Department of the Interior and shall be subject to transfer or disposition in accordance with the Federal Property and Administrative Services Act of 1949, as amended.

SEC. 103. PARK INTERPRETATION.

In administering Vicksburg National Military Park, the Secretary shall interpret the campaign and seige of Vicksburg from April 1862 to July 4, 1863, and the history of Vicksburg under Union occupation during the Civil War and Reconstruction.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE II—MINNESOTA PUBLIC LANDS

SECTION 201. SHORT TITLE.

This title may be cited as the "Minnesota Public Lands Improvement Act of 1990".

SEC. 202. FINDINGS AND PURPOSES.

(a) Findings.—Congress hereby finds and declares that—

(1) within the State of Minnesota there are a number of small scattered islands and upland tracts that are in Federal ownership and under the jurisdiction of the Bureau of Land Management;

(2) the public interest would be best served if these Federal islands and upland tracts continue to be managed for public recreation; preservation of open space; and for the protection of their fish, wildlife, and plants and their scientific, historic, cultural, geologic, and other resources and values;

(3) many such islands and upland tracts are not suitable for inclusion in the National Park System, National Forest System, National Wildlife Refuge System, or other Federal conservation system or for efficient management by the Bureau of Land Management;

(4) the State of Minnesota is prepared and willing to undertake to manage such islands and upland tracts for such purposes and subject to appropriate conditions, but existing mechanisms for enabling the State to undertake such management are cumbersome and inefficient as applied to such small, scattered islands and tracts;

(5) elsewhere in Minnesota there are unpatented lands which for many years have been in the possession of parties other than the United States but the title to which is clouded because of claims arising under public land laws or otherwise involving possible Federal residual interests;

(6) existing authorities for Federal resolution of such conflicts, and for removal of such clouds on title, are often not well suited for efficient, expeditious action that appropriately protects the interests of all parties, including the United States; and

(7) legislation to facilitate appropriate management by the State of Minnesota of such islands and upland tracts and to facilitate resolution of such claims and removal of such clouds would be in the public interest.

(b) Purposes.—This title is intended to provide for better management of public lands located in the State of Minnesota by—

(1) transferring certain specified unclaimed islands and uplands and certain other public lands to such State for purposes of public recreation, protection of fish, wildlife, and plants, and the protection of resources and values; and

(2) authorizing the Secretary of the Interior to resolve claims to certain other public lands in Minnesota and to transfer such lands to claimants thereof on terms that recognize the equities of such claimants in such lands.

SEC. 203. DEFINITIONS.

As used in this title—

(a) the term "listed uplands and islands" means those public lands located in the State of Minnesota which are specified in the list containing the legal description of such lands and entitled "Minnesota Uplands and Islands Appropriate for State Management" dated July 16, 1990, on file in the Office of the Secretary of the Interior, except for any lands to which Indian title has not been extinguished;

(b) the term "public lands" means federally owned lands or interests therein managed by the Bureau of Land Management;

(c) the term "claim" means a good faith assertion by a party other than the United States that—

(1) such party has title to a parcel or tract of land, or

(2) a parcel or tract of land is held in trust by the United States for the benefit of an Indian tribe or an individual member of an Indian tribe;

(d) the term "Recreation and Public Purposes Act" means the Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.);

(e) the term "Secretary" means the Secretary of the Interior; and

(f) the term "State" means the State of Minnesota.

SEC. 204. GRANT TO STATE.

(a) Unclaimed Areas.—Effective one year after the date of enactment of this Act and subject to its terms and conditions, the right, title and interest of the United States in and to all listed uplands and islands, surveyed and unsurveyed, in Lake Superior, inland lakes and rivers, and other bodies of water within the State which as of one hundred and eighty days after the date of enactment of this Act were not subject to any claim identified on the records of, or filed with the Bureau of Land Management, are hereby granted to the State.

(b) Claimed Areas.—Any listed uplands and islands which were subject to a claim identified on the records of, or filed with the Bureau of Land Management as of one hundred and eighty days after the date of enactment of this Act, may be sold by the Secretary to the claimant or claimants thereof under section 205 of this Act. No later than one year after the date of enactment of this Act, the Secretary shall notify such claimant or claimants concerning the Secretary's authority for such sales. The right, title, and interest of the United States in and to any such listed uplands and islands not purchased by such claimant or claimants within ten years after the date of enactment of this Act shall be transferred by the Secretary to the State under and subject to this Act at the end of such ten years, and any claim to any such listed uplands and islands by any party other than the State shall not thereafter be enforceable in any court of the United States, subject to the following exceptions:

(1) The ten-year period shall be tolled during pendency of any administrative appellate review of a decision by the Bureau of Land Management or of any judicial review of a final decision by the Secretary; and

(2) The Secretary may transfer lands to the State earlier than ten years after the date of enactment if a claim for said lands has been rejected or disallowed for any reason, or forfeited by the claimant.

(c) Prior Transfers.—

(1) Title to the surface estate in all public land which on the date of enactment of this Act was subject to leases issued under the authority of the Recreation and Public Purposes Act to the State, its departments, agencies, and bureaus, shall be deemed to have been granted to and vested in the State under this title on such date and shall thereafter be exempt from the requirements of the regulations of the Department of the Interior governing leases under the Recreation and Public Purposes Act, but shall be subject to the provisions of this title.

(2) Upon reversion and acceptance of public land in Minnesota which prior to the

date of enactment of this Act was leased or patented under the Recreation and Public Purposes Act to entities other than the State, its departments, agencies and bureaus, and upon request of the State, the surface estate in such lands shall be transferred by the Secretary to the State pursuant to and subject to the provisions of this title.

(3) If, in order to bring lands under the provisions of this title, the State notifies the Secretary that the State desires to relinquish to the United States the right, title, and interest of the State in and to any lands which prior to the date of enactment of this Act were patented to the State (or to any department, agency, or bureau of the State) under the authority of the Recreation and Public Purposes Act, the Secretary shall accept such relinquishment and shall transfer such relinquished lands to the State under and subject to the provisions of this title. Such transfer shall be effective at the same time that the State's relinquishment is effective.

SEC. 205. RESOLUTION OF CLAIMS.

(a) SALES.—In accordance with the provisions of this section, the Secretary is authorized to sell and issue a patent to a tract of public land located in Minnesota to an applicant for such sale where the Secretary determines that—

(1) such tract does not exceed one thousand five hundred acres and, because of its location or other characteristics, is difficult and uneconomic to manage as part of the public lands and is not suitable for management by another Federal department or agency, and

(2) such sale would not be inconsistent with land use plans, if any, developed in accordance with section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).

(b) PRICE ADJUSTMENTS.—Notwithstanding any other provision of law, following adjudication of any claims the Secretary may, at the Secretary's discretion, convey land pursuant to this section at fair market value, less equities presented by an applicant for such conveyance and less the value of any improvements that the applicant or the applicant's predecessors in interest have placed on the land. Such equities may include (but are not limited to)—

(1) the amount paid for the land by the applicant;

(2) longevity of applicant's claim;

(3) taxes paid on the land; and

(4) other equities as the Secretary may determine relevant.

(c) DESCRIPTIONS.—Any tract of public land conveyed pursuant to this section shall be described in accordance with the Public Land Survey System as reflected on the approved Federal plat of survey. Where a tract does not conform to an existing survey plat, the Secretary may either—

(1) convey title to a trustee, qualified under the laws of the State to act as a trustee and acceptable to the Secretary, acting on behalf of more than one applicant to whom such trustee shall be required to transfer such tract, in order to conform the legal description to such plat; or

(2) require an applicant to reimburse the United States for the cost of preparing a plat of survey. No cost incurred by a trustee in implementing this subsection shall be borne by the United States.

(d) APPLICABILITY AND PROCEDURE.—

(1) This section shall apply only to tracts specified in subsection 204(b) of this Act, and only if the Secretary has determined such claims to be sufficiently meritorious as to be appropriate for exercise of the Secretary's discretionary authority under this section.

(2) No sale under this section shall take place before thirty days after the Secretary has published in a newspaper of general circulation in the county where a tract proposed for sale is located a notice of the Secretary's determination that such tract is eligible for sale under this section and that the Secretary intends to offer such tract for sale. Such notice shall indicate the size and general location of the tract and the name or names of the claimant or claimants to whom the Secretary intends to sell such tract.

SEC. 206. RESERVATIONS AND CONDITIONS.

(a) MINERAL RESERVATION.—All lands granted by, and any patent or document of conveyance or other transfer issued pursuant to, this title shall be subject to the reservation to the United States of all minerals in the lands granted, conveyed, or otherwise transferred, together with the right to prospect for, mine and remove the minerals under applicable law and such regulations as the Secretary may prescribe, except that in the case of sales under section 205 of this title the Secretary may convey the minerals together with the surface in accordance with section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719).

(b) OTHER CONDITIONS.—

(1) The lands granted or otherwise transferred to the State under this title shall not be conveyed or otherwise transferred by the State to any person or entity other than the United States or a political subdivision of the State.

(2) The lands granted or otherwise transferred to the State under this title shall be used only for purposes of—

(A) public recreation;

(B) protection of fish and wildlife (including habitat) and plants; or

(C) the protection of the scenic, scientific, historic, cultural, geologic, and other resources and values of such lands.

(3)(A) If the State attempts to convey or otherwise transfer title to any part of the lands granted or otherwise transferred to the State under this title to any person or entity other than the United States or a political subdivision of the State, all right, title, and interest in and to all such lands so granted or otherwise transferred to the State, together with all improvements thereon, shall revert to the United States.

(B) If any political subdivision of the State attempts to convey or otherwise transfer title to any part of any lands granted or otherwise transferred to the State under this title (and conveyed or otherwise transferred to such subdivision by the State) to any person or entity other than the State, all right, title, and interest in and to all such lands so conveyed or otherwise transferred to such subdivision, together with all improvements thereon, shall revert to the United States.

(4)(A) If any part of the lands granted or otherwise transferred to the State under this title (and not further conveyed or otherwise transferred by the State to a political subdivision thereof) are used for any purpose incompatible with the purposes specified in paragraph (2) of this subsection, all right, title, and interest in and to all such lands in the ownership of the State, together with all improvements thereon, shall revert to the United States.

(B) If any of the lands granted or otherwise transferred to the State under this title are conveyed or otherwise transferred by the State to a political subdivision of the State, use of part of any such lands for any purpose incompatible with the purposes specified in paragraph (2) of this subsection shall cause all right, title, and interest in and to all such lands so conveyed or otherwise transferred to such political subdivision, together with all improvements thereon, to revert to the United States.

(5)(A) If any land, or portion thereof, granted or otherwise conveyed to the State or political subdivision of the State shall become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601), or if such land, or portion thereof, has been used for purposes that the Secretary finds may result in the disposal, placement or release of any hazardous substance, such land shall not, under any circumstances, revert to the United States.

(B) In the event lands granted or conveyed to the State or political subdivision of the State shall be used for purposes that the Secretary finds: (1) inconsistent with the purposes of this Act, and (2) which may result in the disposal, placement or release of any hazardous substance, the State or political subdivision of the State shall be liable to pay to the Secretary, on behalf of the United States, the fair market value of the land, including the value of any improvements thereon, as of the date of conversion of the land to the nonconforming purpose. All amounts received by the Secretary pursuant to this subparagraph shall be retained by the Secretary and used, subject to appropriations, for the management of public lands and shall remain available until expended.

SEC. 207. NOTICE AND ENFORCEMENT.

(a) PUBLIC NOTICE.—

(1) As soon as practicable after the date of enactment of this Act, the Secretary, in consultation with appropriate officials of the State, shall take steps to notify residents of the State as to the nature and location of the listed uplands and islands to be granted or otherwise transferred to the State under this title.

(2)(A) The State, or a political subdivision thereof, shall provide notice in writing to the Secretary with regard to any conveyance or other transfer by the State to a political subdivision thereof of any of the lands granted or otherwise transferred to the State under this title. In the event that such notice is not received within one year after any such conveyance or transfer, such conveyance or transfer by the State shall be void ab initio and all right, title, and interest in and to the land covered by such attempted conveyance or transfer shall revert to the United States.

(B) No later than five years after the date of enactment of this Act, and every five years thereafter, the State shall submit to the Secretary a report as to the present ownership, management, and use of the lands granted or otherwise transferred to the State pursuant to this title.

(3) The Secretary shall maintain in the appropriate office of the Bureau of Land Management a current listing of the lands granted or otherwise transferred to the State under this title, including a record of which, if any, of such lands have been conveyed or otherwise transferred by the State to a political subdivision thereof.

(b) ENFORCEMENT.—

(1) Any person may submit to the Secretary a complaint alleging that the State or a political subdivision thereof has failed to comply with the requirements of this title or that actions have occurred which have had the effect of causing the reversion to the United States of some or all of the lands granted or otherwise transferred to the State under this title.

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(2) In the event that the Secretary determines that a complaint received under this subsection is supported by evidence sufficient to warrant further investigation, the Secretary shall investigate the matter.

(3) If, as a result of an investigation under paragraph (2) or for any other reason, the Secretary determines that title to some or all of the lands granted or otherwise transferred to the State under this title has reverted to the United States pursuant to this title, the Secretary shall take all necessary steps to enforce such reversion and to stop use of any part of such lands for any purpose incompatible with the purposes specified in section 206(b)(2) of this title.

(4) Any lands which may revert to the United States under this title shall be retained and managed by the Secretary for the purposes specified in section 206(b)(2) of this title.

SEC. 208. HUNTING AND FISHING.

Nothing in this title shall be construed as affecting the jurisdiction or responsibilities of the State of Minnesota with respect to fish and wildlife (including the regulation of hunting, fishing, and trapping) in any lands granted or otherwise transferred to the State under this title, or as increasing or diminishing any rights with respect to hunting, gathering, or fishing on such lands arising under any Treaty or other agreement between the United States and any Indian Tribe or individual.

SEC. 209. CONFORMING AMENDMENT.

(a) Subsection 3(d) of the Michigan Public Lands Improvement Act of 1988 (Public Law 100-537) is hereby amended by striking the period at the end of paragraph (1) of such subsection and by inserting in lieu thereof, ", and only if the Secretary has determined such claims to be sufficiently meritorious as to be appropriate for exercise of the Secretary's discretionary authority under this section.".

(b) Subsection 4(b) of the Michigan Public Lands Improvement Act of 1988 (Public Law 100-537) is amended—

(1) by inserting "the United States or" after "any person or entity other than" in paragraph (1); and

(2) by inserting "the United States or" after "any person or entity other than" in subparagraph (3)(A).

TITLE III—FLORENCE BROWN RELIEF ACT

SEC. 301. LAND TRANSFER.

The Secretary of Agriculture shall transfer, without consideration, to Florence F. Brown of Goleta, California, all right, title, and interest of the United States in and to the parcel of land located in the Los Padres National Forest which is comprised of approximately 40 acres and more particularly described as T. 5 N., R. 30 W., S.B.M., section 18, NE¼ SW¼.

Amend the title so as to read: "An Act to authorize the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park, to improve the management of certain public lands in the State of Minnesota, and for other purposes.".

Mr. CRANSTON. Mr. President, I move that the Senate concur in the amendments of the House.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENDING THE EXPIRATION DATE OF THE DEFENSE PRODUCTION ACT OF 1950 TO OCTOBER 20, 1990

Mr. CRANSTON. Mr. President, I ask unanimous consent to proceed to the immediate consideration of S. 3155, a bill introduced early today by Senator RIEGLE to extend the expiration date of the Defense Production Act to October 20, 1990.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 3155) to extend the expiration date of the Defense Production Act of 1950 to October 20, 1990.

The ACTING PRESIDENT pro tempore. Without objection, the bill is considered read three times, and passed.

So, the bill (S. 3155) was passed; as follows:

S. 3155

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY EXTENSION OF DEFENSE PRODUCTION ACT OF 1950.

The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "October 5, 1990" and inserting "October 20, 1990".

Mr. CRANSTON. Mr. President, I move to reconsider the vote.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RESOLUTION TO AUTHORIZE CERTAIN APPOINTMENTS

Mr. CRANSTON. Mr. President, on behalf of Senator MITCHELL and the Republican leader, Senator DOLE, I send a resolution to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 333) was read, considered and agreed to as follows:

S. RES. 333

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the President of the Senate pro tempore, the majority leader of the Senate, and the minority leader of the Senate be, and they are hereby, authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

Mr. CRANSTON. Mr. President, I move to reconsider the vote.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL PLACED ON THE CALENDAR—H.R. 5732

Mr. CRANSTON. Mr. President, I ask unanimous consent that H.R. 5732, a bill promoting and strengthening aviation security, be placed on the calendar when received from the House.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CORRECTING AN ERROR IN PUBLIC LAW 101-383

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3156, introduced earlier today for Senator JOHNSTON.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 3156) to correct a clerical error in Public Law 101-383.

The ACTING PRESIDENT pro tempore. Without objection, the bill is considered read three times, and passed.

So, the bill (S. 3156) was passed; as follows:

S. 3156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLERICAL AMENDMENT.

Section 160 (g)(7) of the Energy Policy and Conservation Act, added by section 7 of the Energy Policy and Conservation Act Amendments of 1990 (Public Law 101-383), is amended by inserting "with regard to future storage of refined petroleum products and" after "recommendations".

Mr. CRANSTON. Mr. President, I move to reconsider the vote.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR TOMORROW

Mr. CRANSTON. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 12 noon, Thursday, October 4; that following the time for the two leaders, there be a period for morning business not to extend beyond 1 p.m., with Senators permitted to speak therein for up to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS

Mr. CRANSTON. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess, under the previous order, until 12 noon, Thursday, October 4.

There being no objection, the Senate, at 7:30 p.m., recessed until Thursday, October 4, 1990.

NOMINATIONS

Executive nominations received by the Senate October 3, 1990:

IN THE COAST GUARD

The following Regular officers of the U.S. Coast Guard are nominated for promotion to the grade of captain:

RODNEY E. SMITH
CRAIG F. EISENBEIS
WARREN E. COLBURN, JR.
RICHARD F. GUPMAN
FREDERICK J. SCHMITT
ANDREW L. GERFIN, JR.
WILLIAM R. BOWEN
RICHARD D. WHITE, JR.
THEODORE G. WHITE, III
ROBERT C. GRAVINO
DAVID K. ARNOLD
RODERICK A. SCHULTZ
DONALD R. GROSSE
GEORGE N. NACCARA
JAMES D. BURK
ROBERT W. THORNE
GERALD H. KEMP
ROBERT T. GLYNN
LAWSON W. BRIGHAM
TERRY M. CROSS
KYLE E. JONES, III
RICK A. SISTEK
LEE S. RUMLEY
JAMES P. WYSOCKI
STANLEY E. BREEDLOVE
LEWIS C. DUNN
JOHN A. DOTY
JOHNNIE L. JOHNSON
ROBERT J. WEAVER
CHARLES F. GULDENSCHUH
GERALD W. ABRAMS
JAMES C. PERRY
JAMES Q. NEAS, JR.
RICHARD E. FORD, JR.
PAUL J. BIBEAU
MALCOLM J. WILLIAMS, JR.
GARY R. MCGUFFIN
JOHN K. KIRKPATRICK
DAVID S. BELZ
RICHARD D. CRANE
WILLIAM B. THOMAS
ROBERT D. SIROIS
HAROLD G. KETCHEN
JAMES S. CARMICHAEL
KEVIN L. RAY
WILLIAM E. KOZAK
ROY J. CASTO
ALAN F. WALKER
TERRANCE M. EDWARDS
MARK A. O'HARA
GALE W. FISK
ROBERT J. WILLIAMSON, JR.
WILLIAM H. ANDERSON
ERNEST J. BLANCHARD, IV
RALPH D. UTLEY
THOMAS B. TAYLOR
ANTHONY S. TANGEMAN
FREDERIC N. SQUIRES, III
THOMAS M. DALEY
PAUL L. HAGSTROM
PHILIP E. SHERER
EDWARD J. DENNEHY
CHARLES R. BROWN

THE FOLLOWING RESERVE OFFICERS OF THE U.S. COAST GUARD ARE NOMINATED TO BE PERMANENT COMMISSIONED OFFICERS IN THE GRADES INDICATED:

To be lieutenant

MICHAEL G. LUPOW
IVAN A. PUPULIDY
JEFFREY S. SMITH
BRUCE R. APPLETON

To be lieutenant (junior grade)

JEFFREY L. KLINGENSMITH

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD ARE NOMINATED FOR PROMOTION TO THE GRADE OF COMMANDER:

PETER A. TEBEAU
JOHN C. REED
GARY P. KOSCIUSKO
STEPHEN H. FRANCIS
ROBERT A. HUGHES
JOHN O. SHAW
GREGORY B. KIRKBRIDE
KAY L. HARTZELL
MARK E. ASHLEY
MICHAEL J. CHAPLAIN
JEFFREY J. SEELEY
DOMENICO A. DIIULIO
KENNETH A. WARD
JEFFREY G. LANTZ
ROBERT N. PETERSEN
PAUL A. DUFRESNE
RICHARD A. HUWEL
DAVID W. REED
RICHARD J. FITZPATRICK
JOHN A. WCISLO
STEVEN L. NYLUND
STEVEN G. HEIN
THOMAS C. KING, JR.
CHRISTOPHER M. SCHOONMAKER
DAVID W. MACKENZIE
JAMES B. CRAWFORD
JAMES J. VALLONE
EDMOND R. MORRIS
JERZY J. KICHNER
STEPHEN J. HARVEY
RICHARD J. FORMISANO
STEPHEN E. SHARPE
ROGER D. KACMARSKI
DONALD R. OMALLEY
GLENN F. EPLER
PATRICK E. RYAN
JAMES F. REED
WILLIAM A. DANNER
JAMES RUTKOVSKY
THOMAS M. CURELLI
RAYMOND J. BROWN
THOMAS J. MACKELL
WALTER J. BRAWAND, III
ADAN D. GUERRERO
ALLEN L. THOMPSON, JR.
JOHN J. MCQUEENEY, II
DAN DEPUTY
ROBERT J. PAPP, JR.
DEREK A. CAPIZZI
ROBERT G. STEVENS
DEAN W. KUTZ
GERALD BOWE
ROBERT W. RENOUD
STEPHEN C. RAPALUS
ROBERT L. GRIFFIN
FREDERICK R. GALLOWAY
BRADFORD W. BLACK
JAMES W. SHAFOVALOFF
JAMES O. SIMPSON
ROBERT E. HEINS, JR.
SUSAN H. KINNER
JOHN B. MOORE, JR.
CORDELL S. VIEHWEG
CHRISTOPHER LEE
TIMOTHY M. KEEGAN
MICHAEL L. HUNT
KENNETH M. HAY
JOHN E. WILLIAMS
WILLIAM J. HUTMACHER
GARY E. GAMBLE
ANDREW J. CASCARDI
ROGER B. PEOPLES
MARK E. BENJAMIN
MICHAEL J. HALL
JOHN B. WHIDDON
DAVID F. BREUNINGER
JOHN P. GUYER, III
ROBERT T. DOUVILLE
THOMAS G. GORDON
ROBERT C. BOETIG
BILLY R. SLACK
JOHN J. STONEMAN, III
ROGER A. WHORTON
BEN R. THOMASON, III
LAWRENCE A. EPPLER
GARY T. BLORE
LAWRENCE A. HALL
JAMES J. HANKS
DENNIS J. IHNAT
DOUGLAS H. ALSIP
FRED M. ROSA, JR.
CRAIG L. SCHNAPPINGER
WAYNE C. RAABE
MICHAEL L. DOBRAVEC
MICHAEL BRAY
RANDALL R. FIEBRANDT
STEVEN M. CONWAY
DAVID W. JONES
WILLIAM T. BAILEY
JOHN E. CROWLEY, JR.
THOMAS J. MCDANIEL
HARLAN HENDERSON
CHARLES T. LANCASTER
WILLIAM M. PARKER, JR.
WALTER S. MILLER
LUTZ G. BUESING
GLENN L. SNYDER
MARTIN E. REEVES
MICHAEL F. HOLMES
CLYDE K. WATANABE
MARK E. BLUMFELDER
DOUGLAS P. RUDOLPH
DAVID W. BROUGHTON
JOHN F. PILLSBURY
HERBERT H. SHARPE, III
RICHARD P. PRINCE
RICHARD W. GOODCHILD
ERIK N. FUNK
JOHN L. GRENIER
JON T. BYRD
GEORGE A. CAPACCI

The following retired recalled officer of the U.S. Coast Guard is nominated for promotion to the grade of commander:

Cassius L. Lisk

IN THE MARINE CORPS

The following named officer, under the provisions of title 10, United States Code, section 601, for assignment to a position of importance and responsibility as follows:

To be lieutenant general

Maj. Gen. Martin L. Brandtner, 475-40-8127, USMC.

IN THE NAVY

The following named officer to be placed on the retired list in the grade indicated under the provisions of Title 10, United States Code, section 1370:

To be admiral

Adm. James R. Hogg, U.S. Navy, 224-38-8254.

The following named officer for appointment to the grade of Vice Admiral while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be vice admiral

Rear Adm. (Selected) Jerry L. Unruh, U.S. Navy, 537-34-8723.

HOUSE OF REPRESENTATIVES—*Wednesday, October 3, 1990*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Help us to see, O God, not only the daily events of the world that seem so obvious to our eyes, but also to see the reality of Your spirit. Impress upon us the magnitude of the power of this spirit that calls us to repentance, that molds our attitudes, enlightens our minds, directs our actions, and sustains us when we fail or miss the mark. May Your spirit, O God, touch us in the depths of our hearts, this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Ohio [Mr. TRAFICANT] please come forward and lead the House in the Pledge of Allegiance?

Mr. TRAFICANT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 5641. An act to amend title 5, United States Code, with respect to retirement of members of the Capitol Police; and

H.R. 5643. An act to grant a temporary extension on the authority under which the Government may accept the voluntary services of private-sector executives; to clarify the status of Federal employees assigned to private-sector positions while participating in an executive exchange program; and for other purposes.

The message also announced that the Senate had passed a bill, joint resolutions, and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 2111. An act designating the month of May as "Asian/Pacific American Heritage Month";

S.J. Res. 351. Joint resolution to designate the month of May, 1991 as "National Trauma Awareness Month";

S.J. Res. 369. Joint resolution designating 1991 as the "Year of Thanksgiving for the Blessings of Liberty";

S. Con. Res. 150. Concurrent resolution directing the Secretary of the Senate to make corrections in the enrollment of S. 1824.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1824) "An act to reauthorize the Education of the Handicapped Act, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1230) "An act to authorize the acquisition of additional lands for inclusion in the Knife River Indian Villages National Historic Site, and for other purposes."

The message also announced that, pursuant to Public Law 99-498, the Chair on behalf of the President pro tempore, reappoints Lynn M. Burns of Rhode Island, to the Advisory Commission on Student Financial Assistance.

THE ULTIMATE TAX RIPOFF ACT OF 1990

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the election is over. We have gone from "Read my lips," and "No new taxes," and "Over my dead body," and comments like that, to "Sacrifice;" "Do the right thing;" "Save the Constitution;" "Save America;" "Save the Flag;" "Free our children;" "Raise taxes!"

But do you know what gets me, Mr. Speaker? The new twist, and this is a real good one, "Call your Congressmen and get them to support this tax. America needs it." Well, they called me—they're still against it.

Count me out. Count me out. We have had TEFRA, ATRA, COBRA, OEFRA, AMRA, All taxes, none vetoed, and now we have UTRO, the Ultimate Tax Ripoff of 1990 Act. I am not for it. Period. And everyone should figure it out. When a bottle of Mogen David wine and Ripple is taxed the same as a $5,000 bottle of champagne, something is wrong.

There is not a cancer in America, there is an elephant picking our pocket, and he's not even wearing sunglasses anymore. Think about that.

DO NOT BE FOOLED BY OMB LEGERDEMAIN

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, I would urge my colleagues not to be fooled by OMB's legerdemain. They sent a budget package up here to us originally which had in it $69 billion in transportation taxes, 42 percent of the entire tax package coming from the transportation sector of America.

Then later on they sent up a revised package. Now on page 19 of their revised package it says in a different type, squeezed in, added, "Fifty percent of the tax on gasoline goes to the trust fund."

Now that sounds nice, does it not? We called OMB and said what does that mean, and we were told, "Well, that's still up for negotiation."

Mr. Speaker, if that is up for negotiation, this whole package is up for negotiation. But beyond that, we asked them even if the money does go to the trust fund, can it be spent, and they said, "Well, not really, because it still comes under the domestic spending cap."

So think about that. We are perpetrating another fraud on the American people. We are going to put some money in the highway trust fund, but we are going to have a spending cap on it so that the money cannot be spent.

Do not be fooled by this legerdemain. Defeat this Herbert Hoover budget and send the summiteers back to the table.

And by the way, people have been calling my office, Mr. Speaker, following the President's speech, doing just what he said to do, to call and express themselves. It is running 20 to 1 against this budget.

A TEST FOR THE GERMAN PEOPLE

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, It has been 42 years since the Berlin airlift, when America and other democracies made a commitment to keep the spirit of freedom alive for the German people.

In the last four decades, the American people—and particularly men and women in America's Armed Forces—have made great sacrifices to help defend the freedom of much of the German nation.

Today, the German people are united and free to pursue their dreams under a democratic form of government. Today the German nation has the strength and unity to pursue its national objectives.

I hope the German people will now use the support the democracies gave them to become a model for other nations—to show them that a strong nation can pursue its national destiny through peace, justice, and international cooperation.

JUNGLE DRUMS BEAT TROUBLED MESSAGE ON BUDGET

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLINGER. Mr. Speaker, this budget crisis reminds me of an old Tarzan movie. At some point in the movie drums would begin to beat meaning the natives were restless.

If you listen you can hear the drums begin to beat outside the beltway.

Oh sure, the special interests are weighing in, objecting to this provision or that. There is not much that is lovable in this package but the drums I am beginning to hear are saying: "What's wrong with you people? You can't do the most fundamental thing we expect you to do—set the spending priorities of this Nation. Why should we rehire you?" And they are right. So I am going to vote for this agreement because the alternative is worse and I do not just mean sequestration. In my mind failure to pass the budget is an admission of failure—an admission that we do not have the political will to govern.

On my side of the aisle I keep hearing about other alternatives. There is talk about a 4-percent solution or going back to the budget process. That is just out of touch with reality. For two reasons. First we are out of time. There must be an end to this process. And second, we do not have the votes. It still takes 218 votes to pass anything and we are only 175 so I am going to vote for the budget even though like every Member there are things in it that are deeply repugnant to me—the gas tax for instance, hits too hard on my rural constituents. There are plenty of reasons for Republicans to vote against it and only one to vote for it. The President is asking us to. He needs a budget in order to govern. Failure to pass this budget will deeply embarrass our President while making ourselves irrelevant as the ship of state founders.

LET US CONSIDER ALTERNATIVES TO PROPOSED BUDGET

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, I applaud and respect the commitment of President Bush to eliminate our disastrous annual deficit. But despite last night's public exhortation, I can in no way support this specific budget deficit proposal. The citizens of Florida's Fourth Congressional District elected me to Congress to represent their interests while at the same time balancing the interests of all American citizens. I know that this tax and slash package is not in their best interests. Loudly and clearly they have let me know that.

In the past 3 days my office has logged over 600 phone calls from angry and disappointed Americans who believe that once again Congress is reaching into the pockets of hardworking middle-class Americans to pay for a national fiscal bailout. This is not partisan, this not political; for me and for the people I represent this is real life. The people have told me that this is a punishing and unfair package. And I agree. I cannot and will not cast aside my constitutional duty to represent their interests and needs. To vote for a package that neither I nor the people I represent believe in just because I am being asked to do so would be a repudiation of all that our unique form of representative democracy has stood for for over 200 years. Please, there are worthy alternatives to his proposal. Let us consider them. It is time to give all of Congress and the American people a voice in their Government.

BUDGET CONCERNS

(Mr. NEAL of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Speaker, I rise to express my strong concerns over the budget agreement. There are a number of items in the plan that I simply cannot support. In my view this proposal attempts to reduce the Federal deficit by placing a disproportionate burden on middle-income Americans in general and people in New England in particular.

The tax provisions of this plan fall squarely on those earning $20,000 to $70,000 a year. This vast group is already feeling the pinch of higher prices for energy and uncertainty over jobs. The consumer taxes in the budget plan will hit this group the hardest. I am dismayed that no effort has been made to shift a fair portion of these costs to the most affluent among us.

We in the North are already bracing for an expensive winter. The Mideast crisis has sent the cost of home heating oil soaring. Adding 2 cents per gallon to that cost is not fair and it is not wise. We risk putting many families on the brink of economic ruin, as well as pushing our economy toward recession.

For the 2 years I have been in Congress I have fought to keep the Medicare Program afloat. Now that beleaguered program—vital to millions of Americans—faces another huge hit—nearly $60 billion over 5 years. How is Medicare going to function as it faces cut after cut, even as premium costs are rising?

Finally, in my areas, there is great concern among those who work for insurance companies. The plan proposes changes in policy acquisition costs that will dramatically increase the amount of taxes paid by the companies. Huge layoffs are threatened. This seems to me to be an undue burden on a financial industry that has kept its house in order.

Mr. Speaker, all of us want to avoid sequestration, but we want to do so by voting for a fair and equitable plan. The budget plan we have before us is not that plan.

ARM TWISTING ON THE BUDGET

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARLENEE. Mr. Speaker, "they're twisting arms, they're twisting arms—the leadership is twisting arms. Well, let's twist back."

I am sick and tired of hearing about how there is no revenue when every day this Congress creates brandnew spending. Yesterday it was money for immigrants to teach them English. Last month it was foreign aid for family planning for Romania. Raise taxes to pay for all that? While cutting Medicare? What has the Congress done about new revenue streams from energy development? Moratoriums on offshore oil exploration—withdrawal of oil development on Anwar?

Those revenue streams would help balance the budget.

Those revenue streams would make America energy independent.

Anwar: An estimated $3.4 billion in bid bonuses in just the first year of production and billions and billions more beyond that.

The Outer Continental Shelf: At least $20 billion in the first 5 years.

Mr. President, you are right, these are the times that try men's souls.

Mr. President, when are you going to lift the moratorium on offshore drilling that you put on instead of proposing cutting the agricultural budget by $13 billion?

What do we charge the cost of revenue forgone up to? Appeasement of the environmental obstructionists.

APPOINTMENT OF CONFEREES ON H.R. 1396, INTERNATIONAL SECURITIES ENFORCEMENT COOPERATION ACT OF 1989

The SPEAKER. The Chair will interrupt the 1-minute statements to appoint the following conferees on H.R. 1396, the International Securities Enforcement Cooperation Act of 1989:

From the Committee on Energy and Commerce, for consideration of the House bill, the Senate amendment (except sections 103, 104, and 502), and the House amendment, and modifications committed to conference:

Messrs. DINGELL, MARKEY, MCMILLEN of Maryland, LENT, and RINALDO.

From the Committee on Post Office and Civil Service, for consideration of sections 103, 104, and 502 of the Senate amendment, and modifications committed to conference:

Messrs. FORD of Michigan, CLAY, ACKERMAN, GILMAN, and MYERS of Indiana.

FRUSTRATION OVER THE BUDGET

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, last night the President spoke on the budget summit, the first time the President has taken a leadership position on a domestic issue, having avoided all of the tough ones in his past 2 years.

What I think is happening right now, as we approach the budget vote, is increasing frustration from Members. First, I want to consult with my constituents, but I cannot send out any town meeting notices or explain this agreement in the mail because of the restrictions that we have that have newly been placed because so-called do-gooders are telling us that this is bad government.

Second, I feel frustrated as a member of the Energy and Commerce Committee, where numerous provisions in the budget agreement deal with my committee and I have no say on this issue.

The budget negotiators from the Congress did a good job, but there were some unelected bureaucrats that do not have to account to anybody that have more say than 90 percent of the Members of Congress, and that is wrong.

Mr. Speaker, as we approach this vote, another fact is very imminent. Those wanting term limitation agreements around the country do not need to go any further. They have this vote on the budget agreement to get people out of office. I assure them that this is going to do it.

HARD CHOICES ON THE BUDGET

(Mr. IRELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. IRELAND. Mr. Speaker, we all have a very difficult decision to make in the next 2 days. We must cast our vote on a budget package in which some see hope and some see hopelessness, and both are right. This budget is about big issues, it's about America's future, but it's also about people, about millions of individual sacrifices right here in the present.

In making a decision on this budget we must be guided first and foremost by compassion, compassion for the individuals who must live with the decisions we will make.

We can demonstrate that compassion by casting our vote for short-lived victories on the road to economic disaster, or we can demonstrate that compassion by casting our vote for hard choices that will pave the way toward economic health and a better quality of life for all Americans.

I believe that the long-range economic benefits of the budget compromise are just as real as the sacrifices that will have to be made if this budget package is approved. I acknowledge that there are problems with the bill. There are many things I do not like about the bill, but it is my conviction that we cannot do any better and we surely can do worse.

Mr. Speaker, I will cast my vote in favor of the budget agreement.

SOUTHEAST REGION DRUG FREE SCHOOL CENTER MOVES TO LOUISVILLE, KY

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I am proud to announce that, effective immediately, the Federal Department of Education's Southeast Region Drug Free School Center has been relocated from the city of Atlanta to my hometown, the city of Louisville, KY.

A consortium consisting of the University of Louisville and the Jefferson County, KY, school system succeeded in their effort, collaborative effort, to have the Drug Free School Center moved from Atlanta to Louisville.

This is a tribute to, among others, Dr. Raphael "Ray" Nystrand, who is the dean of education at the University of Louisville, which is my law school alma mater.

This relocation is expected over the period of the next 4 years, the length of this collaborative contract, to bring to Louisville and Jefferson County some $20 million, some 50 jobs, and this of course will be quite a nice boost to the local economy, as well as performing service in the southeast region of encouraging schools to set up drug free programs within their confines.

It was a pleasure to assist in this successful effort.

☐ 1020

I would like to salute the efforts of the University of Louisville and Jefferson County. Job well done.

FETAL DISPOSAL LAW GOES INTO EFFECT

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, in yesterday's Washington Times there was a little wire dispatch notice that hit me rather hard. I could not even find a mention of this in the New York Times or yesterday's Washington Post out there in the Speaker's lobby.

Let me read this. The headline says, "Fetal Disposal Law Goes Into Effect."

> A state law requiring hospitals and clinics to arrange for the burial or cremation of aborted fetuses instead of flushing them into the sewer system became effective yesterday (October 1).
>
> The measure, considered the nation's strictest, was strongly opposed by medical groups, which contended that it added costs and risks to disposal. Abortion rights advocates charged it might have a chilling effect on women considering an abortion.

Oh, a chilling effect. In my 10 trips to Vietnam as a correspondent, I forced myself many times to visit our morgues to see the flesh and blood prices we were paying for another no-win stalemate war. We showed more respect to the severed limbs of our fighting heroes in that war, disposing of them with a proper burial at sea, than we are showing to living human beings that, when they were killed, had a beating heart and brain waves.

An amazing little item, Mr. Speaker. All 50 States should do the same.

POOREST AMERICANS HIT THREE TIMES HARDER THAN AVERAGE TAXPAYER

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, this morning I went to a meeting, and I was given a copy of an article that appeared yesterday in the Wall Street Journal prepared by the Joint Tax Committee of Congress. What it shows is that the poorest Americans are going to pay in this budget summit agreement, if it is passed, better than three times the amount of increased taxes as the average taxpayer.

Mr. Speaker, this old boy from South Carolina has been in politics for 40 years, and I want to say to my colleagues, Mr. Speaker, that anybody that votes for something like that, with this budget summit agreement, is going to inherit a political turkey that is going to hang around his or her neck for the rest of their political life, and I am not going to do it.

DEMOCRATS CONGRATULATED FOR LARGEST TAX HIKE IN HISTORY

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, congratulations to my Democratic colleagues who have pushed for a tax increase since Bush took office and now have the largest tax hike in history in the budget agreement.

Every day I am amazed to see our congressional leadership, the administration, and the national media repeat the refrain that increased taxes are necessary to balance the budget.

We have not even tried to reduce spending.

So far this year, the House of Representatives has passed 10 out of the 13 major appropriation bills. In those bills, we have appropriated an additional $39 billion over last year's spending levels.

We are not trying to cut spending—we are not even attempting to stay with last year's spending levels. The House of Representatives is proceeding with business as usual.

We are conning the American taxpayer. We are saying to them: Let us raise taxes one more time, and the chronic budget deficits that have plagued Government financing for the past 20 years will magically disappear. Sensible Americans recognize that will never happen.

American taxpayers already suffer from the highest tax burden in peacetime history. Like many others in my party, I have promised those people that I would oppose any tax increase. I meant it when I made that promise.

But if some of you have your way, we will once again pick the pockets of the workers of America to pay for Congress, lack of responsibility.

CONGRESS SHOULD WALK THE PLANK

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, the spectacle of our President and the majority leader from the other body on television last night was proof positive that taxpayers are being conned. At times I thought I was watching a broadcast by what Michael Dukakis would have said.

Americans are not overtaxed; Congress overspends. This body is addicted to spending, and I guess the President is, too.

I do not accept the claim that there is no longer any significant difference between the two parties, and I intend to fight in this body to maintain that difference for the American people. Americans have had enough of these new-world-order budgets designed to weaken citizens at home while we flood the rest of the Earth with our good will.

Enough is enough. American taxpayers have suffered for too long. Now it should be Congress' turn.

Mr. Speaker, I will be offering a budget alternative that puts the burden of our fiscal mess on those in this Chamber who have created it. There will be no new taxes, hidden or otherwise, no promises of taxes now and make-believe spending cuts later, no making senior citizens carry a burden that we do not apply to pornographers at the NEA.

Mr. Speaker, I am walking the plank. I can swim faster than a sinking ship can sail.

EVEN THE GOOD LORD'S BUDGET WOULD BE HACKED TO PIECES AROUND HERE

(Mr. HOUGHTON asked and was given permission to address the House for 1 minute.)

Mr. HOUGHTON. Mr. Speaker, we are talking about the budget, and it is so easy to criticize anything. Everybody has his own agenda. I can cite for my colleagues figures upon figures which will say this is a terrible deal.

However, as my collegues know, Harry Truman once said that any jackass can kick down a barn. It takes a carpenter to build one.

From the business standpoint there are three things which can be done: Accept this budget, do nothing, or go into sequester. And, if we go into sequester, the shock waves that this will have on our economy, already on the verge of a recession because of the oil problem; are going to be enormous.

Mr. Speaker, I think the Lord Himself could come down and propose a budget, and it would be hacked to pieces within half an hour around here.

The American people want action. They have it in the form of this budget. We ought to enact it.

GET IT FROM THOSE WHO GOT IT

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, go back to the drawing board. The summiteers goofed, and here is why. They want to blame, and now they want to punish, the elderly, the sick, the disabled, the poor, America's veterans, and America's low- and moderate-income families. Why do they want to do that? It is because of the windfalls of the richest. The wealthy people in this country gained by many hundreds of billions of dollars through the Reagan and Bush administrations during the 1980's as well as to the defense contractors.

Mr. Speaker, I say to my collegues, "Think about what you're doing. Get it from those who got it. Let's have a fair policy, but let's not penalize the people who really and truly deserve and need it."

There are a lot of avenues that could be explored. I do not think they have been. One of them is in the foreign corporations of this country who are only taxed at about 0.6 of a percent, and also to increased tax brackets. We should add one and add a 35 percent tax bracket for the Nation's wealthiest. I think we could come up with enough money that we would not have to hit on America's neediest.

LESS THAN $10,000, UP 7.6 PERCENT; MORE THAN $200,000, UP 1.7 PERCENT

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, the figures that I am about to use come from the Joint Committee on Taxes in Congress. There were many compromises made as a part of the budget summit, but the one thing which is clear throughout is that the Democrats want it as a part of the package to raise taxes, and so, therefore, they were given the opportunity to design a tax package. As the budget summit agreement appears before the House, the tax package within it is the Democrats' proposal. I think it is important to understand how the Democratic tax proposal affects people in this country.

Mr. Speaker, the people making less than $10,000 pay the biggest share of the taxes. Under the Democrats' tax package that will be on the floor here in a couple of days, those making less than $10,000 have their taxes go up by 7.6 percent. Now how about those people, $200,000 and more, the rich in this country? Do the Democrats give them an equal share of the burden? No. Their taxes go up by 1.7 percent.

□ 1030

Now, if we take the middle-income people, the people in the $20,000 to $30,000 category, how much do their taxes go up? Their taxes go up by 3.3 percent.

How about the people making over $100,000? That rate is 1.9 percent.

We have heard a lot from the Democrats in recent days about the fact that they want to do something about taxing the rich. Their tax package taxes the poor the most.

WORKING POOR, SENIOR CITIZENS FACE UNFAIR TAX BURDEN

(Mrs. COLLINS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS. Mr. Speaker, I watched with great interest the television last night when the President was giving his expressions for the budget, but I also watched the faces of senior citizens this morning who were on the networks expressing great concern about this budget.

I saw one lady who said that it seemed like we here in Congress, the Government, do not want to give them the right to have food. Others said they do not know what they are going to do if they are going to have to pay more money for insurance when they get sick. It seems to me they should not have that kind of a burden.

One lady said she felt that we were treating unjustly the senior citizens. These are people who have been supportive of this country all their lives, and certainly they deserve to have a fair opportunity to know that they should not have to pay too much for their insurance, and that when they go to the hospital, they can stay there until they are medically sound enough to go home.

Mr. Speaker, they do not deserve this grief, and I think we as a Congress should not thumb our noses at those who have helped us all these years.

LAST-MINUTE TAX ON HOME HEATING OIL SEEN AS REGRESSIVE

(Mr. CONTE asked and was given permission to address the House for 1 minute.)

Mr. CONTE. Mr. Speaker, I am most distressed to read the budget summit agreement and find that home heating oil was unmercifully taxed and at the same time $4 billion in tax breaks for oil companies were doled out. I am distressed because I was part of the summit negotiations.

Sunday morning I was at the White House. I was told by the big eight that home heating oil had been exempted. I do not know how one man could change all this.

And I am distressed because this tax on home heating oil—a necessity of life for many Americans—is unfair. It is regressive. And it is bad public policy.

Mr. Speaker, I heard a lot about progressivity from the Democratic negotiators out at Andrews and over the last 5 months. But where is the progressivity in the Democrats' proposal to tax home heating oil?

This tax hits the poor and elderly hard. and it is just plain unfair. How can we exempt businesses and agriculture from the tax and give billion dollar tax breaks to oil companies and not help the little guy who has to pay a home heating oil bill?

Mr. Speaker, I hope you and the majority leader in the other body help me restore the home heating oil exemption—because without it, support for the budget package among the Northeast and this Member is shaky.

RELIGIOUS PERSECUTION ESCALATING IN THE PEOPLE'S REPUBLIC OF CHINA

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, in the past 2 years, persecution against Catholics and Protestants in the People's Republic of China, and against Buddhist in occupied Tibet, has increased dramatically. It is presently estimated that there are an estimated 400 to 500 religious prisoners in China, among them Catholic and Buddhist priests, Catholic nuns as well as Protestant house church leaders and church members. Some estimates are much higher.

Just in the past few weeks, the largest house church—of over 1,000 people—in Canton was closed. In Tibet it is estimated that over 450 people were murdered in a crackdown against the Buddhist community there last year. Dozens of Catholics, Protestants, and Buddhist have been rounded up and imprisoned. Torture of such prisoners is common. In fact, some have recently died as a result of being beaten—or worse—during incarceration. Despite the giant leap forward many nations are making toward democratic reform, China seems to be taking a giant leap backward.

In order to address this issue, I am asking that the House grant a rule which would allow an amendment to H.R. 4939 which would add religious persecution to the list of provisions toward which the People's Republic of China must make significant progress for extension of most-favored-nation status.

Mr. Speaker, the Congress, when it faced the issue of MFN for Romania, did the right thing. When this bill comes up, it is important that we allow the amendments to be offered to help the persecuted Christians, the Catholics, Protestants, the Buddhists, and other religious faiths in China, because if we do not, when Radio Free China sends the word back to the little peasant in China, he will know that this Congress did not stand with the Chinese people. Do we want to stand with the Chinese lobbyists, or do we want to stand with the Chinese people? Do we want to stand with the few people in the State Department who are opposed to this, or do we want to stand with the billions of people in China.

Mr. Speaker, I know that this Congress that stood firm for MFN in Romania and helped all those persecuted people, who stood firm for Jackson-Vanik in Russia, will stand firm with the Chinese people and vote to adopt these amendments.

PROPOSED BUDGET COULD RESULT IN RECESSION

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, for decades liberal, big-spending Democrats have dominated this Congress. We faced an energy challenge, and we got legislation that was basically antienergy production.

We faced a crime wave. Our people were being brutalized, and what legislation have we seen this year? It is legislation that further ties the hands of the police and all but eliminates the death penalty.

Now we face the challenge of a high level of deficit spending. It is so high that it threatens our well-being and weakens our economy.

What do liberal Democrats provide? What do they propose? They put the back of the President of the United States against the wall, saying that this Government is going to close down unless we give the American people the largest tax increase or the second largest tax increase in American history.

Just as our energy polices from this body gave us shortages in energy and our crime policies would give us an added crime wave, the policies we are talking about to handle the deficit will give us recession, higher taxes, and, in the end, a much higher deficit.

Mr. Speaker, I say, let us defeat this package. Let us talk about growth. Let us talk about opportunity. Let us talk about lower taxes rather than higher taxes, low growth, and recession.

MODIFICATIONS IN BUDGET PACKAGE SEEN AS CRUCIAL

(Mr. KLECZKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLECZKA. Mr. Speaker, I as one Member of the House listened very intently to the President's speech last night, and I can only sum it up in one short phrase, and it might go down in history with this phrase: It should be called the pig in a poke speech.

The President asked the American people to call us to encourage our support for this budget compromise, but never did he say that 50 percent of the domestic cuts are in the Medicare area and health insurance for the seniors. Never did he say that workers who are laid off will lose their first 2 weeks of their unemployment compensation checks. He never said that the proposal called for an increase in the cost of heating fuel. He never told us that we are instituting tax shelters in this product for the wealthy. He forgot to tell us there is a version of capital gains again in here for those who are more affluent in our economy.

Mr. Speaker, it is my hope that when the House takes up this product, we will defeat it, and at that point we will have sufficient time between tomorrow and midnight on Friday to moderate or to modify the Medicare portions, and I am sure a sufficient number of Democrats like myself will at that point swallow hard and support the package.

CHILD CARE PACKAGE MUST BE APPROVED BEFORE ADJOURNMENT

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, Congress must not adjourn until a child care package is finalized. There is a desperate shortage of affordable and quality child care in this country, and we simply cannot afford to further delay the approval of child care legislation until next year.

National statistics clearly demonstrate the urgency of this need. According to the Children's Defense Fund, almost two-thirds of all mothers in the work force are single, widowed, divorced, separated, or have husbands who earn less than $15,000 per year. Nationally, the average cost of child care is approximately $3,500 per child annually, with infant care significantly higher. Working parents with children rate child care as their fourth highest expense after food, housing, and taxes. In a family with two children in which both parents earn the minimum wage, more than half of family income is spent on child care.

Clearly, this situation must be addressed immediately. Surely, we can develop a compromise bill, with the support of Congress and the President, before adjournment this year. This issue must not be held over for still another year. We must stand firm and delay adjournment until a final child care package is approved.

□ 1040

CALL THE PRESIDENT

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, last night the President of the United States asked the American people to call their Member of Congress. I think that was a very good idea, and we have been receiving phone calls all week, but I think it is also important for the American people to call the President of the United States and let him know what you think of the package that he called all these negotiators to put together a few months ago.

Now, the President's phone number is area code 202-456-1414. That is the White House switchboard.

I hope every senior citizen in America gets on the phone today. That is 202-456-1414. You call the President of the United States and let him know what you think about him raising your Medicare premiums over $300 a year over the next 5 years.

And how about every worker who is unemployed in this country. You have got to wait 2 more weeks to get your unemployment benefits.

And how about the people in my district who have to pay more for heating oil this very cold winter, with prices already going up 2 cents more on every gallon that they buy.

Call the President at 202-456-1414.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair would remind Members to address the Chair and not the TV audience.

IN SUPPORT OF THE CRIME BILL

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, I rise in support of the crime bill that is coming up later today. It is the beginning of an effective national crime strategy. We must rid our streets of drug dealers wielding assault weapons. We must beef up our crime capability. We must pass this anticrime and antidrug program.

Mr. Speaker, in my State we processed 50,000 prisoners through the law enforcement system last year. Our prison population in the last 15 years has quadrupled. It costs us a million dollars for every prisoner who is sentenced to 20 years or more, a million dollars of the taxpayers' money.

We cannot afford a system based only on law enforcement. Local law enforcement works, but what we have to do is get to the roots of crimes. We have to spend more on drug prevention, on drug education, and on enforcement.

Mr. Speaker, the American people are tired of their neighborhoods becoming war zones because of drugs and crime. They are outraged at citizens seeing innocent children stabbed and shot continuously and systematically. We must pass this tough anticrime measure.

FAMILY UNITY AND EMPLOYMENT OPPORTUNITY IMMIGRATION ACT OF 1990

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to House Resolution 484 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4300.

□ 1043

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4300) to amend the Immigration and Nationality Act to revise the system of admission of aliens on the basis of family reunification and to meet identified labor shortages, and for other purposes, with Mr. DARDEN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Tuesday, October 2, 1990, amendment No. 19, offered by the gentleman from California [Mr. MOORHEAD] had been disposed of.

It is now in order to consider amendment No. 20 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. LEWIS OF FLORIDA

Mr. LEWIS of Florida. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. LEWIS of Florida:

Page 114, after line 15, insert the following new title (and conform the table of contents accordingly):

TITLE IV—REIMBURSEMENT OF STATE AND LOCAL GOVERNMENTS

SEC. 401. AUTHORIZATION OF APPROPRIATIONS FOR STATE AND LOCAL COSTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000,000 for each of fiscal years 1991 through 1996 to reimburse State and local governments for the costs that such governments may incur due to the participation of eligible aliens in State or local programs providing—

(1) public cash assistance,

(2) public medical assistance, or

(3) educational services.

(b) ALLOCATION OF FUNDS.—The Secretary of Health and Human Services shall allocate funds made available by this section to the States in an amount determined in accordance with a formula, established by the Secretary by regulation, which takes into account—

(1) the number of eligible aliens residing in the State in that fiscal year;

(2) the ratio of the number of eligible aliens in the State to the total number of residents of that State and to the total number of such aliens in all the States in that fiscal year; and

(3) such other factors as the Secretary deems appropriate to provide for an equitable distribution of such funds.

(c) ELIGIBLE ALIENS DEFINED.—For the purposes of this section, the term "eligible alien" means—

(1) any alien admitted under section 201 of the Immigration and Nationality Act, and

(2) any alien admitted under section 208 of such Act, or who has filed a nonfrivolous application for asylum under section 208 of such Act.

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. LEWIS] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman my amendment today attempts to address the costs that State and local governments have and will continue to incur through the administration of Federal immigration policies.

Since the enactment of the Immigration Reform and Control Act of 1986, State and local governments have been forced to shoulder the burden of Federal immigration policy—this is policy for which they literally possess no control.

This amendment will authorize $500 million for each of fiscal years 1991 through 1996 in order to reimburse States for the costs incurred due to the participation of certain legal immigrants in social programs of cash and medical assistance, and in local educational programs. The funds will be allocated by the Secretary of Health and Human Services through a formula established by the Secretary.

While this amendment will by no means completely cover the immigration costs incurred by the States, it will begin to address those costs.

This amendment will also assist the Federal Government in documenting the expenses State and local governments incur due to Federal immigration policies.

In a recent study performed by the Center for Immigration Studies it is expected that H.R. 4300 will result in the projected settlement of 1,642,000 immigrants, refugees, asylees, and parolees in its first year of enactment, 1991. Mr. Chairman, this is an estimated 8.1 million new settlers by 1995.

The study estimated that public primary and secondary education programs would incur costs totaling $1.5 billion for an estimated immigrant public school population of 289,000 just in 1991.

This estimate does not include costs attributable to illegal immigrants.

As an example of the effects H.R. 4300 will have on my State of Florida, should this legislation be enacted, it is expected to contribute an additional 500,000 immigrants to Florida's population in the next 5 years.

Using a conservative estimate of $2,000 per immigrant for needed services, the cost to Florida taxpayers over the next 5 years is $1 billion.

The citizens of the State of Florida, as well as California, Texas, and other States that are heavily impacted by this legislation can no longer afford to bear the burden of this immigration policy.

Mr. Chairman, the question on this amendment is not whether to open our borders for increased immigration to the United States.

This amendment addresses the question of whether or not States can continue to administer the basic educational and medical programs that must be extended to the citizens of the States as well as the immigrants in that State.

I urge my colleagues to support this amendment that will assist State and local governments in their attempts to meet the educational and medical needs of legal immigrants covered in H.R. 4300.

The CHAIRMAN. Is there a Member in opposition to the amendment?

Mr. BROOKS. Mr. Chairman, I am in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] is recognized for 5 minutes.

Mr. BROOKS. Mr. Chairman, the amendment of the gentleman from Florida [Mr. LEWIS] would authorize $500 million for the next 5 fiscal years to reimburse State and local governments for the costs they incur as a result of eligible aliens' participation in specified public assistance programs. The amendment recognizes that the burden of immigration falls disproportionately on certain regions of the country—most obviously, the border States, including my home State of Texas and his home State of Florida.

While I applaud the gentleman from Florida for recognizing this disproportionate burden we are faced on this issue, as on so many others, with the simple question: Where will the money come from? The Congress and the White House this week are wrestling with an effort to stitch together a budget package to deal with the massive deficits that we face. At such a point, when we are looking at the necessity of placing a burden on such basic services as Medicare and imposing excise taxes, I question how we can be looking at committing the Federal Government to the expenditure of additional billions of dollars as this amendment would do. Therefore, I regretfully must oppose the amendment.

This is one of those amendments that sounds good and has good intentions. It would be nice if we could do it, but we cannot afford to do it now.

Mr. LEWIS of Florida. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to my distinguished friend, the gentleman from Florida.

Mr. LEWIS of Florida. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Chairman, would the gentleman not agree that sooner or later we have to be honest with the people of this country as far as immigration policy and to pass legislation or previous legislation without providing the funds is being intellectually dishonest with the American people?

Mr. BROOKS. I have always been honest with my constituents. I believe that one facet of honesty would be if we are going to spend the money, we have to raise it, and the first thing we have to do to spend this $500 million per year is to find out where we are going to get it.

Mr. PACKARD. Mr. Chairman, will the gentleman be kind enough to yield?

Mr. BROOKS. I yield to the gentleman from California.

Mr. PACKARD. Mr. Chairman, if in fact it is going to cost money to implement the proposed increase in immigration and we have not got the money to do so, is it fair to pass that cost on to cities when they cannot afford to do it either? If we cannot afford it, why should then we increase the immigration quotas?

□ 1050

Mr. BROOKS. Well, this bill is not necessarily going to increase the impact on Florida or Texas or the border States. This bill deals primarily with legal immigrants, not illegals, and most of the cost that we incur in the border States are from illegals.

Mr. MORRISON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to my friend.

Mr. MORRISON of Connecticut. I thank the gentleman for yielding.

Mr. Chairman, I just emphasize that the studies are clear that legal immigrants net out a positive economic contribution, not a negative one. And the suggestion that legal immigrants burden their communities more than Americans who are already here is a fallacious one. It is no more sensible to appropriate extra money for immigrants than to appropriate extra money because there is a higher birth rate in a particular part of the State or of the United States or in another part of the country. The fact is that this kind of proposal would suggest that immigrants are costing money when they are in fact contributing to our economy. And especially when we do not have the money to fund the budget we already have, let us not ask the taxpayers for $2.5 billion more money, which is what this amendment does.

Mr. LEWIS of Florida. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. Packard].

Mr. PACKARD. Mr. Chairman, I will have to vary from my prepared remarks simply to respond to what has been said here.

Mr. Chairman, I represent a district where we have literally hundreds of thousands of legal as well as illegal aliens in my district. The legal aliens are costing our Government a considerable amount of money. Hospitals have unpaid costs, our police departments are being inundated. They are not paying taxes in my district because they pass through my district to work in other parts of the country. So in my district that is not the case. But let me get to the fundamental point.

Mr. Chairman, I rise in support of the Lewis amendment to H.R. 4300. Federal immigration policy has a substantial effect on my district. For instance, the cities in my district are required to educate, house, and care for migrants legalized under the Immigration Reform and Control Act of 1986. However, the requirements for obtaining Federal reimbursement are overly stringent, and the reimbursement fund, the State legalization impact assistance grant fund, has not been appropriated fully in recent years.

Mr. Chairman, the Lewis amendment would authorize $500 million annually to pay State and local governments for the costs they will incur when H.R. 4300 becomes law. I estimate that H.R. 4300 will bring $300 million in new costs to California, particularly the Los Angeles and San Diego areas. State governments such as California's will have had no say in the matter. The Federal Government should not expect State and local governments to assimilate and care for new immigrants without compensating them in return.

Mr. Chairman, the Lewis amendment is not a big-spending amendment. H.R. 4300 is a big-spending bill—it will increase the costs of State and local social programs by hundreds of millions of dollars. The question before us is whether the States or the Federal Government should pay for the costs of Federal immigration policy. I urge the House to support our States by supporting the Lewis amendment.

Frankly, it is absolutely wrong for the Federal Government to set up programs and then require local government to pay for them.

Mr. LEWIS of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. Goss].

Mr. GOSS. Mr. Chairman, I rise in support of the Lewis amendment.

Mr. Chairman, when we adopt a national policy, we have got to be sure that we take national responsibility for the consequences—rather than permitting a disproportionate share of the burden to fall on specific States and regions.

That's just a matter of basic common sense—of fairness.

But, Mr. Chairman, we are here today debating the merits of expanding our national policy on immigration—of whether to encourage more people to come to this country.

The problem with this debate, Mr. Chairman, is that we are not discussing ways to ensure that the costs of expanded immigration policies are distributed evenly across the Nation.

Currently, border States in the South, Southwest, and West, including my own State of Florida, are being asked to shoulder the lion's share of the cost of providing additional housing, medical assistance, education, and other basic services for the hundreds of thousands of immigrants who arrive in this country every year.

The strain on our State resources and personnel is intense—our budgets are already strapped—we cannot do much more.

I commend my colleague from Florida, Tom Lewis, for his insight into the difficult situation confronting Florida's State officials, who are continuously scrambling to keep pace with the area's tremendous growth. And I urge my colleagues to support the gentleman's amendment, providing financial assistance to help the States cope with expanded immigration policies.

Expanding the opportunities for people to come to this country is a worthy national goal. But that goal carries with it an enormous responsibility—not just for a few States, but for the whole country. Support the Lewis amendment—it is a matter of fairness.

Mr. LEWIS of Florida. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, in closing, I would like to state that the state of taxes, whether they are State or Federal taxes, are still borne by the public and they will pay.

In response to legal immigrants not costing any more, let me state from a University of California study by Professors George Borjas and Steven Trejo. Their data from the 1970 and 1980 censuses found in 1970, 5.9 percent of immigrant households received welfare payments compared to 6.1 percent of native households. In 1980, 8.8 percent of immigrant households were on welfare and 7.9 percent of native households, showing an immigrant welfare dependency on the rise.

I believe, Mr. Chairman, that we have to be honest with the people of this country. If we are going to be passing immigration legislation, it certainly is necessary to make sure that if we tell them they have to pay the bills, to bear the burden of the costs, then we should provide the funds for them to bear that burden.

So I ask my colleagues to support this amendment that will assist State and local governments in their attempts to meet the educational and medical needs of legal immigrants covered in H.R. 4300.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. Berman].

Mr. BERMAN. I thank the chairman for yielding.

Two points I would like to make to the sponsors and supporters of this amendment, which I oppose. First, their efforts would be better served by correcting the outrageous situation regarding our refugee policies where we shortchange State and local governments in reimbursements for the costs of our refugee program. We have the worst possible situation where the Federal Government has a policy that says we welcome refugees, and then we do not compensate Florida, Texas, California, New York, places where the refugees tend to congregate, for the cost of those programs.

Second, to fight, to make sure that the money that we appropriated that Mr. Packard talks about, the money for the newly legalized aliens and SLIAG, is actually given to the State and local governments. Every study done with objectivity, and I can cite many of them, report that legal immigrants, immigrants coming through the legal immigration system, do not cost money, they produce money for the State and local governments through sales taxes, through local income taxes, through all of their work activities.

Mr. FASCELL. Mr. Chairman, I rise in support of the amendment offered by my colleague from Florida [Mr. Lewis], which provides for the reimbursement of State and local governments for some of the costs that they incur meeting the needs of refugees in ther jurisdictions.

As we consider this bill, one fact that we must keep in mind is that the influx of immigrants and refugees into our States and into our communities is far from cost-free. Rather, we are asking local governments, already deeply pressed to provide decent education for our children and medical care for our aged and our indigent, to take on an enormous burden.

This year, the State of Florida will rank third in the country for reception of refugees. Dade County, which I have the honor to represent, will receive over half of the total. What that means, in concrete terms, is that our schools are absorbing more than 200 additional children per month, at an average annual cost of $4,000 per child or $33 million per year. We also have other educational and medical costs. It would be totally irresponsible on the part of this body to ignore the question of who is going to pay for the consequences of our decisions.

This amendment would provide some relief to localities which are bearing the greatest burden. Under this amendment, the Secretary of Health and Human Services would reimburse State and local governments based on the ratio of aliens eligible for services to the number of residents. This approach is both fair and comprehensive. It would apportion funds based on real potential liabilities for the education and medical care of all aliens.

I urge that you join me in demonstrating that the Federal Government is not going to leave State and local governments "holding the bag" for our decisions by voting for this amendment.

Mr. JAMES. Mr. Chairman, I would first like to commend my colleague from Florida [Mr. Lewis], for offering this important amendment, and urge all Members to support it.

The question before us today is one of fairness. Quite simply, some States in this country must shoulder a much larger burden than others when it comes to paying for the cost of immigration. Florida is one of those States. My State already has a large bill to pay, and H.R. 4300 will increase that bill substantially. It is not fair to put the increased costs of immigration solely on the backs of State taxpayers like Florida. The Lewis amendment will correct that inequity by allowing for States to be reimbursed by the Federal Government for the increased cost. It is a good proposal, it is fair, and I urge its passage.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. Lewis].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LEWIS of Florida. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 99, noes 319, not voting 15, as follows:

[Roll No. 403]

AYES—99

Anderson
Archer
Armey
Ballenger
Bartlett
Barton
Bennett
Bilirakis
Bryant
Chapman
Coleman (TX)
Combest
Condit
Courter
Cox
Craig
Dannemeyer
de la Garza
DeFazio
DeLay
Dornan (CA)
Fascell
Fields
Gallegly
Gekas
Geren
Gingrich
Goodling
Goss
Gradison
Grant
Hall (TX)
Hammerschmidt
Hansen
Hastert
Herger
Hopkins
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (SD)
Johnston
Kolbe
Lagomarsino
Leath (TX)
Lehman (CA)
Lehman (FL)
Lewis (CA)
Lewis (FL)
Lowery (CA)
Lukens, Donald
Madigan
Martin (NY)
McCandless
McCollum
McEwen
Miller (OH)
Molinari
Moorhead
Morella
Morrison (WA)
Nelson
Nielson
Ortiz
Oxley
Packard
Parris
Quillen
Rinaldo
Robinson
Rohrabacher
Ros-Lehtinen
Saiki
Sarpalius
Saxton
Schaefer
Schiff
Shaw
Shumway
Sikorski
Skeen
Smith (FL)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Solomon
Stearns
Stenholm
Sundquist
Thomas (CA)
Vento
Walker
Weiss
Wolf
Young (FL)

NOES—319

Ackerman
Alexander
Andrews
Annunzio
Applegate
Aspin
Atkins
AuCoin
Baker
Bateman
Bates
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bliley
Boehlert
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chandler
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Collins
Conte
Conyers
Cooper
Costello
Coughlin
Coyne
Crane
Darden
Davis
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
English
Erdreich
Espy
Evans
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Ford (TN)
Frank
Frenzel
Frost
Gallo
Gaydos
Gejdenson
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hancock
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Jacobs
Johnson (CT)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
Kyl
LaFalce
Lancaster
Lantos
Laughlin
Leach (IA)
Levin (MI)
Levine (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken, Thomas
Machtley
Manton
Markey
Marlenee
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Ritter
Roberts
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Sangmeister
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shays
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (VT)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stokes
Studds
Stump
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walgren
Walsh
Washington
Watkins
Waxman
Weber
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron

NOT VOTING—15

Anthony
Barnard
Boggs
Campbell (CA)
Crockett
Edwards (OK)
Engel
Ford (MI)
Gephardt
Lent
Mfume
Mrazek
Rowland (CT)
Weldon
Young (AK)

□ 1116

Messrs. COSTELLO, ANDREWS, HOLLOWAY, and COBLE changed their vote from "aye" to "no."

Messrs. SIKORSKI, McCANDLESS, and WEISS changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

(By unanimous consent, Mr. Pickle was allowed to speak out of order.)

"TEXAS CHILI DAY" IN HOUSE OF REPRESENTATIVES

Mr. PICKLE. Mr. Chairman, we convene today on the brink of another Washington, DC winter. There is a chill in the air that can go right through to the bone.

With the end of another session almost in sight, and lots of heavy lifting yet to be done, folks around here need a break. And I have got just what the doctor ordered—a steaming cup of Texas "red"—real, honest-to-goodness two-alarm Texas venison chili.

I want to advise my colleagues in this House and their staffs that today is our annual "Texas Chili Day," and we will be serving the bonafide, authentic dish in the Democratic and Republican Cloakrooms, and in the Member's private dining rooms, and also by request in the House Restaurant in the Capitol, beginning at lunch.

We've imported the very best venison from the Texas hill country and the perfect blend of south Texas spices—no beans—to concoct a bowl of down-home Texas "red" worthy of unanimous-consent approval.

Mr. Chairman, I want to encourage all my colleagues to take advantage of the opportunity to warm their bellies and lift their hearts, and join us for a cup of Texas venison chili this afternoon.

The CHAIRMAN. It is now in order to consider amendment No. 21 printed in Part 2 of the House Report 101-786.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BRYANT

Mr. BRYANT. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. BRYANT:

Strike all after the enacting clause and insert the following:

SECTION 1. PROHIBITION OF DEPORTATION OF SPOUSES AND CHILDREN OF LEGALIZED ALIENS.

(a) TEMPORARY STAY OF DEPORTATION AND WORK AUTHORIZATION FOR CERTAIN ELIGIBLE IMMIGRANTS.—

(1) IN GENERAL.—The Attorney General shall provide that in the case of an alien who is an eligible immigrant (as defined in subsection (b)(1)) as of January 1, 1990, who has entered the United States before such date, who resides in the United States on such date, and who is not lawfully admitted for permanent residence, subject to paragraph (2), the alien—

(A) may not be deported or otherwise required to depart from the United States, and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit.

(2) EFFECTIVE DATE OF APPLICABILITY.—For purposes of paragraph (1), in the case of an eligible immigrant who is the spouse or child of a legalized alien, paragraph (1) shall only apply on and after the date the legalized alien—

(A) has been granted permanent resident status,

(B) has completed a declaration of intention to become a citizen, and

(C) has submitted a classification petition under section 204 of the Immigration and Nationality Act to classify the eligible immigrant as a preference immigrant described in section 203(a)(2) of such Act or as an immediate relative described in section 201(b) of such Act.

(3) TERMINATION OF APPLICABILITY.—

(A)(i) Paragraph (1) shall not apply 6 months after the date the Immigration and Naturalization Service has provided the legalized alien with written notice (described in clause (ii)) unless the alien has applied for such naturalization.

(ii) The written notice referred to in clause (i) is a written notice (by certified mail, return receipt requested, in the alien's native language) stating that—

(I) the alien has become (before the date the notice is provided) eligible (by virtue of period of lawful permanent residence) to apply for naturalization, and

(II) application for naturalization must be made within 6 months to continue the benefits of this subsection.

(B) Paragraph (1) shall not apply 2 years after the date of filing a timely application for naturalization unless the alien has been naturalized as a citizen or establishes that the alien has actively pursued naturalization. Time consumed in the Service's processing the application shall not be counted toward the 2-year period.

(b) ELIGIBLE IMMIGRANT AND LEGALIZED ALIEN DEFINED.—In this section:

(1)(A) The term "eligible immigrant" means a qualified immigrant who is the spouse or child of a legalized alien and who, except as otherwise provided under paragraph (B), is admissible as an immigrant and is not described in subparagraph (C).

(B) In the determination of an alien's admissibility as an immigrant for purposes of subparagraph (A)—

(i) the provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply;

(ii) except as provided in clause (iii), the Attorney General may waive any other provision of such section in the case of individual aliens when it is in the public interest; but

(iii) the Attorney General may not waive—

(I) paragraphs (9) and (10) (relating to criminals) of such section;

(II) paragraph (23) (relating to drug offenses) of such section, except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marijuana;

(III) paragraphs (27) and (29) (relating to national security) of such section; or

(IV) paragraph (33) (relating to those who assisted in the Nazi persecution) of such section.

(C) An alien shall not be eligible for the benefits of this section if the Attorney General finds that—

(i) the alien has been convicted of a felony or 2 or more misdemeanors in the United States, or

(ii) the alien is described in section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)).

(2) The term "legalized alien" means an alien lawfully admitted for temporary or permanent residence who was provided—

(A) temporary or permanent residence status under section 245A of the Immigration and Nationality Act,

(B) temporary or permanent residence status under section 210 of the Immigration and Nationality Act, or

(C) permanent residence status under section 202 of the Immigration Reform and Control Act of 1986.

(c) APPLICATION OF DEFINITIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section.

(d) TEMPORARY DISQUALIFICATION FROM CERTAIN PUBLIC WELFARE ASSISTANCE.—Aliens provided the benefits of this section by virtue of their relation to a legalized alien described in subsection (b)(2)(A) or (b)(2)(B) shall be ineligible for public welfare assistance in the same manner and for the same period as the legalized alien is ineligible for such assistance under section 245A(h) or 210(f), respectively, of the Immigration and Nationality Act.

(e) APPLICATION OF SLIAG PROGRAM.—For purposes of section 204 of the Immigration Reform and Control Act of 1986, an alien who is the spouse or child of a legalized alien and whose deportation is suspended under this section shall be treated as an eligible legalized alien for the same period as such legalized alien is.

(f) CONSTRUCTION.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to obtain benefits under this section.

SEC. 2. IMMEDIATE RELATIVE STATUS FOR SPOUSES AND CHILDREN OF ALIENS LAWFULLY ADMITTED FOR PERMANENT RESIDENCE.

(a) IN GENERAL.—Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended—

(1) In subsection (b), by inserting after the first sentence the following: "The term 'immediate relative' includes, subject to subsection (c) and beginning with fiscal year 1991, a child or spouse of an alien lawfully admitted for permanent residence.", and

(2) by adding at the end the following new subsection:

"(c) In the case of aliens who are immediate relatives (as defined in subsection (b)) as the spouse or child of an alien lawfully admitted for permanent residence, until otherwise provided by law, the number of such aliens who shall be treated as such immediate relatives in any fiscal year may not exceed 115,000. Visas shall be made available to such immediate relatives in the order in which a petition in behalf of each such alien in filed with the Attorney General as provided in section 204.".

(b) ADUSTMENT OF VISA NUMBERS.—

(1) Section 201 of such Act is further amended by striking "seventy-two thousand" and "two hunderd and seventy thousand" and inserting "65,000" and "239,000", respectively.

(2) Sections 202(e) and 203(a) of such Act (8 U.S.C. 1152(e), 1153(a)) are each amended—

(A) in paragraph (1), by striking "20 per centum" and inseting "23 percent";

(B) in paragraph (2), by striking "spouses," and by striking "26 per centun" and inserting "15 percent";

(C) in paragraphs (3) and (6), by striking "10 per centum" and inserting "11.5 percent";

(D) in paragraph (4), by striking "10 per centun" and inserting "12 percent"; and

(E) in paragraph (5), by striking "24 per centum" and inserting "27 percent".

(c) EFFECTIVE DATE.—

(1) The amendments made by this section shall be effective only for fiscal years 1991 through 1995.

(2) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before the date of the enactment of this Act, for preference status under section 203(a)(2) of scuh Act as a spouse or child of an alien lawfully admitted for permanent residence, such petition shall be deemed as of such date to be a petition for immediate relative status described in section 201(b) of such Act.

SEC. 3. BACKLOG VISA NUMBERS FOR SECOND PREFERENCES.

(a) IN GENERAL.—In addition to the number of immigrant visas otherwise made available in each of fiscal years 1991, 1992, 1993, 1994, and 1995 and without regard to the numerical limitations of sections 201 and 202 of the Immigration and Nationality Act, there shall be made available to second preference immigrants (as defined in subsection (b)) 10,000 immigrant visa numbers.

Not more than 27 percent of each such worldwide level for a fiscal year shall be made available in any of the first 3 quarters of the fiscal year.

(b) SECOND PREFERENCE IMMIGRANT DEFINED.—In subsection (a), the term "second perference immigrant" means—

(1) an alien who is the beneficiary of a petition approved to accord status under section 203(a)(2) of the Immigration and Nationality Act, if the petition was filed before the date of the enactment of this Act, or

(2) the child of such an alien if accompanying or following to join the alien.

(c) ORDER OF CONSIDERATION.—Immigrant visas shall be made available under this section in the order in which a petition in behalf of each such alien has been filed with the Attorney General under section 204 of the Immigration and Nationality Act.

□ 1120

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. BRYANT] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Chairman, H.R. 4300 before the House today increases the level of immigration in America from 530,000 persons a year, which is the current level, to 850,000 persons a year. In fact, I think it goes far beyond that.

I submit to Members that we already admit into our country more legal immigrants every year than all the rest of the countries of the world combined, and it is very difficult to understand the justification for coming forward in this particular era in our history, and increasing that level, in view of the fact that in our Nation today we obviously cannot pay our bills, we have an enormous crime rate, we also have an education system that is straining under its burden. In view of that, many Members of this House wonder why this bill is on the floor today.

I submit to Members the one defensible purpose is to promote the notion of family unity, and so I am bringing to the House an amendment which does exactly that. My amendment would strike from the bill all the provisions which increases the level of new immigration into this country except those that relate to family unity. In effect, what it does is maintain in the bill the section which prohibits the deportation of spouses and children of aliens, which were legal in 1986 under the Immigration Reform Act of that time, and also maintains the new category in the bill which grants 115,000 visas a year for the spouses and children of permanent resident aliens, but it limits that to 5 years, unlike the current bill, which allows it to go as long as 10 years.

Finally, it also allows 10,200 visas for the unmarried adult sons and daughters of legal immigrants who otherwise have to wait a long time to be processed.

I submit to Members that the legitimate defensible purpose of this bill which the American people might be willing to tolerate is family unity. This amendment restricts the purposes of this bill to family unity, and says "We are not going to increase the level of legal immigration beyond that which we already have today at 530,000 persons per year." I think it is an amendment which might make this bill useful and acceptable to the American people. I find it to be completely indefensible to come forward in this particular time in our history and say that we ought to allow another 300,000 legal immigrants every year to come into the United States.

I yield to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I have to say, while I personally would like to see this amendment set different priorities, and especially give a great increase to employment-based immigration, nevertheless it is still an improvement over H.R. 4300. For that reason the administration supports this amendment, and I urge my colleagues to do the same.

The CHAIRMAN. Is there a Member opposed to the amendment?

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] is recognized for 10 minutes.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment offered by my good friend and fellow Member of the Texas delegation, Mr. BRYANT. There is a demonstrable need for us to revise this Nation's legal immigration law and policy. The last time this issue was examined in a comprehensive manner was 1965. A great deal has changed over the past 25 years. In order to reflect changes in regional patterns of immigration into the United States, we need to take a fresh look.

In addition. Mr. Chairman, a critical element of H.R. 4300 is its provisions dealing with employment-based immigration. These changes are vitally necessary if the United States is to remain competitive in a global economic climate.

The bill that we have before us today is the product of a great deal of research and consideration. While not all of us are likely to agree with all of its elements, I believe that it is a straightforward and worthwhile effort to reform legal immigration. Therefore, I would urge a "No" vote on the Bryant amendment.

Mr. BRYANT. Mr. Chairman, it is very difficult, I think, for most Americans and for most Members of this House to accept the premise which is offered to Members that we have a labor shortage in this country that must be remedied by allowing an additional 300,000 persons a year to enter this country. I do not believe that, when I look at newspapers and see we have 5½ percent unemployment rate, moving up to 6 percent. If we have a shortage, it is a shortage of jobs, and a shortage of training. It is not a shortage of people.

I submit to Members that there is something cruel about the notion of saying to those unemployed in our country, that they have to compete even harder to find that job because we will have 300,000 more people here next year, and the year after that, and the year after that, to compete with, that we are going to permit to come into our country with new immigrants. I don't see how that can be justified.

The authors of this bill also tried to justify, on the basis somehow or another that we need to increase diversity in this country. Yet, the provisions of their bill make special allocations of additional visas for people from Europe, when in fact, Anglo-Europeans are the majority group in this country already, and it is very difficult to understand how bringing more of them into the country could in any way increase diversity when that is the majority group already.

I submit to Members that the bill before Members today is a patchwork of special interest pleadings from various groups who want to see the immigration laws changed, in order to pursue their own particular goals of their own community. I understand that. However, we have the obligation to make policy with a national purpose, to make policy in the national interest, not simply to respond to group after group after group that calls on this Congress and asks Members to change this law because of their particular longings.

I submit to Members that an effort that increases the ability of the families in America to unify is a good effort, and we ought to restrict the purposes of this bill to that effort, not to open it up to every group that wants to come into the United States that has come forward and managed to lobby its way into this bill. That is what the amendment before the House which I offered today does.

What it says simply is this: We are going to maintain the family unity provisions. We are going to allow 125,000 additional visas for the spouses and children of American residents; we are not going to allow the deportation of spouses and children legalized in 1986, but not going to increase by 530,000 a year the number of visas for legal immigration into the country.

I do not believe the American people would support this in a minute, and I am astonished to see this Congress come forward and advocate it in a time when we cannot even pay our bills, we cannot educate our children, we cannot fight crime. We have enormous responsibility to deal with in our country today. Let Members make this bill apply to the needs of the people who are here today, and use the resources of this country for the benefit of the people of this country.

I urge Members to vote for my amendment and restore some sanity and some genuine purpose of this bill, genuine national purpose rather than allowing the bill to serve principles of those who came forward and lobbied in a particular way to get their personal aspirations written into the bill.

□ 1130

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding this time to me.

It is with great concern that I have to oppose the amendment of my friend, the gentleman from Texas. I rise in very strong opposition to it.

Make no mistake, this amendment is a gutting amendment.

H.R. 4300 is a profamily bill, yet this amendment offered in the name of belief in profamily immigration would delete a key family provision in the bill, the fifth preference backlog reduction.

H.R. 4300 is a probusiness bill. It expands opportunities for American employers, large and small, to bring employer-sponsored immigrants who have needed skills. This amendment would delete all of the provisions in the bill for employer-sponsored immigration and temporary workers.

H.R. 4300 as it now reads addresses a potentially disastrous takeover of Hong Kong by the People's Republic of China. This amendment would delete each and every one of those provisions, and this amendment would delete the provisions added to the bill by the gentleman from Massachusetts [Mr. MOAKLEY] dealing with the stay of deportation or people from four countries where civil war and major conflict is now going on.

This amendment destroys the coalition that supports this bill. If you believe in this bill, oppose this amendment.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. FISH], the ranking minority member of the Committee on the Judiciary.

Mr. FISH. Mr. Chairman, this amendment looks more like a motion to recommit with instructions than it does a serious amendment to a piece of legislation. I speak as a member of the minority because we are pretty good at these motions to recommit. If we adopt this, we might as well have never brought this bill to the House floor. If just takes away the principal reason for the Committee on the Judiciary addressing the whole issue of legal immigration.

We are, as I indicated in the debate yesterday, several years behind. The U.S. Senate has passed their version three different times.

The genius of this legislation is the meshing of the update on family reunification, keeping that as the cornerstone of our policy, plus recognizing the needs of American business in the employment-related provisions.

If this amendment is adopted, it simply means that this body has no interest whatsoever in updating a policy and law that is 25 years old and seriously needs the direction that your committee has brought to the House floor.

Mr. Chairman, I urge very, very strongly a "No" vote.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, I rise today in strong support of H.R. 4300 and in opposition to the amendment offered by the gentleman from Texas [Mr. BRYANT]. H.R. 4300 comprehensively and fairly addresses many problems in present immigration law.

Although family reunification is an important component of the American immigration system, many other vital issues addressed by H.R. 4300 are essential to fair and sensible immigration policy. Particularly, the bill's provisions enhancing the U.S. labor force and promoting cultural diversity must not be eliminated. The Bryant amendment eviscerates H.R. 4300 by dealing with only one aspect of immigration reform. It also undermines many hours of deliberations and diligent work on the part of the Judiciary Committee, as well as work done here in the Committee of the Whole.

Immigrants who arrive on our shores specifically seeking employment are a particular boom to this Nation's economy. As much recent data indicates, immigrants pay far more in taxes than they receive in benefits. In fact, tax and welfare data together indicate that, on balance, immigrants contribute an average of $1,300 per year to public coffers. Furthermore, children of immigrants have a higher labor force participation rate and greater propensity to start new businesses than children of native-born Americans.

In addition, the Department of Labor projects 6.7 million new professional and managerial jobs will be created in the 1990's across the country. Unfortunately, the education and skills of the U.S. labor force will be unable to match labor market needs. This legislaiton's employment-based immigration provisions will supplement the threatening labor supply shortage.

H.R. 4300 also balances the interests of all populations that seek to begin a new life in America. Passage of the Bryant amendment would continue the present system which over the past 25 years has denied access to certain groups.

Mr. Chairman, we take pride in our Nation's immigrant heritage, and immigrants have repaid this country by enriching it culturally and economically. I urge my colleagues to strengthen both family life and equality of opportunity in our immigration system by supporting H.R. 4300 and defeating the Bryant substitute.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Chairman, I rise in opposition to this amendment, and in support of H.R. 4300. It is time we recognize that the number of people wishing to emigrate to the United States is evidence that America is still the land of dreams for the world. Because the United States is a land of opportunity, a land of freedom, a land of liberty, people the world over wish to emigrate here. This is not something to bemoan, but instead something to be proud of. And without our history of open immigration, you and I would have less opportunity, less freedom, and less liberty.

Immigrants do not hurt our country, do not take jobs from us, do not take from the Government. Rather, they invigorate our country, enrich our economy, and ennoble our Government. Studies have found, including a study by the Labor Department, that immigration does not cause unemployment or a drop in wages. Immigrants create jobs by starting new businesses, by spending in the marketplace, by investing the capital they bring with them to this country.

According to another study by the U.S. Bureau of Labor Statistics, immigrants use less social services than U.S.-born residents. And, according to a study by Julian L. Simon of the University of Maryland, over their lifetimes, immigrants pay $12,000 to $20,000 more in taxes than they use in social services. With the labor shortages we are expected to face, and with the economic spur that immigrants provide, we should be forever thankful that the world wants to come to America.

We should also remember that historically immigration is not at a high level right now. As a percent of the U.S. population, immigration is five times lower than peak immigration rates. In fact, the U.S. immigration rate of 3 immigrants per 1,000 citizens ranks us behind Australia, Canada, Germany, Sweden, Switzerland, and the United Kingdom.

H.R. 4300 promotes job-related immigration, but it also recognizes the moral and social value of family reunification immigration. For promoting immigration which brings in family members is a moral, a social, and an economic virtue. It should not be U.S. policy to separate parent from child, husband from wife. As sociologists and economists bemoan the breakup of the traditional family structure, our immigration policy should not seek to separate

families. Once again, let me cite the Department of Labor, which reports that the family unit often takes the place of Government assistance in providing a safety net for immigrants.

Mr. Chairman, America is a nation of immigrants. Each generation of immigrants adds a new dimension to our Nation's character and well-being. I urge my colleagues to defeat this amendment, and to support H.R. 4300.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut [Mr. MORRISON], the chairman of the subcommittee.

Mr. MORRISON of Connecticut. Mr. Chairman, there are many things wrong with this amendment, but one of the things that is most wrong with it is that it really fails to recognize the interests of American workers.

What it would strike out is a series of very important protections against the abuse of the American work force by bringing temporary workers from overseas. Those protections would be stricken from this bill. They are extremely important because they make sure that using temporary workers, American employers cannot undercut working conditions here in the United States or bring in excessive numbers of temporary workers. It is a serious source of abuse.

In contrast, it is not an abuse to bring in permanent workers when there are no Americans who are ready to fill those positions. That is why in opposition to this amendment we have such groups as diverse as the AFL–CIO, the U.S. Chamber of Commerce, the National Association of Manufacturers, and the U.S. Catholic Conference. I do not think those groups would be all together on this if this were something that were harmful to the U.S. labor force.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, this amendment would gut the bill and gut some of the new thinking parts out of the bill.

Basically in this bill we want to allow employers to bring people who are needed into this country. Right now only 4 percent of all immigration is employer-sponsored. Companies must wait for years, even when the Department of Labor certifies there are no available American workers. That hurts our economy. That hurts every American. That would be knocked out of this bill.

Second, we have countries throughout the world, primarily in Europe and Africa, countries like Ireland, Italy, Poland, and Nigeria who cannot get people into this country, even though there are many people of that ancestry here. This bill corrects that inequity as well.

So what these two provisions, this two-thirds of the bill that the Bryant amendment would knock out is, No. 1, it says that immigration should be job related. It should help America grow economically, and No. 2, immigration should be as diverse as it once was.

This bill has the support of a broad coalition of groups. The Bryant amendment would shatter that broad support. I urge its defeat.

Mr. BRYANT. Mr. Chairman, I think I agree with most of what I have heard my adversaries this morning say. This amendment does change from the bill the new thinking. It changes from the bill the new thinking that somehow or another it is in the interest of this Nation at a time of crisis to bring not only the 530,000 people here which we bring in now, but to bring in another 300,000 or 350,000 a year also. I submit to you that is not only new thinking, that is flawed thinking and it is thinking that is way out of step with the American people.

Our legitimate purpose for this bill would be to strengthen families and to allow family unity. My amendment pares this bill down in such a way that the family unity portions are maintained, the spouses and children will be allowed to come in to join their husbands or father or mother who is here already, but we are not going to go beyond that.

The authors of this bill want to go way behond that, and they have a variety of categories. They talk about labor shortages and so forth, but they do not ever talk about the amnesties that are in this bill for a large number of different nationalities that are in the country at the present time, provisions that were lobbied into this bill by special interest groups from all over the country all over the world.

We ought to be making immigration policy for the benefit of the American people, not for the benefit of whoever shows up here lobbying and asking us to put their particular wish into our wish list bill, which is what this is, unless it is amended.

□ 1140

My amendment simply says we are going to allow for family unity but we are not going to increase above the current levels the number of immigrants which we allow in or out of the country legally. It is a sound, prudent approach supported by the administration. I think it is supported by the American people.

Mr. Chairman, I urge the Members to vote for the amendment.

I yield back the balance of time.

Mr. BROOKS. Mr. Chairman, I hope that the Members will understand the urgency of this legislation. Vote "no" on this amendment.

Mr. Chairman, I yield back the balance of my time.

PARLIAMENTARY INQUIRY

Mr. HENRY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HENRY. Mr. Chairman, there are a number of meetings back and forth with the White House and all. I understand we have a series of three votes, a vote on this Bryant amendment, then a vote on recommittal, and on final passage. Would it be possible to have the other two votes be 5-minute votes?

The CHAIRMAN. The Chair does not have the authority in the Committee of the Whole. Under the rules pertaining to the Committee, the Chair respectfully denies the request of the gentleman.

Mr. HENRY. I thank the Chair.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. BRYANT].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BRYANT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 165, noes 257, not voting 11, as follows:

[Roll No. 404]

AYES—165

Alexander
Andrews
Anthony
Archer
Baker
Ballenger
Bartlett
Barton
Bateman
Bennett
Bentley
Bilirakis
Billey
Bonior
Broomfield
Browder
Brown (CO)
Bryant
Bunning
Burton
Byron
Callahan
Chandler
Chapman
Clinger
Coble
Coleman (MO)
Combest
Craig
Crane
Dannemeyer
DeLay
Douglas
Duncan
Early
Emerson
English
Erdreich
Espy
Fawell
Fields
Flippo
Gallegly
Gallo
Gaydos
Gekas
Gillmor
Gingrich
Goodling
Goss
Grandy
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Holloway
Hopkins
Hubbard
Huckaby
Hunter
Hutto
Inhofe
Ireland
James
Jenkins
Johnston
Kaptur
Kasich
Kyl
Lagomarsino
Leath (TX)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lowery (CA)
Lukens, Donald
Marlenee
Martin (NY)
McCandless
McCollum
McCrery
McCurdy
McMillan (NC)
Michel
Miller (OH)
Montgomery
Moorhead
Morrison (WA)
Myers
Olin
Packard
Pallone
Parker
Parris
Patterson
Paxon
Payne (VA)
Petri
Pursell
Quillen
Ravenel
Ray
Rhodes
Ridge
Ritter
Roberts
Robinson
Rogers
Rowland (GA)
Sarpalius
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Skelton
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Spratt
Staggers
Stearns
Stenholm
Stump
Sundquist
Tallon
Tanner
Tauzin
Taylor
Thomas (CA)

Thomas (GA)
Thomas (WY)
Traxler
Upton
Valentine
Vander Jagt
Volkmer
Walker
Watkins
Whittaker
Wolf
Wylie
Yatron
Young (AK)
Young (FL)

NOES—257

Ackerman
Anderson
Annunzio
Applegate
Armey
Aspin
Atkins
AuCoin
Bates
Beilenson
Bereuter
Berman
Bilbray
Boehlert
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Buechner
Bustamante
Campbell (CO)
Cardin
Carper
Carr
Clarke
Clay
Clement
Colemah (TX)
Collins
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Edwards (OK)
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hawkins
Hayes (IL)
Hertel
Hoagland
Hochbrueckner
Horton
Houghton
Hoyer
Hughes
Hyde
Jacobs
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Leach (IA)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken, Thomas
Machtley
Madigan
Manton
Markey
Martin (IL)
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Pashayan
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Porter
Poshard
Price
Rahall
Rangel
Regula
Richardson
Rinaldo
Roe
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Roybal
Russo
Sabo
Saiki
Sangmeister
Savage
Sawyer
Scheuer
Schiff
Schneider
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (VT)
Snowe
Solarz
Stallings
Stangeland
Stark
Stokes
Studds
Swift
Synar
Tauke
Torres
Torricelli
Towns
Traficant
Udall
Unsoeld
Vento
Visclosky
Walgren
Walsh
Washington
Waxman
Weber
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates

NOT VOTING—11

Barnard
Bevill
Boggs
Campbell (CA)
Crockett
Engel
Frenzel
Martinez
Rowland (CT)
Vucanovich
Weldon

☐ 1201

Messrs. McEWEN. GORDON, and CONYERS changed their vote from “aye” to “no.”

Messrs. SAXTON, YATRON, TRAXLER, and SPRATT changed their vote from “no” to “aye.”

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BROWN of California) having assumed the chair, Mr. DARDEN Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4300) to amend the Immigration and Nationality Act to revise the system of admission of aliens on the basis of family reunification and to meet identified labor shortages, and for other purposes, pursuant to House Resolution 484, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute, as modified, as amended? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill.

Mr. SMITH of Texas. I am opposed to the bill, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. SMITH of Texas moves to recommit the bill, H.R. 4300, to the Committee on the Judiciary.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SMITH of Texas. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage of the bill.

The vote was taken by electronic device, and there were—ayes 176, noes 248, not voting 9, as follows:

[Roll No. 405]

AYES—176

Alexander
Andrews
Applegate
Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Broomfield
Browder
Brown (CO)
Bryant
Buechner
Bunning
Burton
Byron
Callahan
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox
Craig
Crane
Dannemeyer
Davis
DeLay
Dickinson
Dornan (CA)
Douglas
Dreier
Duncan
Early
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Flippo
Frenzel
Gallegly
Gallo
Gekas
Gillmor
Gingrich
Goodling
Goss
Grandy
Grant
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hefley
Henry
Herger
Hiler
Hoagland
Holloway
Hopkins
Houghton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Inhofe
Ireland
James
Johnston
Kasich
Kolbe
Kyl
Lagomarsino
Leath (TX)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lowery (CA)
Lukens, Donald
Madigan
Marlenee
Martin (NY)
McCandless
McCollum
McCrery
McCurdy
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Montgomery
Moorhead
Morrison (WA)
Myers
Nielson
Oxley
Packard
Parker
Parris
Pashayan
Paxon
Penny
Petri
Pursell
Ravenel
Ray
Regula
Rhodes
Ridge
Ritter
Roberts
Robinson
Rogers
Roth
Roukema
Sarpalius
Savage
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stallings
Stangeland
Stearns
Stenholm
Stump
Sundquist
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Walker
Watkins
Whittaker
Wolf
Wylie
Young (AK)
Young (FL)

NOES—248

Ackerman
Anderson
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bates
Beilenson
Berman
Bilbray
Boehlert
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bustamante
Campbell (CO)
Cardin
Carper
Carr
Clarke
Clay
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Costello
Courter
Coyne
Darden
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Hoyer
Hyde
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Leach (IA)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken, Thomas
Machtley
Manton
Markey
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Pickett
Pickle
Porter
Poshard
Price
Quillen
Rahall
Rangel
Richardson
Rinaldo
Roe
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sawyer
Scheuer
Schiff
Schneider
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (IA)
Smith (NJ)
Smith (VT)
Snowe
Solarz
Spratt
Staggers
Stark
Stokes
Studds
Swift
Synar
Tanner
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Vento
Visclosky
Volkmer
Walgren
Walsh
Washington
Waxman
Weber
Weiss
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—9

Boggs
Campbell (CA)
Crockett
Engel
Rowland (CT)
Smith (FL)
Vucanovich
Weldon
Whitten

☐ 1222

Mr. HOAGLAND changed his vote from “no” to “aye.”

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BROWN of California). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROOKS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. The Chair will remind the Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—231, nays 192, not voting 10, as follows:

[Roll No. 406]

YEAS—231

Ackerman
Alexander
Anderson
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bates
Berman
Bilbray
Boehlert
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bustamante
Campbell (CO)
Cardin
Carper
Carr
Clarke
Clay
Coleman (TX)
Collins
Condit
Conte
Conyers
Costello
Courter
Coyne
Darden
de la Garza
DeFazio
Dellums
DeWine
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gradison
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hawkins
Hayes (IL)
Hertel
Hochbrueckner
Horton
Hoyer
Hunter
Hyde
Jacobs
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowey (NY)
Luken, Thomas
Machtley
Madigan
Manton
Markey
Martin (IL)
Martinez
Matsui
Mavroules
McCloskey
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Pashayan
Payne (NJ)
Pease
Pelosi
Penny
Pickett
Pickle
Porter
Poshard
Price
Rahall
Rangel
Richardson
Rinaldo
Roe
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roybal
Russo
Sabo
Saiki
Sangmeister
Sawyer
Scheuer
Schiff
Schneider
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Skaggs
Skeen
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (VT)
Snowe
Solarz
Staggers
Stangeland
Stark
Stokes
Studds
Swift
Synar
Tauke
Thomas (CA)
Torres
Torricelli
Towns
Traxler
Udall
Unsoeld
Vento
Visclosky
Walgren
Walsh
Washington
Waxman
Weber
Weiss
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)

NAYS—192

Andrews
Applegate
Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Broomfield
Browder
Brown (CO)
Bryant
Buechner
Bunning
Burton
Byron
Callahan
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Combest
Cooper
Coughlin
Cox
Craig
Crane
Dannemeyer
Davis
DeLay
Derrick
Dickinson
Douglas
Dreier
Duncan
Dyson
Early
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Frenzel
Gallegly
Gallo
Gekas
Geren
Gillmor
Goodling
Gordon
Goss
Grandy
Grant
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Hoagland
Holloway
Hopkins
Houghton
Hubbard
Huckaby
Hughes
Hutto
Inhofe
Ireland
James
Jenkins
Johnston
Kasich
Kolbe
Kyl
Lagomarsino
Lancaster
Laughlin
Leath (TX)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Long
Lowery (CA)
Lukens, Donald
Marlenee
Martin (NY)
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Montgomery
Moorhead
Myers
Natcher
Neal (NC)
Nelson
Nielson
Olin
Oxley
Packard
Parker
Parris
Patterson
Paxon
Payne (VA)
Perkins
Petri
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Ridge
Ritter
Roberts
Robinson
Rogers
Roth
Roukema
Rowland (GA)
Sarpalius
Savage
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skelton
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Spratt
Stallings
Stearns
Stenholm
Stump
Sundquist
Tallon
Tanner
Tauzin
Taylor
Thomas (GA)
Thomas (WY)
Traficant
Upton
Valentine
Vander Jagt
Volkmer
Walker
Watkins
Whittaker
Wolf
Wylie
Young (FL)

NOT VOTING—10

Boggs
Campbell (CA)
Crockett
Engel
Flippo
Jones (GA)
Rowland (CT)
Vucanovich
Weldon
Whitten

☐ 1232

Messrs. EDWARDS of Oklahoma NATCHER, and GEREN of Texa changed their vote from “yea” t “nay.”

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, pursuant to the rule, I call up the Senate bill (S. 358) to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States, and to provide for administrative naturalization, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROOKS moves to strike out all after the enacting clause of the Senate bill, S. 358, and to insert in lieu thereof the provisions of the bill, H.R. 4300, as passed by the House, as follows:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Family Unity and Employment Opportunity Immigration Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRATION

Subtitle A—Admission and Status

Sec. 101. Separate levels for family-sponsored and employment-based immigration.
Sec. 102. Preference system for admission of immigrants.
Sec. 103. Alternative labor attestation process.
Sec. 104. Nonimmigrant classifications.
Sec. 105. Admission of aliens in religious occupations.
Sec. 106. Denial of crewmember status in the case of certain labor disputes.
Sec. 107. Effective dates; transition.

Subtitle B—Education and Training of American Workers

Sec. 111. Educational assistance and training.
Sec. 112. Higher education scholarship program for mathematics and sciences.

TITLE II—OTHER PROVISIONS REGARDING IMMIGRANT VISAS

Sec. 201. Transition for aliens who are natives of certain adversely affected foreign states.
Sec. 202. Transition for certain displaced aliens.
Sec. 203. Transition for African immigrants.
Sec. 204. Backlog visa numbers for second and fifth preferences.
Sec. 205. Transition for third and sixth preference.
Sec. 206. Transition for employees of certain United States businesses operating in Hong Kong.
Sec. 207. Treatment of Hong Kong as separate foreign state for numerical limitation purposes.
Sec. 208. Permitting extension of period of validity of immigrant visas for certain residents of Hong Kong.
Sec. 209. Transition for aliens who have been notified of availability of NP-5 visas.

TITLE III—OTHER IMMIGRATION PROVISIONS

Subtitle A—Provisions Relating to Marriage Fraud

Sec. 301. Battered spouse or child waiver of the conditional residence requirement.
Sec. 302. Bona fide marriage exception to foreign residence requirement for marriages entered into during certain immigration proceedings.

Subtitle B—Provisions Relating to Immigration Reform and Control Act of 1986

Sec. 311. Application of employer sanctions to longshore work.
Sec. 312. Elimination of paperwork requirement for recruiters and referrers.
Sec. 313. Permitting court-ordered remedies in certain circumstances.
Sec. 314. Prohibition of deportation of spouses and children of legalized aliens.
Sec. 315. Treatment of certain legalization applicants.
Sec. 316. Reimbursement through Immigration Emergency Fund of localities impacted by increases in aliens applying for asylum.
Sec. 317. Clarification of authorization of appropriations for the Immigration Emergency Fund.
Sec. 318. Revision and extension of the visa waiver pilot program.
Sec. 319. 1-year extension in deadline for filing applications for adjustment from temporary to permanent residence for legalized aliens.

Subtitle C—Miscellaneous

Sec. 321. Special immigrant status for certain aliens declared dependent on a juvenile court.
Sec. 322. Statistical information system.
Sec. 323. Revision of health grounds for exclusion.
Sec. 324. Temporary protected status for nationals of El Salvador, Lebanon, Liberia, and Kuwait, and other designated foreign states.
Sec. 325. Limitation on detention of certain aliens with dependent children.
Sec. 326. Waiver of English language requirement for naturalization.
Sec. 327. Treatment of service in armed forces of a foreign country.
Sec. 328. Opportunity for adjustment of status before termination of asylum status.
Sec. 329. Timing of payment of fee for applications to file petitions for naturalization.
Sec. 330. Use of immigration examinations fee account for promotion of citizenship.
Sec. 331. Report concerning administrative denials of applications for naturalization.
Sec. 332. Increase by 1,000 in border patrol personnel.

TITLE I—FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRATION

Subtitle A—Admission and Status

SEC. 101. SEPARATE LEVELS FOR FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRATION.

(a) IN GENERAL.—Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended to read as follows:

"WORLDWIDE LEVEL OF IMMIGRATION

"SEC. 201. (a) IN GENERAL.—Exclusive of aliens described in subsection (b), aliens born in a foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(1) family-sponsored immigrants described in section 203(a) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(a)) in a number not to exceed in any fiscal year 185,000 and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under this paragraph for all of such fiscal year;

"(2) employment-based immigrants described in section 203(b) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(b)), in a number not to exceed 65,000 in each of fiscal years 1992 through 1996, and not to exceed 75,000 in each fiscal year thereafter and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under this paragraph for all of such fiscal year; and

"(3) for fiscal years beginning with fiscal year 1994, diversity immigrants described in section 203(c) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(c)) in a number not to exceed 55,000 in each fiscal year and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under this paragraph for all of such fiscal year.

"(b) ALIENS NOT SUBJECT TO NUMERICAL LIMITATIONS.—The following aliens are not subject to the worldwide levels or numerical limitations of subsection (a):

"(1)(A) Special immigrants described in section 101(a)(27).

"(B) Aliens who are admitted under section 207 or whose status is adjusted under section 209.

"(C) Aliens whose status is adjusted to permanent residence under section 210, 210A, or 245A.

"(D) Aliens provided permanent resident status under section 249.

"(2)(A)(i) Immediate relatives. For purposes of this clause, the term 'immediate relative' means a child or spouse of a citizen of the United States and a parent of a citizen of the United States who is at least 21 years of age, and includes, subject to subsection (c) and beginning with fiscal year 1991, a child or spouse of an alien lawfully admitted for permanent residence. In the case of an alien who was the spouse of a citizen of the United States for at least 2 years at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, the alien shall be considered, for purposes of this clause, to remain an immediate relative after the date of the citizen's death but only if the spouse files a petition under section 204(a)(1)(A) within 2 years after such date and only until the date the spouse remarries.

"(ii) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative.

"(B) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.

"(3) An alien who is provided immigrant status under section 203(d) as the spouse or child of an immigrant under section 203(b).

"(c) TREATMENT OF IMMEDIATE RELATIVES OF PERMANENT RESIDENT ALIENS.—In the case of aliens who are immediate relatives (as defined in subsection (b)(2)(A)(i)) as the spouse or child of an alien lawfully admitted for permanent residence, until otherwise provided by law, the number of such aliens who shall be treated as such immediate relatives in any fiscal year may not exceed 115,000. Visas shall be made available to such immediate relatives in the order in which a petition in behalf of each such alien is filed with the Attorney General as provided in section 204.".

(b) PER COUNTRY IMMIGRATION LEVELS.—Section 202 of such Act (8 U.S.C. 1152) is amended—

(1) in subsection (a), by striking "paragraphs (1) through (7) of section 203(a)" and inserting "subsections (a) and (b) of section 203",

(2) in subsection (c), by striking "a special immigrant" and all that follows through "201(b)" and inserting "an alien described in section 201(b)", and

(3) by amending subsection (e) to read as follows:

"(e) Where it is determined that the maximum number of immigrant visas will be made available under this section to natives of any single foreign state or dependent area in any fiscal year, in determining whether to provide for immigrant visa numbers to natives under section 203(a) or under section 203(b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section and section 203) in a manner so that—

"(1) the ratio of the visa numbers made available under section 203(a) to the visa numbers made available under section 203(b) is equal to 3 to 1; and

"(2) the proportion of the visa numbers made available under each of paragraphs (1) through (4) of section 203(a) is equal to the proportion of the total number of visas made available under the respective paragraph to the total number of visas made available under such section.

Nothing in this subsection shall be construed as limiting the number of visas which may be issued to natives of a state or dependent area under section 203(a) or 203(b) if there is insufficient demand for visas for such natives under section 203(b) or 203(a), respectively.".

(c) REMOVAL OF LIMITATION ON ASYLUM ADJUSTMENTS UNDER REFUGEE NUMERICAL LIMITATION.—Section 209(b) of such Act (8 U.S.C. 1159(b)) is amended by striking "Not more than five thousand of the refugee admissions" and inserting "Refugee admissions".

(d) CLERICAL AMENDMENT.—The item in the table of contents of the Immigration and Nationality Act relating to section 201 is amended to read as follows:

"Sec. 201. Worldwide level of immigration.".

SEC. 102. PREFERENCE SYSTEM FOR ADMISSION OF IMMIGRANTS.

(a) IN GENERAL.—Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended—

(1) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively;

(2) by striking subsection (a) and inserting the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(a)(1) for family-sponsored immigrants shall be allotted visas as follows:

"(1) UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a number not to exceed 30 percent of such worldwide level.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Qualified immigrants who are the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence shall be allocated visas in a number not to exceed 19 percent of such worldwide level, plus any visas not required for the class specified in paragraph (1).

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the married sons or married daughters of citizens of the United States shall be allocated visas in a number not to exceed 16 percent of such worldwide level, plus any visas not required for the classes specified in paragraphs (1) and (2).

"(4) BROTHERS AND SISTERS OF CITIZENS.—Qualified immigrants who are the brothers or sisters of citizens of the United States, if such citizens are at least 21 years of age, shall be allocated visas in a number not to exceed 35 percent of such worldwide level, plus any visas not required for the classes specified in paragraphs (1) through (3).

"(b) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(a)(2) for employment-based immigrants in a fiscal year shall be allotted visas as follows:

"(1) PRIORITY WORKERS.—Visas shall first be made available to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (D), except that not more than 2,000 such visa numbers may be made available in any fiscal year to aliens under subparagraph (D):

"(A) ALIENS WITH EXTRAORDINARY ABILITY.—An alien is described in this subparagraph if—

"(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

"(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

"(iii) the alien's entry into the United States will substantially benefit prospectively the United States.

"(B) OUTSTANDING PROFESSORS AND RESEARCHERS.—An alien is described in this subparagraph if—

"(i) the alien is recognized internationally as outstanding in a specific academic area,

"(ii) the alien has at least 3 years of experience in teaching or research in the academic area, and

"(iii) the alien seeks to enter the United States—

"(I) for a tenured position (or tenure-track position) within a university or institution of higher education to teach in the academic area,

"(II) for a comparable position with a university or institution of higher education to conduct research in the area, or

"(III) for a comparable position to conduct research in the area with a department, division, or institute of a private employer, if the department, division, or institute employs at least 3 persons full-time in research activities and has achieved documented accomplishments in an academic field.

"(C) CERTAIN MULTINATIONAL EXECUTIVES AND MANAGERS.—An alien is described in this subparagraph if the alien, in the 3 years preceding the time of the alien's application for classification and admission into the United States under this subparagraph, has been employed for at least 1 year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and who seeks to enter the United States in order to continue to render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive.

"(D) ALIENS WITH BUSINESS EXPERTISE.—An alien is described in this subparagraph if the alien is coming to the United States to perform services not of a temporary nature in business requiring special expertise and has an advanced degree in a field relating to that special expertise.

"(2) OTHER EMPLOYMENT-BASED ALIENS.—

"(A) IN GENERAL.—Visas made available under section 201(a)(2) for a fiscal year not otherwise made available under paragraph (1) shall be made available to qualified immigrants who are capable of performing specified labor, not of a temporary or seasonal nature, for which a shortage of employable and willing persons exists in the United States.

"(B) LABOR CERTIFICATION REQUIRED.—No immigrant visa shall be issued to an immigrant under this paragraph before the date the consular officer receives a certification made by the Secretary of Labor under section 212(a)(14).

"(C) PRIORITY FOR NATIVES OF ADVERSELY AFFECTED FOREIGN STATES.—

"(i) APPLICATION IN FISCAL YEARS 1992 THROUGH 1996.—Immigrant visas made available under this paragraph for any quarter in fiscal year 1992, 1993, 1994, 1995, or 1996, shall first be issued, in a number not to exceed 5,200 in any quarter, to eligible immigrants who are natives of an adversely affected foreign state (as defined in clause (iii)) in the order in which a petition in behalf of each such immigrant is filed with the Attorney General as provided in section 204. Any remaining visas made available under this paragraph for such a quarter shall be issued to all eligible immigrants in the order in which a petition in behalf of each such immigrant is filed with the Attorney General as provided in section 204.

"(ii) SUBSEQUENT FISCAL YEARS.—Visas made available under this paragraph for any quarter in a fiscal year after fiscal year 1996 shall be issued to eligible immigrants in the order in which a petition in behalf of each such immigrant is filed with the Attorney General as provided in section 204.

"(iii) ADVERSELY AFFECTED FOREIGN STATE DEFINED.—In this subparagraph, the term 'adversely affected foreign state' means a foreign state that is not contiguous to the United States and that was identified as an adversely affected foreign state for purposes of section 314 of the Immigration Reform and Control Act of 1986.

"(c) DIVERSITY IMMIGRANTS.—

"(1) IN GENERAL.—Visas made available under section 201(a)(3) for a fiscal year shall be made available in each fiscal year to qualified immigrants who are natives of foreign states in a region as follows:

"(A) DETERMINATION OF PREFERENCE IMMIGRATION.—The Attorney General shall determine for the most recent previous 5-fiscal-year period for which data are available, the

total number of aliens who are natives of each foreign state and who (i) were admitted or otherwise provided lawful permanent resident status (other than under this subsection) and (ii) were subject to the numerical limitations of section 201(a) (other than paragraph (3) thereof) or who were admitted or otherwise provided lawful permanent resident status as an immediate relative or other alien described in section 201(b)(2) or 201(b)(3).

"(B) Identification of high-admission and low-admission regions and high-admission and low-admission states.—The Attorney General—

"(i) shall identify—

"(I) each region (each in this paragraph referred to as a 'high-admission region') for which the total of the numbers determined under subparagraph (A) for states in the region is greater than ⅙ of the total of all such numbers, and

"(II) each other region (each in this paragraph referred to as a 'low-admission region'); and

"(ii) shall identify—

"(I) each foreign state for which the number determined under subparagraph (A) is greater than 50,000 (each such state in this paragraph referred to as a 'high-admission state'), and

"(II) each other foreign state (each such state in this paragraph referred to as a 'low-admission state').

"(C) Determination of percentage of worldwide immigration attributable to high-admission regions.—The Attorney General shall determine the percentage of the total of the numbers determined under subparagraph (A) that are numbers for foreign states in high-admission regions.

"(D) Determination of regional populations excluding high-admission states and ratios of populations of regions within low-admission regions and high-admission regions.—The Attorney General shall determine—

"(i) based on available estimates for each region, the total population of each region not including the population of any high-admission state;

"(ii) for each low-admission region, the ratio of the population of the region determined under clause (i) to the total of the populations determined under such clause for all the low-admission regions; and

"(iii) for each high-admission region, the ratio of the population of the region determined under clause (i) to the total of the populations determined under such clause for all the high-admission regions.

"(E) Distribution of visas.—

"(i) No visas for natives of high-admission states.—The percentage of visas made available under this paragraph to natives of a high-admission state is 0.

"(ii) For low-admission states in low-admission regions.—Subject to clauses (iv) and (v), the percentage of visas made available under this paragraph to natives (other than natives of a high-admission state) in a low-admission region is the product of—

"(I) the percentage determined under subparagraph (C), and

"(II) the population ratio for that region determined under subparagraph (D)(ii).

"(iii) For low-admission states in high-admission regions.—Subject to clauses (iv) and (v), the percentage of visas made available under this paragraph to natives (other than natives of a high-admission state) in a high-admission region is the product of—

"(I) 100 percent minus the percentage determined under subparagraph (C), and

"(II) the population ratio for that region determined under subparagraph (D)(iii).

"(iv) Redistribution of unused visa numbers.—If the Secretary of State estimates that the number of immigrant visas to be issued to natives in any region for a fiscal year under this paragraph is less than the number of immigrant visas made available to such natives under this paragraph for the fiscal year, subject to clause (v), the excess visa numbers shall be made available to natives (other than natives of a high-admission state) of the other regions in proportion to the percentages otherwise specified in clauses (ii) and (iii).

"(v) Limitation on visas for natives of a single foreign state.—The percentage of visas made available under this paragraph to natives of any foreign state for any fiscal year shall not exceed 7 percent.

"(2) Region defined.—Only for purposes of administering the diversity program under this subsection, Northern Ireland shall be treated as a separate foreign state, each colony or other component or dependent area of a foreign state overseas from the foreign state shall be treated as part of the foreign state, and each of the following shall be considered to be a separate region:

"(A) Africa.

"(B) Asia.

"(C) Europe.

"(D) North America (other than Mexico).

"(E) Oceania.

"(F) South America, Mexico, Central America, and the Caribbean.

"(d) Treatment of Family Members.—A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a), (b), or (c) be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.";

(3) in subsection (e) (as so redesignated)—

(A) by inserting "Priority Within Preference Class.—" before "In considering",

(B) by inserting "or (b)" after "under subsection (a)", and

(C) by inserting "or (b), respectively" after "in subsection (a)";

(4) in subsection (f) (as so redesignated)—

(A) by striking "Immigrant visas" and inserting "Priority of Visa Issuance.—(1) Except as provided in subsection (b)(2)(C), immigrant visas",

(B) by striking "paragraphs (1) through (6) of subsection (a)" and inserting "subsection (a) or (b)", and

(C) by adding at the end the following:

"(2) Immigrant visa numbers made available under section 201(a)(3) in a fiscal year for natives of low-admission states shall be made available to qualified immigrants who have filed petitions under section 204(a)(1)(F) strictly in a random order established by the Secretary of State for the fiscal year involved.

"(3) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.";

(5) in subsection (g) (as so redesignated)—

(A) by striking the first sentence and inserting "Requirement for Petition Approval.—", and

(B) by striking "to be an immediate relative" and all that follows through "subsection (a)," and inserting "to be entitled to a status for which a petition is required under section 204(a)(1),"; and

(6) in subsection (h) (as so redesignated)—

(A) by inserting "Use of Estimates and Termination of Registration.—" before "For the purposes", and

(B) by striking "of subsection (a)" and inserting "under subsections (a), (b), and (c)".

(b) Changes in Petitioning Procedure.—Section 204 of such Act (8 U.S.C. 1154) is amended—

(1) in subsection (a)(1), by striking "(a)(1)" and all that follows through the end and inserting the following:

"(a)(1)(A) Any citizen of the United States claiming that an alien is entitled to classification by reason of a relationship described in paragraph (1), (3), or (4) of section 203(a) or to an immediate relative status under section 201(b)(2)(A)(i) may file a petition with the Attorney General for such classification. An alien desiring to be classified as an immediate relative under the second sentence of section 201(b)(2)(A)(i) may file a petition with the Attorney General for such classification.

"(B) Any alien lawfully admitted for permanent residence claiming that an alien is entitled to an immediate relative status under section 201(b)(2)(A)(i) or a classification by reason of the relationship described in section 203(a)(2) may file a petition with the Attorney General for such classification.

"(C) Any alien desiring to be classified under section 203(b)(1)(A) (or any person on behalf of such an alien) (relating to aliens with extraordinary ability) may file a petition with the Attorney General for such classification.

"(D) Any employer (or representative of one or more employers) desiring and intending to employ within the United States an alien entitled to classification under section 203(b)(1)(B), 203(b)(1)(C), 203(b)(1)(D), or 203(b)(2) (relating to outstanding professors and researchers, certain multinational executives and managers, aliens with business expertise, and other employment-based aliens) may file a petition with the Attorney General for such classification.

"(E)(i) Any alien desiring to be provided an immigrant visa under section 203(c) (relating to diversity immigrants) with respect to a petitioning period may file a petition at the place and time determined by the Secretary of State for that period. The Secretary of State shall designate a period for the filing of petitions under this subparagraph with respect to one or two fiscal years. Only one such petition may be filed by an alien with respect to any petitioning period, and, if more than one petition is submitted, all such petitions submitted for the period by the alien shall be void. Petitions submitted for consideration with respect to any petitioning period shall be valid only with respect to such period and not with respect to subsequent periods.

"(ii) The Secretary of State shall establish a fee for the filing of such petitions in an amount sufficient to cover the costs of processing petitions under this subparagraph. The Secretary of State shall deposit payments received under this clause in a separate account and amounts in such account shall be available, without fiscal year limitation, to cover administrative and other expenses incurred in connection with the review of applications filed under this paragraph.";

(2) in paragraph (2)(A)—

(A) by striking "spousal second preference petition" each place it appears and inserting "spousal alien immediate relative petition", and

(B) by striking "preference status under section 203(a)(2)" and inserting "immediate

relative status under section 201(b)(2)(A)(i)";

(3) in subsection (b)—

(A) by striking "After an investigation" and inserting "Except in the case of a petition under subsection (a)(1)(E), after an investigation",

(B) by striking ", and after consultation" and all that follows through "203(a) (3) or (6),",

(C) by inserting "or 203(b)" after "203(a)", and

(D) by inserting after the first sentence the following: "In making determinations under section 203(b)(1)(A)(i) (relating to demonstration of extraordinary ability) the Attorney General shall consult with peer groups in the area of the alien's ability, and in making determinations under section 203(b)(1)(B)(i) (relating to international recognition as outstanding in a specific academic area), the Attorney General shall consult with peer groups in the academic area of the alien's recognized ability.";

(4) in subsection (e), by inserting "or 203(b)" after "203(a)";

(5) by striking subsection (f);

(6) in subsection (g)(1)—

(A) by striking "201(b)" and inserting "201(b)(2)(A)(i)", and

(B) by striking "203(a)(4)" and inserting "203(a)(3)"; and

(7) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(c) Processing Fee.—Section 204(b) of such Act (8 U.S.C. 1154(b)) is amended by inserting "(1)" after "(b)" and by adding at the end the following new paragraph:

"(2) The Attorney General shall require by regulation, as a condition for the acceptance and approval of a petition under this section with respect to immigrants described in section 203(b), the payment of a fee to recover the reasonable costs of processing such a petition with respect to immigrants described in such section.".

(d) Definitions of Managerial Capacity and Executive Capacity.—Section 101(a) of such Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:

"(44)(A) The term 'managerial capacity' means an assignment within an organization in which the employee primarily—

"(i) manages the organization, or a department, subdivision, function, or component of the organization;

"(ii) supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization;

"(iii) if another employee or other employees are directly supervised, has the authority to hire and fire or recommend those as well as other personnel actions (such as promotion and leave authorization) or, if no other employee is directly supervised, functions at a senior level within the organizational hierarchy or with respect to the function managed; and

"(iv) exercises discretion over the day-to-day operations of the activity or function for which the employee has authority.

A first-line supervisor is not considered to be acting in a managerial capacity merely by virtue of the supervisor's supervisory duties unless the employees supervised are professional.

"(B) The term 'executive capacity' means an assignment within an organization in which the employee primarily—

"(i) directs the management of the organization or a major component or function of the organization;

"(ii) establishes the goals and policies of the organization, component, or function;

"(iii) exercises wide latitude in discretionary decisionmaking; and

"(iv) receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the organization.

"(C) If staffing levels are used as a factor in determining whether an individual is acting in a managerial or executive capacity, the Attorney General shall take into account the reasonable needs of the organization, component, or function in light of the overall purpose and stage of development of the organization, component, or function. An individual shall not be considered to be acting in a managerial or executive capacity (as previously defined) merely on the basis of the number of employees that the individual supervises or has supervised or directs or has directed.".

(e) Additional Conforming Amendments.—

(1) Section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)) is amended—

(A) by striking "or" at the end of subparagraph (H),

(B) by striking the period at the end of subparagraph (I) and inserting "; or", and

(C) by adding at the end the following new subparagraph:

"(J) an alien whose deportation was cancelled under section 244.".

(2) Section 212(a)(32) of such Act (8 U.S.C. 1182(a)(32)) is amended by striking "preference immigrant aliens described in section 203(a) (3) and (6) and to nonpreference immigrant aliens described in section 203(a)(7)" and inserting "preference immigrant aliens described in section 203(b)(2)".

(3) Section 245(b) of such Act (8 U.S.C. 1255(b)) is amended—

(A) by striking "or nonpreference",

(B) by striking "202(e) or 203(a)" and inserting "201(a)", and

(C) by striking "for the fiscal year then current" and inserting "for the succeeding fiscal year".

(4) Section 3304(a)(14)(A) of the Internal Revenue Code of 1986 is amended by striking "section 203(a)(7) or".

(5) Section 1614(a)(1)(B)(i) of the Social Security Act is amended by striking "section 203(a)(7) or".

(f) Technical Corrections to Immigration Nursing Relief Act of 1989.—

(1) Section 2 of the Immigration Nursing Relief Act of 1989 (Public Law 101-238) is amended—

(A) in subsection (a)—

(i) by striking ", and the immigrant's accompanying spouse and children", and

(ii) by inserting after the first sentence the following:

"Such numerical limitations also shall not apply to the adjustment of status of, or issuance of an immigrant visa to, the immigrant's spouse and children if accompanying or following to join the immigrant."; and

(B) in subsection (b)—

(i) by striking "December 31, 1989" and inserting "September 1, 1989",

(ii) by striking "in the lawful status" and inserting "in the status",

(iii) by inserting "unauthorized employment performed before the date of the enactment of the Family Unity and Employment Opportunity Immigration Act of 1990 shall not be taken into account in applying section 245(c)(2) of the Immigration and Nationality Act and" after "spouse or child of such an alien,", and

(iv) by striking "lawful status as such a nonimmigrant" and all that follows through "subsection (a)" and inserting "lawful status throughout his or her stay in the United States as a nonimmigrant until the end of the 120-day period beginning on the date the Attorney General promulgates regulations carrying out the amendments made by section 102(f)(1)(A) of the Family Unity and Employment Opportunity Immigration Act of 1990".

(2) The amendments made by paragraph (1) shall apply as though included in the enactment of the Immigration Nursing Relief Act of 1989.

SEC. 103. ALTERNATIVE LABOR ATTESTATION PROCESS.

(a) In General.—Section 212(a)(14) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(14)) is amended to read as follows:

"(14) Aliens seeking admission or status as an immigrant under section 203(b)(2) or as a nonimmigrant under section 101(a)(15)(H)(i)(b) or 101(a)(15)(H)(ii)(b) unless, (A) the Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that (i) there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or the arts), and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, (ii) the employment of such aliens will not adversely affect the wages and working conditions of the workers in the United States similarly situated, and (iii) the employer meets the requirement of section 204(b)(3) with respect to such aliens, or (B) with respect to the aliens the Secretary of Labor certifies to the Secretary of State and the Attorney General that an attestation is on file and in effect under section 212(n) for the employer and occupational classification for which the alien wil perform services;".

(b) Use of Attestations.—Section 212 of such Act, as amended by section 3(b) of Public Law 101-238, is amended by adding at the end the following new subsection:

"(n)(1) The attestation referred to in subsection (a)(14)(B), with respect to an alien who is coming to the United States to be employed by an employer in an occupational classification, is an attestation as to the following:

"(A) Subject to paragraph (3), the employer—

"(i)(I) has made and is making positive recruitment efforts, in the recruitment area identified under paragraph (2)(A), reasonably designed to locate and employ able, willing, and qualified (or equally qualified in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or the arts) workers, and

"(II) recites the specific actions the employer has taken with respect to such recruitment; and

"(ii) has been unable to find such workers who are available at the time and place of need.

"(B) The employer is offering and will offer (in the case of an nonimmigrant under section 101(a)(15)(H)(i)(b) or 101(a)(15)(H)(ii)(b), during the period of authorized employment or, in the case of an immigrant under section 203(b)(2), during the first year of employment of the alien by the employer) to aliens and to other individuals employed in the occupational classification and in the recruitment area (identi fied under paragraph (2)(A)) wages that are no less than the base prevailing wage level (determined under paragraph (6)) and working conditions that are not less than the prevailing working conditions for the occupational classification in the recruitment area.

"(C) There is not a strike or lockout in the course of a labor dispute.

"(D) The employer, at the time of execution of the attestation, has provided notice of the intention to file the attestation under this paragraph to the bargaining representative (if any) of the employer's employees in the occupational classification and recruitment area for which aliens are sought, or, if there is no such bargaining representative, to such State or local governmental entity as the Secretary of Labor designates (after consultation with appropriate labor and management organizations) for the recruitment area for purposes of this subparagraph.

The obligation to engage in positive recruitment under subparagraph (A) shall not apply to nonimmigrants under section 101(a)(15)(H)(i)(b) and shall terminate on the date that the alien is provided immigrant or nonimmigrant status in response to the attestation.

"(2)(A) With respect to occupational classifications for which attestations may be filed, the Secretary of Labor (in this subsection referred to as the 'Secretary') shall identify recruitment areas which are the areas of traditional or expected labor supply.

"(B) The Secretary shall make available for public examination, within 2 working days after the date on which an attestation under paragraph (1) is filed, in Washington, D.C., a copy of each attestation (and accompanying documentation) filed under paragraph (1). The Secretary shall compile, on a current basis, a list (by employer and by occupational classification) of the attestations filed or in effect under paragraph (1).

"(3)(A) If 10 or more attestations meeting the requirements of paragraph (1) (including paragraph (1)(A)) within a region (as defined by the Secretary) (or 5 attestations within a rural region) have been filed within a 1-year period and are in effect with respect to employees in the same occupational classification, any succeeding attestation filed during the succeeding 2-year period for workers in that occupational classification and region may substitute, for the attestation as to the matters described in paragraph (1)(A), an attestation that the employer has not been able to find, after posting of the job offer and advertising to recruit for hire, workers for the occupational classification at the time and place needed.

"(B) In subparagraph (A), the term 'rural region' means a contiguous area of counties (no county of which is an urbanized area) which is identified by the Secretary as representing a labor market with respect to an occupational classification which is separate and distinct from those for adjoining urbanized areas.

"(4)(A) If a bargaining representative described in paragraph (1)(D) or employee representative, within 30 days after the date the employer files an attestation under paragraph (1), submits to the Secretary a written request for a hearing respecting the matters required to be attested to in paragraph (1) and includes with such request a written statement of particular facts contradicting such attestation, the attestation shall not become effective until the date the Secretary has made a determination, after such a hearing, that the facts attested to are true. No attestation shall be effective under this subsection before the end of such 30-day period.

"(B) Within 7 days after the date of submission of a written request under subparagraph (A), the Secretary shall provide for a determination as to whether or not a written statement of particular facts contradicting the attestation has been included. If it has, the Secretary shall provide for a notice of such determination to the interested parties and an opportunity for a hearing in accordance with section 556 of title 5, United States Code, with respect to the attestation within 30 days of the date of the determination. After such a hearing, the Secretary shall make a determination with respect to whether the attestation meets the requirements of paragraph (1) by not later 30 days after the date of the hearing. In the hearing, the burden of proof on the truth of the facts attested to shall be on the employer.

"(C)(i) An attestation duly filed under paragraph (1) shall be deemed to have been certified by the Secretary and in effect under this subsection at the end of the 30-day period beginning on the date of its filing unless the Secretary otherwise notifies the employer and the Attorney General under clause (ii).

"(ii) If a written request for a hearing has been submitted on a timely basis under this paragraph, the Secretary shall notify the Attorney General and the employer in writing that an attestation, which would otherwise become effective under clause (i), shall not become effective.

"(D) The Secretary may not refuse to accept for filing a completed attestation filed under this subsection or review in any way such an attestation with respect to which a complaint has not been filed under this subsection.

(E)(i) The preceding provisions of this paragraph shall not apply to an attestation under paragraph (1) with respect to nonimmigrants described in section 101(a)(15)(H)(i)(b).

"(ii) An attestation duly filed under paragraph (1) with respect to a nonimmigrant described in section 101(a)(15)(H)(i)(b) shall be deemed to have been certified by the Secretary and in effect under this subsection on the date of its filing with the Secretary.

"(iii) The Secretary may not refuse to accept for filing a completed attestation filed under this subsection with respect to a nonimmigrant described in section 101(a)(15)(H)(i)(b) or review in any way (other than under paragraph (5)) such an attestation with respect to which a complaint has not been filed under paragraph (5).

"(F) Subject to termination under paragraph (5), an attestation shall be effective only for petitions filed during the 1-year period beginning on the effective date of the attestation.

"(5)(A) The Secretary shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to include an element of the attestation required under paragraph (1), failure to meet a condition attested to, or misrepresentation of material facts in an attestation that is in effect under this subsection. Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure or misrepresentation, respectively, or to the extent that the complaint alleges a failure or misrepresentation for which there has been a determination on that issue in a hearing under paragraph (4)(B). The Secretary shall conduct an investigation under this paragraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

"(B) Under such process, the Secretary shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a basis exists to make a finding described in subparagraph (C). If the Secretary determines that such a basis exists, the Secretary shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary shall make a finding concerning the matter by not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same petitioner, the Secretary may consolidate the hearings under this subparagraph on such complaints.

"(C) If the Secretary finds, after notice and opportunity for a hearing, an employer failure or that there was a misrepresentation of material fact in the attestation—

"(i) the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $1,000 per violation) as the Secretary determines to be appropriate, and

"(ii) the Attorney General shall not approve petitions filed with respect to that employer under section 204 or 214(c) during a period of at least 1 year for aliens to be employed by the employer.

"(D) In addition to the sanctions provided under subparagraph (C), if the Secretary finds, after notice and opportunity for a hearing, that an employer has violated a condition of an attestation relating to the payment of wages at a specified wage level, the Secretary shall order the employer to provide for payment of such amounts of back pay as may be required to comply with such condition.

"(6)(A) For purposes of this subsection and section 214(f), the term 'base prevailing wage level', with respect to an occupational classification in an area for which a petition or attestation is filed for purposes of the respective provision of law, means—

"(i) the actual wage level for the occupational classification at the place of employment, or

"(ii) the prevailing wage level for the occupational classification and area determined under subparagraph (B),

whichever is greater, determined as of the time of filing the respective petition or attestation.

"(B)(i) The Bureau of Labor Statistics in the Department of Labor shall periodically determine, for purposes of this subsection and section 214(f), the prevailing wage level for occupational classifications and areas for which determinations of prevailing wage levels are required under this subsection. In the case of a specific occupational classification for which a determination of prevailing wage level is not generally or readily available, the Bureau shall determine such a wage level within 30 days.

"(ii)(I) If the Bureau has not determined a prevailing wage level within 30 days of the date of filing of an attestation, subject to

subclause (II), the application of clause (ii) of subparagraph (A) shall be suspended until the date such a determination is made.

"(II) When the Bureau makes such a determination, the employer shall provide, within 30 days of the date of the determination, for such adjustment of wages (including back pay) as provides for the application of such prevailing wage level under subparagraph (A) as though such level had been determined on a timely basis under subparagraph (B).".

(c) Report.—The Secretary of Labor shall conduct a study of the feasibility of determining, for purposes of section 212(n) of the Immigration and Nationality Act, national or regional labor shortages in particular occupational classifications, taking into consideration—

(1) the intensity and duration of each labor shortage;

(2) the supply and demand of workers in occupations affected by the shortage;

(3) industrial and geographic concentration of the shortage;

(4) wages for occupations affected by the shortage and how a 20 percent increase in the prevailing wage in the occupation affects the shortage;

(5) entry requirements for occupations affected by the shortage; and

(6) the need for continuous positive national recruitment.

The Secretary shall report to Congress on the results of the study by not later than 2 years after the date of the enactment of this Act. The Secretary shall include in the report such legislative recommendations as may be necessary to permit the use of national or regional labor shortages in the process of attestations under section 212(n) of the Immigration and Nationality Act.

SEC. 104. NONIMMIGRANT CLASSIFICATIONS.

(a) Treaty Traders.—

(1) Section 101(a)(15)(E)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)(i)) is amended by inserting ", including trade in services or trade in technology" after "substantial trade".

(2) The largest foreign state in each region (as defined in section 203(c)(2) of the Immigration and Nationality Act) which has 1 or more dependent areas (as determined for purposes of section 202 of such Act) and which does not have a treaty of commerce and navigation with the United States shall be considered for purposes of section 101(a)(15)(E) of such Act to be a foreign state described in such section if the foreign state extends reciprocal nonimmigrant treatment to nationals of the United States.

(3) Section 101(a) of the Immigration and Nationality Act, as amended by section 102(d) of this Act, is amended by adding at the end the following new paragraph:

"(45) The term 'substantial' means, for purposes of paragraph (15)(E) with reference to trade or capital, such an amount of trade or capital as is established by the Secretary of State, after consultation with appropriate agencies of Government.".

(b) Students.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(f) With respect to work authorization for aliens admitted as nonimmigrant students described in subparagraph (F) of section 101(a)(15), the Attorney General shall grant such an alien work authorization to be employed in a position unrelated to the alien's field of study and off-campus if—

"(1) the alien has completed 1 year as such a nonimmigrant and is maintaining good academic standing at the educational institution,

"(2) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer (A) has recruited for at least 60 days for the position and (B) will provide for payment to the alien and to other similarly situated workers at a rate equal to not less than the base prevailing wage level (determined under section 212(n)(6)), and

"(3) the alien will not be employed more than 20 hours each week during the academic term (but may be employed on a full-time basis during vacation periods and between academic terms).

If the Secretary of Labor determines that an employer has provided an attestation under paragraph (2) that is materially false or has failed to pay wages in accordance with the attestation, after notice and opportunity for a hearing, the employer shall be disqualified from employing an alien student under this subsection for a period of 3 years.".

(c) H Nonimmigrants.—

(1) Limitation on numbers.—Section 214 of such Act (8 U.S.C. 1184), as amended by subsection (b), is further amended by adding at the end the following new subsection:

"(g)(1) The total number of aliens who may be issued visas or otherwise provided nonimmigrant status during any fiscal year (beginning with fiscal year 1992)—

"(A) under section 101(a)(15)(H)(i)(b) may not exceed 25,000,

"(B) under section 101(a)(15)(H)(ii)(b), may not exceed 66,000, or

"(C) under section 101(a)(15)(P)(i) or section 101(a)(15)(P)(iii) may not exceed 9,000.

"(2) The numerical limitations under paragraph (1) shall only apply to principal aliens and not to the spouses or children of such aliens.

"(3) Aliens who are subject to the numerical limitations of paragraph (1) shall be issued visas (or otherwise provided nonimmigrant status) in the order in which petitions are filed for such visas or status.

"(4) In the case of a nonimmigrant described in section 101(a)(15)(H)(i)(b), the period of authorized admission as such a nonimmigrant may not exceed 6 years.".

(2) Construction respecting intent with respect to abandonment of foreign residence.—Section 214 of such Act, as amended by subsection (b) and by paragraph (1), is further amended—

(A) in subsection (b), by inserting "(other than a nonimmigrant described in subparagraph (H)(i) or (L) of section 101(a)(15))" after "Every alien", and

(B) by adding at the end the following new subsection:

"(h) The fact that an alien is the beneficiary of an application for a preference status filed under section 204 or has otherwise sought permanent residence in the United States shall not constitute evidence of an intention to abandon a foreign residence for purposes of obtaining a visa as a nonimmigrant described in subparagraph (H)(i)(b) or (L) of section 101(a)(15) or otherwise obtaining or maintaining the status of a nonimmigrant described in such subparagraph.".

(3) Revision of H-1B category.—Subclause (b) of section 101(a)(15)(H)(i) of such Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking "who is of distinguished" and all that follows through "such institution or agency" and inserting the following: "who is coming temporarily to the United States to perform services (other than services described in subclause (a) during the period in which such subclause applies and other than services described in subclause (ii)(a) or in subparagraph (O) or (P)) in a specialty occupation described in section 214(i)(1) and who meets the requirements for the occupation specified in section 214(i)(2)".

(4) Specialty occupation defined.—Section 214 of such Act, as amended by subsection (b) and by paragraphs (1) and (2), is further amended by adding at the end the following new subsection:

"(i)(1) For purposes of section 101(a)(15)(H)(i)(b) and paragraph (2), the term 'specialty occupation' means an occupation that requires—

"(A) theoretical and practical application of a body of highly specialized knowledge, and

"(B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

"(2) For purposes of section 101(a)(15)(H)(i)(b), the requirements of this paragraph, with respect to a specialty occupation, are—

"(A) full state licensure to practice in the occupation, if such licensure is required to practice in the occupation;

"(B) completion of the degree described in paragraph (1)(B) for the occupation; or

"(C)(i) experience in the specialty equivalent to the completion of such degree, and (ii) recognition of expertise in the specialty through progressively responsible positions relating to the specialty.".

(5) Limitation on trainees.—Section 101(a)(15)(H)(iii) of such Act (8 U.S.C. 1101(a)(15)(H)(iii)) is amended by inserting before the semicolon at the end the following: ", in a training program not available in the country of nationality of the alien".

(6) Technical amendment concerning foreign residence.—Section 101(a)(15)(H) of such Act (8 U.S.C. 1101(a)(15)(H)) is amended—

(A) by striking "having a residence in a foreign country which he has no intention of abandoning";

(B) in clause (ii), by striking "who is coming temporarily to the United States (a)" and inserting "(a) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States";

(C) in clause (ii)(b), by inserting "having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States" immediately after "(b)"; and

(D) in clause (iii), by inserting "having a residence in a foreign country which he has no intention of abandoning" after "(iii)".

(7) Repeal of previous definition.—Section 101(a) of such Act (8 U.S.C. 1101(a)) is amended by striking paragraph (32).

(d) Establishment of Special Education Exchange Visitor Program.—

(1) In general.—Section 101(a)(15)(J) of such Act (8 U.S.C. 1101(a)(15)(J)) is amended—

(A) by inserting "(i)" after "abandoning", and

(B) by inserting after "212(j)," the following: "or (ii) who is coming temporarily to the United States (for a period not to exceed 18 months) as a participant in an special education training program described in section 214(j)(1),".

(2) Program requirements.—Section 214 of such Act (8 U.S.C. 1184), as amended by subsections (b), (c)(1), (c)(2), and (c)(4), is further amended by adding at the end the following new subsection:

"(j)(1) An alien may not be admitted as (or otherwise be provided the status of) a nonimmigrant described in section 101(a)(15)(J)(ii) unless the alien is entering under a program which provides for practical training and experience in the education of children with physical, mental, or emotional disabilities.

"(2) The number of aliens who may be admitted as (or otherwise be provided the status of) a nonimmigrant described in section 101(a)(15)(J)(ii) in any fiscal year may not exceed 50.".

(e) AU PAIR CULTURAL EXCHANGE PROGRAM.—

(1) IN GENERAL.—Section 101(a)(15)(J) of such Act (8 U.S.C. 1101(a)(15)(J)), as amended by subsection (d)(1), is further amended—

(A) by striking "or" before "(ii)", and

(B) by inserting after "214(j)(1)," the following: "or (iii) who is coming temporarily to the United States (for a period not to exceed 14 months) as a participant in an au pair program under section 214(k)(1),".

(2) REQUIREMENTS.—Section 214 of such Act (8 U.S.C. 1184), as amended by subsections (b), (c)(1), (c)(2), (c)(4), and (d)(2), is further amended by adding at the end the following new subsection:

"(k)(1) An alien may not be admitted as (or otherwise be provided the status of) a nonimmigrant described in section 101(a)(15)(J)(iii) unless—

"(A) the alien is entering to participate in a program, which participation and program the Secretary of Labor determines meets the requirements of paragraph (2) and will provide the alien a uniquely American cultural experience and additional education; and

"(B) the alien is entering to be placed with a family which has entered into an agreement described in paragraph (3) and which has not been found by the Secretary of Labor to have violated previously the terms of such an agreement.

If the Secretary determines that a sponsoring program no longer meets the requirements described in subparagraph (A), the Secretary shall disqualify the program under this subsection for a period of at least 3 years.

"(2) The requirements of this paragraph with respect to an alien participating in a program are as follows:

"(A) The alien participant must reside with a family that has entered into an agreement described in paragraph (3).

"(B) The alien participant must be enrolled on an on-going basis in a course of study at an educational institution or program approved by the Attorney General under section 101(a)(15)(F).

"(C) The alien participant must be provided, not less often than quarterly, a cultural experience (such as travel to national monuments, landmarks, or institutions) unique or specific to the United States.

"(D) If the alien participant provides child care or related services in connection with participation in the program—

"(i) the alien must be paid wages (as defined in section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) not less than the minimum wage applicable under section 6(a) of such Act (29 U.S.C. 206(a)), and

"(ii) the alien may not provide such care or services for more than 40 hours each week.

"(E) The program must provide a suitable bond or other undertaking, in an amount specified by the Attorney General (not to exceed $5,000 with respect to any alien participant) to assure that the alien departs from the United States at the time of expiration of the authorized period of stay under the program.

"(3) The agreement described in this paragraph between a family and an alien participant shall obligate the family to provide for meeting the requirements specified in subparagraphs (B) through (D) of paragraph (2). Such agreement shall be in a form approved by the Secretary of Labor and may be enforced by the alien.".

(f) AMENDMENTS RELATING TO "L" NONIMMIGRANTS.—

(1) CLARIFICATION OF TREATMENT OF CERTAIN INTERNATIONAL ACCOUNTING FIRMS.—In applying sections 101(a)(15)(L) and 203(b)(1)(C) of the Immigration and Nationality Act, in the case of a partnership that is organized in the United States to provide accounting services and that markets its accounting services under an internationally recognized name under an agreement with a worldwide coordinating organization that is owned and controlled by the member accounting firms, a partnership (or similar organization) that is organized outside the United States to provide accounting services shall be considered to be an affiliate of the United States partnership if it markets its accounting services under the same internationally recognized name under the agreement with the worldwide coordinating organization of which the United States partnership is also a member.

(2) USE OF BLANKET PETITIONS; DEADLINES FOR PROCESSING; PERIODS OF AUTHORIZED STAY; CONSTRUCTION.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended—

(A) by inserting "(1)" after "(c)", and

(B) by adding at the end the following new paragraph:

"(2)(A) The Attorney General shall provide for a procedure under which an importing employer which meets requirements established by the Attorney General may file a blanket petition to import aliens as nonimmigrants under section 101(a)(15)(L) instead of filing individuals petitions under paragraph (1) to import such aliens. Such procedure shall permit the expedited processing of visas for entry of aliens covered under such a petition.

"(B) For purposes of section 101(a)(15)(L), an alien is considered to be serving in a capacity involving specialized knowledge with respect to a company if the alien has a special knowledge of the company product and its application in international markets or has an advanced level of knowledge of processes and procedures of the company.

"(C) The Attorney General shall provide a process for reviewing and acting upon petitions under this subsection with respect to nonimmigrants described in section 101(a)(15)(L) within 30 days after the date a completed petition has been filed.

"(D) The period of authorized admission for—

"(i) a nonimmigrant admitted to render services in a managerial or executive capacity under section 101(a)(15)(L) shall not exceed 7 years, or

"(ii) a nonimmigrant admitted to render services in a capacity that involved specialized knowledge under section 101(a)(15)(L) shall not exceed 5 years.".

(3) PERIOD OF PRIOR EMPLOYMENT WITH COMPANY.—Section 101(a)(15)(L) of such Act (8 U.S.C. 1101(a)(15)(L)) is amended by striking "immediately preceding" and inserting "within 3 years preceding".

(g) NEW CLASSIFICATION FOR ALIENS WITH EXTRAORDINARY ABILITY, ACCOMPANYING ALIENS, AND ATHLETES AND ENTERTAINERS.—

(1) IN GENERAL.—Section 101(a)(15) of such Act (8 U.S.C. 1101(a)(15)) is amended—

(A) by striking "or" at the end of subparagraph (M),

(B) by striking the period at the end of subparagraph (N) and inserting a semicolon, and

(C) by adding at the end the following new subparagraphs:

"(O) an alien who—

"(i) has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim or, with regard to motion picture and television productions a demonstrated record of extraordinary achievement, and whose achievements have been recognized in the field through extensive documentation, and seeks to enter the United States to continue work in the area of extraordinary ability, but only if the Attorney General determines that the alien's entry into the United States will substantially benefit prospectively the United States; or

"(ii)(I) seeks to enter the United States temporarily and solely for the purpose of accompanying and assisting in the artistic or athletic performance by an alien who is admitted under clause (i) for a specific event or events,

"(II) is an integral part of such actual performance,

"(III)(a) has critical skills and experience with such alien which are not of a general nature and which cannot be performed by other individuals, or (b) in the case of a motion picture or television production, has skills and experience with such alien which are not of a general nature and which are critical either based on a pre-existing longstanding working relationship or, with respect to the specific production, because significant principal photography will take place both inside and outside the United States and the continuing participation of the alien is essential to the successful completion of the production, and

"(IV) has a foreign residence which the alien has no intention of abandoning; or

"(iii) is the alien spouse or child of an alien described in clause (i) or (ii) and is accompanying, or following to join, the alien; or

"(P) an alien having a foreign residence which the alien has no intention of abandoning who—

"(i)(I) performs as an athlete, individually or as part of an group or team, at an internationally recognized level of performance, or performs as part of an entertainment group that has been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time and has had a sustained and substantial relationship with that group over a period of at least 1 year and provides functions integral to the performance of the group, and

"(II) seeks to enter the United States temporarily and solely for the purpose of performing as such an athlete or entertainer with respect to a specific athletic competition or performance;

"(ii)(I) performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and

"(II) seeks to enter the United States temporarily and solely for the purpose of performing as such an artist or entertainer or with such a group under a reciprocal exchange program which is between an organization or organizations in the United States and an organization in one or more foreign states and which provides for the temporary exchange of artists and entertainers, or groups of artists and entertainers, between the United States and the foreign states involved;

"(iii)(I) performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and

"(II) seeks to enter the United States temporarily and solely for the purpose of performing as such an artist or entertainer or with such a group under a program that is culturally unique; or

"(iv) is the spouse or child of an alien described in clause (i), (ii), or (iii) and is accompanying, or following to join, the alien.".

(2) PERIODS OF ADMISSION, ETC.—Section 214 of such Act (8 U.S.C. 1184) is amended—

(A) in subsection (a), by inserting "(1)" after "(a)" and by adding at the end the following new paragraph:

"(2)(A) The period of authorized status as a nonimmigrant under section 101(a)(15)(O) shall be for such period as the Attorney General may specify in order to provide for the event for which the nonimmigrant is admitted.

"(B)(i) The period of authorized status as a nonimmigrant under section 101(a)(15)(P) shall be for such period as the Attorney General may specify in order to provide for the competition, event, or performance for which the nonimmigrant is admitted. In the case of nonimmigrants admitted as individual athletes under section 101(a)(15)(P), the period of authorized status may be for an initial period (not to exceed 5 years) during which the nonimmigrant will perform as an athlete and such period may be extended by the Attorney General for an additional period of up to 5 years.

"(ii) An alien who is admitted as a nonimmigrant under clause (ii) or (iii) of section 101(a)(15)(P) may not be readmitted as such a nonimmigrant unless the alien has remained outside the United States for at least 3 months after the date of the most recent admission."; and

(B) in subsection (c), as amended by subsection (f)(2)—

(i) in paragraph (1), by striking "or (L)" and inserting ", (L), (O), or (P)(i)", and

(ii) by adding at the end the following new paragraphs:

"(3) The Attorney General shall approve a petition—

"(A) with respect to a nonimmigrant described in section 101(a)(15)(O)(i) only after consultation with peer groups in the area of the alien's ability or, with respect to aliens seeking entry for a motion picture or television production, after consultation with the appropriate union representing the alien's occupational peers and a management organization in the area of the alien's ability, or

"(B) with respect to a nonimmigrant described in section 101(a)(15)(O)(ii) after consultation with labor organizations with expertise in the skill area involved.

In the case of an alien seeking entry for a motion picture or television production, (i) any opinion under the previous sentence shall only be advisory, (ii) any such opinion that recommends denial must be in writing, (iii) in making the decision the Attorney General shall consider the exigencies and scheduling of the production, and (iv) the Attorney General shall append to the decision any such opinion.

"(4)(A) A person may petition the Attorney General for classification of an alien as a nonimmigrant under clause (ii) of section 101(a)(15)(P).

"(B) The Attorney General shall approve petitions under this subsection with respect to nonimmigrants described in clause (i) or (iii) of section 101(a)(15)(P) only after consultation with labor organizations with expertise in the specific field of athletics or entertainment involved.

"(C) The Attorney General shall approve petitions under this subsection for nonimmigrants described in section 101(a)(15)(P)(ii) only after consultation with labor organizations representing artists and entertainers in the United States, in order to assure reciprocity in fact with foreign states.

"(5)(A) In the case of an alien admitted as a nonimmigrant and who is authorized to be employed in an occupation, if nonimmigrants constitute a majority of the members of the bargaining unit in the occupation, during the period of any strike or lockout in the occupation with the employer the alien—

"(i) continues to be authorized to be employed in the occupation for that employer, and

"(ii) is authorized to be employed in any occupation for any other employer so long as there is no strike or lockout with respect to that occupation and employer.

"(B) In the case of an alien admitted as a nonimmigrant and who is authorized to be employed in an occupation, if nonimmigrants do not constitute a majority of the members of the bargaining unit in the occupation, during the period of any strike or lockout in the occupation with the employer the alien—

"(i) is not authorized to be employed in the occupation for that employer, and

"(ii) is authorized to be employed in any occupation for any other employer so long as there is no strike or lockout with respect to that occupation and employer.

"(C) With respect to a nonimmigrant described in subparagraph (A) or (B) for whom such a strike or lockout occurs and who does not perform employment not authorized, any limit on the period of authorized stay shall be extended by the period of the strike or lockout.

"(D) In the case of an alien who is provided nonimmigrant status under section 101(a)(15)(H) (other than section 101(a)(15)(H)(ii)(a)) or section 101(a)(15)(P) and who is dismissed from employment by the employer before the end of the period of authorized admission, the employer shall be liable for the reasonable costs of return transportation of the alien abroad.

"(6) If a petition is filed and denied under this subsection, the Attorney General shall notify the petitioner of the determination and the reasons for the denial and of the process by which the petitioner may appeal the determination.

"(7) The Attorney General shall require by regulation, as a condition for the acceptance and approval of a petition under this section with respect to nonimmigrants under section 101(a)(15) (H), (L), (O), or (P)(i), the payment of a fee to recover the reasonable costs of processing a petition under this subsection with respect to such class of nonimmigrants.".

(h) NEW CLASSIFICATION FOR INTERNATIONAL CULTURAL EXCHANGE PROGRAMS.—Section 101(a)(15) of such Act, as amended by subsection (g), is further amended—

(1) by striking "or" at the end of subparagraph (O),

(2) by striking the period at the end of subparagraph (P) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(Q) an alien having a residence in a foreign country which he has no intention of abandoning who is coming temporarily (for a period not to exceed 15 months) to the United States as a participant in an international cultural exchange program designated by the Attorney General for the purpose of providing practical training, employment, and the sharing of the history, culture, and traditions of the country of the alien's nationality and who will be employed under the same wages and working conditions as domestic workers.".

SEC. 105. ADMISSION OF ALIENS IN RELIGIOUS OCCUPATIONS.

(a) AS SPECIAL IMMIGRANTS.—Subparagraph (C) of section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended to read as follows:

"(C) an immigrant, and his spouse and children if accompanying or following to join the immigrant, who—

"(i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;

"(ii) seeks to enter the United States—

"(I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

"(II) in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

"(III) in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986) at the request of the organization in a religious vocation or occupation; and

"(iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i);".

(b) AS NONIMMIGRANTS.—Section 101(a)(15) of such Act (8 U.S.C. 1101(a)(15)), as amended by sections 104(g)(1) and 104(h)(3) of this Act, is amended—

(1) by striking "or" at the end of subparagraph (P),

(2) by striking the period at the end of subparagraph (Q) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(R) an alien, and the spouse and children of the alien if accompanying or following to join the alien, who—

"(i) for the 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States; and

"(ii) seeks to enter the United States for a period not to exceed 5 years to perform the work described in subclause (I), (II), or (III) of paragraph (27)(C)(ii).".

SEC. 106. DENIAL OF CREWMEMBER STATUS IN THE CASE OF CERTAIN LABOR DISPUTES.

(a) IN GENERAL.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184), as amended by section 104, is further amended by adding at the end the following new subsection:

"(l)(1) No alien shall be entitled to nonimmigrant status under section 101(a)(15)(D) if the alien intends to land for the purpose of performing service on board a vessel of the United States (as defined in section 2101(46) of title 46, United States Code) or on an aircraft of an air carrier (as defined in section 101(3) of the Federal Aviation Act of 1958) during a labor dispute where there is a strike or lockout in the bargaining unit of the employer in which the alien intends to perform such service.

"(2) An alien described in paragraph (1)—

"(A) may not be paroled into the United States pursuant to section 212(d)(5) unless the Attorney General determines that the parole of such alien is necessary to protect the national security of the United States; and

"(B) shall be considered not to be a bona fide crewman for purposes of section 252(b).".

(b) Conforming Amendment.—Section 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)) is amended by inserting "or in section 214(l)" after "except as provided in subparagraph (B)".

(c) Conforming Repeal.—Section 315(d) of the Immigration Reform and Control Act of 1986 (100 Stat. 3440) is hereby repealed.

(d) Effective Date.—The amendments made by this section shall apply to admissions occurring on or after the date of the enactment of this Act.

SEC. 107. EFFECTIVE DATES; TRANSITION.

(a) Effective Date.—Except as otherwise provided in this section, the amendments made by this subtitle (other than by sections 102(f)(1) and 106) shall take effect on October 1, 1991, and shall not apply with respect to visas issued before such date.

(b) Spouses and Children of Permanent Resident Aliens.—

(1) Effective date.—The provisions of sections 201(b)(2)(A), 201(c) and 204(a)(2) of the Immigration and Nationality Act (insofar as they relate to treatment of spouses and children of aliens lawfully admitted for permanent residence as immediate relatives), as amended by sections 101 and 102 of this subtitle, shall be effective beginning with fiscal year 1991.

(2) Transition.—In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1990, for preference status under section 203(a)(2) of such Act (as in effect before such date) as a spouse or child of an alien lawfully admitted for permanent residence, such petition shall be deemed as of October 1, 1990, to be a petition for immediate relative status described in section 201(b)(2)(A)(i) of such Act (as amended by this subtitle).

(c) Transition for Fourth and Fifth Preference.—In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1991, for preference status under section 203(a)(4) or 203(a)(5) of such Act (as in effect before such date), such petition shall be deemed as of October 1, 1991, to be a petition for preference status under section 203(a)(3) or 203(a)(4), respectively, of such Act.

Subtitle B—Education and Training of American Workers

SEC. 111. EDUCATIONAL ASSISTANCE AND TRAINING.

(a) Use of Fund.—From the fees deposited each year in the account established under section 286(q)(5) of the Immigration and Nationality Act which are not used for scholarships under section 113, the Secretary of Labor shall provide for grants to States to provide educational assistance and training for United States workers. The Secretary shall consult with the Secretary of Education in making grants under this section.

(b) Allocation of Funds.—Within the purposes described in subsection (a), funds in the account used under this section shall be allocated among the States based on a formula, established jointly by the Secretaries of Labor and Education, that takes into consideration—

(1) the location of foreign workers admitted into the United States,

(2) the location of individuals in the United States requiring and desiring the educational assistance and training for which the funds can be applied, and

(3) the location of unemployed and underemployed United States workers.

(c) Disbursement to States.—

(1) Within the purposes and allocations established under this section, disbursements shall be made to the States, in accordance with grant applications submitted to and approved jointly by the Secretaries of Labor and Education, to be applied in a manner consistent with the guidelines established by such Secretaries in consultation with the States. In applying such grants, the States shall consider providing funding to joint labor-management trust funds and other such non-profit organizations which have demonstrated capability and experience in directly training and educating workers.

(2) Not more than 5 percent of the funds disbursed to any State under this section may be used for administrative expenses.

(d) Limitation on Federal Overhead.—The Secretaries shall provide that not more than 2 percent of the amount of funds disbursed to States under this section may be used by the Federal Government in the administration of this section.

(e) Annual Report.—The Secretary of Labor shall report annually to the Congress on the grants to States provided under this section.

(f) State Defined.—In this section, the term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act.

SEC. 112. HIGHER EDUCATION SCHOLARSHIP PROGRAM FOR MATHEMATICS AND SCIENCES.

Ten percent of the fees deposited each year in the account established under section 286(q)(5) of the Immigration and Nationality Act shall be available to the Secretary of Education for the awarding (in a manner and amount specified by the Secretary) of scholarships to assist in the cost of postsecondary education of needy individuals who—

(1) are enrolled as full-time students in an accredited postsecondary institution,

(2) pursuing a course of study leading to a degree in mathematics or one or more of the sciences, and

(3) maintain satisfactory progress, as determined by the postsecondary institution the recipient is attending.

The Secretary shall enter into agreements with States to provide for the actual awarding of such scholarships by the States.

TITLE II—OTHER PROVISIONS REGARDING IMMIGRANT VISAS

SEC. 201. TRANSITION FOR ALIENS WHO ARE NATIVES OF CERTAIN ADVERSELY AFFECTED FOREIGN STATES.

(a) In General.—Subject to the numerical limitations established under subsection (b), the Attorney General shall provide for the adjustment of status to that of an alien lawfully admitted for permanent residence on a conditional basis of an alien who is a native of an adversely affected foreign state (described in section 203(b)(2)(C)(iii) of the Immigration and Nationality Act, as amended by this Act) if the alien—

(1) applies to the Attorney General (beginning on such date as the Attorney General may specify) for such adjustment, and

(2) establishes in the application that the alien—

(A) is a native of such an adversely affected foreign state,

(B) entered the United States before January 1, 1990, and any period of authorized stay as a nonimmigrant expired before such date through the passage of time (and has not been subsequently extended),

(C) has been continuously resident in the United States since before January 1, 1990,

(D) has a firm commitment for employment in the United States for a period of at least 1 year (beginning on the date of adjustment of status under this section), and

(E) except as provided in subsection (d)(1), is admissible as an immigrant.

If the Attorney General receives more than 250,000 applications for adjustment of status under this subsection, the Attorney General may stop accepting applications under paragraph (1) until such date (if any) as the Attorney General determines to be appropriate.

(b) Numerical Limitations.—

(1) The number of aliens whose status may be adjusted under subsection (a) in each of fiscal years 1991, 1992, and 1993 may not exceed 25,000.

(2) An alien's status may not be adjusted for any fiscal year not specified in paragraph (1).

(3) If the number of aliens eligible for adjustment under this section in any fiscal year exceeds the numerical limitation specified in paragraph (1), consideration shall be given in the order in which the aliens applied for such adjustment.

(c) Removal of Conditional Status.—

(1) In order for the conditional basis of permanent resident status provided under subsection (a) to be removed, an alien must submit, in a time and a manner specified by the Attorney General, written documentation that the alien has been substantially employed on a full-time basis during the 1-year period beginning on the date the alien was provided such status.

(2)(A) In the case of an alien with permanent resident status on a conditional basis under subsection (a), if the alien fails to submit written documentation required under paragraph (1) by the deadline specified by the Attorney General under such paragraph, the Attorney General shall terminate the permanent resident status as of such date as the Attorney General may specify.

(B) In any deportation proceeding with respect to an alien whose permanent resident status is terminated under subparagraph (A), the burden of proof shall be on the alien to establish compliance with the conditions described in paragraph (1).

(3) The Attorney General, in the Attorney General's discretion, may remove the conditional basis of the permanent resident status for an alien who fails to meet the requirements of paragraph (1) only if the alien demonstrates that extreme hardship would result if the alien is deported.

(4) Section 216(e) of the Immigration and Nationality Act shall apply to conditional permanent resident status under this section in the same manner as it applies to conditional permanent resident status under section 216 of such Act.

(d) Miscellaneous Provisions.—

(1) Aliens shall not be denied adjustment of status under this section on the grounds specified in paragraphs (20), (21), (25), or (32) of section 212(a) of the Immigration and Nationality Act, and the Attorney General may, in his discretion, waive the ground for exclusion specified in paragraph (19) of such section.

(2) Applications under subsection (a) shall be subject to paragraphs (5) and (6) of section 245A(c) of the Immigration and Nationality Act (relating to confidentiality and penalties for false statements) in the same manner as such paragraphs apply to applications under section 245A of such Act.

(3) In the case of a family, a single application for members of the family may be made under subsection (a).

SEC. 202. TRANSITION FOR CERTAIN DISPLACED ALIENS.

(a) Authorization of Additional Visas.—Notwithstanding the numerical limitations in sections 201 and 202 of the Immigration and Nationality Act, there shall be made available to qualified displaced aliens described in subsection (b) not to exceed 15,000 immigrant visa numbers in each of fiscal years 1991, 1992, and 1993, of which not to exceed 1,000 of the total number of immigrant visas in all of such fiscal years shall only be available for qualified displaced aliens described in subsection (b)(1)(B) (or described in subsection (b)(2) as the spouse or child of such an alien).

(b) Eligible Displaced Aliens.—

(1) An alien is eligible for a visa under this section if the alien—

(A)(i) is a native of a foreign state in Eastern Europe, and

(ii) since before October 1, 1989, has been continuously residing in another foreign state (other than the United States), but is not firmly resettled in that foreign state; or

(B)(i) is a native of Tibet, and

(ii) since before date of the enactment of this Act, has been continuously residing in India or Nepal.

For purposes of subparagraph (B)(i), an alien shall be considered to be a native of Tibet if the alien was born in Tibet or is the son, daughter, grandson, or granddaughter of an individual born in Tibet.

(2) A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the Immigration and Nationality Act) of an alien described in paragraph (1) shall, if not otherwise entitled to immigrant status and the immediate issuance of a visa under this section, be entitled to the same status, and the same order of consideration, provided under subsection (c), if accompanying or following to join his spouse or parent.

(c) Distribution of Visa Numbers.—The Secretary of State shall provide for making visa numbers provided under subsection (a) available—

(1) to displaced aliens described in subsection (b)(1)(A) (or described in subsection (b)(2) as the spouse or child of such an alien) in the same manner as visa numbers are otherwise available to qualified immigrants under section 203(a)(7) of the Immigration and Nationality Act (as in effect as of the date of the enactment of this Act), except that—

(A) preference shall be given to aliens who, before October 1, 1989, filed an application for refugee status with the Immigration and Naturalization Service or otherwise sought such status by registering with a voluntary agency (which is recognized by such Service and provides services to refugees in the Europe) for admission to the United States as a refugee, and

(B) subject to subparagraph (A), visa numbers shall be made available strictly in the chronological order in which the immigrants qualify after the date of the enactment of this Act; and

(2) to displaced aliens described in subsection (b)(1)(B) (or described in subsection (b)(2) as the spouse or child of such an alien) in an equitable manner, giving preference to those aliens who are not firmly resettled in India or Nepal or who are most likely to be resettled successfully in the United States.

SEC. 203. TRANSITION FOR AFRICAN IMMIGRANTS.

(a) Authorization of Additional Visas.—Notwithstanding the numerical limitations in section 201(a) of the Immigration and Nationality Act, but subject to the numerical limitations in section 202 of such Act, there shall be made available to qualified immigrants who are natives of a foreign state or dependent area in Africa not to exceed 15,000 immigrant visa numbers in each of fiscal years 1991, 1992, and 1993.

(b) Distribution of Visa Numbers.—

(1) The Secretary of State shall first provide for making visa numbers provided under subsection (a) available to qualified immigrants who have classification petitions approved, as of the date of the enactment of this Act, for a preference status described in paragraph (1), (2), (3), (4), (5), or (6) of section 203(a) of the Immigration and Nationality Act. Subject to paragraph (3), visa numbers shall be made available to qualified individuals under, and in the order of, the respective paragraphs without regard to any percentage limitations specified under any such paragraph.

(2) The Secretary of State shall provide for making any remaining visa numbers available to qualified immigrants strictly in the order in which they apply after the date of the enactment of this Act.

(3) Not more than 3,000 visa numbers may be made available in any fiscal year under this section to natives of any single foreign state or dependent area.

(c) Derivative Status.—A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the Immigration and Nationality Act) of a qualified immigrant under this section shall, if not otherwise entitled to immigrant status and the immediate issuance of a visa under this section, be entitled to the same status, and the same order of consideration, provided under subsection (b), if accompanying or following to join his spouse or parent.

SEC. 204. BACKLOG VISA NUMBERS FOR SECOND AND FIFTH PREFERENCES.

(a) In General.—In addition to the number of immigrant visas otherwise made available in each of fiscal years 1991, 1992, 1993, 1994, and 1995 and without regard to the numerical limitations of sections 201 and 202 of the Immigration and Nationality Act, there shall be made available—

(1) to second preference immigrants (as defined in subsection (b)) 10,000 immigrant visa numbers, and

(2) to fifth preference immigrants (as defined in subsection (c)) 40,000 immigrant visa numbers.

Not more than 27 percent of each such worldwide level for a fiscal year shall be made available in any of the first 3 quarters of the fiscal year. In addition to such visa numbers and without regard to the numerical limitations of sections 201 and 202 of the Immigration and Nationality Act, there shall be made available in each of fiscal years 1991, 1992, 1993, 1994, and 1995, 250 immigrant visa numbers to second preference immigrants who are natives of Lebanon and are not firmly resettled in any foreign country outside Lebanon and 750 immigrant visa numbers to fifth preference immigrants who are natives of Lebanon and are not firmly resettled in any foreign country outside Lebanon.

(b) 2nd Preference Immigrant Defined.—In subsection (a)(1), the term "second preference immigrant" means—

(1) an alien who is the beneficiary of a petition approved to accord status under section 203(a)(2) of the Immigration and Nationality Act, if the petition was filed before the date of the enactment of this Act, or

(2) the child of such an alien if accompanying or following to join the alien.

(c) 5th Preference Immigrant Defined.—In subsection (a)(2), the term "fifth preference immigrant" means—

(1) an alien who is the beneficiary of a petition approved to accord status under section 203(a)(5) of the Immigration and Nationality Act, if the petition was filed before the date of the enactment of this Act, or

(2) the spouse or child of such an alien if accompanying or following to join the alien.

(d) Order of Consideration.—Immigrant visas shall be made available under this section in the order in which a petition in behalf of each such alien has been filed with the Attorney General under section 204 of the Immigration and Nationality Act.

SEC. 205. TRANSITION FOR THIRD AND SIXTH PREFERENCE.

(a) In General.—In the case of any alien with respect to whom a classification petition has been filed under section 204(a) of the Immigration and Nationality Act for a classification described in paragraph (3) or (6) of section 203(a) of such Act (as in effect before the date of the enactment of this Act) before October 1, 1991, there shall be made available, in addition to the immigrant visas otherwise available in each of fiscal years 1991, 1992, 1993, 1994, and 1995, up to 25,000 additional immigrant visas which shall be made available to those aliens (and qualified relatives described in section 203(a)(8) of such Act, as in effect on the date of the enactment of this Act) without regard to section 202(a) of such Act.

(b) Allocation.—Of the visa numbers made available each fiscal year under subsection (a)—

(1) visa numbers shall first be made available, in a number not to exceed 50 percent of the total number available, to qualified immigrants with respect to whom a classification petition was filed under section 203(a)(3) of the Immigration and Nationality Act, and

(2) visa numbers shall be made available in the same priority order in which such numbers were otherwise made available under section 203(a) of such Act.

(c) Transition.—In the case of an alien—

(1) who, as of the date of the enactment of this Act, is in lawful status as a nonimmigrant described in subparagraph (H)(i) or (L) of section 101(a)(15) of the Immigration and Nationality Act, and

(2) for whom an application for labor certification under section 212(a)(14) of such Act has been filed as of such date,

the alien shall be considered to be a qualified alien described in section 203(b)(2) of such Act (as amended by this Act) and to have met the requirements of section 212(a)(14) of such Act if the labor certification is approved. In applying such section 203(b)(2) with respect to such an alien, the *priority date shall be the date the application for labor certification was filed.*

SEC. 206. TRANSITION FOR EMPLOYEES OF CERTAIN UNITED STATES BUSINESSES OPERATING IN HONG KONG.

(a) Additional Visa Numbers.—

(1) Treatment of principals.—In the case of any alien described in paragraph (3) with respect to whom a classification petition has been filed and approved under subsection (b), there shall be made available, in addition to the immigrant visas otherwise available in all of fiscal years 1992 through 1994 and without regard to section 202(a) of the Immigration and Nationality Act, up to 15,000 additional immigrant visas, of which not more than 7,500 may be made available in each of fiscal years 1992 and 1993.

(2) Derivative relatives.—In the case of any alien who is the spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the Immigration and Nationality Act) of an alien entitled to immediate issuance of a visa under paragraph (1), visas shall be made available without regard to any numerical limitation under such Act or this section if accompanying, or following to join, the alien's spouse or parent.

(3) Employees of certain United States businesses operating in Hong Kong.—An alien is described in this paragraph if the alien—

(A) is a resident of Hong Kong and is employed in Hong Kong (and has been so employed during the 12 previous consecutive months) as an officer or supervisor or in a capacity that is managerial, executive, or involves specialized knowledge, by a business entity which (i) is owned and organized in the United States (or is the subsidiary or affiliate of a business owned and organized in the United States), (ii) employs at least 100 employees in the United States and at least 50 employees outside the United States, and (iii) has a gross annual income of at least $50,000,000, and

(B) has an offer of employment from such business entity in the United States as an officer or supervisor or in a capacity that is managerial, executive, or involves specialized knowledge, which offer (i) is effective from the time of filing the petition for classification under this section through and including the time of entry into the United States and (ii) provides for salary and benefits comparable to the salary and benefits provided to others with similar responsibilities and experience within the same company.

(b) Petitions.—Any employer desiring and intending to employ within the United States an alien described in subsection (a)(3) may file a petition with the Attorney General for such classification. No visa may be issued under subsection (a)(1) until such a petition has been approved.

(c) Allocation.—Visa numbers made available under subsection (a) shall be made available in the order which petitions under subsection (b) are filed with the Attorney General.

(d) Fees.—The provisions of section 286(q) of the Immigration and Nationality Act (relating to fees for admission of certain employment-based aliens), as added by section 111 of this Act, shall apply to the aliens provided lawful permanent resident status under subsection (a)(1) in the same manner as they apply to aliens provided lawful permanent resident status under section 203(b)(2) of the Immigration and Nationality Act.

(e) Definitions.—In this section:

(1) Executive capacity.—The term "executive capacity" has the meaning given such term in section 101(a)(44)(B) of the Immigration and Nationality Act, as amended by section 102(d) of this Act.

(2) Managerial capacity.—The term "managerial capacity" has the meaning given such term in section 101(a)(44)(A) of the Immigration and Nationality Act, as amended by section 102(d) of this Act.

(3) Officer.—The term "officer" means, with respect to a business entity, the chairman or vice-chairman of the board of directors of the entity, the chairman or vice-chairman of the executive committee of the board of directors, the president, any vice-president, any assistant vice-president, any senior trust officer, the secretary, any assistant secretary, the treasurer, any assistant treasurer, any trust officer or associate trust officer, the controller, any assistant controller, or any other officer of the entity customarily performing functions similar to those performed by any of the above officers.

(4) Specialized knowledge.—The term "specialized knowledge" has the meaning given such term in section 214(c)(2)(B) of the Immigration and Nationality Act, as amended by section 104(f)(2) of this Act.

(5) Supervisor.—The term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively recommend such action, if in connection with the foregoing the exercise of such authority is not merely of a routine or clerical nature, but requires the use of independent judgment.

SEC. 207. TREATMENT OF HONG KONG AS SEPARATE FOREIGN STATE FOR NUMERICAL LIMITATION PURPOSES.

In applying section 202 of the Immigration and Nationality Act for fiscal years beginning with fiscal year 1991, Hong Kong shall be treated as a separate foreign state, and not as a colony or other component or dependent area of a foreign state.

SEC. 208. PERMITTING EXTENSION OF PERIOD OF VALIDITY OF IMMIGRANT VISAS FOR CERTAIN RESIDENTS OF HONG KONG.

(a) Extending Period of Validity.—

(1) In general.—Subject to paragraph (2), the limitation on the period of validity of an immigrant visa under section 221(c) of the Immigration and Nationality Act shall not apply in the case of an immigrant visa issued, on or after the date of the enactment of this Act and before September 1, 2001, to an alien described in subsection (b), but only if—

(A) the alien elects, within the period of validity of the immigrant visa under such section, to have this section apply, and

(B) before the date the alien seeks to be admitted to the United States for lawful permanent residence, the alien notifies the appropriate consular officer of the alien's intention to seek such admission and provides such officer with such information as the officer determines to be necessary to verify that the alien remains eligible for admission to the United States as an immigrant.

(2) Limitation on extension.—In no case shall the period of validity of a visa be extended under paragraph (1) beyond January 1, 2002.

(3) Treatment under numerical limitations.—In applying the numerical limitations of sections 201 and 202 of the Immigration and Nationality Act in the case of aliens for whose visas the period of validity is extended under this section, such limitations shall only apply at the time of original issuance of the visas and not at the time of admission of such aliens.

(b) Aliens Covered.—An alien is described in this subsection if the alien is chargeable under section 202 of the Immigration and Nationality Act to Hong Kong (or is issued an immigrant visa under section 206(a) of this Act) and—

(1)(A) is residing in Hong Kong as of the date of the enactment of this Act and is issued an immigrant visa under paragraph (1), (2), (4), or (5) of section 203(a) the Immigration and Nationality Act (as in effect on the date of the enactment of this Act) or under section 203(a) or 203(b)(1) of such Act (as in effect on and after October 1, 1991), or

(B) is the spouse or child (as defined in subsection (d)) of an alien described in subparagraph (A), if accompanying or following to join the alien in coming to the United States; or

(2) is issued a visa under section 206(a) of this Act.

(c) Treatment of Certain Employees in Hong Kong.—

(1) In general.—In applying the proviso of section 7 of the Central Intelligence Agency Act of 1949, in the case of an alien described in paragraph (2), the Director may charge the entry of the alien against the numerical limitation for any fiscal year (beginning with fiscal year 1991 and ending with fiscal year 1996) notwithstanding that the alien's entry is not made to the United States in that fiscal year so long as such entry is made before the end of fiscal year 1997.

(2) Aliens covered.—An alien is described in this paragraph if the alien—

(A) is an employee of the Foreign Broadcast Information Service in Hong Kong, or

(B) is the spouse or child (as defined in subsection (d)) of an alien described in paragraph (1), if accompanying or following to join the alien in coming to the United States.

(d) Treatment of Children.—In this section, the term "child" has the meaning given such term in section 101(b)(1) of the Immigration and Nationality Act and also includes (for purposes of this section and the Immigration and Nationality Act) an alien who was the child (as so defined) of the alien as of the date of the issuance of an immigrant visa to the alien described in subsection (b)(1) or, in the case described in subsection (c), as of the date of charging of the entry of the alien under the proviso under section 7 of the Central Intelligence Agency Act of 1949.

Page 91, after line 12, insert the following new section (and conform the table of contents accordingly):

SEC. 209. TRANSITION FOR ALIENS WHO HAVE BEEN NOTIFIED OF AVAILABILITY OF NP-5 VISAS.

Notwithstanding the numerical limitations in sections 201(a) and 202 of the Immigration and Nationality Act, there shall be made available in fiscal year 1991 immigrant visa numbers for qualified immigrants who—

(1) were notified by the Secretary of State before May 1, 1990, of their selection for issuance of a visa under section 314 of the Immigration Reform and Control Act of 1986, and

(2) are qualified for the issuance of such a visa but for (A) numerical and fiscal year limitations on the issuance of such visas, (B) section 212(e) of the Immigration and Nationality Act, or (C) the fact that the immigrant was a national, but not a native, of a foreign state described in section 314 of the Immigration Reform and Control Act of 1986.

Visas shall be made available under this section to spouses and children of qualified immigrants in the same manner as such visas were made available to such spouses and children under section 314 of the Immigration Reform and Control Act of 1986. The Attorney General may waive section 212(a)(19) of the Immigration and Nationality Act in the case of qualified immigrants described in the first sentence of this section.

TITLE III—OTHER IMMIGRATION PROVISIONS

Subtitle A—Provisions Relating to Marriage Fraud

SEC. 301. BATTERED SPOUSE OR CHILD WAIVER OF THE CONDITIONAL RESIDENCE REQUIREMENT.

(a) In General.—Section 216(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1186a(c)(4)) is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) in subparagraph (B), by striking "by the alien spouse for good cause";

(3) in subparagraph (B), by striking the period at the end and inserting ", or";

(4) by inserting after subparagraph (B) the following new subparagraph:

"(C) the qualifying marriage was entered into in good faith by the alien spouse and after the marriage the alien spouse or child was battered by or was the subject of extreme cruelty perpetrated by his or her spouse or citizen or permanent resident parent and the alien was not at fault in failing to meet the requirements of paragraph (1)."; and

(5) by adding at the end the following: "The Attorney General shall, by regulation, establish measures to protect the confidentiality of information concerning any abused alien spouse or child, including information regarding the whereabouts of such spouse or child.".

(b) Effective Date.—The amendments made by subsection (a) shall apply with respect to marriages entered into before, on, or after the date of the enactment of this Act.

SEC. 302. BONA FIDE MARRIAGE EXCEPTION TO FOREIGN RESIDENCE REQUIREMENT FOR MARRIAGES ENTERED INTO DURING CERTAIN IMMIGRATION PROCEEDINGS.

(a) In General.—Section 245(e) of the Immigration and Nationality Act (8 U.S.C. 1255(e)) is amended—

(1) in paragraph (1), by striking "An alien" and inserting "Except as provided in paragraph (3), an alien", and

(2) by adding at the end the following new paragraph:

"(3) Paragraph (1) and section 204(h) shall not apply with respect to a marriage if the alien establishes to the satisfaction of the Attorney General that the marriage was entered into in good faith and in accordance with the laws of the place where the marriage took place and the marriage was not entered into for the purpose of procuring the alien's entry as an immigrant and no fee or other consideration was given (other than a fee or other consideration to an attorney for assistance in preparation of a lawful petition) for the filing of a petition under section 204(a) or 214(d) with respect to the alien spouse or alien son or daughter.".

(b) Conforming Amendment.—Section 204(h) of such Act (8 U.S.C. 1154(h)) is amended by inserting "except as provided in section 245(e)(3)," after "Notwithstanding subsection (a),".

(c) Effective Date.—The amendments made by this section shall apply to marriages entered into before, on, or after the date of the enactment of this Act.

Subtitle B—Provisions Relating to Immigration Reform and Control Act of 1986

SEC. 311. APPLICATION OF EMPLOYER SANCTIONS TO LONGSHORE WORK.

(a) In General.—Section 274A(h) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)) is amended by adding at the end the following new paragraph:

"(4) Special rules respecting longshore work.—

"(A) Treatment of certain longshore work.—For purposes of this section, any person or other entity, including but not limited to ships agents, brokers, charterers, and procurers of labor, acting independently or on behalf of any other such person or entity, who brings into the United States (or coastal waters thereof) an individual who performs longshore work (as defined in subparagraph (D)), shall be considered to have hired such individual for employment in the United States within the meaning of subsection (a) as of the first date that the individual first performs such work.

"(B) Paperwork requirement for longshore work.—In applying the requirements of paragraph (3) of subsection (b) (relating to retention of verification forms) to employment described in subparagraph (A), the person or entity shall designate, in writing to the Attorney General, a person or entity located at a port in the United States in the vicinity of the location of the longshore work involved who agrees to be responsible for the retention and making available for inspection of such forms under such paragraph.

"(C) No authorization merely through classification as alien crewmen.—The mere classification of an alien as a nonimmigrant under section 101(a)(15)(D) (without the document or documents described in subsection (b)(1)(E)(i) with respect to the alien) shall not be considered to authorize, for purposes of this section and section 274B, the performance of longshore work by that alien.

"(D) Longshore work defined.—(i) In this paragraph and subsection (b)(1), the term 'longshore work' includes activities relating or incident to the loading or unloading of cargo, including the operation of cargo-related equipment, whether or not integral to the vessel, and the securing of the vessel, in the United States or the coastal waters thereof; except that, for purposes of subsection (b)(1)(E)(ii), such term includes such activities with respect to vessels in (or in the coastal waters of) the reciprocal foreign state.

"(ii) The term 'longshore work' does not include the loading or unloading of any cargo where the Secretary of Transportation has, under the authority contained in chapter 37 of title 46, United States Code (relating to carriage of liquid bulk dangerous cargoes), in section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), or in section 4106 of the Oil Pollution Act of 1990, prescribed regulations which govern—

"(I) the handling or stowage of such cargo,

"(II) the manning of vessels and the duties, qualifications, and training of the officers and crew of vessels carrying such cargo, and

"(III) the reduction or elimination of discharge during ballasting, tank cleaning, and handling of such cargo.".

(b) Employment Verification System.—Section 274A(b)(1) of such Act (8 U.S.C. 1324a(b)(1)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking "or";

(B) in clause (ii), by striking the period and inserting ", or"; and

(C) by inserting after clause (ii) the following new clause:

"(iii) with respect to longshore work, the document or documents described in subparagraph (E)(i)."; and

(2) by adding at the end the following new subparagraph:

"(E) Documents establishing reciprocity of longshore work.—

"(i) In general.—The document or documents described in this clause with respect to an individual's performance of longshore work are such a document or documents, in a form acceptable to the Attorney General, that establish that—

"(I) the individual is a national of a reciprocal foreign state (described in clause (ii)), and

"(II) the individual will perform such work in connection with a vessel that is documented and enrolled with a reciprocal foreign state.

"(ii) Reciprocal foreign state defined.—In clause (i), the term 'reciprocal foreign state' means a foreign state which the Attorney General has determined, in accordance with section 553 of title 5, United States Code—

"(I) has in effect immigration laws and regulations which authorize, on a nationwide basis, the performance of longshore work by United States nationals who are crewmembers of vessels which are documented and enrolled in the United States; and

"(II) in the territory or coastal waters of which United States nationals described in subclause (I) have performed such work during the six months preceding the application of clause (i) with respect to a national of the state or vessel documented and enrolled with the state.".

(c) Effective Date.—The amendments made by this section shall apply to services performed on or after the date of the enactment of this Act.

SEC. 312. ELIMINATION OF PAPERWORK REQUIREMENT FOR RECRUITERS AND REFERRERS.

(a) In General.—Section 274A(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)(1)) is amended—

(1) by striking "to hire, or to recruit or refer for a fee, for employment in the United States",

(2) in subparagraph (A), by inserting after "(A)" the following: "to hire, or to recruit or refer for a fee, for employment in the United States", and

(3) in subparagraph (B), by inserting after "(B)" the following: "(i) to hire for employment in the United States an individual without complying with the requirements of subsection (b) or (ii) if the person or entity is an agricultural association, agricultural employer, or farm labor contractor (as defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act), to hire, or to recruit or refer for a fee, for employment in the United States".

(b) Effective Date.—The amendments made by subsection (a) shall apply to recruiting and referring occurring on or after the date of the enactment of this Act.

SEC. 313. PERMITTING COURT-ORDERED REMEDIES IN CERTAIN CIRCUMSTANCES.

(a) In General.—Nothing in the provisions of the Immigration Reform and Control Act of 1986, including the provisions inserted or amended by such Act, (all such pro-

visions referred to collectively in this section as "IRCA") shall be construed—

(1) as preventing judicial review under chapter 7 of title 5, United States Code, under section 1331 of title 28, United States Code, or under section 279 of the Immigration and Nationality Act, of regulations, policies, and practices governing the adjustment of status under IRCA, or

(2) as preventing such a court from ordering, as a remedy in an action brought (before, on, or after the date of the enactment of this Act) challenging such regulations, policies, or practices, the Attorney General—

(A) to accept applications for adjustment of status under IRCA without regard to any application periods established under IRCA for a reasonable period (of not longer than 6 months with respect to any class, except as may be extended as a result of an appeal taken by the Government) specified by the court;

(B) to reopen and readjudicate applications for adjustment of status under IRCA that have been denied; and

(C) to grant temporary stays of deportation and temporary employment authorization for applicants whose applications for adjustment of status under IRCA are reopened or who are permitted to file such applications pursuant to a court-mandated remedy.

(b) Effective Date.—Subsection (a) shall apply as of the date of the enactment of the Immigration Reform and Control Act of 1986.

(c) Construction.—Subsection (a) shall not be construed—

(1) as permitting the Attorney General to appeal any court determination invalidating any rule, regulation, or policy governing the adjustment of status under IRCA if the Attorney General had an opportunity to appeal such a determination but failed to do so in a timely manner, or

(2) as applying to an applicant for adjustment to lawful temporary residence (or from lawful temporary resident status to lawful permanent resident status) who seeks to challenge a denial of an individual application for such adjustment based upon factual determinations made by the Immigration and Naturalization Service regarding the individual applicant's eligibility for such adjustment.

SEC. 314. PROHIBITION OF DEPORTATION OF SPOUSES AND CHILDREN OF LEGALIZED ALIENS.

(a) Temporary Stay of Deportation and Work Authorization for Certain Eligible Immigrants.—

(1) In general.—The Attorney General shall provide that in the case of an alien who is an eligible immigrant (as defined in subsection (b)(1)) as of January 1, 1990, who has entered the United States before such date, who resides in the United States on such date, and who is not lawfully admitted for permanent residence, subject to paragraph (2), the alien—

(A) may not be deported or otherwise required to depart from the United States, and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit.

(2) Effective date of applicability.—For purposes of paragraph (1), in the case of an eligible immigrant who is the spouse or child of a legalized alien, paragraph (1) shall only apply on and after the date the legalized alien—

(A) has been granted permanent resident status,

(B) has completed a declaration of intention to become a citizen, and

(C) has submitted a classification petition under section 204 of the Immigration and Nationality Act to classify the eligible immigrant as a preference immigrant described in section 203(a)(2) of such Act or as an immediate relative described in section 201(b) of such Act.

(3) Termination of applicability.—

(A)(i) Paragraph (1) shall not apply 6 months after the date the Immigration and Naturalization Service has provided the legalized alien with written notice (described in clause (ii)) unless the alien has applied for such naturalization.

(ii) The written notice referred to in clause (i) is a written notice (by certified mail, return receipt requested, in the alien's native language) stating that—

(I) the alien has become (before the date the notice is provided) eligible (by virtue of period of lawful permanent residence) to apply for naturalization, and

(II) application for naturalization must be made within 6 months to continue the benefits of this subsection.

(B) Paragraph (1) shall not apply 2 years after the date of filing a timely application for naturalization unless the alien has been naturalized as a citizen or establishes that the alien has actively pursued naturalization. Time consumed in the Service's processing the application shall not be counted toward the 2-year period.

(b) Eligible Immigrant and Legalized Alien Defined.—In this section:

(1)(A) The term "eligible immigrant" means a qualified immigrant who is the spouse or child of a legalized alien and who, except as otherwise provided under subparagraph (B), is admissible as an immigrant and is not described in subparagraph (C).

(B) In the determination of an alien's admissibility as an immigrant for purposes of subparagraph (A)—

(i) the provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply;

(ii) except as provided in clause (iii), the Attorney General may waive any other provision of such section in the case of individual aliens when it is in the public interest; but

(iii) the Attorney General may not waive—

(I) paragraphs (9) and (10) (relating to criminals) of such section;

(II) paragraph (23) (relating to drug offenses) of such section, except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marijuana;

(III) paragraphs (27) and (29) (relating to national security) of such section; or

(IV) paragraph (33) (relating to those who assisted in the Nazi persecution) of such section.

(C) An alien shall not be eligible for the benefits of this section if the Attorney General finds that—

(i) the alien has been convicted of a felony or 2 or more misdemeanors in the United States, or

(ii) the alien is described in section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)).

(2) The term "legalized alien" means an alien lawfully admitted for temporary or permanent residence who was provided—

(A) temporary or permanent residence status under section 254A of the Immigration and Nationality Act,

(B) temporary or permanent residence status under section 210 of the Immigration and Nationality Act, or

(C) permanent residence status under section 202 of the Immigration Reform and Control Act of 1986.

(c) Application of Definitions.—Except as otherwise specifically provided in tis section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section.

(d) Temporary Disqualifications From Certain Public Welfare Assistance.—Aliens provided the benefits of this section by virtue of their relation to a legalized alien described in subsection (b)(2)(A) or (b)(2)(B) shall be ineligible for public welfare assistance in the same manner and for the same period as the legalized alien is ineligible for such assistance under section 245A(h) or 210(f), respectively, of the Immigration and Nationality Act.

(e) Application of SLIAG Program.—For purposes of section 204 of the Immigration Reform and Control Act of 1986, an alien who is the spouse or child of a legalized alien and whose deportation is suspended under this section shall be treated as an eligible legalized alien for the same period as such legalized alien is.

(f) Construction.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to obtain benefits under this section.

SEC. 315. TREATMENT OF CERTAIN LEGALIZATION APPLICANTS.

(a) In general.—Section 204(c)(1) of the Immigration Reform and Control Act of 1986 is amended by adding at the end the following: "For purposes of subparagraphs (A) and (C), the term 'eligible legalized alien' includes an alien who applies on a timely basis to become an eligible legalized alien beginning on the date that the alien applies for lawful temporary status under section 210, 210A, or 245A of the Immigration and Nationality Act and ending on the date that there has been a final determination with respect to such application.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Immigration Reform and Control Act of 1986.

SEC. 316. REIMBURSEMENT THROUGH IMMIGRATION EMERGENCY FUND OF LOCALITIES IMPACTED BY INCREASES IN ALIENS APPLYING FOR ASYLUM.

(a) In general.—Section 404(b) of the Immigration and Nationality Act (8 U.S.C. 1101 note), as added by section 113 of the Immigration Reform and Control Act of 1986, is amended—

(1) by inserting "to carry out paragraph (2) and" after "to be used",

(2) by inserting "(1)" after "(b)", and

(3) by adding at the end the following new paragraph:

"(2)(A) Whenever a district director of the Service certifies to the Commissioner that the number of asylum applications filed in the respective district during a calendar quarter exceeds by at least 1,000 the number of such applications filed in that district during the preceding calendar quarter, subject to subparagraph (B), funds in the immigration emergency fund provided for under paragraph (1) shall be available for reimbursement of localities that have provided assistance to aliens in that district who have asylum applications pending.

"(B) Not more than $20,000,000 shall be made available for all localities under this paragraph.".

(b) Effective Date.—The amendments made by subsection (a) shall apply with respect to increases in the number of asylum applications filed in a calendar quarter beginning on or after January 1, 1989.

SEC. 317. CLARIFICATION OF AUTHORIZATION OF APPROPRIATIONS FOR THE IMMIGRATION EMERGENCY FUND.

(a) In General.—Section 404(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101 note), as amended by section 316(a) of this Act, is amended—

(1) by inserting "(for fiscal year 1991 and any subsequent fiscal year)" after "appropriated", and

(2) by striking "$35,000,000" and inserting "an amount sufficient to provide for a balance of $35,000,000 in such fund".

(b) Effective Date.—The amendments made by subsection (a) shall be effective as if included in the enactment of the Immigration Reform and Control Act of 1986.

SEC. 318. REVISION AND EXTENSION OF THE VISA WAIVER PILOT PROGRAM.

(a) In General.—Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended—

(1) in subsection (a)(2), by inserting ", and presents a passport issued by," after "is a national of";

(2) in subsection (a)(3)—

(A) by striking "ENTRY CONTROL AND WAIVER FORMS" and inserting "IMMIGRATION FORMS", and

(B) by striking all that follows "such admission" and inserting "completes such immigration form as the Attorney General shall establish.";

(3) by striking paragraph (4) of subsection (a) and inserting the following:

"(4) Entry by sea or air.—If arriving by sea or air, the alien arrives at the port of entry into the United States on a carrier which has entered into an agreement with the Service to guarantee transport of the alien out of the United States if the alien is found inadmissible or deportable by an immigration officer.";

(4) by adding at the end of subsection (a) the following new paragraph:

"(7) Round-trip ticket.—The alien is in possession of a round-trip transportation ticket (unless this requirement is waived by the Attorney General under regulations).";

(5) in subsection (b)—

(A) by striking the heading and paragraphs (1) through (3), and

(B) by redesignating paragraph (4) (and subparagraphs (A) and (B) thereof) as subsection (b) (and paragraphs (1) and (2) thereof, respectively);

(6) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "Up to 8 countries" in the heading and inserting "In general", and

(ii) by striking all that follows "may designate" and inserting "any country as a pilot program country if it meets the requirements of paragraph (2)";

(A) in paragraph (2)—

(i) by striking "Initial qualifications" in the heading and inserting "Qualifications",

(ii) by striking "For the initial period described in paragraph (4), a country" and inserting "A country", and

(iii) by adding at the end the following new subparagraphs:

"(C) Machine readible passport program.—The government of the country certifies that it has or is in the process of developing a program to issue machine-readible passports to its citizens.

"(D) Law enforcement interests.—The Attorney General determines that the United States law enforcement interests would not be compromised by the designation of the country.";

(7) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (d) the following new subsection:

"(d) Authority.—Notwithstanding the other provision of this section, the Attorney General and the Secretary of State, acting jointly, may for any reason (including national security) refrain from waiving the visa requirement in respect to nationals of any country which may otherwise qualify for designation or may, at any time, rescind any waiver or designation previously granted under this section."; and

(8) in subsection (e)(1), as so redesignated—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting ", and", and

(C) by adding at the end the following new subparagraph:

"(C) to be subject to the imposition of fines resulting from the transporting into the United States of a national of a designated country without a passport pursuant to regulations promulgated by the Attorney General."; and

(9) in subsection (f), as so redesignated, by striking all that follows "the period beginning" and inserting "on October 1, 1988, and ending on September 30, 1994.".

(b) Penalty for Transport of Aliens Without Valid Visas.—Section 273 of such Act (8 U.S.C. 1323) is amended—

(1) in subsection (a), by inserting "a valid passport and" before "an unexpired visa", and

(2) in subsection (c), by inserting "valid passport or" before "visa was required".

(c) Effective Date.—The amendments made by this section shall take effect as of the date of the enactment of this Act.

Page 109, after line 3, insert the following new section (and conform the table of contents accordingly):

SEC. 319. 1-YEAR EXTENSION IN DEADLINE FOR FILING APPLICATIONS FOR ADJUSTMENT FROM TEMPORARY TO PERMANENT RESIDENCE FOR LEGALIZED ALIENS.

Section 245A(b) of the Immigration and Nationality Act (8 U.S.C. 1255a(b)) is amended—

(1) in paragraph (1)(A), by striking "one-year period" and inserting "2-year period", and

(2) in paragraph (2)(C), by striking "thirty-first" and inserting "43rd".

Subtitle C—Miscellaneous

SEC. 321. SPECIAL IMMIGRANT STATUS FOR CERTAIN ALIENS DECLARED DEPENDENT ON A JUVENILE COURT.

(a) In General.—Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)), as amended by section 102(e)(1) of this Act, is amended—

(1) by striking "or" at the end of subparagraph (I),

(2) by striking the period at the end of subparagraph (J) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(K) an immigrant who (i) who has been declared dependent on a juvenile court located in the United States and has been deemed eligible by that court for long-term foster care, and (ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence.".

(b) Waiver of Grounds for Deportation.—Section 241 of such Act (8 U.S.C. 1251) is amended by adding at the end the following new subsection:

"(h) Paragraphs (1), (2), (5), (9), or (12) of subsection 241 (other than so much of subsection (a)(1) as relates to a ground of exclusion described in paragraph (9), (10), (23), (27), (29), or (33) of section 212(a)) shall not apply to a special immigrant described in section 101(a)(27)(K) based upon circumstances that exist before the date the alien was provided such special immigrant status.".

SEC. 322. STATISTICAL INFORMATION SYSTEM.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following new subsection:

"(c) The Commissioner, in consultation with interested academicians, government agencies, and other parties, shall provide for a system for collection and dissemination, to Congress and the public, of information (not in individually identifiable form) useful in evaluating the social, economic, environmental, and demographic impact of immigration laws. Such information shall include information on the alien population in the United States, on the rates of naturalization and emigration of resident aliens, on aliens who have been admitted, paroled, or granted asylum, on nonimmigrants in the United States (by occupation, basis for admission, and duration of stay), and on aliens who have been excluded or deported from the United States. Such system shall provide for the collection and dissemination of such information not less often than annually.".

SEC. 323. REVISION OF HEALTH GROUNDS FOR EXCLUSION.

(a) In General.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) by amending paragraph (1) of subsection (a) to read as follows:

"(1) Any alien who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services)—

"(A) to have a physical or mental disorder, and exhibits a current behavior or has a history of behavior (associated with the disorder) that (i) poses or has posed a threat to property or the safety or welfare of the alien or others and (ii) as to a history of behavior, has occurred so recently (taking into account the nature of the disorder) as to suggest the likelihood of its recurrence or the occurrence of other harmful behavior, or

"(B) to be a drug abuser or addict;";

(2) by striking paragraphs (2) through (5) and (11) of subsection (a); and

(3) in subsection (g)—

(A) by striking "who is excludable from the United States under paragraph (1) of subsection (a) of this section, or any alien", and

(B) by striking the second sentence and inserting the following: "The Attorney General may waive the application of subsection (a)(1)(A) in the case of any immigrant, in accordance with such terms, conditions, and controls, if any, including the giving of bond, as the Attorney General, in his discretion after consultation with the Secretary of Health and Human Services, may by regulation prescribe.".

(b) Conforming Amendments.—

(1) Section 234 of such Act (8 U.S.C. 1224) is amended by striking "paragraphs (1), (2),

(3), (4), or (5)" and inserting "paragraph (1)" each place it appears.

(2) Section 236(d) of such Act (8 U.S.C. 1226(d)) is amended by striking "paragraphs (1), (2), (3), (4), or (5) of section 212(a)" and inserting "section 212(a)(1)".

(3) Section 272(a) of such Act (8 U.S.C. 1322(a)) is amended—

(A) by striking "(1) mentally retarded" and all that follows through "(6) a narcotic drug addict" and inserting "excludable under section 212(a) (1) or (6)", and

(B) by striking "such disease or disability" and inserting "the excluding condition".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals entering the United States on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 324. TEMPORARY PROTECTED STATUS FOR NATIONALS OF EL SALVADOR, LEBANON, LIBERIA, AND KUWAIT, AND OTHER DESIGNATED FOREIGN STATES.

(a) IN GENERAL—The Immigration and Nationality Act is amended by inserting after section 244 the following new section:

"TEMPORARY PROTECTED STATUS

"SEC. 244A. (a) GRANTING OF STATUS.—

"(1) IN GENERAL.—In the case of an alien who is a national of a foreign state designated under subsection (b) and who meets the requirements of subsection (c), the Attorney General, in accordance with this section—

"(A) shall grant the alien temporary protected status in the United States and shall not deport the alien from the United States during the period in which such status is in effect, and

"(B) shall authorize the alien to engage in employment in the United States and provide the alien with an 'employment authorized' endorsement or other appropriate work permit.

"(2) DURATION OF WORK AUTHORIZATION.—Work authorization provided under this section shall be effective throughout the period the alien is in temporary protected status under this section.

"(3) NOTICE OF RIGHTS.—

"(A) Upon the granting of temporary protected status under this section, the Attorney General shall notify the alien of the alien's rights and responsibilities under this section.

"(B) If, at the time of initiation of a deportation proceeding against an alien, the foreign state (of which the alien is a national) is designated under subsection (b), the Attorney General shall promptly notify the alien of the alien's potential rights and responsibilities under this section.

"(C) If, at the time of designation of a foreign state under subsection (b), an alien (who is a national of such state) is in a deportation proceeding under this title, the Attorney General shall promptly notify the alien of the alien's potential rights and responsibilities under this section.

"(D) Notices under this paragraph shall be provided in a form and language that the alien can understand.

"(4) TEMPORARY RIGHTS FOR ELIGIBLE ALIENS.—

"(A) In the case of an alien who can establish a prima facie case of eligibility for rights under paragraph (1), but for the fact that the period of registration under subsection (c)(1)(A)(iv) has not begun, until the alien has had a reasonable opportunity to register during the first 30 days of such period, the Attorney General shall provide for the rights described in paragraph (1).

"(B) In the case of an alien who establishes a prima facie case of eligibility for rights under paragraph (1), until a final determination with respect to the alien's eligibility for rights under paragraph (1) has been made, the alien shall be provided such rights.

"(5) CLARIFICATION.—Nothing in this section shall be construed as authorizing the Attorney General to deny temporary protected status to an alien based on the alien's immigration status or to require any alien, as a condition of being granted such status, either to relinquish nonimmigrant or other status the alien may have or to execute any waiver of other rights under this Act. The granting of temporary protected status under this section shall not be considered to be inconsistent with the granting of nonimmigrant status under this Act.

"(b) DESIGNATIONS OF EL SALVADOR, LEBANON, LIBERIA, AND KUWAIT AND FOREIGN STATES IN GENERAL.—

"(1) DESIGNATION OF EL SALVADOR, LEBANON, LIBERIA, AND KUWAIT.—El Salvador, Lebanon, Liberia, and Kuwait are hereby designated under this subsection.

"(2) DESIGNATION OF FOREIGN STATES IN GENERAL.—The Attorney General, after consultation with appropriate agencies of the Government, shall designate any foreign state (or, in the case of a finding under subparagraph (B), all or any part of such foreign state) under this subsection only if—

"(A) the Attorney General finds that there is an ongoing armed conflict within the state and, due to such conflict, requiring the return of aliens who are nationals of that state to that state would pose a substantial threat to their personal safety;

"(B) the Attorney General finds that—

"(i) there has been an earthquake, flood, drought, epidemic, or other environmental disaster in the state resulting in a substantial, but temporary, disruption of living conditions in the area affected,

"(ii) the foreign state is unable, temporarily, to handle adequately the return to the state of aliens who are nationals of the state, and

"(iii) the foreign state officially has requested designation under this subparagraph; or

"(C) the Attorney General finds that there exist extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety, unless the Attorney General finds that permitting the aliens to remain temporarily in the United States is contrary to the national interest of the United States.

A designation of a foreign state (or, in the case of a determination under subparagraph (B), all or any part of such foreign state) under this paragraph shall not become effective unless notice of the designation (including a statement of the findings under this paragraph and the effective date of the designation) is published in the Federal Register. In such notice, the Attorney General shall also state an estimate of the number of nationals of the foreign state designated who are (or within the effective period of the designation are likely to become) eligible for temporary protected status under this section and their immigration status in the United States.

"(3) EFFECTIVE PERIOD OF DESIGNATION FOR EL SALVADOR, LEBANON, LIBERIA, AND KUWAIT.—The designation of El Salvador, Lebanon, Liberia, and Kuwait under paragraph (1) shall take effect upon the date of the enactment of this section and shall remain in effect until the effective date of the termination of the respective designation under paragraph (5)(B). For purposes of applying the succeeding provisions of this section, each of such states shall be considered to have been designated based upon findings described in subparagraphs (A) and (C) of paragraph (2). For purposes of this section, the initial period of designation for El Salvador, Lebanon, Liberia, and Kuwait under paragraph (1) is 3 years.

"(4) EFFECTIVE PERIOD OF DESIGNATION FOR OTHER FOREIGN STATES.—The designation of a foreign state (or, in the case of a determination under paragraph (2)(B), all or any part of such foreign state) under paragraph (2) shall—

"(A) take effect upon the date of publication of the designation under such paragraph, or such later date as the Attorney may specify in the notice published under such paragraph, and

"(B) shall remain in effect until the effective date of the termination of the designation under paragraph (5)(B).

For purposes of this section, the initial period of designation of a foreign state (or part thereof) under paragraph (2) is the period, specified by Attorney General, of not less than 6 months and not more than 18 months.

"(5) PERIODIC REVIEW, TERMINATIONS, AND EXTENSIONS OF DESIGNATIONS.—

"(A) PERIODIC REVIEW.—At least 60 days before end of the initial period of designation, and any extended period of designation, of a foreign state (or part thereof) under this section the Attorney General, after consultation with appropriate agencies of the Government, shall review the conditions in the foreign state (or, in the case of a determination under paragraph (2)(B), all or any part of such foreign state) for which a designation is in effect under this subsection and shall determine whether the conditions for such designation under this subsection continue to be met. The Attorney General shall provide on a timely basis for the publication of notice of each such determination (including the basis for the determination, and, in the case of an affirmative determination, the period of extension of designation under subparagraph (C)) in the Federal Register.

"(B) TERMINATION OF DESIGNATION.—If the Attorney General determines under subparagraph (A) that a foreign state (or, in the case of a determination under paragraph (2)(B), all or any part of such foreign state) no longer continues to meet the conditions for designation under paragraph (2), the Attorney General shall terminate the designation by publishing notice in the Federal Register of the determination under this subparagraph (including the basis for the determination). Such termination is effective in accordance with subsection (d)(3), but shall not be effective earlier than 60 days after the date the notice is published or, if later, the expiration of the most recent previous extension under subparagraph (C) and, with respect to the designation of El Salvador, Lebanon, Liberia, and Kuwait under paragraph (1), shall not be effective before the end of the 3-year period beginning on the date of the enactment of this section.

"(C) EXTENSION OF DESIGNATION.—If the Attorney General does not determine under subparagraph (A) that a foreign state (or, in the case of a determination under paragraph (2)(B), all or any part of such foreign state) no longer meets the conditions for designation under paragraph (2), the period of designation of the foreign state is extended

for an additional period of 6 months (or, in the discretion of the Attorney General, a period of 12 or 18 months).

"(6) INFORMATION CONCERNING PROTECTED STATUS AT TIME OF DESIGNATIONS.—Within the amounts otherwise appropriated to carry out this Act, at the time of a designation of a foreign state under this subsection (including the designation of El Salvador, Lebanon, Liberia, and Kuwait under paragraph (1)), the Attorney General shall make available information respecting the temporary protected status made available to aliens who are nationals of such designated foreign state.

"(7) REVIEW.—

"(A) DESIGNATIONS.—There is no judicial review of any determination of the Attorney General with respect to the designation, or termination or extension of a designation, of a foreign state under this subsection.

"(B) APPLICATION TO INDIVIDUALS.—The Attorney General shall establish an administrative procedure for the review of the denial of rights to aliens under this subsection; except that such procedure shall not prevent an alien from asserting rights under this section in deportation proceedings.

"(c) ALIENS ELIGIBLE FOR TEMPORARY PROTECTED STATUS.—

"(1) IN GENERAL.—

"(A) SALVADORAN, LEBANESE, LIBERIAN, AND KUWAITI NATIONALS.—Subject to paragraph (3), an alien who is a national of El Salvador, Lebanon, Liberia, or Kuwait (for the period such respective state is designated under subsection (b)(1)) meets the requirements of this paragraph only if—

"(i) the alien has been continuously physically present in the United States since the date of the enactment of this section;

"(ii) the alien has continuously resided in the United States since September 19, 1990;

"(iii) the alien is admissible as an immigrant, except as otherwise provided under paragraph (2)(A), and is not ineligible for temporary protected status under paragraph (2)(B); and

"(iv) the alien registers under this section within the 270-day registration period (established by the Attorney General) beginning not later than 60 days after the date of the enactment of this section.

"(B) NATIONALS OF DESIGNATED FOREIGN STATES IN GENERAL.—Subject to paragraph (3), an alien, who is a national of a state designated under subsection (b)(2), meets the requirements of this paragraph only if—

"(i) the alien has been continuously physically present in the United States since the effective date of the most recent designation of that state;

"(ii) the alien has continuously resided in the United States since such date as the Attorney General may designate;

"(iii) the alien is admissible as an immigrant, except as otherwise provided under paragraph (2)(A), and is not ineligible for temporary protected status under paragraph (2)(B); and

"(iv) to the extent and in a manner which the Attorney General establishes, the alien registers for the temporary protected status under this section during a registration period of not less than 180 days.

"(C) REGISTRATION FEE.—The Attorney General may require payment of a reasonable fee as a condition of registering an alien under subparagraph (A)(iv) or (B)(iv) (including providing an alien with an 'employment authorized' endorsement or other appropriate work permit under this section). The amount of any such fee shall not exceed $50.

"(2) ELIGIBILITY STANDARDS.—

"(A) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—In the determination of an alien's admissibility for purposes of subparagraphs (A)(iii) and (B)(iii) of paragraph (1)—

"(i) the provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) shall not apply;

"(ii) except as provided in clause (iii), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest; but

"(iii) the Attorney General may not waive—

"(I) paragraphs (9) and (10) (relating to criminals) of such section;

"(II) paragraph (23) of such section (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marijuana;

"(III) paragraphs (27) and (29) of such section (relating to national security); or

"(IV) paragraph (33) of such section (relating to those who assisted in the Nazi persecution).

"(B) ALIENS INELIGIBLE.—An alien shall not be eligible for temporary protected status under this section if the Attorney General finds that—

"(i) the alien has been convicted of any felony or 2 or more misdemeanors committed in the United States; or

"(ii) the alien is described in section 243(h)(2).

"(3) WITHDRAWAL OF TEMPORARY PROTECTED STATUS.—The Attorney General shall withdraw temporary protected status granted to an alien under this section if—

"(A) the Attorney General finds that the alien was not in fact eligible for such status under this section,

"(B) except as provided in paragraph (4) and permitted in subsection (f)(4), the alien has not remained continuously physically present in the United States from the date the alien first was granted temporary protected status under this section, or

"(C) the alien fails, without good cause, to register with the Attorney General annually, at the end of each 12-month period after the granting of such status, in a form and manner specified by the Attorney General.

"(4) TREATMENT OF BRIEF, CASUAL, AND INNOCENT DEPARTURES AND CERTAIN OTHER ABSENCES.—

"(A) For purposes of paragraphs (1)(A)(i), (1)(B)(i), and (3)(B), an alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences from the United States, without regard as to whether such absences were authorized by the Attorney General.

"(B) For purposes of paragraphs (1)(A)(ii) and (1)(B)(ii), an alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual, and innocent absence described in subparagraph (A) or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

"(5) CONSTRUCTION.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to apply for temporary protected status under this section.

"(6) RESTRICTION ON DISCLOSURE OF INFORMATION.—The provisions of section 245A(c)(5) shall apply to information furnished by an alien in order to be granted temporary protected status under this section in the same manner as such provisions apply with respect to information furnished pursuant to an application section 245A.

"(d) DOCUMENTATION.—

"(1) INITIAL ISSUANCE.—Upon the granting of temporary protected status to an alien under this section, the Attorney General shall provide for the issuance of such temporary documentation and authorization as may be necessary to carry out the purposes of this section.

"(2) PERIOD OF VALIDITY.—Subject to paragraph (3), such documentation shall be valid during the initial period of designation of the foreign state (or part thereof) involved and any extension of such period. The Attorney General may stagger the periods of validity of the documentation and authorization in order to provide for an orderly renewal of such documentation and authorization and for an orderly transition (under paragraph (3)) upon the termination of a designation of a foreign state (or, in the case of a determination under subsection (b)(2)(B), all or any part of such foreign state).

"(3) EFFECTIVE DATE OF TERMINATIONS.—If the Attorney General terminates the designation of a foreign state (or, in the case of a determination under subsection (b)(2)(B), all or any part of such foreign state) under subsection (b)(4)(B), such termination shall only apply to documentation and authorization issued or renewed after the effective date of the publication of notice of the determination under that subsection (or, at the Attorney General's option, after such period after the effective date of the determination as the Attorney General determines to be appropriate in order to provide for an orderly transition).

"(4) DETENTION OF THE ALIEN.—Nothing in this section shall be construed to authorize the detention of any alien who is eligible for temporary protected status under this section. An alien provided temporary protected status under this section shall not be detained by the Attorney General on the basis of the alien's immigration status in the United States.

"(e) RELATION OF PERIOD OF TEMPORARY PROTECTED STATUS TO SUSPENSION OF DEPORTATION.—With respect to an alien granted temporary protected status under this section, the period of such status shall not be counted as a period of physical presence in the United States for purposes of section 244(a), unless the Attorney General determines that extreme hardship exists. Such period shall not cause a break in the continuity of residence of the period before and after such period for purposes of such section.

"(f) BENEFITS AND STATUS DURING PERIOD OF TEMPORARY PROTECTED STATUS.—During a period in which an alien is granted temporary protected status under this section—

"(1) the alien shall not be considered to be permanently residing in the United States under color of law;

"(2) the alien shall not be eligible for any program of cash assistance (furnished directly or through reimbursement) under Federal law, except for treatment for an emergency medical condition as described in section 1903(v) of the Social Security Act;

"(3) the alien may be deemed ineligible for public assistance by a State (as defined in section 101(a)(36)) or any political subdivision thereof which furnishes such assistance;

"(4) the alien may travel abroad with the prior consent of the Attorney General; and

"(5) for purposes of adjustment of status under section 245 and change of status under section 248, the alien shall be considered as being in, and maintaining, lawful status as a nonimmigrant.

"(g) Exclusive Remedy.—Except as otherwise specifically provided, this section shall constitute the exclusive authority of the Attorney General under law to permit aliens who are or may become otherwise deportable or have been paroled into the United States to remain in the United States temporarily because of their particular nationality or region of foreign state of nationality.

"(h) Annual Report.—Not later than March 1 of each year (beginning with 1991), the Attorney General, after consultation with the appropriate agencies of the Government, shall submit a report to the Congress on the operation of this section during the previous year. Each report shall include—

"(1) a listing of the foreign states or parts thereof designated under this section,

"(2) the number of nationals of each such state who have been granted temporary protected status under this section and their immigration status before being granted such status, and

"(3) an explanation of the reasons why foreign states or parts thereof were designated under subsection (b)(2) and, with respect to foreign states or parts thereof previously designated, why the designation was terminated or extended under such subsection.

"(i) Congressional Review of Report.—

"(1) Referral of report.—Each report, when submitted under subsection (h), shall be referred, in accordance with the rules of the respective House of Congress, to the standing committee or committees having jurisdiction over the subjects of the report, and the report shall be printed as a document of the House of Representatives.

"(2) Committee hearings.—No later than 90 days after the date of the referral of a report to a committee, in accordance with the rules of the respective House, the committee shall initiate hearings, insofar as such committee has legislative or oversight jurisdiction, to consider—

"(A) the findings of the report,

"(B) the designations of foreign states under subsection (b), and

"(C) whether it is appropriate to change the designations of foreign states under subsection (b) or otherwise to change the protections afforded under this section.

"(3) Committee report.—No later than 180 days after the date of the referral of such a report to a committee, in accordance with the rules of the respective House, the committee shall report to its respective House its oversight findings and any legislation it deems appropriate.".

(b) Clerical Amendment.—The table of contents of such Act is amended by inserting after the item relating to section 244 the following new item:

"Sec. 244A. Temporary protected status."

(c) No Affect on Executive Order 12711.—Notwithstanding subsection (g) of section 244A of the Immigration and Nationality Act (inserted by the amendment made by subsection (a)), such section shall not supercede or affect Executive Order 12711 (April 11, 1990, relating to policy implementation with respect to nationals of the People's Republic of China).

SEC. 325. LIMITATION ON DETENTION OF CERTAIN ALIENS WITH DEPENDENT CHILDREN.

(a) In General.—Section 242(c) of the Immigration and Nationality Act (8 U.S.C. 1252(c)) is amended—

(1) by striking "When" and inserting "(1) Except as provided in paragraph (2), when"; and

(2) by adding at the end the following new paragraph:

"(2)(A) The Attorney General shall not detain any alien described in subparagraph (B) who is deportable under section 241, except in connection with the immediate departure of such alien. The period of such detention shall not exceed a reasonable amount of time (not to exceed 24 hours) based upon the particular circumstances of the alien and the alien's dependent children.

"(B) An alien described in this subparagraph is an alien—

"(i) who is not deportable under paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19) of section 241(a); and

"(ii) who is the mother of any child in the United States if the child is not older than 2 years of age and is dependent upon the alien for basic parental care.".

(b) Effective Date.—The amendments made by subsection (a) shall apply to any alien subject to a final deportation order on or after the date of the enactment of this Act.

SEC. 326. WAIVER OF ENGLISH LANGUAGE REQUIREMENT FOR NATURALIZATION.

Section 312(1) of the Immigration and Nationality Act (8 U.S.C. 1423(1)) is amended by striking "is over fifty years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence" and inserting "either (A) is over 50 years of age and has been living in the United States for periods totaling at least 20 years subsequent to a lawful admission for permanent residence, or (B) is over 55 years of age and and has been living in the United States for periods totaling at least 15 years subsequent to a lawful admission for permanent residence".

SEC. 327. TREATMENT OF SERVICE IN ARMED FORCES OF A FOREIGN COUNTRY.

(a) In General.—Section 315 of the Immigration and Nationality Act (8 U.S.C. 1425) is amended—

(1) in subsection (a), by inserting "but subject to subsection (c)" after "section 405(b)", and

(2) by adding at the end the following new subsection:

"(c) An alien shall not be ineligible for citizenship under this section or otherwise because of an exemption from training or service in the Armed Forces of the United States pursuant to the exercise of rights under a treaty, if before the time of the exercise of such rights the alien served in the Armed Forces of a foreign country of which the alien was a national.".

(b) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to exemptions from training or service obtained before, on, or after such date.

SEC. 328. OPPORTUNITY FOR ADJUSTMENT OF STATUS BEFORE TERMINATION OF ASYLUM STATUS.

(a) In General.—Section 208(b) of the Immigration and Nationality Act (8 U.S.C. 1158(b)) is amended by adding at the end the following new sentence: "The Attorney General may not terminate such status on the basis that the alien is no longer a refugee unless the alien has been provided notice of such termination and the right to apply for adjustment of status under section 209(b) and an opportunity (of not less than 90 days beginning one-year after the date the alien is granted asylum) to file an application for adjustment of status under such section to that of an alien lawfully admitted for permanent residence.".

(b) Conforming Amendment.—Section 209(b) of such Act (8 U.S.C. 1159(b)) is amended by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(c) Effective Date.—The amendment made by subsection (a) shall apply to termination of asylum status occurring before, on, or after the date of the enactment of this Act. The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 329. TIMING OF PAYMENT OF FEE FOR APPLICATIONS TO FILE PETITIONS FOR NATURALIZATION.

Any fee charged by the Immigration and Naturalization Service for the filing of an application to file a petition for naturalization shall be paid by the applicant at the time of the filing of the petition for naturalization and, if no such petition for naturalization is filed, no fee shall be charged for the filing of such application.

SEC. 330. USE OF IMMIGRATION EXAMINATIONS FEE ACCOUNT FOR PROMOTION OF CITIZENSHIP.

(a) In General.—Section 286(n) of the Immigration and Nationality Act (8 U.S.C. 1356(n)) is amended by adding at the end the following: "Not less than one percent of the funds deposited in the Account shall be expended by the Service to promote the opportunities and responsibilities of United States citizenship. The Attoney General shall submit to Congress annually a report on the promotional activities conducted by the Service under the preceding sentence.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to funds deposited in the Immigration Examinations Fee Account for fiscal years beginning with fiscal year 1991.

SEC. 331. REPORT CONCERNING ADMINISTRATIVE DENIALS OF APPLICATIONS FOR NATURALIZATION.

The Commissioner of the Immigration and Naturalization Service shall submit to Congress annually a report on the number, and rate of denial administratively, of applications for naturalization. Each such report shall specify, for each district office of the Service and by national origin group—

(1) the number of applications classified as "returns" and the number classified as "non-files", and

(2) the number of applicants who reapply after an application for naturalization has been denied.

SEC. 332. INCREASE BY 1,000 IN BORDER PATROL PERSONNEL.

There are authorized to be appropriated for fiscal year 1991 such additional sums as may be necessary to provide for an increase of 1,000 in the authorized personnel level of the border patrol of the Immigration and Naturalization Service, above the authorized level of the patrol as of September 30, 1990.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend the Immigration and Nationality Act to revise the system of admission of aliens on the basis of family reunification and to meet identified labor shortages, and for other purposes.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4300) was laid on the table.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 4300, FAMILY UNITY AND EMPLOYMENT OPPORTUNITY IMMIGRATION ACT OF 1990

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 4300, the Clerk be authorized to make technical corrections and conforming changes to the bill.

The SPEAKER pro tempore (Mr. Brown of California). Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on H.R. 4300, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

OLDER WORKERS BENEFIT PROTECTION ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill S. 1511.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri [Mr. Clay] that the House suspend the rules and pass the Senate bill, S. 1511, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 406, nays 17, not voting 10, as follows:

[Roll No. 407]

YEAS—406

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Baker
Barnard
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crockett
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walgren
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Wheat
Whittaker
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—17

Archer
Armey
Ballenger
Bartlett
Combest
Cox
Crane
Dannemeyer
DeLay
Hancock
Kyl
McEwen
Rhodes
Shumway
Smith (TX)
Stump
Walker

NOT VOTING—10

Boggs
Campbell (CA)
Douglas
Gephardt
Rowland (CT)
Sabo
Vander Jagt
Vucanovich
Weldon
Whitten

□ 1252

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HOUR OF MEETING ON THURSDAY, OCTOBER 4, 1990

Mr. MARKEY. Mr. Speaker, this unanimous consent request has been cleared with the minority leader and the Speaker.

I ask unanimous consent that when the House adjourns on today, it adjourn to meet at 11 a.m. on Thursday, October 4, 1990.

The SPEAKER pro tempore (Mr. Brown of California). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 5269, COMPREHENSIVE CRIME CONTROL ACT OF 1990

Ms. SLAUGHTER of New York. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 490 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 490

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5269) to control crime, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed three hours, with two hours and forty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, and with twenty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered for amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill, as modified by the amendments printed in part 1 of the report of the Committee on Rules accompanying this resolution, as an original bill for purpose of amendment under the five-minute rule, said substitute, as modified, shall be considered as having been read, and all points of order against said substitute, as modified, are hereby waived. No amendment to said substitute, as modified, shall be in order except those printed in part 2 of the report of the Committee on Rules accompanying this resolution. Said amendments shall be considered in the order and manner specified in the report, and may be offered only by the Member specified or his designee. Said amendments shall be considered as having been read, shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment except as specified in the report, or be subject to a demand for a division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are hereby waived. It shall be in order at any time for the chairman of the Committee on the Judiciary to offer amendments en bloc, consisting of amendments and modifications in the text of any amendment which are germane thereto, printed in part 2 of the report to the Committee on Rules. Such amendments en bloc, shall be considered as having been, read, shall be debatable for not to exceed twenty minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. Such amendments en bloc shall not be subject to amendment, or a demand for a division of the question in the House or in the Committee of the Whole. All points of order against the amendments en bloc are hereby waived. The original proponents of the amendments en bloc shall have permission to insert statements in the Congressional Record immediately before the disposition of the amendments en bloc. It shall be in order to consider the amendments numbered 6 offered by Representative Hughes of New Jersey en bloc. If both amendments numbered 14 and 15 are adopted, only the latter amendment which is adopted shall be considered as finally adopted and reported back to the House. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one mission to recommit.

The SPEAKER pro tempore. The gentlewoman from New York (Ms. Slaughter) is recognized for 1 hour.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield the customary 30 minues, for purposes of debate only, to the gentleman from Tennessee [Mr. Quillen], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 490 is a modified open rule providing for the consideration of H.R. 5269, the Comprehensive Crime Control Act of 1990.

The rule waives all points of order against consideration of the bill.

It provides for 3 hours of general debate, with 2 hours and 40 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary and 20 minutes to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Ways and Means.

The rule makes in order the Judiciary Committee amendment in the nature of a substitute now printed in the bill, as modified by the Ways and Means Committee reported amendments printed in part one of the report of the Committee on Rules, as an original bill for the purposes of amendment. The substitute, as modified, shall be considered as read and all points of order against the substitute, as modified, are waived.

No amendments to the substitute are to be in order except those printed in part 2 of the report of the Committee on Rules and amendments en bloc as specified in the rule. The amendments are to be considered only in the order and the manner specified in the report and are considered as read when offered. The debate time specified in the report for each amendment is to be equally divided and controlled by the proponent and a Member opposed to the amendment.

All points of order against the amendments printed in part 2 of the report are waived. The amendments are not subject to amendment, except as specified in the report, and are not subject to a demand for a division of the question in either the House or the Committee of the Whole.

It shall be in order to consider the amendments numbered 6 en bloc. Of the two amendments on the subject of habeas corpus, numbered 14 and 15, only the last one adopted will be considered as finally adopted.

In addition, the rule makes in order amendments en bloc, if offered by Chairman Brooks, consisting of some or all of the amendments printed in part 2 of the report, including germane modifications. En bloc amendments are debatable for 20 minutes and are not subject to amendment nor a division of the question in the House or the Committee of the Whole. All points of order are waived against the en bloc amendments. The original proponents of amendments included in an en bloc amendment may insert statements in the Congressional Record to appear immediately before the vote on the en bloc amendments.

Finally, the rule provides one motion to recommit.

Mr. Speaker, crime touches all of our lives. Even if we have not been direct victims, we have been affected by increased insurance rates, fear in our neighborhoods, and the additional tax burden to pay for fraud in our Nation's savings and loans.

The Comprehensive Crime Control Act, for which the Rules Committee has recommended this rule, is a multifaceted attack on crime. It increases penalties for drug offenses, authorizes funds for new prison projects, provides additional assistance for police, and further protects the rights of victims. The bill also contains strong provisions to increase our ability to prosecute and punish those responsible for the savings and loan crisis. Finally, it establishes new judicial procedures designed to streamline the court process and assure adequate representation during trials and appeals.

Mr. Speaker, this rule, House Resolution 490, differs from the rule considered last week primarily in that it will allow the full House to consider four additional amendments. Both the Hyde substitute habeas corpus title and the Wylie amendment to allow the preemption of State homestead exemptions in cases where individuals have committed fraud or acted recklessly at federally insured financial institutions are now in order.

In all the House will have the opportunity to debate and vote on 47 amendments embodying a wide variety of approaches to our Nation's criminal justice system. I ask my colleagues to support this rule so that we may proceed with consideration of the merits of this vital legislation.

□ 1300

Mr. QUILLEN. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentlewoman from New York has ably explained the provisions of the rule. It is similar to the one we debated for a couple of hours last week except the Hyde amendment has been made in order, the Martinez

amendment has been made in order, the Unsoeld amendment has been made in order, subject to an up or down vote, and the Wylie amendment has been made in order.

I am not going to repeat what I said last week when I led the fight to defeat the rule because of its unfairness.

I am not going to point out to the gentlewoman from New York anything about trying to change the rule in the middle of the stream last week. We all know we need a crime bill; it is overdue.

Many amendments were requested in the Rules Committee, and many were not granted on both sides of the aisle. But I would like to call attention to one that I thought should have been made in order, and that is the Kanjorski amendment, authored by my friend from Pennsylvania. It provides for allowng private civil suits to help recover assets from individuals who have defrauded banks or savings and loans, or whose actions have violated Federal banking laws or regulation and led to the failure of a bank or a savings and loan.

It seems to me this should have been made in order. We know the greed and the corruption in some of these failings. It should have been made in order. I refer to it as the bounty amendment.

But it was not made in order. Others were not made in order. But those amendments which were made in order will give the House an opportunity to make this into a good bill. I encourage the adoption of the rule so that we can get down to the business of debating the merits of the bill itself.

Mr. Speaker, I would like to advise the gentlewoman from New York that I have three additional requests for time.

Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. Solomon.

Mr. SOLOMON. Mr. Speaker, my colleagues, I thank the gentleman for the time. I rise in support of this rule. If we had been asked to consider such a rule as this last week, we could have saved ourselves an awful lot of time and trouble.

You know, sometimes it really does pay to listen to the Republicans on the Committee on Rules. In this particular case, we have a modified open rule. It is not a fully open rule, but it was done so by agreement. No Republican or Democrat is being gagged, including myself, who gave up three amendments just so we could get this agreement.

That is the way we ought to do business on the floor of this House. You can see how it works.

Mr. Speaker, we have before us today a fair rule. H.R. 5269 is a very large and complicated piece of legislation—and this rule does justice to it. The problem last week was simply the fact that we had a rule which didn't do justice to this bill. You can't fight crime with a process which is criminal in and of itself—and that was the dilemma we were faced with last week.

It was just too obvious under the rule last week that a large majority of the Members of this House, from both sides of the aisle, was being thwarted in its efforts to get the Hyde amendment concerning habeus corpus made in order. The rule we are considering today does make the Hyde amendment in order.

The rule today also makes in order the Wylie amendment—which is very important to the effort of cleaning up the savings and loan scandal.

If the Wylie amendment is passed, and I am sure it will be, our Government will be able to go after the tangible personal assets, especially the homes, of the S&L crooks.

I needn't go any further, Mr. Speaker, suffice to say that this House always works best when the process is fair. This is a fair rule. It does justice to the importance of the comprehensive anticrime bill. And I urge the Members to support it.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield 7 minutes to the gentleman from New Jersey [Mr. Hughes].

Mr. HUGHES. Mr. Speaker, I want to thank the gentlewoman from New York for yielding time to me. I too support the rule. I think the rule is fair and balanced. There are some 49 amendments directed, not just to the controversial titles, but there are a lot of amendments that the committee will join in support of, and will accept.

It is a good bill. H.R. 5269 is a good, strong anticrime bill. It is unfortunate that we have gotten bogged down with a lot of rhetoric directed to about six or seven different provisions in the bill, most of which did not come out of the Subcommittee on Crime.

You understand of course, that jurisdiction in this body is divided among various committees and subcommittees. The first 11 titles of the bill that you do not hear much about, are the provisions that were written in my Subcommittee on Crime.

While there are several amendments directed toward those titles, they are not the controversial amendments that you most frequently hear about, which are habeas corpus, racial justice, and the exclusionary rule.

The death penalty provisions were written in my subcommittee, but not the procedures about which you have heard a great deal of debate, and will hear more today.

There are a number of amendments that are directed to the first 11 titles, many of which we will accept.

They are good amendments. We supported them in the Committee on Rules.

Some amendments directed to the first 11 titles we are going to challenge, such as Mr. Conyer's amendment directed to military facilities that we want to free up. We worked with Armed Services on this provision, so that we can develop these surplus facilities for intermediate types of prisons, if you will, for the States where we have a major problem with prison overcrowding.

So it is with a number of other provisions, such as the assembly of assault weapons.

Guns generate a lot of debate around here. So we will have an amendment to modify a section that we took right from the President's crime bill, that bans the assembly of assault-type weapons in this country. We have banned the importation of those assault weapons, but there is an amendment, noticed on the floor, that will in fact, weaken that section of the bill, which comes from the President's crime package.

But getting back to the controversial provisions in the package—the death penalty, habeas corpus, racial justice, and the exclusionary rule—let me say to my friends and colleagues, please listen to the debate. I realize we have an election coming up in a month and a half, but as always happens on the floor when we deal with crime, if something sounds tough, whether it is really tough or not, whether it makes sense, whether it is constitutional, it has a better than even chance of winning. Those provisions only generate more litigation, and provide uncertainty in the criminal justice system.

Once again, what we want is a good, tough crime bill that will pass constitutional muster and will make a positive contribution to the fight against crime.

Now, there will be a lot of arguments in this debate about whether or not a particular provision is tough or not. Please listen to the debate—I know you will—so that we can develop a package that is fair, that is balanced, and constitutional.

Insofar as the death penalty is concerned, I support the death penalty. I have always supported the death penalty. I believe it is a deterrent. Just as we attempt to increase the penalty for drug trafficking offenses, for superkingpins and for those engaged in continuing criminal enterprises, I believe it does act as a deterrent.

□ 1310

However, Mr. Speaker, the reason it is not a deterrent today, is because we do not have certainty in the process. Unfortunately today, in many parts of our country, when someone is sentenced to jail, the judge has to send them home because we do not have prison space. How in the world can we convince somebody that they are going to go to jail when they know that, first of all, the chances are they are not going to get caught, and, if they are caught, they are not going to go to jail?

And the same thing with the imposition of the death penalty. Frankly, while I support the death penalty, it is not working today, because nobody believes it is going to be carried out, and, while we have increased the incidence of the death penalty around the country, we have people who have been on death row for as long as 18–19 years, and that just undercuts the value of capital punishment. So, we are trying to reform the habeas corpus process to try to eliminate many of the delays.

We have habeas corpus provisions in the bill. I did not write the habeas corpus provisions. I attempted to move them to where I think they should be. I worked with the gentleman from Wisconsin, whose subcommittee has jurisdiction over habeas corpus. I believe that the amendment we finally developed, the gentleman from South Carolina [Mr. DERRICK] and myself, in fact provides a process that is fair and reasonable and should be adopted by this Congress.

One of the things that the gentleman from Illinois [Mr. HYDE], my colleague, would have us do is to set up two standards in this country, one for the rich and one for the poor. I say to my colleagues: "If you want to take advantage of the new streamlined rules for habeas corpus, the statute of limitations and the sections dealing with repetitious petitions and procedural default, if you want to take advantage of those, you provide competent counsel. In those States that do not want to take advantage of those procedures, but want to continue doing business as usual and not appoint competent counsel, we have a different standard."

Now let me ask my colleagues, "Can we have two standards for a basic fundamental process called habeas corpus, one for the rich and one for the poor?" Because that is the net effect of Hyde. The gentleman from South Carolina [Mr. DERRICK] and myself will offer an amendment, that in fact, provides a balanced process for habeas corpus that will cut down on delays and that tracks the Powell Commissions recommendations. It takes the best of Powell, some of the Senate bill and some of the things that we developed in committee. It will provide a fair and balanced process for habeas corpus.

My colleagues will hear a lot about racial justice, and I have an amendment, which I will offer, that will attempt to reform the racial justice provisions. I opposed those provisions in committee. I think they totally undercut the death penalty. I believed that in committee, argued against those provisions and lost that case in committee.

Mr. Speaker, I am going to try to make the case here on the floor to try to correct the deficiencies in the racial justice provision.

My colleagues will hear a lot of debate, they will hear a lot of talk, about how tough we are on crime. But let me tell my colleagues, "We need to be tough, but we have to be fair, and we have to be constitutional," and I think that when we end this process, hopefully at the end of a couple days of debate and work on these particular amendments, we will have just that. We will strengthen H.R. 5269, and have a bill that we can all be proud of and go home and campaign on.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Speaker, I thank the gentlewoman from New York [Ms. SLAUGHTER] for yielding time to me.

Mr. Speaker, I rise in strong support of H.R. 5269, and I want to congratulate the chairman, Mr. MOAKLEY, and members of the Rules Committee for their work in bringing this resolution for the consideration of the crime bill before us today. They faced a difficult task in selecting which amendments to make in order.

An amendment that will not be in order, is one I had authored that was directed at officers, directors, and borrowers of failed financial institutions, who conceal their assets by transferring them to trusts or family members. Under my amendment, these intrafamily transfers would have been presumed to have been made with the intent to hide the assets from the Federal Deposit Insurance Corporation.

This amendment would have put the burden of proof on the officer, director, or borrower, to show that the transfer was for fair consideration, and not intended to hide the assets.

This amendment is a reaction to reports of directors of failed savings and loans who have purchased new and expensive houses in their wives names and of borrowers from savings and loans who now claim they are penniless, while their spouse has numerous trusts owning mansions, cars and other luxuries. In both cases, the officer and borrower live in these houses and enjoy their benefits, while the taxpayer is left with a $1 billion bill.

The taxpayer cannot be denied the right to recover the crooks ill-gotten loot because of a clever legal scheme to shield the loot from recovery.

I realize that the Rules Committee could not have made every amendment in order. I thank it for considering my amendment, but I want the crooks to know that I intend to include this amendment in other appropriate legislation.

It is time we stop allowing the financial institution crooks to keep their loot.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. GREEN].

Mr. GREEN of New York. Mr. Speaker, it is with great disappointment today that I must address the lack of a handgun waiting period in the omnibus crime package. I am equally disappointed that an amendment embodying the Brady bill, which would require a Federal 7-day waiting period prior to the sale, delivery or transfer of a handgun, has not been made in order. I believe that a 7-day waiting period is critical to eradicating our Nation's crime problem.

Contrary to opponent's claims, it is clear that handgun waiting periods are effective in lowering crime rates. According to the superintendent of the New Jersey State Police, in the 20 years that New Jersey has required a background check for handgun purchasers, more than 10,000 convicted felons have been caught trying to buy handguns. In addition, the California Department of Justice reports that in 1989 the State's 15-day waiting period caught 1,803 criminals and other prohibited purchasers trying to purchase guns from gun dealers. Without Federal participation, however, many local and State laws are rendered less effective.

A mandated Federal handgun waiting period is imperative if we are truly serious about wiping out crime. Without one, those who wish to purchase a hundgun for immediate use will buy one in neighboring States where less stringent State laws exist. In fact, a Treasury Department study found that only four percent of those handguns used in New York City crimes were bought in New York State. Why? Because New York State has a strict handgun law on its books. The vast majority of handguns used in New York City crimes were purchased in States without a waiting period or background check.

Since February 1, on New York City streets alone, 11 children under the age of 16 have been killed by stray bullets from handguns. Earlier this year, the president of the Citizens Crime Commission of New York said the "streets have turned into shooting galleries."

The simple fact is, that Congress will fail to address fully the crime issue if it does not speak to the handgun problem. A truly effective crime bill must contain a handgun waiting period provision.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. GREEN of New York. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, I want to congratulate the gentleman from New York [Mr. GREEN]. He makes a very important point. One cannot talk about drugs today without talking about guns. We have shooting galleries in the neighborhoods, and it is interesting that the only amendment that is made in order in this bill was an amendment to take out gun provisions that the President asked for, and it is absolutely disgraceful that we do not have in this bill the assault weapon bill, as well as the so-called Brady bill, the handgun waiting bill.

So, I congratulate the gentleman from New York. He is absolutely right.

Mr. GREEN of New York. Mr. Speaker, I thank the gentleman from New Jersey [Mr. HUGHES] for his support.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I support the rule. I will support the bill. I want to commend the gentleman from New Jersey [Mr. HUGHES], the chairman of the Subcommittee on Crime, as much as anybody in America, for protecting the rights of all Americans, including policemen, law enforcement personnel, public officials, witnesses, and civilians involved in cases.

Mr. Speaker, I particularly would have liked to have seen the bill go a little further. I would have liked to have seen it made in order for an amendment that would make the killing of a law enforcement officer a Federal offense. Murder committed by an individual using a machine gun or semiautomatic weapon; I wanted to see that made into a specific Federal offense subject to the Federal courts and Federal laws.

However, Mr. Speaker, the committee and the Committee on Rules decided to separate the Federal interests from the State interests, and hopefully at some point we will revisit this issue and do something in the States requiring that policemen and law enforcement personnel are protected.

However, Mr. Speaker, today I have an amendment in that particular regard that I feel is very appropriate. Many times we have organized crime strike forces at the Federal level and Federal drug task forces that work hand in hand with the local and State officials and policemen, and what we have here in effect today is there can be a joint operation of the city of New York where an FBI agent could be shot down and a detective from the city of New York could be shot down, but the Federal law would extend the death penalty for murder of the FBI agent, but not for the murder of the New York detective. So, the Traficant amendment would extend, in the furtherance of a Federal criminal investigation, the same protections to State and local law enforcement personnel, prosecutors, judges, and witnesses and civilians, including those on witness protection programs in our country.

In addition, Mr. Speaker, this amendment is also very important in organized crime investigations. The mob intimidates witnesses; those witnesses know that they will be killed, so they will not speak. With the arm of the law being able to go out and grab those perpetrators, it will break some of that code of silence. I want my colleagues' support.

Mr. Speaker, the second amendment deals with child abuse. I brought forward a bill several years ago that called for closed circuit testimony in child abuse cases where many times these youngsters are terrified by the presence of the rapist or the abuser, and they cannot get convictions. This was added in the committee, and I again really want to commend the committee. But what it did; it was only for Federal cases, and that is almost nonexistent.

So, Mr. Speaker, the Traficant amendment puts in place an amendment that calls for the creation of participatory grants whereby the Federal Government will give up to 50 percent to the local communities who establish that particular program that has a State statute the conforms to the Supreme Court ruling of Maryland versus Craig which sets down the criteria that, in fact, makes it constitutional and affords for the rights of those young who were abused.

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Mr. Speaker, we are going to have a lot of rights debates here today. Let me say this: Murders' rights are so plentiful that we cannot count all of them, but the victims' rights are simply carved in record numbers on tombstones in cemeteries all over America, and it is time that Congress protect victims and families of victims.

I know there will be some tough votes in here placed on the Members. I hope the Members will look at my two amendments with favor. I believe they strengthen the bill.

In closing, Mr. Speaker, I want to say on the floor that no one in the country has done any more than the chairman of this subcommittee, the gentleman from New Jersey [Mr. HUGHES]. I appreciate that as a former sheriff, and I think everybody around the country appreciates that. I am hopeful that in the future we can look forward to protecting all law enforcement personnel, especially in those States where they have chosen not to do that.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I just want to congratulate the gentleman from Ohio [Mr. TRAFICANT]. Both of the amendments to be offered by the gentleman are good amendments.

The gentleman has found, first of all, a gap in the coverage, particularly with respect to Federal task forces. We have a number of drug enforcement task forces on organized crime where local police officers work with us in pursuing Federal investigations, and obviously we want to make sure that we treat the local officers as we treat the Federal officers if, God forbid, any of those are killed in the line of duty.

Insofar as the videotaping of children is concerned, the gentleman has worked very, very hard for many years, and he has been the leader really in trying to develop legislation to permit the videotaping of children who have been abused in connection with criminal activities.

Mr. Speaker, both amendments are good amendments, and I want to tell the gentleman that I intend to vote for both of them.

Mr. TRAFICANT. Mr. Speaker, I apeciate that very much, and I would hope that Congress will support them also. I want to commend the chairman and the vice chairman of the Rules Committee for their support in bringing out this rule.

Mr. QUILLEN. Mr. Speaker, I yield two minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I rise in support of the rule that is now before us, and I invite the gentleman from Ohio who just spoke from the well to look very closely and to look very carefully—as tough on criminals as he wants to be and in favor of law enforcement—at the Gekas amendment on the death penalty, because that is in conformity with his overall plan to bring culprits to justice in this country.

That brings me to the nub of my remarks for this portion of the debate, and that is that it is no secret that the death penalty is favored in every poll among American citizens by an overwhelming margin, 80 percent or more in many cases, and that it acts as a deterrent, almost by the same figures. So we have no duty other than to implement the will of the American people for that purpose.

Let us look very closely at how this debate will evolve. I ask each Member, if you favor the death penalty, to look at the three options that we will be considering: the bill, which is a few crumbs toward the imposition of the dealth penalty at the hands of a jury; the Hughes amendment, which brings about half a loaf of the needed product; and the Gekas amendment, which will give us the whole loaf of the needed law enforcement in the area of capital punishment.

Mr. MOODY. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Wisconsin.

Mr. MOODY. Mr. Speaker, does the gentleman stand before the body to tell us that capital punishment is a serious deterrent to crime?

Mr. GEKAS. Yes, I believe it is; 67 percent or more of the American people believe that.

Mr. MOODY. What does the gentleman believe?

Mr. GEKAS. I do also.

Mr. MOODY. So the gentleman is not here proposing it for punishment; he is here proposing it for deterrence?

Mr. GEKAS. Mr. Speaker, it acts as a deterrent, it acts as punishment, it acts as a societal remedy, and it acts as a law enforcement tool.

Mr. MOODY. Mr. Speaker, is the gentleman aware that States like mine that do not have capital punishment and have not had it for 100 years have lower crime rates than many States that do have capital punishment?

Mr. GEKAS. Then the gentleman should vote against it.

Mr. MOODY. But my point is that there is no evidence that it is an effective deterrent.

Mr. GEKAS. Well, if the polls that include the gentleman's State are accurate, then I say to the gentleman that his State legislature may be in error.

Mr. Speaker, I ask the Members to look at the progression of the death penalty to the point until finally we can adopt the Gekas amendment.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. Wylie].

Mr. WYLIE. Mr. Speaker, I rise today in strong support of the rule on H.R. 5269. I am particularly pleased because an amendment I submitted to the Rules Committee to help taxpayers recover moneys from S&L crooks has been made in order under this rule. I want to commend and thank Chairman Moakley and ranking member Quillen for the fine work they have done to see that my amendment is in order for floor consideration. I believe that unlike the earlier rule on H.R. 5269 that was defeated last week, the rule we are considering today is a fair and inclusive rule. I urge my colleagues to support the rule on this important legislation.

The amendment that I will be later offering authorizes the FDIC and RTC to preempt generous State homestead exemptions in cases where an individual has committed fraud against a failed insured financial institution. I am a strong supporter of States rights, and I would like to note that my amendment would only preempt State law in a very limited situation. My amendment would not generally authorize the FDIC and RTC to preempt State homestead laws in routine bankruptcy situations. It would only apply in those situations where the debtor had committed fraud against the insured financial institution. I believe that this is a very limited exemption that does not threaten State sovereignty and is one small step Congress can take to recover from the S&L crooks.

My amendment is strongly supported by the FDIC and RTC. A similar provision has been sponsored by Senator Dole and has been included in the Senate crime bill. Additionally, the language of my amendment was included in the S&L crime package that was reported out of the Banking Committee's Financial Institutions Subcommittee by a 42 to 0 vote.

I believe there is strong support for this amendment in both Houses of Congress and the administration. I urge my colleagues to join me in voting for the rule on H.R. 5269 and then later supporting my amendment on State homestead exemptions. We must do everything possible to hold the S&L crooks accountable and I believe that is a modest step to protect the taxpayer.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. Porter].

Mr. PORTER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I intend to vote for this rule, but I am disappointed that the Rules Committee did not make the Brady bill in order. Last week's Gallup Poll shows that 95 percent of Americans support a 7-day waiting period for the purchase of a handgun, but we can't even get a rule to consider the bill.

I can think of no legislation that is more germane to a crime bill than H.R. 467, the Brady bill. The Justice Department reports that 639,000 violent crimes are committed each year with handguns; 407,000 assaults, 210,000 robberies, 12,000 rapes, and 9,200 murders every year are committed with handguns.

Handgun control estimates that handguns cause 22,000 deaths every year—suicides, murders, and accidents.

Mr. Speaker, I urge the Democratic leadership to allow an up or down vote on the Brady bill before we adjourn the 101st Congress.

Otherwise, the rule is now a fair one and urge the membership to support it.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield 5 minutes to the distinguished chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. Brooks].

Mr. BROOKS. Mr. Speaker, I thank the gentlewoman from New York [Ms. Slaughter] for yielding this time to me, and I want to thank the gentlewoman and the members of the committee for once again having the Committee on Rules bring to us a rule for the consideration of H.R. 5269, the Comprehensive Crime Control bill.

I want to commend the committee and the chairman of the committee, the gentleman from Massachusetts [Mr. Moakley], as well as the manager of this rule, the gentlewoman from New York [Ms. Slaughter].

Throughout this long and difficult process the Rules Committee has made every effort to craft a rule that would permit discussion and debate of the major issues contained in this legislation, while still permitting us to complete consideration in a timely manner and move the bill through the remainder of the legislative process before the end of the session.

Mr. Speaker, this is a good rule and a fair rule, and I urge its adoption.

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Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Dornan].

Mr. DORNAN of California. Mr. Speaker, just a few thoughts on capital punishment as we wrap up this debate on the rule.

There is no issue in my life that I have changed my mind on more often or been on all sides of an argument on more often, and you are not supposed to admit that as a politician. But this issue is one that honorable people can argue with great passion on both sides on.

Mr. Speaker, I just wanted to submit as food for thought something that I think has probably put me on the pro-capital-punishment side for the rest of my life. It involves the mass killer Ted Bundy.

We do not know if even in his death heave confessions if they accounted for all of the young women he had tortured and murdered in his rapid accounting at the end. That was certainly a reason not to execute him when they did, to put it off for a few more months, when he finally started to give all this evidence.

The victims—the mothers, the fathers, the brothers, the sisters—one of the national news magazines gave narrative stories of how all of these people were affected by his final execution. In almost every case, for the first time in 15 years for some of them, they had peace of mind.

One mother I remember lost her only child, her daughter. She had her picture next to a picture of the Blessed Virgin, the Mother of Jesus. She had black ribbons around it. She said she never slept one night until Bundy was given his eternal judgment day through the State of Florida.

I think that we have to focus the debate on capital punishment on not just deterrence, something that can be debated forever, but on what the victims want, what it does for them. Not out of a sense of vengeance, but when somebody's child has been tortured to death, raped, murdered, degraded, then I think we owe it to these suffering people. If this gives them some sort of psychological solace, to take the most heinous of the killers that are popping up with increasing and terrible frequency in our modern educated Nation, we owe it to the families of the tortured and the murdered to

put some of these people to death symbolically, to say there is a crime that can be committed in modern American life that sends you to your eternal judgment day.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. Kastenmeier].

Mr. KASTENMEIER. Mr. Speaker, I want to compliment the Committee on Rules, I know, as my chairman has said, it has been through a great deal. I do not know that this particular rule is any fairer than the rule we had last week, but many in this Chamber may believe so.

On the other hand, we have heard from people here whose amendments have not been made in order on a number of issues, including, as one has related, the Brady gun bill. Perhaps we need an open rule on an issue like this after all, rather than to try to contain the debate. But let us look at the subject.

In this morning's national newspaper, USA Today, their lead editorial deals with, "Congress' Get-Tough Act Is a Real 'Crime.' "

There ought to be a law, they went on to say, against Congress getting tough on crime right before an election. Congress has cracked down on crime every election year since 1984, yet crime is more out of control than ever.

They go on to develop that theme. Like its predecessors, they conclude, the past three election years, the 1990 crime bill is taking shape in Washington, and it won't do much to protect us from crime. At best, it will only help its perpetrators get reelected. That kind of bill would be a real crime.

What is my purpose in reciting that? The fact is that there is a great deal of cynicism in the land about producing crime bills just before an election, omnibus crime bills, that include everything.

That is one of the problems, and I think increasingly, this is not the only newspaper editorial from a major national newspaper critical of our dealing with the subject in the manner we deal with it.

Mr. Speaker, the reason I raise this issue is because we are going to have an opportunity to act with some restraint this afternoon and perhaps tomorrow on this bill. I hope that Members will not get carried away seeking the most extreme of all proposals because it appears at this point in time to be politically desirable.

Mr. Speaker, we have to act responsibly on this bill. I would encourage Members to resist amendments, even though they may be "tougher," but in the long run what they will undo is our system of justice.

Mr. QUILLEN. Mr. Speaker, I urge the adoption of the rule, and I yield back the balance of my time.

Mr. BLILEY. Mr. Speaker, I rise today in strong support of the amendment from the gentleman from Illinois [Mr. Hyde]. Without this amendment, I cannot support this bill. Without this amendment, neither can the President.

Our criminal justice system is exploited. Ask the everyday American and he'll tell you the same thing. How can we go on explaining to our constituents that our system is working while only a little over 100 people have been executed in the past 20 years? Currently there are 2,350 convicted murderers awaited their death sentence. Due to our seemingly endless system of repetitive appeals and reviews, how long will these murderers continue to live at your and my expense? Another 29 years?

It's time to listen to the experts. A great Virginian, former U.S. Supreme Court Justice Lewis Powell, has concluded that as stands, H.R. 5269 could lead to "increased delay, piecemeal litigation, and more last minute appeals." He warns that without the Hyde amendment, sentencing challenges in successive habeas corpus petitions would be allowed, further delaying the imposition of the sentence.

And it's not just great Virginians who support the Hyde amendment; an overwhelming number of States' attorney generals support Mr. Hyde's amendment, as evidenced in a letter sent to the committee chairman on July 13, 1990. Mr. Chairman, the legislation as it stands now is beneficial only to the murdering criminals awaiting their final judgments.

Mr. Chairman, Mr. Hyde sensibly makes sure that indigent prisoners receive competent counsel in habeas corpus hearings. In the cases in which a death sentence is handed down, the defendant and their competent counsel would then have 6 months to file a habeas corpus petiton. The defendant would be allowed one full course through both the Federal and State courts up to the Supreme Court. After this, only in extreme cases which deal with the questioned guilt of the defendant would further Federal review be allowed.

Let's put some teeth into this crime bill. Our district attorneys want this amendment, our police want this amendment, our attorney generals want this amendment, anyone who wants to get tough on the criminals supports this. I urge passage of this amendment so that we can work to strengthen our criminal justice system.

Mr. HUGHES. Mr. Chairman, I rise in strong opposition to the amendment of the gentleman from Massachusetts.

The amendment would prohibit Federal Prison Industries from entering into production, or expanding the production, of a wide range of products. Unless already approved by the Federal Prison Industries Board, no future expansion would be permitted if the product involved is manufactured by the footwear, apparel, textile, or furniture industries.

This amendment makes absolutely no sense. Tougher sentencing laws and enforcement practices have greatly expanded our Federal prison population. Our Federal prison system is presently operating at more than 170 percent of capacity.

Furthermore, this trend is likely to continue. The Attorney General estimates that the Federal prison population will double in the next 10 years.

More Federal prisoners means we need more prison jobs, not fewer. More prison jobs means we need to expand the production of prison industries, not reduce or freeze that production.

Federal Prison Industries play an important role in our correctional system. FPI provides jobs for inmates who would otherwise be idle. Idleness in a prison can produce attitudinal and behavioral problems among the inmate population.

Jobs provide an opportunity for inmates to contribute to their own support and that of their families, and to make restitution to their victims.

FPI employment provides training and improves postrelease employment chances for inmates. This benefits all of us in the form of reduced recidivism by released inmates.

Contrary to the claims of proponents of this amendment, Federal Prison Industries are not a substantial economic threat to private industry.

Several features of Federal Prison Industries support this conclusion.

One, by law FPI may sell its products only to the Federal Government. It may not compete in the private sector. It must nonetheless function in the private marketplace and comply with Federal procurement and personnel regulations, which are more rigid and inflexible than those in the private sector.

While FPI pays lower initial cost for labor, this factor is more than offset by several features endemic to the prison setting. These include low inmate worker skills, high turnover, and the increased inefficiency and costs of maintaining a secure prison environment. For example, there must be greater tool accountability and frequent prison searches.

Prison Industries are, by design, quite labor-intensive, to create the greatest number of jobs. This produces lower efficiency and higher unit costs.

Freezing Prison Industries and reducing job opportunities in Federal prisons is absolutely the wrong direction in which to go. We should defeat the Frank amendment.

Ms. SLAUGHTER of New York. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments, in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 971. An act to require the Federal Communications Commission to prescribe rules to protect consumers from unfair practice in the provision of operator services, and for other purposes; and

H.R. 5313. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5313) "An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SASSER, Mr. INOUYE, Mr. REID, Mr. FOWLER, Mr. BYRD, Mr. GRASSLEY, Mr. GARN, Mr. STEVENS, and Mr. HATFIELD, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 147, Concurrent resolution supporting the actions taken by the President with respect to Iraqi aggression against Kuwait.

TELEPHONE OPERATOR CONSUMER SERVICES IMPROVEMENT ACT OF 1990

Mr. MARKEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 971) to require the Federal Communications Commission to prescribe rules to protect consumers from unfair practices in the provision of operator services, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telephone Operator Consumer Services Improvement Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the divestiture of AT&T and decisions allowing open entry for competitors in the telephone marketplace produced a variety of new services and many new providers of existing telephone services;

(2) the growth of competition in the telecommunications market makes it essential to ensure that safeguards are in place to assure fairness for consumers and service providers alike;

(3) a variety of providers of operator services now compete to win contracts to provide operator services to hotels, hospitals, airports, and other aggregators of telephone business from consumers;

(4) the mere existence of a variety of service providers in the operator services marketplace is significant in making that market competitive only when consumers are able to make informed choices from among those services providers;

(5) however, often consumers have no choices in selecting a provider of operator services, and often attempts by consumers to reach their preferred long distance carrier by using a telephone billing card, credit card, or prearranged access code number are blocked;

(6) a number of State regulatory authorities have taken action to protect consumers using intrastate operator services;

(7) from January 1988 through February 1990, the Federal Communications Commission received over 4,000 compliants from consumers about operator services;

(8) those consumers have complained that they are denied access to the interexchange carrier of their choice, that they are deceived about the identity of the company providing operator services for their calls and the rates being charged, that they lack information on what they can do to complain about unfair treatment by an operator service provider, and that they are, accordingly, being deprived of the free choice essential to the operation of a competitive market;

(9) The Commission has testified that its actions have been insufficient to correct the problems in the operator services industry to date; and

(10) a combination of industry self-regulation and government regulation is required to ensure that competitive operator services are provided in a fair and reasonable manner.

SEC. 3. AMENDMENT.

Title II of the Communications Act of 1934 is amended by inserting immediately after section 225 (47 U.S.C. 225) the following new section:

"SEC. 226. TELEPHONE OPERATOR SERVICES.

"(a) DEFINITIONS.—As used in this section—

"(1) The term 'access code' means a sequence of numbers that, when dialed, connect the caller to the provider of operator services associated with that sequence.

"(2) The term 'aggregator' means any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for interstate telephone calls using a provider of operator services.

"(3) The term 'call splashing' means the transfer of a telephone call from one provider of operator services to another such provider in such a manner that the subsequent provider is unable or unwilling to determine the location of the origination of the call and, because of such inability or unwillingness, is prevented from billing the call on the basis of such location.

"(4) The term 'consumer' means a person initiating any interstate telephone call using operator services.

"(5) The term 'equal access' has the meaning given that term in Appendix B of the Modification of Final Judgment entered August 24, 1982, in United States v. Western Electric, Civil Action No. 82-0192 (United States District Court, District of Columbia), as amended by the Court in its orders issued prior to the enactment of this section.

"(6) The term 'equal access code' means an access code that allows the public to obtain an equal access connection to the carrier associated with that code.

"(7) The term 'operator services' means any interstate telecommunications service initiated from an aggregator located that includes, as a component, any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an interstate telephone call through a method other than—

"(A) automatic completion with billing to the telephone from which the call originated; or

"(B) completion through an access code used by the consumer, with billing to an account previously established with the carrier by the consumer.

"(8) The term 'presubscribed provider of operator services' means the interstate provider of operator services to which the consumer is connected when the consumer places a call using a provider of operator services without dialing an access code.

"(9) The term 'provider of operator services' means any common carrier that provides operator services or any other person determined by the Commission to be providing operator services.

"(6) REQUIREMENTS FOR PROVIDERS OF OPERATOR SERVICES.—

"(1) IN GENERAL.—Beginning not later than 30 days after the date of enactment of this section, each provider of operator services shall, at a minimum—

"(A) identify itself, audibly and distinctly, to the consumer at the beginning of each telephone call and before the consumer incurs any charge for the call;

"(B) permit the consumer to terminate the telephone call at no charge before the call is connected;

"(C) disclose immediately to the consumer, upon request and at no charge to the consumer—

"(i) a quote of its rates or charges for the call;

"(ii) the methods by which such rates or charges will be collected; and

"(iii) the methods by which complaints concerning such rates, charges, or collection practices will be resolved;

"(D) ensure, by contract or tariff, that each aggregator for which such provider is the presubscribed provider of operator services is in compliance with the requirements of subsection (c) and, if applicable, subsection (e)(1);

"(E) withhold payment (on a location-by-location basis) of any compensation, including commissions, to aggregators if such provider reasonably believes that the aggregator (i) is blocking access by means of "950" or "800" numbers to interstate common carriers in violation of subsection (c)(1)(B) or (ii) is blocking access to equal access codes in violation of rules the Commission may prescribe under subsection (e)(1);

"(F) not bill for unanswered telephone calls in areas where equal access is available;

"(G) not knowingly bill for unanswered telephone calls where equal access is not available;

"(H) not engage in call splashing, unless the consumer requests to be transferred to another provider of operator services, the consumer is informed prior to incurring any charges that the rates for the call may not reflect the rates from the actual originating location of the call, and the consumer then consents to be transferred;

"(I) except as provided in subparagraph (H), not bill for a call that does not reflect the location of the origination of the call; and

"(J) not bill an interexchange telephone call to a billing card number which—

"(i) is issued by another provider of operator services, and

"(ii) permits the identification of the other provider,

unless the call is billed at a rate not greater than the other provider's rate for the call, the consumer requests a special service that is not available under tariff from the other provider, or the consumer expressly consents to a rate greater than the other provider's rate.

"(2) ADDITIONAL REQUIREMENTS FOR FIRST 3 YEARS.—In addition to meeting the requirements of paragraph (1), during the 3-year period beginning on the date that is 30 days after the date of enactment of this section, each presubscribed provider of operator services shall identify itself audibly and distinctly to the consumer, not only as required in paragraph (1)(A), but also for a second time before connecting the call and before the consumer incurs any charge.

"(c) REQUIREMENTS FOR AGGREGATORS.—

"(1) IN GENERAL.—Each aggregator, beginning not later than 30 days after the date of enactment of this section, shall—

"(A) post on or near the telephone instrument, in plain view of consumers—

"(i) the name, address, and toll-free telephone number of the provider of operator services;

"(ii) a written disclosure that the rates for all operator-assisted calls are available on request, and that consumers have a right to obtain access to the interstate common carrier of their choice and may contact their preferred interstate common carriers for information on accessing that carrier's service using that telephone; and

"(iii) the name and address of the enforcement division of the Common Carrier Bureau of the Commission, to which the consumer may direct complaints regarding operator services; and

"(B) ensure that each of its telephones presubscribed to a provider of operator services allows the consumer to use "800" and "950" access code numbers to obtain access to the provider of operator services desired by the consumer; and

"(C) ensure that no charge by the aggregator to the consumer for using an "800" or "950" access code number, or any other access code number, is greater than the amount the aggregator charges for calls placed using the presubscribed provider of operator services.

"(2) EFFECT OF STATE LAW OR REGULATION.—The requirements of paragraph (1)(A) shall not apply to an aggregator in any case in which State law or State regulation requires the aggregator to take actions that are substantially the same as those required in paragraph (1)(A).

"(d) GENERAL RULEMAKING REQUIRED.—

"(1) RULEMAKING PROCEEDING.—The Commission shall conduct a rulemaking proceeding pursuant to this title to prescribe regulations to—

"(A) protect consumers from unfair and deceptive practices relating to their use of operator services to place interstate telephone calls; and

"(B) ensure that consumers have the opportunity to make informed choices in making such calls.

"(2) DEADLINES.—The Commission shall initiate the proceeding required under paragraph (1) within 60 days after the date of enactment of this section and shall prescribe regulations pursuant to the proceeding not later than 210 days after such date of enactment. Such regulations shall take effect not later than 45 days after the date the regulations are prescribed.

"(3) CONTENTS OF REGULATIONS.—The regulations prescribed under this section shall—

"(A) contain provisions to implement each of the requirements of this section, other than the requirements established by the rulemaking under subsection (e) on access and compensation; and

"(B) contain such other provisions as the Commission determines necessary to carry out this section and the purposes and policies of this section.

"(4) ADDITIONAL REQUIREMENTS TO BE IMPLEMENTED BY REGULATIONS.—The regulations prescribed under this section, shall, at a minimum—

"(A) establish minimum standards for providers of operator services to use in the routing and handling of emergency telephone calls; and

"(B) establish a policy for requiring providers of operator services to make public information about recent changes in operator services and choices available to consumers in that market.

"(e) SEPARATE RULEMAKING ON ACCESS AND COMPENSATION.—

"(1) ACCESS.—The Commission, within 9 months after the date of enactment of this section, shall require—

"(A) that each aggregator ensure within a reasonable time that each of its telephones presubscribed to a provider of operator services allows the consumer to obtain access to the provider of operator services desired by the consumer through the use of an equal access code; or

"(B) that all providers of operator services, within a reasonable time, make available to their customers a "960" or "800" access code number for use in making operator services calls from anywhere in the United States; or

"(C) that the requirements described under both subparagraphs (A) and (B) apply.

"(2) COMPENSATION.—The Commission shall consider the need to prescribe compensation (other than advance payment by consumers) for owners of competitive public pay telephones for calls routed to providers of operator services that are other than the presubscribed provider of operator services for such telephones. Within 9 months after the date of enactment of this section, the Commission shall reach a final decision on whether to prescribe such compensation.

"(f) TECHNOLOGICAL CAPABILITY OF EQUIPMENT.—Any equipment and software manufactured or imported more than 18 months after the date of enactment of this section and installed by any aggregator shall be technologically capable of providing consumers with access to interstate providers of operator services through the use of equal access codes.

"(g) FRAUD.—In any proceeding to carry out the provisions of this section, the Commission shall require such actions or measures as are necessary to ensure that aggregators are not exposed to undue risk of fraud.

"(h) DETERMINATIONS OF RATE COMPLIANCE.—

"(1) FILING OF INFORMATIONAL TARIFF.—

"(A) IN GENERAL.—Each provider of operator services shall file, within 30 days after the date of enactment of this section, and shall maintain, update regularly, and keep open for public inspection, an informational tariff specifying rates, terms, and conditions, and including commissions, surcharges, any fees which are collected from consumers, and reasonable estimates of the amount of traffic priced at each rate, with respect to calls for which operator services are provided. Any changes in such rates, terms, or conditions shall be filed no later than the first day on which the changed rates, terms, or conditions are in effect.

"(B) WAIVER AUTHORITY.—The Commission may, after 4 years following the date of enactment of this section, waive the requirements of this paragraph only if—

"(i) the findings and conclusions of the Commission in the final report issued under paragraph (3)(B)(iii) state that the regulatory objectives specified in subsection (d)(1)(A) and (B) and have been achieved and

"(ii) the Commission determines that such waiver will not adversely affect the continued achievement of such regulatory objectives.

"(2) REVIEW OF INFORMATIONAL TARIFFS.—If the rates and charges filed by any provider of operator services under paragraph (1 appear upon review by the Commission to be unjust or unreasonable, the Commission may require such provider of operator services to do either or both of the following:

"(A) demonstrate that its rates and charges are just and reasonable, and

"(B) announce that its rates are available on request at the beginning of each call.

"(3) PROCEEDING REQUIRED.—

"(A) IN GENERAL.—Within 60 days after the date of enactment of this section, the Commission shall initiate a proceeding to determine whether the regulatory objectives specified in subsection (d)(1) (A) and (B) are being achieved. The proceeding shall—

"(i) monitor operator service rates;

"(ii) determine the extent to which offerings made by providers of operator services are improvements, in terms of service quality, price, innovation, and other factors over those available before the entry of new providers of operator services into the market;

"(iii) report on (in the aggregate and by individual provider) operator service rates incidence of service complaints, and service offerings;

"(iv) consider the effect that commissions and surcharges, billing and validation costs and other costs of doing business have on the overall rates charged to consumers; and

"(v) monitor compliance with the provisions of this section, including the periodic placement of telephone calls from aggregator locations.

"(B) REPORTS.—(i) The Commission shall during the pendency of such proceeding and not later than 5 months after its commencement, provide the Congress with an interim report on the Commission's activities and progress to date.

"(ii) Not later than 11 months after the commencement of such proceeding, the Commission shall report to the Congress on its interim findings as a result of the proceeding.

"(iii) Not later than 23 months after the commencement of such proceeding, the Commission shall submit a final report to the Congress on its findings and conclusions.

"(4) IMPLEMENTING REGULATIONS.—

"(A) IN GENERAL.—Unless the Commission makes the determination described in subparagraph (B), the Commission shall within 180 days after submission of the report required under paragraph (3)(B)(iii) complete a rulemaking proceeding pursuant to this title to establish regulations for implementing the requirements of this title (and paragraphs (1) and (2) of this subsection) that rates and charges for operator services be just and reasonable. Such regulations shall include limitations on the amount of commissions or any other compensation given to aggregators by providers of operator service.

"(B) LIMITATION.—The requirement of subparagraph (A) shall not apply if, on the basis of the proceeding under paragraph (3)(A), the Commission makes (and includes in the report required by paragraph (3)(B)(iii)) a factual determination that market forces are securing rates and charges that are just and reasonable, as evidenced by rate levels, costs, complaints, service quality, and other relevant factors.

"(i) Statutory Construction.—Nothing in this section shall be construed to alter the obligations, powers, or duties of common carriers or the Commission under the other sections of this Act."

Mr. MARKEY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the Record.

The SPEAKER pro tempore (Mr. Brown of California). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Massachusetts [Mr. Markey]?

Mr. RINALDO. Mr. Speaker, reserving the right to object, I do so in order to yield to the gentleman from Massachusetts [Mr. Markey], the distinguished chairman of the Subcommittee on Telecommunications and Finance, for the purpose of explaining H.R. 971 and the Senate amendment thereto.

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding.

The Senate amendment to H.R. 971 represents a compromise between H.R. 971, which passed the House on September 25, 1989, and S. 1660 as it was passed by the other body. The differences between the two bills are minimal and in most regards are technical drafting changes. The most significant change in the legislation is that it now establishes specific statutory requirements for operator service providers and "aggregators," hotels and other intuitions who make telephones available to the public, rather than initiating an FCC rulemaking procedure to impose the same requirements as H.R. 971. In addition, to ensure that the FCC has the full administrative authority embodied in the Communications Act, the legislation is redrafted as an amendment to title II of the Communications Act of 1934.

There has been a litany of consumer complaints about overcharges and unacceptable business practices in the operator services industry. This bill will ensure that consumers are protected from the unfair prices and practices of the fast-buck artists without jeopardizing the legitimate business interests of many in this infant industry.

Since the breakup of AT&T, new and unregulated companies, have entered the marketplace to provide service. In many cases, the new providers have charged their customers substantially higher prices—sometimes as much as 400 percent more than AT&T.

Alternative operator services, or [AOS] providers, are new companies that lease telephone lines from major carriers, such as AT&T and MCI, and then utilize those lines to sell "Dial O" services to businesses and institutions such as airports, hospitals, and universities. This legislation is a comprehensive package which addresses the abuses that have occurred in some segments of the operator services industry.

This legislation will ensure that those who use public telephones have unblocked access to the long-distance carrier of their choice and adequate information for making informed decisions regarding those carriers. In addition to unblocking access and providing adequate information, the compromise contained in H.R. 971 addresses and combats the excessive rates charged by some less-scrupulous operator service providers.

Under the legislation, the FCC must review the rates filed by each operator service provider and if they appear unjust or unreasonable, require that the operator service provider either justify its rates or announce the availability of its rates to the consumer at the beginning of each call. In addition, if the FCC finds after a full proceeding, that an operator service provider's rates are unjust and unreasonable, it must then regulate the operator service companies' rates including imposing limits on the compensation paid by operator service companies to hotels and pay phones.

This legislation provides the FCC with the full administrative authority necessary to correct the unprincipled elements in the operator services industry. Ultimately, it will create lower prices in a truly competitive marketplace.

Mr. Speaker, this bill is the result of a bipartisan effort on the part of committee members to ensure that we move forward to prevent these unfair and unresolved abuses in the industry. The gentleman from New Jersey [Mr. Rinaldo], the ranking minority member of our subcommittee has made it possible for us to construct a bill that will adequately resolve this issue, one which has become increasingly onerous to consumers.

I would like to commend the gentleman from Tennessee [Mr. Cooper] for his leadership in introducing this legislation and for bringing national attention to this issue. I would also like to applaud the constructive efforts of the gentlemen from Texas, Mr. Bryant and Mr. Fields and other subcommittee colleagues who have worked diligently in drafting this legislation.

Mr. RINALDO. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. Markey]. I strongly support the legislation.

Mr. Speaker, I yield to the gentleman from Tennessee [Mr. Cooper].

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Mr. COOPER. I would just like to thank the chairman of the subcommittee, the gentleman from Massachusetts [Mr. Markey], and the ranking member, the gentleman from New Jersey [Mr. Rinaldo], for their outstanding leadership and hard work on this measure. I feel that as a result of this legislation we will be able to protect countless consumers across this country who have been upset and frustrated with the way the public pay telephones and telephones in hotel rooms have been sometimes taken over by unscrupulous alternative operator service operators.

So I thank the gentleman for their hard work.

Mr. RINALDO. I thank the gentleman for his contribution.

Further reserving the right to object, I yield to the gentleman from Massachusetts [Mr. Markey].

Mr. MARKEY. I thank the gentleman for yielding. I would just like to say that this is the bill of the gentleman from Tennessee [Mr. Cooper]. He initiated it. He was the driving force, and he deserves the compliments that attach to passage of a successful piece of legislation, as this is.

Mr. RINALDO. Further reserving the right to object, Mr. Speaker, I just want to acknowledge what the gentleman is saying. All of us worked hard, the gentleman from Massachusetts, the gentleman from Tennessee, and myself. I feel that it is a good piece of legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. Brown of California). Is there objection to the initial request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

COMPREHENSIVE CRIME CONTROL ACT OF 1990

The SPEAKER pro tempore. Pursuant to House Resolution 490 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5269.

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IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5269) to control crime, with Mr. Bosco in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. Brooks] will be recognized for 1 hour and 20 minutes; the gentleman from Florida [Mr. McCollum] will be recognized for 1 hour and 20 minutes; the gentleman from Illinois [Mr. Rostenkowski] will be recognized for 10 minutes; and the gentleman from Texas [Mr. Archer] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. Brooks].

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I consider bringing H.R. 5269, the Comprehensive Crime Control Act of 1990 to the floor of the House today to be one of the most important acts of my first Congress as chairman of the Committee on the Judiciary. A prime responsibility of government is to ensure that the people can live in peace and safety. The damage inflicted by criminals, whether it be physical, emotional or monetary, exacts a heavy toll on our society. Ultimately, each of us is a victim of such activity, and it diminishes the quality of our civilization.

To meet the challenge posed by both violent and white collar crime, the subcommittees of the Committee on the Judiciary have undertaken a vigorous and comprehensive program of investigation and legislation over the past 2 years. The spearhead of this effort has been the Subcommittee on Crime, chaired by my good friend and colleague, the gentleman from New Jersey [Mr. Hughes].

Other aspects of this multifaceted problem have been handled by the Subcommittee on Courts, chaired by the gentleman from Wisconsin [Mr. Kastenmeier]; the Subcommittee on Civil and Constitutional Rights, chaired by the gentleman from California [Mr. Edwards]; the Subcommittee on Criminal Justice, chaired by the gentleman from New York [Mr. Schumer]; and the Subcommittee on Immigration, Refugees, and International Law, chaired by the gentleman from Connecticut [Mr. Morrison].

In addition, the Subcommittee on Economic and Commercial Law, which I chair, looked into several aspects of the crime problem dealing with our bankruptcy laws.

The product of this effort is H.R. 5269, the bill which is before us today. Its 22 titles deal comprehensively with matters ranging from reimposition of the Federal death penalty to child abuse to financial institutions law enforcement. It is a landmark piece of legislation.

Some of the major features of H.R. 5269 include the following:

On the death penalty—the bill adopts new procedures that will allow Federal courts to impose the death penalty for the first time since the Supreme Court struck down all death penalty laws in 1972. The bill also provides for imposition of the death penalty for crimes including assassination of the President, intentional killing of a Federal Judge or law enforcement officer, and other crimes in which the Federal Government has a clear and particular interest. Several amendments to be considered today will allow Members to vote to expand the crimes for which the death penalty may be imposed in the Federal criminal justice system.

On habeas corpus—the bill reforms the process by which habeas corpus petitions come before Federal courts, setting time limits for death row prisoners to bring habeas petitions, tightening the rules regarding second or successive petitions, and specifying the law to be applied in these cases. An amendment will be offered to tighten these procedures further, in order to meet many of the concerns that have been expressed by law enforcement officials and prosecutors.

On savings and loans—the bill enhances the enforcement powers of the Department of Justice and Federal financial institutions regulatory agencies to crack down on criminal activities affecting federally insured financial institutions.

On drug abuse—the bill toughens the sentencing process for methamphetamine offenses, cracks down on illegal anabolic steroid use, tightens Federal drug paraphernalia laws, and expands the list of chemicals that are used in manufacturing illicit drugs.

Mr. Chairman, H.R. 5269 is a well-crafted and comprehensive effort to combat crime—from the streets of our cities where violent crime threatens our tranquility to the boardrooms of savings and loans where white collar criminals steal with ledger sheets and calculators. Numerous other amendments have been made in order by the rule. While I, personally, may not agree with the content of all of them, debating them will enable the House to work its will in a free and open manner and produce a bill that reflects the collective judgment of this body. I urge the Members' support for this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we do have a very serious work product today before us, a crime bill that the public has been waiting for some time for us to get to the floor and to be able to amend and hopefully get with the Senate in a few days and get to the President before the end of this term.

Crime in the streets is the No. 1 issue in most people's minds consistently. From day to day on the screen of world affairs there is something else that supersedes it, but day in and day out for the last several years crime and drug have been at the heart of the problems that most Americans in their daily lives are most concerned about. It is a very, very serious problem for us in large measure, in my judgment, because we do not have the proper deterrence in the laws that we have on the books today. And it is not that the laws themselves are all bad, it is that we are not carrying those laws out. There is not a certainty and swiftness of punishment that sends a message out to society and would-be criminals that if they do certain things then their conduct is going to result in some very undesirable results as far as punishment is concerned.

There have been academicians over the last few years who have written a great deal about deterrence, how deterrence is not occurring in the criminal justice process in this country and won't work, and I do not agree with that. I think that is a very bad mistake. I think deterrence for our criminal laws are a very, very important part, in fact the primary reason why we have most of these laws on the books today. We do not want to people to commit crimes. We want to discourage that. We want to stop that, and we want to get the criminals off the street when they do commit crimes.

But deterrence is more important than simply taking criminals off the streets, because they have already committed the crime, maybe several crimes, before they are taken off the streets today.

We have a lot of work to do on both taking criminals off the streets and deterring crime in this bill. I would commend to my colleagues several of the amendments that will be out here on the floor in the next few hours and in the next couple of days. It is not that the bill that is coming out itself is inherently a bad bill. There are features with which I agree. The drug provisions in particular I think reflect a good deal of bipartisan work that will result in an improvement of the law structure for our law enforcement officials.

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But in the drug area, we have for the most part done yeoman work here in the past in putting laws into place in the last two Congresses which we need to see carried out and implemented including user accountability and provisions that will allow for those who are using drugs to go through rehabilitation and hopefully our schoolkids to be educated against drug use.

One of the things that is in this bill that I very strongly support and want to comment on before I mention the amendments, is the provision in the bill that the gentleman from New Jersey and I have worked out to reinforce the user-accountability laws in this country so that when somebody is convicted of a simple possession of narcotics, they will automatically lose their Federal benefits in many areas. I think that is a deterrent. It is an important deterrent. It goes to the drug area in specific, and it is not something that ought to be very controversial.

A couple of years ago we passed a user-accountability law on the floor in a big drug bill. Unfortunately when it got out of conference with the other body, we wound up with provisions that allowed judges to make the decision on a case-by-case basis. There is some question as to whether delegation of powers to State court judges is constitutional even, and we do not have at the present time a very effective system of getting the user-accountability laws into effect dealing with simple possession and use of narcotics. The provisions in this bill will result in automatic loss of Federal benefit upon conviction of a narcotics possession crime. So that is what I want to particularly mention and highlight that is in the bill that I very warmly embrace, and I think is a good example of the fine bipartisan work product that our Subcommittee on Crime has had and the full Judiciary has in working up a good deal of this bill.

I am not going to itemize all the good features in the bill. I think the Members themselves can recognize most of these and will recognize them, and I am sure others in general debate will be able to point them out.

I would like to highlight briefly five or six key amendments that will be offered that I think Members should watch for, look for, that I think are absolutely essential to making this bill the tough kind of crime bill that the American public deserves and is needed to put that deterrent into general criminal laws and to put certainty and swiftness of punishment back there for those who go out and commit these crimes, some of them very heinous crimes.

First and foremost, while the bill has some provisions that move in this direction, there will be an amendment by the gentleman from Pennsylvania [Mr. GEKAS] that I think is essential to restoring the procedures for the death penalty for Federal crimes that are currently on the books. We have a number of those crimes where the death penalty could be imposed theoretically, but in 1973 the U.S. Supreme Court struck down all of the procedures in the United States including the Federal ones on the death penalty and said you have got to go back and put in place certain procedures that have to be followed before the death penalty may be imposed.

It has been nearly 20 years, and we have failed to address the restoration of procedures of the death penalty at the Federal level. We now have that opportunity.

The debate will be over two things. One is the nature of those procedures, getting to the point where we have the right combination so the death penalty can truly be carried out, and the other will be over whether we should remove from the books any of the presently existing provisions that provide for the death penalty for certain Federal crimes.

I would submit to my colleagues that now is not the time to be messing around with our criminal laws to remove from the books crimes that we think maybe should not have the dealth penalty. I have reviewed those, and I would submit to the Members that every single one of the crimes that are on the books today that have the death penalty attached to them at the Federal level ought to remain there. Members should look long and hard before they allow anything to pass this body that omits a single one of those crimes that now is punishable with the death penalty.

The amendment to be offered by the gentleman from Pennsylvania [Mr. GEKAS] would assure that would be the case, plus he would assure there would be only one aggravating factor required. We would not have too much of a complex procedure out here involved in the process of awarding the death penalty, and we could again, once again, finally after nearly 20 years, get the death penalty back on the Federal lawbooks for crimes ranging from the assassination of the President to the killing of a Federal prison guard to a number of other things that will be debated here over time when the amendments are here.

A second amendment is one that I will be offering that the President has supported for some time that I introduced in the last Congress, and that is to provide the death penalty for drug kingpins who traffic in very large quantities of narcotics. We are talking now about twice the amount of narcotics necessary for life imprisonment today under Federal law. If you have that much narcotics you are trafficking in, it seems to me we should be giving the death penalty to those who perform that kind of crime. We are talking now about somebody who is trafficking in so much narcotics that it is logical to assume that several people are dying from every transaction of this large nature.

In addition to that, our society needs to have the ultimate penalty there to discourage and to deter these very large drug-kingpin dealers from going ahead with these kinds of transactions. I submit to the Members this is an essential amendment to make sure that the laws are acting as the deterrent that they are supposed to be in the area of drug trafficking.

The amendment that I will offer also provides for the death penalty for drug kingpins where there is a reckless disregard during the course of a drug transaction of the life of another person and somebody dies, even if the person who is committing the crime does not intend for somebody to die. If you are reckless about it, you are spraying the whole area with a machinegun or something, it seems to me that there ought to be a death penalty available in that case, in drug trafficking at the Federal level.

The third and perhaps most significant of all the amendments I am going to mention today that will be offered out here will be an amendment to be offered by the gentleman from Illinois [Mr. HYDE] dealing with the question of habeas corpus, dealing with the Powell Commission report, that law enforcement agencies, States' attorneys and district attorneys around this country have been clamoring to be enacted into law.

We have a provision in the bill now that there will be an effort by the gentleman from New Jersey [Mr. HUGHES] and the gentleman from South Carolina [Mr. DERRICK] to offer to modify that. I am sure it will be an improvement over what is in the bill presently, but the type of procedures that are desired to reform the habeas corpus area that the law enforcement community of this country says is the only way it will work and the only way we can do this and not effectively eliminate the death penalty in this country is to go with the Hyde amendment which embraces the terms of the Powell, former Justice of the U.S. Supreme Court, Powell Committee report.

What is important about this is that we are talking about the opportunity for those on death row to appeal and appeal and appeal their conviction and their sentence to death, not only through the normal process through their State supreme court to the U.S. Supreme Court, but then to go back into Federal district court with appeal after appeal after appeal on all kinds of different grounds trying to delay carrying out of their sentences. We have seen that again and again in this country where people sit on death row for years, and we did not have the carrying out of the sentences. We certainly do not have the swiftness and certainty of punishment necessary for deterrence in our criminal laws where the death penalty is concerned where that condition exists.

The Hyde amendment is critical to making sure we can end that process, put some time limits on it that are responsible and not go overboard which the other proposals do, in my judgment and that of most law enforcement officials, in giving them actually more procedures that will cause more delays than we even have today.

I urge my colleagues to really listen to that debate when it comes down.

The fourth amendment, I think, is crucial in this legislation which deals with the what we call exclusionary rule. The gentleman from New Hampshire [Mr. DOUGLAS] will be offering that amendment to modify the procedures that currently are out there on evidence that is admitted into court in cases where there has been searches and seizures, and a court determines that there has been a constitutional defect by the police officer in the search, especially in this case specifically a warrantless search.

The rules of evidence today allow for good-faith exception for the police officer who does not intend to commit any kind of constitutional infringement if he has gone and gotten a search warrant first. Most of our drug offenses occur when somebody has been apprehended in an automobile, for an example, and he is carrying drugs, there is no search warrant, and he has been stopped. There is a search and there is a seizure, and we are missing a lot of convictions. We are letting a lot of these criminals back out on the streets again, because the laws and rules of evidence are not tailored the right way. They are out to punish the police, and instead they are punishing the public.

I urge my colleagues to adopt this amendment, a very important amendment, to this bill that the gentleman from New Hampshire [Mr. DOUGLAS] will be offering to modify the so-called exclusionary rule to allow more evidence in and to get more convictions.

Then there is an amendment to be offered by the gentleman from Wisconsin [Mr. SENSENBRENNER] dealing with the racial question in capital punishment. Race or anything else of that nature has no place in determining capital punishment or determining sentences of this nature.

The gentleman from Wisconsin [Mr. SENSENBRENNER] is going to offer an amendment that says that it has no place, and I urge my colleagues to look at that, because law enforcement and those involved in prosecution around the country say that the provisions, however well meaning, that are in the bill presently would be an effective elimination of the death penalty in most States today because of the process and the appeals and the extraneous things that will be put in, the hoops that have to be gone through in a process that is not appropriate, in my judgment, and I think in most, to the capital punishment area.

Last but not least, the amendment that I want to call to the Members' attention, the sixth amendment on this list, is an amendment to be offered by the gentleman who is the ranking Republican on the Committee on Banking, Finance and Urban Affairs, the gentleman from Ohio [Mr. WYLIE], that will give us the tools to the FDIC, the insurance group over there, dealing with the savings-and-loan crisis, to go into States and break through their homestead laws and break through laws in bankruptcy and let the Federal Government get at the big huge mansions that people have bought with their ill-gotten gains in these bad fraud cases involving savings and loans.

☐ 1400

There is no sense in allowing these big guys who come through and made the really bad deals in extremely bad cases out there of savings and loan frauds, to be able to get their wealth that they have accumulated from the depositors', ripping off the folks who have put their money in these institutions. There is no way we should allow them to get away with taking that money and hiding it in a mansion somewhere in Florida or Texas or anywhere else that we cannot get at.

The exception to the homestead laws is very narrowly defined by the gentleman from Ohio, Mr. WYLIE's amendment, and I encourage a vote in favor of this provision to give our law enforcement and insurance folks in the savings and loan area the opportunity to get at those assets of the really bad guys in the fraud area.

There is a lot more to the bill. It is not my intent to talk on every issue that can come up here today. There are several key amendments that I have not mentioned that others would think were very key, but I would and have wanted to call attention to the Members, these particular ones because I think they are the part of what is necessary to be adopted as part of this bill if we really are going to bring a deterrent back in our criminal laws, and once again put swiftness and certainty in punishment, which deserves to be implemented in the way the American public wants them justly to operate.

Mr. BROOKS. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Chairman, title XIII—the Hughes-Kastenmeier provision on habeas corpus—will speed up Federal review of death sentences and bring rationality to the death sentencing process. It ensures that the death penalty will be focused on the most heinous offenses. It also recognizes that the surest way to speed up Federal habeas review of death sentences is to appoint competent counsel at trial. Only title XIII does this.

Attorney General Thornburgh says that enforcement of the Bill of Rights through habeas corpus review will end the death penalty and promote crime. Regrettably, like Ed Meese before him, the Attorney General argues that the Bill of Rights is procriminal. Nothing could be more wrong. The Bill of Rights is part of the Constitution. It is the highest law of the land. It is irresponsible for the Nation's highest law enforcement officer, who is charged with the responsibility for enforcing all the Nation's laws—including the Bill of Rights—to seek political advantage by attacking those rights.

I believe that the facts surrounding the debate over the crime bill in the House during the last few weeks have been distorted, and I intend to clear the air. A solid majority of the American public rejects the notion that enforcement of the Bill of Rights is inconsistent with and frustrates law enforcement, and rejects the idea that the war on crime means a war on the Constitution.

Title XIII will preserve Federal habeas corpus in this country. It will dramatically shorten and speed up the review process, and not frustrate legitimate law enforcement one whit.

Current and former Federal and State prosecutors from around the country are strongly in support of title XIII. Many former prosecutors have written that:

> The strong, clear message of the Hughes-Kastenmeier measure is that the death penalty will be enforced with swiftness and fairness, and that the days of endless litigation and delays over the dotting of I's and the crossing of T's are over.

Nebraska Attorney General Robert Spire has written that:

> You may be told by others, including some of my fellow Attorneys General, that [Kastenmeier-Hughes is] simply [a] backhanded effort to implicitly repeal the death penalty. I disagree strongly. Whether or not the death penalty should be imposed for State crimes is a matter the States are and should be free to decide. However, if the death penalty is imposed, it should only be carried out in a fair, consistent, racially neutral manner. I think the Hughes-Kastenmeier provisions accomplish that fundamental goal.

Former Deputy Attorney General and Federal judge Harold Tyler has written:

> I definitely prefer Hughes-Kastenmeier's bill because of the historical importance in this country of the free ability to appeal to our Federal courts for habeas corpus relief. Moreover, the Hughes-Kastenmeier bill takes care of a number of problems which has been raised by the Judicial Conference and other commentators in recent years.

Prosecutors have claimed that title XIII's statute of limitations extends the time for filing a petition by 1 year. Do not be misled. Title XIII does not extend the time for filing by 1 year any more than the Hyde amendment's statute or limitations extends it 6 months. Both limit current law, which has no statute of limitations.

Title XIII's statute of limitations, however, is the one recommended by the American Bar Association and experienced practitioners. It is also the one contained in the President's crime bill.

Do not be misled that title XIII permits unlimited multiple petitions. It limits them, as does the Hyde amendment. The basic difference is that title XIII, based on the recommendation of the U.S. Judicial Conference and the ABA, will not permit people to be executed on the basis of deliberately perjured testimony of the sentencing hearing. The Hyde amendment does. This is wrong.

Do not be misled that title XIII decreases the finality of State court judgments. It simply says that death sentences must not be implemented based on outdated and unconstitutional procedures. Yet this is what the Hyde amendment does. This is unconscionable.

Do not be misled that title XIII permits defendants to raise claims in habeas corpus that they have deliberately not raised at trial. It only says that people should not be executed because their lawyers made mistakes or were ignorant. Surely this country has not sunk to the level where we will execute people because their lawyers in good faith made a mistake. The Hyde amendment says he have sunk to this level, but I say that we have not.

And do not be misled. Those lawyers will make mistakes because, as Publitizer prize winning columnist Anthony Lewis wrote last Monday morning:

> The level of legal representation in capital cases is shockingly low in this country. [Title XIII] would limit the right of State prisoners to bring Federal habeas corpus cases. But it also gets at the underlying reason for the problem [of delay]: Capital trials flawed by inadequate defense:

The Hyde amendment imposes strict limits on the filing of habeas corpus petitions, but fails completely to do what is essential to ensure that those limits are complied with: Provide competent counsel at trial and on appeal.

Only title XIII requires all States to provide competent counsel at trial. Prosecutors have attacked this provision as unnecessary and burdensome. To the contrary, no matter what one's view of the death penalty, competent counsel is essential to eliminating wasteful appeals, retrials, and resentencings. Providing competent counsel at trial ensures that the Bill of Rights is enforced and the death penalty is fairly applied.

Distinguished Federal judges, heading most of the Federal circuits, believe that:

> Title XIII is a carefully crafted, hard-minded, balanced piece of legislation that will bring order, finality, and fairness to the criminal justice system.

The American Bar Association, after extensive hearings where prosecutors, judges, and defense lawyers testified, concluded that, "we strongly believe that the Kastenmeier-Hughes provisions will promote both fundamental fairness and finality."

Demagoguery should have no place in the debate over this Nation's crime problem, and only serves to cheapen the values embodied in the Bill of Rights. The interests of justice are not served by suggesting that distinguished Federal and State judges, the American Bar Association, and respected civil rights leaders are champions of the criminal lobby for supporting habeas reform.

The level of the debate brings shame on this body. We debate here peoples' lives. Time and time again, we have seen Federal habeas corpus resue innocent people from unjust executions. Do not be misled. Title XIII will not abolish the death penalty any more than the Hyde amendment will. Those who are guilty—those who deserve the death penalty—will be executed under title XIII just as surely as under the Hyde amendment.

But the Hyde amendment will allow innocent people to die. I do not believe that the American people seek vengeance at all costs. I do not believe that the American people are bloodthirsty. I do not believe that they are misled by demagoguery. We can do better. Vote for title XIII.

Mr. McCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. Smith].

Mr. SMITH of Texas. Mr. Chairman, it is ironic, but if the direct funding provision in the crime bill is passed, drug traffickers and other criminals will be able to operate with less fear because there will be fewer cops to catch them.

The direct funding provision will take Federal funding away from over 1,000 drug interdiction task forces nationwide. Eliminating these task forces means pulling our people off the front lines of the drug war—taking law enforcement away from rural trafficking centers, manufacturing labs, and border crossings.

The reason for this very debate on the floor is unfounded. The Conference of Mayors claim in their report that cities nationwide receive little or no Federal funding. This is simply not true. Let's use the State of Texas for an example, The Conference of Mayors report stated that the State of Texas has passed through zero funds to any localities for 1990. In truth, Bill Clements, the Governor of Texas passed through $21.9 million out of a total of $23.9 million in Federal funds by April 30, 1990. The six major cities in Texas received 37 percent of the Federal money, not zero.

The issue is control. Should a few of the largest cities receive funding directly from the Federal Government or do we continue a coordinated effort that involves both local and State governments?

There is one problem—drugs. Reason warns that one war should be fought with one coordinated effort. The criminals will love us, if we divide up into isolated groups and try to counter their organized, multijurisdictional trafficking efforts. Drugs and the criminals who traffick them have no boundary lines. Neither should we.

In 1986 and 1988, Congress voted for a coordinated approach to stop drug related crime. Congress was right. Before the State Block Grant Program there were only 800,000 drug related arrests nationwide. After the coordinated State Block Grant Program was implemented, arrests went up 50 percent, to 1.3 million.

The drug problem is bigger than urban dealers. Inner city crime would be prevented if we cut off the drug supply. We need multijurisdictional task forces to halt the influx of drugs at our borders. We need to shut down clandestine labs, located in isolated rural areas. We need to stop the supply of drugs before it ever reaches our inner cities.

Let us not pull our people off the front lines.

Cooperation stops crime.

Mr. BROOKS. Mr. Chairman, I yield 5 minutes to the distinguished chairman of the subcommittee, the gentleman from California [Mr. Edwards].

□ 1410

Mr. EDWARDS of California. Mr. Chairman, an amendment will be offered to strike the Radical Justice Act, title XVIII of the bill. This effort to strike should be strongly resisted. The Racial Justice Act should stay in the bill. It is a civil rights measure. Let me tell you why.

The Racial Justice Act addresses the shocking racial disparity that exists in the application of the death sentence in some areas of this Nation. In some jurisdictions, there is clear evidence that the death penalty is imposed on blacks far out of proportion to their numbers among murder defendants. For example, in one judicial district in Georgia, the prosecutor has sought the death penalty in 28 cases; 22 of them involved black defendants.

The General Accounting Office examined the evidence in 28 studies and found the evidence reliable. The GAO concluded that a person who kills a white is far more likely—in one jurisdiction 4.3 times more likely—to receive the death sentence than a person who kills a black.

This type of racial bias is a blot on our criminal justice system. It is intolerable that someone should be executed based on racial considerations. Whatever one's views on the death penalty, one should support the elimination of racial bias from the death sentencing process.

The problem is how to prove that race is a factor. None of the prosecutors or jurors in these cases would admit that they were influenced by race. They may not even be aware of it themselves. The Racial Justice Act creates a mechanism to identify hidden racial bias. It allows the use of statistical evidence to raise an inference of racial bias.

The courts already use statistics in the criminal justice area. For example, a black defendant can raise an inference of bias in the selection of the grand jury that indicated him by using statistical evidence showing the exclusion of blacks from the jury pool.

When the Supreme Court ruled in 1987 that statistical evidence could not be used in the capital punishment area, it was a radical departure from precedent. The purpose of the Racial Justice Act is to overturn the Supreme Court's 1987 decision and allow the use of statistical evidence in death cases, just as it is used in other cases.

Let me correct a few misconceptions about the Act. This Act will not abolish the death penalty. It will not even cover all types of cases. For example, in Georgia, the evidence shows that there is no racial discrimination in the imposition of the death sentence to the most highly aggravated cases. It turns out that the death penalty is consistently applied in those cases, without regard to race. The execution of death sentences in those cases will not be affected by this Act.

Under the amendment to be offered by Mr. Hughes, it is clear that the Act does not create a presumption of racial bias. The Act does not mandate the acceptance of any particular study or analysis. Under an amendment offered by Mr. Fish and incorporated in the Hughes amendment, it is clear that it will not be enough to show a gross racial disparity. A defendant's evidence must take into account relevant nonracial considerations, such as the brutality of the offenses and the prior records of the defendants, and must compare similar cases.

It is also clear that the Act will not impose an unrealistic or impossible burden of proof on the States. The Hughes amendment lowers the States' burden of proof from "clear and convincing" to a mere "preponderance of the evidence."

Moreover, under the Hughes amendment, the burden does not shift to the State until after the defendant has made a statistical showing that takes into account the relevant nonracial factors and the court has concluded that the evidence is accurate and valid and supports an inference of race discrimination. Before the burden shifts, the State has a full opportunity to dispute that any racial pattern exists.

And the Hughes amendment does not limit the grounds on which the State can rebut the inference of discrimination.

Another misconception is that the Act will invalidate death sentences when there is any statistical disparity in death sentences. This is clearly not true, since the Act itself requires a significant disparity.

Finally, it should be clear that this is not a quotas bill. Every time we bring to the floor a measure dealing with race, someone claims that it is a quotas bill. But adopting a quota system would not bring a State into compliance with the Act. Quotas would violate the Act. The Act requires the comparison of similar cases. This means that an overall racial balance in death sentencing is irrelevant. What matters is similar treatment of similar cases. Similar treatment of similar cases does not produce quotas.

I want to quote from a letter written by the attorney general of Nebraska, a State with the death penalty. The highest law enforcement officer of that State writes:

> The Racial Justice Act establishes an evidentiary mechanism for addressing racial bias claims in the capital sentencing context which I believe to be both fair and appropriate. I add my whole hearted support and endorsement for this legislation.

The Nebraska attorney general goes onto say:

> You may be told by some of my fellow Attorneys General that this provision is simply a backhanded effort to repeal the death penalty. I strongly disagree. If the death penalty is imposed, it should only be carried out in a fair, consistent, racially neutral manner. I think the Racial Justice Act accomplishes that fundamental goal.

These words were written by a State attorney general responsible for defending his State's death penalty law.

Mr. Chairman, the Supreme Court has long recognized that death as a punishment is different from all other penalties. It deserves unique attention to fairness and due process. Supporters of the death penalty should be among the first to support the Racial Justice Act, for they should want to ensure that race plays no role in the imposition of the death sentence on any person.

I urge support for the Hughes amendment and a "no" vote on the motion to strike by Mr. Sensenbrenner.

Mr. BROOKS. Mr. Chairman, I yield 13 minutes to the distinguished gentleman from New Jersey [Mr. Hughes], the chairman of the Subcommittee on Crime.

Mr. HUGHES. Mr. Chairman, I thank the distinguished chairman of the full Judiciary Committee, the gentleman from Texas [Mr. Brooks] for yielding me this time and for leadership of the full Judiciary Committee.

I want to congratulate my colleagues, the gentleman from California [Mr. Edwards] for his work over the years in protecting the civil and constitutional rights of the citizens of this country, and my colleague, the gentleman from Wisconsin [Mr. Kastenmeier] for his work on the Courts Subcommittee. I also want to thank my colleague, the gentleman from Florida, who is the ranking Republican on the Subcommittee on Crime for his work on this particular crime bill and a number of crime bills in the previous session which were developed in the Subcommittee on Crime and which resulterd in the enactment of provision such as money laundering, forfeiture, State Justice assistance programs, legislation directed at child pornography, and a whole host of other issues.

I am pleased to speak today in support of H.R. 5269, the Comprehensive Crime Control Act of 1990. This bill is the culmination of the hard work and commitment on the part of the entire Committee on the Judiciary. It is a comprehensive bill which deserves your support.

The first 11 titles are the product of this year's efforts by the Subcommittee on Crime. I am very proud of the contribution these titles represent as they touch on the spectrum of criminal issues which are of the utmost importance to our society. In deference to our time constraints, I will highlight just some of these areas.

To better understand the death penalty provisions we are voting on today, a quick review of recent history may be in order.

In the 1972 case of Furman versus Georgia, the United States Supreme Court effectively invalidated all existing death penalty laws-both State and Federal—in the United States.

Furman, of course, did not end the death penalty in the United States. It did require the States and the Federal Goverment to reformulate and narrow their death penalty laws if they wished to resume its application.

Most States have done so. The Federal Government has not.

This bill, H.R. 5269, is the first opportunity since that nullification that the House will have to adopt a comprehensive Federal death penalty. We did adopt a death penalty in the Drug Abuse Act of 1988, which was limited to drug related killings.

H.R. 5269 as reported extends the death penalty to some 12 separate Federal offenses, including treason, espionage, attempted assassination of the President, as well as numerous homicide offenses.

In an amendment I will offer today, I propose to extend the death penalty still further. All the offenses for which the death penalty was available before their invalidation in 1972 would be restored.

Obviously, these are very real and very substantial expansions of the Federal death penalty beyond the current coverage which is limited to drug related intentional killings.

I support the death penalty for the most egregious of offenses. As a State prosecutor, I successfully sought the death penalty.

Sadly, despite this reality, some of my Republican colleagues want to play political football with this critical issue. Their Members' dissenting views to the committee report labels this substantial death penalty little more than a phrase. The Justice Department calls it regressive, despite its substantial expansion of death eligible offenses.

The vast majority of Americans support the death penalty. These Republicans are wrong, however, in their belief that the American public will award the moral high ground to whoever claims to be the most blood thirsty. Americans want a death penalty that is actually used for those offenses which are so horrible that no other response is adequate. They will not be fooled by one that merely shouts of its toughness on crime because it is so extreme, but can rarely if ever be applied because it is tied up by endless legal challenges.

Although our proposal and that of Mr. GEKAS cover essentially the same offenses, this does not mean that there are not substantial differences between our two versions. There are.

In most cases, our proposal authorizes the death penalty only if an intentional killing is involved—attempted assassination of the President/Vice President and treason/espionage are the exceptions. In this respect, our proposal is similar to the Gekas death penalty for intentional drug-related killings, enacted in 1988. However, Mr. GEKAS is now offering a Republican substitute that calls for the death penalty based on reckless conduct by a defendant who did not have an intent to kill.

In testimony on earlier death penalty proposals, the Regan Justice Department expressed doubts whether such a proposal would be held constitutional. I share this concern.

In this regard, I believe that there is little if any deterrent effect of a death penalty for reckless conduct where there is no intent to kill. Furthermore, while retribution—just deserts—is a legitimate grounds for imposing the death penalty, the death penalty in these circumstances is excessive retribution for persons who did not intend to kill.

There are also sound practical reasons not to push the death penalty to the outer constitutional limits, if not beyond. Constitutional scholars who testified before the Judiciary Committee were unanimous in cautioning against such a step.

Typical of this advice was that of Bruce Fein, a noted conservative constitutional scholar. Mr. Fein testified that the limited deterrent of the death penalty for reckless conduct, balanced against the litigation ad infinitum that would surely result, led him to conclude that the gain isn't worth the candle.

That's what conservative supporters of the death penalty said. Experts who have spent their professional careers fighting the death penalty testified that the Republican proposals has so many flaws that they look forward to the opportunity to challenge it in the courts.

My amendment would make five changes to the procedures utilized to determine if a defendant convicted of a death-eligible offense is actually sentenced to the death penalty. The first of these changes regards the number of aggrevating factors required to be found in order for the defendant to qualify for the death sentence. In its present form, the bill requires that the jury find two aggravating factors; my amendment would reduce that number to one. This change will help ensure that the death penalty is imposed on those defendants who deserve to receive it.

My amendment will also heighten the standard employed by the jury when it decides whether any mitigating factors exist. At present, the bill allows the jury to find the existence of a mitigating factor based on any evidence at all. My amendment would permit the jury to find the existence of a mitigating factor only if the factor is supported by a preponderance of the evidence.

Third, my amendment would make a change in the effect of an aggravating factor being overturned on appellate review. At present, the reviewing court must vacate the death sentence and remand the case for resentencing proceedings if for any reason the finding of an aggravating factor is reversed. My amendment would allow the sentence to stand if there is at least one remaining aggravating factor that substantially outweighs any mitigating factor or factors that were found to exist.

Fourth, it strikes language prohibiting the use of illegally seized evidence in the sentencing phase of the trial. And finally, the fifth change adds an additional aggravating factor for injury to the national security by killing the President.

I believe that with these modifications, the procedures contained in the bill are sound, workable, and fair. Moreover, because they are designed to survive constitutional challenge, they will help ensure that the death penalty will actually be imposed upon those defendants sentenced to death.

Our death penalty provisions will make it available in all circumstances in which it is justified and needed. By resisting the political temptation to extend it to other conduct for which it is not appropriate, we have assured that it will be upheld and applied. The same cannot be said for the Gekas substitute, which seems to have been prepared with the objective of maximizing the number and the intensity of court challenges, as well as to insure countless years of delay before the penalty is actually applied, if ever.

Several of the remaining titles make significant contributions in other areas including:

Bringing anabolic steroids within the purview of the Controlled Substances Act and establishing criminal penalties for coaches and other physical trainers and advisers who endeavor to persuade or induce young athletes to illegally possess or use anabolic steroids;

Improving the provisions dealing with asset forfeiture so as to prevent circumvention of State laws regarding the distribution of criminal assets seized by law enforcement officers;

Correcting current firearms provisions by adopting numerous provisions from the President's crime bill, including his provision banning the domestic assembly of the identical weapons which have been banned from importation. While this has become a somewhat controversial provision, it would be an important addition to our present firearms laws;

Expanding the list of regulated chemicals to include some 11 chemicals which have been found to be used most frequently in manufacturing ice and crank and creating an interagency council on the abuse of ice; and

Authorizing $30 million in matching grant funds for college scholarships for law enforcement officers.

Title 13 of the bill deals with reform of the Federal habeas corpus process, especially as it applies to defendants sentenced to death by State courts. The present title incorporates the Kastenmeier/Hughes substitute to the original bill, H.R. 4737, which was the result of a great deal of hard work by the chairman of the Subcommittee on Courts. This substitute represented a substantial toughening of the provision from the original and was made after careful consultation with State attorneys general, local district attorneys, and other prosecutors.

I will be offering an amendment in the nature of a substitute that represents an even further strengthening of the provisions and adopts many of the recommendations of the Powell Commission. It makes more than half a dozen additional and significant modifications supported by State attorneys general and local prosecutors.

My substitute is tough. It addresses the problems of prisoner abuse of habeas corpus while also maintaining the viability of the writ as a means of vindicating constitutional rights. My amendment adopts many of the Powell recommendations while improving on some of the weaknesses of those recommendations. It sets a time limit of 180 days, as recommended by the Powell Commission, for a defendant to file his habeas corpus petition, it requires States to establish authorities for the appointment of counsel but gives them great flexibility in choosing the nature of the authority and the qualifications of counsel. It severely restricts a prisoner's ability to bring successive petitions and substantially narrows the retroactive application of new rules of law. It prohibits defense counsel from sandbagging by intentionally failing to raise claims in State court so they can be raised in habeas petitions. And finally, it strikes language allowing relitigation of previously litigated claims—something very important to Mr. HYDE.

We have endeavored to bring before you a bill that reflects our best collective thinking. I believe we have been successful and I urge your support of H.R. 5269.

□ 1420

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to follow up on the comments made by Mr. HUGHES. I neglected to be as much a commentator as I should have been, to thank him for the work he has done specifically on this bill, and over the years he has been kind enough to mention that. We worked together on the Subcommittee on Crime for quite some time.

Many of the products that have been brought to the floor over the years are due to his leadership. I am very, very appreciative of the opportunity to work with him. Of course, this year Chairman BROOKS has done a marvelous job of steering this bill to the floor. We have our disagreements over substance, all of us, but the basic process has worked rather well up to this point.

I would like to point out a couple of things that are not in this bill that I wish were and not in the amendments that were approved by the Committee on Rules that I think should have been but were not.

Just to remind the folks and our colleagues that there are other things that could be done, and I think should be done.

One of them is an amendment that could have been offered here today to allow or to require, really, mandatory drug testing of those who leave our Federal prisons. It has turned out in the statistical data collected in the experimental program that we have ongoing now in a few of our Federal districts today that a very high percentage of those who are released from prison, from Federal prison at least, are found within a period of a year to have been on drugs and then brought back into the system because they are out on a conditional basis and they are required to undergo testing and treatment and otherwise are kept off the streets in that way.

I think that is a fundamentally important thing to do.

An amendment was before the Committee on Rules that would have allowed opportunity for the Members to vote to expand this program to require every single Federal prisoner who is released to have mandatory drug testing for up to a year.

I think even though that has not been addressed and will not be able to be addressed in this Congress because of the rules decision, that it is something that we need to do something about sooner rather than later because the longer that we allow this to go and fester, then the more difficulties we are going to encounter, it seems to me, with regard to repeat offenders. That is one of the great problems we have out there right now, as most people know, that most crimes, particularly the really tough crimes, are done by people who go out again and again and again and repeat crimes because we are not keeping them off the streets. That is particularly true of the drug crimes, or crimes related to drugs. Almost all crime today is in some way drug related. People commit the crime in order to get the money to go buy the drug, they steal this, they steal that or the other, and there is some basis for it in that regard.

A second amendment that I am concerned we do not have out here today that I wish we did deals with a number of firearms and explosives penalties. We have proposed amendments on our side of the aisle that would have expanded the predicate offense to the armed career criminal statute by including serious drug offenses committed by juveniles. Currently, crimes of violence by juveniles are included as predicates to the statutes.

We would have had a provision that would have made it more difficult for a convicted felon to have the right to possess a firearm restored.

We had a number of other areas that we are concerned about, such as the revocation of supervised release. It would have established a mandatory revocation of supervised release for anyone in possession of a firearm, if the court had imposed such a restriction.

We had a number of these things; for example, increased penalties for using an explosive while committing a violent drug-related crime. This proposal would have increased the penalty for a second conviction involving the use of an explosive during a violent or drug trafficking crime. It would have corresponded to certain laws now which provide 20-year sentences for using a firearm during a violent or felony crime.

We wanted to increase the penalties for false statements to licensees, would have raised the maximum penalty from 5 to 10 years in prison for making a knowingly false material statement to a licensee in connection with the acquisition of a firearm.

All of these types of amendments were proposed. One for possession of explosives by a felon, and others, that would fill a loophole in current law by prescribing the possession of explosives by convicted felons and other persons such as those who have been in mental hospitals.

□ 1430

Mr. Chairman, the current law makes it an offense for persons under certain disabilities, such as a convicted felon and a person who has been in a mental institutions, who ships or transports explosives in interstate commerce, or foreign commerce, or to receive an explosive, which has been transported or shipped in interstate or foreign commerce, but the Gun Control Act that we have passed a couple of years ago does not prescribe the simple possession of explosives by a convicted felon as another listed disability. There are occasions when it is harder to prove a receipt offense than a simple possession offense. For example, to prove a receipt offense, it is necessary for the purposes of establishing venue to show that the defendant received the explosives in the district in which he is charged with the offense. This may not be possible in certain situations, such as where search of the defendant's home reveals commercially manufactured explosives made in another State or district. The lack of a possession offense comparable to that for firearms would have allowed certain dangerous persons who have no business having access to explosives to escape punishment in situations where it is likely they intend to use the material for criminal purposes.

So, there are a number of amendments that were not allowed by the Committee on Rules which really we ought to have out here today that are for another day, hopefully, in another crime bill, but unfortunately we should have them out now. It would be great to have these enhanced penalties for firearms and explosives, but we simply do not have them.

Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. Solomon].

Mr. SOLOMON. Mr. Chairman, I thank the gentleman from Florida [Mr. McCollum] for the time which he has yielded to me. Let me commend the chairman and the subcommittee chairman, as well as the ranking Members on this side of the aisle, for the way they have now brought this bill to the floor.

Mr. Chairman, we agreed on the Republican side to let this bill come to the floor under this rule, even though all of the amendments were not allowed, because we felt passing an anticrime bill is so terribly important. I, for one, did not get the chance to offer all of my amendments; one of them is very, very important. It deals with the death penalty for murderers of correctional officers and State prison employees.

Mr. Chairman, we have a terrible situation in New York, as we do in many States across this Nation, where we have overcrowded prisons with people serving life sentences, people convicted of drug felonies, living in situations of double-bunking, and even triple-bunking. I was hopeful that we could include in the death penalty provisions of this bill a proposal of mine that would have made it a capital offense to murder employees and prison guards in State prisons, that receive Federal Fund, as well as in Federal prisons. Right now, where we have Federal programs that in turn fund State organizations, those state programs come under a Federal mandate.

For example, when State employees participate in a program which is federally funded, those State employees come under the restructions of the Hatch Act. My amendment would have applied the same principle to State prisons which receive Federal funds. A correctional officer or guard in such a State prison would have been protected just the same as correctional officers, and guards in Federal prisons are protected.

Mr. Chairman, I would just hope that, even though this amendment cannot be considered under the rule today, perhaps the Committee on the Judiciary and other appropriate committees could take this under consideration.

I have several other amendments, one of which is made in order. I will be discussing it during the amendment process. But I thank the gentleman from Florida [Mr. McCollum] for the time he yielded to me.

The CHAIRMAN. The gentleman from Illinois [Mr. Rostenkowski] is recognized for 10 minutes.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 5269, the Comprehensive Crime Control Act of 1990.

The Committee on Ways and Means, as one of the committees of original jurisdiction over H.R. 5269, approved several amendments that have been included in the bill before the House today. These amendments would advance the war on crime while improving the Federal tax system.

In particular, one provision would prohibit persons convicted of financial institution crimes from deducting court-ordered payments made to reimburse losses of the U.S. Government.

The bill would also temporarily extend two expiring provisions that: First, assist the Internal Revenue Service in funding its undercover operations against criminal activities; and Second, provide Federal law enforcement agencies with taxpayer information which would help them detect money laundering. However, as under current law, the bill would preserve the confidentiality of that taxpayer information filed with the Internal Revenue Service.

Finally, the bill, as amended by the Committee on Ways and Means, does not include one provision that was in H.R. 5269, as originally introduced. That provision would have allowed the U.S. Treasury Department, for the first time, to sell forfeited firearms to dealers, who could then sell them to the general public. The Committee on Ways and Means agreed to strike this provision based on the belief that the Federal Government should not get into the business of selling firearms that might wind up in the hands of criminals.

In conclusion, Mr. Chairman, the Committee on Ways and Means has carefully deliberated those provisions of the crime bill within its jurisdiction and has reported out a responsible package, which is now part of the crime bill under consideration today. I urge my colleagues to support it.

Mr. Chairman, I yield back the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. James].

Mr. JAMES. Mr. Chairman, crime in America is on the rise. All types of criminal activity, from violent felonies to securities fraud, are increasing in ever rising percentages. The damage that these crimes do to ordinary people is both real and shocking. Drugpushers deal in death, both in the violence on the streets and the violence that drugs do to the people themselves. All of us have been stunned by the brutal stabbings and rapings that have occurred in our cities, and massacres of innocent civilians by madmen with assault weapons are national tragedies. Less violent, but no less destructive to the fabrics of our society, are the crimes committed by white collar criminals that steal money from the pockets of the taxpayers of this country. The savings and loan crooks, the big wheelers and dealers who rob the taxpayers to line their own pockets, are just a destructive as any violent felon or drug dealer.

The solution is simple. We must get tough on criminals, tough on crime, and take these dangerous people out of society. After all, that is what we in Congress are here to do. We are suppose to protect the rights of the citizens of this country, and that means protecting them from criminal activity. It is for precisely that reason that we want to pass a strong crime bill, to protect the citizens.

Yet, a quick look at this bill tells us that it would do the exact opposite and protect criminals. At a time when we must untie the hands of the judicial system, so that it can function properly and work to get criminals off the streets, this bill moves to tie their hands even further. A perfect example is the current provisions in this bill regarding the death penalty. As an attorney that practiced law for some years before coming to the House, I can tell you that the death penalty can be an effective deterrent against particularly heinous crimes. Note that I said can be, because in order for it to work, it must cover capital crimes and others. The current bill makes so many exceptions to the rule, that it effectively makes the death penalty moot.

Even if these problems were corrected, criminals who are convicted under the death penalty currently abuse the judicial system by instigating endless appeals and twisting the rules to find a way to prevent the will of the people from being carried out. While the right to appeal must be preserved, endless appeals over various minutiae must be ended. The current procedures in this bill for the Federal death penalty take the opposite course, and make it even more difficult for the courts to use the death penalty the way that it was meant to be used.

Mr. Chairman, the American people have spoken out in even stronger voices against crime. Its time that we in Congress listened to those voices and pass a strong crime bill. I urge all of my colleagues to pay close attention, and to join me in passing a strong crime bill.

Mr. McCOLLUM. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana [Mr. Hiler].

☐ 1440

Mr. HILER. Mr. Chairman, I rise to express serious concerns over the crime package under consideration

today. The bill contains several important and needed provisions, such as additional funding to improve Justice Department investigations into thrift industry fraud, provisions to improve the investigation and prosecution of child abuse cases, disability benefits for public safety officers, and penalties to make drug users and dealers more accountable for their actions.

The bill has several good points, but as a package remains seriously flawed. While problems with H.R. 5269 are many, I would like to focus on a couple of areas where the bill has considerable room for improvement.

H.R. 5269 contains provisions which would alter current habeas corpus procedures. Unfortunately, instead of providing for meaningful habeas corpus reform, passage of H.R. 5269 could open a floodgate of habeas corpus litigation, allowing convicted murders—whose guilt is not in question—to raise repetitive technical challenges to their convictions and sentences. The bill would also overturn current retroactivity rules in both capital and noncapital cases, broadening the opportunities for prisoners to clog the legal system with new appeals. In effect, the bill as written could eliminate capital punishment in the United States altogether.

The amendment being offered by Congressman Henry Hyde offers a far better solution for habeas corpus reform, and I am encouraged that we are finally being permitted to vote on his amendment. Real reform is sorely needed, as retired Supreme Court Justice Lewis Powell reported that the average time between conviction and execution is over 8 years. As I'm certain you would agree Mr. Chairman, our judicial system simply cannot be effective should this be allowed to continue, and I strongly urge my colleagues to support the Hyde amendment.

The Federal Asset Forfeiture Program also suffers under H.R. 5269. Section 402 of the bill would prohibit local law enforcement authorities from sharing in the proceeds from seized assets in situations where State laws on such assets would somehow be circumvented. This concerns me, as Indiana law enforcement would be severely impacted should this provision become law. The asset forfeiture program has provided over $450 million to State and local police departments across the country, including well over $500,000 to the region which includes my district this year alone.

To further emphasize the importance of this program, a recent letter from the superintendent of the Indiana State Police indicated that moneys provided through asset forfeiture amounted to 59 percent of his total budget for the department's drug enforcement training program last year, greatly enhancing the quality of training provided to State police officers for antidrug operations. He added that prior to the asset sharing program, the Indiana State Police struggled to provide the training necessary for drug enforcement investigators.

Perhaps the biggest selling point for asset forfeiture is that it encourages cooperation between local and Federal law enforcement authorities, enhancing our abilities to fight the drug trade by putting ill-gotten gains to very good use. Should section 402 become law, the only ones cheering would be criminals. I strongly support the amendment being offered by Congressman Moorhead and Congressman Thomas to delete section 402 from the bill, and I urge my colleagues to do the same.

Finally, I will be strongly supporting the amendment offered by Congressman Wylie to authorize the FDIC and RTC to preempt State homestead exemptions in cases of fraud committed against an insured financial institution. The Wylie amendment is derived from H.R. 3982, the Taxpayer Recovery Act of 1990 that I authored with Mr. Wylie earlier this year and was adopted overwhelmingly in the House Banking Committee. I am disgusted with the lavish lifestyles of S&L crooks who have cost the taxpayers billions of dollars. The Wylie amendment is a modest step to ensure that these S&L crooks cannot take advantage of generous State laws to shelter assets from the taxpayer. The Wylie amendment is a very narrow preemption of State law that is designed to deal strictly with cases of fraud and I urge my colleagues to join me in supporting this amendment.

As I mentioned before, H.R. 5269 has a few very important and needed provisions, but as a package is a far cry from what is needed to fight crime. The American people are sick and tired of the crime and violence which has taken hold in our streets, brought on largely because of the drug trade, and it is incumbent upon Congress to produce a tough and effective response to this problem. As written, H.R. 5269 simply doesn't cut it. We can do much better, and I hope that my colleagues will join me in support of the amendments I've mentioned, as well as several others being offered to make what is now a bad bill a good one.

Mr. McCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri [Mr. Buechner].

Mr. BUECHNER. Mr. Chairman, I thank the gentleman for yielding. I certainly recognize all of the work that both sides have put into this bill, but I think when we talk about a crime bill, the average American believes that it should be a bill that ultimately does something to make things tougher for criminals, not make things easier for criminals.

If we are to enact a bill which does noting except complicate the whole process of habeas corpus, or complicate the process of moving expeditiously sentences that have been meted out requiring the death of those criminals that deserve it, then I think we have lied to the American public when we say that this is a crime bill.

This should be something that betters the lives of victims, that betters the lives of the American citizens, and dwells on the issue of expeditious execution of penalties.

There are some problems with the bill which I hope we can remedy through the amendment process. I think it has been stated by previous Members that we need to make the death penalty one that is enforceable and can truly be shown not only to the criminal, to the person who is convicted, but to the American people, that we, the lawmakers, believe that when the death penalty is meted out, that it should be done fairly, but it should be done expeditiously; that the system should not be used to obfuscate the law; that the system should not be used to run up more and more thousands and thousands of dollars for the taxpayers, when, in effect, the law should be done that having all of the rights protected, that the penalty should be brought to an expeditious conclusion, and that is the enactment of the ultimate sentence, the death penalty.

Mr. Chairman, I am not going to argue whether the death penalty is a deterrent, but I do believe it is an ultimate penalty. When the State has given that penalty, it should be enforced. If we in this body enact a law which says that yes, there is a death penalty in here, but we know in our hearts and we know procedurally that it cannot be enforced, that everybody on death row will be there interminably, then I think the cruel and unusual punishment that we will have meted out is to the American who sits and watches us and hopes we will do something to stem the crime that is existent.

Mr. Speaker, I would hope that what we do is the right thing, and that is to have a crime bill that punishes criminals, that stems crimes, that does not offer to the American public false hope that we will do something more. Rather than offering to those on death row another gimmick, another way to extend things, another way to exact more punishment on the American taxpayer, then I think we can do the right thing, and that is to make sure that this law does not allow people to say that they are for a limited death penalty, and by that they mean that there will not be the final conclusion.

Mr. Speaker, last I would add that it is imperative that local law enforcement agencies be given the right to keep their confiscated properties. It is the only way in which many areas can have an undercover operation and truly be involved in what is breaking up drug sales in many school districts and many small municipalities.

Mr. McCOLLUM. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. DeWine].

Mr. DEWINE. Mr. Chairman, I would like to talk about one of the noncontroversial provisions of this bill for just a moment, because I think it will be of interest to Members, and I think it does have a great deal of significance.

The gentleman from California [Mr. Levine], the gentleman from New York [Mr. Schumer], and many other members of the Committee on the Judiciary and I, have been directly involved in putting this provision together into the bill. It is a provision that protects children who are victims of crime.

Mr. Chairman, this provision makes it easier for them to get through the judicial process. It sets up a standard in the Federal law and the Federal courts that we hope many of the States will follow.

Mr. Chairman, I know from my experience as a former county prosecuting attorney that one of the more traumatic things many times for a child who has been victimized is to then have to go into the courtroom, a very sterile situation, a very foreign situation for anybody, whether it is an adult or a child, and go into that courtroom and face the person who has victimized that particular child, to look across just a few feet away and see that defendant. So what our bill does is make it easier for that child to testify in court.

□ 1450

Let me just cite some of the things it does. It allows for the use of anatomical dolls, for example, in a sex case. It allows, for example, for a closed circuit television so that the child does not actually have to be in the same building or in the same room at least as the defendant is. It also sets up some very good and tough reporting requirements for any kind of child abuse that may occur on a Federal enclave.

So it is a provision of this bill, as I said at the beginning, that is not controversial, a provision of the bill that I think will be supported by everyone. But I did want to bring it to the Members' attention because I think it is a significant breakthrough in the law.

I would like to thank the National Organization of Victims and the many other victims' advocacy groups that have been very influential in helping us and helping to get the committee to pass the bill. We relied upon their expertise and their background, and we talked to many experts in the field, and we believe that with the passage of this bill we will have in Federal law a very tough, very firm standard in this area.

Let me cite a couple of specific things the bill does. It allows a child to testify in a room other than the courtroom to reduce emotional stress. It allows the testimony of a child to be taken by recorded deposition for use at trial. It allows the use of anatomical dolls to describe sexual abuse, and forbids the release of a child witness's name and address.

This bill of rights also helps ensure speedy trial in a case where a child is a victim, and many times, Mr. Chairman, many times these cases are delayed, and no one worries about the victim. This will ensure that the court will have to take that into consideration, and will have to be concerned with the delay and the impacts on a victim of a crime, particularly a child.

The bill also allows the child to be accompanied to the court proceedings by a guardian. It states the child is presumed to be a competent witness unless otherwise determined by a court of law.

Further, it extends the statute of limitations so that a victim who was under the age of 18 years at the time of the crime can have that case prosecuted up until the time of the age of the victim is 25 years. This is a particularly important provision I think because many times the child abuse cannot be reported because the particular victim is in the custody of the person who perpetrated the crime.

Let me just conclude, Mr. Chairman, by saying that this is a good provision of the bill. I want to thank all of the victim advocacy groups that were a part of putting this together, and the ideas that they gave us, the experience that they had are really a part of this bill, and with the passage of the bill will become Federal law.

Mr. McCOLLUM. Mr. Chairman, I yield 8 minutes to the gentleman from Pennsylvania [Mr. Coughlin].

Mr. COUGHLIN. Mr. Chairman, let me speak for a moment in my capacity and from the perspective of my position as the vice chairman of the Select Committee on Narcotics Abuse and Control.

As all Americans know, and as well Members of this body know, crime and drugs are inextricably interwoven. It is tremendously important that we have a crime bill and have one this year if we are going to help to call a halt to the scourge of crime as well as the scourge of drugs.

But the bill as it has been brought to this body is not a crime bill; it is a criminals' bill, and it is going to take a lot of work by this body to amend it in a fashion that would make it indeed a crime bill.

Let me cite some of the amendments that will be offered that will go a long way to making this a crime bill.

Mr. Gekas will have an amendment that is a substitute to the death penalty title of the bill. It contains additional crime and additional procedures.

Mr. McCollum will also have an amendment that will apply the death penalty to certain drug kingpins.

Mr. Moorhead will have an amendment that strikes language in the bill which prohibits certain transfers of forfeited property to State and local law enforcement agencies if it circumvents existing State law.

Mr. McCollum has an amendment that strikes the provisions of the bill relating to prerelease custody and place of imprisonment.

Mr. Gingrich has an amendment that establishes mandatory prison literacy programs for all individuals in Federal prisons.

Mr. Smith has an amendment which makes improvements in our ability to remove criminal aliens, particularly drug offenders.

Mr. Sensenbrenner has an amendment that calls for striking of the quota system as it applies to criminal penalties.

Mr. Gekas has an amendment that facilitates cooperation between the Secret Service and the FBI involving jurisdiction of financial fraud investigations.

Mr. Douglas has an amendment that provides for a good faith exception of the exclusionary rule for evidence.

Mr. Oxley's amendment establishes a series of victims' rights and services, and requires convicted offenders to pay restitution to their victims.

I will have two amendments that are part of the President's drug package that have been made in order in this bill. Both of them have been proposed and before this body for more than a year at this time.

One amendment will require the States to establish statewide drug treatment plans so that we can have some accountability in the enormous sums of money that we are now spending for drug treatment, so that we can improve those programs, and so that we can find the right kinds of programs to provide drug treatment that will be effective.

A second amendment will grant new authorities to our interdiction agencies to combat airborne drug trafficking. This would allow revocation of licenses and confiscation of aircraft and require aircraft and pilots to comply with the authorities' and the military's requirements when they are asked to turn about or heave to.

Mr. Chairman, these amendments, if adopted, will go to making this a true crime bill, one that will help protect the public, one that will indeed do something about crime and drugs. I urge as these amendments come up that Members adopt the amendments,

and that we have a true crime bill, that we have a bill that is not a criminals' bill.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I am happy to yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I thank the gentleman for yielding. I consider my colleague from Pennsylvania a good friend and colleague. I find it interesting though that my colleague would recite a litany of Republican amendments. There are a lot of Democratic strengthening amendments that this committee has developed which we are going to take, and I hope that my colleague could refrain—and I realize it is an election year and we are close to election—would refrain from trying to characterize this as a bill for the criminals and not for law enforcement.

That is a characterization that I do not think befits my colleague from Pennsylvania, who is always a very throughful legislator, who I work with on the Select Committee on Narcotics Abuse and Control. Frankly, I cannot believe that the gentleman really believes that, for instance, the first 11 titles of the bill that came out of the Subcommittee on Crime are not good initiatives. They were developed with my colleague from Florida.

Mr. COUGHLIN. There are at least four points that the administration objects to very strongly that really favor criminals rather than improving law enforcement. One is habeas corpus; the second is the exclusionary rule; third, the death penalty area; and fourth is the quota system. If those measures are in there, those are really detrimental to law enforcement and not efficacious. If those stay in there I am advised that the President will be advised to veto the bill.

Mr. HUGHES. Will the gentleman yield further?

Mr. COUGHLIN. I am happy to yield to the gentleman from Pennsylvania.

Mr. HUGHES. The first 11 titles of the bill that we worked on a bipartisan fashion had some amendments addressed to them, but basically I do not know that any are controversial provisions, with the exception of capital punishment, and we can argue as to what offenses should warrant capital punishment, and I suppose reasonable men could differ on that issue, but when the gentleman characterizes the bill basically as anti-law-enforcement, he is basically characterizing the work product to the committee that worked for 2 years in a bipartisan fashion as being anti-law-enforcement, not anti-crime. That is not fair, and that is not becoming, as I said.

Mr. COUGHLIN. Those four provisions I think are anti-law-enforcement and are sufficiently serious impediments to good law enforcement that they would warrant vetoing of the bill.

□ 1500

Mr. HUGHES. If the gentleman will yield further, I have some problems with some of the provisions the gentleman recited, and have some amendments noticed that will attempt to correct what I consider to be some of the deficiencies, but I still do not think it is fair to characterize the bill as an anti-law-enforcement bill. That is not fair. That is not becoming.

Mr. COUGHLIN. I think in its present form it would not help law enforcement. It would hinder law enforcement. The amendments that I cited are, most of them, parts of the President's crime and drug package.

If the gentleman will notice, I did not make any mention of the political party affiliation of any of the authors of the particular amendments. They were part of the President's package which I hope will be considered.

Mr. HUGHES. I know, but I found it interesting that the gentleman only recited Republican amendments. We have as many Democratic amendments that are toughening amendments, many of which we are going to take.

Mr. COUGHLIN. I am sure you have some very good ones. I am sure you have some very good ones.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I am happy to yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I think that the point that the gentleman made is really well made in one sense and that is that while this bill as a whole has a lot of very good, strong things we as a bipartisan group can support on both sides of the aisle, the gentleman is correct in regard to these death penalty provisions, with regard to habeas corpus provisions in particular, with regard to the fact that the way the present bill coming to the floor is shaped, the President would be probably inclined to veto this bill, from all I have heard, and in fact I know that the recommendation would go to him from the Justice Department, because law enforcement around the country has said that by virtue of the provisions currently in this bill, the way it is written, you would virtually end the death penalty in the States around the Nation as a practical matter, even though that may not have been the intent of the authors of these provisions.

So I think the gentleman is correct in it. I do not think it is intended at all as a partisan statement. I think he is just stating a fact. I agree with him that this is something that law enforcement could not live with, and this bill would be vetoed if the amendments were not made that corrected those.

The Hyde amendment is a good example. It is absolutely essential that the Powell Committee version get in, as I understand it, because law enforcement around the country says anything else would mean that the death penalties in the State courts would not be able to be executed and carried out.

I think the gentleman has made a very valid point.

Mr. COUGHLIN. We have heard from law enforcement officials around the country from both political parties saying that if this bill were enacted in its present form it would be disastrous for law enforcement and for control of crime.

Mr. GALLEGLY. Mr. Chairman, I rise to address the capital punishment provisions in the bill before us, H.R. 5269, the Comprehensive Crime Control Act of 1990.

My personal interest in this matter stems from the cold-blooded murder in 1988 of a DEA agent who was a constituent of mine. Although suspects were apprehended, Federal prosecutors felt obligated to drop charges and defer to local prosecutors because California has a death penalty. The U.S. attorney with responsibility for the case remarked how it was astonishing that he could not obtain the death penalty under Federal law for such murder.

On March 1, 1989, I introduced legislation that addressed this deficiency in Federal statutes by proposing that the death penalty be allowed in cases where a Federal law enforcement officer had been murdered. A bipartisan group of over 100 Members of Congress cosponsored this legislation, and the essence of the bill has been included in H.R. 5269.

Under the provisions of the committee bill, the intentional killing of a Federal law enforcement officer, Federal judge or a variety of other Federal officials could be punished by death. This is an important and necessary change in law to establish justice and protect the lives and credibility of our law enforcement system.

However, other provisions in this legislation countermand this improvement. For example, the bill would require a jury to find two aggravating factors, instead of one, to impose a sentence of death. In addition, H.R. 5269 would further delay the current process by allowing repetitive appeals.

It is obviously essential that legal safeguards exist to prevent innocent people from being executed. But it is equally important that the rights of victims, their families, and society also be protected. For this reason, I view with strong opposition the provisions of H.R. 5269 that purport to "reform" the death penalty process.

This is an issue of great importance to the American people because they have witnessed firsthand the effect violent crime and lax punishment has had on their neighborhoods and communities. In California, the case of Robert Alton Harris riveted attention and symbolized the flaws in the current system. Though convicted of a brutal murder and sentenced to die by the State, Harris has filed appeal after appeal and delayed the process for over 12 years.

These provisions have received widespread and bipartisan criticism from law enforcement officials who feel the reforms would have the effect of abolishing the death penalty. It makes no sense to expand the application of the death penalty, while at the same time making it impossible to impose the sentence. Justice is not served by allowing convicted murderers to indefinitely postpone their execution.

The House should correct this error in H.R. 5269 by adopting the Hyde amendment to implement the recommendations made by the Advisory Committee headed by retired Supreme Court Justice Powell. These recommendations would protect the defendant's right to competent counsel while preventing the abuses of the appeals process that lead to delay. If we do not take this necessary and logical step, then the House will jeopardize enactment of any crime legislation for this year. Therefore, I urge the adoption of the amendment.

Mr. FAZIO. Mr. Chairman, among its many provisions, H.R. 5269 contains important language which addresses the growing threat of methamphetamine, also known as speed, crank, or ice. Law enforcement officials believe that these drugs have the potential to become the crack cocaine of the 1990's.

Several of my colleagues and I have each introduced legislation dealing with this growing threat. Earlier this year, I introduced H.R. 4231, the Regulated Precursor Chemical Act of 1990, legislation which largely addresses the issue of easy access to the chemicals used to produce crank and ice. It is based on an effective California State law and some of its provisions have been incorporated in H.R. 5269. However, since the Federal law regulating the sale and manufacture of the chemicals used to make crank and ice is relatively weak, I would hope that in the near future, the remaining provisions of H.R. 4231 to strengthen the Federal law would be enacted.

My colleague from California, Congressman MEL LEVINE, has also introduced legislation addressing the threat of methamphetamine. Some of the provisions in his bill, which deal with penalties for ice abusers, have also been incorporated in H.R. 5269. And, Congressman NORM MINETA also has introduced legislation in this area, and will be offering an important amendment today which addresses this issue.

The Mineta amendment will authorize funds for at least four model methamphetamine abuse demonstration programs. The amendment also requires the Department of Education and National Institute on Drug Abuse to jointly develop a model, community-based curricula for disseminating comprehensive information on methamphetamine to every primary and secondary school in the country. The amendment also requires the National Institute on Drug Abuse to give priority to developing treatments for addictions to these substances. I wholeheartedly support the Mineta amendment as well as the other methamphetamine provisions in the bill.

Mr. BORSKI. Mr. Chairman, it is now over 20 years since Bobby Kennedy was assassinated with a handgun. It is almost 10 years since a mentally unstable man with a Saturday night special attempted to take the life of then-President Reagan. But still, we have no effective national method of keeping handguns out of the wrong hands.

And, while President Bush has banned the importation of semiautomatic assault rifles and pistols, domestic manufacturers continue to make combat-ready assault weapons, complete with silencers, folding stocks, bayonets and 90-round ammunition magazines. These guns are widely available, and are used by drug traffickers, street gangs, terrorists, and other violent criminals.

Congress now has the opportunity to help prevent crazies and criminals from obtaining handguns and reduce the number of combat weapons on the streets—without infringing on the rights of sports-minded men and women and other law-abiding citizens.

H.R. 5269, the Comprehensive Crime Control Act that we are now debating, would prohibit the domestic manufacture of a semiautomatic rifle or shotgun which is identical to any weapon currently banned from importation. This provision would decrease the number of deadly weapons like copies of the South African Striker 12 "Street Sweeper," a semiautomatic shotgun banned from importation, but now made and sold in the United States.

That would be a good start. These guns have no legitimate sporting use. The "Street Sweeper" is a weapon whose target can only be police or other innocent people.

A 90-round magazine has no real sporting use either. Congress should go a step further by limiting the number of rounds a magazine can hold. We can allow plenty of room for hunters and target shooters and still give the police a fighting chance against drug thugs and other organized criminals. Smaller magazines will also mean less destruction in the drive-by shootings now practiced by street gangs.

Another thing that Congress can do is pass the Brady bill. This legislation is named after James Brady, the Presidential Press Secretary who was seriously wounded in the assassination attempt on former President Reagan.

The Brady bill would establish a national 7-day waiting period for handgun purchases. That would give law enforcement officials time to run a background check to determine if a potential purchaser were prohibited by law from buying a handgun.

The Brady waiting period is not a national gun registration system and it will not take weapons away from law-abiding citizens. It would simply help weed out felons and the mentally imbalanced, people who clearly should not be sold guns.

In fact, there is nothing in this proposal that law-abiding citizens should object to. Convicted felons, drug dealers and others involved in criminal activity are the only people who should be concerned about a 7-day waiting period. Someone who would be ineligible to buy a handgun in Philadelphia, which has a 48-hour-waiting period, could drive to some other State without a waiting period and pick up a gun.

A waiting period for handgun purchases can also get criminals off the streets and into prison. In States that already have waiting periods, thousands of criminals have been caught trying to buy guns. A national waiting period might help catch thousands more. Without the Brady bill, thousands of additional criminals go unapprehended every year because they can simply cross State lines to evade the background check.

Opponents of these gun control measures say that we need tougher penalties to reduce crime and keep criminals off the street. I agree with them.

But I also think that the police and other law enforcement officials need all the help they can get. They are outnumbered and outgunned, fighting a losing battle against people who have almost unlimited access to whatever weapons they want.

In the United States, about 60 people are killed each day with guns, 23,000 a year. In June of this year alone, two Philadelphia police officers were killed by firearms. Reasonable proposals to prevent the wrong people from obtaining handguns and reduce the number of combat weapons on the street will save lives.

The police and the public need and want help in the war on crime and drugs. Congress should give it to them.

Mr. CLAY. Mr. Chairman, I rise against the Omnibus Crime Control Act as it does not address the crime problem which is a growing menace in our society. The legislation before us today is not much more than a hysterical over reaction to a serious problem which we have failed to address with rational understanding. The increasing peril of criminal activity in American society demands our attention, but the Omnibus Crime bill is not the solution to the problem.

During just 1 week last month in New York City, four innocent children were murdered by stray bullets intended for others. This year a clothing manufacturer in New York introduced a line of bullet proof clothing for schoolchildren. In response to the crisis in the streets of America this Congress is debating mandatory Federal death penalties for crimes against public officials.

Mr. Chairman, the death penalty did not discourage the killer of the five college students who were savagely murdered in their homes near the campus of the University of Florida in Gainesville last month. The residents of capital punishment States—like California, Texas, and Florida, are not any safer than the residents of noncapital punishment States like New York, Michigan and Massachusetts. In 1985, the Texas murder rate per 100,000 was 30; in Florida it was 11.4 and in California it was 10.5. Implementing capital punishment did not cause these States to experience lower murder rates than Michigan, New York or Massachusetts where the murder rates per 100,000 were 11.2, 9.5 and 3.5 respectively. Condemning to death the mass murderers of California, the drug kingpins of Florida or the cowboy killers of Texas has not made Los Angeles' Sunset Boulevard, Miami's Flagler Street, or Houston's Main Street any safer than the streets of New York City.

If the death penalty effectively deterred major crime as its proponents claim, those States without the penalty should be experiencing a higher incidence of capital offenses. It would also follow that those States applying the death penalty should be experiencing a

lower incidence of capital crimes. But the facts do not establish any such correlation.

Mr. Chairman, the so called omnibus crime bill is not about curbing the scourge of criminal activity in our Nation. It is mostly about levying punishment. The Omnibus Crime Control Act is a draconian attempt to stop criminal behavior by threatening and frightening the would be criminals. This naive and improbable, eye for an eye approach will hardly influence the brazen drug trafficker or the homeless, illiterate drug thief. The omnibus crime bill is a shocking revelation of how little this Congress cares to address the crime problem facing our Nation.

Those social and economic problems which underlie the burgeoning crime rate are not addressed in the legislation before us today. The history of violence in America, the tradition of racial injustice, the failure of our schools and our families to prepare children to lead productive roles in our society, and the double standard which allows some members of society to be above our laws—all combine to undermine our system of values and perpetuate rampant criminal activity.

Increasing the list of Federal crimes punishable by the death penalty is an absurd attempt by those in Congress to shield public officials from the terrifying conditions that millions of children face every day on the streets of America.

There is no question that criminal activity is eroding the quality of life in our communities. But there is no reason to believe that the legislation before us today will facilitate better law enforcement in America.

Mr. Chairman, in many American communities it is easier to buy cocaine than it is to buy condoms. It is also more common for citizens to protest abortion clinics than crack houses. And, at the same time the glorification of violence and the drug culture is a multibillion dollar entertainment industry. These are just a sampling of the ironies facing our society.

We must have the courage to face these realities. We must address the need to improve our educational programs and ensure that all children grow up to be contributing members of our society. We must enact public policies which support family life and reinforce family values and we must be willing to address unpopular issues like the need for gun control, prison reform, structural unemployment, illiteracy and homelessness. Until we—as a society—exercise a genuine respect and commitment to solving the real problems undermining the quality of life in our Nation, we cannot escape our responsibilities by killing off, one by one, those who have become a danger to themselves and a threat to an orderly society.

Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to H.R. 5269 as it has been reported to the floor from the Judiciary Committee. Last year's crime statistics show that there was a violent crime committed every 19 seconds in the United States, and someone was murdered every 24 minutes. At a time when many Americans have lost the right to feel safe in their own communities, Congress must not pass this legislation which will help criminals feel safer on our streets. I hope it will be amended.

In all of my time as a public servant, I have consistently supported the death penalty as both a punishment for heinous crimes and an effective deterrent to future violence. H.R. 5269 would effectively abolish the death penalty in the 37 States that currently have death penalty provisions. My State of California is one of those 37 States.

The provisions of H.R. 5269 which would effectively establish racial quotas in sentencing convicted murderers are an affront to our Nation's foundation of justice. Judges and juries must be able to render decisions based on the facts of a particular case rather than consider the statistical history of previous, unrelated cases. The rights of all victims and all accused criminals rest on the courts employing this factual basis for the determination of justice.

Additionally, the provisions of H.R. 5269 affecting habeas corpus and the exclusionary rule would be a giant step backwards, walking over previous decisions by the U.S. Supreme Court that were aimed at limiting prisoners' attempts to beat the system. Without certainty of justice in its implementation, the death penalty is greatly weakened as a deterrent.

H.R. 5269 also severely weakens the Federal death penalty, and in fact, repeals the death sentence completely for such heinous acts as murdering hundreds of innocent victims by bombing a plane, train, bus or Federal building, or the murdering of a civil rights activist by using a mail bomb.

I have been asked to oppose these and other provisions of H.R. 5269 by many of our colleagues in the House, in addition to the U.S. Attorney General, and the California State attorney general. However, one of the most influential requests to oppose these provisions came from Michael Bradbury, the district attorney for Ventura County, CA. As a district attorney on the county level, Mr. Bradbury is on the front lines in the fight to ensure justice and keep dangerous criminals off the street. His telegram simply states that the provisions described above would "effectively cripple or end the use of the death penalty in the United States."

I will continue to support the passage of tough, comprehensive legislation that puts the word out on the streets that if an individual chooses to commit a crime, they will be caught, prosecuted and punished. However, I will not support a bill that eases the minds of criminals by ensuring their ability to make a mockery of justice.

I strongly agree with U.S. Attorney Richard Thornburgh, who has stated that this bill is "a clear step backwards" and I join him in urging my colleagues to oppose its procriminal provisions.

Mr. McGRATH. Mr. Chairman, without the passage of several rectifying amendments, I regret that I cannot support H.R. 5269, the Comprehensive Crime Control Act of 1990.

As the 101st Congress winds down, we are once again faced with the task of voting for an omnibus crime bill just as we are aiming to adjourn and go back to our districts to tell constituents about the good things we are doing in Washington. It seems that every 2 years at this time, passage of a crime bill makes for good cannon fodder for incumbents who campaign that they are tough on crime and have proved it with gutsy votes in the House Chamber.

The 1990 version of Capitol Hill's attack o crime provides Members with another opportunity to prove that they are indeed friends o law enforcement and those charged with putting criminals in jail. Messrs. HYDE, GEKAS McCOLLUM, and SENSENBRENNER have all offered amendments that I believe will give th bill the strength needed to effectively comba crime. Without these amendments, the attorney general will undoubtedly recommend tha the President veto the bill.

Mr. Chairman, a crime bill that is not eve remotely supported by this country's top la enforcement official, needs to be corrected The bill in its present form, presents a enigma to the American people. The bill presents a false security to citizens ravaged b violent crime. If adopted in its present form the legislation will lack the teeth to fight thi country's No. 1 social problem.

I urge my colleagues to carefully dissec this legislation and strongly consider th amendments favored by the Justice Department, the Powell Commission, and the National District Attorneys Association. This yea when we are approached by the electorate let us to be able to proudly state that the Congress has enacted a bill that will put criminal in jail and help rid the terror that has held a unrelenting grip on our neighborhoods.

Mr. McCOLLUM. Mr. Chairman, have no further requests for time, an I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I hav no further requests for time, and yield back the balance of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose and the Speaker pro tempore (Mr BUSTAMANTE) having assumed th chair, Mr. Bosco, Chairman of th Committee of the Whole House on th State of the Union, reported that tha Committee, having had under considertion the bill (H.R. 5269) to control crime, had come to no resolutio thereon.

EXPLANATION FOR ABSENCE

Mr. CAMPBELL of California. Mr. Speake Wednesday, October 3, I was in Chicago, IL attending a memorial service for my fathe Judge William J. Campbell. My father serve as a U.S. District Judge for 48 years, and a chief judge of the U.S. District Court for th Northern District of Illinois for 15 years. O Wednesday, he was honored by his forme colleagues in a special en banc session of th U.S. district court in Chicago, which m mother and all seven brothers and sisters attended. I could not be absent from that ceremony, and I trust my constituents and colleagues here can understand that.

However, my presence in Chicago require my missing several votes on the crime and immigration bills. On the immigration votes, had been present, I would have voted "yea" o the Lewis of Florida amendment to reimburs States for their cash and medical assistanc to aliens. I would have voted "nay" on th Bryant amendment to delete all provisions o the bill, except those relating to family reunif cation. The employer-sponsored provisions of the bill, which would have been deleted by this amendment, are extremely important to American competitiveness. They allow our country to retain talented, trained scientists, technicians, and engineers—rather than sending them overseas to compete with us from there. I also would have voted against the motion to recommit, and in favor of final passage.

On the crime bill (H.R. 5269), I would have voted against the Bustamante amendment to strike section 106 of the bill; section 106 would have required direct pass-through of Federal antidrug money to localities most in need. I would have voted in favor of the Martin of Illinois amendment, which would cut 10 percent of a State's block grant allocation if that State does not have in effect a law requiring a convicted rapist to be tested for the AIDS virus, at the request of the victim. I would have voted against the Staggers amendment, which would have replaced the death penalty with a mandatory life sentence without parole, plus restitution to the victim's family.

I also would have voted in favor of S. 1511, making technical amendments to Older Workers Benefit Protection Act.

PROVIDING FOR SERIATIM CONSIDERATION OF FOUR AMENDMENTS MADE IN ORDER TO TITLE I OF H.R. 5269, COMPREHENSIVE CRIME CONTROL ACT OF 1990

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that it be in order to debate the four amendments made in order to title I of H.R. 5269 seriatim and any recorded votes on the amendments be postponed until the conclusion of debate on all four amendments.

The SPEAKER pro tempore (Mr. BUSTAMANTE). Is there objection to the request of the gentleman from Texas?

Mr. McCOLLUM. Mr. Speaker, reserving the right to object, I do not intend to object, it is my understanding that this is being requested because we have gotten finished with the general debate earlier than anticipated, and there are inconveniences to Members who would otherwise have expected us not to have votes during the next hour. If that is the case and we are just really proceeding in order except holding the votes in abeyance until the end of the time that we debate these four amendments, I have no objection.

Am I correct in my understanding?

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. McCOLLUM. Further reserving the right to object, I am happy to yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, the gentleman is correct.

Mr. McCOLLUM. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMPREHENSIVE CRIME CONTROL ACT OF 1990

The SPEAKER pro tempore. Pursuant to House Resolution 490 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5269.

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Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5269) to control crime, with Mr. Bosco in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose earlier today, all time for general debate had expired.

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on the Judiciary, as modified by the amendments printed in part 1 of House Report 101-796 shall be considered as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute as modified, is as follows:

H.R. 5269

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Crime Control Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—CORRECTIONAL OPTIONS INCENTIVES AMENDMENTS

Sec. 101. Correctional options grants.
Sec. 102. Conveyance of property and facilities at military installations.
Sec. 103. Improvement of criminal justice records.
Sec. 104. Notice of certain underutilized military facilities.
Sec. 105. Matching requirement.
Sec. 106. State distribution of funds to units of local government.
Sec. 107. Direct distribution of funds to units of local government.
Sec. 108. Revocation of drivers' licenses of individuals convicted of drug offenses.
Sec. 109. Improved effectiveness of court process.

TITLE II—FEDERAL DEATH PENALTY

Sec. 201. Presidential assassination and related crimes.
Sec. 202. Intentional killings of certain Federal officials.
Sec. 203. Intentional killings of foreign officials.
Sec. 204. Intentional killings of Federal judges and law enforcement officers.
Sec. 205. Intentionally killing a Federal witness in the witness protection program.
Sec. 206. Intentionally killing the victim of a kidnapping or hostage taking.
Sec. 207. Contract murders.
Sec. 208. Espionage and treason.
Sec. 209. Terrorism.
Sec. 210. Skyjacking.
Sec. 211. Drug kingpin conforming amendment.
Sec. 212. Death penalty procedures.

TITLE III—ANABOLIC STEROIDS

Sec. 301. Anabolic steroid penalties.
Sec. 302. Exemption Relating to Steroids.
Sec. 303. Penalty for distribution of human growth hormone.
Sec. 304. Clerical correction.
Sec. 305. Interagency coordinating council on the abuse of anabolic steroids.

TITLE IV—ASSET FORFEITURE

Sec. 401. Amendments relating to the special forfeiture fund.
Sec. 402. Prohibition of certain transfers of forfeited property to State and local law enforcement agencies if such transfers circumvent State law.
Sec. 403. Clarification of Attorney General's authority to warrant clear title upon transfer of forfeited property.
Sec. 404. Summary seizure and forfeiture of money and similar items under the Controlled Substances Act.
Sec. 405. Conforming amendment relating to the equitable transfer of forfeited property to a participating foreign nation.
Sec. 406. Clarification of Attorney General's forfeiture sale authority.
Sec. 407. Forfeiture and destruction of dangerous, toxic, and hazardous materials.
Sec. 408. Additional forfeiture award authority.
Sec. 409. Report to Congress.
Sec. 410. Forfeiture of drug paraphernalia.
Sec. 411. Forfeiture of a firearm used to facilitate a drug offense.

TITLE V—COMPUTER CRIME

Sec. 501. Section 1030 amendment.

TITLE VI—LAW ENFORCEMENT SCHOLARSHIPS AND RECRUITMENT INCENTIVES

Sec. 601. Definitions.
Sec. 602. Allotment.
Sec. 603. Program established.
Sec. 604. Scholarships.
Sec. 605. Eligibility.
Sec. 606. State application.
Sec. 607. Local application.
Sec. 608. Scholarship agreement.
Sec. 609. Reports to Congress.
Sec. 610. Authorization of appropriations.

TITLE VII—FIREARMS PROVISIONS

Sec. 701. Prohibition against transferring firearms to nonresidents.
Sec. 702. Commerce nexus for trafficking in stolen firearms.
Sec. 703. Technical amendments.
Sec. 704. Disposition of forfeited firearms.
Sec. 705. Amendments relating to the domestic assembly of nonimportable firearms.
Sec. 706. Prohibition Against Possession of Firearms in Federal Court Facilities.

Sec. 707. Enhanced Penalties for Possession of Short-Barreled Rifle, Short-Barreled Shotgun, or Destructive Device in a Crime of Violence or Drug Trafficking Crime.

TITLE VIII—CHEMICAL DIVERSION AND TRAFFICKING

Sec. 801. Chemical diversion and trafficking.

TITLE IX—DRUG PARAPHERNALIA

Sec. 901. Drug Paraphernalia.

TITLE X—LICIT OPIUM IMPORTS

Sec. 1001. United States policy regarding importation of narcotic raw material.

TITLE XI—SENTENCING FOR METHAMPHETAMINE OFFENSES

Sec. 1101. Sentencing commission guidelines.
Sec. 1102. Interagency Coordinating Council on the Abuse of Smokable Crystal Methamphetamine.

TITLE XII—OBSTRUCTION OF JUSTICE

Sec. 1201. Protection of court officers and jurors.
Sec. 1202. Prohibition of retaliatory killings of witnesses, victims, and informants.

TITLE XIII—HABEAS CORPUS

Sec. 1301. Limitations period in capital cases.
Sec. 1302. Stays of execution in capital cases.
Sec. 1303. Successive petitions in capital cases.
Sec. 1304. Certificates of probable cause.
Sec. 1305. Law applicable in chapter 153 proceedings.
Sec. 1306. Procedural default in State court.
Sec. 1307. Counsel in capital cases.

TITLE XIV—PRISONS

Sec. 1401. Study.
Sec. 1402. Report with respect to Federal prison industries.
Sec. 1403. Prerelease custody.
Sec. 1404. Place of imprisonment.
Sec. 1405. Drug treatment for prisoners.

TITLE XV—REMOVAL OF CRIMINAL ALIENS

Sec. 1501. Clarification of aggravated felony definition.
Sec. 1502. Enhancing enforcement authority of INS officers.
Sec. 1503. Clarification of custody pending determination of deportability.
Sec. 1504. Elimination of judicial recommendations against deportation.
Sec. 1505. Clarification respecting discretionary authority in deportation proceedings for incarcerated aliens.
Sec. 1506. Requiring coordination plan with INS as a condition for receipt of drug control and system improvement grants under the Omnibus Crime Control and Safe Streets Act of 1968.
Sec. 1507. Deportation for attempted violations of controlled substances laws.
Sec. 1508. Good moral character definition.
Sec. 1509. Report on criminal aliens.
Sec. 1510. Notices of deportation hearings and in absentia hearings for aliens convicted of aggravated felonies.
Sec. 1511. Limitation on waiver of exclusion for returning permanent residents convicted of an aggravated felony.

TITLE XVI—SHOCK INCARCERATION

Sec. 1601. Shock incarceration program.
Sec. 1602. Authorization of appropriations.

TITLE XVII—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

Sec. 1701. Public safety officers' disability benefits.
Sec. 1702. Effective date.

TITLE XVIII—RACIALLY DISCRIMINATORY CAPITAL SENTENCING

Sec. 1801. Amendment to title 28.
Sec. 1802. Actions prior to the date of enactment.

TITLE XIX—INTOXICATION AND RESTITUTION

Sec. 1901. Nondischargeability of certain debts arising from unlawful driving while intoxicated or impaired.
Sec. 1902. Nondischargeability of certain debts for restitution imposed for committing crimes.
Sec. 1903. Effective date; application of amendments.

TITLE XX—CHILD ABUSE

Subtitle A—Improving Investigation and Prosecution of Child Abuse Cases

Sec. 2001. Grants for multidisciplinary programs.
Sec. 2002. Grants for specialized technical assistance and training programs.
Sec. 2003. Authorizations of appropriations.

Subtitle B—Court Appointed Special Advocate Program

Sec. 2004. Strengthening court-appointed special advocate program.
Sec. 2005. Authorization of appropriations.

Subtitle C—Child Abuse Training Programs for Judicial Personnel and Practitioners

Sec. 2006. Grants for juvenile and family court personnel.
Sec. 2007. Specialized technical assistance and training programs.
Sec. 2008. Authorization of appropriations.

Subtitle D—Federal Victims' Services, Protections, and Rights

Sec. 2009. Special procedures applicable to child victim witnesses and victims in criminal cases.
Sec. 2010. Statute of limitations in cases relating to children.
Sec. 2011. Use of multidisciplinary teams.
Sec. 2012. Child abuse reporting.
Sec. 2013. Abrogation of testimonial privileges in certain criminal cases involving children.

Subtitle E—Child Care Worker Employee Background Check

Sec. 2014. Child care worker employee background checks.

TITLE XXI—BANKING LAW ENFORCEMENT

Subtitle A—Enhanced Criminal Penalties

Sec. 2101. Concealment of assets from FDIC, RTC, or NCUA established as criminal offense.
Sec. 2102. Prohibition on control of or participation in depository institution by certain convicted persons.
Sec. 2103. Crime of obstructing an examiner.
Sec. 2104. Increasing bank fraud and embezzlement penalties.
Sec. 2105. Statute of limitations for rico offenses involving financial institutions.
Sec. 2106. Money laundering involving bank crimes.
Sec. 2107. Increased penalties in major bank crime cases.
Sec. 2108. Restitution for victims of bank crimes.
Sec. 2109. Enhancement of ability to order restitution in certain fraud cases.
Sec. 2110. Financial crime kingpin statute.

Subtitle B—Protecting Assets From Wrongful Disposition

Sec. 2121. Limitation on disposition of certain assets.
Sec. 2122. Attachment of assets.
Sec. 2123. Disallowing use of bankruptcy to evade commitments to maintain the capital of a federally insured depository institution or to evade civil or criminal liability.
Sec. 2124. Fraudulent conveyances avoidable by conservators, receivers, and liquidating agents.
Sec. 2125. Regulation of golden parachutes and other benefits which are subject to misuse.
Sec. 2126. Amendments relating to civil forfeiture.
Sec. 2127. Civil and criminal forfeiture for fraud in the sale of assets by the Resolution Trust Corporation, FDIC, or NCUA.
Sec. 2128. Prohibition on acquisitions from conservators, receivers, and liquidating agents of depository institutions by convicted felons.

Subtitle C—Improved Procedures for Handling Banking-related Cases

Sec. 2131. Wiretap authority for bank fraud and related offenses; technical amendments to wiretap law.
Sec. 2132. Foreign investigations by federal banking agencies and investigations on behalf of foreign banking authorities.
Sec. 2133. Extension of statute of limitations for civil penalties.
Sec. 2134. Clarification of subpoena authority for FDIC, RTC, and NCUA acting as conservator, receiver, or liquidating agent.

Subtitle D—Structural Reforms to Improve the Federal Response to Crimes Affecting Financial Institutions

Sec. 2141. Establishment of Financial Institutions Crime Unit and Office of Special Counsel for Financial Institutions Crime Unit.
Sec. 2142. Appointment responsibilities and compensation of the special counsel.
Sec. 2143. Assignment of personnel.
Sec. 2144. Financial institutions fraud task forces.
Sec. 2145. Interagency coordination.
Sec. 2146. Additional authority for the secret service.

Subtitle E—Reporting Requirements

Sec. 2151. Reporting requirements.
Sec. 2152. Report on court business impact of savings and loan crisis.

Subtitle F—National Commission on Financial Institution Reform, Recovery, and Enforcement

Sec. 2161. Commission established.
Sec. 2162. Duties of commission.

Sec. 2163. Membership.
Sec. 2164. Powers of commission.
Sec. 2165. Staff of commission; experts and consultants.
Sec. 2166. Reports.
Sec. 2167. Termination.
Sec. 2168. Authorization of appropriations.

Subtitle G—Authorizations

Sec. 2171. Additional funding for investigators and prosecutors for bank crime cases.
Sec. 2172. Authorizing additional funds for the federal judiciary.

TITLE XXII—MISCELLANEOUS

Sec. 2201. Authorization of appropriations for humanitarian expenses.
Sec. 2202. Lotteries.
Sec. 2203. Ineligibility for Federal benefits.
Sec. 2204. Codification of exceptions to exclusionary rule.
Sec. 2205. Railroad police authority.
Sec. 2206. Clarification of mandatory minimum penalty for serious crack possession.
Sec. 2207. Correction of an error relating to the quantity of methamphetamine necessary to trigger a mandatory minimum penalty.
Sec. 2208. Conforming amendments to Controlled Substances Import and Export Act relating to methamphetamine.
Sec. 2209. Enhancement of penalties for drug trafficking in federal prisons.
Sec. 2210. Conforming amendment to definition of mental element term in the money laundering statute.
Sec. 2211. Conforming amendment to conspiracy and attempt penalty under the maritime drug law enforcement act.
Sec. 2212. Special rule for certain habeas corpus petitions.
Sec. 2213. Expansion of the private sector/prison industry enhancement certification program.

TITLE I—CORRECTIONAL OPTIONS INCENTIVES AMENDMENTS

SEC. 101. CORRECTIONAL OPTIONS GRANTS.

(a) AUTHORITY TO MAKE GRANTS.—Subpart 2 of part E of title I of the Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3760 et seq.) is amended—

(1) by inserting after the heading relating to subpart 2 the following:

"CHAPTER A—GRANTS TO PUBLIC AND PRIVATE ENTITIES".

(2) in section 510 by striking "subpart" each place it appears and inserting "chapter",

(3) in section 511—

(A) in the heading by striking "DISCRETIONARY", and

(B) by inserting "(other than chapter B of this subpart)" after "this part",

(4) in section 513—

(A) in subsection (a)(1) by inserting "or 515" after "511", and

(B) in subsection (b) by inserting "applicable" after "all the" each place it appears,

(5) in section 514(2) by striking "public agency or private nonprofit organization within which the program or project has been conducted" and inserting "applicant that conducts such program or project",

(6) by redesignating sections 513 and 514 as sections 517 and 518, respectively, and

(7) by inserting after section 514 the following:

"CHAPTER B—GRANTS TO PUBLIC AGENCIES

"CORRECTIONAL OPTIONS GRANTS

"SEC. 515. (a) The Director, in consultation with the Director of the National Institute of Corrections, may make—

"(1) 4 grants in each fiscal year, in various geographical areas throughout the United States, to public agencies for correctional options (including the cost of construction) that provide alternatives to traditional modes of incarceration and offender release programs—

"(A) to provide more appropriate intervention for youthful offenders who are not career criminals, but who, without such intervention, are likely to become career criminals or more serious offenders;

"(B) to provide a degree of security and discipline appropriate for the offender involved;

"(C) to provide diagnosis, and treatment and services (including counseling, substance abuse treatment, education, job training and placement assistance while under correctional supervision, and linkage to similar outside services), to increase the success rate of offenders who decide to pursue a course of lawful and productive conduct after release from legal restraint;

"(D) to reduce criminal recidivism by offenders who receive punishment through such alternatives;

"(E) to reduce the cost of correctional services and facilities by reducing criminal recidivism; and

"(F) to provide work that promotes development of industrial and service skills in connection with a correctional option; and

"(2) grants to private nonprofit organizations—

"(A) for any of the purposes specified in subparagraphs (A) through (F) of paragraph (1);

"(B) to undertake educational and training programs for criminal justice personnel;

"(C) to provide technical assistance to States and local units of government; and

"(D) to carry out demonstration projects which, in view of previous research or experience, are likely to be a success in more than one jurisdiction;

in connection with a correctional option (excluding the cost of construction).

"(b) The selection of applicants to receive grants under subsection (a) shall be based on their potential for developing or testing various innovative alternatives to traditional modes of incarceration and offender release programs.

"(c) The Director shall consult with the Commission on Alternative Utilization of Military Facilities created by Public Law 100-456 in order to identify military facilities that may be used as sites for correctional programs receiving assistance under this chapter.

"ALLOCATION OF FUNDS; ADMINISTRATIVE PROVISIONS

"SEC. 516. (a) Of the total amount appropriated for this chapter in any fiscal year, 80 percent shall be used to make grants under section 515(a)(1).

"(b)(1) Except as provided in paragraph (2), a grant made under section 515(a)(1) may be made for an amount up to 50 percent of the cost of the correctional option contained in the approved application.

"(2) On the basis of financial hardship, the Director may waive the limitation specified in paragraph (1). If the Director waives such limitation, a grant made under section 515(a)(1) may be made for an amount up to 75 percent of the cost of the correctional option contained in the approved application.

"(c) The Director shall—

"(1) not later than 90 days after funds are first appropriated to carry out this chapter, issue rules to carry out this chapter; and

"(2) not later than 180 days after funds are first appropriated to carry out this chapter—

"(A) submit to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report describing such rules; and

"(B) request applications for grants under this chapter.

"CHAPTER C—GENERAL REQUIREMENTS".

(b) EVALUATION.—Section 520(a)(2) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3766(a)(2)) is amended by striking "section 511" and inserting "sections 511 and 515".

(c) DEFINITION.—Section 901(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)) is amended—

(1) in paragraph (20) by striking "and" at the end,

(2) in paragraph (21) by striking the period at the end, and

(3) by adding at the end the following:

"(22) 'correctional option' includes community-based incarceration, weekend incarceration, boot camp prison, electronic monitoring of offenders, intensive probation, and any other innovative punishment designed to have the greatest impact on offenders who can be punished more effectively in an environment other than a traditional correctional facility; and

"(23) 'boot camp prison' includes a correctional facility in which inmates are required to participate in a highly regimented program that provides strict discipline, physical training, and hard labor, together with extensive rehabilitative activities and with educational, job training, and drug treatment support.".

(d) TECHNICAL AMENDMENTS.—The table of contents of title I of the Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by inserting after the heading relating to subpart 2 of part E the following:

"CHAPTER A—GRANTS TO PUBLIC AND PRIVATE ENTITIES",

(2) in the item relating to section 511 by striking "discretionary", and

(3) by striking the items relating to sections 513 and 514, and inserting the following:

"CHAPTER B—GRANTS TO PUBLIC AGENCIES

"Sec. 515. Correctional options grants.
"Sec. 516. Allocation of funds; administrative provisions.

"CHAPTER C—GENERAL REQUIREMENTS

"Sec. 517. Application requirements.
"Sec. 518. Period of award.".

(e) CONFORMING AMENDMENTS.—Section 1001(a) of title I of the Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended—

(1) in paragraph (5)—

(A) by striking "$400,000,000 for fiscal year 1991;",

(B) by striking "fiscal year 1992" and inserting "fiscal years 1991 and 1992", and

(C) by inserting "(other than chapter B of subpart 2)" after "and E",

(2) by redesignating paragraph (6) as paragraph (7), and

(3) by inserting after paragraph (5) the following:

"(6) There are authorized to be appropriated $300,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal year 1992 to carry out chapter B of subpart 2 of part E of this title.".

SEC. 102. CONVEYANCE OF PROPERTY AND FACILITIES AT MILITARY INSTALLATIONS.

(a) IN GENERAL.—Chapter 159 of title 10, United States Code, is amended by adding at the end the following:

"§ 2693. Conveyance of certain property

"(a) Except as provided in subsection (b), before any real property or facility of the United States that is under the jurisdiction of any department, agency, or instrumentality of the Department of Defense is determined to be excess to the needs of such department, agency, or instrumentality, the Secretary shall—

"(1) provide adequate notification of the availability of such real property or facility within the Department of Defense;

"(2) if the real property or facility remains available after such notification, notify the Attorney General of its availability; and

"(3) if the Attorney General certifies that a determination has been made by the Director of the Bureau of Justice Assistance within the Department of Justice to utilize the real property or facility under the correctional options program carried out under section 515 of title I of the Omnibus Crime Control and Safe Streets Act of 1968, convey the real property or facility, without reimbursement, to the public agencies referred to in section 515(a)(1) of title I of such Act for such utilization.

"(b) The provisions of this section shall not apply—

"(1) to real property and facilities to which title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526) is applicable; and

"(2) during any portion of a fiscal year after four conveyances have been made under this section in such fiscal year.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2693. Conveyance of certain property.".

SEC. 103. IMPROVEMENT OF CRIMINAL JUSTICE RECORDS.

(a) AMENDMENT.—Subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

"IMPROVEMENT OF CRIMINAL JUSTICE RECORDS

"SEC. 509. (a) Subject to subsection (d), each State which receives funds under section 506 in a fiscal year shall allocate not less than 5 percent of such funds to the improvement of criminal justice records.

"(b) The improvement referred to in subsection (a) shall include—

"(1) the completion of criminal histories to include the final dispositions of all arrests for felony offenses;

"(2) the full automation of all criminal justice histories and fingerprint records; and

"(3) the frequency and quality of criminal history reports to the Federal Bureau of Investigation.

"(c) The Director, in consultation with the Director of the Bureau of Justice Statistics, shall establish guidelines for the fulfillment of the requirements specified in subsections (a) and (b) of this section.

"(d) In accordance with such guidelines as the Director shall issue and on the request of a State, the Director may—

"(1) waive compliance with subsection (a) by such State; or

"(2) authorize such State to reduce the minimum amount such State is required to allocate under subsection (a);

if the Director, in the discretion of the Director, finds that the quality of the State's criminal justice records does not warrant expending the amount allocated under subsection (a).".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the item relating to section 508 the following:

"Sec. 509. Improvement of criminal justice records.".

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall not apply with respect to any fiscal year beginning before the date of the enactment of this Act.

SEC. 104. NOTICE OF CERTAIN UNDERUTILIZED MILITARY FACILITIES.

Section 7302 of the Anti-Drug Abuse Act of 1988 (18 U.S.C. 4042 note) is amended—

(1) in paragraph (2) by striking "and" at the end,

(2) in paragraph (3) by striking the period at the end and inserting a semicolon, and

(3) by inserting after paragraph (3) the following:

"(4) notifying State and local government corrections agencies of the existence of underutilized military facilities identified by the Commission on Alternative Utilization of Military Facilities which may be suitable for use as minimum security institutions, correctional options (as defined in section 901(a)(22) of title I of the Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3791(a)(22)), boot camp prisons (as defined in section 901(a)(23) of such title I), or facilities for nonviolent State and local offenders; and

"(5) assisting State and local corrections agencies to adapt the facilities described in paragraph (4) for use as such institutions, such options, such prisons, or facilities for nonviolent State and local offenders.".

SEC. 105. MATCHING REQUIREMENT.

Section 504(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(a)) is amended by striking "not—" and all that follows through "per centum;" the last place it appears, and inserting the following: "not for any fiscal year be expended for more than 75 percent".

SEC. 106. STATE DISTRIBUTION OF FUNDS TO UNITS OF LOCAL GOVERNMENT.

Section 506(b)(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756l(b)(1)) is amended—

(1) by inserting "(A) Except as provided in subparagraph (B)," after "(1)",

(2) by adding at the end the following:

"(B) Except as provided in subparagraph (C), each State that receives funds under subsection (a) shall distribute to a unit of local government (or to a combination of units of local government) in such State for the purposes specified in section 501 of this title that portion which bears the same ratio to the aggregate amount of such funds as the amount expended by such unit of local government (or such combination of units of local government) for criminal justice in the preceding fiscal year bears to the aggregate amount expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year. Each unit of local government (or combination of units of local government) that receives funds under this subparagraph shall make a good faith effort to participate in the development of the State plan and priorities and to comply with the principles of the State plan and priorities.

"(C)(i) A single unit of local government, or a combination of units of local government, is ineligible to receive funds under subparagraph (B) if the aggregate amount distributable to such unit or such combination (without regard to this clause) is less than $50,000.

"(ii) A unit of local government is ineligible in a fiscal year to receive funds under subparagraph (B) both in its capacity as a single unit of local government and in its capacity as a part of a combination of units of local government.".

SEC. 107. DIRECT DISTRIBUTION OF FUNDS TO UNITS OF LOCAL GOVERNMENT.

(a) APPLICATIONS TO RECEIVE GRANTS.—Section 503 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756j) is amended—

(1) by striking "this section" each place it appears and inserting "this subsection", and

(2) by adding at the end thereof the following:

"(c)(1) To request a grant under section 501 of this title, the chief executive of a unit of local government (or a duly authorized executive officer of any single unit of local government that is part of a combination of units of local government and who is selected by such combination to represent such combination) shall submit to the Director an application at such time and in such form as the Director may require.

"(2) Such application shall include—

"(A) a certification that Federal funds made available under section 501 of this title will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would otherwise be made available for drug law enforcement activities;

"(B) a certification that funds required to pay the non-Federal portion of the cost of each program and project for which such grant is made shall be in addition to funds that would otherwise be made available for drug law enforcement by the recipient of such grant;

"(C) an assurance that the applicant has submitted a copy of the application referred to in paragraph (1) to the appropriate State office designated under section 507 of this title; and

"(D) an assurance that the application referred to in paragraph (1), and any amendment thereto, was made public before submission to the Bureau and, to the extent provided under State or local law or established procedure, an opportunity to comment thereon was provided to citizens and to neighborhood and community groups.".

(b) REVIEW OF APPLICATIONS.—Section 505(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3755k(a)) is amended in the section heading and in the matter preceding paragraph (1) by striking "State".

(c) ALLOCATION OF FUNDS AND DISTRIBUTION OF FUNDS.—Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756l) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(1)" and inserting "(A)",

(B) in paragraph (2) by striking "(2)" and inserting "(B)", *(C) by striking "(a) Of" and inserting "(a)(1) Except as provided in paragraph (2), of", and*

(D) by adding at the end the following:

"(2) If a State fails to submit an application for a grant under section 501 of this title, before the expiration of the preference period for such fiscal year, then except as provided in paragraph (4)—

"(A) there shall be allocated to each eligible unit of local government (or combination of units of local governments) in such State an amount that bears the same ratio to the aggregate amount allocable to such State under paragraph (1) without regard to this paragraph as the amount of funds expended by such unit of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by all units of local government in such State for criminal justice in the preceding fiscal year; and

"(B) there shall be allocated to such State the amount by which the aggregate amount allocable to such State under paragraph (1) without regard to this paragraph exceeds the aggregate amount allocated under subparagraph (A) to units of local government in such State.

"(3) For purposes of paragraph (2)(A), the term 'eligible unit of local government' means a unit of local government that submits an application for a grant under section 501 of this title for a fiscal year not later than 90 days after the expiration of the preference period for such fiscal year.

"(4)(A) A single unit of local government, or a combination of units of local government, is ineligible to receive an allocation under paragraph (2)(A) for a fiscal year if the amount of such allocation determined under such paragraph with respect to such unit, or all units of local government that are part of such combination, would be less than $50,000.

"(B) A unit of local government is ineligible to receive an allocation under paragraph (2)(A) for a fiscal year both in its capacity as a single unit of local government and in its capacity as a part of a combination of units of local government.

"(5) For purposes of this subsection, the preference period consists of the aggregate of—

"(A)(i) for fiscal year 1991, the 120-day period beginning on the date any funds are appropriated to carry out this part for fiscal year 1991; or

"(ii) for any other fiscal year, the 60-day period beginning on the date any funds are appropriated to carry out this part for such fiscal year; and

"(B) the 60-day period beginning on the expiration of the applicable period referred to in subparagraph (A) if the Director determines that good cause exists for the failure of a State to submit an application for a grant under section 501 of this title for the fiscal year involved within such applicable period.",

(2) in subsection (b)(1)(A), as amended by section 106 of this Act, by inserting "(excluding such units and such combinations that receive funds under subsection (a)(2))" after "in such State" the first place it appears, and

(3) in subsection (c) by inserting "or to a unit of local government (or combination of units of local government)" after "to a State".

(d) Reports.—Section 522 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3766b) is amended—

(1) in subsection (a)—

(A) by striking "Each State" and inserting "Each applicant", and by inserting "(or combination of units of local government)" after "government",

(B) in paragraph (1) by inserting "in the case of a State applicant," after "(1)", and

(C) in paragraph (2) by striking "State" and inserting "applicant", and

(2) in subsection (b) by striking "State" the first two places it appears and inserting "applicant".

SEC. 108. REVOCATION OF DRIVERS' LICENSES OF INDIVIDUALS CONVICTED OF DRUG OFFENSES.

Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756), as amended by section 107(c), is amended—

(1) in subsection (a)(1) by inserting "and subject to subsection (e)" after "paragraph (2)",

(2) by redesignating subsection (e) as subsection (f), and

(3) by inserting after subsection (d) the following:

"(e)(1) For any fiscal year beginning more than 2 years after the effective date of this subsection—

"(A) 90 percent of the funds allocated under subsection (a), without regard to this subsection, to a State described in paragraph (2) shall be distributed by the Director to such State; and

"(B) 10 percent of such amount shall be allocated equally among States that are not affected by the operation of subparagraph (A).

"(2) Paragraph (1)(A) refers to a State—

"(A) that does not have in effect, and does not enforce, in such fiscal year, a law that requires in all circumstances, except as provided in paragraph (3)—

"(i) the mandatory revocation of the driver's license for at least 1 year of any person who is convicted, after the enactment of such law, of—

"(I) a violation of section 404 of the Controlled Substances Act (21 U.S.C. 844) or any other Federal or State offense consisting of the possession of illegal drugs; and

"(II) any other Federal or State drug offense for which a person serves less than 1 year's imprisonment; and

"(ii) the mandatory denial of any request for the issuance or reinstatement of a driver's license to such a person if the person does not have a driver's license, or the driver's license of the person is suspended, at the time the person is so convicted; and

"(B) in which the State legislature has not voted, before such fiscal year, to exempt the State from the operation of this subsection.

"(3) The State law referred to in paragraph (2) may provide that the driver's license of a first offender, but not of a second or subsequent offender, may be reinstated on performance of 3 months' community service by such first offender who passes periodic drug tests administered during the period of community service.

"(4) For purposes of this subsection—

"(A) the term 'driver's license' means a license issued by a State to any person that authorizes the person to operate a motor vehicle on highways;

"(B) the term 'drug offense' means any criminal offense which proscribes the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act (21 U.S.C. 801 et seq.) and such offenses under State laws; and

"(C) the term 'convicted' includes adjudicated under juvenile proceedings.".

SEC. 109. IMPROVED EFFECTIVENESS OF COURT PROCESS.

Section 501(b)(10) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)(10)) is amended to read as follows:

"(10) improving the operational effectiveness of the court process by expanding prosecutorial, defender, and judicial resources and by implementing court delay reduction programs.".

TITLE II—FEDERAL DEATH PENALTY

SEC. 201. PRESIDENTIAL ASSASSINATION AND RELATED CRIMES.

Section 1751 of title 18, United States Code, is amended—

(1) by inserting after subsection (e) the following:

"(f) Whoever—

"(1) intentionally kills an individual during the course of an offense under this section, on account of that individual's duties or status as an official protected under this section; or

"(2) engages in conduct in the course of an attempted killing in violation of this section, that results in serious bodily injury (as defined in section 1365 of this title) to the President or Vice President, or the President-elect or Vice President-elect;

shall be subject to the death penalty under chapter 228 of this title."; and

(2) by redesignating subsections (f) through (k) as subsections (g) through (l).

SEC. 202. INTENTIONAL KILLINGS OF CERTAIN FEDERAL OFFICIALS.

Section 351(a) of title 18, United States Code, is amended by adding at the end "Whoever intentionally kills any individual listed in this subsection on account of that individual's duties or status as an official or nominee protected under this section shall be subject to the death penalty under chapter 228 of this title.".

SEC. 203. INTENTIONAL KILLINGS OF FOREIGN OFFICIALS.

Section 1116(a) of title 18, United States Code, is amended by adding at the end the following: "Whoever violates this section by intentionally killing a foreign official or an internationally protected person because of such official's or person's duties or status as a foreign official or internationally protected person, or a member of the family of such an official or person, because of that family member's relationship to the official or person, shall be subject to the death penalty under chapter 228 of this title.".

SEC. 204. INTENTIONAL KILLINGS OF FEDERAL JUDGES AND LAW ENFORCEMENT OFFICERS.

Section 1114 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever kills"; and

(2) by adding at the end the following:

"(b)(1) Whoever violates this section by intentionally killing a listed Federal law enforcement officer, on account of the officer's status or duties as a law enforcement officer, shall be subject to the death penalty under chapter 228 of this title.

"(2) As used in this subsection, the term 'listed Federal law enforcement officer' means an individual who is—

"(A) a law enforcement officer (as defined in section 1515(4) of this title) in—

"(i) the Department of Justice;

"(ii) the Department of the Treasury;

"(iii) the Coast Guard; or

"(iv) the United States Postal Service; or

"(B) employed in a Federal correctional facility.

"(c) Whoever violates this section by intentionally killing a judge of the United States on account of that judge's duties or status as a judge shall be subject to the death penalty under chapter 228 of this title.".

SEC. 205. INTENTIONALLY KILLING A FEDERAL WITNESS IN THE WITNESS PROTECTION PROGRAM.

Section 1512 of title 18, United States Code, is amended—

(1) by inserting after subsection (c) the following:

"(d) Whoever violates this section by intentionally killing an individual provided protection under section 3521 of this title shall be subject to the death penalty under chapter 228 of this title."; and

(2) by redesignating subsections (d) through (h) as subsections (e) through (i).

SEC. 206. INTENTIONALLY KILLING THE VICTIM OF A KIDNAPPING OR HOSTAGE TAKING.

(a) In General.—Chapter 55 of title 18, United States Code, is amended by adding at the end the following:

"§ 1204. Intentionally killing the victim

"Whoever in the course of an offense under section 1201 or 1203 of this title intentionally kills the victim of the offense shall be subject to the death penalty under chapter 228 of this title.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 55 of title 18, United States Code, is amended by adding at the end the following:

"1204. Intentionally killing the victim.".

SEC. 207. CONTRACT MURDERS.

Section 1958(a) of title 18, United States Code, is amended by adding at the end the following: "Whoever violates this section by traveling in or causing another (including the intended victim) to travel in interstate or foreign commerce with intent that a murder be committed, and intentionally kills the victim shall be subject to the death penalty under chapter 228 of this title.".

SEC. 208. ESPIONAGE AND TREASON.

(a) Espionage.—Section 794(a) of title 18, United States Code, is amended by adding at the end the following: "Chapter 228 of this title applies to the death penalty under this section.".

(b) Treason.—Section 2381 of title 18, United States Code, is amended by adding at the end the following: "Chapter 228 of this title applies to the death penalty under this section.".

SEC. 209. TERRORISM.

Section 2331(a)(1) of title 18, United States Code, is amended by inserting ", or may be sentenced to death under chapter 228 of this title" after "so imprisoned".

SEC. 210. SKYJACKING.

Subsection (c) of section 903 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1473) is amended to read as follows:

"(c) Chapter 228 of title 18, United States Code, applies to the death penalty under this section.".

SEC. 211. DRUG KINGPIN CONFORMING AMENDMENT.

Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended—

(1) in subsection (e) by inserting at the end the following: "Chapter 228 of title 18, United States Code, applies to the death penalty under this subsection.";

(2) by striking subsections (g) through (p), and (r);

(3) by striking paragraphs (1) through (3) of subsection (q);

(4) by redesignating paragraphs (4) through (10) of subsection (q) as paragraphs (1) through (7);

(5) within such redesignated paragraphs (other than in their designations), by striking "(4)" each place it appears and inserting "(1);

(6) within such redesignated paragraphs, by striking "(5)" each place it appears and inserting "(2);

(7) within such redesignated paragraphs, by striking "(6)" each place it appears and inserting "(3);

(8) within such redesignated paragraphs, by striking "(7)" each place it appears and inserting "(4);

(9) within such redesignated paragraphs, by striking "(8)" each place it appears and inserting "(5);

(10) within such redesignated paragraphs, by striking "(9)" each place it appears and inserting "(6);

(11) within such redesignated paragraphs, by striking "(10)" each place it appears and inserting "(7); and

(12) by redesignating subsection (q) as subsection (f).

SEC. 212. DEATH PENALTY PROCEDURES.

(a) In General.—Title 18, United States Code, is amended by inserting after chapter 227 the following new chapter:

"CHAPTER 228—DEATH PENALTY PROCEDURES

"Sec.
"3591. Application of chapter.
"3592. Notice required.
"3593. Bifurcated trial.
"3594. Aggravating and mitigating factors.
"3595. Special findings as to factors.
"3596. Weighing of factors and appropriateness of sentence.
"3597. Imposition of a sentence of death.
"3598. Review of a sentence of death.
"3599. Implementation of sentence of death.
"3599A. Use of State facilities.

"§ 3591. Application of chapter

"This chapter applies to each defendant charged with an offense for which the law defining the offense provides a possible sentence of death under this chapter.

"§ 3592. Notice required

"(a) In General.—

"(1) Contents.—If the Government intends to seek the death penalty under this chapter for an offense, the attorney for the Government, a reasonable time before the trial begins, or before acceptance by the court of a plea of guilty, shall sign and file with the court, and serve on the defendant, a notice—

"(A) that the Government in the event of conviction will seek the sentence of death; and

"(B) setting forth each aggravating factor that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty.

"(2) Amendment.—The Government may, for good cause shown, amend a notice given under this subsection not later than 10 days before the sentencing phase of the trial begins.

"(b) Approval by Court of Additional Aggravating Factors.—The court shall consider each aggravating factor the Government gives notice of under this section that is not listed specifically in section 3594(d) of this title as an aggravating factor. The Government shall not seek to prove as part of the basis for the death penalty any factor the court considers under this subsection unless the court approves the Government's doing so. The court shall not approve such a factor unless, after a hearing that is completed before the sentencing phase of the trial begins, the court determines that the proposed aggravating factor addresses the nature of the crime or the character of the defendant so as to narrow the class of persons eligible for the death penalty and justify the imposition of the death penalty on this particular defendant as opposed to others convicted of the same offense. No appeal by the United States shall lie under section 3731 of this title from a decision or order of the court disapproving such a factor.

"§ 3593. Bifurcated trial

"(a) In General.—The trial of a case under this chapter shall be divided into two phases. The first phase shall determine guilt or innocence of the defendant, and the second phase shall determine sentencing.

"(b) Special Rules Pertaining to Sentencing Phase.—The judge who presided at the first phase of the trial, or another judge if that judge is unavailable, shall conduct the second phase, a hearing to determine the punishment to be imposed. Notwithstanding the Federal Rules of Criminal Procedure, no presentence report shall be prepared by the United States Probation Service before such a hearing.

"(c) Jury.—The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted by the court sitting without a jury;

"(C) the jury that convicted the defendant was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the Government.

"§ 3594. Aggravating and mitigating factors

"(a) Proof of Mitigating and Aggravating Factors.—

"(1) Evidence.—At the hearing, all information (other than information that was or would be subject to suppression because of a constitutional violation had it been offered in the first phase of the trial) that relates to any mitigating factor, or to any of the aggravating factors properly before the court, may be presented. Such information is admissible without regard to the requirements of the Federal Rules of Evidence. However, information is not admissible unless there are sufficient indicia of reliability to support its probative value, and not even then if the danger of prejudice outweighs its probative value.

"(2) Burden.—The burden of establishing the existence of an aggravating factor is on the Government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is supported by any evidence.

"(b) Specific Mitigating Factors.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) Mental capacity.—The defendant's mental capacity to appreciate the wrongful-

ness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant's conduct was affected by the defendant's being under duress, coercion, threat, or compulsion, regardless of whether it was of such a degree as to constitute a defense to the charge.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) YOUTHFULNESS OF THE DEFENDANT.—The defendant, though over the age of 18 years, was youthful or immature.

"(5) INSIGNIFICANT PRIOR CRIMINAL RECORD.—The defendant did not have a significant prior criminal record.

"(6) MENTAL DISEASE OR DEFECT.—At the time of the offense, the defendant was suffering from a mental disease or defect, personality disorder, or emotional disturbance.

"(7) OTHERS NOT PUNISHED.—Another defendant, equally culpable in the crime, will not be punished by death.

"(8) CONSENT OF VICTIM.—The victim consented to the conduct constituting the offense.

• "(c) ADDITIONAL MITIGATING FACTORS.—The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's character or record or any other circumstances of the offense exists that would constitute a mitigating factor. At the request of the defendant, the court shall instruct the jury as to any mitigating factor for which evidence has been presented.

"(d) SPECIFIC AGGRAVATING FACTORS FOR HOMICIDE AND ATTEMPTED HOMICIDE.—In determining whether a sentence of death should be imposed for an offense consisting of homicide or attempted homicide, the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given under this chapter and determine which, if any, exist:

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of 2 or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense or in escaping apprehension, knowingly created a grave risk of death to another person in addition to any victims of the offense.

"(4) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value, unless this is an element of the offense.

"(5) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value, unless this is an element of the offense.

"(6) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity, and the defendant was or should have been aware of that vulnerability.

"(7) MOTIVATION.—The defendant's motivation for the offense was bias, prejudice or hatred based on religion, race, ethnicity, sex, or sexual preference.

"(8) PRISON ESCAPE.—The offense was committed while the defendant was escaping or a fugitive from any facility in the United States where the defendant was serving a sentence of imprisonment for conviction of a crime.

"(9) RELEASED OFFENDER.—The offense was committed while the defendant was released on probation, parole, supervised release, furlough, or other conditional or temporary release from imprisonment for a State or Federal offense (including an offense against the law of a territory or possession of the United States) punishable—

"(A) by death or imprisonment for life; or

"(B) by imprisonment for a period greater than one year, and the offense involved the infliction or attempted infliction of serious bodily injury or death on another person.

"(10) EXTREME PREMEDITATION.—The offense was characterized by an extreme degree of premeditation as exhibited by a substantial amount of planning or preparation over a sustained period of time.

"(11) TORTURE.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved serious torture or physical abuse to a victim over a period of time, thus causing extreme physical pain and suffering to that victim.

"(12) COMMISSION DURING ANOTHER OFFENSE.—The defendant committed the offense during the commission of another offense for which the death penalty is an authorized punishment under Federal law.

"(13) LIFE PRISONER.—The defendant committed the offense while the defendant was a prisoner serving a life sentence without possibility of release or one or more life sentences with no reasonable expectation of release.

"(e) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense consisting of espionage or treason, the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given under this chapter and no others and determine which, if any, exist:

"(1) PREVIOUS ESPIONAGE OR TREASON CONVICTION.—The defendant has previously been convicted of another offense—

"(A) involving espionage or treason; or

"(B) a Federal or State offense for which a sentence of life imprisonment or death was authorized by statute.

"(2) SERIOUS INJURY TO NATIONAL DEFENSE.—In the commission of the offense the defendant compromised war plans, cryptographic information, or information concerning a major weapons system, in a way that intentionally caused serious injury to the national defense.

"(3) DEATH OF ANOTHER.—In the commission of the offense the defendant knowingly caused the death of another person.

"(4) MANAGERIAL POSITION.—In the commission of the offense, the defendant acted in concert with 5 or more persons with respect to whom the defendant occupied a position of organizer, a supervisory position, or any other position of management.

"(f) ADDITIONAL AGGRAVATING FACTORS.—In the case of homicide or attempted homicide only, the jury, or if there is no jury, the court, may, if the court approves doing so under section 3592 of this title, consider whether any other aggravating factor exists.

"§ 3595. Special findings as to factors

"(a) SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying each aggravating and mitigating factor found to exist under this chapter.

"(b) MITIGATING FACTORS.—A special finding with respect to a mitigating factor may be made by one or more members of the jury, and if any member of the jury finds the existence of a mitigating factor supported by any evidence, that factor is established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(c) AGGRAVATING FACTORS.—A finding with respect to any aggravating factor must be unanimous. Unless 2 or more aggravating factors are found to exist under this chapter—

"(1) in the case of a treason or espionage offense, all of which are specifically listed in section 3594 as aggravating factors for treason and espionage; and

"(2) in any other case, at least one of which is listed specifically in section 3594 as an aggravating factor for homicide;

the court shall impose a sentence, other than death, authorized by law.

"(d) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—If the sentencing proceeding is held before a jury, the court shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to find for a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return findings under this section, shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching the juror's individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3596. Weighing of factors and appropriateness of sentence

"(a) WEIGHING OF FACTORS.—If 2 or more aggravating factors are found under this chapter, the jury, or if there is no jury, the court, shall then consider whether the aggravating factors found to exist sufficiently outweigh any mitigating factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factors alone are sufficient to justify a sentence of death. If the jury finds that the aggravating factors do not outweigh the mitigating factor or factors, then the court shall impose any sentence, other than death, authorized by law.

"(b) APPROPRIATENESS OF SENTENCE.—If, in the case of a jury proceeding, every juror finds beyond a reasonable doubt that the aggravating factors found to exist outweigh

any mitigating factors, the jury shall consider whether in light of all the information presented in mitigation and aggravation, and all the information presented regarding the character, background, and record of the defendant, and the nature and circumstances of the offense, the imposition of the death sentence in this case is appropriate and justified. If the jury finds that the death sentence is appropriate and justified then it may impose a sentence of death. Such finding must be made unanimously and beyond a reasonable doubt. The jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence and shall be so instructed. If the jury does not impose the death sentence, the jury may impose a sentence of life imprisonment without the possibility of release or furlough. If the jury does not impose either of these sentences, the court shall impose a sentence, other than death, authorized by law. In the absence of a jury, the court shall make these determinations and impose sentence accordingly.

"§ 3597. Imposition of a sentence of death

"(a) IN GENERAL.—

"(1) DETERMINATION BY COURT.—Upon a determination under section 3596 of this title that a sentence of death should be imposed, the court shall determine whether or not to sentence the defendant to death.

"(2) FINDINGS REQUIRED.—The court shall impose the sentence of death if the court finds that the evidence supports the jury's findings regarding the existence of aggravating factors and the jury's weighing of those factors against the mitigating factor or factors, and the decision of the jury was not the result of passion or prejudice. In making these findings, the court shall affirm the jury's decision unless the court finds, in the light of all the information presented to the jury, that no reasonable juror could have reasonably found as jury did. If the court is unable to make these findings, then the court shall impose any other sentence authorized by law.

"(3) SENTENCE OF LIFE IMPRISONMENT.—If the jury recommends life imprisonment without the possibility of release or furlough, the court shall impose a sentence of life imprisonment without the possibility of release or furlough if the court makes with respect to the jury's decision the same findings required to affirm a jury decision for a sentence of death. If the court is unable to make these findings, then the court shall impose any other sentence authorized by law.

"(4) OTHER SENTENCES.—If the court is unable to make the findings required to support a jury decision for a sentence of death or a sentence of life imprisonment without possibility of release or furlough, as the case may be, the court shall impose a sentence, other than death, authorized by law.

"(b) CERTAIN PERSONS NOT SUBJECT TO DEATH SENTENCE.—The death penalty shall not—

"(1) be imposed or carried out on an individual—

"(A) who had not attained the age of 18 years at the time of the offense; or

"(B) who is mentally retarded or incompetent; or

"(2) be carried out on a pregnant woman.

"§ 3598. Review of a sentence of death

"(a) RIGHT TO APPEAL IN GENERAL.—

"(1) AUTOMATIC REVIEW.—In a case in which a sentence of death is imposed, the court of appeals shall review the sentence as if upon appeal by the defendant, unless the defendant knowingly and intelligently waives such review and the district court after a competency hearing determines the defendant is competent to do so. Such review may be combined with an appeal from the conviction.

"(2) SCOPE OF REVIEW.—Such review shall consider—

"(A) each relevant issue of fact or question of law; and

"(B) whether the sentence is proportional to the sentences given other similarly situated Federal defendants in similar cases on a national basis.

"(3) SUPREME COURT REVIEW.—If the court of appeals affirms the sentence, the Supreme Court shall also review the case in the manner prescribed for review by the appeals court under this section.

"(4) EFFECT OF OVERTURNING AGGRAVATING FACTOR.—If any reviewing court determines that any aggravating factor was not supported by the evidence or is not a proper aggravating factor, the sentence shall not be affirmed.

"(b) INCOMPETENCE.—Any person having reason to believe that an individual who is sentenced to death is mentally retarded or incompetent may on behalf of that individual seek review or other appropriate relief.

"(c) STATEMENT OF REASONS.—Each reviewing court shall state in writing the reasons for its disposition of a matter under this section.

"§ 3599. Implementation of sentence of death

"(a) CUSTODY.—A person who has been sentenced to death under this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State or other place in which the sentence is imposed. If the law of such State or place does not provide for implementation of a sentence of death, the court shall designate a State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by law.

"(b) No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"§ 3599A. Use of State facilities

"A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such as an official employed for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part II of title 18, United States Code, is amended by inserting after the item relating to chapter 227 the following new item:

"228. Death penalty procedures .... 3591".

TITLE III—ANABOLIC STEROIDS

SEC. 301. ANABOLIC STEROID PENALTIES.

(a) COACHES AND OTHERS PERSUADING OR INDUCING USE.—Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended by inserting after subsection (a) the following:

"(b)(1) Whoever, being a physical trainer or adviser to an individual, endeavors to persuade or induce that individual to possess or use anabolic steroids in violation of subsection (a), shall be fined under title 18, United States Code, or imprisoned not more than 2 years, or both. If such individual has not attained the age of 18 years, the maximum imprisonment shall be 5 years.

"(2) As used in this subsection, the term 'physical trainer or adviser' means any professional or amateur coach, manager, trainer, instructor, or other such person, who provides any athletic or physical instruction, training, advice, assistance, or other such service to any person.".

(b) ADDITION OF ANABOLIC STEROIDS TO SCHEDULE III.—Schedule III of section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended by adding at the end the following:

"(e) Anabolic steroids.".

(c) DEFINITION OF ANABOLIC STEROID.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end the following:

"(41)(A) The term 'anabolic steroid' means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes—

"(i) Boldenone.

"(ii) Chlorotestosterone.

"(iii) Clostebol.

"(iv) Dehydrochlormethyltestosterone.

"(v) Dihydrotestosterone.

"(vi) Drostanolone.

"(vii) Ethylestrenol.

"(viii) Fluoxymesterone.

"(ix) Mesterolone.

"(x) Methandienone.

"(xi) Methandranone.

"(xii) Methandriol.

"(xiii) Methandrostenolone.

"(xiv) Methyltestosterone.

"(xv) Mibolerone.

"(xvi) Nandrolone.

"(xvii) Norethandrolone.

"(xviii) Oxandrolone.

"(xix) Oxymesterone.

"(xx) Oxymetholone.

"(xxi) Stanolone.

"(xxii) Stanozolol.

"(xxiii) Testolactone.

"(xxiv) Testosterone.

"(xxv) Trenbolone; and

"(xxvi) any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth.

"(B)(i) Except as provided in clause (ii), such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for such administration.

"(ii) If any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of subparagraph (A).".

SEC. 302. EXEMPTION RELATING TO STEROIDS.

The Attorney General, upon the recommendation of the Secretary of Health and Human Services, may, by regulation, exempt any compound, mixture, or preparation containing a substance listed in paragraph (41) of section 102 of the Controlled Substances Act from the application of all or any part of the Controlled Substances Act if, because of its concentration, preparation, mixture, or delivery system, it has no significant potential for abuse.

SEC. 303. PENALTY FOR DISTRIBUTION OF HUMAN GROWTH HORMONE.

Subsection (e) of section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) is amended—

(1) by striking "anabolic steroid" each place it appears and inserting "human growth hormone"; and

(2) by adding at the end the following:

"(3) As used in this subsection, the term 'human growth hormone' means somatrem, somatropin, or an analogue of either of them.".

SEC. 304. CLERICAL CORRECTION.

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended by inserting "(a)" before "It shall be unlawful" in the first undesignated paragraph.

SEC. 305. INTERAGENCY COORDINATING COUNCIL ON THE ABUSE OF ANABOLIC STEROIDS.

(a) ESTABLISHMENT.—There is established the Interagency Coordinating Council on the Abuse of Anabolic Steroids. The Council shall consist of—

(1) the Secretary of Health and Human Services,

(2) representatives of—

(A) the Food and Drug Administration,

(B) the Drug Enforcement Administration,

(C) the Department of Education, and

(D) the Department of Defense,

appointed by the Secretary of Health and Human Services from nominations of the heads of such agencies, and

(3) 5 members of the general public appointed by the Secretary of Health and Human Services from persons who represent secondary school athletic coaches, persons engaged in research on anabolic steroids, and physicians with experience with anabolic steroids.

The Secretary of Health and Human Services shall be the Chairman of the Council.

(b) PURPOSE.—The Council established under subsection (a) shall develop a comprehensive strategy for the control of the improper use and abuse of anabolic steroids and shall report the strategy to the Congress and shall otherwise make the strategy available to the public.

(c) TERMINATION.—The Council established under subsection (a) shall terminate one year after the date of the enactment of this Act.

TITLE IV—ASSET FORFEITURE

SEC. 401. AMENDMENTS RELATING TO THE SPECIAL FORFEITURE FUND.

(a) ASSETS FORFEITURE FUND AMENDMENT.—Section 524(c)(9) of title 28, United States Code, is amended—

(1) in the first sentence, by striking out "(9) There" and inserting in lieu thereof "(9)(A) There"; and

(2) by striking out the second sentence and inserting in lieu thereof the following:

"(B) Subject to subparagraph (C), in each of fiscal years 1990, 1991, 1992, and 1993, the Attorney General may transfer from the Fund not more than $150,000,000 to the Special Forfeiture Fund established by section 6073 of the Anti-Drug Abuse Act of 1988. Such transfers shall be made at the end of each quarter of the fiscal year involved and on a quarterly pro rata basis.

"(C) Transfers under subparagraph (B) may be made only from excess unobligated amounts and only to the extent that, as determined by the Attorney General, such transfers will not impair the future availability of amounts for the purposes under paragraph (1).

"(D) At the end of each of fiscal years 1990, 1991, 1992, and 1993, the Attorney General may retain in the Fund not more than $15,000,000, or, if determined by the Attorney General to be necessary for asset-specific expenses, a greater amount equal to not more than one-tenth of the total of obligations from the Fund in preceding fiscal year.".

(b) SPECIAL FORFEITURE FUND AMENDMENT.—Section 6073(b) of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509(b)) is amended to read as follows:

"(b) DEPOSITS.—Deposits in the Fund shall be made by transfer from the Department of Justice Assets Forfeiture Fund in the manner provided in section 524(c)(9) of title 28, United States Code.".

SEC. 402. PROHIBITION OF CERTAIN TRANSFERS OF FORFEITED PROPERTY TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES IF SUCH TRANSFERS CIRCUMVENT STATE LAW.

(a) PARTICIPATION REQUIREMENT.—Section 511(e)(3) of the Controlled Substances Act (21 U.S.C. 881(e)(3)) is amended to read as follows:

"(3) The Attorney General shall assure that any property transferred to a State or local law enforcement agency under paragraph (1)(A) has a value that bears a reasonable relationship to the degree of direct participation of the State or local agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based.".

(b) ANTI-CIRCUMVENTION REQUIREMENT.—Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by adding at the end the following new paragraph:

"(4) The Attorney General shall assure that property is not transferred following utilization of an adopted seizure process to circumvent any requirement of State law that limits the disposition of property forfeited to State or local agencies. An adopted seizure process is one in which investigative and prosecutive activity related to the seizure (other than activity relating to the actual forfeiture) was carried out exclusively by State and local agencies. In determining whether the transfer would be in circumvention of State law, the Attorney General may rely upon a written opinion of the attorney general of the pertinent State that such a process is not being utilized to circumvent State law. A decision by the Attorney General under this subsection is not subject to review by any court.".

(c) EFFECTIVE DATES.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. The amendment made by subsection (b) shall take effect on October 1, 1991.

SEC. 403. CLARIFICATION OF ATTORNEY GENERAL'S AUTHORITY TO WARRANT CLEAR TITLE UPON TRANSFER OF FORFEITED PROPERTY.

Section 524(c) of title 28, United States Code, is amended—

(1) by redesignating paragraph (10) as paragraph (11); and

(2) by inserting after paragraph (9) the following new paragraph:

"(10) Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department, the Attorney General is authorized, at his discretion, to warrant clear title to any subsequent purchaser or transferee of such forfeited property.".

SEC. 404. SUMMARY SEIZURE AND FORFEITURE OF MONEY AND SIMILAR ITEMS UNDER THE CONTROLLED SUBSTANCES ACT.

Section 511 of the Controlled Substances Act (21 U.S.C. 881) is amended—

(1) by redesignating subsection (l) as subsection (k); and

(2) by adding at the end the following new subsection:

"(l) Notwithstanding any other provision of this title, the Attorney General may carry out seizure and forfeiture of moneys in the manner provided with respect to seizure and forfeiture of conveyances by the Secretary of the Treasury under section 607 of the Tariff Act of 1930.".

SEC. 405. CONFORMING AMENDMENT RELATING TO THE EQUITABLE TRANSFER OF FORFEITED PROPERTY TO A PARTICIPATING FOREIGN NATION.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking out the matter before paragraph (1);

(2) by realigning paragraphs (1) through (5) 2 ems to the left, so that the left margins of such paragraphs are flush;

(3) by striking out "(1) Notwithstanding" in paragraph (1) and all that follows through the end of the second sentence of that paragraph and inserting in lieu thereof the following:

"(i)(1) Whenever property is civilly or criminally forfeited under this chapter, the Attorney General or the Secretary of the Treasury, as the case may be, may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

"(A) has been agreed to by the Secretary of State;

"(B) is authorized in an international agreement between the United States and the foreign country; and

"(C) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961.";

(4) by inserting after "Attorney General" in the third and fifth sentences of paragraph (1) the following: "or the Secretary of the Treasury"; and

(5) by striking out the last sentence of paragraph (1).

SEC. 406. CLARIFICATION OF ATTORNEY GENERAL'S FORFEITURE SALE AUTHORITY.

Section 511(e)(1)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(1)(B)) and section 2254(f)(2) of title 18, United States Code, are each amended by inserting after "sell" the following: ", by public sale or any other commercially feasible means,".

SEC. 407. FORFEITURE AND DESTRUCTION OF DANGEROUS, TOXIC, AND HAZARDOUS MATERIALS.

Section 511(f) of the Controlled Substances Act (21 U.S.C. 881(f)) is amended by inserting after "this title" each place it appears the following: "; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container subject to forfeiture under subsection (a)(2) or (3) which cannot be separated safely from such raw materials or products".

SEC. 408. ADDITIONAL FORFEITURE AWARD AUTHORITY.

Section 524(c)(1)(C) of title 28, United States Code, is amended to read as follows:

"(C) at the discretion of the Attorney General, the payment of awards for information or assistance leading to—

"(i) a civil or criminal forfeiture under the Controlled Substances Act or the Controlled Substances Import and Export Act;

"(ii) a criminal forfeiture under chapter 96 of title 18;

"(iii) a civil forfeiture under section 981 of title 18; or

"(iv) a criminal forfeiture under section 982 of title 18.".

SEC. 409. REPORT TO CONGRESS.

Section 524(c)(6) of title 28, United States Code, is amended—

(1) in the matter before subparagraph (A), by striking out "two";

(2) by striking out "and" at the end of subparagraph (A);

(3) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(4) by adding at the end the following new subparagraph:

"(C) a report for such fiscal year, containing audited financial statements, in the form prescribed by the Comptroller General, including profit and loss information with respect to forfeited property (by category), and financial information on forfeited property transactions (by type of disposition).".

SEC. 410. FORFEITURE OF DRUG PARAPHERNALIA.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end the following new paragraph:

"(10) Any drug paraphernalia (as defined in section 1822 of the Mail Order Drug Paraphernalia Control Act).".

SEC. 411. FORFEITURE OF A FIREARM USED TO FACILITATE A DRUG OFFENSE.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end the following new paragraph:

"(11) Any firearm (as defined in section 921 of title 18, United States Code) used or intended to be used to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2) and any proceeds traceable to such property.".

TITLE V—COMPUTER CRIME

SEC. 501. SECTION 1030 AMENDMENT.

(a) OFFENSE.—Section 1030(a) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (5);

(2) by inserting "or" at the end of paragraph (6); and

(3) by inserting after paragraph (6) the following:

"(7) recklessly accesses a Federal interest computer without authorization, and by means of one or more instances of such conduct alters, damages, or destroys information in any such Federal interest computer, or prevents authorized use of any such computer or information;".

(b) PENALTY.—Section 1030(c) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking "and" at the end of paragraph (2);

(3) by striking the period at the end of paragraph (3) and inserting "; and" in lieu thereof; and

(4) by adding at the end the following:

"(4) a fine under this title or imprisonment for not more than one year, in the case of an offense under subsection (a)(7).".

TITLE VI—LAW ENFORCEMENT SCHOLARSHIPS AND RECRUITMENT INCENTIVES

SEC. 601. DEFINITIONS.

As used in this title—

(1) the term "Director" means the Director of the Bureau of Justice Assistance;

(2) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree;

including the cost of tuition, fees, books, supplies, and related expenses;

(3) the term "institution of higher education" has the same meaning given such term in section 1401(a) of the Higher Education Act of 1965;

(4) the term "law enforcement position" means employment as an officer in a State or local police force, or correctional institution; and

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 602. ALLOTMENT.

From amounts appropriated under section 610, the Director shall allot—

(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State; and

(2) 20 percent of such funds to States on the basis of the State's shortage of law enforcement personnel and the need for assistance under this title.

SEC. 603. PROGRAM ESTABLISHED.

(a) IN GENERAL.—From amounts available pursuant to section 602 each State may pay the Federal share of the costs of—

(1) awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education; and

(2) providing—

(A) full-time employment in summer; or

(B) part-time (not to exceed 20 hours per week) employment during a period not to exceed one year;

by State and local law enforcement agencies for students who are enrolled at least part time in an accredited institution of higher education and who demonstrate an interest in undertaking a career in law enforcement. Such employment shall not be in a law enforcement position. Such employment shall consist of performing meaningful tasks that inform such students of the nature of the tasks performed by law enforcement agencies.

(b) FEDERAL SHARE.—(1) The Federal share of the cost of scholarships and student employment provided under this title shall not exceed 50 percent.

(2) The non-Federal share of the cost of scholarships and student employment provided under this title shall be supplied from sources other than the Federal Government.

(c) LEAD AGENCY.—Each State receiving an allotment under section 602 shall designate an appropriate State agency to serve as the lead agency to conduct a scholarship program, a student employment program, or both in the State in accordance with thi title.

(d) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the programs conducted pursuan to this title and shall, in consultation wit the Assistant Secretary for Postsecondar Education, issue rules to implement thi title.

(e) ADMINISTRATIVE EXPENSES.—Each Stat receiving an allotment under section 60 may reserve not more than 8 percent of suc allotment for administrative expenses.

(f) SPECIAL RULE.—Each State receiving a allotment under section 602 shall ensur that each scholarship recipient under thi title be compensated at the same rate of pa and benefits and enjoy the same right under applicable agreements with labor organizations and under State and local la as other law enforcement personnel of th same rank and tenure in the office of which the scholarship recipient is a member.

(g) SUPPLEMENTATION OF FUNDING.—Fund received under this title shall only be used t supplement, and not to supplant, Federal State, or local efforts for recruitment an education of law enforcement personnel.

SEC. 604. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarship awarded under this title shall be for a perio of one academic year.

(b) USE OF SCHOLARSHIPS.—Each individua awarded a scholarship under this title ma use such scholarship for educational expenses at any accredited institution o higher education.

SEC. 605. ELIGIBILITY.

(a) SCHOLARSHIPS.—An individual shall b eligible to receive a scholarship under thi title if such individual has been employed i law enforcement for the 2-year period immediately preceding the date on which assistance is sought.

(b) STUDENT EMPLOYMENT.—An individua who has been employed as a law enforcement officer is ineligible to participate in student employment program carried ou under this title.

SEC. 606. STATE APPLICATION.

Each State desiring an allotment unde section 602 to carry out a scholarship program, a student employment program, o both shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require. Each such application shall—

(1) contain assurances that the lead agency will work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out this title;

(2) contain assurances that the State will advertise the scholarship assistance and student employment it will provide under this title and that the State will use such programs to enhance recruitment efforts;

(3) contain assurances that the State will screen and select law enforcement personnel for participation in the scholarship program under this title;

(4) contain assurances that under such student employment program the State will screen and select, for participation in such program, students who have an interest in undertaking a career in law enforcement;

(5) contain assurances that under such scholarship program the State will make scholarship payments to institutions of

higher education on behalf of individuals receiving scholarships under this title;

(6) with respect to such student employment program identify—

(A) the employment tasks students will be assigned to perform;

(B) the compensation students will be paid to perform such tasks; and

(C) the training students will receive as part of their participation in such program;

(7) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

(8) contain assurances that the State will promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in institutions of higher education.

SEC. 607. LOCAL APPLICATION.

(a) IN GENERAL.—Each individual who desires a scholarship or employment under this title shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for which a scholarship is sought, or the location and duration of employment sought, as the case may be.

(b) PRIORITY.—In awarding scholarships and providing student employment under this title, each State shall give priority to applications from individuals who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State; and

(2) pursuing an undergraduate degree.

SEC. 608. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—Each individual who receives a scholarship under this title shall enter into an agreement with the Director.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual will work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the individual will repay the entire scholarship awarded under this title in accordance with such terms and conditions as the Director shall prescribe, in the event that the requirements of such agreement are not complied with unless the individual—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which an individual receiving a scholarship under this title may seek employment in the field of law enforcement in a State other than the State which awarded such individual the scholarship under this title.

(c) SERVICE OBLIGATION.—(1) Except as provided in paragraph (2), each individual awarded a scholarship under this title shall work in a law enforcement position in the State which awarded such individual the scholarship for a period of one month for each credit hour for which funds are received under such scholarship.

(2) For purposes of satisfying the requirement specified in paragraph (1), each individual awarded a scholarship under this title shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than 2 years.

SEC. 609. REPORTS TO CONGRESS.

Not later than April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate. Such report shall—

(1) state the number of present and past scholarship recipients under this title, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have served in law enforcement;

(2) state with respect to student employees under this title—

(A) the number of present and past student employees;

(B) the number of such employees who complete a course of study at an accredited institution of higher education; and

(C) the number of such employees who subsequently accept a law enforcement position;

(3) describe the geographic, racial, and gender dispersion of such scholarship recipients and such employees; and

(4) describe the progress of the scholarship program and the student employment program, and make recommendations for changes in such programs.

SEC. 610. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $30,000,000 for each of the fiscal years 1991, 1992, 1993, 1994, and 1995 to carry out this title.

(b) USES OF FUNDS.—Of the funds appropriated under subsection (a) for any fiscal year—

(1) 75 percent shall be available to provide scholarships described in section 603(1); and

(2) 25 percent shall be available to provide employment described in section 603(2).

TITLE VII—FIREARMS PROVISIONS

SEC. 701. PROHIBITION AGAINST TRANSFERRING FIREARMS TO NONRESIDENTS.

Section 922(a)(5) of title 18, United States Code, is amended by striking "resides" the first place such term appears and all that follows through "(or other than that in which its place of business is located if the transferor is a corporation or other business entity);" and inserting "does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides;".

SEC. 702. COMMERCE NEXUS FOR TRAFFICKING IN STOLEN FIREARMS.

(a) IN GENERAL.—Section 922(j) of title 18, United States Code, is amended by striking "or which constitutes," and inserting "which constitutes, or which has been shipped or transported in,".

(b) ALTERATION OF SERIAL NUMBER OF FIREARM.—Section 922(k) of title 18, United States Code, is amended by inserting "or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce" after "altered".

SEC. 703. TECHNICAL AMENDMENTS.

(a) AMENDMENT TO SECTION 923(d)(1)(B).—Section 923(d)(1)(B) of title 18, United States Code, is amended by striking "(h)" and inserting "(n)".

(b) AMENDMENT TO SECTION 925(a)(1).—Section 925(a)(1) of title 18, United States Code, is amended by inserting "possession," before "or importation".

(c) AMENDMENTS TO SECTION 925(c).—Section 925(c) of title 18, United States Code, is amended—

(1) by striking "conviction" the first and third places such term appears and inserting "disability"; and

(2) by striking "by reason of such a conviction".

(d) AMENDMENTS TO SECTION 924(a).—Section 924(a) of title 18, United States Code, is amended by striking ", and shall become eligible for parole as the Parole Commission shall determine" each place such term appears. This amendment shall be effective with respect to any offense committed after November 1, 1987.

SEC. 705. AMENDMENTS RELATING TO THE DOMESTIC ASSEMBLY OF NONIMPORTABLE FIREARMS.

(a) SEMIAUTOMATIC RIFLE DEFINED.—Section 921(a) of title 18, United States Code is amended by adding at the end the following:

"(25) The term 'semiautomatic rifle' means any repeating rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.".

(b) PROHIBITIONS.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(q) It shall be unlawful for any person to assemble any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under section 925(d)(3) of this chapter as not being particularly suitable for or readily adaptable to sporting purposes except that this subsection shall not apply to—

"(1) the assembly of any such rifle or shotgun for sale or distribution by a licensed manufacturer to the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof; or

"(2) the assembly of any such rifle or shotgun for the purposes of testing or experimentation authorized by the Secretary.".

(c) PENALTY.—Section 924(a)(1)(B) of title 18, United States Code is amended by striking "or (k)" and inserting "(k), or (q)".

SEC. 706. PROHIBITION AGAINST POSSESSION OF FIREARMS IN FEDERAL COURT FACILITIES.

(a) PROHIBITION.—Section 930 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "(other than a Federal court facility)" before the second comma;

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(3) by inserting after subsection (c) the following:

"(d)(1) Except as provided in paragraph (2), whoever knowingly possesses or causes to be present a firearm in a Federal court facility, or attempts to do so, shall be fined under this title, imprisoned not more than 2 years, or both.

"(2) Paragraph (1) shall not apply to conduct which is described in paragraph (1) or (2) of subsection (c).";

(4) in subsection (f) (as so redesignated by paragraph (2) of this subsection), by adding at the end the following:

"(3) The term 'Federal court facility' means the courtroom, judges' chambers, witness rooms, jury deliberation rooms, attorney conference rooms, prisoner holding cells, offices of the court clerks, the United States attorney, and the United States marshal, probation and parole offices, and adjoining corridors of any court of the United States."; and

(5) in subsection (g) (as so redesignated by paragraph (2) of this subsection)—

(A) by inserting "and notice of subsection (d) shall be posted conspicuously at each public entrance to each Federal court facility," after the first comma;

(B) by inserting "or (d)" before "with respect to"; and

(C) by inserting "or (d), as the case may be" before the period.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to conduct engaged in after the date of the enactment of this Act.

SEC. 707. ENHANCED PENALTIES FOR POSSESSION OF SHORT-BARRELED RIFLE, SHORT-BARRELED SHOTGUN, OR DESTRUCTIVE DEVICE IN A CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.

Section 924(c)(1) of title 18, United States Code, is amended in the first sentence—

(1) by inserting "and if the firearm is a short-barreled rifle or a short-barreled shotgun, to imprisonment for 10 years," after "five years,"; and

(2) by inserting "or a destructive device" after "a machinegun".

TITLE VIII—CHEMICAL DIVERSION AND TRAFFICKING

SEC. 801. CHEMICAL DIVERSION AND TRAFFICKING.

(a) NEW LISTED PRECURSOR CHEMICALS.—Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended by adding at the end the following:

"(M) Methylamine.

"(N) Ethylamine.

"(O) D-lysergic acid.

"(P) Propionic anhydride.

"(Q) Insosafrole.

"(R) Safrole.

"(S) Piperonal.

"(T) N-Methylepherdrine.

"(U) N-ethylephedrine.

"(V) N-methylpseudoephedrine.

"(W) N-ethylpseudoephedrine.

"(X) Hydriotic acid.".

(b) CONFORMING REPEAL.—Section 102(35) of the Controlled Substances Act (21 U.S.C. 802(35)) is amended by striking subparagraph (E).

TITLE IX—DRUG PARAPHERNALIA

SEC. 901. DRUG PARAPHERNALIA.

(a) IN GENERAL.—The Controlled Substances Act is amended by adding at the end of part D the following:

"DRUG PARAPHERNALIA

"SEC. 418. (a) It is unlawful for any person—

"(1) to sell or offer for sale drug paraphernalia;

"(2) to use the mails or any other facility of interstate commerce to transport drug paraphernalia; or

"(3) to import or export drug paraphernalia.".

(b) TRANSFER OF REMAINING EXISTING PROVISIONS RELATING TO DRUG PARAPHERNALIA.—Subsections (b) through (f) of section 1822 of the Anti-Drug Abuse Act of 1986 (21 U.S.C. 857) are transferred to appear as subsections (b) through (f) of the section 418 added to the Controlled Substances Act by this section.

(c) TECHNICAL CORRECTIONS TO TRANSFERRED PROVISIONS.—The provisions of law transferred by subsection (b) are amended—

(1) in subsection (b), by striking "not more than $100,000" and inserting "under title 18, United States Code"; and

(2) in subsection (f), by striking "this subtitle" and inserting "this section".

(d) CONFORMING REPEAL.—Subtitle O of title I of the Anti-Drug Abuse Act of 1986 is repealed.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of fiscal years 1991 through 1995 to the Attorney General to create and implement task forces consisting of appropriate Federal, State, and local personnel to enforce the section 418 of the Controlled Substances Act added by this section.

TITLE X—LICIT OPIUM IMPORTS

SEC. 1001. UNITED STATES POLICY REGARDING IMPORTATION OF NARCOTIC RAW MATERIAL.

(a) REVIEW REQUIRED.—The President shall conduct a review of United States narcotics raw material policy to determine the advisability of continued reliance on the "80-20 rule" (21 C.F.R. sec. 1312.13) by which at least 80 percent of United States imports of narcotics raw material must come from India and Turkey.

(b) AGENCIES TO BE INVOLVED.—This review shall include information and views from the Department of State, the Administrator of the Drug Enforcement Administration, and the Secretary of the Department of Health and Human Services, the Secretary of Commerce and any other agencies the President determines appropriate.

(c) NATURE AND CONTENTS.—This review shall include—

(1) a report on the extent of the diversion taking place from the licit to the illicit market in India from the farm gate through the stockpile;

(2) an evaluation of the efforts being made by the Government of India to stop diversion from the licit to the illicit market, to limit its stockpile of opium gum, and to limit and regulate the amount of land and number of farmers devoted to poppy cultivation, and the success or failure of these efforts;

(3) a description of the steps the President has taken to encourage these actions on the part of the Indian government, what further steps are contemplated and what action will be taken if Indian action proves ineffective;

(4) an assessment of whether continued reliance on the 80-20 rule serves to encourage these actions, an assessment of what circumstances would make continued reliance on the rule unacceptable to the President, and proposals for executive or legislative modification of the rule under those circumstances;

(5) an assessment of the feasibility of India converting from the opium gum to the concentrated poppy straw method of opium production;

(6) an assessment of the effects on United States supplies of narcotic raw material in the absence of 80-20; and

(7) an evaluation of the potential for market manipulation under the 80-20 rule.

(d) REPORT TO CONGRESS.—The President shall report the results of this review to Congress not later than April 1, 1991.

TITLE XI—SENTENCING FOR METHAMPHETAMINE OFFENSES

SEC. 1101. SENTENCING COMMISSION GUIDELINES.

The United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, for sentences for offenses involving methamphetamine, so that more substantial penalties are imposed if the substance is smokable crystal methamphetamine.

SEC. 1102. INTERAGENCY COORDINATING COUNCIL ON THE ABUSE OF SMOKABLE CRYSTAL METHAMPHETAMINE.

(a) ESTABLISHMENT.—There is established the Interagency Coordinating Council on the Abuse of Smokable Crystal Methamphetamine (hereinafter in this section referred to as the "Council". The Council shall consist of—

(1) the Attorney General; and

(2) representatives of—

(A) the Drug Enforcement Administration;

(B) the Attorney General's Office of the State of California;

(C) local law enforcement officers from districts where clandestine laboratories for the manufacture of smokable crystal methamphetamine have been found; and

(D) research and treatment facilities;

appointed by the Attorney General from nominations made by the heads of such entities.

(b) ATTORNEY GENERAL TO CHAIR.—The Attorney General shall be the Chairman of the Council.

(c) PURPOSE.—The Council shall—

(1) assess the movement of smokable crystal methamphetamine nationally, including places of origin, storage, and usage; and

(2) develop a strategy to control its spread.

(d) TERMINATION.—The Council established under subsection (a) shall report its recommendations and the results of the study to Congress and terminate one year after the date of the enactment of this Act.

TITLE XII—OBSTRUCTION OF JUSTICE

SEC. 1201. PROTECTION OF COURT OFFICERS AND JURORS.

Section 1503 of title 18, United States Code, is amended—

(1) by striking "Whoever corruptly" and inserting "(a) Whoever corruptly";

(2) in subsection (a) (as so designated), by striking "fined not more than $5,000 or imprisoned not more than five years, or both" and inserting "punished as provided in subsection (b)"; and

(3) by adding at the end the following:

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title;

"(2) in the case of an attempted killing, imprisonment for not more than 20 years; and

"(3) in any other case, imprisonment for not more than 10 years.".

SEC. 1202. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS, AND INFORMANTS.

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c) respectively;

(2) by inserting before subsection (b) (as so redesignated) the following:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings given by a person to a law enforcement officer;

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title; and

"(B) in the case of an attempt, imprisonment for not more than 20 years.".

TITLE XIII—HABEAS CORPUS

SEC. 1301. LIMITATIONS PERIOD IN CAPITAL CASES.

Section 2254 of title 28, United States Code, is amended by adding after subsection (f) the following:

"(g)(1) In the case of an applicant under sentence of death, any application for habeas corpus relief under this section must be filed in the appropriate district court within one year from the following date, whichever is appropriate:

"(A) The date of denial of a writ of certiorari, if a petition for a writ of certiorari to the highest court of the State on direct appeal or unitary review from the conviction and sentence is timely filed in the Supreme Court.

"(B) The date of issuance of the mandate of the highest court of the State on direct appeal or unitary review from the conviction and sentence, if a petition for a writ of certiorari is not filed in the Supreme Court.

"(C) The date of issuance of the mandate of the Supreme Court, if on a petition for a writ of certiorari the Supreme Court, upon consideration of the case, disposes of it in a manner that leaves the capital sentence undisturbed.

"(2) The time requirements established by this section shall be tolled—

"(A) during any period in which the State has failed to provide counsel as required in section 1307 of the Comprehensive Crime Control Act of 1990;

"(B) during the period from the date the applicant files an application for State post-conviction relief until final disposition of the application by the State appellate courts, if all filing deadlines are met;

"(C) during any period authorized by law for the filing of any petitions for rehearing, if all filing deadlines are met; and

"(D) during an additional period not to exceed 90 days, if counsel moves for an extension in the district court that would have jurisdiction of a habeas corpus application and makes a showing of good cause.".

SEC. 1302. STAYS OF EXECUTION IN CAPITAL CASES.

Section 2251 of title 28, United States Code, is amended—

(1) by inserting "(a)(1)" before the first paragraph;

(2) by inserting "(2)" before the second paragraph; and

(3) by adding at the end the following:

"(b) In the case of an individual under sentence of death, a warrant or order setting an execution date shall be stayed upon application to any court that would have jurisdiction over an application for habeas corpus under this chapter. The stay shall be contingent upon reasonable diligence by the individual in pursuing relief with respect to such sentence and shall expire if—

"(1) the individual fails to apply for relief under this chapter within the time requirements established by section 2254(g) of this title;

"(2) upon completion of district court and court of appeals review under section 2254 of this title, the application is denied and—

"(A) the time for filing a petition for a writ of certiorari expires before a petition is filed;

"(B) a timely petition for a writ of certiorari is filed and the Supreme Court denies the petition; or

"(C) a timely petition for a writ of certiorari is filed and, upon consideration of the case, the Supreme Court disposes of it in a manner that leaves the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel qualified under section 2257 of this title, and after being advised of the consequences of the decision, an individual waives the right to pursue relief under this chapter.".

SEC. 1303. SUCCESSIVE PETITIONS IN CAPITAL CASES.

Section 2244(b) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by inserting ", in the case of an applicant not under sentence of death," after "When"; and

(3) by adding at the end the following:

"(2) In the case of an applicant under sentence of death, a claim presented in a second or successive application, that was not presented in a prior application under this chapter, shall be dismissed unless—

"(A) the applicant shows that—

"(i) the factual basis of the claim could not have been discovered by the exercise of reasonable diligence before the applicant filed the prior application;

"(ii) the claim relies on a new rule, announced by the Supreme Court of the United States after the prior application was filed, that is applicable under section 2256 of this title; or

"(iii) the failure to raise the claim in the prior application was due to action by State officials in violation of the Constitution of the United States; and

"(B) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the applicant's guilt of the offense or offenses for which the capital sentence was imposed, or in the validity of that sentence under Federal law.

"(3) In the case of an applicant under sentence of death, a claim presented in a second or successive application, that was previously determined in a prior application under this chapter, shall be dismissed unless the interests of justice would be served by reconsideration of the claim.".

SEC. 1304. CERTIFICATES OF PROBABLE CAUSE.

The third paragraph of section 2253, title 28, United States Code, is amended to read as follows:

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, unless the justice or judge who rendered the order or a circuit justice or judge issues a certificate of probable cause. However, an applicant under sentence of death shall have a right of appeal without a certificate of probable cause, except after denial of a second or successive application.".

SEC. 1305. LAW APPLICABLE IN CHAPTER 153 PROCEEDINGS.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"§ 2256. Law applicable

"(a) Except as provided in subsection (b) of this section, each claim under this chapter shall be governed by the law existing on the date the court determines the claim.

"(b) In determining whether to apply a new rule, the court shall consider—

"(1) the purpose to be served by the new rule;

"(2) the extent of the reliance by law enforcement authorities on a different rule; and

"(3) the effect on the administration of justice of the application of the new rule.

"(c) For purposes of this section, the term 'new rule' means a sharp break from precedent announced by the Supreme Court of the United States that explicitly and substantially changes the law from that governing at the time the claimant's sentence became final. A rule is not new merely because, based on precedent existing before the rule's announcement, it was susceptible to debate among reasonable minds.

"(d) For purposes of this section, a claimant's sentence becomes final at the conclusion of State court appellate and collateral (or unitary) litigation on the claimant's conviction and sentence and any review in the Supreme Court of the United States of that litigation.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"2256. Law applicable in Federal proceedings.".

SEC. 1306. PROCEDURAL DEFAULT IN STATE COURT.

Section 2254 of title 28, United States Code, is amended by adding after the subsection added by section 1301 of this Act the following:

"(h) A district court shall decline to consider a claim under this section if—

"(1)(A) the applicant previously failed to raise the claim in State court at the time and in the manner prescribed by State law;

"(B) the State courts, for that reason, refused to entertain the claim; and

"(C) such refusal would constitute an adequate and independent State law ground that would foreclose direct review of the State court judgment in the Supreme Court of the United States; and

"(2) the applicant fails to show cause for the failure to raise the claim in State court and prejudice to the applicant's right to fair proceedings or to an accurate outcome resulting from the alleged violation of the Federal right asserted, or that failure to consider the claim would result in a miscarriage of justice.

"(3) An applicant may establish cause by showing that—

"(A) the factual or legal basis of the claim—

"(i) could not have been discovered by the exercise of reasonable diligence before the applicant could have raised the claim in State court, or

"(ii) was not discovered or asserted due to ignorance or neglect of the applicant's counsel;

"(B) the claim relies on a decision of the United States Supreme Court, announced after the applicant might have raised the claim in State court;

"(C) the failure to raise the claim in State court was due to interference by State officials; or

"(D) the failure to raise the claim in State court was due to counsel's ineffective assistance in violation of the United States Constitution.".

SEC. 1307. COUNSEL IN CAPITAL CASES.

(a) REQUIREMENT.—A State in which capital punishment may be imposed shall provide legal services to—

(1) indigents charged with offenses for which capital punishment is sought;

(2) indigents who have been sentenced to death and who seek appellate or collateral (or unitary) review in State court; and

(3) indigents who have been sentenced to death and who seek certiorari review of State court judgments in the United States Supreme Court.

(b) ESTABLISHMENT OF APPOINTING AUTHORITY.—The State shall establish an appointing authority, which shall be—

(1) a statewide defender organization, appointing staff attorneys, members of the private bar, or both; or

(2) a resource center established under section 3006A(g)(2) of title 18, United States Code, appointing staff attorneys, members of the private bar, or both.

(c) FUNCTIONS OF APPOINTING AUTHORITY.—The appointing authority shall—

(1) solicit applications from all attorneys qualified to be appointed in the proceedings specified in subsection (a);

(2) draft and annually publish rosters of all applicants determined to be qualified attorneys;

(3) draft and annually publish procedures by which attorneys are appointed and standards governing the qualifications and performance of counsel appointed; and such standards shall include—

(A) membership in the bar of the jurisdiction or admission to practice pro hac vice;

(B) knowledge and understanding of pertinent legal authorities regarding the issues in capital cases in general and any case to which an attorney is appointed in particular;

(C) skills in the management and conduct of negotiations and litigation in capital cases;

(D) skills in the investigation of capital cases, the background of clients, and the psychiatric history and current condition of clients;

(E) skills in trial advocacy, including the interrogation of defense witnesses, cross examination, and jury arguments;

(F) skills in legal research and in the writing of legal petitions, briefs, and memoranda; and

(G) skills in the analysis of legal issues bearing on capital cases;

(4) periodically review the rosters, monitor the performance of all attorneys appointed, and delete the name of any attorney who—

(A) fails satisfactorily to complete regular training programs on the representation of clients in capital cases;

(B) fails to meet performance standards in a case to which the attorney is appointed; or

(C) fails otherwise to demonstrate continuing competency to represent clients in capital cases;

(5) conduct or sponsor specialized training programs for attorneys representing capital clients;

(6) appoint two attorneys, lead counsel and co-counsel, to represent a client in a capital case at the relevant stage of proceedings, promptly upon receiving notice of the need for the appointment from the relevant State court; and

(7) report such appointment or the client's failure to accept counsel in writing to the court requesting the appointment.

(d) DETERMINATION OF COMPETENCY AND WAIVER.—Upon receipt of notice from the appointing authority that an individual entitled to the appointment of counsel under this section has declined to accept such an appointment, the court requesting the appointment shall conduct, or cause to be conducted, a hearing, at which the individual and counsel proposed to be appointed under this section shall be present, to determine the individual's competency to decline that appointment, and whether the individual has knowingly and intelligently declined it.

(e) ROSTERS.—

(1) IN GENERAL.—The appointing authority shall maintain two rosters of attorneys: one roster listing attorneys qualified to be appointed for the trial and sentencing stages of capital cases, the other listing attorneys qualified to be appointed for the appellate, collateral, unitary review, and certiorari stages. Each of the rosters shall be divided into two parts, one listing attorneys qualified to be appointed as lead counsel, the other listing attorneys qualified to be appointed as co-counsel.

(2) LEAD COUNSEL AT TRIAL OR SENTENCING STAGE.—An attorney qualified to be appointed lead counsel at the trial or sentencing stages shall—

(A) be a trial practitioner with at least 5 years of experience in the representation of criminal defendants in felony cases; and

(B) have served as lead counsel or co-counsel at the trial or sentencing stages in at least 2 homocide cases tried to a jury and in at least one case in which a capital sentence was sought;

(C) be familiar with the law and practice in capital cases and with the trial and sentencing procedures in the relevant State;

(D) have completed such training or refresher courses in current developments in the representation of capital defendants at the trial or sentencing stages as the State appointing authority shall require; and

(E) demonstrate the proficiency and commitment necessary to the provision of legal services to capital clients.

(3) CO-COUNSEL AT TRIAL OR SENTENCING STAGE.—An attorney qualified to be appointed co-counsel at the trial or sentencing stages shall—

(A) be a trial practitioner with at least 3 years of experience in the representation of criminal defendants in felony cases; and

(B) meet the standards in paragraph (2) (C), (D), and (E) for lead counsel at the trial or sentencing stages.

(4) LEAD COUNSEL AT APPELLATE, COLLATERAL, UNITARY REVIEW, OR CERTIORARI STAGE.—An attorney qualified to be appointed lead counsel at the appellate, collateral, unitary review, or certiorari stages shall—

(A) be an appellate practitioner with at least 5 years of experience in the representation of criminal clients in felony cases at the appellate, collateral, unitary review or certiorari stages;

(B) have served as lead counsel or co-counsel at the appellate, collateral, unitary review, or certiorari stages in at least 3 cases in which the client had been convicted of a felony offense and in at least one case in which a capital sentence had been imposed;

(C) be familiar with the law and practice in capital cases and with the appellate, collateral, unitary review, and certiorari procedures in the relevant State courts and the United States Supreme Court;

(D) have completed such training or refresher courses in current developments in the representation of capital clients at the appellate, collateral, unitary review, and certiorari stages as the State appointing authority shall require; and

(E) demonstrate the proficiency and commitment necessary to the provision of legal services to capital clients.

(5) CO-COUNSEL AT APPELLATE, COLLATERAL, UNITARY REVIEW, OR CERTIORARI STAGE.—An attorney qualified to be appointed co-counsel at the appellate, collateral, unitary review, or certiorari stages shall—

(A) be an appellate practitioner with at least 3 years of experience in the representation of criminal clients in felony cases at the appellate, collateral, unitary review, or certiorari stages; and

(B) meet the standards in paragraph (4) (C), (D), and (E) for lead counsel at the appellate, collateral, unitary review, or certiorari stages.

(f) APPOINTMENT OF NONROSTER ATTORNEYS IN CERTAIN CASES.—An attorney who is not listed on the relevant roster shall be appointed only on the request of the client concerned and in circumstances in which the attorney requested is able to provide the client with high quality legal representation and justice would be served by the appointment.

(g) PAYMENT OF ATTORNEYS FROM PRIVATE BAR.—

(1) IN GENERAL.—Attorneys appointed from the private bar shall be—

(A) compensated for actual time and service, computed on an hourly basis and at a reasonable rate in light of the attorney's qualifications and experience and the local market for legal representation in cases reflecting the complexity and responsibility of capital cases;

(B) reimbursed for expenses reasonably incurred in the representation of the client; and

(C) reimbursed for the costs of law clerks, paralegals, investigators, experts, or other support services reasonably needed in the representation of the client.

(2) COMPUTATION OF CERTAIN PAYMENTS.—Payments under subsection (g)(1)—

(A) with respect to law clerks and paralegals, shall be computed on an hourly basis reflecting the local market for such services; and

(B) with respect to investigators and experts, shall be commensurate with the schedule of fees paid by State authorities for such services.

(h) PROMPT PAYMENT OF ATTORNEYS FROM PRIVATE BAR.—Appointed attorneys from the private bar shall receive prompt payment for legal services and reimbursement for expenses and support services upon the submission of periodic bills, receipts, or other appropriate documentation to the appointing authority or other appropriate State agency. The appointing authority shall promptly resolve any disputes with respect to such bills. Attorneys appointed as staff counsel for a defender organization or resource center shall be entitled to the support services listed in subsection (g)(1) (B) and (C) at public expense.

(i) SANCTIONS.—If—

(1) a State fails to provide counsel in a proceeding specified in subsection (a);

(2) counsel appointed for such a proceeding fails substantially to meet the qualification standards specified in subsection (e); or

(3) counsel appointed for such a proceeding fails substantially to meet the performance standards established by the appointing authority;

subsection (h) of this section and section 2254(d) of title 28, United States Code, shall not apply with respect to such proceeding in a case under chapter 153 of such title.

TITLE XIV—PRISONS

SEC. 1401. STUDY.

Federal Prison Industries, Incorporated is directed to make contracts to carry out a study, at a cost not to exceed $250,000, that identifies new areas of business growth and to report the results of that study to Congress not later than May 1, 1991.

SEC. 1402. REPORT WITH RESPECT TO FEDERAL PRISON INDUSTRIES.

Section 4124 of title 18, United States Code, is amended—

(1) in the first paragraph by inserting "(a)" before "The";

(2) in the second paragraph by inserting "(b)" before "Disputes"; and

(3) by adding at the end the following:

"(c) Each Federal department, agency, and institution subject to the requirements of subsection (a) shall separately report to the General Services Administration all of its acquisitions of products and services from Federal Prison Industries, and that reported information shall be entered in the Federal Procurement Data System referred to in section 6(d)(4) of the Office of Federal Procurement Policy Act. Each report published by the Federal Procurement Data System that contains the information collected by the System shall include a statement to accompany the information reported by the department, agency, or institution under the preceding sentence as follows: 'Under current law, sales by Federal Prison Industries are considered intragovernmental transfers. The purpose of reporting sales by Federal Prison Industries is to provide a complete overview of acquisitions by the Federal Government during the reporting period.'

"(d) Within 90 days after the date of the enactment of this subsection, Federal Prison Industries shall publish a catalog of all products and services which it offers for sale. This catalog shall be updated periodically to the extent necessary to ensure that the information in the catalog is complete and accurate.".

SEC. 1403. PRERELEASE CUSTODY.

(a) In General.—Section 3624(c) of title 18, United States Code, is amended by striking ", not to exceed six months, of the last 10 per centum".

(b) Effective Date.—The amendment made by this section shall apply with respect to each prerelease custody transfer decision of the Bureau of Prisons after the date of the enactment of this section.

SEC. 1404. PLACE OF IMPRISONMENT.

(a) In General.—Section 3621(b) of title 18, United States Code, is amended by striking "penal or correctional facility that meets minimum standards of health and habitability established by the Bureau," and inserting ", suitable, and appropriate institution, facility, or program, and where appropriate, to a home detention program,".

(b) Effective Date.—The amendment made by this section shall apply to each designation and transfer decision by the Bureau of Prisons on or after the date of the enactment of this section.

SEC. 1405. DRUG TREATMENT FOR PRISONERS.

Section 3621(b) of title 18, United States Code, is amended by adding at the end the following: "The Bureau shall make available appropriate substance abuse treatment for each prisoner the Bureau determines has a treatable condition of substance addiction or abuse.".

TITLE XV—REMOVAL OF CRIMINAL ALIENS

SEC. 1501. CLARIFICATION OF AGGRAVATED FELONY DEFINITION.

(a) In General.—Paragraph (43) of section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended—

(1) by aligning its left margin with the left margin of paragraph (42),

(2) by inserting "any illicit trafficking in any controlled substance (as defined in section 102 of the Controlled Substances Act), including" after "murder,", and

(3) by adding at the end the following: "Such term applies to offenses described in the previous sentence whether in violation of Federal or State law.".

(b) Effective Date.—The amendments made by subsection (a) shall take effect as if included in the enactment of section 7342 of the Anti-Drug Abuse Act of 1988.

SEC. 1502. ENHANCING ENFORCEMENT AUTHORITY OF INS OFFICERS.

(a) Broadening Authority.—Section 287(a) of the Immigration and Nationality Act (8 U.S.C. 1357(a)) is amended—

(1) by striking "and" at the end of paragraph (3), and

(2) in paragraph (4), by striking "United States" the second place it appears and all that follows and inserting the following: "United States, and

"(5) to make arrests—

"(A) for any offense against the United States, if the offense is committed in the officer's or employee's presence, or

"(B) for any felony cognizable under the laws of the United States, if the officer or employee has reasonable grounds to believe that the person to be arrested has committed or is committing such a felony,

if the officer or employee is performing duties relating to the enforcement of the immigration laws at the time of the arrest and if there is a likelihood of the person escaping before a warrant can be obtained for his arrest.

Under regulations prescribed by the Attorney General, an officer or employee of the Service may carry a firearm and may execute and serve any order, warrant, subpoena, summons, or other process issued under the authority of the United States. The authority to make arrests under paragraph (5)(B) shall only be effective on and after the date on which the Attorney General publishes final regulations which (i) prescribe the categories of officers and employees of the Service who may use force (including deadly force) and the circumstances under which such force may be used, (ii) establish standards with respect to enforcement activities of the Service, (iii) require that any officer or employee of the Service is not authorized to make arrests under paragraph (5)(B) unless the officer or employee has received certification as having completed a training program which covers such arrests and standards described in clause (ii) and has received human relations training, and (iv) establish an expedited review process for persons aggrieved by violations of such standards, which process is consistent with standard agency procedure regarding confidentiality of matters related to internal investigations.".

(b) Requiring Fingerprinting and Photographing of Certain Aliens.—(1) Section 287 of such Act is further amended by adding at the end the following new subsection:

"(f)(1) Under regulations of the Attorney General, the Commissioner shall provide for the fingerprinting and photographing of each alien 14 years of age or older against whom a proceeding is commenced under section 242.

"(2) Such fingerprints and photographs shall be made available to Federal, State, and local law enforcement agencies, upon request.".

(2) Section 264(b) of such Act (8 U.S.C. 1304(b)) is amended by inserting "(1) pursuant to section 287(f)(2), and (2)" after "only".

SEC. 1503. CLARIFICATION OF CUSTODY PENDING DETERMINATION OF DEPORTABILITY.

(a) In General.—Section 242(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(2)) is amended—

(1) in the first sentence, by striking "upon completion of the alien's sentence for such conviction" and inserting "upon release of the alien (regardless of whether or not such release is on parole, supervised release, or probation, and regardless of the possibility of rearrest or further confinement in respect of the same offense)",

(2) in the second sentence, by striking "subsection (a)" and inserting "paragraph (1) or subsections (c) and (d) but subject to subparagraph (B)",

(3) by inserting "(A)" after "(2)", and

(4) by adding at the end the following new subparagraph:

"(B) The Attorney General shall release from custody an alien who is lawfully admitted for permanent residence on bond or such other conditions as the Attorney General may prescribe if the Attorney General determines that the alien is not a threat to the community and that the alien is likely to appear before any scheduled hearings.".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 1504. ELIMINATION OF JUDICIAL RECOMMENDATIONS AGAINST DEPORTATION.

(a) In General.—Section 241(b) of the Immigration and Nationality Act (8 U.S.C. 1251(b)) is amended—

(1) in the first sentence—

(A) by striking "(1)", and

(B) by striking ", or (2)" and all that follows up to the period at the end; and

(2) in the second sentence, by inserting "or who has been convicted of an aggravated felony" after "subsection (a)(11) of this section".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to convictions entered before, on, or after such date.

SEC. 1505. CLARIFICATION RESPECTING DISCRETIONARY AUTHORITY IN DEPORTATION PROCEEDINGS FOR INCARCERATED ALIENS.

(a) In General.—Section 242A(d)(2) of the Immigration and Nationality Act (8 U.S.C. 1252a(d)(2)) is amended by striking ", unless" and all that follows up to the period at the end.

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 1506. REQUIRING COORDINATION PLAN WITH INS AS A CONDITION FOR RECEIPT OF DRUG CONTROL AND SYSTEM IMPROVEMENT GRANTS UNDER THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

(a) In General.—Section 503(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end the following new paragraph:

"(11) An assurance that the State has established a plan under which the State will provide without fee to the Immigration and Naturalization Service, within 30 days of the date of their conviction, the certified records of conviction of aliens who have been convicted of violating the criminal laws of the State.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to grants for fiscal years beginning with fiscal year 1991.

SEC. 1507. DEPORTATION FOR ATTEMPTED VIOLATIONS OF CONTROLLED SUBSTANCES LAWS.

(a) In General.—Section 241(a)(11) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(11)) is amended by inserting "or attempt" after "conspiracy".

(b) Effective Date.—The amendment made by subsection (a) shall apply to convictions occurring on or after the date of the enactment of this Act.

SEC. 1508. GOOD MORAL CHARACTER DEFINITION.

(a) In General.—Section 101(f)(8) of the Immigration and Nationality Act (8 U.S.C. 1101(f)(8)) is amended by striking "the crime of murder" and inserting "an aggravated felony (as defined in subsection (a)(43))".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to convictions occurring on or after such date.

SEC. 1509. REPORT ON CRIMINAL ALIENS.

(a) In General.—The Attorney General shall submit to the appropriate Committees of the Congress, by not later than December 1, 1991, a report that describes the efforts of the Immigration and Naturalization Service to identify, apprehend, detain, and remove from the United States aliens who have been convicted of crimes in the United States.

(b) Criminal Alien Census.—Such report shall include a statement of—

(1) the number of aliens in the United States who have been convicted of a criminal offense in the United States, and of such number, the number of such aliens who are not lawfully admitted to the United States;

(2) the number of aliens lawfully admitted to the United States who have been convicted of such an offense and, based on such conviction, are subject to deportation from the United States;

(3) the number of aliens in the United States who are incarcerated in a penal institution in the United States, and, of such number, the number of such aliens who are not lawfully admitted to the United States;

(4)(A) the number of aliens whose deportation hearings have been conducted pursuant to section 242A(a) of the Immigration and Nationality Act, and (B) the percentage that such number represents of the total number of deportable aliens with respect to whom a hearing under such section could have been conducted since November 18, 1988; and

(5) the number of aliens in the United States who have reentered the United States after having been convicted of a criminal offense in the United States.

Within each of the numbers of aliens specified under this subsection who have been convicted of criminal offenses, the Attorney General shall distinguish between criminal offenses that are aggravated felonies (as defined in section 101(a)(43) of the Immigration and Nationality Act, as amended by this Act) and for other criminal offenses.

(c) Criminal Alien Removal Plan.—The Attorney General shall include in the report a plan for the prompt removal from the United States of criminal aliens who are subject to exclusion or deportation. Such plan shall also include a statement of additional funds that would be required to provide for the prompt removal from the United States of—

(1)(A) aliens who are not lawfully admitted to the United States and who, as of the date of the enactment of this Act, have committed any criminal offense in the United States, and (B) aliens who are lawfully admitted to the United States and who, as of such date, have committed a criminal offense in the United States the commission of which makes the alien subject to deportation; and

(2)(A) aliens who are not lawfully admitted to the United States and who, in the future, commit a criminal offense in the United States, and (B) aliens who are lawfully admitted to the United States and who, in the future, commit a criminal offense in the United States the commission of which makes the alien subject to deportation.

Such plan shall also include a method for identifying and preventing the unlawful reentry of aliens who have been been convicted of criminal offenses in the United States and removed from the United States.

SEC. 1510. NOTICES OF DEPORTATION HEARINGS AND IN ABSENTIA HEARINGS FOR ALIENS CONVICTED OF AGGRAVATED FELONIES.

(a) In General.—Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended by adding at the end the following new subsection:

"(j)(1) Each order to show cause issued to an alien under this section which alleges deportability under section 241(a)(4)(B) shall contain a notice that the alien shall—

"(A) immediately provide the Attorney General in writing with an address and telephone number (if any) at which the alien may be contacted respecting proceedings under this section, and

"(B) shall immediately provide the Attorney General, at the time of change of such address or telephone number, with the new address or telephone number.

"(2) If, after notice in person or by certified mail (return receipt requested) of the time and place that hearings will be held in relation to proceedings under this section has been given (or attempted to be given) at the address or telephone number provided by an alien under paragraph (1), the alien fails to appear at such proceedings, such proceedings shall be held in absentia and the alien may move to reopen such proceedings only upon a prima facie showing (accompanied by documentation) that the alien could not be present at the proceeding because of exceptional circumstances (such as serious illness of the alien requiring hospitalization or death of an immediate relative of the alien, but not including less compelling circumstances) beyond the control of the alien.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to notices of deportation proceedings initiated on or after such date (not later than 90 days after the date of the enactment of this Act) as the Attorney General shall specify.

SEC. 1511. LIMITATION ON WAIVER OF EXCLUSION FOR RETURNING PERMANENT RESIDENTS CONVICTED OF AN AGGRAVATED FELONY.

(a) In General.—Section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by inserting "who have not been convicted of an aggravated felony," after "order of deportation,".

(b) Effective Date.—The amendment made by subsection (a) shall apply to admissions occurring after the date of the enactment of this Act.

TITLE XVI—SHOCK INCARCERATION

SEC. 1601. SHOCK INCARCERATION PROGRAM.

(a) In General.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following:

"§ 4046. Shock incarceration program

"(a) The Bureau of Prisons may place in a shock incarceration program any person who is sentenced to a term of imprisonment of more than 12, but not more than 30, months, if such person consents to that placement.

"(b) For such initial portion of the term of imprisonment as the Bureau of Prisons may determine, not to exceed 6 months, an inmate in the shock incarceration program shall be required to—

"(1) adhere to a highly regimented schedule that provides the strict discipline, physical training, hard labor, drill, and ceremony characteristic of military basic training; and

"(2) participate in appropriate job training and educational programs (including literacy programs) and drug, alcohol, and other counseling programs.

"(c) An inmate who in the judgment of the Director of the Bureau of Prisons has successfully completed the required period of shock incarceration shall remain in the custody of the Bureau for such period (not to exceed the remainder of the prison term otherwise required by law to be served by that inmate), and under such conditions, as the Bureau deems appropriate.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 303 of title 18, United States Code, is amended by adding at the end the following:

"4046. Shock incarceration program.".

SEC. 1602. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 1990 and each fiscal year thereafter such sums as may be necessary to carry out the shock incarceration program established under the amendments made by this Act.

TITLE XVII—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

SEC. 1701. PUBLIC SAFETY OFFICERS' DISABILITY BENEFITS.

(a) Payment.—Section 1201 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended—

(1) in subsections (c) and (d) by striking "(b)" each place it appears and inserting "(c)",

(2) by redesignating subsections (b), (c), (d), (e), (f), (g), and (h) as subsections (c), (d), (e), (f), (g), (h), and (i), respectively,

(3) by inserting after subsection (a) the following:

"(b)(1) Subject to paragraph (2), in any case in which the Bureau determines, under regulations issued pursuant to this part, that a public safety officer has become permanently and totally disabled as the direct and proximate result of a personal injury sustained in the line of duty, the Bureau shall pay a benefit of $100,000, adjusted in accordance with subsection (h), to such officer.

"(2)(A) In any fiscal year, the aggregate amount of benefits paid under paragraph (1) shall not exceed $5,000,000.

"(B) If the aggregate amount of benefits payable under paragraph (1) in a fiscal year without regard to subparagraph (A) would exceed $5,000,000, then the individual benefit paid under paragraph (1) in such fiscal year shall equal the result obtained by dividing $5,000,000 by the number of public safety officers to whom such a benefit is paid.", and

(4) by adding at the end thereof the following:

"(j)(1) No benefit is payable under this part with respect to the death of a public safety officer if a benefit is paid under this part with respect to the disability of such officer.

"(2) No benefit is payable under this part with respect to the disability of a public safety officer if a benefit is payable under this part with respect to the death of such public safety officer.".

(b) LIMITATIONS.—Paragraphs (1), (2), (3), and (4) of section 1202 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796a) are each amended by inserting "or personal injury" after "death".

(c) TECHNICAL AMENDMENT.—Section 1201(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796(a)) is amended by striking "subsection (g)" and inserting "subsection (h)".

SEC. 1702. EFFECTIVE DATE.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsection (b), the amendments made by this title shall take effect on October 1, 1990.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall not apply with respect to injuries occurring before the effective date of such amendments.

TITLE XVIII—RACIALLY DISCRIMINATORY CAPITAL SENTENCING

SEC. 1801. AMENDMENT TO TITLE 28.

(a) PROCEDURE.—Part VI of title 28, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 177—RACIALLY DISCRIMINATORY CAPITAL SENTENCING

"Sec.
"2921. Prohibition against the execution of a sentence of death imposed on the basis of race.
"2922. Data on death penalty cases.
"2923. Enforcement of the chapter.
"2924. Construction of chapter.

"§ 2921. Prohibition against the execution of a sentence of death imposed on the basis of race

"(a) IN GENERAL.—No person shall be put to death under color of State or Federal law in the execution of a sentence that was imposed based on the race, color, or national origin of the defendant or of the victim.

"(b) PRIMA FACIE CASE.—A prima facie case that a sentence of death was based on the race, color, or national origin of the defendant or the victim shall be established where ordinary methods of statistical proof, which take into account, to the extent it is compiled and publicly available, evidence of the statutory aggravating factors of the crimes involved, show that death sentences are being imposed significantly more frequently—

"(1) upon persons of one race charged with or convicted of capital offenses than upon persons of another race charged with or convicted of capital offenses; or

"(2) as punishment for capital offenses against persons of one race than as punishment for capital offenses against persons of another race.

"(c) REBUTTAL.—If a person under sentence of death offers evidence establishing a racially discriminatory pattern under subsection (b), the sentence may not be executed unless the prosecution shows by clear and convincing evidence that—

"(1) identifiable and pertinent nonracial factors explain the racially discriminatory pattern; or

"(2) the sentence being challenged does not fall within a racially discriminatory pattern.

"§ 2922. Data on death penalty cases

"(a) Any State or Federal entity that provides by law for death to be imposed as a punishment for any crime shall collect from local officials responsible for the prosecution of capital crimes pertinent data on the charging, disposition, and sentencing results for all cases of capital crimes.

"(b) Each State or Federal entity covered by subsection (a) shall compile, index, and make publicly available all pertinent information on capital cases.

"(c) The pertinent data collected shall include, at a minimum, the following information:

"(1) demographic information on all persons charged with the crime and all victims (including race, sex, age, and national origin);

"(2) information on the principal features of the crime;

"(3) information on the aggravating and mitigating factors of the crime, including the background and character of every person charged with the crime; and

"(4) a narrative summary of the crime.

"§ 2923. Enforcement of the chapter

"In any proceeding brought under section 2254, the evidence of a prima facie case supporting a claim under this chapter may be presented in an evidentiary hearing and need not be set forth in the petition. Notwithstanding section 2254, no determination on the merits of a factual issue made by a State court pertinent to any claim under section 2921 shall be presumed to be correct unless—

"(1) the State is in compliance with section 2922;

"(2) the determination was made in a proceeding in a State court in which the person asserting the claim was afforded rights to the appointment of counsel and to the furnishing of investigative, expert and other services necessary for the adequate development of the claim; and

"(3) the determination is one which is otherwise entitled to be presumed to be correct under the criteria specified in section 2254.

"§ 2924. Construction of chapter

"Nothing contained in this chapter shall be construed to affect in one way or the other the lawfulness of any sentence of death that does not violate section 2921.".

(b) AMENDMENT TO TABLE OF CHAPTERS.—The table of chapters of part VI of title 28, United States Code, is amended by adding at the end thereof the following new item:

"177. Racially discriminatory Capital Sentencing .... 2921.".

SEC. 1802. ACTIONS PRIOR TO THE DATE OF ENACTMENT.

No person shall be barred from raising any claim under section 2921 of title 28, United States Code, as added by this Act, on the ground of having failed to raise or to prosecute the same or a similar claim before the enactment of the Act, nor by reason of any adjudication rendered before that enactment.

TITLE XIX—INTOXICATION AND RESTITUTION

SEC. 1901. NONDISCHARGEABILITY OF CERTAIN DEBTS ARISING FROM UNLAWFUL DRIVING WHILE INTOXICATED OR IMPAIRED.

(a) AMENDMENT TO CHAPTER 5.—Section 523(a)(9) of title 11, United States Code, is amended to read as follows:

"(9) for death or personal injury caused by the debtor's operation of a motor vehicle if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance; or".

(b) AMENDMENT TO CHAPTER 13.—Section 1328(a)(2) of title 11, United States Code, is amended by inserting "or 523(a)(9)" after "523(a)(5)".

SEC. 1902. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR RESTITUTION IMPOSED FOR COMMITTING CRIMES.

Section 1328(a) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "or" at the end,

(2) in paragraph (2) by striking the period at the end and inserting "; or", and

(3) by adding at the end the following:

"(3) for restitution included in a sentence on the debtor's conviction of a crime.".

SEC. 1903. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

TITLE XX—CHILD ABUSE

Subtitle A—Improving Investigation and Prosecution of Child Abuse Cases

SEC. 2001. GRANTS FOR MULTIDISCIPLINARY PROGRAMS.

(a) IN GENERAL.—The Director of the Office for the Victims of Crime, in consultation with officials of the Department of Health and Human Services, shall make grants to develop and implement multidisciplinary child abuse investigation and prosecution programs.

(b) GRANT CRITERIA.—(1) The Director shall establish the criteria to be used in evaluating applications for grants under this section.

(2) In general, the grant criteria established pursuant to paragraph (1) shall require that a program include one or more of the following elements:

(A) Written agreements between local law enforcement, criminal justice, social service, health, and other related agencies to coordinate child abuse investigation, prosecution, treatment, and counseling services.

(B) Identification of an appropriate site or sites for referring, interviewing, treating, and counseling child victims of sexual abuse and serious physical abuse and neglect.

(C) Referral of all child sexual abuse and serious physical abuse and neglect cases to the appropriate law enforcement agency not later than 24 hours after notification of an incident of abuse.

(D) Joint initial investigative interviews of child victims by specially trained personnel from the involved law enforcement, criminal justice, health and social service agencies.

(E) A requirement that, to the extent practicable, the same agency representative who conducts an initial investigative interview of a child victim conduct all subsequent interviews of that child.

(F) Coordination of each step of the investigation process to minimize the number of interviews that a child victim must attend.

(G) Provision for regular meetings of the professionals and agencies involved in child abuse intervention.

(H) Assignment of a volunteer or staff advocate to each child in order to assist the child and, when appropriate, the child's family, throughout each step of the judicial proceedings.

(I) Such other requirements as the Director shall establish by regulation.

(c) DISTRIBUTION OF GRANTS.—In awarding grants under this section, the Director shall ensure that grants are distributed to both large and small sites, and to rural, suburban, and urban jurisdictions.

SEC. 2002. GRANTS FOR SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.

(a) IN GENERAL.—The Director of the Office for Victims of Crime shall make grants to national organizations to provide technical assistance and training to attorneys and others instrumental to the criminal prosecution of child abuse cases in State or Federal courts, for the purpose of improving the quality of investigation and criminal prosecution of such cases.

(b) GRANTEE ORGANIZATIONS.—Any organization to which a grant is made pursuant to subsection (a) shall be one that has, or is affiliated with one that has, broad membership among attorneys who prosecute criminal cases in State courts and has demonstrated experience in providing training and technical assistance for prosecutors.

(c) GRANT CRITERIA.—(1) The Director shall establish the criteria to be used for evaluating applications for grants under this section.

(2) In general, the grant criteria established pursuant to paragraph (1) shall require that a program provide training and technical assistance which includes information regarding improved child interview techniques, thorough investigative methods, interagency coordination, and effective presentation of evidence in court.

SEC. 2003. AUTHORIZATIONS OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title—

(1) $15,000,000 for fiscal year 1990; and

(2) such sums as may be necessary for each of fiscal years 1991, 1992, and 1993.

Subtitle B—Court Appointed Special Advocate Program

SEC. 2004. STRENGTHENING COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.

(a) IN GENERAL.—The Director of the Office for the Victims of Crime may make grants to expand the court-appointed special advocate programs.

(b) GRANT CRITERIA.—(1) The Director shall establish the criteria to be used in evaluating applications for grants under this section.

(2) In general, the grant criteria established pursuant to paragraph (1) shall require that a program provide screening, training, and supervision of court-appointed special advocates in accordance with guidelines developed by the National Court-Appointed Special Advocate Association.

SEC. 2005. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title—

(1) $5,000,000 for fiscal year 1990; and

(2) such sums as may be necessary for each of fiscal years 1991, 1992, and 1993.

Subtitle C—Child Abuse Training Programs for Judicial Personnel and Practitioners

SEC. 2006. GRANTS FOR JUVENILE AND FAMILY COURT PERSONNEL.

The Director of the Office for the Victims of Crime shall make grants to provide technical assistance and training to judicial personnel and attorneys, particularly personnel and practitioners in juvenile and family courts, to improve the judicial system's handling of child abuse and neglect cases.

SEC. 2007. SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.

(a) GRANTS TO DEVELOP MODEL PROGRAMS.—(1) The Director shall make grants to organizations to provide model technical assistance and training programs to improve the judicial system's handling of child abuse and neglect cases.

(2) Any organization to which a grant is made pursuant to paragraph (1) shall be one that has demonstrated experience in providing training and technical assistance for judges, attorneys, child welfare personnel, or lay child advocates, in particular for juvenile and family courts.

(b) GRANTS TO JUVENILE AND FAMILY COURTS.—(1) The Director may make grants to or for juvenile and family courts and State judicial systems for programs that implement model child abuse and neglect programs.

(2) In general, the grant criteria established pursuant to paragraph (1) shall give priority to programs which improve—

(A) procedures for determining whether child service agencies have made reasonable efforts to prevent placement of children in foster care;

(B) procedures for determining whether children at imminent risk of placement in foster care to child service agencies can be safely maintained at home with appropriate, intensive services, characterized by small caseloads, 24-hour, 7-day availability, primary delivery in the child's home with a demonstrated ability to protect children;

(C) procedures for determining whether child service agencies have, after placement of children in foster care, made reasonable efforts to reunite the family; and

(D) procedures for coordinating information and services among health professionals, school personnel, social workers, law enforcement professionals, prosecutors, defense attorneys, and juvenile and family courts personnel.

SEC. 2008. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

(1) $10,000,000 for fiscal year 1990; and

(2) such sums as may be necessary for each of fiscal years 1991, 1992, and 1993.

(b) USE OF FUNDS.—Of the amounts appropriated in subsection (a), no less than 80 percent shall be used for grants under section 402(b).

Subtitle D—Federal Victims' Services, Protections, and Rights

SEC. 2009. SPECIAL PROCEDURES APPLICABLE TO CHILD VICTIM WITNESSES AND VICTIMS IN CRIMINAL CASES.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"§ 3509. Special procedures applicable to child witnesses and victims

"(a) GUARDIAN AD LITEM.—

"(1) IN GENERAL.—The court may, where appropriate, appoint a guardian ad litem at the earliest possible stage of all criminal proceedings where a child was a victim of a crime involving abuse or exploitation to protect the best interests of the child. In making the appointment, the court shall consider the person's background in, and familiarity with, the judicial process, social service programs and child abuse issues. The guardian shall not be a person who is or may be a witness in any proceeding associated with the alleged offense.

"(2) DUTIES AND POWERS OF GUARDIAN.—The guardian may attend all the depositions, hearings and trial proceedings, and make recommendations to the court. The guardian may have access to all reports, evaluations and records, except attorney's work product, necessary to be an effective advocate for the child. The guardian shall marshal and coordinate the delivery of available resources and special services to the child. The guardian may assert claims to privilege or confidentiality on behalf of the child. The guardian shall not be compelled to testify in any court action or proceeding about any information or opinion received from or about the child in the course of serving as a guardian.

"(3) IMMUNITIES.—The guardian shall be immune from civil and criminal liability for carrying out lawful duties in good faith.

"(b) CHILD ATTENDANT.—A child testifying at a criminal proceeding shall have the right to be accompanied by an adult to provide emotional support to the child. The court, at its discretion, may allow the attending adult to remain in close physical proximity to or in contact with the child while the child testifies. The attending adult shall not provide the child with an answer to any question directed toward the child during the course of the child's testimony or otherwise prompt the child.

"(c) ALTERNATIVES TO LIVE IN-COURT TESTIMONY.—

"(1) GENERALLY.—The court may order, upon application by the prosecution, that—

"(A) a child's testimony be taken in a room outside the courtroom and televised by two-way closed circuit television; or

"(B) a deposition be taken of the child's testimony and that deposition be recorded and preserved on videotape.

"(2) CRITERIA FOR ISSUING ORDER.—The court may issue an order under paragraph (1) if—

"(A) the person seeking such an order applies for such an order with reasonable notice to opposing parties before or during the trial; and

"(B) the court finds it necessary, based on a finding by clear and convincing evidence of one or more of the factors listed in paragraph (3).

"(3) FACTORS.—The factors referred to in paragraph (2) are:

"(A) The child is or would be so intimidated, or otherwise inhibited, by the physical presence of the defendant that the child is or would be rendered incompetent or unable to testify.

"(B) Substantial likelihood that the child will suffer such serious emotional trauma or is suffering such serious emotional trauma from testifying in the same room as the defendant that the child would be rendered incompetent or unable to testify.

"(C) Conduct on the part of the defendant or defense counsel during the hearing or trial which causes the child to be unable to continue the child's testimony.

"(4) REQUIREMENT OF EXPERT WITNESS.—Only a finding based on a factor under paragraph (3)(B) must be supported by expert testimony, unless, during the course of the child's testimony, the child exhibits behavior that to the court's satisfaction sufficiently supports such a finding without the use of expert testimony.

"(5) QUESTIONING OF CHILD BY COURT.—In determining whether the impact on an individual child of one or more of the factors described in paragraph (3) is so substantial as to justify an order under paragraph (1), the court may question the minor in chambers, or at some other comfortable place other than the courtroom, on the record for a reasonable period of time with the child attendant, the prosecutor, guardian ad litem, and the defense counsel present.

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"(6) PROCEDURES AT TIME OF CHILD'S LIVE TESTIMONY BY TWO-WAY CLOSED CIRCUIT TELEVISION.—

"(A) WHO PRESENT.—The prosecuting attorney and the defense attorney shall be present in the room with the child and the child shall be subject to direct and cross-examination. The only other persons allowed to be present in the room with the child during the child's testimony are the child's attorney or guardian ad litem, or both, the child attendant, those persons necessary to operate the closed-circuit equipment and any other person whose presence is determined by the court to be necessary to the welfare and well-being of the child.

"(B) TRANSMISSION.—The child's testimony shall be transmitted by closed circuit television into the courtroom. The defendant shall be provided with the means of private, contemporaneous communication with the defendant's attorney during the testimony. The closed circuit television transmission shall display an image of the defendant into the room in which the child is testifying, and within the child's field of vision, and the child's testimony into the room in which the defendant is viewing the proceeding.

"(C) IMAGE OF CHILD ATTENDANT TO BE RECORDED.—A videotape shall record the image of the child attendant.

"(7) PROCEDURES AT TIME OF VIDEOTAPED DEPOSITIONS OF CHILD WITNESSES.—

"(A) JUDGE TO PRESIDE.—The trial judge shall preside at the videotape proceeding and shall rule on all questions as if at trial. Subject to subparagraph (B) of this paragraph, the only other persons who may be present at the proceeding are the operator of the recording equipment, the attorney for the prosecution, the defendant, the defendant's attorney, the attorney or guardian ad litem for the child, and any other person whose presence is determined by the court to be necessary to the welfare and well-being of the child during the child's testimony. The defendant shall be afforded the rights applicable to defendants during trial, including the right to an attorney and the right to cross-examine the child.

"(B) PRESENCE OF DEFENDANT.—If the order for videotaping is based upon evidence that the child is unable to testify in the physical presence of the defendant, the court may order that the defendant be excluded from the room in which the deposition is being conducted. If the court orders that the defendant be excluded from the deposition room, it shall order that two-way closed circuit television equipment relay the defendant's image into the room in which the child is testifying, and the child's testimony into the room in which the defendant is viewing the proceeding. The defendant shall also be provided with a means of private, contemporaneous communication with the defendant's attorney during the deposition.

"(C) The court shall allow the videotaped deposition to be used at trial in lieu of the live testimony of the child if the court, at the time such deposition is to be so used, finds under the standards of paragraph (2) that the child continues to be unavailable.

"(8) HANDLING OF VIDEOTAPE.—The complete record of the examination of the child, including the image and voices of all persons who in any way participate in the examination, shall be made and preserved on videotape in addition to being stenographically recorded. The videotape shall be transmitted to the clerk of the court in which the action is pending and shall be made available for viewing to the prosecuting attorney, the defendant, and the defendant's attorney during ordinary business hours.

"(9) PROTECTIVE ORDER.—Any videotape which is taken under this rule is subject to a protective order of the court for the purpose of protecting the privacy of the child.

"(d) TESTIMONIAL AIDS.—The court may permit the child to use anatomical dolls, puppets, drawings, mannequins, or any other demonstrative device the court deems appropriate for the purpose of assisting a child in testifying.

"(e) CLOSING THE COURTROOM.—When a child testifies the court may order the exclusion from the courtroom of all persons who do not have a direct interest in the case. Such an order may be made if the court determines on the record that requiring the child to testify in open court would cause substantial psychological harm to the child or would result in the child's inability to effectively communicate.

"(f) RULES RELATING TO COMPETENCY EXAMINATION OF CHILD.—

"(1) EFFECT OF FEDERAL RULES OF EVIDENCE.—Nothing in this subdivision shall be construed to abrogate rule 601 of the Federal Rules of Evidence.

"(2) REQUIREMENT OF WRITTEN MOTION.—The court shall conduct a competency hearing regarding a child witness only upon written motion and offer of proof by a party and after the court finds a compelling reason to hold such hearing. The age of the child is not in itself a compelling reason.

"(3) PERSONS PERMITTED TO BE PRESENT.—Only the judge, prosecutor, defense attorney, court reporter, and person whose presence, in the opinion of the court, would contribute to the welfare and well-being of the child, may be present at the hearing.

"(4) NOT BEFORE JURY.—The hearing shall be conducted out of the sight and hearing of the jury.

"(5) NATURE OF QUESTIONING.—The court shall take appropriate action to protect the child from excessively overbearing questioning and to assure that the child is asked questions appropriate to the age and developmental level of the child. Questions shall not be related to the issues at trial, and shall focus on determining the child's ability to understand and answer simple questions.

"(6) USE OF EXAMINATIONS.—Psychological and psychiatric examinations to assess the competency of child witnesses shall not be ordered by the court without a showing of compelling need.

"(g) PRIVACY AND ADDRESS PROTECTION.—The name of, or other identifying information about, the child victim or child witness shall not be released except as authorized by the court. The name and any identifying information shall not appear in the information, indictment, or any other public record. Instead a nondescriptive designation shall appear in all public records. Whoever violates this subsection shall be fined under this title or imprisoned not more than one year, or both. This subsection does not prevent the release of such information to the accused or the accused's counsel.

"(h) VICTIM IMPACT STATEMENT.—A child victim or witness has the same right to submit victim impact statements before sentencing as an adult victim or witness has under rule 32(c) of the Federal Rules of Criminal Procedure.

"(i) SPEEDY TRIAL.—In any proceeding when a child is called to give testimony, upon motion by the prosecutor, the guardian ad litem, or on its own motion, the court may designate the case as being of special public importance. In cases so designated, the presiding judge shall, consistent with the rules of criminal procedure, expedite the action and ensure that it takes precedence over any other. The court shall ensure a speedy trial in order to minimize the length of time the child must endure the stress of involvement with the judicial process. In cases in which the judge is deciding whether or not to grant a continuance, the judge shall take into consideration the age of the child and the potential adverse impact the delay may have on the child's well-being. The court shall make written findings of fact and conclusions of law when granting a continuance.

"(j) DEFINITION OF CHILD.—As used in this section the term 'child' means an individual under the age of 15 years and includes an individual up to age 18 who has been documented by the appropriate professionals to be of a developmental age less than 15 years.".

(b) CONFORMING AMENDMENT TO RULES OF EVIDENCE.—Rule 804(a)(4) of the Federal Rules of Evidence is amended by inserting "(including in the case of a child declarant the condition described in section 3509(c)(3)(B) of title 18, United States Code)" after "infirmity".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"3509. Special procedures applicable to child witnesses.".

SEC. 2010. STATUTE OF LIMITATIONS IN CASES RELATING TO CHILDREN.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"§ 3294. Extension of child statute of limitations

"No statute of limitation that would otherwise preclude prosecution for an offense involving the sexual or physical abuse of a child under the age of 18 years shall preclude such prosecution before the child reaches the age of 25 years.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"3294. Extension of child statute of limitations.".

SEC. 2011. USE OF MULTIDISCIPLINARY TEAMS.

(a) USE OF MULTIDISCIPLINARY TEAMS.—

(1) IN GENERAL.—It is the sense of Congress that the use of multidisciplinary teams to respond to cases of the sexual or physical abuse, or the sexual exploitation, of children should be strongly encouraged. Such teams may be composed of representatives of appropriate health, social service, law enforcement, legal service agencies, and victim services agencies. In each case coming before the courts of the United States, the appropriate officials and child advocates should work and consult with multidisciplinary teams (including State and local teams) designed to assist child victims or child witnesses. The nondisclosure requirements of Federal law should not be construed to impede the efforts of such teams in child victimization uses.

(2) DESCRIPTION OF ROLE OF MULTIDISCIPLINARY TEAMS.—The role of the multidisciplinary team is to provide for the child victim or child witness those of the following services that the members of the team in their professional roles are capable of providing:

(A) Medical diagnosis and evaluation services, including provision or interpretation of x-rays, laboratory tests, and related services, as needed, and documentation of relevant findings.

(B) Telephone consultation services in emergencies and in other situations.

(C) Medical evaluation related to abuse or neglect.

(D) Psychological and psychiatric diagnosis and evaluation services for the child, parent or parents, guardian or guardians, or other caregivers, or any other individual involved in a child victim or child witness case.

(E) Expert medical, psychological, and related professional testimony in court cases;

(F) Case service coordination and assistance, including the location of services available from other public and private agencies in the community.

(G) Training services for judges, litigators, court officers and others that are involved in child victim and child witness cases, to enable them to develop and maintain their professional skills and abilities in handling child victims and child witnesses.

SEC. 2012. CHILD ABUSE REPORTING.

(a) IN GENERAL.—All—

(1) physicians, dentists, medical residents or interns, hospital personnel and administrators, nurses, health care practitioners, chiropractors, osteopaths, pharmacists, optometrists, podiatrists, emergency medical technicians, ambulance drivers, undertakers, coroners or medical examiners, alcohol or drug treatment personnel;

(2) psychologists, psychiatrists, mental health professionals;

(3) social workers, licensed or unlicensed marriage, family, or individual counselors;

(4) teachers, teacher's aides or assistants, school counselors and guidance personnel, school officials and administrators;

(5) child care workers and administrators;

(6) law enforcement personnel, probation officers, juvenile rehabilitation or detention facility employees;

(7) foster parents; and

(8) commercial film and photo processors,

who, while involved in any of these capacities on Federal land or in a federally operated (or contracted) facility, have reason to believe that a child is a victim of child exploitation, abuse, or neglect shall within 24 hours make a report of this suspected abuse or neglect to the appropriate authorities as specified below.

(b) AGENCY DESIGNATED TO RECEIVE REPORT AND ACTION TO BE TAKEN.—On all Federal lands, and in all federally operated (or contracted) facilities in which children are cared for or reside, there shall be an officially designated agency that is given responsibility to receive and investigate such reports. By formal written agreement, this may be a non-Federal agency. When such reports are received by social services or health care agencies, and involve allegations of sexual abuse, physical injury, or serious neglect of a child, there shall be an immediate referral of such report to a law enforcement agency with authority to take emergency actions related to the protection of the child. All reports received shall be promptly investigated, and whenever appropriate, investigations should be conducted jointly by social services and law enforcement personnel, with a view toward avoiding unnecessary multiple interviews with the child.

(c) REPORTING FORM.—In every federally operated (and contracted) facility, and on all Federal lands, there shall be available a standard written reporting form, with instructions, that is disseminated to all mandated reporter groups. Use of this form shall be encouraged, but its use should not be construed as replacing the requisite immediate making of oral reports, telephonically or otherwise.

(d) IMMUNITY FOR REPORTING AND ASSOCIATED ACTIVITIES.—Any person who, acting in good faith, makes any report required under this section or any other report of child abuse, neglect or exploitation, to Federal officials, or otherwise provide information or assistance in connection with a report, investigation, or legal intervention pursuant to a report required under this section, shall have civil and criminal immunity with respect to those activities. There shall be a presumption that any such individuals acted in good faith. If a person prevails in a civil action arising out of such person's performance of one of such activities, and has legal expenses in that litigation, the court may order that the losing party pay the prevailing party's legal expenses.

(e) CRIMINAL PENALTY FOR FAILURE TO REPORT.—Whoever knowingly or willfully fails to make a report required under this section shall be fined not more than $10,000, or imprisoned not more than 6 months, or both.

(f) TRAINING OF PROSPECTIVE REPORTERS.—All individuals in the occupations listed in subsection (a) who work on Federal lands, or are employed in federally operated (or contracted) facilities, shall receive periodic training in the obligation to report, as well as in the identification of abused and neglected children.

(g) RULEMAKING BY ATTORNEY GENERAL.—The Attorney General shall make rules to carry out this section.

SEC. 2013. ABROGATION OF TESTIMONIAL PRIVILEGES IN CERTAIN CRIMINAL CASES INVOLVING CHILDREN.

Article V of the Federal Rules of Evidence is amended by adding at the end the following:

"Rule 502. Privileges Not Applicable to Certain Cases Involving Children

"In any criminal action or proceeding after a report of the abuse, neglect, or sexual exploitation of an individual who has not attained the age of 18 years, the privileged nature of any communications between physician and patient, psychotherapist and patient, psychologist and client, social worker and client, any other health care provider and patient, or husband and wife privileges shall not apply.".

Subtitle E—Child Care Worker Employee Background Check

SEC. 2014. CHILD CARE WORKER EMPLOYEE BACKGROUND CHECKS.

(a) IN GENERAL.—

(1) REQUIREMENT.—Each agency of the Federal Government that hires (or contracts for hire) individuals involved with the provision to children under 18 of child care services shall assure that all existing employees and applicants undergo a criminal history records check, as specified in this section, and shall also, to the extent practicable, obtain such checks for volunteers and other nonemployed individuals involved with the provision of such services.

(2) DEADLINES FOR IMPLEMENTATION.—All existing staff shall receive such checks not later than 6 months after the enactment of this Act and no additional staff shall be hired without a check having been completed.

(3) DEFINITION.—As used in this section, the term "child care services" means child day-care away from the home of the child.

(b) CRIMINAL HISTORY CHECK.—(1) The criminal history record check required under subsection (a) shall be based on a set of the employee's/applicant's fingerprints.

(2) The criminal history record check shall be—

(A) based on fingerprints and other identifying information, requested by the Federal Bureau of Investigation Inspection Division;

(B) conducted through the Identification Division of the Federal Bureau of Investigation, as well as through the State criminal history repositories of all States that the employee, or prospective employee, lists as residences in their employment application; and

(C) initiated through, and the results communicated to, the personnel programs of the applicable Federal agencies.

(c) APPLICABLE CRIMINAL HISTORIES.—Any conviction for a sex crime, an offense involving a child victim, or a felony drug offense, shall be grounds for denying employment or for dismissal of an employee providing child care services. An incident in which an individual has been charged with one of these offenses, but where the charge has not yet been disposed of, shall permit an employer to suspend an employee from having any job-related contact with children until the case is resolved. Convictions of crimes other than a sex crime may be considered if they bear on an individual's fitness to have responsibility for the safety and well-being of children.

(d) EMPLOYMENT APPLICATIONS.—(1) All employment applications for individuals who are seeking child care services work for an agency of the Federal Government, or for a facility or program operated by (or through contract with) the Federal Government, shall contain a question about whether the individual has ever been arrested for or charged with a crime involving a child, and if so the disposition of that arrest or charge. The application shall notify the applicant of penalties under section 1001 of title 18, United States Code.

(2) The Federal agency seeking a criminal history record check shall first obtain the signature of the employee/applicant indicating that the employee/applicant has been notified that fingerprints will be used to check the criminal history records of the Federal Bureau of Investigation and various States and the employee's/applicant's right to review a copy of the criminal history record made available to the requesting Federal agency and the right to challenge the accuracy and completeness of any information contained in the record.

TITLE XXI—BANKING LAW ENFORCEMENT

Subtitle A—Enhanced Criminal Penalties

SEC. 2101. CONCEALMENT OF ASSETS FROM FDIC, RTC, OR NCUA ESTABLISHED AS CRIMINAL OFFENSE.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1032. Concealment of assets from conservator, receiver, or liquidating agent of financial institution

"Whoever—

"(1) knowingly conceals or endeavors to conceal an asset or property from the Federal Deposit Insurance Corporation, acting as conservator or receiver, the Resolution Trust Corporation, or the National Credit Union Administration Board, acting as conservator or liquidating agent;

"(2) knowingly impedes or endeavors to impede the functions of such Corporation or Board; or

"(3) corruptly places or endeavors to place an asset or property beyond the reach of such Corporation or Board,

shall be fined under this title or imprisoned not more than 5 years, or both.".

(b) Clerical Amendment.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1031 the following new item:

"1032. Concealment of assets from conservator, receiver, or liquidating agent of financial institution.".

SEC. 2102. PROHIBITION ON CONTROL OF OR PARTICIPATION IN DEPOSITORY INSTITUTION BY CERTAIN CONVICTED PERSONS.

(a) FDIC Insured Depository Institutions.—Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)) is amended to read as follows:

"(a) Prohibition.—

"(1) In general.—Except with the prior written consent of the Corporation—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured depository institution;

"(ii) own or control, directly or indirectly, any insured depository institution; or

"(iii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured depository institution; and

"(B) any insured depository institution may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) Minimum 10-year prohibition period for certain offenses.—If the offense of which any person referred to in paragraph (1) has been convicted under—

"(A) sections 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, and 1956 of title 18, United States Code; or

"(B) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title),

the Corporation may not consent to any exception for such person from the application of this section during the 10-year period beginning on the date the conviction becomes final.".

(b) NCUA Insured Credit Unions.—Section 205(d) of the Federal Credit Union Insurance Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) Prohibition.—

"(1) In general.—Except with the prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) Minimum 10-year prohibition period for certain offenses.—If the offense of which any person referred to in paragraph (1) has been convicted under—

"(A) sections 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, and 1956 of title 18, United States Code; or

"(B) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title),

the Board may not consent to any exception for such person from the application of this section during the 10-year period beginning on the date the conviction becomes final.

"(3) Penalty.—Whoever knowingly violates paragraph (1) shall be fined not more than $1,000,000 for each day such prohibition is violated, imprisoned not more than 5 years, or both.".

SEC. 2103. CRIME OF OBSTRUCTING AN EXAMINER.

(a) In General.—Chapter 73 of title 18, United States Code (relating to obstruction of justice) is amended by inserting after section 1516 the following new section:

"§ 1517. Obstructing examination of financial institution

"Whoever corruptly obstructs or attempts to obstruct any examination of a financial institution by an agency of the United States with jurisdiction to conduct an examination of such financial institution shall be fined under this title, imprisoned not more than 5 years, or both.".

(b) Clerical Amendment.—The table of sections for chapter 73 of title 18, United States Code, is amended by inserting after the item relating to section 1516 the following new item:

"1517. Obstructing examination of financial institution.".

SEC. 2104. INCREASING BANK FRAUD AND EMBEZZLEMENT PENALTIES.

(a) Receipt of Commissions or Gifts for Procuring Loans.—Section 215(a) of title 18, United States Code, is amended by striking "20" and inserting "30".

(b) Theft, Embezzlement, or Misapplication by Bank Officer or Employee.—Section 656 of title 18, United States Code, is amended by striking "20" and inserting "30".

(c) Lending, Credit, and Insurance Institutions.—Section 657 of title 18, United States Code, is amended by striking "20" and inserting "30".

(d) Bank Entries, Reports, and Transactions.—Section 1005 of title 18, United States Code, is amended by striking "20" and inserting "30".

(e) Federal Credit Institution Entries, Reports, and Transactions.—Section 1006 of title 18, United States Code, is amended by striking "20" and inserting "30".

(f) Federal Deposit Insurance Corporation Transactions.—Section 1007 of title 18, United States Code, is amended by striking "20" and inserting "30".

(g) False Statements in Loan, Credit, and Crop Insurance Applications.—Section 1014 of title 18, United States Code, is amended by striking "20" and inserting "30".

(h) Frauds and Swindles Affecting Financial Institutions.—The last sentence of section 1341 of title 18, United States Code, is amended by striking "20" and inserting "30".

(i) Wire Frauds Affecting Financial Institutions.—The last sentence of section 1343 of title 18, United States Code, is amended by striking "20" and inserting "30".

(j) Bank Fraud.—Section 1344 of title 18, United States Code, is amended by striking "20" and inserting "30".

SEC. 2105. STATUTE OF LIMITATIONS FOR RICO OFFENSES INVOLVING FINANCIAL INSTITUTIONS.

(a) In General.—Section 3293 of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by inserting "or" at the end of paragraph (2); and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) section 1963, to the extent that the racketeering activity involves a violation of section 1344;".

(b) Scope of Application.—The amendments made by subsection (a) shall apply to any offense committed before the date of the enactment of this section, if the statute of limitations applicable to that offense had not run as of such date.

SEC. 2106. MONEY LAUNDERING INVOLVING BANK CRIMES.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "section 1005 (relating to fraudulent bank entries), 1006 (relating to fraudulent Federal credit institution entries), 1007 (relating to Federal Deposit Insurance transactions), 1014 (relating to fraudulent loan or credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by inserting "section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution," after "section 1203 (relating to hostage taking),".

SEC. 2107. INCREASED PENALTIES IN MAJOR BANK CRIME CASES.

(a) Increased Penalties.—Pursuant to section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, to provide that a defendant convicted of violating section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of title 18, United States Code, or section 1341 or 1343 affecting a financial institution (as defined in section 20 of title 18, United States Code), shall be assigned not less than offense level 24 under chapter 2 of the sentencing guidelines if the defendant derives more than $1,000,000 in gross receipts from the offense.

(b) Amendments to Sentencing Guidelines.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (a) so as to achieve a comparable result.

SEC. 2108. RESTORATION OF PROPERTY FOR VICTIMS OF BANK CRIMES.

Section 981(e) of title 18, United States Code, is amended—

(1) by striking out "or" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding after paragraph (5) the following new paragraph:

"(6) in the case of property referred to in subsection (a)(1)(C), restore forfeited property to any victim of an offense described in subsection (a)(1)(C); or".

SEC. 2109. ENHANCEMENT OF ABILITY TO ORDER RESTITUTION IN CERTAIN FRAUD CASES.

Section 3663(a) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following:

"(2) For the purposes of restitution, a victim of an offense that involves as an element a scheme, a conspiracy, or a pattern of criminal activity means any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern.

"(3) The court may also order restitution in any criminal case to the extent agreed to by the parties in a plea agreement.".

SEC. 2110. FINANCIAL CRIME KINGPIN STATUTE.

(a) Continuing Financial Crime Enterprises.—Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 225. Continuing financial crimes enterprise

"(a) Whoever—

"(1) organizes, manages, or supervises a continuing financial crimes enterprise; and

"(2) receives $5,000,000 or more in gross receipts from such enterprise during any 24-month period,

shall be fined not more than $10,000,000 if an individual, or $20,000,000 if an organization, and imprisoned not less than 10 years.

"(b) For purposes of subsection (a), the term 'continuing financial crimes enterprise' means a series of violations under section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of this title committed by at least 4 persons acting in concert.".

(b) Technical Amendment.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"225. Continuing financial crimes enterprise.".

Subtitle B—Protecting Assets From Wrongful Disposition

SEC. 2121. LIMITATION ON DISPOSITION OF CERTAIN ASSETS.

Section 1345 of title 18, United States Code, is amended—

(1) by striking the 1st sentence and inserting the following:

"(a)(1) If a person is—

"(A) violating or about to violate this chapter or section 287, 371 (insofar as such violation involves a conspiracy to defraud the United States or any agency thereof), or 1001 of this title; or

"(B) committing or about to commit a banking law violation (as defined in section 3322(d) of this title),

the Attorney General may commence a civil action in any Federal court to enjoin such violation.

"(2) If a person is alienating or disposing of property, or intends to alienate or dispose of property, obtained as a result of a banking law violation (as defined in section 3322(d) of this title) or property which is traceable to such violation, the Attorney General may commence a civil action in any Federal court—

"(A) to enjoin such alienation or disposition of property; or

"(B) for a restraining order to—

"(i) prohibit any person from withdrawing, transferring, removing, dissipating, or disposing of any such property or property of equivalent value; and

"(ii) appoint a temporary receiver to administer such restraining order."; and

(2) by redesignating the material remaining in such section as subsection (b).

SEC. 2122. ATTACHMENT OF ASSETS.

(a) Application by Conservator or Receiver for FDIC Insured Depository Institution.—Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended by adding at the end the following new paragraphs:

"(17) Attachment of assets.—Subject to paragraph (18), any court of competent jurisdiction may, at the request of the Corporation (in the Corporation's capacity as conservator or receiver for any insured depository institution), place the assets of any person designated by the Corporation under the control of the court and appoint a trustee to hold such assets if the Corporation demonstrates the likelihood that—

"(A) such person is—

"(i) an institution-affiliated party who is financially obligated to the institution or otherwise may be required to provide restitution to the institution; or

"(ii) a debtor of the institution; and

"(B) the assets of such person will be dissipated or otherwise placed beyond the jurisdiction of the court or Corporation before any recovery in favor of the institution may be completed unless a trustee is appointed.

"(18) Due process protections.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under paragraph (17) unless, in the case of any proceeding in a State court, the court determines that rules of civil procedure available under the laws of such State provide substantially similar protections to such party's right to due process as Rule 65.".

(b) Application by Conservator or Liquidating Agent for Insured Credit Union.—Section 207(b)(2) of the Federal Credit Union Act (12 U.S.C. 1787(b)(2)) is amended by redesignating subparagraph (G) as subparagraph (I) and by inserting after subparagraph (F) the following new subparagraphs:

"(G) Attachment of assets.—Subject to subparagraph (H), any court of competent jurisdiction may, at the request of the Board (in the Board's capacity as conservator or liquidating agent for any insured credit union) place the assets of any person designated by the Board under the control of the court and appoint a trustee to hold such assets if the Board demonstrates the likelihood that—

"(i) such person is—

"(I) an institution-affiliated party who is financially obligated to the credit union or otherwise may be required to provide restitution to the credit union; or

"(II) a debtor of the credit union; and

"(ii) the assets of such person will be dissipated or otherwise placed beyond the jurisdiction of the court or Board before any recovery in favor of the credit union may be completed unless a trustee is appointed.

"(H) Due process protections.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under subparagraph (G) unless, in the case of any proceeding in a State court, the court determines that rules of civil procedure available under the laws of such State provide substantially similar protections to such party's right to due process as Rule 65.".

(c) Application by Appropriate Federal Banking Agency.—Section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended by adding at the end the following new paragraph:

"(4) Attachment of assets.—

"(A) Ex parte orders. In connection with any action brought by any appropriate Federal banking agency under this subsection in any capacity or any other civil or administrative action under this section for money damages, restitution, or injunctive relief to which the agency is a party, any Federal court may, upon application by the agency, issue ex parte a restraining order which—

"(i) prohibits any person subject to the proceeding from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property; and

"(ii) appoints a temporary receiver to administer such restraining order.

"(B) Proper showing required.—Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted, without bond.".

(d) Application by National Credit Union Administration Board.—Section 206(k) of the Federal Credit Union Act (12 U.S.C. 1786(k)) is amended by adding at the end the following new paragraph:

"(4) Attachment of assets.—

"(A) Ex parte orders.—In connection with any action brought by the Board under this subsection in any capacity or any other civil or administrative action under this section for money damages, restitution, or injunctive relief to which the Board is a party, any Federal court may, upon application by the Board, issue ex parte a restraining order which—

"(i) prohibits any person subject to the proceeding from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property; and

"(ii) appoints a temporary receiver to administer such restraining order.

"(B) Proper showing required.—Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted, without bond.".

SEC. 2123. DISALLOWING USE OF BANKRUPTCY TO EVADE COMMITMENTS TO MAINTAIN THE CAPITAL OF A FEDERALLY INSURED DEPOSITORY INSTITUTION OR TO EVADE CIVIL OR CRIMINAL LIABILITY.

(a) Definitions.—Section 101 of title 11, United States Code, is amended—

(1) by redesignating paragraphs (32) through (53) as paragraphs (36) through (61), respectively;

(2) by inserting before paragraph (36), as so redesignated, the following:

"(33) 'institution-affiliated party'—

"(A) with respect to an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act), has the meaning given it in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)); and

"(B) with respect to an insured credit union, has the meaning given it in section 206(r) of the Federal Credit Union Act (12 U.S.C. 1786(r));

"(34) 'insured credit union' has the meaning given it in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7));

"(35) 'insured depository institution'—

"(A) has the meaning given it in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)); and

"(B) includes an insured credit union (except in the case of paragraphs (3) and (33)(A) of this subsection);";

(3) by redesignating paragraphs (3) through (31) as paragraphs (4) through (32), respectively; and

(4) by inserting after paragraph (2) the following:

"(3) 'Federal depository institutions regulatory agency' means—

"(A) with respect to an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act) for which no conservator or receiver has been appointed, the appropriate Federal banking agency (as defined in section 3(q) of such Act); and

"(B) with respect to an insured credit union (including an insured credit union for which the National Credit Union Administration has been appointed conservator or liquidating agent), the National Credit Union Administration;

"(C) with respect to any insured depository institution for which the Resolution Trust Corporation has been appointed conservator or receiver, the Resolution Trust Corporation; and

"(D) with respect to any insured depository institution for which the Federal Deposit Insurance Corporation has been appointed conservator or receiver, the Federal Deposit Insurance Corporation;".

(b) Assumption of Commitments as Executory Contracts.—Section 365 of title 11, United States Code, is amended by adding at the end the following:

"(o) In a case under chapter 11 of this title, the trustee shall be deemed to have assumed, consistent with the debtor's other obligations under section 507, any commitment by the debtor to a Federal depository institutions regulatory agency to maintain the capital of an insured depository institution. This subsection shall not extend any such commitment which would otherwise be terminated due to any act of such agency.".

(c) Exception to Discharge in General.—Section 523 of title 11, United States Code (as amended by section 1901 of this Act) is amended—

(1) in subsection (a)—

(A) in paragraph (2)(B)(iii) by inserting before the semicolon the following ", except that this clause shall not apply in the case of a Federal depository institutions regulatory agency seeking, in its capacity as conservator, receiver, or liquidating agent for an insured depository institution, to recover a debt owed to such institution by an institution-affiliated party";

(B) by striking "or" at the end of paragraph (9);

(C) by striking the period at the end of paragraph (10) and inserting "; or"; and

(D) by adding at the end the following:

"(11) for failure to fulfill any commitment by the debtor to a Federal depository institutions regulatory agency to maintain the capital of an insured depository institution, except that this paragraph shall not extend any such commitment which would otherwise be terminated due to any act of such agency.";

(2) in subsection (c)—

(A) by inserting "(1)" after "(c)"; and

(B) by adding at the end the following:

"(2) Paragraph (1) shall not apply in the case of a Federal depository institutions regulatory agency seeking, in its capacity as conservator, receiver, or liquidating agent for an insured depository institution, to recover a debt owed to such institution by an institution-affiliated party."; and

(3) by adding at the end the following:

"(e) For purposes of subsection (a)(4), any institution-affiliated party of an insured depository institution or of an insured credit union shall be deemed to have been acting in a fiduciary capacity with regard to any debt owed to the Federal depository institutions regulatory agency.".

(d) Exception to Discharge Under Chapter 11.—Section 1129(a) of title 11, United States Code, is amended by adding at the end the following new paragraph:

"(14) The plan provides that, following the completion of the plan, the debtor will maintain any commitment to a Federal depository institutions regulatory agency to maintain the capital of an insured depository institution and will continue to be obligated for any debt to such agency resulting from any failure to fulfill any such commitment. This paragraph shall not extend any such commitment which would otherwise be terminated due to any act of such agency.".

(e) Exception to Discharge Under Chapter 13.—Section 1328(a) of title 11, United States Code, as amended by section 1902 of this Act, is amended—

(1) in paragraph (2) by striking "or" at the end;

(2) in paragraph (3), as added by such section 1902, by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) of a kind specified in paragraph (2), (4), (6), or (7) of section 523(a) of this title owed by an institution-affiliated party—

"(A) to a Federal depository institutions regulatory agency; or

"(B) to an insured depository institution which a Federal depository institutions regulatory agency is seeking, in its capacity as conservator, receiver, or liquidating agent for such institution, to recover for the institution.".

SEC. 2124. FRAUDULENT CONVEYANCES AVOIDABLE BY CONSERVATORS, RECEIVERS, AND LIQUIDATING AGENTS.

(a) FDIC Insured Depository Institutions.—Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended by inserting after paragraph (18) (as added by section 2122(a) of this title) the following new paragraph:

"(19) Fraudulent transfers.—

"(A) In general.—The Corporation, as conservator or receiver for any insured depository institution, may avoid a transfer of any interest of an institution-affiliated party, or any person who the Corporation determines is a debtor of the institution, in property, or any obligation incurred by such party or person, that was made within 5 years of the date on which the Corporation was appointed conservator or receiver if such party or person voluntarily or involuntarily made such transfer or incurred such liability with the intent to hinder, delay, or defraud the insured depository institution, the Corporation, or any other appropriate Federal banking agency.

"(B) Right of recovery.—To the extent a transfer is avoided under subparagraph (A), the Corporation may recover, for the benefit of the insured depository institution, the property transferred, or, if a court so orders, the value of such property (at the time of such transfer) from—

"(i) the initial transferee of such transfer or the institution-affiliated party or person for whose benefit such transfer was made; or

"(ii) any immediate or mediate transferee of any such initial transferee.

"(C) Rights of transferee or obligee.—The Corporation may not recover under subparagraph (B) from—

"(i) any transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith; or

"(ii) any immediate or mediate good faith transferee of such transferee.

"(D) Rights under this paragraph.—The rights of the Corporation under this paragraph shall be superior to any rights of a trustee or any other party (other than any party which is a Federal agency) under title 11, United States Code.".

(b) NCUA Insured Credit Unions.—Section 207(b) of the Federal Credit Union Act (12 U.S.C. 1787(b)) is amended by adding at the end the following new paragraph:

"(16) Fraudulent transfers.—

"(A) In general.—The Board, as conservator or liquidating agent for any insured credit union, may avoid a transfer of any interest of an institution-affiliated party, or any person who the Board determines is a debtor of the institution, in property, or any obligation incurred by such party or person, that was made within 5 years of the date on which the Board becomes conservator or liquidating agent if such party or person voluntarily or involuntarily made such transfer or incurred such liability with the intent to hinder, delay, or defraud the insured credit union or the Board.

"(B) Right of recovery.—To the extent a transfer is avoided under subparagraph (A), the Board may recover, for the benefit of the insured credit union, the property transferred, or, if a court so orders, the value of such property (at the time of such transfer) from—

"(i) the initial transferee of such transfer or the institution-affiliated party or person for whose benefit such transfer was made; or

"(ii) any immediate or mediate transferee of any such initial transferee.

"(C) Rights of transferee or obligee.—The Board may not recover under subparagraph (B) from—

"(i) any transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith; or

"(ii) any immediate or mediate good faith transferee of such transferee.

"(D) Rights under this paragraph.—The rights of the Board under this paragraph shall be superior to any rights of a trustee or any other party (other than any party which is a Federal agency) under title 11, United States Code.".

SEC. 2125. REGULATION OF GOLDEN PARACHUTES AND OTHER BENEFITS WHICH ARE SUBJECT TO MISUSE.

(a) FDIC Insured Depository Institutions.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by inserting after subsection (j) the following new subsection:

"(k) Regulation of Certain Forms of Benefits to Institution-Affiliated Parties.—

"(1) Golden parachutes.—Except as provided in paragraph (5), any insured depository institution or depository institution holding company which does not meet the minimum capital requirements (as determined by the appropriate Federal banking agency) applicable with respect to such institution or holding company may not make any golden parachute payment or enter into any contract or other agreement to make any golden parachute payment.

"(2) Covered benefits.—Except as provided in paragraph (5), no insured depository institution or depository institution holding company may make any covered benefit payment or enter into any contract or other agreement to make any covered benefit payment.

"(3) Certain payments in anticipation of insolvency prohibited.—No insured depository institution or depository institution holding company may prepay the salary or any liability or legal expense of any institution-affiliated party in contemplation of the insolvency of such institution or holding company, or any insured depository institution subsidiary of such holding company, or after the commission of an act of insolvency, if such payment is made with a view to, or has the result of—

"(A) preventing the proper application of the assets of the institution or holding company to creditors; or

"(B) preferring 1 creditor over another.

"(4) Definitions.—For purposes of this subsection—

"(A) Golden parachute payment.—The term 'golden parachute payment' means any payment in the nature of compensation to (or for the benefit of) any institution-affiliated party by any insured depository institution or depository institution holding company pursuant to an obligation of such institution or holding company (to make such payment) which—

"(i) is contingent on the termination (for any reason) of such party's affiliation with the institution or holding company; and

"(ii) is received on or after the date on which—

"(I) the insured depository institution or depository institution holding company is insolvent;

"(II) any conservator or receiver is appointed for such institution; or

"(III) with respect to an insured depository institution or depository institution holding company which does not meet the minimum capital requirements applicable with respect to such institution or holding company, the date such institution or holding company first fails to meet such requirement.

"(B) Covered benefit payment.—The term 'covered benefit payment' means any payment by any insured depository institution or depository institution holding company to or for the benefit of any person who is or was an institution-affiliated party to pay or reimburse such person for any liability or legal expense with respect to any administrative proceeding or civil action instituted by the appropriate Federal banking agency—

"(i) in which the action, inaction, or the violation of any law, regulation, or order by, the institution-affiliated party is at issue; and

"(ii) which results in a final order under which the institution-affiliated party—

"(I) is assessed a civil money penalty;

"(II) is removed or prohibited from participating in conduct of the affairs of the insured depository institution or depository institution holding company; or

"(III) is required to take any affirmative action described in section 8(b)(6) with respect to such institution.

"(C) Liability or legal expense.—The term 'liability or legal expense' means—

"(i) any legal or other professional expense incurred in connection with any claim, proceeding, or action;

"(ii) the amount of, and any cost incurred in connection with, any settlement of any claim, proceeding, or action; and

"(iii) the amount of, and any cost incurred in connection with, any judgment or penalty imposed with respect to any claim, proceeding, or action.

"(D) Payment.—The term 'payment' includes—

"(i) any direct or indirect transfer of any funds or any asset; and

"(ii) any segregation of any funds or assets for the purpose of making, or pursuant to an agreement to make, any payment after the date on which such funds or assets are segregated.

"(5) Agency approval for certain golden parachute and covered benefit payments.—

"(A) In general.—Except as provided in subparagraph (B), any insured depository institution or depository institution holding company referred to in paragraph (1) or (2) may take any action described in such paragraph if the appropriate Federal banking agency provides written approval of such action by the institution or holding company.

"(B) Corporation approval required for faltering institutions.—Any insured depository institution which—

"(i) has a composite rating by the appropriate Federal banking agency of 4 or 5 under the Uniform Financial Institutions Rating System;

"(ii) is subject to a proceeding initiated by the Corporation to terminate or suspend deposit insurance for such institution;

"(iii) has substantially insufficient capital to meet the minimum capital requirements (as defined and determined by the appropriate Federal banking agency) applicable with respect to such institution; or

"(iv) is in danger of default,

may take any action described in paragraph (1) or (2) only if the Corporation provides written approval for the institution to take such action (in addition to the approval of the appropriate Federal banking agency under subparagraph (A) of this paragraph).

"(6) Certain insurance coverage not treated as covered benefit payment.—No provision of this subsection shall be construed as prohibiting any insured depository institution or depository institution holding company from purchasing any directors' or officers' liability insurance policy or fidelity bond, except that such insurance policy or bond may not cover any legal or liability expense of the institution or holding company which is a covered benefit payment.".

(b) NCUA Insured Credit Unions Depository Institutions.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following new subsection:

"(t) Regulation of Certain Forms of Benefits to Institution-Affiliated Parties.—

"(1) Golden parachutes.—Except as provided in paragraph (5), any insured credit union which does not meet the minimum capital requirements (as determined by the Board) applicable with respect to such credit union may not make any golden parachute payment or enter into any contract or other agreement to make any golden parachute payment.

"(2) Covered benefits.—Except as provided in paragraph (5), no insured credit union may make any covered benefit payment or enter into any contract or other agreement to make any covered benefit payment.

"(3) Certain payments in anticipation of insolvency prohibited.—No insured credit union may prepay the salary or any liability or legal expense of any institution-affiliated party in contemplation of the insolvency of such credit union, or after the commission of an act of insolvency, if such payment is made with a view to, or has the result of—

"(A) preventing the proper application of the assets of the credit union to creditors; or

"(B) preferring 1 creditor over another.

"(4) Definitions.—For purposes of this subsection—

"(A) Golden parachute payment.—The term 'golden parachute payment' means any payment in the nature of compensation to (or for the benefit of) any institution-affiliated party by any insured credit union pursuant to an obligation of such credit union (to make such payment) which—

"(i) is contingent on the termination (for any reason) of such party's affiliation with the credit union; and

"(ii) is received on or after the date on which—

"(I) the insured credit union is insolvent;

"(II) any conservator or liquidating agent is appointed for such institution; or

"(III) with respect to an insured credit union which does not meet the minimum capital requirements applicable with respect to such credit union, the date such credit union first fails to meet such requirement.

"(B) Covered benefit payment.—The term 'covered benefit payment' means any payment by any insured credit union to or for the benefit of any person who is or was an institution-affiliated party to pay or reimburse such person for any liability or legal expense with respect to any administrative proceeding or civil action instituted by the Board—

"(i) in which the action, inaction, or the violation of any law, regulation, or order by, the institution-affiliated party is at issue; and

"(ii) which results in a final order under which the institution-affiliated party—

"(I) is assessed a civil money penalty;

"(II) is removed or prohibited from participating in conduct of the affairs of the insured credit union; or

"(III) is required to take any affirmative action described in section 206(e)(3) with respect to such credit union.

"(C) Liability or legal expense.—The term 'liability or legal expense' means—

"(i) any legal or other professional expense incurred in connection with any claim, proceeding, or action;

"(ii) the amount of, and any cost incurred in connection with, any settlement of any claim, proceeding, or action; and

"(iii) the amount of, and any cost incurred in connection with, any judgment or penalty imposed with respect to any claim, proceeding, or action.

"(D) Payment.—The term 'payment' includes—

"(i) any direct or indirect transfer of any funds or any asset; and

"(ii) any segregation of any funds or assets for the purpose of making, or pursuant to an agreement to make, any payment after the date on which such funds or assets are segregated.

"(5) Board approval for certain golden parachute and covered benefit payments.—Any insured credit union referred to in paragraph (1) or (2) may take any action described in such paragraph if the Board provides written approval of such action by the credit union.

"(6) Certain insurance coverage not treated as covered benefit payment.—No provision of this subsection shall be construed as prohibiting any insured credit union from purchasing any directors' or officers' liability insurance policy or fidelity bond, except that such insurance policy or bond may not cover any legal or liability expense of the credit union which is a covered benefit payment.".

SEC. 2126. AMENDMENTS RELATING TO CIVIL FORFEITURE.

Section 981 of title 18, United States Code, is amended—

(1) in subsection (a)(1)(C)—

(A) by inserting "1032," after "1014,"; and

(B) by inserting "or a violation of section 1341 or 1343 of such title affecting a financial institution" before the period;

(2) in subsection (b)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(B) by striking all that appears before subparagraph (A) (as so redesignated by subparagraph (A) of this paragraph) and inserting the following:

"(b)(1) Any property—

"(A) subject to forfeiture to the United States under subparagraph (A) or (B) of subsection (a)(1) of this section—

"(i) may be seized by the Attorney General; or

"(ii) in the case of property involved in a violation of section 5313(a) or 5324 of title 31, United States Code, or section 1956 or 1957 of this title investigated by the Secretary of the Treasury or the United States Postal Service, may be seized by the Secretary of the Treasury or the Postal Service; and

"(B) subject to forfeiture to the United States under subparagraph (C) of subsection (a)(1) of this section may be seized by the Attorney General, the Secretary of the Treasury, or the Postal Service.

"(2) Property shall be seized under paragraph (1) of this subsection upon process issued pursuant to the Supplemental Rules for certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—";

(3) in subsection (e)(3), by striking "(if the affected financial institution is in receivership or liquidation)"; and

(4) in subsection (e)(4), by striking "(if the affected financial institution is not in receivership or liquidation)".

SEC. 2127. CIVIL AND CRIMINAL FORFEITURE FOR FRAUD IN THE SALE OF ASSETS BY THE RESOLUTION TRUST CORPORATION, FDIC, OR NCUA.

(a) CIVIL FORFEITURE.—

(1) IN GENERAL.—Section 981(a)(1) of title 18, United States Code, is amended by adding the following new subparagraphs:

"(D) Any property, real or personal, which represents or is traceable to the gross receipts obtained, directly or indirectly, from a violation of—

"(i) section 666(a)(1) (relating to Federal program fraud);

"(ii) section 1001 (relating to fraud and false statements;

"(iii) section 1031 (relating to major fraud against the United States);

"(iv) section 1032 (relating to concealment of assets from conservator or receiver of insured financial institution);

"(v) section 1341 (relating to mail fraud); or

"(vi) section 1343 (relating to wire fraud), if such violation relates to the sale of assets acquired or held by the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, as conservator or receiver for a financial institution, or the National Credit Union Administration, as conservator or liquidating agent for a financial institution.

"(E) With respect to an offense listed in subsection (a)(1)(D) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations or promises, the gross receipts of such an offense shall include all property, real or personal, tangible or intangible, which thereby is obtained, directly or indirectly.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 981(e) of title 18, United States Code, is amended by inserting after paragraph (6) (as added by section 2108(3) of this title) the following new paragraph:

"(7) In the case of property referred to in subsection (a)(1)(D), to the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or any other Federal financial institution regulatory agency (as defined in section 8(e)(7)(D) of the Federal Deposit Insurance Act).".

(b) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding the following new paragraphs:

"(3) The court, in imposing a sentence on a person convicted of an offense under—

"(A) section 666(a)(1) (relating to Federal program fraud);

"(B) section 1001 (relating to fraud and false statements);

"(C) section 1031 (relating to major fraud against the United States);

"(D) section 1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of insured financial institution);

"(E) section 1341 (relating to mail fraud); or

"(F) section 1343 (relating to wire fraud), involving the sale of assets acquired or held by the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, as conservator or receiver for a financial institution, or the National Credit Union Administration, as conservator or liquidating agent for a financial institution, shall order that the person forfeit to the United States any property, real or personal, which represents or is traceable to the gross receipts obtained, directly or indirectly, as a result of such violation.

"(4) With respect to an offense listed in subsection (a)(3) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations, or promises, the gross receipts of such an offense shall include any property, real or personal, tangible or intangible, which is obtained, directly or indirectly, as a result of such offense.".

SEC. 2128. PROHIBITION ON ACQUISITIONS FROM CONSERVATORS, RECEIVERS, AND LIQUIDATING AGENTS OF DEPOSITORY INSTITUTIONS BY CONVICTED FELONS.

(a) FDIC INSURED DEPOSITORY INSTITUTIONS.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

"(p) CERTAIN CONVICTED DEBTORS PROHIBITED FROM PURCHASING ASSETS.—Any individual who—

"(1) has been convicted of an offense under section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1341, 1343, or 1344 of title 18, United States Code, affecting any insured depository institution for which any conservator or receiver has been appointed; and

"(2) is in default on any loan or other extension of credit from such insured depository institution which, if not paid, will cause substantial loss to the institution, the Corporation, or the Resolution Trust Corporation,

may not purchase any asset of such institution from the conservator or receiver (other than with respect to the repayment in full of such loan or other extension of credit).".

(b) NCUA INSURED CREDIT UNIONS.—Section 207 of the Federal Credit Union Act (12 U.S.C. 1787) is amended by adding at the end the following new subsection:

"(q) CERTAIN CONVICTED DEBTORS PROHIBITED FROM PURCHASING ASSETS.—Any individual who—

"(1) has been convicted of an offense under section 215, 657, 1006, 1014, 1032, 1341, 1343, or 1344 of title 18, United States Code, affecting any insured credit union for which the Board is appointed conservator or liquidating agent; and

"(2) is in default on any loan or other extension of credit from such insured credit union which, if not paid, will cause substantial loss to the credit union or the Board,

may not purchase any asset of such credit union from the conservator or liquidating agent (other than with respect to the repayment in full of such loan or other extension of credit).".

Subtitle C—Improved Procedures for Handling Banking-Related Cases

SEC. 2131. WIRETAP AUTHORITY FOR BANK FRAUD AND RELATED OFFENSES; TECHNICAL AMENDMENTS TO WIRETAP LAW.

Section 2516 of title 18, United States Code, is amended—

(1) in paragraph (1)(c)—

(A) by inserting "section 215 (relating to bribery of bank officials)," before "section 224";

(B) by inserting "section 1014 (relating to loans and credit applications generally; renewals and discounts)," before "sections 1503,";

(C) by inserting "section 1344 (relating to bank fraud)," before "sections 2251 and 2252"; and

(D) by striking "the section in chapter 65 relating to destruction of an energy facility,"; and

(2) in paragraph (1)—

(A) by striking the 1st subparagraph which is designated as "(m)";

(B) by striking "and" at the end of the 2d subparagraph designated as "(m)" (as determined before the amendment made by subparagraph (A) of this paragraph);

(C) by striking the period at the end of subparagraph (n) and inserting "; and"; and

(D) by adding at the end the following new subparagraph:

"(o) any conspiracy to commit any offense described in any subparagraph of this paragraph."; and

(3) in paragraph (1)(j), by striking "any violation of section 1679(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code" and inserting "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 or subsection (i) or (n) of section 902 of the Federal Aviation Act of 1958".

SEC. 2132. FOREIGN INVESTIGATIONS BY FEDERAL BANKING AGENCIES AND INVESTIGATIONS ON BEHALF OF FOREIGN BANKING AUTHORITIES.

(a) APPROPRIATE FEDERAL BANKING AGENCIES, GENERALLY.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end thereof the following new subsection:

"(v) FOREIGN INVESTIGATIONS.—

"(1) REQUESTING ASSISTANCE FROM FOREIGN BANKING AUTHORITIES.—In conducting any investigation, examination, or enforcement action under this Act, the appropriate Federal banking agency may—

"(A) request the assistance of any foreign banking authority; and

"(B) maintain an office outside the United States.

"(2) PROVIDING ASSISTANCE TO FOREIGN BANKING AUTHORITIES.—

"(A) IN GENERAL.—Any appropriate Federal banking agency may, at the request of any foreign banking authority, assist such authority if such authority states that the requesting authority is conducting an investigation to determine whether any person has violated, is violating, or is about to violate any law or regulation relating to banking

matters or currency transactions administered or enforced by the requesting authority.

"(B) INVESTIGATION BY FEDERAL BANKING AGENCY.—Any appropriate Federal banking agency may, in such agency's discretion, investigate and collect information and evidence pertinent to a request for assistance under subparagraph (A). Any such investigation shall comply with the laws of the United States and the policies and procedures of the appropriate Federal banking agency.

"(C) FACTORS TO CONSIDER.—In deciding whether to provide assistance under this paragraph, the appropriate Federal banking agency shall consider—

"(i) whether the requesting authority has agreed to provide reciprocal assistance with respect to banking matters within the jurisdiction of any appropriate Federal banking agency; and

"(ii) whether compliance with the request would prejudice the public interest of the United States.

"(D) TREATMENT OF FOREIGN BANKING AUTHORITY.—For purposes of any Federal law or appropriate Federal banking agency regulation relating to the collection or transfer of information by any appropriate Federal banking agency, the foreign banking authority shall be treated as another appropriate Federal banking agency.

"(3) RULE OF CONSTRUCTION.—Paragraphs (1) and (2) shall not be construed to limit the authority of an appropriate Federal banking agency or any other Federal agency to provide or receive assistance or information to or from any foreign authority with respect to any matter.".

(b) FOREIGN INVESTIGATIONS BY FDIC AND RTC AS CONSERVATOR OR RECEIVER.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by inserting after subsection (p) (as added by section 2128(a) of this title) the following new subsection:

"(q) FOREIGN INVESTIGATIONS.—The Corporation and the Resolution Trust Corporation, as conservator or receiver of any insured depository institution and for purposes of carrying out any power, authority, or duty with respect to an insured depository institution—

"(1) may request the assistance of any foreign banking authority and provide assistance to any foreign banking authority in accordance with section 8(v); and

"(2) may each maintain an office to coordinate foreign investigations or investigations on behalf of foreign banking authorities.".

(c) NATIONAL CREDIT UNION ADMINISTRATION, GENERALLY.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by inserting after subsection (t) (as added by section 2125(b) of this title) the following new subsection:

"(u) FOREIGN INVESTIGATIONS.—

"(1) REQUESTING ASSISTANCE FROM FOREIGN BANKING AUTHORITIES.—In conducting any investigation, examination, or enforcement action under this Act, the Board may—

"(A) request the assistance of any foreign banking authority; and

"(B) maintain an office outside the United States.

"(2) PROVIDING ASSISTANCE TO FOREIGN BANKING AUTHORITIES.—

"(A) IN GENERAL.—The Board may, at the request of any foreign banking authority, assist such authority if such authority states that the requesting authority is conducting an investigation to determine whether any person has violated, is violating, or is about to violate any law or regulation relating to banking matters or currency transactions administered or enforced by the requesting authority.

"(B) INVESTIGATION BY FEDERAL BANKING AGENCY.—The Board may, in the Board's discretion, investigate and collect information and evidence pertinent to a request for assistance under subparagraph (A). Any such investigation shall comply with the laws of the United States and the policies and procedures of the Board.

"(C) FACTORS TO CONSIDER.—In deciding whether to provide assistance under this paragraph, the Board shall consider—

"(i) whether the requesting authority has agreed to provide reciprocal assistance with respect to banking matters within the jurisdiction of the Board or any appropriate Federal banking agency; and

"(ii) whether compliance with the request would prejudice the public interest of the United States.

"(D) TREATMENT OF FOREIGN BANKING AUTHORITY.—For purposes of any Federal law or Board regulation relating to the collection or transfer of information by the Board or any appropriate Federal banking agency, the foreign banking authority shall be treated as another appropriate Federal banking agency.

"(3) RULE OF CONSTRUCTION.—Paragraphs (1) and (2) shall not be construed to limit the authority of the Board or any other Federal agency to provide or receive assistance or information to or from any foreign authority with respect to any matter.".

(d) FOREIGN INVESTIGATIONS BY BOARD AS CONSERVATOR OR LIQUIDATING AGENT.—Section 207 of the Federal Credit Union Act (12 U.S.C. 1787) is amended by inserting after subsection (q) (as added by section 2128(b) of this title) the following new subsection:

"(r) FOREIGN INVESTIGATIONS.—The Board, as conservator or liquidating agent of any insured credit union and for purposes of carrying out any power, authority, or duty with respect to an insured credit union—

"(1) may request the assistance of any foreign banking authority and provide assistance to any foreign banking authority in accordance with section 206(u); and

"(2) may maintain an office to coordinate foreign investigations or investigations on behalf of foreign banking authorities.".

SEC. 2133. EXTENSION OF STATUTE OF LIMITATIONS FOR CIVIL PENALTIES.

Section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833a) is amended by adding at the end the following:

"(g) STATUTE OF LIMITATIONS.—A civil action under this section may not be commenced later than 10 years after the cause of action accrues.".

SEC. 2134. CLARIFICATION OF SUBPOENA AUTHORITY FOR FDIC, RTC, AND NCUA ACTING AS CONSERVATOR, RECEIVER, OR LIQUIDATING AGENT.

(a) FDIC AND RTC AUTHORITY.—Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended by redesignating subparagraph (I) as subparagraph (J) and by inserting after subparagraph (H) the following new subparagraph:

"(I) SUBPOENA AUTHORITY.—

"(i) IN GENERAL.—The Corporation may, as conservator, receiver, or exclusive manager and for purposes of carrying out any power, authority, or duty with respect to an insured depository institution (including determining any claim against the institution and determining and realizing upon any asset of any person in the course of collecting money due the institution), exercise any power established under section 8(n), and the provisions of such section shall apply with respect to the exercise of any such power under this subparagraph in the same manner as such provisions apply under such section.

"(ii) AUTHORITY OF BOARD OF DIRECTORS.—A subpoena or subpoena duces tecum may be issued under clause (i) only by, or with the written approval of, the Board of Directors or their designees (or, in the case of a subpoena or subpoena duces tecum issued by the Resolution Trust Corporation under this subparagraph and section 21A(b)(4), only by, or with the written approval of, the Board of Directors of such Corporation or their designees).

"(iii) RULE OF CONSTRUCTION.—This subsection shall not be construed as limiting any rights that the Corporation, in any capacity, might otherwise have under section 10(c) of this Act.".

(b) NCUA AUTHORITY.—Section 207(b)(2) of the Federal Credit Union Act (12 U.S.C. 1787(b)(2)) is amended by redesignating subparagraph (I) (as so redesignated by section 2122(b) of this title) as subparagraph (J) and by inserting after subparagraph (H) (as added by such section) the following new subparagraph:

"(I) SUBPOENA AUTHORITY.—

"(i) IN GENERAL.—The Board may, as conservator or liquidating agent and for purposes of carrying out any power, authority, or duty with respect to an insured credit union (including determining any claim against the credit union and determining and realizing upon any asset of any person in the course of collecting money due the credit union), exercise any power established under section 206(p), and the provisions of such section shall apply with respect to the exercise of any such power under this subparagraph in the same manner as such provisions apply under such section.

"(ii) AUTHORITY OF BOARD.—A subpoena or subpoena duces tecum may be issued under clause (i) only by, or with the written approval of, the Board or their designees.

"(iii) RULE OF CONSTRUCTION.—This subsection shall not be construed as limiting any rights that the Board, in any capacity, might otherwise have under section 206(p).".

Subtitle D—Structural Reforms To Improve the Federal Response to Crimes Affecting Financial Institutions

SEC. 2141. ESTABLISHMENT OF FINANCIAL INSTITUTIONS CRIME UNIT AND OFFICE OF SPECIAL COUNSEL FOR FINANCIAL INSTITUTIONS CRIME UNIT.

(a) ESTABLISHMENT.—There is established within the Office of the Deputy Attorney General in the Department of Justice a Financial Institutions Fraud Unit to be headed by a special counsel (hereafter in this subtitle referred to as the "Special Counsel").

(b) RESPONSIBILITY.—The Financial Institutions Fraud Unit and the Special Counsel shall be responsible to and shall report directly to the Deputy Attorney General.

(c) SUNSET.—The provisions of this section shall cease to apply at the end of the 5-year period beginning on the date of the enactment of this Act.

SEC. 2142. APPOINTMENT RESPONSIBILITIES AND COMPENSATION OF THE SPECIAL COUNSEL.

(a) APPOINTMENT.—The Special Counsel shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Responsibilities.—The Special Counsel shall—

(1) supervise and coordinate investigations and prosecutions within the Department of Justice of fraud and other criminal activity in and against the financial services industry, including, to the extent consistent with the independent counsel provision of chapter 40 of title 28, United States Code, any such activity by any current or former elected official or high-level executive branch official or any member of the immediate family of any such official;

(2) ensure that Federal law relating to civil enforcement, asset seizure and forfeiture, money laundering, and racketeering are used to the fullest extent authorized to recover the proceeds of unlawful activities from persons who have committed crimes in and against the financial services industry; and

(3) ensure that adequate resources are made available for the investigation and prosecution of fraud and other criminal activity in and against the financial services industry.

(c) Compensation.—The Special Counsel shall be paid at the basic pay payable for level V of the Executive Schedule.

SEC. 2143. ASSIGNMENT OF PERSONNEL.

There shall be assigned to the Financial Institutions Fraud Unit such personnel as the Attorney General deems necessary to provide an appropriate level of enforcement activity in the area of fraud and other criminal activity in and against the financial services industry.

SEC. 2144. FINANCIAL INSTITUTIONS FRAUD TASK FORCES.

(a) Establishment.—The Attorney General shall establish such financial institutions fraud task forces as the Attorney General deems appropriate to ensure that adequate resources are made available to investigate and prosecute crimes in or against financial institutions and to recover the proceeds of unlawful activities from persons who have committed fraud or have engaged in other criminal activity in or against the financial services industry.

(b) Supervision.—The Attorney General shall determine how each task force shall be supervised and may provide for the supervision of any task force by the Special Counsel.

(c) Senior Interagency Group.—(1) The Attorney General shall establish a senior interagency group to assist in identifying the most significant financial institution fraud cases and in allocating investigative and prosecutorial resources where they are most needed.

(2) The senior interagency group shall be chaired by the Assistant Attorney General for the Criminal Division and shall include senior officials from—

(A) the Department of Justice;

(B) the Department of the Treasury;

(C) the Office of Thrift Supervision;

(D) the Resolution Trust Corporation;

(E) the Federal Deposit Insurance Corporation;

(F) the Office of the Comptroller of the Currency;

(G) the Board of Governors of the Federal Reserve System; and

(H) the National Credit Union Administration.

(3) This senior interagency group shall enhance interagency coordination and assist in accelerating the investigations and prosecution of financial institutions fraud.

SEC. 2145. INTERAGENCY COORDINATION.

(a) In General.—The Attorney General may accept, and a department or agency of the United States may provide, without reimbursement, the services of attorneys, law enforcement personnel, and other employees of such department or agency to assist the Department of Justice in the investigation and prosecution of criminal or unlawful activity in or against financial institutions.

(b) Authority and Supervision of Detailed Personnel.—Any attorney of any department or agency of the United States whose services are accepted pursuant to subsection (a), may, subject to the general supervision of the Attorney General, conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings and proceedings before committing magistrates, and perform any other investigative or prosecutorial function, which United States attorneys are authorized by law to conduct or perform, whether or not the attorney is a resident of the district in which the proceeding is brought. Any law enforcement personnel or other employee of a Federal department or agency whose services are accepted pursuant to subsection (a) shall also serve subject to the general supervision of the Attorney General.

SEC. 2146. ADDITIONAL AUTHORITY FOR THE SECRET SERVICE.

(a) In General.—Section 3056(b)(1) of title 18, United States Code, is amended—

(1) by inserting "financial institutions, and the Resolution Trust Corporation, and concurrent with the authority of any other Federal law enforcement agency," after "land bank associations,";

(2) by inserting "215," after "213,";

(3) by inserting "656," after "493,";

(4) by inserting "1005," after "709,"; and

(5) by inserting "1341 or 1343 affecting a financial institution, 1344, 1510(b)," after "1014,".

(b) Supervision by Attorney General.—Investigations conducted pursuant to the authority conferred by these amendments shall be at the direction and under the supervision of the Attorney General.

(c) Effect of Amendments.—The amendments made by this section—

(1) shall not alter the authority of any other Federal law enforcement agency;

(2) shall expire coterminously with the authority of the Resolution Trust Corporation.

Subtitle E—Reporting Requirements

SEC. 2151. REPORTING REQUIREMENTS.

(a) In General.—The Attorney General shall report quarterly to Congress regarding activities of the Department of Justice with respect to crimes affecting financial institutions.

(b) Contents of Reports.—The report shall contain the following information to be assembled according to judicial district:

(1) The number of criminal referrals received by the Department of Justice.

(2) A breakdown of the referrals by the following loss categories:

(A) Under $25,000.

(B) $25,000 to $99,999.

(C) $100,000 to $499,999.

(D) $500,000 to $999,999.

(E) $1,000,000 and above.

(3) Actions taken with respect to the referrals.

(4) The number, and status of investigations, prosecutions, and civil actions.

(5) A description of sentences obtained pursuant to conviction.

(6) The number and type (investigator, prosecutor) of resources allocated in pursuit of these investigations, prosecutions, and civil actions.

SEC. 2152. REPORT ON COURT BUSINESS IMPACT OF SAVINGS AND LOAN CRISIS.

Section 604(a) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(24) Lay before Congress, annually, statistical tables that will accurately reflect the business imposed on the Federal courts by the savings and loan crisis.".

Subtitle F—National Commission on Financial Institution Reform, Recovery, and Enforcement

SEC. 2161. COMMISSION ESTABLISHED.

There is hereby established a commission to be known as the National Commission on Financial Institution Reform, Recovery, and Enforcement (hereafter in this subtitle referred to as the "Commission").

SEC. 2162. DUTIES OF COMMISSION.

The Commission shall—

(1) investigate the causes of the savings and loan crisis, including the role of Government regulation, supervision, and deposit insurance, as well as economic and competitive factors;

(2) recommend methods and procedures for disposition of assets held by the Resolution Trust Corporation;

(3) recommend methods and procedures for regulation and supervision of the financial services industry;

(4) recommend methods for financing financial services industry resolutions;

(5) recommend any other administrative or legislative action necessary or appropriate to protect the safety and soundness of the financial services industry;

(6) recommend methods and procedures for improving interagency cooperation in the investigation and prosecution of financial crimes;

(7) investigate and develop recommendations for strategies and specific tactics for law enforcement officers for the successful investigation and prosecution of financial crimes;

(8) investigate the causes of fraud and abuse in the financial services industry; and

(9) recommend any other administrative or legislative actions necessary or appropriate to prevent financial crimes from occurring in the future.

SEC. 2163. MEMBERSHIP.

(a) Number and Appointment.—The Commission shall be composed of 12 members appointed as follows:

(1) 4 individuals appointed by the President.

(2) 4 individuals appointed by the Speaker of the House of Representatives, 1 of whom shall be appointed upon the recommendation of the minority leader of the House of Representatives.

(3) 4 individuals appointed by the President pro tempore of the Senate, 3 of whom shall be appointed upon the recommendation of the majority leader of the Senate and 1 of whom shall be appointed upon the recommendation of the minority leader of the Senate.

(b) Terms.—

(1) In general.—Each member shall be appointed for the life of the Commission.

(2) Vacancy.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) Prohibition on Compensation.—

(1) In general.—Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) Travel expenses.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with

sections 5702 and 5703 of title 5, United States Code.

(d) Quorum.—A majority of the members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(e) Chairperson.—The Chairperson of the Commission shall be elected by the Commission from among the members of the Commission.

(f) Meetings.—The Commission shall meet at the call of the Chairperson or a majority of the members.

SEC. 2164. POWERS OF COMMISSION.

(a) Hearings and Sessions.—

(1) In general.—The Commission may, for the purpose of carrying out this title, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(2) Administration of oaths.—The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(b) Powers of Members and Agents.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) Subpoena Power.—

(1) In general.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter under investigation by the Commission.

(2) Administrative aspects of subpoena.—

(A) Attendance or production at designated site.—The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(B) Fees and travel expenses.—Persons served with a subpoena under this subsection shall be paid the same fees and mileage for travel within the United States that are paid witnesses in Federal courts.

(C) No liability for other expenses.—The Commission and the United States shall not be liable for any expense, other than an expense described in subparagraph (B), incurred in connection with the production of any evidence under this subsection.

(3) Failure to obey a subpoena.—

(A) Application to court.—If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to a district court of the United States for an order requiring that person to appear before the Commission to give testimony or produce evidence, as the case may be, relating to the matter under investigation.

(B) Jurisdiction of court.—The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business.

(C) Failure to comply with order.—Any failure to obey the order of the court may be punished by the court as civil contempt.

(3) Service of subpoenas.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) Service of process.—All process of any court to which application is to be made under paragraph (3) may be served in the judicial district in which the person required to be served resides or may be found.

(d) Obtaining Official Data.—

(1) Authority to obtain.—Notwithstanding any provision of section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out this subtitle.

(2) Procedure.—Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish the information requested to the Commission.

(3) Unauthorized release of confidential material.—

(A) Offense established.—Any member of the Commission and any person employed by the Commission under this subtitle who discloses the name of any borrower from any insured depository institution or the collateral for any loan made by any such institution without the prior written consent of the appropriate Federal banking agency, shall be fined under title 18, United States Code, imprisoned not more than 5 years, or both.

(B) Exceptions.—Subparagraph (A) shall not apply with respect to information provided—

(i) to any court of competent jurisdiction, the Congress of the United States, either House of the Congress, or any committee of the Congress or either House which is authorized by the Congress or such House to obtain such information; and

(ii) at the direction of the court, the Congress, either House of Congress, or any such committee.

(C) Definitions.—For purposes of subparagraph (A), the terms "insured depository institution" and "appropriate Federal banking agency" have the meanings given to such term by subsections (c)(2) and (q), respectively, of section 3 of the Federal Deposit Insurance Act.

(e) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) Administrative Support Services.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this title.

SEC. 2165. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) Staff.—Subject to such regulations as the Commission may prescribe, the Chairperson may appoint and fix the pay of such personnel as the Chairperson considers appropriate.

(b) Applicability of Certain Civil Service Laws.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(c) Experts and Consultants.—Subject to rules prescribed by the Commission, the Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the annual rate of basic pay payable for GS-18 of the General Schedule.

(d) Staff of Federal Agencies.—Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this subtitle.

SEC. 2166. REPORTS.

(a) Interim Reports.—The Commission may submit to the President and the Congress such interim reports as the Commission considers appropriate.

(b) Final Report.—

(1) Required.—The Commission shall submit a final report to the President and the Congress before the end of the 1-year period beginning on the date of the enactment of this Act.

(2) Contents.—The final report shall contain a detailed statement of the findings and conclusions of the Commission, together with such recommendations for legislation or administrative action as the Commission considers appropriate.

SEC. 2167. TERMINATION.

The Commission shall terminate on 30 days after submitting the final report pursuant to section 2166(b)(1).

SEC. 2168. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated not to exceed $1,000,000 to carry out the purposes of this subtitle.

Subtitle G—Authorizations

SEC. 2171. ADDITIONAL FUNDING FOR INVESTIGATORS AND PROSECUTORS FOR BANK CRIME CASES.

Section 966(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (103 Stat. 506) is amended to read as follows:

"(a) In General.—

"(1) Authorization.—There are authorized to be appropriated to the Attorney General, without fiscal year limitation, $153,000,000 for each of fiscal years 1991 through 1993, for purposes of investigations, prosecutions, and civil proceedings involving financial institutions to which the Act and amendments made by this Act apply.

"(2) Allocations.—With respect to fiscal years 1991 and 1992, the amount authorized to be appropriated under paragraph (1) shall be allocated as follows:

"(A) Federal Bureau of Investigation: $100,000,000.

"(B) The offices of the United States attorneys: $39,000,000.

"(C) The criminal division of the Department of Justice: $3,000,000.

"(D) The civil division of the Department of Justice: $10,000,000.

"(E) The tax division of the Department of Justice: $1,000,000.".

SEC. 2172. AUTHORIZING ADDITIONAL FUNDS FOR THE FEDERAL JUDICIARY.

Section 967 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (103 Stat. 506) is amended to read as follows:

"SEC. 967. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE FEDERAL JUDICIARY.

"(a) In General.—There are authorized to be appropriated to the Federal court system $25,000,000 for fiscal year 1991 and $28,000,000 for each of fiscal years 1992 and 1993 to carry out the Federal court system's increased duties resulting from this Act, title XXI of the Comprehensive Crime Control Act of 1990, and amendments made by such Act or title to other provisions of law.

"(b) Additional Authorization.—Sums authorized by this section shall be in addition to any other authorization of appropriation for such purposes.".

TITLE XXII—MISCELLANEOUS

SEC. 2201. AUTHORIZATION OF APPROPRIATIONS FOR HUMANITARIAN EXPENSES.

(a) Federal Bureau of Investigation.—For each fiscal year beginning after September 30, 1990, there is authorized to be appropriated for the Federal Bureau of Investigation $25,000, to be expended in the discretion of the Director of the Federal Bureau of Investigation to pay humanitarian expenses incurred—

(1) by an employee of the Bureau as a result of serious illness, serious injury, or death occurring while on official business; or

(2) by any member of the immediate family of such employee, incident to the serious illness, serious injury, or death of such employee occurring while on official business.

(b) Drug Enforcement Administration.—For each fiscal year beginning after September 30, 1990, there is authorized to be appropriated for the Drug Enforcement Administration $25,000, to be expended in the discretion of the Administrator of the Drug Enforcement Administration to pay humanitarian expenses incurred—

(1) by an employee of the Administration as a result of serious illness, serious injury, or death occurring while on official business; or

(2) by any member of the immediate family of such employee, incident to the serious illness, serious injury, or death of such employee occurring while on official business.

SEC. 2202. LOTTERIES.

Section 1307 of title 18, United States Code, is amended—

(1) in subsection (a)(1) by inserting ", except a sports-related lottery," after "lottery";

(2) in subsection (a)(2) by inserting ", except a sports-related lottery," after "lottery";

(3) in subsection (b)(1) by inserting ", except a sports-related lottery," after "lottery";

(4) in subsection (b)(2) by inserting ", except a sports-related lottery," after "lottery";

(5) in subsection (d) by striking "'Lottery' does not include the placing or accepting of bets or wagers on sporting events or contests."; and

(6) by adding at the end the following:

"(e) For purposes of this section—

"(1) the term 'sports-related lottery' means an undertaking—

"(A) that involves the sale of tickets or chances and the awarding of cash or prizes based, directly or indirectly, on the games of a professional or amateur sporting event or contest, other than a horse race, and

"(B) which is—

"(i) conducted by a State acting under authority of State law;

"(ii) conducted by a not-for-profit organization or a governmental organization; or

"(iii) conducted as a promotional activity by a commercial organization and is clearly occasional and ancillary to the primary business of that organization; and

"(2) the term a 'not-for-profit organization' means any organization that would qualify as tax exempt under section 501 of the Internal Revenue Code of 1986.".

SEC. 2203. INELIGIBILITY FOR FEDERAL BENEFITS.

Section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 853a) is amended to read as follows:

"SEC. 5301. INELIGIBILITY FOR FEDERAL BENEFITS.

"(a) In General.—Any individual, other than a person who has not attained the age of 18 years—

"(1) who is—

"(A) convicted of a drug or narcotic offense that consists of the distribution of a controlled substance; and

"(B) sentenced to a term of imprisonment that is not suspended or made probationary and exceeds one year; or

"(2) who is convicted of two or more drug or narcotic offenses within a 10-year period; shall be ineligible for any Federal benefit during the period described in subsection (b).

"(b) Period of Ineligibility.—The period of ineligibility referred to in subsection (a) begins on the date of the conviction creating the ineligibility and ends—

"(1) 10 years thereafter if the ineligibility is under subsection (a)(1);

"(2) 5 years thereafter if the ineligibility is under subsection (a)(2); or

"(3) the date (not later than the date otherwise provided under paragraph (1) or (2)) when the individual completes a supervised drug rehabilitation program after becoming ineligible under this section or has otherwise been rehabilitated.

"(c) Suspension of Period of Ineligibility.—The period of ineligibility referred to in subsection (a) shall be suspended during any period in which the individual is successfully participating in a drug treatment program or seeking admission to a drug treatment program the completion of which would qualify such individual for termination of ineligibility under subsection (b).

"(d) Definitions.—As used in this section—

"(1) the term 'Federal benefit'—

"(A) means any grant, contract, loan, license, or public housing provided by an agency of the United States or by appropriated funds of the United States;

"(B) includes a veteran's benefit (other than a benefit described in subparagraph (C)), but only if the offense giving rise to the ineligibility consisted of the distribution of a controlled substance; and

"(C) does not include any retirement, welfare, social security, health, disability, or other similar benefit; and

"(2) the term 'drug or narcotic offense' means an offense defined as a drug or narcotic offense in section 404(c) of the Controlled Substances Act;

"(3) the term 'drug treatment program' means any drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, local or tribal health, law enforcement, or other appropriate agency.

"(e) Rules.—The Secretary of Health and Human Services shall make rules to carry out this section.

"(f) Notice.—The Secretary of Health and Human Services and the Attorney General shall take steps to assure that the provisions of this section are disseminated to the public, to courts, prosecutors and the criminal defense bar.

"(g) Effective Date.—This section as amended by the Comprehensive Crime Control Act of 1990 shall take effect on the same date as the rules of the Secretary of Health and Human Services implementing this section take effect."

SEC. 2204. CODIFICATION OF EXCEPTIONS TO EXCLUSIONARY RULE.

Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States if the evidence—

(1) was obtained in reasonable reliance on a search warrant issued by a detached and neutral magistrate even though the warrant is ultimately determined to be invalid, unless—

(A) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

(B) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

(C) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid;

(2) would have inevitably been lawfully discovered within a reasonable time in essentially the same condition; or

(3) was obtained pursuant to a valid warrant, which was based on facts from an independent source, unconnected to unlawfully discovered evidence or unlawful action.

SEC. 2205. RAILROAD POLICE AUTHORITY.

A railroad police officer who is employed by a rail carrier and certified or commissioned as a police officer under the laws of any State shall, in accordance with regulations issued by the Secretary of Transportation, be authorized to enforce the laws of any jurisdiction in which the rail carrier owns property, for the purpose of protecting—

(1) the employees, passengers, or patrons of the rail carrier;

(2) the property, equipment, and facilities owned, leased, operated, or maintained by the rail carrier;

(3) property moving in interstate or foreign commerce in the possession of the rail carrier; and

(4) personnel, equipment, and materials moving via railroad that are vital to the national defense,

to the extent of the authority of a police officer properly certified or commissioned under the laws of that jurisdiction.

SEC. 2206. CLARIFICATION OF MANDATORY MINIMUM PENALTY FOR SERIOUS CRACK POSSESSION.

Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended in the third sentence by striking "shall be fined under title 18, United States Code, or imprisoned not less than 5 years and not more than 20 years, or both," and inserting "shall be imprisoned not less than 5 years and not more than 20 years, and fined a minimum of $1,000,".

SEC. 2207. CORRECTION OF AN ERROR RELATING TO THE QUANTITY OF METHAMPHETAMINE NECESSARY TO TRIGGER A MANDATORY MINIMUM PENALTY.

Section 401(b)(1)(A)(viii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(viii)) is amended by striking "or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine" and inserting "or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine".

SEC. 2208. CONFORMING AMENDMENTS TO CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT RELATING TO METHAMPHETAMINE.

(a) Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended—

(1) by striking "or" at the end of subparagraph (F);

(2) by striking the period at the end of subparagraph (G) and inserting "; or"; and

(3) by adding at the end the following:

"(H) 100 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.".

(b) Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended—

(1) by striking "or" at the end of subparagraph (F);

(2) by striking the period at the end of subparagraph (G) and inserting "; or"; and

(3) by adding at the end the following:

"(H) 10 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.".

SEC. 2209. ENHANCEMENT OF PENALTIES FOR DRUG TRAFFICKING IN FEDERAL PRISONS.

Section 1791 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting before "Any" the following: "Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance.";

(2) in subsection (d)(1)(A), by inserting after "a firearm or destructive device" the following: "or a controlled substance in schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C) of this subsection";

(3) in subsection (d)(1)(B), by inserting before "ammunition," the following: "marijuana or a controlled substance in schedule III, other than a controlled substance referred to in subparagraph (C) of this subsection,";

(4) in subsection (d)(1)(C), by inserting "methamphetamine, its salts, isomers, and salts of its isomers," after "a narcotic drug,";

(5) in subsection (d)(1)(D), by inserting "(A), (B), or" before "(C)"; and

(6) in subsection (b), by striking "(c)" each place it appears and inserting "(d)".

SEC. 2210. CONFORMING AMENDMENT TO DEFINITION OF MENTAL ELEMENT TERM IN THE MONEY LAUNDERING STATUTE.

Section 1956(c)(1) of title 18, United States Code, is amended by striking "under State or Federal law" and inserting "under State, Federal, or foreign law".

SEC. 2211. CONFORMING AMENDMENT TO CONSPIRACY AND ATTEMPT PENALTY UNDER THE MARITIME DRUG LAW ENFORCEMENT ACT.

Section 3(j) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(j)) is amended by striking "is punishable by imprisonment or fine, or both, which may not exceed the maximum punishment" and inserting "shall be subject to the same penalties as those".

SEC. 2212. SPECIAL RULE FOR CERTAIN HABEAS CORPUS PETITIONS RELATING TO DEATH SENTENCES.

(a) In General.—Any existing race bias claim, whether or not previously raised or determined, may be raised in a proceeding commenced under chapter 153 of title 28, United States Code, not later than 1 year after the date of the enactment of this Act and shall be determined on the merits. In determining the merits of that claim, the law in effect at the time of the determination shall apply.

(b) Definition.—As used in this subsection, the term "existing race bias claim" means a claim of race discrimination, or bias on the basis of race—

.(1) made by a person seeking relief with respect to a sentence of death imposed before the date of the enactment of this Act; and

(2) based on a Supreme Court decision announced before such date of enactment.

SEC. 2213. EXPANSION OF THE PRIVATE SECTOR/PRISON INDUSTRY ENHANCEMENT CERTIFICATION PROGRAM.

Section 1761(c) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively;

(2) by striking the matter preceding paragraph (2), as redesignated by paragraph (1) of this section, and inserting the following:

"(c) In addition to the exceptions set forth in subsection (b) of this section, this chapter shall not apply to goods, wares, or merchandise manufactured, produced, or mined by convicts or prisoners who—

"(1) are participating in one of not more than 50 non-Federal prison work pilot-programs designated by the Director of the Bureau of Justice Assistance; and".

TITLE XXIII—REVENUE PROVISIONS

SEC. 001. UNDERCOVER OPERATIONS OF INTERNAL REVENUE SERVICE.

(a) Extension of Program.—Paragraph (3) of section 7601(c) of the Anti-Drug Abuse Act of 1988 (relating to effective date) is amended by striking "1989" and "1990" and inserting "1991" and "1992", respectively.

(b) GAO Study.—

(1) In general.—The Comptroller General of the United States shall conduct a study of undercover investigative operations of the Internal Revenue Service which were conducted using any authority provided in subsection (c) of section 7608 of the Internal Revenue Code of 1986. The study shall include an evaluation of—

(A) the use of the proceeds of such operations,

(B) the results of such operations, and

(C) the financial audits conducted by the Internal Revenue Service under such subsection.

(2) Report.—Not later than July 1, 1991, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study required in paragraph (1).

SEC. 002. DISCLOSURE OF RETURNS ON CERTAIN CASH TRANSACTIONS.

(a) Extension of Program.—Paragraph (3) of section 7601(b) of the Anti-Drug Abuse Act of 1988 (relating to effective date) is amended by striking "2-year period" inserting "4-year period".

(b) GAO Study.—

(1) In general.—The Comptroller General of the United States shall conduct a study of the disclosure of returns to Federal agencies under paragraph (8) of section 6103(i) of the Internal Revenue Code of 1986. The study shall include an evaluation of—

(A) the Federal agencies requesting disclosure under such paragraph,

(B) the use of the information so disclosed, and

(C) the effect of the use of such information on the administration of Federal criminal statutes.

(2) Report.—Not later than July 1, 1991, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study required in paragraph (1).

SEC. 003. FELONY CLASSIFICATION FOR FAILURE TO FILE RETURN ON CERTAIN CASH TRANSACTIONS.

(a) In General.—The last sentence of section 7203 of the Internal Revenue Code of 1986 (relating to willful failure to file return, etc.) is amended by striking "by substituting" and inserting "by substituting 'felony' for 'misdemeanor' and".

(b) GAO Study.—

(1) In General.—The Comptroller General of the United States shall conduct a study of the criminal penalties established under section 7203 of the Internal Revenue Code of 1986 for violations of section 60501 of such Code. The study shall include an evaluation of—

(A) the number of cases in which such penalties have been sought for such violations, and

(B) any change in the effectiveness of such penalties by reason of the amendment made by subsection (a).

(2) Report.—Not later than July 1, 1991, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study required in paragraph (1).

(c) Effective Date.—The amendment made by subsection (a) shall apply to actions, and failures to act, occurring after the date of the enactment of this Act.

SEC. 004. CONFIDENTIALITY OF TAX RETURN INFORMATION.

(a) In General.—Notwithstanding any other provision of this Act, no commission established by this Act shall have access to any return or return information, except to the extent authorized by section 6103 of the Internal Revenue Code of 1986.

(b) Definitions.—For purposes of this section, the terms "return" and "return information" have the respective meanings given such terms by section 6103(b) of the Internal Revenue Code of 1986.

SEC. 005. DENIAL OF DEDUCTION FOR RESTITUTION IN CONNECTION WITH FINANCIAL INSTITUTION OFFENSES.

(a) In General.—Section 162 of the Internal Revenue Code of 1986 (relating to deduction for trade or business expenses) is amended by inserting after subsection (h) the following new subsection:

"(i) Restitution in Connection With Financial Institution Offenses.

"(1) In general.—No deduction shall be allowed under this chapter for any specified restitution paid or incurred in connection with any financial institution offense.

"(2) Definitions.—For purposes of this subsection—

"(A) Specified restitution.—The term 'specified restitution' means restitution ordered under section 3663 of title 18, United States Code, to be paid to or for the benefit of the United States or any agency or instrumentality of the United States.

"(B) Financial institution offense.—The term 'financial institution offense' means—

"(i) any offense referred to in section 3293 of title 18, United States Code, or

"(ii) any violation of, or conspiracy to violate, section 226, 1032, or 1517 of such title."

(b) Effective Date.—The amendment made by this section shall apply to restitution ordered under section 3663 of title 18, *United States Code, after the date of the enactment of this Act.*

The CHAIRMAN. Only amendments printed in part 2 of the House Report 101-796 are in order to the substitute, as modified. Such amendments shall be considered in the order and manner specified in House Report 101-796, shall be considered as having been read, shall not be subject to amendment, and shall be indivisible. Debate time specified in the report shall be equally divided and controlled by the proponent and a Member opposed.

The chairman of the Committee on the Judiciary may offer at any time amendments printed in part 2 of House Report 101-796 en bloc. Such amendments en bloc shall be considered as read, shall not be subject to amendment, and are indivisible. The amendments en bloc shall be debatable for 20 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

The original proponents of the amendments en bloc have permission to insert statements in the Congressional Record immediately before the disposition of the amendments en bloc.

It shall be in order to consider the amendment numbered 6 offered by Representative Hughes of New Jersey en bloc. If both amendments numbered 14 and 15 are adopted, only the latter amendment which is adopted shall be considered as finally adopted and reported back to the House.

It is now in order to consider amendment No. 1 printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Conyers: Strike section 102.

The CHAIRMAN. Under the rule, the gentleman from Michigan [Mr. Conyers] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment would strike section 102 of H.R. 5269, which establishes a permanent program under title 10, United States Code, requiring transfer of certain unneeded Defense Department real property to non-Federal public agencies for correctional facility uses.

Section 102 of H.R. 5269 conflicts with the clear, well-understood system of property utilization and disposal under the Federal Property Act and title V of the Stewart B. McKinney Homeless Assistance Act. Under that title, unneeded Federal real property that is determined by GSA to be suitable, is made available for the increasingly urgent needs of organizations and local governments that provide assistance to the homeless. Section 102 of this bill disregards the needs of the homeless and Federal agencies by eliminating their access to this surplus property.

Mr. Chairman, section 102 of H.R. 5269 is unnecessary. Its purposes can be served by existing law and policies. In 1984, the Congress added section 203(p) to the Federal Property Act and Administrative Services Act of 1949, authorizing no-cost transfers of surplus real and related personal property to States and political subdivisions for correctional facilities, which include correctional options. Thus, the legal authority to use unneeded Department of Defense [DOD] property for correctional options already exists.

The General Services Administration [GSA] and the Department of Justice [DOJ] already have in place procedures which give preference for unneeded DOD property for correctional facilities including those under the correctional options program. Our staff has been in touch with the GSA and Justice Department officials directly concerned with the implementation of section 203(p). It is the considered judgment of those officials that current procedures appear to be working very well and that potential beneficiaries under the correctional options program could be effectively served under the existing section 203(p) program.

The procedures established in section 102 would also create a sharp deviation from the long-established property-disposal policies, requirements, and procedure of the Federal Property Act. That statute is within the legislative jurisdiction of the Committee on Government Operations, which has maintained a continuous, intensive watchfulness over the property utilization and disposal provisions of the 1949 act. Therefore, any proposed legislative impingement on the purpose and effect of those provisions becomes a matter of prime concern to the Committee on Government Operations.

I received a letter yesterday from Maria Foscarinis, executive director of the National Law Center on Homelessness and Poverty urging support for this amendment. In her letter she states, "Over 3 million people are still homeless. Congress must ensure its commitment to its poorest citizens. The situation is still urgent, and the need is still dire." She urges that we keep the priorities of the McKinney Act intact and for Congress to strike section 102 of the crime bill.

I respectfully urge that my colleagues support me in offering my amendment to strike section 102 of H.R. 5269.

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Mr. Chairman, I reserve the balance of my time.

Mr. HUGHES. Mr. Chairman, I oppose the amendment.

The CHAIRMAN. The gentleman from New Jersey [Mr. Hughes] is recognized for 5 minutes.

Mr. HUGHES. Mr. Chairman, I yield myself 2 minutes. I rise in opposition to the amendment. As the gentleman knows, this amendment strikes section 102 of title I which is the correctional options or intermediate sanction portion of the crime bill. This title, I believe, can have the most positive influence on the major problem in our criminal justice system today, overpopulated correctional systems.

This crisis is due not only to the number of people in our correctional systems, an estimated 1 million today, which has doubled since the early 1980's, but also to the recidivism rates of these systems which vary between 40 percent to 60 percent.

The Crime Subcommittee's extensive hearings on this subject indicate we are, by and large, merely warehousing many defendants at incredible costs varying from $43 to $113 per inmate per day and then releasing them to a society as more adept and often more savage criminals. To be sure, we have incapacitated them for a short time, but with the present prison overcrowding, there is really no way to find out what is wrong with them or what can be done to enable them to cope in the outside world even if they wanted to.

At this juncture, I will emphasize that we must continue to build more prisons for certain violent and intransigent offenders and require long sentences under maximum security. For them we must provide traditional prison space and the Department of Justice and the General Services Administration are helping in this area already through their normal procedures. Yet, with an average per inmate construction cost ranging from $22,000 to almost $40,000, we cannot afford to keep producing these individuals at the rate we did in the 1980's.

As a matter of policy, however, we need not follow this endless and mindless path for many of our defendants.

Our hearings have also shown us that there are successful alternative community-based programs out in the country that do work. Whether it be the privately sponsored Paint Creek Youth Center in Cincinnati, OH, or the New Jersey State Court's intensive supervision program, there are concrete examples of alternative approaches that can lead us out of this very expensive revolving door.

This title would assist in this alternative process and would provide critical financial assistance to develop and test correctional options around the country. This could include, for example, community-based incarceration, weekend incarceration, boot camp prisons, intensive probation and other punishments designed to respond to the nature of a defendant's offense and have the greatest impact on offenders who can be punished more effectively in one of these alternative programs.

What section 102 would do is allow, and I want to emphasize this, allow the transfer of a maximum of four excess military installations a year for 2 years to State and local public agencies for the use of these proposed correctional options projects. This would only be done after certification by the Attorney General that these properties are to be used for correctional options. The amendment exempts property and facilities designated under title II of the defense authorization amendments and base closure and realignment act which are needed to finance the consolidated program envisioned by that act. Under the 1984 Comprehensive Crime Act, the Federal Government [GSA] already can transfer excess Federal property on a nonreimbursement basis to State and local governments for correctional purposes. What this section would do is give these correctional experiments priority over other Federal agency proposals for the use of these facilities.

Section 102 was worked out with the Armed Services Committee and the gentleman from Michigan, as a member of the Subcommittee on Crime and the Committee on the Judiciary, was well aware of this procedure during that process, but I am hearing of his problems only now.

I believe that if there are a maximum of eight excess military installations over 2 years that would facilitate this worthwhile experiment, it is the least we can do. In so doing, we will not simply punish but provide opportunities for certain offenders who may be able to change their behavior.

I urge my colleagues to reject the motion to strike section 102.

Mr. Chairman, I yield 2½ minutes to my colleague, the gentleman from Florida [Mr. McCollum].

Mr. McCOLLUM. Mr. Chairman, I wholeheartedly concur with what the distinguished chairman of the Subcommittee on Crime had to say just then. We have the most pressing problem in all of criminal justice today, as overcrowding in our State prisons. We are letting hundreds, thousands of convicted felons back out on the streets, far too soon, and most of them demonstrate or at least a very high percentage, that they are not, indeed, now all of a sudden rehabilitated. They go out and commit other crimes. It is the repeat offenders that are the big problem: repeat, repeat, repeat, repeat, We cannot keep them off the streets. We need the place to build the jails and house the people, and the military excess property in the bill is where it should come from.

I, too, share concern over the homeless, but this is a very limited program. If I had my way, it would be a bigger program. I think we need to build extra prisons at low cost to house prisoners. So the amendment is bad. I respect the gentleman from Michigan [Mr. Conyers], but I urge its defeat.

Mr. HUGHES. Mr. Chairman, I yield 30 seconds to the gentleman from Florida [Mr. James].

Mr. JAMES. Mr. Chairman, I rise in opposition to the Conyers amendment. I agree with the gentleman from New Jersey [Mr. Hughes] and the gentleman from Florida [Mr. McCollum].

I have had extensive experience with the systems that we have in Florida as an attorney, and it is essential that we expand our available options with these military bases. Therefore, I must rise in opposition to the amendment of the gentleman from Michigan [Mr. Conyers].

Mr. CONYERS. Mr. Chairman, before we become hysterical on the very first amendment, I would like the gentleman who chairs the Subcommittee on Crime and my friend on the Committee on the Judiciary to know that I am totally supportive of correction options being used for surplus property.

I come to the floor as the chairman of the Government Operations to reassure the gentleman that this already exists, and what we are doing is not just for 2 years. What we are doing is saying that this is going to happen at the rate of four pieces of property, military property, every year. I would merely point out to the gentleman that under the Federal Project Act authorizing no-cost transfers of surplus real and related property to States and political subdivisions for correctional facilities, which include correctional options that already exist in the law.

This would be disturbing that order of preference as the Department of Justice has already told Members.

Mr. HUGHES. Mr. Chairman, I yield 45 seconds to the gentleman from Texas [Mr. Brooks].

Mr. BROOKS. Mr. Chairman, I would like to ask the gentleman from Michigan [Mr. Conyers] if it is not true that there is no bar now to a legitimate request from the prison authority to the GSA and to other authorities to get release of that property now?

Mr. CONYERS. Will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Michigan.

Mr. CONYERS. That is precisely what I have been trying to say in my 5 minutes is that the Department of Justice is perfectly satisfied with the way the correctional options work in authorizing no-cost tranfers now, and this amendment inadvertently would be destabilizing the process that already exists.

Mr. HUGHES. Mr. Chairman, I say to my colleague that I think this provision is one of the few things that the Department of Justice likes about the bill, in that we are giving a priority and it is only eight projects, eight projects, because it is only a 2-year authorization, four in each year.

For that reason, I would urge my colleagues to reject the amendment, i Members are serious about the crime problem and want to do something about prison overcrowding. This is the only game in town. Reject the amendment.

Mrs. SCHROEDER. Mr. Chairman, I rise in opposition to the Conyers amendment to strike section 102. Section 102 does wha many of my colleagues have been clamoring to do for the last couple of years: Use closed military bases for prisons. As chairwoman o the Military Installations and Facilities Subcommittee of Armed Services, I have fough earlier efforts to do this because they would undermine the 1988 base closure law, unde which we successfully closed 86 bases.

Section 102 deals with future base closures and I can assure my colleagues that there wil be plenty. The Department of Defense is going on a diet and will lose 25 percent of its weight over the next 5 years. While most o those cuts can and should be made abroad some domestic bases will be hit.

Section 102 requires conveyances of property to certain public agencies if the Attorney General certifies the need for the facilities fo use as prisons, drug treatment centers, o boot camp incarceration facilities. No more than four properties a year may be so conveyed.

My good friend, John Conyers, objects primarily on jurisdictional grounds. And, there is no doubt that changing the priority listing fo the disposal of surplus Federal property falls squarely within the jurisdiction of Governmen Operations. But, what we are voting on here is not committee jurisdictions. We are voting on the right public policy. I believe that section 102, which transfers closed military bases fo prisons, is the right policy.

I urge a "no" vote on the Conyers amendment.

Mr. VENTO. Mr. Chairman, I rise in suppor of the Conyers amendment to the Comprehensive Crime Control Act of 1990 which wil protect the provisions of title V of the McKinney Homeless Assistance Act with regard to surplus Federal property.

Current law is clear, Mr. Chairman that following the determination that the Federa Government has no use for a property, tha property should become available for use as a facility for the homeless. Despite the apparen simplicity, this portion of the law has been extremely difficult to enforce and in fact, is now basically being implemented by a court order. We do not need to complicate this law any further. That is why the Conyers amendment is so important.

Mr. Chairman, I do not deny that the need for prisons is great. The law provides, however, an opportunity for the Federal Government and in fact, the State and local governments to access this property for correctional facilities' use. Instead of adding more layers to the bureaucracy of Federal surplus property law, we should be simplifying it for all uses—prisons, homeless facilities, or other uses.

The gentleman from Michigan and the gentlewoman from Illinois [Mrs. Collins] have been instrumental in assuring that Federal surplus property law isn't squandered while the needs of our homeless are so great. Indeed, as we proceed to consider the McKinney amendments in the House and in a future conference, I look forward to their continued good work on technical corrections to the surplus properties title of the McKinney Homeless Assistance Act—corrections that will further foster the viability of this program.

I urge my colleagues to support this amendment which will allow current law to work as it was designed.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. Conyers].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to the order of the House earlier today, this vote will be postponed until after debate on all four amendments.

It is now in order to consider amendment No. 2, presented in part 2 of House Report 101-796.

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AMENDMENT OFFERED BY MR. BUSTAMANTE

Mr. BUSTAMANTE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The Clerk read as follows:

Amendment offered by Mr. Bustamante: Page 19, strike line 1 and all that follows through line 14 on page 25 (sections 106 and 107).

The CHAIRMAN. The gentleman from Texas [Mr. Bustamante] will be recognized for 10 minutes, and a Member opposed to the amendment will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. Bustamante].

Mr. BUSTAMANTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, over the past several years, our Nation's war on drugs has been hampered by the myth that this war is only being fought in the streets of our major cities. That's why, Mr. Chairman, I am offering an amendment to strike a provision in the bill known as the Mazzoli amendment, which would essentially defund rural antidrug task forces nationwide. The administration and most State Governors across the country oppose the Mazzoli amendment because they believe, as do I, that it would undermine our war on drugs by taking away from law enforcement one of its most effective weapons—the rural antidrug task force. For Members to have a proper context in which to make an informed decision on this issue, I believe a little legislative history is now in order. In 1986, Congress enacted the first Omnibus Anti-Drug Act, which included a provision allowing Federal funding for State and local drug enforcement initiatives.

Under the 1986 act, the States are permitted to draw up statewide antidrug strategies and to distribute Federal drug enforcement funding based on that statewide plan. In Texas, New York, Pennsylvania, and most other States, Statewide antidrug strategies have been formulated on the basis not of getting the most Federal funding to the largest populations, but on the principle of getting Federal funding to the areas with the greatest need. To preserve this original provision of the 1986 Antidrug Act, which up to this point has worked exceedingly well, I have offerred this amendment. Opponents of my amendment will try to convince you that no rural task forces will be adversely affected by the current language in the bill. They are wrong. Over 1,000 multijurisdictional antidrug programs will be defunded as a result of the Mazzoli amendment. My opponents will try to also convince you that cities receving a direct allocation under the Mazzoli language in the bill will do so solely on a voluntary basis. They will try to give you the argument that large cities will be allowed to maintain the status quo if they want to.

But who do they think they're fooling. With the opportunity to get their hands directly on Federal antidrug funding, you can bet your bottom dollar that the majority of cities are going to do so to the detriment of rural America. The fact that we've made direct allocations to large cities voluntary is just another way of saying that they have congressional permission to take from the drug enforcement funding and allocate whatever meager funding is left over to communities with 300,000 or less in population. Whether this ransacking of Federal funding for State and local drug enforcement is done voluntarily or not, the effect is the same: Our war on drugs will be substantially crippled. I say that objectively as a Congressman who represents one of the 10 largest cities in the United States—San Antonio, TX. I also represent a south Texas rural community in which large quantities of illegal drugs are interdicted daily by rural antidrug task forces.

Rural America is on the frontline of the war on drugs. Rural America is our first line of defense against the illegal drugs. So if you want to go back and tell your constituents that you are truly working to solve the drug epidemic, then vote for the Bustamante amendment.

I urge Members to support my amendment. Show your constituents that you are tough on illegal drugs and fair to rural and middle America.

To do otherwise, my colleagues, would leave our borders virtually defenseless to the flow of illegal drugs and result in a major retrenchment on the war on drugs.

Mr. Chairman. I yield 2 minutes to the gentleman from Missouri [Mr. Emerson].

Mr. EMERSON. Mr. Chairman, I rise in strong support of the Bustamante amendment to strike sections 106 and 107 from this bill. Sections 106 and 107 change law that has been in effect—and worked well—for 4 years. In providing for direct funding, sections 106 and 107 bypass State coordination of the war on drugs and frustrate the intent of Congress.

You may have heard complaints that antidrug money is bogged down in State bureaucracies. But look a little more closely. States are already required by law to respond to applications within 45 days. And in many instances, some of the localities that are complaining most vocally have not even applied for their share of the funds.

We have also heard complaints, no doubt, that big cities haven't been getting a big enough share of the Federal antidrug money. States are also required by law to pass through a certain percentage—generally around 60 percent—of their block grant to localities. In many cases, the States have responded above and beyond the call of duty, voluntarily passing through a much greater percentage of the money than they are required to do.

We have heard that direct funding is a voluntary option. But its not an option for any locality or group of localities with less than $50,000 in local criminal justice expnditures. In small towns where the folks have trouble paying their sheriffs without the help of State and Federal law enforcement funds, that $50,000 threshold is tough to meet.

Let us not forget how much it would cost to implement direct funding. The Census Bureau has the necessary criminal justice expenditure data for only 49 cities with 300,000-plus population, and for only 72 large counties. Aggregate data for smaller jurisdictions is available, but what we need for direct funding is individual data—and that's not available. The Bureau of Justice statistics estimates that the collection of this data would take up to 18 months and cost $3 million. Our summiteer colleagues are already frantically trying to come up with a budget agreement. Do we want to spend another $3 million to fix something that ain't broke?

States are best able to look at the big picture and allocate these funds based on the cooperative State strategy. We all know that to fight the war on drugs, we must work as a team. No matter how talented our individual players are, if they run haphazardly about the field, lacking central coordination by the coach, our ultimate performance will be mediocre at best. The direct funding provisions that the Judiciary Committee agreed to at the last minute will effectively take the coach out of the game. Let us stick with the strategy, work as a team, and win the war on drugs.

Mr. BUSTAMANTE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. Brooks].

Mr. BROOKS. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Texas.

The Federal funds provided to State governments under the Drug Control and System Improvement Grant Program play a vital role in assisting State and local law enforcement officers on the front lines of the battle against the drug dealers peddling death on our Nation's streets.

The current funding formula for this program provides States a sufficient degree of flexibility in allocating their funds to achieve the most bang for the buck. In my own State of Texas, the funds have been used to implement a statewide network of drug law enforcement task forces that has achieved tremendous success. Many of these task forces are located in rural, sparsely populated areas. These rural task forces concentrate on locating and destroying secret drug laboratories and on intercepting drugs coming across the border and landing on airstrips in those rural counties—before they reach the major cities.

The provisions in the bill providing for direct entitlement passthrough funding to major metropolitan areas on a strict formula basis poses a grave threat to continued funding for smaller communities in Texas—and I am sure the same can be said for many other States as well. It is essential to preserve the flexibility needed to design drug fighting strategies tailored to the varying circumstances found in different States. The gentleman's amendment would achieve this goal and I urge my colleagues to support it.

Mr. BUSTAMANTE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. Barton].

Mr. BARTON of Texas. Mr. Chairman, we have a saying out in the country, "If it's not broke, don't fix it."

Under the Anti-Drug Act of 1986, we set up a funding mechanism that gave each State the discretion on how to allocate its anti-drug funds. With that discretion, over 1,000 multi-jurisdictional anti-drug task forces have been set up across this country. These task forces are working wonderfully. They are fighting the war on drugs, and in many people's opinion they are winning the war on drugs.

The current bill changes the funding mechanism, ostensibly because urban areas have not received their fair share of antidrug grants. Actually, the reverse is true. Under the existing funding mechanism, urban areas have received funds. In my State of Texas there have been significant funds awarded to the Houston area, the Dallas area, the Forth Worth area, and the San Antonio area, but we have also given antidrug funds to the rural areas of Texas.

I guess an analogy would be for fire protection. Obviously, if you are in downtown Houston or downtown New York, you have a greater need in a concentrated area for fire protection, but that does not mean there are no fires out in the rural areas around. The same thing holds true for drugs. Drugs are everywhere. In many cases drugs are transported in the rural areas. They are manufactured in the rural areas and they are stored in the rural areas.

The current funding mechanism gives the States the discretion to set the antidrug forces up where the need is, where there is a demand and that is out in the rural areas.

Mr. Chairman, I would urge adoption of the Bustamante amendment. It basically retains current law. It is current law that has been working.

Mr. BUSTAMANTE. Mr. Chairman, I yield 2 minutes to my friend, the gentleman from Missouri [Mr. Skelton].

Mr. SKELTON. Mr. Chairman, I appreciate the gentleman from Texas [Mr. Bustamante] yielding me this time. I also appreciate the opportunity to cosponsor this amendment with him.

Mr. Chairman, we are here today to discuss an issue that is quite critical to fighting the war on drugs here in our country. Instead of preserving the current drug grant program and allowing States to target moneys according to need, the crime bill would directly fund localities based solely on past criminal justice expenditures. Striking these direct funding provisions is critical, Mr. Chairman, to the continued success of this program.

In discussing defense policy, being a member of the Armed Services Committee, I also discuss the need for a strategy, a blueprint, for national security. In the war on drugs as well as military battles, we must have coordinated efforts and not individual, disjointed efforts. With current budget constraints, distributing money based solely on statistical data would be penny wise and pound foolish. The direct funding mechanism would undo statewide strategies that have been in place now for 4 years. It is critical to the continued success of this program that States maintain the flexibility to target resources where they are most needed.

The most effective component of these drug control strategies is the use of multijurisdictional task forces, most of which will be rendered obsolete if the direct funding language is not removed. Currently, more than 1,000 task forces combine several jurisdictions and levels of government in cooperative efforts. The drug trade knows no jurisdictional boundaries, Mr. Chairman. We must maintain funding for task forces which have been the cornerstone of this program.

I am pleased to join the gentleman from Texas [Mr. Bustamante] on this. I congratulate my colleague, the gentleman from Missouri [Mr. Emerson] who has been so active on this amendment. It is indeed needed if we are to continue the strong fight against drugs in our country.

Mr. BUSTAMANTE. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. Stenholm].

Mr. STENHOLM. Mr. Chairman, I rise before you in strong support of the Bustamante-Skelton amendment which strikes a provision in the bill that will seriously jeopardize rural law enforcement efforts to reduce criminal activity associated with drug crimes. The current funding formula which this body established in 1986 and again in 1988 during consideration of anticrime legislation required the States to establish a coordinated, comprehensive, statewide strategy to fight the war on drugs. In my home State of Texas this strategy has worked well, very well. Forty-two of the forty-nine Texas antidrug task forces serve rural jurisdictions.

Here is an example of what they have done: 89 percent of all illicit drugs were seized by rural task forces; 81 percent of all drug related arrests were effected by rural task forces; and 57 percent of all clandestine labs were seized by rural task forces.

Look folks, if it ain't broke, don't fix it. This program works. I ask my colleagues to join me in support of the Bustamante-Skelton amendment which will retain current law and strikes provisions in the bill which will adversely affect a perfectly good program which is helping law enforcement to get the upper hand on illegal drug activity.

Mr. BUSTAMANTE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. Wilson].

Mr. WILSON. Mr. Chairman, I will not take the full 2 minutes, but I would like to rise in very, very strong support of this amendment.

There are three task forces that operate in my congressional district. I have spent time with all three of them. They have all three been extremely effective. They have been the cause of an enormous number of arrests and the cause of an enormous number of amphetamine labs being shut down in the rural areas of Texas. I just cannot stress how important this is to us.

I would like to point out to the urban Members that if we do not have Federal assistance with drug law enforcement in the rural areas, it simply means that the rural areas will become havens for drug operators and would have a seriously bad effect on the cities, as well as the rural areas.

□ 1530

Mr. BUSTAMANTE. Mr. Chairman, I reserve the balance of my time.

Mr. MAZZOLI. Mr. Chairman, I rise to claim time for those in opposition to the gentleman's amendment.

The CHAIRMAN. The gentleman from Kentucky [Mr. Mazzoli] is recognized for 10 minutes.

Mr. MAZZOLI. I thank the Chair.

Mr. Chairman, I rise in opposition to the gentleman's amendment, and I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. Hughes].

Mr. HUGHES. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, listening to this debate, you would not recognize the problem. The problem is a turf problem. We wrote the legislation out of my subcommittee many years ago with an automatic passthrough to the State and local governments on the basis of the amount of money they expended on the criminal justice system. Surprise; the States have not done that. So now all the committees around the country, the Mayors Conference, and so forth, are complaining because they have not gotten a fair share of what was always intended to be their moneys.

It is no argument to suggest that it is rural versus urban issue or that in some way they are not going to participate in the planning process or that in some way we are not going to have these multijurisdictional initiatives such as the task force operations.

I represent a very, very rural district. My largest city is about 50,000 people. It is very rural.

I would not be supporting something that is going to inure to the detriment of the rural areas around the country. That is a red herring.

The fact of the matter is we are going to continue to have statewide planning, but if we have an automatic passthrough as we always envisioned, the mayors throughout the country are going to get what they are entitled to. As it is now, they are not getting what they are entitled to because the States are only passing a portion of the money through to the municipalities.

Insofar as the multijurisdictional entities, we are going to still have the task force operation because there is every incentive in the bill for the jurisdictions to work together, to try to deal with the crime problem, the drug problems, in rural areas in particular.

Finally, municipalities will be better assured of participating in the planning process if in fact we have the automatic passthrough. That is not the case now. They are not participating, in many jurisdictions, in the statewide planning process. They have been left out of the loop. That is why we supported this in the full committee and that is why this is the exact formula we wrote in the 1988 bill. It is interesting, the same ones who are opposing it today voted for it in 1988 and in previous bills.

This has always been the automatic passthrough. We changed it, unfortunately, in 1988.

Mr. MAZZOLI. Mr. Chairman, I yield myself 2 minutes in opposition to the gentleman's amendment.

I would, with great respect to my friend from Texas, who is the offeror of the amendment, say that I really do not think there is anything mischievous about this amendment that would somehow unwittingly hurt the rural areas of the country. What this is meant to do, Mr. Chairman, is one very simple thing, and that is to put the money where the problem is.

The money, which is currently at the State level, distributed under existing law, does come through the local areas but only after application grants are filed and only then after time elapses and sometimes the need is otherwise taken care of.

It should also be noted that the money would come through under the Mazzoli amendment, which is in this bill, and the language we are trying to preserve, it would come to the local areas in proportion to which they are using their own local funds. In effect, this money is granted to those who have already made the commitment of local funds.

This would, I think, once again sanctify the principle that we try to put our resources where the real problems exist. The problems are clearly, in America, in rural areas as well as urban areas, but they do tend to be more exaggerated in urban areas like the one I am privileged to represent.

That is way we are trying to make this mechanism, which as the gentleman from New Jersey aptly pointed out, was in the 1988 bill, we want to say that those communities that are exercising their own initiatives and spending their own money for antidrug efforts are able to receive passthrough from the State those Federal moneys which are granted for the purpose of fighting crime, particularly the drug-related crimes at the local level.

So I see this to be a carrying out of the highest traditions of Federal, State, local participation; Federal, State, local partnership, and I certainly believe that the amendment offered by my friend from Texas ought to be defeated.

Mr. Chairman, I yield 3 minutes to my congressional classmate, the gentleman from New York [Mr. Rangel].

Mr. RANGEL. Mr. Chairman, I thank the gentleman.

I rise in opposition to the amendment.

I would like to point out that this is nothing that we should be fighting each other on the floor about because it is the local governments and State governments that are spending $53 billion a year in this war, and we are talking about $330 million, or less than 1 percent. The existing law that is in the bill that is being struck does not change any formulas, does not give anything to cities that they are not already entitled to. And they must participate and put their money up before they are considered.

The only thing that we are saying is that it is not working the way Congress intended for it to work before; that we have 20 States that have not passed through three-fourths of their money to the cities. The cities cannot plan or depend on what the Congress promised. State capitals are not where the trenches are; the trenches are in the cities.

This does not take away from any suburban community or any rural community. We are not talking about $1 less being given to someone else that has not proven that they are eligible for it.

So we are asking, do not change this. It went through the Crime Subcommittee before, it went through the Judiciary, passed the House. The Conference of Mayors, the League of Cities say all of this makes sense. We are not taking anything away from the Governors.

All we are saying to the statehouses if that the congressional formula dictates that these cities are eligible, that these cities that put up their own tax levy money, for God's sake, let it pass to them directly without it getting hooked up in a bureaucracy.

If the States are doing such a great job that the mayors want to be hooked up directly with them and wait for their funds to come, then they can just opt out of this plan and say, "I like the way the Governor is doing it, and I can wait for the money to come if it comes."

But when you find 20 States that are saying that as of mid-August none of the cities has received any of the money, then you know it is time for us not to change the direct passthrough,

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as written in the law or as written in this legislation, but we should support it.

I have the statement here which says three-fourths of the money, in August, they have not awarded any of the funds received under the block grants to cities, and the 20 States are listed here, and these facts come from the Justice Department.

Mr. MAZZOLI. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I think it is important to remember what the gentleman from New York, my esteemed congressional classmate, has said, and that is that there are now many cities which have waited for the bulk of this fiscal year without having received their passthrough money.

I am proud to report that the city of Louisville and the county of Jefferson are very well treated by the State of Kentucky from Frankfurt. Basically, the money comes through with reasonable dispatch.

But as the gentleman from New York [Mr. Rangel] has said, that is not the norm, that is not the case across the country. So I would just respectfully ask our colleagues, those who are here and those who are not in the Chamber to think very carefully on this amendment.

This language in the bill, this language is the language that was reported by our distinguished colleague, the gentleman from New Jersey [Mr. Hughes], 2 years ago, passed by this body 2 years ago, incorporated into the bill until it went to conference.

It certainly does not do anything that is unworkable. As a matter of fact, it might make this whole antidrug effort workable because it once again, Mr. Chairman, would put the money where the problems are. That is in the finest interest of law enforcement in this country.

Mr. BUSTAMANTE. Mr. Chairman, I yield 30 seconds to my friend, the gentleman from Florida [Mr. McCollum].

Mr. McCOLLUM. I thank the gentleman for yielding.

I just rise to support his amendment. I think it is essential Members know, from the States' perspective and from the administration's perspective the bill, the provisions in the bill as they are now would cripple the ability of States to coordinate drug and crime efforts. So I support his efforts to let the States control those efforts. I support the amendment. I think the gentleman has offered a good one.

□ 1540

Mr. BUSTAMANTE. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. Ortiz].

Mr. ORTIZ. Mr. Chairman, I support the amendment of the gentleman from Texas [Mr. Bustamante] and the gentleman from Missouri [Mr. Skelton]. I think it is a good amendment, and I would appreciate if my colleagues would vote in favor of it.

Mr. Chairman, I rise today in support of the Bustamante/Skelton/Smith/Wilson amendment which would strike a provision in the 1990 crime bill that would allow direct funding for antidrug moneys. If direct funding is allowed, most of the antinarcotic money would go to the larger cities. My State, Texas, works on a multijurisdictional drug enforcement program; if this provision is kept intact, these task forces will be gone. My congressional district reaches the Texas-Mexico border. Three county drug enforcement task forces in my district would lose an estimated $1.2 million. Due to their proximity to the United States-Mexico border, these task forces play an important and dangerous role in interdicting drugs in south Texas. I realize larger, urban areas have severe drug problems, but without these task forces, a larger percentage of drugs are going to make it into this country much easier. I urge my colleagues to support this amendment and make sure that all money to combat drugs does not only go the large urban areas.

Mr. BUSTAMANTE. Mr. Chairman, let me say that some of our friends have said that the formula that my friend from Kentucky has devised under his amendment is one that will allow some of the big cities to share in this. If this is to take place, we understand that there will be over 1,000 cities that would be left without funding, and most of the cities under 300,000 would be in the rural areas.

Mr. Chairman, I ask my colleagues to support the Bustamante amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. Bustamante].

The question was taken; and the chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HUGHES. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. A recorded vote is ordered. Due to the order of the House earlier today, we will postpone the vote until after all four amendments designated have been heard.

It is now in order to consider amendment No. 3 printed in part 2 of House Report 101-796.

For what purpose does the gentleman from New York rise?

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Solomon: Section 108, after line 13, insert the following:

"(4) Any person convicted of a violation of a Federal or State drug offense who is below the legal age to obtain a driver's license, shall be ineligible to obtain a driver's license for one year after their legal application for such a license.".

Section 108, line 14, strike "(4)", and insert "(5)".

The CHAIRMAN. Under the rule, the gentleman from New York [Mr. Solomon] will be recognized for 5 minutes, and any Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from New York [Mr. Solomon].

Mr. SOLOMON. Mr. Chairman, I would like to commend the committee for including in the crime bill provisions similar to my amendment which passed this House a month ago and called for the suspension of driver's licenses for individuals convicted of drug offenses. I support this provision, and my amendment is simply technical in nature to clarify the language in the bill. My original amendment, which now is in the Department of Transportation appropriation bill, temporarily suspended all driver's licenses of convicted drug felons. This amendment before us today suspends and delays future driver's licenses of beginning drivers, young people.

Mr. Chairman, everyone in this Chamber knows about the effect of peer pressure on our young kids. Think about how this Nation's drug crisis is affecting our own children. They are vulnerable, and it is frightening to think that they are being pressured to try drugs as early as 11 years old, maybe even younger.

Mr. Chairman, today I am introducing an amendment which requires a youth who is convicted of a drug offense to have his right to drive suspended for 1 year from the date of his application to receive such a permit. That means when a 14-year-old is convicted of a drug offense, and they are being convicted out there at that age, that 1 year suspension of his driver's license privileges does not begin at 15 years old, when he is eligible to learn to drive. The suspension begins from the date he applies for his driver's license.

Mr. Chairman, this would send a strong message to our youth at a time in their lives when they are yearning for that great rite of passage into adulthood, their driver's license, and even more importantly, it would give them a very good reason to resist peer pressure and say no to drugs.

When a drugpusher walks up to a 14-year-old and says try it, use it, that teenager can reply no thanks. I want to be able to drive.

Congress not only has a responsibility to its voters, but to everyone. We must help our impressionable, vulnerable children. We must send out the message that we are not going to tolerate drug use anymore! And I would urge the adoption of my amendment.

Also, Mr. Chairman, I would like to request that my statement which appeared in the August 23 edition of USA Today entitled, "Yank Highway Funds if Licenses Aren't Lifted," be printed in the Congressional Record.

YANK HIGHWAY FUNDS IF LICENSES AREN'T LIFTED

(By Gerald B. Solomon)

Lake George, N.Y.—Recently, the House of Representatives overwhelmingly approved my proposal to cut federal highway funds to states which fail to suspend the driver's licenses of individuals convicted of drug offenses.

The states of New Jersey and Oregon have implemented this law with great success. Last year alone, New Jersey suspended the driver's licenses of 10,000 drug offenders. My proposal encourages all 50 states to implement similar laws.

As a conservative congressman, I have opposed the federal government placing new requirements on state governments. Yet, given the seriousness of the drug crisis, I felt it was necessary to make an exception. I would also note that my amendment passed with most of the states' rights advocates in Congress voting in the affirmative.

The taxpayers are spending billions of dollars on drug interdiction, education and rehabilitation, and we're jailing pushers by the thousands. Yet people are asking, where are the results? We could jail every pusher in the world today and new ones would pop up tomorrow because of the enormous profits from the deadly trade.

There is only one solution to this crisis and that is to reduce the demand for illegal drugs. My initiative, the suspension of driver's licenses, will cost the taxpayers little but will decrease the demand for drugs created by casual users.

It's time to realize that casual drug use is a major part of the drug problem. According to a recent Rand Corp. study 78% of cocaine users live in the suburbs. The study concluded that the most effective strategies involve stiffening the sanctions on drug users, particularly the non-poor, so-called "recreational" users.

The money derived from the sale and casual use of drugs has caused the death of thousands of law-enforcement officials. The drug trade is also destroying the lives of a large segment of an entire generation. Today, one in six inner-city youths are arrested and charged with drug distribution. Within 10 years, the ratio will be closer to one in three. Casual users must be held accountable.

Conditioning the privilege of driving to the responsibility of staying drug free sends a meaningful message to our youth at a time in their lives when they are yearning for that great rite of passage into adulthood, obtaining their driver's licenses.

When people were asked by the Gallup Organization if they would support penalties against casual users of illegal drugs, such as temporary suspension of a driver's license, their response was 85% in support, 11% in opposition and 2% undecided.

Money and rhetoric aren't going to win the war against drugs. Casual drug users are going to finance the drug trade as long as they go unpunished. We can show that we are serious about putting an end to casual drug use in this country by linking privileges such as driving to the responsibility of remaining drug free.

Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. McCollum].

Mr. McCOLLUM. Mr. Chairman, I strongly support the amendment. We have been attempting for a number of years to find ways to get States to withdraw the privilege of driving for anybody who has been convicted of drug possession or use. The amendment of the gentleman from New York [Mr. Solomon] is a very specialized amendment dealing with a young person under age. I think that it is a minimum that should be in the law today so they cannot get the driving privileges if they have been convicted for 1 year, and I am very pleased the gentleman from New York [Mr. Solomon] organized this amendment, and I support it.

Mr. SOLOMON. Mr. Chairman, I thank the gentleman from Florida [Mr. McCollum]; he has certainly been a leader in this field, and we take our hats off to him.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. Barton].

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Chairman, I rise in strong support of the Solomon amendment that would require States to prohibit minors from obtaining a drivers license if they have been convicted of a drug-related offense. The ability to obtain a driver's license is a privilege not a right.

A minor convicted of a drug-related offense has not shown that he or she has the responsibility to be given a driver's license. I believe adoption of the Solomon amendment will greatly reduce the number of fatalities and injuries associated with minors involved in drunk or drug impaired accidents. If a teenager knows that he or she will lose the freedom of driver's license for 1 year, then they may think twice about drug use.

I urge my colleagues to join me in supporting the Solomon amendment and do something that will be extremely effective in combating teenage drug abuse.

Mr. SOLOMON. Mr. Chairman, I yield back the balance of my time.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment of the gentleman from New York [Mr. Solomon].

Mr. Chairman, I rise in reluctant opposition to the amendment of the gentleman from New York [Mr. Solomon] because I consider the gentleman to be a very thoughtful, deliberate Member of this body, and, if we were in the State legislature, I would be joining the gentleman as his cosponsor.

However, Mr. Chairman, we are not in the State legislature, we are in the Congress, and it is a State legislature that decides whether or not somebody should drive and under what conditions they should drive. They license in the various States the drivers. They determine whose license is to be revoked and on what grounds.

Mr. Chairman, I just do not think it is the province of the Federal Government to be using a hammer to try to get the States to pass legislation that we think they should pass.

Mr. Chairman, New Jersey has a very similar piece of legislation, and I say to my colleague, the gentleman from New York, that, if I were in the State legislature, I would have supported this bill. I think it is a good initiative. There is nothing that hits young people harder than the realization that, when they have done something wrong, they are not going to get their driver's license. That is probably more severe punishment than a flogging.

So, Mr. Chairman, I agree with the amendment of the gentleman from New York [Mr. Solomon]. It is just that to deprive the State of 10 percent of their State assistance funds because they do not have a piece of legislation in place I do not think is good Federal legislation. I do not think that is good policy. We have got enough problems at the Federal level trying to deal with Federal problems without telling States how they should run their own trains.

So, I reluctantly rise in opposition to the amendment of the gentleman from New York [Mr. Solomon].

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. Solomon].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MRS. MARTIN OF ILLINOIS

Mrs. MARTIN of Illinois. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. Martin of Illinois: At the end of title I of the bill add the following (and conform the table of contents of the bill accordingly):

SEC. 110. TESTING CERTAIN SEX OFFENDERS FOR HUMAN IMMUNODEFICIENCY VIRUS.

Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756), as amended by sections 107(c) and 108, is amended—

(1) in subsection (a)(1) by striking "subsection (e)" and inserting "subsections (e) and (f)",

(2) by redesignating subsection (f) as subsection (g), and

(3) by inserting after subsection (e) the following:

"(f)(1) For any fiscal year beginning more than 2 years after the effective date of this subsection—

"(A) 90 percent of the funds consideration subsection (e) but without regard to this subsection, to a State described in paragraph (2) shall be distributed by the Director to such State; and

"(B) 10 percent of such amount shall be allocated equally among States that are not affected by the operation of subparagraph (A).

"(2) Paragraph (1)(A) refers to a State that does not have in effect, and does not enforce, in such fiscal year, a law that requires the State at the request of the victim of a sexual act—

"(A) to administer, to the defendant convicted under State law of such sexual act, a test to detect in such defendant the presence of the etiologic agent for acquired immune deficiency syndrome; and

"(B) to disclose the results of such tests to such defendant and to the victim of such sexual act.

"(3) For purposes of this subsection—

"(A) the term 'convicted' includes adjudicated under juvenile proceedings; and

"(B) the term 'sexual act' has the meaning given such term in subparagraph (A) or (B) of section 2245(1) of title 18, United States Code.".

The CHAIRMAN. Under the rule, the gentlewoman from Illinois [Mrs. Martin] will be recognized for 5 minutes, and Members opposed will be recognized for 5 minutes.

The Chair recognizes the gentlewoman from Illinois [Mrs. Martin].

Mrs. MARTIN of Illinois. Mr. Chairman, I am offering this amendment to the Comprehensive Crime Control Act to facilitate the ability of a rape victim to find out if, through the attack, there could have been exposure to the AIDS virus. It is an amendment intended to help rape victims, who already face the difficulty of trying to recover and regain control of their lives, from being victimized again—this time by the legal system.

My amendment creates a new section, section 110, in title I of this bill. Section 110 revises the Drug Control and System Improvement Formula Grant Program, currently used by States to develop and implement programs to provide assistance to victims of crimes.

Under the provisions of the amendment I offer, a State will lose 10 percent of its grant allocation if it does not have in effect and enforce a law requiring a defendant who has been convicted of the crime of rape to be tested for the presence of the AIDS virus. The test would be conducted at the request of the victim, and the results would be disclosed to both the victim and the convicted defendant. States would have 2 years to comply with the minimum standard.

I offer this amendment because rape victims should not have to live in fear about exposure to the AIDS virus. Illinois, my home State, requires mandatory AIDS testing of convicted rapists. Illinois is one of only 16 States, however, that either authorize or mandate AIDS testing in cases of rape and permits disclosure of the test results to the victim. My amendment simply says all States should make it possible for rape victims to find out if they have been placed at risk. They have the right to know. This does not replace rape counseling which is also needed.

Mr. Chairman, through legislation we cannot hope to alleviate all the pain and anguish experienced by rape victims. We can, however, demonstrate our compassion by preventing further traumatization of these victims who also face the possibility of exposure to the AIDS virus.

I urge my colleagues to support this amendment.

□ 1550

The National Network of Victims of Sexual Assault supported this amendment. I ask Members to support it.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. For what purpose does the gentleman from New Jersey [Mr. Hughes] arise?

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from New Jersey [Mr. Hughes] is recognized for 5 minutes.

Mr. HUGHES. Mr. Chairman, I once again rise in reluctant opposition. If we were in the State legislature I would be joining with the gentlewoman from Illinois [Mrs. Martin]. What happened to the concept of States rights around here? Frankly, I do not think anyone would argue that a victim of rape should not be given the right to demand that her attacker, once convicted, should be tested for AIDS. I would suspect that nobody would argue with that. But we are talking about street crime, and we do not prosecute street crime at the Federal level.

If this legislation were directed to a Federal statute and a Federal initiative, I would not be arguing against it. But it is directed to State laws. Here once again we are going to use a hammer to persuade the States that they should have such a law, and if they do not, we are going to take away 10 percent of their State and local assistance. That is terrible public policy.

Mr. Chairman, I could think of a dozen things I would like to see my State do. I can think of one way I could do it, since basically we have developed in my Subcommittee on Crime the State and Local Assistance Program. I could have started that 10 years ago when we first worked on that, when Hal Sawyer of Michigan and I developed the State and Local Assistance Program back in the early 1980's. I could have easily told the States the things I want them to change. But I think that that would be a terrible way to try to sledgehammer the States into adopting legislation that they in their wisdom should decide what to do about.

I hope that Members would reject this amendment. It is terrible public policy for the Federal Government to be telling the States what to do. We have enough to get our own house in order around here and deal with our problems, which are immense, without telling the States how to run their business.

Mr. Chairman, I reserve the balance of my time.

Mrs. MARTIN of Illinois. Mr. Chairman, I yield 30 seconds to the gentleman from Florida [Mr. McCollum], the ranking minority leader on this subcommittee.

Mr. McCOLLUM. Mr. Chairman, I thank the gentlewoman for yielding. I strongly support the Martin amendment. I respect States rights, but I do not respect that argument. I know the gentleman from New Jersey [Mr. Hughes] and I differ on our ability to control Federal funds up here. I do not think the States have any right to these funds, and we have every right to carve out exceptions if they do not comply with what we want.

Mr. Chairman, the gentlewoman from Illinois [Mrs. Martin] is asking for some provisions in the law that require testing for HIV virus in rape victims. It seems perfectly logical that States comply. I urge support of the Martin amendment.

Mrs. MARTIN of Illinois. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, a few facts: The courts have recognized the right of the Federal Government and this Congress to draw legislation in precisely this manner. We are talking about a time that has moved ahead for States. I believe States will quickly pass this. Just as the gentleman says, we will be acting as a leader here.

Mr. Chairman, I regret that victims, who might therefore miss the chance for this knowledge under the archaic argument that the courts have already really thrown out of States rights, ignore ultimately the victims' rights.

A few items might convince Members: 32 percent of those convicted of rape were under the influence of drugs at the time of the offense. Since one of the primary means of transmitting AIDS is through the sharing of needles, the possibility that the rapist might be infected with the AIDS virus exists.

The most recent data shows that convicted rapists are more likely to repeat the crime of rape than convicted persons of other crimes. Released rapists were 10½ more times likely than nonrapists to have a subsequent arrest.

Members of the House, this particular crime affects people in ways I think beyond most of our understanding. I will just say please, accept the chance for Congress to lead, to make an extraordinarily difficult time in a person's life not have to wait for 9 years to find out if something else is the matter.

Mr. Chairman, I ask Members to put that first. I believe a victim should be able to have her voice heard in this House.

Mr. HUGHES. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, let me just take what we are doing to the next step. We just passed a 10-percent takeaway for driver's licenses. This would take away 10 percent if they do not adopt legislation dealing with rape. We have taken 10 percent away for other causes. There will not be any left. So you are going to have States with a State and local assistance program that is going to be meaningless. They will not be able to determine what their priorities are.

Mr. Chairman, I think States are best able to determine where they want to put their resources, whether in the area of drug enforcement, or where. So what we are doing is taking the flexibility away. Each time we pass an amendment that disentitles a State to 10 percent of the money, we are taking away their flexibility and reordering their priorities.

Mr. Chairman, in essence, we have basically taken away their State and local assistance program from them. If in fact we had a situation where States were unwilling to pass important public policy initiatives, and the Congress wants to debate that and pass a sense of the Congress resolution, or an incentive program, such as providing additional moneys for such a program, that would be one thing. We have not done that. What we are going to do is hammer them and say if you do not do this, we are going to take your funds away, when no State has in fact refused to do that.

Mr. Chairman, for all the reasons I have suggested, it is poor policy, and the amendment should be rejected.

Mr. BROWN of Colorado. Mr. Chairman, I rise in support of the Martin amendment which provides that a State would lose 10 percent of the funds it receives under the Drug Control and System Improvement Formula Grant Program if the State does not adopt and enforce a law requiring that a defendant convicted of rape be tested for the AIDS virus.

Should a victim of rape be required to live in fear for months, perhaps years, that she has been exposed to AIDS? The answer is clearly "no." A victim of rape has the right to know whether she has been exposed to the AIDS virus, and this responsible amendment would ensure that rape victims are given the opportunity to know.

We cannot possibly alleviate the trauma suffered by victims of rape. However, we can ensure that a victim of rape, who has already suffered tremendous pain, is not subjected to needless anguish.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Illinois [Mrs. MARTIN).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mrs. MARTIN of Illinois. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to the unanimous consent request previously agreed to, the vote will be delayed until later.

RECONSIDERATION OF ACTION ON CONYERS AMENDMENT

Mr. CONYERS. Mr. Chairman, I ask unanimous consent that the question on amendment No. 1 be put de novo.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. McCOLLUM. Mr. Chairman, reserving the right to object, would the gentleman explain what he is about here so Members generally can understand that?

Mr. CONYERS. Mr. Chairman, if the gentleman will yield, this is the parliamentary method of withdrawing a recorded vote.

Mr. McCOLLUM. The gentleman does not want a recorded vote on this?

Mr. CONYERS. Mr. Chairman, I do not. I wish to merely have it put on a voice vote, and on that we would let the matter rest.

Mr. McCOLLUM. Mr. Chairman, would the Chair clarify the ruling of the Chair on the vote?

The CHAIRMAN. The Chair would advise Members that the previous time this vote was taken, the amendment was defeated on a voice vote. Then the gentleman from Michigan [Mr. CONYERS] asked for a recorded vote.

Mr. McCOLLUM. Mr. Chairman, he is now withdrawing his request and I will withdraw my reservation of objections.

The CHAIRMAN. Under this request, the Chair will put the question de novo, so all Members will have an opportunity once more on this issue. The gentleman from Florida [Mr. McCOLLUM] has withdrawn his reservation of objection and hearing no objection, it is so ordered

There was no objection.

The CHAIRMAN. The question is on amendment No. 1 offered by the gentleman from Michigan [Mr. CONYERS].

The question was taken; and the Chairman announced that the noes appeared to have it.

So the amendment was rejected.

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs. BOXER) having assumed the chair, Mr. Bosco, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5269) to control crime had come to no resolution thereon.

□ 1600

MAKING IN ORDER THE CONSIDERATION AND THE POSTPONEMENT OF VOTES ON CERTAIN AMENDMENTS TO H.R. 5269, COMPREHENSIVE CRIME CONTROL ACT OF 1990

Mr. BROOKS. Madam Speaker, I ask unanimous consent that it be in order to consider the following numbered amendments in an order other than that prescribed by House Resolution 490: 10, 11, 13, 19, 22, 33, 37, 38, and 39. I further ask unanimous consent that the voting time on any amendment after the first roll call in this series be reduced to 5 minutes and that any recorded votes ordered on these amendments and any prior recorded vote be postponed until later today.

The SPEAKER pro tempore (Mrs. BOXER). Is there objection to the request of the gentleman from Texas?

Mr. McCOLLUM. Madam Speaker, reserving the right to object, I would like to understand which amendments these are. They were read very fast to the minority. We have not seen these before.

My understanding is the gentleman is requesting that the amendments that he listed by number be considered out of order and be considered now, I assume, and that the recorded vote on them be postponed. Is that the way it will work, and then 5-minute votes on them?

Mr. BROOKS. If the gentleman will yield, that is correct.

Mr. McCOLLUM. Could we go back over those numbers again, because the gentleman read them so fast that I could not put them down here.

Mr. BROOKS. Numbers 10, 11, 13, 19, 22, 33, 37, 38.

Mr. McCOLLUM. I will have to object if we cannot get these more slowly. ten, eleven——

Mr. BROOKS. One more time. Surely the gentleman has them by now.

Mr. McCOLLUM. Number 22, what is after 22?

Mr. BROOKS. Numbers. 33, 37, 38, and 39.

Mr. McCOLLUM. Madam Speaker, I would like to be able to consider these for a few moments. I am going to have to object unless I have a chance to look these over and examine what we are dealing with, because, for example, Mr. MOORHEAD is No. 10. I do not even believe the gentleman is here to be able to offer that amendment at this time.

He was not anticipating we would skip over these others, but I do not know where the Members are who may be wanting to offer them. Unfortunately, because of that, I cannot agree to this at this moment in time, though I understand the effort is

trying to avoid some more votes. Perhaps there are a few we can agree to.

Mr. HUGHES. Madam Speaker, will the gentleman yield?

Mr. McCOLLUM. I am glad to yield to the gentleman from New Jersey.

Mr. HUGHES. Madam Speaker, I wonder if the chairman would consider removing No. 10, which is the Moorhead amendment, from that list. That is fairly controversial. I would hesitate to rush our colleagues. They should understand that. We have voted on that a couple of times in the last few Congresses. It is an important amendment.

Mr. BROOKS. If the gentleman will yield, do you not want to discuss it?

Mr. HUGHES. I wonder if the chairman would remove that one. Would that satisfy my colleague from Florida, because the rest seem to be fairly noncontroversial?

Mr. McCOLLUM. I understand what everybody is working on here, but we are delaying the consideration of the death penalty altogether here. I am wondering why we are doing that. If we take up all of these numbers, we would not even get to the death penalty provision at all today.

Mr. BROOKS. That is a possibility. We are still waiting on the funeral. Some of the Members have not returned.

Mr. McCOLLUM. I understand the gentleman's concern.

Mr. BROOKS. It was not my original proposal. I did not dream up this idea of hopscotching around the numbered amendments from the Rules Committee.

Mr. McCOLLUM. Madam Speaker, if I could just say, I understand.

Mr. BROOKS. That is the original request the gentleman and I agreed to. I want to extend that so that Members who have gone to the funeral can return. Then we can get back to the regular order.

Mr. McCOLLUM. I understand.

Mr. BROOKS. We will not finish it tonight, I guarantee, and we will quit at 6:30 because I am going to dinner.

Mr. McCOLLUM. I understand what the gentleman is saying in this regard. I am still reserving my right to object.

I would suggest that we take up maybe three of these at a time or four of them.

Mr. BROOKS. And go through this three or four times? This is not going to take long.

Mr. McCOLLUM. Because this gentleman wants to get back to the regular order as soon as possible. The gentleman would be willing to consider amendments 11, 12, and 13 at this point in time. That would take us through at least it looks like 30 or 40 minutes of debate. The Members ought to be back from the funeral by that time.

Mr. BROOKS. Mr. RANGEL is here now and ready to go on his amendment, which is 38 or 39.

Mr. McCOLLUM. If you would like to skip over to that, but I just want all of these numbers not to be taken at one time. Maybe you want to go to 38 and do that first, I do not care about the number, but I care about how many, and I am concerned about how much time is taken up because I would like to see us get back to the regular order as soon as possible.

Mr. BROOKS. Not as much as I would.

Mr. McCOLLUM. I understand. If the gentleman would like to go to the Rangel amendment, No. 38 first, and then maybe 11 and 12, I would be willing to take up about three, but I do not think we ought to skip around and take 6, 8, or 10 of these at one time out of order.

Mr. BROOKS. Why not go then 10, 11, 13?

Mr. McCOLLUM. Not 10. How about 11, 19, and 39. Is that Mr. RANGEL's? Thirty-eight, so it would then be 11, 13, and 38. I would be happy to take those out of order and see those taken out of order.

Mr. BROOKS. Did the gentleman say 19?

Mr. McCOLLUM. Eleven, 19, and 38. If the gentleman could modify his request for those three and then go back to the regular order of business, I would be happy to consider that.

Mr. BROOKS. We are taking up a good bit of time in this debate. We can probably cut that down a couple of more and just argue about it a little more.

The SPEAKER pro tempore. Does the gentleman from Texas modify his request?

Mr. BROOKS. I modify the request, and if the Members do not like that, I would move that.

The SPEAKER pro tempore. That is not a proper motion for the gentleman from Texas at this time. He can restate his unanimous-consent request, and then if the gentleman does not object, we will proceed.

Mr. BROOKS. Proceed.

Mr. McCOLLUM. The unanimous-consent request is amendment 11, 19, and 38 be moved up?

The SPEAKER pro tempore. That is the Chair's understanding.

Mr. McCOLLUM. Continuing to reserve my right to object, we would debate those three amendments, am I correct, and if this is adopted, then we would postpone the votes on those again to the end? Is that what the unanimous-consent request is, those three amendments?

The SPEAKER pro tempore. The gentleman is correct. Those votes would be delayed until after the other postponed votes.

Does the gentleman from Florida still object?

Mr. McCOLLUM. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Thee was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

COMPREHENSIVE CRIME CONTROL ACT OF 1990

The SPEAKER pro tempore. Pursuant to House Resolution 490 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5269.

□ 1607

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5269) to control crime, with Mr. Bosco in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, amendments to title 1 had been debated and the votes postponed.

Pursuant to the order of the House of earlier today, it is now in order to consider amendment No. 11 printed in House Report 101-796.

AMENDMENT OFFERED BY MR. MARTINEZ

Mr. MARTINEZ. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MARTINEZ:

Page 76, after line 6, add the following:

PART B—STUDENT LOAN CANCELLATION

SEC. 621. POLICE RECRUITMENT EDUCATION PROGRAM.

(a) AMENDMENT.—Section 465(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087ee(a)(2)) is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; or "; and

(3) by adding at the end the following new subparagraph:

"(F) as a full-time law enforcement officer or corrections officer for service to local, State, or Federal law enforcement or corrections agencies.".

(b) CONFORMING AMENDMENT.—Section 465(a)(3)(i) of such Act (20 U.S.C. 1087ee(a)(3)(i)) is amended by striking "(A) or (C)" and inserting "(A), (C), or (F)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only to loans made on or after the date of enactment of this Act under part E of title IV of Higher Education Act of 1965.

Page 52, after line 18, insert the following:

PART A—JUSTICE DEPARTMENT PROGRAMS

The CHAIRMAN. Under the rule, the gentleman from California [Mr. Martinez] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. Martinez].

Mr. MARTINEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Police Recruitment and Education Program [PREP], is a simple, much-needed program that will greatly enhance this country's ability to fight crime and demonstrate this Nation's commitment to the war on drugs and crime.

The text of this amendment was favorably reported out of the Committee on Education and Labor by voice vote in July, and has garnered the support of police organizations across the Nation.

PREP builds upon the law enforcement scholarship provision already in the bill and helps bolster the front line in the war on drugs and crime. PREP will increase the number and enhance the skills of this Nation's peace officers by providing an incentive for dedicated and capable youths to pursue a career in law enforcement.

I would like to emphasize the fact that implementation of this program requires only a minimal investment and could be administered using an existing framework.

Last year the Perkins Loan Program maintained a surplus of approximately $10 to $15 million. CBO estimates that my amendment would only cost $8 million after 3 years. It does not cost a great deal of money, and would enhance the ability of police departments to attract dedicated youths into law enforcement.

This amendment simply broadens existing provisions of a Federal student loan program to provide forgiveness of Perkins student loans to those who choose to serve their community on the front lines in the war on drugs and crime.

The front line in this war is the cop on the street. However, in our effort to enact tough anticrime legislation, we forgot the most fundamental element—the police officer.

Over 80 percent of all police departments report severe recruitment and retention shortfalls. While retention levels decline, the number of violent and drug-related crimes continues to spiral upward.

Our effective strength in police per violent crime is one-ninth what it was in 1950's.

As is the inevitable result when demand exceeds supply, the quality of our officers has also suffered.

In effect, police chiefs have been forced into lowering their standards in hiring and promotion decisions in order to meet force personnel requirements.

The bottom line is that with all the publicity surrounding the declared war on drugs and crime, we have not been able to persuade enough dedicated youths to pursue a career in law enforcement and many of those that do enter the force leave after a short time.

The Perkins loan forgiveness program is already available to a specific list of occupations which provide unique and urgently needed benefits to our communities. These include Head Start, chapter 1 and special education teachers, military personnel in areas of hostility, and Peace Corps and VISTA volunteers.

PREP authorizes cancellation of these loans once the officer fulfills his commitment as a full-time sworn officer.

This loan program is the smallest and most needs-tested of all Federal student loan programs. Only the neediest and most dedicated students would benefit from this provision.

This is a simple piece of legislation that is desperately needed.

I have in my hand letters of support and endorsements from police organizations; from Federal agents, cops who walk the beat every day, and police chiefs from every size department. They all say that it is time to backup our anticrime position with practical proven programs.

Mr. Chairman, we have passed numerous anticrime bills and have repeatedly told our constituents that we will get tough on crime. This amendment allows us to put our votes where our speeches are.

□ 1610

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is there a Member in opposition?

Mr. HENRY. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Michigan [Mr. Henry] is recognized for 5 minutes.

Mr. HENRY. Mr. Chairman, I am not going to raise formal objection or call for a vote on the amendment other than to point out here that we have an awkward situation because the consideration of these amendments has come up on a changed calendar, and I know that there were individuals from the Committee on Education and Labor who would have at least liked to have had the membership understand the other side of this question.

Under the budget agreement that we will be voting on tomorrow, the House of Representatives and the Senate, should it be adopted, are going to be challenged in reconciliation with reducing the cost of the Student Loan program by several million dollars each year, several billion dollars, as a matter of fact, in the multiyear agreement.

Every time we carve out an exemption for loan repayment, no matter how meritorious it is, it adds substantially to the cost of the program. No one is questioning the meritorious nature of what is at issue or the gentleman's intent obviously, and the gentleman is correct, we have carved out exceptions for Vista. I am not sure that we have for the Peace Corps. I had not realized we had done that for the Peace Corps.

We attempted, as the gentleman will recall, or members of the committee attempted unsuccessfully just last week or 2 weeks ago to create yet other exemptions in the student-loan repayment for those who work in drug counseling and therapy programs, and if my memory serves me correctly, the House voted to eliminate that loan forgiveness on the basis that you can hardly call this voluntary service if, in fact, you are getting monetary reward.

Here we have a situation where we are already talking about trying to stretch out or create alternative repayment mechanisms for low- and middle-income people who have taken student loans and yet cannot afford currently to repay those loans on the established arbitrage or mortgage schedule for paying off those loans.

To the extent that you have loan forgiveness for some, you are going to make it even harder to create possibilities for those who are having difficulty.

Mr. MARTINEZ. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I am happy to yield to the gentleman from California.

Mr. MARTINEZ. Mr. Chairman, the gentleman is aware that just a couple of weeks ago, we passed out a Republican amendment that gave loan forgiveness to people that work in defense because it is a vital service to our country, $6,000 per year up to $40,000 total. If we can do that for defense, we can certainly do it for law enforcement that in many people's estimation is just as important, and maybe more important, especially when we have said over and over again in our speeches that we want to fight drugs and that we are committed to the war on drugs.

Mr. HENRY. The gentleman knows that I am aware of that, and that is why I am not questioning what is at issue in terms of trying to be of assistance to encourage people to go into law enforcement and to respect that.

I just want to point out to this body that we are going to possibly be charged, by this time tomorrow afternoon, to come up with reconciliation instructions that take several billion dollars out of this program in the next 5 years, and that every time we carve out an exception such as the gentleman offers, it makes it harder for us to do that, and even under the existing dimensions of authority and obligating authority under this program, we have problems with middle-income people who are working, maybe, and have families and children and trying to figure out alternative means of loan repayment, and for simply that reason, I have to object particularly since no one on our side of the aisle and the committee was given advance notice to be here to represent the other side of the question.

Mr. Chairman, I yield back the balance of my time.

Mr. MARTINEZ. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. Anderson].

Mr. ANDERSON. Mr. Chairman, I rise in support of this amendment, the Police Recruitment and Education Program [PREP], introduced by my California colleague Matthew Martinez and hope to see its inclusion in H.R. 5269, the Comprehensive Crime Control Act. I ask unanimous consent to revise and extend my remarks.

Every poll I have seen from my district reveals that crime is the first and foremost concern of my constituents. People want more and better law enforcement to solve the problem, while local law enforcement is undermanned and underequipped to handle the problem.

This amendment goes to the heart of this issue. It is precisely the type of assistance the Federal Government can lend to the local level to solve the law enforcement manpower shortage by increasing the numbers, capabilities, and quality of the local police and sheriff departments. I feel that this program is an ideal vehicle for recruiting qualified, motivated young people and, even more importantly, retaining men and women who have been on the force and are seeking futher education. Working toward further degrees while serving on a police force is very common, especially since the overwhelming majority of officers come to the force with just a high school degree. This legislation would help officers improve themselves and, consequently, improve law enforcement to the community. Finally, the district I represent, Long Beach, is very high cost compared to the rest of the country. Assisting officers in meeting their educational expenses can determine whether higher educational opportunities are pursued at all.

As in any war, it is the strength of the foot soldier that determines victory. Winning the war against drugs and gangs means helping our police officers to the greatest extent we possibly can. The PREP Program will provide the incentive and means for better educated people to choose law enforcement as a career and keep them in that career. It is supported by virtually every major law enforcement organization. Finally no new money will have to be authorized for this program; it simply extends low-interest Perkins loans and the possibility of loan forgiveness to qualified law enforcement officers.

Again, I hope to see this amendment incorporated into the crime bill. This amendment makes a strong bill against crime that much stronger. To effectively combat crime, we must have a good, educated law enforcement team.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. Martinez].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 19 printed in part 2 of House Report No. 101-796.

□ 1620

AMENDMENT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Smith of Texas:

At the end of title XV, add the following new section (and conform the table of contents accordingly):

SEC. 15. AUTHORIZATION OF ADDITIONAL IMMIGRATION JUDGES FOR DEPORTATION PROCEEDINGS INVOLVING CRIMINAL ALIENS.

There are authorized to be appropriated in each of fiscal years 1991 through 1995 such sums as are necessary to provide for 20 additional immigration judges in the Department of Justice, to be used solely to conduct proceedings under section 242A(d) of the Immigration and Nationality Act (8 U.S.C. 1252a(d)).

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. Smith] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. Smith].

Mr. SMITH of Texas. Mr. Chairman, I would like to say at the outset that I understand there is no opposition to this amendment, by the majority and their support is much appreciated.

Criminal aliens are a real problem. About one-third of our Federal inmate population today are noncitizens. About 77 percent of the noncitizens convicted of felonies go on to be arrested at least one more time. Criminal aliens are currently not being deported. Approximately 30,000 aliens will be arrested for crimes that make them deportable. Yet, for example last year, only 7,000 criminal aliens in that category were actually deported.

This amendment would simply authorized 20 new immigration judges for the purposes of conducting deportation hearings of criminal aliens who are in prison. Current law allows for expedited deportation procedures for aliens convicted of aggravated felonies before the alien is released. Unfortunately, these hearings are not taking place because there are not enough judges. Instead, criminal aliens are released from custody or retained at great expense to the INS.

Mr. Chairman, this amendment would help alleviate those problems by authorizing 20 new immigration judges.

I urge its support.

Mr. Chairman, I yield the balance of my time to the gentleman from Florida [Mr. McCollum].

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman for yielding time to me. I want to rise to express very strong support for this proposal. However, I would like to make the comment that this is a very small portion of what is needed to control the criminal alien problem we have in this country.

We had an opportunity to put the whole package the administration wants out here on the floor for debate, that would have allowed Members to expedite deporting these criminals who are illegal aliens who are in our prisons today. Unfortunately in my judgment, the Committee on Rules did not allow that in the immigration bill the other day, so when we were voting today on that bill earlier, we did not have an opportunity to vote on that subject.

What the gentleman is doing in a small way here today is to get at some of the criminal aliens by the resources that he is putting into this bill. However, I do think that it behooves all Members to work as expeditiously as possible to get expedited procedures into the law as soon as possible to handle the fact that we have these tremendous overcrowding problems in certain regions of the country with illegal aliens who have been convicted of very serious offenses that we simply cannot get deported, both because the resources are not available, we do not have the manpower in the Immigration Service to deal with, and because of the fact that we have a problem in connection with the procedures themselves being rather stiff and extended and protracted.

So while I support the gentleman very strongly, I want to point that out to my colleagues.

Mr. Chairman, I yield to the gentleman from New Jersey [Mr. Hughes].

Mr. HUGHES. Mr. Chairman, we support the amendment. It is a good amendment. The deportation of illegal aliens is a major problem in this country. It certainly is a good first step in the right direction. I would urge my colleagues to support the amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. Smith].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RANGEL

The CHAIRMAN. Pursuant to the order of the House of earlier today, it is now in order to consider amendment No. 38 printed in House Report No. 101-796.

Mr. RANGEL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Rangel: Add at the end the following new title:

TITLE .—NATIONAL COMMISSION TO STUDY THE CAUSES OF THE DEMAND FOR DRUGS IN THE UNITED STATES

SEC. 001. ESTABLISHMENT.

There is established a National Commission to Study the Causes of the Demand for Drugs in the United States (referred to in this title as the "Commission").

SEC. 002. DUTIES.

(a) In General.—The Commission shall study the causes of drug abuse in the United States and assess the needs of Government at all levels to create a socially supportive environment that reduces the overall desire of individuals to experiment with and abuse illicit drugs.

(b) Examination.—The Commission shall examine the factors that contribute to drug abuse and the efforts being made to prevent drug abuse, including the following:

(1) Characteristics.—The characteristics of potential drug abusers or drug traffickers, including age and social and educational backgrounds.

(2) Environment.—Environmental factors that contribute to drug abuse, including the correlation between unemployment, poverty, and homelessness on drug experimentation and abuse.

(3) Family and friends.—The effects of substance abuse by a parent, sibling, grandparent, or friend in contributing to the likelihood and desire of an individual to experiement with illicit drugs.

(4) Attraction.—The physiological and psychological attractiveness of illicit drugs.

(5) Efforts of governments.—The current status of Federal, State, and local efforts regarding the causes of drug abuse, including a review of existing alternatives being promoted by Federal, State, and local authorities to address the causes of drug abuse.

SEC. 003. MEMBERSHIP.

(a) Number and Appointment.—The Commission shall consist of 13 members as follows:

(1) President.—3 individuals appointed by the President.

(2) Senate.—5 individuals appointed jointly by the majority and minority leaders of the Senate. Not more than 3 members appointed under this paragraph may be of the same political party. At least 1 member appointed under this paragraph shall be a recovering drug user.

(3) House of Representatives.—5 individuals appointed jointly by the Speaker, majority leader, and minority leader of the House of Representatives. Not more than 3 members appointed under this paragraph may be of the same political party. At least 1 member appointed under this paragraph shall be a recovering drug abuser.

(b) Prohibition Against Officer or Employee.—Each individual appointed under subsection (a) shall not be an officer or employee of any government and shall be qualified to serve the Commission by virtue of education, training, or experience.

(c) Deadline for Appointment.—Members of the Commission shall be appointed within 60 days after the date of the enactment of this Act for the life of the Commission.

(d) Meetings.—The Commission shall have its headquarters in the District of Columbia, and shall meet at least once each month for a business session that shall be conducted by the Chairperson.

(e) Quorum.—7 members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) Chairperson and Vice Chairperson.—The Chairperson and the Vice Chairperson of the Commission shall be designated by the President at the time of appointment.

(g) Continuation of Membership.—If a member of the Commission later becomes an officer or employee of any government, the individual may continue as a member until a successor is appointed.

(h) Vacancies.—A vacancy in the Commission shall be filled not later than 30 days after the Commission is informed of the vacancy in the manner in which the original appointment was made.

(i) Compensation.—

(1) No pay, allowance, or benefit.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(2) Travel expenses.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 004. STAFF AND SUPPORT SERVICES.

(a) Director.—The Commission shall have a director appointed by the Chairperson and paid the rate of basic pay for level V of the Executive Schedule.

(b) Staff.—With the approval of the Commission, the director may appoint personnel as the director considers appropriate.

(c) Applicability of Civil Service Laws.—The staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(d) Experts and Consultants.—With the approval of the Commission, the director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(e) Staff of Federal Agencies.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist in carrying out its duties under this title.

(f) Other Resources.—The Commission shall have reasonable access to materials, resources, statistical data, and other information from the Library of Congress, as well as agencies and elected representatives of the executive and legislative branches of government. The Chairperson of the Commission shall make requests in writing where necessary.

(g) Physical Facilities.—The General Services Administration shall find suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for proper functioning.

SEC. 005. POWERS OF COMMISSION.

(a) Hearings.—The Commission may conduct public hearings or forums at its discretion, at any time and place it is able to secure facilities and witnesses for the purpose of carrying out its duties.

(b) Delegation of Authority.—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) Information.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the Chairperson or Vice Chairperson of the Commission, the head of a Federal agency shall furnish the information to the Commission to the extent permitted by law.

(d) Gifts, Bequests, and Devises.—The Commission may accept, use, and dispose of gifts, bequests, or devices of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devices shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

(e) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 006. REPORTS.

(a) Monthly Reports.—The Commission shall submit monthly activity reports to the President and the Congress.

(b) Final Report.—The Commission shall submit a final report to the President and the Congress not later than 30 days before the termination of the Commission. The final report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for legislative and administrative action. A strategy for disseminating the report to Federal, State, and local authorities shall be formulated and submitted with the formal presentation to the President and the Congress.

SEC. 007. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $5,000,000 to carry out this title.

SEC. 008. TERMINATION.

The Commission shall cease to exist on the date 2 years after the date the President designated the first chairman of the Commission.

The CHAIRMAN. Under the rule, the gentleman from New York [Mr. Rangel] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from New York [Mr. Rangel].

Mr. RANGEL. Mr. Chairman, this amendment creates a national commission to study the causes for the demand for drugs. We are now in a position that millions of dollars are going into this war against drugs, and yet we have yet to come up with any scientific data that can explain to Members why young people are entering the

drug abuse arena, whether black or white, whether they come from affluent families, whether they are poor. It seems to me while we are trying to build bigger jails and larger treatment centers and running toward education and prevention projects, that we really ought to have someone to bring together all of the data that has been created by House and Senate investigative committees, to the private sector, and to see whether or not we can come up with some basic ideas where the Government and the private sector can come together and to see what we are doing wrong that allows so many people to be tempted into getting involved in this dangerous practice of abusing themselves.

So this bill, which will set up a 13-member committee, 3 appointed by the President of the United States, 5 by the House and Senate, including the majority and minorities of the House, we give them 2 years to compile the data and to come back to this Congress, and they are authorized to have public hearings and studies and to work closely with Members to share the information so that at least we would know, not necessarily where we had gone wrong, but what we can really do to set our goals to prevent it from continuously happening.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from New Jersey [Mr. Hughes].

Mr. HUGHES. I want to first of all congratulate the gentleman who is, in addition to being a valued member of the Committee on Ways and Means, he is the chairman of the Select Committee on Narcotics Abuse and Control, on which I serve as a member.

It is amazing that here we are, 10 years into this serious, acute drug epidemic in this country, yet we know so little about the causes and effects of drugs. I was amazed at some of the testimony we took in the Select Committee from Cabinet officers who confessed to Members that there was very little research ongoing, very little information that they could share with Members. Basically, what are some of the attitudinal problems we have to deal with, what are the problems and why are youngsters, in particular, lured to these substances.

The 13-member commission will attempt to enable Members to get at some of the root causes, some of the attitudes we have to deal with. I commend the gentleman for that. I just hope we can do something on the treatment side also to try to better understand, in working with the world community on how we are going to deal with substances like ice. We still do not have any idea how to deal with a craving that ice creates in our young people. I congratulate the gentleman for offering this amendment, and we support it on this side.

Mr. McCOLLUM. Mr. Chairman, I rise in opposition to this amendment.

The CHAIRMAN. The gentleman from Florida [Mr. McCollum] is recognized for 5 minutes.

Mr. McCOLLUM. Mr. Chairman, I reluctantly oppose the amendment, not because the purposes are not noble, and they are indeed noble. My friend from New York is offering an amendment to do some things that I think need to be done.

However, I rise in opposition because it is already the function of the National Drug Control Strategy, the drug czar, the coordinator from the 1989 and 1990 legislation, to do these things. Mr. Bennett's shop, as I understand, is already involved in research in fields of drug treatment, education, prevention, criminal justice, and all of these programs I think now. What I am suggesting is that this is being done now. I am wondering why the gentleman feels it is necessary to have a separate commission to do this, when we already have it being done, as I understand it, from the administration?

Mr. RANGEL. If the gentleman will yield, I appreciate the gentleman for doing this, and the reasons that the gentleman stated, that it should be unnecessary, is the exact reason why I am doing it. We have had hearings on this. We have had the administration to participate in this. We have included the Secretary of Health and Services, the National Institute of Drug Abuse, and we have reached a conclusion that as President Reagan saw fit with the AIDS epidemic to go outside of the administration to bring in the experts to really focus, the billions of dollars that the Federal Government is adding to the local and State, that we really ought to do it.

Take my word for it, Mr. Bennett has too much on his plate to really sit down and do the type of job that is necessary. We have asked for this. We also had our studies from the General Accounting Office that have told Members that nothing is being done in this area at all. That is the reason we are moving forward.

Some people have said, from your side of the aisle, why shouldn't the committee conduct something like this? I have indicated with the broadest legislative agendas that we have in the House, that this item is just too important to the Nation and the world not to have a sophisticated commission set up very much like former President Reagan's commission was against AIDS, and to come back to our Congress, our Nation, and indeed the world, to tell citizens what we should be doing.

☐ 1630

Mr. McCOLLUM. Reclaiming my time, Mr. Chairman, I am not going to call for a recorded vote. I suspect the gentleman will win on a voice vote on this, but I really do believe from all my experience with Mr. Bennett that he is doing a good job in this research and that the work the gentleman wants to be done is indeed going forward. There is $5 million involved for a commission, and another commission is not necessary in a time of budget constraints. If it were, I certainly would be the first one to support it.

But as I said, I suspect the gentleman is going to win this on a voice vote. I am not going to ask for a recorded vote, but I do not think we need another commission.

Mr. RANGEL. Mr. Chairman, I thank the gentleman for his cooperation.

Mr. McCOLLUM. Mr. Chairman, I yield back the balance of my time.

Mr. CONYERS. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York [Mr. Rangel] to establish a commission to study the root causes of drug abuse.

Over the last year I have conducted a comprehensive series of hearings to examine the implementation of the national drug control strategy. In Detroit, in Los Angeles and in Chicago the committee heard testimony about the decline in the casual use of cocaine while simultaneously, inner-city drug use and addiction has increased dramatically.

Increasingly it has become apparent that we are fighting two very different drug wars—and we are only winning one of them. Prevention and education efforts directed at the educated middle class appear to be having a dramatic effect. Treatment programs only have room for clients who can afford to pay.

But meanwhile drugs are causing even greater devastation in our inner cities, populated primarily by poor people and people of color. We will never win this war on drugs until we rethink and refocus the priorities of the drug strategy. Spending over 70 percent of the budget on law enforcement leaves inadequate dollars for prevention and treatment.

The focus must be on the demand side of the drug war by providing appropriate drug treatment and prevention programs in the inner cities alongside of the suburbs. The statistics in the inner city are not going to change until we refocus the drug war to include an analysis of the root causes of drug use, and refocus our funding priorities to include the racial and economic factors that underlie so much of hard core drug addiction in America.

The victims of the war on drugs are disproportionately poor and minority. The emphasis on law enforcement is felt primarily in our inner cities because it is easier to focus on street level pushers than it is to break up larger drug cartels. We heard testimony around the country about the extent to which the war on drugs has become a vehicle to crack down on our inner cities. Twenty-three percent of young African American men are involved in the criminal justice system in the United States—in prison, on probation or on parole. The majority of these are drug related. Only 12 percent of the drug using population is black, yet 40 percent of drug related arrests are black.

Common sense tells us that young people use drugs because they face lives of hopelessness and despair. But the majority of people in our inner cities are not drug users. We think that the lack of education, lack of job skills and job opportunities, and poor housing all contribute to drug use in our inner cities. The time has come to study the risk factors that cause some people to turn to drugs when others do not. It is only then that we can better focus the scarce dollars allocated to prevention and education programs.

The creation of a commission to study the root causes of drug abuse is an important step in expanding our thinking about the war on drugs and finding long-term solutions.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. RANGEL].

The amendment was agreed to.

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mrs. BOXER) having assumed the chair, Mr. Bosco, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5269), to control crime, had come to no resolution thereon.

MAKING IN ORDER THE CONSIDERATION OF AND THE POSTPONEMENT OF VOTES ON CERTAIN AMENDMENTS TO H.R. 5269, COMPREHENSIVE CRIME CONTROL ACT OF 1990

Mr. BROOKS. Madam Speaker, I ask unanimous consent that it be in order in the Committee of the Whole to consider the following numbered amendments in an order other than that prescribed by House Resolution 490: amendments Nos. 22 and 33.

I further ask unanimous consent that the voting time on any amendment in this series be reduced to 5 minutes, and that any recorded votes ordered on these amendments and any prior recorded vote be postponed until the conclusion of these two amendments.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. McCOLLUM. Reserving the right to object, Madam Speaker, I do not plan to object.

Mr. BROOKS. Madam Speaker, if the gentleman will yield, does the gentleman have those numbers down all right?

Mr. McCOLLUM. I have got them down.

I am not planning to object, Madam Speaker, but I would like to take this opportunity to inquire if we can then, after these two are finished, go back to the regular order to have the votes, and so forth. It seems like the funeral service is at 3 o'clock.

Mr. BROOKS. Madam Speaker, if the gentleman will yield further, it is my anticipation that this is the last time I am going to make this request.

Mr. McCOLLUM. Oh, good. I am sure the gentleman would be just as happy as I were if it were the last.

Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMPREHENSIVE CRIME CONTROL ACT OF 1990

The SPEAKER pro tempore. Pursuant to House Resolution 490 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5269.

☐ 1635

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5269) to control crime, with Mr. Bosco in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose earlier today, amendment No. 38 offered by the gentleman from New York [Mr. RANGEL] had been disposed of.

Pursuant to the order of the House of earlier today, it is now in order to consider amendment No. 22 printed in House Report 101-796.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TRAFICANT:

Subtitle F—Grants for Televised Testimony

SECTION 2021. GRANTS FOR CLOSED-CIRCUIT TELEVISING OF TESTIMONY OF CHILDREN WHO ARE VICTIMS OF ABUSE.

(a) ESTABLISHMENT OF GRANT PROGRAM.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) in part N—

(A) in the heading by striking "Part N" and inserting "Part O", and

(B) by redesignating section 4101 as 1501, and

(2) by inserting after part M the following:

"PART O—GRANTS FOR CLOSED-CIRCUIT TELEVISING OF TESTIMONY OF CHILDREN WHO ARE VICTIMS OF ABUSE

"FUNCTION OF THE DIRECTOR

"SEC. 1401. The Director shall provide funds to eligible States and units of local government pursuant to this part.

"DESCRIPTION OF GRANT PROGRAM

"SEC. 1402. The Director is authorized to make grants to States, for the use of States and units of local government in the States to provide equipment and personnel training for the closed-circuit televising of the testimony of children in criminal proceedings for the violation of laws relating to the abuse of children.

"APPLICATIONS TO RECEIVE GRANTS

"SEC. 1403. To request a grant under section 1402, the chief executive officer of a State shall submit to the Director an application at such time and in such form as the Director may require. Such application shall include—

"(1) a certification that Federal funds made available under section 1402 of this title will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of such funds, be made available for criminal proceedings for the violation of laws relating to the abuse of chidren;

"(2) a certification that funds required to pay the non-Federal portion of the cost of equipment and personnel training for which such grant is made shall be in addition to funds that wold otherwise be made available by the recipients of grant funds for criminal proceedings for the violation of laws relating to the abuse of children;

"(3) an assurance that the State application described in this section, and any amendment to such application, has been submitted for review to the State legislature or its designated body (for purposes of this section, such application or amendment shall be deemed to be reviewed if the State legislature or such body does not review such application or amendment within the 60-day period beginning on the date such application or amendment is so submitted); and

"(4) an assurance that the State application and any amendment thereto was made public before submission to the Bureau and, to the extent provided under State law or established procedure, an opportunity to comment thereon was provided to citizens and to neighborhood and community groups.

"REVIEW OF APPLICATIONS

"SEC. 1404. (a) The Bureau shall provide financial assistance to each State applicant under section 1402 of this title to provide equipment and personnel training for the closed-circuit televising of the testimony of children in criminal proceedings for the violation of laws relating to the abuse of children, upon determining that—

"(1) there is in effect in such State a law that permits the closed-circuit televising of testimony of children in criminal proceedings for the violation of laws relating to the abuse of children;

"(2) such State law shall meet the following criteria:

"(A) the judge's determination that a child witness will be traumatized by the presence of the defendant must be made on a case-by-case basis;

"(B) the trauma suffered must be more than de minimus;

"(C) the child witness must give his/her statements under oath;

"(D) the child witness must submit to cross-examination; and

"(E) the finder of fact must be permitted to observe the demeanor of the child witness in making his or her statement.

"(3) the application submitted under section 1402 or amendment to such application is consistent with the requirements of this title; and

"(4) before the approval of such application and any amendment thereto the Bureau has made an affirmative finding in writing that such equipment and personnel training has been reviewed in accordance with section 1403 of this title.

Each application or amendment made and submitted for approval to the Bureau pursuant to section 1043 shall be deemed approved, in whole or in part, by the Bureau not later than 60 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(b) The Bureau shall not finally disapprove any application, or any amendment thereto, submitted to the Director under this section without first affording the applicant reasonable notice and opportunity for reconsideration.

"ALLOCATION AND DISTRIBUTION OF FUNDS UNDER FORMULA GRANTS

"SEC. 1405. (a) The total amount appropriated for this part in any fiscal year shall be set aside for section 1402 and allocated to State as follows:

"(1) $50,000 shall be allocated to each of the participating States.

"(2) Of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each participating State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.

"(b)(1) Each State which receives funds under subsection (a) in a fiscal year shall distribute among units of local government, in such State for the purpose specified in section 1402 of this title that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government in the preceding fiscal year for prosecution of child abuse offenses bears to the aggregate amount of funds expended by the State and all units of local government in such State in such proceding fiscal year for prosecution of child abuse offenses.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State involved.

"(3) For purposes of determining the distribution of funds under paragraph (1), the most accurate and complete data available for the fiscal year involved shall be used. If data for such fiscal year are not available, then the most accurate and complete data available for the most recent fiscal year preceding such fiscal year shall be used.

"(c) No funds allocated to a State under subsection (a) or received by a State for distribution under subsection (b) may be distributed by the Director or by the State involved for any use other than a use specified in an approved application.

"(d) If the Director determines, on the basis of information available to the Director during any fiscal year, that a portion of the funds allocated to a State for that fiscal year will not be required or that a State will be unable to qualify or receive funds under section 1402 of this title, or that a State chooses not to participate in the program established under such section, then such portion shall be awarded by the Director to units of local government or combinations thereof within such State giving priority to those jurisdictions with greatest need.

"REPORTS

"SEC. 1406. (a) Each State which receives a grant under this title shall submit to the Director, for each year in which any part of such grant is expended by a State or unit of local government, a report which contains—

"(1) a summary of the activities carried out with such grant and an assessment of the impact of such activities on meeting the needs identified in the State application submitted under section 1403 of this title; and

"(2) such other information as the Director may require by rule.

Such report shall be submitted in such form and by such time as the Director may require by rule.

"(b) Not later than 90 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that includes with respect to each State—

"(1) the aggregate amount of grants made under this title to such State for such fiscal year; and

"(2) a summary of the information provided in compliance with subsection (a)(1).

"EXPENDITURE OF GRANTS; RECORDS

"SEC. 1407. (a) A grant made under this part may not be expended for more than 75 percent of the cost of the identified uses, in the aggregate, for which such grant is received to carry out section 1402, except that in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any such program or project, the amount of such grant shall be equal to 100 percent of such cost. The non-Federal portion of the expenditures for such uses shall be paid in cash.

"(b) Not more than 10 percent of a grant made under this part may be used for costs incurred to administer such grant.

"(c)(1) Each State which receives a grant under this title shall keep, and shall require units of local government which receive any part of such grant to keep, such records as the Director may require by rule to facilitate an effective audit.

"(2) The Director and the Comptroller General of the United States shall have access, for the purpose of audit and examination, to any books, documents, and records of States which receive grants, and of units of local government which receive any part of a grant made under this part if, in the opinion of the Director or the Comptroller General, such books, documents, and records are related to the receipt or use of any such grant.

"STATE OFFICE

"SEC. 1408. (a) The chief executive of each participating State shall designate a State office for purposes of—

"(1) preparing an application to obtain funds under section 1402 of this title; and

"(2) administering funds received under this part from the Director, including receipt, review, processing, monitoring, progress and financial report review, technical assistance, grant adjustments, accounting, auditing, and fund disbursements.

"(b) An office or agency performing other functions within the executive branch of a State may be designated to carry out the functions specified in subsection (a).

"DEFINITIONS

"SEC. 1409. For purposes of this part—

"(1) the term 'child' means an individua under the age of 15 years and includes a individual up to age 18 who has been docu mented by the appropriate professionals t be of a developmental age less than 1 years; and

"(2) the term 'abuse' means physical o mental injury, sexual abuse or exploitatio or maltreatment.".

(b) TECHNICAL AMENDMENTS.—(1) Sectio 402(1) of title I of the Omnibus Crime Con trol and Safe Streets Act of 1968 is amende by striking "part E" and inserting "parts and N".

(2) Section 801(b) of title I of the Omni bus Crime Control and Safe Streets Act o 1968 (42 U.S.C. 3782(b)) is amended by strik ing "and M" and inserting "M, and N".

(3) Section 802(b) of title I of the Omni bus Crime Control and Safe Streets Act o 1968 (42 U.S.C. 3783(b)) is amended by strik ing "or M" and inserting ", M, or N".

(4) Section 808 of title I of the Omnibu Crime Control and Safe Streets Act of 196 (42 U.S.C. 3789) is amended by striking "o 1308" and inserting ", 1308, or 1408".

(5) The table of contents of title I of th Omnibus Crime Control and Safe Street Act of 1968 (42 U.S.C. 3711 et seq.) amended—

(A) by striking the items relating to par M and sections 1301 through 1312, as adde by section 1552(b)(5) of the State and Loc Law Enforcement Assistance Act of 198 (Public Law 99-570; 100 Stat. 3207-46), an

(B) by striking the items relating to par N and section 1401, and inserting the follow ing new items:

"PART N—GRANTS FOR CLOSED-CIRCUIT TEL VISING OF TESTIMONY OF CHILDREN WH ARE VICTIMS OF ABUSE

"Sec. 1401. Function of Director.
"Sec. 1402. Description of program.
"Sec. 1403. Application to receive grants.
"Sec. 1404. Review of applications.
"Sec. 1405. Allocation and distribution funds under formula grants.
"Sec. 1406. Reports.
"Sec. 1407. Expenditure of grants; records.
"Sec. 1408. State office.

"PART O—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1501. Continuation of rules, author ties, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS. Section 1001 of title I of the Omnibus Crim Control and Safe Streets Act of 1968 (U.S.C. 3793) is amended—

(1) in subsection (a)—

(A) in paragraph (3) by striking "and M and inserting "M, and N";

(B) by redesignating paragraph (6) paragraph (7); and

(C) by inserting after paragraph (5) th following:

"(6) There is authorized to be appropr ated $25,000,000 for each of the fiscal yea 1991, 1992, and 1993 to carry out the pr grams under part N of this title."; and

(2) in subsection (b) by striking "and M and inserting "M, and N".

SEC. 2022. EFFECTIVE DATE.

The amendments made by this Act sha take effect on October 1, 1990.

The CHAIRMAN. Under the rul the gentleman from Ohio [Mr. TRAF CANT] will be recognized for 5 minute and a Member opposed will be recog nized for 5 minutes.

The Chair recognizes the gentleman from Ohio [Mr. Traficant].

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in the wisdom of this committee, they have recognized that our criminal justice system was designed to pit men against men, and certainly it does not work well when child is pitted against adult.

There are over 2 million child abuse cases. Child abuse has risen dramatically. In an effort to stop and to thwart this particular phenomenon, many of the States have moved toward closed circuit testimony and televising these abused youngsters, who literally panic and are intimidated in front of their attackers and abusers.

In that regard, there have been two major questions brought forward. The committee found wisdom to in fact include in the law that opportunity for closed circuit testimony in Federal courts, but there are relatively few of those cases which are basically in the State courts.

The Trafficant amendment deals with two issues, the constitutionality and the cost, and also the fact that most of those cases are in the State province.

First, under Maryland versus Craig, the Supreme Court took this issue to task and their findings were complete and has set forth a number of criteria.

The Trafficant amendment states that for any State that conforms to or meets the statutory requirements of the Maryland versus Craig states that in fact they are eligible for State grants, Federal grants to the States on a 50-50 basis.

There is $25 million in the bill for this State participation program to encourage the creation of these child abuse closed circuit testimony programs. That I think is fundamentally the thrust of the amendment. It is supported widely and I think the Congress would do very well by going beyond the normal scope of what the committee has placed in order by creating this grant program that would take and extend this child abuse protection to all youngsters throughout all our 50 States.

I would like to state that the cases of child abuse and neglect increased from 625,100 reported children in 1980, which was 9.8 children per 1,000, to an estimated 1,026,000 children in 1986, which increased at that time statistically to 16.3 children per 1,000.

There is no question that America's children are being abused in greater and greater numbers and Congress has found fit to take issue with that; but again, the greater number that would be served are in the States, and the bill does not address it. The amendment will.

With that, Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I am glad to yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I have no opposition. I want to rise in strong support of this amendment. I think it is a great amendment. The Justice Department and the administration strongly support it.

I think what the gentleman is doing is in the good name of law enforcement. It will help a great deal, and I commend the gentleman for offering this amendment.

Mr. TRAFICANT. Mr. Chairman, I appreciate the gentleman's support.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. Levine].

Mr. LEVINE of California. Mr. Chairman, I thank the gentleman for yielding this time to me.

I want to commend the gentleman for his leadership in putting this amendment together. The gentleman recognizes in introducing this amendment that child abuse has become an epidemic in our country, with over 2 million children reported abused and neglected every year.

Sadly, Mr. Chairman, our criminal justice system is often not equipped to handle the special needs of child victims and witnesses. I authorized title XX of this crime bill to meet those needs and allocate funds to help set up critical State and national programs.

My colleague's amendment would also provide another admirable and important step toward better protecting our Nation's abused children once they have entered the court system.

States are in desperate need of the funds authorized in this amendment to implement innovative in-court protection programs, in particular closed circuit TV testimony.

The Traficant amendment works as an excellent compliment to the grant programs in title XX of this bill. The careful use of closed circuit TV, under the conditions laid out in my legislation, can be a valuable tool in affording our abused children the protection they deserve.

Mr. Chairman, I want to commend the gentleman from Ohio [Mr. Traficant] for this addition and urge my colleagues to support this amendment.

Mr. TRAFICANT. Mr. Chairman, I would just like to thank the gentleman from California for his leadership in attaching this language which was in my bill 4 years ago, to this legislation.

I want to personally thank the gentleman from New Jersey [Mr. Hughes], the gentleman from Texas [Mr. Brooks], the gentleman from Florida [Mr. McCollum], and all those who have been so instrumental in helping to bring this child abuse section to this bill.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. Traficant].

The amendment was agreed to.

☐ 1640

The CHAIRMAN pro tempore (Mr. Bosco). It is now in order to consider amendment No. 33, to be offered by the gentlewoman from Washington, printed in part 2 of House Report 101-796.

For what purpose does the gentlewoman from Washington rise?

AMENDMENT OFFERED BY MRS. UNSOELD

Mrs. UNSOELD. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. Unsoeld:

Page 239, after line 5, add at the end of title XXII the following new section:

SEC. 2214. DRUG ABUSE RESISTANCE EDUCATION.

(a) Reservation of Funds.—Section 5112(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3182)) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of pargraph (6) and inserting "; and "; and

(3) by adding at the end the following:

"(7) $15,000,000 for grants under section 5136.".

(b) Program Authorized.—Part D of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3211 et seq.) is amended by adding at the end the following:

"SEC. 5138. DRUG ABUSE RESISTANCE EDUCATION PROGRAMS.

"(a) Program Authorized.—The Secretary is authorized to award grants to consortia of local educational agencies and entities that have experience in assisting local educational agencies to provide instruction to students in kindergarten through grade 6 designed to teach such students to recognize and resist pressures that influence such students to use illicit drugs or alcohol.

"(b) Services.—A consortium described in subsection (a) shall not be eligible for a grant under this section unless such consortium agrees to use assistance provided under such grant to provide or arrange for the provision of services that shall include—

"(1) drug abuse resistance education instruction for students in kindergarten through grade 6 that is designed to teach such students to recognize and resist pressures that influence such students to use illicit drugs or alcohol, including instruction in the areas of—

"(A) drug use and misuse;

"(B) understanding the consequences;

"(C) resistance techniques;

"(D) assertive response styles;

"(E) managing stress without taking drugs;

"(F) decisionmaking and risk-taking;

"(G) media influences on drug use;

"(H) positive alternatives to drug abuse;

"(I) interpersonal and communication skills;

"(J) activities designed to build self-esteem;

"(K) resistance to peer pressure;

"(L) role modeling;

"(M) forming a support system; and

"(N) the role of police and practices for student safety;

"(2) provisions for parental involvement;

"(3) classroom instruction by uniformed law enforcement officials, coupled with activities taught by the regular classroom teacher;

"(4) the use of positive student leaders to influence younger students not to use drugs;

"(5) an emphasis on activity-oriented techniques designed to encourage student-generated responses to problem-solving situations; and

"(6) the awarding of a certificate of achievement to each student who participates in a drug abuse resistance education program.

"(c) Application.—A consortium described in subsection (a) that desires to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information and assurances as the Secretary may reasonably require. Each such application shall contain—

"(1) an assurance that the consortium concerned will provide assistance, in cash or in kind, for the services assisted under the grant in an amount equal to not less than 10 percent of the amount provided under the grant;

"(2) an assurance that funds received under the grant shall be used to supplement, not supplant, the amount of other Federal, State, and local funds expended for support of services of the type described in subsection (b).".

The CHAIRMAN pro tempore. Under the rule, the gentlewoman from Washington [Mrs. Unsoeld] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentlewoman from Washington [Mrs. Unsoeld].

Mrs. UNSOELD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to offer an amendment to the Comprehensive Crime Control Act of 1990. This amendment targets $15 million to the Drug-Free Schools and Communities Act for the program known as DARE, drug abuse resistance education.

My only regret, Mr. Speaker, is that I did not think in bigger terms and ask for more money for DARE, because this program has been proven. Law enforcement agencies throughout the United States now—and it is found in all 50 States and four other nations—rise to its defense. They tell us we have tried locking up kids, we have tried scaring them, we have tried so many things, and this program is the best that has come along to give us the opportunity to dry up the market by reducing the demand. It teaches children, fifth and sixth graders, along with a law enforcement officer in the classroom, not only why to say "no" to drugs but how.

The recent hearing that we had on this in my State, the sheriffs, the police chiefs and sergeants who are the DARE instructors, stepped forward and said it is not just what it does for our kids to strengthen their positions so that they are not going to get hooked on drugs and alcohol, but what it does in their attitude toward homework, their relationships with their parents, their relationship with their communities and with law enforcement officers. This is an excellent program. I appreciate the support that we have had.

Mr. Chairman, I rise today to offer an amendment to the Comprehensive Crime Control Act of 1990. My amendment targets $15 million of the Drug Free Schools and Communities Act to the Drug Abuse Resistance Education Program known as DARE. My only regret, Mr. Speaker, is that I didn't think bigger and ask for more money for DARE.

My amendment makes DARE a priority in our national defense strategy because DARE is proving to be one of the most effective weapons in fighting drugs and crime in our country. It gives local law enforcement agencies, schools, and parents the real ammunition to fight drugs and crime.

According to the National Office of Drug Control Policy there are 23 million drug abusers in this country. In my State of Washington, 80,000 children under 18 have a drug or alcohol abuse problem. If we are to succeed in the war on drugs, we must dry up the demand. Prevention is the key to stopping the demand and DARE is becoming the model, proactive drug prevention program.

The Education and Labor Committee recently held a hearing on the DARE Program in my district and the support for DARE among the law enforcement community was overwhelming. Every single law enforcement officer testified that DARE was the most effective program they had ever seen

Mr. Chairman, sheriffs told me that DARE is literally their last hope to stop the scourge of drugs in their communities. Sheriffs who have been in law enforcement for more than 30 years are telling me that they have tried everything and nothing seems to work. Arresting people over and over again and putting them in jails does not solve the problem. But DARE brings them renewed hope. Sheriff Scharf of Snohomish County, WA, claims that if DARE had not come along they would have failed. Chief Johnson of Battleground, WA, reports that DARE produces better results than enforcement efforts. Their first message: DARE is prevention through education—the only way to really make a difference.

Their second message: DARE builds positive partnerships between law enforcement and the community. Before DARE their communities were divided; with DARE, law enforcement officers are regaining a rapport and respect from citizens. Sergeant Kessel of Vancouver told me that DARE returns the law enforcement officer to the community as the most visible, approachable representative of our Government. Police officers claim that DARE has so improved relations within the community that it is even helping them more effectively fight crime.

Chief Johnson of Battleground revealed that if parents in his community had one wish it would be to keep their kids off drugs. And the only long-term solution is teaching kids not to want drugs. Commander Mitchell of the LAPD affirmed that DARE kids are better students, have more respect for the law, and their parents report they are better kids at home. DARE kids are taught life skills to deal with the difficult pressures they may face. The bottom line is that DARE kids feel better about themselves.

Finally, officers said that funding was the only factor holding up the expansion of DARE. Costs to replace an officer on partrol in the State of Washington can reach $60,000. Many communities want DARE but cannot afford it. The program is proven, the public is demanding it, we just need a greater Federal commitment to fund it.

When sheriffs, police chiefs, prosecutors, teachers, parents, and students all say this is a program that works, we should act. DARE has gone far beyond anyone's expectations. DARE is one of the most successful strategies for fighting drugs and crime. It is an effective way to target our antidrug funds. I urge this body to fight drugs and crime—at the same time—by supporting DARE.

Mr. Chairman. I yield such time as he may consume to the gentleman from New York [Mr. Solomon].

Mr. SOLOMON. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, I rise in support of the Unsoeld amendment to the crime bill.

As you know, this amendment would earmark a much needed $15 million for the DARE Program.

This is one Federal program that really works. Not only in helping our youth to resist the temptation of illegal drugs, but in improving study habits, grades, relations between ethnic groups, and the outlook of students toward their schools. It has also decreased truancy and vandalism.

I strongly urge you to support this amendment in behalf of this excellent program, which has already been a tremendous success in reducing drug use among our schoolchildren. One of the great success stories is in my district, where the Saratoga Springs Police Department and Officer Coppernell have an excellent program.

Mr. Chairman, I support the amendment of the gentlewoman from Washington.

Mrs. UNSOELD. I thank the gentleman from New York for his statement.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. Levine].

Mr. LEVINE of California. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, it is my pleasure to join my distinguished colleague from Washington, Jolene Unsoeld, in supporting Federal funding for this excellent program.

She has been extremely active and successful in getting the word out about DARE, and she deserves to be commended for her work.

DARE started in my district as a cooperative effort between the school district and the Los Angeles Police Department.

It nows reaches 4½ million children all over the globe.

It is the single comprehensive drug education program of its kind with proven results, and has become one of our most effective weapons in fighting the war on drugs.

I urge my colleagues to vote in favor of this amendment and to show support for such a worthy program.

The CHAIRMAN. Are there further requests for time? If not, the question is on the amendment offered by the gentlewoman from Washington [Mrs. UNSOELD].

The amendment was agreed to.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to the prior orders of the House of earlier today, recorded votes on the amendments will be taken in the following order: Amendment No. 2, offered by the gentleman from Texas [Mr. BUSTAMANTE], will be voted on first, and that will be a 15-minute vote. Then amendment No. 4, offered by the gentlewoman from Illinios [Mrs. MARTIN], will be taken, and that will be a 5-minute vote.

The Chair announces it will reduce to a minimum of 5 minutes the time for the vote on the amendment offered by the gentlewoman from Illinois [Mrs. MARTIN].

AMENDMENT NO. 2

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BUSTAMANTE] on which a recorded vote is ordered.

Members will record their votes by electronic device.

The vote was taken by electronic device, and there were—ayes 236, noes 189, not voting 8, as follows:

[Roll No. 408]

AYES—236

Andrews
Applegate
Archer
Armey
Ballenger
Barton
Bateman
Bentley
Bereuter
Bevill
Bliley
Boehlert
Bosco
Brennan
Brooks
Broomfield
Browder
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CO)
Chapman
Clarke
Clement
Clinger
Coble
Coleman (TX)
Combest
Cooper
Craig
Crane
Dannemeyer
Darden
Davis
de la Garza
DeLay
Derrick
DeWine
Dickinson
Dixon
Dorgan (ND)
Dornan (CA)
Douglas
Dreier
Dyson
Eckart
Emerson
English
Espy
Fawell
Fazio
Fields
Fish
Flippo
Ford (MI)
Frenzel
Frost
Gallegly
Gallo
Gekas
Gillmor
Gilman
Gingrich
Gonzalez
Gordon
Gradison
Grandy
Grant
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hefner
Henry
Herger
Hiler
Hoagland
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Ireland
James
Jenkins
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kolbe
Kyl
LaFalce
Lagomarsino
Lancaster
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Madigan
Markey
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCloskey
McCollum
McCurdy
McEwen
McHugh
McMillen (MD)
McNulty
Meyers
Michel
Miller (OH)
Mink
Mollohan
Montgomery
Morrison (WA)
Murtha
Myers
Natcher
Neal (NC)
Nielson
Obey
Olin
Ortiz
Oxley
Packard
Parker
Pashayan
Patterson
Payne (VA)
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Ray
Rhodes
Richardson
Roberts
Robinson
Rogers
Rose
Roth
Roukema
Saiki
Sarpalius
Saxton
Schneider
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stearns
Stenholm
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (WY)
Traxler
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walsh
Watkins
Weber
Whittaker
Whitten
Wilson
Wise
Wolpe
Wylie
Young (AK)
Young (FL)

NOES—189

Ackerman
Alexander
Anderson
Annunzio
Anthony
Aspin
Atkins
AuCoin
Barnard
Bartlett
Bates
Beilenson
Bennett
Berman
Bilbray
Bilirakis
Boggs
Bonior
Borski
Boucher
Boxer
Brown (CA)
Brown (CO)
Bruce
Bryant
Cardin
Carper
Carr
Chandler
Clay
Coleman (MO)
Collins
Condit
Conte
Conyers
Costello
Coughlin
Cox
Coyne
Crockett
DeFazio
Dellums
Dicks
Dingell
Donnelly
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Edwards (CA)
Edwards (OK)
Engel
Erdreich
Evans
Fascell
Feighan
Flake
Foglietta
Ford (TN)
Frank
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Goodling
Goss
Gray
Green
Guarini
Hall (OH)
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hertel
Hochbrueckner
Hoyer
Hughes
Inhofe
Jacobs
Johnson (CT)
Johnston
Jones (GA)
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
Lantos
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Machtley
Manton
Martinez
Matsui
Mavroules
Mazzoli
McCrery
McDade
McDermott
McGrath
McMillan (NC)
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Moody
Moorhead
Morella
Morrison (CT)
Mrazek
Murphy
Nagle
Neal (MA)
Nelson
Nowak
Oakar
Oberstar
Owens (NY)
Owens (UT)
Pallone
Panetta
Paxon
Payne (NJ)
Pease
Pelosi
Poshard
Rangel
Ravenel
Regula
Ridge
Rinaldo
Ritter
Roe
Rohrabacher
Ros-Lehtinen
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Sangmeister
Savage
Sawyer
Schaefer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Shays
Slaughter (NY)
Smith (FL)
Smith (NJ)
Solarz
Stark
Stokes
Studds
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Unsoeld
Visclosky
Walgren
Walker
Washington
Waxman
Weiss
Weldon
Wheat
Williams
Wolf
Wyden
Yates
Yatron

NOT VOTING—8

Baker
Campbell (CA)
Courter
Livingston
Molinari
Parris
Rowland (CT)
Vento

□ 1709

Mr. WHEAT, Mr. JONES of Georgia, Mrs. SCHROEDER, and Messrs. BARNARD, TRAFICANT, DYMALLY, PALLONE, GAYDOS, HOYER, CONDIT, MARTINEZ, YATRON, ROWLAND of Georgia, KOLTER, DICKS, McMILLAN of North Carolina, PAXON, GOODLING, COLEMAN of Missouri, KOSTMAYER, and GUARINI changed their vote from "aye" to "no."

Mr. NIELSON of Utah, Mrs. MINK, Mrs. LLOYD, and Messrs. RHODES, KYL, NATCHER, HENRY, HORTON, McHUGH, GILLMOR, DeLAY, WHITTEN, GILMAN, JENKINS, and FAWELL changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 4

The CHAIRMAN. The next order of business is a recorded vote on amendment No. 4 offered by the gentlewoman from Illinois [Mrs. MARTIN], on which a recorded vote is ordered.

The vote will be taken by electronic device.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 415, noes 3, not voting 15, as follows:

[Roll No. 409]

AYES—415

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)

Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Cox
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—3

Gonzalez
Hughes
Washington

NOT VOTING—15

Baker
Boehlert
Campbell (CA)
Courter
Edwards (OK)
Fawell
Hayes (LA)
Livingston
McCandless
Michel
Molinari
Parris
Porter
Rowland (CT)
Vento

□ 1720

Mr. GONZALEZ changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. McCANDLESS. Mr. Chairman, on rollcall 409, I inadvertently missed this vote due to a set of circumstances beyond my control. Had I been present I would have voted "aye."

The CHAIRMAN. It is now in order to consider amendment No. 5 offered by the gentleman from West Virginia [Mr. STAGGERS].

AMENDMENT OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. STAGGERS: Amend title II to read as follows:

TITLE II—MANDATORY LIFE IMPRISONMENT WITHOUT POSSIBILITY OF RELEASE

SEC. 201. PRESIDENTIAL ASSASSINATION AND RELATED CRIMES.

Section 1751 of title 18, United States Code, is amended—

(1) by inserting after subsection (e) the following: "(f) Whoever—

"(1) intentionally kills an individual during the course of an offense under this section, on account of that individual's duties or status as an official protected under this section; or

"(2) engages in conduct in the course of an attempted killing in violation of this section, that results in serious bodily injury (as defined in section 1365 of this title) to the President or Vice President, or the President-elect or Vice President-elect;

shall be sentenced to life imprisonment without possibility of release."; and

(2) by redesignating subsections (f) through (k) as subsections (g) through (l).

SEC. 202. INTENTIONAL KILLINGS OF CERTAIN FEDERAL OFFICIALS.

Section 351(a) of title 18, United States Code, is amended by adding at the end "Whoever intentionally kills any individual listed in this subsection on account of that individual's duties or status as an official or nominee protected under this section shall be sentenced to life imprisonment without possibility of release.".

SEC. 203. INTENTIONAL KILLINGS OF FOREIGN OFFICIALS.

Section 1116(a) of title 18, United States Code, is amended by adding at the end the following: "Whoever violates this section by intentionally killing a foreign official or an internationally protected person because of such official's or person's duties or status as a foreign official or internationally protected person, or a member of the family of such an official or person, because of that family member's relationship to the official or person, shall be sentenced to life imprisonment with possibility of release."

SEC. 204. INTENTIONAL KILLINGS OF FEDERAL JUDGES AND LAW ENFORCEMENT OFFICERS.

Section 1114 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever kills"; and

(2) by adding at the end the following:

"(b)(1) Whoever violates this section by intentionally killing a listed Federal law enforcement officer, on account of the officer's status or duties as a law enforcement officer, shall be sentenced to life imprisonment without possibility of release.

"(2) As used in this section, the term 'listed Federal law enforcement officer' means an individual who is—

"(A) a law enforcement officer (as defined in section 1515(4) of this title) in—

"(i) the Department of Justice;

"(ii) the Department of the Treasury;

"(iii) the Coast Guard; or

"(iv) the United States Postal Service; or

"(B) employed in a Federal correctional facility.

"(c) Whoever violates this section by intentionally killing a judge of the United States on account of that judge's duties or status as a judge shall be sentenced to life imprisonment without possibility of release.".

SEC. 205. INTENTIONALLY KILLING A FEDERAL WITNESS IN THE WITNESS PROTECTION PROGRAM.

Section 1512 of title 18, United States Code, is amended—

(1) by inserting after subsection (c) the following:

"(d) Whoever violates this section by intentionally killing an individual provided protection under section 3521 of this title shall be sentenced to life imprisonment without possibility of release."; and

(2) by redesignating subsections (d) through (h) as subsections (e) through (i).

SEC. 206. INTENTIONALLY KILLING THE VICTIM OF A KIDNAPPING OR HOSTAGE TAKING.

(a) IN GENERAL.—Chapter 55 of title 18, United States Code, is amended by adding at the end the following:

"§ 1204. Intentionally killing the victim

"Whoever in the course of an offense under section 1201 or 1203 of this title intentionally kills the victim of the offense shall be sentenced to life imprisonment without possibility of release.".

(c) Clerical Amendment.—The table of sections at the beginning of chapter 55 of title 18, United States Code, is amended by adding at the end the following:

"1204. Intentionally killing the victim.".

SEC. 207. CONTRACT MURDERS.

Section 1958(a) of title 18, United States Code, is amended by adding at the end the following: "Whoever violates this section by traveling in or causing another (including the intended victim) to travel in interstate or foreign commerce with intent that a murder be committed, and intentionally kills the victim shall be sentenced to life imprisonment without possibility of release.".

SEC. 208. ESPIONAGE AND TREASON.

(a) Espionage.—Section 794 of title 18, United States Code, is amended by adding at the end the following:

"(e) Any person convicted of a violation of this section shall be sentenced to life imprisonment without possibility of release if the court finds—

"(1) the defendant has previously been convicted of another offense—

"(A) involving espionage or treason; or

"(B) a Federal or State offense for which a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant compromised war plans, cryptographic information, or information concerning a major weapons system, in a way that intentionally caused serious injury to the national defense;

"(3) in the commission of the offense the defendant knowingly caused the death of another person; or

"(4) in the commission of the offense, the defendant acted in concert with 5 or more persons with respect to whom the defendant occupied a position of organizer, a supervisory position, or any other position of management.

(b) Treason.—Section 2381 of title 18, United States Code, is amended by striking "shall suffer death, or shall be imprisoned not less than five years and fined not less than $10,000" and inserting "shall be sentenced to life imprisonment without possibility of release.".

SEC. 209. TERRORISM.

Section 2331(a)(1) of title 18, United States Code, is amended by striking "be fined" and all that follows through the end of paragraph (1) and inserting "be sentenced to life imprisonment without possibility of release;".

SEC. 210. RESTITUTION.

Section 3663 of title 18, United States Code, is amended by adding at the end the following:

"(i) Notwithstanding any other provision of law, any defendant sentenced to life imprisonment without possibility of release shall be ordered to pay restitution, which shall include not less than 50 percent of any income received, directly or indirectly, during imprisonment, and which shall be paid to the family or the estate of the victim of the crime for which the defendant is sentenced, unless the victim was engaged in criminal activity at the time of the crime for which the defendant is sentenced. In the event that a defendant is sentenced for the death of more than one victim, the amounts paid to the families or the estates of the victims shall be apportioned by the court.".

The CHAIRMAN. Under the rule, the gentleman from West Virginia will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. Staggers].

Mr. STAGGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today we are faced with a clear choice concerning Federal criminal policymaking. During your legislative careers, most of you have already cast a vote on the question of capital punishment. Regardless of your past votes on this issue, I would ask that you consider my amendment for what it is—a tough, certain, and cost-effective alternative to capital punishment.

In those instances where the crime bill would call for the death penalty as an option, my amendment would provide for a mandatory life sentence without release. Moreover, it would require restitution of not less than 50 percent of the offender's earnings to be paid to the family of the victim.

Let me make it clear that this amendment would provide for mandatory life imprisonment without release—it is not simply a life sentence, which we all know allows for possible release. Society would be protected because the criminal would remain in prison and off the streets.

Be aware that the death penalty in the bill is only a sentencing option. My amendment would provide a certain and harsh penalty for those crimes made subject to the death penalty in the bill. If we believe that these crimes are the most serious and therefore deserve the most uncompromising penalty, then my amendment would provide this by mandating a life sentence without release. Moreover, under my amendment, the offender would be required to pay restitution for the remainder of life to the family of the victim, thereby requiring the criminal to pay a debt to society and the family as well. While some may say that a prison industry job will not produce much earnings, my language would also cover indirect income such as earnings from a book or movie. This financial restitution requirement would remain in place for the remainder of the offender's life in prison.

Let me be clear, I do oppose the death penalty for several reasons. First, studies show that it does not deter murder; indeed, an American sociological review study concluded that one is more likely to be murdered in a State with the death penalty than in a State without it. Those States with the highest murder rates—Georgia, South Carolina, Florida, Alabama, and Texas—all use the death penalty, while States with the lowest murder rates—Minnesota, Iowa, Wisconsin, North Dakota, and Vermont have abolished the death penalty.

Studies show that the biggest factor in deterrence is the certainty of punishment—not its severity. Many people are convicted of murder in this country, yet very few are sentenced to death and executed. For certainty of punishment, support my amendment which provides a mandatory life sentence without release.

The death penalty is imposed in an arbitrary manner. For the same crime, one person is sentenced to death while another is not. There is no consistency nor deterrence in such a system.

Until our criminal justice system can insure infallibility, the one form of punishment which makes no allowance for error should not be used. The irrevocability and finality of the death penalty makes it different from any other form of punishment. If a mistake is made, a life is lost—at the hands of the State.

A recent study identified 23 cases in which innocent defendants were executed during this century. Many of you are familiar with the case of Randall Adams—made famous by the movie, "The Thin Blue Line." In 1976, he was sentenced to death in Texas, a week before his execution, the Supreme Court ordered a stay and a year later the death sentence was overturned. Mr. Adams was released in 1989, 12 years after his trial. While his life was saved, how many others are not as lucky?

Much has been said of public support for the dealth penalty, yet several recent studies show a sharp decline in this support when respondents are presented an option which provides society the same protection by denying release from prison for the remainder of the offender's life.

A Georgetown University survey conducted in West Virginia last year revealed that while 69 percent of those polled responded they supported the death penalty, when presented with the specific alternative of life with no possibility of parole, an even larger majority, 73 percent, supported the latter.

Other polls from around the country show similar findings. Surveys conducted in California, Florida, New York, Nebraska, and Virginia all revealed a preference among the public for life without parole, plus financial restitution, over the death penalty.

All these surveys call into question previous public opinion surveys which have been interpreted as suggesting a public clamor in favor of the death penalty. When taken together, these surveys point to a desire by the public for certainty of punishment and protection from violent criminals. My amendment would accomplish this.

Another misconception to dispell is that of cost. While many believe that it is less expensive to simply put someone to death, the facts support just the opposite. It is less expensive to sentence someone to life without release than impose a penalty of death. For instance, in Florida, it is estimated that the full cost of an execution is approximately $3.2 million—six times as much as it would cost to incarcerate the person until he died of natural causes.

In Maryland, a study revealed that death sentence murder cases cost 42 percent more than non-death-sentence murder cases. The due process procedures required for a death penalty case, such as a bifurcated trial—one stage to determine guilt and another to impose sentencing, are more extensive and therefore more costly than non-death-penalty cases. Keeping these facts in mind, my amendment becomes the cost-efficient alternative.

I believe that the State sanctioned taking of a life is morally wrong. It is not consistent to advocate the death penalty and then go home and teach our children that all human life is sacred. Likewise, our Nation must consider human life sacred. If we sanction the criminal penalty of death then we are only perpetuating the cycle of violence and vengeance.

My amendment allows you an opportunity to vote for substance over rhetoric. This is a fair, balanced, and tough proposal and one which you should support.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore (Mr. Durbin). Is there a Member in opposition to the amendment?

Mr. BROOKS. Mr. Chairman, I rise opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Texas [Mr. Brooks] is recognized for 10 minutes in opposition to the amendment.

☐ 1730

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from West Virginia.

This amendment would strike the death penalty provisions of the bill reported by the full committee and substitute provisions requiring mandatory life imprisonment without possibility of release. The amendment also includes provisions requiring defendants sentenced to life without possibility of release to pay restitution to the families or estates of their victims.

I want to emphasize that I have tremendous respect for my friend from West Virginia. He is a hardworking and conscientious member of the Judiciary Committee. In addition, I know this proposal reflects his deeply held personal views on this most sensitive of public policy questions. Nevertheless, I must oppose the amendment.

Simply put, I believe there are certain crimes that are so despicable that those who commit them must pay with their lives. The committee bill reflects this philosophy and I believe it should be preserved. I, therefore, urge my colleagues to oppose this amendment.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. Edwards].

Mr. EDWARDS of California. Mr. Chairman, proponents of the death penalty argue that capital punishment means fewer murders. FBI statistics for the period 1976–1987 prove just the opposite. In the 12 States where executions have taken place, the murder rate is exactly twice the murder rate in the 13 States without the death penalty. More police officers are killed in States with the death penalty than in States without it.

There is no scientific proof to support the effectiveness of executions versus long-term imprisonment. The State of Michigan has not had a death penalty since 1846. Its homicide rate is not higher than that of Ohio, which has a death penalty.

Texas, California, and Florida lead the Nation in the number of death sentences imposed. Yet all these States have experienced significant increases in homicides from 1965 to the present.

The death penalty makes irrevocable any possible miscarriage of justice. It has been documented that at least 25 Americans who were later found innocent have been executed in this country. The death penalty has been imposed on at least 350 innocent persons in the U.S. since 1900; 50 innocent people received the death penalty since 1970. Some argue that the benefits of capital punishment outweigh the risk of erroneous execution. Yet, if just one innocent person dies, who among us can claim justice has been served?

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey [Mr. Hughes].

Mr. HUGHES. Mr. Chairman, I rise in opposition to this amendment. While I appreciate the spirit in which it is offered by my colleague, I cannot support it as I believe in the availability of the death penalty as punishment for the most heinous of crimes. This amendment would substitute mandatory life imprisonment without possibility of release for the death penalty as a sentencing option.

I fully understand the emotional nature of the death penalty issue and respect those of my colleagues who, like the author of this amendment, do not believe that we should have a death penalty in this country. However, I believe that there are certain crimes which are so egregious, so repugnant to an ordered society that the option of imposing the death penalty should be available. The Subcommittee on Crime worked on this complex issue for most of this year, and I believe that the death penalty title in H.R. 5269 will withstand both public and judicial scrutiny.

After you have voted on this amendment, you will have the opportunity to vote on my amendment which would add 12 more offenses to the list of death penalty offenses already in H.R. 5269. With the passage of my amendment, we will have covered some 25 Federal offenses which warrant this most irrevocable of sentences.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. McCollum].

Mr. McCOLLUM. Mr. Chairman, I, too, rise in opposition to the amendment of the gentleman from West Virginia [Mr. Staggers] today. I have great respect for the gentleman, as my colleagues all do. We have worked together on a lot of things.

When it comes to the death penalty, we have a fundamental disagreement. I do join with my colleagues from Texas and New Jersey in expressing my strong support for the death penalty in certain cases. I think we have egregious crimes where the death penalty is warranted. There are a number of those situations.

In my State of Florida, we have been fortunate enough to have the procedures back on the book for some time to carry out the death penalty. Our death penalty laws are in place there. I think that they are less effective, because we have the opportunity for continual appeals that occur to Federal courts to delay the carrying out of the sentence, and that, of course, lessens the deterrent effect of the death penalty, and reduces the entire magnitude of the whole issue of giving the death penalty, because we really do need to have swiftness and certainty in punishment. However, it does not make the death penalty any less valid, the fact that it has occurred. We need to have the death penalty.

I urge the defeat of the amendment by the gentleman from West Virginia. I urge Members to get on with the efforts of the other amendments in the death penalty.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from West Virginia [Mr. Wise].

Mr. WISE. Mr. Chairman, I join with my colleague, the gentleman from West Virginia [Mr. Staggers], who sponsored a tough and hardening amendment that provides for life without parole, life without mercy, that I think is probably a tougher penalty in many ways than capital punishment.

I just ask Members to look at the statistics, look at other States. Our State of West Virginia, for instance, which has not had the death penalty since 1965, for the 16 years running has had the lowest crime rate in the country, but I compare to other States that historically have had the death penalty that have it today, and they have people stacked up on death row awaiting execution, more coming. Does anyone think the death penalty made our streets any safer anywhere in the country? I submit to Members not.

I guess I am concerned because the United States also joins some other distinguished nations in the world when it comes to the death penalty: Iran, for instance, and Iraq, and some of those nations that we have all come to think so much of like South Africa. They have capital punishment. The European nations do not see much to believe in in capital punishment, and for a large part therefore have abolished. I do not like to be part of that community of nations. I do not think of Iraq and Iran exactly being creatures of civilized thought.

I have to ask whether the death penalty is doing any good on the books in the many areas for many years? Does anyone think our streets are safer? A tougher measure, I think, is what the gentleman from West Virginia [Mr. Staggers] has offered, life without mercy, life without parole, pay the victims back, and a criminal sits there forever and forever, and knows that they are not going anywhere. I appreciate the gentleman offering his amendment.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. Gekas].

Mr. GEKAS. Mr. Chairman, I thank the gentleman for yielding time to me. I rise also to oppose the Staggers amendment. The lifer in prison, as everyone knows, gets a free kill or two or three under the amendment offered by the gentleman from West Virginia. In the conditions that any prison has in the United States, there are ample opportunities today for one inmate to kill another.

This amendment, no matter what kind of restrictions or qualifications one makes for the imprisonment of a lifer, the opportunity to kill in prison presents itself time and time again. Adoption of this amendment would forego the possibilities of a death penalty, if one believes in it as I do, for the lifer who kills in prison.

Furthermore, I must state, as I stated many times before, there is documented evidence that the death penalty does act as a deterrent, and the Supreme Court of California cited several instances of that reality. Just to give Members one example where a woman named Margaret Elizabeth Daily of San Pedro, CA, assaulted Pete Gibbons with a knife. This is right out of the case, and she said, "Yes, I cut him. I should have done a better job. I would have killed him, but I didn't want to go to the gas chamber."

□ 1740

This decision carries with it 13 other examples of that kind. These are recited by the judge in that particular case.

The death penalty does act as a deterrent. The Staggers amendment prevents the imposition of the death penalty by a jury to a lifer who kills in prison.

Mr. STAGGERS. Mr. Chairman, I yield 1½ minutes to the gentleman from Connecticut [Mr. Morrison], my colleague on the committee.

Mr. MORRISON of Connecticut. Mr. Chairman, I thank the gentleman for yielding this time to me.

I rise in support of this amendment. The gentleman's amendment sentences people to death, death in prison. Individuals who are sentenced to life in prison without parole have no opportunity for a real life and they suffer severe penalty, but the society which puts them there does not act as the agent to take their lives, and that is the distinction between these two provisions, one in which the person is sentenced to death in prison and the other in which the person is sentenced to death at the hands of the State.

I want to be a Representative in a State which understands this severe punishment, but does not want to be the agent of killing.

We make a stronger statement about our respect for life and our opposition to death if we sentence these individuals to death in prison, with life imprisonment without parole and with the restitution that is involved in the gentleman's amendment, it is a stronger and a better law enforcement measure and it is a far stronger statement that this socity is opposed to killing.

Mr. STAGGERS. Mr. Chairman, I yield 30 seconds to the gentleman from Michigan [Mr. Levin].

Mr. LEVIN of Michigan. Mr. Chairman, mandatory life without parole is tough. Mandatory life without parole is far less divisive within, American society. Mandatory life without parole is less costly, avoiding the financial expense to society guaranteed in death penalty cases by the nature of that penalty.

For reasons of effective law enforcement, as well as others, I support the Staggers amendment.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. Traficant].

Mr. TRAFICANT. Mr. Chairman, you ask any prisoner on death row which he would prefer, the life sentence or the electric chair, and at that moment of the curtain call I assure you it will be overwhelming. They will take the life sentence.

I just want to let Congress know. I want to cite one case to take off on what the gentleman from Pennsylvania [Mr. Gekas] was talking about.

Charles Gacey killed 33 juvenile boys. He buried 20 underneath the crawl space of his kitchen, threw 4 out in the creek. Charles Gacey is in jail for life. If Charles Gacey kills a police officer, a security guard in jail, what are you going to do, give him another life sentence?

I say defeat this amendment. This is a great Member, and I think Members who feel this way mean well, but I think we have 23,000 murders because we have been feeling this way for too long. Let us defeat this amendment and get on with our business.

Mr. STAGGERS. Mr. Chairman, I yield myself the remaining 30 seconds.

Mr. Chairman, a former speaker mentioned that we are going to allow other people to kill, and that is clouding the issue. We are not doing that with this amendment. If that is the issue, we should be voting more money for adequate prisons so that we could separate some of these prisoners.

My amendment is mandatory. It is not an option, like the death penalty is in this bill.

My amendment says restitution to the victims of these people, so it is tough.

My amendment is fair. My amendment is balanced. My amendment is tough, and every Member of this body should vote for my amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. BRENNAN. Mr. Chairman, I rise in strong support of the Staggers amendment to provide for life imprisonment, without the possibility of parole, while also providing for restitution by the criminal to the family of the victim.

This crime bill touts the death penalty as a solution to violent crime. However, studies have shown that the death penalty does not work as a deterrent. A 1987 FBI study showed that murder rates were actually higher in States with the death penalty than those without.

Also, while capital punishment has been shown to have the support of a majority of Americans, recent polls show that Americans prefer the sentence of life imprisonment, without parole, as an alternative.

Polls conducted by the New York Times, Georgetown University, and the University of Louisville, have all shown that Americans, when given a choice, support life imprisonment, without the possibility of a parole, over the death penalty.

Finally, it is an unfortunate fact in this country, that the death penalty has been generally applied in an arbitrary and discriminatory manner, to those Americans of limited means and less than adequate counsel.

As Senator Paul Simon said recently in a similar debate, "No one receives the death

penalty who has good counsel. There are no millionaires on death row."

I urge my colleagues to vote in favor of the Stagger amendment to provide for a certain, strong penalty to those guilty of violent crimes.

Mr. WEISS. Mr. Chairman, I rise today in strong support of the amendment offered by the gentleman from West Virginia [Mr. Staggers]. In my 25 years of public service as a district attorney, city councilman, and Member of Congress from New York, I have seen firsthand the pernicious spread of crime. I, therefore, recognize the importance or rigorous law enforcement to protect our citizens.

Rather than being a solution, the death penalty diverts attention from the myriad social and economic problems which are the true causes of crime. By striking the death penalty from H.R. 5269 and substituting a tough mandatory life sentence along with financial restitution for victims' families, this amendment replaces election-year bravado with thoughtful respect for civil liberties and human life.

It seems ironic that at a time when many foreign governments have realized that the dealth penalty cannot be reconciled with regard for human rights, H.R. 5269 propels us in the opposite direction by expanding the Federal death penalty for 10 additional offenses. According to statistics assembled by Amnesty International, 35 countries have abolished the death penalty for all crimes. Another 18 have abolished the punishment for all but exceptional offenses such as wartime crimes. An additional 27 countries and territories may be considered abolitionist in practice because they no longer carry out executions. That totals 80 countries, over 40 percent of all countries in the world, that have abolished the dealth penalty in law or practice.

One of the most compelling reasons for abolishing the death penalty is the risk of executing the innocent. A 1987 study published by the Standford Law Review, concluded that at least 23 innocent people are known to have been executed this century in our country alone. The fact that human error can translate into loss of life is unconscionable.

Mr. Chairman, I firmly believe that there is no place for capital punishment in a democracy such as ours which endeavors to ensure life, liberty, and justice to every citizen. I urge my colleagues to support the Staggers amendment.

Mr. BROOKS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia [Mr. Staggers].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. STAGGERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 103, noes 322, not voting 8, as follows:

[Roll No. 410]

AYES—103

Ackerman
Anderson
AuCoin
Bates
Berman
Bonior
Brennan
Brown (CA)
Clay
Collins
Conyers
Coyne
Dellums
Dixon
Dorgan (ND)
Downey
Dwyer
Dymally
Edwards (CA)
Engel
Evans
Fazio
Feighan
Flake
Ford (MI)
Ford (TN)
Frank
Gejdenson
Gonzalez
Goodling
Gray
Hamilton
Hawkins
Hayes (IL)
Hertel
Hochbrueckner
Hoyer
Jacobs
Jontz
Kastenmeier
Kildee
Kleczka
Kostmayer
LaFalce
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lowey (NY)
Markey
Matsui
McDermott
McHugh
McNulty
Mfume
Miller (CA)
Mineta
Mink
Mollohan
Moody
Morrison (CT)
Mrazek
Nagle
Neal (MA)
Oberstar
Obey
Owens (NY)
Pelosi
Penny
Rahall
Rangel
Roybal
Sabo
Savage
Schroeder
Serrano
Sharp
Shays
Sikorski
Skaggs
Slaughter (NY)
Smith (IA)
Smith (NJ)
Solarz
Staggers
Stangeland
Stark
Stokes
Studds
Swift
Tauke
Towns
Udall
Vento
Visclosky
Washington
Waxman
Weber
Weiss
Wheat
Wise
Wolpe
Yates

NOES—322

Alexander
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Borski
Bosco
Boucher
Boxer
Brooks
Broomfield
Browder
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Conte
Cooper
Costello
Coughlin
Courter
Cox
Craig
Crane
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
Donnelly
Dornan (CA)
Douglas
Dreier
Duncan
Durbin
Dyson
Early
Eckart
Emerson
English
Erdreich
Espy
Fascell
Fawell
Fields
Fish
Flippo
Foglietta
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gordon
Goss
Gradison
Grandy
Grant
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Hoagland
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kolbe
Kolter
Kyl
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Marlenee
Martin (IL)
Martin (NY)
Martinez
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Miller (OH)
Miller (WA)
Moakley
Molinari
Montgomery
Moorhead
Morella
Morrison (WA)
Murphy
Murtha
Myers
Natcher
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Perkins
Petri
Pickett
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Price
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
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Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Russo
Saiki
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schuette
Schulze
Schumer
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Stallings
Stearns
Stenholm
Stump
Sundquist
Synar
Tallon
Tanner
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walgren
Walker
Walsh
Watkins
Weldon
Whittaker
Whitten
Williams
Wilson
Wolf
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NOT VOTING—8

Campbell (CA)
Crockett
Edwards (OK)
James
Michel
Parris
Rowland (CT)
Smith (VT)

□ 1806

Mr. BEILENSON changed his vote from "aye" to "no."

Messrs. VENTO, FEIGHAN, MFUME, and NEAL of Massachusetts changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. JAMES. Mr. Speaker, on the last vote, unfortunately I was at a location away from the House Chamber and missed that vote. Had I been here to vote on rollcall 410, the Staggers amendment to H.R. 5269, I would have voted no.

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore, Mr. Johnson of South Dakota, having assumed the chair, Mr. Bosco, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5269) to control crime, had come to no resolution thereon.

EXPLANATION OF VOTE

Mr. PORTER. Mr. Speaker, I was inadvertently absent from the House floor during the vote on the Martin of Illinois amendment today. Had I been able to be present and voting on rollcall No. 409, I would have voted "aye."

PERSONAL EXPLANATION

Mr. LIVINGSTON. Mr. Speaker, due to circumstances out of my control, I was unable to cast my vote on rollcall votes 408 and 409.

Mr. Speaker, I would have voted aye on both rollcall vote 408 and rollcall vote 409.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 660, FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-792) on the resolution (H.R. 492) providing for the consideration of the joint resolution (H.J. Res. 660) making further continuing appropriations for the fiscal year 1991, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR TRANSFER OF CERTAIN LANDS TO CALIFORNIA

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2809) to provide for the transfer of certain lands to the State of California, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. FINDING AND PURPOSE.

(a) Findings:—The Congress finds and declares that—

(1) in order to protect certain outstanding examples of ponderosa pine, sugar pine, and giant sequoia trees located in the North and South Calaveras Groves, on the western slope of the Sierra Nevada Mountains, the State of California has established the Calaveras Big Trees State Park;

(2) for similar purposes, the United States has designated certain adjacent Federal lands, amounting to approximately 379 acres, as the Calaveras Big Trees National Forest; and

(3) this National Forest (managed as part of the Stanislaus National Forest) is the smallest National Forest in the United States and could be more appropriately and efficiently managed as part of the Calaveras Big Trees State Park.

(b) Purpose.—The purpose of this Act is to improve the management of the lands located in the Calaveras Big Trees National Forest, and to protect certain examples of ponderosa pine, sugar pine, and giant sequoia trees, by unifying the management of the lands in such National Forest and in the California Calaveras Big Trees State Park.

SEC. 2. LAND CONVEYANCE.

(a) Conveyance.—Subject to valid existing rights and the provisions of this Act, the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") is authorized and directed to convey all right, title, and interest of the United States in and to lands and interests therein within the Calaveras Big Trees National Forest, as generally depicted on a map numbered 20435 and dated June 5, 1989, prepared by the California Department of Parks and Recreation, to the State of California for inclusion within the Calaveras Big Trees State Park.

(b) Map and Description.—As soon as practicable after the enactment of this Act, the Secretary shall submit a map and legal description of the lands referred to in subsection (a) to the Committee on Interior and Insular Affairs of the United States House of Representatives, and the Committee on Energy and Natural Resources of the Senate. Such map and legal description shall have the same force and effect as if included in this Act, except that any clerical or typographical errors in such map or legal description may be corrected. The Secretary shall place such map and legal description on file, and make them available for public inspection, in the Office of the Chief of the Forest Service.

(c) Conditions of Conveyance.—Conveyance of the lands and interests described in subsection (a) of this section shall be subject to the following conditions—

(1) The conveyance shall take place only if within two years after the date of enactment of this Act, there is concluded an agreement between the State of California and the Secretary whereby the State of California agrees to provide the United States, in exchange for the lands described in subsection (a) and pursuant to terms and conditions which the Secretary finds acceptable, consideration of approximately equal value. Such consideration shall include either lands in California that the Secretary finds suitable for addition to, and are contiguous to, one or more units of the National Forest System, cash payment, or monetary grants awarded to the United States after June 1, 1990, or any combination thereof:

(2) No harvest of timber (except as may be necessary for the control of fire, insects, or disease) and no mining, mineral leasing, or geothermal exploration or development shall be permitted on such lands;

(3) Any action by the State of California to convey any portion of such lands or interests to any entity other than the United States shall be void ab initio and shall result in the reversion to the United States of all right, title, and interest in such lands;

(4) Any action by the State of California to permit the use of any portion of such lands for any purpose prohibited by this subsection or any purpose incompatible with the continued ability of such lands to support ponderosa pine, sugar pine, or giant sequoia trees, shall result in the reversion of all right, title, and interest in such lands to the United States. Any such lands which revert to the United States shall be incorporated into the Stanislaus National Forest and managed to preserve and protect the stands of ponderosa pine, sugar pine, and giant sequoia trees located on such lands;

(5) The Secretary, acting through the Forest Service, shall be afforded by appropriate officials of the State of California reasonable opportunities to collect seeds from trees located on such lands for scientific or silvicultural purposes;

(6) The Secretary, upon prior notification to the State of California, shall be entitled at any time to enter upon such lands for the purpose of monitoring the management of such lands and the compliance of the State of California with the provisions of this subsection; and

(7) The conveyance shall be subject to the following reservations or exceptions:

(A) existing ditches and canals as authorized by the Act of August 30, 1890 (43 U.S.C. 945); and

(B) any existing rights-of-way to provide the United States and its assigns access to federally owned lands.

(d) Enforcement.—Upon the request of the Secretary, the Attorney General shall bring any action or take any other steps necessary to enforce the provisions of subsection (c) of this section.

(e) Timing, Value, and Status.—(1) Conveyance of lands to the State of California pursuant to this Act shall occur when the agreement described in paragraph (1) of subsection (c) has been reached. The restrictions and conditions specified in paragraphs (2), (3), (4), (5), (6), and (7) of subsection (c) shall be included in the instruments of conveyance of lands to the State of California.

(2) Effective upon the conveyance to the State of California of lands described in subsection (a) of this section, or two years after the date of enactment of this Act, whichever is sooner, the National Forest designation of such lands shall terminate. Any such lands not conveyed to the State of California shall thereupon be incorporated into the Stanislaus National Forest and managed to preserve and protect the stands of ponderosa pine, sugar pine, and giant sequoia trees located on such lands.

(3) Any lands conveyed to the United States pursuant to this Act shall be deemed national forest lands and managed according to the laws governing the management of the National Forest System. If any such lands are outside existing boundaries of one or more National Forests, the Secretary shall modify such boundaries as he deems appropriate to include such lands.

(4) Values of the respective lands exchanged between the United States and the State of California pursuant to this Act shall be of "approximately equal value" as that term is defined by regulations implementing the Act of January 12, 1983, known as the Small Tracts Act (16 U.S.C. 521c-521i).

Amend the title so as to read "An Act to provide for the conveyance of certain lands to the State of California, and for other purposes.".

The Speaker pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. LIGHTFOOT. Mr. Speaker, reserving the right to object, but I do not plan to object, I yield to the gentleman from Minnesota [Mr. Vento] to explain his request.

Mr. VENTO. Mr. Speaker, H.R. 2809 is a bill introduced by our colleague from California, Mr. Lehman, that the House passed last year. It provides for transfer to State management of some national forest lands in California that are effectively surrounded by the Calaveras Big Three State Park. Under the bill as passed by the House, that transfer would be required to be in exchange for State lands to be added to the National Forest System. The Senate amendment makes a number of minor revisions, and gives the State the option of providing money instead of or in addition to land. The Senate amendment retains the protections concerning future management of the lands that are to be added to the State park, and I believe that the amendment is acceptable. My unanimous consent request is for us to concur in the Senate amendment, and thus clear this bill for signature by the President.

□ 1810

Mr. LEHMAN of California. Mr. Speaker, will the gentleman yield?

Mr. LIGHTFOOD. Further reserving the right to object, I yield to the gentleman from California.

Mr. LEHMAN of California. Mr. Speaker, I rise in support of H.R. 2809, the Calaveras Big Tree land exchange, a bill that I introduced earlier this year, which will complete a project Congress began in 1909—the protection of Calaveras big trees.

Inspired by the conservation policies of Theodore Roosevelt and a group called the California Club, Congress enacted legislation in 1909 to authorize the Calaveras Bigtree National Forest in California. The act empowered the Secretary of Agriculture to acquire land on both sides of the North Fork of the Stanislaus River to protect majestic groves of big trees (especially giant sequoias) and to promote their reproduction. The 1909 act was was not implemented by the U.S. Government until 1953 when the Calaveras Big Tree National Forest was carved from private land in the area. The new national forest, with only 379 acres, became the smallest national forest in the Nation, and its management was delegated to the nearby Stanislaus National Forest.

In the intervening years between congressional recognition of the big trees area and its actual creation as a national forest, California State officials—worried by Federal inaction—moved at a faster pace to protect the Calaveras big trees. These Californians enlisted the help of Frederick Law Olmsted, Jr. Olmsted visited the Calaveras groves in 1928 and included them in a list of potential sites which were the foundation of the California state park system. In the 1930's and 1940's, California acquired land on both sides of the North Fork of the Stanislaus River. This land became known as the Calaveras Big Trees State Park.

Today, the 379 acres of the Calaveras Big Trees National Forest lies between the north and south groves of the 6,000 acres Calaveras Big Trees State Park. Although the State and Federal land is set aside for the protection of big trees, because of the size and location of the Federal parcel, the U.S. Forest Service can provide custodial care only—with no one assigned to actively manage the big trees on an ongoing basis. As a result, the sugar pine, ponderosa and sequoia big trees in the Calaveras National Forest are fast succumbing to an encroaching understory of white fir trees. If this situation remains unchanged, all non-fir species will eventually decline.

H.R. 2809, as amended by the Senate, directs the U.S. Forest Service to transfer the Calaveras Big Trees National Forest to the State of California for inclusion in the Calaveras Big Trees State Park and allows the State to offer land, money or a combination of both to the Forest Service in an equal value exchange for that land.

Mr. Speaker, this is a small bill which will have long lasting benefits. If you take a walk through the Calaveras Big Trees State Park, you will see the descendants of the Calaveras big trees which lived 180 million years ago. You will see the stump of a thousand year old tree which is 13 feet in diameter, standing as a reminder of man's willingness to dismantle one of the largest living things on Earth.

This bill, which the Forest Service and the State of California endorse, will further the protection of untouched stands of sugar pine, ponderosa and giant sequoia trees and will further the enjoyment of visitors to the Calaveras Big Trees State Park. I believe that we have an unique opportunity to leave this small, but important legacy to future generations. I urge my colleagues to vote in favor of passage for this bill.

Mr. LIGHTFOOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. Johnson of South Dakota). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

A motion to reconsider was laid on the table.

DESIGNATING CERTAIN COMPONENTS OF NATIONAL TRAILS SYSTEM

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1109) to amend the National Trail System Act to designate the California National Historic Trail and Pony Express National Historic Trail as components of the National Trails System, with Senate amendments thereto, an concur in the Senate amendment numbered 1, 3, and 5, and to disagre to the Senate amendments numbere 2 and 4.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Senate amendments:

Page 2, line 1, strike out " "( ) The" an insert " "(18) The".

Page 2, line 17, after "thereof" insert " *Provided*, That within the States of Uta and Wyoming, no lands or interests therei may be acquired by the United States fo the California National Historic Tra except with the consent of the owner thereof".

Page 2, line 18, strike out " "( ) The" an insert " "(19) The".

Page 3, line 8, after "thereof" insert " *Provided*, That within the States of Uta and Wyoming, no lands or interests therei may be acquired by the United States fo the California National Historic Tra except with the consent of the owner thereof".

Page 3, strike out lines 9 through 15.

Mr. VENTO (during the reading Mr. Speaker, I ask unanimous consen that the Senate amendments be considered as read and printed in th Record.

The SPEAKER pro tempore. I there objection to the request of th gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. I there objection to the initial reques of the gentleman from Minnesota?

Mr. LIGHTFOOT. Mr. Speaker, reserving the right to object, I do so t yield to the gentleman from Minnesota [Mr. Vento] for an explanation.

Mr. VENTO. Mr. Speaker, H.R. 110 amends the National Trails Syste Act to designate the California National Historic Trail and the Pony Expres National Trail as components of th National Trails System. The legislation originally passed the House o March 6, 1990. Subsequently, th Senate considered the measure o June 6, 1990 and returned the bill t the House with amendments.

The Senate amendments includ three technical and two substantiv changes to the bill. The technica changes are housekeeping in natur and I have no problem with their acceptance. The two substantiv changes, though, deal with special exemptions within the States of Uta and Wyoming from the customary authorities on the acquisition of land and interests in lands for national historic trails. These exemptions woul create a process whereby acquisition within federally administered area would occur on one basis within Uta and Wyoming and on another basi within the five other States throug which these historic trails pass. Thes exemptions are neither necessary no desirable and I would urge that th House disagree with these two Senat amendments so that the bill can be passed in a manner that conforms to our policies and practices for national historic trails.

Mr. **LIGHTFOOT**. Mr. Speaker, I thank the gentleman from Minnesota for his explanation. We on the minority side are in agreement with the gentleman's position on this and think this is the correct thing to do.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. **VENTO**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 2809 and H.R. 1109.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

PERSONAL EXPLANATION

Mr. **WELDON**. Mr. Speaker, earlier today I was absent for several votes.

Had I been present, I would have voted as follows:

On rollcall No. 403, no; rollcall No. 404, no; rollcall No. 405, yes; rollcall No. 406, yes; and rollcall No. 407, yes.

PERSONAL EXPLANATION

Mr. **PARRIS**. Mr. Speaker, I was detained at the White House in a meeting with the President and missed rollcall vote No. 408, on which I would have voted yes; rollcall vote No. 409, on which I would have voted yes; and rollcall vote No. 410, on which I would have voted, no.

EISENHOWER EXCHANGE FELLOWSHIP ACT OF 1990

Mr. **DYMALLY**. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2017) to provide a permanent endowment for the Eisenhower Exchange Fellowship Program, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from California?

Mrs. **MEYERS** of Kansas. Mr. Speaker, reserving the right to object, I yield to my friend the gentleman from California [Mr. DYMALLY] to explain the bill.

Mr. **DYMALLY**. Mr. Speaker, the purpose of my request is to bring up the Senate bill, S. 2017, to authorize an endowment for the Eisenhower Exchange Program and provide for the continuation of the au pair program, with an amendment to expand the Fascell Fellowship Program.

S. 2017 authorizes $5 million for a grant to the Eisenhower Exchange Fellowship Program in order to fund a permanent endowment for the program. The bill also would authorize up to $2.5 million over the next 4 years to match funds collected by the program from the private sector. Mr. Speaker, I believe that a funding authorization for the organization is appropriate at this time to commemorate the centennial year of President's birth.

This legislation, as passed by the Senate, refleects the amendments offered by the Committee on Foreign Affairs to the bill as introduced by Representative ROBERTS of Kansas. The Foreign Affairs Committee amended the House companion bill to fund the program from the Treasury in the same manner as the Harry S. Truman Trust Fund. The funds are invested by the Secretary of the Treasury and the interest used by the endowment. The committee's amendment also provided for: First, access to the financial records of the organization by the General Accounting Office; second, fellowships for agricultural exchange programs; and third, that at least 10 percent of the funds available under U.S. Government-sponsored fellowships be used for participants who are members of minority groups. The Senate-passed bill includes these amendments.

The bill also extends the mandate of the au pair programs beyond September 30, 1990. The provision will allow au pair programs to remain in operation until such time as the programs are authorized and implemented by another agency of the U.S. Government. Without this legislation, the Department of State can no longer issue visas for au pairs who are expected to arrive in the this country to begin their year-long exchange, and the INS must deny entry to J visa holders who are designated under the au pair program.

My amendment to the Senate bill concerns the Fascell fellowhip program under which U.S. citizens can serve in positions traditionally held by foreign national employees at U.S. missions abroad. Currently, this program has been limited to the Soviet Union and Eastern Europe. This amendment would simply enable such fellows to serve at any appropriate U.S. post abroad. Such service enhances the language abilities and area knowledge of students scholars and schools who can serve as fellows.

I urge my colleagues to support this bill and the amendment thereto.

Mr. Speaker, as I have previously stated, my amendment simply expands the authority of the State Department to extend the Fascell Fellowship Program, currently restricted to the Soviet Union and Eastern Europe, to U.S. missions around the globe. I urge colleagues to support the amendment.

The Eisenhower Exchange Program—

Establishes in the Treasury a trust fund known as the Eisenhower Exchange Fellowship Program Trust Fund.

Directs the Secretary of the Treasury to invest amounts appropriated to the fund in interest-bearing obligations of the United States. This arrangement tracks the system created for the Harry S. Truman memorial scholarships which were founded in 1975.

Authorizes the Secretary to pay the Eisenhower fellowships the amount of interest of the fund, subject to appropriation.

Provides for audits by the GAO.

Authorizes the appropriation of $5 million to the trust fund, and up to $2.5 million in funds matching those collected by the fellowship from the private sector.

Requires the fellowship to use a portion of the fund to be used for agricultural exchange programs.

Requires that at least 10 percent of the funds be available for participation by members of minority groups.

This amendment simply expands the authority of the State Department to extend Fascell fellowships, presently applicable only to the Soviet Union and Eastern Europe, to positions at U.S. missions throughout the world.

Fellowships were originally created to meet the need for low cost assistance to U.S. Embassy staffs in the U.S.S.R. caused by restrictions on the hiring of local employees.

There have been about 15 Fascell fellows over the past 2 years. Two are now receiving training before they go out to the field.

The President is authorized to place up to 100 fellows in eastern Europe and the U.S.S.R.

The fellowships have been highly successful and have received praise from participants and from U.S. Embassies.

The program enables postgraduate students, teachers, and experts with a language skills to serve for a short period on the staff of U.S. Posts carrying out duties normally fulfilled by local employees.

The fellowship is a unique opportunity for qualified young Americans to serve their country and gain valuable experience regarding the diplomatic service and international affairs.

It has provided U.S. embassies with low-cost help from skilled Americans.

Fellows are chosen by the Secretary of State after a careful selection process carried out by a bipartisan board of representatives of the State Department and U.S. Information Agency as well as qualified academic experts.

Section 8 of the bill provides that the USIA will continue to implement AU pair programs until such time as they are authorized and implemented by another agency of Government.

The committee supports the continuation of the AU pair program, but believes that another agency, other than USIA should oversee and implement the program.

Because of the strong labor component to the AU pair program and because of the potential scope of the program as it expands, the committee was sensitive to the conclusions of the GAO report that the AU pair program exceeded USIA'S authority under the Mutual Educational and Cultural Exchange Act of 1961.

The GAO further concluded that some of the activities involving work or training programs now authorized under the J visa would be more appropriate under other visa categories.

Therefore the committee felt it the best course of action to assist the AU pair program in its current operations by providing this bridging authority until the AU pair program could be transferred to another Government entity more suited to its oversight and administration.

Mr. **ROBERTS**. Mr. Speaker, will the gentlewoman yield?

Mrs. **MEYERS** of Kansas. I yield to the gentleman from Kansas.

□ 1820

Mr. **ROBERTS**. Mr. Speaker, I simply want to rise to thnk the chairman of the subcommittee for his real leadership and his efforts in improving this bill. This is a very fine Eisenhower Federal Scholarship Program. The subcommittee has done an outstanding job, and more particularly in regard to the Eisenhower centennial years, it is most appropriate that we expand and really improve this program.

I want to thank my colleague and good friend [Mrs. MEYERS] the gentlewoman from Kansas for her efforts in this regard.

Mr. Speaker, I am pleased that the House is considering S. 2017, legislation to create a permanent endowment for the Eisenhower Exchange Fellowship Program. S. 2017 is similar to a bill I introduced—H.R. 4054—into the House for consideration.

We in Kansas are understandably proud of Dwight David Eisenhower, our most famous native son. This year, the centennial year of Ike's birth, is the fitting time to recall his memory.

Kansans continue to believe in the former President's strong convictions for freedom around the world. For that reason, I am especially proud to call to your attention S. 2017, legislation to support the work of a foundation established in President's Eisenhower's name.

After working with the Eisenhower family and the Eisenhower Exchange Fellowships Inc., I joined my colleague, Senator ROBERT DOLE, in introducing this legislation into the House and Senate.

The Eisenhower Exchange Foundation, founded in 1953, was developed to promote international understanding through the exchange of information, ideas and perspectives among emerging world leaders.

Simply, S. 2017 authorizes the creation of a permanent $5 million endowment for the Eisenhower Exchange Fellowships. In addition, for the next 4 years the Federal Government would match private donations raised by the program up to $2.5 million. This endowment would be created to focus exchanges with emerging democracies in Europe.

Throughout the last 12 months, the world has witnessed unimaginable changes through the world as democratic changes have taken hold. Undeniably, the most dramatic changes occurring throughout Eastern Europe.

Just last night, thousands of Germans, from east and west, met before Berlin's Reichstag building before the Brandenburg Gate to witness the reunification of their nation. Many challenges lie ahead for the German people and they continue to face it with pride and courage. Today, the celebration continues.

I have a deep commitment in continuing to support the legacy of President Eisenhower and am well aware of the great success the Eisenhower Exchange Program has experienced in previous years. I believe ths is both a fitting tribute to the Eisenhower Exchange Fellowship and President Eisenhower. This centennial year provides us with a rare opportunity to deepen our appreciation of the hard work, intelligence and foresight of Dwight David Eisenhower. I appreciate your support.

Mr. **DYMALLY**. Mr. Speaker, will the gentlewoman yield?

Mrs. **MEYERS** of Kansas. I yield to the gentleman from California.

Mr. **DYMALLY**. Mr. Speaker, this bill is before us today because of the leadership of the gentleman from Kansas [Mr. ROBERTS]. It was because of his testimony before the committee, convincing the committee of the need for this significant piece of legislation, that the committee unanimously passed the legislation on to the full committee, and I want to commend the gentleman from Kansas for bringing it to the committee and making such a good case for this piece of legislation.

Mr. **ROBERTS**. I thank the gentleman, and all of the Eisenhower family thank him, and I thank him, and Kansas thanks him, and Abilene thanks him. The gentleman from California has a bundle of thanks.

Mrs. **MEYERS** of Kansas. Mr. Speaker, further reserving the right to object, I join the chairman of the Foreign Affairs Committee, DANTE FASCELL, and the ranking member, Mr. BROOMFIELD, in supporting the passage of S. 2017.

This bill accomplishes three worthwhile objectives—the permanent endowment of the Eisenhower Exchange Fellowship Program; the continued authorization for the Au Pair Program currently being administered by the U.S. Information Agency; and expands the existing Fascell fellowships.

The permanent endowment of the Eisenhower Exchange Fellowship Program is in honor of the birth, 100 years ago, of our great President and military leader, Dwight David Eisenhower. Through this program, the educational opportunities of young leaders in the United States and in the emerging European democracies will be expanded for the promotion of peace through international understanding.

This program will help deepen the relationships between future leaders of the United States and Europe—relationships that will carry us into the 21st century as we face common problems such as the preservation of the environment, and the expansion of freedoms and economic opportunities of those in once-Communist Europe. These are objectives that were fostered by President Eisenhower, and objectives that deserve to be supported by all of us.

With regard to the au pair provisions, S. 2017 provides a bridging authorization requiring USIA to continue implementation of this program until it is transferred to another agency of the Federal Government.

This is a successful program that works well and is widely supported. It provides a unique opportunity for young people from Europe, with limited financial means, to live in the United States as a member of an American family for 1 year. These young people provide child care for the host family during the year, and in return receive their transportation, housing, spending money, and the chance to learn about life in the United States.

While there have been disagreements as to what Federal agency should administer this program, there have never been disagreements about the quality of the program.

Mr. Speaker, S. 2017 is a worthy bill, and I urge its passage.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore (Mr. JOHNSON of South Dakota). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2017

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Eisenhower Exchange Fellowship Act of 1990".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to provide a permanent endowment for the Eisenhower Exchange Fellowship Program;

(2) to honor Dwight D. Eisenhower for his character, courage, and patriotism, and for his leadership based on moral integrity and trust;

(3) to pay tribute to President Eisenhower's leadership in war and peace, through his diverse understanding of history, practical affairs, and the hearts of humankind;

(4) to address America's need for the best possible higher education of its young talent for a competitive world which shares a common and endangered environment;

(5) to advance the network of friendship and trust already established in President Eisenhower's name, so that it may continue to grow to the imminent challenges of the 21st century;

(6) to complete Dwight David Eisenhower's crusade to liberate the people's of Europe from oppression;

(7) to deepen and expand relationships with European nations developing democracy and self-determination; and

(8) to honor President Dwight D. Eisenhower on the occasion of the centennial of his birth through permanent endowment of an established fellowship program, the Eisenhower Exchange Fellowships, to increase educational opportunities for young leaders in preparation for and enhancement of their professional careers, and advancement of peace through international understanding.

SEC. 3. EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the Eisenhower Exchange Fellowship Program Trust Fund (hereinafter in this Act referred to as the "fund"). The fund shall consist of amounts authorized to be appropriated under section 5 of this Act.

(b) INVESTMENT IN INTEREST BEARING OBLIGATION.—It shall be the duty of the Secretary of the Treasury to invest in full amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interests by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) SALE AND REDEMPTION OF OBLIGATIONS.—Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) CREDIT TO THE FUND OF INTEREST AND PROCEEDS OF SALE OR REDEMPTION.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

SEC. 4. EXPENDITURE AND AUDIT OF TRUST FUND.

(a) AUTHORIZATION OF FUNDING.—For each fiscal year, there is authorized to be appropriated from the fund to Eisenhower Exchange Fellowships, Incorporated, the interest and earnings of the fund.

(b) ACCESS TO BOOKS, RECORDS, ETC. BY GENERAL ACCOUNTING OFFICE.—The activities of Eisenhower Exchange Fellowships, Incorporated, may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by Eisenhower Exchange Fellowships, Incorporated, pertaining to such activities and necessary to facilitate the audit.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

To provide a permanent endowment for the Eisenhower Exchange Fellowships Program, there are authorized to be appropriated to the Eisenhower Exchange Fellowships Program Trust Fund—

(1) $5,000,000; and

(2) the lesser of—

(A) $2,500,000, or

(B) an amount equal to contributions to Eisenhower Exchange Fellowships, Incorporated, from private sector sources during the 4-year period beginning on the date of enactment of this Act.

SEC. 6. USE OF INCOME ON THE ENDOWMENT.

(a) REQUIREMENT FOR FUNDING OF UNITED STATES FELLOWS IN EMERGING EUROPEAN DEMOCRACIES.—For any fiscal year, not less than 50 percent of the amount made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be available only to assist United States fellows in traveling to and studying in emerging European democracies.

(b) LIMITATION ON STUDY IN UNITED STATES.—For any fiscal year, not more than 50 percent of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be available to assist foreign fellows in traveling to and studying in the United States.

(c) AGRICULTURAL EXCHANGE PROGRAM.—For any fiscal year, as may be determined by Eisenhower Exchange Fellowships, Incorporated, a portion of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be used to provide fellowships for agricultural exchange programs for farmers from the United States and foreign countries.

(d) PARTICIPATION BY UNITED STATES MINORITY POPULATIONS.—In order to ensure that the United States fellows participating in programs of the Eisenhower Exchange Fellowships, Incorporated, are representative of the cultural, ethnic, and racial diversity of the American people, of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) which are obligated and expended for United States fellowship programs, not less than 10 percent shall be available only for participation by individuals who are representative of United States minority populations.

SEC. 7. REPORT TO CONGRESS.

For any fiscal year for which Eisenhower Exchange Fellowships, Incorporated, receive funds pursuant to section 4(a) of this Act, Eisenhower Exchange Fellowships, Incorporated, shall prepare and transmit to the President and the Congress a report of its activities for such fiscal year.

SEC. 8. EXTENSION OF AU PAIR PROGRAMS.

The United States Information Agency shall continue to implement the au pair programs designated by the Director of United States Information Agency as of July 10, 1990, until such au pair programs are authorized and implemented by another agency of the United States Government.

AMENDMENT OFFERED BY MR. DYMALLY

Mr. DYMALLY. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DYMALLY: At the end of the bill insert the following new section:

SEC. 9. FASCELL FELLOWSHIP PROGRAM.

(a) SHORT TITLE.—This section may be cited as the "Fascell Fellowship Amendments Act of 1990".

(b) SERVICE OF FASCELL FELLOWS.—

(1) ESTABLISHMENT.—Section 1002(a) of the Fascell Fellowship Act (22 U.S.C. 4901(a); hereinafter in this section referred to as "the Act") is amended—

(A) by striking out "formerly" and inserting in lieu thereof "which would otherwise be"; and

(B) by striking out "in the Soviet Union or Eastern European countries" and inserting in lieu thereof "abroad".

(2) PURPOSE OF THE FELLOWSHIPS.—Section 1002(c) of the Act (22 U.S.C. 4901(c)) is amended—

(A) by striking out "in the Soviet Union or an Eastern European country" and inserting in lieu thereof "abroad"; and

(B) by striking out "Soviet or Eastern European" and inserting in lieu thereof "that country's".

(3) INDIVIDUALS WHO MAY RECEIVE A FELLOWSHIP.—Section 1002(d) of the Act (22 U.S.C. 4901(d)) is amended by striking out "Soviet or Eastern European area studies or languages" and inserting in lieu thereof "international affairs, foreign languages, or career and professional experience or interest in international affairs,".

(c) FELLOWSHIP BOARD.—

(1) MEMBERSHIP.—Section 1003(b) of the Act (22 U.S.C. 4902(b)) is amended in paragraph (4) by striking out "Soviet or Eastern European area studies or languages," and inserting in lieu thereof "international affairs or foreign languages,".

(2) TRANSITION.—The amendment made by paragraph (1) shall apply only to appointments to the Fascell Fellowship Board after the date of the enactment of this section and shall not affect the service of members of such board on the date of the enactment of this section.

(d) POSTING OF FELLOWS.—Section 1005(a) of the Act (22 U.S.C. 4904(a)) is amended by striking out "in the Soviet Union or Eastern Europe" and inserting in lieu thereof "abroad".

Mr. DYMALLY (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California [Mr. DYMALLY].

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

VACATING SPECIAL ORDER AND REQUEST FOR SPECIAL ORDER

Mr. JAMES. Mr. Speaker, I ask unanimous consent to vacate the 60-minute special order today of the gentleman from Indiana [Mr. BURTON] and that instead he be granted a 5-minute special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

THE BUSINESS CASH REPORTING COMPLIANCE ACT OF 1990

The SPEAKER pro tempore (Mr. JOHNSON of South Dakota). Under a previous order of the House, the gentleman from Texas [Mr. PICKLE] is recognized for 5 minutes.

Mr. PICKLE. Mr. Speaker, today I introduced the bill entitled "the Business Cash Reporting Compliance Act of 1990." This legislation will strengthen section 6050I, a provision in the Internal Revenue Code that requires businesses to report to the IRS all transactions that involve more than $10,000 in cash.

This requirement was enacted because Congress believed that having businesses report the spending of large amounts of cash would enable the IRS to identify taxpayers with sizable cash incomes that might otherwise be underreported.

On September 20, the Subcommittee on Oversight held a hearing in which its undercover investigators testified on the results of a 2-month investigation demonstrating the business community's predisposition to violate section 6050I. The results were astonishing and alarming.

Oversight Subcommittee investigators traveled across the country to 9 cities randomly visiting 79 different retailers. The investigators made arrangements to purchase 4.2 million dollars' worth of expensive items, including a $55,000 Persian rug, a $250,000 condominium, a $22,000 antique mirror, a $73,000 Porsche, a $15,000 Mazda Miata, and a $17,000 Rolex watch; 76 out of 79 businesses agreed to take the cash, without question, and not report the transactions to the IRS; 95 percent of the merchants were willing to take false names; and more than 25 percent suggested ways to avoid the reporting rules. The fact that any merchant would knowingly accept large sums of cash and deliberately conceal these transactions is unconscionable—but more importantly a violation of the law.

As a result of the investigation and hering, several problems were identified that need to be addressed in legislation. Section 6050I must be improved if we are to have an effective program to prevent tax evasion and money laundering.

We heard that many businesses are not reporting sales to the IRS because the transactions are structured with multiple cashier's checks or money orders in addition to cash. We need to expand the definition of cash subject to reporting to include monetary instruments, such a cashier's and money orders of less than $10,000, and close the loophole that allows these transactions to go unreported.

We heard that businesses are eager and willing to take cash without reporting the transaction. Clearly the penalty of $100 or 10 percent of the transaction is not a deterrent to nonreporting. The profit made on the sale of a luxury item almost always exceeds existing sanctions. We need to treat businesses just like banks, where the penalty for intentional violations would be $25,000 or 100 percent of the transaction.

We heard that many businesses were willing to provide a quick course on how to circumvent the law. We need to clarify section 6050I so that it is illegal for any party, including the business itself, to cause or attempt to cause a business not to file a report with the IRS.

Lastly, the Government's enforcement efforts in this area leave a lot to be desired. Section 6050I has been on the books for the last 6 years and yet, only 94,000 transactions have been reported to the IRS representing $2.7 billion in sales. Last year, the business community filed only 22,000 reports. Since the first of the year, only four transactions have been reported in the District of Columbia. Despite the low number of filing each year, the IRS has only recently begun efforts to educate the business community on their reporting responsibilities. There has never been a section 6050I examination program and only in selected cities has the IRS conducted compliance checks. The IRS could not tell the Oversight Subcommittee the extent to which civil sanctions have been imposed for any failure to file these reports. There are also serious questions about the usefulness and availability of the information filed under section 6050I. We need to legislatively mandate a study that would force the Treasury Department and its agency's to review their educational efforts, compliance programs, and examination procedures directed at businesses engaged in large cash transactions and report to the Congress their findings.

Business Cash Reporting Compliance Act of 1990 will accomplish these objectives. I urge my colleagues to support this important piece of legislation. Everyone has a role in supporting our tax system. The time has certainly come for the business community to do their share. This bill will send a clear message to unscrupulous businesses that civic duty is more important than a quick buck. A description of the measure is as follows:

DESCRIPTION OF BUSINESS CASH REPORTING COMPLIANCE ACT OF 1990

1. Penalty: The bill modifies the section 6050I civil penalty applicable for "intentional disregard" of the reporting requirements to mirror the civil penalty applicable for currency transaction reports filed under the Bank Secrecy Act. The penalty would be the greater of $25,000 or the amount of the cash received not to exceed $100,000, rather than present law of $100 or 10% of the transaction.

2. Cashier's checks/money orders: The bill would expand the term "cash" subject to reporting to include any monetary instrument as prescribed in regulations. The regulations would address the problems associated with monetary instruments such as cashiers checks and money orders, whether or not in bearer form, with a face amount of not more than $10,000. "Personal checks" would be specifically excluded.

3. "Anti-structuring" provision: The bill would clarify that it is illegal for any party, including the business itself, to cause or attempt to cause a business not to file a report with the IRS.

4. Study: The bill would mandate a Treasury Department study to examine the extent of section 6050I compliance by businesses, the effectiveness of civil penalties, methods to enhance compliance, and appropriate methods to increase the usefulness and availability of the information filed under section 6050I.

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THE AMERICAN PEOPLE HAVE ANSWERED THE CALL: THEY DO NOT WANT HIGHER TAXES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, last night the President of the United States and the majority leader of the U.S. Senate appeared on national television urging the American people to support the budget compromise, so-called compromise, that was presented to the Congress. The President and the majority leader said it was absolutely essential that the American people let their elected representatives know how they felt about the budget compromise and the tax increases that were involved in that compromise.

The tax increases totaled about $134 billion, including a 10-cents-a-gallon gasoline tax and 2 cents on oil that was going to translate into higher energy costs. It included beer, liquor, wine, cigarette taxes, and a number of other taxes. I think there were 16 or 17 in all. But, nevertheless, they went to the American people and urged them to contact their Congressmen and Senators to let them know how they felt about it.

Mr. Speaker, I have before me a list of Congressmen who received telephone calls from the American people in their offices, and I thought my colleagues might find some of this information of interest. One Congressman from Texas, the gentleman from Texas [Mr. DeLay], my good colleague, received, I believe, 300 calls against the package and 34 for, almost 10 to 1. Originally it was about 4 to 1, and it escalated as the day went on. The gentleman from California [Mr. Dornan] had calls mostly against. He said the phones were ringing off the hook in the district, and most of those were against the agreement. The gentleman from New Hampshire [Mr. Douglas] said it was 41 to 2 against. That was early in the day. The gentleman from California, and maybe I should not mention all of my colleagues' names, so I will eliminate their names now, because it might cause them some heartburn later on. One of my colleagues from California said it was 50-50 in his office. Another Congressman, it was about even. Another Congressman, it was very much against. Another Congressman, it was 80 against the package and 10 for the package, 8 to 1. A Congressman from Texas, it was 100 against and 2 for, and the two that were for it were from outside his district. A gentleman from Georgia, it was overwhelmingly against it. Another gentleman, in one of his offices, it was 50-50, and another one of his offices it was 105 against and 42 for, and a Congressman from Illinois, it was 140 against and 9 for, and one of the Congressmen who came out in favor of the package yesterday reversed himself today because in his office he received 232 against and 51 for. It was almost 5 to 1 against the package.

Mr. Speaker, what this says is that the American people have, as the President of the United States requested and as the majority leader in the Senate requested last night, they have answered the call to contact their Congressmen and Senators.

As far as I can tell, it has been overwhelmingly rejected. The American people do not want these tax increases, the largest tax increase in our history, and some say the second largest tax increase in our history.

Nevertheless, it is a very, very large tax increase but the American people realize we are on the precipice of a recession, and that a tax increase of the magnitude we are talking about would only make the recession deeper, and so I just say to my friends at the White House, for whom I have the greatest respect, and my friends in the other body for whom I have the greatest respect, and the leaders of this body for whom I have the greatest respect. You asked the American people what they thought, and the American people have answered loud and clear. They do not like this budget package. Go back to the drawing boards. They do not want higher taxes.

BUDGET SUMMIT AGREEMENT IS FAULTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DeLay] is recognized for 5 minutes.

Mr. DeLAY. Mr. Speaker, we are going through a horrendous exercise this week in trying to decide what to do about the budget, and as most of America knows, the agreement that is presented to us is a faulty one.

I wanted to point out one thing to the Members of this House, that the U.S. Chamber of Commerce has come out today in opposition to the agreement for some very poignant reasons that they outlined, and I just wanted to point out a couple of these reasons. The agreement, in their opinion, and I agree, would impose economically destructive new and higher taxes at a time when the economy is slipping into recession. It is their opinion, and I agree, that the summit agreement would cost 200,000 jobs in 1991, and reduce employment by 400,000 jobs in 1995, and lower the GNP by $70 billion by 1995 and $168 billion over the period of the agreement.

The agreement is unbalanced between spending reductions and tax increases, and the spending reductions, to the extent that they actually exist, are unbalanced in their makeup.

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If the reduced interest payments component is removed from the deficit reduction numbers, 71 percent of the deficit reduction from fiscal year 1993 is due to tax increases and deficit cuts—$2.4 billion of the fiscal year 1991 spending cuts, 20 percent of the so-called spending reductions, are really fees, taxes, and premium increases.

Now, the proponents of the agreement will say that that may be true in the first year or two, but in the outyears we will see some real spending reductions and spending cuts.

What I say to the proponents is, this House has, time and time again, made agreements that last 5 years. We have had more 5-year plans around here than Members can imagine, but not one 5-year plan lasts longer than 1 to 2 years. The Gramm-Rudman discipline, which I favor and has been very instrumental in lowering the increase in spending of this Government, has been changed every year, every year during the 5 years that we had agreed on target to the Gramm-Rudman.

Now, we are told to, "Trust me" that if we vote for this agreement we will get some good things out of it, and there are a few good things in this agreement, but it takes 5 years to do it in. Well, Members, it bothers me that we are to trust the Democrat-controlled Congress to provide the spending cuts and spending reductions in the outyears, if we will just come up with big defense cuts and raise big taxes in the first year.

That may be the case, but in the St. Louis Post-Dispatch in today's paper, front page headline says, "Gephardt Detests the Budget Proposal." It says, if we read the article to be fair, he does not like the proposal but he will work very hard to pass it, but he also says, and this proves the point, that "Gephardt blames Bush and his Republican administration for insisting on a regressive tax package." Well, the Bush administration has never been for raising taxes. They gave in to get an agreement. Ever since the agreement has been reached, the Democrats of this House and the Democrats in the Senate have tried to portray to the American people that this is the President's package, and that it is bad, but they would help him pass it, and they will help him compromise. It is not their package. It is the President's package, but they will be magnanimous in helping form the package, and then pass it.

We are asked to believe these people that went into a summit to agree on an agreement, and it is supposed to have been on a bipartisan basis, and yet they come out of it calling it the President's package, and we are going to believe these people, and write a contract for 5 years with these people that are already designing ways to get around it? We have to look at the package as a 1-year package. What are we getting out of it? Higher taxes and defense cuts, and we are getting very little spending cuts in the outyears, and very little in the first year. That is for sure.

Therefore, I urge my colleagues of the House to vote no on the agreement. Let Members go back and write a decent agreement and get this country rolling again, and try to avoid a recession.

REMARKS ON RESOLUTION TO URGE THE SENATE TO RATIFY THE STCW

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. Lowey] is recognized for 5 minutes.

Mrs. LOWEY of New York. Mr. Speaker, today I am introducing a resolution expressing the support of the House of Representatives for the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers, the STCW. The resolution calls on the Senate to expeditiously ratify the STCW to permit full U.S. participation in this vital treaty.

Earlier this year, Congress completed work on far-reaching legislation that strengthens our ability to prevent and respond to oilspills. As a member of the Subcommittee on Coast Guard and Navigation, I was proud to have the opportunity to contribute to this important legislation. One of the law's key provisions, which I inserted at the committee level, is the requirement that the Coast Guard check the driving records of mariners applying for certification in order to improve our ability to assess the fitness of oil tanker personnel.

This provision, as well as others that address the manning and certification issue, recognize the vital role that personnel standards must play in dealing with thousands of oilspills each year that wreak havoc on our coastal waters. The Coast Guard estimates that up to 80 percent of all oilspills occur as a result of human error.

We can require double hulls on oil tankers and improve ship communications equipment and vessel tracking procedures, and that certainly helps. But it still leaves us vulnerable to incompetence on the bridge of an oil tanker. The world's finest equipment cannot prevent personnel from making mistakes that lead to environmental tragedies. Training and strong certification standards can.

The new oilspill law requires the Coast Guard to revise domestic manning and certification standards for merchant mariners, and requires periodic studies to evaluate manning, training, and qualification standards of foreign tankers to ensure that they meet minimum international standards. Those standards are based on the STCW. But today we are not a full member of the STCW.

The United States and 71 other nations signed the STCW in 1978. Since then, 78 nations, representing 50 percent of the world's shipping tonnage, have ratified the treaty. The United States, which took a leading role in writing and urging passage of the treaty, has not formalized its own participation in the convention. With thousands of foreign-flagged oil tankers entering our waters every year, it is vital that the United States participate in efforts to maintain tough minimum qualifications for mariners responsible for assuring safe passage of these vessels.

New York Harbor was victimized this summer by a foreign-flagged oil tanker, manned by a multinational crew which ran the vessel aground in the Kill van Kull. I understand from the Coast Guard that the ship's foreign-certified crew made fundamental errors that point toward incompetence. New York Harbor, which has already suffered more than 1 million gallons' worth of oilspills, cannot afford these kinds of mistakes.

By not actively participating in the STCW, the United States has little choice but to take it on faith that other nations adequately train and certify their oil tanker personnel. That's not good enough for New York Harbor. That's not good enough for Long Island Sound. America must demand better. Unfortunately, the only way for our demands to have impact is for us to ratify the international treaty that sets vital personnel standards.

Full U.S. participation in the STCW would place us in a stronger position to require foreign vessels entering its territorial waters to adhere to minimum personnel standards that we help set. By not ratifying the treaty, the United States forfeits its opportunity to participate in efforts to strengthen those very international standards to better protect the marine environment.

In addition, U.S. participation in the convention would help ensure the entry of American vessels into countries which have ratified the treaty. Some countries have threatened to refuse entry to American ships on the grounds that the United States is not a party to the STCW.

Ratification of the STCW is supported by a broad coalition of groups including the Coast Guard, major oil corporations, merchant shipping associations, and maritime labor. Coast Guard regulations governing vessel crew qualifications already meet or exceed the STCW. The United States only stands to gain from participating in efforts to ensure international adherence to these standards. We don't even have a say over these issues if we don't ratify the STCW.

With America more dependent on foreign oil than ever, it is time for the Senate to act on this treaty so that we can more effectively guard our waters from the threat of poorly trained mariners guiding foreign-flagged vessels.

Ratifying the STCW would strengthen and build upon the excellent work of the Congress in developing comprehensive oilspill legislation and send a clear signal to the world that America is serious about protecting its coastal environment.

THE TRAGEDY OF PARTNERSHIP ROLLUPS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. Stark] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker I rise today to commend my colleague from Massachusetts, Mr. Markey. As chairman of the Subcommittee on Telecommunications and Finance, he held a hearing this morning on partnership roll ups. It was clear from all the testimony presented that there is serious abuse in this area. Even the most pro-roll up witnesses not only acknowledged problems, but actively called for reform.

I understand the interest in this area. Congresswoman Boxer testified that she polled her constituents about roll ups; so did I. And the responses I received ranged from sad to tragic. Let me quote from a few of the letters I have received:

> In 1981, through a financial planner (certified) my husband and I purchased $35,000 worth of shares in a Limited Partnership Damson Oil and Gas Income Fund.

In 1985, this was exchanged for 1,091 units in Damson Energy Co. L.P. and is traded over the American Stock Exchange at such a low price it is practically useless.

> In 1983 we purchased $50,000 worth of shares in H.C.W.* * * which in 1987 was transferred * * * to Parker and Parsley Development Partners and * * * Again the "shares" were exchanged for units and are not worth liquidating.
>
> My husband (who has Alzheimers now) and I put our trust in the financial planner with the hopes of increasing our income in our old age. We are now 80 and 78 years old.

And another letter:

> In soliciting a yes vote from us [for th roll up], many promises were made including liquidity of our investment plus a ver nice quarterly dividend. Since the [rolle up] partnership was formed all dividend have ceased; we have been the victims of Reverse 5-for-1 stock split and our origina $15,000 is now worth about $32,000.

Finally, an excerpt from one of th many letters I've received from individuals in the financial community. I seems that they've been cheated too:

> My primary business is finding decen products that match my clients' investmen objectives. There are a few limited partnerships trading in today's markets which qualify. After sorting through the many partnerships available, analyzing the curren holdings in them, searching out the curren market value, then educating the client, th last thing I need is to be "sucker punched by a general partner who decided to rollu the partnership and give everyone a fraction of the true value.

I have proposed a bill, H.R. 467 which would assess a hefty 50 percen excise tax on those general partner who don't give their limited partner an honest opportunity to opt out o these deals. Enactment of this bill wil take care of the problem of genera partners making huge profits whil their investors suffer losses. I urge an of my colleagues who wish to suppor this effort to cosponsor H.R. 4670.

I have introduced H.R. 4670 to penalize those who would take unfair advantage. I also strongly support th subcommittee's inquiries and am sur their activities will lead to a system much fairer to investors.

VICTIMS OF AGENT ORANGE

The SPEAKER pro tempore. Unde a previous order of the House, the gentleman from Mississippi [Mr. Montgomery] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, than goodness there are still those in the medi who are willing to take at least a cautiou view of the issue of agent orange and wh have not been swept away by emotionalism. refer to a September 30 column by Richar Harwood in the Washington Post in which h takes a refreshingly objective look at th matter.

Reason must prevail in determining whethe or not compensation should be awarded fo long-term health effects presumably associated with herbicide exposure. Over the pas decade, however, reason has been rare i media analyses of the subject.

The fact is that no reputable scientifi study—and there have been many—support a direct link or even a significant statistical association between herbicide exposure an long-term health effects experienced by Vietnam veterans.

Now that we are nearing the conclusion o a long, arduous but successful scientifi search for answers about agent orange—answers which should ease the anxieties of Vietnam veterans—perhaps it is time, as Mr. Harwood suggests, for the media to "demythologize the subject."

His excellent column follows:

[From the Washington Post, Sept. 30, 1990]

Victims of Agent Orange?

(By Richard Harwood)

The press for many years took a skeptical view of veterans and the veterans' lobby, led by the American Legion. Their demands on the public treasury were not more outrageous than those of other special interest groups, the farm lobby and the professional educators, for example. But their hawkish tendencies in foreign affairs, their "Americanism" crusades and their obsession with Communists here and abroad gave them a bad image in intellectual circles and many newsrooms.

Over the past 15 years or so, a metamorphosis has occurred. Veterans, and most especially the Vietnam cohort, are now commonly depicted in the press as "victims" of an evil or unthinking system that inflicted upon them sufferings that may never heal. Their "victimization" is seen as a collective and indiscriminate experience, affecting equally all who wore (or who now claim to have worn) a uniform during those years: the mail clerk in Saigon and the Pentagon chauffeur as well as that small minority of men who, in all modern wars, carry the burden of battle and pay its price.

Perhaps that is why little critical or analytical attention is being paid by the press these days to the prospective giveaway of untold billions of dollars in compensation to veterans for "service-connected disabilities" that may have no connection whatever with any war or term of military service. The magic words, calculated to unlock the Treasury doors, are "Agent Orange."

This is the infamous herbicide used to defoliate large areas in Vietnam. It contained minuscule amounts of dioxin, an industrial byproduct that has been described in news stories as "the deadliest chemical known to man." Its presence in a landfill on Love Canal in upstate New York inspired panic leading to the evacuation of an entire neighborhood and the permanent abandonment of scores of homes. The experience was repeated at two sites in Missouri. When Vietnam veterans or their children fell to cancer and other diseases, Agent Orange became a prime suspect.

The Baltimore Evening Sun assigned to the story its respected science writer, Jon Franklin, who had won two Pulitzer prizes for his work. As a college student he had taken part in antiwar demonstrations and in protests against Dow Chemical, a producer of both napalm and Agent Orange: "It would be, I thought, the story of my science-writing career. I gathered about me the righteous fervor that is the armor of the crusading reporter, and I went to work."

Months later, after countless interviews and thorough review of the scientific journals, he came to a dismaying conclusion: no medical evidence supported the dioxin horror stories. He came to another conclusion: "The Agent Orange story was a myth created by a group of Vietnam-era protesters, seized upon by Viet vets and disseminated by the press. That discovery and the more shaking discovery that my colleagues [in the press] didn't care much about the truth of the matter and had never bothered to look into the substance very deeply, changed my life." He took up a teaching career and is now the journalism dean at Oregon State University.

His medical conclusions about Agent Orange have been validated in many studies, most comprehensively in a $43 million research effort by the Centers for Disease Control. Nevertheless, the Department of Veterans Affairs, cheered on by the veterans' lobby, by dissident researchers and by politicians in Congress is opening the door, inch by inch, to Agent Orange claims that, theoretically, could extend to each of the 3.1 million men and women who served in Southeast Asia. Veterans Affairs Secretary Edward Derwinski recently awarded "service-connected" disability payments to a group of Vietnam veterans suffering from a rare form of cancer. The highest incidence of these tumors was among sea-going sailors who had not been exposed to the defoliant. Mr. Derwinski claimed no "scientific" basis for his action but explained it with a quip: "Remember, this is a kinder, gentler administration." President Bush approved.

A new study of several thousand workers exposed to dioxin in manufacturing plants is to be issued soon by the National Institute of Occupational Health and Safety. If it supports the CDC studies and Mr. Franklin's researches, the "media" will have an opportunity to demythologize the subject. One might even say we would have an obligation to do so. But often we are more diligent in defining the responsibilities of others than examining our own.

TECHNICAL CORRECTIONS TO CERTAIN CUSTOMS AND TARIFF LAWS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, today, I am introducing legislation to make technical corrections to certain customs and tariff laws.

This bill simply corrects several errors in the Customs and Trade Act of 1990, enacted on August 20. In particular, the bill corrects drafting errors in several miscellaneous tariff provisions, and reinstates two statutory provisions of the customs forfeiture fund that were inadvertently deleted from existing law. This correction is necessary to provide permanent budgetary authority for carrying out nondiscretionary uses of the fund and is urgently needed to ensure uninterrupted operation of the Customs-Seized Property Program.

These amendments are strictly technical and completely noncontroversial. Yet, they are essential to preserve the ability of the U.S. Customs Service to administer these provisions as intended by Congress.

THE BUDGET SUMMIT—AN UNMITIGATED DISASTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DELLUMS] is recognized for 5 minutes.

Mr. DELLUMS. Mr. Speaker, I rise this evening to share with you the position taken by the members of the Congressional Black Caucus in response to the announced provisions of the 1990 budget summit. To the American people and our colleagues in the Congress, we share with you our statement for the RECORD:

Statement of the Congressional Black Caucus

October 3, 1990. The Congressional Black Caucus today attacked the Budget Summit Agreement as an "unmitigated disaster" and assailed the process that will bring to the Congress a package to devastate programs for the elderly, minorities and the poor. Angered by elements of the proposal which benefit the wealthy while placing regressive taxes on middle and low income Americans, the Caucus raised vehement objections to "concerted" efforts to circumvent the legislative process with a five-year program which renders the Congress impotent and removes the responsibility of federal legislators from the budget process. The Caucus Members leveled a scathing attack on those who have abdicated their duties to the people of this nation by making a mockery of national fiscal policy while savaging already decimated federal programs.

The Caucus stated: "As Members of the Congress who are elected as Democrats, we deem it our responsibility to adhere to the basic and fundamental principles of that Party as legislators. This package which increases defense, cuts medicare, student loans, and federal pensions, while providing further tax relief for the rich, is not a compromise. It is a Republican package to balance the budget on the backs of the poor and middle class Americans. Acceptance of this package by Democrats in the name of compromise is a further merger of the Democratic Party into the Republican Party. We oppose the process which has been substituted for our constitutional form of government. The founders never envisioned a process of government in which a small group of men called "Summiteers", meeting in a back room would be delegated the power to circumvent the legislative process in the halls of Congress. This new process by which the "Summiteers" usurp the powers of the people and deprive their elected officials from full participation in the electoral process is unacceptable to us. An up or down vote on the "Summiteers Package" is no vote at all."

Advocates for the "Summiteer's Package" contend that as Democrats we are between a rock and a hard place. They contend that if we don't vote for the "Summiteer Package" that the alternative, Gramm-Rudman and sequestration is worse. Hence, they will vote for the compromise to eliminate more severe cuts. We answer this argument by reminding them that there is something fundamentally wrong with a Democratically-controlled House and Senate finding itself between a rock and hard place on anything. To vote for this package under the rationale that it is the lesser of two evils, is fallacious reasoning. When you consider the devastating consequences of either the Summiteer package or sequestration, the difference in the devastation is only in degree. Moreover, we voted against Gramm-Rudman, and predicted then that this hideous monster would come back to haunt Congress. It should never have been enacted and should now be repealed."

Provisions challenged by the Caucus:

(1) REGRESSIVE TAXES

It is an insult added to the injury of the last decade on the lower and middle income taxpayer to rely so heavily on excise taxes in this budget package. We are about to impose additional regressive taxes on top of

a tax code which became even more regressive during the Reagan-Bush era.

Data clearly shows that since 1980, one-fifth of the population with the lowest income has seen their effective tax rates climb, while the one-fifth with the highest income has seen their effective rates go in the opposite direction, down. This has occurred even while we have lowered and even eliminated income taxes for the poor. Lower income families pay as much as five times higher a percentage of their income for excise taxes than do upper income families. Raising excise taxes, as in this Budget Agreement, will only exacerbate the relative regressivity of the tax code upon the lower income families of America.

Excise taxes on beer, wine, tabocco and heating oil take a greater share from low and middle-income earners—Ten cents a gallon additional gasoline tax severely impacts low-income, inner city workers who are compelled to drive to work in suburban areas because there is inadequate public transportation and the rural working poor who must drive long distances where there is no public transportation at all.

Provisions to exclude private airplanes and expensive electronic equipment from the luxury tax clearly helps only the very rich and Japanese electronic imports.

(2) HIGHER EDUCATION BUDGET SLASHES

The impact on small and historically Black colleges will be devastating if the Summit Agreement is ratified.

The Bush Administration recommended, and this week a Senate panel voted to forgive $7 billion in loans for Egypt—yet the Summit Agreement insists on reducing the Guaranteed Student Loan Program by $2 billion which poses the potential closure of one-third of the historically Black universities and colleges in America.

(3) MEDICARE & MEDICAID

The Summit Agreement would destroy the "safety net" for the nation's elderly, ravaging programs which provide both health care services and medicine for aged on fixed incomes and limiting access and closing facilities. Proposals include an increase in doctor insurance deductibles of 100% over five years.

(4) THE S & L SECRET

The Budget Summit process has functionally ignored the multi-billion dollar reality of the S & L crisis yet under "Major Technical Revisions" they have casually referenced $74.2 billion dollars for the Resolution Trust Corporation.

The Congressional Black Caucus contends that passage of the Budget Summit Agreement will inflict cruel and unusual punishment on the people of this nation and Caucus Members pledge to stand firm as the "conscience" of the Congress in their opposition to its passage.

Congressional Black Caucus Analysis of the Budget Summit Agreement of September 30, 1990

RENEGING ON OUR COMMITMENT TO THE ELDERLY

The elderly and the disabled would be particularly hard hit by the terms of the budget accord. The summiteers agreed to cut over $60 billion from the Medicare program over five years. This would result in a $4.85 billion cut in the program this fiscal year. Roughly $3.1 billion would have to come from changes in reimbursement to hospitals, doctors and other providers. This could have the effect of reducing services for Medicare patients, which we have fought to improve.

In addition, Medicare recipients would directly bear the brunt of the agreement on Medicare. They would see their Medicare deductible doubled, from $75 to $150. Some 33 million elderly and handicapped persons rely on Medicare in this country. We cannot support any measure that balances the budget on the backs of senior citizens and the handicapped.

REGRESSIVE EXCISE TAXES

The agreement proposes to raise the federal gas tax from 9 cents a gallon to 14 cents December 1 of this year and to 19 cents a gallon July 1, 1991. In addition, a tax of two cents per gallon would be imposed on refined petroleum products, apparently including home heating oil. Given the situation in the Persian Gulf and the uncertainty of the oil markets, this is not an appropriate time to raise the tax on gas and other petroleum products. The price of oil has risen 50% over the past two months. With the onset of winter approaching, the Northwest and Midwest regions of our country will be hit hard by an increase in home heating oil.

Despite an outcry from consumers around the country, the budget agreement also includes increases in the federal taxes on cigarettes and alcoholic beverages. Under the agreement, the federal tax on tobacco products would rise from 16 cents a pack to 20 cents next year and to 24 cents in 1993. The tax on a six-pack of beer would increase from 16 cents to 32 cents. The tax on a bottle of table wine would go up to 25 cents from 3 cents. The tax on distilled spirits would rise from $12.50 per proof gallon to $14.

We oppose increasing these taxes, because they are "regressive" in nature. That is, they disproportionately affect those in the lower income brackets because they are levied without regard to ability to pay. According to the Congressional Budget Office, the poorest 20 percent of the American families spent 6.9 percent of after-tax income on gasoline, 3.7 percent on alcohol and 4 percent on tobacco, while people with income averaging $38,000 spent 2.9 percent on gasoline, 2.2 percent on alcohol and 1.1 percent on tobacco. This means that the tax increases will hit harder on the poor since they spend a larger portion of their income on the goods affected by the tax increases.

MUGGING THE UNEMPLOYED

The unemployed would hear the wolf at the door a lot sooner, if a provision is enacted prohibiting States from paying employment benefits for the first two weeks of job separation. In 41 states, the waiting period is only one week. Extending the waiting period for unemployment benefits is perhaps the ultimate indignity heaped on the poor and disadvantaged by this ill conceived and unfair budget reduction agreement. The thought of attempting to reap $4.6 billion rom those who have lost their jobs is totally unconscionable.

PENALIZING FEDERAL WORKERS

Although they have been rescued from the certain furlough that would have accompanied sequestration, federal employees will still shoulder some of the burden of deficit reduction. The budget agreement contains a provision repealing the popular lump sum option for Civil Service retirees, effective November 1, 1990. The lump sum option is a widely used and popular alternative to the traditional annuity for federal retirees, enabling them to withdraw their own contributions to their annuity fund over a two-year period. We would like to see this option continue to be available to federal retirees.

SHORTCHANGING VETERANS

The agreement would require that $3.4 billion in savings over five years be found in the housing loan guarantee program administered by the Department of Veterans' Affairs. The summiteers proposed that this be accomplished by increasing the borrower's initial fees, reducing eligibility for the program by imposing a 10 year limit on the amount of time veterans are eligible for the program, and imposing new criteria for deciding when the agency will absorb the full cost of default.

As we understand it, the change in eligibility could potentially eliminate veterans from World War II, Korea, and Vietnam from obtaining a V.A. housing loan. This is particularly troublesome in light of the sacrifices we are currently asking military families to make at this time.

SUFFOCATING DOMESTIC PRIORITIES

We are very concerned about the agreement on domestic discretionary spending, which would be limited to spending at the baseline level for each year during the FY 1991 through FY 1993 period. This would result in a level just sufficient to keep pace with inflation. At the time the agreement was announced, the House of Representatives had already passed 10 appropriations bills this year. This capping provision flies in the face of priorities already established in these bills.

We are particularly troubled about the ramifications for education programs for the disadvantaged, which the Appropriations Committee regarded as high priorities items in the Labor/HHS/Education bill for FY 1991. Shortly after the House approved the Committee's recommended increases for these programs, the summiteers are suggesting that we cut $2 billion from the Guaranteed Student Loan program. The cuts, as proposed by the agreement, would result in fewer students from low and middle-income families being able to pursue higher education.

DEFENSE REPRIORITIZED

The summit participants protected defense spending. They agreed to spend $289.1 billion for defense in FY 1991. This is $6.3 billion more than the levels provided for in the recent House-passed defense authorization bill and about $200 million more than the Senate version of the bill. By repriortizing defense, a small group of men working out of the light of public scrutiny have overturned the work of the entire Congress.

TARGETING ENTITLEMENTS

We are concerned about changes made to the so-called Gramm-Rudman-Hollings Act which seeks to reduce the deficit by imposing across the board spending cuts, or "sequestration" on federal programs. Under current law, entitlement programs are exempt from these across-the-board cuts. The summit agreement calls for any future increase in entitlement or other mandatory spending or decreases in revenues to be on a "pay-as-you-go" basis. Any spending increases or revenue decreases must be offset to avoid increasing the deficit.

For entitlements and other mandatory spending programs, this requirement would be enforced by automatic sequestration within the entitlement category, which would be triggered by enactment of legislation increasing spending without an appropriate offset. This will result in entitlement programs being pitted against each other and for the first time, at risk for sequestration.

THE RICH ESCAPE

Ironically, the rich escaped unscathed. Those with incomes above $200,000 would only see their taxes increased by $0.3%, while those with incomes between $20,000 and $50,000 will have their taxes increased by 3.0% to 3.3%. In addition, the higher income earners will also see tax breaks from investments in small companies, and research and development. The accord puts too much emphasis on regressive excise taxes increases rather than on progressive measures to reduce the deficit. Those with the highest incomes are not being asked to share the burden of deficit reduction.

BACK TO THE DRAWING BOARD

There is no question that the nation sorely needs a deficit reducion package. The federal deficit was estimated to total over $275 billion at the end of of Fiscal Year 1990. It is one of the most serious issues confronting our nation. A large federal budget deficit raises interest rates and absorbs private savings that would otherwise be available for private investment. Over the long term, this will result in slower economic growth. The federal deficit, combined with a low domestic savings rate, has also contributed to heavy government borrowing from foreign countries and, in turn, to the large U.S. trade deficit. If left unchecked this will result in Americans having to make large repayments to foreigners in the future.

However, the solution to our deficit problem must be a fair one. We cannot ask those who can least afford it to pay for the majority of the reduction effort. We must ask those who have done so well for the past ten years under the Reagan and Bush Administrations to pay their fair share of the cost. The budget accord presented to us does not do this and we will not support it.

THOUGHTS ON SADDAM HUSSEIN

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. **DORNAN** of California. Mr. Speaker, the budgetary problem that we have inflicted upon ourselves in this Chamber, and that dominate the domestic news, all of this amounts to a hard, burning problem for the President of the United States, but it does not even approach in intensity the part of his problem that will wear on him, and it is his primary responsibility, and that is safety and protection and security of American citizens wherever they may be in the world.

The opening stories on some of the evening news shows are more frightening than ever in their portent for what kind of a human being the world is up against with Saddam Hussein of Iraq. He visited today, the 3rd of October, a day that should be recorded in the history books as the final chapter in World War II the split Germanies came back together again as one nation, a much deserved 45-year punishment for the bloodshed and havoc that the German Third Reich government wreaked upon the world. But the images tonight from Kuwait City of Saddam Hussein, the conqueror visiting it for the first time and traveling around the deserted streets of an actual ghost town, this large thriving city that I have visited twice and marveled at how a modern city has risen up out of the desert coastal sands along the Persian Gulf, or what the Arab nations call the Arabian Gulf. As with Ho Chi Minh City, once Saigon and probably will be again someday, as with all of the cities throughout history that dictators renamed, generally with blood, that have regained their original historical titles, I hope that the name of the Katouma, and I cannot even help our reporters because I do not know how to spell it. I heard it phonetically over the television news. Katouma is the new name given to Kuwait City by Saddam Hussein. The images of him driving around the city recall instantly to me Adolf Hitler's only trip out of Germany during his conquests, other than his trip to the Wolf's Lair command bunker on the Eastern Front, his only trip out of the old boundaries of Germany was to go to Paris, France in June, late June, after the French capitulation, what Churchill called the Battle of France, lost. Hitler took a big open Mercedes phaeton car ride, big four-door, six-wheel Mercedes, and saw the Eiffel Tower and all the highlights, Notre Dame Cathedral, and went back up around the top of the area, the area called the Trocadero, blocked out to a modern area that was just completed in the 1930's. On one side is the museum dedicated to the history of mankind or mankind humanité nusée, he walked out to the edge of the Trocadero. I have taken several Members and stood them on the exact spot and said that I would show them in my office someday showing them a film clip of Hitler standing on this spot and gesturing and looking at the Eiffel Tower, and surveying his conquest.

Here is Saddam Hussein, going beyond Adolf Hitler's arrogance, hubris, hutzpah. Here he is getting in foxholes today, along the beach of Kuwait City, and showing individual soldiers how to use their machinegun in the foxhole. He is swaggering around in his camouflage or his fatigues, with a gun on his hip, and beret jauntily on the side of his head. One soldier comes up to him and kisses first one hand, then the other. I have never seen this before, and then he kissed him on the front of his shoulder, and then kissed the other shoulder in the front. Saddam Hussein is taking it all in. Then there is a break in the camera. We see them with modern video cameras on all three sides of them, in addition to the one that is filming. Then one camera catches this moment where there is a break in soldiers that are not approaching Saddam Hussein. It is amazing they released this tape. Maybe they were showing it live over Baghdad TV on a satellite feed from Katouma, Kuwait City. He goes like this [indicating] to one of the soldiers, "Get over here." Yes, master. Here comes this supplicant soldier that is digging up the public beach of Kuwait City. This man is so arrogant that I did not know I would open up with this sad relating of his conduct today, like a two-bit Adolf Hitler in the conquered Province 19, as the Iraqi conquering government has renamed the nation of Kuwait.

When I was going to start talking about was the visit of the Kuwaiti Ambassador to the United Sates of America, leading nation in the free world. He came by to thank me for a compliment that I sincerely paid him in front of his head of state, Sheikh Sabah, the Emir of Kuwait, who is in exile now, in Tiev, on the western side of Saudi Arabia.

☐ 1850

He was in the United States this last week up at the United Nations where he received a sincere ovation, because it was a slow and then a spontaneous standing ovation. He met with some of us in the Speaker's dining room downstairs, about 10 of us.

I said:

> Sheik Sabah, you can truly be proud of your Ambassador. No country has had a more forceful and articulate spokesman.

And realizing I was laying on a little heavy, but I meant every word of it, I said, "Well, Mr. Ambassador, that secures your job for about a year." Everybody laughed, but it was a good-natured laugh with the Ambassador, not against him. I thought he was coming over to tell me I had broken some Islamic code complimenting him in front of his superior, but he thanked me and said that if there was anything he could do to help me get the word out that his country was literally being destroyed. I said:

> Can you come with me over to a meeting in Congressman CRANE's office of what we call the Acorn Group?

Supposedly out of little acorns of ideas, big oak-like ideas will grow, and I had him repeat, because none of these 10 Members tonight had been in the Speaker's dining room last week, I had him repeat the following, and I still do not see enough of this on American television.

By the way, he makes the point that the Iraqis are twisting and turning our TV by manipulating the demonstrations in the streets of Cairo and Amman and the crying children in Iraq. He maintains that the Kuwaitis will be starved to the last person, and all the hundreds of thousands of Yemenese and citizens of India who are

trying to get home because he has turned that country economically upside-down, torn it apart. These people will all starve before any Iraqi baby is going to go for want of food or formula.

He said that all of that is manipulated in our media, but here is truly what has happened. Some of this has been reported in the media, but I do not think enough.

He said first they stripped every school in Kuwait. By the way, the Ambassador had his fine handsome teenage son with him. He said that they stripped every school, starting with the high schools, working their way up to the universities, every blackboard, every desk, every school book, the chalk, and then the boards. everything that was not nailed down, and then everything that was nailed down and then some of the lighting fixtures and the toilet facilities.

Then they went to the hospitals. He told me that his daughter, this is the Iraqi Ambassador, his daughter and his wife were an eyewitness to this because they were visiting some of the wounded soldiers from the initial attack on August 2 who had made it back to the hospital before it was overrun within the next day. He said they came into the hospitals and took little tiny preemie babies, babies that have not been in existence for 9 months, you know, fetuses that were delivered at 6 and 7 and 8, 9 months, took these premature babies, human beings, took them out of the incubators and just threw them on the beds and they died within an hour or so. They took all the incubators up to Baghdad, all the dialysis machines, every single piece of surgery equipment, the lights, the fixtures, and stripped the hospitals. Then they went back to the universities for more there.

And I said,

> Is it true they are taking the fixtures and all that is going to be left is a ghost town, like some failed California real estate development, streets and basic plumbing?

And the Ambassador's son said,

> Oh, they are taking some of the streets, too. They will rip up the streets and take the asphalt back and reprocess it.

They are literally turning this country into a wasteland, and he had not finished telling this to 10 Congressmen in the office of my colleague, PHIL CRANE, and I am turning on the evening news with the sight, color, and sound. I am watching him drive like Adolf Hitler through the streets of Katouma. It was formerly Kuwait City, and as the narrator said, or Peter Jennings, not a single Kuwaiti citizen could be seen on the streets.

You know what chilling images this brings back? Phnom Penh, one of the most beautiful cities that I ever visited in Southeast Asia, I had been there first in 1966, back three times during the war, a lovely city that reminded me of the vacation cities in the Southwestern United States with manicured lawns, nice open homes.

Phnom Penh was turned into a ghost town by the Communist Khmer Rouge. There were no cameras there until years later, so the world did not notice.

Here is a man, Saddam Hussein, going one better on the Khmer Rouge. He is letting the world see him strut around, gun on hip, on this conquered city. Back to 50 years ago, June of 1940, Adolf Hitler.

Now, what do we do with this man who holds so many hostages?

Let me tell you a story of something that happened to me during the Vietnam war. I was talking in I think it was 1970 about the plight of our POW's. My best friend in the Air Force, Dave Herdlecker, I am wearing his bracelet today. He had been a prisoner already for 5 years in Laos from the date on the bracelet, May 18, 1965. This was in 1970. I am giving a speech in Pasadena and a young student walks up to me and says,

> Do you think it's possible that the North Vietnamese would stake our POW's out in villages so that we would not bomb any longer, just put them spread-eagled out in the middle of the center of town?

I looked around to see if anybody had heard, said goodbye to my guest, asked him to step into the side of this auditorium, and I said,

> Let me tell you something. The radical left in this country is sending ideas and biographies to Hanoi to be used against our prisoners. They manipulate through Cora Wise their mail.

The man who has been released, who escaped actually, Nick Roe 2 years ago, Nick was the colonel killed in the Philippines last year, a prototype real Green Beret, speaks several languages. Nick had escaped after 5 years, 1963. We did not even know we had a prisoner from 1963. From 1963 to 1968. When he came out, he had run under the cover that he was an engineer, not a Green Beret, a West Point graduate, and some of the radical left in this country had finally gotten the information through Hanoi down the Ho Chi Minh Trail into the jungle cells down in the southern area down in Vietnam that he was a West Pointer and they were going to execute him, and he made his fourth escape attempt the night before his execution, and made good. I said:

> Please don't speak about this idea. Don't ever bring it up publicly. Purge it out of your mind, because someone who has evil intent will pick up that idea and tell Hanoi and they will do it.

Well, to make a long story short, guess who finally came up with that idea in 1971? A U.S. Congressman from California, long gone, so I will not besmirch his reputation with this ugly thing he did, but he suggested openly that the North Vietnamese should stake our POW's. This guy was a high-ranking marine. His fellow marines were there, stake them out in the middle of villages and that would hold us off from bombing.

Amazingly, even though Jack Kemp, who was then a freshman in 1971, had to come to this well in the name of the League of American Prisoners and Missing in Southeast Asia, and denounce this Congressman's words, Hanoi never picked it up. They never put POW's on boats to go out past the blockade after May 1972 to bring in the equipment and supplies from all those Third World ships that were bringing supplies in to Haiphong in defiance of our blockade. They never did that, the Hanoi conquerers of Ho Chi Minh City, Saigon; but guess what. Saddam Hussein did not need help from anywhere in the world to give him ideas on how to manipulate hostages.

Here is the new ones that I read last night. He is going to put hostages on any airliners, including the ones he stole from Kuwait, some DC-10's and 747's. He is going to start a Berlin airlift type of operation, probably from Libya, where people cheat on the blockade and feed it into Libya. I hope we do not let him get away with it. Then these planes will fly from Libya to Baghdad, shuffling back and forth. He needs about 224 tons of food per day, it is doable, to survive this blockade up until May when the hadj, the pilgrimage to Mecca puts so much unbelievable pressure on the Islamic world that nobody wants to think about it, including the Kuwait Ambassador. It will all be resolved by then, the Amir of Kuwait says. Nobody want to think about this thing dragging on until May of next year and the hadj.

☐ 1900

So I look at this, and I say how could he make this Berlin airlift-type arrangement work? He is going to put hostages on the airplanes, and he is not above doing it. Not that we shoot airplanes out of the sky anyway. But my suggestion the other day on television was that we take out any airplanes either at Baghdad airport or wherever they land, military airport, or at the receiving end if they are cheating in the middle of the night with a remote-piloted vehicle or undercover teams and just blow the landing gear off of these people, just put a little sapper charge of gelignite, just blow the gear off or blow one tip of a wing off and they are grounded for months. No, he will have hostages chained inside the airplanes or whatever he is using as he has hostages spread all around the chemical plants.

This is George Bush's toughest problem. He is trying not to let it drive his policy. I hope that he succeeds in that. He should not. But don't think that he is not losing sleep over hundreds, hundreds of Americans, including many missing in action. And even more British and, as I said before, Yemenis, citizens of India, from all over the area, people that come to work in the oil fields.

Now, what is it like to be a hostage? Let us come to Beirut, which I spoke about yesterday, where we still have Terry Anderson from March 16, 1985; Tom Sutherland from June 9, 1985. What is life like for these people now into their 6th year? Here is what it was like for Brian Keenan, an Irish schoolteacher whom God has given the capability to express his thoughts of pain beautifully. Here is Friday, August 31—the Times of London, the mother of all the Times newspapers around the world, including the great Los Angeles Times— here is the front-page center headline: "Hostage is crucifying aloneness. There is a silent screaming slide into the bowels of ultimate despair. Hostage is a man hanging by his fingernails." Then it says, "Keenan recalls the horror of his captivity."

Let me just read the opening paragraph, August 31, 1990, 29 days after Saddam picked up more hostages than anybody since Hitler or Stalin in the Second World War.

> The voice was of someone who had been chained up in a pit and the key thrown away. Under the great gilded pilasters of the Great Hall of Dublin Castle, Brian Keenan yesterday faced reporters, who could never know what it was like to be confined to darkness for weeks on end. His voice creaked and sometimes came to a stop before being driven on again.

Keenan was haggard and still as pale as ivory after his release earlier this week from his 4½-year ordeal in Lebanon. Eight people had been there as long as he had; 8, not 80 or 800 or 800,000 hostages of varying types of imprisonment in Iraq. He wanted to tell his story to the world while his heart was full. Now, what does it mean to be a hostage? Listen to this paragraph from a man gifted in language, an English teacher:

> Hostage is crucifying aloneness. There is a silent screaming slide into the bowels of despair. Hostage is a man hanging on by his fingernails over the edge of chaos and feeling his fingers are slowly straightening. Hostage is the humiliating stripping away of every sense and every fiber of body and mind and spirit that make what you are.

This is what Saddam Hussein is doing at this moment to hundreds of our fellow Americans.

> Hostage is a mutant creation full of self-loathing, guilt and death-wishing. But he is a man, a rare, unique and beautiful creation of which these things are no part.

He then appeals to the press:

> Please exercise restraint in reporting the hostage story.

Now, get the dilemma here: He is beautifully creating in language the pain of the hostage and then he tells the press that he is creating these great images and for us to use restraint in reporting. All of us, he says, are but teeth on a comb and if one of us is snapped off in a sudden rage, it cannot be put back. He says, this 33-year-old man, that experience taught him that the creative impulse in the human spirit was ultimately stronger than any destructive force.

He spoke with the feeling of his friend whom he called his soulmate, John McCarthy, a 33-year-old British journalist of Irish descent whose friend Jewell Morrell—I guess the British mean girlfriend when they say that—was on the platform along with Mr. Keenan's friends and many of his relations.

Here are his words:

> My soulmate and cellmate, John-boy, I called him, how can I put across his abundant love of life which so many times seemed to menace almost to extinction those grinding moments of hopelessness we all face.

Just one or two more words, and then, Mr. Speaker, I would like to ask unanimous consent at this point in my remarks to put in the RECORD this excellent article, as good as anything, maybe better because they are closer to the scene of the crime than anything I have seen in American stories.

He tells how he lived through all the days of darkness. Here is John McCarthy's beautiful, young, intelligent looking friend, Jewell Morrell, sitting there listening to these anecdotes. He says about McCarthy, "We gave and lived inside one another." Here is a line from Terry Anderson that comes out from this 5½-year hell, comes out from Terry to us through the mind and words of Brian Keenan, "In times of despair I seek solace in my family." A child that he has never even seen.

Listen to this. Keenan recited the first lines of a ditty that he had composed about John-boy McCarthy and his ability to mimic for which "John would give me a crack on the head," he would say.

John is a journalist, he would say.

> He is quite out of his head. He thinks he is Peter Sellars, but we all know he is dead. He can do a Hindu, an Aussie, he can do a Chinaman, a Jew; anyone you want, John can do and he does them and he does them and he does them.

That is the kind of gallows humor that other prisoners who have come out have said kept Terry Anderson's sanity, and Tom Sutherland's.

The problem with Iraq is I have been trying to track as assiduously as I could because of my Vietnam experience with so many of my friends while I am a peacetime reservist begging to join them, they are all being shot down over North Vietnam. So I tried not to break faith with them. That is how the idea of the bracelet came up to me. To make me feel closer to my friends. Go over there as a journalist, get as close as I could, volunteer as a combat photographer to go on missions with them. My wife, to this day, said I had a wish, not a death wish but a wish to get shot down and join them in Hanoi so I could chronicle them there, the events there and afterwards bring them a little humor and after my squadron commander, Robbie Reisner, had gone any longer than any prisoner in World War II, 3 years and 8 months, and had gone into his fourth year and fifth year and sixth year and seventh year. I am desperate, living the good life, hosting a television show and trying not to forget my friends rotting in Hanoi, and now these Beirut hostages who have gone a year and a half longer, 2 years longer than any prisoner in World War II. Our oldest prisoners were marines, pilots, officers, construction workers, aircraft mechanics; three of them beheaded on the prison ship on the way to Yokahama, captured at Wake Island on the eve of Christmas, 1941. Those were our longest held prisoners. Almost all the Beirut prisoners at the end of this year will have served an equal amount or, in the case of Anderson and Sutherland, 2 years longer. That is Beirut, folks. What are we going to do with Iraq? I said on television the other night I want only the blockade, I want it to be as leakproof as is humanly possible. Who would have dreamed a year ago that a situation would come up like this with a madman like the ayatollah, not with an embassy, not with an embassy violating diplomatic standards of decency through centuries of recorded history with 80, 90-some people and then releasing the women and then releasing an older sick man and getting down to the hardcore 52 that they kept for 444 days; not that but thousands of Americans, thousands of Brits and a couple hundred French and Germans, violating embassies, swallowing a country whole, President Bush's expression, and having, I repeat, almost a million Yemenis. Not imprisoned but taken out to chemical and biological warfare plants and airbases and every other sick thing this man has developed, but just let them go forage at the border and truly begin to starve to death.

What was the figure again for India? Four hundred thousand to 500,000 Indians, with no checks going home to India. Imagine 500,000 Indians if they could get home, get home and tell the Government, well, not only do you not get our checks from the oil fields of Iraq but we are here at the mercy of the State now.

So here is another little debt burden for you.

Oil has gone up to over $40 a barrel, and most economists—and that is what is going to give us a fit here tomorrow. I understand the budgetary

vote is going to be put off until Friday. What is giving us fits here now that will kick us into a recession because we slowed down to an even keel in the economy and now we may be pushed into a recession because of this pompus, swaggering dictator walking about Kuwait City today with his men kissing his hand, the fronts of his shoulders, and him telling them, "Come here, give me the handshake and the kiss while I perform for the cameras."

No, this is George Bush's major problem, what do we do in the beginning of the last decade of the world's bloodiest century ever, what to do about a dictator?

□ 1910

Mr. Speaker, it is one thing, and an important thing, to say, "Let's pray for peace." It is another thing to say, as I have heard people say in both Cloakrooms, and I am not putting them down; I understand it, "Take this guy out. We ought to rewrite our rules on assassination. We ought to go in with an Air Force surgical strike."

Mr. Speaker, that cost a four-star Chief of Staff his job, speculating about those types of plans.

No, no; it is George Bush that will have to watch the film of coffins coming home to Dover Air Force Base, if they die by the dozens, but, when they start dying by the thousands or dying from poison gas, sarin gas, nerve gas, and biological warfare that they could throw out near our ships in the gulf, and biological warfare sucked into the air conditioning system of our ships—would this guy consider doing that, a man who said just last year that he would incinerate half of Israel, men, women, and children?

Mr. Speaker, he would do anything. There is nothing beyond this guy.

But George Bush is the one that has to make the decision, and I am afraid that there is no decision that he can make for military action until this man takes his first move, something very provocative.

The Ambassador said that Saddam is very clever, that although his intelligence may not equal ours, he has good intelligence. He has got more human intelligence in the field than we do, as a matter of fact, in the streets, spies; and the Middle East is as old in spying as anywhere in the world, and he will be able to find out, the Ambassador from Kuwait said, when we are ready to make a move, when we feel we are secure in our buildup there, and he thinks that, if he thought we were going to strike, that there was a slight standdown of our aircraft to be refueled, armed, suddenly there is no gunnery practice out there in the desert. Everything is quiet. He thinks that, if that point is reached, Saddam will then leave Kuwait, having raked it down to the sand and that then, well, he will be giving up the 10 percent of the world's oil that he has added to his 10 percent of the world's oil reserves, but he will have stolen the $1½ billion, stripped the country down to the silverware, because he is nothing but the petty thief of Baghdad.

And then what do we do? Then will we have German businessmen and French businessmen cheating again, not only on a blockade that I think should stay in effect until we get some sort of reparations out of this man, but then will he get help again in building up his biological warfare capability, his nerve gas capability, his mustard gas capability that my father got two Purple Hearts for in 1918, that British soldiers first suffered at the Somme Battle of May 1916, of something new in this century, 16 years into this century, poison gas?

Mr. Speaker, I kind of think that the British Government took the right approach the other day. They said, "You use poison gas; don't be too sure we won't use nuclear power back."

I mean what is so horrendous and unthinkable about nuclear power? It is a sheer explosive power? No, because we killed more people in Tokyo under Gen. Curtis LeMay, who just died yesterday, under his 20th Bomb Command, 20th Air Force Command. We killed more people in Tokyo with incendiary, with explosions and fires. We killed three times as many in a 3-night period in March 1945 than we killed in Hiroshima on August 6.

Now what makes nuclear warface unthinkable is the radiation sickness. This is what moved it into an area that the world abhors and has now passed rules and controls on to keep it contained. Radiation sickness, giving people cancer, people who will die 10 years later, 20 years later, 30 years later.

Well, what is poison gas, what is biological warfare, but an unseen, ghastly type of killing device, most similar to radiation sickness or radiation poisoning of any of the weapons of war?

So, he should maybe be put on notice. I am glad we did not do it, but I am glad the British did do it. We should say we consider this as abhorrent, as ugly and as equal a war crime, using poison gas, as it would be if we responded with neutron bombs.

Now what is going to happen in the Middle East? I do not know. I do not think anybody knows. I do not think anybody in the National Security Council or in all these think tanks that spend hours and hours into the wee hours of every night trying to think this thing through; I do not think anybody knows.

The sad thing is, as with most dictators, is what goes on in the gray matter, in the brain, of Saddam Hussein. That may be in the end what determines what we do and what resolution we come to in that area.

The Ambassador asked 10 bright, conservative Republican Congressmen, "Have you got any ideas? Can you help me?"

None of us came up with anything. The one little shread that I could offer him was a word, a word that is a beautiful word in any language. It is "rescue."

Mr. Speaker I watched a show on television last night, "911" where two young boys are hit by lighting, and the sister calls the mother, and they call 911, and they reenact this, and the rescue team comes, and suddenly I am choked up. My wife says, "Isn't it amazing? Anything to do with rescue, and it moves people."

And I said:

> Mr. Ambassador, I think what we have to start talking about is, not oil, and not Saddam Hussein's potential to destroy countries with starting a nuclear war or using biological warfare. I think we have to focus in on the word "rescue," that your little country, monarchy or not—good heavens, Great Britain is a monarchy. How many Congressmen would love to be received by the Queen in Buckingham Palace in this constitutional monarchy?

We can talk about refining the Government in Kuwait because it is an uncomfortable thing that we cannot ever seem to find a fight that involves the United States defending a country that is like the United States in all of its fulsome democracy. Korea was flawed, still is. Vietnam was flawed, and it cost them their freedom, and now they are a basket case economically. We sold out Poland, and all the East European countries, so that a whole life has been lived by a nation under communism on top of the 6 years of fascism that Poland, for example, because they were the first victims suffered under in World War II.

Rescue; that is what we have to think of in terms of Kuwait. Somehow or other how can we rescue this nation? Our young teenage males are kidnaped off the streets, 13, 14, 15 years of age. Then days later, they are called to the police station. Their parents are told, "We're going to rescue your child we believe was involved with the resistance," and whatever resistance has been has been brutally crushed out using Gestapo tactics, and an Iraqi soldier is killed by a sniper. They immediately murder in the streets 6 to 10 people. That is exactly what the Germans did in the occupied countries. You kill 1 German, we kill 10 until the Czech underground, the Czech underground men trained and bailed out by the British into Czechoslovakia killed Reinhardt Hiddrich, and then they destroy a whole village because of the third man in the heirarchy of the Third Reich was killed, died after 10 days, painful back injury, blown up in his open convertible by the side of a road. They wiped out the village of Lüdivici, a whole village.

Mr. Speaker, this is what Saddam is building to. You kill one of his high-ranking officers or somebody in his family, and he will wipe out some whole community. He will blow up a whole section of whatever is left of Katuma, Kuwait city.

Now we have to look at this situation in terms of the United Nations of the world, united as we have ever been before in that organization, with China and the Soviet Union saying the right things. We simply have to figure out how to rescue Kuwait before it no longer exists.

Does that mean putting American young men and the women who are right there in the combat areas with them into a fighting situation where the body count starts and these young people in the prime of their lives comes home? I hope not. But what is the key? What is George Bush to do when we resolve our budget problems, which we will resolve one way or the other in order to get out of here by October 20 or 21 to get home and campaign. What do we do in the Middle East?

Mr. Speaker, that is the burning question today, not how do we balance our budget, as tough as that domestic problem is.

Mr. Speaker, I want to ask permission to have these two full pages of the agony of Irish schoolteacher Brian Keenan put into the RECORD, and imagine that this is multiplied by hundreds and hundreds of suffering people and the suffering of his family is multiplied by the thousands of all the families from all over the world who had people stuck in Kuwait when it was swallowed whole or in the crushed country of Iraq suffering under this posturing, jackanapes of a dictator, sad, dam, Hussein.

The material referred to follows:

HOW WE LIVED THROUGH THE DARK DAYS OF HOPELESSNESS

Brian Keenan, the freed Beirut hostage, yesterday gave a moving account of how he and the three hostage who shared much of his four-and-half years in captivity had faced up to their ordeal.

He recalled the petty tensions of their life together and the deep companionship that grew between them, as they struggled to keep fit and to keep each other's spirits up with marathon games of dominoes and imaginary projects for the benefit of the world, worked out in obsessive detail.

He also urged journalists to be careful, explaining that after the release of two American hostages, U.S. media reports had suggested that the kidnappers had given them coded tapes to take out. These reports "came within a hair's breadth of having some of the remaining hostages summarily executed", he said.

Close to tears, during a press conference at Dublin Castle, Mr. Keenan described John McCarthy, the British journalist, as his soul mate. He said, however, that he had not seen Terry Waite, the Archbishop of Canterbury's envoy, and did not know anything about him. Even so, he said: "I felt in the last place we were in there was another hostage whom I heard in the early hours of the morning saying 'Oh no, oh no', but I don't know who it was. That could be French, that could be anything."

Speaking of Mr. McCarthy, he said: "How can I forget him, his humour, his abundant love of life which at so many times seemed to diminish to almost extinction those grinding moments of hopelessness. In John Boy [named after the character in The Waltons] I saw a man grow, I watched a man deepen and it was a real joy to be a witness to that.

"John in the beginning, when he was kept alone and during the first months we were together was somewhat withdrawn, fearful and initially found person-to-person communication difficult. It was a matter of slowly relearning how to socialize. We all of us thought, how could we relate to anyone what we had been thinking?

"John and I spoke at great length about our families and eventually exchanged families and friends without thinking. He would suddenly begin conversations talking about my friends as if they were his. We gave and lived inside one another."

Mr. McCarthy's friend Jill Morrell, who has been campaigning for his release and was seated behind Mr. Keenan, broke into a bright smile as he talked about him.

Mr. Keenan said he particularly cherished Mr. McCarthy's irrepressible sense of humour, which infected them all. He said it was "the golden kernel of John" which would always emerge through the darkness of captivity. Mr. McCarthy would imitate some of the guards with "a precision and zaniness that reduced their sometimes brutality to insignificance."

Mr. Keenan recited the first lines of a ditty he had composed about Mr. McCarthy's ability to mimic—"for which John would give me a crack on the head," he joked:

"John is a journo, he's quite out of his head.

He thinks he's Peter Sellers, but we all know he's dead.

He can do a Hindu, an Aussi, a Chinaman, a Jew.

Anyone you want John can do.

And he does them and he does them and does them again."

He said that they called themselves "the Bounty bar boys" because they were occasionally given Bounty bars. At one stage they had no reading material for a year so they played 17-hour games of dominoes. They also dreamed up bizarre projects to pass the long hours. He had it in mind, he said, to open an underwater public bar.

In a remark directed at the British Government, Mr. Keenan said: "John McCarthy is a great giver. It is now time for some people to start giving to John McCarthy."

Mr. Keenan spoke with affection and with stoical humour of Terry Anderson, chief Middle East correspondent for Associated Press, who would vex his companions with his "voracious hunger for intellectual conversation, and when he could not get it would pace the floor endlessly in his patched and re-patched socks . . . I think he debated with himself a lot when we tried to plug our ears.

"Terry would also have his periods of despair and seek solace in his family. Terry and myself would sit through those long nights and speak with great pain and remorse and longing for his daughter. With many tears he would elaborate his plans when he was finally back in the States to help her to shape and discover her future. In those confessional moments which were common to us all a deep and enduring and unbreakable bond was formed."

He said that Mr. Anderson had used his time in captivity to design and evolve a project for a school for young delinquent boys in America. "The doyen of hostages, as he has been called, is a man who felt so committed to these things that he inspired us to our own survival projects."

Mr. Anderson was nicknamed Thunderbum because of his frequent bouts of "Beirut belly." Although often debilitated with pain, Mr. Anderson stoically suffered "for in truth all pain and illness was generally dismissed by our keepers, though they would eventually supply us with some form of antibiotics. But some were not specifically for the illness we had."

Mr. Keenan said that he was held with Mr. Anderson for about eight months and last saw him 11 months ago.

He went on to speak of Tom Sutherland, dean of agriculture at the American University in Beirut, as "a man courteous and very, very brave at heart . . . of all of us perhaps the man least prepared by life for the horror he now endures." Mr. Sutherland, who suffered long periods of crushing depression, had passed the time for his fellow hostages by delivering "fascinating lectures in genetics and animal husbandry, which came to us in those awful places as a kind of light, illuminating the darkness, warming the chill of despair.

"Sutherland was unfortunate in that his career never allowed him to develop much skill at poker, much to our advantage." Sutherland used to talk to his companions about his 20-year-old Volvo car. "It now seems he has lost many parts of that Volvo, doors and windows, which were put up as stakes in the innumerable games of cards we played among ourselves. He doesn't know it, but his Volvo has gone."

Mr. Keenan said that he was kept alone for the first three-and-a-half months of his captivity "in a very, very, very bad, dirty, filthy prison. It was very small and I was taken out, walked ten paces to the toilet where I could wash and ten paces back, back to the cell, and I was given my food for the day, and that was it."

Asked if religion had helped him, he replied: "I am not and never was religious in terms of an institutionalised church. But in the days when I was kept locked up alone, I found that one cannot keep the mind alive by talking just to itself. If you are asking me did I pray, the answer is yes. If you ask me am I religious then no."

Mr. Keenan, who was taken hostage outside his Beirut home four days before the American bombing of Libya, said he thought it was because his kidnappers believed he was British. He said that a car pulled up, a door was opened blocking his passage and he was forced into the car by men carrying Kalashnikov rifles.

"After many days fighting with the guys who took me, not physically, I demanded to know on several occasions why I'd been taken. They seemed somewhat confused that they had an Irish person," he said. "I refused to eat for six days until they told me [why he had been kidnapped] and they brought me a copy of The Times covering the incidents in Libya and told me that was the reason, and I didn't believe them. They thought I was British."

He did now know at what point during his captivity his captors had acknowledged that he was Irish.

Mr. Keenan described his time as a hostage saying: "Every day was the same and they gave you bread, processed cheese and juice or a cup of tea. In the afternoon you had a bowl of rice or lentils or a bowl of rice and spinach, or a bowl of rice and dog's head soup or some other food."

He said that conditions had improved dramatically in the last nine months or so when the hostages were transferred to the southern suburbs of Beirut. "Then we had an excellent canteen and we were frequently asked if we wanted anything, and if it was possible the men holding us would get it. They gave us fresh fruit and let us watch the occasional video. The situation had markedly changed."

Mr. Keenan was reluctant to offer advice about how the campaign to release his fellow hostages should be conducted. "You're asking me for my analysis or my solution. What shall I say? I have known nothing for four-and-a-half years. The world has changed very greatly for me. I can only say this, look at my hands. Hands are the most complex and perhaps most beautiful structure. With these hands I can do many things. With this hand (he raised his left hand) I can curse, I can make it a driving force of such power that I can make a wasteland about me. With this hand (he raised his right hand) I can play music, make sculpture, do beautiful things, but above all with this right hand I can overcome the other hand. I can contain it, I can conquer it. This power in all of us is creative, passionate, unconquerable."

He thanked "all the people of this island. Hundreds and thousands of people who I have never met who sent me messages, cards, flowers and gifts. To experience such love is to partake of something sublime, I thank them all, I embrace them all, I must, of course, without any hesitation thank the Irish Government, the civil servants and particularly Mr. Conor Murphy for his work."

Thanking the other governments that helped to secure his release, he particularly mentioned the Dutch, who assisted the Irish authorities in Damascus.

Mr. Keenan added: "I am more than greatly indebted to the medical and other staff of the Mater hospital, and while I am on this subject I thought perhaps I would ask if the Irish government could facilitate me with a large container lorry, as I would like to kidnap Sister Mercer and about 55 of the nurses."

Mr. Keenan made it clear, answering questions after his statement, that he felt no desire for revenge or retribution. "I do not see that as positive or meaningful. For myself I would find that self-maiming and I do not intend maiming myself by going into a rage of anger. Some of our captors were reasonable . . . others had an element of hysteria not subject to reasoning."

He said that his captors' knowledge of the world was limited. They had sometimes talked of their faith, Islam, and had given the hostages copies of the Koran when there was nothing else to read. On some occasions, the captives were asked about converting to the faith of the people holding them in Beirut. In response, Mr. Keenan said: "We simply held up our chains."

Asked to describe his captors, he said: "Some were men of around 30 years of age, but perhaps with 12-year old mentalities, with Kalashnikovs in their hands. Some of them had not known how to control the power they had and had resorted to very bad beatings." He refused to go into details about the brutality. "I feel myself that to talk about that is indulging in a degree of voyeurism. I am not happy to talk about it. Perhaps when I have found my trust with the world and with one or two individuals I will."

Asked how Mr. McCarthy would be feeling now his companion had left, Mr. Keenan said: "It's like a man comes and tears your right arm off and walks away with it. It's gone—something wholly and intrinsically part of yourself. I'm sure for the first few days there will be waves of feeling, up and down. But John is a very strong man now. I know he will come through it. His first thoughts will be, 'It's good Brian is home: Brian is seeing my family'."

Mr. Keenan was asked what he would do towards the release of Mr. McCarthy. He said: "I will do anything, anything I am requested to do by the Friends of John McCarthy or anyone else asking me. I am here, ask me to help."

He would say nothing about any escape bids which may have been made while he was a hostage. But he said he had never given up hope of getting free although he had worried about how long he would stay in captivity. "I knew I would get home or be released at some stage. But I was frightened it would be a long time. I continually told myself that they could only take my liberty, not my freedom."

He went on to describe how he had held a baby in his arms a few days earlier and had felt "more alive than I have ever felt before".

Mr. Keenan said he had never encountered the leaders of the group which had held him. "The top leadership was never shown to me directly. When they came they stayed in another room."

Mr. Keenan indicated he was unlikely to return to his Belfast home for some days. He said he still had to have more interviews with psychiatrists and to receive dental treatment. It is thought likely he will stay in Dublin's Mater private hospital, where he has been receiving treatment since returning from the Middle East on a government jet late last Saturday night.

As he ended his news conference, Mr. Keenan paid a glowing tribute to his Belfast-based sisters Brenda Gillham and Elaine Spence, who spearheaded the intensive campaign for his release. He said he had been dumbfounded, amazed and thunderstruck by his sister's work. "They have changed so much in their personalities and now I am a little bit afraid of them," he said.

After he finished speaking, Mrs. Gillham presented her brother with a bodhran, a traditional Irish drum. She told him: "We have been beating the drum for you for a long time, now it's your turn."

INFLUENCE OF SPECIAL INTEREST GROUPS OVER BUDGET NEGOTIATIONS OUTRAGEOUS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, as the details unfold on the budget package, the power of special interests in this city continues to outrage me. A Washington Post story this morning points out that the exclusion of electronic equipment from the luxury tax occurred because, quoting directly from the story, "Less than 36 hours after the luxury tax was first proposed in the secret budget talks, Japanese electronic equipment makers had obtained a copy of the plan and met with their Washington lobbyists to figure out how to stop the measure. Their representatives wrote background papers that United States manufacturers used to lobby congressional leaders, while the Japanese companies kept a low profile, according to a source involved in the lobbying effort."

Well, I am a member of the Budget Committee, and I am a Member of Congress. To be told that the representatives of a foreign government have access to secret negotiations, when the representatives of the United States cannot know, really frightens me to death.

What in the world is going on here? There are many who recognize that some of these deals are business as usual, that some of the participants would exempt particular constituents of theirs in these deals, and I am told that that has been going on forever. But when foreign companies, who already are suspected of not paying a fair share of income tax in this country, come in and get an exemption for their major exports into this country, well, I have to say, what next?

My Medicare people are being hit, and our constituents who have to drive many miles every day are going to pay 12 cents a gallon additional in gasoline taxes.

I am going to read these three paragraphs from this story about the lobbyists, how the lobbyists rushed to influence details of the budget plan, because I am so angry about it.

The decision to exclude electronic equipment had an ironic twist. Less than 36 hours after the luxury tax was first proposed in the secret budget talks, Japanese electronic equipment makers had obtained a copy of the plan and met with their Washington lobbyists to figure out how to stop the measure. Their representatives wrote background papers that U.S. manufacturers used to lobby congressional leaders while the Japanese companies kept a low profile, according to a source involved in the lobbying effort.

With the help of the Japanese firms and their representatives, a "grass-roots" campaign was organized to get electronic equipment plant managers in the United States to call their congressional representatives. An opinion article was drafted for possible publication under the name of John Roach, chairman of Tandy. And Montgomery Ward wrote a letter to every budget negotiator saying a luxury tax on electronic equipment would hurt its business.

In the end, one Democratic negotiator who urged that the luxury tax exclude electronic equipment was House Majority Leader Richard A. Gephardt (D-Mo.), an advocate of many protectionist measures. Gephardt, whose district includes the headquarters of Anheuser-Busch Cos., is also credited with limiting an increase in the beer tax that is part of the budget agreement.

Well, when I talked to one or two of the participants in the negotiations about this, they said, "Well, Helen, you know electronic equipment includes computers, and we did not feel that computers should have been hit with a luxury tax."

Mr. Speaker, I say that the computers could have been exempt where they were considered vital and the other electronic equipment could have been hit and included with the luxury tax.

It is very difficult for me to go back to my constituency and explain in a tax-raising measure that one industry, for example, ethanol, with only one major producer in the field, will receive an extension of a 60-cents-a-gallon subsidy for grain fuel, while the American taxpayer will be paying an additional 12 cents a gallon for tax?

As there are winners, there are also losers. If we are hard pressed on energy costs, it seems strange to me that nuclear energy will have to pay more in fees to the Nuclear Regulatory Agency, and, you know, of course, that the consumer again will be hit with this cost. And on and on, one after another.

It really amazes me, not the ones that people know about so much yet, but when they do, Mr. Speaker, the phone calls are going to be coming in even heavier than they are. I have heard numbers here tonight about phone calls. Well, I am getting about an average of 50 against the bill to 1 for it of those who are calling in. My people are outraged.

Mr. Speaker, I have to say that we in this House need to really look very carefully at our responsibility, because the Congress many years ago was given the power to protect the American people, and our forefathers carefully meted out the power to the various branches, and the control of raising taxes was put in the hands of the House, because they are the ones most readily called upon by the people and in biennial elections.

Mr. Speaker, when you say that the people are up in arms, they are. We will have a test of the concept, the test of the concept of who is closest to the people, when there is a vote of confidence or an election just 5 or 6 weeks away.

Mr. Speaker, yes, we do have to get a handle on the deficit, but that means let us get a handle on ourselves first. I want to know why no effort was made to stop the agencies from their annual year-end spending binge which just ended September 30, this past Sunday.

I have had reports from all over town that the paint pots have been out, that a whole lot of contracts were let in the past month, and the push has been on to spend it quick, before it gets taken away from us.

Why hasn't somebody come up with a formula on how we can reward these agencies for saving money, rather than causing them to spend and spend and spend in that last month? Like the pie being cut at the top, this has been going on, business as usual.

Well, forget it. The telephone calls into my office suggest that the American people are getting tired of business as usual.

A typical call from one gentleman started with, "Does Congress think we are fools? The American people understand what is happening."

Our colleague, the gentleman from Texas [Mr. PICKLE], chairman of the Ways and Means subcommittee, exposed in his oversight subcommittee hearing in July that billions of dollars of taxes by foreign companies in this country are going unpaid. The figure was estimated to be upwards of $35 billion, without interest or penalties added on.

I want to know why we and the American people are being put through this kind of agony, and our economy being put at risk, if this is the case?

Furthermore, in the hearing testimony was given that these companies, when found to be underpaying, have never been requested to pay any fines, any penalties, any interest.

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Let me repeat that, that even those foreign firms who have been found guilty of underpaying or paying no taxes, they have not paid any interest or penalties, and in many cases no taxes at all.

Now if the underpayment has been over $35 billion and penalties are added to that, as they would be added to the bill of any American company, and many of these firms have incorporated as U.S. firms, then it is possible that the total amount of what we are looking for this year in savings against our deficit resides in the bank accounts and assets of those foreign scofflaw firms.

And if they truly are American companies incorporated here, then the IRS has the power to freeze their bank accounts, recover the money, and let them go to court and prove that they do not owe these sums exactly as a real American company would have to do.

While we are being pressed by the administration in the budget process, we should keep in mind that the first question to ask is why foreign companies enjoying the benefits of America are not paying their fair share of taxes.

According to the September 10 Washington Times:

> From 1979 to 1987, the assets of foreign controlled corporations grew 368 percent to $959 billion. Their receipts grew 183 percent to $685 billion.
>
> Those are the latest figures available. But in 1986, when they reported about $550 billion in sales in the U.S., according to the Treasury Department, these firms also reported a net loss of $1.5 billion.

No wonder the constituent called me yesterday and asked, "Do you think the American people are fools; we know what is happening."

Foreign companies save money on their taxes and then the money comes back to the United States to buy up another piece of America's heart, like Columbia Pictures, MCA, Rockefeller Center, Pebble Beach, et cetera. And of course, the biggest single offender in the process has been the Japanese. And those saved dollars can be turned into advertising or contributions to local charities. Tax write-offs?

Yesterday my staff received a call from U.S. Nippon Communications in New York. They are interested in what can be done to help the Japanese in becoming good corporate citizens.

Good corporate citizens are ones who will give to a charity, go to the black tie ball or art auction and make polite conversation. They are not the foreign companies who try to scramble the American value system by providing trips to Japan, contribute to school boards and then requesting students and participants to write their school boards and Congressmen and tell them good things that require them to change the contents in their history books.

A New York Times story about the chamber of commerce revealed what their goal really is. A businessman stated that they were interested in the community organizations because that was where the policy was made. The Japanese certainly showed they understood the policy process this weekend on the budget affairs. The fact that they had a copy of the plan when Congress did not is testimony to the power of the purse.

The Japanese own 40 percent of our debt, and we sell approximately many many billions of dollars in Treasury notes every quarter. With that kind of money, I guess you can get your hands on almost anything in government.

Early this spring I gave a speech which contained a quote from the managing director of Keidanren, the largest Japanese business association. The director stated on the MacNeil/Lehrer Report that we, meaning the Japanese, will continue to invest in you, meaning the United States, "until you are incurably ill." When pressed by a reporter on what he meant, the director replied, "It is almost a tautology, you see, you will know you are incurably ill when we stop investing."

Do they want to be our friends? Do they want to be our allies? Do they want to be good corporate citizens of the United States?

They are sure going about it the wrong way. No good corporate citizen pulls what they did on the budget talks by getting a package before Congress did, and by getting their products exempt from a fair share of the tax burden, and letting John Q. Public and the senior citizens bear the brunt of the tax burden.

I really think that Americans are getting tired of being told by the Japanese how lazy we are, that our businessmen are shortsighted, and we no longer have the ability to lead. They do not need an ad campaign to change their image with Americans. We know what they are, and they showed that by their behavior on the budget, and by dragging their feet and their pocketbooks in the current Middle East crisis while we are protecting their oil supplies.

Then if you read Pat Choate's book about agents of influence you will know even more and more about it. These agents who got the plan knew how to do it because of their previous Government service, and they knew what the budget process ultimately means to working men and women in this country. They knew it would mean belt-tightening for everyone, and just a few dollars means a lot to these working people.

The Japanese lobbyists were interested in getting their big buck and put foreign interests ahead of the American people.

The time has come to stop this, Mr. Speaker. The exemption of luxury tax on electronic products primarily benefits Japan. If they truly want to be good corporate citizens of the United States, then they should step forward and voluntarily get their exemption rescinded.

It is time that they begin to behave as well-mannered guests in this country.

THE BUDGET SUMMIT

The SPEAKER pro tempore (Mr. JOHNSON of South Dakota). Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

Mr. OWENS of New York. Mr. Speaker, it is on everybody's mind these days. The budget is the most important function of the Government. It is the most important function of any government. The process by which the budget is generated is the most important thing we do as Members of Congress, or it used to be the most important thing we do as Members of Congress.

The summit process takes away some of our involvement as elected Representatives from our various districts in this most important process. I have never liked the summit process when it is applied to the budget negotiation. When it is used to determine what a budget is all about it lessens the power of elected officials, all elected officials including representatives of Congress, our leadership. Our leadership, elected Members of Congress, go to a room that is half filled with unelected representatives, appointees of the President. The President is a 50-percent partner of this process, in the legislation, and the legislative leaders are the other 50 percent, yet the President initiated the process.

☐ 1940

The President promulgated a budget at the beginning of the process when the year first started, and now he sits in a room negotiating with the people who had his budget long ago and were forced to respond by law, had to respond to that budget, and should be negotiating a document that they, as legislators, had prepared, Democrats in the House, negotiating with Republicans in the House, the other body following the same process where the parties display their differences openly in public, they debate them, they arrive at some conclusion, and after they have arrived at a conclusion, the two Houses coming together in conference as they do on all other bills, and they decide through the conference process what the budget is going to be.

It does not have to go to the President. Most people do not realize it. He does not get a chance to veto a budget. If the legislative leaders in both Houses reach an agreement on the budget, that is the budget. The budget then proceeds to drive the appropriations process, and the President can then veto appropriations bills if he deems it necessary.

The summit process that has been going on for quite a long time locks out part of the legislative process.

I was not happy with the summit process when it first started. I wrote a little rap poem which started something like this:

> In that big white D.C. mansion, there is a meeting of the mob; the question on the table is which beggars will they rob. There is a meeting of the mob. All of these gentlemen make a deal, and the poor have no appeal. There is a meeting of the mob.

That is the way I feel about it. That is the way I feel about it even more strongly now. The mob has come back with its report, and this is not criticism of the individuals who were involved in the process. It is a criticism of the process, because the process is antidemocratic. It is a substitute of a democratic process with a process that tends to be moving in the direction of totalitarianism. It is a closed-circle decision, and the few who are in that closed circle who may do a very good job, and I think it was a long, difficult job, and I salute the members of the leadership who were involved in that negotiation, but, you know, there is a possibility that human beings will get worn down, that there reaches a point where exhaustion influences decisions, and I am afraid that some of the decisions that were finally made I attribute only to exhaustion. I can attribute it only to the fact that they were negotiating with a force that had unity because they were under one executive commander while the legislators were spread out and had to approach things quite differently.

This budget that has been brought back to us, the proposal for a budget, the summit agreement, the summit negotiation product is flawed in many ways, and I have a great respect for the people who were involved in it. I do not think it should be casually dismissed. I do not think we should zero in on our particular hatreds and blow it up out of proportion.

I have been trying very hard to look at the totality of the document. The fact that the taxes in it, in the final analysis, the burden of the tax burden falls disproportionately on low-income people, and I represent the 10th poorest district in the country. Most of my constituents are low-income people. That fact does not close my mind to the fact that some of these taxes are acceptable.

I could vote for a tax on tobacco. I can vote for a tax on beer and liquor. We have seen scientific proof, you know, that there is no dissent anymore about the problems that are caused to health, health problems that are caused by smoking, so we need to discourage people from smoking. I do not care how poor they are, if there is an extra penny on there that is going to discourage it, that is one approach. People are dying from smoking. People are dying from drinking too much.

There was a study reported in the New York Times this week which said that people who drink a lot live and have a shorter lifespan, and people who drink two drinks a day definitely, a study has proven, that they are at risk in terms of a shorter lifespan, so, you know, with all the scientific evidence that is marshaled about drinking and smoking, I am not against a tax on drinking and smoking even though I know it falls disproportionately on the average guy who gets his pleasure and his recreation via the six-pack in front of the television set, because he cannot do other things that people with more money can do. I still do not want to be a part of encouraging that person to go on shortening their lifespan, creating health problems that all of us later have to pay for. We are our brother's keeper, and I fight for national health care. I think we ought to have medicine which is available for everybody who needs it. But part of that deal has to be that people take better care of themselves. You have to make some rules. So I am not against a tobacco tax, and I am not against a liquor tax even though it falls disproportionately on my constituents.

I am against a gasoline tax if it just is imposed indiscriminately.

If we wanted to really deal with taxing in order to encourage conservation of gasoline, there are many ways to do it which will not throw a burden on the poorest people in our society who need to use cars to get to work, who need to have cars for basic use. There are ways to work it out. There are ways that we could protect the poorest people and provide for gasoline that is not taxed to meet basic needs while you tax at a certain point for people who go joyriding and people who take long vacations. There are a number of ways that, through coupons or other devices, you can take care of those basic needs and see that the tax does not impact if you really wanted to have a fair and effective conservation policy via taxation.

But we have not been serious about that. And after not being serious about it, we throw, in a very sloppy manner, a tax on people which is going to hurt them a great deal. Of course, it is inhumane. The fuel oil tax is inhumane. We indiscriminately are going to tax everybody a little bit more for fuel oil that is already rising rapidly as a result of the Middle East conflict.

We have an energy program for the poor where we provide some assistance during the winter for the poor who are elderly mainly, and that is a very inadequate program. I live in a district where they try to make use of it all the time. It helps a little bit, but it is totally inadquate. It covers only a small percentage of the people who need help. People freeze to death every winter in my district. I am sure they freeze to death all across the Northeast, and they freeze to death in the Midwest. This is no small matter to add a tax on fuel oil at a time when fuel oil prices are going up.

I read where one Senator from Texas was very upset when that was left out, and he insisted it be put back in. He used his influence and clout. He put it back in in the name of fairness, that it is only fair that fuel oil should also be taxed although it will hurt the Northeast and the Midwest most, but it is fair for the Northeast and the Midwest to bear the burden.

These same people, particularly Senators from Texas, do not talk so much about fairness when it comes time to talk about the S&L bailout, the S&L bailout, the S&L scandal, the S&L swindle, part of the problem, a great part of the problem. Seventy percent of the failed S&L's are in Texas.

Let us have more talk about fairness. I am interested in this theory of fairness. I want to see more talk about fairness as we go forward to use the taxpayers's money from all parts of the country.

Nobody is talking about taxing the people in Texas inordinately for them to bail themselves out of a mess that they created disproportionately to other States. Nobody is talking about the fact that Texas had its own regulatory agencies that regulated banks which were guaranteed by the Federal Government. You had Federal guarantee deposits, guaranteed by the Federal Government, and on the other hand, the Federal Government was not the regulatory body. The State officials were regulating while we were doing the guaranteeing for all the citizens across the country. So fairness applied to the S&L bailout is something all of us ought to take a very close look at and see if we can get more fairness into that.

It would not be such an outrage that the Northeast and the Midwest and the people in the colder parts of the country have to freeze because of the extra amount of money they are going to have to pay on oil as long as we are going to be fair and they do not have to pay also the tremendous cost of the S&L bailout.

So I sympathize with the difficulties faced by our negotiating teams. I sympathize with the leadership. I do not approve the process, and I think I hope that we never have a similar process, and that the leadership is not put in that kind of position.

The clock is ticking away. Sequestration is a horrible monster. Nobody wants sequestration. I think there are other ways to do it.

I would like to ask the negotiators and particularly the Democratic leadership negotiators, and let me just say that I think there are great differences between the Democratic Party and the Republican Party. I think there are great differences. I think that they are not great enough, but there are differences. The negotiations would have been ended long ago if both parties were similar and the leadership of both parties thought the same; we would have a capital gains tax for certain if they had not held out, the Democratic leadership. We would have a number of other things happening in that package in terms of massive domestic cuts if the leadership of the Democratic Party was not different in its mindset from the leadership of the Republican Party.

On and on it goes. There are differences which are still very important, but not great enough differences. Our party is not distinguishing itself by using some common sense and understanding that here we are in a state of emergency. We have an emergency, an urgent situation. There is an emergency existing fiscally. We have a war in the Mideast that everybody seems to think is going to pay for itself through donations from places like Japan who is not going to give but so much, I assure you.

□ 1950

The Saudi Arabians and the Kuwatis in exile, a number of people over there who are rich enough to pay for the war. We have an abundance of riches in very sparsely populated countries, so they can pay for it, but I suspect they will only pay for part of it. In addition to the hardship imposed on our soldiers and military personnel, in addition to the hardships, the inconvenience and the risk we are taking, we will end up paying for most of it. Let Members assume we do not have to pay for it. Then I ask the question, why did we not make greater cuts in the military budget? Why did we not make greater cuts in the military budget, in this day and age, when the Soviet Union is cooperating with the United States in Iraq, when negotiations are going forward to lessen the tensions in the world. We just reunite Germany as a result of these peace agreements, and a new order of things following the cold war. Why did we not cut the military budget more so that we would not have to cut Medicare so much?

I think everybody ought to get specific that writes their Congressman. Get specific, talk about specific taxes. Do not just write and say, "We don't want any cuts." Yes, we are willing to cut, have to cut in certain places, but why did they not cut the bases in Japan and Germany? Why do we need bases in Japan and Germany 40 years after the war? Why are American taxpayers paying for the security of Japan and Germany? Keep asking your Congressman, why are we doing such a stupid, ridiculous, costly thing in this day and age, especially when we have an emergency, why do we need that? Why do we need to continue to carry the CIA at such a high cost? It is estimated, and we have to estimate it since Congress really cannot scrutinize it closely, it is estimated that the CIA spends between $8 and $10 billion. We have a cold war that has wound down. Why do we continue to have to spy on the Russians in the cloak-and-dagger operations that never produce that much anyhow? We got more information from our libraries and our weather satellites, and from our satellites in the sky. We got more information from other places about what is going on around the world than we did in cloak-and-dagger operations that employ so many would-be Perry Masons and all kinds of folks who like that world, but do not produce very much.

Let all those folks in the CIA in the cloak-and-dagger operations go out and get honest jobs. As President Nixon used to say about social workers, "When you tax social programs, let's close down the social programs and make the social workers go out and get honest jobs." Let Members close down at least half of the CIA, and let the cloak-and-dagger people go out and get some honest jobs. We have police jobs, law enforcement jobs in numerous cities. So why do we have to maintain the CIA and the military at almost the same level, if we have an emergency? Let Members move with dispatch. Let Members move quickly.

I cannot say it was an original idea. I got it from my continuous reading about what is happening in the Soviet Union. The people of the Soviet Union are demanding that the KGB be shut down. At least, the KGB should be slashed drastically, and the equivalent of the KGB is our CIA. The people of the Soviet Union are demanding that the military budget be slashed drastically, while they cannot get enough food and enough clothing, and they are experiencing all kinds of hardships. They have an emergency. So they want their government to move rapidly to get rid of the military. I think we should follow suit. We should demand that the CIA be cut drastically. We should demand that, starting with the bases in Japan and Germany, two wealthy competitive nations that are giving the United States a hard time all the time, competing in the economic sphere, why continue to pay for the bases? If we were to begin to shut down the bases in Japan, we can save $25 billion this year. Take it from an emergency point of view. Put the eviction notices up, start the process of closing them down. We cannot do it all at once, but we can start it. We can do enough to recover $25 billion, because those bases cost the United States more than $100 billion. Bases in Japan and Germany are costing more than $100 billion in 5 years. This budget plan covers 5 years. In 5 years we could close them down completely, and closing them down does not mean literally they will be closed down. Everyone knows as well as I do that the Japanese will move in to occupy the bases and the Germans will move in to occupy the bases. They will make use of the material and the construction that we leave behind. They will spend their money. They have been laughing at the United States for the last 20 years. They think Americans are the biggest chumps on the face of the Earth. Chumps, stupid fools, to keep paying for the defense of countries that can well pay for their own defense. They think we are fools.

Of course, probably some Americans are benefitting. Somebody is making money off these bases who is in America, some groups with influence are continuing this nonsense. Otherwise, why do we continue an illogical, costly, stupid process? Somebody is profiting from it. Maybe the military construction industry, maybe the PX's. Somebody is making a lot of money off of it. But it is not the American taxpayer. Let Members get serious about the situation with respect to the budget. Let Members consider this an emergency. Let Members rush to close down the bases in Germany. Let Members rush to close down the bases in Japan. Let Members rush to cut the budget of the CIA in half. We might come out with $40 billion.

All of the people concerned about Medicare cuts, the Medicare cuts are $60 billion. They did not hesitate, under the pressure of the emergency, they did not hesitate to rape Medicare. Our senior citizens are going to take the brunt of the domestic cuts. Why can we not, if there is such an emergency that we have to do such a drastic thing to the Medicare Program, why can we not close the bases in Germany and Japan? I realize that there are Members that have great problems with rapid cutbacks in military expenditures and the closing of bases inside this country, in districts. I realize we need to deal with the problem of restraining the work force and relocating people who are employees of bases, as well as many of the members of the military. There are a number of problems that we have to take into consideration. So I am not a wild-eye radical standing here saying, "Shut down the military operation by half all over." I am saying that it makes good sense to close down the bases in Germany and Japan. It makes good sense to cut the cloak-and-dagger operation of the CIA by half. There are numerous other expenditures where we can find the same kind of good sense.

I asked the question of our leadership, why did we not press harder in this area? Are we afraid the Democrats are going to be accused of being wimps, soft on the military? I do not think the American people are still in that mood anymore. I think they recognized that we have an emergency, we have shown we are not soft in the Mideast. Why do we need bases in Germany and Japan when the action is in the Mideast? Why do we have to continue to spend enormous amounts of money in two countries that are not contributing very much to the Mideast, but if we pulled out, they could take care of themselves? They could take care of those bases. Those are my two basic questions.

I have one additional basic question to all the Members who were there negotiating. Why did you not come back with a report to Members which honestly and openly discussed the savings and loan crisis? The savings and loan crisis swindle, or whatever we want to call it, the savings and loan situation is a heavy burden upon the American taxpayers right now, and it will become even more of a burden. However, the report that was handed to the members of the Democratic Party on Sunday night, and I do not know what happened to the Republicans, the report that was handed to the Democrats had nothing, absolutely nothing about the savings and loan problem. The savings and loan debacle was not discussed in the meeting. It was not discussed in subsequent caucuses. They just said, here is a multibillion-dollar problem, General Accounting estimates that in the next 20 years it will cost the United States $500 billion. Stanford University has an estimate of $1 trillion, and yet a budget negotiation took place which was to cover 5 years instead of 1 year, and no mention of a savings and loan solution came out in the first document we saw. It turned out later on, I don't know where this came from, but a document which has scribbled on it "the OMB description of the summit, not reviewed by Congress." It should be "not described to Congress." I do not know where it came from. My staff had it when I came back from the office. I was complaining of the fact that the savings and loan had not been discussed, but I am sure anybody with sense, any sophomore with economics, knows part of the negotiating process was very much influenced by an attempt to make the budget safe for the S&L's, or to deal with somewhere, to deal with the S&L problem somewhere down the line.

□ 2000

Of course, it turns out, yes, they did discuss it. I am not going to impugn the integrity of the Democratic leadership. I want to know why they did not bring it back to us with the first document summarizing the budget package, but it did not come. I have it here now. It is called budget summit agreement. That is the overall outline of the total agreement, but underneath there are some pieces that were not in our original package. One is labeled "miscellaneous additional understandings," and behind that is a table called "major technical revisions."

Now, it turns out that the S&L's not only were discussed, but the S&L crisis, that huge monstrous obligation that has been foisted upon the American people, that was put in the budget. It is going to be in that package. They have so little respect for the intelligence of Congressmen that they are going to put it in the package and not discuss it with us, so little respect for the American people that the President makes speeches, the Democratic leadership makes speeches and they do not mention the fact that part of the money for the S&L bailout has now been put on budget. At least we are honest enough to put it on budget. I congratulate Mr. Darman and whoever is responsible. I congratulate the leadership of the Democrats who probably insisted that we come clean and put it on the budget. I do not congratulate them for keeping it a secret, but I congratulate them for pressing for it to be put on the budget.

You have it listed under "major technical revisions." Now, technical revisions or technical corrections is a term that is used often here in the Congress. It is the parts of the bill that are of little consequence when we have to put some commas in, dot some extra i's, and cross some t's. We do not bring it back to the Congress for approval. We give the leeway to the staff to make technical revisions. Technical revisions are usually something done by staff, not by elected officials, but here we have an item called "major technical revisions." It is a budget line for the Resolution Trust Corporation, and that budget line says that in 1991 we will give the Resolution Trust Corporation an additional $29.9 billion. In 1992, we will give them another $29.5 billion. In 1993, we will give them another $18.8 billion. That is in the budget. It adds up to $74 billion.

Since when do we place $74 billion into a budget and call it a technical revision?

This document makes history. It is the costliest technical revision ever made by the House of Representatives, and it ought to be the last one of that magnitude made by the House of Representatives. I am certain my colleagues are not going to accept it as a major technical revision.

The credibility of the whole process, the credibility of the leadership is undermined when they present to us a more than $74 billion bill and call it a technical revision.

The S&L's not only need to be discussed openly, but in great detail. Here is the essence of the problem that Democrats have with this package. The savings and loan associations debacle is a problem created by rich people, educated people with MBA's. It was created by accountants. It was created by high-paid lawyers. It was created by executives of savings and loan associations. It was created by members of bank boards. These are not poor people.

We have always insisted that the mess was created by the weathly and the wealthy ought to pay to clean it up.

Herein lies our argument that there should have been an increase in the tax rate for the wealthiest people in the country. They are the ones who went to the party. They should pay for the party, but we have slipped it in as an expenditure on the one hand, and on the other hand the tax structure shows that when you look at the way these taxes are set up, there is a 7-percent increase in taxes for the people with the lowest incomes in the country. There is more than a 3-percent increase in taxes for people in the middle-income bracket, and there is less than a 1-percent increase for the people at the very top.

We have stood logic on its head and we have demonstrated what has been happening all along, that the rich have no intention to pay for the S&L's. They were at the party. They got fat and rich and they are going to walk away from it, and the Republican Party is going to protect them, just as the Republican Party through its Attorney General is not seriously prosecuting anybody. There are no prosecutions going forward on the scale that is necessary. Charles Keating, the worst offender, had to be prosecuted by the Los Angeles district attorney. Charles Keating is in jail now because the Los Angeles district attorney was fed up and took steps to treat him like the criminal that he is. Our Government is just suing him. On and on it goes with numerous other S&L's with the conspiracy of the administration that wants to prosecute as few as possible.

Before I proceed further, I would like to include in its entirety the three pages headed, "OMB Description of Summit Not Reviewed by Congress."

BUDGET SUMMIT AGREEMENT, SEPTEMBER 30, 1990

I. Summary Tables

A. Deficit Reduction.

B. Deficit Targets and Proposed Savings.

C. Baseline Amounts and Reductions by Category.

II. Agreement by Major Category

A. Discretionary Programs.

B. Mandatory/Entitlements/User Fees—OMB and CBO Scoring.

C. Tax and Receipt Changes.

III. Budget Process Reform and Enforcement

IV. Agreement Concerning Enactment

V. Note on Economic Assumptions and Major Technical Revisions

A. Economic Assumptions.

B. Major Technical Revisions.

VI. Miscellaneous Additional Understandings

VI. MISCELLANEOUS ADDITIONAL UNDERSTANDINGS

Scorekeeping guidelines reflecting general budget accounting conventions that will be used in measuring compliance with the Budget Agreement will be included in the reports accompanying the budget resolution presenting this agreement. Attached to the scorekeeping guidelines will be a complete listing of budget accounts included within each budget agreement category.

Additional funding for losses and working capital requirements of the Resolution Trust Corporation are included in this agreement and displayed on-budget. However, GRH baselines will be held harmless for these requirements to remove uncontrollable mandatory spending from sequester calculations.

International discretionary spending will be held harmless for the periodic assessment to the International Monetary Fund (IMF). The U.S. and other IMF countries have agreed to a 50% increase in the special drawing rights (SDR). The U.S. participation will require budget authority in 1992, but will not result in outlays. Budget authority will be exchanged for SDRs of the IMF, a monetary asset of equal value.

Baselines will be held harmless for Egyptian debt forgiveness. International discretionary budget authority and outlays will be adjusted for not more than the amounts specified below as a result of debt relief proposed by the President and approved by the Congress. New scoring procedures will be developed by OMB and CBO that reflect the real value of debt relief proposals. These procedures will be developed for use at least in time for the FY '92 budget.

[In billions of dollars]

	Fiscal year—				
	1991	1992	1993	1994	1995
Budget authority	.157	.177	.205	.246	.300
Outlays	.207	.294	.361	.446	.522

TABLE V.B.—MAJOR TECHNICAL REVISIONS

[Outlays in billions]

	1991	1992	1993	1994	1995
Bank Insurance Fund	3.7	4.5	1.8	0.5	0.8
Resolution Trust Corporation	25.9	29.5	18.8	−14.2	−25.9
Credit Reform:					
International					
Discretionary:					
Budget authority		−0.1	−0.1	−0.2	−.2
Outlays		.3	−.2	−.1	0
Domestic Discretionary:					
Budget authority		1.6	1.7	1.7	1.8
Outlays		1.1	1.3	1.3	1.3
Mandatory:					
Budget authority		1.5	−.3	−1.1	−4.3
Outlays		3.5	2.2	−.2	.6
Interest (budget authority and outlays)		.2	.5	.6	.6

The savings and loan crisis is as much alive now as it ever was during the course of the negotiations. It was very much alive. Why have they been so silent about it?

Our Democratic caucus issued a statement on September 24, which was not very long ago, which said that 87 percent of the American public now view the savings and loan crisis as serious. That is a Harris Poll that told us that 87 percent of the American public are ahead of the members of Government.

There are men and women in the negotiating process who think so little of the savings and loan crisis that they have sent it back to us as a technical revision.

Over half of all Americans consider the S&L issue extremely important to themselves, and 57 percent of Americans feel that the problem will get worse, will only get worse in the future.

The American public strongly agrees that it is important to recover assets, to jail lawbreakers and to establish strong guidelines to prevent similar tragedies from befalling any of our Nation's other financial systems.

Eighty percent of them are worried about our other loan programs, guaranteed loan programs.

An overwhelming number of Americans, 72 percent, feel that the policy of keeping hands off business clearly

works to discourage tougher regulation of the S&L's and encouraged crooked S&L executives to get away with as much as they could, an overwhelming number of Americans, 72 percent.

The people are ahead of the leadership. The people are ahead of Thornburgh in the Justice Department. The people are ahead of the closed circle that negotiated this budget agreement.

Very dangerous things are about to happen to our society when the people get that far ahead of the leadership.

In the Soviet Union a recent poll shows that only 7 percent of the people have any faith in the Government, or think that the Government can do anything of significance to help improve conditions. In the Soviet Union only 7 percent of the people believe that the Communist Party is relevant anymore or has any role to play in the society. We are not that bad yet, you know. We have a little more than 50 percent of the people who bothered to come out and vote for the Government. We are not down to the point where people are totally disgusted and knocked out of the process, but we are headed in that direction.

If the people are so much wiser and can see so much more clearly the obvious, then why do they need the Government? When they begin to feel that way, of course, it does not hurt the people who are at the top making all these decisions. It only strengthens them. We move toward a more totalitarian approach. We move toward a small group seeking to twist the arms and intimidate the Members of Congress to vote a certain way. We move toward a small group determining what is the truth and packaging that, putting it on the floor with no amendments possible except the amendments that they want and forcing a vote on it. That is where we are going if we do not allow the wisdom of the people and we do not believe in the wisdom and the effectiveness of the democratic process.

Here we have in this document a secret budget line that was secret until the last 24 hours, I guess, as far as the Congress was concerned, that $74.2 billion is being proposed for the S&L bailout.

☐ 2010

Why are we perpetrating that kind of lie on the American people?—$74.2 billion is a lot of money, and we are saying that that is all we need in the next 5 years. In fact, we are saying, to fully state the case, we are saying that in fiscal year 1994 and fiscal year 1995 we are going to make money by selling the assets of the failed savings and loan associations. So that we will get back $14.2 billion in 1994, we will get back $25.9 billion in 1995, to help bring down the cost. Only the Budget Committee, budget officials who produced the figures for the negotiators and only the negotiators believe this is anywhere close to the truth. It is a lie. It is a grand lie.

The Ways and Means Committee estimates that $122 billion, $122 billion is needed just for fiscal year 1991. The General Accounting Office Comptroller Charles Bowsher reported to Congress the total cost of the cleanup now approaches $500 billion. That is not all needed in fiscal 1995, but that was an estimate given by Mr. Seidman recently in an article that $90 billion would be needed this fall.

We are in the fall right now. We need $90 billion right now. But what does this document say? It says for fiscal year 1991 an additional $25.9 billion will be needed. This is a lie. Why continue to lie about the problem? Why insult the intelligence of the Congress and the intelligence of the American people? Why do we not come clean, recognize and admit the magnitude of the problem and come forward with a solution to make the people who created the problem pay for the cleanup?

The book value of the S&L caseload, Resolution Trust Corporation has accumulated 600 billion dollars' worth of assets which they have gathered to themselves. It is estimated the amount of money they will recover on that book value of $600 billion is only going to be about $240 billion. We are going to make up the difference, the taxpayers are going to have to make up the difference between $240 billion and $600 billion.

Nothing like the small amount of $25.9 billion, or $18.8 billion over the next few years contained in this document. This shows no signs of getting better.

The S&L criminal investigations are still stagnant. The New York Times reports today that they will only have 116 institutions under investigation—these are the same statistics that I gave more than a month ago and are still the only statistics available. They filed cases against defendants in 47 institutions. They have actually produced criminal charges against 79 people. They have gotten convictions of 46 people. Not a very impressive record, considering the billions of dollars that are involved.

We continue not to pursue the "good ole boys" in the network and not to treat them as criminals.

Finally, I would like to comment on another aspect to the savings and loan swindle that keeps coming up and being dismissed lightly. That is that there are so many millions of dollars that are being made up for, replaced, so many millions of dollars being replaced by you, the taxpayers.

The taxpayers are replacing millions of dollars that we have no obligation to replace. Deposits that are not guaranteed are being covered because Mr. Seidman thinks it is okay to do it, or some other people within the administration think it is okay to bend the law.

Whatever they think is appropriate, they do. Starting back with the Continental Bank failure years ago, Mr. Seidman came up with the theory that there are some banks that are too big to fail. So not only were they going to take care of the guaranteed depositors, that the taxpayers were obligated to take care of, but they took care of other deposits, especially foreign deposits.

When foreigners have money in banks and they are not guaranteed, we still cover it. We are not legally obligated to cover it. In fact, there is some question about its legality, just how legal what they are doing is.

A taxpayer suit is possible, it seems to me, to challenge decisions being made to cover deposits that are not guaranteed.

The New York Times is obviously troubled by it because they have written another article in today's New York Times, October 3. The New York Times has an article which is headlined "Foreign Depositors Covered by FDIC at Failed Banks." They are talking about one bank that failed.

A decision was made to cover $37 million that was not covered by the FDIC. No taxpayer guarantees were on this $37 million. The money is in the Bahamas, Nassau, a branch of a bank here in Washington, the National Bank of Washington.

A decision was made, even though this $37 million in the Bahamas, in the branch bank there, was not covered, we should cover it. Now, under what authority? It is "considered appropriate."

I do not know what appropriate means, but it is your money, the taxpayers' money, and they make decisions based on what they consider appropriate, case by case.

They will not say, Mr. Seidman and his cohorts will not say, they are going to do this all the time, it is only when they feel like it, that they will throw away millions of dollars of the taxpayers' money.

There is no policy, there is no regulation, there is no law; it is just when they feel like it.

I personally think Mr. Seidman should hurry up and resign. He has given enough of the taxpayers' money away. He started this, as I said before, with Continental Bank of Illinois, declaring some banks are too big to not save. So we give away taxpayers' money and cover all the deposits whether they are guaranteed or not.

Now we have the policy almost in place, and the small banks are up in arms because small savings and loans associations and other banks do not have large foreign depositors. But according to the New York Times, this swindle is so outrageous that the larger banks which have large deposits from foreign depositors are able to guarantee coverage for their foreign depositors without paying a premium like they pay a premium on the money that is put in by American depositors.

The FDIC, the taxpayer-guaranteed deposit system, does have a private sector participation. The banks do pay a premium in order to cover the cost of the guaranteed deposits as far as that goes. As we see, it did not go very far. It has run out.

Taxpayers stand behind those deposits after the money runs out.

While the premiums are paid by all banks, the big banks have not been paying it on the foreign deposits.

Let me read from the New York Times:

> The small banks Mr. Guenther represents have long opposed extending deposit insurance to foreign depositors. Most small banks have no significant overseas accounts and the banks that do are not required to pay additional insurance premiums to cover them—

Those overseas accounts or deposits on accounts here—

> Assuming a deposit insurance premium of 19 cents per $100, large banks saved more than $620 million a year by not paying insurance premiums on the $326.7 billion of foreign deposits they held at the end of March. Most large banks belong to the American Bankers Association, which supported the move.

Why not? They do not pay a premium on $326.7 billion, they save $620 million by not having any kind of insurance on these foreign deposits. But if the bank gets in trouble, the taxpayers will pay those foreigners for their deposits. We will cover the $326.7 billion if they get in trouble. The banks in the meantime save the money.

One final quote from this article:

> While Mr. Seidman favored—

Mr. Seidman is the head of RTC, and he was the head of the Federal Deposit Insurance Corporation for decades. He is the biggest force in banking in America. So therefore he must bear a great deal of the blame for what has happended. I do not know why he does not go and resign and move off the scene.

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> While Mr. Seidman favored backing foreign deposits at the National Bank of Washington, he stopped short of promising that the FDIC backing for foreign depositors, banking for foreign depositors at other banks, since the government in effect covered the National Bank's domestic accounts above the insurance limit of $100,000 per account—

And that is another way we lose it. Our own domesic depositors who put in more than a hundred thousand, and they do not have a guarantee legally covering their deposits also. Mr. Seidman said, it would be inappropriate not to cover the foreign depositors and treat them differently by not providing Government backing. "As far as we can, we will treat all depositors the same," Mr. Seidman said.

In cases where the FDIC cannot find any buyers of a failed bank and decides to pay off deposits, Mr. Seidman left open the possibility that foreign depositors from now on could bear a loss. When there is no buyer for a failed bank, the FDIC's normal practice has been to pay domestic accounts up to the $100,000 insurance limit, and in many cases, when banks are too big to fail, they have operated differently.

The Federal Reserve Chairman, Alan Greenspan, backs up this approach. He told Congress in September that the Fed, the Federal Reserve Bank, opposes a policy that requires that uninsured depositors must bear part of the loss of failed banks. In other words, if a bank fails, they should be guaranteed even though they are uninsured.

As my colleagues know, it is taxpayers' money. It is generously being given away.

Most people believe that we have to bear the burden of the savings and loan swindle, all that has happened. We have to bear it, and we do in the same senses that we are responsible for those deposits. The average American family, who has deposits in the bank, need the comfort and security of knowing that their Government stands firmly behind them. The Government must pay off the depositors, but I do not think the taxpayers know, and I do not think the taxpayers want to be a part of this scheme of giving away generous amounts of money to foreign depositors who did not have any insurance, giving it away to big banks who refuse to pay the premiums on the insurance and left their people uncovered and giving it away even to Americans who deposit more than a hundred thousand dollars in a particular bank and are not legally insured under the program.

Mr. Speaker, it is just one more example of how there is a double standard applied in this world of financiers, this world of accountants, and lawyers and MBA's, this world of old boys and their networks that can get on the phone to powerful people.

The final bill is paid by the American taxpayer. The American taxpayer is being called upon in the latest budget proposal. They are being called upon to pay the bill, and they will not even itemize the bill.

Mr. Speaker, that S&L piece has been hidden. Nobody is talking about the bill, one of the biggest pieces of the bill. They are not even stating an honest figure as to what the S&L cost is going to be.

Taxpayers, rightly are revolting against this budget package. Taxpayers rightfully, are revolting against the budget process. It does not matter what kind of crisis is created. Even sequestration is better than swallowing this wholesale swindle that is being forced upon us by the summit.

REPORT ON CONTINUED PRODUCTION FROM THE NAVAL PETROLEUM RESERVES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Armed Services.

(For message, see proceedings of the Senate of today, Wednesday, October 3, 1990.)

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. James) to revise and extend their remarks and include extraneous material:)

Mr. DeLay, for 5 minutes, today.

Mr. Kasich, for 5 minutes, today.

(The following Members (at the request of Mrs. Boxer) to revise and extend their remarks and include extraneous material:)

Mr. Hoyer, for 5 minutes, today.

Mr. Coyne, for 5 minutes, today.

Mrs. Lowey of New York, for 5 minutes, today.

Mr. Stark, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Rostenkowski, for 5 minutes, today.

Mr. Dellums, for 5 minutes, today.

Mr. Owens of New York, for 60 minutes each day, on October 15, 16, 17, 18, and 19.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. James) and to include extraneous matter:)

Mr. Bilirakis.

Mr. Gilman in two instances.

Mr. Porter.

Mr. Shaw.

Mr. McEwen.

Mr. Bereuter.

Mr. Crane in three instances.

Mr. Hunter in two instances.

Ms. Schneider.

Mr. Baker.

Mr. Duncan.

Mr. Conte.

Mr. Green of New York.

Mr. Gunderson.

Mr. Porter.

Mr. Gallegly.

Mr. Dornan of California.

(The following Members (at the request of Mrs. Boxer) and to include extraneous matter:)

Mr. Feighan.

Mr. Hamilton.

Mr. Mrazek.

Mr. Morrison of Connecticut.

Mr. Montgomery.

Mr. Nowak.

Mr. Lantos in three instances.

Mr. Stark.

Mr. Stokes.

Mr. Borski in two instances.

Mr. Richardson.

Mr. Thomas A. Luken.

Mr. LaFalce.

Mr. Dyson.

Mr. Applegate.

Mr. Rose.

Mr. Hertel.

Mr. Jacobs.

Mrs. Schroeder.

Mr. Durbin.

Mr. AuCoin.

Mr. Bates.

Mr. Yates.

Mr. Fauntroy.

SENATE BILL JOINT RESOLUTIONS, AND CONCURRENT RESOLUTION

A bill joint resolutions and concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2111. An act designating the month of May as "Asian/Pacific American Heritage Month", to the Committee on Post Office and Civil Service.

S.J. Res. 351. Joint resolution to designate the month of May, 1991 as "National Trauma Awareness Month", to the Committee on Post Office and Civil Service.

S.J. Res. 369. Joint resolution designating 1991 as the "Year of Thanksgiving for the Blessings of Liberty"; to the Committee on Post Office and Civil Service.

S. Con. Res. 147. Concurrent resolution supporting the actions taken by the President with respect to Iraqi aggression against Kuwait; to the Committee on Foreign Affairs.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3657. An act to amend the Securities Exchange Act of 1934 to strengthen regulatory oversight of the United States securities markets, improve supervision of financial market participants, and improve the safety and efficiency of market mechanisms, and for other purposes;

H.R. 5641. An act to amend title 5, United States Code, with respect to retirement of members of the Capitol Police;

H.R. 5643. An act to grant a temporary extension on the authority under which the Government may accept the voluntary services of private-sector executives; to clarify the status of Federal employees assigned to private-sector positions while participating in an executive exchange program; and for other purposes; and

H.J. Res. 482. Joint resolution designating March 1991 as "Irish-American Heritage Month."

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bill and a joint resolution of the Senate of the following titles:

S. 647. An act to amend the Federal securities laws in order to provide additional enforcement remedies for violations of those laws and to eliminate abuses in transactions in penny stocks, and for other purposes;

S. 1128. An act for the relief of Richard Saunders;

S. 1229. An act for the relief of Maria Luisa Anderson;

S. 1230. An act to authorize the acquisition of additional lands for inclusion in the Knife River Indian Villages National Historic Site, and for other purposes;

S. 1511. An act to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes;

S. 1683. An act for the relief of Paula Grzyb;

S. 1814. An act for the relief of Wilson Johan Sherrouse;

S. 1974. An act to require new televisions to have built in decoder circuitry; and

S.J. Res. 181. Joint resolution to establish calendar year 1992 as the "Year of Clean Water."

BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 5725. An act to extend the expiration date of the Defense Production Act of 1950; and

H.R. 3007. An act to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to provide additional authorizations for appropriations.

ADJOURNMENT

Mr. OWENS of New York. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 25 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, October 4, 1990, at 11 a.m.

OATH OF OFFICE, MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The Oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> "I, A B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 101st Congress, pursuant to the provisions of 2 U.S.C. 25:

Hon. Patsy T. Mink, Second District of Hawaii.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3998. A letter from the Administrator, Environmental Protection Agency, transmitting a report on the accomplishments of the Sole Source Aquifer Demonstration [SSAD] Program, pursuant to section 1427 of the Safe Drinking Water Act; to the Committee on Energy and Commerce.

3999. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting a report on the extent to which significant progress has been made toward ending the system of apartheid in South Africa, pursuant to section 501 of the Comprehensive Anti-Apartheid Act of 1986; to the Committee on Foreign Affairs.

4000. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4001. A letter from the Acting General Counsel, Office of Management and Budget, transmitting the annual report on credit management and debt collection, dated June 1990; jointly, to the Committees on Government Operations and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the

Clerk for printing and reference to the proper calendar, as follows:

Mr. MOAKLEY: Committee on Rules. House Resolution 492. Resolution providing for the consideration of H.J. Res. 660, a joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes. (Rept. 101-797). Referred to the House Calendar.

Mr. FASCELL: Committee on Foreign Affairs. H.R. 4054. A bill to provide a permanent endowment for the Eisenhower Exchange Fellowship Program; with an amendment (Rept. 101-798). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4515. A bill to authorize a high speed rail transportation development and commercialization program, to establish a national high speed rail transportation policy, to promote development and commercialization of high speed rail transportation by providing Federal guarantees of certain investments in high speed rail transportation facilities, and for other purposes; with an amendment (Rept. 101-799). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DINGELL (for himself, Mr. Markey, and Mr. McMillen of Maryland):

H.R. 5777. A bill to amend the Federal securities laws to equalize the regulatory treatment of participants in the securities industry, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ROSTENKOWSKI:

H.R. 5778. A bill to make technical corrections to certain customs and tariff laws; to the Committee on Ways and Means.

By Mr. PICKLE (for himself, Mr. Schulze, Mr. Anthony, Mr. Flippo, Mr. Dorgan of North Dakota, Mr. Ford of Tennessee, Mr. Rangel, Mr. Jacobs, Mr. McGrath, Mr. Chandler, and Mr. Shaw):

H.R. 5779. A bill to amend the Internal Revenue Code of 1986 to prevent the avoidance of the requirement to file returns when businesses receive more than $10,000 in cash, and for other purposes; to the Committee on Ways and Means.

By Mr. SKAGGS (for himself and Mrs. Schroeder):

H.R. 5780. A bill to designate certain lands in the State of Colorado as wilderness, and for other purposes; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. DURBIN (for himself, Mr. Evans, Mr. Michel, Mr. Leach of Iowa, Mr. Tauke, and Mr. Volkmer):

H.R. 5781. A bill to authorize the Secretary of the Army to provide shoreline projects to maintain certain flood control projects on the Mississippi and Iowa Rivers; to the Committee on Public Works and Transportation.

By Mr. JENKINS (for himself, Mr. Anthony, Mr. Flippo, Mr. Matsui, Mr. Sundquist, and Mr. Vander Jagt):

H.R. 5782. A bill to amend the Internal Revenue Code of 1986 to technically clarify the calculation of the basis of real property for purposes of computing gain or loss from sale; to the Committee on Ways and Means.

By Mr. JOHNSON of South Dakota (for himself and Mr. Dorgan of North Dakota):

H.R. 5783. A bill to provide disaster assistance for agricultural producers, and for other purposes; to the Committee on Agriculture.

By Mr. JONES of Georgia:

H.R. 5784. A bill to provide that the 25 percent pay increase under the Ethics Reform Act of 1989 be deferred with respect to Members of Congress and officials in the executive branch until a balanced Federal budget is achieved; jointly, to the Committees on House Administration and Post Office and Civil Service.

By Mr. LEHMAN of California (for himself and Mr. Hiler):

H.R. 5785. A bill to require the redesign of the reverse side of a circulating coin to commemorate the bicentennial of the U.S. Constitution and to provide for the redesign of all circulating coins other than the dollar; to the Committee on Banking, Finance and Urban Affairs.

By Mr. McEWEN (for himself, Mr. Baker, Mr. DeLay, and Mr. Inhofe):

H.R. 5786. A bill to require the President to make an annual report on the national energy and environmental strategy of the United States to Congress; to the Committee on Energy and Commerce.

By Mrs. SCHROEDER (for herself and Mr. Skaggs):

H.R. 5787. A bill to protect the wilderness qualities of certain lands in the State of Colorado pending enactment of legislation designating those lands as components of the National Wilderness Preservation System or releasing those lands for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SYNAR (for himself and Mr. Darden):

H.R. 5788. A bill to provide for domestic livestock grazing fees for public rangelands reflecting the fair market value of forage on those lands; to the Committee on Interior and Insular Affairs.

By Mr. WHEAT (for himself, Mr. Dellums, Mr. Clay, Mrs. Collins, Mr. Conyers, Mr. Crockett, Mr. Dixon, Mr. Dymally, Mr. Espy, Mr. Fauntroy, Mr. Flake, Mr. Ford of Tennessee, Mr. Gray, Mr. Hawkins, Mr. Hayes of Illinois, Mr. Lewis of Georgia, Mr. Mfume, Mr. Owens of New York, Mr. Payne of New Jersey, Mr. Rangel, Mr. Savage, Mr. Stokes, Mr. Towns, and Mr. Washington):

H. Con. Res. 378. Concurrent resolution to express the sense of Congress regarding racially offensive remarks by the Justice Minister of Japan to the Committee on Foreign Affairs.

By Mrs. LOWEY of New York (for herself Mr. Jones of North Caroline, Mr. Studds, Mr. Downey, Mrs. Bentley, Mr. Miller of Washington, Mr. Hochbrueckner, Mr. Blaz, Mr. Ravenel, Mr. Gilman, Mr. Pallone, Mr. Manton, Mrs. Saiki, Mr. Gejdenson, Mr. Hughes, Mr. Tallon, and Mr. Carper):

H. Res. 493. Resolution expressing the support of the House of Representatives for the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers and calling upon the Senate to expeditiously give its advice and consent to ratification of that convention; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BENNETT:

H.R. 5789. A bill for the relief of Craig A. Klein; to the Committee on the Judiciary.

By Mr. COX:

H.R. 5790. A bill to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 633: Mr. Lehman of Florida and Mr. Sundquist.

H.R. 1085: Ms. Pelosi and Mr. Barnard.

H.R. 1652: Mr. Bilirakis and Mr. Walsh.

H.R. 2460: Mr. Feighan.

H.R. 2707: Mr. Ortiz.

H.R. 2816: Mr. Levin of Michigan.

H.R. 3986: Mr. Cardin, Mr. English, Mr. Fish, Mr. Hoagland, Mr. Browder, Mr. Rahall, Mrs. Martin of Illinois, and Mr. Crane.

H.R. 4125: Mr. Vento.

H.R. 4287: Mr. Mrazek, Mr. Gejdenson, Mr. Kolbe, Mr. Wise, Mr. Edwards of Oklahoma, Mr. Stangeland, Mr. Horton, and Mr. Lewis of Florida.

H.R. 4353: Mr. Tallon.

H.R. 4369: Mr. Bliley.

H.R. 4690: Mr. Oberstar.

H.R. 4859: Mr. Shays.

H.R. 4860: Mr. Shays.

H.R. 5088: Mr. Fish, Mr. Lewis of Georgia, and Mr. Machtley.

H.R. 5302: Mr. James.

H.R. 5397: Mr. Kolter, Mr. Blaz, Mr. Hertel, and Mr. Dwyer of New Jersey.

H.R. 5460: Mr. Eckart, Mr. McCollum, Mr. Lipinski, Mrs. Johnson of Connecticut, Mr. Wolpe, Mr. Lagomarsino, Mr. Fuster, Mr. Inhofe, Mr. Hiler, and Mr. James.

H.R. 5562: Mr. DeLay and Mr. Douglas.

H.R. 5569: Mr. Wilson, Mr. Smith of Florida, Mr. Blaz, Mr. Hertel, Mr. Stokes, Mr. McCandless, Mr. Bilirakis, Mr. Fuster, and Mr. Evans.

H.R. 5587: Mr. Ritter.

H.R. 5622: Mr. Jacobs.

H.R. 5710: Mr. Martinez.

H.J. Res. 214: Mr. Annunzio, Mr. Oxley, Mr. Weber, Mr. Ridge, Ms. Molinari, Mr. Clinger, Mr. Dickinson, Mrs. Smith of Nebraska, Mrs. Bentley, Mr. Edwards of Oklahoma, Mr. Houghton, Mr. Miller of Ohio, Mr. Hunter, Mr. Morrison of Washington, Mr. Young of Florida, Mr. Serrano, Mr. Wyden, and Mr. Chandler.

H.J. Res. 353: Ms. Slaughter of New York.

H.J. Res. 492: Mrs. Bentley, Mr. Feighan, Mr. Mavroules, Mr. Frost, Mr. Brooks, Mr. Machtley, Mr. Rose, Mr. Archer, Mr. Morrison of Connecticut, Mr. Lehman of Florida, Mr. Smith of Texas, Mr. Gejdenson, Mr. Rowland of Connecticut, Mrs. Morella, Mr. Moody, Mr. Wilson, Mr. Spratt, and Mrs. Patterson.

H.J. Res. 542: Mr. Lehman of Florida, Mr. Savage, Mr. Jontz, Mr. Owens of Utah, Mr. Nielson of Utah, Mr. Conte, Mr. Rangel, Mr. Dwyer of New Jersey, Mrs. Boxer, Mr. Walsh, Mr. Spence, Mr. Scheuer, Mr. Kolter, Mr. Davis, Mr. Quillen, Mr.

Carper, Mr. Kennedy, Mr. Emerson, Mr. Wyden, Mr. Solomon, Mr. Hughes, Mrs. Meyers of Kansas, Mr. Engel, Mr. Hochbrueckner, Mr. Fish, Mr. Porter, Mr. Saxton, Mr. Tanner, Mr. Upton, Mr. Jenkins, Mr. Gallo, Mr. Bustamante, Mrs. Lloyd, Mr. Kleczka, Mr. Mazzoli, Mr. Chandler, Mr. Levine of California, Mr. Erdreich, Mr. Bliley, Mrs. Johnson of Connecticut, Mr. Roybal, Mr. Sheen, Mrs. Boggs, and Mrs. Morella.

H.J. Res. 595: Mr. Hutto, Mr. Ireland, Mr. Kennedy, Mr. Lantos, Mr. Pickett, Mr. Porter, Mr. Roybal, Mr. Schaefer, Mr. Solarz, Mr. Anderson, Mr. Clarke, and Mr. Coughlin.

H.J. Res. 611: Mr. Ackerman, Mr. Alexander, Mr. Anderson, Mr. Applegate, Mr. Archer, Mr. Aspin, Mr. Atkins, Mr. AuCoin, Mr. Barnard, Mr. Bates, Mr. Bennett, Mrs. Bentley, Mr. Berman, Mr. Bevill, Mr. Bilirakis, Mrs. Boggs, Mr. Bonior, Mr. Borski, Mr. Bosco, Mr. Boucher, Mrs. Boxer, Mr. Brennan, Mr. Brown of California, Mr. Bustamante, Mrs. Byron, Mr. Callahan, Mr. Cardin, Mr. Carper, Mr. Carr, Mr. Clement, Mr. Coble, Mr. Coleman of Texas, Mrs. Collins, Mr. Conte, Mr. Conyers, Mr. Cooper, Mr. Coughlin, Mr. Crockett, Mr. Davis, Mr. DeFazio, Mr. de la Garza, Mr. DeLay, Mr. Dellums, Mr. de Lugo, Mr. Dicks, Mr. Dingell, Mr. Dixon, Mr. Donnelly, Mr. Dornan of California, Mr. Durbin, Mr. Dwyer of New Jersey, Mr. Dymally, Mr. Dyson, Mr. Early, Mr. Edwards of California, Mr. Erdreich, Mr. Espy, Mr. Evans, Mr. Faleomavaega, Mr. Fascell, Mr. Fauntroy, Mr. Fazio, Mr. Fish, Mr. Flippo, Mr. Foglietta, Mr. Frank, Mr. Frenzel, Mr. Frost, Mr. Fuster, Mr. Gejdenson, Mr. Gekas, Mr. Gibbons, Mr. Gilman, Mr. Goodling, Mr. Gordon, Mr. Goss, Mr. Grant, Mr. Gray, Mr. Green, Mr. Guarini, Mr. Hall of Ohio, Mr. Hamilton, Mr. Hammerschmidt, Mr. Harris, Mr. Hatcher, Mr. Hawkins, Mr. Hayes of Illinois, Mr. Hayes of Louisiana, Mr. Hefner, Mr. Henry, Mr. Hertel, Mr. Hochbrueckner, Mr. Horton, Mr. Hoyer, Mr. Hughes, Mr. Hunter, Mr. Hutto, Mr. Ireland, Mr. Johnston of Florida, Mr. Jones of North Carolina, Mr. Jontz, Ms. Kaptur, Mr. Kasich, Mr. Kastenmeier, Mr. Kennedy, Mr. Kildee, Mr. Kolter, Mr. LaFalce, Mr. Lagomarsino, Mr. Lancaster, Mr. Lantos, Mr. Leach of Iowa, Mr. Lehman of California, Mr. Levin of Michigan, Mr. Levine of California, Mr. Lewis of California, Mr. Lewis of Florida, Mr. Lipinski, Mr. Livingston, Mrs. Lloyd, Ms. Long, Mr. Lowery of California, Mr. Thomas A. Luken, Mr. McCloskey, Mr. McDade, Mr. McDermott, Mr. McGrath, Mr. McHugh, Mr. McMillen of Maryland, Mr. McNulty, Mr. Machtley, Mr. Manton, Mr. Markey, Mr. Martinez, Mr. Matsui, Mr. Mavroules, Mrs. Meyers of Kansas, Mr. Mfume, Mr. Miller of California, Mr. Miller of Washington, Mr. Mineta, Mr. Moakley, Mr. Mollohan, Mr. Montgomery, Mr. Moody, Mr. Moorhead, Mrs. Morella, Mr. Mrazek, Mr. Murtha, Mr. Nagle, Mr. Natcher, Mr. Neal of North Carolina, Mr. Nelson of Florida, Ms. Oakar, Mr. Obey, Mr. Ortiz, Mr. Owens of New York, Mr. Owens of Utah, Mr. Pallone, Mr. Panetta, Mr. Parker, Mr. Parris, Mr. Payne of New Jersey, Ms. Pelosi, Mr. Pickle, Mr. Porter, Mr. Price, Mr. Pursell, Mr. Quillen, Mr. Rahall, Mr. Rangel, Mr. Ravenel, Mr. Richardson, Mr. Roe, Ms. Ros-Lehtinen, Mr. Rose, Mrs. Roukema, Mr. Roybal, Mr. Russo, Mr. Sabo, Mr. Sangmeister, Mr. Savage, Mr. Sawyer, Mr. Scheuer, Mr. Sharp, Mr. Shaw, Ms. Slaughter of New York, Mr. Smith of Florida, Mr. Smith of Iowa, Mr. Solarz, Mr. Spence, Mr. Spratt, Mr. Staggers, Mr. Stark, Mr. Stearns, Mr. Stenholm, Mr. Studds, Mr. Synar, Mr. Tanner, Mr. Tauzin, Mr. Towns, Mr. Traficant, Mr. Traxler, Mrs. Unsoeld, Mr. Vento, Mr. Visclosky, Mr. Walgren, Mr. Watkins, Mr. Waxman, Mr. Weber, Mr. Weiss, Mr. Wheat, Mr. Wilson, Mr. Wise, Mr. Wolf, Mr. Wolpe, Mr. Wyden, Mr. Yates, Mr. Yatron, Mr. Young of Florida, and Mr. Young, of Alaska.

H.J. Res. 612: Mr. Montgomery, Mr. Rowland of Georgia, Mr. Gunderson, and Mr. AuCoin.

H.J. Res. 637: Mr. Hutto, Mr. Moorhead, Mr. Vento, Mr. Sabo, Mr. Ortiz, Mr. Andrews, Mr. Grandy, Mr. Gunderson, Mr. Hatcher, Mr. Inhofe, Mr. Donald E. Lukens, Mr. Marlenee, Mr. Moody, Mr. Morrison, of Washington, Mr. Roberts, Mrs. Saiki, Mr. Schuette, Mr. Serrano, Mr. Robert F. Smith, Mr. Spence, Mr. Tauke, Mr. Walsh, Mr. Archer, Ms. Pelosi, Mr. Hawkins, Mr. Young of Florida, Mr. Bevill, Mr. Mrazek, Mr. Mollohan, Mr. Murtha, Mr. Perkins, Mr. Dwyer of New Jersey, Ms. Kaptur, Mr. Traxler, Mr. Pickle, and Mr. Rose.

H.J. Res. 642: Mr. Roe.

H.J. Res. 643: Mr. Morrison of Washington, Mr. Volkmer, Mr. Burton of Indiana Mr. Flippo, Mr. Henry, Mr. Slattery, Mr Callahan and Mr. Dickinson.

H. Con. Res. 355: Mr. Skaggs Ms. Pelosi Mr. McDermott, Mr. Yates, Mr. Lewis o Georgia, Mr. Feighan, Mr. Boucher, Mr Beilenson, Mr. Neal of Massachusetts, Mr Engel, Mr. Atkins, Mr. Panetta, Mr Miller of California, and Mr. Brown o California.

H. Con. Res. 373: Mr. Rowland of Georgia, Mr. Jontz, and Mr. Miller of California.

H. Con. Res. 374: Mr. Porter.

H. Res. 407: Mr. Roe.

EXTENSIONS OF REMARKS

HONOR THY PLEDGE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. STARK. Mr. Speaker, following is an editorial from the Wall Street Journal of October 2, 1990, concerning the 103 Members who signed a pledge not to increase taxes.

I, for one, strongly support progressive tax changes designed to ensure that the wealthy, who benefited so much from the excesses of the 1980's, pay for their repair of that decade. But the budget summit is not progressive; it is regressive—and I oppose it.

Since our worth as elected officials is only as good as our word, I trust that the 103 Members will all oppose this regressive package.

I would also like to enter into the RECORD the column by the Washington Post's chief economic writer, Hobart Rowen, entitled, "The Budget Deal: Too Much for the Rich."

HONOR THY PLEDGE

"I pledge to the taxpayers of the District of the State of —— and to the American people that I will:

"One, oppose any effort to increase marginal tax rates from the 15% and 28% rates for individuals and the 34% top rate for businesses; and

"Two, oppose any further reduction or elimination of deductions and credits, unless matched dollar for dollar by further reducing tax rates."

For the past few years, the Washington-based Americans for Tax Reform has circulated the above pledge as an insurance policy that the 1986 tax reform would not be easily subverted. Well, the budget deal is subverting that reform, so it's time to revisit the tax pledge.

The pledge's importance is simple. The budget agreement includes an effective increase in marginal tax rates by forcing taxpayers to reduce their itemized deductions by $300 for every $10,000 in income over $100,000. In effect, it blows the so-called "bubble" up higher and longer so that more taxpayers pay higher marginal tax rates over more of their income.

The budget agreement stipulates that a majority of the Members of each party in both Houses must vote for the entire agreement for it to take effect. To date, 101 Republicans and two Democrats in the House have signed statements saying they will honor the anti-tax pledge. Only 75 House Republicans have not signed the pledge. The White House must persuade at least 14 House Republicans to break a sworn promise or risk defeat of the agreement.

Grover Norquist, the head of Americans for Tax Reform, says that everyone who signed the pledge was told at the time that they would be held to it. "Any politician who took the pledge and votes for the present budget package was elected on a falsehood," he says. "We will hand their opponents their signed pledges so that the voters can decide whether there was some justification for their vote in favor of the second largest tax increase in American history." Half a dozen other tax groups announced yesterday that they will publicize the names of those who break the pledge.

A great many Members will have reasons to support the "bipartisan" budget agreement. Voters deserve to know whether or not their representative earlier promised, without any qualifications, to hold the line on income taxes. Here is the list of Members who have taken the pledge against higher taxes:

Dick Armey (R., Texas).
Richard Baker (R., La.).
Cass Ballenger (R., N.C.).
Doug Barnard (D., Ga.).
Steve Bartlett (R., Texas).
Joe Barton (R., Texas).
Michael Bilirakis (R., Fla.).
Thomas Bliley (R., Va.).
William Broomfield (R., Mich.).
Hank Brown (R., Colo.).
Jack Buechner (R., Mo.).
Jim Bunning (R., Ky.).
Dan Burton (R., Ind.).
Sonny Callahan (R., Ala.).
Howard Coble (R., N.C.).
Larry Combest (R., Texas).
Jim Courter (R., N.J.).
Chris Cox (R., Calif.).
Larry Craig (R., Idaho).
Phil Crane (R., Ill.).
Bill Dannemeyer (R., Calif.).
Kika de la Garza (D., Texas).
Tom DeLay (R., Texas).
Bob Dornan (R., Calif.).
Chuck Douglas (R., N.H.).
David Dreier (R., Calif.).
Mickey Edwards (R., Okla.).
Bill Emerson (R., Mo.).
Jack Fields (R., Texas).
Elton Gallegly (R., Calif.).
Dean Gallo (R., N.J.).
George Gekas (R., Pa.).
Newt Gingrich (R., Ga.).
Bill Goodling (R., Pa).
Porter Goss (R., Fla.).
Fred Grandy (R., Iowa).
Steve Gunderson (R., Wis.).
John Hammerschmidt (R., Ark.).
Mel Hancock (R., Mo.).
James Hansen (R., Utah).
Dennis Hastert (R., Ill.).
Joel Hefley (R., Colo.).
Wally Herger (R., Calif.).
John Hiler (R., Ind.).
Clyde Holloway (R., La.).
Duncan Hunter (R., Calif.).
Henry Hyde (R., Ill.).
Jim Inhofe (R., Okla.).
Andy Ireland (R., Fla.).
Jim Kolbe (R., Ariz.).
Jon Kyl (R., Ariz.).
Bob Lagomarsino (R., Calif.).
Norm Lent (R., N.Y.).
Jerry Lewis (R., Calif.).
Jim Lightfoot (R., Iowa).
Bob Livingston (R., La.).
Bill Lowery (R., Calif.).
Buz Lukens (R., Ohio).
Ron Marlenee (R., Mont.).
Lynn Martin (R., Ill.).
Al McCandless (R., Calif.).
Bill McCollum (R., Fla.).
Bob McEwen (R., Ohio).
Carlos Moorhead (R., Calif.).
Howard Nielson (R., Utah).
Michael Oxley (R., Ohio).
Ron Packard (R., Calif.).
Stan Parris (R., Va.).
Bill Paxon (R., N.Y.).
Tom Petri (R., Wis.).
John Porter (R., Ill.).
James Quillen (R., Tenn.).
Arthur Ravenel (R., S.C.).
John Rhodes (R., Ariz.).
Matt Rinaldo (R., N.J.).
Don Ritter (R., Pa.).
Pat Roberts (R., Kan.).
Tommy Robinson (R., Ark.).
Dana Rohrabacher (R., Calif.).
Toby Roth (R., Wis.).
Jim Saxton (R., N.J.).
Dan Schaefer (R., Colo.).
Bill Schuette (R., Mich.).
Clay Shaw (R., Fla.).
Norman Shumway (R., Calif.).
Bud Shuster (R., Pa.).
Chris Smith (R., N.J.).
Denny Smith (R., Ore.).
Lamar Smith (R., Texas).
Peter Smith (R., Vt.).
Robert Smith (R., N.H.).
Gerald Solomon (R., N.Y.).
Floyd Spence (R., S.C.).
Arlan Stangeland (R., Minn.).
Bob Stump (R., Ariz.).
Don Sundquist (R., Tenn.).
Guy Vander Jagt (R., Mich.).
Barbara Vucanovich (R., Nev.).
Bob Walker (R., Pa.).
Vin Weber (R., Minn.).
Bob Whittaker (R., Kan.).
Bill Young (R., Fla.).
Don Young (R., Alaska).

THE BUDGET DEAL: TOO MUCH FOR THE RICH

(By Hobart Rowen)

At first, I thought that the deficit-reduction package would be better than nothing at all, and that Congress should hold its collective nose and vote for it: without some action, there would be a mindless across-the-board sequester bringing many elements of essential government to a screeching, irrational halt.

But after reflection, my conclusion is that the price is too high: the budget "summiteers" at the last minute sneaked into the deal a slew of new tax shelters that would cost $12 billion over five years.

It breaks faith with taxpayers who bought the 1986 Tax Reform Act, which cut the top rate for the wealthy to 28 percent, on the basis that tax loopholes and shelters were to be eliminated. Now, the wealthy would get the low tax rate and tax shelters.

The $12 billion cost is merely the official estimate: once tax lawyers and accountants go to work on such goodies as a 25 percent deduction of the cost of stock in one of the qualified small companies, that figure is likely to soar.

The Bush team appears to have put one over on the Democrats, selling the new tax-shelter provisions at the eleventh hour, ostensibly to provide "new incentives to stimulate economic growth." Billed as a consolation prize for Bush, who gave up his vaunted capital-gains tax-cut proposal, the new plan in some ways is worse than preferential rates for capital gains.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

A capital gains tax cut would primarily benefit the rich but also provide some benefits to lower-income persons. The new tax shelter for stock purchases benefits only the rich, who can put up big chunks of money to reap an immediate tax credit.

It is nonsense to suggest, as did The New York Times, that "this year's ugly compromise is acceptable ony if Congress rights the wrongs next year." The time to repair the damage of the tax-shelter gimmick is now, before it gets written into law.

Even then, the budget compromise won't be a thing of beauty. It won't help bring the economy out of recession. In fact, the small contraction in the deficit may make it worse, unless there is prompt offsetting action to lower interest rates. Such relief is desperately needed to prevent a collapse of American businesses and banks, which are in deeper trouble than anyone wants to admit.

The proposed $40 billion reduction in the deficit for this fiscal year (not the highly ballyhooed $50 billion) doesn't even keep pace with the increase in the deficit as projected as recently as July. Then, the Bush administration estimated the red ink for fiscal 1991 at $231.4 billion. The new estimate has swelled—because of the dip in the economy, a worsening S&L crisis and the cost so far of the military buildup in Saudi Arabia—by $62.3 billion to $293.7 billion.

So the agreed-upon deal, even if the economy doesn't plunge into recession, only nibbles at the accumulated red ink. And whether it works to stimulate growth in the long run depends on the dubious proposition that future Congresses will keep a commitment that this Congress makes to cut spending and raise taxes.

Moreover, the package is regressive because it extracts most of the deficit reductions from lower- and middle-income groups that can least afford it. Excise taxes on beer, wine, liquor and cigarettes obviously take a bigger chunk of income from less-well-off taxpayers than from the rich.

Increased Medicare premiums also place a relatively greater burden on poor taxpayers than on the rich. A better alternative would have been to tax more of the Social Security benefits received by wealthier taxpayers.

Against regressive tax and spending measures, the only progressive element offered is a limitation on itemized tax deductions for taxpayers with incomes over $100,000 a year. That's equivalent to an extra marginal tax rate of 1 percent for richer taxpayers. In addition, there is a 10 percent luxury tax on expensive cars, yachts, jewelry and furs.

Balancing it all out, the Democrats, who promised to shift the burden more to upper-income brackets, failed in their objective. As Tennessee Sen. James Sasser, chairman of the Senate Budget Committee, ruefully conceded, the package "has not corrected the regressivity, which has stormed through the tax structure over the last 12 years."

In particular, the package deal raises the question, once again, of whether the Democratic Party is a mere appendage of the Republican Party rather than a true opposition party, as banker Felix Rohatyn suggested earlier this year. Sen. George Mitchell, Speaker Tom Foley and Majority Leader Richard Gephardt have gone along with a compromise that puts the monkey on the back of the lower and middle class. It gets harder to see real differences between them and moderate Republicans such as George Bush, Bob Dole and Minority Leader Robert Michel.

THE LAST BASTION OF CONSERVATISM

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. CRANE. Mr. Speaker, lately, an increasing number of colleges and universities depend on the Federal Government for the remedies to their financial woes. As a result, these institutions have become beholden to ludicrous government standards. Every aspect of the hiring and education policies must follow the mandates set forth by the bureaucratic monster.

Hillsdale College has freed itself from such institutional controls. In the 146 years since its founding, the college has never taken 1 cent of Government money and refuses to submit to Government control. In the 1970's and 1980's the school set out to establish private financial aid for all those students in need. The school quickly raised the money needed and it has been a resounding success. Hillsdale is now embarking on a new fundraising campaign to raise $151 million to ensure the integrity of the school. It is nice to see a school that can settle its own problems rather than running to the Federal Government for financial security. For all of my colleagues who said private non-government-funded education is impossible, I commend to your attention the following article.

[From the Detroit News, September 21, 1990]

THE LITTLE COLLEGE THAT COULD

Hillsdale College fought a protracted legal battle in the 1970s and early '80s to remain free of government hiring and educational policies. When the courts ruled that accepting students with federal scholarship aid meant that Hillsdale would have to knuckle under to Washington's red tape, the southern Michigan school simply replaced the government aid with scholarship money of its own.

Now Hillsdale has embarked on a $151-million fund-raising campaign of its own, and we wish it well. If successful, the campaign will ensure that the small liberal arts school will be able to continue going its own way. It's refreshing to see an institution that's willing to sink or swim on its merits, rather than run to Uncle Sam every time it feels a pinch.

The specific issue over which Hillsdale battled the government was its refusal to report on the numbers of women, blacks and other minorities enrolled. Hillsdale has never felt it had to explain anything to anybody about its hiring and admissions practices. The school was founded in 1844 by Free-Will Baptists dedicated to the abolition of slavery. It claims to be the second college in the nation to admit women on an equal basis with men, and it granted degrees to former slaves even before the Civil War.

With only 1,100 students and a faculty of 75, Hillsdale is often dismissed by its larger brethren as insignificant. We suspect their real beef is that Hillsdale's president, George Roche, makes no effort to mask his conservative values at a time when liberalism is the nearly universal dogma on the nation's campuses. Mr. Roche doesn't impose his own conservatism on faculty and students, but he does insist that students be offered a balanced curriculum. Not surprisingly, many Michigan parents find that an attractive notion.

It's interesting to note that the University of Michigan is considering a $650-800 million fund-raising campaign in the mid-1990s. Officials say their aim would be to reduce U-M's dependence on state funding. It's a wise decision: Government money tends to come with onerous strings attached that ultimately could threaten academic freedom and U-M's commitment to excellence. Hillsdale, the little college that could, has helped to keep alive the flame of true independence.

TRIBUTE TO SUCCESS OF U.S. AIR FORCE ACADEMY'S ACADEMY AWARENESS TEAM

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. HUNTER. Mr. Speaker, I would like to bring to the attention of the House of Representatives the tremendous success the U.S. Air Force Academy's Academy Awareness Team has achieved in motivating San Diego's students to excel in leadership and academic areas.

The Academy Awareness Team is made up of representatives from the U.S. Air Force Academy, the San Diego Unified School District, the Urban League of San Diego, the San Diego Air Force Association, and the USAFA Parents Association of San Diego. These groups are to be commended for joining together to motivate minority and needy students in the San Diego area to do well in school and eventually pursue a college education.

The Urban League of San Diego, the USAFA Parents Association, and the San Diego Air Force Association are to be especially commended for providing both support to the program's steering committee and financial assistance enabling the students to receive achievement awards at the conclusion of the program.

The following have been singled out for their roles in making the 1990 Academy Awareness Program a success: Lt. Gen. Charles Hamm, superintendent, USAFA; Col. Thomas C. Wilkinson, USAFA; Col. J. Michel, USAFA; Maj. Danny Moore, USAFA; Maj. Raymond Barrows, USAFA; Lt. Charles Newton, USAFA; Ibrahim Naeem, president, Urban League of San Diego; Jacqueline Jackson, Urban League of San Diego; and Herbert Goodman, president, Air Force Association.

THE GERMAN SOURCES OF SADDAM HUSSEIN'S WEAPONS CAPABILITY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. LANTOS. Mr. Speaker, as we face the prospect of a protracted struggle in the Persian Gulf to restrain and ultimately roll back the vicious, ruthless dictator of Iraq, Saddam Hussein, there have been very alarming reports about his stockpiles of weapons, military equipment, and—most seriously—the industrial means to manufacture advanced weapons.

Yesterday's Wall Street Journal has an excellent report about the very disturbing role of German industry in providing Saddam Hussein with the capability to produce chemical and other weapons.

The German people, formerly citizens of two separate German states, have made a democratic decision to unite in a single state. That decision was democratically made, and the united Germany will be a democratic state. At the same time, Mr. Speaker, it is important that German Government, German industry, and the German people understand that they must be a responsible participant in the family of nations. The report in yesterday's Wall Street Journal raises very serious and very disturbing questions with which the government of the united Germany must now deal.

The world is watching. The world is concerned.

Mr. Speaker, I insert this article in the Record, and I ask my colleagues to give it careful and thoughtful attention:

[From the Wall Street Journal, Oct. 1, 1990]

Supplying Saddam—Germans Had Big Role in Helping Iraq Arm, Internal Report Shows

(By Frederick Kempe)

Bonn.—For weeks, the dismaying reports had trickled in: West German companies were supplying weapons factories to Iraq, shipping it poison gas equipment, maybe even helping Saddam Hussein develop a nuclear bomb. Trying to separate fact from fiction, members of the German parliament in August demanded a confidential briefing from Economics Minister Helmut Haussmann. What they heard surpassed their worst fears.

Mr. Haussmann read off a long list of companies believed to have supplied Iraq with the means to manufacture arms. The French and Soviets had sold Iraq far more missiles and bombs, but the Germans were shipping, right up until the trade embargo on Iraq, something far more important to Saddam Hussein in the face of an international blockade: the wherewithal to build his own advanced weapons.

Last year, a leading German role was revealed in Libya's chemical-weapons program. Mr. Haussmann made clear that in respect to Iraq, his country's corporate sins were far broader: German companies were involved in virtually every major Iraqi weapons project, and were probably the most important suppliers in President Hussein's crash project to develop weapons autonomy.

"From poison gas plants to rocket factories, from cannon forges to the nuclear sector . . ., the danger has already been spread," he said.

CRIMINAL PROCEEDINGS

A text of Mr. Haussmann's secret statement makes clear that German links to the Iraqi arms industry are far more widespread than previously believed, raising questions whether the world's largest exporter is discriminating enough about who buys its sensitive technologies. The laxity is now clearly under attack in Germany, however: Investigators have so far made inquiries into 170 companies, and started criminal proceedings against 25.

The Haussmann report names more than 20 of these companies and points to at least a dozen more. It lists six Iraqi projects in which it says Germans have played important roles.

Nuclear weapons: Three German companies have provided machinery, special steel and components that are being used to build the gas centrifuges needed for producing weapons-grade uranium, Mr. Haussmann said. West German intelligence believes this has helped bring Iraq within perhaps two years of "the bomb."

Poison gas; A German company was the chief supplier for six plants in Samarra, Iraq, that make nerve and mustard gases, gases already used against the Iraqi Kurds and the Iranians.

Upgrading of missiles: Five German companies have helped improve Iraq's Scud-B missiles so they can carry chemical or conventional warheads farther and more accurately.

The "Big Gun": Six German firms have provided parts for a 150-meter-long "supercannon" Iraq has tried to build.

The Saad 16 project: A German contractor built Iraq's most advanced weapons research facility—President Hussein's pet project—where work on chemical and nuclear arms takes place.

The Taji project: A German company led the consortium that built what Mr. Haussmann called "the best-know project in the weapons sector," which makes artillery and other arms.

BIOLOGICAL WEAPONS

Beyond this, at least one German company sold Iraq deadly mycotoxins, TH-2 and T-2, that Western intelligence reports say Iraq has used in research on biological weapons. (U.S. officials in Washington say Iraq has developed such weapons and will have enough by year-end for battlefield use.) The company, Plato-Kuehn G.m.b.H., delivered the small amount of mycotoxins under legitimate license, and a principal of the firm, Josef Kuehn, has said he didn't know what they were to be used for.

Such reports haven't come at a convenient time, what with Germans preparing to celebrate their historic unification at midnight tonight. To German chagrin, they lead inescapably to an unearthing of the past. Germany was the first country to use poison gas, when in 1915 its scientists opened several hundred cans of liquid chlorine along the trenches at Ypres, Belgium, killing 5,000 soldiers. By World War II, German chemists had developed nerve gas and modified a powerful insecticide to make Zyklon-B, the gas the Nazis used for mass-killings in the concentration camps.

"We have a political and a moral problem," comments Wilfried Penner, a member of the Bundestag intelligence committee trying to curb weapons-related exports. "We should be showing more restraint than other countries due to our inescapable history."

It was American pressure that forced West Germany to begin looking inward, in late 1988. Initially, its leadership was bellicose when the U.S. charged that Libya's poison gas plant in Rabta was German-made. But anger turned to embarrassment when German investigators found that a chemical company run by industrialist Juergen Hippenstiel-Imhausen, Imhausen Chemie AG, had planned and built the plant. Mr. Imhausen eventually drew the maximum jail sentence under the weak laws of the time: three years.

Since then, the West German government has tightened its controls, increasing penalties, tripling the number of export-control officials and cooperating more with U.S. and Israeli intelligence in tracking down suspect companies.

It was West Germany's industrial know-how that attracted Iraq. The country makes some of the most sophisticated machinery in the world, is the international leader in chemicals production, and, of notable importance to Iraq, has a relatively small customs control force. However, Germany's postwar constitution was designed to prevent the country from building a huge weapons industry. For one thing, it made it illegal to ship weapons to *Spannungsgebiete*, or areas of tension in the world.

But it doesn't bar the export of machinery of dual use, civilian and potentially military. To penalize a company, authorities have to prove it knew its export would be used to make weapons. Some German exporters to Iraq may not have had any idea their deliveries would be used in weapons manufacture, and many are now coming forward to volunteer information about their business with Iraq.

"The Iraqis have been more refined" than Libya in acquiring chemical-weapons capability, notes Lutz Stavenhagen, the West German chancellery's intermediary with intelligence services. "They have bought bits and pieces everywhere" and made sure each supplier knew nothing about the bigger picture. The vast majority of German technology used in Iraq's chemical and nuclear weapons programs was sent out of the country piecemeal under legitimate export licenses.

Still, the various German investigations have uncovered a series of murky business relationships. Karl Kolb G.m.b.H., a laboratory and medical supplier based near Darmstadt, says a facility it helped Iraq build in 1983 was merely for pesticide production, and wasn't built so it could produce chemical weapons. But German investigators conclude that the facility, a group of six plants in Samarra, is actually making chemical weapons, and that Karl Kolb knew it all along. The firm's lawyer denies this. A few days after Iraq invaded Kuwait, Darmstadt officials arrested Helmut Maier, the company's managing director; so far, he hasn't been charged with any wrongdoing.

Police also arrested several executives of another small company, Water Engineering Trading G.m.b.H., which had provided parts for the Samarra facility. Investigators believe Water Engineering, which has closed down operations, sold Iraq special machine tools to convert conventional 122 millimeter shells into poison-gas projectiles.

As it turns out, one of Water Engineering's four partners, Peter Leifer, worked for two years as a West German intelligence informant, a senior West German official says. The official says Mr. Leifer apparently used his intelligence contacts to help shield his illegal activities, adding that German intelligence knew nothing of these activities. Mr. Leifer, who is in custody, couldn't be reached for comment. His lawyer declined to comment.

Darmstadt prosecutors fear they may have to drop the case against Karl Kolb; besides the difficulty of proving guilty knowledge, German courts recently nullified a new law governing weapons exports (Bonn is appealing). However, prosecutors believe they have a stronger case against Water Engineering; it had no license for its exports.

Fingers are being pointed too at H&H Metalform G.m.b.H., a small company based in the farming town of Drensteinfurt. Ten days after Iraq invaded Kuwait, customs officials at Frankfurt airport seized crates H&H was trying to ship to Baghdad. The packing list read "parts for a dairy plant."

The contents, however, were high-quality steel components that investigators believe may have been destined for Iraq's rocketry program. Also inside were catalogs and product lists printed by the American Institute for Aeronautics and Astronautics.

Authorities seized the company's records and searched the homes of its two owners. They concluded that H&H is one of several suppliers of advanced machinery for Iraq's nuclear weapons program, among other things. What worries West German officials most is their conclusion that H&H has already sold Iraq machinery suitable for making gas centrifuges, an indication Iraq is in an advanced stage of nuclear-weapons development. Centrifuges separate inert uranium 238 from radioactive uranium 235, an essential step in creating weapons-grade material.

Officials at the Frankfurt airport also seized hundreds of gas centrifuges bound for Iraq that they believe were to be used to align machinery provided by H&H. Experts in Germany conclude that Iraq doesn't yet have a prototype gas centrifuge plant up and running, though they add it probably isn't far from that goal.

German authorities believe other German businessmen and companies have helped Iraq get there. Mr. Haussmann said that two former employees of MAN Technologien G.m.b.H. may have provided Iraq access to construction plans for different centrifuge types. He said they were investigated on suspicion of acting as foreign agents for Iraq, but authorities didn't find any evidence of illegal technology transfer. The company isn't suspected of any wrongdoing in this case.

The economics minister also said Export Union G.m.b.H. of Duesseldorf is suspected of providing special steels for the nuclear program. (It denies delivering special-grade steels under its steel-delivery license.) Authorities have arrested the director of a Bonn company believed to have sold special ring magnets that reduce friction in the critical centrifuge process.

The West Germans say H&H is also linked to two companies in London controlled by Iraq. Technology Development Group and Meed International. Both company names appear on contracts H&H has signed, and investigators believe Technology Development has acquired a 50% stake in H&H. One document sent by H&H to the Nassr Establishment for the Mechanical Industry (an arm of Iraq's war-materials ministry), through Meed International, offered to sell a "drop tank" that specialists say could be used to release chemical weapons from aircraft. "They are of such good quality that they cannot only be used for one single mission but can be used several times for deep penetration actions . . . ," the letter said.

The West Germans believe Technology Development has spent billions of dollars acquiring companies in the West, many of them makers of industrial equipment that has weapons applications. Sometimes it merely bought a stake in a company, and other times it placed huge orders and paid rich premiums for the goods.

Investigators believe the Iraqi strategy was to make the network of European firms in one way or another dependent on Iraq's business, and therefore more willing to supply sensitive materials. The result is a sophisticated web of contacts that German authorities say includes companies in England, Northern Ireland, Germany, Switzerland and even the U.S. that could deliver virtually everything Iraq has needed.

German officials say a number of prominent Iraqis have visited H&H Metalform over the past three years, driving across Drensteinfurt's single set of railway tracks, past a couple of grain silos, then left at a large cornfield that marks the entrance to H&H.

Peter Huetten, one of its owner-managers, strongly denies links to any Iraqi arms network and says the government has made him and other businessmen scapegoats. He insists the supposed centrifuge machinery he sold Iraq isn't precise enough for that application, and is actually equipment to make customized aluminum wheels for Middle East hot-rodders. He also says Technolgy Development Group doesn't own an interest in his company, though he says he has done business with it and knows its erstwhile chairman, Safar al-Habobby.

Mr. al-Habobby is also head of the Nassr State Enterprise for the Machine Industry, the war-materials firm.

Mr. Huetten notes that H&H had legal export licenses for the machines it shipped to Iraq and that no charges have been filed against the company. "Everyone wanted to help Iraq stop the Ayatollah," he complains. "Now great politicians stand before the cameras crying crocodile tears, and they leave their businessmen standing in the rain."

As for the rocketry materials found with the suspect "dairy equipment," Mr. Huetten dismisses them with a laugh. The explanation, he says, is simple: H&H was really sending the journals to a library in Baghdad, not to the war ministry. His employees, under orders to help cut costs, merely enclosed the periodicals in an outgoing shipping crate, which coincidentally contained the load of sophisticated steel. They were just trying to save postage, he shrugs.

THE BOWEN GULCH WILDERNESS ACT OF 1990

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. SKAGGS. Mr. Speaker, I am today introducing legislation to expand Colorado's Never Summer Wilderness to include an area in the Arapaho National Forest known as Bowen Gulch.

This beautiful area was considered for wilderness desingation during the Roadless Area Review and Evaluation [RARE II] process in the late 1970's; however, the Forest Service, to allow for harvesting the area's timber, did not recommend Bowen Gulch for inclusion in the Never Summer Wilderness. That decision was made before compelling new scientific information about the ecological significance of old-growth forests helped change both public attitudes and Forest Service policy with respect to logging old growth.

Bowen Gulch is a unique forest that is one of the best stands of old-growth trees in Colorado. The area is adjacent to the Continental Divide, which leads to unusually high levels of rainfall for Colorado, as the prevailing westerly winds force clouds higher into the air to carry them across the mountains. Largely as a result of the abundant rainfall, some of the trees in the Bowen Gulch area are over 600 years old, and as large as five feet in diameter. They tower over lush undergrowth and support an ecosystem that may not be able to survive in their absence. Stands like this are rarely found in Colorado because in most of Colorado there's a short growing season, poor soil, and little water. According to the Forest Service, its on-going old-growth inventory of the Arapaho National Forest indicates this is the best single stand of old-growth trees in the national forest. It would be a terrible shame to lose this rare resource. Yet, we almost did.

The Forest Service signed a contract with Louisiana Pacific Co. [LP] in 1988, giving LP the right to harvest timber in Bowen Gulch. Unfortunately, the environmental assessment of the then-proposed sale was prepared by the Forest Service in 1984, before the Service adopted its new policy of protecting old-growth trees. Contractually, LP has every right to proceed with logging; however, because of the growing controversy surrounding the sale, it has agreed not to log Bowen Gulch if it is provided with comparable substitute timber. I think LP deserves a great deal of credit for their cooperation and willingness to work with the Forest Service on this matter.

For my part, I have worked with my colleague from Colorado, Representaive Ben Nighthorse Campbell, to see to it that the Forest Service has the statutory authority to sell LP the substitute timber. At our request, the Committee on Appropriations has included language in the fiscal year 1991 Interior appropriations bill to give the Forest Service the authority to make the trade. I have every hope and expectation that, once given this authority, the Forest Service will be able to come up with an alternative sale. The question is: How should this unique area be managed after the LP contract is canceled?

The bill I'm introducing today, the Bowen Gulch Wilderness Act of 1990, provides that once the timber exchange is completed and the contract for Bowen Gulch timber is canceled, 9,960 acres in the Bowen Gulch area and in adjacent wild lands would become part of the contiguous Never Summer Wilderness and be managed forever under the provisions of the Wilderness Act. This is the only way we can be sure Bowen Gulch survives, along with all of the species that flourish in the damp shadows of its towering trees.

An unusually high moisture level is a major reason for the old-growth ecosystem in Bowen Gulch. So it's essential to reserve the water necessary to fulfill the purposes of this particular wilderness designation. My bill would do just that. The water provision in this bill is patterned after the language worked out by the Committee on Interior and Insular Affairs and the Arizona congressional delegation for inclusion in the Arizona wilderness bill the House passed earlier this year. That language does not reserve all the unappropriated water in the area—only the amount necessary to fulfill the purposes of the wilderness designation.

In the case of Bowen Gulch, where an abundance of water is essential to the purposes of wilderness designation, it would be a larger quantity of water than is necessary in other wilderness areas in the State. According to the Forest Service, there are no private inholdings in the proposed Bowen Gulch wilderness, and it would include only headwaters areas. Therefore, there should be no conflict between the wilderness water rights and any future water rights. In fact, since the wilderness reserved rights are to in-stream flows, those rights would ensure that water remains in the streams and is available for consumptive use downstream of the wilderness addition.

Unfortunately, since there has already been some logging activity and road building in one part of the Bowen Gulch area, that portion of the area cannot qualify for wilderness designation. My bill would preserve this 860-acre area from further development or disruption by providing that the Forest Service manage it as a "research natural area." Under this administrative classification, the Forest Service would manage the area primarily to promote research in this ecologically significant area. Further timber harvesting would not be allowed.

We almost lost the chance to preserve this ancient stand. Let's not make that same mistake again. Let's save Bowen Gulch so that future generations have the opportunity to experience its majesty.

Mr. Speaker, at this time I'd like to insert a brief section-by-section summary of the Bowen Gulch Wilderness Act of 1990.

SECTION-BY-SECTION SUMMARY OF THE BOWEN GULCH WILDERNESS ACT OF 1990

Section 1: Short Title.—This provides that the bill may be referred to as the "Bowen Gulch Wilderness Act of 1990."

Section 2: Non-Competitive Alternative Timber Sale.—This section, which is identical to language approved by the House Committee on Appropriations (but not yet enacted into law) would permit the Forest Service to offer a substitute timber sale to Louisiana-Pacific on a non-competitive basis, in exchange for cancellation of its current contract for the sale of timber in the Bowen Gulch area of the Arapaho National Forest in Colorado. The Forest Service and LP have agreed to cancel that sale once an agreement is reached on a new contract for LP to harvest timber of equal value elsewhere. The Forest Service does not currently have the authority to make that exchange without going through its advertisement and competitive bidding requirements.

Section 3(a): Wilderness Designation.—This section designates 9,960 acres of federal lands in the Arapaho National Forest as wilderness and incorporates them in the Never Summer Wilderness, designated by Congress in 1980. The designated areas would include most of the lower half of Bowen Gulch (the upper half is already in the Never Summer Wilderness) and adjacent unspoiled lands near the Continental Divide south of Fairview Mountain, on the western slope of Cascade Mountain, north of Porphyry Peaks, and in Hatchet Park (which the Forest Service is currently studying for a possible timber sale).

Section 3(b): Water Rights.—This section expilcitly creates a Federal reserved water right for an amount of water necessary to fulfill the purposes of the wilderness designation. The language is identical to the water rights language included in H.R. 2570, the Arizona Desert Wilderness Act of 1990, passed by the House of Representatives on February 28, 1990. The priority date of the wilderness water rights would be the effective date of the wilderness designation; the water rights would be adjudicated in Colorado water court; and the bill expressly provides that this provision shall not be construed to imply the existence of, or extent of, reserved water rights in any other wilderness areas, including the original Never Summer Wilderness.

Section 3(c): Effective Date.—This section specifies that the wilderness designation shall take effect only after an agreement has been reached between the Secretary of Agriculture and Lousiana-Pacific to cancel the current timber sale contract in Bowen Gulch.

Section 3(d): Maps.—This section requires the Secretary to file a map and a legal description of the wilderness addition. This is standard language included in all wilderness bills.

Section 3(e): Management.—This section provides that the Secretary of Agriculture shall manage the designated area in accordance with the Wilderness Act. This is standard language included in all wilderness bills.

Section 4(a): Research Natural Area.—This section provides that an 860-acre portion of Bowen Gulch (which, because of prior logging and road building activity, is unsuitable for wilderness designation), as a research natural area. This is an administrative, Forest Service classification of areas to be managed primarily to promote environmental research. The bill explicitly prohibits further timber harvesting in the area.

Section 4(b): Effective Date.—This section specifies that the proposed research natural area shall be managed as such only after an agreement has been reached between the Secretary of Agriculture and Louisiana-Pacific to cancel the current timber sale contract in Bowen Gulch.

Section 4(c): Water Rights.—This section specifies that there are no express or implied water rights reserved for the research natural area.

RESTRICTED WEAPONS ACT OF 1990

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. PORTER. Mr. Speaker, we will soon consider H.R. 4225 and H.R. 1154, assault weapon legislation. These bills restrict importation, transfer, and possession of semiautomatic assault weapons and large capacity magazines and ammunition belts, both domestic and foreign. By definition, these weapons have no recreational or sporting purpose.

Evey major police organization, including the Fraternal Order of Police and the National Association of Police Organizations, supports assault weapon legislation. Two-thirds of gun owners support a total ban on assault weapons.

Mr. Speaker, this legislation hits criminals who use assault weapons by increasing mandatory sentences for violent or drug-related crimes committed with a restricted weapon.

I support the rights of hunters and recreational shooters. These people are skilled and able gun users. They don't need assault weapons that are designed to take the skill out of gun use.

Mr. Speaker, we aren't going to confiscate a single gun that is legally registered today. But we should halt the proliferation of weapons whose only purpose is to kill in a quick and indiscrminate fashion.

Vote for H.R. 4225 and H.R. 1154.

AN $800 MILLION WINDFALL

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. CRANE. Mr. Speaker, many Members feel unnecessarily compromised by the results of last weekend's budget agreement. Our liberal colleagues claim the package shelves integral social programs while conservatives are angered by the added tax provisions. I suggest there is a way to meet both parties' demand and inject $800 million in the Treasury. The solution lies in a simple proposal authored by Lawrence J. White, professor of economics at New York University. In less than 500 words, Professor White does what lately has been considered impossible: He explains how to raise revenue without entitlement cuts and without new taxes. I encourage my disillusioned colleagues to read Professor White's New York Times article. It is insightful. It is encouraging. But most of all it is realizable.

[From the New York Times, Sept. 14, 1990]

AN $800 MILLION WINDFALL

(By Lawrence J. White and Edward L. Golding)

With differences between Congressional budget negotiators narrowing, an extra billion a year in found money could be the grease that makes the wheels spin. We know a place where that sort of money can be found—$800 million a year for the next eight years, with no new taxes and no strings attached.

All that's required is a simple paper transaction: paying off notes issued by the Federal Home Loan Bank Board on behalf of the Federal Savings and Loan Insurance Corporation in its efforts to dispose of insolvent S.&L.'s.

From 1985 to 1988, the F.S.L.I.C. honored its insurance obligations to depositors by disposing of 329 insolvent S.&L.'s. Of this total, 64 were liquidated; the remaining 265 were placed with acquirers. Short on cash to make up the inadequate assets in the insolvent thrifts, the agency issued notes to the

acquirers. As of last July, there were approximately $20 billion of these notes outstanding.

Most of the notes carry interest rates that are linked to interest rates in the states or region of the savings and loans' operations; the interest rates are adjusted quarterly. In the second quarter of 1990, the average interest rate on these notes was about 9.4 percent.

Though the notes typically have a nominal 10-year term, most of them can be paid off at any time by the Resolution Trust Corporation, the successor to the F.S.L.I.C. That's because the F.S.L.I.C. explicitly negotiated these "call" provisions into the transactions so that their costs could be reduced at a future time. This action by the R.T.C. would thus be a completely legal and acceptable exercise of its contractual rights; it would not require any renegotiations and it would open up two sources of savings.

First, the Treasury debt would cost less. During the same second quarter of 1990, the average interest cost on three-month Tresasury bills was only 8.2 percent, compared with the 9.4 percent paid on the F.S.L.I.C. notes. Thus the transaction would mean an immediate annual cost saving of about 1.2 percent on the full $20 billion, or $240 million a year.

Second, by substituting Treasury debt for the F.S.L.I.C. notes, there would be a substitution of taxable for tax-free investments. Taxes on the 8.2 percent interest on the $20 billion of Treasury bills, at the corporate tax rate of 34 percent, would amount to $560 million a year.

Thus the two sources together would yield about $800 million annually, if the full $20 billion could be called in. Since most of the notes were issued in 1988 and still have eight years to run, these annual savings would apply to those eight years.

Where would the R.T.C. find $20 billion? This question should be addressed immediately in the budget talks. The Treasury should be authorized to borrow an additional $20 billion, with the proceeds to be transferred to the R.T.C.

This refinancing would largely be a paper transaction, with one arm of the Government paying off the obligations of another. It would have few if any effects on the budget deficit or on the Gramm-Rudman-Hollings ceilings. That's because most of the F.S.L.I.C. notes were already recorded as part of the pervious deficits of the 1980's.

In essence, this transaction would be a close equivalent to the Treasury's common practice of rolling over old debt with new debt—except that this rollover would save $800 million a year over the next eight years.

In a perfect world, these notes would have been called as part of the cleanup legislation a year ago and saved the Government $800 million already. But the R.T.C. was given a limited budget and understandably chose to use its money to dispose of additional insolvent thrifts.

Given the confusion surrounding the cleanup legislation and the F.S.L.I.C.'s 1988 transactions, inaction on the notes was probably unavoidable. Still, every day of delay costs another $2.2 million—clearly a case where haste avoids waste.

THE LOSS OF PROF. CHARLES WILLIAM THOMAS II

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. HUNTER. Mr. Speaker, I wanted to let you and my friends here in the House know of a great loss to the community of San Diego. Last Friday night, around 11:15 p.m., Prof. Charles William Thomas II was found in his car bleeding from stab wounds to the chest and abdomen. Around 2 a.m. on September 30, Thomas was pronounced dead.

Thomas, a longtime University of California, San Diego teacher, was considered by many to be the father of black psychology. His colleagues have said that it will be impossible to replace his combination of talents and unique views.

Thomas will also be remembered for his record of public service and community activity. As one of San Diego's prominent Republicans, he was a voice for conservative blacks across the Nation.

As a voice in local politics, I owe him a great deal for his past support. Many owe Thomas much, and we will miss his presence in our lives.

TRIBUTE TO CAPTAIN JAMES B. POULET—A VICTIM OF OUR PERSIAN GULF OPERATIONS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. LANTOS. Mr. Speaker, I rise today to pay tribute to Capt. James B. Poulet, a weapons system officer in the United States Air Force who was killed in a tragic accident on Sunday in Saudi Arabia. Captain Poulet was one of two officers in the F–15 jet which crashed in the Saudi desert while on a training mission.

Captain Poulet, only 34 years old, was born in Redwood City, CA, and lived in neighboring San Carlos during his school years. He played football at Carlmont High School in Belmont, and he attended the College of San Mateo. Captain Poulet's parents, Marie and Marcel Poulet, still live in San Carlos.

After receiving a degree in engineering technology from California Polytechnic State Unversity at San Luis Obispo in 1981, Captain Poulet joined the Air Force and was commissioned as a second lieutenant. He wanted to fly, and he achieved his dream—he was trained as a weapons systems officer and had a distinguished flying record in the Air Force.

During his military career, he served in the Philippines, West Germany, and South Korea. In January of 1989, he was assigned to the 4th Tactical Fighter Wing, based at Seymour Johnson Air Force Base in Goldsboro, NC. When the Wing was mobilized for service in the Persian Gulf just a few weeks ago, Captain Poulet answered the call to duty.

Mr. Speaker, I invite my colleagues in the Congress to join me in extending our most sincere condolences to Captain Poulet's parents, Marcel and Marie Poulet, his sister Chantal Strickland, and his two brothers, John and Alain. Capt. James Poulet's willing response to the call of our Nation is in the finest tradition of our military services. Mr. Speaker, all Americans owe this fine young man and his family a debt of gratitude.

THE INTERIM COLORADO WILDERNESS PROTECTION ACT OF 1990

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. SKAGGS. Mr. Speaker, we are blessed in Colorado to have some of the most majestic and pristine lands in the world. It was Colorado's magnificent mountains which drew many of us and our ancestors to the State. Those mountains draw millions of people to Colorado from around the Nation, and indeed, the world.

Our wilderness is vital to our economy. That alone would be a strong reason for protecting this precious resource. But, as important as economic reasons are, they pale beside the larger philosophical and moral reasons to protect wilderness.

Colorado's wild lands existed in their untrammeled perfection long before our ancestors settled there. We who are here today are merely a link in a chain of stewards. Do we have the right during our watch to rob the future of the chance to experience the simple splendor and wonder of Colorado's natural lands? I say no, we don't have that right. Instead, we have the duty to do all we can to preserve enough of our State's wonders so that future generations will thank us, not curse us.

Unfortunately, differences in our State and in our State's congressional delegation have led to a frustrating, decade-long deadlock over the designation of additional wilderness areas. As a result, less than 3 percent of Colorado's land has been given the permanent protection of wilderness designation—less proportionately than has been set aside in California, Idaho, Montana, Washington, and Wyoming. The real tragedy is that during this decade-long impasse lands that once qualified for wilderness have been compromised or degraded. And this paralysis continues to threaten Colorado's remaining wild lands.

That's why I am today sponsoring, with my colleague Congresswoman PAT SCHROEDER, the House counterpart of a bill first introduced by Senator TIM WIRTH to protect for 5 years all lands which have been proposed for wilderness designation in Colorado. Immediate action on this interim measure would avoid compromising the natural character of these lands while giving Congress time to pass a bill desginating some or all as wilderness.

The bill does not establish any reserved water rights during this interim period, thus eliminating the principal obstacle to current wilderness legislation. It simply closes the lands off for 5 years to development and management practices that would degrade the area's wilderness qualities. It gives us the option of passing a wilderness bill. Without this kind of protection—we may well lose that option for some areas; and if so, we lose that much of our future.

I urge my colleagues not to let that happen. I urge you to help us preserve these magnificent lands so that we may pass on to our children that which was passed on to us.

NATIONAL SYMPHONY ORCHESTRA'S FALL 1990 EUROPEAN TOUR

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. CARR. Mr. Speaker, as chairman of the Congressional Arts Caucus, I would like to take this opportunity to express my appreciation to Northern Telecom for sponsoring the National Symphony Orchestra Tour of Europe this fall. The orchestra is celebrating 60 years of great music by staging performances around the world, starting with the historic and highly successful tour earlier this year of the Soviet Union and Japan.

Earlier this year Northern Telecom showed its commitment to the arts by being a major sponsor of Wolf Trap Center for Performing Arts.

Last year, on September 29, 1989, Northern Telecom donated a Meridian SL-1 business communications system to the Kennedy Center. The system, which is now in service, has a value of $1 million. It is providing the center with state-of-the-art communications. This is vital to ensuring excellence in serving the public.

Northern Telecom's activities range across the spectrum when it comes to supporting civic organizations and public service programs: hospitals, schools, environmental groups, cultural groups, and a wide variety of nonprofit agencies.

The commitment Northern Telecom, and its chairman and CEO Dr. Paul Stern, has shown is a shining example of good corporate citizenship; an example of a company with a vision.

Support of the performing arts is important to the fabric of our culture, indeed it is the signature of our society.

Northern Telecom should be proud of the support to our community and the arts. I would like to thank Dr. Stern for his leadership in this area.

Mr. Speaker, I ask that this article from the Washington Post describing the NSO's fall tour be published following my remarks.

[From the Washington Post, Sept. 25, 1990]

NSO TO TOUR EUROPE—10-DAY OCTOBER VISIT HAS CORPORATE SPONSOR

(By Joseph McLellan)

The National Symphony Orchestra will go on a whirlwind tour of Europe next month, giving concerts in nine cities of Belgium, France, Switzerland and Germany between Oct. 11 and 21, orchestra President Albert J. Beveridge announced yesterday.

The tour, costing an estimated $900,000, will be a deficit operation, as such tours always are. The balance of the costs—after the orchestra's income from the tour is subtracted from its expenses—will be paid by Northern Telecom, an international telecommunications equipment manufacturer. Northern Telecom, which maintains corporate headquarters in Toronto, is setting up an American base in Vienna, Va., and says it plans to make extensive financial contributions in the Washington community.

This will be the orchestra's second overseas tour within eight months and its 10th (not counting six North American tours and four to the Casals Festival in Puerto Rico) during the 14-year tenure of music director Mstislav Rostropovich. In February the orchestra toured Japan and the Soviet Union—in Rostropovich's first visit to his native land since he was exiled in 1974.

Northern Telecom's CEO, Paul G. Stern, said the sponsorship "is part of our 60th-birthday present to the National Symphony." Under Rostropovich's leadership, he said, it has become "one of the world's most acclaimed orchestras and one of the most admired in America." A year ago, Northern Telecom donated a business communications system valued at $1 million to the Kennedy Center, and Stern said the corporation is also interested in "supporting civic organizations and public service programs: hospitals, schools, environmental groups, cultural groups and a wide variety of nonprofit agencies."

The tour will include concerts in Brussels and Leuven in Belgium; Paris and Strasbourg in France; Zurich, Switzerland; and Bonn, Duesseldorf, Cologne and Hanover in Germany. The repertoire for the tour will be mostly music of Tchaikovsky (Symphony No. 4, the Serenade for Strings and "Romeo and Juliet"), but the orchestra also will play Mozart's Symphony No. 39, the Mussorgsky-Ravel "Pictures at an Exhibition," Shostakovich's 10th Symphony and Barber's Adagio for Strings in some programs. The orchestra will fly to Brussels on Oct. 8 and return from Hanover on Oct. 22.

Beveridge gave credit to Kennedy Center Chairman James D. Wolfensohn for securing the sponsorship. "His work on behalf of the orchestra has been vital to our success," he said in a press release. "He really hustled this one," he said at the press conference. Overseas tours and recordings, he added, "are very important for the orchestra's image."

Rostropovich, who will conduct all the concerts on the tour, also praised Wolfensohn ("we have financial sickness, but here is a very good doctor") and smiled politely when Stern described him as "also a cellist of some note."

THE MOOD OF THE VOTERS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 3, 1990, into the CONGRESSIONAL RECORD:

THE MOOD OF THE VOTERS

I find among the voters a rising mood of disenchantment with politicians and politics. I do not see how any present office holder can take much solace in the recent polls and primaries. People just do not think very well of the Congress, and feel less favorable about it than they did a few years ago.

The voter is just plain upset. He sees too much of a gap between problems and performance, and he is beginning to get angry. In the Massachusetts primary the voters dumped the establishment politicians, and in Oklahoma voters by 2 to 1 approved a measure to limit state legislators to a total of 12 years in office. Similar measures are on the California and Colorado ballots in November. They are expected to pass.

Often I find voters who say that things are so bad they want to fire everybody and start over again. People are demanding better performance from government. They want action on the deficit. The want better schools, cleaner air, safer streets, better and less expensive health care. But they do not have much faith, if any, in the ability of politicians to run things honestly and efficiently. In my public meetings I am amazed at the number of Hoosiers who think government is wasteful, wasting as much as 25 to 50 cents of every dollar, and that politicians are not in touch with the people. Their concerns extend beyond politicians. Many have the same view of high company officials or labor union leaders or other establishment figures. They see all leaders acting to protect their own positions and privileges and unable to make difficult decisions.

I am not at all sure that this mood will result in incumbents being defeated at the polls. After all, incumbents still have many advantages that give them the power to retain office, and the Persian Gulf crisis has distracted many voters from domestic discontent. In addition, voters continue to display the tendency of liking their own congressman while disliking the Congress. But nonetheless I find an aggressive alienation and hostility toward the system and the people who are a part of it.

The deep cynicism toward the political system seems to be directed against both political parties. Recent polls show that the public in unprecedented numbers associates Republicans with wealth and greed and Democrats with incompetence. More Americans now view themselves as independents (39%) than either Republicans (28%) or Democrats (33%). In general the voters say that the Republican Party can foster economic growth and manage foreign affairs better than the Democrats, but they say that the Democratic Party is more concerned with "people like me". Yet the Democrats are viewed as a hapless party, not sure of its direction, and the Republicans are viewed as the champions of the rich.

While disillusionment and distrust are not new moods in American politics, there certainly has been a significant increase in the intensity of these feelings among the people. So many Americans are now expressing not only a feeling of powerlessness but a disconnection from society and its leadership. They believe that elected officials have lost touch with them and really do not care what they think.

The feeling of alienation has increased as people have become more sensitive to the growing gap between the rich and the poor. They see more social inequity and feel more economic pressure. Many tell me that they do not have enough money to make ends meet and are only one step away from the bill collector. A large percentage of the people subscribes to the view that in America the rich get richer and the poor get poorer.

As a politician I am always interested in how people feel about the government. I often hear the view that the government does more harm than good and is inefficient. But I am also impressed that large numbers of the same people express support for quite liberal social welfare positions. many people express the desirability of government activity to help with many of the deep-seated social problems in America. While I frequently hear the view that the less government regulation the better, I also hear increasing calls for environmental controls.

It is quite clear that the Cold-War mindset which has dominated the thinking of most Americans for almost half a century is melting away. Remarkable events in Europe, with the end of communism in Eastern Europe and the beginning of political pluralism in the Soviet Union, have clearly had an impact. Yet voters still believe strongly that the way to ensure peace is through military strength and they have a deep commitment to their country. Despite all of the media publicity about large cuts in defense spending and the peace dividend, people still support a strong military.

As people become more pessimistic about the economic future of the United States, they focus on competition from Japan and their dislike for Japan grows. Concern about our economic standing in the world has quite clearly replaced communism as a major theme in voter opinion. There is strong support for protecting U.S. jobs, usually with taxes on imports. The voters think that America's ability to compete in the world market is not improving. But among many voters there is a clear perception that Japan has its economic problems too, and I do find some increase in the number who think that America's economic position is number one.

I am impressed over and over again with the high levels of concern about education and health care. People are quite prepared to support increased spending for improvements in the nations' health care system. Voters frequently express to me their worries about affording quality and accessible medical care. They are also prepared to support increased spending to improve the public school system and for aid for college students.

Among the most important problems worrying voters, drugs remain at the top of the list. Americans continue to be strongly opposed to drugs and most favor very stiff penalties, including capital punishment, for major drug dealers. But crime is also cited and people are increasingly concerned about the needs of the poor. The budget deficit also remains high on Americans' worry list, much higher than inflation.

H.R. 4300, THE FAMILY UNITY AND EMPLOYMENT OPPORTUNITY IMMIGRATION ACT OF 1990

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. ANDERSON. Mr. Speaker, today, the House convenes to consider H.R. 4300, the Family Unity and Employment Opportunity Immigration Act of 1990. This legislation comes before the House as the first substantial piece of legal immigration reform since 1965. I believe this legislation addresses some serious deficiencies in our current immigration policy; primarily by providing new diversity visas to people from countries virtually shut out of the system and by increasing the number of visas for highly skilled workers and those with special expertise. The latter is desperately needed to allow us to compete in the tough world marketplace. At the same time, it maintains the commitment to the family that is the cornerstone of current immigration policy.

Even with these positive aspects, I approach this bill with serious reservations. Thirty five percent of immigrants end up in California, and the majority of those go to southern California. The combination of tremendously large numers of illegal immigrants and the fact that the population of the United States is moving from east to west, and especially to California, has generated extraordinary population growth throughout California over the last two decades. The people of my district feel overwhelmed by people, no matter where they come from. I sympathize deeply with that feeling. The fact that many of my constituents don't distinguish between illegal and legal immigration is entirely understandable.

Based on these concerns, let me explain how I approach this legislation. As you know, our current immigration policy is based primarily on the principle of family unification, and secondarily on the skills of the applicant. An immigrant may only come to this country if he or she is sponsored through a family member who is a citizen or permanent resident, or through an American employer. Someone seeking to enter the United States without these qualifications is not qualified to enter. We currently let in 270,000 legal immigrants a year and cap immigrants from any one country at 20,000 per year. The immediate family members—spouses, unmarried children, and parents—of U.S. citizens are not subject to any limitations. Refugees—those meeting special standards based on humanitarian and political concerns—some special category immigrants, and the immediate family members of U.S. citizens are also exempted from the overall total. Adding these people, we admit approximately 530,000 new immigrants each year.

I strongly believe in the family and employment foundations of our immigration policy. In an age when we have seen an increasing dissolution of the family unit in American life, our immigration system seeks to counteract what I believe is a discouraging phenomenon. By stressing the importance and bonds of parents, marriage, and chidren, this bill maintains our American commitment to the family, and then goes on to strengthen that commitment by allowing permanent residents of the United States, those who are working their way toward citizenship, to bring in their immediate family members without some of the harsh restrictions of current policy. We must remember that permanent residents will soon become full-fledged citizens of this Nation, and will then have the right to bring in their immediate family without limitation. By giving these soon-to-be citizens a greater ability to bring in their unmarried children and their spouses we simply cut the waiting time they face, and shorten the heartache of enforced separation from their family. The bill also addresses the great problem of backlogs, or those who have been waiting great periods of time, in some cases for more than 10 to 15 years, to enter this country. Primarily this provision affects the brothers and sisters of U.S. citizens who wish to come to this country. It is obvious that a brother or a sister is an extremely important element of the family unit.

By letting in skilled workers and those who have special knowledge or technical ability, we improve the competitive structure of the U.S. economy, allowing us to better perform in the world marketplace. When we are under economic attack by nations like Japan, we must use all possible advantages of the brainpower and expertise that immigrants offer us. It is important to understand that economic studies are nearly unanimous in their findings that immigration is a great benefit to our economy. In a poll of 31 leading economists, 80 percent of them believe that immigration has a "very favorable impact" on the economy, while 20 percent feel immigration has a "slightly favorable impact" on the Nation's economy. Not one felt that there were negative economic aspects of immigration. Both the Census Bureau and the Labor Department have found that legal immigrants quickly earn as much as native-born workers of the same age; that immigrants work more and tend to be better educated and better trained; and are more likely to start new businesses and contribute far more in taxes than they collect in social benefits. One study shows that immigration would reduce the Government deficit by $75 billion to $110 billion over the next decade and while increasing Social Security fundings by $72 billion over 25 years. Immigrants not only use less social services than native Americans, but, on average, they contribute between $12,000 and $20,000 more in taxes than they use in social services. A 1986 Rand Corp. study on the arrival of 2 million immigrants to California in the 1970s states: "Immigrants appear to have provided a net benefit to the California economy by supporting industrial and manufacturing growth." The Labor Department, in a study entitled, "The Effects of Immigration on the U.S. Economy and Labor Market," found that "Neither U.S. workers in complementary jobs nor most minority workers appear to be adversely affected by immigration."

It has been estimated that 20 million new jobs will be created in this country during the 1990's, yet the American work force will grow at its slowest rate ever and, therefore, won't be able to match this demand. Furthermore 41 percent of new jobs will be in occupations requiring high levels of skill and educational capacities. Immigration helps meet these needs. Not only have I studied this bill, I have also talked to business and labor representatives that support it. Based on my review and conversations, I feel that by forcing employers to prove they can't find the necessary workers for positions in the United States, as included in this bill, we insure that new immigrants aren't taking jobs away from Americans. would also note that this bill is supported by major labor groups like the AFL-CIO. When a country like Canada requires that 25 percent of its immigrants be highly skilled, we may even question why H.R. 4300 does not go further in admitting additional skilled workers and immigrants with the knowledge and know-how that America will need in the 20th century.

One provision of this legislation I find quite attractive is its focus on increasing the diversity of immigrants coming to America. Until 1965, we had an immigration system that was weighted heavily in favor of European immigrants and was stacked against other ethnic groups. The 1965 Immigration Act family unification provisions constructed a system whereby most immigrants today are Asian and Hispanic, while all but closing the door to more traditional groups of immigrants like Europeans. Under H.R. 4300, immigrants from under represented countries would be eligible for special diversity visas. I find this especially fitting in the post-cold war world when many Eastern Europeans do not have the opportunity to emigrate freely. Previously, the people of Eastern Europe and the Soviet Union were forced to stay in their own countries at gunpoint. They are now left with no immediate family to sponsor their immigration into this country. H.R. 4300 would change this by allowing Poles and Czechs and Germans, as well as Irish and Englishmen, the chance to again, come to this country and continue the proud ethnic and cultural heritage of their forbearers that has so enriched this country.

Legal immigration has been a cornerstone of this Nation since its inception. It is clear that none of us would be here if not for a 200-year commitment to the principle of legal immigration. Our history is rich with the contributions and sacrifices that immigrants have made to the economic welfare and the cultural fiber of America. Each day, we take for granted those things that would not exist but for the genius and hardwork of generations of immigrants. Recently we celebrated the restoration of the Statue of Liberty and Ellis Island, the main immigration entry point to this country for many a decade. I believe these two monuments are fitting symbols of America's commitment to freedom, liberty, and the ideals of a democractic nation. I do not find it surprising that the peoples of other nations search to come to this country so that they, too, may share and be a part of our ideals.

Many of my constituents write me and call me telling of their concerns: overcrowded streets and schools, smoggy air, unemployment, and illegal aliens. Let me assure you that I hear you and understand your concerns. I live among you and have witnessed since a small child the tremendous growth of our community and its changing nature. I do not, however, consider immigration the scapegoat for these problems. Instead, I see immigration as full of possibilities and potential to solve our community's and our Nation's problems. Legal immigration, as set forth in H.R. 4300, can continue, to expand, the great heritage of the United States. I take comfort in studies that show immigrants create jobs, not take them away; that immigrants pay more taxes than they ever receive in benefits. In addition, I take comfort in the many examples of hard work and diversity that immigrants bring to us all.

Immigration has always been a controversial subject. While I am deeply appreciative of the views of my constituents who do not feel I should support this bill, I think we approach immigration in this legislation in a balanced, reasonable fashion. I will support this bill because it is profamily, proemployment, prodiversity, and pro-America.

PRIVATIZE DEPOSIT INSURANCE IN UNITED STATES

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. CRANE. Mr. Speaker, on September 11, 1990, the General Accounting Office issued a report stating that the Bank Insurance Fund has grave deficiencies. Not only does the FDIC lack sufficient funds to cover deposits, it also expects another $2 billion loss this year. In response to this report, Chairman GONZALEZ introduced a four-point plan to cure the ills of the FDIC. The remedy includes more regulation and the restructuring of the program. I propose that instead of wasting the taxpayers' money on a failing system, we allow private insurance companies to take over the responsibilities of the FDIC.

Federal deposit insurance insulates banks from the real market arena where there is a clearly understood relationship between risk and reward, and for every category of investment—commercial loans, home mortgages, and bonds—there is a spectrum of return in which risky investments are avoided. Deposit insurance administered by the private sector would instill real market discipline in the banking industry, and thus prevent another multibillion dollar bailout.

Certainly there would be costs involved with private insurance, but they would not be in the range of $2,000 per taxpayer nor would they be involuntary as in the case of the recent S&L debate. I recommend the following article from the Asian Wall Street Journal to my colleagues. It clearly outlines the concept of privately insured funds.

[From the Asian Wall Street Journal, Aug. 21, 1990]

PRIVATIZE DEPOSIT INSURANCE IN UNITED STATES

(By Peter J. Wallison)

WASHINGTON.—The root cause of the S&L mess in the U.S. is the deposit insurance system itself. While permitting private institutions to use the federal government's credit without limit, it relies on government supervision and regulation to correct for the fact that depositors have no incentive to control how their funds are used. Federal Deposit Insurance Corporation Chairman William Seidman announced earlier this month that his agency, which insures bank deposits, may lose an additional $2 billion this year. There is, unfortunately, reason to believe that this is not the last FDIC loss we will see. Nor are the banks themselves the beneficiaries of this flawed system. Last week, the FDIC announced that it would raise premiums by 63%—an enormous charge to bank earnings. More increases are in prospect.

As shown by the S&L debacle, the deposit insurance system tends to make disasters out of difficulties. In the real economy there is a clearly understood relationship between risk and reward, and for every category of investment—commercial loans, home mortgages, junk bonds—there is a spectrum of return in which the riskiest investments are perceived to produce the greatest rewards. Although regulators can make rules limiting the kinds of loans federally insured institutions can make, and supervisors can inspect bank portfolios to assure that these rules are observed, a loan committee or a board of directors that is under pressure to produce high yields will almost always prefer risky investments in the permissible categories to prudent ones with lower yields.

This would not be a serious problem if the federal deposit insurance system did not suppress natural market forces. In a normally functioning credit market, investors deny funds to institutions that have dim prospects for using them prudently.

As long as the incentives for taking risks are small, the federal deposit insurance system functions satisfactorily, as indeed it did for 50 years. But when the S&Ls began to suffer losses or diminished earnings, high-yield investments became necessary for their continued prosperity or even survival. At this point, the incentives to take risks overwhelmed the weak restraints of regulation.

TOUGH MEASURES

Now many banks may be in a similar predicament. And if so the engines of speculation—fueled by federally insured dollars—may be revving up. Under these circumstances, the only thing standing between the taxpayers and another S&L-type bailout is the willingness and ability of government regulators to take tough and politically unattractive measures when the chips are down. FSLIC blinked at the challenge. We can only hope that bank regulators will behave differently.

But all this raises deeper questions. Should the taxpayers have to gamble at such high stakes on the judgments of a few bank regulators? Is it necessary for the government to be the front-line insurer of banks? The answer to these questions is no. The risks taken on by banks and S&Ls can be controlled and disciplined not by government regulators but by the market itself—that is, by giving someone other than the government an incentive to assure that depository institutions are investing prudently.

But market discipline is easier to conceive than to achieve. Although federal deposit insurance makes depositors indifferent to how their funds are used, it does not necessarily follow that making depositors worry a little will address the system's problems. Proposals have been advanced by some, including the American Bankers Association, to require depositors to suffer some minimum loss in any bank or thrift failure. This, it is thought, will force depositors to look carefully at the banks in which they invest and place a limit on the resources they make available to managements unlikely to use them profitably.

Depositors, however, are an inherently poor source of market discipline. It is unlikely they are treating their deposits as investments, subject to the usual risk/reward analysis. Instead, they expect to take no risks with their funds, and, if there are rumors of instability or possible loss, will simply withdraw their deposits—causing a "run." Moreover, depositors have little effective power to discipline management. They can withhold or withdraw funds to be sure, but they lack the shareholders' power

to remove management and alter its policies.

The most promising form of market discipline is private insurance, where the premiums are related to risk. This is a direct and effective form of market discipline since risky behavior by management results in higher insurance costs—directly affecting management's risk/reward calculation. As management seeks higher profitability through greater risk, increasing insurance premiums tax away larger and larger portions of the benefits management is seeking. Eventually, decreasing profitability causes the company's equity capital to lose value, stimulating a takeover or a recapitalization in which the management is replaced or its policies substantially altered.

Risk-based deposit insurance won't work, however, if it is administered by the government. An effective system will require the insurer to impose widely varying premiums on institutions competing in the same market. Only if premiums are modest at the low end and truly painful at the high end will they have the intended effect of disciplining management.

The history of the S&L crisis shows clearly that regulators cannot impose differential treatment on institutions without generating strong opposition in Congress. When all of the current hoopla over the Keating Five and Jim Wright blows over, we may be sure that members of Congress will be back to putting pressure on government agencies on behalf of constituents.

Risk-based deposit insurance—if administered by the government—would be an inevitable victim of this process. The government insurer that assessed significantly higher deposit insurance premiums against Bank X than against Bank Y would face the displeasure of Bank X's congressional supporters. Since a differential premium is essentially a matter of an insurer's judgment, it will inevitably appear arbitrary. Add the complications that would arise if the CEO of Bank X were a Republican and the CEO of Bank Y were a Democrat.

Instead, any system of risk-based deposit insurance should be left to the private sector, and administered through negotiated contractual arrangements without the interference of government. Indeed, the banking system could insure itself, with associations or syndicates of banks formed to guarantee the deposits of other banks in return for a risk-based premium. The competition among syndicates—which would bid for the opportunity to insure particular banks at a specified initial premium—would assure that the premium is based on the market's assessment of the insured institution's inherent risk.

The premium would be reset frequently, according to a formula established by contract between the guarantor and the guaranteed institutions, and would be enforced by a comprehensive monitoring system in which the day-to-day risks taken on by the insured institution would be incorporated in the premium rate. Management would be able to 'price' its risk-taking, because its decisions to take on or shed risk would have predictable consequences in terms of premium cost.

Insurance is an option on the capital of the insurer, and there is ample capital available in the banking system to provide 100% insurance coverage for the deposits and other liabilities of participating banks. The 550 largest banks and S&Ls—those with assets in excess of $1 billion—have aggregate capital of approximately $165 billion. This is more than 10 times the reserves in the FDIC and 150% of all the capital in the property and casualty insurance industry. Placing this aggregate capitalization behind the deposits and other liabilities of U.S. banks and S&Ls would increase their stability and creditworthiness, lower their cost of funds, and enhance their international competitiveness.

BACKUP INSURER

Moreover, once the banking industry itself has taken responsibility for the solvency of its individual members, the government can function as back-up insurer. In this case, there would be little risk to the government or the taxpayers and the ordinary depositor would continue to have the peace of mind conveyed by the FDIC sticker on the door.

Thus, it is possible to design a system of real market discipline that eliminates the current incentives for management risk-taking, and places the risk of bank insolvency on the private sector and not on the taxpayers. Washington policy makers will have to understand, however, that the federal deposit insurance system is inherently unstable. No amount of tinkering with the current system will eliminate the risk of a taxpayer bailout of the FDIC.

(Mr. Wallison, White House counsel and the U.S. Treasury Department counsel during the Reagan administration, is an attorney in Washington.)

LAURENCE SISSON

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. RICHARDSON. Mr. Speaker, in these days of hard choices and difficult decisions, I have acquired a renewed appreciation for the beautiful artwork that hangs in my office and its power to both soothe and inspire.

My friend Laurence Sisson is one of the many New Mexico artists whose work I admire. Mr. Sisson and his career as a painter were the subject of a recent article in the Rio Grande Sun, which I would like to call to the attention of my colleagues.

[From the Rio Grande Sun, Aug. 16, 1990]

SISSON: CLASSICIST AND INNOVATOR

(By Jules Heritier)

Renowned Santa Fe Painter Laurence Sisson is at once a classicist and an innovator. His painting style, like his personality, is grounded in the bedrock of traditional academic training, while flaunting an earthy, swashbuckling freedom of style.

I interviewed the 63-year-old Sisson at his studio in Santa Fe last week, and only once or twice in my life have felt elevated so from such an event. It was one of those "mountaintop" experiences.

Sisson's paintings are available for viewing at the Wadle Galley on West Place Avenue. I first saw them there in 1986, on my almost obligatory tourist tour of the galleries which almost every newcomer to the area is wont to take. The paintings impressed me as going far beyond anything I expected to see for sale.

They actually looked like the quintessence of what I wanted, deep in my desperate little soul, for New Mexico to look like. I stared at all of them like a fool until I'm sure the galley owner thought I was going to do them some harm.

Using a variety of painterly techniques, Sisson shows us images of Northern New Mexico at its most virginal; as if it perhaps appeared to an earlier, more spiritual people.

The works are multi-dimensional; with each layer, from the lean, bedrock and gravely underpainting on up through the rich, playful impastos of the wild, yet cooly neutralized skies. The artist seems to want us in turn to be soothed, then to love, and finally to be obsessed.

But Laurence Sisson the human being would have none of this. In fact, he claims not to know where any of the scenes he paints are located. He insists he paints directly, using the voluminous files in his mind which have accumulated over the years of struggle and from the many trips abroad he's taken. I got the impression Sisson was actually somewhat embarrased by his success; that there was a salty sea-captain of a man at the core of the artist. A man who really wanted to break free of his gift and embrace the cameraderie of everyday people with endless stories and colorful, philosophical anecdotes.

But the course that would be impossible for a man who paints seven days a week and can only count three weeks in the last 30 years when he didn't have a brush in his hand. Sisson is totally dedicated to his work, and admits he is progressively seeking more and more detached privacy. Yet he is most approachable, and shares freely his gift; both philosophically and technically.

"I'm a classicist who always wanted to be an abstract expressionist," chuckles Sisson. Delicately dabbing a rather heterogeneous mix of semi-dry oils onto an arroyo scene, he instantly achieves a believeable boulder in the process, letting the serendipitous mix of paints from yesterday's palette do the job with a carpenter's putty knife.

And that one technical movement, that one dab that has taken sixty years of heartache and adulation to be able to do, is the essence of both Sisson's painting and personality: a balance of controlled emotion and passion.

Sisson came from "a very wonderfu middle class, Boston family," with hi father a writer and his mother a musician. With two creative parents, he grew up with what he described as "a precise sense of creativity; a mixture of classical training and homespun storytelling. I'm a blend of those two." Sisson paced leisurely back and forth in his studio, expounding with carefully chosen words on his work, his life and hi feelings. It was as though he was delivering a lecture, albeit a casual one;

"Sometimes the reasons I have for painting are very far-removed from conscious decision-making. I might, for instance, fee like painting some snow. Some crisp, loos passages. Often times, the painting I begin is totally lost after I'm three hours into it Suddenly I might screw it up in some wonderful fashion, and before I know it, I've go something different—it's never preconceived."

I asked Sisson how it's decided whic works are to be found in the galleries. "Fo many years, it simply was what would fi into my station wagon. I lived in Maine fo many years, and my gallery was in Boston

"One winter, I got caught in a blizzar with 20 paintings and four kids on th Maine Turnpike. I had to take all the paintings out of the car to get at the spare tire and all the wooden stretcher frames warpe in the weather. And I had to suffer the in dignities of motorists going by and pointing at the scene."

Sisson has dealers in New York, Boston and Santa Fe, but prefers, unlike other artists, not to keep track of who buys his work or where it ends up. "I made a point years ago not to ask where my stuff goes. I used to know, but I felt really guilty once when I learned that a family had sacrificed a European trip just so they could afford one of my paintings.

"I don't want to know where they are. It's lost in space in time. The process of painting is the only thing I concentrate on. I don't treat my works, as others do, as significant births. I've had more abortions than children."

"If there's anything I have learned, it's that painting is constant failure. Not that I'm depressed or anything, but I just don't know what a successful painting is anymore. A synthesis of something? I know that even if I tried to paint like Rothko, a classical image would always be there. I don't know what my work represents anymore. Maybe when I get my new studio built I'll do some epic works—magnificent allegories using all my pebbles, my mannerisms and all the influences from Japan, from Alaska, and of course here."

After moving to Northern New Mexico from Maine, Sisson spent a few years in Nambe, and just recently moved to southeast Santa Fe. He says of his decision to uproot from his native east, "Being a painter out here is more exciting than anywhere else. The people of the Valley have a heightened sensitivity to light and life. The people here are part of a much broader culture. In the east, there is an inherent fear of art—a sneaky prejudice about artists being a treat to upset the conservative world. There's something out here which is the finest, most maternal environment for painters; there's almost a holistic aesthetic society here, allowing for every kind of work to thrive, from coyotes to buffalo chips to majestic scenes."

Currently he is deeply involved in the building of a new studio which he says "will function as a Petri dish in which I can grow my aesthetic culture."

Just recently having toured Alaska, Sisson and wife Judy will travel next month to attend some of the premier art shows of the year in Denver, Jackson Hole, Wyo., and Portland, Maine. Sisson is a finalist in the National Park competition this year, and competing with thousands of entrants for the $50,000 first prize. For this event, Sisson entered a canvas depicting the awesome coastal beauty of Acadia National Park.

Sisson has four grown children, whom he described using terms such as "renaissance daughter" and "world class kid." Although none of the children have become painters in the sense that their father has, each has their own angle on creativity.

Daughter Kerri is a singer about to cut her first record, David is a house-painter who writes poetry, Mark is a world class triathlete and Scott is a computer scientist and writer.

As if to encourage the literally thousands of struggling painters here, Sisson summed up the craft by saying, "I paint seven days a week, ten hours a day. You see, the act of painting is so masochistic that unless you develop the discipline to paint every day, you never fall enough for your work to take on a distinctive character. It's the willingness to fail that separates you from the dilettante. Each time, I just try to paint it more beautifully."

A TRIBUTE TO SEYMOUR H. KNOX, JR.

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. LAFALCE. Mr. Speaker, I rise today to pay tribute to a man who fully understood and acted upon the idea of civic responsibility; a man whose contributions in education, business and the arts greatly improved the lives of many western New York residents and the Nation as a whole—Seymour H. Knox, Jr.

Mr. Knox, who passed away last week at his home in Buffalo, NY, enjoyed 92 years of life filled with personal accomplishments and public endeavors. He was a man who greatly improved all that he encountered, whether it was in business, the community or at home.

Mr. Knox's efforts to improve the University of Buffalo, and later the State University of New York at Buffalo, helped transform the school into an internationally recognized institution of higher education. Knox joined the university's council in 1920 and was its chairman from 1949 to 1969, providing significant advisory and financial support. SUNY Buffalo has since enhanced the cultural and academic life of the area and has provided high quality education with low tuition costs to students from New York, the United States, and abroad. Mr. Knox's commitment to education extended beyond regional service; he was appointed to and served on a Presidential committee formed by President Eisenhower to consider our Nation's higher education system.

As chairman of the Marine Midland Trust Co. of western New York from 1943 to 1970, and chairman emeritus until his death, Knox presided over the growth of the bank into its vast financial network. Throughout these years, the bank served the community by employing residents, adding to tax revenues of local governments and providing home mortgages, business loans, and other financial services of vital importance to area growth and national growth. Knox was also a director on the boards of the F.W. Woolworth Co., the New York Central Railroad, the Penn Central Railroad, and the American Steamship Co.

Finally, Seymour H. Knox, Jr. was a benefactor of the arts whose namesake and powerful influence remains in Buffalo's Albright-Knox Gallery. Knox, who donated millions of dollars worth, of paintings, sculptures, drawings and prints—more than 700 works—to the museum, amassed a daring, contemporary collection. Knox's foresight and willingness to experiment with new modes of art led to the purchase of abstract expressionist painters including Gorky, Rothko, Hofmann, and Motherwell before they had gathered public acceptance and before they had become prohibitively expensive. The gallery Mr. Knox effected and left for the enjoyment of area residents is thought to be one of the world's preeminent collections of modern art. Indeed, the importance of contributing to one's community was the linchpin of his drive to enrich the gallery. Instead of purchasing art solely for his private collection, he gave his love of art to the gallery and the general public. Knox once explained his donations by saying that art should be acquired for all to see, not to be hidden away in a warehouse. As with education, Knox's contributions to art extended beyond the western New York region. He was chairman of the New York State Council on the Arts from 1960 to 1975 which sponsored cultural events throughout the State.

I urge my colleagues to join me in expressing sympathy to Seymour H. Knox Jr.'s sons and grandchildren. The art gallery and its symbol of public generosity will serve as the family's legacy to the people of Buffalo and western New York.

SALUTE TO MR. J. EVANS McKINNEY

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. DYSON. Mr. Speaker, I rise today to salute Mr. J. Evans McKinney, a commissioner from the town of Elkton, MD, who has retired after 21 years as an elected official. Evans will be missed by his colleagues and by the citizens of Elkton whom he has served so well since 1960. On October 6, Elkton Mayor James Crouse and the town commisioners, Constance Dunbar, Kennard Merrey, Jesse Boyd, and Edward Ginder will host a town reception honoring Evans for his dedicated public service. I would like to take this opportunity to share with my colleagues a brief biography of J. Evans McKinney.

J. EVANS McKINNEY

J. Evans McKinney was born in Elkton, Md. in 1913. He was educated in the public schools of Cecil County and graduated from Elkton High School and West Nottingham Academy, followed by attendance at Johns Hopkins University.

From 1936 until 1944 he worked for the Corps of Engineers at Chesapeake City, Curtis Bay Ordnance and New Castle Air Base. In 1942 he was prepared to enter the Service but was turned down because of an injury suffered while playing soccer. He went to work for DuPont in Wilmington "for the duration." This "duration" lasted until April, 1974 when he retired.

Evans and Janet were married in May, 1941. They have two sons, Robert and James, and two grandsons, Michael and Joseph.

Evans has always been interested in politics. He has served on the Cecil County Democratic Central Committee, was appointed to the Planning Commission of the Town of Elkton in 1960, and was elected Elkton Town Commissioner in May 1969. He served in this capacity for 21 years before retiring in 1990. He has always been interested in serving his local community and in improving local conditions. He is very proud of his part in securing from the Dept. of Natural Resources of the State the fish ponds out beyond Meadow Park and also the land for Meadow Park East.

He has had a love of hunting and fishing since childhood, and this has developed into his lobby of decoy collecting. Now he has a great collection and has written a book, "Decoys of the Susquehanna Flats and their Makers" which has just been updated and reprinted. Now he doesn't do much hunting

or fishing but spends a great deal of time carving decoys.

I congratulate Evans and wish him and his wife, Janet, continued success and good luck in his retirement.

TEN VOLUNTEERS RECEIVE CONGRESSIONAL ACHIEVEMENT AWARDS

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. MRAZEK. Mr. Speaker, as a way of both rewarding and encouraging the volunteer spirit that characterizes one of the finest impulses of American life, I have presented the Congressional Achievement Award to 10 outstanding Long Island leaders who contribute to several important community programs. The award is presented to those who have shown through their voluntary service an inspiring commitment to the improvement and enhancement of the quality of life for the people of Long Island. Selected from several highly qualified nominees, the recipients were chosen by past winners of the Congressional Achievement Awards.

On September 15, a tribute was held to honor the humanitarian efforts of the recipients, all personally dedicated to the enrichment of life in our communities. The honorees are:

Priscilla Ciccariello, chairperson of the National Marfan Foundation, for her commitment to fostering a greater public awareness about Marfan syndrome and its effects following the loss of her husband and young son to this debilitating hereditary disease. Mrs. Ciccariello has led the foundation's growth into a nationally recognized organization that has captured the attention of clinicians, researchers, care providers, educators, and donors. Her dedication and determination have turned personal and devastating loss into an organized crusade against this tragic disease.

Ann Harper, district chairperson, Nathan Hale District, Suffolk County Council of the Boy Scouts of America, for the community spirit she exhibits as a volunteer working tirelessly to promote Scouting and its ideals in Huntington Township. Mrs. Harper is credited with reaching about 2,500 Scout-aged boys yearly in the township despite a shrinking youth population. She has devoted her considerable skill and talent toward the recruitment of a broad range of people to assist with fundraising, membership, and programming, activities which are all vital to a flourishing organization dependent on public support.

The Huntington Community First Aid Squad and its 175 volunteer members, for its state-of-the-art response capability. Staffed 24 hours a day and 7 days a week entirely by volunteer in-house crews, the Huntington Community First Aid Squad has been providing hands-on lifesaving and emergency medical services for the past 25 years to the 35 square miles that comprise Huntington. The first rescue operation to implement on-duty, in-house crews, the Huntington Community First Aid Squad credits this 25-year practice as a cornerstone of its rapid response.

Frank Lourenso, executive vice president, Chemical Bank, for his considerable organizational skill and financial expertise in generating and maintaining the support of Long Island's corporate, civic, and philanthropic leaders for the Family Service Association, an agency providing a wide range of innovative programs serving Nassau County. An active board member for the past 14 years, Mr. Lourenso also maintains a personal commitment to serving organizations ranging from the American Cancer Society to the Youth Adult Institute. It is certain his efforts have touched the lives of countless people.

The Make-A-Wish Foundation of Suffolk County, for granting wishes to children suffering from life-threatening or terminal illness. This county chapter of the nationally known agency relies entirely on its core of dedicated volunteers, whose sole purpose is to bring joy to young patients and their anguished families. The true test of achievement can be seen in the eyes of the children as they experienced their wish come true and to listen to the fond memories their families will have forever because of the volunteer efforts of the Make-A-Wish Foundation of Suffolk County.

Fran Mattera, founder and director of For Our Children and Us, for years of extraordinary paralegal support to families with children. Realizing the need for family services after she was left to support herself and her three children, Ms. Mattera nutured the growth of FOCUS from its beginning as a hotline in her own home into a five-county agency that, to date, has assisted over 30,000 families seeking assistance. She has inspired and guided its staff, directors, and the community it serves to make it a flourishing center of activity providing a multitude of services.

Lillian McCormick, for many years of enlightened leadership and valued devotion to a countless number of community programs. In 1974, Mrs. McCormick founded a residence for abused children which later became known as Children's House. To date, she remains a leading advocate for the rights and welfare of children. Mrs. McCormick developed a nonprofit agency, Women On the Job, to address women's employment issues as women assumed greater numbers in the work force. Mrs. McCormick saw the need for affordable senior citizen housing in her hometown, and sought to make it succeed. Said to be contagious in her conviction, Mrs. McCormick believes that education is the key to building a great society.

Edward W. Stack, for an outstanding commitment to community service through his leadership and support of many voluntary organizations on Long Island. One such agency, the St. Christopher-Ottilie Services for Children and Families, honored Mr. Stack with its 1990 Humanitarian Award. Especially valued for his vibrant leadership and fine counsel, Mr. Stack is always on call and in demand, and usually the first called upon to resolve complex issues and crises. His business acumen continues to benefit a wide range of charitable and cultural organizations so dependent on the varied resources Mr. Stack is capable of summoning.

Frances Storrs, for over 30 years of dedication to the youth of Oyster Bay. A founding member of the Boys and Girls Club of Oyster Bay-East Norwich, which provides recreational and educational programs for over 700 children annually, Mrs. Storrs continues to be its "guiding light" and "guardian angel." As current vice president in charge of fundraising, Mrs. Storrs assumes the responsibility for conceptualizing, organizing, and sustaining the club's annual fund drive, which remains, to date, its chief source of funding. Her talent for understanding the needs of her community combined with a willingness to bring together the various constituencies needed to realize a dream have made the lives of countless youngsters happier.

Donald Tomasello, for years of devotion to the work of the Long Island Association for AIDS Care. One of the first, and few, people who came forward to provide advocacy and companionship to AIDS and HIV-infected patients. Mr. Tomasello has become a driving force at LIAAC, inspiring and supporting others who volunter their care. Instrumental in establishing a bi-county referral and resource directory for the agency, Mr. Tomasello is involved in fundraising efforts and has recently been appointed to the LIAAC board of directors. His long-term, dedicated commitment to the agency and its purpose reflect his hope that victims of AIDS and HIV can live with dignity.

Mr. Speaker, I congratulate these honorees for the inspirational examples they have set for our community at large. I commend their stories to my colleagues and I wish them success as they continue their life's work to the benefit of all of Long Island.

"STRONGER NATIONAL SECURITY PROVISIONS NEEDED NOW"

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. WALGREN. Mr. Speaker, the House recently passed H.R. 486, a bill reauthorizing the Defense Production Act [DPA]. This act provides critical authorities needed to ensure our country has a strong industrial base for defense production.

Our colleague, Ms. OAKAR deserves tremendous credit in pursuing this area until an agreement could be found that the administration will support. These authorities are too important to allow to lapse.

However, important issues that involve controversy were unable to be dealt with this year. There is a real need to strengthen the Exon-Florio provisions enacted as part of the 1988 Trade Act, which gives the President authority to block foreign takeovers of U.S. firms that threaten to impair the national security.

The subcommittee I chair has held extensive hearings on the implementation of this national security takeover provision of the DPA. The record of those hearings is quite clear—the administration has failed to effectively enforce its responsibility. To date, more than 450 notices of foreign takeovers have been provided to the Committee on Foreign Investment in the United States. Only 11 investigations have been conducted. Only one takeover has been prohibited.

In the one case in which the President prohibited the foreign takeover, the foreign acquiring firm, an agency of the Peoples' Republic of China, has so far failed to comply with the President's order to divest itself of Mamco, Inc., an aerospace company located in Seattle, WA. In his order, the President gave the China Aero-Technology Export and Import Corp. until May 1, 1990, to divest its acquisition of Mamco.

When this deadline was not met by the Chinese, they were given until August 1, 1990. And now, with all deadlines having expired, the Chinese have still not sold Mamco. What credibility can the President hope to have when orders he gives under the authority of Exon-Florio are ignored?

While certain kinds of foreign investment are clearly important and necessary, there can be no longer any doubt that foreign investment has seriously undermined industries in the electronics sector like semiconductors and others that in the long run are essential to U.S. national security. Not a single action has been taken under Exon-Florio to block foreign takeovers of U.S. equipment and materials manufacturers that supply the critical semiconductor industry, despite the well-recognized importance of the semiconductor industry to our Nation's security and defense.

Foreign investors now own 13 percent of the U.S. manufacturing base, and in 1 year—1987 to 1988—foreign direct investment in the United States jumped more than 60 percent. Foreign direct investment in the U.S. electronics industry, alone, tripled to over $12 billion between 1980 and 1988. Foreign investors now own 50 percent of the vital consumer electronic industry.

According to the Defense Science Board [DSB], which has recently looked at both the question of foreign control of U.S. industries and the problem of defense access to critical technologies, foreign dependence puts the Defense Department's access to leading edge technology at real risk. In addition, the DSB concludes that, "The military and economic dimensions of national security are inseparable."

The rate of change in technology requires that any nation which wants to be a leader in military and commercial technology must have within its own control the ability to be the innovator of new technology. The ability to be an innovator requires the full participation in the development of new technology at every stage.

As a result, foreign acquisitions in critical industries not only threaten to deny U.S. firms state-of-the-art products and technolgoy, but they also deny our firms access to the next stage of important products and important technologies. In addition, foreign control of U.S. high technology prevents the United States from benefiting from the technology spinoffs that come to those who participate in the development of technology.

If the Defense Production Act is to provide the protection our country needs against foreign takeovers of U.S. companies that threaten the national security, changes are badly needed. The major provisions of the legislation I have introduced, and reported from my subcommittee, H.R. 5225, respond directly to the concerns and recommendations of the Defense Science Board.

The Defense Science Board recommended that conditions should be placed on foreign purchasers to protect our national security from the erosion of the industrial base that transfer of technology from the United States often causes. H.R. 5225 provides the authority needed to seek and to enforce such conditions.

The Defense Science Board recommended a primary role for the Defense and Commerce Departments in identifying the national security impact of foreign acquisitions of U.S. firms. H.R. 5225 gives Commerce and Defense this responsibility while leaving in place the President's designation of the Committee on Foreign Investment in the United States to carry out the authority granted to him under section 721 of the Defense Production Act.

The Defense Science Board recommends that our Government identify those technologies essential to the U.S. industrial base. H.R. 5225 requires the identification of essential technologies and provides that thorough investigations be conducted of foreign mergers, acquisition, and takeovers that involve these critical technologies.

H.R. 5225 goes a long way toward addressing the major concerns and problems that have been identified with the process we now use to deal with the national security implications of foreign takeovers. It is my hope that this legislation can be acted on early next year. Without these needed changes the Defense Production Act will remain nothing more than a paper tiger in our efforts to protect the United States against foreign takeovers of U.S. firms that threaten the national security.

A TRIBUTE TO FREE FRANK McWORTER

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. DURBIN. Mr. Speaker, on Saturday I will attend a ceremony honoring Free Frank McWorter whose pioneering spirit and entrepreneurship led to freedom from slavery for himself, his family, and many others he helped escape through the underground railroad.

His great-great-granddaughter, Prof. Juliet E.K. Walker, has worked long and hard to secure Free Frank's place in history. Her efforts have made many people more aware of an aspect of African-American history and business that is little known to most Americans. Her most recent undertaking involves an effort to put his gravesite, in Barry, IL, on the map. She set out on September 20, to trace Free Frank's 1831 journey from Somerset, KY, which he left in search of better opportunities, to Barry, IL, where he is buried.

Free Frank was a man with remarkable determination and courage. As a slave, he earned extra wages by hiring out his labors to other masters during the little spare time he had. Eventually, while still a slave, he established his own business, mining and selling saltpeter for the manufacture of gunpowder, which was in high demand during the War of 1812. He used the money he earned to buy his freedom and that of his wife, Lucy; two sons; two daughters; seven grandhildren; two great-grandchildren; and a daughter-in-law. The total cost of this struggle for freedom is estimated to have been $15,000.

After their liberation, Free Frank and his family set out for Illinois, where land was cheap. They bought 160 acres from the Federal Government for $100, in what is now known as Pike County. It is believed that at age 53, Free Frank was the first black man to legally establish a town, which he called New Philadelphia, in this country. Free Frank and his family played an important role in shuttling runaway slaves to Canada through the underground railroad station in their basement.

Ms. Walker's efforts to ensure her great-great-grandfather's place in history, including years of research leading to a book entitled "Free-Frank: A Black Pioneer on the Antebellum Frontier"; and a listing of his gravesite in the National Registry of Historic Places, have generated public interest in Free Frank. A well-deserved profile of Free Frank appeared in the Chicago Tribune on September 28.

It is my hope that the remarkable accomplishments of Free Frank McWorter will be read by many more people for years to come. He deserves to go down in history as the dedicated pioneer that he was.

CONGRATULATIONS AND BEST WISHES TO THE PEOPLE OF NEW ZEALAND

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. McEWEN. Mr. Speaker, in commemoration of the sesquicentennial of the signing of the Treaty of Waitangi, the people of New Zealand have requested that rather than extending material gifts, countries share "Living Treasures" as an expression of honor and appreciation. I am honored to rise today to recognize a group of young Americans who will visit New Zealand as the living treasure of our youth. As a representation of this treasure, young men and women from many of our States will visit New Zealand on October 22 through November 3, 1990 to meet with the Parliament and the people of that great nation.

Just as Americans attach great significance to the Fourth of July and its meaning, New Zealanders accord the Treaty of Waitangi special significance. In 1840 a pact was signed with good and true intent, and that was the beginning of the nation called New Zealand. Over the past 150 years, New Zealanders have forged a great nation based upon the principles of freedom and democracy.

Mr. Speaker, I urge my colleagues to join these "Living Treasures" of American youth by extending congratulations and best wishes to the people of New Zealand. The young Americans that are scheduled to visit New Zealand include:

Matthew Anderson, Washington.
Randy Barira, Oregon.
Jeffrey Barnett, Idaho.

Jodie Buchholz, Wisconsin.
Joshua Buchholz, Wisconsin.
Joel Buchholz, Wisconsin.
Tracey Collins, Ohio.
Jennifer Coriell, Ohio.
Shawna Corley, Texas.
Jonathan Custer, Virginia.
Karee Daniel, California.
Ashley Davis, Georgia.
Kirsten Deiter, Illinois.
Mandy Dennis, Texas.
Tiffany Drake, California.
April Futhey, Kansas.
Kimberly Gattie, Georgia.
Karen Hart, Michigan.
Nathan Hawkins, Arizona.
Lewis Hensley IV, Florida.
Matthew Hoopes, California.
Julie Hovey, Texas.
Prem Jacob, Illinois.
Rochelle Jensen, California.
Ed Johnson, California.
Phillip Jones, Georgia.
Tony Jones, Georgia.
Anique Kinchen, Texas.
Nicole Kinchen, Texas.
Campbell Maskell, Illinois.
Kelly Nall, Texas.
Amber Olsen, Louisiana.
Karna Pickard, Oklahoma.
Kristine Shoemaker, Indiana.
Michelle Sommerfeld, Minnesota.
Mark Stanley, Minnesota.
Joel Steege, Oregon.
Dane Sternecker, Wisconsin.
Jonathan Thorne, Kansas.
Shannon Toombs, Indiana.
Eric True, California.
Heather True, California.
Michael Vause, Texas.
Jamie Ward, Oklahoma.
Tanya Williams, Texas.
Kim Worley, Texas.

I would like to express my best wishes for an enjoyable and informative visit on October 22 through November 3, as they take part in the historic celebration of the sesquicentennial of the Treaty of Waitangi.

NEBRASKA COUNTY ATTORNEYS ASSOCIATION'S VIEWS ON HABEAS CORPUS REFORM

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. BEREUTER. Mr. Speaker, there has been great controversy surrounding H.R. 5269, the Comprehensive Crime Control Act, especially the portions concerning habeas corpus reform and the Racial Justice Act.

The Nebraska Country Attorneys Association has written a letter stating their opinion on the legislation.

Mr. Spire's (The Honorable Robert Spire, Attorney General of Nebraska) views stand in opposition to the position taken by the National District Attorneys Association, the National Association of Attorneys General and other national law enforcement organizations and representatives which oppose this legislation as an effort to cripple further our ability to fight the nationwide problem of violent crime.

This association has 285 members, including county attorneys, deputy county attorneys, the U.S. attorney, the Attorney General and Assistant Attorney General, city attorneys for both Lincoln and Omaha, and other State government attorneys.

At the request of the Nebraska County Attorney's Association this Member is providing this information to my colleagues today in order to present another point of view from Nebraska, a State with the death penalty. The letter follows:

Nebraska County
Attorneys Association,
Lincoln, NE, October 2, 1990.

Hon. Doug Bereuter,
2446 Rayburn House Building, Washington, DC.

Dear Doug: The Congressional Record reflects that on September 25, 1990, Mr. Hughes of New Jersey read into the record portions of a letter from Nebraska Attorney General Robert Spire in which he supports the Kastenmeier-Hughes habeas corpus proposals and the "Racial Justice Act". We want to make it clear that Mr. Spire must be expressing his personal views and that those views are not those of the membership of the Nebraska County Attorneys Association. While we have great respect for Mr. Spire, on these issues we very much disagree with him.

Mr. Spire's views stand in opposition to the position taken by the National District Attorneys Association, the National Association of Attorneys General and other national law enforcement organizations and representatives which oppose this legislation as an effort to cripple further our ability to fight the nationwide problem of violent crime.

The provisions of Title XIII of H.R. 5269 which deal with habeas corpus revision would only make that process more cumbersome and expensive than it presently is. There is not a single suggested provision of this subtitle which would enhance the judicial process, assist the state or insure any greater degree of justice in criminal proceedings. If passed, it would simply make a mockery of the concept of finality in state criminal court proceedings.

Title XVIII, also personally endorsed by Mr. Spire, is likewise objectionable to us. The misnamed "Racial Justice Act" does not create or insure racial justice in any manner. It was originally drafted by the Coalition to End the Death Penalty and its goal is clearly not to insure justice in any form, but to eliminate capital punishment. This Bill attempts to use statistics in a manner rejected by all courts which have reviewed this type of claim in efforts to establish proof of system-wide discrimination based upon the race of either the defendant or the victim. If this legislation were passed all capital defendants could raise such claims either before or after trial. The cost alone of supplying individual defendants in all cases with expert statisticians would be prohibitive as would the cost to the state in defending each case. Passage of this subtitle would only force increased state taxation to fund this new and unwarranted panoply of rights to be afforded defendants in murder cases. Cost should not be a factor in achieving justice, but that is not what this legislation would accomplish. This bill creates presumptions about the criminal justice system on the basis of a statistical model rather than examining each case on an individual basis to extract from the record the factors which resulted in the sentence of the court. The Supreme Court of Nebraska currently reviews each capital case on a case by case basis. That review best insures that defendants receive fair, individualized sentences and that racial discrimination, among other considerations, is avoided.

Considering the many safeguards now in place against discrimination, from jury selection through appellate review, throughout the state and federal court process, a vote for the "Racial Justice Act" suggests a lack of faith in those persons who are sworn to insure that justice prevails in our court systems.

The membership of the Nebraska County Attorneys Association urges you to vote for the rights of victims and the people of this state by voting against the Hughes-Kastenmeier-Butler Derrick habeas corpus proposals and the "Racial Justice Act".

On House Crime Bill (H.R. 5269), we urge you to take the following action:

(1) *Racial Justice Act.*—Vote for "Sensenbrenner Amendment" which strikes Title XVIII of the present bill, "Racially Discriminatory Capital Sentencing" (which could encourage a quota system based upon race).

(2) *Habeas Corpus Reform.*—Vote for the "Hyde Amendment" which (a) strikes Title XIII of the existing bill and substitutes the Powell Commission approach and (b) strikes Section 2212 of Title XXII, "Special Rule for certain Habeas Corpus Petitions" (Berman Amendment). VOTE AGAINST ALL OTHER SUBSTITUTE AMENDMENTS ON HABEAS CORPUS.

(3) *Asset Forfeiture.*—Vote for the "Moorhead Amendment" that would strike Section 402 of Title IV prohibiting adoptive forfeitures that "circumvent" state law.

In most states, this provision will have a severe adverse impact on forfeiture revenues to prosecutors and law enforcement.

Very truly yours,

Michael D. Wellman,
President,
Nebraska County Attorneys Association.

REMEMBERING THE FOREIGN SERVICE

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. FASCELL. Mr. Speaker, there has bee a great deal of concern since the Iraqi invasion of Kuwait, about the fate of American trapped in those countries. Of equal concern have been the well-being and preparedness o members of our Armed Forces who are onl too well, aware of the poisonous weapons i the arsenal of a ruthless Saddam Hussein But all but forgotten are the diplomatic personnel who remain in a beseiged U.S. mission, and who may be the first and most visible targets for a strike against America and it allies in the Middle East crisis.

Perhaps it is because the word "diplomat" connotes a pampered existence in exotic locales that the public sympathies do no appear to be with these Americans overseas However, it is clear that in a crisis such as thi that it is our diplomats who remain on th front lines of defense without a battalion to defend them. For this reason, I submit for the RECORD an editorial from the New York Times of September 25, 1990 which highlights our failure to recognize the courage of current and past members of the Foreign Service who have served their country abroad.

FORGOTTEN SENTINELS

President Bush has inadvertently slighted the U.S. Foreign Service. In his Sept. 11 speech to Congress, Mr. Bush spoke generously and at length about "our brave servicemen and women" in the Persian Gulf. But he failed even to mention the brave men and women serving as diplomats in Baghdad and Kuwait, the hazardous cockpits of the conflict. It does not belittle the sacrifices of uniformed Americans to note that Foreign Service officers are in more immediate peril.

More of these civilian officers have been killed in the line of duty than all the generals and admirals who have died in combat since World War II. The names of these diplomats are honored on plaques in the State Department lobby. In 1955 there were 75 names. Since then, 90 more career diplomats have been killed, most victims of terrorism.

Americans treat the Foreign Service shabbily. Congress routinely slashes State Department budgets, since diplomacy has no domestic constituency. Salaries are kept low and training programs starved of funds by legislators. Presidents treat ambassadorial posts as choice booty for chums and contributors.

Perversely, career diplomats go unrecognized and unrewarded even as their skills are required for new problems, from narcotics and pollution to vanishing rain forests. Neglect of the Foreign Service is ignominious in normal times, but incomprehensible in crisis. American diplomats in Kuwait are captives in a combat zone; embassy defenders rely on a swimming pool for drinking water. Their courage calls for a salute; at the first opportunity, Mr. Bush should make full amends.

A SPECIAL TRIBUTE TO COUNCILWOMAN WILHELMINA J. ROLARK

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. FAUNTROY. Mr. Speaker, I am honored to take this opportunity to bring to the attention of my colleagues the noteworthy accomplishments of Wilhelmina J. Rolark, an outstanding citizen, a dedicated and accomplished attorney, and a councilmember who has been serving the citizens of Ward Eight since 1976.

Mrs. Rolark earned a bachelor of arts degree and a master of arts degree in political science from Howard University. She earned a bachelor of law degree from the Robert H. Terrell Law School in Washington, DC. She is a practicing attorney, as well as the founder and president-emeritus of the National Association of Black Women Attorneys. Presently, Mrs. Rolark chairs the Committee on the Judiciary and is a member of the Human Services, Public Services, and the Housing and Economic Development Committees of the Council of the District of Columbia.

As a legislator, Mrs. Rolark has to her credit, very substantial pieces legislation which she authored and introduced to demonstrate her concern and commitment to improve the quality of life for the citizens of the District of Columbia. That which follows is among some of the legislation which she has introduced over the years in her capacity as councilmember for Ward Eight: The Bank Depository Act, which brings millions of dollars to the District of Columbia annually; a law which triples the penalties for persons who are caught distributing PCP; a law which brought cable television to the District of Columbia; the Pedestrian Protection Act, which increases protection for pedestrians at District intersections; the mandatory seat belt law; the Juvenile Protection Act which protects small children involved in the criminal justice system; and the child support guideline legislation, which establishes a presumptive guideline for the determination and payment of child support for children residing in the District of Columbia.

As a dedicated leader committed to the improvement of the quality of life in Ward Eight, Mrs. Rolark is one of the founders of the Annual Ward Eight Martin Luther King, Jr. birthday parade sponsored by the Wilhelmina J. Rolark Constituent Service Committee. Mrs. Rolark has been successful in obtaining funding for the new Ward Eight fire station and the seventh district police headquarters. Mrs. Rolark has identified the funds for a senior citizens center to be located in Ward Eight.

Mrs. Rolark is a sterling example of one who willingly accepts the many challenges that are brought before her, and for her bravery, commitment and dedication she has been awarded the following: Women of the Year Award; Seventh District Award; Metropolitan Police Department Award; Outstanding Service to Seniors Award; Senior Citizens Counseling and Delivery Service Award; Unfoldment, Inc. Award; Ollie Mae Cooper Service Award; Washington Bar Association Award; Distinguished Service Award; National Association of Black Women Attorney's Award; George H. Richardson Civil Rights Award; District of Columbia Federation of Civic Association Award; Outstanding Service Award; National Bar Association Award; Legislative Leadership Award; "Living the Dream" Award; and District of Columbia Association for Retarded Citizens Distinguished Service Award.

It is my pleasure to bring the attention of my distinguished colleagues the many substantial accomplishments of Councilwoman Wilhelmina Rolark.

ALVA "BUD" FORD—A NAVY WORKHORSE

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. APPLEGATE. Mr. Speaker, I would like to take this opportunity to tell my colleagues in the House of Representatives about a truly outstanding American veteran who is attempting to keep alive the memories of World War II and to honor the sailors who served nearly a half century ago.

Alva Bud Ford of Toronto, OH, is orchestrating efforts to bring back to America one of the last remaining LST's [landing ship tank] as a memorial to the thousands of men who served on these craft during the Second World War. Mr. Ford, who served for more than 2 years during World War II on LST 603 in the Mediterranean, is the driving force behind Operation LST Homecoming which seeks to bring back to America LST 859, currently in Taiwan. Mr. Ford is contemplating a 7-month long journey of the vessel halfway around the globe and up the Mississippi River to a final resting place in Seneca, IL, the birthplace of LST's, where it will serve as a monument to the service provided by these crafts during the war.

I would like to commend Bud Ford for all of his hard work and efforts to secure this fitting memorial to an important naval vessel and to the sailors who served aboard LST's during World War II. I'm very proud to have such an outstanding constituent and wish Bud and his supporters every best wish to realizing his dreams in securing this memorial.

Mr. Speaker, I would like to submit the following article from the Steubenville, OH, Herald-Star which tells the story of Bud Ford. It's an interesting story, one that I hope can come true.

REMEMBERING A NAVY WORKHORSE—TORONTO MAN WILL HELP LST TRAVEL HOME

(By Paul Giannamore)

TORONTO.—In World War II, Alva Ford served as a motor mechanic on LST 603, a "Landing Ship Tank," one of the Navy workhorses that carried freight and men and served as invasion landing craft.

In 1990, Ford, now 65, is looking forward to the chance to take a seven-month LST journey halfway around the world as part of Operation LST Homecoming, a voyage to return another of the ships, LST 859, to its Seneca, Ill., birthplace for use as a monument.

Ford said that although many people in World War II rode on LSTs, there are none of the ships in the United States as monuments to their service. Ford said LSTs, for the most part, were converted for use as ferries or tankers after the war. Some, like LST 859, ended up under foreign registry.

LST 859 has been used as a training ship by the Republic of Taiwan, Ford explained. The idea for returning the ship to Seneca came from a meeting there four years ago of its 65 surviving crew members, according to Operation LST Homecoming literature.

Seneca, population 2,200, was the home of the Prarie Shipyard of the Chicago Bridge and Iron Co., where more than 150 of the ships were built during the war.

Ford said he decided he "just wanted to go" on the full journey as a member of the Seneca Navy, as the group is calling itself.

He noted LSTs haven't received the recognition of such "glamour" ships as aircraft carriers or battleships.

"But they won the war. They put the guys on the beach. That had to be done with a shallow draught ship," he said. "We hauled everything imaginable."

Once, Ford recalled, his ship, LST 603, even hauled mules.

"They were for a group of night fighters in a French-Moroccan outfit fighting in Italy," he said.

Ford said LST 603 served in the invasion of southern France and in Africa and Italy.

LST 859, according to the second-edition of "Large Slow Targets," a book on LSTs by Robert Busch of Perrysburg, was launched Dec. 15, 1944, and served the Navy until 1958, including service in World War II and the Korean conflict.

LST 859 even sailed through atomic fallout from Hiroshima, Busch writes. After decommissioning, LST 859 was used by the Republic of Taiwan, modernized and given more powerful diesel engines.

Ford is planning to be one of the men paying $1,000 who will bring the ship all the way back from Taiwan.

Ford's wife, Frances, wants to ride through the Panama Canal and on the last day's journey from Peoria to Seneca.

She feels no worry about her husband serving seven months at sea at his age.

"At our age, if there's something you truly want to do, do it. Life's too short not to do the things you want," she said.

According to Jack Goddard of San Diego, the lieutenant of the Seneca Navy, crew members have to pass both physical and psychological examinations.

"To pass the physical examination, they must prove that they are alive. To pass the psychological examination, they will have to demonstrate that they are crazy enough to want to go on this trip and that they honestly believe that we will be able to get LST 859 back home safely to Seneca," Goddard writes in the application package for LST 859 sailors.

Ford said the Seneca Navy may have to tow LST 859 away from Taiwan if the government there doesn't approve her as seaworthy.

Goddard said cost estimates for towing the ship to Seneca are about $1.3 million, while the Seneca Navy estimates the reconditioning and fuel to return her by piloting her home will cost about $700,000 plus supplies for the journey. That's why the sailors are putting up money.

Ford said interest in the project is so great that the group may have to revert to a lottery system for taking on sailors from Hawaii to Seneca over the last legs of LST 859's journey home.

The ship may not be able to sail back into the United States as an American-flagged vessel because of strict Coast Guard requirements and the fact that she's no longer a Navy ship, Ford explained.

"We have to bring it back as a yacht—bigger than Donald Trump's. Even if we have to sail her back under the skull-and-crossbones, we'll bring her back," he said.

AMENDMENT OF 1986 CODE

HON. ED JENKINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. JENKINS. Mr. Speaker, I am today introducing, along with a number of my colleagues from the Committee on Ways and Means, the Real Estate Tax Basis Calculation Technical Correction Act of 1990. This bill preserves the historically recognized ability of real estate developers to include in basis, for computing gain or loss on the sale of units of real estate, the costs of improvements to such real estate that the developers are obligated by contract to make. Such legislation is needed because of a recent announcement by the Internal Revenue Service [IRS] that it intends to eliminate this historic treatment. This announcement was contained in the "Preamble" to proposed regulations which the IRS has issued under section 461(h) of the Internal Revenue Code, a provision governing the deductibility of expenses, not the calculation of the basis in property. This bill clarifies that the IRS interpretation is not consistent with the congressional intent contemplated when section 461(h) was enacted.

Since at least 1928, it has been settled law with respect to subdivided real estate that estimated costs of future improvements are includable in the basis of property sold, if the improvements to the property are contractually required. See for example, *Milton* v. *Mackay,* 11 B.T.A. 569 (1928); MIM. 4207, XII–1 C.B. 60 (1933). One of the compelling reasons for that rule is that such treatment permits the gain or loss from a sale to reflect accurately a portion of all related costs. In other words, it insures that economic income is appropriately calculated and that income is properly matched with related expenses.

In 1975, the IRS issued a revenue procedure confirming and restating the above rule, and providing certain administrative guidelines which could be utilized by real estate developers in applying the long-established practice whereby estimated future costs would be included in computing tax basis for subdivided real estate. The concepts incorporated by this revenue procedure, Revenue Procedure 75–25, insure that gain or loss on the sale of subdivided real estate will be properly reflected and that a proper matching occurs between expenses and related income. We believe, therefore, that this procedure should be continued.

However, when the IRS issued proposed regulations on June 7, 1990, under section 461(h) of the Internal Revenue Code, it suggested that section 461(h) and its proposed regulations override Revenue Procedure 75–25, for taxable years beginning after December 31, 1989. Thus, the IRS took the position in the introductory statement accompanying the proposed regulations that the estimated costs of future improvements to subdivided real estate may not be added to the basis of lots sold because economic performance has not occurred with respect to those costs.

We believe the above described position by the Service is an incorrect interpretation of section 461(h), which deals with the timing of deductions of accrual taxpayers, and not the computation of tax basis for purposes of computing gain on sales. The intent was to keep taxpayers from prematurely accruing deductions. Revenue Procedure 75–25, however, does not allow premature accruals since a portion of the obligated expenses is added to basis rather than allowed as a current year deduction. Under this procedure, there is no deductibility preceding income recognition. There is a reduction of gain as lots are sold, but no benefit is received from this adjustment until income is generated. This procedure insures the proper matching of expenses with related income. The revoking of this revenue procedure, in fact, would mismatch related income and expenses, a result that was surely not intended.

The legislative history of section 416(h) does not reflect any intention by Congress to overturn the concepts reflected in Revenue Procedure 75–25, which have its antecedents in case law going back more than 60 years. If Congress had intended to reverse such a basic and longstanding set of concepts, at a minimum, it would have indicated such an intent through its legislative history.

If real estate developers can no longer include the estimated costs of future improvements in the basis of lots sold, gain on the sale of such property will be significantly overstated to the extent that it will exceed the actual economic gain realized on such sales. Therefore, to prevent this overstatement, this bill would amend section 1011 of the Internal Revenue Code, the section under which Revenue Procedure 75–25 was promulgated, to clarify that a seller of real property is permitted to include in the basis of such property the estimated costs of future improvements to such property that the seller is contractually obligated to make.

If Revenue Procedure 75–25 and its underlying principles are not maintained, the economic effect on the land development industry could be devastating. This industry is suffering from a severe decline in land prices, and most developers are already faced with a credit shortage that has worsened the cash-flow problem that occurs even during healthy times.

We strongly urge the IRS not to wait for the passage of this legislation, but instead to announce that it will continue to apply the concepts reflected in Revenue Procedure 75–25 consistent with what we believe was intent of the Congress in enacting section 461(h). We encourage my colleagues to cosponsor this necessary legislation, and to work for its prompt enactment, so that the real estate industry will have fair and proper tax treatment in computing its gains and losses from real estate sales. Mr. Chairman, I ask that a copy of the bill be inserted immediately following my statement.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled

SECTION 1. SHORT TITLE.

This Act may be cited as the "Real Estate Tax Basis Calculation Technical Correction Act of 1990".

SEC. 2. BASIS CALCULATION CLARIFICATION.

(a) IN GENERAL.—Section 1011 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subsection:

"(c) BASIS OF REAL PROPERTY.—Notwithstanding any other provision of law, the cost of real property shall include the estimated costs of future improvements to such property that the seller is contractually obligated to make at the time of sale."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply ato taxable years beginning before, on, or after December 31, 1990.

MAKING ORGANIZED SPORTS RESPONSIVE

HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. BATES. Mr. Speaker, last week I introduced a bill to insure fair and comprehensive access to professional sports programming. I am sorry to say that this bill was prompted by the less-than-responsible behavior of the National Football League. Before the start of this football season, the NFL, along with CBS and NBC, decided they would encrypt their signals, thereby denying access to television viewers who might otherwise want to watch games other than those dictated by the NFL.

In many ways Mr. Speaker, this is a story about a privileged organization abusing its powers, an organization granted special exemption from antitrust rules in 1961, an organization which recently signed a $3.6 billion contract to provide its programming to five distributors. Yet, in light of all its material successes, this organization seems intent on restricting access, grossly intent on preventing oversaturation of its product line, as the commissioner of the NFL put it recently.

This fear of saturating the airwaves has taken on ridiculous proportions. Through legal means the NFL has taken on the so-called sports bars who pick up nonlocal football games. Needless to say it's been less than a fair fight.

The owner of a sports club in my district asks, What's wrong with allowing displaced Chicago Bears fans in San Diego from watching their favorite team? The NFL replies, you're taking away audience share and thereby hurting advertising revenues for the network affiliate. In addition we have protection under the Copyright and the Communications Act.

The NFL is right. They do have protection under both these laws, but I would argue that they also have special responsibilities, in large part, because they were granted an antitrust exemption in 1961. Establishing an open and fair marketplace, to the greatest extent possible, which will result in payment of a fair fee is the issue here. If the NFL monopoly and the other sports organizations don't want to act that way, in other words, responsibly, then it should be incumbent upon Congress to make them do so.

As for the question of whether providing access will hurt advertising revenue for network affiliates, it is important to recognize that the size of the market for nonlocal games is not clear. The NFL assumes it is significant. I imagine it is somewhat limited; but even if it is not, what kind of policy is it to deny programming to a product whose essence depends so heavily on consumer loyalty. There is no generic brand available. To Bears fans in San Diego, there really is no substitute.

A market for nonlocal games exists. Just looking at the proliferation of bars that now own satellite dishes and have become sports clubs is testimony to this. Not only bars, but restaurants, hotels, and other public accommodations have bought satellite dishes. And homeowners, those in rural areas, those unable to receive broadcast transmissions clearly have invested in dishes. Right of access to this programming is not an inherent right. Programming of this nature is expensive to produce and the NFL's legitimate rights certainly should be protected.

Some critics of the NFL have come straight out and said they would like to see the NFL's antitrust exemption challenged. Tackling that exemption, however, would affect the other sports leagues as well, and clearly the National Basketball Association and the National Hockey League have not taken similar steps. Moreover, such an approach would represent a greater challenge to the Copyright and Communications Act than simply mandating that the sports leagues offer their product reasonably and fairly.

In short, Mr. Speaker, if the NFL and the sports leagues want special privileges, then I would suggest that they show some restraint and some fairness in their dealings with the public.

THE BUDGET: UGLY BUT UNAVOIDABLE

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. ANDREWS. Mr. Speaker, I have decided to support the budget summit package. I do not believe this is the best possible agreement. I would have crafted a different package. The alternative to this budget, however, is no alternative—only the mindless sequestration of Gramm-Rudman and chaos.

For the benefit of my colleagues, I am including the editorials from newspapers across my State along with the New York Times and the Washington Post. In general, they share my sentiment on the decisions we now face.

[From the New York Times, Oct 2, 1990]

The Budget: Ugly but Unavoidable

The Budget agreement between Congressional leaders and the Bush Administration cuts defense too little. It increases energy taxes too little. It taxes rich families too little. Even so, the course compromise would cut the deficit by half a trillion dollars in five years and would accomplish that without savaging any one class, cohort or region. That doesn't warrant enthusiasm but it does warrant Congressional approval.

Detailed evaluation of the plan is futile given the way it is being presented—on an all-or-nothing basis. The "nothing" is scary. Were Congress to reject the agreement, financial markets would be rocked by the message that even modest deficit reduction is impossible. And millions of Americans would be rocked by inevitable, massive program cuts that would continue until Congress figured out a way to pass a budget.

Budget chaos might be worth trying if there were reason to believe it would produce better. In truth, it is likely to lead to worse.

The best part of the package is what it will not do. It won't throw the economy into recession, because next year's actual hit will be less than $35 billion, considerably less than the $50 billion target. Neither will the agreement wreck the tax code by giving in to President Bush's relentlessly misguided call for sweeping reductions of the capital gains tax.

And the budget bargainers wisely agreed to reduce, but not cap, the total amount of deductions that rich families are allowed to take. Reducing, but not capping, deductions is much fairer to urban areas like New York, which must impose high taxes to meet high social welfare burdens.

The biggest "losers" in the budget package are farmers, Medicare providers and Medicare beneficiaries. Yet the proposals affecting them are just. Farm subsidies do little more than subsidize wealthy farmers at the expense of urban consumers. Cuts are long overdue.

Medicare is more complicated. The program would be unchanged. But beneficiaries would have to pay more; doctors and hospitals would have to accept less. For political reasons, the summiteers exempted Social Security, leaving Medicare to bear the brunt of the domestic cuts. But the cut is hardly catastrophic—$30 billion out of approximately $700 billion over the next five years, or 4 percent.

If there is a calamity in the plan, it is that the summiteers are squandering the peace dividend. Many billions should now be shifted from the military to domestic programs because of the end of the cold war. But the plan calls for maintaining defense outlays at the $290 billion level for three years. The pretext for such spending surrender is Saddam Hussein's invasion of Iraq. In fact, outlays could prudently drop to $275 billion by the third year.

Likewise, the negotiators settled for a mere 12 cents a gallon in energy taxes, rather than the 25 cents or more that the economy could stand and the environment deserves.

Such wrongs can be corrected. The budget law empowers Congress to fund new initiatives—for highways and other infrastructure, education and Eastern Europe—if it raises the necessary revenue. That would allow Congress to trim defense, set higher energy prices and impose more progressive taxes. This year's ugly compromise is acceptable only if Congress rights the wrongs next year.

[From the Washington Post, Oct. 1, 1990]

The Budget Agreement

The budget agreement announced yesterday is imperfect, but the solid deficit reduction it promises is more important than its flaws. Some of the largest tax increases would be regressive—but the ultimate regressive step of cutting the capital gains tax was staved off. On the benefit side, the negotiators again flinched at cutting Social Security, even though it represents a fifth of all spending.

Still, the enactment of the agreement would be a major fiscal accomplishment, a shift toward responsible policy long overdue. The president and congressional Democrats both had to abandon cherished positions to achieve it, and particularly so close to the election they deserve great credit for having done so. The compromise is fair; the members must show the same courage as their leaders and pass it. The alternative is not just the insupportable chaos of Gramm-Rudman; that would not last. If the compromise fails, the deficit continues to erode the ability to govern.

The excise tax increases the parties contemplate on gasoline, energy generally, alcohol and tobacco would be felt less by rich than poor. The flip side is that they would

be socially useful, in stimulating energy conservation and possibly deterring alcohol and tobacco consumption. An income tax increase would have been fairer. The president resisted, in effect trading his proposal to cut the capital gains tax in order to keep the income tax rates as they are. Still, the plan contains a sleeper; it would raise $18 billion over five years, more than the alcohol and tobacco taxes combined, by limiting the itemized deductions upper-income households can take—in effect the same as a rate increase. It would also require high earners to pay higher Medicare taxes, and contains protection for about a fifth of the poor—working families with children—in the form of an increase in the earned-income tax credit. Overall, an acceptable if not exemplary list—and the best that can likely be achieved.

In benefits, having balked at cutting Social Security, the negotiators went after the same population by proposing large savings in Medicare, in part by raising the premiums, deductibles and the rest that patients must pay. At one point both parties were contemplating tilting these payments so that the better-off would pay most; for the usual reason of fear of the political consequences, they abandoned this good idea. The poorest would still be protected; for people below the poverty line, the states must make such payments (in part with federal matching funds) through Medicaid. Other major entitlements, notably farm supports, would also be cut.

The defense budget would be reduced in real terms, not as much as some Democrats have urged but more than the administration wanted. That seems about right to us. The range of domestic spending subject to the appropriations process would not be cut, but could rise no more than inflation. That also seems fair; it means that in budgets as tight as those ahead, if some programs prosper it will have to be at other programs' expense. Meanwhile, government workers will report to work; the great furlough threat has been suspended. It seems a shame that the politicians require such a wasteful charade to do their work, but they do. Maybe next time they could just pretend the world was ending . . . but of course that is what they did this time, too.

[From the Dallas Times Herald, Oct. 2, 1990]

Approve Budget Plan

President Bush and congressional leaders finally have agreed to a compromise that will reduce the federal deficit by $40 billion in the next fiscal year and by $500 billion over the next five years. Congress has until Friday to make substantial progress toward approving the package before the Gramm-Rudman-Hollings cuts, which were postponed for a week, go into effect. Mr. Bush has said he then would agree to another extension to October 19 if Congress has met specific goals.

There is nothing pleasant about this program. Medicare premiums and deductibles will go up. Students loans will go down. Higher taxes on gasoline will make driving more expensive. Higher taxes on beer will make it costlier to get some relief from it all.

Nonetheless, the plan is about as good as could be forged. Higher levies on boats, furs and jewelry cannot be contested. Nor can 24 cents on a pack of cigarettes by 1993. A raise from 8 percent to 10 percent in taxes on airline tickets is unwelcome but inevitable.

Defense spending will be cut by $67 billion over the next three years and by $170 billion over the next five. The Persian Gulf crisis will make it mandatory that the military dollars that remain be spent carefully.

Benefit programs, such as Medicare, farm subsidies and civil service retirement will be cut by $120 billion over the next five years. Other domestic spending will rise only with inflation.

We especially regret the failure of the negotiators to cut capital gains taxes and to eliminate the bubble for taxpayers earning over $217,000. Both of these measures were needed to make the tax code stimulative to investment and fair to middle-income people. Also, putting a cap on deductions for those earning over $100,000 may well hurt arts and charitable organizations.

It's good to see some incentives for investing in small business, research and development, and oil and gas exploration and production.

With a few changes this program should be approved by Congress. Nobody said it would be painless.

[From the Dallas Morning News, Oct. 2, 1990]

Budget Pain: Compromise Plan May Not Stop the Bleeding

They were hardly dancing in the streets of Washington Sunday when budget negotiators emerged from Andrews Air Force Base with a budget compromise, but in the cold light of Monday's dawn, whatever cheer there had been quickly turned to weeping and wailing and gnashing of teeth. Republicans were wailing that their President's tax compromises were one with the sellouts in Munich and Yalta. Democrats were weeping that the victims of spending cuts were mostly the meek and the mild. Both were grieving over the political consequences they felt were sure to follow from voters.

The American people, in instant interviews, were equally unhappy. The idea of paying more for gasoline even as gas pump prices were rising drew unanimous scorn. Cuts in farm subsidies brought threats from farmers to march on Washington. Business loudly pooh-poohed tax incentives that are supposed to spur economic development.

With so many people so upset, it would appear the plan does the one thing it needed to do to have any chance of passage: spread the pain.

Each new tax hurts someone; each spending cut hurts someone. The question is whether the individual pain can add to national health. The American people must finally accept that there is no free lunch, no tooth fairy, no fiscal sanity without loss.

This message has been brought home courtesy of the Gramm-Rudman-Hollings automatic budget executioner. If Americans don't like what the negotiators did, they can let the Gramm reaper do the job, and watch their air traffic system, their meat inspection system and just about every other system shut down. Sans Gramm-Rudman, there would be no agreement—good or bad.

Cutting $500 billion from the deficit over the next five years is a meaningful, if not quite adequate, bottom line—if the economic assumptions on which the agreement is based prove correct. To do so, the U.S. economy will have to grow at an average clip of nearly 3 percent over the five-year period. So far this year, the economy has slowed from 1.7 percent growth in the first quarter to 0.4 percent in the second quarter.

The real likelihood is that without significant incentives to spur growth, U.S. economic growth will be far below that figure. If so, the deficit will balloon far beyond current projections, and the current cuts will look like a mere nick. Imagine the pain required to balance that future budget gap.

There is no real alternative to accepting the current budget agreement. Yet what seems to be missing from the whole equation is any substantial, overall policy to spur growth. True, this agreement alone should allow interest rates to fall and that is good economic tonic. But possible lower interest rates are not enough. Once the smoke has cleared from the budget battle, the White House and Congress need to turn their attention to policies intended to get the national economy moving once more.

[From the Houston Chronicle, Oct. 2, 1990]

The Budget Deal

The federal budget agreement would only have been more disappointing if no agreement at all had been reached. In that event, the artificial paralysis of government operations caused by the Gramm-Rudman law could easily have been taken care of by just postponing the law. But we are not sure the fragile U.S. economy and the uneasy financial markets would have withstood a demonstration that the government could not reach a budget agreement.

The real problem with the deficit-cutting deal reached by President Bush and congressional leaders is that Washington seems to have made income tax rates sacred. By putting off-limits the fairest and most efficient way to raise revenue—across-the-board and progressive rate hikes—the budget deal is forced for the most part to use tax increases which are inflationary, economically damaging and socially embittering. The tax hikes on gasoline and other forms of energy and the increases in Medicare premiums and deductibles are the prime examples.

Few things could be more inflationary in an already inflationary climate, or more damaging to the economy as a whole, than increased taxes on gasoline and energy coming on top of large price hikes due to the Persian Gulf crisis and market speculation. While the stock market jumped 63 points Monday, it is an open question whether that was due so much to the budget agreement or to the price of oil dropping $2.42 a barrel.

In initial reaction, there would appear to be real doubts that Congress as a whole will approve the budget agreement as made. That may be more sounding off than reality. The stark fact facing Congress is that if it doesn't approve this agreement, it is unlikely to find another. The consequences of no budget agreement are worse than this agreement. In the final analysis, that is the best thing that can be said for it.

[From the Houston Post, Oct. 2, 1990]

No Pain, No Gain—Budget Deal a Bitter Pill That Would Shrink the Deficit

Nobody is cheering about the budget compromise congressional leaders and the Bush administration reached Sunday. Small wonder. It would raise federal taxes by $134 billion, while curtailing some popular government programs.

Nevertheless, Congress should pass the new agreement without undue delay. The alternative would be far worse—an $85 billion across-the-board mandatory spending slash for fiscal 1991, which began Monday.

The cuts, mandated by the Gramm-Rudman deficit-reduction law, would cripple many government functions and furlough thousands of federal workers if they are allowed to go into effect. But in a rare Sunday session, Congress postponed them for five days.

Still, both this stopgap action and the 11th hour budget deal are examples of government by crisis—something we are seeing with growing frequency at all levels. This is a poor way to make decisions about matters critical to the nation's well-being.

As the president noted in endorsing the plan, both sides gave up something. He backed off his no-new-taxes pledge, and his insistence on a capital-gains tax cut. Democratic negotiators retreated from their opposition of cuts in certain federal domestic programs, such as Medicare. They also acquiesced to tax increases on key consumer items such as gasoline.

At the same time, however, the package does not raise income tax rates, nor does it tinker with Social Security benefits. It should also be noted that many of the "cuts" would merely reduce projected spending increases.

Besides raising the gasoline tax in stages from 9 to 21 cents a gallon by next July 1, the accord would hike taxes on alcoholic beverages, cigarettes, energy, and such luxury items as expensive boats, cars, jewelry and furs. Those making more than $100,000 a year would lose part of their deductibility. And the wage limit on which Medicare payroll taxes are paid would rise from $51,300 to $73,000.

Budget negotiators say the tax boosts and the spending cuts would reduce the deficit—projected at $293.7 billion for 1991—by $40 billion in the new fiscal year and by $500 billion over five years. At the same time, the year for balancing the budget under Gramm-Rudman was changed from 1993 to 1996.

Now comes the really hard part—selling the new budget package to members of Congress seeking re-election Nov. 6. The plan would inflict widespread discomfort, if not outright pain, in some cases. But unlike other such accords of recent years, this one at least doesn't rely heavily on smoke and mirrors to back up claimed reductions in the deficit.

[From the Fort Worth Startelegram, Oct. 2, 1990]

BUDGET PACKAGE: CONGRESS WILL JUNK IT AT ITS OWN RISK

The budget and deficit-reduction agreement that now goes to Congress engendered so much instant opposition from the fringes—the most liberal Democrats and the most conservative Republicans—that it cannot be all bad.

The proposed budget trims $35 billion-$40 billion from what is now revealed as a backbreaking 1991 budget deficit (almost $300 billion before the cuts), staves off $82 billion in Gramm-Rudman sequestration and, most important, attempts to stem the deficit tide in coming years.

Considering the size of the deficit, the size of the national debt and the immense burden of paying the interest on that debt, the agreement is weak-kneed—barely a start toward correcting the situation. But it *is* a start, and it was forged the only way the political process allows: by spreading the pain around and making almost everyone angry.

It is a more honest deficit-reduction sortie than most, relying less on smoke and mirrors and more on real cuts—in Medicare, farm subsidies and defense—and increased revenues—higher cigarette, alcohol, gasoline and luxury taxes; higher Medicare premiums; limits on tax deductions for upper-income taxpayers.

Nay-sayers can complain to the heavens, but this is obviously the best economic package that this year's politician-negotiators could agree upon. There is something for everyone to like (real spending cuts, some tax incentives for economic growth) and something for everyone to hate.

Congress should approve the package for those reasons. Otherwise, Congress will have to go to the voters next month with the budget unresolved and the economy in jeopardy.

A TRIBUTE TO JUDGE ROBINSON O. EVERETT

HON. CHARLES ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. ROSE. Mr. Speaker, I rise today to offer tribute and praise to Judge Robinson O. Everett.

On September 30, 1990, Robinson O. Everett of Durham, NC, will be retiring after serving for more than a decade as chief judge of the U.S. Court of Military Appeals. Under his brilliant and charismatic leadership, the Court of Military Appeals has evolved into one of the most respected and innovative courts in America. The indefatigable, personal effort he exerted toward realizing this goal represents one of the most remarkable examples of judicial commitment and dedication that could be displayed.

His ceaseless concern has always been to reconcile the demands of highest justice with the requirements of military discipline. He has written hundreds of judicial opinions, many of which have resolved some of the most difficult questions in military and constitutional law. His many landmark decisions will surely have a lasting influence on military jurisprudence for decades to come.

Chief Judge Everett's other major accomplishments are equally stupendous. Within a year after his arrival at the court, he converted the court's docketing system to a completely electronic computerized system, which resulted in a great reduction in the cost of managing and retaining the court's recorded docket entries on all cases. This electronic capability also gave the court instantaneous access to all the court's docketing records. Furthermore, during his first year as chief judge, the court accomplished an astonishing 82 percent increase in the court's final dispositions on the master docket over the previous year, cutting in half the number of cases pending on the master docket. In recent years, the year-end pending cases have been reduced to a record low, and the time required to process cases before the court has also been dramatically reduced.

Judge Everett has been a model educator who has relentlessly sought to improve the professional skills of both military and civilian practitioners. In 1983, he reshaped the court's annual Homer Ferguson Conference and redesigned it not only to give military lawyers—but civilian lawyers as well—an opportunity to develop and maintain excellent skills required for appellate court practice within the military justice system and elsewhere. To make these training programs readily available to all lawyers, he had the conferences videotaped and made special arrangements to have portions of the conferences televised on C–SPAN. He also conceived and developed a documentary videotaped program produced for use by military lawyers and military educational institutions, as well as distribution and use by civilian law schools and community education program both in the United States and overseas. This video, the first of its kind, explained the entire process of trial and appellate procedures in a military court-martial case with particular emphasis on the appellate judicial responsibilities of the civilian U.S. Court of Military Appeals.

The Judge has been exceptionally devoted to promoting public awareness of the fairness and progressiveness of military justice. He has never been too busy to say no, and addressed military and civilian conferences, seminars, training workshops, meetings of various bar associations, and law schools throughout the country. These judicial visitations and speeches have kept the military and civilian communities fully appraised of the court's responsibility in the administration of military justice; have improved the professional and legal education of military and civilian lawyers; have provided an interchange of ideas beneficial to the military community in general; have provided the court an opportunity to ascertain the impact of its decisions on the administration of military justice; and have helped to develop a better appreciation of the operational problems in the various services.

One of Chief Judge Everett's most innovative programs was reaching out and taking the court to the people. For the first time in the court's history, the judges traveled outside its own courthouse to hear oral arguments in several actual appeal cases. Some of the cases were held at various law schools and at the West Point Military Academy. These convenient hearings provided an excellent opportunity for members of the academic community, military, civilian judges, lawyers, law students, and future military leaders of the U.S. military academies to meet with the judges and view how court-martial cases are presented by appellate advocates for decision by the court.

The court also had televisioned an actual hearing conducted in the courthouse, which was later televised nationwide on the C–SPAN Television Network as a part of a 3-hour special program on military justice and the appellate review of court-martial cases under the Uniform Code of Military Justice. The project exemplified great visionary and very creative leadership on Judge Everett's part. The military community, the legal profession, and the general public have become more aware and appreciative of military justice and the Court of Military Appeals, as they have never before, by seeing on television how efficiently and well it works. The court's remarkable success in allowing the first telecast of an actual Federal court proceeding may have been the catalyst of the recent decision of the Judicial Conference of the United States to reverse a ban in effect for decades in this country to

allow televisions in some of the article III courts in a 3-year experimental program.

Actually, during the last decade, under the consummate leadership of Chief Judge Everett, the U.S. Court of Military Appeals has become one of the most public and most utilized courts in the Nation today. There have been various moot court competitions held in the court; various law school alumni meetings and functions; meetings and receptions held by different voluntary bar associations; and the court was recently the site of the historic administering of the first national junior high school bar examination. Furthermore, students—from preschool to college—are always visiting the court and meeting with the judges. Cadets from the military academies have worked on special projects at the court, and law schools students also have done summer interns there. Even weddings and marriages have been performed in the courtroom for the first time. It is clear that the U.S. Court of Military Appeals has now become one of the most accessible and most utilized public courthouses in America.

Perhaps, there are few judges who have so enthusiastically and relentlessly devoted so much time at promoting better understanding of the American legal system by the youth of our country than Judge Everett has In 1987, Judge Everett directed the national student law day project, which has been described as "one of the truly most ambitious and most successful projects ever undertaken" in an effort to celebrate the Bicentennial of the U.S. Constitution. The project won first-place award in the American Bar Association's 1987 Law Day USA Competition. Over 1,000 students, 30 different courts, and over 61 judges across the country participated in the project; and the project extended from Puerto Rico to Guam, and from Boston to San Francisco. Through Chief Judge Everett's magnificant leadership, a major goal was accomplished of encouraging and coordinating the nationwide cooperation of judges and court officials to sponsor courthouse visits and informal meetings with trial and appellate judges and court staffs by school students throughout the country. His impact and influence have had no limits.

Chief Judge Everett was exceptionally well-prepared for his judicial service. Earlier he had served as a commissioner on the court. He has been a law professor at Duke University for almost 35 years. Also, he has practiced law in North Carolina as well as in the District of Columbia and has held many positions in the organized Bar. In fact, he was the chairman of the American Bar Association Committee on Military Law from 1977–79. During the early 1960's, he served as a special counsel to Senator Sam Ervin's Subcommittee on Constitutional Rights in conducting the hearings and studies which led to the Military Justice Act of 1968. He has written a book "Military Justice in the Armed Forces of the United States" and numerous articles on military law, criminal procedure, and evidence. Prior to his retirement in 1978 as a colonel in the Air Force Reserve, Judge Everett had acquired many years experience as a judge advocate. Moreover, during his tenure as the chief judge, he served as the first chairman of the Federal Bar Association's Judiciary Committee and the chairman of the FBA's Administration of Justice Section.

Judge Everett has been honored and has received various recognition across the country for his brilliant accomplishments as the head of the U.S. Court of Military Appeals. Recently, the Judge Advocates Association sponsored a special testimonial banquet in his honor where many, including all the Judge Advocates General of the various services, bestowed upon him abundant praise. A number of bar associations across the country have also recognized his unparalleled accomplishments during the last decade. This ubiquitous praise and recognition appear to be shared by everyone.

Chief Judge Everett will be returning to the Duke Law School, where he has been a tenured professor for many years. Fortunately, as a senior judge, he still will be available to assist the Court of Military Appeals from time-to-time. We wish to express our gratitude to this very distinguished jurist from our home State of North Carolina for his extraordinary service and dedication to his country. We extend to him our best wishes for the future.

TRIBUTE TO MSGR. JAMES N. LUNN

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. THOMAS A. LUKEN. Mr. Speaker, as Representative of the First Congressional District of Ohio, I ask my colleagues to join me in extending sincere congratulations to Msgr. James N. Lunn, pastor emeritus of St. Ann Church, on the occasion of his 60th anniversary as a priest.

Ordained into the priesthood on October 10, 1930, Monsignor Lunn was the pastor of St. Ann Church when the church was founded in 1953. The first mass was held on June 28, 1953, in the Colerain Community Building with a congregation of 425 families. Services were held there until September 1954, when St. Ann's was built. Mass was then held in four classrooms until the sanctuary was completed in 1959. Father Lunn served St. Ann's faithfully until his retirement in August 1976. To honor Father Lunn, a multipurpose center was built during renovation of St. Ann's in 1989 in his name, the Monsignor Lunn Parish Center.

Please join me in congratulating Father Lunn on the occasion of his 60th year in the priesthood. By the length of his service, he has shown that his loyalty to God and community are enduring. A man of such high character is well deserving of this honor and commendation.

CHILDREN'S MEDICAL CENTER OF ISRAEL

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. FEIGHAN. Mr. Speaker, I rise to pay tribute to the real future of the Middle East. That future is one of peace, healing, and medical care that is blind to race, color, creed, religion or national origin; one that is committed to the future of the children of that embattled portion of the globe.

Under the clouds of a possible Middle East war, a ceremony has been held marking the completion of a crucial stage of construction for the Children's Medical Center of Israel—a facility that will provide unprecedented expert pediatric care for children throughout the Middle East and Africa. Sponsored here in the United States by the Medical Development for Israel, Inc., this milestone event occurred because Americans, Europeans, and Israelis came together to provide the leadership and the funds needed to create this $60 million, 224 bed facility.

One of the key moving forces behind this effort is a quiet man who avoids publicity for his worthy efforts. Irving Schneider is a man who has already proven what an outstanding pediatric hospital can do. Along with his wife Helen, he helped create the Schneider Children's Hospital at Long Island Jewish Medical Center in New Hyde Park, NY, after which the Israeli medical center is modeled.

Speaking during ceremonies marking the topping out of the Children's Medical Center of Israel [CMCI], Mr. Schneider noted, "There won't be a children's medical center in the world that will be superior to this one." These are the words of a man whose generosity was predicated on one condition: that this facility be open to every child in the Middle East who needs medical attention.

He recognized that for there to be peace in the Middle East we must rescue Arab and Israeli children from pain and disease, from fear and illness. It will be within the walls of the Children's Medical Center of Israel that all children from throughout the region will find love and caring, comfort and healing. The children of Chernobyl, the malnourished youngsters of Africa, and all others will find an unprecedented level of medical care available nowhere else between Bangkok and Athens. In fact, there is no such care currently available to the children of the Middle East and Africa.

As rooms are prepared to allow parents to sleep down the hall from their anxious children, as the operating suites are constructed, as equipment is assembled for international pediatric specialists, as all the preparations are made to complete this sophisticated medical center, let us not forget that what is also being built is an opportunity to provide the common ground that will enable the next generation to live together in peace and understanding.

That is the future being built at the Children's Medical Center of Israel. William A. Brown, the United States Ambassador to Israel, has said, "by Septemer 1991 this will be the best in the world. It'll be the Children's Medical Center of Israel, which will admit children from anywhere in the world, regardless of race, creed, color, religious background—that's part of its charter—I think it's in our national interest."

CMCI also exemplifies a unique level of cooperation between the United States and Israel The medical center represents binational cooperation in all phases from inception to planning, construction, medical supervision, training of professional personnel, financing and, most important of all, learning from the experience of top level children's hospitals throughout the United States.

This will be an American style hospital which Americans can be truly proud of.

FAIR MARKET GRAZING FOR PUBLIC RANGELANDS ACT

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. SYNAR. Mr. Speaker, I rise today to introduce the Fair Market Grazing for Public Rangelands Act. This measure will be good for both the taxpayers and the environment.

The goal of establishing fair market value for grazing domestic livestock on publicly owned land administered by the Bureau of Land Management and the U.S. Forest Service had long eluded Congress and the administration. In 1934, in the midst of the Dust Bowl era, Congress enacted the Taylor Grazing Act in an effort to stop injury to public grazing lands by preventing overgrazing and soil deterioration, and to provide for their orderly use, improvement, and development. But it has not been an easy job. Those who graze their livestock on public lands often have very different views about the use of the land than do members of the public.

Indeed, despite the important legislative and administrative changes initiated under the Federal Land Policy and Management Act and the Public Rangelands Improvements Act, the end result has been unsatisfactory. Today, more than 55 years after passage of the Taylor Grazing Act, much of the public rangeland is still in unsatisfactory condition. The Bureau of Land Management [BLM] own data shows that 60 percent of our public rangeland will continue to be in fair to bad condition well into the next century. In many cases this is due to overgrazing. Meanwhile, some authorities estimate that grazing has reduced the biological productivity of Western lands to one-tenth their former levels.

Only 2 percent of the 1.6 million cattle producers in the country graze their cattle on BLM and Forest Service lands. Eight percent of the 336,765 farms and ranches with livestock in the 16 Western and Great Plains States graze their livestock on public lands. Despite this figure, livestock grazing is currently the dominant use of most public lands in the West—89 percent of BLM lands and 69 percent of Forest Service lands are leased for grazing, totaling about 250 million acres. Grazing is also allowed on most of the larger Western wildlife refuges, including 103 of 109 wildlife refuges in the U.S. Fish and Wildlife Service's Rocky Mountain region. And although national parks and monuments were specifically designated to preserve natural biological communities, grazing is allowed in many, including Grand Teton, Great Basin and Capitol Reefs National Parks, and the Black Canyon of the Gunnison National Monument. This encompasses almost all Federal lands suitable for grazing. Indeed, the acreage not leased is usually inaccessible, heavily forested, rocky, or otherwise unusable by livestock.

This year, domestic livestock grazers using public lands administered by the BLM and the Forest Service paid a fee of only $1.81 per animal unit month [AUM]. This is far below the fair market rate and contrasts with fees ranging as high as $14 per AUM on other Federal lands, State lands, and private lands. Ironically, the Bureau of Land Management currently charges a fee of $8.70 per AUM for trespass on public lands.

As chairman of the Subcommittee on Environment, Energy, and Natural Resources, I have had Federal grazing practices under review for several years. Our review has led me to conclude that grazing on our public lands is producing an ecological and fiscal disaster. Unless grazing fees are increased immediately, the Government will continue to encourage overgrazing of our public lands; the costs of the grazing program will continue to exceed receipts; and the taxpayer will continue to subsidize livestock that represents only 2 percent of total U.S. meat production.

I think it is time for a change. Over the past 5 fiscal years, the taxpayers have lost more than $500 million because grazing fees were lower than fair market value. As much as $150 million may be lost during fiscal year 1991 because the administration will not charge fair market value for the privilege of grazing cattle on 307 million acres of Federal lands in Western States.

I believe Congress should begin to phase in a more realistic grazing fee beginning in fiscal year 1991. For example, I believe that using the present trespass fee, $8.70 per AUM, as a standard for fair market value is reasonable as a goal to achieve over the next 4 years. Accordingly, this measure will establish a fiscal year 1991 grazing fee for Bureau of Land Management and Forest Service lands of $4.35 per AUM, or 50 percent of the trespass fee. Beginning in fiscal year 1992, the balance of the fair market value for Federal grazing rights would be phased in over 3 years. That would set the fiscal year 1992 fee at $5.80 per AUM, or 66.7 percent of fair market value, while the fiscal year 1993 fee would be raised to $7.25 per AUM, or 83.4 percent of fair market value. Finally, in fiscal year 1994, the grazing fee would be raised to $8.70 or fair market value, whichever is higher.

As a result of this action, Congress can reduce the domestic livestock grazing subsidy on public rangelands by more than $325 million over the next 4 fiscal years. In turn, these savings can be used to put the Federal range improvement activities on a pay as you go basis, reducing the need for annual appropriations and easing the enormous strain on the Federal deficit.

In recent days, the American people have been presented with a budget summit package that calls for deep cuts in vital domestic programs such as Medicare and stiff new taxes. Whether that package wins support of the Congress remains to be seen. However, I am convinced that we must move as quickly as possible to require the few who benefit from public rangelands grazing subsidies to pay their fair share.

Mr. Speaker, I urge my colleagues to join me in ending the abuse of our public lands by saving the taxpayer from unfairly subsidizing livestock production on public rangelands. Support the Fair Market Grazing for Public Rangelands Act.

ACHIEVEMENTS OF THREE HARNESS RACING ENTHUSIASTS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. GILMAN. Mr. Speaker, permit me to call the attention of our colleagues the outstanding achievements of three harness racing enthusiasts all of whom will soon be honored with awards by the Monticello-Goshen Chapter of the U.S. Harness Writers Association: Richard Corbisiero, Jr., Jeana Yeager, and Barbara Galbraith.

Richard Corbisiero, Jr., chairman of the New York State Racing and Wagering Board will be presented with the Presidents Leadership Award for his hard work, integrity, dedication, and accomplishments in behalf of harness racing.

Mr. Corbisiero, who has been the chairman of the racing and wagering board since his appointment by Governor Cuomo in 1986, has statewide responsibility for harness, thoroughbred, and quarterhorse racing, six off-track betting corporations, as well as bingo and games of chance. All of these activities provide a major source of employment, in addition to generating tens of millions of dollars in revenues for the State and local governments.

Mr. Corbisiero, a graduate of Cornell, class of 1956, was a commissioned officer in the U.S. Army infantry after attending La Salle Military Academy in 1952. Before being appointed chairman, Mr. Corbisiero served as director of wagering systems from 1975 to 1979 and executive director from 1979 to 1986 for the New York State Racing and Wagering Board. He is also the chairman of the thoroughbred breeding fund and the standardbred breeding fund distributing millions of dollars annually to horsemen.

Jeana Yeager will be presented with the Good Gal Award for her many efforts in promoting harness racing. Jeana Yeager acquired expert riding and training abilities at an early age. Since then Jeana has established herself as a national heroine and become one of the most famous people in aviation history. She copiloted the Voyager in the first ever nonstop flight around the world in 1986. For this achievement Jeana received the Presidential Citizen's Medal of Honor. Jeana still loves harness racing and travels great lengths to participate in races. She has competed in the celebrity races at historic tracks over the past few seasons.

Barbara Galbraith, who will be the recipient of the Amateur Driver of the Year Award, has been an avid driver for many years and she is a co-owner of the Rodney Farms in Scottsville, NY. Barbara displayed her talents on July 1 at Goshen's historic track by winning the $10,000 final of the Billings Amateur Classic.

Mr. Speaker, Goshen, NY, in my congressional district, is proud of its heritage as the birthplace of harness racing and takes pride in housing the home of the trotter. The Monticello-Goshen Chapter of Harness Writers has eloquently portrayed the colorful history and charm of Goshen's leading role in harness racing.

Mr. Speaker, I invite my colleagues to join in congratulating Richard F. Corbisiero, Jr., Jeana Yeager, and Barbara Galbraith for their stellar achievements.

THE REUNIFICATION OF GERMANY AND GERMAN-AMERICAN DAY

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. BILIRAKIS. Mr. Speaker, today we truly come face to face with history.

Today we celebrate with the joyful German people in seeing their nation made whole again: reunited under the banner of the Federal Republic of Germany.

Out of the rubble of one of the century's most bitter symbols of repression, the Berlin wall, dynamited by and for freedom, is rising today a great engine for democracy, a strong and resolute economic power, a dependable ally for the West.

The frontier of freedom has been pushed forward several hundred miles to the East, Eastern Europe is being reclaimed and the shock waves of democracy are even now reverberating throughout the Soviet Union.

Yes, Mr. Speaker, German-Americans, those of German descent everywhere and lovers of freedom and opportunity around the globe truly have reason to celebrate on this day.

In fact, this is a special week for German-Americans. The reunification celebration will barely have time to subside before they will have the opportunity to strike up the band again in honor of German-American Day, October 6.

Steuben Society units and German-American clubs throughout my district and the entire Florida suncoast certainly will be no exception in observing the President's proclamation honoring German-American Day.

I have often said in the past that America owes Germany a great debt, for German nationals have played crucial roles in the very formation of our Nation.

Had it not been for General Von Steuben, who joined America's struggle for freedom in one of its darkest hours, the United States itself might be a very different place today.

Indeed, in the numbing cold of a Valley Forge winter, Von Steuben taught General George Washington's army how to march and how to fight for its freedom. Without that instruction, the great Democratic Republic we know today might never have been.

But Von Steuben is only one of an honorable legion of Germans who have strengthened our society, improved our quality of life and generally helped make America what it is today. There was John Roebling's Brooklyn Bridge, Henry Steinway's magnificent pianos, and thousands of other unknown but skilled and dedicated artisans and craftsmen, brewers, carpenters and bakers.

Each of these people, great and unknown alike, have contributed to the spirit of America. Though they may not have had many advantages, they rose up in America to make a contribution. That is an important lesson for all of us to remember this week as we cheer with the German people and celebrate the friendship between our two nations.

REGARDING THE NOXIOUS MELALEUCA PLANT

HON. E. CLAY SHAW, JR.

OF FLORDIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. SHAW. Mr. Speaker, environmental experts often tell us that one of the best ways the average person can help the environment is by planting a tree. After all, trees are aesthetically pleasing, they help cool the Earth, they help remove the pollutants in the atmosphere, and perhaps most importantly, they produce the oxygen we breath. President Bush has set a policy goal of planting 1 billion trees a year for our Nation. And on the last Earth Day, untold numbers of Americans took their own initiative and planted countless trees themselves.

Although I am a strong believer in the environmental benefits of planting trees, there is one tree that grows in my home State of Florida that no one should plant. In fact, I would prefer if all growths of this particular tree would be cut down and forever banished from the State. This tree multiplies prodigiously, crowds out native plants, uses four to five times more water than other plants, and is turning a fragile ecosystem teeming with life into a dry, monospecific forest. On top of all this, many people are allergic to it. Its name: *Melaleuca quinquenervia*, or Melaleuca.

Melaleuca was introduced to Florida from Australia in the early 1900's. It was originally brought in as a potential lumbertree, and also to help dry up the Everglades, which was then considered a wasteland. Since it was introduced, Melaleuca has spread so rapidly throughout South Florida's native Everglades that it has become a serious pest. It now threatens to permanently replace and eliminate natural plant communities and the animals that live in them. Surveys of Melaleuca done in 1980 showed that it had infested over 1.5 million acres of the Everglades, with over 50,000 acres being dense, pure stands of Melaleuca. These pure, monospecific forests of Melaleuca are often so dense that neither animals nor people can move through them.

Predictions of the spread of Melaleuca indicate that over 50 percent of the Everglades wetlands would be infested by the end of the century. In many areas, these infestations are well ahead of predictions. More recent surveys have shown that over 3 million acres have been infested with Melaleuca. Intense and extensive wildfires which have recently plagued the Everglades have only helped to increase their spread.

Another serious problem with Melaleuca is that Melaleuca forests use four to five times more water per acre than do the sawgrass praires which are usually found before Melaleuca takes over. The Everglades provides all of the water that supplies the Biscayne aquifer, which is the primary water source for South Florida. With an already overburdened water supply, the addition of Melaleuca to the water recharge system of the Everglades may further lower our regional water tables, straining these already overused water supplies even more.

This tree is so hardy it is almost comical. I was told a story that a few years ago a local part-time winter resident spread Melaleuca chips over a section of his property, and then left to spend the summer in the North. When he returned to Florida the following October, his lawn was knee-deep in Melaleuca trees.

Another amusing story which illustrates the resiliency of this tree is the story of a gentleman who cut down a Melaleuca to make a picket fence for his yard. Incredibly, this gentleman later noticed that some of the pickets were found to be actually sprouting roots into the ground!

Because of the obvious threat the further spread of Melaleuca poses, the entire Florida delegation joined me in petitioning Agriculture Secretary Clayton Yuetter to list Melaleuca as a Federal noxious weed. After some long and arduous negotiations with USDA officials, USDA finally agreed to hold two public meetings on adding Melaleuca to the Federal noxious weed list. The first meeting will be held in my hometown of Fort Lauderdale, FL on October 29, 1990, and a second meeting is scheduled to be held in Sacramento, CA.

In addition to the Florida congressional delegation, the following people, Government agencies and organizations have also requested that Melaleuca be placed on the Federal noxious weed list. They are: Broward County (by unanimous resolution) Dade County (by unanimous resolution) the State of Florida Department of Natural Resources, Gov. Bob Martinez of Florida, Friends of the Everglades, the Everglades National Park, and the Exotic Pest Plant Council.

While USDA is in the process of listing Melaleuca, numerous Florida counties and communities have taken their own initiatives by passing ordinances that restrict the use of Melaleuca or require its removal from natural lands. They are: Dade, Martin, Collier, Broward, Lee, Palm Beach, and Charlotte counties, as well as the communities of St. Lucie, Sanibel Island, and Hollywood.

Unfortunately, the inclusion of Melaleuca to the Federal noxious weed list alone will be only the first small step to bring this pest under control. I requested, and the House passed as part of the fiscal year 1991 energy and water appropriation bill, (H.R. 5019) a small $250,000 appropriation for research into Melaleuca biocontrol. According to experts most acquainted with the Melaleuca problem, the best, long-range hope like Melaleuca is an approach called classical biocontrol. What is entailed with classical biocontrol is a careful survey of insects, and sometimes pathogens, in the pest plant's native habitat, which in this case is Australia. Once it is determined that such insects exist, the ones deemed most promising are tested in their native habitat to be sure they only eat the one species of plant you wish to control; in this case, Melaleuca. It is then tested on native, horticultural and ornamental plants that occur in the area where control is desired; in this case, South Florida. Once the Australian testing is completed, the best insect species would be brought into strict quarantine in specially designed USDA facilities and tested again using strict criteria to ensure that these insects only eat Melaleuca. Only after this thorough testing are any of the insects released to begin their work. This approach comes from an understanding of the natural history and biology of a species and does not rely on a high-tech quick fix. While chemical control methods can be very useful and quite successful, they are only short-term, stop-gap methods designed to minimize the further spread of Melaleuca until the biological control agents are able to bring it under control.

Currently, a Melaleuca biocontrol project is under way at the Fort Lauderdale Research and Education Center in Fort Lauderdale, Florida, called the Aquatic Plant Management Lab, which is under the direction of the Agriculture Research Service, an arm of the USDA. Testing in Australia has begun, and over two hundred potential insects have been identified. Funding and support for this project is provided by USDA, the Army Corps of Engineers, the National Park Service, Everglades National Park, the Florida Department of Natural Resources, the South Florida Water Management District, and the Dade County Department of Environmental Resources.

Unfortunately, if one of the above donors decides to withdraw funding, the entire effort could collapse. This is why a $250,000 appropriation to accelerate the research, support staff in this country and Australia, and to fund a plan to build a modest quarantine facility in Fort Lauderdale is urgently needed. Clearly, the costs seem low when compared to the impending losses, especially the damage that will be caused to Florida's jewel, the Everglades.

Mr. Speaker, I am optimistic that this small $250,000 appropriation for Melaleuca biocontrol will be preserved in conference committee. I am also confident that Melaleuca will soon be listed on the Federal Noxious Weed List. While these actions will not eliminate Melaleuca from South Florida's unique ecosystem, it will help to bring this previously unchecked pest under control.

SUPPORT FOR THE "BRADY BILL"

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. YATES. Mr. Speaker, today, the House proceeded with consideration of a crime package which did not include an opportunity to consider the addition of the "Brady Bill," 7-day waiting period on the purchase of handguns.

This is a serious mistake. A 7-day waiting period on the purchase of handguns is a commonsense measure essential to a strong crime control program.

Seven days does not abridge individual rights. Seven days does not deny responsible citizens the right to purchase a gun.

Seven days does allow for a proper check of the individual who will receive this gun. Seven days will save some from an act committed in the heat of the moment. Seven days will save lives.

I would go much farther than a waiting period but I realize that many in the House do not share this view. For several years, I have authored legislation which would ban the sale, manufacture, and distribution of handguns to all except law enforcement and armed service personnel. I served in the Congress when our Nation reeled from the Kennedy and King assasinations. Congress acted by passing the 1968 Gun Control Act. It was a tremendous first step but we have much farther to go.

Today, we lost the opportunity to consider a reasonable and sound approach to address the insanity of gun violence raging now throughout the country. Cities are no longer safe from indiscriminate actions with deadly weapons. There must be an end to the senseless violence.

Seven days is not much to ask. Owning a gun is a great responsibility. Many States have seen the merits of a waiting period but many have not. We ask homebuyers to wait for the approval of their mortgage. Why do we not ask even the minimum of a gun buyer?

The House should have an opportunity to consider this legislation before the Congress adjourns for this session. It is plain common sense.

THE INTERIM COLORADO WILDERNESS PROTECTION ACT OF 1990

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mrs. SCHROEDER. Mr. Speaker, for years, Coloradans have tried to determine which areas should be designated as wilderness lands. Senator WIRTH and Senator ARMSTRONG have introduced separate wilderness bills to protect some of the most breathtaking land in the Nation. Representative CAMPBELL and Representative SKAGGS have also proposed wilderness areas. It is clear that there is broad support among the people of Colorado and the nation for legislation to protect the natural values of certain lands in the State of Colorado.

Despite support for expanded wilderness lands, there are many unresolved issues that have delayed any expansion of wilderness lands in Colorado. Everyone agrees that doing nothing only opens up more land to mining, logging, and other activities that could permanently threaten these areas.

That is why I am introducing the Interim Colorado Wilderness Protection Act of 1990. The purpose of this bill is to protect the proposed wilderness areas from development until the Congress makes final decisions on which areas would be designated as wilderness and which should be released for other purposes.

Some of the proposed wilderness areas are already threatened.

The Forest Service plans to sign a contract to allow logging to start next summer in the Sand Bench area of the proposed Piedra Wilderness Study Area in southwestern Colorado. Logging proposals are expected in other areas such as the Davis Peak additions to the Mount Airkel Wilderness Area near Steamboat Springs.

This bill is the same as Senator WIRTH's interim wilderness bill except that my bill includes land in the Bown Gulch Wilderness Act, which Representative SKAGGS introduced today.

This bill does not create any new water rights, and sets no precedent for past or future wilderness designations in the state. It explicitly states that it "shall not be construed to effect an express or implied reservation of water."

There is no disagreement about the need to protect portions of Colorado's wilderness for generations to come. It would be a shame to lose these areas while we work out issues such as water rights and boundaries. This bill gives us time to work out those difficult issues.

LAUGH AND THE GRAMMATICAL GOOF OF THE WEEK

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. JACOBS. Mr. Speaker, all rolled in one, here is the laugh and the grammatical goof of the week.

From a dear colleague's Dear Colleague letter:

> There is perhaps no other position as (sic) sensitive as a member (sic) of Congress.

Now the brain surgeons and airline pilots can relax.

HONORING THE 75TH ANNIVERSARY OF THE DANTE CLUB

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. CONTE. Mr. Speaker, I rise today to congratulate the Dante Club of West Springfield, MA, on its 75th anniversary.

On November 7, 1915, a group of men gathered for the purpose of forming a club. These 29 men became the Dante Club Inc., named after Dante Alighieri, the greatest Italian poet and founder of the Italian language. This group set out to preserve and promote their Italian culture and tradition, as well as to help one another adjust to the United States.

The spirit of Dante lived in many of the Dante Club's chartered members, and initially membership in the club was restricted to Italians and sons of Italians from the region of Emilia, Italy. Later the Dante Club amended its rules and opened its membership to people

from other regions of Italy and men of other ethnic groups who married Italian women.

As the group grew they needed to purchase a new club house to accommodate all of its members. Through a bank loan and loans from each member, the Dante Club purchased a two-story brick building, which was formally dedicated on November 21, 1926. The new club contained a banquet hall, a kitchen, a bar and room for card playing and other functions. Bocce courts were also on the grounds, and Dante members constructed courts in the basement for inclement weather.

The Dante Club struggled through financial troubles, as well as building problems throughout the thirties. It was the determination and commitment of the members that made it possible to preserve the club.

A junior Dante Club was organized in 1926 for the sons of members. This group later disbanded, as the young men grew and became regular members of the club.

In 1935, the Dante Club's women's division was formed. The women's division has acted independently of the men's organization and the scope of the women's division has been to promote friendship, social activities, and service to the community.

Also in 1935, a bocce league was organized. Bocce is an ancient Italian game that requires nerve control and precision, and the Dante Club teams were dominant in this league for many years.

The Dante Club has also offered several banquets, raffles, and numerous other special events for its members over the years. It was able to increase its offerings in 1954 when the Dante Club relocated to its present location, the old Memorial School building in the town of West Springfield.

The old school was renovated in 1955, and the banquet hall has been maintained and improved regularly. The banquet hall is available to the general public for weddings and other large social functions, and in 1961, air conditioning was installed to make the club more appealing for these functions. And in its tradition of community service the Dante Club has donated the use of the hall on countless occasions to charitable and non-profit organizations.

In 1963, the club's constitution was amended to admit non-Italians to the membership. Today, there are approximately 850 members of the Dante Club, including 500 associates.

In the early-to-mid 1960's, many younger people became active in the club. These youths rejuvenated the club and its activities. This group gained election to the club's board of directors, and the board worked to generate more interest in the club by sponsoring dances, dinners, and other activities. Members of the club have also donated money to such organizations as the Shriners' Hospital, the Association for the Blind, the Open Pantry and the Holyoke Veteran's Hospital.

The large increase in membership in the club over the past 25 years is largely attributable to the construction of the Dante Club's racquetball courts and health center in 1970. It now runs a racquetball league that contains more than 6 divisions with more than 100 players participating.

There have been numerous improvements to the club over the past 25 years. After a fire in the kitchen, it was reconstructed. The banquet hall was remodeled as was the bar, a sattelite dish was installed for better television sports reception, and a jacuzzi hottub was added to the health center.

Mr. Speaker, this weekend, the Dante Club will host an open house, a ball, and a picnic to celebrate its 75th anniversary. I am proud to have such a club in my First Congressional District; one that has promoted community spirit among all its members. I would like to take this opportunity to congratulate all the members for their past successes and wish them all a very happy 75th Anniversary.

TRIBUTE TO DOMINICAN HIGH SCHOOL

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. HERTEL. Mr. Speaker, I rise today in celebration of the 50th anniversary of Dominican High School in Detroit, MI. On October 7, 1940, the feast of the Holy Rosary, Archbishop Edward Mooney blessed the Dominican campus marking the opening of the school.

This fine school is known as "A banyan tree on the east side of Detroit." A banyan tree is unique because of its process of sending out roots that reach the ground and form secondary trunks. Dominican High School has a similar characteristic. It has consistently graduated fine young women who, through their high school experiences, develop into pillars of society and positive reflections on Dominican, just like the secondary trunks of the banyan tree.

There have been important constants through the years at Dominican High School. The school was founded, and has always been run by, the Adrian Dominican Sisters. Throughout the last 50 years, the Adrian Dominican Sisters have fostered an atmosphere of academic growth based on the founding motto of the school: "Education for girls—Catholic, Cultural, Complete".

Along with these constants, Dominican has undergone numerous changes. These changes help keep the school competitive and help it maintain its ability to provide a strong education. Two of the most important changes involved the physical structure of Dominican High School. The first change was the building of a residence for the Adrian Dominican Sisters connected with the school. The second change occurred just recently when Dominican opened its doors to sixth, seventh, and eighth grade girls in response to the closing of several Catholic schools in the area.

The Adrian Dominican Sisters and the students at this extraordinary school have committed their minds, hearts, and souls in a continued effort to preserve and advance the Dominican High School community. Since its founding, Dominican High School has graduated 10,140 young women well prepared for life's challenges.

My dear colleagues, please join me in congratulating the Adrian Dominican Sisters and the Dominican High School students for this great accomplishment.

TRIBUTE TO ERLENE JONES

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. PAYNE of New Jersey. Mr. Speaker, it gives me great pleasure and a wonderful sense of pride to bring to the attention of my colleagues the wonderful work of an outstanding New Jerseyan—Mrs. Erlene Jones. Mrs. Jones will be honored this weekend at the Christian Education Congress of the General Baptist State Convention of New Jersey.

In 1926, she came with her parents from Georgia, to live in New Brunswick, NJ, where she attended public schools. In 1937, she received a certificate from Middlesex County College. Further study was completed at the National Bible Institute in New York City.

Mrs. Jones acknowledging the suffering, as well as the joy, of the human condition, made a lifetime commitment to assist her community and its people. In addition to her employment at the Middlesex County Office of Economic Opportunity, an outreach and social services program, she was active with many organizations. These organizations include: The New Brunswick Area Council of Churches, the Vacation Church School and Youth Work Commissions, the Middlesex County Kiddy-Keep Well Camp, the YWCA, the NAACP, the Parenting Support Program at Middlesex County College, the Mayor's Neighborhood Task Force Pilot Program, the Nyerere Education Institute, the Police Athletic League, the Paul Robeson Community School Advisory Board, and the Committee for Neighborhood Improvement. Additionally, she is the founder and past president of the Second Ward Neighborhood Committee; founder of the Scholarship Fund Commission, Middlesex Central Baptist Association; and founder and president emeritus of the Christian Congress, General Baptist Convention of New Jersey.

While her commitment to people and community has indeed been a serious one, she has also taken that commitment one step further, making it extremely personal. She and her late husband, Robert L. Jones, became the foster parents to seven children. Erlene Jones has lived her life demonstrating her belief that to be of service to others and to meet the needs of others is her heritage and under God, her duty.

Mr. Speaker, I know my colleagues would like to join me as I congratulate Mrs. Erlene Jones and extend my heartfelt best wishes for continued success.

TO ERR IS HUMAN

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. AUCOIN. Mr. Speaker, on Thursday, the House is expected to consider several amendments expanding the Federal death penalty in the Comprehensive Crime Control Act. I urge you to defeat each such amendment. The unavoidable, inherent flaw in these amendments is this: Humans are fallible, the human criminal justice system is fallible, and the death penalty denies us any opportunity to correct the all too frequent errors of judgment.

It has been noted before that to say that someone deserves to be executed is to make a godlike judgment with no assurance that it can be made with anything resembling godlike perspicacity. Indeed, the flow of the criminal justice system contains within it many points at which errors can be made, including arrest, investigation, trial, conviction, and sentencing. And at all these points exists the possibility for human error, whether it arise from the egotism of cops and prosecutors, the political insecurity of judges, or the eagerness of jurors.

The case of Marvin Wells demonstrates the opportunities for human fallibility. In September 1986, Wells was released from a jail in Michigan after waiting 8 months to be tried for a murder he did not commit. A commentary in the Washington Post described the system's defects well:

> * * * The cops failed to follow a lead pointing to the man who later confessed to the killing; prosecutors were willing to ask for the death penalty with no significant evidence other than statements from witnesses who could not make positive identification; a judge, after learning Wells was innocent, left him behind bars for several more days partly to avoid the accusation that he was soft on crime.

The case of Marvin Wells is by no means an isolated incident in our criminal justice system. A 1987 study published in the Stanford Law Review by Hugo Bedau and Michael Radelet found that in this century 350 people were wrongly convicted of offenses potentially punishable by death and that 23 were actually executed. The actual number of wrongful convictions and executions is probably much higher, as the study reports: "After four years of sustained investigation, we do not know whether we have more than scratched the surface of the whole subject."

Ultimately, to put someone to death in our society means to assume that our criminal justice system is infallible. It is an assumption that cannot be made. Two more cases demonstrate the mistakes that are often made. In the first, Joseph Green Brown, now known as Shabaka Walini, came within 15 hours of his execution in 1983 when a courageous Federal court intervened to temporarily stay the death warrant. But it wasn't until 1987 that he was released after the key witness against him, and the only eyewitness to the crime, admitted that he lied when he testified that Brown was involved in the crime. This came after the defense for Brown had failed in three courts, and only one avenue of appeal would have remained.

Unfortunately, James Adams was not as lucky. He was convicted of first degree murder and sentenced to death in 1974. The evidence against him was considerable: Witnesses located his car at the time of the crime at the home of the victim; some of the victim's jewelry was found in the car trunk; and a witness identified him as driving the car away from the victim's home shortly after the crime.

It was later found that this witness was angry with Adams for allegedly dating his wife. Furthermore, a second witness testified that he heard a woman's voice inside the victim's house at the time of the crime, and that the fleeing person was not Adams. A month before the execution in 1984, a skilled investigator discovered evidence that proved Adams' innocence. A hair sample found clutched in the victim's hand, which must have come from the assailant, did not match Adams' hair. Despite such compelling evidence of Adams' innocence, Governor Graham refused to grant even a short stay, and Adams was put to death.

The stories of Adams and Brown are both tremendously tragic. How can Brown make up for 15 years lost serving time in jail for a crime he did not commit? How do we feel, as part of a system that has put Adams and at least 22 other innocent people to the grave? I think that, ultimately, the question is: How much do we value human life? As Bedau and Radelet state in their study: "Given the irreversibility of the death penalty and the availability of an adequate alternative punishment, the execution of any defendant is unnecessary and cannot be justified."

It is nobody's fault that the system is fallible. Any human institution will be fallible. What we can do to improve our system is minimize cases in which mistakes will be final. Thus, I urge you to oppose the expansion of the Federal death penalty in the Comprehensive Crime Act, and minimize the mistake which we cannot correct.

SUPPORT FOR H.R. 4300

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. WELDON. Mr. Speaker, today H.R. 4300 passed the House of Representatives. Although I have reservations about the huge increase in the overall level of immigration set forth by the legislation, I support H.R. 4300.

H.R. 4300 increases immigration by a minimum of 65 percent or roughly 300,000 people per year. It is truly a drastic step, and one I do not favor. This feeling is shared by the vast majority of my Republican colleagues, and there is little question that a Republican Congress would have passed a vastly different bill.

While I do not support the overall numerical limits in H.R. 4300, I am a strong advocate of the bill's provisions to remedy the imbalance in the ethnic makeup of immigrants to the United States. The current numerical limits on immigration discriminate against 34 old seed sources of immigrants such as Ireland.

Since 1965 United States immigration policy has focused on family reunification rather than country of origin, and the number of Irish allowed to immigrate has fallen by a full two-thirds. H.R. 4300 should reverse this trend by setting aside a full 55,000 visas for immigrants from the 34 old seed nations.

To reconcile the need to address the current inequity in immigration policy, while preventing the wholesale opening of U.S. borders, I voted for Representative LAMAR SMITH's amendment to cap immigration at 630,000 people per year, the same limit adopted by the Senate earlier this year. The amendment, which unfortunately failed, would have allowed for 130,000 additional visas per year and, more importantly for the Irish, included 50,000 visas for citizens of the 34 countries disadvantaged by current immigration quotas.

Although Representative SMITH's amendment failed, I feel that the need to address the current imbalance in U.S. immigration policy outweighs the detrimental impact of this increase in immigration, and I am pleased that H.R. 4300 passed the House. I am hopeful that the House-Senate conference committee can craft a compromise that ensures that both the current ethnic imbalance is adequately addressed and that the overall increase in annual immigration is reasonable.

A SPECIAL SALUTE TO MELVIN AND ROBERT FINCH, NATIONAL 8(A) GRADUATES OF THE YEAR

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. STOKES. Mr. Speaker, I am proud to rise today to salute Melvin and Robert Finch, founders of M&R Mechanical Contractors, Inc., which is located in my congressional district of Cleveland, OH. The Finch brothers are the recipients of the U.S. Small Business Administration's "1990 National 8(A) Graduate of the Year Award."

This national award honors the success and contributions of firms who have graduated from the SBA's 8(A) program. The award will be presented by President Bush today at a White House ceremony that is being held in conjunction with Minority Enterprise Development Week.

Mr. Speaker, Bob and Melvin Finch are certainly deserving of this special honor and recognition. Melvin, who serves as president and Bob, who is vice president of M&R Mechanical Contractors, founded the company in 1978. The company specializes in the installation and maintenance of heating, ventilating, plumbing, and air-conditioning systems in commercial and industrial buildings. The company also installs and services fire protection sprinkler systems and provides maintenance for electrical systems.

M&R Mechanical Contractors is the fourth largest contractor in the State of Ohio. In its 12 years of operation, the company has grown to employ 40 people full-time and generates annual sales of more then $4 million. M&R Mechanical has grown because of its ability to complete projects on schedule while demonstrating quality workmanship.

Mr. Speaker, the U.S Small Business Administration certified M&R Mechanical Contractors for participation in the 8(A) program in July 1981. At the time of graduation, April 12,

1988, the firm had successfully completed 25 8(A) contracts totaling $3.3 million.

I want to share with my colleagues the remarks of Susan S. Engeleiter, Administrator for the Small Business Administration, in announcing the "National 8(A) Graduate of the Year Award" to M&R Mechanical Contractors. She said, "M&R Mechanical Contractors is a shining example to countless potential entrepreneurs across the Nation. The success of this family-owned firm shows that economic and social disadvantages can be overcome with commitment, good business sense, and no small amount of grit."

Mr. Speaker, I share the pride expressed by Administrator Engeleiter and join the Cleveland community and others throughout the Nation in saluting Bob and Melvin Finch on this occasion. They are innovative entrepreneurs who are changing the world today, and building a better tomorrow. I ask that my colleagues join me in honoring Bob and Melvin Finch—"8(A) Graduates of the Year."

IMMIGRATION BILL—GOOD FOR U.S. BUSINESS

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. TORRICELLI. Mr. Speaker, today the House passed H.R. 4300, the Family Unity and Employment Opportunity Immigration Act. I would like to call the attention of my colleagues to a provision that is based on H.R. 3128, legislation that I introduced earlier in this Congress.

This provision will restore stability to U.S. businesses operating in Hong Kong by significantly reducing the mass exodus of qualified personnel from that territory. With the approach of 1997 and the scheduled incorporation of Hong Kong into the People's Republic of China, thousands of professionals, fearing for their futures, are seeking opportunities in other countries.

Last year, in a discussion with Maurice Greenberg, chairman and chief executive of American International Group, I learned of the problems of U.S. firms in Hong Kong in attracting and retaining qualified professional personnel. For many years, Mr. Greenberg has been an important voice in the U.S. business community and a creative leader in shaping U.S. interests in the international arena.

The bill I introduced, and whose provisions are now found in H.R. 4300, would provide special nonimmigrant permits with deferred starting dates to Hong Kong resident employees of United States companies in order to help smooth the transition of Hong Kong from British to Chinese control.

Mr. Speaker, I am pleased that the Judiciary Committee, and now the full House, has approved this provision, which will make an important statement in U.S. foreign policy and strengthen U.S. businesses seeking to remain competitive in the vital Asian market.

TRIBUTE TO PROFESSOR B. L. HALE ON HIS 100TH BIRTHDAY

HON. JOHN J. DUNCAN, JR

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. DUNCAN. Mr. Speaker, Prof. B.L. Hale of Athens, TN, will turn 100 years old on November 4, 1990.

Professor Hale has left an imprint on each of the lives of his students over his long career as an educator. For more than 60 years, the taught and served as an administrator in east Tennessee schools.

Professor Hale has attributed his love for teaching to three people: To one of his own teachers in elementary school, to an uncle, and to Prof. J.C. Ridenour, who later became superintendent of Athens City schools.

The real heroes in life are those who inspire us to pursue excellence in whatever we each may do. These three people were the real heroes in the life of Professor Hale.

I am certain, too, that Professor Hale has in turn been a hero, an inspirer of many of his students. The 100th birthday party being held this year in his honor clearly shows that this is indeed the case.

Mr. Speaker, the class of 1933 of the McMinn County High School initiated a reunion in 1988 on Professor Hale's birthday. These former students have invited other classes at the school to join in honoring Professor Hale this year.

I commend these efforts on behalf of their beloved teacher. Also, I wish all the best to Professor Hale and his family. He is a truly remarkable man and a distinguished educator, and he fully deserves every kindness being shown to him on this occasion.

THE 79TH ANNIVERSARY OF FOUNDING OF REPUBLIC OF CHINA

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. GREEN of New York. Mr. Speaker, October 10, 1990, marks the 79th anniversary of the founding of the Republic of China. Many Chinese Americans and the Chinese Consolidated Benevolent Association [CCBA] of Manhattan, an organization consisting of 60 associations dating back to 1890, are preparing to celebrate that anniversary. I should like to offer a hearty endorsement of the CCBA's proposal to proclaim October 10 as Founding of The Republic of China Day in New York City.

Since October 10 is the 10th day of the 10th month, it is often referred to as the "Double Ten". Double Ten celebrations will take place throughout the city of New York in observance of China's anniversary.

October 10 will honor the Americans of Chinese origin who have made New York City their home. The social, cultural, and economic contributions of the Chinese-American Community have greatly enhanced the aura of that city. Likewise, we owe a great deal of gratitude to those Americans of varied descent, Asian Americans, Latin Americans, Italian Americans, and all those who give our country's citizenry its heterogeneous makeup.

At this time, I should like to offer my thanks to the Chinese Consolidated Benevolent Association and hope that its 79th anniversary celebration is an overwhelming success. Happy anniversary China.

CHILD CARE

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Ms. SCHNEIDER. Mr. Speaker, child care has been a growing problem ever since I came to office in 1980. In Rhode Island, the situation has become steadily worse—13,000 children now live in poverty, yet only 1,861 received child care assistance last year. Rhode Island only has the capacity to serve 25 percent of its child care needs. Mothers in Rhode Island who make less than $15,000 per year are paying at least 35 percent of their salary for child care. And 45 percent of working women in Rhode Island have children under 6. These figures are echoed nationwide, and the need will become increasingly serious as more women enter the work force. By 1995, 90 percent of women ages 25 to 44 will be working.

Finally, after lots of hard work and effort, we did something about it. On March 19, 1990, the House of Representatives passed the Early Childhood Education and Development Act. This comprehensive package is good news for Rhode Island and for the rest of the Nation. If we don't address our child care needs now, we will be paying the price in the future. But if we invest in child care now, we will be reaping the benefits in the future. For every $1 spent on preschool education, we get a return of $4.75 in benefits due to lower welfare costs and higher worker productivity. Sixty percent of AFDC recipients said lack of child care keeps them out of the work force.

This paper chain is a small section of over 200,000 loops which were made by children and their parents throughout the country to demonstrate the need for child care. Each link represents a child, parent provider, or community member advocating immediate completion of the House/Senate conference on child care. Volunteers held it from the White House to the Capitol as a visual symbol of support.

These are times of difficult budgetary discussions. Many needed and worthwhile programs may be cut in order to meet our deficit reduction targets. This is an expensive bill. But, I honestly believe now is the time for passage of this bill. We cannot lose the momentum we've gained so far, and have worked so long and so hard for. We must not forget that an investment in child care is an investment in our future. We cannot afford to let this measure die. If we do, we will be paying an even greater price.

DINNER TO HONOR PETER J. RYBKA

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. NOWAK. Mr. Speaker, on October 18, a testimonial dinner will be held for Peter J. Rybka, a long-time pillar of community service and activism in the Buffalo, NY, community who has devoted more than half a century of his life to organized labor. I would like to take this opportunity to share some of the many accomplishments of Mr. Rybka with my colleagues.

Mr. Rybka began his involvement in organized labor in 1930 when he went to work for Allied Mills. There he was an instrumental force behind the creation of the Flour, Feed, and Cereal Workers Union. He served in many capacities, from steward to business representative, until 1959. Along the way, the union joined with the AFL-CIO and became known as the American Federation of Grain Millers Union, Local 110.

In 1959 he was elected executive vice president for the American Federation of Grain Millers International Union and served with distinction in that post until 1983. Currently, he is president of the American Federation of Grain Millers Retirees, Local 110 and 36, chapter No. 1.

He currently serves on many labor related boards including; president of the Buffalo and Western New York AFL-CIO Retirees, vice president of National Council of Senior Citizens, and vice president of the New York State Senior Citizens Council.

Mr. Rybka has also served the community by donating his considerable talents in other civic arenas. He is a member of the Cheektowaga, NY, Zoning Board of Appeals, a member of the local and New York State Committee on Political Education. At one time he was elected councilman-at-large on the Buffalo City Council and briefly as its majority leader.

For the past half-century Mr. Rybka has served the community with great distinction. It is only fitting that the community take time to recognize his invaluable service.

I would like to take this opportunity to join many others in thanking Mr. Rybka for his selfless dedication to organized labor specifically and the western New York community in general and wish him continued success and good health.

TRIBUTE TO COMMANDER SIEFRIED HONIG

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. BORSKI. Mr. Speaker, I rise today to honor Commander Siefried Honig on his 25 years of service to veterans.

Born in Munich, Germany in 1930, Siefreid Honig came to the United States in 1947. From 1952 to 1954, he served in the United States Army in the Korean conflict and in Frankfort, Germany. After spending 2 years on active duty, Commander Honig spent 8 years in the Army Reserves.

Commander Honig was selected by Presidential appointment to serve in the U.S. Selective Service System. He also heads the Philadelphia Draft Board as its chairman.

Over the years, Commander Honig has served the American Legion as Mid-City Post Commander, Philadelphia County Commander, and Second District Commander. Throughout his 25 years of service, he has demonstrated a dedicated commitment to the welfare of veterans.

Commander Honig has been honored by the Philadelphia City Council, the State senate, and the State house of representatives for his many contributions to the wellbeing of our veterans, and their widows and children.

Mr. Speaker, I join family, friends and members of the American Legion in honoring Siefried Honig for his lifetime of dedication to veterans.

COMMENDING THE VOLUNTEER'S PARTICIPATING IN THE COMMUNITY PHONATHON SEPTEMBER 9-OCTOBER 4, 1990

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. BAKER. Mr. Speaker, I would like to take the opportunity to commend all of the volunteers who are participating in the Community Phonathon. Over 1,000 volunteers consisting of teachers, principals, parents, and community volunteers are calling at least 25,000 East Baton Rouge residents to rally support for the programs and operations of the Academic Distinction Fund.

The Campaign for Academic Distinction is a private sector initiative, fostering academic entrepreneurship, by investing directly in the work of individual teachers and schools through grants for innovative ideas and programs for schools in the East Baton Rouge Parish Public School System.

The phonathon aspect of the Campaign for Academic Distinction has already been highly successful. Over 4,300 pledges have been received for a total of over $79,000. Another 3,000 positive responses have occurred for over a 50-percent positive response rate. In addition, responses from other phases of this program have netted a total of $3.1 million to help support the education community.

The funds will to toward realizing the major goals of the Campaign for Academic Distinction:

Support educational projects of enterprising teachers.

Address special academic opportunities in a school-wide setting.

Will further academic excellence in our schools.

Brings a vehicle into the community to remind us of our moral obligation to provide funding for public education.

Attracts new industries into the area by providing an upgraded school system.

The astronomical success of all the phases of this program ensures excellence in the quality of education for all of us. It also shows that our community is actively making positive changes to our local education system.

All of the volunteers and contributors should be given our utmost respect and gratitude. I compliment all those who took part in this vital volunteer project.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 4, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 5

9:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine alleged fraud, waste and abuse in Federal student loan programs, focusing on activities of the Culinary School of Washington.
SD-342

9:30 a.m.
Joint Economic
To hold hearings on the employment-unemployment situation for September.
2359 Rayburn Building

10:00 a.m.
Foreign Relations
To hold hearings on the nomination of Ryan C. Crocker, of Washington, to be Ambassador to the Republic of Lebanon.
SD-419

2:00 p.m.
Judiciary
To hold hearings on the nominations of Thomas G. Nelson, of Idaho, to be United States Circuit Judge for the Ninth Circuit, Joseph M. McLaughlin, of New York, to be United States Circuit Judge for the Second Circuit, Donna M. Owens, of Ohio, to be Director of the Bureau of Justice Assistance, Department of Justice, Diane G. Weinstein, of the District of Columbia, to be a Judge of the United States Claims Court, and James B. Loken, of Minnesota, to be United States Circuit Judge for the Eighth Circuit.
SD-226

OCTOBER 9

9:00 a.m.
Foreign Relations
To resume hearings on the nomination of Frederick Vreeland, of New York, to be Ambassador to the Union of Burma (Myanmar).
SD-419

9:30 a.m.
Governmental Affairs
To hold hearings to examine proliferation in the 1990's.
SD-342

10:00 a.m.
Foreign Relations
To hold hearings on the nominations of Linton F. Brooks, of Virginia, for the rank of Ambassador as Deputy Head of Delegation to the Nuclear and Space Talks, Juliette C. McLennan, of the District of Columbia, for the rank of Ambassador as U.S. Representative on the Commission on the Status of Women of the Economic and Social Council of the United Nations, Paula J. Dobriansky, of Virginia, to be Associate Director for Programs, United States Information Agency, and Robert A. Flaten, of Minnesota, to be Ambassador to the Republic of Rwanda.
SD-419

OCTOBER 10

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to review the sale of Semi-Gas Company, focusing on antitrust issues and the Committee on Foreign Investment's views.
SR-253

Environment and Public Works
To hold hearings to review the recent Environmental Protection Agency Science Advisory Board report, "Reducing Risk: Setting Priorities and Strategies for Environmental Protection."
SD-406

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine alleged fraud, waste and abuse in Federal student loan programs.
SD-342

OCTOBER 11

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study to examine the bleaching of Atlantic tropical coral caused by the coral releasing algae and the resulting deterioration of the species.
SR-253

Governmental Affairs
To continue hearings on the Office of Management and Budget's response to the Federal government's management failures.
SD-342

10:00 a.m.
Foreign Relations
Business meeting, to consider pending calendar business.
SD-419

OCTOBER 12

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the nomination of Mary S. Brunette, of Virginia, to be an Assistant Secretary of Housing and Urban Development.
SD-538

FEBRUARY 26

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of the Disabled American Veterans.
345 Cannon Building

FEBRUARY 28

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Paralyzed Veterans of America, Blinded Veterans Association, Vietnam Veterans of America, Military Order of the Purple Heart, and Non-Commissioned Officers Association.
345 Cannon Building

APRIL 17

9:00 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of AMVETS, Ex-Prisoners of War, Jewish War Veterans, and World War I Veterans.
345 Cannon Building

SENATE—*Thursday, October 4, 1990*

(Legislative day of Tuesday, October 2, 1990)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the Honorable Daniel K. Akaka, a Senator from the State of Hawaii.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Is any thing too hard for the Lord? * * *—Genesis 18:14.

Dear God, this question directed to Abraham, Father of the faithful, is always relevant but especially at this critical time in our Nation. The magnitude of the issues, domestic and foreign, which the 101st Congress faces in its closing days, transcends imagination.

Omnicient, omnipresent, omnipotent Lord of the macrocosm and the microcosm, help us to walk in the light of Thy truth. Thou art the alpha and the omega. Thou knowest the end from the beginning and beyond to infinity both ways. Thou knowest the condition of our Nation, the nature and measure of the crises—moral, spiritual, and economic. Grant to the U.S. Senate and the leadership of the Nation wisdom beyond their knowledge and experience that they may be abundantly equipped in responding to the cosmic needs confronting them. Help us to understand that we are most independent when we are most dependent upon Thee.

We ask this in His name in whom dwells all power in Heaven and on Earth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. Byrd].

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, October 4, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Daniel K. Akaka, a Senator from the State of Hawaii, to perform the duties of the Chair.

Robert C. Byrd,
President pro tempore.

Mr. AKAKA thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, today following the time for the two leaders, there will be a period for morning business not to extend beyond 1 p.m., with Senators permitted to speak therein for up to 5 minutes each.

The pending business at 1 p.m. will remain the motion to proceed to S. 3037, the money laundering bill. As there is such broad support for this measure in the Senate, it is my hope that some agreement can be reached on this measure and that the Senate can proceed to consider, debate, and vote on this bill.

DEVELOPMENTS IN EUROPE: CONVENTIONAL FORCES AGREEMENT, THE UNIFICATION OF GERMANY

Mr. MITCHELL. Mr. President, the announcement by Secretary Baker and Foreign Minister Shevardnadze that an agreement has been reached on the Conventional Forces in Europe Treaty is welcome news. While the details of the agreement reached in New York have not yet been released, it appears that the two sides have satisfactorily resolved the major outstanding issues, making it possible for the treaty itself to be ready for signature in November.

When the Senate receives the treaty for advice and consent early next year, I hope there will be early and enthusiastic approval.

The CFE Treaty is highly significant. In conjunction with the dramatic political changes occurring throughout Europe, it will serve to transform the political and military landscape of the postwar world. For nearly half a century the most powerful military forces ever assembled faced each other poised for war. Now those forces will be reduced, armaments will be destroyed, the dangers of imminent conflict will diminish, and the basis for new order and security will be firmly established.

Resolving the outstanding CFE issues on the same day on which German unification occurred makes yesterday, October 3, 1990, an important watershed in the evolution of European politics and, indeed, of world history. The Federal Republic of Germany is now the government of all Germany. The former Communist state of East Germany has ceased to exist. It will not be missed.

Like many of my colleagues, I have visited Germany in the past year and have spoken with many of the individuals, from all sides of the political spectrum, who made this historic day possible. I particularly remember the account of one of the leaders of last November's peaceful revolution in East Germany, who told me that having spent his entire life trying to work within and reform the system in the East, he could no longer counsel his children to stay in East Germany. There was no hope for a better future under the old regime. He then became active in seeking that regime's end. Hundreds of similar courageous decisions by ordinary people, fed up with living under authoritarianism and state repression, have made this day possible. They are as responsible for this moment as anyone.

The achievement of a free, democratic, and united Germany—like the achievement of agreement on the reduction of conventional armaments—is a tremendous victory for the policies pursued by the United States and the Western Alliance since the end of World War II. More than once our resolve was tested, our commitment to a free Berlin and a free Germany was challenged, our ability to stay for the long haul was doubted. But the American people never wavered in their commitment to freedom and democracy in Europe. That commitment has now been rewarded, as a united Germany takes its place in the community of democratic nations.

The notion that we would be today acknowledging the unification of Germany would have seemed preposterous even a year ago. It might even have seemed unlikely 6 months ago. But the processes of change and reform set in motion last November, symbolized by the opening of the Berlin wall, accelerated rapidly, bringing us to the historic developments we have witnessed in the past 2 days. We have entered an era when history has speeded up, when the normal accounting units of time cannot capture the speed and the significance of events as they unfold. Faced with this dramatic pace of change, we must take special efforts to look forward, not backward, and to focus our common energies on the challenges of the future, not the legacies of the past.

The unification of Germany occurs against a backdrop of enormous change in East and Central Europe—and in the Soviet Union as well. These events are linked. German unification could not have happened so fast or so peacefully were it not for the simultaneous transitions to democracy occurring elsewhere in Europe. The long struggle by the brave men and women of Solidarity in Poland, the "Velvet Revolution" in Czechoslovakia, democratic elections and reforms in Hungary and the continuing efforts at reform in the Soviet Union all contributed to this dramatic moment in German history.

German unification could not have occurred if the leadership of the Soviet Union had not recognized that its continued effort to control Eastern Europe could not be sustained, and that the future lies in the voluntary association of free peoples, not in empires imposed and sustained by force.

Thus it can truly be said that we celebrate not only the unification of Germany, but also the democratic transition throughout Europe. It is because the unification of Germany takes place in the context of these larger political events that we can celebrate not only for the Germans, but also for all the people of Eastern Europe for whom the prospect of liberty and democracy are now more real than they have been at any time for 50 years.

German unity also takes place within the context of increasing unity in West Europe as well. As the European Community progresses toward a single market in the next 2 years, the critical role played in that process by Germany will be increasingly significant. Likewise, the political and security arrangements in Europe are changing in light of the developments of the past year and the outcome of the arms control negotiations. NATO will change its orientation and many of its functions as the Conventional Forces Agreement is implemented. Other institutions, such as the Conference on Security and Cooperation in Europe, will take on new and more important roles.

Within this changing context, the relationship of the United States and the uniting Europe will also undergo a transformation. This should be a transformation toward an even closer relationship, one founded not only on shared political interests and security concerns, but also on shared visions of the future, shared commitments to shaping the new Europe and a new century of peace on the European continent. The cooperation of the United States and Europe—all of Europe—must include not only working to consolidate the democratic victories in Europe itself, but must expand across the spectrum of global problems urgently needing solutions, such as poverty, environmental deterioration, regional conflicts, and the spread of weapons of mass destruction.

It is with this bright and exciting future in mind, I believe, that Americans have embraced enthusiastically the prospect of a united Germany. A united Germany is more than a vindication of American policy, American commitments, and American steadfastness for nearly half a century. It is also one element of the evolving Europe which provides opportunities for even greater progress in the future.

Through cooperation and common partnership, the United States and Europe can help shape the next century, turning it into a stark contrast between the century past. A century not for conflict and bloodshed on the European continent, as this century has been, but a century of cooperation, progress, development, and peace worldwide.

On Tuesday of this week the Senate Foreign Relations Committee voted favorably on the treaty on the final settlement with Germany. This treaty will be available for consideration in the Senate prior to our adjournment later this month. I believe it is only fitting that the Senate approve this treaty for ratification as soon as possible, thereby making the United States the first of the four victorious powers of World War II to acknowledge officially the end of that war's legacy and the beginning of the new era. The CFE Agreement will be the next concrete step in building that new era.

As was the case with the treaty on Germany and the CFE Treaty, the United States and Europe will address the future in partnership, confident that, having overcome the Berlin Wall and the division of Europe no challenge in the future will prevent us from being able to build together a world of freedom, human dignity, progress, and peace.

RESERVATION OF REPUBLICAN LEADER'S TIME

Mr. MITCHELL. Mr. President, I reserve the leader time of the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MOYNIHAN addressed the Chair.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of morning business for not to extend beyond the hour of 1 p.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from New York is recognized.

Mr. MOYNIHAN. I thank the distinguished Presiding Officer.

THE REMARKS OF THE MAJORITY LEADER

Mr. MOYNIHAN. Mr. President, I would like to associate myself with the remarks of the majority leader both on the unification of Germany and the agreement announced in New York about the conventional forces agreement.

It was just 40 years ago I was first in Germany as a young ensign called back from the Korean war—Bremerhaven—Brahme, Hamburg, Berlin. I surely did not think then that I would be alive in 1990, or in 1989, to see the extraordinary events in Berlin and Germany as we did in all of Europe. As we struggle with some of our problems here, it might do well to realize what extraordinary things thought impossible were done in matters of weeks, and days even, in Europe in the last 18 months and more.

THE BUDGET SUMMIT AGREEMENT

Mr. MOYNIHAN. Mr. President, I rise to speak to the question of the budget summit agreement and to announce that tomorrow on the debt ceiling I will offer an amendment to return Social Security to a pay-as-you-go basis. Now that we have a large surplus in the trust fund—and a clear determination on the part of the administration to use the continuing surpluses as if they were general revenues, a great breach of trust—my proposal to return to our original pay-as-you-go basis seems to me to be enhanced.

A moment of background, Mr. President: On March 1, 1989, the National Economic Commission made its report to the President. It said that he had a serious budget deficit problem. We gave him the numbers for the year 1991—a deficit of $289 billion. And we learned on Sunday it is $289 billion. We were exactly on the mark. Next year, we said, it will be $292 billion. The budget summit thinks it will be $294 billion. We were close. It does not matter if were exactly on the mark. We said you will have a $300 billion deficit as far as the eye can see if we do not balance the current operating budget, and use the Social Security re-

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

serve to buy down the privately held debt.

The Democratic members said,

> do not suppose that, if this does not happen, we are going to allow a surplus in a payroll pension contribution to be used to pay the interest on a $3 trillion debt.

The Democratic Party risks its soul if it lets the moneys collected from the first dollar of every waitress, every working wage earner, and every person in this country, pay the interest of people who own million-dollar Treasury bonds. That is what the budget summit proposes to do—on a permanent basis. Mr. President, I think the Senate is going to have to vote.

I will make the proposal to cut the Social Security tax rate over a period of 6 years. Beginning next January 1, 132 million wage earners will have an immediate increase in take-home pay. At the end of the transition period, a two-earner family will have an increase in yearly income of up to $1,544. Not a lot, some would say, but enough, Mr. President, finally to return median family income in constant dollars to the level of 1973. We were, in 1989, still $452 short of the 1973 level. We have had 17 years in which the average family has had no increase in the real earnings. There has been no other such period in the history of the American republic.

Returning to the traditional pay-as-you-go basis will in no way jeopardize the OASDI Trust Fund Reserve. At the end of this year, it will be $226 billion, 94 percent of annual outlay. By the end of 1995, it will be over $500 billion—half a trillion dollars—or 150 percent of annual outlay, which is more than enough.

And the case, sir, for returning to pay-as-you-go seems to be overwhelming in light of the budget summit agreement. Under the tax rates proposed from in that agreement, persons with an adjusted gross income under $10,000, will see their taxes will go up 7.6 percent. By contrast, those with incomes of $200,000, will see their taxes go up 1.7 percent. Taxes will go up five times as much for the people in the lowest tax brackets as for people in the highest. Mr. President, this simply continues the trend of the last decade toward a more regressive tax system.

In the summit agreement there was a little surprise, Mr. President, with respect to unemployment compensation. Unemployment Compensation is a title of the original Social Security Act. In the manner of the 1930's, the general program was established in Washington; it was left to the States to provide specific levels of benefits.

The labor movement has been trying to get national standards on unemployment insurance and, sir, I can report that they may be about to do so. The summit proposes that there is going to be a national standard: Everybody has to wait 2 weeks before getting any unemployment compensation, after having been laid off, having lost their job, whatever. Forty-one States already have a 1-week delay. Now it will be 2 weeks; a total of 8 million wage earners next year will lose 1 week's unemployment compensation. That is what we do in the name of a progressive income tax structure of deficit reduction.

As regards the prospects of a recession, any number of able economists have, over the course of the year, said that we need the stimulus of an increase in take-home pay for persons paying Social Security. It surely can be seen that an immediate increase in take-home pay, which, under my proposal, would take place the first week in January, is very much in order in a flat economy with no growth—possibly negative growth—and is needed. I do not think, Mr. President, we absorb this fact easily, because it is a fact we have never known before in our national history. Average weekly earnings in our country today are lower than they were when Dwight D. Eisenhower was President. Families have made do by having wives go to work.

The hardest part of the budget summit agreement from a point of view is that it treats Social Security revenues as general revenues. But every penny of Social Security taxes paid by employers and employees goes into a numbered account with someone's name on it. These are no general revenues. Yet, we are using them as such, and the budget summit, incredibly, proposes to make the use of them as general revenues permanent. It brings Social Security back into the consolidated budget. That is something I never thought I would see agreed to and which I, for one, as chairman of the subcommittee on Social Security, will not abide by, will not countenance. Mr. President, these are trust funds. These are not general revenues.

To use them in any other way is to abuse that trust. In the meantime, employers, particularly small businesses, need the increase in retainable revenues that they will gain through a reduction in the payroll tax. Employees need it, and the integrity of the system needs it as well.

I see on the floor my able friend and colleague from Pennsylvania, Senator HEINZ, who was once asked what did he think of the way we were using the trust funds. He said there is a word for it—"embezzlement." Well, sir, now we are institutionalizing it, and I say the opportunity to say so will come tomorrow when I offer that amendment.

I thank the distinguished Presiding Officer.

Mr. HEINZ addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. HEINZ. Mr. President, I am not actually here to rise on the subject mentioned by the Senator from New York, but I associate myself with a good part of his comments. I reserve judgment, because I did not hear all of his comments. But I particularly appreciate the small footnote that he accorded me with respect to embezzlement and, indeed, that is the term that I used to describe this misapplication of the Social Security surplus. I will have more to say about that at another time.

HUGH SCOTT'S 90TH BIRTHDAY

Mr. HEINZ. Mr. President, I rise today because the day before yesterday a number of us, Senator SPECTER, Senator DOLE, and I, held a small reception in honor of Hugh Scott, my predecessor, the man whose seat I hold. It was in honor of his 90th birthday. It is easy to remember the year in which he was born, 1900, and to figure out how old he is. I wanted to reflect on that occasion and the fact that his birthday is going to take place in a few weeks. The U.S. Senate is privileged to serve as a very unique institution, because there is no other body where a legislator's rights are more expansive, nor where accomplishing the great work of a nation is more dependent on the sacrifice of those rights.

The principle of comity, that is to say, the voluntary surrender of our individual rights as Senators, is indeed so ingrained in our behavior that it does become routine. The issues we address may be as current as today's headlines, but the manner in which we do so is ingrained in history. To enter the Senate is to serve, temporarily, in a Chamber of timeless tradition.

These observations reflect truths which are never far from our minds, but they are particularly salient for me, as I rise to bring to the Senate's attention the significant milestone in the life of one of our colleagues, Senator Hugh Scott, who will celebrate his 90th birthday on November 11 of this year.

When Hugh Scott retired from the Senate in 1976, after three terms, it was his seat and his vote with which the people of Pennsylvania entrusted me. Although I now have served for 14 years, there remains about this seat the aura of Hugh Scott, of Pennsylvania, for he is indeed the empitome of what it means to be a Senator of the United States.

Sometime words are clumsy toils, Mr. President. That is certainly so when it comes to expressing the depth of my affection and respect for Hugh Scott. This is a man I was proud to call "boss" for the year in which I served him as a Senate aide. This is a man to whom I turned for a good deal of advice at the outset of my own political career. He is a man who gave very freely of his time, energy and wisdom, and this is a man I have been privileged to call my friend for over a quarter of a century.

Mr. President, from time to time it is important to pause in our work around here to reflect on how we can best serve America's interests. On those occasions, we look to those who served this institution extremely well. They are archtypes for our own conduct. In offering the resolution that we will be offering about Hugh Scott, we pay tribute not only to his achievements for Pennsylvanians but also to elevate, as a model before us, his legacy of comity and courtesy for the good of the Senate and for the good of our Nation.

In Hugh Scott's years of service, America faced challenges no less serious than those before us today, because in that time America reeled from successive crises in our Nation's leadership, the assassination of one President, the impeachment of another, the murder of Martin Luther King, Jr., and Bobby Kennedy. For the better part of his service, this Nation was torn apart by the struggle in Vietnam; that war and the struggle for civil rights. Americans grappled with the issues of evident inequality between North and South, black and white, young and old; and ever on the horizon, the burdens of international leadership: The Cuban missile crisis, the nuclear arms race, and the race to space.

It is undeniable that Hugh Scott's voice and his vision made a difference. Four times he was chosen to lead his party in the Senate. And while his Senate colleagues took note of his accomplishments in many legislative fields—foreign policy and opening the door to China, law enforcement and his antitrust and anticrime reforms, or constitutional issues and crafting of the War Powers Act—that is not what was foremost in their minds when they bid him farewell in 1976.

What his colleagues appreciated most was his charm and his quick wit. Senator Mansfield, the Democratic Leader at the time, quipped that the thing he would miss most about Hugh Scott would be the daily exchanges with him, particularly "the bon mot of which he is master and so often sent the media to the dictionaries and myself to distraction."

His fellow Senators remembered his profound scholarship, his decency and grace, and the times when they turned to him for advice, counsel, and help.

The Senators who served with him recalled his passion for human dignity, his powerful and moving eloquence, reflected in his leadership in forging landmark civil rights legislation: The Civil Rights Act of 1964, the Voting Rights Act of 1965, the Fair Employment Practices Act, the Fair Housing Act, and so many more.

Above all, his colleagues valued what he had done for this institution. His colleagues remarked on the many times that the policies enunciated in the Chamber were the policies of the joint leadership, not just the Democratic leadership, but the joint leadership. They marveled at the ability of Senator Scott and Senator Mansfield to compromise, to reach an understanding, and to present a unified front so that the business of this Chamber and this country would be accomplished.

As one of his colleagues put it, Hugh Scott, "Preserved the comity of the Senate for 7 of the most trying years in our Nation's history."

So, as we commemorate Senator Scott's birthday, I would hope that my colleagues would reflect for a moment not only on what this man has done for this country, but also what he means to this institution, what his life here tells us about being Senators of the United States and what it takes to make this body worthy of the high ideals and achievements to which we are heirs.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Indiana is recognized.

THE BUDGET AGREEMENT

Mr. COATS. Mr. President, I have little enthusiasm for what I am forced, by conviction, to say this morning. The President and the budget negotiators have given a full measure of their effort to the budget plan that is before us. Each side has made concessions that require a little courage. They have shown persistence, have shown a great deal of patience and they have produced what seems to be the best political compromise possible.

But, our task is not to soothe the extremes between the parties or conflicts within the Government. Our task is to ensure that Americans continue to work and families are not forced to live with the strains of an uncertain future. And in this respect, the budget package fails.

I may be a reluctant critic of this budget plan, but I am a realist. Over the last few days I suspended making a final decision. I listened to the argument as made by the administration, by the leadership. I read all the fine print because I think every Senator owes the President an open mind.

But every Senator owes the people of his State an independent judgment. And in my judgment, my conviction is that this package is a destructive combination of poor timing and misplaced suffering.

As I approached the budget debate over the past few months, I set four standards to guide my considerations, standards that I thought were determined by economic reality and some common sense principles.

First, the plan would need to include real, fairly distributed, budget cuts.

Second, it would need to reform the budget process itself, a process that currently encourages deception and mass waste.

Third, it needs to encourage economic growth, particularly as a recession threatens us.

Finally, it would need to avoid putting new tax burdens on Americans who are already bled dry.

On each of these reasonable standards, the package before us fails. First, its budget cuts are uneven, sometimes illusory and basically inadequate to the problem at hand. The defense is the only major discretionary cut in the first 3 years, but in that same period domestic discretionary spending will rise by $23.6 billion, an increase of 12 percent.

In addition, many user fees are actually considered spending cuts, including new Medicare charges, creating an illusion of restraint. Seventeen different fees are to be increased generating $14.2 billion in revenue, but all are mysteriously counted as spending reductions, even excluding the cost of deposit insurance bailout. Total spending will actually increase by more than $220 billion over the next 5 years, 18.4 precent.

Second, the budget reforms are partial and inadequate, disappointing my own hopes and the hopes of many others of real change. Caps on appropriation spending are a useful idea and could help instill some restraint. Even these can be violated in emergencies that the Congress itself finds, including the later discovery of faulty economic assumptions. In fact, a special budget summit is called for 1993 to adjust economic estimates. Higher spending explained by these changes would be exempt from spending limits.

In addition, several large accounts are exempt from spending cuts in the first place, such as the International Monetary Fund and Egyptian debt forgiveness.

We had here a real opportunity to make some meaningful budget reforms, changes that could actually enforce spending restraint in the future. A balanced budget amendment to the Constitution could have been included or at least proposed.

I have had a plan for several years now for a legislative line-item veto, giving the President real power to cut congressional waste and excess. But these were rejected. Real budget reforms that would assure the American people that Congress has at long last faced up to its spending addiction are nowhere to be found in this agreement.

Third, the budget plans few growth incentives, and tax credits are finding themselves—or maybe they play out as intended, but they adopted an approach that has no history of success. Instead of cutting taxes across the board, they target particular kinds of investors for special treatment. Targeted growth does not work. It needs to be broad based to have the effect that we want. No real incentives to stimulate savings, investment and growth are evident in this package. The incentives that do exist may misdirect investment simply in the tax shelters.

And since the tax policy of the Congress is required in the package to be deficit neutral, in the future every tax cut to stimulate economic growth is mandated to be balanced by equal tax increases elsewhere. That will be a major handicap if we end up in a recession, a recession that this package could cause.

Finally, and most importantly, though many of the spending cuts are phantoms, its taxes are very real. This package is the second largest tax increase in our history, the largest if you count its fees as taxes. Over the next 5 years, explicit taxes would raise over $130 billion. Including hidden taxes, that burden rises to well over $170 billion. With the recession predicted this year, taxes would still increase $16.2 billion in fiscal year 1991 alone. These burdens are imposed even though tax revenues are already expected to increase by $397.8 billion over the next 5 years due simply to economic growth.

There seems to be no end to our appetite for public funds. And who suffers? It is the middle class that always seems to pay the bills for bigger Government; that is, after all, where the real money is for legislators. There is simply more of them to tax. Gasoline taxes, tobacco taxes, alcohol taxes, these are the things that hurt average Americans with limited resources, farmers who drive their produce to market, workers who commute to their jobs.

The fallacy of the hour in Washington is that Americans are somehow undertaxed. But nothing could be further from the truth. Tax freedom day, the day when Americans stop working for the Government and begin working for themselves, was May 5 this year, the latest it has ever been. People do not believe they are taxed too little nor should they. They feel these burdens are already destroying their hopes and limiting their future. They have reason to fear. The greatest danger of new taxes is not even their direct effect, it is the fact that they bring recession 10 steps closer.

Most people I talked to in Indiana, in the back of their minds, are still haunted by the fear of recession. Memories of 1982 and 1983 are still fresh and the wounds go very deep. I have friends, personal friends, who lost their jobs. I saw respected businesses close their doors; families live with the strains of unemployment and despair.

I came to Congress to be part of the solution to that problem. Our goal is growth. We started with lower taxes, we fought unnecessary regulation, and we laid the foundation for America's longest peacetime expansion.

In Indiana the lower taxes of the 1980's brought lasting prosperity and increased taxable income. From 1983 to 1989, my State saw a 16-percent increase in total employment. We underwent a construction boom with a 38-percent increase in construction jobs. We had a 13-percent increase in real earnings. But now the lessons of a decade are being forgotten in a moment. We stand at the edge of a cliff. When you venture to the edge, it is difficult to see the bottom.

Taxation now takes 19.6 percent of our gross national product. Only twice before since World War II has that figure gone over 20 percent. Each time America was immediately thrown into a sharp recession. Never has it be so obvious that the power to tax is the power to destroy. Paradoxically, it is tax revenues that are among the first to suffer in a slump. A mild recession next year of 1 percent negative growth for four quarters would cause revenues to decline by $300 billion over 5 years. Our carefully constructed budget plan will lay in ruins, a victim of its own blindness.

This economy is currently just treading water. GNP is stalled. Job growth is slow. There is no economic theory yet devised by the human mind, not monitorists, not Keynesianists, not supply side, not socialism that would recommend a tax increase in times like these. It is a suggestion without a father of thought in any school of economic thought. It is an idea that has lost its root in reality. A recesssion, simply put, will not raise revenue. The cost will be even higher than that. In such a recession, the rich might lose some investments, but working Hoosiers will lose their jobs. The wealthy might feel the pinch in the portfolios, but Hoosier workers would know the pain in their families.

There is only one way out of this mess. We must reaffirm our commitment to growth. This is the way to serve pressing social needs. This is the way to increase tax revenue without increasing tax rates. This is the way to secure our future and help our families. I have heard it argued that we must support this plan because there are no real alternatives. But we do not lack for good economic ideas. We lack for political will.

I support the imposition of a real spending cap, the so-called 4-percent solution. Under this plan, ironclad outlay targets would be set at 4 percent above the previous year's actual spending level. The decision to extend and increase Gramm-Rudman targets allows us to use this cap to prevent draconian cuts in individual programs. Each program could be kept at its current level, but this would allow us to reduce spending increases this year, $42 billion worth alone. Coupled with yearly revenue increases, which this year are estimated to be more than $70 billion, we could have a balanced budget by 1977.

Mr. President, I also support a pay-as-you-go clause in the budget process, the requring that any spending increase be offset by a corresponding spending decrease. I support giving the President a line-item veto to shed some light into the dark corners of the congressional budget process, and I support indexing of capital gains to end the taxation of inflation, stimulate growth, and to increase American competitiveness.

There are any number of things we can do, but new taxes provide only the illusion of responsibility. They deliver nothing that they promise because our real challenge is growth, our real problem is spending, and our real need is to resist a return to the tired politics of tax and spend.

Mr. President, I oppose this package for a simple reason: I fear the cure will kill the patient.

Mr. President, I yield the floor.

RETIREMENT OF JOAN MARIE DONAHUE

Mr. DOLE. Mr. President, the most valuable service to the people and Government of the United States is often rendered by quiet professionals, who work diligently over many years, in relative anonymity. Largely unknown to the American people, their extraordinary careers end without public recognition. Whenever possible, such contributions should be acknowledged.

Yesterday marked the end of one such extraordinary career: Joan Marie Donahue is retiring after a 37-year career with the Central Intelligence Agency. During her many years with the Office of Congressional Affairs, Joan provided valuable assistance to the Senate on numerous occasions. At times, the Office of Congressional Affairs may have been the toughest Assignment at CIA; but Joan Donahue stayed with it for more than three decades. In recognition of her outstanding service, Joan was awarded the Agency's highest award: the "Career Intelligence Medal."

Mr. President, Joan Donahue remained true to her oath to "support and defend the Constitution of the United States" for 37 years. She is one of the quiet professionals who deserve

our gratitude and whose efforts are worthy of public recognition.

Mr. President, I ask unanimous consent that the citation issued by the Central Intelligence Agency in awarding the "Career Intelligence Medal" to Joan Marie Donahue be printed in the Record.

There being no objection, the citation was ordered to be printed in the Record, as follows:

Joan Marie Donahue is hereby awarded the Career Intelligence Medal in recognition of her exceptional achievements with the Central Intelligence Agency for more than thirty-seven years. Throughout her productive career, she displayed the personal characteristics of extraordinary industriousness, perseverance and sound judgment. Whereever she was assigned, she was diligent and effective in every task she was given. As a result, she was given positions of increasing responsibility, culminating in her designation as Chief of Administrative Support for the Office of Congressional Affairs. During her more than thirty years in the Office, she developed a knowledge of congressional matters and personnel that was invaluable to its successful operations. Her commitment to excellence, to the Office of Congressional Affairs, and to the Agency is indeed deserving of the recognition provided by this award. Her entire career reflects high honor upon herself and the Central Intelligence Agency.

MANUFACTURED HOME OWNER'S BILL OF RIGHTS

Mr. REID. Mr. President, almost 13 million American live in manufactured homes. Nationwide, 26 percent of those in manufactured homes are retired, 29 percent hold blue collar jobs, 23 percent have income less than $10,000 and 35 percent have income between $10,000 and $19,999.

In my State of Nevada, 150,000 people, 18 percent of the population, are housed in 63,000 manufactured homes. The numbers are similar throughout the South and Southwest. In Arizona it is 9.3 percent and in Florida 16 percent. These statistics indicate mobilehomes are an attractive housing alternative for millions of American particularly those of modest income.

A significant number of Americans now live in manufactured housing. Yet, these Americans are subject to attacks any other group of a similar size would never experience.

Many low-income residents of manufactured homes do not qualify for Federal assistance to help defray the cost of space rentals. The Department of Housing and Urban Development refuses to exercise any flexibility on this issue and thus denies rental assistance to thousands of otherwise qualified Americans.

Legislation approved by the House will enable producers of manufactured housing to build poor quality homes. In addition, the manufacturers would be exempt from repairing such flaws.

Some mobile home park owners take advantage of their residents on fixed incomes. They will raise rents well above the rate of inflation knowing full well residents will not move to a cheaper park due to the expenses associated with moving a mobile home.

Many municipalities restrict the location of manufactured housing—particularly mobile homes—to only the most undesirable and dangerous areas of a community.

This assault on the rights of manufactured housing residents is unfair. It must be stopped. The National Federation of Manufactured Home Owners have developed a manufactured home owner's bill of rights. This document established a 10-point program to protect owners and residents of manufactured housing. I urge all of my colleagues to study and support these 10 goals. Furthermore, the Senate Committee on Banking, Housing and Urban Affairs should include the provisions of this document in housing legislation it considers during the next Congress. It is the fair thing to do.

Mr. President, I ask unanimous consent that the Manufactured Home Owner's Bill of Rights be entered into the Record.

There being no objection, the document was ordered to be printed in the Record, as follows:

Manufactured Home Owner's Bill of Rights

1. The right to a safe, durable, quality constructed, affordable home which has been built, inspected and delivered to the homeowner's installation site in compliance with applicable federal and state construction safety standards which are updated and maintained to be kept current to equivalent safety requirements for other types of housing.

2. The right to a safe, professionally installed home which shall be sited in conformance with applicable state and/or local manufactured home installation requirements by qualified, competent personnel.

3. The right to have any defects found in a new home corrected by either the manufacturer or dealer in a safe and expeditious manner to the satisfaction of the purchaser and in accordance with applicable federal, state and local laws.

4. Contractual obligations made by a manufacturer or dealer of manufactured housing to a purchaser or any obligation the owner of a manufactured housing community makes to any resident contained in a lease or rental agreement shall be honored and met expeditiously.

5. Residents of manufactured housing communities shall be entitled to clean air, safe drinking water, sanitary sewage disposal, utility services, open space, police and fire protection, trash disposal, and similar services enjoyed by residents of conventional single-family homes.

6. Regulations governing residency in a manufactured housing community shall be fair and equitable to all residents.

7. Regulations promulgated by any manufactured housing community owner shall not have the effect of discriminating against any resident on the basis of religion, nationality, sex, marital status, fair housing standards, or number of members in a family or in any way deprive them of the rights and privileges of single-family homeownership enjoyed by owners of conventional single-family homes.

8. The right that residents of manufactured housing communities shall not be subject to unconscionable, unreasonable, and unjustified lot rental increases nor shall the regulations promulgated by any owner of a manufactured housing community unduly restrict the resale of a manufactured home located in that community by the home owner to prevent the purchaser from keeping the home in the community after ownership.

9. Zoning ordinances, and state and local building and housing codes shall not be discriminatory with respect to the amount, type or location of suitable land where manufactured housing can be located.

10. Statutes enacted by the Federal or State Governments shall treat newly constructed manufactured housing whether located on private property or in a residential manufactured housing community the same as conventional single-family housing.

RETIREMENT OF ROBINSON O. EVERETT, CHIEF JUDGE, U.S. COURT OF MILITARY APPEALS

Mr. SANFORD. Mr. President, on September 30, 1990, Robinson O. Everett of Durham, NC, will be retiring after serving for more than a decade as chief judge of the U.S. Court of Military Appeals. Under his brilliant and charismatic leadership, the Court of Military Appeals has evolved into one of the most respected and innovative courts in America. The indefatigable, personal effort he exerted toward realizing this goal represents one of the most remarkable examples of judicial commitment and dedication that could be displayed.

His ceaseless concern has always been to reconcile the demands of highest justice with the requirements of military discipline. He has written hundreds of judicial opinions, many of which have resolved some of the most difficult questions in military and constitutional law. His many landmark decisions will surely have a lasting influence on military jurisprudence for decades to come.

Chief Judge Everett's other major accomplishments are equally stupendous. Within a year after his arrival at the court, he converted the court's docketing system to a completely electronic computerized system, which resulted in a great reduction in the cost of managing and retaining the court's recorded docket entries on all cases. This electronic capability also gives the court instantaneous access to all the court's docketing records. Furthermore, during his first year as chief judge, the court accomplished an astonishing 82-percent increase in the court's final dispositions on the master docket over the previous year, cutting in half the number of cases pending on the master docket. In recent years, the year-end pending cases have been reduced to a record low, and the time required to process cases before the court has also been dramatically reduced.

Judge Everett has been a model educator who has relentlessly sought to improve the professional skills of both military and civilian practitioners. In 1983, he reshaped the court's annual Homer Ferguson Conference and redesigned it not only to give military lawyers—but civilian lawyers as well—an opportunity to develop and maintain excellent skills required for appellate court practice within the military justice system and elsewhere. To make these training programs readily available to all lawyers, he had the conferences videotaped and made special arrangements to have portions of the conferences televised on C-SPAN. He also conceived and developed a documentary videotaped program produced for use by military lawyers and military educational institutions, as well as distribution and use by civilian law schools and community education programs both in the United States and overseas. This video, the first of its kind, explained the entire process of trial and appellate procedures in a military court-martial case with particular emphasis on the appellate judicial responsibilities of the civilian U.S. Court of Military Appeals.

The judge has been exceptionally devoted to promoting public awareness of the fairness and progressiveness of military justice. He has never been too busy to say no, and addressed military and civilian conferences, seminars, training workshops, meetings of various bar associations, and law schools throughout the country. These judicial visitations and speeches have kept the military and civilian communities fully apprised of the court's responsibility in the administration of military justice; have improved the professional and legal education of military and civilian lawyers; have provided an interchange of ideas beneficial to the military community in general; have provided the court an opportunity to ascertain the impact of its decisions on the administration of military justice; and have helped to develop a better appreciation of the operational problems in the various services.

One of Chief Judge Everett's most innovative programs was reaching out and taking the court to the people. For the first time in the court's history, the judges traveled outside its own courthouse to hear oral arguments in several actual appeal cases. Some of the cases were held at various law schools and at the West Point Military Academy. These convenient hearings provided an excellent opportunity for members of the academic community, military, civilian judges, lawyers, law students, and future military leaders of the U.S. military academies to meet with the judges and view how court-martial cases are presented by appellate advocates for decision by the court.

The court also had televised an actual hearing conducted in the courthouse, which was later televised nationwide on the C-SPAN Television Network as a part of a 3-hour special program on military justice and the appellate review of court-martial cases under the Uniform Code of Military Justice. The project exemplified great visionary and very creative leadership on Judge Everett's part. The military community, the legal profession, and the general public have become more aware and appreciative of military justice and the Court of Military Appeals, as they have never before, by seeing on television how efficiently and well it works. The court's remarkable success in allowing the first telecast of an actual Federal court proceeding may have been the catalyst of the recent decision of the Judicial Conference of the United States to reverse a ban in effect for decades in this country to allow televisions in some of the article III courts in a 3-year experimental program.

Actually, during the last decade, under the consummate leadership of Chief Judge Everett, the U.S. Court of Military Appeals has become one of the most public and most utilized courts in the Nation today. There have been various moot court competitions held in the court; various law school alumni meetings and functions; meetings and receptions held by different voluntary bar associations; and the court was recently the site of the historic administering of the first national junior high school bar examination. Furthermore, students—from preschool to college—are always visiting the court and meeting with the judges. Cadets from the military academies have worked on special projects at the court, and law schools students also have done summer interns there. Even weddings and marriages have been performed in the courtroom for the first time. It is clear that the U.S. Court of Military Appeals has now become one of the most accessible and most utilized public courthouses in America.

Perhaps, there are few judges who have so enthusiastically and relentlessly devoted so much time at promoting better understanding of the American legal system by the youth of our country than Judge Everett has. In 1987, Judge Everett directed the National Student Law Day project, which has been described as "one of the truly most ambitious and most successful projects ever undertaken" in an effort to celebrate the bicentennial of the U.S. Constitution. The project won first-place award in the American Bar Association's 1987 Law Day U.S.A. Competition. Over 1,000 students, 30 different courts, and over 61 judges across the country participated in the project; and the project extended from Puerto Rico to Guam, and from Boston to San Francisco. Through Chief Judge Everett's magnificent leadership, a major goal was accomplished of encouraging and coordinating the nationwide cooperation of judges and court officials to sponsor courthouse visits and informal meetings with trial and appellate judges and court staffs by school students throughout the country. His impact and influence have had no limits.

Chief Judge Everett was exceptionally well prepared for his judicial service. Earlier he had served as a commissioner on the court. He has been a law professor at Duke University for almost 35 years. Also, he has practiced law in North Carolina as well as in the District of Columbia and has held many positions in the organized bar. In fact, he was the chairman of the American Bar Association Committee on Military Law from 1977 to 1979. During the early 1960's, he served as a special counsel to Senator Sam Ervin's Subcommittee on Constitutional Rights in conducting the hearings and studies which led to the Military Justice Act of 1968. He has written a book "Military Justice in the Armed Forces of the United States" and numerous articles on military law, criminal procedure, and evidence. Prior to his retirement in 1978 as a colonel in the Air Force Reserve, Judge Everett had acquired many years experience as a judge advocate. Moreover, during his tenure as the chief judge, he served as the first chairman of the Federal Bar Association's Judiciary Committee and the chairman of the FBA's Administration of Justice Section.

Judge Everett has been honored and has received various recognition across the country for his brilliant accomplishments as the head of the U.S. Court of Military Appeals. Recently, the Judge Advocates Association sponsored a special testimonial banquet in his honor where many, including all the judge advocates general of the various services, bestowed upon him abundant praise. A number of bar associations across the country have also recognized his unparalleled accomplishments during the last decade. This ubiquitous praise and recognition appear to be shared by everyone.

Chief Judge Everett will be returning to the Duke Law School, where he has been a tenured professor for many years. Fortunately, as a senior judge, he still will be available to assist the Court of Military Appeals from time to time. We wish to express our gratitude to this very distinguished jurist from our home State of North Carolina for his extraordinary service and dedication to his country. We extend to him our best wishes for the future.

BULLETPROOF CLOTHES FOR SCHOOL CHILDREN

Mr. KOHL. Mr. President, I have here an article that is a grim sign of our times. It is from the September 9 edition of the Washington Post.

The headline of the article reads, "For New York School Days, Bulletproof Blazers." It then describes bullet-resistant children's clothes and school accessories, such as clipboards and book bags. It is a sad and frightening commentary that violence in our schools and on our streets has reached such a level that there is a market for these products.

Small children—toddlers and infants, are being cut down in the crossfire of handguns and automatic weapons on the streets, in the school and even in their homes. These incidents are so commonplace that parents must now dress their children in body armor before sending them off to school.

The National School Safety Center estimates that more than 100,000 students carry guns to school every day. In New York City alone, school authorities confiscated almost 200 weapons from students in 1988. Last year in my home State of Wisconsin, the Milwaukee school system expelled more than a dozen students for weapons violations.

The problems that have led to this deplorable situation are many and complex. As a step in the right direction, I am pleased that this body unanimously adopted S. 2070, my Gun-Free School Zones Act, as part of the omnibus crime bill. The act would make it a Federal crime to bring a gun within 1,000 feet of a school or to fire a gun in that zone.

Mr. President, our schools should be islands of safety, away from the constant fear of random violence and premature, tragic death. At a minimum, that means children should not need flak vests while playing in their local schoolyards. I hope that the House will pass the crime bill—and accept the Senate's gun-free school zones provision—so that we can take an important step toward fighting gun violence, and keeping our teachers and children safe.

I ask unanimous consent to include the Washington Post article in the RECORD following my statement.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 9, 1990]

FOR NEW YORK SCHOOL DAYS, BULLETPROOF BLAZERS

NEW YORK, September 8.—Bulletproof back-to-school clothes are the latest thing for New York City children who run a dangerous gauntlet to and from class.

School blazers and other jackets fitted with bullet-resistant Kevlar .129 pads are providing a feeling of security to parents undaunted by price tags ranging from $250 to $600.

Added shielding from flying bullets can be had from a bulletproof book bag or clipboard.

The items are being offered by former New York City police officer Stephen D'Andrilli, who runs a security firm, Guardian Group International Corp., which D'Andrilli said already has taken three dozen orders.

The demand comes after a rash of summertime child deaths in New York, some by random gunfire. Four children were slain in an eight-day period in August.

New York is on its way to a record number of homicides for the third straight year. There were 1,905 homicides citywide in 1989.

Hairdresser John DeLoca, 41, recently bought $450 jackets for himself and his two sons, age 8 and 4.

"God forbid if they should be caught in a cross-fire or a random shooting, then $450 would seem like a pretty good investment," he said. "We're talking about my children's lives and the bottom line is: You can't buy another kid."

Kevlar is a synthetic material five times stronger than steel and relatively light. It is used in police bulletproof vests and vehicle armor. Its composition is a closely guarded trade secret, but recent technological advances made it 25 percent lighter and 40 percent thinner than before, so it is less noticeable and more comfortable.

D'Andrilli admits no clothing is ever truly "bulletproof," but demonstrates that Kevlar pads will stop slugs and can saves lives.

"See here," said D'Andrilli, pointing to a swatch of Kevlar fabric showing dents from two Uzi bullets. "You may get bruises from the impact, some trauma such as broken ribs, but the bullets won't pierce the body."

In his office, D'Andrilli has a row of fashion dummies sporting jackets, vests and T-shirts with panels of Kevlar concealed in pouches. Joining the back-to-school lineup are Kevlar-lined fur coats and business suits, briefcases and umbrellas.

The line of fur and leather coats starts at about $3,000 and tops out with a Russian sable coat for $80,000. The bulletproof clipboard goes for $300.

An 8-year-old boy named Palmer, in bow tie and red-and-white pin-striped shirt, snapped on a denim jacket featuring Kevlar "Silent Armor" and said it felt only slightly heavier than normal. "It feels good, it feels like you have good protection and nobody even knows you have it on," he said.

VA-HUD, INDEPENDENT AGENCIES APPROPRIATIONS—1991

Mr. LAUTENBERG. Mr. President, I would like to commend the subcommittee chair, the Senator from Maryland, and the ranking minority member, the Senator from Utah, for their hard work in putting together this bill. The subcommittee faced many constraints. And I know they share my wish that we could have done more in a number of areas, including, of course, Superfund.

But on the whole, this is a good bill. It provides over $400 million more for EPA than the President requested, exceeding the President's request by $500 million for construction grants, by $37 million for nonpoint water pollution, by about $10 million for right to know, and by $54 million for asbestos. I worked with the chairman to provide adequate funds for these programs, and I am pleased that we also provided $7 million for pollution prevention activities.

I would also like to thank the chairman, for her attention to a number of New Jersey and national programs for which I requested funding. These include provisions I authored to allocate about $35 million for the Federal Right-to-Know Program. Included in the Right-to-Know funding is $5 million for a national State grants program for emergency training.

I also authored a provision adding $500,000 for restoration activities at New Jersey lakes, including Lake Hopatcong, Swartswood Lake, and Musconetocong Lake.

Another provision, which I authored provided $250,000 for a New Jersey demonstration project to enhance the technical and economic efficiency of community recycling programs. In addition, I sponsored a measure providing $83,000 for restoration of Alcyon Lake, which is near the Lipari Landfill Superfund site.

The bill also includes a provision I authored restricting the spending of funds for the design and renovation of a Superfund laboratory at Edison, NJ, to test and evaluate innovative technologies. In fiscal year 1988 Congress appropriated $5.6 million for the design and renovation of a Superfund laboratory at Edison to test and evaluate innovative technologies. Recently, representatives of the regional office of EPA have suggested that an additional $8 million would be needed to construct and complete the project. No formal administration request has been made. This raises serious questions about the overall scope and design of the project. Moreover the EPA has failed to satisfy environmental concerns of local officials and to secure the State's support. Until such time as the agency prepares a formal plan for the project and secures local and State cooperation, serious questions exist about proceeding with the expenditure of appropriated funds for design and renovation of the laboratory.

Overall, the Environmental Protection Agency would receive about $6 billion under the bill. Again, I note that I would have liked more for Superfund. But I realize that the President's failure to fund so many other vital EPA programs forced some tough choices. Nonetheless, at $1.616 billion, the bill provides the highest Superfund appropriation level to date, a level which is about $80 million higher than last year's level. As I discussed with the chairman in subcommittee, should additional funds become available for Superfund as the bill moves ahead, I would look forward to working with the Senator from Maryland to increase the funding level.

Finally, I am particularly pleased that this bill includes full funding, $150 million, for the Public Housing Drug Elimination Program. Too many public housing projects have become virtual war zones, controlled by armies of drug dealers. This program, which I developed in 1988, gives housing authorities and residents the tools to fight back.

Mr. President, I look foward to working with the Senator from Maryland as we move the bill forward.

THE HRAWI GOVERNMENT BLOCKADE

Mr. HEFLIN. Mr. President, I have received numerous letters from the many Lebanese Americans residing in the State of Alabama. They are outraged by the alleged inhumane actions of the Syrian-installed Hrawi regime in cutting off food, fuel, and financial assistance to the beleaguered residents of the eastern area of Lebanon. They say that the events of the last several months are being exploited in an attempt to subjugate the democratic movement struggling to survive in the unoccupied areas of Lebanon.

According to these Lebanese Americans in Alabama, the Hrawi Government is imposing a total blockade on the eastern conclave of Lebanon, which is under the protection of Prime Minister Aoun. Mr. President, you will recall that Mr. Aoun was named to head an interim government of Lebanon by outgoing President Amin Gemayel when the country was hindered from choosing a new President because of certain actions by the occupying Syrian regime.

According to Mr. Ed Kahalley, Sr., chairman of the board of the Mobile, AL, area chapter of the National Alliance of Lebanese-Americans [NALA], this blockade is bringing untold hardship bordering on starvation, to the people of the enclave. He says that the Syrian and other supporters of the Taif Agreement, are hoping that depriving the Lebanese people in that area of the bare necessities of life will force the removal of Prime Minister Aoun. Mr. Kahalley goes on to say that surely there must be some convention, either from Geneva or the U.N. Charter, which says this is wrong.

Mr. President, my Lebanese-American constituents feel very strongly that it is inconceivable that the free world would stand by and allow this barbaric blockade to continue. They also feel that these actions are against the will of the Lebanese people, and against the principle of democratic human rights.

Again, Mr. Kahalley says that there are some 800,000 people living in the unoccupied regions. He also says that there has been a steady stream of refugees out of these areas as the conspiracy against Lebanon continues to exact a heavy toll on human endurance. During this crisis there have been thousands of demonstrators gathered around the palace of the people in Baabda in support of Prime Minister Aoun and to protest this assault on their very existence.

Mr. President, the Lebanese-Americans in Alabama say that they are astounded that our own United States of America, while condemning the actions of Saddam Hussein of Iraq and coming to the defense of Kuwait, a monarchy, ignores the plight of Lebanon, a democracy.

Mr. Kahalley says that some in the State Department and in the National Security Council have told them that they deplore this blockade, but that now is not the time for them to condemn the blockade or take action in this matter. The Lebanese-Americans say, "Why not? Are we being blackmailed by Syria?"

If the blockade is a violation of human rights and the principles of democracy, the Lebanese-Americans feel very strongly that the free world, and especially the United States, must condemn it immediately and take action to stop this inhumane action.

Mr. President, I urge President Bush to stand up for democracy in Lebanon.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,028th day that Terry Anderson has been held captive in Beirut.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of Calendar No. 827, S. 273 regarding deceptive mailing practices.

The ACTING PRESIDENT pro tempore. The clerk will state the bill by title.

Mr. HEINZ. Reserving the right to object.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

The clerk is going to state the title. The Senator may object after that.

Mr. HEINZ. No. I have to object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mrs. KASSEBAUM. Mr. President, I have a parliamentary inquiry, if I may?

The ACTING PRESIDENT pro tempore. The Senator from Arkansas has the floor.

Mrs. KASSEBAUM. Will the Senator from Arkansas yield?

Mr. PRYOR. Is the Senator from Kansas seeking recognition?

Mrs. KASSEBAUM. Mr. President, it was my understanding we were going to be in morning business until 1 p.m., and I was wishing to speak in morning business.

Mr. PRYOR. Mr. President, until we iron out our little difficulties, maybe we ought to go forward with the original plan of having morning business until 1 p.m. and allow the Senator from Kansas to proceed as in morning business.

I withdraw my request, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized as in morning business for 5 minutes.

THE BUDGET PACKAGE

Mrs. KASSEBAUM. Mr. President, it is my understanding sometime today or tomorrow the Senate will be voting on the budget package that has been devised by our leadership and the White House. For the past several days, all of us have been studying this package, the agreement, and seeking additional information about it.

From that research I have reached a conclusion that I am sure has been shared by many. There are many provisions of this that I think are extremely important, particularly the enforcement provisions. There are, of course, several items I strongly dislike, as would be the case with many of us; and some, of course, about the budget agreement, is simply unknown.

It is clear our leadership found itself over the last few days in a very tight box. Clearly now we are all in that box together. There is no painless way to reduce the Federal deficit. That has been said so many times I think we are tired of hearing it. But we have to find a way that is fair and engenders the confidence of the public in what we are doing here.

The key in many ways is deciding what spending should be cut and which taxes should be raised. As one who has helped shape bipartisan budget packages in the past, and seen them fail, I am well aware that the devil is always in the details when it comes to the Federal budget.

Mr. President, I would guess every one of us would say, as I do now, that this is not the budget I would write. I would have cut spending more deeply, reducing or eliminating inflation adjustments in domestic spending, and I would have cut, for instance, foreign aid by at least $2 billion.

On the tax side, I would have supported either a rate increase or a temporary surcharge on upper-income taxpayers.

As our leaders have said repeatedly over the past few days, every Senator has a budget plan, and that is true. But the question we face is on this specific plan. As I understand it, the budget resolution cannot be amended. We must vote up or down on the package. The choice before us is stark. We either pass this budget resolution or face a shutdown of the Government.

Why, after months of meetings, we have reached this impasse is beyond me. The process of representative government has not worked as it should. Given these circumstances, however, I will vote for the budget resolution with the proviso that there can and should be changes made during the next 2 weeks as we work on the reconciliation bill. This will be the test. But I want to say right now I do not accept the idea that followup legislation, the reconciliation bill, cannot be changed or amended. If two specific provisions in this budget are not changed I will vote against the reconciliation bill.

The first of these is the increase in Medicare premiums. While I certainly agree that beneficiaries should bear part of the burden in cutting Federal spending, I believe this increase in premiums for part B coverage is unwarranted and unwise at this time.

At some point we must devise a plan to address the problem of long-term health care for the elderly. If we are ever to achieve this, we will have to increase Medicare premiums in order to pay for what will be a very expensive new program. If we increase premiums now we forfeit any opportunity to achieve that goal.

The second item I believe must be to either eliminate or sharply decrease the revenue-losing tax breaks. Raising taxes to fund new tax breaks is fundamentally wrong.

I support the expansion of the earned income tax credit for low-income taxpayers, but the other provisions, costing about $20 billion or more over 5 years, should be cut back or dropped.

If we want to stimulate economic growth, and we do, as these provisions purport to do, the single best way to do so is to cut the deficit and get interest rates down. Nothing we do through the Tax Code can stimulate as much growth as a 1-percent cut in interest rates.

Mr. President, that is going to be very difficult to do no matter what we do with the budget agreement. I have already been told by several Senators these changes cannot be made, that they would violate the spirit and letter of the budget agreement, and that the Finance Committee will not have the discretion or flexibility to alter the package. I hope that is not the case, Mr. President. But if it is, then I will vote against reconciliation.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. HUMPHREY. Mr. President, I ask unanimous consent that morning business be extended for 10 minutes.

The PRESIDING OFFICER (Mr. DODD). Without objection, it is so ordered.

THE BUDGET RESOLUTION

Mr. HUMPHREY. Mr. President, if the House approves the budget resolution and it comes to the Senate, I intended to vote against it.

I am going to vote against the budget resolution because, in my view, it is a formula for disaster, both for the economy and for the President's party. I am going to vote against it, because, frankly, I am fed up with the backroom politics that has displaced wholesome, public competition between the parties relative to their ideas on the budget.

Some argue, including the President, that we must pass this resolution, flawed as it may be, because the economy will be weakened further by delay in resolving the budget crisis. They argue interest rates will remain high and the economy will be further depressed. My response, Mr. President, is bunk. My sense, based on 12 years experience here, is just the opposite. I believe we are likely to cause more damage to the economy by adopting this budget resolution than if we reject it. Massive tax increases and using the IRS to wage class warfare cannot be good for a weak economy.

Mr. President, we do not have a coalition government in the executive branch. The American people elected George Bush to the office of President. They rejected the other candidate and his platform of more spending and more taxes. Yet, President Bush has abdicated his leadership responsibilities in the area of the budget. For months and months on end, when he should have been fighting for his own budget, he has bargained privately with his political adversaries. The result is a budgetary mish-mash that leaves the American people utterly confused about what the President and his party stand for. Some wag said that a camel is a horse designed by a committee. The budget resolution is something worse. As the Wall Street Journal noted this morning, this budget is a cross between a donkey and an elephant. And it is not a pretty sight.

One would think the President would have learned by now, in all of his years in the executive branch and in all of his years in Washington, that a Republican President is not going to get what he wants from a Congress in which the Democrats are the majority party. This whole mess began when the President offered "the hand of friendship," as he called it, to the Congress 2 years ago. What nonsense. Washington is not a country club. George Bush has been around here long enough to know that a President must set his own agenda—his own agenda—and then go out—go out beyond the beltway—and rally the American people to support it.

The election in November should be about which party has the better ideas, which party has the greater vision for America. If we adopt this Rube Goldberg of a budget resolution, the economy will be further weakened and the election will be a muddle and, frankly, is likely to be a disaster for the President's party. Therefore, I urge the President to drop his veto threat against another continuing resolution.

I urge the President to lay out his own budget plan, including the capital gains tax cut and including line item veto. I urge the President to make his budget plans the issue in November. He ought to go out and fight for it. It is time for him to be as tough at home as he is in the Persian Gulf. Never was there a more opportune time because the American people are utterly and completely fed up with the Congress, and for good reason.

If the other party wants to campaign on the notion that Americans are undertaxed, fine. Let them do it. If the other party wants to campaign for a doubling of the Federal gas tax, fine. Let them do it. If the other party wants to campaign for a 2-cent-a-gallon hike in the tax on heating oil, fine. Let them do it. If the other party wants to campaign for using the IRS to wage class warfare, fine. Let them do it. But do not let them get away with this, Mr. President, in some private back room dealing, such that the American people have no idea of who stands for what. In my view, George Bush and the Republican Party should continue to stand on the pledge of no new taxes. It is important to keep the faith, both for the sake of the economy and for the health of our political system.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. PRYOR. Mr. President, on behalf of the majority leader, I ask unanimous consent that the time for morning business be extended not beyond 1:40 p.m. today under the same conditions as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, at this point I am waiting for Senator Heinz. We are getting ready to move forward on the deceptive mailings bill. He will momentarily be on the floor. Until he arrives, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DECEPTIVE MAILINGS PREVENTION ACT

Mr. PRYOR. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of Calendar No. 827, S. 273, regarding deceptive mailing practices.

The PRESIDING OFFICER. The clerk will state the bill by title for the information of the Senate.

The legislative clerk read as follows:

A bill (S. 273) to amend title 39, United States Code, to designate as non-mailable matter solicitations of donations which could reasonably be construed as a bill, invoice, or statement of account due, solicitations for the purchase of products or services which are provided either free of charge or at a lower price by the Federal Government connection or endorsement, unless such matter contains an appropriate conspicuous disclaimer, and for other purposes.

The PRESIDING OFFICER. Is there objection to proceeding to the bill? Without objection, it is so ordered.

The Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Deceptive Mailings Prevention Act of 1990".

SEC. 2. AMENDMENTS TO TITLE 39.

(a) Prohibition of Deceptive Mailings.—Section 3001 of title 39, United States Code is amended by redesignating subsections (f) and (g) as subsections (i) and (j) respectively, and by inserting after subsection (e) the following:

"(f) Matter otherwise legally acceptable in the mails which constitutes a solicitation by a nongovernmental entity for the purchase of or payment for a product or service; and contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement is nonmailable matter and shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless—

"(1) such nongovernmental entity has such expressed connection, approval or endorsement;

"(2)(A) such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe, the following notice: 'THIS PRODUCT OR SERVICE HAS NOT BEEN APPROVED OR ENDORSED BY THE FEDERAL GOVERNMENT, AND THIS OFFER IS NOT BEING MADE BY AN AGENCY OF THE FEDERAL GOVERNMENT.', or a notice to the same effect in words which the Postal Service may prescribe; and

"(B) the envelope or outside cover or wrapper in which such matter is mailed bears on its face in capital letters and in conspicuous and legible type, in accordance with regulations which the Postal Service shall prescribe, the following notice: 'THIS IS NOT A GOVERNMENT DOCKET.', or a notice to the same effect in words which the Postal Service may prescribe; or

"(3) such matter is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive, except that this paragraph shall not apply if the solicitation is on behalf of the publisher or the publication.

"(g) Matter otherwise legally acceptable in the mails which constitutes a solicitation by a nongovernmental entity for the contribution of funds or membership fees and contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement is nonmailable matter and shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless—

"(1) such nongovernmental entity has such expressed connection, approval or endorsement;

"(2)(A) such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe, the following notice: 'THIS ORGANIZATION HAS NOT BEEN APPROVED OR ENDORSED BY THE FEDERAL GOVERNMENT, AND THIS OFFER IS NOT BEING MADE BY AN AGENCY OF THE FEDERAL GOVERNMENT.', or a notice to the same effect in words which the Postal Service may prescribe, and

"(B) the envelope or outside cover or wrapper in which such matter is mailed bears on its face in capital letters and in conspicuous and legible type, in accordance with regulations which the Postal Service shall prescribe, the following notice: 'THIS IS NOT A GOVERNMENT DOCUMENT.', or a notice to the same effect in words which the Postal Service may prescribe; or

"(3) Such matter is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive, except that this paragraph shall not apply if the solicitation is on behalf of the publisher of the publication.

(b) Deceptive Mailings as False Representations.—Section 3005(a) of title 39, United States Code, is amended by striking out "section 3001(d)" each place that it appears and inserting in lieu thereof "section 3001 (d), (f), or (g)".

SEC. 3. REVIEW AND REPORT BY THE UNITED STATES POSTAL SERVICE.

No later than 90 days after the date of enactment of this Act, the United States Postal Service shall—

(1)(A) conduct a comprehensive review to determine if the provisions of section 123.33 of the Domestic Mail Manual (as in effect on such date of enactment) are being appropriately observed; and

(B) take appropriate measures to ensure that any misapplication or misunderstanding of such provisions is corrected among any postal personnel who are responsible for carrying them out;

(2) conduct a comprehensive review to determine the feasibility of establishing a procedure whereby a sender of mail matter which is denied entry into the mails on the basis of incorrect mail preparation, postage due, or addressing may, through expedited proceedings, obtain a final agency decision as to the mailability of such matter; and

(3) submit a written report to the Senate and the House of Representatives describing its findings and actions under this section.

SEC. 4. COORDINATION OF FUNCTIONS WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

The United States Postal Service shall consult and coordinate the functions and administration of the provisions of this Act and the amendments made by this Act with the Secretary of Health and Human Services and the functions of the Secretary in the administration of section 428 of the Medicare Catastrophic Coverage Act of 1988 (42 U.S.C. 1320b–10).

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall apply to matter deposited for mailing and delivery on or after 180 days after the date of the enactment of this Act.

Amend the title so as to read: "To amend title 39, United States Code, to designate as nonmailable matter solicitations for the purchase of goods or services, or solicitation for donations which could reasonably be construed by implying any Federal Government connection or endorsement, unless such matter contains an appropriate, conspicuous disclaimer, and for other purposes.".

AMENDMENT NO. 2927

(Purpose: To provide for the expansion of postal services at diplomatic missions abroad, to clarify solicitations of certain information as nonmailable matter, and for other purposes)

Mr. PRYOR. Mr. President, I have an amendment that I send to the desk at this time and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislation clerk read as follows:

The Senator from Arkansas [Mr. Pryor] (for himself, Mr. Glenn, Mr. Lieberman, and Mr. Kohl), proposes an amendment numbered 2927.

Mr. PRYOR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 15, insert "information or" before "the contribution".

On page 11, strike out lines 10 through 13 and insert in lieu thereof:

SEC. 5. STATE DEPARTMENT POST OFFICES ABROAD.

(a) Postal Services at Diplomatic Posts.—Chapter 4 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 413. Postal services at diplomatic posts

"(a) The Postal Service and the Department of State may enter into 1 or more agreements for field testing to ascertain the feasibility of providing postal services through personnel provided by the Department of State at branch post offices established by the Postal Service in United States diplomatic missions at locations abroad for which branch post offices are not established under section 406.

"(b) To the extent that the Postal Service and the Department of State conclude it to be feasible and in the public interest, the Postal Service may establish branch post offices at United States diplomatic missions in locations abroad for which branch post offices are not established under section 406, and the Department of State may enter into an agreement with the Postal Service to perform postal services at such branch post offices through personnel designated by the Department of State.

"(c) The Department of State shall reimburse the Postal Service for any amounts, determined by the Postal Service, equal to the additional costs incurred by the Postal Service, including transportation costs, incurred by the Postal Service in the performance of its obligations under any agreement enterd into under this section.

"(d) Each agreement entered into under this section shall include—

"(1) provisions under which the Department of State shall make any reimbursements required under subsection (c);

"(2) provisions authorizing the Postal Service to terminate the agreement, and the services provided thereunder, in the event that the Department of State does not comply with the provisions under paragraph (1); and

"(3) any other provisions which may be necessary, including provisions relating to the closing of a post office under this section if necessary because a post office under section 406 is established in the same location.".

(b) Technical and Conforming Amendment.—The table of sections for chapter 4 of title 39, United States Code, is amended by adding at the end thereof the following:

"413. Postal services at diplomatic posts.".

SEC. 6. EFFECTIVE DATE.

The provisions of this Act shall take effect on the date of the enactment of this Act, except the amendments made by section 2 shall apply to matter deposited for mailing and delivery on or after 180 days after the date of the enactment of this Act.

Mr. HEINZ. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2927) was agreed to.

Mr. PRYOR. I move to reconsider the vote.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PRYOR. Mr. President, I am just going to speak very briefly on this matter and then I will certainly yield to my colleague from Pennsylvania, who has been such a trustworthy ally in the attempt to prevent deceptive mailings, especially to many of our vulnerable and elderly citizens in our country.

We have seen a growing number of organizations, profit and nonprofit, that have adopted the use of Government look-alike mailings as a marketing technique. They use words and phrases and names and symbols, envelope designs in a manner that mislead the recipient into believing the mail has come from a Government agency or an organization connected with or endorsed by the Government.

Mr. President, a disproportionate amount of this deceptive mail seems to be targeted at the elderly with the apparent aim of instilling fear among Social Security recipients and Medicare recipients oftentimes these are financially hard-pressed senior citizens who are urged to make a contribution to one cause or another or to purchase a service or product.

It is infrequent at best that contributions solicited under such circumstances are used for the stated purpose or that the cost of products or services bears any relationship whatsoever to actual value. More often than not, the contributions are used to cover an organization's administrative costs or for future direct mail solicitations.

An individual might also find, for example, that he or she has paid several dollars for a cheap plastic replica of a Social Security card. Senior citizens today are not the only targets of Government look-alike mail. Lawyers are targeted with mailings purporting to contain time-sensitive documents from the Department of Justice, only to find themselves on the receiving end of a solicitation. Parents find themselves being offered assistance, for a fee, in obtaining the IRS required Social Security number for their newborn child. The assistance is usually nothing more than instructions and a form that is already available at no charge from the Government. Individuals become confused when they receive a census form that in reality seeks marketing information or support for some cause.

As chairman of both the Senate's Postal Oversight Subcommittee and the Special Committee on Aging, Mr. President, I can tell you that deceptive mail today is a growing problem. It is mushrooming in this country. Moreover, once an individual responds to one of these overtures, a floodgate literally opens, as an individual's name finds its way from mailing list to mailing list.

I recently heard from a constituent of mine who has written many organizations in requesting that his mother, who is 75 years of age, living in Bryant, AR, and suffering from Alzheimer's disease, be finally removed from their mailing lists. Unfortunately, as a result of his efforts to curtail these mailings to his mother with Alzheimer's disease he and his mother are now getting more mail than ever.

In fact, Mr. President, I asked my constituent recently, through a member of my staff, if he would just document and send to me 1 month's mail, just 1 month of mail that his mother was receiving from various organizations and most from profit-oriented ventures asking for contributions or asking this 75-year-old individual to make contributions to certain causes.

Mr. President, I have in my hand 1 month's mail that this lady is now receiving. For example, she got this one, marked "official business." It was a request of a politician to send a check.

Here is another, Mr. President. I must say that several of these letters are from political parties and from political subgroups and committees asking for contributions. I might also say, Mr. President, in addition, that some of these are Federal look-alike letters. Here is one from the National Securities Center, Washington, DC. And this, of course, has the American flag. It is very, very official looking.

Here is a letter, Mr. President, addressed to my constituent from the Legal Affairs Council, Capitol Area Office, Washington, DC. Once again, this is a mere solicitation.

In addition, we have also in this stack the now famous or infamous, $25 check that this woman received. If she would just endorse this check, put it in her bank account, and then sign a little statement, $12.50 for the next 2 months would be removed from her bank account and sent to political candidates.

What they did not say very clear to this woman is that at the expiration of that 60 days, after the $25 had been withdrawn from her account, she had to affirmatively send back and say "Do not draft my account anymore." I assume they would continue drafting $12.50 a month on into eternity, if this poor lady fails to send a stop notice or could not reach the right person and have them stop drafting this account.

Mr. President, what this legislation is attempting to do to afford the basics of protection for the unsuspecting by requiring Government look-alike mail that sells a product or a service or solicits membership or contribution, to carry a clear notice both on the envelope and in its contents disclaiming any connection with not only the U.S. Government but any Government entity. And failure to do so would render the material in question totally nonmailable.

S. 273 is the Deceptive Mailing Prevention Act. It was introduced earlier in this session, Mr. President, by the

Senator from Pennsylvania [Mr. Heinz] and myself. We have done it in behalf of several of our colleagues who have sent us letters from their constituents who feel that they are unduly having their privacy invaded and certainly are being taken advantage of.

The Subcommittee on Federal Services, Post Office and Civil Service, held hearings last year, at which time we heard from a number of witnesses, including Senator Roth and Senator Lieberman. Senator Lieberman's firsthand knowledge in this area gained serving as Connecticut's attorney general, proved to be very, very helpful to us in drafting this legislation. We also heard from legitimate business mailers who expressed concern about the manner in which the Postal Service might enforce the new law. I believe these concerns were addressed in the particular amendment that we are about to approve.

I am also offering an amendment to the bill as reported by the Governmental Affairs Committee. The amendment makes clear that the disclaimer requirement applies to Government look-alike mail that solicits information. It also adds a new section to the bill codifying a Postal Service-State Department agreement concerning mail service for U.S. officials in foreign countries.

Once again, Mr. President, I have no illusion that this is going to be a cure-all to the massive problem that we face. It is a good bill; a good first step. However, in my opinion, it doesn't go far enough. Where there is money to be made, the charlatans are going to find ways to exploit the unsuspecting and the vulnerable. And they are doing it now.

Next year, Mr. President, I think that we should go much further. For example, we might consider legislation requiring that if an individual writes back to a nonprofit organization and says take me off of your mailing list and if the organization fails to honor the individual's request that organization should lose its nonprofit mailing status. That is hardball. But I think it is going to take something like this in order for us to get to the root of this problem, and to cut out these charlatans who are preying on a very, very vulnerable sector of our society.

Once again, Mr. President, I thank my colleague from Pennsylvania. It has been a pleasure working with him on this matter. I know that he has some illuminating charts and some samples that he has received from his own constituency.

Mr. HEINZ. Mr. President, at the outset, I would like to say what a pleasure it is to work with my friend and colleague from Arkansas, Dave Pryor. This has been a mutual labor since I introduced this legislation with his original and strong cosponsorship back on the very first legislative day of this Congress, in fact January 25, the legislative day of January 3.

His contributions have indeed been invaluable. He has added to the record to make clear to our colleagues and the administration the urgent need for this legislation. He has made suggestions and improvements at every turn. He has been, as I have tried to be, responsive to the legitimate concerns of other mailers.

I just want to say to my friend from Arkansas that, once again, it is my great privilege and pleasure to work with him as we do in a number of other capacities.

Mr. President, today this Chamber has the opportunity to neutralize those unscrupulous individuals who use our Postal Service to deceive millions of vulnerable older Americans. A vote for this legislation, S. 273, the Deceptive Mailings Prevention Act of 1990, will prevent the use of look-alike envelopes and sound-alike titles to sell bogus benefits that purport to have the Federal Government's seal of approval.

My own interest in this issue goes back almost a decade, back when I was chairman of the Special Committee on Aging, the position now held indeed by my friend and colleague, Dave Pryor. I heard, shortly after becoming chairman, from seniors who were confused by some of the materials they had received in the mail. Out of an investigation that our committee conducted came evidence of a disturbing number of cleverly designed mailings intended to achieve only one thing: To milk the elderly out of their hard-earned dollars by instilling fear about the future of Social Security, Medicare, and indeed, our entire Federal Government.

A constituent of mine, for example, from Gibsonia, PA, not far from Pittsburgh, wrote that she had sent $10 after receiving a letter from an organization shown in here—and it is blown up in the back of the Chamber—from the National Committee to Preserve Social Security and Medicare. She said, "I soon found out that he was going to constantly demand money," the constituent wrote. "You might as well shoot old people as worry them to death," she concluded.

Well, Mr. President, there is no question that these unscrupulous mailers are creative. Take a second example, and there is a blowup in the back, a very official looking envelope, says "Buy U.S. savings bonds." Through the window you see what looks like an official Government mailer check, with an eagle, half of an eagle, peeking through; the upper left-hand corner says, Department of Information Management, Herndon, VA, which is close to the District of Columbia. The color is the same color as the envelopes the Treasury Department and Social Security use. On the back is a sign that says, "Postmaster, please expedite delivery in accordance with postal regulation." Every bell and whistle is used to make this look as official as possible; even the contents, as you can see, Mr. President, down at the bottom, when you open are extremely official. It is a check, you think, from the Federal Government, maybe, for $732.26 cents. Only after you have opened it and begin to read the fine print do you realize it is from an automobile dealer trying to get you to come in and spend some of your hard-earned money on a car.

This, of course, is not a bonus from Uncle Sam. It is, in fact, a very creative effort by a car dealer to peddle his merchandise through the very powerful implication of Government endorsement, which it certainly does not have and does not merit.

I might add that there is endless variation on these schemes and scams. They entice the unsuspecting and the desperate with promises ranging from a larger Social Security check, to potential sweepstakes winnings, to access to records that are already accessible for free under the law.

I think, Mr. President, one of the rights that we Americans value above all, understandably, is our freedom of speech. But the right of freedom of speech does not extend to allowing a private citizen or a business to falsely represent that they are speaking for someone else. No private interest has the right to pretend to be a public interest organization, institution, or Government agency. That is what our legislation is designed to halt.

In sum, everybody has the right to say anything they want, as long as they do not put the words in somebody else's mouth.

Mr. President, the legislation that we are considering today gives the Postal Service a sharp legal knife to carve out deceptive practices and a longer enforcement stick to punish those who persist in those practices. This, of course, is similar to legislation that I sponsored and introduced back in 1987 with Senator Chiles and others. I am pleased, as I said at the outset, that David Pryor of Arkansas, the chairman of the subcommittee, has been such a booster and supporter of this effort, and we strongly urge our colleagues to proceed to speedy passage. I do ask, Mr. President, that a section-by-section description of this bill be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 273, Deceptive Mailings Prevention Act of 1990—Section-by-Section Analysis

Section 1 contains its short title, the Deceptive Mailings Prevention Act of 1990.

Section 2 amends 39 U.S.C. 3001 by creating two new categories of "nonmailable" matter:

The first—new section (f)—provides that mail from a non-governmental entity that solicits for the purchase or payment for goods or service, and which contains words or symbols such that the mail could reasonably be construed as having some government connection, is nonmailable unless the mailer: (1) has an express connection with the government, as in the case of certain veterans groups; (2) the otherwise objectionable matter is contained in advertising in a publication mailed by other than the advertiser, such as a newspaper; or, (3) the mailed matter carries a conspicuous notice both on the envelope and the contents disclaiming any connection with the government.

The second—new section (g)—provides the same restrictions and conditions with respect to the mail that solicits contributions or membership fees.

Section 3 requires the Postal Service to study and report to the Congress, within 90 days of enactment, on the sufficiency of existing enforcement mechanisms and the feasibility of establishing a procedure for expedited consideration of inquiries concerning mailability.

Section 4 requires the Postal Service to coordinate its enforcement activities with those of the Secretary of Health and Human Services pursuant to section 428 of the Medicare Catastrophic Coverage Act of 1988.

Section 5 sets the effective date of the Act as 180 days after enactment.

Mr. ROTH. Mr. President, I would like to commend my distinguished colleagues, Senator Pryor and Senator Heinz, for the outstanding work they have done in bringing the Deceptive Mailings Prevention Act of 1990, S. 273, before the Senate. As a cosponsor of this bill, I share their view that the American people, particularly our seniors, need this legislation to protect against unscrupulous operators who use the U.S. mail to prey on unsuspecting consumers.

I have maintained a longstanding interest in this important issue. Several years ago, I sent a questionnaire to the senior citizens of Delaware on this subject, and I was overwhelmed by the number of seniors who had received deceptive mail and who wanted the Federal Government to do something about this problem. From discussions with my colleagues, I know that this problem is not limited to Delaware.

I was disturbed by the reports of many retirees being frightened unnecessarily by mailings which they perceived as coming from government entities soliciting money lest they lose their Social Security,. Medicare, or other Government-sponsored benefits. I directed my staff on the Permanent Subcommittee on Investigations to investigate these complaints and, unfortunately, that investigation uncovered substantial evidence pointing to the need for this legislation.

A common theme of these deceptive mailers is to design their solicitations so that consumers perceive the mailings as coming from or having the support of a government entity. This is done to lend credence to their outlandish claims. Some mailers accomplish this by mentioning government agencies or programs prominently in their solicitations. Some mail their material in envelopes designed to resemble those used for Social Security checks and other official government documents. Others will attempt to show a government connection by including on their envelopes slogans like "Buy and Hold U.S. Savings Bonds."

While their methods may very, the goals of the these government look-alike mailers are all the same—to solicit the hard-earned money of American consumers, in many cases, of senior citizens, by playing on their fears and insecurities. I had seniors write to me, fearful that if they did not contribute to these organizations, their Social Security benefits would be discontinued or that, without their contributions, the Social Security system would become insolvent. The individuals who profit from this kind of fear-mongering are truly beneath contempt.

Today, we have the opportunty to do something about these deceitful operators who enrich themselves at the expense of unwitting consumers under the guise of government sanction or control. The Deceptive Mailings Prevention Act on 1990, S. 273, would require any solicitation which could reasonably be construed as implying any Federal Government connection to include a conspicuous disclaimer in order to be mailed. I commend Senator Pryor and Senator Heinz for introducing this legislation and I am delighted to support this bill now as I did in the previous session.

We all recognize that many direct mail solicitations are forthright, come from legitimate organizations and the funds are used for legitimate purposes. These mailings will not be adversely affected by this legislation. Neither would this bill cause the mere use of a word or symbol in a logo to constitute a deceptive mailing. Under this legislation, the Postal Service must make such a determination based upon the appearance of the mailing as a whole, as to whether a reasonable person could infer any Federal Government connection. As such, I believe this legislation is a responsible vehicle that ensures that American consumers will be protected from those who attempt to use the mail to bilk them of their hard-earned savings. I urge the prompt adoption of this timely and important piece of legislation.

Mr. PRYOR. Mr. President, I thank the Senator from Delaware [Mr. Roth] for the fine statement previously given. I would say, Mr. President, he has been a very strong advocate not only of the legislation which we are about to approve in the Senate, but also of protecting especially those very vulnerable and sometimes very elderly senior citizens who are receiving deceptive mail.

I want to congratulate my colleague, Senator Roth. We have had the privilege in the past several years of working in the Governmental Affairs Committee together on these and other issues.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. PRYOR. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 2311, the House companion bill, and that the Senate then proceed to its immediate consideration, that all after the enacting clause be stricken, and that the text of S. 273, as amended, be inserted in lieu thereof, that the bill be advanced to third reading and passed, and that the title amendment be agreed to, that the motion to reconsider the passage of the bill be laid on the table, and that S. 273 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 2311), as amended, was passed.

The title was amended to read: "A bill to amend title 39, United States Code, to designate as nonmailable matter solicitations for the purchase of goods or services, or solicitation for donations which could reasonably be construed as implying any Federal Government connection or endorsement, unless such matter contains an appropriate, conspicuous disclaimer, and for other purposes."

Mr. KOHL. Mr. President, I am pleased to be a cosponsor of this amendment to the Deceptive Mailings Prevention Act of 1990. This amendment is of extreme importance because it would require that a disclaimer be put on mailings by nongovernmental entities that use terms that imply a connection to the Government for purposes of soliciting information as well as the contribution of funds, as it is written in the original legislation. Further, it would require the Postal Service to treat such mailings as nonmailable.

During the conduct of the 1990 decennial census, the Census Bureau received numerous complaints from the public about mailings from private organizations that were presented as being connected with the official census. An example of such a mailing was brought to my attention. The envelope of this mailing said "Census Documents Enclosed * * * Must be returned before deadline." The contents of the envelope were a brief questionnaire asking about the respondents lifestyle, and a lengthy advertisement for bull denim jeans.

We are all aware of the lower than expected mail response rate to the 1990 census which caused the Census Bureau a huge budgetary shortfall earlier this year. I am concerned that such marketing techniques may have greatly contributed to the number of households who did not respond to the 1990 census. It is essential that such deceptive mailings are not allowed to hinder any future census efforts.

Again, I am pleased to be a cosponsor of this amendment. Thank you, Mr. President.

Mr. LIEBERMAN. Mr. President, I am very gratified that the Senate today will pass S. 273, the Deceptive Mailings Prevention Act. This bill prohibits the mailing of solicitations that use symbols and designs that make the unwary consumer believe that the mail comes from a government agency or organization. S. 273 is an excellent piece of legislation that provides much needed protection for consumers. I commend Senators Pryor and Heinz for their fine work on this bill, which I am pleased to have cosponsored.

Few issues are of greater concern to me than protecting consumers from ripoffs. As attorney general of Connecticut, I spent much of my time investigating and prosecuting those who commited consumer fraud—and some of the most outrageous scams were those that arrived in the mail. Every day, millions of Americans receive some kind of fraudulent solicitation by mail—solicitations that steal hard-earned dollars from ordinary citizens.

This bill has given me an opportunity to help address one serious type of mail fraud—Government look-alike mailings—which are designed to appear as official government documents, but are really solicitations from private con artists. These include solicitations that look like they contain government information concerning the recipient's Social Security or Medicare benefits, or official papers from the Internal Revenue Service. Sometimes they appear to contain a Government check. Not long ago, a Connecticut woman received a Government look-alike check for $1,000, which in reality was merely an advertising gimmick. Unfortunately, a bank actually cashed the check, and some time later, tried to get the money back from her.

Unsuspecting recipients of look-alike mailings often end up paying for useless services that are available for free directly from the Government. For example, as attorney general I warned Connecticut consumers about a Government look-alike solicitation from the "Federal Record Service," which intimidated parents into thinking, incorrectly, that they had to get a Social Security number for a new child, and offered to provide that unnecessary service for a fee.

S. 273 would help put a stop to these scams. It would render nonmailable any Government look-alike mailing that solicits money, services, or information, unless the envelope and its contents have a clear disclaimer of any connection with the Government. Stripped of their pseudo-official trappings of authority, con artists specializing in Government look-alike scams will have a much harder time persuading consumers to open the envelope, let alone part with their dollars.

Mr. President, I am proud to have testified before Senator Pryor's subcommittee on the problem of government look-alike mail fraud and to have cosponsored this bill, and I am pleased that it was reported favorably by the Governmental Affairs Committee, on which I serve. I am confident that, by passing this legislation today, the Senate can provide important protection for consumers.

Mr. COATS. Mr. President, I am pleased to be an original cosponsor of the Deceptive Mailings Prevention Act of 1990. This legislation is designed to address the problem of misleading and deceptive mail solicitation practices affecting the elderly.

Increasingly nonprofit organizations and companies are resorting to the marketing technique of using the mails to solicit contributions and sell products and services. Using official-looking mail can be very misleading, causing to general confusion among the recipients of such mail, many of whom are senior citizens on Social Security or Medicare. As a consequence, there is widespread congressional concern about those nongovernmental entities which ulitize in their mailings official insignia, trade names, or other symbols or terms with governmental ties or associations in order to misrepresent themselves as having Federal endorsement, support, or connections.

Because these mailings appear to be directed primarily at the elderly and involve organizations offering products or services to or of interest to older Americans, many legitimate groups representing the elderly, such as the AARP, have expressed strong concern about the need to stop such deceptive mailing practices. In recent years my office has received numerous complaints, mostly from senior citizens, about this matter.

The vast majority of companies and nonprofit groups which use the mails to reach potential customers and contributors are responsible organizations which offer and sell legitimate products and services or solicit on behalf of legitimate causes. Unfortunately a few organizations, through the misuse of these mailings, give the false impression that they represent the Federal Government or are offering services or products sanctioned by the Federal Government. Many solicitations and offers come in envelopes which could reasonably be interpreted to be an official mailing from a Federal agency. Most use titles which imply association with the Federal Government. As a consequence, customers are induced into paying for products or services which they do not need or which the Government can otherwise provide without charge.

As an example, I cite one organization that mails solicitations to Medicare recipients. On the outside, the envelopes indicate the mailing pertains to supplemental Medicare benefits. Inside the reader is informed that Medicare benefits have been drastically reduced by Congress. The point of this mailing is to sell Medigap insurance policies. The advertisement uses scare tactics to cause some elderly recipients to submit their names. As a consequence, they find themselves paying for an expenditure they do not fully understand.

Another organization encloses sweepstakes tickets designed to look like Social Security cards. The recipient is told that for a fee, he or she has the chance to win $50,000, and can receive a gold-embossed Social Security card, an earnings statement, a guide to retirement, and representation in Washington to protect his or her Social Security benefits. Still another organization uses the Statue of Liberty as a logo and, in a brown official-looking envelope, offers to provide a Social Security card for all children under the age of 5 for a cost varying from $12 to $20 for the first child, with a supplemental charge for each additional charge. The enclosed material states: "Federal law requires that you must have this completed before your (annual) income taxes are filed."

Recently a senior constituent of mine, Mr. Alfred S. Silverman of Hammond, IN, received a mailing from an outfit called Grant Hotline in San Diego. The envelope read "Official Notification" and indicated "A $10,000 Free Grant from the U.S. Government that you never have to pay back could be yours." Inside a letter headed "Important" told of billions of free cash grants "to common everyday people like you" from the U.S. Government "regardless of your education or poor credit status." "Priority is given to minorities, women, handicapped and needy people with poor credit and low-financial status," the notice added. Finally, the recipient was told that "those who want cash grants" should call a certain telephone number "within the next 4 days." Fortunately Mr. Silverman did not bite, but he asked ironically how he could apply for such "free" cash and what we intended to do about it. S. 273 is certainly one answer.

Most of these deceptive mailings target our Nation's elderly, focusing on Medicare or Social Security benefits, the most important concerns to senior citizens. It is important that we protect those persons who must rely on fixed incomes from these kinds of deceptive or misleading mailing practices which seek to rob them of their limited resources.

That is why last year I introduced a bill, S. 1356, also known as the Deceptive Mailings Prevention Act, to render deceptive government look-alike mail as nonmailable unless such matter contains a conspicuous disclaimer. My bill is identical to legislation introduced in the House of Representatives by my Indiana colleague, Congressman Frank McCloskey, which the House passed earlier. Similar legislation passed the House last year, but the Senate failed to act on it. Thus, corrective action on this matter is long overdue. I am pleased that the Senate Governmental Affairs Committee has reported a bill which is similar to and would accomplish the same objectives as my own bill.

S. 273, as amended, provides that matter mailed from a nongovernmental entity that solicits for the purchase of or payment for goods or services, and which contains a seal, insignia, trade or brand name, or other words or symbols such that the mailing could reasonably be construed as having some government connection is nonmailable unless: First, the mailer has an express connection with the Government, as in the case of certain veterans organizations; second, the otherwise objectionable matter is contained in advertising in a publication mailed by other than the advertiser, such as a newspaper; or third, the mailed matter carries a conspicuous notice, both on the mailing envelope and on the mailed contents, disclaiming any connection with or endorsement by the Government. The bill also provides the same restrictions and conditions with respect to mailed matter that solicits contributions or the payment of membership fees.

S. 273 also requires the Postal Service to study and report to the Congress, within 90 days of enactment, on the sufficiency of existing enforcement mechanisms and the feasibility of establishing a procedure for expedited consideration of inquiries concerning mailability. The Postal Service is also directed to coordinate its enforcement activities with those of the Secretary of Health and Human Services pursuant to section 428 of the Medicare Catastrophic Coverage Act of 1988.

The principal difference between S. 273 and my own proposal is that S. 1356 also included a provision expanding current law to declare false billing statements for the solicitation of donations as nonmailable unless such matter bears on its face a disclaimer stating "This is a solicitation of donations, and not a bill or invoice or statement of accounts due." Under title 39 of the United States Code, false billing statements for goods and services are nonmailable without a disclaimer. S. 273 contains no such provision. I regret this omission. The House bill contains a false billing disclaimer requirement. I hope that the conference will retain such a requirement so that this deceptive practice will also be ended.

S. 273 will address deceptive mailing practices without infringing on the rights of honest persons and legitimate organizations to communicate their ideas and to have access to mass mailings so that they can reach postal patrons nationwide. Most importantly, S. 273 will strengthen the rights of consumers, especially the elderly, against the real threat posed by organizations that resort to these deceptive mailing practices. This legislation will also ensure that those who provide a genuine service through honest advertising of legitimate, needed products and services are also protected.

Mr. President, I urge my colleagues to support this important and overdue legislation.

Mr. PRYOR. Once again, let me thank my good friend from Pennsylvania, Senator Heinz. We had the privilege, going back many years, of serving together as Members of the House of Representatives. He beat me to the Senate by a few years. He has been a very, very fine colleague on the Aging Committee. He has chaired the Aging Committee, and we are both in strong agreement that this legislation, as passed, is going to be the beginning of even stronger legislation, even stronger enforcement in the future, to prevent deceptive mailing for those very, very vulnerable citizens in our country.

Mr. HEINZ. Mr. President, I want to conclude by saying that I look forward to working with the Senator from Arkansas, my friend and colleague, David Pryor, on additional legislative steps in the coming Congress, during which we both hope to be in attendance. Since Senator Pryor is, as I understand it, unopposed for reelection, his chances of return, I understand, are fairly good. Therefore, I think I can, with some certainty, predict that, the good Lord willing, we will have that opportunity to so represent our country.

Mr. PRYOR. Mr. President, I appreciate the fine comments and very generous comments of my friend from Pennsylvania. But I must remind the Chair and my friend from Pennsylvania that about 2 years ago the people of Leningrad had their first opportunity to vote in a public election, and the mayor of Leningrad had no opposition, Mr. President, in his race for reelection; no one opposed the mayor of Leningrad in that race, and he was defeated by a vote of 2 to 1. So I must keep that in perspective, as we must say, there is a very, very restless group of constituents out there today, with some degree of justification.

Mr. HEINZ. I want the record to show I did not say it was certain that our colleague would return. I said the chances were very good.

The PRESIDING OFFICER. The Chair took note of that observation.

Mr. PRYOR. Mr. President, one final point on deceptive mail. I am sure the Senator from Pennsylvania will agree with me. If any citizen in our country receives any of these letters asking for a contribution or asking for money, I urge that citizen, if that citizen wants to know whether this is a real, valid organization, to just write back a letter asking them "what do you do with your money, how is that money being spent; give me a statement from your accountant so I can see where this money is coming from and how it is being used."

Most of the time you will not hear from them again. I might say that because they do not want to reveal this information. But I think it would be, certainly in the idea and in the hope of public service, that we inform our people not to send their money back unless they know full well the groups they are sending to.

EXTENSION OF MORNING BUSINESS

Mr. PRYOR. Mr. President, I ask unanimous consent that the period for morning business be extended not beyond 2 p.m. today under the previous conditions.

The PRESIDING OFFICER. Without objection, it is so ordered

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Bryan). Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I am just inquiring as to the order of business. Is it morning business until the hour of 2 p.m.?

The PRESIDING OFFICER. The Senator is correct.

Mr. SIMPSON. I thank the Chair.

Mr. President, I wanted to just speak a moment on the issue that is certainly consuming all of us, the issue shortly to become the business of Congress. I do not speak so that our colleagues who will listen carefully find I possess unique and dazzling insights into the budget deficit we find ourselves in but I speak because of the true enormity and magnitude of the problem and enormity of our responsibility to see that it is corrected.

This is our responsibility. It is Congress' responsibility. It is not previous Democrat or Republican Presidents that got us here. It is Congress that got us here—Democrats and Republicans alike in the years pass. And it is told to me in the phone calls that come to my office saying, "What are you doing" or "How can you do this to the senior citizens? How can you do this to the veterans?" How can you do this to this group or that group? And we have done very little to those groups.

I was here on the floor when we set aside the veterans so that they were not affected by anything under Gramm-Rudman-Hollings except for a very minor ding of 1 or 2 percent while the rest of the country would suffer a 35 percent reduction. I helped do that. I am a veteran. I am very proud of that. But all veterans, especially veterans who fought for their country, know that it is time now to fight for our country once more in its fiscal chaos which is to come if we do not do this.

Then they will say, "Look what you did to the senior citizens." And I say, what did we do to the senior citizens? We did not touch the cost-of-living allowance on Social Security, not one penny. We did not do a single thing of increasing the money they would pay, even for those who are affluent; we never increased the amount that would be subject to tax. We did not do a thing with that, nothing. All we really did was raise the deductible 75 bucks a year to 150 bucks a year. Now that is all.

Plus one other thing. Part B. Part B premiums under Medicare is an absolutely voluntary operation. You do not have to be in it. You really do not. You can go buy your own insurance. But if you are in it, it is going to go up about 4½ bucks a month. That is what is going to happen. Then it is going to be up to about 54 bucks a month in the out years over the 5-year period. And that is what we did. Nothing more.

I have had some of the most wearisome calls I have ever heard from people saying, "What did you do to senior citizens?" I said well, nothing very much, except raise your deductible on this extraordinary health care system which costs 600 billion bucks a year; health care in the United States of America is 600 billion bucks a year. And under part B premiums they go to now where the beneficiary will have to pay 30 percent instead of 25 percent. Is that an act of thoughtful Democrats and Republicans or people who are going to do in senior citizens or do not care? Are they unthoughtful, cruel, hideous? Of course not.

Then people say—this is the good one—"How come it took you this long? What is the purpose of putting the country through this exercise down to the last minute?" I almost have to chuckle at that one because it is because of the interest groups of the United States and the citizens who listen to the drivel they pour out that make it so difficult to govern. If you listen to the news, pick up the paper, you would think that we are riding senior citizens into the ground. That is a phony, phony argument.

I have just outlined the only two areas where seniors are affected—a $150 per year deductible, and up 4½ bucks a month on part B voluntary part of the Medicare. You do not have to be in it. If you do not like it, get out of it. And that is it.

And they say, why are you taking so long; why is this done? Let me tell you, why that is. Because every time we try to do something realistic, the interest groups get up their stuff and beat your brains in. And boy, are they out there. And their executive directors live right here in this community. They have marvelous jobs. Most of them make much more than we do. And their sole purpose in life is to juice up their membership; that is their sole purpose in life, to juice up the membership and come in here and hack us to shreds. And they are doing a magnificant job. My question to them is, "What do you do as an alternative? Do you have anything to suggest? Because I really want to see the look on your face when we go to a sequester between October 15 and election day." It is called a permanent sequester.

The PRESIDING OFFICER. The Chair would inform the Senator that his 5 minutes in morning business are up.

Mr. SIMPSON. Mr. President, I appreciate the courtesy of the Chair. I see my colleague from Illinois.

Mr. DIXON. I was very interested to listen, may I say, Mr. President, to my dear friend's comments and I would like to listen longer if he will give us more of his thoughts.

Mr. SIMPSON. I would love it. I thank my colleague from Illinois.

The PRESIDING OFFICER. Does the Senator request additional time to speak?

Mr. SIMPSON. I ask unanimous consent for an additional 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. So these groups, I asked them, "What do you have for an alternative for us?" Well, they do not have much. They blanch, kind of scratch themselves, jump up and down, shake, and get apoplectic and then they say, "Well, if you people would just use self-discipline and will power, we would not be here." I said, "Are you kidding? You have been hanging around me like a poor relative for 5 years, asking for this, asking for that, in an insatiable quest for everything you can imagine." And it never ceases.

There is not one of us here that does not know that the whole budget year and the whole entire time of our opportunity here to help govern consists of people who are sitting in front of us saying, I hope you get this deficit under control but before you start I want my money and I want my loan guarantee and I want this tax credit and I want this change in the Internal Revenue Code and I want this and I want that, and all of it is destined to suck something out of the Federal Treasury.

That is where we are. It is still a representative Government. And if the people really want this, because here is your pitch now, the people who are going to vote for this package are going to receive unshirted hell in this election and they are going to be the subject of 30-second spots and they are going to be called evil and foul and defilers of the public trust and many of them will lose. And the American public will get just what they asked for, and that is people who will give them everything they want. And any government that is big enough to give you everything you want is big enough to take away everything you have.

OPPOSITION TO DEBT FORGIVENESS FOR EGYPT

Mr. DIXON. Mr. President, when I was young, my parents always reminded me that Finland, as small a country as she was, repaid her debt to the United States from the war. If my parents were alive today, they would be appalled at what we are being asked to do in terms of forgiving debts to foreign nations.

I rise today to announce my opposition to the administration's proposal to forgive some $7 billion in outstanding debt owed to the United States by Egypt. At a time when the American people are being urged to swallow more taxes and higher Medicare premiums, this debt forgiveness proposal leaves a bad taste in the mouths of all Illinoisans.

I make this promise: If any legislative vehicle retains the debt forgiveness language in the foreign operations appropriations bill, I will offer an amendment on the floor to strike the language when it comes before the full Senate.

I have consistently opposed debt forgiveness proposals. Debt forgiveness costs the American people money. How so? Debt repayment figures are part of the revenue projections in the President's budget. It is assumed in fiscal year budgets that a certain amount of debt will be repaid by those countries who maintain outstanding debts. While the administration has acknowledged that the Egyptians were unlikely to be able to repay the $7 billion owed the United States, we are led to believe that the only solution to the problem is debt forgiveness. I do not think so.

Just because this country believes one of its debtors is unable to pay up is not sufficient reason to forgive their debt. Debt forgiveness has real budget impact.

According to the budget summit agreement, over $1.8 billion in projected repayments are forgiven over the next 4 fiscal years. One billion, eight hundred million dollars is real money, Mr. President. This proposal is similar to the banker who holds your mortgage, ripping up your loan, liquidating not only the principal owed, but the interest as well.

Egypt is a friend and ally, and its effort to rally Arab support against Iraq have been important. However, it should not be the policy of the United States to reward countries with debt forgiveness when they take actions we support. Debt forgiveness sets bad precedent. Debt forgiveness is bad policy.

It is especially galling to the people of my State, a State which gives a great deal more money to the Federal Government than it gets in return, and who even now face more taxes and less benefits from their Federal Government.

I have here a couple of letters out of numerous communications from my constituents in Illinois, and they are outraged about this proposal. A gentleman from Harvard, IL, sent me a copy of a letter he sent to President Bush. It reflects the overall sentiment of the letters I have received on this issue. He states:

> Write off $7 billion that Egypt owes us as a symbol of appreciation? No, no, a thousand times no.

A woman, from Lemont, IL, writes:

> I think that before we retire any of Egypt's debt we should retire $7 billion of our national debt * * * or spend it on legal fees to convict the white collar thugs that raided the S&L industry * * * my point is that $7 billion is $7 billion and we need it here.

The folks back home are tired of bailing out every other debtor. They do not see anyone bailing them out. They just do not understand this debt forgiveness business, and this Senator agrees with them. Who are we here to represent, if we are not here to represent our own citizens?

We have been giving Egypt over $2 billion of assistance a year for a number of years. To forgive this debt on top of the aid we give them every year sets terrible precedent. I do not believe that Egypt will be the last country asking for such relief.

The United States needs this money here at home. Our citizens have justifiable reason to expect that debts, rightfully due and owing, be repaid. The American people, who are wallowing in the costs of our own internal debt, see no such relief coming our way. The American people and the people of Illinois have a valid point on this issue, Mr. President. It is time we listened to them.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed, save, and except for a unanimous-consent request. The Senator may proceed.

THE BUDGET SUMMIT AGREEMENT

Mr. EXON. Mr. President, it is with a degree of unhappiness that I rise today to express my opposition to the President's budget summit agreement. As a member of the Senate Budget Committee who has time and time again come to this floor to offer tough alternative deficit reduction plans based on the freeze concept, I want very much to support a long-term deficit reduction which is both fair and effective.

Unfortunately, the plan put forward by the President and the bipartisan leadership budget summit fails with regard to fairness and effectiveness and would have a staggering negative effect on not only the economy of the State of Nebraska and rural America in general, but upon the Nation as a whole. We are in, or are going into a recession. The package agreed to is the wrong tonic at the wrong time.

Mr. President, I took a very careful look at the budget summit agreement, giving it full and fair consideration. Even if other numerous shortcomings in fairness where ignored, the last minute horrendous deal to further emasculate the Tax Code with the tax loophole for the 25-percent stock investment credit proves its unworthiness. I do not enjoy going against the wishes of the President and the bipartisan leadership of the House and Senate.

Despite those efforts, I am left with no choice, in all good conscience, but to oppose this package. I may be accused of parochialism becaue of the severe hit agriculture takes. This, at the very time when corn, to mention only one commodity, brings a cash price of $2 per bushel, about 50 cents below production costs. So be it.

Mr. President, I say that in all good conscience, after reviewing the proposal and coming to a negative conclusion, I reviewed it all over again, under the assumption that agriculture would take no hit whatsoever. My conclusion was, that even then this package, however well-intentioned, would be an economic disaster for my State and for our country of a major magnitude.

I must concede that a portion of my concern is that too many of the key players in this scenario to cure the problem supposedly solved it 5 years ago with Gramm-Rudman that promised a balanced budget by October 1, 1990. We can conclude that was a complete exercise in futility since we are now faced with an additional $1 trillion in debt, that now has mushroomed to over $3 trillion. In fact, the true deficit is worse than it has ever been.

Having worked with a bipartisan corps of fiscally conservative Senators to craft alternative budget packages, I know how difficult it is to find agreements which produce meaningful deficit reduction. If any of the many alternate plans which we have offered since 1982 would have been adopted and implemented, the Nation would not be on the present brink of fiscal meltdown. Do we need to do something to correct all of this?

We surely do. But forcing this tortured compromise born more out of mindless frustration than wise economic concepts and reason and reasonableness is, in my opinion, dangerous folly. No amount of Presidential arm-twisting and veto threat rumblings can improve upon, or make this proposal a sound one.

Senator Grassley and I recently received a report from the General Accounting Office which appropriately identified the budget as "out of control." It is time that those who had their fingerprints all over the Gramm-Rudman law and the 1986 Tax Reform Act which has already increased the deficit by $31 billion, after being sold to the American people as a revenue neutral plan, admit their terrible mistakes. The Gramm-Rudman law has failed.

The tax reform was not revenue neutral, as the Congress and the President said.

This should have been so stated and been a part of the budget summit. It is time that we come out and say very di rectly and very sincerely that it is way past the time when we should face this problem with reality.

We should embrace not the summit plan but the Senate Budget Committee proposal and abandon the fiscal monkeyshines of the Gramm-Rudman law and the political deal which was made at the President's budget summit.

Just as the Gramm-Rudman law was designed to push aside serious action on the deficit, the budget summit seems poised to again push this serious crisis beyond consideration until the 1992 Presidential election. That is political convenience but had fiscal policy. It is no accident, Mr. President, that the budget summit agreement clearly contemplates a renegotiation in 1993. This proposition can best be called "son of Gramm-Rudman"—same song, same sour second verse.

In short, the budget summit asks pain from working and elderly Americans with little real gain in terms of overall deficit reduction. It is long on promises and, if enacted, would be woefully short of stated accomplishments. I illustrate this point by the fact that the first year reduction which started out to be a promised $50 billion was reduced to a stated claim of $40 billion and ends up as a possible maximum of $34 billion when Desert Shield costs are finally recognized. Even further deterioration of that figure is probable by economic and technical adjustments. We will be billions of dollars out of whack under this proposal even before we get out of the starting gate.

In terms of fairness, the President's approved budget summit tax package takes dead aim at the middle class working Americans who already bear an increasingly heavy tax burden and on seniors with fixed incomes. These are the same Americans who had their Social Security taxes raised last January and the proceeds used to hide the deficit.

While I do not favor a tax increase, if one is necessary at least it should be progressive. Under the President's budget summit agreement, very little is asked of the rich. Where are the recovered revenues from the ill-gotten gains of the S&L thieves, or the seizure of assets from the fraudulent directors who helped the Nation get into this mess?

The tax portion of the agreement is peppered with tax giveaways to business and to the very oil companies which have been gouging American consumers at the pump. Is it not enough that working Americans have had their pockets picked once already by the international oil conglomerates? Uncle Sam should not reach into already nearly empty pockets.

To illustrate how the package socks it to the working American families, according to the New York Times, total tax changes will increase taxes by 3.3 percent for families earning in the range of $30,000 to $50,000 per year but only increase taxes three-tenths of 1 percent—three-tenths of 1 percent—for families earning over $200,000.

On the spending side, it appears that seniors and rural Americans are the central focus of the package. For Nebraska, the impact of the gas tax, the Medicare tax increases, the insurance tax increases, and the unrelenting attack on agriculture programs spells serious economic harm. For farmers, the President's economic package is a disaster. Over 5 years agriculture is cut 24 percent in nominal terms and 40 percent, Mr. President, in real terms. Agricultural commodity program spending has already been reduced from $26 billion just back 4 years ago, in 1986, to only a little over $8 billion in 1990. For Nebraska, the total farm payments have dropped from that figure that I just cited of 4 years ago, which resulted in a payment to Nebraska farmers totaling $1.04 billion, to just $299 million in 1990. To ask even more from farmers when other areas of spending are given a pass is unconscionable.

Nebraska will also pay a heavy price in terms of gas taxes. Initial calculations indicate that a 12-cent-per-gallon increase in the gas tax would cost the average Nebraskan at least $105 a year.

When the three biggest chunks of the agreement are considered together for State impact, specifically agriculture, the gas tax increase and Medicare changes, Nebraska is hit to the extent of the third hardest, the third hardest, Mr. President, of any State in the Union per capita, ranking only behind our two rural neighbors to the north, North Dakota and South Dakota.

That is not fairness, Mr. President, for middle America.

Make no mistake about it. Nebraska seniors, farmers, and workers are willing to contribute to deficit reduction as long as it is fair and effective. This package is far from that. The budget summit agreement is perhaps most notable in that it asks virtually no savings from the domestic discretionary programs or international affairs. It also appears to give a blank check to the Department of Defense for the Desert Shield operation which essentially cancels even the most modest savings produced by the President's budget summit agreement.

I am further concerned that the President's proposal to cancel $7 billion of debt to Egypt and increase contributions to the Internatinal Monetary Fund are exempt from the restraints of the agreement. Another blank check seems to be written for the costs of the savings and loan bailout which is among one of the so-called held harmless items in the President's budget that was reached in the summit agreement.

The package also fails in terms of effectiveness. The ill-fated and failed Gramm-Rudman law, which I opposed from its very inception, .is extended again for 5 more years—5 more years—5 more years—with one change that measures progress in the first 3 years against the deficit reduction targets—get that, Mr. President, against the deficit reduction targets—rather than the bottom line deficit. Gramm-Rudman is a cat that has far, far more than 9 lives.

The effect, I predict, is to produce 3 years of only compliance with the agreement and no significant downward movement on the bottom line deficit, forcing a renegotiation that I earlier referred to in 1993, which, conveniently, is after—after, Mr. President—the next Presidential election.

The most outrageous provision of this agreement, however, is the 5-year extension of the debt ceiling in an unspecified amount. We can just go on borrowing and borrowing at will and not have to vote on it.

Once again, a political compromise is evident and necessary to avoid confronting ever-increasing Federal borrowings and to bypass a congressional pressure point of fiscal restraint. I emphasize, Mr. President, that this compromise simply lets an awful lot of institutions off the hook and smoothes everything over past the 1992 election.

Although the agreement mysteriously omits a total debt figure, it is safe to say that a vote for the budget summit agreement is a vote for at least a $4.5 to $5 trillion debt limit, $2 trillion more than we have right now and five times what it was in 1980.

To some, the options appear to be a classic case of a choice between two evils. Supporters of the plan plot the only choice between the budget summit agreement and the devastating chaos of a Gramm-Rudman sequester. Neither is infallable or industructible. Gramm-Rudman is a unwelcome monster created like Frankenstein by mankind.

Gramm-Rudman is not 10 stories high and has loose bolts and nuts in its head. The only thing the villagers have to fear, to paraphrase F.D.R., is fear itself manifested by the President and the summitteers.

Mr. President, I say to my colleagues, there is a better way. It may be messy, politically difficult and disruptive of the traditional campaign season, but given the magnitude of the crisis, and inequities of the budget summit package, it is the only appropriate course. The House and Senate should reassert control of the budget process and fulfill their constitutional roles to craft a budget, and implement

legislation which can be presented to the President for signature or veto.

Let us quit making formal Presidential-congressional deals that then are forced upon the rest of the elected officials as a take it or leave it proposition. There is something in the Constitution about separation of powers that seemingly is being blurred. We may be heading for a form of government not envisioned by the framers of the Constitution. What is next? When a problem arises will the President, a few congressional leaders, and the Chief Justice of the Supreme Court, the third separate branch of government located across the park—they could get together and make a deal, and then Congress and the other Justices be told to accept it or they will collapse the Republic? It is long past time that both the President and the Congress lift their sights from the next election to the next generation.

The path I propose would reject the budget summit agreement, which would allegedly save maybe $34 billion in 1991 and adopt a freeze budget built on the foundation of the budget endorsed by the Senate Budget Committee earlier this spring.

The package I recommend would freeze most domestic programs at last year's level, grant a full cost-of-living adjustment to retirees, cancel the congressional pay raise, freeze new Federal hiring, freeze total foreign aid programs and include the fair share modified tax amnesty proposal put forward by Senator CONRAD and endorsed by the Senate Budget Committee.

On the revenue and fees side of the equation, the package should include the same level endorsed by the Senate Budget Committee, viewed at that time as consistent with the President's 1988 no new taxes pledge. This combination of policies would produce total savings in excess of $54 billion and hard savings in excess of $43 billion in 1991.

The key advantage of the freeze approach which I have advocated for so long would be that it would focus on reducing spending in an essentially equal level of sacrifice from all programs. Beyond the freeze, there needs to be reductions in defense programs. The dramatic changes in Europe, the Soviet Union, and now even between North and South Korea pose significant opportunities for long-term defense savings, with or without the Desert Shield Operation. Look at the defense numbers proposed for spending in the summit package. In fiscal 1990 we spent $297 billion on defense. In the summit proposal, its $297 for 1991, $294 for 1992, and $292 for 1993. In addition, all costs of Desert Shield would be on top of those figures. Some savings.

Mr. President, the budget summit is not in the best interests of the Nation. Selected and selective gas taxes and Medicare cuts as key parts of a package will not produce the hoped for result of serious deficit reduction. As key parts, the former is regressive and the later pointed unfairly at one segment of our society. It is a lose/lose proposition which is bad for America. I say, let the whole Congress bear the pain of crafting a new budget deal, sending it to the President for his signature or veto.

The President claims there is no smoke-and-mirrors in this proposal. That is nonsense. With Federal borrowings going up to $5 trillion or more, can anyone believe interests rates can go down to 4.2 percent in 1995? Without that happening the numbers fall apart and the package is meaningless.

There are even more examples of smoke-and-mirrors in this agreement. Only part of the Social Security trust fund is taken off budget. That portion which represents interest earnings remains on budget and is still used to hide the true size of Federal borrowing. In addition, highway and aviation trust funds are still used to hide larger portions of the deficit. Another example of rosy scenarioism is in the budget agreement's assumption that oil prices will register between $21 and $24 per barrel. Today oil is trading in the $35 per barrel range.

In conclusion Mr. President, even if fully adopted, this package will not "put this budget crisis behind us" as the President suggests. Once the cost of Desert Shield is counted, the savings and loan and banking system bailouts counted and trust fund surpluses excluded, there is very little real progress on the deficit. The GAO report I referenced earlier indicates that at least another $500 billion over the next 6 to 7 years will be needed to produce any hope of a truly balanced budget by the end of the century.

Mr. President, the Congress can do better, and the Nation deserves better.

Mr. President, I ask unanimous consent that two excellent articles, one by Art Hovey of the Lincoln Star and one by Robert Pear of the New York Times be printed into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Lincoln (NE) Star, Oct. 3, 1990]

BUDGET AX FALLING ON FARM DOLLARS

(By Art Hovey)

Federal budget negotiators have set a course that can be expected to cut deeply into the hundreds of millions of dollars Nebraska's farmers get annually in price support payments, analysts of farm policy said Monday.

Nebraska used more than $2 billion in price supports in 1986–87 to dig its way out of the farm crisis. In the process, the average farmer reached a point where he was getting more than half his net farm income from the government.

A drought in other major farm states and resulting high prices brought the annual
total down considerably in 1988, but the s
called safety net could become much smal
er now at a time when production is up an
prices for Nebraska corn and wheat a
weakening.

Roy Frederick, a farm economist at th
University of Nebraska-Lincoln, said th
total cost for the five-year run of the 198
farm bill could top $80 billion. The spendin
forecast for 1991–95 coming from the budg
summit is for $41 billion.

"We're going to have significant adjus
ments to make over the next few years
said Frederick, former state director of agr
culture in the Orr administration. "There
not much question about that. And the a
justments could well go beyond the farmer
pocketbook."

Also placed at risk are land values, sta
tax receipts and the economies of rural co
munities.

"I want to be cautious because I do
have enough details," Frederick said. "Wh
I have at this point does not cheer me
great deal."

John Neuberger, state director of the A
ricultural Stabilization and Conservati
Service, said a weekend summit agreeme
amounted to only "a week's reprieve"
many ASCS funding uncertainties.

Because Congress has yet to act, he h
been advised to hold back this week
making an estimated $70 million in pa
ments under the Conservation Reserve P
gram. ASCS issues both CRP and price su
port payments.

The CRP payments to farmers for wit
drawing highly erodible land from prod
tion normally go out the first week in Oc
ber.

Sen. Jim Exon, D-Neb., facing a reelecti
challenge in five weeks, is among those gr
ting their teeth this week. He noted th
the projected $8 billion in farm bill spe
ing in 1991 was down from $26 billion fo
years ago. "If you put that in perspect
with all the other spending programs, a
see how unfair it is, I think it sticks out li
a sore thumb," he said.

Fellow-Democratic Sen. Bob Kerrey sa
he needed to be convinced that there we
more pluses than minuses in the budg
agreement. "No one should underestima
the potential negative impact that agr
ment will have on the entire state of N
braska."

Bryce Neidig of Madison, state preside
of the Nebraska Farm Bureau Federati
and John Hansen of Lincoln, president
the Nebraska Farmers Union, were not d
pensing upbeat messages Monday.

"Agriculture, no matter how you cut it,
going to bear a disproportionate share
the budget balance," Neidig said.

Hansen said the U.S. Department of Ag
culture had been ignoring ways to h
down farm program costs during t
budget-balancing debate. "They're bound
beat on us," he said.

[From the New York Times, Oct. 2, 1990

BEARING THE BURDEN

Effect of all tax changes in the n
budget agreement on individuals and c
ples in each income group.

	Perc
Less than $10,000	−
$10,000 to $20,000	−
$20,000 to $30,000	
$30,000 to $40,000	
$40,000 to $50,000	
$50,000 to $75,000	
$75,000 to $100,000	

	Percent
$100,000 to $200,000	1.5
$200,000 and over	.3
All taxpayers	1.6

[From the New York Times, Oct. 3, 1990]

SAVINGS SEEN AS LESS THAN PREDICTED

(By Robert Pear)

WASHINGTON.—Experts on the Federal budget said today that the deficit-reduction package announced Sunday would not save as much money as President Bush predicted, and they raised questions about the arithmetic used by the budget negotiators.

Mr. Bush said the package would save $500 million over five years, including $40 billion this year.

Although budget estimates beyond one or two years are notoriously unreliable, a projected decline in spending outlined in the budget agreement appears to be particularly questionable.

SPENDING DECLINE IS SEEN

Under the budget agreement, Federal spending would increase in the fiscal year 1991, which began this week. But the agreement envisions an $11 billion decline in total Federal spending, from $1,392 billion in the fiscal year 1992 to $1,381 billion in 1993. It then calls for a further decline of $38 billion, to $1,343 billion in 1994.

The projected decline in spending would mark a striking change. Total Federal spending has not declined in any year since 1965.

Lawrence A. Kudlow, chief economist at Bear, Stearns & Company, who served as chief economist at the Office of Management and Budget from 1981 to 1983, said it was highly unrealistic to expect such a drop. "To suggest that the level of total Federal spending will fall by $38 billion indicates that there is some hocus-pocus in these numbers," Mr. Kudlow said. "I am becoming very suspicious that there is much less here than meets the eye."

TOO MODEST FOR GAO CHIEF

Comptroller General Charles A. Bowsher, the head of the General Accounting Office, an investigative arm of Congress, said the deficit-reduction package, even if it achieved savings of $500 billion over five years, was "considerably more modest than we believe necessary" to maintain the health of the American economy and the United States' competitive position in the world.

The savings represent reductions from the level of Government spending needed to continue Federal operations at current levels, with an allowance for inflation but with no change in policy.

The Congressional Budget Office says the deficit for the fiscal year just ended will probably be the highest in American history, more than $220 billion, despite five years of supposed austerity and fiscal discipline under the Gramm-Rudman-Hollings law. The original law, signed by President Ronald Reagan in December 1985, said the Federal budget was supposed to be balanced in the fiscal year that began this week.

"OPTIMISTIC ASSUMPTIONS"

In 1987, Congress amended the law, deferring the goal of a balanced budget till the fiscal year that starts Oct. 1, 1992.

Stanley E. Collender, director of Federal budget policy at Price Waterhouse, and other experts said the budget agreement was unlikely to reduce the deficit as much as advertised for several reasons. The economic assumptions, while realistic for the years from 1991 through 1993, are overly optimistic for the next two years, they said

"Most of the savings for the last two years are the result of optimistic economic assumptions," Mr. Collender said. "In fact, we don't have the slightest idea what will happen in 1994 and 1995."

The deficit is sensitive to assumptions about the economy. If the economy grows less than projected, Federal tax receipts are normally less than projected. Likewise, if unemployment is higher than expected, the Government typically spends more for unemployment benefits, food stamps and other types of assistance. A recession would throw off many of the calculations in the budget summit agreement.

The fragility of economic assumptions is dramatically illustrated by changes in President Bush's estimate of the Federal budget deficit for the fiscal year 1991, which began Monday. On July 16, Mr. Bush told Congress that the 1991 deficit would total $231.4 billion under current law. But on Sunday he and Congressional leaders disclosed that they were now projecting a 1991 deficit of $293.7 billion if no changes were made in current law.

Richard G. Darman, director of the Office of Management and Budget, listed three reasons for the $62.3 billion increase in his deficit projection, which startled many economists outside the Government. Deterioration of the economy, which causes a reduction in Federal revenue, increased his projection of the deficit by $30.4 billion. "Technical changes," mainly unforeseen costs of the savings and loan debacle, increased the deficit by $31.2 billion, while minor changes in laws and regulations added $700 million.

Much of the cost of deploying American troops in the Middle East was omitted from the calculations in the budget summit agreement, also distorting the savings to be achieved. While negotiators said they had achieved $9.8 billion in savings in military programs for the current fiscal year, the military effort in the Middle East will cost $5.7 billion

As a result, the "total deficit reduction" to be achieved this year is not $40.1 billion, as listed in the budget agreement, but $34.4 billion.

Mr. EXON. Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MONEY LAUNDERING ENFORCEMENT AMENDMENTS

Mr. KERRY. Mr. President, I thank my distinguished colleague from Minnesota, and I will not be very long. I know he wants to speak for a few moments.

What I would like to do is simply bring colleagues up to date as to where we are proceeding here, and it is my hope that we are going to be able to proceed forward with the money laundering bill which we were on yesterday.

Senator GARN will be coming over momentarily and we will be, I hope, able to work out the issues on both sides so that we could dispose of this piece of legislation.

I might just say that yesterday I discussed the importance of the money laundering amendments in the context of the drug war. I would like to add just a few quick comments to that, because each of those people within the administration who are most involved in the drug war would very much like to see this kind of action taken by the Senate.

In a speech before the American Bar Association not very long ago, Attorney General Thornburgh said:

> The laundering of these billions is far more crucial to their operations—and much more difficult, and high risk—than the actual trafficking in drugs. If the DEA seizes cocaine with a street value of $19 million, it does not cost the Medellin cartel $19 million to replace that cocaine. Far less, somewhere between $2 and $4 million at Colombian prices. But when $19 million in cash is confiscated from a New York drug warehouse, there is no discount. That loss is $19 million.

The loss is $19 million, and those amounts of money make their way through our banking system.

The Attorney General said:

> That is also why money laundering has now been declared an international crime, under the United Nations Antidrug Convention signed in Vienna last December.

Among the signatory nations is our country. And we are mutually pledged to assist each other, other nations who are signatories, in enforcing the laws against money laundering.

Obviously, it is critical for us to take the action that enables us to do that. It is impossible for us to keep good faith with these other countries if we are saying to them: Make money laundering a crime; they sign a convention partly as a result of our pushing them, and then we sit here unwilling to put the measures in place that help us to do what we have asked them to do.

In addition, the drug czar, Mr. Bennett, has suggested that there is nothing more important than moving on the drug money laundering issue. In his strategy on drugs and narcotics, which he was required to issue, he specifically suggested that we must take additional steps in order to enforce money laundering.

So, Mr. President, what is really at stake here is a question of whether or not the Senate is going to move to a very straightforward, noncontroversial piece of legislation in an effort to try to reinforce what we have asked other countries to do, and in an effort to make real our own words about money laundering and the drug war. I hope that without further delay it will be possible for us to do that.

I will have more to say on this in a short time, but I do want to honor my agreement with the Senator from Minnesota, who I know would like to speak. I think Senator GARN is on his way over here now.

So I will suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOSCHWITZ. Mr. President, I also ask unanimous consent that I be allowed to proceed as in morning business for a period up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET AGREEMENT

Mr. BOSCHWITZ. Mr. President, I rise today to ask my Minnesotans to call and talk to me about the budget agreement that has been reached here in the Congress. Hundreds have already called me. I really have not gotten a reading about it today, but there was a fairly even split with more people really calling opposing than for, though, as the day wore on yesterday, more people called who favored the budget agreement.

When folks call me, I hope they have a good understanding of the budget agreement. I know many who are elderly and are on Medicare have called, feeling that the end was near. Many have called and felt that some great new burden was being cast upon them. So let me describe how this agreement affects the elderly directly. Indirectly, of course, it affects them in a number of ways. If they drive a car, it affects them at the gas station, and so forth.

But the budget agreement is directed in part at the Medicare Program. The Medicare Program is the fastest growing program of any program in the Federal Government, not by a little but by a great deal. They say that 10 or 12 years from now it will be the largest program in the Federal Government, larger than Social Security, larger than defense, and it will take a larger and larger part of the gross national product, as it has over the last 20 years or so.

What we have done to Medicare is to increase the part B premium. There are two parts to Medicare, as most people know, particularly the elderly: Part A, which deals with hospitals, and part B, which deals basically with doctors and office visits and emergency room visits.

Part A is untouched. It is unchanged. It is the largest part of Medicare, and that we have not impacted. Part A is funded by the HI—insurance; by the 1.45 percent that is deducted from the payrolll of those who work in our country.

Part B, that deals with doctors, was intended originally to be paid 50 percent by the taxpayers and 50 percent by the elderly through a monthly premium. Over the years that proportion changed so that now 75 percent is paid by the taxpayer and only 25 percent is paid by the elderly on Medicare through a monthly premium.

We are changing that proportion. We are changing it from 75-25 to 70-30. As a result, the premium under part B for the elderly will rise. In the first year I believe the amount is $3.60. That is the principal thing we are doing to Medicare part B that affects the elderly.

Yet there is another half, another principal thing I really should say, and that is we are increasing the deductible. The elderly who now go to the doctor or use part B of Medicare pay for the first $75 themselves. That $75 is being raised to $100, and then the year after to $125, and in the third year of this budget plan it is being raised to $150 for the entire year.

Is that fair or is it unfair? That is a rather rapid rise. It has to be put in context with the fact that for 15 years or so that figure has not risen at all. Even though during that time medical costs have tripled, the deductible has not risen during that course of time. So it is not unfair, I do not believe, that the deductible will now rise.

That is the principal way that the elderly are affected under this budget agreement. Medicare part B, and part A as well, is somewhat affected by the fact that the providers, the doctors, the hospitals, are going to be limited. But that really is not coming out of the pockets of the elderly and it should not affect their care. So, totally, the elderly are playing an important role in making this budget fix work, but nevertheless I think it is not an unreasonable role.

If farmers from Minnesota call me, they have more cause to call because, of any group of programs, perhaps the agricultural programs are being hit harder than any other single group. The farm programs, on the other hand, have risen to great heights in cost in recent years, and I say to my farmers that we had our advocates at the table. We on the budget conference, on the conference of the leadership of the House and the Senate, had our advocates. TOM FOLEY, the Speaker of the House, has been a member of the Agriculture Committee, or at least active in agriculture, for the entirety of his service there. So has BOB DOLE. Both of them. BOB DOLE has been on the Agriculture Committee here in the Senate for, I think, 22 years, his entire term, and in the House before that. And no one I know has a stronger understanding of agriculture, a more intuitive understanding, than BOB DOLE. His father ran a grain elevator, and BOB DOLE has, all of his life, represented farmers and has done so well. So we had our advocates at the table and they have been successful time and time again in advocating the needs of agriculture.

This time they were not as successful. Hopefully, next time they will be more successful. And we think that we will be able to arrange those programs so they still will give a safety net for the farmers of the United States.

Having said those things, Mr. President, let me also address the whole budget package. I believe I am going to vote for it. I am inclined to vote for it. I think the time to govern has come. I think we have gone this path so many times and have failed that we simply have to go for it, even if it is 4½ weeks before an election and that is not a particularly good time to vote for some of the elements of this budget package. Yet, this is the soundest budget package in many respects of any that I have worked on since I have been in the Senate in the last 12 years. I say that principally because of the enforcement provisions that are found in this package. The enforcement provisions are severalfold.

First, in reconciliation, while the Budget Committee can only reconcile for a single year, under this package there is reconciliation that will take place for 5 years. Not all of my constituents, nor all of my Minnesotans understand reconciliation, but reconciliation is essential directions from the Budget Committee to the other committees of the Congress saying you cannot spend more than this amount. So we are supposed to lock them into a figure.

Of course, there are the famous smoke and mirrors. Since reconciliation in the Budget Committee only applies to a single year, it is easy to move expenditures from 1 year to another, and avoid reconciliation. Not so in this budget agreement where the reconciliation applies for the entirety of the 5-year term.

Also, there are spending caps on the appropriated accounts, and the appropriated accounts are about 40 percent of the budget, if we include defense. The caps in this case also are enforceable. Where caps in the past have not been enforceable, they are enforceable here. Indeed, if the spending goes beyond the caps, these are automatic reductions that are applied to the entire function. So this is a strong, enforceable agreement with respect to the appropriated accounts of Government.

There is also a strong agreement with respect to the entitlements. They constitute just a little bit less than 50 percent of the whole budget. Entitlements, of course, are that to which you are entitled. If you are out of work, you are entitled to unemployment insurance. If you are below a certain income level, you are entitled to various benefits of the Federal Government. If you are above a certain age, you are entitled to Social Security or Medicare. If you find yourself in one condition or another, if you are handicapped, there are some entitlements. They constitute about 47 percent of the budget, and they are on automatic pilot; that is, entitlements. If you are entitled, no matter what the cost is to the Federal Government, you are entitled. No matter what the deficit position of the Federal Government is, you are entitled. There are no constraints to entitlements, and you do not need an annual appropriation.

In this bill, at least there is a constraint that new entitlements cannot be brought forward. If a new entitlement is brought forward, it has to be on a pay-as-you-go basis. That is, if you want to bring forward a new entitlement, you have to find some revenue somewhere to pay for it. Or you have to cancel some other entitlements so that there is a wash economically. That is kind of unusual around here.

New entitlements, therefore, cannot be brought forward, entitlements that constitute nearly half the budget. New entitlement programs cannot be brought forward unless it is done on a pay-as-you-go basis. That is, we can do away with other entitlements, or we find new revenues, we impose a new tax in order to raise the money to pay for the new entitlement.

It is very easy in this body to get 51 votes to pass a new entitlement. It is very hard in this body to get 51 votes to cancel another entitlement, and it is very difficult in this body to also raise taxes. So, therefore, this is a pretty good safeguard against expansion of entitlement programs and spending in that area.

In addition, there are some safeguards in this budget package that apply to a dire emergency supplemental. I was somewhat amused the first time I heard that term. Supplemental was a supplemental appropriation that was requested and it was called a dire emergency supplemental. I wondered what would happen if there was a real emergency, what they would call it in that case. There were also safeguards with respect to that.

Finally, Mr. President, let me just outline the whole budget package, if I may. It is $500 billion; $170 billion, somewhat more than a third, comes from defense and there is not much argument here that that is OK. That is the amount set by people on both sides of the aisle. That amount is going to be saved. So we are a third of the way.

Furthermore, in the event the package goes through, we are going to save $65 billion in interest payments over the years. So now we have $170 billion and $65 billion that nobody will argue with. We are almost halfway toward the $500 billion mark.

Now things get a little more difficult. There are about $140 billion of new taxes, some maintain even somewhat more than that. Those new taxes are onerous. People do not like to pay them. They are spread over 5 years. Nevertheless, I believe it must be done. Whether they are precisely the right taxes, whether it is precisely what I would have done, I suppose not, but we are a group of 535 souls, and certainly have about 535 different viewpoints.

So there is about $140 billion in taxes, and then there is about $120 billion in programmatic reductions. Over the next 5 years, there will be approximately $5 trillion spent on programs from which $120 billion is going to be taken away; somewhat less than 3 percent and, indeed, closer to 2 than to 3. That has to be done. It has to be achievable. If you cannot do that much, we will never get the budget to balance.

And so, Mr. President, I end as I started. I hope that my constituency will call me. I hope that they will have an understanding of what we are trying to do, and I believe, as I said, that I will vote for this package. The time has come to govern. The time has come to take the steps that are necessary to bring this budget into balance. Of all the economic issues that face this body, it is the most important.

And so, Mr. President, I call upon my friends from Minnesota to advise me and to counsel me, and I hope that they will have a good understanding and will see the necessity of this budget package. I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan [Mr. LEVIN] is recognized.

Mr. LEVIN. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan [Mr. LEVIN] is recognized.

THE BUDGET PACKAGE

Mr. LEVIN. I thank the Chair. Mr. President, the Senate may shortly be considering the budget package negotiated by the President and the congressional leaders. The leaders have worked hard on this package, but I cannot support it.

The first problem with this budget package is who is asked to do the heavy fighting against the deficit and who is allowed to take things easy?

This package asks middle-income taxpayers to do almost twice as much of the fighting against the deficit as it asks the wealthiest taxpayers, those making over $200,000 a year.

For example, this budget package would increase taxes on those making between $20,000 and $30,000 a year by 3.3 percent, at the same time that it increases the taxes on those making over $200,000 by 1.7 percent; that is twice as heavy a dose for middle-income families.

To add insult to injury, or more precise, to add injury to injury, these tax increases come on top of a trend in the 1980's in which the wealthiest among us got way ahead and the rest of the us had to do their darndest just to stay even. Look at the family which was making $22,000 in 1980. After taking into account taxes and inflation and after 10 years of hard work, that family found that it was making about the same in 1990 as it was in 1980.

Now compare that with the family that was making $200,000 in 1980 and 10 years later found itself with its income about doubled after taxes and inflation. That was the tax unfairness of the 1980's. The wealthiest 1 percent doubled their real income, while middle-income people got nowhere.

That is more than a tale of two cities. It is a tale of toil by the middle class with little return and a tale of many happy returns for those on top. When it comes to protecting our families, our towns and our country from the dangers of the budget deficit, it is fundamental fairness to ask those who benefited the most and those who are the most financially fit to carry the heaviest burden.

This budget package fails that test of fundamental fairness. Now can we possibly explain to a public that is already cynical about what we do here in Washington that any of this makes sense? We cannot because it does not make sense.

It makes no sense to those who drive automobiles anywhere or those who produce automobiles in my State of Michigan to take the Saddam Hussein gas hike and then be asked to bear a further big increase in gas taxes, courtesy of Uncle Sam.

And it makes no sense for working men and women in Michigan and elsewhere to face not only the prospect of unemployment in a recession, but also a brand new cut in unemployment benefits.

Mr. President, when we look at this package in the detail that I believe a strong appeal from the President of the United States and the congressional leadership demand, when we look at it line by line and dollar by dollar, this proposal makes no sense for middle-income Americans, for senior citizens and, ultimately, it makes no sense for our kids.

But this budget package is more than unfair. It is unwise. The victims of that shortsightedness will include many of those who are asked to carry an unfair load of the burden by it. Included in this package is a provision that will effectively take in a level of defense spending that may turn out to be more than we need to confront the reduced threat abroad. In the past year, the Berlin Wall has fallen and the Warsaw Pact has virtually collapsed but the proposed level of defense spending in this package is holding about steady. We should not be effectively prohibited for 3 years from transferring dollars from defense to domestic needs or vice versa.

If our goal is to limit spending—and it should be—then let us focus on that goal in this agreement. The near ironclad subcategories for spending are not necessary to achieve that goal of spending restraint and are in fact counterproductive to our ability to meet the challenges of today which are likely to become more pressing in the few years ahead unless we have the resources to deal with them.

But the fact that this budget package is unacceptable to me does not mean that we should say no to every budget package. Rather, I hope that if this budget package is voted down, then it will quickly become clear that the reason for its defeat is because it does not pass the primary test of fundamental fairness. I hope that negotiations would resume in that event, with the goal of achieving a package which is fairer, so that we can put in place a budget that will allow us to avoid the across-the-board budget cuts which otherwise will take place.

Mr. President, I yield the floor. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I ask unanimous consent that I may speak out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME TO DEFEND DEMOCRACY IN THE PHILIPPINES

Mr. CRANSTON. Mr. President, there is very disturbing news of unrest in the Philippines.

I am concerned that the long-threatened next coup attempt is now beginning. Military rebels in the southern island of Mindanao appear to have attacked Government positions in three cities. The situation is confused in that very isolated area. But given the number of bombings and verbal threats by military rebels, these attacks in the south may be a prelude to a larger action against the Philippine Government.

In the past President Aquino's government has succeeded in defeating the rebels. I hope that they will be able to do so again. But one has to be honest about the troubled Philippine situation. Opposition to the Government by elements of the military is strong and economic deterioration partly brought on by the rise in world oil prices have undermined the Government's support.

Now is the time for the United States to demonstrate anew its support for Philippine democracy.

The Senate will have an opportunity to do so next week when funding for the multilateral aid initiative [MAI] in the Philippines will be considered. I hope the Congress will fully fund the program according to the administration's request. At this very moment when democracy is once again being challenged by totalitarian elements we must not be pusillanimous.

However, we must also make clear to those groups trying to destabilize Aquino's government that the cost of their success will be dear, very dear indeed. I want to serve notice that as chairman of the relevant Subcommittee on Pacific Affairs of the Foreign Relations Committee that according to American law, all economic and military assistance will be terminated immediately if the Government is overthrown by force and violence. This would deprive the Philippines of about $500 million, half a billion dollars, at once.

The actual, whole cost to the Philippines of reversing democracy is immeasurable.

This might not matter to the Philippine military rebels but it should to their civilian supporters and to the rest of the population who must now decide their fate.

If Cory Aquino is overthrown, I am willing to predict that the world will turn its back on the Philippines in disgust. In 20 years the Philippines will have become an economic backwater—similar to that of Burma today. The Philippines will be set adrift in the Pacific having missed its one opportunity to join the emerging world of democratic, newly industrializing states.

I do not think Filipinos want that future either for themselves or their children. America certainly does not want that future for them. Over the years Americans have had no greater or more dedicated friends than Filipinos. They have stood by us in our time of need during World War II. We have stood by them in their efforts to reestablish democracy.

Once the United States supported dictatorship in the Philippines when the late President Ferdinand Marcos declared martial law in 1972. That was a mistake. We have learned from that mistake. We will not be idle if others try to establish a dictatorship once again.

Mr. President, I hope my colleagues will follow closely the situation in the Philippines over the next few days. What we are seeing is a dramatic test of democracy's strength. At the same time we are being tested in our resolve to support democracy. I pray that we will all be equal in these tasks.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

The Senator from Arizona is recognized.

THE BUDGET

Mr. DeCONCINI. Mr. President, I rise today to announce a difficult decision. We are faced with two awful possibilities: A budget summit agreement that is not at all acceptable, or a nightmare called a sequester. There are other options. We could pass a short-term continuing resolution, go back to negotations and try to do a better job, and produce an agreement which is more equitable and fair.

No one likes this budget, and no one wants the budget, because it simply cannot be justified in the eyes of the majority of the American people. I have not really heard anyone speak up for the budget. Maybe I have missed a speech or two. Some people have said they are going to vote for it, but I have not heard anyone say this is really a good thing for the American people.

If we are to be the people's voice, then it behooves us to go back to the bargaining table, admit that we failed, or come to the floor with a budget and do it the old-fashioned way, stay out here until we pass something, go to the House, conference it, send it to the President. If he cannot stand it, let him veto it, and we continue to work. Obviously, what we have done has not worked. The process, in my judgment, has failed.

The bargainers have worked hard, and they have spoken loud and clear. Despite the President's plea, the leadership's plea, the American public does not support this package.

I believe we can do better. The American public expects us to do a better job. The President refuses to give us additional time for a continuing resolution. If he vetoes such a continuing resolution, causes a sequester or a great disaster, some say let him take the responsibility. We are taking the responsibility by going forward and trying to do a better job than what we have done so far.

I am not here to criticize. I am here to lay all the accolades I can on those who were in the summit. They worked endless hours; they really sacrificed and did what they could. They represented their cause as best they could to try to come up with something. In the process, however, I fear they have fashioned an agreement that is unacceptable to the majority of the Members of Congress. Their efforts deserve our praises, and I give it to them, but the product does not deserve our vote.

I was startled to hear how many Republicans oppose this budget, particularly in the House of Representatives, at least as reported in the press.

A number of Republicans call this a Democratic budget. This is not a Democratic budget in the tradition of Jefferson and Roosevelt. It is more a budget in the tradition of Harding and Hoover, if anything. No budget devised by Democrats would so mercilessly attack the elderly. No Democratic budget would ever institute new regressive taxes.

A basic tenet of U.S. tax policy has been progressivity. Throughout the Reagan years, this principle was repeatedly violated. The basic belief that those who have more should pay more is not unique and it is not new; it is something that has been around since the 16th amendment of the Constitution was passed. Yet, the bulk of the revenues raised in this budget summit agreement are regressive.

The alcohol tax is regressive, and the tobacco tax is regressive. Most especially, the gas tax is regressive. The tobacco tax and alcohol tax may be justified in being regressive because of the damage tobacco and alcohol cause people. Nevertheless, it is a regressive tax. The alcohol and tobacco taxes are perhaps acceptable to many; they are to me. I would vote for those taxes because of the disease and damage they cause. Even the gas tax, though regressive, would be acceptable to this Senator. Gas prices are disproportionately low in this country in comparison to other industrial nations. An increase will encourage conservation and improve our air quality.

While each of these taxes may promote sound policy objectives, the problems remain that the package, in its entirety, is truly regressive in nature and cannot pass a fairness test under anybody's guidelines. If we are going to have to raise taxes to solve our budget deficit, as the President has agreed we must, they must be fair and equitably distributed. The budget agreement meets neither of those tests.

According to preliminary information, taxes for middle-income Americans under this agreement will rise by a greater percentage than for the wealthy. Taxes for Americans with adjusted gross income between $20,000 and $30,000 would increase by approximately 3.3 percent. Those with incomes between $30,000 and $50,000 will see tax increases of about 2.9 percent, almost 3 percent. But the very wealthy, those making over $200,000 a year, would see increases of only 1.7 percent.

This is crazy. Are we trying to eliminate the middle class in the United States? Are we trying to create a country of "haves" and "have nots?" I am not advocating soaking the rich. I am only advocating fairness. Those who have been blessed with good fortune and prosperity, as I have, must at the very least fairly share in the cost of preserving this great democracy.

The Reagan-Bush administration has been kind to the very wealthy over the past decade. The wealthiest 1 percent of our citizens have seen their income rise nearly 70 percent, from $300,000 a year to $500,000 a year, while the real income of the poorest members of our society has actually declined.

The income of the great middle class of America, which has made this country what it is, has risen a mere and a meager 3 percent over that period of time.

These statistics made it abundantly clear that the fairest option for raising revenues would be to raise the top tax rate on the very wealthy. No, we did not get that. The White House refused it. And I am very sorry that that happened.

Would it be too much to ask those who are making over $175,000 or $200,000 to raise their rate to 35 percent? I say, no, it would not.

That is not what we have here. Those of the wealthiest still pay only 28 percent above that figure of $200,000. That is not fair.

I know the Democratic negotiators offered plan after plan to make the wealthiest share a large share of the deficit reduction burden. Those efforts were repeatedly rejected by the administration. So we are now asked to vote up or down on a package that no one likes and no one thinks is fair. I cannot in good conscience, Mr. President, support this endeavor.

There are other elements of this package that also cause me a great deal of heartburn. This Senator has never been accused of being soft on defense. I believe in a strong defense and have consistently supported levels needed to maintain our society. However, this budget agreement locks in specific levels of defense spending for the next 3 years regardless of world realities. The whole world has been totally transformed in the past 10 months. How can we possibly know what our defense will be 3 years hence? There must have been something in the water that was being drunk out there at Andrews Air Force Base because this budget makes certain that there will be no peace dividend. Instead, the Defense Department makes out like a bandit.

We are facing aggression in the Middle East, and we have brave young men and women in the desert safeguarding our national interests in Saudi Arabia. But our allies in this struggle are beginning to share the costs so I think we can, and should, make deeper cuts in certain parts of our defense budget. More than 40 percent of our defense budget is spent in the defense of Europe. The reunification of Germany, the blossoming of democracy in Eastern Europe, and the remarkable thaw in our relations with the Soviet Union, force us to ask why so many United States tax dollars are going to the defense of Europe instead of into fighting some battles here at home. The people of this country have borne more than their fair share of the defense burden of Europe over the past decade. Now that the cold war is thawing out and may be over its America's turn to have some of those dollars invested here.

Under this budget summit agreement, however, we would be forced to maintain high levels of defense spending, higher than many experts feel is necessary or supportable, regardless of world events that occur over the next 3 years. If 2 years from now we wanted to transfer a measly $10 million from the defense budget to a program for drug addicted mothers and their babies, we could not do it.

Mr. President, if this comes down to making a choice between B-2 bombers or healthy babies, I will choose healthy babies any time.

The Medicare provisions of the summit agreement are even more regressive than the tax proposals and impose a particularly onerous burden upon the most vulnerable citizens of our society. Approximately half of all the savings achieved in this agreement and almost one-eighth of the entire package are financed through Medicare cuts. How can anyone justify this element of the package is beyond me. It is unfair; it singles out the elderly in our deficit reduction effort. Under the proposal, Medicare beneficiaries will have their out-of-pocket expenses increased by about $22 billion over the next 5 years by requiring them to pay higher premiums, by doubling their deductibles and by charging them a new 20-percent copayment for critical clinical lab services. These additional costs will hit the low- and middle-income elderly Americans hardest. Over half, 54.8 percent, of the increased costs will be paid by beneficiaries with incomes under $20,000. The agreement imposes the same costs on all beneficiaries regardless of ability to pay.

I ask this body, is that fair? And I answer the question. It is not fair.

The agreement imposes the same costs on all beneficiaries regardless of their ability to pay. Is that what we are about to do here? I hope the votes will not sustain it.

This flies in the face of the concept of fairness and our commitment that no one segment of the population should take a disproportionate share in cuts in Federal programs.

Yet we are talking about forcing America's poorest adult group—older Americans—to make the biggest personal sacrifice. Approximately 66.5 percent of seniors would lose income equivalent to at least one-half of their Social Security cost-of-living increase. Most seniors live on fixed incomes. They must struggle to meet their most basic medical needs in the face of spiraling health care costs. Many are already foregoing necessary medical treatment. Others cannot afford prescribed medications. This budget proposal will only exacerbate the problem. Do we want to make health care for our elderly a privilege rather than a right? That is exactly the direction in which we are heading with the summit proposal that may be voted on by the House today or tomorrow. It places an unacceptable burden on our neediest seniors, and I cannot in good conscience support that.

Finally, Mr. President, everybody keeps saying that this summit agreement is great because there are no smoke and no mirrors; I believe the President even used those terms. Tuesday night, the President in his speech said: There are "no smoke; no mirrors; no magic act." Those are his quotes. Well, either the President has not read the economic assumptions listed on page 44 of OMB's summit agreement document or we have very different understandings of those words. They are quite clear, I think.

I was surprised, as no doubt many American people would be surprised, to discover that interest rates on 3-month Treasury certificate bills in 1995 will be 4.2 percent. Who are we kidding and who would really honestly suggest that that might occur 4 years from this time? When was the last time that interest rates were that low? I cannot remember. Not since I have been here, nowhere near, and that is 14 years.

Last week, domestic oil prices nearly reached $40 a barrel; yet the budget summit agreement anticipates oil prices at $21 a barrel for this year and $24 a barrel for next year. Is that realistic? Of course it is not realistic. Unless Saddam Hussein gives up tomorrow, pulls out of Kuwait and turns over all his oil wells to pay for all the damage and gives the oil away, there is no way the oil price for this year is going to be $21 a barrel on the average. It is just not going to happen. This year we will be lucky if the GNP creeps along at 0.7 percent, 0.7 percent, not even 1 full percent. Yet Mr. Darman of OMB anticipates a 1.3-percent GNP for next year and 4.1 percent in 1993. I am kind of getting the feeling that this country is headed in the other direction economically. We may be or are already in a recession. And yet next year and the year after that in 1993 we are going to have 4.1 GNP growth? Is that not fantastic? I mean, I can really be uplifted by that. The only trouble is it is not true. We are not all experts like Mr. Darman and his people at OMB, but even amateurs can see through this kind of nonsense.

In the end, where does the budget summit agreement leave us at the end of 5 years? Even if Mr. Darman's rosy economic forecasts should be accurate, and there is no way this Senator can swallow that nonsense, at the end of 5 years we will be worse off financially than we are today, much worse. The deficit will have increased by $1.2 trillion between now and 1995 even if we pass. Even with this $500 billion package we will be much worse off.

Even with the agreement that is an additional 4,500 dollars' worth of debt for every American man, woman, and child on top of the more than $3 trillion of debt we already have accumulated.

Mr. President, I would like to be able to vote with the President and the leaders of my party, but my conscience will not let me do so.

The debate has been framed as a choice between this budget summit agrement or the unthinkable—a sequester. But there are other choices. Let me mention one choice, too, that was mentioned recently.

President Bush when he ran for office after serving as Vice President under President Reagan made a commitment, he made a promise that, by gosh, we are going to have a balanced budget by 1992 and we are going to meet the Gramm-Rudman targets; we are not going to raise taxes.

Well, I am prepared to support the President's promise if we have to because it is his doing that we are in this position that we are in today. And in lieu of that, I propose that we pass a short-term continuing resolution and go back and try to negotiate if we have to. But I prefer it to come to the floor, to bring the budget here and let people put their stamp on it, let them offer their amendments, pass whatever we can, and send it to the President in a reconciliation bill. Let him veto it and tell the American public that we are going to shut down the Government.

I do not think it has to happen. And if it does, the responsibility lies with the White House.

MONEY LAUNDERING ENFORCEMENT AMENDMENTS

The Senate proceeded to consider the motion to proceed.

Mr. KERRY. Mr. President, what is the regular order?

The PRESIDING OFFICER. The pending question is the motion to proceed to S. 3037, the Money Laundering Enforcement Amendments of 1991.

Mr. KERRY. I know of nobody on our side who wishes to speak at this point, and we are prepared to go to a vote.

The PRESIDING OFFICER. Is there further debate?

Mr. GARN. Mr. President, this vote would be on the motion to proceed to the bill?

The PRESIDING OFFICER. That is correct.

Is there further debate?

Mr. GARN. Mr. President, I have been requested to wait for one moment to check with a Member, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, the money laundering bill, the present legislation before us, is legislation which, as I think our colleagues know, will contain several important titles: the money laundering and enforcement amendments of 1990, titles I and II which also includes amendments to the Expedited Fund Availability Act and the Home Equity Loan Consumer Protection Act, the Counterfeit Deterrence Act, title IV, and title V, the Coin Redesign Act.

The money laundering provisions contained in these titles themselves address some very real and quite clear gaps in money laundering deterrence and enforcement schemes. And the legislation authorizes penalties for convicted institutions and for bank personnel in order to enhance the deterrence and enforcement, and exchanges necessary to improve cooperation between Federal and State authorities, improved oversight enforcement of money laundering compliance programs of nonbank financial institutions, and addresses wire and other fund transfers transactions, that are currently not monitored for detection for money laundering.

Those two titles represent really the heart of the money laundering legislation.

In taking action, as we hope to do here today, we hope to significantly strengthen our ability to detect at any point, those who would seek to subvert our current law that is aimed at prohibiting the kinds of illegal activities that shuttle massive amounts of money potentially without regard to the source of that money in an effort to evade the detection of drug-related activities, of gambling and other illegal types of activities that might otherwise be detected.

The third title of this bill, as I mentioned, reforms the disclosure in advertising savings accounts to enable consumers to compare different savings and investment products so that they can make better-informed decisions about investing their money. The legislation also corrects technical problems which have arisen with the implementation of the expedited funds availability tax, and I will have more to say about that in a moment.

Title III also amends the marginal disclosure requirement of the Home Equity Loan Consumer Protection Act, to ensure that such disclosure is made.

Title IV updates several sections of title 18 of the United States Code regarding counterfeiting of Federal Reserve notes and obligations to expand the definition of instruments of counterfeiting to include a variety of new technologies.

The legislation also broadens the term "counterfeit deterrence" to take into account emerging technologies that the Treasury Department will ultimately employ. Stronger penalties are authorized to deter counterfeiting.

The last title of the bill, title V, authorizes the modernization of the designs on the reverse side of U.S. circulating coins, some of which are 52 years old—about my age, I am sorry to say—in order to better reflect today's values and accomplishments. The legislation eliminates the requirement that the eagle be placed on the quarter dollar and half dollar, thereby paving the way for new designs on circulating coins. The exception is the Susan B. Anthony dollar coin which does not meet the 25-year design requirement outlined in title XXXI.

Mr. President, during the markup of the expedited funds availability amendments, the Banking Committee narrowly rejected an amendment that Senator GARN, ranking minority member, offered with my support to retain the temporary availability period for local checks. The vote on that amendment could not have been closer. It was 11 to 10. The closeness of the margin suggests that this issue should be revisited, either here today on the floor, or in conference.

The Chairman of the Federal Reserve, Alan Greenspan, who testified before our committee on this subject, wrote to the committee and to Senator GARN in support of an amendment to retain the 3-day availability for local checks which was reduced to 2 days on September 1, 1990, when the permanent schedule under the Expedited Funds Availability Act, went into effect.

The board of governors urged the Banking Committee to adopt the amendment, because, with the permanent schedule in effect, banks are exposed to fraud and losses, since they are now compelled to make funds available before they know if the collections have cleared.

The letter from the Federal Reserve stated:

> The board is very concerned that depository institutions can be exposed to significant risk of fraud loss under the act's permanent availability schedule for deposits of local checks, which becomes effective September 1990.
>
> Therefore, the board urges the committee to adopt an amendment to retain the current availability for local checks in the permanent schedule. This affords institutions a reasonable opportunity to learn the origin of an unpaid check before being required to make funds available for withdrawal. The availability required in the permanent schedule provides no such protection.

The Federal Reserve also noted:

> More than 75 percent of institutions currently provide availability faster than that required by law, and we expect that they will continue to do so if this amendment is adopted.
>
> This amendment is particularly crucial, however, to institutions that are most vulnerable to check fraud due to the composition of their customer base, and which feel it necessary to place holds on the customers' deposits.

Mr. President, a number of us—Senator GARN, Senator BOND, and myself, to name three—agree that the amendment that we offered would not change the availability policies at the majority of banks, but it would have given those banks, that have problems with fraud, the ability to protect themselves from substantial losses. And at a time when losses are very much a concern of the FDIC, the bank insurance fund in particular, we should be taking every precaution and safeguard to prevent unnecessary exposure of those funds, which are insured by the taxpayer, in effect, from any additional and unnecessary exposure.

The only certain way for banks to protect themselves against check fraud, is to know if checks have been dishonored before they have to make the funds available. That stands to reason. Otherwise, somebody who has kited the check will literally take the money and run. With the permanent schedule in effect, the banks are no longer able to use this method to protect themselves from losses on local checks.

According to a March 1990 report to Congress from the Federal Reserve, only 3 percent of the local checks that clear through the Fed, are returned by the time that funds have to be made available for withdrawal.

Mr. President, some have argued that banks can rely on certain narrow exceptions to the availability schedule to protect themselves. These exceptions—for example, reason to believe that a check is uncollectible—allow banks to hold local checks an additional 5 days. These exception holds do not apply in all cases, however, and do not really offer any systematic protection from check fraud.

In any case, it is a perverse policy to force banks to use the exception holds more often to try to protect themselves, when simply retaining the temporary availability for local checks would do the job.

During our committee's markup, some argued that the banks are protected from losses, because under current law, the Federal Reserve has the authority to suspend the availability schedule if the banks experience unacceptable losses. This is not an adequate solution either, I am sorry to say, because the losses would have to be incurred to trigger the provision. That is to say, the horse would be out of the barn. And the taxpayer, once again, would be left holding the bag. In addition, it is difficult to collect the data to prove that there have been losses which meet this statutory test.

So the amendment that we offered, Mr. President, is in fact a very simple proposition. It merely keeps the temporary availability schedule in place. Both the Federal Reserve and consumer groups testified before the committee that consumers were satisfied with availability policies under the temporary schedule, the one we would keep in place.

The amendment does not allow unjustifiably long check holds. That is a thing of the past, the abuses which inspired the Expedited Funds Availability Act for banks placing 10-day holds on cashier's checks. This amendment simply keeps the availability for local checks where it was before September 1 of this year, just a little over a month ago.

We are all concerned about the financial soundness of the banking system. It is vitally important to protect the banks and the FDIC fund from losses. Keeping the temporary availability for local checks is a simple and effective way to protect the banking industry from fraud losses, without inconveniencing or costing consumers.

When this legislation comes to the Senate floor, as it has now, we sincerely hope that there will be the opportunity to rectify this, either now during this consideration, or at conference.

Mr. President, I see other Senators on the floor.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I was just conferring with the distinguished Senator from Utah. We are prepared to vote on the motion to proceed on this side of the aisle, and I ask my colleague—apparently about an hour ago, we were going to wait to see whether anybody wanted to speak. We have one person who has now spoken.

I do not know if anybody else wants to speak, but we are ready to proceed to a vote on the motion to proceed.

The PRESIDING OFFICER. Is there further debate?

Mr. GARN. Mr. President, once again, that is fine with me. I prefer not to go to the bill, but to pass it. I suggest if someone is not here to speak very soon—the majority or minority leader or Members on either side—that this game is getting a little tiresome, and we ought to go to a vote.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LAUTENBERG). Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I ask unanimous consent that I might speak as though in morning business for 10 minutes and that the Senate then return to the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho.

Mr. SYMMS. I thank the managers of the bill, and I thank the distinguished Presiding Officer.

PRESIDENT REAGAN'S ACHIEVEMENTS

Mr. SYMMS. Mr. President, I rise today to bring to the attention of my colleagues an article which appeared in the Sunday, September 15 edition of the New York Times.

Mr. President, sometimes the demands of current world and domestic crises prevent us from reflecting upon our success.

This article by Carlyle C. Douglas reminds us of the great distance we have traveled in the last decade. The article is headlined, "Reagan Hailed for Taking the Evil Out of the Empire" and, yes, it is about our former President, Ronald Reagan.

Mr. President, today we have deployed thousands of American men and women in the Middle East to halt international aggression. This would not be that amazing if it were not for the fact that nearly the entire world supports this position—yes, even the Soviet Union.

Ten years ago, this multilateral, multinational operation which has the support of East and West—of former adversaries—would not have been possible.

It is only because of the strong, focused leadership of Ronald Reagan that this country was able to guide the rest of the world into a new era of freedom.

The first sentence of this article, Mr. President, says it all:

> Historians may continue to debate exactly why communism fell, but Eastern European leaders last week rained gratitude on Ronald Reagan for giving it a push.

Now I know that Time magazine has proclaimed Mikhail Gorbachev as "Man of the Decade," but what are the people in Eastern Europe saying? The Polish newspaper Rzeczpospolitia called President Reagan "the real father of perestroika."

In Gdansk, where a common welder launched a revolution called Solidarity, banners flew proclaiming "Thank you, our President."

Mr. President, we are still living in a dangerous world. The situation in the Middle East is a powder keg. I, for one, am grateful that the United States and the Soviet Union are not lined up on opposite sides in this dispute. It is comforting to know that we are not facing a superpower showdown. Instead, the world community is united in an effort to confront an outlaw and bring him to justice.

I do not believe this world reaction would have been possible if not for the strong, principled leadership of Ronald Reagan, and I want to thank him for providing the world a means to deal with tyrants without blowing our precious planet to kingdom come.

Mr. President, I ask unanimous consent to print this article in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REAGAN HAILED FOR TAKING THE EVIL OUT OF THE EMPIRE

(By Carlyle C. Douglas)

Historians may continue to debate exactly why Communism fell, but Eastern European leaders last week rained gratitude on Ronald Reagan for giving it a push.

In East Berlin, where preparations are under way for ceremonies next month marking the reunification of Germany, the former President met Sabine Bergmann-Pohl, the President of the East German Parliament, who said, "Mr. President, we have much to thank you for." Later, near the site where in 1987 he had challenged Mikhail S. Gorbachev to "tear down this wall," the 79-year-old Mr. Reagan himself took a few symbolic hammer swings at a remnant of the Berlin divider and said he found it "damned hard."

Continuing an 11-day trip that will take him to Moscow and Rome this week, the former President next stopped in Poland, where the Government newspaper Rzeczpospolita hailed him as "the real father of perestroika," and called his European tour "a symbolic harvest" of his Presidency.

(Mr. Reagan's aides hastened to make it clear that that was the only sort of harvest the former President and his wife Nancy would be receiving on this trip. Mr. Reagan, who was roundly criticized for accepting $2 million in honorariums during a trip to Japan earlier this year, would be getting no speaking fees this time around, they said.)

In Warsaw, the Speaker of the Polish Parliament, Mikolaj Kozakiewicz, welcomed the former President with words reminiscent of some of Mr. Reagan's old speeches. "You are the President who returned to America its sense of greatness," said Mr. Kozakiewicz. "You raised the spirit of the American nation after a series of failures it endured."

Later, Mr. Reagan paid a courtesy call on President Wojciech Jaruzelski, the Communist party leader whose efforts to crush the Solidarity union a decade ago prompted Mr. Reagan to impose economic sanctions on Poland. These days Solidarity, from whence sprang the Polish democracy movement is split into factions that will oppose each other, perhaps bitterly, in coming elections. Lech Walesa, the Solidarity leader, has been at outs with some of his former comrades from the Gdansk shipyard strike days, and is mulling over a run for the presidency.

Doubtless mindful of this, Mr. Reagan, who was to meet the next day with Mr. Walesa, offered his hosts some tips on keeping family conflicts under control. "To protect the liberty you have won, you will need a full measure of the tolerance and openness that are Poland's tradition," he said. "You must fight as opponents, not as enemies."

Later in Gdansk, praise was exchanged all around. Speaking to a cheering throng at the site of the historic strike, Mr. Reagan said, "One might say this is the shipyard that launched a half-dozen revolutions." Solidarity banners aloft around the yard read, "Thank you, our President."

THE BUDGET AGREEMENT

Mr. SYMMS. Mr. President, on the subject of the budget that is before us, I know that our budget summit negotiators, for whom I have the highest respect, worked very hard in order to come up with a budget that would have some semblance of saving money for the taxpayers in their view and guaranteeing a strong future full of economic growth.

The more I study this budget—and I must say that I have told the leadership and the White House that I would withhold making any public statements until I had time to study it, though my gut reaction when it came out on Sunday was that this is a raw deal, it is not a good package. The more I look at this budget, Mr. President, the more concerned I become.

Out of the $500 billion package, we have the largest peacetime tax increase in American history, to the tune of $134 billion. We have $67 billion in defense cuts with a possibility that in 1994 and 1995 there will be more cuts out of defense since there are no controls on the agreement where they come from in the discretionary accounts in 1994 and 1995. So that amounts to $182.4 billion. In other words, 75 percent or three-fourths of this package is made up of either tax increases on working Americans or it comes from real and potential defense cuts.

Mr. President, I think there are some severe problems with it, and I know we could all nitpick the package. Although I do not intend to do that at this point, I would like to go back and just reiterate some points I made on October 27, 1989, on the Senate floor about the strength of the American dollar and what was happening. There seems to be a thought in many respected people's minds in this country that somehow a weak dollar is good for America's economy. I know of no nation in history that has operated under a policy of weakened dollar, which ends up weakened currency, that does not end up in a lot of trouble.

I also have a letter from the distinguished economists from Johns Hopkins University and an article written by economist Keith D. Bronstein. I ask unanimous consent that my remarks on October 27, 1989, be printed in the Record along with these two articles.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Congressional Record, Oct. 27, 1989]

The Value of the American Dollar

Mr. Symms. Mr. President, it seems it has become a very popular issue nowadays to discuss the appropriate exchange value of the American dollar. There are many people in this country, largely among major exporters, who would like to see the dollar depressed in price. Exporters believe they may sell more goods and make more profits. But, Mr. President, it is a fallacy—an example of the "broken window" fallacy.

A cheaper dollar may bring in more dollars for some U.S. exporters, but it won't bring in more yen, or more francs, or more marks. And everything we import would cost some other American more dollars. We would not be better off even if we did finally export more and import fewer goods. Some Americans may be better off, but they will be better off at the expense of some other Americans, who will be worse off.

Mr. President, I just want to make a few comments about currrencies. I have some articles I want to have printed in the Record. I think first I will say that it is not worthy of a great nation to have a weak currency. Weak currencies are a sign of distrust of a government's future policies, both by its own citizens and by others. The value of our currency is a measure of what other citizens in other countries think of us.

If we think somehow having a weak currency is going to make America a greater nation or make our economy stronger, then I think we should take heed to what Lawrence Kudlow recently said. He was formerly an economist with the Office of Management and Budget. He said, "Were it true that a weak currency would pave the way for a trade surplus, then Argentina should be the center of today's global economy."

I think one should just look at Brazil, Argentina, and Mexico. They would be the world's most successful trading nations. Japan would be one of the weakest traders in the world if, in fact, it paid to have a weak currency when, in fact, it is just the opposite. If the intervention of the Fed and Treasury is effective, it will only raise the price of all imported goods for all consumers in this country. It will generate price inflation, which can lead to further monetary inflation. This would be very destructive to the real growth in the economy and not be at all helpful to the American economy.

In addition to that, Mr. President, a weaker dollar would allow foreign countries to buy America's engines of production more cheaply. So while major exporters, and some of my friends in the agriculture business in Idaho are involved in exporting agriculture products abroad, sometimes get excited about the dollar going down so they can be more price-competitive in those foreign markets, they fail to look at the question all the way through. I always make the point to them, if you are willing to sell your farms to the Japanese, then go ahead and let the dollar go on down. That is exactly the situation that will happen when they come in and start buying up these assets with an undervalued dollar.

I think the real question is, Should we be intervening to try to drive our currrency down? I personally think what we need to do is go to the C-7 meetings—and I have discussed this with Secretary Brady—and ask each country to run a sound monetary and sound fiscal policy. That is what we should do and let the currencies seek their own level.

In 1988, the Federal Reserve reported $500 million in losses from its foreign exchange intervention, realized losses. Unrealized losses were greater. The Fed purchased $23 billion in foreign exchange in 1988 and 1989 and already has unacknowledged losses of approximately $4.5 billion. This whole idea of currency intervention is a loser, Mr. President.

So I think rather than berate the dollar and talk the dollar down, what we should do is to encourage a strong, sound policy here in this Congress. That would mean a reduction in spending to meet the targets of Gramm-Rudman and a reduction in the capital gains rate of taxation, and avoiding excessive intervention with respect to our business policy in the country so we can, in fact, produce and maintain a competitive stance.

Mr. President, I ask unanimous consent that an article from the Washington Times newspaper yesterday by a very distinguished economist, Mr. Warren Brookes, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Times, Oct. 26, 1989]

Wobbly Currency Quandary

(By Warren Brookes)

One of the three key planks of the 1980 supply-side agenda was the reform of the monetary system back to some kind of commodity standard and away from central bank manipulation.

Unfortunately, it was largely ignored by President Ronald Reagan, and casually dismissed by President George Bush. But the nation is continuing to pay the price of world monetary instability, which has produced massive trade imbalances, excessively high interest rates, and ever-threatening inflation.

It also produces periodic financial idiocy, as represented by the current efforts of the Treasury to drive the dollar down, even as the Federal Reserve pursues policies that push it up. Obviously, no one can agree about the dollar's "correct" value. That disagreement could badly damage the world economy.

The irony of all this monetary schizophrenia is that last September, Federal Reserve Board Gov. Wayne Angell, along with supply-side guru Jude Wanniski, were invited to the Soviet Union specifically to instruct its leadership on how and why to adopt the gold standard as a way of making the ruble convertible in international markets. Mr. Angell compared the present ruble to a thermometer with lines, but no mercury and no numbers, and thus no common reference of measurement.

But that analogy applies in degree to all the world's major currencies since the United States terminated the Bretton Woods Agreement in 1971 and severed the dollar's final tenuous link to gold.

Since that severance, world interest rates have soared, along with inflation, debt and exchange-rate volatility. As economist David Ranson of H.C. Wainwright in Boston said in a recent paper:

"Prices cannot be stable when they must be expressed in terms of an unstable [paper] unit. Nor can interest rates be stable when the future value of the currency is unpredictable.

"Monetary instability confuses markets, distorts supply and demand, and makes it harder for the economy to operate."

Most of all, it results in the kind of economic nonsense of wasting $5 billion in net taxpayer costs in the last 13 months trying to drive the United States dollar down in value, on the fatally flawed theory that strong currencies produce trade deficits, and weak paper currencies produce trade surpluses.

As Bear Stearns economist Larry Kudlow notes, if this were literally true "Argentina would be the center of today's global economy . . . and Japan and Germany would be first and second on the IMF's debtor watch list." Since the 1971-73 Bretton Woods breakdown, the yen has been the strongest world currency. "Yet contrary to Keynesian assertions Japan over this period has accumulated huge trade and financial surpluses. What's more the yen's strength has been accompanied by the lowest inflation and interest rate structure of any of the major industrialized nations."

In other words, anti-inflationary policies that promote price stability and strong currencies produce very low interest costs of capital and those cost advantages more than offset the competitive disadvantage of the higher exchange rate.

Conversely, inflationary policies that promote currency devaluation, also drive up domestic costs, which more than offset the competitive advantage of lower currency valuations.

The problem is, without any real value standard for paper currencies, all interest rates have to be much higher to reassure investors and give otherwise worthless paper currencies some credibility. This makes anti-inflationary policies, as desirable as they are, economically much more risky in the short run.

Great Britain is a case in point. Even though it is running a huge fiscal budget surplus, it is running a massive trade deficit, which is relatively equivalent in size to a $190 billion trade deficit in the United States. That deficit was fueled in part by inflationary monetary policies followed by Chancellor of the Exchequer Nigel Lawson

after the 1987 stock market crash, when interest rates were lowered to 7.5 percent, and the pound fell sharply as U.K. inflation rates suddenly doubled, to more than 8 percent.

If the floating-exchange-rate Keynesians had been right, the falling pound should have produced a trade surplus. Instead, it coincided with the worst trade deficit in U.K. history.

Yet, to fight soaring inflation and support the pound, Mr. Lawson has now had to put interest rates up to 15 percent, and this in turn has made Britain even less competitive.

This illustrates the basic dilemma of purely paper currency systems managed by fallible central bankers. In the long run, Federal Reserve Chairman Alan Greenspan's stated commitment to zero inflation, and against foolish currency-market intervention or pegging is surely the best way to promote U.S. competitiveness.

Unfortunately, in a purely paper money world, Mr. Greenspan has discovered it is very difficult to get real price stability without waging a Phillips-curve interest-rate war against growth, and risking driving up the dollar and the trade deficit.

Mr. Kudlow correctly argues that "the goal of U.S. monetary policy should not be a higher dollar or a lower dollar but a stable dollar," and he salutes "the Fed's effort to maintain monetary discipline by linking the dollar to broad commodity indexes including gold" which he argues "could lead to astonishing results if it continues."

Those results, he says, could be 2 percent or less inflation, interest rates of 6 percent or less, and "American business and capital costs could be sufficiently low and competitive so as to generate a flood of exports and a virtual end to the trade deficit."

But Mr. Kudlow argues the only way that will happen is if the Treasury Department "moves away from willy-nilly currency intervention" and pushes for "an international commodity standard. Exchange rates should be anchored to gold and commodity indexes. This is a prescription for expanded world trade, economic growth, international cooperation and prosperity."

Unfortunately, Mr. Kudlow fails to note that central bankers, finance ministers and their bureaucracies understand all too well that taking such a prescription would be institutional suicide, while monetary instability gives them power and well-paid employment.

This is why the ruble is more likely to become gold-convertible than the dollar or the pound.

Mr. Symms. Mr. President, I ask unanimous consent that an article by Keith Bronstein of Glencoe, IL, entitled "Neville Chambelain Economics" be printed in the Record. I think it is signficant for my colleagues to read this. When he talks about how for us to think we can solve our trade problems by manipulating the value of the dollar he makes my central point clear. What we have to do is be more competitive, make better goods and services available to export and that will do for us everything that needs to be done.

Mr. President, I also ask unanimous consent that a letter from Prof. Steve Hanke at Johns Hopkins University, dated September 27, to me with reference to the Federal Reserve policy be printed in the Record. Dr. Hanke has documented how much our government has wasted on behalf of this misguided policy of currency intervention.

There being no objection, the material was ordered to be printed in the Record, as follows:

Johns Hopkins University,
Department of Economics,
Baltimore, MD, September 27, 1989.

Senator Steve Symms,
Senate Hart, Room 509, Washington, DC.

Dear Steve: The Federal Reserve has pursued monetary restraint since May 1988. To date, this has proven to be a prudent policy, since the economy has continued to grow and inflation has moderated. In consequence, the nominal exchange value of the dollar has risen.

The dollar's strength has motivated politicians to claim that our competitiveness is being damaged. This claim is largely unfounded. Our competitiveness depends on real, inflation-adjusted exchange rates, not nominal rates. To appreciate this point, consider that, if our inflation rate fell five percentage points relative to our foreign competitors', an increase of five percent in the nominal exchange value of the dollar would be required to keep dollar's real exchange rate and our competitiveness constant.

To accommodate political pressures, the Federal Reserve has engaged in sterilized intervention on a massive scale. This policy has no lasting effect on exchange rates.

Intervention (the acquisition of foreign currency) requires the Federal Reserve take a speculative position: that foreign currencies will appreciate vis-a-vis the dollar. In other words, it requires the Federal Reserve to gamble that its inflation control policies will fail.

If this type of government speculation were not bad enough in principle, it is very costly. In 1988 the Federal Reserve reported $500 million in losses on foreign exchange intervention. However, the Shadow Open Market Committee points out that the losses are much greater because (1) the Federal Reserve only reports realized losses (unreported losses on the $23 billion of foreign exchange purchased in the 13-month period ending in July 1989 were about $4.5 billion), and (2) the Federal Reserve fails to report losses on the Treasury's secret Exchange Stablization Fund.

Allow me to urge you to do everything in your power to convince your colleagues (and the Federal Reserve) that foreign exchange intervention is a misguided and costly policy. In addition, you should insist that the Federal Reserve be required to report all of the realized and unrealized losses from U.S. foreign exchange intervention if it should occur.

With my best wishes, I am
Yours sincerely,
Steve H. Hanke,
Professor of Applied Economics.

Neville Chamberlain Economics

(By Keith Bronstein)

The United States administration's economic policy makers have somehow been mistakingly convinced that the road to economic prosperity is through making exchange rates the principle focus of policy. One need only to look at Great Britain's obsession with the value of the pound, to see the folly in this idea. If all a country sets out to do is to manage its exchange rate, then that economy is destined for trouble.

Exchange rates in a free environment are a reflection of monetary, fiscal and macroeconomic policy, economic trend developments and investments and capital formations strategy with sound responsible exchange rates arriving at efficient levels. Nevertheless, United States administration economic policy makers have chosen to manipulate the exchange rate policy as a panacea for whatever economic problems appear to exist in the world today.

This exchange rate policy can take us into the 1990's on one of two paths. The first path is that a country with a strong currency, which in turn makes the cost of imports low, reduces inflation pressures and allows our economcy to expand vigorously. This is possible with the low interest rates and a strong monetary growth that a strong currency make possible.

The second path and preferably "the road not taken", is that of the dollar debasement. This bumpy road brings with it inflationary pressures, economically strangling monetary growth restraint and high interest rates. All of this will eventually lead to economic stagnation at best and more probably, to a worse-case scenario of a severe contraction. Lacking in the necessary fundamental understanding of economic history, these strategists have chosen to follow this road and will thus fall prey to "history repeating itself" with the most negative consequences.

All of this leads, even the casual observer, to ponder if those in charge of our economy have discussed the following questions. "Has there ever been a time when a nation prospered by pursuing a policy of debasing its currency?" "Are we modeling exchange rate policy after that pursued by economic 'sick men' like Great Britain and our more immediate neighbors of Mexico and Brazil. Or, are we trying to copy the economic titans like Japan and West Germany?" "Is there any logic to the arguments put forward by the other G-7 nations at these semi-annual U.S. bashings?"

If, in fact, any of these questions had been asked, they would lead to some tragic conclusions. For just a moment, let's review our recent history with regards to the debasement of currency. In the 70's, the Nixon administration presided over a dollar debasement process. This was accompanied by a rapidly expanding money supply which led to an explosion of inflation. This was then followed by the most severe economic contraction since the great Depression. On the heels of this collapse, the 70's Carter administration also pursued a dollar debasement strategy. Again exploding money supply growth and a collapsing dollar, resulted in inflation and ultimately, very high interest rates and another severe economic contraction.

Since 1987, we have been practicing "Dollar Debasement—Part III". This time, however, there is a difference, Now, Federal Reserve officials have refused to play the game. Money supply growth has been held at very constrained levels. By almost any measure, liquidity has grown at the lowest rate in 20 years. Thus, without the complicity of monetary officials, the treasury, and its foreign "bosses", (or the more benign sounding "G-7 Partners") can only lower the dollar by selling dollars. Federal Reserve officials clearly understand that if they pursue a constructive pro-growth, anti-inflations policy, that the market forces will assure the fair economic exchange rate.

This brings us to G-7 and Neville Chamberlain. Reading the reams of public statements that surround these talks, I continue to wonder why, U.S. officials seem so unable to grasp economic reality. For example, during the late 70's, our trading partners rightfully accused the U.S. of being the international "engine of inflation" because of our double-digit money supply growth and collapsing currency flooding the world. They maintained responsible money supply growth and were rewarded with low interest rates and very strong currencies. Ultimately market discipline forced much higher interest rates in the U.S. and after a severe economic shake-out, we returned to monetary sanity.

Now, just a few years later, these same trading partners insist that by running a responsible monetary policy which has contributed, along with our firm economic growth, to a strong dollar, that the U.S. is again the "engine of inflation". The fact that Japan's money supply grows at double digit rates, flooding the world with Yen liquidity and European Central Banks follow a similar, although less dramatic policy, makes the U.S. again the villain in the inflation debate. Even a child can see that this is a case of "heads I win, tails you lose". Could it possibly be that our economic policy decisions are being made by someone less astute than a child?

Our trading partners say that we should protect their relative monetary profligacy by bashing our currency so that they can maintain relatively low interest rates with buoyant money growth and booming domestic economies. Then as an added bonus, they have the leverage to purchase U.S. assets at fire-sale prices. These fire-sale prices exist since all U.S. assets become cheaper denominated in Yen and Deutschemarks, et al. This, of course, includes the fact that there are a phenomenal amount of Yen being created and loaned to Japanese businesses and investors at 5 percent interest rates versus much higher rates in the U.S. Is it any wonder that our property and desirable productive assets are being snapped up?

Japanese capital spending is growing at the fastest rate in 15 years. They are investing in all of the productive assets and capital improvements that will assure them control of the world's economic future. Certainly, they are entitled to whatever economic success they achieve, but why are we financing this expansion through our mindless exchange rate policy? Can we really compete if we finance our competition?

How about this awful trade imbalance the G-7 asks? Since 1987, the U.S. trade balance has narrowed to some degree. Since 1985, however, the dollar has been virtually halved against the Yen and our trade balance has improved only imperceptively. Are there some other dynamics at work here? Are we debasing our currency, and subsidizing the economic growth of our international competitors at a tremendous cost, with little or no benefit?

Thus our economic policy makers surely deserve comparison to the famous Prime Minister of Great Britain. Neville Chamberlain lacked vision and understanding of dynamic foreign affairs in Europe between the wars. This lack of vision, understanding, will, and the courage to stand up for the right principles, allowed him to be bullied into fatal errors in negotiations with Hitler's Germany.

Now, 50 years later in the arena of international economic relation, the U.S. has lost its vision, its belief in rational economic thought and clearly its will to negotiate on an equal footing with our G-7 partners. If we fail to quickly get our wits about us, raise our sights and pursue national policies, including the vision to realize that with fundamentally sound monetary and fiscal policy, we must undertake domestic, long-term projects like education and rebuilding our infrastructure, that our standard of living will decline dramatically.

Now is the time to stop subsidizing everyone else's growth at our own expense by bashing the dollar. Instead, we must allow the dollar to seek, in the world market place, a value that is commensurate with economic and monetary fundamentals. If we fail to heed the warnings of the past, then the year 2000 will look very different for the people of the United States. The U.S. runs the risk of matching the rest of the Western Hemisphere with its high external debt, a "junk" currency, sky-high interest rates, a depressed standard of living and all worthwhile property and worthwhile productive assets, owned by everyone . . . but ourselves.

It is not too late to learn a lesson in tactics from Neville Chamberlain's failure . . . but the clock is ticking very fast.

Mr. SYMMS. Mr. President, I ask unanimous consent to have printed in the RECORD a Wall Street Journal article entitled "Pull the Plug on the Budget Deal"; an article entitled "Lessons From the Duke"; an article entitled "Bubba Takes the Tax Hit"; and an article entitled "Numerical Chicanery."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PULL THE PLUG ON THE BUDGET DEAL

(By Jim Miller)

As one who participated in a (1987) budget summit lasting half as long, my heart goes out to those brave, honorable souls who did their duty as they saw it in the negotiations at Andrews Air Force base. However, the result deserves to be rejected by Congress.

The agreement's greatest deficiency is that it contains no budget process reforms to rectify the bias toward ever-expanding government and increasing reliance on deficit finance. There is no line-item veto, no balanced budget amendment, no legally enforceable budget resolution.

The spending caps don't apply to some accounts, such as the International Monetary Fund and Egyptian debt forgiveness and to presidential requests for "emergency supplementals." The caps do not apply during the first two years of the agreement to revisions in spending because of "technical and economic adjustments."

Nor do they apply during the remaining three years if the president's representatives and the congressional leadership agree that revisions are in order. Since the economic assumptions for the out years are especially optimistic—for example, 4.1% real growth, 3.2% inflation and 4.9% T-bills in 1993—revisions almost certainly will be found to be in order. Moreover, the caps can always be waived by a three-fifths vote in both Houses.

It is truly remarkable that the compromise is so unbalanced. Roughly speaking, one side (led by the president) wanted to avoid increases in taxes and reductions in defense spending. The other side wanted to avoid cuts in domestic spending. Even if we were to take the results of the deal at face value, the president's side would have been outfoxed: The agreement calls for 1991 tax increases of $16.2 billion, defense cuts of $9.8 billion, and entitlement cuts of $12.1 billion.

However, the face value is inaccurate. $1 billion of the alleged $12.1 billion in domestic spending cuts is phony: It replaces a lump-sum payment to retiring civil-service employees with an annuity. Another $4 billion of "cuts" consists of new user fees that are counted as "negative outlays." Disregard the phony cut and count the user fees as what they are—taxes—and the "cost" of the agreement to the president's side is on the order of $30 billion in the first year, while the "cost" to the Democratic leadership's side is only $7.1 billion. And this imbalance persists throughout the five-year term of the agreement.

The agreement says that revenues are to rise by $73.9 billion next year, a 7.1% increase. Spending would go up by $109 billion, an 8.6% increase. Domestic spending would rise even faster. Evidently, the taxes raised by the agreement would be used to finance spending, not reduce the deficit.

Despite all the hype, the current agreement would not reduce the deficit, which would rise from approximately $218.5 billion this year to an estimated $253.6 billion next year. On the other hand, if there were an $85.4 billion initial sequester (as required by Gramm-Rudman-Hollings), the deficit would fall to $168.2 billion.

President Bush gave up a lot for this agreement, and he has little to show for it. He broke his "no new taxes" pledge, and even accepted an increase in rates in the disguised form of a limitation on deductions. He cast aside the jewel of his negotiating demands—a cut in the tax rate on capital gains—which would have done much to stimulate economic growth and would have more than "paid for itself" through higher federal receipts.

Although he is honor-bound to support the agreement, the president should be ready with a quick response if Congress refuses to pass it. He should order a sequester. This would result in something approximating a nominal spending freeze. Then, he should challenge Congress to reorder spending priorities. Even if spending were permitted to rise as fast as inflation and even if there were no tax increase, the deficit would still be lower next year than it would be under this much ballyhooed but fatally flawed agreement.

LESSONS FROM THE DUKE

Instead of trying to rally his Republican congressional delegation around the alleged deficit reduction, $134 billion tax-increase plan, President Bush would do well to remember who won the 1988 election, and observe what happened to the man he defeated.

While the pundits had a field day with the Sept. 18 political upset in Massachusetts by Boston University president and political neophyte John Silber who won the Democratic nomination for governor over the party's endorsed candidate, former Attorney General Frank Bellotti, they have largely ignored the real target of that voter backlash, Gov. Michael Dukakis.

At the Democratic party "unity" meeting on Sept. 19, Mr. Dukakis was neither invited nor allowed to say anything. The man who came within 7 points of becoming president has now become the biggest albatross in that state's pungent political history.

While Mr. Silber is indeed an attractively fresh new face and voice for a national party that has sold its soul to every pleading and bleeding special interest, his support came as much or more from people voting against the well-known Dukakis/Bellotti axis as it did from those attracted to Mr. Silber's shocking candor.

To put it bluntly, what happened on Sept. 18 in Massachusetts was a revolution of contempt for the political establishment because of the fiscal nightmare into which Mr. Dukakis and his legislative cronies have led

the people of Massachusetts, who have been hit with more than $2 billion in higher taxes and fees since the 1988 presidential campaign started.

Yet, despite those massive tax increases (or because of them?) the state is headed for its fifth straight budget deficit in fiscal 1991, and Mr. Dukakis is threatening to close old soldiers' homes to scare voters against supporting the Citizens for Limited Taxation ballot initiative calling for the rollback of those taxes.

The blatant cynicism of that effort explains why the taxpayers may now hate Mr. Dukakis and all incumbents enough not only to pass the potent CLT petition but throw still more "ins" out.

As the Boston Globe's liberal columnist Mike Barnicle admitted more than a year ago, "hate is not too strong a word to use because the worst thing you can do to the public is regard the people as morons, incapable of figuring out truth and reality. And that is precisely what Dukakis has done: treat citizens like fools . . . and show contempt for those who cough up hard-earned money to float a fat, untouched bureaucracy."

Last week, even as the entire political establishment was warning that CLT would destroy government services, the public found out the state's bloated payrolls had dropped less than 1 percent since last June, and were still nearly 15,000 higher than when Gov. Edward King left office in 1982.

This news came while the Boston Globe was running a five-part investigative series showing a supposedly overburdened municipal court system in which judges with fat payrolls and pensions were routinely working only three- and four-hour days, while moonlighting lawyer/legislators on House and Senate judiciary committees were trading favors to judges for lenient treatment of drunk-driving clients.

All this, while state spending continues to rise well above the rate of inflation despite repeated alleged "spending cuts." In fiscal 1990, ending last June 30, state spending rose 10.4 percent over fiscal 1989, which in turn had risen 11.2 percent over fiscal '88. Yet in both of those fiscal years, Mr. Dukakis and the Legislature had supposedly "slashed services" to the bone.

Tax-cut guru Barbara Anderson, responding to the charge that her petition "went too far," told her fellow CLT members: "I'll tell what's 'too far.' A 92 percent increase in spending over the last seven years with inflation up 25 percent. That's too far. A per capita tax burden that is sixth-highest in the nation, while we're rated third-worst managed state; that's too far!"

In fact, since fiscal 1983, state spending has risen nearly 100 percent, more than triple the total consumer price index in that period (about 30 percent). Massachusetts spending has consistently averaged 20 to 30 percent faster growth than the average for all states. Had the state merely held its spending growth to the average for all states, it would now have a substantial budget surplus without the $2 billion in taxes enacted since 1988. This means CLT is merely retroactive fiscal prudence.

Instead, the state chose to outspend even its own incredibly strong revenues, which have grown nearly 20 percent faster than the national average for all states. While Massachusetts revenue growth from 1983-1989 averaged 9.6 percent, spending growth was 10.4 percent.

The predictable result is that a $600 million funds surplus in fiscal 1986 had become an effective $2 billion funds deficit by fiscal 1990 when state spending outraced revenues by $1.4 billion, which then had to be "bonded" in the way normally reserved for capital investments. Even after that bonding, serious observers agree the state is still at least $1 billion or more in the hole.

Yet, when Mr. Dukakis inherited the state in 1983, its economy was indeed in a miraculous turnaround. Its personal income growth in 1983 was third-fastest in the nation, compared with third-worst in 1978. Its total tax burden had fallen from 10 percent above the nation to 5 percent below it, a nearly 20 percent drop. Yet its revenues from 1983 to 1987 grew nearly 13 percent a year, 30 percent faster than all states' average.

But instead of using that "miracle-driven" revenue growth to reinforce the state's trend to lower taxes and a stronger economy, it all went to build a massive political machine. The huge tax and fee increases since 1988, supposedly to balance the budget, have merely kept that machine running, fueled spending growth and increased the deficits in a now Depression-style economy.

There's a message in there somewhere. Who's listening?

BUBBA TAKES THE TAX HIT

A man defines himself by the choices he makes.

In breaking his pledge of "no new taxes," in surrendering his capital-gains tax cut for a budget "deal" imposing new taxes on the people who elect him, President Bush has defined himself. He is a Big Government man all the way.

What was the alternative of $134 billion in new taxes?

The federal government would have had to accept $85 billion in spending cuts Monday. To Mr. Bush, this was as intolerable as it was to liberal Democrats. He simply could not face the "chaos."

Inescapable conclusion: Mr. Bush believes that the U.S. government, which takes a fifth of America's income in taxes, and spends closer to a fourth, must grow. It cannot be reduced in size. Political conclusion: No major party in America still believes in reducing the size of government.

After this "deal" takes hold, the higher taxes will become a permanent fixture. Yet, somehow, the budget cuts will be restored, lest they result in "hardship." As Ronald Reagan, who called the 1982 budget deal the worst mistake of his presidency, learned, the $100 billion in new taxes he accepted proved permanent; the $300 billion in cuts he thought he had locked in proved illusory.

The Democrats were gracious in victory, as befits champions who have just humiliated their rivals on the field. They talked of what a hard-fought game it has been. But, everyone knows the real score. After a decade of dealing with Reaganite Republicans, the city is rid of them. We were routed, horse, foot and dragoons; George Bush, Big Government Republican, is prince of the city.

Who gets hit? Bubba gets hit. The fellow who was ready to vote Democratic in '88, until he got a look at the Little Duke's record on taxes and prison furloughs, on Willie Horton and gun control, on the American Civil Liberties Union and Pledge of Allegiance.

The price of Bubba's smokes is going up; the price of his Lone Star Beer is going up; the price of the Texaco he needs to commute 80 miles a day is going up. The price of Sunday at the Legion Hall watching Joe Montana lead the 'Niners to glory is going way up. Why? Because our congressional incorrigibles are unable to hold federal spending to that 20 percent of GNP they annually consume in taxes. And because Mr. Bush has thrown in with them. If Bubba takes a walk on the GOP next time out, who can blame him?

Our most successful citizens face an added income tax wallop of $18 billion. Washington is going to skim off the cream of America's investment capital from the individuals who earned it, so Teddy Kennedy and the Democratic Congress can invest the money more wisely. Good Republican doctrine, eh?

There is no modern economic theory—Keynesian, Friedmanite, supply-side—that argues for hitting an economy that is tottering on recession with new taxes. But there is a Republican precedent for what Mr. Bush has done: Herbert Hoover, rest his soul.

Mr. Bush's party has forfeited a grand opportunity. The mortgage interest deduction, the charitable deduction and the deduction for state and local taxes could have been traded in—for a reduction in the top rate on federal income taxes to 20 percent and the bottom rate to 12 percent. Add a 60 percent exclusion on capital gains and interest income—to promote saving and investment—and the Moynihan cut in Social Security taxes to bring along Democrats, and we could have left House Speaker Tom Foley and Senate Majority Leader George Mitchell out there sucking wind. The United States would have become again the most attractive investment bargain in the world; we could have blown Japan's doors off. Instead, we have a tax bill drafted by the firm of Scrooge & Marley.

In the television age, a party is defined in the minds of voters by its leader, an the policies he adopts. Consider, then, the GOP in 1990.

It stands for continued growth in social spending—paid for by cuts in defense—and higher taxes on working folks. It stands for sharpened oversight of business so the private sector does not behave bigotedly toward blacks, women or the handicapped. It stands for owls against loggers, feminists against Virginia Military Institute. It stands beside the Big Spenders and against the conservatives. It stands for a New World Order, where our wealth is spread around the globe through foreign aid and institutions like the United Nations and the World Bank.

Jack Kemp was right when he said in South Carolina that, if Mr. Bush were nominated, the Reagan Revolution would be over. Not only has the Democratic Congress taken the GOP into camp, it has persuaded Mr. Bush to provide political cover for tax increases and a huge congressional pay raise. President Michael Dukakis never could have gotten away with this. The GOP would have raised the roof, stopped him cold, routed the Democrats in '90, as prelude to a total government takeover in '92.

Where are the conservatives? Some are battling bravely in the House. Others, however, have stacked arms. They need the money the Big Man can raise; they need those presidential visits; they need the committee assignments GOP Hill leaders pass out to those who go along. They like going to White House socials, sitting in the president's box at the Kennedy Center. They love it here; they don't want to leave; and they don't want to be left outside in the cold.

Anybody got a fishing trip lined up for Election Day?

NUMERICAL CHICANERY

The budget deal serves the needs of the handful of Washington insiders who put it together, but it totally ignores the needs of the economy.

Moreover, the agreement is a fraud, pure and simple. In fact, it is outrageously shameful, and it's easy to see why. The numbers reveal it. Do you believe that budget outlays in 1995 will only be $25 billion higher than in 1991—the equivalent of a five-year budget freeze? Over the previous five years (1987-1991) budget outlays rose by $380 billion.

Do you believe that the federal government is going to spend fewer dollars in 1993, 1994 and 1995 than it spends in 1992? Do you believe that the congressional budget negotiators, President Bush and budget director Richard Darman, believe that dollar outlays in 1994 will be $50 billion below the amount the government spends in 1992?

The outlay and revenue numbers agreed upon by the budget dealmakers show that federal outlays for the next five years peak in 1992—an election year—and that revenues are up $100 billion in 1992 over the adjusted base revenue path in 1991. There you have what the budget deal is about—buying the 1992 reelection.

The savings are based on the assumption that spending in absolute dollar terms in 1993, 1994 and 1995 is below the level of 1992. In other words, the savings are based on the assumption of three years of budget cuts that individually are more severe than the threatened 1991 budget sequester, the fear of which has allegedly driven Congress and the White House to a budget deal.

Do you believe that politicians, who fear a sequester that would still allow a spending increase in 1991, are going to implement a budget plan that actually cuts spending, not in relation to some projected growth figure but in relation to a previous year's spending?

And that's not the half of it. Consider the economic assumptions that underlie these "savings." There is no recession in the forecast, which assumes a 3.8 percent average rate of real economic growth over the four years 1992-1995.

We have here a "rosy scenario" with a tax increase! In 1981, when the Reagan administration, with a major tax rate reduction, forecast less real growth than had occurred over the previous five years, it was greeted by critics with hoots or "rosy scenario." Now the government is proposing comparable real growth numbers, but this time they will result from a tax increase.

But the government knows that this is not really true. It has secret paths for outlays and revenues that adjust the figures in the budget submit agreement of Sept. 30, 1990 for revisions in the economic assumptions showing slower growth in 1990 and 1991 than previously projected.

These revisions show that spending will be $75 billion higher than the advertised "agreed" amount for the 1991-95 period, while receipts for the five-year period will be only $8 billion above the previous baseline path. In other words, the economic slowdown eats up all but $8 billion of the $133.8 billion tax increase!

These adjustments reduce the claimed five-year savings from $500 billion to $300 billion, and that's with all the tricks and no recession.

This makes it clear that a pro-growth budget would do far more to reduce the deficit than the absurd budget agreement that is before us. If the economy and the budget are to survive, Mr. Bush must quickly find a budget director with a pro-growth budget.

It remains to be seen whether the Reaganite-Kemp-populist members of Congress will allow this fraud against the public, or whether they will demand the resignations of Mr. Darman and the congressional leadership who together concocted this absurd collection of numbers.

Reporters no longer report. They just print whatever tricksters like Mr. Darman hand them. The Wall Street Journal, the New York Times, and The Washington Post all had front page stories on Monday emphasizing that the deal would "soak up $500 billion in federal red ink over five years." Not a single story revealed the unbelievable agreed outlay path that makes this claim ludicrous.

Mr. Darman succeeded in deflecting attention to the claimed deficit reduction and the various features of the proposed new taxes. "Bush May Be Winner in the Long Run" is a deadline straight from Mr. Darman's office.

The fraudulent budget agreement is so blatant that it shows the government's total disrespect for the public. The national press' complicity in the fraud shows the media will perpetuate any lie in behalf of a tax increase. It would be a light sentence if the budget negotiators and the reporters were tarred and feathered and run out of town.

(Paul Craig Roberts, an economist at the Center for Strategic and International Studies, is a columnist for The Washington Times.)

Mr. SYMMS. Mr. President, the Federal Reserve, which has tried under difficult circumstances to watch commodity prices and also watch the yield curve between short-term rates and long-term rates, that if this budget package does not pass Congress, and it may well pass and I know many of my colleagues are very sincere who think that, if it does not pass, we are going to have some kind of a calamity in the financial markets. However, I invite my colleagues to look at what is happening in the financial markets since the budget package has been announced. The U.S. dollar is very weak. People are buying yen, Swiss francs, and foregin currencies and are getting away from the dollar. It is a severe, serious problem for our economy when people try to get out of dollar-denominated accounts and try to invest in other countries.

We cannot overlook that here in the Congress. I know many of my colleagues are under the opinion that we have to pass this package or else real financial calamity will come.

Mr. President, I do not buy that. When you analyze this package, a rather small amount of cuts that are made in the first year in the budget in terms of lasting spending restrictions. I know my colleague from Texas, whom I respect and admire as much as any Member of this Senate, Senator GRAMM, has given me some numbers where he predicts the Federal budget will be $1.385 trillion in 1995. If I thought that were true I would be the first one to jump on board and vote for this package. I do not happen to believe that is true.

I believe what we are doing with this so-called budget package is, we are asking the working men and women in the country to spend 12 cents a gallon for gasoline taxes, not put the money in the highway trust fund to build roads with it, but so that we can allow the bureaucratic welfare state to continue to grow. I do not think that is a good deal for the country.

I do not feel that foreign investors are going to think it is a good deal for the country. I do not think it is going to attract capital in the United States. Capital is going to flow when tax policy is positive, toward what used to be called Reagonomics when all the money flowed into this country, where people thought it was a good place to invest and get a good return to investment. We cannot overlook that.

Mr. President, when you look through some of the things contained in this tax-and-spend package, this country would be better off to have gone ahead on the policy the President started out on, a sequester. The President was the one who ran on the platform that he did not want new taxes. I must say, as a Republican, I wept the other night when I watched the speech of the President and of our very distinguished majority leader on television. Then I weep even more when I see the President say in the press, as it is reported today, "Blame me; for those people that are having trouble on voting for it, blame me."

All I can say, Mr. President, is I thought the President had to compromise with the majority leader and the Speaker and the majority in the Congress, who wanted taxes on the table and a tax-increase package, to get a package through the budget negotiators. I do not criticize my colleagues because I know the fiscal year came to an end. You are under pressure. Everybody is on the diving board, diving off, and they have to jump in the water feet first or head first. So they came out with the best package they could get.

In my opinion, Mr. President, this country would be way better off if we did have a modified sequester. There is no reason why we would have to close the airlines and close the meat inspectors and not have milk for the children in the inner city. We can do those things, but have a modified sequester that will, in fact, actually save $50 billion in outlays for fiscal year 1991 that the markets and the world can see, and they would know that the Congress was serious and the administration was serious about restraining growth and spending.

My fear is that when you look at a $500 billion package with most of the savings to be made in the outyears, they will not become a reality. The only thing that will become a reality is that the working men and women of the country, yes, the middle-class people who work for wages, raise their families, try to educate their children and get up in morning and go to work every day, are going to be asked to pay more money for gasoline and other excise taxes that will come right out of their budgets. That will be real. But the Congress will somehow, in the end, get around the actual savings in those other appropriated accounts and the money will not be saved.

It just appears to this Senator that we would be way better off, and the White House, I think, would be way better off, if the President would simply say, "I tried; we could not get the budget package I wanted," and let us have this sequester. Make some modifications in it so we can live with it. Adjourn this Congress and then let the American people vote on this issue on November 7.

Those that want to raise taxes can go out and say so, and those that do not can say they do not. We can either solve this budget crisis by one or two ways, either spend more money and raise more taxes and have more Government, or hold the line on spending and let the private sector grow.

What has attracted capital and investment in the United States has been a favorable view of tax policy the last few years in this country. We are running rapidly away from that.

I, in good conscience, just do not believe I can vote for a budget that, in my opinion, will push this country into a recession. Let me tell you why I think it will. Look at the financial markets, Mr. President. The dollar is going down every day. I think we all know that the responsible people at the Fed are going to say we must protect and defend the dollar.

When they start defending the dollar with short-term rates, by raising interest rates to flatten out the yield curve between long-term and short-term rates, it will tumble this country into a recession. If you think you have a budget problem now, Mr. President, we really will have a budget problem if we see a slowdown in our economy.

So it just seems to me that this is not Armageddon. If this first package is rejected, we would be better off to take some of the other suggestions that have been introduced. Our colleague, Senator ROTH, has a proposition.

I ask unanimous consent to have printed in the RECORD at this point a statement by Senator BILL ROTH on his alternative budget, a plan for economic growth, and the tables that accompany it to show that there is another way that this can be done without raising taxes.

I also would call attention to my colleagues that last week Senator BURNS along with several other Senators introduced a package called the 4-percent solution, where there is no new taxes. You slip the targets on Gramm-Rudman and freeze all Federal spending at the baseline projected to grow from $1.2 trillion in fiscal 1990, allow it to increase only at a rate of 4 percent. This can be accomplished.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ROTH UNVEILS ALTERNATIVE BUDGET PROPOSAL FOR ECONOMIC GROWTH

WASHINGTON.—Emphasizing the need to "above all else, promote growth in the U.S. economy," Senator William V. Roth Jr., R-DE, today unveiled a budget proposal designed to break the gridlock in the budget negotiations while saving the American people from a tax increase.

Calling it "The Roth Alternative," Roth said his plan would drop proposed increases in taxes, would cut $400 billion over five years, and would institute several policies to stimulate economic growth, without the proposed cut in the capital gains tax rate.

"My budget plan is straightforward and easy to understand. First, I abandon the budget negotiators' proposed tax increases. Warning signs point to a recession," Roth said. "A tax increase would throw the nation into a recession headfirst.

"Second, I lay aside a proposed cut in the capital gains tax.

"Third, I cut the federal deficit by $400 billion over five years, a significant cut, but one which will not have damaging effects on an already weakened U.S. economy.

"Fourth, the Roth Alternative expands Individual Retirement Accounts to enhance savings incentives as well as raise federal revenue," he said. "In addition, the R&D credit is made permanent and education incentives are broadened to keep our industries competitive and our employment base strong.

"The American people have had enough. They are tired of excuses. They are tired of tax increases. They are tired of excessive federal spending." Roth said. "It's time for Congress to set aside the bickering and cut the finger pointing. It's time for us to initiate real reform that will address the needs of our nation today. We are days away from a sequester that is both dangerous and embarrassing.

"Above all else, the budget passed by the Congress this year must promote growth in the U.S. economy," he said. "We need to advance internal reforms that strengthen our economy here at home, expand our markets abroad, and meet our responsibilities in the emerging global community."

Specifically, Roth would: (1) reduce defense spending by $6 billion in the first year and $176 billion over the next five years. (2) Reduce entitlement spending $6 billion in the first year and $56 billion over five years. (3) Reduce discretionary spending by $12 billion in the first year and $70 billion over five years. In addition, the Roth Alternative would Raise $11.5 billion in new user fees and $29 billion in additional revenues, primarily through a rollover provision in the expanded IRA.

SEPTEMBER 26, 1990 OUTLINE

Item	Fiscal year—					
	1991	1992	1993	1994	1995	1991-95
Revenue items:						
IRS (w/rollover)	$1.50	$3.40	$3.30	$3.30	$3.30	$14.8
Extension of current law tax provisions	1.85	3.04	2.97	2.90	2.81	13.5
Retiree health benefits rollover	0.20	0.40	0.20	0.00	0.00	0.8
Subtotal of increases	3.55	6.84	6.47	6.20	6.11	29.1
Spending cuts:						
Defense	6.00	17.00	34.00	50.00	69.00	176.0
Nondefense discretionary ($12 billion off final appropriations)	12.00	13.00	14.00	15.00	16.00	70.0
Entitlement changes	6.30	9.11	10.54	13.43	16.89	56.2
User fees	5.49	1.45	1.55	1.36	1.65	11.5
Net interest	1.60	5.60	10.50	16.00	23.40	57.1
Subtotal of cuts	31.39	46.16	70.59	95.79	126.94	370.8
Total	34.94	53.00	77.06	101.99	133.05	400.0

SENATOR WM. V. ROTH, JR. PLAN—SEPTEMBER 26, 1990—DETAIL OUTLINE

Item	Fiscal year—					
	1991	1992	1993	1994	1995	1991-1995
Revenue items: IRA (w/rollover)	$1.50	$3.40	$3.30	$1.30	$3.30	$14.80
Extension of expiring provisions:						
(a) Permanent research and development credit	(0.50)	(.90)	(1.10)	(1.30)	(1.60)	(5.40)
(b) Educational Assistance Act	(.23)	(.33)	(.35)	(.36)	(.37)	(1.63)
(c) Health insurance for self-employed	(.25)	(.31)	(.36)	(.41)	(.46)	(1.79)
(d) Foreign allocation of R&D	(.50)	(.71)	(.77)	(.84)	(.90)	(3.72)
(e) Mortgage revenue bonds and credit certificate	(.01)	(.05)	(.14)	(.24)	(.33)	(.77)
(f) Airport and airway trust fund taxes	.88	1.56	1.67	1.81	1.99	7.91
(g) IRS user fees	.06	.06	.06	.06	.06	.30
(h) Administrative expense limits of private foundations	0	0	0	0	0	0
(i) Tax on deep seabed hard minerals	0	0	0	0	0	0
(j) Telephone excise tax extension	1.50	2.50	2.70	2.90	3.10	12.70
(k) FUTA 0.2 percent surtax extension	.77	1.09	1.12	1.15	1.18	5.31
(l) Extension of leaking underground storage tax	.13	.13	.13	.13	.14	.66
Retiree health benefits	.20	.40	.20	0	0	.80
Subtotal of increases	3.55	6.84	6.47	6.20	6.11	29.17
Spending cuts:						
Defense	6.00	17.00	34.00	50.00	69.00	176.00
Nondefense discretionary ($12 8 off final appropriation)	12.00	13.00	14.00	15.00	16.00	70.00
Agriculture subsidies:						
(a) Reduce price supports	1.50	2.10	2.40	3.00	3.50	12.50
(b) Reduce REA loan subsidies	.07	.19	.33	43	.50	1.52
Medicare:						
(a) Secondary payer reform	.31	1.27	1.63	1.98	2.33	7.52
(b) Part B premium floor 25 percent	.00	.67	1.75	3.13	4.81	10.36
(c) Rural hospital capital at 85 percent	.17	.21	.23	.25	.27	1.13
(d) Urban hospital capital at 75 percent	1.36	1.72	1.88	2.05	2.22	9.23
(e) Overvalued procedures	.11	.18	.21	.24	.26	1.00
(f) Durable medical equipment	.11	.20	.22	.25	.27	1.05
Medicaid:						
(a) Eliminate Federal Medicare match	.61	.66	.71	.76	.81	3.55
(b) Pay employee premium if cost effective	.18	.22	.26	.31	.97	1.94
General government and Postal Service:						
(a) Federal retirement lump sum	.96	.72	(.06)	(.07)	(.07)	1.48
(b) Federal Employee Health Program	.32	.37	.38	.50	.42	1.99
(c) Postal Service indirect subsidy	.60	.60	.60	.60	.60	3.00
User fees:						
(a) Customs	.81	.82	.84	.86	.88	4.21
(b) Nuclear Regulatory Commission	.30	.32	.33	.34	.36	1.65
(c) Naval petroleum reserve	1.00	(.09)	(.03)	(.27)	(.03)	.58
(d) Food and Drug Administration	.16	.16	.16	.17	.17	.82
(e) Strategic petroleum Reserve	3.00	0	0	0	0	3.00
(f) Additional user fees	.22	.24	.25	.26	.27	1.24
Net interest	1.60	5.60	10.50	16.00	23.40	57.10
Subtotal of cuts	31.39	46.16	70.59	95.79	126.94	370.87
Total	34.94	53.00	77.06	101.99	133.05	400.04

Estimates based on CBO, OMB and JCT figures.

THE 4-PERCENT SOLUTION

FACTS

Baseline spending is projected to grow from $1.207 trillion in fiscal 1990 to $1.297 in fiscal 1991. This is an increase of $90.2 billion.

Baseline tax revenues are projected to grow from $1.044 trillion in 1990 to $1.121 trillion in fiscal 1991. this is an increase of $77.7 billion in new tax revenues. Thus, baseline spending increases will exceed revenue increases by $12.5 billion in fiscal 1991.

True deficit reduction can only be achieved if new spending does not exceed new revenues.

SOLUTION: CONTROL FEDERAL SPENDING

Amend Gramm-Rudman-Hollings to link GRH deficit targets to a 4 percent cap on the total amount that federal outlays can increase over the previous years' level. A 4 percent cap in total outlays would allow for about $45 to $50 billion in new spending per year, but it would require Congress and the President to choose how to allocate the funds.

GRH targets would be changed and linked to the following outlay targets:

[In billions of dollars]

	Fiscal year—							
	1990	1991	1992	1993	1994	1995	1996	1997
OMB:								
Outlays [1]	1,208	1,256	1,306	1,358	1,413	1,469	1,528	1,589
Revenues	1,044	1,122	1,196	1,279	1,363	1,441	[2] 1,521	[2] 1,600
Deficit	−164	−134	−112	−80	−50	−28	−8	+11
CBO:								
Outlays [1]	1,192	1,240	1,289	1,341	1,394	1,450	1,508	1,568
Revenues	1,044	1,123	1,188	1,260	1,337	1,417	[2] 1,506	[2] 1,601
Deficit	−148	−117	−101	−81	−57	−33	−2	+33

[1] Does not include cost of S&L bailout.

[2] Estimated from OMB and CBO trends.

Expand the number of sequesters. There should be at least a mid-year sequester, or, perhaps, even quarterly sequesters. This is essential to prevent spending increases from being enacted mid-session.

Eliminate current-services budgeting.

1-YEAR DEFICIT REDUCTIONS UNDER THE 4-PERCENT SOLUTION: SPENDING REDUCTION OFF BASELINE

[In billions of dollars]

	Fiscal year 1990	Increase	Fiscal year 1991
OMB:			
Baseline outlays	1,207.7	90.2	1,297.90
4-percent solution	1,207.7	48.3	1,256.02
Spending reduction			41.88
CBO:			
Baseline outlays	1,192	86.0	1,278.0
4-percent solution	1,192	48.0	1,240.0
Spending reduction			38.0

4-PERCENT SPENDING VERSUS REVENUES BASELINE

[In billions of dollars]

	Fiscal year 1990	Increase	Fiscal year 1991
OMB:			
4-percent solution	1,207.7	48.3	1,256.02
Revenues	1,044.0	77.7	1,121.70
Deficit reduction		29.39	[1] −134.32
CBO:			
4-percent solution	1,192.0	48.0	1,240.0
Revenues	1,044.0	79.0	1,123.0
Deficit reduction		31.0	[1] −117.0

[1] Deficit.

SPENDING OPTIONS USING THE FOUR PERCENT SOLUTION

Fiscal 1990 Outlays (minus S&L bailout costs) are $1.208 trillion (OMB) or $1.192 trillion CBO). Using either figure, a four percent increase above that level allows for about $48 billion in new spending. The following programs can be fully funded—with scheduled baseline increases—in FY 1991 with $48 billion. All other programs would make do with FY 1990 spending levels.

FISCAL 1991 BASELINE INCREASES

[In billions of dollars]

Program	OMB	CBO
Social Security	18.0	18.0
Interest	14.2	13.0
Medicare	8.5	9.0
Medicaid	7.3	6.0
Total	48.0	46.0
Military Retire		1.0
Veterans benefits		1.0
Total		48.0

Under this option the following entitlement programs would not receive full baseline increases:

Fiscal year 1991 increase (CBO)

Food stamps	$3
Supplemental security income	3
Family support	2
Federal civilian Retired	4
Total	12

Budget summit negotiators have been discussing changes in Medicare that would cut $6 billion off the baseline. This $6 billion could be used to fund the baseline increases in Food Stamps and SSI.

Implementing the Four Percent Solution could save at least $2 billion in Net Interest payments. These saving could be applied to the remaining entitlement programs.

A list of billions of dollars in spending and entitlement reforms is contained in the last section of this document.

This, of course, is not the only allocation option available with the Four Percent Solution. It is, perhaps, the most politically attractive option one month before an election. Certainly, increases for other high-priority programs, such as drug enforcement, could be traded for reforms in other programs, the Food Stamp program for example.

COMMON-SENSE SPENDING CUTS

If the goal is: (1) to match the $50 billion deficit reduction package requested by the President (ie: $50 billion off the baseline) then $8 billion in real program cuts can be chosen from the menue below and added to the 4 percent solution; or (2) to find additional savings off the baseline to fully fund all entitlement programs, then the following cuts can be traded dollar for dollar.

Repeal the Davis-Bacon Act and the Contract Services Act. Savings: $2 billion.

Require that unemployed workers wait two weeks before they can begin the 26 weeks of unemployment benefits. Savings: $2 billion.

Raise the federal civil service retirement age from 55 to 65, and eliminate the lump-sum retirement option. Savings: $3 billion.

Hold States liable for all erroneous AFDC overpayments. Savings: $1.2 billion.

Reduce overlapping AFDC benefits for those who live in subsidized housing. Savings: $500 million.

Combine expenditures on all food assistance programs into a block grant to the States, with a 20 percent reduction in spending (to recapture excess administrative and benefit payments associated with program overlap), and allow the States to redesign their assistance programs to better meet the needs of their citizens. Savings: $5 billion.

Reduce overlapping benefits between Food Stamps and Child nutrition programs. Savings: $1 billion.

Retarget Food Stamp benefits to more accurately reflect the nutritional needs of household members. Savings: $1.1 billion.

Restore the Food Stamp purchase requirement. Savings: $1 billion.

Establish a State matching requirements for the Food Stamp program. Savings: $2.5 billion.

Hold States liable for all Food Stamp overpayment errors. Savings: $1 billion.

Merge WIC with Medicaid. Savings: $800 million.

Lower the minimum Federal matching rate for Medicaid to States with high per capita incomes. Savings: $4.5 billion.

Hold States liable for all erroneous Medicaid overpayments. Savings: $1.3 billion.

Mr. SYMMS. People have said to me: "Well, that is not a program, that is just simply a slogan." That is just because we do not want to bite the bullet and face the music, Mr. President. I, personally, feel that the Congress is not looking very good in the eyes of the American people and it probably should not. But I say that advisedly, and not out of great disrespect for my colleagues that have worked for this. But in good conscience, there is no way that I believe, when you look closely at this $500 billion package, that it is a good package.

Surely a limited growth of the Federal Government—if you left it up to me, I would only allow the Federal Government to grow 1 or 2 percent a year. I am talking about making a compromise. If you are not happy with 4 percent, let us limit it to a little less.

But I predict that, with the package that is before the Congress, the Government will grow at a rate much greater than the budget summiteers think it will, and the defense budget will be the area that will suffer. We put ourselves and our young men and women in this country, that are in the forces of peace and freedom, at undue risk and in harm's way, if we cut the defense budget dramatically in order to meet some targets because we do not have the courage to reduce spending on the domestic side.

I think that there are actions that we can take and I will support those actions. But I think this budget simply is not meeting those criteria and those qualifications.

The PRESIDING OFFICER. The Senator's request for time for morning business has expired. If there is a request to continue in morning business, we will return to morning business.

Mr. INOUYE. Mr. President, I ask unanimous consent that I be permitted to speak for 10 minutes as though in morning business, and upon completion of my statement, return to the pending business, the consideration of S. 3037.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Does the Senator from Oklahoma need time?

Mr. NICKLES. If the Senators would yield just for a second, I wanted to compliment Senator SYMMS for his statement and also for his suggestions on the need for more deficit reduction. I will speak further on that after the conclusion of my friend from Hawaii.

CHEMICAL WEAPONS DESTRUCTION

Mr. INOUYE. Mr. President, on September 27, the junior Senator from Hawaii [Mr. AKAKA] introduced a bill of extreme importance to the people of Hawaii and the Pacific Basin. His measure will prohibit the transport and destruction or storage of any additional chemical munitions after those from Germany arrive at Johnston Island. I wholeheartedly support the Akaka plan.

Exactly 2 months ago, I came to the Senate floor to discuss with my colleagues the planned shipment of chemical munitions to Johnston Island, and to address the concerns of my constituents. Two modified cargo vessels carrying approximately 100,000 chemical artillery shells have begun their voyage from Nordenham, West Germany, to Johnston Island, and are scheduled to arrive on or about November 10.

Of all the horrible weapons produced by man, perhaps none instills fear as readily as chemical agents. These weapons are to be feared, because they are extraordinarily dangerous. I do not deny or disparage the fears of my constituents. Indeed, I share them. We must resolve to seek the adoption of the presently negotiated international treaty which will restrict the further production of these weapons, and destroy most of those which currently exist throughout our planet.

In doing so, we must take every precaution to avoid an accidental release of chemicals. For this reason, on August 14, I visited Johnston Atoll for an onsite inspection to ascertain for myself the safety of the destruction procedures. At my invitation, media representatives accompanied my delegation to Johnston Island. I sought to guarantee that what I saw—they and the people of Hawaii would see. I wanted the facts to be reported with no coverup, no secrets. At that time, I vowed that, if there were any reasonable doubts that the weaspons could not be safely destroyed, I would take every measure at my disposal to block the shipment of chemical weapons from Germany to Johnston Island.

In the course of my visit, I became convinced that the increasingly stringent tests that have been repeatedly conducted to ensure the integrity of construction, the adequacy of safeguards, and the safety of the processes employed meant the Johnston Island Chemical Disposal System is as safe as any human endeavor can be. I believe the media representatives who accompanied me shared this view.

Mr. President, there have been some startup delays in the operation of the disposal system at Johnston Island. But these have been taken to ensure the continued safe and efficient operation of the facility. I believe that our Government and military officials have taken the proper course of action—they are cautious, they stress safety, and they endeavor to ensure the proper operation of the system.

Johnston Atoll is our Nation's first large-scale incinerator for the destruction of chemical weapons. It is also the model for eight others to be constructed throughout the continental United States. I believe it is fair to say that the vast majority of Americans agree with the policy of destroying these gruesome weapons. However, I believe it is also fair to say that the vast majority of Americans will fight to keep it "out of their backyards."

Mr. President, fairness and equity—as well as safety—dictate that these chemicals be destroyed in place. The incineration of chemical weapons is the best available means to rid the world of these deadly chemicals. Let me state a simple truth—if we are to rid the world of chemical weapons, they must be destroyed. We, in the Pacific, are the first to shoulder our share of this national responsibility. Many of my Hawaii constituents, as well as the citizens of the U.S. territories in the Pacific which are under the protection of our flag, are fearful of the impending shipment. Some are outraged.

However, they are even more concerned that Johnston Island, which is 825 miles west-southwest of Honolulu, will become the dumping ground for U.S. chemical weapons. Mr. President, I want to assure my constituents that no more than 6.6 percent of the U.S. chemical weapons stockpile will be destroyed on Johnston Island. The remainder will be destroyed within the continental United States at locations where they are currently stored.

The proposal of Senator AKAKA ensures it. As chairman of the Senate Appropriations Subcommittee on Defense, I intend to incorporate the Akaka Johnston Island plan into the fiscal year 1991 Defense appropriations bill. I believe the Akaka plan is sound. For Hawaii, it accepts our share of the national responsibility to begin the process of destroying these deadly chemical agents, while concurrently guaranteeing that we will not be called upon, again and again, to accept a disproportionate burden of chemical weapons destruction. We must now accept as our destiny the challenge to make this world a safer place for our children, grandchildren, and the generations to follow. I embrace it. I intend to carry it through. We will destroy these chemical weapons from Germany on Johnston Island. We, in the Pacific, will fulfill our responsibility. We will then look to others to do their share.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I ask unanimous consent to proceed for 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET AGREEMENT

Mr. NICKLES. Mr. President, I heard my friend and colleague Senator SYMMS talk about the deficit, and I heard him mention a lot of the problems and the dilemma we are faced with today. We are faced with some serious problems. The deficit is far too high, and it is growing. We need to work together, Democrats and Republicans, conservatives and liberals, with the administration, and bring the deficit down.

Is the package before us good enough? I am not sure. Frankly, I do not think it is. I do not think it is enough. Is it better than nothing? Maybe. I think we have to weigh it versus a sequester, and frankly everybody in town is scared to death of sequester. No one knows how much it will be, or how serious it will be. I think we have to weigh those two alternatives.

First we have to look at where we are and how we got into this situation. Mr. President, the deficit this year through the month of August is $241 billion. That is an enormous deficit. That is a deficit that is hard to comprehend. It is a deficit that is over $1,000 for every man, woman and child in the United States. That is how much our indebtedness has grown this year alone, $241 billion.

That compares to a deficit last year at the same time of $145.9 billion. In other words the deficit this year alone is 65 percent more than it was last year. So the deficit is really widening, it is growing. That cannot continue. That is not healthy. That is not a good thing for our country, it is not a good thing for the financial markets, it is not a good thing for our children. It needs to be reversed.

We might ask ourselves, why is the deficit so large? Why did it grow? How did it expand up to $241 billion this year? Let me mention a couple of things.

Spending is growing much faster than the revenues. As my friend from Idaho is well aware of, spending this year to date has increased 12.8 percent more than last year. That is two or three times the rate of inflation. Actually, we have spent this year $133 billion more than we spent last year for the first 11 months of the fiscal year, all the way through August; this year we spent $133 billion more than we did last year.

Revenues are not growing as fast. Revenues this year have grown at 4.2 percent. We actually have more money to spend this year than last year, but the growth rate is a lot slower. The growth on the revenue side has only increased 4.2 percent. So if expenditures are growing at 12.8 percent, and revenues are growing at 4.2 percent, you realize the deficit is increasing. This year, we actually spent about $100 billion more than we did last year. So spending continues to escalate.

I make mention of the fact that spending is $133 billion over last year because everyone is so concerned about a sequester. I am concerned about a sequester. I do see that a furlough would put a lot of people out of work. I know in my State, and a lot of other States, the sequester could have a very negative impact on a lot of people. It will disrupt their lifestyle. It will put some people out of work probably permanently. It will put a lot of people in the position where they will

miss several days per year. In other words, they might miss as many as 22 days for the entire year. Those were days they planned on being paid for. They will not be paid for. Why? Because they chose to work for the Federal Government? Because we could not get our fiscal house in order?

I do not think that is fair for public employees. I do not think it is a fair way to manage our financial affairs. But I also look at a $100 billion sequester and compare that with the total amount we are spending. We are spending $1.3 trillion. If we are going to spend $1.3 trillion, and if we are to reduce that by $100 billion, and actually spending is anticipated to increase by another $100 billion between 1990 and 1991, that means you can actually have a sequester and you will still be spending about the same amount of money in fiscal year 1991 as we did in fiscal year 1990. The outlays will be almost identical. Therefore, why would it be so painful?

One of the reasons it will be so painful is the way we set up Gramm-Rudman. We exempt about half the budget from the sequester. That means the other half is hit twice as hard. We say, that will be from 8 percent to 16 percent, but yet most of the figures that we hear on the sequester are reductions in spending of 33 or 34 percent. I am still not sure why we exempt military personnel, we exempt Social Security, we exempt veterans pensions, we exempt a lot of programs targeted and designed toward lower income levels.

Those groups that might be hit are civilian personnel in the Navy at Norfolk. They might be civilian personnel in the FBI or the Secret Service. They might be civilian personnel in the Bureau of Indian Affairs or the Park Service. Those areas that are not exempt get hit and they get hit very hard; probably too hard.

What should we do? We have to weigh this; we have to weigh this difficult decision in passing this budget as proposed. Maybe it can be modified; maybe it can be improved. I think it should be improved.

I happen to serve on the Appropriations Committee, and I see appropriations growing at every single level. My colleagues will be kind of surprised at this—and I will include in the RECORD some CBO estimates on the amount of appropriations increases. They are very large in a whole variety of areas. I can go through individual areas, but the bill we passed yesterday the VA/HUD bill, increased budget authority by 16 percent and outlays by 10 percent. I can go all the way through, but that is common. On outlays, on the so-called budget package, we provide that nondefense discretionary spending actually increases with inflation for at least 3 years. I do not know if that is fair.

Is it fair for us on the Appropriations Committee to say we are going to grow with inflation for the next 3 years, but we are going to ask American citizens to pay more taxes in order to fund that? Should we not have maybe at least 1 year to have a freeze on domestic discretionary spending? If we are going to have a freeze on defense spending, why not have it on domestic discretionary spending? I would support that. My guess is we could probably get the votes for it. Maybe not. I know the negotiators were not successful in getting it. Maybe it is too much to ask. I do not think it is. I personally think we should have that. I know it was tried. I compliment my friend and colleague, Senator GRAMM, because he did try that in the negotiations. Unfortunately, he was not successful. It takes both sides, and both sides fashioned the package that we have before us.

Mr. President, I am concerned about the growth in spending. I am concerned about the fact spending this year has already grown at 12.8 percent. I look at the projections for next year, and I see that spending is projected again to grow at 10 percent. I personally think, instead of fueling the fires of more and more Federal spending, that we should really be stronger in our desire and in our attempt and in our efforts to reduce the growth of spending. Instead of allowing spending to compound at 12 percent or 10 percent, I think we should try and contain the growth of spending in the 3 or 4 percent range.

Yes, that may require sacrifice upon all Americans, but I think it is a fair sacrifice. And then I think it would also give us the tools and the mechanism to have real significant deficit reduction. It will be very, very difficult to have real deficit reduction if we allow spending to continue to escalate at 9 or 10 or 12 percent. What we will do in that regard is allow the tax increases that are generated to basically fund the spending increases. To me that is not fair.

I will compliment those who have negotiated this agreement. They say we have caps and budget reform and they project in the outyears that spending will not really grow. In the years 1992, 1993, 1994, and 1995, the outlay growth is relatively constant. It does not even increase with inflation. I hope that is the case.

I heard my friend from Idaho say that if that was the case, he would support the package. He remains to be convinced. I remain to be convinced. I told Governor Sununu and others in the administration, if I was really convinced we would keep a level cap on outlays for the next 4 or 5 years, I would be the first Senator to sign onto this package and I would be most enthusastic for its passage. I think it is vital for the economic health of this country for us to contain the growth of Federal spending.

I am not sure this package does it. This package may be better than nothing, and I may support the initial step. At least in the authorizing committees we should work on it and see if we can make improvements. I think improvements need to be made.

There are several provisions in this bill, in my opinion, which will not work. The bill has a tax on reversions on pension plans up to 40 percent. The net impact of that would be that we are going to discourage people from fully funding their pension plans. That is going to make a lot of pension plans underfunded.

Therefore, beneficiaries will find over the course of years, all of a sudden their pension plan will not have enough money in it and then will be coming to the Pension Benefit Guarantee Corporation and say give me more money. They will say, we do not have it.

Congress decided to tax the reversions so heavily it is not in the plans. I think we have to change that. It does not raise much money, but I think it will cause a whole lot of problems with the private pension community.

There is another provision that says it will increase the fines and penalties of OSHA, the Occupational Safety and Health Administration, which OSHA imposes on employers. It will increase those penalties five times. What sense does that make? OSHA is supposed to encourage and work with employers and employees for a safe and sound environment within which to work; increase safety, not to raise money for the Federal Government; not to harass employers, not to be walking in and say, "You have that ladder in the wrong place. That is a $5,000 fine." "Oh, that exit sign is not posted" or "painted brightly enough; that is a $5,000 fine." That is not the purpose of OSHA.

But yet that happens to be in this proposal. It needs to be changed. I happen to be one of the few businessmen in the Chamber—and I know the Presiding Officer made a career in business before coming to the Senate. There are provisions to enhance small business. I happen to be a small businessman. I will tell my colleagues, the provisions that I have seen supposedly to enhance small business will not work. They might attract a lot of people into financial schemes to reduce taxes but, in my opinion, that is not sound. That is not good economics. And it should not be in the final part of the package.

I support capital gains reductions. I think that would help the economy. I do not think several of the changes proposed so-called to benefit small businesses in this package are worth it.

Why should we raise taxes on other people in this regard to try and cram money into certain small enterprises, as defined in this bill, with tax credits, et cetera, all designed supposedly for small business? As I said, I come from a small business background. I think that is a mistake. I hope and expect it will be changed. If not, we will come back and change it in a few years.

There are a lot of other things that I think could, should, and I hope will be done in this package. I hope we will come up with a real reduction package. I hope we will come up with significant savings. When I say savings, I am talking about real savings. I am talking about compared to what we spend in fiscal 1990, not just reductions in the rate of growth.

I do not think we can afford to continue to allow Federal spending to climb in double digit figures. I think we on the Appropriations Committee have to take control. We have what we call controllable and mandatory spending. Frankly, what we show for domestic nondefense controllable spending is only $220 billion out of a $1.3 trillion budget. I think appropriators have to take total control over all the money in those committees and not assume that spending is mandatory and just disregard it.

Mr. President, spending is compounded in a variety of committees, in almost every committee. I see the Presiding Officer is my friend and colleague from the Transportation Subcommittee. Budget authority—these are all CBO estimates, I will tell my colleagues—for the Transportation Subcommittee declines by 18 percent, a rather striking thing, and outlays only increase by 1 percent. That is very unusual, because almost all other committees increase in both budget authority and outlays by double digit figures.

I will just mention outlays, for example, but HUD increased by 10 percent; Treasury, 10 percent; Transportation, only 1 percent; military construction, 1 percent; legislative branch, 11 percent—we have not brought that bill up. I am involved in that committee and I will try to reduce that—labor, 10 percent; foreign ops, 3 percent—that may be changed—defense, a minus 1 percent in outlays. In other words, we will actually be spending less next year than we did the previous year; District of Columbia, it shows a minus 5 percent. I am not sure that that is what we actually passed. That is what CBO shows in their chart; Commerce Department, an increase of 9 percent; Energy, 10 percent; Agriculture, 10 percent; and Interior, 12 percent.

Again, Mr. President, it is obvious, with one or two exceptions, Federal spending in almost all appropriations bills is compounding, at double digit figures, more than twice the inflation rate. I personally think we need to hold the growth of spending down to no more than 3 or 4 percent. That happens to be what revenues are growing at right now, 4 percent. I think we need to contain the growth of expenditures to 3 or 4 percent as well.

That will not be easy. Congress is used to spending more money. Congress is going to have to break its habits.

Mr. President, I ask unanimous consent to print in the RECORD CBO estimates.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APPROPRIATIONS SUBCOMMITTEE SPENDING

[Dollar amounts in millions]

	Fiscal year 1989 actuals	Fiscal year 1990 estimates	Change from 1989		Fiscal year 1991 Senate	Change from 1990	
			Dollars	Percent		Dollars	Percent
Interior:							
Budget authority	10,200	11,200	1,000	10	[1] 12,871	1,671	15
Outlays	10,000	10,700	700	7	[1] 11,997	1,297	12
Agriculture:							
Budget authority	35,700	45,200	9,500	27	52,690	7,490	17
Outlays	29,800	31,400	1,600	5	34,419	3,019	10
Energy:							
Budget authority	16,600	18,700	2,100	13	20,893	2,193	12
Outlays	16,400	17,900	1,500	9	19,758	1,858	10
Commerce:							
Budget authority	15,400	18,000	2,600	17	20,185	2,185	12
Outlays	15,400	17,500	2,100	14	19,133	1,633	9
District of Columbia:							
Budget authority	600	500	(100)	−17	[1] 570	70	14
Outlays	600	600	0	0	[1] 570	(30)	−5
Defense:							
Budget authority	282,400	284,300	1,900	1	[1] 263,489	(28,811)	−7
Outlays	278,300	280,200	1,900	1	[1] 276,243	(3,957)	−1
Foreign Ops:							
Budget authority	14,400	15,500	1,100	8	[1] 15,353	(147)	−1
Outlays	12,300	12,900	600	5	[1] 13,301	401	3
Labor:							
Budget authority	141,800	154,400	12,600	9	[1] 173,477	19,077	12
Outlays	146,000	160,100	14,100	10	[1] 176,108	16,008	10
Leg Branch:							
Budget authority	1,900	2,000	100	5	[1] 2,340	340	17
Outlays	1,900	2,000	100	5	[1] 2,227	227	11
Mil-Con:							
Budget authority	9,000	8,300	(700)	−8	7,797	(321)	−4
Outlays	9,000	8,500	(500)	−6	8,617	117	1
Trans:							
Budget authority	10,900	16,000	5,100	47	13,189	(2,811)	−18
Outlays	26,900	29,300	2,400	9	29,475	175	1
Treasury:							
Budget authority	16,100	18,700	2,600	16	20,710	2,010	11
Outlays	16,000	18,100	2,100	13	19,881	1,781	10
VA/HUD:							
Budget authority	61,700	67,500	5,800	9	78,588	11,088	16
Outlays	65,000	71,200	6,200	10	78,439	7,239	10
Totals:							
Budget authority	616,700	660,400	43,700	7	682,334	21,934	3
Outlays	626,600	660,500	33,900	5	690,168	29,668	4

[1] 302(B) allocation.

Source: Office of U.S. Senator Don Nickles CBO estimates.

MONTHLY TREASURY STATEMENT COMPARISON

[In millions of dollars and fiscal years]

	Receipts	Cumulative	Outlays	Cumulative	Deficit/(surplus)	Cumulative
October	63,582	63,582	90,590	90,590	27,009	27,009
November	64,320	127,902	93,454	184,044	29,134	56,143
December	93,655	221,557	105,097	289,141	11,442	67,585
January	89,306	310,863	86,500	375,641	(2,806)	64,779
February	61,897	372,760	89,769	465,410	27,871	92,650
March	68,205	440,965	103,984	569,394	35,779	128,429
April	128,892	569,857	88,320	657,714	(40,572)	87,857
May	71,025	640,882	96,491	754,205	25,466	113,323
June	108,249	749,131	100,460	854,665	(7,789)	105,534
July	66,191	815,322	84,430	939,095	18,239	123,773
August	76,136	891,458	98,285	1,037,380	22,150	145,923
September	99,233	990,691	105,299	1,142,679	6,066	151,988
1989 total		990,691		1,142,680		151,988
1990						
October	68,426	68,426	94,581	94,581	26,155	26,155
November	71,213	139,639	101,018	195,599	29,805	55,960
December	89,130	228,769	103,906	299,505	(14,776)	70,736
January	99,538	328,307	91,286	390,791	(8,252)	62,484
February	65,170	393,477	100,437	491,228	35,267	97,751
March	64,819	458,296	118,165	609,393	53,346	151,097
April	139,624	597,920	97,865	707,258	(41,760)	109,337
May	69,212	667,132	111,769	819,027	42,558	151,895
June	110,614	777,746	121,747	940,774	11,133	163,028
July	72,357	850,103	98,291	1,039,065	25,934	188,962
August	78,486	928,589	131,240	1,170,305	52,754	241,716
September						
1990 total	,	,	,	,	,	
1990 Compared to 1989 (in percent)						
October	7.6	7.6	4.4	4.4	−3.2	−3.2
November	10.7	9.2	8.1	6.3	2.3	−0.3
December	−4.8	3.3	−1.1	3.6	29.1	4.7
January	11.5	5.6	5.5	4.0	194.1	−3.5
February	5.3	5.6	11.9	5.5	26.5	5.5
March	−5.0	3.9	13.6	7.0	49.1	17.7
April	8.3	4.9	10.8	7.5	2.9	24.4
May	−2.6	4.1	15.8	8.6	67.1	34.0
June	2.2	3.8	21.2	10.1	−242.9	54.5
July	9.3	4.3	16.4	10.6	42.2	52.7
August	3.1	4.2	33.5	12.8	138.2	65.6
September						
1990 total						

Source: Office of U.S. Senator Don Nickles.

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator may not reserve the right to object.

Mr. KERRY. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the call of the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order of the quorum call be rescinded.

The PRESIDING OFFICER. Is there any objection? The Chair hears none, and it is so ordered.

Mr. NICKLES. Mr. President, I ask unanimous consent to proceed as if in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLINICAL LABORATORY IMPROVEMENT ACT REGULATIONS

Mr. NICKLES. Mr. President, I am gravely concerned about a set of proposed regulations which will have a devastating effect on the quality of rural health care in America—the Clinical Laboratory Improvement Act of 1988 regulations which were published in the Federal Register on May 21 of this year.

The Oklahoma State Medical Association estimates that these regulations could force up to 40 percent of the affected hospitals in Oklahoma to close. In Oklahoma, there are 165 licensed hospitals, 126 have labs that would be affected by the regulations but only 39 labs would currently meet the proposed regulations according to the State medical association.

This is not only a problem in Oklahoma, the problem will affect most States, especially those with rural health care systems. Each Member of this body should be concerned about the affect that certain provisions of these regulations will have on their States.

I am sure that many offices have received letters and calls from concerned constituents. I have heard from over 6,000 Oklahomans on this issue alone. Hospital administrators, physicians, and many people who are concerned about the delivery of health care in their communities have written or called my office. When I traveled back to the State over the August recess, CLIA was mentioned at the meetings which I held in rural communities.

The aspect of the regulations which I am most concerned about deals with the personnel standards set forth in subpart L of the regulations. As part of the laboratory certification procedures established by CLIA 1988, the law states that laboratories shall "use only personnel meeting such qualifications as the Secretary may establish" for performance of various duties within the laboratory.

HCFA, in implementing the law, has proposed requiring a doctoral-level scientist or board-certified pathologist to be director and technical supervisor at every laboratory where "Level II" diagnostic testing is performed. Additionally, a medical technologist with a bachelor's degree and 3 years of experience is required to be in the laboratory whenever such testing is performed.

Oklahoma health care officials indicate there are not enough of such highly qualified personnel even if hospitals and physicians could afford to pay them. At a result, clinical laboratory testing will become centralized, competition will be reduced and patients will experience difficulty in obtaining needed tests and will face frustrating delays in obtaining the results of such tests.

In order to address the concerns related to HCFA's proposed personnel requirements, I am considering offering an amendment to the fiscal year 1991 Labor, HHS appropriations bill which would direct the Secretary of Health and Human Services to consider access, cost, and the delivery of other health care services when issuing final regulations. I also plan to address my concerns that the personnel standards not be implemented prior to the completion of a study mandated under the CLIA Act of 1988.

HCFA officials indicate that work on the study which was ordered by CLIA 1988 has not begun. The study has not yet even been contracted out. Nevertheless, the proposed rule sets out new personnel standards when the proposed rules at the same time admit that:

> CLIA 1988, in recognition of the absence of reliable information linking the performance of testing with specific personnel qualifications, requires PHS (Public Health Service) to study the relationship between personnel and test performance.

This study was ordered reported to Congress by May 1, 1990, far in advance of the July 1, 1991, effective date of personnel standards for laboratories not previously subject to section 353 of the Public Health Service Act. HCFA officials indicate that the study will not be completed prior to 1992.

If the proposed personnel standards go into effect in present form, hospitals will be forced to close, doctors will not be able to provide certain tests in their offices causing treatment to be delayed jeopardizing patients health care and further increasing the cost of health care.

The president of the Oklahoma State Medical Association happens to be a pathologist himself and serves on the American Medical Association Committee on Laboratories. He cites the following examples of the effect of these regulations:

A patient who is having open heart surgery. During this operation it is the anethesiologist's responsibility to test for blood clotting and oxygen levels. Under these regulations, the testing that is usually done in the operating room as the operation proceeds would have to be sent out to the lab in another part of the hospital. This would obviously endanger the life of the patient.

A patient who may have asthma who is in his physician's office. The physician could not do the necessary blood test for gases in his office but would have to send the testing out to another lab.

Again, that is another example of the denying speedy access to test results which may endanger a person's health.

Another example, an Oklahoma hospital administrator in Shattuck, OK, said:

> How can you tell a heart patient or a possible diabetic. Well, come back in 24 or 48 hours or longer when we get the results of your lab tests, and then we'll treat you.

That may be too late.

An Oklahoma lab technician who works in an office lab in Hydro, OK, said:

> The trouble is someone could die waiting for test results from an out-of-town medical lab. I don't think there is a hospital in western Oklahoma that could afford to hire the personnel to meet these new regulations.

I could go on and on. The fact is that the original law for which the regulations are being written mandates that certain studies take place prior to when these regulations go into effect. Let me read from the Clinical Laboratory Improvement Act, section 4 which was passed in October 1988:

> SEC. 4. STUDIES.
>
> (a) STUDIES.—The Secretary of Health and Human Services, acting through the Public Health Service, shall conduct studies of—
>
> (1) the validity, reliability, and accuracy of proficiency testing of clinical laboratories under section 353 of the Public Health Service Act (as amended by section 2 of this Act),
>
> (2) the correlation between established standards for personnel employed in clinical laboratories and the accuracy and reliability of the results of the tests performed by the laboratories which are subject to such standards,
>
> (3) the correlation between internal quality assurance and quality control programs for clinical laboratories and the accuracy and reliability of the results of the tests performed by the laboratories,
>
> (4) the extent and nature of problems in the diagnosis and treatment of patients caused by inaccurate laboratory test results, and
>
> (5) the effect on laboratory test accuracy of errors in each of the components of the clinical testing process, including the communication between the attending physician and the clinical laboratory which it to conduct the tests, the selection of the tests to be performed, the limits applicable to the tests selected, the acquisition of the material to be tested, the transportation of the material to the laboratory, the storage of the material by the laboratory, the analysis of the material by the laboratory, and the reporting of the results by the laboratory.
>
> (b) REPORT.—Not later than May 1, 1990, the Secretary shall report to the Congress the results of the studies conducted under subsection (a).

HCFA has not complied. They have not finished the study. I do not think we in Congress should allow that study to go forward or allow these regulations to go forward to mandate very strict, very severe, very costly personnel standards without knowing the effect on health care, without knowing what it will do to the quality of health care, without having any idea of what it will cost. I think all of those things are important.

I have the strong support of the leading associations in the medical field. At this time, I have been contracted by the following groups which are fully supportive of my efforts: The American Medical Association; the American Society of Internal Medicine; the American Academy of Family Physicians; and the American Academy of Pediatrics.

In closing, I would like to stress that it is not my intention to stop the implementation of the Clinical Laboratory Improvement Act. I think that the intent of the regulation and certainly the original law is a positive step to ensure that patients receive the most accurate of test results.

However, we cannot lose sight of the actual effect of these regulations on the quality of health care in rural communities whether it be in Oklahoma, Iowa, Texas, or any other State. Let us not mandate expensive, unworkable, regulations which will result in reducing health care in rural areas which are already struggling to survive.

Mr. President, I ask unanimous consent that letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, September 11, 1990.
Hon. DON NICKLES,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR NICKLES: The AMA strongly supports your proposed amendment to the FY '91 Labor-HHS appropriations bill that would prohibit the use of funds for the implementation of personnel requirements under the Clinical Laboratory Improvement Amendments of 1988 (CLIA 88) until studies are completed establishing the correction between personnel standards and the accuracy and reliability of test results.

Congress recognized the significant potential for adverse impact on patient care by specifically mandating a study of these critical factors as part of the enabling legislation. These studies must be completed and their results carefully analyzed prior to implementation of any regulations. Patient access to vital laboratory services must not be jeopardized by precipitious implementation.

In the AMA comments on these proposed regulations, submitted on August 20, 1990, we addressed the issue of personnel standards and patient access to laboratory services:

"Personnel standards for Level II testing as proposed in the regulation are too restrictive and unnecessary. Furthermore, sufficient qualified unnecessary. Furthermore, sufficient qualified personnel with these overly stringent qualifications are unavailable in many areas of the country. In addition, as HCFA states in the preamble to the proposed regulation at page 20911, there is no reliable data or scientific information to correlate proficiency testing performance with personnel education and experience. For these reasons, the AMA urges that the personnel standards for Level II testing be modified to be more realistic. Furthermore, we strongly urge HCFA to rely on outcome as the primary determinent of quality, not procedural or educational requirements.

"Section 493.1415, which establishes the qualifications for the Level II laboratory director, should be modified to allow the laboratory director to be a physician who is qualified to assume professional, organizational, and administrative responsibility for the facilities and for the services rendered. This is the same standard as required by the standards of JCAHO for hospital laboratories. This physician is knowledgeable about the laboratory services offered and is available as required by the laboratory staff to render administrative decisions, to provide consultation concerning the medical significance of laboratory results, and to assist in obtaining other required professional consultations."

The AMA fully shares your concerns that the highly restrictive laboratory personnel standards proposed in the CLIA 88 regulations issued on May 21, 1990 will severely jeopardize health care to patients. Again, the AMA fully supports your amendment and stands ready to assist you.

Sincerely,

JAMES S. TODD, M.D.,
Executive Vice President.

AMERICAN SOCIETY OF INTERNAL MEDICINE,
Washington, DC, September 12, 1990.
Hon. DON NICKLES,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR NICKLES: The American Society of Internal Medicine (ASIM) supports your proposed amendment to the FY '91 Labor-HHS appropriations bill that would prohibit the use of funds for the implementation of personnel standards under the Clinical Laboratory Improvement Amendments of 1988 (CLIA '88) until studies are completed to determine the correlation between established personnel standards and the accuracy and reliability of test results, and to assess whether these benefits, if established, outweigh the increased costs associated with personnel standards, including the impact on patient access to timely test results.

Because of our long standing commitment to quality physician office lab testing, ASIM was involved early on as Congress began to look at the need for a new approach to clinical lab regulation and was the first medical organization to support enactment of CLIA '88. We continue to support timely implementation of the law. ASIM is concerned however, with the adverse impact of the regulations, as proposed by the Department of Health and Human Services (HHS), on patient access to timely lab results and inevitably patient care. Specifically, ASIM believes that HHS has placed undue reliance on overly restrictive and unnecessary personnel standards—that of the pathologist director, in addition to other trained laboratory personnel (i.e., medical technologist requirement)—in assuring accuracy of lab results. ASIM believes a combination of reasonable personnel standards, participation in an approved proficiency testing program and quality control requirements will provide necessary assurance of accurate lab results. Attached are excerpts from ASIM's formal comments on these proposed regulations, submitted on August 20, providing statistical data which indicates that the stringent Level II personnel requirements would have a devastating impact on patient access.

Congress recognized this significant potential for adverse impact on patient care in the report of the House Committee on

Energy and Commerce on CLIA '88 (see excerpts) and by specifically mandating a study of these factors as part of the enabling legislation. Although the legislation does not specifically state that access to office testing must be maintained, the extent to which Congress sought to avoid onerous and impractical regulation of less complex testing sites indicates an intent to preserve access to office testing. For all these reasons, ASIM believes that these studies must be completed and their results fully evaluated prior to implementation of the personnel standards. Patient access to convenient and timely testing must be preserved.

You have targeted the central problem of the regulation that would present access problems. ASIM fully shares your concerns that highly restrictive personnel standards will jeopardize patient care. The Society supports the objectives of your amendment and the corresponding provisions of CLIA '88 ASIM stands ready to assist you.

JOSEPH F. BOYLE,
Executive Vice President.

AMERICAN ACADEMY OF PEDIATRICS,
Washington, DC, September 13, 1990.
Hon. DON NICKLES,
U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: The American Academy of Pediatrics (AAP) supports your amendment pertaining to the Clinical Laboratory Improvement Amendments of 1988 (CLIA). This amendment will ensure that no funds will be appropriated to implement the personnel standards of CLIA until a study has been done which determines the correlation between established personnel standards and the accuracy and reliability of test results.

The AAP consists of 39,000 pediatricians dedicated to the principle of a meaningful and healthy life for every child. Our members provide health care for the majority of children in this country, and most of this care is provided in pediatricians' offices. We support the intent of CLIA for quality control and quality assurance, but we see the regulations imposing barriers to care, particularly in rural areas; sharply increasing costs for laboratory services for which patients, insurers and employers will ultimately pay; fragmenting the delivery of health care; delaying treatment; and reducing patient compliance.

The AAP agrees that it is necessary to perform this study before the law is fully implemented. When the law was passed two years ago, Congress asked the Health Care Financing Administration (HCFA) to do five different studies which were to be completed before implementation of the regulations. For various reasons, none of the studies have been undertaken, and HCFA said it will contract out to have these studies done simultaneously as the regulation is implemented. We are particularly concerned about the study dealing with the extent and nature of problems in diagnoses and treatment of patients caused by inaccurate lab tests, and the effect of errors in each component of the clinical testing process. This study directly impacts on the classification of tests, and therefore the degree of regulation to which a laboratory must be subjected.

The Academy thanks you for your initiative in this area. CLIA will dramatically affect the delivery of quality pediatric care and therefore needs to be thoroughly studied to assess its impact. The American Academy of Pediatrics would be pleased to lend its expertise to ensure this law is implemented in a way which will achieve the goal of quality health care.

Sincerely yours,

BIRT HARVEY, M.D.,
President.

THE AMERICAN ACADEMY OF FAMILY PHYSICIANS,
Washington, DC, September 12, 1990.
Hon. DON NICKLES,
713 Senate Hart, Washington, DC

DEAR SENATOR NICKLES: On behalf of the more than 69,000 members of the American Academy of Family Physicians I want to express our deep appreciation and support for your efforts to delay implementation of personnel standards for clinical laboratories pending completion of studies.

As you know the personnel standards proposed by the Health Care Financing Administration in implementing the Clinical Laboratory Improvement Act of 1988 (CLIA-'88) are essentially unworkable. If implemented as proposed, millions of patients no longer will be able to receive laboratory testing as an integral part of the services provided by their physicians. A recent survey by the Academy indicates that approximately 93 percent of family physicians in active practice perform laboratory testing in their offices and that 62 percent of these physicians office labs would fall into the Level II category as proposed in the regulations. These physicians will be unable to meet the personnel requirements as proposed.

The Academy therefore supports your amendment.

Sincerely,

JOSEPH C. CZARSTY, M.D.,
Chair, Board of Directors.

MONEY LAUNDERING ENFORCEMENT AMENDMENTS—MOTION TO PROCEED

The Senate continued with the consideration of the motion to proceed.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. HARKIN). The Senator from New Mexico.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. Are we in morning business?

The PRESIDING OFFICER. The motion to proceed to S. 3037 is the pending business.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to speak for up to 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICARE AND THE BUDGET AGREEMENT

Mr. DOMENICI. I thank the Chair.

Mr. President, I want to speak for a few minutes tonight to my colleagues in the Senate, and to those groups in this country, responsible groups, that are concerned about senior citizens and concerned about our country because I believe the last 72 hours has been more misinformation about what the so-called summiteers recommended regarding Medicare than anything that I have seen in my years in the Senate.

That is not to say that those who want to leave the status quo do not have a case. But for those who have stated the case in error, I will just assume that it is because this is a very complicated and difficult area. And I would like very much to try in a few minutes to explain as best I can what the recommendations regarding Medicare were in the budget summit.

Before I do that, let me suggest that there is no way that a budget solution could be prepared by a group of Democrats and Republicans and a President that satisfied everyone. Certainly it could not be a Republican package. It could not be a Democratic package. It had to be something that the Democrats, Republicans, and the President would support.

Having said that, let me also say as a Senator who has worked on these kinds of matters for a long time that clearly this is a tough package. But I think people know that the deficit is large and growing, and the time has come to try to fix it. If we do not, it is going to hurt everyone. It is not going to leave people out.

For those who are worried about programs, we might be nearing a point in time where, if we do not fix this deficit, it will not be a question of what programs are affected by this agreement, but rather would we be able to pay for any of them?

Having said that, let me just in my own way try to explain the $60 billion recommendation regarding savings in the budget summit from Medicare.

First of all, Mr. President, fellow Senators, that should be immediately broken into two parts. Thirty billion of it is supposed to come from the so-called providers; that is, the hospitals, doctors, and others who provide health care under all of Medicare. And I am not sure, but I do not believe we are hearing a great complaint from the providers.

I do not think the officers are getting besieged by the hospitals or the doctors of America, because I do not believe the $30 billion—that is, the package that will reduce the escalating price of providers—is that onerous.

As a matter of fact, I do not think the hospitals are going to complain because almost half of this package of $30 billion comes from keeping current law as it is; about $14 billion of the $30 billion. So for starters, let me say to the senior citizens that none of that $30 billion that has been alluded to in Medicare has anything to do with increased costs to the beneficiaries. What we are trying to do is reduce the cost of health care. So the providers are going to bear a share of this reduction, and that is what half of this is. Let me repeat, almost half of it is to extend the current limitations on payments out for another 5 years, about $14 billion of the $30 billion. We will have ample time to digest and discuss that $30 billion in detail. But I believe, my assessment is, that the doctors and hospitals are not going to claim they are going to close down or that this is unfair. So that is $30 billion.

The other $30 billion over 5 years, I would like to explain briefly. First, seniors of this country, it would be wonderful if we did not have to do anything on Medicare. But I remind you, we did nothing to the cost of living on Social Security or pensions. I remind you that we did not change the taxation of Social Security benefits. That was in the wind; seniors were worried. We did not do that.

I wish we could say to all Americans that there will be no increase in your health care costs in the next 5 years. Would that not be wonderful? Would it not be wonderful if we could tell the working men and women of this country, a young couple with two children, "Your health care costs are not going to go up in the next 5 years." For those who have bought health insurance policies, either through their company's group plan or otherwise, would it not be wonderful if we could say that is not going to go up in the next 5 years? Would it not be wonderful if we could say, "Your deductible is not going to change"?

I am afraid we cannot say that, Mr. President. I am afraid the working men and women in America, and those who have insurance policies and health care plans, know that health care costs are going up. We are not doing anything about that, because we do not know what to do about that. It is just going to go up.

What we have done in this proposed package is to ask the seniors of the country, to share the increase in health care costs under part B health care, which is not hospitalization. Many who have called are already confused; they are wondering if their hospital plan has changed. It has not. That is paid for out of the paychecks of workers and the self-employed who pay into the health insurance fund. That is hospitalization. That is not changed, Mr. President.

There is another program called part B premium health coverage. It came along after hospitalization, and we decided that the taxpayers of our country wanted to be helpful, and they would pay half the price of this part B health care program and seniors would pay half. Over the years, Congress has said, "We want to be more generous." So, instead of 50 percent, we have gone down, and now we are at 25 percent that the senior pays. Twenty-five percent. The taxpayers pay 75 percent. I repeat, this is no trust fund that comes out of paychecks. This comes right out of the general taxes of the Nation. We are a generous people. We really want to take care of our senior citizens. This little program that started out 50-50, we will match you dollar for dollar, we will help you pay for this premium, is now 75 percent from the taxpayer and 25 percent from the senior, this little program. It costs, Mr. President, $40 billion a year from the taxpayers of the country. Not $40 million, but $40 billion. The working people, the taxpayers send us their taxes, and we write a check for $40 billion for our share—which we are glad to do for this health care plan. It is 75 percent paid for by the taxpayer, $40 billion, and 25 percent by a premium that the seniors pay.

Let me stop there for a moment. We are trying to solve a deficit problem. Mr. President, what is the fastest growing program in the Government? I think you probably know that, because I asked the question in this discussion. It is that program, the one I just discussed. It is going up 15 to 16 percent a year. The $40 billion that we put in now, because we want to help our seniors with this health care for doctor and outpatient care, not hospitals, will be $57 billion in 2 years, from the general taxpayer who want to help senior citizens. It has nothing to do with the trust fund that comes out of the paychecks of workers out of the self-employed of America. This comes out off regular taxes to help pay for an insurance policy. It is $40 billion, and it will be $57 billion in 2 years.

All that was asked in this particular summit agreement was, could we recommend that the Federal Government pay 70 percent of that premium, and the beneficiary, the senior who we want to help, pay 30 percent, and we hold it at 30 percent for 5 years? For those who are saying that this is way slanted against Medicare, let me repeat. For the beneficiaries, the seniors of america, what I have just described is the entire out-of-pocket change or alteration in this premium, from 25 percent of program costs to 30 percent.

Some may say, is there not more to it? Yes, there is. I used the words "out-of-pocket," what it will be in premium cost. Everybody that has an insurance policy knows there is a deductible. It would be wonderful if every working man and woman in America that has insurance could say the deductible, whether $100 or $200—somebody called me today and said, "For my family I can only affort it at $1,000 deductible." It would be wonderful if the deductible was frozen and never changed.

But I just told you the fiscal facts, the reality. So the agreement said, can we change the deductible by $25, so that instead of $75 deductible for the whole year, it is $100, then the next year $125 until it gets to $150 3 years from now? That is the extent of what we are asking.

Mr. President, I am not going to cloud the issue of cost, other than to tell you whatever numbers have been bandied around as to the added premium cost, there is room for some confusion. But there is no room for the kind of confusion that has been around, because there are only two possible numbers that are right. It is either the premium is going up $2.60 a month next year, or it is going up $3.60 a month next year, not $5.50, not $9.

Let me explain. For any senior that would look at next year's premium without the budget agreement and say, "I want to know, from that premium, how much would it go up next year with the budget agreement." The answer is $3.60, not $6, not $9, but $3.60 cents. But if Congress had said it is going to stay at 25 percent, then indeed it would only go up $2.60.

So let us make it simple and say $3.60 is what it is going up in 1991 as a premium adjustment.

Mr. President, I am going to reduce all of this to charts in writing and send it to my fellow Senators, but I want to make one more point.

Some have now said, what about the poor people or the near poor and this premium? I would like to make two points.

When people say "this group," that put together the budget agreement, you know who they were, some of the best people around: The Speaker of the House, Senator Dole, all of the people you have heard of. When they put it together they understood that even $3.60 a month might hurt some people, maybe the very poor or the near poor. Let me suggest to my fellow Senators that before they conclude that those who are poor are going to get hurt by this, let me suggest two things:

The way the law is right now, if you are at 95 percent poverty (100 percent by 1992) or below, the Medicaid law of the land says you do not pay the premium at all. Medicaid taxpayers pay it for you. This understanding says anyone who is in poverty, defined as poor, will have that premium, not the new add on, the entire premium paid for by the Medicaid Program, by the taxpayer. That takes care of one concern.

But, Mr. President, that did not go far enough. So if anyone will read the understanding and read it thoroughly, you will find another thing $2 billion was provided in addition. And it was stated that this was so the committees that work on this could hold as many of the near poor as possible harmless from any increase. And essentially what can be done—and I will close with this—with that $2 billion, you can hold harmless from any increase, those well beyond poverty, perhaps up

to 150 percent of poverty. The premiums will be held harmless and there will be no increase for them to pay.

Mr. President, I wish we did not have to do any of these things. In fact, I wish we did not have this $500 billion deficit package. I submit to you with reference to this, out of all the things that the Federal Government does and wants to do for our seniors, to ask this much in the area of health care seems reasonable in light of what everybody else is being asked to do. I thank the Chair for recognizing me and I yield the floor.

The PRESIDING OFFICER (Mr. Harkin). The Senator from Massachusetts.

MONEY LAUNDERING ENFORCEMENT AMENDMENTS—MOTION TO PROCEED

Mr. KERRY. Mr. President, I know the distinguished Senator from Alaska is waiting, and we have been here most of the afternoon on this effort, to proceed forward on the money laundering legislation. I have just met with the distinguished majority leader and the minority leader and it is our hope that it may be possible to proceed forward under some kind of an agreement before to long. But that still remains uncertain and I know colleagues are anxious to have a sense of what is happening. If I might I would just like to ask the distinguished Senator from Alaska for how long he is considering speaking?

Mr. MURKOWSKI. I thank my friend from Massachusetts. I intend to speak on the pending business, the motion to proceed on the money laundering bill. I probably will be utilizing about 12 or 15 minutes.

Mr. KERRY. Mr. President, as I say, we have been waiting to proceed forward on this and debate it for some time. I am going to yield to my colleague from Alaska, though I have things I would like to say about this and I have been waiting some time today to do so, but I will ask for the floor, I think, after the distinguished Senator from Alaska has had a chance to address it.

I see the Senator from Pennsylvania is also here. Is he wishing to address the question of money laundering or does he come for some other purpose?

Mr. SPECTER. If the Senator will yield, I have been on the floor for some time waiting for the Senator to conclude and Senator Murkowski, and I intended to make a relatively short statement on the pending issue of linkage.

Mr. KERRY. Mr. President, given the circumstances of the afternoon, I ask unanimous consent that the distinguished Senator from Alaska speak at this time for a period of about 8 minutes.

Mr. MURKOWSKI. The Senator from Alaska prefers not to be tied down to a specific time. I indicated about 12 or 15 minutes to the Senator from Massachusetts, which I think I could comply with.

Mr. KERRY. Mr. President, I then suggest perhaps a period of 15 minutes to be followed by the Senator from Pennsylvania for a period of——

Mr. SPECTER. Not to exceed 15 minutes.

Mr. KERRY. Not to exceed 12 minutes, at which time I would ask I be able to reclaim the floor. I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I thank my friend.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I appreciate the concern of the Senator from Massachusetts over the lengthy time this matter has taken. I rise to speak on the motion to proceed on the Money Laundering Enforcement Act of 1990.

I think we would all agree the primary goal of this legislation is worthy: Early detection of money laundering activities and severe sanctions for savings institutions that participate in this illegal activity.

I am a member of the Foreign Relations Committee and the junior Senator from Alaska on the Subcommittee on Narcotics and Terrorism has attended hearings on the issue. We have developed a series of recommendations to curb what is believed to be a $300-billion-a-year industry in laundering illegal drug profits.

Many of the subcommittee's recommendations have been incorporated into this legislation by the Banking Committee.

But, Mr. President, the Senator from Alaska has a concern over a portion of the bill and the portion is title III, for which I know that there has been a good deal of concern from a number of my colleagues because this bill goes further than the purpose of addressing money laundering enforcement. It goes into direct consumer legislation.

Title III has nothing to do with money laundering. It is a consumer provision dealing with bank disclosures and bank advertising. It would require the computing yield according to a formula on deposits. It does not sound like much. It cost $130 million. That is going to be passed on to you and me, the taxpayer or the depositor, the user of the services. This is known as truth in savings. The title requires any solicitation or advertisement to make certain disclosure to the consumer using a standardized formula. It sounds harmless on the surface, but it is another instance of Government micromanagement and overregulation that will needlessly increase the cost of doing business for the banking system.

To those out there who suggest that we need this, I think we need to examine why we need it. If they are guilty of utilizing inaccurate yields in their advertising, that is against the law. We have fraud laws against it. They should be charged with fraud. But, do you have to make every bank in the country communicate to every customer?

This is the kind of legislation that brings extreme cost and hardship, not to the big banks. The big banks can have a department to do it, but the small country bank, the guy sitting on the corner with a few employees, he has to comply with this.

Why do we need another layer of enforcement when we have laws against fraud? Banks will deal with the increased cost, as I have indicated, in two ways: Passing it on to consumers in the form of higher fees and lower deposit rates, or cutting into their already weak capital base, neither of which alternative is unacceptable to the Senator from Alaska. It is the wrong time to add more costs to the banking system.

So the Senator from Alaska is not against the bill on money laundering, but why throw in a provision dealing with consumers?

It is kind of interesting to cite the specifics, because I am sure none of my colleagues are too impressed with the reference that we add simply one more requirement, a requirement that we mandate computing yield according to a formula on deposit interest rates.

But let us take a look at the system and what we have done already. We had one this month, one next month.

The regulatory burden on banks is so overwhelming that we have a sea of regulations. In less than 7 years, Congress has passed seven consumer banking regulations related to: Expedited funds availability; adjustable rate mortgage caps; credit card disclosures; Equal Credit Opportunity Act; home equity line disclosures; the Community Reinvestment Act; and the Home Mortgage Disclosure Act.

These regulations are in addition to existing regulations. The list of consumer legislation alone already includes: the Truth in Lending Act; the Electronic Funds Transfer Act; the Consumer Leasing Act; the Equal Credit Opportunity Act; the Real Estate Settlement Procedures Act; the Fair Credit Reporting Act; and the Fair Housing Act.

Of grave concern is that more and more of these statutes are unrelated to safety and soundness. They just cost the banks more money and the banks pass it on to their depositors.

If they do not, there is already a cadre of attorneys. It is almost a full employment act for attorneys if there are violations of these areas. So let us realistically look at how much is enough. What is a reasonable burden?

Additional staff is required for compliance. One effect of the accumulation of regulations is that additional staff must be devoted entirely to compliance. Now this is difficult, as I have suggested, in a small bank. Some banks have reported, for example, that they must employ three or more people devoted entirely to the issue of compliance to a single regulation; and that is the Community Reinvestment Act.

Reduction of service and products. Mr. President, truth in savings could have a chilling effect on new deposit product designs. The cost of potential liability and the cost of regulatory compliance will inhibit new products to be introduced for the benefit of consumers and bank customers. Regulations already in place illustrate this chilling effect. For example, some banks have determined that disclosure requirements for adjustable rate mortgages are so complicated that they cannot afford to offer them. So they are noncompetitive in the marketplace. It pits the larger institution that can underwrite all the compliance costs against the country banker on the corner. He is trying to provide a competitive atmosphere and he is eliminated by regulation. Talk about helping small business in America, Mr. President. Well, charity begins at home. Consumers are thus denied a valuable and a desirable product because of the additional regulatory burden.

While no single regulatory is most burdensome, the aggregate burden of the litany of banking regulations ultimately affects banks' operations and their ability to serve customers effectively. The aggregate burden consumes valuable officer and staff time and deprives consumers of products for which associated regulatory compliance costs are prohibitive.

The cost of compliance with consumer regulations adds significantly to the cost of the business of banking, with a substantial impact on banks' bottom line when that bottom line should have the earnings infused into the capital base. Moreover, the regulatory costs ultimately are passed on to consumers in the form of higher fees and lower interest rates on deposit instruments and higher fees and interest rates on loans.

Mr. President, make no mistake, the Senator from Alaska has had 24 years of experience in the banking industry as a commercial banker in Alaska. What I am telling you about overregulation is very real. What I am suggesting to you concerning the cost of compliance is very real. We have the oversight. The necessity of having more, in the mind of the Senator from Alaska, is not relevant to this particular piece of legislation which is worthy in the sense that we must curb the money laundering. But to put a consumer title in it, in the opinion of the Senator from Alaska, just has no application.

Mr. President, the cost of compliance with consumer regulations, as I have indicated, is substantial. The regulatory costs ultimately are passed on to the consumer.

Elements of the expense which apply to all regulations, including truth in savings go even further. As I have mentioned, they include legal fees for interpretation and implementation. The average banker has to hire counsel to get an opinion on his position on the interpretation of these regulations because they can be misunderstood and as a consequence the banker is subject to the legal liability associated therewith.

The collection and destruction of old forms; whether you throw out the old ones and get new ones; devising and drawing up of new forms; labor; meetings; the preparation of reports; development of new technology; computer technology; computer resources; printing of new forms; postage; handling inquiries and misunderstandings; the staff training; purchasing compliance education and auditing tools; training and retraining personnel; monitoring compliance; and assisting compliance examiners.

Mr. President, the issue goes on, and on, and on. How much is enough?

While compliance with requirement of the truth in savings bill may appear to be simple and inexpensive, as other, earlier statutes have shown, an apparently simple statute translates into an expensive regulation. For example, the direct cost of a single provision is estimated to be in excess of $123 million. That figure only covers the requirement that depository institutions mail to all account holders a copy of the account schedule of fees, terms, conditions of deposit and so forth.

The invitation to expensive litigation is staring them in the eyes. As the history of the Truth in Lending Act and other consumer statutes demonstrate, banks and other financial institutions pay dearly for minor and inadvertent compliance mistakes. Such statutes invite expensive class action suits regardless of the merits of the suits. The truth in savings title presents the same invitation.

I can assure you, Mr. President, the bankers do not do very well when they go before a jury in a compliance suit for compliance oversight.

The question, Mr. President, is, why do we need more unnecessary legislation? There is no great outcry coming from the consumers for this that they are being misled or are uninformed about the fees, charges, and interest rates on deposit accounts and so forth.

Indeed, most of the banks already provide such disclosures which are substantially similar to those required by the truth in savings title. Nevertheless, banks will incur significant expenses to do what they are already doing. Banks will be required to pay to review the new regulations and current disclosures, revise, redesign, reprint, and mail new disclosures and so forth. This will be one more area where Congress will be overkilling, as the benefits do not outweigh the costs of the new truth in savings regulations.

Finally, Mr. President, I hope that my colleague and the sponsors of the legislation would consider the merits of eliminating entirely title III, the consumer provision, from the bill. Then I can assure my colleague that the Senator from Alaska would support the Money Laundering Enforcement Act of 1991.

I yield the floor to my friend from Pennsylvania.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum. I would like to consult with the distinguished Senator from Alaska for a moment on another matter. I shall remain on the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LINKAGE

Mr. SPECTER. Mr. President, I have sought recognition to make a statement that the policy of the United States is and should remain solidly against linkage between Iraq's invasion of Kuwait and the Israeli-Arab conflict. A suggestion has been made by former President Carter and President Saddam Hussein of Iraq and some others that linkage of those issues should be established.

I submit, Mr. President, that the policy of the United States has been articulated clearly to the contrary and there are powerful policy considerations that determine why a policy against linkage should remain. Simply stated, linkage would reward aggression by giving something of value, a reward to the kind of naked aggression, as characterized by President Bush, which has occurred in Iraq's action against Kuwait.

Mr. President, the factual proof that the United States has an established policy against such linkage is found in the statement of President Bush at the news conference at the summit on September 9, as shown in the transcript of the summit in the New York Times on September 10, 1990. President Bush was asked this question which in pertinent part states:

> Do you think, Mr. President, that the conflict of the gulf gives the opportunity to solve the Palestinian problem?

President Bush then responded, in pertinent part:

> Well, let me say that I see the implementation of the United Nations resolution separate and apart from the need to solve the other question.

Then the President continues a few lines later:

> But the thing that I feel strongly about is that these issues are not linked. And any effort to link them is an effort to dilute the resolutions of the United Nations.

The same issue was raised at a news conference earlier in the State Department where Ms. Margaret Tutwiler, spokesman for the State Department, responded to a similar question. I now read the pertinent part:

> Is there some kind of correlation or comparison to be made between the Israeli occupation of the West Bank and the Iraqi occupation of Kuwait? Do you see any comparison there?

Ms. Tutwiler, speaking for the State Department responded:

> We think it's absurd, ridiculous and ludicrous. The two are not linked and we do not plan to link the two. He, obviously—Saddam Hussein—would like to change the focus away from his agression and it simply will not work.

It is hard to contemplate any stronger statement by the U.S. spokeswoman than, "absurd, ridiculous, and ludicrous" to contemplate such linkage.

There has been a grasping of a straw, when President Bush made a statement on October 1 at the United Nations to this effect:

> In the aftermath of Iraq's unconditional departure from Kuwait, I truly believe that there may be opportunities for Iraq and Kuwait to settle their differences permanently, for the states of the gulf themselves to build new arrangements for stability, and for all the states and peoples of the region to settle the conflicts that divide the Arabs from Israel.

That statement—because a number of subjects were addressed in the same sentence—has been grasped as a straw in the wind by some to contend that there may be a suggestion by President Bush of linkage. I suggest, the statement that President Bush made in no way, fairly read, has any suggestion at all of linkage. The President is not stating in any way that he is going to trade Iraq's withdrawal from Kuwait for an unrelated issue. That is especially obvious in view of the prior explicit statement President Bush made on the subject coupled with the unequivocal declaration by Ms. Tutwiler, speaking for the Department of State.

There is an interesting analysis of former President Carter's contentions by former Ambassador Jeane Kirkpatrick which appears in the New York Post on Monday, Septeber 24 captioned, "Jimmy Carter flunks history."

Ambassador Kirkpatrick makes this statement:

> Former President Jimmy Carter was wholly serious—and wholly mistaken—when he tried to make the case the two matters—

Referring to linkage—

> have the same legal status."

Ambassador Kirkpatrick refers to an assertion by former President Carter that "there have been six or eight unanimous [resolutions] by the United Nations calling for" Israeli withdrawal.

After summarizing a number of other factors Ambassador Kirkpatrick says, "How could Carter have imagined that there were 'six or eight unanimous Security Council resolutions'?"

Then Ambassador Kirkpatrick, in very strong, really harsh terms, makes this statement about President Carter's position.

> Or—a more basic question—how could he have seen the cases—

Referring to what former President Carter had argued—

> of Kuwait and the West Bank as parallel when Iraq invaded and occupied Kuwait, a sovereign State, and Israel was itself invaded three times?

When our President, George Bush, said in the final line in his U.N. speech that I had previously quoted that, "the people of the region can settle the conflicts that divide the Arabs and Israel," that of course is to be desired. And Israel stands ready, willing, and able to enter into bilateral negotiations with any of the Arab States. It is a fact, admitted by all, that aside from Egypt which has entered into a peace arrangement with Israel through the Camp David accords, that as we speak all of the other Arab nations remain at a state of war with Israel. No other Arab nation recognizes Israel's right to exist. And no other Arab state has recognized the existence of a State of Israel.

I have said on a number of occasions, on this floor, that the central powers in the region—Syria and Iraq—had the potential through bilateral relations to establish peace. That was prior to Iraq's invasion of Kuwait.

There may be opportunities in the future for Syria to undertake Israel's offer for bilateral negotiations. Hopefully, when the current controversy in the Mideast ends and Iraq withdraws or is compelled to withdraw from Kuwait, there will be an occasion for these bilateral talks to go forward.

Israel has unequivocally stated its interest to achieve the objective which President Bush has articulated, and that is a settlement of the conflicts that divide Arabs from Israel in the Mideast.

Mr. President, I cannot find any better words than Ms. Tutwiler's words when she says, "absurd and ridiculous and ludicrous" to reward Iraq for their aggression, which is about as bad as any which can be contemplated. To reward Iraq's aggressive conduct by linking their invasion of Kuwait to any of the Israeli-Arab conflicts is ridiculous.

Fortunately, former President Carter does not speak for the United States. Fortunately, President Bush does speak for the United States. The idea of linkage is repugnant and abhorrent, and it would be my hope that the weight of logic and the weight of history and the weight of relevant authority would be persuasive to conclude that what former President Carter would like to see by way of linkage and what President Saddam Hussein would like to seek by way of linkage would be categorically rejected.

First, I ask unanimous consent the full text of Ambassador Kirkpatrick's article in the New York Post for Monday, September 24, 1990, be printed in the RECORD.

I further ask unanimous consent that the full relevant text of the transcript of the news conference involving President Bush and President Gorbachev at the summit from the New York Times on September 10, 1990, be printed in the RECORD.

I further ask unanimous consent that the page of the text of the transcript of the news conference of State Department spokesman Margaret Tutwiler from August 13, 1990, be printed in the RECORD.

Finally, I ask unanimous consent that an article from the Jerusalem Post dated Spetember 7, 1990, captioned "Soviets Reject Iraqi Linkage of Kuwaiti and Palestinian Issues" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Post, Sept. 24, 1990]

JIMMY CARTER FLUNKS HISTORY

(By Jeane Kirkpatrick)

Saddam Hussein was only half-serious when he linked Iraq's conquest of Kuwait to Israel's occupation of the West Bank and Gaza. Former President Jimmy Carter was wholly serious—and wholly mistaken—when he tried to make the case that the two matters "have the same legal status."

In an interview with CNN's Bernard Shaw on Sept. 16, Carter made the weirdly mistaken assertion that "there have been six or eight unanimous [resolutions] by the United Nations Security Council calling for Israel to withdraw from the occupied territories, to restore the rights of the Palestinians, to come to an international conference—these have the same legal status as the resolutions demanding that Iraq withdraw from Kuwait."

But, Carter added, "The world has not marshalled its efforts to make sure that these United Nations resolutions have been fulfilled."

Carter's comments are important because the unanimous Security Council resolutions to which they refer do not exist. This fiction is dangerous to Israel and dangerous to an understanding of realities in the Middle East.

As of Sept. 19, seven Security Council resolutions had been passed concerning Iraq's invasion of Kuwait. The first condemned Iraq's invasion and called for an unconditional withdrawal of Iraqi troops from Kuwait. The remaining six resolutions built on this.

There is no parallel resolution concerning Israel's presence in the West Bank and Gaza.

There is a resolution that calls for Israel's withdrawal from territories occupied in the 1967 war and also calls for Arab governments to end "all states of belligerency" against Israel and accept that "every state in the area," including Israel, has "a right to live in peace within secure and recognized boundaries free from threats and acts of force."

This, of course, is Security Council Resolution 242, passed at the end of the 1967 war in which Israel successfully fended off an attack by all her Arab neighbors.

Resolution 242 is the basis of the famous "land for peace" formula, which was reaffirmed in Resolution 338 passed after the next Arab war against Israel in 1973 and supplemented by a call for direct negotiations between the parties.

These resolutions were the basis of the 1978 Camp David accords negotiated by Israel's Menachem Begin and Egypt's Anwar Sadat with the help of then-President Carter. Those accords were a remarkable achievement because they were the only instance in which an Arab state was willing to negotiate with Israel or to make peace with the Jewish state.

For the crime of making peace with Israel, Egypt was expelled from the Arab League and Anwar Sadat was murdered.

All other Arab states have ever since refused negotiation, peace or normal relations with Israel. Most have continued to call for the destruction of Israel and to support terrorists attacks against Israel, and have ever since refused to reaffirm Resolutions 242 and 338. (The exception was Lebanon in the brief period of Bashir Gemayel's presidency—also terminated by assassination.)

How could Carter have imagined that there were "six or eight unanimous Security Council resolutions"?

Or—a more basic question—how could he have seen the cases of Kuwait and the West Bank as parallel when Iraq invaded and occupied Kuwait, a sovereign state, and Israel was itself invaded three times?

The answer, I think, is that a false version of the Arab-Israeli conflict has been so often repeated that many people—including some very high officials—have come to feel that Israel is somehow guilty of aggression.

It was, in fact, the victim of repeated wars of aggression.

They have also come to feel that Israel's occupation of the West Bank is as clearly "illegal" as Iraq's conquest of Kuwait, when Israel acted in self-defense against neighbors (including Jordan) who not only attacked but have been unwilling to make peace.

These mistakes have serious implications. They lead Carter and others who have come to believe them to feel that Israel is a lawbreaker and that the U.S. failure to "pressure" Israel is evidence of an American double standard.

This mythical version of the Arab-Israeli conflict ignores the reality of the hostility that has surrounded the state of Israel from its founding until today, and makes the Israeli government's conern with survival look like paranoia. It is not.

So far, the only relevance of the Gulf crisis to Arab-Israeli problems is to exacerbate them.

Israel's qualitative edge in weapons is being eroded by the United States' proposed massive arms sales ($23 billion) to Saudi Arabia.

Jordan has associated itself with the most radical, rejectionist, terrorist-minded Palestinians.

PLO leaders—together at last in Baghdad—have made clearer than ever their commitment to violent politics.

Saddam Hussein has threatened that, if attacked, he will retaliate against Israel.

If there is a double-standard in this situation, it exists only in the minds of those who, like Jimmy Carter, think there is a parallel between Iraqi aggression and Israeli defense.

[From the New York Times, Sept. 10, 1990]

TRANSCRIPT OF BUSH-GORBACHEV NEWS CONFERENCE AT SUMMIT

PALESTINIAN ISSUE'S FATE

Q. My question to Mr. President—my name is Panyl. Do you think, Mr. President, that the conflict of the—do you think, Mr. President that the conflict of the gulf gives the opportunity to solve the Palestinian problem through an international peace conference for the Middle East? And my second question is if this problem was discussed today with Mr. Gorbachev?

Bush: Well, let me say that I see the implication of the United Nations resolutions separate and apart from the need to solve the other question. That question has been on the agenda of many countries for many years, and it is very important that that question be resolved.

The Secretary of State said the other day, and I strongly support that, that under certain circumstances the consideration of a conference of that nature would be acceptable—indeed, it's been a part of our policy from time to time. But, the thing that I feel strongly about is that these issues are not linked. And any effort to link them is an effort to dilute the resolutions of the United Nations.

U.N.'S PALESTINIAN RULINGS

Q. O.K., my question is—good evening; Doris Akatarian from Palestine News Agency, WAFA. My question is for President Bush, and I would also like to hear President Gorbachev's comment on that.

Interpreter: The question is to President Bush, and also wants to hear President Gorbachev's comment.

Q. President Bush mentioned that you failed to see the link between the Palestinian question and the present situation. I would like to know how come it is so important to implement U.N. resolutions in this particular instance when other standing ones have—have been frozen and overlooked and disregarded for so long? So, I'd like to know how come this aggression is so different from other ones? And I would also like to add that I personally feel that the Palestinian dilemma and question need the attention of the superpowers more than ever. Thank you very much.

Bush: I agree that it needs it, and we are very much interested in implementing resolution 242 of the United Nations. We've been zealously trying to do that, as have many other powers for many years.

But the fact that that resolution hasn't been fulfilled when it calls for withdrawal to secure and recognize boundaries, and it should be, and hopefully we can be catalytic in seeing that happen, does not mean that you sit idly by in the face of a naked aggression against Kuwait.

And the United Nations has moved, and the United Nations' resolutions should be implemented on their face without trying to tie it into some other undissolved—unresolved dispute. But I couldn't agree more that it is important, it is very important that that question eventually, and hopefully sooner than later, be resolved.

Q. I have a question for both Presidents—Oh, excuse me, sir.

Interpreter: Microphone, please, for Mr. Gorbachev.

Gorbachev: I think that everything that is taking place in the Middle East is a matter of concern to us, of equal concern. And even more than in the case of the Persian Gulf, we need to act more energetically in order to resolve the complex of problems in the Middle East, and to come up with decisions and to devise a system, to devise guarantees that would insure the interests of all peoples and of the whole world community, because it's a matter which is of vital concern to all of us.

And it seems to me that there is a link here because the failure to find a solution in the Middle East at large also has a bearing on the acuteness of the particular conflict we've been talking about here.

STATE DEPARTMENT/REGULAR BRIEFING/ BRIEFER: MARGARET TUTWILER, AUG. 13, 1990

Ms. TUTWILER. I also said—in the second part of my answer, I said, but that does not preclude them from having an offensive quick strike. So we're basically the same position we were in over the weekend. I just gave you the—our best number of how many Iraqi troops are there. And further characterization of what they may or may not be doing—moving around, et cetera—we didn't have anymore to give to you today.

Q. Okay. On another subject, does US policy entertain at all the possibility raised by Saddam over the weekend that there is some kind of correlation or comparison to be made between the Israeli occupation of the West Bank and the Iraqi occupation of Kuwait? Do you see any comparison there?

Ms. TUTWILER. We think it's absurd, ridiculous and ludicrous. The two are not linked and we do not plan to link the two. He obviously—Saddam Husayn—would like to change the focus away from his aggression and it simply will not work. The whole world knows what he has done and the whole world has condemned it and the whole world is insisting that he end it. No tricks are going to change that, or false linkage.

Q. Well, regardless of linkage of "if they'll get out, I'll get out," just the basic principle that there are comparisons to be made, how does the US feel about that?

Ms. TUTWILER. We don't think that's an issue and we're not even going to entertain the discussion; it's absurd. And we have been, as forcefully as we could, said there is absolutely, positively no linkage.

Q. You don't think it's an issue that the Arabs see some kind of comparison between the two? That's not an issue to the US?

Ms. TUTWILER. I've stated as best I can, Candy, what our position is on Saddam Husayn's attempt at cleverness, attempt at false tricks, as we've characterized it, changing the focus or changing the issue. Nothing has changed. He is the aggressor. He is the one who the world has condemned and the world has, by and large, 100 percent isolated.

[From the Jerusalem Post, Sept. 2, 1990]

SOVIETS REJECT IRAQI LINKAGE OF KUWAITI AND PALESTINIAN ISSUES

(By Walter Ruby)

Moscow.—Soviet citizens in Iraq are free to leave whenever they want, and Iraq would welcome a Soviet intermediary role in the Gulf crisis, Iraqi Foreign Minister Tariq Aziz said here yesterday.

Speaking at a press conference the day after his meeting with President Mikhail Gorbachev, Aziz described the Soviet Union as a "friend," despite its support for an international naval blockade against Iraq. He also reiterated the Iraqi position that the Gulf crisis is "interconnected" with the Palestinian problem and can only be considered in the context of a general Middle East settlement.

Speaking to reporters several hours later, Soviet Foreign Ministry spokesman Gennadi Gerasimov said that while there was "an element of truth" to Aziz's analysis of the interrelatedness of the Kuwaiti and Israeli-Palestinian situations, the two issues are not linked.

"The Security Council must have all its resolutions implemented," Gerasimov stated, "and we continue to urge Israel to implement all Security Council resolutions and withdraw from all occupied territories."

However, while theorizing that Israel might be encouraging the U.S. to attack Iraq, Gerasimov emphasized that the Soviet Union disagrees with Iraq's linkage of the Palestinian and Kuwaiti situations. Noting that Aziz "did not give a direct answer" to a journalist's question as to whether Iraq would withdraw from Kuwait if Israel left the territories, Gerasimov said flatly, "Iraq's aggression against Kuwait should be at the top of the [international] agenda."

Aziz said he had come to Moscow to brief Gorbachev on the Iraqi position in the Gulf crisis in advance of the Soviet leader's Sunday summit meeting in Helsinki with U.S. President George Bush. He said he did not carry a message for Gorbachev to deliver to Bush.

Gerasimov also announced yesterday that Israeli and Soviet experts would meet soon to plan the upcoming meetings of Foreign Ministers David Levy and Eduard Shevardnadze at the opening session of the UN General Assembly.

Gerasimov said that consultations are now in progress to set dates for these meetings. A delegation of Israeli Foreign Ministry experts is expected to arrive in New York by September 14 to meet with their Soviet counterparts.

Mr. SPECTER. Mr. President, so even the Soviets realize the ridiculousness of any idea of linkage on these issues.

I yield the floor.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Senate from Massachusetts retains his right to the floor at this time.

Mr. KERRY. Mr. President, I thank the Chair. I understand the distinguished Senator from Minnesota would like the floor for a period of time. I ask unanimous consent that he be permitted to speak for such time as he might need, and then that the Senator from Massachusetts again be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that I might proceed for 4 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I first express my appreciation to my colleague from Massachusetts for permitting me the time on his very important piece of legislation to do this piece of morning business.

I would like to begin by associating myself with the remarks of my colleague from Pennsylvania on the subject that he has just addressed. I know him to be not only an expert on the subject which he addressed, but someone who feels very strongly about the appropriateness of the role that Iraq may have played in the Middle East, and certainly somebody who, when he speaks to the subject of linkage, does so with not antipathy for anyone but a desire to address issues in the sense of appropriate priority.

BUDGET RECONCILIATION

Mr. DURENBERGER. Mr. President, I rise to speak to the budget reconciliation issue and to note that the debate over the budget package has become very noisy and very complicated. But it seems to boil down, to this Senator, to one simple vital question, that is: What is the most important obligation of this Government at this time?

My answer to that question is simple: Reduce the fiscal deficit. Every other obligation—and I am on enough very complicated committees to recognize there are others—every other obligation for once has to take a back seat to that.

Our recent history over the last dozen years has been exactly the opposite. Everything at one time or another has taken precedence to the deficit: cutting taxes, the military buildup, farm programs, AIDS, the drug wars, child care, foreign military assistance and on and on. In the process, the American people have lost a war of attrition against Federal debt. This package is the day of reckoning for all of that. Finally we have a chance to make a decision of a united government, a chance to be responsible.

Having participated in 1985 in a failed attempt to do just that on a 50-to-49 vote in the middle of the night with a hospital gurney transporting one of our colleagues, and having seen the bitter consequences of inaction, I am praying that the Congress will find the guts to do the right thing this week.

I used to tell a little joke that I learned on a trip to Texas once. It went something like this. The question is: Why were there so many heroes at the Alamo? The answer was: There was no back door.

Since this agreement was announced on Sunday, many of our colleagues have been looking for a back door of some kind, and my hope and my conclusion, Mr. President, is that there is not any.

I heard many criticisms of the package: It is unfair, regressive, unbalanced and represents the views of only a few. To some degree, Mr. President, I agree with each of these criticisms. But before we label this a bad agreement, I must ask: Compare it to what? Is sequester the right policy for Americans? Is it balanced, thoughtful, and fair? Of course not.

Gramm-Rudman-Hollings has been much maligned, but today it is doing its job. It has raised the cost of inaction to an intolerable level and, to put it another way, it cuts through the political fog and it shows us what the true cost of inaction will be.

Mr. President, I have been doing business in this city for 12 years now. I think the thing that disturbs me the most is the fact that we have the ability to do microscopic analyses of parts of a problem and at the same time be totally blind to the whole.

Yes, there is an unfairness in elements of this package, but how minor those concerns are compared to the catastrophic and wanton unfairness of this generation spending hundreds of billions of dollars it does not have and passing the bill to its children. Can anything be more important than addressing that?

Mr. President, we do not have a range of options to choose from. We cannot go back and remake the compromise to be more to our liking. There are only two real alternatives: the sequester or the summit agreement. A vote against this agreement is a vote for the sequester or a decision to do nothing at all. The deficit is either the most important thing or it is not. My vote says it is.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Senator from Massachusetts is recognized.

MONEY LAUNDERING ENFORCEMENT AMENDMENTS—MOTION TO PROCEED

The Senate continued with the consideration of the motion to proceed.

Mr. **KERRY**. I thank the Chair and I thank the Senator from Minnesota.

Mr. President, the ranking member of the Banking Committee, Senator GARN, and I have chatted about this. We are awaiting the leaders who are currently discussing the schedule and making some determination about how we will proceed. It appears as though we will be proceeding to a series of cloture votes, though I am not certain of that at this point in time.

Yesterday, Mr. President, I had an opportunity to present my views on why this legislation is important, and I really talked from a personal perspective of how I believe that money laundering is a key component of the overall drug war. As all of us know, as long as people can walk up to the door of a bank or find some scheme by which they can use cutout corporations and shells in order to be able to move money through the system, then the big guy who is involved in nacotics tends to be able to get away with it, and we wind up focusing all our energy on the street crime itself and fighting something of a frustrating battle.

I would like to share with my colleagues some thoughts about what the administration has had to say about money laundering and the importance of this kind of legislation in this particular bill. I think it is a shame that this bill is being held up for purposes that appear not to be particularly germane to the merits of the bill. The administration, I think, would like to see this legislation pass, and there is a strong reason for it.

Let me share the words of the Attorney General of the United States who gave us a speech before the American Bar Association last November. This is what he had to say. He said:

> The laundering of these billions is far more crucial to their operations—

Referring to the drug lords—

> and much more difficult and high risk than the actual trafficking in drugs. If the DEA seizes cocaine with a street value of $19 million, it does not cost the Medellin cartel $19 million to replace that cocaine. Far less. Somewhere between $2 to $4 million at Colombian prices. Though when $19 million in cash is confiscated from a New York drug warehouse, there is no discount. That loss is $19 million, $19 million that does not make its way underground into the worldwide economy to further capitalize the international drug trade which must have these ill-gotten funds to stay malevolently solvent.

Mr. **COCHRAN**. Mr. President, I take this time to express my concern over the continuing trend of placing on the smaller banks of this country more and more regulatory burdens which do not serve to improve the soundness of their operations or the safety of their customers' deposits.

The small banks in my State have a very high cost of compliance with what some have called social regulations.

One example is the Community Reinvestment Act, which requires certain kinds of community involvement and outreach to attract low-income or minority customers. Even though the goals are worthy, the regulations under this act are ambiguous and unnecessarily burdensome. Regulators who should be spending their time monitoring a bank's financial well-being must spend time judging intentions on social matters; their "ratings" are subjective, and their reasoning sometimes reflects a lack of knowledge of the community in which the bank is located.

One banker from a small town in my State who wanted me to see how much paperwork his bank was required to deal with, sent me a copy of every document he received over the past year from the Federal Deposit Insurance Corporation and the Federal Reserve. These included regulations, proposed regulations, request for comments on regulations, and other items. It came to me in a very large box because it was so voluminous. He said the shipment did not include paperwork received from the Internal Revenue Service, the Securities and Exchange Commission, or other regulatory agencies with jurisdiction over various aspects of bank activities. Neither did it include the reports and other paperwork required to respond to or comply with all these items.

Mr. President, small banks receive the same regulatory information that big banks do. Big banks can afford to employ people to comment on regulations and to assure their compliance with them. Small banks obviously do not have the resources that large banks have and cannot spread their compliance costs over a large customer base.

The situation boils down to this: small banks deserve a better break than they are getting from the Congress and the administration. Placing more regulatory burdens on them increases neither the safety of their depositors' money nor does it improve the soundness of their decisions.

On the contrary, when a small bank is forced to give attention to unnecessary and often frivolous, irrelevant matters, it is diverted from giving attention to the soundness of loans and the legitimate needs of the community. Furthermore, the money spent on compliance with these social regulations might otherwise be used to increase capital and to strengthen the safety and soundness of the bank.

If this regulatory trend continues, I am concerned that the cumulative effect eventually will be the financial failure of many small banks. If this occurs, the FDIC may have to close the banks, at a cost to the bank insurance fund, and possibly the taxpayers—all of this as a result of unnecessary regulations. The cost of such failures would go beyond the stockholders of these banks. Small communities survive and grow in large part because of the services offered by their hometown financial institutions. These communities would be the real losers if the nonfinancial regulatory burden continues to grow.

I do not know exactly what the solution is to this problem. Maybe we should stipulate that every new requirement we legislate must be offset by a reduction in other requirements. I do not know if that would pass, but it is something to consider.

Maybe we should exempt small banks from certain aspects of the Community Reinvestment Act. Maybe we should require that a charge of irresponsibility be brought against a bank before it is inspected for violation of these societal regulations. Maybe some here should stop presuming that all banks are guilty of some wrongdoing until proven innocent.

Mr. President, I hope the Senate will reconsider its tendency to respond to problems, real or imagined, by requiring more paperwork and regulations and consider the cumulative burden these requirements place on smaller banks.

I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **LEAHY**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. ROCKEFELLER). Without objection, it is so ordered.

THE BUDGET AGREEMENT

Mr. **LEAHY**. Mr. President, I would like to say a word or two about the budget impasse we appear to be in.

We have a fiscal firestorm going on here, Mr. President. The irony is that the people who began the firestorm back in the Reagan era are not getting any blame for the fire they started. But it seems now that the American people want to blame those who are being asked to put out the fire.

I cannot help but think that we are going to see much of what we saw at the end of the Vietnam war. We had a lot of Senators of both parties who voted over and over again for the Vietnam war. Every time the appropriations bills came up, they voted for them. Every time an effort was made to cut the appropriations for the war, they voted it down.

But then I recall arriving here in Washington. I came in the class of 1974. My good friend, the distinguished Senator from Nevada, Mr. Laxalt and so many other Senators were in that class, and many are still serving here. And we watched. Within 3 months of the time we came here the Vietnam war ended. It was interesting going in the cloakrooms among conservatives, liberals, and moderates. It was almost impossible to find anybody who had ever supported the Vietnam war. Yet, of 435 Members of the House, and 100 Members of the Senate, a majority had to vote for it over and over again.

We had people who raised questions about it. We had one Senator who said we should declare victory and pull out. But the war went on. Then when it finally ended everybody said, "My God, how did we ever get there? Is not this terrible?" But the blame or the credit fell on those in the last few days of the war. Hardly anybody went back to the beginning of the war and found out who made the mistakes to get us there.

Now that is where we are on the budget. We have a horrendous mess.

We are having wonderful speeches about balancing the budget. We have those who still want sloganeering. I heard one Member say that if we had a line-item veto, the deficit would be taken care of. Balderdash. A line-item veto would not do a darned thing. It would affect one-hundredth of 1 percent of the overall budget. In all likelihood, it would only affect Members whose vote the President might need at that time, no matter who the President might be.

We hear the sloganeering about constitutional amendments to balance the budget, but we have a law now that requires the President to submit a balanced budget. I have not seen any President submit a balanced budget since I have been here. President Reagan gave wonderful speeches on a balanced budget. He got elected twice on that speech. Every year he submitted a budget that had larger and larger deficits.

President Bush, who I admire in many ways, and respect greatly, campaigned on the same issue. Immediately he submitted a budget with an even greater deficit than had been there before. We saw, during the time of the last Presidential election, trying to hide the savings and loan bailout costs to keep it off budget. No one would do anything that might rock the boat during the campaign.

Mr. President, actions have consequences. As I look at the budget resolution before us, I do not see just numbers. I see the faces of the people of Vermont. These are real people, 580,000 real people. I see senior citizens forced to spend more of their limited incomes on health care and heating oil, farmers trying to survive yet another year when the Federal Government seems determined to drive them off their land. I see men and women, who go to work every day to pay the mortgage and feed their children, facing new taxes that are going to strain their already extremely tight budgets.

I see their faces, Mr. President. I think my feelings are a mixture of sorrow and anger at what I see. Anger, because the people who started this fiscal forest fire are not even being asked to pick up a bucket and join the line to help put it out. In fact, many of those who presided over the worst fiscal calamity in this country's history have now made money on it and have moved on to other things.

This fire did not start last week or last year. It started back in 1981. That was the year that President Reagan proposed, and the Congress enacted, the largest tax cuts and Pentagon increases for a nation at peace.

President Reagan had a very good set of slogans when he ran for office. A lot of people in this body and in the other body, in both parties, realized how important those slogans were, and they jumped on them and held on for dear life.

What were those slogans? They would make a huge, huge tax cut. Cut billions of dollars of taxes out of our revenue bases. Was that popular in 1980? You better believe it.

Also, they looked at those Iranians holding our people hostages in Tehran, and they said, "We are going to beef up our Pentagon spending so that cannot happen again. We should build every single weapons system that could be designed, and we are going to be second to none." Was that popular in 1980? Mr. President, you better believe it was popular.

And then the popularity of those two positions, cutting the taxes and increasing the Pentagon budget, if that was not popular enough to get somebody elected, you had the trump card. What was that? "We will balance the budget." My, God, you could hear the cheers from Vermont to West Virginia, from West Virginia to California, from California to Texas, from Texas up to Alaska, down to Iowa, Indiana, and everywhere else.

What could be more popular? A huge tax cut. Hurrah. Stand up America, double that Pentagon budget; hurrah again, balance the budget. Thank God, somebody is paying attention to the fiscal security of this country. Hurrah again.

Now maybe the problem was that we cut too much out of the education budget, Mr. President. Simple addition and substraction. The tables I learned and you learned when we were in grade school would have taught us that you cannot do that. Somehow the Congress thought you could, the President thought you could, and the President's people thought you could. We had people who overwhelmingly wanted to balance the budget, cut taxes and increase defense spending. It was the most popular position taken—so popular that in this body, alone, 89 Senators voted for it. Republican and Democratic alike. I happened to be one of the 11 who voted against it.

Just as I said during my campaign, I could not support that part of the plan. Ninety percent of the poeple in my State agreed with all three parts of it. I was one of the 10 percent who said I do not agree. You cannot do all three. Like the war in Vietnam, we cannot find the people who wanted it back then. Now those same people are calling—and phones ring off the hook—saying, my God, how could we have this kind of budget agreement, because look at what is going to happen. They seem to forget—a lot of people do—what happened back in 1981. Everybody went along with it.

In fact, I said in a speech on the floor at that time that "the budget before us today proposes huge budget deficits for the next several years, deficits which the Congressional Budget Office estimates may exceed $200 billion by 1984."

I was not the only person saying that, Mr. President. David Stockman—remember him?—President Reagan's Director of the Office of Management and Budget. He knew what was coming. He said, "The massive deficit inherent in the true supply side fiscal equation was substantially covered up. Eventually, it would become the belly slap that was heard around the world."

I should point out that Mr. Stockman did not admit this until he was in another line of work. President Reagan got his tax cuts. He got his defense buildup.

But he did not get his balanced budget. Instead he got the record-breaking deficits. It was like the sorcerer's apprentice: here they come, out they would come, march, one after another, bigger, and bigger, and bigger, until unfortunately the numbers became almost meaningless.

Certainly they became meaningless to the policymakers, hundreds of billion of dollars' worth. We went from the largest creditor Nation in the world to the largest debtor Nation on President Reagan's watch. You no longer had to point to some other countries in South America and talk about their huge national debt. Ours overwhelmed it.

As a nation, we began to put our expenses on a government credit card, running up debts that we could not pay and we could not afford. Our defense budget increased by 100 percent during President Reagan's two terms in office.

Now, are we 100 percent more secure today than we were then? Come, come, come. Look what our defense build up went into: Spending billions on expensive and ineffective systems like star wars. We wanted to keep the Soviet Union on the other side of the Berlin Wall. Fortunately the Berlin Wall was only concrete and that came down. With that came the wave of democracy. But we keep on pouring money into star wars even though most people admit it is not going to work.

There was the MX missile. We built the B-2 Stealth bomber immediately after we spent $30 billion on the B-1B.

I remember one of my distinguished colleagues standing here on the floor arguing against a resolution on the farm bill that would have punished Saddam Hussein. We would have held back credit and subsidized shipments of food to Saddam Hussein because of the fact that he gassed his own people. He sponsored terrorism and was saying bellicose words about the independent country of Kuwait. One of our distinguished colleagues argued against the amendment. Two weeks later, that same Senator was on the floor saying we have to do something about that terrible Saddam Hussein.

Do we need the B-2 bomber. Well, for what? What would the B-2 bomber do for us right now, if we had it?

Another person suggested the other day that we could save ourselves $100 billion: Tell everybody we built 100 B-2 bombers. They cannot see them by radar. They do not know the difference. We can pocket the change. That is all it is worth. We are never going to risk a billion dollar airplane to fly to Baghdad or over the Middle East. Why not tell them we have the plane anyway? They will never know the difference and we would be $100 billion ahead of the game.

What finally do we need, however? We find exactly those things we cut out. We failed to treat operations and maintenance with the same high priority. We cut out planes like the A-10 because it is slow and ugly. Even though its very effective, its so simple so we do not need it. We failed to pay more attention to things we find we need. We need better maintenance, training and equipment that can work in the sands of Saudi Arabia.

Spending billions on sophisticated weaponry does not translate into more security. Our sealift capability is proving far less effective than advertised by the Pentagon. Instead of spending money on fast sealifts, we spend $1.5 billion to bring a World War II battleship out of mothballs. When we got it out there, by God, we had the best World War II battleship that we could have. If anybody asks for a rematch of World War II, we are ready to go.

Now the Pentagon has asked to spend millions to put it back in mothballs. Would it not be better if we spent a fraction of that on sealift capability? We are even towing some ships to the Persian Gulf. We need two ships, one to tow the other ship to go over to Saudi Arabia.

Let us be clear. Domestic spending did not cause this huge deficit. That is not what did it.

So now we have this situation today, Mr. President, results of the budget summit. People who had the party are not paying the tab. The people who do not party at all are being asked to pay. The people in the low- to middle-income bracket will be asked to pay a higher percentage of their taxes than any other group of citizens. Poor pregnant women, who cannot buy food are going to find that their eligibility for Women, Infant, and Children Program [WIC] is going to be cut off; 50 percent of eligible women in this country are already cut off from that program.

In this country we spend hundreds of millions of dollars to store food we cannot use. We have people stand on this floor of this Senate saying we have to stand up for the unborn child. I agree that is a noble thought. But these same people pause if it is going to cost us something, if we have to feed that pregnant woman, feed that child, or do something to help take care of the child once he or she is born. No, we cannot do that because that adds to the deficit and there will not be money for the B-2 bomber. But we are in favor of the unborn child?

Are we? Or is this the same kind of hypocritical sloganeering that got us here in the first place? I think Mr. President, each one of us better ask ourselves when we vote for this budget package, assuming it comes over from the other body, are we just perpetuating the arrogant myth and irresponsibility that got us here in the first place, ignoring the people who want to look to Government for some kind of help and some kind of direction? Ours is a country where we have fallen behind the rest of the industrialized nations in our education system, where the infant death rate is something like 19th. Iceland, Singapore, countries like that do a better job than we do. Canada certainly does. What do we do about them? Are we just going to cut further, drop from 19th to 20th or 22d, as though it is a sweepstakes to ruin this country.

We sit here with slide rules—actually, we do not use slide rules any more, we use computers which we buy from the Japanese of course because Lord knows we do not want to spend money in developing these products any further here, not when we can have leveraged buyouts and spend the money on debt. So we use the computer to figure out, look, listen. We can save ourselves $13 billion here if we just get rid of these 50,000 farmers. We can save so much more if we just take these pregnant women off anything that might give them nutrition for themselves and their unborn child.

Mr. President, as I said, if anybody is going to vote for this budget agreement they better start to thinking for a moment in making their decision that we are not talking about numbers on a piece of paper. We are talking about real people.

I know people worked hard in putting this agreement together. They have worked hard. I do not think there is a Senator here who does not appreciate the hard work that went into that. A lot of these Senators are out there until 2 and 3 o'clock in the morning getting answered no, no, no, to just about everything they came up.

After all the White House has some responsibility in this. They are the ones that proposed the budget every year. I think it was not until it probably got way down to the end or the cruch that they began to recognize the responsibility. I let the budget summiteers speak to that.

I think the package we have before us would be a heck of a lot worse than it is if it was not for people like JIM SASSER of Tennessee, GEORGE MITCHELL of Maine, TOM FOLEY, DICK GEPHARDT, senior Republicans, BOB DOLE and BOB MICHEL, and others who worked very, very hard on it.

But I cannot help but think if the kind of realization, or not just realization, but acknowledgment of what was going on had been made a year or so ago, or 2 or 3 years ago, we would not be in this fix today.

As one individual Senator, one of the 11 who voted against getting us in this mess in the first place, I wonder if I could even bring myself to vote now for the sort of ratification of the process that brought us here. It bothers me greatly.

As I said, I would be very happy if we could have had a package put together just by our distinguished majority leader or by our distinguished budget chairman. But that is not what we have. A package from the two of them presented to us, I think if they were left unrestrained, would be a package I could vote for; not that I could agree with every point any more than they could to one that I would put together.

I have to ask myself, with all the restrictions put into this package by the White House and all the restrictions put in by others, whether it is one I can vote for.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MONEY LAUNDERING ENFORCEMENT AMENDMENTS—MOTION TO PROCEED

The Senate continued with the consideration of the motion.

Mr. KERRY. Mr. President, 3 days ago now, on Tuesday, a totally noncontroversial bill was brought to the floor of the U.S. Senate, a bill that has passed the House of Representatives unanimously, 406 to 0, a bill that passed the Banking Committee unanimously.

Here we are, the U.S. Senate, supposedly the world's greatest deliberative body, with people all over the face of this planet struggling to be like the United States of America, some of them taking life risks in order to do that. We watched Germany unite a couple of days ago, an extraordinary moment of celebration and a democracy breaking out. Here we are for 3 days, at a moment when people all over this country are saying, why can they not make a decision? Why can they not make a choice? Why can they not decide something in our interest, not in theirs, but in our interest, the people of this country? That is what they sent us here to do.

Three days, not an amendment proposed, not a vote taken, just a process, a little ducking there, a little bobbing and weaving. Nobody knowning where the ghosts and goblins are.

Mr. President, what we are talking about is drug kingpins. We are talking about money laundering. We are talking about $100 billion a year to get siphoned through the banks of this country. We are looking at a U.S. Senate that for 3 days has done nothing about it.

It is extraordinary. How do you go back to people and tell them that this is a serious place? How do you go back and tell them that you care about what is happending in this country to kids? How do you tell them you care about the communities where cops are going out and risking their lives on a daily basis, because some fat kingpin somewhere is sitting with a bank account, and we are unwilling to take the action in the U.S. Senate that puts a penalty on these people who engage in that kind of activity? I am asking why have we not done this? I am not going to suggest all the reasons that are possible. I do not want to do that. I have refrained from even this comment for 3 days in an effort to try to establish the comity that really belongs here, by which we do business.

It seems to me absolutely extraordinary that a bill so unanimously endorsed and so unanimously brought to the floor with the committee support and other people's support is just sitting here languishing. No wonder the people of the United States of America are asking about their Government. No wonder people are wondering whether they can rely on us to make fundamental choices. Here we are with this extraordinary budget collision that we face right now and they expect us to deal with billions and billions of dollars of choice and we cannot even deal with a piece of legislation that makes money for the Government.

I do not think this is a proud moment for the U.S. Senate. I must say so, Mr. President. I hope before we have to deal with the issues of why or what is happening here we can clear this process up and begin to move forward.

The distinguished ranking member of the U.S. Senate Banking Committee, Senator GARN, has spent his 3 days here in an effort to try to move this legislation. The distinguished Senator from New York [Mr. D'AMATO] has amendments here which are important he thinks to this bill and wants it passed.

My hope is that we can try to break whatever the stealth logjam is in an effort to try to deal with this. I have to tell you, Mr. President, as you know, there is not a person here who has not expressed the seriousness of the drug problem. There is not a person here who probably has not campaigned on the basis of the fact that they are going to try to improve our ability to fight narcotics trafficking. I think we are going to have a hard time or some people are going to have a hard time—I am not going to have a hard time, but some people are going to have a hard time explaining how seriously they really are when a bill that is so broadly supported sits for 3 days on the floor of the Senate without people seriously addressing it.

I have a strong suspicion that I have a sense of what may be happening here, Mr. President, and I hope that it is not what I believe it might be. But I really believe that in the interest of the enforcement efforts of our Justice Department, of our DEA, of our Customs, in the interest of those who are on the front lines of waging this effort that the Senate will finally deliberate in the very frankly brief manner that needs to be addressed in terms of real deliberation for this particular legislation.

Let me say for the record that on our side of the aisle there is no pending problem. We are ready to vote. We are ready to vote the entire passage of the bill. There is not a Democrat in the U.S. Senate who has an objection to or an amendment for this particular piece of legislation.

So, it is my hope that maybe over the course of the next few hours we will break this free from the current bondage in which it is held and be able to pass an important piece of legislation without having to resort to cloture and to a lot of needless votes and a lot of wasted time of people who have an awful lot of important things to pay attention to and some very very big issues on the table.

Mr. President, I suggest the absenc of a quorum.

The PRESIDING OFFICER. Th clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I as unanimous consent that the order fo the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. KERRY. Mr. President, I as unanimous consent that there be period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

GODSPEED TO WARREN KANE

Mr. HOLLINGS. Mr. President, th U.S. Government may be on the skid this week, but I am pleased to repor that Warren Kane, my top aide on th Commerce, State, Justice Appropriations Subcommittee, has entered th prime of his life. Last night his beloved Red Sox won the America League East, this morning he becam a grandfather for the third time, an last week he began a youthful an well-deserved retirement. I personall think that retirement at age 55 is ridiculous. But, then again, I mus admit that I have aged Warren at a accelerated rate over the last 16 year

Mr. President, I will miss Warre Kane's services more than I can sa His knowledge of the Commerc State, Justice jurisdiction is nothin short of encyclopedic. But Warren' value goes way beyond knowledge an expertise. I can tell you that few staffers can match the long hours he put in, the high standards, the professionalism, the simple decency and courtes that are his trademarks. The fact i he has spoiled Senator RUDMAN an me. We have had the peace of mind o knowing that our bill is in the best o hands. I will genuinely miss his day-to day counsel, though I take consolatio in knowing that our friendship wil continue.

Mr. President, Warren Kane is wel known to most of us in this body. Hi service in the Senate goes back t 1971, when he signed on as legislativ assistant to Senator Norris Cotto Certainly, Warren can take pride i many accomplishments down throug the years. The Senate Red Cross wil remember his incredibly generous donations to their blood drives, giving total of nearly 9 gallons down throug the years. What's more, I know tha Warren takes a special, well-deserve pride in the role he played in the 1970's in heading off misguided effort to massively alter the west front of the Capitol Building.

Mr. President, Warren Kane is looking forward to becoming even more active in service to his church, Arlington Forest United Methodist, and to his alma mater, Hope College. I've also heard rumors that, after years on the links, he intends to learn how to play golf. I certainly wish Warren and Dale the very best of luck. He has done a superb job for me, and a superb job for the U.S. Senate. We will miss him.

MINORITY BUSINESS MONTH

Mr. RIEGLE. Mr. President, October is "Minority Business Month" in Michigan, and I would like to speak briefly about the importance of encouraging the development of businesses owned and operated by minority citizens.

International competition becomes tougher every day. One of our greatest strengths as a nation is our diversity; no other nation in the world has such a rich marketplace of ideas and perspectives as the United States. We need to better convert this strength to the world economic marketplace.

The playing field on which minority businesses compete is tough. About half of all enterprises fail within 5 years. A recent Supreme Court decision in the City of Richmond versus Crosin has made it more difficult for minority businesses to obtain government contracts. In addition, Federal support for programs that assist minority business has declined. Yet, despite these forces, many minority-owned businesses are succeeding.

Over the past decade, minority-owned business has grown as a percentage of the economy, creating much needed jobs in communities all over the country. There are over 13,000 minority-owned enterprises in my State of Michigan, generating over $700 million of revenue a year. Most of these enterprises are small family-owned businesses, led by hardworking and innovative entrepreneurs. These firms have enormous potential for growth. In fact, from 1976 to 1986, small business contributed to over 80 percent of all jobs created in Michigan. In a time of limited job opportunity for minorities, particularly in inner cities, it is particularly critical that we do all we can to promote the growth of minority-owned businesses.

The past decade has also seen unprecedented growth in the number of minorities who are obtaining business degrees and rising in major corporations. While progress has been slow, a number of individuals from minority backgrounds have broken through the glass ceiling that has prevented many talented individuals from taking leadership positions in major corporations.

A recent survey among black entrepreneurs indicated that over 70 percent cited inadequate funding as the No. 1 problem confronting minority-owned business. Too often in our society, black and other minorities do not have sufficient access to capital that is needed to build a business. For this reason, the government plays a vital role in promoting minority economic development. The Michigan Department of Commerce set up a Minority Business Enterprise Office to help the minority business community obtain funding and technical expertise that is necessary to build a solid enterprise. The Federal Government assists minority business through the Minority Business Development Agency and through a number of other programs designed to enhance the ability of minority businesses to succeed. I strongly believe that we need to support these important programs and I will fight for adequate funding for them.

Minority Business Month provides us with the opportunity to call attention to the need to promote the development of minority-owned businesses. I urge my colleagues in the Senate to help in advancing minority-owned business so we can build a prosperous future for all Americans.

WHEN MEDICINE GREW UP

Mr. METZENBAUM. Mr. President, earlier this year, Dr. Harold Klein of my home city of Cleveland addressed the 50th reunion of his Georgetown University medical school class. Dr. Klein is a member of the staff of the Mount Sinai Medical Center in Cleveland, a fine physician, and a dear friend of many years. During his 50 years of dedicated service in the medical profession, Dr. Klein has witnessed staggering changes in the practice of medicine. In his talk at Georgetown, Dr. Klein spoke movingly to his classmates about his deep love of his profession and his exhiliration at being part of this exciting period of medical history—a period which included the triumph over so many diseases through the development of new medicines, surgical techniques, and technologies. Yet, as Dr. Klein pointed out, there is a catch. Along with these important new technologies have come soaring hospital costs and the practice of medicine as big business.

Mr. President, Dr. Klein offers a valuable perspective and insight into the fundamental conflict facing our health care system today. I ask unanimous consent that an article from the Cleveland Plain Dealer excerpting his reunion address be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Cleveland Plains Dealer, June 29, 1990]

50 Astounding Years When Medicine Grew Up

(By Harold Klein, M.D.)

Unlike Winston Churchill, who said his life had been an exciting voyage but one he would not care to repeat. I would love to relive mine, because for me the practice of medicine has always been an exhilarating, challenging and statisfying pursuit.

My generation had the extreme good fortune of living through the truly halcyon days of medicine. In our 50 years, we were both audience and players in the greatest and most exciting drama in the entire history of our calling—the explosive development of a solid science out of a tattered group of hand-me-down facts and fancies.

When we started in medical school, we were subjected to a brutal memory process of diagnosis, disease and drugs, and became versed in the jargon of the profession. By the end of four years, we had acquired a rather crude overview of the differences between sick and well, but the treatments we were offered were woefully lacking. We had learned the names of dosages of many palliative drugs, but in essence, there were only a few worthy staples on the shelf: digitalis, morphine, quinine, belladonna and aspirin.

Surgery was potentially curative, but we medical people were so limited that even a serious infection like pneumonia was treated by swabbing down the fever and providing lots of fresh air.

Oh yes, we were taught about the noble heritage of the healing arts, the dignity of the body and the sanctity of the human mind and spirit. We were instructed in ethics and pride and morality. We were taught to be kind and caring and, above all, to do no harm. Yes, there was honor and striving in our group, but what we really started with were some vague projections: the laying on of hands, the patient ear, some kind, reassuring words, and a dignified professional air.

Shortly after our graduation, our world began to change. Antibiotics and antisera were discovered and started to proliferate in dizzying procession, saddling and taming the ravaging infections diseases so that an illness-free millennium seemed to be just around the corner.

Nature, however, can be a tricky adversary. Germs soon developed resistance and new forms appeared. Even now, although the new and mysterious miasma that is AIDS has come over the horizon and threatens to envelop us in its deadly embrace, and a new and potent global flu could suddenly explode to scourge and plague us, we have made dramatic progress in treating infectious diseases.

You and I have lived through many wonderous changes in medicine. We have seen Kolff's dialysis machines made small enough and practical enough to be used universally to rescue end-stage renal disease patients from what formerly was a death sentence.

We have marveled as the heart became an open book—on the angiography table and in the operating room. New vessels and new valves can now turn back the human odometers on many a deadend road.

The development of fiber optics has taken the word "rigid" out of endoscopy, and made it possible for us to navigate the curls and convolutions of the lung and the gastrointestinal tract—plucking their polyps on the way.

The nitrogen mustards, conceived as satanic dealers of death during wartime, have been tempered, harnessed and converted into angels of mercy for the treatment of lymphomas, leukemia and cancer.

We have learned how to replace steamy, worn-out lenses almost as easily as changing batteries in a toy, and we can toy with the batteries of our cardiac pacemakers.

With the development of computers and scanners, we now can find the proverbial needle in the diagnostic haystack, and with guided needle biopsy, the guesswork has been taken out of many previously puzzling disorders, making pinpoint therapy a possibility.

The crutches and braces that used to hang in rows in the storerooms of the orthopedic departments have been replaced by a wide assortment of gleaming new hips, new knees, new elbows and new shoulders.

We are living in a new and wonderful world of medicine, replete with magical machines and miraculous therapeutic tools and techniques to relieve pain and prolong life.

But there is a catch. All the paraphernalia in this exotic arsenal are just as costly to store and to operate as they are to buy. Only highly trained technicians can run them, and only very specialized physicians can interpret them. In addition, these megabuck machines become obsolete within months and need to be replaced with improved versions for more millions.

The $2 and $3 medical visits of the 1940s have skied to hundreds of dollars, and hospital costs have soared to multiple thousands. The practice of medicine has become big business and in many of our specialties, disproportionately lucrative. The pot of medical honey has gotten so full and so sweet that it has enticed all the big-time predators. Business advisers, soothsayers, machinery makers drug peddlers and the media have jumped in to keep the pot boiling. By a kind of natural accretion, we have acquired a vast overlay of non-medical people who are blanketing the entire kaleidoscope of the life and function of medical practice.

In addition, with the tremendous input of third-party payment, there is a countless cast of non-practicing physicians, nurses, attorneys, insurance brokers and executives, business consultants and many others—reviewing, censoring, controlling—all feeding at the trough of the medical dollar.

All this ancillary intrusion on the physician adds immeasurably to the overall "cost of medical care" but in no way contributes to the actual care of a single patient. So it is the patient who is penalized by the escalating costs, costs that never enhance the quality of his care. There must be a way to scrape these barnacles off our hull before their weight causes us to sink.

Just as all of America has changed in the last 50 years, the kindly old painstaking physician has had to become more worldly and business-wise to survive. The family "Doc" has been replaced by the medical corporation, busily harvesting and investing in accordance with the best corporate diligence and business know-how.

Although the majority of our fellows still hew to the ethical lines of the profession, there are too many who have detoured from Hippcrates to hype, from caring to coining—which unfortunately, besmirches the whole fraternity in the eyes of the public. We cannot go back to the horse and buggy or even to the Fords of the '40s, but we must try to rededicate ourselves to the concept that the patient and his needs belong higher up on the totem pole of our social structures than they are now.

We must not allow the proliferating entrepreneurial trappings in medicine today to compromise the noble heritage of the profession.

GERMAN AMERICAN DAY

Mr. RIEGLE. Mr. President, October 6 marks the fourth annual German-American Day. Unanimously passed by both the House and the Senate, the joint resolution designating Saturdays as German-American Day acknowledges the special historical and cultural contributions that German-Americans have made to our society. I am proud to have introduced this joint resolution with Senator Lugar each year since 1987. This year there is even more reason to celebrate. After more than 40 years of division, the two Germanies—East and West—have been united.

On October 18 of last year, East German Communist Party leader Erich Honecker was ousted from power. On December 1, 1989, the East German Parliament abolished the constitutional clause guaranteeing the leading governmental role of the Communist Party. And, on November 9, 1989, all restrictions on East German travel to the West were ended, effectively marking the beginning of the dismantling of the Berlin Wall which, for more than 28 years, symbolized the cold war and stood as a bulwark against peace and the reunification of Germany.

After 7 months of negotiations, East and West Germany, along with the United States, Great Britain, France, and the Soviet Union—the four legal occupying powers of WWII—finally reached agreement on the reunification of Germany. And as of Tuesday, the two Germans are once again a single nation.

German immigrants first reached America's shores more than 300 years ago. First settling in Germantown, PA, on October 6, 1683, Americans of German descent have since enriched American culture, scholarship, science, religion, and all other dimensions of life in this country. German-Americans have consistently distinguished themselves as a very industrious and prosperous community.

Among the most distinguished German-Americans have been two great leaders of our Armed Forces. America is forever grateful to the contributions of the brave Revolutionary War General Von Steuben and President Dwight David "Ike" Eisenhower who both fought valiantly on behalf of the democratic values for which America stands.

Today, 1 in 5 Americans—some 50 million of us—can now claim German ancestry. I am proud to be counted among the 2.5 million citizens in my own State of Michigan who are of German descent.

The unification of Germany marks not only the beginning of a new day in Germany, but represents the dawn of a new and more peaceful age for the European continent. Because of these recent events, the German-American friendship we have embraced and fostered over the past 45 years has even greater meaning and significance. So, this year, as we honor German-Americans on this special day, let America also celebrate the ending of the division of Germany.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination which was referred to the Committee on Energy and Natural Resources.

(The nominations received today are printed at the end of the Senate proceedings.)

DEFERRAL OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 149

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Foreign Relations, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on the Judiciary, and the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report seven deferrals of budget authority now totalling $1,120,243,863.

The deferrals affect the International Security Assistance Program, as well as programs of the Departments of Agriculture, Defense, Health and Human Services, State, and Transportation. The details of the deferrals are contained in the attached report.

George Bush.

The White House, *October 4, 1990.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 12:32 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 647. An act to amend the Federal securities laws in order to provide additional enforcement remedies for violations of those laws and to eliminate abuses in transactions in pennystocks, and for other purposes;

S. 1128. An act for the relief of Richard Saunders;

S. 1229. An act for the relief of Maria Luisa Anderson;

S. 1511. An act to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes;

S. 1683. An act for the relief of Paula Grzyb;

S. 1814. An act for the relief of Wilson Johan Sherrouse;

H.R. 5641. An act to amend title 5, United States Code, with respect to the retirement of members of the Capitol Police;

H.R. 5643. An act to grant a temporary extension of the authority under which the Government may accept the voluntary services of private-sector executives; to clarify the status of Federal employees assigned to private-sector positions while participating in an executive exchange program; and for other purposes; and

H.J. Res. 482. Joint resolution designating March 1991 as "Irish-American Heritage Month."

The enrolled bills and joint resolution S. 647, S. 1511, H.R. 5643, H.R. 5643, and H.J. Res. 482 were subsequently signed by the President pro tempore [Mr. Byrd].

The enrolled bills S. 1128, S. 1229, S. 1683, and S. 1814 were subsequently signed by the Acting President pro tempore [Mr. Akaka].

At 12:40 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House insists upon its amendment to the amendment of the Senate to the bill (H.R. 1396) to amend the Federal securities laws in order to facilitate cooperation between the United States and foreign countries in securities law enforcement; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Energy and Commerce for consideration of the House bill, the Sente amendment (except sections 103, 104, and 502), and the House amendment, and modifications committed to conference: Mr. Dingell, Mr. Markey, Mr. McMillen of Maryland, Mr. Lent, and Mr. Rinaldo.

From the Committee on Post Office and Civil Service, for consideration of sections 103, 104, and 502 of the Senate amendment, and modifications committed to conference: Mr. Ford of Michigan, Mr. Clay, Mr. Ackerman, Mr. Gilman, and Mr. Myers of Indiana.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 971) to require the Federal Communications Commission to prescribe rules to protect consumers from unfair practices in the provision of operator services, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 2809) to provide for the transfer of certain lands to the State of California, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate numbered 1, 3, and 5 to the bill (H.R. 1109) to amend the National Trails System Act to designate the California National Historic Trail and Pony Express National Historic Trail as components of the National Trails System; and that the House disagrees to the amendments of the Senate numbered 2 and 4 to the bill.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5732. An Act to promote and strengthen aviation security, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5732. An act to promote and strengthen aviation security, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, October 4, 1990, he had presented to the President of the United States the following enrolled bills and joint resolution:

S. 647. An act to amend the Federal securities laws in order to provide additional enforcement remedies for violations of those laws and to eliminate abuses in transactions in penny stocks, and for other purposes;

S. 1230. An act to authorize the acquisition of additional lands for inclusion in the Knife River Indian villages National Historic Site, and for other purposes;

S. 1511. An act to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes;

S. 1974. An act to require new televisions to have built in decoder circuitry; and

S.J. Res. 181. Joint resolution to establish calendar year 1992 as the "Year of Clean Water".

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3652. A communication from the Secretary of Agriculture transmitting, pursuant to law, the annual Animal Welfare Enforcement Report for fiscal year 1989; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3653. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, notification of the intention to use certain funds to complete testing on a system for the B-1B bomber; to the Committee on Appropriations.

EC-3654. A communication from the Secretary of Defense, transmitting, pursuant to law, notice that the current five-year defense program fully funds the support costs associated with the Bradley Fighting Vehicle Program; to the Committee on Armed Services.

EC-3655. A communication from the Secretary of Defense, transmitting, pursuant to law, notice that the current five-year defense program fully funds the support costs associated with the family of Heavy Tactical Vehicles Program; to the Committee on Armed Services.

EC-3656. A communication from the Acting General Counsel of the Department of the Treasury, transmitting, a draft of proposed legislation to authorize the Federal Deposit Insurance Corporation to increase deposit insurance premiums and to borrow working capital funds, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EC-3657. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Thrift Resolutions: Estimated Costs of FSLIC's 1988 and 1989 Assistance Agreements Subject to Change"; to the Committee on Banking, Housing, and Urban Affairs.

EC-3658. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the annual report on the Rental Rehabilitation Program for fiscal year 1990; to the Committee on Banking, Housing, and Urban Development.

EC-3659. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the options available to control the infestation of the waters of the United States, including the Great Lakes, by exotic species from the ballast water of vessels; to the Committee on Commerce, Science, and Transportation.

EC-3660. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, a draft of proposed legislation to extend the deadline by which foreign nations must meet the requirements of the Marine Mammal Protection Act, to limit the embargo of tuna and tuna products from intermediary nations, to provide limited imports of dolphin-safe tuna from embargoed nations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-3661. A communication from the Assistant General Counsel of the Department of Energy, transmitting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-3662. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3663. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3664. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3665. A communication from the Assistant Secretary of the Interior (Policy, Management, and Budget), transmitting, pursuant to law, reports of the Bureau of Land Management and the Fish and Wildlife Servide on the implementation of section 318 of the 1990 Department of the Interior and Related Agencies Appropriations Act; to the Committee on Energy and Natural Resources.

EC-3666. A communication from the Chairman of the National Commission on Superconductivity, transmitting, pursuant to law, the final report of the Commission; to the Committee on Energy and Natural Resources.

EC-3667. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, notice that a report on the establishment of a relative value scale and fee schedules for Medicare payment for radiologist services will not be submitted; to the Committee on Finance.

EC-3668. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, notice that a report on payment adjustment for sole community hospitals that add new inpatient facilities or services will be included in a forthcoming comprehensive report; to the Committee on Finance.

EC-3669. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, notice that a study of the criteria used to classify hospitals as rural referral centers will be included in a forthcoming comprehensive report; to the Committee on Finance.

EC-3670. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to September 27, 1990; to the Committee on Foreign Relations.

EC-3671. A communication from the Assistant Secretary of the Treasury (Legislative Affairs), transmitting, pursuant to law, a determination signed by the Secretary of the Treasury pursuant to Title I of the Foreign Operations, Export Financing, and Related Programs Appropriations Act; to the Committee on Foreign Relations.

EC-3672. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report and recommendation on a claim of an individual to be reimbursed for relocation expenses; to the Committee on Governmental Affairs.

EC-3673. A communication from the Acting General Counsel of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the annual Status Report on Credit Management and Debt Collected dated June 1990; to the Committee on Governmental Affairs.

EC-3674. A communication from the Director of the Administrative Office of the United States Courts, transmitting, pursuant to law, a brief statement on the activities of the Office under the Equal Access to Justice Act for the period ended June 30, 1990; to the Committee on the Judiciary.

EC-3675. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the fifteenth annual report on the state of handicapped children in Head Start programs; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-587. A joint resolution adopted by the Legislature of the State of California; to the Committee on Governmental Affairs.

"Assembly Joint Resolution No. 72

"Whereas, State laws enacted to assure responsibility and competency of contractors, as well as to protect employees of those contractors against injury, are of value to agencies of the United States; and

"Whereas, Application of these state requirements to federal contractors and subcontractors would not impede the ability of federal agencies to obtain timely performance; and

"Whereas, Many federal contracts are joint ventures with state public entities and many are performed on nonfederal lands where the states' interests in protecting their citizens are paramount; and

"Whereas, The application of state standards and employee protections to federal contractors and subcontractors is uncertain because of inadequate and conflicting judicial precedent; and

"Whereas, It is appropriate that the Congress clarify the status of these contractors and subcontractors under state laws in order to promote the interests of the United States and its individual states; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress to enact legislation specifically making federal contractors and subcontractors subject to state licensing laws and state laws for the protection of employees; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-588. A resolution adopted by the City Council of Slidell, Louisiana favoring a constitutional amendment to protect the American flag; to the Committee on the Judiciary.

POM-589. A resolution adopted by the Catholic War Veterans of the United States of America, Inc. favoring the early consideration of an amendment to the Constitution to protect the American flag; to the Committee on the Judiciary.

POM-590. A resolution adopted by the Catholic War Veterans of the United States of America, Inc. opposing the funding of certain projects and exhibits by the National Endowment for the Arts; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments:

H.R. 2015. A bill to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

H.R. 3791. A bill for the relief of Beulah C. Shifflett.

S. Res. 332. Resolution to refer S. 1301, entitled "For the relief of Hoar Construction, Inc., of Birmingham, Alabama, to settle certain claims filed against the Small Business Administration" to the Chief Judge of the United States Claims Court for a report thereon.

S. 293. A bill to amend the Judicial Survivors' Annuity Act to eliminate the requirement that a Federal justice or judge, who is assassinated, must serve a specific period of time before his or her survivors become eligible for benefits under this Act.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Benjamin F. Marsh, of Ohio, to be a Member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 1992;

Stephen B. Higgins, of Missouri, to be U.S. attorney for the Eastern District of Missouri for the term of 4 years;

Doris Swords Poppler, of Montana, to be U.S. attorney for the District of Montana for the term of 4 years; and

Arthur D. Borinsky, of New Jersey, to be U.S. Marshal for the District of New Jersey for the term of 4 years.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LUGAR:

S. 3157. A bill to confirm Federal recognition of the Miami Tribe of Indiana; to the Select Committee on Indian Affairs.

Mr. COATS:

S. 3158. A bill to improve the provision of health services in rural areas, and for other purposes; to the Committee on Finance.

By Mr. HEINZ:

S. 3159. A bill to amend the Internal Revenue Code of 1986 to more fairly apportion between foreign and domestic sources interest attributable to environmental control assets; to the Committee on Finance.

By Mr. BOSCHWITZ (for himself, Mr. Durenberger, Mr. Dole, Mr. Moynihan, Mr. Lugar, Mr. Hatfield, Mr. Simpson, Mr. Simon, Mr. Kerry, Mr. Wilson, Mr. D'Amato, and Mr. Hatch):

S.J. Res. 375. Joint resolution to designate October 30, 1990, as "Refugee Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR:

S. 3157. A bill to confirm Federal recognition of the Miami Tribe of Indiana; to the Select Committee on Indian Affairs.

FEDERAL RECOGNITION OF MIAMI TRIBE OF INDIANA

● Mr. LUGAR. Mr. President, today I have introduced legislation to rectify an injustice imposed upon thousands of my constituents for over 90 years. I speak of the Miami Indians of Indiana who have resided in the north-central region of my State for centuries.

In 1897, officials of the U.S. Department of the Interior administratively terminated the Indiana Miamis. In this case, would no longer formally recognize the tribe. In following decades this has meant that the Miamis have been unable to take advantage of the many Federal programs created by Congress to benefit native Americans.

Mr. President, there is no such thing as administrative termination. Congress has never granted the Department of the Interior the authority to terminate the formal relationship between an Indian tribe and the Federal Government. Only Congress has such authority.

Consequently, in a purely legal sense, the Miami Indians of Indiana are today a formally recognized Indian tribe. In fact, the Bureau of Indian Affairs [BIA] later admitted that their 1897 decision was inappropriate. Nevertheless, the Department of the Interior continues to prevent the Miamis from enjoying the benefits of many Federal programs.

The legislation I have introduced today, seeks to correct this injustice by reaffirming the Miamis' legitimate status and directing the Department of the Interior to make available to the tribe all rights and privaleges enjoyed by other federally recognized Indian tribes.

For decades, the Miamis sought to take action to correct this injustice. The tribe considered both legislative and legal avenues to reaffirm their status. Fearing that these approaches would be too time consuming, in 1980 the tribe decided to pursue the administrative recognition process established by the BIA in 1979.

The tribe made a mistake. Their foray into the Federal recognition process and the BIA bureau has taken an entire decade of effort. After years of costly research, the tribe first submitted a petition for Federal recognition to the Department of the Interior—Bureau of Indian Affairs on July 10, 1984. I have followed the petition's slow and difficult progress over the past 6 years and in doing so have become familiar with the serious flaws and problems of the Federal recognition process. These problems have not gone unnoticed. Both Senators Inouye, chairman of the Select Committee on Indian Affairs, and Senator McCain, ranking member of that committee, have introduced legislation to fine tune this program.

On July 12, 1990, the Miami's petition for Federal recognition received a preliminary denial. After a decade of effort and 6 years of processing, this was an incredible blow to both the tribe and myself.

Many native American experts were certain that the Miami's petition would be approved. The denial has surprised and concerned the many other tribes awaiting decision on their petitions. Questions are now being raised as to the future of the administrative recognition process. Clearly, these are questions for the Select Committee on Indian Affairs to address.

Regardless of the Miami's decision to participate in the administrative recognition process and regardless of the outcome of that process, the reality of the Miami's status has not changed. The U.S. Congress entered into treaties with this tribe, and in doing so, formally recognized them. Since that time, Congress has not terminated its relationship with this tribe. I urge my colleagues to join me in taking action to reaffirm the Miamis legitimate status.

Mr. President, with only weeks remaining prior to the end of the 101st Congress, it is unlikely that the Select Committee on Indian Affairs will be able to consider this legislation prior to adjournment. Let me clearly state my intent to immediately reintroduce this measure at the beginning of the 102d Congress and continue my efforts to rectify this injustice.

Mr. President, I ask that the full text of my legislation be included in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3157

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Miami Nation of Indiana Tribal Status Confirmation Act".

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATIONS.

The Congress finds that—

(1) at the time of removal of the Miami Nation from Indiana, approximately 300 Miamis under the leadership of Meshingomesia remained in or returned to Indiana pursuant to Federal treaty stipulations;

(2) after removal, the Indiana Miamis were known as the Eastern Band of Miamis, and were recognized as a self-governing Indian tribe by the Department of the Interior;

(3) on June 5, 1854, the Eastern Band of Miamis signed a treaty with the United States, which treaty was ratified by the Senate on August 4, 1854;

(4) since the Treaty of 1854, the United States Congress has not by statute or otherwise terminated the Federal relationship with the Eastern Band of Miamis;

(5) until 1897, the Department of the Interior acknowledged the Federal relationship with the Eastern Band of Miamis and, in that year, administratively terminated the tribe based on an erroneous interpretation of Acts of Congress that partitioned the Indiana reservation and granted citizenship to the members of the Eastern Band of Miamis;

(6) the Department's action in 1897 was unauthorized by Act of Congress and, thus, ultra vires and without force and effect; and

(7) the Eastern Band of Miamis, now known as the Miami Nation of Indiana, has not abandoned tribal relations since the Treaty of 1854.

SEC. 3. CONFIRMATION OF FEDERAL RECOGNITION, RIGHTS, AND PRIVILEGES.

(a) In General.—Notwithstanding any provision of law or determination of the Department of the Interior, Federal recognition of the Miami Nation of Indian and all enrolled members of the tribe is hereby confirmed. All laws and regulations of the United States of general application to Indians and Indian tribes shall apply to the Miami Nation of Indiana.

(b) Eligibility of Tribe for Federal Benefits.—Notwithstanding any provision of law or determination of the Department of the Interior, the Miami Nation of Indiana and its members shall be eligible immediately upon the enactment of this Act for all Federal services and benefits furnished to Indiana and Indian tribes because of their status as Indians and without regard to the existence of a reservation for the tribe.

(c) Deemed Status.—For the purposes of the delivery of Federal services, all enrolled members of the Miami Nation of Indiana residing in Allen, Huntington, Wabash, Miami, Howard, Grant, Elkhart, and St. Joseph counties in the State of Indiana shall be deemend to be residing on or near a reservation. Enrolled members residing in such counties shall continue to be eligible to receive such Federal services notwithstanding the establishment of a reservation for the tribe in the future.

SEC. 4. FEDERAL RECOGNITION OF STATE JURISDICTION.

(a) In General.—The Government of the United States grants jurisdiction to the State of Indiana over all criminal offenses that are committed on, and all civil actions that arise on lands located within the State of Indiana that are owned by, or in the futre held in trust by the United States for, the Miami Nation of Indiana, any member of the Miami Nation of Indiana, or any dependent Indian community of the Miami Nation of Indiana.

(b) Transfer of Authority.—The Secretary of the Interior is authorized to accept on behalf of the United States, after consulting with the Attorney General of the United States, any transfer by the State of Indiana to the United States of any portion

or all of the jurisdiction of the State of Indiana described in subsection (9a).

(c) Nonapplication of Provisions to Certain Law.—Th provisions of this Act shall not affect the application of section 109 of the Indiana Child Welfare Act of 1978 (25 U.S.C. 1919).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

By Mr. COATS:

S. 3158. A bill to improve the provisions of health services in rural areas, and for other purposes; to the Committee on Finance.

IMPROVEMENT OF RURAL HEALTH SERVICES

● Mr. COATS. Mr. President, there are few needs more basic than the security and confidence of a hospital just a short ride away. It plays a part in the concern of every parent for their child, of every adult for an aging parent.

But for many rural communities, particularly in my own State, that source of security and help is being replaced by concern, worry, and grief. Our rural health system is deteriorating with alarming speed and those who depend on it have found little help.

In the 1988 Indiana Hospital Association survey, rural hospital officials projected that, in the next 5 years, 13 percent of our State's rural hospitals would close.

Rural Hospitals in Indiana have voiced concerns over financial viability. This is a need that cannot, in good conscience, be ignored.

The Indiana State Board of Health indicates rural hospitals already serve counties with a greater proportion of older Hoosiers than the State average and jobs common to a rural economy—mining, lumbering, and farming—are more prone to injury, increasing the importance of accessible health care in rural areas.

Most rural hospitals say that a root cause of their difficulties in providing accessible health care is the rural/urban Medicare reimbursement differential. This unequal treatment is making it difficult for rural hospitals to provide quality care. It put an unfair burden on strained resources and handicaps rural medicine.

Mr. President, the bill that I am offering today will directly address this problem. It will ensure that the urban/rural differential be abolished by 1992. This will aid rural hospitals in keeping pace with new technologies, and providing the best health care available.

I believe this measure is vital to maintaining and strengthening the quality of health care in rural America. It is addressed to the justified concerns of rural families. It is aimed at providing them with security and confidence. And I strongly urge my colleagues to support this bill.●

By Mr. HEINZ:

S. 3159. A bill to amend the Internal Revenue Code of 1986 to more fairly apportion between foreign and domestic sources interest attributable to environmental control assets; to the Committee on Finance.

ALLOCATION OF INTEREST TO ENVIRONMENTAL CONTROL ASSETS

Mr. HEINZ. Mr. President, today I am introducing legislation to eliminate an unintended tax penalty that has a detrimental effect on the international competitiveness of U.S. business and provides a disincentive to reducing pollution in the United States.

U.S. companies must compete in today's global markets if we are going to prosper. They must also help protect the environment at home. American companies will have to shoulder the burden of investing billions of dollars in new environmental control equipment while still producing the goods and services we need at home and in international trade. That is simply a fact. Within present budget constraints, there may not be much we can do right now to make that job easier.

On the other hand, we should not make the job more difficult than necessary and certainly should not impose an outright penalty that increases the more a U.S. company competes in international trade and, simultaneously, seeks to invest in needed environmental control assets. I am confident that my colleagues will agree.

When a company that is also engaged in international trade has to purchase new environmental control equipment for its U.S. plant, it will tend to incur additional debt and additional interest expense. Section 864(e) of the Internal Revenue Code will, however, allocate a portion of the company's additional interest expense to its assets that are located abroad in connection with its international operations. The result is in most cases to make nondeductible the portion of interest allocated to foreign assets. The Treasury regulations allocate to foreign assets far more interest expense than is justified based on a fair comparison of the relative amounts of the company's assets located in the United States and abroad. A severe overallocation to the foreign assets occurs because the Treasury regulations make the allocation by comparing the more rapidly declining tax basis of the company's environmental control and other U.S. assets to the less rapidly declining tax basis of the foreign assets.

If instead of making this apples and oranges comparison, the Treasury regulations compared the generally similar earnings and profits bases of assets, a more fair allocation would occur consistent with the intent of Congress in enacting section 864(e) to start with.

I doubt that Congress ever intended an overallocation penalty in any case and I am certain that we never intended to so severely penalize companies that seek to control pollution. This penalty is especially counterproductive at a time when we are asking U.S. companies to invest substantially in equipment designed to reduce pollution. American companies already spend many billions of dollars each year controlling pollution, and the Clean Air Act amendments are expected to add at least another $22 billion in additional pollution control costs. These compliance expenditures generally will not generate new income for American companies that pay them. Instead, they will increase borrowing and decrease profits. To magnify these costs by effectively denying interest deductions would be terribly unfair.

The interest penalty is also unfair because it applies only to U.S. companies that participate in foreign markets—and the greater the participation the greater the penalty. The penalty does not apply to U.S. companies that do not seek to compete in international markets. It does not apply to foreign-owned companies that compete in our markets.

My proposed legislation would eliminate this anticompetitive, counterproductive and unintentional penalty by reducing the overallocation of interest attributable to the acquisition or construction of assets needed to reduce pollution, increase recycling and otherwise improve our environment. It would directly allocate interest to new environmental assets and generally treat that interest as U.S. source. To ensure that the bill does nothing more than eliminate a penalty, the total interest apportioned to U.S. sources will be no greater than the amount that would be apportioned if the location of an asset did not affect how rapidly the asset is depreciated for tax purposes. I strongly urge my colleagues to support this legislation that is essential to our continuing efforts to improve the environment.

Mr. President, I ask unanimous consent that a technical explanation of the bill be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Technical Explanation of Proposed Legislation That Fairly Apportions Interest Allocable to Environmental Control Assets

SUMMARY

The provision would directly allocate a portion of a taxpayer's interest expense to environmental control assets ("ECAs"). The portion generally would be apportioned to U.S.-source income and, therefore, would not reduce the taxpayer's foreign source income. The remainder of the taxpayer's interest expense would be apportioned in accordance with the principles of present law. The total interest apportioned to domestic sources would not exceed the total amount that would be so apportioned if E&P basis were used for apportionments based on assets.

ALLOCATION TO ENVIRONMENTAL CONTROL ASSETS

A taxpayer would determine for each taxable year its weighted average interest rate on its debt. The average would be based only on "fungible" interest and debt; the average would include only interest (and the related debt) that is subject to apportionment based on asset values (basis or fair market value) under current law. For example, interest on nonrecourse debt and other interest that is directly allocated to specific assets under Temp. Reg. § 1.861-10T would not be included in the average. The interest allocable to ECAs would be determined by multiplying the weighted average interest rate by the average adjusted basis (as determined for earnings and profits) of ECAs. As under current law (Temp. Reg. § 1.861-9T(g)(2)), the average adjusted basis for the year would be the average of adjusted bases at the beginning and end of the year.

The allocation rules described above would not apply to ECAs to the extent that the direct allocation rules of Temp. Reg. § 1.861-10T apply. Thus, the present direct allocation rules for nonrecourse debt and integrated financial transactions would prevail over the allocations under the proposed legislation.

APPORTIONMENT OF INTEREST

Interest expense that is allocated to ECAs would be apportioned in accordance with the source of the income generated by the ECAs or the assets to which they relate. All other interest expense would be apportioned in accordance with the applicable interest expense apportionment rules under Code section 864 and Treasury regulations under section 861. However, under the principles of present regulations (Temp. Reg. § 1.861-9T(g)(iii), which for general apportionment purposes reduces the value or basis of assets to which interest is directly allocable), the basis or fair market value of ECAs generally would not be taken into account when applying the rules for apportionment based on assets.

CAP ON REAPPORTIONMENT

The total amount of fungible interest that can be apportioned to domestic sources under these rules may not exceed the interest that would be apportioned to domestic sources if E&P basis, rather than tax basis or fair market value, were used for apportionments based on assets.

ENVIRONMENTAL CONTROL ASSETS

The term "environmental control assets" includes equipment and facilities that reduce or eliminate the emission of pollutants into the environment, reduce the generation of waste, convert or recycle waste into usable products, or allow taxpayers to comply with environmental law. Only assets used in the United States would qualify. The provision would apply in tax years beginning after December 31, 1989, with respect to assets placed in service after such date.

By Mr. BOSCHWITZ (for himself, Mr. Durenberger, Mr. Dole, Mr. Moynihan, Mr. Lugar, Mr. Hatfield, Mr. Simpson, Mr. Simon, Mr. Kerry, Mr. Wilson, Mr. D'Amato, and Mr. Hatch):

S.J. Res. 375. Joint resolution to designate October 30, 1990, as "Refugee Day"; to the Committee on the Judiciary.

REFUGEE DAY

● Mr. BOSCHWITZ. Mr. President, it is with great pride that I introduce this joint resolution to designate October 30, 1990, as "Refugee Day."

I am pleased that Senators Durenberger, Dole, Moynihan, Lugar, Hatfield, Simpson, Simon, Kerry, Wilson, D'Amato, and Hatch have joined me in cosponsoring this important joint resolution.

As the only refugee serving in the U.S. Senate, I am particularly concerned about the plight of the world's 15 million refugees. During my time in the Senate, I have worked hard to give others the same chance I had—to find refuge and opportunity within the United States.

It's appropriate and necessary that we recognize the efforts of the United States as a world leader in refugee issues. One challenge that we continually face is maintaining an appropriate balance between assistance for resettling refugees within our country and assistance for refugees residing in other parts of the world. While the United States is committed to resettling refugees within our Nation, we are also a major contributor to international efforts to meet the basic needs of refugees.

Furthermore, we should also take time out to recognize the significant contributions made by refugees who've resettled in our country. Our country's heritage has been enriched by the flow of refugees and immigrants into our Nation. If there is one thing that distinguishes us from other countries, it is that virtually all of us are descendants of refugees and immigrants—refugees and immigrants who energize the U.S. culturally and intellectually and who help fuel the economy.

When refugees arrive in the United States they often have nothing but ambition. That's why our economy expanded fastest when immigration was highest. Refugees spur growth through their commitment to work and their driving desire to gain a better life for themselves and their families. They show us again and again what promise and opportunity are available to all Americans—if we are just willing to work at it.

With more than 15 million refugees throughout the world, those of us who are committed to resettling refugees recognize that we continue to face many challenges. Situations can change suddenly, and we must remember that there are still several trouble spots throughout the world for refugees.

I urge my colleagues to support this important resolution and ask unanimous consent that the joint resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 375

Whereas in the past decade the world refugee population has more than doubled from 7,300,000 to 15,000,000;

Whereas the United States has always played a leading role in refugee matters worldwide;

Whereas the origins of the United States as a land of refuge for those escaping persecution and the development of the United States as a nation of immigrants gives the country a deep understanding of and sympathy for the plight of the 15,000,000 refugees in the world;

Whereas refugees who have come to the United States have made significant contributions to the country;

Whereas the United States consistenly encourages other countries to expand efforts to help the needy population of refugees;

Whereas the current world refugee situation requires that the United States continue to be a leader in refugee affairs: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) October 30, 1990, is designated as "Refugee Day"; and

(2) the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.●

ADDITIONAL COSPONSORS

S. 273

At the request of Mr. Heinz, the name of the Senator from New York [Mr. D'Amato] was added as a cosponsor of S. 273, a bill to amend title 39, United States Code, to designate as nonmailable matter solicitations of donations which could reasonably be misconstrued as a bill, invoice, or statement of account due, solicitations for the purchase of products or services which are provided either free of charge or at a lower price by the Federal Government connection or endorsement, unless such matter contains an appropriate, conspicuous disclaimer, and for other purposes.

S. 567

At the request of Mr. Boren, the name of the Senator from Mississippi [Mr. Lott] was added as a cosponsor of S. 567, a bill to amend the Internal Revenue Code of 1986 to allow income from the sale of certain used automobiles to be computed on the installment sales method, and for other purposes.

S. 1273

At the request of Mr. Boren, the name of the Senator from Kentucky [Mr. Ford] was added as a cosponsor of S. 1273, a bill to amend the Internal Revenue Code of 1986 with respect to treatment by cooperatives of gains or losses from sale of certain assets.

S. 1815

At the request of Mr. Boschwitz, the name of the Senator from Nevada [Mr. Bryan] was added as a cosponsor of S. 1815, a bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer Social Security taxes on cash tips.

S. 1890

At the request of Mr. Thurmond, the names of the Senator from Texas [Mr. Bentsen] and the Senator from Maine [Mr. Mitchell] were added as cosponsors of S. 1890, a bill to amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes.

S. 2044

At the request of Mr. Biden, the name of the Senator from Alabama [Mr. Shelby] was added as a cosponsor of S. 2044, a bill to require tuna products to be labeled respecting the method used to catch the tuna, and for other purposes.

S. 2319

At the request of Mr. Garn, the name of the Senator from Hawaii [Mr. Inouye] was added as a cosponsor of S. 2319, a bill to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to protect the deposit insurance funds, to limit the depository institutions, credit unions, and other mortgage lenders acquiring real property through foreclosure or similar means, or in a fiduciary capacity, and for other purposes.

S. 2410

At the request of Mr. Levin, the name of the Senator from Maryland [Ms. Mikulski] was added as a cosponsor of S. 2410, a bill to amend the Internal Revenue Code of 1986 to prevent avoidance of tax by certain foreign-owned corporations and to impose a tax on dispositions of stock in domestic corporations by 10-percent foreign shareholders.

S. 2637

At the request of Mr. Reid, the name of the Senator from New Jersey [Mr. Lautenberg] was added as a cosponsor of S. 2637, a bill to amend the Toxic Substances Act to reduce the levels of lead in the environment, and for other purposes.

S. 2807

At the request of Mr. McCain, the name of the Senator from California [Mr. Wilson] was added as a cosponsor of S. 2807, a bill to direct the Secretary of the Interior to establish and implement power operating criteria at Glen Canyon Dam, to protect the environmental and recreational resources of Grand Canyon National Park, and for other purposes.

S. 3004

At the request of Mr. Levin, the names of the Senator from Nevada [Mr. Bryan], the Senator from Indiana [Mr. Coats], and the Senator from Wisconsin [Mr. Kohl] were added as cosponsors of S. 3004, a bill to amend the Public Health Service Act to extend the time for the filing of certain claims for compensation for vaccine-related injuries, and for other purposes.

S. 3047

At the request of Mr. DeConcini, the name of the Senator from Maryland [Ms. Mikulski] was added as a cosponsor of S. 3047, a bill to amend the antitrust laws in order to preserve and promote wholesale and retail competition in the retail gasoline market.

S. 3116

At the request of Mr. Burns, the name of the Senator from Arizona [Mr. McCain] was added as a cosponsor of S. 3136, a bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to limit increases in outlays to 4 percent per year, to provide for midyear sequesters in order to assure that deficit and outlay targets are achieved, and to amend the Congressional Budget Act of 1974 to extend the deficit targets.

SENATE RESOLUTION 314

At the request of Mr. Heinz, the names of the Senator from Missouri [Mr. Bond], the Senator from Alaska [Mr. Stevens], the Senator from New York [Mr. Moynihan], the Senator from New York [Mr. D'Amato], the Senator from Michigan [Mr. Levin], the Senator from Massachusetts [Mr. Kerry], the Senator from North Carolina [Mr. Sanford], the Senator from South Carolina [Mr. Hollings], the Senator from Idaho [Mr. McClure], the Senator from Iowa [Mr. Grassley], the Senator from Iowa [Mr. Harkin], the Senator from New Jersey [Mr. Bradley], the Senator from Vermont [Mr. Jeffords], the Senator from South Dakota [Mr. Daschle], the Senator from Oregon [Mr. Packwood], the Senator from Minnesota [Mr. Durenberger], the Senator from Connecticut [Mr. Dodd], the Senator from Louisiana [Mr. Johnston], the Senator from Nevada [Mr. Reid], the Senator from Georgia [Mr. Fowler], the Senator from Georgia [Mr. Nunn], the Senator from Wisconsin [Mr. Kasten], and the Senator from Illinois [Mr. Dixon] were added as cosponsors of Senate Joint Resolution 314, a joint resolution to commemorate the 50th anniversary of the National Federation of the Blind.

SENATE JOINT RESOLUTION 350

At the request of Mr. Byrd, the name of the Senator from Minnesota [Mr. Durenberger] was added as a cosponsor of Senate Joint Resolution 350, a joint resolution to designate October 18, 1990, as "National Hardwood Day."

SENATE JOINT RESOLUTION 364

At the request of Mr. Reid, the names of the Senator from Kansas [Mr. Dole], the Senator from Texas [Mr. Bentsen], the Senator from Washington [Mr. Gorton], and the Senator from Massachusetts [Mr. Kennedy] were added as a cosponsor of Senate Joint Resolution 364, a joint resolution to designate the third week of February 1991 as "National Parents and Teachers Association Week."

AMENDMENTS SUBMITTED

DECEPTIVE MAILINGS PREVENTION ACT

PRYOR (AND OTHERS) AMENDMENT NO. 2927

Mr. PRYOR (for himself, Mr. Glenn, Mr. Lieberman, and Mr. Kohl) proposed an amendment to the bill (S. 273) to amend title 39, United States Code, to designate as nonmailable matter solicitations of donations which could reasonably be misconstrued as a bill, invoice, or statement of account due, solicitations for the purchase of products or services which are provided either free of charge or at a lower price by the Federal Government connection or endorsement, unless such matter contains an appropriate, conspicuous disclaimer, and for other purposes, as follows:

On page 8, line 15, insert "information or" before "the contribution".

On page 11, strike out lines 10 through 13 and insert in lieu thereof:

SEC. 5. STATE DEPARTMENT POST OFFICES ABROAD.

(a) Postal Services at Diplomatic Posts.—Chapter 4 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 413. Postal services at diplomatic posts

"(a) The Postal Service and the Department of State may enter into 1 or more agreements for field testing to ascertain the feasibility of providing postal services through personnel provided by the Department of State at branch post offices established by the Postal Service in United States diplomatic missions at locations abroad for which branch post offices are not established under section 406.

"(b) To the extent that the Postal Service and the Department of State conclude it to be feasible and in the public interest, the Postal Service may establish branch post offices at United States diplomatic missions in locations abroad for which branch post offices are not established under section 406, and the Department of State may enter into an agreement with the Postal Service to perform postal services at such branch post offices through personnel designated by the Department of State.

"(c) The Department of State shall reimburse the Postal Service for any amounts, determined by the Postal Service, equal to the additional costs incurred by the Postal Service, including transportation costs, incurred by the Postal Service in the performance of its obligations under any agreement entered into under this section.

"(d) Each agreement entered into under this section shall include—

"(1) provisions under which the Department of State shall make any reimbursements required under subsection (c);

"(2) provisions authorizing the Postal Service to terminate the agreement, and the services provided thereunder, in the event that the Department of State does not comply with the provisions under paragraph (1); and

"(3) any other provisions which may be necessary, including provisions relating to the closing of a post office under this section if necessary because a post office under section 406 is established in the same location.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 4 of title 39, United States Code, is amended by adding at the end thereof the following:

"413. Postal services at diplomatic posts.".

SEC. 6. EFFECTIVE DATE.

The provisions of this Act shall take effect on the date of the enactment of this Act, except the amendments made by section 2 shall apply to matter deposited for mailing and delivery on or after 180 days after the date of the enactment of this Act.

DWIGHT D. EISENHOWER INTERSTATE HIGHWAY SYSTEM

BURDICK AMENDMENT NO. 2928

Mr. KERRY (for Mr. BURDICK) proposed an amendment to the bill (S. 2806) to redesignate the Interstate Highway System as the Dwight D. Eisenhower Interstate Highway System, as follows:

After the enacting clause, insert "SEC. 1."

On page 1, line 5, strike "the Interstate Highway System" and insert "The National System of Interstate and Defense Highways".

On page 1, line 6, strike "the Dwight D. Eisenhower Interstate Highway" and insert "The Dwight D. Eisenhower System of Interstate and Defense Highways".

On page 1, line 7, strike "System".

On page 1, line 10, strike "the Interstate Highway System" and insert "The National System of Interstate and Defense Highways".

On page 2, line 2, strike "the" and insert "The".

On page 2, line 2, strike "Interstate Highway System" and insert "System of Interstate and Defense Highways".

ZEBRA MUSSEL RESEARCH AND CONTROL PROGRAM

MOYNIHAN AMENDMENT NO. 2929

Mr. KERRY (for Mr. MOYNIHAN) proposed an amendment to the resolution (S. Res. 312) to express the sense of the Senate regarding the need to develop a zebra mussel research and control program through the Great Lakes Fishery Commission, as follows:

On page 3, line 9, strike out "Clerk" and insert "Secretary".

PROTECTION OF ANTARCTICA AS A GLOBAL ECOLOGICAL COMMONS

GORE AMENDMENT NO. 2930

Mr. KERRY (for Mr. GORE) proposed an amendment to the joint resolution (S.J. Res. 206) calling for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty Consultative Parties, for the full protection of Antarctica as a global ecological commons, as follows:

On page 2, line 4, strike "managed under" and insert "subject to".

On page 2, lines 4-7, strike "among the Antarctic Treaty Consultative Parties or a protocol to the Convention on the Regulation of Antarctic Mineral Resource Activities to the same effect, either of" and insert "or protocol to the Antarctic Treaty of 1959,".

On page 3, line 1, strike "agreement," and insert "agreement or protocol,".

On page 3, lines 8-9, strike "is not adequate in and of itself to provide the necessary level of protection for" and insert "does not guarantee protection of".

On page 3, line 13, strike "among Antarctic Treaty Consultative Parties" and insert "or protocol to the Antarctic Treaty of 1959,".

On page 3, lines 15-17, strike "or of a protocol to the Convention on the Regulation of Antarctic Mineral Resource Activities to the same effect,".

On page 3, lines 17-18, strike "the President should not present the Convention on the Regulation of Antarctic Mineral Resource Activities to" and insert "the Convention on the Regulation of Antarctic Mineral Resource activities should not be presented to".

NEGOTIATED RULEMAKING ACT

STEVENS AMENDMENT NO. 2931

Mr. KERRY (for Mr. STEVENS) proposed an amendment to the amendment of the House to the bill (S. 303) to establish a framework for the conduct of negotiated rulemaking by Federal agencies, as follows:

In section 583(b)(1)(A) of title 5, United States Code, as added by section 3(a) of the bill, insert ", including residents of rural areas" before the semicolon.

In section 583(b)(2) of title 5, United States Code, as added by section 3(a) of the bill, insert ", including residents of rural areas" before the period in the second sentence.

In section 585(a)(2) of title 5, United States Code, as added by section 3(a) of the bill, insert before the period "and, as appropriate, in trade or other specialized publications, a copy of which shall be sent to any person who applied for, or nominated another person for membership on the negotiating rulemaking committee to represent such interests with respect to the proposed rule".

RUDMAN AMENDMENT NO. 2932

Mr. KERRY (for Mr. RUDMAN) proposed an amendment to the amendment of the House to the bill S. 303, supra, as follows:

Strike out subsection (d) of section 585 of title 5, United States Code, as added by section 3(a) of the bill.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. KERRY. Mr. President, I ask unanimous consent that the full Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 4, at 10 a.m. to conduct hearing on proposed arms sales to Saudi Arabia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. KERRY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in open session during the session of the Senate on Thursday, October 4, 1990, at 2 p.m. to receive testimony on implications of the Treaty on Final German Settlement for NATO Strategy and U.S. Military Presence in Europe.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

KATHLEEN ADAMS: A PRINCIPAL WHO IS MAKING A DIFFERENCE

● Mr. PELL. Mr. President, I rise today to pay tribute to Ms. Kathleen Adams, principal of the Cranston-Johnston Catholic Regional School in Cranston, RI.

I applaud this very capable young educator for her enthusiastic leadership, and commitment to providing a quality education to those in her charge. Ms. Adams has proven to be the type of eductor who is very much needed in today's schools. She is willing to face challenges and to put forth the necessary effort to bring about change, and the result of her work has been the success of the Cranston-Johnston Catholic Regional School.

In July 1986, Ms. Adams was selected as the new principal at this Catholic grammar school. Upon acceptance of the position she found herself presented with two very significant challenges. First, only 82 children were registered, 1 month prior to the date when the school was scheduled to open. And second, of the nine teachers in the school who were given the option of staying or leaving, only two chose to stay.

Undeterred, Kathleen Adams optimistically moved forward and created a positive and exciting learning environment at the Cranston-Johnston school. She organized events at the school and invited prospective

students to attent. By opening day student enrollemnt had risen to 160. She hired new teachers to replace those who had departed, and took steps to involve parents in their children's education. In a short period of time Ms. Adams significantly changed both the composition and direction of the school.

The Cranston-Johnston Catholic Regional School opened for the 1990-91 school year with 330 students enrolled, a 25-percent increase over the previous year. The school has now earned a reputation as an enjoyable and exciting place to learn. In fact, many parents interested in registering their children at the school had to be turned away.

For her efforts Ms. Adams has been nominated as a Reader's Digest Hero in American Education. She has also been elected by her fellow principals as Northeastern representative to the National Catholic Education Association.

Kathleen Adams exemplifies the type of individual who, when provided with an opportunity, will make a significant difference. I commend her for her outstanding accomplishments.●

HONORING BOB MAYBERRY OF LAKE ARTHUR, NM

● Mr. DOMENICI. Mr. President, it gives me great pleasure to speak to you today of a clearly outstanding young farmer and his accomplishments.

Bob Mayberry was born and raised on his family farm in southeastern New Mexico. Today he and his family are still farming the same crops of cotton, alfalfa, grains, and chili, on their farm in the Pecos Valley. Bob is also a member of the New Mexico Cotton Advisory Council, the New Mexico Crop Improvement Association, an alternate delegate to the National Cotton Council, and a member of the American Farm Bureau Vegetable and Potato Advisory Committee. He is clearly an active leader in his community.

From his early adulthood, Bob has shown leadership qualities. In 1978 he received his Future Farmers of America [FFA] State Farmer degree, in 1979 he graduated as the valedictorian of Artesia High and was a Star Chapter Farmer. From his high school years Bob started on a solid progression of achievement and success.

Bob attended New Mexico State University [NMSU] for both his bachelors and masters degree, where his hard work and expertise earned him one award after the other. In 1983 and 1984, he was awarded NMSU Dean's Award of Excellence for Service; in 1984 he was NMSU Agricultural Economics Outstanding Senior. Also in 1984, he was not only the Alpha Chi University Student of the Year, but was the Outstanding Senior, College of Agriculture and Home Economics and the recipient of the Roberts Memorial Award for Service to NMSU. During his college career Bob came to show what kind of metal he was made of and what he was going to take back to his home in the Pecos Valley.

Bob's leadership and enthusiasm has now been recognized on a national level. The National Cotton Council of America recognized Bob's potential and included him in the 1990 Cotton Leadership Class. The class is the National Cotton Council's program to groom the future leaders and innovators of the cotton industry.

Many people are not aware that cotton is grown in my home State. New Mexico is known more for its cattle, Chili, and pecans than of the high quality cotton it produces. In 1989, New Mexico produced more than 125,000 bales of Upland and Pima cotton. This year it is estimated that New Mexico will be the 14th largest cotton producer in the Nation. Determined and ambitious farmers, like Bob Mayberry, add to New Mexico's agricultural bounty.

Bob was 1 of 10 young cotton producers who were chosen from the cotton-producing States of America. Each student has been traveling across the country learning about every aspect of the industry. These future leaders spent 1990 in an accelerated program of four 1-week trips to various parts of America studying the expertise of their associates.

Bob is now on the last leg of his trip, and has come to Washington to see how the Congress affects his industry. When the class ends, Bob will be better prepared to meet the rigors of his industry, and we will have the benefit of a citizen who is well versed in all aspects of his livelihood. I am grateful to the Cotton Council of America for giving cotton's future farm leaders this opportunity to expand their horizons, and for choosing such a fine example of New Mexico's commitment to agriculture.●

GULF CRISIS ENDANGERS POLISH RECOVERY

● Mr. BOSCHWITZ. How ironic it will be, Mr. President, if the emerging democracies of Eastern Europe collapse under the weight of their commitment to joining the worldwide opposition to the threats posed by Saddam Hussein.

Poland was one of the first countries to support United States and United Nations calls to isolate Iraq and impose sanctions. That decision was not a simply gesture but very costly commitment. Poland's decision came at great expense because Iraq was a major source of oil and an important trading partner. Thus the gulf crisis has had a very serious impact on Poland's economy recovery program.

Compounding the Polish economic crisis is the impact of German unification and the collapse of the Soviet economy—the loss of major markets and trading partners, a possible reduction in expected aid from Germany, and new demands for hard currency.

The costs to Poland are set forth clearly in a report in today's Washington Post from its correspondent in Warsaw, Blaine Harden. I commend this article to my colleagues to assist in understanding the courage of the new democratic government in Poland and the importance of our support for its transition to democracy and a free market.

I ask that the Post article be inserted in the RECORD at this point.

The article follows:

[From the Washington Post, Oct. 4, 1990]

GULF CRISIS, KREMLIN FUEL CUTBACKS CREATE ENERGY SHORTAGE IN POLAND

(By Blaine Harden)

WARSAW.—The Persian Gulf crisis and Soviet cutbacks in deliveries of oil and gas have combined to threaten Poland with crippling energy shortages this fall and winter.

Clouding the picture still further, Polish officials say that the continuing political confusion and economic disarray in the Soviet Union—Poland's largest trading partner and purchaser of one-fifth of Polish exports—is fostering a sharp decline in Soviet imports of Polish coal, steel and copper.

The waning of Soviet trade will be felt acutely throughout Polish industry but is likely to prove disastrous for manufacturers of heavy machinery and high-voltage electric equipment, Foreign Trade Minister Marcin Swiecicki said recently. Many of these producers make goods for which there is little demand outside the Soviet Union or its former East European client states, and they are already opeating at a loss.

The double dose of economic woe comes at a time when Poland, Eastern Europe's largest and most debt-encumbered nation, is struggling to climb out of a recession that in the first nine months of this year has put more than 800,000 Poles out of work and shrunken industrial production and incomes by a third.

In the past, Poland had obtained about 90 percent of its annual 98 million barrel oil needs from the Soviets, and before the Iraqi invasion of Kuwait had been counting on Baghdad to provide—at no hard-currency cost—the remaining 10 percent for this year.

Iraq had promised to supply 7 million barrels of crude oil as payment on a $500 million debt for tanks and other weapons bought from the Poles. Only about a quarter of that arrived before the Aug. 2 invasion.

Meanwhile, the Soviet Union is 21 percent behind on 1990 fuel deliveries to Poland. After the gulf crisis began, Poland—along with Hungary and Czechoslovakia—asked Moscow to catch up on late deliveries, but Polish officials say Moscow has refused. Worse still, government officials here say, the uncertain Soviet domestic situation and Kremlin demands that new foreign oil sales be paid for in hard currency will mean that inter-government oil transactions between Moscow and Warsaw "will amount to zero" in 1991.

As for natural gas—for which the Soviet Union is Poland's only foreign supplier—inter-government contract sales are scheduled to be cut by more than a third next year, forcing some Polish industries to shut down, according to Polish industry minister Tadeusz Syryjczyk. Polish officials say they may be able to make up part of the shortfall by buying from individual Soviet republics and from semi-autonomous Soviet oil and gas enterprises.

"The Soviet side has suggested that in order to get any oil supplies, Poland should establish direct contact and cooperation with the republics and distributors interested in this," said Jerzy Osiatynski, head of the Polish Government Planning Office. The additional cost to Poland of paying hard currency for its energy imports next year is estimated at $3 to $4 billion, the planning office said.

The new reluctance of the Soviet Union to supply oil and gas to Poland and its other former satellites stems in part from Moscow's announced intention to sell its resources only for hard currency and at world prices beginning next year.

In years past, member-nations in the Soviet-dominated Comecon trading bloc could count on Soviet oil and gas at bargain prices, and countries such as Poland bartered manufactured and farm goods for petroleum products. But with the collapse of communism in Eastern Europe and with Moscow's economic problems worsening as it tries to implement a free-market system, the Soviet Union is no longer willing to trade oil for Polish potatoes.

International oil market analysts also have been reporting serious problems in the Soviet Union's capacity to export oil—at any price. Industry specialists said last month that the Soviets had even begun importing gasoline—for the first time since World War II. Analysts said the cause of the production shortfall appears to include labor troubles and lack of hard currency to invest in production hardware.

Leszek Plodczyk, head of Poland's largest state-run fuel distributor, said a 33 percent increase in the price of gasoline that went into effect Sept. 1 has slowed consumption somewhat, but pump rates here—$1.40 a gallon—remain well below those in Western Europe. The price is expected to double by the end of the year.

Polish officials have asked the United States and other Western nations to help offset losses caused by Poland's support of the embargo against Iraq. Although these officials say they have been assured of some aid, no firm commitments have been announced.●

TRIBUTE TO OFFICER WILLIAM T. LUCAS

● Mr. D'AMATO. Mr. President, I rise today to recognize Officer William T. Lucas on the occasion of his retirement from the Nassau County Police Department.

Officer Lucas joined the police force after returning from service in the U.S. Army during World War II. He was appointed to the Nassau County Police Department on March 3, 1947. His first assignment was car 56, which covered West Hempstead and Franklin Square. Later, as the communities developed and the need for police increased, Mr. Lucas' patrol post was limited to the northeast section of West Hempstead.

Officer Lucas reached the age of mandatory retirement 2 years ago, but was granted an extention by the commissioner of police, Samuel J. Rozzi. Now, at age 72, Officer Lucas retires with the distinction of being the oldest active police officer in the State of New York, and possible the country.

The commitment and dedication of law enforcement officers such as Officer Lucas establishes the thin line between social order and the chaos that today's ever more dangerous criminals would unleash against decent, law-abiding citizens. Our police community is engaged in nothing less than the maintenance of a civilian society, with each man and woman in uniform risking their lives on a daily basis on our behalf.

Officer Lucas has followed the proud tradition of our brave law enforcement officers for more than three decades. For this we salute him on the occasion of his retirement from the Nassau County Police Department.●

ADULT TRAINING CENTER, ELKINS, WV

● Mr. ROCKEFELLER. Mr. President, I rise to speak about a center for the mentally and/or physically challenged in West Virginia. The Adult Training Center in Elkins has been providing a needed service in an exceptional way since it was founded 15 years ago.

The mentally and/or physically challenged have the opportunity to learn in the public school system while they are of school age, but as adults, their educational needs continue. The Elkins Adult Training Center serves as a resource that helps these adults to continue to learn and develop throughout their adult lives. Because they are mentally and/or physically challenged in varying degrees, the center evaluates clients one by one and fits each into a curriculum according to his or her particular needs. The curriculum includes basic skills such as reading, writing, arithmetic, social skills, and independent living skills, taught by four full-time certified instructors. Most clients also participate in recreation and physical education activities.

One of the most important accomplishments of the center is the extensive employment opportunities that it has created for its clients. Some work in the center in Elkins, side-by-side with nonhandicapped workers, either in the center's own woodshop or at computer data terminals, or in the local community of Elkins doing lawn work or landscaping. Others work away from Elkins at ski resorts or in restaurants where they are supervised occasionally, but not constantly. All of the workers are paid for their work. The wooden toys made in their woodshop are renowned for their craftsmanship and have often been on display at arts and crafts shows in different parts of West Virginia.

This impressive program reflects the enormous dedication and creativity of its director, Josie Cuda, and its supported employment coordinator, Lucille McGee, both of whom should be commended for all the work they have done to make the program at the center so ambitious. The center and its staff demonstrate a spirit of caring and concern that we can all admire. The clients of the center are deeply grateful to Josie and Lucille and to everyone else at the center who has helped to create opportunities to learn and work that might be difficult to find elsewhere. The Elkins Adult Training Center should be a model for all such services for the mentally and physically challenged in West Virginia and across the country, and I applaud the center for its continuing accomplishments.●

HONORING FORMER CONGRESSMAN SAM STRATTON

● Mr. D'AMATO. Mr. President, the passing of former Congressman Sam Stratton occassioned many reflections on his lifelong service to New Yorkers and to the Nation. That is as expected and as deserved by his distinguished tenure.

We in Washington who knew him and worked with him rightly praised his labors and his memory. His friends and neighbors from Schenectady and the Capitol region continue to share their personal reminiscence and respect for Sam with the grief of his wife, Joan, and his family.

What we often forget when we are close to someone of national repute is that others in distant cities share our pride in his achievements even without our proximity. Such a sentiment was expressed on the editorial page of the Richmond News Leader on September 20. Such testament amplifies our own heartfelt regard and make the further honors to be paid to Sam Stratton all the more significant and notable.

Mr. President, I ask that the editorial be printed at this point in the RECORD so that its message may be broadly appreciated and echoed.

The editorial follows:

[From the Richmond News Leader, Sept. 20, 1990]

SAM STRATTON

For 30 years Sam Stratton represented an Upstate New York district in the House. Last week he died at 75. Although few outside Albany had heard of him, many benefitted from his commitment to defending America's founding principles.

He was a Democrat, but when his party became mired in the fever swamps of disarmament and appeasement, he remained true to the legacy of Franklin Roosevelt and Harry Truman. Stratton supported a military second to none—and a vigorous foreign policy.

He voted to aid anti-Communists in Angola, Nicaragua, and elsewhere. He opposed the nuclear freeze. And his convictions cost him politically. Although he had the seniority to serve as chairman of the Armed Services Committee, his Democratic colleagues passed him over for lesser men. Many Congressmen would have changed their positions to win the fleeting fame of a committee chairmanship. Not Sam Stratton.

He fought the good fight. And before he died, he had the satisfaction of seeing—in the crumbling of Communism—the vindication of his views.●

CHILDREN'S MEDICAL CENTER OF ISRAEL

● Mr. BOSCHWITZ. Mr. President, In these volatile days in the Middle East, we have very few opportunities to take even the smallest concrete steps to promote a peaceful future. I rise today, Mr. President, to applaud one such step.

The Children's Medical Center of Israel [CMCI] has recently been topped off outside of Tel Aviv at Petah Tikvah. Construction on this $60 million, 224-bed facility is progressing on schedule and it is expected to open its doors to the region's children late next year. It will be one of the most modern, state-of-the-art, tertiary care pediatric centers in the world. Under one roof, there will be a tremendous array of physicians from all specialties, of medical equipment ranging from the high technology to the surgical implement, of children with illnesses from the horrible to the typical.

The special part of this hospital will be its open-door policy. Children from all nations will be welcome under its vast wings. The founders and sponsors of this expansive project have stipulated from the outset that no child shall ever be barred from its doors.

This will be the most advanced children's hospital in the entire Middle East, and indeed in Africa and Western Asia as well. Here research will take place on ailments specific to children. This will be the first teaching children's facility in that part of the world. Surgery, ambulatory care, diagnostic treatment, psychiatry and every other available service a pediatric hospital could provide will be available at the CMCI. It is inspired by the success of the many children's hospitals in the United States.

The importance of this American-sponsored project cannot be underestimated. It has often been said that our children are our future. By treating all children with the utmost care, regardless of nationality, race, creed, sex or religion, this medical center will set an example for all people in the Middle East. Showing these children that they can be friends and that they feel the same pain and share the same hopes can only contribute to relieving tensions among the next generation.

The children of the Middle East are ultimately our best chance for change, our best hope for a peaceful future. With the completion of construction of the Children's Medical Center of Israel the healing process in that war-torn part of the world can begin.

I wish to congratulate the CMCI on the milestone of its topping off, and commend its American sponsors, Medical Development for Israel, and I look forward to the opening of the medical center approximately 1 year from now.●

TRIBUTE TO ST. MARY'S HOSPITAL OF BROOKLYN

● Mr. D'AMATO. Mr. President, I rise today to pay recognition to the Franciscan Sisters of St. Joseph's who have been caring for the patients of St. Mary's Hospital of Brooklyn, NY, for 50 years.

In 1882, St. Mary's opened as a 270-bed acute care facility in Bedford-Stuyvesant. The Franciscan Sisters of St. Joseph's have been caring for the citizens of Brooklyn since the 1940's. It is through dedication and courage of the Franciscan Sisters that St. Mary's remains a respected institution in the Brooklyn community.

Over the last 50 years the Franciscan Sisters of St. Joseph's have played a key role in the success of St. Mary's Hospital. Between 1940 and 1950, under the administration of the Franciscan Sisters, St. Mary's Hospital received approvals for residency programs in medicine, surgery, pediatrics, OB/GYN, and Pathology. In 1947 the Council of Medical Education of the American Medical Association approved the School of Medical Technology, the School of Medical Record Librarians. St. Mary's Hospital was accredited by the Joint Commission on Accreditation of Hospitals in 1951 and became a division of the Catholic Medical Center in 1967.

I would like to thank the Franciscan Sisters of St. Joseph's for their hard work and commitment to the St. Mary's Hospital. I wish to send these dedicated individuals my best on this happy occasion and hope their future is filled with many more successes.●

INTERNATIONAL SECURITIES ENFORCEMENT COOPERATION ACT

Mr. KERRY. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1396.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendment to the amendment of the Senate to the bill (H.R. 1396) entitled "An Act to amend the Federal securities laws in order to facilitate cooperation between the United States and foreign countries in securities law enforcement", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following Members be the managers of the conference on the part of the House:

From the Committee on Energy and Commerce, for consideration of the House bill, the Senate amendment (except sections 103, 104, and 502), and the House amendment, and modifications committed to conference: Mr. Dingell, Mr. Markey, Mr. McMillen of Maryland, Mr. Lent, and Mr. Rinaldo.

From the Committee on Post Office and Civil Service, for consideration of sections 103, 104, and 502 of the Senate amendment, and modifications committed to conference: Mr. Ford of Michigan, Mr. Clay, Mr. Ackerman, Mr. Gilman, and Mr. Myers of Indiana.

Mr. KERRY. Mr. President, I move that the Senate disagree with the House amendment, agree to the request for a conference with the House, and that the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts.

The motion was agreed to.

The PRESIDING OFFICER. The Chair is authorized to appoint conferees.

STATE ENERGY EFFICIENCY PROGRAMS IMPROVEMENT ACT

Mr. KERRY. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 247.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 247) entitled "An Act to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such Act, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "State Energy Efficiency Programs Improvement Act of 1990".

SEC. 2. STATE ENERGY EFFICIENCY GOALS AND DEFINITIONS.

(a) GOALS.—(1) Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

"STATE ENERGY EFFICIENCY GOALS

"SEC. 364. Each State energy conservation plan with respect to which assistance is made available under this part on or after October 1, 1991, shall contain a goal, consisting of an improvement of 10 percent or more in the efficiency of use of energy in the State concerned in the calendar year 2000 as

compared to the calendar year 1990, and may contain interim goals.".

(2) The table of contents of such Act is amended by striking out the item for section 364 and inserting in lieu thereof the following:

"Sec. 364. State energy efficiency goals.".

(b) Definitions.—Section 366(4) of such Act (42 U.S.C. 6326(4)) is amended—

(1) by striking out "building or industrial" and inserting in lieu thereof "building, building system, energy consuming device associated with the building, or industrial";

(2) by striking out "the date of enactment of the Energy Conservation and Production Act" and inserting in lieu thereof "May 1, 1989"; and

(3) by inserting "maintain or " before "improve the efficiency" in the first sentence.

SEC. 3. REQUIRED ELEMENTS OF STATE ENERGY CONSERVATION PLAN.

(a) Plan Requirements.—Section 362(c) of the Energy Policy and Conservation Act (42 U.S.C. 6322(c)) is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and";

(3) by adding at the end thereof the following new paragraph:

"(6) procedures for ensuring effective coordination among various local, State, and Federal energy conservation programs within the State, including any program administered within the Office of Technical and Financial Assistance of the Department of Energy and the Low Income Home Energy Assistance Program administered by the Department of Health and Human Services.".

(b) Additional Conditions.—Section 363 of Act (42 U.S.C. 6323) is amended by adding at the end thereof the following new subsections:

"(d) Each State receiving Federal financial assistance pursuant to this section shall provide reasonable assurance to the Secretary that it has established policies and procedures designed to assure that Federal financial assistance under this part and under part G of this title will be used to supplement, and not to supplant, State and local funds, and to the extent practicable, to increase the amount of such funds that otherwise would be available, in the absence of such Federal financial assistance, for those programs set forth in the State energy conservation plan approved pursuant to subsection (b).

"(e)(1) Effective October 1, 1991, to be eligible for Federal financial assistance pursuant to this section, a State shall submit to the Secretary, as a supplement to its energy conservation plan, an energy emergency planning program for an energy supply disruption, as designed by the State consistent with applicable Federal and State law. The contingency plan provided for by the program shall include an implementation strategy or strategies (including regional coordination) for dealing with energy emergencies. The submission of such plan shall be for informational purposes only and without any requirement of approval by the Secretary.

"(2) Federal financial assistance made available under this part to a State may be used to develop and conduct the energy emergency planning program requirement referred to in paragraph (1).".

SEC. 4. OPTIONAL ELEMENTS OF STATE ENERGY CONSERVATION PLAN AND CONSOLIDATION OF SUPPLEMENTAL STATE ENERGY CONSERVATION PLAN.

(a) In General.—Section 362(d) of the Energy Policy and Conservation Act (42 U.S.C. 6322(d)) is amended—

(1) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) programs to increase transportation energy efficiency, including programs to accelerate the use of alternative transportation fuels for State government vehicles, fleet vehicles, taxies, mass transit, and privately owned vehicles;";

(2) by striking out "and" at the end of paragraph (4);

(3) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) programs for financing energy efficiency and renewable energy capital investments, projects, and programs—

"(A) which may include loan programs and performance contracting programs for leveraging of additional public and private sector funds, and programs which allow rebates, grants, or other incentives for the purchase and installation of energy efficiency and renewable energy measures; or

"(B) in addition to or in lieu of programs described in subparagraph (A), which may be used in connection with public or nonprofit buildings owned and operated by a State, a political subdivision of a State or an agency or instrumentality of a State, or an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

"(6) programs for encouraging and for carrying out energy audits with respect to buildings and industrial facilities (including industrial processes) within the State;

"(7) programs to promote the adoption of integrated energy plans which provide for—

"(A) periodic evaluation of a State's energy needs, available energy resources (including greater energy efficiency), and energy costs; and

"(B) utilization of adequate and reliable energy supplies, including greater energy efficiency, that meet applicable safety, environmental, and policy requirements at the lowest cost;

"(8) programs to promote energy efficiency in residential housing, such as—

"(A) programs for development and promotion of energy efficiency rating systems for newly constructed housing and existing housing so that consumers can compare the energy efficiency of different housing; and

"(B) programs for the adoption of incentives for builders, utilities, and mortgage lenders to build, service, or finance energy efficient housing;

"(9) programs to identify unfair or deceptive acts or practices which relate to the implementation of energy efficiency measures and renewable resource energy measures and to educate consumers concerning such acts or practices;

"(10) programs to modify patterns of energy consumption so as to reduce peak demands for energy and improve the efficiency of energy supply systems, including electricity supply systems;

"(11) programs to promote energy efficiency as an integral component of economic development planning conducted by State, local, or other governmental entities or by energy utilities;

"(12) in accordance with subsection (g), programs to implement the Energy Technology Commercialization Services Program; and

"(13) any other appropriate method or programs to conserve and to promote efficiency in the use of energy.".

(b) Energy Technology Commercialization Services Program.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by adding at the end thereof the following new subsection:

"(f)(1) The purposes of this subsection are to—

"(A) strengthen State outreach programs to aid small and start-up businesses;

"(B) foster a broader application of engineering principles and techniques to energy technology products, manufacturing, and commercial production by small and start-up businesses; and

"(C) foster greater assistance to small and start-up businesses in dealing with the Federal Government on energy technology related matters.

"(2) The programs to implement the functions of the Energy Technology Commercialization Services Program, as provided for by subsection (d)(12), shall—

"(A) aid small and start-up businesses in discovering useful and practical information relating to manufacturing and commercial production techniques and costs associated with new energy technologies;

"(B) encourage the application of such information in order to solve energy technology product development and manufacturing problems;

"(C) establish an Energy Technology Commercialization Services Program affiliated with an existing entity in each State;

"(D) coordinate engineers and manufacturers to aid small and start-up businesses in solving specific technical problems and improving the cost effectiveness of methods for manufacturing new energy technologies;

"(E) assist small and start-up businesses in preparing the technical portions of proposals seeking financial assistance for new energy technology commercialization; and

"(F) facilitate contract research between university faculty and students and small start-up businesses, in order to improve energy technology product development and independent quality control testing.

"(3) Each State energy technology commercialization services program shall develop and maintain a data base of engineering and scientific experts in energy technologies and product commercialization interested in participating in the service. Such data base shall, at a minimum, include faculty of institutions of higher education, retired manufacturing experts, and national laboratory personnel.

"(4) The services provided by the energy technology commercialization services programs established under this subsection shall be available to any small or start-up business. Such service programs shall charge fees which are affordable to a party eligible for assistance, which shall be determined by examining factors, including the following: (A) the costs of the services received; (B) the need of the recipient for the services; and (C) the ability of the recipient to pay for the services.

"(5) For the purposes of this subsection, the term—

"(A) 'institution of higher education' has the same meaning as such term is defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

"(B) 'small business' means a private firm that does not exceed the numerical size standard promulgated by the Small Business Administration under section 3(a) of the Small Business Act (15 U.S.C. 632) for the

Standard Industrial Classification (SIC) codes designated by the Secretary of Energy; and

"(C) 'start-up business' means a small business which has been in existence for 5 years or less.".

(c) Elimination of SSECP.—(1) Section 367 of such Act (42 U.S.C. 6327) is repealed.

(2) The table of contents of such Act is amended by striking out the item for section 367.

SEC. 5. STATE ENERGY ADVISORY BOARD.

Section 365 of the Energy Policy and Conservation Act (42 U.S.C. 6325) is amended by adding at the end the following:

"(g)(1)(A) There is hereby established within the Department of Energy a State Energy Advisory Board (hereafter in this subsection referred to as the 'Board') which shall consist of at least 18 and not more than 21 members appointed by the Secretary as soon as practicable but no later than September 30, 1991. At least eight of the members of the Board shall be persons who serve as directors of the State agency, or a division of such agency, responsible for developing State energy conservation plans pursuant to section 362. At least four members shall be directors of State or local low income weatherization assistance programs. Other members shall be appointed from persons who have experience in energy efficiency or renewable energy programs from the private sector, consumer interest groups, utilities, public utility commissions, educational institutions, financial institutions, local government energy programs, or research institutions. A majority of the members of the Board shall be State employees.

"(B)(i) Except as provided in clause (ii), the members of the Board shall serve a term of three years.

"(ii) Of the members first appointed to the Board, one-third shall serve a term of one year, one-third shall serve a term of two years, and the remainder shall serve a term of three years, as specified by the Secretary.

"(2) The Board shall—

"(A) make recommendations to the Assistant Secretary for Conservation and Renewable Energy within the Department of Energy with respect to—

"(i) the energy efficiency goals and objectives of the programs carried out under this part, part G of this title, and under part A of title IV of the Energy Conservation and Production Act; and

"(ii) programmatic and administrative policies designed to strengthen and improve the programs referred to in clause (i), including actions that should be considered to encourage non-Federal resources (including private resources) to supplement Federal financial assistance;

"(B) serve as a liaison between the States and such Department on energy efficiency and renewable energy resource programs; and

"(C) encourage transfer of the results of research and development activities carried out by the Federal Government with respect to energy efficiency and renewable energy resource technologies.

"(3) The Secretary shall designate one of the members of the Board to serve as its chairman and one to serve as its vice-chairman. The chairman and vice-chairman shall serve in those offices no longer than two years.

"(4) The Secretary shall provide the Board with such reasonable services and facilities as may be necessary for the performance of its functions.

"(5) The Board shall be nonpartisan.

"(6) The Board may adopt administrative rules and procedures and may elect one of its members secretary of the Board.

"(7) Consistent with Federal regulations, the Secretary shall reimburse members of the Board for expenses (including travel expenses) necessarily incurred by them in the performance of their duties.

"(8) The Board shall meet at least twice a year and shall submit an annual report to the Secretary and the Congress on the activities carried out by the Board in the previous fiscal year, including an accounting of the expenses reimbursed under paragraph (7) with respect to the year for which the report is made and any recommendations it may have for administrative or legislative changes concerning the matters referred to in subparagraphs (A), (B), and (C) of paragraph (2).

"(9) The Board shall continue until terminated by law.".

SEC. 6. ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS.

(a) Non-Federal Share of a Project.—Section 396(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6371e(b)(1)) is amended by adding at the end thereof the following: "The non-Federal share of the costs of any such energy conservation project may be provided by using programs of innovative financing for energy conservation projects (including, but not limited to, loan programs and performance contracting), even if, pursuant to such financing, clear title to the equipment does not pass to the school or hospital until after the grant is completed.".

(b) Definitions.—Section 391 of such Act (42 U.S.C. 6371) is amended—

(1) in paragraph (1), by striking out "April 20, 1977" and inserting in lieu thereof "May 1, 1989";

(2) in paragraph (2), by striking out "reduce energy consumption" and inserting in lieu thereof "maintain or reduce energy consumption and reduce energy costs" in the material preceding subparagraph (A);

(3) in paragraph (2)(C), by inserting "and load management systems" before the semicolon;

(4) in paragraph (8), by inserting "administrative facilities," after "dormitories,"; and

(5) in paragraph (17)(A), by striking out "and related cost savings" and inserting in lieu thereof "or energy cost savings".

(c) Repeal of Educational Agency Exclusion.—Section 396(e) of such Act (42 U.S.C. 6371e(e)) is repealed.

(d) Use of Funds.—Section 396(d) of such Act (42 U.S.C. 6371e(d)) is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) The"; and

(2) by adding at the end the following new paragraphs:

"(2) A State may utilize up to 100 percent of the funds provided by the Secretary under this part for any fiscal year for program and technical assistance and up to 50 percent of such funds for marketing and other costs associated with leveraging of non-Federal funds for carrying out this part and may administer a continuous and consecutive application and award procedure for providing program and technical assistance under this part in accordance with regulations that the Secretary shall establish, if the State—

"(A) has adopted a State plan in accordance with section 394, the administration of which is in accordance with applicable regulations; and

"(B) certifies to the Secretary that not more than 15 percent of the aggregate amount of Federal and non-Federal funds used by the State to provide program and technical assistance, implement energy conservation measures, and otherwise carry out a program pursuant to this part for the fiscal year concerned will be expended for program and technical assistance and for marketing and other costs associated with leveraging of non-Federal funds for such program.".

SEC. 7. WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS.

(a) Cooling Materials.—Section 412(9) of the Energy Conservation and Production Act (42 U.S.C. 6862(9)) is amended—

(1) by striking out "and" at the end of subparagraph (F);

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by adding after subparagraph (F) the following:

"(G) cooling efficiency modifications, including, but not limited to, replacement air-conditioners, ventilation equipment, screening, window films, and shading devices; and".

(b) Rental Housing.—(1) Section 413(b)(2) of such Act (42 U.S.C. 6863(b)(2)) is amended—

(A) by striking out "and" at the end of subparagraph (A); and

(B) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) that provide guidance to the States in the implementation of this part, including guidance designed to ensure that a State establishes (i) procedures that provide protection under paragraph (5) to tenants paying for energy as a portion of their rent, and (ii) a process for monitoring compliance with its obligations pursuant to this part; and

"(C) that secure the Federal investment made under this part and address the issues of eviction from and sale of property receiving weatherization materials under this part.".

(2) Section 413(b) of such Act (42 U.S.C. 6863(b)) is amended by adding at the end the following:

"(5) In any case in which a dwelling consists of a rental unit or rental units, the State, in the implementation of this part, shall ensure that—

"(A) the benefits of weatherization assistance in connection with such rental units, including units where the tenants pay for their energy through their rent, will accrue primarily to the low-income tenants residing in such units;

"(B) for a reasonable period of time after weatherization work has been completed on a dwelling containing a unit occupied by an eligible household, the tenants in that unit (including households paying for their energy through their rent) will not be subjected to rent increases unless those increases are demonstrably related to matters other than the weatherization work performed;

"(C) the enforcement of subparagraph (B) is provided through procedures established by the State by which tenants may file complaints and owners, in response to such complaints, shall demonstrate that the rent increase concerned is related to matters other than the weatherization work performed; and

"(D) no undue or excessive enhancement will occur to the value of such dwelling units.

"(6) As a condition of having assistance provided under this part with respect to multifamily buildings, a State may require

financial participation from the owners of such buildings.".

(c) Allocation Formula.—Section 414 of such Act (42 U.S.C. 6864) is amended—

(1) in subsection (a)(D), by inserting ", such as the cost of heating and cooling," after "necessary"; and

(2) by adding at the end the following:

"(c) Effective with fiscal year 1991, and annually thereafter, the Secretary shall update the population, eligible households, climatic, residential energy use, and all other data used in allocating the funds under this part among the States pursuant to subsection (a).".

(d) Waiver of 40-Percent Requirement.—Section 415(a) of such Act (42 U.S.C. 6865(a)) is amended—

(1) in the first sentence, by striking out "An average" and inserting in lieu thereof "(1) Except as provided in paragraph (2), an average";

(2) by inserting the following before the period at the end of the second sentence: ", and a State may provide in the plan adopted pursuant to subsection (b) for recipients of grants of less than $350,000 to use up to an additional 5 percent of such grant for administration if the State has determined that such recipient requires such additional amount to implement effectively the administrative requirements established by the Secretary pursuant to this part"; and

(3) by adding at the end the following:

"(2)(A) The Secretary shall approve a State's application to waive the 40-percent requirement established in paragraph (1) if the State includes in its plan energy audit procedures and techniques which (i) meet standards established by the Secretary after consultation with the State Energy Advisory Board established under section 365(g) of the Energy Policy and Conservation Act, (ii) establish priorities for selection of weatherization measures based on their cost and contribution to energy efficiency, (iii) measure the energy requirement of individual dwellings and the rate of return of the total conservation investment in a dwelling, and (iv) account for interaction among energy efficiency measures.

"(B) The Secretary shall make information on energy audit procedures and techniques available to States applying for a waiver under subparagraph (A) and shall provide training for State and local agencies in the implementation of such procedures and techniques.".

(e) Dwelling Unit Limitation.—Section 415(c) of such Act (42 U.S.C. 6865(c)) is amended—

(1) in paragraph (1), by striking out "The expenditure" and inserting in lieu thereof "Except as provided in paragraphs (3) and (4), the expenditure"; and

(2) by adding at the end the following:

"(3) Beginning with fiscal year 1991, the $1,600 per dwelling unit limitation provided in paragraph (1) shall be adjusted annually by increasing the limitation amount by an amount equal to—

"(A) the limitation amount for the previous fiscal year, multiplied by

"(B) the lesser of (i) the percentage increase in the Consumer Price Index (all items, United States city average) for the most recent calendar year completed before the beginning of fiscal year for which the determination is being made, or (ii) three percent.

"(4)(A) In addition to the average per dwelling unit limitation applicable in a State under paragraphs (1) and (3), the Secretary shall, upon application by a State, establish a separate average per dwelling unit limitation for dwelling units in such State—

"(i) which conform to program requirements; and

"(ii) which, in addition to any other weatherization modifications, have furnace efficiency modifications made under this part.

"(B) The average per dwelling unit limitation applicable in a State to units described in subparagraph (A) shall not exceed an amount equal to—

"(i) the amount permitted for the expenditure of financial assistance for labor, weatherization materials, and related matters for dwelling units in such State under paragraphs (1) and (3), plus

"(ii) an amount determined by the State to be the average amount that is appropriate for furnace efficiency modifications of dwelling units of the type assisted under this part in such State.".

(f) Repeal of Performance Fund.—Section 415(d) of such Act (42 U.S.C. 6865(d)) is repealed.

(g) Non-Federal Funding Requirement.—Section 414(b)(3) of such Act (42 U.S.C. 6864(b)(3)) is amended by striking out "and (B)" and inserting in lieu thereof the following: "(B) for using Federal financial assistance under this part to increase the portion of low-income weatherization assistance that the State obtains from non-Federal sources, including private sources, and (C)".

(h) Additional Reporting Requirement.—Section 421 of such Act (42 U.S.C. 6871) is amended—

(1) by striking out "through 1979"; and

(2) by adding at the end the following: "Such report shall include information and data furnished by each State on the average costs incurred in weatherization of individual dwelling units, the average size of the dwellings being weatherized, and the average income of households receiving assistance under this part.".

(i) Incentive Program.—Section 415 of such Act (42 U.S.C. 6865) is amended by adding at the end the following:

"(d) Beginning with fiscal year 1992, the Secretary may allocate funds appropriated pursuant to section 422(b) to provide supplementary financial assistance to those States which the Secretary determines have achieved the best performance during the previous fiscal year in achieving the purposes of this part. In making this determination, the Secretary shall—

"(1) consult with the State Energy Advisory Board established under section 365(g) of the Energy Policy and Conservation Act; and

"(2) give priority to those States which, during such previous fiscal year, obtained a significant portion of income from non-Federal sources for their weatherization programs or increased significantly the portion of low-income weatherization assistance that the State obtained from non-Federal sources.

"(e)(1)(A) Beginning with fiscal year 1992, the Secretary may allocate, from funds appropriated pursuant to section 422(b), among the States an equal amount for each State not to exceed $100,000 per State. Each State shall make available amounts received under this subsection to provide supplementary financial assistance to recipients of grants under this part that have achieved the best performance during the previous fiscal year in advancing the purposes of this part.

"(B) None of the funds made available under this subsection may be used by any State for administrative purposes.

"(2) The Secretary shall, after consulting with the State Energy Advisory Board referred to in subsection (d)(1), prescribe guidelines to be used by each State in making available supplementary financial assistance under this subsection, with a priority being given to subgrantees that, by law or through administrative or other executive action, provided non-Federal resources (including private resources) to supplement Federal financial assistance under this part during the previous fiscal year.".

(j) Conforming Amendment.—Section 411 of such Act (42 U.S.C. 6861) is amended to read as follows:

"FINDINGS AND PURPOSE

"Sec. 411. (a) The Congress finds that—

"(1) a fast, cost-effective, and environmentally sound way to prevent future energy shortages in the United States while reducing the Nation's dependence on imported energy supplies, is to encourage and facilitate, through major programs, the implementation of energy conservation and renewable-resource energy measures with respect to dwelling units;

"(2) existing efforts to encourage and facilitate such measures are inadequate because—

"(A) many dwellings owned or occupied by low-income persons are energy inefficient;

"(B) low-income persons can least afford to make the modifications necessary to provide for efficient energy equipment in such dwellings and otherwise to improve the energy efficiency of such dwellings;

"(3) weatherization of such dwellings would lower shelter costs in dwellings owned or occupied by low-income persons as well as save energy and reduce future energy capacity requirements; and

"(4) States, through Community Action Agencies established under the Economic Opportunity Act of 1964 and units of general purpose local government, should be encouraged, with Federal financial and technical assistance, to develop and support coordinated weatherization programs designed to alleviate the adverse effects of energy costs on such low-income persons, to supplement other Federal programs serving such low-income persons, and to increase energy efficiency.

"(b) It is, therefore, the purpose of this part to develop and implement a weatherization assistance program to increase the energy efficiency of dwellings owned or occupied by low-income persons, reduce their total residential energy expenditures, and improve their health and safety, especially low-income persons who are particularly vulnerable such as the elderly, the handicapped, and children.".

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) State Plan Program.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended to read as follows:

"(f) For the purpose of carrying out this part, there are authorized to be appropriated not to exceed $25,000,000 for fiscal year 1991, $35,000,000 for fiscal year 1992, and $45,000,000 for fiscal year 1993.".

(b) Energy Conservation Program for Schools and Hospitals.—Section 397 of the Energy Policy and Conservation Act (42 U.S.C. 6371f) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 397. For the purpose of carrying out this part, there are authorized to be appropriated not to exceed $40,000,000 for fiscal year 1991, $50,000,000 for fiscal year 1992, and $60,000,000 for fiscal year 1993.".

(c) Weatherization Assistance Program.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 422. (a) There are authorized to be appropriated for purposes of carrying out the weatherization program under this part, other than under subsections (d) and (e) of section 415, not to exceed $200,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992, 1993, and 1994.

"(b) There are authorized to be appropriated for purposes of carrying out the weatherization program under subsections (d) and (e) of section 415, not to exceed $20,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994.".

Mr. DOMENICI. Mr. President, I am pleased to support passage of S. 247, the State Energy Efficiency Programs Improvement Act of 1990. This bill includes provisions providing for an Energy Technology Commercialization Services Program. These provisions will strengthen State efforts to aid small and startup businesses that pursue applications of energy technologies involving engineering principles and techniques.

I first proposed this program in May of last year in the bill S. 1031, then calling it the Engineering Extension Service. I am very pleased it is included in the final version of the bill. It will do much to aid the economic development of energy-related technologies, and will help greatly many new and small businesses to develop exciting new applications of engineering advances.

I want to thank Dr. Larry Lattman of the New Mexico Institute of Mining and Technology, who helped develop this proposal. I also want to thank House and Senate committee members for their efforts on these provisions, and, in particular, I would like to thank Richard Grundy, staff of the Senate Energy and Natural Resources Committee, for his trremendous work on this.

Mr. KERRY. Mr. President, I move to concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts.

The motion was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. KERRY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration, en bloc, of calendar numbers 843, 845, 846, 847, 848, 849, 851, and 853; that the bills be read a third time and passed; that the motion to reconsider the passage of these bills be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

BOB SIKES VISITOR CENTER

The bill (S. 427) to designate the Federal building located at 1801 Gulf Breeze Parkway, Gulf Breeze, FL, as the "Bob Sikes Visitor Center," was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 427

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The Federal Building located at 1801 Gulf Breeze Parkway, Gulf Breeze, Florida, shall hereafter be known and designated as the "Bob Sikes Visitor Center".

SEC. 2. REFERENCES TO BUILDING.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "Bob Sikes Visitor Center".

MAINTENANCE, REPAIR, ALTERATION, AND SERVICES FOR THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

The bill (S. 2879) to amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration, and other services necessary for the John F. Kennedy Center for the Performing Arts, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2879

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MAINTENANCE, REPAIRS, AND OTHER BUILDING SERVICES.

Section 6(e) of the John F. Kennedy Center Act (20 U.S.C. 761(e)) is amended to read as follows:

"(e) Maintenance, Repair, Alteration, Security, Information and Other Services.—

"(1) Provision of services.—The Secretary of the Interior, acting through the National Park Service, and the Board shall provide for maintenance, repair, and alteration of the building and security, information, interpretation, janitorial, and all other services necessary for operating the building.

"(2) Agreement.—The Secretary and the Board shall enter into a cooperative agreement setting forth their respective responsibilities under paragraph (1) of this subsection.

"(3) Authorization of appropriations.—There is authorized to be appropriated to the Secretary of the Interior to carry out this subsection—

"(A) for fiscal year 1991, not more than—

"(i) $6,750,000 for annual maintenance, repairs, alterations, and operating services; and

"(ii) $15,000,000 for deferred maintenance, repairs, and alterations; and

"(B) for fiscal year 1992, not more than—

"(i) $9,850,000 for annual maintenance, repairs, alterations, and operating services; and

"(ii) $15,512,000 for deferred maintenance, repairs, and alterations.".

SEC. 2. REPEAL OF OUTDATED PROVISIONS.

Sections 6(d), 7, and 8 of the John F. Kennedy Center Act (20 U.S.C. 761(d), 76m, and 76n) are repealed.

SEC. 3. TECHNICAL AMENDMENT.

Section 9(d) of the John F. Kennedy Center Act (20 U.S.C. 60(a)) is amended by striking "the Second Liberty Bond Act, as amended," each place it appears and inserting "chapter 31 of title 31, United States Code,".

CLAUDE PEPPER FEDERAL BUILDING

The bill (S. 2965) to designate the Federal building located at 51 Southwest 1st Avenue in Miami, FL, as the "Claude Pepper Federal Building," was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2965

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 51 Southwest 1st Avenue in Miami, Florida, shall be known and designated as the "Claude Pepper Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Claude Pepper Federal Building".

ALEXANDER HAMILTON UNITED STATES CUSTOM HOUSE

The bill (S. 3046) to redesignate the Federal building located at 1 Bowling Green in New York, NY, as the "Alexander Hamilton United States Custom House," was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 3046

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Federal building located at 1 Bowling Green in New York, New York, and known as the United States Custom House, shall be known and designated as the "Alexander Hamilton United States Custom House".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Alexander Hamilton United States Custom House".

TRANSFER OF AUTHORITY FOR OPERATION AND MAINTENANCE OF HIGHWAY 82 BRIDGE

The bill (S. 3062) to transfer the responsibility for operation and maintenance of the Highway 82 Bridge at Greenville, MS, to the States of Mississippi and Arkansas, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 3062

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) all the authorities conferred upon the city of Greenville, Mississippi, and Washington County, Mississippi, by the Act of June 14, 1938 (52 Stat. 681) to operate and maintain a bridge across the Mississippi River (known as the Greenville/Lake Village Bridge or the "Highway 82 Bridge") are transferred, upon the certification required by subsection (b), to the State Highway Commissions of Mississippi and Arkansas, acting jointly.

(b) Whenever the Secretary of Transportation determines that the States of Mississippi and Arkansas have entered into a suitable agreement for the continued operation and maintenance of the Highway 82 Bridge at Greenville, Mississippi, the Secretary shall so certify to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

TAKE PRIDE IN AMERICA ACT

The bill (S. 3068) to establish the Office of Take Pride in America, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 3068

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Take Pride in America Act".

SEC. 2. ESTABLISHMENT OF TAKE PRIDE IN AMERICA OFFICE.

(a) In General.—There is hereby established the Take Pride in America Office within the Department of the Interior (hereinafter referred to as the "TPIA Office").

(b) Purposes of Office.—The purposes of the TPIA Office shall include the following:

(1) To establish and maintain a public awareness campaign in cooperation with public and private organizations and individuals—

(A) to instill in the public the importance of the wise use of Federal, State, and local lands, facilities, and natural and cultural resources;

(B) to encourage an attitude of stewardship and responsibility toward these lands, facilities, and resources; and

(C) to promote participation by individuals, organizations, and communities in caring for these lands, facilities, and resources.

(2) To conduct a national awards program to honor those individuals and entities which, in the opinion of the TPIA Office, have distinguished themselves in the activities described in paragraph (1) of this subsection.

SEC. 3. GIFTS, BEQUESTS, AND DEVISES OF PROPERTY.

(a) Authority.—The TPIA Office may solicit, accept, hold, administer, invest, and use gifts, bequests, and devises of property, both real and personal, to aid or facilitate its purposes.

(b) Use of Property.—Any property and the proceeds thereof shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise of such property.

(c) Status of Property.—Property donated to and accepted by the TPIA Office pursuant to this section shall not be regarded as appropriated funds and shall not be subject to any requirements or restrictions applicable to appropriated funds.

(d) Treatment of Donations, Etc.—For purposes of Federal law, property accepted pursuant to this section shall be considered as a gift, bequest, or devise to the United States.

SEC. 4. ADMINISTRATIVE SERVICES.

The Secretary of the Interior shall provide such facilities, administrative services, personnel, and support to the TPIA Office as the Secretary determines is appropriate.

SEC. 5. VOLUNTEERS.

(a) Authority To Use Volunteers.—The TPIA Office is authorized to recruit, train, and accept the services of individuals or entities, without compensation, as volunteers for or in aid of the purposes of the TPIA Office, without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, that relate to classification and General Schedule pay rates.

(b) Incidental Expenses.—The TPIA Office is authorized to provide for the incidental expenses of volunteers, such as transportation, uniforms, lodging, or subsistence.

(c) Volunteers' Status as Federal Employees.—(1) Except as otherwise provided in this subsection, a volunteer shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those provisions relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(2) For purposes of the Federal Tort Claims Act, a volunteer under this subsection shall be considered an employee of the government (as defined in section 2671 of title 28, United States Code).

(3) For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to compensation to Federal employees for work injuries, a volunteer under this subsection shall be considered an employee (as defined in section 8101 of title 5, United States Code).

SEC. 6. AUTHORITY TO EXECUTE CONTRACTS.

The TPIA Office is authorized to enter into contracts or cooperative agreements, to execute instruments, and generally to do any and all lawful acts necessary or appropriate to further its purposes.

SEC. 7. DISTRIBUTION OF NOVELTIES.

The TPIA Office is authorized to distribute pamphlets or other novelties in order to promote its purposes.

SEC. 8. SLOGAN AND LOGO.

The "Take Pride in America" slogan and logo, which are registered by the Department of the Interior, and the goodwill associated with such slogan and logo, are hereby transferred to the TPIA Office.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) Department of the Interior.—There are authorized to be appropriated to the Department of the Interior such sums as may be necessary to carry out the purposes of this Act.

(b) Other Federal Agencies.—There are authorized to be appropriated to other Federal agencies such sums as may be necessary to carry out the provisions of any Take Pride in America programs established by such agencies.

EXTENSION OF THE AMERICAN CANAL AT EL PASO, TX

The bill (H.R. 4758) to provide for the construction, operation, and maintenance of an extension of the American Canal at El Paso, TX, was considered.

EXTENSION OF THE AMERICAN CANAL IN EL PASO, TX

Mr. BENTSEN. Mr. President, I am pleased the Senate takes this action today to authorize the State Department, through the International Boundary and Water Commission, to construct, operate, and maintain a 13-mile extension of the American Canal in El Paso, TX. For the last several years, I have been trying to get this legislation passed. We got it passed in the Senate in early August on the water resources bill, but that legislation now seems bogged down. With today's action, the Senate is again expressing its will on this matter. It is much-needed legislation, and I congratulate my good friend and colleague, Representative Ron Coleman, for introducing it in the House.

Some of my colleagues may not be familiar with this issue and why I have pressed so hard for it to be resolved. Let me explain it briefly. Since 1935, Mr. President, the American Canal has provided a mechanism to control waters from the Rio Grande belonging to the United States. It has enhanced water quality in the international delivery system. More than 50 years later, it is time for these water quality and control features to be extended. Growth and urbanization in El Paso around the Rio Grande have increased the need for water in that area of my State. Furthermore, garbage and contamination in the river—something about which I have urged aggressive measures to correct—have created serious health and safety hazards. Water conservation goals are being defeated. The amount of annual water loss amounts to many thousand acre feet per year. The proposed extension would capture some 12,000 to 22,000 acre feet of water loss due to seepage and piracy—losses the water users in the El Paso area can no longer afford to lose.

The construction of the canal extension provides many other benefits to El Paso and its water users. In addition to the jobs it would create in the area, it has several environmental and health benefits. The canal extension would lie wholly in the United States, and it would be 13 miles long. It could serve as a conveyance channel for water to the city of El Paso. For maximum efficiency and effectiveness, it enlarges 1¼ miles of the existing channel, and it replaces portions of the old Franklin Canal in downtown El Paso. The canal extension has received favorable comment from the State Department and the Bureau of Reclamation. It is supported by the community of El Paso as well. The International Boundary and Water Commission will be pleased to see it can now move forward with plans to extend the canal.

The canal extension would also provide optimal control over water belonging to the United States under a 1906 treaty with Mexico. Hopefully, it would, once and for all, remove the potential for disagreements with our good neighbor, Mexico, about the commingling or diversion of water. As many of our colleagues from the southwestern and western part of our great land know, water is a life line, and it is particularly so in the arid Southwest.

For the people of El Paso, the extension of the American Canal is essential to the conservation of this life-giving resource that is tragically lost not only through seepage and piracy, but also through the aging canal system in the area and natural erosion from the Rio Grande itself. The farmers and citizens in this region of my State have long known, as have I, that water loss must be stopped. By making the canal permanent, we solve several problems at once.

Mr. President, this bill contains many of the features suggested in the State Department's comments. It includes a cost sharing formula which requires local sponsors both to share in the cost of construction and to contribute to the canal's operation and maintenance on an annual basis. This agreement was worked out between the local sponsors and the International Boundary and Water Commission.

I am very pleased that Congress has taken this step. I hope the President will sign this bill into law so that we can leap forward in building this canal.

The bill (H.R. 4758) was ordered to a third reading, read the third time, and passed.

INCLUSION OF COLUMBIANA COUNTY, OH, IN THE APPALACHIAN REGION

The bill (H.R. 435) to amend the Appalachian Regional Development Act of 1965 to include Columbiana County, OH, as part of the Appalachian region, was considered, ordered to a third reading, read the third time, and passed.

DWIGHT D. EISENHOWER INTERSTATE HIGHWAY SYSTEM

Mr. KERRY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 844, S. 2806, to redesignate the Interstate Highway System.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2806) to redesignate the Interstate Highway System as the Dwight D. Eisenhower Interstate Highway System.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

AMENDMENT NO. 2928

Mr. KERRY. Mr. President, I send a technical amendment to the desk on behalf of Senator Burdick and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. Kerry], for Mr. Burdick, proposes an amendment numbered 2928.

Mr. KERRY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

After the enacting clause, insert "Sec. 1."

On page 1, line 5, strike "the Interstate Highway System" and insert "The National System of Interstate and Defense Highways".

On page 1, line 6, strike "the Dwight D. Eisenhower Interstate Highway" and insert "The Dwight D. Eisenhower System of Interstate and Defense Highways".

On page 1, line 7, strike "System".

On page 1, line 10, strike "the Interstate Highway System" and insert "The National System of Interstate and Defense Highways".

On page 2, line 2, strike "the" and insert "The".

On page 2, line 2, strike "Interstate Highway System" and insert "System of Interstate and Defense Highways".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2928) was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, October 14 of this year marks President Dwight D. Eisenhower's centennial birthday. This year also marks the completion of the National System of Interstate and Defense Highways—as it is officially known—a project envisioned, authored, and realized by our Nation's 34th President.

In his February 22, 1955, special message to the Congress regarding a National Highway Program President Eisenhower said:

> Our unity as a nation is sustained by free communication of thought and by easy transportation of people and goods. The ceaseless flow of information through the Republic is matched by individual and commercial movement over a vast system of interconnected highways criss-crossing the country and joining at our national borders with friendly neighbors to the north and south. * * * A sound Federal highway program, I believe, can and should stand on its own two feet, with highway users providing the total dollars necessary for improvement and new construction.

Mr. President, these words are no less true today than they were over 35 years ago.

In recognition of President Eisenhower's foresight, S. 2806 would redesignate the National System of Interstate and Defense Highways the Dwight D. Eisenhower National System of Interstate and Defense Highways. The late President demonstrated tremendous conviction to a visioin of safe and expansive highways. From the moment he assumed the Presidency, Eisenhower's aspirations for an efficiently mobile America translated into concrete and significant advances, paving the way toward a modern highway system.

Dwight D. Eisenhower proposed creating more than 41,000 miles of interstate roadway; joining 42 State capitals and 90 percent of all cities with populations exceeding 50,000. The Federal Highway Acts of 1954, 1956, and 1958 had as their impetus Eisenhower's insistence that Congress and the administration act swiftly to address the Nation's severe infrastructure needs.

This legislation is intended as a symbolic act; it would not change any existing interstate signage or markings.

Now is a fitting time to pay tribute and remember this great President by giving his name to the Interstate Highway System he conceived. Among Ike's many, many lasting contributions to our Nation, none has more profoundly changed the shape of American life than the legacy of a modern system of highways. Let us honor the late President's efforts for a modernized Interstate System through this symbolic and appropriate gesture.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows.

S. 2806

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(a) notwithstanding any other provision of law, the National System of Interstate and Defense Highways shall be redesignated as The Dwight D. Eisenhower System of Interstate and Defense Highways; and

(b) any reference before the date of enactment of this Act in any provision of law, regulation, map, sign, or otherwise to The National System of Interstate and Defense Highways shall be deemed to refer, on and after such date, to The Dwight D. Eisenhower System of Interstate and Defense Highways.

The title was amended so as to read: "A bill to redesignate the National System of Interstate and Defense Highways as The Dwight D. Eisenhower System of Interstate and Defense Highways."

Mr. KERRY. Mr. President, I move to reconsider the vote by which the bill as amended, was passed.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEVELOPMENT OF ZEBRA MUSSEL RESEARCH AND CONTROL PROGRAM

Mr. KERRY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 850, Senate Resolution 312.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 312) to express the sense of the Senate regarding the need to develop a zebra mussel research and control program through the Great Lakes Fishery Commission.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

AMENDMENT NO. 2929

Mr. KERRY. Mr. President, I send an amendment to the desk on behalf of Senator MOYNIHAN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY], for Mr. MOYNIHAN, proposes an amendment numbered 2929.

On page 3, line 9, strike out "Clerk" and insert "Secretary".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2929) was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER. Mr. President, as an original cosponsor of Senate Resolution 312, I wish to express my support for its adoption as an important step in controlling the spread of the zebra mussel in the Great Lakes. This legislation would encourage the President to work with the Government of Canada to develop a coordinated, bilateral research and control effort to deal with the zebra mussel.

This year we have had the misfortune to become all too familiar with the aquatic nuisance. This creature was first discovered in 1988 in Lake Saint Clair, located between Lakes Huron and Erie. Reports indicate that in only 2 years, the mussel spread over a 10,000 square mile area, infesting the Lake Erie shoreline from Detroit to Buffalo. I am advised that the zebra mussel is able to produce 30,000 offspring in a single season. Experts anticipate that this creature will spread to the Mississippi, Ohio, and Hudson River basins, and within 10 years is likely to be found in two-thirds of the United States.

The rapidly reproducing zebra mussel, though only the size of a quarter, is already causing problems which far exceed its size. Because the mussels are able to grow on nearly any surface, including each other, they are able to block water intake pipes that are several meters in diameter. The resulting blockages pose a serious threat to industry and municipal water supplies. In Ontario, expansion of a housing development came to a halt because zebra mussels in the water had cut the water supply in half. The city of Buffalo has proposed a 15-percent increase in water rates to provide funds to deal with the mussel. Company officials at a Detroit Edison plant in Munroe, MI, estimate the cost of removing the creatures from their water intake system at $100,000 per treatment. Not only do zebra mussels threaten water supplies by blocking water pipes, but they also often die in the pipes in large numbers, giving the water a putrid odor and taste and rendering it undrinkable.

The zebra mussel pose further economic problems for the tourism and fishing industries. Given the concentrations in which the mussel is found (up to 700,000 per square meter in Lake Erie), officials at the Presque Isle State Park in Erie, PA, fear the possible negative impact of sharp shells littering the beach, as well as obnoxious smells from decomposing mussels.

Experts fear that the prolific zebra mussel could endanger fish populations by competing with newly spawned fish for nutrients essential to their development. The fishing industry in Lake Erie generates $600 million annually, and according to the U.S. Fish and Wildlife Service, the zebra mussel may cost the industry a third of that each year, or $2 billion over the next decade.

Projections of the economic damage caused by the zebra mussel are $500 million each year in Lake Erie alone and $3 to $4 billion for all areas impacted by the mussel in the next 10 years.

The United States has begun to grapple with the threat posed by the zebra mussel. This resolution will pave the way for a cooperative attack on this problem by this Nation and our neighbor to the north, Canada. A pooling of knowledge and a coordination of programs will only enhance the effectiveness of our efforts to deal with this menace. Accordingly, Mr. President, I urge my colleagues to join me in supporting Senate Resolution 312.

The PRESIDING OFFICER. The question is on agreeing to the resolution, as amended.

The resolution (S. Res. 312), as amended, was agreed to

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 312

Whereas the zebra mussel (Dreissena polymorpha) is a filter feeding mollusk able to filter approximately a quart of water a day, and in doing so substantially reduce the quantity of phytoplankton essential to a health fishery;

Whereas the zebra mussel is native to temperate freshwater habitats of the Black, Caspian, and Azov Seas in Southern Asia, and canals built during the late 18th century allowed the species to expand into Western Europe by the 1830's;

Whereas the zebra mussel is believed to have arrived in North America in the ballast water of a ship arriving from Europe in the summer of 1986, and discharged into the Great Lakes system at Lake St. Clair and the St. Clair River;

Whereas by the year 1990 this infestation has spread eastward through Lakes Erie and Ontario into the St. Lawrence River, and westward into Green Bay, Lake Michigan, and Duluth Harbor, Lake Superior;

Whereas it is likely that within the coming two decades, if left unchecked, the zebra mussel will have infested the majority of the surface water system of the United States and Canada; and that this migration is irreversible and cannot be quarantined;

Whereas the United Fish and Wildlife Service has estimated that the zebra mussel in the Great Lakes will cost $5,000,000,000 over the next ten years in environmental and economic losses; and

Whereas the Great Lakes Fishery Commission was established in 1955 by Convention between the United States and Canada to develop and coordinate fishery research and management, and to advise the governments on measures to improve the fisheries: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the zebra mussel, if left unchecked, may devastate the fisheries of the Great Lakes; and

(2) the President of the United States should direct the Secretary of State to negotiate with the Government of Canada to establish a program of zebra mussel research and control, through the auspices of the Great Lakes Fishery Commission. This program shall be coordinated with other research and control activities taking place within and outside the Great Lakes Basin.

SEC. 2. The Secretary of the United States Senate shall transmit a copy of this resolution to the President of the United States with the request that the President further transmit a copy to the Secretary of State.

Mr. KERRY. Mr. President, I move to reconsider the vote by which the resolution, as amended, was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROTECTION OF THE ANTARCTIC SYSTEM

Mr. KERRY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 829, Senate Resolution 186, a resolution relating to the protection of the Antarctic System.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 186) relating to the protection of the Antarctic System.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. HELMS. Mr. President, I am delighted that the Senate is about to approve Senate Resolution 186, expressing the sense of the Senate that the protection of the Antarctic system, including dependent and associated ecosystems, must be a basic consideration in decisions relating to all activities conducted in the Antarctic.

The University of North Carolina at Wilmington has a renowned department of marine sciences. Professors there have conducted important undersea research in the Antarctic region, and last year, when our friend Jacques Cousteau visited Washington, I asked staff to work with him to develop a resolution on this subject.

The resolution before the Senate today is the product of these efforts. It was submitted by this Senator on September 26, 1990, and ordered reported by the Committee on Foreign Relations on September 14 of this year.

Specifically, the resolution declares that the Antarctic system is of fundamental importance to the global environment. It calls attention to the special legal and political status of Antarctica and to the special responsibility of the Antarctic Treaty Consultative Parties to ensure that all activities in Antarctica are consistent with the purposes and principles of the Antarctic Treaty.

It also reiterates that the Antarctic system has unique ecological, scientific, and wilderness value—something about which most Senators are already aware.

Mr. President, in order to continue scientific advancement in relation to the Antarctica, as well as to promote the general well-being of the global environment, it is fundamental that the Antarctic system be protected. This resolution is a constructive step forward to this objective, and I am pleased that it will be approved by the Senate.

Mr. KERRY. Mr. President, we are ready to agree to the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 186) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 186

Whereas the Antarctic System is of fundamental importance to the global environment;

Whereas the special legal and political status of Antarctica and the special responsibilty of the Antarctic Treaty Consultative Parties to ensure that all activities in Antarctica are consistent with the purposes and principles of the Antarctic Treaty; and

Whereas the Antarctic System has unique ecological, scientific, and wilderness value: Now, thereofore, be it

Resolved, That it is the sense of the Senate that the protection of the Anarctic System, including dependent and associated ecosystems, must be a basic consideration in decisions relating to all activities conducted in the Antarctic.

Mr. KERRY. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROTECTION OF ANTARCTIC AS A GLOABL ECOLOGICAL COMMONS

Mr. KERRY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 828, Senate Joint Resolution 206, a joint resolution to encourage negotiations toward a new agreement among Antarctic Treaty Consultative Parties.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution which had been reported from the Committee on Foreign Relations, with amendments, as follows:

S.J. RES. 206

Whereas Antarctica, like the great oceans and the atmosphere, is a part of the global commons;

Whereas the Antarctic region, including the continent and the Southern Ocean, is a fragile ecosystem that supports an amazing abundance of life, and is, in turn, crucial to other life on Earth;

Whereas Antarctica is a critical area in the study and documentation of global change;

Whereas negotiations of the Antarctic Treaty Consultative Parties have resulted in the Convention on the Regulation of Antarctic Mineral Resource Activities;

Whereas the Convention on the Regulation of Antarctic Mineral Resouces Activities, while requiring consideration of environmental impacts prior to allowing minerals development in Antarctica, does not guarantee preservation of the Antarctic environment; and

Whereas the challenge to humankind is to ensure that Antarctica is stewarded in a manner that conserves its unique environment and preserves its value for scientific research: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Antarctica is a global ecological commons, and should therefore be managed under a new agreement among the Antarctic Treaty Consultative Parties or a protocol to the Convention on the Regulation of Antarctic Mineral Resource Activities to the same effect, either of which shall be subject to periodic review, and should for an indefinite period establish Antarctica as a region closed to commerical mineral development and related activities;

That under such new agreement, information about mineral or other resources in Antarctica should be obtained under strictly controlled arrangements, and that such information should be openly shared in the international scientific community;

That the Convention on the Regulation of Antarctic Mineral Resource Activities, though a considerable step forward, is not adequate in and of itself to provide the necessary level of protection for the fragile environment of Antarctica and could actually stimulate movement toward commerical exploitation;

That pending the negotiation and entry into force of a new agreement among Antarctic Treaty Consultative Parties ensuring the full protection of Antarctica as a global ecological commons, or of a protocol to the Convention on the Regulation of Antarctic Mineral Resource Activities to the same effect, the President should not present the Convention on the Regulation of Antarctic Mineral Resource Activities to the Senate for advice and consent to ratification;

That, for the duration, the United States should support the interim restraint measures presently in force among the Consultative Parties to the Antarctic Treaty; and

That the negotiation of a new agreement to provide compensive environmental protection for Antarctica should be fully supported by the United States at the November 1990 meeting of the Antarctic Treaty Consultative Parties in Santiago, Chile.

Mr. GORE. Mr. President, I am glad to rise today, on the occasion of Senate passage of Senate Joint Resolution 206. This joint resolution, which I first introduced almost 1 year ago, calls on the United States to enter into immediate negotiations aimed at securing an agreement providing for comprehensive protection of the Antarctic environment.

At the time that I introduced this joint resolution, the country and the world was in a state of uncertainty regarding Antarctica's future. Pending was the fate of the Convention on the Regulation of Antarctic Mineral Resource Activities, also known as the Wellington Convention. The question for the Senate, was whether the Wellington Convention would be ratified when it was forwarded by the President.

Today, we know the answer to that question. Senate Joint Resolution 206, as passed by the Senate on this day, calls for the President to set aside the pending Wellington Convention, and instead to enter into negotiations with the other Antarctic Treaty Consultative Parties, to forge a new agreement for comprehensive protection of the Antarctic environment. As a first step toward this end, the resolution calls on the United States to fully support a new round of negotiations, beginning this fall in Santiago, to craft a new agreement that will provide comprehensive protection of Antarctica's environment, including a permanent prohibition on minerals activities.

Mr. President, I first became involved in this issue after discussions last year with Comdr. Jacques Cousteau, with Prime Minister Hawke of Australia, and with other leaders involved in the issue from this Nation and around the world. I became deeply concerned that the proposed Wellington Convention, though it marked an important step forward in the history of international efforts to protect the environment, did not go far enough to protect the Antarctic environment. Even though the convention represents a solid accomplishment, it has been overtaken by the swiftly changing global political context in which the struggle to preserve the environment is taking place.

Now that the Senate has spoken on this issue, I hope that the President wil not submit the convention to the Senate for ratification. I do not believe it is good enough, and I believe dramatic changes have taken place in the world's attitude regarding protection for Antarctica's environment since its negotiation. These changes should lead our Nation to speak out in the world community for the far more comprehensive measure needed to protect one of the most fragile parts of our Earth against commercial exploration.

Anyone who has visited the Antarctic faces a humbling experience. It is a place that dwarfs all human scale and reduces an individual to insignificance. You cannot help but be awed by the place itself. But the Antarctic is, in fact, a fragile environment, vulnerable to the destructive effects of organized human activity.

Next to the Sun and the rotation of the Earth, the Antarctic continent is the most powerful engine driving the world's climate, a rich storehouse of historical climate data, and the place where ozone destruction and global warming are likely to occur most dramatically. Yet it remains the most pristine continent on Earth—a place that has so far withstood, for the most part, the impact of the global ecological crisis.

Ninety percent of all the ice in the world is there; its ice and snow contain 70 percent of all the fresh water on Earth, but Antarctica gets so little precipitation, it is classified as the world's largest desert. The continent goes dark for 6 months in winter, yet still receives more sunlight during its 6-month summer than the equatorial regions receive in an entire year—light that, for the most part, is reflected right back into space. The cold waters surrounding the continent absorb more carbon dioxide from the atmosphere than all the rain forests, and create the nutrient-rich bottom water for most of the world ocean, of which Antarctica is the epicenter.

To this point, of course, the only kind of activity in the Antarctic has been scientific. But that could change quickly, if exploration uncovered large-scale mineral deposits or offshore oil. From that point on, the Antarctic could well be subjected to industrial abuse that could cause irreparable damage not merely to the region, but to ourselves.

Last year, the *Exxon Valdez* disaster in Prince William Sound provided vivid, heartbreaking illustrations of the devastating consequences of an environmental disaster in a pristine wilderness. Also last year, an Argentinian ship, the *Bahia Paraiso*, ran aground in the waters of Antarctica. This incident did not attract the widespread public attention of the Valdez spill; it was not a drama played out nightly on the evening news. It was a smaller spill, but it was disastrous nonetheless, destroying years of research, and leaving behind an indelible stain.

In Alaska, the argument was that careful protection can do the job. Now, the same argument is being applied to possible commercial exploitation of Antarctica.

It was 9 years ago when the Antarctica Treaty Consultative Parties began work on the Wellington Convention, struggling to balance political forces involving national sovereignty, economic interests, and the environment. It was a time when the environmental consensus was not nearly as strong as it has become.

The convention's rules to control commercial exploitation of Antarctica—crafted in that 9 years—are all to the good, but in the meantime, we have been overtaken by the realization that the Antarctic may well be worth far more to humanity intact than it could ever be worth as a source of minerals or oil.

Not everyone sees it that way. But for those who do, the convention has its dark side, because it may encourage a process of commercial exploration and development, which, once begun, will outrace efforts to devise, impose, and to police restraints. For that reason, I believe that the convention, in and of itself, is inadequate for the task of providing the kind of complete protection needed in the Antarctic.

I believe that we can do better. Senate Joint Resolution 206 urges the United States to help lead the way to a new agreement that emphasizes environmental protection and recognizes the Antarctic region as a protected ecological commons. In order to accomplish this goal, the United States should support a new round of negotiations, beginning this fall in Santiago, to craft a new convention that will provide comprehensive protection of Antarctica's environment, including a permanant prohibition on minerals activities.

It will be argued by many whose opinions I deeply respect that we should ratify the Wellington Convention first, and then move on to negotiating further protection for Antarctica. Failure to ratify, they will say, and a decision to press for an optimum agreement, risks complete failure: failure to reach a new agreement, and in the meantime, the collapse of the agreement now in our grasp; in its place, no international law at all.

Worse, others have argued, failure to ratify the convention risks unraveling the whole network of agreements known collectively as the Antarctic Treaty System, all built since the Antarctic Treaty went into effect in 1961. With that would come the risk that national sovereign claims to the Antarctic, held in abeyance under the terms of the Antarctic Treaty, will be reasserted—to be followed by the end of the era of peaceful scientific exploration, and the beginning of a new era of rivalries whose potential for mischief among nations should not be underestimated: we saw what it could do in the Falklands.

I am extremely sensitive to those arguments. They are arguments I have supported on other occasions, when the Law of the Sea Treaty was denounced by the Reagan administration; and when SALT II was denounced. It is not a casual thing to recommend that the product of 9 years of negotiations—the Wellington Convention—be replaced by a new agreement. Certainly, the burden is on those of us who believe this is the right course, to explain why, and to persuade others that this is a prudent,

rather than a reckless course of action.

The original 1961 Antarctic Treaty is unique. At the time, the dominant concern was that military rivalry would take hold in that area. The treaty dealt with this threat in a highly imaginative fashion. Just as militarism was seen as the dominant issue in the 1950's, however, the global environment is now emerging as the dominant issue of the 1990's. A convention designed to protect the Antarctic environment ought to be no less imaginative: no less of a leap forward.

In 1961, the Antarctic Treaty was possible in part because Antarctica had not yet been used as a theater for military rivalry: All concerns dealt with by the treaty were prospective, rather than actual; the treaty created a positive precedent, without having to contend with the influence of negative ones. We are at a comparable stage in terms of Antarctica's development as a theater for economic competition. Pending the discovery of a major mineral or oil deposit, there is no focused pressure to get on with the exploitation of Antarctica's resources. We have the same opportunity to solve the problem of commercial development in Antarctica by optimum means, as we earlier had for dealing with the problem of military and nationalistic rivalry.

Even so, I would be very hesitant to propose this course of action to the Senate, were it not for the fact that the future of the Wellington Convention is already in doubt. Under the terms of the convention, it may not enter into force if just one of the key consultative parties refuses to ratify it. Prime Minister Hawke of Australia has declared that his government will not ratify the Wellington Convention, because he believes Antarctica ought to be protected by a new convention calling for comprehensive protection of Antarctica's environment. The Governments of France and New Zealand have joined Australia in this initiative. All of these nations are considered to be key consultative parties under the terms of the Wellington Convention.

Until and unless these governments reserve their positions, and assuming that no other government expresses opposition in the meantime, the convention cannot go into force. Instead, under customary international law, an interim regime of respect for the terms of the convention has come into existence. It cannot last indefinitely, because sooner or later it would have to be accepted that the convention is not merely dormant, but dead. Until that time, however, Antarctica is effectively governed by a prohibition on development.

Under these conditions, we can afford to look at the potential for gaining consensus on an international agreement offering comprehensive protection for Antarctica's environment. We should not be held back by a conventional calculation of how national governments will behave in this situation. Certainly, there is a risk that agreement on comprehensive protection for the Antarctic will not be forthcoming. But that risk is substantially mitigated by the political seachange now taking place in every part of the world.

Around the world, in my opinion, public opinion is ready to support the treatment of Antarctica as a global ecological commons, where exploration should be for the purpose of generating openly shared scientific knowledge, rather than for staking out the corporate claims of the future. The transforming effects on public policy of this change of perspective are evident in a willingness of governments to recognize the environmental challenge, and to begin to concert efforts in order to deal with it. Antarctica provides a major opportunity to put this emerging concensus to work creatively.

Times have changed since our negotiators backed the Wellington Convention. We know a great deal more about Antartcita's role in the world environment, and we feel a new urgency about the global environmental crisis. The emerging political consensus for environmental protection is making possible solutions we once considered impossible.

Today, we face an issue and an opportunity. The issue: Whether Antartctica should be opened at all for commercial exploitation. The opportunity: Environmental concerns are finally on the world's agenda—in part because leaders see their urgency, but also because they know that many of the world's people are alert to the threat and demand action.

Antarctica represents not only a valuable wilderness, but also a point to which our global perspective ought to be pulled, because it is from the Antarctic that the future of the Earth can be seen. In the words of the World Commission on Environment and Development—the Brudtland Commission—the challenge is to ensure that Antarctica is managed in the interests of all humankind, in a manner that conserves its unique environment, preserves its value for scientific research, and retains its character as a demilitarized, nonnuclear zone of peace.

We can measure the future of the Earth in the frozen breezes of Antartica. As we confront the global ecological crisis, it is time to change our understanding of what is possible. We can not afford to settle for less.

AMENDMENT NO. 2930

Mr. KERRY. Mr. President, on behalf of Senator GORE, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY], for Mr. GORE, proposes an amendment numbered 2930.

Mr. KERRY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 4, strike "managed under" and insert "subject to".

On page 2, lines 4-7, strike "among the Antarctic Treaty Consultative Parties or a protocol to the Convention on the Regulation of Antarctic Mineral Resource Activities to the same effect, either of" and insert "or protocol to the Antarctic Treaty of 1959,".

On page 3, line 1, strike "agreement," and insert "agreement or protocol,".

On page 3, lines 8-9, strike "is not adequate in and of itself to provide the necessary level of protection for" and insert "does not guarantee protection of".

On page 3, line 13, strike "among Antarctic Treaty Consultative Parties" and insert "or protocol to the Antarctic Treaty of 1959,".

On page 3, lines 15-17, strike "or of a protocol to the Convention on the Regulation of Antarctic Mineral Resource Activities to the same effect,".

On page 3, lines 17-18, strike "the President should not present the Convention on the Regulation of Antarctic Mineral Resource Activities to" and insert "the Convention on the Regulation of Antarctic Mineral Resource Activities should not be presented to".

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (No. 2930) was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to be considered?

The question is on agreeing to the committee amendments, as amended.

The committee amendments, as amended, were agreed to.

The joint resolution, as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, as amended, with its preamble, is as follows:

S.J. RES. 206

Calling for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty Consultative Parties, for the full protection of Antarctica as a global ecological commons.

Whereas Antarctica, like the great oceans and the atmosphere, is a part of the global commons;

Whereas the Antarctic region, including the continent and the Southern Ocean, is a fragile ecosystem that supports an amazing abundance of life, and is, in turn, crucial to other life on Earth;

Whereas Antarctica is a critical area in the study and documentation of global changes;

Whereas negotiations of the Antarctic Treaty Consultative Parties have resulted in the Convention on the Regulation of Antarctic Mineral Resource Activities;

Whereas the Convention on the Regulation of Antarctic Mineral Resource Activities, while requiring consideration of environmental impacts prior to allowing minerals development in Antarctica, does not guarantee preservation of the Antarctic environment; and

Whereas the challenge to humankind is to ensure that Antarctica is stewarded in a manner that conserves its unique environment and preserves its value for scientific research: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Antarctica is a global ecological commons, and should therefore be subject to a new agreement or protocol to the Antarctic Treaty of 1959, which shall be subject to periodic review, and should for an indefinite period establish Antarctica as a region closed to commercial minerals development and related activities.

Sec. 2 Under such new agreement information about mineral or other resources in Antarctica should be obtained under strictly controlled arrangements, and that such information should be openly shared in the international scientific community.

SEC. 3. The Convention on the Regulation of Antarctic Mineral Resource Activities, though a considerable step forward, does not guarantee protection of the fragile environment of Antarctica and could actually stimulate movement toward commercial exploitation.

SEC. 4. Pending the negotiation and entry into force of a new agreement or protocol to the Antarctic Treaty of 1959, ensuring the full protection of Antarctica as a global ecological commons, the convention on the regulation of antarctic mineral resource activities should not be presented to the Senate for advice and consent to ratification.

SEC. 5. For the duration, the United States should support the interim restraint measure presently in force among the Consultative Parties to the Antarctic Treaty; and

The negotiation of a new agreement to provide comprehensive environmental protection for Antarctica should be fully supported by the United States at the November 1990 meeting of the Antarctic Treaty Consultative Practices in Santiago, Chile.

Mr. KERRY. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NEGOTIATED RULEMAKING ACT

Mr. KERRY. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 303.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 303) entitled "An Act to establish a framework for the conduct of negotiated rulemaking by Federal agencies," do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Negotiated Rulemaking Act of 1990".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Government regulation has increased substantially since the enactment of the Administrative Procedure Act.

(2) Agencies currently use rulemaking procedures that may discourage the affected parties from meeting and communicating with each other, and may cause parties with different interests to assume conflicting and antagonistic positions and to engage in expensive and time-consuming litigation over agency rules.

(3) Adversarial rulemaking deprives the affected parties and the public of the benefits of face-to-face negotiations and cooperation in developing and reaching agreement on a rule. It also deprives them of the benefits of shared information, knowledge, expertise, and technical abilities possessed by the affected parties.

(4) Negotiated rulemaking, in which the parties who will be significantly affected by a rule participate in the development of the rule, can provide significant advantages over adversarial rulemaking.

(5) Negotiated rulemaking can increase the acceptability and improve the substance of rules, making it less likely that the affected parties will resist enforcement or challenge such rules in court. It may also shorten the amount of time needed to issue final rules.

(6) Agencies have the authority to establish negotiated rulemaking committees under the laws establishing such agencies and their activities and under the Federal Advisory Committee Act (5 U.S.C. App.). Several agencies have successfully used negotiated rulemaking. The process has not been widely used by other agencies, however, in part because such agencies are unfamiliar with the process or uncertain as to the authority for such rulemaking.

SEC. 3. NEGOTIATED RULEMAKING PROCEDURE.

(a) IN GENERAL.—Chapter 5 of title 5, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER IV—NEGOTIATED RULEMAKING PROCEDURE

"§ 581. Purpose

"The purpose of this subchapter is to establish a framework for the conduct of negotiated rulemaking, consistent with section 553 of this title, to encourage agencies to use the process when it enhances the informal rulemaking process. Nothing in this subchapter should be construed as an attempt to limit innovation and experimentation with the negotiated rulemaking process or with other innovative rulemaking procedures otherwise authorized by law.

"§ 582. Definitions

"For the purposes of this subchapter, the term—

"(1) 'agency' has the same meaning as in section 551(1) of this title;

"(2) 'consensus' means unanimous concurrence among the interests represented on a negotiated rulemaking committee established under this subchapter, unless such committee—

"(A) agrees to define such term to mean a general but not unanimous concurrence; or

"(B) agrees upon another specified definition;

"(3) 'convener' means a person who impartially assists an agency in determining whether establishment of a negotiated rulemaking committee is feasible and appropriate in a particular rulemaking;

"(4) 'facilitator' means a person who impartially aids in the discussions and negotiations among the members of a negotiated rulemaking committee to develop a proposed rule;

"(5) 'interest' means, with respect to an issue or matter, multiple parties which have a similar point of view or which are likely to be affected in a similar manner;

"(6) 'negotiated rulemaking' means rulemaking through the use of a negotiated rulemaking committee;

"(7) 'negotiated rulemaking committee' or 'committee' means an advisory committee established by an agency in accordance with this subchapter and the Federal Advisory Committee Act to consider and discuss issues for the purpose of reaching a consensus in the development of a proposed rule;

"(8) 'party' has the same meaning as in section 551(3) of this title;

"(9) 'person' has the same meaning as in section 551(2) of this title;

"(10) 'rule' has the same meaning as in section 551(4) of this title; and

"(11) 'rulemaking' means 'rule making' as that term is defined in section 551(5) of this title.

"§ 583. Determination of need for negotiated rulemaking committee

"(a) DETERMINATION OF NEED BY THE AGENCY.—An agency may establish a negotiated rulemaking committee to negotiate and develop a proposed rule, if the head of the agency determines that the use of the negotiated rulemaking procedure is in the public interest. In making such a determination, the head of the agency shall consider whether—

"(1) there is a need for a rule;

"(2) there are a limited number of identifiable interests that will be significantly affected by the rule;

"(3) there is a reasonable likelihood that a committee can be convened with a balanced representation of persons who—

"(A) can adequately represent the interests identified under paragraph (2); and

"(B) are willing to negotiate in good faith to reach a consensus on the proposed rule;

"(4) there is a reasonable likelihood that a committee will reach a consensus on the proposed rule within a fixed period of time;

"(5) the negotiated rulemaking procedure will not unreasonably delay the notice of proposed rulemaking and the issuance of the final rule;

"(6) the agency has adequate resources and is willing to commit such resources, including technical assistance, to the committee; and

"(7) the agency, to the maximum extent possible consistent with the legal obligations of the agency, will use the consensus of the committee with respect to the proposed rule as the basis for the rule proposed by the agency for notice and comment.

"(b) USE OF CONVENERS.—

"(1) PURPOSES OF CONVENERS.—An agency may use the services of a convener to assist the agency in—

"(A) identifying persons who will be significantly affected by a proposed rule; and

"(B) conducting discussions with such persons to identify the issues of concern to such persons, and to ascertain whether the establishment of a negotiated rulemaking committee is feasible and appropriate in the particular rulemaking.

"(2) DUTIES OF CONVENERS.—The convener shall report findings and may make recommendations to the agency. Upon request of the agency, the convener shall ascertain the names of persons who are willing and qualified to represent interests that will be significantly affected by the proposed rule. The report and any recommendations of the convener shall be made available to the public upon request.

"§ 584. Publication of notice; applications for membership on committees

"(a) PUBLICATION OF NOTICE.—If, after considering the report of a convener or conducting its own assessment, an agency decides to establish a negotiated rulemaking committee, the agency shall publish in the Federal Register and, as appropriate, in trade or other specialized publications, a notice which shall include—

"(1) an announcement that the agency intends to establish a negotiated rulemaking committee to negotiate and develop a proposed rule;

"(2) a description of the subject and scope of the rule to be developed, and the issues to be considered;

"(3) a list of the interests which are likely to be significantly affected by the rule;

"(4) a list of the persons proposed to represent such interests and the person or persons proposed to represent the agency;

"(5) a proposed agenda and schedule for completing the work of the committee, including a target date for publication by the agency of a proposed rule for notice and comment;

"(6) a description of administrative support for the committee to be provided by the agency, including technical assistance;

"(7) a solicitation for comments on the proposal to establish the committee, and the proposed membership of the negotiated rulemaking committee; and

"(8) an explanation of how a person may apply or nominate another person for membership on the committee, as provided under subsection (b).

"(b) APPLICATIONS FOR MEMBERSHIP ON COMMITTEE.—Persons who will be significantly affected by a proposed rule and who believe that their interests will not be adequately represented by any person specified in a notice under subsection (a)(4) may apply for, or nominate another person for, membership on the negotiated rulemaking committee to represent such interests with respect to the proposed rule. Each application or nomination shall include—

"(1) the name of the applicant or nominee and a description of the interests such person shall represent;

"(2) evidence that the applicant or nominee is authorized to represent parties related to the interests the person proposes to represent;

"(3) a written commitment that the applicant or nominee shall actively participate in good faith in the development of the rule under consideration; and

"(4) the reasons that the persons specified in the notice under subsection (a)(4) do not adequately represent the interests of the person submitting the application or nomination.

"(c) PERIOD FOR SUBMISSION OF COMMENTS AND APPLICATIONS.—The agency shall provide for a period of at least 30 calendar days for the submission of comments and applications under this section.

"§ 585. Establishment of committee

"(a) ESTABLISHMENT.—

"(1) DETERMINATION TO ESTABLISH COMMITTEE.—If after considering comments and applications submitted under section 584, the agency determines that a negotiated rulemaking committee can adequately represent the interests that will be significantly affected by a proposed rule and that it is feasible and appropriate in the particular rulemaking, the agency may establish a negotiated rulemaking committee. In establishing and administering such a committee, the agency shall comply with the Federal Advisory Committee Act with respect to such committee, except as otherwise provided in this subchapter.

"(2) DETERMINATION NOT TO ESTABLISH COMMITTEE.—If after considering such comments and applications, the agency decides not to establish a negotiated rulemaking committee, the agency shall promptly publish notice of such decision and the reasons therefor in the Federal Register.

"(b) MEMBERSHIP.—The agency shall limit membership on a negotiated rulemaking committee to 25 members, unless the agency head determines that a greater number of members is necessary for the functioning of the committee or to achieve balanced membership. Each committee shall include at least one person representing the agency.

"(c) ADMINISTRATIVE SUPPORT.—The agency shall provide appropriate administrative support to the negotiated rulemaking committee, including technical assistance.

"(d) PARTICIPATION IN PROCEEDINGS.—A recipient of funds under the Legal Services Corporation Act may participate in a negotiated rulemaking proceeding only on behalf of an eligible client under that Act.

"§ 586. Conduct of committee activity

"(a) DUTIES OF COMMITTEE.—Each negotiated rulemaking committee established under this subchapter shall consider the matter proposed by the agency for consideration and shall attempt to reach a consensus concerning a proposed rule with respect to such matter and any other matter the committee determines is relevant to the proposed rule.

"(b) REPRESENTATIVES OF AGENCY ON COMMITTEE.—The person or persons representing the agency on a negotiated rulemaking committee shall participate in the deliberations and activities of the committee with the same rights and responsibilities as other members of the committee, and shall be authorized to fully represent the agency in the discussions and negotiations of the committee.

"(c) SELECTING FACILITATOR.—Notwithstanding section 10(e) of the Federal Advisory Committee Act, an agency may nominate either a person from the Federal Government or a person from outside the Federal Government to serve as a facilitator for the negotiations of the committee, subject to the approval of the committee by consensus. If the committee does not approve the nominee of the agency for facilitator, the agency shall submit a substitute nomination. If a committee does not approve any nominee of the agency for facilitator, the committee shall select by consensus a person to serve as facilitator. A person designated to represent the agency in substantive issues may not serve as facilitator or otherwise chair the committee.

"(d) DUTIES OF FACILITATOR.—A facilitator approved or selected by a negotiated rulemaking committee shall—

"(1) chair the meetings of the committee in an impartial manner;

"(2) impartially assist the members of the committee in conducting discussions and negotiations; and

"(3) manage the keeping of minutes and records as required under section 10 (b) and (c) of the Federal Advisory Committee Act, except that any personal notes and materials of the facilitator or of the members of a committee shall not be subject to section 552 of this title.

"(e) COMMITTEE PROCEDURES.—A negotiated rulemaking committee established under this subchapter may adopt procedures for the operation of the committee. No provision of section 553 of this title shall apply to the procedures of a negotiated rulemaking committee.

"(f) REPORT OF COMMITTEE.—If a committee reaches a consensus on a proposed rule, at the conclusion of negotiations the committee shall transmit to the agency that established the committee a report containing the proposed rule. If the committee does not reach a consensus on a proposed rule, the committee may transmit to the agency a report specifying any areas in which the committee reached a consensus. The committee may include in a report any other information, recommendations, or materials that the committee considers appropriate. Any committee member may include as an addendum to the report additional information, recommendations, or materials.

"(g) RECORDS OF COMMITTEE.—In addition to the report required by subsection (f), a committee shall submit to the agency the records required under section 10 (b) and (c) of the Federal Advisory Committee Act.

"§ 587. Termination of committee

"A negotiated rulemaking committee shal terminate upon promulgation of the fina rule under consideration, unless the committee's charter contains an earlier termination date or the agency, after consulting the committee, or the committee itself specifies an earlier termination date.

"§ 588. Services, facilities, and payment of committee member expenses

"(a) SERVICES OF CONVENERS AND FACILITATORS.—

"(1) IN GENERAL.—An agency may employ or enter into contracts for the services of an individual or organization to serve as a convener or facilitator for a negotiated rulemaking committee under this subchapter, or may use the services of a Government employee to act as a convener or a facilitator for such a committee.

"(2) DETERMINATION OF CONFLICTING INTERESTS.—An agency shall determine whether a person under consideration to serve as convener or facilitator of a committee under paragraph (1) has any financial or other interest that would preclude such person from serving in an impartial and independent manner.

"(b) SERVICES AND FACILITIES OF OTHER ENTITIES.—For purposes of this subchapter, an agency may use the services and facilities of other Federal agencies and public and private agencies and instrumentalities with the consent of such agencies and instrumentalities, and with or without reimbursement to such agencies and instrumentalities, and may accept voluntary and uncompensated services without regard to the provisions of section 1342 of title 31. The Federal Mediation and Conciliation Service may provide services and facilities, with or without reimbursement, to assist agencies under this subchapter, including furnishing conveners, fa

cilitators, and training in negotiated rulemaking.

"(c) Expenses of Committee Members.—Members of a negotiated rulemaking committee shall be responsible for their own expenses of participation in such committee, except that an agency may, in accordance with section 7(d) of the Federal Advisory Committee Act, pay for a member's reasonable travel and per diem expenses, expenses to obtain technical assistance, and a reasonable rate of compensation, if—

"(1) such member certifies a lack of adequate financial resources to participate in the committee; and

"(2) the agency determines that such member's participation in the committee is necessary to assure an adequate representation of the member's interest.

"(d) Status of Member as Federal Employee.—A member's receipt of funds under this section or section 589 shall not conclusively determine for purposes of sections 202 through 209 of title 18 whether that member is an employee of the United States Government.

"§589. Role of the Administrative Conference of the United States and other entities

"(a) Consultation by Agencies.—An agency may consult with the Administrative Conference of the United States or other public or private individuals or organizations for information and assistance in forming a negotiated rulemaking committee and conducting negotiations on a proposed rule.

"(b) Roster of Potential Conveners and Facilitators.—The Administrative Conference of the United States, in consultation with the Federal Mediation and Conciliation Service, shall maintain a roster of individuals who have acted as or are interested in serving as conveners or facilitators in negotiated rulemaking proceedings. The roster shall include individuals from government agencies and private groups, and shall be made available upon request. Agencies may also use rosters maintained by other public or private individuals or organizations.

"(c) Procedures To Obtain Conveners and Facilitators.—

"(1) Procedures.—The Administrative Conference of the United States shall develop procedures which permit agencies to obtain the services of conveners and facilitators on an expedited basis.

"(2) Payment for services.—Payment for the services of conveners or facilitators shall be made by the agency using the services, unless the Chairman of the Administrative Conference agrees to pay for such services under subsection (f).

"(d) Compilation of Data on Negotiated Rulemaking; Report to Congress.—

"(1) Compilation of data.—The Administrative Conference of the United States shall compile and maintain data related to negotiated rulemaking and shall act as a clearinghouse to assist agencies and parties participating in negotiated rulemaking proceedings.

"(2) Submission of information by agencies.—Each agency engaged in negotiated rulemaking shall provide to the Administrative Conference of the United States a copy of any reports submitted to the agency by negotiated rulemaking committees under section 586 and such additional information as necessary to enable the Administrative Conference of the United States to comply with this subsection.

"(3) Reports to congress.—The Administrative Conference of the United States shall review and analyze the reports and information received under this subsection and shall transmit a biennial report to the Committee on Governmental Affairs of the Senate and the appropriate committees of the House of Representatives that—

"(A) provides recommendations for effective use by agencies of negotiated rulemaking; and

"(B) describes the nature and amounts of expenditures made by the Administrative Conference of the United States to accomplish the purposes of this subchapter.

"(e) Training in Negotiated Rulemaking.—The Administrative Conference of the United States is authorized to provide training in negotiated rulemaking techniques and procedures for personnel of the Federal Government either on a reimbursable or nonreimbursable basis. Such training may be extended to private individuals on a reimbursable basis.

"(f) Payment of Expenses of Agencies.—The Chairman of the Administrative Conference of the United States is authorized to pay, upon request of an agency, all or part of the expenses of establishing a negotiated rulemaking committee and conducting a negotiated rulemaking. Such expenses may include, but are not limited to—

"(1) the costs of conveners and facilitators;

"(2) the expenses of committee members determined by the agency to be eligible for assistance under section 588(c); and

"(3) training costs.

Determinations with respect to payments under this section shall be at the discretion of such Chairman in furthering the use by Federal agencies of negotiated rulemaking.

"(g) Use of Funds of the Conference.—The Administrative Conference of the United States may apply funds received under section 575(c)(12) of this title to carry out the purposes of this subchapter.

"§590. Judicial review

"Any agency action relating to establishing, assisting, or terminating a negotiated rulemaking committee under this subchapter shall not be subject to judicial review. Nothing in this section shall bar judicial review of a rule if such judicial review is otherwise provided by law. A rule which is the product of negotiated rulemaking and is subject to judicial review shall not be accorded any greater deference by a court than a rule which is the product of other rulemaking procedures.".

(b) The table of sections at the beginning of chapter 5 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER IV—NEGOTIATED RULEMAKING PROCEDURE

"Sec. 581. Purpose.
"Sec. 582. Definitions.
"Sec. 583. Determination of need for negotiated rulemaking committee.
"Sec. 584. Publication of notice; applications for membership on committees.
"Sec. 585. Establishment of committee.
"Sec. 586. Conduct of committee activity.
"Sec. 587. Termination of committee.
"Sec. 588. Services, facilities, and payment of committee member expenses.
"Sec. 589. Role of the Administrative Conference of the United States and other entities.
"Sec. 590. Judicial review.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

In order to carry out this Act and the amendments made by this Act, there are authorized to be appropriated to the Administrative Conference of the United States, in addition to amounts authorized by section 576 of title 5, United States Code, not in excess of $500,000 for each of the fiscal years 1991, 1992, and 1993.

SEC. 5. SUNSET AND SAVINGS PROVISIONS.

Subchapter IV of title 5, United States Code, as added by section 3 of this Act, and that portion of the table of sections at the beginning of chapter 5 of title 5, United States Code, relating to subchapter IV, are repealed, effective 5 years after the date of the enactment of this Act, except that the provisions of such subchapter shall continue to apply after the date of the repeal with respect to then pending negotiated rulemaking proceedings initiated before the date of repeal which, in the judgment of the agencies which are convening or have convened such proceedings, require such continuation, until such negotiated rulemaking proceedings terminate pursuant to such subchapter.

Mr. LEVIN. Mr. President, today I am pleased to speak in support of Senate passage of S. 303, the Negotiated Rulemaking Act of 1990.

Negotiated rulemaking is a regulatory reform based upon the concepts of fairness and common sense. In essence, it allows the people who will be required to live by Federal regulations to have a hand in drafting them.

In a negotiated rulemaking session, the people who will be significantly affected by a proposed rule sit down with the Government, and they jointly draft the regulation. The proposed rule is then published in the Federal Register under normal procedures for notice and comment. Past experience has shown that the benefits from this joint undertaking include regulations which are more effective, more workable, more acceptable to the community, and less costly to implement.

Some agencies have already tried negotiated rulemaking and—like the Environmental Protection Agency and the Transportation Department—have enjoyed significant successes. But many other agencies have not tried the process, at least in part due to confusion over their authority and how to proceed. S. 303 resolves both problems. It provides clear statutory authority for using negotiated rulemaking and, based upon expert advice, provides a step-by-step guide on how to proceed.

The act does not force any agency or any person into using the process. It preserves the voluntary nature of negotiated rulemaking, while providing a stautory framework to maximize the chances for success. The actual procedure laid out in the act does not preclude or curtail any other type of rulemaking procedure or interaction between regulators and the regulated community. Even within the realm of negotiated rulemaking, the act explicitly encourages experimentation and innovation. In sum, it provides a supplement—an additional voluntary option—rather than a replacement for existing rulemaking procedures.

S. 303 first passed the Senate, by unanimous consent, on August 3, 1989. The bill passed the House on May 1, 1990, with several changes. Today, we have a few more changes in amendments offered by my colleagues Senator Stevens and Senator Rudman. These amendments have been cleared by both sides of the aisle, and I understand that they are also acceptable to the House. My hope is that my colleagues will join me in accepting the amendments and in voting for final passage and that the bill will then return to the House where it will be accepted without change and sent to the President.

I extend my thanks to Senators Glenn and Roth and to Congressmen Pease, Brooks, and Frank who have worked so hard on this bill. I thank them for their efforts and for their attention to this good government bill.

Finally, Mr. President, I want to commend Elise Bean, counsel for the Subcommittee on Oversight of Government Management, which I chair and which reported this bill. Her work on this bill has been superior and, as with every task she undertakes, she has handled this with great intelligence, common sense, and a commitment to good Government.

The way we write Federal regulations is far from perfect, and the regulatory reform instituted by this legislation does not resolve all the problems we face. But the bill does strike a blow for greater openness and participation by the citizens who have to dance to the tune that the Federal Government plays. For this reason, I urge my colleagues to join with me once more in supporting this legislation.

Mr. KERRY. Mr. President, I move that the Senate concur in the House amendments with further amendments which I now send to the desk, en bloc, on behalf of Senators Stevens and Rudman.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. Kerry], for Mr. Stevens proposes an amendment numbered 2931, and for Mr. Rudman proposes an amendment numbered 2932, as follows:

AMENDMENT No. 2931

In section 583(b)(1)(A) of title 5, United States Code, as added by section 3(a) of the bill, insert ", including residents of rural areas" before the semicolon.

In section 583(b)(2) of title 5, United States Code, as added by section 3(a) of the bill, insert ", including residents of rural areas" before the period in the second sentence.

In section 583(a)(2) of title 5, United States Code, as added by section 3(a) of the bill, insert before the period "and, as appropriate, in trade or other specialized publications, a copy of which shall be sent to any person who applied for, or nominated another person for membership on the negotiating rulemaking committee to represent such interests with respect to the proposed rule".

AMENDMENT No. 2932

Strike out subsection (d) of section 585 of title 5, United States Code, as added by section 3(a) of the bill.

Mr. STEVENS. Mr. President, the Negotiated Rulemaking Act of 1990 is designed to improve the regulatory process by providing a framework for and encouraging Federal agencies to use negotiated rulemaking when it is appropriate. This bill was before the Senate last year and was recently returned to us from the House with amendments.

The intent of S. 303 is laudable. Those affected by Federal rules and regulations should have the opportunity to participate in the preparation of those rules and regulations. I support that goal. However, I believe that there is an important element missing from the legislation.

Those of us who represent rural States know that most of our citizens are not made aware of Federal regulations until they try to do something which is covered by a rule or regulation. Rural Americans do not have a lobby group looking out for their interests, nor do they have access to a communications network to keep them informed. Negotiated rulemaking could be a significant benefit to rural Americans, but only if they know about a proposed regulation negotiating committee.

My amendment makes three changes to S. 303. First, rural Americans should be specifically considered when agencies discuss the identification of persons who will be significantly affected by a proposed rule and who should be included in a regulation negotiating committee. The inclusion of this language will require that all agencies contemplating the use of a regulation negotiating committee review the effect of the proposed rule on residents in rural areas in particular.

One of the House additions to this bill requires agencies to publish notices of proposed regulation negotiating committees in trade and speciality journals in addition to the Federal Register. This is an excellent suggestion but it should be taken one step farther. My second modification of S. 303 would require agencies to also publish in trade and speciality journals subsequent decisions not to proceed with a regulation negotiating committee.

S. 303 provides that groups or individuals may apply for membership of a regulation negotiating committee, or nominate another person for membership. My third addition is to require that agencies also notify these people of their decision not to proceed with a regulation negotiating committee.

I am very pleased that the sponsors of this bill have agreed to my amendment. With the protections for rural Americans and the expanded communication requirements as outlined, the Negotiated Rulemaking Act of 1990 is a major step forward for all of our citizens.

Mr. RUDMAN. Mr. President, I rise to offer a simple amendment relating to the participation of legal services recipients in negotiated rulemaking proceedings. The House bill contained a provision that specifically permits recipients of Legal Services Corporation funds to participate in negotiated rulemaking proceedings on behalf of an eligible client. This amendment would delete this provision because it is unnecessary and the language could become a potential source of confusion. I urge the Senate to adopt this amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. KERRY. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 1014, 1015, 1036, 1037, 1038, and 1039; I further ask unanimous consent that the nominees be considered and confirmed, en bloc; that any statements appear in the Record as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

I further state for the record that the nominees from Calendar Nos. 1036 through 1039 have made a commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Steven B. Kelmar, of Pennsylvania, to be an Assistant Secretary of Health and Human Services.

DEPARTMENT OF THE TREASURY

Jerome H. Powell, of New York, to be an Assistant Secretary of the Treasury.

DEPARTMENT OF COMMERCE

Craig R. Helsing, of the District of Columbia, to be an Assistant Secretary of Commerce.

FEDERAL MARITIME COMMISSION

Christopher L. Koch, of Virginia, to be a Federal Maritime Commissioner for a term expiring June 30, 1995.

INTERSTATE COMMERCE COMMISSION

Gail C. McDonald, of Oklahoma, to be a member of the Interstate Commerce Commission for a term expiring December 31, 1994.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Rear Adm. (lower half) Sigmund R. Petersen for appointment to the grade of rear admiral, while serving in a position of importance and responsibility as Director, Office of NOAA Corps Operations, National Oceanic and Atmospheric Administration, under the provisions of title 33, United States Code, section 853u.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

CONGRATULATING CYPRUS ON THE 30TH ANNIVERSARY OF THEIR INDEPENDENCE

Mr. KERRY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 824, Senate resolution 324, a resolution congratulating the people of Cyprus on the 30th anniversary of independence.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 324) congratulating President 30th Vassiliou, the government and the people of Cyprus on the 30th anniverary of their independence.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. PELL. Mr. President, today, on the 30th anniversary of the establishment of the Republic of Cyprus, it is appropriate that the Senate congratulate President Vassiliou, the government, and the people of Cyprus.

The resolution we are considering today was reported unanimously from the Committee on Foreign Relations with the active support of Senators BIDEN, SARBANES, DODD, KERRY, SIMON, SANFORD, KENNEDY, HELMS, LUGAR, AND PRESSLER.

The civilization of Cyprus dates back to the seventh millenium B.C. Because of its strategic location among the civilization of classic antiquity, Cyprus has had many masters. In relatively recent times, the Ottoman Empire ruled Cyprus for three centuries, relinquishing control but not sovereignty to Great Britain in 1878. In 1914, the island was formally annexed by the British, who made it a crown colony in 1925. In the context of the post World War II trend toward decolonization, and in light of increasing opposition to British colonial administration, Britain prepared to relinquish control. At the United Nations, Greek Cypriot leaders, with the backing of Greece, argued the case for enosis, or union with Greece. Turkish Cypriots, with Turkish support, argued for partition of the island. In 1959, Greece, Turkey, and the United Kingdom worked out a compromise arrangement for an independent Cyprus which precluded either partition or enosis. A complex constitution provided intricate formulae for power sharing in all branches of the government, with a series of measures to protect Turkish Cypriot minority rights. In 1960, Cyprus become an independent republic.

The inherent difficulties of the early years of any new nation were exacerbated on Cyprus by continuing strife between the two communities on Cyprus. Then, in 1974, after just 14 years of independence, the Turkish invasion and military occupation, which continues to this day, left some 200,000 Cypriots homeless in their own land.

Mr. President, the people of Cyprus have endured many, many years of crippling ethnic and political turmoil. Despite the extraordinary efforts of President Vassiliou and United Nations Secretary General Javier Pérez de Cuéllar to bring democracy and justice to the people of Cyprus, a just solution to the Cyprus problem remains elusive. While it is important that we recognize this 30th anniversary of independence, it is far more important that we redouble our efforts to assure that the United States takes every opportunity to press for a unified, democratic Cyprus.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 324

Whereas on October 1, 1990, the Republic of Cyprus will mark the thirtieth anniversary of its independence; and

Whereas the United States strongly supports the resumption of meaningful United Nations-sponsored talks aimed at reaching a just and lasting solution to the Cyprus problem in accordance with relevant United Nations resolutions and decisions: Now, therefore, be it

Resolved, That—

the Senate hereby congratulates President Vassiliou, the government, and the people of Cyprus on the thirtieth anniversary of independence; and

it is the sense of the Senate that the United States continue its strong support of the U.N. Secretary General in his efforts to resolve the Cyprus problem.

Mr. KERRY. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KERRY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MITCHELL. Mr. President, the House just a short time ago began consideration of a rule relating to the pending budget resolution. If the House completes action favorably on that matter this evening, it is likely not to occur until around midnight. We do not know yet what the outcome will be and we will not know that for some time.

That being the case, I have decided, after consultation with the distinguished Republican leader, that there is no point in the Senate remaining in session to await that action because under the circumstances the earliest the Senate could begin consideration of that matter would be sometime well after midnight, into the early morning hours of tomorrow.

Since there are 10 hours of debate permitted on the measure, it is conceivable that we would have to proceed through the night, and I do not see any useful purpose to be served in asking Senators to return from their homes in the middle of the night to debate all night and vote tomorrow morning.

Accordingly, I am momentarily going to ask that the Senate stand in recess until 9 a.m. tomorrow. By that time we will know what action has occurred in the House and will be able to judge what our course of action will be at that time with respect to the budget, the continuing resolution, and the debt limit, all of which we hope to act on prior to their expiration at midnight tomorrow night.

In addition, I have discussed with the distinguished Republican leader the pending measure, the money laundering bill, and it is our hope that this matter can be resolved tomorrow morning. We will continue our efforts in that direction tomorrow morning. If we are not able to reach agreement on how to proceed, we will have an announcement as to what the next step and our course of action will be at that time.

Accordingly, Senators should be aware that we will come in at 9'clock in the morning. I am not yet able to say precisely what business will be before the Senate at that time because we do not know what action will be taken.

The motion to proceed to the money laundering bill will be the pending business, and I hope to resolve that early tomorrow. Beyond that, with respect to the budget resolution, the continuing resolution, and the debt limit, until the House completes action on those matters this evening one way or the other, we will not know what we will do in that regard tomorrow in the Senate. We will obviously have an announcement early tomorrow morning.

Accordingly, Mr. President, there will be no further votes this evening. Senators are free to leave.

I have a brief statement that I wish to make on a matter of considerable importance to our Nation, following which I will seek consent to recess until tomorrow morning.

STATUS OF THE NATION'S CHILDREN

Mr. MITCHELL. Mr. President, last weekend an historic event took place in New York City. Leaders from over 70 nations gathered at the first World Summit on Children. The leaders signed a declaration on children and pledged support for the Convention on the Rights of the Child.

While the United States participated in the summit, President Bush did not sign the declaration nor the convention. I think it is time that the Senate receives this treaty and determines the manner in which the United States may pledge its support for children—not only in America, but throughout the world.

Children are the future of this Nation. But the status of children in America today is lacking.

The Census Bureau reported last week that 12 million of the 31.5 million Americans living in poverty are children. This means that nearly 40 percent of those living in poverty are children.

For one of the richest nations in the world, it is a disgrace that one in five American children live in poverty.

We have some of the world's finest doctors and yet the United States ranks 19th among industrialized nations for infant mortality. And, more than 20 percent of all children have no health insurance.

Surveys have found child abuse and neglect increasing at an alarming rate. And, it seems as if every week there is an article in the New York Times describing children caught in gunfire near their homes.

Several weeks ago mothers met in my office to discuss children who had died or were severely and permanently injured in unregulated child care facilities. Yet the debate about whether or not there should be improvements in child care facilities and family day care homes still lingers before a conference committee.

Families with children are a fast growing group among the homeless. Yet the debate about the need for funds for low-income housing and homeless assistance continues.

Education is an issue with which all families are concerned. Studies have shown that young children who receive a preschool experience fare much better throughout their elementary and secondary school years.

For poor children, this has meant that they are more likely to perform at grade level, more likely to graduate from high school, more likely to aspire to a college education, and less likely to engage in drugs.

Yet Head Start, the Federal Government's major program for children younger than school age, reaches only 20 percent of eligible children.

Too many students are dropping out of high school today. And, the achievements of those who are preparing to graduate are too low. Studies have found that for 8th graders in 20 countries, Americans ranked 10th in arithmetic, 12th in algebra, 16th in geometry, and 18th in measurements.

The achievement of college-bound seniors is no better. For college-bound high school seniors in 13 countries, American students ranked 9th in physics, 11th in chemistry, and last in biology.

The National Commission on Children, chaired by my colleague Senator ROCKEFELLER of West Virginia, issued its interim report in April. While the final report is due to be released next year, the interim report found that "America is failing its children."

I look forward to reviewing the recommendations contained in the final report. Strengthening Federal efforts to address the needs of children will strengthen American families and the Nation as well.

While this year Congress will enact a number of pending measures to assist families with children, I intend to designate children's issues among the Senate's highest priorities of the 102d session of Congress.

Mr. LEAHY. Mr. President, I will be brief. I know, not only the Members but the hard-working staff want to break from what has been a very long day.

I wish to commend the distinguished Senator from Maine [Mr. MITCHELL], our majority leader, for his statement. It is a matter, I know, of great concern to the Senator from Maine, as it is to me, again, that in the wealthiest, most powerful nation on Earth, we have this type of poverty among our children. One out of five children go hungry. We do not have the adequate food and food programs to feed those children. We point to the rest of the world and say, "Here is what you should do." That is what we should do here. I can assure him that I will join with him, as I have before, on issues of this nature, because after all, our country ultimately will be judged on what we do with our children in the next generation. It is not a political issue, a partisan issue, or an economic issue. It is truly a moral issue.

I yield the floor.

Mr. MITCHELL. Mr. President, I thank the distinguished Senator from Vermont, the chairman of the Agriculture Committee, who has been a leader in the effort to provide for child nutrition in this country and to combat the scourge of hunger throughout the world. I am especially grateful for his comments, in light of his experience and record in this important area.

RECESS UNTIL 9 A.M. TOMORROW

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the Senate stand in recess until 9 a.m. on Friday, October 5; that following the prayer, the Journal of the proceedings be approved to date; that following the time for the two leaders, there be a period for morning business not to extend beyond 9:30 a.m. with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate, at 9:23 p.m. recessed until Friday, October 5, 1990, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 4, 1990:

ALASKA NATURAL GAS TRANSPORTATION SYSTEM

MICHAEL JOSEPH BAYER, OF OHIO, TO BE FEDERAL INSPECTOR OF THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM, VICE THEODORE J. GARRISH, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 4, 1990:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

STEVEN B. KELMAR, OF PENNSYLVANIA, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES.

DEPARTMENT OF THE TREASURY

JEROME H. POWELL, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

DEPARTMENT OF COMMERCE

CRAIG R. HELSING, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

FEDERAL MARITIME COMMISSION

CHRISTOPHER L. KOCH, OF VIRGINIA, TO BE A FEDERAL MARITIME COMMISSIONER FOR A TERM EXPIRING JUNE 30, 1995.

INTERSTATE COMMERCE COMMISSION

GAIL C. MCDONALD, OF OKLAHOMA, TO BE A MEMBER OF THE INTERSTATE COMMERCE COMMISSION FOR A TERM EXPIRING DECEMBER 31, 1994.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

REAR ADM. (LOWER HALF) SIGMUND R. PETERSEN FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL WHILE SERVING IN A POSITION OF IMPORTANCE AND RESPONSIBILITY AS DIRECTOR, OFFICE OF NOAA CORPS OPERATIONS, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, UNDER THE PROVISIONS OF TITLE 33, UNITED STATES CODE, SECTION 853U.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Thursday, October 4, 1990*

The House met at 11 a.m. and was called to order by the Speaker pro tempore [Mr. BONIOR].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 4, 1990.

I hereby designate the Honorable DAVID E. BONIOR to act as Speaker pro tempore on today.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

Dr. Tom Garrison, Brainerd Church of Christ, Chattanooga, TN, offered the following prayer:

O Lord our God, before whom all pretenses fall away. We seek Your guidance and Your blessings.

We pray for the President of the United States, members of the Cabinet, the Representatives of the people, the judges of the land, and all those in authority, that it may please You so to rule their hearts that they may rightly use the trust committed to them for the good of all people.

We offer a special request for our men and women in the Persian Gulf. It is our prayer that peace may prevail. Thank You for the men and women committed to our country and preserving our Nation of freedom. Bless them and give them safety.

Love us and guide us in Jesus' name, Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. INHOFE. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. INHOFE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 293, nays 121, not voting 19, as follows:

[Roll No. 411]

YEAS—293

Ackerman
Alexander
Anderson
Andrews
Annunzio
Applegate
Archer
Aspin
AuCoin
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clarke
Clement
Clinger
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Cox
Coyne
Darden
Davis
DeFazio
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Ford (TN)
Frank
Frost
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDermott
McEwen
McHugh
McMillen (MD)
McNulty
Mfume
Mineta
Mink
Moakley
Montgomery
Moody
Morella
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Richardson
Rinaldo
Ritter
Robinson
Roe
Rose
Rostenkowski
Roth
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schiff
Schneider
Schulze
Schumer
Serrano
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Washington
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Wylie
Yates
Yatron

NAYS—121

Armey
Baker
Ballenger
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Brown (CO)
Buechner
Bunning
Burton
Campbell (CA)
Chandler
Clay
Coble
Coleman (MO)
Coughlin
Courter
Craig
Crane
Dannemeyer
DeLay
DeWine
Dickinson
Douglas
Duncan
Edwards (OK)
Fawell
Fields
Gallegly
Gallo
Gekas
Gingrich
Goss
Grandy
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Hunter
Inhofe
Ireland
Jacobs
James
Kolbe
Kyl
Lagomarsino
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Lukens, Donald
Machtley
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCrery
McGrath
McMillan (NC)
Meyers
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Molinari
Moorhead
Murphy
Packard
Parris
Pashayan
Paxon
Regula
Rhodes
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Saxton
Schaefer
Schroeder
Schuette
Sensenbrenner
Shays
Sikorski
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stangeland
Stearns
Stump
Sundquist
Tauke
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Weber
Weldon
Whittaker
Wolf
Young (AK)
Young (FL)

NOT VOTING—19

Anthony
Atkins
Callahan
Crockett
de la Garza
Dellums
Dornan (CA)
Ford (MI)
Frenzel
Gaydos
Gilman
Goodling
Hall (OH)
McDade
Mollohan
Morrison (CT)
Rowland (CT)
Udall
Wilson

☐ 1129

Messrs. CONYERS, DREIER of California, and PICKLE changed their vote from "nay" to "yea."

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. GIBBONS changed his vote from "present" to "yea."

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, this morning I was unavoidably detained away from the Capitol while at a briefing at the White House. Unfortunately, I was not present to vote on rollcall No. 411, regarding the Speaker's approval of the Journal. Had I been present, I would have voted "yea."

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. Bonior). Will the gentleman from California [Mr. Packard] please lead the House in the Pledge of Allegiance?

Mr. PACKARD led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a joint resolution of the House of the following title:

> H.J. Res. 520. Joint resolution granting the consent of Congress to amendments to the Washington Metropolitan Area Transit Regulation Compact.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

> S. 3155. An act to extend the expiration date of the Defense Production Act of 1950 to October 20, 1990, and
>
> S. 3156. An act to correct a clerical error in Public Law 101-383.

The message also announced that the Senate insists upon its amendment to the amendment of the House to the bill (S. 580) "An act to require institutions of higher education receiving Federal financial assistance to provide certain information with respect to the graduation rates of student-athletes at such institutions," disagreed to by the House and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Kennedy, Mr. Pell, Mr. Dodd, Mr. Metzenbaum, Ms. Mikulski, Mr. Hatch, Mrs. Kassebaum, Mr. Thurmond, and Mr. Cochran, to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 2437) "An act to authorize the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 830) "An act to amend Public Law 99-647, establishing the Blackstone River Valley National Heritage Corridor Commission, to authorize the Commission to take immediate action in furtherance of its purposes and to increase the authorization of appropriations for the Commission."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce at this point that the 1 minutes will be limited to 10 per side.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be permitted to sit tomorrow, Friday, October 5, 1990, during the 5-minute rule in the House.

This request has been cleared by the minority leadership of both the House and the Committee on Public Works and Transportation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

WELCOMING GUEST CHAPLAIN DR. TOM GARRISON

(Mrs. LLOYD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LLOYD. Mr. Speaker, I would like to thank Dr. Ford for permitting Dr. Tommy Garrison to lead the House of Representatives in prayer this morning. It is a special time for me, as well, because Dr. Garrison is minister of the Brainerd Church of Christ in Chattanooga, TN, where my family and I have worshipped for the past 25 years. Dr. Garrison received his doctorate from Columbia Theological Seminary, and his master's and bachelor's from Alabama Christian School of Religion. He is a native of Tuscaloosa, Alabama. He is married to the former Carole Burke from Pensacola, FL, a veteran of the Air Force. He has been a minister for the last 12 years.

Mr. Speaker, he is a man of great talents, one of the great pulpit ministers, with a unique gift of communication. He is certainly an avid golfer, and one does not have to be around him very much to find out that he is an avid University of Alabama football fan.

DON'T STACK THE DECK AGAINST A FAIR DEBATE ON THE BUDGET

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, do not stack the deck against the fair debate on the budget. This is the most important debate we probably will face in this Congress, and we all know this House is evenly divided. Possibly even there is a majority against the budget.

Yet we are told, sadly, that the supporters insist upon controlling all of the time. One hundred percent of the time, Mr. Speaker. This is fundamentally unfair. The time should be evenly divided.

So, I would implore my colleagues and the leadership in the Budget Committee to reconsider their position. Surely we can respect each other, even though we disagree. Let us at least have a fair debate here. Give the opposition the opportunity to control half the time.

NATIONAL DRUG-FREE SCHOOLS AND COMMUNITIES EDUCATION AWARENESS DAY

(Mr. ERDREICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ERDREICH. Mr. Speaker, I rise today to urge passage of my joint resolution (H.J. Res 639) to designate October 17, 1990, as "National Drug-Free Schools and Communities Education and Awareness Day." This joint resolution expresses the urgency of the drug abuse crisis in this country.

We are all concerned by studies that show 1 out of every 2 high school seniors graduating in 1989 used an illegal drug before graduation. What this says is that we are on the verge of losing an entire generation of our young people to the scourge of drug abuse. We hear stories daily of young people dying of drug overdoses, or murdered in disputes over the buying and selling of drugs. The playgounds and streets of too many of our neighborhoods are becoming open markets for drug dealers to sell their wares.

The horrors of addiction are affecting growing numbers of the most vulnerable members of our society: the newborn. Our hospitals have become inundated with babies born addicted

to cocaine. As our children go, so goes our Nation. We must put forth a concerted effort to stop the spread of drug abuse throughout the Nation.

Mr. Speaker, this resolution recognizes that the problem of drug abuse is not the province of one geographic area or of one particular group. The drug menace is affecting all parts of our country, from the urban core to the Nation's heartland. Almost all of our communities are experiencing the effects of drug abuse. If we delude ourselves into thinking that drug abuse is someone else's problem, then we all are doomed in our efforts to fight it.

Education must play a key role in our commitment to combat drug abuse. We must devise programs that raise the awareness of our young people to the dangers of drugs. The message of living a drug-free life should be instilled in our children at every step of the education process. We must make them aware that the decision to live drug free is not only a healthy choice but a moral one as well; a choice that will open the door for them to achieve any goal they pursue.

Finally, this resolution recognizes the importance of uniting all members of the community in combatting the problem of drug abuse. Each day ther are thousands of people in our communities who are on the front line, fighting to create drug-free zones in their homes, schools, and neighborhoods. They should not struggle alone. It is imperative that we muster the resources of our governmental and community based social service organizations, churches, schools, medical community, and families in this important fight for the future of our children and our Nation.

The goal of achieving drug-free schools, communities, Nation and lives is attainable. But only through the combined efforts of each and everyone of us can the battle against drugs be won.

Mr. Speaker, I urge my colleagues to join me in supporting this resolution.

DO NOT ASSIST IN THE LEBANONIZATION OF AMERICA

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, I do not like this budget package. It stinks. There is something bad in it for everybody.

However, Mr. Speaker, I did not write it, and neither did President Bush. It was a settlement between adversaries, and, while no one likes it, I have decided that it beats the heck out of any alternatives we are liable to get back should this package go down.

Mr. Speaker, the President is doing a superb job in foreign policy. Communism is collapsing. Saddam Hussein has been stopped. We have got agreements on arms control and reduction with the Soviets.

For us Republicans, we owe it to our President to listen to his fears. There could be recession, inflation, and rampant unemployment if this package fails.

I was elected to act in what I believe to be is in the best interests of my constituents and the Nation and choose between the options available to me, as bad as they may be. I was not elected to assist in the Lebanonization of America, and so I intend to vote for this budget package.

LOUISVILLE PROGRAM TO IMPROVE EDUCATION AND EMPLOYMENT RANKED FIRST IN NATION

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, this Chamber is swirling with a lot of bad news concerning sequesters, and deficits, and Government, which may come to a shutdown. Let me give my colleagues a little relief with some good news.

Mr. Speaker, I would like to announce that the Louisville Education and Employment Partnership has been adjudged to run the best education and employment program in the entire Nation by the National Alliance for Business. Kentucky, as a State, was recognized as the outstanding State of the year and as a leader of the Nation for passing educational reform legislation and for creating a cabinet at the State level for work force development. The Louisville program is recognized as a leader, therefore, in educating and giving employment opportunities to disadvantaged high school students. The Louisville program is a joint venture of the city of Louisville, the County of Jefferson, the Private Industry Council, the Louisville Chamber of Commerce and private industries and Metro United Way.

Governor Wilkinson said yesterday, correctly, that employment opportunities begin with prenatal care and go through the workplace.

I salute the State and the city on a job well done.

MESSAGE TO THE PRESIDENT

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARLENEE. Mr. Speaker, we often receive in this body a message from the President. I would like to send a message to the President.

> Mr. President, if you don't have the courage to stand up to the environmental activists, don't ask me to peddle your budget plan.
>
> Mr. President, if you won't lift your moratorium on offshore oil and gas development to take advantage of $20 billion in revenue, don't ask me to take $13 billion out of the hide of agricultural producers.
>
> Mr. President, if you won't drill the Rocky Mountain front, or the Arcitic Wildlife Refuge, for $3 billion in additional revenue, don't ask me to take it out of Medicare.
>
> And by the way, Mr. President, with EPA Administrator Reilly calling Members and advocating this as an environmental vote, it indicates that dancing to the tune of the environmentalists is more important than oil and gas prices, more important than budgets and inflation. If you don't believe me, ask Bob Grady of OMB, the farm bill wrecker.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. Durbin). The Chair would remind all Members not to direct their remarks to the President of the United States.

THE SILENT MAJORITY STILL EXISTS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, even though the census did not count them, the silent majority still exists, and they have been calling our offices, and they are saying, "Vote no on this budget."

It was bad before the President's speech, and it is just as bad now. In fact, they are saying they want Congress to straighten out the priorities. They would like us to hold Pentagon spending, cut foreign aid, send a bill instead of cash to Japan and Germany, and raise some taxes on the guys who ripped off the savings and loans and the banks, and sort of take it easy on mom and dad.

Mr. Speaker, I say to my colleagues, "You know what? I like that, and, if Democrats are listening, America is asking for a true Democratic budget, and we should give them one."

☐ 1140

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. Mazzoli). The Chair would tell our guests that it is improper under the House rules to have any demonstrations in the House gallery.

ALL THE WAY IN 1990 WITH THE BOSTON RED SOX

(Mr. CONTE asked and was given permission to address the House for 1 minute.)

Mr. CONTE. Mr. Speaker, I rise today in praise of a baseball team. Last night, the Boston Red Sox, our Boston Red Sox, completed the first leg of their drive to a world championship. One week ago the cynics, the mopes, and the pessimists had them down and out.

But our boys faced down the Toronto Blue Jays and the Chicago White Sox and brought the title back home to Fenway.

You know, those same cynics are at it again. They say the Red Sox doesn't have the experience.

They remind us that Oakland has won the pennant 3 years in a row. On and on it goes. Well, that is exactly what they said in 1975. And some of us recall what happened that year, when the A's came to Fenway for the playoffs.

Remember it? Sweep, Mr. Speaker, sweep!

The same four teams—the Sox, the A's, the Pirates, and the Reds—are back again this year. And Mr. Speaker, this year the Sox are a team possessed.

On Rocket, on Dwight, on Bruno, on Pena, on Reed. The Sox are going all the way.

PENDING INTRODUCTION OF AN ALTERNATIVE BUDGET PACKAGE

(Mr. OBEY asked and was given permission to address the House for 1 minute.)

Mr. OBEY. Mr. Speaker, the White House won its fight to protect the very richest of all Americans from paying their fair share of the taxes, and the result is the budget summit agreement on tax burdens which we are asked to vote on this week. That package hits middle class taxpayers twice as hard as it hits the taxpayer making more than $200,000 a year.

The gentleman from North Dakota [Mr. DORGAN] and I will offer an alternative, which we are introducing at noon, which would spend less, tax less, and borrow less. The amendment which we will introduce would spend less, tax less, and borrow less than the budget summit. It would move $30 million out of the military budget into Medicare. It would move the tax burden in a major way from people making $20,000-$50,000 a year onto those making more than $200,000 a year.

Mr. Speaker, this represents what we think is elemental justice. If Members are interested in cosponsoring it, please call either of our offices before noon.

WEALTHY TAXPAYERS WOULD GET SPECIAL BENEFITS IN PROPOSED BUDGET PACKAGE

(Mr. MOODY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. MOODY. Mr. Speaker, I would like to comment briefly on why some Democrats find it hard to swallow this package. It is not, as the previous speaker said, that there are some taxes in there, because even President Bush recognizes that there must be some taxes. We simply cannot get those kinds of huge deficit reduction numbers out of the spending side of the budget without eviscerating or destroying essential services.

But whose taxes go up in this package? The fact of the matter is that the wealthy of this Nation, those that have enjoyed tremendous tax cuts—and I did not hear any complaint about that from the previous speaker—over the last decade, those folks, the folks who make over $400,000 a year, get off scot-free. There are no taxes in there for them. In fact, they even have some tax benefits.

The taxes in this bill hit the middle class twice as hard as those making over $200,000 a year. Those who make over $200,000 pay 1.7 percent. By the table the gentleman himself is disputing, those who make in the middle ranges pay 3.3 percent or virtually double. Also in this package there is a series of tax breaks for people who want to put together syndication specials, so there will be another recreation of the tax shelter industry which we thought we had done away with in 1986.

So, Mr. Speaker, there are very good reasons regarding taxes not to vote for this package. We should go back to the drawing board and come up with a fair and balanced result.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3613

Mr. HERGER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill, H.R. 3613.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CRIME BILL

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, yesterday the House began debate on a very important piece of legislation. The omnibus crime package now under consideration is important to America, because crime is eating away at the fabric of our society.

If we are going to get serious about eliminating crime, then we need to pass a tough bill that will address the tough issues and create tough remedies. The new rule that we adopted yesterday allows us to consider those decisions. We started consideration of the bill yesterday, and we have made progress. Now, however, we will begin to address some of the most difficult issues of this bill. Some of those issues include the scope and effectiveness of the death penalty, savings and loan criminals, and others. I hope that all of my colleagues will carefully review the issues, examine the need, and vote to enact a crime bill that will truly address the crime problem of this Nation.

EXTENDED DEBATE ON BUDGET RAISES DOUBTS ABOUT AMERICAN DEMOCRACY

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS. Mr. Speaker, the debate that is going on in the country, in the Oval Office, and here on Capitol Hill this week may be about something far more important than the figures at the bottom of the Federal ledger sheet, about something far more critical than an artificial drop-dead budget date this Friday. Rather, what may be happening in America is the failure of this experiment which is now in its third century as to whether or not a free people who would dare to rule themselves can do it under this system called representative democracy.

It is perhaps this Republic that is beginning to stutter and slowly to fall back toward parliamentary government. That may be what is at issue, whether or not America is moving ever so subtly toward a monarchy. Perhaps what is at question is in our great variety and wealth are we signaling that 535 of us on Capitol Hill and one in the White House cannot cooperate in a way that can keep this ship of state under sail.

Mr. Speaker, it may be that historians will look back at this time and say that in those 4 years, America had to abandon the prescribed constitutional arrangements and in their place have three budget summits in order to manage the Nation's fiscal affairs.

REPUBLICANS ARE NO POPULISTS

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, the American people I am sure are tired of the biplay on this budget. They want a government that works. They want lower deficits. They want us to stop this crippling fiscal policy from injuring this country anymore.

The question is not whether we do that. The question is how we do that. There are differences.

On the Republican side of the aisle they want more for defense in an already bloated defense budget, and they want to protect the rich from having to pay their share of the taxes. Then they call it economic populism.

Give us a break! If they are populists, then I am a brain surgeon.

AMERICA CAN SURVIVE SEQUESTRATION

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, this Member from California was active in State government in 1977 and 1978. We adopted at that time proposition 13, which began the tax revolution across this country. We cut the revenue to local government from the property tax by 50 percent approximately.

It was said at the time that civilization would come to a halt in California because of this denial of revenue to government at the local level. But California has prospered immensely since that tax reduction in 1978, I believe for the simple reason that when you lower taxes on people you produce more economic activity. California has enjoyed that in the decade of the 1980's.

This claim is made today that if we have sequestration it will also bring Government to a halt. I say nonsense. If California can survive with a 50-percent reduction of revenue from the property tax, somehow the Federal Government can survive with a 16-percent reduction in the revenue that we spend around this country.

It is time to shrink Government, not the pockets of the American taxpayer.

SUMMITEERS ARE OUT OF TOUCH WITH AMERICA

(Ms. PELOSI asked and was given permission to address the House for 1 minute to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, we have heard a lot about the famous summit agreement on the budget, and I would like to comment on the budgeteers.

The look from my district, Mr. Speaker, is that the people who wrote this budget agreement are severely out of touch. They are out of touch with young families in America, families with small children. When was the last time any member of that summit went to the store and bought a bag of groceries? How many could tell you what the price of ground beef is? When was the last time any member of that summit took his growing child to buy shoes?

That is my complaint about this agreement. While middle and lower income people are affected by the taxes increases, the wealthier Americans are unaffected. The tax increase of $400 for a family of four making a moderate income in this country is regressive. Where are young families going to get the $400?

It is time, Mr. Speaker, for us to burst the tax bubble of wealthy Americans. It is time for us to have a tax policy that is fair. People cannot afford to go out anymore. Now they can barely afford to stay home.

CONGRESS MEETING THE TEST OF ITS RESPONSIBILITIES

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Well, Mr. Speaker, we are nearing the fateful moment when the American people find out whether we have the courage to govern or whether it will be business as usual here in Washington.

For the past 8 years or so, it's been business as usual—no courage to hold down spending, no courage to raise taxes, philosophical gridlock with resulting deficits averaging $250 billion of net new borrowing every year as far as the eye can see.

Our debt has grown $2 trillion in 8 years to $3.1 trillion, drawing off money desperately needed for new domestic investment, pushing up real interest rates and raising interest costs to the third largest budget item, making us so dependent on foreign investment we can't say no, and dragging our economy into stagnation and perhaps even recession.

This wonderful and free system of ours, when the people have chosen a Congress of one party and a Presidency of the other, requires compromise to function. The leaders of our two parties have worked for 5 months to find that compromise.

They have produced an agreement, one that, though far from perfect and walking on each of our philosophies, asks contribution from every American to bring this terrible problem under control.

Now we are tested, Mr. Speaker, not to say what we won't do, not to make the easy throwaway votes, but to affirm our positive commitment to the future of our country.

We were not sent here simply to express our philosophies. We were not sent here to mirror opinion polls or to serve special interests. We were sent to govern, to take responsibility for the bottom line. Now is the time when we find out who can meet the test.

NO WOMEN SUMMITEERS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, of late there has been a huge furor because they have allowed women into the locker room. Well, let me tell you, on the budget I do not think there would have been such a furor had they allowed women into the summit.

The gentleman from California and many others this morning pointed out how very, very clearly this budget leaves out families, leaves out the middle class, forgets children in this week where we had the World Summit on Children.

All I can say is I would hope that this body would be as progressive as others, and we ought to let women into the summit, especially if they can get into the locker room.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Under the previous announcement of the Chair, that concludes the 1 minutes from the Democratic side.

THE BUDGET SUMMIT AGREEMENT

(Mr. GRANDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRANDY. Mr. Speaker, I, like hopefully a majority of colleagues in this body, will support the bipartisan agreement on the budget. But I want everybody to know that in so doing I am breaking the no tax pledge. It has been in the papers; it is not news to anybody. And I also broke the pledge not to support any continuing resolution. I have done that. I have done that happily.

Not as a defense of my hyprocrisy, but maybe as an explanation, I would merely say, and I would quote Lennon—John, not Vladmir—that life is what is happening while you are making other plans.

When most of us signed that pledge, we were completely unaware of what would happen with Operation Desert Shield. When most of us signed that pledge, we though Hussein was the King of Jordan. When most of us signed that pledge, we though the S&L bailout would cost $50 billion, and none of us had been through 8 months of excruciating deadlines resulting in the Democrats thinking the Republicans won and the Republicans thinking the Democrats won.

But I am also reminded of another pledge that we take in this body, which is to defend the Constitution of the United States against enemies, foreign and domestic, and there is not a bigger domestic enemy in this country than the deficit, which we are so blithely willing to override if we defeat this package.

If that happens, Mr. Speaker, then I do not care how many pledges you take. The domestic enemy to the United States will be us.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore. Under the previous announcement of the Chair, all the 1-minute speeches on the Republican side will have been concluded after the next one.

SUPPORT GEKAS AMENDMENT TO CRIME BILL

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **GEKAS**. Mr. Speaker, very shortly we will be considering the death penalty provisions of the comprehensive crime bill of 1990. The first issue which will confront Members will be whether or not to support the Hughes amendment on the death penalty.

Although it sounds good and looks good, even on paper, and will sound even better I am sure when the gentleman from New Jersey expounds in favor of it, I warn Members, I urgently warn them that the Gekas amendment which follows is the one that allows a jury in the final count to determine whether or not the death penalty ought to be applied to the serious, drastic, tragic murders that appear across the horizon. It is the Gekas amendment following the Hughes amendment that will implement the possibility of the death penalty, which 80 percent of Americans want to be allowed to be imposed on the most brutal killings, and where 67 percent or more feel acts as a deterrent to serious crime.

□ 1200

Help the law enforcement community and defeat the Hughes bill, and accord a "yes" vote for the Gekas amendment.

SUNDRY DEFERRALS OF BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-)

The **SPEAKER** pro tempore (Mr. Mazzoli) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

(For message, see proceedings of the Senate of today, Thursday, October 4, 1990.)

COMPREHENSIVE CRIME CONTROL ACT OF 1990

The **SPEAKER** pro tempore. Pursuant to House Resolution 490, and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5269.

□ 1200

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5269) to control crime, with Mr. Bosco in the chair.

The Clerk read the title of the bill.

The **CHAIRMAN**. When the Committee of the Whole rose on Wednesday, October 3, 1990, amendment No. 5, offered by the gentleman from West Virginia [Mr. Staggers] had been disposed of.

It is now in order to consider amendment No. 6, printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. HUGHES

Mr. **HUGHES**. Mr. Chairman, I offer amendments en bloc.

The **CHAIRMAN**. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. Hughes: Page 52, after the matter following line 11, insert the following:

SEC. 212. MAILBOMBING.

Section 1716 of title 18, United States Code, is amended—

(1) by inserting "(j)" at the beginning of the paragraph immediately following the paragraph designated as paragraph (2) of subsection (i);

(2) by inserting "(k)" at the beginning of the paragraph immediately following the paragraph amended by paragraph (1);

(3) by inserting "(l)" at the beginning of the paragraph immediately following the paragraph amended by paragraph (2); and

(3) by adding at the end the following:

"(m) Whoever in the course of a violation of this section intentionally kills another person shall be subject to the death penalty under chapter 228 of this title.".

SEC. 213. DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.

Section 34 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever"; and

(2) by adding at the end thereof the following:

"(b) Whoever in the course of an offense under section 32 of this title intentionally kills another person shall be subject to the death penalty under chapter 228 of this title.".

SEC. 214. DESTRUCTION OF MOTOR VEHICLES OR MOTOR VEHICLE FACILITIES.

Section 33 of title 18, United States Code, is amended by adding at the end the following:

"Whoever in the course of a violation of this section intentionally kills any person shall be subject to the penalty of death under chapter 228 of this title.".

SEC. 215. TRANSPORTING EXPLOSIVES.

Section 844 of title 18, United States Code, is amended—

(1) in each of subsections (d), (f), and (i)—

(A) by striking "if death results to" and inserting "if the defendant intentionally kills"; and

(B) by striking "as provided in section 34" and inserting "under chapter 228".

SEC. 216. MURDER.

(a) In General.—Section 1111 of title 18, United States Code, is amended by striking "suffer death" and all that follows through "imprisonment for life" and inserting "be subject to the death penalty under chapter 228 of this title if the killing was intentional, and shall be imprisoned for life in any other case".

(b) Indian Country.—Section 1152 of title 18, United States Code, is amended—

(1) by inserting "(a)" at the beginning of the first paragraph;

(2) by inserting "(b)" at the beginning of the second paragraph; and

(3) by adding at the end the following:

"(c) A person subject to the criminal jurisdiction of an Indian tribal government is not subject to the death penalty solely by reason of this chapter for an offense within the boundaries of the Indian country, unless the governing body of the tribe has made an election to have this chapter so apply.".

SEC. 217. MURDER BY FEDERAL PRISONER.

(a) In General.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"§ 1118. Murder by a Federal prisoner.

"(a) Whoever, while confined in a Federal prison under a sentence for a term of life imprisonment, intentionally murders another shall be subject to the death penalty under chapter 228 of this title.

"(b) For the purposes of this section—

"(1) 'Federal prison' means any Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government;

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least 15 years and a maximum of life, or an unexecuted sentence of death.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1118. Murder by a Federal prisoner.".

SEC. 218. VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.

Section 1959 of title 18, United States Code, is amended—

(1) by inserting after subsection (a) the following:

"(b) Whoever violates this section by intentionally killing an individual shall be subject to the death penalty under chapter 228 of this title."; and

(2) by redesignating subsection (b) as subsection (c).

SEC. 219. TRAINWRECKING.

Section 1992 of title 18, United States Code, is amended by striking the penultimate paragraph and inserting the following:

"Whoever, in the course of an offense under this section, intentionally kills any individual shall be subject to the death penalty under chapter 228 of this title.".

SEC. 220. BANK ROBBERY AND INCIDENTAL CRIMES.

Section 2113(e) of title 18, United States Code, is amended—

(1) by striking ",or punished by death if the verdict of the jury shall so direct"; and

(2) by adding at the end "Whoever, in committing or in attempting to commit any offense under subsection (a) or (b) of this section, intentionally kills any individual shall be subject to the death penalty under chapter 228 of this title.".

SEC. 221. GENOCIDE.

Section 1091 of title 18, United States Code, is amended by adding at the end the following:

"(f) Death Penalty.—Whoever, in the course of a violation of this section, intentionally kills any individual shall be subject to the death penalty under chapter 228 of this title.".

Page 30, beginning in line 8, strike "intentionally" and all that follows through "judge" in line 24 and insert "an intentional killing".

Page. 45, strike line 11 and all that follows through line 22 and insert the following:

"(c) Aggravating Factors.—A finding with respect to any aggravating factor must be unanimous. Unless an aggravating factor is found to exist under this chapter—

"(1) in the case of a treason or espionage offense, which is specifically listed in section 3594 as an aggravating factor for treason and espionage; and

"(2) in any other case, which is listed specifically in section 3594 as an aggravating factor for homicide;

the court shall impose a sentence other than death authorized by law.

Page 46, line 19, strike "2" and insert "one".

Page 46, line 22, insert "factor or" before "factors".

Page 46, line 25, insert "factor or" before "factors".

Page 47, lines 1 and 6, insert "factor or" before "factors".

Page 48, line 10, insert "factor or" before "factors".

Page 50, beginning in line 18, strike "not be affirmed" and insert "be affirmed if the court finds that a remaining aggravating factor is one required under section 3595(c) and that the remaining aggravating factor or factors substantially outweigh any mitigating factors found to exist.".

Page 45, beginning in line 6, strike ", and if any member" and all that follows through "evidence" in line 7 and insert ". Such finding may be made if it is supported by a preponderance of the evidence. If any member of the jury finds the existence of a mitigating factor,".

Page 38, line 11, strike "any" and insert "a preponderance of the".

Page 43, after line 12, insert the following:

"(14) Death of the President.—The defendant, in the course of the offense or in escaping apprehension, created a risk of injury to the national security by causing the death of the President.

Page 37, beginning in line 19, strike "'(other than" and all that follows through "first phase of the trial)".

Page 237, strike line 22 and all that follows through line 13 on page 238 (section 2212).

The **CHAIRMAN**. Under the rule, the gentleman from New Jersey [Mr. Hughes] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

PARLIAMENTARY INQUIRY

Mr. **GEKAS**. Mr. Chairman, I have a parliamentary inquiry.

The **CHAIRMAN**. The gentleman will state his parliamentary inquiry.

Mr. **GEKAS**. There is a bit of confusion reigning in my mind, if nowhere else, as to whether or not under previous instructions and rules of this type as to whether or not the Hughes-Gekas amendment are in the posture of king of the hill. Specifically, I would ask the Chair to let me know, at this juncture, is it so that if both pass, that the latter one, the Gekas amendment, would prevail?

The **CHAIRMAN**. The Chair will advise the gentleman momentarily, as the Chair must now be advised on this and review both amendments.

The Chair would advise the gentleman from Pennsylvania [Mr. Gekas] as soon as the Chair has examined the two amendments.

Mr. **GEKAS**. I thank the Chair.

Mr. **HUGHES**. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment is very straightforward. It will strengthen what is already a tough but a well crafted and constitutionally sound death penalty title. It adds 12 more substantive offenses to the list of the some 12 death penalty crimes already in H.R. 5269 and expands another. It makes needed modifications in death penalty procedures and strikes section 2212 relating to appeals in death penalty cases.

The net effect of adopting this amendment is that H.R. 5269 will contain all of the substantive offenses present in the Gekas amendment; that is, there are not capital offenses in Gekas not found in my title.

Now the Republicans will argue that even if my amendment is passed, that H.R. 5269 still won't reach the sheer number of people who could be facing the death penalty under the Gekas amendment. Well, that happens to be correct—and that also happens to be the reason you should vote against the Gekas amendment.

That one crucial and constitutionally significant difference between our approach and that of the Gekas amendment is that our death penalty for homicide is limited to intentional killings. That is a difference we deliberately selected both on policy and constitutional grounds. The Republicans would impose the death penalty in instances where someone acted solely with reckless disregard, where there was no intent to kill anyone.

Under the Gekas approach, the death penalty would be a sentencing option for a conviction for manslaughter—such as when reckless driving leads to death. That is not how the death penalty should be imposed and I cannot believe that this body would want to be on record for such a policy

The choice you're facing is this: Do you want to just sound tough on crime or do you want a death penalty that can actually be used by our prosecutors? Because no matter what the Republicans may try and argue, the Supreme Court has never approved the death penalty for a conviction involving the kind of minimal level of criminal culpability envisioned by the Gekas amendment.

The gentleman from Pennsylvania knows this. That's why the drug kingpin death penalty that he wrote in 1988, and which we enacted, has the same standard as our bill—an intent to kill.

So you can vote for the Gekas amendment and enact a law of dubious constitutionality, guaranteed to generate years of litigation, create more grounds for appeals and ensure less rather than more certainty That's what a leading conservative expert—Bruce Fein of the Washington Legal Foundation—predicted would happen under the Republican proposal when he testified before our subcommittee this year. Or you can vote for my amendment and enact the death penalty for the exact offenses as in the Gekas amendment but with sound policy limitations which will ensure that it can be used by our prosecutors. That is the fundamental ethical and policy decision which you will have to make.

Mr. Chairman, there are also several significant changes that my amendment would make concerning procedures. These are the basic rules utilized by a court and jury to determine whether a defendant charged with a capital offense will actually be sentenced to death.

My subcommittee was not assigned responsibility for writing the procedures portion of the death penalty. When I first reviewed the procedures in the bill, I identified a number of the same concerns that our Republican colleagues have since spoken on. My amendment today would make all those corrections.

With the addition of the five modifications in my amendment, these procedures are sound, fair, and workable.

The first of the changes pertain to the number of aggravating factors required to be found before the defendant can qualify for the death sentence. In its present form the bill requires that the jury find two aggravating factors—my amendment would reduce that number to one.

Second, the amendment will raise the standard employed by the jury when it decides whether any mitigating factors exist. At present, the bill allows the jury to find the existence of a mitigating factor based on any evidence. My amendment would permit the jury to find the existence of a mitigating factor only if that factor is supported by a preponderance of the evidence. Third, my amendment would make a change in the effect of an aggravating factor being overturned on appellate review. Under the bill as reported, the reviewing court must vacate the death sentence and remand the case for resentencing proceedings if the finding of an aggravating factor is reversed for any reason. My amendment would allow the sentence to stand if, after such invalid aggravating factors are struck down, there is at least one remaining valid aggravating factor and that factor substantially outweighs any mitigating factor or factors found to exist.

Fourth, my amendment would add an additional aggravating factor to the statutory list of aggravating factors that the jury may consider when deciding whether to impose the death penalty where the defendant has caused the death of the President of the United States and thereby caused a risk of injury to the national security.

And finally, Mr. Chairman, my amendment would strike the portion of the present procedures that prohibits the government from introducing illegally obtained evidence from the sentencing phase of the trial.

With these five improvements the procedures in the bill will be tough, but, fair and balanced and therefore likely to survive constitutional challenge.

In addition to these improvements in the Federal death penalty provisions, my amendment makes a much needed change in the bill as it regards State death penalties.

The bill as reported contains a provision, section 2212, relating to new landmark decisions of the Supreme Court regarding race discrimination in capital cases. Section 2212 was written with the commendable objective of giving a handful of defendants on death row the chance to have such Supreme Court decisions taken into consideration if it might require the reversal of their death sentences.

However, as it came out of committee, the provision is not so limited. It is written so broadly that every defendant on death row, regardless of his race, could get another review of his case.

It is an amendment which the full Judiciary Committee should not have adopted. My amendment strikes it, and presents an additional reason why you should vote for my amendment, and then reject the Gekas substitute.

Mr. Chairman, I reserve the balance of my time.

PARLIAMENTARY INQUIRY

The CHAIRMAN. The Chair will respond to the parliamentary inquiry just posed.

The Hughes amendments offered en bloc, if adopted, would insert several new sections, sections 212 through 218, into title II, and would make a minor change in title XXII. The Gekas amendment would rewrite all of title II as amended by Hughes and insert a new title.

In effect, the Gekas amendment, if adopted, would replace most of the Hughes amendment en bloc.

Mr. GEKAS. I thank the Chair. That was our suspicion, and we wanted to have it confirmed from the summit itself.

☐ 1210

Mr. McCOLLUM. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Florida [Mr. McCollum] is recognized for 10 minutes.

Mr. McCOLLUM. Mr. Chairman, I thank the Chairman for his courtesy in that parliamentary ruling.

I must reluctantly oppose the gentleman from New Jersey on this issue, although he and I have been comrades in many of the criminal justice matters on this floor in the past.

The reason I oppose the amendment, I think the Members ought to understand this very clearly, is that the Hughes amendment on the death penalty laws of this country change existing law. The idea of going to the position where you have to have an intent to kill as an element of every crime before you can receive the death penalty is a change from existing law. Under present law, reckless disregard is satisfactory.

I think it is very important that we not change existing law one bit in this regard and simply restore the constitutionally valid procedures for giving the death penalty.

I think at this time it would be most appropriate for me to yield to the gentleman who is so knowledgeable about the death penalty and is going to offer his own amendment in a few minutes.

Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. Gekas].

Mr. GEKAS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, there is a clear delineation between what the gentleman from New Jersey now proposes and what you will later have a chance to consider in the Gekas amendment.

I am going to ask the Members, including the gentleman from New Jersey, as to whether or not you think a jury should have the right to determine whether a drive-by killer, one who sprays bullets into a crowd, kills a three-year old child in California indiscriminately, or in New York or in New Jersey, a drive-killer that we read headlines about every day, whether or not that kind of killing should accord a jury of peers to determine whether or not the death penalty ought to be imposed.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. Not as yet. Let me finish. I did not interrupt the gentleman.

Mr. HUGHES. Of course, it is covered.

Mr. GEKAS. If the drive-by killing, which is now a part of the headlines of every newspaper in the country, conforms to the Hughes amendment which has been presented here, the jury would have to be convinced that the killer of the innocent bystanders in such a case, that the killer intended to kill and the court would have to instruct the jury that you cannot find this individual guilty of this offense unless you determine that the drive-by killer, who did not know his victims and who can say, "I didn't intend to kill, I just wanted to make noise. I just wanted to scare people. I just was out on a lark. I didn't intend to kill anybody." Under the Hughes amendment, that jury would not be able to impose the death penalty.

Now, that is all right if you are against the death penalty. That is all right if you feel that a drive-by killer should not be dealt with, but that is a part of our society today in the headlines in every corner of our Nation.

I say to you that the reckless disregard of human life that a drive-by killer perpetrates, that reckless disregard should permit a jury to decide with all aggravating circumstances that might be available, that indeed, the capital punishment portion of our law enforcement should be allowed to take place.

Mr. HUGHES. Mr. Chairman, if the gentleman will yield, it is covered. How can you shoot into a crowd of people with an automatic or semiautomatic and not intend to kill? Who is the gentleman trying to kid?

Mr. GEKAS. It has been shown in the past, unless you adopt the Gekas amendment, there is no way, but that individual will try to determine and confuse a jury and the judge, and the judge will instruct, I warrant you, he will instruct that you cannot find a drive-by killer guilty unless you find that he intentionally killed X, Y, and Z, who happened to be playing on a playground as he drove by and did his dastardly act.

Furthermore, how would you feel as a Member in supporting the Hughes amendment where in a bank robbery three or four hoods in the perpetration of their heinous act shoot down a group of policemen who rushed to the scene to apprehend the bank robber, they shoot indiscriminately into the

crowd of young policemen who have come there to thwart the robbers, and two or three or one or more are killed.

Now, that under the Hughes amendment, I tell you, when it finally comes down to a jury deliberation, the jury is going to have to be instructed by the court to say, under the Hughes amendment—of course, I am paraphrasing, if that were the law—the judge would have to say that in order for you to find any of these bank robbers guilty of a murder, you would have to determine that he intentionally killed one of those guards.

Now, the defense in that kind of case says, "I didn't intend to kill anyone. All I did was try to protect myself. I thought they were trying to kill me," or "I just wanted to scare them off from trying to catch me. Therefore, I didn't intend to kill."

The judge would have to instruct that that kind of defense is warranted under the Hughes amendment.

Under the Gekas amendment, the reckless disregard for life, the inordinate risk of shooting into a crowd of policemen that rush to the scene, would allow a jury to say that kind of recklessness deserves the death penalty in a proper case. That is a significant difference.

What about the terrorists? Are you, the Members of this House, ready to deal with the terrorists who have threatened to be a part of our society and who in many cases are already a part of the scene? A terrorist, under the Hughes amendment, who plants a bomb in a crowded scene, whether it is at a courthouse, whether it is at a Federal installation——

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. McCOLLUM. Mr. Chairman, I yield 1 additional minute to the gentleman.

Mr. GEKAS. That terrorist, Mr. Chairman, under the Hughes amendment has the defense, "I didn't intend to kill anybody. I wanted to make a political point. I wanted to prove something. The fact that those people died, I didn't intend to kill them."

Do you want that result or do you want the Gekas amendment which would say that the reckless disregard, the tragic consequences of a killing of this type, no matter what the terrorist says about what he intended or intended not to do, killing one or more people, should the jury have the right, our fellow American citizens sitting on a panel on a jury, should they have the right to impose the death penalty in such a case?

The Hughes amendment forbids it. The Gekas amendment permits it, and the Supreme Court of the United States has said that the Gekas amendment—I say egotistically that the Supreme Court has said that the circumstances in the Gekas amendment are proper, in Tyson versus Georgia, and in the State of New Jersey parallels or comes closer to the Gekas amendment than it does the Hughes amendment.

Mr. HUGHES. Mr. Chairman, if the gentleman will yield to me, the gentleman is wrong, he is wrong.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. Brooks], the chairman of the full Judiciary Committee.

Mr. BROOKS. Mr. Chairman, I rise in support of this amendment.

Mr. Chairman, the Hughes amendment is a significant improvement to the bill we have before us. It authorizes capital punishment for 12 additional Federal offenses, tightens the bill's provisions on death penalty procedures, and strikes provisions in the bill that would permit prisoners under sentence of death to have one additional review process in the courts.

Crimes that will be newly subject to the death penalty include transporting explosives that result in death, murder by mail bomb, death resulting during a bank robbery, and murder by Federal prisoners under life sentence. In addition, the bill expands the list of those Federal law enforcement officers whose killings will be capital offenses. All of these crimes will be subject to the death penalty only if they were intentionally committed. This is constitutionally sound and fundamentally fair.

Mr. Chairman, the amendment also tightens death penalty procedures to assure that defendants who truly deserve to receive the death penalty do not escape that penalty for procedural reasons.

The amendment, therefore, requires that only one aggravating factor be proven in order to impose the death penalty, instead of two aggravated factors, as is currently in the bill. In addition, the amendment establishes "a preponderance of the evidence" as the burden of proof required before a jury can find a mitigating factor. This is a tougher standard than the "any evidence" requirement currently in the bill. The amendment also revises the appellate review of death sentences contained in the bill by requiring that a more stringent standard be applied.

Mr. Chairman, the amendment also strikes the provision in the bill that permits all prisoners on death row to have one more review in the courts if, after the first review is completed, a prisoner raises a claim that his sentence was imposed because of racial bias.

Mr. Chairman, the Hughes amendment provides well-reasoned and eminently fair, but tough improvements in the bill as reported by the Judiciary Committee, and I urge all Members to vote in favor of it.

☐ 1220

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. Gekas].

Mr. GEKAS. I appreciate the gentleman yielding.

Mr. Chairman, I appreciate the gentleman from Texas, the chairman of our illustrious committee, and his statement in support of the Hughes amendment. I am certain that the gentleman from Texas would not want to rob the Texan jury in a Federal case, would not want to rob that jury of the right to determine that a drive-by killer should have the death penalty as a possible penalty simply because that drive-by killer would say "I didn't intend to kill anyone. I did shoot into that crowd." I am sure that the gentleman from Texas would not want that drive-by killer to escape the possibility of the death penalty.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the chairman.

Mr. BROOKS. I thank the gentleman for yielding.

Mr. Chairman, to my distinguished friend: in Texas when you point a gun at somebody it generally is an intent to kill him if you have got ammunition in it. If I point a gun at you I have got an intent to kill you because I am not planning to shoot McCollum at that point.

Mr. GEKAS. That is correct. And under the Hughes amendment the court, the judge would have to instruct the jury "If you do not find a specific intent to kill in opposition to what the defendant says 'I didn't intend to kill anyone' " that jury would be forced to find that defendant innocent of that particular crime with respect to the death penalty.

So it comes down to this: intentional killing, "Oh, yes, we want those to be considered by a jury to impose the death penalty. But reckless disregard to human life "which is tantamount, according to the Supreme Court, tantamount to an intent to kill. In Tison versus Arizona it says:

> Similarly, we hold that the reckless disregard for human life implicit in knowingly engaging in criminal activities known to carry a grave risk of death represents a highly culpable mental state, a mental state that may be taken into account in making a capital sentencing judgment when that conduct causes its natural, though also not inevitable, lethal result.

That, Mr. Chairman, gives you enough to defeat the Hughes amendment and support the Gekas amendment yet to follow.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. Smith], a member of the subcommittee.

Mr. SMITH of Florida. I thank the gentleman for yielding and commend him for this amendment.

Mr. Chairman, my colleague Mr. GEKAS from Pennsylvania is giving you scenarios that do not reflect actual reality. What he is saying is that a jury will never be able to prove intent when sifting through the evidence. That is just not so. What he is attempting to do is remove all of the jury's capability to make a decision on intent. The Hughes amendment allows the jury to decide for itself whether the defendant intended or not to kill the victim.

That is all the Hughes amendment does. That comports better with existing law than what Mr. GEKAS would do in his amendment, No. 1.

No. 2, the Hughes amendment in fact has 12 additional death penalties in it.

No. 3, Mr. GEKAS says that if a bank robber shoots a cop who comes to respond to a bank robbery that the jury could not find intent. That is just not so. In felony murder cases the threshold is crossed almost by proving the felony.

Without question all of those cases that he cited in fact would be death penalty cases under the Hughes amendment and the jury could find so.

I urge you to reject the Gekas approach which is the mindless way, just to try to get more people killed for the purpose of the election on November 6, than the rational approach for death penalty cases by the Hughes amendment.

Mr. McCOLLUM. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, a couple of things have been said that need to be set straight on the RECORD in my judgment.

One of them is that the Hughes amendment adds 12 new death penalties. It does not add 12 new death penalties to current law. It simply restores them from what was taken out of the bill before us. Mr. GEKAS of course keeps current law in all respects.

Second, a vote for the Hughes amendment does change current law on the death penalty. It takes away the "reckless disregard" option and leaves us strictly with an intent to kill. That means in many cases where people have been convicted of transporting explosives, devices or kidnapping or terrorism or whatever, that we will not be able to get convictions because the proof will not be there that they intended to kill a particular individual.

The present law is what we need to keep and simply change the procedures so that there is constitutional validity.

To vote for Hughes is to vote to change the present law in the wrong way, to weaken the death penalty. If you want to keep a strong death penalty, we have got to vote down the Hughes amendment and vote for the Gekas amendment.

So I urge my colleagues to vote no on the Hughes amendment and keep the present conditions in the present parameters of the death penalty laws in this country and keep them sound and solid. Vote no on Hughes.

Mr. HUGHES. Mr. Chairman, I yield 45 seconds to the distinguished gentleman from Ohio [Mr. TRAFICANT], a former sheriff.

Mr. TRAFICANT. Mr. Chairman, Thomas Jefferson said beware of the appointment of Federal judges because they take the Constitution and mold it like clay in their hands.

He said God bless juries.

I support the Hughes amendment because he does not make Congress an executioner. He lets the greatest and most sacred right of our Constitution, trial by peer and juries to make the most important decision of their life, God-given right.

I am going to say one other thing to you: I think it is a sad day here today. We must protect America but we cannot shred the Constitution doing it. If we are going to weaken the most important right in America, take away the right of a jury to make that decision or to weaken it and to strengthen the position of a judge appointed for life, then we will have failed today.

The Hughes amendment is an amendment that preserves the most sacred right we have. When you go into that jury room and that ballot box, that is what separates us from the Soviet Union and all of the rest of these other countries trying to jump on board. I appreciate the efforts of Mr. GEKAS. He is a great American. But I think his amendment goes too far. I am asking everyone to Support the Hughes amendment.

Mr. HUGHES. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, history is repeating itself. In 1972 the Supreme Court threw out all death penalty cases throughout the country. They have never said that an intent to kill is not required or at least conduct which suggests and intent to kill. My colleague has misread Tison versus Arizona. What he is doing is reversing once again the death penalty in this country. If you want to make reckless driving where death ensures a capital offense, you vote for Gekas. If you think that is going to pass constitutional muster, you vote for it. If you think that is good policy to make death-by-auto a capital offense, you vote for Gekas.

But if you want a serious, tough, fair, balanced death penalty statute, that will pass constitutional muster, you will vote for Hughes and against Gekas.

Vote for the Hughes amendment.

The CHAIRMAN. All time has expired.

The question is on the amendments en bloc offered by the gentleman from New Jersey [Mr. HUGHES].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 108, noes 319, answered "present" 1, not voting 5, as follows:

[Roll No. 412]

AYES—108

Anderson
Andrews
Aspin
Atkins
Bates
Beilenson
Boggs
Borski
Bosco
Boucher
Boxer
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Campbell (CO)
Carper
Carr
Chapman
Clarke
Clay
Clement
Coleman (TX)
Conte
Conyers
Cooper
Costello
de la Garza
Derrick
Dickinson
Dwyer
Dymally
Early
Fazio
Fish
Frost
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Grandy
Gray
Green
Hall (OH)
Hamilton
Hoagland
Hughes
Jacobs
Johnson (CT)
Johnston
Jones (NC)
Jontz
Kennelly
Kleczka
Lancaster
Leach (IA)
Leath (TX)
Lehman (FL)
Lipinski
Long
Manton
Martinez
Matsui
Mazzoli
McNulty
Mineta
Moakley
Moody
Morella
Mrazek
Neal (MA)
Nowak
Obey
Olin
Ortiz
Owens (UT)
Pallone
Panetta
Patterson
Perkins
Pickle
Poshard
Price
Rahall
Rangel
Ray
Roe
Rose
Sangmeister
Schneider
Schumer
Slattery
Slaughter (NY)
Smith (FL)
Spratt
Stallings
Studds
Swift
Synar
Tanner
Tauke
Torres
Traficant
Unsoeld
Walgren

NOES—319

Ackerman
Alexander
Annunzio
Anthony
Applegate
Archer
Armey
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bonior
Brennan
Broomfield
Browder
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Campbell (CA)
Cardin
Chandler
Clinger
Coble
Coleman (MO)
Collins
Combest
Condit
Coughlin
Courter
Cox
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
DeFazio
DeLay
Dellums
DeWine
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dyson
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Feighan
Fields
Flake
Flippo
Foglietta
Ford (MI)
Frank
Frenzel
Gallegly
Gallo
Gaydos
Gekas
Geren
Gillmor
Gilman
Gingrich
Goss
Gradison
Grant
Guarini
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)

Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (SD)
Jones (GA)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kildee
Kolbe
Kostmayer
Kyl
Lagomarsino
Lantos
Laughlin
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Markey
Marlenee
Martin (IL)
Martin (NY)
Mavroules
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mink
Molinari
Mollohan
Montgomery
Moorhead
Morrison (CT)
Morrison (WA)
Murphy
Murtha
Myers
Nagle
Natcher
Neal (NC)
Nelson
Nielson
Oakar
Oberstar
Owens (NY)
Oxley
Packard
Parker
Parris
Pashayan
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Petri
Pickett
Porter
Quillen
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schuette
Schulze
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Staggers
Stangeland
Stark
Stearns
Stenholm
Stokes
Stump
Sundquist
Tallon
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torricelli
Towns
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—5

Davis
Ford (TN)
Kolter
LaFalce
Pursell

☐ 1250

Messrs. VALENTINE, JOHNSON of South Dakota, STEARNS, RICHARDSON, ERDREICH, CROCKETT, STARK, WHEAT, McHUGH, and GUNDERSON, Mrs. COLLINS, Messrs. MARKEY, HEFNER, BERMAN, PAYNE of Virginia, WAXMAN, and SAXTON, Mrs. SCHROEDER, Mrs. ROUKEMA, and Messrs. ACKERMAN, ESPY, KOSTMAYER, KASTENMEIER, TRAXLER, HORTON, VISCLOSKY, SABO, LEVINE of California, EDWARDS of California, HOYER, MAVROULES, WASHINGTON, SAVAGE, OBERSTAR, HAYES of Illinois, DIXON, STOKES, and ALEXANDER changed their vote from "aye" to "no."

Messrs. BROWN of California, DE LA GARZA, and COLEMAN of Texas changed their vote from "no" to "aye."

So the amendments en bloc were rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 7 to be offered by the gentleman from Pennsylvania [Mr. GEKAS].

AMENDMENT OFFERED BY MR. GEKAS

Mr. GEKAS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GEKAS: Strike title II and insert the following:

TITLE II—DEATH PENALTY

SEC. 201. DEATH PENALTY.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 227 the following new chapter:

"CHAPTER 228—DEATH PENALTY PROCEDURES

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Appointment of counsel.
"3599. Collateral attack on judgment imposing sentence of death.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381 of this title;

"(2) an offense described in section 1751(c) of this title if the offense, as determined beyond a reasonable doubt at a hearing under section 3593, constitutes an attempt to murder the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(3) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at a hearing under section 3593 either—

"(A) intentionally killed the victim;

"(B) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(C) acting with reckless disregard for human life, engaged or substantially participated in conduct which the defendant knew would create a grave risk of death to another person or persons and death resulted from such conduct;

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held under section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's character or record or any other circumstances of the offense that the defendant may proffer as a mitigating factor exists.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) PREVIOUS ESPIONAGE OR TREASON CONVICTION.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute.

"(2) RISK OF SUBSTANTIAL DANGER TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk to the national security.

"(3) RISK OF DEATH TO ANOTHER.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (2) or (6), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) DEATH OCCURRED DURING COMMISSION OF ANOTHER CRIME.—The death occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 1118 (prisoners serving life term), section 1201 (kidnapping), or section 2381 (treason) of this title, section 1826 of title 28 (persons in custody as recalcitrant witnesses or hospitalized following a finding of not guilty only by reason of insanity), or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n) (aircraft piracy)).

"(2) Involvement of firearm or previous conviction of violent felony involving firearm.—The defendant—

"(A) during and in relation to the commission of the offense or in escaping apprehension used or possessed a firearm as defined in section 921 of this title; or

"(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than one year, involving the use or attempted or threatened use of a firearm, as defined in section 921 of this title, against another person.

"(3) Previous conviction of offense for which a sentence of death or life imprisonment was authorized.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(4) Previous conviction of other serious offenses.—The defendant has previously been convicted of 2 or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) Grave risk of death to additional persons.—The defendant, in the commission of the offense or in escaping apprehension, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) Heinous, cruel, or depraved manner of commission.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) Procurement of offense by payment.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) Commission of the offense for pecuniary gain.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) Substantial planning and premeditation.—The defendant committed the offense after substantial planning and premeditation.

"(10) Vulnerability of victim.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(11) Type of victim.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if that official is in the United States on official business; or

"(D) a public servant who is a Federal judge, a Federal law enforcement officer, an employee (including a volunteer or contract employee) of a Federal prison, or an official of the Federal Bureau of Prisons—

"(i) while such public servant is engaged in the performance of the public servant's official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of such public servant's status as a public servant.

For purposes of this paragraph, the terms 'President-elect' and 'Vice President-elect' mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with title 3, United States Code, sections 1 and 2; a 'Federal law enforcement officer' is a public servant authorized by law or by a government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense; 'Federal prison' means a Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and 'Federal judge' means any judicial officer of the United States, and includes a justice of the Supreme Court and a magistrate.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) Notice by the Government.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the Government, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, shall sign and file with the court, and serve on the defendant, a notice—

"(1) that the Government in the event of conviction will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors enumerated in section 3592 and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty.

The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(b) Hearing Before a Court or Jury.—When the attorney for the Government has filed a notice as required under subsection (a) of this section and the defendant is found guilty of an offense described in section 3591 of this title, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Before such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the Government.

A jury impaneled pursuant to paragraph (2) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) Proof of Mitigating and Aggravating Factors.—At the hearing, information may be presented as to—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which notice has been provided under subsection (a)(2) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided.

Information presented may include the trial transcript and exhibits. Any other information relevant to such mitigating or aggravating factors may be presented by either the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the Government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) Return of Special Findings.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 of this title found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 of this title is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) Return of a Finding Concerning a Sentence of Death.—If, in the case of—

"(1) an offense described in section 3591(1) of this title, an aggravating factor required to be considered under section 3592(b) of this title is found to exist; or

"(2) an offense described in section 3591 (2) or (6) of this title, an aggravating factor required to be considered under section 3592(c) of this title is found to exist;

the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist outweigh any mitigating factor or factors. The jury, or if there is no jury, the court, shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(f) Special Precaution To Assure Against Discrimination.—In a hearing held before a jury, the court, before the return of a finding under subsection (e) of this section, shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e) of this section, shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching the juror's individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon the recommendation under section 3593(e) of this title that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without the possibility of release or furlough.

"§ 3595. Review of a sentence of death

"(a) Appeal.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) Review.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d) of this title.

"(c) Decision and Disposition.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the evidence and information support the special findings of the existence of an aggravating factor or factors;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593 of this title or for imposition of another authorized sentence as appropriate.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) In General.—A person who has been sentenced to death pursuant to this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by such law.

"(b) Impaired Mental Capacity, Age, or Pregnancy.—A sentence of death shall not be carried out upon a person who is under 18 years of age at the time the crime was committed. A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) Employees May Decline To Participate.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section, if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"§ 3597. Use of State facilities

"A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such as an official employed for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"§ 3598. Appointment of counsel

"(a) Federal Capital Cases.—

"(1) Representation of indigent defendants.—Notwithstanding any other provision of law, this subsection shall govern the appointment of counsel for any defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, for an offense against the United States, where the defendant is or becomes financially unable to obtain adequate representation. Such a defendant shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in section 3599(b) of this title has occurred.

"(2) Representation before finality of judgment.—A defendant within the scope of this subsection shall have counsel appointed for trial representation as provided in section 3005 of this title. At least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel.

"(3) Representation after finality of judgment.—When a judgment imposing a sentence of death has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the district court that imposed the sentence. Within 10 days of receipt of such notice, the district court shall proceed to make a determination whether the defendant is eligible under this subsection for appointment of counsel for subsequent proceedings. On the basis of the determination, the court shall issue an order (A) appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel; (B) finding, after a hearing if necessary, that the defendant rejected appointment of counsel and made the decision with an understanding of its legal consequences; or (C) denying the appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation. Counsel appointed pursuant to this paragraph shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(4) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under this subsection, at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(5) APPLICABILITY OF CRIMINAL JUSTICE ACT.—Except as otherwise provided in this subsection, the provisions of section 3006A of this title shall apply to appointments under this subsection.

"(6) CLAIMS OF INEFFECTIVENESS OF COUNSEL.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, in a capital case shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(b) STATE CAPITAL CASES.—The laws of the United States shall not be construed to impose any requirement with respect to the appointment of counsel in any proceeding in a State court or other State proceeding in a capital case, other than any requirement imposed by the Constitution of the United States. In a proceeding under section 2254 of title 28, United States Code, relating to a State capital case, or any subsequent proceeding on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Such appointment of counsel shall be governed by the provisions of section 3006A of this title.

"§ 3599. Collateral attack on judgment imposing sentence of death

"(a) TIME FOR MAKING SECTION 2255 MOTION.—In a case in which a sentence of death has been imposed, and the judgment has become final as described in section 3598(a)(3) of this title, a motion in the case under section 2255 of title 28, United States Code, must be filed within 90 days of the issuance of the order relating to appointment of counsel under section 3598(a)(3) of this title. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. A motion described in this section shall have priority over all noncapital matters in the district court, and in the court of appeals on review of the district court's decision.

"(b) STAY OF EXECUTION.—The execution of a sentence of death shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (a), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the motion under that section is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of his decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(c) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (b) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is (A) the result of governmental action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"§ 3600. Application in Indian country

"No person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country as defined in section 1151 of this title and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has made an election that this chapter have effect over land and persons subject to its criminal jurisdiction.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part II of title 28, United States Code, is amended by inserting after the item relating to chapter 227 the following new item:

"228. Death penalty procedures .... 3591".

SEC. 202. CONFORMING AMENDMENT RELATING TO DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.

Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and all that follows and inserting a period.

SEC. 203. CONFORMING AMENDMENT RELATING TO ESPIONAGE.

Section 794(a) of title 18, United States Code, is amended by inserting before the period at the end the following: ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds beyond a reasonable doubt at a hearing under section 3593 of this title that the offense directly concerned nuclear weaponry, military spacecraft and satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; sources or methods of intelligence or counterintelligence operations; or any other major weapons system or major element of defense strategy".

SEC. 204. CONFORMING AMENDMENT RELATING TO TRANSPORTING EXPLOSIVES.

Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

SEC. 205. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF FEDERAL PROPERTY BY EXPLOSIVES.

Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

SEC. 206. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF INTERSTATE PROPERTY BY EXPLOSIVES.

Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

SEC. 207. CONFORMING AMENDMENT RELATING TO MURDER.

The second paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

SEC. 208. CONFORMING AMENDMENT RELATING TO KILLING OFFICIAL GUESTS OR INTERNATIONALLY PROTECTED PERSONS.

Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

SEC. 209. MURDER BY FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal prison under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of release or furlough.

"(b) For the purposes of this section—

"(1) 'Federal prison' means any Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government;

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least 15 years and a maximum of life, or an unexecuted sentence of death.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1118. Murder by a Federal prisoner.".

SEC. 210. DEATH PENALTY RELATING TO KIDNAPING.

Section 1201(a) of title 18, United States Code, is amended by inserting "and, if the death of any person results, shall be punished by death or life imprisonment" after "or for life".

SEC. 211. DEATH PENALTY RELATING TO HOSTAGE TAKING.

Section 1203(a) of title 18, United States Code, is amended by inserting "and, if the death of any person results, shall be punished by death or life imprisonment" after "or for life".

SEC. 212. CONFORMING AMENDMENT RELATING TO MAILABILITY OF INJURIOUS ARTICLES.

The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and all that follows and inserting a period.

SEC. 213. CONFORMING AMENDMENT RELATING TO PRESIDENTIAL ASSASSINATION.

Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to murder or kidnap any individual designated in subsection (a) of this section shall be punished—

"(1) by imprisonment for any term of years or for life, or

"(2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to murder the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

SEC. 214. CONFORMING AMENDMENT RELATING TO MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined under this title, or both".

SEC. 215. CONFORMING AMENDMENT RELATING TO VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.

Paragraph (1) of section 1959(a) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine in accordance with this title, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine in accordance with this title, or both;".

SEC. 216. CONFORMING AMENDMENT RELATING TO WRECKING TRAINS.

The second to the last paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and all that follows and inserting a period.

SEC. 217. CONFORMING AMENDMENT RELATING TO BANK ROBBERY.

Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

SEC. 218. CONFORMING AMENDMENT RELATING TO TERRORIST ACTS.

Paragraph (1) of subsection 2331(a) of title 18 of the United States Code is amended to read as follows:

"(1)(A) if the killing is a first degree murder as defined in section 1111(a) of this title, be punished by death or imprisonment for any term of years or for life, or be fined under this title, or both; and

"(B) if the killing is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title or imprisoned for any term of years or for life, or both so fined and so imprisoned;".

SEC. 219. CONFORMING AMENDMENT RELATING TO AIRCRAFT HIJACKING.

Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. APP. 1473), is amended by striking subsection (c).

SEC. 220. APPLICATION TO UNIFORM CODE OF MILITARY JUSTICE.

Chapter 228 of title 18 of the United States Code, as added by this Act, does not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801 et seq.).

SEC. 221. CONFORMING AMENDMENT TO CONTROLLED SUBSTANCES ACT.

Section 408 of the Controlled Substances Act is amended—

(1) by striking subsections (g) through (r); and

(2) in subsection (e), by adding at the end the following:

"(3) The procedures relating to the death penalty in chapter 228 of title 18, United States Code, shall apply to an offense under this subsection.".

SEC. 222. CONFORMING AMENDMENT RELATING TO GENOCIDE.

Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 and imprisonment for life" and inserting in lieu thereof "by death or imprisonment for life, or a fine of not more than $1,000,000, or both".

The CHAIRMAN. Under the rule, the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are now poised at a position where we can strike a blow in full support of the law enforcement community of our Nation.

It is no secret to anyone in the entire Nation anymore, that the state of crime in our Nation requires the strongest law enforcement tools that we can make available to our brave officers on the street and who constantly patrol our neighborhoods. It is no secret that the American people by a tremendous, substantial majority, favor the imposition of the death penalty in proper cases of the most heinous, most severe, most brutal, the likes of which we read about every single day in our newspapers, and hear about on television.

The proposition that we lay before Members here in the form of the Gekas amendment, restores the death penalty to the Federal criminal justice system in ways in which it has been contemplated from the very beginning, with the new safeguards that the Supreme Court has mandated to allow a jury, when it deliberates, to have a balanced participating view, as to whether or not, to impose the death penalty.

They must, as you know, determine that there are aggravating circumstances outweighing mitigating circumstances. That is what we do in this bill.

This amendment parallels what we were able to accomplish in 1988, with respect to the Drug-Kingpin Act. You recall that. We had the same battle at that time, and a substantial majority of this House voted in favor of allowing a jury to impose the death penalty through the new bifurcated system of aggravating and mitigating circumstances and resoundingly said to the American people, "We are ready to create a statute that will allow a jury," and that is all we do is allow a jury, "to impose the death penalty in a proper case."

That is what this amendment does. The other thing it does, and I want to make sure the Members are clear in their thinking, in 1988, Members may recall that the Gekas amendment then carried with it the salutary provisions of not permitting the death penalty to appy to the mentally retarded, not permitting the death penalty to be applied indiscriminately.

The safeguards that the gentleman from Michigan [Mr. CONYERS] wanted to put in about appointment of counsel, all of those are built into this present Gekas amendment.

Furthermore, there is a special provision to protect the native American who has been accorded over the years, a special category in all of our doings, by virtue of their place in our society.

Mr. RICHARDSON. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I am happy to yield to the gentleman from New Mexico.

Mr. RICHARDSON. Mr. Chairman, I do want to clarify that with my colleague.

It is my understanding that the gentleman has included language in his amendment that provides for self-determination for Indian tribes?

As the gentleman knows, the Federal Government has a special relationship with Indian tribes and actively seeks their input on policies that affect them greatly. I just wanted to ensure that the gentleman has incorporated language of an amendment that I was intending to offer that protects the self-determination of Indian tribes.

Mr. GEKAS. The gentleman is correct. His views are protected in this amendment.

Mr. RICHARDSON. Mr. Chairman, I thank the gentleman.

Mr. GEKAS. Mr. Chairman and Members, I will not belabor the issue, but I must repeat for the record the other specific important thing that the Gekas amendment does that brings us to a point where we can proudly help our law enforcement community, the drive-by killer, to which I alluded in previous argument, the kidnaper where the victim dies even though the kidnaper can say he did not intend to kill, the bank robber who shoots indiscriminately not to be captured who can no longer say, "I did not intend to kill" and be safeguarded. Those acts, even though they do not have a specific "I intended to kill" "X" in it would be allowed at the hands of a jury to contemplate whether or not they should be accorded the death penalty.

That is an important difference, and one that the American people substantially support.

Can the Members imagine if we did not adopt the Gekas amendment, we would be saying that the drive-by-killer in California who killed a 3-year-old, the drive-by-killer in New York City where daily occurrences now reach the newspapers, that that kind of killer can plead, "I did not intend to kill." We cannot permit that.

The reckless disregard of human life in the action of an individual should be just as punishable by the death penalty at the hands of a jury as one where the victim was intended, and malice aforethought, and deliberation, and all the constant American theories that we have in murder, whether or not they apply.

So I ask the Members to consider that. And, remember, the Supreme Court, and I have to repeat this for the record, has acknowledged and supported in the Tyson case, the theory which has always been a part of American jurisprudence, that reckless disregard for human life can be just as deadly, can be just as, of course, lethal as an intentional killing, and a jury should be permitted, under the circumstances, to decide in those circumstances, should the jury have the right to impose the death penalty.

Do the Members know what happened in Tyson? In Tyson, there were two people who escaped from prison. They were then met by the sons of one of the escapees who then aided and abetted their escape and then were a part of a scene where the escapees actually killed other people in cold blood, were there, witnessed it, did not rush to the aid of the victims, but still continued to help the escapees and then later, after the whole episode was over, they were charged with murder. They did not pull the trigger. The did not do it. They did not intend to kill anybody. They did not wonder about what the consequences were of the killings by the escapees of those innocent people.

When they were charged with murder, they said, "I did not intend to kill." The final result was that they were convicted of murder because of the reckless disregard for human life in the conduct in which they had permitted themselves to move, and the Supreme Court has said, in striking language, that that kind of reckless disregard is the kind of circumstance where a jury ought to be permitted to impose the death penalty.

The other thing that I want to end with, and keep harping upon, is this: That the Congress is not imposing the death penalty. The Congress is reposing the full faith and credit of its office to the jury in a particular case, assigning to our fellow Americans who sit on a jury panel, the grave duty of determining whether or not a death penalty ought to be applied. That is what we are doing. We are giving them rules to abide by, a balanced approach, a bifurcated hearing.

They can hear mitigating circumstances of why the individual should not be put to death. But in the final analysis, what we are doing is helping the law enforcement community by giving them the right, our fellow Americans sitting on that panel, to say that this is so brutal, this is so reckless, this is so inhuman, that there is no other result possible except to impose the death penalty.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I am happy to yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, I thank the gentleman for yielding.

My question is on the counsel provisions of the Anti-Drug Abuse Act of 1988 which the gentleman referred to. And my understanding was, and I am not sure about this version, but that he had repealed the counsel provisions of the 1988 law.

Mr. GEKAS. Without doing offense to the gentleman, I cannot yield for that purpose. I will answer the gentleman's question if he takes his own time. I need the time. I am sorry. Maybe the gentleman from New Jersey can grant the gentleman the time. I will answer the question.

I reserve the balance of my time.

Mr. KASTENMEIER. Mr. Chairman, the gentleman will not answer the question under that circumstance?

Mr. BROOKS. Mr. Chairman, I rise in opposition to the Gekas amendment.

The CHAIRMAN. The gentleman from Texas [Mr. Brooks] is recognized for 10 minutes.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

This amendment contains additional death penalties for crimes, changes the standards for imposition of the death penalty from intentional killing to reckless disregard, changes the procedures for imposition of death penalty and contains additional habeas corpus provisions.

Title II of the crime bill already has procedures for the imposition of the death penalty for a specified list of crimes, including assassination of the President or the intentional killing of a Federal judge or a law enforcement officer. In addition, the bill provides for the imposition of the death penalty for eight other crimes where the Federal Government has a particular interest. For example, the death penalty may be imposed for anyone convicted of espionage or treason, or for conviction of intentional killing while traveling in interstate or foreign commerce. This list of death penalty crimes was carefully constructed and its expansion serves no useful purpose. Other crimes where the death penalty may be appropriate should be left up to the States to consider.

H.R. 5269 also contains the procedures for the imposition of death penalty in a constitutionally permissible manner. Anything more may subject the procedures to constitutional challenges and years of litigation.

Finally, the bill reforms the process by which habeas corpus petitions are brought before Federal courts. These procedures set a time limit on petitions, restrict second or successive petitions and specifies the law to be applied. The proposed amendment would not give a fair habeas corpus hearing to a petitioner.

Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey [Mr. Hughes].

Mr. GEKAS. Mr. Chairman, is it proper for even the chairman of the Committee on the Judiciary to depict the offering of my amendment as a disgrace, to allow another Member to call it mindless? I am sincere about these proposals.

Mr. HUGHES. Mr. Chairman, regular order. I do not yield to the gentleman.

Mr. GEKAS. And I do not consider them whimsical or folly.

Mr. HUGHES. Regular order, Mr. Chairman.

Mr. WASHINGTON. Mr. Chairman, the gentleman should make a point of order or a parliamentary inquiry.

The CHAIRMAN. The Chair will not be prepared to rule on the property of words used in debate unless the gentleman or anyone else wants to make a point of order. Then the Speaker would rule.

Would the gentleman from New Jersey [Mr. Hughes] please proceed?

Mr. HUGHES. Mr. Chairman, I hope we never, but never, bring up another crime bill a month out from an election, because we are today about tearing up a document that has served us well for many, many years.

My colleague, the gentleman from Pennsylvania, knows better than to quote Tison as the authority for creating a capital offense out of death by auto or other similar circumstances where there has been a felony committed. We have never gone that far.

Tison was a unique set of circumstances where the court read into that particular set of circumstances where four people were brutally executed by two jailbreakers, an intent to kill, culpability, because they were present, they made it possible, they provided the guns, they broke them out of prison.

How in the world you can suggest that is going to lead us down the path my Republican colleagues want to take us is beyond me.

□ 1310

It is a sad commentary on our system when people walk in the doors, as they did today, and they ask, "Which is tougher?" That is what they asked Members as they came in, when they voted on the Hughes amendment, "Which is tougher?"

My colleague on the other side of the aisle was passing out material that was garbage suggesting some way we were going to do away with capital punishment for terrorist acts, kidnappings where death is involved. They know better than that. In the legislation before Members and in the Hughes amendment, we covered each and every one of the areas where they said we were, in fact, changing existing laws or denying the imposition of capital punishment.

It is a sad day around here when Members walk in and all they want to know is whether or not it is tougher. Not whether it is fair, not whether it is constitutional, not whether it is balanced.

I tell Members, what we will end up with if we pass the Gekas amendment, we will end up with another 1972 Furman decision where capital punishment is again declared unconstitutional, and they would have put Members in that position. I say reject the Gekas amendment because we are going to regret the day we vote for Gekas. I know Members are going to do it, because we are a month away from election and Members will go back to their districts and will all say, "I was tough, I was tough on crime." Shame on those Members. If those Members vote for Gekas and make death by auto willfull indifference the standard in this country, shame on Members if they do that.

Mr. BROOKS. Mr. Chairman, I yield 1 additional minute to the gentleman from New Jersey [Mr. Hughes].

Mr. HUGHES. I will say one additional thing to my colleagues. I will take a back seat to no Members. I do not know how many of the Members ever tried a capital punishment case. Did the gentleman from Pennsylvania [Mr. Gekas]? I did, too. I tried a lot of murder cases over the years. Frankly, I want to tell the gentleman, your standards will not see the light of day. The amendment does several things that the court is going to scrutinize very carefully and throw out.

No. 1, the amendment makes the substantive elements of an offense aggravating factors. That is not going to pass constitutional muster. In the amendment standards, there is some vague standards, and they have three mitigating factors, which means that a court only is going to consider three mitigating factors from a defendant in attempting to weigh whether the aggravating factors in a particular case outweigh the mitigating factors. It will not pass constitutional muster.

We have talked about the substantive offenses here, but take a look. I say to my colleagues, before they come over here and vote, to take a look at the gentleman from Pennsylvania, Mr. Gekas' procedures. They are patently unconstitutional.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. Kastenmeier].

Mr. KASTENMEIER. Mr. Chairman, this amendment purports to deal with counsel in Federal prosecutions where capital punishment would apply under the new death penalty provisions of the crime bill. But the amendment would do much more than that, and none of it appropriate.

First, the amendment would repeal a provision of the Anti-Drug Abuse Act of 1988, enacted only 2 years ago, that provides counsel in Federal habeas corpus to indigent prisoners under sentence of death. This provision of current law—offered by the gentleman from Pennsylvania [Mr. Gekas], relates not to people who have been convicted of Federal crimes and sentenced to death under this crime bill. They are State prisoners, convicted and sentenced in State court, who file Federal habaes corpus petitions in Federal court raising Federal constitutional claims. In these cases, the Congress decided 2 years ago that counsel should be provided to ensure efficient, expeditious, and fair Federal court proceedings.

The habeas corpus reforms included in title XIII and in the Derrick, amendment assume that counsel will be appointed to represent indigent death row prisoners. That is why it is realistic and fair to establish a strict statute of limitations for filing petitions in Federal court and why it is appropriate to cut off successive petitions from the same prisoner.

It would make no sense at all to establish these new requirements for death row petitioners and then to repeal the existing statute providing those prisoners with the lawyers needed to comply with the new requirements. Yet this is what the Gekas amendment would do. If adopted, the Gekas amendment would obliterate the one habeas corpus reform he managed to make before this year. That would be bad policy and bad law.

Second, the amendment would repeal the provisions in title XIII requiring the States to provide counsel to indigent defendants in State death penalty cases. Because the Anti-Drug Abuse Act already guarantees counsel for Federal court proceedings involving State prisoners, the habeas corpus provisions in the crime bill before us today concentrate on the need for counsel in State court—before cases get to Federal habeas corpus. Opinion is virtually unanimous that this is where counsel is needed the most. If adopted, the Gekas amendment would be completely inconsistent with the habeas corpus reform in this bill. On this grounds alone, the Gekas amendment should be rejected.

Third, the amendment would establish a series of restrictions on the ability of Federal prisoners convicted and sentenced in Federal court to raise Federal claims in Federal postconviction proceedings. These are cases in which Federal prisoners file motions to vacate sentence under section 2255 of title XXVII—a substitute for habeas corpus, but for Federal prisoners. The Congress enacted section 2255 in 1948 as a streamlined method for adjudicating Federal claims that are not resolved at trial or on appeal after Federal convictions. Previously, Federal prisoners had been forced to file habeas corpus petitions to raise these claims.

The Gekas amendment would upset this longstanding and effective system. It would establish an unrealistically short, 90-day, statute of limitations for section 2255 motions. There is no evidence that section 2255 motions are delayed in the current system. This new procedural cutoff is simply not needed.

The amendment also incorporates wholesale all the restrictions contained in the original Powell Committee report, but applies those restrictions in an entirely different context. The Powell Committee focused exclusively on habeas corpus proceedings involving State prisoners and did not recommend that its plan should be adopted for section 2255 cases involving prisoners convicted in Federal court. The same concerns for the interests of the States are simply not present in this different context.

Finally, the amendment would make all the mistakes that the Powell Committee made—in these different cases. For example, the amendment would not allow a successive section 2255 motion from a Federal prisoner even if the prisoner proves that he was sentenced to death because the Federal prosecutor knowingly used perjury at his sentencing proceeding and the prisoner did not discover the prosecutor's flagrant constitutional violation until later.

This is not a well-thought out amendment. If adopted, it would repeal the good reform measure we adopted 2 years ago when we provided for the appointment of counsel for State prisoners on death row who petition the Federal courts for habeas corpus relief.

It would also frustrate our attempt in this very bill finally to do something about the need for counsel in State death penalty cases. And it would needlessly hamstring our modern system of section 2255 motions for Federal prisoners. I urge you to reject this amendment for all of these reasons.

MEMO ON THE McCOLLUM AND GEKAS AMENDMENTS

These two amendments deal with habeas corpus and, should they come up, will need to be addressed.

I. COUNSEL IN STATE COURT

Both amendments would specify that "the laws of the United States shall not be construed" to require the appointment of counsel in any state court proceeding. The section number is the same in both amendments—sec. 3598(b). This language was originally drafted (I think) to eliminate any argument that ambiguous language in the 1988 Drug Act already requires the states to appoint counsel in capital cases. Anyway, the adoption of either of these amendments would be inconsistent with Title 13's provision on counsel. It would not (formally) be inconsistent with the Hyde amendment (which doesn't actually *require* the states to provide counsel even in state collateral proceedings).

II. FEDERAL MOTIONS TO VACATE SENTENCE

These amendments deal primarily with motions to vacate sentence under 28 U.S.C. sec. 2255 (the equivalent of habeas corpus) by *federal* prisoners convicted of federal crimes and sentenced to death under the provisions of this new crime bill.

1. Under current law, 2255 motions can be filed within any reasonable time. These amendments would fix a 90-day statute of limitations, running from the date when counsel is appointed for the 2255 proceeding.

2. On the other hand, both also require the appointment of counsel in (capital) 2255 cases. And both specify what I *think* are standards borrowed from the Drug Act—five years of law practice and three years in felony cases.

3. Then both simply incorporate the Powell Committee plan on stays of execution and successive motions—warmed over for application to these federal prisoners. For example, the successive petition rule specifies that a claim must go to guilt, not the validity of a capital sentence.

4. Neither amendment deals with procedural default (at trial or on appeal in federal court) or Teague. Accordingly, these amendments contemplate that current Supreme Court cases would control those matters—having the same effect on 2255 motions by federal prisoners that they have on habeas corpus petitions from state prisoners.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from California.

Mr. EDWARDS of California. Is it not also true, and I ask the gentleman from Pennsylvania [Mr. GEKAS] that 2 years ago he approved of those very same provisions that he is now repealing in his amendment? As a matter of fact, this is what the gentleman from Pennsylvania [Mr. GEKAS] said:

> I approve of these appointment of counsel provisions because,

And here are his exact words—

> they afford the defendant all the rights I feel are already his and expand them to the extent that the qualifications of counsel all be without question.

Those are the gentleman from Pennsylvania, Mr. GEKAS' words, 2 years ago. I might add that the President of the United States approved of them then.

Mr. KASTENMEIER. Mr. Chairman, we should not turn back the clock. Let Members reject the Gekas amendment.

Mr. BROOKS. Mr Chairman, I yield 2 minutes to the gentleman from Texas [Mr. WASHINGTON].

Mr. WASHINGTON. Mr. Chairman, I think that the chairman, the gentleman from New Jersey [Mr. HUGHES] has said all that needs to be said about the amendment, but I would invite the gentleman from Pennsylvania [Mr. GEKAS] to help me, and I invite him to take the microphone and engage in a colloquy if he would.

Mr. GEKAS. By all means.

Mr. WASHINGTON. Has the gentleman from Pennsylvania ever tried a death penalty case?

Mr. GEKAS. I have.

Mr. WASHINGTON. How many?

Mr. GEKAS. I think more than one, and less than half a dozen.

Mr. WASHINGTON. Was the gentleman prosecuting or defending?

Mr. GEKAS. Both.

Mr. WASHINGTON. How many of each?

Mr. GEKAS. I think one defense, and the rest prosecutions.

Mr. WASHINGTON. It is, of course, of no moment, but I just wanted to know whether the gentleman had a background in the trial of those cases. The gentleman alluded several times, and put great emphasis on the fact that a jury would make the determination, did the gentleman not?

Mr. GEKAS. Yes.

Mr. WASHINGTON. Does the gentleman believe fundamentally that jurors are intelligent in our society? They elect the Members, do they not?

Mr. GEKAS. Absolutely.

Mr. WASHINGTON. Would the gentleman agree with me then, if in respect to any legislation we should never take the right of a jury to make determinations?

Mr. GEKAS. No, no, I cannot agree to that.

Mr. WASHINGTON. The gentleman does not agree that jurors are smart enough?

Reclaiming my time.

Mr. GEKAS. Am I going to be able to answer?

Mr. WASHINGTON. Reclaiming my time. In other words, the gentleman is saying they are smart enough to decide who gets death but not smart enough to make other decisions in the judicial system?

Mr. GEKAS. That is the gentleman's interpretation, but I will say, as every lawyer knows, there are many things that occur evidentiary in a court case that the judge decides cannot be presented to the jury because of hearsay, because of evidentiary words.

Mr. WASHINGTON. I am not talking about that.

Mr. GEKAS. Therefore——

Mr. WASHINGTON. Reclaiming my time. I am talking about admissible, not inadmissible, sir. I know what is inadmissible is not going to the jury.

My question is, if the gentleman believes that juries have the right to make the ultimate decision as to who lives or dies, they are certainly smart enough to make all the other decisions on admissible evidence under our system of jurisprudence?

Mr. GEKAS. Only within the rules. That is what I am saying. If we decide in creating statutes.

Mr. WASHINGTON. The gentleman does not understand the question.

Mr. GEKAS. Of what the jury shall hear, they have to abide by that law, so long as it is constitutional. The jury can be restricted to a certain degree of where and when they can determine the death penalty.

Mr. WASHINGTON. I thank the gentleman for not answering my question.

Mr. GEKAS. I thank the gentleman for not posing a good question.

Mr. Chairman, I yield 30 seconds to the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I rise to strongly support the Gekas amendment. This is the death penalty vote of this entire bill. I urge my colleagues to vote for the Gekas amendment. It will keep in place all the existing Federal death penalty laws which otherwise would not be on the books because of the current bill. It changes the procedures to allow it to be constitutional.

This is the death penalty vote for the Gekas amendment of this Congress on this bill. A vote for the death penalty is an aye vote, and any Member who votes no clearly can be understood to be voting to remove the possibility of Federal death penalty. Therefore, vote aye on the Gekas amendment for the death penalty.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from Wisconsin [Mr. MOODY].

□ 1320

Mr. MOODY. Mr. Chairman, I rise only because I feel something should be put in the RECORD here. I represent a State that has not had the death penalty since its inception, since its creation. We do not have it because we do not believe that the death penalty is a serious deterrent and the evidence does not indicate it is a deterrent. It is punishment. If you want to make a death penalty truly a deterrent, I would suggest you recommend putting in your amendment that people be executed on television, or at public locations to be televised, so that it could be a deterrent; but simply putting someone to death is not the way to handle it.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. BROOKS. Mr. Chairman, I yield the last 30 seconds to the gentleman from Wisconsin.

Mr. MOODY. It is not a deterrent, Mr. Chairman. It is punishment. So if you want the best penalty, please sell it on this basis. If you want it as punishment, let us call it that. It is not a deterrent.

In our State, we do not have it. We have a lower rate of capital crime than most States that have it, so it is not a deterrent. Let us get that straight. The States that do not have it, consciously do not have it because it does not deter.

Let us at least get the record straight on the deterrent versus the punishment question.

Mr. GEKAS. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, to end the debate, please be apprised of something that is well known already, but for the record, the law enforcement community of our Nation backs the Gekas amendment, from the Justice Department to the Attorneys' General of the United States, to the cop on the beat, and the citizen on the street.

Mr. Chairman, I yield back the balance of my time.

Mr. ROWLAND of Connecticut. Mr. Chairman, today, October 4, 1990, the U.S. House of Representatives has an unique opportunity to answer the pleas of the countless victims of heinous crimes in our Nation. Today, October 4, 1990, we have an opportunity to firmly and correctly declare that the rights of victims of these gruesome crimes, as well as the rights of the bereaved families—who are no less victims—deserve to be upheld and protected. Today, October 4, 1990, we have the opportunity to demand that the ultimate penalty—the death penalty—be given to all who would callously, maliciously, and premeditatedly take an innocent life.

Today the House can restore the balance of justice in our Federal Penal Code with respect to the death penalty. Drug kingpins, cop killers, and drug dealers who cause the death of our children with their poison, or their bullets, these are the animals which the House will remove from our streets and our society by our actions today.

In my own State of Connecticut, the senseless killings and the victims numbering in the hundreds and clear evidence of the need for a stronger death penalty. In 1960, the last death penalty was carried out in Connecticut. That year, there were 41 murders; 30 years later, the annual number of murders has grown, with a total of 3,082 murders since 1960. In 1989 alone a record 190 murders were committed, and the likelihood that 1990 will hold even more murders is coming closer to reality with each and every passing day.

Mr. Chairman, the time has come for Congress to make the law work for the victims of capital crimes; the time has come for Congress to make the law work for the law enforcement community, which daily fights to stem the rising tide of murder and drug-related violence; the time has come, my colleagues, for Congress to pass a stronger and more effective Federal death penalty.

PARLIAMENTARY INQUIRY

Mr. OBEY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. OBEY. Mr. Chairman, would it be possible to bring the guillotines directly to the House floor, rather than bothering with courts in the future?

The CHAIRMAN. The gentleman is not stating a proper parliamentary inquiry.

The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GEKAS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 271, noes 159, answered "present" 1, not voting 2, as follows:

[Roll No. 413]

AYES—271

Alexander
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Borski
Broomfield
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Lukens, Donald
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NOES—159

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Atkins
AuCoin
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Bonior
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Boucher
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Brown (CA)
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Luken, Thomas
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Smith (FL)
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Smith (VT)
Solarz
Staggers
Stark
Stokes
Studds
Swift
Synar
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Towns
Traficant
Udall
Unsoeld
Vento
Visclosky
Washington
Waxman
Weber
Weiss
Wheat
Williams
Wise
Wolpe
Yates

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—2

Kanjorski
Pursell

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Messrs. LIGHTFOOT, ORTIZ, GLICKMAN, and GORDON changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 8 printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TRAFICANT: Add at the end of title II the following:

SEC. . KILLING PERSONS AIDING FEDERAL INVESTIGATIONS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"§ 1118. Killing persons aiding Federal investigations

"Whoever intentionally kills—

"(1) a State or local official, law enforcement officer, or other officer or employee while working with Federal law enforcement officials in furtherance of a Federal criminal investigation—

"(A) while the victim is engaged in the performance of official duties;

"(B) because of the performance of the victim's official duties; or

"(C) because of the victim's status as a public servant; or

"(2) any civilian or witness assisting a Federal criminal investigation, while that assistance is being rendered and because of it;

shall be subject to the death penalty under chapter 228 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1118. Killing persons aiding Federal investigations.".

The CHAIRMAN. Under the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 10 minutes, and a Member opposed, the gentleman from Pennsylvania [Mr. GEKAS], will be recognized for 10 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, my amendment would extend the death penalty provisions to those State and local policemen who are assisting Federal officers or are involved with the furtherance of a Federal criminal investigation, if they should be so murdered.

Mr. Chairman, there are many joint Federal and State, and Federal and local, task forces, joint strike forces, that deal with fighting organized crime, narcotics, and other types of organized crime activities in our Nation. The bill that we have before us could potentially have an FBI agent and a New York City detective on a Federal criminal activity investigation, and both would be murdered. The murderers would be subject to the capital offense for the murder of the FBI agent, but not so in not extending that same protection for the murder of that local law enforcement agent.

Mr. Chairman, my amendment would also cover any civilians or any witnesses that are involved in that Federal criminal investigation; anyone under protective custody, as well.

I would like to bring to my colleagues' attention the fact that this is an important amendment that deals with organized crime investigations. The unspoken word in organized crime is, "If you're a part of assisting the Government, you're going to die," and the Congress should say, "Fine, and, if you're going to kill someone that's assisting our government in that organized crime investigation, you're going to be subject to the death penalty that the Congress has put in order in this bill."

Mr. Chairman, with that I reserve the balance of my time.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to be honest with the Chair at the outset. I was going to state that I was opposed to the bill in its present form only to preserve the time that was available here. I want to make that clear because I support the concept and the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

PARLIAMENTARY INQUIRY

Mr. HUGHES. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HUGHES. Mr. Chairman, my parliamentary inquiry is whether the gentleman from Pennsylvania [Mr. GEKAS], who supports the amendment, is entitled to claim the time.

The CHAIRMAN. The Chair will make a ruling on that.

Under the rule, time is divided, 10 minutes to those in favor of the amendment, and 10 minutes to those opposed to it.

If the gentleman from Pennsylvania [Mr. GEKAS] is not opposed to it, he is not entitled to the time.

Mr. GEKAS. Then, Mr. Chairman, I have to say I am not entitled to the time.

Mr. Chairman, I ask the gentleman from Ohio [Mr. TRAFICANT] to yield 1 minute to me.

Mr. TRAFICANT. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, we support the amendment and say for the record that the gunning down of a law enforcement officer, which we find so reprehensive, cannot be allowed. Distinguishing between a local law enforcement officer and an FBI agent cannot be allowed, and, therefore, the truth of the amendment of the gentleman from Ohio [Mr. TRAFICANT] comes through boldly. We want to have a special category for the gunning down of the fabric of safety in our society, our law enforcement officers.

Mr. Chairman, I support the amendment of the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I appreciate the support of the gentleman from Pennsylvania [Mr. GEKAS].

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from New Jersey [Mr. HUGHES], the distinguished chairman of the Subcommittee on Crime.

Mr. HUGHES. Mr. Chairman, I thank the gentleman from Ohio [Mr. TRAFICANT] for yielding.

I, too, rise in support of this amendment. It is a good amendment, and I want to compliment our colleague from Ohio. He has found an area that needs some attention.

Mr. Chairman, we are talking about organized drug task forces around the country where we draw upon local resources. They are working together in Federal cases, and it would be ludicrous to apply the death penalty if a Federal officer is involved, but not make that available if a local officer is involved in that investigation.

Mr. Chairman, the amendment of the gentleman from Ohio [Mr. TRAFICANT] addresses what basically is a major blind spot, and I congratulate the gentleman for his work on this and on other initiatives to try to strengthen this crime bill.

Mr. TRAFICANT. Mr. Chairman, I thank the gentleman from New Jersey [Mr. HUGHES].

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, I thank my distinguished colleague, the gentleman from Ohio [Mr. TRAFICANT] for yielding, and I simply rise in support of his amendment and commend him for his insight.

Mr. TRAFICANT. Mr. Chairman, I would just like to conclude by stating to the House, and I know the House wants to get on with their business, that I am not going to ask for a vote. I wanted it to be a Federal offense for the murder of any law enforcement officer in our Nation. I wanted it to be a Federal offense for the murder of any public official dispatching their duties; prosecutors, judges, jurors, witnesses. I was not able to do that. I am going to ask the committee in the next year to consider that type of legislative initiative that would make it a specific Federal offense for the murder of anyone in that category, No. 1, and, No. 2, place that investigative practice in the Federal Government's hands.

Mr. Chairman, I think that we have a situation in Columbus that should teach us all something, and I do not think judges should be getting packages in the mail, and law enforcement officers should not be shot down.

With that, Mr. Chairman, I wish to let my colleagues know that I appreciate the support Congress has shown, especially the chairman of the Subcommittee on Crime, the gentleman from New Jersey [Mr. HUGHES]. I consider his help to be immense in what I am trying to do.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Are there any Members present who wish to speak in opposition to the amendment offered by the gentleman from Ohio [Mr. TRAFICANT]? The Chair hears none.

The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

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The CHAIRMAN. It is now in order to consider amendment No. 9 printed in part 2 of House Report No. 101-796.

AMENDMENT OFFERED BY MR. MC COLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. McCOLLUM: Page 34, after line 9, insert the following:

SEC. . MAJOR DRUG DEALERS.

(a) IN GENERAL.—The Controlled Substances Act is amended by inserting after section 417 the following:

"DEATH PENALTY FOR MAJOR DRUG DEALERS

"SEC. 418. (a) A defendant who has been found guilty of—

"(1) an offense referred to in section 408(c)(1), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section which involved not less than twice the quantity of controlled substance described in subsection (b)(2)(A) or twice the gross receipts described in subsection (b)(2)(B); or

"(2) an offense constituting a felony violation of this title or title III, or the Maritime Drug Law Enforcement Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, intending to cause death or acting with reckless disregard for human life, engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation;

shall be subject to the death penalty under chapter 228 of title 18, United States Code.

"(b) AGGRAVATING FACTORS.—For the purposes of chapter 228 of title 18, United States Code, in determining whether a sentence of death is justified for an offense described in subsection (a), the jury, or if there is no jury, the court, shall consider each of the following agravating factors and determine which, if any, exist:

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of 2 or more Federal or State offenses, each punishable by a term of imprisoment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act) for which a sentence of 5 or more years of imprisonment was authorized by statute.

"(4) USE OF A FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm (as defined in section 921 of this title) to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER 21.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405A of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(7) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405B of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act) mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.".

(b) CLERICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1971 is amended by inserting after the item relating to section 417 the following:

"Sec. 418. Death penalty for major drug dealers.".

Page 45, line 20, strike "for homicide" and insert "for the relevant type of offense".

The CHAIRMAN. Under the rule, gentlemam from Florida [Mr. McCOLLUM] will be recognized for 10 minutes and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman form Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is the death penalty amendment regarding drug kingpins which the President has supported for some time and which I introduced late in the last Congress and reintroduced in this Congress. It would allow the courts to give the death penalty to drug kingpins convicted of trafficking in extremely large quantities of narcotics. That would be twice the amount necessary under the present law for life imprisonment to be imposed. That is an enormous quantity, an enormous quantity of cocaine, an enormous quantity of marijuana, an enormous quantity of narcotics of any type, but if you are trafficking in twice the amount necessary for life imprisonment, my amendment would allow the courts to give the death penalty in those situations.

It also would allow the death penalty for felony drug crimes where the death of another person results in the course of the crime or from narcotics use and the person convicted with reckless disregard for human life or intended to cause death. This is a similar provision to one that is in the bill of the other body.

I would submit to my colleagues that it is long overdue for us to enact a death penalty provision for these drug kingpins who traffic in very, very large quantities of narcotics. We are talking now about those kinds of quantities that are not only large in general volume but guaranteed, because of the nature of the cocaine particularly, to cause the death of another, not just one person but probably many people in the quantities being trafficked in, cause death not only because there may be overdoses taken but cause death because when you traffic in this amount it goes all out through society, it goes out into the streets and gang wars take place and people commit crimes of violence in order to get the money to purchase the narcotics that the big trafficker is bringing into this country and trafficking in; and it causes death because there are fellows out there who are shooting at each other and killing each other because they are interested in making a profit and they are both competitors in selling.

There are many different ways, if you traffic in these large quantities of narcotics, that death can be ensuing to American citizens.

I would submit to my colleagues that there is not one death penalty provision in this country that is more needed, that the American public wants more than for us to put this on the books, as a deterrent and as a way to say as a society that it is so heinous and so reprehensible to have drug kingpins trafficking in these large quantities of narcotics and bringing them here into our country for our schoolchildren, it is so reprehensible that there is no choice but to have it on the books of the Federal Government so that the death penalty may be imposed.

Mr. Chairman, I urge an aye vote for the McCollum amendment, to put the death penalty in for drug kingpins.

Mr. Chairman, I reserve the balance of my time.

Mr. WASHINGTON. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. Mr. Chairman, before I yield, may I ask the Chair how much time I have remaining?

The CHAIRMAN. The gentleman from Florida [Mr. McCollum] has 7 minutes remaining.

Mr. McCOLLUM. Mr. Chairman, I yield briefly to the gentleman from Texas.

Mr. WASHINGTON. Mr. Chairman, I have just a brief question. I agree with the gentleman, we are going to have a death penalty. I oppose it on moral grounds. But if we are going to have one, we ought to be able to have it reach the people the gentleman is talking about. My concern is, though, that I always thought that the Supreme Court had only given the imprimatur to the death penalty where a death occurred, and I do not believe the gentleman's amendment requires a death to have occurred.

Does the gentleman have any question about the constitutionality of the amendment?

Mr. McCOLLUM. Reclaiming my time, Mr. Chairman, I do not have any question as to the constitutionality. No death is indeed required under my amendment. If you traffic in large enough quantities, no death has to be proven. But the fact of the matter is that the Supreme Court does make very clear that in cases like treason and espionage and in many other ways, you can have a death penalty that is constitutionality valid if the public feels it is so insulted and it is so necessary and the crime is so heinous. And I cannot imagine any crime that rises to the degree of heinousness that this does, and, therefore, I would think it would be perfectly constitutional and long overdue.

Mr. Chairman, I reserve the balance of my time.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the gentleman's amendment.

The CHAIRMAN. The gentleman from New Jersey [Mr. Hughes] is recognized for 10 minutes in opposition to the amendment.

Mr. HUGHES. Mr. Chairman, this is a tough day for the Constitution. I rise in opposition to the amendment.

There are two components to the amendment. The first would impose the death penalty on drug kingpins. The second would extend the death penalty for any drug felony if someone died, by accident or otherwise, in connection with the offense.

The drug kingpin provision in this amendment should not be confused with the provision of the same name which we enacted as part of the 1988 Drug Act. That provision was limited to major drug offenders who intentionally killed. I supported that provision, and it is in the law today. Today, however, we are asked to extend the death penalty to drug cases were no one died, not even by accident.

There is not much point in drawing out the debate on this question. Each Member has probably already made up his or her mind as to whether he or she thinks we should execute people simply because they deal in drugs. Members have decided that, and we are going to discover how they feel about that in a few minutes.

The fact, however, is that there is no reason to believe that the courts would ever uphold such a provision. Earlier we debated the question of whether a reckless killing, as opposed to an intentional one, could form the basis of a valid death penalty. This goes much further. No death need occur. The Supreme Court has drawn few bright lines in death penalty cases, but it has drawn one here. For example, the Court has thrown out the death penalty for rape, even when a serious injury occurs, because no death was involved.

In determining what is and what is not "cruel and unusual punishment" within the constitutional prohibition, the Court is guided by whether a substantial number of States have enacted such a death penalty. No State in the union has the death penalty for simply being a drug dealer. That is another fact which indicates that the Supreme Court would reject it.

The second part of the McCollum amendment provides for the death penalty for anyone involved in a drug offense in which somebody dies, that is, anyone. The death can be by accident, or it can be by an overdose. This is about as far as you can get from intentional killing. It goes even further than the most extreme case to date, the Tison case that involved a brutal multipile execution-style murder, and the question was: When can a major participant, who did not actually pull the trigger, be given the death penalty? But the Court said they were there, they made it possible, and they knew when they gave the guns to those two jail escapees, that they made it possible to execute the Lyons family, four innocent people. They read into that an intent to kill. The conduct involved was directly related to the offense.

But even there the Court required that the death result from the defendant's direct culpability. Here it only has to happen in the course of a drug offense or from the use of the drug.

Let us put aside a legal analysis, because I think that perhaps will not carry today in real terms. What we are talking about right here in traffic accidents which occur anytime a drug offense is taking place. We are talking about every case of death, from taking an illegal drug, including when it results in a medical condition unknown to the victim or the defendant. And we are even talking about a drug offense of simple possession, if 2 ounces of crack is involved. And bear in mind that trafficking deals in drugs, including the sharing of a drug for free with a friend.

Yes, they ought to be punished. I am talking about users that also engage in selling. They need to be severely punished, but—capital punishment? It does not matter that the particular defendant played a minor role, whether they are mules, messengers, or lookouts, they are equally guilty as kingpins and equally subject to the death penalty.

Doubtless prosecutorial discretion is expected to narrow the actual application of the death penalty in those cases. That is what they are relying upon. However, where the death penalty is concerned, broad prosecutorial discretion is a red flag. It adds uncertainty and gives rise to claims that this death penalty is arbitrary, capricious, and unpredictable—the very characteristics that led to the rejection of death penalty statutes in 1972. So we are repeating history here today if we pass the McCollum amendment.

Constitutional challenges will be endless, adding still more uncertainty. Even if we are willing to endure these challenges, and even if such a death penalty is upheld, if by remote chance it is ever upheld, a fundamental question would still remain. That question is: Do we really want to execute people who have no intention or desire to cause death, because they are involved in some remote way with drugs that cause accidental death?

If the person in question is Rodriguez Gacha or the Burmese heroin kingpin, Kuhn Sah, the answer is yes. But what if it is your own kids, or the neighbor's kid, who gives an illegal drug to a friend at a rock concert or a college fraternity party and an accidental death results?

Yes, they should be severely punished, but where is the proportionality? Where is the commonsense application? I say that it does not make sense under these circumstances.

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The death penalty has to be a measured response. We must not, no matter how great our frustration is over the drug problem, throw out the Constitution and abandon our common sense.

Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. James].

Mr. JAMES. Mr. Chairman, I rise in strong support of the McCollum amendment on drug kingpins. When we look across this country and look for the problems that need the greatest attention, the problem of drug abuse stands above the rest. Drugs kill, and they do not discriminate as to who they will destroy. Everyone, from the crack babies to the elderly, from the inner-city youth to the rural American family, drugs are ripping apart the fabric of this Nation.

The leaders of this assault on the American way of life are the drug kingpins that peddle their trade on the streets of America. They are selling nothing short of death.

The death penalty for drug kingpins is appropriate, it is fair, and it is right. We should not let those who wreak so much havoc upon the lives of so many people get away with it. Passage of this amendment will assure the citizens of America that drug kingpins will pay the price for their actions, and I urge all of my colleagues to vote for the McCollum amendment.

Mr. HUGHES. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. Conyers].

Mr. CONYERS. Mr. Chairman, the death penalty should be saved for the most harmful, most egregious, offenses that occur in society. It should be reserved for where murder has occurred as a direct result of the acts of a defendant.

I urge Members to please consider this very untimely and more than likely unconstitutional proposal that is before us. I urge Members to remember that the death penalty for drug traffickers is a meaningless gesture. The drug traffickers put the death penalty on each other every day in the week. So what is the deterrent for some Members in this Chamber, is not deterrent for them.

Mr. Chairman, I would ask Members to please consider that where conduct occurs in death that is not intentional, we cannot bring the death penalty here. I agree with and commend the gentleman from New Jersey [Mr. Hughes], the chairman of the Crime Subcommittee, and agree with the arguments he has presented. I urge Members not to get down this road of vengeance, of revenge. I know that the drug situation is onerous, but this amendment makes no sense. It certainly makes no constitutional logic.

Mr. McCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. Coughlin].

Mr. COUGHLIN. Mr. Chairman, I rise in support of the amendment. This calls for providing for the possibility of the death penalty for merchants of death. That is exactly what drug kingpins are, they are merchants of death.

It has been proposed and supported by the President of the United States as part of his package of legislation. I cannot believe that the President would be proposing legislation that would be unconstitutional, having been reviewed by the Attorney General and the Department of Justice.

Mr. Chairman, we have in other cases the possibility of the death penalty, in cases of treason, and in other cases that do not necessarily involve a death. There is no earthly reason why it should not apply to those people who engage in major trade in death-dealing substances that affect our children, that cause death on our streets, that cause death of people who are overdosing, that cause the flood of people into our emergency rooms. The people who conduct those enterprises, the drug kingpins, the merchants of death, should be subject to the death penalty in the same way as others.

Mr. HUGHES. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I just urge Members to reject the McCollum amendment. It does not make sense. Insofar as drug kingpins are concerned, it does not relate just to kingpins. It covers anybody that is trafficking.

Insofar as youngsters that are engaged in abuse, we have serious penalties on the books to deal with those situations. It does not warrant the imposition of the death penalty. Let us do something that makes sense, and reject the McCollum amendment.

Mr. McCOLLUM. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I wish to respond to a number of points that have been made about this amendment. It does provide the death penalty for drug kingpins. Some have asked about the question of the fact that there may be no death that is required on a couple of points to it. Under one circumstance there is a death penalty for felony drug crimes where there is reckless disregard for human life. Always that caveat has to be there, that reckless disregard for human life standard, the one we just debated on the other amendments. It is the standard used in current law, in addition to an intent to kill.

When the amendment of the gentleman from Pennsylvania [Mr. Gekas] prevailed and the amendment of the gentleman from New Jersey [Mr. Hughes] went down a few moments ago on death penalty procedures, we are keeping the current law standard in a lot of the laws on the Federal books, and I would submit that that is appropriate here in this case for drug kingpins as well.

I would also submit that in talking about what a drug kingpin is, we understand precisely what it is. I know some Members asked and were confused.

My amendment follows existing laws on the books with regard to quantities. Again, to get the death penalty as a drug kingpin you have to be trafficking in very large quantities of narcotics. By that I mean the amount equal to the amount now necessary for life imprisonment. That is 300 kilos of cocaine, or the equivalent of 660 pounds. That is twice the amount of cocaine necessary in the bill that was passed by the other body.

It is 60 kilos of heroin. That is an enormous quantity of heroin. You can go on down the list. It is codified, and it is tied down by statute.

As far as Supreme Court decisions are concerned, there are Supreme Court decisions on the death penalty where there is no death. At the present time there is a so-called proportional or subjective standard that is used, though at least four of the Justices have said that they would go to an objective standard that would be even more likely to find my proposal constitutional.

But under the proportionality test, the gravity of the injury caused, the moral culpability, and the public interest, are all taken into account.

Mr. Chairman, I would submit once again to Members there is nothing more grievous today that is not addressed by the death penalty in this country than the huge narcotics trafficker who is out there trafficking in these very, very large quantities of narcotics, $20 million or more in narcotics, 660 pounds of cocaine. This is enough to kill lots of people and to have all kinds of drug wars on the streets with death resulting.

We need to put on the books for our law enforcement officers, our U.S. attorneys, for our attorneys general, the procedures and opportunity for our Federal courts, when they get convictions for these kinds of organized crimes dealing with these large quantities of drugs, to be able to ask the jury and to be able to ask the court to impose the death penalty. It is an omission from current law.

Mr. Chairman, I urge Members to vote yes on the McCollum amendment for a death penalty for drug kingpins. It is the right vote for your children, it is the right vote for America, and it is the right vote to win the war against drugs. Vote yes on the McCollum amendment.

The **CHAIRMAN**. The question is on the amendment offered by the gentleman from Florida [Mr. McCollum].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. **McCOLLUM**. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 295, noes 133, answered "present" 1, not voting 4, as follows:

[Roll No. 414]

AYES—295

Alexander
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bosco
Boucher
Broomfield
Browder
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CO)
Carper
Carr
Chandler
Chapman
Clarke
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Cooper
Costello
Coughlin
Courter
Cox
Craig
Crane
Dannemeyer
Darden
Davis
de la Garza
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
Donnelly
Dornan (CA)
Douglas
Dreier
Duncan
Durbin
Dyson
Early
Eckart
Edwards (OK)
Emerson
English
Erdreich
Espy
Fascell
Fawell
Fields
Fish
Flippo
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gekas
Geren
Gibbons
Gillmor
Gilman
Gingrich
Gordon
Goss
Gradison
Grandy
Grant
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kolbe
Kolter
Kyl
Lagomarsino
Lancaster
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lukens, Donald
Machtley
Madigan
Manton
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Miller (WA)
Moakley
Molinari
Montgomery
Moorhead
Morrison (WA)
Murphy
Murtha
Myers
Natcher
Neal (NC)
Nelson
Nielson
Nowak
Ortiz
Oxley
Packard
Pallone
Parker
Parris
Pashayan
Patterson
Paxon
Payne (VA)
Perkins
Pickett
Pickle
Porter
Poshard
Price
Quillen
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Saiki
Sangmeister
Sarpalius
Saxton
Schaefer
Schiff
Schneider
Schuette
Schulze
Schumer
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Stallings
Stangeland
Stearns
Stenholm
Stump
Sundquist
Tallon
Tanner
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Traficant
Traxler
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Watkins
Weldon
Whittaker
Whitten
Wilson
Wolf
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NOES—133

Ackerman
Anderson
AuCoin
Bates
Beilenson
Berman
Boggs
Bonior
Borski
Boxer
Brennan
Brooks
Brown (CA)
Campbell (CA)
Cardin
Clay
Collins
Conte
Conyers
Coyne
DeFazio
Dellums
Dixon
Dorgan (ND)
Downey
Dwyer
Dymally
Edwards (CA)
Engel
Evans
Fazio
Feighan
Flake
Foglietta
Ford (TN)
Frank
Gejdenson
Gephardt
Glickman
Gonzalez
Gray
Hamilton
Hawkins
Hayes (IL)
Henry
Hertel
Hoagland
Hochbrueckner
Hoyer
Hughes
Jacobs
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Lantos
Levin (MI)
Levine (CA)
Lewis (GA)
Lowey (NY)
Luken, Thomas
Markey
Mazzoli
McCloskey
McDermott
McHugh
McNulty
Mfume
Miller (CA)
Mineta
Mink
Mollohan
Moody
Morella
Morrison (CT)
Mrazek
Nagle
Neal (MA)
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Payne (NJ)
Pease
Pelosi
Penny
Petri
Rahall
Rangel
Rostenkowski
Roybal
Sabo
Savage
Sawyer
Scheuer
Schroeder
Serrano
Sharp
Sikorski
Skaggs
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (VT)
Solarz
Staggers
Stark
Stokes
Studds
Swift
Synar
Tauke
Towns
Unsoeld
Vento
Visclosky
Walgren
Washington
Waxman
Weber
Weiss
Wheat
Williams
Wise
Wolpe
Yates

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—4

Crockett
Ford (MI)
Pursell
Udall

□ 1429

Mr. **MRAZEK** and Mr. **CONTE** changed their vote from "aye" to "no."

Mr. **ROSE** and Mr. **DICKS** changed their vote from "no" to "aye."

PERSONAL EXPLANATION

Mr. **LEHMAN** of Florida. Mr. Speaker, on rollcall No. 414, I was recorded as voting aye. It was my intent to vote no, and I want the record to show that I should have been recorded as voting no.

I ask unanimous consent that this statement appear in the permanent Record.

The **SPEAKER** pro tempore (Mr. Mazzoli). Is there objection to the request of the gentleman from Florida?

There was no objection.

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The **CHAIRMAN**. It is now in order to consider amendment No. 10, printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. MOORHEAD

Mr. **MOORHEAD**. Mr. Chairman, I offer an amendment.

The **CHAIRMAN**. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Moorhead: Page 58, strike out line 19 and all that follows through line 6 on page 60.

The **CHAIRMAN**. Under the rule, the gentleman from California [Mr. Moorhead] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair now recognizes the gentleman from California [Mr. Moorhead].

Mr. **MOORHEAD**. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. Dymally].

Mr. **DYMALLY**. Mr. Chairman, I rise in support of the amendment offered by the distinguished gentleman from California, Mr. Moorhead which seeks to delete section 402(b) of the Comprehensive Crime Control Act of 1990. Section 402(b) would effectively eliminate a crucial part of the drug asset forfeiture program. The current language in section 402(b) would severely limit police departments which are already fighting a major drug war from receiving their fair share of the assets seized in drug related cases.

Currently, State and local law enforcement agencies qualify for a share of the forfeited drug assets proportionate to their participation in a joint investigation which lead to the drug seizure.

Sometimes State and local agencies request that a Federal agency adopt the seizure if the seizure results from an investigation conducted exclusively by the agency making the request, the

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activity resulting in the seizure is in violation of both State and Federal law, and the property is forfeitable under Federal law. State or local agencies rely on this adoptive forfeiture procedure at times when State procedures are more restrictive, cumbersome, and time consuming.

While the distinguished chairman of the Subcommittee on Criminal Justice is well intentioned in his concern about the possibility of circumventing State laws, I would like to assure him that this is not the case. According to the Department of Justice, there is no State law which purports to govern the distribution of Federal forfeiture proceeds.

I can tell you from my own experience that to maintain the integrity of the Federal equitable sharing program, is of great value to local and State police departments who are fighting the drug war.

In my 31st District of California, the Compton Police Department obtained close to $800,000 in drug forfeiture funds. These funds provided the Compton Police Department with badly needed resources to continue fighting the drug war. Compton in particular, and Los Angeles County in general, disporportionately suffer in the drug war as Federal statistics show that 50 percent of the Nation's cocaine goes through Los Angeles County. You can imagine the level of violence and crime associated with this incredible level of drug smuggling. It is the local police officers who are at the front lines of the drug war. At a time when there are no funds for these law enforcement officials, the forfeiture equitable sharing program is an integral weapon providing seized funds to local police departments which are in dire need for the money.

I urge my colleagues to support the Moorhead-Thomas amendment.

Mr. **MOORHEAD**. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. Thomas].

Mr. **THOMAS** of Georgia. Mr. Chairman, I rise in strong support of the amendment that I and Mr. Moorhead have introduced to strike section 402.

First, let me say that my action in no way reflects any disrespect for the accomplishments of the gentleman from New Jersey or his fine subcommittee. They have demonstrated time and time again their legislative accomplishments in the war on crime and drugs. However, I do disagree with section 402 of the bill.

I say that because 1 year ago, I held a law enforcement conference down in my district, at the Federal Law Enforcement Training Center. The objective of the conference was to discuss ways to increase the participation among local, State, and Federal law enforcement officials.

However, the only thing my sheriffs and police chiefs wanted to talk to me about was the fact that they were about to lose the Federal adoptive seizure law. It had provided them and their colleagues in Georgia some $8 million in the past 4 years, and a half-billion dollars nationwide.

Here I was holding a conference with local police to try to increase their cooperation with Federal authorities. All they wanted to hear was why was Congress going to kill a law that led to greater cooperation, and had worked to such great advantage for local drug enforcement.

If you are like me, and do not have any way to explain that to your local law officers, then you support my amendment.

If you believe that seized assets should be used for more law enforcement equipment and investigative resources—then you support our amendment.

And if you think your State and local police and sheriffs should have access to the tougher Federal seizure powers, under the control of the U.S. Department of Justice, then you support our amendment.

Remember, our amendment would not change the current system. It leaves it like it is. If it ain't broke, let's not fix it. State and local law officers should be able to use the asset seizure law and have the money to go back to law enforcement.

Let's pick the pocket of the drug dealer and turn that money into the weapons of law enforcement.

Do not vote to disarm the police. Vote for law enforcement and against drug dealers. Support the Moorhead-Thomas amendment to the House crime bill.

Mr. **BROOKS**. Mr. Chairman, I rise in opposition to the amendment.

The **CHAIRMAN**. The gentleman from Texas [Mr. Brooks] is recognized for 10 minutes.

Mr. **BROOKS**. Mr. Chairman, we are for law and order, and we want to require everybody to follow the law and not circumvent it.

I rise in opposition to this amendment because it proposes to delete section 402 of the crime bill, a prohibition against the transfer of forfeited property contrary to State law.

What this section does is to direct the U.S. Attorney General not to transfer property when the seizure process itself is intended to circumvent State law on the disposition of forfeited property.

Since 1984, Federal law has encouraged the Justice Department to give State and local law enforcement agencies a fair share of the property seized from drug dealers. However, some State laws require that seized property be given to schools or to libraries, or a part thereof, and not all to the law enforcement agencies.

Section 402 of the bill, if deleted by this amendment, would encourage a disregard or violation of State laws throughout this country. Section 402 does not affect joint or true cooperative investigations where sharing of seized property is proper. When they honestly work together, the States can get the forfeited properties. When the proceeds are turned over to local agencies after they have done nothing in the seizure, that is an effort to divert money from State operations to the law enforcement within the State in obvious violation of the State law.

Now, that is what we would condone with a vote for the Moorhead amendment. This section affects only seizures and dispositions of property where there has not been any Federal involvement. That is what we ought to be aware of, and we ought to vote against this amendment.

The **CHAIRMAN**. The gentleman from California [Mr. Moorhead] has 7½ minutes remaining, and the gentleman from Texas [Mr. Brooks] has 7½ minutes remaining.

Mr. **MOORHEAD**. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. Fish], the ranking Republican on the Committee on the Judiciary.

Mr. **FISH**. Mr. Chairman, I rise in strong support of the amendment offered by my friend, the gentleman o California [Mr. Moorhead]. The Adoptive Forfeiture Program is one of the most effective tools that law enforcement has in the war against drugs. I takes the profit out of the drug trad and has an element of poetic justice—as the ill-gotten profits of the dru lords are seized and then used t strengthen anticrime efforts and additional antidrug enforcement programs

Section 402 of H.R. 5269 would plac limits on the ability of State and loca police to participate in the Adoptiv Forfeiture Program. This provisio would damage Federal-State cooperation in law enforcement and could seriously impair a most effective lega tool against drug trafficking. It jeopardizes a program that has provide over $450 million in forfeited cash an property to State and local polic agencies throughout the Nation.

State and local police department plain and simple, have a valid claim t asset forfeiture proceeds, when the investigations lead to apprehensio and conviction. This is not a "State rights" issue. It is just common sens Federal policy to provide State an local police departments with add tional resources in the war again drugs.

The current law on asset seizure an forfeiture should remain the same an a vote for the Moorhead amendmen to strike section 402 will achieve th goal. The administration fully su ports the Moorhead approach.

13.5 percent will go to the State prosecutors, and 10 percent goes to the Office of Criminal Justice Planning. All the money goes to law enforcement, but the State of California, in their wisdom, decided how they wanted to distribute State assets.

Now, Mr. Chairman, somebody cooked up a little device where they could run these through Federal courts which are already congested and get more money. They could get 90 percent, not the total of 76.5 percent, so they basically violate State law and frustrate the will of the State legislatures who have decided how these moneys are to go.

Now, how in the world can the Attorney General, the Department of Justice, support a violation of law?

You know, we tell our kids all the time, "We want you to do right. We want you to set an example." The Justice Department should be setting an example by honoring States' law, not permitting law enforcement agencies to save a few bucks to run these things through the Federal process. That is what it is all about.

We cannot reach Federal cases today because we are so backlogged that we cannot forfeit assets fast enough. Now we have this little device that somebody cooked up that bypasses State law.

Look, if the State of Georgia, I say to my distinguished colleague who I respect, and he is a friend——

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

yield 1 minute to the gentleman from California [Mr. DREIER], a cosponsor of this amendment.

Mr. DREIER of California. Mr. Chairman, I thank my friend from Glendale for yielding me this time. I would like to congratulate him for sponsorship of this amendment.

The question that was raised by the distinguished chairman of the subcommittee has to do with principle. Well, I will tell you something that is a very important principle in California. In Los Angeles we have had 14 drug busts since last October. We have been able to have in excess of $8 million returned for law enforcement. In San Francisco, 38 drug busts brought in nearly $4 million, which went to law enforcement agencies.

It is very clear that as the gentleman from Georgia said, "If it ain't broke, don't fix it."

We have a very effective program here which is playing an integral role in addressing the problem of drug proliferation, and I think this amendment gets right to the point, and I am proud to join my friend, the gentleman from California, as a cosponsor.

Mr. Chairman, I rise today in full support of Mr. Moorhead's amendment to strike section 402 of this comprehensive crime legislation regarding the Federal equitable asset forfeiture program.

Since the asset forfeiture program was established in 1986, local authorities have received $510 million in total assets. Through adoptive provisions of the asset forfeiture program, current law allows local authorities to keep up to 90 percent of the cash that they confiscate in drug related cases. This also ap-

Finally, an unseen, and perhaps the most important, benefit from the adoptive program is that Federal, State, and local law enforcement agencies are forced to work together in order to achieve their objectives. Working together in this arena has led to better law enforcement. It would be criminal to upset a program which has not only been monetarily beneficial, but improved our ability to fight drug-related crime.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. SMITH], who originally located and determined in public hearings this little scam.

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding me this time.

Let me say that we have no quarrel with what the gentleman from California just indicated, and that is getting money to law enforcement, but let me tell you how they are going it. It is by money laundering. This is a money-laundering scheme. The State forfeits assets under State law, no Federal involvement, no Federal crime, no Federal law officers, nothing. It is State seizure of assets by State officers.

That State, and I give you the example of North Carolina, says that money seized under that has to go back into educational rehabilitation.

The law enforcement community says, "We don't like that. We don't care that it's a State law."

They give it to the Feds. The Feds launder it, take a 10-percent commission and give back 90 percent to the local law enforcement. They have ef-

possible thing that you could do.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I thoroughly agree with my colleague, the gentleman from Florida, and the gentleman from Texas, the chairman of my committee. This is a bad amendment, even though I respect the gentleman from California very much.

It is indeed unfortunate, but the facts of life are this amendment would change the law as it has now been. We want to see things go through the States. It is responsible to let things go through the States. Let them make the determination on what the law enforcement officials use their money for, how it is used and so forth.

We were, and are, having the Federal laws abused every time you turn around by the forfeiture procedures of the Federal Government being used by the local law enforcement people who do not like what their State laws read.

I would encourage my colleagues to vote against this amendment and let us have a situation where the States make the determination, instead of using the Federal forfeiture laws to go around State laws. That is what it is all about. Let the States decide it, and as has been said out here before, you can lobby your State legislature if you do not like the way it is, if the local sheriff does not like it, whether it is in California, Texas, Florida or North

law enforcement across the board in the United States of America supports this amendment.

I am not changing the present law. I am only changing the provision of this bill that has been put in this bill, the provisions in the bill that would deny to the local police the right to share in proceeds where they have been a part of a drug bust.

While the sponsors of section 402 are well intended, their contention that sharing of Federal forfeiture proceeds somehow circumvents State laws in the case of adoptive forfeitures is simply unfounded. There is no State law which purports to govern the distribution of Federal forfeiture assets. More importantly, the Federal Government does not adopt a single forfeiture that State and local government does not want them to adopt. Under the Controlled Substances Act and other related statutes, the Attorney General has the authority to equitably transfer forfeited property and cash to State and local agencies that directly participate in the law enforcement effort leading to the seizure and forfeiture of property. Congress established the forfeiture equitable sharing programs in the Comprehensive Crime Control Act of 1984, which our chairman supported. Since fiscal year 1986, the Department of Justice has shared over a half billion dollars in forfeited cash and property with hundreds of State and local agencies. All Members' offices have received a chart showing the number and value of equitable sharing disbursements received by your State over the past 3 fiscal years.

and the curtailment of narcotics enforcement programs currently in place. If assets could not be returned to State and local agencies, it is believed that Federal and State law enforcement coordination and cooperation would be irreparably damaged by instilling and creating a apirit of competition rather than cooperation.

There are two ways that State and local law enforcement agencies financially benefit from the Federal asset forfeiture program. The first is known as equitable sharing. This is when State or local and Federal law enforcement agencies cooperate in an investigation resulting in the forfeiture of assets. The forfeiture law provides that a State or local law enforcement agency should receive from the forfeited property a share equal to the percentage of effort and assistance it provided in the case.

I ask for an "aye" vote on my amendment. I believe it is good law, supported by all law enforcement agencies in this country.

Mr. BROOKS. Mr. Chairman, I yield the balance of my time to the gentleman from Florida [Mr. SMITH].

The CHAIRMAN. The gentleman from Florida [Mr. SMITH] is recognized for 30 seconds.

Mr. SMITH of Florida. Let me just say I have a great deal of respect for the gentleman from California [Mr. MOORHEAD]. But this is not what he says it is. There is no equitable sharing here, because the money that is being utilized for local purposes coming from the Federal "adoptive

THE PAPER AND INK USED IN THE ORIGINAL
PUBLICATION MAY AFFECT THE QUALITY OF
THE MICROFORM EDITION.

forfeiture procedures" is money that came solely from the seizure of assets at the local level with no Federal involvement at all. What they are doing is circumventing State law. All that a State has to do—or at the local level—pass an ordinance or a statute that allows for the police agencies to get the money, and they will get it.

The Federal Government should not be doing this.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. MOORHEAD].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MOORHEAD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 309, noes 120, not voting 4, as follows:

[Roll No. 415]

AYES—309

Anderson
Andrews
Annunzio
Archer
Armey
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boxer
Broomfield
Browder
Brown (CA)
Brown (CO)
Bryant
Buechner
Bunning
Burton
Byron
Callahan
Campbell (CA)
Campbell (CO)
Carper
Carr
Chapman
Clarke
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Conte
Cooper
Coughlin
Courter
Cox
Craig
Crane
Dannemeyer
Darden
Davis
DeFazio
DeLay
Derrick
DeWine
Dickinson
Dixon
Dornan (CA)
Douglas
Dreier
Duncan
Dymally
Dyson
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Fawell
Fazio
Fields
Fish
Flippo
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gekas
Geren
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Hancock
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Hoagland
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kasich
Kennedy
Kolbe
Kolter
Kyl
LaFalce
Lagomarsino
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Martin (IL)
Martin (NY)
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCrery
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McNulty
Meyers
Michel
Miller (OH)
Miller (WA)
Mink
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Murphy
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nielson
Nowak
Olin
Owens (UT)
Oxley
Packard
Pallone
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Porter
Price
Quillen
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Rinaldo
Ritter
Roberts
Robinson
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Saiki
Sarpalius
Saxton
Schaefer
Scheuer
Schiff
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Stallings
Stangeland
Stark
Stearns
Stenholm
Stump
Sundquist
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walgren
Walker
Walsh
Watkins
Weber
Weldon
Wheat
Whittaker
Whitten
Wilson
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NOES—120

Ackerman
Alexander
Anthony
Applegate
Aspin
Barton
Bentley
Bonior
Borski
Bosco
Boucher
Brennan
Brooks
Bruce
Bustamante
Cardin
Chandler
Clay
Collins
Conyers
Costello
Coyne
de la Garza
Dellums
Dicks
Dingell
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Evans
Fascell
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank
Gejdenson
Gephardt
Gillmor
Gradison
Hamilton
Hansen
Hayes (IL)
Hertel
Hochbrueckner
Hoyer
Hughes
Ireland
Johnston
Kaptur
Kastenmeier
Kennelly
Kildee
Kleczka
Kostmayer
Lancaster
Lehman (FL)
Lewis (GA)
Lipinski
Long
Markey
Marlenee
Mavroules
McCollum
McDermott
McMillen (MD)
Mfume
Miller (CA)
Mineta
Moakley
Mrazek
Nagle
Nelson
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Panetta
Pease
Perkins
Petri
Pickett
Pickle
Poshard
Rahall
Ridge
Roe
Sabo
Sangmeister
Savage
Sawyer
Schneider
Schroeder
Schumer
Serrano
Smith (FL)
Staggers
Stokes
Studds
Swift
Synar
Thomas (WY)
Towns
Traficant
Traxler
Unsoeld
Vento
Visclosky
Washington
Waxman
Weiss
Williams
Wise
Yates

NOT VOTING—4

Crockett
McCurdy
Pursell
Udall

□ 1516

Mr. BONIOR changed his vote from "aye" to "no."

Messrs. STALLINGS, MARTINEZ, COLEMAN of Texas, HEFLEY, ESPY, WHITTEN, PENNY, RUSSO, McHUGH, and DICKINSON, Ms. PELOSI, Mr. JONTZ, Mr. BRYANT, Mrs. BOGGS, Mr. ANNUNZIO, and Mr. McCLOSKEY changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 12 printed in part 2 of House Report No. 101-796.

AMENDMENT OFFERED BY MRS. UNSOELD

Mrs. UNSOELD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment offered by Mrs. UNSOELD: Page 80, line 1, insert "from imported parts" after "assemble".

The CHAIRMAN. Under the rule, the gentlewoman from Washington [Mrs. UNSOELD] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are today debating crime control, not gun control. I am optimistic that should my amendment pass, many of my colleagues concerned with protecting our second amendment rights will support this crime package.

Mr. Chairman, Congress, not a nameless, faceless bureaucrat in the Treasury Department, should decide which firearms Americans can own. Congress will have an opportunity to set that extremely controversial policy when Chairman HUGHES' bill, H.R. 4225, comes up for a vote in the near future.

As it stands now, section 705 of H.R. 5269 may be interpreted to authorize a bureaucrat to prohibit the domestic assembly of any semiautomatic rifle or shotgun by declaring it identical to a foreign, nonimportable model. Treasury officials have already stated that most semiautomatics are functionally identical. Thus, several American-made target and other sporting rifles could be banned under this provision, including the Springfield Armory M-1A, which is used by thousands of rifle competitors, and the Ruger Mini-14, a popular hunting rifle. My amendment would clarify that the ban refers to domestic assembly of nonimportable firearms only.

My amendment preserves the promised noncontroversial nature of H.R.

5269. My amendment clarifies that section 705 refers only to foreign-made parts. My amendment puts the power to choose the types of weapons Americans can own in the hands of elected officials. Mr. Chairman, I urge my colleagues to support my amendment.

□ 1520

The CHAIRMAN. Does any Member rise in opposition to the amendment?

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from New Jersey [Mr. HUGHES] is recognized for 10 minutes.

Mr. HUGHES. Mr. Chairman, there is a lot of confusion about this amendment. Let us make sure that all Members understand what we are talking about.

The President asked for the provisions that are in the bill. In fact, our Subcommittee on Crime took the provisions dealing with the assembly of assault type weapons right from the bill of the President. The provisions were requested by the police of this country, who support the provisions in the bill.

What the gentlewoman from Washington [Mrs. UNSOELD] would do would be to change the provisions of the bill to say that if in fact the parts are assembled from parts overseas, then the prohibition attaches and they cannot be manufactured.

However, if these assault type weapons that the President has already declared to be not in the public interest and have been banned from import are made from scratch in this country from domestic parts, even though they are the identical weapon, such as the AK-47 or the Uzi, that is OK.

Now, I ask Members whether you think it is going to make any difference whether a police officer that faces an AK-47, a weapon that was manufactured for military purposes, an assault type weapon, a weapon of war that has the capacity to get 20 to 25 rounds off in a matter of seconds, whether it makes any difference whether the parts were made in China or the parts were made in our country?

Mr. Chairman, if any Member can explain that, I would like to hear it. I do not think it makes any difference when a police officer faces these weapons, and they do so every day throughout this country with increased frequency, I do not know that it makes any difference whether it was made in China, whether the parts were made in China, or whether it was made in our country.

How in the world can one say it is in the public interest to ban the import of these weapons, but it is OK to manufacture them in this country? That is the issue.

Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, the gentleman from New Jersey [Mr. HUGHES] is absolutely correct. The people who are supporting sensible and reasonable control over assault weapons are absolutely disturbed by this amendment that we are debating here. I would urge Members to vote no.

Mr. Chairman, we always have a problem when a law becomes effective, and which law passed the House last and which one became law last. All this amendment would do would be to completely gut the ban the President has already put on, the ban that this Congress will probably put on. It just should not be adopted.

I assign no motive to the sponsor of the amendment, but I do say, having studied this matter and having worked on it and having brought forth legislation on it that will be considered on this floor, that this amendment just does a terrible injustice to a process that is already working.

Mr. Chairman, we are talking about horrible weapons. We are not talking about sportsmen's weapons, we are talking about concealable weapons with unlimited fire power. These are just weapons of murder. That is the only purpose they are used for in this country.

I have always thought it was a travesty that we limit sportsmen with semiautomatic weapons to taking three shots at a deer or a dove or a duck or a goose, but you can shoot as many shots as you want at a human being.

Mr. Chairman, I would ask Members to vote no on this amendment.

Mrs. UNSOELD. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I rise in support of the amendment offered by the gentlewoman from Washington. The Unsoeld amendment would correct a blatant flaw in section 705. This section is written so loosely that it would authorize the Treasury Secretary to prohibit the domestic manufacture of any semiautomatic rifle or shotgun—simply by declaring it identical to a foreign-made, nonimportable model. The proponents of this language tell me not to worry—that the Secretary wouldn't think of banning the Springfield Armory M-1A, the Armscorp M-14, and models of the Ruger Mini-14. These firearms are not used by drug dealers or criminals. They are essential to both hunters or other sportsmen who shoot firearms competitively. Many of the firearms section 705 could ban are weapons that I've used for hunting or shooting targets. The Unsoeld amendment is really a perfecting amendment. Adding "from imported parts" to the language of section 705, makes it clea and unambiguous that our goal is t prohibit persons from end running th current ban on certain foreign mad firearms by importing their parts an assembling them in the United State I believe the gentlelady from Wash ington is proposing a truly excellen improvement to section 705 and I urg the adoption of the amendment.

Mrs. UNSOELD. Mr. Chairman, yield 1 minute to the gentleman fro Idaho [Mr. CRAIG].

Mr. FIELDS. Mr. Chairman, will th gentleman yield?

Mr. CRAIG. I yield to the gentlema from Texas.

Mr. FIELDS. Mr. Chairman, I rise i support of the Unsoeld amendme and in support of sporting America

Mr. CRAIG. Mr. Chairman, reclai ing my time, I thank the gentlewoma from Washington [Mrs. UNSOELD] f yielding.

Mr. Chairman, I would say to Me bers that the amendment that is pr posed to section 705 of this bill is fu damentally important to those of who believe in second amendme rights. We are talking about thr little words, three little words th are, "from imported parts."

Let me suggest to Members th those three little words make all th difference in the world. They take th power to ban some guns out of o hands and put them in the hands administrative officials who make a bitrary decisions on "does this apply

They prevent this section of the bi from circumventing the intent of o Founding Fathers. They allow tens thousands of law-abiding citizens th right to use these kinds of weapon and others, for sporting events and f self-protection, as was determine under the second amendment.

Mr. Chairman, three little wor make all the difference in the worl and those are "from imported parts."

Mr. HUGHES. Mr. Chairman, I yie 1 minute to the gentleman from Ke tucky [Mr. MAZZOLI], a valued memb of the committee.

Mr. MAZZOLI. Mr. Chairman, thank the gentleman for yielding. rise in opposition to the amendment the gentlewoman from Washingt [Mrs. UNSOELD].

Mr. Chairman, I would like to sort go on the words of our friend, the ge tleman from Idaho [Mr. CRAIG], wh said that there are three little words. think there are three other litt words involved in this debate, and th is, "Don't kill Americans." "Don't k Americans."

That is exactly what is involv here. The American who is about to killed or who is killed does not kno the difference between imported par and not imported parts. Certain what the spirit of this bill before th Congress is, is to try to preserve t opportunity for life of some Americans who would otherwise be blown away by these assault weapons. So the committee, under the distinguished leadership of the gentleman from New Jersey [Mr. HUGHES], has said these assault weapons which cannot be imported ought not to be able to be made in the United States. I do not see any reason why we should be able to assemble these weapons.

Mr. Chairman, I certainly hope that this amendment is defeated, and defeated resoundingly. Let us vote for the American people and vote for a safer America.

☐ 1530

Mrs. UNSOELD. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Chairman, I rise in support of the Unsoeld amendment to section 705 of the Comprehensive Crime Control Act of 1990.

Section 705, as written, prohibits any person to assemble any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under section 925(d)(3) of the 1968 Gun Control Act, as amended. The problem with this language is that it could allow some faceless, nameless bureaucrat the authority to prohibit the assembly of domestically manufactured semiautomatic rifles and shotguns which he may deem supposedly identical to those weapons banned from importation.

In testimony before the Senate Judiciary Committee, the Bureau of Alcohol, Tobacco, and Firearms [BATF] stated that nearly all semiautomatic firearms are identical.

If this is the case, it seems reasonable to assume that at some time BATF could use the present language in section 705 to prohibit American companies from assembling semiautomatic weapons which have been owned and used by millions of law-abiding Americans for many years.

The Unsoeld amendment would prevent the circumvention of the current import ban on semiautomatic weapons by clarifying that the section would only apply to the assembly of semiautomatic weapons currently banned from importation.

I would prefer that this section not be included in a crime control bill because no evidence suggests gun control legislation leads to crime control. In fact, no evidence exists that shows semiautomatic assault weapons are the weapons of choice of drug dealers and criminals. Statistics from the Florida Assault Weapons Commission indicated that less than 3 percent of all crimes involving guns in the State of Florida last year were committed by semiautomatic weapons.

Additionally, in Chicago, in 1988–89 the Chicago Police Department murder figures show 29 people were killed with baseball bats and no murders were committed with semiautomatic assault weapons, which are currently banned from importation or those which are domestically manufactured.

If further evidence is needed that gun control laws do not reduce crime, we only have to look at the streets of our Nation's Capital. In Washington, DC, a private citizen cannot legally purchase and register a handgun, much less a semiautomatic "assault weapon," yet the District of Columbia, has the highest per capita murder rate in the Nation.

I support a strong crime bill. We must reduce violent crime, incarcerate convicted criminals and keep them off our streets. The Unsoeld amendment to section 705 will insure that semiautomatic weapons which are banned from importation will not be assembled from imported parts, and continue to allow law-abiding gun owners access to semiautomatic guns which have been used lawfully by millions of Americans for years.

I support and strongly urge my colleagues to support the Unsoeld amendment to the Comprehensive Crime Control Act of 1990.

Mrs. UNSOELD. Mr. Chairman, I yield 1 minute to the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, I rise in support of the Unsoeld amendment and against the unamended section 705 of the crime bill. There are three reasons for this. First of all, I think this fight today is on the crime bill. It should not be between good guns and bad guns, but rather the fight should be between good guys and bad guys.

This House has already expressed its will on strengthening criminal penalties in the crime bill, including the death penalty, which is a position I applaud.

The second reason I am against section 705 as unamended is that it is a back door way to impose universal gun control, including the ban of all semiautomatic weapons, which is violative of the second amendment freedoms and against the interests of millions of Americans who want to own and collect firearms, including semiautomatic weapons, for recreation, collection, and competition.

The third reason, Mr. Speaker, is the fact that all semiautomatic weapons are the same. Some may look more sinister than others, but in fact the action is the same. So I support the Unsoeld amendment which would satisfy the committee's intention to stop the circumvention of the President's import ban.

Mr. HUGHES. [illegible] hairman, I yield 1 minute to t[illegible]eman from Illinois [Mr. PORT[illegible]

Mr. PORTE[illegible] Chairman, I thank the gent[illegible]or yielding time to me.

Mr. Chairma[illegible]ose the Unsoeld amendment. D[illegible]e Bush administration order[illegible]rict the import of foreign semi[illegible]c assault rifles. current law p[illegible]omestic manufacturers to as[illegible]act facsimiles of banned imports. Section 705 of the crime bill closes this loophole by prohibiting the domestic assembly of semiautomatic assault weapons identical to those barred from importation.

The Unsoeld amendment would only prohibit the assembly of assault rifles from foreign made parts, and would completely exempt domestic facsimilies from the prohibition. It simply duplicates current prohibitions on assembly of foreign made parts, while eliminating the important prohibition on the domestic assembly of identical facsimilies.

The Unsoeld amendment would completely undermine the President's import ban by allowing American made replicas of the AK-47, Uzi, and other banned weapons. Section 705, as currently written, would effectively prevent manufacturers from circumventing the President's import ban.

I urge the Members to vote down the Unsoeld amendment.

Mrs. UNSOELD. Mr. Chairman, I yield 1 minute to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I rise in support of the amendment offered by my friend from Washington [Mrs. UNSOELD].

Once again I find myself debating an issue that should be moot. An issue that was settled by our founding fathers over 200 years ago. Once again I find myself quoting the second amendment to our Constitution, which states, Mr. Chairman, that "the right of the people to have and to bear arms, shall not be infringed."

Mr. Chairman, it seems to me that this right, like all constitutionally enumerated rights, should not be denied by this or any governing body. In fact, it seems to me that even the consideration of legislation that denies fundamental rights to the American people is a breach of our duty as Members of Congress.

My State, Nevada, has considerably less State regulation on firearms than most States, and it is clear that most Nevadans would like to see it stay that way.

The Unsoeld amendment will clarify that it is not Congress' intent to ban domestically made firearms, and that it is not Congress' intent to further Federal Government infringement of our second amendment rights.

Mr. Chairman, I urge the adoption of the Unsoeld amendment.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois [Mr. DURBIN]

Mr. DURBIN. Mr. Chairman, every debate on a crime bill is a debate on law and order. The choice on this amendment is clear. The gun lobby supports this amendment; the police oppose this amendment. The law and order position is against this amendment.

Why? Because every morning in America tens of thousands of men and women get up, put on a uniform, put a badge on their chest and go out to put their lives on the line to protect our families and communities. They beg us to keep these murderous assault weapons out of the hands of the drug armies that are taking over many parts of America.

Unfortunately, this amendment will expand those numbers of weapons that can be used to kill law enforcement officials and bring pure chaos to the urban centers of America.

Sure, this amendment will put some disadvantage and some regulation on sportsmen and hunters. Is that too high a price to pay to protect the men and women who put their lives on the line every day to defend us?

Mrs. UNSOELD. Mr. Chairman, I yield such time as he may consume to the gentleman from Montana [Mr. MARLENEE].

Mr MARLENEE. Mr. Chairman, I rise in support of the Unsoeld amendment.

Her amendment would put the gun control genie back in the bottle. Her amendment would prevent unelected bureaucrats from telling me which gun I can own. While I would have preferred that this section be totally eliminated and the President revoke his initial ban on so-called nonsporting imported semiautomatics, this amendment is a much better alternative to what is in the bill.

Mr Chairman where did this smokescreen language of sporting firearms come from? Where is it in the Constitution saying that [illegible]

Mr. MOLLO[illegible] Mr. Chairman, I rise in support [illegible] Unsoeld amendment because [illegible] 705 is at best inadequate, and a[illegible] coercive.

Section 705, [illegible] present form, is coercive. It wou[illegible]rp the gun ownership rights [illegible]-abiding citizens without the n[illegible]g effect of controlling crime.

Law enforc[illegible] officer Steven Arthur, from I[illegible]IN, States:

It seems to me [illegible] of the main problems we face now [illegible]he past is that, for some of our ele[illegible]ers, it is easier to attack the issue [illegible] control by attacking an inanimat[illegible] * * * rather than letting the crim[illegible] personal responsibility for his or [illegible]ons. The crisis we now face in the [illegible]d banning of "assault weapons" [illegible] in point. These semi automatic [illegible] are little different than the numer[illegible]ing rifles and pistols that have [illegible] the market since before World W[illegible]

Mr. Chairm[illegible]on 705 is inadequate, if its [illegible] control crime. Have strict gu[illegible] laws worked in Washington o[illegible] York City? Is there any co[illegible]with restrictive gun control a[illegible]rease in crime? The answer [illegible]ll the evidence points to th[illegible]ry. The overwhelming ma[illegible] police officers agree that h[illegible]o-called assault weapons will [illegible]ically decrease violent crime. [illegible]vity, or narcotics trafficking

I urge my c[illegible] to vote yes on the Unsoeld a[illegible]t.

PARL[illegible] INQUIRY

Mr HUGHE[illegible]hairman, may I ask the Chai[illegible]man of the subcommittee [illegible]he right to close [illegible]

The CHAI[illegible]e gentleman is [illegible]

[illegible]ve the balance [illegible]t speaker.

[illegible]. Chairman, I [illegible]entleman from [illegible]].

[illegible]. Chairman, I [illegible]n for yielding [illegible]

[illegible]nk this whole [illegible]sue out of pro[illegible]an offered a [illegible]nendment.

[illegible]vhole gun issue [illegible]nd should not [illegible]tee print, the [illegible]s very simple. [illegible]nts relating to [illegible]f nonimporta[illegible]nation of that [illegible] out:

[illegible]on is to prevent [illegible] importation re[illegible] would simply [illegible]assembled form [illegible] in the United [illegible]

[illegible]imply putting [illegible]bparagraph in [illegible]the word as[illegible]orted parts."

So it is very clear that it shall be unlawful for any person to assemble from any imported parts any semiautomatic rifle.

This is nothing more than a clarifying amendment. We will get the bigger firearms bill after this one. All of the people who want to have that debate over banning domestic firearms will get a couple of bills out here that follow the crime bill. This one needs to be put in just so that the statute itself is clear on its plain face that we are talking about assembly from imported parts. That is all this is, nothing more and I urge an aye vote.

☐ 1540

Mrs. UNSOELD. Mr. Chairman, I yield the remainder of my time to the gentleman from Texas [Mr. BROOKS], the distinguished chairman of the Committee on the Judiciary.

Mr. BROOKS. Mr. Chairman, I rise in support of the amendment offered by the gentlewoman from Washington.

The bill as reported by the Judiciary Committee prohibits the domestic assembly of any semiautomatic rifle or shotgun that is identical to any rifle or shotgun prohibited from importation under section 925(d)(3) of title 18 of the United States Code.

The gentlewoman's amendment would specify that the bill's ban on domestic assembly applies to imported gun parts. The amendment is fully consistent with language on this provision in the committee's report which states:

> The purpose of this provision is to prevent the circumvention of the importation restrictions by persons who would simply import the firearms in a disassembled form and then reassemble them in the United States.

Thus, the amendment would simply assure that the purpose of the bill as reported by the committee is achieved.

I urge my colleagues to support this amendment.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I am happy to yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I wish to commend the gentleman for his statement in support of the Unsoeld amendment, and I, too, rise in support of that amendment and speak in the name of the sportsmen and hunters throughout our Nation who also support this amendment and also law enforcement.

I thank the gentleman very much for his support.

Mr. HUGHES. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, it is not often I find myself in disagreement with my distinguished and affable chairman, the gentleman from Texas. I understand where he is coming from.

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

Let us put it where it is. The police of the country want us to oppose Unsoeld, and the gun lobby and the NRA, the rest of the gun lobby, want us to support it. This is an NRA-sponsored amendment. Make no mistake about it.

We have been tough; boy, have we been tough on crime. For the past 3 hours, as we wade through this crime bill, we have been tough.

Members came through on the last amendment and adopted forfeiture, and they said, "What do the police in this country want?" That is the only question they asked when they adopted forfeiture.

Make no mistake about it, the police on this amendment want us to vote against Unsoeld. Why? They want us to vote against it because they see what is happening every day in the streets. You read the newspapers. It has become a carnage.

The weapon of choice by drug traffickers and organized crime officials, the thugs on the streets today, are the Uzis, the AK-47's, the other assault-type weapons.

I have always considered myself a sportsman, and I will take a back seat to nobody. I have not hunted in years, but I am still a member of a club. I went to my club a few months back, and I took in a few of these ugly assault-type weapons, and I said, "How many in the room," and there were about 75 to 100, "own one of these things?" There was no answer. One guy got back with an NRA cap and in the back of the room, and he said, "Well, I have had a 30.06 for years." I said, "Look, I have used a 30.06. I do not own one. But you do not see a 30.06 up here."

These are weapons with grenade-launcher attachments on the end, flash suppressors, they have fixtures for a bayonet in some instances, they have a grip so you can spray the weapons, they have clips that carry up to 50 rounds, and they are weapons of war. They kill.

The AK-47 took how many lives in Stockton, CA?

What UNSOELD wants to do is she wants to make a distinction. It is OK to ban the import of parts to make these weapons that the President already has banned, but when the President says, "I do not want these made with domestic parts as well as imported parts," she will not have that, as if it makes any difference.

Do you think it makes any difference whether an AK-47 is made by parts in China or this country when a police officer looks down the muzzle of that gun?

What is so bad about these weapons is they can take out 20 people in 25 seconds. That is the difference, and we have an arms race. It is taking place on the floor. We may not pass this today, ladies and gentlemen, and maybe there has not been enough blood in the streets, but we are going to pass it, because I want to tell you, it is coming. It is coming. The police are going to prevail, because we are going to be going to their funerals, and you explain to them why you voted the way you did.

I will not have any problems with that, because I am going to vote against Unsoeld.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Washington [Mrs. UNSOELD].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. VOLKMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 257, noes 172, not voting 4, as follows:

[Roll No. 416]

AYES—257

Alexander
Andrews
Anthony
Applegate
Archer
Armey
Aspin
Baker
Ballenger
Barnard
Bartlett
Barton
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Dorgan (ND)
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Lowery (CA)
Lukens, Donald
Madigan
Marlenee
Martin (IL)
Martin (NY)
Martinez
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Rogers
Rohrabacher
Rose
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Thomas (CA)
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Thomas (WY)
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NOES—172

Ackerman
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Levine (CA)
Lewis (GA)
Lipinski
Lowey (NY)
Luken, Thomas
Machtley
Manton
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Matsui
Mavroules
Mazzoli
McCloskey
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Ros-Lehtinen
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Saiki
Sangmeister
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schumer
Serrano
Shays
Sikorski
Skaggs
Slaughter (NY)
Smith (FL)
Smith (NJ)
Smith (VT)
Solarz
Spratt
Stark
Stokes
Studds
Synar
Torres
Torricelli
Towns
Traficant
Vento
Visclosky
Walgren
Washington
Waxman
Weiss
Wheat
Wolf
Wolpe
Wylie
Yates

NOT VOTING—4

Crockett
Edwards (OK)
Hawkins
McCurdy

☐ 1604

The Clerk announced the following pair:

On this vote:

Mr. McCurdy for, with Mr. Hawkins against.

Mr. MATSUI, Mr. TORRICELLI, and Ms. DAPTUR changed their vote from "aye" to "no."

Mr. OWENS of Utah changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 13 printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. MINETA

Mr. MINETA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MINETA: At the end of title XI, insert the following:

SEC. 1103. EDUCATION AND PREVENTION.

(a) Not later than 6 months after the date of enactment of this section, the Department of Education and the National Institute on Drug Abuse shall jointly develop model, community-based curricula for disseminating comprehensive information on methamphetamine, crystal methamphetamine, and chemically related stimulants.

(b) Not later than 12 months after the date of enactment of this section, the Department of Education shall establish not less than 4 statewide or regional methamphetamine prevention demonstration programs, including 1 such project in California, Hawaii, Oregon, and such other States that are experiencing serious methamphetamine abuse problems as determined by the Secretary of Education.

(c) There are authorized to be appropriated $4,000,000 in fiscal years 1992 and 1993 to establish and operate the model demonstration programs required under subsection (b) of this section.

(d) Not later than 18 months after the date of enactment of this section, the Department of Education and the National Institute on Drug Abuse, in consultation with the Secretaries of Education from the States listed under subsection (b), conclude that the model curricula developed under subsection (a) demonstrate practical educational merit, the Department of Education shall distribute such model curricula to every primary and secondary school in the country.

SEC. 1104. RESEARCH AND TREATMENT.

(a) The Director of the National Institute on Drug Abuse shall conduct research on effective treatments, including drugs, for addictions to—

(1) amphetamine;

(2) methamphetamine;

(3) crystal methamphetamine; and

(4) chemically related stimulants.

(b) The Director shall investigate or cause to be investigated the syndrome that results from addiction at birth to methamphetamine and its chemical derivatives.

(c) The Director shall, on the basis of the findings from subsection (b), develop a protocol for treating, physically and mentally, newborns addicted to methamphetamine and its chemical derivatives.

(d) Not later than 2 years after the date of the enactment of this section, the Director shall submit to the Congress a report of the research, investigation, and protocol referred to in subsections (a), (b), and (c), respectively.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. MINETA] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, my amendment is aimed at a dangerous new drug. The new drug is ice, a crystalized form of methamphetamine—or speed—which users smoke like crack.

In many ways, this drug is more dangerous. Its effects last from 7 to 24 hours and can induce extreme and uncontrolled violent behavior. In contrast, a crack high lasts only 20 or 30 minutes.

Because of its long-lasting effects, drug users consider the drug a good value.

The drug is extremely harmful. Habitual users can develop mental disorders and are prone to hallucinations caused by this drug.

Babies born to mothers addicted to the drug ice are afflicted with the same problems we have seen in crack babies. They are sickly. They are unable to bond with parents and are prone to developing sociopathic traits as they grow older. They do not learn quickly as other children do and never catch up. Nurses report that ice babies are more impaired than crack babies in this respect.

There is already compelling evidence that shows that ice could compete with crack as the drug of choice on our Nation's streets.

Perhaps most dangerously, ice is much easier to make than crack. Illegal methamphetamine manufacturers do not need an imported base of coca as cocaine chemists do. Instead, the ingredients for ice are available here in the United States and can be processed in simple laboratories into rocks of smokeable methamphetamine.

And it is profitable. It costs about $300 to buy equipment and chemicals to make methamphetamine. The drugs produced can be sold for over $70,000 at current rates.

Most ice in the United States right now is imported from Asia. Situated between the mainland United States and the Pacific Rim, Hawaii has borne the brunt of ice's spread so far.

The use of ice has unfortunately become widespread in the State of Hawaii, where its damaging effects are burdening its schools, its health care system, and its drug treatment centers. In only 4 years, it has passed marijuana and cocaine as that State's top drug problem.

Rehabilitation clinics in Hawaii now have as many ice addicts as they have cocaine addicts. Withdrawal from methamphetamine is even more difficult than withdrawal from cocaine for many people.

Experts in Hawaii estimate that up to 70 percent of all domestic violence cases there are linked to ice.

And now ice is spreading to the mainland United States.

Last year, there was a 70-percent increase in ice-related hospitalizations across the country. Emergency rooms in my own district and in cities along the coast have seen cases increase recently.

And law enforcement officers in the past year have uncovered illegal laboratories making ice in Sacramento, Los Angeles, and San Francisco. Oregon has found labs in that State's cities.

The fact is, established distribution networks of regular methamphetamine are already in place throughout the country. If methods used to make crystalized ice instead of regular methamphetamine become more widely known, these established manufacturing and distribution networks could be used to spread ice as effectively as speed now travels.

Our experience in Hawaii can show us how quickly this damaging drug can spread. And our experience with crack cocaine shows us how new drugs can take us by surprise.

We must have in place effective strategies to prevent and treat ice use should the drug spread throughout the mainland United States.

To accomplish this goal, and to give Hawaii the tools to combat ice there, I introduced the Ice Enforcement and Prevention Act on June 28, 1990. The bill has received support from both sides of the aisle and from all parts of the political spectrum.

Because of the urgent nature of the problem, I was happy to work with Committee Chairmen JOHN DINGELL of Energy and Commerce and GUS HAWKINS of Education and Labor, as well as with HENRY WAXMAN of the Energy and Commerce Subcommittee on Health and the Environment, to bring the treatment and prevention provisions of my bill to the House floor as an amendment to the Comprehensive Crime Control Act.

My amendment calls upon the National Institute on Drug Abuse and the Department of Education to develop model curricula to prevent ice and speed use.

It authorizes $4 million in each of fiscal year 1992 and fiscal year 1993 to set up at least four regional or State demonstration programs to prevent ice and speed use.

Then, drawing on this experience, it requires the Department of Education to distribute these model curricula to schools throughout the country.

On the treatment side, my amendment calls on NIDA to research treatments for ice addiction.

And finally, my amendment requires NIDA to study babies born addicted to ice and develop a method of treating them.

Mr. Chairman, to help law enforcement deal with the problem of ice, we also need tough sentences to allow our police and our courts to punish ice dealers.

Mr. Chairman, at this point I yield to the gentleman from New Jersey [Mr. Hughes] for the purpose of a colloquy.

Mr. HUGHES. Mr. Chairman, I would be happy to respond.

Mr. MINETA. Mr. Chairman, I am very concerned about ice, the new form of methamphetamine that we have seen spreading throughout California and am convinced that we must have stronger penalties for ice offenses. I see from H.R. 5269 that you believe the best way for achieving such sentences is through the U.S. Sentencing Commission guidelines and would appreciate hearing how that will work.

Mr. HUGHES. I am pleased to enter into this colloquy with my esteemed colleague, the gentleman from California [Mr. Mineta] concerning the approach we have taken in H.R. 5269 on the issue of ice which is a smokable form of crystal methamphetamine. Ice is making its way across country, and has been showing up on both coasts although still most heavily concentrated on the west coast. However, police in New York City report that least one youth gang has already tried bringing ice into that city.

Experts are saying that the effects of ice are both physical and psychological, with ice users experiencing such physical effects as increased blood pressure and breathing rate and severe weight loss. However, even more frightening are the psychological effects being seen among ice users.

Ice use can trigger such serious reactions as depression, tremors, rage and paranoia and some users may become extremely violent and need to be restrained. Equally significant, people using ice are not as able to regulate the amount of smoke they inhale so the overdose rate is very high. It appears that ice is a very psychologically addictive drug, with some users reporting being addicted after the first hit.

In recognition of the seriousness of the threat posed by ice H.R. 5269 will require that the U.S. Sentencing Commission either promulgate or revise its guidelines to reflect the fact that for methamphetamine offenses, more substantial penalties should be imposed if the substance for which the defendant has been convicted is ice.

I have been assured by the U.S. Sentencing Commission that once H.R. 5269 has been passed that acting on this provision will receive the highest priority. The appropriate guideline will be formulated so that the Commission could move to adopt it during its next amendment cycle which begins on January 1. The Commission will make this guideline—and its adoption—the very first item on its list of amendments covered in the amendment cycle.

I think the gentleman's proposals concerning additional research efforts on treatments for ice and other forms of stimulants as well as the education demonstration programs are right on target and I support them.

Mr. MINETA. Mr. Chairman, I would like to commend the gentleman from New Jersey [Mr. Hughes] for inclusion of language aimed at ice in the crime bill. His support for tough measures to combat ice at an early stage has been critical in moving to head off this problem.

I would like also to commend my colleague Vic Fazio, who is responsible for restricting access to the chemicals used to make ice.

I also commend my colleague Mel Levine, Larry Smith, and chairman Charlie Rangel of the Select Committee on Narcotics, along with many others, for having the foresight to fight ice before it spreads.

I was pleased to work with committee chairman Gus Hawkins, John Dingell, and Henry Waxman to include these provisions in the crime bill and I thank them for their expertise.

Mr. Chairman, we should learn from the past that we need to act before a drug becomes a serious problem. The social costs of inaction are simply too high. An investment in fighting ice and speed now will save lives, human potential, and a great deal of money in the future.

I urge my colleagues to support the Mineta amendment.

□ 1610

Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. Levine], my fine colleague and the coauthor of this amendment.

Mr. LEVINE of California. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in full support of this amendment, and want to commend my colleague, Mr. Mineta, for all his hard work on this important subject.

Ice has already invaded my home State and threatens to become the next deadly drug plague unless Congress acts to respond to this new threat.

Experts predict that ice could be the crack of the 1990's.

The powerful allure of this drug should be an early warning to us.

In just 3 years, ice has become the most abused drug in Hawaii.

With the advance warning, we have a unique chance to halt this deadly drug before an epidemic on the mainland strikes.

This amendment, complimentary to the ice provisions already in the crime bill, lets us invest in model education, prevention, and rehabilitation programs.

I urge you to stand with my colleague, Mr. Mineta, and me in support of this crucial amendment.

The CHAIRMAN. Is there any Member wishing to speak in opposition to this amendment?

Mr. MINETA. Mr. Chairman, I yield to the gentleman from Florida.

The CHAIRMAN. The Chair would advise that all the time of the gentleman from California [Mr. Mineta] has expired.

Mr. McCOLLUM. Mr. Chairman, I will rise in opposition, then.

The CHAIRMAN. The gentleman from Florida [Mr. McCollum] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. McCollum].

Mr. McCOLLUM. I thank the chairman.

At this point in time I am opposed to the amendment because I would like to have it clarified.

I may withdraw my opposition if I can have the author's attention, the gentleman from California [Mr. Mineta], and ask him a few questions about it.

I recognize the problem of ice in this country. It is a problem. We do need to have some studies and some work done on it.

The administration appears to be reluctant to allow this type of program to proceed because they are worried about the costs and so forth.

My own judgment is it is a pretty good idea.

The one concern I have is that the gentleman has four statewide or regional prevention or demonstration programs as a minimum, set up in this. You have one such project in California, Hawaii, Oregon, and only the possibility perhaps, if the administration is real reluctant, of one other State.

Why did the gentleman choose to name three out of the four specifically in here instead of leaving that to the discretion of the department to decide that question?

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from California, the author.

Mr. MINETA. I thank the gentleman for yielding.

Mr. Chairman, the reason that the States are named in there is because of the scourge of ice right now in the State of Hawaii and the transmission or the movement of that to the west coast at the present time. That is the reason why the States have been named in the amendment, specifically, because of its movement to the west coast and wanting to prevent this from happening in other parts of the country.

Mr. McCOLLUM. Reclaiming my time, I am concerned because my State of Florida has an ice problem as well. I am sure there are a lot of other States that do. I would hope that this would not too much restrict the whole effort by the department to get out the programs in other parts of the country rather than all on the west coast. That is my concern.

Mr. MINETA. If the gentleman would yield further, this is, as it relates to the ice portion of the amendment, as it relates to speed, which is a problem across the other parts of the country. You would be able to set up those centers in other parts of the country on the basis of the speed problems but not on the ice.

Mr. McCOLLUM. Mr. Chairman, I yield 1 minute to the gentlewoman from Hawaii [Mrs. Mink].

Mrs. MINK. Mr. Chairman, I thank the gentleman from Florida for yielding this time to me.

Mr. Chairman, the opportunity to serve in this body has only come very recently to me. But I did want to take the opportunity to commend the gentleman from California [Mr. Mineta] for engaging this body in this very, very crucial matter which affects the policies within my State with regard to drug abuse prevention and the whole matter of the recent scourage of ice in our State, which is known I think to most of the law enforcement officials throughout the country. We need the support of this body for the various provisions that are included in the Mineta amendment.

In particular, the funds that are set aside for the development of an educational, prevention curriculum that could be useful not only to my State but as a pilot project can be used then for other parts of the country that are infected by this very, very serious problem.

It is a new problem, but it is important that we tackle it at an early stage where the prevention concepts could work.

Mr. Chairman, I hope the House will support this amendment.

Mr. McCOLLUM. Mr. Chairman, reclaiming my time, I yield 1 minute to the gentleman from California [Mr. Fazio].

The CHAIRMAN. The gentleman will suspend for a moment.

The Chair would advise Members that this time is allotted under the rule for those opposing this amendment.

The Chair would inquire is that the proper way to characterize the gentleman's remarks?

Mr. McCOLLUM. Mr. Chairman, I have been opposed to this amendment, if no one else is opposed to it. I have risen in opposition.

The CHAIRMAN. The gentleman may yield to the gentleman from California.

Mr. McCOLLUM. I yield 1 minute to the gentleman from California [Mr. Fazio], and we will find out what his position is.

Mr. FAZIO. I thank the gentleman for yielding.

Mr. Chairman, I am supportive of this amendment. As I know the gentleman from New Jersey [Mr. Hughes] knows, I have certainly been interested in this renewed interest in methamphetamines, not only in the case of crank, which is a major problem in California and the Western States in part, but also in the case of ice, which has been imported from the Far East. Now it has begun to be produced in this country. We confiscated the first U.S. ice laboratory in Elk Grove, a suburb of Sacramento, CA.

This is a problem of the 1990's. I think we are going to need to do more than is in this bill. But I appreciate what is in this bill, and I appreciate what Mr. Hughes and Chairman Brooks and others have agreed to do. I hope the committee will be watching the evolution of this problem, which is growing, over the next year. I know that Congressmen Levine, Mineta, Brown, and myself and others from our State will be bringing back additional legislation dealing with penalties and also trying to put into law a list of precursor chemicals that make these drugs. California has a law which does not protect us because of the importation of those chemicals continues from other States.

Mr. McCOLLUM. Reclaiming my remaining minute, Mr. Chairman, I would like to point out to my colleagues that the structure of this amendment is not good. The fact that it designates, for the ice demonstrations only three States, all on the west coast, and only leaves one other possibility, is not a very fair way to proceed. But I do think the ice problem is a big problem, and the speed problem is. Even though the administration, I think, would be opposed to this because we already have structures in place, I will withdraw my opposition at this time because I think the problem is great enough that we do need this.

Mr. Chairman, I withdraw my opposition.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. Mineta].

The amendment was agreed to.[H04OC0-X4]{H8870}agreed to.

□ 1620

The CHAIRMAN. It is now in order to consider amendment No. 14 printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Hughes Strike title XIII and insert the following:

TITLE XIII—HABEAS CORPUS

SEC. 1301. LIMITATIONS PERIOD IN CAPITAL CASES

Section 2254 of title 28, United State Code, is amended by adding after subsectio (f) the following:

"(g)(1) In the case of an applicant unde sentence of death, any application fo habeas corpus relief under this section mus be filed in the appropriate district cour within 180 days from the following date whichever is appropriate:

"(A) The date of denial of a writ of certiorari, if a petition for a writ of certiorari t the highest court of the State on direc appeal or unitary review from the conviction and sentence is timely filed in the Supreme Court.

"(B) The date of issuance of the mandat of the highest court of the State on direc appeal or unitary review from the conviction and sentence, if a petition for a writ o certiorari is not filed in the Supreme Cour

"(C) The date of issuance of the mandat of the Supreme Court, if on a petition for writ of certiorari the Supreme Court, upo consideration of the case, disposes of it in manner that leaves the capital sentence undisturbed.

"(2) The time requirements established b this section shall be tolled—

"(A) during any period in which the Stat has failed to provide counsel as required i section 1307 of the Comprehensive Crim Control Act of 1990;

"(B) during the period from the date th applicant files an application for State pos conviction relief until final disposition o the application by the State appellat courts, if all filing deadlines are met;

"(C) during any period authorized by la for the filing of any petition for rehearin if all filing deadlines are met; and

"(D) during an additional period not t exceed 60 days, if counsel moves for an extension in the district court that would hav jurisdiction of a habeas corpus applicatio and makes a showing of good cause.".

SEC. 1302. STAYS OF EXECUTION IN CAPITA CASES.

Section 2251 of title 28, United State Code, is amended—

(1) by inserting "(a)(1)" before the firs paragraph;

(2) by inserting "(2)" before the secon paragraph; and

(3) by adding at the end the following:

"(b) In the case of an individual unde sentence of death, a warrant or order setting an execution date shall be stayed upo application to any court that would have jurisdiction over an application for habea corpus under this chapter. The stay shall b contingent upon reasonable diligence by th individual in pursuing relief with respect t such sentence and shall expire if—

"(1) the individual fails to apply for relie under this chapter within the time requirements established by section 2254(g) of thi title;

"(2) upon completion of district court an court of appeals review under section 225 of this title, the application is denied and—

"(A) the time for filing a petition for a writ of certiorari expires before a petition is filed;

"(B) a timely petition for a writ of certiorari if filed and the Supreme Court denies the petition; or

"(C) a timely petition for a writ of certiorari is filed and, upon consideration of the case, the Supreme Court disposes of it in a manner that leaves the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel qualified under section 2257 of this title, and after being advised of the consequences of the decision, an individual waives the right to pursue relief under this chapter.".

SEC. 1303. SUCCESSIVE PETITIONS IN CAPITAL CASES.

Section 2244(b) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by inserting ", in the case of an applicant not under sentence of death," after "When"; and

(3) by adding at the end the following:

"(2) In the case of an applicant under sentence of death, a claim presented in a second or successive application, that was not presented in a prior application under this chapter, shall be dismissed unless—

"(A) the applicant shows that—

"(i) the factual basis of the claims could not have been discovered by the exercise of reasonable diligence before the applicant filed the prior application;

"(ii) the claim relies on a new rule, announced by the Supreme Court of the United States after the prior application was filed, that is applicable under section 2256 of this title; or

"(iii) the failure to raise the claim in the prior application was due to action by State officials in violation of the Constitution of the United States; and

"(B) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the applicant's guilt of the offense or offenses for which the capital sentence was imposed, or in the validity of that sentence under Federal law.".

SEC. 1304. CERTIFICATES OF PROBABLE CAUSE.

The third paragraph of section 2253, title 28, United States Code, is amended to read as follows:

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, unless the justice or judge who rendered the order or a circuit justice or judge issues a certificate of probable cause. However, an applicant under sentence of death shall have a right to appeal without a certificate of probable cause, except after denial of a second or successive application.".

SEC. 1305. LAW APPLICABLE IN CHAPTER 153 PROCEEDINGS.

(a) In General.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"§ 2256. Law applicable

"(a) In an action filed under this chapter, the court shall apply a new rule only if the new rule—

"(1) places the claimant's conduct beyond the power of the criminal law-making authority to proscribe or punish with the sanction imposed; or

"(2) requires the observance of proceeding without which the likelihood of an accurate conviction is seriously diminished.

"(b) For purposes of this section, the term 'new rule' means a sharp break from precedent announced by the Supreme Court of the United States that explicitly and substantially changes the law from that governing at the time the claimant's sentence became final. A rule is not new merely because, based on precedent existing before the rule's announcement, it was susceptible to debate among reasonable minds.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 158 of title 28, United States Code, is amended by adding at the end the following:

"2256. Law applicable in Federal proceedings.".

SEC. 1306. PROCEDURAL DEFAULT IN STATE COURT.

Section 2254 of title 28, United States Code, is amended by adding after the subsection added by section 1301 of this Act the following:

"(h) A district court shall decline to consider a claim under this section if—

"(1)(A) the applicant previously failed to raise the claim in State court at the time and in the manner prescribed by State law;

"(B) the State courts, for that reason, refused to entertain the claim; and

"(C) such refusal would constitute an adequate and independent State law ground that would foreclose direct review of the State court judgment in the Supreme Court of the United States; and

"(2) the applicant fails to show cause for the failure to raise the claim in State court and prejudice to the applicant's right to fair proceedings or to an accurate outcome resulting from the alleged violation of the Federal right asserted, or that failure to consider the claim would result in a miscarriage of justice.

"(3) The court shall not find cause in any case in which it appears that the applicant or counsel deliberately withheld a known claim from the State courts for strategic purposes. An applicant may establish cause by showing that—

"(A) the factual or legal basis of the claim—

"(i) could not have been discovered by the exercise of reasonable diligence before the applicant could have raised the claim in State court, or

"(ii) was not discovered or asserted due to ignorance or neglect of the applicant's counsel;

"(B) the claim relies on a decision of the United States Supreme Court, announced after the applicant might have raised the claim in State court?

"(C) the failure to raise the claim in State court was due to interference by State officials; or

"(D) the failure to raise the claim in State court was due to counsel's ineffective assistance in violation of the United States Constitution.".

SEC. 1307. COUNSEL IN CAPITAL CASES.

(a) Generally.—A state in which capital punishment may be imposed shall—

(1) provide for counsel to indigents charged with offenses for which capital punishment is sought, to indigents who have been sentenced to death and who seek appellate or collateral review in State court, and to indigents who have been sentenced to death and who seek certiorari review of State court judgments in the United States Supreme Court; and

(2) provide for the entry of an order of a court of record appointing one or more counsel to represent the prisoner except upon a judicial determination (after a hearing, if necessary) that (A) the prisoner is not indigent; or (B) the prisoner knowingly and intelligently waives the appointment of counsel.

(b) Certification.—

(1) AT least one attorney appointment pursuant to this section before trial and at least one attorney appointed pursuant to this section after trial shall have been certified by a statewide certification authority. The States may elect to create one or more certification authorities (but not more than three such certification authorities) to perform the responsibility set forth below. the certification authority for counsel at any stage of a capital case shall be—

(A) a special committee, constituted by the State court of last resort or by State law, appointing staff attorneys of a defender organization, members of the private bar, or both;

(B) a capital litigation resource center, appointing staff attorneys, members of the private bar, or both; or

(C) a statewide defender organization, appointing staff attorneys, members of the private bar, or both. (2) The certification authority shall—

(A) certify attorneys qualified to represent persons charged with capital offenses or sentenced to death;

(B) draft and annually publish procedures and standards by which attorneys are certified and rosters of certified attorneys; and

(C) periodically review the roster of qualified attorneys, monitor the performance of all attorneys certified, and withdraw certification from any attorney who fails to meet high performance standards in a case which the attorney is appointed or fails otherwise to demonstrate continuing competence to represent prisoners in capital litigation.

(c) Experience Requirement for Before Trial Appointments.—In the case of an appointment made before trial, at least one attorney appointed under this section must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have not less than 3 years' experience in the trial of felony prosecutions in that court.

(d) Experience Requirement for After Trial Appointments.—In the case of an appointment made after trial, at least one attorney appointed under this section must have been admitted to practice in the court of last resort of the State for not less than 5 years, and must have not less than 3 years' experience in the handling of appeals in that State court in felony cases.

(e) Court Appointment.—A court, for good cause and with the consent of the client concerned, may appoint another attorney whose background, knowledge or experience would otherwise enable the attorney to properly represent the client with due consideration of the seriousness of the possible penalty and the unique and complex nature of the litigation.

(f) Additional Services.—Upon a finding in ex parte proceedings that investigative, expert, or other services are reasonably necessary for the representation of the client, whether in connection with issues relating to guilt or issues relating to sentence, the court shall authorize the client's attorney to obtain such services on behalf of the client and shall order the payment of fees and expenses therefor, under subsection (g). Upon finding that timely procurement of such services could not practically await prior authorization, the court may authorize the provision of any payment of services nuno pro tuno.

(g) Compensation.—The court shall fix the compensation to be paid to an attorney appointed under this section (other than State employees) and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under subsection (f), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of this section.

(h) Sanction.—If—

(1) a State fails to provide counsel in a proceeding specified in subsection (a)(1);

(2) counsel appointed for such a proceeding fails substantially to meet the qualification standards specified in subsections (c), (d), and (e); or

(3) counsel appointed for such a proceeding fails substantially to meet the performance standards established by the certification authority;

subsections (d) and (h) of section 2254, title 28, United States Code, shall not apply with respect to such proceeding in a case under chapter 153 of such title.

The CHAIRMAN. Under the rule, the gentleman from New Jersey [Mr. Hughes] will be recognized for 10 minutes, and a Member in opposition will be recognized for 10 minutes.

Mr. HUGHES. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I have an amendment at the desk.

Mr. Chairman, I have an amendment in the nature of a substitute to the habeas corpus reform provisions in Title XIII that I am pleased to offer together with the gentleman from South Carolina [Mr. Derrick]. This amendment represents tough but fair, and long overdue reform of the habeas corpus process.

The writ of habeas corpus is an ancient and highly cherished right with roots reaching back well over 500 years into English common law. The writ is guaranteed by article II of the Constitution and was codified by the very first Congress in the Judiciary Act of 1789. Today, it serves as the primary means by which State capital convictions are reviewed for violations of Federal law.

The process, however, is in dire need of reform. For one thing, prisoners on death row are playing the system to avoid execution, frequently causing delays of 10 years or more. Second, indigent capital defendants are not receiving competent and qualified legal representation at trial. Because of this, as many as 60 percent of State capital convictions are eventually overturned—sometimes over a decade after conviction. In most of these cases, decent counsel at trial would have prevented much of the sebsequent delay.

You will be offered two habeas corpus alternatives today—the Derrick-Hughes habeas reform package and the Hyde amendment. The claim being made by the Republicans that Derrick-Hughes does not address the abuse of habeas corpus and would nullify State death penalty statutes is patently political and absolutely absurd. The Derrick-Hughes reform of Federal habeas corpus corrects the serious problems caused by prisoner abuse of the process and ensures that indigent defendants will be appointed qualified counsel so that convictions are not reversed years later. Derrick-Hughes is real reform that will apply uniformly across the country.

By contrast, the Hyde amendment would create a two-tiered system of justice—one for the rich and one for the poor. It would do nothing to ensure that indigent defendants are properly represented, thus leaving untouched the primary source of delay. The Hyde Amendment would fail to reform the entire system because it would allow the States themselves to choose whether or not to participate. This would create two habeas corpus systems in this country and would leave the present unworkable and unacceptable system in place in those States that choose not to opt-in in a fundamental constitutional process with two basic systems even within the same judicial circuit. It is absurd. Any reform that fails to apply uniformly is no reform at all.

Now, there is no dispute that many prisoners on death row, have been abusing the Federal habeas corpus process. That is beyond dispute. As it exists today, there is no time limit within which defendants must file Federal habeas petitions. There is no limit on the number of last minute and repetitious habeas petitions that can be filed in Federal court to try to avoid execution. The system encourages prisoners to delay and drag their feet and then run around at the last minute to get a Federal stay of execution. As a result, 8 to 10 years or more often elapse between the pronouncement of a death sentence and its actual imposition. This haphazard, needless approach undermines public confidence in the criminal justice system and weakens the deterrent effect of capital punishment in my judgment.

It is also true that quality of legal representation that many indigent capital defendants receive is totally disgraceful. Some of the stories are truly unbelievable. Listen to this. It is not uncommon for lawyers appointed to represent capital defendants to have just gotten out of law school and never tried a case before. Some lawyers have been drunk or on drugs during the trail. One lawyer appointed to represent a black capital defendant was a prominent member of the Ku Klux Klan. In one instance the defense attorney left the courtroom during critical periods to put money in his parking meter during a capital case. In some States, absurdly low limits are placed on the compensation paid to appointed counsel. In others, the appointment goes to the lowest bidder.

Mr. Chairman, who would ever want to try a capital case for $1,000 and yet that has happened often, and that is why it probably was reversed on appeal. In one case the lawyer admitted he only knew two criminal cases and, as it turns out, one of them was not even a criminal case.

This unacceptable level of representation is what causes most of the litigation and delay. If you deal with the problem at its source—the quality of counsel at trial—you will do much to decrease the volume of habeas corpus litigation that follows down the road. A great deal of time is spent correcting these flagrant injustices and redoing what could have been done right the first time.

The Derrick-Hughes amendment corrects both of these problems and does so in a way that creates uniform reform for everyone. First, it contains mandatory provisions that for the first time will set limits on a defendant's ability to file Federal habeas petitions, 180 days, the same as the Powell Connission. It addresses the successive petition provisions, reduces that, eliminates the problem with lawyers sandbagging. It does a number of other things that the district attorneys around the country rightly complained about.

Mr. Chairman, it is a good provision.

Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I rise in opposition to the amendment of the gentleman from New Jersey [Mr. Hughes].

Mr. Chairman, as much, again, and I respect the gentleman from New Jersey, he and I seem to find ourselves on the floor of the House opposed to each other more often than in harmony, even though in committee that is not usually the case. Today I have to rise in opposition to this amendment.

Mr. Chairman, this is the same amendment to the habeas corpus area that we saw offered out here to the rule last week which we defeated in order to be able to go back to the amendment of the gentleman from Illinois [Mr. Hyde].

What the law enforcement officials of this Nation want, the states attorneys associations, the district attorneys associations, Fraternal Order of Police, and on down the line, is an opportunity for us to enact true reform in the appelate process on the death penalty, and that true reform is only under the Powell Commission recommendation that the gentleman from Illinois [Mr. Hyde] will offer next.

Mr. Chairman, I must oppose the amendment of the gentleman from New Jersey [Mr. Hughes] because it does leave open the loopholes that will allow those who are on death row to continue to be able to appeal, and appeal, and appeal their convictions and their sentences and delay the carrying out of the death sentence. The objective of reform is to limit that, to still provide constitutional rights for normal appeals, but I say to my colleagues, "But once you finish your normal appeal, to say you've only got one bite at the apple in Federal district court under habeas corpus petitions, to let the Federal judge see if you had a bad lawyer, or whatever, and that will be the end of it."

Mr. Chairman, the Powell Committee has crafted a very fair and responsible method of doing that that all the law enforcement officials in this Nation support, and they feel, if we adopt the amendment of the gentleman from New Jersey [Mr. Hughes], and I agree, we are going to effectively eliminate the death penalty for many States around the country instead of reforming the appellate process of habeas corpus.

Mr. Chairman, because I think he is the best one suited to explain the details of this and to counter the gentleman from New Jersey [Mr. Hughes], I yield 5½ minutes to the gentleman from Illinois [Mr. Hyde].

Mr. HYDE. Mr. Chairman, I thank the gentleman from Florida [Mr. McCollum] for yielding to me.

Mr. Chairman, I will not take up a great deal of time on this amendment because at its conclusion I am going to offer an amendment that will give this House the opportunity to adopt some true habeas corpus reform.

□ 1630

This amendment is not habeas corpus reform. It retains nearly all of the major flaws contained in the current title XIII of the bill. But you do not have to take my word for it. Listen to what various law enforcement organizations have to say about the Hughes-Derrick amendment.

For example, in a letter dated September 25, the National District Attorneys Association had this to say:

> The National District Attorney Association strongly opposes the Hughes substitute amendment to title XIII of H.R. 5269. This particular amendment does nothing to cure the major flaws in title XIII of H.R. 5269 to which the NDAA vigorously objected in a recent letter sent to you.
>
> The Hughes substitute amendment does not address the abuse of habeas corpus that has virtually nullified the death penalty laws of the states. Rather, it grossly increases the opportunities for prisoners under sentence of death and all other convicted offenders to abuse the judicial process and thwart justice.
>
> Several procedural rules relative to collateral review which have been established by certian decisions of the U.S. Supreme Court would be legislatively overruled if this amendment is passed. This would dramatically increase the opportunity for delay, abuse and repetitive litigation in habeas corpus proceedings.
>
> The nation's prosecutors will be hampered in their efforts to uphold and enforce the law if H.R. 5269 is enacted, with or without the Hughes substitute amendment.

Now, that is not me, that is not some conservative Republican group, that is the National District Attorneys Association.

Let us move to the National Association of Attorneys General. That is a bipartisan group, and they wrote on the same date:

> In sum, the Hughes substitute amendment is no better than the provisions of the present title XIII. The whole title represents a step backward in the area of habeas corpus law. It continues to impose onerous counsel requirements on the States, while affirmatively undermining what little finality State capital convictions are presently given in habeas corpus proceedings. The practical effect of the enactment of the Hughes substitute amendment into law would be to abolish the death penalty as a sanction for murder in this country and remove the finality of judgment in all criminal proceedings.

Thus sayeth the National Association of Attorneys General, including my own attorney general from Illinois, who is a Democratic candidate for Governor.

Moreover, the Attorney General of the United States came to the same conclusion. Here is what he says:

> The Hughes amendment, like its predecessors, imposes onerous counsel requirements on the States, while decreasing the finality of State court judgments in capital cases. By authoring successive sentencing challenges and overruling recent Supreme Court decisions favorable to the States, the Hughes proposal would set back the clock on this issue. A vote for the Hughes substitute amendment is a vote against the enforcement of the death penalty laws in 37 States.

Now, let us move out west to the great State of California, where the attorney general, John Van De Kamp, who recently was running for Governor and certainly is no conservative and is personally opposed to the death penalty, but recognizes the adverse impact the Hughes amendment would have in noncapital as well as capital cases. Here is what attorney general of California John Van De Kamp said:

> Although the Hughes amendment rearranges the deck chairs, it will not prevent the sinking of the death penalty in this country. Rather, every capital case will remain submerged in endless, costly litigation over issues that could not have affected the basic accuracy and fairness of the State proceedings.

Mr. Chairman, I think these statements leave no doubt that the law enforcement community, the professionals in the trenches, fighting these cases in court, are just as adamantly opposed to the Hughes amendment as they are to the provisions currently in title XIII. The alternative approach, that is actively supported by the overwhelming majority of the law enforcement community, is embodied in the amendment I will be offering shortly at the conclusion of this amendment.

The Hughes amendment allows convicted murderers, whose guilt is not in doubt, to raise new claims alleging technical defects in their capital sentences in a second, third, fourth, or even later habeas corpus petition.

The Hughes amendment is no reform at all. It is a step backward. That is the opinion of the Association of Chief Justices, the Powell Commission, the district attorneys, and the attorneys general. So the gentleman from New Jersey [Mr. Hughes] has support from a small group who really do not like the death penalty, and they figure this is a way to cancel it out indirectly, if not through the front door directly. I hope Members reject the Hughes amendment and support my amendment, which will be offered next.

The CHAIRMAN. The gentleman from New Jersey [Mr. Hughes] has 5 minutes remaining, and the gentleman from Florida [Mr. McCollum] has 2½ minutes remaining.

Mr. HUGHES. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. Kastenmeier], the chairman of the Subcommittee on Courts, Intellectual Property, and the Administration of Justice.

Mr. KASTENMEIER. Mr. Chairman, the Hughes/Derrick amendment represents the merger of important values in our criminal justice system and our society—sureness and finality on the one hand, and fundamental fairness on the other.

The Hughes/Derrick amendment ensures that the death penalty will continue to be imposed if States elect to do so. It preserves the integrity of the writ of habeas corpus in the Federal courts, while assuring that death row inmates will have one and only one opportunity for Federal review. I believe this proposal meets the criticisms of both title 13 and the Hyde amendment.

One of the most important provisions of the amendment is the requirement of counsel at all stages of death penalty cases in State court. The Powell committee plan would only encourage the States to provide counsel, and then not at trial, but only in State postconviction proceedings. It is at trial where qualified counsel are needed most, and the amendment guarantees that we will have competent lawyers at that stage.

Second the Hughes/Derrick amendment accepts the 6-month statute of limitations recommended by the Powell committee and advocated by the attorneys general and other prosecutors who have said that 1-year statute of limitations of title VIII is too long.

In my judgment, 6 months is a reasonable amount of time when coupled with the strong counsel provision included in the amendment. I would like to remind my colleagues that a statute of limitations alone is a significant change in our current habeas corpus

statutes. Traditionally, the write has never been subject to time limits—if a prisoner believed his rights were violated—5 years or 10 years later—a petition for habeas corpus was available. Today, with this amendment, we end that practice and we say, if we are to have criminal law that is respected, if we are to have a judicial system that is understood and supported by the people, then at some point the States must be able to carry out their judgments.

Third, I agree with the Powell committee that one fair opportunity should mean just that. Except in the rarest instances, 11-hour appeals and successive petitions must be eliminated. We cannot allow Federal courts to be manipulated for purposes of delay. In that regard, the committee bill goes too far by permitting repetitious petitions if they serve the interests of justice. That standard invites abuse. We have eliminated it and instead included the standard adopted by the Powell committee.

Therefore in all but exceptional instances, successive petitions must be limited to claims going to guilt or innocence or the validity of a death sentence—and then only where there is new law, new evidence or State misconduct. The amendment recognizes that a successive petition is appropriate in very rare instances such as the discovery of perjured testimony at the sentencing phase of a capital case, which directly draws the validity of the death sentence itself into question. A successive petition in this instance is not only appropriate but is necessary to preserve the integrity of the sentence under established constitutional standards. This standard is far more restrictive than current law. It is a tough standard. It is a fair standard, and it will create finality and certainty where none now exists.

Fourth, the Hughes/Derrick amendment will ensure that the State courts do not have to anticipate changes in the law. The Hughes-Kastenmeier bill would overrule the Supreme Court's decision in Teague versus Lane on when new rules of law can be applied to cases already final. This amendment codifies Teague's rules for determining the applicability of new rules. When a new rule is established after a case becomes final, it will almost never be applicable retroactively. The only exceptions the amendment would allow are the exceptions that Chief Justice Rehnquist and Justice O'Connor have allowed in Teague.

Fifth, the Hughes/Derrick amendment will eliminate sandbagging. Under this amendment, if a defense attorney deliberately withholds a known claim from the State courts for strategic purposes, the Federal courts cannot consider that claim in habeas corpus.

While the Hughes/Derrick amendment moves toward the Hyde amendment in many respects, it is different from that amendment in two critical respects. First, the amendment is mandatory. If we pass it, we will have a statute of limitations for all capital cases in the country. We will have a strict limit on successive petitions for every death row inmate. We will create for every death row inmate in the country a streamlined system for Federal appeals.

With the Powell committee plan, all we would get is a suggestion, a concept, but no statute of limitations and no limit on successive petitions if the States do not opt in to that plan. In other words, we will have no change at all.

The Hughes/Derrick amendment takes the best of the Powell committee recommendations, the Specter-Thurmond bill as passed by the Senate, and the American Bar Association and Judicial Conference recommendations. It will reform a system that badly needs it and I urge your support.

The CHAIRMAN. The Chair would advise that the proponents of this amendment will be afforded the opportunity to close.

Mr. McCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from Alabama [Mr. Harris].

Mr. HARRIS. Mr. Chairman, I thank the gentleman for yielding. I say to Members today, as a former prosecutor for 10½ years and a judge for 8½ years, I stand with my DA's and my law enforcement people and say to vote down the Hughes amendment. I stand in strong support of the Hyde amendment, which is to be offered later.

Mr. HUGHES. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from South Carolina [Mr. Derrick], a coauthor of the amendment.

Mr. DERRICK. Mr. Chairman, I am grateful to the gentleman from New Jersey for his amendment, which I believe is constructive and adds an important new viewpoint to this debate. While I believe that the amendment goes too far in some circumstances, I will support it. It is a responsible and fair attempt to resolve any remaining issues relating to a reform of our habeas corpus laws.

Everyone agrees that our habeas corpus laws must be reformed. At least it seems that way. I have come to believe, however, that the Justice Department, and many attorneys general and district attorneys, do not want real reform. They want speed at the expense of fairness. They want executions no matter what the cost.

We have attempted, time and time again, to seek fair compromises with these prosecutors. Time and time again, they have flatly refused even to talk about the issue. They have told us that they want this bill vetoed. I am sorry to say that this is not a responsible or constructive way to legislate. The Congress should not follow in their footsteps.

In my view, the original bill that I introduced on habeas corpus was a good bill that balanced fairness with efficiency, and that responded to legitimate complaints from all sides. The bill reported by the Judiciary Committee made 14 major changes to my original bill. In almost every instance, those changes were proposed by, and strongly advocated by, the prosecutors of this country. I supported those changes in the interests of compromise, and I am grateful to the gentleman from New Jersey for his efforts in that regard.

The amendment proposed by the gentleman from New Jersey goes even further toward the position of the prosecutors. In fact, it alters certain provisions of this legislation that I believe are important to any real reform of our habeas corpus laws. I support the amendment because it still retains the essence of fairness, and because it is a fair compromise.

There is a great deal of misinformation being generated about this bill, apparently in the hopes of having the President veto it. For example, title XIII has been criticized for guaranteeing a 1-year delay in the filing of habeas petitions. By this reasoning, the Powell committee guarantees a 6-month delay in filing. Surely the President should not veto this bill because of a difference of 6-months.

In fact, title XIII provides a 1-year statute of limitations for the first time. Under current law, there is none at all. In the interests of compromise, however, the Hughes amendment adopts the Powell committee's recommendation on the statute of limitations.

Second, title XIII's counsel provisions have been attacked for setting unreasonable standards and for being too expensive. This, too, is false. These provisions are almost identical to those in States such as Ohio, which has written to use to urge adoption of its system. They have told us that the system eliminates delays, and that its costs have beem minimal.

These provisions have been strongly urged by State and Federal judges through out the country, who have seen the terrible mistakes and consequent injustice and delays caused by incompetent lawyers in death penalty cases. The American Bar Association developed these provisions after extensive hearings at which prosecutors and defense lawyers, academics and judges alike, testified.

The Hughes amendment alters these provisions in favor of tracking the approach taken by the Specter-Thurmond habeas bill in the Senate. Under this approach, States are permitted to set up their own entities to determine counsel qualifications and to appoint them. The only standard set out is that required by Specter-Thurmond and by the Gekas amendment, adopted in the 1988 Anti-Drug Abuse Act, that lawyers have 5 years experience at the bar and 3 years experience in felony cases.

Title XIII has been criticized for permitting successive petitions raising claims that have been raised before. What the criticism does not acknowledge is that title XIII simply carries forward current law. The Powell committee does so as well. By not addressing this issue, the Powell committee retains current law.

The Hughes amendment adopts the approach of the Powell committee, and deletes title XIII's provision entirely.

I regret that one of title XIII's most important provisions, relating to the application of new rules, has been curtailed. Title XIII set forth when new rules of law would apply to Federal habeas corpus cases. Criticisms that title XIII would upset the finality of State court decisions were simply untrue, since new rules would have applied retroactively only in very narrow circumstances.

The Hughes amendment narrows those circumstances even further. New rules will rarely, if ever, be applied. In fact, the amendment adopts the very language from Teague versus Lane, which the prosecutors favor, about when new rules will apply. According to Justice O'Connor, who wrote the opinion in Teague, it is unlikely that there are any such instances when new rules will apply retroactively to convictions that are already final.

Finally, the amendment addresses one other issue that has drawn criticism. I believe that title XIII's language was sufficient to prohibit sandbagging, or the deliberate withholding of a claim for strategic purposes so that it may be raised on appeal. However, others argued that this language was inadequate. The Hughes amendment therefore sets forth specific language that prohibits sandbagging, and that permits the courts to dismiss claims if sandbagging has occurred.

The amendment offered by the gentleman from New Jersey is a tough one. It changes title XIII in areas that I believe are important to real habeas corpus reform. However, in the interest of compromise, I support the gentleman's amendment.

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Mr. McCOLLUM. Mr. Chairman, I yield myself the balance of my time.

The **CHAIRMAN.** The gentleman from Florida [Mr. McCollum] is recognized for 2 minutes.

Mr. McCOLLUM. Mr. Chairman, the Hughes amendment is an amendment that I know the gentleman crafted, and the gentleman from South Carolina [Mr. Derrick] worked with him, and they crafted something they think is a middle ground, somewhere in between. The problem with middle grounds sometimes are they are not a good product. They are not the type of result that we have to have, especially when we deal with something as important as making the death penalty effective in States and not giving endless appeals to people and finally getting the restrictions that we want.

The gentleman argues about some two-tier system that he is worried about. We have two-tier systems, and I do not even think that is really what is in the Hyde amendment anyway. But we have two-tier systems in lots of States, State and Federal there are two tiers, so that is not a problem.

There has been lots of heretical argument here, but the Hyde amendment rather than the Hughes amendment is the amendment which is endorsed and will be endorsed by all of the associations of prosecutors around this country. They say the Hughes amendment does not do the job, and in fact is worse than present law in many cases. They say the Hyde amendment is the one that is right. That is the States' Attorneys General Association, the District Attorneys, Fraternal Order of Police, the International Association of Police Chiefs, I could go on and on.

I simply urge my colleagues to listen to those who are enforcing the laws of this Nation, the prosecutors and the police of this country. They do not want the Hughes amendment. They are worried it will make it more difficult if not impossible to carry out State imposed death penalties. They want the Hyde amendment instead.

I urge a no vote on the Hughes amendment and I urge an aye vote when the time comes on the Hyde amendment. But for now let us vote no on Hughes and send the message that we want real, true reform of habeas corpus and reject the Hughes amendment.

Mr. HUGHES. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. Brooks].

Mr. BROOKS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the amendment offered by Mr. Hughes makes drastic changes in the habeas corpus provisions included in title XIII. It draws from recommendations of the Powell committee, provisions adopted by the other body, and recommendations of this country's prosecutors.

Mr. Chairman, title XIII, which was approved by the Committee on the Judiciary, responds to a need to reform habeas corpus proceedings in this country, a need which has been recognized by many Americans. Current procedures have permitted entirely too much time to pass before final execution of a sentence imposed by an impartial jury. Heinous murderers have seemed to be able to circumvent the judicial system through seemingly endless habeas petitions.

Title XIII is well-balanced between human rights and the rights of the State. It first allows petitioners to have one complete Federal habeas corpus review; second, encourages judicial review of the merits of a case by clarifying when procedural default will occur, third; requires competent counsel in all capital proceedings; fourth, provides a 1-year statute of limitations and automatic stays of execution while habeas review is on-going among other things.

Many voices were raised in opposition to title XIII. However, many feel that the provisions adopted by the Judiciary Committee were balanced too far in the direction of prisoners.

The Hughes amendment recognizes valid concerns that have been raised, in conjunction with the need for habeas corpus reform, and offers to the members an alternative to title XIII, which I recommend that we all support.

The amendment reduces the statute of limitations from 1 year to 6 months. It responds to arguments that provisions requiring competent counsel are too expensive and burdensome for the States by simply requiring that attorneys be experienced and authorizing that their compensation be fixed by the courts. In addition, the amendment reduces a defendant's ability to file successive petitions, alters the applicability of "new rules" in habeas cases, and eliminates the ability for petitioners to deliberately withhold certain claims in State courts in order to gain strategic advantage. Courts will be permitted to dismiss claims if they have been deliberately withheld.

Mr. Chairman, all in all the Hughes amendment addresses the major need for reform while responding to concerns that the reforms in title XIII do not go far enough. I urge all Members to vote for the amendment.

Mr. HUGHES. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. Nelson].

Mr. NELSON of Florida. As we debate this crime bill before us today, I rise in support of the Hughes amendment to reform habeas corpus procedures.

In November of 1989, I introduced H.R. 3584, legislation to reform procedures for collateral review of criminal judgements. This legislation provides that State prisoners who are afforded qualified counsel at trial and throughout a State's death penalty proceedings, shall have only a single opportunity to litigate their habeas corpus claim in Federal court. The Hughes amendment and the legislation I filed last year are quite similar.

I have heard from many , all over the State of Florida about the abuses that currently take place in the review of habeas corpus cases.

Too often, I have received complaints about delays in Federal habeas corpus actions that result in massive expense to the taxpayers as well as a backlog in our Federal courts. In addition, prisoners who may have a legitimate claim find themselves caught up in a bureaucratic system that does little to weed out those claims which are legitimate as opposed to those that are not. A Florida Supreme Court justice recently calculated that courts spend up to 50 percent of their time on capital punishment cases.

The focus of debate is this—there is a great amount of delay in State capital cases that has been attributed to repetitive applications for habeas corpus review in Federal courts. The review of death sentences is a serious and important procedure. Safeguards must be worked into the system to ensure a fair and just opportunity for prisoners to make their claim.

Presently, most abuses during a defendant's course through the judicial process occur at the trial level—making inevitable wasteful appeal, retrials, resentencing and repetitive refilings of writs of habeas corpus. It is imperative that we provide for qualified representation during this crucial stage and continue that representation throughout the process. The Hughes amendment provides for this qualified counsel every step of the way.

The Hughes amendment provides one opportunity for a prisoner to file a writ of habeas corpus and requires that this writ be filed within a 6 month time frame. While this amendment limits a defendant's ability to present successive petitions except under very limited conditions, it provides for the appointment of competent counsel at every stage of the capital litigation for defendants.

The Hughes amendment responds to concerns expressed by attorney generals by: First, adopting the same 6-month statute of limitations; second, eliminating the provision in the bill allowing prisoners to raise the same claim more than once; third, barring claims if defense counsel withheld them in State court for strategic reasons; fourth, adopting the standards in Teague versus Lane for deciding when new rules of law will apply; and fifth, eliminating specific and expensive standards for the appointment and compensation of counsel.

Mr. Chairman, crime is foremost on the minds of our citizens. No crime is acceptable, yet those that are heinous are even harder to deal with on an emotional and judicial level. This reform is necessary in order for our judicial system to remain effective. Therefore, I urge my colleagues to support the Hughes amendment.

Mr. HUGHES. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, what do the judges around the country want? What does the Judicial Conference want? I have not heard the gentleman from Illinois. [Mr. Hyde], or the gentleman from Florida [Mr. McCollum] tell us what the judges want.

I will tell Members what they want. They want the Hughes-Derrick or Derrick-Hughes amendment. One of the reasons is if Members vote for the Hyde amendment and do not vote for the Hughes amendment here is what is going to happen: The one difference on successive petitions is one of the differences between Hyde and Hughes. In Hughes, Hughes says that if you have somebody on death row and it is discovered before he is executed that his conviction and sentence was based on perjured testimony, Hyde would not permit it to be used. Hyde would not permit that to be raised in a habeas corpus process. Hughes would.

There are not very many other differences between Hughes and Hyde. The second major difference is Hyde wants two systems in this country, one for the rich and one for the poor. If you are wealthy, if you are affluent, you can afford competent counsel. But if you happen to come from a State that has not opted in, you may get incompetent counsel, and that is the reason we have a 60- percent reversal rate in capital cases in this country, because we have been appointing incompetent counsel.

I urge Members to support the Hughes amendment.

The **CHAIRMAN.** The question is on the amendment offered by the gentleman from New Jersey [Mr. Hughes].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

The **HUGHES.** Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 189, noes 239, answered "present" 1, not voting 4, as follows:

[Roll No. 417]

AYES—189

Ackerman
Anderson
Applegate
Aspin
Atkins
Bates
Beilenson
Bennett
Berman
Boggs
Bonior
Boucher
Boxer
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Cardin
Carper
Clay
Clement
Coleman (TX)
Collins
Conte
Conyers
Cooper
Costello
Courter
Coyne
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (TN)
Frank
Frost
Gejdenson
Gephardt
Gilman
Glickman
Gonzalez
Gordon
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hayes (IL)
Hefley
Hertel
Hoagland
Hochbrueckner
Hoyer
Hubbard
Hughes
Jacobs
Johnson (CT)
Johnston
Jontz
Kaptur
Kastenmeier
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mazzoli
McDermott
McHugh
McMillen (MD)
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Nagle
Neal (MA)
Nelson
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Pallone
Panetta
Patterson
Payne (NJ)
Pease
Pelosi
Penny
Pickle
Poshard
Price
Rahall
Rangel
Roe
Rose
Roybal
Sabo
Sangmeister
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tauke
Torres
Towns
Traficant
Udall
Unsoeld
Upton
Vento
Visclosky
Volkmer
Walgren
Washington
Waxman
Weiss
Wheat
Williams
Wise
Wolpe
Wyden
Yates

NOES—239

Alexander
Andrews
Annunzio
Anthony
Archer
Armey
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Borski
Bosco
Brennan
Broomfield
Browder
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Campbell (CA)
Campbell (CO)
Carr
Chandler
Chapman
Clarke
Clinger
Coble
Coleman (MO)
Combest
Condit
Coughlin
Cox
Craig
Crane
Dannemeyer
Darden
Davis
DeLay
DeWine
Dickinson
Donnelly
Dornan (CA)
Douglas
Dreier
Duncan
Dyson
Early
Emerson
Engel
English
Erdreich
Fawell
Fields
Flippo
Ford (MI)
Frenzel
Gallegly
Gallo
Gaydos
Gekas
Geren
Gibbons
Gillmor
Gingrich
Goss
Gradison
Grandy
Grant
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefner
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (SD)
Jones (GA)
Jones (NC)
Kanjorski
Kasich
Kennedy
Kolbe
Kyl
Lagomarsino
Laughlin
Leath (TX)
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lowery (CA)
Lukens, Donald
Machtley
Madigan
Marlenee
Martin (IL)
Martin (NY)
Mavroules
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McNulty
Meyers
Michel
Miller (OH)
Molinari
Montgomery
Moorhead
Morrison (WA)
Murtha
Myers
Natcher
Neal (NC)
Nielson
Olin
Owens (UT)
Oxley
Packard
Parker
Parris
Pashayan
Paxon
Payne (VA)
Perkins
Petri
Pickett
Porter
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Saiki
Sarpalius
Savage
Schaefer
Schiff
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skeen
Skelton
Slaughter (VA)

Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stangeland
Stearns
Stenholm
Stump
Sundquist
Tallon
Tanner
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torricelli
Traxler
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Watkins
Weber
Weldon
Whittaker
Whitten
Wilson
Weil
Wylie
Yatron
Young (FL)

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—4

Crockett
Edwards (OK)
Hawkins
Young (AK)

□ 1706

Mr. MAVROULES and Mr. TRAXLER changed their vote from "aye" to "no."

Messrs. OBERSTAR, FLAKE, SHAYS, STOKES, and LEACH of Iowa changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 15 printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HYDE: Amend title XIII to read as follows:

TITLE XIII—HABEAS CORPUS

SEC. 1301. DEATH PENALTY HABEAS CORPUS PROCEEDINGS.

Title 28, United States Code, is amended by inserting after chapter 153 the following new chapter:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.
"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2258. Filing of habeas corpus petition; time requirements; tolling rules.
"2259. Evidentiary hearings; scope of Federal review; district court adjudication.
"2260. Certificate of probable cause inapplicable.
"2261. Application to State unitary review procedures.

"SEC. 2256. PRISONERS IN STATE CUSTODY SUBJECT TO CAPITAL SENTENCE; APPOINTMENT OF COUNSEL; REQUIREMENT OF RULE OF COURT OR STATUTE; PROCEDURES FOR APPOINTMENT.

"(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State post-conviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation, and reimbursement of counsel under subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing one or more counsel to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal collateral post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254 or this chapter. This limitation shall not preclude the appointment of different counsel on the court's own motion or at the request of the prisoner, at any phase of State or Federal post-conviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"SEC. 2257. MANDATORY STAY OF EXECUTION; DURATION; LIMITS ON STAYS OF EXECUTION; SUCCESSIVE PETITIONS.

"(a) Upon the entry in the appropriate State court of record of an order under section 2256(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application must recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 within the time required in section 2258, or fails to make a timely application for court of appeals review following the denial of such a petition by a district court;

"(2) upon completion of district court and court of appeals review under section 2254 the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal post-conviction review; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"SEC. 2258. FILING OF HABEAS CORPUS PETITION; TIME REQUIREMENTS; TOLLING RULES.

"Any petition for habeas corpus relief under section 2254 must be filed in the appropriate district court within 180 days after the filing in the appropriate State court of record of an order under section 2256(c). The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition, if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for post-conviction review pending before a State court of competent jurisdiction; if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for post-conviction review until final disposition of the case by the highest court of the State, but the time requirements established by this section are not tolled during the pendency of a petition for certiorari before the Supreme Court except as provided in paragraph (1); and

"(3) during an additional period not to exceed 60 days, if—

"(A) a motion for an extension of time is filed in the Federal district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254; and

"(B) a showing of good cause is made for the failure to file the habeas corpus petition within the time period established by this section.

"SEC. 2259. EVIDENTIARY HEARINGS; SCOPE OF FEDERAL REVIEW; DISTRICT COURT ADJUDICATION.

"(a) Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall—

"(1) determine the sufficiency of the evidentiary record for habeas corpus review based on the claims actually presented and litigated in the State courts except when the prisoner can show that the failure to raise or develop a claim in the State courts is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State post-conviction review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) Upon the development of a complete evidentiary record, the district court shall rule on the merits of the claims properly before it.

"SEC. 2260. CERTIFICATE OF PROBABLE CAUSE INAPPLICABLE.

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.

"SEC. 2261. APPLICATION TO STATE UNITARY REVIEW PROCEDURES.

"(a) For purposes of this section, a 'unitary review' procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. This chapter applies, as provided in this section, to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) A unitary review procedure, to qualify under this section, must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2256(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) Sections 2257, 2258, 2259, and 2260 apply to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in those sections shall be understood as referring to unitary review under the State procedure. The reference in sections 2257(a) and 2258 to 'an order pursuant to section 2256(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the 180-day limitation period under section 2258 shall be deferred until a transcript is made available to the prisoner or the prisoner's counsel.".

Page 237, strike line 22 and all that follows through line 13 on page 238.

The CHAIRMAN. Under the rule, the gentleman from Illinois [Mr. HYDE] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, we are going to talk about the need for habeas corpus reform. Habeas corpus is a complicated subject and it would take about a month and a half for a very short course on trying to understand the complexities. However, it is very important.

Habeas corpus is the name of the petition a defendant files who has been convicted in a criminal trial, and who has gone through direct appeal in a State court, and then wants to attack his conviction in a collateral appeal by raising questions of the constitutionality of the proceedings in the State court and any other error, reversible error, he urges, and this is litigated in a secondary or a collateral proceeding.

□ 1710

Now you can do that through the State courts and then you go over to the Federal court and you revisit those issues and you have a collateral appeal through the Federal court.

The problem with habeas corpus is that it has been abused. It has been terribly abused in our country, so there is almost no finality to any criminal sentence.

Now, if you are sentenced to a term of years for a crime, you want a speedy hearing on your habeas corpus petition because you want to get out of there, but if you have been sentenced to death, you are fighting for time and you want delay and delay and more delay. The problem is these delays have frustrated the law and some people remain on death row for 8 years, for 12 years, and the law is made to look foolish and unenforceable and people develop contempt for the law.

We are here today to reform that law, to make it meaningful in a fair and balanced way.

There are 37 States which have capital punishment, and today as we speak there are over 2,350 murderers on death row waiting for something to happen. They are under sentence of death, but in 1988, the last year for which I have statistics, there were only 11 executions. The problem—endless, endless collateral appeals permitted by the law.

Now, there were two solutions offered to really reform the habeas corpus law. One was the amendment we just voted down and the other is my amendment.

I have asserted that the Hughes amendment was really not habeas reform, but the amendment that I offer now is not my product. It is the product of a commission headed by former Justice Lewis Powell of the Supreme Court and some distinguished jurists who worked long and hard at the direction of the Chief Justice of the U.S. Supreme Court to come up with recommendations for habeas corpus reform.

The amendment that is before us now is approved by the Conference of Chief Justices, the National Association of Attorneys General, the Attorney General of the United States, and the National District Attorneys Association.

The gentleman from New Jersey [Mr. HUGHES] does remind us from time to time, appropriately so, that he has been a prosecuting attorney in New Jersey and that gives him some authority, but the resort to authority is a useful rhetorical device, and I too have enlisted a lot of fine authorities, including the Powell Commission, who support my amendment.

But let me resort to another authority, a good Democratic Member of this body. That may be redundant, a good Democrat, they are all good, but this one is especially good.

Mr. Chairman, I yield 3 minutes to the gentleman from Alabama [Mr. HARRIS], who holds the distinction of having been a prosecuting attorney and having prosecuted capital cases and sitting as a judge on capital cases.

Mr. HARRIS. Mr. Chairman, I thank the gentleman for yielding me this time.

This House should adopt the Hyde amendment, which incorporates verbatim the Powell committee bill. Law enforcement adamantly opposes the habeas provisions now in the bill before the House and strongly supports the Hyde amendment.

The National Association of Attorneys General, by resolution adopted without a dissenting vote, strongly opposes any habeas legislation which would undermine or weaken the procedural default doctrine or broaden any exception to it; strongly opposes any legislation which would weaken the nonretroactivity doctrine; and strongly opposes any legislation which would create new requirements concerning counsel. The bill before the House does all three of those things. The Powell committee bill, which is incorporated into the Hyde amendment, does not contravene the National Association of Attorneys General's statement of policy contained in the resolution. That is why that law enforcement organization opposes the bill as presently written and supports the Hyde amendment.

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

The National Association of District Attorneys, by letter from its President, has also expressed its strong oppostion to the habeas provisions in the bill now before this House. As the President of that organization of prosecutors told the Speaker in a letter last week, the bill as now written "grossly increases the opportunities for prisoners under sentence of death and all other convicted offenders to abuse the judicial process and thwart justice." The Hyde amendment will prevent that.

The Powell committee report bill, which is contained in the Hyde amendment, is also supported by the vast majority of State and Federal judges. The Appellate Judges Conference of the American Bar Association adopted a resolution supporting the Powell committee proposals as a practical and fair resolution of the problems arising in the habeas process. That resolution opposed legislation, like that now in the bill, which would exacerbate the problem of repetitious review rather than ameliorate it.

The National Conference of Chief Justices is composed of the chief justice of every State supreme court. It has adopted a resolution supporting enactment of the Powell committee bill, which is now the Hyde amendment. In that same resolution, the chief justices expressed their opposition to other legislation, like that now in the bill, which would increase rather than decrease habeas delay.

I intend to vote for the Hyde amendment, which is the Powell report bill, because I agree with the National Association of Attorneys General, with the National District Attorneys Association with the Alabama District Attorneys Association, with the Appellate Judges Conference, and with the National Conference of Chief Justices. The bill as written will make the problems with habeas corpus even worse than they are now. On the other hand, the Hyde amendment is an important step toward solving those problems.

Mr. HYDE. Mr. Chairman, I reserve the balance of my time.

Mr. KASTENMEIER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Wisconsin is recognized for 10 minutes.

Mr. KASTENMEIER. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. Brooks], the chairman of the Judiciary Committee.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Illinois [Mr. Hyde].

The Chairman. The gentleman from Texas [Mr. Brooks] is recognized for 10 minutes.

Mr. BROOKS. Mr. Chairman, there is good reason for this body to proceed carefully but firmly in its treatment of habeas corpus. Some would have you believe that the concept of habeas corpus was created out of whole cloth—the work of some overzealous, activist judge in the late 1960's looking for a novel way to help criminals escape their just punishment under the law. This view not only distorts history but also ignores the development of fundamental rights in this Nation.

The doctrine of habeas corpus goes back at least 500 years to the laws of England. In his classis commentaries on Anglo-Saxon law, Blackstone referred to habeas corpus simply as the "Great Writ" whose antecendents lie deep in "the genius of our common law." Habeas corpus was called the great writ because it affored the most basic of rights to a wronged individual—that of a swift and imperative remedy to cases of illegal restraint or confinement. The doctine immediately became part of our own law in the colonial period, was given explicit recognition in article I, section 9 of the Constitution, and was incorporated in the first grant of Federal court jurisdiction in the Judicial Act of 1789. Early in his tenure, Chief Justice John Marshall termed habeas corpus as perhaps our greatest constitutional privilege.

These were not the extravagant pronouncements of men who had no regard for order in society or for swift and sure punishment for wrongdoing. Rather, they embodied the recognition of our greatest lawmakers that in a civilized society, the government must always be accountable to the judiciary for an individual's imprisonment: If a person's denial of liberty is due to his being deprived of the most fundamental requirements of law, then a demand for immediate release should be heard by the courts forthwith.

Justice Holmes succinctly expressed the rationale behind the use of Federal habeas corpus:

> "Habeas corpus cuts through all forms and goes to the very tissue of structure. It comes in from the outside, and does not lie in subordination to proceedings . . . . Whatever disagreement there is about the phrase 'due process', there can be no doubt that it embraces the fundamental conception of a fair trial." (*Frank* v. *Magnum*, 237 U.S. AT 346–347).

In short, while habeas corpus deals with a mode of procedure for those detained, it is inevitably interewined with concepts of due process and personal liberty. All these considerations must be balanced if the work product of this body is to be responsive to the complex and multiple needs of our society.

The Judiciary Committee has kept these principles in mind by crafting a usable set of uniform procedures for implementation in the courts. To those who choose to ignore the long history of the great writ, to those who conveniently forget the central role habeas corpus has played in times of national crises when the claims of order and liberty have clashed most acutely, I would advise them to think twice before clamoring for the emasculation of a doctrine that is as deeply rooted in our history and rule of law as any that exists today.

□ 1720

Mr. KASTENMEIER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I appreciate very much the historical perspective given this body by the gentleman from Texas. The fact is we are today confronted with two options: One, a mandatory uniform reform of habeas corpus that makes habeas corpus respond only once, you get one shot at it, that foreshortens the periods for which you can either file a habeas corpus petition, or you can vote for the Hyde amendment.

The Hyde amendment is not mandatory and is not uniform, and you should know it.

It requires States to opt in, then it is operational. For those States that do not opt in, you have the present habeas corpus applying. And to opt in requires of the States representation by counsel.

Mr. Hyde has that in his bill. But if they do not opt in, you have the same habeas corpus in those States that has preexisted that everybody has been complaining about, you have a dual system.

So I ask you urgently to turn down the Hyde option.

Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. Hughes].

Mr. HUGHES. Mr. Chairman, I know it is not going to make any difference, but I have to say something that I feel very strongly about: I served in the National District Attorneys Association for about 10 years, and I was proud of that service. I tried a lot of criminal cases, and I am as sensitive as anybody to the absolute certainly we need in the system.

What troubles me about Powell and Hyde, the Powell Commission report and Hyde, is that we are going to have in this country two basic systems, one for the very rich and one for the very poor.

States do not have to opt in and take advanage of the new reform rules.

We need to reform habeas corpus. They do not have to do that. The price for them to opt in is to appoint competent counsel.

That does not make sense, to have a fundamental process in this country that is going to see two standards, one for the rich and one for the poor.

That is bad enough, but what troubles me even more is that the Hyde amendment has a provision dealing with successive petitions that deny the defendant on death row to have a Federal court review his habeas corpus process even if it is based upon perjured testimony directed to the sentence. If it is directed—I see the gentleman shaking his head. If it is directed to the verdict, not to the sentence, it is reviewable.

But if it is directed to the sentence, it is not reviewable if in fact he has petitioned for habeas corpus.

If the gentleman wants to say that is not true, I will yield to the gentleman from Illinois, if he will say it is not true.

Mr. HYDE. I am sorry. If I say what is not true?

Mr. HUGHES. If you would say that what I am claiming, that if in fact a defendant has exhausted his habeas corpus process——

Mr. HYDE. You mean he has gone up the State system, he has had a direct appeal, a Federal collateral appeal before the judges——

Mr. HUGHES. Mr. Chairman, I reclaim my time. The gentleman was not listening. I reclaim my time.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. KASTENMEIER. I yield 30 seconds additional to the gentleman from New Jersey [Mr. Hughes].

Mr. HUGHES. I thank the gentleman.

I will explain it again, I will state it again. If the defendant is sitting on death row and has exhausted his State habeas corpus process after the direct appeal and has gone through his review, and 180 days, his Federal habeas corpus review process, and newly discovered evidence suggests that the defendant was sentenced based upon perjured testimony, that is not reviewable under the Hyde amendment, not reviewable.

Now, what has happened to our basic fundamental fairness in this country? How in the world can you go back to your districts and suggest that that is fair? I cannot.

Mr. KASTENMEIER. Mr. Chairman, I believe I have 2½ minutes remaining.

The CHAIRMAN. The gentleman is correct.

Mr. KASTENMEIER. Mr. Chairman, I reserve my remaining time.

Mr. HYDE. Mr. Chairman, I have 3 minutes left, do I not?

The CHAIRMAN. The gentleman is correct.

Mr. HYDE. I have the right to close, do I not?

The CHAIRMAN. Yes, the gentleman is correct.

Mr. HYDE. Then I will reserve my time, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin [Mr. Kastenmeier].

Mr. KASTENMEIER. Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. Edwards].

Mr. EDWARDS of California. Mr. Chairman, the habeas reforms in the bill will guarantee competent legal representation at the trial of capital cases. If you want genuine habeas reform, trial counsel is the key. The committee bill sets clear standards for the competency of trial counsel in capital cases. But the Hyde amendment does not address the issue of trial counsel at all. The Hyde amendment's counsel provisions apply only after trial. By then its too late—the errors have been made, and either you send a person to the electric chair who was unconstitutionally sentenced or you send the case back for a new trial.

My subcommittee held a hearing on the types of lawyers who currently represent capital defendants at trial. Here are some examples:

In one death case in Mississippi, the defendant was represented by a third-year law student.

In one Georgia circuit, capital cases were assigned to defense lawyers on a low bid system. The only qualification to submit a bid was membership in the Georgia bar. The lowest bidder got the case.

In four different capital trials in Georgia, at some point in the proceeding the defense lawyers referred to their clients as "niggers." The death sentence was imposed in all four cases.

There have been capital cases in Mississippi and Georgia where the defense attorney's first criminal jury trial was a capital trial.

Last year in Alabama, a capital case had to be stopped midtrial because the defense lawyer was drunk. He was held in contempt and sent to jail to dry out. The next morning he and his client were both produced from jail, the trial resumed, and the death penalty was imposed a few days later.

Lawyers like these would continue handling death cases under the Hyde amendment.

One reason for this scandalous situation is money. Alabama, Mississippi, and Arkansas limit the compensation of defense counsel in a capital case to $1,000. South Carolina pays up to only $1,500. Any lawyer who wants to do a good job ends up working for less than the minimum wage.

Would any Member in this body trust his life to a lawyer getting paid less than the minimum wage? Yet the Hyde amendment would allow States to continue appointing lawyers to represent capital defendants for less than minimum wage.

With legal representation like this, the death sentence becomes a lottery in which the death penalty is imposed not on the most horrendous offenders but on the defendants with the most horrendous lawyers.

Under the Hyde amendment, capital defendants would continue to be represented at trial by incompetent attorneys who failed to recognize and raise constitutional issues, and defendants would continue being sentenced to death not because of their culpability but because of the mistakes of their lawyers. In contrast, the Hughes reform provisions will provide competent counsel at trial, so trials are properly conducted at the outset and the death penalty is not a lottery.

Mr. Hyde based his amendment on the recommendations of the Powell Commission, which he claims is the responsible and respectable solution to the habeas corpus issue.

The truth is that the Powell proposal is the result of a plot by Chief Justice Rehnquist to enact his personal destructive agenda for habeas.

In 1988, ignoring the separation of powers principle, Rehnquist appointed an ad hoc committee of the Judicial Conference to write proposed habeas legislation.

The committee, chaired by former Justice Powell, was stacked with conservative judges from the two southern "death circuits" where more than three-quarters of the executions since 1976 have taken place. Ignoring the wishes of the full Judicial Conference, the Chief Justice adopted their recommendations. This amendment is solely the work of the Chief Justice and his handpicked opponents of habeas corpus. It is not the neutral, responsible product Mr. Hyde claims.

I urge a yes vote on Hughes and a no vote on Hyde.

The CHAIRMAN. The gentleman from Illinois [Mr. Hyde] has 3 minutes remaining.

□ 1730

Mr. HYDE. Mr. Chairman, I do not know where to start. I have never heard so many falsehoods, misstatements and errors in my life.

The Judicial Conference made two modifications in the Powell Commission suggestions. Then they accepted the rest of the Rehnquist agenda. Justice Powell, who chaired this committee, is against the death penalty, just like the gentleman from Wisconsin [Mr. Kastenmeier], and just like the gentleman from California [Mr. Edwards]. Judge Rooney on the commission is against the death penalty. To imply that Justice Rehnquist stacked the commission is outrageous.

Now do not destroy habeas corpus under the Hyde amendment. We must have competent counsel. Under the U.S. Constitution and Supreme Court cases, at the trial level there must be competent counsel. At the appeal level there must be competent counsel.

Then we go to habeas corpus in the State system, trial court, appeals court, Supreme Court. Now we move to the Federal courts, trial court, appellate court, writ of certiorari, to the Supreme Court. Twenty-seven judges have heard the case by this time, and my colleagues say that is murdering habeas corpus.

It is common sense. That is why the prosecutors are for my amendment. It is habeas corpus reform.

The amendment that the gentleman want, do my colleagues know what it says? On page 208 it says that the applicaton shall be dimissed unless the interests of justice would be served by reconsideration of claim. Mr. Chairman, that means endless, endless, endless delay.

I say to my colleagues, "If you are convicted because of perjured testimony, your guilt or innocence is always open to be explored in successive petitions with a stay of execution, not the validity of your sentence after 27 judges have passed on it." We want it to be final.

However, Mr. Chairman, I say, "Then you go to the Governor and say, 'Hey, I was sentenced on perjured testimony,' but, as to your guilt or innocence, you can always raise that."

Now let me simply say to my colleagues that the attorneys general of this country, Democrats and Republicans, the prosecuting attorneys, even the attorney general of the gentleman from New Jersey [Mr. HUGHES] and, if I had that letter—here is his letter. Now here is his own attorney general, the prosecutor, that we have with us, which we are lucky to have. He says that there are also provisions in the proposed statute aimed solely at capital cases. The effect of these provisions would be to add so much delay, so many new issues and so much relitigation to the process that very few, if any, death sentences would ever be carried out, even in the most aggravated cases.

Mr. Chairman, that is why the gentleman from California [Mr. EDWARDS] is for it.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. HYDE. No, I will not.

Mr. HUGHES. But I yield to the gentleman.

Mr. HYDE. I know the gentleman from New Jersey did, and he is a generous guy.

Mr. Chairman, I will yield to the gentleman from New Jersey [Mr. HUGHES] if he will tell me this is not from his attorney general.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New Jersey.

Mr. HUGHES. No, the attorney general of my State was directing his remarks to the previous one, not to the Hughes amendment.

I say to the gentleman that he had not seen the amendment that I offered along with the gentleman from South Carolina [Mr. DERRICK] and that is the problem. There is so much confusion.

Mr. HYDE. Mr. Chairman, I reclaim my time because we are talking at cross purposes.

Now, the Attorney General of the United States says that the amendment of the gentleman from New Jersey [Mr. HUGHES], which is gone, I am happy to say; the underlying goal of this strategy has nothing to do with fairness. It has everything to do with frustrating enforcement of the death penalty by excessive delay through redundant and repetitive habeas corpus appeals.

Mr. JAMES. Mr. Chairman, I rise today in support of the Hyde amendment. Federal habeas corpus reform is long overdue. The Hyde amendment provides us with the provisions to bring some semblance of order and finality to what is currently a chaotic and virtually endless process.

Last year, the Powell Committee issued their report on the use of habeas corpus petitions in State death penalty cases. It was the conclusion of the committee that the present system of collateral review operates to frustrate the law of 37 States. The unnecessary delays and repetitions result in judicial proceedings which average 8 years and 2 months. Mr. Chairman, I find it unconscionable that the American taxpayers are oftentimes forced to bear the costs of these successive petitions which are, in most cases, meritless, and that are filed at the 11th hour seeking nothing more than to delay justice.

The amendment before us seeks to rectify this situation. By incorporating the Powell recommendations, the Hyde amendment strives to create a nexus between a subsequent habeas corpus petition and the defendant's guilt or innocence. I firmly believe that the current provisions in the crime bill fail to accomplish this. Therefore, I urge my colleagues to support the Hyde amendment and achieve true habeas corpus reform.

Mr. COUGHLIN. Mr. Chairman, I rise in strong support of the Hyde amendment which represents the genuine habeas corpus reform so desperately needed in our criminal justice system.

The committee bill before us today would overturn or seriously weaken numerous Supreme Court decisions that currently limit the delay and abuse of the judicial process. It greatly increases the opportunities for prisoners sentenced to death and all convicted offenders to abuse the judicial process and thwart justice. It creates numerous obstacles of procedural delay and abuse that have absolutely nothing to do with a defendant's guilt or innocence. All in all, this bill does not address the abuse of habeas corpus that has virtually nullified the death penalty laws of the States and clearly makes an already intolerable situation even worse.

Mr. Chairman, the Hyde amendment incorporates the basic reforms recommended by the Powell Committee which have the strong support of the Bush administration, the National District Attorneys Association, and the National Association of Attorneys General. This amendment strengthens the hand of law enforcement without sacrificing fairness to the defendant. I urge my colleagues to enact a tough anticrime bill by supporting the Hyde amendment.

Mr. MATSUI. Mr. Chairman, I rise in support of the habeas corpus reforms before us today, and against the amendment being offered by Representative HYDE to strike these reforms from H.R. 5269, the Comprehensive Crime Control Act.

H.R. 5269 would provide defendants the opportunity to appeal their case on the basis of the sentence. The language in the Hyde amendment limiting appeals to the conviction only is far too limited. This is an important distinction. Evidence shows that a disproportionate number of those on death row are minorities, particularly African-Americans. According to the General Accounting Office, individuals who were convicted of murdering a white victim were more likely to be sentenced to death than those who murdered a black victim.

The Hyde amendment is far too restrictive, because not all sentences are clear cut. But limiting appeals to challenging on the verdict and not the sentence ignores the reality that not all sentences are just.

The provisions in the bill requiring competent counsel to defendants are also of great importance. The language included in H.R. 5269 requires that competent counsel be provided at both the trial and appeal levels. These provisions are about fairness. Everyone deserves a fair trial and competent counsel, regardless of the crime of which he or she is accused or convicted. The Hughes amendment will ensure that competent counsel is provided to all defendants, regardless of their crime.

The State of California has in place habeas corpus provisions similar to those included in H.R. 5269. The experience in the State has been far from cataclysmic. In fact, the opposite has occurred. While the standards established in California far exceed those included in H.R. 5269, there has not been a tremendous drop in the number of available counsel for capital cases. There remains a sufficient pool of attorneys to handle these cases.

I urge my colleagues to oppose the attempt before us to weaken the habeas corpus reforms included in H.R. 5269. It is imperative that we provide due process to all defendants, regardless of how offensive we find the crime they committed.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Illinois [Mr. HYDE].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. KASTENMEIER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

Vote was taken by electronic device, and there were—ayes 285, noes 146, answered "present" 1, not voting 1, as follows:

[Roll No. 418]

AYES—285

Alexander
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Atkins
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Borski
Bosco
Boucher
Broomfield
Browder
Brown (CO)
Bruce
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Carr
Chandler
Chapman
Clarke
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Cooper
Costello
Coughlin
Courter
Cox
Craig
Crane
Dannemeyer
Darden
Davis
de la Garza
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
Donnelly
Dornan (CA)
Douglas
Dreier
Duncan
Dwyer
Dyson
Early
Edwards (OK)
Emerson
English
Erdreich
Espy
Fascell
Fawell
Fields
Flippo
Frenzel
Gallegly
Gallo
Gaydos
Gekas
Geren
Gibbons
Gillmor
Gilman
Gingrich
Gordon
Goss
Gradison
Grandy
Grant
Guarini
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Kanjorski
Kasich
Kolbe
Kolter
Kyl
Lagomarsino
Lancaster
Lantos
Laughlin
Leath (TX)
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lukens, Donald
Machtley
Madigan
Manton
Marlenee
Martin (IL)
Martin (NY)
Martinez
Mavroules
Mazzoli
McCandless
McCollum
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Moakley
Molinari
Montgomery
Moorhead
Morrison (WA)
Murphy
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Ortiz
Oxley
Packard
Pallone
Parker
Parris
Pashayan
Patterson
Paxon
Payne (VA)
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Saiki
Sangmeister
Sarpalius
Saxton
Schaefer
Schiff
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Sisisky
Skeen
Skelton
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Stallings
Stangeland
Stearns
Stenholm
Stump
Sundquist
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torricelli
Traficant
Traxler
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Watkins
Weber
Weldon
Whittaker
Whitten
Wilson
Wolf
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NOES—146

Ackerman
Anderson
Aspin
AuCoin
Bates
Beilenson
Berman
Boggs
Bonior
Boxer
Brennan
Brooks
Brown (CA)
Bryant
Cardin
Carper
Clay
Collins
Conte
Conyers
Coyne
Crockett
DeFazio
Dellums
Dixon
Dorgan (ND)
Downey
Durbin
Dymally
Eckart
Edwards (CA)
Engel
Evans
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gejdenson
Gephardt
Glickman
Gonzalez
Gray
Green
Hall (OH)
Hamilton
Hawkins
Hayes (IL)
Hertel
Hoagland
Hochbrueckner
Hoyer
Hughes
Johnston
Jontz
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Leach (IA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Long
Lowey (NY)
Luken, Thomas
Markey
Matsui
McCloskey
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Mollohan
Moody
Morella
Morrison (CT)
Mrazek
Nagle
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Payne (NJ)
Pease
Pelosi
Penny
Price
Rahall
Rangel
Rose
Roybal
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (NJ)
Solarz
Staggers
Stark
Stokes
Studds
Swift
Synar
Torres
Towns
Udall
Unsoeld
Vento
Visclosky
Walgren
Washington
Waxman
Weiss
Wheat
Williams
Wise
Wolpe
Yates

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—1

McCrery

□ 1753

Mr. RAHALL changed his vote from "aye" to "no".

Mr. TAUKE changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 16 printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. FRANK

Mr. FRANK. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FRANK: Page 106, line 14, insert "(a) IN GENERAL.—" before "Federal Prison Industries".

Page 106, after line 18, insert the following:

(b) LIMITATION ON PRODUCTION.—Before the report is made to Congress under subsection (a), Federal Prison Industries shall not produce a new specific product or expand the production of an existing specific product if—

(1) the product is manufactured by the footwear, apparel, textile, or furniture industries, and

(2) the production or expansion of production was not approved by the Federal Prison Industries Board of Directors on or before July 1, 1990.

The CHAIRMAN. Under the rule, the gentleman from Massachusetts [Mr. FRANK] will be recogized for 5 minutes, and the gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 5 minutes in opposition.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Chairman, I yield myself 90 seconds.

Mr. Chairman, we have an entity called Prison Industries. They employ prisoners. We have no objection to that.

My amendment says that this program shall not expand into several very sensitive areas, sensitive in the notion that we are losing jobs to imports, until a study is done of the impact of those jobs.

The Senate adopted an amendment mandating signficant expansion in these areas. We are saying with regard to clothing and textiles, furniture, and shoes, because people here have already lost their jobs—we are not trying to put any existing prision industry out of business—but we are saying that they should not go ahead with a Senate-mandated expansion until we can do a study.

The Senate language specifically said that they are targeting in the expansion those jobs where we have already had high foreign penetration. Yes, we should be supportive of proper rehabilitation programs, but not at the expense of the hard-working, poorly compensated prople who are already at risk.

The amendment does not put a stop to anything the Prison Industries is now doing. It says that they may not expand their job operations in those three areas, clothing and textilies, furniture, and shoes, until we have completed a study on the job impact.

We recently passed legislation on the textile bill trying to protect these people. This is another way to do it.

Mr. KASTENMEIER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, for those who may not among our colleagues be familiar with the Federal Prison Industries Program, let me briefly explain what it is. All of our Federal prison inmates work. Prison Industries employs inmates to produce goods and services for the Federal Government, not for private consumption, for the Federal Government.

Work keeps these inmates busy, keeps the prisons relatively safe and well-managed in the face of unprecedented prison overcrowding, and I must say to my colleagues, by this bill, and that is what you will intend by this bill, you plan to send a lot of additional people to these Federal penitentiaries. As a matter of fact, we had 24,000 in 1980. Now we have nearly 60,000, and we will nearly double that in 4 or 5 years.

☐ 1800

If that is the case, you cannot have it both ways. You had better make sure the people you are sending to Federal prisons have work. They must have work.

This amendment, however well-intentioned, means that in areas of special concern to prisons in terms of their industries, they will not be able to expand; footwear, furniture, textiles—you are forcing them from one of the most important areas, and while I sympathize with the gentleman from Massachusetts, because I have urged them myself to drop the proposal to increase the ability to make footwear in the Federal prisons, a highly import-sensitive area, at least until they considered it at their board level; but if we adopted the Frank amendment, it only will be a matter of time before we would adopt other exclusions; They cannot make anything.

Then what are you going to have these people do in prison? It would be, I think, highly irresponsible to single out specific industries for special treatment. Every industry in America would line up and ask to be added to the list.

We are operating now at 170 percent of capacity in the Federal system. We are going to double by the year 1995.

I urge my colleagues to reject this amendment.

I reserve the balance of my time.

Mr. FRANK. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. Henry].

Mr. HENRY. Mr. Chairman, I rise in strong support of the Frank amendment.

Let me make very clear that this does not reduce Prison Industries one bit. It calls for a freeze of the expansion of Prison Industries into those three market areas in which Prison Industries already accounts for 60 percent of the total FPI product.

All this amendment does is seek to ensure that as Prison Industries expands, it expands in such a way as to not have a deleterious impact on particular areas of the economy—furniture, apparel, textiles, the same areas that this House voted two out of three to product our textile workers against unfair foreign competition, and now it addresses the problem of unfair competition at home.

This amendment is supported by the United Auto Workers, the Steelworkers, the Food and Commercial Workers, the Brotherhood of Carpenters, the National Office Products Association, the National Federation of Independent Business, the National Association of Manufacturers, the Ladies' Garment Workers Union, the Footwear Industries of America, the Coalition for Government Procurement, the American Clothing and Textile Workers Union.

This has broad labor support and broad business support, and it simply calls for a study before we expand in this area.

Mr. KASTENMEIER. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. Brooks].

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

The Federal Prison Industries Program is one of the most important tools that the Bureau of Prisons has to manage a prison population that is now 170 percent of capacity. The prison industries provide much needed meaningful activity and training for Federal prison inmates.

Complaints about the Prison Industries Program usurping private industry are already being addressed. The Judiciary Committee in both this Congress and the previous Congress placed restrictions on the ability of the Federal Prison Industries to expand existing markets or enter new markets without first carefully assessing the effect on private industry. These restrictions have already begun to work. For instance, just this year, a proposal to manufacture boots was turned down by the Bureau of Prisons. Moreover, in order to limit competition with private industry, the law prohibits Federal Prison Industries from selling its products in the private marketplace—Federal Prison Industries can only sell to the Federal Government.

If we continue to whittle away at this important prison program, we in Congress will be looking for other, more costly, ways to rehabilitate prisoners—or at the very least, keep them busy. Such new programs could cost as much as $250 million, probably more—in appropriated funds—to replace a program that now returns over 80 percent of its sales dollars to the private sector, including the purchase of almost half of its raw material from small business and the hiring of civilians to supervise and train prisoners in these industries.

The Federal prisons are model prisons in this country. Prof. John J. DiIulio, Jr., professor at Princeton University, who has made a study of prisons says that:

> Federal prisons * * * are far more decent and less costly to operate than they would be in the absence of the meaningful work opportunities [Federal Prison Industries] affords.
>
> Every systematic study has shown that the B.O.P.'s Industry Program improves inmate-staff relations; enhances staff morale; reduces tensions related to overcrowding; and checks inmate idleness, unrest, and violence.

In short, Federal Prison Industries contribute vastly to the safety of the civilians who work within the prison walls, the people who live in the communities surrounding the prisons, and the prisoners themselves.

Mr. Chairman, we are looking at a prison system that is expected to double the number of its inmates by the year 1995. It would be a disaster to begin now to dismantle a program that has served Federal prisons and the American people so will over the years.

I urge members to defeat the amendment.

Mr. KASTENMEIER. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. Petri].

Mr. PETRI. Mr. Chairman, I thank my colleague, the gentleman from Wisconsin, for yielding me this time.

I rise in strong opposition to the Frank amendment.

Mr. Chairman, I rise in opposition to this amendment. The Congress has an obligation to ensure that Federal prisoners are safeguarded against cruel and unusual punishment. To ensure order and safety for prisoners, the Congress in 1934 established Federal Prison Industries as a means of offering prisoners some form of gainful employment.

Correction professionals all believe that this employment results in a lessening of tensions for prisoners and thus contributes in an important way to maintaining order and safety among them. This belief has never been challenged and the Congress for almost 60 years has supported that belief.

Federal Prison Industries may sell its products only to other Federal agencies and then only at "not to exceed current market prices". This ensures that prison labor does not compete in the private sector with private sector jobs. It also ensures that the taxpayer is not paying exorbitant prices for prison industry products.

Federal Prison Industries creates many private sector jobs by purchasing component parts which are then assembled into finished products by prison labor. Federal Prison Industries seeks to increase the component of value added by the prison workers to the basis material furnished by the private sector suppliers. One argument that is made is that Federal Prison Industries simple buys kits for assembly by the prisoners. That argument is totally false.

While it is true that Federal Prison Industries purchases component parts from private sector industries, there is a continuing effort to increase the skill of prison labor to add more value to each product. In the end, however, it must be remembered that the average stay of a Federal prisoner is less than 5 years so that there is a limit to the level of skills that prison workers can reach.

There are over 40 State and local prisons which are under Federal court orders because they fail to meet constitutional standards. The Federal Bureau of Prisons has never been under such an order, but without Federal Prison Industries the Federal prison system

would most surely be a candidate for such litigation.

For all of these reasons I urge my colleagues to oppose this amendment.

Mr. KASTENMEIER. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas [Mr. Slattery].

Mr. SLATTERY. Mr. Chairman, I rise in strong opposition to the Frank amendment.

I would just observe that I thought incarceration in this country was still about rehabilitation, and if we deny people in our correctional system the opportunity to learn basic skills, we are failing in the fundamental mission of our correctional systems, and that is to rehabilitate the prisoners who are incarcerated there.

Mr. Chairman, I rise today in opposition to the amendment offered by my distinguished colleague from Massachusetts [Mr. Frank]. This amendment would severely restrict the operation of the Federal Prison Industries, known as UNICOR.

UNICOR is a proven program that provides prison inmates with skills that will allow them to become productive members of society. UNICOR also reduces prison tension by keeping prisoners occupied, teaching them useful skills, and creating jobs with supplier in surrounding communities. UNICOR also saves the Federal Government money because it is self-supporting.

I would note most States, including Kansas and Massachusetts, have similar successful State prison programs that produce furniture and apparel for the State. They provide jobs for suppliers and save the State money.

Mr. Frank's amendment would restrict UNICOR expansion and changes in the production lines that form the basis for the UNICOR Program.

This amendment would be crippling. Rather than being limited, UNICOR needs to be expanded to meet the needs of the growing prison population. In addition, prohibiting modifications to the product line will kill the market in furniture and apparel, where frequently product lines changes are required to keep supply in line with customer demand.

Charges that the UNICOR Program has quality control problems, even if true, are not addressed by this amendment.

At a time when the existing prisons are operating over capacity, and Federal prisons may have to furlough one-third of their staff, it is unwise to enact legislation which idles 30 percent of the prisoners, reduces the level of prison safety, and increases operating costs. I urge you to vote against this amendment.

Mr. KASTENMEIER. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. Penny].

Mr. PENNY. Mr. Chairman, I rise in opposition to the Frank amendment.

Mr. Chairman, this amendment would place a moratorium on new products or the expansion of production of certain furniture and apparel items by Federal Prison Industries until a market study, mandated by the legislation before us, is completed. This amendment should be rejected for several reasons.

First, under the Frank amendment, Federal Prison Industries would be prohibited from expanding in industries which constitute 60 percent of their sales. This means that major prison industries would be without work. Second, Federal Prison Industries, under the amendmemt, would be without products to manufacture in the factories of new institutions coming on-line to handle the explosion in the prison population. Third, the precedent that Frank amendment sets would be pernicious as it provides favored treatment to specific industries. Remaining industries, which are import-sensitive, and in fact all other industries, would demand similar favored treatment by the Congress.

If the study mandated by the bill recommends major restructuring of prison work programs, the Bureau of Prisons has indicated they will move in that direction. Finally colleagues, Prison Industries receive no appropriated funds. The Frank amendment would in effect require the Congress to appropriate tens of millions of new dollars for substitute programs to occupy inmates.

Some here would have us believe this amendment is a simple moratorium on the production of certain products. That is far from the truth. This amendment, pure and simple, in an effort to protect certain industries and to bias the study required by the bill. As the Attorney General and the Director of the Federal Bureau of Prisons have indicated in opposition to the Frank amendment, by statute, Prison Industries are limited to a "reasonable share" of the market and may not place an undue burden on the private sector. In order to ensure that the concerns of business and labor are considered before any new product is produced, Congress passed legislation in 1988 requiring Prisons Industries to follow a set of comprehensive and stringent new product development guidelines. These guidelines require that affected businesses have an opportunity to present their views to Prison Industries private board of directors. And in recent cases, the board of directors denied Prison Industries request to produce two new products. The Footwear Industry of America, one affected business interest, wrote in a letter to Senate Majority Leader George Mitchell "we are impresssed with the sincere concern expressed by them, Federal Prison Industries, about the conflicting interest in keeping inmates working but not adversely affecting already stricken industries in the process."

Mr. Chairman at a time when our Federal prison facilities are operating at 170 percent of capacity and Federal prison officials are already having a difficult time keeping inmates gainfully occupied, let us reject this untimely amendment.

Mr. FRANK. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. Upton].

Mr. UPTON. Mr. Chairman, I rise in strong support of the Frank amendment to the 1990 crime bill. This amendment would essentially freeze the expansion of Federal Prison Industries until the market development study already in the bill is concluded early next year.

This is an issue of great importance to the furniture industry of western Michigan. This amendment is very reasonable—designed to briefly prevent FPI from further damaging private industries in which FPI offers products. The Judiciary Committee has recognized that FPI needs to broaden its product line because of its undue impact on a few industries, and has authorized a study of new market areas. The freeze would last only as long as the market study takes to complete.

As you may be aware, in the 100th Congress FPI expansion was a controversial topic. Provisions tucked into the 1988 drug bill, which had been earlier defeated on the House floor, greatly increased Federal Prison Industries ability to expand. This bypass of established congressional intent fueled existing concerns about FPI's superpreference in the Federal procurement process.

Now, FPI, a government-operated corporation, has unprecedented and unlimited ability to borrow from the U.S. Treasury at below prime rates to expand manufacturing capacity. In addition, as evidenced by FPI's recent decision to enter into the capital-intensive—and not prison labor-intensive—arena of envelope production, the process under which FPI expansion is now approved, is substantially flawed.

It is not surprising that we are now revisiting this subject in the 101st Congress. In the short period since enactment, the adverse impact of FPI market expansion on the furniture industry in western Michigan is already being felt. My colleague Paul Henry and I appeared before the House Judiciary Committee earlier this year to raise this and other issues about FPI.

We reported to the committee how FPI sales of furniture to Federal agencies had increased 14 percent in 1989, and that FPI had captured 23 percent of the Federal office furniture market. Furthermore, in a Small Business Procurement Subcommittee hearing called by Chairman Skelton at my suggestion on August 1, Members learned of the extreme market share percentages FPI has garnered in other products it offers, such as 38 percent of the Federal drapery market and 100 percent of GSA's glove needs. Testimony taken at that hearing stated that FPI had effectively driven out all competition for Federal mattress needs.

Opponents of this amendment have pointed to the small percentage of Federal procurements that FPI encompasses. That only further proves our point that in the few areas FPI offers products, it gobbles up market share because of its built-in advantages. To date, FPI has focused primarily in furniture, textiles, printing, and electronics. In these few areas, FPI raked in enough Federal sales in 1988 to put it ahead of major Federal contractors such as Chrysler. FPI's market fix in certain product areas blatantly contradicts its statutory obligation not to unduly burden any given industry.

I am pleased that the Judiciary Committee has recognized that there is an expansion problem. I commend Subcommittee Chairman Kastenmeier for incorporating into the crime bill an independent study that would investigate areas in which FPI could expand without—as stated in the Judiciary Committee report on this bill—"costing American jobs or displacing American industry." The study would be completed by May 1, 1991. I believe that this study is an important part of an overall solution to FPI expansion that should include making FPI's operation more labor intensive, and less dependent on subcontractor assemblies.

The amendment at hand would simply freeze FPI market levels as of July 1, 1990, until the market development study is over, specifically pointing out job-sensitive areas of furniture, textiles, footwear, and apparel. This is an extremely reasonable approach. There is absolutely no reason to exacerbate a recognized problem while the market study is being completed.

I urge you to support the Frank amendment; it is common sense and good policy.

Mr. FRANK. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, I was tempted to clinch this by amending my amendment so that the penalty for violating it would be death, and clearly I would have won easily. But I do not want to take unfair advantage. I want to win this on the merits.

Yes, I want to help prisoners and be rehabilitative, but not at the expense of working people in this country.

The Senate amendment that led me to offer this amendment targets for an expansion of this program those industries where working people are not well paid and are already vulnerable to imports. The great maority of this House who voted for the textile bill recognized that. This is a far lesser proposal.

As for rehabilitation, I am all for it. I encourage them to find new ways and new products. If they are doing this for rehabilitation, let them experiment with some products. Remember, the value of this, as thy describe it, is the work performed, not the ultimate sale. Let them experiment with work, but let them not do what this amendment would do in the Senate version, expand into those areas where people are already vulnerable.

I would add that they said these are only sold to the Federal Government. Right, and it is the Federal Government that only buys American in precisely those areas where we most need it.

Let us find ways to help prisoners that do not target working people in industries where there have already been great difficulties.

I hope the amendment is adopted.

□ 1810

Mr. KASTENMEIER. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. Pickle].

Mr. PICKLE. Mr. Chairman, I oppose the Frank amendment.

Mr. KASTENMEIER. Mr. Chairman, I yield the balance of my time, to close the debate, to the gentleman from Florida [Mr. McCollum].

The CHAIRMAN. The gentleman has 45 seconds remaining.

Mr. McCOLLUM. Mr. Chairman, I rise in very strong opposition to the Frank amendment. It literally guts the Federal Prison Industry system as we know it now. The products that are made and sold by the prison industry system are sold only to the Federal Government, not on the general marketplace. The key product effects are the key products they make. The fact is, the Department of Justice said it would effectively eliminate the Federal prison industry status as a preferred source for government industry procurement. It is a ridiculous amendment. It is a special interest amendment.

I urge my colleagues to vote no.

Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. Wolf].

Mr. WOLF. Mr. Chairman, I am speaking today on an amendment that, if passed, would seriously damage the Federal Inmate Work Program known as Federal Prison Industries [FPI].

The amendment will place a moratorium on expansion or the production of products in footwar, apparel, textiles, and furniture made by prisoners through FPI.

Federal prisoners often operate at 170 percent of capacity these days. We need to be working toward effective maintenance of our Federal correctional system, not setting up roadblocks to achieving these goals.

Congressman Frank's amendment will put at stake whether or not our prisons will continue to have a viable correctional industries program and whether we will be able to ensure the safe and secure management of our seriously crowded corrections institutions.

I appreciate the concerns raised regarding the conflicting interest of keeping inmates working while not adversely affecting our industries in the process. But by statute Federal Prison Industries is limited to a reasonable share of the market and may not place an undue burden on the private sector. In 1988, Congress passed legislation requiring the FPI to follow strict new product development guidelines. And, FPI was recently denied a request to produce two new products because the request would have adversely affected the footwear industry.

The crime bill itself requires a study of prison industries, which FPI supports. Attorney General Thornburgh has indicated that the Justice Department fully supports a study of prison industries but is fundamentally opposed to any moratorium prior to examination of the findings in such a study.

If the Federal correctional system population were declining, these temporary restrictions might make sense. But prison populations are growing at an alarming rate. These work inmate programs provide inmates with the opportunity to be productive while serving their Federal sentences. Federal Prisons Industries is an extremely worthwhile program and placing restrictions on it will cause more disruptions than this already overworked Federal system deserves.

Mr. McCOLLUM. Mr. Chairman, if the gentleman will yield, I urge a no vote on the Frank amendment.

Mrs. KENNELLY. Mr. Chairman, I rise today in strong support of Congressman Barney Frank's amendment to the crime bill. This amendment would prohibit the Federal Prison Industry from expanding the production of certain products—footwear, apparel, textile, or furniture—until a market report is presented to Congress.

I support programs that teach inmates valuable skills by providing them with work. However, I do not approve of the program's expansion into industries that cannot absorb the loss of contracts. Such expansion threatens the jobs of our working citizens in the private sector.

Another problem with current law is the absolute preference granted to Federal Prison Industries. The Federal Prison Industries has 38 percent of the Federal drapery market. A constituent of mine, Thomas W. Raftery, Inc., a mid-sized drapery manufacturer, has lost nearly $3 million in contracts with the Federal Government over the last 4 years because of the expansion of the Federal Prison Industry. Even worse, in 1985, the Raftery company underbid Federal Prison Industries by $6,000 on a drapery contract with Sheppard Air Force Base in Texas. But still, the contract went to the higher bidder because it was the Federal Prison Industry.

The crime bill authorizes a market study to identify new products and services into which Federal Prison Industries could expand. Until this study is completed, I believe like Representative Frank does, that no further damage should be levied against the sensitive industries covered by his amendment.

Congressman Frank's amendment is simple and reasonable—wait until the results of the market study before expanding into other sensitive industries. I urge my colleagues to vote in support of this reasonable amendment.

Mrs. LLOYD. Mr. Chairman, I rise in strong suport of the Frank amendment—to place a temporary moratorium on expansion of production of Federal Prison Industries [FPI] products in footwear, apparel, textiles, and furniture.

As chairman of the Congressional Textile Caucus, I am very pleased that the House recently issued a strong show of support for the textile industry by the resounding passage of the Textile, Apparel, and Footwear Trade Act of 1990. I believe this legislation is vitally important and its ultimate enactment one of the top legislative priorities for the remainder of the 101st Congress. Millions of Americans depend on the domestic textile, apparel, and shoe industries for their livelihood which makes the Frank amendment all the more important.

It simply seeks to limit unfair competition by Federal Prison Industries, Inc. [FPI] in selling goods and services to the Federal Government. FPI takes good jobs away from hard working men and women in the textile and apparel industry and gives them to Federal prisoners. The Frank amendment is not intended to shut down FPI operations; far from it. It simply directs FPI expansion away from import-sensitive industries.

I urge you to support the Frank amendment and help create a more level playing field for the textile industry.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. Frank].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FRANK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 226, noes 204, not voting 3, as follows:

[Roll No. 419]

AYES—226

Ackerman
Alexander
Annunzio
Applegate
Atkins
Ballenger
Bates
Bentley
Berman
Billey
Boehlert
Boggs
Bonior
Borski
Bosco
Boxer
Brennan
Broomfield
Bruce
Bryant
Bustamante
Campbell (CO)
Cardin
Clarke
Clay
Coble
Collins
Conte
Cooper
Costello
Coyne
Crockett
Dannemeyer
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Douglas
Downey
Duncan
Dwyer
Dymally
Dyson
Eckart
Emerson
Engel
Espy
Evans
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Gillmor
Glickman
Gonzalez
Gordon
Grandy
Grant
Gray
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Hancock
Hatcher
Hawkins
Hayes (IL)
Hefner
Henry
Hertel
Hochbrueckner
Horton
Hyde
Ireland
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Leath (TX)
Lehman (CA)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
McDermott
McGrath
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Neal (MA)
Neal (NC)
Oakar
Olin
Owens (NY)
Owens (UT)
Pallone
Patterson
Payne (VA)
Pelosi
Perkins
Porter
Poshard
Price
Pursell
Quillen
Rahall
Richardson
Rinaldo
Ritter
Roe
Rogers
Rose
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sangmeister
Savage
Schaefer
Scheuer
Schneider
Schuette
Schumer
Sensenbrenner
Serrano
Sharp
Shuster
Sikorski
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith, Denny (OR)
Smith, Robert (NH)
Snowe
Solarz
Solomon
Spratt
Staggers
Stangeland
Stark
Stokes
Studds
Stump
Swift
Tallon
Tanner
Thomas (CA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walgren
Walker
Washington
Waxman
Weiss
Weldon
Wheat
Whittaker
Williams
Wilson
Wise
Wolpe
Wylie
Yates

NOES—204

Anderson
Andrews
Anthony
Archer
Armey
Aspin
AuCoin
Baker
Barnard
Bartlett
Barton
Bateman
Beilenson
Bennett
Bereuter
Bevill
Bilbray
Bilirakis
Boucher
Brooks
Browder
Brown (CA)
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Campbell (CA)
Carper
Carr
Chandler
Chapman
Clement
Clinger
Coleman (MO)
Coleman (TX)
Combest
Condit
Conyers
Coughlin
Courter
Cox
Craig
Crane
Darden
DeWine
Dickinson
Dorgan (ND)
Dornan (CA)
Dreier
Durbin
Early
Edwards (CA)
Edwards (OK)
English
Erdreich
Fascell
Fawell
Fazio
Fields
Flippo
Frenzel
Gallegly
Gallo
Gekas
Geren
Gibbons
Gilman
Gingrich
Goodling
Goss
Gradison
Green
Guarini
Hamilton
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Herger
Hiler
Hoagland
Holloway
Hopkins
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Inhofe
Jacobs
James
Johnston
Kastenmeier
Kolbe
Kyl
Lagomarsino
Leach (IA)
Lehman (FL)
Levin (MI)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Marlenee
Matsui
Mavroules
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McHugh
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morrison (WA)
Myers
Natcher
Nelson
Nielson
Nowak
Oberstar
Obey
Ortiz
Oxley
Packard
Panetta
Parker
Parris
Pashayan
Paxon
Payne (NJ)
Pease
Penny
Petri
Pickett
Pickle
Rangel
Ravenel
Ray
Regula
Rhodes
Ridge
Roberts
Robinson
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Sabo
Saiki
Sarpalius
Sawyer
Saxton
Schiff
Schroeder
Schulze
Shaw
Shays
Shumway
Sisisky
Skaggs
Skeen
Slattery
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Robert (OR)
Spence
Stallings
Stearns
Stenholm
Sundquist
Synar
Tauke
Tauzin
Taylor
Thomas (GA)
Thomas (WY)
Vento
Visclosky
Walsh
Watkins
Weber
Whitten
Wolf
Wyden
Yatron
Young (AK)
Young (FL)

NOT VOTING—3

Hunter
Lent
McCloskey

□ 1830

Messrs. WHITTAKER, DYMALLY, GAYDOS, and TALLON changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1830

AMENDMENTS EN BLOC OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, pursuant to the rule, I offer amendments en bloc, amendments Nos. 18, 25, 26, 27, as modified, 31, 32, 34, 37, 39, 40, 44, 46, and 47.

The CHAIRMAN. The Clerk will designate the en bloc amendments.

The texts of the amendments are as follows: Amendments en bloc offered by Mr. Brooks, as follows:

18. The amendment to be offered by Representative Gingrich of Georgia, or his designee, debatable for not to exceed 10 minutes.

At the end of title XIV, insert the following:

SEC. . FUNCTIONAL LITERACY REQUIREMENT FOR ALL INDIVIDUALS IN FEDERAL CORRECTIONAL INSTITUTIONS.

Section 3624 of title 18, United States Code, is amended by adding at the end the following:

"(f) Mandatory Functional Literacy Requirement.—

"(1) The Attorney General shall direct the Bureau of Prisons to have in effect a mandatory functional literacy program in each Federal correctional facility before the end of the 2-year period beginning on the date of the enactment of the Comprehensive Crime Control Act of 1990.

"(2) Each mandatory functional literacy program required by this section shall include—

"(A) a requirement that each individual convicted of a felony who is incarcerated in the Federal corrections institution and who is not functionally literate participate in such program until such individual—

"(i) achieves functional literacy;

"(ii) completes that prisoner's sentence; or

"(iii) is released; and

"(B) adequate opportunities for individuals required to participate in such program to be tested for functional literary.

"(3) As used in this section, the term 'functional literacy' means the ability to demonstrate, in English, educational skills at not less than the 8th grade level. Skills required to be demonstrated under the preceding sentence shall include all skills necessary to function independently in society, such as reading, writing, comprehension, and arithmetic computation skills.

"(4) An individual serving a life sentence, under a sentence of death, or mentally impaired shall not be required to participate in a mandatory functional literacy program.".

SEC. . MANDATORY WORK REQUIREMENT FOR ALL PRISONERS.

(a) In General.—(1) It is the policy of the Federal Government that convicted prisoners confined in Federal prisons, jails, and other detention facilities shall work. The type of work in which they will be involved shall be dictated by appropriate security considerations and by the health of the prisoner involved. Such labor may include, but not be limited to—

(A) local public works projects and infrastructure repair;

(B) construction of new prisons and other detention facilities;

(C) prison industries; and

(D) other appropriate labor.

(2) It is the policy of the Federal Government that States and local governments have the same authority to require all convicted prisoners to work.

(b) Prisoners Shall Work.—Medical certification of 100 percent disability, security considerations, or disciplinary action shall be the only excuse to remove a Federal prisoner from labor participation.

(c) Use of Funds.—(1) Subject to paragraph (2), any funds generated by labor conducted pursuant to this section shall be deposited in a separate fund in the Treasury of the United States for use by the Attorney General for payment of prison construction and operating expenses or for payment of compensation judgments. Notwithstanding any other law, such funds shall be available without appropriation.

(2) Prisoners shall be paid a share of funds generated by their labor conducted pursuant to this section.

25. The amendment to be offered by Representative Oakar of Ohio, or her designee, debatable for not to exceed 10 minutes.

Page 183, strike line 8, and insert the following:

first fails to meet such requirement,

or, if received before such date, was paid by the institution or holding company in contemplation of the occurrence of any condition described in subclause (I), (II), or (III).

Page 189, strike line 3, and insert the following:

meet such requirement,

or, if received before such date, was paid by the credit union in contemplation of the occurrence of any condition described in subclause (I), (II), or (III).

26. The amendment to be offered by Representative Oakar of Ohio, or her designee, debatable for not to exceed 10 minutes.

Page 198, after line 8, insert the following new section:

SEC. 2129. PROHIBITION ON ACQUISITIONS FROM CONSERVATORS AND RECEIVERS OF DEPOSITORY INSTITUTIONS BY CERTAIN INSTITUTION-AFFILIATED PARTIES.

(a) FDIC.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding after subsection (p) (as added by section 2128) the following new subsection:

"(q) Certain Institution-Affiliated Parties Prohibited From Purchasing Assets.—Any person who—

"(1) is or was an institution-affiliated party with respect to any insured depository institution for which the Corporation has been appointed conservator or receiver; and

"(2) in the determination of the Corporation and while an institution-affiliated party, caused a substantial loss to the insured depository institution, the Corporation, or the Federal Savings and Loan Insurance Corporation (before such Corporation was abolished),

may not purchase any asset of such institution from the Corporation.".

(b) RTC.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end the following new subsection:

"(q) Certain Institution-Affiliated Parties Prohibited From Purchasing Assets.—Any person who—

"(1) is or was an institution-affiliated party (as defined in section 3(u) of the Federal Deposit Insurance Act) with respect to any institution described in subsection (b)(3)(A); and

"(2) in the determination of the Corporation and while an institution-affiliated party, caused a substantial loss to the institution or the Corporation,

may not purchase any asset of such institution from the Corporation.".

Page 202, line 15, strike "(p) (as added by section 2128(a)" and insert "(q) (as added by section 2129(a)".

Page 202, line 17, strike "(q)" and insert "(r)".

27. The amendment to be offered by Representative Gekas of Pennsylvania, or his designee, debatable for not to exceed 10 minutes.

Page 212, strike line 18 and all that follows through line 10 (sections 2145 and 2146) and insert the following:

SEC. 2145. INTERAGENCY COORDINATION.

(a) In General.—Notwithstanding any other law—

(1) the Attorney General may accept, and Federal departments and agencies, including the United States Secret Service, the Internal Revenue Service, the Resolution Trust Corporation, and the appropriate Federal banking agency, may provide, without reimbursement, the services of attorneys, law enforcement personnel, and other employees of any other departments or agencies of the Federal Government to assist the Department of Justice, subject to the supervision of the Attorney General, in the investigation and prosecution of fraud or other criminal or unlawful activity in or against any federally insured financial institution; and

(2) any attorney of a department or agency whose services are accepted pursuant to paragraph (1) may, subject to the supervision of the Attorney General, conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings and proceedings before committing magistrates, and perform any other investigative or prosecutorial function, which United States attorneys are authorized by law to conduct or perform, whether or not the attorney is a resident of the district in which the proceeding is brought; and

(3) any law enforcement personnel of the United States Secret Service whose services are accepted pursuant to paragraph (1) may, subject to the supervision of the Attorney General, conduct or perform any kind of investigation, civil or criminal, which the Department of Justice law enforcement personnel are authorized by law to conduct or perform.

(b) Limitations.—This section—

(1) shall not otherwise alter the authority of any Federal law enforcement agency; and

(2) shall expire coterminously with the authority of the Resolution Trust Corporation or six years from the date of enactment of this section, whichever date occurs earlier, except that the Attorney General may extend the authority conferred herein as he deems appropriate.

27. Amendment of Mr. Gekas as modified.

In title XXI, delete Sections 2145 and 2146 and insert in lieu thereof the following:

SEC. 2145. INTERAGENCY COORDINATION.

(a) Notwithstanding any other law—

(1) the Attorney General may accept, and Federal departments and agencies, including the United States Secret Service, the Internal Revenue Service, the Resolution Trust Corporation, and the appropriate Federal banking agency, may provide, without reimbursement, the services of attorneys, law enforcement personnel, and other employees of any other departments or agencies of the Federal Government to assist the Department of Justice, subject to the supervision of the Attorney General, in the investigation and prosecution of fraud or other criminal or unlawful activity in or against any federally insured financial institution or against the Resolution Trust Corporation; and

(2) any attorney of a department or agency whose services are accepted pursuant to paragraph (1) may, subject to the supervision of the Attorney General, conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings and proceedings before committing magistrates, and perform any other investigative or prosecutorial function, which United States attorneys are authorized by law to conduct or perform, whether or not the attorney is a resident of the district in which the proceeding is brought; and

(3) any law enforcement personnel of the United States Secret Service whose services are accepted pursuant to paragraph (1) may, subject to the supervision of the Attorney General, conduct or perform any kind of investigation, civil or criminal, which the Department of Justice law enforcement personnel are authorized by law to conduct or perform.

(b) This section—

(1) shall not otherwise alter the authority of any Federal law enforcement agency; and

(2) shall expire coterminously with the authority of the Resolution Trust Corporation or six years from the date of enactment of this section, whichever date occurs earlier, except that the Attorney General may extend the authority conferred herein as he deems appropriate.

31. The amendment to be offered by Representative Waxman of California, or his designee, debatable for not to exceed 10 minutes.

Page 239, after line 5, add the following new section:

SEC. 2214. DEMONSTRATION PROGRAMS REGARDING ANABOLIC STEROIDS.

Section 508(b) of the Public Health Service Act (42 U.S.C. 290aa-6(b)) is amended—

(1) in paragraph (10)(B), by striking "and" after the semicolon at the end;

(2) in paragraph (11)(B), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(12) develop and support innovative demonstration programs designed to identify and deter the improper use or abuse of anabolic steroids by students, especially students in secondary schools.".

32. The amendment to be offered by Representative Waxman of California, or his designee, debatable for not to exceed 10 minutes.

Page 239, after line 5, add the end of title XXII the following new section:

SEC. 2214. BANNING OF ISOPROPAL NITRITE AND OTHER NITRITES.

(a) In General.—Except as provided in subsection (b), volatile alkyl nitrite shall be considered a banned hazardous product under section 8 of the Consumer Product Safety Act (15 U.S.C. 2057).

(b) Lawful Purposes.—For the purposes of section 8 of the Consumer Product Safety Act, it shall not be unlawful for any person to manufacture for sale, offer for sale, distribute in commerce, or import into the United States volatile alkyl nitrites for any commercial purpose or any other purpose approved under the Federal Food, Drug, and Cosmetic Act.

(c) Definitions.—For purposes of this section, the term "commercial purpose" means any commercial purpose other than for the production of consumer products containing volatile alkyl nitrites that may be used for inhaling or otherwise introducing volatile alkyl nitrites into the human body for euphoric or physical effects.

(d) Effective Date.—This section shall take effect 90 days after the date of the enactment of this Act.

34. The amendment to be offered by Representative Schumer of New York, or his designee, debatable for not to exceed 10 minutes.

Add at the end of title XXII the following:

SEC. . VICTIMS OF CRIME.

Section 1402(c)(1)(B)(i) of the Victims of Crime Act of 1984 is amended by striking "1991" and inserting "1990".

37. The amendment to be offered by Representative Slaughter of New York, or his designee, debatable for not to exceed 10 minutes.

Add at the end the following new title:

TITLE XXIII—NATIONAL COMMISSION TO SUPPORT LAW ENFORCEMENT

SEC. 2301. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review 25 years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decreased funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

SEC. 2302. ESTABLISHMENT.

There is hereby established the National Commission to Support Law Enforcement (hereafter in this title referred to as the "Commission").

SEC. 2303. DUTIES.

(a) In General.—The Commission shall study and include in the report made under section 2307 recommendations for changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) Funding.—The sufficiency of funding, including a review of grant programs at the Federal level.

(2) Employment.—The conditions of law enforcement employment.

(3) Information.—The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) Research and training.—The status of law enforcement research and education and training.

(5) Equipment and resources.—The adequacy of equipment, physical resources, and human resources.

(6) Cooperation.—The cooperation among Federal, State, and local law enforcement agencies.

(7) Responsibility.—The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) Impact.—The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(b) Consultation.—The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

SEC. 2304. MEMBERSHIP.

(a) Number and Appointment.—The Commission shall be composed of 19 members as follows:

(1) 5 individuals from national law enforcement organizations representing law enforcement officers, appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate.

(2) 5 individuals from national law enforcement organizations representing law enforcement management, appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate.

(3) 2 individuals with academic expertise regarding law enforcement issues, appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate.

(4) 2 Members of the House of Representatives, appointed jointly by the Speaker and the minority leader of the House of Representatives.

(5) 2 Members of the Senate, appointed jointly by the majority leader and the minority leader of the Senate.

(6) 1 individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

(7) 1 individual from the Department of Justice, appointed by the President.

(8) The Comptroller General of the United States, who shall serve as the chairperson of the Commission.

(b) Compensation.—

(1) In general.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of service on the Commission.

(2) Travel expenses.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 2305. EXPERTS AND CONSULTANTS.

(a) Experts and Consultants.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(b) Staff of Federal Agencies.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this title.

(c) Administrative Support.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, administrative support services as the Commission may request.

SEC. 2306. POWERS OF COMMISSION.

(a) Hearings.—The Commission may, for purposes of this title, hold hearings, sit and act at the times and places, take testimony, and receive evidence, as the Commission considers appropriate.

(b) Delegation of Authority.—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) Information.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the chairperson of the Commission, the head of an agency shall furnish the information to the Commission to the extent permitted by law.

(d) Gifts and Donations.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 2307. REPORT.

Not later than the expiration of the 18-month period beginning on the date of the enactment of this title, the Commission shall submit to the Congress a report containing the findings of the Commission and specific proposals for legislation and administrative actions that the Commission has determined to be appropriate.

SEC. 2308. TERMINATION.

The Commission shall cease to exist upon the expiration of the 60-day period beginning on the date on which the Commission submits its report under section 2307.

39. The amendment to be offered by Representative Lowey of New York, or her designee, debatable for not to exceed 10 minutes.

At the end of the bill, add the following new title:

TITLE XXIII—DRUG ABUSE EDUCATION AND STUDENT SAFETY

SEC. 2301. STRENGTHENING OF DRUG-FREE SCHOOL ZONES.

(a) General Authority.—Paragraph (8) of section 5122(a) of the Drug-Free Schools and Communities Act of 1988 (20 U.S.C. 3192(a)) is amended by striking the period and inserting the following: ", which shall include—

"(A) the determination, with the assistance of municipal authorities and local law enforcement agencies, as appropriate, of the geographical boundaries of schools within the State and the posting of signs identifying school properties as drug-free school zones;

"(B) drug-abuse education and prevention programs and enforcement policies designed to eliminate the illicit use of alcohol and drugs in such zones;

"(C) assisting teachers, administrators, athletic directors, and other school personnel in cooperating fully with law enforcement officials to punish violations of laws relating to illegal drugs;

"(D) informing the community—

"(i) of the content and intent of laws relating to school safety and laws relating to illegal drugs as they affect schoolchildren; and

"(ii) of the perimeters of the drug-free school zones;

"(E) employing the services of the local or substate regional advisory council on drug abuse education and prevention established or designated by the local application submitted under section 5126(a) as a resource for advice and support with respect to implementation of such zones; and

"(F) communication to students, teachers, athletic directors, and other school personnel by administrators that activities that are illicit and harmful to the health and well-being of the students will not be tolerated within schools and their surrounding environments.".

(b) Conforming Amendment.—Subsection (a) of section 5137 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3217) is amended by inserting before the period at the end of the first sentence the following: "as described in section 5122(a)(8)".

SEC. 2302. REPLICATION OF SUCCESSFUL DRUG ABUSE EDUCATION PROGRAMS.

(a) Reservation of Funds.—Section 5112(a) of the Drug-Free Schools and Communities Act of 1986 (29 U.S.C. 3182(a)) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following:

"(7) $5,000,000 for grants under section 5138.".

(b) Program Authorized.—Part D of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3211 et seq.) is amended by adding at the end the following:

"SEC. 5138. PROGRAMS OF DRUG ABUSE EDUCATION, PREVENTION, OR COUNSELING.

"(a) Program Authorized.—The Secretary is authorized to make grants to local educational agencies or consortia of local educational agencies and private nonprofit entities to provide drug abuse education, prevention, or counseling services to students in kindergarten through grade 12.

"(b) Eligibility.—A local educational agency or consortium described in subsection (a) shall not be eligible for a grant under this section unless such agency or consortium agrees—

"(1) to use assistance provided under such grant to provide or arrange for the provision of programs offering drug abuse education, prevention, or counseling to students of compulsory school age, including—

"(A) programs to provide drug abuse counseling in the schools by trained personnel;

"(B) programs that stress the use of peers to combat student abuse of drugs and alcohol;

"(C) programs that stress parental involvement in combating student abuse of drugs and alcohol; and

"(D) other appropriate programs;

"(2) that programs provided with assistance under the grant shall be designed to prevent or eliminate student abuse of drugs or alcohol;

"(3) to use assistance provided under the grant to expand or replicate a program that has a demonstrated record of success at either the State or local level in prevention or eliminating student abuse of drugs or alcohol; and

"(4) to ensure that the program to be expanded or replicated is appropriate for the students to be served, based on an assessment of their most important needs.

"(c) Application.—A local educational agency or consortium described in subsection (a) that desires to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information and assurances as the Secretary may reasonable require. Each such application shall contain—

"(1) a discussion of why the particular program to be assisted under the grant is appropriate for and responds to the particular needs of the students to be served;

"(2) a complete description of the success of the program to be assisted under the grant in reducing or eliminating drug or alcohol abuse among students of compulsory school age;

"(3) an assurance that the consortium concerned will provide assistance, in cash or in kind, for the program assisted under the grant in an amount equal to not less than 10 percent of the amount provided under the grant; and

"(4) an assurance that funds received under the grant shall be used to supplement, not supplant, the amount of other Federal, State, and local funds expended for support of programs of the type described in subsection (b).".

SEC. 2303. SUPPORT OF SCHOOL-BASED RECREATIONAL ACTIVITIES.

Section 5125(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195(a)) is amended—

(1) by redesignating paragraph (14) as paragraph (16);

(2) by redesignating paragraph (13) the second place it appears as paragraph (14);

(3) by striking "and" at the end of paragraph (14) (as redesignated by paragraph (2) of this section); and

(4) by inserting after paragraph (14) the following:

"(15) in the case of a local educational agency that determines that it provides sufficient drug and alcohol abuse education during regular school hours, after-school programs that provide drug and alcohol abuse education for school-aged children, including children who are unsupervised after school, and that my include school-sponsored sports, recreational, educational, or instructional activities; and".

SEC. 2304. SUPPORT OF SCHOOL-BASED DRUG ABUSE COUNSELING PROGRAMS.

(a) General Authority.—Part C of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3201) is amended to read as follows:

Part C—Training of Teachers, Counselors, and School Personnel

"SEC. 5128. GRANTS FOR TRAINING OF TEACHERS.

"(a) In General.—From amounts appropriated pursuant to the authorization contained in section 5111(a)(2), the Secretary shall make grants to State educational agencies, local educational agencies, and institutions of higher education for teacher training programs in accordance with this section.

"(b) Use of Funds.—Amounts made available under grants under this section shall be used to establish, expand, or enhance programs and activities for the training of elementary and secondary school teachers and administrators, and other elementary and secondary school personnel concerning drug and alcohol abuse education and prevention.

"SEC. 5129. GRANTS FOR TRAINING OR COUNSELORS.

"(a) In General.—

"(1) From amounts appropriated pursuant to the authorization contained in section 5111(a)(2), the Secretary shall give priority to making a substantial number of grants to qualified State educational agencies, local educational agencies, and institutions of higher education for programs to train counselors, social workers, psychologists, or nurses in accordance with this section.

"(2) The Secretary may also make a grant under this part to any private nonprofit agency that has an agreement with a local educational agency to provide training in drug abuse counseling for individuals who will provide such counseling in the schools of such local educational agency.

"(b) Use of Funds.—Amounts made available under grants under this section shall be used to establish, expand, or enhance programs and activities for the training of counselors, social workers, psychologists, or nurses who are providing or will provide drug abuse prevention, counseling, or referral services in elementary and secondary schools.

"SEC. 5130. APPLICATIONS.

"(a) In General.—Any State or local educational agency, institution of higher education, or consortium of such agencies or institutions that desires to receive a grant under this part in any fiscal year shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

"(b) Contents.—Each application submitted under this section shall—

"(1) set forth the activities and programs to be carried out with funds paid under this part;

"(2) contain an estimate of the cost for the establishment and operation of such activities and programs;

"(3) provide assurances that the Federal funds made available under this section shall be used to supplement, and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds;

"(4) provide assurances of compliance with this part;

"(5) in the case of a grant under section 5129, contain a discussion of how the training to be assisted under the grant will assist the applicant to—

"(A) increase the number of school personnel who are trained to provide drug abuse counseling services; and

"(B) improve the quality of drug abuse counseling services offered by the applicant or the local educational agency concerned; and

"(6) include such other information and assurances as the Secretary reasonably determines to be necessary.".

(b) Authorization of Appropriations.—Subparagraph (A) of section 5111(a)(2) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3181(a)(2)) is amended by striking "$35,000,000" and inserting "$50,000,000".

SEC. 2305. ADDITIONAL REQUIREMENTS FOR LOCAL APPLICATIONS.

Section 5126(a)(2) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3196(a)(2)) is amended—

(1) by redesignating subparagraphs (N) and (O) as subparagraphs (P) and (Q), respectively; and

(2) by inserting after subparagraph (M) the following:

"(N) describe how, to the extent practicable, assistance provided under the grant will be used to provide drug abuse counseling services to children of all ages, including students in the elementary schools;

"(O) describe how, to the extent practicable, activities assisted under the grant will be coordinated with local law enforcement agencies in order to improve security on school grounds and in the surrounding community and to educate students about—

"(i) the dangers of drug use and drug-related violence;

"(ii) the penalties for possession of or trafficking in illegal drugs;

"(iii) techniques for resisting drug abuse; and

"(iv) the importance of cooperating with law enforcement officials in eliminating drug abuse and identifying individuals who supply drugs to students;".

SEC. 2306. IDENTIFICATION OF FEDERALLY-ASSISTED PROGRAMS.

Part G of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3231 et seq.) is amended by adding at the end the following:

"SEC. 5193. IDENTIFICATION OF FEDERALLY-ASSISTED PROGRAMS.

"Every local recipient of funds under this title shall, in any publication of public announcement, clearly identify any program assisted under this title as a Federal program funded under the Drug-Free Schools and Communities Act of 1986.".

SEC. 2307. TECHNICAL AMENDMENTS.

(a) Authorization of Appropriations.—Subsection (a) of section 2 of the Drug-Free Schools and Communities Act Amendments of 1989 is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by striking paragraph (1) and inserting the following:

"(1) in paragraph (1), by inserting after "part C" the following: "and section 5136"; and

"(2) in paragraph (2)—

"(A) in subparagraph (A), by striking 'and $20,000,000' and all that follows and inserting the following: '$20,000,000 for the fiscal year 1990, and $35,000,000 for each of the fiscal years 1991, 1992, and 1993.''; and

"(B) in subparagraph (B), by striking '$230,000,000' and inserting '$215,000,000'; and".

(b) Reservations and State Allotments.—Subsection (a) of section 5112 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3182) is amended in the matter preceding paragraph (1) by inserting ", from" after "subsection (c)".

(c) Responsibilities of State Educational Agencies.—

(1) Correction of punctuation.—Section 5124(a)(4)(B) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3194(a)(4)(B)) is amended by striking the comma at the end of clause (ii) and inserting a period.

(2) Correction of reference.—Section 7(2) of the Drug-Free Schools and Communities Act Amendments of 1989 is amended in subparagraph (A) by inserting "the first place it appears" before "the following".

(d) Federal Activities.—Section 45132(b) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3212) is amended by striking "and" at the end of paragraph (5).

(e) Emergency Grants.—The heading for section 5136 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3216) is amended to read as follows:

"SEC. 5136. EMERGENCY GRANTS.".

(f) Certification of Drug and Alcohol Abuse Prevention Programs.—Section 22(b) of the Drug-Free Schools and Communities Act Amendments of 1989 is amended—

(1) in paragraph (1), by striking "Part D" and inserting "Part E"; and

(2) in paragraph (2), by striking "5126(e)" and inserting "5126(a)".

(g) Dissemination of Information and Technical Assistance.—Section 18 of the Drug-Free Schools and Communities Act Amendments of 1989 is amended by striking "Part D" and inserting "Part E".

(h) Limitation.—The amendments made by this section shall not take effect if the Drug Abuse Resistance Education Act of 1990 is enacted before the Enactment of this Act.

40. The amendment to be offered by Representative Fascell of Florida, or his designee, debatable for not to exceed 10 minutes.

At the end of the bill (page 239, after line 5), add the following:

TITLE XXIII—INTERNATIONAL NARCOTICS CONTROL

SEC. 2301. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This title may be cited as the "International Narcotics Control Act of 1990".

(b) Table of Contents.—The table of contents for this title is as follows:

TITLE XXIII—INTERNATIONAL NARCOTICS CONTROL

Sec. 2301. Short title and table of contents.
Sec. 2302. Economic assistance and administration of justice programs for Andean countries.
Sec. 2303. Military and law enforcement assistance for Andean countries.
Sec. 2304. General provisions relating to assistance for Andean countries.
Sec. 2305. International narcotics control assistance.
Sec. 2306. Assistance for agricultural and industrial alternatives to narcotics production.
Sec. 2307. Exceptions to requirement that aircraft provided to foreign countries for narcotics control purposes be leased rather than sold.
Sec. 2308. Number of members of United States Armed Forces in Andean countries.
Sec. 2309. Nonapplicability of certification procedures to certain major drug-transit countries.
Sec. 2310. Authority to transfer military assistance funds to economic programs.
Sec. 2311. Extradition of United States citizens.
Sec. 2312. Congressional review of narcotics-related assistance for Afghanistan.
Sec. 2313. Training of foreign pilots.
Sec. 2314. Review of riverine program.
Sec. 2315. Uses of excess defense articles transferred to certain major illicit drug producing countries.
Sec. 2316. Export-Import Bank financing for sales of defense articles and services.

SEC. 2302. ECONOMIC ASSISTANCE AND ADMINISTRATION OF JUSTICE PROGRAMS FOR ANDEAN COUNTRIES.

(a) Authorization of Appropriations.—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated $300,000,000 for fiscal year 1991 for assistance for Andean countries under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund) or under chapter 1 of part I of that Act (22 U.S.C. 2151 and following; relating to development assistance).

(b) Administration of Justice Programs.—

(1) Additional assistance for Bolivia, Colombia, and Peru.—Of the funds authorized to be appropriated by subsection (a) that are appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, up to $16,000,000 should be used to provide assistance for Bolivia, Colombia, and Peru—

(A) pursuant to section 534 of that Act (22 U.S.C. 2346c; relating to the administration of justice program), in addition to funds otherwise used for those countries under that section for fiscal year 1991; and

(B) pursuant to paragraphs (2) and (3) of this subsection.

(2) Protection against narco-terrorist attacks.—Funds used in accordance with paragraph (1) may be used to provide to Bolivia, Colombia, and Peru, notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on assistance to law enforcement agencies), such assistance as the government of that country may request to provide protection against narco-terrorist attacks on judges, other government officials, and members of the press.

(3) Assistance for Colombia's office of special investigations and special prosecutor for human rights.—It is the sense of the Congress that up to $2,000,000 of the funds used in accordance with paragraph (1) should be used for assistance for Colombia to provide training, technical assistance, and equipment for the Office of Special Investigations and the Special Prosecutor for Human Rights, both of which are within the Office of the Attorney General of the Government of Colombia.

(4) Additionality of assistance.—Funds may be used in accordance with paragraph (1) of this subsection without regard to the dollar limitation contained in section 534(c) of the Foreign Assistance Act of 1961.

(5) Period of availability.—Funds allocated for use in accordance with paragraph (1) of this subsection shall remain available until expended notwithstanding any other provision of law.

(6) Extension of authority for AOJ program.—Section 534(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c(e)) is amended—

(A) in the second sentence by striking out "$7,000,000 may be made available in fiscal year 1990" and inserting in lieu thereof "$10,000,000 may be made available in fiscal year 1991"; and

(B) in the third sentence by striking out "1990" and inserting in lieu thereof "1991".

SEC. 2303. MILITARY AND LAW ENFORCEMENT ASSISTANCE FOR ANDEAN COUNTRIES.

(a) Authorization of Appropriations.—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated $67,500,000 for fiscal year 1991 for assistance for Andean countries under the "foreign military financing program" account under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

(b) Purposes of Assistance.—Assistance under subsection (a) shall be designed to—

(1) enhance the ability of the government of the recipient country to control illicit narcotics production and trafficking;

(2) strengthen the bilateral ties of the United States with that government by offering concrete assistance in this area of great mutual concern;

(3) strengthen respect for internationally recognized human rights and the rule of law in efforts to control illicit narcotics production and trafficking; and

(4) assist the armed forces of the Andean countries in their support roles for those countries' law enforcement agencies, which are charged with the main responsibility for the control of illicit narcotics production and trafficking.

(c) Conditions of Eligibility.—Assistance may be provided for an Andean country under subsection (a) only—

(1) so long as that country has a democratic government; and

(2) the government of that country, including the armed forces and law enforcement agencies, does not engage in a consistent pattern of gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(d)(1))).

(d) Law Enforcement Training and Equipment.—Subject to subsection (e), funds made available to carry out subsection (a) may be used, notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on assistance to law enforcement agencies)—

(1) to provide to law enforcement agencies, that are organized for the specific purpose of narcotics enforcement, education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts;

(2) for the expenses of deploying, upon the request of the Government of Bolivia, the Government of Colombia, or the Government of Peru, Department of Defense mobile training teams in that country to conduct training in military-related individual and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction; and

(3) for the procurement of defense articles or commodities (as defined in section 644(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(c))) for use in narcotics control, eradication, and interdiction efforts by law enforcement agencies that are organized for the specific purpose of narcotics enforcement.

(e) Limitation on Law Enforcement Assistance for Bolivia, Colombia, and Peru.—Not more than $67,500,000 of the aggregate amount of funds authorized to be appropriated by this title for fiscal year 1991 for assistance under the "foreign military financing program" account under section 23 of the Arms Export Control Act (22 U.S.C. 2763) and assistance under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance) may be obligated for assistance for the law enforcement agencies of Bolivia, Colombia, and Peru.

(f) Limitations on Amount of Excess Defense Articles Transferred to Bolivia, Colombia, and Peru.—

(1) Establishment of limit.—The aggregate acquisition cost to the United States of excess defense articles ordered by the President in fiscal year 1991 for delivery to Bolivia, Colombia, and Peru under section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k) may not exceed $60,000,000.

(2) Waiver of existing grant eda limitation.—The dollar limitation in section 517(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k(e)) shall not apply with respect to Bolivia, Colombia, and Peru in fiscal year 1991.

(3) Worldwide limitation on amount of excess defense articles transferred.—Section 31(d) of the Arms Export Control Act (22 U.S.C. 2771(d)) shall not apply to excess defense articles ordered for transfer to Bolivia, Colombia, or Peru under section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k) in fiscal year 1991.

(g) Assistance for Leasing of Aircraft.—

(1) Use of funds.—For purposes of satisfying the requirement of section 484 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291c), funds made available under subsection (a) may be used to finance the leasing of aircraft under chapter 6 of the Arms Export Control Act.

(2) Cost of leases.—Section 61(a)(3) of the Arms Export Control Act shall not apply with respect to leases so financed; rather the entire cost of any such lease (including any renewals) shall be an initial, one time payment of the amount which would be the sales price for the aircraft if they were sold under section 21(a)(1)(B) or section 22 of that Act (as appropriate).

(3) Reimbursement of sdaf.—To the extent that aircraft so leased were acquired under chapter 5 of the Arms Export Control Act, funds used pursuant to this subsection to finance such leases shall be credited to the Special Defense Acquisition Fund under chapter 5 of that Act (excluding the amount of funds that reflects the charges described in section 21(e)(1) of that Act). The funds described in the parenthetical clause of the preceding sentence shall be available for payments consistent with sections 37(a) and 43(b) of that Act.

SEC. 2304. GENERAL PROVISIONS RELATING TO ASSISTANCE FOR ANDEAN COUNTRIES.

(a) Presidential Determination Required.—Assistance may be provided for an Andean country pursuant to the authorizations of appropriations provided in section 2302(a) and section 2303(a), and excess defense articles may be transferred to Bolivia, Colombia, or Peru in fiscal year 1991 pursuant to section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k), only if the President determines that—

(1) that country is implementing programs to reduce the flow of cocaine to the United States in accordance with a bilateral or multilateral agreement, to which the United States is a party, that contains specific, quantitative and qualitative, performance criteria with respect to those programs;

(2) the armed forces and law enforcement agencies of that country are not engaged in a consistent pattern of gross violations of internationally recognized human rights, and the government of that country has made significant progress in protecting internationally recognized human rights, particularly in—

(A) ensuring that torture, cruel, inhuman, or degrading treatment or punishment, incommunicado detention or detention without charges and trial, disappearances, and other flagrant denials of the right to life, liberty, or security of the person, are not practiced; and

(B) permitting an unimpeded investigation of alleged violations of internationally recognized human rights, including providing access to places of detention, by appropriate international organizations (including nongovernmental organizations such as the International Committee of the Red Cross) or groups acting under the authority of the United Nations or the Organization of American States; and

(3) the government of that country has effective control over police and military operations related to counternarcotics and counterinsurgency activities.

(b) Notifications to Congress.—Not less than 15 days before funds are obligated pursuant to section 2302(a) or section 2303(a), the President shall transmit to the congressional committees specified in section 634A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1) a written notification in accordance with the procedures applicable to reprogrammings under that section. Such notification shall specify—

(1) the country to which the assistance is to be provided;

(2) the type and value of the assistance to be provided;

(3) in the case of assistance provided pursuant to section 2303(a), the law enforcement agencies or other units that will receive the assistance; and

(4) an explanation of how the proposed assistance will further—

(A) the objectives specified in subsection (a) of this section, and

(B) in the case of assistance under section 2303(a), the purposes specified in section 2303(b).

(c) Coordination With International Narcotics Control Assistance Program.—Assistance authorized by section 2302(a) and section 2303(a) shall be coordinated with assistance provided under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance).

(d) Conditional Waiver of Brooke-Alexander Amendment.—For fiscal year 1991, section 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q)) and section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, shall not apply with respect to narcotics-related assistance for an Andean country, provided the President has made the determination described in subsection (a) of this section.

(e) Authority to Waiver Requirement to Withhold 50 Percent of Assistance Pending Certification.—Section 481(h)(1)(A) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)(1)(A)) shall not apply with respect to Bolivia, Colombia, and Peru for fiscal year 1991 if the President—

(1) determines that its application would be contrary to the national interest; and (2) transmits written notification of that determination to the congressional committees specified in section 634A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1) in accordance with the procedures applicable to reprogrammings under that section.

SEC. 2305. INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.

There are authorized to be appropriated $150,000,000 for fiscal year 1991 for assistance under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance).

SEC. 2306. ASSISTANCE FOR AGRICULTURAL AND INDUSTRIAL ALTERNATIVES TO NARCOTICS PRODUCTION.

(a) Waiver of Restrictions.—For the purpose of reducing dependence upon the production of crops from which narcotic and psychotropic drugs are derived, the President may provide assistance to a foreign country under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) and chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund) to promote the production, processing, or the marketing of products or commodities, notwithstanding any other provision of law that would otherwise prohibit the provision of assistance to promote the production, processing, or the marketing of such products or commodities.

(b) Effective Date.—Subsection (a) applies with respect to funds made available for fiscal year 1991 or any fiscal year thereafter.

SEC. 2307. EXCEPTIONS TO REQUIREMENT THAT AIRCRAFT PROVIDED TO FOREIGN COUNTRIES FOR NARCOTICS CONTROL PURPOSES BE LEASED RATHER THAN SOLD.

Section 484 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291c) is amended by adding at the end the following: "The requirement of this section does not apply with respect to aircraft made available to a foreign country under section 2(b)(6)(B) of the Export-Import Bank Act of 1945 or under any provision of law that authorizes property that has been civilly or criminally forfeited to the United States to be made available to foreign countries.".

SEC. 2308. NUMBER OF MEMBERS OF UNITED STATES ARMED FORCES IN ANDEAN COUNTRIES.

(a) Monthly Reports.—Within 15 days after the end of each month, the President shall submit to the Congress a report listing the number of members of the United States Armed Forces who were assigned or detailed to, or otherwise performed functions in, each Andean country at any time during that month.

(b) Limitation.—Section 515(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321i(c)) is amended by adding at the end the following:

"(3) If more than 6 members of the Armed Forces may be assigned to Bolivia, Colombia, or Peru under this section pursuant to an authorization by the Congress or an exercise by the President of the waiver authority provided in paragraph (1), the number so assigned to any such country may not exceed 12 unless the President determines and reports to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, 30 days prior to the introduction of the additional military personnel, that the United States national interests require that a greater number be assigned to that country to carry out international security assistance programs under this section.".

SEC. 2309. NONAPPLICABILITY OF CERTIFICATION PROCEDURES TO CERTAIN MAJOR DRUG-TRANSIT COUNTRIES.

Section 8 of the International Narcotics Control Act of 1989 is amended by inserting "or fiscal year 1991" after "fiscal year 1990".

SEC. 2310. AUTHORITY TO TRANSFER MILITARY ASSISTANCE FUNDS TO ECONOMIC PROGRAMS.

(a) Applicability of Transfer Authority to Foreign Military Financing Program Funds.—Section 610(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2360(a)) is amended—

(1) by inserting "or for section 23 of the Arms Export Control Act" after "part I)"; and

(2) by striking out "other".

(b) Effective Date.—The amendments made by subsection (a) apply with respect to funds made available for fiscal year 1991 or any fiscal year thereafter.

SEC. 2311. EXTRADITION OF UNITED STATES CITIZENS.

(a) In General.—Chapter 209 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3196. Extradition of United States citizens

"If the applicable treaty or convention does not obligate the United States to extradite its citizens to a foreign country, the Secretary of State may, nevertheless, order the surrender to that country of a United States citizen whose extradition has been requested by that country if the other requirements of that treaty or convention are met.".

(b) Section Analysis.—The section analysis for chapter 209 of title 18, United States Code, is amended by adding at the end the following:

"§ 3196. Extradition of United States citizens.".

SEC. 2312. CONGRESSIONAL REVIEW OF NARCOTICS-RELATED ASSISTANCE FOR AFGHANISTAN.

Not less than 15 days before obligating funds made available for any fiscal year to carry out the Foreign Assistance Act of 1961 or the Arms Export Control Act for any assistance for Afghanistan that has narcotics control as one of its purposes, the President shall notify the congressional committees specified in section 634A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1) in accordance with the procedures applicable to reprogramming notifications under that section.

SEC. 2313. TRAINING OF HOST COUNTRY PILOTS.

(a) Instruction Program.—Not less than 90 days after the date of enactment of this Act, the President shall implement, under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance), a detailed program of instruction to train host country pilots, and other flight crew members, to fly the aircraft involved in counternarcotics efforts in Andean countries that have been made available by the United States Government under that chapter or any other provision of law. Such program shall be designed to eliminate direct participation of the United States Government (including participation through the use of either direct hire or contract personnel) in the operation of such aircraft.

(b) Requirement for Replacement of United States Government Pilots by Host Country Pilots.—The President shall ensure that, within 18 months after the date of enactment of this Act, flight crews composed of host country personnel replace all United States Government pilots and other flight crew members (including both direct hire or contract personnel) in airborne counternarcotics operations in the Andean countries.

SEC. 2314. REVIEW OF RIVERINE PROGRAM.

Funds made available to carry out the Foreign Assistance Act of 1961 or the Arms Export Control Act may not be used for the procurement of surface water craft for counternarcotics programs in the Andean countries until the Secretary of State and the Secretary of Defense have jointly assessed and audited, and have submitted a report to Congress on—

(1) the specific goals and objectives of such programs;

(2) how such craft will further the attainment of those goals and objectives;

(3) the cost and utility of craft to be provided; and

(4) how such craft will be sustained through maintenance and training.

SEC. 2315. USES OF EXCESS DEFENSE ARTICLES TRANSFERRED TO CERTAIN MAJOR ILLICIT DRUG PRODUCING COUNTRIES.

Section 517(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k(c)) is amended by striking out "only" the second place it appears and inserting in lieu thereof "primarily".

SEC. 2316. EXPORT-IMPORT BANK FINANCING FOR SALES OF DEFENSE ARTICLES AND SERVICES.

Section 2(b)(6)(B)(vi) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)(B)(vi)) is amended by striking out "1990" and inserting in lieu thereof "1992".

44. The amendment to be offered by Representative Dingell of Michigan, or his designee, debatable for not to exceed 10 minutes.

Insert at the appropriate place the following new section:

SEC. . AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.

(a) Reports and Audit Requirements.—The Securities Exchange Act of 1934 is amended by inserting after section 13 (15 U.S.C. 78m) the following new section:

"MANAGEMENT AND AUDITOR REPORTS

"Sec. 13A. (a) Evaluation of Internal Controls Required: Annual Report.—Every issuer to which section 13(b)(2) of this title applies shall—

"(1) periodically evaluate the issuer's internal control structure for the purpose of complying with paragraph (2)(B) of this subsection;

"(2) set forth in each annual report filed pursuant to this title and in any annual report required to be provided to security holders—

"(A) a description and statement of management's responsibilities for preparation of such issuer's financial statements and other financial information and for establishing and maintaining an adequate internal control structure;

"(B) an assessment, as of the issuer's most recent fiscal year end, of whether such internal control structure (after any corrections of the type referred to in subparagraph (C) of this paragraph) reasonably assures the preparation, in conformity with generally accepted accounting principles, of annual and quarterly financial statements required to be filed pursuant to this title and

"(C) the disclosure of any material weaknesses that have been identified in such internal control structure and that have not been substantially corrected by management as of the date of the filing of the annual report.

"(b) Auditors Internal Control Examination and Reporting Requirements.—In addition to the annual audit made of the financial statements of each issuer to which subsection (a) of this section applies, the issuer's independent public accountant shall examine and report on management's assessment, pursuant to subsection (a)(2)(B) of this section, of the adequacy of an issuer's internal control structure. The accountant's examination for purposes of expressing an opinion on the issuer's assessment and the accountant's report shall be in accordance with applicable standards of recognized auditing standards setting bodies. The resulting report shall be included by the issuer in each annual report filed pursuant to this title and in any annual report required to be provided to security holders. The independent public accountant's report as it relates to management's assessment under subsection (a)(2)(B) may, to the extent permitted by Commission rule, address that assessment only with respect to annual financial statement preparation.

"(c) Audit Requirements.—Each audit required pursuant to this title of an issuer's financial statements by an independent public accountant shall include, in accordance with applicable auditing standards of recognized auditing standards setting bodies, the following:

"(1) procedures designed to identify related party transactions which are material to the financial statements or otherwise require disclosure therein;

"(2) procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts; and

"(3) an evaluation of whether there is substantial doubt about the issuer's ability to continue as a going concern over the ensuing fiscal year.

"(d) Required Response to Audit Discoveries.—(1) If, in the course of conducting any audit pursuant to this title to which subsection (c) applies, the independent public accountant detects or otherwise becomes aware of information indicating that an illegal act (whether or not perceived to have a material effect on the issuer's financial statements) has or may have occurred, the accountant shall, in accordance with applicable auditing standards of recognized auditing standards setting bodies—

"(A)(i) determine whether it is likely that an illegal act has occurred, and (ii) if so, determine and consider the possible effect of the illegal act on the financial statements of the issuer, including any contingent monetary effects, such as fines, penalties, and damages; and

"(B) inform the appropriate level of the issuer's management and assure that the issuer's audit committee, or the issuer's board of directors in the absence of such a committee, is adequately informed with respect to illegal acts that have been detected or otherwise come to the attention of such accountant in the course of the audit, unless the illegal act is clearly inconsequential.

"(2)(A) If, having first assured itself that the audit committee of the board of directors of the issuer or the board (in the absence of an audit committee) is adequately informed with respect to illegal acts that have been detected or otherwise come to the accountant's attention in the course of such accountant's audit, the independent public accountant concludes that—

"(i) any such illegal act has a material effect on the financial statements of the issuer,

"(ii) senior management has not taken, and the board of directors has not caused senior management to take, timely and appropriate remedial actions with respect to such illegal act, and

"(iii) the failure to take remedial action is reasonably expected to warrant qualification of such accountant's report, when made, or warrant resignation from the audit engagement,

the independent public accountant shall directly report its conclusions to the board of directors.

"(B) An issuer whose board of directors has received a report pursuant to this paragraph shall inform the Commission by notice within one business day of receipt of such report and shall furnish the independent public accountant making such report with a copy of the notice furnished the Commission. If the independent public accountant making such report shall fail to receive a copy of such notice within the required one-business-day period, the independent public accountant shall —

"(i) resign from the engagement; or

"(ii) furnish to the Commission a copy of its report (or the documentation of any oral report given) within the next business day following such failure to receive notice.

"(C) An independent public accountant electing resignation shall, within the one business day following a failure by an issuer to notify the Commission under subparagraph (B), furnish to the Commission a copy of the accountant's report (or the documentation of any oral report given).

"(e) Auditor Liability Limitation.—No independent public accountant shall be liable in any manner to any person for any finding, conclusion, report, or statement made in connection with subsections (b) and (d)(2) of this section, including any rules promulgated pursuant thereto, if such finding, conclusion, report, or statement is made in good faith, based upon the independent public accountant's compliance with such subsections or rules (or both). With respect to subsection (b), the limitation on liability provided by this subsection shall not be effective with respect to any finding, conclusion, report, or statement made with respect to fiscal years beginning on or after January 1, 1996.

"(f) Preservation of Existing Authority.—Nothing in this section shall be construed to limit or otherwise affect the authority of the Commission under this title.

"(g) Definitions.—As used in this section:

"(1) The term 'illegal act' means any action or omission to act that violates any law, or any rule or regulation having the force of law.

"(2) The term 'material weakness' means a weakness in the issuer's internal control structure in which the design or operation of the specific internal control structure elements do not reduce to a relatively low level the risk that errors or irregularities, in amounts that would be material in relation to the financial statements, may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

"(3) The term 'internal control structure' includes the internal accounting controls required by section 13(b)(2)(B) of this title.".

(b) Effective Dates.—As to any registrant that is required to file selected quarterly financial data pursuant to item 302(a) of Regulation S-K (17 CFR 229.302(a)) of the Securities and Exchange Commission, the amendments made by subsection (a) of this section shall apply to any annual report for any period beginning on or after January 1, 1991. As to any other registrant, such amendment shall apply for any period beginning on or after January 1, 1992.

46. The amendment to be offered by Representative Coughlin of Pennsylvania, or his designee, debatable for not to exceed 10 minutes.

Page 239, after line 5, add the following new title:

TITLE XXIII—INTERDICTION IMPROVEMENTS

SEC. 2301. SANCTIONS FOR FAILURE TO LAND OR TO BRING TO.

(a) In General.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Order to land or bring to

"(a)(1) In the enforcement of the laws of the United States, relating to controlled substances, as that term is defined in the Controlled Substances Act, or money laundering (sections 1956-57 of this title), it shall be unlawful for the pilot, operator, or person in charge of any aircraft which has crossed the border of the United States, or any aircraft subject to the jurisdiction of the United States operating outside the United States, to refuse to obey the order of an authorized Federal law enforcement officer to land.

"(2) The Administrator of the Federal Aviation Administration and the Commissioner of Customs, upon consultation with the Attorney General, shall prescribe regulations governing the means by which an order to land may be communicated to the pilot, operator, or person in charge of an aircraft by Federal law enforcement officers.

"(3) This section does not limit in any way the preexisting authority of a customs officer under section 581 of the Tariff Act of 1930 or any other provision of law enforced or administered by the Customs Service, or the preexisting authority of any Federal law enforcement officer under any law of the United States to order an aircraft to land or a vessel to bring to.

"(b) It is unlawful for any master, operator, or person in charge of a vessel of the United States or a vessel subject to the jurisdiction of the United States to fail to bring to that vessel on being ordered to do so by a Federal law enforcement officer authorized to issue such an order.

"(c) Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under this section may be obtained by radio, telephone, or similar oral or electronic means, and may be proved by certification of the Secretary of State or the Secretary's designee.

"(d) For purposes of this section—

"(1) a 'vessel of the United States' or a 'vessel subject to the jurisdiction of the United States' has the meaning set forth in the Maritime Drug Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) an aircraft 'subject to the jurisdiction of the United States' includes—

"(A) an aircraft located over the United States or the customs waters of the United States;

"(B) an aircraft located in the airspace of a foreign nation, where that nation consents to the enforcement of United States law by the United States; and

"(C) over the high seas, an aircraft without nationality, an aircraft of United States registry, or an aircraft registered in a foreign nation where the nation of registry has consented or waived objection to the enforcement of United States law by the United States;

"(3) the term 'bring to' means to cause a vessel to slow or come to a stop to facilitate a law enforcement boarding by adjusting the course and speed of the vessel to account for the weather conditions and sea state; and

"(4) the term 'Federal law enforcement officer' has the meaning set forth in section 115 of this title.

"(e) A person who intentionally violates this section shall be subject to—

"(1) imprisonment for not more than 2 years; and

"(2) a fine under this title.

"(f) Any vessel or aircraft that is used in a violation of this section may be seized and forfeited. The provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any of the provisions of this section; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose. Any vessel or aircraft that is used in a violation of this section is also liable in rem for any fine imposed under this section.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"2237. Order to land or bring to.".

SEC. 2302. FAA SUMMARY REVOCATION AUTHORITY.

Section 501(e) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401(e)) is amended by adding at the end the following:

"(3)(A) The registration of an aircraft shall be immediately revoked upon the failure of the operator of the aircraft to follow the order of a law enforcement officer to land an aircraft, as provided in section 2237 of title 18 of the United States Code. The Administrator shall notify forthwith the owner of the aircraft that the owner of the aircraft no longer holds United States registration for the aircraft.

"(B) The Administrator shall establish procedures for the owner of the aircraft to show cause—

"(i) why the registration was not revoked, as a matter of law, by operation of subparagraph (A); or

"(ii) why circumstances existed pursuant to which the Administrator should determine that, notwithstanding subparagraph (A), it would be in the public interest to issue a new certificate of registration to the owner to be effective concurrent with the revocation occasioned by operation of subparagraph (A).".

SEC. 2303. COAST GUARD AIR INTERDICTION AUTHORITY.

(a) Air Interdiction Authority.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following:

"§ 96. Air interdiction authority

"The Coast Guard may issue orders and make inquiries, searches, seizures, and arrests with respect to violations of laws of the United States occurring aboard any aircraft over the high seas or waters over which the United States has jurisdiction. Any order under this section to land an aircraft shall be communicated pursuant to regulations promulgated pursuant to section 2237 of title 18, United States Code.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 5 of such title is amended by adding at the end the following:

"96. Air interdiction authority.".

SEC. 2304. COAST GUARD CIVIL PENALTY PROVISIONS.

(a) Civil Penalty.—Chapter 17 of title 14, United States Code, is amended by inserting after section 639 the following:

"§640. Civil penalty for failure to comply with a lawful boarding or order to land

"(a) The master, operator, or person in charge of a vessel, or the pilot or operator of an aircraft, who intentionally fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft in violation of section 2237 of title 18, United States Code, or section 96 of title 14, United States Code, is liable to the United States Government for a civil penalty of not more than $25,000, which may be assessed by the Secretary after notice and opportunity to be heard.

"(b) The master, operator, or person in charge of a vessel, or the pilot or operator of an aircraft, who negligently fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft in violation of section 2237 of title 18, United States Code, or section 96 of title 14, United States Code, is liable to the United States Government for a civil penalty of not more than $5,000, which may be assessed by the Secretary after notice and opportunity to be heard.

"(c) Any vessel or aircraft used in violation of section 2237 of title 18, United States Code, or section 96 of title 14, United States Code, is liable in rem for the penalty assessed under this section.".

(b) Conforming Amendment.—The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 639 the following:

"640. Civil penalty for failure to comply with a lawful boarding or order to land.".

SEC. 2305. CUSTOMS ORDERS.

Section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) is amended by adding at the end the following:

"(i) As used in this section, the term 'authorized place' includes—

"(1) with respect to a vehicle, any location in a foreign country at which United States customs officers are permitted to conduct inspections, examinations or searches; and

"(2) with respect to aircraft to which this section applies by virtue of section 644 of this Act or regulations issued thereunder, or section 2237 of title 18 of the United States Code, any location outside of the United States, including a foreign country at which United States customs officers are permitted to conduct inspections, examinations, or searches.".

SEC. 2306. CUSTOMS CIVIL PENALTY PROVISIONS.

Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 581 et seq.) is amended by adding after section 590 the following:

"SEC. 591. CIVIL PENALTY FOR FAILURE TO OBEY AN ORDER.

"(a) The pilot or operator of an aircraft who intentionally fails to comply with an order of an officer of the customs relating to the landing of an aircraft in violation of section 581 of this Act, or of section 2237 of title 18 of the United States Code, is subject to a civil penalty of not more than $25,000 which may be assessed by the appropriate customs officer.

"(b) The pilot or operator of an aircraft who negligently fails to comply with an order of an officer of the customs relating to the landing of an aircraft in violation of section 581 of this Act or of section 2237 of title 18 of the United States Code, is subject to a civil penalty of not more than $5,000, which may be assessed by the appropriate customs officer.".

47. The amendment to be offered by Representative Schumer of New York, or his designee, debatable for not to exceed 10 minutes.

Add at the end the following:

TITLE —TECHNICAL AND MINOR SUBSTANTIVE AMENDMENTS

Subtitle A—Penalties and Sentencing Amendments

SEC. 0101. CORRECTION OF RESENTENCING SANCTION FOR REVOCATION OF PROBATION FOR POSSESSION OF A CONTROLLED SUBSTANCE.

Section 3565(a) of title 18, United States Code, is amended by striking "the court shall revoke the sentence of probation and sentence the defendant to not less than one-third of the original sentence" and inserting in lieu thereof "the court shall revoke the sentence of probation and impose any other sentence under subchapter A that results in greater punishment".

SEC. 0102. MODIFICATION OF APPROVAL REQUIREMENTS FOR GOVERNMENT SENTENCE APPEALS.

Section 3742(b) of title 18, United States Code, is amended—

(1) by striking ", with the personal approval of the Attorney General or the Solicitor General; and

(2) by adding at the end the following: "The Government may not further prosecute such appeal without the personal approval of the Attorney General, the Solicitor General, or a deputy solicitor general designated by the Solicitor General.".

SEC. 0103. PENALTY FOR CERTAIN ACCESSORY AFTER THE FACT OFFENSES.

Section 3 of title 18, United States Code, is amended by striking "10 years" and inserting in lieu thereof "15 years".

SEC. 0104. DELETION OF REQUIREMENT FOR SOLICITOR GENERAL APPROVAL OF APPEAL TO A DISTRICT COURT FROM A SENTENCE IMPOSED BY A MAGISTRATE.

Section 3742(g) of title 18, United States Code, is amended by inserting "(except for the requirement of approval by the Attorney General or the Solicitor General in the case of a Government appeal)" after "and this section shall apply".

SEC. 0105. ELIMINATION OF REDUNDANT PENALTY IN 18 U.S.C. 1864.

Section 1864(c) of title 18, United States Code, is amended by striking "(b)(3), (4), or (5)" and inserting in lieu thereof "(b)(5)".

SEC. 0106. AMENDMENT TO CLARIFY APPLICATION OF SENTENCING REFORM ACT TO ASSIMILATIVE CRIMES.

Section 3551(a) of title 18, United States Code, is amended by inserting "including sections 13 and 1153 of this title," after "any Federal statute,".

SEC. 0107. AUTHORIZATION OF PROBATION FOR PETTY OFFENSES IN CERTAIN CASES.

Section 3561(a)(3) of title 18, United States Code, is amended by adding at the end "However, this paragraph does not preclude the imposition of a sentence to a term of probation for a petty offense if the defendant has been sentenced to a term of imprisonment at the same time for another such offense.".

Subtitle B—Miscellaneous Amendments

SEC. 0201. CONFORMING AMENDMENTS TO SUBSTITUTE A REFERENCE TO THE FDIC FOR THE NOW ABOLISHED FSLIC IN TWO BANKING OFFENSES.

Sections 657 and 1006 of title 18, United States Code, are each amended by striking "the Federal Savings and Loan Insurance Corporation" and inserting in lieu thereof "the Federal Deposit Insurance Corporation".

SEC. 0202. DELETION OF ERRONEOUS REFERENCE FOR JUVENILE PROCEEDINGS.

Section 5032 of title 18, United States Code, is amended in the first paragraph by striking "or section 922(p) of this title,".

SEC. 0203. CLARIFICATION OF APPLICABILITY OF SECTION 1952 TO USE OF THE MAILS.

Section 1952(a) of title 18, United States Code, is amended—

(1) by inserting "the mail or" after "uses"; and

(2) by striking "including the mail,".

SEC. 0204. APPLICATION OF VARIOUS OFFENSES TO POSSESSIONS AND TERRITORIES.

(a) Civil Disorders.—Section 232 of title 18, United States Code, is amended by adding at the end the following:

"(8) The term 'State' includes a State of the United States, and any Commonwealth, territory, or possession of the United States.".

(b) Federally Protected Activities.—Section 245 of title 18, United States Code, is amended by adding at the end the following:

"(d) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any Commonwealth, territory, or possession of the United States.".

(c) Contempts.—Section 402 of title 18, United States Code, is amended by adding at the end the following:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any Commonwealth, territory, or possession of the United States.".

(d) Federally Funded Program Theft or Bribery.—Section 666(d) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Commonwealth, territory, or possession of the United States.".

(e) Identification Document Fraud.—Sections 1028(d)(5) and 1030(e)(3) of title 18, United States Code, are each amended by inserting "Commonwealth," before "possession or territory of the United States".

(f) Access Device Fraud.—Section 1029(f) of title 18, United States Code, is amended by adding at the end the following: "For purposes of this subsection, the term 'State' includes a State of the United States, the District of Columbia, and any Commonwealth, territory, or possession of the United States.".

(g) Wagering Information.—Section 1084(e) of title 18, United States Code, is amended by inserting "Commonwealth," before "territory or possession of the United States".

(h) Protection of Officers and Employees of United States.—Section 1114 of title 18, United States Code, is amended by inserting "or any other Commonwealth, territory, or possession" after "the Virgin Islands".

(i) Hobbs Act.—Section 1952(b) of title 18, United States Code, is amended—

(1) by striking "(b) As used in this section" and inserting the following:

"(b) As used in this section (1)";

(2) by striking "(1)", "(2)", and "(3)" and inserting "(A)", "(B)", and "(C)", respectively; and

(3) by striking the period and inserting ", and (2) the term 'State' includes a State of the United States, the District of Columbia, and any Commonwealth, territory, or possession of the United States.".

(j) Money Laundering.—Section 1956(c) of title 18, United States Code, is amended by adding at the end the following:

"(8) the term 'State' includes a State of the United States, the District of Columbia, and any Commonwealth, territory, or possession of the United States.".

(k) Murder for Hire.—Section 1958(b) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following:

"(3) 'State' includes a State of the United States, the District of Columbia, and any Commonwealth, territory, or possession of the United States.".

(l) Stolen Vehicles.—Section 2313 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever"; and

(2) by adding at the end the following:

"(b) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any Commonwealth, territory, or possession of the United States.".

(m) Stolen Goods.—Section 2315 of title 18, United States Code, is amended by adding at the end the following:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any Commonwealth, territory, or possession of the United States.".

(n) Juvenile Delinquency.—Section 5032 of title 18, United States Code, is amended—

(1) in the second undesignated paragraph, by adding at the end the following: "For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any Commonwealth, territory, or possession of the United States."; and

(2) in the third undesignated paragraph, by striking "to the authorities of a State or the District of Columbia" and inserting in lieu thereof "to the authorities of a State".

SEC. 0205. REPEAL OF ANTIQUATED OFFENSE AND DELETION OF TABLE REFERENCES TO REPEALED OFFENSES.

(a) Repeal.—Section 45 of title 18, United States Code, is repealed.

(b) Clerical Amendment.—The table of sections for chapter 3 of title 18, United States Code, is amended by striking the item relating to section 45.

SEC. 0206. REPEAL OF OTHER OUTMODED OFFENSES AND RELATED PROVISIONS.

(a) Section 969.—(1) Section 969 of title 18, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 45 of title 18, United States Code, is amended by striking out the items relating to sections 968 and 969.

(b) Sections 2198 and 3286.—(1) Sections 2198 and 3286 of title 18, United States Code, are repealed.

(2) The tables of sections in chapter 107 and 213 of title 18, United States Code, are amended by striking out the items relating to sections 2198 and 3286, respectively.

SEC. 0207. CONFORMING JURISDICTIONAL AMENDMENT FOR SECTION 2314 TO COVER FRAUDULENT SCHEMES INVOLVING FOREIGN AS WELL AS INTERSTATE TRAVEL.

The second paragraph of section 2314 of title 18, United States Code, is amended by inserting "or foreign" after "interstate".

SEC. 0208. CLARIFICATION OF ONE YEAR PERIOD.

Section 666(d) of title 18, United States Code, (as amended by section 206) is further amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following:

"(5) the term 'in any one year period' means a continuous period of 12 months that commences no earlier than 12 months before the commission of the offense or that ends no later than 12 months after the commission of the offense and such period may include time both before and after the commission of the offense.".

SEC. 0209. REPEAL OF PROVISIONS JUDICIALLY DETERMINED TO BE INVALID.

(a) Section 1730.—Section 1730 of title 18, United States Code, is amended by striking ", if the portrayal does not tend to discredit that service".

(b) Section 1714.—Section 1714 of title 18, United States Code, is repealed and the table of sections at the beginning of chapter 83 of title 18 is amended by striking the item relating to such section.

(c) Section 1718.—Section 1718 of title 18, United States Code, is repealed and the table of sections at the beginning of chapter 83 of title 18 is amended by striking the item relating to such section.

SEC. 0210. DELETION OF REQUIREMENT OF PERSONAL APPROVAL OF ATTORNEY GENERAL FOR PROSECUTIONS UNDER THE ATOMIC ENERGY ACT.

Section 221(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2271(c)) is amended by striking "That no action shall be brought under section 222, 223, 224, 225, or 226 except by the express direction of the Attorney General: *And provided further*,".

SEC. 0211. TECHNICAL CORRECTION TO PROVISION FOR COMPUTING MARSHAL'S COMMISSION.

Section 1921(c)(1) of title 28, United States Code, is amended in the second sentence by striking "If the property is to be disposed of by marshal's sale" and inserting "If the property is not disposed of by marshal's sale".

SEC. 0212. SEXUAL ABUSE AMENDMENTS RELATING TO MINORS.

(a) Inclusion of 12 and 13 Year-Olds.—Subsection (c) of section 2241 of title 18, United States Code, is amended to read as follows:

"(c) With Children.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who—

"(1) has not attained the age of 12 years; or

"(2) has attained the age of 12 but has not attained the age of 14 years, and the person so engaged is at least 18 years of age;

or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.".

(b) Conforming Amendment for State of Mind Proof Requirement.—Subsection (d) of section 2241 of title 18, United States Code, is amended by striking "knew" and all that follows and inserting in lieu thereof "knew—

"(1) the age of the other person engaged in the sexual act; or

"(2) that the requisite age difference existed between the persons so engaging.".

(c) Conforming Amendments to Section 2243.—Paragraph (1) of section 2243(a) of title 18, United States Code, is amended by striking "12" and inserting in lieu thereof "14".

(d) Definitions of Sexual Act Regarding Persons Under 16 Years of Age.—Paragraph (2) of section 2245 of title 18, United States Code, is amended—

(1) in subparagraph (B), by striking "or" after the semicolon;

(2) in subparagraph (C), by striking "; and" and inserting "; or"; and

(3) by inserting at the end the following:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

SEC. 0213. CORRECTION OF MISPLACED PHRASE IN SECTION 3289.

Section 3289 of title 18, United States Code, is amended by striking "or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final," and inserting the matter so stricken after "within six months of the expiration of the applicable statute of limitations,".

SEC. 0214. OPTIONAL VENUE FOR ESPIONAGE AND RELATED OFFENSES.

(a) In General.—Chapter 211 of title 18, United States Code, is amended by inserting:

"§3239. Optional venue for espionage and related offenses

"The trial for any offense involving a violation, begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district, of—

"(1) section 793, 794, 798, or section 1030(a)(1) of this title;

"(2) section 601 of the National Security Act of 1947; or

"(3) section 4(b) or 4(c) of the Subversive Activities Control Act of 1950;

may be in the District of Columbia.".

(b) Clerical Amendment.—The item relating to section 3239 in the table of sections at the beginning of chapter 211 of title 18, United States Code, is amended to read as follows:

"3239. Optional venue for espionage and related offenses.".

SEC. 0215. DEFINITION OF FINANCIAL INSTITUTIONS.

Section 2113 of title 18, United States Code, is amended by adding at the end the following:

"(h) As used in this section, the term 'savings and loan association' means any Federal saving association (as defined in section 3(b) of the Federal Deposit Insurance Act), any State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act) having accounts insured by the Federal Deposit Insurance Corporation, and any corporation (other than a bank, as defined in section 3(a) of the Federal Deposit Insurance Act) that the Board of Directors (as defined in section 3(k) of the Federal Deposit Insurance Act) and the Director of the Office of Thrift Supervision jointly have determined to be operating in substantially the same manner as a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act), and which is operating under the laws of the United States.".

SEC. 0216. ARREST OF FUGITIVE ABOUT TO ENTER UNITED STATES.

Section 3184 of title 18, United States Code, is amended by inserting "or, if there is reason to believe the person will shortly enter the United States" after "if the whereabouts within the United States of the person charged are not known".

SEC. 0217. AUTHORITY OF PROBATION OFFICERS TO SUPERVISE PERSONS RELEASED UNDER THE INSANITY DEFENSE REFORM ACT.

Section 3603 of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by inserting after paragraph (7) the following:

"(8) when directed by the court, keep informed, to the degree required by the regimen of care or treatment ordered by the court as a condition of release, as to the conduct of a person conditionally released under chapter 313 of this title, and report that person's conduct and condition to the court and to the United States Attorney; and"; and

(3) by redesignating paragraph (8) as paragraph (9).

SEC. 0218. EXTENSION OF DEADLINE FOR CERTAIN PROVISIONS IN VICTIMS OF CRIME ACT.

Section 7129 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 10601 note) is amended by striking "1990" and inserting "1991".

Subtitle C—Continued Phase Out of Parole

SEC. 0301. PRISONER REVIEW AND SUPERVISION.

(a) In General.—Title 18, United States Code, is amended by inserting before chapter 313 the following:

"CHAPTER 312—PRISONER REVIEW AND SUPERVISION

"Sec.
"4220. Federal Offender Review Board; members.
"4221. Authority and jurisdiction of the Board.
"4222. Powers and duties of the Chairman.
"4223. Decisions of the Board.

"§ 4220. Federal Offender Review Board

"There is established as an independent agency in the Department of Justice a Federal Offender Review Board, which shall consist of 5 members appointed by the President, by and with the advice and consent of the Senate. The term of office of each member appointed to the Board shall expire on November 1, 1997. A member who is appointed to fill a vacant but unexpired term shall be appointed for the remainder of the vacant term. The President shall designate one member of the Board to serve as Chairman. The Chairman of the Board shall be compensated at the rate now or hereafter prescribed for Executive Level IV and the members of the Board shall be compensated at the rate now or hereafter prescribed for Executive Level V.

"§ 4221. Authority and jurisdiction of the Board

"The Board shall have the independence of, be subject to the statutory procedures governing, and have and exercise the powers, duties, and jurisdiction vested in, the former United States Parole Commission by statutes of the United States and the District of Columbia in effect, or saved as to particular offenders, on October 31, 1992.

"§ 4222. Powers and duties of the Chairman

"The Chairman of the Board shall have and exercise the powers and duties vested in the Chairman of the United States Parole Commission by section 4204 of chapter 311 of this title as such section existed immediately before the repeal of that section took effect.

"§ 4223. Decisions of the Board

"The Board shall be empowered to render and reconsider decisions in the case of any individual within the Board's jurisdiction, to prescribe regulations and guidelines to carry out the Board's responsibilities, and to delegate authority to hearing examiners. The decisions of the Board shall be considered actions committed to agency discretion for the purpose of section 701(a)(2) of title 5.".

(b) Clerical Amendment.—The table of chapters at the beginning of part III of title 18, United States Code, is amended by inserting before the item relating to chapter 313 the following new item:

"312. PRISONER REVIEW AND SUPERVISION............................ 4220.".

SEC. 0302. TRANSFER OF PERSONNEL.

There are transferred to the Federal Offender Review Board all personnel (except the Commissioners), liabilities, contracts, property and records, as are employed, held, used, arising from, or available to, the United States Parole Commission on October 31, 1992. This transfer shall be governed by section 3503(b) of title 5, United States Code.

SEC. 0303. REPEAL OF OLD RULE RELATING TO CONTINUATION IN EFFECT OF PREVIOUS LAW.

Section 235(b)(4) of the Comprehensive Crime Control Act of 1984 is repealed.

SEC. 0304. NEW RULE RELATING TO CONTINUATION IN EFFECT OF PREVIOUS LAW.

(a) Chapter 311 Continuation.—Section 235(b)(1) of the Comprehensive Crime Control Act of 1984 is amended to read as follows:

"(b)(1) Chapter 311 of title 18, United States Code, shall remain in effect for 5 years after the effective date as to an individual who committed an offense or an act of juvenile delinquency before the effective date, and as to a term of imprisonment described in subsection (a)(1)(B).".

(b) Continuation of Criminal Penalties as to Individual Offenders.—Section 235(b)(3) of the Comprehensive Crime Control Act of 1984 is amended to read as follows:

"(3) All laws in effect on the day before an effective date set forth in subsection (a)(1) of this section, and which are applicable to a person who committed an offense or an act of juvenile delinquency before such effective date, shall remain in effect as to such person until the expiration of such person's sentence.".

SEC. 0305. CONFORMING AMENDMENTS.

(a) GENERALLY.—Sections 4106 and 4106A of title 18, United States Code, are each amended by striking "United States Parole Commission" each place it appears and inserting "Federal Offender Review Board".

(b) SECTION 4106(D).—Subsection (d) of section 4106 of title 18, United States Code, is amended—

(1) by striking "and the United States Parole Commission's performance of its responsibilities under this section shall be subject to section 235 of the Comprehensive Crime Control Act of 1984"; and

(2) by striking the comma after "November 1, 1987" and inserting a period.

(c) SECTION 3522.—Section 3522(c) of title 18, United States Code, is amended by striking "United States Parole Commission" and "Commission" and inserting "Federal Offender Review Board" and "Board", respectively.

SEC. 0306. TRANSFER OF FUNCTIONS IN 1997.

(a) IN GENERAL.—(1)(A) Effective November 1, 1997, the functions of the Federal Offender Review Board are transferred to 3 Federal Offender Review Commissioners.

(B) Each such Federal Offender Review Commissioner shall be appointed by the President, by and with the advice and consent of the Senate for a term of 5 years. The President shall designate one of those appointed as Chief Commissioner.

(2) A Commissioner may be reappointed at the expiration of that Commissioner's term. A Commissioner who is appointed to fill a vacancy shall be appointed for the remainder of the vacant term.

(3) Each Commissioner shall be compensated at the highest rate now or hereafter prescribed for Executive Level V, except that the Chief Commissioner shall be compensated at the highest rate now or hereafter prescribed for Executive Level IV.

(4) If the President determines that the anticipated caseload for the Federal Offender Review Commissioners is unlikely to equal or exceed the per capita caseload experienced by the Commissioners during the 12-month period ending October 31 of any year in which the terms of the Commissioners expire, the President may set the number of Commissioners at 1 rather than 3 as of November 1 of that year.

(b) INDEPENDENCE.—The Commissioners shall be independent adjudicators within the Department of Justice, and a decision of the Commissioners shall be considered an action committed to agency discretion for the purpose of section 701(a)(2) of title 5.

(c) RELATED TRANSFERS.—Effective November 1, 1997, all liabilities, contracts, property and records, as are employed, held, used, arising from, or available to, the Federal Offender Review Board are transferred to the Department of Justice. The Department of Justice shall thereafter provide such administrative support, including the employment of hearing examiners, as may be required by the Commissioners to fulfill the Commissioners' functions.

SEC. 0307. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this title shall take effect November 1, 1992.

(b) EXCEPTION.—Sections 303 and 304 shall take effect on the date of the enactment of this Act.

Subtitle D—Typographical and Other Similar Amendments

SEC. 0401. CORRECTION OF TABLE OF CHAPTERS FOR PART.

The table of chapters at the beginning of part I of title 18, United States Code, is amended—

(1) in the item relating to chapter 39, by striking "and combustibles" and inserting "and other dangerous articles";

(2) in the item relating to chapter 114, by striking "Contraband Cigarettes" and inserting "contraband cigarettes"; and

(3) by inserting after the item relating to chapter 117 the following:

"119. Wire and electronic communications interception and interception of oral communications .... 2510".

SEC. 0402. CORRECTION OF TABLE OF SECTIONS FOR CHAPTER 1.

The item relating to section 17 in the table of sections at the beginning of chapter 1 of title 18, United States Code, is amended by striking "Defense" and inserting "defense".

SEC. 0403. CORRECTION TO SECTION 12.

Section 12 of title 18, United States Code, is amended by striking "every officer and employee of that Service, whether he has taken the oath of office" and inserting "every officer and employee of that Service, whether or not such officer or employee has taken the oath of office".

SEC. 0404. CORRECTION OF TABLE OF SECTIONS FOR CHAPTER 3.

The table of sections at the beginning of chapter 3 of title 18, United States Code, is amended—

(1) in the item relating to section 47, by inserting "; pollution of watering holes" after "burros"; and

(2) by striking the items related to sections 42 through 44 and inserting the following:

"42. Importation or shipment of injurious mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles; permits, specimens for museums; regulations."

SEC. 0405. CORRECTION TO SECTION 114.

Section 114 of title 18, United States Code, is amended by striking "and imprisoned" and inserting "or imprisoned".

SEC. 0406. CORRECTION TO SECTION 115.

Section 115 of title 18, United States Code, is amended by striking "The Central" and inserting "the Central".

SEC. 0407. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 11.

The table of sections at the beginning of chapter 11 of title 18, United States Code, is amended—

(1) in the item relating to section 203, by striking "of Members" and inserting "to Members"; and

(2) in the item relating to section 204, by striking "Court of Claims" and inserting "United States Claims Court or United States Court of Appeals for the Federal Circuit".

SEC. 0408. CROSS REFERENCE UPDATE FOR SECTION 209.

Subsection (d) of section 209 of title 18, United States Code, is amended by striking "Government Employees Training Act" and all that follows through the end of such subsection and inserting "chapter 41 of title 5.".

SEC. 0409. CORRECTION TO SECTION 219.

Section 219(c) of title 18, United States Code, is amended by striking "Governments" and inserting "Government".

SEC. 0410. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 23.

The table of sections at the beginning of chapter 23 of title 18, United States Code, is amended—

(1) by striking the item relating to section 434; and

(2) in the item relating to section 437, by striking "Indian" and all that follows through "supplies" and inserting "Federal employees contracting or trading with Indians.".

SEC. 0411. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 25.

The table of sections at the beginning of chapter 25 of title 18, United States Code, is amended—

(1) in the item relating to section 491, by striking "used" and all that follows through "coins" and inserting "or paper used as money.";

(2) in the item relating to section 496, by striking "entry certificates" and inserting "matters"; and

(3) in the item relating to section 501, by inserting ", postage meter stamps," after "stamps".

SEC. 0412. MARGIN CORRECTION IN SECTION 510.

Subsection (a) of section 510 of title 18, United States Code, is amended—

(1) by inserting a semicolon after "or signature" in paragraph (2); and

(2) so that the matter beginning with "shall be fined" and all that follows through the end of such subsection is flush against the left margin.

SEC. 0413. CORRECTIONS TO SECTION 513.

Section 513(c)(3) of title 18, United States Code, is amended—

(1) by striking "(15 U.S.C. 1693(c))"; and

(2) by inserting a comma after "profit-sharing agreement".

SEC. 0414. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 29.

The table of sections at the beginning of chapter 29 of title 18, United States Code, is amended—

(1) in the item relating to section 603, by striking "Place of solicitation" and inserting "Making political contributions"; and

(2) in the item relating to section 607, by striking "Making political contributions" and inserting "Place of solicitation".

SEC. 0415. CORRECTION OF HEADING OF SECTION 665.

(a) The heading of section 665 of title 18, United States Code, is amended by striking the colons and inserting semicolons.

(b) Section 665(c) of title 18, United States Code, is amended by striking "Any person whoever" and inserting "Whoever".

SEC. 0416. PUNCTUATION CORRECTION TO HEADING FOR CHAPTER 33.

The heading at the beginning of chapter 33 of title 18, United States Code, is amended by inserting a comma after "insignia".

SEC. 0417. REDESIGNATION OF SECOND SECTION 798.

(a) GENERALLY.—The second section 798 of title 18, United States Code, is redesignated as section 798A.

(b) TABLE OF SECTIONS.—The item relating to the second section 798 in the table of sections at the beginning of chapter 37 of title 18, United States Code, is amended by striking "798" and inserting "798A".

(c) CROSS-REFERENCE CONFORMING AMENDMENT.—Section 14 of title 18, United States Code, is amended by striking "798" the first place it appears and all that follows through "799" and inserting "798, 798A, 799".

SEC. 0418. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 40.

The item relating to section 843 in the table of sections at the beginning of chapter 40 of title 18, United States Code, is amended by striking "Licensing" and inserting "Licenses".

SEC. 0419. CORRECTION TO SECTION 842.

Section 842 of title 18, United States Code, is amended—

(1) in subsection (d)(5), by striking the period and inserting "; or"; and

(2) in subsection (i)(3), by striking the period and inserting "; or".

SEC. 0420. CORRECTION TO SECTION 844.

Section 844 of title 18, United States Code, is amended by striking the comma that immediately follows a comma.

SEC. 0421. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 44.

The item relating to section 928 in the table of sections at the beginning of chapter 44 of title 18, United States Code, is amended by striking "clause".

SEC. 0422. CORRECTION TO SECTION 922.

Section 922(b)(1) is amended by striking the period at the end and inserting a semicolon.

SEC. 0423. CORRECTION TO SECTION 923.

Section 923(a)(3)(B) is amended by inserting a comma after "devices".

SEC. 0424. AMENDMENTS RELATING TO THE UNDETECTABLE FIREARMS ACT OF 1988.

(a) REDESIGNATION IN TITLE 18.—Section 924 of title 18, United States Code, is amended by redesignating the second subsection (f) and subsection (g) as subsections (g) and (h), respectively.

(b) REDESIGNATION IN ORIGINAL ACT.—Section 2(f)(2)(B) of the Undetectable Firearms Act of 1988 is amended by inserting "and subsections (g) and (h) of such section are hereby redesignated as subsections (f) and (g), respectively" before the semicolon.

SEC. 0425. ELIMINATION OF REDUNDANT WORDS.

Section 924(c)(1) of title 18, United States Code, is amended by striking "imprisonment for" the 4th place it appears.

SEC. 0426. INSERTION OF MISSING PARENTHESES.

Section 924(a)(1) is amended by striking "3" and inserting "(3)".

SEC. 0427. ADDITIONAL CORRECTIONS TO SECTION 924.

Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(2)—

(A) by striking "subsections" and inserting "subsection"; and

(B) by inserting a comma after "years".

(2) in subsection (e)(2)(A)(ii), by striking "and"; and

(3) in subsection (e)(2)(B)(ii), by striking the period and inserting "; and".

SEC. 0428. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 45.

The table of sections at the beginning of chapter 45 of title 18, United States Code, is amended by striking the item relating to section 968.

SEC. 0429. CORRECTION TO SECTION 981.

Section 981(d) of title 18, United States Code, is amended by adding a period at the end.

SEC. 0430. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 47.

The item relating to section 1031 in the table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by inserting a period after "1031".

SEC. 0431. CORRECTION OF CROSS REFERENCE IN SECTION 1030.

Section 1030 of title 18, United States Code, is amended by striking "paragraph r" and inserting "paragraph y".

SEC. 0432. ELIMINATION OF SUPERFLUOUS PUNCTUATION IN SECTION 1113.

Section 1113 of title 18, United States Code, is amended by striking the final period.

SEC. 0433. CAPITALIZATION AND AGENCY REFERENCE CORRECTIONS IN SECTION 1114.

Section 1114 of title 18, United States Code, is amended—

(1) by striking "secret service" and inserting " Secret Service";

(2) by striking "any officer or employee of the Department of Health, Education, and Welfare," and inserting "any officer or employee of the Department of Education, the Department of Health and Human Services,"; and

(3) by striking "the Federal Savings and Loan Insurance Corporation,".

SEC. 0434. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 53.

The table of sections at the beginning of chapter 53 of title 18, United States Code, is amended by striking the item relating to section 1157.

SEC. 0435. CORRECTION TO SECTION 1168.

Section 1168(a) of title 18, United States Code, is amended by striking "and be imprisoned for" and inserting "or imprisoned".

SEC. 0436. CROSS REFERENCE CORRECTION IN SECTION 1201.

Section 1201(a)(3) of title 18, United States Code, is amended—

(1) by striking "101(36)" and inserting "101(38)"; and

(2) by striking ", as amended (49 U.S.C. 1301(36))".

SEC. 0437. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 57.

The table of sections at the beginning of chapter 57 of title 18, United States Code, is amended by striking the item relating to section 1232.

SEC. 0438. CORRECTION OF HEADING OF SECTION 1262.

The heading of section 1262 of title 18, United States Code, is amended by striking "state" and inserting "State".

SEC. 0439. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 63.

The item relating to section 1342 in the table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by striking "and" and inserting "or".

SEC. 0440. CORRECTION TO SECTION 1345.

Section 1345 of title 18, United States Code, is amended by inserting a comma after "of this title".

SEC. 0441. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 65.

The item relating to section 1366 in the table of sections at the beginning of chapter 65 of title 18, United States Code, is amended by inserting a period after "1366".

SEC. 0442. CORRECTION OF QUOTATION MARK.

Section 1365(g)(1)(A) of title 18, United States Code, is amended by inserting an open quotation mark before "device".

SEC. 0443. CORRECTION OF CROSS REFERENCE.

Section 1366(c) of title 18, United States Code, is amended by striking "49 U.S.C. 1671" and inserting "section 2 of the Natural Gas Pipeline Safety Act of 1968".

SEC. 0444. ELIMINATION OF EXECUTED CLERICAL AMENDMENT.

Section 1366 of title 18, United States Code, is amended by striking subsection (d).

SEC. 0445. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 67.

The table of sections at the beginning of chapter 67 of title 18, United States Code, is amended by striking the item relating to section 1383.

SEC. 0446. CORRECTION TO SECTION 1466.

Section 1466(b) of title 18, United States Code, is amended—

(1) by striking "this subsection" and inserting "this section"; and

(2) by striking "subsection (b)" and inserting "this subsection".

SEC. 0447. CROSS REFERENCE CORRECTION TO SECTION 1467.

Section 1467(h)(4) of title 18, United States Code, is amended by striking "in accordance" and all that follows through "United States Code" and inserting "under section 616 of the Tariff Act of 1930".

SEC. 0448. CORRECTION TO SECTION 1546.

Section 1546(a) of title 18, United States Code, is amended by striking "Shall be fined not more than in accordance with this title" and inserting "Shall be fined under this title".

SEC. 0449. CORRECTION TO SECTION 1716A.

Section 1716A(a) of title 18, United States Code is amended by striking "shall be under this title" and inserting "shall be fined under this title or".

SEC. 0450. CORRECTION TO HEADING OF SECTION 1717.

(a) GENERALLY.—The heading of section 1717 of title 18, United States Code, is amended by striking "; opening letters".

(b) CONFORMING AMENDMENT.—The item relating to section 1717 in the table of sections at the beginning of chapter 83 of title 18, United States Code, is amended by striking "; opening letters".

SEC. 0451. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 84.

The table of sections at the beginning of chapter 84 of title 18, United States Code, is amended by adding at the end the following:

"1752. Temporary residences and offices of the President and others.".

SEC. 0452. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 91.

The table of sections at the beginning of chapter 91 of title 18, United States Code, is amended by striking the item relating to section 1862.

SEC. 0453. CORRECTION TO SECTION 1864.

Section 1864 of title 18, United States Code, is amended—

(1) by striking "and" at the end of subsection (d)(1)(D); and

(2) in subsection (d)(2)(E), by striking the period at the end and inserting "; and".

SEC. 0454. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 93.

The table of sections at the beginning of chapter 93 of title 18, United States Code, is amended—

(1) in the item relating to section 1906, by striking "by bank examiner" and inserting "from a bank examination report"; and

(2) by striking the item relating to section 1914.

SEC. 0455. CORRECTIONS TO SECTION 1956.

Section 1956 of title 18, United States Code, is amended—

(1) in subsection (c)(7)(A), by striking "the Currency and Foreign Transactions Reporting Act" and inserting "subchapter II of chapter 53 of title 31";

(2) in subsection (c)(7)(D)—

(A) by striking "or section 2113" and inserting "section 2113";

(B) by striking "theft) of this title," and inserting "theft), or"; and

(C) by inserting "of this title" after "2319 (relating to copyright infringement);

(D) by striking "paraphenalia" and inserting "paraphernalia"; and

(E) by striking the final period.

SEC. 0456. CORRECTION TO SECTION 1958.

Section 1958(b) of title 18, United States Code, is amended by striking "1952B" and inserting "1959".

SEC. 0457. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 96.

The item relating to section 1962 in the table of sections at the beginning of chapter 96 of title 18, United States Code, is amended by striking "racketeering".

SEC. 0458. CORRECTION TO SECTION 1961.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking "section 1029 (relative" and inserting "section 1029 (relating"; and

(2) by striking "sections 2251 through 2252 (relating to sexual exploitation of children),".

SEC. 0459. CORRECTION TO SECTION 1963.

Section 1963(a) of title 18, United States Code, is amended by striking "or both." and inserting "or both".

SEC. 0460. CORRECTION OF HEADING OF SECTION 2114.

The heading of section 2114 of title 18, United States Code, is amended by inserting a comma after "money".

SEC. 0461. PUNCTUATION CORRECTION TO SECTION 2251(a).

Section 2251(a) of title 18, United States Code, is amended by striking "in,," and inserting "in,".

SEC. 0462. CORRECTIONS TO SECTION 2253.

Section 2253(a) of title 18, United States Code, is amended—

(1) by striking "sections 2251" and inserting "section 2251"; and

(2) in subsection (h)(4), by striking "in accordance" and all that follows through "United States Code" and inserting "under section 616 of the Tariff Act of 1930".

SEC. 0463. CORRECTIONS TO SECTION 2254.

Section 2254 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "sections 2251" each place it appears and inserting "section 2251";

(2) in subsection (e), by inserting "Inapplicability of Certain Sections.—" after "(e)"; and

(3) in subsection (f)—

(A) by striking "subchapter" and inserting "section"; and

(B) in paragraph (1), by striking "pursuant to section 1616 of title 19" and inserting "under section 616 of the Tariff Act of 1930".

SEC. 0464. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 111.

The item relating to section 2271 in the table of sections at the beginning of chapter 111 of title 18, United States Code, is amended by striking "vessel" and inserting "vessels".

SEC. 0465. CORRECTION OF HEADING OF SECTION 2318.

The heading of section 2318 of title 18, United States Code, is amended by striking the comma.

SEC. 0466. CROSS REFERENCE CORRECTIONS IN SECTION 2516.

Section 2516(j) of title 18, United States Code, is amended by striking "any violation of section 1679a(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code" and inserting "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) or section 902(i) or (n) of the Federal Aviation Act of 1958 (relating to aircraft piracy)".

SEC. 0467. CORRECTION OF TABLE OF CHAPTERS FOR PART II.

The table of chapters at the beginning of part II of title 18, United States Code, is amended—

(1) in the item relating to chapter 204, by striking "terrorists" and inserting "terrorist"; and

(2) in the item relating to chapter 206, by striking "Trap and Trace Devices" and inserting "trap and trace devices".

(3) in the item relating to chapter 229, by striking "Post-Sentence Administration" and inserting "Postsentence administration".

SEC. 0468. CORRECTIONS TO SECTION 3013.

Section 3013 of title 18, United States Code, is amended—

(1) in subsection (a)(1)(B)(i), by striking "a infraction" and inserting "an infraction"; and

(2) in subsection (a)(1)(B)(iii), by striking the period at the end and inserting a semicolon.

SEC. 0469. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 203.

The table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by striking the item relating to section 3054.

SEC. 0470. CORRECTION TO SECTION 3058.

Section 3058 of title 18, United States Code, is amended by striking "beligerent" and inserting "belligerent".

SEC. 0471. CORRECTION TO SECTION 3077.

Section 3077 of title 18, United States Code, is amended—

(1) in paragraph (4), by striking the comma before the close quotation mark and inserting a comma after that mark;

(2) in each of paragraphs (1), (2), (3), and (5), by striking the period at the end and inserting a semicolon; and

(3) in paragraph (6), by striking the period at the end and inserting "; and".

SEC. 0472. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 205.

The table of sections at the beginning of chapter 205 of title 18, United States Code, is amended—

(1) by striking the item relating to section 3112; and

(2) by striking "3117" the last place it appears and inserting "3118".

SEC. 0473. REDESIGNATION OF DUPLICATE SECTION 3117.

The section 3117 of title 18, United States Code, that relates to implied consent for certain tests, is redesignated as section 3118.

SEC. 0474. CORRECTION TO SECTION 3124.

Section 3124(b) of title 18, United States Code, is amended by striking "subsection 3123(b)" and inserting "section 3123(b)".

SEC. 0475. CORRECTIONS TO SECTION 3125.

(a) Section 3125(d) of title 18, United States Code, is amended by striking "A provider for a wire or electronic service," and inserting "A provider of a wire or electronic service,".

(b) Section 3125(a)(2) of title 18, United States Code, is amended—

(1) by striking the quotation marks;

(2) by inserting a comma after "installation and use"; and

(3) by beginning the indentation of the text following such comma at the margin.

SEC. 0476. CLARIFYING REENACTMENT OF PORTION OF SECTION 3154.

Paragraph (1) of section 3154 of title 18, United States Code, is amended by striking "community" and all that follows through the end of such paragraph and inserting "community, and, where appropriate, include a recommendation as to whether such individual should be released or detained and, if release is recommended, recommend appropriate conditions of release.".

SEC. 0477. PUNCTUATION CORRECTION TO SECTION 3165.

Section 3165(e)(2) of title 18, United States Code, is amended by striking "twelve-calendar month" and inserting "twelve-calendar-month".

SEC. 0478. SPELLING CORRECTION TO SECTION 3166.

Section 3166(b)(8) of title 18, United States Code, is amended by striking "extention" and inserting "extension".

SEC. 0479. STYLE CORRECTION TO SECTION 3170.

Subsections (a) and (b) of section 3170 of title 18, United States Code, are each amended by striking "(c)" and inserting "3166(c)" in lieu thereof.

SEC. 0480. CORRECTION TO SECTION 3289.

Section 3289 of title 18, United States Code, is amended by inserting a comma after "information" the second place it appears.

SEC. 0481. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 224.

The item relating to section 3526 in the table of sections at the beginning of chapter 224 of title 18, United States Code, is amended by inserting "; reimbursement of expenses" after "governments".

SEC. 0482. CORRECTION TO SECTION 3521.

Section 3521 of title 18, United States Code, is amended—

(1) in the final sentence of subsection (b)(1), by inserting "(G)" after "subparagraph"; and

(2) in subsection (d)(3), by inserting "the" before "Civil Rights Division".

SEC. 0483. CORRECTION TO SECTION 3562.

Section 3562(b)(2) of title 18, United States Code, is amended by inserting "of the Federal Rules of Criminal Procedure" after "rule 35".

SEC. 0484. CORRECTION TO SECTION 3563.

Section 3563 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "defendent" and inserting "defendant"; and

(2) in subsection (b)(3)—

(A) by striking "pursuant to the provisions of section 3663 and 3664" and inserting "under sections 3663 and 3664"; and

(B) by inserting "section" before "3663(a)".

SEC. 0485. CORRECTION TO SECTION 3565.

Section 3565(a)(1) of title 18, United States Code, is amended by striking "of modifying" and inserting "or modifying".

SEC. 0486. CORRECTION OF TABLE OF SECTIONS FOR SUBCHAPTER C OF CHAPTER 227.

The table of sections at the beginning of subchapter C of chapter 227 of title 18, United States Code, is amended—

(1) in the item relating to section 3572, by inserting "and related matters" after "fines"; and

(2) in the item relating to section 3573, by striking "revision" and inserting "remission".

SEC. 0487. CORRECTION TO SECTION 3572.

Section 3572(c)(2) of title 18, United States Code, is amended by inserting "of the Federal Rules of Criminal Procedure" after "rule 35".

SEC. 0488. CORRECTION TO SECTION 3582.

Section 3582(b)(2) of title 18, United States Code, is amended by inserting "of the Federal Rules of Criminal Procedure" after "rule 35".

SEC. 0489. CORRECTION TO SECTION 3583.

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d)(2), by inserting a comma after "3553(a)(2)(B)";

(2) in subsection (e)—

(A) by striking "or" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; or"; and

(C) by redesignating paragraph (5) as paragraph (4).

SEC. 0490. CORRECTION OF TABLE OF SECTIONS FOR SUBCHAPTER A OF CHAPTER 229.

The item relating to section 3607 in the table of sections at the beginning of subchapter A of chapter 229 of title 18, United States Code, is amended by striking "possessor" and inserting "possessors".

SEC. 0491. CORRECTION TO SECTION 3611.

Section 3611 of title 18, United States Code, is amended by striking "604(a)(17)" and inserting "604(a)(18)".

SEC. 0492. CORRECTION TO SECTION 3612.

Section 3612(a) of title 18, United States Code, is amended by striking "604(a)(17)" each place it appears and inserting "604(a)(18)".

SEC. 0493. CORRECTION TO SECTION 3613.

Section 3613(c) is amended by striking the period before the final quotation mark and inserting a period after such mark.

SEC. 0494. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 232.

The item relating to section 3669 in the table of sections at the beginning of chapter 232 of title 18, United States Code, is amended by striking "Conveyance" and inserting "Conveyances".

SEC. 0495. CROSS REFERENCE UPDATE FOR SECTION 3663.

Section 3663(f)(4) of title 18, United States Code, is amended by striking "604(a)(17)" and inserting "604(a)(18)".

SEC. 0496. CROSS REFERENCE UPDATE FOR SECTION 3664.

Section 3664(a) of title 18, United States Code, is amended by striking "3579" and inserting "3663".

SEC. 0497. CORRECTION TO TABLE OF CHAPTERS FOR PART III.

The table of chapters for part III of title 18, United States Code, is amended—

(1) by inserting after the item relating to chapter 305 the following:

"306. Transfer to or from foreign countries.. 4100"

; and

(2) by inserting after the item relating to chapter 317 the following:

"319 National Institute of Corrections.. 4351".

SEC. 0498. CROSS REFERENCE CORRECTION TO SECTION 4109.

Section 4109(a) of title 18, United States Code, is amended—

(1) by striking "the Criminal Justice Act (18 U.S.C. 3006A)" and inserting "section 3006A of this title"; and

(2) by striking "the Criminal Justice Act (18 U.S.C. 3006(a))" and inserting "section 3006A of this title".

SEC. 0498A. CORRECTION TO SECTION 4013.

Section 4013 of title 18, United States Code, is amended by striking "(a)".

SEC. 0498B. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 307.

The item relating to section 4126 in the table of sections at the beginning of chapter 307 of title 18, United States Code, is amended by striking "fund" and inserting "Fund".

SEC. 0498C. CORRECTION TO HEADING OF SECTION 4106A.

The heading at the beginning of section 4106A of title 18, United States Code, is amended by inserting "of" before "offenders".

SEC. 0498D. CORRECTION TO SECTION 4106A.

Section 4106A(b)(1)(C) of title 18, United States Code, is amended by adding a period at the end.

SEC. 0498E. CORRECTION TO SECTION 4246.

Section 4246(g) of title 18, United States Code, is amended by striking "subchapter" and inserting "chapter".

SEC. 0498F. CORRECTION TO SECTION 4285.

Section 4285 of title 18, United States Code, is amended by striking "exced" and inserting "exceed".

SEC. 0498G. CORRECTION TO SECTION 4352.

Section 4352(c) of title 18, United States Code, is amended by striking "this shall" and inserting "this chapter shall".

SEC. 0498H. CORRECTION TO SECTION 5032.

The 4th paragraph of section 5032 of title 18, United States Code, is amended by striking "offenses set forth in this subsection" and inserting "offenses set forth in this paragraph".

SEC. 0498I. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 403.

The item relating to section 5042 in the table of sections at the beginning of chapter 403 of title 18, United States Code, is amended by striking "Probation" and inserting "probation".

SEC. 0498J. DEFINITIONS FOR CONTROLLED SUBSTANCES ACT.

Section 102(32)(A) of the Controlled Substances Act (21 U.S.C. 802(32)(A)) is amended by striking "stimulent" each place it appears and inserting "stimulant".

SEC. 0498K. SECTION 1010 OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended by striking "suspervised" each place it appears and inserting "supervised".

SEC. 0498L. SECTION 401 OF THE CONTROLLED SUBSTANCES ACT.

Sections 401(b)(1)(A)(ii)(IV) and 401(b)(1)(B)(ii)(IV) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(ii)(IV) and 841(b)(1)(B)(ii)(IV)) are each amended by striking "any of the substance" and inserting "any of the substances".

SEC. 0498M. SECTIONS 405, 405A, and 405B OF THE CONTROLLED SUBSTANCES ACT.

Sections 405(b), 405A(b), and 405B(c) of the Controlled Substances Act (21 U.S.C. 845(b), 845a(b), and 845b(c)) are each amended by striking "have become final" and inserting "has become final".

SEC. 0498N. SECTION 510 OF THE CONTROLLED SUBSTANCES ACT.

Section 510(b)(3) of the Controlled Substances Act (21 U.S.C. 880(b)(3)) is amended by striking "paragraph (5)" and inserting "paragraph (4)".

The CHAIRMAN. Pursuant to the rule, the gentleman from Texas [Mr. Brooks] will be recognized for 10 minutes, and the gentleman from Florida [Mr. McCollum] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. Brooks].

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio [Ms. Oakar] on her amendments Nos. 26 and 27.

Ms. OAKAR. I thank the chairman for yielding time to me.

Mr. Chairman, I rise in strong support of H.R 5269, the Comprehensive Crime Control Act of 1990. I want to commend the distinguished chairman of the Judiciary Committee, Jack Brooks, and the chairman of the Criminal Justice Subcommittee, Mr. Schumer, for their hard work on this important measure.

Mr. Chairman, I want to offer my thanks to Chairman Brooks for including my two amendments in the en bloc amendment. Both of my amendments address one particular portion of this bill, title 21, which will help to bring some measure of justice to the continuing S&L crime situation. Currently, there are over 500 failed institutions under investigation by the FBI, over 7,000 pending cases of bank and thrift crime, and over 21,000 criminal referrals. This is incredible—and more to the point—it is intolerable. For some time, we have needed a bill that can effectively be used to prosecute wrongful S&L executives and prevent similar future crimes. Clearly, this is the correct legislation for the job.

In particular, there is one portion of title 21 which addresses the problem of golden parachutes. I am pleased to be able to offer an amendment that will improve this provision of the bill. My colleague, David Price, first offered a bill that relates to golden parachutes. My amendment is designed to allow Federal regulators to recover the golden parachute money given out to financial institution executives before the institution was taken over by the Federal Government. In some cases, these enormous cash bonuses and other benefits totaled hundreds of thousands of dollars. These people rewarded themselves for their failures—so let's recapture this money for the taxpayers.

A typical scenario for giving out golden parachutes is that financial institution executives first get approval from their board of directors to establish executive benefit plans. The plans are set up in a trust that is accessible to creditors in case the institution should fail. However, just before the institution is declared insolvent, the terms of the trust are suddenly changed so that creditors can no longer access the trust. Consequently, the hundreds of thousands of dollars are paid out to the executives in the form of bonuses, severance pay, and other expensive benefits. My amendment will allow Federal regulators to recover this money which has disappeared from the institution before it was taken over by the Federal Government.

In addition, I am offering an amendment to improve the bill by prohibiting S&L executives from purchasing RTC- or FDIC-controlled assets. The current language in the bill prohibits only those individuals who are convicted of a felony from purchasing these assets. In contrast, I strongly believe the bill should contain my amendment which prohibits an officer, director, or any other institution-affiliated party of an insured depository institution who caused a substantial loss to that institution, which is in conservatorship or receivership, from purchasing any of its assets from the FDIC or the RTC. This provision will eliminate the special unfair insider advantage that some executives of failed institutions have regarding their own failed savings and loan's assets. There is no valid reason why these people should be able to purchase the best assets at discounted prices. I urge all of my colleagues to support the en bloc amendment and help to bring some measure of justice to the savings and loan bailout.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of these amendments. They are all very, very good amendments.

I want to particularly note a couple of them. One of them is Mr. Gingrich's amendment.

Mr. Chairman, his amendment is one which I think is a very fine amendment on functional literacy programs.

I also want to say that I appreciate particularly Ms. Oakar's amendment. I did not get to speak on it on her time, but I am going to do it on mine. I think the golden parachute issue and how we get control of some of this fraud in the savings and loan area is very important.

The fact that these amendments are bundled together does not make them any less important. They are all very important amendments.

Mr. Coughlin's amendment on drugs is very important, also Mr. Fascell's amendment.

During my time, and before I ramble on, I would like to yield such time as he may consume to the gentleman from Pennsylvania [Mr. Gekas], who is the author of one of these amendments.

Mr. GEKAS. I thank the gentleman from Florida for yielding to me.

Mr. Chairman, this bloc of amendments includes a particular one in which we were interested, where for the first time the investigators and other personnel of the Secret Service will be permitted to join forces in cooperative efforts with agents of the FBI and other law enforcement officials to continue the drive to bring the savings and loan crisis to a worthy conclusion.

Mr. Chairman, up to now we have not had the jurisdictional ability to have the benefit of the Secret Service personnel and their commitment and help in this arena.

Now, with the adoption of this amendment, we put into place a cooperative effort that allows the Secret Service and the FBI, for instance, to work together.

And I thank the gentleman again for yielding.

Mr. McCOLLUM. Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. Wyden] on his amendment No. 44.

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Mr. WYDEN. Mr. Chairman, I thank Chairman Brooks for yielding to me and for his support for the Energy and Commerce Committee's amendment to restore confidence to the Nation's financial reporting system.

Mr. Chairman, a key aspect of the American financial system is the trust and confidence in the safety of investments in public corporations. People decide to invest in public corporations based on their evaluation of the relative soundness of the corporation.

Investor confidence is uniquely dependent on the partnership between Federal agencies such as the Securities and Exchange Commission, and private, independent public accounting firms. Those firms audit corporate financial records and certify the reports given to the public.

Over the 1980's we saw that confidence in the accounting profession shaken by a string of cases in which outside auditors failed to detect or report fraud or illegality by their corporate clients.

These problems occurred in virtually every type of corporation in America, leading many people to ask why public accountants can't be more accountable. This problem has come to the fore in the spectacular savings and loan debacle.

In August, U.S. District Court Judge Stanley Sporkin, in his memorandum opinion in the Lincoln Savings and Loan and American Continental Corporation case, stated:

> What is difficult to understand is that with all the professional talent involved (both accounting and legal), why at least one professonal would not have blown the whistle to stop the overreaching that took place in this case.

He called for the private sector to "put in place a system that would prevent the kinds of excesses that took place in Lincoln from recurring." Our amendment is a strong and positive step in addressing these concerns.

Our amendment would: Require management reports on internal financial control structure and auditor reporting thereon to assure the integrity and reliability of the financial reporting process; establish standards for audit design to include procedures to identify material related party transactions and detect illegal acts, and to evaluate and report when substantial doubt exists about an entity's ability to continue as a going concern; and require direct reporting of illegal acts to the Securities and Exchange Commission. The amendment applies to all corporations currently required to file reports with the SEC.

In July, the Resolution Trust Corporation stated that, "40 percent of the savings and loan failures were caused by fraud and abuse by insiders * * * by criminal action by the owners, directors, and managers." The RTC found widespread evidence of kickbacks, worthless loans, falsified appraisals, excessive loans to insiders, and criminal activity at almost half of the S&L's that have been taken over by the Government.

Each of these insolvent institutions were supposed to have had important accounting safeguards in place to deter such wrongdoing. Each institution had in-house accountants charged with implementing responsible internal controls for their S&L. Each institution had outside accountants charged with making an independent assessment of the institution's books to ensure the financial statements correctly reflected the condition of the S&L's.

Together, these accountants were supposed to have been the Nation's first line of defense against fraud and illegality at S&L's. Clearly, these defenses failed. Accountants did not cause the S&L mess, but the breakdown of these so-called accounting safeguards will cost taxpayers billions in the years ahead.

I am particularly disturbed by the evidence that the auditors did not promptly inform Government regulators of the horrifying acts of fraud and illegality at S&L's that now fill up our morning newspapers. Why didn't they?

The current financial reporting system simply doesn't require accountants to directly inform regulators when their client engages in fraud or illegalities. The current system is a convoluted morass that consists of little more than accountants telling management they've uncovered fraud at the company. It does virtually nothing to protect the public from the kind of ripoffs that took place with the S&L's.

The S&L scandal shows the consequences of our loophole-ridden system of financial reporting:

Twenty-nine of thirty-one insolvent California S&L's had clean audits shortly before they were taken over by the Government. The Office of Thrift Supervision told Congress last year that faulty 1986 and 1987 audits of California-based Lincoln Savings & Loan were "proof positive that any thrift in America could obtain a clean audit opinion despite being grossly insolvent."

The GAO, in a 1989 study of 11 failed S&L's, found that in more than half of those cases, "CPA's did not adequately audit and/or report the S&L's financial or internal control problems in accordance with professional standards."

The FDIC is now alleging in court that, by delaying regulatory action, Arthur Young & Co.'s faulty audits of Western Savings Association in Dallas cost taxpayers an additional $500 million. The FDIC now has more than 20 suits pending against accounting firms for fraud, negligence, and other professional failures in auditing insolvent S&L's.

Congress now has the opportunity to reform the financial reporting system and prevent another debacle. There are several areas we should zero in on to correct the system's flaws.

First, let us understand who an accountant is ultimately responsible to. The U.S. Supreme Court has made it clear that even though a private client pays for a CPA's services, the accountant's obligation is first to the public.

In the 1984 case, United States versus Arthur Young & Co., the Court summed it up succinctly:

> By certifying the public reports that collectively depict a corporation's financial status, the independent auditor assumes a public responsibility transcending any employment relationship with the client.

Second, direct reporting of fraud is working well elsewhere—both in the United States and overseas. In the United States, precedents already exist for direct reporting. Accountants of broker dealers are currently required to report fraud to the SEC if the broker dealer does not itself report to the SEC within 24 hours of notification by the accountant.

And overseas, England's Banking Act of 1987 clearly states that auditors are required to report frauds by top management directly and confidentially to the Bank of England. If this report is done in good faith, the Act provides the auditor protection from liability for any violations of confidentiality or other agreements.

Third, accountants who report fraud are not becoming representatives of the U.S. Government, regulators, or prosecutors. Besides discharging the obligations laid out by the Supreme Court, accountants will be providing an early warning system, an alarm bell, so that those with law enforcement responsibilities—such as the power to prosecute—can step in before enormous public harm has been done.

Had accountants sounded an early alarm about S&L fraud the billions American taxpayers are going to have to pay would be far less.

And I ask my colleagues, if accountants aren't the ones to sound the early warning bells, who is?

Chairman John Dingell, through his Subcommittee on Oversight and Investigations, has held more than 25 hearings over the last 5 years to examine these issues. Case studies included ESM Government Securities Inc., American Savings & Loan Assocation of Florida, Best Co., Home State Savings & Loan of Ohio, and Beverly Hills Savings & Loan Association.

Shortly after hearings in 1985 on the Beverly Hills case, I introduced with Chairman Dingell the Financial Fraud Detection and Disclosure Act to prevent the problems the subcommittee found from happening again. After further consultation with the accounting profession, I introduced a second version with changes made to accommodate additional concerns of the profession.

A revised version of that legislation was the focus of a hearing August 2 before the Subcommittee on Telecommunications and Finance, chaired by Mr. Markey. I have been working with Mr. Markey and the subcommittee's ranking Republican, Matthew Rinaldo, Chairman Dingell, Congressman Norm Lent, and other committee members to fashion legislation that would reform our financial reporting systems so Congress won't be back in a few years facing another calamity like the S&L disaster.

Our pursuit of accounting reform legislation is made easier because at the August 2 hearing, Charles A. Bowsher, Comptroller General of the United States, supported each of the concepts proposed in the July legislation I circulated to committee members and other interested parties. Mr. Bowsher, a leader in the accounting field at the Big Six firm, Arthur Andersen, before he went into public service, said it is now in the public interest to enact legislation including these reforms:

Public companies should be required to periodically evaluate and report on the effectiveness of their internal accounting controls and management controls.

Auditors should be required to evaluate internal control systems established by corporate managers to ensure that the internal controls are sufficient so that corporate assets are handled properly and lawfully.

Auditors should be required to file a separate report on their evaluation of internal control systems and those reports should be included in the annual reports filed by public companies.

All audits of public companies should be conducted in a manner that reasonably ensures the detection of substantial illegalities that would have a material impact on the financial statements or operations of the audited company.

Audits of public companies should include procedures designed to identify related party transactions which are material to the financial statements or which otherwise require disclosure under the 1934 Securities Exchange Act.

Audits should include procedures designed to review risks, uncertainties, and other conditions which may affect the issuer's ability to continue its business, and which permit the auditor to conclude whether there is substantial doubt about the issuer's ability to continue as a going concern over the ensuing fiscal year.

Auditors of public companies should be required to report substantial illegalities detected during the course of an audit to regulators, if the auditor first reports the illegality to the appropriate level of the company's management and action is not taken promptly to terminate and correct the illegality.

Auditors who in good faith inform regulators of substantial illegalities on the part of management, that management has refused to correct, should be provided protection against liability.

I am very pleased that Mr. Bowsher supports these needed accounting reforms to prevent future debacles like the savings and loan mess. The amendment before you embodies most of the provisions he has advocated and is clearly a substantial improvement over the status quo.

The amendment has the active support of the American Institute of Certified Public Accountants and the Big Six firms who collectively audit 98 percent of the assets subject to audit. Consumer organizations led by public citizens also support it.

I again thank Chairman Markey and Chairman Dingell for their leadership on this vital issue. They have worked very hard and very diligently for these important reforms, and I thank them for all their support. I urge that the amendment be adopted.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. Markey].

Mr. MARKEY. Mr. Chairman, I rise in support of a bipartisan Energy and Commerce amendment to H.R. 5269, the Comprehensive Crime Control Act of 1990. This amendment seeks to prevent the next savings and loan crisis by expanding the responsibilities of public accountants to investigate and report on fraud they discover in financial institutions and other publicly held corporations.

The Energy and Commerce amendment is the natural followup to more than 20 hearings on accounting issues conducted since 1984 in the Oversight and Investigations Subcommittee by Chairman Dingell. The Subcommittee on Telecommunications and Finance, which I chair, held a legislative hearing to consider this proposal last month. I want to note the extraordinary foresight and leadership of Chairman Dingell, and especially that of the gentleman from Oregon [Mr. Wyden] on this issue. Their tireless efforts have truly helped bring the problem into its current focus, and formed the foundation for the legislation.

This amendment is not an attack on the accounting profession. In fact, the American Institute of Certified Public Accountants has worked closely with the committee and is now in support of this amendment. The profession itself recognizes that no one can ignore the troubling testimony of numerous government and private witnesses about lapses in the profession that may well have contributed substantially to the scale of government exposure in the savings and loan crisis.

The Federal Deposit Insurance Corporation has initiated 21 separate legal actions against public accountants for alleged misdeeds in connection with the collapse of federally insured savings and loans. Nearly all of these cases involve Big Six accounting firms and the alleged damages for these suits runs in excess of $1.5 billion. These actions, and their targets, raise very substantial concerns about what kind of work auditors are doing today, and compel the adoption of this new approach.

While the public has only relatively recently focused on the S&L crisis, there are other potential flashpoints looming where the public could be similarly exposed to massive loss liability, such as the areas of Government-sponsored enterprises, insurance companies and underfunded pension funds. Recently, the General Accounting Office announced that the Federal Deposit Insurance Corporation is in precarious condition and that we may well face taxpayer liability in the commercial banking sector. The amendment seeks today to avoid another disaster tomorrow.

The Energy and Commerce amendment would expand the responsibilities of both corporate management and the accounting profession in a number of key areas. First, the bill would mandate that both management and auditors review management internal control structures and report on any weaknesses. The Foreign Corrupt Practices Act of 1977 mandated that all SEC-reporting public companies establish internal controls to prevent the misuse of corporate funds and the perpetration of financial fraud. But that system has not worked adequately. According to Comptroller General Bowsher, GAO review of a number of bank failures in 1988 and 1989 showed that "serious internal control weaknesses contributed to their failure." This amendment seeks a mechanism to assure full compliance with the requirements of the 1977 law and the avoidance of future adverse consequences from inadequate internal controls.

The amendment would also require the design of audits to detect illegalities material to the financial statements of corporate issuers and require auditors to report detected illegalities to management and, in the face of management intransigence, report directly to the SEC. It is time that accountants live up to the word "public" in their title by taking on the responsibility to blow the whistle on crime when they confront it. As Judge Stanley Sporkin pointed out in his recent court opinion on the Keating case, we must expect more out of the private sector if we are to avoid future S&L crises.

We are still in the early stages of bailing ourselves out of the S&L debacle, and now await with great trepidation the other possible consequences of an economic downturn. Today, not tomorrow, is the time to assure the honesty and integrity of corporate financial reporting and avoid a future with more bailout horror stories.

I urge my colleagues to support this critically important amendment.

Mr. McCOLLUM. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida [Mr. James].

Mr. JAMES. Mr. Chairman, I rise in strong support of the Oakar amendment. The current savings and loan bailout is one of the worst financial disasters that this country has ever faced. The taxpayers of this Nation are mad, as well they should be. Although the present problem was not their fault, they are being stuck with the bill for carrying out this bailout. However, we can move to ease that burden by shifting the bill to the backs of those who are most responsible for this debacle. Those who have committed fraud should pay for that which they have created, and we in Congress should do whatever is needed to make sure they pay.

The Oakar amendment takes a step toward doing that. Currently, many S&L officials are setting themselves up with golden parachutes in anticipation of a takeover by the Government. When they leave, they leave with a severance package that costs tens if not hundreds of thousands of dollars. Golden parachutes are a questionable practice in normal business transactions, but it is unacceptable when the taxpayers are being stuck with a bill of the size that they are now facing. The Oakar amendment will reverse this situation. I want to commend my colleague, Ms. Oakar, for offering this important amendment, and I urge my colleagues to vote in support of the amendment.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentlewoman from New York [Mrs. Lowey].

Mrs. LOWEY of New York. Mr. Chairman, this en bloc amendment contains the text of a bill, the Anti-Drug Education Act of 1990, which will help make our schools drug-free and improve the safety of our students.

This bill passed the House of Representatives by a unanimous voice vote on July 10, 1990. It received strong bipartisan support in the Committee on Education and Labor and on the floor of the House.

It is my understanding that the chairman and the ranking minority member of the judiciary committee, Mr. Brooks and Mr. Fish, support the amendment. In addition, the chairman and the ranking member of the crime subcommittee, Mr. Hughes and Mr. McCollum, also support this amendment.

In fact, I am not aware of any opposition to this amendment whatsoever. Its inclusion in the crime bill will simply ensure that the Senate acts on this important measure prior to the end of this congressional session.

Clearly, the drug problem is a national emergency. It is bad enough that many of our neighborhoods have been turned into open-air drug markets, and our streets have been turned into battlezones. But it is absolutely intolerable when the poison of drugs invades our schools and our classrooms, threatening our Nation's children.

If we hope to meet the challenges we face as a nation in the 21st century, we need to give each of our youngsters the education they need to succeed in the workplace. And that means their schools must be free of drugs. Drugs and learning do not mix, and we have a responsibility as a nation to make our schools drug-free.

My amendment will strengthen our Nation's anti-drug education programs, and increase cooperation between school officials and local law enforcement agencies, and I thank Chairman Brooks and ranking member Mr. Fish for their cooperation in including it.

My amendment contains key provisions which are designed to improve anti-drug education, prevention and counseling programs in the school:

It reserves $5 million of appropriated funds under the Drug-Free Schools and Communities Act [DFSCA] for grants to replicate successful drug abuse education, prevention, or counseling programs.

It allows local education agencies to use funds under the Drug-Free Schools Act for After-School Programs that are designed to prevent drug and alcohol abuse.

And it increases the authorization for training programs for teachers, counselors and school personnel from $35 million to $50 million.

The amendment also contains several key provisions aimed at improving the ability of law enforcement agencies to fight drugs in schools:

The amendment strengthens drug-free school zones, which are designed to eliminate the illicit use of alcohol and drugs on or near school property, by providing criteria for the establishment of such zones.

And the amendment calls on all local school districts to coordinate antidrug activities with local law enforcement agencies in order to improve security for students.

These essential provisions dealing with cooperation between local law enforcement and local education agencies will be of significant value in fighting drugs in our schools.

Again, this amendment has already been approved in bill form by the full House of Representatives without objections from any quarter. It is fully consistent with the goals of the comprehensive crime bill, and its inclusion in this bill will ensure that the Senate addresses these issues seriously before adjournment.

I would urge the unanimous adoption of the amendment.

Mr. McCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. Coughlin], the author of amendment No. 46.

Mr. COUGHLIN. Mr. Chairman, I rise in support of the en bloc amendment and want to thank the distinguished chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. Brooks], for including my amendment relating to interdiction improvements.

Mr. Chairman, I would like to point out that the amendment contains language relating to title XIV, which falls in the jurisdiction of the Committee on Merchant Marine and Fisheries. I have agreed with the committee to work with them during conference to accommodate any concerns they might have.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to emphasize that the amendment that the gentleman from Pennsylvania [Mr. Coughlin] has just discussed and offered has a very, very important aspect to it from my perspective in the war on drugs, and that is that it creates a new crime that says it is unlawful for a pilot, or operator, or person in charge of any aircraft, which is across the board in the United States, or any aircraft subject to the jurisdiction of the United States, operating outside of the United States, and involved in any kind of controlled substance or money laundering, any matter relating to that, that it is unlawful for such a pilot to refuse to obey an order of an authorized Federal law enforcement officer to land. While the gentleman from Pennsylvania is to be commended for organizing it, I just want to amplify this one point because I think it is a very important amendment for lots of reasons.

There are other features to that that en bloc one just does not go out and discuss all the details, but I think anybody who might be thinking about flying a plane around, carrying some narcotics, ought to be aware that there is going to be an additional crime out there on the books after tonight, if this gets to become law, that says, "If you don't obey the order to land, you're going to be committing a crime just in and of itself, if that law enforcement agency is attempting to get you to come down because they suspect you of carrying these sorts of things."

So, Mr. Chairman, I think it is exceedingly important, and I reserve the balance of my time, but I wanted to let the Members know about that.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the gracious gentlewoman from New York [Ms. Slaughter] on amendment No. 37 and any other matter she may wish to discuss.

Ms. SLAUGHTER of New York. Mr. Chairman, I do not exaggerate when I say that a wave of violence is sweeping this country and overwhelming our local police departments. Violent crime has risen 24 percent during the past 5 years and is now occurring at an astounding rate of at least one murder, rape, robbery, or aggravated assault every 19 seconds.

We have all heard about the frightening increases in homicides in cities like New York and Washington, DC. But according to the latest figures from the FBI, murders are also up dramatically—by 14 percent last year—in the smaller cities of our congressional districts with populations between 25,000 and 50,000.

Congress has not ignored these trends. We have appropriated millions to help fight drugs on the streets. We have passed tougher laws and swifter penalties against criminals. But local law enforcement agencies need more tools to combat crime in both urban and rural America.

The truth is that Federal support for local crime fighting has not kept pace with increases in the crime rate. Make no mistake about it, the war against crime is being fought largely on the local level. In our battle against drugs, for example, 90 percent of all drug arrests are made by local police officers. These officers, who serve on the front lines of our war against drugs and crime, are looking for help in becoming more effective and efficient at a time of dwindling resources from all levels of government.

As a first step, we need to review what we can do on the Federal level to improve local law enforcement. Specifically, we need to consult with precinct commanders and patrol officers and engage in a dialog that is not confined to testimony given in committee hearing rooms in Washington. We need to examine training programs and working conditions on the precinct level and assess the kind of cooperation local police receive from State and Federal agencies. We need a thorough, up-to-date review of resources available to local agencies. In short, we need to take stock of our troops in this all-important domestic war on crime.

My amendment would accomplish these goals within 18 months without any additional appropriations. It calls for the creation of a 19-member commission headed by the Comptroller General—who brings with him the research resources of the General Accounting Office—to examine issues relating to police benefits, conditions of employment, the communications and information infrastructure and the adequacy of Federal resources for local law enforcement agencies. It will then recommend changes to Congress.

Not since the mid-1970's has the Federal Government reviewed Federal support for local police efforts, and every law enforcement expert I have consulted says such a review is long overdue. Crime has changed dramatically in the past 15 years. Any new assessment of local police needs, for example, must recognize the more dangerous type of criminal that officers in many cities are now confronting. All too often these criminals are armed with automatic weapons and under the influence of drugs. Indeed, one recent survey of crime in 21 cities found that over half of those arrested for violent crimes last year tested positive for drugs.

This amendment has bipartisan support in both the House and the Senate. It also has won strong support from more than one dozen national and local law enforcement organizations including the National Association of Police Organizations, the Fraternal Order of Police, the International Brotherhood of Police Officers, the National Sheriffs' Association, and the International Association of Chiefs of Police. I have even had calls from police in Canada who are interested in instituting this type of examination of local police needs in their country.

Police want this amendment. Let's give ourselves the chance to hear what local law enforcement officers have to say about the conditions and problems they face each day as they protect us from violent crime and get drugs out of our schools and off of our streets.

Vote for the Slaughter amendment. Give police one more weapon in the battle against crime.

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Mr. McCOLLUM. Mr. Chairman, may I inquire how much time each side has left?

The CHAIRMAN. The gentleman from Florida [Mr. McCollum] has 4½ minutes remaining, and the gentleman from Texas [Mr. Brooks] has 3 minutes remaining.

Mr. McCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. Lagomarsino].

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the International Narcotics Control Act of 1990, which is being offered as an amendment to this omnibus crime bill.

This narcotics control legislation reflects a serious effort by both the majority and the minority of the Foreign Affairs Committee to reach a consensus position on the President's Andean initiative for fighting international drug trafficking. Although this consensus language does not provide the administration with everything it has requested, particularly in terms of funding levels, it does give the broad flexibility the President has been seeking to help him in his negotiations with Andean leaders—both those who have been newly elected and also those who have faced for some time the challenges of meeting the drug trafficking crisis.

The very nature of the menace that international drug trafficking poses against the citizens of this country requires that we in the Congress respond strongly and effectively. We are literally fighting a war, and international drug traffickers have not hesitated to use deadly force and apparently unlimited resources to carry out their drug trafficking activities. If we are really serious about our opposition to this menace, we have to be prepared to fight the traffickers on their terms, if necessary. The fight requires unusual measures and the availability of many different resources. The authority we are giving the administration with this legislation provides the needed flexibility and variety of resources that should enable the President to elicit the type of cooperation we want from our Andean allies in the fight.

I am confident that once the administration has been able to demonstrate success with its approach and with the cooperation of our Andean partners, then it will be possible to increase the funding in future years to levels closer to those requested by the administration. In the meantime, I believe this legislation represents the best we can do now, and requires our support and prompt action.

I urge Members to vote in favor of this legislation.

Mr. McCOLLUM. Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. Schumer].

Mr. SCHUMER. Mr. Chairman, the amendment I am offering is the product of an effort undertaken with the ranking minority member of the Subcommittee on Criminal Justice, the gentleman from Pennsylvania [Mr. Gekas], in cooperation with the Justice Department and other interested organizations, including the National Network for Victims of Sexual Assault, the National Association of Criminal Defense Lawyers, and the National Association of Crime Victim Compensation Boards. The amendment makes both technical and minor substantive amendments to various provisions of title 18 of the United States Code and to other Federal criminal laws. At least 90 percent of the bill consists of clerical and conforming changes that correct spelling, punctuation, cross-references, and the like.

The amendment also makes several relatively minor substantive changes, all of which were developed in cooperation with the interested organizations. For example, the amendment repeals two antiquated offenses, one making it a crime to kill or detain a carrier pigeon belonging to the United States and the other making it a crime to seduce a female passenger on board a steamship. Perhaps the two most noteworthy changes are, first, an increase in the penalty for a sexual assault offense involving a 12- or 13-year-old victim and a perpetrator who is 18 years of age or older. This has been endorsed not only by the Justice Department, but also by victims groups. The other noteworthy change addresses a constitutional problem resulting from the phaseout of parole enacted in the Sentencing Reform Act. The amendment establishes mechanisms and procedures to deal with inmates who, under the ex post facto clause of the Constitution, must continue to be evaluated by an independent body of adjudicators. These mechanisms and procedures are fully supported by the Justice Department.

Mr. Chairman, the amendment is not controversial, and I urge my colleagues to support it.

SECTION-BY-SECTION ANALYSIS—MINOR SUBSTANTIVE AND TECHNICAL AMENDMENTS

The amendment makes minor substantive amendments and conforming and other technical amendments to various parts of title 18, United States Code. The amendment is divided into four parts, dealing with penalties and sentencing amendments, miscellaneous amendments, amendments concerning the continued phase-out of parole, and typographical and other similar amendments.

SUBTITLE A—PENALTIES AND SENTENCING AMENDMENTS

Section 0101

Section 0101 of the amendment amends 18 U.S.C. § 3565(a), which requires that a sentence of probation be revoked and the defendant sentenced to "not less than one-third of the original sentence" if the court finds that the defendant unlawfully possessed a controlled substance, thereby violating a condition of probation imposed by 18 U.S.C. § 3563(a)(3).[1] This requirement is an attempt to ensure that a probationer serves time in prison if the probationer unlawfully possesses a controlled substance. The attempt is flawed, however, because probation is a sentence,[2] not, as under the law in effect before November 1, 1987, a suspension of imposition or execution of a sentence of imprisonment. There is therefore no "original sentence" of imprisonment from which to calculate the prison term if probation is revoked.

Requiring the imposition of a sentence of at least one-third the statutory maximum term of imprisonment for a violation of this condition of probation would be too harsh and inflexible, as well as inconsistent with the purpose of sentencing, because the court determined initially that probation was the appropriate sentence. Section 0101, therefore, amends 18 U.S.C. § 3565(a) to authorize the court to impose any other sentence available at the time of the original sentencing that results in punishment greater than that originally imposed.[3] This amendment will make 18 U.S.C. § 3565(a) parallel 18 U.S.C. § 3565(b), which deals with revocation of probation for possession of a firearm.

Section 0102

Section 0102 of the amendment amends 18 U.S.C. § 3742(b), which requires the Attorney General or Solicitor General personally to approve a government appeal of sentence. The amendment (1) eliminates the requirement of "personal" approval by the Attorney General or Solicitor General, so that a deputy Solicitor General designated by the Solicitor General can authorize such an appeal when appropriate or necessary; and (2) provides that the approval need not take place before a notice of appeal is filed, but may take place after that notice is filed. In the latter instance, if such approval is not forthcoming, the appellate court must dismiss the government's appeal.

Section 0103

Section 0103 of the amendment amends 18 U.S.C. § 3, which provides that the maximum penalty for an accessory after the fact is one-half of the maximum penalty for the offense to which the defendant is an accessory, or ten years if the offense to which the defendant is an accessory has a maximum penalty of life imprisonment. Under current law, the accessory after the fact to a 25 year offense faces a greater maximum penalty than an accessory after the fact to an offense with a maximum of life imprisonment. Section 0103 eliminates this anomaly by increasing from 10 to 15 years the maximum penalty when the penalty for the offense to which the defendant is an accessory is life imprisonment.

Section 0104

Section 0104 of the amendment amends 18 U.S.C. § 3742(g), to eliminate the requirement of that section that the Attorney General or Solicitor General approve the filing of a notice of appeal when a sentence imposed by a United States Magistrate is appealed to a district court, to eliminate that requirement. Requiring high-level approval in order to appeal a magistrate's sentence not only is inappropriate, but also unrealistc. An appeal of a magistrate's sentence must be made within 10 days, an insufficient amount of time in which to obtain meaningful high-level review.

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[1] Footnotes at end of article.

Section 0105

Section 0105 amends 18 U.S.C. § 1864, which deals with the use of hazardous or injurious devices on Federal land. The penalty for a second or subsequent offense under 18 U.S.C. § 1864(c) is 10 years. Section 0105 deletes the reference in subsection (c) of section 1864 to subsections (b)(3) and (4). The reference to those provisions is unnecessary because a second or subsequent conviction under those provisions already carriers a maximum of 10 years imprisonment.

Section 0106

Section 0106 of the amendment amends 18 U.S.C. § 3551(a), which provides that except as othewise specifically provided, a defendant must be sentenced under the provisions of 18 U.S.C. ch. 227 (sentences) if the defendant is convicted of "an offense described in any Federal statute, other than an Act of Congress applicable exclusively in the District of Columbia or the Uniform Code of Military Justice". There has been some question as to whether the "otherwise specifically provided" language makes 18 U.S.C. ch. 227 inapplicable to offenses that assimilate the punishment provisions of State law—the "Assimilative Crimes Act" and the "Major Crimes Act".[4] Lower courts have held chapter 227 inapplicable,[5] but the 8th, 9th, and 10th Circuits have held differently.[6]

The Legislative history of 18 U.S.C. § 3551(a) indicates that the "otherwise specifically provided" language was intended to preserve the few mandatory-sentence provisions that predated the taking effect of 18 U.S.C. ch. 227 as amended by the Sentencing Reform Act of 1984.[7] Exempting the Assimilative Crimes Act and Major Crimes Act from 18 U.S.C. ch. 227, therefore, is not compelled by the legislative history. Exempting the Assimilative Crimes Act and Major Crimes Act from 18 U.S.C. ch. 207, moreover, would promote disparity in punishment meted out to persons convicted of Federal offenses.

Section 0106 amends section 3551(a) to eliminate any ambiguity about the applicability of 18 U.S.C. ch. 227 to offenses under 18 U.S.C. §§ 13 and 1153. As amended by section 0106, section 3551(a) would specifically provide that a defendant convicted of a criminal offense under 18 U.S.C. §§ 13 or 1153 is to be sentenced under 18 U.S.C. ch. 227.

Section 0107

Section 0107 of the amendment amends 18 U.S.C. § 3561(a)(3), which provides that a defendant who has been found guilty of an offense may not be sentenced both to probation and a term of imprisonment for the same or a different offense. The reason for this provision is that a similar result can be achieved by imposing a term of supervised release under 18 U.S.C. § 3583.[8] Supervised release, however, is unavailable for petty offenses.[9] Thus, where the sentencing court is imposing sentence for more than one petty offense, the court is restricted to imprisonment or probation; the court cannot impose both. Section 0107 provides additional sentencing flexibility by amending 18 U.S.C. § 3851(a)(3) to authorize the sentencing court to impose a term of probation for a petty offense, notwithstanding that the court, at the same time, has imposed a term of imprisonment for another such offense.

SUBTITLE B—MISCELLANEOUS AMENDMENTS

Section 0201

Section 0201 of the amendment amends 18 U.S.C. §§ 657 and 1006 to substitute the Federal Deposit Insurance Corporation for the now-abolished Federal Savings and Loan Insurance Corporation.

Section 0202

Section 0202 of the amendment amends 18 U.S.C. § 5032, which sets forth the grounds upon which a Federal court may determine that a juvenile may be proceeded against as an adult (i.e., be subject to criminal prosecution). One basis for such a determination is whether the conduct constitutes one of several specified serious violent or drug felonies set forth in the fourth paragrph of 18 U.S.C. § 5032. Congress amended the fourth paragraph of section 5032 in 1988, adding a reference to an offense under 18 U.S.C. § 922(p). In the Senate-passed version the legislation amending section 5032, 18 U.S.C. § 922(p) was a guns-in-the-schoolyard offense. The Senate-passed version was not enacted, however, and 18 U.S.C. § 922(p), by virtue of the enactment of the Undetectable Firearms Act of 1988[10], now is an offense involving the manufacture or possession of undetectable firearms. Because that offense was not meant to be included in the fourth paragraph of 18 U.S.C. § 5032 and is not appropriate for the purposes of section 5032, section 0202 of the amendment deletes the reference to 18 U.S.C. § 922(p).

Section 0203

Section 0203 of the amendment amends 18 U.S.C. § 1952, which punishes, *inter alia*, use of "any facility in interstate or foreign commerce, including the mails," with intent to promote any "unlawful activity", a term defined to encompass several offenses characteristic of organized crime enterprises. The language and history of section 1952 are, unfortunately, less than clear as to whether the phrase "including the mails" requires an interstate mailing for federal jurisdiction, or whether any mailing suffices. Until 1989, the only appellate court interpretation supported the view that any use of the mails was covered.[11] A recent decision by the Sixth Circuit has determined that section 1952 reaches only an interstate (or foreign) use of the mail.[12]

Section 0203 amends section 1952(a) to read "uses the mail or any facility in interstate or foreign commerce," thereby clarifying that any use of the mail (whether intrastate, interstate, or foreign) suffices.

Section 0204

Section 0204 of the amendment amends various sections of title 18, United States Code, to ensure uniform coverage when "State" is used. Federal offenses are haphazard and inconsistent in covering territories and possessions. Many, such as 18 U.S.C. §§ 513 and 1961, define the term "State" to include territories and possessions, while others do not, although frequently the Congressional purpose underlying the offense suggests inclusion. In some instances, where the intent of Congress seems clear, the courts have construed "State" to include territories and possessions.[13] In other cases, the courts have adopted a strict reading of "State" and declined to extend the offense's reach to territories and possessions.[14]

Section 0204 amends 14 provisions to ensure that each of the 14 covers any State of the United States, the District of Columbia, and any Commonwealth, territory, or possession of the United States. The 14 provision are:

(a) 18 U.S.C. § 232, which sets forth definitions for the chapter on civil disorders.

(b) 18 U.S.C. § 245, a civil right provision that prohibits the use of force or threats to injure, intimidate, or interfere with any person, because of race, religion, color, or national origin, in that person's participation in a number of protected activities.

(c) 18 U.S.C. § 402, which deals with contempt of court.

(d) 18 U.S.C. § 666, which deals with Federal program fraud and bribery. Although the Ninth Circuit has held that section 666 is inapplicable to bribery of a former governor in connection with a federally supported program in Guam, because Guam is not a State[15], this amendment is appropriate. Section 666 seeks to safeguard Federal monies from misuse *after* title has passed to the recipient government agency, so extension of section 666 to territories and possessions is appropriate.[16] Section 666 was amended in 1986 to include Indian tribal agencies and officials for the same reason.[17]

(e) 18 U.S.C. §§ 1028 and 1030, relating to fraud and related offenses involving identification documents and computers, respectively. Each section defines the term "State" to include the "Commonwealth of Puerto Rico, and any other possession or territory of the United States." Because of the specific reference to the "Commonwealth of Puerto Rico", and because the sections were enacted in the 1980s, after the effective date of the Covenant to Establish a Commonwealth of the Northern Marianas Islands,[18] the definition of "State" in these sections may not be sufficient to include the Commonwealth of the Northern Mariana Islands.[19] There is no reason to treat the Commonwealth of the Northern Mariana Islands differently from the Commonwealth of Puerto Rico in sections 1028 and 1030.

(f) 18 U.S.C. § 1029, which proscribes fraud in connection with access devices.

(g) 18 U.S.C. § 1084, which proscribes the transmission of wagering information in interstate or foreign commerce.

(h) 18 U.S.C. § 1114, which makes it a crime to kill or attempt to kill certain officers and employees of the United States.

(i) 18 U.S.C. § 1952, which proscribes interstate or foreign travel, or the use of a facility of interstate or foreign commerce, in aid of a racketeering enterprise. Although the term "State" as used in section 1952 is not defined, case law has construed section 1952 to extend to the territories and possessions because the section seeks to combat certain criminal activities of organized crime that had become a national problem.[20]

(j) 18 U.S.C. § 1956, which proscribes laundering of monetary instruments.

(k) 18 U.S.C. § 1958, which punishes travel in, or use of a facility of, interstate or foreign commerce in the commission of murder-for-hire.

(l) 18 U.S.C. § 2313, which punishes interstate transportation of a stolen motor vehicle or aircraft.

(m) 18 U.S.C. § 2315, which makes it an offense knowingly to sell or receive stolen goods, securities, monies, or fraudulent State tax stamps.

(n) 18 U.S.C. § 5032, which deals with juvenile delinquency proceedings in United States district court.

Section 0205

Section 0205 of the amendment repeals an antiquated offense, 18 U.S.C. § 45, which makes it unlawful to capture, kill, possess or detain a carrier pigeon owned by the United States.

Section 0206

Section 0206 of the amendment repeals two antiquated offenses. First section 0206(a) repeals 18 U.S.C. 969, enacted early this century, which punishes a person who exports arms, liquors, or narcotics to "any aboriginal native of any of the Pacific Islands" lying in a specified part of the Pacific Ocean, including Guam, Samoa, and parts of the Northern Mariana Islands and Hawaii. Second, section 0206(b) repeals 18 U.S.C. § 2198, which punishes a master, officer, seaman, or other person employed on board an American vessel who during a voyage seduces a female passenger. Section 0206(b) also repeals 18 U.S.C. § 3286, a statute of limitation provision for 18 U.S.C. § 2198.

Section 0207

Section 0207 of the amendment amends 18 U.S.C. § 2314 ("transportation of stolen goods, securities, moneys, fraudulent State tax stamps, or articles used in counterfeiting.") Section 2314 sets forth several offenses, for all but one of which there is Federal jurisdiction if there is transportation in *interstate or foreign* commerce. The second paragraph of section 2314, however, proscribes a scheme to defraud if any person travels, or is transported, in *interstate* commerce in executing the scheme. Section 0207 expands that the second paragraph to cover foreign commerce, making the coverage of the second paragraph the same as that of the other parts of section 2314.

Section 0208

Section 0208 of the amendment amends 18 U.S.C. § 666, which deals with Federal program theft and bribery. Section 666 provides for Federal jurisdiction over the offense if an organization, government, or agency receives more than $10,000 in Federal funds "in any one year period". Section 0208 of the amendment amends section 666 to define the term "in any one year period" to mean any continuous 12 month period that commences no earlier than 12 months before the claimed offense, and ends no later than 12 months after the offense. Thus, the 12 months can include a period of time both before and after the alleged offense.

Section 0209

Section 0209 of the amendment repeals provisions that court decisions make invalid. Section 0209(a) repeals language in 18 U.S.C. § 1730, that prohibits a person, "not being connected with the letter-carrier branch of the Postal Service", from wearing the uniform or badge prescribed by the Postal Service for letter carriers. Section 1730 exempts any actor or actress who wears the uniform or badge during a theatrical, television, or motion picture production, provided that "the portrayal does not tend to discredit that service." Section 0209 amends section 1730 to repeal the phrase about discrediting the Postal Service because a similar provision in 18 U.S.C. § 702, which deals with a uniform of the armed services, was found to violate the First Amendment.[21]

Section 0209(b) repeals 18 U.S.C. § 1714, which makes it criminal knowingly to mail any written or printed material "giving or offering to give information concerning where or how or through whom a divorce may be secured in a foreign country, and designed to solicit business in connection with the procurement thereof". In the only reported prosecution, the Fifth Circuit held that section 1714 is too broad and violates the First Amendment.[22] Section 1714 is unnecessary because the interests that section 1714 seeks to protect are adequately protected by the mail fraud offense (18 U.S.C. § 1341).

Finally, section 0209(c) repeals 18 U.S.C. § 1718, which deals with libelous matter on wrappers or envelopes placed in the mail. Two courts have found section 1718 to violate the First Amendment.[23] The provision appears not to have been used in over 15 years, and the Justice Department believes the decisions holding the sections unconstitutional are correct. The Postal Service concurs in the repeal.

Section 0210

Section 0210 of the amendment amends 42 U.S.C. § 2271(c), which requires the Attorney General's personal approval before any action can be brought under 42 U.S.C. §§ 2272-76, which relate to offenses involving atomic and nuclear material. The original reason for requiring the Attorney General's personal approval was that the death penalty could be imposed. The Committee on the Judiciary has comprehensively addressed the procedures to be followed when determining whether to impose a sentence of death,[24] so there is no longer reason to require the Attorney General's personal approval.

Section 0211

Section 0211 of the amendment amends 28 U.S.C. § 1921(e)(1) to correct a drafting error in section 7608 of the Anti-Drug Abuse Act of 1988, which enacted 28 U.S.C. § 1921. The first sentence of 28 U.S.C. § 1921(c) sets forth a formula for computing the commission on a marshal's sale of seized or levied property. The second sentence should have addressed the setting of a commission when seized or levied property is not disposed of by the traditional marshal's sale. Instead, the second sentence also applies to the traditional marshal's sale by virtue of the words "If the property is to be disposed of by marshal's sale." Section 0211 corrects this drafting error by substituting the word "not" for the words "to be" in the quoted phrase.

Section 0212

Section 0212 of the amendment amends several provisions that relate to sexual abuse crimes involving 12 and 13 year old children. The sexual abuse chapter of title 18, United States Code, comprehensively defines Federal sexual abuse offenses. Whenever a sexual abuse offense is carried out by force or threats, the maximum punishment—no matter what the age of the victim—is life imprisonment (if force or threats of death or serious bodily injury were used) or 20 years (if threats of death or serious bodily injury were used). If no force or threats are used, the seriousness of the offensse turns upon the age of the victim and the perpetrator: If the victim is under the age of 12, the maximum prison term is life. if the victim is 12 to 15 years old, and the perpetrator is at least four years older than the victim, the maximum prison term is five years.[25]

Section 0212(a) of the amendment modifies this scheme. Where no force or threats are used, and the victim is 12 or 13 years old, the maximum prison term is life if the perpetrator is at least 18 years old. Section 0212(b) makes a conforming change to a proof requirement to 18 U.S.C. § 2241, and section 0212(c) makes a conforming amendment to 18 U.S.C. § 2243(a).

The term "sexual act" is currently defined by 18 U.S.C. § 2245(2) to mean contact between the penis and the vulva or anus; and provides that "contact involving the penis occurs upon penetration, however slight; contact between the mouth and the penis, vulva or anus; or penetration (by a finger, hand, or other object) of the anus or genital opening of another, with the intent to "abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of another person." Section 0212(d) amends the definition to add the phrase "intentional touching, not through the clothing, of the genitalia" of a person who is less than 16 years old, with the intent to "abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person." This form of molestation can be detrimental to a child as the conduct presently covered by the term "sexual act."

Section 0213

Section 0213 of the amendment amends 18 U.S.C. § 3289 to correct a drafting error in section 7081(b) of the Anti-Drug Abuse Act of 1988. Section 7081 amended two companion provisions, 18 U.S.C. §§ 3288 and 3289, providing time to file a new indictment or information in the event of dismissal either shortly before the statute of limitation period expires (section 3289) or after that period has expired (section 3288). In each instance, the intended result was to permit a new indictment or information to be filed within six months of the date of the dismissal or, in the event of appeal, within 60 days of the date the dismissal becomes final. This result was accurately effected for section 3288, but the operative phrase in section 3289 was inserted in the wrong place. Section 0213 remedies this mistake and makes section 3289 parallel to section 3288.

Section 0214

Section 0214 of the amendment amends 18 U.S.C. ch. 211 (jurisdiction and venue) to add a venue provision for certain espionage and related offenses. Under existing law, 18 U.S.C. § 3238, venue for an espionage offense committed outside of the United States ordinarily is prosecuted where the defendant resides. Thus, the target of an investigation can determine venue by choice of residence, and can change the venue during the course of investigation by changing residence. This, in fact, happened several years ago in the investigation of a soldier whose acts of espionage were committed in Europe during active duty. Most of the FBI's lengthy investigation was conducted in the western district of New York, where the target lived. Shortly before the target was to be arrested, the target moved to Florida, causing considerable disruption in the investigation. Section 0214 of the amendment adds a section providing venue for espionage and related offenses that are begun or committed outside of the United States in the District of Columbia or in any other place authorized by law.

Section 0215

Section 0215 of the amendment amends 18 U.S.C. § 2113 (bank robbery) to define the term "savings and loan association". The definition is derived from section 3(b) of the Federal Deposit Insurance Act, as amended by section 204(b) of the Financial Institutions Reform, Recovery, and enforcement Act of 1989.[26]

Section 0216

Section 0216 of the amendment amends 18 U.S.C. § 3184, which authorizes the United States District Court for the District of Columbia, whenever a treaty or convention exists, to issue an arrest warrant for a fugitive from a foreign country, even if the

whereabouts of the person within the United States is not known. Interpol has requested that section 3184 be expanded to cover a situation where a foreign fugitive is believed to be about to enter the United States, and section 0216 of the amendment complies with that request.

Section 0217

Section 0217 of the amendment amends 18 U.S.C. § 3603, which sets forth the duties of probation officers. Section 0218 amends section 3603 to authorize probation officers to supervise a person conditionally released under 18 U.S.C. § 313 (offenders with mental disease or illness).

Section 0218

Section 0218 of the amendment enlarges the time within which a State must comply with new requirements in order to receive crime victim compensation grants under the Victims of Crime Act of 1984. The Victims of Crime Act sets forth several criteria that a State must meet in order to be eligible for crime victim compensation grants from the Crime Victims Fund.[27] The Anti-Drug Abuse Act of 1988 added two new criteria and required State crime victim compensation programs to offer crime victim compensation to victims of drunk driving crimes and domestic violence.[28] That Act gave the State until October 1, 1990 to meet the new requirements.[29] Section 0218 extends the deadline to October 1, 1991.

SUBTITLE C—CONTINUED PHASE-OUT OF PAROLE

Subtitle C addresses a constitutional problem created by the repeal of Federal parole provisions by the Sentencing Reform Act of 1984. The Sentencing Reform Act repealed those provisions effective November 1, 1987,[30] and abolishes the United States Parole Commission effective November 1, 1992.[31] The Sentencing Reform Act requires that the Parole Commission, before going out of existence, make final parole release determinations for all prisoners within the Parole Commission's jurisdiction on the day the Parole Commission ceases to exist.[32]

The Sentencing Reform Act's abolition of parole creates substantial questions under the *ex post facto* clause of the Constitution. The Sentencing Reform Act provides that a person convicted after November 1, 1992 of a crime committed before November 1, 1987, is entitled to parole consideration.[33] After November 1, 1992, however, there will be no agency to make parole determinations, thereby depriving such a person of the parole consideration to which that person is entitled. Further, the parole provisions applicable to persons convicted before November 1, 1992 of an offense committed before November 1, 1987, entitle an inmate to a periodic review of the inmate's status. The abolition of the Parole Commission on November 1, 1992 means that after that date no agency will be empowered to conduct the required review.

Subtitle C, which is derived from recommendations of the Department of Justice, resolves the constitutional problems by establishing a Federal Offender Review Board to conduct parole hearings and make parole determinations for persons convicted of offenses committed before November 1, 1987. The Board will have the independence of, and starting November 1, 1992 be able to exercise the powers formerly exercise by, the Parole Commission. To reflect the probable decline in workload, subtitle C structures the Board as a smaller agency (5 members) than the current Parole Commission (9 members).

Section 0301

Section 0301(a) of the amendment adds a new chapter, entitled "Prisoner Review and Supervision", to title 18 of the United States Code. The new chapter consists of sections 4220 through 4223.

New section 4220 establishes the Federal Offender Review Board "as an independent agency within the Department of Justice".[34] The five members of the Board are appointed by the President, with the advice and consent of the Senate, for terms that expire on November 1, 1997. The President designates one of the members to serve as the Board's chair.

New section 4221 gives the Federal Offender Review Board all of the powers, duties, and jurisdiction of the United States Parole Commission, giving the Board the ability to perform the functions assigned to the Board.[35] Thus, the Board can, for example, reduce the number of regions presently operated by the Parole Commission.[36] New section 4221 also provides that the Board will have "the independence of" the Parole Commission, thereby assuring that the determinations of the Board, like those of the Parole Commission, will be based soley upon the merits of case and will not be unduly influenced by the Justice Department.[37] New section 4222 provides that the powers and duties of the chairman of the Board are the same as those of the chairman of the Parole Commission. New section 4223 authorizes the Board to make decisions in the case of an individual within the Board's jurisdiction, to prescribe regulations and guidelines, and to delegate authority to hearing examiners, and provides that, for purposes of 5 U.S.C. § 701(a)(2), a decision of the Board is to be treated as an action committed to agency discretion. New section 4223, by authorizing the Board to prescribe regulations and guidelines, ensures that the Board has the power to change policies established by the Parole Commission whenever circumstances make such changes appropriate.

Section 0302

Section 0302 of the amendment transfers to the Federal Offender Review Board all of the personnel of the United States Parole Commission, other than the Commissioners. Section 0302 also transfers to the Board all of the liabilities, contracts, property, and records of the Parole Commission.

Section 0303

Section 0303 of the amendment repeals section 235(b)(4) of the Comprehensive Crime Control Act of 1984.[38]

Section 0304

Section 0304(a) of the amendment repeals a provision of the Comprehensive Crime Control Act of 1984 that transfers parolees to the jurisdiction of Federal courts on November 1, 1992. Section 0304(a) thereby eliminates a substantial addition to the workload of Federal courts and avoids the *ex post facto* questions that are raised by the provision as presently written.

Section 235(b)(3) of the Comprehensive Crime Control Act of 1984 [39] currently directs the Parole Commission to set a release date for every individual who will be within the Parole Commission's jurisdiction on October 31, 1992. Section 0304(b) of the amendment revises section 235(b)(3) to provide that all laws in effect as to a person who has committed an offense that is not governed by the new sentencing system established by the Comprehensive Crime Control Act of 1984 continue in effect as to that person until that person's sentence has expired. Thus, a person who committed an offense before November 1, 1987 but who is not sentenced until after October 31, 1992 (the last day of the Parole Commission's existence) will, as the ex post facto clause of the Constitution requires, be sentenced under the law in effect on the date when the offense was committed, which includes the possibility of release on parole. The Federal Offender Review Board established by section 0301 of the amendment will make the parole determinations for such a person.

Section 0305

Section 0305 of the amendment makes conforming changes to other provisions of law. Section 0305(a) amends 18 U.S.C. §§ 4106 and 4106A, which relate to prisoners transferred from foreign countries for service of sentence, to replace references to the Parole Commission with references to the Federal Offender Review Board. Section 0305(c) of the amendment makes similar changes in 18 U.S.C. § 3522(c), a witness protection provision. Section 0305(b) of the amendment amends 18 U.S.C. § 4106(d) to delete a phrase that is no longer necessary.

Section 0306

Section 0306 of the amendment is premised upon the expectation that after October 31, 1997 the caseload of the Federal Offender Review Board will not justify the existence of a separate agency. There will still be a need for presidentially-appointed, independent adjudicators to make paroling determinations, however.

Section 0306(a)(1)(A) of the amendment transfers the functions of the Federal Offender Review Board, effective November 1, 1997, to 3 Federal Offender Review Commissioners. Section 0306(a)(1)(B) provides that the Federal Offender Review Commissioners are appointed by the President, with the advice and consent of the Senate, for 5 year terms. Section 0306(a)(2) authorizes the reappointment of a Federal Offender Review Commissioner, and provides that a person appointed to fill a vacancy is appointed only for the remainder of the vacant term. Section 0306(a)(3) sets the salary for the Federal Offender Review Commissioners. Section 0306(a)(4) authorizes the President to set the number of Federal Offender Review Commissioners at fewer than 3 starting with the terms beginning on November 1, 2002. If the President determines that the anticipated caseload for 3 Commissioners is unlikely to equal or exceed the per capita caseload experienced by the Federal Offender Review Commissioners during the 12 month period ending October 31 of the year in which the terms expire (2002, 2007, and so forth), the President can set the number of Federal Offender Review Commissioners at one, rather than three.

Section 0306(b) of the amendment provides that the Federal Offender Review Commissioners are "independent adjudicators within the Justice Department" [40] and that a decision by those Commissioners is, for purposes of 5 U.S.C. § 701(a)(2), an action committed to agency discretion.

Section 0306(c) of the amendment transfers to the Justice Department, effective November 1, 1997, all the liabilities, contracts, property, and records of the Federal Offender Review Board. Section 0306(c) also requires the Justice Department to provide such administrative support (including the hiring of hearing examiners) as the Federal Offender Review Commissioners require to fulfill their functions.

Section 0307

Section 0307(a) of the amendment provides that the changes made by the amendment take effect November 1, 1992, except as provided in section 0307(b) of the amendment. Section 0307(b) provides that sections 0303 and 0304 of the amendment take effect upon enactment of the legislation.

SUBTITLE D—TYPOGRAPHICAL AND OTHER SIMILAR AMENDMENTS

Section 0401

Section 401 of the amendment amends the table of chapters at the beginning of part I of title 18, United States Code, (1) to conform the entry for chapter 39 to the actual chapter heading; (2) to correct a capitalization error in the caption of chapter 114; and (3) to insert an entry for chapter 119.

Section 0402

Section 0402 of the amendment amends the table of sections at the beginning of chapter 1 of title 18, United States Code, to correct a capitalization error.

Section 0403

Section 0403 of the amendment amends the language in 18 U.S.C. § 12, which defines United States Postal Service, to eliminate the use of a personal pronoun and thereby make the statutory language clearer.

Section 0404

Section 0404 of the amendment amends the table of sections at the beginning of chapter 3 of title 18, United States Code, (1) to make the entry for section 47 conform to that section's catchline, and (2) to delete reference to sections 43 and 44, which have been repealed.

Section 0405

Section 0405 of the amendment amends 18 U.S.C. § 114 to correct a typographical error.

Section 0406

Section 0406 of the amendment amends 18 U.S.C. § 115 to correct a typographical error.

Section 0407

Section 0407 of the amendment amends the table of sections at the beginning of chapter 11 of title 18, United States Code, (1) by conforming the entry for section 203 to the catchline of that section, and (2) by conforming the entry for section 204 to the catchline of that section.

Section 0408

Section 0408 of the amendment amends 18 U.S.C. § 209(d) to correct a cross-reference.

Section 0409

Section 0409 of the amendment amends 18 U.S.C. § 219(c) to correct a typographical error.

Section 0410

Section 0410 of the amendment amends the table of sections at the beginning of chapter 23 of title 18, United States Code, by (1) deleting the entry for section 434, which has been repealed, and (2) conforming the entry for section 437 to that section's catchline.

Section 0411

Section 0411 of the amendment amends the table of sections at the beginning of chapter 25 of title 18, United States Code, by conforming the entries for sections 491, 496, and 501 to the catchline of those sections.

Section 0412

Section 0412 of the amendment amends 18 U.S.C. § 510(a) to (1) correct punctuation, and (2) correct the format of a portion of the provision in order to clarify that the penalty provision applies to the conduct described in paragraph (1) and (2) of section 510(a).

Section 0413

Section 0413 of the amendment amends 18 U.S.C. § 513(c)(3) to delete an erroneous cross-reference and correct punctuation.

Section 0414

Section 0414 of the amendment amends the table of sections at the beginning of chapter 29 of title 18, United States Code, to conform the entries for sections 603 and 607 to the catchlines of those sections.

Section 0415

Section 0415 of the amendment amends the heading of 18 U.S.C § 665 to correct the punctuation, and amends subsection (c) of that section to remove superfluous language.

Section 0416

Section 0416 of the amendment amends the heading to chapter 33 of title 18, United States Code, to correct punctuation.

Section 0417

Section 0417 of the amendment redesignates the second section 798 of title 18, United States Code, as section 798A; amends the table of sections at the beginning of chapter 37 of title 18 to reflect that change; and amends a cross-reference in 18 U.S.C. § 14 to reflect the redesignation.

Section 0418

Section 0418 of the amendment amends the table of sections at the beginning of chapter 40 of title 18, United States Code, to conform the entry for section 843 to that section's catchline.

Section 0419

Section 0419 of the amendment amends 18 U.S.C. § 842 to correct a punctuation error in subsections (d)(5) and (i)(3).

Section 0420

Section 0420 of the amendment amends 18 U.S.C. § 844 to correct a typographical error.

Section 0421

Section 0421 of the amendment amends the table of sections at the beginning of chapter 44 of title 18, United States Code, to conform the entry for section 927 to that section's catchline.

Section 0422

Section 0422 of the amendment amends 18 U.S.C. § 922(b)(1) to correct punctuation.

Section 0423

Section 0423 of the amendment amends 18 U.S.C. § 923(a)(3)(B) to correct punctuation.

Section 0424

Section 0424 of the amendment amends 18 U.S.C. § 924 by redesignating two subsections to eliminate a duplication. Section 0424 also amends section 2(f)(2)(b) of the Undetectable Firearms Act of 1988 to reflect this correction.

Section 0425

Section 0425 of the amendment amends 18 U.S.C. § 924(c)(1) to delete a redundant phrase.

Section 0426

Section 0426 of the amendment amends 18 U.S.C. § 924(a)(1) to correct punctuation.

Section 0427

Section 0427 of the amendment additionally amends 18 U.S.C. § 924 to correct grammar and punctuation in subsections (a)(2) and (e)(2).

Section 0428

Section 0428 of the amendment amends the table of sections at the beginning of chapter 45 of title 18, United States Code, to delete an entry for a repealed section.

Section 0429

Section 0429 of the amendment amends 18 U.S.C. § 981(d) to correct punctuation.

Section 0430

Section 0430 of the amendment amends the table of sections at the beginning of chapter 47 to correct punctuation.

Section 0431

Section 0431 of the amendment amends 18 U.S.C. § 1030 to correct an erroneous cross-reference.

Section 0432

Section 0432 of the amendment amends 18 U.S.C. § 1113 to correct punctuation.

Section 0433

Section 0433 of the amendment amends 18 U.S.C. § 1114 by (1) correcting a capitalization error, (2) correcting the designation of two Federal agencies, and (3) removing a reference to the now defunct Federal Savings and Loan Insurance Corporation.

Section 0434

Section 0434 of the amendment amends the table of sections at the beginning of chapter 53 of title 18, United States Code, to remove an entry for a repealed section.

Section 0435

Section 0435 of the amendment amends 18 U.S.C. § 1168(a) to clarify the language of the section.

Section 0436

Section 0436 of the amendment amends 18 U.S.C. § 1201(a)(3) to correct an erroneous cross-reference and to delete unnecessary language.

Section 0437

Section 0437 of the amendment amends the table of sections at the beginning of chapter 57 of title 18, United States Code, to remove an entry for a repealed section.

Section 0438

Section 0438 of the amendment amends the heading of 18 U.S.C. § 1262 to correct a capitalization error.

Section 0439

Section 0439 of the amendment amends the table of sections at the beginning of chapter 63 to conform the entry for section 1342 to that section's catchline.

Section 0440

Section 0440 of the amendment makes a punctuation correction in 18 U.S.C. § 1345.

Section 0441

Section 0441 of the amendment amends the table of sections at the beginning of chapter 65 to correct punctuation.

Section 0442

Section 0442 of the amendment amends 18 U.S.C. § 1365(g)(1)(A) to correct punctuation.

Section 0443

Section 0443 of the amendment amends 18 U.S.C. § 1366(c) to correct a cross-reference.

Section 0444

Section 0444 of the amendment deletes 18 U.S.C. § 1366(d), a clerical amendment which was already been executed.

Section 0445

Section 0445 of the amendment amends the table of sections at the beginning of chapter 67 of title 18, U.S.C., to delete an entry for a repealed section 1383.

Section 0446

Section 0446 of the amendment amends 18 U.S.C. § 1466 to correct two cross-references.

Section 0447

Section 0447 of the amendment amends 18 U.S.C. § 1467(h)(4) to correct a cross-reference.

Section 0448

Section 0448 of the amendment amends 18 U.S.C. § 1546(a) to clarify the language pertaining to a fine.

Section 0449

Section 0449 of the amendment amends 18 U.S.C. § 1716A(a) to insert a missing word.

Section 0450

Section 0450 of the amendment (1) corrects the heading for 18 U.S.C. § 1717, and (2) conforms the entry for section 1717 in the table of sections at the beginning of capter 83 of title 18, United States Code, to the catchline 1717.

Section 0451

Section 0451 of the amendment amends the table of sections at the beginning of chapter 84 of title 18, United States Code, to add an entry for section 1752.

Section 0452

Section 0452 of the amendment amends the table of sections at the beginning of chapter 91 of title 18, United States Code, to remove an entry for a section that has been repealed.

Section 0453

Section 0453 of the amendment amends 18 U.S.C. § 1864(d) to correct punctuation.

Section 0454

Section 0454 of the amendment amends the table of sections at the beginning of chapter 93 of title 18, United States Code, to (1) conform the entry for section 1906 to that section's catchline, and (2) remove an entry for a repealed section.

Section 0455

Section 0455 of the amemdment amends 18 U.S.C. § 1956 by correcting a cross-reference, correcting a spelling error, and making grammatical and punctuation corrections.

Section 0456

Section 0456 of the amendment amends 18 U.S.C. § 1958(b) to correct an erroneous cross-reference.

Section 0457

Section 0457 of the amendment amends the table of sections at the beginning of chapter 96 of title 18, United States Code, to conform the entry for section 1962 to that section's catchline.

Section 0458

Section 0458 of the amendment amends 18 U.S.C. § 1961(1) by (1) correcting a clerical error, and (2) removing a duplicative cross-reference.

Section 0459

Section 0459 of the amendment amends 18 U.S.C. § 1963(a) by removing a misplaced period.

Section 0460

Section 0460 of the amendment amends the heading to 18 U.S.C. § 2114 to insert a missing comma.

Section 0461

Section 0461 of the amendment amends 18 U.S.C. § 2251(a) to remove a superfluous comma from the text.

Section 0462

Section 0462 of the amendment amends 18 U.S.C. § 2253 to correct (1) a grammatical error in subsection (a), and (2) a cross-reference in subsection (k)(4).

Section 0463

Section 0463 of the amendment amends 18 U.S.C. § 2254 to (1) correct a grammatical error in subsection (a), (2) insert a missing subsection heading in subsection (e), and (3) alter two cross-references in subsection (f).

Section 0464

Section 0464 of the amendment amends the table of sections at the beginning of chapter 111 of title 18, United States Code, to conform the entry for section 2271 to that section's catchline.

Section 0465

Section 0465 of the amendment amends the heading to 18 U.S.C. § 2318 to delete a superflous comma.

Section 0466

Section 0466 of the amendment amends 18 U.S.C. § 2516 to correct two cross-references in subsection (j).

Section 0467

Section 0467 of the amendment amends the table of chapters at the beginning of part II of title 18, United States Code, to make several clerical and typographical changes in the chapter headings.

Section 0468

Section 0468 of the amendment amends 18 U.S.C. § 3013 to make a grammatical and punctuation change.

Section 0469

Section 0469 of the amendment amends the table of sections at the beginning of chapter 203 of title 18, United States Code, to delete an entry for a repealed section.

Section 0470

Section 0470 of the amendment amends 18 U.S.C. § 3058 to correct a spelling error.

Section 0471

Section 0471 of the amendment amends 18 U.S.C. § 3077 to make several punctuation corrections.

Section 0472

Section 0472 of the amendment amends the table of sections at the beginning of chapter 205 of title 18, United States Code, renumber one of two sections that have the same number.

Section 0473

Section 0473 of the amendment redesignates 18 U.S.C. § 3117 as section 3118 to eliminate a duplication in section numbering.

Section 0474

Section 0474 of the amendment amends 18 U.S.C. § 3124(b) to correct a cross-reference.

Section 0475

Section 0475 of the amendment amends 18 U.S.C. § 3125 by (1) making grammatical and punctuation changes, and (2) correcting the format to make clear that the taking of certain actions under subsection (a) can occur only if the conditions of paragraphs (1) and (2) of that subsection are met.

Section 0476

Section 0476 of the amendment reenacts language in 18 U.S.C. § 3154(1) to clarify the intent of Congress.[41]

Section 0477

Section 0477 of the amendment amends 18 U.S.C. § 3165(e)(2) to correct punctuation.

Section 0478

Section 0478 of the amendment amends 18 U.S.C. § 3166(b)(8) to correct a spelling error.

Section 0479

Section 0479 of the amendment amends 18 U.S.C. § 3170 (a) and (b) to make a conforming change in a cross-reference.

Section 0480

Section 0480 of the amendment amends 18 U.S.C. § 3289 to insert a missing comma.

Section 0481

Section 0481 of the amendment amends the table of sections at the beginning of chapter 224 of title 18, United States Code, to conform the entry for section 3526 to that section's catchline.

Section 0482

Section 0482 of the amendment amends 18 U.S.C. § 3521 to insert a missing cross-reference and to make grammatical changes.

Section 0483

Section 0483 of the amendment amends 18 U.S.C. § 3562 to provide a full identification of a referenced rule.

Section 0484

Section 0484 of the amendment amends 18 U.S.C. § 3563 by making grammatical and punctuation changes.

Section 0485

Section 0485 of the amendment amends 18 U.S.C. 3565(a)(1) to correct a grammatical error.

Section 0486

Section 0486 of the amendment amends the table of sections for subchapter C of chapter 227 of title 18, United States Code, by conforming the entries for sections 3572 and 3573 to the catchlines of those sections.

Section 0487

Section 0487 of the amendment amends 18 U.S.C. § 3527(c)(2) to provide a full identification of a referenced rule.

Section 0488

Section 0488 of the amendment amends 18 U.S.C. § 3582(b)(2) to provide a full identification of a referenced rule.

Section 0489

Section 0489 of the amendment amends 18 U.S.C. § 3583 to make grammatical and punctuation changes, and to correct the misdesignation of a paragraph.

Section 0490

Section 0490 of the amendment amends the table of sections for subchapter A of chapter 229 of title 18, United States Code, to conform the entry for section 3607 to that section's catchline.

Section 0491

Section 0491 of the amendment amends 18 U.S.C. 3611 to correct a cross-reference.

Section 0492

Section 0492 of the amendment amends 18 U.S.C. § 3612 to correct several cross-references.

Section 0493

Section 0493 of the amendment amends 18 U.S.C. § 3613(c) to correct punctuation.

Section 0494

Section 0494 of the amendment amends the table of sections at the beginning of chapter 232 of title 18, United States Code, to conform the entry for section 3669 to that section's catchline.

Section 0495

Section 0495 of the amendment amends 18 U.S.C. § 3663(f)(4) to correct a cross-reference.

Section 0496

Section 0496 of the amendment amends 18 U.S.C. § 3664(a) to correct a cross-reference.

Section 0497

Section 0497 of the amendment amends the table of chapters at the beginning of part III of title 18, United States Code, to add entries for two chapters that were enacted without making a conforming amendment to the table of chapter.

Section 0498

Section 0498 of the amendment amends 18 U.S.C. § 4109(a) to correct cross-reference mistakes.

Section 0498A

Section 0498A of the amendment amends 18 U.S.C. § 4013 to remove a subsection designation because that section is not broken down into subsections.

Section 0498B

Section 0498B of the amendment amends the table of sections at the beginning of chapter 307 of title 18, United States Code, to correct capitalization in order to conform the entry for section 4126 to that section's catchline.

Section 0498C

Section 0498C of the amendment amends the heading to 18 U.S.C. § 4106A to insert a missing word.

Section 0498D

Section 0498D of the amendment amends 18 U.S.C. § 4106A(b)(1)(C) to correct punctuation.

Section 0498E

Section 0498E of the amendment amends 18 U.S.C. § 4246(g) to correct a cross-reference.

Section 0498F

Section 0498F of the amendment amends 18 U.S.C § 4285 to correct a spelling error.

Section 0498G

Section 0498G of the amendment amends 18 U.S.C. § 4352(c) to insert a missing word.

Section 0498H

Section 0498H of the amendment amends 18 U.S.C. § 5032 to correct a cross-reference.

Section 0498I

Section 0498I of the amendment amends the table of sections at the beginning of chapter 403 of title 18, United States Code, to correct capitalization in order to conform the entry for section 5042 to that section's catchline

Section 0498J

Section 0498J of the amendment amends section 102(32)(A) of the Controlled Substances Act (21 U.S.C. § 802(32)(A)) to correct a spelling error.

Section 0498K

Section 0498K of the amendment amends section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. § 960(b)(2)) to correct a spelling error.

Section 0498L

Section 0498L of the amendment amends sections 401(b)(1)(A)(ii)(IV) and 401(b)(1)(B)(ii)(IV) of the Controlled Substances Act (21 U.S.C. § 841(b)(1)(A)(ii)(IV) and § 841(b)(1)(B)(ii)(IV) to correct a typographical error.

Section 0498M

Section 0498M of the amendment amends sections 405(b), 405A(b), and 405B(c) of the Controlled Substances Act (21 U.S.C. §§ 845(b), 845a(b), and 845b(c)) to correct a grammatical error.

Section 0498N

Section 0498N of the amendment amends section 510(b)(3) of the Controlled Substances Act (21 U.S.C. § 880(b)(3)) to correct a cross-reference.

FOOTNOTES

[1] 18 U.S.C. § 3583(a)(3), which was added by the Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, § 7303(a)(1), 102 Stat. 4464, makes a mandatory condition of probation that the probationer "not possess illegal controlled substances".

[2] *See* 18 U.S.C. §§ 3551, 3561. *See also* S. Rep. No. 225, 98th Cong., 1st Sess. 59, 88–90 (1983).

[3] This could be accomplished, for example, by adding a new condition of probation. If the original sentence of probation involved incarceration—for example, weekend confinement for 10 weekends—the court could increase the number of weekends.

[4] 18 U.S.C. §§ 13 and 1153 respectively.

[5] *See* United States v. Norquay, 708 F.Supp. 1064 (D. Minn. 1989) (18 U.S.C. § 13, *rev'd* 905 F.2d 1157 (8th Cir. 1990); United States v. Richards, 1 Fed. Sent. R. 303 (Mag. D. Kan 1988) (18 U.S.C. § 1153). The *Richards* case was overruled by United States v. Garcia, 893 F.2d. 250 (10th Cir. 1989).

[6] United States v. Norquay, 905 F.2d 1157 (8th Cir. 1990); United States v. Leake, 908 F.2d 550 (9th Cir. 1990); United States v. Garcia, 893 F.2d. 250 (10th Cir. 1989).

[7] *See* S. Rep. No. 225, 98th Cong., 1st Sess. 680–67 (1983).

[8] *See* S. Rep. No. 225, 98th Cong., 1st Sess. 89 (1983).

[9] *See* 18 U.S.C. § 3583(b)(3).

[10] Pub. L. No. 649, § 2(a), 102 Stat. 3818–17.

[11] United States v. Riccardelli, 794 F.2d 829 (2d Cir. 1986).

[12] United States v. Barry, 888 F.2d 1092 (6th Cir. 1989).

[13] *See, e.g.*, United States v. Steele, 685 F.2d 793, 804-05 (3d Cir.), *cert. denied*, 459 U.S. 908 (1982) (treating Puerto Rico as if a State).

[14] *See, e.g.*, United States v. Bordallo, 857 F.2d 519, 523-24 (9th Cir. 1988) (holding that Guam is not a "State").

[15] *See* United States v. Bordallo, 857 F.2d 519 (9th Cir. 1988).

[16] *See* S. Rep. No. 225, 98th Cong., 1st Sess. 369–70 (1983).

[17] *See* Pub. L. No. 99-646, § 59(a), 100 Stat. 3612 (1986).

[18] Pub. L. No. 94-241, 90 Stat. 263 (976).

[19] *But see* Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America § 502(a), 90 Stat. 268 (1976) (set out as a note to 48 U.S.C. § 1681).

[20] *See* United States v. Steele, 685 F.2d 793, 804-05 (3d Cir.), *cert. denied*, 459 U.S. 908 (1982) (Puerto Rico); United States v. Taitano, 442 F.2d 467 (9th Cir.), *cert. denied*, 404 U.S. 852 (1971)(Guam).

[21] Schact v. United States, 398 U.S. 58 (1970).

[22] Hiett v. United States, 415 F.2d 664 (5th Cir. 1969), *cert. denied*, 397 U.S. 936 (1970).

[23] Toliett v. United States, 485 F.2d 1087 (8th Cir. 1973); United States v. Handler, 383 F. Supp. 1287 (D. Md. 1974).

[24] *See* Title II of H.R. 5269.

[25] *See generally* H.R. Rep. No. 594, 99th Cong., 2d Sess. 17 (1986).

[26] Pub. L. No. 101-73, § 204(b), 103 Stat. 1900-91.

[27] *See* Victims of Crime Act of 1984, Pub. L. No. 98–473, § 1403(b), 98 Stat. 2172.

[28] Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, § 7125 (a), (c), (d), 102 Stat. 4422-23.

[29] *See Id.* at § 7129, 102 Stat. 4423.

[30] Sentencing Reform Act of 1984, Pub. L. No. 98-473, § 235, 98 Stat. 2031.

[31] *Id.* at § 235(b)(1), 98 Stat. 2032.

[32] *Id.* at § 235(b)(3), 98 Stat. 2032.

[33] *Id.* at § 235(a)(1), 98 Stat. 2031.

[34] The phrase "as an independent agency in the Department of Justice" is carried forward from 18 U.S.C. § 4202, which was enacted by the Parole Commission and Reorganization Act. *See* H.R. Rep. No. 838, 94th Cong., 2d Sess. 21 (1976) ("It is the intent of the Conferees that parole decisionmaking be independent of, and not governed by, the investigative and prosecutorial functions of the Department of Justice").

[35] New section 4221 gives the Board powers, duties, and jurisdiction vested in the Parole Commission by laws repealed effective November 1, 1987, but kept in effect until November 1, 1992, by § 235(b)(1) of the Comprehensive Crime Control Act of 1984, 98 Stat. 2032, and by laws saved by § 235(a)(1) of the Comprehensive Crime Control Act of 1984, 98 Stat. 2031, and 1 U.S.C. § 109.

[36] The Parole Commission has the authority to reduce the number of regions under 18 U.S.C. § 4203(a)(2) (the Parole Commission can "create such regions as are necessary to carry out the provisios of this [parole] chapter").

[37] *See* note 36 *supra*.

[38] Pub. L. No. 98–473, 98 Stat. 2032.

[39] Pub. L. No. 98–473, 98 Stat. 2032.

[40] *See* note 36 *supra*.

[41] The Sentencing Reform Act of 1984, Pub. L. No. 98-473, § 203(b)(1), 98 Stat. 1984-85, sought to amend 18 U.S.C. § 3154(1) by deleting specified language and adding new language. The language specified, however, was not in the section, and the law revision counsel executed the amendment in section 203(b) of the Sentencing Reform Act to reflect the probable intention of Congress. *See* 18 U.S.C. § 3154, note on 1984 Amendment. Section 0476 ratifies the manner in which the law revision counsel executed the amendment in section 203(b) of the Sentencing Reform Act.

Mr. GOSS. Mr. Chairman, I rise in support of the Foreign Affairs Committee amendment to the crime bill on the Andean initiative. This bipartisan compromise is the result of the hard work and good faith of my colleagues, especially Chairman FASCELL and Mr. SMITH of Florida on the Democratic side and Mr. BROOMFIELD and Mr. GILMAN on the Republican side.

The Andean initiative is a vital piece of legislation that ensures a comprehensive approach to the President's war on drugs. Bill Bennett, the Director of the Office of National Drug Control Policy said in a letter to the committee:

> The Andean initiative, the centerpiece of the President's international cocaine control strategy, is a five year program of comprehensive law enforcement, security, and economic assistance for the three source countries of Colombia, Bolivia, and Peru. When President Bush met with his Andean counterparts in Cartegena, Colombia, in February 1990, the summit four created an unprecedented alliance, subscribing to a common approach to counternarcotics policy in the region.

Mr. Chairman, the President's Andean initiative has achieved a number of important successes in its first full year, most notably record low prices at the farm gate in parts of Bolivia and Peru, the destruction of labs in Colombia and the extradition of 15 Colombian drug traffickers, the death of Colombia drug lord Rodriguez Gacha, seizure of over 200 metric tons of cocaine in 1989, and numerous smaller interdiction efforts.

I would have preferred that the amendment included the full $135 million authorization requested by the administration. However the compromise is a major improvement over the original language considered by the House Foreign Affairs Committee. In my opinion this amendment will provide the administration with the flexibility to continue the program without the onerous restrictions originally proposed by some Members of the other side of the aisle. Among the worst of their proposals were caps on military assistance, police training funds so low as to endanger the program and human rights standards more stringent than exists in any legislation regarding any United States foreign assistance including El Salvador.

This compromise maintains human rights standards comparable to existing law and allows the administration the flexibility to shift funds within several military assistance accounts to meet the need of this important program.

The President's Andean initiative is working. Approval of the Fascell amendment will continue the program in the next fiscal year. While I would prefer that the foreign military funding authorization were significantly higher, this amendment—hammered out in the spirit of compromise—will allow this vitally important program of eradicating drugs at the source to continue.

Mr. FASCELL. Mr. Chairman, the amendment we are offering today is the result of a bipartisan compromise on international narcotics control assistance for fiscal year 1991. A great deal of work has gone into this compromise. In particular, I would like to commend our ranking minority member, BILL BROOMFIELD; LARRY SMITH, the chairman of the Committee's Task Force on International Narcotics Control, and his minority counterpart BEN GILMAN; PETER KOSTMAYER, from the Subcommittee on Western Hemisphere Affairs; and chairman and ranking minority member of the Human Rights Subcommittee, for their tireless efforts to put together this language. None of us is completely satisfied with the language as it stands, but in an effort to move this process forward we have all had to make some sacrifices. I have no doubt that further changes will be made as we move through the legislative process.

The Committee on Foreign Affairs ordered reported a predecessor bill, H.R. 5567, on September 11 of this year. In that bill, we attempted to put a ceiling on overall military assistance to the Andean countries. I would still prefer that formulation. However, for the time being we have agreed instead to reduce the authorization for the foreign military financing account for the Andean countries, and allow military assistance to flow through other existing authorities as well. I would like to make it clear at this point that we have reduced this one military assistance account primarily for management reasons, and not because we oppose military assistance to the Andes. The fact is, the money we approved for fiscal year 1990 has still not been spent even though the fiscal year is virtually over. We are not attaching blame to anyone over the amount of time it has taken to deliver the fiscal year 1990 assistance, but the fact that this assistance is so late has led the committee to proceed with caution in providing additional assistance in the coming year. The mechanisms for assuring that the large amount of assistance, that is, the $125 million in fiscal year 1990 funds and the original executive branch request of $137 million, are being effectively managed and utilized are not yet in place. In addition, there are serious doubts as to whether or not the countries receiving this assistance, which have not had security assistance relationships with the United States for some 20 years, have the capacity to absorb the amount of equipment that the administration had originally proposed or, in some cases, the political will to use it for counternarcotics efforts. So, in response to these concerns, the committee has limited the amount of FMF for practical, rather than policy reasons.

On the economic side, the committee amendment increases the authorization for economic support fund and development assistance by $125 million over the executive branch request of $175 million. During consideration of international narcotics control legislation last year, the committee reluctantly deferred to the administration's request to postpone the provision of economic assistance to the Andean countries until 1991. However, in postponing an economic component to our Andean strategy until this year, we may have lost a valuable window of opportunity in the effort to move people out of coca production. A combination of factors, primarily the crackdown by the Government of Colombia on trafficking organizations in that country, led to the sustained depression of coca leaf prices in Bolivia, and to a lesser extent in Peru. Unfortunately, because the administration chose to wait on an authorization for economic assistance, we had no means by which to offer the campesinos an alternative to coca production at a time when such assistance could have had a dramatic impact. Hopefully, we have addressed that problem to some degree with the increased authorization contained in this amendment.

It should be noted, that due to the concerns expressed by many members of the committee, and the Congress as a whole, the provision of both the military assistance and the economic assistance to the Andean countries is conditioned on narcotics control performance and respect for internationally recognized human rights. Again, since the human rights conditions originally contained in H.R. 5567 were for some reason objectionable to the executive branch, the minority and the majority members of the committee have reached an agreement on modified language which is now contained in the amendment before the House. We believe that this language is reasonable, and, while it may not be exactly what some Member would have like to have seen, it satisfies the interests and concerns of both parties. I would also point out that all of the assistance authorized for the Andean countries in this amendment is subject to the regular congressional notification process.

The amendment also contains provisions designed to enhance the effectiveness of our narcotics control programs overseas, including some limited waivers of existing law, a training program for host country pilots, and a review of riverine interdiction programs. I believe that these provisions will significantly enhance our efforts overseas, as well as providing effective oversight and management control on our extensive counternarcotics programs in the Andes.

On a related issue, I have received several inquiries from members of the committee, particularly Mr. BROOMFIELD, regarding a provision in the original executive branch request that we did not include in the committee amendment. That provision would have revised section 482(B) of the Foreign Assistance Act to allow defensive arming of aircraft and personnel from narcotics funding. The question arose during consideration of this provison whether or not the administration has the authority under current law to procure arms and ammunition for the defensive arming of aircraft and personnel engaged in counternarcotics missions.

This is a difficult issue because we all share the goal of ensuring the safety of American personnel involved in counternarcotics operations, yet there is an appropriate concern about allowing the Department of State to provide weapons and ammunition through the Bureau of International Narcotics Matters. It is my understanding that the administration has been procuring weapons and ammunition strictly for defensive arming purposes under other authorities. I believe these actions are not in violation of the section 482(b) prohibition as long as they do not involve the expenditure of funds authorized under chapter 8 of part I of the Foreign Assistance Act.

Finally, I would like to note that the Committee on Foreign Affairs has been actively involved in the planning and implementation of counter narcotics efforts overseas for more than a decade. We have actively encouraged, indeed pushed, successive administrations to bring the expertise of all U.S. Government agencies into this effort. It was this effort to pull together the vast resources of the Federal Government that was the genesis of the Andean strategy. I point this out not to pat ourselves on the back, but to illustrate, the committee's, and indeed the Congress', longstanding support for these programs.

However, this support cannot be blind. The Andean strategy represents a calculated risk on the part of the United States involving large sums of money, and a potentially high threat to the lives of the personnel involved, not to mention reliance on partners whose priorities may differ from ours. We must therefore not accede to every program requested under the rubric of drug war rhetoric without a cautious examination of the risks and benefits involved. And that type of examination is what I believe we have accomplished with this legislation.

In closing, I would like to include in the RECORD a detailed summary of the committee's action on this legislation and an explanation of the provisions contained in the committee amendment:

COMMITTEE ACTION AND BACKGROUND

On May 22, 1990, the Director of the Office of National Drug Control Policy submitted proposed legislation to implement the National Drug Control Strategy (Executive Communication 3226) which contained requests for authorities and funding pertaining to international narcotics control activities. On June 14, Hon. Robert H. Michel introduced H.R. 5055, which contains the executive branch request for international narcotics control programs.

On September 11, the committee met in open markup session to consider draft legislation which incorporates, in whole or in part, the executive branch legislative request. The committee approved draft legislation the same day by voice vote, a quorum being present. On the same day, H.R. 5567 was introduced by Hon. Dante B. Fascell, chairman, with 20 cosponsors. Subsequently, changes to H.R. 5567 were agreed to in order to facilitate bringing the measure to the Floor as an amendment to the Comprehensive Crime Control Act of 1990. In addition to the committee markup of this legislation, the following hearings were held during 1990 which contributed to the formulation of this legislation:

February 20 and 28: Review of the Department of State Inspector General's Reports on Bureau of International Narcotics Matters Programs (Task Force on International Narcotics Control);

February 27: Review of the International Aspects of the President's 1990 Drug Control Strategy (Full Committee);

March 1: Overview of the 1990 International Narcotics Control Strategy Report and the 1990 Presidential Certifications on Narcotics Control Cooperation (Task Force on International Narcotics Control);

March 6: Review of the 1990 International Narcotics Control Strategy Report: South America (Task Force on International Narcotics Control);

March 8: Review of the 1990 International Narcotics Control Strategy Report: Central America and the Caribbean (Task Force on International Narcotics Control);

March 13: Review of the 1990 International Narcotics Control Strategy Report: Southeast Asia (Task Force on International Narcotics Control);

March 15: Review of the 1990 International Narcotics Control Strategy Report: Southwest Asia, Europe, and Africa Task Force on International Narcotics Control);

April 3: Overview of the Agency for International Development's Economic Assistance Strategy for the Andes and Other Programs (Task Force on International Narcotics Control);

May 23: Operation Snowcap: Past, Present, and Future (Task Force on International Narcotics Control); and

June 6 and 20: The Andean Initiative (Subcommittee on Western Hemisphere Affairs).

In addition to the above, the committee has conducted numerous closed briefings with members of the Administration on the implementation of the Andean Initiative, as well as informal meetings with U.S. Government officials, foreign officials, and other interested non-governmental organizations and persons on counternarcotics issues.

This measure contains three major themes. First, the legislation responds to requests from the executive branch to implement the 1990 strategy submitted by the Director of the Office of National Drug Control Policy. Second, it codifies the stated objectives of that strategy. These include the concept that counternarcotics efforts in the Andean countries are primarily the responsibility of host country law enforcement agencies, with the support of host country militaries, and that economic and military assistance provided by the United States will be conditioned on narcotics control performance criteria as well as respect for human rights concerns. Finally, the legislation contains certain provisions responding to problems identified in extensive oversight activities by the committee.

Prominent among the provisions contained in this legislation are increased economic assistance to the Andean countries, and a carefully defined role for U.S. support to host country military and law enforcement agencies. Regarding economic assistance, the committee notes that the United States has been unable to build on some initial successes during 1990 which were primarily a result of vigorous enforcement efforts against narcotics trafficking by the Government of Colombia. The courageous actions of the Colombian Government, coupled with a reinvigorated eradication progam in Bolivia, seem to be responsible for having driven the price of coca leaf below the cost of production for a sustained period of time, thus encouraging coca farmers to seek alternative forms of support. The committee predicted this development in its report on the International Narcotics Control Act of 1989; however, due to the opposition of the executive branch, no increased economic assistance was available in fiscal year 1990 to respond to this development and thus no programs were available to offer to such farmers. For fiscal year 1991, the executive branch has requested $175 million in economic assistance for Bolivia, Colombia, and Peru. The committee believes that this amount is insufficient to provide a credible incentive for governments to sustain an attack against an industry which by conservative estimates generates several billion dollars for local economies, and which employs hundreds of thousands of people. While the financial burden for supporting such programs should not fall entirely on the United States, the United States should contribute a sufficient amount to provide an adequate incentive for governments to take unpopular law enforcement steps which are necessary to curb coca production and trafficking. The committee has therefore authorized $300 million to be used for both balance-of-payments support and alternative development programs, conditioned on those governments meeting narcotics control performance targets agreed to by both parties and on respect for basic human rights. In order to better monitor this assistance, the committee has required that the Congress be notified in advance of the provision of such assistance, and that such assistance be coordinate with regular international narcotics control programs. These conditions do not apply to non-narcotics related economic assistance, estimated for fiscal year 1991 at $135 million.

Regarding support to host country armed forces and law enforcement agencies, the committee originally set a ceiling of $200 million on the total amount of such funding, of which up to $100 million would be provided to armed forces and up to $100 million would be provided to police forces. In addition, the committee provided the President with the authority to reprogram an additional 10% in funds for these two groups, and to choose under which of numerous statutory authorities assistance may be provided. However, due to the executive branch's opposition to any military assistance ceiling, the committee subsequently agreed to delete the aggregate ceiling and instead reduced the Foreign Military Financing (FMF) assistance to $67.5 million and established a ceiling of $67.5 million on assistance to the police.

The committee has taken this action for a number of reasons. First, there are currently five different authorities under which narcotics-related military assistance may be provided. Three of the five authorities were enacted at a time when no regular military assistance funding was available to the Andean countries; such regular funding has now been provided. The committee understands the special utility each of these authorities has and is therefore maintaining all of those authorities in law. However, the committee believes it is essential for purposes of planning and oversight that the combined spending permitted from these accounts not exceed reasonable levels. The reduction in the FMF authorization serves the purpose of limiting the overall availability of military assistance funds.

Second, due to a variety of delays, none of the $125 million in regular military assistance provided for fiscal year 1990 has yet been delivered. The committee therefore has no basis for judging the utility or impact of military assistance on narcotics control programs. Further, the delay in fiscal year 1990 assistance deliveries will result in two fiscal years of military aid being delivered in the space of one year. The committee does not believe that host countries can effectively absorb, nor the United States effectively manage, the $125 million for fiscal year 1990 and the potential $242 million or more requested or available for fiscal year 1991. This is of particular concern because the United States has not had sizable security assistance relationships with these countries for two decades, and appropriate personnel and management and oversight mechanisms are not yet in place. This problem was apparent during the provision of $65 million in emergency assistance to Colombia in August 1989.

Third, it is unclear at this time as to whether newly-installed Peruvian President Fujimori will accept the military assistance proposed for his country for fiscal year 1990 ($40 million), and whether the Bolivian Army will participate in narcotics control efforts ($10 million).

Finally, the committee notes that the Andean strategy is based on the premise that narcotics control efforts are primarily a law enforcement responsibility, with host country armed forces playing a supportive role. Yet current and proposed funding levels for the two groups have been in inverse proportion to this stated premise, with the armed forces receiving more than twice as much funding as law enforcement agencies. This legislation attempts to address this discrepancy by providing equivalent funding levels for both groups.

SECTION-BY-SECTION ANALYSIS

Section 2301—Short title and table of contents

Section 2301 establishes a short title of the International Narcotics Control Act of 1990 and sets forth a table of contents of this title.

Section 2302—Economic assistance for Andean countries

Section 2302 authorizes the appropriation of $300 million in addition to amounts otherwise authorized for economic support fund assistance and development assistance for the Andean countries for fiscal year 1991. Of that amount, $16 million is authorized to be appropriated in addition to amounts otherwise authorized for the administration of justice program for use in Bolivia, Peru, and Colombia. The additional authorization for the administration of justice program may be used to provide protection against narco-terrorist attack on judges or other government officials. In addition, section 2302 expresses the sense of Congress that up to $2 million of the additional funds authorized for the administration of justice program should be used to provide training and equipment to Colombia's Office of Special Investigations and the Special Prosecutor for Human Rights.

The committee intends that, to the maximum extent possible, economic assistance for Peru and Bolivia be used to provide alternative development programs that will directly benefit small farmers, micro-enterprises and others who in the absence of such assistance would most likely turn to the production of illicit narcotics. Of particular importance are programs that provide legal access to land, credit, and appropriate technology and infrastructure development, as well as programs that promote the production, processing, and marketing of alternative products. The committee notes its concern that the Agency for International Development (AID) has apparently failed thus far to adequately develop any such alternative development programs for these countries, and urges AID to expeditiously design and implement such programs if the conditions outlined in section 2304 are met. Finally, it is the committee's intention that for the purposes of this legislation the term "Andean countries" include Ecuador.

Section 2303—Military and law enforcement assistance for Andean countries

Section 2303 authorizes the appropriation of funds for military and law enforcement assistance for the Andean countries, establishes the purposes of such assistance, and places certain conditions and limitations on the uses of such assistance.

Section 2303(a) authorizes the appropriation of $67.5 million, in addition to amounts otherwise authorized for fiscal year 1991 for assistance for the Andean countries, under the Foreign Military Financing Program under section 23 of the Arms Export Control Act.

Section 2303(b) specifies that assistance provided by this section shall be designed to enhance the ability of the recipient government to control illicit narcotics production and trafficking, strengthen the bilateral ties of the United States and the recipient country, strengthen respect for internationally recognized human rights, and assist the armed forces of the Andean countries in their support roles for those countries' law enforcement agencies.

Section 2303(c) provides that assistance may be provided under this section for an Andean country only so long as the country has a democratic government and the armed forces and law enforcement agencies of that country do not engage in a consistent pattern of gross violations in internationally recognized human rights.

Section 2303(d) provides that funds made available by this section may be used notwithstanding section 660 of the Foreign Assistance Act, to provide education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts to law enforcement units specifically organized for narcotics enforcement. Section 2303(d) also provides that such funds may be used for the expenses of deploying, upon the request of the Govenments of Peru, Bolivia, or Colombia, Department of Defense mobile training teams (MTTs) to conduct training that will enhance that country's ability to conduct operations in narcotics interdiction and for the procurement of defense articles or commodities for use in narcotics control, eradication, or interdiction efforts by law enforcement agencies specifically organized for narcotics enforcement.

Section 2303(e) establishes a ceiling of $67.5 million in FMF and funds authorized under chapter 8 of part I of the Foreign Assistance Act (relating to international narcotics control assistance) on assistance that may be provided to law enforcement agencies in Peru, Bolivia, and Colombia for fiscal year 1991. Section 2303(f) establishes an aggregate ceiling of $60 million in acquisition costs for the amount of excess defense articles that may be provided for Peru, Bolivia, and Colombia for fiscal year 1991 and waives the existing ceiling contained in section 517(e) of the Foreign Assistance Act on the provision of excess defense articles to an individual country for those countries. In addition, section 2303(f) exempts excess defense articles provided to Peru, Bolivia, and Colombia from counting against the worldwide ceiling contained in section 31(d) of the Arms Export Control Act.

Section 2303(g) clarifies the authority of the Department of Defense to finance the leasing of aircraft for the purpose of satisfying the requirement of section 484 of the Foreign Assistance Act, which requires that aircraft provided to a foreign country for counternarcotics purposes be leased rather than sold (For a detailed history of this provision, see pages H2103 to H2108 of the Congressional Record of May 8, 1990).

Section 2304—General provisions relating to assistance for Andean countries

Section 2304(a) requires that before assistance is provided to Bolivia, Peru, or Colombia in fiscal year 1991 pursuant to this legislation the President make a determination that (1) that country is implementing programs to reduce the flow of cocaine to the United States in accordance with a bilateral or multilateral agreement that contains specific qualitative and quantitative performance criteria and, (2) that the armed forces and law enforcement agencies of that country are not engaged in a consistent pattern of gross violations of and has made significant progress in protecting certain internationally recognized human rights. In order to accommodate concerns of the executive branch, the committee did not statutorily require that the determination contained in this section be written. However, the committee expects that the executive branch will communicate to the Congress, in an appropriate form, the basis on which the Presidential determination established in this section was made.

Section 2304(b) provides that not less than 15 days before funds are obligated the President shall notify Congress pursuant to the reprogramming procedures applicable under section 634A of the Foreign Assistance Act. Such notification shall specify the country to which assistance is to be provided, the type and value of all assistance to be provided, in the case of assistance provided pursuant to section 2303(a) the law enforcement agencies or other units that will receive such assistance, and an explanation of how the proposed assistance will achieve the purposes specified in this legislation.

Section 2304(c) specifies that assistance provided under sections 2302(a) and 2303(a) shall be coordinated with international narcotics control assistance provided under chapter 8 of the Foreign Assistance Act.

Section 2304(d) waives the prohibitions on assistance contained in section 620(q) of the Foreign Assistance Act (relating to failure to repay on a timely basis past U.S. government loans) for fiscal year 1991, and a similar prohibition contained in the annual Foreign Operations Appropriations Act, with respect to narcotics-related assistance provided to an Andean country provided the President has made the determination contained in section 2304(a).

Section 2304(e) allows the President to waive the 50 percent withholding requirement contained in section 481(h)(1)(A) of the Foreign Assistance Act for Bolivia, Peru, and Colombia provided that the President determines that its application is contrary to the national interest, and if he notifies Congress pursuant to the reprogramming procedures applicable under section 634A of the Foreign Assistance Act.

Section 2305—Narcotics control assistance

Section 2305 authorizes to be appropriated $150 million for fiscal year 1991 for narcotics control assistance provided under chapter 8 of part I of the Foreign Assistance Act.

Section 2306—Assistance for agricultural and industrial alternatives to narcotics production

Section 2306 allows the President to provide economic support fund assistance or development assistance to promote the production, processing, or marketing of products or commodities for the purpose of reducing dependence upon the production of crops from which narcotic or pyschotropic drugs are derived, notwithstanding any other provision of law that would otherwise prohibit such assistance.

Section 2307—Exceptions to requirement that aircraft provided to foreign countries for narcotics control purposes be leased rather than sold

Section 2307 exempts seized aircraft provided by the U.S. to a foreign government and aircraft purchased by a foreign government with Export-Import Bank financing from the requirement contained in section 484 of the Foreign Assistance Act that the U.S. retain title to all antinarcotics aircraft provided to a foreign government.

Section 2308—Number of members of United States Armed Forces in Andean countries

Section 2308 requires the President to submit to Congress a monthly report on the number of U.S. military personnel assigned, detailed to, or otherwise performing functions in each Andean country during that month. Section 2308 also amends section 517(c) of the Foreign Assistance Act to establish a new ceiling of 12 on the number of U.S. military personnel who may be assigned to carry out international security assistance programs in Bolivia, Colombia, and Peru if the current statutory limit of six military personnel is waived either by the Congress or the President. The President may waive this new ceiling if he determines and reports to Congress 30 days prior to the assignment of any additional personnel that it is in the national interest of the United States to do so.

The correspondence between the committee and the executive branch on this issue follows:

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 31, 1990.

Hon. RICHARD CHENEY,
Secretary of Defense,
Washington, DC.

DEAR MR. SECRETARY: The Committee on Foreign Affairs has supported, and continues to support an appropriate role for the Department of Defense in counternarcotics efforts overseas. DOD has already made important contributions to those efforts in the Andean countries. However, to allay growing concerns about the scale of U.S. military involvement, we believe steps should be taken now to set levels of military personnel in these countries which the Congress and the American people can support over the long-term. The best way to do this is for the executive branch to voluntarily set a limit on the number of military personnel who might be deployed in the Andean countries.

If a voluntary limit on military participation in Latin America is not established, congressional and public fears of an unchecked escalation of military involvement will make it difficult to concentrate attention and reach agreement on the more important issues in the national counternarcotics effort. Ever effort must be made to ensure that overseas counternarcotics efforts will neither be perceived to be nor become dominated by the U.S. military. As we have all learned, it is vitally important that host countries realize that the success of this initiative depends on their activities, not ours. It is equally important that we continue to support their efforts with funds and material assistance.

To ensure that counternarcotics efforts be seen by all as a joint executive-legislative effort, we stand ready to work with you in a bipartisan manner to arrive at a policy that will give the executive branch the ability to accomplish our goals and objectives, while dispelling fears over excessive U.S. military involvement.

If we cannot reach some agreement on this important issue, it is very probable that the Congress will, in due time, see fit to impose such a limit on military personnel in the Andean countries. Such a divisive and unproductive debate could be avoided if you act now to establish voluntary limits.

A duplicate letter has been sent to the Secretary of State. Because the Committee anticipates Floor action on narcotics control legislation the week of September 10, 1990, we would request that a response be provided to us by September 1. Thank you for your cooperation and assistance in this matter.

With best wishes, we are

Sincerely yours,

William S. Broomfield,
Ranking Minority Member.
Dante B. Fascell,
Chairman.

U.S. Department of State,
Washington, DC, August 22, 1990.

Hon. Dante B. Fascell,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC.

Dear Mr. Chairman: Secretaries Baker and Cheney has asked us to reply on their behalf to the separate letters they received last month from you outlining your concerns over the levels of U.S. military personnel to be employed in our nation's counternarcotics efforts in the Andean region.

We with to note that the Departments of State and Defense share your desire to dispel congressional and public fears of excessive U.S. military involvement in joint counter-narcotics efforts in the Andes. We understand the sensitivities in our country as well as in the rest of the hemisphere to U.S. military involvement in Latin America. We are making every effort to minimize our military presence in the region while providing adequate support to host country-narcotics efforts. The Administration's policy continues to be that no U.S. military personnel will enter any of the Andean countries to work in the counter-narcotics field without the express authorization of the U.S. Ambassador accredited to that country. The Administration has been opposed heretofore to artificially-imposed ceilings on U.S. military participation in Andean counter-narcotics activities, considering them to be a hindrance to the achievement of our nation's goal in this area.

Presently, we have monitoring mechanisms in place to assure that our counternarcotics efforts represent a balanced program. The Andean Initiative is a comprehensive plan to achieve that balance. Your letter, however, has prompted us to re-examine our personnel situation and we will share our findings with you as soon as they become available.

Let me assure you that the Administration shares your interest in avoiding lengthy and counterproductive debate on the implementation of the President's National Drug Control Strategy. Any delay in implementing this much needed legislation could lead our allies in the struggle against illicit narcotics to question our nation's sincerity and resolve in doing its part to carry out this vitally important joint endeavor.

Sincerely,

David J. Gribbin III,
Assistant Secretary, Legislative Affairs, Department of Defense.
Janet G. Mullins,
Assistant Secretary, Legislative Affairs, Department of State.

Section 2309—Nonapplicability of certification procedures to certain major drug-transit countries

Section 2309 extends the provisions of section 8 of the International Narcotics Control Act of 1989 to fiscal year 1991.

Section 2310—Authority to transfer military assistance funds to economic programs

Section 2310 allows the President to transfer funds authorized for military assistance programs under section 23 of the Arms Export Control Act to economic programs. This provision is designed to correct an inadvertent elimination of this authority which occurred when the grant military assistance programs authorized under the Foreign Assistance Act were consolidated with the credit military assistance programs authorized under the Arms Export Control Act.

Section 2311—Extradition of United States citizens

Section 2311 expressly permits the surrender of U.S. nationals notwithstanding the language of limitation in antiquated treaties. This section addresses a problem that arises under some very old U.S. extradition treaties that fail to include specific authority to extradite U.S. nationals who are charged with crimes in the country seeking extradition. Under prevailing case law, the United States may extradite its nationals in the absence of any limiting language in a bilateral treaty (*Charlton v. Kelly*, 229 U.S. 447, 1913). However, if an extradition treaty contains language which limits that authority, e.g., "neither party shall be bound to deliver up its own citizens", the Supreme Court has held that U.S. nationals may not be extradited unless the treaty also contains a positive grant of authority to surrender U.S. citizens. (*Valentine v. United States ex rel. Neidecker*, 229 U.S. 5, 7-12 1936). Post-Valentine extradition treaties of the United States uniformly contain language such as "Neither of the contracting Parties shall be bound to deliver up its own citizen under the stipulations of this convention, but the executive authority of each shall have the power to deliver them up, if, in its discretion, it is deemed proper to do so." Such a clause contains the necessary positive grant of authority to the executive branch to extradite U.S. citizens.

However, the United States still has several pre-*Valentine* treaties in force that contain the limitation but lack a requisite grant of authority. In those instances, the United States must refuse to extradite based on the nationality of the offender. Moreover, the limitation on extradition of nationals posed by these pre-*Valentine* treaties must be remedied in light of the extradition provisions of the new United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988), Article 4 Paragraph 2. Under these provisions, the United States must either assure that nationality is not a bar to extradition of its citizens or establish its jurisdiction to prosecute those citizens for the drug offenses they have committed abroad. The alternative of prosecution is not feasible as a pracitical matter. Moreover, it would be inconsistent with the U.S. general policy against creating "universal" jurisdiction over extraterritorial crimes.

This section is also consistent with the general policy of the United States favoring extradition of nationals to the country where the greatest harm has been suffered because of the commission of criminal acts. The committee recognizes that it is not feasible to address this situation on a piecemeal basis by renegotiating all the pre-*Valentine* treaties that contain this flaw. Moreover, it would permit the United States to fully meet the important objectives of the new U.N. Convention.

Section 2312—Congressional review of narcotics-related assistance for Afghanistan

Section 2312 provides that not less than 15 days before funds are obligated for narcotics-related assistance programs in Afghanistan for any fiscal year the President shall notify Congress pursuant to the reprogramming procedures applicable under section 634A of the Foreign Assistance Act.

The committee has included this provision due to the unusual nature of previous funding for the Afghan Resistance. Assistance to the Afghan Resistance has been provided "notwithstanding any other provision of law," which has exempted the program from the requirement for prior notification to Congress applicable under section 634A of the Foreign Assistance Act. This authority has been used by AID to begin a $12.5 million narcotics control program in Afghanistan, which would constitute the third largest AID narcotics control program in the world, in a country in which the United States has no capability to monitor or control the use of funds and in which the assistance recipients are historically involved in opium production and trafficking. Given the high risks associated with this project, it is reasonable to require prior congressional notification for further project funding.

Section 2313—Training of host country pilots

Section 2313 requires the President to implement a detailed program of instruction for host country pilots and other flight crew members to fly aircraft involved in counternarcotics activities in the Andean countries that have been made available by the U.S. Government. Such program shall be implemented not less than 90 days after enactment of this act. In addition, section 2313 requires the President to ensure that host country pilots and flight crew members re-

place all U.S. Government pilots and flight crew members, including direct hire and contract personnel, within 18 months of the date of enactment of this act.

This provision stems from the committee's concern that despite a long-standing U.S.-sponsored aircraft program in Peru, there are insufficient numbers of Peruvian pilots to fly anti-narcotics aircraft. As a result, U.S. contract pilots are performing these duties. The committee notes that Peru is the only country in which U.S. Pilots are required to fly routine interdiction and transport missions (as opposed to Turbothrush aerial eradication missions, which require specialized personnel). Despite several years of congressional concern on this issue, the situation has still not been remedied.

While the committee understands that the executive branch shares the goal of having host country personnel perform aerial support functions, and has been in the process of preparing a plan to achieve this goal by a date certain, subject to safety concerns and unanticipated obstacles, the committee believes that at the present time, efforts on the part of the executive branch to achieve this goal have not lived up to its stated commitments. When the executive branch develops a plan in accordance with its stated priority on this issue, the committee is prepared to modify the current language of this section.

The committee also notes that the Drug Enforcement Administration (DEA) operates some aircraft in South America. Because these aircraft are operated primarily in support of DEA operations and are not made available on a sale, lease, or loan basis to foreign governments, it should not be construed, nor is it the committee's intention, that those aircraft or the DEA pilots operating them be affected by this provision.

The correspondence between the committee and the executive branch on this issue follows:

Committee on Foreign Affairs,
House of Representatives,
Washington, DC, August 8, 1990.

Hon. Melvyn Levitsky,
Assistant Secretary for International Narcotics Matters, Department of State, Washington, DC.

Dear Mr. Secretary: I am writing about a matter which has concerned me for some time: the need to train host country pilots for INM's air wing in Peru.

Our mutual goal, as I understand it, has always been to have host country pilots eventually assume full responsibility for the operation of these aircraft. I understand the difficulties involved in achieving this goal, but feel that we need to make every effort to ensure that these pilots are trained as soon as possible. The continued extensive use of U.S. contract pilots, particularly in the highly volatile environment in Peru, may undermine public and congressional support for this program.

The Committee would prefer not to address this issue legislatively. In this regard, I would hope that the executive branch could expeditiously agree on a reasonable plan for the training of host country pilots, including a date by which we hope that these pilots will be fully qualified. As you know, the Committee expects to mark up draft narcotics control legislation during the week of September 3. It would therefore be helpful if you could ensure a response before that time.

I cannot overemphasize my personal interest in and concern over this matter. I therefore look forward to working with you to find a solution to this problem.

With best wishes, I am

Sincerely yours,

Dante B. Fascell,
Chairman.

Section 2314—Review of riverine program

Section 2314 prohibits the use of funds for the procurement of new riverine craft for counternarcotics programs in the Andean countries until the Secretary of State and the Secretary of Defense have jointly assessed and audited, and submitted to Congress a report to Congress on the specific goals and objectives of such programs, how the acquisition of such craft will further the attainment of such goals and objectives, the cost and utility of the craft to be provided, and how such craft will be sustained.

This provision results from long-standing congressional concern, validated by numerous reports from independent observers, that the current riverine programs contemplated for the Andean countries have not been the subject of adequate planning and preparation on even a most basic level. While the committee understands the need for riverine programs and supports such programs, it believes that before further resources, estimated at more than $20 million in fiscal year 1991, are devoted to these programs a thorough review should be undertaken of the programs' goals and objectives and the appropriate equipment to achieve those goals. The committee understands that the executive branch agrees with the need for a thorough review of these programs, and has initiated action to begin such a review. When the committee receives documentation of this review it will be prepared to modify the current language of this section.

Section 2315—Uses of excess defense articles transferred certain major illicit drug producing countries

Section 2315 amends section 517(c) of the Foreign Assistance Act to clarify that excess defense articles provided to major illicit coca producing countries may be provided primarily for antinarcotics purposes.

Section 2316—Export-Import Bank financing for sales of defense articles and services

Section 2316 amends the Export-Import Bank Act to extend the authority to finance sales of defense articles and services for counternarcotics purposes to September 30, 1992.

U.S. Department of State,
Washington, DC.

Hon. Dante B. Fascell,
Chairman, Committee on Foreign Affairs, House of Representatives.

Dear Mr. Chairman: Thank you for your letter of August 8 to Assistant Secretary Levitsky concerning the need to train host country pilots for International Narcotics Matters' (INM) air wing in Peru. As you know, USG contractor pilots have been successfully flying interdiction and resupply missions between Lima and the Upper Huallaga Valley (UHV) for over two years. The Department shares your goal of turning over such operations to host country pilots as soon as they are qualified. We would like to describe our plan for achieving this goal.

The American Embassy in Lima and INM have been working together to develop a plan to train Peruvian pilots and maintenance personnel. Currently, the Department is seeking support from DoD in identifying a U.S. Army Spanish-speaking instructor pilot for assignment to Peru at the Santa Lucia forward operations base where our helicopters are deployed, in order to give a boost to the program. We intend to identify and deploy such an individual no later than September. Further, we are directing the incumbent contractor to increase its efforts in the training program. We are also drafting an air crew training program to ensure flight standardization and flight safety.

Training highly competent helicopter pilots is not an easy matter. It requires considerable time and effort even assuming the trainees have a high aptitude for flying. The majority of the copilots now flying entered the program with little or no experience. They have been trained to their present level of expertise through our efforts.

Peruvianization has been further complicated because the Peruvian National Police (PNP) have not made firm commitments of flying personnel. We have already sent 17 Peruvian pilots to the U.S. Army helicopter training center at Ft. Rucker, Alabama. About half of these individuals are now flying as copilots in air wing aircraft and the others are flying PNP aircraft conducting other missions. Our goal is to enroll all the PNP-dedicated copilots in our air crew training program and advance them to pilot-in-command (PIC) status as they become qualified. We seek not only Peruvianization but the safe and purposeful use of U.S.-supplied equipment. We believe that roughly half, i.e., four, of the current copilots could reach PIC status by spring 1991. Also, we plan to provide basic pilot training to an additional ten PNP pilots at Ft. Rucker in the coming months.

We do not believe that legislation will address the variables of operating in an uncertain environment, and we hope you agree that the plan outlined above is not only appropriate but will result in the Peruvianization of the aviation program in the shortest time possible consistent with aviation safety Perhaps the principal constraint on such a program is the inability, thus far, of the PNP to provide appropriate personnel for training and for retention in the program. We intend to encourage senior GOP officials to make such a commitment. Our Peruvianization plan would be facilitated if Peruvian Air Force pilots were made available to the program. We intend to raise this question with senior GOP officials.

Sincerely,

Janet G. Mullins,
Assistant Secretary, Legislative Affairs.

Mr. BROOMFIELD. Mr. Chairman, I support the Fascell amendment to the Comprehensive Crime Control Act of 1990. I want to take this opportunity to commend Chairman Fascell for his energetic efforts in making this compromise amendment concerning international narcotics possible.

Special recognition must also go to Larry Smith and Ben Gilman of the Task Force on International Narcotics Control. All of us on the minority side salute Ben for his extensive knowledge and strong leadership on international narcotics issues.

Last year, the President crafted a strategy for dealing with the drug-producing nations in the Andes. The plan's objective include increasing military and law enforcement effectiveness and inflicting significant damage on trafficking organizations.

Recently, the Foreign Affairs Committee passed H.R. 5567, the International Narcotics Control Act of 1990, after defeating the Gilman substitute. After committee consideration, the majority and minority staffs incorporated modifications addressing our concerns into the bill. This compromise legislation is the product of many hours of discussions, and is now being offered as the Fascell amendment.

In particular, we worked closely together to resolve disagreements over the human rights language in an earlier draft. In my opinion, the current language is greatly improved in that it restates existing language from human rights legislation, with some modifications.

After we reached our compromise, I received a letter from William J. Bennett, the Director of the Office of National Drug Control Policy, in which he commends our efforts to improve the human rights language in the bill. He notes, however, that he is "still deeply troubled by the committee's decision to lower the authorization level for the FMF account."

Although the levels of foreign military funding requested by the administration are not fully met, this amendment provides $67.5 million in FMF for the important military component of the Andean strategy.

This amendment gives the administration many of the additional tools it needs to carry on the vital struggle against the Andean drug lords. It provides assistance to military and police units involved in counternarcotics activities in the regions that grow and produce cocaine.

The amendment provides economic and development assistance for the Andean countries, conditioned on counternarcotics and human rights performance. The amendment also authorizes the requested level of $150 million for the Department of States' Bureau of International Narcotics Matters.

Although this amendment does not give the administration everything it requested—particularly in the level of foreign military financing authorized—I believe it is a workable compromise that reflects the committee's bipartisan approach to the drug issue.

I encourage my colleagues to support the Fascell amendment.

Mr. GILMAN. Mr. Chairman, I am pleased to rise in support of this amendment to the Crime Control Act of 1990, H.R. 5269, which represents a compromise between the two sides of the aisle on the Foreign Affairs Committee. I would like to commend the distinguished chairman of the Foreign Affairs Committee, the gentleman from Florida [Mr. FASCELL], the ranking minority member, the gentleman from Michigan [Mr. BROOMFIELD], and the distinguished chairman of our international task force on narcotics, the gentleman from Florida [Mr. SMITH], for their talents in compromising and conciliation.

Mr. Chairman, this amendment authorizes funding for a comprehensive and coordinated U.S. effort to aid the war against drugs at its source: The Andean drug producing nations. Our assistance is desperately needed in those Andean countries, such as Colombia, whose governments have pledged to fight against the powerful drug cartels, native to their countries. Our own Drug Enforcement Administration has recognized the advances the Colombians have made since they pledged to fight drug traffickers a little more than 2 years ago. Since that time, some of the most notorious drug lords have been captured or killed, and the price of cocaine has soared on U.S. streets, while the price paid for coca leaf has dropped dramatically.

Mr. Chairman, obviously, progress has been made, but the war has not been won. Recent intelligence reports now reveal a union forged between the Italian mafia and the Colombian drug kingpins. This union has the potential to be the most powerful drug trafficking and distribution network ever. Clearly, the struggle of our Andean neighbors must be reinforced by the United States.

While I cannot emphasize enough the need for treatment, rehabilitation, and education to stem the tide of demand in the United States, similarly, I cannot emphasize enough the need to continue to pressure the drug cartels of South America.

This amendment would authorize $67.5 million in foreign military financing for Andean military and law enforcement agencies, and authorizes $300 million in economic assistance, economic support fund and development assistance, for the Andean countries.

Accordingly, I urge my colleagues to vote in favor of this measure so that we may continue to support our southern neighbors at this very critical point in their struggle.

Mr. DINGELL. Mr. Chairman, the Energy and Commerce Committee's Subcommittee on Oversight and Investigations which I chair has held more than 25 hearings on accounting and financial reporting over the past 5 years. Based on those hearings, Representative WYDEN introduced in the 99th Congress two versions of legislation, H.R. 4886 and H.R. 5439, which have been modified into the current amendment in response to comments of various interested parties. The Subcommittee on Telecommunications and Finance held hearings on the proposed amendment on August 2, 1990. The amendment is supported by the American Institute of Certified Public Accountants and the Big 6 accounting firms who collectively audit 98 percent of the assets subject to audit.

The $500 billion savings and loan debacle has focused attention on the regulatory gaps that exist in the prevention of fraudulent practices by banks, thrifts, and other financial institutions, and, in that context, the role of accountants and auditors. In a word, the financial statement watchdogs fell asleep on the job, their Kennel Rations drugged with regulatory accounting standards whose purpose and effect was to hide the true condition of the S&L's. Our amendment issues a wakeup call to management and to the accountants. Our amendment would require management reports on internal control structure and auditor reporting thereon to assure the integrity and reliability of the financial reporting process. Our amendment would establish standards for audit design to include procedures to identify material related party transactions and detect illegal acts, and to evaluate and report when substantial doubt exists about an entity's ability to continue as a going concern. It would also provide for direct reporting of illegal acts first to management, and, if the illegality is not properly addressed, then directly to the SEC. This fraud reporting is vital.

In August, U.S. District Court Judge Stanley Sporkin, in his memorandum opinion in the Lincoln Savings and Loan and American Continental Corporation case, stated:

> Keating testified that he was so bent on doing the right thing that he surrounded himself with literally scores of accountants and lawyers to make sure all the transactions were legal. The questions that must be asked are:
>
> Where were these professionals, a number of whom are now asserting their rights under the Fifth Amendment, when these clearly improper transactions were being consummated?
>
> Why didn't any of them speak up or disassociate themselves from the transactions?
>
> Where also were the outside accountants and attorneys when these transactions were effectuated?
>
> What is difficult to understand is that with all the professional talent involved (both accounting and legal), why at least one professional would not have blown the whistle to stop the overreaching that took place in this case.
>
> While we in this nation have been trying to place blame for the savings and loan crisis on the various governmental participants in the crisis and on the government's fostering of deregulation within the thrift industry, this Court believes far too little scrutiny has been focused on the private sector. We are the world's greatest example of the success of the private enterprise system. It would thus seem that the private sector ought to be able to put in place a system that would prevent the kinds of excesses that took place in Lincoln from recurring.

Our amendment is a strong and positive step in addressing this problem. More remains to be done and the Committee on Energy and Commerce will continue its oversight and legislative work in this area. For now, I urge the House's adoption of these provisions to strengthen the early warning system against financial fraud.

Mr. GINGRICH. Mr. Chairman, I rise today to offer an amendment to require mandatory functional literacy programs in Federal prisons, and to urge my colleagues to support this important amendment. The amendment that is being considered today is similar to my amendment affecting state prisons which was included in the House-passed Education in Excellence Act and tentatively agreed to by the conference committee.

Let me take a few minutes to explain how this idea was brought to my attention. On May 2, John Chancellor delivered a commentary on the "NBC Nightly News" aimed at shedding light on one of our society's major shortfalls. The commentary was aptly titled "Read-ing', Writin' & Pris'n."

Chancellor's main thrust was that "in the American penal system, too many people go to prison, get out, commit another crime and go back in again." In Japan, the rate of rescidivism is much lower.

One reason suggested by Chancellor for the disparity is that "* * * in Japan, if your prison sentence is longer than one year, they won't let you out if you can't read and write." To illustrate the problem just consider that in the United States 62 percent of all released prisoners who are rearrested have an education of eighth grade or less.

Given the constitutional concerns of due process, the eighth amendment (cruel and unusual punishment), and equal protection, we certainly can't go as far as the Japanese. However, we can and should make significant strides in prisoner education.

This amendment can be summarized as follows:

Attorney General will direct the Bureau of Prisons to have in effect a mandatory functional literacy program in each Federal correctional facility before the end of the 2-year period beginning on the date of enactment of the Comprehensive Crime Control Act of 1990. Prisoners convicted of a felony, incarcerated in the Federal prison system and who are not functionally literate must participate in the literacy program.

Functional literacy is defined as the ability to demonstrate, in English, at not less than the eighth grade level, educational skills necessary to function independently in society, including reading, writing, comprehension and arithmetic computation. Persons must participate in a mandatory literacy program until they: Achieve functional literacy; complete his or her prison sentence; or are released.

Exempts persons who test at or above the eighth grade level and those persons serving life sentences, sentenced to the death penalty or mentally impaired.

The Federal prison system already has in place a 90-day mandatory literacy enrollment requirement for all Federal prisoners. My colleagues should understand that the U.S. Bureau of Prisons has been a world leader in the area of prisoner education. They view it as an essential prison program.

While the Bureau has some legitimate concerns with my amendment, they do not oppose its passage today, as I have agreed to work closely with them and my colleagues on the conference committee to seek needed modifications in the legislation.

Mr. Chairman, enactment of this amendment will be a critical and important step in our nation's fight to combat illiteracy among our prison population. I urge its adoption.

Mr. LEVINE of California. Mr. Chairman, I rise in full support of these amendments. Specifically, I would like to express my strong support for the language on poppers and steroids, two very dangerous drugs which are being abused by our children.

Alkyl nitrites were restricted under the 1988 Omnibus Act, but popper manufacturers switched to using other forms of nitrites that had the same effect, thus effectively circumventing the intent of the legislation. The time has come to close the loophole—to let manufacturers and marketers know that we will no longer tolerate the sale of these harmful drugs, marketing of which has historically been aimed at our children.

For years, poppers have been used as a gateway drug. They are seen by many young people as a harmless way to experiment with drugs. Their easy availability and legal sale makes them safe in the eyes of many unknowing young people. Unfortunately, there is no such thing as a safe harmless drug. Once the trap is set, pushers get these kids into harder drugs: Crack, heroin, ice.

Research tells us that poppers are far from harmless. Among their damaging side effects are delirium, severe headache, profound hypotension, dermatitis, and methemoglobinemia, the impairment of the ability of blood cells to carry oxygen to the brain. A number of deaths have resulted from users ingesting these drugs. Use of nitrites has also been linked to the development of Kaposi's sarcoma, a rare cancer frequently occurring in AIDS victims. Of further concern in the AIDS high-risk groups is the linkage of popper use to the inability to fight off infectious diseases such as tuberculosis, among the leading killers of AIDS victims.

As a nation we have already taken the lead to restrict the use of similar nitrites, such as amyl and alkyl nitrites. Congress must now again take the lead to restrict all volatile alkyl nitrites and rid our Nation of the grave threat to health they pose.

The amendment on anabolic steroids is identical to language in a bill which Mr. WAXMAN, Mr. GILMAN, and I introduced last year. It is very straightforward: it authorizes demonstration programs to identify and deter the abuse of anabolic steroids by students—high school students in particular.

I'm sure that when many of my colleagues think of steroid users, they think of elite athletes, but steroid abuse has reached alarming levels among high school, and even junior high school students. Studies have shown that 5 to 7 percent of high school boys have used steroids. The National Institute of Drug Abuse reports that about 10 percent have tried cocaine. We have clearly not done an adequate job of explaining the dangers of steroid abuse to our young people.

Recent reports indicate that many nonathletes are using steroids to enhance their appearance. In their attempt to improve their appearance they may be sowing the seeds for years of suffering in later life. We must do a better job of explaining to these young people that they are making a deal with the devil.

As many as half a million high school boys may be using these dangerous drugs that can cause liver and kidney damage, cardiovascular disease, and sterility. And according to an HHS report release earlier this month, the numbers are growing. This abuse of steroids must stop. We need to promote innovative steroid education programs in our schools.

Steroid users are generally not the same kids who use other drugs. They are very goal-oriented, they do not take steroids to get high, or to escape from reality. Because the motives behind steroid abuse are markedly different from the motives behind the use of other drugs, we need to approach the problem differently.

Supporting demonstration programs geared toward combating steroid use is a simple, efficient means of targeting potential users and educating them about the risks associated with prolonged steroid use.

I urge my colleagues to join with me in supporting these important amendments.

Mr. MANTON. Mr. Chairman, I rise in support of H.R. 5269, the Comprehensive Crime Control Act. I commend my good friend and colleague from New York, Mr. SCHUMER, the chairman of the Subcommittee on Criminal Justice, the gentleman from New Jersey [Mr. HUGHES], the chairman of the Crime Subcommittee, and the gentleman from Texas [Mr. BROOKS], the chairman of the full Judiciary Committee, for their diligence and hard work in bringing forth this comprehensive package to fight crime and drugs. I believe this measure will provide our law enforcement personnel with the assistance they need and will go a long way toward assuring that hardened criminals are caught and receive the most severe punishment.

I am particularly grateful to my colleagues for incorporating in the bill the provisions of H.R. 2870, the Steven McDonald Public Safety Officers' Compensation Act, which I sponsored. Title XVII will provide much-needed and long-overdue recognition and assistance to this Nation's public safety officers who are permanently and catastrophically injured in the line of duty. I believe this modest expansion of the current Federal death benefit for police officers, firemen, paramedics, and other public safety officers is the least we can do in Congress on behalf of their valiant and dedicated service to the public.

Mr. Chairman, Steven McDonald is a brave young man. While serving as a New York City police officer he was gunned down by a suspect and paralyzed from the neck down. Steven has demonstrated an inner strength and unfailing faith which should be a model for all of us. It is in Steven's honor that I offered H.R. 2870. The untiring dedication and sacrifice of individuals, such as Steven, is the reason that our communities remain safe. The least we can do in response to this unselfish service is to provide for public safety officers and their families in their times of need. Again, I congratulate and thank my colleagues on the Judiciary Committee for including title XVII in the crime bill.

Mr. McCOLLUM. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Texas [Mr. BROOKS].

The amendments en bloc were agreed to.

The CHAIRMAN. It is now in order to consider amendment number 17 printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. MCCOLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. McCOLLUM:

Page 108, beginning in line 3, strike "by striking" and all that follows through the end of line 4 and insert "by inserting after the first sentence the following: "The authority provided by this subsection may be used to place a prisoner in home confinement, with or without monitoring by telephonic or electronic signaling devices.

Page 108, beginning in line 5, strike "The amendment" and all that follows through line 8 and insert "Section 3624(c) of title 18, United States Code, as amended by this section, shall apply with respect to all inmates, regardless of the date of their offense.".

Page 108, strike line 9 and all that follows through line 19 (section 1404).

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. McCollum] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. McCollum].

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, under the presently existing law, if the Bureau of Prisons releases someone early in some way under the law, they have some problems because of the fact that they do not have the language in the law that says that the incarceration at the end of the term can be in a facility other than a Federal prison or correctional facility.

My amendment would give them that opportunity to allow some home confinement with or without monitoring by telephonic or electronic signaling devices. The reason I am offering this amendment is because in the language of the bill as it is now out here before us, there has been a concern I have had for some time that we were giving a whole lot more authority to the Bureau of Prisons than we really ought to. I do not think that was anyone's intent. The language in the bill, without being amended, would have effectively allowed the Director and the Bureau of Prisons to release any prisoner for any length of time under the home custody or whatever, so they would not have had to have served a day in prison.

Mr. Chairman, I have worked with the gentleman from Wisconsin [Mr. Kastenmeier] on this matter. I prepared this amendment, which is very simple. It strikes two provisions in the bill that now I think would do damage to the law as it is and would be too lenient, and simply provides that the Director of the Bureau of Prisons will have the authority to provide a place for a prisoner in home confinement, with or without monitoring by these devices. That is really all it does. So if there are 6 months left on the person's sentence, or the final 10 percent of his sentence, that much of the time this device may be used.

Mr. Chairman, this is in conformity with current law. It simply allows the home-placed confinement with this monitoring device, without having to use a correctional facility.

Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. Kastenmeier], who I believe concurs in this amendment as it is now written and changes his work product.

Mr. KASTENMEIER. Mr. Chairman, I rise in agreement with the substitute amendment to title XIV offered by the gentleman from Florida [Mr. McCollum]. Our Federal prisons are extremely overcrowded. Today's Federal prison population is close to 60,000. It was 23,000 in 1980 and it will grow to over 100,000 by the year 1995. Prison overcrowding is an intractable problem that requires bipartisan efforts to redress.

Title XIV contains two provisions relating to the Federal Bureau of Prisons' authority to place nonviolent inmates in prerelease and home confinement programs. These provisions are intended to provide the Department of Justice with the tools that it needs to manage the overcrowded Federal prison system.

Our Republican colleagues did not support these provisions as drafted. Because I firmly believe that we must collaborate in our efforts to control our growing national prison emergency, I worked with Mr. McCollum to develop a substitute amendment that we can all approve. The amendment that Mr. McCollum offers today will assist the Department of Justice in its inordinately difficult task of enforcing our criminal laws and operating our Federal prisons.

It is my hope that we can continue to work in a bipartisan venture to assure that our streets are safe and that our prisons are secure, efficient, and humane. I look forward to the active participation by the Department of Justice in this endeavor. I fear that there will be dire consequences if we do not make substantial progress in the coming years.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would say that it has been a pleasure to work with the gentleman from Wisconsin [Mr. Kastenmeier], particularly on prison-related matters over the last few years, and on this one. I thank the gentleman for his courtesy. I think this is a good amendment that strengthens the system and does not go as far as the bill had gone, which I think was a little excessive.

Mr. Chairman, I urge a yes vote on the McCollum amendment.

Mr. Chairman, I have no further requests for time, and yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. McCollum].

The amendment was agreed to.

Mr. KYL. Mr. Chairman, while I support many of the amendments that were offered to H.R. 5269, the Comprehensive Crime Control Act, I rise specifically to support two amendments, Mr. Hyde's amendment on habeas corpus reform and Mr. Wylie's amendment to prevent the S&L crooks from sheltering their illegally gained assets.

The former will implement the Powell Committee's recommendation for long-needed habeas corpus reform. Despite what critics proclaim, this amendment will not forgo the rights of any American. To the contrary, the amendment requires States to provide competent counsel to all indigent defendants to assure that the accused receives adequate counsel from the very beginning of the criminal justice process.

In the event that a defendant is found guilty by a jury of his peers, however, the amendment will prevent the seemingly endless procedural delays that have served as an unjustified shield to the most heinous criminals in our society. Removing this shield by creating a more just and streamlined appeals process will serve two purposes: First, it assures that criminals are punished appropriately for their crimes; second, it enhance the deterrent value of our criminal justice system, which has been eroded over the past few decades.

The latter amendment will increase the Federal Government's power to attack the ill-gotten gains of the S&L crooks who have stolen billions of dollars from the American taxpayer. My constituents, as well as those of many of my colleagues, have long insisted that Congress get tough on these crooks. Adoption of this amendment will be a positive step in that direction.

It amazes me, however, that if it were not for the bipartisan support of this body, the liberal Democratic leadership would have prevented both these valuable amendments from being debated here. While I am pleased that this same House leadership finally conceded to the will of the majority, I would have hoped that they could have also incorporated many other valuable amendments denied under the original rule.

I offered one such amendment to the Rules Committee. My amendment would have required individuals denied Federal benefits under the Anti-Drug Abuse Act of 1988 to submit to drug testing in order to verify that they have become drug free. Without such testing requirements, the courts and drug treatment facilities have no adequate means of determining whether an individual has been successfully treated. This concept has the support of the administration, which considers drug testing of criminals an integral part of the user-accountability element of the national drug control strategy.

Mr. CROCKETT. Mr. Chairman, I rise in strong support of title XVIII of the Comprehensive Crime Control Act, known as the Racial Justice Act, and in opposition to the Sensenbrenner amendment, which would strip those provisions from the bill.

Simply put, the Racial Justice Act would make it unlawful to carry out a death sentence imposed on the basis of the race of the defendant or race of the victim. It would set a Federal standard of nondiscrimination in capital cases and would permit individuals who believe that they are the victims of racial discrimination in death sentencing to prove it by using valid statistics to establish an inference of such discrimination.

Some have argued that this title of the crime bill is unnecessary. But study after study has found a clear cut and persistent pattern of racial and color discrimination in the handing down of the death penalty in our courts.

The fact is that if the victim is white, the defendant is far more likely to receive the death sentence than would be the case if the victim had been black. If the defendant is black, he is more likely to be sentenced to death than if he were white. Let me cite a few shocking examples.

Verified and valid statistics show that:

In Georgia, a person convicted of murdering a white person is 4.3 times more likely to be sentenced to death than a person convicted of murdering a black person.

In Florida, defendants convicted of killing white people are 8 times more likely to receive the death sentence than those convicted of murdering black people.

A black person in Florida convicted of killing a white person is 40 times more likely to receive the death penalty than someone either white or black who killed a black person.

In Alabama, since the resumption of executions in the early 1980's 71 percent of the people executed have been black.

Watt Espy, America's foremost death penalty historian, in a study published in 1980, documented over 12,000 legal executions in the United States since 1622. Of the thousands of cases in his files, Espy found only two in which a white was executed for killing a black, both in the late 1800's. And while he found more than 450 executions for rape, in not one case was a white man executed for raping a black woman.

And the American Civil Liberties Union has reported that from 1976 to 1989, not one white defendant who committed a crime against a minority victim was executed.

Mr. Chairman, every American should be deeply offended that this undeniable racial bias in death sentencing exists; and every Member of Congress should be committed to eliminating the influence of race in capital sentencing. The only question before us ought to be how best to prove whether race is influencing death sentences.

In other areas of the law, including criminal law, the courts have allowed the use of statistics to raise an inference of race discrimination. The Supreme Court, for example, has accepted statistical evidence in jury selection cases and employment discrimination cases.

The Racial Justice Act language in the crime bill does not create a presumption of racial bias; it merely says that a defendant facing the death penalty should have an opportunity to use statistics, along with other evidence, to prove that his sentence was based on race. The government, in turn, will have full opportunity to dispute that evidence and to show that there was no racial bias.

And so, I urge my colleagues today to defeat the Sensenbrenner amendment and to retain the Racial Justice Act provisions of the crime bill.

Mr. VENTO. Mr. Chairman, I want to commend the distinguished chairman of the Judiciary Committee, Mr. Brooks, and the members of the Judiciary Committee for the efforts which they have made to bring this bill to the floor of the House today. I realize that considerable time and effort have gone into the process of fashioning a bill which would enjoy broad congressional support.

While there are clearly some provisions in the bill which are favorable, such as the establishment of a single set of procedures for imposing the Federal death penalty, and the prohibition of executions where the sentence was imposed because of racial discrimination, nevertheless, I have serious concerns regarding numerous provisions of this legislation.

Although the bill before us today contains useful provisions to close existing loopholes in the President's ban on the importation of foreign semiautomatic weapons, the bill does not include the so-called Brady bill provision which would have mandated a 7-day waiting period for any person seeking to purchase a handgun despite the fact that this proposal enjoys very broad public support.

I am concerned by the provisions in this legislation which expand the existing scope of the Federal death penalty by adding additional offenses for which the death penalty can be applied. While no one would reasonably argue that these 10 new offenses are offenses not heinous crimes, this provision seems to hold the death penalty out as a deterrent when in fact the deterrence value of the death penalty is highly questionable. Many States, such as my home State of Minnesota, which does not have capital punishment, have a markedly lower rate of homicides and other serious crimes compared to other States which do have the death penalty available, such as Florida, Texas, and California.

I am pleased that the Judiciary Committee has crafted a bill which prohibits the imposition of the death penalty in any Federal or State case where a capital sentence is based upon racial discrimination. Race should play absolutely no part in evaluating whether a capital sentence or any other sentence should be imposed by our courts. To argue otherwise or to ignore evidence of racial discrimination in sentencing is to deny the constitutional guarantee of equal protection of the law. I hope that my colleagues will vote against the Sensenbrenner amendment which would strike this important provision from the bill.

The thrust of the habeas corpus reforms contained in this legislation is to put an end to frivolous appeals in capital cases. Undoubtedly, there are examples where criminal defendants in capital cases take advantage of the appeals process in the extreme. But considering that the sentence involved is death, is absolutely essential to ensure that every constitutional and procedural safeguard has been observed throughout a capital case. While some Members may choose to ignore this value. The fact is that there are occasionally cases where a defendant is not represented by competent counsel in a capital case. This legisation takes important steps at the beginning of a capital prosecuton rather than at its conclusion to ensure that adequate counsel is available.

Despite numerous concerns which I have mentioned, I will support the bill and the work of the Judiciary Committee today because I believe that it represents a reasonable effort to balance competing and conflicting values of ensuring fair and swift justice and of protecting important constitutional values.

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

□ 1857

Accordingly the Committee rose; and the Speaker pro tempore [Mr. AuCoin] having assumed the chair, Mr. Bosco, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5269) to control crime, had come to no resolution thereon.

□ 1900

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4825, ARTS, HUMANITIES, AND MUSEUM AMENDMENTS OF 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-801) on the resolution (H. Res. 494) providing for the consideration of the bill (H.R. 4825) to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION TO RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the House be permitted to recess subject to the call of the Chair.

The SPEAKER pro tempore (Mr. AuCoin). Is there objection to the request of the gentleman from Texas?

Mr. WALKER. Mr. Speaker, reserving the right to object, and I shall not object, I do so to ask the gentleman from Texas whether or not he has information to give to the House as to the reason for the recess authority and whether or not this relates to the program for the rest of the evening?

Mr. BROOKS. If the gentleman will yield, it does relate directly to the program for the rest of the evening in that the leadership of the House, both Republicans and Democrats, are now in deep conversation with the administration about coming right back very shortly with a budget resolution.

Mr. WALKER. Further reserving the right to object, so it is the gentleman's understanding we will probably be taking up the budget resolution later on this evening? Is that the gentleman's understanding?

Mr. BROOKS. That is my understanding, but it is still in discussion. They have not given us a final answer on it.

Mr. WALKER. I thank the gentleman.

Mr. BROOKS. Until they agree, we cannot know, as the gentleman understands.

Mr. WALKER. I understand.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

RECESS

The **SPEAKER** pro tempore. Pursuant to the order of the House earlier today, the Chair declares a recess, subject to the call of the Chair.

Accordingly at 7 o'clock and 4 minutes p.m., the House stood in recess subject to the call of the Chair.

☐ 2030

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. Murtha) at 8 o'clock and 38 minutes p.m.

SETTING FORTH THE CONGRESSIONAL BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEARS 1991, 1992, 1993, 1994, and 1995

Mr. **DERRICK**. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 488 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 488

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the United States Government for the fiscal years 1991, 1992, 1993, 1994, and 1995, and all points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration. Debate on the conference report shall be limited to not more than 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget.

Sec. 2. Following disposition of the conference report, on motion with respect to disposition of H. Con. Res. 310 shall be in order except pursuant to a subsequent order of the House.

Sec. 3. The allocations of spending and credit responsibility to the committees of the House, to be printed in the Congressional Record by the chairman of the Committee on the Budget as soon as practicable, shall be considered to be the allocations required to be printed in the joint statement of managers on H. Con. Res. 310 pursuant to section 302(a) of the Congressional Budget Act of 1974.

Sec. 4. Rule XLIX shall not apply with respect to the adoption by the Congress of the conference report on the concurrent resolution (H. Con. Res. 310).

☐ 2040

The **SPEAKER** pro tempore. The gentleman from South Carolina [Mr. Derrick] is recognized for 1 hour.

Mr. **DERRICK**. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. Quillen], pending which I yield myself such time as I may consume.

Mr. **SHUSTER**. Mr. Speaker, will the gentleman yield for a parliamentary inquiry?

Mr. **DERRICK**. I yield to the gentleman from Pennsylvania.

PARLIAMENTARY INQUIRY

Mr. **SHUSTER**. Mr. Speaker, I have a parliamentary inquiry.

The **SPEAKER** pro tempore (Mr. Murtha). The gentleman will state it.

Mr. **SHUSTER**. Mr. Speaker, rule XXVIII provides that the time shall be divided between the proponents and the opponents of a report; however, it is my understanding that that rule has been waived.

Does that mean, therefore, that even though a large number, if not possible a majority of the Members of this House oppose this legislation, those in opposition will not be permitted to control any of the time?

The **SPEAKER** pro tempore. Under the rule, if adopted, the debate on the conference report will be controlled by the chairman representing the majority, and the ranking minority member of the Committee on the Budget. They will be able to yield time to whomever they see fit.

Mr. **SHUSTER**. So that means, Mr. Speaker, that those in opposition will not be able to control any of the time, is that my understanding?

The **SPEAKER** pro tempore. That is correct. They would not be able to control the time, but certainly could get time from either of the two gentlemen.

Mr. **PANETTA**. Mr. Speaker, will the gentleman yield?

Mr. **DERRICK**. I yield to the gentleman from California.

Mr. **PANETTA**. Mr. Speaker, it is the intention of this gentleman to allow those opposing the conference report adequate time to make their presentation as well in the hour that I control.

Mr. **SHUSTER**. Mr. Speaker, I thank the gentleman.

Mr. **DERRICK**. Mr. Speaker, House Resolution 488 is a rule providing for the consideration of the conference report on House Concurrent Resolution 310, setting forth the congressional budget for the U.S. Government for the fiscal years 1991, 1992, 1993, 1994, and 1995. The rule waives all points of order against the conference report and against its consideration.

The rule provides for 2 hours of general debate, to be equally divided and controlled by the chairman and ranking minority member of the Budget Committee. After disposition of the conference report, no other motion with respect to the disposition of the conference report is in order, except by subsequent rule.

The rule also provides that as soon as practicable, the Budget Committee chairman will cause to be printed in the Congressional Record allocations of spending and credit which will be considered to be the allocations required under section 302(a) of the Budget Act.

Finally, the rule provides that rule XLIX will not apply with respect to the conference report on House Concurrent Resolution 310. Rule XLIX provides that when Congress adopts the conference report on the budget resolution which contemplates a level of public debt different than that currently allowed by law, the House is deemed to have adopted a joint resolution either increasing or decreasing the statutory limit on the public debt. Because the House has already passed and sent over to the Senate H.R. 5355, a long-term debt limit bill, there is no need for the conference report on the budget resolution to generate another debt limit bill.

Mr. Speaker, House Resolution 488 is an important rule that will provide for the expeditious consideration of the conference report on the congressional budget resolution embodying the recommendations of the bipartisan budget summit. I urge my colleagues to support this rule.

Mr. **QUILLEN**. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, I thank the gentleman from South Carolina for yielding this time.

Mr. Speaker, this Nation has been at the crossroads for some time, headed down the road to fiscal destruction. There has been a need for a plan to reduce the deficit and get back to a balanced budget. The summiteers have been meeting now for months, without producing a resolution to bring to the floor of the House which would be agreeable to this body.

Finally an agreement has been reached. It is not what I would like to have in its entirety. It is not what you would like to have in its entirety, but Mr. Speaker, it is the best that we can do at this point. It is a good compromise. We face a crisis if we do not pass it. It is absolutely necessary that we act favorably here this evening. If we do not, sequestration will take effect, and in my opinion, there will be absolute chaos in the financial markets through this country and the world. The Congress will have mud on its face because it will have failed to face up to the Nation's problems forthrightly and without hesitation.

I am a strong supporter of this rule and the budget compromise.

There are those who say it adversely affects Medicare recipients in low income families.

Let me repeat what is in the bill itself. Those who are below the poverty level will have no increase in premiums, no increase in deductibles. It will be exactly as it is today, and in the measure there is $2 billion which takes care of those just above the poverty level.

Our elderly will be protected.

I have a strong feeling for those who are on Social Security, but there is no increase in taxes on Social Security benefits. Social Security remains as it is.

Sure, we are all going to bear part of the burden.

I do not like the gasoline tax, but we must face the fact that our deficit is ever soaring. We must reduce it.

We have go to do things we do not want to do. If we have to hold our noses and vote for this, let us do it, because it is for the benefit of America.

This rule makes it possible for us to debate the compromise, and I fully support the rule.

I think it is mandatory that the Members of this body face up to our financial crisis and do the job that we must do for this country of ours. We have no other choice. Our financial markets and the financial markets of the world will react adversely if we fail.

One of the things that helped sell me on this measure was Mr. Greenspan. Mr. Greenspan said that he looked forward to reducing the interest rates if this package passes. We need that. The home building industry is on its knees. The real estate market is also slow. We are facing a recession. Let us strengthen the economy.

I urge you this evening to vote for this rule and for the summit agreement when it is brought before the House.

Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota [Mr. Frenzel].

Mr. **FRENZEL**. Mr. Speaker, I support House Resolution 488, the rule for consideration of the conference report on House Concurrent Resolution 310, which is this Congress' budget resolution.

☐ 2050

All Members know why we are here and know how we got here. Our problem, of course, is that we have been waiting for our summiteers to bring back a summit agreement.

They have finally done that as of last Sunday. That summit agreement has been put into a budget resolution. The conference committee has met on the budget resolution. And if this rule is passed, the House can then consider the adoption of the budget resolution.

We cannot get to where we are going, that is, to set some kind of fiscal policy for the United States, unless we first pass this rule, then pass the budget resolution, then take the summit agreement into reconciliation and have the committees of this House begin work on them, bring them back and report them to the full House so that we may then work our will.

It is a complicated, cumbersome, time-consuming, agonizing, frustrating experience which none of us has liked and none of us is going to like in the next 2 or 3 weeks. Nevertheless, it has to be done. There is no choice.

The summiteers have brought us an enforceable deficit reduction program of $40 billion in the first year and $500 billion over 5 years. Immediately the Members of Congress spring to their feet and say, "Hah, but you can't get it, it is smoke and mirrors, you will never enforce it."

Well, this particular summit agreement is likely to be enforceable. In the first place, it has 5 years of reconciliation. We have never attempted that before in this Congress. For those of you who think it cannot be done, why don't you give us a chance to try it and let us show you why we can get it done?

With respect to the enforcement in this bill, not only do we have the normal Gramm-Rudman sequester, but we have the automatic categorical offsets which apply not only to appropriations, as the Gramm-Rudman sequester does, but also to entitlements when either appropriations or entitlements breach their respective spending ceilings.

We have never had enforcement this good. It is as strong enforcement as we can get without a constitutional amendment. We who have negotiated some of these enforcement conditions believe that this is strong medicine. Yes, there will be slippage in it. We do not deny that. But we believe that nearly all the savings can be actually achieved, and if Congress really has a will, they will all be achieved.

Now, some of our Members cannot stand cuts in expenses, some of them hate all taxes, any and all taxes, but the reason we are here, the reason we went through the summit was to reduce the deficit because we all know that enormous debt is a terrible millstone around the neck of our economy.

We are obliged to borrow much to service that debt from abroad. The reliance on foreign capital has been an agonizing thing for all of us.

We hope with this resolution and reconciliation to be able to begin to limit that debt. Indeed, the unified budget breaks into plus numbers into fiscal year 1994 under this scheme and shows a $68 billion surplus in fiscal year 1995, a huge achievement notwithstanding the fact that a unified budget is assisted mightily by Social Security receipts.

Mr. Speaker, we cannot do anything unless we pass the rule. If we decide that we cannot deal out any sacrifice, that the American people are not concerned about our enormous deficit, about the huge burden of interest that we pay, about the liabilities that we are storing up for our children and grandchildren and great-grandchildren, they will probably want to vote against it. I think more serious and more responsible Members believe that we need to get the job done. We can begin getting the job done on the rule.

I urge adoption of the rule and yield back the balance of my time.

Mr. **DERRICK**. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the distinguished chairman of the Committee on the Budget, the gentleman from California [Mr. Panetta].

Mr. **PANETTA**. Mr. Speaker, this rule provides for the consideration of the conference report, which reflects the spending, revenue, and savings targets that were agreed upon by the President and the bipartisan congressional leaders in the budget summit. It is the essential first step in the budget process.

If we pass this budget resolution, we can then proceed to the consideration of reconciliation, which is essentially the implementation of the budget resolution itself. But if we fail to pass this budget resolution, we are nowhere.

The fact is that tonight we are a nation at risk; we are a nation at risk militarily in the Persian Gulf, we are a nation at risk politically in a world of shifting powers and relationships, and we are a nation at risk economically, facing the slow but steady erosion of our economy, a frustrating inability to confront the difficult issues that face us and the rising likelihood of a recession.

And if we fail today, of course, if we fail tonight to adopt a budget resolution, this Nation is indeed at risk, from the specter of mindless sequestration, the across-the-board cuts that will impact on vital programs that affect people, devastating to people and devastating to our economy.

For 5 months the bipartisan leadership of the Congress have been trying to work with the administration hour after hour, day after day, week after week, confronting these problems, trying to make the trade-offs, trying to arrive at a compromise, and finally they were able to do that. They have achieved the biggest deficit reduction package in the history of this country, $500 billion over 5 years.

Some of you may support this budget resolution, some of you may oppose it. But it surely deserves, and I think the leaders on both sides of the aisle deserve, an opportunity for an up or down vote on this proposal, without amendments, without substitutes.

Perhaps the biggest crisis we face tonight is the crisis of confidence in our ability to govern. Tonight we have the opportunity to show the American people that indeed we can make the tough decisions and indeed we can govern.

Mr. Speaker, I urge support for this rule.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. Armey].

Mr. ARMEY. I thank the gentleman from Tennessee for yielding.

Mr. Speaker, let me say in all due respect and even, yes, indeed affection for the summiteers and for the members of the Committee on Rules, that I rise in opposition to this rule. I implore the Members of this body to vote down this rule and to not proceed in, what is for me at least, an extralegal basis by which we would come to a resolution of a budget in October that we are mandated by law to resolve on April 15.

I might also say in addition to that concern which I have, that during the course of this debate, and the one that may follow, we will be told that this budget resolution, this conference report, this summit agreement is the only alternative to sequestration. I would suggest to this body that there is an alternative and there is a better alternative that avoids repressive taxation, that more certainly gets to the budget deficit target goals outlined in the summit agreement earlier than the summit agreement, that does exist. It was filed in the Record last Tuesday for anybody to see. I might mention I am a member of the Committee on the Budget, and I have not yet seen this summit agreement in print, nor have I seen this conference report in print.

And the most I know about it is what I heard from the Speaker today when he said that it is the President and the bipartisan leadership always understood that many of the policies set forth in the budget agreement are for illustrative purposes only. What is it we are asked to pass on tonight?

I ask for a "no" vote.

□ 2100

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentlewoman from California [Mrs. Boxer].

Mrs. BOXER. Mr. Speaker, the best that I can say about the Budget Summit Agreement is that it could have been worse. Without our Democratic leaders, it would have been worse.

President Bush says the agreement could have been better if he had, as he said to the press, more of his horses.

Thank goodness he did not have more of his horses at the summit. Mr. Darman and Mr. Sununu were enough, bolstered by Mr. Brady who brought us $12 billion in new tax loopholes in the last hours of the summit.

In my view, the Bush team was motivated by several things:

First, protect the rich from paying their fair share.

Second, cut the dickens out of Medicare—the health plan for our elderly.

Third, keep the military budget high by completely ignoring the fact that the cold war is over.

The President's men succeeded on all three counts, although our democratic leadership kept it from being worse.

As a result of the tax policies in the summit, the very wealthy will see their income go down—less than 1 percent—0.7 percent while the working class will be hit by a decrease in income of greater than 2 percent.

So those making about $20,000 a year get a 2 percent cut in income and those making over $490,000 get a 0.7 percent cut in income—hardly a ripple to those whose incomes have gone up 90 percent in the Reagan-Bush era. Unbelievable!

How does the summit agreement treat the military? Here we are at the end of the cold war—when the Warsaw Pact is literally disappearing.

There is no more East Germany. Here we are after spending 4 trillion of American dollars defending NATO from the Warsaw Pact.

Today still half of our $300 billion military budget goes to the defense of NATO and a sizable portion—more than $20 billion—to the defense of Japan.

Is it too much to ask that these allies of ours for whom we have sacrificed so much of our captial—now pay for their own defense? Or at least a part of it. None of this is in the summit.

In this summit, the elderly citizens on Medicare—our moms and dads—our grandmothers and grandfathers—must bear the burden to continue high military spending to defend against Mikhail Gorbachev who now stands side-by-side with our President in the Persian Gulf. And our elderly will sacrifice $60 billion in Medicare cuts in this summit. Our democratic leaders stopped it from being worse.

So this summit agreement protects the very wealthy from paying their fair share and protects our allies from paying their fair share.

But it gets worse. There is something in this summit that makes me ill.

The unemployed are asked to wait 2 weeks before they get their unemployment checks. Can you believe it? This will drive our citizens into despair as many of them are in their darkest hour.

It could happen to any of us—any of us could lose our job. And we head into a possible recession, this provision could prove to be the cruelest cut of all. Believe it or not, our democratic leaders stopped an even crueler cut to even a more vulnerable population—children with crippling disabilities.

So our democratic leaders made it better, but we can do still better.

This Congress can do better—without Mr. Darman, without Mr. Sununu, without Mr. Brady—none of them is elected. We were elected and we can do better. Congressmen Obey and Dorgan have a budget—it is far better. I support it, and I hope we have a chance to send it to the President. If we defeat this rule we can get that chance and let the legislature function—not eight people or four people or two people, but the legislative process.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. Shuster].

Mr. SHUSTER. Mr. Speaker, my colleagues, I rise in strong opposition to this rule. Here we are tonight, dealing with the most significant issue facing this Congress, and we are told that we are not permitted to work our will. We are told that we are not permitted to offer any motions to this very important rule. In effect, Mr. Speaker, we are asked to buy a pig in a poke, and, yes, there have been whispers on this floor in the past few hours: "Just vote for this rule now, vote for the resolution later, and we'll fix these problems in the next 2 weeks."

Is that really reasonable, to ask us to buy something like this on such an important issue?

It is sheer folly for us to impose upon the American people a $130 billion tax increase when we are on the brink of a recession, and it is grossly unfair for us to impose a $69 billion tax increase on one sector of our economy, on the transportation sector; 42 percent of all the tax increases going on our transportation sector, and it is unfair to rural America which must drive twice as many miles as our urban Americans. It is unfair because it is regressive on the poor and the middle class in America, and, yes, we are told, through some last minute legerdemain that 50 percent of the gas tax money is going to go into the highway trust fund. Mr. Chairman, that is interesting.

What we are not told is that the domestic spending cap is going to stay on that money, so that is right. It can go into the trust fund. It just cannot come out of the trust fund to be spent for our badly needed infrastructure.

If we pass this resolution, we are going to snuff out the opportunity to improve America's infrastructure, and that means we are going to snuff out American lives. Nearly 50,000 people are killed each year on our highways. We all know what a decaying infrastructure we have, and it is conservative to say that thousands of lives will be lost if we do not address this problem.

Defeat this rule; defeat this resolution.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2¼ minutes to the gentleman from Pennsylvania [Mr. Folgietta].

Mr. FOGLIETTA. Mr. Speaker, I rise to speak in favor of the budget resolution and the rule. First, I congratulate Tom Foley, Dick Gephardt, Leon Panetta, and Bob Michel for what they were able to achieve.

Let us face it: The problem many of us are facing is how to explain this agreement to people back home, to Federal workers, to working families, to senior citizens. And that is not easy. Because this means a lot of pain.

First, we have to face what would happen if we did not reach agreement. In the short term, the result would have been chaos. The Government would have shut down; hundreds of thousands of workers would have been forced to stop work. Airports would close. Social Security checks would not be mailed out. Military spending would be cut by a third, jeopardizing our defense.

Then, we have to explain the long term implications. Our sick economy would sink into a deep recession. The stock markets would dive. The cost of groceries at the supermarket would rise and so would interest rates—Alan Greenspan told us that yesterday.

With that bleak future in mind, a compromise was reached. In all compromises there are aspects that we like, and aspects we do not like. The same holds true with this agreement.

There are aspects of this compromise to which I strongly object. That it places an unfair burden on middle income Americans—by raising taxes on gasoline at the pump, heating oil, and a six-pack of beer. That the richest Americans will not pay their fair share. That it hurts senior citizens by making Medicare more expensive. That it does not make deep enough cuts in defense.

But the benefits outweight the negatives. That it prevents the super rich from getting a windfall in the capital gains tax cut. That COLA's for Federal retirees, and Social Security recipients were preserved. That Federal employees are not being furloughed. That they kept their hands off Social Security.

In our lives, in our constituents' lives, we all make compromises. Compromises are hard. This is hard. But what is the alternative: Throwing up our hands and giving up? Continuing to ignore the problem? They are not choices.

Tough decisions had to be made, and they were. We have to make a tough decision today. Respectfully, I support this compromise because I believe it will lead to a stronger and better America.

□ 2110

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. Michel], our distinguished minority leader.

Mr. MICHEL. Mr. Speaker, I will be very brief, because I still have some other fish to fry yet this evening before we move on hopefully to the next stage in this process. But I think this rule is one that ought to be adopted. It waivers all points of order because of the tremendous scope of the problem that we have here.

Mr. Speaker, that should catch nobody by surprise. We have been at this thing now for months. Members knew we were going to come to the day of judgment. This is just the beginning step in that judging process.

Now, you know that you cannot change the conference report without beating it first. So you are just wasting time if you are going to try and defeat this rule. We have got to get to the conference report before any of you can have a chance to beat it or amend it.

So we are wasting time. Here we are on a Thursday night. Friday the continuing resolution runs out. We have got to be begin the process before we can move to the second step, or the third. Then let us not forget, we also have our friends over in the other body, who certainly are entitled to have their say on this.

So in my judgment, very briefly, it makes no sense to defeat this rule. Our own objective here is to take the first ministep in moving the process along. You cannot do that until you consider that conference report, which this rule makes in order.

So I would hope that those Members who want to see the legislative process work its will, in whatever fashion, at least give us an opportunity to adopt this rule. Frankly, it it goes down, we will just have to come back with another rule. And if it that goes down, we will come back with still another rule.

Maybe some Members might have the faint notion up here to simply let this place blow up in chaos, as we come to the end of the week with a continuing resolution facing us. Those of you on my side over here know what the President's commitment has been. We have got to enjoin this issue now. If there is a continuing resolution passed without a budget agreement, he is going to veto it, because that is the only way to keep our feet to the fire.

So what I am saying is, do not put another roadblock in the way of an orderly legislative process here, because you cannot get anyplace without first adopting this rule.

Mr. PASHAYAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield t
the gentleman from California [M
Pashyan].

Mr. PASHAYAN. Mr. Speaker,
wish to associate myself with the r
marks of the minority leader. This is
procedural vote, obviously. It is on th
rule. We have a group of Members an
members of the administration th
worked long and hard on this thin
The President wants a vote, th
Speaker wants a vote, the minorit
leader wants a vote.

Irrespective of how the Members a
going to vote on the resolution, I ce
tainly think that we owe them th
courtesy of granting this rule, votin
in favor of this rule, and then Mem
bers can go whichever way the
choose to. But I certainly think ou
leader is correct, and I urge our side
the aisle absolutely to vote in favor
this rule.

Mr. MICHEL. Mr. Speaker, reclai
ing my time, I thank the gentlema
for his contribution. I simply want
thank the gentleman from Tenness
[Mr. Quillen] for yielding to opp
nents of the rule. Obviously there
going to be limited time when we g
to the conference report for Membe
to express their objections, and if w
have an opportunity here for some
those Members to air their feeling
we have no objection to that.

It is just that in the final analys
after airing those views, those of yo
out there who want to see the proce
move along, I ask you, please, give
an affirmative vote on the rule th
we might get the process moving.

The SPEAKER pro tempore (M
Murtha). The gentleman from Te
nessee [Mr. Quillen] has 12 minut
remaining and the gentleman fro
South Carolina [Mr. Derrick] has
minutes remaining.

Mr. DERRICK. Mr. Speaker, f
purposes of debate only, I yield 2 mi
utes to the gentleman from Wiscons
[Mr. Moody].

Mr. MOODY. Mr. Speaker, I rise
oppose the rule and the package. T
night we are told that it is this pac
age or nothing, the Hobson's choi
Bad package—by even its ardent d
fenders—or cha[illegible] No opportunity
consider alternative packages. This
the ultimate closed rule. Clearly, co
gressional democracy as we know
has broken down.

Mr. Speaker, how did we get in
this awful spot, this Hobson's choic
Well, first we had 18 months of "Re
my lips." No taxes under any circu
stances. That produced gridlock for
months.

Then we had 4 months of insisten
on capital gains, or no ball game. Th
produced gridlock for 4 more month

Now, here at the 11th hour, the 12
hour, presto, a package. A packa
that should make even capital ga
advocates blush: There are $12 billi

in here for a whole new industry of creating tax shelters that we thought we had wiped out in the tax reform bill of 1986.

Mr. Speaker, I feel sorry for my GOP colleagues in this process, because scores of them signed pledges for no new taxes. Remember over there in the Triangle, all those meetings and pledges in front of TV cameras? Well, those lists of those Members who signed that no new tax pledge, those lists are going out all over America this evening. They will probably begin to appear in newspapers. I don't know how you on the GOP side of the aisle are going to reconcile that to your constituents. I don't know how you are going to explain how you broke faith to them.

Mr. Speaker, I know I am not going to break faith with my constituents on this package. This package raises taxes on those in the $20,000 to $50,000 income bracket twice as hard as it does on those who earn above $200,000. That after a decade of taxing the middle class and exempting the upper income groups, as we all know. The wealthy are protected once again.

Mr. Speaker, this package hits newly unemployed workers with a loss of unemployment compensation at the very moment when they most need heip. The 2-week waiting period is harsh and mean-spirited.

I urge rejection of the package and the rule.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, we all know what the issue here this evening is, whether or not we are going to solve this deficit mess with tax increases or spending cuts. That is the issue.

The rule that has been presented to us for consideration gives us only one option, that we are going to solve this deficit mess with tax increases and claimed spending cuts, which I do not think will last more than 6 months, if they last that long.

Mr. Speaker, I rise in opposition to this rule because I believe there is an alternative that should be presented before the House for its consideration.

I sincerely believe that there is a way out of this mess without raising taxes. All we have to do is assert the discipline as an institution to limit the growth of spending over the next 5 years to not more than 4 or 4½ percent over what it is this year and each year thereafter—spending growth $60 billion, revenue growth $90 billion. If we can just observe that kind of discipline; we will each year produce about $30 billion more from the growth of the economy, producing more tax revenue under the existing tax system which can be applied to reduce the deficit.

Mr. Speaker, that would be called a freeze by anyone's terms. The American people can understand this. It would avoid this specter of sequestration, which I do not want, but frankly, as a Californian who went through the same litany and the same prophets resisting Proposition 13 back in 1978, we were told our State would come to a halt when we cut the revenue from the property tax by 50 percent. Admittedly, a 33-percent cut in spending as a result of sequestration is a pretty good bite. I would like to avoid it.

Mr. Speaker, my purpose in rising this evening is to ask Members to defeat the previous question, on which I will ask for a rollcall vote, so an alternative can be presented, which essentially subjects or gives this House the opportunity of an alternative to solve the deficit problem without raising taxes.

Mr. DERRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, some may cheer the budget agreement here on Capitol Hill, but back home there is little celebration.

The budget package delivers nothing but spending cuts and tax increases to those in our society who can least afford to bear the burdens—the poor and the middle class.

Congress should dump this budget agreement. We should demand a budget that is fair and balanced, that does not stick it to older Americans, and that does not ask those who have the least money to pay the most in taxes.

I thought Congress had stopped paying homage to the worn-out, Reagan-era adage of tax the middle class, protect the rich, and spend money for defense as if we were in world war III. Apparently, it has not.

While I am not opposed to tax increases and spending cuts, these taxes and spending cuts fall disproportionately and unfairly on the lower- and middle-income classes. The very people this budget hurts will face economic uncertainty in the coming months with rising oil prices and looming inflation. Yet we are willing to ask them to sacrifice more of their paychecks to pay for what Congress does not have the courage to do—cut the Pentagon budget.

Of the tax increases totaling $134 billion, most of them are regressive, consumer exise taxes. These consumer taxes account for $74 billion of the total tax increases, or over half of the tax increases.

The budget agreement is not only regressive in its taxation, but insensitive in its spending cuts. The Medicare Program will be cut by $60 billion, which represents over half of all the cuts in entitlement programs. That cut is bitter medicine for millions of older Americans across the Nation. The monthly Medicare premiums will be increased and the deductible doubled. This means that those who are most vulnerable, least able to pay, will pay a sizable portion of their fixed incomes on vital and expensive health care services.

The agreement lands a blow to low- and middle-income people in the area of education. The Stafford Student Loan Program will be cut by a whopping $2 billion. As almost every mom and dad knows, these loans are vital to paying for the rising costs of a college education.

But while mom and dad scrimp and save to put their child through college, the agreement extends a charitable hand to the rich for investments in energy exploration. Something is obviously rotten. This time, it's not in Denmark, but in the United States.

The $28 billion in tax credits include $4 billion for unspecified energy tax breaks for Texas and other oil States. The tax code already overwhelmingly favors President Bush's friends in the American oil industry. And with the price of oil at $40 per barrel, the oil industry doesn't need any more Federal Government handouts.

When the Federal Government gives tax breaks to the rich, increases taxes on the rest of the country, cuts health care benefits to older Americans, and reduces funds for college education, then I say that Government's budget priorities are not only regressive, but dangerously out of touch with the country.

The budget agreement comes on the heels of a decade when the Federal Government all but bought the richest in this country a comfortable second home at the beach. The massive wealth built up in the 1980's was so incredible that the number of millionaires in the country doubled by the end of the decade.

Why is Congress not taxing this wealth? Instead, some members of Congress and the President would rather hold middle-income taxpayers by their ankles and shake every last dime out of their pockets.

Not everyone prospered with the millionaires in the 1980's. While the richest in our country jammed dollar bills in their pockets, infant mortality rose to a tragically high rate, AIDS turned into an epidemic, and the average worker's wage stagnated.

This inequity is a direct result of the Reagan Administration policies of supply-side economics. Its credo was "tax breaks for the rich, tax breaks for the rich." Haven't we had enough of taking from the poor and giving to the rich?

A more equitable budget agreement should have raised the upper bracket to 33 percent on Federal income taxes. It should have included a windfall profits tax on the outrageous increase in the price per barrel of oil.

Meanwhile, the largest bureaucracy ever—the Pentagon—sits on top of a $290 billion a year budget. That budget alone could finance the Departments of Commerce, State, Justice, Energy, Labor, and Health and Human Services.

A responsible agreement would at least cut the most obvious boondoggles in the Pentagon, such as the Staten Island Homeport, $500 million; strategic defense initiative, $2.3 billion and the Stealth bomber, $800 million.

What's worse, Defense spending is even higher than stated in the budget agreement. The defense figures are all out of whack because they do not include $15 billion for Operation Desert Shield.

Until we get a budget agreement that is equitable, that gets a hold on spending in the Department of Defense, then I will withhold my support. I urge my colleagues to vote

against this agreement by defeating the rule for consideration of the budget agreement. In its place, Congress should support the Obey-Dorgan amendment, which rearranges the spending priorities of the budget agreement along the lines of the House-passed version of the budget resolution.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, in the infinite wisdom of Congress, Congress today passed the death penalty for anyone who would kill a Congressman. Tomorrow we will find out if the death penalty is a deterrent, if Members vote for this bill.

They say, "I am for the rule. We deserve a right to vote." But they say an aye vote is a responsible vote.

Mr. Speaker, there is no responsible vote in this House for a bad bill, period. They say, "If you don't vote for this, what comes next is going to be worse."

All I see is this. And they say if this fails, we are going to shut the Government down.

Well, listen to what this guy says, who has almost one out of every two constituents on some form of public assistance: Shut it down. We are better off with a short-term shutdown of this Government than putting into practice and law a budget that threatens our national security and the freedom of our people.

□ 2120

Let me tell you what. I go home. I go home every week. We cannot make it with more than $250 billion in defense outlay spending; you know it and I know it.

We do not cut foreign aid. We keep shipping money to Japan and Germany.

We do not make the rich pay their fair share. We tax mom and dad, and the census goes out, and they are trying to tell us that the population is dwindling.

Let me tell you, the silent majority is out there. They called your office. They were against this before the President's speech, and dammit, they are against it now, because it is no good. And I am prepared to take the flak on having our Government shut down, but having us come back and send a budget to the President that is good for this Nation.

And I do not like the last minute shotgun affair. If this thing cured cancer I would vote no on it because I am tired of bills that I do not have the time to read, and my people have been taxed to death. They are "taxed off."

I am going to vote for this rule and I am going to vote against this turkey.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes and 30 seconds to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, tonight we want a decision based upon fact, a reality, and not upon emotion.

Mr. Speaker, these are difficult times for us in this body and difficult days for our people. But I say, Mr. Speaker, that the only issue before us is whether we want to reduce the deficit and avoid sequestration, which is provided by law.

I rise to support this rule, and I also rise to support the subsequent resolution for which it stands.

The budget summit was convened. Our distinguished leaders met for weeks, not for hours or days, and they did come up with a recommendation to meet the goal of reducing our deficit. I support it for a reason that is as straightforward as democracy itself: There is no better alterantive.

We have two choices. Adopt the deficit reducing resolution or be thrown into sequestration where the law slices $100 billion from governmental operations. Sequestration is dramatic and it is drastic.

This debate is really more basic than any other that we will have this year. This debate will determine whether we as a nation and we as a people can face difficulty and govern ourselves. The resolution, though far from perfect, and I would not say that any of it is perfect, takes a step toward reducing our deficit, Mr. Speaker, and it must be done.

Were I to write this deficit reduction plan it would be much different than the one before us, but that plan would not meet the President's signature nor his approval.

Let me tell Members the effects of this resolution not passing. The sequestration law would come into effect and result in these consequences:

Veterans would be turned away from the VA hospitals. A reduction of $514 million would eliminate VA medical care for 83,000 inpatients and over 1½ million outpatients.

Mr. Speaker, Social Security checks would be deferred or slowed down as a result of the $742 million cut in the Social Security Administration employes and operation. The Social Security Administration has already notified my office that it will cut back to a 4-day week with reduced hours.

Hundreds of thousands of Federal employees would be furloughed, in addition to a hiring freeze and a release of thousands of employees.

Payments to farmers will be delayed, and when they call their local ASCS office, fewer people or possibly no one will be there to hear their complaints.

Military expenditures will be cut extensively while our sons and daughters are on duty tonight in Saudi Arabia.

One hundred thirteen thousand children will be eliminated from the Head Start Program; 35 percent of student financial aid recipients will have their
assistance reduced or completely elim
nated.

Mr. Speaker, in addition theret
higher interest rates will occur, pla
ing an added burden on our farme
and rural America. Financial marke
will react adversely.

In a word, governmental disruptio
and possibly a recession will happen.

Mr. Speaker, we cannot allow this
happen. Let us vote this resolution, l
us vote this rule, and get on with r
ducing the deficit and get our countr
back on a sound fiscal track.

Mr. DERRICK. Mr. Speaker, f
purposes of debate only, I yield
minute to the gentlewoman from Cal
fornia [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, tonigh
we have a very important decision
make, a decision that is the culmin
tion of many many months of wor
and in fact is the focal point of muc
of the work that we do in Congress.

As we contemplate this vote on th
budget I think we should rememb
that many people view our budget as
statement of our values as a countr
How we allocate our resources is
statement of what is important to u

Mr. Speaker, I do not believe that
is a statement of value to propose
plan that taxes young families whi
giving a $12 billion tax break to bu
ness. I do not believe it is a stateme
of our values to say that the wealth
will pay less while increasing the t
burden to the middle class. Mr. Spea
er, I do not think it is a statement
our values to menace our senior ci
zens while cutting their health ben
fits, while we keep the defense spen
ing high.

As we consider this vote I urge m
colleagues to consider whether th
budget is a statement of their values.

Mr. QUILLEN. Mr. Speaker, I yie
4 minutes to the gentleman from M
souri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. M
Speaker, I support this rule and th
budget resolution to follow. The que
tion before us tonight is whether th
House will act to address the budg
crisis or do nothing. That is o
choice. I believe the American peop
will view this vote as testing wheth
the Nation's elected leaders can st
govern this country.

This is a test we cannot fail.

No one will stand before us tonig
to argue that the budget agreement
a perfect one. It is not. Like each
you, I have real problems with so
provisions. And, like each of you,
have heard from constituents and
terest groups who have problems wi
some provisions. But I stand in su
port of the agreement because tak
as a whole it will benefit the count
and respond to the American peop
who have demanded that we do som
thing about the budget mess here
Washington. Taken as a whole, t

agreement will provide for: $500 billion in real and verifiable deficit reduction over the next 5 years: lower interest rates and increased long-term growth—which means more jobs for American workers; renewed confidence of world financial markets in the American economy; a fair share of spending cuts and new taxes for all income groups; and continued strong investment in education and research—key factors in America's future.

Mr. Speaker, the alternative to the budget agreement and these benefits is to do nothing. And if we do nothing, the Government of the United States—the greatest democracy in the history of mankind—will shut down.

The President and the summiteers agreed that there will be no continuing resolution until there is a budget. Can those who oppose the budget proposal before us tonight seriously believe they can propose and pass a more acceptable one before tomorrow's deadline? That is clearly an impossibility. A vote against this budget is a vote to close down the government and make us the laughingstock of the world.

Mr. Speaker, I have a word for my Republican colleagues who are opposing our President on the critical issue. I say to them that the Nation and the entire world view this vote as a test of the President's leadership; that a vote against this proposal is a vote of no confidence in our President. In a parliamentary system such a vote would bring down the Government. In our system, you will be voting to tie the President's hands both here and abroad in time of national crisis.

Tonight, Mr. Speaker, duty calls us to make a decision that will affect Americans for generations to come. A vote for this agreement signals that the Nation highest elected officials have at last accepted their responsibility to make the tough choices the American people know must be made.

□ 2130

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, at this late hour in our budgetary ordeal, we should do the orderly thing to move the process ahead. We should vote for this rule and send the budget to the committees of jurisdiction so that they can go to work on it in the next few days and attempt to correct some of the inequities that you and I know exist in it.

The President has given his assurance to our leadership that the committees of jurisdiction—the Committee on Ways and Means, the Committee on Energy and Commerce, the Committee on Agriculture, the Committee on Education and Labor have the flexibility to go to work. This is what we do in all normal circumstances. This is what we should do tonight. We should correct some of the inequities in Medicare and hopefully in the gasoline excise tax, and I believe we can do that in the committee process.

To vote down the rule simply means that we are back on square 1, and that does not help resolve anything.

This procedure is what we would follow in any normal circumstance, and this is the procedure that our leadership is asking for, and this is the procedure that the President is asking for.

So it seems to me we ought to advance this rule tonight, and then let the committees under the direction of our leadership go to work, make whatever improvement we can and bring us back a bill what we perhaps can all support. That is what we should do. That is the responsible thing to do. And that is what I ask this House to do tonight, approve this rule.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, Members of the House, I have arrived at the last resort, and it is not a very restful place. For months I have been telling my constituents that I could not and would not support increasing their taxes unless it be a last resort, and that is where we have come, to the last resort.

I do not want to, and I do not crave, imposing new taxes on the people of my district. I am not voting to do that, as a matter of fact. I am voting to stop the prospect, that gruesome prospect, of the shutdown of government and the imposition of Gramm-Rudman which, for my region, and many other regions, would mean a collapse of the whole economy.

Mr. Speaker, in my region, just as in yours, it is important to stop the imposition of Gramm-Rudman. There are automatic cuts. In my region, it means furloughs, unemployment, and a dive into a recession that will bring on a possible depression. That is how strongly I feel about this.

It is more hurtful to my people to suffer through that than it is to suffer, which I know is painful, the series of taxes for which I am voting tonight. I know that. But there is a greater reason for it.

We should not allow the stoppage of government. Stop the Government? Let it come to a halt? You would suffer, some of you, the stoppage of government while 200,000 of our fellow Americans are counting on us and on our President as they wait silently on the borders of Saudi Arabia to do their duty if called upon to do so while the people back at home allow the Goverment to shutdown?

The Government must not shut down, and we must do our duty.

I spoke with the President of the United States today. This man, who received the automatic and instantaneous cooperation of Mitterand and Thatcher and Kohl and 100 other world leaders to bring about the resolution of the immediate response to the Persian Gulf crisis, that individual deserves the same kind of cooperation from the Congress of the United States.

Vote for the rule and for the resolution.

Mr. DERRICK. Mr. Speaker, I yield 30 seconds to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, evidently the gentleman from Pennsylvania [Mr. GEKAS] was speaking to me.

There are 200,000 troops over in the Persian Gulf; 165,000 of them are Americans. This is a world problem. Let the world pay for it.

Our kids keep coming back in body bags, and our taxpayers keep financing it.

Let the United Nations work; 165,000 Americans is ridiculous. Let us get more people from other countries over there.

And, I say, shut it down. It is better than crippling this Nation's freedom with a bad bill.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Speaker, my colleagues, I think that we all know that this is one of the most important and one of the most painful votes that we will cast in our time in Congress.

□ 2140

I, like many Members, hate much that is in this compromise. However, I hate the deficit even more. The real question we face tonight, really, though, is not just the deficit question, as important as that is. The real question tonight is: Can our divided Government work? Can this Congress function as a Congress and deliver on a reasonable compromise that all our leadership has agreed to? I say yes. I say we are in control of our own destiny and our own future.

For 10 years we have had a long wait for action. For 10 years we have piled $2 trillion of debt on our children and grandchildren. We need to stop that credit card process. We need to get our fiscal house in order, and this is the way to start.

I say, please vote yes on the rule tonight. Vote yes on the budget summit agreement. Not only does this House need to prove that it can govern, the folks across this proud Nation need to know that we can govern and that this proud democracy still works, as painful as many of the tough choices that we have to make are.

We each have our own preferences. We each have our own solutions, but we need to set aside our parochial interests, our special interests, tonight, and think of the good of the nation. Our economic future hangs in the balance tonight. The debt ceiling is about to expire. The Federal budget itself is about to expire. Sequestration in many ways is the least of our problems. Let Members stand with the President. Let Members stand with our leaders. Support the rule, and support this budget summit agreement.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker, the moment of truth is upon us. We have two choices. We can vote for a budget resolution containing a number of unattractive provisions, but one which tells the world we are serious about getting our fiscal house in order. That is something the American people demand. That is something common sense dictates. That is something the financial community requries if we are going to keep our economy moving. Or we can acknowledge failure, do nothing and stand by while the Government comes to a near standstill.

I can think of 38 reasons to be negative about this package, but there is one overriding, compelling reason to be positive. It is called the national interest. I would have come up with a different plan. Many Members have said the same thing. I would have eliminated the so-called bubble that would generate $40 billion over 5 years. we could have cut the gasoline tax, we could have minimized the Medicare changes, but there is no chance to do that here and now. This is it. Like it, and no one does, or walk away from responsibility. We can run, but we cannot hide. We can run from the responsibility of passing a necessary budget resolution, but we cannot hide from the disaster which will follow if it fails. We can run from the necessity of imposing modest excise taxes on beer, wine, liquor, and most luxury items like expensive cars, yachts, furs and jewels, but we cannot hide from the results of no action, sequester forcing a $470 million cut from Head Start, $514 million cut in veterans' medical service, massive reduction in educational programs, a $379 million slash in funding for the Centers for Disease Control. The list goes on and on and on. Stop the wishful thinking. The time for partisan maneuvering is over. Let Members cast aside the political rhetoric. Read my lips: No more demagoguery. The moment of truth is here and now. We have to swallow hard and do the right thing, or abandon any sense of responsibility.

Mr. DERRICK. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, as all Members know, I detest this plan because in my view the White House won the tax debate. We wind up with a package which socks it to the middle class twice as hard as it socks the wealthiest people in this country. I do not agree with that. I have detested that all my life, and I am never going to support that kind of idea.

I have been asking people all day to vote against the rule because I wanted an opportunity to offer a progressive package which 55 Members have put together on this side of the aisle. I am still asking the leadership for that right to offer that package. So I am going to ask people who were prepared to vote against the rule, to vote for this rule so that during the debate on the resolution we can still try to work out a reasonable opportunity for people on both sides who are unhappy with this package, when we reach the reconciliation process, to be able to put up intelligent alternatives to it.

I want an opportunity to be able to offer a package which makes this more just to the middle class than this package before Members today. It is obvious that we are not going to have the votes to get that opportunity tonight. However, I do not want to foreclose that opportunity for the entire 3-week process. Therefore, I am going to ask Members to vote for the rule, to give us more time during the discussion on the resolution before us tonight, to see if we cannot arrive at a decent accommodation so that those Members who feel that this program is basically unjust to the middle class will have an opportunity during the reconciliation process to obtain votes on those packages.

I have enough confidence in the leadership on both sides of the aisle to think and expect that we can get that done. I do not know if we can, but I am willing to wait for another hour to find out.

Mr. QUILLEN. Mr. Speaker, I urge the Members of this body to vote for the rule. I urge the Members of this body to vote for the summit agreement. It is important for each and every individual in this Nation of ours that we pass it, that we stop the spiraling cost of government, that we reach a balanced budget over a 5-year period of time. It is so important. I urge the adoption of the rule.

Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Speaker, the President of the United States of America believes that this budget agreement is vital for America. The Speaker of this House of Representatives believes this budget agreement is vital for America. While there might be things that I would desire that were not in it, I have yet to see a program
or an agreement or a proposal that
makes more sense.

We are not going to allow a meat ax
sequester that would lay off thousand
and deny beans and bullets to ou
people in the Persian Gulf. That is un
acceptable. We are not going to in
crease income tax rates and stifle in
centives for economic growth. That i
unacceptable. We are not going to cu
Social Security or other retiremen
benefits which the elderly depend o
daily to exist. That is unacceptable
We are not going to stop the war o
drugs or stop immunizing children, o
slash research on AIDS or cance
That is unacceptable.

Around the world, my friend
people are watching what we are doin
tonight. In our country, people ar
watching what we are doing tonight t
see whether democracy can work, t
see whether this Congress can work.
urge Members to support the rule an
to support the agreement.

Mr. DERRICK. Mr. Speaker, I yiel
such time as he may consume to th
gentleman from California [M
MILLER].

Mr. MILLER of California. Mr. Speaker, I ris
in opposition to the rule.

I oppose this rule because it prevents
from having the opportunity to vote on a de
cit reduction package that protects the midd
income, working family of America.

There are those who argue that there
only one choice: Either vote for the sumn
package, or plunge into the black hole of s
questration.

That is not the only choice. That cannot
the only choice.

I appreciate the need to compromise. Bu
see nothing admirable about compromisi
away the economic security of America
working families, of America's elderly, and
America's children. But that is what th
budget will do.

And for what? What is the great princip
served by the grand compromise?

Deficit reduction? Spending reductions? E
titlement cuts?

We can achieve all those goals: We can i
prove on all those goals, with a substitute th
is already available.

This budget serves the principle of expe
ency and the principle of the further polari
tion of wealth in America. The effect of th
budget is to give hundreds of millions to tho
who have reaped the greatest economic ga
of the past decade and to demand furth
sacrifice from those whose economic con
tion has stagnated or deteriorated.

Since 1977, the wealthiest 1 percent of
Americans raised their average income
$550,000, an increase of 90 percent, while
ceiving a simultaneous 23-percent reduction
their tax rate. Middle-income families, who
shoulder twice the sacrifices of the wealthy
this summit deal, saw their income increa
only 6 percent over the past 13 years, wh
receiving a 4-percent increase in their tax ra

What ever became of the principle t
those who go to the party pay for the pa

Today, after 10 years of phony budgets and deficit busting fiscal policy, the party is over.

I am not prepared to tell the working people of America that they must pay twice as much in new taxes, in spending cuts, and in entitlement losses as the wealthiest of all Americans.

I believe the American people now understand that the economic surge promised by Reaganomics was a pipe dream. It did not happen. The jobs that were created were low paying, leaving millions dependent on government programs for the necessities of life. Trickle down worked only from the top 1 percent to the top 5 percent; the other 95 percent of Americans are dying of economic dehydration.

Even so, I believe the American people are willing to endure some sacrifice to reduce the deficit if everybody shares in the pain. But they are not willing, and they should not be asked, to carry a disproportionate share of the burden.

That is what this budget does.

And I think it is important to note that the only reason that this budget is not worse is because we Democrats were able to say "no" to the cutbacks and tax hikes demanded by the President and his negotiators.

The President's plan would have increased the income of the richest 1 percent of all Americans—those with after tax incomes in excess of $428,000—by 1.4 perecent, or more than $6,000, while reducing their effective tax rate.

In fact, until the capital gains windfall was finally withdrawn, at no point in the summit negotiations did any member of the White House team propose any package that did not provide additional income benefits to the top 5 percent of Americans.

The President's plan demanded greater sacrifice from seniors, retirees, the sick and disabled, and children. Under some of the original Republican plan, the increase in Medicare costs would have been about $90 billion, or almost twice the final figure that is drawing such anger from senior citizens.

And still President Bush was not finished with seniors. While obeying the obligatory axiom to protect Social Security beneficiaries, budget director Richard Darman and White House Chief of Staff John Sununu attacked the benefits of Federal retirees in the form of COLA freeze and a limitation on future COLA's to 1 percent beneath of inflation rate. Federal retirees would lose, as a result, more than $15 billion in benefits.

President Bush and his team have been successful in requiring greater burden sharing from those who benefit from U.S. military strength in the Middle East. Why can we not apply the same principle of burden sharing to the overall defense budget, where we spend $20 billion a year to defend the Japanese sea lanes and tens of billions of dollars defending Western Europe?

Why can we not apply the principle of burden sharing to our own budget, and ask those who have the most, and who have gained the most, to contribute the most to the national effort to reduce the deficit?

We are told the summit cannot be changed. We are told we have no alternative. We are told that the legislative authority of this House, of the elected Members of Congress, is powerless to modify the agreement.

Well, I did not agree to the agreement, and I didn't agree to give up my constitutional responsiblitity to defend the interests of the people I represent.

If this agreement is sound, it should be able to stand up to full scrutiny by the Congress, and it should be able to withstand an alternative. It should not prevail simply because the alternative is fiscal chaos.

But the rule before us does not provide us any choice, any right to real debate, or any opportunity to allow the political system to operate as it should. Therefore, I urge my colleagues to vote "No" on this rule, and to allow us to debate the budget plan and our alternative that protects the working people of this country and achieves real, and equitable, deficit reduction.

Mr. ACKERMAN. Mr. Speaker, I rise in support of the conference report on the budget resolution under consideration by the House today.

Although I strongly disagree with a number of the suggestions contained in the proposal, I support it because I believe that it is in the best interests of our country to proceed with the budget process.

First, I am strongly opposed to the use of the Gramm-Rudman sequester as a solution to the budget deficit. I have consistently voted against this reckless budget-cutting gimmick because I believe Congress has a responsibility to make spending decisions based on the merit of programs to our society.

Second, as House Speaker Tom Foley said at the White House following a meeting with President Bush, "* * * the budget summit agreement always presumed that in going to the committees for a reconcilitation bill, that many of the policies outlined were for illustrative purposes, (and) that other actions might be taken * * *" In other words, while the budget sets broad outlines for spending and revenues, the specific items—including and especially those that so many of us find abhorrent—are subject to full congressional review.

Like all budget resolutions, the conference report on the budget resolution simply sets targets and guidelines for overall spending and revenues. Its role is to trigger the process for developing the actual legislative measures needed to implement the summit deficit reduction plan.

The budget resolution does not specify precise spending and revenue levels for every program, and does not preclude committees from relying on measures different than those agreed to in the summit. Once the budget resolution has been adopted, the House and Senate Appropriations Committees can begin their work determining specific levels.

I support adoption of the budget resolution in order to activate the process for developing the actual spending levels. I do not support all components of the package. Far from it. In particular, I am opposed to increasing the Medicare contribution required of beneficiaries. Balancing the budget on the backs of the Nation's elderly is unacceptable. Many of our Nation's elderly cannot afford any increase in Medicare and would be unable to afford health care services if their premiums were to rise.

Likewise, it is unfair to ask the recently unemployed to shoulder the burden of reducing the deficit by withholding unemployment benefits for another week.

I am also troubled by the failure to extend the Mortgage Revenue Bond Program for at least 1 year. I am opposed to restricting deductions from Federal income taxes that would result in double taxation on income already paid in taxes to State and local governments.

Nonetheless, I urge my colleagues to join me in supporting passage of the conference report to ensure that the budget process can move forward. The committees of jurisdiction will retain the right to determine specific revenue and spending levels, and to address concerns about this budget package that are shared by the overwhelming majority of the American people. Let's not shut down the Federal Government. Let's not furlough our Federal employees. Let's vote to continue the budget process by supporting the conference report, and get on with the people's business.

Mr. MATSUI. Mr. Speaker, I am voting for the budget resolution before us today. It was a very tough decision to make, but I believe it is the correct choice. The Nation is on the brink of fiscal disaster. The alternative to approving this budget resolution before us is a shutdown of the Federal Government, disruption of financial markets, and fiscal chaos for the Nation.

I agree with my colleagues that many parts of this budget resolution disproportionately impact low- and middle-income Americans. Many of the proposals included are of great concern to me, chief among these are the increases in premiums and deductibles for Medicare beneficiaries, the waiting period for unemployed individuals, and the unraveling of the 1986 tax reform package.

While each and every one of us must make a sacrifice to bring our fiscal house in order, these Medicare cuts place a disproportionate burden on the backs of the Nation's older citizens. For those seniors of little means, the impact will be catastrophic.

The members of the Ways and Means Committee, on which I sit, will have opportunity to make changes and adjustments in the budget resolution, redistributing the burden so those with the least won't have to pay the most to rebuild our Nation's economy. Foremost among these will be a reexamination of the Medicare beneficiary payment increases. I will vote against any package coming out of the committee that does not include significant changes in the Medicare provisions contained in this budget resolution.

I am voting for this budget resolution today with great concern about its impact, as it was drafted, on the American public. However, I know the consequences of not passing a budget resolution are far more ominous than approving the proposal before us and adjusting it to make it less burdensome to lower- and middle-income American.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have 2 hours of general debate on the resolution, and we

can argue the merits of that resolution at that time. However, let me tell Members that back about a month ago I was in upper part of my district in South Carolina, and I was in a restaurant. I saw a couple over there, and I decided I would go over and speak to them. I went over there and I introduced myself, and the man looked at me. He says, "I know who you are, Congressman Derrick." He said, "I voted for you before." He said, "I think you have done a good job. I think you are a good Congressman. I think you are honest, but I'm not going to vote for you." He said, "I'm not going to vote for you because we the people of this country have given you guys in Congress the responsibility of governing our country and you are not doing it."

I will tell Members, as much as I have heard about budgets and all of this for the 16 years that I have been here, the very idea that anyone would consider not voting for this rule is absurd, that you are not going to even give the House an opportunity to govern the country.

□ 2150

So I suggest that you vote for it and let us govern the country and do what we were sent here to do.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. Murtha). Without objection, the previous question is ordered.

Mr. DANNEMEYER. Mr. Speaker, I object.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count.

Two hundred nineteen Members are present, a quorum.

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

So the previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 339, noes 94, not voting 0, as follows:

[Roll No. 420]

AYES—339

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Baker
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Bruce
Buechner
Bunning
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Conte
Conyers
Cooper
Coughlin
Courter
Cox
Crockett
Darden
Davis
de la Garza
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Fascell
Fazio
Feighan
Fish
Flippo
Foglietta
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefner
Hiler
Hoagland
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (NY)
Matsui
Mavroules
Mazzoli
McCollum
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Price
Pursell
Quillen
Rahall
Ravenel
Ray
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Robinson
Roe
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland (GA)
Roybal
Sabo
Saiki
Sawyer
Saxton
Scheuer
Schiff
Schneider
Schroeder
Serrano
Sharp
Shaw
Shays
Shumway
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (VT)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
Staggers
Stallings
Stearns
Stenholm
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Traficant
Traxler
Udall
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walsh
Washington
Watkins
Waxman
Weber
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—94

Armey
Atkins
Ballenger
Billey
Boxer
Brown (CO)
Bryant
Burton
Callahan
Campbell (CA)
Clay
Collins
Costello
Coyne
Craig
Crane
Dannemeyer
DeFazio
DeLay
Dellums
Donnelly
Douglas
Dymally
Dyson
Early
Engel
Evans
Fawell
Fields
Flake
Ford (TN)
Gejdenson
Glickman
Hall (TX)
Hancock
Hayes (IL)
Hefley
Henry
Herger
Hertel
Holloway
Hunter
Inhofe
Jacobs
James
Kasich
Kennedy
Kyl
Lightfoot
Martin (IL)
Martinez
McCandless
McCloskey
McCrery
McEwen
Miller (CA)
Moody
Morrison (CT)
Oakar
Owens (NY)
Packard
Payne (NJ)
Petri
Porter
Poshard
Rangel
Regula
Roberts
Rohrabacher
Roth
Rowland (CT)
Russo
Sangmeister
Sarpalius
Savage
Schaefer
Schuette
Schulze
Schumer
Sensenbrenner
Shuster
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Spence
Stangeland
Stark
Stokes
Stump
Towns
Upton
Walker
Weiss
Weldon

□ 2209

Mr. NOWAK and Mr. DREIER o California changed their vote fron "nay" to "yea."

Mr. SCHUMER changed his vot from "yea" to "nay".

So the resolution was agreed to.

The result of the vote was ar nounced as above recorded.

A motion to reconsider was laid o the table.

PARLIAMENTARY INQUIRY

Ms. OAKAR. Mr. Speaker, I have parliamentary inquiry.

The SPEAKER pro tempore. (M Murtha). The gentlewoman will stat it.

Ms. OAKAR. Mr. Speaker, could inquire as to the manner in which th time is allocated? Is there any alloca tion? Is the time equally divided fo those who are for the budget resolu tion and those who are opposed?

The SPEAKER pro tempore. Th Chair will announce that under Hous Resolution 488 the time is controlle 1 hour by the gentleman from Califor nia [Mr. Panetta], and 1 hour for th gentleman from Minnesota [Mr. Fren zel].

Ms. OAKAR. Mr. Speaker, that did not answer my question, though.

I merely want to inquire whether there is an equal division of time for those who are for the budget resolution and those who have a different opinion of it.

The SPEAKER pro tempore. The rule provides that one-half of the time will be allocated to the gentleman from California [Mr. PANETTA], and one-half will be allocated to the gentleman from Minnesota [Mr. FRENZEL]. They will be able to yield time.

Ms. OAKAR. Mr. Speaker, is the gentleman from Minnesota opposed, or shall I ask him that question?

The SPEAKER pro tempore. The gentlewoman from Ohio [Ms. OAKAR] may ask him that question.

Ms. OAKAR. Mr. Speaker, I would like to ask the gentleman from California [Mr. PANETTA] and the gentleman from Minnesota [Mr. FRENZEL] whether they intend to equally divide their time for those who are for the resolution and for those who are opposed to the resolution.

Mr. PANETTA. Mr. Speaker, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from California.

Mr. PANETTA. Mr. Speaker, as I indicated, I was prepared to accommodate those that would speak in opposition to the resolution until the time that I have given them is used up.

Ms. OAKAR. But is it equally divided?

Mr. PANETTA. Approximately equally divided. Not exactly. But I did it based on those that came to the desk and asked for time. There was nobody in opposition who came to the desk that did not get any time.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Ms. OAKAR. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, the Republican side will be divided exactly evenly between opponents and proponents.

Mr. PANETTA. Mr. Speaker, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from California.

Mr. PANETTA. Mr. Speaker, if others are prepared to accommodate, I could try to provide a minute to the gentlewoman from Ohio [Ms. OAKAR]. I could try to do that.

Mr. PANETTA submitted the following conference report and statement on the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the United States Government for the fiscal years 1991, 1992, 1993, 1994, and 1995:

CONFERENCE REPORT (H. REPORT 101-802)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the United States Government for the fiscal years 1991, 1992, 1993, 1994, and 1995, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the resolution and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That the budget for fiscal year 1991 is established, and the appropriate budgetary levels for fiscal years 1992, 1993, 1994, and 1995 are hereby set forth.

MAXIMUM DEFICIT AMOUNTS

SEC. 2. The following levels and amounts in this section are set forth for purposes of determining, in accordance with section 301(i) of the Congressional Budget and Impoundment Control Act of 1974, as amended by the Balanced Budget and Emergency Deficit Control Act of 1985, whether the maximum deficit amount for a fiscal year has been exceeded, and as set forth in this concurrent resolution, shall be considered to be mathematically consistent with the other amounts and levels set forth in this concurrent resolution:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1991: $1,172,900,000,000.

Fiscal year 1992: $1,260,800,000,000.

Fiscal year 1993: $1,349,800,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1991: $1,486,100,000,000.

Fiscal year 1992: $1,563,300,000,000.

Fiscal year 1993: $1,583,900,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1991: $1,236,900,000,000.

Fiscal year 1992: $1,269,300,000,000.

Fiscal year 1993: $1,305,200,000,000.

(4)(A) The amounts of the deficits are as follows:

Fiscal year 1991: $64,000,000,000.

Fiscal year 1992: $8,500,000,000.

(B) The amount of the surplus is as follows:

Fiscal year 1993: $44,600,000,000.

RECOMMENDED LEVELS AND AMOUNTS

SEC. 3. (a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1990, October 1, 1991, October 1, 1992, October 1, 1993, and October 1, 1994:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1991: $858,600,000,000.

Fiscal year 1992: $923,900,000,000.

Fiscal year 1993: $987,900,000,000.

Fiscal year 1994: $1,045,200,000,000.

Fiscal year 1995: $1,101,400,000,000.

and the amounts by which the aggregate levels of Federal revenues should be increased are as follows:

Fiscal year 1991: $14,700,000,000.

Fiscal year 1992: $24,300,000,000.

Fiscal year 1993: $26,900,000,000.

Fiscal year 1994: $30,700,000,000.

Fiscal year 1995: $30,300,000,000.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1991: $75,400,000,000.

Fiscal year 1992: $83,200,000,000.

Fiscal year 1993: $88,900,000,000.

Fiscal year 1994: $95,200,000,000.

Fiscal year 1995: $101,400,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1991: $1,175,200,000,000.

Fiscal year 1992: $1,230,800,000,000.

Fiscal year 1993: $1,231,100,000,000.

Fiscal year 1994: $1,216,900,000,000.

Fiscal year 1995: $1,267,100,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1991: $1,002,300,000,000.

Fiscal year 1992: $1,024,800,000,000.

Fiscal year 1993: $1,050,100,000,000.

Fiscal year 1994: $1,060,000,000,000.

Fiscal year 1995: $1,080,800,000,000.

(4)(A) The amounts of the deficits are as follows:

Fiscal year 1991: $143,700,000,000.

Fiscal year 1992: $100,900,000,000.

Fiscal year 1993: $62,200,000,000.

Fiscal year 1994: $14,800,000,000.

(B) The amount of the surplus is as follows:

Fiscal year 1995: $20,600,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1991: $3,369,600,000,000.

Fiscal year 1992: $3,540,900,000,000.

Fiscal year 1993: $3,676,700,000,000.

Fiscal year 1994: $3,766,900,000,000.

Fiscal year 1995: $3,827,600,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1990, October 1, 1991, October 1, 1992, October 1, 1993, and October 1, 1994, are as follows:

Fiscal year 1991:

(A) New direct loan obligation, $21,000,000,000.

(B) New primary loan guarantee commitments, $106,800,000,000.

(C) New secondary loan guarantee commitments, $85,400,000,000.

Fiscal year 1992:

(A) New direct loan obligations, $17,800,000,000.

(B) New primary loan guarantee commitments, $109,600,000,000.

(C) New secondary loan guarantee commitments, $88,700,000,000.

Fiscal year 1993:

(A) New direct loan obligations, $18,200,000,000.

(B) New primary loan guarantee commitments, $112,100,000,000.

(C) New secondary loan guarantee commitments, $92,100,000,000.

Fiscal year 1994:

(A) New direct loan obligations, $18,400,000,000.

(B) New primary loan guarantee commitments, $115,450,000,000.

(C) New secondary loan guarantee commitments, $95,600,000,000.

Fiscal year 1995:

(A) New direct loan obligations, $18,600,000,000.

(B) New primary loan guarantee commitments, $118,100,000,000.

(C) New secondary loan guarantee commitments, $99,200,000,000.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations and new primary loan guarantee commitments for fiscal years 1991 through 1995 for each major functional category are:

(1) National Defense (050):

Fiscal year 1991:

(A) New budget authority, $289,100,000,000.

(B) Outlays, $297,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1992:

(A) New budget authority, $291,600,000,000.

(B) Outlays, $295,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1993:

(A) New budget authority, $291,800,000,000.

(B) Outlays, $292,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $351,500,000,000.

(B) Outlays, $341,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $364,900,000,000.

(B) Outlays, $351,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(2) International Affairs (150):

Fiscal year 1991:

(A) New budget authority, $19,200,000,000.

(B) Outlays, $17,400,000,000.

(C) New direct loan obligations, $1,900,000,000.

(D) New primary loan guarantee commitments, $7,200,000,000

(E) New secondary loan guarantee commitments of $400,000,000.

Fiscal year 1992:

(A) New budget authority, $19,800,000,000.

(B) Outlays, $18,000,000,000.

(C) New direct loan obligations, $2,000,000,000.

(D) New primary loan guarantee commitments, $7,200,000,000

(E) New secondary loan guarantee commitments, $400,000,000.

Fiscal year 1993:

(A) New budget authority, $20,600,000,000.

(B) Outlays, $18,500,000,000.

(C) New direct loan obligations, $2,100,000,000.

(D) New primary loan guarantee commitments, $7,500,000,000.

(E) New secondary loan guarantee commitments, $400,000,000.

Fiscal year 1994:

(A) New budget authority, $22,400,000,000.

(B) Outlays, $19,700,000,000.

(C) New direct loan obligations, $2,100,000,000.

(D) New primary loan guarantee commitments, $7,700,000,000.

(E) New secondary loan guarantee commitments, $500,000,000.

Fiscal year 1995:

(A) New budget authority, $23,800,000,000.

(B) Outlays, $20,700,000,000.

(C) New direct loan obligations, $2,200,000,000.

(D) New primary loan guarantee commitments, $8,000,000,000.

(E) New secondary loan guarantee commitments, $500,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1991:

(A) New budget authority, $15,200,000,000.

(B) Outlays, $15,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1992:

(A) New budget authority, $15,900,000,000.

(B) Outlays, $15,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1993:

(A) New budget authority, $16,500,000,000.

(B) Outlays, $16,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $17,100,000,000.

(B) Outlays, $16,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $17,700,000,000.

(B) Outlays, $17,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1991:

(A) New budget authority, $6,100,000,000.

(B) Outlays, $3,800,000,000.

(C) New direct loan obligations, $2,000,000,000.

(D) New primary loan guarantee commitments, $400,000,000.

Fiscal year 1992:

(A) New budget authority, $5,300,000,000.

(B) Outlays, $4,100,000,000.

(C) New direct loan obligations, $1,600,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1993:

(A) New budget authority, $6,100,000,000.

(B) Outlays, $4,700,000,000.

(C) New direct loan obligations, $2,000,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $6,500,000,000.

(B) Outlays, $5,000,000,000.

(C) New direct loan obligations, $2,100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $6,900,000,000.

(B) Outlays, $4,800,000,000.

(C) New direct loan obligations, $2,300,000,000.

(D) New primary loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):

Fiscal year 1991:

(A) New budget authority, $18,700,000,000.

(B) Outlays, $18,800,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1992:

(A) New budget authority, $19,700,000,000.

(B) Outlays, $19,500,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1993:

(A) New budget authority, $20,400,000,000.

(B) Outlays, $20,000,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $21,100,000,000.

(B) Outlays, $20,500,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $21,800,000,000.

(B) Outlays, $21,000,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1991:

(A) New budget authority, $16,600,000,000.

(B) Outlays, $12,800,000,000.

(C) New direct loan obligations, $9,000,000,000.

(D) New primary loan guarantee commitments, $7,000,000,000.

Fiscal year 1992:

(A) New budget authority, $20,600,000,000.

(B) Outlays, $15,100,000,000.

(C) New direct loan obligations, $8,800,000,000.

(D) New primary loan guarantee commitments, $7,300,000,000.

Fiscal year 1993:

(A) New budget authority, $17,600,000,000.

(B) Outlays, $13,200,000,000.

(C) New direct loan obligations, $8,600,000,000.

(D) New primary loan guarantee commitments, $6,600,000,000.

Fiscal year 1994:

(A) New budget authority, $14,800,000,000.

(B) Outlays, $12,000,000,000.

(C) New direct loan obligations, $8,600,000,000.

(D) New primary loan guarantee commitments, $6,700,000,000.

Fiscal year 1995:

(A) New budget authority, $15,300,000,000.

(B) Outlays, $10,700,000,000.

(C) New direct loan obligations, $8,400,000,000.

(D) New primary loan guarantee commitments, $6,800,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1991:

(A) New budget authority, $85,200,000,000.

(B) Outlays, $85,400,000,000.

(C) New direct loan obligations, $6,000,000,000.

(D) New primary loan guarantee commitments, $63,300,000,000.

(E) New secondary loan guarantee commitments, $85,000,000,000.

Fiscal year 1992:

(A) New budget authority, $85,100,000,000.

(B) Outlays, $79,000,000,000.

(C) New direct loan obligations, $3,300,000,000.

(D) New primary loan guarantee commitments, $65,500,000,000.

(E) New secondary loan guarantee commitments, $88,300,000,000.

Fiscal year 1993:

(A) New budget authority, $41,300,000,000

(B) Outlays, $37,000,000,000.

(C) New direct loan obligations $3,400,000,000.

(D) New primary loan guarantee commitments, $67,800,000,000.

(E) New secondary loan guarantee commitments, $91,700,000,000.

Fiscal year 1994:

(A) New budget authority −$6,800,000,000.

(B) Outlays, −$12,200,000,000.

(C) New direct loan obligations $3,500,000,000.

(D) New primary loan guarantee commitments, $70,300,000,000.

(E) New secondary loan guarantee commitments, $95,100,000,000.

Fiscal year 1995:

(A) New budget authority, $2,300,000,000.

(B) Outlays, −$6,400,000,000.

(C) New direct loan obligations, $3,600,000,000.

(D) New primary loan guarantee commitments, $72,100,000,000.

(E) New secondary loan guarantee commitments, $98,700,000,000.

(8) Transportation (400):

Fiscal year 1991:

(A) New budget authority, $32,100,000,000.

(B) Outlays, $30,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1992:

(A) New budget authority, $33,300,000,000.

(B) Outlays, $31,700,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1993:

(A) New budget authority, $34,500,000,000.

(B) Outlays, $32,900,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $35,800,000,000.

(B) Outlays, $34,000,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $37,100,000,000.

(B) Outlays, $35,200,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(9) Community and Regional Development (450):

Fiscal year 1991:

(A) New budget authority, $9,200,000,000.

(B) Outlays, $8,500,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $400,000,000.

Fiscal year 1992:

(A) New budget authority, $8,900,000,000.

(B) Outlays, $8,300,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $400,000,000.

Fiscal year 1993:

(A) New budget authority, $9,000,000,000.

(B) Outlays, $8,500,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $400,000,000.

Fiscal year 1994:

(A) New budget authority, $9,400,000,000.

(B) Outlays, $8,700,000,000.

(C) New direct loan obligations, $1,300,000,000.

(D) New primary loan guarantee commitments, $400,000,000.

Fiscal year 1995:

(A) New budget authority, $9,600,000,000.

(B) Outlays, $9,000,000,000.

(C) New direct loan obligations, $1,300,000,000.

(D) New primary loan guarantee commitments, $400,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1991:

(A) New budget authority, $43,000,000,000.

(B) Outlays, $41,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $12,500,000,000.

Fiscal year 1992:

(A) New budget authority, $43,500,000,000.

(B) Outlays, $42,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $12,900,000,000.

Fiscal year 1993:

(A) New budget authority, $44,000,000,000.

(B) Outlays, $43,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $13,200,000,000.

Fiscal year 1994:

(A) New budget authority, $45,700,000,000.

(B) Outlays, $44,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $13,300,000,000.

Fiscal year 1995:

(A) New budget authority, $47,300,000,000.

(B) Outlays, $46,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $13,400,000,000.

(11) Health (550):

Fiscal year 1991:

(A) New budget authority, $66,600,000,000.

(B) Outlays, $65,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1992:

(A) New budget authority, $73,900,000,000.

(B) Outlays, $73,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1993:

(A) New budget authority, $81,200,000,000.

(B) Outlays, $80,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1994:

(A) New budget authority, $89,400,000,000.

(B) Outlays, $88,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $350,000,000.

Fiscal year 1995:

(A) New budget authority, $98,300,000,000.

(B) Outlays, $97,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $400,000,000.

(12) Medicare (570):

Fiscal year 1991:

(A) New budget authority, $123,600,000,000.

(B) Outlays, $100,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1992:

(A) New budget authority, $138,100,000,000.

(B) Outlays, $110,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1993:

(A) New budget authority, $153,600,000,000.

(B) Outlays, $122,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $170,200,000,000.

(B) Outlays, $135,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $187,600,000,000.

(B) Outlays, $149,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1991:

(A) New budget authority, $203,500,000,000.

(B) Outlays, $159,300,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1992:

(A) New budget authority, $211,300,000,000.

(B) Outlays, $166,200,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1993:

(A) New budget authority, $217,900,000,000.

(B) Outlays, $174,000,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $228,200,000,000.

(B) Outlays, $184,800,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $236,600,000,000.

(B) Outlays, $192,300,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(14) Social Security (650):

Fiscal year 1991:

(A) New budget authority, $3,800,000,000.

(B) Outlays, $3,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1992:

(A) New budget authority, $4,500,000,000.

(B) Outlays, $4,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1993:

(A) New budget authority, $4,900,000,000.

(B) Outlays, $4,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $5,400,000,000.

(B) Outlays, $5,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $6,000,000,000.

(B) Outlays, $6,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

Fiscal year 1991:

(A) New budget authority, $31,300,000,000.

(B) Outlays, $31,100,000,000.

(C) New direct loan obligations, $700,000,000.

(D) New primary loan guarantee commitments, $15,700,000,000.

Fiscal year 1992:

(A) New budget authority, $32,400,000,000.

(B) Outlays, $32,000,000,000.

(C) New direct loan obligations, $600,000,000.

(D) New primary loan guarantee commitments, $16,000,000,000.

Fiscal year 1993:

(A) New budget authority, $33,400,000,000.

(B) Outlays, $33,100,000,000.

(C) New direct loan obligations, $600,000,000.

(D) New primary loan guarantee commitments, $16,300,000,000.

Fiscal year 1994:

(A) New budget authority, $34,400,000,000.

(B) Outlays, $35,600,000,000.

(C) New direct loan obligations, $500,000,000.

(D) New primary loan guarantee commitments, $16,700,000,000.

Fiscal year 1995:

(A) New budget authority, $35,400,000,000.

(B) Outlays, $35,400,000,000.

(C) New direct loan obligations, $500,000,000.

(D) New primary loan guarantee commitments, $17,000,000,000.

(16) Administration of Justice (750):

Fiscal year 1991:

(A) New budget authority, $13,300,000,000.

(B) Outlays, $12,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1992:

(A) New budget authority, $13,900,000,000.

(B) Outlays, $13,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1993:

(A) New budget authority, $14,500,000,000.

(B) Outlays, $14,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $15,000,000,000.

(B) Outlays, $14,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $15,700,000,000.

(B) Outlays, $15,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1991:

(A) New budget authority, $11,700,000,000.

(B) Outlays, $11,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1992:

(A) New budget authority, $12,000,000,000.

(B) Outlays, $12,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1993:

(A) New budget authority, $12,300,000,000.

(B) Outlays, $11,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $12,500,000,000.

(B) Outlays, $12,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $13,000,000,000.

(B) Outlays, $12,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(18) Net Interest (900):

Fiscal year 1991:

(A) New budget authority, $215,600,000,000.

(B) Outlays, $215,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1992:

(A) New budget authority, $228,700,000,000.

(B) Outlays, $228,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1993:

(A) New budget authority, $239,200,000,000.

(B) Outlays, $239,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $243,700,000,000.

(B) Outlays, $243,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $244,500,000,000.

(B) Outlays, $244,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(19) Allowances (920):

Fiscal year 1991:

(A) New budget authority, $0.

(B) Outlays, −$95,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1992:

(A) New budget authority, $0.

(B) Outlays, $113,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1993:

(A) New budget authority, $0.

(B) Outlays, −$86,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $0.

(B) Outlays, −$66,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $0.

(B) Outlays, −$76,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(20) Undistributed Offsetting Receipts (950):

Fiscal year 1991:

(A) New budget authority, −$28,600,000,000.

(B) Outlays, −$33,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1992:

(A) New budget authority, −$27,700,000,000.

(B) Outlays, −$31,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1993:

(A) New budget authority, −$27,700,000,000.

(B) Outlays, −$29,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority −$99,400,000,000.

(B) Outlays, −$90,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commit ments, $0.

Fiscal year 1995:

(A) New budget authority −$116,700,000,000.

(B) Outlays, −$105,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commit ments, $0.

RECONCILIATION

SEC. 4. (a) Not later than October 12, 199
the committees named in subsections (b
and (c) of this section shall submit their rec
ommendations to the Committees on th
Budget of their respective Houses. After re
ceiving those recommendations, the Com
mittees on the Budget shall report to th
House and Senate a reconciliation bill o
resolution or both carrying out all such rec
ommendations without any substantive re
vision.

HOUSE COMMITTEES

(b)(1) The House Committee on Agricu
ture shall report (A) changes in laws withi
its jurisdiction which provide spending au
thority as defined in section 401(c)(2)(C) o
the Congressional Budget Act of 1974, suffi
cient to reduce outlays, (B) changes in law
within its jurisdiction which provide spend
ing authority other than as defined in sec
tion 401(c)(2)(C) of the Act, sufficient t
reduce outlays, or (C) any combinatio
thereof, as follows: $1,409,000,000 in outlay
in fiscal year 1991, $2,023,000,000 in outlay
in fiscal year 1992, $2,827,000,000 in outlay
in fiscal year 1993, $3,432,000,000 in outlay
in fiscal year 1994, and $3,936,000,000 i
outlays in fiscal year 1995.

(2) The House Committee on Banking, F
nance and Urban Affairs shall report (A
changes in laws within its jurisdictio
which provide spending authority as de
fined in section 401(c)(2)(C) of the Congre
sional Budget Act of 1974, sufficient t
reduce outlays, (B) changes in laws withi
its jurisdiction which provide spending au
thority other than as defined in sectio
401(c)(2)(C) of the Act, sufficient to reduc
outlays, or (C) any combination thereof, a
follows: $1,507,000,000 in outlays in fisca
year 1991, $2,635,000,000 in outlays in fisca
year 1992, $2,812,000,000 in outlays in fisca
year 1993, $3,081,000,000 in outlays in fisca
year 1994, and $3,223,000,000 in outlays i
fiscal year 1995.

(3)(A) The House Committee on Educatio
and Labor shall report (i) changes in law

within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (ii) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (iii) any combination thereof, as follows: $120,000,000 in outlays in fiscal year 1991, $330,000,000 in outlays in fiscal year 1992, $530,000,000 in outlays in fiscal year 1993, $730,000,000 in outlays in fiscal year 1994, and $930,000,000 in outlays in fiscal year 1995.

(B) The House Committee on Education and Labor shall report changes in laws within its jurisdiction sufficient to increase revenues as follows: $95,000,000 in fiscal year 1991, $195,000,000 in fiscal year 1992, $230,000,000 in fiscal year 1993, $280,000,000 in fiscal year 1994, and $330,000,000 in fiscal year 1995.

(4) The House Committee on Energy and Commerce shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $4,731,000,000 in outlays in fiscal year 1991, $9,622,000,000 in outlays in fiscal year 1992, $12,924,000,000 in outlays in fiscal year 1993, $15,788,000,000 in outlays in fiscal year 1994, and $19,156,000,000 in outlays in fiscal year 1995.

(5) The House Committee on Interior and Insular Affairs shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $343,000,000 in outlays in fiscal year 1991, $400,000,000 in outlays in fiscal year 1992, $412,000,000 in outlays in fiscal year 1993, $425,000,000 in outlays in fiscal year 1994, and $438,000,000 in outlays in fiscal year 1995.

(6) The House Committee on Judiciary shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $91,000,000 in outlays in fiscal year 1991, $95,000,000 in outlays in fiscal year 1992, $99.000,000 in outlays in fiscal year 1993, $103,000,000 in outlays in fiscal year 1994, and $107,000,000 in outlays in fiscal year 1995.

(7) The House Committee on Merchant Marine and Fisheries shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $222,000,000 in outlays in fiscal year 1991, $241,000,000 in outlays in fiscal year 1992, $249,000,000 in outlays in fiscal year 1993, $255,000,000 in outlays in fiscal year 1994, and $263,000,000 in outlays in fiscal year 1995.

(8) The House Committee on Post Office and Civil Service shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $2,165,000,000 in outlays in fiscal year 1991, $2,140,000,000 in outlays in fiscal year 1992, $2,780,000,000 in outlays in fiscal year 1993, $3,545,000,000 in outlays in fiscal year 1994, and $3,720,000,000 in outlays in fiscal year 1995.

(9) The House Committee on Public Works shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $42,000,000,000 in outlays in fiscal year 1991, $53,000,000,000 in outlays in fiscal year 1992, $53,000,000 in outlays in fiscal year 1993, $53,000,000 in outlays in fiscal year 1994, and $53,000,000 in outlays in fiscal year 1995.

(10) The House Committee on Science, Space, and Technology shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $5,000,000 in outlays in fiscal year 1991, $5,000,000 in outlays in fiscal year 1992, $ 5,000,000 in outlays in fiscal year 1993, $5,000,000 in outlays in fiscal year 1994, and $5,000,000 in outlays in fiscal year 1995.

(11) The House Committee on Veterans' Affairs shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $620,000,000 in outlays in fiscal year 1991, $645,000,000 in outlays in fiscal year 1992, $670,000,000 in outlays in fiscal year 1993, $695,000,000 in outlays in fiscal year 1994, and $720,000,000 in outlays in fiscal year 1995.

(12)(A) The House Committee on Ways and Means shall report changes in laws within its jurisdiction relating to medicare provider payments sufficient to reduce outlays as follows: $3,100,000,000 in outlays in fiscal year 1991, $5,200,000,000 in outlays in fiscal year 1992, $6,300,000,000 in outlays in fiscal year 1993, $7,000,000,000 in outlays in fiscal year 1994, and $8,400,000,000 in outlays in fiscal year 1995.

(B) The House Committee on Ways and Means shall report changes in laws within its jurisdiction relating to medicare beneficiaries and medicare beneficiary payments sufficient to reduce outlays as follows: $1,100,000,000 in outlays in fiscal year 1991, $3,300,000,000 in outlays in fiscal year 1992, $5,200,000,000 in outlays in fiscal year 1993, $7,300,000,000 in outlays in fiscal year 1994, and $9,100,000,000 in outlays in fiscal year 1995.

(C) The House Committee on Ways and Means shall report changes in laws within its jurisdiction relating to other medicare program matters sufficient to reduce outlays as follows: $0 in outlays in fiscal year 1991, $400,000,000 in outlays in fiscal year 1992, $500,000,000 in outlays in fiscal year 1993, $500,000,000 in outlays in fiscal year 1994, and $600,000,000 in outlays in fiscal year 1995.

(D) The House Committee on Ways and Means shall report changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974 (other than laws relating to medicare), sufficient to reduce outlays as follows: $0 in outlays in fiscal year 1991, $1,143,000,000 in outlays in fiscal year 1992, $1,178,000,000 in outlays in fiscal year 1993, $1,150,000,000 in outlays in fiscal year 1994, and $1,200,000,000 in outlays in fiscal year 1995.

(E) The House Committee on Ways and Means shall report changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974 sufficient to reduce outlays as follows: $120,000,000 in outlays in fiscal year 1991, $702,000,000 in outlays in fiscal year 1992, $692,000,000 in outlays in fiscal year 1993, $698,000,000 in outlays in fiscal year 1994, and $720,000,000 in outlays in fiscal year 1995.

(F) The House Committee on Ways and Means shall report changes in laws within its jurisdiction sufficient to increase revenues as follows: $14,225,000,000 in fiscal year 1991, $25,635,000,000 in fiscal year 1992, $26,040,000,000 in fiscal year 1993, $31,450,000,000 in fiscal year 1994, and $31,450,000,000 in fiscal year 1995.

(G) The House Committee on Ways and Means shall report changes in law within its jurisdiction which provides for an increase in the permanent statutory limit on the public debt by an amount not to exceed $1,900,000,000,000.

SENATE COMMITTEES

(c)(1) The Senate Committee on Agriculture, Nutrition, and Forestry shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $1,387,000,000 in fiscal year 1991, and $13,473,000,000 in fiscal years 1991 through 1995.

(2) The Senate Committee on Banking, Housing, and Urban Affairs shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $1,507,000,000 in fiscal year 1991, and $13,258,000,000 in fiscal years 1991 through 1995.

(3) The Senate Committee on Commerce, Science, and Transportation shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $232,000,000 in fiscal year 1991, and $1,335,000,000 in fiscal years 1991 through 1995.

(4) The Senate Committee on Energy and Natural Resources shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $36,000,000 in fiscal year 1991, and $364,000,000 in fiscal years 1991 through 1995.

(5) The Senate Committee on Environment and Public Works shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $329,000,000 in fiscal year 1991, and $1,808,000,000 in fiscal years 1991 through 1995.

(6)(A) The Senate Committee on Finance shall report (i) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (ii) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (iii) any combination thereof, as follows: $4,015,000,000 in fiscal year 1991, and $65,883,000,000 in fiscal years 1991 through 1995.

(B) The Senate Committee on Finance shall report changes in laws within its jurisdiction sufficient to increase revenues as follows: $14,225,000,000 in fiscal year 1991, and $128,800,000,000 in fiscal years 1991 through 1995.

(C) The Senate Committee on Finance shall report changes in law within its jurisdiction which provide for an increase in the permanent statutory limit on the public debt by an amount not to exceed $1,900,000,000,000.

(7) The Senate Committee on Governmental Affairs shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $2,165,000,000 in fiscal year 1991, and $14,350,000,000 in fiscal years 1991 through 1995.

(8) The Senate Committee on Judiciary shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $91,000,000 in fiscal year 1991, and $495,000,000 in fiscal years 1991 through 1995.

(9)(A) The Senate Committee on Labor and Human Resources shall report (i) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (ii) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (iii) any combination thereof, as follows: $120,000,000 in fiscal year 1991, and $2,640,000,000 in fiscal years 1991 through 1995.

(B) The Senate Committee on Labor and Human Resources shall report changes in laws within its jurisdiction sufficient to increase revenues as follows: $45,000,000 in fiscal year 1991, and $840,000,000 in fiscal years 1991 through 1995.

(10) The Senate Committee on Veterans' Affairs shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $620,000,000 in fiscal year 1991, and $3,350,000,000 in fiscal years 1991 through 1995.

SALE OF GOVERNMENT ASSETS

Sec. 5. (a) It is the sense of the Congress that—

(1) from time to time the United States Government should sell assets to nongovernment buyers; and

(2) the amounts realized from such asset sales will not recur on an annual basis and do not reduce the demand for credit.

(b) For purposes of allocations and points of order under section 302 of the Congressional Budget and Impoundment Control Act of 1974, the amounts realized from asset sales or prepayments of loans shall not be allocated to a committee and shall not be scored with respect to the level of budget authority or outlays under a committee's allocation under section 302 of that Act.

(c) For purposes of reconciliation under section 310 of the Congressional Budget and Impoundment Control Act of 1974, the amounts realized from asset sales or prepayments of loans shall not be scored with respect to the level of budget authority, outlays, contributions, or revenues reconciled under a concurrent resolution on the budget.

(d) For purposes of this section—

(1) the terms "asset sale" and "prepayment of a loan" shall have the same meaning as under section 257(12) of the Balanced Budget and Emergency Deficit Control Act of 1985; and

(2) the terms "asset sale" and "prepayment of a loan" do not include asset sales mandated by law before September 18, 1987, and routine, ongoing asset sales and loan prepayments at levels consistent with agency operations in fiscal year 1986.

RESERVE FUND FOR CHILDREN

Sec. 6. (a) In the Senate, budget authority and outlays may be allocated to the Senate Committee on Finance for increased funding for children, including funding through tax credits, if the Committee on Finance or the committee of conference reports funding legislation that—

(1) will, if enacted, make funds available for that purposes; and

(2) to the extent that the costs of such legislation are not included in this resolution, will not increase the deficit in this resolution for fiscal year 1991, and will not increase the total deficit for the period of fiscal years 1991 through 1995.

(b) Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if such a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 302(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this section. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of such Act as allocations, functional levels, and aggregates contained in this resolution. The Committee on Finance shall report revised allocations pursuant to section 302(b) of such Act for the appropriate fiscal year (or years) to carry out this subsection.

And the Senate agree to the same.

That the Senate recede from its amendment to the title of the resolution.

Leon E. Panetta,
Richard Gephardt,
Bill Frenzel,
Managers on the Part of the House.
Jim Sasser,
Wyche Fowler, Jr.,
Pete V. Domenici,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the United States Government for the fiscal years 1991, 1992, 1993, 1994, and 1995, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the resolution struck out all of the House resolution after the resolving clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House resolution and the Senate amendment.

Explanation of Conference Agreement

The following tables show the functional allocations and budget aggregates included in the conference agreement over five years for the total budget, the on-budget amounts and the off-budget amounts. In addition, a table is included which breaks out the credit amounts by function.

CONFERENCE AGREEMENT TOTAL BUDGET

[In billions of dollars]

	1991	1992	1993	1994	1995
Budget Authority	1,486.1	1,563.3	1,583.9	1,594.3	1,669.5
Outlays	1,236.9	1,269.3	1,305.2	1,324.9	1,355.4
Revenues	1,172.9	1,260.8	1,349.8	1,433.3	1,511.7
Deficit (−) / surplus (+)	−64.0	−8.5	44.6	108.4	156.3
050 National defense:					
Budget authority	289.1	291.6	291.8	351.5	364.9
Outlays	297.0	295.0	292.0	341.7	351.5
150 International Affairs:					
Budget authority	19.2	19.8	20.6	22.4	23.8
Outlays	17.4	18.0	18.5	19.7	20.7
250 General science, space and technology:					
Budget authority	15.2	15.9	16.5	17.1	17.7
Outlays	15.2	15.7	16.1	16.8	17.4
270 Energy:					
Budget authority	6.1	5.3	6.1	6.5	6.9
Outlays	3.8	4.1	4.7	5.0	4.8
300 Natural resources and environment:					
Budget authority	18.7	19.7	20.4	21.1	21.8
Outlays	18.8	19.5	20.0	20.5	21.0
350 Agriculture:					
Budget authority	16.6	20.6	17.6	14.8	15.3
Outlays	12.8	15.1	13.2	12.0	10.7
370 Commerce and housing credit:					
Budget authority	85.2	85.1	41.3	−6.8	2.3
Outlays	85.4	79.0	37.0	−12.2	−6.4
400 Transportation:					
Budget authority	32.1	33.3	34.5	35.8	37.1
Outlays	30.5	31.7	32.9	34.0	35.2
450 Community and regional development:					
Budget authority	9.2	8.9	9.9	9.4	9.6
Outlays	8.5	8.3	8.5	8.7	9.0
500 Education training, employment and social services:					
Budget authority	43.0	43.5	44.0	45.7	47.3
Outlays	41.8	42.8	43.6	44.8	46.1
550 Health:					
Budget authority	66.6	73.9	81.2	89.4	98.3
Outlays	65.8	73.3	80.7	88.7	97.3
570 Medicare:					
Budget authority	123.6	138.1	153.6	170.2	187.6
Outlays	100.2	110.8	122.0	135.3	149.5
600 Income security:					
Budget authority	203.5	211.3	217.9	228.2	236.6
Outlays	159.3	166.2	174.0	184.8	192.3
650 Social security:					
Budget authority	341.9	370.3	397.8	430.5	464.4
Outlays	266.8	284.0	301.8	319.3	337.6
700 Veterans benefits and services:					
Budget authority	31.3	32.4	33.4	34.4	35.4
Outlays	31.1	32.0	33.1	35.6	35.4
750 Administration of justice:					
Budget authority	13.3	13.9	14.5	15.0	15.7
Outlays	12.3	13.6	14.3	14.8	15.4
800 General government:					
Budget authority	11.7	12.0	12.3	12.5	13.0
Outlays	11.7	12.0	11.8	12.0	12.4
900 Net interest:					
Budget authority	194.4	201.9	206.2	203.8	197.0
Outlays	194.4	201.9	206.2	203.8	197.0
920 Allowances:					
Budget authority	0	0	0	0	0
Outlays	−96.6	−115.3	−88.3	−61.8	77.4
950 Undistributed offsetting receipts:					
Budget authority	−34.6	−34.2	−34.8	−107.2	−125.2
Outlays	−39.3	−38.4	−36.9	−98.6	−114.1

CONFERENCE AGREEMENT ON-BUDGET ONLY

[In billions of dollars]

	1991	1992	1993	1994	1995
Budget authority	1,175.2	1,230.8	1,231.1	1,216.9	1,267.1
Outlays	1,002.3	1,024.8	1,050.1	1,060.0	1,080.8
Revenues	858.6	923.9	987.9	1,045.2	1,101.4
Deficit (−)/surplus (+)	−143.7	−100.9	−62.2	−14.8	20.6
050 National defense:					
Budget authority	289.1	291.6	291.8	351.5	364.9
Outlays	297.0	295.0	292.0	341.7	351.5
150 International affairs:					
Budget authority	19.2	19.8	20.6	22.4	23.8
Outlays	17.4	18.0	18.5	19.7	20.7
250 General science, space and technology:					
Budget authority	15.2	15.9	16.5	17.1	17.7
Outlays	15.2	15.7	16.1	16.8	17.4
270 Energy:					
Budget authority	6.1	5.3	6.1	6.5	6.9
Outlays	3.8	4.1	4.7	5.0	4.8
300 Natural resources and environment:					
Budget authority	18.7	19.7	20.4	21.1	21.8
Outlays	18.8	19.5	20.0	20.5	21.0
350 Agriculture:					
Budget authority	16.6	20.6	17.6	14.8	15.3
Outlays	12.8	15.1	13.2	12.0	10.7
370 Commerce and housing credit:					
Budget authority	85.2	85.1	41.3	−6.8	2.3
Outlays	85.4	79.0	37.0	−12.2	−6.4
400 Transportation:					
Budget authority	32.1	33.3	34.5	35.8	37.1
Outlays	30.5	31.7	32.9	34.0	35.2
450 Community and regional development:					
Budget authority	9.2	8.9	9.0	9.4	9.6
Outlays	8.5	8.3	8.5	8.7	9.0
500 Education, training, employment and social services:					
Budget authority	43.0	43.5	44.0	45.7	47.3
Outlays	41.8	42.8	43.6	44.8	46.1
550 Health:					
Budget authority	66.6	73.9	81.2	89.4	98.3
Outlays	65.8	73.3	80.7	88.7	97.3
570 Medicare:					
Budget authority	123.6	138.1	153.6	170.2	187.6
Outlays	100.2	110.8	122.0	135.3	149.5
600 Income security:					
Budget authority	203.5	211.3	217.9	228.2	236.6
Outlays	159.3	166.2	174.0	184.8	192.3
650 Social security:					
Budget authority	3.8	4.5	4.9	5.4	6.0
Outlays	3.8	4.5	4.9	5.4	6.0
700 Veterans benefits and services:					
Budget authority	31.3	32.4	33.4	34.4	35.4
Outlays	31.1	32.0	33.1	35.6	35.4
750 Administration of justice:					
Budget authority	13.3	13.9	14.5	15.0	15.7
Outlays	12.3	13.6	14.3	14.8	15.4
800 General government:					
Budget authority	11.7	12.0	12.3	12.5	13.0
Outlays	11.7	12.0	11.8	12.0	12.4
900 Net interest:					
Budget authority	215.6	228.7	239.2	243.7	244.5
Outlays	215.6	228.7	239.2	243.7	244.5
920 Allowances:					
Budget authority	0	0	0	0	0
Outlays	−95.4	−113.6	−86.6	−60.5	−76.4
950 Undistributed offsetting receipts:					
Budget authority	−28.6	−27.7	−27.7	−99.4	−116.7
Outlays	−33.3	−31.9	−29.8	−90.8	−105.6

CONFERENCE AGREEMENT OFF-BUDGET ONLY

[In billions of dollars]

	1991	1992	1993	1994	1995
Budget authority	310.9	332.5	352.8	377.4	402.4
Outlays	234.6	244.5	255.1	264.9	274.6
Revenues	314.3	336.9	361.9	388.1	410.3
Deficit (−) / surplus (+)	79.7	92.4	106.8	123.2	135.7
050 National defense:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
150 International affairs:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
250 General science, space and technology:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
270 Energy:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
300 Natural resources and environment:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
350 Agriculture:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
370 Commerce and housing credit:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
400 Transportation:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
450 Community and regional development:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
500 Education, training, employment and social services:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
550 Health:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
570 Medicare:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
600 Income security:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
650 Social security:					
Budget authority	338.1	365.8	392.9	425.1	458.4
Outlays	263.0	279.5	296.9	313.9	331.6
700 Veterans benefits and services:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
750 Administration of justice:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
800 General government:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
900 Net interest:					
Budget authority	−21.2	−26.8	−33	−39.9	−47.5
Outlays	−21.2	−26.8	−33	−39.9	−47.5
920 Allowances:					
Budget authority	0	0	0	0	0
Outlays	−1.2	−1.7	−1.7	−1.3	−1.0
950 Undistributed offsetting receipts:					
Budget authority	−6.0	−6.5	−7.1	−7.8	−8.5
Outlays	−6.0	−6.5	−7.1	−7.8	−8.5

CREDIT BUDGET FUNCTION TOTALS

[In billions of dollars]

	1991	1992	1993	1994	1995
Direct loans	21.0	17.8	18.2	18.4	18.6
Guaranteed loans	106.8	109.6	112.1	115.5	118.1
Secondary guaranteed loans	85.4	88.7	92.1	95.6	99.2
050 Defense:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	
150 International Affairs:					
Direct loans	1.9	2.0	2.1	2.1	2.2
Guaranteed loans	7.2	7.2	7.5	7.7	8.0
Secondary guaranteed loans	.4	.4	4	.5	.5
250 General science, space and technology:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0
270 Energy:					
Direct loans	2.0	1.6	2.0	2.1	2.3
Guaranteed loans	.4	0	0	0	0
300 Natural resources and environment:					
Direct loans	.1	1	.1	.1	1
Guaranteed loans	0	0	0	0	0
350 Agriculture:					
Direct loans	9.0	8.8	8.6	8.6	8.4
Guaranteed loans	7.0	7.3	6.6	6.7	6.8
370 Commerce and housing credit:					
Direct loans	6.0	3.3	3.4	3.50	3.6
Guaranteed loans	63.3	65.5	67.8	70.3	72.1
Secondary guaranteed loans	85.0	88.3	91.7	95.1	98.7
400 Transportation:					
Direct loans	0	1	.1	.1	.1
Guaranteed loans	0	0	0	0	0
450 Community and regional development:					
Direct loans	1.2	1.2	1.2	1.3	1.3
Guaranteed loans	.4	.4	4	.4	.4
500 Education, training, employment and social services:					
Direct loans	0	0	0	0	0
Guaranteed loans	12.5	12.9	13.2	13.3	13.4
550 Health:					
Direct loans	0	0	0	0	0
Guaranteed loans	.3	.3	.3	.4	.4
570 Medicare:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0
600 Income security:					
Direct loans	.1	.1	.1	.1	.1
Guaranteed loans	0	0	0	0	0
650 Social security					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0
700 Veterans benefits and services:					
Direct loans	.7	.6	.6	.5	.5
Guaranteed loans	15.7	16.0	16.3	16.7	17.0
750 Administration of justice:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0
800 General government:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0
900 Net interest:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0
920 Allowances:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0
950 Undistributed offsetting receipts:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0

RECONCILIATION INSTRUCTIONS

The conference agreement includes reconciliation instructions directing twelve House Committees and ten Senate Committees to report legislation to achieve savings over five fiscal years, 1991-1995. The House Committee instructions specify savings targets for each of the five years. The Senate Committee instructions specify targets for fiscal year 1991 and for total savings over the five years.

The conference agreement requires House and Senate Committees to report reconciliation recommendations to their respective Budget Committees not later than October 12, 1990.

CONFERENCE AGREEMENT RECONCILIATION BY HOUSE COMMITTEE

[Deficit reduction in billions of dollars]

	Fiscal Year—					5-year
	1991	1992	1993	1994	1995	
Agriculture:						
Fees:						
Agriculture fees	−0.079	−0.082	−0.086	−0.091	−0.095	−0.433
Forest Service Recreation [1]	−.008	−.008	−.008	−.008	−.008	−.040
EPA [1]	−.022	−.033	−.033	−.033	−.033	−.154
Subtotal	−.109	−.123	−.127	−.132	−.136	−.627
Other: Agriculture	−1.300	−1.900	−2.700	−3.300	−3.800	−13.000
Committee total	−1.409	−2.023	−2.827	−3.432	−3.936	−13.627
Banking:						
Fees: Flood/Crime Ins	−.014	−.346	−.177	−.150	−0.146	−.833
Other:						
FHA assignment waivers	−.193	−.189	−.185	−.181	−.177	−.925
Other FHA reforms	−.200	−.300	−.550	−.650	−.800	−2.500
Bank Insurance Fund	−1.100	−1.800	−1.900	−2.100	−2.100	−9.000
Subtotal	−1.493	−2.289	−2.635	−2.931	−3.077	−12.425
Committee total	−1.507	−2.635	−2.812	−3.081	−3.223	−13.258
Education and Labor:						
Fees: OSHA/MSHA penalties (REV)	−.095	−.195	−.230	−.280	−.330	−1.130
Other:						
Stafford Loans (GSL)	0	−.200	−400	−.600	−.800	−2.000
PBGC [1]	−.120	−.130	−.130	−.130	−.130	−.640
Subtotal	−.120	−.330	−.530	−.730	−.930	−2.640
Committee total (DR)	−.215	−.525	−.760	−1.010	−1.260	−3.770
Energy and Commerce:						
Fees:						
NRC [1]	−.287	−.298	−.310	−.323	−.336	−1.554
EPA [1]	−.022	−.033	−.033	−.033	−.033	−.154
Railroad safety	−.020	−.037	−.037	−.038	−.038	−.170
U.S. Travel and Tourism	−.007	−.014	−.014	−.014	−.014	−.063
Subtotal	−.336	−.382	−.394	−.408	−.421	−1.941
Other:						
Medicare [1]	−4.700	−9.200	−12.400	−15.200	−18.500	−60.000
Medicaid savings	−.195	−.440	−.530	−.580	−.635	−2.380
Medicaid package	−.500	−.400	−.400	−.400	−.400	2.100
Subtotal	−4.395	−9.240	−12.530	−15.380	−18.735	−60.280
Committee total	−4.731	−9.622	−12.924	−15.788	−19.156	−62.221
Interior:						
Fees:						
NRC [1]	−.287	−.298	−.310	−.323	−.336	−1.554
Corps of Engineers [1]	−.020	−.020	−.020	−.020	−.020	−.100
Forest Service Recreation [1]	−.008	−.008	−.008	−.008	−.008	−.040
Hardrock mining claims	0	−.030	−.030	−.030	−.030	−.120
Subtotal	−.315	−.356	−.368	−.381	−.394	−1.814
Other: Tongass	−.028	−.044	−.044	−.044	−.044	−.204
Committee total	−.343	−.400	−.412	−.425	−.438	−2.018
Judiciary:						
Fees: Patents and Trademark	−.091	−.095	−.099	−.103	−.107	−.495
Merchant Marine:						
Fees:						
Coast Guard	−.200	−.208	−.216	−.223	−.230	−1.007
EPA [1]	−.022	−.033	−.033	−.033	−.033	−.154
Subtotal	−.222	−.241	−.249	−.256	−.263	−1.231
Post Office:						
Other:						
Eliminate CS lump-sum	−1.230	−1.340	−1.830	−1.810	−1.840	−8.050

CONFERENCE AGREEMENT RECONCILIATION BY HOUSE COMMITTEE—Continued

[Deficit reduction in billions of dollars]

	Fiscal Year—					5-year
	1991	1992	1993	1994	1995	
Other POCS	−.935	−.800	−.950	−1.735	−1.880	−6.300
Subtotal	−2.165	−2.140	−2.780	−3.545	−3.720	−14.350
Public Works:						
Fees:						
EPA [1]	−.022	−.033	−.033	−.033	−.033	−.154
Corps of Engineers Recreation [1]	−.020	−.020	−.020	−.020	−.020	−.100
Subtotal	−.042	−.053	−.053	−.053	−.053	−.254
Science, Space and Technology:						
Fees: NOAA weather service	−.005	−.005	−.005	−.005	−.005	−.025
Veterans:						
Fees: VA fees (unspec)	−.120	−.125	−.130	−.135	−.140	−.650
Other: Unspecified Veterans	−.500	−.520	−.540	−.560	−.580	−2.700
Committee total	−.620	−.645	−.670	−.695	−.720	−3.350
Ways and Means:						
Fees: Customs fees	0	−.572	−.562	−.568	−.590	−2.292
Other						
Medicare: [1]						
Provider payments	−3.100	−5.200	−6.300	−7.000	−8.400	−30.000
Beneficiary payments	−1.600	−3.600	−5.600	−7.700	−9.500	−28.000
Miscellaneous	0	−.400	−.500	−.500	−.600	−2.000
Medicare subtotal [1]	−4.700	−9.200	−12.400	−15.200	−18.500	−60.000
Social Security package	−.500	−.300	−.400	−.400	−.400	−2.000
RR pension fund (REV)	−.025	−.035	−.040	−.050	−.050	−.200
PBGC [1]	−.120	−.130	−.130	−.130	−.130	−.640
Unemployment Insurance	0	−1.100	−1.150	−1.150	−1.200	−4.600
Social Security overpayments	0	−.043	−.028	0	0	−.071
Subtotal	−4.345	−10.208	−13.348	−16.130	−19.480	−63.511
Taxes: Summit tax package (REV)	−14.200	−25.600	−26.000	−31.400	−31.400	−128.600
Committee total (DR)	−18.545	−36.380	−39.910	−48.098	−51.470	−194.403
All committees (w/o double counts):						
Fees (DR)	−.968	−2.068	−1.957	−2.021	−2.122	−9.136
Other (DR)	−9.526	−17.341	−22.577	−27.290	−31.736	−108.470
Taxes (REV)	−14.200	−25.600	−26.000	−31.400	−31.400	−128.600
Total reconciled (DR)	−24.694	−45.009	−50.534	−60.711	−65.258	−246.206
IRS enforce initiatives (REV)	−3.037	−1.835	−1.803	−1.488	−1.213	−9.376
Miscellaneous other mandatory entitlement/fee	−.600	−.600	−.600	−.600	−.600	−3.000
Total revenue increase and mandatory spending cuts (DR)	−28.331	−47.444	−52.937	−62.799	−67.071	−258.582

[1] Joint jurisdiction, double-counts not included in the totals.

Note: All amounts are outlays unless specified as REV (revenues) or DR (deficit reduction—outlays and revenues combined).

CONFERENCE AGREEMENT RECONCILIATION BY SENATE COMMITTEE

[In millions of dollars]

		1991	5-year
Agriculture:			
APHIS	0	79	433
Forest Service rec. fee[1]	0	8	40
Agriculture programs	0	1,300	13,000
Subtotal, Agriculture	0	1,387	13,473
Banking:			
FEMA Flood and Crime Insurance	0	14	833
FHA assignement	0	193	925
Other FHA reforms	0	200	2,500
Increase flexibility for FDIC to raise assessment rates and reduce borrowing costs.	0	1,100	9,000
Subtotal, Banking	0	1,507	13,258
Commerce:			
Coast Guard	0	200	1,077
NOAA Weather Service	0		25
Railroad safety inspections	0	20	170
U.S. Travel/Tourism Administration	0	7	63
Subtotal, Commerce	0	232	1,335
Energy:			
Forest Service Rec. Fee[1]	0	8	40
Hardrock mining claim holding	0	0	120
Tongass Forest	0	28	204
Subtotal, Energy	0	36	364
Environment:			
Corps of Engineers rec. fee	0	20	100
EPA	0	22	154
NRC	0	287	1,554
Subtotal, Environment	0	329	1,808
Finance:			
Customs	0	0	2,292
Medicare	0	4,700	60,000
Medicaid	0	195	2,380
Unemployment insurance	0	0	4,600
Fund Rail Pension Liability	REV	25	200
Social Security overpayments	0	0	71
PBGC premiums[2]	0	120	640
Medicaid package	0	−500	−2,100
Social Security package	0	−500	−2,000
Subtotal, mandatory	DR	4,040	66,083
Summit tax package	REV	14,200	128,600
Subtotal, Finance	DR	18,240	194,683
Government Affairs:			
Eliminate lump sum	0	1,230	8,050
Postal FEHB	0	689	4,200
Postal COLA	0	0	1,187
Other	0	246	913
Subtotal, Government Affairs	0	2,165	14,350
Judiciary:			
Unspecified	0	91	495
Labor:			
OSHA/MSHA penalties	REV	95	1,130
Pension asset reversion[3]	REV	−50	−290
GSL reforms	0	0	2,000
PBGC premiums[2]	0	120	640
Subtotal, Labor	DR	165	3,480
Veterans:			
Unspecified	0	620	3,350
Total reconciled to committees	DR	24,694	246;206
Other miscellaneous	0	600	3,000
IRS enforcement	REV	3,037	9,376
Totals:			
Mandatory	DR	11,094	120,606
Summit taxes	REV	14,200	128,600
IRS enforcement	REV	3,037	9,376
Total	DR	28,331	258,582

[1] Joint jurisdiction: Agriculture and Energy.

[2] Joint jurisdiction: Finance and Labor.

[3] Joint jurisdiction with Finance (revenue). Included in reconciliation revenue totals.

Note: Outlays are specified as "0," revenues as "REV," and deficit reduction as "DR."

ALLOCATIONS OF SPENDING AND CREDIT RESPONSIBILITIES TO HOUSE COMMITTEES

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SEC. 302(a) OF THE CONGRESSIONAL BUDGET ACT

[In millions of dollars]

	Fiscal year 1991		Entitlement authority
	Budget authority	Outlays	
HOUSE APPROPRIATIONS COMMITTEE			
Current level (enacted law):			
050—National Defense	165	165	0
150—International Affairs	765	784	0
270—Energy	250	250	0
300—Natural Resources and Environment	1,433	1,865	0
350—Agriculture	12,509	623	0
370—Commerce and Housing Credit	3,024	4,438	0
400—Transportation	479	477	0
450—Community and Regional Development	1,667	1	0
500—Education, Training, Employment, and Social Services	11,133	10,877	0
550—Health	49,507	49,910	0
570—Medicare	35,350	35,350	0
600—Income Security	36,319	36,853	0
650—Social Security	47	47	0
700—Veterans Benefits and Services	16,763	16,645	0
750—Administration of Justice	241	236	0
800—General Government	6,231	6,232	0
Subtotal	175,883	164,754	0
Discretionary appropriations action (assumed legislation):			
050—National Defense	289,718	297,660	0
150—International Affairs	20,100	18,600	0
250—General Science, Space, and Technology	15,090	15,063	0
270—Energy	6,222	5,562	0
300—Natural Resources and Environment	19,485	19,148	0
350—Agriculture	2,640	2,649	0
370—Commerce and Housing Credit	4,435	4,422	0
400—Transportation	14,323	30,240	0
450—Community and Regional Development	7,412	7,626	0
500—Education, Training, Employment, and Social Services	29,896	30,152	0
550—Health	16,790	16,224	0
570—Medicare	0	2,304	0
600—Income Security	24,360	25,426	0
650—Social Security	0	2,317	0
700—Veterans Benefits and Services	13,989	14,109	0
750—Administration of Justice	12,975	11,914	0
800—General Government	10,184	10,142	0
950—Undistributed offsetting Receipts	4,900	802	0
Subtotal	492,519	514,359	0
Discretionary action by other committees (assumed entitlement legislation):			
550—Health	305	305	0
600—Income Security	17,774	17,338	0
700—Veterans Benefits and Services	−65	−107	0
Subtotal	18,015	17,535	0
Committee total	686,416	696,649	0
AGRICULTURE COMMITTEE			
Current level (enacted law):			
270—Energy	1,068	10	0
300—Natural Resources and Environment	440	435	0
350—Agriculture	9,004	10,965	8,813
400—Transportation	46	46	0
450—Community and Regional Development	56	850	0
800—General Government	339	344	339
Subtotal	10,952	12,649	9,152
Discretionary action (assumed legislation):			
350—Agriculture	−1,379	−1,379	−1,300
600—Income Security	0	0	974
Subtotal	−1,379	−1,379	−326
Committee total—	9,573	11,270	8,826
HOUSE ARMED SERVICES COMMITTEE			
Current level (enacted law):			
050—National Defense	11,301	11,259	1
500—Education, Training, Employment, and Social Services	3	2	0
600—Income Security	36,414	23,043	23,043
700—Veterans Benefits and Services	217	202	202
Subtotal	47,935	34,506	23,246
Committee total	47,935	34,506	23,246
BANKING, FINANCE, AND URBAN AFFAIRS COMMITTEE			
Current level (enacted law):			
150—International Affairs	0	−1,279	0
370—Commerce and Housing Credit	77,833	77,907	0
450—Community and Regional Development	12	−5	0
600—Income Security	200	281	0
800—General Government	5	5	0
900—Net Interest	22	2	0
Subtotal	78,072	76,931	0
Discretionary action (assumed legislation):			
370—Commerce and Housing Credit	−197	−1,493	0
450—Community and Regional Development	0	−14	0
Subtotal	−197	−1,507	0
Committee total	77,875	75,424	0
DISTRICT OF COLUMBIA COMMITTEE			
Current level (enacted law):			
750—Administration of Justice	18	18	18
Subtotal	18	18	18
Committee total	18	18	18
EDUCATION AND LABOR COMMITTEE			
Current level (enacted law):			
500—Education, Training, Employment, and Social Services	24	13	5,358
600—Income Security	92	89	7,504
Subtotal	116	102	12,863
Discretionary action (assumed legislation):			
600—Income Security	0	−120	−120
Subtotal	0	−120	−120
Committee total	116	−18	12,743
ENERGY AND COMMERCE COMMITTEE			
Current level (enacted law):			
370—Commerce and Housing Credit	53	52	0
550—Health	36	27	45,985
600—Income Security	13,672	12,865	10,116
800—General Government	7	7	7
Subtotal	13,768	12,951	56,109
Discretionary action (assumed legislation):			
270—Energy	−287	−287	0
300—Natural Resources and Environment	−22	−22	0
370—Commerce and Housing Credit	−7	−7	0
400—Transportation	−20	−20	0
550—Health	0	0	305
Subtotal	−336	−336	305
Committee total	13,432	12,615	56,414
FOREIGN AFFAIRS COMMITTEE			
Current level (enacted law):			
150—International Affairs	8,176	8,714	0
600—Income Security	835	368	368
800—General Government	5	5	0
Subtotal	9,016	9,087	368
Committee total	9,016	9,087	368
GOVERNMENT OPERATIONS COMMITTEE			
Current level (enacted law):			
800—General Government	20	19	0
Subtotal	20	19	0
Committee total	20	19	0
HOUSE ADMINISTRATION COMMITTEE			
Current level (enacted law):			
500—Education, Training, Employment, and Social Services	8	9	0
800—General Government	29	21	93
Subtotal	37	29	93
Committee total	37	29	93
INTERIOR AND INSULAR AFFAIRS COMMITTEE			
Current level (enacted law):			
270—Energy	170	−102	0
300—Natural Resources and Environment	189	167	10
450—Community and Regional Development	475	471	404
550—Health	3	3	0
800—General Government	800	797	830
Subtotal	1,637	1,335	1,244
Discretionary action (assumed legislation):			
300—Natural Resources and Environment	−72	−56	0
Subtotal	−72	−56	0
Committee total	1,565	1,279	1,244
JUDICIARY COMMITTEE			
Current level (enacted law):			
370—Commerce and Housing Credit	217	226	0
500—Education, Training, Employment, and Social Services	910	805	0
550—Health	1	1	0
600—Income Security	24	10	5
750—Administration of Justice	653	658	135
800—General Government	581	581	500
Subtotal	2,386	2,281	640
Discretionary action (assumed legislation):			
370—Commerce and Housing Credit	−91	−91	0
Subtotal	−91	−91	0
Committee total	2,295	2,190	640
MERCHANT MARINE AND FISHERIES COMMITTEE			
Current level (enacted law):			
300—Natural Resources and Environment	427	431	0
370—Commerce and Housing Credit	67	65	0
400—Transportation	6	0	427
600—Income Security	13	6	0
800—General Government	6	6	0
Subtotal	519	508	427
Discretionary action (assumed legislation):			
400—Transportation	−200	−200	0
Subtotal	−200	−200	0
Committee total	319	308	427
POST OFFICE AND CIVIL SERVICE COMMITTEE			
Current level (enacted law):			
550—Health	0	−636	2,873
600—Income Security	54,623	33,067	33,067
800—General Government	12,199	12,199	0
Subtotal	66,822	44,629	35,940
Discretionary action (assumed legislation):			
600—Income Security	50	−1,230	−1,230
950—Undistributed Offsetting Receipts	−935	−935	0
Subtotal	−885	−2,165	−1,230
Committee total	65,937	42,464	34,710
PUBLIC WORKS AND TRANSPORTATION COMMITTEE			
Current level (enacted law):			
270—Energy	433	101	0

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SEC. 302(a) OF THE CONGRESSIONAL BUDGET ACT—Continued

[In millions of dollars]

	Fiscal year 1991		Entitlement authority
	Budget authority	Outlays	
300—Natural Resources and Environment	158	177	0
400—Transportation	17,497	0	0
450—Community and Regional Development	5	5	0
800—General Government	1	54	0
Subtotal	18,094	338	0
Committee total	18,094	338	0
SCIENCE, SPACE AND TECHNOLOGY COMMITTEE			
Current level (enacted law):			
250—General Science, Space, and Technology	135	134	0
—Natural Resources and Environment			
270—Energy	19	23	0
500—Education, Training, Employment, and Social Services	1	1	0
Subtotal	155	158	0
Discretionary action (assumed legislation):			
300—Natural Resources and Environment	−5	−5	0
Subtotal	−5	−5	0
Committee total	150	153	0
VETERANS' AFFAIRS COMMITTEE			
Current level (enactd law):			
700—Veterans Benefits and Services	1,588	1,429	18,144
Subtotal	1,588	1,429	18,144
Discretinary action (assumed legislation).			
700—Veterans Benefits and Services	−120	−120	−65
Subtotal	−120	−120	−65
Committee total	1,468	1,309	18,079
WAYS AND MEANS COMMITTEE			
Current level (enacted law):			
500—Education, Training, Employment, and Social Services	1,142	0	5,503
570—Medicare	134,026	114,263	114,267
600—Income Security	28,940	21,137	49,276
650—Social Security	345,303	269,829	265,050
750—Administration of Justice	164	165	0
800—General Government	500	505	406
900—Net Interest	286,286	286,286	286,286
Subtotal	796,362	692,185	720,788
Discretionary action (assumed legislation):			
570—Medicare	1,200	−4,700	−4,700
600—Income Security	26	0	0
650—Social Secutity	2,400	500	500
Subtotal	3,626	−4,200	−4,200
Committee totals	799,988	687,985	716,588
UNASSIGNED TO COMMITTEES			
Current level (enacted law):			
050—National Defense	−12,083	−12,083	0
150—International Affairs	−9,841	−9,419	0
250—General Science, Space, and Technology	−25	2	0
270—Energy	−1,775	−1,757	0
300—Natural Resources and Environment	−3,333	−3,341	0
350—Agriculture	−6,175	−58	0
370—Commerce and Housing Credit	−133	−120	0
400—Transportation	−32	−43	0
450—Community and Regional Development	−426	−435	0
500—Education, Training, Employment, and Social Services	−117	−59	0
550—Health	−42	−34	0
570—Medicare	−46,976	−47,017	0
600—Income Security	−9,842	−9,832	0
650—Social Security	−5,850	−5,893	0
700—Veterans Benefits and Services	−1,072	−1,057	0
750—Administration of Justice	−751	−690	−5
800—General Government	−19,208	−19,216	0
900—Net Interest	−91,908	−91,908	−72,029
920—Allowances	0	−96,600	0
950—Undistributed Offsetting Receipts	−38,565	−38,567	0
Subtotal	−248,154	−338,127	−72,034
Discretionary action (assumed legislation):			
950—Undistributed Offsetting Receipts	0	−600	0
Subtotal	0	−600	0
Committee total	−248,154	−338,727	−72,034
Total—Current level	975,226	715,784	806,998
Total—Discretionary action	510,875	521,116	−5,636
Grand total	1,486,100	1,236,900	801,362

CONFERENCE REPORT FISCAL YEAR—ALLOCATION OF CREDIT RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTION 302(a) OF THE CONGRESSIONAL BUDGET ACT—FISCAL YEAR 1991

[In millions of dollars]

House Committee	Direct loans	Primary guarantees
Current level (Enacted Law):		
Agriculture	8,019	6,100
Banking, Finance and Urban Affairs	3,250	1
Education and Labor	0	12,810
Energy and Commerce	0	290
Merchant Marine and Fisheries	0	104
Public Works and Transportation	299	0
Veterans Affairs	675	15,650
Ways and Means	2	0
Unassigned	54	191
Subtotal	12,299	35,145
Discretionary Action (assumed legislation):		
Appropriations	8,701	71,969
Education and Labor	0	(314)
Grand total	21,000	106,800

ECONOMIC ASSUMPTIONS

The conference agreement is based on the economic assumptions displayed in the table below. These assumptions were prepared by the administration for the President's budget submission and were adopted as the basis of the House-passed and Senate-passed resolutions. These assumptions, as well as the administration's corresponding technical assumptions, are used in the conference agreement to achieve comparability between the conference agreement, the President's budget submission, and the House-passed and Senate-passed resolutions with respect to total revenues, total outlays and the deficit. (Gramm-Rudman-Hollings deficit targets will be adjusted as part of the reconciliation bill pursuant to this concurrent resolution and will not necessarily be based on these economic assumptions.)

ECONOMIC ASSUMPTIONS

[Calendar years]

	1990	Projected				
	1990	1991	1992	1993	1994	1995
Annual averages:						
Gross national product (billion dollars)	5,560	5,973	6,398	6,821	7,264	7,734
Percent change	6.2	7.4	7.1	6.6	6.5	6.5
Real GNP (billion 1982 dollars)	4,236	4,370	4,499	4,613	4,725	4,838
Percent change	2.2	3.2	3.0	2.5	2.4	2.4
Deflator (percent change)	3.9	4.1	4.0	4.0	4.0	4.0
Consumer price index (percent change)	4.0	4.0	4.1	4.3	4.3	4.3
Civilian unemployment rate (percent)	5.5	5.4	5.3	5.3	5.3	5.3
Three-month Treasury bill rate (percent)	6.7	5.4	5.5	5.6	5.6	5.6
Ten-year Treasury note rate (percent)	7.7	6.8	6.8	6.9	6.9	6.9
Taxable incomes (billion dollars):						
Wages and salaries	2,794	3,007	3,226	3,445	3,668	3,905
Corporate profits before tax	345	390	406	419	443	464
Fourth quarter to fourth quarter (percent change):						
Gross national product	6.9	7.5	6.8	6.6	6.5	6.5
Real GNP	2.6	3.3	2.7	2.5	2.4	2.4
GNP deflator	4.2	4.1	4.0	4.0	4.0	4.0
Consumer price index	4.1	4.0	4.2	4.3	4.3	4.3
Civilian unemployment rate (percent, fourth quarter level)	5.5	5.3	5.3	5.3	5.3	5.3

BUDGET SUMMIT AGREEMENT

On May 6, 1990, the President and the bipartisan congressional leadership agreed to convene a special budget group. Five months later, the negotiators reached agreement. The budget summit agreement represents the largest deficit reduction plan ever agreed to, an estimated $500 billion during the next five years.

The agreement includes major reductions in discretionary spending that (on OMB estimates) account for 36 percent of the total, significant reductions in entitlement and mandatory spending programs (24 percent of the total), and tax revenue increases (27 percent of the total). Reductions in interest payments constitute the remaining 13 percent of the package.

This fiscal year 1991 budget resolution conference report, agreed to unanimously by the conferees, embodies this budget summit agreement. This conference agreement includes detailed five-year reconciliation instructions and discretionary spending limitations that reflect the agreement. The summit agreement will be implemented through enactment of the reconciliation bill resulting from the instructions in this resolution and the appropriations bills limited by the resolution's 302(a) allocations.

It is the conferees' understanding that the summit agreement will be fully implemented with the complete support of the President and the congressional leadership, including those provisions that will change the congressional and executive branch budget processes to enforce it.

The conferees also believe that the enactment of the agreement will result in a balanced Federal budget by 1996, reduce the demand on private credit markets and enhance the long-run growth potential of the United States.

LEADERSHIP ENFORCEMENT OF BUDGET SUMMIT AGREEMENT

It is the intent of the conferees that the bipartisan leaders of the House and Senate work with the committees of Congress to assure that the amounts of deficit reduction and the policies to achieve such reductions are achieved and are consistent with the budget summit agreement of September 30, 1990.

It is the intent of the conferees that the House-reported reconciliation bill should not contain provisions extraneous to the summit agreement.

Should legislation under consideration by any committee fail to comply with the summit agreement, the conferees intend that remedial efforts shall be made by all parties to achieve such compliance. Further, the conferees intend that the bipartisan leaders shall take steps to enforce the agreement.

ACHIEVEMENT OF UNSPECIFIED SAVINGS

The conferees urge that the joint leadership of Congress agree on a package of changes in laws that provide mandatory spending to achieve deficit reduction of $3,000,000,000 (in addition to the amounts reconciled in this concurrent resolution) and seek to include that package in the reconciliation bill pursuant to this concurrent resolution.

FUNDING FOR IRS COMPLIANCE

It is the intent of the conferees that the additional amounts requested by the President in the fiscal year 1991 budget for the IRS compliance initiative—$191 million in budget authority and $183 million in outlays in fiscal year 1991, $172 million in budget authority and $169 million in outlays in fiscal year 1992, $183 million in budget authority and $179 million in outlays in fiscal year 1993, $187 million in budget authority and $183 in outlays in fiscal year 1994, and $188 million in budget authority and $184 in outlays in fiscal year 1995—shall be provided by action of the Appropriations Committee in order to raise the assumed amounts of additional revenues from increased IRS compliance funding consistent with the budget summit agreement.

BUDGET PROCESS REFORM AND ENFORCEMENT

To assure a $500 billion deficit reduction package is achieved and maintained, the conferees intend that the reconciliation act implementing the budget summit agreement include provisions of the budget summit agreement's recommendations to strengthen the budget process and enforce the agreement.

LEON E. PANETTA,
RICHARD GEPHARDT,
BILL FRENZEL,
Managers on the Part of the House.
JIM SASSER,
WYCHE FOWLER, JR.,
PETE V. DOMENICI,
Managers on the Part of the Senate.

Mr. PANETTA. Mr. Speaker, pursuant to House Resolution 488, I call up the conference report on the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the U.S. Government for the fiscal years 1991, 1992, 1993, 1994, and 1995.

The SPEAKER pro tempore. Pursuant to House Resolution 488, the conference report is considered as having been read.

The gentleman from California [Mr. PANETTA] will be recognized for 1 hour and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 1 hour.

The Chair recognizes the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, we take under consideration this evening the conference report on House Concurrent Resolution 310, which is the concurrent resolution on the budget for fiscal year 1991. This conference report reflects all of the spending, revenue and savings targets that were agreed to by the President and the bipartisan congressional leaders in the budget summit. It is the essential first step in the budget process.

The President has called the budget package a tough agreement for tough times. Too often Presidents have not been willing to deliver that message to the American people when it was needed, and that is one of the reasons we are here today.

However, Mr. Speaker, the reality is, that we are a nation facing a number of very serious crises at the present time.

As we speak, we are at risk militarily with our troops located in the Persian Gulf who are looking to all of us to determine whether or not we have the courage and the leadership to govern. We are at risk politically in a world that is changing. The two Germanies united this week, the Soviet Union is changing, and Eastern Europe is changing dramatically, and the United States at this point in time can exercise tremendous leadership in that world, and yet we are here trying to determine whether or not the Government of the United States will stay in business.

In addition, Mr. Speaker, we are at risk economically. We have the rising likelihood of a recession staring us right in the face. We have a slow and steady erosion of our position in the world economy, and we have the frustrating inability to respond to these crises, to these difficult issues here at home.

☐ 2220

Of course, if we fail today, we face the specter of sequestration, these dramatic cuts across the board that will affect everyone in our most critical areas, devastating to people, devastating to our economy.

This is not a time for blaming others. This is not a time to run and hide. This is not a time for cowardice. It is a time for leadership.

The huge budget deficits we all know have been piling up for decades. This last decade of the eighties has been a period when these deficits have tripled, sapping our Nation's strength. They have robbed the resources we need for investment in the future. The savings of the American people, which should have gone to new businesses and economic growth and economic development, are now financing Government borrowing. No more, no less.

Mr. Speaker, the taxes that we ask the American people to pay out of their hard-earned dollars, instead of improving our education or improving our Nation's transportation system, must go to pay interest on the borrowing that we do, by far the fastest growing part of the Federal budget. We are now looking, as we speak, at $300 billion deficits. What began as a $100 billion at the beginning of the year has now become a $300 billion record annual deficit that we are facing in this next year, because of the RTC problems, because of our economy, because of a shortfall of revenues. Whatever the cause, we are now confronting a record $300 billion deficit, and an overall debt in excess of $3.2 trillion.

Because the Federal Treasury has to borrow and borrow, it has pushed up interest rates. During periods of strong growth these interest rate problems could have only been troublesome in terms of our economy. But at a time of slow growth, which is what we are facing right now, higher interest rates can essentially submerge our economy and drop it into a recession.

Make no mistake about it: for those Members who have any question, our economy is on the brink. For those who play partisan or political games, there is a terrible price to be paid for such folly.

Growth in the second quarter was less than half a percent, and that was before the high energy prices hit our economy. The combination of a soft economy, of an oil shock, of inflation, of a sequester, will send the markets reeling, make no mistake about it, and endanger the financial stability of both the national and international economy.

All of us recognize that this agreement is not a panacea. It is not going to solve all of our problems. What we are looking at right now, according to a majority of economists, is the likelihood of a recession, albeit a mild recession. But deficit reduction is essential for giving the Federal Reserve the latitude it needs to reduce interest rates and try to mitigate the depth and the duration of the recession.

Furthermore, deficit reduction is the only proven tool for assuring long-term growth in investment and productivity, employment, and income. The package we have before us, $500 billion in deficit reduction over 5 years, is by far the largest and the most real deficit reduction package that has ever been seriously contemplated by a Congress or by a President.

It makes tough choices, we all know that, in defense, in entitlement programs, in taxes. But we cannot kid the American people. No matter how you design this package, it has to make tough choices, in defense, in entitlements, and in taxes.

There are no tricks, no smoke and mirrors. Everything in this package is real. Is it perfect? Far from It. Is it painful? With half a trillion dollars in deficit reduction, how could it not be. Is it the package that I or any Member would have designed, or for that matter the President? Absolutely not. Of course not.

Mr. Speaker, it is a compromise. A compromise by its very nature means that everybody has to give something for the greater good. That is what democracy is all about, particularly at a time of divided Government. Nobody can have their own way, with the divided Government that we have at the present time.

Mr. Speaker, let us remember that we were elected not only to represent a particular point of view, but to govern. This budget package tries to break the stalemate that we have had between the parties and within a divided Government.

Perhaps no individual in this country has more of a direct impact on interest rates than the Chairman of the Federal Reserve. Yesterday Chairman Greenspan said the following:

> If this agreement is voted down, prospects for coming to grips with the corrosive effects of budget deficits on our economy would be dim indeed. I am fearful that failure to enact the agreement would produce an adverse reaction in financial markets that could undercut our economy, already significantly weakened by the shock of the Middle East crisis and problems in our financial system.

Mr. Speaker, this is the moment of truth. It is the moment that we have to face the tough choices. There is no alternative. If we fail to pass this budget resolution tonight, it is over. We are going to find it very difficult to try to accommodate all of the different interests that are now involved. But if we do pass it, then I think we send a clear message to the people of this country, that we can govern.

Mr. Speaker, I ask all Members tonight, set aside and rise above your parochial concerns. Rise above your regional interests. Rise above ideology and partisanship, and cast a vote for the greater good of this country, for our Nation's future, but, most importantly, for our children's future.

Mr. Speaker, I reserve the balance of my time.

Mr. FRENZEL. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, the gentleman from California [Mr. Panetta] gave such a good speech that I can only improve on it by adding the word "grandchildren" in the last sentence.

The chairman has told us what we need to do, has set our course for us, and many of us in the Republican leadership feel exactly the same way.

It is absolutely essential that this House pass this budget resolution tonight.

Mr. Speaker, I yield 3 minutes to the distinguished vice chairman of the Committee on Appropriations, an inveterate summiteer, and always a crowd pleaser, the gentleman from Massachusetts [Mr. Conte].

Mr. CONTE. Mr. Speaker, I thank the gentleman from Minnesota for yielding time to me.

Mr. Speaker, I rise in support of this budget resolution conference report. As a member of the budget summit negotiating group, slaving away since May 15, I had hoped to be able to speak firmly in support of the summit agreement.

But there is one issue in here so punitive to my people back home and so unrelated to deficit reduction, that I must make my support for this agreement conditional. At the last hour, at the insistence of one Democratic Senator and without consultation, home heating oil was included in the 2-cent petroleum tax. This provision is punitive and life threatening to the poor and elderly trying to stay warm this coming winter.

That Senator says he didn't want the package to play regional favorities. We're not talking regional advantage here, we are talking about staying warm this winter. That same Senator excluded from that same tax the petrochemical feedstock industry and the agriculture on which his region depends. And that same Senator provided $4 billion in tax breaks to the oil producers in his region. And we will not even mention the S&L bailout.

This budget resolution we consider today only starts the process of enacting the summit agreement into law. This resolution provides the broad outlines, and if it is passed, the committees in the Congress will then draft the specific legislative changes. They will be voted on in the reconciliation bill next week, and that's the vote that counts.

The Ways and Means Committee has the ability to include the exemption of home heating oil, and to make other needed adjustments, particularly on Medicare, where changes are probably very much needed. My vote, and other votes in the Northeast, will depend in large part upon the favorable resolution of the exemption for home heating oil.

But we will not get to that point if we do not pass this budget resolution. The alternatives to passing this resolution are very unattractive. We toss our economic fate to the wind. We look incapable of governing, and of putting our economic house in order. That is the wrong message to send at this time.

In my opinion, the responsible thing to do is to vote for this resolution and move the process on down the road toward putting our Nation's fiscal house in order. Then, let the committees make their changes in the reconciliation bill, and decide at that point if the agreement should be finally passed.

□ 2230

Mr. PANETTA. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. Russo].

Mr. RUSSO. Mr. Speaker, I rise today in opposition to the budget summit agreement. This agreement is the continuation of the same failed fiscal policies of the past 10 years. Yes, there is a budget problem, Yes we need to take action to resolve that problem. But why is that the option we're being given puts the burden squarely on the middle class yet again? In a time of crisis we must turn to the people of this Nation to help reduce our huge deficit. The poor can't solve the problem, they don't have the money. That leaves the middle class and the rich. The question I must pose to our President, our leadership and my colleagues is, why? Why is the middle class bearing a disproportionate share of the burden of reducing the deficit?

In the past decade the top 1 percent of wealthy taxpayers have seen their income increase by 74 percent with a corresponding decrease in their tax rate of 14 percent. In that same decade, families in the bottom fifth saw their total Federal effective tax rates go up 16 percent while their incomes went down 3.2 percent. This package's heavy reliance on excise taxes will again hit lower and middle income earners harder than the wealthy. Concerns about the progressivity of this agreement are not political rhetoric—they are based on cold, hard facts. Under this package those Americans making $20,000 a year will see a 3.5-percent tax increase. Yet the top 1 percent of Americans who enjoy an income of over $700,000 per year will have their taxes increased by only 1.7 percent. Believe me, these are very cold, hard facts of life for those middle-income taxpayers who are attempting to put their children through school, buy a home and make ends meet. The President has asked everyone to share in the sacrifice of reducing our budget deficit. But are tax loopholes and tax breaks for the rich anyone's idea of shared sacrifices? Is it a shared sacrifice when the newly unemployed must wait 2 weeks to receive their first unemployment check while the wealthiest Americans pay less taxes? I don't think so.

As if the slant of the package toward taking another bite out of the earning power of middle Americans was not enough, there are other serious flaws in the agreement. The defense number is still bloated beyond what is needed for a lean and efficient fighting force and does not take into consideration the cost of operation desert shield. And we should be very concerned about the last minute tax incentives in this deal. The very generous tax breaks or so-called growth incentives

have even taken the small business community by surprise. Have we not done this before—enacted overly generous tax breaks for certain segments or our economy, only to revisit those deals in later years and shake our heads and say, what were we thinking.

But the fundamental flaw, beyond progressivity is the process. There are tough choices to be made to solve the deficit visited on this country by the Reagan legacy. I was elected to make those choices and I'm willing to do so. What I'm being presented with today is a no-win situation. If I vote for the agreement I will be voting for balancing the budget on the backs of the over burned middle class. If I vote against the agreement I'm a naysayer to the only solution the summiteers could come up with. Either way, it's a bad vote because the solution is worse than the problem. This agreement only looks good in comparison to sequestration and I firmly believe that we can do better than that. Budget summits encourage the leadership of both parties to ignore the will of the rank and file of the Congress and to effect legislation without going through the legislative process. Instead we are presented with a budget agreement negotiated by congressional leaders and a handful of nonelected White House officials. Summits in general set up the legislative process for failure. As elected Members we should vote on a budget fashioned by our committees—win or lose at least we would be adhering to the principles of representational government. I'm not afraid to take my best shot and then abide by the decision of the majority.

We're being asked to swallow our reservations and vote for this package for the good of the country. The good of the country? Do we mean by country, a generic body of faceless people? This nation is composed of individuals—hard working, honest men, women, and children. I've been argued into making votes like this one before. And what happened—the rich got richer and had a party at the expense of the poor and middle class Americans who comprise the majority in this country. Well, I'm here to say that I'm not doing it anymore. And I hope you won't either.

The President asked the American people to contact us about this proposal. Well, they have spoken loud and clear and they are overwhelmingly against the summit agreement. They are telling us it is time to reverse the regressive trend of the past decade and make the Tax Code more equitable. It is time to distribute the burden of deficit reduction among those most able to afford it. I'm not making this vote today because of any perceived political consequences or because of pressure from special interest groups. A vote against this agreement is not only the right thing to do, it is the fair thing to do, and it is the just thing to do.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania [Mr. Shuster].

Mr. SHUSTER. Mr. Speaker, our distinguished chairman of the Budget Committee has said there are several interests that we must rise above tonight, and I agree with him. But there is one interest that we cannot rise above. We cannot rise above reason as our own lights show us what reason is.

In my judgment, this resolution is bad for the economy and it is unfair, fundamentally unfair.

We have heard many horror stories, scare tactics even about how the Government is going to be shut down. We have been told that the President of the United States is going to veto any concurrent resolution that we should pass if this resolution fails.

My colleagues have been around here long enough to know what the legislative dance is. Of course, we get these kinds of threats. I have enough confidence in the President to believe that if this goes down he is going to think an awful long time before he shuts down the Government. And I also have enough confidence in this Congress that if the President were to veto a concurrent resolution we would override that veto.

So let us not let the scare tactics cause us to steer away from reason as we see it.

We are told there are no alternatives. We know that is not so. There are several alternatives.

There is the simple 1½ or three-quarters of a loaf after we fix the gas tax problem and the Medicare problem. I have seen a plan that calls for a $35 billion sequester instead of $105 billion sequester.

For those Members who lust for tax increases, why not a 1-percent stock and bond transfer tax? Let us let Wall Street participate in the pain here. And why not strip the sweetheart deals that we have seen in this resolution, put in there by the summiteers who had the privilege of crafting this resolution? And there are several other alternatives that we have already heard of.

□ 2240

Yes, there are alternatives. And what is wrong, what is so terrible, about letting the Members of Congress vote on the alternatives?

Let us defeat this resolution. Let us bring back some alternatives. Let us fix this, not after we pass the resolution as has been suggested here tonight, the suggestion being pass it and then we will fix it.

Does it not make more sense, is it not more reasonable to fix it first and then pass it?

So let us defeat this resolution. Let us go back to work and let us give the American people a more reasonable, better solution.

Mr. PANETTA. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Anderson], chairman of the Committee on Public Works and Transportation.

Mr. ANDERSON. Mr. Speaker, I rise in support of the fiscal year 1991 budget resolution. As chairman of the Public Works and Transportation Committee, I am keenly aware of the impact this budget could have on the Nation's transportation network. However, I am willing to offer my support on this vote because of commitments I have received from the leadership that will lessen any potentially negative effects during the reconciliation process.

Thus far, we have agreed that 50 percent of the 10-cent increase in motor fuel taxes will be placed in the highway trust fund annually, with 20 percent of that set aside for mass transit. I also have an assurance from the leadership that in reconciliation, the Public Works Committee may authorize the entire amount of new trust fund revenues. Further, increased highway and transit spending will be permitted outside the overall domestic discretionary cap.

This is critical in assuring that the budget does not have antigrowth effects on the economy. Without an agreement to spend some of these increased revenues, we would be totally depriving the Nation of the economic benefits of increased spending on transportation improvements including the creation of jobs, increased productivity and competitiveness in the world market, and additional private investment through greater efficiencies in transportation for the business sector. Without additional spending on transportation infrastructure, economists have estimated that a 10-cent-a-gallon motor fuels tax increase would result in the loss of over 180,000 jobs and a decline in auto and truck sales of at least 120,000.

Another issue of concern is the reference in the budget agreement to an amended minimum allocation provision. This is clearly an authorizing issue that relates directly to the distribution of funds rather than the raising of taxes. It is, therefore, logically within the jurisdiction of the Public Works and Transportation Committee and the leadership has agreed that it will be handled by our committee in the reconciliation process. Because this is an intricate provision that can penalize as well as reward States, it is critical that the authorizing committee that established the original minimum allocation write the amendments to it in an informed and balanced way.

Because of these agreements with the leadership, Mr. Speaker, I will vote in support of the budget resolution. My continued support for the package, however, will be contingent on our further progress and a satisfactory resolution of these issues in the reconciliation process.

Just as I have worked hard on Public Works and Transportation issues over the years, I have also worked hard for, and supported measures to protect our senior citizens and afford them the rights and benefits they deserve. Therefore, I again stress, it is with great reservation that I support this budget agreement, which asks so much from my senior constituency. A $59.9 billion cut in Medicare will hurt, yet, as I look at the alternative under sequestration, it is the route which, in the long run, will least affect our senior citizens. I want to emphasize that under sequestration there are also cuts in Medicare and Medicare Program administration, along with cuts in Social Security Program administration, supplemental security income, VA medical care and burial benefits, social services block grants, and human development services, to name only a few. These cuts mean that VA medical care will be eliminated for millions of patients, Social Security claims will be deferred or slowed down, meals for millions of senior citizens will be stopped, and many more services delayed or ended altogether. While I reluctantly support the budget agreement, I do remain hopeful that this legislation can be fine tuned so that those least able to pay will be least affected by the changes.

Also of great concern to me in making my decision was the regressive taxes on beer, wine, and distilled spirits, and on tobacco. These taxes will hurt most the poor and working class who are already shouldering much of the tax burden. The taxes on wine will especially hurt my State of California which faces of up to 25-percent drop in wine sales, as well as the ports of Long Beach and Los Angeles, which will most certainly lose revenues as the exportation of wine slows. However, I am certain that the economic chaos which would result under sequestration would have a far greater impact on the working class and the business community than under the budget agreement. Many economists agree that recession is imminent under sequestration. Obviously, deficit reduction is the only way to assure growth in investment and productivity in the long run. Moreover, the current Federal deficit is the worst enemy of American business today, and the budget agreement, however painful, is better than chaos under sequestration.

The alternative of sequestration would also gravely affect dozens of nondefense programs on which millions of Americans depend by requiring $70.3 billion in budget authority cuts. Head Start, NASA, Pell grants, NIH, and AIDS research funding are just a few of the programs which would be cut. Further, sequestration would result in hundreds of thousands of Federal employees to be furloughed, and many to lose their jobs. My decision to support this agreement has been a difficult one. Yet should this agreement not pass, I shudder to think of the consequences it will have across the Nation. For those of my constituency who do not support my vote, I only hope they understand the reasons behind my choice. The time to act is now, the choice is not easy, but it is necessary.

Mr. FRENZEL. Mr. Speaker, I yield 5 minutes to the distinguished vice chairman of the Committee on Ways and Means and a member of the summit negotiating team, the gentleman from Texas [Mr. Archer].

Mr. ARCHER. Mr. Speaker, when I first saw this budget agreement on Monday, all of the objectionable features reached out to me, and, to say the least, I was disappointed.

But I learned many years ago, that before you make a hasty decision, it is far better to count to a legislative 10, and I went home and I counseled with my wife, and I shared my concerns. And as the night wore on, I realized that I could not get hung up on individual pieces in this agreement, but that it was far more important to look at the whole and what impact it would have on our country and on generations to come. By morning, I realized that this was the best we could do.

I cannot stand here and tell you that if you fail to vote for this package there will be a recession, or that if you do vote for this package there will be a recession. No economist knows, but I can tell the Members this country is in desperate need of a fiscal fix.

If Churchill were here today, he might possibly say that this is the worst possible budget agreement, until you consider all of the other realistic alternatives. Sequestration clearly is not a realistic alternative, perhaps for a few days, but those who accept that, and seem to wish it, will come quickly back to this body in a short time, demanding that many parts of it be lifted.

The Congress itself has never before in its history been able to produce this type of package. Individual Members working together through committees, through the budget process, have been unable to do so, and after months of deliberation this year, I am convinced this is the best that we can do.

Neither Democrats by themselves nor Republicans with the President, can pass a budget package. It can only be done by bipartisan effort.

In all of the years that I have been on the Committee on Ways and Means, I have only voted for one tax bill. That was in 1981, which was a tax reduction. That was easy.

And it is now time to pay the bills. We have run up consecutive deficits for the last 19 years, and I say to my Democrat friends, not just during the last decade. The last balanced budget was in 1971. We are leaving these massive deficits as a legacy to our children and to our grandchildren, and I do not serve in Congress to be a party in bestowing such a burdensome legacy.

Socrates 400 years before Chirst, said that when the masses of the people find they can vote themselves prosperity from the public treasury, democracy is no longer possible.

This is a historic test for our republic, our democracy. Democracies easily handle the easy decisions, but stumble on the tough ones.

Today is that watershed moment in our country's history where we will look back and say we did the right thing, as tough as it was, and as objectionable as some of the features of this package are, because, yes, our children and their children deserve it.

Could I have devised a better budget? Certainly. Give me 217 votes. But would it pass without giving me 217 votes? And the answer is no.

I feel that many Members on both sides want an easy package. There is no such thing as deficit reduction of $500 billion that is a happy package for anyone.

When I first ran for Congress, Barry Goldwater came to my district, and I must confess he was one of my ideals in politics. There was a rumor that he would not run again, and I asked him, "Are you going to run again?" He looked at me and said, "Bill, I have thought about it, and I want to retire. I feel that I have earned it. I want my privacy and my private life, but I will not one day sit with my grandchildren on my knee and tell them that I did not do everything that I could to make a better future for them." He ran Again.

And I will not sit and tell my grandchildren that I failed to make the tough decision when I had a chance to lift this debt from their shoulders.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. Hubbard].

Mr. HUBBARD. Mr. Speaker, as a Member of Congress from Kentucky, a State hit extremely hard by this budget proposal, I rise to oppose this resolution. I oppose it strongly.

Mr. Speaker, I speak in opposition to this proposed budget resolution. Kentuckians want the Federal Government to cut spending as a means of balancing the budget. They cannot bear higher taxes.

Earlier this year, the 1990 Kentucky Legislature voted the highest tax increase in the history of our Commonwealth. Based on hundreds of contacts from my constituents this week, I'm aware that 90 percent of my constituents oppose this budget resolution.

I urge my colleagues to vote against this proposal.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. Coleman].

Mr. PANETTA. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. Moody].

Mr. MOODY. Mr. Speaker, this package has been called "necessary" by our very able budget chairman and other people we all respect, to mop up the $300 billion annual deficits now looming in front of us.

But how did this fiscal crisis happen? There were three major ways. I would ask the Members to consider, does this package address any of the three?

First, the huge tax cuts of the 1981 era that the gentleman from Texas [Mr. Archer] just referred to, mostly tax cuts for the wealthy, huge revenue losses. Does this package ask the wealthy to finally pay their fair share? No. It hits the middle income people twice as hard as the rich.

Second, the huge S&L losses; did the middle-income benefit from the jumbo CD's, the real estate manipulations, the fraud that created the S&L mess? No. But they're asked to pay here.

Third, huge defense spending. The Pentagon cost overruns, the unbelievable cost overruns, the defense procurement scandals, the enormous run up in military spending. In this sacrifice package, does defense do its share of sacrifice? No, they get more than either the House or the Senate would have provided.

We should defeat this package. Go back to the drawing boards. Only then can the Congress consider a package that is both responsible and fair.

Mr. FRENZEL. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. Roukema].

Mrs. ROUKEMA. Mr. Speaker, I rise in opposition to the budget resolution.

Mr. Speaker, I rise in opposition to the budget resolution before us and the budget summit agreement it represents. Yes, the budget deficit is Public Enemy No. 1 but the negotiations that started early this summer with so much promise, has now produced a grossly inadequate and patently unfair product.

When the budget summit was first proposed some long months ago, we were assured that any agreement would produce significant reduction in a deficit that was spiralling upward. Since then, much has occurred with respect to the budget deficit—and none of it has been good. The costs of the S&L reform and recovery program has jumped precipitously, the Iraqis forced the deployment of Operation Desert Shielf and the economy has slowed dramatically.

All this makes an even stronger case for fiscal restraint. Yet the summit package we debate today will fall significantly short of the $50 billion first year savings we were promised. And, based on the dubious enforcement procedures included in this package and official Washington's equally dubious track record, I would venture an educated guess that we will never see the $500 billion in deficit reduction over 5 years that this package promises.

We could have, and should have, done much better. But beyond the inadequacy of this approach, there is a strong regional bias in the package. Indeed the Tax Foundation, in its analysis of the effects of the budget agreement, identifies New Jersey among the States facing the largest per capita tax increase.—These increases are largely the consequence of the increases in Medicare taxes and the limitations on itemized tax deducations.

MEDICARE

Recognizing that we must produce savings in domestic spending, this resolution takes direct aim at the group in our society who can least afford to pay—the sick elderly who are dependent on Medicare. Cuts in the Medicare program—$60 billion over 5 years—account for fully one-half of all the domestic savings. The monthly premiums and out-of-pocket costs paid by beneficiaries will double. The tax on employers and employees will rise. Hospital reimbursements will be cut.

Our past experience with Medicare cuts is clear. They have resulted in cutbacks in service. Cuts of this magnitude will not only put additional costly burdens on the sick elderly, but also result in further rationing of care.

And while this summit agreement contains these bone-deep cuts in the growth of Medicare, where is the equity? Domestic discretionary spending is growing by the rate of approximately $40 billion annually. Should our sick elderly bear such a proportion of the deficit reduction? The answer is—no way.

TAX DEDUCTIBILITY

Of equal significance, this budget could be devastating for New Jersey. For the first time, this package would violate the sanctity of many critically important income tax deductions. For the first time, this budget places limits on itemized deductions including limits on the deductibility of State and local income taxes, mortgage interest payments and charitable contributions. This is not just the camel's nose under the tent, it opens the door and gives an open invitation to future tax writers to further limitations and greater tax increases.

While initially this proposal may sound fair and the dollar amounts on the individual family relatively small, it is bad policy and will have a profound effect in future years. It is bad policy because it applies double taxation on the taxes already levied on State income and local property taxes. This is also an assault on the mortgage interest deduction, which in our area will drive more young couples out of the housing market.

Once the principle of deductibility of State and local taxes and mortgage interest is violated, it will only be a matter of time before future tax writers lower the income floor, raise the cap or limit deductibility entirely.

Mr. Speaker, the budget deficit is public enemy No. 1. It stands at the root of this Nation's economic ills. There is no more important task than deficit reduction. However, I cannot in good conscience vote for such a package that does such violence to my constituents. This is not the best budget option we have. We can and must do better.

[From the Tax Foundation, Washington, DC]

Budget Summit Agreement Would Tax States Unevenly

Washington, DC, October 3, 1990.—The tax package President Bush and congressional leaders are offering the American people will cost an average of $653 in new taxes for every man, women, and child over the next 5 years. Put another way, the agreement plans to extract $162 billion in extra revenue for the federal government by 1995—$22 billion of it in the current fiscal year which started on October 1. This works out to a per capital tax hit this year of $88 this year alone, a figure which will increase sharply in later fiscal years, when the tax plan is scheduled to garner more revenue.

The impact of the proposed taxes would not be felt evenly from state to state (see table below). Many residents of states already paying among the highest per-capita federal tax burdens would have to fork over an even greater share. Wyoming, Connecticut New Jersey, Delaware, Massachusetts, and District of Columbia residents will face the largest per capita tax increases. While no state would escape from the package unscathed, residents of Kentucky, Utah, West Virginia, Mississippi, Louisiana, and Alabama will not be hit as hard. The additional per capita burdens for fiscal year 1991 range from a high of $115 in Wyoming to a low of $72 in Kentucky.

Why will some states have to pay more? With nearly half the fiscal year 1991 revenue expected to come from major excise tax increases on motor fuels, cigarettes, alcohol, and luxury goods, a state's consumption level of these items will be one of the major determinants for the geographic impact of the new taxes. Another factor is the proposed limitation on itemized deductions which would place an extra burden on states with a higher percentage of tip earners, and higher property taxes.

This year, the average American will spend 82 days working to pay his share of federal taxes. With the $22 billion revenue increase proposed for 1991, every American will be working longer for Uncle Sam, but some states will be shouldering a disproportionate share of the load.

The Tax Foundation is a nonprofit, nonpartisan research and public education organization founded in 1937 to monitor tax and fiscal activities at all levels of government.

BUDGET SUMMIT'S EFFECT ON PER CAPITA FEDERAL TAX BURDEN STATE-BY-STATE

[Fiscal year 1991]

State	Pre-summit burden	Post-summit burden	Additional per capita burden	Total (millions)
Average	$4,596.80	$4,685.02	$88.22	$21,900.0
Alabama	3,343.33	3,418.84	75.51	310.9
Alaska	5,633.07	5,726.07	93.00	49.0
Arizona	3,958.44	4,044.26	85.81	305.2
Arkansas	3,126.37	3,208.28	81.91	197.1
California	5,102.64	5,195.29	92.65	2,692.6
Colorado	4,378.67	4,466.89	88.22	292.6
Connecticut	7,440.38	7,551.04	110.67	358.4
Delaware	5,434.65	5,536.33	101.68	68.4
Florida	4,640.79	4,731.54	90.75	1,149.9
Georgia	4,059.60	4,150.20	90.60	583.1
Hawaii	4,495.82	4,573.47	77.65	86.3
Idaho	3,166.84	3,244.13	77.29	78.4
Illinois	5,170.50	5,257.43	86.93	1,013.5
Indiana	4,018.62	4,101.54	82.93	463.8
Iowa	3,836.41	3,919.05	82.64	234.7

BUDGET SUMMIT'S EFFECT ON PER CAPITA FEDERAL TAX BURDEN STATE-BY-STATE—Continued

[Fiscal year 1991]

State	Pre-summit burden	Post-summit burden	Additional per capita burden	Total (millions)
Kansas	4,282.67	4,373.27	90.60	227.7
Kentucky	3,297.89	3,369.65	71.76	267.5
Louisiana	3,231.56	3,305.69	74.13	324.8
Maine	3,945.40	4,034.67	89.26	109.1
Maryland	5,544.29	5,641.40	97.12	455.9
Massachusetts	6,101.04	6,201.01	99.97	591.2
Michigan	4,669.59	4,756.09	86.50	802.1
Minnesota	4,597.17	4,685.91	88.74	386.3
Mississippi	2,700.37	2,774.18	73.81	193.5
Missouri	4,206.34	4,298.07	91.72	473.2
Montana	3,318.68	3,406.95	88.27	71.1
Nebraska	3,872.97	3,955.62	82.65	133.1
Nevada	4,812.22	4,907.34	95.12	105.7
New Hampshire	5,576.24	5,674.73	98.49	109.0
New Jersey	6,869.74	6,979.82	110.08	851.6
New Mexico	3,220.42	3,301.42	81.33	124.3
New York	5,668.10	5,759.33	91.22	1,637.5
North Carolina	3,826.95	3,916.62	83.67	549.8
North Dakota	3,423.90	3,509.04	85.14	56.2
Ohio	4,349.09	4,432.33	83.25	908.0
Oklahoma	3,538.97	3,623.63	84.67	273.0
Oregon	3,984.90	4,072.51	87.61	247.1
Pennsylvania	4,567.85	4,653.54	85.69	1,031.8
Rhode Island	4,958.60	5,047.80	89.19	89.0
South Carolina	3,360.30	3,437.50	77.20	271.1
South Dakota	3,218.88	3,300.74	81.87	58.5
Tennessee	3,758.12	3,840.85	82.72	408.6
Texas	4,067.65	4,152.11	84.46	1,435.1
Utah	3,055.09	3,127.48	72.38	123.6
Vermont	4,113.18	4,200.94	87.76	49.8
Virginia	4,808.28	4,900.35	92.07	561.4
Washington	4,536.43	4,624.71	88.29	420.3
West Virginia	3.012.51	3.085.44	72.93	135.4
Wisconsin	4,170.03	4,256.02	85.99	418.5
Wyoming	3,783.37	3,898.55	115.19	54.7
District of Columbia	6,379.52	6,477.90	98.39	59.4

Source: Tax Foundation Federal Tax Burden by State model.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. Kolbe].

Mr. KOLBE. Mr. Speaker, I rise in support of the budget resolution.

Mr. Speaker, I rise in support of the budget resolution before us this evening which incorporates the agreements reached last weekend by the budget summit.

During the last 4 days I have had an opportunity to talk with the President, his economic team, numerous members of his administration, Members of Congress, business and community leaders from Arizona, and dozens of people who have called my office to express either their opposition or their support for the agreement. I've even talked to the distinguished economist, Milton Friedman, and heard his articlulate case against this agreement as an economic solution to our problems.

This agreement is not one I would have crafted. There are taxes on working people that I do not like. There is a little or no reduction in domestic spending. It is a step backward from the 1986 tax law which took us away from special interest provisions in the Tax Code.

But neither the President nor my party controls the House or the Senate. It was the Democratic leadership in this Congress who resisted the economic stimulation that would have come from a reduction in the rate of taxes for capital gains; it was the Democrats who insisted that taxes be included in the package; it was the Democrats who would not accept cuts in domestic spending.

Even so, there are positive aspects of this agreement. It puts caps on spending for the next 5 years. It gives us a true picture of the deficit by separating Social Security from the rest of the budget. There are real reforms of entitlement programs. And the enforcement mechanisms to make this work are undeniably better than those that currently exist under Gramm-Rudman. Moreover, all of these changes are made without affecting Social Security.

To those who say: "But it is still a bad agreement," I would pose this simple question: What is the alternative? Most assuredly, I could craft a solution that would be preferable to this. But could I get 218 votes in the House for it? No. If there was a solution that would get 218 votes in the House and 51 in the Senate, don't you think we would have heard about it by now?

Finally, there are those who will say that Jim Kolbe did not stick by his pledge to not raise taxes. I could argue that the marginal rates of taxation are not increased, but there are undeniably taxes in this package. When I took that pledge could any of us have foreseen the size of the savings and loan debacle? Could any of us have predicted that there would be 100,000 American soldiers in the Middle East?

Leadership demands an understanding of when one must fold the tent, when to strike for the best agreement that is possible. I was elected to help govern this .Nation. I do not serve the men and women I represent by simply saying "no" to whatever may be presented.

It was Benjamin Franklin who said at the end of the great Constitutional Convention:

> I confess that there are several parts of the Constitution which I do not at present approve, but I am not sure I shall ever approve them. For having lived long, I have experienced many instances of being obliged by better information, or fuller consideration, to change opinions even on important subjects, which I once thought right, but found to be otherwise.

I can never pretend to the widsom of Benjamin Franklin, but I can hope for enough wisdom to follow his sage advice. Tonight, on this budget agreement, I shall do so.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Wisconsin [Mr. Roth].

Mr. ROTH. Mr. Speaker, I am strongly opposed to this resolution.

Like most Americans, I want to end the deficits. But it must be done in a way that the American people can accept as fair. I know the President is sincere. He wants the best for this country. But when I read the details of this budget, there can be only one conclusion: It is not fair:

Not fair to the taxpayer;
Not fair to senior citizens; and
Not fair to working men and women.
There are three big problems:

First, it adds $134 billion in new taxes, without cutting any of the waste that we know pervades the Government.

Second, Medicare is cut $60 billion, putting even more of the burden of devastating health care costs on those with fixed incomes.

And third, there are no cuts in foreign aid—in fact there is a $1 billion increase. It forgives Egypt's $7 billion debt to our taxpayers. And we keep spending half of ur $300 billion defense budget in Europe.

Mr. Speaker, I say to you what the people of northeast Wisconsin are saying to me. It's time we take care of our own people and our own problems for a change. Too many people in Washington have been listening to economists, columnists and, frankly, each other. I have been listening to the average citizens in Wisconsin. And this letter from Irvin Arendt in Green Bay says it best:

> I and my fellow workers are middle income employees and we are sick of these giveaway programs, while our parents suffer and our children face insurmountable debt, and we workers keep paying. We are sick of supporting every country in the world. When this country gets back on its feet, fine, but not now. Balance the budget.

I want to vote for a deficit reduction bill. But I will not vote for a bill like this. This bill is not in the best interests of our country or the people we represent.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. Cox].

Mr. COX. Mr. Speaker, I rise in opposition to the resolution.

Mr. Speaker, with the October 1 commencement of the fiscal year already behind us, the prospects for sane congressional management of our Federal budget are gloomier than ever. Already, fiscal 1991 appropriations are far higher than last year's; and the crisis in the Persian Gulf—which has increased current military spending and renewed congressional willingness to spend on the national defense—has only added to the seemingly hopeless mismatch of revenues and expenses. Worse, even were this budget summit between Congress and the President to yield some grand solution to bring this year's numbers closer into balance, we would still have to deal with next year's, and the year's after. And the dismal truth is that history is not on our side.

Yet, the Federal Government's financial problems are not nearly so intractable as they first appear. The chronic failure to balance the budget is simply the inevitable result of a poorly designed congressional budget process, which not only permits but encourages violation of the very laws designed to force rational choices among competing priorities. The current process guarantees wasteful spending and financial chaos.

OUTLAW JIM WRIGHT

Not least among the reasons that the system is subject to manipulation and abuse is that very few people understand how it works. Even within the Congress itself, terms like "current services baseline," "section 302(b) allocation," and "undistributed offsetting receipts" often produce blank stares. The budget committees, whose members at least have the incentive and opportunity to understand the process, are powerless to enforce its requirements on the appropriations committees (which often spend in seeming disregard of budget guidelines), on the Congress as a whole, or even on the themselves. The Congressional Budget and Impoundment Control Act of 1974, which sets out the current process, is routinely ignored; and there is no remedy at hand to enforce it. As in the Old West, the man with a gun can make his own law, and the current congressional leadership is doing just that.

On my very first day in Congress, then-Speaker of the House Jim Wright announced from the chair that he intended to break the law. This may shock most Americans, but in fact it is routine business in Washington. Speaker Wright pledged in January 1989 that the House would complete work on the required 13 appropriations bills by the August recess. The law requires final action on these bills by June 30.

Imagine the consequences if you were to ignore the April 15 deadline for filing your income tax return. Yet when it comes to more than $1 trillion in annual spending, that is precisely what Congress is now doing—and has been doing routinely throughout each of the 16 years since the passage of the 1974 Act. This violation of the law may have reached its apogee with the utter mismanagement of the fiscal 1990 budget, during the course of which the Congress violated every legal deadline; and the current year's process seems destined to continue that infamous record.

In place of the process mandated by law, the congressional leadership has built a totally extra-legal system whose complexity and incomprehensibility shield it from effective public scrutiny. Virtually no member of Congress—let alone the public—even reads the huge spending bills the Congress adopts. As if in an annual ritual, the President routinely faces a take-it-or-leave-it decision on a hastily crafted omnibus continuing resolution or 11th-hour reconciliation bill running into the thousands of pages and comprising virtually all Federal spending for the entire year. The use of such measures has effectively vitiated the President's veto authority, since signing them is the only alternative to closing down the United States Government.

Such a system serves only the interests of those who seek to guarantee that Government spending is literally uncontrollable, and who assert that the only alternative to massive and ever-increasing deficits is massive and ever-increasing taxation. This was not, however, the intention of those who drafted and passed the 1974 Act. Rather, this law represented an effort to place taxing and spending decisions within the context of an overall budget.

FAILURE OF THE 1974 ACT

Until 1974, Congress never voted on a budget. Then, as now, the Federal budget was simply the sum of the separately enacted annual appropriations bills, along with whatever financial commitments had been placed into law in prior years. To rectify this, the 1974 Act established the House and Senate Budget Committees, and provided for an annual budget to be adopted by Congress. The act required the passage of a non-binding first concurrent resolution on the budget early in the budgeting year, and a binding second concurrent resolution toward the end of that year. Additionally, it was intended that the second resolution would be enforced through reconciliation instructions that would require the various congressional committees to report to the floor whatever legislation was necessary to achieve the established targets. In practice, Congress simply came to ignore the requirement that it pass a second budget resolution, and the requirement of two resolutions was done away with altogether in the first Gramm-Rudman-Hollings law, enacted in 1985. Finally, the act set up a legally binding timetable to ensure the timely adoption of individual spending bills.

Certainly, providing for a floor vote on overall budget targets, mandating the timely adoption of spending bills, and enforcing overall budget limits through reconciliation represented positive steps. It is thus not for lack of a workable concept, but rather of effective enforcement mechanisms, that the 1974 Act has failed to bring order and coherence to the budgeting process and failed to bring discipline to congressional decisions to spend money.

PREMISES OF THE COX PLAN

To repair the broken-down congressional budget process, we must design a system with teeth in it to make sure that Congress doesn't again abandon it for some less-restrictive expedient. Beginning as a member of President Reagan's working group on budget process reform, and now as co-chairman of the House Task Force on budget process reform, I have developed a comprehensive proposal to rewrite the 1974 Act that would do just that. This new plan is based on the premises that an effective budget process must:

Encourage early consultation and cooperation between Congress and the President;

Produce decisions on overall budget levels early in the budgeting year;

Be evenhanded with respect to the President and Congress, not giving either an advantage in dealing with the other or in establishing spending priorities;

Tie each individual spending decision to an overall, binding budget total;

Require explicit decisions on spending levels for all Federal programs, not just those arbitrarily deemed "controllable";

Prevent actual or threatened annual shutdowns of the Federal Government;

Be as simple as possible in concept and means of implementation, so that the process is clear and understandable to Congress and the public;

Not raise difficult questions of constitutionality;

Contain a bias in favor of spending restraint that could be overcome only if both the President and Congress wish to do so; and

Protect individual members of Congress against the political fallout from tough spending decisions by placing the burden to cut spending on the process rather than on specific legislators.

To accomplish these objectives, the 1974 Act should be amended to establish three related reforms. Congress should be required to enact a simplified budget, in the form of a legally binding joint resolution (as opposed to the present non-binding concurrent resolution), before any spending legislation can be considered. As a joint and not a concurrent resolution, the budget would be presented to the President for his signature or veto, and would thus be more likely to reflect a decision on overall Government spending that combines the priorities of both the President and Congress.

Second, the budget process should contain enforcement mechanisms that will keep Congress within its budget ceilings for all spending except Social Security and the interest on the debt. Also needed is a sustaining mechanism that would be triggered in the event Congress and the President fail to act, so that the Federal Government will not be shut down because of political deadlock.

These are the basic elements of the Budge Process Reform Act, which, together with other members of the House Task Force on Budget Process Reform, I will soon be introducing in Congress.

A ONE-PAGE BUDGET

The Budget Process Reform Act would require that Congress enact a legally binding budget—in the form of a joint resolution—by May 15 of each year. Until the budget is signed into law, no authorization or appropriations bill could come to a vote in eithe House. The budget would set ceilings on all Federal spending—except Social Security and interest on the debt—for the coming fisca year. It would fit on a single page—setting specified ceilings on Government spending within the 19 summary categories currently used in the budget. Because the budget would contain only 19 numbers, it is far more likely that the Congress and the President could agree at this high level of abstraction on how much the Federal Government should spend in the ensuing fiscal year. Numerous Government programs and activities would be aggregated within each category, so that wrangling over the more detailed breakdown presently required in the President's budget submission could be avoided. The President's budget in its present form would continue to be provided, but only after passage of the budget law Just as now, the Congress would not be bound by its specifics.

The budget enacted by Congress would also set ceilings for spending on entitlemen programs. If the budget set a ceiling below the projected program outlays for the upcoming year, Congress would be required to effect a reconciliation with the budget ceiling b amending the organic statute for the entitlement program so as to meet the new ceiling

The result would be the establishment of a binding budget, jointly reached by the Congress and the President early in the budgeting year.

THE TWO-THIRDS REQUIREMENT

To end the sad spectacle of congressional lawbreaking, the act contains three enforcement mechanisms to ensure that its provision are observed, making it more likely that Federal spending will be contained within the agreed-upon ceiling.

First, Congress would be permitted to enac spending legislation in excess of the budge ceilings only by a supermajority vote—two-thirds of both Houses. Such a requiremen would be constitutional: Article I, section 5, c 2 of the Constitution gives each House o Congress the power to determine its own rules. And although unprecedented in statute two-thirds majorities have been required b the rules of the Senate. Senate Rule 22, fo example—as amended in 1949—required the affirmative vote of two-thirds of the entire membership to end a filibuster.

The requirement of a supermajority for spending outside of a budget would provide a strong incentive for both the president and Congress to reach agreement on the budget, since neither—although perhaps for different reasons—would wish to be in the situation where all spending requires a supermajority vote. It would also provide a powerful tool to hold the Congress to the budget choices it makes. Thus, for example, if Congress wished to enact an appropriation that, together with other appropriations in the particular budget category, would exceed the budgeted ceiling for that category, this would subject all appropriations in that category to a two-thirds vote. Likewise, if Congress and the President failed to enact a budget, then all authorizing and appropriating legislation would require a supermajority for passage. The only way to adopt spending proposals by simple majority would be to authorize and appropriate within the ceilings of a duly enacted budget law.

NO MORE BLANK CHECKS

Second, Congress would be required to determine the desired level of spending for each Federal program except Social Security and interest on the debt. Openended, "blank-check" appropriations—such as those for entitlement programs, which authorize the spending of "such sums as may be necessary"—would be banned.

Under the current system, any member of Congress who seeks to cut spending on entitlements must introduce legislation and obtain an affirmative vote to do so. But anyone who wishes to increase spending on any program with an open-ended appropriation need only sit back and watch it go. By requiring the Congress to decide how much it is willing to spend on a program during the coming fiscal period, the new act will level the playing field for spending cuts and spending increases. At the same time, it should be emphasized, requiring fixed-dollar appropriations for all Federal programs will not in any way mandate reductions in entitlements. Congress would be able to decide to spend as much as it wants on entitlement programs. It would simply have to make that decision with every budget.

Entitlement programs are not "uncontrollable," merely uncontrolled. While the specifics often vary program by program, virtually all open-ended entitlements require that payments be made to any person or unit of government that meets eligibility requirements established by law. All persons who meet the program's eligibility requirements receive benefits to which they are entitled—regardless of the aggregate cost in any fiscal period.

AGENCY-ADJUSTED BENEFITS

But there is nothing requiring that entitlement programs have open-ended appropriations. Indeed, Senator RICHARD LUGAR proved that fixed-dollar appropriations can be used for entitlement programs with his amendment to the Food Stamp Program. As a result of the Lugar amendment, the Food Stamp Program operates from a fixed-dollar annual appropriation, but nevertheless entitles eligible households to receive certain levels of benefits. If the Secretary of Agriculture concludes that projected outlays will exceed the amount appropriated, he or she is required to recalculate the allotment to which each household will be entitled in order to keep expenditures within the statutory ceiling.

Following this model, the new act authorizes the heads of the relevant Cabinet departments and agencies to adjust benefit levels and eligibility requirements whenever entitlement spending exceeds the dollar amount actually appropriated by Congress.

PRESIDENT AS ENFORCER

Third, with respect to any spending in excess of the budget ceilings, the president would be granted enhanced rescission authority—that is, authority to rescind the over-budget portion of any spending unless Congress were to enact legislation expressly disapproving the specific rescission. This authority would be applicable only to the over-budget portion of proposed spending; the President, in other words, would simply be enforcing Congress's own budget decisions, as enacted into law. The President would also be granted authority to effect rescissions of any spending authorized or appropriated in excess of the previous year's funding levels in the event no budget were enacted.

To maintain the integrity of congressional control over the legislative process, the Congressional Budget Office, not the Office of Management and Budget, would be the scorekeeper for determining whether particular authorization and appropriations measures are consistent with the budget ceilings, and consequently whether the supermajority vote or rescission authority mechanisms are applicable. A supermajority vote would be required for any spending legislation that would exceed the budget ceiling for one of the 19 budget categories.

To make sure Congress does not sandbag the process by withholding action on critically important programs that can easily command a two-thirds vote, while filling up a category piecemeal with less urgent spending proposals, passage of the first over-budget spending would subject all spending legislation in that category to a supermajority vote. And, to permit the CBO to evaluate individual spending proposals when Congress has failed to act on an entire category, the supermajority requirement would also be triggered in the event that outlays for a specific program under consideration, when added to the inflation-adjusted previous year's outlays for all other programs within the category, would exceed the budget ceiling in that category. The President's rescission authority would apply to any spending for which a supermajority vote was required.

These three enforcement mechanisms—the supermajority vote, fixed-dollar appropriations, and enhanced rescission authority for the President—ensure that the budget process will no longer be ignored. They do not, however, weaken the congressional power of the purse. Once a budget has been enacted, these mechanisms place procedural barriers in the way of only that spending that would exceed the limits to which Congress and the President have already committed themselves by law.

AVERTING A SHUTDOWN

The final element in the Budget Process Reform Act is the sustaining mechanism—an automatic continuing resolution. In the event Congress fails by October 1 to complete action on appropriations for any program or activity, the previous year's funding level would automatically be reappropriated for the upcoming fiscal year. This mechanism has the virtue of avoiding the termporary shutdown of the Government for lack of funds, while providing an additional incentive for Congress and the President to authorize and appropriate through the budget process. Unlike the Gramm-Rudman sequester, this continuing resolution would apply to all spending, except Social Security and interest. A freeze at the prior year's levels would be a result that both branches will wish to avoid, since each is likely to feel that there are some important accounts that should be dealt with differently than in the previous year. An added virtue of this sustaining mechanism is its bias in favor of spending restraint. If no action is taken, spending does not increase from year to year.

The sustaining mechanism is not the preferred means of determining Federal spending levels, but rather is a form of disaster insurance against the contingency that the Congress and the President do absolutely nothing. The Government does not shut down, and the Congress is not tempted to lay at the President's feet the night before October 1 a mountainous appropriations bill that he cannot read and must sign if he wishes to avoid shutting down the Government.

A POLITICIAN'S DREAM

The problems of runaway spending and lack of accountability are not new—they're simply getting worse. Now, our huge Federal borrowing is threatening to increase interest rates and inflation, and to destroy the overall health of the economy. The amount of taxes each of us will pay next year, the cost of our home loans and car payments, our career opportunities, the value of our retirement savings—all are dependent on whether Congress finally tames the budget beast. No longer will it suffice to consider one or two discrete repairs to the process, such as a line-item veto or new Gramm-Rudman-Hollings targets. While such reforms are needed, only a comprehensive rewrite of the 1974 act will go to the heart of the problem: An undisciplined, out-of-control budget process.

There is reason to be sanguine about the near-term prospects for this proposed comprehensive reform of the budget process. Like Representative DICK ARMEY's base-closing commission and the Gramm-Rudman-Hollings sequester, the binding one-page budget and its enforcement mechanisms can protect Members of Congress from some of the political consequences of tough budget decisions. The procedures themselves can take the heat for any unpopular spending cuts that might become necessary in order to meet the budget. First, because the budget ceilings are adopted early in the process and at a macroeconomic level, voting for a responsible budget will be politically less difficult than voting against specific spending bills. Even more important, the enforcement and sustaining mechanisms—supermajority vote, rescission authority, automatic continuing resolution—will permit politicians to say yes while the system says no. That is a politician's dream. So for those in Congress who are concerned about the deficit, but who are unwilling to make an unpopular decision, the Budget Process Reform Act is ideal. The majority party of Congress should also presumably be interested in an act that would permit them to determine spending priorities with just a majority vote.

I believe a majority in the Congress could be persuaded to vote for a thoroughgoing reform of the 1974 act. An encouraging sign was the recent 279–150 vote in the House of Representatives in favor of a constitutional amendment requiring a supermajority vote for an unbalanced budget. The time has arrived for this bipartisan coalition of fiscal conservatives to go further and address the root causes of our budget crisis.

Mr. Speaker, the budget resolution before us today fails to do so. Only when we are successful in bringing budget process reforms to a vote, will the Nation discover for certain whether the Congress is serious about its responsibility to the taxpayer, to our economy, and to future generations of Americans. I urge my colleagues to vote against the resolution.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, I stand in opposition to the resolution.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, this is a very grim day for me. I did not slosh in the snow in New Hampshire or go door to door in South Carolina to elect George Bush to come to a night like this where I have to vote against him. However, I have to look at this deal as a 1-year deal, and a 2-year maybe.

We have never, at least in my lifetime, stuck to a 5-year deal since I have been around. The only thing we have stuck to longer than 5 years is the Articles of Confederation. Do Members remember Gramm-Latta? It lasted 2 years. How about TEFRA? How about Gramm-Rudman? It lasted 2 years before we changed the targets.

Even the majority leader in a quote in his hometown newspaper said that he detests this: "I think it's wrong. The economy won't do what we think it's going to do now, and probably in 3 years we will be back in a summit."

The agreement has been changed as recently as today at lunch when the Speaker released a deal with the President and the bipartisan leadership also understood that many of the policies set forth in the budget agreement are for illustrative purposes only, and that the committees of jurisdiction retain the right to achieve the savings required through alternative policies. What agreement are we voting on? We do not even know.

I ask my collegues to look, if this truly is not a 5-year contract—and frankly, I do not think we ought to be making a 5-year contract—but if it is not, as I say it is not, then look at what happens in the first year. Loosen up, colleagues, because in the first year we cut defense more than we want to. We raise taxes by $12 billion, and mandatory spending, the increase in mandatory spending is cut $12 billion. So we put up $26 billion to get $12 billion in savings, and discretionary spending is allowed to keep going. That is not a good deal.

We are told to "Trust us, because the real savings will come in the next 3 to 4 to 5 years." I do not believe it.

I have to disagree with my President that this deal is being put forth here, that we have to look at it as a first-year deal. Let Members be very serious. Does anyone really believe that the world economy is hinging on this agreement tonight? An agreement that is being changed as we speak? If the agreement goes down today, is the world economy going to stop tomorrow? Is Congress going to lock its doors and cease to function? Is the President going to stop working?

There are alternatives. Alternatives have been presented during the whole 4½ months. Unfortunately, the fourth branch of Government—the summit—paid no attention to them, and that is what brought Members here tonight.

Vote against this agreement and give Members a chance to come up with a better one.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. EVANS].

Mr. EVANS. Mr. Speaker, I rise in strong opposition to the budget agreement.

Mr. Speaker, Tuesday night, the President went on prime time television and asked the American people to contact their Representatives in Congress in support of the budget agreement.

Well the results are in from the 17th Congressional District of Illinois are in and the tally is 260 to 5 against this package.

The American people must be wondering what kind of democracy we have when a handful of officials say in effect that if we, the elected representatives of the people, do not agree with the way they want to finance the operation of our Government then they will shut it down. That is not much of a political democracy and it is certainly not an economic democracy.

Average people like our farmers, our veterans, and unemployed workers lose in this agreement. Big oil companies and multimillionaires are the big winners.

I urge my colleagues to vote against this budget resolution.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina [Mr. TALLON].

Mr. TALLON. Mr. Speaker, I rise in support of the budget agreement.

This is at the same time one of the most difficult and important votes I've cast during this Congress. Unfortunately, most segments of the budget, and as a result most Americans, will be negatively impacted by this agreement. This is the biggest deficit reduction package ever and therefore the most wide reaching. It is a bitter pill to swallow for us all.

We can no longer afford to ignore a budget deficit is wrecking our economy, forcing us into dependency on foreign nations. Right now we are faced with two alternatives: The budget package proposed by the President and members of the budget summit or severe automatic across-the-board cuts of every single domestic and defense program required by the Gramm-Rudman-Hollings law.

While I am not a member of the budget summit group that drafted this package I am convinced that the alternative of automatic across-the-board cuts would be much tougher for the average American.

Out of the choices available, the negotiated budget package is the one that offers managed controlled deficit reduction alternatives versus the automatic across-the-board cuts—32 percent for discretionary domestic programs and 35 percent for defense programs—that would wreak financial havoc on our already soft economy. Still, this is a gut-wrenching and difficult issue for me. There's no denying that we are at a fiscal crisis point—we can either manage this crisis or let it manage us. Our country's future depends on it.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I rise in opposition to the resolution. It is an outrage. The proposition is profoundly unfair to the majority of the people of Arkansas. Citizens earning less than $30,000 per year are to receive a tax increase of 3.1 percent, while citizens earning more than $200,000 will receive a hike of 1.7 percent. Unfortunately, the assumptions are invalid. It is the same voodoo economy that brought us here tonight. I do not see how any long-term problem is addressed. The budget decreases serving to pay increased interest on debt.

Mr. Speaker, the chickens have come home to roost.

These chickens were born in the early 1980's when the Reagan tax cut went into effect, slicing some $2.4 trillion in revenues.

These chickens have been hovering near the Capitol dome for years, waiting to come home to roost, but have been kept away by massive borrowing.

But, borrow-and-spend won't keep the chickens away from the roost any longer. They are coming in for a landing.

Many of us have known—and warned—there would be a day of reckoning: And, it's here.

The problem we face today is twofold: First, revenue losses caused by the Reagan tax cuts must be made up, and second, spending must be reduced.

We hear a lot of spending cuts, waste, fraud and abuse—but little about the first component of the problem. In my view, however, it is that first component—the massive Reagan tax cuts—which are mainly responsible for bringing us to this day.

It was not good economic policy then and it has led us to the brink of financial disaster today. At one point, the Reagan plan was branded "voodoo economics" by one prominent member of the Republican Party. George Bush and I can agree that it has certainly been a curse on our fiscal house.

According to a study I requested, slashing the corporate tax rates in the 1980's cost the Nation some $97 billion in expected revenues; twice the size of the revenue to be gained from the proposed fuel tax.

So, I am being told I should vote for a plan that would have the working families of Arkansas open their wallets wider when they fill up at the pump because of the corporate tax policy of the Reagan administration.

That brings us to the important question facing us: is the payback plan fair, or will the middle class working people of this Nation once again be asked to bear a greater share of the burden.

In addition to my own study of the impact of this proposal on my home State, figures from a Government document published this week in the New York Times indicate that the Reagan tax cut chickens will roost squarely on the heads of the middle class.

And, that isn't fair.

I do not care how you dress it up, it is not fair—period. We can and must do better.

Mr. Speaker, this is not a knee jerk reaction to the budget proposal. I know that our colleagues on both sides of the aisle and both sides of the Capitol worked very hard to hammer out this agreement.

But, the figures I have developed are stark and it is inescapable that we are asking too much of the middle class and not enough of the rich.

This plan shifts a greater burden for paying for the Reagan tax cuts on those who didn't enjoy a large benefit from the cuts in the first place.

The gasoline tax hike will hit my State particularly hard because of its rural nature. In fact, Arkansas is more dependent on transportation fuels than any other State in the Nation.

According to the Arkansas Highway and Transportation Department, Arkansas is first in the average number of miles driven per registered vehicle—at 13,468—and first with number of gallons of gasoline purchased per registered vehicle [1,129].

Yes, it is proposed that we tax fur coats and yachts, but you don't buy a fur coat or a yacht as often as the people of Arkansas fill up at the pump.

You might even be able to steel yourself and live without a fur coat or a yacht for a time, but you cannot work and make a living without enough gasoline to get to your job.

And, if an elderly person gets sick, He/She cannot choose whether to seek medical attention, attention which will be more expensive under this proposal.

We all realize that spending cuts are necessary, but this plan—by cutting Medicare for the elderly, farm programs and student loans—isn't falling fairly across the economic spectrum. It can be touted as fair, but the numbers don't show it, and I don't believe it.

In my view the issue boils down to Main Street being asked too much and Wall Street too little. Somewhere, sometime, somehow, the penchant to put more and more of the burden of operating Government on the backs of the middle class working families of this country has to stop. It might as well be now.

I wish that the views of all of the Members of this House could have been considered and openly debated during deliberations on this package. But, it was done out of our sight.

The process has made me feel as if someone is holding a loaded, cocked gun to my head and saying dance or die.

To ask for a blank check approval of this package, which is not treating my people fairly, is asking too much.

Yes, the chickens are at the door and the wolves are not far behind them.

There is no doubt that action is necessary, but that action should not result in asking moderate income people to fund the operations of a government which has increasingly become a government for the rich by the rich.

There are those who continue to call for cuts in nondefense discretionary spending. But, that is not the problem.

Since the mid-1940's, Congress has appropriated $173 billion less than the President has requested.

Congress regularly cuts Presidential requests. During the Reagan years, for example, we appropriated $16 billion less than was requested by the White House.

We have been responsible.

And, we will continue to be responsible. Part of that responsibility, however, is to represent the people who elected us—which leads me to oppose this package and to call for an open debate on alternatives to the current proposal.

Alternatives which will spread more evenly the burden of extricating the Nation from the flawed economic policies of the 1980's.

Yes, we face some tough decisions in the days ahead—and we should be willing to make those decisions. We should not be willing, however, to march blindly along a path dictated for us or go over the cliff on command.

We did that in the 1980's. It is something which does not bear repeating.

What is needed is a change of direction. We need tax reform with tax fairness. We need a comprehensive fiscal policy that includes a trade policy that encourages export and an energy policy that discourages import. Our Nation spent more than a trillion dollars in the last decade importing foreign oil.

We must reverse the economic direction of the Nation. I oppose this resolution.

Mr. PANETTA. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Speaker, I rise in guarded support of the resolution.

I am voting for this resolution this evening because of the promise of the President and our congressional leadership that the budget summit proposal will now be referred to appropriate committees for further refinement where major objections can be worked out. The Speaker has said: "In the opinion of the President any myself, before we move to the final vote 2 weeks from now—the stage of "reconciliation"—the committees will have reasonable flexibility to suggest alternatives policies for the final budget summit proposal. He also told me, "It was always understood that when the budget summit proposal went to the committees that some of the policies outlined were for illustrative purposes only." The committees secured the right to develop alternatives. I hold him at his word.

Let me express in detail my reservations about the proposal as originally drafted and presented to us.

The budget summit proposal—presented to Congress by five of its leaders and three unelected administration officials as a "done deal" on September 20—asks the middle class and elderly to once again shoulder the lion's share of the burden of budget deficit reduction. This proposal places the brunt of all tax increases and spending cuts on people earning between $20,000 and $75,000; their tax rates will rise twice as much as those earning between $100,000 and $200,000, and three times more than those earning over $200,000. Those earning under $10,000 a year will be hit hardest of all with a 7.6 percent increase while the super-rich earning over $200,000 a year will pay only 1.7 percent more. Why should taxes decrease as income rises? The President's Chief of Staff, John Sununu, recently scoffed that the impact on the typical taxpayer would amount to only "a handful of dollars per month." For many Americans, a handful of dollars means much more than to Mr. Sununu.

Overall, this proposal is very regressive. It makes no attempt to shift deficit reduction responsibility back to those who made real income gains during the Reagan era of supply-side economics. It hits again the working people who have been barely able to maintain their income levels over the last 10 years. The reason this agreement is so poorly crafted is because it was finally struck by eight men, five Republicans—three of whom were not elected directly by the people—and three Democrats. The normal inquiry and "sunshine" that accompanies legislative debate was impossible in a situation where these supranegotiations were held behind closed doors at Andrews Air Force Base. In my judgment the entire summit operated outside of normal constitutional processes. I hope this is not a precedent setting process that will be repeated again. Further, many key provisions in the proposal—such as the $25 billion in tax breaks for investors—are not spelled out in any detail in documents made available to the membership-at-large prior to the anticipated votes. The entire budget summit process has strained our constitutional system of shared power. I do not want this vote to be viewed as an endorsement nor precedent for repeating this procedure.

I am particularly aggravated that the proposal targets Medicare so heavily. Half the spending cuts in domestic programs will come from Medicare, $60 billion. The effect of Medicare premium increases will cause an average Social Security recipient to have his/her scheduled January 1991 $18 a month cost-of-living increase reduced to $6.75. That is, while senior citizens will still get their 1991 cost of living increases under the budget proposal, their monthly Medicare payment will increase

from $28.60 to $33.50—or a $4.90 per month increase—starting on January 1. By 1995, the premium will go up to $54.30—a total per month increase of $25.70. It will also cost seniors more to go to the doctor. Premiums for doctors' visits will increase from $75 a year to $150 a year, or $12.50 a month under the budget proposal as opposed to the current $6.25 a month. In the end, a person with a $400 check will lose a total of $11.15 a month—$4.90+6.25. Even though Social Secutity checks are scheduled for an $18 a month COLA in January, the net increase in income to an average senior will be reduced under the agreement to $6.85 a month, instead of $18. The lower income recipient will be hit even harder. A senior citizen from my district who is 75 years old stopped taking her medication 6 months ago when prices rose to $55.50 for a 2-month supply. She said "Doctor, I can't afford the pills". He said "Do you want to die or get a stroke." "It scares me". All of this will happen as heating oil prices go up, food costs increase, and inflation is running at an annual rate of 5.6 percent. I cannot do this to our seniors, nearly half of whom earn under $12,000 a year.

It is wrong to ask our seniors to pay more on Medicare premiums when some of these savings will be transferred to pay off the savings and loan crisis. The budget summit proposal carefully avoids including the additional money needed for the Resolution Trust Corporation to clean up the savings and loan debacle, as if the crisis didn't exist. Yet last summer, when the President's Budget Director came up to the Congress, he cited the S&L financing problems as the primary reason for the unusual budget summit process that was proposed. In 1990, interest alone paid out on bonds to cover some of the costs of the S&L crisis will reach $2 billion. Funds needed to pay for Operation Desert Shield are also omitted from the final proposal: we all know this bill will soon come due.

There are other harsh cuts in the proposal. State and local employees in Ohio will be pulled into Medicare even though they have their own retirement system. Federal retirees will lose the option to take their retirement money in a lump sum. Unemployed workers will be asked to wait an additional 2 weeks before being allowed to draw benefits, pushing people already in a hardship position to endure even more. And veterans' programs will be cut by $2.7 billion over 5 years at a time when our veterans' hospitals are bursting at the seams due to the influx of World War II veterans. More than half of the new revenues in the proposal will be raised by increasing excise taxes on items such as gas, alcohol, tobacco, and home heating oil. These are regressive taxes that end up hitting the average citizen more than the well off. Increasing excise taxes on gasoline and othe motor fuels by 5 cents per gallon by December and by another 5 cents per gallon on July 1, 1991 is hardly appropriate at a time when Americans are already facing huge price increases at the pump because of the Middle East crisis. Why not place some of this burden on the oil companies, now raking in big profits due to higher prices?

The $25 billion in tax breaks—which I am appalled to see included in the deficit reduction measure—are already being criticized for their unlimited potential to be lucrative tax breaks for wealthy investors. Why include these revenue losers in a deficit reduction package?

The budget negotiators say that this budget summit package is not smoke and mirrors, that there are real and hard cuts to be made. Yet the economic assumptions that they use to make their deficit reduction decisions are too optimistic. They assume interest rates for 91 day Treasury bills will fall as low as 5.7 percent in 1992, and to 4.9 percent in 1933, when current rates are as high as 7.7 percent. The uncertainty in the Middle East make it impossible to predict domestic oil prices. They are already as high as $37 to $40 a barrel today, they could not possibly fall as low as $24.15 in 1991 as projected. They assume real GNP will rise as much as 3.8 percent in 1992 and 4.1 percent in 1993. I certainly hope this will happen. But considering the current GNP growth rate of only 1 percent and the impact of the Middle East crisis on oil prices and economic growth, it hardly seems realistic. If the economy does not turn out to perform as vibrantly as our negotiators expect, then we could be actually much worse off than this agreement assumes. Those people who are asked to make the sacrifices for this proposal will have an even harder time doing so.

Because this is such an unfair proposal and because of the many problems I have outlined, I cannot vote in favor of the budget summit proposal as originally presented to the House. I await a final version 2 weeks from now and withhold judgment on what my vote will be at that time. Meanwhile, I vote for this resolution with the hope, but not the certainty, that the objectionable features of the original summit proposal can be remedied.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. MCMILLEN].

Mr. McMILLEN of Maryland. Mr. Speaker, I rise in support of the resolution.

Mr. Speaker, today I rise in support of the budget agreement reached by the President and Democratic and Republican leaders of Congress.

This budget is far from perfect. It is a compromise which means we Democrats did not get everything we wanted. For example:

I am unhappy that the cuts in Medicare are unfair to our elderly.

I am unhappy that the new taxes and program cuts imposed are not more progressive.

I am unhappy that the boating industry in my district will be hurt by higher Coast Guard fees, new luxury taxes, and an increased gas tax.

I am unhappy about the change in the allocation of funding for highway programs which will hurt States like Maryland but result in no deficit reduction.

And I am unhappy about the elimination of the lump sum retirement option for Federal employees. But, Mr. Speaker, the sum of the budget agreement is greater than its parts.

I am voting in favor of this budget for the future of our children and our children's children. I can no longer support budgets with smoke and mirrors that place the burden of our fiscal irresponsibility on future generations of Americans. This budget agreement includes for the first time real enforceable deficit reduction.

We must take the bitter pill and enact the budget reform of this agreement.

We must be responsible representatives of the people.

We must put aside our own partisan interests because it is the right thing to do.

If we fail to pass this budget, we are showing the American people that we are unable to govern. If we do not approve this agreement, we are sending the American people down the dangerous and unknown road of sequestration. A sequestration that will wreak havoc in the economy and put thousands out of jobs, including our Federal employees who pay a disproportionate price in any sequestration.

Furthermore, let me remind Members of this body that they will have a chance to perfect this bill in committee and during the reconciliation process.

Finally, this agreement includes some vital provisions that would help America's small businesses and boost our slowing economy. There is a severe credit crunch spreading across this country, and our small businesses are unable to secure debt financing. The small business tax incentives in this budget agreement, although needful of fine tuning, will stimulate equity investment in small companies and fuel the job engine of our economy.

When I rise to cast my vote in favor of this agreement today, I do so for the sake of the economy, for the sake of the people, for the sake of the Nation. Join with me and support this budget resolution.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Mr. Speaker, I rise in opposition to the resolution.

Mr. Speaker, this budget package is unfair, it is bad policy, and it is a farce. It deserves to be defeated.

Like most Americans, I am fed up with our current annual deficit and total national debt. I desperately wanted to support an agreement, to acknowledge that as unpleasant as certain aspects of it might be, that it was balanced and required sacrifices by all of us, and therefore deserved our support. I wanted to join the President and say that this is a time for us to show our "Profiles in Courage" by voting for an agreement that does the job even if it is not popular.

But after reviewing this agreement for the better part of 4 days, the unavoidable truth is that it does not do the job. It is not fair, and the process which created it is fatally flawed.

There are so many things wrong with this package it is hard to know where to start. To begin with, this budget agreement does not do the job.

When the budget summit process began we were told that the objective was to reduce the deficit by $50 billion this year and by $500 billion over 5 years. This agreement saves only $40 billion this year, but does save $500 billion over 5 years.

Bush strongly opposing the statutory inspector general.

I have to admit to the Senate that I am no expert on the intricacies of intelligence. I am on the committee, but I do not purport to have the touch that somebody who is involved day to day in the intelligence community would have. Here we have the existing Director of the CIA and a past Director of the CIA, who now happens to be the President of the United States, who have both reached the same conclusion. And the conclusion is to make the inspector general statutory would be counterproductive.

Mr. President, do not ask the Senator from Missouri to explain that. I can only say that the expert opinion of the existing Director and of the past Director, who is now President of the United States, is that it would be counterproductive, that it would make the inspector general less effective rather than more effective if it were statutory.

It is further said that the CIA is an agency which is basically different from the various departments of the executive branch. I believe that is true. The CIA is, by its nature, different. It is not an organization that carries on its activities in full view of the public.

Senator HOLLINGS pointed out that there are only two officials at the CIA who were subject to Senate confirmation: the Director himself and his deputy, and that is it.

This is not like, for example, HHS, where there are countless people at HHS who are subject to confirmation by the Senate, countless people that we have the responsibility, in effect, for putting in place for giving advice and consent to.

That is not the case in the CIA. If we were to establish a statutory Director or a statutory inspector general, this would create a person prestigiously appointed by the President and confirmed by the Senator who is the inspector general, vying with only two people over there who are appointed by the President and confirmed by the Senate who are line officials. It would create in the CIA what would amount to a parallel organization, a parallel hierarchy so that many of the line officials at the CIA would be junior in the hierarchy to the person who is inspecting them.

The concern is that with this paralled organization the confidence that sources must have in the Agency and the confidence that foreign countries must have in the agencies would be weakened. They would not be dealing just with one organization. They would be dealing with two parallel organizations which exist side by side with two chains of command.

Mr. President, obviously, the Central Intelligence Agency is important in our country. Clearly, we have in charge of the agency now a person in whom we have great personal confidence. He is in the process of reforming the inspector general's office at the CIA. In my view we should give him a chance. My view is that this is one opportunity when we in Congress should not gum up the works. I am afraid we would be gumming up the works if we created a statutory inspector general.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska [Mr. Murkowski].

Mr. MURKOWSKI. I thank the Chair.

Mr. President, let me state at the outset that I believe the intelligence authorization bill on balance is an excellent one. I commend the chairman, Senator Boren, and the vice chairman, Senator Cohen. I think they and their staffs both certainly deserve congratulations. I think the bill represents a continuation of their commitment to a bipartisan process.

We have taken a bite at the personnel costs in a way that protects the taxpayer while preserving the capabilities of America's intelligence agencies.

However, I think there is a basic management principle at stake here: if it is not broke, do not fix it. There is a provision in the bill that I believe is very ill advised, and that is title VIII.

I think it is fair to say that the issue of a statutory inspector general has been debated with the best of intentions within the staff of the Intelligence Committee, but the creation of a statutory inspector general for the CIA may have serious unintended consequences. Supporters of the provision have argued that a Presidentially appointed and Senate-confirmed inspector general will strengthen the external oversight of the CIA. I think those are points that have been made by my friend from Pennsylvania and my friend from Ohio.

I believe it may have precisely the opposite effect. We have a situation, Mr. President, where we could very well see the effectiveness of the CIA curtailed, and as a consequence, I think the provision at this time is premature. Let me briefly enumerate some of the reasons why I support the amendment of my friend from South Carolina, which I believe he will introduce at an appropriate time, to strike title VIII.

First, there already is a CIA inspector general, as noted by my colleagues, appointed by the Director of the Central Intelligence Agency. Judge Webster, the DCI, has asked for time to demonstrate that the present inspector general system with the appropriate modifications can work and can work well. After all, the DCI is the one we hold responsible for the operation of the CIA. He should be the one to put in what he considers a workable system. I think it is fair to say that we would all agree in the year-and-a-half since Judge Webster put in his own system, there has been a clear improvement in performance. It certainly has not been a perfect one but it has been good enough to grant the DCI's request for more time. That is what we have here. It is working. Why change it now?

Second, the Intelligence Committee has looked at only a tiny fraction of all the reports produced by the IG. There has not been the sort of thorough systematic evaluation of the present IG's performance by the committee that would justify, in my opinion, a radical and permanent departure of the sort that we are considering before us today.

Third, the existing inspector general has been responsive to congressional requirements. The Intelligence Committee has had no difficulty in obtaining copies of IG reports, when they have been requested.

Fourth, I think Judge Webster wants to use the inspector general as an important tool of internal management. By taking the IG out from under his control—that is really what we are doing here—the Congress would take this tool out of the hands of the DCI. And this is particularly true because this bill gives the DCI less authority over the inspector general than the Secretaries of Defense or Treasury have over their individual IG's.

Fifth, the statutory IG will be seen as, to some extent, an alien outsider, within the intelligence community, and that is a rather tight-knit world out of necessity, dealing in intelligence matters. His presence may provide a temptation, so to speak, to develop some kind of an off-the-books operation that would be outside of the security of the IG and everyone else. I do not know, but that is potentially a threat.

Finally, a statutory IG will inevitably mean more bureaucracy. For goodness sakes, ladies and gentlemen, if there is anything we do not need around here, it is more bureaucracy. We need simplification. One of the difficulties in the Intelligence Committees, when we sit down and revisit situations in an oversight capacity is to try to fix responsibility.

There are so many layers upon layers—I do not care how many people the committee brings in. With an exception perhaps on one occasion, I cannot give you an instance where we have been able to identify just who bore the responsibility. That is why I say, Mr. President, the idea of simplification, lessening the bureaucracy is very appealing to this Senator. I think more regulation means more outside

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intervention, more overhead, when the real need is to make the CIA more productive, more skilled, more useful in confronting a variety of different national challenges in the years ahead.

The effort to establish a statutory authority, reflects a particular management philosophy. You are going to dilute the responsibility of existing CIA management by setting a statutory requirement here. It is like putting a comptroller into an organization and having him in there in an independent capacity or in any number of positions. There are pros and cons to it, but there is a high degree of risk associated with it.

Let us be realistic. If we are dissatisfied with the management of the CIA we will not hold the CIA inspector general responsible. The only person we can reach is Judge Webster, or whoever is in that capacity.

We are talking about more micromanaging. I remind my colleagues again that if it is not broken; do not fix it. We know the attitude of our President, who has spoken out urging that this provision in the bill be dropped. I have heard Judge Webster in the committee personally explaining his reasons, and I think they are justifiable.

I do feel that those that are in favor of establishing a statutory inspector general have good points and valid concerns. But, again, I think those of us who believe in clear management responsibility accountability would recognize that this statutory requirement does, in effect, amount to a step backward, because it does not provide clear-out authority—line responsibility—but instead, it interrupts that by creating an inspector general who is confirmed by the Congress, that technically has a responsibility to the President, but who must work within the authority of the Director.

Those are confused signals, Mr. President. They are not as clear as the present system where the Director appoints his own inspector general. So I ask my colleagues, as they reflect on the merits of title VIII, to reflect on whether we want to continue to micromanage yet another area, a very important area, a very different area, very unique area, or if we should wait and determine if indeed there is a need for it.

Mr. President, I feel that a statutory inspector general will weaken the effectiveness of the CIA. As a consequence I urge my colleagues to vote in support of the amendment which will be offered by the Senator from South Carolina. I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio [Mr. Glenn].

Mr. GLENN. Mr. President, I rise in opposition to this amendment. I rise also in very strong support of this provision in the Intelligence Authorization Act of fiscal 1990, establishing an independent, Presidentially appointed statutory inspector general, an IG at the CIA.

I happen to be a member of both the Senate Select Committee on Intelligence and the Senate Governmental Affairs Committee, which I chair. I have had a unique vantage point, therefore, to assess both the track record of the existing statutory IG's in the Federal Government, as well as a need for a statutory IG at the CIA. I believe the action called for in this legislation is sorely needed and long overdue.

The Governmental Affairs Committee has primary jurisdiction over the statutory inspectors general established throughout the Federal Government under the Inspector General Act of 1978, and all the amendments thereto.

I would say to my colleagues that the Inspector General Act of 1978 was an experiment. We did not know how it would work out. Some departments had internal IG's, and some did not. We wanted to let it work for a number of years and see whether it did any good or not. And contrary to some of the things said here today, I think the inspector general concept has proven it to be spectacularly successful.

Has it solved all the problems of government? No, certainly far from it. But has it proven functional in rooting out much of the fat, fraud, waste, and abuse? Yes, they have.

We have had numerous hearings on the Governmental Affairs Committee that detailed this, and the inspectors general taken together can point to savings in the billions since the first act was passed back in 1978.

The Senator from South Carolina says, in effect, that the chairman of the Governmental Affairs Committee, namely, me, never saw an IG I did not like. Would I not say that is true? But do I think the concept is working and is it good? Yes, I do.

He also said that we had big problems in HUD. Did the IG get those? We had big problems with DOD and FEMA. Why did the IG not get those? Let me address those briefly before I go on to the rest of my statement because I think we have some interesting stories there.

I say to my good friend from South Carolina that it happened to be the HUD IG that pointed out the problem. He was the first one that came out with the very first report on the HUD scandal. It did not come from the Congress or any oversight committees. It came from the IG at HUD doing the job he was there to do.

I am critical of him for not honking louder than he honked because he should have been much more forceful in pointing out the problems at HUD. But he submitted them in reports, and if all of us here on the authorizing committees and my own committee had been as on the ball as we should have been in looking at those reports, we would have picked up this HUD situation long before we did.

So it was the HUD IG that first found that fraud.

Let us go on to DOD. He mentioned the IG there. They have had some of the finest reports on cleaning up things over at the Pentagon. They had 4,200 management improvements the DOD Secretary accepted. Hundreds o millions of dollars were returned because of criminal activity that was uncovered by the IG.

Has it solved all the problems at th DOD? No, it has not. But they hav certainly done a good job over there.

DOD IG June Gibbs Brown, and am sorry to see her leave, has done a excellent job.

Who turned up the Wedtech scandal? It was one tiny news report th caused the SBA IG to look into it an pursue it to the point where we kne that it grew into a scandal of eno mous fraud and misuse of Governmer funds and money. It was an SBA I that picked up the Wedtech scand and ran with it.

The Senator also mentioned FEM and I do not blame him for being u happy with FEMA. I am surprise FEMA could not have moved in mo quickly after Hugo moved through th State of South Carolina. That was tragedy.

FEMA had some internal problen and we decided that we need a perm nent IG at FEMA. We passed that ju last year hoping to correct some of t deficiencies at FEMA, not that it going to be a panacea and solve problems. I will note that after passed the IG act and made FEM subject to its provisions last year, t President has yet to nominate the I

Would that have solved the pr lems over there? I do not know that would have. I am very high on the concept and I would be glad to go in it chapter and verse and bring sta of IG reports over here on the fl and go through what the IG's h been doing. The IG act is really one the unsung heroic acts of Governme as far as I am concerned because th have been doing a good job.

Have they been perfect in root out all the fraud, fat, waste, and ab in the Government? No, they h not. But they certainly have don very good job.

Let me make one other thing clear before I go on with the rem der of my statement. Much has b made by the last two Senators have spoken here on behalf of Ju Webster. I have full trust and co dence in Judge Webster. I think h

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trying to do an outstanding job. I do not question that at all.

But I would submit at the same time that we are not a Government that places a good person in a high level job without restrictions, advice, or regulations. We are Government of laws, not of individuals.

And I would say to my colleagues, did you have the same confidence level in Judge Webster's precedessor? We know that as a result of the Iran-Contra hearings it was recommended in their report that we have a statutory IG at the CIA.

I have full confidence in Judge Webster, too, and if I were sure he was going to be there the next 20 years I might reassess whether we needed an IG at this particular point. We are trying to set up a system with laws and regulations that will function even when we sometimes get a less than outstanding person in a particular position in government.

In short, the IG concept has worked extremely well at other agencies—including agencies with extremely sensitive national security missions such as the Department of Defense and the Department of Energy—and there is no good reason that it won't work at the CIA as well.

The Intelligence Committee has carefully considered the unique nature of the CIA's mission in crafting a bill designed to provide more than adequate assurance that the IG's office will act in a manner consistent with the CIA's mission. Therefore, it may be helpful for those who were not members of the Intelligence Committee to know that we carefully evaluated aspects of the generic IG statute before accepting or rejecting specific provisions.

I am pleased that the bill's original sponsor, Senator SPECTER, and my colleagues on the Intelligence Committee, were willing to accommodate my desire for numerous enhancements of the original legislation in order to bring the bill into greater accord with those aspects of the 1978 Inspector General Act which would enhance the bill's purposes.

Let me just spell out some of those changes that we put in to this bill that bring it into harmony with the Inspector General Act.

The change include:

Requiring notification of the committees where the IG believes problems focus upon the Director of Central Intelligence, or serious problems are found at the Agency.

Would that have prevented some of the difficulties we had in recent years? I do not know. But I know I would feel better about it if we could make certain that we never have some of those things happen again. We have heard the distinguished Senator from South Carolina, my good friend, express his view here on the floor with regard to Ollie North just a couple of nights back about whether we knew everything there was to know about the whole Iran-Contra matter. And I agree with him 100 percent that we still have a lot to learn from that era.

Would this have prevented all that? I do not know. But it might have had an impact.

Additional changes include requiring the IG's access to CIA personnel and contracts; providing for separate budget line for IG's office so he or she cannot be cut off and prevented from doing the job; allowing the IG to hire and fire his own staff, subject to CIA clearance procedures; giving the IG necessary housekeeping powers: For example, access to CIA facilities; power to administer oaths; imposition of GAO audit standards as the basis of the IG work; and allowing the IG to comment on legislation.

Mr. President, these and numerous other changes make the CIA's IG office far more likely to be both effective and objective. Of course, we all recognize that the unique nature of the CIA's sensitive national security mission also requires some changes and accommodations from the standard model of the IG office.

For example, I have no objection to and, in fact, I support, restricting the reporting relationship of the CIA IG to the two intelligence committees of the Congress. Normally, all IG's report both to the relevant authorizing committees in Congress as well as to the Senate Governmental Affairs Committee and the House Government Operations Committee. I do not think that is necessary in this case. Therefore, I am agreeing to give up what would normally be the jurisdiction of the committee I chair in order to accommodate limitations in dissemination of CIA IG reports, despite the fact that we have appropriately cleared staff members on the Governmental Affairs Committee who have the requisite clearances to handle such secrets.

I am less sanguine, however, about the wisdom of other departures from the IG act in this legislation which was adopted by the Intelligence Committee. For example:

The IG has not been given subpoena duces tecum power—for documentary evidence—which all other IG's utilize;

The normally straightforward reporting relationship of the IG to the attorney general has been clouded by requirements that criminal referrals only be made pursuant to CIA guidelines; and

The IG will only routinely obtain the assistance of other Federal agencies by checking with the CIA Director in each instance.

He has to check with the Director before he can even go down and ask that the FBI collect some fingerprints. He has to go to the Director.

I believe these things I have mentioned would be additional tools that would provide a meaningful addition to the IG's powers and independence, without threatening CIA sources and methods. Should another Iran-Contra affair occur, these powers would be necessary to permit the IG to uncover whatever inappropriate activity there might or might not be. The events of the 1980's have demonstrated that a statutory CIA IG supplemented with a vigilant congressional oversight mechanism are necessary to detect and prevent off the books operations amongst White House staff and intelligence community personnel.

However, while I have the aforementioned reservations about this legislation, I am convinced that, on balance, this legislation represents a significant improvement over the existing IG structure at the CIA, and I urge my colleagues to support the adoption of this bill.

Mr. President, I believe it may be helpful for the Senate to understand this issue in the context of the track record of the other statutory IGs that exist throughout the Federal Government. At this time, 25 statutory inspector general positions have been created by the Congress. With the 1988 amendments to the 1978 Inspector General Act, offices of inspector general have been extended to all of the cabinet departments and major Federal agencies—including those with significant national security responsibilities such as the Department of Defense, the Department of State, and the Department of Energy—with the sole exception of the CIA.

It should be no surprise to anyone that there is resistance to a statutory inspector general at the CIA. Most Federal agencies were adamantly opposed to the establishment of a statutory IG for their agency, but most agency heads have rapidly come to appreciate the considerable benefits to be derived from the IG. These statutory IG's have a proven track record of:

First, conducting audits and investigations of Agency programs;

Second, promoting economy and efficiency, and detecting waste, fraud, and abuse within that agency; and

Third, keeping the agency head and Congress fully informed about problems.

An excellent example is provided by the Department of Defense's statutory Inspector General Office which was established in 1982. Clearly, the DOD holds secrets of equal sensitivity and national importance to those in any other agency. Yet to date, there has been no instance where it has been necessary for the Secretary of Defense to shut down any DOD IG audit or investigation, pursuant to the provisions of the law establishing the DOD IG Office.

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In other words, Mr. President, when we were establishing the IG to put it into DOD, we heard all these same things about you just cannot have an IG looking at any of these classified materials. So we wrote into that law the authority for the Secretary of Defense to stop an investigation if it was bordering on matters he thought were of such national security concern that the investigation should not continue. Since 1982, there has not been a single case where the Secretary of Defense found it necessary to shut down an audit or an investigation. Nor am I aware of any instance where IG personnel have been criticized for their activities in this regard.

In prepared testimony before the Senate Governmental Affairs Committee on September 28 of this year, DOD Inspector General June Gibbs Brown stated that since enacting a statutory IG at the Pentagon, that office has issued hard hitting audit, inspection, and other types of oversight reports leading to potential savings and cost avoidance of $9.5 billion—$9.5 billion just in DOD—and has provided leadership within the DOD in vital areas such as audit followup, hotline operations, ethics training, fraud awareness, and improving contractor internal controls. Ms. Brown also testified that the DOD has carried out over 4,200 management improvement recommendations made by the DOD IG since 1982 and action is currently under way on over 1,000 other DOD IG recommendations.

Mr. President, everyone likes to complain about waste, fraud, and abuse in the Federal Government. The Defense Department example I just cited shows that the statutory IG's are in the unique position of not just talking about it but actually being able to do something about it. In this era of growing budgetary constraint when it is increasingly important to more effectively use scarce resources and to learn about problems before they get out of hand, the statutory IG performs a significant public service. The CIA is no exception to this need.

Let me cite a few other examples:

The Department of Defense IG is currently investigating the inadequacy of controls over the use of interagency ordering agreements to bypass DOD procurement regulations. The IG has uncovered Pentagon procurement officers' involvement in laundering—and I do not use that word lightly—millions through the Library of Congress for defense items wholly unrelated to the Library's role in order to avoid competitive bidding.

The State Department IG has reported on his efforts to eliminate visa and passport fraud. According to the IG, the going rate for a visa ranges from $4 to $10,000, and there is no ceiling on passports; the price depends on how desperate a person is to get one. Moreover, the IG has pointed out the problem of the deteriorating condition of the Department of State's 2,000 overseas properties, and the overall shortcomings of the security of U.S. personnel, information, and facilities overseas.

The Energy Department IG recently concluded that the bottom line of the Department's policy for indemnifying management and operating contractors is that "it is a rare event when DOE disallows costs incurred under these * * * contracts," which account for about two-thirds of the Department's entire budget. Examples of costs which have been paid by DOE include fines, penalties, claims, losses, and damages. The IG has recommended that the Department consider making important changes to the system—such as increasing the number of contractor personnel whose actions could result in corporate liability and identifying items, such as environmental fines and penalties, for which the contractor would be liable.

The NASA IG reported that his review of the aerospace fastener industry found false certification of fasteners, which led to several indictments, convictions, and fines. The IG eventually testified before Congress concerning new legislation in the aerospace fastener industry.

I cite these as just a few examples of the Federal agencies with statutory IG offices that have responsibility for safeguarding sensitive national security missions.

In the time since the creation of these statutory IG offices there have been no allegations that these IG's compromised sensitive national security information or that the existence of the IG office has prevented the agency head from accomplishing his mission.

I note for my colleagues that the Department of Energy's statutory IG Office was established even prior to the 1978 act; the Department of Energy's statutory IG Office was established in 1977; the NASA IG Office was established in 1978; the Department of State's IG Office was established in 1980; and the Department of Defense's IG Office was established in 1982.

So we have a long track record and there have been no allegations that we have any national security problems at all.

Let me now turn to specific issues raised in regard to the legislation before us today. I begin by noting that the performance of the administratively created CIA inspector general has been found wanting since the mid-1970's. In 1976 the forerunner Intelligence Committees in the House and Senate found a series of problems and defects in the CIA Office of Inspector General ranging from lack of objectivity to insufficient authority and independence.

In November 1987, congressional committees investigating the Iran-Contra affair recommended, among other things, the creation of a statutory inspector general for the CIA, stating that the present office at CIA, "appears not to have had the manpower, resources or tenacity to acquire key facts uncovered by the other investigations of the Iran-Contra affair."

The current CIA inspector general is appointed by and serves at the pleasure of the Director of Central Intelligence. This arrangement necessarily encourages the CIA IG to maintain a favorable relationship with the Director in order to preserve his job rather than act as a proper, independent, fact-finder and, when necessary, a critic of CIA programs, operations, and personnel.

The obvious conclusion is that the CIA IG will remain reluctant to track unwise and perhaps illegal conduct without the explicit approval of the CIA Director.

In my view this is a very serious institutional flaw in the current Office of Inspector General at the CIA. Had we had an inspector general who did not mind looking into the CIA Director himself, would we know more about some of these events of the past few years? I do not know, but we might have.

Opponents of this legislation may argue that the current IG has the requisite independent streak to do the job correctly. But that is not enough assurance for two reasons. First, as I said before, the current IG can be fired by the DCI at any time. Second, there remains an appearance problem which no single individual can overcome.

In addition, the credibility and performance of the CIA's existing IG office has been harmed by an over reliance upon CIA employees who are rotated into the office as inspectors and investigators who have no previous training or experience in such work, and who must return to positions in other parts of the Agency once their tour with the inspector general is completed. So it is difficult to expect thoroughness and objectivity with these inherent institutional constraints. This has been especially true to the individuals assigned to the position of inspector general, several of whom have been reassigned to a senior position within the CIA after their tour as inspector general.

Opponents of this legislation argue that Judge Webster needs to be given sufficient time to bring about additional changes in the CIA IG. However, since the current IG at the CIA serves at the Director's discretion, the office can only be as thorough and objective as the individual DCI wishes it to be.

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As I stated before, I believe Director Webster has done a good job at the CIA. I think he is a man of integrity. But both common sense and experience indicate that we must have an institutional check in place to guard against a future DCI who may not live up to Judge Webster's standards. And that check we need against a future DCI who may not live up to Judge Webster's standards is the Presidential control over the hiring and firing of the CIA IG.

Opponents of this legislation have also argued that the creation of a statutory IG would "instilll undue risk-aversion in what should be one of our Nation's most entrepreneurial institutions."

This is a mistaken notion and one I find completely unpersuasive. This legislation can only serve to make the CIA averse to violating U.S. law and policy. Bold and creative intelligence operations that fail to live up to this criteria simply do not merit consideration by our Government.

Finally, the bill's opponents argue a future President may use the IG's existence to deny Congress access to information. While that is an interesting hypothesis, it has absolutely no precedent in Congress' 10 years of experience with the other 25 statutory IG offices.

Mr. President, I am second to no one in my desire for our Nation to have a robust and effective intelligence capability. Intelligence is a force multiplier which helps us to properly use the military forces on which we spend hundreds of billions of dollars. We need that robust and effective intelligence capability.

Congress and the American people have entrusted the CIA with our Nation's secrets and provided this vitally important agency with extraordinarily sweeping power and authority to complete its mission. However, with this enormous power comes enormous potential for abuse.

Increased accountability to the American people through their duly-elected representatives is an essential goal in our democratic system of government. The establishment of an independent IG, which makes appropriate accommodations for the unique security concerns of the CIA as this legislation does, is an indisputable means to that end.

Mr. President, let me address a few other items before I yield the floor.

One of the issues raised is that the IG will stifle an already overly cautious CIA. I believe it was described that "we want someone not to audit but to take action." I agree with that 100 percent. But I want to see that action taken where we know what is going on, where we know there is not an abuse of power, and where we know our money is being properly spent. So I say the CIA elements are already inspected regularly for compliance with law and agency policy.

The criticism is that by creating a more powerful IG at CIA, we will be overloading him or her with auditors, accountants, and lawyers, and will further stifle what is already an overly-cautious bureaucracy. However, CIA elements are already inspected regularly for compliance with law and agency policy and this is no new function. The objective of the legislation is to ensure this function is performed better, without fear or favor.

How will it stifle initiative to ensure CIA activities are consistent with law and agency policy? Do we, on the other hand, want initiatives that violate law and Agency policy? The IG will still report to the Director. He does not report separately. The IG will report to the Director and operate under his supervision. The DCI will be in a position to ensure the IG function does not interfere with the conduct of operations.

And the DCI is given express authority to prohibit the IG from looking into matters where it would interfere with the outcome, or where the DCI feels we are getting onto thin ice with security matters which should not be released. And the DCI can stop that. All he has to do, then, is tell the committees.

If the committee chooses to pursue the matter further, they can do that. All we are saying is that he cannot just bottle something up where the investigation might involve the Director.

The DCI will also be in a position to influence the size and staffing arrangements for the IG. There is no requirement in the bill for any larger office than what now exists, nor do we contemplate the need for one. There is no evidence we are aware of in all the other agencies that maintain a statutory IG, that it has made Government bureaucrats any more cautious in carrying out their responsibilities.

Another criticism is that there is insufficient evidence that change is needed in the existing system and that the committee has not looked into this adequately.

I would answer that. The Iran-Contra committee found, 2 years ago, that the CIA IG lacked the resources and tenacity to do an adequate job of investigating the CIA's role in the Iran-Contra scandal. The internal report on Iran-Contra that Judge Webster prepared also found shortcomings. That is the judge's own look at what his own people had prepared for him. The Iran-Contra committee recommended the establishment of an independent, statutory inspector general.

The committee also had access to several recent inspector general reports, some of which were prepared at the committee's request, to the DCI. We do not expect these reports to always be critical. We do, however, expect them to be thorough and objective. This is too often not the case. While we recognize that a change in the status of this office cannot be expected to improve the quality of IG's performance overnight, we believe that in time it certainly will have that effect. We cannot ignore the experience of the Defense and State Departments, whose inspectors general have testified that their operation had been enhanced by their improved status.

Another criticism is that the DCI's control over the CIA will inevitably be weakened by creating an IG appointed by the President for Senate confirmation and that this might make some foreign intelligence services reluctant to cooperate with CIA.

I answer that the bill has been drafted to ensure the DCI will retain appropriate control over the inspector general, except in extreme limited circumstances. For example, if the DCI himself were the focus of an investigation, all of the IG's reports must be channeled through the DCI. The DCI is also given authority to stop the IG from looking into any matter he chooses, if he finds it necessary, to protect vital national security interests. Such decisions need to be reported to the Intelligence Committee, but nothing prevents the DCI from acting where he believes it is necessary.

The bill requires that the IG must comply with all of the security policies of the DCI so he is not a rogue elephant; he is not running off violating the security policies of the DCI. He or she must comply with all of the security policies of the DCI to protect intelligence information.

Foreign intelligence services cannot reasonably perceive from this bill that this change will have any perceptible effect at all on their working relationship with the CIA. The secretaries of State and Defense have not been heard to complain that they have been weakened by the creation of a statutory IG in their Departments. I believe their Departments have been strengthened because of the actions the IG's have been able to make.

Also, I find it difficult to think that by requiring subcabinet officials to be appointed by the President and confirmed by the Senate we are weakening the Department heads' control over them. We do not believe that is the case with all the Assistant Secretaries and Deputy Assistant Secretaries in the Departments of State or Defense or anywhere else.

There are other criticisms, Mr. President, I will be glad to address. Those are some of the main criticisms that are brought up from time to time. I wanted to address those while I had the floor.

In summary, I urge my colleagues to support this important legislation to

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establish an independent statutory inspector general at CIA and to oppose this amendment to strike the IG provision from the Intelligence Authorization Act, and I urge support for the whole bill.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island [Mr. CHAFEE].

Mr. CHAFEE. I wonder if the distinguished Senator from Ohio, who just spoke, would help me on a matter. He is chairman of the Governmental Affairs Committee. Would this inspector general come before his committee for confirmation proceedings?

Mr. GLENN. No, he would not. We have given that up, as I indicated early in my remarks. We normally would have that as the committee that oversees the whole inspector general operation. We normally have the right to call them, but we have given it up in this instance so we do not involve more people. We do not see that is necessary. We think that the Intelligence Committee, set up in the special nature in which they were set up, have cognizance over this and can exercise that kind of oversight responsibility.

Mr. CHAFEE. I want to thank the chairman. Mr. President, first of all, I want to say I have great respect for the chairman and vice chairman of the Intelligence Committee and also for the principal author of this inspector general language. Mr. President, I speak from some background in this area. The first 8 years I was in the Senate I had the privilege of serving on the Intelligence Committee.

What are the key points of this legislation that is before us, this particular amendment, and the underlying cause of it being brought up? The reason that the inspector general is before us is to avoid the errors and the scandals of the Iran-Contra era. That keeps coming up, Iran-Contra, Iran-Contra. It seems to me that is a shroud permanently wrapped around the CIA, just like this Nation could not do anything in foreign policy because of Vietnam. So the Iran-Contra atmosphere is all about this inspector general proposal. I think that is unfortunate, Mr. President. I hope that we can move on. We have a new Director, a Director who everybody here shows great respect for. I think we ought to give him a chance. He has an inspector general.

Some say, oh, the powers of that inspector general are not adequate; he serves in this post, and then he goes back into service in the CIA, so, therefore, he is ineffective.

I think, as I say, we ought not to barge in on this new head of the CIA, the Director of Central Intelligence, at this early stage in his term.

What are the high points of this bill that is before us? The two high points that have been discussed both involve two new monitoring requirements. It is told here that we made tremendous progress; that now we have gotten the President to timely report in the case of new findings. So there is an instance where now the Congress is going to be deeply involved, have a report, no question about it. If the President does not report, then he is losing the support that is necessary to him from the respective committees. So there is a case where there is a monitoring requirement.

What is the other big feature of this bill? It is another monitoring requirement. It is the inspector general. Here we have a new inspector general. He is going to be above the five Deputy Directors. There are only two Presidential appointments currently confirmed by the Senate, the Director and Deputy Director. None of the five other Deputy Directors are confirmed. But now we are going to have the inspector general. He is going to come before us. He has to go through confirmation. It seems to me we spend more time trying to determine whether the CIA is doing something wrong than helping it do its job right, to perform its activities in a better fashion.

As I say, I have great respect for the members of the committee, but I do wish that half as much energy would be placed in helping the CIA perform its duties in a better fashion than increasing the number of watchdogs and the amount of monitoring that goes on in this agency.

I think we have to recognize, Mr. President, whether we like it or not, that the CIA is a different agency from the others. It is not the Department of Transportation; it is not the Energy Department; it is not the Department of Defense. The very purpose of the CIA is to operate in a clandestine manner. That is what it is. It is not in a goldfish bowl. It is not an agency that is to have all its activities spread in the public. By its very nature, it is an agency that relies on originality and, indeed, a sense of the free spirit.

Sometimes I wonder, Mr. President, with the bureaucratic levies that are being imposed on that agency, whether it will ever be able to achieve the great intelligence breakthroughs that occurred, for example, in World War II and, in some instances, since then. Always the attitude seems to be we have to watch over that agency more. "Rogue elephant" is a term that has been used in the past.

So we have two more monitoring requirements: The swift reporting of the findings and this inspector general, without even giving the current Director of the CIA an opportunity to see if he cannot perform in a fashion that meets the approval of the committees. So, Mr. President, I hope that this amendment will be accepted. I ask the distinguished sponsor of the amendment if I might be listed as a cosponsor.

Mr. HOLLINGS. I ask unanimous consent the Senator be listed as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. I know we are going to vote on this soon. I urge my colleagues to accept this amendment by the distinguished Senator from South Carolina. Subsequently, maybe we will have to go into these inspector general proceedings as is outlined. I do not know. But I do not think it is the way to proceed now. The President, who has had some experience in that agency, a good deal more experience than any of the rest of us have had, is opposed to this idea. We have all seen his letters indicating so.

I thank the Chair.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes the Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. I thank the Chair.

Mr. President, we are going to vote shortly on this amendment, but not before a few further thoughts are offered on the subject.

I rise in opposition, and I rise with a very specific concern, and that is the subject of the involvement of the United States in assassinations and coups to overthrow governments in foreign lands.

Mr. President, I am going to take the liberty in this quiet moment of the afternoon to do something I do not believe I have ever done in 13 years in the Senate. I am going to reread a statement I made on the floor on Wednesday, October 18, 1989, in which I said:

"Mr. President, it happens I was one of a small company assembled in the big southwest corner office of the West Wing of the White House in the early afternoon of November 22, 1963, waiting word from Dallas. In any event, no message came; leastwise, none that I recall. Rather, at one point we all seemed to come to the same realization. John F. Kennedy was dead." He had been assassinated.

"Within minutes, Hubert Humphrey burst into the room, tears streaming down his face, grabbing Ralph Dungan by both arms: 'What have they done to us?' he asked."

"We all knew who 'they' were. The right wing in Dallas. And yet, later in the day we learned on the radio that an arrest had been made of a man who had been connected with Fair Play For Cuba, a pro-Castro or sympathetic group. 'Oh, God, I said to myself. They will kill him, too.' This is a matter of record. I began to plead that the Federal Government must get physical custody of Oswald. Late that evening I went out to Andrews Air

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Force Base to meet the plane bringing the Cabinet back from its aborted trip to Japan."

You no doubt recall, Mr. President, that the plane had to turn around halfway across the Pacific. "I pleaded with the members of the Cabinet as they came down that we had to get custody of a man called Oswald."

"I really worked on this. Dean Joan Konner of the Columbia School of Journalism recalls my coming into her studio at Channel 13 in New York City to plead the case."

"Assassinations, you see, linger. Societies sicken."

"I had more than Castro in mind. Obviously, we had tried without success to assassinate him. Had he succeeded in an attempt at revenge? But there was something more, Mr. President. It happened that at the time one also knew that we had been in on the assassination of Ngo Dinh Diem in Vietnam." He was the head of that government at that time. "We did not order it. We certainly did not do it. But we were around. I was not then involved in foreign affairs, but had friends who were. These friends were sick at what we had done. Diem was an innocent man; an ally. We had decided we needed a better one. Get out of the truck; say your prayers. Something like that. I don't even want to look it up. It was enough to read Senator COHEN's words of yesterday:

> We have a tendency to take snapshots of today's events and airbrush away unpleasant experiences from our past. But it is important to remember that America reaped no political rewards in the coups that resulted in the deaths of South Vietnam's President Ngo Dinh Diem and Chile's Salvador Allende. And many will always wonder whether our own attempts to murder Fidel Castro played a role in the assassination of President John Kennedy.

"And so I have ever since been of the view, not perhaps an exceptional insight, that assassination works both ways. Hence I went a little sick yesterday morning to read on the front page of the New York Times the headline, 'CIA Seeks Looser Rules On Killings During Coups.' Will we never learn? How little we know. How little we influence actual events. How vast and menacing our image in the world can become because of such statements." I was referring to statements made the previous day by Director Webster. "Statements made to please, But, Mr. President, I will restrain myself." Please what groups I did not and do not know. Nor do I know what specific maneuverings in the executive branch led to Director Webster's statement.

"There is also a matter of law. Not executive orders, but law. To be specific, supreme law. Article VI, Paragraph 2 of the Constitution we are busily amending these days: 'Treaties shall be the supreme law of the land.'"

Article I, section 8, if memory serves, also states "Congress shall have the power to define and punish offenses against the law of nations," the law of nations being a direct counterpart to international law. Treaties become international law when they are sufficiently widely accepted. I suggest that a ban on assassinations is sufficiently accepted around the world to constitute a norm of international law.

"The issue involved is intervention. Intervention in the internal affairs of another nation is a violation of the United Nations Charter, and the charter of the Organization of American States." Mr. President, the U.N. Charter, article II, section 4, says:

> All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state or in any other manner inconsistent with the purposes of the United Nations.

This is the heart of the charter, Mr. President: "All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state."

In my statement on October 18 I went on the state: "There is a distinction between intervention and merely attempting to influence events in another nation. That is normal. It is diplomacy. It is desirable. It is the way we learn to get along with one another. But it is another thing to seek to coerce in situations of violence; worst of all is the assassinations."

Mr. President, here I would like to apologize for any offense I may have unintentionally given. In my statement I then said, "The word is 'Arabic,' of course, but the calling is age-old, worldwide and universally despised." I was not thoughtful enough when I used the phrase "Arabic, of course." What we mean is only that the word happens to come from the Arab language, has a colorful and historic origin rooted in opposition to the Crusades and has been adopted in other languages, as words are constantly adopted across languages.

I went on the say: "I would further note that the United States is party to the four 1949 Geneva Conventions on the laws of war. Assuming that an internal convulsion rises to the point of international conflict * * * the Geneva Conventions come into play.

At that point, Mr. President, under a set of conventions now so widely adopted as to have the status of law, and of course ratified by the United States with the advice and consent of this Senate, individuals became responsible. Individuals who had never previously been the subject of international law were made such by the Geneva Conventions.

The sequence, Mr. President, was very simple: "The Geneva Conventions codified the judgments made at Nuremberg. Order the murder of a prisoner"—order an assassination—"and you can get yourself hanged."

Mr. President, at Nuremberg the United States, with Supreme Court Justice Jackson on that tribunal along with eminent British jurists and others, convicted men to be hung by the neck until dead for actions which are now codified in the Geneva Conventions and are law. Individuals are responsible under that law.

And so I ask, where are we moving, and where is the sense of history in the events that have been taking place in Washington in recent weeks? Just Saturday morning I opened the New York Times, and read with great interest the headline "U.S. and Soviets Agree To Back U.N. Agencies." Something of note took place. For the first time in the 44-year history of the U.N., the United States and the Soviet Union drafted and proposed a joint resolution in the General Assembly. For the first time ever they held a joint press conference to announce this.

I have since spoken to both the Permanent Representative of the Soviet Union and our own Permanent Representative, the distinguished career Foreign Service Officer, Ambassador Pickering, and they agree that this is a large event. The two powers have come together to say they are going to renew their determination to see that the U.N. Charter works and that the international system enables it to work.

They committed themselves again to the principles of the charter.

Mr. President, on the very next column of the same page I then read the following in a dispatch to the Times: "The Bush administration has sent to Congress a looser interpretation of the executive order banning covert involvement in assassinations overseas, William H. Webster, Director of the Central Intelligence Agency, said in a published report."

That report came from an interview, a luncheon that Judge Webster had with the editors and reporters of the Washington Post.

Mr. President, I ask unanimous consent that the Times story on the United States-Soviet joint initiative be placed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNITED STATES AND SOVIETS AGREE TO BACK U.N. AGENCIES

(By Paul Lewis)

UNITED NATIONS, November 3.—In a new sign of their improving relations, the United States and the Soviet Union said today they would work together to strengthen the United Nations and its agencies around the world.

The two countries said they planned to submit a draft resolution to the General Assembly calling for the organization to play a greater role in maintaining peace and fostering international cooperation.

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It was the first time in the United Nations' 44-year history—largely a tale of cold war or deadlock between Moscow and Washington—that the two nations have co-sponsored a General Assembly resolution aimed at reinforcing the organization's work, diplomats said.

Even the joint press conference called to introduce the text was the first they have held together at the United Nations.

The resolution, which is likely to win unanimous endorsement, contains no commitments beyond those accepted by Washington and Moscow in signing the United Nations Charter.

But both sides said the draft measure signaled that they want to extend the pledge of cooperation exchanged last month by Secretary of State James A. Baker 3d and Foreign Minister Eduard A. Shevardnadze in Wyoming.

The announcement today was consistent with the Soviet Union's growing support for the United Nations. It also represents the strongest endorsement the Bush Administration has given so far to the organization's role in preserving peace and fighting global problems such as drug trafficking and damage to the environment.

PRESERVE PEACE AND ORDER

In a joint statement, the United States and the Soviet Union said, "What is most important about this resolution is not its specific language but what it symbolizes as a new beginning at the United Nations—a new spirit of constructive cooperation."

They added: "We hope it may offer an example to other member states that it is possible to set aside the tendentious polemics that have been too common in the United Nations in the past."

The two nations pledged to work together through the Security Council to "preserve peace and restore order" in the world.

They said they would also promote "budgetary reform" throughout the United Nations system and eliminate "duplication of effort."

"Today is the end of confrontation," the Soviet Deputy Foreign Minister, Vladimir F. Petrovsky, said at the press conference. "We want a new atmosphere of practical, serious discussion in all bodies of the United Nations."

The resolution also represents a tactical victory for the United States in its long-running war of words with Moscow at the United Nations, diplomats said.

As part of the agreement, the Soviet Union has ended a three-year struggle to persuade the General Assembly to endorse what it called "a new comprehensive approach to international peace and security."

Just what such a commitment might entail has never been clear. The United States, its allies in the North Atlantic Treaty Organization, and some developing countries have opposed the Soviet plan, saying that existing United Nations mechanisms are adequate.

In the course of preparing today's resolution, the Soviet Union told the United States that it hopes to join the organization's Rome-based Food and Agriculture Organization, and eventually the World Bank, the International Monetary Fund and the General Agreement on Tariffs and Trade.

Mr. MOYNIHAN. Mr. President, as I noted, the Times article on Judge Webster's comments was passed on an interview he gave to the Post. I therefore turn to the front page, the same day, Saturday last, of the Post, where one reads the headline: "Administration Alters Assassination Ban." In a story written by David B. Ottaway, and Don Oberdorfer, the Post states that:

> CIA Director William H. Webster said yesterday that the Bush administration has given Congress a new legal interpretation of the executive order banning covert U.S. involvement in assassinations that would allow the Central Intelligence Agency to help coup plotters in other countries as long as the death of a political leader is not their explicit goal.

Mr. President, to maintain the contrast with the announcement of the United States-Soviet joint resolution, I ask unanimous consent that the Post article on Judge Webster's comments be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 4, 1989]

ADMINISTRATION ALTERS ASSASSINATION BAN

(By David B. Ottaway and Don Oberdorfer)

CIA Director William H. Webster said yesterday that the Bush administration has given Congress a new legal interpretation of the executive order banning covert U.S. involvement in assassinations that would allow the Central Intelligence Agency to help coup plotters in other countries as long as the death of a political leader is not their explicit goal.

Webster said the still-classified Justice Department opinion issued Oct. 27 recognizes that "you cannot equate violence with assassination." He indicated that the agency thus could assist an attempt to remove a foreign leader who was then killed accidentally.

"Our job is not to be part of a plan to cause the death of a political figure," he said, adding that also means "we shouldn't be part of a plan that we know someone else is going to seek to cause the death of a political figure."

Asked whether this means the ruling does not extend to the killing of a political figure accidentally, Webster replied, "That's the legal guidance."

In a wide-ranging interview with Washington Post editors and reporters, Webster provided an unusually candid account of his views on a variety of issues ranging from the current situation in the Soviet Union, East Germany, Afghanistan, China and Panama to the plight of the hostages held in Lebanon and the investigation into the bombing last December of Pan Am Flight 103.

Apparently seeking to demonstrate that he has gained a mastery of complex foreign policy issues, Webster spoke confidently and in detail on most of those subjects even while seeking to avoid any expression of his own opinions on controversial policy issues. Some senior Bush administration officials have criticized Webster, saying that he has failed to master his subject matter and declined to offer policy advice to the president.

The CIA director made these other points during his 90-minute interview over lunch at The Post:

The administration hopes to locate, seize and bring back to the United States for trial the terrorists responsible for the bombing of Pan Am Flight 103 on Dec. 21, that caused the deaths of all 259 people aboard and 11 others in Lockerbie, Scotland, where it crashed.

Anticipating the possibility of such action, the Justice Department, he said, has created a new term, "rendition," to describe the act of capturing and bringing back to the United States a criminal suspect. Webster confirmed that the United States believes it has the legal basis for kidnapping a terrorist in another country even without the knowledge and permission of its government.

The term was contained in a Justice Department legal opinion issued last June and is particularly aimed at allowing the CIA or Federal Bureau of Investigation to seize a terrorist in countries like Lebanon, where there is no longer any rule of law.

The United States faces "a very real possibility" of having to decide to try to save some, but not all, of the eight American hostages being held in Lebanon by Iranian-inspired terrorists. That choice would arise, Webster said, if the United States acquired firm intelligence on the whereabouts of only some of the hostages. He said the decision about what to do in that case would have to be made by higher-ranking officials.

Webster acknowledged that the CIA and other U.S. intelligence agencies suffer from a serious "intelligence shortfall" about hostages' whereabouts at any given time, a problem complicated by the fact they are not kept all together.

Soviet President Mikhail Gorbachev has consolidated his power and has "running room," Webster said, but at the same time Gorbachev is under mounting pressure to make good on his promised reforms.

The political change underway in East Germany is "one of the phenomena that is going much faster than anybody could have anticipated" and that when this happens "you might have violence." He said he found during a recent European trip that West German leaders were "really worried" that the fast pace of change in East Germany would "backfire" on Gorbachev's reform efforts.

Intelligence reports suggest that probably "thousands" of people have been killed in China since the outbreak of the pro-democracy movement last spring and that a serious power struggle is underway in Beijing and is being conducted within the Communist Party's central military commission, of which Chinese leader Deng Xiaoping is chairman.

CIA analysts believe that the U.S.-backed Afghan resistance is slowly winning the war against the Soviet-supported regime in Kabul and that the Soviet Union, now providing $300 million a month in military aid, has taken on "a very expensive gamble" in Afghanistan.

The coup attempt in Panama early last month failed mainly because its leaders "planned to do it themselves" without any U.S. assistance and to carry out "an old-fashioned coup where people don't have to get hurt."

Speaking about the months-long debate between Congress and the CIA over the meaning of the 1976 executive ban on U.S. involvement in assassinations, Webster said he felt the outcome was that "we're back to a basic executive order that says you [the CIA] will not engage in assassination."

"We now have the extensive opinion from the Department of Justice that gives us an understanding of what the heck that [assassination order] means," he said.

He said the CIA, in seeking the new interpretation, was not seeking "an invitation for

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us to engage in more coup plotting . . . but simply, if we are asked to do it, that we be asked to do it under rules that comply with the executive order and are not so unrealistic that we will end up not succeeding."

Webster said the Justice Department had begun drafting the new interpretation immediately after the failed Panama coup Oct. 3, though he said it would have made no difference to the situation in Panama if the new guidelines had already been in place. Webster said Justice's Office of Legal Counsel under Assistant Attorney General William P. Barr, had pored through "boxes of files" concerning its meaning that had accumulated since the original executive order was issued in 1976.

The Justice Department legal opinion, he said, is "not that complicated" but is "several pages" in length. Barr has already briefed him on the meaning of the interpretation, he added.

Another administration official familiar with the drafting of the new opinion said late yesterday that a team of six Justice Department lawyers and another four from the CIA had searched through 160 boxes of documents from the Ford, Carter and Reagan administrations to determine whether the executive order was meant to exclude U.S. involvement in coups where violence and accidental death were possible.

The official said the Justice Department opinion did not constitute a loosening of the rules but rather a clarification of the 1976 executive order.

Asked whether he thought the Senate and House intelligence committees would accept the new interpretation, Webster said there were always "mixed views" among their members about whether the United States "should have anything at all to do with coups." But he said he felt "the air has been sort of cleared" now and that the various conflicting interpretations of the order that had accumulated since 1976 like "barnacles" removed.

Senate intelligence committee sources said that as of late yesterday afternoon, the committee had not received the Justice Department's new legal opinion, though it was expected imminently. Told Webster's description of it, one source said, "I don't think we're going to have a great deal of trouble with it."

Regarding the hostages in Lebanon, Webster was frank about what he called the agency's "intelligence shortfall," which he said stemmed partly from "the nature of terrorism" and partly from the chaotic conditions in Lebanon.

"Over there, you cross the street and people are wondering what you're doing on their side of the street. It's about the world's worst environment to conduct any kind of intelligence," he said, adding, "It's hard for our assets, and we do have assets over there, to communicate with us."

Webster said the CIA was "pretty much" convinced Lt. Col. William R. Higgins had died long before Lebanese terrorists produced last July 31 a videotape of his body hanging from a rope and that there was some intelligence indicating he may have been killed in early July 1988 at the time the USS Vincennes shot down an Iranian jetliner over the Persian Gulf.

SOVIET UNION AND EAST EUROPE: GORBACHEV'S IN CONTROL, BUT TIME IS SHORTENING

Gorbachev has consolidated his political power, but is under growing pressure to show economic results from his *perestroika* reform program, Webster said.

The CIA director, who took pains to say he did not wish to participate in the recent public debate within the administration about Gorbachev's prospects, said "there is a lot of pressure on Gorbachev to make the reforms visible" to the Soviet citizen and consumer.

"The time he has to make things happen is shortening," said Webster, not only because of the economy but also because of conflicts between nationalities in the Soviet Union and the implications of events in Eastern Europe.

Webster was asked about an intelligence estimate that reportedly said Gorbachev could be expected to stay in office for at least two more years. Webester said there were varying opinions about Gorbachev's staying power, but that the two-year minimum was "a kind of working number." He added, "I don't regard it as significant. . . . It doesn't say he will drop out in two years. It says he's got running room."

The degree of Soviet tolerance of independent actions in Eastern Europe, and especially East Germany, was another topic for the CIA director.

What impressed Webster about East Germany—and political leaders he saw during a recent trip to Western Europe—is "the pace of change [which] had reached the point that people were beginning to worry."

A key issue, said Webster, is what will the Soviet Union do about the situation in East Germany. "So far, it doesn't seem they are prepared to do very much."

Regarding the Soviet Union's own efforts at economic reform, Webster said the process of shifting the emphasis in the Soviet economy from military production to consumer goods is proving to be difficult and time consuming. The CIA chief estimates it will take two years to make major shifts from military production, and another two years for consumers to begin to see results.

Gorbachev, who has shaken up the Communist Party Politburo and Central Committee and sponsored a process of contested elections and open parliamentary debate, is under "no imminent political pressure," in Webster's opinion.

Webster said, "It is a widely held view in the [Central Intelligence] Agency that every day [Gorbachev] remains in office and pushes his program, it reduces the likelihood that there will be significant changes in that program if he should go out of office."

Many also think, he went on to say, that if Soviet conservatives should succeed in reversing Gorbachev's policies, "it would be nastier . . . it would require more violence and more repression than has been required" in the past several years.

"Nobody has written Gorbachev off by a long shot," said Webster, in a statement that appeared in contrast with some gloomy assessments heard from Soviet experts and some in the intelligence agencies. "His definable opposition is shrinking," Webster said.

Gorbachev's recent attempts to crack down on some elements of the Soviet press are controversial in Moscow and the United States. Webster mentioned them in passing from another angle, calling Gorbachev's recently revealed sensitivity to the Soviet press "the only indication we have that he is human."

On the political situation in East Germany, where some 5,000 were reported yesterday to have fled to the West German Embassy in Prague, Czechoslovakia, Webster said, "It is going much faster than anyone might have anticipated."

An apparent reason for the continuing flight of refugees, he said, is that the people of East Germany do not appear to be sure yet that the new communist leader, Egon Krenz, has seriously changed to a path of reform.

"Lurking here is a very important issue, reunification," observed Webster. "It has to be discussed. It's there," he said of the "German question, which has suddenly returned to active debate after decades of being mostly dormant.

CHINA'S FUTURE: POWER STRUGGLE PITS REVOLUTIONARY COMRADES

A power struggle is underway for military control of China between senior leader Deng and another aged veteran of the 1949 revolution, Yang Shangkun, according to Webster.

The struggle is being fought out, Webster said, in the Communist Party's Central Military Commission, which makes policy for the armed forces and which is believed to have directed the military crackdown on dissenters last June in Tiananmen Square in Beijing and elsewhere in China.

Deng, 85, is chairman of the military commission, his only remaining official post. Yang, 82, is vice chairman and secretary general of the military commission as well as president of China, a largely ceremonial post. Though they have been comrades for decades, Deng and Yang are reported to have very different ideas. Deng has been the leading advocate of reformist economic policies and, until recently, tolerated a substantial degree of independent political thinking. Yang is reputed to be more conservative in every way, though his precise views on most issues are unknown.

In the power struggle, Webster said, Deng is reported to be supporting the new Communist Party general secretary, Jiang Zemin, as chairman of the military commission. But Webster said the party chief, who was hand-picked by Deng following the June crackdown, "has no constituency of his own" within the Chinese leadership.

Webster said it did not appear likely that there would be another violent eruption as in last summer's events, but that, "I think there is a lot of potential for change inside [the leadership] at this point."

AFGHANISTAN'S CIVIL WAR: GOVERNMENT LOSING DESPITE SOVIET AID

The Soviet Union continues to provide massive military supplies to the beleaguered Afghan government army under President Najibullah but the *mujaheddin* rebels "are winning" the war, Webster said. He acknowledged that the rebels' advance is not rapid, however. "Maybe it seems glacial to some," he said.

The CIA director said the Soviet Union continues to provide supplies and equipment worth $300 million monthly, in a "gamble [that] is very expensive." Over 1,000 surface-to-surface Scud missiles, which the U.S. says cost $1 million each, have been fired since Soviet troops completed their withdrawal early this year, Webster said.

He said the Soviets were surprised that Najibullah was able to survive against the rebel assault after all Soviet troops had been withdrawn. So was the CIA—which, according to government sources, first had predicted that the Soviets would not withdraw from Afghanistan and then predicted that the Soviet-backed regime would quickly fall.

The failure of the rebels to win any dramatic victories has led to descriptions of the Afghan war as a stalemate. But according to

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Webster, the rebels are "fighting actively and aggressively on a number of fronts," forcing the Soviet-backed forces to spread themselves thin in self-defense. The Afghan government army, Webster said, has been reduced from 150,000 troops to 120,000 by deaths and desertion.

Though the Najibullah government remains in power in Kabul, said Webster, the rebels control about 85 percent of the territory, leaving the government effectively in charge of only a band of cities linked by a U-shaped road. He said the *mujaheddin* continue to besiege the garrison town of Khost near the Pakistani border, with the Afghan government parachuting men and supplies into combat with the rebels. Khost, he said, might be the first major government-held town to fall.

PAN AMERICAN FLIGHT 103: U.S. SEEKS PROCEDURE FOR SEIZING SUSPECTS

Regarding the investigation into the midair bombing that killed all 259 people aboard Pan Am Flight 103 and 11 more on the ground in Scotland, Webster said the U.S. government is still not at the point where it could issue indictments and arrest warrants for anyone.

Webster praised the combined efforts of investigators from four nations to track down the terrorists responsible but said there had been "too much discussion" in the news media about their work.

"It makes it very difficult to lay traps and find new evidence when people start reading about themselves. And it makes countries and [security] services defensive. Right now the name of the game is for the bomb not to have been put on board in their country," he said. He added that by using the term "lay traps," he meant surveillance of suspects.

There have been a recent spate of reports that the bomb that destroyed the Boeing 747 was contained in a suitcase that was placed aboard the plane after it arrived in Frankfurt, West Germany, from Malta. Some sources believe the news leaks to have been the result of British intelligence officials angry at lack of cooperation from West German security officials.

"The assumption is: 'If it turns out to have been on board in my country, we will be accused of not having prevented it,' when the effort really ought to be how did it happen? Who did it? Where?" Webster added.

Asked whether the goal is to apprehend those responsible and bring them back to the United States for trial, the CIA director replied, "That's correct."

Webster said the Pan Am incident had helped the Justice Department to focus on the problem of establishing a legal basis for the capture and return of suspects in the bombing and that "they fashioned a new name, 'rendition.' "

Webster said such a seizure of a terrorist suspect in another country by U.S. authorities was accepted by American courts which "do not much care how the defendant happened to come into America."

"So it isn't an issue of whether they can be tried or not. The issue has become one of international relations, respect for sovereignty, politics," he said.

"It seems to me that you have a different set of circumstances in a country like Lebanon which has no capacity to provide law enforcement or assistance than going to another neighbor such as Sweden or someplace and lifting somebody out of there," he said.

Mr. MOYNIHAN. Mr. President, the new interpretation of the ban on assassinations does not say that assassination cannot be an "implicit goal" or an anticipated effect. The new ruling only states that assassination must not be "their explicit goal," as if coups take place according to written agreements. We will do this, we will not do that; signed, codified.

Mr. Webster said the still classified Justice Department opinion issued October 27 recognizes that "you cannot equate violence with assassination."

Mr. President, I can only read this—and I shall be happy to hear other interpretations—to indicate that violence is all right if it does not explicitly extend to assassination. The United States can be involved in the support of violent actions in other countries.

The UN Charter states that all members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of a state. I think it is pretty obvious that to change a government by violence or force is certainly interfering in the territorial integrity and political independence of a state.

Judge Webster—and it is Judge Webster, a former U.S. district judge—said that our job is to refuse to become involved in a plan to cause the death of a political figure. He states that we should not be part of a plan if we know with certainty that someone else is going to seek to assassinate or execute a political figure. But he adds that the ruling does not extend to killing a political figure accidentally. Judge Webster states that this is the legal guidance he has received. We are sorry, you are dead. We had not known that was part of the plan; it was not explicit.

Mr. President, we are now openly announcing to the world that it is all right for our Government to be involved, to use its resources to overthrow other governments, and hope that there are no accidental deaths in the process.

There is something in international law called reciprocity. What is conceded to you by one country, you concede to that same country in return. Mr. President, am I to understand that the United States believes it is all right for other governments to seek to overthrow the Government of the United States, as long as they do not explicitly intend the death of the President of the United States? Would that extent to the Vice President, or is it just to heads of state? Would it extend to any set of individuals?

Mr. President, two centuries ago such a statement by an official of the American government would have caused an outrage. We said in our Constitution—and we did, sir, in the debates that took place in the Congess under the Articles of the Confederation—that the United States would adhere to international law. We took that position in the Continental Congress prior to the Articles of Confederation. I think probably the phrase would have been "law of nations." The term international law came later, in the 19th century. We said, "You can look to us as a country which will abide by the law of nations." A responsible official should not say otherwise.

President Bush went to the United Nations on September 25, and he told the General Assembly, "The founders of this historic institution believed that it was here that the nations of the world might come to agree that law, not force, shall govern." Yet now we are adopting a code which only prohibits the explicit intention to murder a head of state.

Judge Webster went on to make this extraordinary statement, and I am reading now from the Washington Post:

"The coup attempt in Panama early last month failed mainly because its leaders"—the article is quoting Mr. Webster—"planned to do it themselves, without any U.S. assistance, and to carry out * * *" Mr. President I ask your indulgence. Listen to this carefully. These men in Panama planned to carry out the coup without U.S. assistance—a mistake, says Judge Webster. The further mistake was that they planned to carry out "an old-fashioned coup, where people do not have to get hurt."

I see that the distinguished leaders of the Intelligence, Committee are on the floor. Do they wax nostalgic, as the Director of CIA evidently does, for those old-fashioned coups?

Mr. COHEN. Will the Senator yield?

Mr. MOYNIHAN. I will not be long. Mr. President, when I was a youth, a while ago, it was a practice for young men to yearn for an old-fashioned girl, presumably untainted by the snares and delusions of modern life: lipstick, rouge, whatever. Today we long for old-fashioned coups, where only inconsequential people die. The mind reels.

I say simply, sir, that we cannot have it both ways. We cannot have the President of the United States go to the General Assembly and say that the United Nations was founded because Franklin D. Roosevelt, Winston Churchill, and Harry S Truman believed that it was there that the nations of the world might come to agree that law, not force, shall govern and, at the same time, openly assist violen coups. We seem to be saying that law not force shall govern—an exceptin when we use force. What do we reall think, Mr. President?

I do not think a government can si multaneously have two such ideas i its mind, without raising the questio of duplicity, imbecility, weakness o mind or just plain weakness of charac

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ter. Are we a government that believes and states openly that we are for old-fashioned coups, that it was a mistake to try to overthrow the government in Panama without our assistance? This is an elemental violation of law, a violation of treaty law, our law. Nuremberg was our law. It was said at the time, courageously by professors of international law, that Nuremberg had been victor's law. Therefore, we said let us make it treaty law. Let us draw up these conventions and have each of us commit ourselves to abiding by them.

We once believed in these principles, sir. If we do not believe in them any longer, the question arises: What do we believe? Do we truly reject the Charter and the Geneva Conventions? Do we think that there is an exception clause for the United States. All other countries are bound, but not we?

I will tell you, sir, it did not feel that way on November 22, 1963, in the White House, when we knew our President was dead—so very recently after our Government was involved in the death of another President.

This is not why we wrote those clauses into our Constitution.

I see that the distinguished vice chairman of the Intelligence Committee is on the floor. At this point I would rather hear from him than continue my own remarks. If he would allow me just the opportunity to say that he has been courageous on these matters. He has been forthright.

I am also happy to report to the Senate that this afternoon the House-Senate conference on the State Department Authorization bill adopted the amendment which I offered in committee about soliciting and diverting funds, making it a crime under title 18 of the United States Code to seek, under specific circumstances, to avoid prohibitions made by this Congress, the first legislation we shall have out of the Iran-Contra affair.

Yet even as we deal with that last crisis of Government we find the Director of Central Intelligence is openly discussing the use of force in international affairs. Supporting the very conduct we have said we are against when others engage in it. How many speeches have we heard about such conduct on this floor when others have done it? Now we propose to do it ourselves.

I think we need an inspector general, and if we read the press correctly, that inspector general may not only perform audits. He may find himself involved in issues of crime, the type of crimes for which we have in the past adjudged that the punishment was death. I did not know how lost the intelligence community was, how oblivious to the idea of international law it had become. It is eminently law abiding and has respect for the domestic legislation of this country. But the intelligence community does not seem to have absorbed that other fact of our history, a fact which goes back to the beginnings of our history, to the Articles of Confederation and before, much less the Constitution: international law is part of our law.

I speak, sir, as someone who served on the Intelligence Committee for 8 years. I have received the Central Intelligence Agency's medallion for service an award they give sparingly.

I tell you this, sir, I would not have accepted it from a Director who asserted that the United States had the right to violate the Geneva conventions, article 2(4) of the United Nations Charter and the rule of conduct of all civilized nations. If we are not a civilized Nation, what are we? And what are we becoming?

Mr. President, I see that the distinguished vice chairman of the Intelligence Committee is on the floor.

Mr. KERREY. Will the Senator yield for a question?

Mr. MOYNIHAN. I am happy to yield for a question, and then I will yield the floor to the Senator from Maine.

Mr. KERREY. I am inquiring of the Senator, as a consequence of a personal interest I expressed earlier in a private conversation, that this proposed policy is one that I find to be an extremely dangerous one.

I share the Senator's belief that the United States of America ought to project its values first and foremost. I am personally concerned and felt it deeply when I see the director of the Central Intelligence Agency saying that violence and assassination are not equivalent, and that if someone were to accidently die during a coup attempt, that would be an acceptable thing to have happened. Having participated in the carrying out of the Phoenix program at one time, I know how easy it is to cross the line and say, well, yes, general so and so accidently died while we were driving him to the base. He fell out of the car while we were going back to the base and/or some other thing.

Once, it seems to me, we have projected a standard, we are willing to accept an assassination if it is accidentally, it seems to me we are projecting to the world a value that is at odds with our most precious values.

I am curious. I have heard the Senator's previous speech and heard pieces of this speech. Is that the principal objection that the Senator from New York is offering to this particular policy.

Mr. MOYNIHAN. I thank the Senator for his remarks.

The Senator from Nebraska is one of the Members of this body who shed blood in this Nation's wars and has done so honorably and been honored for it. No one has more of a right to stand on this floor and ask: what are we becoming? What have we come to?

He speaks of morality. I would simply speak of law. Are we a Nation of laws? If we are, then these laws apply to our activities abroad as well as to our activities at home. That is what our Constitution says. It is our own commitment made in treaties which we negotiated and drafted.

Sir, I think the inspector general will have work to do. I hope he will not, but maybe he will. I would like the Record to say, if the committee's proposal is accepted, that part of his responsibility is to see that the laws of nations are observed as well as the laws of the United States, because they are the same. Treaties are the supreme law of this land and they extend to the inspector general's domain as much as any statute enacted here. Treaties are in fact statutes enacted here.

Beyond that I would say simply to the gallant and honored Senator from Nebraska, I do not know what we are coming to when such things can be said and have so little response.

Mr. KERREY. I appreciate the Senator's response. I appreciate his indulgence as well as that of the Senator from Maine and the Senator from Oklahoma. Obviously they have spent an awful lot of time on this. I do not question at all their judgment.

I feel very strongly that the language used by the director of the Central Intelligence Agency is language that should not be policy of the United States. We should not have our political leaders saying that assassination and violence are not equivalent. They are equivalent.

Mr. MOYNIHAN. At the very least, if we say it is right for us to do it to others, it is right if it is done to us. We did not think it was very funny the afternoon we learned John F. Kennedy was dead.

Mr. KERREY. I agree, it should not be our policy.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that two further items be printed in the Record at this point. The first is a letter I received after my earlier statement on this issue from Edward E. Rice. Mr. Rice was Deputy Assistant Secretary of State for East Asian and Pacific Affairs at the time of the Diem coup. He states eloquently that he recalls "with particular vividness that we did good neither for ourselves nor for Vietnam by encouraging the Vietnamese who carried it out. I thank the Chair and I yield the floor.

The second item is from the Times of November 1, 1989. It reports that Iran is adopting a law to allow it to seize United States citizens and bring them to Iran to stand trial. The Iranian Parliament acted in response to a Department of Justice opinion stating

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that the United States may seize persons abroad and bring them to the United States for trial.

There being no objection, the material was ordered to be printed in the Record, as follows:

Tiburon, CA, October 23, 1989.

Hon. Daniel Patrick Moynihan,
U.S. Senate, Washington, DC.

Dear Senator Moynihan: Permit me to express gratification that you have raised your voice, both on behalf of reason and with passion, against proposals to loosen the rules against United States participation in assassinations. I refer, of course, to your Op-ed piece in the October 20 New York Times.

Having been Deputy Assistant Secretary of State for East Asian and Pacific Affairs when the coup against Diem was mounted, I recall with particular vividness that we did good neither for ourselves nor for Vietnam by encouraging the Vietnamese who carried it out.

Indeed, on the basis of my experience as a Foreign Service Officer I long ago concluded that our close involvement in the internal affairs of other governments in general, and our use of so-called covert operations in particular, have done our interests little good and much harm. Moreover, that conclusion has been strongly confirmed by my research, subsequent to retirement, of cases in which I had not been personally involved—research done in preparing the manuscript of my recent book "Wars of the Third Kind: Conflict in Underdeveloped Countries."

Sincerely,

Edward E. Rice.

[From the New York, Times, Nov. 1, 1989]

Iran Responds in Kind to "Bullying" by U.S.

Tehran, Iran, October 21.—Parliament approved a bill today allowing Iran to arrest any American anywhere who offends it.

The Chief Justice, Ayatollah Mohammad Yazdi, said the bill, approved by 150 members of the 270-seat Parliament, responded to the "bullying nature" of the United States.

He referred specifically to a Justice Department ruling that United States Government agents could pursue and apprehend terrorists abroad without the permission of foreign governments, which he called "the worst kind of terrorism and kidnapping."

The bill must be approved by the Council of Guardians, 12 religious leaders and experts on Islamic law who decide constitutional questions.

A statement today from the Revolutionary Guards Corps said tens of thousands of its members would lead demonstrators Saturday outside the former United States Embassy to mark Nov. 4, 1979, "this great day" when militants overran it and seized Americans as hostages.

Mr. COHEN. I would like to take a few moments to offer a comment on this particular subject.

First, let me commend my colleague from New York, who is a noted historian, or I should say a historian of some note. It is important that we have a sense of history in this institution. I believe it was the poet Auden who said that history held one moment burns the hand. Unfortunately, there are not too many who want to hold history, perhaps because of its incendiary effect.

I was struck by some of the comments that had been offered here in opposition to the inspector general provision. I would like to address myself to that in a moment. But I first want to turn to the subject matter addressed by my colleague from New York about the need for us to look back.

It is important that we discuss this sort of nostalgic sense of the Central Intelligence Agency, the sort of swashbuckling view one holds of an unshackled CIA, as if Errol Flynn were somehow in the background of some individuals' minds. I go back to that time of the assassination of Jack Kennedy and look at the report that was filed some 10 or 15 years later by the Senate committee investigating the assassination plots of the CIA. There is some interesting language in this report. It is dated November 18, 1975, and on page 281 it has a statement from President Ford, who said:

> "I am opposed to political assassination. This administration has not and will not use such means as instruments of national policy."

And then the report goes on to quote from Richard Goodwin, who served with President Kennedy. He is paraphrasing Kennedy, who reportedly said, "We can't get into that kind of thing, or we would all be targets."

Then we have a statement from the Director of Central Intelligence, Bill Colby, and then finally Richard Helms. There is a very important book written by Thomas Powers, The Man Who Kept The Secrets, about Richard Helms. There is a statement here from Richard Helms. He said:

> "As a result of my experiences through the years, when I became Director I had made up my mind that this option * * * of killing foreign leaders, was something that I did not want to happen on my watch. My reasons for this were these:
>
> "There are not only moral reasons but there are also some other rather practical reasons."

And he goes on to talk about how it is impossible in a democratic system to keep this secret. The truth will out. Someone will talk. Someone will talk to a Congressman, a Senator, or to a member of the press. The truth will out.

But, in addition to the truth getting out, he said there is another consideration:

> "If you are going to try by this kind of means to remove a foreign leader, then who is going to take his place running that country, and are you essentially better off as a matter of practice when it is over than you were before?"

And he goes on to give an example, President Diem being one, with him having been, I think he used the word here, "eliminated" from the scene. After Diem was eliminated from the scene, we had a revolving door of prime ministers.

In other words, the whole exercise turned out to be to the disadvantage of the United States. "I don't think it is a viable option in the United States of America these days."

Then Chairman Church, at that point, posed a couple of questions and answers. And finally Church said:

> "And finally, if we were to reserve to ourselves the prerogative to assassinate foreign leaders, we may invite reciprocal action from foreign governments who assume that if it's our prerogative to do so, it is their prerogative as well, and that is another danger that we at least invite with this kind of action, wouldn't you agree?"
>
> And Mr. Helms said, "Yes, sir."

So there is no disagreement from all of our past DCI's—from Helms to Colby to Turner, I assume up until the present—that this is not and should not be the policy of the United States

And what does this have to do with the inspector general? Well, it has lot to do with the inspector general We have moved from the discussion o the inspector general to the Attorne General because you are also gettin involved in a Justice Department interpretation of what bans on assassinations really mean.

But I say this in the context of wha is before the Senate tonight, th motion to strike the provision dealin with the inspector general.

I listened with some care and atten tiveness to my colleague from Rhod Island, who is not on the floor at thi moment. I must say, I was troubled b at least the implications of what wa said by my good friend. He spok again with some sense of nostalgi about the past: What have we done t the CIA; the good old days—as if the really were the good old days.

If you start talking about the goo old days, I could talk about Operatio Mongoose. The Senator from Nebra ka talked about the Phoenix progran And how about ZR/RIFLE? and QJ WIN, the hired assassin? We can sta digging through the good old days ar find they really were not quite as goo as we would like to imagine in this r mantic notion that we now seem hold of the past.

The suggestion was made that this somehow a product of that Ira Contra thing, and someone aske "When are we going to give it up When do we give Iran-Contra up, as it were simply a passing moment our history.

Well, the Senator from South Car lina and I were on a plane one ti when we first learned about th coming back from the Far East. had a pretty good idea what had tak place at that time. It was not ju some passing moment in our histo some momentary diversion, a mome tary episode in our history. Ir Contra was a very significant event our history, and there were some sons to learn from it.

So we shouldn't just dismiss it, " this Iran-Contra thing is coming b

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to paralyze us once more." We had the potential for having a government within a government, of selling U.S. assets and taking the windfall profits to set up a secret account to run other covert actions with no accountability, no trail, no trace, off the shelf, no records, no one would know. Congress would not know. Maybe the President would not know. That is what was involved in Iran-Contra, not some Iran-Contra thing that passed a couple of years ago, with nothing to trouble us with today.

We nearly saw the unraveling of a Presidency as a result of that. It was significant and we ought not to sweep it into the dustbin of history as if it were nothing.

There was reference made to timely notice. Here goes Congress again getting into this timely notice thing. Well, this timely notice thing was passed back in 1980. Timely notice was put into law as a result of congressional concern about foreign policy actions being taken without any notice whatsoever to the Congress of the United States.

Again, it was suggested that Congress is getting deeply involved in these matters. I hope so. I hope so. I want to be deeply involved in these matters. I think we have acted responsibly. I think we have saved the agency from time to time from some very unwise actions because we were so deeply involved.

And it was also said, "I hope you guys are trying to do something as much to help the Agency as you are to investigate the Agency." The implication is that Congress is micromanaging, that we are Lilliputians tying up this giant Gulliver, interfering with the capability of the Central Intelligence Agency, somehow destroying the very agency itself.

I would ask the Director of the CIA to respond to that; ask the Agency whether or not there has been a substantial increase in its staff; ask whether it has seen a massive increase in funding; ask whether it has seen a substantial increase in its technical capabilities; and ask the Agency, indeed, whether it, as a result of congressional action, has managed to avoid some of the activities which otherwise would cause it great stress.

Those who diminish the significance of the Iran-Contra affair do not understand Iran-Contra. The Agency was not involved in that. That is precisely why the scandal occurred. It was an attempt by the Director and others to circumvent the Agency, to take it out of the Agency, to put it in the White House, where there could be no congressional scrutiny. There are not inspectors general down there, and no congressional oversight of the NSC.

It was not the Agency that got involved in Iran-Contra. It was the White House. It was because the Agency is required by law to provide timely notice, to notify the Hill if we are involved in covert actions. That is why they were not, for the most part, involved in the Iran-Contra scandal.

I do not impute this to my colleague who is offering this amendment. That is not what he has been saying. But those who criticize the committee for having supported the inclusion of the inspector general provision, I think, misunderstand what the committee is seeking to do. It is not to hinder or to hurt the Central Intelligence Agency but indeed to strengthen not only our oversight but indeed their own accountability.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the Chair. I had waited until I thought most of the argument would have been concluded on the inspector general issue before speaking in favor of this provision as I authored it in the committee.

I believe that this afternoon's debate has been a compliment and tribute to the U.S. Senate. The contribution made by the distinguished Senator from New York, Senator Moynihan, has been very profound. When he spoke of the events of the assassination of President Kennedy as they bore on this subject, he brought more of a panoramic sweep to the kind of issue that we are discussing.

It is because of the experience that this Senator had as one of the lawyers who worked on the Warren Commission staff and one of the members of the Intelligence Committee now for the past 5 years that I have authored and pressed this issue, because I do not believe that you can control from the outside, either before the fact or during the fact or after the fact; and that to have effective oversight requires someone within the agency, like an inspector general who knows the CIA, who can observe it on a day-in-and-day-out basis. He is appointed by the President—certainly the Director of the CIA has a hand in it—and if the inspector general has a disagreement with CIA Director, obviously, before it is brought before the Intelligence Committee, it is discussed with the CIA Director.

But, when the Warren Commission investigated the assassination of President Kennedy, we found much more than could be comprehended in an investigation. We looked into the physical evidence, as to what happened to President Kennedy on the day of the assassination, and that was relatively direct. We had bullet holes, wounds of entry and exit, and trajectory. When the Commission looked at the role of the FBI and the CIA, it was much more complicated in terms of what had happened.

When the Intelligence Committee looks at the activities of the CIA—we work very hard in the Intelligence Committee behind closed doors—there is no coverage by C-SPAN or C-SPAN-II. And when the comment was made earlier today by the distinguished Senator from Rhode Island, Senator Chafee, that if we spent half as much time helping the CIA as we do trying to oversee them—believe me, we spend more than half our time trying to help the CIA.

But it is not possible for the Intelligence Committee to get inside the CIA, as an inspector general could. We do not wish to micromanage the CIA, and we would have to do less if there were to be an independent inspector general who would be looking after the issues day in and day out. And only in the rare occurrence where there was a disagreement would the inspector general come to the Intelligence Committee.

The Department of Defense has had an inspector general for 7 years and that inspector general deals with a great many secrets. There has never been a problem.

The Secretary of Defense, according to information provided by this Senator, has never had to intervene on an investigation conducted by the inspector general of the Department of Defense.

We come to this point in 1989 because of the considered judgment of the committee that we need this action taken. And it is not based merely on Iran-Contra. And it is not based merely upon the action of the 1970's.

The distinguished Senator from South Carolina talks about not responding to the 1970's. Well, Mr. President, the 1970's were important. In 1976 the forerunner of the Intelligence Committee found a series of problems and defects in the CIA office of inspector general ranging from lack of objectivity to insufficient authority and to lack of independence.

Two years later, in 1978, the Senate Select Committee on Intelligence considered creation of a permanent position of inspector general to the CIA with more authority, objectivity, and reporting requirements.

Then we come to Iran-Contra and the expression has been heard on the floor of the Senate "Why look back at Iran-Contra? Why focus on Iran-Contra? Let us move ahead."

Well, Iran-Contra was a major event in the life of this country and we have not corrected the systemic problems of Iran-Contra. We discussed that earlier today with the problem of notice.

We have a President in whom we have confidence and we have accepted his representation that he will answer the questions and tell us about covert

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activities. And we have a Director of CIA in whom there is confidence.

But, Mr. President, we do not come to this issue in 1989 without having given the Director of Central Intelligence 2 years to correct the problems which were identified in 1987. The distinguished Senator from Alaska [Mr. Murkowski] says: "If it ain't broke, don't fix it."

Well, it is "broke." And there are specific examples where there is a need for change. The distinguished Senator from Missouri [Mr. Danforth] said, "Do not barge in, without looking at reforms. Give the Director the benefit of the doubt."

The same argument was made by the distinguished Senator from Rhode Island [Mr. Chafee] "Do not barge in so early."

Mr. President, there were major matters which the Intelligence Committee looked at in the last 2 years where we were totally dissatisfied with what has been going on. There will be, in due course, a motion made to table the amendment to strike the IG provision with respect to the CIA. We had discussed the possibility of a closed session if the motion to table is defeated. I think we may need to call for a closed session to discuss a good many issues which we cannot talk about in an open session. But I think it is appropriate to make a comment in very general terms about a major investigation which was referred by the Intelligence Committee to the CIA.

When the inspector general made his report, the Intelligence Committee found that the CIA inspector general's investigation and subsequent report were flawed and misleading and were contradicted by information in the possession of the inspector general's staff at the time the report was prepared. The Intelligence Committee staff concluded that the IG report was not thorough and was not encompassing of needed reform.

I will not go into any detail on that matter at this time because it would be inappropriate at this session.

I might say the Director of the CIA responded to the comments of the Intelligence Committee, having referred the matter to his own Office of General Counsel, in what I think is fair to say was a very defensive and insufficient matter.

There was a concession by the Director of the CIA that the inspector general erred. The IG's report was an incomplete discussion in certain material effects. He defended it. And I offer this is true, in terms of what he replied. He said "I have yet to see an investigation which could not have been done better the second time around."

Well, that is true. But the issue was the first time around: Was the investigation done in the way which passed minimal standards? Mr. President, I suggest it was not.

Those Senators who were not on the committee, who have not had an opportunity to see the details, may want to see them before the vote on the tabling motion.

There was a second major investigation on the use of certain funds to pay for some legal expenses. The important matter was given to the supervision of only one investigator. The conclusion was that it was poorly investigated. It failed to trace the CIA's decision process in approving the actions taken. It was, simply stated, palpably defective.

It is on the basis of this 2-year history that the committee has come to the conclusion that this kind of action is necessary, action which is backed by the chairman and by the vice chairman who have very detailed experience in intelligence matters, as do the rest of us, but to a lesser extent. Realizing the need for the secrecy of the CIA; an inspector general provision is backed by the chairman of the Armed Services Committee, Senator Nunn, and the ranking Republican, Senator Warner, who understand the issues of secrecy and of defense. By a wide margin, Senators on the Intelligence Committee voted in agreement with the position which we have taken here.

Mr. President, we have had a very illuminating discussion and historical perspective as to what has happened over the years. When Senator Cohen quotes President Ford as being opposed to assassinations, I can understand a special sensitivity that President Ford would have. He served as a commissioner on the Warren Commission.

I was there as one of the young lawyers when President Ford, then Congressman Ford, was present with Chief Justice Warren in the Dallas jail when Ruby's deposition was taken. That was a striking moment in American history, in the middle of a jail cell. A man under a death sentence for murder could not read a note and the Chief Justice of the United States handed him his glasses so he could read a note which was passed to him. But those of us who participated in that inquiry were traumatized and shocked. It was an experience no one could ever forget.

When Senator Moynihan comments about his experience in hearing of the report of President Kennedy's assassination—well, I will not talk further about my own responsibilities in the field, but some of the documents I had to read were absolutely chilling, in terms of the events of the day. I refer only to the personal issue, not to any Government secrets.

Mr. President, I think a very strong case was made during the course of our committee hearings for this inspector general provision. The inspector general functions day in and day out, not necessarily on matters of overwhelming international importance, but on matters of day in and day out activity that we think would enhance the operation of the CIA.

It has enhanced the operation, Mr. President, of the 25 agencies which have inspectors general. When the distinguished Senator from South Carolina enumerated the long list of problems about HUD, DOD, and FEMA, they were all answered in chapter and verse by Senator Glenn, who has had a lot of experience with inspectors general, as to how those are really success stories when you take a close look at them. So I urge my colleagues, Mr. President, to support a tabling motion when that it appropriate.

Mr. President, I support S. 1324, the Intelligence Authorization Act for Fiscal Year 1990. Senators Boren and Cohen and other committee members have labored long and hand on this bill to ensure the availability of resources not only for the country's immediate intelligence needs, but also for those long-term requirements which will enhance our confidence that future strategic and conventional arms control treaties can be monitored and verified. That is the type of vision that all should emulate. Certainly some day we will be grateful for their persistence and fortitude in directing these investments.

I also want to take this opportunity to extend my thanks to the chairman and vice chairman of the Intelligence Committee for their cooperation and assistance on two areas of great concern to this Senator. However, before I do, I would like to comment briefly on that portion of the intelligence authorization bill which enhances congressional oversight of covert action. Senator Cohen has labored long and hard to improve the congressional oversight of covert actions. He deserves special credit for his preparation of comprehensive and concise legislation contained in this authorization bill and for his efforts with the past and current administrations to achieve mutually agreeable legislative language.

But, I remain concerned that the administration has chosen to reassert the contention that it has a constitutional prerogative in withholding notification from the Congress on foreign policy programs which it may implement covertly. I equally regret that the administration did not categorically reject the opinion provided by the Assistant Attorney General on December 17, 1986. That opinion holds that "a number of factors combine to support the conclusion that the reporting of covert action 'in a timely fashion' language should be read to leave the President with virtually unfettered discretion to choose the right moment for making the required notification."

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Mr. President, I suggest that the door is still ajar for another Iran-Contra issue. I trust it will not be with this administration—which seeks to assure us of its sensitivity to congressional concerns—or even the next. But in time, another administration may interpret the law and the Constitution as justification for conducting a dubious or illegal operation and withholding notification to the intelligence committees. None of us should be happy with this and its potential for generating a crisis of credibility and for weaking the Constitution. Therefore, I remain committed to the need for the prior reporting of all covert actions or, in extremely sensitive programs, the informing of the intelligence committees or the congressional leadership within 24 or 48 hours after the initiation of such covert actions.

In regard to hostages of terrorism, I raised my deep concern before this body on August 2 about the state of our human intelligence capability to locate American hostages who are being held in Lebanon. On that date, I requested that Secretary of Defense Cheney and Director of Central Intelligence Bill Webster provide to the Intelligence and Armed Service Committees a report not only of their efforts, but also of any additional resources that they may require in terms of funds and personnel to prevent the taking of hostages and to secure the release of those already in captivity. On September 2, they responded. Later, in a closed Intelligence Committee hearing, Director Webster outlined his needs in more detail.

In my State alone, my constituents and I have experienced a sense of helplessness and frustration as we watched the wrenching anguish suffered by the Cicippio family as Hizballah terrorists threatened Joe Cicippio with imminent death. Mr. President, I would suggest that a little of each of us is being held hostage, but never to the depth or degree that only a hostage or his family can understand.

In the wake of this concern, Senators BOREN and COHEN readily responded to this call for more resources to enhance our capability to locate hostage takers and hostages.

Next, I want to thank Senators BOREN and COHEN for their support for my initiatives on the CIA inspector general provision. When I first introduced legislation in the 100th Congress calling for an independent inspector general for the Central Intelligency Agency, the need was little understood. Shortly thereafter, the congressional committee investigating the Iran-Contra matter, of which Senators BOREN and COHEN were members, recognized that need. In its final report the Iran-Contra Committee found that CIA's "Office of Inspector General appears not to have had the manpower, resources or tenacity to acquire key facts uncovered by the other investigations." It also recommended that a system be developed so that the CIA has an independent statutory inspector general confirmed by the Senate.

However, this is not the first time that the Congress has highlighted the need for a statutory inspector general for the Central Intelligence Agency. In 1976, the forerunner Select Intelligence Committees on the Senate and House—the so-called Church and Pike committees—found a series of problems with CIA's Office of Inspector General ranging from a lack of objectivity to insufficient authority and independence.

At that time the Congress did not enact legislation to create an independent inspector general for CIA to allow the Director of Central Intelligence time to make internal reforms. Now this, I would suggest, is the crux of the problem. In 1976, the CIA initiated internal reforms in its Office of Inspector General, but those reforms did not go far enough in permanently enhancing the authority and independence of the inspector general. In my view, if a statutory inspector general for the CIA were created a decade ago, the country may have spared itself the grief of the Iran-Contra affair.

As we have learned from the experiences of the 1978 Inspector General Act, no agency head wants his inspector general to be independent and certainly not by statute. What we are dealing with, Mr. President, is an institutional issue. Unless we enact legislation to make the position of CIA's inspector general a truly authoritative and independent one, we are bound to repeat the errors of the past.

Senator BOREN deserves special credit. Without prejudging my proposed inspector general legislation, he believed that, as a minimum, it merited a thorough review. On November 13 and December 16, 1987 and again on March 1, 1988, he scheduled hearings and received testimony from a number of witnesses including Director Webster, Comptroller General Bowsher, and the statutory inspectors general from the Departments of State and Defense.

Recently, Senator BOREN facilitated a late evening markup during which members painstakingly walked through the legislation and reviewed or amended it line by line and word by word to ensure that in creating an inspector general, we were enhancing that office and our congressional oversight responsibility and not impeding the CIA and its director in their authorities, functions and responsibilities. Without the leadership of Senator BOREN, this legislation could not have happened. I would also like to extend by appreciation to two other people.

During the markup of the CIA inspector general bill, Senator GLENN, as a member of the Intelligence Committee and as chairman of the Governmental Affairs Committee, offered insight and amendments to make the inspector general legislation more effective. His experience in overseeing the statutory inspectors general of the Departments and agencies of the Federal Government proved invaluable to this Senator and to the committee.

I would also like to extend my thanks to the Intelligence Committee's General Counsel Britt Snider and my committee liaison Charles Battaglia, for their guidance and management skills in reconciling the many differences which surfaced prior to and during the markup.

Finally, Mr. President, I would like to say a few words about the inspector general section of the authorization bill itself. It would probably be more appropriate to start by saying what it is not. It is not a rebuke of the integrity or leadership of the Director of the CIA or his current inspector general. Nor is the requirement for a statutory inspector general a signal by the committee that it has lost confidence in the ability of the CIA to perform its many missions. Far from it. I have visited with many CIA people around the world and will say with all candor that they are dedicated, highly competent and hardworking Americans who believe very much as I do in the Constitution and laws of the United States.

But there have been aberrations where individuals have strayed from law, policies or programs or where policies or programs have been unclear or even flawed. There must be a mechanism within the agency not only to identify these aberrations, but also to ensure their correction at an early stage. As Senator BOREN has noted and as other Federal department and agency heads have discovered, in the final analysis an independent inspector general will strengthen the Central Intelligence Agency, serve well its Director and enhance its credibility with the Congress and the American public.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. HOLLINGS].

Mr. HOLLINGS. Mr. President, I am a little surprised, I am pleasantly surprised, because I enjoyed the comments of our distinguished colleague from New York. I understand the Senator from Pennsylvania is a good trial lawyer and he has latched on to the assassination argument as brought forth by the Senator from New York.

The truth of the matter is that if you find the word "assassination" in the consideration of the inspector general amendment, I will jump off the Capitol dome. I never heard it. It is not in the record. I invite every Senator to go look. We never mentioned it.

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We never discussed it. It was not a problem, and no one was talking about it. This bill was marked up in September. Back then when we discussed this, assassination was not raised. If you are going to assume what they are now inferring, that President Bush wants to assassinate somebody, or Director Webster wants to assassinate somebody, an inspector general is not going to stop it.

Yes, the distinguished Senator from New York is great on history, and the Senator from Maine says it is good to remember history, but our distinguished colleague from New York, who is so colorful, makes us forget a lot of history. And what we forget is that when they had the assassination of Diem, and Allende, and the attempts on Castro, and the litany that we have listened to, we did not have an Intelligence Committee. That is why we got the Intelligence Committees, so there could be no attempt or interference or any dealing whatsoever with any kind of assassination that the House Intelligence Committee and the Senate Intelligence Committee would not know about in this Government of ours.

Yes, I praise the Intelligence Committee's role and their work, and the distinguished Senator was seated on the committee. Do not come now and say we need an inspector general to prevent a violation of the executive order.

The Senator from Maine says remember Iran-Contra. I am going to remember it for you. He is right. He and I were returning from the Far East. What really happened, and I do not guess they were listening too closely during the debate on Colonel North's pension, they only caught what my good friend Mrs. McGrory wrote about on the Maryknoll runs. We spoke about it the other evening. It was not exactly all recounted in the RECORD. I did not have anybody to interpret this Geechee language of mine, and when I said Ghorbanifar and several other names, it did not appear when I read the RECORD the next morning. Be that as it may, what really occurred was that we did not want, and certainly I did not, and noboby else wanted, to impeach President Ronald Reagan.

We were into a heck of a situation. We wanted him to tell the truth that the Iran-Contra deal was all his own doing. It was No. 1 on his agenda and program and thought. He was constantly calling them the freedom fighters, referring to the great dedication that they had, constantly having his good friend, Oliver North, not fired. He was let go. When they called him fired, President Reagan said, oh, no, that fellow was a hero. He knew Colonel North had done what he was asked to do. Two hundred talks in one year in the White House, and when we get all that and had a difference of opinion within the Congress, we had a difference of opinion within the Senate, very sharp, very sharp on the House side, but the speaker had the authority and the speaker mandated these riders, the Boland amendments. If they ever controlled, there would have been five of them. It was obvious what was going on. We do not need an inspector general or an Intelligence Committee to tell us now it is five past 6 o'clock. Everybody knew it was obvious what was going on.

They were meeting down in Miami with Calero. We were providing funds, a little restriction here, a little restriction there. They spelled it out to me as a restriction and they could not do anything. On the Defense Appropriations Subcommittee when we went to markup, I said we cannot accept this. The White House crowd said, do not worry about it, the President will sign it. He should have vetoed it. I hope the Moynihan amendment will require him hereafter to act with responsibility and quit playing games. He played a game with the Congress; the Congress played a game with him. And the CIA was not in it; the Director was. And other agencies and individuals were in it: The Defense Department, with 12 shipments of over 5,000 tons; the State Department, 6 ambassadors, 2 under secretaries, the Sultan of Brunei. Yes, I mentioned Ghdrbanifar because Ollie said he did not trust him and he asked the National Security Agency to tap his line and get those conversations. We did not need an inspector general for that. We did not even need an Intelligence Committee for that. We needed to stand up here and tell everybody what was going on. You can go right on down the list of the participants in it, and that is why the President called him a hero. If that is the best the Iran-Contra Committee can come up with, just one little lieutenant colonel and a recommendation for an inspector general, they ought to be ashamed of themselves because the CIA was following executive orders.

So now the so-called rogue elephant is going to be turned into a white elephant. You are going to have an inspector general sitting over there, and I know how to succeed in intelligence work: Do nothing. Everybody is going to praise themselves because we stopped an article about assassination that has nothing to do with this amendment.

This provision section 8 we are striking, we discussed it many times; we discussed it over a year. I can tell you honestly and candidly, I never heard the Senator from Pennsylvania or the Senator from Ohio mention the word assassination. In fact, the Senator from Ohio said if Webster was going to be staying there for 30 years, he would think twice about opposing my amendment. That is exactly what he said. He was satisfied with Webste But then he said. That the Director i out there with no other advice, n other direction, and that is not th case, because we have the Intelligenc Committees that are left out of th history of the distinguished Senato from New York. We put in Intell gence Committees and we work lik the Dickens on them. We do not nee a little nitpicking inspector genera report.

As old Al Smith said, let the recor speak. If the distinguished Senato from Ohio thought the inspector ge eral was working well and saved $10 billion since 1978, how about the $36 billion—$360 billion with this HU scandal, the FSLIC scandal and ever thing else that is going on, that what we have to pay for, $360 billion He said that the HUD inspector gene al did not have a loud enough honk. he had squeaked, the then chairma of the Banking Committee, th Golden Fleece Award Senator, woul have given a Golden Fleece out in second. He is the one who used th fellow who squeaked, and so fort over in the Defense Department o the SST and everything else. You di not need a loud honk for former Sen tor Proxmire to get it. It not only di not have a loud enough honk, it di not work. It is not working in FEM it is not working in the Defense D partment. All these inspector general running around. They think they ca solve the problem because I identifie it.

We have a Senate that will not stan up and a Congress that will not stan up and say exactly what is going o When the Iran-Contra affair brok they danced around the fire. We trie to hold it in the Intelligence Commi tee. I opposed the Iran-Contra Con mittee because I knew we could hand it quietly. No, everybody wanted to g on TV. So they all got on. They ke adding on—the House, the Senate, bipartisan thing—and it turned into partisan fracas with nothing out of i Millions of dollars, over $50 millio and special prosecutors runnin around. I truly believe, as I unde stand it, that Poindexter will finall get the President's records, if he ha any. I do not know. If I had been th judge, I certainly would have gotte the man, the commander in chief, wh ran the program in the North trial. hope they reverse that decision an they will not be running around cal ing an outstanding marine a felo That is a disgrace.

As to the shredding of document they would give him a machine an tell him they want him to grind up protect your sources and intelligenc work, that is normal in intelligence.

Why not go stand up and say yo are supposed to shred things. H

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learned something from Rosemary Woods.

And the money they say he got there, he did that to defend himself. He could not go down to the FBI and get security; they were out after him. And his classmates at Annapolis are now furnishing him security but we are running around here proud, we got a felon and we got a recommendation for an IG.

Well, it ought to be stricken from the bill and we ought to do our jobs rather than trying to put it off on the lack of law or timely notice, and all of those other things. We did not get into timely notice with an IG. We did not get into assassination with an IG but that has been the argument this afternoon. We got into it when we said "It was not broke; do not fix it"; 11 of 586, that is what the committee thinks of IG reports. They ought to be ashamed of themselves to come out as a committee and say, "Look, we received 586 IG reports and looked at only 11."

What a wonderful cover, calling for an IG in this environment.

What is going to really happen is you have the IG is going to be reporting one thing to the director and then the intelligence committee is going to set up as as referee and if you got a job down at the CIA you better stick with the IG if you want to hold on to your job. And then when we do not know anything, with other countries being so restrictive, then you have mediocrity. You will not have the intelligence on which to work. You will ruin a good agency with this provision.

I agree with Dick Helms and all the other heads of the CIA. If anyone thought assassinations had a productive effect, they are wrong. They do not work. We have the order out. President Bush has put the order out that there shall not be any assassinations, and that has nothing to do with this particular IG provision the IG would never know about it, if there were going to be one. And if it were, I do not see how it could happen without the Intelligence Committee's knowing it.

I can tell you that will never happen with these Intelligence Committees in the House and the Senate so do not come around with a timely notice and an eloquent talk on assassinations and harken back to President Kennedy's assassination in a time when we did not even have intelligence committees. Do not say, "Let us now have an IG. If we had an IG back there then, Kennedy would not have been assassinated. Now Webster wants to assassinate, now Bush wants to assassinate."

What kind of nonsense is this on the floor of the Senate this afternoon? They can all be alarmed and everything else and get up on that high pedestal of being against assassination. Well, they have to crowd me off that pedestal too, because I am up there. We are all against assassinations. That was not in the amendment.

The Senator from Pennsylvania knows it. The Senator from Ohio knows that. We were discussing the general operation down there. We got into this IG and I never heard the word assassination ever mentioned. I hope that we will not table the amendment, that we will sustain a good Director down there who is working on doing his job and doing some real intelligence-gathering and not just publicly say, "Do not deal with this crowd or with this CIA agent or tell him anything because they have an IG that reports to a committee that is going to expose your information because there is going to be a dispute about it because from then on they will just close off all sources."

As it is right now, in the Mideast we do not have any sources. Nobody trusts us. And very few do down in Central America and all these other places.

So we have done a great job this afternoon mismatching some history on assassinations, and I daresay the Warren Commission, the distinguished Senator served on, did not make the findings that are apparently made this afternoon by the distinguished Senator from New York. He might be right. That was not the Warren Commission finding. And let us get to the botton line.

We did not have in the sixties and early seventies an Intelligence Committee in the Senate and an Intelligence Committee over in the House that was overseeing. We have those now. They are working. The responsibility ought to be left to us. They ought to fix it on us and let us work with the Director and Deputy Director and, for heaven's sake, do not put an IG over the five Assistant Directors who are really running the Agency who are not confirmed at all by the Director but by the Senate and a political appointee to be cross-examined up here: Are you going to report this? Are you going to report that? Are you going to report all? At the time he stands up for his confirmation hearing he will be filling out forms that we have given him at the examination for his particular hearing so everything is done right and intelligence is done wrong.

Mr. DeCONCINI. Mr. President, I rise in opposition to the amendment of the Senator from South Carolina. I think the work that the Intelligence Committee has done on the IG bill, sponsored by Senator Specter and supported by the chairman and the ranking member, is a good bill. In the last Congress I supported the efforts of the Senator from Pennsylvania to institute an IG at the CIA. I do not know what is the basis for the fear of having an independent inspector general review what is going on in the Central Intelligence Agency. What is the worry? Is there something we do not want anybody to know about except maybe the Intelligence Committees?

We saw clearly that there have been Directors who do not tell the Intelligence Committees everything and have even come up to Capitol Hill and fabricated their answers as they were asked questions. And that was former Director Casey. I happened to have just gone on the Intelligence Committee when the Iran-Contra scandal broke. Director Casey came to the committee and he did not tell us the truth. It disturbed me immensely, which, for me, only underscored the need to have an inspector general.

What about all of the programs, which the Senator from South Carolina knows them better than I do, all of the programs that the Agency is involved in? For us not to have an inspector general to review those programs is just irresponsible.

Here we have an opportunity to do what we did in the Defense Department, and I cannot remember in how many other agencies, but well over a dozen other agencies. I recall so well when we were on the floor debating the bill to create an inspector general for the Defense Department, which was supported by Senator Goldwater, who was the chairman of the Armed Services Committee at the time. The Secretary of Defense, Mr. Weinberger, opposed it. They did not want it. But we passed it. We passed it because Senator Goldwater stood on this floor and said, What are we afraid of? We need somebody to look at what is going on in the Defense Department. In my judgment, the DOD IG has produced some very interesting audits and some very interesting reports, and even prosecutions and convictions.

I am not suggesting there is anything criminally wrong with what is going on in the CIA, but I am suggesting that we ought to place the same standards as we do on the Defense Department or any other department where there is an inspector general on the CIA. IG's work and work well. It is beyond me why we are fearful of doing what the Intelligence Committee has reviewed very carefully. This was not something we just willy-nilly went out and did. We reviewed the CIA's programs; how they would be affected.

I want to make it very clear, that this legislation is not meant to cast aspersions on the Director of the Central Intelligence Agency. We do not, in fact, want to leave some message that we do not trust the good gentleman, Mr. Webster. That is not the case at all. We are talking about institutionalizing a very careful, responsible audit approach for this Agency.

Mr. President, the time to establish an independent inspector general at the Central Intelligence Agency is long past. To those who say a legislatively mandated inspector general would jeopardize the CIA's sensitive missions which depend on airtight security for success, I reply that the CIA cannot afford to be without an independent IG, whose very independence will help guarantee the efficiency and integrity of operations undertaken by this vital Federal agency.

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Now, the CIA's inspector general is a career CIA employee, who has been appointed by the Agency's Director rather than by the President and is not subject to Senate approval. For the most part, those who serve on his staff have been rotated into the IG unit from other jobs within the agency and will return to those divisions when their terms in the IG's office expire.

Clearly, such a system calls into question the independence of inspectors who will return to serve among their associates whose work they may be required to audit. Objectivity, the hallmark of reliable auditing, is called into question by the structure of the current IG system at the CIA.

Because many of those now serving in the IG's office do not have accounting and auditing backgrounds, the quality of their work may not conform to the highest standards. As a result, the CIA's program goals may not be achieved in the most cost-effective and productive manner. Efficiency may suffer and untold resources may be lost through possible misuse and mismanagement.

During the last Congress I joined Senator Specter to sponsor legislation to establish an independent inspector general at the CIA. I also participated in the Intelligence Committee's review of this legislation, a review which included hearings at which witnesses testified to the benefits which had resulted from the establishment of IG's at almost all Federal agencies.

In addition to the improved efficiency and economy with which those agencies now operate, the cost savings generated by the IG's paid for their operations many times over.

The Intelligence Committee also learned that the IG in no way hampered the most sensitive, classified programs which are carried out by the Department of Defense.

In order to permit changes instituted by the CIA Director to bear results, the Intelligence Committee agreed to continue its review of the IG's work. That review has revealed an Office of Inspector General which delivers an uneven performance, demonstrating that the time has arrived for the statutory creation of an independent, presidentially appointed inspector general at the CIA to ensure that that agency has an effective system of accountability.

The Iran-Contra scandal is a dramatic example of what can happen when the checks and balances of an accounting system are inadequate. The day-to-day operations of a gigantic agency such as the CIA are what need the firm hand, the impartial oversight conducted by a truly independent and accountable inspector general.

With all due respect to my good friend from South Carolina, whose work on Intelligence Committee and defense matters I have such great respect, this is a good piece of legislation that should be implemented.

Mr. BOREN. Mr. President, I have listened carefully to the debate this afternoon as I listened to the debate for many hours and over several days on this issue in the Intelligence Committee. I would like to try to put into perspective for just a moment the work of the Intelligence Committee and the functioning of our intelligence operations and why on balance I feel the proposal for a statutory inspector general is a good one.

The Intelligence Committee is charged with a very, very difficult task.

In our democracy we believe fundamentally that money should be appropriated and that laws should be written by the repesentatives of the people with as much knowledge on the part of the people of the United States as possible. That is fundamental to our constitutional system.

The very idea of doing something behind closed doors or in secrecy as a method of operation does not sit easily or consistently with our constitutional system.

At the same time, we live in a world where, unfortunately, it is necessary at times in order to protect the national security interests of the United States for us to operate in secrecy, for us to have some information that is classified, for the President of the United States and the intelligence community to be able to undertake certain actions that must remain highly classified, sensitive operations that sometimes involve the cooperation of other countries which would simply not be in a position to cooperate if those operations became known publicly.

So we have done our best in the U.S. Senate and in the Congress to craft a compromise which strikes a balance between two principles that we recognize. One is that there should be no action undertaken without accountability to and authorization by those elected by the people and charged with constitutional responsibility to appropriate funds and to approve and make policy desists.

The other is that this system of accountability and appropriation should be carried out in a manner that still protects secrets when those secrets are necessary for very serious national security interests of this country. Those situations where decisions must be kept secret and appropriations must be kept secret should be held to an absolute minimum in a free society.

Those of us on the Intelligence Committee serve on that committee and that committee is charged with exclusive jurisdiction over a number of issues in order to keep to a minimum the number of Members of Congress who must be informed of some of the most highly sensitive details of these programs so that you reduce the likelihood that they will be disclosed.

The members of the Senate Intelligence Committee and particularly the vice chairman, and in cooperating with me as chairman and others have worked very hard to assure that we meet that responsibility, that we keep the trust, that we safeguard classified information, that we be known as a trustworthy committee that can give its advice to the executive branch, that can be an efficient watchdog for the American people and for the rest of the U.S. Congress without compromising that information.

That is why we have strict rules about divulging classified information even to the point, with the support of the two leaders of the Senate, Democratic and Republican, a rule that members of the committee will be removed if indeed they compromise very sensitive security information.

That is why we do not allow documents and notes to even be taken out of our committee space if they deal with sensitive and classified matters.

Mr. President, the responsibilities of being a member of the Intelligence Committee are different than the responsibilities of being a member of any other committee. In the Agriculture Committee, and Finance Committee on which I serve, I am not hesitant to try to form coalitions, to try to build groups that can work together to form a majority to push through a particular amendment or to kill a particular bill on the basis of what I think is right and what is in the interests of my constituents, and what I think is in the interests of the country.

That is not the job of the Intelligence Committee. That is not my job as chairman of the Intelligence Committee. It would not be right for me to behave in that fashion as a member of the Intelligence Committee, particularly in a leadership capacity because we are charged with the responsibility not of following our personal views but of standing as trustees in the sense as guardians for the American people and the remainder of the U.S. Congress on these very sensitive issues. We have to strike that balance.

We have to ask ourselves not only about our own conscientious points of view about matters that are brought

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to us, but we have to ask ourselves how the American people would feel about it if they knew about it. How could the rest of the U.S. Senate feel about it if all of our colleagues who served on this committee spent the time necessary to be informed of all of these details? We have to act in a trusteeship role. We cannot vote our own personal philosophies or our own personal partisan points of view. We have to act as responsible trustees for the entire U.S. Senate. We have tried to do that.

If we are going to be faithful to our duty and to our responsibility we also have to strike a very careful balance between the need for effective and true oversight in order to make sure that these decisions are made through the democratic process and the need for the President of the United States and those who served with him to have the flexibility to act as Commander in Chief without the interference of unnecessary restrictions or micromanagement on the part of the Congress to an extent that it would prevent him from acting forthrightly to protect and preserve the national interests of the U.S. Government when emergencies and unforeseen circumstances arise.

That is why the Constitution of the United States says that the President is the Commander in Chief. It is because we in the Congress, none of us, have the foresight to be able to predict the future or to imagine any possible circumstance that might arise, and therefore under the Constitution we entrust that ability to deal in an emergency situation to the President of the United States.

So it is a matter of balance, Mr. President, of careful balance. It is not a matter of taking extreme points of view of either the left or the right; it is not a matter of taking partisan points of view; it is not a matter of taking an extreme point of view that the President has the unfettered right to do anything that he pleases without seeking the appropriation of funds or the approval of the Congress of the United States, and on the other hand, not taking the extreme point of view that we alone in the Congress are the guardians of the national interests of the country. The President also has a critical and important role which we must recognize as Commander in Chief.

So we try to strike that balance. That is what we have tried to do in this particular proposal that is before you. As has been said by Senators on both sides, this is not a matter that deals with the policy or the right to assassinate foreign leaders.

I would like to say to my colleagues, I have read the articles in the newspapers; I have sometimes been quoted in the newspapers myself on this subject. Let me say that the President of the United States has certainly never suggested to me that he wishes to rescind the Executive order issued by his predecessors, Presidents Ford, Carter, and Reagan, which prohibits officials of the U.S. Government from directly or indirectly participating in or planning or assisting in the assassination of foreign leaders; that that is simply an action that is not in keeping with basic American values.

On the other hand, there have been some extreme interpretations made of the Executive order which clearly also go beyond the bounds of reason, interpretations which would indicate that representatives of our Government should not even be allowed to talk with people who are in the process of planning to overthrow tyrannical governments, even governments that are not only hostile to the United States, but governments that exist clearly in opposition to the will of their own people. I think explicitly of the situation in Panama, where we not only have a government, a dictatorship, that is hostile to the interests of this country, that is a threat to the national security interests of this country, not only because it contains within its boundaries an important waterway for international transportation and military use in time of emergency, but because of the role of that particular individual who now holds power illegitimately in that country, to try to undermine the well-being of the United States of America by participation in corruption and particularly in the drug traffic, which poses a threat to our national security.

That same man, who illegitimately holds power, has clearly received the power in spite of the wishes of his own people, who expressed themselves overwhelmingly in an election, the results of which were then altered, according to the testimony of every international observer that happened to be in a position to view and study those election results.

I, for one, do not think that we should say that we simply cannot even talk to people, people who are not planning assassinations, people who are not seeking assassinations, in the case of the recent coup attempt in Panama a few weeks ago, in fact, a person planning a coup to try to bring democracy to that country, who explicitly stated he intended no physical harm to General Noriega and, in fact, that he did not even intend to physically seize him, let alone attempt to assassinate him. That would be an extreme interpretation of the Executive order to say that officials of our Government could not even talk to such a person, who has tried to bring about a change of government that would reflect a true democratic will of the country and to someone who had been indicted by the appropriate judicial panels within the United States.

So, Mr. President, there is, at some point in time, a reasonable balance to be struck on that question, as well. It should be emphasized that the Executive order has not been withdrawn, nor do I know of anyone, including the Director of Central Intelligence or the President of the United States, who advocates the use of assassination as an acceptable policy of the U.S. Government. That does not mean that we must not carefully consider any proposals that they would make in terms of the interpretation of the meaning of the Executive order. We should do that. We will attempt to meet our responsibilities in due course to do that.

I want to set the record straight. As far as I know, these kinds of extreme departure from our past policy have not been intended, as far as I know, by anyone in the executive branch of the Government, either the President or Director of CIA, and they certainly have not been intended by or approved by, in any way, the membership of the Senate Intelligence Committee or, indeed, of any member of the Senate Intelligence Committee.

So what are we dealing with here? We are dealing with striking the balance, Mr. President, between accountability and oversight, which we have tried to make effective. We have made it effective in many ways by setting up our own unit in the Intelligence Committee, which, for the first time, has the ability to examine financial data independently from receiving that data from the policy itself. We have done it on the basis of a regular review and on a quarterly basis of all covert actions in force, which also forces the executive branch to review those policies themselves.

So we have gone a long way toward making oversight more effective. That is the interest, not only of the domestic process, it is in the interest of the intelligence community itself. This committee has not only attempted to get the resources—and the record will reflect this has been said by the Senator from Maine—and the appropriations and the resources made available to the intelligence community since the creation of the Intelligence Committee have increased many times over. It is not only a matter of resource; it is a matter of a buffer of protection to professionals within the agency, to assure that these professionals will never be put in the position of being forced to take actions which in their own minds are questionable from the point of view of law, or questionable from the point of view of policy in the democratic process. Because of the obligation to report to the oversight committees, professionals in the Intelligence Committees are stengthened in their ability to simply refuse to follow orders that are questionable or those which would expose them to legal jeopardy or professional, personal jeopardy.

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So, Mr. President, we are talking about striking the balance. That is what we are trying to do here. I believe that the proposal we have crafted in the Intelligence Committee is one that does just that. This inspector general that we have framed is not exactly like the inspector general that would operate in any other agency. If the inspector general attempted to inappropriately use the resources of some other agency, General Accounting Office or any other agency, in a way that might cause the compromise of sensitive intelligence data under this bill, the Director of the CIA is in power to deny him the right to use those resources and to bring that disagreement to the Intelligence Committee, to notify us of that disagreement.

If the inspector general attempts to delve into areas that might compromise national security, the Director of Central Intelligence, under this bill, is given the right to prohibit him from moving into those areas. The committee must be informed so we can make sure it was a wise and justifiable decision on the part of the Director. We have an inspector general in the Central Intelligence Agency today. The difference between that inspector general and the inspector general we are talking about creating by statute is simply that that inspector general is not confirmed by the Senate, not appointed by the President, and most important, the staff of the office of that inspector general is composed of people who are on career paths within the agency, to rotate in the office of the inspector general, hoping to go on to other careers within the agencies, to receive promotions from others, perhaps even others that it might be their responsibility to investigate during their term as members of the staff of the inspector general's office.

That does not make for an effective inspector general system, Mr. President. It is not a matter of lack of confidence in the present individual inspector general or his staff; it is not a matter of lack of confidence in the current Director of CIA. I have great respect—and I have said it privately and publicly—for Judge Webster, for his honesty and integrity and commitment to the rule of law. It is a matter that we believe that, on balance, the system we are proposing is one that will work more fairly, objectively, and will be in the interest of efficient operation of the intelligence community, the saving of taxpayers' dollars, and the making sure that the spirit of law and proper policy will be followed.

I urge my colleagues to support the committee recommendation. I say this with all due respect to those who have raised concerns on the other side. I had many of those concerns in the beginning myself. That is why I supported several amendments to the original bill when it was introduced. I think now that those amendments have been included, those safeguards have been put in place, and those special powers given to the Director of the Central Intelligence Agency to block any action that would be hasty or ill-advised by the inspector general. I think we have now struck the appropriate balance, and I think it is in the interest of the country, and in the interest of an effective accountable intelligence community, that we pass this legislation.

Therefore, Mr. President, in just a moment, it will be my intention—I have to ask the majority leader to return to the floor. He indicated a moment ago he wished to be on the floor to make another announcement before I make the motion. We will determine in just a moment if he wishes to return to the floor. I intend to move to table the amendment offered by the Senator from South Carolina and his colleagues in just a moment. Again, I want to thank him for his participation. He makes an immense contribution. He has made a great contribution in the course of this debate. I say to him that while he has not prevailed on every issue on this particular bill, this bill is in a different form today than it would have been had the Senator from South Carolina not been a member of the Intelligence Committee.

By adopting some of the amendments that he and others proposed, many of which I supported, I think we have a much better bill. It is a bill that I can certainly now support. I understand there are a few other changes he would have preferred to have made in it before he would have been fully satisfied, and I respect that point of view.

As I say, it is just the nature of the beast that the Intelligence Committee will all have a difficult task in striking this balance. That is what we try to do to the best of our ability.

I will withhold for a moment until the majority leader is able to return to the floor. I suggest the absence of a quorum until such time he does return at which time I will make the tabling motion.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, first I want to congratulate the Intelligence Committee, particularly the chairman, Senator Boren, and ranking member, Senator Cohen, for reporting a generally good bill on intelligence authorizations.

In this time of rapidly changing governments and their leaders, it is essential that our intelligence agencies, particularly the Central Intelligence Agency, have the capability to move rapidly to keep the President of the United States up to the minute.

Recent questions on whether we had adequate intelligence on the aborted coup in Panama and on the terrorist bombing of Pan Am flight 103 in December of last year should only strengthen our resolve to assist the CIA.

Therefore, I cannot understand why the committee would include in the reported bill the so-called inspector general provision. Make no mistake about it, this provision will hamper efforts to rapidly gather intelligence information.

What waste, fraud, and abuse has occurred at CIA under the very capable leadership of Judge Bill Webster to necessitate this change? What runaway covert operations are we seeking to control?

Some have suggested that this may be just another effort by Congress to run the Agency, and I cannot think of anything that would be more tragic. The Congress cannot pass budgets on time, we cannot pass appropriations bills on time, we don't even seem to be able to get our own mass mailings to constituents in order.

We should also remember that the DCIA, Bill Webster, has already strengthened the Inspector General's Office at the Agency, to ensure that everything is in order. Yet, without any accusation that this new structure has failed, all of a sudden we spring up and try to force a new system down his throat. I think we have helped the CIA just about all they can stand, just about all the President will take.

Mr. President, the administration opposes enactment of this bill unless the Hollings-Danforth amendment to strike the inspector general provision is adopted. I ask unanimous consent that a copy of the statement of administration policy be included at this point in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Office of Management and Budget,
Washington, DC, November 7, 1989.

Statement of Administration Policy

S. 1324—INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEARS 1990 AND 1991 (BOREN, OKLAHOMA)

The Administration opposes the enactment of S. 1324 unless the provision to establish a statutory Inspector General (IG) at CIA is deleted.

The establishment of a statutory IG is unnecessary and could undermine the effective inspection and investigation process now in place at the CIA. An independent IG may create the impression that the Director of Central Intelligence will be unable to protect intelligence sources and methods, thereby affecting adversely the willingness of human sources and foreign liaison services to cooperate with the CIA. In addition,

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other IG-related provisions would interfere unconstitutionally with the President's ability to discharge his constitutional responsibility to appoint and remove officials.

The Administration also has reservations about the following provisions in S. 1324 and urges their deletion:

Section 601 which would expand the demonstration project authorizing pay supplements to FBI agents assigned from other locations to the high-cost New York City area. The expansion would apply to pay supplement to all FBI employees in New York. This would be inconsistent with the intent of the demonstration project, which was to address the difficulties of attracting certain FBI personnel to accept assignments requiring a move to New York. Rather than paying a supplement, recruiting and retention problems for employees already living in New York will be better addressed in a more comprehensive approach to pay reform in high cost areas. The Administration is exploring proposals in this area.

Section 603 which would make the FBI responsible for conducting all investigations of violations of U.S. espionage laws by persons employed by, or assigned to, U.S. diplomatic missions. Such a statutory requirement is unduly restrictive. The Executive branch should retain the discretion and flexibility to determine how best to investigate such legal violations.

The Administration will also seek to have certain program authorization levels reallocated to make them consistent with the Administration's request. Specifically, the Administration urges that enhancements for arms control verification be authorized as requested.

Mr. DOLE. Let me again state, the inspector general provision is a bad idea, particularly at this time. If we further cripple the Central Intelligence Agency, we may simply be removing the United States from any effective ability to intervene in rapidly changing world events.

So I support the Hollings amendment. The CIA needs many, many things—including, in my view, more resources, but the last thing it needs is an independent inspector general.

Just because other agencies have—and perhaps profit from—having an inspector general, that doesn't mean the CIA needs or will benefit from one.

The CIA is different. It is different in function from any other agency of Government, in ways that are obvious to all of us.

The "Dear Colleague" of Senators Boren and Cohen proposing the independent inspector general provision now in the bill acknowledges this difference very specifically. That is why the proponents have felt it necessary to create a unique kind of inspector general. That, in itself, is an explicit admission that we are not dealing with just any other agency.

Because CIA is different, we have a separate, select committee—with rules that are in many ways unique—to oversee its activities, and the activities of the other intelligence agencies.

Equally important, the CIA already gets plenty of oversight. Within the executive branch, there already is an inspector general in the agency. And, of course, the agency and the DCI are responsible directly to the President, and subject to the oversight of OMB and other standard Government oversight bodies.

Even more important, the agency is subject to oversight by our Intelligence Committee, and its House counterpart.

An independent inspector general is not going to mean better oversight—it's going to mean more back-seat driving, Monday morning quarterbacking, and self-serving second-guessing.

So many Senators stand here on the floor and decry what they claim was a reluctance on the administration's part to act against Noriega; and now some of them want to add on another layer of review and second-guessing—certain to dampen what little initiative might remain in the CIA.

Although our Intelligence Committee has been very solid in preventing leaks, the fact is that leaks do occur already from within the intelligence community. And now we want to add one more bureaucracy, staffed with a few more bureaucrats—expanding the universe of potential leakers a bit more.

Mr. President, the Senator from South Carolina is right. We do not need an independent inspector general. We need a stronger CIA.

I want to include in the Record a letter I have received from President Bush, indicating his strong personal opposition to the inspector general proposal. And I would remind the Senate: President Bush speaks not only as our Chief Executive, but as a former Director of Central Intelligence.

There being no objection, the letter was ordered to be printed in the Record, as follows:

THE WHITE HOUSE,
Washington, November 3, 1989.

Hon. Robert J. Dole,
Republican Leader, U.S. Senate, Washington, DC.

Dear Senator Dole: The Intelligence Authorization Bill (S. 1324) has been the subject of intensive negotiations over the past few months. The main issue was timely notification of covert activities. I am very pleased with the outcome on that issue, and the credit goes to the Chairman and Vice Chairman of the Intelligence Committee. However, there remains one other major point of contention in S. 1324: the statutory Inspector General for CIA. Before the Senate takes action on the legislation, you should be aware of my strong opposition to that provision.

The establishment of a statutory Inspector General at CIA is unnecessary and could be counterproductive to the effective inspection and investigation process in place at the Agency.

My strong reservations regarding the creation of a statutory Inspector General at CIA are shared by a bipartisan group of members on the Intelligence Committee. I agree with the position of Senators Bradley, Danforth, Hollings, and Murkowski that a statutory Inspector General "would inevitably mean more bureaucracy, more regulation, more outside intervention, when the real need is to make CIA more productive, more skilled and more useful in confronting a variety of difficult national challenges."

I hope that I can count on your support for a motion to strike the statutory Inspector General provision from the Intelligence Authorization Bill when it comes to floor.

Sincerely,

George Bush

Mr. DOLE. Mr. President, let us quit tying the hands of our intelligence agencies. We do it too much already. Let's not turn the knots a little bit tighter by foisting on the agency another second-guesser.

Mr. President, I strongly support the Hollings amendment, and urge its adoption.

Mr. DeCONCINI. Mr. President, the time to establish an independent inspector general at the Central Intelligence Agency is long past. To those who say a legislatively mandated inspector general would jeopardize the CIA's sensitive missions which depend on air-tight security for success, I reply that the CIA cannot afford to be without an independent IG, whose very independence will help guarantee the efficiency and integrity of operations undertaken by this vital Federal agency.

Now, the CIA's inspector general is a career CIA employee, who has been appointed by the Agency's Director rather than by the President and is not subject to Senate approval. For the most part, those who serve on his staff have been rotated into the IG unit from other jobs within the agency and will return to those divisions when their terms in the IG's office expire.

Clearly, such a system calls into question the independence of inspectors who will return to serve among their associates whose work they may be required to audit. Objectively, the hallmark of reliable auditing, is called into question by the structure of the current IG system at the CIA.

Because many of those now serving in the IG's office do not have accounting and auditing backgrounds, the quality of their work may not conform to the highest standards. As a result, the CIA's program goals may not be achieved in the most cost-effective and productive manner. Efficiency may suffer and untold resources may be lost through possible misuse and mismanagement.

During the last Congress I joined Senator Specter to sponsor legislation to establish an independent inspector general at the CIA. I also participated in the Intelligence Committee's review of this legislation, a review which included hearings at which witnesses testified to the benefits which had resulted from the establishment of IG's at almost all Federal agencies.

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In addition to the improved efficiency and economy with which those agencies now operate, the cost savings generated by the IG's paid for their operations many times over.

The Intelligence Committee also learned that the IG in no way hampered the most sensitive, classified programs which are carried out by the Department of Defense.

In order to permit changes instituted by the CIA Director to bear results, the Intelligence Committee agreed to continue its review of the IG's work. That review has revealed an Office of Inspector General which delivers an uneven performance, demonstrating that the time has arrived for the statutory creation of an independent, presidentially appointed inspector general at the CIA to ensure that that agency has an effective system of accountability.

The Iran-Contra scandal is a dramatic example of what can happen when the checks and balances of an accounting system are inadequate. The day-to-day operations of a gigantic agency such as the CIA are what need the firm hand of impartial oversight conducted by a truly independent and accountable inspector general.

During my 13 years in the Senate I have been pleased to support all legislation establishing independent inspector generals, and today I am pleased to have the opportunity to support this legislation which would fill the need for an independent inspector general at the CIA.

Mr. D'AMATO. Mr. President, I rise today in support of the inspector general provision of S. 1324. I want to emphasize the importance of this provision to the President and to the CIA.

My colleagues are well aware of the history of the inspector general issue. It is based upon the good work of our distinguished colleague, the junior Senator from Pennsylvania. A "Dear Colleague" letter in support of this provision was circulated, setting forth in detail the history and the reasons for approval of this provision.

My remarks will be brief, because I want to get to the heart of the matter. The heart of the matter is the tension between the necessity of secrecy in our intelligence affairs and the necessity for openness in a democratic society.

This tension is a permanent fact of life, so long as we need a national intelligence capability and so long as our Constitution endures.

The CIA's operations cannot be made public. If they were, the CIA would become instantly ineffective.

On the other hand, if charges are leveled against the CIA, the Agency cannot come forward and defend itself, because to do so, it would have to disclose the details of its activities.

Thus, charges of illegal or unethical behavior against the Agency can be leveled without fear of detailed rebuttal. If the person or organization leveling the charges has public credibility, then the legitimacy of the CIA and, indeed, of the United States' intelligence activities as a whole, are called into question.

While the President has been and remains rightfully determined to protect his constitutional powers over foreign affairs, and has opposed efforts to limit his powers and prerogatives in this area, I believe that this provision helps both the President and the CIA.

The creation of an independent statutory inspector general will enhance the legitimacy of the CIA and protect the President from charges of abuse and misconduct by the CIA or its officers. As the Iran-Contra affair proves, the CIA is one of the few agencies of the U.S. Government that can bring down a President through the actions of a few misguided individuals.

The President has written in opposition to this provision. In his letter of November 3, he quoted approvingly from the "Dear Colleague" letter from our distinguished colleagues, Senators Bradley, Danforth, Hollings, and Murkowski, as follows:

> "A statutory inspector general "would inevitably mean more bureaucracy, more regulation, more outside intervention, when the real need is to make the CIA more productive, more skilled and more useful in confronting a variety of difficult national challenges."

The rebuttal to this argument is simple: What we don't need is a CIA that is more productive, skilled, and useful in ways contrary to law or its own regulations. There is ample evidence that there is a real danger of overzealous persons undertaking activities that are in violation of law or regulation.

The inspector general provision protects against that precise problem and provides added support to the President and the Director of Central Intelligence. The CIA must remain a disciplined tool for our foreign policy that does what it is ordered to do and what it is permitted to do under the Constitution and our law. The IG will be there to make certain that it does.

In addition, the existence of the statutory independent IG will assist the Senate Select Committee on Intelligence to fulfill its oversight responsibilities. The IG will be on site, full time, and the IG's staff will be able to look into complaints or evidence of problems. The IG will continue to share the results of investigations with this committee. That can only help us do our job better.

In conclusion, I strongly support this provision. I urge my colleagues to vote for the motion to table the amendment to strike the IG provision and to vote for the bill as a whole.

Mr. KERRY. Mr. President, I agree with the intent of the committee legislation, which would establish an independent inspector general for the Central Intelligence Agency. However, because I fear that the establishment of such a position could reduce the already inadequate oversight by the Congress that exists today, I will vote against those who would table the Hollings amendment to eliminate the IG.

One lesson I learned from the Iran-Contra affair is that the Congress often does not exercise sufficient oversight over covert intelligence activities as is. The signs of the secret Contra network were there for all to see—I myself tried to investigate them, and was told that the allegations I had heard had already been looked at by the Intelligence Committees and found to be false.

What happened, of course, is that when these questions had been raised, and the Intelligence Committees sought to conduct oversight, they asked the executive branch questions and were lied to.

That unfortunately, was the end of their investigations until the scandal was revealed by the Hasenfus crash, and by a press account in the Middle East.

While I do not agree with the distinguished Senator from South Carolina that an inspector general would cripple the CIA, I do agree with him that the establishment of an inspector general is not the best approach to the issue of oversight.

What is wrong with the inspector general provision is that it substitutes an IG for Congress doing its own work in asking the right questions of the CIA. I fear it would permit the Intelligence Committees to do less, when doing more is needed.

In short, contrary to the intentions of the sponsors, I believe even an ostensibly independent IG has the potential to be more of a figleaf than real oversight, and a figleaf which would make the already difficult job of the Congress in finding out what is going on even harder.

Accordingly, I will vote against this motion to table the Hollings amendment.

Mr. BOREN. Mr. President, I move to table the amendment of the Senator from South Carolina and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second.

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oklahoma to lay on the table the amendment of the Senator from South Carolina. On this question, the yeas and nays have been

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ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] is necessarily absent.

The PRESIDING OFFICER (Mr. LIEBERMAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 64, nays 34, as follows:

[Rollcall Vote No. 289 Leg.]

YEAS—64

Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Breaux
Bryan
Bumpers
Burdick
Byrd
Cohen
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Exon
Fowler
Glenn
Gore
Gorton
Graham
Grassley
Harkin
Hatch
Hatfield
Heinz
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Lautenberg
Leahy
Levin
Lieberman
McCain
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Roth
Rudman
Sanford
Sarbanes
Sasser
Simon
Simpson
Specter
Warner
Wilson

NAYS—34

Adams
Bond
Bradley
Burns
Chafee
Coats
Cochran
Danforth
Dole
Ford
Garn
Gramm
Heflin
Helms
Hollings
Humphrey
Kassebaum
Kasten
Kerry
Kohl
Lott
Lugar
Mack
McClure
McConnell
Murkowski
Nickles
Rockefeller
Shelby
Stevens
Symms
Thurmond
Wallop
Wirth

NOT VOTING—2

Armstrong
Matsunaga

So the motion was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senate majority leader.

SCHEDULE

Mr. MITCHELL. Mr. President, if I might have the attention of my colleagues and the distinguished Republican leader, I am about to propound a unanimous-consent request for the disposition of the debt limit extension and section 89 and the catastrophic health insurance legislation. After I complete the reading of this request, if consent is granted, then I will indicate to my colleagues what our schedule is, or is hoped to be, for the remainder of this evening and tomorrow.

I proceed making this request, Mr. President, by indicating that this is the product of lengthy discussions with the distinguished Republican leader and others who have been concerned about these important legislative matters.

UNANIMOUS-CONSENT REQUEST

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may proceed to the consideration of Calendar item No. 172, the joint resolution increasing the statutory limit on the public debt; that the committee amendment be withdrawn; that the only amendments in order be an amendment relating to a repeal of the section 89 provision that is identical to the language agreed to by the House and Senate conferees on the reconciliation bill and a manager's technical amendment; that there be 30 minutes on the bill, including debate on the amendment, equally divided between Senators BENTSEN and PACKWOOD or their designees.

I further ask unanimous consent that when the Senate receives a bill from the House which relates solely to the issue of the catastrophic health insurance program that the majority leader, after consultation with the Republican leader, may proceed to its consideration, and that the only amendment in order be the text of S. 1726, as passed by the Senate on October 6, and any technical amendments agreed to by both managers; that there be 30 minutes of debate on the bill and the amendment, equally divided by the two leaders or their designees; and that no motions to commit or recommit be in order with respect to either the debt limit or catastrophic health legislation.

In addition, I would like to indicate to the Chair, prior to granting this request, that it is my intention and understanding that no provision on the catastrophic health insurance subject will be included in the reconciliation conference report.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Reserving the right to object, Mr. President, I think there will be some questions. Hopefully, we can reach an agreement. I know the Senator from Arizona has a question on when we may complete a conference report on catastrophic. The Senator from Wisconsin may have a question on the language of section 89. I think there was sort of an agreement last night that we would pay for repeal of section 89 either in this amendment or in reconciliation. It does not make any difference in which place it is paid for. I think that would be a requirement.

Then I have some indication that we would do all we could to expedite the conference. I understand the House would send us a bill tomorrow; that it is the desire of the leadership of both Houses to expedite the conference on catastrophic. I suggested earlier to the leader perhaps we could agree to take up that conference report before we took up the conference report on reconciliation.

In any event, the Senator from Arizona is here. He may be in a better position to make that request than this Senator.

Mr. McCAIN. I ask the distinguished majority leader if he feels we could get this issue resolved certainly before we are planning to leave, recognizing a failure to act on this very important issue would be a very unfortunate happenstance?

Mr. MITCHELL. Yes, that is my intention; indeed, it is my very strong intention. I have discussed it with the Speaker as recently as a few moments before the last vote. He has assured me that he shares my intention in that regard. Given the fact that the Senate voted by a unanimous vote to accept S. 1726 and the House voted by, I believe, approximately a 5-to-1 margin to repeal the program, I do not believe that it would be responsible or appropriate on the part of this Congress to adjourn sine die without having addressed and resolved this issue because, as the Senator from Arizona and the distinguished Republican leader know, this involves not only the alteration of current law, but also it involves the necessity of private insurers to adjust their contracts in a manner consistent with whatever action we take, and it is my intention and my very strong desire that we proceed promptly.

The Speaker assured me that they have already begun the process of trying to move their bill out to get it over here by tomorrow. It would be my intention to bring up the text of S. 1726 tomorrow and have the conference begin tomorrow and to bring it to a conclusion as soon as possible.

Mr. BENTSEN. Mr. Leader, if you will yield on that, to further address the question and concern of the distinguished Senator from Arizona, if we do not deal with that issue this year, then the part B, the cap will take effect, as well as other benefits. You would have a very difficult time unwinding those benefits once they're in place. I think it would be highly irresponsible for us not to address it before we go home. I think that view is generally shared by the other Members. I will be pushing very hard as chairman of the Finance Committee. I know we have the total cooperation of the ranking minority member in that regard in seeing that we come to a judgment and decision.

Mr. HEINZ. Reserving the right to object.

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The PRESIDING OFFICER. The Senator from Pennsylvania, Mr. HEINZ.

Mr. HEINZ. Mr. President, I listened carefully to the majority leader's propounding of the unanimous-consent request, and I was not surprised. But I was somewhat disappointed not to hear him add to the list of items that might be brought up this evening an amendment that would have the effect of taking the Social Security trust funds off budget and out of the deficit reduction calculations. This is a problem that cannot be ignored. Our current practices obviously encourage and result in a practice of deficit deception.

There may be a way to bring this matter to a vote, other than forcing it to a conclusion tonight. At the present time, I do not know what that is. Therefore, until we can resolve that, I will be constrained, I am sorry to say, to object to the unanimous-consent request. So I do object.

The PRESIDING OFFICER. Objection is heard. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I have had several discussions today with the Secretary of Treasury in this regard, speaking for the President and the administration. We are all public officials with very important public responsibility.

The Secretary of Treasury in my conversations impressed upon me, and I believe the distinguished Republican leader and others, the gravity of the matter which we are here attempting to address. If we are unable to act to extend the debt ceiling, we run the risk of forcing a default by the United States Government for the first time in our Nation's history with consequences that not one of us can now calculate, all of them adverse, and potentially unleashing a course of events which we could not then contain or reverse.

Earlier today and on previous days, we have had colloquys among the Senator from Pennsylvania; the distinguished Senator from South Carolina [Mr. HOLLINGS]; the Senator from New York [Mr. MOYNIHAN]; the Senator from North Carolina [Mr. SANFORD]; and others who are very much interested in this question of removing the Social Security system from the budget. I have expressed my support for that legislation. I have every desire and intention to have that legislation enacted, but I urge the Senator from Pennsylvania to consider the consequences for this Nation of his objecting to this provision, because if he insists on his amendment, then there is a long list of Senators who will insist on their amendments. It is not possible now for anyone to calculate what will occur in the Senate, what the House reaction will be to this list of amendments and what the possible effect will be.

I say to the Senator what I said to him earlier today. I will do everything in my power to bring a legislative vehicle to this floor, possibly the legislation which he and Senator HOLLINGS and others support, and a way others can offer their amendments on budget reform, but do not place this Nation at risk by objecting to this agreement now.

I implore my colleague to permit us to proceed with this debt extension legislation.

Mr. HEINZ. Will the leader yield?

Mr. MITCHELL. Yes.

Mr. HEINZ. Mr. President, I have tremendous respect for the majority leader. I do not doubt the Senator's sincerity in not wanting to bring the Social Security off budget legislation up on this vehicle. It is an issue, however, that we have had weeks to be able to address. Indeed, since Labor Day, we have been talking about bringing it up. In the Committee on Finance, on which I am privileged to serve, back when we were considering the short-term extension of the debt ceiling, both Senator MOYNIHAN and I served notice that we would bring it up on the short term or on the long term extension. Frankly, we have had plenty of time to deal with this issue, and if it is so important I would ask why either, one, we have not dealt with it before now or, two, why we do not at least make an attempt to include it in the unanimous-consent request.

Mr. MITCHELL. My answer is that if the Senator insists on his amendment, then I am advised there are a large number of Senators on both sides of the aisle, Democrats and Republicans, who will insist on their amendments.

Mr. HEINZ. Well, let us find out.

Mr. MITCHELL. If one Senator is to be given special treatment, then other Senators want the same treatment. I say to my colleague I share the view we ought to try to move this other legislation but not at the risk of endangering our Nation's economy. That is what is at risk here.

Mr. BENTSEN. Will the Senator yield?

Mr. HEINZ. Will the Senator yield further? Mr. President, will the Senator yield further?

Mr. Leader, I do not think anybody in this body wants to endanger the Nation's economy. It would be remarkable if one person in the Senate could do that, considering all the things that we have done or not done in the past. I do not know how many times I have been on the Senate floor late at night as we considered debt ceiling bills, and I have heard leaders say on both sides of the aisle, not only on the Democratic side but on our side—Howard Baker used to say it; BOB DOLE used to say it—"the Treasury Department said the world is going to come to an end if we do not pass a debt ceiling bill." Upon one occasion I think it took us 7 or 8 days to pass a debt ceiling bill. The world did not come to an end.

I know the Senator from Maine thinks the world could possibly come to an end. He is not predicting that there is going to be a catastrophe tomorrow if we delay consideration of this for whatever little bit of time it takes. But I must say that I do not see another appropriate vehicle for the consideration of this legislation.

Mr. MITCHELL. What is wrong with the legislation itself as a vehicle? Have we reached a stage in the legislative process where bills cannot stand on their own, where a Senator refuses to offer his legislation on its own? If it has merit, if the Senator believes it has merit, then let us bring that bill to the floor and debate it. This is a commentary on the status the Senate has fallen to where a bill no longer is regarded as a vehicle for action.

Mr. HEINZ. Mr. Leader, if you will yield?

Mr. MITCHELL. We must search for another vehicle.

Mr. HEINZ. I could not agree with the majority leader more. A number of us have introduced bills. He has named some of the people who have: Senator MOYNIHAN, Senator HOLLINGS, Senator SANFORD. The question is, Where are those bills? They are not in my Committee on Finance. They are in the Budget Committee.

The issue of taking Social Security off budget has been raised repeatedly. I first raised it in 1983. We had a vote on the Senate floor. I raised it on poor old Senator SIMPSON's immigration bill in 1985. Senator SIMPSON will not forget that. He keeps reminding me of it every time I see him.

We raised it earlier this year in the form of an amendment. I brought it to the Senate. The Senate adopted the amendment.

So the question is where is the legislation? The answer is it is not here. It is time it was here. Time is of the essence. We are being asked to support a $3.1 trillion debt ceiling bill. The question we might ask is how much higher does the debt ceiling have to go before we deal with an issue directly related to it? This, it seems to me, is the heart of the issue. I must tell the majority leader I cannot agree to his unanimous-consent request.

Mr. BENTSEN. Mr. Leader, will the Senator yield for a point? Let us talk for a minute about what kind of stakes we are playing for.

The Congressional Budget Office sends us a letter telling us that may well have a decline in the dollar and incomplete recovery if the Government were to enter default for just a few days beyond the drop-dead period

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we are talking about. CBO also predicts a permanent increase in the yields on Treasury debt as related to other types of debt. They are talking about a general increase in interest rates for the entire country, and that is for just a few days delay in our action. We could have really some disastrous results if default were to continue.

When the Senator says he does not believe one person can cause that to come about, I respond you bet one person can cause it to come about if we do not resolve these issues, and we try to bring in extraneous types of amendments.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. BENTSEN. I personally would not like that kind of responsibility on myself.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. BENTSEN. Yes. I do not have the floor. The floor is held by the majority leader.

Mr. MITCHELL. I will yield to the Senator from Pennsylvania.

Mr. HEINZ. I thank the Senator from Maine, the majority leader.

Let me just say, Mr. President, by way of response to my friend and the chairman of the Finance Committee, he full well knows, because he was in both the markup and the hearings in which I have on several occasions raised this issue, this is not a new issue. So it seems to me if anybody wants to stand on the floor of the Senate and say with total sincerity that there is a problem, let me tell you what the problem is. The problem is the Senate is not doing its job in considering this legislation. There has been ample opportunity to do so and we have not done it. I frankly resent the implication that because the Senate has not done its work, because the committees of the Senate have not reported legislation, somehow it is somebody else's fault who says it is about time for us to do our work.

Mr. SIMPSON addressed the Chair.

Mr. ROCKEFELLER. Will the majority leader yield?

The PRESIDING OFFICER. The majority leader has the floor.

Mr. ROCKEFELLER. Will the majority leader yield?

Mr. MITCHELL. Let me yield to the Republican leader.

The PRESIDING OFFICER. The Senate Republican leader.

Mr. DOLE. Mr. President, I hope there is some way to resolve this. I do not want to quarrel with the majority leader but I think it is fair to say that this debt ceiling legislation has been on the calendar since July 25, and it is not brought up until the last minute. That is the way sometimes I played it, but I generally had about 10 or 12 amendments to take to conference.

I hope there is some way to resolve this problem because I think, as the majority leader has pointed out, if the Senator from Pennsylvania offers an amendment, then I think there will be additional amendments, at least one more on this side. I am not certain about that side. But I am advised by Secretary Brady that it is going to get a little sticky around here tomorrow morning unless something is done.

But I say in fairness again to the Senator from Pennsylvania, we have had plenty of time to bring up the debt ceiling. It has been around since July 25. This is known as a squeeze play which sometimes is used successfully by the leadership. I do not think I was that successful. It was my suggestion we do it this way.

So I would like to get the agreement. I hope that we could find some other way to deal with the Senator from Pennsylvania, but if that amendment were adopted I do not know what would happen on the other side.

Mr. MITCHELL. There is absolutely no way of predicting, and we are getting close to the late hour.

Mr. SIMPSON. Mr. President, will the Senator yield?

Mr. MITCHELL. I will be pleased to yield to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I guess I am one who knows the intensity of my friend from Pennsylvania on this issue. I did, right here, a few feet away, assail him at one time with the most remarkable earthy vocabulary that I had yet mustered, which is quite a thing in itself. But this is my fishing companion, my friend. This is his thing. And yet I want to say to the majority leader, sure, we get into partisanship and we whack each other around, but he has kept every promise he ever made, and he just made one moments ago about what he would do on this issue.

He said that this was something he would deal with, even when I had been opposed to him in all the things I have done with him, in his tenure here and serving with him on two committees. I have never doubted his word, nor would I. Nick Brady I have the same high regard for. I do not want to doubt his word. This is his maiden voyage as Secretary of the Treasury. This is not the usual thing, and this is it. It is going to happen.

It takes weeks to address an issue like this because it is so terribly contentious because in one way, at least in my mind, it is a phony baloney to take Social Security and put it off somewhere else so we count it differently. That is my view.

Every one of us is terrified by that issue, totally terrified that in the year 2030 your grandchildren will be out picking in the barnyard on Social Security. There will not be anything left of it because it cannot possibly work the way it works now, and every time we mention it, it is like rolling a bomb under our desks.

That is why it does not move. It is never going to move without a huge debate. It is an extraordinary system that is absolutely in disarray, and in the year 2030 we are going to find it out, and then to put it aside is a most extraordinary thing. That is aside from the issue. But I would love to get into that one with rich detail.

I just say if you do not believe that the stock markets will react, they react to everything. You name it, they will react to it. But when my friend from Pennsylvania says if we think that one person can do that, the answer is, yes, one person can do that and one person is doing that.

Mr. MITCHELL. Mr. President, I yield to the Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I want to make a point to support the majority leader in what he is trying to accomplish, and make a point through that to the Senator from Pennsylvania. I will take a moment of history.

Back during the war the Federal Government ran the coal mines of this country. After the war was concluded, John L. Lewis, the president of the United Mine Workers, struck the classic deal with coal operators in which he said that he understood that the mines are going to have to be mechanized, and that he understood there are 300,000 or 400,000 miners who will have to be thrown out of work; and that he was willing to face that consequence but only in return for full pension and health benefits for these hundreds of thousands of miners who mine coal with pick and shovel.

Now we are at a point, Mr. President, where the health funds for these miners—whose average is 77 years old or their widows or their spouses who mined coal the hard way, when it was truly, truly a killer industry—where their health benefits are costed.

The Senator from Pennsylvania feels passionate about an issue. You talk about feeling passionate about an issue with 132,000 people who average 77 years old, where with a bill we could cure this problem now—I would give anything, I would give anything to add that attachment to the debt ceiling. That is not something theoretical. That is 132,000 coal miners, elderly and fragile now, and next January may be too late because they are not paying the bills and the doctors are beginning to not see the people. I am not going to do that. I am not going to put the majority leader in that position when it is directly against the interests of 132,000 people who average 77 years old because of what he says—and, that is that the Nation's economy is in peril and at stake.

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I understand the passion of the Senator from Pennsylvania. I understand his timing, and I understand his ability to bring this entire process to a halt. I have the same power. The people that I talk about are now and immediate. But I will not bring that up because I understand the condition of the United States of America, and I understand the position of the majority leader in trying to bring the debt ceiling through clean.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. MITCHELL. I yield to the Senator from Texas.

Mr. GRAMM. I am tempted to say to my dear colleague from West Virginia that if he wants to offer that amendment so badly, maybe he could float the national debt for a few days, and we would let him offer it. [Laughter.]

I do not have the capacity to make that offer. I would like to make a couple of points.

First of all, the issue the distinguished Senator from Pennsylvania wants to debate is an issue that a lot of us want to debate. It is a very serious issue. If this amendment is brought up, there are going to be another half a dozen amendments offered and there is going to be a protracted debate because we are talking about big stakes policy.

I agree with the distinguished Senator. I think we delay these debt ceiling votes until the last minute to try to prevent from being derailed to a debate on these bigger issues.

It seems to me there is one issue that we know is not going to go away. It is this one.

Perhaps we could solve our problem tonight by simply having an agreement that we let this train go because we are facing the debt ceiling tonight or in the morning; that the risks of not meeting that deadline are too great and we simply have an understanding that a year from tonight this same argument will not work; that if the distinguished Senator wants to offer the amendment, then those who have not brought it up before that time are going to be as responsible as he is for holding it up.

I just wonder, Mr. President, if it might not be possible that we have that understanding, and that we not let our Government go into default.

We are one of the few countries on Earth that has never been in default and has never repudiated the currency. I think that is a record. The world is not going to come to an end if we let it pass 3 or 4 hours or 3 or 4 days late. However I do think it is sound policy to protect the fiscal integrity of the country. We do not always contribute to the good financial name of the country. I think we can do that tonight.

I would just ask the leader. Would that not be a solution to our problem?

Mr. MITCHELL. Let me assure the Senator from Texas, and the Senator from Pennsylvania, that I have every intention of seeing that that issue is presented to the Senate for full debate, long prior to the expiration of the debt limit that we are now talking about, and that there will be plenty of opportunity to debate it.

I want to emphasize that the Senator from Pennsylvania is not alone in this regard. Several other Senators have addressed the same issues in the same way as the Senator from Texas has indicated. And as the Senator from Wyoming has indicated. People feel strongly on the other side as well. This is an important issue.

So, yes, I have every intention of seeing that it is brought to the floor for full debate and anybody can offer any amendment they want, and any plan they want, any proposal they want, and let us have a debate and vote on it.

I do not control every committee in the Senate. The Senator from Pennsylvania can stand here and make a speech and say, well, the Senate is not doing its job because they have not acted on my bill. I am on three committees, just like every other Senator. Neither I nor the Republican leader goes around and tells each committee what bill to report out, and when they are to report it out.

I favor this bill. I have spoken in favor of it. But this Senate has not reached the stage, and the powers of the majority leader have not reached the point where I can go around and dictate to every committee what bill they are going to report out. And I do not think the Senator from Pennsylvania would like me to have that power because I might direct that bills be reported out that he does not like.

So let us get it clear the Senate still operates on a committee basis. There are 99 other Senators besides myself who decide what legislation will be reported out.

I assume that the Budget Committee before which that bill now rests ought to have some say about it. I hope the Senator from Pennsylvania will agree that other Senators ought to have the same rights he has.

How would he like it if the chairman of the Budget Committee stood up here, and asked that I direct the Finance Committee to report out a bill that he wants, that perhaps the Senator from Pennsylvania did not like?

So the fact that the Senate has not acted or has not taken up a bill that one Senator happens to like is not evidence that the Senate is not doing its business or acting responsibly. Everybody has their preferences. Everybody has a choice of what to do. So I hope very much that we can resolve this. I thank the Senator from Texas, causc he makes a very good suggestion. I have every intention of seeing that this is disposed of, debated, long before we get——

Mr. GRAMM. If I might respond, based on that commitment, I will not be offering my amendment on the subject. I think it is very important, and I hope the Senator from Pennsylvania will allow us to raise the debt ceiling, let the fiscal policy of the Nation go on, knowing that we have an opportunity over the next year to bring this up, debate it, and then it can be offered on the debt ceiling a year from now; and at that point no one can say they were not put on notice if we had not had an opportunity to do it before then.

Mr. RUDMAN. Mr. President, I just want to say to my good friend from Pennsylvania—and he is my good friend—that even if the majority leader were to agree to the request of the Senator from Pennsylvania to include his request, unanimous-consent agreement, I would object to that. The reason I would object to that is because I do not agree at all with the thrust of what the Senator from Pennsylvania is trying to do.

The Senator from North Carolina, Senator SANFORD, has a very innovative proposal with good parts. Senator GRAMM and I have a proposal which we believe has merit and probably can be improved. Our friend from South Carolina [Mr. HOLLINGS] has a very interesting amendment he wishes to introduce. The fact is that if the majority leader would say to my friend from Pennsylvania right now that we will include that amendment, I would object, because I believe that what the Senator from Pennsylvania is trying to do is one of the most important things we have to do. There are reformations to this budget process that about 86 of us have been talking about, including the ranking member from New Mexico of the Budget Committee.

I hope my friend from Pennsylvania would accept the assurances of the majority leader that we can pick sometime maybe early next year, get the Budget Committee to report out these various bills and have a full-scale debate, and then pass whatever we pass. Obviously, what they do in the other body we cannot control. Even if the majority leader grants the request of the Senator from Pennsylvania, I am afraid that will not get him where he thinks it might.

Mr. MITCHELL. I will yield to the Senator from New Mexico and then the Senator from Illinois and then the Senator from South Carolina.

Mr. DOMENICI. Mr. President, might I say first to my friend from Pennsylvania just two things. No one is more concerned about this issue

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than the Senator from Pennsylvania. I believe there are many who are on board now, but he is going to be the leader. He raised this issue before anyone else, and clearly he is making a real point about the fiscal implications in the future of continuing to count Social Security reserves as part of the operation budget deficit problem of this country.

So there is no doubt about that. Second, I say to my friend, no one has been more concerned about the American economy than him, and I submit to the Senator that tonight he said he wondered if one person could bring this Government down in terms of the economic side, and he indicated that in years past we debated sometimes 2 weeks after the drop-dead date.

I just remind my friend from Pennsylvania that there has been some dedicated Senators committed to the proposition that we are not going to do that again. They have succeeded. We have taken all of the latitude out of this debt limit, and I believe the Secretary of Treasury is telling us the truth, that we are apt to have to face an American indebtedness tomorrow and the next day, if we do not pass this debt limit. So I think it is serious.

My last point, I say to the Senator from Pennsylvania and other Senators, this is a tremendous policy issue that he intends to debate on this debt limit bill. In fact, we are just beginning to understand the ramifications of it. I do believe it deserves full hearings, and they are beginning to occur. We have had 4 days of hearings in the Budget Committee, with the Government Operations Committee. They have the joint jurisdiction. And this issue of the accumulating balances in Social Security and American fiscal policy are being debated, thought about, and the Senator will remain in the forefront of trying to protect that fund. But it deserves real consideration, along with other trust funds. There are others who want to debate other trust funds, and how do you treat them within this budget?

I join with the others in saying that he is going to get to the point that he desires in plenty of time, and the seniors in this country that are concerned will know that this is not an issue for next week or next month. It can be resolved in the next 4 or 5 months, and they will be protected, because nothing anyone is going to do, including the bill of the distinguished Senator from Pennsylvania, is going to take effect in the short term. It is the long term he is concerned about, and we have time to solve that in due course. I think he has the kind of commitment tonight to assure the seniors that it is going to occur.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. I thank the chair and the majority leader. I agree strongly with my colleague from Pennsylvania, if I may have his attention here for a moment. I agree strongly with him on this issue. I agree also with Senator DOMENICI, that it is a question of just huge ramifications, which we should not be deciding quickly and arbitrarily.

The one concern I have, the Senator from Texas asked that we, within a year, do something. My hope is that before April 1 we would do something, so the next budget resolution that we adopt, in fact, reflects this change. I think that is extremely important that we do it. This last budget resolution, as the chairman of the committee knows, I was able to get an amendment adopted where we put Social Security trust fund off to the side, but it was almost unnoticed. I think we have to make this major change. I think it would be a tremendous boon to the economy of our country, if we were to do it. But I would hope that our distinguished colleague from Pennsylvania would withdraw his objection at this point, and then I would join him right after the first of the year, and certainly before April 1, let us have a good, solid, firm discussion here in this body on this really salient issue, and then, I hope, make the right decision.

Mr. MITCHELL. I yield to the Senator from Wisconsin.

Mr. KASTEN. Mr. President, reserving the right to object, I will address a question to the majority leader. In the first paragraph he refers to a repeal of section 89, identical to language agreed by the House and Senate conferees on reconciliation. I ask the majority leader if he would change that part so that we would get in fact a pure repeal of section 89; specifically, I ask if he would be willing to include the language for repeal of section 89 that was the language included in the Packwood et al., package that is now part of the Polish debt issue. There are three or four technical issues that are covered in the Packwood package that are not covered in the reconciliation.

I ask the majority leader if we can change to reference that bill as opposed to reference. I am talking three or four technical issues. I believe the Senator is in agreement with all of them, and I believe we would have a better repeal if we were to go forward.

Mr. MITCHELL. I yield to the chairman of the Finance Committee on that.

Mr. BENTSEN. As I understand it, the Senator is taking about three of four quite technical amendments, some that deal with pensions, and others that deal with section 89. The problem that we are facing is that it is almost 8 o'clock at night, and we have been in conference with the House, and the conferees have agreed to this particular provision as it is now reported back to us. The amendments carry most of what we did in the Finance Committee, and takes care of a great majority of what the Senator's objection is. I know that we had serious objections by the members of the House conferees so far on two or three technical amendments. That is why those provisions are not in this.

Mr. MITCHELL. If I could just add to the Senator from Wisconsin, this has been agreed to in the conference. If we now change that, we do not know what the reaction will be in the House. The whole purpose of putting section 89 in here was, first, at the request of the Republican leadership to which we agreed and, second, it was with the understanding that it would be done in a manner that would be without disagreement.

I am very reluctant now to reintroduce matters that have not been agreed to in the conference without any knowledge of why they were not agreed to in the conference, or what the House reaction will be.

It is my understanding that this provision includes almost everything, nearly everything, the Senator from Wisconsin wanted. Rather than run the risk of delay and having this come back from the House, and here we are getting ever closer to the deadline, I hope that the Senator will permit us to go forward on this basis.

Mr. KASTEN. I think there is no problem. My understanding is that the straight repeal the House voted on 380 to whatever it was, there is no question but that the House membership and the Senate membership and the Senate Finance Committee all agree that these three additional principles should be included. Frankly, it is my understanding there are a few people on the Ways and Means Committee who may not agree with the full House membership, the full Senate membership, and the full Senate Finance Committee.

Mr. BENTSEN. If the Senator will yield on that, it is not my understanding that is the case. The House repealed section 89. The Senator is talking about some things beyond repeal. When you get into some of the pension benefits, you are not just talking about section 89. It is my understanding that the Senator is asking beyond just simple repeal.

This carries simple repeal plus some of the things that the Senator is interested in, I was interested in, and Senator PACKWOOD was interested in. We were not able to get the House conferees to agree to all of those items. But I say to the distinguished Senator he has been able to gain 99 percent of his points, and here, after we have had the conference and it is 8 o'clock at night, we are talking about a debt limit. I do not think we can go back and change the agreement.

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Mr. KASTEN. I appeciate what the Senator has been able to do. I am trying, and if he will resist this, I am not going to push this, but I am certain that because I have spoken with some of the leaders of the repeal effort in the House that, if we were to attach the same bill, the House would be willing to take it to a vote in the House, and our repeal people in the House say they easily have the votes for these three additional technical parts. So I do it not believe it would be holding up anything.

Mr. BENTSEN. It is my understanding that the provision that the Senator is probably most interested in is one that I proposed in my section 89 repeal, and I am still interested in it, and I will still push for it. But I do not think we can do it tonight. I would be delighted to pursue it in the coming year.

Mr. KASTEN. The Senator knows how long is has been to get this far. I am not going to push it, but it would seem to me it would just make sense if we put the Senate Finance Committee position into the full Senate position in this package here. If the Senator is unable to do it at this time, I am not going to continue to oppose.

Mr. MITCHELL. I thank the Senator very much.

The Senator from South Carolina asked me to yield to him.

Mr. HOLLINGS. I thank the majority leader for yielding. By this time, if Gramm-Rudman-Hollings had been in force as we designed it we would have a deficit of just $36 billion this year, and be balanced next year. We never contemplated using any Social Security funds next year.

At the beginning of the year, the distinguished Senator from Pennsylvania, with the Senator from New York, Senator MOYNIHAN, put in a Social Security bill, but it kept being put off. "There are complications, save money and exempt the next few years," it was said. First, they said to use $46 billion the first year and now they say use $79 billion each year for the next 3 years.

I thought we should get back to the original intent, and not use any of the trust fund. My bill says take it off budget immediately.

The Senator from Pennsylvania has a point. The Budget Committee chairman has opposed this bill. We had a struggle in the Budget Committee at the very beginning of the year, and the chairman raised a point of order that to even consider my Social Security amendment to the budget resolution was out of order.

As a result of the very spirited discussion we had, we put it in the alternative. You will find in the budget report the deficit with Social Security funds bing employed, and the deficit without Social Security funds.

I worked all year long, and I now have the majority of the Democrats on the Budget Committee cosponsoring the bill, along with the distinguished majority leader.

I think the Senator from Illinois is making a reasonable suggestion to Senator HEINZ, and I think that is the best we can do, and we have to order our priorities. The majority leader has a real problem even though he was committed to call it up on the temporary debt limit and then he was committed to this particular Senator to call it up on this debt limit. But we do not hold each other to that. We are grown men, and he has a bigger responsibility.

I am willing to yield on the same basis as the Senator from Pennsylvania, insisting we get some understanding by March 15. We can meet at the beginning of the year. I just do not want to get into monkeyshines. If we can meet and we can get the assurance of the chairman of the Budget Committee that he would bring it up, we could report it out April 1. If they wanted to add amendments, they could add them. It is not sancrosanct. I just hope they would not get into broad budget reform. My distinguished colleague from North Carolina has budget reform. The Senator from New Hampshire [Mr. RUDMAN] has budget reform. The Senator from Kentucky has budget reform. They have all good bills. But what I am trying to do is the art of the possible. I know the power of the Social Security issue to get our foot in the door, to sober up this crowd here in the National Congress, and do a good job by saving the trust fund for the generations to come.

I will go along with the leader, and I am pleading with my friend from Pennsylvania [Mr. HEINZ] to go along, on the specific understanding that it be called up on the floor. We can get it out of the committee. If we call it for consideration on the floor by April 1, then we have a good understanding.

The Social Security bill happens to be more important than the catastrophic health bill and more important than section 89 and all the things the leader listed. I think that Social Security is more important than the minimum wage bill, and yet we keep yielding, and I do not get satisfaction. I wonder if we can get understanding for some definite day at the beginning of the year. I am convinced we can get it out of the Budget Committee.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. MITCHELL. Mr. President, I yield to the chairman of the Budget Committee.

Mr. SASSER. Mr. President, first let me say that I favor the legislation that is being offered by the Senator from Pennsylvania. I think identical legislation was offered perhaps earlier or the same time by the Senator from South Carolina. Legislation has also been offered similar or identical by the Senator from New York. Both myself and the majority leader and others, including the Speaker of the House of Representatives, have announced publicly in the press gallery our strong support of this particular concept.

I see no reason why we could not cooperate and bring this matter to the floor out of the Budget Committee by April 1, as has been proposed by my distinguished friend from South Carolina. Of course, I cannot give any assurances as he understands, that there will not be attempts to amend it because at the present time we have budget reform legislation pending, some by the distinguished majority leader; and Senator COATS has budget reform legislation; the distinguished Senator from North Carolina, Senator SANFORD; Senator GRAMM, of Texas; Senator KOHL, of Wisconsin; Senator MOYNIHAN; and Senator DOMENICI. I have my own budget reform proposal that I want to offer. So the list goes on and on, and, I say to my friend from South Carolina, fully 30 percent of the Members of this body have some idea about how we ought to reform the budget process.

I certainly would be delighted to cooperate and try to bring this legislation dealing with Social Security to the floor, or out of committee, I will put it that way, on or before April 1.

Mr. MITCHELL. I thank the Senator. I yield to the Senator from Virginia.

Mr. WARNER. I thank the distinguished leader. I rise on an entirely different point. I had anticipated being in the capital of my State of Virginia where tonight a historic Governor's race is being decided. I have to be at the airport in 3 hours. I assume if this is carried forth, we may not have further votes tonight. Does the leader care to address this at this time?

Mr. MITCHELL. I will be pleased to respond. Mr. President, if we get this agreement, it is my intention—I will state now what my intention was—to ask that we be permitted to proceed to complete action on the Intelligence Authorization Act, which the chairman assures me will take just a short time and no rollcall vote has been requested—I hope none will be requested—then to proceed to the debt limit bill under this 30-minute agreement. Again no rollcall vote has been requested and I hope that no one would request it.

I ask the distinguished Republican leader if he has any request on his side. If not, we could dispose of both of those measures this evening without any further rollcall votes.

It would then be my intention to recess for the evening and return to-

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morrow morning to the minimum wage bill—I understand there is one amendment to that—and a vote on that tomorrow. So that if we can get this agreement, we can complete action on these measures this evening without the necessity of a rollcall vote unless some Senator requests one and I know of none that requests one.

Mr. WARNER. Mr. President, I certainly thank the distinguished minority and majority leader for that. I just wanted to be here if it could occur tonight. As a member of the Intelligence Committee, I have a certain responsibility to that bill.

Mr. DOLE. Mr. President, I know the Senator from Virginia has other obligations tonight too, but there are a couple of bills pending that involve him directly. So I hope we could work it out as quickly as we can.

Mr. MITCHELL. Mr. President, if no other Senator wishes to address the subject, I renew my request as previously stated.

The PRESIDING OFFICER. Is there objection?

Mr. HEINZ. Reserving the right to object, Mr. President, and I suspect the Senator from Maine is not surprised that I do reserve the right to object. Mr. President, we may be making some progress here, I am not sure. Certainly, this is an issue that for the first time we have gotten the Senate's attention to address. But before I deal with the substance of it, I want to make a couple of points for the record in case things do not work out, and I do hope they work out.

The first is to reiterate something I said earlier. We have had numerous opportunities to address this issue this year, and for one reason or another we have procrastinated. It may very well be that the majority leader has no power to encourge or get another committee to report.

Indeed, it has the majority leader who suggested that the way to deal with this issue is to have a bill. Obviously, there are two ways to get a bill. One is to have it reported from a committee—in this case the Budget Committee would be the appropriate committees—the other is to handle it the way we did the McCain amendment where it was brought up on the floor as the result of an agreement and it was not reported out of the Finance Committee. It came to the floor by unanimous consent under an agreement to deal with it. Any of those procedures are fine with me.

But the problem is that none of those procedures have been followed to date. Maybe we wish they had been, but there has been ample opportunity to do so.

The second point I would make is that there is a certain irony, it seems to me, in any protestation of either surprise or opprobrium by anybody who has responsibility for bringing the debt ceiling before us this evening. I have been on the floor repeatedly when the majority leader was on the floor to indicate to him my point of view on the debt ceiling bill. I find it very interesting that neither the majority leader nor, for that matter, the minority leader ever so much as placed a call today, yesterday or on any previous days to discuss how we might avoid this kind of confrontation here on the Senate floor at the 11th hour.

Third, there is an alternative to the problem that might confront the majority leader in refashioning his unanimous-consent request, and that is do something that has been frequently done here on the Senate floor: Namely to bring up the bill, to let us offer amendments and to vote them up or down.

It is the right of Members of the Senate to seek votes on specific legislation at pertinent times and on pertinent matters. Nothing could be more pertinent than the way we are disguising—and I use that word advisedly—disguising the true size of the national debt. Most people look at the budget deficit and they look at the national debt and they say, "Well, I guess that national debt is the accumulation of all those budget deficits that have been reported."

What a surprise it must be for people when they look at the debt ceiling legislation which has roughly a $3.1 trillion increase in the national debt and they find that if they added up all the deficits and surpluses together, the number would be about $700 billion less than what we report as our national debt.

My goodness, how can you have an accurate budget summary and, at the same time, accumulation of so-called Federal budget deficits that is a lot lower than the national debt? The answer is, we are playing a game. We are playing a game with the way we report the budget deficit each year. Was it a plot? No, it is not a plot. Nobody is intending to mislead, I do not think. But we are masking the true deficit.

When we fashioned Gramm-Rudman-Hollings sometime ago, I think the intention of the sponsors was sincere to get the budget deficit down. It has helped some. I do not think anybody intended to pull the wool over anybody's eyes with respect to the deficit. But that is, what has happened.

As a result of that, if we happen to come in on the budget number for fiscal 1990, if we hit that $100 billion target, using the way we report the deficit, what is going to happen is the national debt, will go up by roughly $68 billion more than that $100 billion reported debt. And the total will not be $100 but $168 billion in new debt.

Well, in my home State of Pennsylvania, $68 billion is a lot of money. The number keeps going up every year. Indeed, unless we address this problem, we will, once again, double the national debt by the year 2000. Even if we meet the Gramm-Rudman-Hollings target of a zero budget deficit as we now report it in fiscal 1993. Even if we report a balanced budget for the entire decade of the 1990's, we will double, double the national debt.

I do not know of a single Member of this body, or for that matter the other body, that at some point has not given somewhere between 1 and 1,000 speeches on fiscal responsibility. We all talk fiscal responsibility and here is an issue which strikes at the very heart of all that talk. It is this Senator's view that we cannot continue to duck the issue. We ducked it in 1983. We ducked it in 1985. We ducked it earlier this year. We ducked it on the short-term debt ceiling extension. We have been ducking it all this week, all last week, all the week before. It seems to me it is time to fess up to what we are doing and do something about it.

I am pleased that many of my colleagues are here. In fact, I am glad Senator HOLLINGS is here. He has been in the forefront of this. Senator MOYNIHAN is here. He and I have worked on this issue for some time. I am delighted that JIM SASSER, the chairman of the Budget Committee, was here and supports doing something on this.

But it seems to me, Mr. President, that it is very important that if we are going to find a way to move ahead with the debt ceiling, we do it in a way which is foolproof against delay and procrastination of the kind we have seen over the past weeks, the past months, the past year.

So I am perfectly prepared, if we can find the right set of warranties, to let the majority leader go ahead. But we need to find the right set of warranties.

I think none of us can be sure. This is a point the majority leader himself made. None of us can compel a committee of the Congress to report a bill by a date certain. We can discharge them but we cannot compel them to do their work if they do not want to do it.

One of the ways one can ensure that is to say, unless a committee reports legislation, the sum and substance of which is what we are talking about this evening, that there will be automatically discharged to the Senate for consideration, under a particular kind of consent agreement so there is a vote on it, a particular bill. It could be my bill, S. 1752. It could be the bill of Senator HOLLINGS; it could be the bill of Senator MOYNIHAN.

But I think, Mr. Leader, if we are going to make any progress here this evening, we have to be rather specific about what is going to be done. And, if it is not done, how we are going to proceed from there and under what rules and regulations.

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So, I think maybe we can work this out. But it may be necessary to have an informal discussion to do that. So I will suggest the absence of a quorum.

Mr. MITCHELL. Mr. President, I renew my request.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. MITCHELL. I yield to the Senator.

Mr. SARBANES. If the majority leader is going to renew his request I will withhold. I think we should approve this request and move the business of the Senate.

I simply say to the Senator from Pennsylvania, he has gotten a number of assurances here tonight in terms of Members responding to the concerns he has expressed.

To now move to the posture of saying: Well, I am going to get a date certain for the discharge of the legislation in order to allow this very important business to be done—every one of us has legislation in a committee we would like to see out here on the floor of the Senate. I think the Senator's bill is an important piece of legislation. But there are lots of other important pieces of legislation as well.

It seems to me a line is being crossed here, expressing a very strong concern and receiving indications from the committee chairman and the leadership with respect to this matter that the Senator is concerned about. It seems to me now he is crossing over a line and that is a tactic that every other Member is going to have to say to himself, "Well, why do I not use the same tactic? I have a similar matter of deep concern and importance to me." I hope we could go ahead and approve this request of the majority leader.

Mr. MITCHELL. Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection?

Mr. HEINZ. Reserving the right to object, I wonder if the majority leader might respond to what was in effect an inquiry. My inquiry, to repeat it, is that there have been suggestions made by a number of Senators. The chairman of the Budget Committee, the chairman of the Commerce Committee, who is also on the Budget Committee, Senator HOLLINGS, and others, if we could have a date certain for the consideration of this legislation.

I do not know what the majority leader's pleasure is. But let me explain why there is some sensitivity to a specific day.

The Budget Committee has, each year, a harder and harder job to do. It gets tougher and tougher to meet the Gramm-Rudman-Hollings targets.

We tend to get into, early on, a series of very tough negotiations and in order for those negotiations to be meaningful we, obviously, have to know the target at which we are aiming.

If we are going to do what it is that the Senator from South Carolina proposes, or what the Senator from New York proposes, or what I propose—and basically we all pretty much propose the same thing, hardly a penny's worth of difference among our different proposals except the first name on them, of which we are all very proud—the fact of the matter is those bills all do change the Gramm-Rudman-Hollings targets.

They change them in pretty much the same way. There are differences. But change them they do.

So it seems to this Senator important that if we are going to deal with this issue we need to deal with it early next year. The Senator from South Carolina mentioned April. I am not trying to tell the Senate how to do its work but the problem is if we wait until April we may be too far down the road in the Budget Committee in order to advance the difficult negotiations that take place, both in the Budget Committee and with the administration.

Does the Senator from South Carolina have a comment he would like to make? It seems to me if we wait until April that could be too late.

Mr. HOLLINGS. I do not think it is too late, because we know we have to get the reports from the authorizing committees and then we have to get the reports from the appropriations subcommittees. And then, it's on to the Budget Committee. We would still be doing our work and trying to begin the markup in April to get it to the floor.

Senator SIMON, also a member of our Budget Committee, said April 1, but there would be no reason we could not get it out March 15.

S. 1795 is my bill, but the Senator can add his to it, too. There is no jealousy about either one. I would like to have ours because I want Social Security totally off budget, but we can debate that on the floor. S. 1795 is sponsored by the distinguished majority leader and a majority of the Democrats on the Budget Committee.

Now what Senator SASSER, our distinguished chairman, just stated, that he would cosponsor it, there would be no rhubarb about getting the bill out. If we could not get it out by, say March 15, the majority leader could ask for discharge of his own bill. I want to remind him, he is the leader.

Mr. MITCHELL. Mr. President, I previously provided my assurance that I would do everything I could to bring this bill forward; to bring one version of this bill forward, there being several. And, as a product of these being several, we are experiencing these events this evening. And that I would present it to the Senate as soon as I can, so that there may be a full and open debate on the subject and any Senator can offer any amendment that he or she wants.

Evidently that is not sufficient for the Senator from Pennsylvania, who says he wants warranties.

I just say to the Senators that I regard my word as a warranty and I am not prepared to go beyond giving my word.

Mr. HEINZ. If the majority leader is taking my name, on a point of personal privilege, let me explain something.

Mr. MITCHELL. You have been taking my name here all evening.

Mr. HEINZ. But I have not put any words in your mouth, Mr. Leader. And let me explain very clearly that I said the warranties with respect to a specific time. I have never doubted the majority leader's word and any implications that I do, I resent, because I trust his word.

Mr. MITCHELL. Mr. President, we have started here. We had one suggestion for a year from now. Then a suggestion for April 1. Then a suggestion for March 15. If this goes on much longer we will have a suggestion that we do this in the next 10 minutes.

I have made clear what my intention is in this regard. I support this bill. I am a cosponsor of Senator HOLLINGS bill. And I have every intention of bringing this bill to the Senate as soon as I can for a full and open debate on it.

I am trying to move this debt limit at the request of the President of the United States, and the Secretary of the Treasury, and in behalf of all the people of this country; the consequences of a delay of which could be severe.

I renew my request. I have stated my intentions. If that is not good enough for anybody here, then they can object.

The PRESIDING OFFICER (Mr LEVIN). Is there objection?

Mr. HEINZ. Mr. President, I am constrained because of circumstances t ask for further clarification.

The PRESIDING OFFICER. I there objection?

Mr. HEINZ. I will be constrained t object, even though I am reluctant t do so.

Mr. MITCHELL. Mr. President, I am about to suggest the absence of quorum. I have no choice but to contact the Secretary of the Treasury and the President, to advise them o these events and our inability to mov this debt limit forward.

Mr. President, I suggest the absenc of a quorum.

The PRESIDING OFFICER. Th clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTELLIGENCE AUTHORIZATION

Mr. BOREN. Mr. President, I ask the Chair, is the pending matter the discussion of the Intelligence Authorization Act?

The PRESIDING OFFICER. That is the pending bill. There is also pending before the body a unanimous-consent request. The pending bill is the bill that the Senator inquires about. There is pending before the body a request for unanimous consent.

Mr. BOREN. Is it in order to proceed with the consideration of the bill at this time?

The PRESIDING OFFICER. It would be in order.

Mr. BOREN. Mr. President, I think we have completed action on most of the matters related to the Intelligence Authorization Act, in light of the vote that we had on the amendment to strike the inspector general provision. I am informed there is one additional amendment to be offered by the Senator from California [Mr. WILSON]. I yield the floor at this time so he might offer that amendment.

The PRESIDING OFFICER. The Senator from California [Mr. WILSON] is recognized.

AMENDMENT NO. 1085

(Purpose: To provide for equity in Federal law enforcement compensation)

Mr. WILSON. I thank the distinguished chairman and manager. I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from California [Mr. WILSON], for himself, Mr. BRADLEY, Mr. LAUTENBERG, and Mr. CRANSTON, proposes an amendment numbered 1085.
>
> In preparing for submission to the Congress the Budget of the United States for Fiscal Year 1991, the President shall take into account and, to the greatest extent possible, incorporate into such budget the recommendations of the National Advisory Commission on Law Enforcement as established by section 6160 of the Anti-Drug Abuse Act of 1988.

Mr. WILSON. Mr. President, I did not interrupt the clerk in his reading of this because it is such a brief piece of legislation. Let me just take a moment or two to explain the necessity for it. By the way, I am offering this amendment on behalf of the senior Senator from New Jersey [Mr. BRADLEY] and my senior colleague from California [Mr. CRANSTON].

Mr. President, we were to have received in the Congress by April of this year the report and recommendations of the National Advisory Commission on Law Enforcement as established by the Anti-Drug Abuse Act of 1988. We have not yet done so. I am advised that within about a month that long overdue report will, in fact, be in our hands.

The purpose of the amendment very simply is to see to it that in preparing to submit to the Congress his budget for the coming year, the President shall take into account and, to the maximum extent possible, heed and implement the recommendations of that report to remedy the gross inequity that exists between compensation of agents of the Federal Bureau of Investigation in different parts of the country.

What we presently have in the law is a demonstration project aimed at relieving the very high cost of living of those agents in the New York City area. Mr. President, I am entirely sympathetic to the efforts to relieve the acute cost of living for those agents, but they are not alone in suffering that, and the time has come for an update. That is why I offer this on behalf of the senior Senator from New Jersey, as well as for my colleague from California and myself, because he has a problem with agents in Newark who are experiencing the same kinds of difficulty as their brethren just across the river in New York.

Across the country, Mr. President, in Los Angeles and San Francisco, where there is an even higher cost of living than in New York, FBI agents have taken with some wry irony to posting in their headquarters recruiting posters from the Los Angeles Police Department. The reason is because of the painful contrast between what they receive and what is advertised as starting salary for high school graduates entering as recruits for the Los Angeles Police Department. The salary offered is $32,500; for college graduates, $38,500. In contrast, recruits for the FBI are starting at $26,000 in what is one of the most expensive markets in the country.

Mr. President, I do not begrudge those young officers on the Los Angeles Police Department what they are being offered. They are worth every penny of it and more. Nor do I begrudge the agents in New York the cost-of-living assistance they are getting under a demonstration project. The fact of the matter is we should have done with demonstration projects what is demonstrated, the need to address the cost-of-living requirements of those law enforcement professionals all across the land who are now having to suffer in order to provide the kind of public service upon which we desperately depend. You can imagine the enthusiasm with which an agent in New York receives word that he is to be transferred to the Silicon Valley. The reward for his transfer is that he will experience a cut in compensation as he moves into an even more expensive area in which to live.

Mr. President, I will not go on. I will simply say that the time has come for us to face facts: If we are not to lose valued law enforcement professionals from the Federal Bureau of Investigation, then we must pay them what they are worth. The opportunity to do so is at hand. We dare not to allow another year to go by. That is why this language simply states that the President is urged, with all respect and with great solemnity, but with great urgency, to heed the recommendations of that report so that we do not engage in that very foolish act of losing people whom we cannot afford to lose.

Mr. BOREN. Mr. President, I thank the Senator from California and his colleagues for offering this amendment. We understand the nature of the problem. We are very sympathetic to it. I will say the amendment is acceptable to those on this side of the aisle.

Mr. COHEN. The amendment is completely acceptable to the minority side.

Mr. WILSON. May I thank both the managers and simply add for the RECORD I was remiss in not mentioning what we are talking about is, in fact, not just the FBI, but DEA, Customs, ATF, all of those Federal law enforcement efforts.

Mr. LAUTENBERG. Mr. President, I rise to express my continuing concern about an issue of critical importance to Federal law enforcement in New Jersey.

Last year's Intelligence Authorization Act instituted a pay demonstrated program for the FBI's New York City office. It provided special agents in that office with 25 percent pay bonuses and relocation allowances of $20,000. This program was established to combat the New York City office's significant employee recruitment and retention problem caused by the region's high cost of living. Unfortunately, this demonstration project has had an unintended and severe negative impact on the Newark FBI office.

I know my colleague, Senator BRADLEY, shares my concerns about this matter. We have worked together on this matter. Agents stationed in the Newark FBI office, a mere 9 miles away, were excluded from this program. According to FBI Director William Sessions himself, this situation has caused negative repercussions for the Bureau's Newark office. Although they are subject to the same high cost of living, perform the same type of work, often work together on the same cases, and in some cases even live in the same communities, Newark FBI agents now earn 25 percent less than their New York City counterparts. Due to the proximity of the Newark and New York offices, agents from

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excuse for this complete breakdown in discipline.

In 1985, I chaired a group of 40 Republican Members of Congress who authored a full budget plan. Introduced on time, our budget plan—called a Blueprint for Balance—proved that the process can be followed.

Working side by side with the Congressional Budget Office, our plan contained $51 billion of verifiable savings in the first year alone—achieved through a spending freeze, and without an increase in taxes. Our plan for deficit reduction operated from the premise that while the freeze held spending relatively constant, revenues would continue to increase due to the ongoing economic expansion—thus closing the deficit gap.

Ironically, had our plan been adopted, we would have arrived at a zero deficit during this current fiscal year 1991.

Since the introduction of our budget in 1985, Congress has attempted to stem the deficit accumulation through the Gramm-Rudman-Hollings [GRH] law. Originally targeted for a zero deficit by fiscal 1991, the dates in GRH have slipped to the point where the current budget agreement calls for a zero deficit by 1995.

GRH has been an honest attempt to establish deadlines and restore fiscal responsibility—but it hasn't worked. GRH has failed to restore the budget process to what it was and what it should be: A legislative give-and-take whereby Federal spending is allocated to specific programs based on realistic estimates of expected revenue.

As noble as the GRH effort has been, and as noble as the current budget summit agreement is, both are temporary fixes. It's comparable to using a spare tire while you wait to get the permanent tire fixed. Just as a mechanic would remove the nail causing the flat, Congress must act to plug the hole which threatens to deflate our economy.

The budget process now is so complex that few people understand the details. It is so time consuming that schedules and deadlines seldom are met—thus encouraging the practice of the continuing resolution and diminishing the power and option of a Presidential veto.

The system itself also is dishonest. Deficits can be reduced using accounting gimmicks and the seriousness of the problem constantly has been understated by overly optimistic economic assumptions.

Beyond the numbers in any budget agreement, an equally important ingredient must be enforcement of the timetables and deadlines in our existing laws. Individually approved spending bills, open to Presidential veto, are as important as the figures they contain. The use of checks and balances must be restored. And this ingredient, unlike negotiated spending and revenue figures, only can be assured by Congress. It's time we agreed to restore credibility to the budget process.

Mr. YOUNG of Florida. Mr. Speaker, I reluctantly rise to support this budget resolution.

I do so not because I am convinced it is the best possible budget agreement we can reach, but because we must keep the budget process moving forward. Otherwise, our Nation will suffer catastrophic across the board cuts to bring the 1991 budget deficit into line with the demands of current law.

It is important for all Americans to understand what it is we are voting on this evening. This is simply a document that broadly outlines the budget targets for the 1991 deficit, the total 1991 outlays, and the total 1991 revenues. This legislation also provides direction to each of the committees in Congress on budget targets they must meet to bring the entire package into line with the budget agreement.

This legislation does not implement any of the recommendations of the budget agreement. That omnibus legislation will follow in a week to 10 days after each of the committees meet to draft legislation to comply with their budget targets.

I have suggested to the House leadership and to President Bush that these committees be given wide latitude in meeting their targets. They are the committees with expertise in their various areas and will know better than the budget negotiators the impact of certain recommendations. They may even be able to better determine how to achieve savings with less of an impact on their respective program areas.

For instance, the Ways and Means Committee, which has jurisdiction over the Medicare program, already has expressed the same concerns I have raised about the proposed Medicare reductions and is in the process of developing other proposals that would lessen the burden on beneficiaries, especially those least able to afford increased monthly premiums or deductibles.

The action we are taking tonight makes it possible for the budget process to move forward for consideration by the committees. The package that emerges from the deliberations by the committees will be the actual implementing legislation. That will determine where the budget reductions and revenue increases will occur and that will be where the real deficit reduction vote is cast.

Voting to defeat this resolution tonight is a vote to stop the budget process in its tracks and leave the Federal Government with no other choice but to endure automatic across the board cuts in all areas and virtually every program. Not only would this negatively impact those who benefit from vital Federal services but it could possibly send our nation into the throws of recession, drive up inflation, and raise interest rates.

The budget process is a disaster and for confirmation one only has to look back on the steps that led us to this vote. The Congress once again has failed to meet its fiscal responsibilities. As a body, we have taken no positive steps to solve our budget deficit. Instead, the responsibility was shifted to a private room at an Air Force base 30 miles from here where a small group of Congressmen and Senators met with a handful of administration officials to reach a budget agreement that will affect every American household.

The process undercut the entire premise of our Constitution. There was no representation of the views of the public. There were no hearings on which to base these decisions. There was not even so much as a request for input from the 535 Congressmen and Senators who were outside the room.

The budget process is broken and it is beyond repair. It is full of gimmickry and allows those, elected by the people, to skirt the tough votes they are elected to cast. The current budget process is in such disrepair that I believe it may even violate the Constitution by allowing secret meetings by a small group outside of our Nation's Capitol to make the budgetary and financial decisions that are clearly to be made by the elected representatives of all the people.

There, however, is no time tonight, this week, or even in the remainder of this year to fix the process. That must be, and the people should demand that it be, the first and foremost responsibility of the 102d Congress when it convenes next year.

The job before us tonight is to do what is right for our Nation as a whole. In this case, that means taking action on this budget resolution to move the process onto the next step. Failing to do otherwise could result in catastrophic consequences that are unacceptable and would throw our Nation into economic turmoil.

Mr. Speaker, with great trepidation, I will vote to support this resolution tonight but I reserve the right to withhold judgment on the legislation that will come before the House later this month to implement this resolution. With the proper deliberations and the input of the entire Congress, the committees may be able to alleviate many of my concerns about Medicare cuts, veterans programs, and questionnable revenue increases.

The Congress once again has failed the American people by not living up to our financial responsibilities. Our failure, however, cannot be allowed to wreak havoc on the entire economy of the United States. Instead, it demands that we make a difficult decision tonight and another in a few days. It also demands that we make many tough decisions in the months ahead to eliminate the mockery that is the congressional budget process. The American people expect and deserve better.

Mr. Speaker, this is the people's House. But the process we experience here has excluded the people and most of their elected representatives.

Mr. SYNAR. Mr. Speaker, today I rise in opposition to House Conference Resolution 310, the summit agreement budget resolution. This decision has been made after careful consideration of the terms of the agreement. Once again we are up against a deadline and the urgency of approving a budget is without doubt. Urgency, however, can not under any circumstances replace fairness and this agreement is simply not fair.

I respect the work of the budget negotiators and I recognize the extreme difficulty of devising an agreement. I did not anticipate an agreement that satisfied everyone, because I knew that everyone would have to sacrifice. But I did expect an agreement that spread the burden among all income groups in an even-handed manner. Despite assertions to the contrary, this agreement is not fashioned in that manner. It is clearly not fair to my Oklahoma constituents.

Today's budget crisis is the result of ten years of the misguided policies of the Reagan Presidency. The enormous defense spending increases and accompanying tax cuts cost the Treasury billions in lost revenues. For ten years Congress had to go along with budgets that built up defense to a point at which there was a real increase of over 45 percent in defense dollars. Contrary to popular belief, domestic spending both for human needs and the infrastructure of the country fell drastically. Spending for energy programs fell approximately 81 percent, education funding fell 16 percent, community and regional development fell 58 percent.

Spending for the elderly and disabled did grow during this same period .but the growth did not occur because of increases in benefits. Instead, the growth was a result of an increase in the number of elderly Americans and the unbelievable rise in health care costs. By the end of the 1980's there were approximately 20 percent elderly Americans than at the beginning. During this same period health care costs rose approximately 91 percent. While programs for those in poverty grew slightly in real dollars, this did not compensate for the fact that the number of those considered poor grew.

For the past 10 years we have seen tax cuts disproportionately benefitting the rich and higher income Americans. Income growth for working Americans increased only slightly, in fact, for median income families, it decreased. Yet at the same time, 86 percent of the rise in income went to the wealthiest 20 percent.

The agreement once again asks working Americans to bear a greater burden to now reduce the deficit. Working Americans have not been part of those "good times." It is blatantly unfair to ask them now to pay for those good times enjoyed by others.

Earlier this year the House passed a budget which I supported that called for cuts of under $2 billion in the Medicare program in 1 year. There was a recognition that an effort had to be made to get the program under control and to address its increasing growth. Many attacked those cuts as harsh. If those cuts were harsh, what can $60 billion in cuts over 5 years possibly be called?

There is no attempt in the agreement to address the true problems of health care costs. Instead the costs of Medicare are simply shifted to the program beneficiaries. While there may be some who can certainly afford to pick up these costs, the summit agreement does not reflect reality. By 1995, the Aging Committee estimates that the Medicare part B premiums will equal one month's social security check. This is no way to make long-term policy.

The summit agreement contains not only cuts and revenues but policy agreements that come close to further reducing a need for Members of Congress to perform their most essential function. I have fought for years against budget procedures such as Gramm-Rudman-Hollings that remove responsibility for voting and decision making. This 5-year agreement continues that practice and removes us as Members further from the budget process. More importantly, it also diminishes the input of citizens in the process.

As a populist Democrat, I can not review the facts and figures from the past 10 years and say that the burden under the summit agreement is being borne equally by all Americans. Voting against the summit agreement is bound to draw criticism but I can not vote for an agreement because everyone says its the "best" we will get and another agreement is not possible. I am confident and optimistic that a fair budget agreement that reduces the deficit and stimulates economic growth can be devised. I know there are alternatives and I know they are better.

Mrs. COLLINS. Mr. Senator, I rise in opposition to the budget agreement.

The bills of the past decade are coming due and payment is being extracted from those least able to pay, while those most able to contribute escape virtually unscathed. Because of the policies of the 1980's, the wealthy gained the most while the poor, the elderly, children and the needy suffered the most. With this agreement, that trend continues. We suffered through the last decade and endured the slash and burn policy toward social spending, hoping upon hope that the kinder, gentler, nation that President Bush envisioned would see a return to fairness in budget priorities.

I have a large number of elderly and elderly poor in my district. How in the world can I go home and tell them that I voted for a package that would cause them to pay more for Medicare insurance and lower the service they will receive if they become ill. This double-edged sword is unconscionable. Medicare and other entitlement programs are already suffering. How in the name of all that is decent can we even begin to consider even deeper cuts? So what if someone's $12,000 diamond or fur Christmas present will be taxed at a higher rate? We're talking about cutting medical benefits and raising premiums for medical care on a significant segment of our population who live off much less than $12,000 per year. In my state of Illinois, doctors, hospitals, and other providers are already struggling to continue adequate care. Many will certainly pull out of the program rather than face diminished reimbursements that leave them in debt.

It is not just the elderly or poor who will suffer under this document. The economy is slipping further and further into recession and as things worsen, more and more jobs will be lost. How can I tell those whose jobs are taken or threatened that they will have to wait for two additional weeks to get unemployment benefits? Where is the rent to come from for those 2 weeks? Where is the food to come from? This is not only inhumane, it is downright ridiculous.

And who will suffer most from an increase in the gasoline tax? Not the Rolls-Royce owner, but the Rolls-Royce chauffeur and others who are earning the minimum wage. A regressive, higher tax on gasoline is going to make it even more difficult for low-wage earners to get to their jobs. Why? Because those who have the luxury of an automobile will pay more in fuel expenses, and those who ride public transportation will likely see increases in fares. We fussed and fought in this body over raising the minimum wage and patted ourselves on the back grandly when we compromised on a few cents more. Now we stand here ready to stick it to the little guy again.

In addition to many seniors, I have a sizable middle-class population in my district that is also sick and tired of being squeezed every single time we enact a tax cut or deficit reduction proposal. There is nothing wrong with having trained yourself, worked hard, and earned some few comforts in life. An annual household income of $30,000 or $50,000 may sound like a lot, but you try raising a family of four, or Heaven forbid, sending a child to a $20,000 a year college on that income and see just how far it gets you. Every time this Nation looks to increase revenues, it looks to the poor and middle class. Under this budget document, those with incomes over $200,000 will see their taxes increased by a whopping three-tenths of 1 percent, while those with incomes between $20,000 and $50,000 will see their taxes raised between 3 and 3.3 percent. Where is the kindness? Where is the gentleness? Where is the fairness?

My colleagues, this budget agreement is worse than "voodoo" economics, this is the devil himself! I urge each and every one of you to put this document behind us and let's come up with a package that is fair and workable.

Mr. ATKINS. Mr. Speaker, it is with regret that I rise today in opposition to the summit agreement budget resolution. My regret comes not from opposing this particular package, which I consider to be unfair to middle-income families, the elderly and those on fixed incomes. It comes from being forced to decide between this package and no package at all. I strongly believe that the best tonic for our ailing economy is a strong deficit reduction package, and that the sequestration alternative will have absolutely diastrous effects on our economy. Furthermore, the Nation's Federal work force was never meant to bear the brunt for delays in enacting a budget.

However, I cannot support this measure because it continues the unfair fiscal policies of the last decade. These policies have shifted the tax burden to poor and middle-income families who work for a living, and away from wealthier families who receive more of their earnings from dividends and capital gains. The economic rationale was to encourage investment and growth, the benefits of which would trickle down to all sectors of the economy. But there is no evidence that this has ever happened. Instead, the evidence shows that the poorest fifth of American households have seen their income drop by 5 percent over the last decade, the middle fifth has seen a meager 3-percent gain, while the top fifth has experienced a whopping 33-percent gain.

Mr. Speaker, I've had enough of these policies. They've resulted in a threefold increase in our Federal debt and they've resulted in a shrinking middle class that is more hard pressed than at any other time in our history. Yet, when I look at this budget package before us today, what I see is a continuation of the failed policies of the 1980's.

It is only fair that those who prospered from a decade of fiscal policies designed to help the rich should pick up the tab now that the bill has finally come due. But that's clearly not the case when Medicare premiums for people on fixed incomes will increase 20 percent, while the rich get a slew of tax breaks worth $12 billion. It's also not the case in light of increased taxes on beer and wine, gasoline, airline tickets and petroleum products, all of

which will be more onerous to middle and lower income families than they will to the very rich. According to estimates from the Joint Committee on Taxation, people with adjusted gross incomes of between $30,000 and $50,000 will see their taxes rise 2.9 percent, while those making over $200,000 will be subjected to only a 1.7-percent tax increase. That's just not fair.

This package will also cause a great deal of unfair damage to my home State of Massachusetts. Efforts by Representative SILVIO CONTE to exclude home heating oil from the tax on refined petroleum products were reversed at the last minute, and the resulting 2-cent-per-gallon tax will hurt our region of the country more than any other. Because of the Iraqi invasion of Kuwait, home heating oil prices have already skyrocketed, and State budget woes have necessitated a dramatic cut in State and local low-income home energy assistance programs. I don't see how low-income residents of the State are going to be able to heat their homes this winter with all of these circumstances working against them.

Meanwhile, the oil and gas industries will benefit from $3.5 billion in tax breaks for exploration and production incentives. I simply cannot fathom why, at a time when oil prices have doubled, we need to provide additional tax breaks for the oil industry.

Mr. Speaker, it is my sincere hope that we can reject this package and quickly pull together an alternative package that will require the rich to pay their fair share of the tax burden, yield further cuts in our defense budget, and remove the responsibility for cutting the deficit from the backs of the middle class and the elderly. While I completely agree with the urgent need to reduce our deficit, I cannot support a package that insulates the wealthy and shoves all of the costs on the people who have been forced to pay the price for Reaganomics—the middle class, the elderly and those who must survive on fixed incomes. Unfortunately, that would be the result of the package before us today, and that is why, as much as I would like to see our deficit reduced, I cannot give this package my support.

Mr. LOWERY of California. Mr. Speaker, this Nation's deficit is approaching $300 billion; our national debt has tripled since 1982 and we face increased dependency on foreign lenders to finance that debt; we have rising interst rates and an oncoming recession—all of which diminish our ability to compete internationally. Without action today, we stand to lose jobs, personal income, vital programs, and our credibility as the leading nation in the world.

The budget brought before us today is based on a compromise forged after weeks of intense negotiations between congressional leaders and the administration. While I believe Congress should have had the political will to make more substantial cuts in Federal spending, this package does provide for the largest deficit reduction agreement ever.

Unlike previous budgets, this one will cut $500 billion from the deficit over the next 5 years; the majority of these cuts are real and lasting. Implementation will result in reducing Federal spending from 23.4 percent of GNP in fiscal year 1991 to 18.2 percent in fiscal year 1995—this is a smaller percentage than any year since 1965. This agreement is mostly spending cuts—36 percent come from discretionary programs, 24 percent from mandatory programs and 13 percent from reductions in interest. Only 27 percent of the agreement involves revenue increases.

We are finally proposing enforcements that I believe will work. The pay-as-you-go system will ensure that planned deficit reduction occurs by requiring any expansions of entitlement and mandatory programs be offset in the same bill. Spending that violates these caps, or pay as you go violations will trigger automatic across-the-board offsets in the relevant categories.

While I would prefer to not see such deep defense cuts, I understand military programs must also contribute to reducing the budget deficit. Secretary Cheney has stated that he can manage these changes without damaging our ability to defend our interests in a dangerous world, and I trust his judgment.

And while I am not an advocate of increased taxes, I believe the package demonstrates equity and compromise. Clearly, an increase in excise taxes on beer and wine will impact many. However, to demonstrate a sense of fairness, it should be noted these excise taxes have not been increased since they were first instituted in 1951, while inflation has risen well over 400 percent.

I would like to take this opportunity to state my serious objections to the package's increase to the gas tax. My home State of California will be especially strained by this increase. As you may know, Californians had the fortitude to approve a 6-cent increase to their gas tax in June to raise revenues for transportation improvements. This additional increase will be a serious burden for my constituents.

The Medicare provisions will ask more from both providers and beneficiaries, but the cost of Medicare part B has quadrupled since 1980, and the program as a whole has become the fastest growing part of the Federal deficit. Contrary to some reports, Medicare is not being ravaged; the budget agreement requires participants to pay about $2.30 more a month next year in premiums than they would have paid. The deductible will rise from $75 to $150 over three years. The poor and near-poor will have many of these additional costs paid for them through Medicaid. Still, if the Energy and Commerce and Ways and Means Committees believe they have a more equitable approach, it should be considered.

Mr. Speaker, I don't like everything in this package. But, I know I don't like the alternatives. The compromise does not include provisions to raise income tax rates; social security benefits were not cut. COLA's—including Social Security, military, and Federal annuities—were not cut or delayed. We didn't see a reduction or elimination of the deduction of interest paid on home mortgages and, deductibility of State and local taxes was not capped.

Another alternative is sequestration of $85 billion, or 30 percent. If these cuts are put in place for the entire year we will find ourselves in total disarray. It would cause a breakdown of government—air safety, meat inspection, law enforcement, war on drugs, education, health, housing, veterans, research, and revenue collection. Its effect on the Department of Defense during Operation Desert Shield would be devastating.

All Federal employees will be furloughed for at least 2 days out of every 6. The San Ysidro Port of Entry at the United States/Mexican border near San Diego is the busiest border crossing in the world. Gramm-Rudman cuts in the personnel of the Customs Service and Immigration and Naturalization Service could mean dramatic reductions in the hours of operation and number of available vehicle inspection lanes. The delays resulting from these changes would have a domino effect damaging businesses, travel and trade in the San Diego area. It would damage our ability to intercept illegal drugs and aliens at the border. Related problems would grow tremendously. I have a responsibility to my constituents to insure that our Government can operate effectively and meet the needs of our citizens. Sequestration would cause catastrophic consequences to this nation.

While many of us are focusing on specific aspects of the bill that we don't like, a failure to pass this package will have a negative effect on an already tense international situation. Other nations are looking to the U.S. for leadership in a major international crisis; our failure to end this budget impasse will shake all nations' confidence in our political and economic strength and stability.

My colleagues need to remember that in a parliamentary system of government, the failure to accept a measure as vital as this budget agreement would result in the fall of the government and a dramatic loss of confidence at home and abroad. We cannot send this signal to our allies and trading partners when international unity is vitally needed to halt Iraq's economic and military aggression. My personal opposition to a gas tax, or concerns on the costs to medicare, must be tempered by the threat to our Nation if we do not take action on the budget immediately.

Mr. Speaker, we were elected to govern. There is much talk of incumbent advantages—here is an incumbent disadvantage. We have to stand up and be counted. Our votes go on the record. It would be easy to wash my hands, agree with those who might be inconvenienced and give my decisionmaking power over to chaos instead of order. I prefer to govern.

There is no winner or loser today—only equity and compromise. I believe we all have an opportunity to demonstrate each of our ability to put what is good for the country above what is good for ourselves.

Mr. HERGER. The Speaker, the congressional leadership claims that the budget summit agreement is fair; that it is a domestic version of burdern sharing. I ask my colleagues how it is fair to raise taxes on one industry by roughtly 700 percent.

This package victimizes the premium wine industry that is fundamental to the economy of the Napa Valley. This wasn't a budget summit, it was a tax summit.

This package does not simply increase the excise tax imposed on wine, it switches the method by which that tax is imposed. The budget summit agreement imposes a per bottle tax, something we have never seen before. This change has been instituted for one reason, and one reason only: to mask the true size of this huge tax hike.

The wine industry contributes $31 billion to our Nation's economy. It employs 490,000 people, to whom it pays $8 billion in wages. And already, the industry pays $2.5 billion in State and local taxes.

Economic models indicate that the summit proposal will decrease wine sales by 10 percent. In the October 2 Wall Street Journal, one wine merchant is quoted saying his retail sales will plummet 20 percent. This is disastrous. This vital industry could lose at least $3 billion in business activity and 50,000 jobs. Also, it will result in a loss of $300 million in revenue to State and local governments. We're robbing Peter to pay Paul.

In California, which is the largest of the 43 wine-producing States, we forsee the loss of nearly 20,000 jobs.

Mr. Speaker, I represent the Napa Valley. In the Napa Valley, we are proud of our premium wines, many of which are produced at independent, family-owned wineries. Almost 75 of those wineries are going to be subject to this outrageous tax. Many will not be able to absorb the blow. I heard from the properietor of one winery who said this package will force him to lay off 150 of his 400 employees. Another has informed me that this proposal will cut over 100,000 cases in sales next year. This is not a way to encourage economic growth.

This package is a bad deal for northern California and a bad deal for America. In an increasingly competitive international market, these new taxes will severely handicap California wine products. I strongly urge my colleagues to oppose it.

Mr. GALLO. Mr. Speaker, the United States stands tonight at a fiscal fork in the road. We have reached the point in our economic history where we must make hard and difficult choices about the road we will take. One thing is clear, however—we cannot continue along the road which has taken us to the brink of economic disaster, as embodied in our ever-growing and seemingly uncontrollable Federal deficit.

For nearly 6 months the leadership of the House has been engaged in a budget summit with the leadership of the other body and of the executive branch. Members of Congress have watched with frustration and impatience the long and tortuous summit process.

Earlier this week the budget summiteers placed before this House and the American people the fruits of their labor. This agreement gives us what is probably our only—and best—chance to make a real attack on the spending spree which has led us to this deficit. If we take the opportunity this moment presents the benefits will be immediately apparent—lower interest rates and a renewed confidence in our ability to put our fiscal house in order.

After waiting so long, I had hoped that the result would have had more to recommend its immediate and certain passage. This agreement is not one I would have crafted. The cuts in Medicare are excessive and I believe that we could have lessened the impact of new taxes if the agreement had been able to do more in cutting excessive domestic spending. In the coming weeks I will be working hard to try to make changes in the final package which reflect these beliefs.

It would be easy to pick apart this budget, to find things in it that I do not like. As a member of the New Jersey delegation I am particularly sensitive to any discussion of tax increases. The people of New Jersey have been understandably and justifiably upset with tax policies in New Jersey this year.

But I hasten to add that not all taxes—and not all tax increases—are alike. The most important difference between this agreement and the situation in New Jersey is this—the agreement is a reasonable solution to a very real problem. It is not a piece of social engineering hiding behind a so-called budget crisis.

Let's look at what this budget agreement will cost the average New Jersey citizen in the next year. The tax on gasoline will cost the average citizen of New Jersey $33.58 a year. It will cost the homeowner who heats his home with oil an additional $12.54 a year. A New Jersey one-pack-a-day smoker will have to pay an additional $29.20 a year. A six pack of beer will go up 16 cents; a bottle of wine will go up 22 cents.

Even though these increases are relatively small, I do not dismiss them as insignificant. But I believe they are a small price to pay for getting our Nation's financial house back in order.

The Medicare provisions will cost our seniors $8 a month in increased premiums. I believe that this part of the plan should be modified. But even if the proposed hike remains, the Federal Government will still be paying fully 70 percent of the cost of Medicare coverage. And the good news is that our seniors' social security is untouched and they will receive their scheduled cost of living adjustment, as will Federal retirees and our veterans. I am, however, disturbed by the change in Federal employees' lump-sum retirement option and I will work for changes in that as well.

As we add up the cost of this package we must not ignore the cost if we fail to act. Failure to enact this budget resolution would result in a massive, dislocating, and painful sequester. Across the board cuts of $85 billion on just a third of the budget would wreak havoc on our Government and on our Nation. A sequester could very well bring our already shaky economy to a screeching halt.

It's not just that a sequester would cut defense spending, although it would, by more than 30 percent. But what about the tens of thousands of brave young Americans who are risking all in response to their nation's call? Do we tell them that partisan political bickering is more important than their mission.

It's not just that some Federal employees would be furloughed, although they would be. But what about the seniors who won't be able to be helped at a closed Social Security office, or those in veterans hospitals whose care would be compromised?

It's not just that air traffic control would be disrupted, although it would be. But what about the people whose living depends on their being able to fly as a part of their work?

It's not just that inspection of meats would come to a halt, although it would. But what about the jobs of those in that industry, and in the supermarket industry and the restaurant industry who would also be affected if we had a meat shortage?

There are a whole host of similar disruptions which would occur under the terms of a sequester, and the scenario is not a pretty one no matter how you put it.

The specter of sequester is too awful to even toy with at this stage in the budget process. I would rather vote for an imperfect agreement than risk the perfect disaster of a sequester.

I am not willing to abdicate my responsibility as a Member of Congress, a political leader, a representative of my constituents by opposing this agreement. I was sent to the Congress to help solve the Nation's problems—not make them worse.

I fully recognize that this is a difficult vote for many of my colleagues—it was for me as well. I respect my colleagues for their decision as I expect they will me for mine.

I have spent nearly half of my life in public service, seeking always to do what I believe is right for the people who honor me by choosing me as their representative. I know the people I represent and I know that when they are through looking at this agreement—and at the alternatives—they will find that the price this agreement demands of us is manageable and should be paid.

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise in opposition to the budget resolution that is the product of the bipartisan budget summit. Despite my opposition, I do want to commend Speaker FOLEY, Republican leader MICHEL, President Bush, and all the other members of the budget summit for what I know was an exceedingly difficult exercise. While I cannot support the contents of the budget agreement, I know that it was put together in good faith as an effort to make the necessary meaningful and enforceable cuts in our massive Federal budget deficit.

Mr. Speaker, my South Dakota constituents do not shirk their responsibility to play a role in reducing our Federal budget deficit. In our part of the country, we recognize that there is no free lunch and that our bills must be paid. The current practice of simply charging the expenses of running our Government onto future generations while simultaneously driving up interest rates, fostering foreign takeovers of key industries, and shifting wealth from the middle class to the world's wealthy must come to a stop, and it must stop now.

Deficit reduction, yes. This particular plan, no. A nation's priorities, its values are reflected in its budget in a stark way. After the rhetoric clears, it is the budget which really tells us where our priorities lie. I don't expect, and my South Dakota constituents don't expect a budget plan which we regard as perfect—we know that this is a diverse Nation and that significant budget progress requires compromise and give and take.

But Mr. Speaker, this plan calls for more defense spending than either the House or Senate have previously approved, and takes nothing from foreign aid, while shifting more expenses onto the low-income elderly and

increasing taxes on the middle-class and working people. The trickle-down philosophy of the Reagan 1980's is continued in this plan—the notion that if the wealthy can just be made wealthier, the rest of Americans may get some trickle-down benefits. We've had enough of that in this Nation over the past decade.

This deficit reduction plan is in a major way built on huge reductions in agricultural spending, gasoline tax increases, and reductions in Medicare—together they constitute a particularly tough blow to a low-income, rural, agricultural State with a high proportion of low-income elderly. Already, the top 1 percent of American income earners—with average incomes over $549,000—enjoy an average tax cut of $82,000 per year over what they would have paid in the 1970's. Meanwhile, the typical middle-income family of four, earning $31,000 pays $409 more in taxes. This agreement continues that regressive trend by providing tax shelters for the rich but tax burdens for the middle class.

I appreciate that the alternative to this budget agreement is not the status quo—the alternative is not to do nothing and avoid all pain. But Mr. Speaker, despite the President's firm resistance to any proposal which would require the wealthy to make a fairer contribution to the Nation's budget crisis, I believe that we can come up with an alternative which creates greater tax fairness and spreads the pain of budget cuts in a much broader, more equitable way. I particularly comment Representative DORGAN and Representative OBEY for their innovative and far more progressive budget deficit-reduction plan which has been distributed among the Members. I do not believe that the brutal cuts imposed by Gramm-Rudman are our only alternative—a progressive, fair budget agreement is possible if only this body will demonstrate bipartisan political will.

Mr. LAGOMARSINO. Mr. Speaker, I must rise in opposition to the budget summit agreement. It pains to be unable to agree with the President, but I cannot support a budget resolution that raises taxes next year while further postponing cuts in domestic discretionary spending for 3 more years. I cannot support a budget that is based on unrealistic economic assumptions. I cannot support a budget that puts the burden of the national Federal deficit on the shoulders of a few selected groups of American consumers and the elderly.

I have been hearing the argument that I should support the budget summit agreement because "we must reduce the Federal deficit." Many Members are exclaiming that "we have to do something about the Federal budget deficit."

I have been trying to do something about the Federal budget deficit since I came to Congress 16 years ago. The need to reduce the deficit is nothing new. The fact that some Members have waited until now to warn the American people about our country's budget crisis certainly helps to explain how the problem got out of hand in the first place.

I think that Members who are concerned about reducing the deficit can start by repealing the 33-percent pay raise that passed Congress last year. How can Congress accept such an obscene pay increase and then call for extra taxes on American taxpayers? Any budget legislation aimed at reducing the Federal deficit should include a repeal of the congressional payraise.

History has clearly proven that an increase in taxes will lead to an even greater increase in Government spending. In fact, since World War II, for every $1 increase in taxes, Government spending has increased over $1.50. Now we are being asked to support the second largest tax increase in our country's history, almost $134 billion, and we're supposed to believe that everything is going to be different this time?

Let's take a closer look at the budget summit agreement for a moment. According to the agreement, the increase in taxes and user fees will total over $18.5 billion in 1991 and Domestic discretionary spending will be reduced by zero dollars. In 1992, the increase in taxes alone will total $26.7 billion and domestic discretionary spending will be reduced by zero dollars. By 1993, taxes will have been increased by almost $70 billion, and domestic discretionary spending will be cut by zero dollars.

Meanwhile, of the $119 billion in reduced mandatory spending under the budget summit agreement, about $60 billion comes out of the Medicare Program. It is unfair that elderly Americans, representing about 12.5 percent of the population, are being asked to bear more than 50 percent of the burden of the Federal deficit.

I have long called for an honest Federal budget with honest cuts in Federal spending. Our Nation's financial structure cannot be built on a shaky foundation. The economic assumptions that form the foundation of the budget summit agreement are too unrealistic to support true deficit reduction. A barrel of oil today already costs 89 percent more than the price listed in the economic assumption for 1990. Further, how will the American economy boast a 3.8 percent and 4.1 percent increase in real GNP in 1992 and 1993 after shouldering a $70 billion increase in taxes? Contrary to what I have heard, I believe that the real threat of recession lies behind the enactment of this budget agreement.

I urge my colleagues to look closely and seriously at the budget summit agreement. We desperately need to reduce the Federal budget deficit, but we do not need to pass desperate legislation to achieve that goal.

Mr. WOLPE. Mr. Speaker, I rise in reluctant but nonetheless strong opposition to the budget summit agreement. I do so because the agreement simply is unfair.

It is unfair that low- and middle-income working people would bear the largest share of the new taxes which would be imposed. According to the Joint Tax Committee, the agreement would mean a tax increase of 7.6 percent for those making less than $10,000; 2.9 percent for those making between $30,000 and $50,000; and only 1.7 percent for those making over $200,000.

It is unfair that senior citizens would be subjected to billions of dollars in increased cost sharing in the Medicare Program. Under this agreement, Medicare premiums would increase from $343 to $651 by 1995. This huge increase would absorb 70 percent of Social
Security cost-of-living adjustments during th
period.

It is unfair that laid-off American worke
would face a 2-week delay in receiving the
first unemployment check. It is clear that th
Nation is either in a recession right now or w
enter one soon. We can expect the Nation
unemployment rate to climb in the month
ahead. I vividly remember the human toll
the 1982 recession in Michigan. I find it i
comprehensible that we would even consid
adopting such a measure in today's econom
climate.

And it is unfair that, in the midst of the pa
of increased taxes and spending cuts, billio
of dollars of new tax breaks would be create
for wealthy Americans. For example, th
package contains $12 billion in new so-calle
growth incentives. Four years ago we passe
a tax-reform package that reduced tax rat
by eliminating inefficient and unjustified t
shelters that allowed some wealthy America
to avoid paying any taxes at all. I have se
no evidence to indicate that these new grow
incentives will encourage anything but th
growth of a new tax shelter industry which w
once again help the wealthiest among
avoid paying their fair share of the Nation
taxes.

This package also contains $4 billion in ne
production incentives for the oil industry.
seems that the doubling of oil prices in rece
months has not been enough to satisfy d
mestic oil producers. I strongly support Go
ernment investments to reduce our dangero
dependence upon imported oil. But such
vestments must be based upon a ration
analysis of how we can displace imported
in the most cost-effective mannner. This
billion expenditure has not undergone such
analysis. It isn't included in this package b
cause it is good energy policy; it is includ
only because the President and Members
Congress from oil-producing States have
sisted upon it. If we continue to make ener
policy decisions this way, we will squand
scarce resources without any appreciable
crease in our Nation's energy security.

Mr. Speaker, it has been said that this pac
age is the only alternative to sequestration
don't believe that. There are other altern
tives. For example, if we were to simply elin
nate the two new tax breaks that have be
proposed, we could reduce the impact of t
Medicare cut on seniors by almost 50 perce
and we could eliminate the 2-week waiti
period for the unemployed. How can we just
inflicting such painful cuts on senior citize
and unemployed Americans for the sake
highly questionable new tax breaks which w
only further enrich wealthy Americans and t
oil industry?

One last point: 40 percent of today's d
fense expenditures—over $130 billion—a
still directed toward defending Europe from
threat that clearly no longer exists. Isn't
about time that we ask our European allies
assume a greater share of the burden of th
own defense? That would certainly he
produce a much less painful and much mo
fair deficit reduction package.

The sad truth is that the budgetary crisis w
face today is the consequence of 10 lo
years of fiscal irresponsibility that has result

in an erosion of America's economic strength, a huge widening of the gap between the wealthiest one-fifth of our society and everyone else, and a loss of public confidence in the ability of our political leaders and institutions to put the interests of average citizens over those of the rich and powerful. This budget summit agreement will only reinforce all three of these disturbing trends. There is simply no way that I can vote for a package that is so blatantly unfair without breaking faith with the constituents who sent me to Congress. We can and must do better.

Mr. McCANDLESS. Mr. Speaker, I cannot and will not support this budget.

The people I am privileged to represent, the people of Riverside County, CA, consist largely of working families who must commute, and senior citizens. It would be difficult to write a budget that would hurt my constituents more than this one—with its 12-cents-a-gallon tax increase on gasoline, and its increases in the Medicare premium coupled with Medicare reductions.

There are six fundamental flaws in this budget:

First, it begins with the assumption that the deficit is so high because taxes are too low; second, it is technically flawed in its economic assumptions; third, it contains the largest first-year tax increase in American history; fourth, it creates the myth of spending reductions and reforms; fifth, there is no budget enforcement mechanism, and sixth, there are no budget process reforms.

I reject the assumption that we have a budget deficit because the American people are undertaxed. The average working American currently pays in excess of 40 cents of every dollar he or she earns in some form of taxation. The problem is that Congress has been unwilling to control Federal spending.

The economic assumptions which underlie the budget are completely unrealistic. The gross national product between 1990 and 1992 is projected—not to double, not to triple—but to increase by 543 percent. The budget assumes that the price of oil for the remainder of 1990 will be $21.15 a barrel. The current price is nearly $40 a barrel. The budget assumes that long-term interest rates will fall to 5.3 percent. That would be the lowest level since 1967. It's a nice goal, but it is not realistic.

The budget calls for a $134 billion tax hike over the next 5 years. Is a tax increase necessary? The answer is a resounding "No." It is estimated that, under current law and without enacting any new taxes, Federal revenues will grow by $400 billion over the next 5 years. If Congress held increases in spending to 4 percent per year, we could reduce the deficit and move toward a balanced budget without raising taxes. A tax increase, added to the $400 billion, will only allow Congress to spend more.

In 1991, the budget calls for zero dollars of budget reductions from domestic discretionary spending and foreign aid. In 1992, the budget calls for zero dollars in budget reductions from domestic discretionary spending and foreign aid. In 1993, the budget calls for zero dollars of budget reductions from domestic discretionary spending and foreign aid. In fact, the budget allows domestic discretionary spending and domestic entitlement spending to increase by an average of 6.5 percent. The spending increases in nondefense spending will total $724.6 billion over the next 5 years. That represents an $5.40 increase in spending for every new dollar of tax revenues.

There is no serious enforcement mechanism. New spending to deal with an emergency does not count in the new spending caps. Excessive spending due to faulty economic assumptions do not count against the caps. And the Gramm-Rudman balanced-budget law is weakened by allowing Congress to miss the mandated deficit-reduction targets by $15 billion. In technical terms, this has been dubbed "wiggle room." In real terms, it means that Congress will not be held accountable to abide by the budget.

And, there is no reform in the budget process. The current budget process was not and is not designed to control Federal spending. In fact, the current budget process was adopted in 1974 because President Nixon refused to spend some of the money that Congress had appropriated. I have long been an advocate of meaningful reforms in the budget process. Those reforms should include a balanced-budget/tax-limitation amendment to the Constitution; a line-item veto for the President; a zero-based budget where every budget dollar is justified on an annual basis; the use of a 2-year budget cycle; the removal of Social Security from the unified Federal budget; and, an end to the use of continuing resolutions.

Those are the fundamental flaws of this budget, and there are many more.

Californians recently approved an increase in the State gasoline tax specifically for the purpose of building and improving roads. The crisis in the Persian Gulf has meant another increase in the price of gasoline. And now, this budget calls for an additional 12 cents—2 cents at the wholesale level and 10 cents at the pump—a gallon increase that my constituents will have to pay. In my congressional district, a car is not a luxury, it is a necessity. A tax on gasoline should be used to reduce gridlock, not for general revenues.

Senior citizens should not be singled out for a massive increase in the cost of their health care insurance. The monthly premium that seniors must pay Medicare would nearly double, going from $29 today to $54 in 1995.

The budget assumes that $64 billion will be saved by a reduction in interest rates that isn't going to happen.

The budget claims a $8.1 billion savings by eliminating the lumb-sum civil service retirement option. There are no savings here. All that is changed is the timing of the payoff. Total spending, over time, remains unchanged.

Nearly $36.5 billion of savings from entitlement programs come from either new revenues or budget gimmicks. Another $23.8 billion comes from unspecified savings, optimistically relying on Congressional committees to produce real savings.

Increasing taxes under Gramm-Rudman does not reduce the deficit, it allows spending to increase.

A 10-percent tax imposed by the budget on certain luxury items could easily be converted to a national sales tax simply by altering the definition of "luxury."

The budget prohibits any tax reductions unless they are offset with a dollar-for-dollar tax increase.

The budget calls for a $5.4 billion transfer from the Postal Service to the Treasury. The Postmaster General estimates that the price of a stamp will have be raised by 5 cents just to cover loss.

There is an alternative to this budget. It's called the 4-percent solution. It limits the increase in Federal spending to 4 percent a year; it established a mid-year Gramm-Rudman review to insure that the deficit is under control; it eliminates current services budgeting; and it requires that any new spending in one area be offset by a spending reduction in another. I would urge the House leadership to allow this proposal to be brought before the House of Representatives.

But the issue before us is the budget summit agreement. It is bad budget, and one that should and must be rejected. Therefore, I will vote "no," and would urge my colleagues to do likewise.

Mr. TANNER. Mr. Speaker, as I reviewed the provisions of the budget summit agreement, I found some that I find objectionable. However, in making up my mind, three facts stood out.

First, we as a nation have been on a course of deficit spending promising economic disaster for several decades, but our speed on that course has accelerated during the 1980's. The national debt has tripled in the last 10 years and, absent action now, it will increase by 10 percent again in fiscal year 1991. We are clearly confronting a fiscal crisis that threatens our very future.

Second, the Congress had only two choices before it to reduce the budget deficit: vote for this agreement or let automatic, indiscriminate cuts—called sequestration—cut Federal programs by $100 billion immediately. No other alternatives were available for consideration.

Finally, there are about 200,000 American soldiers, sailors, marines, and airmen deployed in the Persian Gulf area facing imminent danger. The indiscriminate cuts would have cut funding for defense alone by about $48 billion.

In drawing my conclusion, it was painfully obvious that:

First, action is desperately needed to begin to stem the flood of budget red ink that has accumulated;

Second, an agreement forged by honest, difficult negotiations between the bipartisan congressional leadership and the President was preferable, in present circumstances, to across the board cuts that would have decimated Federal programs across the board; and

Third, it would be irresponsible to allow across-the-board cuts to undermine the support that is vital to the success and, hopefully, the safe return of those military forces.

This is the first step in this process. Over the next 2 weeks, some of us in Congress will be working hard to improve this proposal. At the end of this process, for the sake of our economic health and in fairness to our children and grandchildren, we must have a deficit reduction package that is effective.

If this bipartisan agreement is the best we can achieve, we must join together as a nation willing and committed to the financial integrity of the United States of America.

Mr. RAHALL. Mr. Speaker, I rise in opposition to the budget resoultion.

I know that this resolution was arrived at by a very concerned, well-meaning, and dedicated group, who began their meetings well over 5 months ago.

I thank the leadership for their efforts. Frankly, with the past 2 years' worth of rhetoric ringing in their ears— "read my lips, no new taxes,"—and then "give me a capital gains tax reduction or else," I am surprised they were able to agree to anything.

In representing my district, to me things are quite clear. Of the hundreds of calls my office received after the President's speech, not counting the telephone calls before his speech on the budget, only 10 percent have been from people asking me to support this budget resolution. Only 10 percent say "yes"; 90 percent say "no."

One constituent said: "Congressman, didn't we learn our lesson when we fell for Reaganomics? Do we have to fall for 'Bushonomics,' too?"

In May of this year, the President's budget was withdrawn from the House floor with no vote allowed on it.

It seemed there were new worrisome economic indicators on the horizon that the President had not seen before.

The indicators were called: savings and loan costs. The costs we were told would amount to only about $50 billion just a year ago, are now projected to cost $375 billion.

While Mr. Bush was repeating his famous "read my lips" chant about no new taxes, the people of this country had already begun to pay a very new tax—a tax on every man, woman, and child, to pay off the savings and loan losses that were caused by outright, criminal fraud in most cases.

The President had not even abdicated his "no new taxes" theme when he urged Congress to enact the savings and loan bailout bill last year. If those aren't new taxes I don't know what are. Last year, in the face of Presidential and congressional pressure to pass the savings and loan bailout, I voted "no." I will vote "no" on this budget today as well. It is much the same thing.

But while the President was calling a budget summit because of the unprecedented growth in the costs of the savings and loan scandal, he was also very firmly telling budget summit negotiators that:

If the new budget resolution doesn't contain a tax cut for the rich—called capital gains tax reductions—he would veto it.

And so we are here today making sure the rich get richer.

When the rich are sick. They buy the best medical care in the country.

When the rich get sick, they don't need Medicare.

West Virginia's low- and middle-income seniors do need Medicare.

When the rich get sick, they go to the hospital of their choice.

When the poor get sick, they may find their local hosptial has closed, due to reduced, insufficient Medicare payments.

Now, when Medicare gets cut by $60 billion. the middle-income seniors get dumped on, while the rich get well.

When the rich want to get from one place to another, they climb into their expensive cars, never giving the cost of gasoline a thought.

When the poor want to get from one point to another, they look at the gas pumps to see if the price of gasoline has gone up since they last looked—as early as yesterday.

Now when gasoline goes up, the rich don't notice, and the middle income get left at home, unable to do more than get to work and back every week on their budgets. Forget the family outing with the kids, or a trip to the doctor, or to the high school where a son or daughter may be making their debut in the school play, or setting records on the sporting field.

When winter comes and the air outside is frigid, the rich lounge in warm houses, or travel to warmer climates.

The middle income stay home and try to conserve their home heating oil by heating only one room, rather than the whole house. If you are among the elderly and can't heat your home due to high costs of home heating oil, you run the risk of death from hypothermia. Isn't any one listening?

Or maybe, if you are a senior citizen you have had to make a choice, and instead of eating, you are heating.

That is not the choice our senior citizens should be forced to make, and I will not be a party to any budget agreement that makes them choose between food, and home heat, or between heat and health care.

Later in the budget summit process, the President abandoned his "no new taxes" pledge, but he still did not abandon his absolute demand for a tax cut for the rich—capital gains tax reduction.

This demand, unrealistic as he knew it was, held up this budget making process for 2 months longer than necessary.

And still we get a budget that does absolutely no harm to the rich, and great harm to the poor.

Our West Virginians are not able to bear any more tax burdens. They are taxed to death now. We have paid more than our fair share for the budget-busting, bygone days of the Reagan, rich-get-richer revolution.

West Virginians can't afford to close any more hospitals. Four closed in my district alone last year.

Veterans can't afford to lose more services while their out-of-pocket expenses for health care increase. They should not be asked to do without health care, which they would not need had they not risked health and life in defense of this country.

The economic sanctions we are imposing on the American people in this budget are the moral equivalent of the economic sanctions we have imposed in the Persian Gulf.

We are blockading our own people, and cutting them off from a world where they ought to at least be assured of the bare necessities of life.

And I haven't even mentioned the depriva
tion America will suffer from not meeing its ir
frastructure, and other critical economi
needs, long neglected here in this very roor
in the name of stockpiling nuclear weapons.

All I can think about right now are th
human deprivations contained in this bill. The
are so deep, so harmful, I find it tough to tal
about roads, or airports, or education, or chil
care, or jobs training—all of which are severe
ly threatened here, make no mistake abou
that.

What would I do instead?

I would revisit the rich, and burst that Ta
Code bubble once and for all. Then I would ir
crease from 28 percent to 35 percent the to
rate on people earning over $200,000 a yea

That would earn me $60 billion which
would then take to Medicare recipients an
say: Here. Now you won't have to have you
doctor and hospital care cut by $60 billion.
found it for you.

Next I would go to the Department of State
and from its foyer I would demand the $15 bi
lion that goes to foreign aid. And I would tak
it to the homeless, to law enforcement off
cers, to educators, to working poor families i
need of child care, and I would say you don
have to sleep with your families in the hars
streets, or find yourself unable to protect con
munities against the scourge of drugs, or d
without an education, or leave your childre
alone while you work. I found the money yo
need, without raising taxes.

And then I would visit the Defense Depar
ment. And I would first get at least $3.4 billio
for the veterans who, after all, went to wa
and became veterans in defense of this cou
try.

Then I would go back to the Pentagon ar
get a few more billion and I would give the
to towns and cities and businesses, t
schools, and hospitals, and roads ar
wastewater treatment plants. And I would tak
what is left and I would help any Social Sec
rity recipient who had ever received an ove
payment, to repay what is owed.

Then I would take a couple more billio
perhaps $10 billion from star wars and Steal
bombers, and use it to cancel the gasoline ta
increase, and the home heating fuel increas
Then I would tell the elderly, the poor and th
near-poor. It's OK. You can heat, and eat, ar
get to work, and to school, and to church, ar
to doctor appointments. You can afford it no

I would even try, once and for all, to put
stop to the endless, shocking use of threa
ened furloughs for the Federal workforce, b
writing into any budget resolution some prov
sion that prohibits Federal worker bashin
and lump-sum option bashing, and Feder
health insurance premium bashing.

It's time to stop making our Federal wo
force the scapegoat for late budgets whos
delay was actually caused by a recalcitra
President who insisted upon a capital gai
tax reduction for the rich.

And lastly, I would stop beating up on th
Postal Service, whose men and women he
this country stay in business and stay
touch, enabling us to engage in commerce,
communicate, by delivering the single large
volume of mail in the history of civilization
record time against seemingly impossib

odds. It's time to stop abusing them, stop threatening their ability to survive, and when they retire to reap the just rewards of their service to us all.

I repeat. There are other avenues to travel, other roads to take. Let us take them, Mr. Chairman. Let us defeat this resolution, and then let's pass a resolution that is fair—and by fair I mean to realize a peace dividend by raiding the defense coffers, by keeping our foreign aid funds here at home, and by making burden-sharing a mandate among the richest people in this Nation.

Mrs. KENNELLY. Mr. Speaker I rise in reluctant support of the budget summit agreement, House Resolution 310.

I don't like the Medicare provisions, I don't like the 2-week waiting period for unemployment compensation, and I don't like the bill's lack of progressivity. I don't like it, but I am going to vote for it because the alternative—sequestration—is unacceptable.

Sequestration represents the failure of Government. And my constituents didn't send me to Washington to fail. My constituents sent me here to vote. So I am going to support this package, not because I like it, but to move the process along.

If we approve the conference report today, the committees can begin to rework parts of the package. We have been assured of this. Therefore, I am going to vote to give the committees, and especially my committee—the Ways and Means Committee, the opportunity to make this a better package.

The 2 percent refined petroleum tax on home heating oil is unacceptable. But I have been assured that every effort will be made to remedy this. I want to be part of that effort to assure that New Englanders already burdened by a 44-percent increase in the price of home heating oil aren't the only Americans to have their source of energy for heating taxed.

Clearly if the decision was between this agreement and some other palatable plan, I would vote no. But that is not the case. So I am left with balancing my dislike of this package with the possibility of influencing the outcome, all along knowing that the alternative is sequestration. And sequestration is no option.

Thank you.

Mr. KASTENMEIER. Mr. Speaker, colleagues, like most of you, I have pondered long and hard over my vote on this budget agreement negotiated between the President and our leadership. I pondered long and hard because I had to recognize that any alternative to this agreement would be difficult to achieve. But I have come to the conclusion that I cannot, in good conscience, support the agreement.

This budget plan breaks faith with the average citizen in our country. It hits hardest at those who can least afford it—the poor, the middle class, the senior citizens. It breaks faith with those people whose interests I have always tried hardest to represent here in Congress, and those issues that I have always supported.

There is the obvious impact of the Medicare cuts on the elderly, and on our medical delivery system generally. The energy taxes may serve some beneficial conservation purposes, but the burden of paying those taxes, on top of the burden of gas prices that are already increasing, is asking too much of those whose incomes are already stretched to the limit. Those increases are inflationary, and they are recessionary. The agreement proposes to increase the tax on heating oil, when in northern States the poor elderly already face higher heating costs this winter.

For those who suddenly find themselves forced out of a job, this agreement would suspend the first 2 weeks of unemployment compensation.

And now, we learn of an even more egregious element to this budget agreement. We find that the agreement would restore the hoopholes and tax breaks for the wealthy that we eliminated in the Tax Reform Act of 1986. One of the only truly good things that could be said about that act was that it eliminated tax breaks for investments, that it ended the policy of using the tax codes to direct investment decisions. The Congress has addressed that issue and found it appropriate to eliminate those tax breaks, so why should we restore them in this budget agreement? That was the straw that broke the camel's back for me; the budget agreement suddenly lost all credibility.

Overall, the President and the Congress can do—must do—much better. Our congressional leadership has bargained in good faith, but the negotiations were ultimately ineffective in producing a fair result—that's the bottom line.

We must remember, that the House has already passed a budget that is much better than this agreement. It was a budget that I voted for, despite my opposition to most annual budget resolutions over the last 10 years. I voted for it because it achieved real spending savings, particularly in defense, and because it called for fair cuts in spending and a sharing of the pain.

This agreement gives the military $70 billion more than the budget we passed. And who do we ask to pick up the costs of that military spending? The poor, the middle-class taxpayer, the Medicare recipient.

We can do better. I am a cosponsor of the Obey/Dorgan alternative plan introduced this week. While still being painful, our alternative is a more fair plan; it does not spare the wealthy. We would cut defense spending by $35 billion more than this agreement. We would eliminate the tax bubble for wealthy taxpayers, and we would adjust the top tax rate of 35 percent for those with adjusted gross income over $200,000. We would reduce the Medicare cuts in the agreement by one-half. And we would cut the gas tax increase by one-half, and eliminate the increased tax on home heating oil.

That alternative is a better alternative, and I hope we will yet have an opportunity to consider it. But I cannot support the budget agreement before us today.

Mr. MOLLOHAN. Mr. Speaker, there has been a great deal of talk this evening about spending reductions and tax increases, but we are not debating any spending bills and we will not be voting on any tax legislation tonight. With our votes tonight, we are merely deciding whether to go forward with our goal of drafting and enacting a truly equitable deficit reduction package.

We have not, frankly, reached that point. The package presented to us this evening was probably the best that could be produced in summit negotiations with a President elected on a read my lips pledge against new taxes, but it is not a fair package, it is not an equitable budget.

I don't like this resolution, Mr. Speaker, but I am going to vote for it. I don't say this with any enthusiasm. Indeed, it would be awfully easy for me to stand here right now and explain why I oppose the resolution. I don't like the size of the Medicare reductions. I don't like the requirement that States impose a 2-week waiting period on unemployment compensation. I don't like the increase in the gas tax. I don't like the package's emphasis on excise taxes generally. Rest assured that I could easily go on for quite some time about the things in this budget that I do not like.

But, Mr. Speaker, we weren't sent here to do what is easy, we were sent here to do what is right, and it would be wrong, very wrong, for this Congress to reverse our progress toward equitable deficit reduction.

Let there be no misunderstanding: I will not vote for legislation that cuts Medicare by $60 billion. I will not vote for a tax bill biased against the lower- and middle-classes.

But that is not what we are voting on tonight. We are voting to continue a process, a process, Mr. Speaker, that will ultimately be successful only if it leads to legislation that addresses the fiscal inequities of the 1980's at the same time that it addresses the fiscal folly of the 1980's. We cannot turn our backs on that process tonight. We must not abandon our principles by taking the easy way out, by throwing up our hands and abandoning the fight when victory is within our grasp.

Mr. COLEMAN of Texas. Mr. Speaker, I rise in support of this budget resolution. I do so for two good reasons. The first is that the immediate alternative, an across-the-board cut or sequester of up to $105 billion, is worse for the American people and for the American economy. The second is that only an "aye" vote on this resolution gets us to a situation in which we may consider a reconciliation bill on the floor of this House within the next two weeks. The reconciliation bill will at least be a legislative package. It will provide this congress with an opportunity to do what it should do—that is, to write, debate and vote on an alternative legislative proposal, made up of revenue increases and spending cuts, which improves upon the product from the summit. Today's announcement from President Bush acknowledges and confirms the House's prerogative—this package needs to be made more fair for working men and women in this country. It has to be changed, and it will be changed, but only if this resolution passes.

Each of us finds some general aspect of the summit package that is intolerable politically and intolerable substantively to our constituents. Each of us can take some part of the package that directly contradicts some previously stated position at a town hall meeting, or in some letter that we have sent from our offices. It is my firm belief, for instance, that the Democratic Party's negotiators in the summit were overwhelmed on some issues by the Republican administration. This package is inequitable—it provides a very substantial tax break to the wealthiest among us. And while

the tax bill paid by all Americans would increase under this package, the tax bill paid by Americans with incomes of $50,000 or less would increase proportionately nearly twice as much as the Federal tax bill for those with incomes over $50,000. That is unacceptable as an overall outcome of these negotiations.

I specifically object to the Medicare provisions. Every year since Gramm-Rudman has gone into effect, we have come to October and November and found ourselves short of the deficit target. We have always looked at entitlements and we have always looked within entitlements at Medicare. This plan goes much too far on these accounts. The increase in the deductible is too high. The increase in premiums is too high. The savings from cuts to Medicare providers and increased fees for beneficiaries this year in the summit package is three times what it would be even under sequestration. That has to be changed.

The point is that there can be no changes in the package unless you vote to pass this budget resolution and to move the process forward. This is a complicated package, but it is a simple vote. President Bush has said, after a year and a half of sloganeering, that he now needs new taxes to run the Government. The leadership in the Congress has said that we need new revenues to enact appropriations bills. That much is very clear.

Most of the Republicans who vote "no" on this package will try to tell the American people that we don't need new taxes and we don't need tax increases. The reason for this is that most of the Republicans who will vote "no" on this package—and please watch closely to see how the vote goes within their own ranks—have no interest in governing. They will not tell you how ruinous the alternative is. They will not tell the people in their districts what the real and immediate effects of a sequester would be.

Those consequences would be disastrous by any reasonable economic or human standard of measure. Experts have testified that failure to enact an alternative package would bring about a prolonged recession and that it would panic already nervous financial markets in New York, Tokyo, and Europe.

In my district, I know the chaos that a sequester of $84 or $105 billion would bring about. I represent a district that is heavily dependent on the Federal Government. It is a very poor per capita income district—and a district which is proud to contain a large and essential Department of Defense installation, Fort Bliss. Cuts of one-third and more of the Federal dollars which go to my area would not just be deep, they would be life threatening.

West Texans would be hurt badly by the enactment of an unimproved summit package. But they would be hurt worse by a one-third cut in community development block grants and the nearly 50 percent cuts in training and readiness of our Armed Forces under the anticipated sequester. Fort Bliss has already sent 8,000 brave men and women to Saudi Arabia—how is our post and our community which depends on it supposed to absorb cuts of that magnitude? My city, located on the United States-Mexico border, already has unemployment of 10.7 percent. How can it stand to lose as much as $60 million out of its total Federal transfer check this year of $170 million? The answer is that it cannot.

This bill raises $16 billion in taxes and user fees in this fiscal year. It cuts spending by $21 billion over the next 12 months. This is not an easy package to support. But think about what happens under a sequester of $84 billion. Nondefense discretionary spending would decline by $34 billion. That is not a stretching of the safety net for the poorest in America—it amounts to tearing it to shreds. Defense spending, after the cost increases of Desert Shield had been paid for, would be cut by $43 billion. In the summit package, defense spending cuts would total $10 billion. That cut alone will bring us dangerously close to underfunding national defense, even after the cold war. Think what a cut 4½ times worse would do. The same Members of the other party who tar and feather Democrats as being weak on defense are the ones who are standing in the well today to say that they prefer these cuts to a package with revenues. Shame on them.

I urge Members to vote for this resolution, to avoid fiscal chaos, and to keep this process moving forward.

Mr. COYNE. Mr. Speaker, the deficit-reduction legislation has worthy objectives. However, the means to achieve the objectives are flawed.

I oppose this legislation for several reasons: First, it is unfair; individuals at the lower end of the economic scale bear a disproportionate share of the tax burden; second, the economic section of the tax package raises more questions than it answers, and is open to abuse; third, the Medicare component places an unfair burden, because of the increase in the premium and the deductible, upon the elderly; and fourth, the manner in which it was prepared, or as the New York Times describes the process "governing by cabal," is objectionable.

First, the Joint Committee on Taxation states that those making less than $10,000 will experience a 7.6-percent increase in taxes; whereas those making $200,000 and over will only experience a 1.7-percent increase in taxes.

Is this fair?

Second, the package includes tax breaks for small business, which according to the chairman of the Senate Finance Committee "could lead to a substantial increase in tax shelters and great abuse." This package contains proposals which have not been submitted to scrutiny which is achieved through public hearings. This legislation, directed at encouraging small businesses has been described by Hobart Rowen as "a slew of new tax shelters that would cost $12 billion over five years." As Rowen states, the $12 billion cost is merely the official estimate "that figure is likely to soar."

Third, the Medicare provisions are simply unfair. This agreement increases the premiums from $343 a year to $631 a year by 1995, almost doubling; while at the same time we raise the $75 deductible to $150. We are talking about increasing the tax burden for those least able to afford it.

Fourth, according to a New York Times editorial "Instead of basing budgets on reasoned, public review of spending demands and potential revenue, critical decisions are now made on an all-or-nothing basis by administration officials and a handful of Congressmer negotiating in secret, not knowing themselve exactly what they've done. This proces amounts to governing by cabal, and that's n way to run the U.S. Government."

This point, Mr. Speaker, raises some ver serious questions. Citizens who are adversel affected by this proposal and who bear a disproportionate share of the burden, have ever right to wonder about the process, especiall when legislation is presented to this body on take it or leave it basis, and the options ar narrowed even more when the choice is—accept this legislation or face sequestration.

This does not have to be. First, the chai man of the Health Subcommittee, on which serve, has crafted legislation which rectifie the inequities in the Medicare provision. Th premium remains at 25 percent and the deductible is set at $100. The chairman then ac justs the HI wage cap upward to $150,00 and thereby raises $17.6 billion over 5 year

There is a further option that we have, an that is the progressive plan for deficit reduction put forth by my colleagues, Mr. OBEY an Mr. DORGAN.

Their modification of the summit agreemen as set out in more detail by the authors, w produce lower deficits and do so in a manne that is much more equitable.

Mr. Speaker, Edmund Burke, writing at another time and in a different historical contex to the Electors of Bristol, stated that "government and legislation are matters of reaso and judgment, and not of inclination; and wha sort of reason is that in which the determination precedes the decision, in which one se of men deliberate and another decide * * *?"

Mr. Speaker, I urge defeat of this resolutio We can do better.

Mr. FIELDS. Mr. Speaker, I rise in oppos tion to House Concurrent Resolution 310.

While I take no pleasure in opposing o President, whom I have long admired, th budget agreement is so flawed and so bad f America that it must be rejected. It is a pr scription for economic disaster and an elix that will cause great suffering for millions Americans.

There is no question that we face a budg crisis of historic proportions. But the solutio to that crisis is not higher taxes. Rather, on by making substantial reductions in Feder spending, including large reductions in the d mestic discretionary side of the ledger, will w accomplish the goal of reducing the budg deficit. But disturbingly, such discretiona spending reductions are conspicuously abse from this agreement for the first 3 years.

This budget agreement is the wrong mec cine at the wrong time. It proposes th second largest tax increase in our Nation history, and it does so at a time when o economy is teetering on the brink of rece sion. The worst thing we can do in an ec nomic downturn is to raise taxes.

There is nothing in this agreement that w create jobs, spur economic growth, or encou age investment in America. Quite the contrar this agreement is a disincentive to investmer and it will hurt those Americans least able afford it—the poor and the elderly.

Under this agreement, my 84-year-old grandmother in Denver Harbor, TX, will face staggering increases in her Medicare costs. She will be forced to pay higher Medicare premiums, her deductible limits will be doubled and, for the first time, she will pay 20 percent of her laboratory costs. If this agreement is enacted, my grandmother and millions of elderly Americans like her will be forced to choose between food and medicine. No American should ever have to make that choice.

Mr. Speaker, I was hopeful we could get a budget agreement that was good for America. We still can. First, however, we must reject this package because it is a formula for economic stagnation.

I remember all too well when we approved the misnamed Tax Equity and Fiscal Responsibility Act of 1982. I learned then that tax increases, once enacted, are permanent and are both inflationary and recessionary. I also learned that Government spending reductions often fail to materialize. Why do we persist in making the same mistakes over and over?

The tax increases called for in this budget agreement will hurt many Americans—especially those of us who live in the Southwest—who must travel, without the benefit of federally subsidized mass transit, long distances in our cars and trucks to make a living.

Mr. Speaker, I urge my colleagues to vote "no" on House Concurrent Resolution 310. By rejecting this agreement, our Government will not cease to function. The sky will not fall on us. There is still time to come up with a budget agreement that is sound, fair, and doesn't destroy our economy. I am prepared to work day and night to accomplish such an agreement. We can do better. The American people deserve better.

Mr. VENTO. Mr. Speaker, I rise in opposition to the budget resolution. Deficit reduction is an urgent national priority. There are some individual elements of this resolution which I support. Opposition from many sources indicate some ground has been given and a difficult decision is presented to the House tonight.

In the final analysis however, this budget agreement fails the test of fairness and balance. It socks low- and middle-income Americans with regressive taxes and Medicare cuts while it insulates wealthier Americans from paying their share of the burden. It gives the bill for the tax cut party from the decade of the eighties to people who weren't even at the table. It uses cold war military assumptions for a post cold war world, resulting in much higher military spending than has already been approved by the House. Fundamentally the policy path established by this budget resolution is out of sync with the reality of this new decade. It raises expectations of budget savings for 5 years and the unrealistic economic assumptions and data in it will be outdated in 5 months.

Mr. Speaker, real budget choices go to the heart of our responsibility as legislators. It is the time when we put the flesh and bones on the vision we have for America's future. The decisions we make aren't easy, and they aren't supposed to be. Making tough decisions about taxes and spending is what we come here for, but this measure tonight raises expectations that set up the Congress and President for failure. The military operation in Saudia Arabia—Desert Shield—is off budget and apparently not scored for the law. Funding for the S&L bailout isn't counted, another example, but both these items will add greatly to the 1991 deficit.

There is no doubt that the budget resolution before us today is tough but is it effective? Is it fair? Is it good policy? It will inflict pain on nearly every sector of our society. The question is are such sacrifices going to be rewarded with positive, lasting results. Sadly I conclude that it would not! I would support reducing the deficit by $500 billion in 5 years as promised by the summit agreement. Indeed we should be supporting a plan which cuts the deficit even more. But any deficit reduction plan we enact should be a fair package. It should spread the burden in an equitable manner.

I am strongly opposed to the imposition of the automatic cuts, didn't vote for such law—but it is the law in 1990, sequestration would cause economic hardship for millions of Americans and would be a great disservice to Federal employees. If our choices today were only between the budget resolution and automatic cuts, most all of us would support the resolution. But these are not our only choices. We have several weeks before the elections and several months before the end of the 101st Congress. Decisions such as this always come down to the crunch. There is time to modify the package to make it fair to low- and middle-income Americans. As an example, we have an alternative plan, an amendment to this package which I am cosponsoring, the Obey/Dorgan progressive plan for deficit reduction. This package would produce lower deficits, lower spending levels and lower tax increases than the budget agreement. I hope we will have an opportunity to consider elements of this plan and substantial changes to the budget agreement before the House. This budget plan has by passed the committees of Congress, the obvious defects and short falls are ample evidence to the poor process which created it. Some of the specific reasons I am opposing the budget agreement are obvious. The increase in excise taxes on cigarettes, alcohol and gasoline and petroleum products are regressive taxes which hit lower- and middle-income people the hardest. These increases would be palatable if they were accompanied by progressive tax increases based on the ability today. This package lightly touches upper income individuals, hits some specific businesses directly with the insurance DAC without even consideration of its impact. But the biggest outrage is after raising $160 billion in revenue, taxes, this package gives $20 billion in tax cuts to the oil companies, so called small businesses and others. I am also concerned about the $20 billion cuts in Medicare proposed in this package. The agreement requires Medicare beneficiaries to pay $30 billion in premiums and deductibles over the next 5 years that doubles the premium cost in that period.

The average senior will have to pay $54.30 a month premium in 1995, up from the current $28.60 per month, and their deductibles would double. The plan also proposes cuts of $30 billion in Medicare cuts in payments to doctors and hospitals. Some have referred to this Medicare portion of the budget summit "catastrophic without the benefits". What ever the explanation, its plain catastrophic. While I understand that some cuts may be required, these cuts go much too far and result in denying many seniors adequate health care.

Certainly one of the most disturbing aspects of the budget summit agreement is that it rejects the House-passed budget resolution's levels for national defense, which would have fallen to $275 billion by fiscal year 1993 due to the end of the cold war. While this budget agreement takes a meat ax to the poor and elderly on Medicare, outlays next year for defense increase $6.1 billion more than the level approved earlier by the House. Over the next 3 years, the summit agreement budget levels are cumulatively $33.6 billion more than the levels previously agreed to by the House. Additionally, Operation Desert Shield is exempt from limitations of the budget agreement—estimated to expend at least $15 billion in 1991. This exemption will prove to be a major loophole in the higher ceilings which are set for defense spending in this budget agreement.

Mr. Speaker, this year I voted for final passage of the defense authorization bill. I did so because I believed that we were truly embarking upon a new policy path, a different direction with meaningful reductions in defense spending in light of the improved relations between the United States, the Soviet Union, and the Warsaw Pact. This budget agreement restates business as usual rather than long-term defense spending reductions than would have been the product of a House-Senate conference committee this year.

It saddles this Congress and Nation with a policy for the future of continued dramatic Pentagon spending path, almost unabated during the 1990's. I am concerned about the 2-cents-per-gallon increase in the tax on refined petroleum products. The price of heating oil in our Midwest region of the country has risen and will continue to rise should the situation in the Middle East deteriorate. This tax will be an extra burden on citizens of my State. The whole direction of energy policy in this package needs to be rethought. The package contains a $4 billion tax break for oil companies. While I support increasing domestic production of oil, I am not sure these expensive breaks will improve our energy security. Oil companies have already reaped huge windfall profits from the price increases. Energy security can be approached from a number of other directions including improving energy conservation and developing alternative energy sources. This package needs more balance in the area of energy policy.

Also included in the budget summit package is an agreement that cuts a middle ground between House and Senate-passed Federal Housing Administration [FHA] reforms. While each FHA reform proposal brings in funds over 5 years, the House-passed bill brings in less. The Vento-Ridge amendment, which passed this body by a vote of 418 to 2, is a better proposal in terms of the public policy intent to preserve FHA for first-time and low-downpayment homebuyers. Apparently, however, the $1 billion extra from first-time home

buyers was not enough of a cash cow for this budget agreement. Instead an "up the middle" split to raise $2.5 billion under this FHA function became the term to which we had to adhere. This is a clear example of how budget-driven revenue grubbing runs counter to or has no relation to actual policy goals—in this case home ownership. Preserving and repairing FHA should be our goal—not whether we should balance more of our budget on the already overloaded backs of some family who is trying to buy a home.

Mr. Speaker, we all appreciate the budget summiteers who labored to work out an agreement on the most critical problem facing the Nation—our economy. Their negotiations were lengthy and difficult. However, I cannot support this resolution in its present state. We don't have to go back to square one. Some elements of the budget package are necessary for compromise. Let's roll up our sleeves and work out an agreement that cuts the deficit by the same amount or even more but has a better balance, a better reflection of what the American people support. This measure is not worthy of this House and the Members who serve. We can do better and we should.

Mr. PANETTA. Mr. Speaker, I yield 4 minutes to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, we went to the summit about 4 months ago. I must tell you that I think everyone in that summit, both sides of the aisle and the representatives of the administration, worked as hard as they could to try to do what the President asked us to do. The reason we were in the summit was because we have a divided Government, the President of one party, and Congress controlled by another.

In Great Britain the Prime Minister's budget is approved 2 days after it arrives at the House of Parliament. We don't have that system. Because of our fundamental disagreements, we found ourselves in a summit trying to do what the Congress, along with the President, should do.

Having had that experience, having found it frankly to be unsatisfactory, because we had so much trouble dealing with those fundamental differences, I stand before you tonight to say that I hope we do not summit any more and that Congress does its work.

We tried hard, and everybody in that room worked hard. We came up with options and we came up with ideas, and we debated those differences week after week after week.

When it was over, just a few days ago, I was standing in my office, not far from here, with Senator MITCHELL and Speaker FOLEY. We had to make a decision on whether we would go forward with the agreement or not. I must tell all of you that I was personally deeply disappointed with the results that we achieved.

Going into it, I thought one of the things we had to try to do was to achieve a tax situation for all Americans that was at least as fair as the tax situation we have today. I do not think we achieved that. I do not think that is the result.

But even with that, and the other disappointments that I have and others have with the result, I believe the best thing to do tonight, and I thought the best thing to do the other day, was to go forward with this agreement.

The reason I say that is I think we have two choices. We can kill the agreement tonight and keep on fighting for what be believe in, which we should and we will; or we can pass this agreement tonight, try to improve it through the committees of the Congress, and come back to fight another day for what we believe in.

The reason I think we should approve it is not just because there is chaos in our economy, not just because there might be sequestration and even no continuing resolution with the whole Government going down, and not just because we have got kids in the desert in Saudi Arabia, and not just because we have got a trade deficit that makes us not as competitive as we should be at the very time in the world's history when we should be stronger than we have ever been, but most of all we should approve this agreement because I think the American people have begun to lose faith in our ability to do our business.

How many times have you had people come up to you and say, "Why can't you get this done?" Yes, they want it done the way they want it done, but most of all today I think they want us to act, and to act if we can in concert and move this country in some direction. And that is what we have failed to do, together.

So I ask Members tonight to put aside for a moment our partisan differences, to say that we will improve the product and make it as good as it can be, given our beliefs; that we will come back at the next possible moment to fight for our beliefs and try to come to some agreement, we will put those differences aside, we will pass the agreement, and we will move this country in a positive direction.

Mr. FRENZEL. Mr. Speaker, I yield myself 4 minutes.

Mr. FRENZEL. Mr. Speaker, tonight we have been treated to a rare display. I do not know if the forensics are better than that which we have enjoyed in the past, but certainly at least from the summiteers you have seen expressions of sincerity which I think are hard to match, at least in my career in the Congress.

We have heard the gentleman from California [Mr. PANETTA] and the gentleman from Illinois [Mr. ROSTENKOWSKI] and the gentleman from Illinois [Mr. MICHEL] and the gentleman from Missouri [Mr. GEPHARDT] tell you why they think this is what we need to do tonight.

Mr. Speaker, I want to stand here and agree with each of them. that they and we have done the best that we can do at this point, and what remains for the House is to push this matter through by passing this budget resolution, and letting the committees of jurisdiction begin work on reconciliation.

All of those speakers spoke a little bit about President Bush, too. I have heard many of you say it will be painful to vote for this bill. How painful was it for President Bush to accept the fact that there would be substantia new taxes? How painful was it for him to have come to ask each and every one of us personally if we could give him his vote? He, who has worked so hard and suffered so much for us. And I say this particularly to the Republicans, for we are the divided Government. We are the minority which can get rolled at any time by the majority and our only defense is our Presiden and our ability to sustain a veto every now and then.

Here is one time when he and we jointly are asking Members to stand up with us and give this country a chance to get its feet back on the path toward fiscal sobriety. Over the pas two decades we, all of us, have managed to become the world's larges debtor nation. The U.S. Congres thankfully somehow has made us the world champs in one respect: We owe more money than anybody.

This may not be the best resolution in town, but I guarantee you, it is th only resolution in town.

And as BOB MICHEL correctly pointed out, each of us could do better. I think I could get maybe 80 votes for mine which is much better than that. doubt many of you could get tha many.

This happens to be a good resolution because it saves $500 billion and place the country's feet on the path toward that desired fiscal sobriety.

It is enforceable. Will it all be enforced? No. Will we save all of th $500 billion? No. We will have som slippage. We always do. But with th enforcement in this package and the 5 year reconciliation, we have the bes chance that we have ever had to actually make the savings that we claim we are going to have.

We can change all of this bad record tonight, or we can at least begin changing it. This package will take u to a unified budget surplus befor fiscal year 1994. By fiscal year 1995 i will have taken our spending back to only 18½ percent of GNP, our rough average for the past two decades, and 5 percent less than we expect to spend in fiscal year 1991, the fiscal year approaching.

That is a pretty good record, a monumental achievement, I believe. And Alan Greenspan says it passes the credit market test, and so does his predecessor, Paul Volcker, and so do Martin Feldstein, Ronald Reagan's CEA, and so does Jim Lynn, who was Jerry Ford's budget man, and Charles Schultz, who was Jimmy Carter's Director of the Budget, and Herb Stein, who was the Chairman of the Council of Economic Advisers for President Nixon. All these men say this fits the bill, that it passes the test.

Now the question is are we going to pass the test? Are we going to have the courage to stand back and to go against a few phone calls and a few letters we have got from people who want to keep getting the same benefits that they have been getting over the years?

I have often said to the Republicans that I see us all as a bunch of cake eaters. We are afraid to lay on new taxes. We think that is naughty. We do not want to cut any spending. We do not want to deny any of our constituents anything.

We will tonight pass what I call the cake eater test if we can pass this budget resolution. We will prove that we can eat a little bread and maybe some of us, certainly myself, will have to eat a little crow, because none of us is going to like this budget resolution. But as I said before, it's all we got.

Our test is sterner than any we have faced since I have come to Congress. And for us good news people who do not like to lay on taxes, and who hate to cut expenditures, it is going to be particularly difficult.

But remember, we can begin moving down that path to fiscal sobriety. And for all of those of you that I have importuned over the years, that I have harangued and pleaded and begged to reduce spending, for me personally there could not be any finer monument than the passage of this budget resolution.

Mr. Speaker, I rise in support of the conference report to House Resolution 310.

Our economy is at a crossroads. GNP growth has nearly come to a halt. Real estate markets around the country are in a severe slump. American businesses aren't getting the credit they need for investment. This economy needs a shot in the arm if we are to avoid recession. That is what this package is all about.

Most economists agree that this deficit reduction package, taken on its own merits, is a net plus for the economy. Some might prefer other packages, but the question is whether this package will help or hurt the economy. I have contacted a number of widely respected economists just this morning and they believe the package will help. A summary of their comments is available here on the floor for anyone who wishes to look at it.

On Wednesday, Chairman Greenspan called the summit agreement "credible and enforceable." It is clear that the Fed is prepared to accommodate this package by lowering interest rates.

Lower interest rates resulting from this package would have dramatic positive effects throughout the economy. In the estimation of the Council of Economic Advisors, we can expect up to 150,000 more housing starts next year, 500,000 more auto sales, increases in business investment, and a reduction in mortgage payments of $110 per month in a typical household.

The long-term growth effects would also be dramatic. By the end of this decade, real GNP will be 2 percent higher than it otherwise would be. At the projected level of GNP in the year 2000, this budget package would add an extra $200 billion to the incomes of all Americans in that year alone.

U.S. and world financial markets would be extremely disrupted should this agreement fail to be enacted. For years Congress has been promising that a permanent solution to our deficit reduction problem was just around the corner. Now the chance to make good on those promises is at hand.

If we fail to deliver, it will be a sure sign to our creditors that the U.S. Congress is unable to put its fiscal house in order. Their only reaction can be to increase long-term interest rates. If you don't like our debt service costs now, just wait and see what happens if we defeat this bill.

The immediate alternative to this package is a sequester which would deliver a harsh arbitrary blow to an already soft economy. The most likely remaining alternative is a business-as-usual budget, which simply perpetuates our current problems and sets us up for a fall in the not so distant future.

This package balances the budget, and it does it with real cuts that won't evaporate the day after we pass the Gramm-Rudman snapshot.

On a consolidated budget basis, including Social Security and bank insurance, the Federal budget will reach a surplus of $16.6 billion by fiscal year 1994, $68 billion by fiscal year 1995. Even after removing Social Security from the deficit calculation, this plan puts us on the road to balance in 1996 or 1997.

If this plan is realized, this will be the first time the Federal Government has run an overall surplus since 1969.

Unlike previous budget agreements, most of the $500 billion in deficit reduction is real. This package does not depend on promises for cuts in future years or on shenanigans which move money around but don't really save anything.

New stronger enforcement will ensure that planned deficit reduction occurs. A pay-as-you-go system would require any expansions of entitlement and mandatory programs to be offset in the same bill by cuts in other entitlement or mandatory programs or by revenue increases. Spending that violates discretionary caps, or pay-as-you-go violations will trigger automatic across-the-board offsets in the relevant categories.

For the first time, this package attempts to reform Government credit programs and Government sponsored enterprises [GSE's]. Credit programs and GSE's have become back doors for dispensing Government largesse without being subject to the normal strictures of the budget process. It is vitally important that we assess our exposure in these areas and that we bring these programs under control.

The budget agreement reduces Federal spending from 23.4 percent of GNP in fiscal year 1991 to 18.2 percent in fiscal year 1995—a smaller percentage of GNP than any year since 1965. This happens because the package cuts spending twice as much as it increases revenues.

One-fourth of the savings from the package comes from reforms in entitlement programs. These are painful cuts but they are key to any package that seriously tackles the deficit.

Medicare spending in particular has been increasing annually at two or three times the inflation rate for the past 10 years. Continued growth at current rates threatens to bankrupt the Medicare system. This package will produce provider savings of $3.1 billion in fiscal year 1991 which are in line with cuts made in previous reconciliation bills. The beneficiary reforms will result in modest increases for the elderly, but these cuts are offset by a $2 billion increase in Medicaid funding to cover the additional costs to low-income elderly. These reforms are difficult, but they are necessary if we are to stave off the disasters that loom if we do nothing.

One-third of the saving in this package comes from defense. By almost all accounts this constitutes a rational build-down in defense spending. Secretary Cheney endorses the figures in this plan as both responsible spending cuts that reflect a changed world and the largest cuts that are possible without jeopardizing his ability to ensure our defense.

This package in no way jeopardizes our current efforts in the Persian Gulf. By holding Dersert Shield funding harmless to the spending caps, it allows $1.1 billion more in outlay spending than the House-passed budget resolution or the Defense authorization bill. Realistically, this is the best, largest defense package we could have hoped to achieve.

Slightly more than one-fourth of this package comes from revenue increase. Many Members on both sides find things in the revenue package which they don't like. I would certainly count myself among them. In the final accounting however, we must decide whether the overall economic benefits of this package outweigh its distasteful components. In this case, I would say that they clearly do.

This agreement is a product of compromise. The fact that almost no one seems to like it is probably an indication that it is about the best we can do. If this agreement is rejected, no other agreement is likely to be passed. Rejecting this agreement and living off of a continuing resolution, therefore means rejecting deficit reduction this year.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I rise in support of the budget resolution.

Mr. PANETTA. Mr. Speaker, I yield the balance of my time to the distinguished Speaker of the House [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, I take the well seldom. I take it tonight late in this legislative day, late perhaps in the life of our country to deal with a critical problem we have all ignored too long. Members of the Congress have ignored it, Members of both parties have ignored it, Presidents have ignored it.

Over the period of recent years, in the life of those who have served in this body and within the time of their service, the interest on the Federal debt has grown to a figure now third largest of all of the expenditures in the Federal budget, and greater significantly in absolute terms than the entire budget was only a few years ago.

This budget resolution is the result of a much decried summitry which is, as the majority leader indicated, the result of a divided government in which there is a Republican President and a Congress led by majorities of the Democratic Party. But the problem is not divided into a Republican problem and a Democratic problem. It is the problem that faces all of us, that faces the country and that affects every American.

We all have concerns about the specific provisions of this budget summit agreement which have been repeated and repeated time and time again tonight and in previous days. And it would serve no purpose to remind everyone that few actually embrace the specific terms of the summit. But passing a budget resolution only allows us to move forward to the legislative stage so that the authorizing committees and the Appropriations Committee may exercise their responsibilities and send to the House appropriation bills and a reconciliation bill for its judgment.

The budget resolution is not presented to the President. It enacts nothing. It establishes no policy. It declares no law. It changes no accounts. It spends or retracts no money.

The Constitution says in article 1, clause 9, paragraph 7 that "No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law." And no laws are changed in this country without the action of the Congress and the signature by the President, or our determination to act notwithstanding his lack of consent.

We will begin that process tonight if we pass this budget resolution. And those in this body who have said again and again that they believe that the legislative process should be allowed to work have the challenge to allow it to work.

The President said today to me, and I repeated to the press, that it was our conviction, along with the bipartisan leadership, that many of the policies established in the budget agreement were for illustrative purposes only, and that the legislative committees had the right as well as the obligation to consider alternative policies to achieve similar savings. Every Member will have the opportunity to decide for him or herself whether or not the bills which results from the legislative process during the next 2 weeks meet with their satisfaction. And every Member will have an opportunity, several opportunities, to vote on the reconciliation and the appropriations bills.

But if we stop the process tonight, if we tell the American people tonight that we choose not to go forward, that we have no confidence ourselves in our own system, in our committees, in our own responsibilities, in the institution of this House, we will do a disservice not only to ourselves but to the people we represent, including all of those about whom we are so concerned in a principled and legitimate way. Their interests as well as others' would be harmed by such a decision.

I ask you to consider that this is one of the most important evenings perhaps in your congressional career. This is one of the most important decisions that you will make.

□ 0100

And although the hour is late, and although the debate has been long; and although the passions have been real; and although the divisions are sincere; we have an opportunity to stand together; in at least the decision to go forward, to make this process work for ourselves, for the President, for the parties and for the American people.

We must ask ourselves this question: if not now, when; if not us, who?

Mr. PANETTA. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 179, nays 254, not voting 1, as follows:

[Roll No. 421]

YEAS—179

Ackerman
Anderson
Andrews
Archer
Aspin
AuCoin
Baker
Bartlett
Bateman
Beilenson
Bennett
Bevill
Bilbray
Boehlert
Boggs
Bosco
Buechner
Bustamante
Byron
Cardin
Carper
Chandler
Chapman
Clement
Clinger
Coleman (MO)
Coleman (TX)
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Darden
de la Garza
Derrick
DeWine
Dickinson
Dicks
Dingell
Erdreich
Fascell
Fazio
Fish
Flippo
Foglietta
Foley
Frenzel
Frost
Gallo
Gejdenson
Gekas
Gephardt
Gibbons
Gillmor
Glickman
Goodling
Gordon
Gradison
Grandy
Gray
Green
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Hastert
Hatcher
Horton
Houghton
Hoyer
Ireland
Johnson (CT)
Kaptur
Kennelly
Kolbe
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Livingston
Lloyd
Lowery (CA)
Luken, Thomas
Lukens, Donald
Madigan
Manton
Martin (NY)
Matsui
McCurdy
McDade
McDermott
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Morella
Morrison (WA)
Murtha
Nagle
Nelson
Oberstar
Olin
Ortiz
Owens (UT)
Oxley
Panetta
Parker
Payne (VA)
Pease
Penny
Pickle
Porter
Price
Quillen
Ray
Rhodes
Richardson
Ridge
Roberts
Robinson
Rose
Rostenkowski
Rowland (GA)
Sabo
Sawyer
Scheuer
Schiff
Serrano
Shaw
Shays
Shumway
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Smith (IA)
Smith (NE)
Smith (VT)
Solarz
Spratt
Stenholm
Sundquist
Swift
Tallon
Tanner
Thomas (GA)
Torres
Traxler
Udall
Valentine
Vander Jagt
Visclosky
Vucanovich
Watkins
Whittaker
Wilson
Wolf
Wylie
Young (AK)
Young (FL)

NAYS—254

Alexander
Annunzio
Anthony
Applegate
Armey
Atkins
Ballenger
Barnard
Barton
Bates
Bentley
Bereuter
Berman
Bilirakis
Bliley
Bonior
Borski
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Bunning
Burton
Callahan
Campbell (CA)
Campbell (CO)
Carr
Clarke
Clay
Coble
Collins
Condit
Costello
Cox
Coyne
Craig
Crane
Dannemeyer
Davis
DeFazio
DeLay
Dellums
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Espy
Evans
Fawell
Feighan
Fields
Flake
Ford (MI)
Ford (TN)
Frank
Gallegly
Gaydos
Geren
Gilman
Gingrich
Gonzalez
Goss
Grant
Guarini
Gunderson
Hancock
Harris
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kasich
Kastenmeier
Kennedy
Kildee
Kleczka
Kolter
Kyl
Lagomarsino
Laughlin
Lehman (CA)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Long
Lowey (NY)
Machtley
Markey
Marlenee
Martin (IL)
Martinez
Mavroules
Mazzoli

McCandless
McCloskey
McCollum
McCrery
McEwen
McGrath
Mfume
Miller (CA)
Mink
Moody
Moorhead
Morrison (CT)
Mrazek
Murphy
Myers
Natcher
Neal (MA)
Neal (NC)
Nielson
Nowak
Oakar
Obey
Owens (NY)
Packard
Pallone
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Pelosi
Perkins
Petri
Pickett
Poshard
Pursell
Rahall
Rangel
Ravenel
Regula
Rinaldo
Ritter
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland (CT)
Roybal
Russo
Saiki
Sangmeister
Sarpalius
Savage
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shuster
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Staggers
Stallings
Stangeland
Stark
Stearns
Stokes
Studds
Stump
Synar
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (WY)
Torricelli
Towns
Traficant
Unsoeld
Upton
Vento
Volkmer
Walgren
Walker
Walsh
Washington
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—1

Crockett

☐ 0017

Mr. STANGELAND and Mr. HOLLOWAY changed their vote from "yea" to "nay."

So, the conference report was rejected.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on House Concurrent Resolution 310, the concurrent resolution just rejected.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

Ms. SLAUGHTER of New York. Mr. Speaker, during consideration of the Comprehensive Crime Control Act, H.R. 5269, my vote on rollcall 412 was recorded as "yea." I intended to vote "no" on this amendment in line with my longstanding moral opposition to the death penalty. I request that this statement be included in the RECORD at the appropriate point in order to reflect my intention to vote against this amendment.

REPUBLICAN MEMBERS RENEW PLEDGE TO RESIST TAX INCREASES

(Mr. DOUGLAS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks, and include extraneous matter.)

Mr. DOUGLAS. Mr. Speaker, some of our colleagues are concerned about why the House Republicans have dug in so hard on the question of taxes. The headline in the Washington Post of July 19 tells the whole story: "House GOP Takes Stand Against Any Tax Increases."

That was the day after we adopted the following resolution:

Therefore, be it resolved That the Republican Conference opposes new taxes and all tax rate increases as a means of reducing the federal budget deficit, and instructs its leaders to represent this position to the President and the public.

It is because we adopted that position, Mr. Speaker, that we are sticking with that position. We are also sticking with that position because a hundred of us signed a written pledge in which we said we would not increase taxes or tax rates or the functional equivalent, which is what this budget does.

Mr. Speaker, I think it is owed to our leadership to understand why so many of us have stuck with the vote of our Conference and that pledge.

REPUBLICAN CONFERENCE RESOLUTION

Whereas new taxes or tax rate increases would have a detrimental impact on families, business, and the American economy as a whole; and

Whereas, Republicans have bargained in good faith on previous balanced deficit reduction attempts and were consistently denied by the Democrat-controlled Congress the promised spending reductions to accompany tax increases; and

Whereas, President Bush openly and forcefully stated his opposition to tax increases as a means to reduce the deficit and was overwhelmingly supported by the American people at the polls; and

Whereas, Republicans in the House of Representatives have the numbers to sustain a Presidential veto of legislation imposing new taxes or raising existing tax rates; and

Whereas, The Democats in Congress have consistently refused to approach deficit reduction in any way other than by raising taxes;

Therefore, be it resolved That the Republican Conference opposes new taxes and all tax rate increases [1] deficit, and instructs its leaders to represent this position to the President and the public.

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[1] Tax rate increases include not only income tax rates but all rates on all existing taxes under federal jurisdiction.

NORTH CAROLINA BUSINESS IS SENSITIVE TO THE ENVIRONMENT

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BALLENGER. Mr. Speaker, last year Catawba County, my home, located in North Carolina, was rated 25th among the Nation's counties with high levels of toxic air pollutants. Two businesses in my district have gone the extra mile to help protect the environment.

Meredith/Burda, located in Newton, NC, has set a national standard to reduce the consumption of chemicals in its processing and leading to improved air quality. In addition, the company stresses recycling and recovery processes to reduce waste.

Last year, our company, Plastic Packaging, moved several of our fuel tanks aboveground so that we can better monitor them for leaks. The company also installed a new state-of-the-art filter system to reduce air pollution from our plant. This is before the passage of the clean air bill and shows some businesses care. Two articles on these environmentally conscious companies follow:

[From the Hickory (N.C.) News, Aug. 16, 1990]

AT PLASTIC PACKAGING—EIGHT-TON CATALYTIC CONVERTER ADDS ENVIRONMENTAL PROTECTION

Plastic Packaging, Inc., a leading producer of printed plastic packaging, has installed an eight-ton catalytic converter which will destroy up to 90 percent of the exhaust which the company produces.

Installation of the huge system is part of Plastic Packaging's program to protect the environment.

The exhaust that Plastic Packaging produces is primarily alcohol, but the decision by the Hickory-based printer/converter's management to spend more than $500,000 for the system is an example of the company's commitment for environmental safety.

Other environmental protection actions taken by the company range from replacing underground storage tanks with aboveground storage tanks and with having recycling programs for everything from waste plastic to corrugated boxes, cans and computer paper.

"These aren't things that we had to do now. These are things that, as a company and as individuals, we wanted to do," said Weldon Fanjoy, president of Plastic Packaging. "We've been recycling many products for 15 years or more, so with us it's a way of life. One of the stated goals of our company is to be a good corporate citizen."

Plastic Packaging's recent addition to environmental protection is, in effect, a giant catalytic converter, similar to the pollution control device on an automobile. This system will destroy about 90 percent of the alcohol vapor that the company generates in its printing process. The remaining exhaust is carbon dioxide and water vapor—what people exhale with each breath.

The emissions converter is rated the best of its kind in the industry. Because of its huge size, the company had to get special permits to transport it across state lines. The converter weighs eight tons—it is 60 feet long, 16 feet wide and stands 14 feet high. Trucks delivered large segments of the converter to Plastic Packaging's plant in Hickory where it was reassembled under the supervision of a manufacturer's representative.

Two Hickory-based companies completed the converter's installation. Huffman Metal Works was the local contractor which assembled and installed the converter and Electric Service of N.C. was responsible for preparing the plant for the needs of the converter's electrical systems.

The converter is fueled by natural gas and uses manganese dioxide as a catalyst to transform the captured alcohol vapor into carbon dioxide and water vapor. Even though heat is utilized to trigger the chemical reaction that transforms the alcohol into carbon dioxide and water, the manganese dioxidecatalyst allows this reaction to take place at lower temperatures than are found in thermal incinerators.

The alcohol vapor exhausted when Plastic Packaging is printing plastic material comes from special alcohol-based inks that are required to print on plastic materials. Alcohol is used as a solvent because it evaporates quickly and allows the ink to adhere to plastics. No heavy metals are used in the company's inks.

"There were no known environmental dangers from the old system, but this way we have significantly reduced the potential of any threat to the environment," Mr. Fanjoy said.

This year, the company initiated in-house programs for recycling its office paper and aluminum beverage cans. Four recycling stations have been set up through the plant—one for computer paper, another for recyclable white paper and paper products, and two for aluminum beverage cans. Plastic Packaging associates also are encouraged to contribute materials from home in order to assist in the company's recycling efforts.

The company has been recycling its scrap and waste polyethylene film for more than 15 years now, selling it back to reprocessors. It also has a long-time company policy of reusing and recycling both wood pallets and corrugated boxes. In the past two years, the company also has begun selling its used styrofoam cradle packs back to its supplier for reuse and recycling.

The Hickory-based manufacturer, founded in 1957, is among the pioneers in the flexible packaging industry. It supplies printed and non-printed flexible packaging to some of the largest retail manufacturers in the world.

[From Hickory (NC) Daily Record, Mar. 24, 1990]

POLLUTER LABELING DISPUTED

(By Troy Houser)

NEWTON.—The fact that the Catawba Valley is by virtue of its diversified industrial posture a leading generator of toxic chemicals, that does not mean the region is a leading violator of air and water quality standards.

Meredith/Burda, a rotogravure printer in Newton, has been depicted in several reports as a leading polluter in the region, and company officials say they are concerned because that portrayal is inaccurate.

Officials this week said the company has been singled out in government reports because of its high-volume usage of toluene—a toxic chemical used as a solvent in the company's inks.

They defended the company, however, by noting that Meredith/Burda is "a responsible corporate citizen" whose toluene recovery program has been used as a standard for federal legislation and as a model for other rotogravure companies throughout the country.

One report on Meredith/Burda's use of toluene identified the chemical as a carcinogen—or cancer-causing agent. Officials at Meredith/Burda said toluene has never been classified or suspected as a carcinogen.

But, they added, toluene is a toxic chemical with properties that make it a serious pollution agent if improperly used, handled, or discarded.

And that's where Meredith/Burda has set a national standard in the use and recovery of toluene.

According to Jim Fulton, vice president and general manager of the Newton plant, federal legislation adopted in 1978 used Meredith/Burda's toluene recovery rate as a basis for its standard—which requires 84 percent toluene recovery for gravure printers nationwide.

By the time the legislation was adopted, however, Meredith/Burda already had improved its recovery rate.

According to Chuck Barnhardt, mechanical and environmental engineer, the company now is recovering about 94 percent of its toluene in a sophisticated, computerized, high-tech, expensive recovery system.

Barnhardt, along with Alex Elliott, vice president of manufacturing, and Terri Hill, manager of employee relations, conducted a plant tour for the Record which included the plant's departments and expansive toluene recovery system.

Fulton pointed out prior to the tour that toluene is the only chemical Meredith/Burda uses in its inks, and the company does not use any other chemicals in sufficient volume to put it at pollution risk.

Barnhardt said the company spent millions of dollars initially to install the toluene recovery system, and spends millions annually to operate and maintain the system. He said one incentive to recover toluene is that the chemical costs about $1 a gallon, and the company recovers more than 4.4 million gallons—or 34 million pounds—a year.

The company does not purchase toluene by itself, but rather recovers it from inks purchased for the printing process. The recovered toluene is either shipped back to the ink supplier to be reused in the manufacture of the inks, or the company orders inks in concentrated quantities and the recovered toluene is mixed in-plant with the ink concentrate.

The mixing and use of ink take place in a closed system linked to computer-controlled panels, monitors, and carbon-bed adsorbers via a complex system of giant pipes. Vapors from the toluene are captured in the closed system and forced through the piping system by blowers. In the carbon-bed adsorbers—which look like tanks traditionally hauled by massive transport trucks—the toluene is captured on carboned particles, removed by a steaming process, then cooled, condensed, and reclaimed.

Elliott noted that air quality inside and outside plant is important. The smell of toluene in quantities beyond accepted standards is unpleasant and in concentrated quantities can cause eye irritation and nausea. But since levels in-plant consistently fall below standards the smell inside the plant is seldom noticeable—and officials said no smell is detected outside the plant.

The small percentage that escapes the recovery system goes into the atmosphere. Barnhardt said the public's awareness of that, plus the fact that reports have been remiss in disseminating complete information, has caused some public concern.

However, government and other outsid testing agencies, as well as extensive company testing, has indicated a minuscule presence of toluene in the atmosphere at th company's fence-line or property boundary Barnhardt said amounts detected are s small they almost are immeasurable, canno be detected by smell, and are far less tha allowed by rigid standards established b state legislation.

Fulton agreed that Meredith/Burda is a concerned about the environment outsid the plant as inside. He said many of plant' employees, including himself, live in clos proximity to the plant, therefore, air quality becomes an important issue from a personal as well as a corporate standpoint Barnhardt said the small amount of toluen escaping into the atmosphere breaks dow rapidly and poses no health threat t humans.

He added that only 1 to 2 percent of al toluene manufactured in the country is use in inks and paints, but that about 92 percent of all toluene is used in gasoline an other petroleum products.

He said it is likely that more toluen vapors escape into the atmosphere at gasoline pumps during pumping than all the toluene emitted by the rotogravure printing industry nationwide.

To stress Meredith/Burda's environmental responsibility. Barnhardt said othe company programs are in place to reduc waste and subsequently improve the environment.

"We're an environmentally conscious company," he said, adding that one of the programs is the recycling of 15,000 tons o paper a year." And we were doing tha before paper recycling became popular," h said.

Another program, he said, is the recyclin of 35,000 pounds of copper a year. Copper i used to plate the printing cylinders used o the presses.

Ms. Hill re-emphasized the fact that Meredith/Burda takes its environmental responsibility seriously.

"We do these things (recovery and recycling) because we want to and not becaus legislation requires it," she said.

She added that the company traditionall has been far ahead of any legislation passe to date.

When the air quality standards for toluene went into effect by legislation, Meredith/Burda ". . . did not have to do on thing" to come into compliance. "We wer already there—and way ahead of the game, she said.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reporte that the committee did on the following date present to the President, fo his approval, bills and joint resolution of the House of the following titles:

On October 3, 1990:

H.R. 2372. An act to provide jurisdictio and procedures for claims for compassionat payments for injuries due to exposure to r diation from nuclear testing;

H.R. 3897. An act to authorize appropriations for the Administrative Conference o the United States for fiscal years 1991, 199 1993, and 1994, and for other purposes;

H.J. Res. 398. Joint resolution to commemorate the centennial of the creation by Congress of Yosemite National Park;

H.R. 1243. An act to require the Secretary of Energy to establish Centers for Metal Casting Competitiveness Research;

H.J. Res. 603. Joint resolution to designate the month of October 1990 as "Country Music Month"; and

H.J. Res. 469. Joint resolution to designate October 6, 1990, as "German-American Day."

ADJOURNMENT

Mr. PANETTA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 20 minutes a.m.), the House adjourned until today, Friday, October 5, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXVI, executived communications were taken from the Speaker's table and referred as follows:

4002. A letter from the Director, Defense Research and Engineering, Department of Defense, transmitting notification of intent to obligate funds for test projects for inclusion in the fiscal year 1990 Foreign Comparative Testing [FCT] Program, pursuant to 10 U.S.C. 2350a(g); to the Committee on Armed Services.

4003. A letter from the Secretary of Housing and Urban Development, transmitting the seventh report on rental rehabilitation for fiscal year 1990, pursuant to 42 U.S.C. 1437o(n); to the Committee on Banking, Finance and Urban Affairs.

4004. A letter from the Secretary of Health and Human Services, transmitting the Agency for Toxic Substances and Disease Registry (ATSDR) Medical Waste Tracking Act Report, "The Public Health Implications of Medical Waste," pursuant to 42 U.S.C. 6992h; to the Committee on Energy and Commerce.

4005. A letter from the Secretary of the Treasury transmitting a study of the effectiveness of the implementation of the Government Securities Act of 1986, pursuant to Public Law 99-571, section 103(b) (100 Stat. 3221); to the Committee on Energy and Commerce.

4006. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

4007. A letter from the Legion of Valor of the United States of America, Inc. transmitting a copy of the Legion's annual audit as of April 30, 1990, pursunt to 36 U.S.C. 1101(28), 1103; to the Committee on the Judiciary.

4008. A letter from the Assistant Attorney General, Civil Rights Division, Department of Justice, transmitting the report and recommendations of the Task Force on IRCA-Related Discrimination; jointly, to the Committees on the Judiciary and Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5132. A bill to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1991, and 1993, and for other puposes; with an amendment (Rept. 101-661, A2). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on Government Operations. Report on the misconduct by senior managers in the Internal Revenue Service. (Rept. 101-800). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEILENSON: Committee on Rules. House Resolution 494. Resolution providing for the consideration of H.R. 4825, a bill to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes (Rept. 101-801). Referred to the House Calendar.

Mr. PANETTA: Committee of Conference. Conference report on House Concurrent Resolution 310 (Rept. 101-802). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HERTEL (for himself, Mr. Jones of North Carolina, Mr. Davis, Mr. Shumway, Mr. Studds, Ms. Schneider, and Mr. Dyson):

H.R. 5791. A bill to authorize appropriations to carry out certain ocean and coastal programs of the National Oceanic and Atmospheric Administration, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mrs. KENNELLY:

H.R. 5792. A bill to allow Connecticut to permit certain recipients of aid to families with dependent children a one-time election to purchase capital equipment for a small business, to prohibit depreciation of such equipment, and to require that repayments by such persons of the principal portion of small business loans be treated as business expenses for purposes of the program of aid to families with dependent children; to the Committee on Ways and Means.

By Mr. McEWEN:

H.R. 5793. A bill to amend title 38, United States Code, to provide for the payment, on an interim basis, of compensation, dependency, and indemnity compensation, and pension to veterans and their survivors and dependents if their claims for those benefits are not decided by the Department of Veterans Affairs within specified time limits; to the Committee on Veterans' Affairs.

By Mr. ROYBAL (for himself, Mr. Martinez, Mr. Goodling, Mr. Rinaldo, Mr. Hawkins, Mr. Gunderson, Mr. Conyers, Mr. Gilman, Mr. Sikorski, Mr. Horton, Mrs. Morella, Mr. Lantos, Mr. Donald E. Lukens, Mr. Clay, and Mr. Williams):

H.R. 5794. A bill to amend the Age Discrimination Claims Assistance Act of 1988 to extend the statute of limitations applicable to certain additional claims under the Age Discrimination in Employment Act of 1967; to the Committee on Education and Labor.

By Mr. HAMMERSCHMIDT (for himself and Mr. Stangeland):

H.P. 5795. A bill to extend the Federal Water Pollution Control Act through fiscal year 1992; to the Committee on Public Works and Transportation.

By Mr. BILBRAY:

H.J. Res. 663. Joint resolution to designate the third week of February 1991 as "National Parents and Teachers Association Week"; to the Committee on Post Office and Civil Service.

By Mr. OBEY (for himself, Mr. Dorgan of North Dakota, Mr. AuCoin, Mr. Bilbray, Mr. Bryant, Mr. Borski, Mrs. Boxer, Mr. Cardin, Mr. Coyne, Mr. DeFazio, Mr. Dellums, Mr. Dicks, Mr. Donnelly, Mr. Downey, Mr. Durbin, Mr. Edwards of California, Mr. Foglietta, Mr. Ford of Michigan, Mr. Frank, Mr. Gejdenson, Mr. Glickman, Mr. Hayes of Illinois, Mr. Jones of Georgia, Mr. Jontz, Ms. Kaptur, Mr. Kastenmeier, Mrs. Kennelly, Mr. Kkeczka, Mr. Lehman of California, Mr. Lewis of Georgia, Mr. Levin of Michigan, Mr. McCloskey, Mr. McDermott, Mr. McHugh, Mr. Miller of California, Mr. Mineta, Mr. Moody, Ms. Oakar, Mr. Oberstar, Ms. Pelosi, Mr. Penny, Mr. Rangel, Mr. Russo, Mrs. Schroeder, Mr. Schumer, Mr. Sharp, Mr. Slaughter of New York, Mr. Smith of Florida, Mr. Stark, Mr. Studds, Mr. Swift, Mr. Torres, Mrs. Unsoeld, Mr. Walgren, Mr. Waxman, Mr. Weiss, Mr. Vento, Mr. Morrison of Connecticut, Mr. Visclosky and Mr. Skaggs):

H. Con. Res. 379. Concurrent resolution regarding modifications to the budget summit agreement for fiscal year 1991 through 1995; to the Committee on the Budget.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 747: Mr. Condit.

H.R. 775: Mr. Levin of Michigan.

H.R. 2531: Mr. Miller of Ohio, Mr. Chapman, Mr. Coleman of Missouri, Mrs. Byron, and Mrs. Smith of Nebraska.

H.R. 2911: Mr. Penny, Mrs. Lloyd, and Mr. Campbell of Colorado.

H.R. 3734: Mr. Shays and Mr. Lancaster.

H.R. 4026: Mr. Nielson of Utah.

H.R. 4508: Mr. Slaughter of Virginia, Mr. Wylie, Mr. James, Mr. Packard, Mr. Fish, and Mr. Tauke.

H.R. 4565: Mr. Tallon and Mr. Condit.

H.R. 4690: Mr. Evans and Mr. Skeen.

H.R. 4728: Ms. Pelosi.

H.R. 5212: Mr. Lancaster.

H.R. 5244: Mr. Frost.

H.R. 5336: Mr. Wilson, Mr. Roberts, Mr. Tallon, and Mr. Hastert.

H.R. 5356: Mr. Scheuer.

H.R. 5388: Mr. Lancaster and Mr. Coble.

H.R. 5416: Mr. Evans.

H.R. 5443: Mr. Synar, Mr. Johnson of South Dakota, Mr. Wise, and Mr. Serrano.

H.R. 5481: Mr. Hiler, Mr. Young of Florida, Mr. Gejdenson, Mr. Henry, and Mr. Waxman.

H.R. 5582: Mr. Derrick, Mr. Vento, Ms. Snowe, and Mr. Murtha.

H.R. 5616: Mr. Evans, Mr. Rhodes, and Mr. Rangel.

H.R. 5625: Mr. Borski, Mr. Gaydos, Mr. Murphy, Mr. Yatron, and Mr. Flippo.

H.R. 5652: Mr. McCrery, Mr. Schiff, Mr. Hamilton, and Mr. Markey.

H.R. 5736: Mr. Coleman of Texas, Mr. Evans, Mr. Smith of Florida, and Mr. Torres.

H.R. 5761: Mrs. Martin of Illinois, Mr. Fawell, Mr. Baker, Mr. Sensenbrenner, Mrs. Bentley, Mr. Ravenel, Mr. Gallegly, Mr. McCandless, Mr. Schaefer, and Mr. Ritter.

H.J. Res. 509: Mr. Levine of California and Mr. Regula.

H.J. Res. 518: Mr. Barnard, Mr. Bates, Mr. Boehlert, Mr. Brennan, Mr. Campbell of California, Mr. Cox, Mr. Dannemeyer, Mr. Dreier of California, Mr. Duncan, Mr. Erdreich, Mr. Fields, Mr. Hancock, Mr. Hefley, Mr. Hubbard, Mr. Hunter, Mr. Ireland, Mr. Kasich, Mr. Laughlin, Mr. Levin of Michigan, Mr. McCrery, Mr. Matsui, Mr. Miller of Ohio, Mr. Moody, Mr. Pickett, Mr. Porter, Mr. Ridge, Mr. Rohrabacher, Ms. Ros-Lehtinen, Mr. Sabo, Mr. Stearns, Mr. Tauke, Mr. Thomas of Wyoming, Mr. Walker, Mr. Wolf, Mr. Rinaldo, Mr. Dellums, Mr. Serrano, Mr. Vander Jagt, Mr. Fauntroy, Mr. Lehman of Florida, Mr. Coyne, Mr. Courter, Mr. Markey, Mr. Conte, Mr. Donald E. Lukens, Mr. Clinger, Mr. Feighan, Ms. Molinari, Mr. Mfume, Mr. Murphy, Mr. Faleomavaega, Mr. Gejdenson, Mr. Jones of North Carolina, Mr. Skelton, Mr. Conyers, Mr. Douglas, Mr. Fish, Mr. Callahan, Mr. Espy, Mr. Hastert, Mrs. Martin of Illinois, Mr. Gunderson, Mr. Paxon, Mr. Smith of Vermont, Mr. Pallone, Mr. Foglietta, Mr. Kennedy, Mr. Parker, Mr. Tauzin, Mr. Costello, Mrs. Meyers of Kansas, Mr. Bunning, Mr. Gillmor, Mr. Payne of New Jersey, Mr. Saxton, Mr. Lantos, Mr. Thomas A. Luken, Mr. Owens of New York, Mr. Manton, Mr. Hutto, Mr. Bateman, Mr. Burton of Indiana, Mr. Dorgan of North Dakota, Mr. Eckart, Mr. Gilman, Mr. Goss, Mr. Hayes of Illinois, Mr. Herger, Mr. Hiler, Mr. Johnston of Florida, Mr. Jontz, Ms. Long, Mrs. Lowey of New York, Mr. McDermott, Mr. Rhodes, Mr. Whittaker, Mr. Stark, Mr. Staggers, Ms. Slaughter of New York, Mr. Slaughter of Virginia, Mr. Shays, Mr. Studds, Mr. Ortiz, Mr. Robinson, Mr. Dickinson, Mr. Alexander, Mr. Rose, Mr. Kildee, Mr. Grant, Mr. Brown of Colorado, Mr. Chandler, Mr. Hoagland, Mr. Leath of Texas, Mr. Waxman, Mr. Blaz, Mr. Buechner, Mr. Taylor, Mr. Rangel, Mr. Stokes, Mr. Martinez, Mrs. Boggs, Mr. Engel, Mr. Gray, Mr. Hall of Texas, Mr. Hopkins, Mr. Leach of Iowa, Ms. Oakar, Mr. Sarpalius, Mr. Shuster, Mr. Stenholm, and Mr. Wyden.

H.J. Res. 525: Mr. Solarz, Mr. Anderson, Mr. Brennan, Mrs. Byron, Mr. Hall of Ohio, Mrs. Collins, Mr. Flake, Mr. Vento, Mr. Regula, Mr. Rhodes, Mr. Boehlert, Mr. Goss, Ms. Ros-Lehtinen, Ms. Molinari, Mr. Shays, Mr. Foglietta, Mr. Gray, Mr. Pallone, Mr. Sawyer, Mr. Shumway, Mr. Skelton, Mr. Stark, Mr. Walgren, Mr. Sundquist, Mr. Chandler, Mr. Morrison of Connecticut, Mr. Green, and Mr. Kildee.

H.J. Res. 583: Mr. Boehlert, Mr. de Lugo, Mr. Neal of North Carolina, Mr. Frost, Mr. Harris, and Mr. Schaefer.

H.J. Res. 606: Mrs. Bentley, Mr. Berman, Mr. Bustamante, Mr. Clement, Mr. Courter, Mr. Gejdenson, Mr. Cooper, Mr. de Lugo, Mr. Dorgan of North Dakota, Mr. Donnelly, Mr. Faleomavaega, Mr. Green, Mr. Hubbard, Mr. Bates, Mr. Sundquist, Mr. Hoyer, Mr. Kasich, Mr. Hochbrueckner, Mr. Manton, Mr. McDade, Mr. Donald E. Lukens, Mr. Mfume, Mr. LaFalce, Mr. Bonior, Mr. Flippo, Mr. Gallo, Mr. Leath of Texas, Mr. Sangmeister, Mr. Savage, Mr. Smith of New Jersey, Mr. Scheuer, Mr. Miller of California, Mr. Stokes, Mr. Tallon, Mr. Borski, Mr. de la Garza, Mr. Mavroules, Mr. DeFazio, Mr. Tauzin, Mr. Thomas of Georgia, Mr. Dymally, Mr. Hoagland, Mr. Lipinski, Mr. McHugh, Mr. Bilbray, Mr. Weiss, Mr. Foglietta, Mr. Lehman of Florida, Mr. Clinger, Mr. Gekas, Mrs. Lowey of New York, Mr. Clarke, Mr. Evans, Mr. Gunderson, Mr. Hefner, Mr. Thomas A. Luken, Mr. McDermott, Mr. Panetta, and Mr. Machtley.

H.J. Res. 613: Mr. Savage, Mr. Rowland of Georgia, Mr. Stump, Mr. Emerson, Mr. Ackerman, Mr. Staggers, Mr. Volkmer, Mr. Cox, Mr. Yatron, Mr. Kennedy, Mr. Whitten, Mr. Serrano, Mr. Lightfoot, Mr. Mavroules, Mr. Walgren, Mr. Hertel, Mr. Sawyer, Mr. Mollohan, Mr. Green of New York, Mr. Montgomery, Mr. Johnson of South Dakota, Mr. Matsui, and Mr. Kostmayer.

H.J. Res. 639: Mr. Brown of California, Mr. Craig, Mr. DeFazio, Mr. Dixon, Mr. Donnelly, Mr. Eckart, Mr. Faleomavaega, Mr. Foglietta, Mr. Gordon, Mr. Guarini, Mr. Hammerschmidt, Mr. Hastert, Mr. Hefner, Mr. Hertel, Mr. Hoagland, Mr. Horton, Mr. Jontz, Mrs. Johnson of Connecticut, Mr. Kleczka, Mr. Lehman of Florida, Mr. Lipinski, Mr. Madigan, Mr. Manton, Mr. Matsui, Mr. Murphy, Mr. Nagle, Mr. Natcher, Mr. Neal of North Carolina, Mr. Nelson of Florida, Ms. Oakar, Mr. Owens of New York, Mr. Owens of Utah, Mr. Rahall, Mr. Ritter, Mr. Sarpalius, Mr. Denny Smith, Mr. Smith of Florida, Mr. Smith of New Hampshire, Mr. Spratt, Mr. Stallings, Mr. Tallon, Mr. Tauke, Mr. Tauzin, Mr. Walsh, Mr. Geren of Texas, Mrs. Lowey of New York, Mr. Hefley, Mr. Berman, Mr. Poshard, Mr. Ravenel, Mr. Rhodes, Mr. Rinaldo, Mr. Roe, Mrs. Saiki, Mr. Savage, Mr. Schuette, Mr. Saxton, Mr. Sawyer, Mr. Spence, Mr. Jenkins, Mr. Bennett, Mr. Dorgan of North Dakota, Mr. Perkins, Mr. Barnard, Mr. Lancaster, Mr. Rose, Mr. Hamilton, Mr. Leath of Texas, Mr. Price, Mr. Andrews, Mr. Synar, Mr. Slattery, Mr. Hayes of Lousiana, Mr. Espy, Mr. Parker, Mr. Stenholm, Mr. Hall of Texas, Mr. Watkins, Mr. Richardson, Mr. Jones of Georgia, Mr. Huckaby, Mr. Kennedy, Mr. Neal of Massachusetts, Mr. Clement, Mr. Darden, Mr. Thomas of Georgia, Mr. Feighan, Mr. Levin of Michigan, Mr. Staggers, Mr. Moody, Ms. Long, Mr. Carper, Mr. Tanner, Mrs. Patterson, Mr. Dyson, Mr. Taylor, Mrs. Byron, Ms. Pelosi, Mr. Fazio, Mrs. Bentley, Mr. Wheat, Mr. Hubbard, Mr. Kolter, Mr. Murtha, Mr. Condit, Mr. Chapman, Mr. McMillen of Maryland, Mr. Ray, Mr. Durbin, Mr. Sangmeister, Mr. Pickett, Mr. Schumer, Mr. Bustamante, Mr. Shumway, Mr. Anthony, Mr. Russo, Mr. Alexander Derrick, Mr. Torricelli, Mr. Vander, Mr. Jagt, Ms. Kaptur, Mr. Sisisky, Mr. McCandless, Mr. Mfume, Mr. Olin, Mr. Cooper, Mr. McCloskey, Mr. Flake, Mr. Ackerman, Mr. Pickle, Mr. Valentine, Mr. Dreier of California, Mr. Bunning, Mr. Stump, Mr. Dickinson, Mr. Nielson of Utah, Mr. Sundquist, Mr. Broomfield, Mr. Solomon, Mr. Leach of Iowa, Mr. Gekas, Mr. Baker, Mrs. Meyers of Kansas, Ms. Molinari, Mr. Hunter, Mr. McCrery, Mr. Dannemeyer, Mr. Rohrabacher, Mr. Parris, Mr. Smith of Texas, Mr. Burton of Indiana, Mr. Coble, Mr. Gallo, Mr. Herger, Mr. Gallegly, Mr. Boucher, Mr. LaFalce, Mr. Lightfoot, Mr. Slaughter of Virginia, Mr. Upton, Mr. Wolpe, Mr. Martin of New York, Ms. Mink, Mr. Miller of California, Mr. Frank, Mr. Lewis of Georgia, Mr. Hoyer, Mr. Gray, Mr. Skaggs, Mr. McNulty, Mr. Torres, Mr. Washington, Mr. Bruce, Mr. Goss, Mr. Swift, Mr. Lehman of California, Mr. Annunzio, Mr. Kasich, Mr. Donald E. Lukens, Mr. McCollum, Mr. McEwen, Mr. Lewis of California, Mr. Rowland of Georgia, Mr. Ortiz, Mr. Wise, Mr. Kostmayer, Mr. Skelton, Mr. Young of Alaska, Mr. Dornan of California, Mr. Borski, Mr. Serrano, and Mr. Hatcher.

H. Con. Res. 374: Mr. Solomon and Mr. Lagomarsino.

H. Res. 467: Mr. McDermott, Mr. Fish, Mr. Bates, Mr. Dwyer of New Jersey, Mrs. Boxer, Mr. Frank, Mr. Pursell, Mrs. Lloyd, and Mr. Lehman of Florida.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

241. The Speaker presented a petition of the California State Sheriffs' Association, relative to H.R. 5269; which was referred to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

ANOTHER BREAKTHROUGH FOR THE NIH

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. DURBIN. Mr. Speaker, I rise today to call attention to an article that appeared in the Health section of the Washington Post on October 2. This article describes a recent breakthrough by researchers at the National Institutes of Health that could dramatically help the estimated 5,000 to 15,000 Americans who currently suffer from a devastating genetic illness known as Gaucher's disease.

Researchers at NIH have been working for 40 years to find a treatment for this disease, which causes deformity and great pain. These scientists have now discovered a treatment known as enzyme replacement that may significantly improve the quality of life of those with Gaucher's disease.

This finding is the latest in a long line of discoveries for which we have the NIH to thank. Biomedical research is giving us new hope for fighting a great variety of diseases that torment our fellow Americans. And that research is dependent on continued, generous Federal funding.

We must not let our budgetary problems blind us to the great opportunities we have to reduce human tragedy and suffering through adequate funding of our medical research effort. If we skimp on the research budget, we may miss out on discoveries such as this treatment of Gaucher's disease.

Mr. Speaker, I salute the National Institutes of Health for its breakthrough, commend the Washington Post article to my colleagues, and ask that it be printed in the CONGRESSIONAL RECORD.

SOME HOPE FOR PEOPLE WITH GAUCHER'S

(By Sandy Rovner)

For the first time, victims of the devastating genetic illness, Gaucher's disease, may be dramatically helped by a new therapy. For the estimated 5,000 to 15,000 Americans who live their lives in pain and fatigue and who may be bedridden for years, there now is genuine hope that the ravages of this sometimes fatal disorder can be almost completely controlled.

Robin Berman, medical director of the National Gaucher Foundation, anticipates that "enzyme replacement will be to Gaucher's what insulin was to diabetes, what Factor VIII clotting factor is to hemophilia." Even the sickest patients will recover eventually, the specialists believe.

Scientists at the National Institutes of Health who have been working on Gaucher's for some 40 years, along with those at a Boston biotechnology firm, believe their Gaucher treatment marks the first time that an enzyme missing in the human body because of a glitch in genetic material has been effectively replaced, fully restoring normal function.

Roscoe O. Brady is the NIH geneticist who identified the cause of Gaucher's disease and subsequently isolated the missing enzyme itself about 30 years ago. A few weeks ago, the outcome of a clinical trial he conducted on 24 patients with Gaucher's, 12 of whom were treated with the modified enzyme, was published in the American Journal of Human Genetics.

All 12 treated patients, ranging from very young children to middle-aged adults, "exhibited striking improvement," the scientists said. "Patients who were incapacitated prior to this treatment have resumed activities such as work and school."

If this is the happy culmination of his life's work for the 66-year-old Brady, it is simply "a miracle," as far as Robin Berman is concerned. Three of Berman's six children have Gaucher's disease and two others are carriers.

Both family practitioner Berman and her businessman husband, Dennis, are carriers of the recessive gene that causes the illness. In this country, about two thirds of the Gaucher patients are descended from Eastern European Jews. In Europe, about half the patients are non-Jews, and in some countries it is found mostly outside the Jewish population.

In the new treatment, the substitute enzyme is derived from human placental material, purified and then modified in a way that lets it zero in on the precise cells that need it.

Enzyme replacement has been tried with only marginal success for such diseases as cystic fibrosis or the disorder in which the missing enzyme is ADA, adenine deaminase.

Earlier work in enzyme replacement for Gaucher's was disappointing. The treatment seemed to work for some patients in some aspects of the disease, but most specialists continued to pin their hopes and their research on gene therapy.

Now, however, the modified enzyme product, called Ceredase, appears to work on all patients to a greater or lesser extent, depending on how long they have been ill and how seriously.

Alison Taunton-Rigby, scientist-spokeswoman for Genzyme, the Boston firm that makes Ceredase, says the enzyme replacement does not cure the disorder—probably only gene therapy could actually do that. "But," she says, "here is a disease that can be extremely debilitating and life-threatening, and it used to be there was no hope."

Some victims have died soon after the onset of the disease, which can occur at any time after birth and at any age. Others may have no symptoms at all, but many are deformed, in almost constant agony and subject to broken bones for year after year.

There are three types of the disease. In the U.S., Type-1 Gaucher's is the most common genetic disease in the Jewish community, far more common than the always fatal Tay-Sachs disease, for example. Gaucher Types 2 and 3 are found in all racial and ethnic groups and tend to be even more virulent, affecting the central nervous system and producing not only chronic bone and joint problems but retardation and dementia as well.

The current trials have all been done on the more common Type 1, but Brady is readying trials with the other more deadly forms of the illness.

In addition to her work with the National Gaucher Foundation, Berman has worked at NIH alongside Brady and his clinical chief, Norman Barton. And the Bermans' son, Brian, was the first Gaucher's patient treated with the modified enzyme.

When he was 6, his spleen was so enlarged he literally looked pregnant. He notes wistfully in a videotape he made for the foundation that "my friends called me fat, but I wasn't."

He has been on the enzyme now for almost six years. Recently, his dose was reduced drastically, but he continues to improve. Today, at 11, he looks like a normal healthy kid.

Gaucher's disease is caused by the body's inability to dispose of lipids, fatty substances that are normally broken down by the missing enzyme. As a result, they accumulate in the bone marrow, the liver and the spleen, preventing these and other organs from functioning properly.

The spleen becomes enlarged and blood platelet counts plummet; the accumulating lipids crowd out red blood cells produced by the bone marrow so that the victim becomes anemic. Bones become honeycombed and fragile, deformed and subject to constant breaks and barely function.

For New Orleans publicist Louise Glicksman, mother of two Gaucher patients, a son and a daughter, ages 20 and 16 respectively, the success of Ceredase may be a mixed blessing. Producing it is a complicated and extremely labor-intensive procedure, making it so expensive that in some severe cases it may cost up to $200,000 to bring a patient under control.

The Gaucher Foundation, of which Glicksman is a founding member, is working with health insurance carriers, as is Genzyme, and there has been some success in getting the treatment covered, even on pre-approval experimental programs.

The product has been granted orphan drug status, giving the manufacturers a temporary monopoly in exchange for a guarantee that drugs for limited patient populations will be available.

The foundation expects that the cost will come down eventually. First, when the drug is approved, there will be a larger pool of patients over which the basic costs can be spread. Second, initial treatments were done with relatively high doses, because the sickest patients were treated first. Bigger doses are needed to correct symptoms that have developed in some cases for 20 years or more.

As many as 50 patients around the country are currently being treated, and all are responding, the researchers said. The Food and Drug Administration, which has already granted approval for the drug's use in experimental programs, is expected to approve it for general use sometime before the end of the year. An FDA advisory committee will look at it next month.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Once the symptoms are under control, the researchers expect that the doses may be dropped to as little as one tenth of the initial intensive therapy.

"That," says Brady, "is our next order of business," to find the lowest effective maintenance dose and the lowest dose at which the drug becomes effective, as well as determining if the therapy will work on the other two types of the disorder.

And Genzyme is already starting a program to try to replace the enzyme missing in people with cystic fibrosis. The cure for these diseases must await gene therapy, but control via enzyme replacement may now be at hand.

Brady, whose sense of excitement is almost palpable when he talks about the trials, is being asked by colleagues and friends how it feels to have success so close in his efforts. "How does it feel?" he repeats. "Well, it feels a lot better than if it didn't work, I'll tell you."

THE SILENCE ON TIBET

HON. CHUCK DOUGLAS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. DOUGLAS. Mr. Speaker, the Boston Globe on September 25 had an excellent editorial about the international silence concerning Tibet. The forced sterilizations occuring in that country and other atrocities are well outlined in the Glove Editorial and I commend it.

[From the Boston Globe, Sept, 25, 1990]

THE SILENCE ON TIBET

In the name of international law and national sovereignty, nearly all the nations of the world have condemned Iraq's invasion and annexation of Kuwait. In the 40 years since China invaded and annexed Tibet, the world has maintained a shameful silence, pretending not to notice.

The shame of that silence has not diminished. Today, the Tibetan people and their ancient culture are threatened with extinction at the hands of the regime in Beijing.

If it is right to prevent Iraq from obliterating Kuwait, then it is also right to take up the cause of Tibet. If it is honorable for President Bush to muster the diplomatic, economic and military powers of the United States in defense of Kuwait's national survival, then it is hypocritical for the president to refuse even to meet the Dalai Lama.

Tibet has suffered unimaginable horrors since it was conquered by Mao Tse-tung's army. Between 1949 and 1979, 1.2 million Tibetans lost their lives. Hundreds of thousands were incarcerated in prisons and forced labor camps. The Chinese destroyed more than 6,000 monasteries and looted their ancient works of art.

Tibetans were deprived of basic freedoms and forced by the Chinese army of occupation to observe the rituals of a totalitarian tyranny. Much of the forests and wildlife of Tibet were extirpated by the foreign rulers, who also used the Land of Snows as a dumping ground for toxic wastes and for a gulag holding millions of slave laborers.

Six million Tibetans survived these horrors, their yearning for freedom stronger than ever. Now they are imperiled by Chinese policies intended to impose, incrementally, a final solution for Beijing's Tibetan problem.

It is a final solution derived from the premise that demography is destiny. As they have done in Manchuria, Inner Mongolia and East Turkestan, the masters of Beijing are inundating Tibet with Chinese settlers, so that in one or two decades the Tibetans will become a small minority in their own land.

At the same time, the Chinese have been coercing Tibetan women to submit to forced abortions and forced sterlization. 14- and 15-year girls are being sterilized before they can conceive Tibetan babies.

"I feel America should not isolate China, the world's most populous nation, but should bring China into the mainstream," the Dall Lama told the Globe last week. "At the same time, it is very important to point clearly to a wrong thing."

The Dalai Lama should be received in the White House, and the president should point to the wrong things that have been done to Tibet. China cannot continue to be America's "most favored nation" while it practices genocide in Tibet.

COLUMBUS DAY AND THE AMERICAN DREAM

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mrs. LOWEY of New York. Mr. Speaker, I rise today in anticipation of Columbus Day—a time to reflect on the American dream. On this holiday we celebrate the rich heritage of the Italian-American community that has added so much to our Nation. This holiday is also a vivid reminder that this is, indeed, a new world, a land of opportunity with unique promise and potential.

The Columbus Day Celebration Committee of Yonkers, NY, has chosen this year to give their annual special achievement award to a family that needs no reminder of that fact. The Brittis family live the American dream every day of their lives.

Sixty-eight years ago, Nicola and Maria Brittis arrived in this country from Italy. They settled in Yonkers and set about making a life for themselves. Nicola worked hard, starting as a weaver at the Alexander Smith carpet factory, then became a shoemaker, then a sewing machine repairman in a curtain factory. He sold dry goods and produce from his own truck, and sold and repaired sewing machines. Maria worked at home, raising their five sons. She did a good job.

The Brittis' sons—Anthony, Nicholas, John, Dante, and Robert—grew up, went to college, served our country honorably in three wars, and became doctors and a pharmacist. They have now settled in Yonkers and started their own families. Nicola and Maria have 11 grandchildren; 4 of them are doctors. Others are pursuing successful academic careers. Still others have achieved distinction in the fields of engineering and teaching. The family is also proud of their youngest addition, 2-year-old granddaughter Julianna.

The experience of the Brittis family, Mr. Speaker, embodies the things that we celebrate on Columbus Day. This is the kind of strong, patriotic, hardworking family that has enabled the Italian-American community to prosper. This is the American dream at work.

BUDGET ALTERNATIVES

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. GINGRICH. Mr. Speaker, the most commonly asked question during the current controversy over the budget agreement has been. "What alternative is there? It's either this or sequester." This is incorrect. There are alternatives to the current budget deal, and I would like to share just one of them with my colleagues. In yesterday's Wall Street Journal, Paul Craig Roberts suggests an alternative, and it is worth the attention of my colleagues.

THE NO-GROWTH BUDGET

(By Paul Craig Roberts)

The $500 billion deficit reduction that the budget agreement claims for 1991-95 is unlikely to be realized, and the government knows it. The revised assumptions that the government expects to release next month (see below) show that lower-than-projected real growth in 1990 and 1991 reduces the claimed outlay reductions by $72.6 billion and eats up all but $8.1 billion of the $133.8 billion tax increase.

Nothing better shows the failure of the budget agreement than the fact that 40 percent of the claimed deficit reduction has already been lost to changed economic circumstances. A slowing economy drifting into recession demands a pro-growth budget. The budget negotiators have failed the job entrusted to them.

[In billions of dollars]

	1991	1992	1993	1994	1995	1991-95
Total outlays:						
Adjusted baseline	1,384.7	1,441.8	1,451.5	1,443.1	1,506.4	7,227.5
Savings	23.9	50.0	70.9	100.4	121.0	366.2
Agreed level	1,360.8	1,391.8	1,380.6	1,342.7	1,385.4	6,861.3
Revised assumptions	1,369.2	1,412.4	1,400.4	1,356.5	1,395.4	6,933.9
Net savings	15.5	29.4	51.1	86.6	111.0	293.6
Total receipts:						
Adjusted baseline	1,121.4	1,194.2	1,278.6	1,363.0	1,441.1	6,398.3
Savings	16.2	26.7	27.0	32.1	31.8	133.8
Agreed level	1,137.6	1,220.9	1,305.6	1,395.1	1,472.9	6,532.1
Revised assumptions	1,115.6	1,183.1	1,271.0	1,373.1	1,463.6	6,406.4
Net savings	−5.8	−11.1	−7.6	10.1	22.5	8.1

NONTRADITIONAL EMPLOYMENT FOR WOMEN

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. WEISS. Mr. Speaker, I rise today to praise an outstanding organization whose headquarters are located in the 17th Congressional District of New York and whose work deserves resounding recognition.

Nontraditional Employment for Women [NEW] is a nonprofit organization devoted to assisting women find employment in blue-collar and technical fields, fields which historically have underemployed women. Since its inception in 1978, NEW has helped over 3,000 women find work in construction, electronics, auto mechanics, air conditioning, and various other traditionally male professions. Because these jobs pay two to three times as much as what women earn in conventional "pink collar" jobs, such as secretarial and sales positions, NEW is providing economic empowerment to the women it serves.

Economic empowerment is particularly important to these NEW women, most of whom are economically and educationally disadvantaged. For example, 85 percent of NEW's trainees receive welfare, 78 percent run their households singlehandedly, and 66 percent dropped out of high school. NEW places most of its 300 annual participants in jobs paying an average wage of $10 per hour.

In addition, it is estimated that NEW's efforts have already saved New York City more than $5 million in welfare payments.

NEW's numerous successes have prompted the U.S. Department of Labor to designate it as a model program. One of these projects, entitled "NEW Futures," encourages young women to consider nontraditional occupations. NEW also offers counseling to women already in the workplace in order to increase job intention rates.

Further, NEW is taking ambitious steps toward closing the gender gap. Through its training programs, publications, and advocacy services for both men and women, the group is actively battling sexual harassment in the workplace. Another initiative called "Workplace Literacy" is aimed at increasing the literacy and education of low-income single mothers.

NEW's work has afforded many women the opportunity to be self-reliant by awakening the self-esteem and self-worth of many who up to now have only experienced doubt and disappointment. Through the training and education provided by NEW, these women are redefining rigid gender roles while contributing to the beautification and economic viability of New York City. I salute NEW and the women whose lives it changes and wish them continued success.

RADIO STATION KILT NAMED "COUNTRY STATION OF THE YEAR"

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. FIELDS. Mr. Speaker, I was pleased that radio station KILT—100 FM in Houston—recently was named "Country Station of the Year" by the National Association of Broadcasters. Dickie Rosenfeld, KILT's station manager and Rick Candea, the station's program director, received the NAB's coveted Marconi Radio Award at the Association's convention last month in Boston.

KILT was selected "Country Station of the Year" in an exhaustive and highly competitive process in which the NAB received literally thousands of nominations from across the country for the 23 categories of achievement by radio stations. Broadcasters, broadcast consultants and representatives from the trade press selected KILT and four other stations to represent the southwest region in the competition.

A similarly constituted "blue ribbon" panel of judges chose five national finalists, from which NAB stations nationwide chose their "Country Station of the Year." When those ballots were tallied, KILT emerged the winner of the Marconi award.

As a country music fan myself, I can personally attest to the professionalism of KILT's staff and the outstanding musical selections the station airs—which explains why I, and many thousands of other Houstonians, enjoy listening to KILT. In addition to the quality music the station broadcasts, Houstonians have come to expect timely and complete news and information from the station's news and public affairs staff.

Winning the NAB's Marconi Radio Award doesn't just happen. Such achievement is not accidental. Rather, it is the result of skill, hard work and dedication by the men and women who staff the radio station. In particular, station manager Dickie Rosenfeld; program director Rick Candea; music director Debbie Murray; and news director Jim Carola should be commended. This award reflects the high esteem in which they are held by their colleagues in the radio broadcast industry.

All Houstonians recognize the outstanding job KILT, and Westinghouse Broadcasting Co., the station's parent company, do in entertaining and informing those of us who live in the Houston metropolitan area. And KILT and Westinghouse richly deserve this high honor which the National Association of Broadcasters has bestowed upon them.

Mr. Speaker, I know you join with me in wishing the good men and women at KILT and Westinghouse Broadcasting Co. continued success in the months and years ahead.

ST. MARY'S CHILDREN AND FAMILY SERVICES—A COMMITMENT TO THE FUTURE

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. LENT. Mr. Speaker, I would like to take this opportunity to recognize the good works of a health care facility in my district, the St. Mary's Children and Family Services of Syosset and Hempstead in Nassau County, NY. For years, St. Mary's has provided a safe haven for children seeking refuge from the myriad of social ills plaguing our Nation. This agency has served our community well and continues to be an example to all those engaged in caring for needy children.

Most recently, St. Mary's completed a new educational center on campus in Syosset. The Thomas F. Casey Educational Center, so named in honor of a generous benefactor, replaces the wood-framed school building that was erected in 1904 and which no longer meets the changing needs of the St. Mary's children.

The educational center emphasizes vocational preparation recognizing St. Mary's commitment to preparing its youth for the world of work by promoting practical and efficient work habits and skills at an early age. St. Mary's believes that these skills will prepare children for the future by building confidence and a sense of self-worth.

St. Mary's Children and Family Services provides rehabilitative residential care for emotionally troubled boys between the ages of 8 and 18. An extensive treatment program includes diagnostic evaluation, psychological and psychiatric services, academic, religious, and occupational training—all geared toward a boy's individual and special needs.

Our children are our future and St. Mary's is doing everything possible to ensure that our future is a bright one. In 1990, with the new educational center fully operational, St. Mary's continues its outstanding tradition of service and commitment to our community. I commend this fine organization for its efforts on behalf of our youth of today and future generations of Americans.

DAVE RIGHETTI: A WINNING GRAND MARSHAL FOR YONKERS

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mrs. LOWEY of New York. Mr. Speaker, baseball season has ended in New York. The end came a little earlier than we had hoped, but it was still an exciting season. Our teams made valiant efforts, and many individual players had outstanding years.

One of those players was Dave Righetti, who is also the grand marshal of this year's Yonkers, NY, Columbus Day Parade. He has been a steady and consistent standout for the Yankees. Since his Yankee Stadium debut in 1979, Righetti has been one of the American League's most consistently effective pitchers. Whether starting or coming out of the bullpen, he gets the job done. He threw a no-hitter in 1983, an achievement of which most pitchers only dream, and has played in the midseason all-star game twice. Dave Righetti is the Yankees' all-time save leader, and he has twice been recognized as the American League Fireman of the Year. This is truly a career of which anyone could be proud.

Dave Righetti's achievements do not end at the foul lines, however. He has also given his time to serve his community, making antidrug advertisements and helping the Leukemia Society in their vital work.

There will be other years—better years—for New York baseball. One thing that we can be certain of, Dave Righetti will be on the mound, making life difficult for opposing batters. The city of Yonkers chose wisely when they picked a grand marshal this Columbus Day. They picked a real winner in baseball, and in life.

THE BUDGET DEAL

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. GINGRICH. Mr. Speaker, I would like to share with my colleagues an article by Jim Miller, budget director under President Reagan, that appeared in the Wall Street Journal yesterday. As a veteran of past budget summits, Mr. Miller gives us valid reasons to reject the current budget agreement.

[From the Wall Street Journal, Oct. 3, 1990]

PULL THE PLUG ON THE BUDGET DEAL

(By Jim Miller)

As one who participated in a (1987) budget summit lasting half as long, my heart goes out to those brave, honorable souls who did their duty as they saw it in the negotiations at Andrews Air Force base. However, the result deserves to be rejected by Congress.

The agreement's greatest deficiency is that it contains no budget process reforms to rectify the bias toward ever-expanding government and increasing reliance on deficit finance. There is no line-item veto, no balanced budget amendment, no legally enforceable budget resolution.

The spending caps don't apply to some accounts, such as the International Monetary Fund and Egyptian debt forgiveness and to presidential requests for "emergency supplementals." The caps do not apply during the first two years of the agreement to revisions in spending because of "technical and economic adjustments."

Nor do they apply during the remaining three years if the president's representatives and the congressional leadership agree that revisions are in order. Since the economic assumptions for the out years are especially optimistic—for example, 4.1% real growth, 3.2% inflation and 4.9% T-bills in 1993—revisions almost certainly will be found to be in order. Moreover, the caps can always be waived by a three-fifths vote in both Houses.

It is truly remarkable that the compromise is so unbalanced. Roughly speaking, one side (led by the president) wanted to avoid increases in taxes and reductions in defense spending. The other side wanted to avoid cuts in domestic spending. Even if we were to take the results of the deal at face value, the president's side would have been outfoxed: The agreement calls for 1991 tax increases of $16.2 billion, defense cuts of $9.8 billion, and entitlement cuts of $12.1 billion.

However, the face value is inaccurate. $1 billion of the alleged $12.1 billion in domestic spending cuts is phony: It replaces a lump-sum payment to retiring civil-service employees with an annuity. Another $4 billion of "cuts" consists of new user fees that are counted as "negative outlays." Disregard the phony cut and count the user fees as what they are—taxes—and the "cost" of the agreement to the president's side is on the order of $30 billion in the first year, while the "cost" to the Democratic leadership's side is only $7.1 billion. And this imbalance persists throughout the five-year term of the agreement.

The agreement says that revenues are to rise by $73.9 billion next year, a 7.1% increase. Spending would go up by $109 billion, an 8.6% increase. Domestic spending would rise even faster. Evidently, the taxes raised by the agreement would be used to finance spending, not reduce the deficit.

Despite all the hype, the current agreement would not reduce the deficit, which would rise from approximately $218.5 billion this year to an estimated $253.6 billion next year. On the other hand, if there were an $85.4 billion initial sequester (as required by Gramm-Rudman), the deficit would fall to $168.2 billion.

President Bush gave up a lot for this agreement, and he has little to show for it. He broke his "no new taxes" pledge, and even accepted an increase in rates in the disguised form of a limitation on deductions. He cast aside the jewel of his negotiating demands—a cut in the tax rate on capital gains—which would have done much to stimulate economic growth and would have more than "paid for itself" through higher federal receipts.

Although he is honor-bound to support the agreement, the president should be ready with a quick response if Congress refuses to pass it. He should order a sequester. This would result in something approximating a nominal spending freeze. Then, he should challenge Congress to reorder spending priorities. Even if spending were permitted to rise as fast as inflation and even if there were no tax increase, the deficit would still be lower next year than it would be under this much ballyhooed but fatally flawed agreement.

CHILD CARE LEGISLATION

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. WEISS. Mr. Speaker, I rise to stress the importance of sending a child-care bill to President Bush before the end of the 101st Congress. Although I would like to see a more sweeping measure enacted to help bring affordable quality child care to all Americans, the child-care package held up in conference is an important beginning.

Mr. Speaker, if we do not pass child-care legislation before recess, we will have to start all over again next session. What a tragic waste of 3 long and hard years of work this would be, as well as an unforgivable injustice to our Nation's families. Not since 1971, when President Nixon vetoed a child-care bill, has Congress sent the President child-care legislation. We simply cannot allow 10 more years to elapse before we address the child-care needs of millions of Americans.

The upcoming budget cuts in Medicare, unemployment benefits, and other Federal programs will have a negative impact on the ability of low- and middle-income families to afford quality child care. It is imperative, therefore, that we enact child-care legislation now.

The child-care legislation in conference is one of the most urgently needed domestic measures to come before us. Let's get the bill to the President and act to help families see a brighter and more promising tomorrow.

JUST SAY NO TO INCREASED SPENDING

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. PACKARD. Mr. Speaker, I rise today to urge my colleagues to "Just Say No!"—No to increased domestic spending, No to deep defense cuts, No to tax increases, No to business as usual with this bad budget deal.

The President has asked my constituents to call me to express their views on the budget package. They have called—of the over 500 calls I have received in 3 days 98 percent are opposed to this budget proposal. Many would prefer the automatic cut of Gramm-Rudman. Some say they plan to vote George Bush out of office in 1992.

Until today, I have stood by our President supporting every veto and almost every legislative position the administration has taken. However, on this occasion, much as I would like to, I cannot support the President. I deeply believe that this is the wrong budget package at this time. This budget package is simply a bad deal for America:

It is a bad deal economically: As our Nation slowly slides into a period of negative growth, increasing taxes will only make recession broader and deeper. A large part of the proposed taxes fall on the transportation sector of our economy. The motor fuels tax and the aviation tax will dampen economic activity just when we need to stimulate the economy. These taxes are also inflationary and will cause a ripple effect of increased prices throughout the economy.

It is a bad deal philosophically: This proposal is philosophically wrong because it continues Government business as usual. The so-called baseline budgeting process is the reverse of compound interest—it is compound spending. Baseline budgeting only cuts from projected increases. This is not cutting—it is only increasing by a smaller amount. With baseline budgeting, Government continues to grow like a cancer sapping the energy of the economy and the American people.

This proposal once again places the burden on the elderly, the veterans and the middle class. Cuts in Medicare and veterans benefits hurt those who can afford it least. The taxes on the middle-class working people increase the burden on those who already pay the most in taxes.

Lastly, this budget is a bad deal politically: The American people see this deal for what it is—one more burden for the middle class, while Congress continues to spend money on its pet programs to satisfy its special interest. It is simply not fair. The American people see a President who has thus far been very successful in dealing with Congress being out negotiated and coming away from the budget talks empty handed.

Mr. President, Mr. Speaker, and my fellow colleagues; we can and must do better for the American people.

DOING BUSINESS WITH H.R.H. PRINCE MISHAAL BIN ABDUL AZIZ OF SAUDI ARABIA

HON. JAMES A TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. TRAFICANT. Mr. Speaker, during a time when we feel a certain closeness to the Saudis and may well sell them a $6.74 billion arms package, I want to warn American businesses that doing business with certain Saudi Arabians can be destructive to the economic well-being of their companies.

In 1981, Buckeit International, Inc., a small construction company in my district, signed a contract with His Royal Highness Prince Mishaal Bin Abdul Aziz, a senior member of the Saudi Arabian royal family, to design, construct, and arrange financing for a shopping center in Riyadh. Now 9 years later, long after work has been completed and the center rented, a final settlement is yet to be made.

During construction of the mall, Prince Mishaal resorted to various unscrupulous practices to get Bucheit to acquiesce to demands that went beyond the limits of their contract agreement. The prince held Mr. Buchiet captive in his palace until he agreed to install 220 volt outlets not agreed on in the contract in each shop at Bucheit's expense. In addition, he held 15 Bucheit workers captive and refused to release them unless Bucheit agreed to finance additional work done on the project due to delays caused by the Prince's failure to meet contract obligations. While Bucheit was finishing work on the mall, the prince fraudulenty called on a $1.3 million letter of credit that Bucheit had put to guarantee the project's completion and blocked removal of 500,000 dollars worth of Bucheit's equipment and records.

Although Prince Mishaal entered into the contract as a private citizen, he used his connections with the royal family to cheat Bucheit out of over $11 million. The prince used his influence to change local building codes to suit his personal needs. He actually created documents which, in effect, were new laws to force Bucheit to do additional work on the project or face the threat of a jail sentence for failure to comply with Saudi laws. I have documentation in my possession that supports each of these claims made by Bucheit International.

Since completion of the mall in 1985, Bucheit has repeatedly requested that Prince Mishaal negotiate a compromise with him or submit the matter to arbitration as required by contract. Representatives from the Commerce Department have recently met with the prince's business manager to request that a final settlement be worked out. The prince not only refused to negotiate, but, in a spirit of willful defiance, indicated that he would invite international legal proceedings because he can outspend Bucheit 10 to 1 in legal fees. I can only conclude that the prince is unable to refute Bucheit's claims and, as a brother to King Faud, has set himself above the principle of contract sancity.

While the prince has avoided settling his obligations, Bucheit International has been informed by the Saudi Arabian tax authorities that it owes substantial taxes and penalties on income it never received from the project. The firm believes that Prince Mishaal used his influence to raise the tax issue so to further delay settling the construction contract claims.

The prince has used such tactics with other businessmen who have dealt with him. I am aware of at least nine other firms, American and foreign, that this prince has cheated out of million of dollars; among them is DRG Financial. In the next few weeks, I will be entering some of their stories in the RECORD.

It angers me that an arrogant prince who considers himself above the law is screwing American firms when the U.S. military is sparing no expense to preserve the kingdom's independence and integrity. Prince Mishaal is well-known for his unscrupulous behavior and his lack of business ethics.

A senior prince should not be able to block settlement of his contractual obligations, detain workers, and prevent to export of a company's property. Congress should encourage the Saudi Arabian Government to develop laws and regulations accepted as standard by the world trading community. Saudi Arabia has made great strides in economic and social development during the past 15 years. It should now address its inadequate legal system. It must provide safeguards to its local and foreign resident business communities if it expects to attract investors and technology.

OPPOSITION TO THE RULE ON H.R. 4300

HON. JON L. KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. KYL. Mr. Speaker, yesterday I opposed the proposed rule to H.R. 4300, the Family Unity and Employment Opportunity Immigration Act. Considering the openness and fairness that this bill sought to accomplish for our immigration policy, I would have hoped that we could have debated this issue under a similarly open and fair rule.

Although H.R. 4300 has many positive elements that should be adopted, the bill also has several provisions which should have been addressed by the full House. One such provision is the 25,000 annual cap placed on H1 nonimmigrant visas for aliens of distinguished merit and ability. Adoption of this cap will prove damaging to American high-technology competitiveness. Unfortunately, this rule denied me the opportunity to offer an amendment that would have addressed this issue, and that is one reason I opposed the rule and the bill.

The H1 visa allows companies to hire specially trained foreigners. A large number of these visas are awarded to foreign scientists, professors and engineers who do valuable work in the United States. The H1 visa has allowed experts in many fields of expertise, ranging from AIDS to fusion energy research, to come to the United States and assist in our effort to resolve some of the most difficult and demanding scientific questions facing our Nation. As our colleague, GEORGE BROWN, of California, said recently.

> Today, American industry, academia and even the U.S. Government rely heavily on the talents provided by foreign-trained personnel to make up for the shortages resulting from the smaller numbers of native-born Americans choosing science and engineering as a career.

H.R. 4300, however, will force American industry to accept half the number of H1 visas than it currently uses. Simply put, this cut is anticompetitive.

Furthermore, because applicants for H.1 visas already need labor certification, I do not believe that companies are using this program to cheat Americans from good jobs. A professor of engineering physics at UCSD recently pointed out that:

> Qualified U.S. citizens are not being displaced by foreign-born engineers who work for lower wages. In fact, all engineers appear to be paid on the same scale and, generally speaking, both industrial and university employers favor qualified native-born (employees).

Of course, some would like to debate this assertion. A rule which adopted my amendment would have allowed for such an opportunity. It is my opinion, however, that we in the House would have reached the same conclusion that Senator KENNEDY and the majority of the Senate reached: That excluding scientists and engineers will not protect the jobs of U.S. workers, but it will hurt our ability to compete in an expanding high-technology global marketplace.

GERMAN-AMERICAN DAY

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. COLEMAN of Missouri. Mr. Speaker, today we celebrate German-American Day which in the past has been a time to recognize both the heritage of millions of Americans and the close ties between our Nation and West Germany. Of course, what sets today apart is, that for the first time in 45 years there is one united Germany, which yesterday took its rightful place among the free and democratic nations of the world.

Today we celebrate with our German friends the historic reunification of their people. It is a remarkable symbol of the changes that have swept the world over the past year. It represents a remarkable recovery from the depths of totalitarian oppression and a crushing defeat. It offers hope to every people who strive for political and economic freedom.

Today also marks a successful culmination of Western policy in Europe for the last four decades. That policy of determination, patience, and strength sustained and protected the German people during their darkest hours. Through the foresight of leaders like Harry Truman, George Marshall, Dwight Eisenhower, and other postwar leaders, these policies fostered the rebirth of German economic and political freedom. Today, because we and our allies remained united and strong, a democratic Germany stands ready to play its role in

helping the nations of Eastern Europe emerge from their own dark age.

As a founding Member and former Chairman of the Congressional Study Group on Germany, I congratulate my many friends among the German people and in the German Government. While they face great challenges in the years ahead, they approach them with energy and determination. More importantly, they approach them from the perspective of a free and democratic people.

Mr. Speaker, I ask my colleagues to join me—on this, German-American Day—in welcoming the united Germany into the family of nations.

RAISKIN CENTER TO CELEBRATE GOLDEN ANNIVERSARY

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. GREEN of New York. Mr. Speaker, it gives me great pleasure to call your attention to the 50th anniversary of the Community Synagogue Max D. Raiskin Center of Manhattan. The Raiskin Center has catered to the spiritual and cultural needs of the community for a half century.

In celebration of its contributions to the community, the center will mark its golden anniversary with a gala event in the synagogue on October 21, 1990. It is my hope that the celebration is a complete success and will be an evening remembered by all those in attendance. I should like to take this opportunity to wish the Community Synagogue Max D. Raiskin Center and its congregation all the best for another 50 years of success.

TRIBUTE TO FRANK DE GARCIA

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. GEKAS. Mr. Speaker, I rise today to ask my colleagues to join me in honoring a very special man from my 17th Congressional District in Pennsylvania.

Since becoming a U.S. citizen, O. Frank de Garcia, has shown through his immeasurable dedication and hard work that he is a true American. Time and time again he has devoted himself to helping fellow Hispanics achieve the decency of life and the promise of a future, their rights as Americans.

Besides dedicating much of his time to helping Hispanics, Frank de Garcia has been associated with several community and professional organizations. These include Harrisburg River Rescue, the Dauphin County Crime Stoppers, Crime Victim/Witness Program of Dauphin County, Mount Pleasant Hispanic Center, and the Dauphin County Planning Commission.

Currently, Mr. de Garcia is a commissioner with the Crime Victims' Compensation Board in the Governor's office, and was appointed by the Governor to serve in the Governor's Advisory Commission on Latino Affairs. He was unanimously confirmed by the State senate for a 6-year term ending March 1995, and he was recently appointed president of Harrisburg City Council.

Frank de Garcia has also dedicated much of his time assisting the Harrisburg Police Department. He is a special agent with the department, and is a duly licensed private detective and investigator in the Commonwealth of Pennsylvania.

Mr. Speaker, through his selfless devotion to others, Frank de Garcia has proven that he is well-deserving of this recognition. I personally wish to thank him for his dedication to the people of my district. His message to fellow Hispanics is important: Continue to grow together and never fail to reach for your goals.

I am proud that Frank is a part of my congressional district. The work he does for others is invaluable.

SALUTE TO THE REPUBLIC OF CHINA ON TAIWAN

HON. BEN GARRIDO BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. BLAZ. Mr. Speaker, I rise today as the people of the Republic of China on Taiwan prepare to celebrate their national day on the 10th of this month. It was on October 10, 1911, that republican forces in Wu Ch'ang, Hupeh, central China, began the revolution which led to the abdication on February 12, 1912, of the last Emperor of China, Hsuan T'ung of the Ch'ing dynasty. As the Battle of Lexington and Concord, MA, on April 19, 1775, marked the opening volley of our Revolutionary War, so does the commemoration of the 10th of October recall for the people of the Republic of China on Taiwan the starting point of their struggle for self-determination.

I wish to tell my friends in Taiwan that we are very much heartened to hear about their economic and political progress in recent years. I hope that they will continue to prosper and become a true democracy. In the meantime, the trade conflicts between the United States and the Republic of China on Taiwan have become more manageable. This has come about largely to the efforts of the people of Taiwan themselves and is due to the untiring efforts of their representative, Mr. Ding Mou-Shih, and his staff in explaining what specific actions their Government has been taking to reduce the trade imbalance between our two countries. The efforts of the Republic of China on Taiwan in being cooperative and communicative with the United States are certainly worthy of other countries' consideration.

I congratulate the President and Vice President of the Republic of China on Taiwan, the Honorable Lee Teng-hui and the Honorable Li Yuan-zu.

ANOTHER BLOW TO THE HEART OF AMERICAN COMPETITIVENESS IN HIGH TECHNOLOGY

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. RITTER. Mr. Speaker, on September 12, another American high-technology industry sold out for good. Cincinnati Milacron, a maker of large robots sold to a Swiss company, is yet another casualty of our ad hoc approach toward industry. There was barely a peep from the public. There was no outpouring of outrage that yet another American high-technology industry is 100 percent dominated by foreign interests.

Some say the sale of Cincinnati Milacron doesn't really matter. But robots and machine tools are critical to American companies which manufacture products critical to our economic well-being, our standard of living, and our jobs.

We cannot live well if we do not manufacture well, and we cannot go back to the dark days of the last four decades, when we treated manufacturing as the doormat of the American economy.

We also need to recognize that it matters whether we produce robots or radishes—or digital video versus dish towels. To those who say that's industrial policy, I say open your eyes to global realities and the important of value-added production.

Our current industrial policy fails to recognize that our competitors, particularly the Japanese, target key industries for success, and continue to overtake us in key areas. Look at the laptop computers making inroads into our computer market. Computers are next.

Our industrial policy hasn't made a dent in the high cost of investment capital, which makes it difficult for even the most innovative American companies to compete worldwide. According to an executive of the Swiss company that took over Cincinnati Milcron, it was the high cost of capital that put the robot maker at a serious disadvantage.

Last year, the Japanese saved over one-half trillion dollars, money which went into industry. We've got to start doing the same thing, developing more patient capital in the United States and creating tax incentives for entrepreneurial businesses, productive equipment, and facilities.

In one industry after another where Americans developed the important technology, we have yielded a leadership position. We can now add robots to autos, VCR's, compact discs, semiconductors, machine tools, and high definition systems.

Today, there isn't one single area of high technology where we are gaining on our foreign competitors, and indeed, there are many where we are already losing badly. We need a comprehensive effort to reverse this trend. I urge my colleagues to take a look at the Republican competitiveness package, our package of 12 bills designed to restore the luster of American high technology.

A SALUTE TO ROBERT POLHILL

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. FISH. Mr. Speaker, this past Sunday my district welcomed home an individual who has displayed remarkable courage and perseverance in the face of tremendous adversity: Robert Polhill.

As we all know, this brave American native of Beacon, NY, spent more than 3 years as a captive of Shiite Muslim extremists in Lebanon before his release in April. During his captivity he never gave up his dreams of freedom and returning to his family and the country he loves.

His wife, Ferial, and his sons also displayed remarkable poise in the midst of a weathering ordeal and his mother, Ruth, of Fishkill, NY, never lost faith that her son would come home.

Last Sunday, thousands of people lined the streets to cheer Polhill as he and his wife rode through Fishkill and Beacon. Fishkill Mayor George Carter presented Polhill with a plague while Beacon Mayor Clara Lou Gould gave him a key to the city.

The people of Beacon and Fishkill should be commended for their generous outpouring of love and hospitality to one of their own. I join them in saying, "Welcome home, Robert! It's great to have you back."

TRIBUTE TO KEN BURNS—CREATOR OF "THE CIVIL WAR" DOCUMENTARY ON PBS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. LANTOS. Mr. Speaker, I rise today to commend Ken Burns on his masterful vision and brilliant production of the documentary, "The Civil War," which aired on PBS last week.

The Civil War was the supreme test of our Nation. Although it was a supreme tragedy, it was also a triumph, for it united a nation that had been divided for over a quarter of a century. Before the Civil War, people spoke of the United States in the plural: "The United States are * * *." After the war it became singular: "The United States is * * *."

Ken Burns' outstanding documentary brings to us the realization that this critical crossroad of our history was, at the same time, the crucible that made us into the nation we have now become. He says, "The Civil War defines us * * *. It is a window into ourselves"—and Ken Burns' work has enabled us to look through that window to encounter our deepest values as a nation.

What race means to us, how we face death, where our loyalties lie, what ways we define ourselves—these are only a few of the issues Burns' exceptional work addresses. He chooses to teach us these profound truths without gimmicks, purely as an honest storyteller of human lives and human emotions. Ken Burns' "The Civil War" has the compelling character of a beautiful art exhibit and the narrative power of a tragic story.

Mr. Speaker, I invite my colleagues to join me in paying tribute to Ken Burns. All Americans owe a debt of gratitude to him for his monumental documentary which has enriched our understanding of our Nation's history and helped us understand the values we still hold sacred today.

HONORING THE UNITED BLACK MEN OF QUEENS FOUNDATION

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to the United Black Men of Queens Foundation, an organization that is dedicated to community service in Queens County, NY. On October 5, 1990, the foundation will hold its annual scholarship awards dinner and presentation honoring outstanding Queens musicians.

The UBM was founded in December 1975 by a group of men interested in community activities. It was designed to bring together people of strong, sometimes differing, views but who would move forward toward common goals through one voice. Each month about 50 members of this nonprofit organization meet at 8 a.m., Sunday to discuss various issues that affect life within the county's minority communities and to formulate appropriate action that its membership should pursue to remedy conditions that impact upon them. The members meet to develop strategies to confront each problem or cause.

Currently, the organization's efforts are directed toward a broad range of policy areas including social and political action, economic and community development, education, culture, crime, and youth development.

The charter prohibits participation in partisan politics and therefore does not endorse specific candidates. However, the foundation is involved in voter registration drives, political process education, and other activities designed to increase public awareness and activity in community affairs. Their goal is to produce a well-informed electorate who can make reasoned decisions on who their leaders in public office should be.

Proceeds of the foundation's October 5 celebration will go toward their scholarship program, which helps needy students further their educational goals. In addition, the fund helps provide an effective mentoring program for youth in fostering career decisions.

Mr. Speaker, community organizations such as these are vital in moving our Nation's youth toward a brighter future. Because of their strong and selfless commitment to Queens County, I ask my colleagues in the House of Representatives to join me in honoring the United Black Men of Queens and their president, William Jefferson, and to wish them continued success in their efforts.

PUERTO RICAN CULTURAL FOUNDATION

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, on November 18, 1990, the Puerto Rican Cultural Foundation will hold its first Puerto Rican Cultural Parade in the city of Miami, to commemorate the discovery of Puerto Rico.

The foundation was created to unite the growing population of Puerto Ricans in the State of Florida by hosting cultural events similar to the many celebrations held in their native land and by creating a scholarship program for Puerto Rican college students. These events are aimed to increase public awareness about Puerto Rican culture in the community. The foundation's board of directors are: Henry Mojica, chairman; Joseph Anthony Rios, vice president; Luis De Rosa, second vice president and treasurer; Elizabeth Martinez, secretary; and Carolina Borselo, member at large.

The Puerto Rican Cultural Foundation is interested in addressing the social issues confronting the Puerto Rican community in America. These issues are education and the expansion of business opportunities. In working toward these goals, the foundation is presently involved in creating a network of experts within and throughout the community. This network will be composed of successful business leaders, who will provide technical support and advice to small businesses.

In the area of education, the Puerto Rican Cultural Foundation has been very active in raising money for different college scholarship programs for students of Puerto Rican descent. In addition, the foundation is planning youth-oriented programs designed where young people will have the opportunity to meet successful Hispanic professionals.

The 3-day cultural event of November 18, will include a gala at the Hyatt Regency Downtown Miami, and will be attended by State and local elected officials in addition to other invited guests. In addition, there will be a concert at the Miami Marine Stadium featuring top Latin bands and performers, folkloric dancers, and other guest stars. To end the festivities, there will be a Puerto Rican Cultural Parade at Bicentennial Park in Miami, exhibiting floats, marching bands, musicians, and celebrities. This event is open to the public for their enjoyment of music, authentic Puerto Rican food and art.

The Puerto Rican Cultural Foundation deserves the highest praise for their continuous and tireless efforts to serve the Puerto Rican community in Dade County, FL.

LETTER FROM AN AMERICAN TRAVELER TO YUGOSLAVIA ON HUMAN RIGHTS ABUSES AGAINST ALBANIANS IN YUGOSLAVIA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. LANTOS. Mr. Speaker, during the past year, we have seen a dramatic transformation of Central and Eastern Europe—from totalitarian dictatorships to democratically elected governments, from centrally planned to market-oriented economies. This transformation has swept across the entire region—with one exception.

Northwestern Yugoslavia has felt the winds of democratic change, but southern Yugoslavia has not. The Yugoslav Republic of Serbia has clung to the old authoritarian system. The Serbian government has maintained—and even strengthened—repressive control over the Province of Kosova, with its majority population of ethnic Albanians.

Mr. Speaker, others of our colleagues and I have discussed the human rights abuses against the Albanians of Kosova on a number of occasions. Recently, our former colleague from New York, Joseph J. DioGuardi, received a letter from an American couple who traveled in Yugoslavia this past summer. Their first-hand account of conditions in Kosova, their personal experience of the abuse, mistreatment, and human rights violations against ethnic Albanians provides an excellent summary of current conditions in Kosova.

Mr. Speaker, I insert this letter to Mr. DioGuardi from Mrs. Gwen Batson in the RECORD, and I urge my colleagues to read this troubling document:

SUBJECT: SERBIAN ACTIONS AGAINST ALBANIANS IN THE PROVINCE OF KOSOVO, YUGOSLAVIA

Hon. JOSEPH J. DIOGUARDI,
President, AACL,
Capitol Hill, Washington, DC.

DEAR MR. DIOGUARDIA: My husband and I have recently returned from a five week tour of several countries in Europe. We spent eighteen days, July 16 until August 2, in the Kosovo Province of Yugoslavia. We were guests of friends in Gjakova, but we visited in homes in several other towns and villages. In July 1988, we spent a week there.

During our visit this year, we heard from relatives and friends of our host family the reality of the Serbian atrocities and oppression of the Albanians in the Kosovo Province and we also saw and experienced first-hand some of the things we had heard about.

We observed the reactions to the visit you and Congressman Tom Lantos had made earlier in the year. Your visit was a great inspiration to the people. It has given them a ray of hope that the United States will somehow find a way to help them. A dentist friend told us that the people felt toward you as if you were gods. They wanted to invite you to come back, but the Serbs absolutely forbade it.

We would have been shocked by the Serbian military changes that have been made there in the last two years had we not been in close contact during this time with our friends through their relatives in the U.S.

The first day we went to the town center in Gjakova, a tank was positioned on the town plaza facing the hotel. The turret was in the up position and a Serbian policeman, as all members of the occupational force are called, stood at readiness. We must question the purpose of an armed tank in the center of a town where the citizens have not been allowed to own guns or weapons of any kind.

Within the next few days the tank rumbled past our house. Our host lives on the main street at the edge of the city. There was word that a meeting was to be held concerning the Kosovo situation and the appearance of the tanks would reveal too much about the Serbs' actions. A few days after the meeting terminated, three more tanks rumbled back into town. At one time earlier in the year, a tank was stationed directly in front of our host's house.

In 1988, we rarely saw a police officer in the entire city of Gjakova and crime was almost nonexistent. This year Serbian police are everywhere. They travel in groups of never less than two but almost always in fours or sixes. They roam the streets with their small machine guns hanging from their shoulders. They walk through the stores and sometimes just stand on the street and stare at citizens. It was evident their conspicuousness and attitude were designed to intimidate and harass. At random times they stop pedestrians, cars, trucks, and even children and question them. They stopped and questioned one of the children, a boy of ten, in the home we were visiting on the day we arrived. They enjoy detaining people for questioning. They are determined to harass Albanians.

On the evening of July 30, 1990, immediately after we had left the house for a visit to another family, one of the daughters and her two children were sitting in the front yard and witnessed ten Serbian police stop five cars. They had the occupants get out of the cars. They then forced the men to stand aside and observe while the police searched their wives. They patted them up and down, fondling them and even feeling the women's breasts INSIDE their blouses. Then they allowed them to drive on. Later we heard that as the men seethed and revealed their anger, the police held their guns on them and mockingly asked what was the matter with them and other such taunting remarks. An attorney we visited said the Serbs are constantly doing this type of thing in their efforts to provoke them to violence so they can justify killing more Albanians.

This incident was not difficult to observe. Our friends' house is set back from the street with shade trees between it and the street. The place on the street where this took place was easily viewed from where she sat in front of the house. When she saw what was happening, she observed as cautiously as possible to get what facts she could observe.

Their next door neighbor on one side is a Serbian family. They own a bar that is located on the street in front of their house. This bar is a hangout for the Serbian police. They congregate there all through the day and at night. The first night we were there we heard unison singing coming from the bar. We found that the Serbian police gather there at night and sing their songs of "victory" and propaganda. They sing of how they have taken back their beloved Kosovo, how they have made the Albanians' blood run and how they will continue to make it run. My husband and I heard this singing almost every night through our bedroom window.

The sight of these armed men jumping out of army trucks with their guns slung over their shoulders in front of the house (they parked in front of our house to go into the bar) along with the singing was extremely intimidating to me. I felt fear but as a United States citizen, I felt a degree of protection. The Serbs do not want people from America to know what they are doing. One can imagine the terrible fear that grips the heart of the Albanian there.

It is a regulation that residents who have foreign visitors must take them to the passport section of the police department and have them registered. When we registered in 1988, one Albanian man handled the business of the office very efficiently and was very hospitable. The Serbs have now replaced that position with a Serb and now have an Albanian clerk to fill out the brief forms. The Serb in charge was polite. He asked us when we would leave. We told him and in Serbian he asked our hostess if she could guarantee that we would leave at that time. She assured him we expected to leave at that time because we had our plane tickets.

We can assume that it was important to them that we leave because as soon as we left, they increased their harassment of the Albanians. As a matter of fact, they did not wait. They had threatened to cut off the water to the Albanians on the first of August; however, on July 31 we awoke to a reduced pressure in the water, no more than a tiny stream. Shortly the water supply was cut off completely. This was not the first time for this tactic to be used so our hostess was prepared and had saved a good supply of water in containers. One problem the Serbs face with this strategy is that it is difficult for them to use it without depriving their own people. The Serbian neighbors in this instance and the bar frequented by their police caused them to turn that section of water back on before some of the other sections of town. Our water was off most of the morning. They like to use tactics such as this because they can always tell the world that they needed to make some kind of repairs to the water system, etc. Yet, they make sure the threat is known ahead of time that they are going to do this to the Albanians—more harassment.

Visitors and people we visited, friends and relatives, related details of shocking atrocities that should never be occurring in any country and especially not in a country as civilized as Yugoslavia is considered to be. They described episodes of physical abuse and harassment that had happened earlier and new episodes that were taking place daily. The people relating this were people from all walks of life from Gjakova and nearby towns. Several of them either had already been put out of jobs and been replaced by Serbs or expected to be. They were college professors, doctors, a dentist, factory administrators and workers, engineers, technicians, construction workers and many business men as well as farmers, store clerks, etc.

One horrible example of the atrocities is on everyone's mind in Gjakova. An Albanian family tried to take their child who had appendicitis to the hospital for treatment. On the way they were stopped by the Serbian police. The police detained the family for an excessive length of time although they were told and could see how ill the child was. The police beat the couple and took their car. The couple walked to the hospital and carried the child. When they arrived at the hospital the same police were there and refused to allow the child to be treated. The family got the child to a hospital in another city, but it was too late. The appendix had ruptured and the child died.

A doctor told us he often makes house calls because if people come to the clinic, the police may not allow the doctors and nurses to treat them. Our hostess' daughter who is a registered nurse at the clinic in Gjakova says it often happens that she is not allowed to assist patients who come for help.

A female cousin of our host family had her arm broken earlier this year by the police when she went to the clinic to be treated for influenza.

Earlier in the year the Serbian police had grabbed an Albanian man by the scrotum and wounded him seriously.

In one instance, three Albanian men were wounded. They had cuts on their faces and arms. When they were taken to the hospital the police herded the doctors and nurses into a room and held them at gunpoint. The police put on white coats and sewed up the men's cuts. Of course the wounds became infected. One man's family took him to Slovenia for medical help but it was too late, he died from the infection. The others also died from the infections.

A doctor friend in Gjakova told us that he and two helpers had tried to help two Albanian men, one an 18 year old boy, who had been shot. The Serbian police held guns on them and would not allow them to help the wounded at all. He said he has been taken to the police department numerous times for questioning.

August 1, 1990, our friend who is a nurse received a call from a nurse friend who works in Pristina. She said the Serbs had sent police to the Pristina hospital that day and would not allow Albanian patients to be admitted nor treated. They do this frequently.

For some time now they have limited the supply of medicines allowed to be sent into the Kosovo Province, making it impossible for Albanians on regular medication to have the drugs they need for chronic conditions as well as temporary illnesses. An uncle in our host family experiences this.

Serbs have even burned out some of the pharmacies to further restrict the medicine the Albanian people can get. Two pharmacies were burned recently. (I believe the location was Ferizaj.)

Another type of horrible atrocity is a common occurrence. The Serbian police stop Albanian citizens and try to force them to give the police their gold jewelry, rings and chains usually. If the Albanians refuse, the Serbs force them to swallow it.

Our friend who visited home in Pec earlier in the year saw one account of this on television while she was there. Because an Albanian man had refused when stopped to give the police a gold ring, they had beaten him with their clubs until he was bruised black all over his face and front of his body. They had then pushed his ring down his throat. He was later taken to the hospital and the ring was removed. The man's bruised body and the operation showing the removal of the ring was televised and shown on the Albanian news.

The Serbs have now closed down the Albanian television and radio stations and August 9, we had word that they have closed down *Rilindje*, the Albanian newspaper; however, I understand that the newspaper is now being printed in Skopje in the Macedonian Republic. We were amazed that they were still allowing the newspaper to continue to be sold when we were there. They were however beating some people when they caught them reading it.

Our friend here who watched the man's operation on television when she visited her parents in Pec earlier in the year also observed the Serbs harassment over the newspaper. Her sister stopped and looked at one of the Albanian newspapers in the downtown area. As she stood looking at it, a police officer walked up and began staring at her. The sister from the U.S. told me walked over to him and in clear English said, "What is wrong?" He did not reply and she said, "Is there some problem?" He quickly walked away. Serbs do not want Americans to know what they are doing and as long as they are not observed directly by us, they feel they can deny anything they do.

Serbs sometimes go into the homes and beat the Albanian people. They can do this without being observed by the public and they can deny that they have done it.

Earlier in the year, they used this tactic. It so happens that one of the "token" Albanian policemen they kept on the force to meet the public and who does routine paperwork in the traffic department lives near our host. He discovered that the Serbs had planned one night to go into the Gjakova homes where lights were on and beat the people. There are not a large number of Serbs living in Gjakova, so they called the Serbian families and told them to be sure their lights were off on this particular evening. The Albanian policeman learned of the plot late, but he called our hostess and told her to be sure their lights were off and to send and get his wife and child and bring them to her house. Immediately after he hung up and one of the daughters ran out the backdoor to get his wife, the police came to their front door, but the family turned off their lights and had their door locked and the police left. The Serbs beat many people in their homes that evening.

As of August 9, they had brought in additional Serbian police and stepped up random beating of Albanians with renewed vigor. Albanians were trying to stay outside their homes as much as possible in order to be visible to others. Otherwise, the police can beat them inside their homes without being seen.

On July 18, visitors told us that a couple with their children had been walking home from town in Pec, a town near Gjakova. The police beat the couple in front of their children. The children went into shock from fear.

On July 19, visitors told us that a pregnant woman in Prizren, a nearby town, had been beaten by the police until she lost the child. This is a common occurrence. The Serbs want as many unborn Albanian children killed as possible. And they make their wishes known.

The Serbs have tried to force Albanians to walk through fields instead of walking along the roads. The reason is simple. They randomly kill those in the fields and can sometimes do so without being seen. Along the busy roads it is not easy to do this.

Trade has been opened up now so that the country of Albania now ships produce into Yugoslavia via trucks. The border between Albania and Kosovo is only about four miles from Gjakova. The Serbian police frequently stop the Albanian trucks and demand money from the truck drivers. If it is not given, they deny them passage or beat them. If the money is given, they charge them with bribery.

They sometimes stop cars and demand money. If they do not get it, they beat the people.

A cousin, Dine Hoti, in our host family was driving with one of the small children in the family in his car. The police stopped him and tried to question him. They claimed the little girl had made the "V" sign with her fingers. Everyone is making that sign throughout Kosovo meaning they want democracy. The driver said he had not seen her make a sign and he refused to talk. They held him from 1:00 p.m. until 11:00 p.m. and finally allowed him to go.

This same cousin is active among the Albanians. His brother Rame Hoti (mentioned below) is one who has been given the edict to leave Yugoslavia. Dine went to Zagreb and met with a small delgation from the United Nations to try to get help for his brother Rame. He speaks some English and his sister speaks English.

Two cousins from our host family were among several Albanians who have received edicts that they must leave Yugoslavia. They can leave their wives and families in Kosovo, but the men must go. It has been rumored that the youngest son in our host family is to be ordered to leave Yugoslavia; however, he has received no notification to that affect.

Young Albanian men who serve in the army are frequently mistreated. The families of those who are killed are not allowed to see the bodies. One Albanian solider was reported by the army to have committed suicide. His family was not allowed to claim the body. Relatives from America demanded his body so they could have him buried in Slovenia. They had an autopsy performed. It was found that his body had been shot five times—hardly evidence of a suicide. Some who served with him said he was shot by Serbs while lying in a hospital bed.

One friend, an assistant director of the computer unit of a textile mill in Gjakova, told us on July 27 that the economy is so poor there as a result of what the Serbs are doing that the administrators were faced at that time with the problem of whether to use the small amount of money they had to pay the employees (they should have been paid July 20) or to buy new materials to keep the factory in operation.

A brother to our hostess is an executive in a factory in Prizen. He told us how the work force has been changed in their factory by the Serbs. There had never been many Serbs working at the factory. Now 1,000 Albanians have been fired and only 200 remain. All others are now Serbs. We heard this same thing repeatedly from those working in factories.

The Serbs have been and are taking the money and resources from the Kosovo Province and using it in their own pursuits in other parts of the country. This of course bleeds the people of Kosovo of their economic blood.

The signs of interrupted progress abound. Gjakova needed a new school badly. The Albanians had begun a new one. The beginnings indicate a beautiful modern building, but the Serbs took the funds and the Unfinished building stands as a monument to the greed of the Serbs.

New streets, buildings and a beautiful monument to slain soliders of past wars are unfinished because the Serbs took the funds the Albanians were using for construction of the projects. They are trying to strangle

all the initiative and productivity of the Albanian people.

Albanians are being forced out of jobs at the whims of the Serbs. An engineer we talked to who is now living in Sweden but was visiting relatives in Gjakova was a good example of that. He had been teaching engineering in the university for six years. The Serbs told him, "You are Albanian and you cannot work here anymore. You are an Albanian citizen." He went to work at another place. Serbs came to him there and again said, "You cannot work here. You are an Albanian citizen." He had to go to Sweden to work and make a living.

The Serbs are planning to resettle Serbs from Romania into the Kosovo Province. They are pushing the Albanians out of the jobs and apartments to make room for the Serbs from Romania.

Our friend who is a nurse at the clinic says she expects to be fired from her job any time. Her job will then be given to a Serb.

They have also vowed to make the enrollment of the university at Pristina 50 percent Serbian. They plan to have the remaining 50 percent or less Albanians. The fact that they do not have that many qualified Serbs to enter the university is of no consequence, they plan to enter them into the university anyway.

August 11, it was reported via telephone from Gjakova that the Serbs planned to close the banks and take the money. The bank officials called as many of their customers as they could so they could get their money. When the Serbs discovered that the people were withdrawing their money, they began beating those waiting. One of our friends was standing in line to cash a check when the police began the violence. She quickly left.

August 14, another report from the family in Gjakova via telephone was that the Serbs are closing the flour stores and even some bakeries. They want to deprive the Albanians of their mainstay in food, their bread.

They have also taken the keys to flour mills, beaten the employees and thrown them out and locked the mills. This was reported to us August 23 in a telephone call.

Serbs are also closing Albanian owned shops. They simply go into the shops and tell the owners to get out.

The Albanians say that many of the police the Serbs have sent to Kosovo are actually criminals that have been given freedom from prison and sent to Kosovo as police. They are definitely criminals. They roam through the stores. They were in almost every store we entered. I think some of the time we were being followed. The clerks say the police often pretend to be drunk and pick up articles and put them in their pockets. If the clerks try to report them, the clerks are later beaten. I felt we were being followed as we walked through the Agimi Department Store because there was a group of two or three on each floor. They sauntered around with their small machine guns slung over their shoulders.

On the morning of July 21 a doctor friend and his assistant were visiting and we were sitting under the shade in front of the house. An army truck pulled up and parked on the street in front of our house. Six policemen jumped out of the truck with their guns slung from their shoulders. They hesitated behind the truck and stared a few minutes at us. They like to harass by making sure their presence is known. Then they went out on the street and stopped a few cars. After brief stops they allowed the cars to proceed. Then they went into the bar.

Later we noticed several trucks lined up on the street in front of the house. The police were out again and this time were stopping trucks. Finally, the trucks were allowed to move on.

On August 1, three policemen unloaded in front of our house and briefly stopped cars. Then they walked down the street a short distance and stopped a truck briefly.

When we bought our plane tickets to fly from the Kosovo area, we were advised to fly from Skopje in the Macedonia Republic instead of Fristina, although Pristina is closer, the Serbs often will not allow the planes to fly from Pristina. This uncertainly is as another tactic of harassment to the Albanians.

Since they had been denying Albanians treatment at the Pristina Hospital the day before we left the area, it was perhaps wise that our airline tickets were not purchased for departure from Pristina.

Finally, the Albanians have been driven to violence. Last week a group of policemen stopped an Albanian wedding procession and took the Albanian flag (traditionally carried by the lead car) and began beating the wedding guests. They ordered the wedding guests out of the cars and started searching the women in an intimate manner. Wedding guests from other cars in the procession got out and beat the policemen. One of the officers was stabbed and died and another one was beaten severely.

While we were in Gjakova, one of the children in the family was given an armload of cookies by the Serbian police in front of our house. The children have been taught never to eat anything given them by the police. So the child brought the cookies to his mother. An Albanian chemist analyzed the cookies. We talked with him via telephone August 28. He said the cookies did indeed contain poison. He had made a special trip to the house the day those cookies were given to the children to tell us that the police were distributing cookies that probably contained poison and that if the children were given cookies or anything edible, they should not eat it. He was correct.

These atrocities are the same as Japan used on the Korean people in WWII. The Korean farmers starved while their rice was shipped to Tokyo. The Albanians are living in poverty while the Serbs are taking their funds and resources and using them for themselves.

The Serbs are trying to force the Albanians to speak the Serbian language and they are trying their utmost to destroy the ethnic Albanian culture. These are the same actions exactly as the Japanese used against the Korean people.

These are but a very few of the actions the Serbs are using to harass the Albanians in Kosovo. New atrocities are reported daily.

We talked at length with a European correspondent about this situation while we were in Europe. The only suggestion he had for the U.S. to bring pressure on the Serbs seemed to be the power of veto we have with the World Bank for any financial help they might be able to give Yugoslavia for special projects.

I hope there is more than can be done by our government. I feel that the free world does not know what is actually taking place there. It is our hope that since you have been there, you will use your influence and hopefully gain support for an effort that will put a stop to these atrocities and this oppression. We are thankful for your group of officials who are interested. The Albanians we talked with indicated that they are trusting that the United States will help them out of this situation. They inquired of us as to what the U.S. is doing to help them. We did not know.

Sincerely,

Mrs. Robert Batson.

TRIBUTE TO TERESA D. ALIPERTI

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. MRAZEK. Mr. Speaker, I rise today to pay tribute to Teresa D. Aliperti for her 40 years of dedicated service to the Huntington Union Free School District on Long Island.

Ms. Aliperti began her service to the Huntington UFSD on August 15, 1950. She served as a typist (1950–53), as a stenographer (1953–54), a senior stenographer (1954–56), an account clerk (1956–65), a senior account clerk (1965–84), and a principal account clerk (1984–89). Ms. Aliperti assumed the responsibility of district treasurer in 1967 and was promoted to administrative assistant in 1989.

In addition to her 40 years of service to the Huntington schools, Ms. Aliperti has been an active professional member of the Suffolk County chapter of the New York State Association of School Business Officials. She has served that association as secretary, vice president and president.

Mr. Speaker, Ms. Aliperti has dedicated her professional life to the Huntington schools. Her continuous service was broken only by a 6 week absence in 1964 after the birth of her son. The students and faculty of the Huntington schools have greatly benefitted from her service.

On October 11, 1990, the Huntington Union Free School District and the entire Huntington community will honor Teresa Aliperti with a dinner at the Huntington Elks Lodge. I am honored to add to this tribute and wish Ms. Aliperti well in all of her future endeavors.

TRIBUTE TO HURON WOODS NURSING CENTER

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. TRAXLER. Mr. Speaker, I rise today to pay special tribute to an outstanding health care facility located in my congressional district, the Huron Woods Nursing Center. On the evening of Tuesday, October 9, this facility will be honored by the Health Care Association of Michigan with the Facility Excellence Award.

Owned and operated by John and Arlene Peplinski, this long-term care facility is well known throughout my congressional district for the quality care it provides to its patients. Having recently gone through total renovation, Huron Woods has been described as "elegant, beautiful and very comfortable for both residents and families." As a result, it has become the first choice for many families seeking nursing care in the Saginaw Bay area.

One of the major reasons for Huron Woods' success is the knowledge and awareness of its staff. The staff of Huron Woods Nursing Center is conscientious about providing good patient care and they work hard to offer residents an extensive array of recreational activities both inside and outside of the facility. One activity the residents eagerly look forward to each year is the lighting of the Christmas tree in Linwood Park. This annual event marks the start of the holiday season for them. Residents are also taken to several picnics during the summer and are provided with regular opportunities to go shopping in downtown Bay City.

The primary objective of the management and staff at Huron Woods is to provide health care that enhances quality of life. Workers strive to improve the physical, emotional and psychological well-being of their residents and whenever possible return residents to the mainstream of life. The overall philosophy of the nursing center is that every individual is worthy of appropriate health care and that the optimal quality of life must be maintained for all.

As one Michigan Department of Public Health surveyor said, "The Staff of Huron Woods should be proud of their facility and their accomplishments." With this in mind, I feel that the Huron Woods Nursing Center is well deserving of the recognition that will be bestowed upon them and should be looked at as a national model for health care facilities all over the country.

TRIBUTE TO THE 25TH ANNIVERSARY OF THE AACEOC, INC.

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to pay tribute to the 25th anniversary of the Anne Arundel County Economic Opportunity Committee, Inc. The AACEOC, Inc., Anne Arundel County's Community Action Agency, was founded in 1964, an extension of President Lyndon B. Johnson's "War on Poverty." The AACEOC has been at the forefront of improving the quality of life for not just the poverty-stricken of Anne Arundel County, but the county's entire community. Rallying behind their motto of "People Helping People" the AACEOC has strived for 25 years to help the poor of Anne Arundel County.

In recent years, progress has been made in many of the programs established and supported by the AACEOC. The Family Support Center at the Eastport Terrace/Harborhouse Community Center provides pregnant and nonpregnant youth with education and child care. The Head Start Program helps children at an early age to help keep them in school as they grow older. The Annapolis Youth Services Bureau helps to prevent delinquency among the youth of Annapolis by providing them with athletic activities and counseling services. The AACEOC also provides low-income families with housing counseling services to help them maintain their self-sufficiency. Low-income homeowners have access to other services as well, such as weatherization of homes and home heating credits. Senior citizens part-time employment schemes and other enrichment programs form the innovative structure of the Senior Aides Program. In a newer program, the AACEOC has brought about increased economic investment and entrepreneurial ventures through its subsidiary ECO, Inc. ECO has helped establish new businesses in Anne Arundel County. In so doing, the AACEOC has improved the overall economic situation in Anne Arundel County.

In this day and age we need more individuals and organizations dedicated to the ideal of "People Helping People." The Anne Arundel County Economic Opportunity Committee serves as an example to the Nation of how we can help the poor and less fortunate in society, at the same time as we improve the quality of life in our communities. I am pleased to take this time to honor and congratulate AACEOC, Inc., for their fine work over the last 25 years, and express the willingness of the people of Anne Arundel County, the State of Maryland, and the United States to stand behind the invaluable work of the Community Action Agencies nationwide.

LEGISLATION TO ASSIST SELF-EMPLOYED AFDC RECIPIENTS IN CONNECTICUT

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mrs. KENNELLY. Mr. Speaker, today I am introducing legislation to remove impediments to economic independence faced by self-employed AFDC recipients in Connecticut.

For 3 years now, I have followed the progress of a program in my district designed to facilitate economic independence for AFDC recipients. The concept is simple—work your way off public assistance by starting your business. The results have been very impressive. Graduates of this program have become contributing members of the community and have saved taxpayer dollars. It is so encouraging to see motivated people succeed against ovewhelming circumstances.

However, it is apparent that there are a few Federal regulations that present obstacles to the success of some of the participants in these programs. Federal regulations do not allow the deduction of capital equipment used in a small business. Also, Federal regulations do not permit the repayment of the principle on a loan which is used in the business as a business expense.

While I support the concept of writing regulations designed to prevent fraud and abuse, I would have to observe that, during the infancy of a business, you put alot of money in and receive very few dividends. The problem facing the participants in this program is that the regulations present a significant enough impediment to the survival of the business that they are either forced to stay on public assistance or forced back onto it if they have already worked their way off. This punishes these entrepreneurs and wastes public money.

My legislation will remove these regulatory obstacles and motivated individuals. It will also save the taxpayer money and we can never do enough of that.

TRIBUTE TO THEODORE WELLS, JR.

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. PAYNE of New Jersey. Mr. Speaker, on Saturday, October 6, 1990, the Calvin Coolidge High School Alumni Association will honor one of its own. Theodore Wells, Jr., a native Washingtonian and now a New Jersey resident will be honored for his tireless service to the New Jersey community. Ted, as many affectionately know him, has become one of the most highly regarded defense attorneys in the country.

Educated at the College of the Holy Cross in Worcester, MA, he then entered a joint degree program at Harvard Law School and Harvard School of Business. Upon completing his graduate education, Ted was encouraged by many of his colleagues to make New Jersey his home. Luckily, for the citizens of New Jersey, Ted decided to do just that.

In 1977, Ted joined the law firm of Lowenstein, Sandler where he has been able to make significant contributions. Realizing that each segment of our society is entitled to be represented well, Ted often works with the community at large on a pro bono basis. One of the many projects Ted is now working on is the shooting of a young black male in Teaneck, NJ, by a white police officer. Ted has been one of the few who has been able to bring this racially divided city to a common table for discussion and debate.

I am honored to say that he is my campaign finance chairman and a key advisor to Senator BILL BRADLEY. It is always heartwarming to see those who deserve accolades and roses get them. I salute Coolidge for its recognizing Ted's contribution to New Jersey and to the Nation. Mr. Speaker, I am sure my colleagues join me as I applaud Theodore Wells for his receipt of this award from the Calvin Coolidge High School Alumni Association, Washington, DC.

LITHUANIAN HALL CELEBRATES 75TH ANNIVERSARY

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mrs. BENTLEY. Mr. Speaker, I rise today to congratulate the Lithuanian Hall Association, Inc., on the 75th anniversary of Lithuanian Hall. It is out of deep respect and admiration for the Lithuanian Hall Association that I congratulate them on this joyous occasion.

Completed in 1921, the hall was literally built throughout the Depression with pennies earned from sweatshop wages. Today, as then, the hall serves as a testament to the hard work and perseverance of the Lithuanian people.

On October 7, I will have the privilege and pleasure to attend the 75th anniversary festivities. The hall is, indeed, an ethnic jewel of Maryland housing a museum, library, ballroom, restaurant, catering rooms, and business offices. We truly are fortunate to have Lithuanian Hall located in the great State of Maryland.

The United States is blessed with a diversity that has provided this Nation with the knowledge and abilty of people from across the world. The ethnic and cultural diversity of our Nation is a characteristic which has helped to make our Nation foremost in the world. Immigrants to our country brought a wide range of skills, customs, and beliefs which have enriched the lives of us all and the Lithuanians have contributed to that enrichment.

The 75th anniversary of Lithuanian Hall will serve to exemplify the hard work and perseverance of the Lithuanian people both here in Maryland as well as in the United States and Lithuania.

The hard work of the Lithuanian people has been quite evident and has not gone unnoticed. In Upton Sinclair's book "The Jungle," he wrote of the hardships in the meat packing industry of Chicago that predominately Lithuanian immigrants had to endure. Lithuanian immigrants most certainly have played an important role in shaping and building our great Nation.

When Thomas Jefferson said, "I have sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man," he did so knowing that the threat of tyranny was an ever present one. Thomas Jefferson recognized that one always must remain vigilant against the evils of tyranny and oppression. Lithuanian Hall also has shared in that pledge and has played a major role in bringing Lithuania closer to freedom as an independent nation for simple autonomy will not suffice. Lithuanian Hall has stood as a vanguard in the fight for a free Lithuania. Undaunted, the work of Lithuanian Hall shall not cease nor compromise for nothing other than a free Lithuania.

I must agree with Edmund Burke where he stated, "All that is necessary for the triumph of evil is for good men to do nothing." I hold this statement to be quite true and unfortunately repeated all too often. However, the men and women of the Lithuanian Hall know this and have selflessly given of themselves for the betterment of others. To devote so much time and energy to such a noble cause is truly commendable.

None of us shall forget that it was just this year on March 11 that Lithuania declared itself independent of the Soviet Union and elected a non-Communist head of state. Although recent developments have not moved as extensively and quickly as wanted and are admittedly more symbolic rather than tangible, they have nonetheless moved Lithuania closer toward being a sovereign and independent nation. Without a doubt, recent advances toward freedom have paved the way for a free and independent Lithuania. Such advances could not have happened if it were not for the hard work and dedication of the Lithuanian people everywhere and like those who have built up Lithuanian Hall in Baltimore.

Mr. Speaker, my fellow colleagues, I commend the perseverance and devotion of the Lithuanian people and congratulate Lithuanian Hall on its 75th anniversary. The future of Lithuania and all mankind who desire the blessings of freedom and liberty is much brighter thanks to the Lithuanian Hall Association.

NATURAL GAS IN CARS AND STEP ON IT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. MAZZOLI. Mr. Speaker, I commend to the attention of my colleagues the following article, which appeared in the New York Times on October 2, 1990, outlining the significance that natural gas can have as an energy alternative to reduce our dependence on foreign oil.

The reality of this energy alternative hits particularly close to my hometown of Louisville, KY, where there is underway a pilot project in which three of the city government's public works vehicles have been converted to natural gas powered vehicles.

I salute the director of public works for the city of Louisville, Bill Herron, for his work and dedication in this endeavor.

[From the New York Times, Oct. 2, 1990]

NATURAL GAS IN CARS—AND STEP ON IT

(By Patrick L. McGeer and Enoch J. Durbin)

PRINCETON, NJ.—Imagine a single action that could end the West's dependence on Middle East oil, shatter OPEC and drive oil prices below $10 a barrel. A daydream? No, all that is required is to equip all the cars and trucks on the road today to run on natural gas.

To a great extent, that is what British Columbia did after the last oil crisis, in 1979. Subsidies were introduced to encourage owners of fleets and private cars to add special tanks so that their cars could—at the flip of a dashboard switch—burn either gasoline or natural gas. Service stations were given inducements to add natural gas to the pumping bays.

Now, a network of 50 refueling stations serves fleet vehicles and individual owners. Owners of converted automobiles seldom use gasoline except as a reserve.

Natural gas has a high octane rating (130) and costs 50 to 80 cents per gallon equivalent. It is also plentiful, clean and easily distributed, and is much safer than gasoline (there has never been a fire in a natural gas vehicle). Compared with gasoline, it produces lower levels of nitrogen oxides and carbon monoxide and enormously lower levels of smog causing hyrocarbons.

Standard gasoline engines can run on natural gas without modification. The gaseous fuel prolongs the life of engines, spark plugs and lubricating oil. As a result, 500,000-mile engine life is not atypical.

Technically, converting vehicles from gasoline to natural gas is easy. Judging from British Columbia's experience, the process should take about two years. For roughly the cost of our current military operations in the Middle East, we could convert about a million vehicles a month.

And the advantages of using natural gas go far beyond the economic realm. It would end a momumental waste of resources, provide the single largest environmental dividend of all time and give us energy security.

When oil is pumped, dissolved natural gas is released. Globally, about half of this gas is burned off, vented or reinjected into the ground. The burning of "excess" natural gas is a major contributor of atmospheric carbon dioxide, which is thought to contribute to global warming. The Soviet Union alone flares off gas equivalent to a hundred million barrels of oil each year.

Known reserves of natural gas far exceed those of oil. Canada's are sufficient to serve North America's needs past the middle of the next century. Unlike oil, natural gas is a renewable resource. Nature makes it from rotting vegetation. Biomass is therefore a huge and renewable source of supply. In fact, we could supply all our current needs simply from the gas produced by rotting vegetation and garbage dumps.

Coal is yet another vast source of gas. But there is no need even to think about these potential sources because so much is either being wasted or just sitting in known underground fields.

With all this going for it, why hasn't natural gas supplanted gasoline? For one thing, natural-gas tanks hold less fuel, limiting the range for most cars to about two-thirds that of a full tank of gasoline. This means more frequent fill-ups, and the necessity to be near a refueling station. For vehicle fleets that return to their home base each day (buses, taxis, city delivery vehicles) this isn't a problem. They can refuel in their own garages.

But the principal barrier to complete conversion is the large onetime expense of around $1,500, which can be recovered through lower fuel and maintenance costs. Taxi cabs, which pile up the mileage, save about $2,000 a year in fuel costs, enough for fleet owners to recover the cost of conversions and refueling stations in less than one year.

However, few private cars are driven far enough to make conversions economically practical. A vehicle has to consume 1,500 to 2,000 gallons a year or more to make the investment pay. Moreover, many people assume that natural-gas prices would rise—either from higher demand or tax hikes—if cars were converted in significant numbers.

The expense of conversion, doubts about price and spotty availability are enough to frighten off all but the hardiest souls. Overcoming this understandable but self-defeating grid-lock requires Government action.

The place to start is with urban fleets. Natural gas is such a bargain for them that subsidies should not be needed. Indeed, major delivery companies, like Federal Express and United Parcel Service, have already begun converting on their own.

The Government could accelerate the process by requiring all urban fleet owners to operate some fraction of their vehicles on natural gas by a certain date. Fleet owners who could demonstrate that they would be economically harmed by such operation could be excused. Texas recently passed a law with both provisions that should serve as a model for the nation.

Once most of the nation's fleets are using natural gas, private fueling stations will have more of an incentive to sell the fuel. (In fact, many fleet owners in British Columbia found that they could make a good business of selling natural gas to the public.)

When consumers see that natural gas is readily available, they may consider converting.

Finally, if demand is strong enough, manufacturers may begin to equip new cars with natural-gas tanks. Since this is much cheaper than converting a standard car, it would make natural gas economical for virtually every driver.

Natural gas should not be looked upon as a temporary substitute for gasoline. It is a superb fuel that we should use irrespective of instability in the Middle East.

Energy dependence is one of the few national problems that we can solve. Let's do it.

TRIBUTE TO ERBY L. JENKINS

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. DUNCAN. Mr. Speaker, one of Tennessee's greatest lawyers, Erby L. Jenkins, passed away last Saturday in Knoxville.

Mr. Jenkins practiced law in Knoxville for over 50 years. He was so highly regarded in legal circles that he was frequently asked to sit as a special justice on the Tennessee Supreme Court.

Many outside of Tennessee would not understand how high a compliment it was for Mr. Jenkins to be invited to sit on our State supreme court.

No Republican has ever been elected to our State's highest court. Erby Jenkins was an active and well-known Republican.

For an all Democratic court to turn to him time after time on tough cases or when judges had to recuse themselves was a tremendous honor when the court could have chosen almost any lawyer in the State.

Erby Jenkins was especially close to my family. He was one of my late father's very best friends and served several times as his campaign manager.

Mr. Jenkins' only son, Ray Lee, serves as the Senior Judge of the Knox County Criminal Court, a division of which I served for 7½ years before coming to Congress.

Erby Jenkins helped many people during his life. The world has lost not only an outstanding lawyer, but a very kind and humble man. I know he will be missed by many.

I would like to have reprinted in the RECORD at this point the articles about Erby Jenkins and his career which ran in the Knoxville News-Sentinel and Knoxville Journal shortly after his death.

Erby L. Jenkins, Lawyer and Political Figure, Dies at 83

(By Jim Balloch)

Erby L. Jenkins, one of Knoxville's most popular lawyers, died at home Saturday morning.

He was 83 and had been in ill health for some time. Family members said he died in his sleep.

Mr. Jenkins was admitted to the bar in 1931 and practiced law in Knoxville until the early 1980s, when he began gradually going into retirement. The law firm he cofounded, Jenkins and Jenkins, is still one of the city's most prestigious.

Longtime courtroom observers described Mr. Jenkins as a gentleman lawyer with an uncanny ability to know just how far to press a case or a witness.

Once, in the middle of his proof on behalf of a client accused of murder, he suddenly rested, though there were more than a dozen witnesses remaining on his list. Strolling from the courtroom with his famous grin on his face, he remarked to a News-Sentinel reporter: "Jury's heard enough."

The client was acquitted after 20 minutes of deliberation.

He once advised a group of young lawyers: "Get out of your head that you can make a killing. Be courteous to the court and other lawyers, be on time so that you can get the feel of things. And when you give your word, keep it."

He also said lawyers needed a sense of humor. "Without that, a lawyer is lost in the weeds."

Mr. Jenkins, the son of a country doctor, was born in Union County. His first job was carrying the Sunday newspaper—on horseback—to rural subscribers for $3 a week.

He was a principal and teacher at a two-room schoolhouse, where he set up Knox County's first free school lunchroom, using produce donated by farmers.

He borrowed $300 from a minister to attend law school at Cumberland University and married his childhood sweetheart, Nell Hubbs. Their one child, Ray Lee Jenkins, is a Criminal Court judge of Knox County. The elder Jenkins administered his son's oath of office in 1982.

After being admitted to the bar in 1931, Mr. Jenkins shared an office with colorful lawyer Ray Jenkins, the "Terror of Tellico Plains." The two men were not related, but many people believed they were because of the last names.

Long active in politics, Mr. Jenkins had been chairman of the Knox County Republican Executive Committee and the State Republican Executive Committee.

He had been president of the Knoxville Bar Association and the Tennessee Bar Association and held offices in the American Trial Lawyers Association and the American Bar Association. He also was an officer of the National College of District Attorneys, which he was instrumental in forming.

He played a key role in establishing the governmental law library, housed in the City County Building. During World War II, he served in the Army's Judge Advocate Corps.

He often sat as a special judge on the state Supreme Court. In 1972, in a highly publicized case, he strongly upheld the right of citizens and the press to criticize governments.

The case involved the arrest of two college students on charges of desecrating the American flag and subsequent articles about the incident in Look magazine and the Kingsport Times-News. The city sued the publications and a writer on accusations of libel and defamation.

The high court dismissed the lawsuit. To do otherwise, Jenkins wrote, would "place in jeopardy * * * every criticism of public expenditure, policy, management or conduct of public affairs. * * * It is difficult to imagine anything more destructive of democratic government than the power in the hands of a corrupt government to stifle all opposition by free use of the public treasury to silence critics by suit. * * * We trust that will ever be the law."

Besides his wife and son, he is survived by a brother, Aubrey Jenkins, also a prominent Knoxville lawyer, three grandchildren, and three great-grandchildren.

The family will receive friends from 5 to 7 p.m. Monday at Stevens Mortuary, Ogleweed Avenue at Broadway Services will be at 7 p.m. Monday at Stevens Chapel with the Rev. Robert M. Walker officiating. Family and friends will meet at 11:45 a.m. Tuesday at the entrance to Lynnhurst Cemetery for a noon graveside service.

[From the Knoxville Journal, Oct. 1, 1990]

Jenkins, "Valley Sage," Dies at 83

Friends say Erby Jenkins, who died Saturday after a long illness, was content to be a trial lawyer and never had a desire to be a judge.

But he was once asked to sit as a special justice on the State Supreme Court and wrote an opinion which showed not only judicial insight, but a sense of humor as well.

The case involved a man who had been convicted of contributing to the delinquency of a minor and received a fine and six-month jail sentence.

But in a display of mercy, Jenkins forgave the man his jail sentence with the following passages:

"He has suffered the humiliation of a public trial for a would-be sin of the flesh, and had to seek refuge behind the petticoats of an angry wife who publicly forgave him. But whatever is done by the courts cannot restore the peace and harmony of that happy marriage, for if the pattern of wifely conduct runs true to form, he will throughout his natural life be reminded of the time she saved him from jail.'

"The defendant has done wrong in the eyes of the law, but not enough in this instance to be jailed, and the least the trial judge can do is to relieve him of his temporary sentence, and remember that he is forever and eternally on probation to 'his wife, who will be his wife, his warden and parole officer all wrapped up in one," Jenkins wrote. Although Jenkins was the instigator of many political scraps, "He never was interested in running for office," said Herbert Baker, a lifelong friend and political ally of Jenkins.

Barker said Jenkins, who served many years as chairman of the Knox County Republican Party, was more interested in getting people elected than being a candidate himself.

Jenkins, 83 has been ill and confined to his home for some time.

The funeral will be today at 7 p.m. at Stevens Mortuary, with Rev. Robert M. Walker presiding. A graveside service will be held at noon Tuesday at Lynnhurst Cemetery.

Known as the "Sage of Raccoon Valley," he was heralded not only for his expertise in the courtroom, but also as a witty and gifted writer and orator.

With his brother, Aubrey, and Ray H. Jenkins, who is no relation, they formed one of the most successful and widely-known law partnerships in the city.

His only son, Ray Lee Jenkins, is a Knox County Criminal Court Judge.

Jenkins was born Sept. 19, 1907 in the Raccoon Valley community in Union County, but graduated from Gibbs High School in Knox County. He attended the University of Tennessee.

He began his legal career in 1931 after graduation from Cumberland University Law School in Lebanon.

In 1936, he became a part-time prosecutor in the office of District Attorney J. Fred Bibb.

After leaving that position, he and Ray Jenkins began a partnership in the old General Building on Gay Street. Still in existence, the firm of Jenkins and Jenkins consists of nine partners and two associates with offices in the Bank of Knoxville Building.

Through the years, the two unrelated Jenkinses achieved almost legendary status in East Tennessee with their defense work in criminal cases.

But Jenkins also devoted quite a bit of his time to participation in the political process and was a driving force in local, state and national Republican politics.

He was first elected chairman of the Knox County Republican Executive Committee in 1942. He held that post for several terms, off and on, until the mid-50s.

Under his leadership, the GOP enjoyed almost unprecedented success in Knox County. In 1947, 1944 and 1952, the Republicans swept every office on the ballot in county elections.

Jenkins was campaign manager for Howard H. Baker Sr.'s races for U.S. representative from the Second District, and also co-managed the campaign of Baker's widow when she succeeded him in the house.

Besides his son and brother, survivors include his wife, Nell Hubbs Jenkins, three grandchildren and three great-grandchildren.

CUTOFF AID TO PAKISTAN

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. STARK. Mr. Speaker, there is no hiding the fact this year that Pakistan has nuclear weapons. Under the Foreign Assistance Act, Islamabad is now ineligible for U.S. foreign aid. Unless Congress passes yet another waiver, aid to Pakistan will finally cease.

This cutoff is 10 years too late. We've given the Pakistanis $5.325 billion since 1981 and all the while we knew—we knew—they had a program to build nuclear weapons.

Pakistan's efforts in this area go back a number of years. In 1977, the French agreed to sell them a plutonium reprocessing plant. Such a facility had little commercial use, but it could have produced nuclear weapons-grade materials. The United States responded to this threat decisively and cut off economic and military aid to Islamabad. The French later backed off from the sale and United States assistance was restored.

With the reprocessing route closed off, Pakistan worked on developing a uranium enrichment capability, the other method of producing fissile material. Through clandestine deals and the assistance of foreign nationals, Pakistan began accumulating the technology and components needed for a centrifuge enrichment plant—this approach has served as a model for the Iraqi nuclear program in the last few years. Once again, Islamabad was headed toward nuclear weapons capability.

And once again, the United States acted responsibly and decisively. Under the recently passed Symington amendment to the Foreign Assistance Act, no country could receive U.S. aid without a reliable assurance that they were not acquiring and developing nuclear weapons. We cut Pakistan off again.

But 2 years later the United States exempted Islamabad from this law until 1987, paving the way for a 6-year $3.2 billion package of economic and military assistance. The aid would still be halted if Pakistan actually conducted a nuclear test.

In 1984, Pakistan acquired the design for a tested nuclear weapon from China. That same year, three Pakistani nationals were arrested in the United States for trying to smuggle out of the country 50 krytons—high speed triggers used for detonating nuclear weapons—the same kind of components the Iraqis were after last spring. Our response this time was an amendment that conditioned United States assistance on an annual certification by the President that the Pakistanis did not actually have a nuclear weapon and that aid would help reduce their likelihood of getting one.

In 1986, Pakistan became capable of producing weapons-grade uranium and now had the potential to build nuclear weapons. Each year since they have added to their stockpile of fissile materials. And each year the President of the United States has certified that Islamabad did not have a nuclear weapon. They may have been just a turn of a screwdriver away, but that was good enough to receive billions of American dollars.

In 1988, the United States agreed to another 6-year package of military aid worth more than $1 billion. In addition, each year we gave them hundreds of million more in other forms of assistance. Altogether, we gave Pakistan more than $5 billion during the decade, including $591 million in fiscal year 1990. Only Israel and Egypt received more.

Year after year we made excuses for the Pakistanis. After the Soviet invasion of Afghanistan, we said the aid was needed to win over Islamabad's support. More recently, we said we needed to support the fragile democracy of Benazir Bhutto. How much difference our aid actually made in these instances is a debatable question. What is clear is that we sat back and allowed Pakistan to become a nuclear weapons power.

What does this mean? India and Pakistan have already gone to war three times. Last spring, with the turmoil in Kashmir, fighting almost broke out again and it could have escalated into a nuclear conflict. The Pakistanis are also now in a position to supply other countries with technology to make weapons grade materials. They already have nuclear ties with several nations, including Iran.

Too much has already happened, but there are still goals here worth pursuing. We can still stave off a nuclear arms race in South Asia and encourage confidence building steps between the countries. But to have any leverage—to ever have any leverage or credibility in nonproliferation policy again—we must cut off aid. Otherwise, who will take us seriously next time?

Mr. Speaker, Members of Congress, for the sake of our national security for years to come, please, this time, no more excuses.

FIFTH REUNION OF U.S.S. "SAINT PAUL" CREW

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. GONZALEZ. Mr. Speaker, on October 16 through 20, about 400 crewmembers of the cruiser U.S.S. *Saint Paul* will convene in San Antonio for their fifth reunion. These events take place each 2 years, and I am glad that these veterans have chosen this year to meet in San Antonio. Our local navy consists only of fiesta barges, but San Antonio is home to many a sailor, and takes great pride in having these veterans visit with us for a few days.

The U.S.S. *Saint Paul* was in continuous service for 26 years. This cruiser of the heavy *Baltimore* class was commissioned in Boston on February 17, 1945, and immediately after a shakedown cruise in the Caribbean, transited the Panama Canal to join the Third Fleet under Admiral Halsey. With the Third Fleet, the *Saint Paul* joined task forces operating against the home islands of Japan. She fired the last salvo on Japan August 9, 1945.

The U.S.S. *Saint Paul* entered Tokyo Bay and was part of the fleet present at the surrender ceremonies on September 2, 1945. From November 1945 to early 1946, she was part of Task Force 73, anchored off Shanghai.

The Korean war saw the U.S.S. *Saint Paul* operating in close fire support for United Nations troops ashore, carrying out gun strikes against enemy supply lines and rescuing downed pilots. The "Fighting Saint" participated in the drive to Chogin, the Inchon invasion, and the evacuation at Hungnam, among other campaigns. The *Saint Paul* was active until the last day and last moment of the Korean war.

In 1959, the *Saint Paul* became the first heavy U.S. combatant ship to be homeported in the Far East since the pre-World War II days of the Asiatic Fleet. During her long tour operating from port at Yokosuka, Japan, the *Saint Paul* was Commander Seventh Fleet flagship. As such, she hosted President Eisenhower in June 1960 on a cruise from the Philippines to Taiwan. Three weeks later, she was the first Navy ship to raise the new, 50-star flag. Almost a quarter million visitors boarded the ship during her extended stay in the Far East.

During the next 4 years the *Saint Paul* operated in the eastern waters of the Pacific. There, she was flagship for the Commander First Fleet. In 1963, she hosted the Secretary of the Navy, the Commandant of the Coast Guard, and the Commandant of the Marine Corps. Scenes for the movie "In Harm's Way" were filmed aboard the *Saint Paul* in 1964.

In 1966, the *Saint Paul* returned to the western Pacific for the first of five annual deployments in the Vietnam war. Assigned to the Seventh Fleet, she performed gunfire support missions and interdicted supply lines. On February 17, 1970, the *Saint Paul* observed her silver anniversary. After a last deployment in Vietnamese waters, she finally steamed to San Diego to prepare for deactivation. The

Saint Paul was decommissioned in Bremerton, WA, April 30, 1971.

In her 26 years of service, the *Saint Paul* earned 18 battle stars, served in three wars, and fired more rounds of ammunition than any U.S. cruiser in history. She hosted 5 heads of states, and no fewer than 15 of her commanding officers rose to become admirals. I salute the *Saint Paul* and her crew, and welcome them to San Antonio for this, their fifth reunion.

IS WINE THE SAME AS ALCOHOL?

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. HORTON. Mr. Speaker, I want to bring to my colleagues' attention an article which appeared recently in the New York Daily News. The author makes clear the differences between wine and other alcoholic beverages. This distinction is important in light of the manner in which the current budget proposal treats the wine industry. I urge my colleagues to read it.

[From the Daily News, Sept. 26, 1990]

ANTI-ALCOHOL SENTIMENT A LOAD OF SOUR GRIPES

(By Barbara Ensrud)

The wine industry has been taking it on the chin lately. The anti-alcohol lobby seems bound and determined to propel America once again toward the catastrophe that spawned a far greater problem of crime and corruption than we have now—Prohibition.

The government seems right in step with that, creating a fear of alcohol that would have you believe that your glass of wine with dinner is the first step on the road to drug addiction.

The wine community, however, is starting to fight back by speaking up. "Can you distinguish chardonnay from crack cocaine?" asked James Tresize, president of the New York Wine & Grape Foundation. Tresize posed the question in a speech delivered at a food and wine festival sponsored by the American Institute of Wine & Food on Saturday.

"Not everyone can," Tresize continued. "There are people who say drugs and alcohol as one word. They say wine contains alcohol, that alcohol is a drug, that crack is a drug and therefore that chardonnay equals crack. Simple . . . logical . . . persuasive. And a politically easy way out of the budget crunch: Do a whopper of a sin tax, even on products that aren't sinful."

We have very warped notions about alcohol in this country. The warnings that must now appear on every bottle of beer, wine or liquor make no distinction between responsible use of alcohol and the abuse of it. Nor do they make any distinction between the types of alcohol and how they are commonly used.

Tresize cited the insidious implications of the infamous ads on equivalency that portrayed a bottle of beer, a glass of wine and a shot of whiskey, accompanied by a tag line "A drink is a drink is a drink"—as if they were all equal.

"Oh, really?" he said. "Then why are peace treaties, weddings and births toasted with champagne and not Scotch? Why is vodka served at bars, but wine at the table? Why do many hospitals offer patients wine but not rum? Why did Jesus turn water into wine instead of gin?"

Some people aren't thinking things through. And the wine industry is concerned that consumers aren't getting the full story. The media, for instance, are quick to report findings that connect alcohol with road accidents, breast cancer and fetal alcohol syndrome, but never indicate the limited extent to which wine is implicated.

Did you know that a study done by the Department of Justice found that wine figured in only 2% of deaths caused by drivers under the influence of alcohol? Even one death is cause for alarm, but it is the abuse of alcohol that is responsible, not moderate consumption; the statistics are telling. Fetal alcohol syndrome has not been identified in the offspring of any women who were not active alcoholics during pregnancy. The studies also showed that other factors such as malnutrition, nicotine, caffeine and drugs, were usually involved.

In the 15 studies that have attempted to relate alcohol to breast cancer, more than half of them show no relationship whatsoever. The other studies suggest that women who consume more than two drinks per day may have a 20%-50% higher risk of developing breast cancer than non-drinkers, but again, other variables such as diet, smoking and caffeine are implicated as well. The jury is still out.

Several organizations have been formed to try to set the record straight. AWARE (The American Wine Alliance for Research and Education) and The National Wine Coalition were organized by winegrowers, consumers, physicians and other scientists who feel that the very real distinctions between moderate social use of wine and alcohol abuse have become blurred.

They believe the best deterrent is education and a reasoned view of wine as a beverage of moderation that has been with us since the beginning of civilization, a beverage recommended in the Bible and praised for centuries by statesmen, philosophers, poets and scholars.

COASTAL BARRIER IMPROVEMENT ACT

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. ORTIZ. Mr. Speaker, I appreciate this opportunity to extend my remarks concerning the Coastal Barrier Improvement Act, H.R. 2840. I would like to express my appreciation of Chairman JONES and Chairman STUDDS of the Merchant Marine and Fisheries Committee for their efforts in working with me and various other members of the Congress to bring forth this legislation which takes into consideration the very unique concerns of each congressional district.

I cosponsored this legislation as it was passed out of the Merchant Marine and Fisheries Committee and have worked very diligently during consideration of this legislation to be mindful of the impact this bill will have on the many property owners that will be affected by this bill.

Although I support the bill, overall, I continue to have concerns regarding several aspects of the Coastal Barrier Resources Act [CBRA]. It has been my contention since the inception of this legislation that Federal dollars are not being wasted by allowing coastal landowners access to the National Flood Insurance Program. In fact, according to the Federal Emergency Management Agency, more revenues are collected from premiums that are actually paid out in insurance claims in coastal areas. In a letter responding to my inquiry to FEMA, which I would like to include as part of the CONGRESSIONAL RECORD, FEMA cited that the National Flood Insurance Program is financially strong and is unlikely to become insolvent. The financial strength of the fund is evidenced by the fact that even though the Congress has taken policyholder premiums out of the fund to help alleviate budgetary problems, the fund is still much more than sufficient to compensate policyholders for Hurricanes Hugo and Jerry losses. This further substantiates my contention that the National Flood Insurance Program is not a subsidy and landowners should not be restricted from access to this vital insurance.

I also continue to be very concerned that the impact of this legislation does not extend beyond the boundaries of CBRA and result in penalizing communities which are located adjacent or near to CBRA units. The provisions of CBRA should only apply to those units which are actually located within the boundaries of the system, so that adjacent property will not be subject to the Federal financial prohibitions of the bill.

In that regard, I worked with members of the Merchant Marine and Fisheries Committee to provide an exemption from CBRA. The intention of the original provision dealing with T–11 that was included in the Merchant Marine and Fisheries Committee bill was specifically designed to protect adjacent communities from being adversely impacted by this bill.

It is my contention that CBRA was not designed to penalize adjacent local communities by prohibiting their ability to grow with or in response to development within units in the Coastal Barrier Resources System [CBRS]. In fact, the purpose of CBRA is to limit Federal subsidies from encouraging development within CBRA units, it was never intended to extend beyond the CBRS boundaries to deny growth and development on the mainland. The Banking Committee chose to limit the T–11 exemption. Under their language, HUD assistance and access to the National Flood Insurance Program will not be granted to directly support development in the CBRS. However, this prohibition was not intended to stop an adjacent community's ability to grow in response or as a result of development in unit T–11.

Although the Banking Committee's Report language is intended to clarify this intent, I am concerned that the statutory language is not entirely clear and may be subject to misinterpretation by various Federal agencies who provide funds to local communities adjacent to unit T–11. It is my hope that as this bill is considered in conference that more exact statutory language is adopted to clarify that adjacent communities will not be penalized

simply because of their proximity to units in the CBRS.

Again, I appreciate this opportunity to clarify my concerns with this very important legislation which directly impacts my congressional district.

CLARIFICATION OF THE RECORD

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. BONIOR. Mr. Speaker, the CONGRESSIONAL RECORD does not accurately reflect my position on the Bryant amendment to H.R. 4300, the Family Unity and Employment Opportunity Immigration Act, which was voted on the floor on October 3.

I oppose the Bryant amendment, and wish to make the RECORD clear on this issue.

The Bryant amendment struck all provisions in the bill except those dealing with family unity.

It would have eliminated the amendment of Chairman MOAKLEY, for instance, that extends voluntary departure for political refugees from El Salvador, Lebanon, Kuwait, and Liberia. Each of these countries continues to be in a state of war, and we should not force people to go back to situations where their lives are in danger.

The Bryant amendment also removed special provisions to allow more immigration from Eastern Europe, Ireland, Italy, Poland, and Argentina—countries that are adversely affected under current law.

For these reasons I oppose the Bryant amendment.

WE CAN DO BETTER FOR AMERICA

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. GUNDERSON. Mr. Speaker, throughout the decade of the 1980's the Federal Government has continued to buildup deficits. Congress has shown a total inability to meet the discipline necessary to move towards a balanced budget. While Gramm-Rudman has provided some positive influence, witness the past fiscal year, where the Gramm-Rudman target was $100 billion, yet a final deficit figure showed the Government has overspent its revenues by $214 billion. This happened because the Gramm-Rudman law required its target to be met on only 1 day, not throughout the fiscal year.

Faced with a slowing economy, a projected deficit for fiscal year 1991 of $293 billion, and the inability of Congress to move forward on its own budget, a summit seemed the right course for our Government to take. A bipartisan summit between the Congress and the administration would produce a long-term deficit reduction package with real deficit reduction, sustainable over a period of years, and positive for the economy as it slows into a recession. Any budget summit must be judged by these standards.

I regret deeply that as I review this summit agreement, I find it is one that does not merit my support. I say this with great disappointment because I really believed that any bipartisan agreement would merit my support. This summit agreement represents the business as usual operations of the Congress which have produced the cynicism that exists today in America.

In summary, this agreement increases taxes only to fund increases in domestic spending. It is an agreement which allows growth in all areas of the budget except agriculture. There, it asks dairy farmers to take a disproportionate 36 percent reduction in the cost of their program. It is an agreement that makes savings in Medicare, not based upon ability to pay, but rather asking for the same increased payments regardless of annual income. It is an agreement, which in the face of a recession, provides no meaningful incentives for growth. Finally, it represents business as usual for Congress as the congressional leadership provided special favors for their States or districts while asking the rest of America to make special sacrifice.

I have always been willing to cast the tough votes. I will ask the people of my district to make any sacrifice asked of other Americans. I will not ask special segments of the American population to make great reductions in their family's income while the Government increases spending to satisfy the appetites of an undisciplined Congress.

First, this agreement like all budgets which have created our deficits was built upon unrealistic economic assumptions. Despite only seven-tenth's of 1 percent growth in our economy during fiscal year 1990, they anticipate growth in 1992 of 3.8 percent. They project interest rates to drop to 5.7 percent. And they believe the price of oil for 1991 will average only $24 per barrel. If their assumptions are overly optimistic, the agreement cannot meet its goals.

Second, this agreement increases domestic discretionary spending by $150 billion over 5 years. Make no mistake. In order to obtain the support of the Appropriations Committee chairman in the House and Senate, the summit agreement allows for an increase in domestic spending which exceeds the rate of inflation. I would be willing to support an agreement that at least froze the level of domestic spending. I am not even asking for cuts. But I find it impossible to defend an agreement that asks for sacrifice from the American public when the Congress refuses to promise discipline in domestic spending.

Third, this agreement is not fairly distributed to all sectors of the American public. Through the use of consumption tax increases, this agreement imposes a 7.6 percent increase in taxes on those with less than $10,000 income. Yet, the average increase for all income levels is only a 2.4 percent increase.

The inequity of this agreement on all segments of the population is most obvious in agriculture. I stand ready to ask my farmers to do their part for deficit reduction. I find it impossible to ask them to make substantial reductions in their price supports when other segments of the Government increase. The agreement asks for $13 billion in savings for agriculture over 5 years. The most difficult part is in year 1, when agriculture is asked to achieve $1.3 billion in savings. Because deficiency payments for the crops presently being harvested are already obligated, rather than a $7.7 billion base from which to achieve these savings, unobligated funds within the Commodity Credit Corporation only equal $3.6 billion, of which $700 million is the dairy program. The effect of this is a possible 36 percent reduction in the cost of the dairy program. No other segment of Government is asked to take that kind of reduction.

Fourth, this agreement is not sustainable. If we suggest to the American people that we are making a 5-year agreement, we should enact policies which have a chance of surviving for that duration. This is most obvious in the Medicare area. The agreement requires $60 billion in savings from Medicare. I realize the Medicare area has grown faster than any other and that savings are necessary. But I believe those savings must be fair. I don't believe recommendations for savings which treat all elderly the same, regardless of income and ability to pay is equitable. Coming from a rural area I have many lower income elderly. To ask them to increase their premiums and their deductibles the same level as higher income elderly is not fair. And I believe it is not sustainable. I am absolutely convinced that next session the Congress will increase tax rates to fund health care for our elderly because this year's agreement cannot be sustained.

Fifth, this agreement expands its inequity with a 10-cent gas tax in less than 1 year. I am willing to support increased revenue, including the gas tax. However, at a time when gas prices are increasing significantly due to the crisis in the Middle East, this seems an excessive amount from one area. This is especially true for rural America where gas usage is a necessity, not a luxury.

Sixth, this agreement's most blatant offense is the business as usual practices carried out by the summiteers. While asking the American people to sacrifice for the good of the Nation, this agreement includes a $2.5 billion tax break for Texas oil. It includes a similar tax break for ethanol production, the major producer who is one large firm. It imposes a surtax on cars and furs. But it exempts airplanes because small personal airplanes are built in the States of the negotiators. Similarly, because luxury boats boost the economies of two influential negotiators, the hull of a boat had to exceed $100,000 before a surtax was imposed. Electronic equipment, the bulk of which comes from Japan, escaped the surtax altogether.

Finally, this agreement does nothing to stimulate the economy. Federal budgets are as close to an economic blueprint as exists in our free market society. No one disputes the fact the economy is slowing. Yet, the agreement provides stimulus that can only be called a joke. Included within the package is a provision allowing a 25 percent deduction up to $50,000 for the purchase of stock for small businesses. Let me simply ask, how many small businesses do you know that sell stock through public auction.

Yes, this is a great disappointment. We have before us the chance to do something great for America and the American economy. The question every Member of Congress must ask in voting on this package is this: Is this the best we can do for America? To me, the answer is an emphatic "no." It increases taxes to increase spending. It is unfair, inequitable, and unsustainable. It is based on overly optimistic assumptions and does nothing to stimulate our economy. I predict we will soon be back looking for the courage, fairness, and wisdom we lack today. The American people wanted the best from their Government. In this case, they only get business as usual.

PROTECT THE RESOURCES OF THE GREAT LAKES

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. BONIOR. Mr. Speaker, I strongly support the passage of H.R. 4299, the Great Lakes Fish and Wildlife Restoration Act of 1990, which authorizes the U.S. Fish and Wildlife Service to undertake a comprehensive study of the management of Great Lakes fisheries. This legislation authorizes a 5-year study to develop safe and effective ways to clean up and enhance one of our most precious resources in the Great Lakes—our fisheries.

H.R. 4299 will look specifically at developing means to control the spread of nonindigenous species in the Great Lakes. These species, including the zebra mussel, ruffe, and the spiny water flea, have already had a very serious impact on the state of the Great Lakes' fisheries. The introduction of nonindigenous species in our inland waterways places new burdens on the fragile environmental balance of the Great Lakes.

H.R. 4299 is particularly important in the fight against the spread of the zebra mussel in the Great Lakes. The zebra mussel may be small in size, but it causes enormous problems that not only affect fish and wildlife, but the health and safety of entire communities. As the zebra mussel continues to spread through the Great Lakes, we must intensify our efforts to deal with this predator.

The Great Lakes are facing a major threat from zebra mussels and other exotic species. These species are a threat to our quality of life and our economy in the Great Lakes. The zebra mussel, for example, has already devastated the fishing industry of Lake Erie and is expected to eventually work its way through all of the Great Lakes as well as the rivers and tributaries of the Mississippi Basin.

According to the U.S. Fish and Wildlife Service, the zebra mussel will cause 5 billion dollars' worth of damage to factories, ships, fisheries, water supplies, and powerplants during the next decade. In 1989, the infestation of Lake Erie by zebra mussels cost the fishing industry over $200 million. We must take action to prevent this from happening to all of the Great Lakes.

Michigan's 12th Congressional District has, until recently, been spared the worst effects of the zebra mussel. Recent evidence confirms that our good fortune is running out—the zebra mussel has arrived and is colonizing Lake St. Clair, the St. Clair River and Lake Huron. Next spring, we can expect the zebra mussel to have even more thickly infested the waters of the 12th Congressional District.

As chairman of the newly formed congressional boating caucus, I would also like to point out that boaters and the fishing industry are hit very hard by the spread of zebra mussels in the Great Lakes. It costs over $100 to remove the zebra mussels from the hull of a 16-foot fishing boat. The cost of preventative measures is an even greater burden for boaters.

H.R. 4299 will go far toward helping the people of the Great Lakes by drawing the U.S. Forest Service's considerable resources into the concerted local, State and Federal efforts to protect our vital natural resources. The Investment we make today in controlling exotic species like the zebra mussel will save the Great Lakes billions of dollars in spoiled recreation opportunities, cost revenue, and crippled industries tomorrow.

HOUSE OF REPRESENTATIVES—*Friday, October 5, 1990*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray using the words of Isaac Watts:

O God, our help in ages past,
  Our hope for years to come,
Our shelter from the stormy blast,
  And our eternal home.

Before the hills in order stood,
  or earth received her frame,
From everlasting You are God,
  To endless years the same.

O God, our help in ages past,
  Our hope for years to come,
Remain our guard while life shall last,
  And our eternal home.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from Pennsylvania [Mr. Murtha] to come forward and lead the House in the Pledge of Allegiance.

Mr. MURTHA led the pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 435. An act to amend the Appalachian Regional Development Act of 1965 to include Columbiana County, Ohio, as part of the Appalachian region; and

H.R. 4758. An act to provide for the construction, operation, and maintenance of an extension of the American Canal at El Paso, TX.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 247) "An act to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such Act, and for other purposes."

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 4151, HUMAN SERVICES REAUTHORIZATION ACT, 1990

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that the managers have until midnight, Friday, October 5, 1990, to file the conference report on the bill (H.R. 4151) to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, the Community Services Block Grant Act, and the Low-Income Home Energy Assistance Act of 1981, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CAPITOL HILL TENNIS CLUB WINS CHAMPIONSHIP

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I want to recognize the accomplishments of the Capitol Hill Tennis Club, which recently won the Greater Washington Tennis Association 1990 Interclub League Division Championship.

The club is made up of Members of Congress, staffers from both the House and Senate and others who work in the Federal Government. They are coached by a good friend of mine and an outstanding tennis player, Peter Lu.

Much of the success of the club this year is due to the work of its president, George Cody. He has spent a lot of time to make sure courts were available, and all the other details were worked out. His organizational skills made sure things ran smoothly. I know George and Peter are very proud of winning the division championship, and as a long-time member of the club, so am I.

The team members certainly deserve recognition. They are: Senator John Breaux, David Gerken, Dennis Holland, Brian Lott, Jim Morgan, Bob Okun, Bill Schmidt, Ray Towle, Andy Vermilye, Mark Williams, Ney Williams, and Alex Winslow.

Congratulations to all of you for a job well done this year.

COME TO THE CATSKILLS AND ADIRONDACKS

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, I would invite all of you to come up to my congressional district this weekend.

I happen to represent the Catskills and the Adirondack Mountains, and this weekend is the peak color period for the fall foliage season.

If you watched "Good Morning, America" today, this is the weekend when we have over 100 different species of trees with the most beautiful reds and golds and browns. The beauty and splendor is almost unbearable.

If we ever get out of here today, come on up; you will see something beautiful.

A HOLLOW VICTORY OF POLITICAL CONSULTANTS AND POLLSTERS

(Mr. OWENS of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of Utah. Mr. Speaker, I rise to pay tribute this morning to you and to the gentleman from Missouri [Mr. Gephardt], the gentleman from Pennsylvania [Mr. Gray], the gentleman from California [Mr. Panetta], the gentleman from Illinois [Mr. Rostenkowski], and, yes, to the gentleman from Illinois [Mr. Michel], and George Bush.

Early this morning, the House treated the country to a display of governmental gridlock. The Republic's ability to function under stress was tested and was found wanting.

This was the hollow victory of political consultants and pollsters who warned us we faced hostility and perhaps political oblivion at home if we passed that inequitable package of compromises.

What these political geniuses did not sense, was that the alternative was worse, and the country is tired of weakness. The public wants us to make tough leadership decisions in times of crisis.

Mr. Speaker, sometimes leadership requires followership, and what we saw this morning was not a failure of leadership, it was a failure of followership.

There is a time in our jobs for us to lead, and there is a time for us to follow. Nobody hated that weak, in-

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

equitable package of compromises more than I did. Only the alternative of no decision was worse. We could have, and would have, changed some of the more odious provisions during the next 2 weeks of budget reconciliation.

So we must now pass a new continuing resolution and push back Gramm-Rudman and hope that the President will sign it and give us 2 weeks to come up with another compromise.

The American people do not want their Government to shut down. They want it to function.

WHAT DO THE NAY SAYERS HAVE TO OFFER

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute.)

Mr. LIVINGSTON. Mr. Speaker, last night my friends on the right said that they had a better plan than what was offered to us. My friends on the left said that they had a better plan than what was offered to us. The folks in the middle tried to come together.

I suspect theirs was probably the best plan that was, and will be available to us. I do not see any improvement coming, but I sure look forward to hearing what the nay sayers have to offer.

WE HAVE GREAT LEADERS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the media said yesterday's "no" vote was an easy vote. That is not true. It was a hard vote. It was very hard to vote against leaders of this Congress who are some of the finest leaders this Congress has ever had.

Let there be no mistake, President Bush looked like a President, acted like a President, and is worthy of respect from this body including this Member. He has impressed all of us.

But I disagree with his budget. Mr. Speaker, I think we should send another budget to the President.

Let us cut foreign aid. Let us cut back on defense spending. Let us make the Tax Code fair. Let the rich pay their fair share. We can do that if we have to go to an open rule, get that last budget out, and let everybody bring their amendments, and when the air clears, we will have a package. We may not all like it, but we will have a part in it.

I stand here today, and I say we have great leaders. I commend them, and the President has stood tall through all of this, and is worthy of our respect and the country's respect.

BRING WEALTHY INTO THE DEFICIT-REDUCTION EFFORTS

(Mr. MOODY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOODY. Mr. Speaker and fellow Members, the package did not go down last night because the House cannot act. It went down because of its content.

Basically it was not fair. It socked it to the middle class and exempted the wealthy. It was kind of a Leona Helmsley budget which says that only the little people pay taxes.

It was the ultimate outcome of, "Read my lips, don't touch the tax rates."

You cannot get the rich in this country to pay their fair share of the income taxes unless you touch income tax rates, and we now, I think, see that plainly.

Let us now get realistic and bring the wealthy into the deficit-reduction efforts so we can get on with the process.

□ 1010

FAIRNESS IS THE KEY

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, now is not the time for recriminations. What we need now is simply some thought about what kind of package to bring to the Congress that can pass, to end this budget struggle which we have been engaged in over the last 10 years.

I simply ask the leaders of both parties to deliver a very sober message to the White House, and I ask the White House to listen to that message. That message is simply this: Please, for the sake of the country, do not just tinker with the package that went down last night. Please make some fundamental changes that will produce more fairness for the middle class, more fairness for senior citizens. That is the key to bringing this institution and our Government together. Fairness ought to be the key word for anything that is produced now. The question simply ought to be, will this be fair to average people? Will it help restore people's confidence in government?

I ask the House to please recognize that fairness cannot be accomplished unless the wealthiest people in this society pay just as much in new taxes as somebody making $7,000 or $10,000 or $15,000 a year. That is the key for getting a decent budget through this House.

ACCEPTABLE BUDGET SOLUTION IS GOAL

(Mr. DOWNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY. Mr. Speaker, the budget summit is dead. It failed principally because it taxes the wrong people and cut the wrong programs. Many of its assumptions were perverse and mean-spirited. It was not a hard vote to vote against it. It was the right vote.

However, that does not relieve this Congress, this House of Representatives of the responsibility of cutting the deficit and coming up with a plan quickly. I would urge, Mr. Speaker, to keep the Committee on Budget here this weekend and all the other committees that have the responsibility to work on a package that is acceptable to the American people and to a majority of the House and to the Senate.

I would add a word of caution to the President. No person likes to lose. However, the last thing we want to do is to have the President veto the continuing resolution and have a fiscal temper tantrum. That is not responsible governance, and I think better of the President if he would work with Members and try and get a package that is acceptable to all Members.

BUDGET PACKAGE FUNDAMENTALLY FLAWED

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, there is a tendency in this well of the House to hyperbolize and dramatize and exaggerate, but I do not think I am doing any of those in saying last night in this very Chamber there was a struggle for in the heart and soul of the Democratic Party.

Now, some might say that the Democratic Party is not worth having a struggle over. I do. I am a proud Democrat. I think my party has stood for the correct values over the years, and I think that the struggle last night was over, simply, where will the direction of the party take Members. What will be the future shape and texture of the Democratic Party?

I think it was clearly demonstrated, Mr. Speaker, that last night we said we want to be sure that the Tax Code is fair and equitable. We want to be sure there is opportunity in this Nation for people who want to exercise their initiative. Last, but not least, we want to make sure this is a country that treats people equally.

Mr. Speaker, I think that the correct side of the spectrum won the battle last night. Now we have to put the pieces together to take our party toward 1992.

PROPOSAL UNFAIR TO WORKING MEN AND WOMEN

(Mr. HUGHES asked and was given permission to address the House for 1 minute.)

Mr. HUGHES. Mr. Speaker, yesterday's vote was one of the toughest votes I have cast around here in some 16 years that I have been here. I really agonized over that vote, like I am sure most Members did. I wanted to support the President, and I wanted to support our leadership. I did not commit myself for the entire 3 days.

I looked during that 3 days for something I liked about the proposal. I could not find anything I liked about it. I could not find one thing I liked about the proposal. It was inherently and fundamentally unfair. The poorer would become poorer, the middle class gets clobbered again, and in New Jersey it would mean a double tax because Governor Florio just increased the taxes on many of the very things we are going to tax again. We have near revolution in New Jersey as it is over a tax package that was just put through.

Now I realize that no Members are going to get everything they would like in a budget proposal, but it has to be inherently fair for the working men and women of this country. If it is not, we will be here till Christmas debating a budget package. I am ready to go to work. I want to see some options. We have not worked our will yet. We voted one down that was a result of a summit that took 4 or 5 months, but we have had one vote. Let Members get to work, and let Members come up with something that we can pass that is fair to working men and women. When we do that, we will do our job.

COMPREHENSIVE CRIME CONTROL ACT OF 1990

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to House Resolution 490 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5269.

□ 1016

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5269) to control crime, with Mr. BARNARD (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole House rose on Thursday, October 4, 1990, amendment No. 17, offered by the gentleman from Florida [Mr. MCCOLLUM] had been disposed of.

It is now in order to consider amendment No. 20, printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HUGHES: Page 124, strike line 3 and all that follows through line 24 on page 125 and insert the following:

"(a) IN GENERAL.—No person shall be put to death under color of State or Federal law in the execution of a sentence that was imposed based on race.

"(b) INFERENCE OF RACE AS THE BASIS OF DEATH SENTENCE.—An inference that race was the basis of a death sentence is established if valid evidence is presented demonstrating that, at the time the death sentence was imposed, race was a statistically significant factor in decisions to seek or to impose the sentence of death in the jurisdiction in question.

"(c) RELEVANT EVIDENCE.—Evidence relevant to establish an inference that race was the basis of a death sentence may include evidence that death sentences were, at the time pertinent under subsection (b), being imposed significantly more frequently in the jurisdiction in question—

"(1) upon persons of one race than upon persons of another race; or

"(2) as punishment for capital offenses against persons of one race than as punishment for capital offenses against persons of another race.

"(d) VALIDITY OF EVIDENCE PRESENTED TO ESTABLISH AN INFERENCE.—If statistical evidence is presented to establish an inference that race was the basis of a sentence of death, the court shall determine the validity of the evidence and if it provides a basis for the inference. Such evidence must take into account, to the extent it is compiled and publicly made available, evidence of the statutory aggravating factors of the crimes involved, and shall include comparisons of similar cases involving persons of different races.

"(e) REBUTTAL.—If an inference that race was the basis of a death sentence is established under subsection (b), the death sentence may not be carried out unless the government rebuts the inference by a preponderance of the evidence. The government cannot rely on mere assertions that it did not intend to discriminate or that the cases fit the statutory criteria for imposition of the death penalty.

SEC. 2922. ACCESS TO DATA ON DEATH ELIGIBLE CASES.

Data collected by public officials concerning factors relevant to the imposition of the death sentence shall be made publicly available.

The CHAIRMAN pro tempore. Under the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 10 minutes in opposition to the amendment.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

(Mr. HUGHES asked and was given permission to revise and extend his remarks.)

Mr. HUGHES. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, like those who support the amendment to strike the Racial Justice Act, I have serious reservations about those provisions as they presently appear in the bill.

I voted to strike title XVIII of the bill in Judiciary Committee markup. If the choice were between the provisions as they presently exist and striking, I would again vote to strike.

However, while title XVIII is unacceptable because it goes too far, merely striking the provision is also unsatisfactory. Striking it would leave in place a Supreme Court ruling that statistical evidence suggesting a pattern of racial discrimination in death penalty sentencing can never be considered.

It would be naive to believe that a prosecutor or other charging entity would admit their prejudice or their intent to discriminate. We all know that racial discrimination does not work like that.

I know from experience that factors such as an arrogant and contemptuous demeanor by a defendant in the courtroom can influence a jury. So too can the fact that a defendant takes the stand and tells obvious lies. Even when these lies do not go to the heart of the case against the defendant, they can insult the intelligence of the jury to the extent they tip the balance between a life sentence and a death sentence.

Because of factors such as these, I frankly doubt that statistics alone are ever going to overturn death sentences. Nonetheless, fundamental fairness requires that a defendant be given the opportunity to submit such evidence.

However, suppose the record for a particular jurisdiction indicated that in a 10-year period, in like cases, 100 percent of all black defendants were given death sentence and zero percent of white murder defendants were. Should that record not even be considered?

Unless we act to restore a level playing field, that is exactly the result that will flow from the Supreme Court's decision in the McCleskey case.

Let me explain my amendment, how it differs from the present bill, and how it would operate in actual practice.

Unlike the bill as reported, the substitute does not provide that a prima facie case of racial discrimination is established by a mere showing of significant racial disparity in the imposition of the death penalty.

Instead the substitute merely provides that such evidence is to be considered. The Government may challenge the validity and significance of the statistics at any point. However, it is only after the court determines that the evidence is valid and that it supports an inference that race is influencing death sentences that the Government must respond and rebut the inference.

Unlike the bill as reported, my amendment does not limit the grounds on which the State may rebut. While the Government may rebut the inference by any relevant method of proof, my amendment specifies that it is not sufficient rebuttal for the Government to merely put the prosecutor on the stand to deny an intent to discriminate.

My substitute also lowers the State's burden of proof on rebuttal from "clear and convincing" to "preponderance of the evidence."

The amendment provides that statistical evidence must relate to current practices. If the practice has been corrected, the data is not valid.

Finally, my amendment deletes the recordkeeping requirements in the bill. It simply requires that States make available any data or records which are being compiled.

Opponents of the Racial Justice Act claim that it is a Trojan horse, designed to shut down the death penalty in the United States.

I assure you that I would not support any such effort, or any bill which might have that effect.

My amendment would not have that result.

I have carefully examined the Court decisions which prompted this proposal. Most of the attention in this controversy focuses upon one Supreme Court decision. In that case, the High Court held that historical or statistical data should never be considered.

As I have noted earlier, I think that decision is wrong, and that the Congress should accept the invitation of the Court to legislate in this area if we feel otherwise.

However, to understand the issue more fully, it is important to also read the decisions of the lower courts in that same case.

It is most useful to look at how the U.S. district court in Georgia handled the issue.

Unlike the Supreme Court, district court Judge Forrester concluded that statistical disparity can be used.

Judge Forrester examined the data in dispute and took extensive testimony from both sides regarding its content, validity, and meaning. He concluded that, because of omissions or defects in the data, it did not support a prima facie case of discrimination.

He also concluded that, even if it did, the State had successfully rebutted it by showing that nonracial factors explain the disparity.

This case illustrates that allowing historical evidence will not end the death penalty.

The study involved in that case was probably the most detailed study ever done of racial influences over the death penalty. It seemed to show stark racial disparity.

The fact that Georgia was able to prevail convinces me that the death penalty will not be ambushed if we do what is only fair and appropriate—allow persons facing the death penalty to introduce historical evidence of racial disparity, just as it is allowed in challenging racial discrimination in employment, housing, or other areas.

□ 1020

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 9 minutes.

Mr. Chairman, I rise in opposition to the Hughes amendment to the Racial Justice Act.

We all agree that justice should be color blind and that consideration of race should play no role whatsoever in the capital sentencing process. The Hughes amendment to the Racial Justice Act will have precisely the opposite effect. According to the National District Attorneys Association, which has characterized this provision as a legislative lemon, the so-called Racial Justice Act will have the effect of injecting considerations of race into a prosecutor's decisionmaking process.

The amendment offered by the gentleman from New Jersey [Mr. Hughes] to cure the admitted serious problems with the Racial Justice Act as reported out of the Judiciary Committee, suffers from the same fundamental flaws as the base bill and, thus, should be rejected.

In addition, the Hughes amendment, like other versions of the Racial Justice Act will have the practical effect of the elimination of the death penalty in the United States.

There were many votes in the committee yesterday in support of the death penalty. One must reject the Hughes amendment and then support my motion to strike, which will come up next, in order to make those votes stick. If the Hughes amendment passes, or my motion to strike fails, then all the votes cast in favor of the death penalty yesterday in the Committee of the Whole will have been in vain.

The Hughes amendment allows an inference of racial discrimination to be created in an individual case by the use of raw statistics. There is no requirement that the defendant prove intentional discrimination or even discriminatory motive or intent.

According to the Department of Justice, compliance with the title—as amended by Hughes—would still effectively require a death-by-the-numbers system of quota justice that introduces race into capital charging and sentencing decisions in a constitutionally impermissible manner. The likely practical effect of title 18 would still be the invalidation of death sentences that are now in effect, where the trial has taken place, the jury has convicted the defendant, the jury has recommended death, and the court has so pronounced the death sentence, the appeals and habeas corpus process have all found against the defendant, and yet the passage of either the original bill or the Hughes amendment would reopen that issue up, and thus foreclose the future of capital punishment.

In essence, this remains a quota bill for the death penalty.

Some have alleged that since plaintiffs are able to prove employment discrimination based on statistical disparity under title VII of the Civil Rights Act of 1964, criminal defendants should be allowed to use statistics to challenge alleged disparities in the imposition of the death penalty on the basis of race. However, there are fundamental differences between the use of statistics in title VII cases and under the Racial Justice Act. First, in title VII cases, the decisionmaker has an opportunity to explain the statistical diparity. In the capital sentencing process, the State has no opportunity to rebut statistical studies. The State cannot go back and question every jury member, every prosecutor, every judge, and every other decisionmaker in the case in which the death sentence was imposed and also in every prior case upon which the statistical study relied. Second, as the Supreme Court stated in McCleskey versus Kemp:

> The nature of the capital sentencing decision, and the relationship of the statistics to that decision, are fundamentally different from the corresponding elements in the * * * Title VII cases. Each jury is unique in its composition, and the Constitution requires that its decision rest on consideration of innumerable factors that vary according to the characteristics of the individual defendant and the facts of the particular capital offense. Thus, the application of an inference drawn from the general statistics to a specific decision in a trial and sentencing simply is not comparable to the application of an inference drawn from general statistics to a specific * * * Title VII case. *McCleskey* v. *Kemp* 481 U.S. 279 at 294.

□ 1030

It is one thing to require an employer to hire or promote an individual, on the basis of that individual's race, in order to achieve the goal of a racially balanced workplace. It defies common

sense, the principles of the American criminal justice system, and perhaps the Constitution itself, however, to require a prosecutor to seek capital sentences against criminal defendants, regardless of the severity or brutality of the crime, in order to achieve the proper racial composition of prisoners on death row. This is exactly what both the Racial Justice Act and the Hughes amendment will do.

Proponents of the legislation cite the study of the General Accounting Office released in February 1990 entitled "Research Indicates Pattern of Racial Disparities." It is more important to note that the so-called research referred to is not the research of the General Accounting Office. They performed no original research, no gathering of facts and no compilation or analysis of independently obtained data, in reaching their conclusions in the study. Instead, they relied on the results of previously performed studies, several of which were funded by antideath penalty advocacy groups or were of questionable quality, in arriving at their conclusions. I therefore submit, that the GAO study proves very little, if anything, with regard to racial disparities in death penalty sentencing.

The Hughes amendment makes one change of note to title XVIII of the bill. It substitutes a "preponderance of the evidence" that the Government rebut the prima facie case by "clear and convincing evidence standard in title 18." Under the amendment, however, the Government would still be required to disprove any influence of racial bias on jurors, prosecutors, and judges in all the past capital cases in which these sentences were imposed. The burden of proving this enormous negative is a practical impossiblity under any standard. Thus, the lessening of the standard under the Hughes amendment is of no practical effect.

In conclusion, the cosmetic changes of the Hughes amendment cannot rescue the flawed and constitutionally dubious approach of the Racial Justice Act. I urge my colleagues to keep justice color blind. Vote "no" on the Hughes amendment to the Racial Justice Act, and support my motion to strike that act which will come up next.

During general debate on this bill, the gentleman from New Jersey [Mr. Hughes] read into the Record portions of a letter from Nebraska Attorney General Robert Spire, in which he supports the so-called Racial Justice Act.

The Nebraska County Attorneys Association, by letter dated October 2, 1990, have stated, for the record that:

> We want to make it clear that Mr. Spire must be expressing his personal views and that those views are not those of the membership of the Nebraska County Attorneys Association.
>
> The misnamed Racial Justice Act does not create or insure racial justice in any manner. It was originally drafted by the Coalition to End the Death Penalty and its goal is clearly not to insure justice in any form, but to eliminate capital punishment.

I would hope that this House would vote against the proposal of the Coalition to End the Death Penalty, by voting "no" on the Hughes amendment, "aye" on the motion to strike, and support the overwhelming majority of State attorneys general, local prosecutors in this coutry by taking this notion out of the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the distinguished chairman of the Subcommittee on Civil and Constitutional Rights, the gentleman from California [Mr. Edwards].

Mr. EDWARDS of California. Mr. Chairman, I rise in support of the Hughes amendment. The chairman of the Crime Subcommittee has drafted an amendment which goes more than half-way in addressing the objections of the act.

The Hughes amendment makes it absolutely clear that the act does not abolish the death penalty.

The Hughes amendment makes it absolutely clear that the act does not presume the existence of racial discrimination.

What we are hearing from the opponents of this measure is the same old rhetoric about quotas that we always hear whenever we bring a civil rights measure to the floor. There are no quotas in this bill. It is intended to eliminate quotas, and that is what it would do.

Under the Hughes amendment, the act simply allows the consideration of statistics, along with other evidence, in determining whether the imposition of the death sentence is influenced by race.

Under the Hughes amendment, it is clear that statistical evidence must be valid and accurate. It must withstand scrutiny, before the burden shifts to the Government. The evidence must compare similar cases. It must take into account the relevant aggravating and mitigating factors. How could any State with a fair death sentence be afraid of this? If the evidence is not valid, the State has nothing to fear.

No one should be executed under a sentence that was based on race. Whether you support or oppose the death penalty, you should agree we must eliminate racial bias from the death sentencing process.

The Hughes amendment gives defendants a day in court, to use statistics to try to prove that race is influencing the death sentence. We use statistical proof in other areas. We should allow it in this area too. Support the Hughes amendment.

Mr. HUGHES. Mr. Chairman, I yield 1½ minutes to the distinguished chairman of the Committee on Government Operations, the gentleman from Michigan [Mr. Conyers].

Mr. CONYERS. Mr. Chairman, I speak on this as the author of the Racial Justice Act, which has taken a couple of Congresses to come forward.

Ladies and gentlemen, I come to this subject against a historical background of the slave codes that dated from the 17th century in which crimes were capital offenses only when committed by blacks.

In some of the Southern States, blacks could be sentenced to death for burglary, arson, destruction, and whites convicted of the same offenses were sentenced to either 5 years or a fine.

Now, I say that because although slave codes are no longer on the books, a dual system of justice continues to operate through the racial biases of the prosecutors, judges, and juries.

Can anyone here doubt that and fail to understand why we need to make this change? Ladies and gentlemen, there is not a single instance of a white person executed for the killing of an African-American or other minority in American history.

So I come to this compromise, as crafted by the gentleman from New Jersey, to support it, in which we would require that any inference of race as the basis of a death sentence should establish, if valid evidence is presented demonstrating that the law and policies in effect, that at the time the death sentence was proposed, that race was a statistically significant factor.

This will not apply in those jurisdictions where there is no disparity in the execution and imposition of the death sentence. It only applies in those areas, in those districts where there is disparity.

So I join with those who have waited so long to get this measure to the floor. Please oppose the Sensenbrenner proposal if it comes to the floor and support the Hughes measure on the Racial Justice Act.

Mr. HUGHES. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Kentucky [Mr. Mazzoli], a valued member of the Subcommittee on Crime.

Mr. MAZZOLI. Mr. Chairman, along with the distinguished chairman of our subcommittee, Mr. Hughes, I voted against the bill's language which currently exists on the question of racial justice, but today I will join him in strong support of his amendment which corrects many of the flaws and overreaches of that basic bill.

The bill's language currently would make a prima facie case where there is racial disparity of a racially discrimi natory application of the death sentence.

□ 1040

The amendment of the gentleman from New Jersey [Mr. HUGHES], which I strongly support, would simply allow that evidence to be used, and the Government could rebut the evidence. The grounds of the rebuttal is eased a bit in the gentleman's language.

Mr. Chairman, the bottom line here is: No human being should be executed because of any racial considerations, and the amendment of the gentleman from New Jersey [Mr. HUGHES] reduces that likelihood to zero.

I support the Hughes language.

Mr. HUGHES. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from New York [Mr. RANGEL], the chairman of the Select Committee on Narcotics Abuse and Control.

Mr. RANGEL. My colleagues, this amendment is described in one of the study group's paper, says the gentleman from Wisconsin [Mr. SENSENBRENNER] will offer an amendment to strike the provisions of the bill that bar executions of prisoners that demonstrate that their death sentence was imposed because of racial discrimination. What a statement. How would history ever want this to be recorded, that in this House we did something like this?

I can imagine what it is. It is that it is election time, and so, therefore, we have to really show the meanness that we have in us. We have to be for the death penalty where the likelihood of someone being convicted of a capital crime is minimal, such as in drugs where we only have 2,800 DEA agents. In order to get busted by one of them, someone has to have some pretty bad luck as a drug pusher, but now we are coming back to being even more mean-spirited saying that in committees where it is shown that people are receiving the capital punishment, and that race, the color of their skin, has been a factor, that we should strike out the opportunity, not to stop the execution, but to study and see whether it was based on the color of their skin.

Mr. Chairman, I am suggesting to my colleagues that, if they have to do this to get reelected, then may be I do not understand their political problems as well as I should.

But I beg of my colleagues, when this obscene amendment is voted down by a voice vote, to please not ask their colleagues whether or not it is so important for them to be elected that they would support an amendment to strike the provisions of a bill that bar executions of prisoners who demonstrate their death sentence was imposed because of racial discrimination.

Mr. SENSENBRENNER. Mr. Chairman, I am sorry the gentleman from New York [Mr. RANGEL] was speaking on the wrong amendment. To set him straight, I yield the balance of my time to the gentleman from Florida [Mr. MCCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I rise in opposition to the amendment of the gentleman from New Jersey [Mr. HUGHES] and in favor of the amendment of the gentleman from Wisconsin [Mr. SENSENBRENNER] to strike this whole business about putting race into the question of capital punishment.

There is no question that the law clearly says that, if there is racial discrimination at a trial, then in that case certainly that can be overturned, and it will be overturned in the normal process that is involved in our criminal justice system, but for us to come today and to say that because statistically that more people of one race commit crimes than others of another race, and more people are sentenced to death in one race than of another race, and say that somehow because of that there has to be an inference of discrimination and that the State has to come and rebut that inference, is an absurd situation.

Race should not be the basis of the decision on capital punishment at all, one way or the other. The fact of the matter is that, if this amendment which the gentleman from New Jersey [Mr. HUGHES] has offered is adopted, or the bill is adopted as it is, either one, we will not see a lot of the death sentences today carried out for the simple reason that the inference, the burden put on the State, to go back and dig up old evidence, cannot be found. Every law enforcement agency in this country is opposed to this particular effort, and they are in favor of the amendment of the gentleman from Wisconsin [Mr. SENSENBRENNER]. That includes States attorney, that includes State attorneys general, that includes all law enforcement and police people because they understand race should not be a part of it.

It is a very bad proposition to put into law, and it will effectively nullify capital punishment in the States for the vast majority. I urge a no vote on this and a yes vote on Sensenbrenner.

Mr. HUGHES. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN pro tempore (Mr. BARNARD). The gentleman from New Jersey is recognized for 1½ minutes.

Mr. HUGHES. Mr. Chairman, I never cease to be amazed at my colleagues. I wonder, "Where is our integrity and principle around here?"

What the gentleman from Wisconsin [Mr. SENSENBRENNER] wants to do is preserve it for those instances where a prosecutor gets up and admits he was biased or prejudiced, and that certainly is possible. But how many prosecutors or charging entities are going to admit that they were prejudiced?

All we are saying is that there ought to be a system, a process, where a district court can take evidence, where it shows that there has been a pattern of discrimination over a period of years, and it is valid evidence, and require some explanation of that. Sensenbrenner would not permit that process before a Federal court.

Mr. Chairman, I do not think anybody wants to execute somebody that has been convicted on the basis of the color of his skin and execute him if there is valid evidence that suggests there was a pattern of discrimination.

Come on. Let us be reasonable. Let us support the Hughes amendment. Preserve that process, and reject the amendment of the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. OWENS of New York. Mr. Chairman, I have watched during the last 3 days as a majority of the Members of this body have repeatedly cast their votes in favor of expanding the death penalty.

I must confess that I do not see the logic in their actions. There is a button which says "why do we kill people who kill people to show people that kiling people is wrong?" I have learned during the proceedings of the last 2 days that a likely answer to that question would be: to win elections.

Yesterday, Mr. STAGGERS offered an amendment that would have substituted life in prison with restitution to the family of the victim for the death penalty. I and 102 of my brave colleagues voted for this amendment. In doing so, we called for mercy, in the manner in which so many civilized countries in Europe and elsewhere have done in abolishing capital punishment.

Mr. Chairman, today I do not call for mercy, but for fairness.

There are provisions currently in the bill which would require States to take steps to ensure that capital punishment is administered fairly. These measures include ensuring that adequate counsel is provided for capital defendants, that procedural fairness exists in Federal court review of death sentences, and that race is not a hidden factor in determining which convicted murderers are executed

These measures require a mechanism, to be determined by the localities, for proving racial bias in death sentencing by using statistical evidence. Capital punishment cannot be administered if it can be shown that race significantly influenced the decision to sentence the defendant to death.

The death penalty would not be abolished—although I wish that were the case. In fact, the bill specifically permits States to carry out executions which are not tainted by racial factors.

Anyone who looks at the facts can see that these provisions are long overdue. The legacy of racial influence on sentencing convicted criminals to death dates back to the slave codes which existed in many States. Blacks convicted of burglary or vandalism were sentenced to death while whites convicted of these same crimes could be expected to pay a fine or, at most, spend 5 years in jail. Black

men convicted of raping white women were sentenced to castration or death, while the rape of black women by white men was not even considered a crime.

Today, these laws are no longer on the books, but the legacy of disparate sentences for similar crimes lingers on. In localities across the Nation there are stark statistics that show the racial disparities in the prosecution of crimes and the sentencing of criminals. These statistics show patterns whereby the murderers of white victims are executed far more frequently than the murderers of black victims—even where there are many more black victims than white victims. In some localities only the murderers of white victims are sentenced to death.

Mr. Chairman, since 1976 there has not been one white person executed for killing an African-American or any other minority in the United States.

In GAO's 1990 report on death penalty sentencing, it was determined that research conclusively showed that those who :nurdered whites were more likely to be sentenced to death than those who murdered blacks.

In Florida, the Stanford Law Review found that blacks who kill whites receive the death penalty 22 percent of the time, while whites who kill whites receive the death penalty 4.6 percent of the time.

These examples do not even begin to scratch the surface of the well-documented incidence of racial bais that is played out across the country in capital sentencing cases. The Racial Justice Act will play a crucial role in ensuring that such discrimination no longer has any effect on the sentencing process of capital cases.

Again, this is not a vote for mercy for convicted criminals, it is a vote for fairness and a vote against continuing the legacy of blatant discrimination that exists in our courts.

I urge you to support the racial justice amendment.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey [Mr. HUGHES] has expired. All time has expired.

The question is on the amendment offered by the gentleman from New Jersey [Mr. HUGHES].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SENSENBRENNER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 218, noes 186, answered "present" 1, not voting 28, as follows:

[Roll No. 422]

AYES—218

Ackerman
Anderson
Andrews
Annunzio
Applegate
Aspin
Atkins
AuCoin
Bates
Bennett
Berman
Boehlert
Boggs
Bonior
Borski
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Clarke
Clay
Clement
Coleman (TX)
Collins
Conte
Conyers
Cooper
Costello
Coyne
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Donnelly
Dorgan (ND)
Downey
Duncan
Durbin
Dymally
Dyson
Early
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Fish
Flake
Foglietta
Frank
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gray
Green
Guarini
Hall (OH)
Hamilton
Hawkins
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horton
Hoyer
Hughes
Jacobs
James
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Machtley
Manton
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDermott
McHugh
McMillen (MD)
McNulty
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Natcher
Neal (MA)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Patterson
Payne (NJ)
Payne (VA)
Pelosi
Penny
Perkins
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Richardson
Roe
Rostenkowski
Rowland (CT)
Roybal
Sabo
Saiki
Sangmeister
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stark
Studds
Swift
Synar
Tallon
Tanner
Torres
Torricelli
Traficant
Traxler
Udall
Unsoeld
Vento
Visclosky
Volkmer
Walgren
Weiss
Wheat
Williams
Wise
Wolpe
Wyden
Yates

NOES—186

Anthony
Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Bosco
Broomfield
Browder
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Chandler
Clinger
Coble
Coleman (MO)
Combest
Courter
Cox
Craig
Dannemeyer
Darden
Davis
DeLay
DeWine
Dickinson
Dornan (CA)
Douglas
Dreier
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Flippo
Frenzel
Gallegly
Gallo
Gekas
Gillmor
Gingrich
Goss
Gradison
Grandy
Grant
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jenkins
Kasich
Kolbe
Kyl
Lagomarsino
Laughlin
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lukens, Donald
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morrison (WA)
Myers
Nielson
Oxley
Packard
Parker
Parris
Pashayan
Paxon
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Rohrabacher
Roth
Roukema
Rowland (GA)
Russo
Sarpalius
Schaefer
Schiff
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Skelton
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stearns
Stenholm
Stump
Sundquist
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Watkins
Weber
Weldon
Whittaker
Whitten
Wolf
Wylie
Yatron
Young (FL)

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—28

Alexander
Beilenson
Chapman
Condit
Coughlin
Crane
Crockett
Dixon
Dwyer
Engel
Feighan
Ford (MI)
Ford (TN)
Lowery (CA)
Madigan
Markey
Mfume
Nagle
Neal (NC)
Pease
Ros-Lehtinen
Rose
Stokes
Towns
Washington
Waxman
Wilson
Young (AK)

□ 1107

Mrs. ROUKEMA and Mr. THOMAS of Georgia changed their vote from "aye" to "no."

Messrs. TALLON, JONES of Georgia, and BENNETT changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. BARNARD). It is now in order to consider the amendment No. 21, printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SENSENBRENNER: Strike title XVIII.

The CHAIRMAN pro tempore. Under the rule, the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 10 minutes, and the gentleman from California [Mr. EDWARDS] will be recognized for 10 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Wisconsin [Mr. SENSENBRENNER].

☐ 1110

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, this amendment strikes out all references to the Racial Justice Act from the crime bill. It is necessary that this amendment be adopted in order to avoid a potential veto of this legislation, and I believe that on the merits this amendment should be adopted as well.

It can arguably be stated that the Hughes amendment made the procedure of the Racial Justice Act marginally better; however, the question before the House now is whether there should be any statistical inference drawn in the capital sentencing process at all.

I rise in support of the amendment to strike title 18, the Racial Justice Act from the Comprehensive Crime Control Act of 1990.

We all agree that capital punishment should be handed down in a fair, consistent, and racially neutral manner.

Contrary to the assertions of the proponents of the Racial Justice Act, however, there is no body of reliable empirical evidence which proves that racial prejudice infects the capital sentencing process. Rather, the weight of reliable empirical study indicates that legally relevant factors overwhelmingly account for apparent disparities relating to the race of the victim or the offender.

In simple terms, legitimate factors, other than race, account for the apparent racial disparities.

In reiterating the opposition of the attorney general of California, John Van De Kamp to the Racial Justice Act, the chief assistant attorney general of California, Richard Iglehart has explained:

> [The Act] will permanently submerge every capital case in endless, costly litigation over the scope and validity of statistical studies that are inherenlty inconclusive and equivocal. Procedural roadblocks should not be used to abolish capital punishment in this country. Such a decision should be made by a direct vote that the public can recognize. The only responsible position is to delete Title 18.

This so-called Racial Justice Act is just one more superfluous and arguably unconstitutional barrier that is being erected to circumvent the will of the American people who overwhelmingly support the death penalty.

If title XVIII is not stricken from the bill, the administration has promised a veto of the bill.

I therefore urge the adoption of this amendment.

Mr. Chairman, I include the letter from the attorney general of the State of New Jersey, as follows:

STATE OF NEW JERSEY, DEPARTMENT
OF LAW AND PUBLIC SAFETY,
October 5, 1990.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. SPEAKER: Please be advised that I and all 21 of the county prosecutors in New Jersey continue strongly to oppose the provisions of proposed Title XVIII of the pending "Comprehensive Crime Control Act of 1990" concerning racially discriminatory capital sentencing. This provision is substantially identical to what was formerly called the "Racial Justice Act," a misnomer to be sure. In a nutshell, this provision would create havoc and would effectively eliminate the death penalty in New Jersey and throughout the nation.

The reasons for our continuing and strenuous objections are set forth in my attached July 31 letter to Congressman William Hughes. (I especially draw your attention to pages 1-3). Furthermore, the arguments which necessitate the rejection of this ill-conceived proposal have not been addressed in Congressman Hughes' recently offered substitute amendment. Accordingly, the arguments set forth in my July 31 letter remain relevant and compelling.

In the circumstances, I and the county prosecutors of New Jersey respectfully urge the Congress to reject the Hughes Amendment and to support Congressman Sensenbrenner's amendment to strike proposed Title XVIII from the "Comprehensive Crime Control Act of 1990."

Respectfully,
ROBERT J. DEL TUFO,
Attorney General.

Mr. EDWARDS of California. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, this is the second civil rights vote that we will have, and I want to congratulate the Members for supporting the Hughes amendment. That was the first civil rights vote.

All of you back in your offices have for all over the country letters and telegrams and phone calls urging you to support the racial justice provision of the crime bill and reject the motion of the gentleman from Wisconsin [Mr. SENSENBRENNER] to eliminate this very important portion of the bill which insures, at least gives a chance to have fairness in the implementation of the death penalty so that we at least slow down this unfortunate trend in certain jurisdictions of our country where if the victim is black, the changes for execution are three or four times as much as if the victim were white.

So please, Mr. Chairman, and my colleagues, reject this Sensenbrenner amendment. Five State attorneys general support it and here is what they say:

SEPTEMBER 26, 1990.

HON. THOMAS S. FOLEY,
Office of the Speaker, U.S. Capitol, Washington, DC.

Hon. ROBERT MICHEL,
Office of Minority Leader, U.S. Capitol, Washington, DC.

DEAR MESSRS. FOLEY AND MICHEL: We are writing to urge bipartisan support for the Racial Justice Act, which we understand will shortly come up for a vote in the House of Representatives.

As Attorneys General of our respective States, each of us has a responsibility to uphold our State laws and Constitutions. Some of us represent States with a death penalty, and some represent States without capital punishment. However, we all agree that in jurisdictions where there is a death penalty, it should only be applied in a manner that is scrupulously fair and non-discriminatory.

The Racial Justice Act is a response to the Supreme Court's decision in *McCleskey* v. *Kemp*, 481 U.S. 279 (1987). The record in that case included an eight-year study of the Georgia capital sentencing system which found broad racial disparities and inferred extensive racial discrimination in the operation of that State's death sentencing scheme. The U.S. Supreme Court, did not reject this evidence but nevertheless concluded that unless an individual undertook the virtually impossible task of proving what went on in the minds of judges, jurors and prosecutors, the Fourteenth Amendment did not provide a remedy regardless of the degree of racial disparity in capital sentencing. The effect of that decision has been to insulate racial discrimination in the criminal justice system from challenge.

In February of this year, the General Accounting Office released a report which confirmed the findings of the study in *McCleskey*, based on more than fifteen years of research in capital sentencing. The GAO report documents the sad fact that today capital punishment operates in a manner that undervalues the lives of African-Americans in two fundamental respects: first, because the death penalty is not sought or imposed for African-American victims under circumstances that would trigger a capital trial and a death sentence for cases involving white victims; and second, because the death penalty is sought and imposed against African-Americans under circumstances that would result in non-capital punishment for whites.

The Racial Justice Act would require even handed, non-discriminatory treatment of capital cases in the system. Only where a defendant could prove widespread, significant and systematic disparities in sentencing based on race would the Act's provisions be triggered: the right to a hearing in Federal court at which the State may rebut the evidence of discrimination. A conclusive showing of bias would entitle a defendant to no more than a new sentencing hearing in court.

The Racial Justice Act is critical not only for the States that have capital punishment statutes, but also for Congress as it contemplates pending proposals to expand the application of the Federal death penalty. If Congress endorses broader use of capital punishment, it must ensure a fair and color blind process.

For the foregoing reasons, we believe that passage of the Racial Justice Act is reasonable and necessary to ensure that the death penalty will only be imposed in a fair and non-discriminatory manner. We urge you to take all steps necessary to bring this about.

We also note that our colleague, Attorney General Robert T. Stephan of Kansas, has previously supported the Act, providing certain amendments are adopted.

Sincerely yours,
HUBERT H. HUMPHREY III,
Attorney General of Minnesota.
ROBERT M. SPIRE,
Attorney General of Nebraska.
ROBERT ABRAMS,
Attorney General of New York.

JAMES M. SHANNON,
Attorney General of Massachusetts.
JAMES E. TIERNEY,
Attorney General of Maine.

Mr. SENSENBRENNER. Mr. Chairman, I yield 4 minutes to the gentleman from New Hampshire [Mr. DOUGLAS].

Mr. DOUGLAS. Mr. Chairman, for 10 years prior to serving in this body I was a judge full time in our Nation's courts as a trial judge and a High Court judge.

I support the Sensenbrenner amendment because I support the death penalty, but I also wanted to place on the record what judges all across America today, as we speak, have as requirements in death penalty cases.

I am quoting from McCleskey versus Kemp, which is a case decided 4 years ago by the U.S. Supreme Court.

The Court reiterated that prosecutorial discretion cannot be exercised on the basis of race. A prosecutor cannot exercise peremptory challenges on the basis of race. State efforts to exclude blacks from grand and petit juries is not permitted under the Constitution. Widespread bias in the community can lead to a change of venue. Racially biased prosecutorial arguments are not permitted under the Constitution.

Mr. Chairman, the Court went on to point out that if the circumstances of a case indicate likelihood of racial bias influencing the jury, the Constitution requires the judge's questioning as to such bias.

Finally, in a capital sentence hearing involving interracial murder, questioning is required concerning the circumstances of the case.

These are all requirements today under the U.S. Constitution that every judge in every court in America must comply with; but having adopted the Hughes amendment, we have effectively ended the death penalty in the United States, and if anyone favors the death penalty, let me read one sentence from the letter of the Attorney General of the United States dated September 24:

> The Hughes amendment would eliminate the death penalty in the United States as a practical matter. Since no state has kept the kind of records necessary to disprove the statistical presumption, enactment of the Hughes amendment would nullify the sentences of 2,350 convicted killers on death row.

☐ 1120

If you vote against the Sensenbrenner amendment, you are effectively ending the justice that 2,350 sentenced convicts have received from juries and appellate courts in this country.

You have commuted their death sentences.

If you vote for the Sensenbrenner amendment, you leave the Constitution the way I read it from McCleskey versus Kemp, the requirement that judges get race out of the courtroom, out of any consideration.

I strongly urge a vote in favor of the death penalty and in favor of the Sensenbrenner amendment.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, I rise in opposition to the Sensenbrenner amendment and in support of the amendment offered by the gentleman from New Jersey [Mr. HUGHES].

Mr. Chairman, I rise today to speak in favor of title XVIII of the Comprehensive Crime Control Act, the Racial Justice Act, that my colleague Congressman CONYERS has introduced. History has shown us that without a doubt there is racial discrimination in death sentencing.

The U.S. General Accounting Office has recently concluded that in certain jurisdictions, if the victim is white, the defendant is far more likely to receive the death sentence than if the victim had been African-American. If the defendant is black, he is more likely to be sentenced to death than if he were white.

Although it is commonly believed that wrongful executions are rare, innocent people have and continue to be wrongly convicted, sentenced to death and executed. That is why it is imperative that defendants have every legal opportunity to prove that their death sentence was imposed on the basis of their race.

I know that we all accept the proposition that no person should be executed under a death sentence that was imposed because of racial considerations. That is why I support this amendment because it would make it unlawful to carry out a death sentence imposed on the basis of the race of the defendant or the victim. It would simply allow in court proceedings the use of valid statistics to establish an inference of race discrimination in death sentencing.

This provision does not create presumption of racial bias. It merely says that a defendant facing the death penalty should have an opportunity to use statistics, along with other evidence, to show that the sentence was based on race.

Mr. Chairman, I implore my colleagues' support for this provision. It is our duty today to protect the right of all Americans, and moreover to uphold our national commitment to equal justice for all.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I rise in strong opposition to the Sensenbrenner amendment. It is a misguided amendment. This is a very important civil rights vote.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I rise in strong opposition to the Sensenbrenner amendment.

Mr. Chairman, I rise in opposition to the Sensenbrenner amendment to H.R. 5269, which would strike one of the most important civil rights measures that Congress will consider this year, the Racial Justice Act. I commend my colleague, Congressman CONYERS, for his tireless commitment to racial justice.

Mr. Chairman, racism pervades our criminal justice system. Study after study, including an exhaustive review of capital sentencing statistics by the General Accounting Office [GAO], has demonstrated a racial bias in capital sentencing. In Florida, for example, the Stanford Law Review found that blacks who kill whites are almost five times as likely to receive the death penalty as whites who kill whites. There is not a single instance of a white person executed for killing an African American or other minority in the entire United States since 1976.

It is time to take a stand against racial injustice in our criminal justice system. The Racial Justice Act would ensure that individuals are not sentenced to death because of the color of their skin. It would extend to individuals accused of capital crimes the same fundamental civil rights protections which are already available to voters, employees, and criminal defendants. It would guarantee that standards of equity and consistency prevail in our criminal justice system.

It is imperative that Congress extend fundamental civil rights protection to individuals who have the most to lose. I strongly urge my colleagues to oppose the Sensenbrenner amendment and support the Racial Justice Act.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from California, [Mr. DELLUMS].

Mr. DELLUMS. Mr. Chairman, I rise in opposition to the Sensenbrenner amendment.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Wisconsin which would strike the Racial Justice Act from the Comprehensive Crime Control Act.

Though I ultimately oppose the death penalty, and hope that one day it will be seen for what it truly is—cruel and unusual punishment—this gentleman is a realist. I realize that the death penalty is with us today. I support the Racial Justice Act because I further realize that the application of the death penalty is unfair, uneven, and that the effect of its application has been discriminatory and racist.

First, let me say that as we consider measures that are only designed to punish offenders, we attempt to treat only the symptoms of our variety of societal ills not the causes of those ills. The causes are imbedded in the institutionalized greed of the wealthy, the growing desperation of the underclass, and widening economic gap between the two.

For the entire Reagan-Bush era, members of the Democratic Party have been baited as being soft on crime. As a result of our collective defensiveness on this issue, we have before us a bill that proposes to extend the death penalty to at least 10 Federal crimes. I am aware that there are those who wait in the wings with proposals that could expand the Federal death penalty to another 20 crimes. Unfortunately, those proposals may someday prevail. The Comprehensive Crime Control Act would impose an unprecedented limitation on the filing of Federal appeals in capital cases, something that some of my colleagues would never stand for in the context of similarly complex civil litigation. Yet, incredibly, we continue to hear that even this measure is soft on crime.

In regards to the need for retaining the Racial Justice Act, let me say that in State after State race continues to play a role in determining who pays the ultimate sanction. For every 25 executions that have occurred in the United States since 1976—there have been 130 to date—21 have involved white victims. This is true despite the fact that proportionate to their numbers, African-Americans are far more likely to be victims of murder, as about half of all murder victims are African-Americans.

The Racial Justice Act is designed to end discrimination in the application of the death penalty. It is supported by more than 70 national and local organizations including the Leadership Conference on Civil Rights and the American Bar Association.

Concerns for fairness and bias-free capital sentencing are not procriminal. Let us not forget that the fundamental undervaluing of the lives of African-Americans extends not only to capital defendants, but to African-American victims as well. What is procriminal about legislation that would ensure that crimes against people of color are not treated as inherently less serious than crimes against white victims? What is procriminal about legislation that is supported by Members of this body who support capital punishment as well as by those who oppose it?

Opponents of the Racial Justice Act want the power to pick and choose when civil rights protections apply. Much has been made of the fact that a number of State attorneys general, but not all, oppose the Racial Justice Act. Small wonder. These opponents want the power to make decisions regarding life and death without public accountability that the Racial Justice Act would afford.

They have not had any standards for deciding which cases to bring as capital cases. The blatant pattern of race-based sentencing in State after State that is a result of this lack of standards. With the Racial Justice Act as part of the Comprehensive Crime Control Act, Congress may impose upon them the same standards that they are bound to apply in every other context—nondiscrimination. These attorneys general should be obligated to treat all victims in their States, including African-Americans, equally.

Make no mistake, if the House votes to strike the Racial Justice Act, it will have voted to tolerate discrimination in meting out the ultimate punishment—death—and abandoned its obligation to ensure that every institution in our society is governed by the principle of equal protection of the law. No clever use of buzz words will disguise that shameful fact.

I stand in opposition to the Sensenbrenner amendment to strike the Racial Justice Act from the bill, and look forward to the day that the equal application of the death penalty will be a moot point as a result of the prohibition of that cruel and unusual punishment.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. Mazzoli].

Mr. MAZZOLI. Mr. Chairman, I rise in opposition to the gentleman from Wisconsin's amendment.

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the original author of the bill, the gentleman from Michigan [Mr. Conyers.]

Mr. CONYERS. Ladies and gentlemen of the House, this is an important day in American criminal jurisprudence because now we have taken into consideration, with the Hughes amendment, that evidence of racial disparity and death sentences will now be able to be considered by the sentencing judge. It has nothing to do with whether you are for or against the death penalty. It is for the sentencing after the conviction.

What we have done here today is so important. Please do not let this motion to strike the Racial Justice Act from the crime bill occur. Let us continue exactly what we have decided to do, speak to this awful, ugly, festering question of race and sentencing, capital sentencing, in the criminal justice system.

Without the Racial Justice Act in this bill, Congress would have expanded the use of the death penalty for the first time since 1972, without ensuring that race bias was not a factor in the sentencing decision.

Please vote against the Sensenbrenner motion to strike.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama [Mr. Harris].

Mr. HARRIS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, title XVIII of H.R. 5269, as amended, is the so-called Racial Justice Act. In *McClesky* v. *Kemp*, 481 U.S. 279 (1987), the Supreme Court held that any defendant who could show that race motivated the decision to charge him, convict him, or sentence him could get relief in Federal court. That is still the law. What McClesky refused to do is let a defendant get relief by proving—if he could, although none ever has—that there is a racial disparity in the way the death penalty is applied in cases in general, even though race did not affect his case in particular. This act would repeal that second part of McClesky, and it would go even further than that.

This legislation would have the effect of requiring prosecutors to prove through statistics the absence of any possible racial influence in the sentencing results of capital cases tried in their State. Because there are countless facts and variables that affect a capital sentencing decision, and because cases are being added to the pool almost every week, it is impossible to quantify all of the factors and to prove by a mathematical formula that no racial factor is involved in capital sentencing. In a January 24, 1990, letter to Senator Thurmond, while the Senate was considering the so-called Racial Justice Act, the Attorney General stated that enactment of it would "have the practical effect of abolishing capital punishment in the United States."

The Senate refused to have this in the crime bill, and by a vote of 58 to 38 it was stricken from their bill.

Mr. Chairman, I intend to vote for this amendment because I believe that these racial justice provisions should be stricken, and I believe we should support law enforcement on this issue. I am going to vote for it because I do not believe in the philosophy, that any injustice can be cured by multiplying it. I intend to vote for the amendment because I believe that the measure of justice should include consideration of the rights of the victims and society as a whole, and I believe that justice should not be reduced to the lowest common denominator of sentences. I intend to vote for the Sensenbrenner amendment because I am unwilling to embrace a system of sentencing by quota and I am unwilling to supplant judges and juries with statisticians and statistics.

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the gentlewoman from Colorado [Mrs. Schroeder], a valued member of the subcommittee.

Mrs. SCHROEDER. Mr. Chairman, last week, tens of millions of Americans had their televisions tuned to the epic documentary "The Civil War." It is ironic that, here we are, in Congress debating the Racial Justice Act; 125 years after the Civil War, we are still working to eliminate racial discrimination in America.

The 14th amendment to the Constitution—an outgrowth of the Civil War—guarantees equal treatment under the law, without regard to race. Yet, there is now compelling evidence, that in the case of death penalty sentencing, whether consciously intended or not, the law has been applied unequally along racial lines. The General Accounting Office conducted a thorough evaluation of data on death penalty sentencing and discovered "a pattern of evidence indicating racial disparities in the charging, sentencing, and imposition of the death penalty."

The important word here is pattern. In the McCleskey decision, the Supreme Court held that evidence of discriminatory death sentencing patterns could not be used to prove purposeful racial discrimination necessary to make a claim under the 14th amendment. A person challenging the death

penalty would have to prove that the individual prosecutor, judge, or jury in his or her case consciously intended to discriminate on the basis of race. The majority opinion in McClesky said that arguments about persistent patterns of racial discrimination in death sentencing should be brought before the Congress which, through its authority under section 5 of the 14th amendment, could develop appropriate responses. The Racial Justice Act takes up this challenge.

Consciously intended racial discrimination is often impossible to prove. No one publicly admits to holding racist views; and none of us thinks we possess a racist bone in our body. But when numbers speak so clearly of patterns, we have to acknowledge that result is just as compelling as intent.

The GAO report is clear: current sentencing practices in death penalty States are discriminatory, no matter what the intent. Even when the circumstances of the crime, the history of the defendant, and other factors are held constant, Blacks are more frequently sentenced to death than whites, especially if their victim is white. The Racial Justice Act would redress this inequality by requiring prosecutors to develop nonracial standards for choosing when to argue for the death penalty and to apply those standards consistently.

The Racial Justice Act is consistent with other civil rights law and Supreme Court rulings in allowing for the use of statistical evidence to prove patterns of discrimination. The bill does not attempt to eliminate the death penalty; and it does not encourage the establishment of racial quotas in sentencing. Rather, it attempts to extend the guarantees of the 14th amendment to equal treatment under the law to all citizens—even those who commit the worst of crimes.

The 125 years after Appomattox, and 30 years after the beginning of the Civil Rights movement, it is time to acknowledge the subtle ways in which racism still operates. It's time to pass the Racial Justice Act.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi [Mr. Espy].

Mr. ESPY. Mr. Chairman, I believe in the death penalty, but only if it is applied in a fair way, in a nondiscriminatory way.

That is why I oppose the Sensenbrenner amendment.

I rise in opposition to the amendment and in support of the Racial Justice Act.

I do so as a Member of this body who supports the death penalty.

However, the evidence proves that in many cases, the death penalty is not determined by the severity of the crime—but by the race of the victim, or the defendant. That's something I can't support.

In cases where the data indicates racial disparity in sentencing, the Racial Justice Act will require States to show other factors justifying the death penalty.

But I do not believe it will. The Hughes amendment to this provision, lessens the burden of proof on the Government to rebut an inference of racial discrimination and it gives the Government unlimited grounds to rebut any statistical showing, while preserving the original intent of this provision to ensure that race is not a consideration in capital cases.

Under the Racial Justice Act, defendants will not be able to use their race to escape just punishment when it is merited. Nor will anyone face capital punishment simply because they, or their victims, are of a particular race.

It ensures that we have one system of justice, for everybody.

I urge colleagues to support the Racial Justice Act.

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the gentleman from Kansas [Mr. Slattery].

Mr. SLATTERY. Mr. Chairman, I have voted for three amendments to the legislation before us that will increase the applicability of the death penalty. I support the death penalty in these limited circumstances.

I am convinced the Racial Justice Act will not abolish the death penalty. The General Accounting Office has conducted an independent, unbiased appraisal of 28 studies of racial discrimination in capital sentencing and concluded that there is a clear pattern of evidence indicating racial disparities in the charging, sentencing, and imposition of the death penalty throughout the country.

As our colleague from Michigan said, there has never been a white American executed for killing an African-American or other minority.

Under the bill before us, States will be free to carry out death sentences, unless a significant racially discriminatory pattern can be shown. Prosecutors will have two opportunities to challenge statistics showing racial discrimination:

First, before the court decides whether a death row inmate has proven a prima facie case of discrimination;

Second, they will have the opportunity to rebut any prima facie case by showing that an apparently racial pattern is explained by nonracial factors.

The Racial Justice Act will eliminate race from the decision to seek the death penalty. It will encourage prosecutors to develop nonracial standards for deciding when to seek a death sentence and to apply those standards uniformly and consistently.

Mr. Chairman, I urge my colleagues to reject the Sensenbrenner amendment.

□ 1130

Mr. SENSENBRENNER. Mr. Chairman, I yield the balance of my time to the gentleman from Florida [Mr. McCollum].

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman from Wisconsin [Mr. Sensenbrenner] for yielding to me. Nobody in this body wants to see racial discrimination in sentencing and the death penalty. Everybody here is against it. I am against it, and my colleagues are against it.

The issue before us is not that today. The issue before us is whether or not we are going to allow to become a part of the law a requirement that statistics be used to determine whether capital punishment should be invalidated in specific cases and whether or not we are going to place the burden on the prosecutor to have to go back in and say, "OK, there's an inference that there was racial discrimination because there were more members of A race than B race that were given capital punishment at a given period of time or more members who were given capital punishment in A race than B race because of X, Y, and Z in a given period of time," and then prove that that is not racially discriminatory by some positive burden that they are going to have an awful time proving, especially in the cases that have already been decided.

In many cases there are people who have been on death row for a long time. Those people's sentences should have long since been carried out, and we hope some of the things we have done in here will correct that in the future.

However, Mr. Chairman, can my colleagues imagine the difficulty someone is going to have if they are a prosecutor going back and overcoming this inference that is put into law by this provision in the bill right now? If they have to go back and overcome it with proof? It would be impossible, and that is why it is so important to vote for the amendment of the gentleman from Wisconsin [Mr. Sensenbrenner].

If my colleagues voted for the amendment of the gentleman from New Jersey [Mr. Hughes] a minute ago because they thought that it lessened the harshness of the bill as it came out of committee, perhaps it did in some minor way, but it still left this inference in there. It did not take the major part of it out, and if it is left alone and the amendment of the gentleman from Wisconsin [Mr. Sensenbrenner] is not passed, we have gutted capital punishment from most of the States.

That is why every State attorney, every State's attorney general and all the district atorneys in this country are in favor of the Sensenbrenner amendment. That is why the police and law enforcement are. That is why the gentleman from Alabama [Mr. HARRIS] spoke in favor of the Sensenbrenner amendment.

Mr. Chairman, I urge an "aye" vote on the amendment of the gentleman from Wiconsin [Mr. SENSENBRENNER]. Let us keep capital punishment intact in this country. Let us vote Sensenbrenner.

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, I support the death penalty, but I cannot countenance racial discrimination in the imposition of this sentence. Recent studies have shown that defendants in homicide cases involving white victims are four, five, and six times more likely to receive the death sentence as those involving black victims. This is not just a southern phenomenon. It is occurring in the North as well. Are the victims of these crimes any less dead? Are the crimes any less heinous? Are the murderers any less culpable?

It is painful to concede that America is still a racially divided Nation. Though we have made great strides toward quality, we still must struggle with hatred, prejudice, and bigotry. Here in the imposition of the most serious penalty known to man, death by execution, can we do anything less than call up every weapon in our legal arsenal to guarantee fairness and justice?

I rise in the strongest possible opposition to the amendment offered by the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Chairman, I would just like to say that there are a lot of lawyers in this Congress, but there is not a single lawyer in this Congress who has ever practiced law in a courtroom who can stand on the floor of this House with a straight face and honestly deny that race is a factor in sentencing in capital cases, and if my colleagues are so naive as to actually believe that, they ought to take their law license off the wall and never again represent anybody in an American courtroom.

I say, "You guys on this side know it as well as I do and, if you're not a lawyer, look at the statistics."

In February of this year, the General Accounting Office concluded that after 15 years of study after study it was indisputable that race plays a role in sentencing in capital cases.

This is a moral question. I ask: How dare you stand up here and tell us that this amendment that's in the bill, the Hughes amendment, would abolish capital punishment? You know very well it would not abolish capital punishment, but what it would abolish, it would abolish the racially discriminatory application of capital punishment, and you folks that moralize in this Congress all the time have a moral obligation to stand with us and strike this out of the practice of American jurisprudence.

Vote against the amendment of the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. RANGEL], the chairman of the Select Committee on Narcotics Abuse and Control.

Mr. RANGEL. Mr. Chairman, I rise again in opposition to the amendment of the gentleman from Wisconsin [Mr. SENSENBRENNER].

What lustful blood seems to exist in this House, this death penalty thing. One would think that the whole reason for being in this Congress is to take away people's lives, lives that we had no power to give, and yet we have the power to take away.

Mr. Chairman, the amendment of the gentleman from New Jersey [Mr. HUGHES] does not mandate that anyone black cannot be executed. It merely indicates that, if it is proven statistically that there is a disparity that if in a similar case whites with the same charge would not have had the death penalty, that these are factors to be considered. The prosecutor does not just take the factors and walk away from it. He evaluates it, and, if he can prove, like he should, that race did not have anything at all to do with this person being sentenced to be executed, then it is time to move ahead with the execution as planned.

It seems to me that if we did not have such a terrible history of racism as relates to capital punishment, then we could understand reluctancy in putting additional burden on prosecutors. But when we know that this has happened time and time again in this great country of ours, and we are merely trying to ask for fairness in the execution of criminal justice, that we should try to give fairness a break in this legislation.

Mr. EDWARDS of California. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Maryland [Mr. HOYER], the chairman of the Democratic caucus.

Mr. HOYER. Mr. Chairman, I rise in very strong opposition to the amendment of the gentleman from Wisconsin [Mr. SENSENBRENNER].

Very frankly, I liked the bill as it was presented, but the amendment of the gentleman from New Jersey [Mr. HUGHES] ensures that what is such a statistically stark truth in American history not be denied. It is absolutely indisputable that the chances of a black defendant being put to death are very marginally greater than a white defendant. It is indisputable from the stark statistics that have been read on this floor that racism continues to be endemic, not only in our society, but in the administration of our criminal justice system.

I have practiced criminal law for the last 24 years. As a matter of fact, I dare say I probably had the most recent appearance in court of any Member of this body in a criminal case.

□ 1140

I still practice law. There is absolutely no doubt that if you represent a black defendant, that defendant is at greater risk than a white defendant, anywhere in the country. To adopt the Sensenbrenner amendment is to undermine the commitment of this country to try to exorcise the vestiges and realities of racism from every aspect of our society.

Mr. Chairman, I rise in strong support of the Hughes amendment and in opposition to the amendment offered by the gentleman from Wisconsin to strike the Racial Justice Act from the bill before us today.

The Racial Justice Act is not about being for or against the death penalty. The Racial Justice Act is not about being pro- or anticriminal, or about who can be the toughest on criminals. The Racial Justice Act is about whether or not the sentence of death was issued impartially, based on the facts, and without consideration of the defendant's race. Our national heritage and our Constitution require nothing less of our judicial system. Equal justice under the law is one of the most fundamental principles of our Nation, we cannot allow it to be ignored.

The fact of the matter is that the death penalty is being imposed under a dual system in our Nation. Since 1976, 85 percent of the people who have been executed have been executed for killing a white person. Only 11 percent of the executions were for killing an African-American and all of the defendants in those cases were African-Americans. In my own State of Maryland, defendants convicted of killing whites received the death sentence eight times more often than killers of African-Americans. According to a recent GAO report, in 82 percent of the studies surveyed, those who murder whites were found to be more likely to be sentenced to death than those who murdered African-Americans. Furthermore, in Georgia, for example, blacks who kill whites received the death penalty 16 percent of the time while whites who kill whites are sentenced to die only 4.2 percent.

The Racial Justice Act simply provides a means for proving racial bias in death sentencing by the use of statistical evidence. If it is shown that either the race of the defendant or the victim significantly influenced the decision to sentence the defendant to

death, then the State or the Federal Government would be prohibited from carrying out the sentence. Furthermore, the prosecutor would have ample opportunity to challenge the statistics alleging discrimination. They can challenge the sufficiency and quality of any evidence before the court makes its decision and they can rebut any prima facie case by showing that an allegedly racial pattern is explained by nonracial factors.

The Racial Justice Act does not end the death penalty. Although, as many of you know, I am indeed, opposed to the death penalty. But, if the United States is going to have the death penalty, our laws of justice and our commitment to fairness, demand that death is dispensed without prejudice being the determining factor. I strongly urge my colleagues to oppose the Sensenbrenner amendment.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I rise in strong opposition to this very poorly conceived amendment.

Mr. EDWARDS of California. Mr. Chairman, I am going to put in the RECORD at the appropriate time communications approving this provision from the attorneys general of Nebraska, New York, Maine, Massachusetts, and Wisconsin.

Mr. Chairman, I yield the balance of my time to the distinguished gentleman from New Jersey [Mr. HUGHES], the chairman of the Subcommittee on Crime.

Mr. HUGHES. Mr. Chairman, I thank the gentleman for yielding. We have voted a lot on a lot of substantive capital offenses, and I must say, if they gave capital punishment to those that misrepresented amendments and votes on this floor, we would have a lot of executions on this side of the aisle. Because I do not even recognize sometimes what Members over here are suggesting is what this is all about.

First of all, if I thought for one minute it would eliminate capital punishment, I would oppose it. That is nonsense. That is a red herring. Our colleague from New Hampshire got up and said, "You know, the prosecutors and charging authorities are admonished today not to discriminate."

Well, that is so. That is not the issue. The issue is how do we in fact hear that?

The gentleman from Wisconsin [Mr. SENSENBRENNER] basically says that in those instances where a charging authority, a prosecutor, admits that he is prejudiced, the court should consider that. However, if it is circumstantial in nature, if there is a pattern of discrimination, if in fact in a particular jurisdiction over a 10-year period of time a prosecutor in 100 capital cases is charging blacks with capital punishment, and no whites with capital punishment, Sensenbrenner says the court should not hear that. That is what he is saying.

Now, is anybody naive enough to believe that somebody who is prejudiced is going to admit it, that we are going to be able to establish that by direct evidence? That is nonsense.

Mr. Chairman, this provides a level playing field. It says that if there is valid evidence of a pattern of discrimination, the court will consider that. If in fact it is established, then nobody would want to execute somebody on the basis of race or the color of their skin.

Come on, let us be fair. It is a fundamental fairness issue. I urge a rejection of Sensenbrenner.

Mr. RAHALL. Mr. Chairman, I rise in opposition to the amendment to strike the Racial Justice Act contained in H.R. 5269, the Comprehensive Crime Control Act of 1990.

Mr. Chairman, historically it has been shown that capital punishment has been imposed in a systematically racialy biased manner. According to the NAACP legal defense fund, as of May 1988, of 2,048 death row inmates, 836, or 40 percent, were black, although blacks constitute only 11 percent of the population at large.

The passage of time has shown that new capital punishment statutes have not removed the systematic and pervasive racial bias, but indeed seem to have only shifted the character and focus of such bias, by displacing some of the bias from the race of the offender to the race of the victim. Why? Because the victims of death row inmates are overwhelmingly white—84 percent. Approximately 30 percent of the cases involved minority defendants and white victims. Moreover, not one case involved a minority victim and a white defendant. Those statistics speak eloquently for themselves, and no expansion of them by me will make them go away.

In other words, there is irrefutable evidence that traditionally, the death penalty has grown to be one of an arbitrary nature—showing that for the same crime one individual is sentenced to death and another is not.

Whether we like to look at it in such terms of black and white or not, there seems to be no way to dispute the fact that when it comes to the death penalty, to quote the distinguished chairman of the Select Committee on Narcotics Abuse and Control, the long, curved blade of the grim judicial reaper extends farther when the defendant is a minority.

Mr. Chairman, I support the intent of the Racial Justice Act, and I hope that my colleagues will support it by defeating the amendment to strike that section of the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. SENSENBRENNER].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. EDWARDS of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 204, noes 216, answered "present" 1, not voting 12, as follows:

[Roll No. 423]

AYES—204

Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Bosco
Broomfield
Browder
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Campbell (CA)
Chandler
Clarke
Clement
Clinger
Coble
Coleman (MO)
Combest
Condit
Courter
Cox
Craig
Dannemeyer
Darden
Davis
DeLay
Derrick
DeWine
Dickinson
Dingell
Dornan (CA)
Douglas
Dreier
Duncan
Edwards (OK)
Emerson
Erdreich
Fawell
Fields
Flippo
Frenzel
Gallegly
Gallo
Gaydos
Gekas
Gillmor
Gingrich
Goss
Gradison
Grandy
Grant
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hefley
Hefner
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (CT)
Jones (NC)
Kanjorski
Kasich
Kolbe
Kolter
Kyl
Lagomarsino
Lancaster
Laughlin
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lukens, Donald
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morrison (WA)
Murtha
Myers
Nielson
Oxley
Packard
Parker
Parris
Pashayan
Paxon
Payne (VA)
Petri
Porter
Price
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Rohrabacher
Rose
Roth
Roukema
Rowland (GA)
Russo
Sarpalius
Schaefer
Schiff
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Skelton
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stearns
Stenholm
Stump
Sundquist
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Traxler
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Whittaker
Whitten
Wolf
Wylie
Yatron
Young (FL)

NOES—216

Ackerman
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bates
Beilenson
Berman
Boehlert
Boggs
Bonior
Borski
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Campbell (CO)
Cardin
Carper
Carr
Clay
Coleman (TX)
Collins
Conte
Conyers
Cooper
Costello
Coyne
de la Garza
DeFazio
Dellums
Dicks
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson

Early
Eckart
Edwards (CA)
Engel
English
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (TN)
Frank
Frost
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gray
Green
Guarini
Hall (OH)
Hamilton
Hawkins
Hayes (IL)
Hertel
Hoagland
Hochbrueckner
Horton
Hoyer
Hughes
Jacobs
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Nagle
Natcher
Neal (MA)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Patterson
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Poshard
Rahall
Rangel
Richardson
Roe
Rostenkowski
Rowland (CT)
Roybal
Sabo
Saiki
Sangmeister
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (VT)
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tallon
Tanner
Torres
Torricelli
Towns
Traficant
Udall
Unsoeld
Vento
Visclosky
Walgren
Washington
Watkins
Waxman
Weiss
Wheat
Williams
Wise
Wolpe
Wyden
Yates
Young (AK)

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—12

Alexander
Chapman
Coughlin
Crane
Crockett
Ford (MI)
Hayes (LA)
Lowery (CA)
Madigan
Neal (NC)
Ros-Lehtinen
Wilson

☐ 1202

Messrs. WATKINS, TALLON, SCHEUER, SPRATT, and DE LA GARZA changed their vote from "aye" to "no."

Mr. OXLEY and Mr. CLARKE changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 23 printed in part 2 of House Report 101-796.

The gentleman from Texas [Mr. Gonzalez] does not seek recognition at this time.

It is now in order to consider amendment No. 24, printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. WYLIE

Mr. WYLIE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Wylie: Page 176, after line 23, insert the following:

(f) Exception to Exemptions for Certain Property.—Section 522(c)(1) of title 11, United States Code, is amended to read as follows:

"(1) a debt of a kind specified in—

"(A) paragraph (1), (5), (11), or (12) of section 523(a); or

"(B) paragraph (2), (4), or (6) of section 523(a) which is owed to an appropriate Federal financial institution's regulatory agency (as defined in section 8(e)(7)(D) of the Federal Deposit Insurance Act) or a conservator or receiver of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act) or insured credit union (as defined in section 101(7) of the Federal Credit Union Act); or".

The CHAIRMAN. Under the rule, the gentleman from Ohio [Mr. Wylie] will be recognized for 10 minutes and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Ohio [Mr. Wylie].

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a very narrowly drawn amendment which would amend the U.S. Bankruptcy Code to preempt State laws which protect so-called homesteads from bankruptcy where those homesteads are being used by savings-and-loan crooks to shelter money taken through fraud from failed savings-and-loans.

The amendment was suggested to me by the Federal Deposit Insurance Corporation and the RTC. I would like to read a letter from L. William Seidman, Chairman of the FDIC:

Dear Mr. Wylie: The Federal Deposit Insurance Corporation is pleased to comment on your proposed amendment to H.R. 5269, the Comprehensive Crime Control Act of 1990. The amendment modifies section 522 of the Bankruptcy Code to restrict the amount of personal assets that an individual who has committed fraud or misconduct against an insured depository institution can shield under the homestead exemptions contained in various State laws. The adoption of your amendment would enhance the ability of the FDIC and other agencies to recover funds from persons who cause losses to insured depository institutions. In our view this amendment is critical to our ongoing effort to reduce the cost of failed depository institutions and to protect the deposit insurance fund. The FDIC is pleased to endorse this important amendment. With best wishes.

Sincerely,

L. William Seidman,
Chairman.

What has happened is individuals in certain States, notably in Texas and Florida, have taken advantage of the State homestead laws to fraudulently take money from bank deposits, buy lavish mansions and furnish that homestead with that money.

The S&L fails, and money which has been drained from the S&L's is not recoverable because of State homestead law protection. It is not right, and something should be done about it.

My amendment does something about it. My constituents do not mind paying for their own home, but they do object strenuously to having their taxpayer money being used to buy palatial mansions for savings-and-loan crooks.

On August 16, 1990, Simon Edward Heath was convicted of 10 counts of bank and wire fraud as an officer of Guaranteed Federal Savings and Loan, Galveston, TX. On August 20, he declared bankruptcy.

The FDIC seeks $10 million in restitution from the S&L. His homestead, and a picture is worth a thousand words, in this case may be worth 10,000 words, is valued at $1.4 million and is protected under the State constitution.

Centrust in Florida, a State-chartered S&L, has failed. The cost to the taxpayers will be at least $1.5 billion. Some of that money is represented by this homestead which is valued at somewhere between $5 and $10 million, protected by the Florida homestead laws.

There are many, many more such examples where S&L officers have fraudulently taken depositors' money to maintain the standard of living to which they have become accustomed.

Senator Dole has offered a similar amendment to the Senate crime bill which was adopted by the Senate.

☐ 1210

The House should do no less. I respectfully urge adoption of my amendment.

Federal Deposit
Insurance Corporation,
Washington, DC, October 3, 1990.

Hon. Chalmers P. Wylie,
House of Representatives, Washington, DC.

Dear Mr. Wylie: The Federal Deposit Insurance Corporation is pleased to comment on your proposed amendment to H.R. 5269, the Comprehensive Crime Control Act of 1990.

The amendment modifies Section 522 of the Bankruptcy Code to restrict the amount of personal assets that an individual, who has committed fraud or misconduct against an insured depository institution, can shield under the homestead exemptions contained in various state laws. The adoption of your amendment would enhance the ability of the FDIC and other agencies to recover funds from persons who cause losses to insured depository institutions.

In our view, this amendment is critical to our ongoing efforts to reduce the cost of failed depository institutions and to protect the deposit insurance funds. The FDIC is pleased to endorse this important amendment.

With best wishes.

Sincerely,

L. William Seidman,
Chairman.

Mr. Chairman, I reserve the balance of my time.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from New Jersey [Mr. Hughes] is recognized for 10 minutes in opposition to the amendment.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. Pelosi].

Ms. PELOSI. Mr. Chairman, I rise today in support of the savings and loan crime provisions contained in H.R. 5269, the Comprehensive Crime Control Act. These provisions will provide additional legal ammunition in the fight against fraud and abuse in the savings and loan industry.

Estimates of the cost to bail out the savings and loan industry have now reached $500 billion. Many pressing domestic needs must go unmet because of the money necessary to bail out the savings and loan industry. Hungry children are living on our streets, while high flying and corrupt individuals responsible for acts of fraud and abuse unparalleled in our Nation's history are walking those same streets still enjoying the fruits of their criminal activities.

For months, we have read one story after another of high-flying savings and loan executives who spend depositors funds on art, yachts, wine, and concert tickets. Now, as we try to recover lost assets in order to reduce the cost to the American taxpayer, many of these same executives are claiming that they are broke. Something is wrong.

In 5 years of the Reagan administration, over 14,000 criminal cases relating to savings and loans were referred to the Department of Justice. During that time, only 172 people were convicted of fraud or serious criminal misconduct. The Bush administration is doing only slightly better. As of 3 months ago, 22,147 criminal referrals had not been addressed. The few savings and loan crooks who have been caught are getting off easy. Bank robbers are getting sentences five times longer than people convicted of savings and loan related crimes.

The savings and loan provisions in this crime bill before us today would increase penalties for crimes involving financial institutions, authorize additional funds for Justice Department investigations and prosecutors of savings and loan crimes and create a unit in the Justice Department, headed by a special counsel, to investigate financial institution crime.

During hearings held by the House Banking Committee on a number of case studies of failed institutions, including Lincoln Savings and Silvarado Savings, we saw the outlines of the complicated transactions designed by crooked savings and loan executives to maximize their gains and to hide their assets. The cleverness of these people was matched only by their greed.

The savings and loan provisions would address these actions by making it a Federal felony to conceal assets or property from the agencies with control over the financial institutions. Other provisions would increase from 20 to 30 years the maximum prison term for bribe taking, bank, or thrift embezzlement. And, the authorization of funds for the Department of Justice available for the investigation and prosecution of financial institution crime would more than double to $153 million.

Mr. Chairman, for the sake of these hungry children on the street and for the sake of the American taxpayer, we must insist that the administration strenuously pursue savings and loan criminals. The record is not a good one so far. Not only has the investigatory effort been lackluster, but the record for collection of fines is abysmal. In fiscal year 1989, the Government ordered savings and loan crooks to pay $3.1 million in fines. The Treasury has received only $2,700. So far this year, $2.5 million has been ordered in fines; $50 in payments has been received.

I urge my colleagues to support the savings and loan provisions of the crime bill. We have an obligation to ensure that savings and loan criminals are accountable to the same principles of law as other criminals. With a $500 billion bill to bail out the savings and loans, we must leave no stone unturned in the efforts to find and return to the taxpayer all of the stolen assets.

Mr. Chairman, as we look at this issue we are looking for a silver lining to this crisis. So far, all we see are golden parachutes.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. Annunzio].

Mr. ANNUNZIO. Mr. Chairman, I thank the ranking minority member of the Committee on Banking, Finance and Urban Affairs and of the Subcommittee on Financial Institutions Supervision, Regulation and Insurance, for yielding me this time.

I rise in strong support of the amendment offered by the distinguished banking minority member of the Banking Committee and the Financial Institutions Subcommittee [Mr. Wylie]. The gentleman is to be commended for his efforts on this amendment. In the many years he has served on subcommittees which I have chaired, he has always been a pleasure to work with and the author of numerous constructive amendments.

The amendment he offers today is another very worthwhile amendment.

On June 28, the Financial Institutions Subcommittee unanimously passed H.R. 5050. That legislation, the Financial Crimes Prosecution and Recovery Act, was sponsored by the gentleman from Ohio [Mr. Wylie], myself, and others. That bill was aimed at giving prosecutors and Federal agencies the tools they need to recover funds from those who looted financial institutions.

These looters use every possible device to shield their assets from seizure. Many use the homestead exemptions of the Bankruptcy Code to protect their assets. Some individuals who have cost the taxpayers millions of dollars in losses have shielded their loot by putting it into costly and fabulous mansions that are protected from the FDIC by State homestead exemptions.

The Wylie amendment was contained in H.R. 5050 as adopted by the Financial Institutions Subcommittee. It passed by a vote of 42 to 0, and would strip this exemption away for debts owed to failed financial institutions.

I had sought unsuccessfully to offer another amendment that would have made transfers by financial institution looters to family members or trusts without fair consideration presumptively void. While my amendment was not made in order, I intend to include it in subsequent legislation at the earliest possible date.

The Wylie amendment is a very good step toward stopping abuse of the Bankruptcy Code by financial institution looters. It was unanimously adopted by the Financial Institutions Subcommittee, and I urge the House to adopt it.

Mr. Chairman, I urge the House, if we are to continue this fight to recover the millions and millions of dollars that these crooks have made from the savings and loan industry, that we give overwhelming support to the Wylie amendment. I urge the House to adopt this amendment.

Mr. WYLIE. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. Bartlett].

Mr. BARTLETT. Mr. Chairman, I would like to enter into a colloquy with the gentleman from Ohio [Mr. Wylie].

It is my understanding that this legislation pertains only to cases where there is a clear case of fraud or other similar misconduct in connection with a financial institution. This language is necessary to recover funds and save the U.S. taxpayers from paying more tax dollars to protect depositors, but I am concerned that the law might be interpreted too broadly.

For example, many borrowers whose financial institutions deteriorated due to situations beyond their control, who were not willfully evading the law, should not be subject to this amendment's provisions. Is it the gentleman's understanding that this legislation applies only to cases of clear fraud or similar misconduct, and not to situations where, for example, a borrower used a valid appraisal that later, because of the market, was found too high?

Mr. WYLIE. Will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from Ohio.

Mr. WYLIE. That is my intention. That is, applying cases of fraud or other similar misconduct where they have used the depositors' money fraudulently to put into homesteads like this, and are protected under certain State homestead law, not intended to go against the individual borrower. There has to be a terribly false statement in connection with it, or fraud.

Mr. BARTLETT. Is it the gentleman's understanding that this language applies to situations where a clear fraud or similar misconduct existed, and not to situations where a borrower's loss of equity prevented the borrower from making good on an agreement with the financial institution?

Mr. WYLIE. That is my understanding.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

The CHAIRMAN. Without objection, the gentleman from Texas [Mr. BROOKS] claims the time of the gentleman from New Jersey [Mr. HUGHES].

There was no objection.

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] is recognized for 9 minutes.

Mr. BROOKS. Mr. Chairman, the amendment by the gentleman from Ohio [Mr. WYLIE] purports to override States' bankruptcy homestead exemptions in order to prevent S&L kingpins from keeping their ill-gotten mansions. To put my concerns about this amendment in perspective, it would be worthwhile to discuss for a moment just why the Wylie amendment was not made in order by the Rules Committee last week.

We were informed by the distinguished deputy minority whip, the distinguished gentleman from Pennsylvania, that it was all a plot on the part of the majority to coddle the S&L kingpins.

Mr. Chairman, if the proponents of the Wylie amendment had taken time off from waving the bloody shirt of S&L kingpins long enough to actually read the amendment, or if they had taken the extraordinary step of consulting the Judiciary Subcommittee on Economic and Commercial Law, which has jurisdiction over the Bankruptcy Code, they might have learned that there were good and sufficient reasons for the committee to recommend that the amendment not be made in order. In the first place, the problem that the amendment purports to deal with—the ability of individuals who have defrauded S&L's to shield their ill-gotten gains in mansions—is adequately dealt with in current law, in other provisions of H.R. 5269, and in legislation which was considered and passed by the House as recently as last week. It is unnecessary to override the homestead laws of 50 States in order to achieve the supposed goal of the Wylie amendment.

A quick look at the Bankruptcy Code would have revealed that it already closes the bankruptcy escape hatch for all debts resulting from fraud or from misleading financial statements, all debts resulting from criminal activities, all debts resulting from fiduciary defalcation, and all debts resulting from willful and malicious injury. The Bankruptcy Code says these debts are nondischargeable, which means that they cannot be erased in any bankruptcy proceeding. These obligations will follow the wrongdoer for the rest of his or her life until they are paid in full. There is no need for an amendment to state that these provisions also apply to S&L kingpins. They already do. Fully.

Title XXI of H.R. 5269 takes the additional step of bringing all directors and insiders under fiduciary duties, and creating a new kind nondischargeable debt, which is the failure to fulfill a commitment to maintain the capital of a depository institution. H.R. 5269 also closes the bankruptcy escape hatch for S&L crime-related debts in chapter 13 bankruptcies, even though as a practical matter no S&L kingpin could ever meet the stringent requirements of chapter 13 anyway.

The Members should also be aware that last Thursday the House passed by voice vote on suspension, without audible opposition, H.R. 5640, the Federal Debt Collection Procedures Act. That bill gives the Federal Government strong new powers to collect debts owed to the Federal Government—including criminal judgments and amounts retrieved by financial regulatory agencies.

It sets new restrictions on the homestead exemption that would make any mansion liable to Government seizure, limiting the homestead exemption in Federal enforcement actions to homes valued at under $100,000. Any home valued at $100,000 or more would be subject to Government seizure. So much for coddling S&L kingpins by protecting their mansions and country estates.

In addition, Mr. Chairman, the Wylie amendment was not made in order by the Rules Committee last week because it is, plain and simple, somewhat of a mess. It refers to provisions of law that do not exist. It uses terminology that is inconsistent with well-understood terms used in the rest of the bill and in the Bankruptcy Code itself. And it would have wildly perverse, and presumably unintended, consequences.

Mr. Chairman, we were informed this week that the banking agencies are in favor of this amendment. Well, I am not surprised. Of course they are: What good bureaucrat wouldn't be enthusiastic about a provision that pushes his claim to the front of the line—ahead of everybody else, including individuals who have been actually victimized by an S&L kingpin? After the Federal banking agencies have first grab, the actual victims can then pick through the remaining table scraps, if any. That may be some Members' notion of fairness and justice to victims, but it is not mine.

Having said all that, Mr. Chairman, I am not going to ask for a recorded vote on this Wylie amendment. The day has passed that we can have rational discussion on the floor of any matter dealing with savings and loans, even if you destroy the homestead laws in 50 States. So to spare the Members any more bombast on this subject, I yield back the balance of my time, and I urge the other side to do likewise.

Mr. WYLIE. Mr. Chairman, I yield myself 1 minute to respond to the gentleman from Texas, for whom I have great admiration and respect, but he misunderstands my amendment.

In the first place, we are talking about discharging debt. He is talking about discharging debt.

What happens is that some of the money that is acquired through fraud or misrepresentation of these S&L's is put into these homesteads. They are not available through bankruptcy. They are exempt under State homestead laws, so they pour all the money out of the assets which would otherwise come in through bankruptcy and would be discharged.

In the second place, he talks about the Federal Debt Collection Practices Act, which passed this House by a voice vote. It has not been passed by the Senate, and is not law, so the $100,000 that he talks about does not apply.

I believe that it is absolutely necessary to ensure that the FDIC and the RTC are able to preempt State homestead laws that are asserted in bankruptcy proceedings.

So I would, respectfully, suggest that the statement of the gentleman from Texas was not quite accurate with reference to my amendment.

Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, this amendment that the gentleman from Ohio [Mr. WYLE] has offered is really very simple. I know there are some who were concerned with the technical features, but what it does is simply waive the current homestead

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exemptions; overrides them in the State, for the simple purpose of allowing the Federal regulators to get at the State homes of people like David Paul in my State of Florida that the gentleman from Florida [Mr. WYLIE] showed us earlier where they have taken the proceeds, their ill-gotten proceeds from fraudulent transactions with regard to savings and loans and purchase these homes and put their money into these very lavish $1.2 million type of homes.

I think the narrow way that it has been drawn makes it a good amendment. It is one we ought to give to law enforcement.

I sure as heck do not want to be somebody around here supporting any provision of law in my State or anywhere else that lets the David Pauls of the world get away with big mansions like this, taking the rip-offs from the S&L's.

So I urge a yes vote for the Wylie amendment. It is constructive. It does not go to the average citizen, but it sure as heck gives the regulators the power in the cases of the bad S&L's to get at the big kingpins who have gone ahead and ripped us off in the S&L mess.

So vote "yes" for Wylie.

Mr. HILER. Mr. Chairman, I rise in strong support of the Wylie amendment and urge my colleagues to adopt this important measure to recover from S&L crooks.

The Homestead provisions of the Wylie amendment are derived from H.R. 3982 legislation that I joined Congression WYLIE in introducing this year. The provisions were introduced in the Senate by Senator DOLE and included in the President's package, H.R. 5150 that Congressman MICHEL, WYLIE, and I introduced on June 25, 1990.

The Federal bankruptcy law contains a number of gaping loopholes that benefit crooks who have looted financial institutions, particularly S&L's. The Wylie amendment would amend the Federal Bankruptcy Code to prevent those who have committed acts involving fraud or misconduct against any insurance financial institution that is now in receivership from taking advantage of generous State homestead exemptions. In certain cases, these homestead exemptions have been abused by bankrupt debtors that were involved in the looting of insured depository institutions to protect personal property—including multimillion dollar mansions—from the reach of the FDIC and other regulatory agencies.

The Wylie amendment is a very modest proposal to benefit the taxpayer. It represents a very narrow Federal preemption of State law. The Wylie amendment would only preempt State law in cases where a financial fraud or misconduct had been committed against an insured financial institution. The Wylie amendment would not apply in ordinary bankruptcy cases where the element of misconduct was not present.

Taxpayers are outraged by abuses in the savings and loan industry. I am disgusted with the lavish lifestyles of those persons who have violated the public trust and fraudulently appropriated money from our federally insured institutions. Individuals who have abused the system should not be able to shield their illicit profits through bankruptcy protections and homestead exemptions. The Wylie amendment works to protect taxpayers by allowing Federal regulators to relentlessly pursue the ill-gotten gains of crooks and who have defrauded our federally insured financial system.

The Wylie amendment is a modest step to recover for the taxpayer from the S&L crooks. It is a narrow preemption of state law that only applies in cases of misconduct. I urge my colleagues to join me in strongly supporting the Wylie amendment.

Mr. MCMILLEN of Maryland. Mr. Chairman, today I rise in strong support of an amendment offered by Representative Wylie to H.R. 5269, the Comprehensive Crime Control Act, that would lessen the ability of S&L embezzlers to find ways to get around from making remunerations to investors. This amendment would preempt State homeowner exemptions in bankruptcy proceedings of persons who committed fraud or acted recklessly with respect to a failed bank or savings and loan institution seized by the Federal Government.

It also support the Oakar amendments that would allow the Federal Deposit Insurance Corporation [FDIC] to recover "golden parachute" money given to officials in anticipation of the takeover of a depository institution by the Federal Government, and to prohibit officials affiliated with a saving and loan institution seized by the Federal Government from purchasing assets previously owned by the thrift and subsequently controlled by the Resolution Trust Corp.

The amendments further underscore the commitment of the House of Representatives to ensure that S&L embezzlers pay their due to society and that the Federal Government and the taxpayer recover some of the money lost from this financial debacle. I ask for your support of these measures.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. WYLIE].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider Amendment No. 28, printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. DEFAZIO

Mr. DEFAZIO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DEFAZIO: Strike section 2202.

The CHAIRMAN. Under the rule, the gentleman from Oregon [Mr. DEFAZIO] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair now recognizes the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would strike section 2202 of the comprehensive crime bill of 1990, which
makes it a criminal offense for State
to use any means in interstate com
merce to operate a sports lottery.

This provision is unfair, discrimina
tory, vague, and possibly unconstitu
tional. If passed, it will merely restric
the ability of States to raise local reve
nues, while with a wink and a no
sports betting, head to head sport
betting by private industry and the
Nevada gambling institutions contin
ues without restraint.

It is a sad commentary that State
have had to resort to lotteries to rais
funds, but it is a fact of life. Citizen
in 32 States have adopted lotteries.

The proponents of the Bryant provi
sion in this bill contend that pool lot
teries will threaten the integrity o
professional and amateur sports an
will lead to game fixing.

Mr. Chairman, I ask my colleagues
what poses a greater threat to gam
fixing, a game where an individual ha
to beat a spread of a minimum of fou
games with a wager of $1 to $20, or a
individual who bets $1 million on th
outcome of a single game with a lega
bookmaker in Nevada or at a gamblin
casino?

The DeFazio amendment is support
ed by the U.S. Olympic Committe
and 16 State lotteries. A number o
other State directors would have sup
ported our amendment, but they ex
pressed concern that public oppositio
would lose their chances of getting
professional expansion team.

Mr. Chairman, protect States rights
Reject the Bryant amendment an
support the DeFazio amendment.

The CHAIRMAN. Is any Member i
opposition?

Mr. BRYANT. I am in opposition t
the amendment.

The CHAIRMAN. The gentlema
from Texas [Mr. BRYANT] is recog
nized for 10 minutes.

Mr. BRYANT. Mr. Chairman, I yiel
myself such time as I may consume.

Mr. Chairman, last year has allowe
the American people to witness th
spectacle of State governments begin
ning to either sponsor or conside
sponsorship of gambling enterprise
that are based on the outcome o
sporting events, college games, profes
sional games, presumably any othe
game that is played as well. They ar
mislabeled sports lotteries. I say misla
beled because they are not lotteries
They are based on the outcome of th
game. They are not based on a rando
selection of numbers, such as the lot
teries which are operated by man
States.

In fact, the crime bill, the provision
of the crime bill which I sponsore
and which the gentleman fro
Oregon [Mr. DEFAZIO] would have n
impact whatsoever on regular norma
State lottery operations, but it woul
provide that in the future the sam
prohibitions that apply to other type

of gambling that is listed in the Federal Code today would also apply to States who wish to sponsor gambling enterprises based on the outcome of sporting events.

☐ 1230

Mr. Chairman, I submit to you that I think it does not take a very in-depth examination of this issue to conclude that that can only lead to problems; it can only lead to corruption in professional sports, that it can only lead to corruption in amateur sports, that it cannot lead to anything other than trouble. That is why we have, in support of the provisions which are in the crime bill now, the support of all the professional sport franchising organizations, including the National Football League, the National Basketball Association, professional baseball, and many others, as well as the president of the International Association of——

Mr. DeFAZIO. Mr. Chairman, will the gentleman yield on the corruption point?

Mr. BRYANT. I yield to the gentleman from Oregon.

Mr. DeFAZIO. I thank the gentleman for yielding.

Mr. Chairman, if the gentleman's concern is truly the potential for any sort of fix or corruption, I suggest to the gentleman that perhaps the amendment should include outlawing the legal multibillion-dollar gambling that goes on in the State of Nevada. I would wonder why that was not included in the amendment, why it only targets State lotteries and particularly the State of Oregon, which has the only lottery.

Mr. BRYANT. Because the gambling that goes on in the State of Nevada is not sponsored by the State of Nevada; it is sponsored by private entrepreneurs who have been permitted to gamble there for many, many years.

The provisions that I have placed in the crime bill are provisions which are designed to prohibit States like yours from raising money in a way that I think is totally improper. First of all, it is a questionable way to run a government.

Second, it is only going to encourage problems in professional sports and college sports because those types of operations are based upon the scores of the games, not based upon random choices of numbers.

That is why all of the sports organizations support the bill as it is presently written and why I strongly urge Members to vote against the DeFazio amendment.

Mr. Chairman, I urge the House to reject the amendment of Representative DeFazio seeking to strike section 2202, the sports-lottery provision of the crime bill. I introduced this provision as separate legislation—H.R. 4843—on May 17, together with two other bills aiming to prohibit state-sponsored sports lotteries by other means. Section 2202 was adopted without dissent by the Judiciary Committee on July 23 after debate following presentations to committee members and staff by proponents and opponents of the measure.

Section 2202 amends chapter 61 of title XVIII to make clear that the Federal lottery laws apply fully to State-sponsored lotteries.

Chapter 61 prohibits the transportation of lottery tickets or advertisements in interstate commerce and the mailing of lottery tickets, advertisements, or other lottery-related information or material. Officers and employees of the Postal Service are forbidden to act as agents of any lottery office. Radio or television stations may not broadcast advertisements or information concerning any lottery.

In 1975, Congress added section 1307 to chapter 61 to exempt State lotteries from these prohibitions. But Congress at the same time limited the class of lotteries to which the exemption applies, specifying in section 1307(d) that the exemption applies only to lotteries that do not involve "the placing or accepting of bets or wagers on sporting events or contests."

Oregon has undertaken, and other States have considered—but so far have uniformly rejected—sports lotteries based on the games of the National Football League and the National Basketball Association. These States may believe that section 1307 exempts sports lotteries despite the language of section 1307(d). The U.S. attorney and the Justice Department have not acted against the State sports lottery, perhaps because of uncertainty about the scope of section 1307(d).

By providing expressly that State sports lotteries are not exempt from the prohibitions of chapter 61, section 2202 eliminates any uncertainty in this regard and serves notice that any sports lottery conducted by a State in violation of chapter 61 will invite prosecution.

Section 2202 is intended to serve the substantial governmental interest in minimizing the association between gambling and professional and amateur sports fostered by State-sponsored sports lotteries. The legislation would serve that interest, directly and effectively, either by discouraging any State from conducting, or continuing to conduct, any sports lottery based on actual professional or amateur athletic contests, or by preventing any State from bombarding the public—especially youngsters—with sports-lottery advertisements and promotions, which foster the association Congress wishes to avoid.

My amendment does not prohibit legalized private enterprise gambling such as permitted in Las Vegas, nor does it in any way inhibit a State from using a sports theme in an instant win, scratch card lottery game.

I understand that the U.S. Olympic Committee is considering loaning its logo to States to use in these instant play and win scratch card games; such an effort would not be prohibited by my amendment. Such scratch games for instant play and win are not sporting games or events, but simply use sporting themes as their base.

State sports lotteries threaten the integrity and character of professional and amateur sports, undermining public confidence in the games and the athletes who participate in them and communicating negative values about sports to the Nation's youth. State sports lotteries make sports betting a public institution, incorporating it into the fabric of public life and giving it the stamp of official sanction.

The President of the International Association of Chief of Police, Charles A Gruber, in a letter to Senator Dennis DeConcini dated June 21, 1990, condemned State-sponsored sports lotteries in these terms:

> We should not allow the intermingling of professional sports and legalized gambling. To do so would severely undermine public confidence in the integrity of professional football, and possibly present the law enforcment and criminal justice systems with other problems.

Government should not promote or encourage any association between professional or amateur sports and betting, gambling, or wagering by conducting lotteries that capitalize on the popularity of athletic contests. And, like the States, private and other governmental organizations that enjoy the exemption of section 1307 should not be permitted to claim Federal sanction for sports lotteries.

Section 2202 amends section 1307 by providing expressly that the prohibitions of sections 1301–1304 apply to any sports-related lottery. It deletes from subsection (d) of section 1307 the language concerning "the placing or accepting of bets or wagers on sporting events or contests." In place of that language, the legislation adds a new subsection (e).

The new subsection (e) defines "sports-related lottery" to mean any undertaking that involves the sale of tickets or chances and the awarding of prizes based, directly or indirectly (through the use of geographical references or otherwise) on any professional or amateur sporting event or contest or any combination thereof, other than a horse race, which is conducted by a State acting under the authority of State law or by a not-for-profit organization or a governmental organization, or which is conducted as a promotional activity by a commercial organization if clearly occasional and ancillary to the primary business of the organization.

Some opponents of section 2202 have suggested that the provision would cover lotteries that merely have a "sports theme." This is incorrect. The provision would cover only lotteries based on the results of actual games between real teams. Contrary to these opponents, such lotteries do not account for any significant State revenues because only one State—Oregon—currently has such a lottery. Scratch games or sports theme lotteries that do not involve actual sports contests and that do not use professional or amatuer team names, logos, or scores or otherwise affect copyright or trademark rights would not be affected.

Section 2202 is necessary to protect the integrity and reputation of professional and amateur sports—to minimize their unwanted association with gambling. I strongly urge you to reject the DeFazio amendment seeking to strike section 2202 from the crime bill.

I would draw the attention of Members to the following legal memorandum relating to the constitutionality of section 2202:

September 25, 1990.

MEMORANDUM

Section 2202 would amend Section 1307 of Title 18 to make clear that the prohibitions of Sections 1301-1304 apply fully to state-sponsored sports lotteries. Opponents of Section 2202 have suggested that the provision raises constitutional concerns, citing the decision of a federal district court earlier this year in *Edge Broadcasting Co.* v. *United States*, 732 F. Supp. 633 (E.D. Va. 1990), appeal pending, No. 90-2668 (4th Cir.).

The suggestion that Section 2202 may be constitutionally infirm under this case is incorrect.

Edge involves a challenge to Sections 1304 and 1307, as applied in the circumstances of the case. Those provisions prohibit radio and television stations from broadcasting lottery advertising and information in non-lottery states. Edge Broadcasting operates a radio station that broadcasts from North Carolina, a non-lottery state. More than 92 percent of the station's listeners reside in Virginia, a lottery state.

The district court ruled in February that Sections 1304 and 1307 violate the First Amendment as applied to the station's broadcast of advertisements for the Virginia lottery. The court ruled that applying those provisions to prohibit the station's broadcast of such advertisements fails the "third prong" of the four-part test set forth by the Supreme Court in the *Central Hudson* case for restrictions on commercial speech.

Under the third prong of the *Central Hudson* test, a restriction on commercial speech is invalid unless it "directly advances" the governmental interest the restriction is claimed to serve. The federal government claimed that prohibiting the radio station's broadcast of advertisements for the Virginia lottery in North Carolina served North Carolina's interest in reducing lottery participation by its own citizens.

The district court held that Sections 1304 and 1307 were an "ineffectual means" of serving this interest because North Carolina residents within the station's service area receive most of their radio, television and newspaper communication from Virginia-based media. The court concluded that the influence of the station's advertisements on lottery participation by these North Carolinians was participation by these North Carolinians was "speculative" and "marginal" at most.

Section 2202 would not be vulnerable to similar First Amendment challenging because it unquestionably would serve—directly and effectively—the substantial governmental interest in minimizing the association between gambling and professional and amateur sports fostered by state-sponsored sports lotteries.

Section 2202 unquestionably would serve this interest either by discouraging state sports lotteries altogether (by prohibiting the states from advertising them in any interstate media) or by preventing the states from bombarding the public (especially youngsters) with sports-lottery advertisements and promotions, which foster the association Congress wishes to avoid.

Because Section 2202 would apply to all sports-lottery advertising by all interstate media, its effect would be clear and direct. For that reason, Section 2202 would not be vulnerable to challenge under the 'third prong of the *Central Hudson* test, or to invalidation under *Edge*.

"Q. Doesn't Section 2202 raise constitutional questions? Hasn't a federal court recently ruled that, under the First Amendment, Congress can't prohibit lottery advertising?

"A. No. In the case you are referring to, the district court ruled that the ban on lottery advertising violated the First Amendment in the peculiar circumstances of the case, which involved advertising for the Virginia lottery by a radio station located just over the border in North Carolina. The court ruled that the advertising ban violated the First Amendment because it did not "directly advance" the goal of reducing lottery participation by North Carolinians who lived within the station's service area.

"Section 2202, by contrast, would directly and effectively advance the substantial governmental interest in minimizing the association between gambling and professional or amateur sports—either by discouraging state sports lotteries altogether (by preventing sports lottery advertisements in interstate media), or by prohibiting sports-lottery advertisements and promotions in the mass media, which foster the assocation we wish to avoid."

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. Brooks], chairman of the committee.

Mr. BROOKS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to the amendment.

From little leagues to national franchises, sports permeate American life. Through sports, our children are taught team spirit, cooperative play, and the adage that, "It's not whether you win or lose that counts, it's how you play the game."

Now it seems that the States are threatening to undermine the essence of the American love of sports. In their quest for easy money, some States are contemplating establishing lotteries based on professional sports. One State already has such a lottery. Others may soon follow suit. These lotteries threaten to impair public confidence in the integrity of sports contests, place undue burdens on team players and coaches, and send conflicting messages to the youth of our country about the true importance of the games. One message they would send is that, "It's not just whether you win or lose—the point spread is important, too."

Mr. Chairman, Federal law now exempts State-run lotteries from the Federal prohibition against using interstate commerce, broadcasting, or the mails to further gambling interests. This exemption, however, does not specifically include or exclude State-run lotteries on sports. Section 2202 of the crime bill is meant to clear up any uncertainty on that point in the current law. This provision of the crime bill makes it abundantly clear that sports lotteries, even if they are State run, will not be exempt from Federal law.

We will not give it to those who would subvert a good, clean American pastime. I urge all Members to oppose this amendment and preserve for our children the pleasure of the games, uncompromised by gambling interests.

Mr. DeFAZIO. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. Robert F. "Bob" Smith.]

Mr. ROBERT F. "BOB" SMITH. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the DeFazio amendment. I want to point out for just a minute this is an Oregon lottery program on professional sports. Where does the money go?—$2.7 million goes to intercollegiate sports for young people about whom the chairman was just talking, and to economic development.

Goodness knows we need that.

I think it is hypocrisy for us to say that we cannot have a lottery on professional sports when they do in Nevada. I do not think we have corrupted the dogs and the dog racing program, nor have we corrupted the horse racing in Texas. But now suddenly we are going to corrupt professional sports because they are played on a court or on a field.

I think it is ridiculous to deny States this opportunity to fund intercollegiate sports in their own State, hurting no one.

Mr. BRYANT. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. McCollum], to engage in a colloquy.

Mr. McCOLLUM. I thank the gentleman for yielding.

Mr. Chairman, I want to support the gentleman, I am opposed to this amendment, by the way, because I really do believe that betting on sports with a lottery system, especially college sports, is very wrong.

But I want to clarify a couple of things with the gentleman from Texas, to make sure that his amendment does not cover some things that a few of the lotteries have been concerned about, and I do not think it does. That is not my interpretation. But I want to find out.

One of them is, some of the lottery folks have been asking me whether the provisions of the gentleman's amendment which are in the bill now would prohibit a lottery from advertising its lottery at a sporting event like in the Orange Bowl or Rose Bowl or whatever, or using a visor cap saying "Lotto" on it, putting an ad in the football program, something like that. Would the gentleman confirm for me that his provisions, the provisions in this bill, would in no way prohibit that?

Mr. BRYANT. Yes, and I thank the gentleman for asking the question. The bill would in no way prohibit that. The bill would not prohibit or affect anything unless it is related to the score of an actual athletic contest. The amendment does not prohibit legalized private enterprise gambling such as is permitted in Las Vegas, nor does it in any way prohibit a State from using a sports game in an instant-win scratchcard lottery game.

Mr. McCOLLUM. If you have one of those instant tickets and you have a baseball game as a sort of the gimmick of it but it is not a real game, not a real baseball game, that is, it is just the theme of baseball in the lotto with the runs, the hits and the errors and all that, you would not have any problem with that under your provisions?

Mr. BRYANT. This amendment would not touch that in any way.

Mr. McCOLLUM. It would not touch advertising in any way?

Mr. BRYANT. That is correct.

Mr. McCOLLUM. I thank the gentleman.

I am opposed to the amendment and in favor of Mr. Bryant.

Mr. BRYANT. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. McMillen].

Mr. McMILLEN of Maryland. Mr. Chairman, I rise today in opposition to the DeFazio amendment although I appreciate his reasons. As a former college and professional athlete, I believe this amendment would damage the integrity of intercollegiate and professional sports, and allow for yet another regressive tax to be placed on American citizens.

The committee bill includes a provision authored by Mr. Bryant which would outlaw sports lotteries. I commend this provisions and urge that the DeFazio amendment be defeated.

In an age when the Federal Government is heaping more responsibility on States, and mandate that they carry out our noble ideas, State governments are becoming more creative in their search for revenue.

Mr Chairman, I believe the use of sports lotteries will hurt this Nation in the long run and has a corrupting influence on sports.

First, a lottery is the most regressive revenue measure of all, pandering on the fleeting hopes of our poorest citizens. These people should be the beneficiaries of our social spending—not the source of it.

Moreover, Government-sponsored sports gambling is incompatible with the integrity of athletic competition, both in fact and in public perception. Using government resources to advertise and promote sports betting appears to legitimize a relationship between sports and gambling. In so doing, it undermines the purpose of sports as a contest of athletic skills and the status of athletes as role models.

It feeds an addiction in our society that we should be combating, not encouraging. Some argue, "there's going to be gambling anyway"—but, is it really the role, the responsibility, and the goal of government to encourage this activity.

I say "no," Mr. Chairman. By voting for the DeFazio amendment, this body will be condoning yet another activity that we otherwise hope to dissuade.

As you consider the DeFazio amendment, think about how the embarrassment and human tragedy of a gambling scandal affecting your university or local professional sports team would outweigh the minor increases in government revenues from sports lottery games. It is in the public interest to maintain the integrity of intercollegiate and professional sports. Gambling is bad for sports and government should not be in the sports gambling business. I urge you to join me in opposing the DeFazio amendment.

Mr. BRYANT. Mr. Chairman, I reserve the balance of my time.

Mr. DeFAZIO. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. AuCoin].

Mr. AuCOIN. Mr. Chairman three things about the provision this amendment strikes make me so angry that my words could be taken down if I told the Members what I thought about it and its author.

The Bryant provision affects one State, my State, the State of Oregon. It was stuck in this bill by the gentleman from Texas without notice to anyone in the Oregon delegation, although our State's delegation is the only one affected.

It was the product of no committee hearings in the Committee on the Judiciary. No member of Oregon's delegation had a chance to evaluate, make their thoughts heard to the committee when this amendment was being drafted.

I had to read about the gentleman's amendment in the newspaper!

How would the gentleman like it if I offered a Stealth amendment in my committee, the Defense Subcommittee, and outlawed some oil advantages in the Tax Code? How would the gentleman like it if I offered another Stealth amendment in my committee, the Defense Subcommittee, and outlawed all funding for Sematech?

□ 1240

Mr. Chairman, I should think the gentleman would expect advance notice from me and that would be correct. But that's not what happened here.

I do not do business this way, and I am sorry that the gentleman from Texas [Mr. Bryant], and the NFL and other sports associations seem to think that is the way business should be done around here.

Mr. BRYANT. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. No, I am not going to yield right now.

Second, I am upset that the major sports leagues claim that the Oregon State regulated sports lottery poses, as the gentleman says, a threat of corruption for professional sports.

Corruption? Corruption? If there is a threat of corruption by professional sports, what about the multibillion-dollar gambling empire in Las Vegas? What about the influence of the bookies who are crawling under every rock out in Las Vegas? Is this form of wagering OK just because the gentleman says its a form of private sector wagering? Nonsense.

My time has expired, but I just want to say to the gentleman, I resent this procedure. I resent this amendment. I know we don't have the votes because you caught us by surprise, but there is a conference, Mr. Bryant, and I want you to know that this matter is not over now.

Mr. BRYANT. Mr. Chairman, I yield myself such time as I may consume to observe that I think what I resent in this body is feigned indignation on the part of anyone who would come to the floor of this House and act like he has not known for 1 month or 2 months that this amendment was pending here.

Mr. DeFAZIO. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. Denny Smith].

Mr. DENNY SMITH. Mr. Chairman. I rise with the rest of the Oregon delegation in strong support of the DeFazio amendment. The language in the crime bill that would do away with State-sponsored sports lotteries is unfair and misguided.

The regulation of gambling and lotteries has traditionally been left to the States. The States have an outstanding record of using the highest standards of security and integrity in running their lotteries. Funds from these lotteries have been used for public education, economic development, cities and towns, senior citizens and State general funds. The Congress should not take action against this vital source of State revenue without first giving a fair hearing to all sides of the issue. No such hearing has been given.

Like other State lottery games, Oregon's "Sports Action" is a lawful, carefully regulated game based predominantly on chance. Wagers are small, and players must pick the outcomes of multiple games based on pointspreads. It is absurd to think that anyone could fix the outcomes of 3 to 14 sports events for a share of a State lottery pool. As for copyrights, the game is based only on the results of the events, and identifies the teams only by city. It uses no team names, logos, colors or other identifying marks of professional sports.

I urge my colleagues to vote for States rights and support the DeFazio amendment.

Mr. DeFAZIO. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. Wyden].

Mr WYDEN. Mr. Chairman and my colleagues, I rise in support of the amendment of the gentleman from Oregon [Mr. DeFazio], and more than anything I am just stunned about the NFL's misplaced sense of priorities. Just in the last week we have seen serious allegations of sexual harassment in an NFL locker room. Hardly a week goes by that we do not hear about problems with drug use in the NFL.

However, Mr. Chairman, instead of focusing on those serious matters, what the NFL is busy doing is going after Oregon's sports lottery, and I hope that the Members will read specifically the language in the proposal of the gentleman from Texas [Mr. Bryant]. What it would do is impose criminal penalties, criminal penalties, on State officials in a way that is so vague and so broad that I think there are serious questions about whether or not the Bryant legislation would impose these penalties on a friendly neighborhood softball game in which raffle tickets were sold to raise money for charity.

Mr. Chairman, this is not the way to legislate. This is not the way to go forward in a responsible fashion. I hope my colleagues will support the amendment of the gentleman from Oregon [Mr. DeFazio].

Mr. DeFAZIO. Mr. Chairman, could I ask how much time remains on both sides?

The CHAIRMAN. The gentleman from Oregon [Mr. DeFazio] has 4 minutes remaining, and the gentleman from Texas [Mr. Bryant] has 1½ minutes remaining.

Mr. DeFAZIO. Mr. Chairman, do I have the right to close?

The CHAIRMAN. No; the gentleman from Texas [Mr. Bryant] would be representing the committee's view of this, and, therefore, he would have the right to close.

Mr. DeFAZIO. Mr. Chairman, I yield 1 minute to the gentlewoman from Washington [Mrs. Unsoeld].

Mrs. UNSOELD. Mr. Chairman, I rise in support of the DeFazio amendment, in support of all States' rights, and in support of sport betting enthusiasts.

Should the Bryant amendment pass, only one State in our Nation would be allowed to continue with sports betting. Only Nevada would be allowed to raise funds through the only popular revenue-raising device that I know of in existence! I object to that kind of favoritism.

My State of Washington does not have a sports lottery, but under the broad language contained in this bill, all States with lotteries are in jeopardy if they have any kind of so-called sporting theme. Thus all 32 State lotteries may be in jeopardy. Is your State one? Mine is.

I urge my colleagues to vote against the Bryant amendment.

Mr. DeFAZIO. Mr. Chairman, I yield myself such time as I may consume.

It seems, Mr. Chairman, if we were here for a high principle, and that is to become absolutely certain that across America there was no wagering of any sort on any professional sports because we feared that such wagers might somehow lead us to corruption or game fixing, then, Mr. Chairman, it seems that we would have to deal with the multibillion-dollar gambling industry in Nevada.

Now I understand that that would be very tough to do here on the floor of the House. It would probably be even tougher than taking on the National Football League, or one of the basketball leagues, or the baseball leagues. But that, Mr. Chairman, would be a principle, and perhaps a principle worth fighting for.

In fact, when Mr. Tagliabue wrote to me this week threatening me because of statements I had made regarding the NFL pressures on this amendment, I wrote back and urged him to make such a proposal, if he has such deep-seated concerns, and said I would seriously consider supporting it, but that is not the issue before us today.

This is an amendment targetted at one State, or the 32 States that have lotteries. It is not targetted at cleaning up gambling. In Nevada they set up giant helmets and jerseys, and they set the odds, and hundreds of people gather around, and individuals bet up to a million dollars on a game. If we are going to talk about who might fix a professional sports game, I think the individual who has the wherewithal to bet $1 million on the outcome of a single game might have more influence and more wherewithal to look at fixing a game than some guy in Oregon who walks into a convenience store and puts down $1 on a 4- or 12-game card.

No, the issue at hand is not whether or not this will corrupt the game. The issue at hand is the NFL probably wants a cut. That is the issue before us. There is no high principle to be debated here today. It is plainly and simply a muscle play, a power play, by the NFL, and they are picking on one little State and the other 31 States that would like to follow our lead on this lottery so that they could bet or fund intercollegiate and amateur athletics in their States, but they are being told, "If you do that, you'll never see an expansion team in your State," and those threats are documented in the press.

Mr. Chairman, I yield back the balance of my time.

Mr. Chairman, I ask unanimous consent that the amendment be withdrawn.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The CHAIRMAN. The amendment offered by the gentleman from Oregon [Mr. DeFazio] is withdrawn.

It is now in order to consider amendment No. 29 printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. DOUGLAS

Mr. DOUGLAS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Douglas: Page 232, strike line 11 and all that follows through line 16 on page 233, and insert in lieu thereof the following:

SEC. 2204. ADMISSIBILITY OF CERTAIN EVIDENCE.

(a) In General.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"§ 3509. Admissibility of evidence obtained by search or seizure

"(a) Evidence Obtained by Objectively Reasonable Search or Seizure.—Evidence which is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment. The fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of such circumstances.

"(b) Evidence not Excludable by Statute or Rule.—Evidence shall not be excluded in a proceeding in a court of the United States on the ground that it was obtained in violation of a statute, an administrative rule or regulation, or a rule of procedure unless exclusion is expressly authorized by statute or by a rule prescribed by the Supreme Court pursuant to statutory authority.

"(c) Rule of Construction.—This section shall not be construed to require or authorize the exclusion of evidence in any proceeding.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"3509. Admissibility of evidence obtained by search or seizure.".

Mr. CHAIRMAN. Under the rule, the gentleman from New Hampshire [Mr. Douglas] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from New Hampshire [Mr. Douglas].

□ 1250

Mr. DOUGLAS. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, what this amendment is all about is something called the exclusionary rule of evidence. Right now in our Nation's court, with only six exceptions—and those are the States of Louisiana, Mississippi, Texas, Alabama, Florida, and Georgia—if a police officer makes a mistake in searching for or seizing evidence, that evidence, such as this, which happens to be sugar but could be narcotics, would be excluded from court unless the police officer conducted the search or the seizure with absolute perfection. If there is any mistake, if the Supreme Court opinions were not understood by the officer at 3 a.m. when the search was conducted, that evidence is excluded from the courtroom. The jury would never get to see that valid evidence.

Unlike a coerced confession under the fifth amendment, something that is unreliable evidence because it may not be a real confession but one that is coerced, this kind of evidence is real, it is solid, it is contraband, and it ought to be shown to the jury. But we require perfection from our police officers or the judge—and I was one for a decade—and must keep that out of evidence, and the jury will never see it.

We feel that is too strict a standard, that there should be some good faith permitted to allow evidence in that may not have made the 100-percent technical requirements of the Supreme Court.

The amendment that I offer would take the language in the bill, which has a good faith exception only in the case of search warrants. Right now what the bill says is that if you have a warrant, a piece of paper called a warrant, and you seize the evidence and it is technically not correct, it will still be permitted into evidence with that warrant. Let us say with an automobile or at the scene of some disturbance where the police officer senses there is a problem with a piece of evidence such as drugs, without a warrant, unless the police officer is perfect in what he or she does, the evidence is excluded.

There has been one exception to that, and that is why this bill, the way it is worded, will be a disaster in the States that have allowed a good faith exception. That one exception is in the 5th and 11th circuits, the 11th having been carved out of the old fifth. For 10 years the judges and the police officers in those States I mentioned—Louisiana, Mississippi, Texas, Alabama, Florida, and Georgia—have operated under the Douglas amendment. The committee version would strip from those six States the right to allow evidence in that is seized in good faith, because the committee version says only if you have a warrant are you going to get that evidence into court if there is a technical defect.

I think that if we overturn court opinions in six States that the Federal courts have lived with for a decade and that the U.S. Supreme Court has not overturned, we are doing a disservice. The National District Attorneys Association, 6,500 members of the National District Attorneys Association, wrote to the Members of this House and they say in paragraph of their letter that they support the Douglas amendment on reform of the exclusionary rule. The Attorney General of the United States has made it very clear that one of the vetoeable provisions of this bill is the committee version of the exclusionary rule.

So unfortunately, we arc about to pass a crime bill that is going to overturn court decisions in six States, that the Attorney General says is not in the interest of law enforcement, that the district attorneys say is not in the interest of law enforcement, and that the State attorneys general say is not in the interest of law enforcement, and we are going to do that in the name of an anticrime bill.

Let us let this evidence in if it was seized in good faith with or without a warrant. Let us not have technicalities govern in that regard. Let us allow the 5th and the 11th circuit court systems to continue as they are.

I urge adoption of the amendment.

Our courts since 1961 have been in a judicial straitjacket when it comes to a judge-made rule that excludes evidence from trial unless the police are 100 percent correct. It is clear that the exclusionary rule imposes a single, inflexible, and drastic sanction without regard to the nature, circumstances, or degree of police misconduct. Whether an honest mistake, or outrageous misconduct, the result is always the same—exclude the evidence even if it means immunity from prosecution.

There can be no rational basis for applying the same sanction to an honest mistake and to outrageous misconduct. As former Chief Justice Burger stated:

> I submit that society has at least as much right to expect rationally graded responses from judges in place of the universal "capital punishment" we inflict on all evidence when police error in showing in its acquisition.

The exclusionary rule has needlessly contributed to the problem of delay in our courts. Time-consuming hearings on motions to suppress often consume as much court time as the trial itself.

Remember that the function of these hearings is not to protect the innocent defendant but rather to review the police officer's conduct in an adversary fashion more appropriate to determining guilt. With its time thus consumed, it is little wonder that the courts and the public doubt the ability of the system to fulfill its principal function of conducting trials in search of the truth.

The House Judiciary version of the crime bill is a major step backward in correcting this technicality in the law. We need to modify the current exclusionary rule that prevents improperly seized evidence from being admitted in court. The current rule is too rigid and should be replaced by a more workable good faith standard, so that evidence gathered by police in good faith, in spite of some technical or paperwork errors, could be admitted in a court of law. All, too, often minor mistakes handcuff the police, and let the criminals go free.

The evidence is excluded even if it means the accused goes free. This is why I call it the rule of police perfection.

In addition to the work burden it imposes, the current exclusionary rule deceives the jury and distorts the facts by suppressing reliable, truthful evidence. Unlike questionable evidence, like a forced confession, solid physical evidence is reliable regardless of how it was gathered. Don't forget, it is the duty of judges and juries to find the truth.

The current exclusionary rule imposes a kind of artificial ignorance, forcing judges and juries to wear blinders while at the same time trying to fairly determine guilt or innocence.

Adopting instead a clear good faith standard for gathering evidence would help the police do their job better, ease the work load on the courts, and restore the people's confidence that our justice system can effectively keep criminals off the streets and protect the rights of honest citizens.

The bill before us, however, is a major step backward in this area. In fact, doing nothing would be better than enacting this.

Section 2204 of this so-called anticrime bill is purportedly a codification of three of the existing exceptions to the exclusionary rule—the Leon good faith exception for searches under warrants, the inevitable discovery exception, and the independent source exception.

However, enacting a statute that just says what the Supreme Court's caselaw already says will do nothing for law enforcement. Moreover, the language of section 2204 is actually much narrower than the existing exceptions, and it could discourage or prevent desirable caselaw developments.

The attempted codification in paragraph (1) of the good faith exception of *United States* v. *Leon*, 468 U.S. 897 (1984), limited to warrant cases, could inhibit the courts from extending the same exception to nonwarrant cases in which officers acted in an objectively reasonable belief that their conduct was lawful. The Federal courts in the 5th and 11th circuits have applied such a broader exception for 10 years—since the decision in *United States* v. *Williams*, 622 F.2d 830 (1980), may well adopt such a general good faith exception when it decides a case that squarely presents the issue.

Paragraph (2) limits the inevitable discovery exception to the exclusionary rule, see *Nix* v. *Williams*, 467 U.S. 431 (1984), to cases where the evidence would inevitably have been discovered by lawful means "within a reasonable time" and "in essentially the same condition." These limitations on the exception—within a reasonable time, and in essentially the same condition—do not exist under current law. The meaning of "reasonable time" and "essential sameness" of condition would give rise to endless litigation, and reliable evidence of guilt that is admissible under existing law would be excluded on the basis of these novel new requirements.

Similarly, paragraph (3) of section 2204 would narrow the independent source doctrine. See *Murray* v. *United States*, 487 U.S. 533 (1988); *Nix* v. *Williams*, 467 U.S. at 443-44. This doctrine, in part, admits evidence that is observed or discovered in an unlawful search, if the same evidence is later independently obtained by lawful means. The independent source doctrine now applies in both warrant and nonwarrant case, but the formulation of paragraph (3) would arbitrarily limit it to warrant cases.

A further problem with section 2204 is that it selects a few of the existing exceptions to the exclusionary rule, but says nothing about the many other exceptions that are recognized under current law. For example, the exclusionary rule does not bar the use of evidence to impeach a defendant's testimony at trial, does not bar the use of evidence obtained in objectively reasonable reliance on an invalid statute, and does not bar the use of evidence having a sufficiently attenuated relationship to a fourth amendment violation. See *James* v. *Illinois,* 110 S. Ct. 648, 651-52 (1990); *Illinois* v. *Krull,* 480 U.S. 340 (1987); *United States* v. *Ceccolini,* 435 U.S. 268 (1978). The exclusionary rule is also generally inapplicable in habeas corpus proceedings and wholly inapplicable in grand jury and deportation proceedings. See *Stone* v. *Powell*, 428 U.S. 465 (1976); *United States* v. Calandra, 414 W.S. 338 (1974); INS v. *Lopez-Mendoza,* 468 U.S. 1032 (1984).

Under the formulation of section 2204, defendants could argue that a codification limited to three specific exceptions reflects implicit legislative disapproval of the other existing limitations should accordingly be reconsidered. Hence, section 2204 not only fails to provide an accurate codification of the exceptions it purports to address, but also potentially jeopardizes the exceptions and limitations it does not address.

Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New Hampshire [Mr. DOUGLAS].

The exclusionary rule puts teeth into the fourth amendment's protections against unreasonable searches and seizures. By prohibiting the use of illegally obtained evidence, the rule provides a solid deterrent against the use of improper procedures by law enforcement officers. In addition, there are no viable alternatives to the rule. As the Supreme Court stated nearly 30 years ago in the landmark case of Mapp versus Ohio, "other remedies have been worthless and futile."

While there is absolutely no reason to do away with the exclusionary rule, the Judiciary Committee recognized the need to update it. Thus, the bill reported by the committee codifies three exceptions to the rule created by Supreme Court decisions over the years. The most important of the three codifies a good faith exception for searches and seizures conducted under a warrant.

The amendment by the gentleman from New Hampshire would create a broader good faith exception that would cover searches and seizures carried out without a warrant. The Judiciary Committee considered and rejected this amendment when the gentleman offered it during markup of the crime bill. A key reason for the committee's rejection was that this approach would undercut incentives for police officers to use warrants when conducting searches and seizures. In addition, it would be difficult to apply such a rule because it would require a judge to determine what constitutes a reasonable mistake of law by an officer. In short, the gentleman's amendment simply goes too far.

The exclusionary rule has served us well in protecting our cherished fourth amendment rights and it should not be tampered with. I, therefore, urge my colleagues to oppose the gentleman's amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. DOUGLAS. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. DENNY SMITH].

Mr. DENNY SMITH. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, the people I represent in Oregon are tired of justice only working for the criminal. I think that law-abiding citizens and victims of crime need to be protected. Our current system of justice puts criminals' rights ahead of citizen's and victims' rights. One criminal right is, of course, the so-called exclusionary rule which often disqualifies perfectly good evidence simply because a policeman acts slightly improperly in the heat of an arrest.

No one wants unconstitutional and unreasonable searches and seizures, but we must put the reasonable back in our legal system. In my opinion, the provisions in the bill do not do nearly enough to restore reasonableness in the collection of evidence. In fact, they may jeopardize the narrow exceptions we already have.

This amendment does put reason back in the Constitution's fourth amendment protections. The exclusionary rule needs fixing for several reasons, but mostly because the rule now punishes the police officer and lets the criminal go free to endanger law-abiding citizens. In effect, it puts blinders on judges and juries and asks them to determine guilt or innocence without the benefit of seeing all the relevant evidence.

The Douglas amendment allows evidence collected in good faith to be acceptable in a trial. It gives the police officer who carries out a search the benefit of the doubt rather than making him responsible for the technical conformity of a warrant. This amendment removes the blinders so that evidence collected in good faith can be used to put the criminal behind bars.

The guilty criminal should not go free simply because a police officer made an honest mistake or is himsel the victim of one not of his own doing

Mr. Chairman, a vote for the Douglas amendment is a vote for reasonableness in law enforcement and vote for putting law-abiding citizens rights ahead of criminals' rights.

Mr. BROOKS. Mr. Chairman, yield 4 minutes to the gentleman fro Illinois [Mr. SANGMEISTER].

Mr. SANGMEISTER. Mr. Chairman, I wish to thank the chairman o the committee, the gentleman fron Texas [Mr. BROOKS] and the subcommittee chairman, the gentleman fron New Jersey [Mr. HUGHES], for bringin forth this piece of legislation.

There were three things that I think all of us were concerned about in getting a crime bill out here, which is o importance to all of us: One is th death penalty, another was on habea corpus, and of course, this is the othe one, the one on the exclusionary rule

I was very pleased to see that th committee accepted the recommendations I made on the exclusionary rule I think we have to understand tha today, as the law and the statutes ar written, there is nothing, absolutel nothing, in the law on the exclusionary rule except the case law that ha evolved from the U.S. Supreme Court

□ 1300

I thought it very logical that what we ought to do is codify that law a this point as the first step towar doing something with the exclusionar rule. So in United States versus Leo we have now codified the fact that th good faith exception is there, and w all accept that. In Nix versus William we have the inevitable discovery exception. In Segura versus Unite States, we have the facts from an independent source. I think that is exactl what we should have in this bill, an that is the way it ought to stay.

I ask Members to look at the amendment that the gentleman from New Hampshire [Mr. DOUGLAS] is asking us to adopt. His amendment says evidence shall not be excluded if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment.

I do not know exactly what that means. I do not think the courts know exactly what that means, when we talk about objectively, and reasonable belief. We are talking now about a warrant, a searchless warrant, and that is where the big difference comes in.

I would say to Members that it is time that we take a good look at what the fourth amendment actually says. It is brief enough that I think we ought to read it.

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrant shall issue but upon probable cause supported by oath or affirmation and particularly describing the place to be searched and the persons or things to be seized.

We are now going to go forth from what our forefathers have told us and have warrantless searches? This is not what our forefathers wanted. I can understand as a former prosecutor myself the disappointment that the courts have or that prosecutors have or police officers have when certain evidence that has been seized cannot be admitted.

If it is done with a search warrant, if it is done under the clause we have in the bill, it should be allowed to be admitted.

The Senate bill as I understand it has absolutely nothing to do with the exclusionary rule in it. I am afraid if we put in the Douglas amendment, what is going to happen is when it does go into conference, the Senate is going to throw this thing out or the conference committee altogether.

Mr. Chairman, I suggest we leave in what is in here. Let us codify the existing law. It is a first step forward. Let us not play around with warrantless searches at this time.

Mr. DOUGLAS. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. McCollum].

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman for yielding. This is one of the most important amendemnts that will be offered to this crime bill, and one of the most important votes that Members will make with regard to law enforcement in the time they serve in the U.S. House of Representatives.

We need to vote to pass this exception to the exclusionary rule if we are going to let our law enforcement people be able to get into evidence what they seize in these drug bust cases whre they do not have a search warrant, but they do not violate anyone's constitutional rights intentionally, but someone comes along with a technicality later and throws out the evidence.

There are hundreds of cases thrown out every year on the basis of the so-called exclusionary rule. All the Douglas amendment does is codify what is already in court law with regard to searches with warrants, and says with warrantless searches, police officers' evidence will be treated the same way if they have acted in good faith. It uses exactly the court language with this.

Mr. Chairman, if we do not do that and leave the bill the way it is, we will actually change the law in a lot of jurisdictions on this issue and allow less evidence in.

Mr. Chairman, if Members want more convictions, if Members want to support their local police, if Members want to get tough with law enforcement, vote for the Douglas amendment on search and seizures.

Mr. BROOKS. Mr. Chairman, I reserve the balance of my time.

Mr. DOUGLAS. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. Chandler].

Mr. CHANDLER. Mr. Chairman, there is a perception in this country that people aren't safe on the streets, or safe in their homes.

It doesn't take a Ph.D. to know that the fear of crime is real. We've all seen the statistics. There is one murder in this country every 24 minutes, one robbery every minute, one burglary every 10 seconds, one aggravated assault every one-half minute, and the list goes on.

According to one poll, 84 percent of Americans believe that crime is getting worse. At least 4 in 10 Americans are afraid to walk alone in their neighborhoods after dark.

Americans are sick and tired of criminals on our streets and in our courts. They use our justice system as if it's a one-way avenue—back to the street—back to crime.

Police officers tell me that if we could make one reform, it should be correcting the exclusionary rule. I agree.

People are most assuredly sick and tired of being victimized by criminals. But they are totally fed up with watching as the few criminals who are caught walk away—free on a technicality. The criminal is guilty, no question there, but he goes free on a legal hitch.

I am pleased to stand here today and support the efforts of Mr. Douglas and Mr. Smith. Their amendent would provide a limited exception for cases in which police had a reasonable, good faith belief that evidence was seized lawfully. It would help restore confidence, reason, and sanity to the criminal justice process.

The House passed similar language overwhelmingly in 1986 and 1988. Its enactment into law is long overdue. I urge my colleagues to vote for the amendment.

Mr. DOUGLAS. Mr. Chairman, I yield myself 30 seconds.

Mr. DOUGLAS. Mr. Chairman, I just want to say that the gentleman from Illinois [Mr. Sangmeister] makes it sound like there are no warrantless searches in the United States, and that somehow this would create them. That is pure bunk. We have warrantless searches every day. Most searches are warrantless.

Mr. Chairman, our police officers are high school graduates. They are not lawyers, they are not judges. Judges wrestle over these cases for 2 and 3 and 4 years after the search has occurred. All this amendment does is say that if the object was seized in good faith, but the police officer only got a 98 on the exam of law, not 100, we are going to allow it in front of those 12 jurors so they can decide the case without technicalities.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment being offered by the gentleman from New Hampshire [Mr. Douglas]. This amendment would codify the good faith exception to the exclusionary rule in cases of warrantless searches. Under this exception, the exclusionary rule could not be used to suppress evidence at trial if it was seized without a warrant by a law enforcement officer who, although mistaken, was acting with the objectively reasonable and good-faith belief that his actions were legal. There is considerable merit in establishing such an exception to the exclusionary rule. I cannot support the amendment, however, for the following reasons.

First, although reasonable on its face, I am concerned about the potential that such an exception would have for abuse. It is an invitation to mischief that might result in an erosion of fourth amendment rights. Both the exclusionary rule itself, and the good-faith exception, are judicially created doctrines. Over the years the courts have successfully eliminated some of the excesses of the exclusionary rule by developing a series of exceptions. The U.S. Court of Appeals for the Fifth Circuit has adopted the good-faith exception in warrantless search cases. I would prefer to allow this natural evolution of the rule and its exceptions to continue before any further legislative action is taken. At the very least I want more information about the experience in the fifth circuit before I vote to extend the scope of the exclusion as proposed.

Second, the exclusionary rule has been an extremely controversial issue within the law enforcement community for decades and remains so today. The bill before us already contains a number of similarly controversial issues. Inclusion of this amendment, in my view, would threaten the chances of this important anticrime package achieving final enactment into law. We are carrying enough of a load.

Finally, I have consistently supported the provisions in the bill codifying three other exceptions to the exclusionary rule: Good-faith reliance on search warrants, inevitable discovery and independent source. I believe that these provisions serve to ensure that the exclusionary rule is not applied in clearly inappropriate circumstances.

Mr. DOUGLAS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire [Mr. Douglas].

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DOUGLAS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 265, noes 157, not voting 11, as follows:

[Roll No. 424]

AYES—265

Alexander
Andrews
Anthony
Applegate
Archer
Armey
Aspin
Atkins
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Borski
Bosco
Broomfield
Browder
Brown (CO)
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CO)
Chandler
Chapman
Clarke
Clement
Clinger
Coble
Coleman (MO)
Combest
Condit
Conte
Cooper
Courter
Cox
Craig
Crane
Dannemeyer
Darden
Davis
de la Garza
DeLay
DeWine
Dickinson
Dicks
Dornan (CA)
Douglas
Dreier
Duncan
Dyson
Edwards (OK)
Emerson
English
Erdreich
Fascell
Fawell
Fields
Fish
Flippo
Frank
Frenzel
Gallegly
Gallo
Gaydos
Gekas
Geren
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Grant
Green
Guarini
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hefley
Hefner
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Kanjorski
Kasich
Kolbe
Kolter
Kyl
Lagomarsino
Lancaster
Laughlin
Leach (IA)
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Long
Lukens, Donald
Machtley
Madigan
Manton
Marlenee
Martin (IL)
Martin (NY)
Martinez
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McNulty
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morrison (WA)
Murtha
Myers
Neal (NC)
Nelson
Nielson
Ortiz
Oxley
Packard
Pallone
Parker
Parris
Pashayan
Patterson
Paxon
Payne (VA)
Penny
Petri
Pickle
Porter
Price
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Saiki
Sarpalius
Saxton
Schaefer
Schiff
Schneider
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sisisky
Skeen
Skelton
Slaughter (VA)
Smith (FL)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Stallings
Stangeland
Stearns
Stenholm
Stump
Sundquist
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Traficant
Udall
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walgren
Walker
Walsh
Watkins
Weber
Weldon
Whittaker
Wilson
Wolf
Wyden
Wylie
Yatron
Young (FL)

NOES—157

Ackerman
Anderson
Annunzio
AuCoin
Beilenson
Berman
Boggs
Bonior
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Campbell (CA)
Cardin
Carper
Carr
Clay
Coleman (TX)
Collins
Conyers
Costello
Coyne
DeFazio
Dellums
Derrick
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Engel
Espy
Evans
Fazio
Feighan
Flake
Foglietta
Ford (TN)
Frost
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Gray
Hamilton
Hawkins
Hayes (IL)
Hertel
Hoagland
Hochbrueckner
Horton
Hoyer
Hughes
James
Jontz
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
Lantos
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowey (NY)
Markey
Matsui
Mavroules
McCloskey
McDermott
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Payne (NJ)
Pease
Pelosi
Perkins
Pickett
Poshard
Rangel
Roe
Rose
Rostenkowski
Roybal
Sabo
Sangmeister
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sikorski
Skaggs
Slattery
Slaughter (NY)
Smith (IA)
Solarz
Staggers
Stark
Stokes
Studds
Swift
Synar
Torres
Torricelli
Towns
Traxler
Unsoeld
Vento
Visclosky
Washington
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Yates

NOT VOTING—11

Coughlin
Crockett
Ford (MI)
Hall (OH)
Hayes (LA)
LaFalce
Lowery (CA)
Luken, Thomas
Robinson
Ros-Lehtinen
Young (AK)

☐ 1332

Mr. DERRICK and Mr. MARKEY changed their vote from "aye" to "no."

Messrs. ATKINS, BORSKI, and FASCELL changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. THOMAS of Georgia. Mr. Speaker, on roll call 424 I inadvertently recorded my vote as "no." It was a mistake, and I intended to vote "aye."

The CHAIRMAN pro tempore (Mr. Bennett). It is now in order to consider amendment No. 30, printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Waxman: Page 239, after line 5, add the following new section:

SEC. 2214. EFFECTS OF DRUG-RELATED VIOLENCE ON TRAUMA CARE.

Subpart I of part D of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following new section:

"SEC. 330A. GRANTS WITH RESPECT TO UNCOMPENSATED COSTS OF TRAUMA-CARE CENTERS OPERATING IN AREAS SEVERELY IMPACTED BY DRUG-RELATED VIOLENCE.

"(a) In General.—The Secretary may make grants for the purpose of providing financial assistance for the operating expenses of trauma-care centers that have incurred substantial uncompensated costs in providing trauma care in geographic areas with a significant incidence of violence arising from the abuse of drugs. Grants under this subsection may be made only to such trauma-care centers.

"(b) Minimum Qualifications of trauma-Care Centers.—

"(1) Significant incidence of treating penetration wounds.—

"(A) The Secretary may not make a grant under subsection (a) to a trauma-care center unless the population of patients that has been served by the center for the period specified in subparagraph (B) includes a significant number of patients who were treated for wounds resulting from the penetration of the skin by knives, bullets, or other weapons.

"(B) The period specified in this subparagraph is the 2-year period preceding the fiscal year for which the trauma-care center involved is applying to receive a grant under subsection (a).

"(2) Participation in trauma-care system subject to certain professional guidelines.—The Secretary may not make a grant under subsection (a) unless—

"(A) the trauma-care center involved is located in a State or political subdivision that—

"(i) has established a system for providing comprehensive medical care to victims of trauma in the geographic area involved; and

"(ii) has adopted guidelines for the designation of trauma-care centers, and for triage, transfer, and transportation policies, equivalent to (or more protective than) the applicable guidelines developed by the American College of Surgeons and by the American College of Emergency Physicians; and

"(B) the trauma-care center is a participant in the system.

"(c) Priorities in Making Grants.—In making grants under subsection (a), the Secretary shall give priority to any application made by a trauma-care center that—

"(1) for the purpose specified in subsection (a), will receive financial assistance from the State or political subdivision involved for each fiscal year during which payments are made to the center from the grant, which financial assistance is exclusive of such assistance provided under any Federal program requiring non-Federal contributions; or

"(2) with respect to the trauma-care system described in subsection (b)(2)(A)—

"(A) is providing trauma care in a geographic area in which the availability of trauma care has significantly decreased as a result of a trauma-care center in the area permanently ceasing participation in the system as of a date occurring during the period specified in subsection (b)(1)(B); or

"(B) will, in providing trauma care during the 1-year period beginning on the date on which the application for the grant is submitted, incur uncompensated costs in an amount rendering the center unable to participate in the system, resulting in a significant decrease in the availability of trauma care in the geographic area.

"(d) Commitment Regarding Continued Participation in Trauma-Care System.—The Secretary may not make a grant under subsection (a) unless the trauma-care center involved agrees that—

"(1) with respect to the trauma-care system described in subsection (b)(2)(A), the center will continue participation in the system throughout the 3-year period beginning on the date that the center first receives assistance under the grant; and

"(2) if the agreement made pursuant to paragraph (1) is violated by the center, the center will be liable to the United States for an amount equal to the sum of—

"(A) the amount of assistance provided to the center pursuant to subsection (a); and

"(B) an amount representing interest on the amount specified in subparagaph (A).

"(e) Application.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out such subsection.

"(f) Limitation on Duration of Support.—The period during which a trauma-care center receives payments under subsection (a) may not exceed 3 fiscal years, except that the Secretary may waive such requirement for the center and authorize the center to receive such payments for 1 additional fiscal year.

"(g) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated $50,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.".

The CHAIRMAN pro tempore. Under the rule, the gentleman from California [Mr. Waxman] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

Mr. DANNEMEYER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from California [Mr. Dannemeyer] will be recognized for 5 minutes in opposition to the amendment.

The Chair recognizes the gentleman from California [Mr. Waxman].

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment would authorize the Secretary of Health and Human Services to award up to $50 million in grants to help defray the uncompensated costs incurred by trauma centers arising from the drug war.

Trauma centers are the MASH units in the war against illicit drugs. Trauma centers located in the Nation's major drug trafficking regions are experiencing huge increases in the numbers of victims of drug-related violence.

The number of patients suffering from knife and bullet wounds are increasing. Uncompensated costs from such patient care are increasing.

Mr. Chairman, the damaging effects of the drug war on trauma care are real. Trauma centers have already closed in Miami, Houston, Philadelphia, Los Angeles, and Chicago.

When a trauma center closes, lifesaving services are denied to all citizens, including law enforcement officials wounded in the line of duty.

Hearings on this issue were held before the Subcommittee on Health and the Environment. Witnesses representing trauma centers in Detroit, Philadelphia, and Miami testified to the need for Federal assistance. They testified to the strong correlation between illicit drug trafficking and increasing trauma center costs. A law enforcement officer testified about the importance of a strong trauma center system as a vital medical backup to the drug agents and other law enforcement officials on the frontlines.

The American College of Surgeons recently wrote the House urging Members to support this amendment. Dr. Paul Ebert, director of the college wrote:

> In the urban areas hardest hit by the drug war, hospitals that are providing some of the finest trauma care in the world are facing tremendous financial losses that are causing them to reassess their commitment to trauma * * * many are dropping out of their local trauma center networks. When trauma centers drop out of the system a domino effect results, with the remaining centers being required to assume a tremendous increase in * * * their uncompensated care burden * * *.
>
> Tragically, the deterioration of our trauma systems does not merely translate into unnecessary death and disability among the perpetrators of violent crime, or even their innocent bystanders. Trauma systems prevent unnecessary death and disability among all members of our population; if the drug dealers cause our trauma systems to collapse, their impact on public health and safety will extend far beyond the immediate social and economic consequences of drug abuse and crime. Our family members and friends who are victims of automobile or bicycle accidents, falls, severe electric shock, lawn and garden tool accidents, and the rest are at real risk of suffering unnecessary disabilities or loss of life.

Mr. Chairman, no army should go to war without adequate medical support. If we are serious about fighting drug trafficking, and crime, we cannot allow the Nation's trauma systems to falter.

I urge support for the amendment and reserve the balance of my time.

Mr. Chairman, I reserve the balance of my time.

Mr. DANNEMEYER. Mr. Chairman, I rise in opposition to this amendment. The first reason for doing so is because it violates what I would call the rule of common sense. Last night the House was unable to come to an agreement on a deficit reduction program; considering that we are scheduled to add $364 billion to the national debt this year, it is my view that we are at a point in this Government's history when anyone who comes to the floor or in a committee with a request for yet a new program, that person, the promoter, the sponsor of the legislation or amendment must come forward with an area of existing spending in the Federal dollar stream that will be released so that this new program will take its place.

I did not hear anything uttered by the gentleman from California [Mr. Waxman] indicting what will be reduced so that room will be made for yet this new program. Believe me, this one is a new one.

Up until now, Public Health Service grants have been limited to such things as family planning or research. We have never used a Public Health Service grant to pay for any hospital care for patients. This is a new adventure, new development. We could say that this is a new window through which a truck of unlimited size can be driven in future years, depending on the Committee on Appropriations willingness to fund this function at future levels.

☐ 1340

The gentleman from California [Mr. Waxman] for whom I have the greatest respect, is an adroit developer of the legislative and appropriating process in the Federal Government in the area of health care, and there is no doubt in my mind that if this amendment gets adopted in future years it will be used as a means of providing further Federal tax dollars for the need that he has now identified.

The administration is opposed to this bill. I can say to my colleagues that we considered this proposal in the Energy and Commerce Committee, a similar proposal by my colleague, the gentleman from California [Mr. Bates] for trauma centers. The committee declined to process it out of committee, so I think what we are witnessing here is the gentleman from California [Mr. Waxman], which he has every right to do, has come to the floor of the House on a crime bill and seeking to suggest with a measure of credibility that since we have drug problems in America, which I concede, there is a need for a trauma center. Therefore, we need to have this new program crafted to this crime bill, which some of us hope will pass through the process.

For these reasons, Mr. Chairman, I believe this amendment should not be adopted.

Mr. WAXMAN. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas [Mr. Coleman].

Mr. COLEMAN of Texas. Mr. Chairman, I rise today in support of the

Waxman amendment to H.R. 5269, the Comprehensive Crime Control Act. This amendment strengthens the trauma system in this country and thereby the victims of drug-related violence. These trauma centers are themselves falling victim to the rapid increases in social problems threatening our Nation, among them chemical and substance abuse, gang violence, and child abuse. As was reported at the Conference of Metropolitan Hospital Associations:

> The medical consequences bred by these social problems are on display every day in our nation's urban hospitals, where a tremendous number of emergency room cases are for patients seeking treatment for stabbings, gunshot wounds and drug overdoses.

Among these emergency room patients are law enforcement officials, abused children, and other victims. These cases such as the four children who were recently shot during an 8-day period in New York City drive-by shootings or the students on their lunch break at Austin High School in El Paso, TX, who were shot in gang-related drive-by shootings, require the life-saving devices in strong and stable trauma centers. Moreover, in more than three-fifths of the confirmed cases of child abuse in Dallas, TX, substance abuse was found to be a primary or secondary determinant. These factors help account for the fact that trauma ranks as the leading cause of death among children in this country.

Unfortunately, with the much publicized closing of Hermann Hospital's trauma center in Houston, TX, where renowned trauma surgeon Dr. James "Red" Duke is located, and the closings of other trauma centers in Los Angeles, Chicago, and Miami, it is clear that our Nation's fragile trauma network is crumbling. In El Paso, our community adopted a comprehensive trauma care network in October 1988. The system has saved the lives of people throughout west Texas and southern New Mexico, but is beginning to buckle. The public hospital in El Paso, which is the hub of the trauma system, faces severe financial strain. In fact, Thomason Hospital, in the El Paso County Hospital District, has requested a 65-percent tax increase from the community for the upcoming fiscal year due, in large part, to the uncompensated care from drug-related violence. for El Paso, this hospital represents the only game in town when it comes to civilian trauma care. Its failure would be felt by all of west Texas and parts of southern New Mexico.

Finally, newspapers in cities across the country have chronicled the spillover effects of the drug war and gang violence in the halls of our country's hospitals. However, they fail to note the effect on these trauma centers of AIDS, higher blood costs, growing fear among employees, and the effect of all these problems on professional staff recruitment. With the nursing shortage as acute as it is, how does a hospital recruit staff when these things are occurring?

At the public hospital in El Paso, the entire staff was put on alert recently when a rival gang of one of its patients began forming across the street in a parking lot of a local public high school. Despite the doubling of the security staff, a recent employee survey found personal safety and fear of theft to be the staff's No. 1 concern. These are some of those so-called hidden costs that, in addition to the uncompensated care burden, leads to trauma center closures across this Nation.

In short, our Nation's fragile trauma care network is in the business of saving lives. Nothing can be more important. I urge members to approve the Waxman amendment.

Mr. DANNEMEYER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I can say to my colleague that I have never questioned the need that the gentleman from California [Mr. Waxman] and the gentleman from Texas [Mr. Coleman] have so eloquently stated. I do not quarrel with the necessity that our society has to provide treatment and trauma centers for persons who are unfortunate to be the victims of an accident or a stabbing or whatever. I do not quarrel with that need; but one thing I think the gentleman has difficulty understanding, the gentleman has exhibited this tender concern for the victims of trauma. I am only reflecting a tender concern for trauma experienced by the working men and women of our society who have said enough to this unlimited growth in spending from this uncontrolled institution where as a body we do not even have the courage on a rollcall vote to reduce an appropriation bill by 2 percent. That is what I think the gentleman should be responding to.

I want to share with my friend that I mean it sincerely, that if the gentleman believes that this existing need is so pressing that it demands immediate funding, the gentleman has the burden to come forward and suggest where an existing program is going to be reduced to take the place of this new program that the gentleman claims is so important. If the gentleman cannot do that, he does not belong in this Chamber.

Mr. COLEMAN of Texas. Mr. Chairman, I will do that if the gentleman will yield.

Mr. DANNEMEYER. I yield to my friend, the gentleman from Texas.

Mr. COLEMAN of Texas. Mr. Chairman, I thank the gentleman for yielding to me, I really do, because I think it is important for us to understand, we claim in America that we fight the war on crime, that we fight the war on drugs. If we are going to fight it, then let us fight it all the way. You cannot run a football team or you cannot run a tank platoon or anything else in this country unless every segment of what we want to have is in place. That means that all of us, each and every one of us has the responsibility to make sure that we are doing the very best we can at every point along that line, and if the gentleman says we are going to get more money for the police departments, yet we are not going to help trauma centers in America, then we are not fighting a war. We are standing by and letting a part of this go to waste.

Mr. WAXMAN. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Florida [Mr. Fascell].

Mr. FASCELL. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise today in support of the Waxman amendment to H.R. 5269, the Comprehensive Crime Control Act of 1990. This amendment would provide for the authorization of $50 million in grants to help defray the uncompensated costs incurred by trauma centers in those areas severely impacted by drug-related violence.

All of us in this Chamber are aware of the toll this violence is taking on Americans in all walks of life. From bustling urban areas to small towns, illicit drug use and its related violence has worked its way into the core of our communities, causing suffering for many, and placing new demands on the law enforcement community and health care providers.

In my hometown of Miami, Jackson Memorial Hospital, a nonprofit facility, is charged with providing for all who need medical care, regardless of an individual's financial status. For years, Jackson Memorial has filled this void admirably. Now, however, this facility is faced with the very real possibility of not being able to meet the needs of our community's trauma patients.

The correlation between illicit drug sales, use and, later, drug-related violent crime is clear. Today, Jackson Memorial, like so many other hospitals across the Nation, is struggling as a direct result of drug-related violence to hold together overloaded and underfunded trauma and emergency care facilities. Tragically, some trauma care providers in areas like Los Angeles and Chicago have already had to close their doors as a result of this unmanageable financial burden.

Our Nation's local, State, and Federal law enforcement professionals are getting more financial support than ever to win the war they wage against the dealers of death. The Waxman amendment simply provides modest financial support for those who pick up the pieces after the battle is done.

Mr. Chairman, Chairman WAXMAN's amendment is a ray of hope for Jackson Memorial and many other trauma care providers across the country. We cannot afford to see one more trauma unit closed due to a lack of funds and we need to remember that when such a facility closes, it is not just the victim of a drug-related violent crime who loses but, rather, all individuals needing sudden, lifesaving trauma care. For this reason, I urge our colleagues to act to ensure that their communities not face such a tragic scenario by voting for the Waxman amendment.

Mr. COSTELLO. Mr. Chairman, I want to rise today in strong support of the amendment to the crime bill offered by the gentleman from California [Mr. WAXMAN].

This amendment would authorize $50 million in fiscal year 1991 and additional sums in fiscal years 1992 and 1993 for grants to help local communities defray uncompensated costs incurred by trauma centers, arising from drug-related violence.

Mr. Chairman, more and more cities in America are becoming war zones because of the dramatic increase in drug-related violence. This is especially true in my congressional district, where St. Mary's Hospital in East St. Louis, IL, is facing a growing number of poor patients with an inability to pay their medical bills.

This inability to pay leaves the medical facility in an extremely difficult position, facing the dilemma of remaining open and facing greater financial losses, or closing because of a lack of sufficient funds.

For instance, St. Mary's has one of the highest Medicare and Medicaid rates of any medical facility in the country, and additional costs not covered by those programs often come at a direct loss to the hospital.

Last fall, I spent the night in St. Mary's emergency room, and had the opportunity to watch the hospital's qualified staff deal with an overwhelming number of drug-related emergencies. Many of those affected by the violence are innocent victims, trapped in the crossfire of drug gang and dealer activity.

This amendment would go a long way to addressing this critical problem in East St. Louis and many other urban areas. The program would allow the Secretary of Health and Human Services to distribute grants to communities hard hit by drug-related violence, to help pay for these related medical costs.

I urge my colleagues to strongly support this important amendment. It is an effective way to assist our urban areas in their continuing fight against drugs.

The CHAIRMAN pro tempore (Mr. BENNETT). The question is on the amendment offered by the gentleman from California [Mr. WAXMAN].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 262, noes 160, not voting 11, as follows:

[Roll No. 425]

AYES—262

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Baker
Barnard
Bartlett
Bates
Beilenson
Bennett
Bereuter
Berman
Bilbray
Bilirakis
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clarke
Clay
Clinger
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Costello
Courter
Coyne
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Gordon
Goss
Gray
Green
Guarini
Hall (TX)
Hamilton
Hatcher
Hawkins
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horton
Hoyer
Hughes
Hunter
Hyde
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kolter
Kostmayer
LaFalce
Lagomarsino
Lantos
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Long
Lowey (NY)
Machtley
Manton
Markey
Martin (IL)
Martinez
Matsui
Mavroules
McCloskey
McCollum
McCrery
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moody
Morella
Morrison (CT)
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Nelson
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Payne (NJ)
Pease
Pelosi
Perkins
Pickle
Poshard
Price
Rahall
Rangel
Ray
Richardson
Ridge
Rinaldo
Roe
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (VT)
Snowe
Solarz
Spratt
Staggers
Stark
Stearns
Stokes
Studds
Swift
Synar
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Vento
Visclosky
Walgren
Walsh
Washington
Watkins
Waxman
Weiss
Weldon
Wheat
Whittaker
Whitten
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (FL)

NOES—160

Archer
Armey
Ballenger
Barton
Bateman
Bentley
Bevill
Bliley
Broomfield
Browder
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Chandler
Clement
Coble
Coleman (MO)
Combest
Cox
Craig
Crane
Dannemeyer
DeLay
Dickinson
Dornan (CA)
Douglas
Dreier
Duncan
Edwards (OK)
Emerson
English
Fawell
Fields
Frenzel
Gallegly
Gallo
Gekas
Geren
Gillmor
Gingrich
Glickman
Goodling
Gradison
Grandy
Grant
Gunderson
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Hubbard
Huckaby
Hutto
Inhofe
Ireland
Kasich
Kleczka
Kolbe
Kyl
Lancaster
Laughlin
Leach (IA)
Leath (TX)
Lent
Lewis (CA)
Lightfoot
Lipinski
Livingston
Lloyd
Lukens, Donald
Madigan
Marlenee
Martin (NY)
Mazzoli
McCandless
McCurdy
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Montgomery
Moorhead
Morrison (WA)
Murphy
Myers
Neal (NC)
Olin
Oxley
Packard
Parker
Parris
Pashayan
Patterson
Paxon
Payne (VA)
Penny
Petri
Pickett
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ritter
Roberts
Rogers
Rohrabacher
Roukema
Saxton
Schaefer
Sensenbrenner
Shumway
Shuster
Skeen
Skelton
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stallings
Stangeland
Stenholm
Stump
Sundquist
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Weber
Williams
Wolf
Young (AK)

NOT VOTING—11

Coughlin
Crockett
Ford (MI)
Hall (OH)
Hayes (LA)
Lowery (CA)
Luken, Thomas
Nielson
Robinson
Smith (NE)
Wylie

□ 1408

Messrs. GRANDY, GOODLING, HANSEN, and KASICH changed their vote from "aye" to "no."

Mr. JENKINS and Mr. ANDREWS changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

LEGISLATIVE PROGRAM

Mr. MICHEL. Mr. Chairman, I ask for this 1-minute in order that I might, in turn, yield to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT] to enlighten the membership on what they ought to be expecting in the course of the afternoon and evening.

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Missouri [Mr. GEPHARDT], my friend.

Mr. GEPHARDT. Mr. Chairman, I thank the gentleman from Illinois [Mr. MICHEL].

Our schedule for the rest of the day is to move to completion of the crime bill. We think it has an hour or two at the most left for consideration to completion. We are planning to bring a continuing appropriation bill to the floor sometime either during the consideration of the crime bill, or right after it. It will then be brought for consideration. If it is completed and passed, it will include a debt limit extension as well, and then it will be sent over to the Senate.

□ 1410

We then would ask for recess authority to await the Senate's moving the continuing back if we need to take further action on it so we can get it to the President's desk before midnight. So there would not be a lot of votes after the completion of the continuing appropriation and the crime bill. But there could be a vote later in the evening if we get into a disagreement over the continuing appropriation and/or the debt limit. I do not believe there will be other business or other votes today other than what I described.

On tomorrow, we will be back in session. We will be trying to bring about a resolution of the budget problem we have. We will try to decide how to deal with that further tomorrow, and there could be votes on that. There could be Republican conferences and Democratic caucuses later this afternoon on that, or maybe tomorrow. We do not see a lot of votes beyond that issue. We are not going to schedule a lot of votes tomorrow other than those dealing with the budget issue.

Members could expect that we might have to be here through the weekend. We do not know the answer to that yet. We ought to have a definitive answer for the Members tomorrow, once we see whether or not the budget issue has been resolved.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield to me?

Mr. MICHEL. Yes, I am happy to yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, I do not think I understand exactly what the scenario is, and I am wondering if the gentleman would respond. It has just been announced on television at least that the President has said he would not sign a continuing resolution, if sent to him. The gentleman has indicated that we would pass one here, and then it would go to the Senate and then to the White House for signature. There have been numerous rumors circulating that there were active meetings to resolve the differences, and so forth.

I wonder if the gentleman could enlighten us as to whether or not there is an agreement? Has the President agreed or not agreed, or is it likely that he would sign a continuing resolution if it should be sent to the White House, if we should pass one?

Mr. GEPHARDT. Mr. Chairman, we do not know definitively whether the President will sign it or not, but the Speaker believes and I believe and our leadership believes that it is essential and important for the Congress to try to send a continuing appropriation to the President. It then would be his decision whether to veto it or simply to hold it for a while and sign it at a later time.

Mr. DICKINSON. Whatever goes to the White House from the Congress, would it contain a continuing resolution, a debt ceiling extension, and a waiver of Gramm-Rudman, all three?

Mr. GEPHARDT. It may. It would certainly contain a continuing.

Mr. DICKINSON. Well, what are we working on?

Mr. GEPHARDT. It would contain a continuing, it would contain a debt ceiling increase, and it may or may not deal with the issue of sequestration. I cannot tell the gentleman yet what the bill will look like coming out of the Appropriations Committee and what if any amendments would be allowed on it today.

Mr. DICKINSON. Mr. Chairman, I do not mean to try to belabor the point, but the gentleman has not really clarified things. We have no agreement among our own leadership, for instance, as to what we expect to come out of Appropriations, and there is certainly no agreement with the Senate, the other body. There certainly is no agreement, from what the gentleman says, with the President. So we do not know what is coming out, and we do not know if a waiver would be included in what goes to the White House, and we do not know whether he would sign it or not.

So really we do not know; is that what you are saying?

Mr. GEPHARDT. Mr. Chairman, if the gentleman will yield further, we have been suffering from a lack of agreement here for some hours now, and I would suspect we are going to be having these problems as we go along. But we are just going to have to be patient and deal with the steps that need to be taken as they come along. I know this is a difficult period, but it is where we are, and as a congressional body we have got to just hang in, be patient, and try to deal with each step as we go along.

Mr. MICHEL. And I might say, Mr. Chairman, that we are obviously not spinning our wheels here today. We are doing something very productive in dealing with the legislation that is currently on the floor. Conceivably, by the time it is concluded or even before it is concluded, we will have the kind of definitive action outlined for the distinguished gentleman from Alabama and for other Members.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I am happy to yield to one of the Members from our side on the Rules Committee, the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I appreciate the leader's yielding.

Mr. Chairman, let me just enlighten the body here on this: Less than 45 minutes ago, members of the Rules Committee received a phone call from the White House saying that those proposals before the Rules Committee—and we are due to go back into session in exactly 15 minutes—that those proposals from the Rules Committee would be vetoed. Those proposals are a 7-day CR that totally waives Gramm-Rudman and a 14-day debt limit that totally waives Gramm-Rudman. We were told that he will veto that.

That means we are going to go through another dog-and-pony show here through this entire weekend, if that is the rule that is provided.

I was prepared to offer a motion to make in order a rule which would give us a 7-day CR that did not exempt Gramm-Rudman, that puts sequestration into effect as of midnight tonight. That would allow the Government to continue under these conditions. That was not acceptable either.

There is another proposal that I proposed, one which does provide for a 7-day CR to be put into effect by this body this afternoon which would put sequestration into effect tonight but exempt certain items such as the VA hospitals back in our districts. They would continue to operate 100 percent, but the VA employees in Washington would be laid off subject to sequestration. The air traffic controllers back in our hometowns would continue to operate at 100 percent, but the DOT employees here in Washington would be subject to sequestration. The meat inspectors back in our districts would be operating at full scale, but here the Agriculture employees would be laid off here in Washington.

This is what we need to do. I believe that the President of the United States, given this alternative, which is sequestration with these exemptions for the necessary functions of Government, would sign such a thing, and I think we ought to consider it.

Mr. MICHEL. Mr. Chairman, let me make this inquiry of the distinguished majority leader: It may be impossible to answer at this juncture, but assuming that we will be here this weekend or at least tomorrow, what time would the gentleman be thinking of convening on Saturday?

Mr. GEPHARDT. Mr. Chairman, I would say to the gentleman off the top of my head that we would meet at noon, but we would obviously be discussing with the gentleman as we talk about the budget issue exactly when we should meet and what we should meet about. So it may not be that time. I would say at a guess that would be the best time to look at.

Mr. MICHEL. Mr. Chairman, I thank the distinguished gentleman from Missouri.

PERSONAL EXPLANATION

Mr. EDWARDS of California. Mr. Chairman, in the remarks that I made on the Sensenbrenner amendment, I inadvertently stated that the attorney general of Wisconsin supported the Racial Justice Act. That is incorrect. We did have support from five attorneys general, including the attorney general of Minnesota.

The CHAIRMAN. The correction is noted for the Record.

Mr. EDWARDS of California. I thank the Chair.

The CHAIRMAN. It is now in order to consider amendment No. 35 printed in part 2 of House Report No. 101-796.

AMENDMENT OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Oxley: Add at the end of title XXII the following:

SEC. . VICTIMS' RIGHTS.

(a) Best Efforts to Accord Rights.—Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that victims of crime are accorded the rights described in subsection (b).

(b) Rights of Crime Victims.—A crime victim has the following rights:

(1) The right to be treated with fairness and with respect for the victim's dignity and privacy.

(2) The right to be reasonably protected from the accused offender.

(3) The right to be notified of court proceedings.

(4) The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.

(5) The right to confer with attorney for the Government in the case.

(6) The right to restitution.

(7) The right to information about the conviction, sentencing, imprisonment, and release of the offender.

(c) No Cause of Action or Defense.—This section does not create a cause of action or defense in favor of any person arising out of the failure to accord to a victim the rights enumerated in subsection (b).

SEC. 3. SERVICES TO VICTIMS.

(a) Designation of Responsible Officials.—The head of each department and agency of the United States engaged in the detection, investigation, or prosecution of crime shall designate by names and office titles the persons who will be responsible for identifying the victims of crime and performing the services described in subsection (c) at each stage of a criminal case.

(b) Identification of Victims.—At the earliest opportunity after the detection of a crime at which it may be done without interfering with an investigation, a responsible official shall—

(1) identify the victim or victims of a crime;

(2) inform the victims of their right to receive, on request, the services described in subsection (c); and

(3) inform each victim of the name, title, and business address and telephone number of the responsible official to whom the victim should address a request for each of the services described in subsection (c).

(c) Description of Services.—(1) A responsible official shall—

(A) inform a victim of the place where the victim may receive emergency medical and social services;

(B) inform a victim of any restitution or other relief to which the victim may be entitled under this or any other law and manner in which such relief may be obtained;

(C) inform a victim of public and private programs that are available to provide counseling, treatment, and other support to the victim; and

(D) assist a victim in contacting the persons who are responsible for providing the services and relief described in subparagraphs (A), (B), and (C).

(2) A responsible official shall arrange for a victim to receive reasonable protection from a suspected offender and persons acting in concert with or at the behest of the suspected offender.

(3) During the investigation and prosecution of a crime, a responsible official shall provide a victim the earliest possible notice of—

(A) the status of the investigation of the crime, to the extent that it will not interfere with the investigation;

(B) the arrest of a suspected offender;

(C) the filing of charges against a suspected offender;

(D) the scheduling of each court proceeding that the victim is either required to attend or, under section 2(b)(4), is entitled to attend;

(E) the release or detention status of an offender or suspected offender;

(F) the acceptance of a plea of guilty or nolo contendere or the rendering of a verdict after trial; and

(G) the sentence imposed on an offender, including the date on which the offender will be eligible for release.

(4) During court proceedings, a responsible official shall ensure that a victim is provided a waiting area removed from and out of the sight and hearing of the defendant and defense witnesses.

(5) After trial, a responsible official shall provide a victim the earliest possible notice of—

(A) the escape, work release, furlough, or any other form of release from custody of the offender; and

(B) the death of the offender, if the offender dies while in custody.

(6) At all times, a responsible official shall ensure that any property of a victim that is being held for evidentiary purposes be maintained in good condition and returned to the victim as soon as it is no longer needed for evidentiary purposes.

(7) A responsible official shall provide the victim with general information regarding the corrections process, including information about work release, furlough, probation, and eligibility for each.

(d) No Cause of Action or Defense.—This section does not create a cause of action or defense in favor of any person arising out of the failure of a responsible person to provide information as required by subsection (b) or (c).

(e) Definitions.—For the purposes of this section—

(1) the term "responsible official" means a person designated pursuant to subsection (a) to perform the functions of a responsible official under that section; and

(2) the term "victim" means a person that has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime, including—

(A) in the case of a victim that is an institutional entity, an authorized representative of the entity; and

(B) in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, one of the following (in order of preference):

(i) a spouse;

(ii) a legal guardian;

(iii) a parent;

(iv) a child;

(v) a sibling;

(vi) another family member; or

(vii) another person designated by the court.

SEC. . AMENDMENT OF RESTITUTION PROVISIONS.

(a) Order of Restitution.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a) by—

(A) striking "(a) The court" and inserting "(a)(1) The court";

(B) striking "may order" and inserting "shall order"; and

(C) adding at the end thereof the following new paragraph:

"(2) In addition to ordering restitution of the victim of the offense of which a defendant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(5) by striking subsections (d), (e), (f), (g), and (h); and

(6) by adding at the end thereof the following new subsections:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restitution order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to the clerk of the court for accounting and payment by the clerk in accordance with this subsection;

"(2) the clerk of the court shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(C) disburse money received from an offender so that each of the following obligations is paid in full in the following sequence:

"(i) a penalty assessment under section 3013 of title 18, United States Code;

"(ii) restitution of all victims; and

"(iii) all other fines, penalties, costs, and other payments required under the sentence; and

"(3) the offender shall advise the clerk of the court of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter (B) of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) Procedure for Issuing Order of Restitution.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end thereof the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

SEC. . AMENDMENT OF BANKRUPTCY CODE.

(a) Amendment of Chapter 5.—Sectio 523(a) of title 11, United States Code, i amended—

(1) by striking "or" at the end of para graph (9);

(2) by striking the period at the end c paragraph (10) and inserting "; or"; and

(3) by adding the following new paragrap at the end thereof:

"(11) to the extent that such debt arise from a proceeding brought by a governmen tal unit to recover a civil or criminal restitu tion, or to the extent that such debt arise from an agreed judgment or other agre ment by the debtor to pay money or tran fer property in settlement of such an actio by a governmental unit.".

(b) Amendment of Chapter 13.—Sectio 1322(a) of title 11, United States Code, amended—

(1) by striking "and" at the end of par graph (2);

(2) by striking the period at the end paragraph (3) and inserting "; and"; and

(3) by adding at the end thereof the fo lowing new paragraph:

"(4) provide for the full payment, in d ferred cash payments, of all claims that a nondischargeable under section 523(a)(11).

SEC. . SENSE OF CONGRESS WITH RESPECT T VICTIMS OF CRIME.

It is the sense of Congress that the Stat should make every effort to adopt the fo lowing goals of the Victims of Crime Bill Rights:

(1) Victims of crime should be treat with compassion, respect and digni throughout the criminal justice process.

(2) Victims of crime should be reasonab protected from the accused throughout th criminal justice process.

(3) Victims of crime should have a statut rily designated advisory role in decisions i volving prosecutorial discretion, such as th decision to plea-bargain.

(4) Victims of crime deserve comprehe sive reform of the exclusionary rule, the a plication of which often results in the r lease of criminals on technicalities, rath than for substantive reasons.

(5) Victims of crime should have the rig to a reasonable assurance that the accus will be tried in an expeditious manner.

(6) A victim of crime should have th right to be present at all proceedings relat to the offense against him, unless the victi is to testify and the court determines th the victim's testimony would be material prejudiced by hearing other testimony the trial.

(7) Victims of crime should have the rig to information about the conviction, se tencing and imprisonment of the pers who committed the crime against them.

(8) Victims of crime should be compens ed for the damage resulting from the cri to the fullest extent possible by the pers convicted of the crime.

(9) Victims of crime should have a statut rily designated advisory role in deciding t early release status of the person convict of the crime against them.

(10) A victim of crime should never forced to endure again the emotional a physical consequences of the original cri

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MODIFICATION OF AMENDMENT OFFERED BY M OXLEY

Mr. OXLEY. Mr. Chairman, I a unanimous consent that my amen ment be modified in the form that is at the desk.

The text of the amendment, as modified, is as follows:

Add at the end of title XXII the following:

SEC. . VICTIMS' RIGHTS.

(a) Best Efforts to Accord Rights.—Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that victims of crime are accorded the rights described in subsection (b).

(b) Rights of Crime Victims.—A crime victim has the following rights:

(1) The right to be treated with fairness and with respect for the victim's dignity and privacy.

(2) The right to be reasonably protected from the accused offender.

(3) The right to be notified of court proceedings.

(4) The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.

(5) The right to confer with attorney for the Government in the case.

(6) The right to restitution.

(7) The right to information about the conviction, sentencing, imprisonment, and release of the offender.

(c) No Cause of Action or Defense.—This section does not create a cause of action or defense in favor of any person arising out of the failure to accord to a victim the rights enumerated in subsection (b).

SEC. 3. SERVICES TO VICTIMS.

(a) Designation of Responsible Officials.—The head of each department and agency of the United States engaged in the detection, investigation, or prosecution of crime shall designate by names and office titles the persons who will be responsible for identifying the victims of crime and performing the services described in subsection (c) at each stage of a criminal case.

(b) Identification of Victims.—At the earliest opportunity after the detection of a crime at which it may be done without interfering with an investigation, a responsible official shall—

(1) identify the victim or victims of a crime;

(2) inform the victims of their right to receive, on request, the services described in subsection (c); and

(3) inform each victim of the name, title, and business address and telephone number of the responsible official to whom the victim should address a request for each of the services described in subsection (c).

(c) Description of Services.—(1) A responsible official shall—

(A) inform a victim of the place where the victim may receive emergency medical and social services;

(B) inform a victim of any restitution or other relief to which the victim may be entitled under this or any other law and manner in which such relief may be obtained;

(C) inform a victim of public and private programs that are available to provide counseling, treatment, and other support to the victim; and

(D) assist a victim in contacting the persons who are responsible for providing the services and relief described in subparagraphs (A), (B), and (C).

(2) A responsible official shall arrange for a victim to receive reasonable protection from a suspected offender and persons acting in concert with or at the behest of the suspected offender.

(3) During the investigation and prosecution of a crime, a responsible official shall provide a victim the earliest possible notice of—

(A) the status of the investigation of the crime, to the extent that it will not interfere with the investigation;

(B) the arrest of a suspected offender;

(C) the filing of charges against a suspected offender;

(D) the scheduling of each court proceeding that the victim is either required to attend or, under section 2(b)(4), is entitled to attend;

(E) the release or detention status of an offender or suspected offender;

(F) the acceptance of a plea of guilty or nolo contendere or the rendering of a verdict after trial; and

(G) the sentence imposed on an offender, including the date on which the offender will be eligible for release.

(4) During court proceedings, a responsible official shall ensure that a victim is provided a waiting area removed from and out of the sight and hearing of the defendant and defense witnesses.

(5) After trial, a responsible official shall provide a victim the earliest possible notice of—

(A) the escape, work release, furlough, or any other form of release from custody of the offender; and

(B) the death of the offender, if the offender dies while in custody.

(6) At all times, a responsible official shall ensure that any property of a victim that is being held for evidentiary purposes be maintained in good condition and returned to the victim as soon as it is no longer needed for evidentiary purposes.

(7) A responsible official shall provide the victim with general information regarding the corrections process, including information about work release, furlough, probation, and eligibility for each.

(d) No Cause of Action or Defense.—This section does not create a cause of action or defense in favor of any person arising out of the failure of a responsible person to provide information as required by subsection (b) or (c).

(e) Definitions.—For the purposes of this section—

(1) the term "responsible official" means a person designated pursuant to subsection (a) to perform the functions of a responsible official under that section; and

(2) the term "victim" means a person that has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime, including—

(A) in the case of a victim that is an institutional entity, an authorized representative of the entity; and

(B) in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, one of the following (in order of preference):

(i) a spouse;

(ii) a legal guardian;

(iii) a parent;

(iv) a child;

(v) a sibling;

(vi) another family member; or

(vii) another person designated by the court.

SEC. . AMENDMENT OF RESTITUTION PROVISIONS.

(a) Order of Restitution.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a) by—

(A) striking "(a) The court" and inserting "(a)(1) The court";

(B) striking "may order" and inserting "shall order"; and

(C) adding at the end thereof the following new paragraph:

"(2) In addition to ordering restitution of the victim of the offense of which a defendant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(5) by striking subsections (d), (e), (f), (g), and (h); and

(6) by adding at the end thereof the following new subsections:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restitution order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to the clerk of the court for accounting and payment by the clerk in accordance with this subsection;

"(2) the clerk of the court shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(C) disburse money received from an offender so that each of the following obligations is paid in full in the following sequence:

"(i) a penalty assessment under section 3013 of title 18, United States Code;

"(ii) restitution of all victims; and

"(iii) all other fines, penalties, costs, and other payments required under the sentence; and

"(3) the offender shall advise the clerk of the court of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter (B) of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) Procedure for Issuing Order of Restitution.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end thereof the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

SEC. . SENSE OF CONGRESS WITH RESPECT TO VICTIMS OF CRIME.

It is the sense of Congress that the States should make every effort to adopt the following goals of the Victims of Crime Bill of Rights:

(1) Victims of crime should be treated with compassion, respect and dignity throughout the criminal justice process.

(2) Victims of crime should be reasonably protected from the accused throughout the criminal justice process.

(3) Victims of crime should have a statutorily designated advisory role in decisions involving prosecutorial discretion, such as the decision to plea-bargain.

(4) Victims of crime deserve comprehensive reform of the exclusionary rule, the application of which often results in the release of criminals on technicalities, rather than for substantive reasons.

(5) Victims of crime should have the right to a reasonable assurance that the accused will be tried in an expeditious manner.

(6) A victim of crime should have the right to be present at all proceedings related to the offense against him, unless the victim is to testify and the court determines that the victim's testimony would be materially prejudiced by hearing other testimony at the trial.

(7) Victims of crime should have the righ
to information about the conviction, sen
tencing and imprisonment of the perso
who committed the crime against them.

(8) Victims of crime should be compensat
ed for the damage resulting from the crim
to the fullest extent possible by the perso
convicted of the crime.

(9) Victims of crime should have a statuto
rily designated advisory role in deciding th
early release status of the person convicte
of the crime against them.

(10) A victim of crime should never b
forced to endure again the emotional an
physical consequences of the original crime

The CHAIRMAN. Is there objectio
to the request of the gentleman from
Ohio [Mr. Oxley] that the amend
ment be modified?

There was no objection.

The CHAIRMAN. Under the rule
the gentleman from Ohio [Mr. Oxley
will be recognized for 7½ minutes an
a Member opposed will be recognize
for 7½ minutes.

The Chair recognizes the gentlema
from Ohio [Mr. Oxley].

Mr. OXLEY. Mr. Chairman, I yiel
myself such time as I may consume.

Mr. Chairman, the victims' right
and restitution amendment will estab
lish a series of victim rights and re
quire criminals to pay restitution t
compensate their victims for thei
losses.

This amendment calls on Federa
law enforcement agencies to treat vic
tims with respect and dignity, and t
keep them fully informed as to th
progress of the ensuing court procee
ings against their attackers. Under ou
amendment, a victim of crime has th
right: To be treated with fairness an
respect; to be reasonably protecte
from the accused; to be notified
court proceedings against the accuse
to be present at court proceeding
unless their future testimony would b
effected; to confer with prosecutor
and to receive information about th
conviction, incarceration, and releas
of the attacker.

Also, this amendment would ensur
that Federal agencies provide variou
services to victims of crime. For in
stance, this amendment would requir
Federal agencies to identify victim
and inform them of their rights; an
that victims be afforded the right to
waiting area out of sight and hearin
of the defendant.

Why are victims rights importan
Because victims should not have
suffer more pain from our justic
system. Let me give you an example:
victim was literally a prisoner in h
own home for fear of running into th
man who raped and attempted to ki
her. Finally, in 1986, the assailant w
convicted and sentenced to jail, but f
3 years, this nurse was revictimized b
the justice system.

If this amendment had been law
that time, this nurse would not hav
suffered more pain and agony.

In addition, this amendment would require Federal courts to order a criminal to pay restitution to the victim in the full amount of the victim's losses. This would include losses relating to property, bodily injury, death, and emotional injury. Restitution orders could not be discharged as a result of bankruptcy under this amendment.

To illustrate why this restitution language is needed, let me read a passage from the national magazine of the Mothers Against Drunk Driving. Regarding a case in Texas, MADD pointed out that:

> In criminal court, the criminal confessed to the sexual abuse of a young female child. He agree to pay $25,000 in damages in order to obtain a probated prison term. Off the "hook" in the criminal case, he raced to the chapter 13 bankruptcy court. There, he was allowed to pay only a small fraction of the debt owed to the minor child, without interest.

There is no doubt about it, victims of crime, such as the young girl in this case, are effectively revictimized when their attackers are relieved of criminal-related debts. Bankruptcy should not be a haven for criminals who wish to avoid payment to their victims.

Finally, this amendment contains a sense of Congress provision that the States should make every effort to adopt a model Victims of Crime Bill of Rights. While real progress has been made on the State level for victims' rights, greater uniformity is needed to combat ignorance of existing laws. If every State adopts the Victims of Crime Bill of Rights contained in our amendment, such uniformity, as well as real progress for victims, will result.

The amendment is supported by the Department of Justice and has been endorsed by the National Victim Center, the National Coalition Against Sexual Assault, Justice Fellowship, and the National Organization for Victim Assistance.

The amendment is provictim and anticriminal. I urge my colleagues to support it.

The CHAIRMAN. Does any Member wish to oppose this amendment?

If not, the gentleman from Ohio [Mr. OXLEY] controls the time.

Mr. OXLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, no Member can argue with the principle behind this amendment. Obviously, the victims of crime should be treated, in the words of the bill, with "compassion, dignity, and respect throughout the criminal justice process." The gentleman from Ohio is to be commended in terms of raising the visibility of this issue. While there were concerns with the provisions of the amendment dealing with the bankruptcy code, the gentleman has graciously agreed to remove those provisions. I, therefore, support the amendment.

Mr. OXLEY. Mr. Chairman, I would like to thank the gentleman from Texas [Mr. BROOKS] for his work in this matter. We appreciate his support.

Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. DEWINE], who has been a real force in victims' rights and has worked very hard on their behalf.

Mr. DEWINE. Mr. Chairman, I would like to congratulate the gentleman from Ohio [Mr. OXLEY] for inserting what really is a victim's bill of rights into this legislation. I would hope that it would serve as a model not only in the Federal courts, but in the State system, those States that have not already adopted a victim's bill of rights. I hope that the inclusion in this bill would encourage them to do this.

Victims for too long have been the forgotten people in our criminal justice system. The State is represented by a prosecutor or district attorney. The defendant, of course, has his counsel. But who represents the victim?

What this bill of rights says is that we are going to put in statutory language all the rights that the victim has, so that the victim truly does have certain rights, such as knowledge of the proceedings, to know what is going on. How important that is. How many times have victims been surprised, shown up at court, to find a case has been continued, or, worse yet, showed up in court to find for some reason the case has been dismissed, or have the case delayed day after day after day and they are never notified.

Mr. Chairman, this assures that they will be notified of this. It also assures, even more importantly, that they will be notified when the criminal, when the rapist, when the person who has committed an offense against them, is going to be released from prison. Should they not have a right to know that? This amendment assures that.

Mr. Chairman, I rise to congratulate the gentleman from Ohio [Mr. OXLEY] on this bill. For too long in our criminal justice system we worried always about the defendants. We house these people, we clothe them, we provide them with lawyers at trial and lawyers on appeal. You and I pay for it. Taxpayers pay for it. That is fine. But it is time that the victims had some rights.

So I congratulate the gentleman from Ohio [Mr. OXLEY], the author of this amendment, for this fine amendment.

Mr. OXLEY. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of this amendment. The people of the State of California just last June adopted by initiative process something very similar to this for California. One of the most compelling reasons given for doing so was that not only is it right and just and fair to treat victms the way that the gentleman from Ohio [Mr. OXLEY] proposes in his amendment, but it also assists in the criminal justice system itself.

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If victims know they are going to be treated fairly, are going to be kept informed, that they are not going to be hassled, that the trial is not going to be delayed and delayed and delayed without notice to them, they are certainly more apt to cooperate, thus ensuring proper trials and hopefully conviction of those who attack them. So I think it is a very good amendment, and I hope my colleagues will support it.

Mr. MICHEL. Mr. Chairman, I rise today to urge my colleagues to vote for this amendment, the Victims' Rights and Restitution Act.

This amendment will establish a series of victims' rights on the Federal level, and require criminals to pay restitution to compensate their victims for their losses. It will also contain a sense-of-Congress providing that the States should adopt a model victims of crime bill of rights.

Under this amendment Federal courts are required to order a criminal convicted of an offense to pay restitution to the victim in the full amount of the victim's losses.

This amendment will also require that Federal law enforcement agencies treat victims with respect and dignity, keep them fully informed of the court proceedings against their attackers, and provide them with various services such as information on counseling services, medical care, and police protection.

The bill of rights has 10 provisions that ensure that Americans can live free. The victims of crime bill of rights, to be adopted by the States, also has 10 provisions that will guarantee Americans the security necessary for freedom.

Among these provisions are guarantees that victims of crime will be treated with compassion, respect, and dignity throughout the judicial process.

That victims of crime will be protected from the accused throughout the criminal justice process.

That victims of crime have the right to information about the conviction, sentencing, and imprisonment of the criminal.

And that victims of crime should be compensated for the damage resulting from the crime.

There are many reasons to vote for this amendment.

One is that victims of crime make up the largest constituency in this country. Eighty-three percent of Americans will be victimized by crime during their lifetime, and they, or should I say we, need to know that the criminal justice system reflects our desires.

Another is that over 5,000 grass roots organizations have been working hard to get significant victims' legislation passed. This

amendment will be a significant step in the right direction.

Finally, this is a nonpartisan amendment that should be supported by both sides of the aisle. Victims of crime are not all Democrats, they're not all Republicans, not all liberals or conservatives. Crime affects everybody in this country, and this victims rights and restitution amendment will benefit everybody in the same fashion.

Victims of crime need the criminal justice system to treat them with dignity and respect, to advise them of their rights, and to support them in any way possible.

I urge my colleagues to remember the victim in this comprehensive crime bill, and adopt this amendment.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Ohio [Mr. OXLEY].

The amendment, as modified, was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 36 printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. CLEMENT

Mr. CLEMENT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CLEMENT: Add at the end of title XXII the following:

SEC. . INCREASED PENALTIES FOR DISTRIBUTION OF CONTROLLED SUBSTANCES AT TRUCK STOPS AND REST AREAS.

(a) IN GENERAL.—Part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"SEC. 409. (a) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or safety rest area is (except as provided in subsection (b)) punishable—

"(1) by a term of imprisonment, or fine, or both, up to twice that authorized by section 401(b) of this title; and

"(2) at least twice any term of supervised release authorized by section 401(b) for a first offense.

Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year.

"(b) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is punishable—

"(1) by the greater of (A) a term of imprisonment of not less than three years and not more than life imprisonment or (B) a term of imprisonment of up to three times that authorized by section 401(b) of this title for a first offense, or a fine up to three times that authorized by section 401(b) of this title for a first offense, or both; and

"(2) at least three times any term of supervised release authorized by section 401(b) of this title for a first offense.

"(c) In the case of any sentence imposed under subsection (b), imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under subsection (b) shall not be eligible for parole under chapter 311 of title 18 of the United States Code until the individual has served the minimum sentence required by such subsection.

"(d) For purposes of this section—

"(1) the term 'safety rest area' has the meaning given that term in part 752 of title 23, Code of Federal Regulations, as in effect on the date of enactment of this section; and

"(2) the term 'truck stop' means any facility (including any parking lot appurtenant thereto) which operates in commerce as defined in section 12019(3) of the Commercial Motor Vehicle Safety Act of 1986 and which derives at least 1/3 of its annual revenues from the sale of fuel or service, or both, to commercial motor vehicles as defined in section 12019(6) of such Act.".

(b) CONFORMING AMENDMENT.—Section 401(b) of such Act (21 U.S.C. 841(b)) is amended by striking "or 405B" each place it appears and inserting "405B, or 409".

(c) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 408 the following new item:

"Sec. 409. Transportation safety offenses.".

SEC. . SENTENCING COMMISSION GUIDELINES.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 409 of the Controlled Substances Act, as added by section 3, shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(1) two levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(2) in no event less than level 26.

(b) IMPLEMENTATION OF INSTRUCTION.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (a) so as to achieve a comparable result.

(c) OFFENSES WHICH COULD BE SUBJECT TO MULTIPLE ENHANCEMENTS.—The guidelines referred to in subsection (a), as promulgated or amended under such subsection, shall provide that an offense that could be subject to multiple enhancements pursuant to such subsection is subject to not more than one such enhancement.

The CHAIRMAN. Under the rule, the gentleman from Tennessee [Mr. CLEMENT] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, I yield myself as much time as I might consume.

Mr. Chairman, drug use is an epidemic in virtually every sector of our society. The trucking industry is no exception. A survey conducted by the Regulatory Common Carrier Conference indicated that over one-third of all truck drivers have, on occasion, operated their vehicles under the influence of illegal narcotics. According to the Department of Transportation, 10 percent of all truckers, or approximately 800,000 truck drivers, use drugs.

The locations where it is easiest to distribute drugs to truck drivers are truck stop facilities and highway rest areas. These areas are locations where drivers frequently stop for fuel, vehicle service, relaxation, and rest. The National Association of Truck Stop operators estimates that drug use or distribution occurs at approximately 50 percent of truck stops.

My amendment would establish drug-free zones around truck stops and rest areas. Under the amendment, a first-time drug offense involving distribution would, for the first time, establish a minimum jail sentence of 1 year. The amendment doubles the maximum sentence for first-time offenses and triples the penalties for second offense sales occurring in the drug-free zone.

My amendment is supported by the National Association of Truck Stop Operators, the American Trucking Association, the National Private Truck Council, and others.

Mr. Chairman, I would like to close by saying that the vast majority of commercial truck drivers are honest, hard-working citizens who do not use drugs. But they do have the right to expect to work in an environment free from the scourge of drugs. High priority must be given to removing the temptation provided by ready accessibility to illegal narcotics for those drivers, both commercial and private auto, who may be inclined to use illegal drugs. I urge my colleagues to support my amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, the amendment offered by the gentleman from Tennessee would revise current laws on the distribution of controlled substances by imposing substantially greater penalties for violations of such laws that occur in or within 1,000 feet of a truck stop or safety rest area. While I am included to support the apparent objective of this proposal—to enhance safety on our Nation's highways—I must point out that I am supporting the amendment with certain reservations.

First, I have serious doubts as to whether it is possible to precisely define just exactly what a truck stop or rest area is for the purposes of enforcing a criminal statute.

Second, the enactment and enforcement of laws governing illegal drugs has traditionally been a State and local government function. While this amendment would certainly not be the first time Congress has federalized drug law. I believe that if this trend continues it will soon become impossible to maintain any sort of logical and rational allocation of law enforcement functions and responsibilities among the three levels of government. In addition, we run the risk of enacting legislation that exceeds the enforcement capabilities of the Federal criminal justice system.

With these concerns in mind, I urge my colleagues to support this amendment.

Mr. CLEMENT. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. SLAUGHTER.]

Mr. SLAUGHTER of Virginia. Mr. Chairman, I rise in support of this amendment, and I commend my colleague for his work on the measure. I offered this same amendment in the Judiciary Committee, and it received unanimous support from my side of the isle.

The Department of Transportation says that 10 percent of the 8 billion truckers in the United States use drugs. That comes to a minimum of 800,000 truck drivers on drugs. While the vast majority of truckers are drug free, these statistics do not paint a very safe picture of our Nation's highways.

The trucking industry and law enforcement agencies across the country support the Drug Free Truck Stop Act, which would increase penalties for drug offenses at truck stops and rest areas. Simply put, this amendment will help reduce the flow of harmful, illegal substances to our schools and communities, and it will make our highways safer for everyone.

I urge my colleagues to support the amendment.

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in support of this amendment offered by my fine colleague on the Public Works and Transportation Committee, Mr. CLEMENT from Tennessee. This amendment will send a strong message to those who choose to engage in illegal drug activities at truck stops and rest areas, and thereby endanger all of the motoring public, that they will face stiff consequences for their actions.

Mr. Chairman, the Public Works and Transportation Committee works diligently to further the cause of highway safety in our country. I am proud to associate myself with Mr. CLEMENT'S amendment as it will serve as a valuable contribution to that cause. The inherent risks of using illegal substances while driving on our Nation's highways call for a strong solution. This amendment is that solution, by establishing and increasing maximum penalties for persons convicted of distributing or possessing drugs within 1,000 feet of truck stops or rest areas.

Mr. Chairman, I urge my colleagues to join with me and support this necessary measure.

The CHAIRMAN. Does any Member rise in opposition to the amendment?

If not, the question is on the amendment offered by the gentleman from Tennessee [Mr. CLEMENT].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 41 printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. ENGLISH

Mr. ENGLISH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ENGLISH:

At the end of the bill add the following:

TITLE XXIII—DRUG ENFORCEMENT ASSISTANCE

SEC. 2301. RURAL DRUG ENFORCEMENT.

(a) SHORT TITLE.—This section may be cited as the "Rural Drug Enforcement Act".

(b) LEADERSHIP ON RURAL DRUG POLICY.—

(1) DESIGNATION OF OFFICIAL.—The Director of National Drug Control Policy (hereafter in this subsection referred to as the "Director") shall designate an official in the Office of National Drug Control Policy to act as the Rural Drug Policy Coordinator.

(2) DUTIES OF OFFICIAL.—The Rural Drug Policy Coordinator shall—

(A) examine the special needs of rural areas in drug interdiction;

(B) recommend to the Director policy options for the enhancement of drug interdiction in rural areas;

(C) coordinate the drug interdiction efforts of Federal agencies (including the Drug Enforcement Administration, Bureau of Land Management, the Bureau of Indian Affairs, and the National Forest Service) in rural areas; and

(D) make available to law enforcement agencies in rural areas materials pertinent to drug interdiction in rural areas.

(c) RURAL DRUG ENFORCEMENT ASSISTANCE.—

(1) IN GENERAL.—(A) Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(A) by redesignating part N as part O;

(B) by redesignating section 1401 as section 1501; and

(C) by inserting after part M the following:

"PART N—RURAL DRUG ENFORCEMENT ASSISTANCE

"RURAL DRUG ENFORCEMENT ASSISTANCE

"SEC. 1401. (a) Of the total amount appropriated for this section in any fiscal year:

"(1) 50 percent shall be allocated to and shared equally among rural States as described in subsection (b); and

"(2) 50 percent shall be allocated to the remaining States for use in nonmetropolitan areas within those States, as follows:

"(A) $100,000 to each nonrural State; and

"(B) of the total funds remaining after the allocation in subparagraph (A), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described as the population of such State bears to the population of all States.

"(b) For the purpose of this section, the term 'rural State' means a State that has a population density of fifty-two or fewer persons per square mile or a State in which the largest county has fewer than one hundred and fifty thousand people.

"OTHER REQUIREMENTS

"SEC. 1402. Subparts 1 and 3 of part E of this title shall apply with respect to funds appropriated to carry out this part, in the same manner as such subparts apply to funds appropriated to carry out part E, except that—

"(1) section 506(a) of this title shall not apply with respect to this part; and

"(2) in addition to satisfying the requirements of section 503(a), each application for a grant under this part shall include in its application a statement specifying how such grant will be coordinated with a grant received under section 506 of this title for the same fiscal year.".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by adding at the end the following:

"(7) There are authorized to be appropriated $20,000,000 for fiscal year 1991, and such sums as may be necessary for fiscal years 1992 and 1993, to carry out part N.".

(3) TECHNICAL AMENDMENTS.—(A) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782(b)) is amended by striking "and M" and inserting "M, and N".

(B) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by striking "or M" and inserting ", M, or N".

(C) The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(A) by striking the items relating to part M and sections 1301 through 1312, as added by section 1552(b)(5) of the State and Local Law Enforcement Assistance Act of 1986 (Public Law 99-570; 100 Stat. 3207-46), and

(B) by striking the matter relating to part N and inserting the following:

"PART N—RURAL DRUG ENFORCEMENT ASSISTANCE

"Sec. 1401. Rural drug enforcement assistance.

"Sec. 1402. Other Requirements.

"PART O—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1501. Continuation or rules, authorities, and proceedings.".

(d) FEDERAL DRUG ENFORCEMENT ASSISTANCE.—

(1) GENERAL STATE ASSISTANCE.—In order to provide adequate Federal drug enforcement assistance to each of the several States, and to encourage Federal, State and local drug enforcement cooperation, the Attorney General shall assign not less than 10 Drug Enforcement Administration special agents to each of the several States.

(2) RURAL STATES.—In order to provide adequate Federal drug enforcement assistance to rural States for any rural State that is currently assigned less than 10 Drug Enforcement Administration special agents, as of the date of enactment of this Act, the Attorney General shall assign not less than 4 additional Drug Enforcement Administration special agents to each rural State as defined in section 509(c) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as added by subsection (c)(1).

(e) TRAINING FOR RURAL LAW ENFORCEMENT OFFICERS.—

(1) IN GENERAL.—The Secretary of the Treasury, acting through the Federal Law Enforcement Training Center, shall develop

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a drug training program for law enforcement officers in rural areas.

(2) TRAINING.—Not later than September 30, 1991, the Secretary of the Treasury shall double the number of law enforcement officers from rural jurisdictions in each of the several States that receive drug enforcement training.

(3) AUTHORIZATION.—There is authorized to be appropriated $1,000,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 and 1993 to carry out the purposes of this subsection.

SEC. 2302. SITUATIONAL AWARENESS TECHNOLOGY.

Of funds authorized to be appropriated for Research, Development, Test, and Evaluation, Air Force, for the fiscal year ending September 30, 1991, $12,000,000 shall be available for continued development of situational awareness technology for military and civilian drug interdiction applications. Such funds shall remain available until expended.

SEC. 2303. INTERNATIONAL DRUG INTERDICTION TRAINING SIMULATOR CENTER.

(a) ESTABLISHMENT OF CENTER.—There are authorized to be appropriated $28,000,000, to remain available until expended, for the establishment by the Secretary of the Treasury of an International Drug Interdiction Training Simulator Center at the Federal Law Enforcement Training Center facility at Marana, Arizona.

(b) PURPOSE OF CENTER.—The Center shall be used to provide to law enforcement personnel of the United States, Mexico, the Andean nations, other Latin American and Caribbean nations, and other nations, training in establishing and carrying out joint or unilateral drug interdiction operations.

(c) COORDINATION.—In order to maximize the capabilities and utilization of the Center, the Center shall be established in coordination with the National Guard, other relevant active and reserve components of the Department of Defense, and Federal, State, and local law enforcement agencies.

SEC. 2304. OFFSETTING SAVINGS IN GOVERNMENT TRAVEL TO COVER THE COST OF THIS TITLE.

To offset the additional outlays resulting from the increased budget authority provided for the programs, projects, and activities in this title for the fiscal year ending September 30, 1991, budget authority made available for fiscal year 1991 for the objection classifications "travel and transportation of persons" and "travel and transportation of things" for all agencies, commissions, boards, offices, departments, and panels of the Federal Government shall be reduced by such amounts as to cover such increased appropriations authorized in this title. Official travel and transportation directly related to the law enforcement missions of agencies, offices, and departments of the Federal Government, and emergency national security programs of the Department of Defense and other national security agencies shall not be affected by such reductions in travel and transportation of things and persons mandated by this section.

The CHAIRMAN. Under the rule, the gentleman from Oklahoma [Mr. ENGLISH] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, there is no question over the past few years that the focus as far as the war on drugs is concerned has been primarily, through the news media, at least, in our urban centers. This has led to an emphasis of fighting the war on drugs in urban areas primarily to the detriment of many of our rural areas.

Certainly those who are involved in the drug trade have not ignored the rural area of this Nation. In fact, they have found that if they should move from urban areas into rural areas that in many cases law enforcement cannot in any way compete or challenge these people who are involved in this vicious trade.

What we are attempting to do with this legislation, Mr. Chairman, is to focus attention upon the needs of rural areas as far as the war on drugs is concerned. This particular proposal establishes a rural drug policy coordinator in the Office of the National Drug Policy Control Center. It is a person who we need to coordinate the drug policy of this Nation for rural areas and to focus upon those needs.

It also authorizes $20 million in fiscal year 1991, and such sums as necessary in 1992 and 1993 for rural drug enforcement assistance. Half of those funds would go to the States whose populations are less than 150,000 people or 52 or fewer per square mile. The other half would go to the remaining States, but only for those nonmetropolitan areas.

It also directs, Mr. Chairman, that the Drug Enforcement Administration would station no fewer than 10 DEA agents in each State in this Nation.

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There are 17 States that presently do not meet those requirements, and we feel, without question, that this is necessary for the Federal Government to meet its requirements

In addition to that, Mr. Chairman, it also establishes an international drug interdiction training simulator center in Arizona at out Federal law enforcement training center that also already exists there. The benefits of this training center are self-evident.

Obviously, this is a cost-effective way in which to meet the training needs with other nations, both with our neighbors such as Mexico, and particularly with those in the Caribbean and, in addition, Mr. Chairman, it establishes a situational awareness technology capability with regard to those involved in drug aircraft interdiction efforts. This would allow otherwise uncensored aircraft to be able to receive information that would identify both censored friendly aircraft and adversary and be able to track that particular aircraft.

Mr. Chairman, this legislation also pays for itself. It would transfer some $60 million from the increase that the President requested in his budget of $682 million in increased travel funds, and, now, these are travel funds on nonemergency and nonnational security type travel. This would not involve law enforcement travel or any national security travel, and transfer those funds to pay for these particular provisions.

Mr. Chairman, I yield 1 minute to the gentleman from South Dakota [Mr. JOHNSON].

Mr. JOHNSON of South Dakota. Mr. Chairman, I rise in support of the amendment and ask unanimous consent to revise and extend.

This amendment would, among other things, add a title on rural drug enforcement. One part of this amendment would achieve three things. First, it would increase the number of DEA agents in low population States: Alaska, Arizona, Arkansas, Colorado, Idaho, Iowa, Kansas, Maine, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, Utah, Vermont, and Wyoming. This bill sets a floor at 10 for the number of DEA agents that must be assigned to States with less than 10 agents. Second, this measure would provide training for law enforcement officers that would focus upon unique needs of rural law enforcement. America's drug problem is too often viewed as a plague confined to our Nation's large cities. As you know, nothing could be further from the truth. Small towns and rural areas across the country are grappling with dramatic increases in illegal drug use and, consequently, violence and serious crime. Last, this amendment would direct the drug czar to appoint a rural drug policy coordinator who would examine the special needs of rural areas in drug interdiction.

This part of the measure is substantially similar to a bill I introduced this year, H.R. 2970. This amendment is also similar to a provision that passed in the Senate's crime bill. Senator BAUCUS is the prime sponsor of the measure that was offered and supported by Senator BIDEN.

I am told that the Department of Justice would view this as congressional micromanagement of their turf. I would counter that the drug problem is far too important for petty turf battles and that the numbers are skewed in favor of urban centers relative to the war on drugs. This amendment does not strip urban areas of agents. The President has already requested an additional 705 DEA agents in his fiscal year 1990 budget. This measure deals with expanding existing DEA agent coverage into rural areas and by training these agents properly.

Congressman ENGLISH is to be commended for his work on this measure. He has worked long and hard on this amendment and all of the sections he devised—especially those on funding.

and the establishment of an international Drug Interdiction Training Simulator Center at the Federal Law Enforcement Training Center at Marana, AZ—should be adopted.

Mr. ENGLISH. Mr. Chairman, I reserve the balance of my time.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from New Jersey [Mr. Hughes] is recognized for 5 minutes.

Mr. HUGHES. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise in opposition to the gentleman's amendment, and I will briefly point out some of my major concerns with the proposal.

First of all, this is a new major funding program for $20 million a year in law enforcement assistance, and there have been no hearings. This is just bad legislative process regardless of the merits of the amendment.

Second, there is a provision mandating the Attorney General to assign not less than 10 DEA agents to every State and 4 extra DEA agents to each rural State as defined in the bill. This would affect at least 20 States and is micromanagement at its worst.

Third, there is an extremely vague procedure of funding this amendment out of travel and transportation of persons of all agencies, commissions, and so forth, of the Federal Government. Law enforcement or DOD agencies would be exempted but nothing else. I assume this would cut travel for such things as public health and numerous agriculture programs designed to aid rural areas, but I don't know. For the life of me I don't know where this money could be accounted for in the appropriations process. This novel funding approach should be carefully considered during the normal committee process.

Fourth, there is $28 million for an International Drug Interdiction Training Simulator Center at Marana, AZ. In order to spend this kind of money we surely should have a specific justification for this endeavor from the committee which has jurisdiction.

Finally, the Department of Justice opposes this amendment, and I believe that we should not attempt to develop untried solutions to national law enforcement problems on the floor of the House in 10 minutes.

I ask my colleagues to reject this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. ENGLISH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to respond very quickly.

The President's budget included an increase of 705 DEA agents across this country. Certainly, bringing each State up to a minimum of 10 is not too much.

As far as meeting the requirements, the Federal Law Enforcement Training Center is already established in Arizona and has been there for some time.

Mr. Chairman, as far as hearings, I think it is no secret that I chaired the Government Operations Subcommittee of Government Information, Justice and Agriculture. The lack of effort by the DEA in rural areas is well documented over an extended period of time, and I think, without question, Mr. Chairman, it appears that this is the only way we are going to get the DEA's attention.

I would ask for minimum support, 10 agents, for each rural State, which certainly is not asking for much.

I would urge adoption of the amendment, Mr. Chairman.

Mr. HUGHES. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida [Mr. McCollum].

Mr. McCOLLUM. Mr. Chairman, I definitely rise in opposition to the amendment of the gentleman from Oklahoma. The administration does, as the gentleman from New Jersey has pointed out, strongly oppose this amendment.

The fact of the matter is that we do not have enough drug enforcement agents in order to go out and do all the jobs that they are supposed to do.

We have DEA agents around the world strategically located to try to disrupt the production of cocaine and other narcotics. We have them located in strategic places in the United States to try to stop the flow, and to capture these.

The DEA is designed to restrict the inflow of these narcotics. It is not designed to be in every State of the Union, to be arresting officers. I mean, that is what we have other law enforcement officers there for. We need to put DEA agents in places where they will be most likely to intercept people who are the major traffickers and to make the production and the distribution of this more difficult on a Federal level.

I think the requiring of 10 of them to be in every State is absurd. I realize the gentleman from Oklahoma is trying to protect rural areas, and I am all for protecting rural areas in drug trafficking, too, but this ought to be done with more help with the Justice Assistant Act or local law enforcement, and it ought to be done with more help to the FBI and in other ways, but not taking the Drug Enforcement Administration agents and straightjacketing them and having micromanagement of their distribution around the Nation or, indeed, around the world.

They are our international arm for tracking narcotics, and they belong in areas where the international traffic is coming in. They belong in areas where the Administrator of the DEA says they ought to be.

I urge my colleagues in the strongest of terms to defeat this amendment.

There may be good portions of it, and it can come before the authorization process in the normal course of affairs, those portions that are, but the portion that straitjackets the DEA and specifies 10 agents to every State must be defeated.

I urge a no vote.

Mr. HUGHES. Mr. Chairman, I yield myself such time as I may consume.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I thank both of the gentlemen who, I know, have been active in this field for some time.

The difficulty we have here, and one that we have not been able to address, is that DEA has responsibilities that certainly apply to the rural areas which they have not been carrying out over the past decade. They have not carried them out, and it seems that unfortunately our law enforcement resources many times are stationed on the basis of where the news media seems to focus rather than where crime may actually exist.

I would hope, and I would ask unanimous consent, if this would address the gentleman's problem, to change the word "shall" to the word "should."

Mr. HUGHES. Reclaiming my time, I will say to the gentleman who really has been one of the leaders in the battle against drug abuse and crime, particularly during the years that he chaired a subcommittee that had direct jurisdiction over such things, the problem is, as I say to the gentleman, there have been no hearings on it. I cannot travel anywhere with drug enforcement that I do not have agencies, particularly overseas, that say, "We need more analysts."

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We need more agents. We are overloaded. We have cases we cannot reach, particularly in the Foreign Cooperative Investigative Program.

Here we are, going to assign arbitrarily, 10 agents to every State, whether we need them or not. That is micromanagement at its worst. I would be happy to work with the gentleman to address the problems, but I cannot support the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. English].

The amendment was rejected.

The CHAIRMAN. The Chair understands that the gentleman from Michigan (Mr. Dingell) has decided to forgo offering amendment No. 42.

Mr. DINGELL. That is correct, Mr. Chairman.

The CHAIRMAN. It is now in order to consider amendment No. 43 printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Dingell: Add at the end of the bill the following:

TITLE —DRUG TESTING

SECTION 1. STANDARDS FOR CERTIFICATION OF LABORATORIES ENGAGED IN DRUG TESTING.

Title V of the Public Health Service Act is amended by adding at the end the following:

"Part E—Drug Testing

"CERTIFICATION PROGRAM

"Sec. 551. (a) Not later than one year after the date of enactment of this part, the Secretary shall, by regulation, establish a program (hereinafter referred to in this part as the 'certification program') for the certification of laboratories for the performance of toxicological urinalysis conducted for drug testing programs. The certification program shall, to the maximum extent practicable—

"(1) conform to the mandatory guidelines for Federal workplace drug testing programs published on April 11, 1988, by the Alcohol, Drug Abuse, and Mental Health Administration at 53 Fed. Reg. 11979 (hereinafter referred to in this part as the 'ADAMHA guidelines'), and

"(2) treat any person conducting a drug testing program in the same manner as the ADAMHA guidelines treat the Federal agencies to which they are applicable.

"(b)(1) The certification program established by the Secretary under subsection (a) shall, in addition to the requirements of subsection (a)—

"(A) allow access by any test subject, upon written request, to any record relating to the results of such subject's drug test and to any record relating to the result of any relevant certification, review, or revocation of certification proceeding,

"(B) provide that the Secretary shall, in considering applications for certification under the certification program, consider whether the applicant has owned or operated a laboratory which has had its certification revoked under the program,

"(C) provide that the Secretary may approve State agencies or private, nonprofit entities as accrediting bodies to act on the Secretary's behalf in implementing the certification program in accordance with the requirements of this section,

"(D) provide that the Secretary shall oversee and review the performance of any accrediting body acting on the Secretary's behalf to ensure its compliance with the requirements of the certification program, and

"(E) provide that the Secretary shall have the right to obtain from an accrediting body acting on the Secretary's behalf and from any laboratory that may be certified by such a body all records and materials that may be necessary for the oversight and review required by subparagraph (D).

"(2) A laboratory may not be certified to perform drug testing under the certification program established under subsection (a) unless the laboratory is certified under section 353, except that a laboratory which only performs toxicological urinalyses is not required to be certified under section 353 to be certified under the certification program.

"(c) In establishing the certification program, the Secretary shall take into consideration any special factors or circumstances applicable to the testing of participants in—

"(1) organized interscholastic or intercollegiate athletic competition, or

"(2) organized athletic competition conducted under the auspices of or sanctioned by the United States Olympic Committee or any member thereof

that warrant separate or different treatment of such testing in the certification program.

"(d) The Secretary shall, in accordance with section 553 of title 5, United States Code, revise the requirements of the certification program to reflect improvements in drug testing methods for the purpose of ensuring the full reliability and accuracy of drug testing, the accurate reporting of results, and the integrity and efficacy of drug testing programs.

"SANCTIONS

"Sec. 552. (a) No person may perform any toxicological urinalysis in connection with any drug testing program unless that person is a laboratory which is certified by the certification program established under section 551.

"(b) It shall be unlawful for any person—

"(1) who is a test subject to knowingly disclose the results of a toxicological urinalysis in connection with any drug testing program which was not performed on such person,

"(2) who is not a test subject and who has been directly or indirectly involved in a drug testing program or a toxicological urinalysis under such a program, to knowingly disclose the results of any toxicological urinalysis in connection with any drug testing program, except—

"(A) as provided in the certification program established under section 551,

"(B) that if the person is authorized to represent—

"(i) an educational institution in which a participant described in subsection (c) of section 551 is enrolled,

"(ii) an organized interscholastic or intercollegiate athletic team, league, or association, or

"(iii) organized athletic competition conducted under the auspices of or sanctioned by the United States Olympic Committee or any member thereof,

such person may disclose the results of a toxicological urinalysis performed on a participant described in subsection (c) of section 551 in connection with a drug testing program, and

"(C) that if the person is authorized to represent a team, league, or association which conducts a drug testing program in which participants in athletic competitions who are paid for their performance are test subjects, such person may disclose the results of a toxicological urinalysis performed on such participant in connection with a drug testing program,

"(3) to knowingly—

"(A) alter or falsely report the results of a toxicological urinalysis, or

"(B) adulterate any urine specimen (other than a specimen spiked for use in a proficiency challenge),

in connection with any drug testing program or proficiency challenge,

"(4) except in connection with epidemiological, biomedical, or other medical research in which the identity of the person providing the urine specimen is unknown, to knowingly perform or cause to be performed on a urine specimen a test for any medical condition or any substance, other than drugs or alcohol, without the consent of the person providing the urine specimen following disclosure to such person of the medical condition or substance for which testing will be performed,

"(5) if the consent of a person providing a urine specimen is required under paragraph (4) before the specimen may be tested, to take any adverse action against any test subject based, in any adverse action against such person for refusing to give such consent unless such person is a participant described in subsection (c) of section 551 or is a participant in an athletic competition who is paid for the participant's performance,

"(6) in the case of a toxicological urinalysis, to take any adverse section against any test subject based, in whole or in part, upon a positive result that has not been verified by a confirmatory test—

"(A) which uses gas chromatography/mass spectrometry, or

"(B) which, after the establishment of the certification program under section 551, is performed in accordance with the requirements of such program, or

"(7) to knowingly fail to administer or conduct any toxicological urinalysis or drug testing program in accordance with the requirements of the certification program established under section 551.

"(c) A person who violates subsection (a) or (b) shall be subject to one or more of the following sanctions for each such violation:

"(1) Assessment by the Secretary of civil penalty of not less than $1,000 or more than $10,000, taking into account the previous record of the person under subsection (a) or (b) and the gravity of the violation.

"(2) Imprisonment for not more than 3 years, or a fine under title 18, United States Code, or both.

"CIVIL ACTIONS

"Sec. 553. (a) Any test subject who is tested or whose test results are handled in violation of, or is deprived of rights under, subsection (a) or (b) of section 552 of the certification program established under section 551 may institute a civil action in any district court of the United States of competent jurisdiction for appropriate legal and equitable relief, including employment, reinstatement, promotion, the payment of lost wages and benefits, and damages. The costs of suit, including a reasonable attorney's fee, shall be allowed to a prevailing party. Such an attorney's fee shall be allowed in the manner in which attorney's fees are allowed under the last sentence of section 722 of the Revised Statutes (42 U.S.C. 1988). It shall not be a defense to such an action that the plaintiff has waived the rights or protections provided for in this section or such certification program or has otherwise consented to a violation described in subsection (a) or (b) of section 552 or that the defendant acted in good faith. No action may be instituted under this subsection after the expiration of 2 years from the date the person discovers the violation or deprivation.

"(b) The Secretary may bring an action to restrain violations of section 552. In any action brought under this subsection, the district courts of the United States shall have jurisdiction, for cause shown, to issue temporary or permanent restraining orders and injunctions to require compliance with section 552, including such legal or equitable relief incident thereto as may be appropriate, including employment, reinstatement, promotion, and the payment of lost wages and benefits.

"(c) Any person conducting a drug testiing program who takes any adverse action against any test subject based, in whole or in part, upon a report by a laboratory of a positive test result which is thereafter found to have been a false positive result and who consequently is held liable under subsection (a) or (b) for damages or other sums may institute a civil action for indemnification against such laboratory in any district court of the United States of competent jurisdiction. No action may be instituted under this subsection after the expiration of one year from the date on which a judgment under subsection (a) becomes final.

"CONSTRUCTIONS

"SEC. 554. (a) Nothing in this part limits the authority—

"(1) of the Secretary to permit or require an accrediting body described in section 551(b)(1)(C) to maintain, or

"(2) of any test subject or duly authorized representative of a test subject to contract for,

standards, procedures, or requirements more stringent than those provided under the certification program established under this part or under section 552.

"(b) To the extent that the certification program established under this part or section 552 imposes more stringent standards, procedures, or requirements on—

"(1) the Secretary,

"(2) laboratories performing toxicological urinalysis, or

"(3) person conducting drug testing programs, such standards, procedures, or requirements shall supersede and replace those provided by the ADAMHA guidelines and by any statue, rule, regulation, executive order, or other law in effect on the date of the enactment of this part.

"STATE LAW

"SEC. 555. No State or local government may adopt or enforce any law, rule, regulation, ordinance, standard, or order relating to—

"(1) the certification of laboratories which perform drug testing, or

"(2) requirements for the conduct of drug testing under the certification program established under this part,

which is different from such certification program.

"FEES

"SEC. 556. The Secretary shall require the payment of fees by a laboratory for certification and recertification in such amounts as the Secretary may, from time to time, determine are necessary to recover the cost of granting or denying such certification or recertification under the certification program established under section 551. The Secretary shall also require the payment thereafter of annual fees by certified laboratories in such amounts as the Secretary may, from time to time, determine are necessary to recover the cost of ongoing testing, inspection, and other supervisory activities with respect to certified laboratories under this part and such certification program.

"DEFINITIONS

"SEC. 557. As used in this part—

"(1) the term 'blank specimen' means a urine specimen containing no drug,

"(2) the term 'controlled substance' has the meaning given to it in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)),

"(3) the term 'drug' means any controlled substance (other than a controlled substance used pursuant to a valid prescription) and any metabolite of a controlled substance,

"(4) the term 'drug testing program' means any program or policy under which 2 or more individuals are, or can reasonably be expected to be, required or requested to submit urine specimens for toxicological urinalysis, but such term does not include—

"(A) any program for toxicological urinalysis—

"(i) administered by the armed forces (as defined in section 2101(2) of title 5, United States Code) or the intelligence community (as defined in Executive Order 12333 of December 4, 1981), or

"(ii) involving the testing of arrestees, detainees, probationers, incarcerated persons, or parolees in the criminal justice system, and

"(B) the submission to a laboratory of any urine speciment by an individual's physician if the testing by the laboratory of the specimen is to be conducted as part of the regular course of diagnosis or treatment prescribed by the physician,

"(5) the term 'false positive result' means a report in connection with any toxicological urinalysis of the presence of a drug in a urine speciment in which that drug is not in fact present at or above the concentration level for that drug established by the Secretary,

"(6) the term 'person' includes the Federal Government, a State or local government, or any agency of such a government,

"(7) the term 'proficiency challenge' means a test of a laboratory's ability—

"(A) to identify correctly whether a urine speciment contains a quantity of a drug, and

"(B) in the case of a spiked specimen, to identify correctly a quantity of any drug in that specimen,

"(8) the term 'spiked specimen' means a urine specimen into which a quantity of a drug or drugs has intentionally been placed for use in a proficiency challenge,

"(9) the term 'test subject' means an individual who has been required or requested to submit a urine specimen for toxicological urinalysis in connection with a drug testing program, and

"(10) the term 'toxicological urinalysis' means the performance of any analytical procedure or set of procedures on a urine specimen to identify the presence in that specimen of any drug and the amount thereof.".

SEC. 002. EFFECTIVE DATE.

Part E of title V of the Public Health Service Act, added by this title, shall take effect on the date of the enactment of this Act, except that subsections (a), (b)(2), and (b)(7) of section 552 of such part shall take effect one year after the date the Secretary of Health and Human Services establishes the laboratory certification program under section 551 of such part.

Mr. DINGELL. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, this amendment is sponsored by myself and the distinguished gentleman from Virginia [Mr. BLILEY] who is the cosponsor and the senior ranking minority member of our Subcommittee on Oversight and Investigations. It is offered to correct a large number of abuses which have been found by our subcommittee in connection with private sector drug testing.

Basically, it does several things. First, it requires that all testing in connection with drug testing be done in conformity with standards set out by the Department of Health and Human Services. Second, it requires that all drug testing which is done on urine specimens be done in a place where all the tests, the preliminary as well as the confirmatory tests, are done on a single premises. It establishes a single standard which affects everybody, and it takes steps to protect the rights of those tested.

Today we have a huge mishmash of uncertified laboratories testing people without any standards or certification. The newspapers are full of abuses of this particular kind. One of the complaints which has been raised about the amendment is that it would have an adverse impact upon small laboratories. That is untrue. There are large numbers of laboratories, many of which are small. There is no reason why small laboratories should be treateds differently than a large laboratory, or why small laboratories who are incompetent should be permitted to destroy the reputation and good name, and to deny employment to law-abiding, innocent citizens, without any redress whatsoever.

We have found repeated instances of failures of this kind, and abuses which have adversely and significantly affected the rights of innocent persons who had never engaged in any improper use of drugs at all.

The CHAIRMAN. Is the gentleman from Texas [Mr. BARTLETT] in opposition to the amendment?

Mr. BARTLETT. I am, Mr. Chairman.

The CHAIRMAN. The gentleman from Texas [Mr. BARTLETT] will be recognized for 5 minutes in opposition to the amendment.

Mr. BARTLETT. Mr. Chairman, I rise in very strong opposition to this amendment, I have been joined by the gentleman from Florida [Mr. MCCOLLUM], and the gentleman from Florida [Mr. SHAW] in opposition to this amendment.

The fact is that if we vote for this amendment, the chief result is that we will have more drugs in the workplace, less testing for drugs with employers in the workplace, more crime as the result of those drugs, and it goes completely contrary to the purpose of this bill.

Now, the fact is that employers all over this country are in the process of developing drug free workplace policies in which they develop with their employees specific policies that test for the presence of illegal narcotics in the workplace. This amendment goes exactly in the opposite direction by restricting the types of drugs for which

employees may be tested, by restricting the types of laboratories that may use those tests. It is my information that, in fact, there are only 57, I believe, laboratories in the entire country that would qualify for this particular test. If we want to protect employees from the safety and health hazard of work, side by side with users of illegal narcotics in the workplace, then we would vote against this amendment.

This amendment means more drugs in the workplace, less testing, fewer drug free workplace policies by employers, higher costs, and more crime. It is straightforward. It is direct. The amendment restricts drug testing. The purpose of this bill should be to encourage drug testing, and to encourage drug free workplace policies.

Mr. Chairman, I yield to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I strongly oppose this amendment. It, in effect, is an antidrug testing provision because it would eliminate the great majority of current testing programs without regard to their quality. It would increase the test turnaround times and test expense, and would greatly discourage employers from adopting drug-testing programs, and eliminate all fitness for duty testing, which is the preflight testing of pilots at all employee-operated on-site labs. This is a terrible amendment from the standpoint of antidrug testing.

We need to have drug testing in the workplace as much as we possibly can within the bounds of what would be constitutionally permissable, especially in those cases where there is a jeopardy involving the people in the workplace. I think we very much need to oppose this amendment.

Mr. BARTLETT. Mr. Chairman, I reserve the balance of my time.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to my distinguished friend, the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Chairman, I rise in strong support of this amendment. As has been explained, this amendment is composed of the test of H.R. 33 which was introduced the first day of the 101st Congress by the gentleman from Michigan and me.

This amendment is similar to legislation which passed the House on a voice vote during consideration of the drug bill in the last Congress. Unfortunately, these provisions were deleted during negotiations with the other body on the bill. In the last Congress, the chairman of the Energy and Commerce Committee and I began as adversaries on a prior version of this amendment.

I am pleased to say that we are no longer adversaries on this issue. We put aside our underlying differences on this issue to focus on our mutual belief that individuals who undergo drug testing are entitled to have such tests analyzed by laboratories that meet reasonable quality standards.

This amendment is based on a couple of key principles. First, this amendment neither encourages nor discourages drug testing. It does not address under what circumstances drug testing is or is not appropriate. The existing right of an employer to remove from the job an employee who may be impaired would not be affected. The bill does prohibit an employer from taking adverse action against an employee based on a positive screen that has not been proven by a confirmatory test.

The employer is not prohibited from taking action against an impaired employee provided such action is not based on an unconfirmed drug test. Thus, the bill preserves the right of employers to get impaired employees out of safety sensitive jobs immediately, following which the employer may pursue its usual procedures with respect to future employment.

Second, this amendment is based on the belief that drug testing must be conducted according to realistic standards that ensure that laboratories will analyze the tests accurately. We all know the potential for running lives and reputations based on faulty drug tests. This amendment provides minimum uniform standards based on the standards that apply to drug testing of Federal employees.

Mr. Chairman, this amendment is not perfect. We have met with representatives of many industry and labor groups that have suggested possible improvements in the legislation. If this amendment is adopted, I can assure my colleagues that these issues will be addressed in conference to the extent that we can without undercutting the basic thrust of the legislation—reasonable, uniform and minimum standards for drug-testing laboratories.

In closing, let me urge my colleagues to support this amendment. It is fair. It is equitable. And it will prevent fundamentally unfair situations like that uncovered by our committee staff investigation. It will do that without unnecessary and excessive regulation. I urge my colleagues to support it.

Mr. BARTLETT. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, I want to express my appreciation to my colleague from Michigan [Mr. DINGELL] for calling attention to a very important issue. Certainly, we are all concerned to deal with problems where mistakenly, drug testing practices, because of bad laboratory procedures have, in fact, taken place.

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But I have to say to my good friend that I believe the amendment is overreaching in the sense that it really limits it at this point in time, although there are time periods, as my colleague, the gentleman from Virginia has pointed out, for certification; but is much too far-reaching in terms of what it cuts into in terms of available laboratory services for drug testing. It cuts into new innovative programs with States setting standards, such as is happening in Utah which has a new State standard which if followed eliminates the risk that businesses have relative to litigation involving drug testing.

So Mr. Chairman, I would urge my colleagues to oppose this amendment, well-intentioned though it may be, it is overreaching.

PARLIAMENTARY INQUIRIES

Mr. BARTLETT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BARTLETT. Mr. Chairman, does the gentleman in opposition have the right to close?

The CHAIRMAN. The gentleman from Michigan would have the right to close.

Mr. BARTLETT. I have a further parliamentary inquiry, Mr. Chairman. Does the gentleman in opposition, which is this side, have the right to close, or the proponent of the amendment have the right to close?

The CHAIRMAN. Unless the opposition is presenting the committee position on this or is the committee, the proponent would have the right to close.

Mr. SHAW. Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SHAW. Mr. Chairman, the committee position has no provision on this particular section.

The CHAIRMAN. The gentleman from Texas [Mr. BARTLETT] is not a member of the committee and would otherwise have no standing to close. Ordinarily the proponent would close. If the gentleman from Texas [Mr. BARTLETT] were on the committee or presenting the committee position, he would then have the right to close, but otherwise he would not.

Mr. BARTLETT. I have a further parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. BARTLETT. Mr. Chairman, the Committee on Education and Labor, of which I am a member, does have jurisdiction over this item and had it been introduced as a bill, it would have been referred to our committee.

The CHAIRMAN. Well, the Committee on Education and Labor is not presenting this bill today. It is the Judiciary Committee.

Mr. BARTLETT. Mr. Chairman, I yield my remaining 1 minute to the gentleman from Florida [Mr. Shaw], who is a member of the committee of jurisdiction and is representing the committee position.

Mr. SHAW. Mr. Chairman, I rise in strong opposition to this amendment. this amendment would apply NIDA standards to all labs performing drug tests in the private sector. That sounds like a great idea. But the fact of the matter is that the labs that perform the bulk of current drug testing for the private sector will be excluded from this important function if this amendment is approved.

These labs are already certified under the Clinical Labs Improvement Act to do diagnostic and therapeutic tests. It only stands to reason that if we trust labs to perform tests in matters of life and death, then we can trust them to accurately screen drug tests. Hospital and small independent labs have a good record and follow sound procedures, but many would be barred from performing drug tests if the Dingell amendment passes.

For example, the NIDA guidelines would require that labs perform initial and confirmatory tests on the same site. The vast majority of labs currently perform only initial screening tests. Most could not afford the added costs for equipment required to perform the followup tests. Only 57 labs nationwide currently meet these guidelines. The labs that do not could not continue drug testing.

The Dingell amendment would also establish harsh penalties for employers who fail to comply with its complicated procedures. This includes civil law suits, damages and civil penalties of up to $10,000. This would clearly have a chilling effect on the use of workplace drug testing programs.

Mr. Chairman, the House should not be considering this issue as part of an unrelated bill. The subject of workplace drug abuse, and how to best deal with it, should be carefully examined by Congress. I urge all Members to reject the Dingell drug testing amendment. Do not wipe out private drug testing. Do not approve this amendment.

Mr. DINGELL. Mr. Chairman, I yield myself the remaining minute.

Mr. Chairman, I urge my colleagues to support the Bliley-Dingell amendment. It is a good amendment. It imposes uniform standards for drug testing and drug testing laboratories, the same standards and the same certification which are now required by Federal rules, regulations, and law for people in the transportation business and for Federal Government employees.

This legislation will not impair any testing program. It will not impair prosecution of crime. It will assure that the rights of innocent persons who are tested under drug testing programs are fully protected. It will require States to have the same minimum standards that the Federal Government does.

Lastly, it will assure that drug testing is conducted in a manner which protects the rights of people who submit to these tests.

Mr. Chairman, I urge my colleagues to support this amendment, to assure that we have good drug-testing programs in place, to assure that we have reliable results, to ensure protection of both the public interest and the rights of the people who are tested.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. Dingell].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BARTLETT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 333, noes 86, not voting 14, as follows:

[Roll No. 426]

AYES—333

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Barton
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Courter
Coyne
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Ford (TN)
Frank
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horton
Hoyer
Hubbard
Hughes
Hutto
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Machtley
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Petri
Pickett
Pickle
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Ridge
Rinaldo
Roberts
Roe
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (VT)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (GA)
Thomas (WY)
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Walsh
Washington
Watkins
Waxman
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)

NOES—86

Archer
Armey
Baker
Ballenger
Bartlett
Bateman
Bentley
Brown (CO)
Buechner
Bunning
Burton
Callahan
Campbell (CA)
Coble
Combest
Cox
Craig
Crane
Dannemeyer
DeLay
DeWine
Douglas
Duncan
Edwards (OK)
Frenzel
Frost
Gallegly
Gekas
Gillmor
Gingrich
Goss
Grandy
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Hunter
Hyde
Inhofe
Ireland
Kolbe
Kyl
Lagomarsino
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lukens, Donald
Marlenee
McCollum
McCrery
McEwen
Meyers
Michel
Moorhead
Myers
Oxley
Packard
Paxon
Penny
Porter
Quillen
Rhodes
Ritter
Rohrabacher
Shaw
Shumway
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stearns
Stump
Thomas (CA)
Valentine
Vucanovich
Walker
Weber
Young (FL)

NOT VOTING—14

Costello
Coughlin
Crockett
Ford (MI)
Hayes (LA)
Huckaby
Jones (NC)
Lowery (CA)
Luken, Thomas
Madigan
Oakar
Robinson
Smith (NE)
Torres

☐ 1526

Mr. HASTERT and Mr. GILLMOR changed their vote from "aye" to "no."

Mr. SKEEN and Mr. FIELDS changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 45 printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Oxley: Page 239, after line 5, add the following new title:

TITLE XXIII—EFFECTIVE REHABILITATION

SEC. 2301. ESTABLISHMENT OF STATEWIDE DRUG TREATMENT PLANS.

(a) In General.— Subpart 1 of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x et seq.) is amended by inserting after section 1916A the following:

"STATEWIDE DRUG TREATMENT PLAN

"Sec. 1916b. (a) Nature of Plan.—In order to receive the drug abuse portion of its allotment for a fiscal year under section 1912A, a State shall develop, implement and submit as part of the application required by section 1916(a) an approved Statewide Drug Treatment Plan, prepared according to regulations promulgated by the Secretary, which shall contain the following:

"(1) A single, designated State agency for formulating and implementing the Statewide Drug Treatment Plan.

"(2) A description of the mechanism that shall be used to assess the needs for drug treatment in localities throughout the State including the presentation of relevant data.

"(3) A description of a Statewide plan that shall be implemented to expand treatment capacity and overcome obstacles that restrict the expansion of treatment capacity (such as zoning ordinances), or an explanation of why such a plan is unnecessary.

"(4) A description of performance-based criteria that shall be used to allocate funds to drug treatment facilities receiving funding under this subpart.

"(5) A description of the drug-free patient and workplace programs (all of which must include drug testing) to be utilized in drug treatment facilities and programs.

"(6) A description of the mechanism that shall be used to make funding allocations under this subpart.

"(7) A description of the actions that shall be taken to improve the referral of drug users to treatment facilities that offer the most appropriate treatment modality.

"(8) A description of the program of in-service training that shall be implemented for employees of treatment facilities receiving Federal funds, designed to permit such employees to stay abreast of the latest and most effective treatment techniques.

"(9) A description of the plan that shall be implemented to coordinate drug treatment facilities with other social, health, correctional and vocational services in order to assist or refer those patients in need of such additional services.

"(10) A description of the plan that will be implemented to expand and improve efforts to contact and treat expectant women who use drugs and to provide appropriate follow-up care to their affected newborns.

"(b) Submission of Plan.—The plan required by subsection (a) shall be submitted to the Secretary annually for review and approval. The Secretary shall have the authority to review and approve or disapprove State plans, and to propose changes to them.

"(c) Submission of Progress Report.—Each State shall submit such reports, in such form, and containing such information as the Secretary may, from time to time, require, and will comply with such additional provisions as the Secretary may from time to time find necessary to verify the accuracy of such reports.

"(d) Waiver of Plan Requirement.—At the Secretary's discretion, the Secretary may waive any or all of the requirements of this subsection upon the written request of a State if the State implements an alternative treatment plan that fulfills the objectives of this subsection.

"(e) Definition.—For purposes of this section, the term 'drug abuse portion' means the amount of a State's allotment under section 1912A that is required by this subpart, or by any other provision of law, to be used for programs or activities relating to drug abuse.".

(b) Regulations and Effective Date.—

(1) The Secretary shall promulgate regulations to carry out section 1916B of the Public Health Service Act no later than six months following the date of this Act.

(2)(A) Sections 1916B (a)(4) and (a)(5) of that Act are effective beginning with the second fiscal year beginning after the date final regulations are published in the Federal Register.

(B) The remainder of that section is effective beginning with the first fiscal year beginning after the date final regulations are published in the Federal Register.

SEC. 2302. MAINTENANCE OF EFFORT IN ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICES BLOCK GRANTS.

Section 1916(c)(11) of the Public Health Service Act (42 U.S.C. 300x-4(c)(11)) is amended to read as follows:

"(11)(A)(i) The State agrees to maintain State expenditures for alcohol, drug abuse, and community mental health services at a level equal to not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying to receive payments under section 1914.

"(ii) The State shall maintain State expenditures for drug abuse related services provided pursuant to this subpart at a level equal to not less than the average amount of such expenditures for the preceding two years.

"(B) The Secretary may, upon the request of a State, waive the requirement established in subparagraph (A) if the Secretary determines that extraordinary economic conditions in the State justify the waiver of the provisions contained in clause (i) of such subparagraph or if the Secretary determines that other extraordinary conditions in the State justify the waiver of the provisions contained in clause (ii) of such subparagraph.

"(C) The Secretary shall promulgate regulations implementing this paragraph which shall include the procedures by which a full or partial waiver may be granted.".

Conform the table of contents of the bill accordingly.

The CHAIRMAN. The Chair will i
quire, is the gentleman from Oh
[Mr. Oxley] the designee of the ge
tleman from Pennsylvania [M
Coughlin]?

Mr. OXLEY. That is correct, M
Chairman.

The CHAIRMAN. Under the ru
the gentleman from Ohio [Mr. Oxle
will be recognized for 5 minutes, and
Member opposed will be recognized f
5 minutes.

Mr. OXLEY. Mr. Chairman, I yie
myself such time as I may consume.

Mr. Chairman, I am offering
amendment that requires States to
velop statewide treatment plans as
condition of receiving funds from t
Alcohol, Drug Abuse and Men
Health Services block grant. M
Chairman, this amendment is la
guage which the President request
last September as part of his nation
drug control strategy. It has alrea
passed this House last year a
became bogged down in conferen
over unrelated issues.

On the funding side of the drug wa
the Congress has been very genero
in its commitment to drug treatme
programs. With the recent action
our Appropriations Committee to
store the President's request, Feder
funding for drug treatment will like
grow from $888 million in fiscal ye
1989 to almost $1.5 billion in fisc
year 1991. A substantial portion of th
growth will have been in the ADM
block grant program for the States.

However, there is growing conce
that we do not know what all th
money is buying. Are we funding eff
tive programs? Are there any discern
ble standards which the States use
fund different programs? Are we fun
ing programs which are suited to t
needs of each State's addict popu
tion?

These are questions which the Fe
eral Government needs answered
they are to continue funding large
creases in drug treatment progra
That is why the President asked f
this amendment when he asked for h
first and largest budget increase f
treatment back in 1989.

This amendment would instiga
fundamental reforms in how t
States fund their treatment progra
It would require them to develop pe
formance standards and then fu
programs according to those stan
ards. It would require accountabili
in programs by requiring drug-free p
tient and workplace programs, inclu
ing drug testing. It would requi
States to look at ways to expand c
pacity, to train treatment professio
als, to ensure proper referrals of p
tients and treat expectant women a
their newborns. In short, this amen
ment represents major reform of o
Nation's treatment system. It deserv
the support of this House.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I am familiar with the amendment. I talked to the admiral about that, and Admiral Coughlin and we have no disagreement about the subject matter and would accept the amendment, if we could vote on it, and go on with the program.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield

Mr. OXLEY. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman from Ohio [Mr. Oxley] for yielding to me, and I strongly urge my colleagues to vote for the amendment of the gentleman from Pennsylvania [Mr. Coughlin] which the gentleman from Ohio [Mr. Oxley] is offering because it does a great deal; but I also want to take the opportunity to say that this bill has been improved a great deal. I am a strong supporter of it. Let us go into final passage next with this amendment and the others in the bill. It is an excellent aye vote. We can say we have done an excellent job in the war against crime and drugs in this country if we vote aye for this bill in its present form, so I thank the gentleman from Ohio [Mr. Oxley] for offering the amendment.

Mr. Chairman, I urge an aye vote on the amendment and on final passage.

□ 1530

Mr. OXLEY. Mr. Chairman, I want to pay special tribute to the gentleman from Florida [Mr. McCollum] for his fine work on the floor on this bill. He is to be commended for taking a bill that was severely flawed and making it into an effective bill against crime and drugs.

Mr. Chairman, I yield back the balance of my time.

Mr. JAMES. Mr. Chairman, I rise in support of the Oxley amendment. All of us here in Congress understand that the drug problem in this country is running out of control. In order to eliminate drugs from this country once and for all, we must take strong measures. We must enact a framework that addresses all aspects of the drug problem, from growth and shipment to purchase and use of drugs. I have often said that we must have clear policy that emphasizes education, interdiction, and treatment.

The Oxley amendment addresses one critical aspect of that equation. It is really simple when you look at it. The amendment simply says that any States who receive certain funds from the Federal Government concerning drugs must set up a statewide drug treatment plan. Treatment of drug abuse is important, because drug use is not simply a vice. Instead, it is an addictive habit that destroys a person's will and self esteem. Any person that has fallen into the trap of drug abuse needs help to get out, and this amendment will work to see that they get it. I urge my colleagues to support this amendment, so that we can stop drug abuse in this Nation.

The CHAIRMAN. Is there any Member who seeks time in opposition to the amendment?

Hearing none, the question is on the amendment offered by the gentleman from Ohio [Mr. Oxley].

The amendment was agreed to.

Mr. ALEXANDER. Mr. Chairman, an increasing number of our people are becoming statistics—crime statistics.

They are being held up and accosted within the shadow of the Capitol dome here in Washington and in rural homes in Arkansas.

It is a sad and frightening situation.

Where people once left their homes unlocked, their doors are now bolted.

Where they once felt free to take an evening stroll, they now stay behind locked doors.

Where they once thought nothing of a stranger approaching, now they fear that approach.

Where they once let their children play outdoors, they now keep them indoors.

The epidemic of illegal drug abuse is directly responsible for much of the increase in criminal activity.

Those who are addicted to illegal drugs will go to great lengths to obtain the means to feed their habit.

They steal.

They may even kill.

They make criminals of themselves.

They make crime victims of many others.

They need to be stopped.

The battle against crime requires a strong role by Government.

Making our homes, streets, workplaces, and schools safe is a goal I believe we can achieve, but it will take some tough measures.

For one thing, our criminal justice system will have to be tougher on criminals.

The American people have told us they want a war waged against crime—so let's get on with it.

Federal and State partnerships should be encouraged so that we can present a united law enforcement front in order to provide a safer environment in which to live and work.

Where the law enforcement system is weak, it should be strengthened. We are fighting a very tough and determined enemy. And, on the law enforcement front, we should certainly be as tough and determined as the criminal.

The war on crime will require more police, prosecutors, and prisons. As they say in Arkansas—a criminal needs to know that if he does the crime, he'll pay the time.

I believe we can beat the criminal. A safer America is certainly worth the effort.

Mr. CONYERS. Mr. Chairman, I rise in support of the amendment of the gentleman from New York [Mr. Rangel] to establish a commission to study the root causes of drug abuse.

Over the last year, I have conducted a comprehensive series of hearings to examine the implementation of the national drug control strategy. In Detroit, in Los Angeles, and in Chicago the committee heard testimony about the decline in the casual use of cocaine while simultaneously, inner-city drug use, and addiction has increased dramatically.

Increasingly it has become apparent that we are fighting two very different drug wars—and we are only winning one of them. Prevention and education efforts directed at the educated middle class appear to be having a dramatic effect. Treatment programs only have room for clients who can afford to pay.

But meanwhile drugs are causing even greater devastation in our inner cities, populated primarily by poor people and people of color. We will never win this war on drugs until we rethink and refocus the priorities of the drug strategy. Spending over 70 percent of the budget on law enforcement leaves inadequate dollars for prevention and treatment.

The focus must be on the demand side of the drug war by providing appropriate drug treatment and prevention programs in the inner cities alongside of the suburbs. The statistics in the inner city are not going to change until we refocus the drug war to include an analysis of the root causes of drug use, and refocus our funding priorities to include the racial and economic factors that underlie so much of hard core drug addiction in America.

The victims of the war on drugs are disproportionately poor and minority. The emphasis on law enforcement is felt primarily in our inner cities because it is easier to focus on street level pushers than it is to break up larger drug cartels. We heard testimony around the country about the extent to which the war on drugs has become a vehicle to crack down on our inner cities. Twenty-three percent of young African-American men are involved in the criminal justice system in the United States—in prison, on probation, or on parole. The majority of these are drug related. Only 12 percent of the drug using population is black, yet 40 percent of drug-related arrests are black.

Common sense tells us that young people use drugs because they face lives of hopelessness and despair. But the majority of people in our inner cities are not drug users. We think that the lack of education, lack of job skills and job opportunities, and poor housing all contribute to drug use in our inner cities. The time has come to study the risk factors that cause some people to turn to drugs when others do not. It is only then that we can better focus the scarce dollars allocated to prevention and education programs.

The creation of a commission to study the root causes of drug abuse is an important step in expanding our thinking about the war on drugs and finding long-term solutions.

Mr. KILDEE. Mr. Chairman, I rise today in strong support of the provisions in the Comprehensive Crime Control Act which help our Nation's law enforcement officials fight crime in our country, and in equal opposition to the provisions authorizing the death penalty. I deeply regret that the Staggers amendment, which would have substituted a mandatory sentence of life imprisonment without parole for the death penalty, was defeated. If I had been given the opportunity to vote separately on these two issues, I would have voted for the crime bill and against the death penalty.

Mr. Chairman, the savings and loan executives who have violated the law and have ultimately levied the cost of this bailout onto every American taxpayer must be penalized. The crime bill makes strong efforts in this area by increasing the penalties for crimes involving financial institutions and authorizes more money and personnel to investigate and prosecute those S&L thieves. Moreover, it is clear that we must do more to help our young people to say no to drugs. For this reason, the $15 million annually the crime bill provides our children in Education Department grants to help support drug abuse resistance education [DARE] programs is an essential component in our country's war on drugs.

I have never advocated the use of the death penalty as a means of deterring either violent crime or drug dealing. I strongly believe in the sanctity of human life, and I do not feel that we, individually, or collectively as a society, should engage in the taking of human life. This is my position on the issue of abortion and it is my position on the issue of the death penalty. I have many friends who disagree with my position. While I respect their right to hold a differing view, I must follow my conscience.

Mr. Chairman, it is well known that people of wealth are not executed in States which have the death penalty. I do not recall anyone making over $40,000 a year ever being executed by the Federal or State governments. The death penalty discriminates in the most profound and final manner against those who cannot afford the expensive legal counsel necessary to avoid such terrible punishment. My State of Michigan was the first government in the English-speaking world to abolish the death penalty and I think it would be a great tragedy if we reinstate these death penalty provisions.

Mr. Chairman, all my life I have been opposed to the death penalty in any instance and therefore I am forced to vote against this otherwise balanced and important bill.

Mr. WEISS. Mr. Chairman, I have already stated my opposition to, and abhorrence for, capital punishment. However, if it is the will of this Congress to extend the death penalty to additional Federal offenses, we must guarantee that it be meted out fairly. H.R. 5269, as reported by committee, accomplishes this.

Under the measure, all States that impose the death penalty must provide qualified counsel to indigent defendants in capital cases at trial, on appeal, on State collateral review and on petitions for discretionary review by the U.S. Supreme Court. Sanctions are established to penalize States that fail to provide counsel or appoint counsel that fails to meet the standards designated in the bill.

H.R. 5269 also specifies that the rule of law to be applies in Federal habeas corpus proceedings is generally the law in effect at the time of the proceedings rather than the law in effect during the last ruling on direct appeal.

In addition, the bill requires that prisoners sentenced to death file their Federal habeas corpus petitions within 1 year after their direct appeals have been exhausted. These changes are intended to provide one complete Federal review, to limit successive habeas petitions, and to focus judicial review on substance rather than procedural issues.

However, any further attempts to restrict the use of habeas corpus challenges must be thwarted. Habeas corpus originated in the Magna Carta and was guaranteed in the Constitution even before the Bill of Rights was added. We cannot allow election-year death penalty politics, such as the Hyde amendment, to undermine the Constitution and our respect for human life.

The Hyde amendment raises a series of procedural bars to Federal habeas petitions thus denying a fair chance to defendants with valid constitutional claims. It relegates the Federal courts to spectator status on constitutional matters and allows State courts free reign.

The Hyde amendment sets forth the Powell Committee recommendations almost verbatim. The U.S. Judicial Conference, the 26-member policymaking body of the Federal judiciary, refused to endorse these recommendations unless substantial revisions were made. We should do the same by defeating the Hyde amendment.

H.R. 5269 also includes an essential component concerning racial justice in capital sentencing. Discrimination which deprives individuals of opportunity and equality is unacceptable. Discrimination which deprives individuals of life is intolerable and without remedy.

There is compelling evidence, from more than 15 years of study, that race plays an integral role in capital sentencing. In February 1990, the General Accounting Office, after reviewing 28 studies, found a "pattern of evidence indicating racial disparities in the charging, sentencing, and imposition of the death sentence."

Since 1976, in 85 percent of the cases when a person was executed, it was for killing a white person. Only 11 percent of the executions were for killing a black person and all of the defendants in those cases were black. There has not been one execution of a white person for the killing of a black.

The measure addresses this injustice by barring the execution of prisoners who statistically demonstrate that their death sentence was imposed because of racial discrimination, including those sentences imposed under State law. These provisions apply to all currently pending cases, whether or not the direct appeals have been exhausted. These racial justice provisions are an integral component of H.R. 5269 which must not be undermined in any way. During floor debate, Representative Sensenbrenner will offer an amendment to strike these provisions from the bill. This amendment must be defeated.

I urge my colleagues to support a crime bill that is tough on offenders and protects our citizens but does not sacrifice constitutional liberties or remain blind to racial injustice. Vote against the Hyde and Sensenbrenner amendments to the crime bill.

Mr. SCHUMER. Mr. Chairman, I rise today in support of the Racial Justice Act which has been included as part of H.R. 5269, the Comprehensive Crime Control Act of 1990.

Any fair minded person would agree that when the ultimate penalty of death is at stake, it is absolutely essential to assure that our courts administer punishment in a manner that avoids any actual or apparent racial prejudice. Yet according to a GAO report issued this past February, race is frequently a factor in death sentences in the United States.

The GAO reviewed 28 different studie
spanning 15 years of research, and found
"pattern of evidence indicating racial dispar
ties in the charging, sentencing, and impos
tion of the death penalty" across the countr
According to the report, an individual convic
ed of killing a white person is far more like
to be sentenced to death than someone wh
is convicted of killing a black person. In Geo
gia, for example, a person who kills a white
more than four times as likely to receive
death sentence as someone who kills a blac

The Racial Justice Act will eliminate thes
disparities by allowing the use of statistics
prove discriminatory sentencing. But it will no
as its critics have charged, eliminate the deat
penalty. A prima facie case of discriminatio
can be rebutted through challenges to the su
ficiency and quality of the statistical data; an
the heinous nature of the crime, the defend
ant's prior record, and other nonracial aggra
vating factors must be taken into account.

When the ultimate sanction an organize
society has within its power—the death pena
ty—is imposed, every citizen should feel conf
dent of the fundamental fairness of the dec
sion-making process. We cannot settle f
anything less, and the Racial Justice Act as
sures that we need not.

Mr. WOLPE. Mr. Chairman, I rise in stron
support of the racial justice provision of H.
5269. I see nothing more crucial to preservin
our long-standing respect for the civil rights
all our citizens. There is absolutely no reaso
to oppose an initiative that has such solid sta
tistical data backing up its premise as doe
the Racial Justice Act. We asked the GA
upon passing the Anti-Drug Abuse Act
1988, to study capital sentencing procedure
to determine if the race of either the victims
the defendant in and of itself influences th
likelihood that the defendants would be se
tenced to death. The GAO findings were u
ambiguous: in 82 per cent of the cases r
viewed, those who murdered whites wer
found to be more likely to be sentenced
death than those who murdered blacks. Th
pattern of clear racial discrimination was doc
mented in every region of our Nation, fro
Florida to Ohio to Maryland. Indeed, acros
this land of our blacks are three times mor
likely than whites to be charged, convicte
and executed in killing whites than whites a
for killing blacks.

Clearly, we all agree that murder is a he
nous crime. But the punishment for any crim
should not be dependent upon the skin col
of either the victims or the criminal. By provi
ing defendants the opportunity to challenge
death sentence by offering valid statistical ev
dence that a disparity in capital sentencin
exists, we are simply allowing them to exe
cise their right of equal justice under law. Th
prosecutor may still be able to establish th
race has not been a factor affecting dea
sentences in a given jurisdiction, but the d
fendant would at least be assured of a cons
tutionally valid trial and sentence. If statistic
evidence is allowed in workplace discrimin
tion cases, it most certainly should be perm
ted in cases deciding the life or death of a d
fendant.

There are some who contend that the rac
justice provision is a smokescreen to effe

tively eliminate the death penalty. I make no bones about my personal opposition to the death penalty. But this legislation is emphatically not about the death penalty; it is equally emphatically about equal justice. It simply ensures that if an individual is sentenced to die, that decision has had nothing to do with the color of his or her skin. Period. I urge my colleagues to help ensure equal justice under law by accepting this racial justice provision.

The CHAIRMAN. There are no further amendments made in order, so the question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MONTGOMERY) having assumed the chair, Mr. Bosco, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5269) to control crime, pursuant to House Resolution 490, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute, adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROOKS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 368, nays 55, not voting 10, as follows:

[Roll No. 427]

YEAS—368

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Callahan
Campbell (CO)
Carper
Carr
Chandler
Chapman
Clarke
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Conte
Cooper
Costello
Courter
Cox
Coyne
Craig
Crane
Dannemeyer
Darden
Davis
de la Garza
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Fields
Fish
Flake
Flippo
Foglietta
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hiller
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kleczka
Kolbe
Kolter
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lent
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Lukens, Donald
Machtley
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (VA)
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Saiki
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Stangeland
Stark
Stearns
Stenholm
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Volkmer
Vucanovich
Walgren
Walker
Walsh
Watkins
Waxman
Weber
Weldon
Whittaker
Whitten
Wilson
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—55

AuCoin
Beilenson
Bennett
Berman
Byron
Campbell (CA)
Cardin
Clay
Collins
Conyers
DeFazio
Dellums
Dorgan (ND)
Dymally
Dyson
Edwards (CA)
Feighan
Ford (TN)
Gonzalez
Hawkins
Hoyer
Kastenmeier
Kildee
Kostmayer
Lehman (FL)
Levin (MI)
Lewis (GA)
McHugh
Mollohan
Moody
Nagle
Oberstar
Obey
Olin
Owens (NY)
Payne (NJ)
Pease
Pelosi
Penny
Rahall
Roybal
Sabo
Savage
Schroeder
Serrano
Staggers
Stallings
Stokes
Towns
Visclosky
Washington
Weiss
Wheat
Williams
Wise

NOT VOTING—10

Coughlin
Crockett
Hayes (LA)
Huckaby
Jones (NC)
Lowery (CA)
Luken, Thomas
Madigan
Robinson
Smith (NE)

□ 1555

Messrs. BERMAN, HOYER, LEHMAN of Florida, TOWNS, MOLLOHAN, RAHALL, and BEILENSON changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. BYRON. Mr. Speaker, on the vote on final passage of the crime bill, I inadvertently voted "nay" and I meant to vote "yea."

PERSONAL EXPLANATION

Mr. LOWERY of California. Mr. Speaker, I was ill with a virus and was unable to vote on five rollcall votes and final passage of the critical crime bill, H.R. 5269. Had I been able to make the votes I would have voted "no" on the Hughes amendment, rollcall No. 422; "yes" on the Douglas amendment, rollcall No. 424; "yes" on the Waxman amendment, rollcall No. 425; "yes" on the Dingell amendment, rollcall No. 426; "yes" on the Sensenbrenner amendment, rollcall No. 423; and "yes" on final passage.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5269, COMPREHENSIVE CRIME CONTROL ACT OF 1990

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, H.R. 5269, as

amended, the Clerk be authorized to correct section numbers, cross-references, and punctuation, and to make such stylistic, clerical, technical, conforming, and other changes as may be necessary to reflect the actions of the House in amending the bill.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5269, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERSONAL EXPLANATION

Mr. FISH. Mr. Speaker, on September 26, I was attending a funeral in New York during consideration of the motion to instruct conferees on H.R. 4500, the Campaign Cost Reduction Act of 1990.

Had I been present, I would have voted "aye" on the motion, rollcall vote No. 385.

PERSONAL EXPLANATION

Mr. SWIFT. Mr. Speaker, on September 25, 26, 27, and 28, 1990, I missed several rollcall votes due to an illness in the family.

Had I been present, I would have voted "nay" on roll call 379, and I would have voted "yea" on roll calls 380, 381, 382, 383, 384, 386, 389, and 392.

□ 1600

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 660, FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-807) on the resolution (H. Res. 495) providing for the consideration of the joint resolution (H.J. Res 660) making further continuing appropriations for the fiscal year 1991, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERSONAL EXPLANATION

Mr. NIELSON of Utah. Mr. Speaker, I was off Capitol Hill, and I missed the vote on rollcall No. 425.

Had I been present, I would have voted "no."

WAIVING REQUIREMENT OF CLAUSE 4(b) OF RULE XI AGAINST CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED FROM COMMITTEE ON RULES

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 489 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 489

Resolved, That the requirement of clause 4(b), rule XI for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is hereby waived with respect to any resolution reported from that committee on or before October 7, 1990, to provide for the consideration or disposition of a concurrent resolution on the budget, an amendment thereto, or a conference report thereon, or a joint resolution making continuing appropriations for the fiscal year 1991, an amendment thereto, or a conference report thereon, or a bill to extend the temporary increase in the public debt limit, an amendment thereto, or conference report thereon.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from California [Mr. PASHAYAN], for the purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 489 waives the provision of clause 4b of rule XI requiring a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee.

The requirement is waived against any resolution reported from the Rules Committee this week, until Sunday, October 7, if the resolution provides for consideration or disposition of a budget resolution, a joint resolution making continuing appropriations, a bill to extend the temporary limit on the public debt, amendments to such measures, or a conference report on such measures.

Mr. Speaker, we all know that Congress must do all these things before the end of the week. By our own design, a specific disaster looms for each failure: Without the suspension in this continuing resolution, we bring on the chaos of sequestration, slicing one-third off almost every account in the Federal budget.

If we do not enact the continuing resolution, we abruptly shut down every Government function from air traffic control to the National Zoo. Without a debt limit increase or temporary extension, we default on our obligations for the first time in our history, indelibly staining our credit, forever making it more expensive to borrow.

Mr. Speaker, the purpose of House Resolution 489 is simple. The resolution gives the House the flexibility to do the essential business of the day by majority vote. The resolution permits the House to consider or dispose of a budget resolution, continuing appropriations, or a temporary debt limit bill but only if a majority of the House agrees to this rule and a majority agrees to the specific rules providing for consideration of any of the three measures.

We know what we must do. We know the consequences of our failure to act: sequestration, Government shut-down, default, the end of the world as we know it.

House Resolution 489 is a fair way to proceed. I urge adoption of the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. PASHAYAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 489 is a rule under which the House shall allow itself the flexibility to accomplish the essential work before the body.

The rule waives clause 4b of rule XI, in order to permit, on the same day the Committee on Rules will report the rule, consideration of the rule by a majority vote rather than the two-thirds vote required by the rules of the House.

Mr. Speaker, I want to say that I strongly support the rule and the waiving of the two-thirds requirement on any subsequent rule that makes in order a continuing appropriations resolution.

Normally, rules reported from the Committee on Rules lay over for 1 day before they are called up for consideration. If the leaders shall call up a rule for floor consideration on the same day it is reported, the rules of the House will require that its consideration be agreed to by two-thirds of the Members present.

In view of the defeat last night of the conference report on the budget resolution, and because the legal authority to continue the operations of Government will expire at midnight tonight, we must pass this rule in order to consider by a simple majority a rule that we just a few moments ago reported from the Committee on Rules.

The House does not have a day in which we can delay this, and we should not even want to, for that matter. The rule gives the leaders and the entire House some much needed flexibility.

Mr. Speaker, in many eloquent speeches made on this floor last night, the Members expressed their frustration at the fuzziness of the budget summit agreement.

Today it is imperative that we put aside short tempers, put aside the hot rhetoric, put aside the short-term political maneuvering, and act to assure that the Government shall be able to continue to operate.

The Committee on Rules is prepared to call up a rule that shall make a short-term continuing resolution the business of the day. Normally, the vote on consideration would have to pass by two-thirds.

Under the rule, the vote on consideration of the rule on short-term continuing appropriations resolution will need only a simple majority.

Mr. Speaker, I would conclude by pointing out to the membership that our distinguished chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY], was absolutely correct a moment ago when he said that we should not abruptly shut down every Government function.

I commend him for his remarks, I associate myself with his remarks, and I urge—in the strongest possible terms—adoption of this rule.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. Speaker, this is the predecessor to the rule that we will be, at the majority's time, bringing forward concerning what we are going to do with the CR.

I just want to notify the Members on both sides of the aisle that in the Committee on Rules I attempted to make sure that the Members of Congress and the members of the executive would bear the same pain as Federal workers and our constitutents who do not have the ability to avoid problems when sequestration comes, and it becomes almost a philosophical point of view; either we treat ourselves as we are willing to treat others, which used to be called the Golden Rule, or we have the new plate rule for Congress which is we get out of everything we impose on others.

On almost a party-line vote, and yet I do not think that is what most Democrats think, the Committee on Rules has decided we do not have to sequester the salaries of Members of Congress even though we may well sequester everyone else's. I think that is grossly unfair.

I think that says what is wrong with this entire place, and I think it shows the kind of arrogance and the kind of thought that says that what we have and what we care about matters more than the file clerk who is a single mother trying to get along, or the person who works at the Social Security office, the very people who elect us.

I would hope there would be a second reason to throw away this rule so that we do the right thing.

Mr. PASHAYAN. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER].

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Our guests in the galleries will not participate in the debates on the floor and will not applaud.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, we are being asked to adopt an unusual procedure here, and I do not know that there is any great harm in it except that I think we need to understand what it is we are doing.

Is it my understanding, and I would direct this to the committee chairman, that the process that we are using here would only grant the authority to the leadership to get this particular rule in effect for 3 days until Sunday, is that right, in other words, until Sunday we would be able to bring up rules on the same day without the two-thirds vote?

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. The gentleman is correct.

Mr. WALKER. I listened to the majority leader earlier, and he indicated that we would probably be using that authority for the budget resolutions that are assumed to come this weekend. Is that the understanding of the gentleman from Mississippi?

Mr. MOAKLEY. If the gentleman will yield further, the gentleman is also correct.

Mr. WALKER. The only concern I have is that there are a number of other major pieces of legislation hanging around in conference committees and in various committees of the House that could also come up under a fairly unusual procedure here with practically no notification under this particular procedure.

I would hope that it is not the intent of anyone to use this extraordinary rule to bring up other major legislation before the House.

☐ 1610

Can the gentleman give me some assurance on that?

Mr. MOAKLEY. Actually, the resolution just gives the House the flexibility to do the essential business. It permits the House to consider or dispose of a budget resolution, continue on appropriations, temporary debt limit bill, and that is it.

Mr. WALKER. so, specified in the rule is language indicating the items that could come up under this special power?

Mr. MOAKLEY. That is correct.

Mr. WALKER. And it would not extend the power to other resolutions that might come to the floor?

Mr. MOAKLEY. That is my understanding.

Mr. WALKER. I thank the gentleman. I think that it is very useful. As we get down in the waning days of the session, I think it is particularly important that the Members have an opportunity to look at the bills that we are voting on, particularly on some of these very major items that could be before Members.

I must say that this gentleman from Pennsylvania is somewhat concerned that even in the case of the budget, that we could have a budget rolled onto the House floor with very little notification of the Members. I think one of the reasons why the budget failed last evening, among many, but certainly one of the reasons was that the American people responded to the budget and had called congressional offices. Under this procedure, of course, we could have a budget agreement arrived at quickly, thrown onto the floor quickly, with very little chance of the membership to look at it, and certainly no chance for the country to look at it.

I will say that that is a concern of mine. I understand the need for it. I understand the crisis situation that we are in, and so I will therefore not oppose the resolution. However, I do caution Members that insofar as this rule gives Members flexibility, the Members ought to also be given the courtesy of as much notification as possible. I would hate to see this process used as a way to give the membership little notice of a major action that they might be asked to take. So, I would hope that that is at least a statement from this Member indicating that we ought to have at least a few hours to look over any kind of budget document that could emerge from various negotiations around the Hill.

I thank the gentleman for his explanation, and I thank the gentleman from California for yielding to me.

Mr. PASHAYAN. Mr. Speaker, I wish to thank the gentleman for his astute observations, and also to thank him for his cooperation.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time.

Mr. PASHAYAN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. MONTGOMERY). Without objection, the previous question is ordered on the resolution.

There was no objections.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

APPOINTMENT OF CONFEREES ON H.R. 4739, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991

Mr. ASPIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4739) to authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, with a Senate amendment to the House amendment thereto, disagree to the Senate amendment to the House amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. DICKINSON

Mr. DICKINSON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DICKINSON moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 4739, be instructed to insist on the House position which fully funds the research and development, procurement and operation and maintenance budget request for the Military Strategic and Tactical Relay Satellite (MILSTAR).

The SPEAKER pro tempore. The gentleman from Alabama [Mr. DICKINSON] will be recognized for 30 minutes in support of his motion, and the gentleman from Wisconsin [Mr. ASPIN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Alabama [Mr. DICKINSON].

Mr. DICKINSON. Mr. Speaker, this is a very simple subject matter, noncontroversial so far as this Member knows. The motion to instruct simply instructs the House conferees to insist on the House position with regard to MILSTAR, or the MILSTAR Program. MILSTAR is a critical Department of Defense communication satellite.

The situation in the Persian Gulf has demonstrated the need for the kind of antijam tactical communications that MILSTAR will provide.

The House has fully funded the MILSTAR Program. The Senate did not fund it. This is not a partisan issue, nor was it controversial when the House considered the Defense authorization bill. I think it is something that is needed. I urge all Members of the House to support it.

Mr. ASPIN. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Wisconsin [Mr. ASPIN].

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Speaker will appoint conferees later in the day.

MOTION TO CLOSE CONFERENCE COMMITTEE MEETINGS ON H.R. 4739

Mr. ASPIN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ASPIN moves that pursuant to rule XXVIII 6(a) of the House rules, the conference committee meetings between the House and the Senate on H.R. 4739, the fiscal year 1991 Department of Defense Authorization bill, be closed to the public at such times as classified national security information is under consideration; *Provided however*, That any sitting Member of Congress shall have the right to attend any closed or open meeting.

The SPEAKER pro tempore. Does the gentleman wish to have debate time on his motion?

Mr. ASPIN. No, Mr. Speaker, I am not seeking to debate the issue.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin [Mr. ASPIN].

On this motion, the vote must be taken by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 410, nays 2, not voting 21, as follows:

[Roll No. 428]

YEAS—410

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Courter
Cox
Coyne
Craig
Crane
Dannemeyer
Darden
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Lukens, Donald
Machtley
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickle
Porter
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—2

DeFazio
Weiss

NOT VOTING—21

Boxer
Coughlin
Crockett
Davis
de la Garza
Gephardt
Goodling
Hayes (LA)
Huckaby
Jones (NC)
Kleczka
Kolter
Levine (CA)
Lowery (CA)
Luken, Thomas
Madigan
Pickett
Quillen
Robinson
Smith (NE)
Udall

□ 1648

So the motion was agreed to.

The result of the vote was announced as above recorded.

□ 1650

APPOINTMENT OF CONFEREES ON S. 1430, NATIONAL AND COMMUNITY SERVICE ACT OF 1990

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1430) to enhance national and community service, and for other purposes, with House amendments thereto, insist on the House amendments, and request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. Montgomery). Is there objection to the request of the gentleman from California?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. PORTER

Mr. PORTER. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. Porter moves that the managers, at the conference on the disagreeing votes of the two Houses on the Senate bill, S. 1430, be instructed to insist on the provisions of section 132 of the House amendment to the Senate bill, S. 1430.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. Porter] will be recognized for 30 minutes and the gentleman from California [Mr. Hawkins] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. Porter].

Mr. PORTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. PORTER. Mr. Speaker, several weeks ago the House adopted as an amendment to the National Service Act the essence of H.R. 9111, which is the Volunteer Protection Act. This is addressed to the liability problem that exists in much of American society from medical and other professional liability problems, to private liability, and to liability that is incurred by volunteers. The legislation was introduced in the 100th Congress, where it had 254 cosponsors. The legislation was also introduced in the 101st Congress, where there are over 220 cosponsors.

Mr. Speaker, this legislation, though promised, has never had a hearing. There are over 250 national volunteer organizations that support the legislation. They range from the American Red Cross to Big Brothers, Big Sisters, the Boy Scouts, and the Girl Scouts. You name it, that organization is undoubtedly a supporter of this legislation.

Why is that, Mr. Speaker? Because increasingly in our extra-litigious society, volunteers are fearful of coming forward to offer their volunteer services to such organizations because they are afraid they will end up in a court of law as a defendant in a lawsuit. This is seriously affecting volunteer recruitment across this country.

This amendment to the National Service Act adds a section that contains the essence of the volunteer protection legislation. It affects one relatively small program within the act and says to States that wish to be eligible for funding under this program, that they must be within 2 years time show the director that they have in effect laws or a program that exempts unpaid volunteers from normal negligence liability. That would leave, of course, the organization for which they were volunteering liable to any injured party.

This legislation is essential to encourage the States to act to protect volunteers from liability, to keep men and women across America coming forward to offer their services, to serve on boards of directors, and to offer their direct volunteer services to make those organizations work.

Mr. Speaker, this country, as we all know, is one that depends on the services of volunteers as perhaps no other in the world. Millions and millions of man and woman hours are committed by Americans every year to support worthy projects that run from the Little League to PTO or PTA and to organizations like the American Association of University Women, the Junior League, and so many others.

All of these organizations, Mr. Speaker, support this legislation because they know that they have to have volunteers to continue to come forward, and they know also that it is increasingly difficult to find people willing to do so because they fear they are going to be ending up in a court of law where their assets, their farm, or their home may be subject to a judgment.

So, Mr. Speaker, I want to make sure that our House conferees, as they address their responsibilities at the conference on the National Service Act, will take it as a very high responsibility that they stand up for the House position and support this provision of the legislation that we have passed.

Mr. Speaker, I reserve the balance of my time.

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I indicated to the gentleman from Illinois [Mr. Porter] when this bill was considered in the House that I had no objection whatsoever to considering the issue of liability in connection with the National Service Act. I indicated that the Committee on Education and Labor of the House does not have control over the subject matter. It is a matter within the jurisdiction of the Committee on the Judiciary. It is, therefore, of some importance, I assume, to the chairman of that committee, and as far as I know, he would perhaps join in giving full consideration to the issue in the conference committee.

I would like simply to assure the gentleman from Illinois that I will do everything possible to give consideration to the issue in the conference committee, and I would join with him in asking that his motion be agreed to. That is all that I can possibly do. I will join with him in every way possible to bring the issue to some resolution in the conference committee.

Mr. Speaker, I reserve the balance of my time.

Mr. PORTER. Mr. Speaker, I yield back the balance of my time.

Mr. HAWKINS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Illinois [Mr. Porter].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PORTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 412, nays 0, not voting 21, as follows:

[Roll No. 429]

YEAS—412

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Brennan
Brooks
Broomfield
Browder
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Courter
Cox
Coyne
Craig

Crane
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Machtley
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Rangel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—0

NOT VOTING—21

Boxer
Brown (CA)
Coughlin
Crockett
Ford (TN)
Gray
Hayes (LA)
Huckaby
Jones (NC)
Leath (TX)
Lowery (CA)
Luken, Thomas
Lukens, Donald
Madigan
Quillen
Ravenel
Robinson
Rose
Smith (NE)
Udall
Valentine

□ 1739

So the motion to instruct conferees was agreed to.

A motion to reconsider was laid on the table.

TEMPORARY EXTENSION OF DEFENSE PRODUCTION ACT OF 1950

Ms. OAKAR. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3155) to extend the expiration date of the Defense Production Act of 1950 to October 20, 1990, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentlewoman from Ohio?

Mr. SHUMWAY. Reserving the right to object, Mr. Speaker, I shall not object, but I take this time to yield to the gentlewoman from Ohio to explain the bill.

Ms. OAKAR. Mr. Speaker, the Senate has sent us a further short-term extension of the Defense Production Act from October 5 to October 20, 1990. When the House passed its extension bill (H.R. 5725) on October 1, October 20 was the date this body originally recommended.

A conference is now in prospect on this legislation. Additionally, the administration had indicated a willingness to help in resolving the differences and concerns of the various parties.

Accordingly, I am hopeful that the interval between now and October 20 will be constructively used to work out a bill that will strengthen defense production, energy security, and overall national security.

I urge that the extension bill (S. 3155) be adopted to provide a continuity of vital authorities while this process goes forward.

Mr. SHUMWAY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3155

Be it enacted by the Senate and House o Representatives of the United States o America in Congress assembled,

SECTION 1. TEMPORARY EXTENSION OF DEFENS PRODUCTION ACT OF 1950.

The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C App. 2166(a)) is amended by striking "October 5, 1990" and inserting "October 20 1990".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 4739, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991

The SPEAKER. The Chair appoints the following conferees, and, without objection, reserves the right to appoint additional conferees on H.R 4739:

From the Committee on Armed Services, for consideration of the entire House bill, the entire Senate amendment (except division D), and modifications committed to conference: Messrs. Aspin, Bennett, Montgomery, and Dellums, Mrs. Schroeder, Mrs. Byron, and Messrs. Mavroules, Hutto, Skelton, Leath of Texas, McCurdy, Foglietta, Hertel, Sisisky, Ray, Spratt, McCloskey, Ortiz, Darden, Evans, Bilbray, McNulty, Browder, Dickinson, Spence, Stump, Courter, Hopkins, Davis, Hunter, Martin of New York, Kasich, Bateman, Blaz, Ireland, Hansen, Rowland of Connecticut, and Kyl.

From the Committee on Armed Services, for consideration of division D of the Senate amendment, and modifications committed to conference: Messrs. Aspin, Bennett, and Dellums, Mrs. Schroeder, Messrs. Mavroules, Skelton, McCurdy, Hertel, Spratt, Evans, and Montgomery, Mrs. Byron, and Messrs. Hutto, Leath of Texas, Foglietta, Sisisky, Ray, McCloskey, Ortiz, Dickinson, Stump Courter, Davis, Hunter, Hansen, Kyl, Spence, Hopkins, Martin of New York, Kasich, Bateman, and Blaz.

As additional conferees from the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 2 of rule XLVIII

Messrs. Beilenson, Kastenmeier, and Hyde.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 324, 335, and 336 and division D of the House bill, and sections 1216, 1249, and 2806 through 2808 of the Senate amendment, and modifications committed to conference: Mr. Gonzalez, Ms. Oakar, and Messrs. Vento, Torres, Neal of Massachusetts, Wylie, Shumway, and Roth.

As additional confererees from the Committee on Education and Labor, for consideration of section 504 and division D of the House bill, and sections 854, 1216, and 3130B of the Senate amendment, and modifications committed to conference: Messrs. Hawkins, Ford of Michigan, Williams, Martinez, Sawyer, Goodling, Coleman of Missouri, and Gunderson.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 341, 345, 2834(c), 2851, 2852, 3134, 3135, and 3201 of the House bill, and sections 319, 813(f), 1003, 1222, 2821, 2824, 3130B, 3133, 3134, 3201, and 3202 and division D of the Senate amendment, and modifications committed to conference: Messrs. Dingell, Thomas A. Luken, Sharp, Swift, Eckart, Lent, Moorhead, and Whittaker.

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 226, 232, 303, 332, 352, 1037, 1331(a), 1346, 1347, 1401 through 1408, 3133, and 3141 through 3144 of the House bill, and sections 304, 852, 1106 1107, 1211, 1213 through 1215, 1224, 1225, 1242 through 1244, 1246, 1271 through 1275, 1304(d), 2811, 2812, and 3141 of the Senate amendment, and modifications committed to conference: Messrs. Fascell, Hamilton, Yatron, Solarz, Smith of Florida, Broomfield, Gilman, and Lagomarsino.

As additional conferees from the Committee on Government Operations, for consideration of sections 227, 802, 803, 804, 807, 835, 1302, 1303, and 2822 of the House bill, and sections 811, 812(f), 813(a), 813(c), 813(d), 816, 817, 818, 819, 833(a), 1205, 1207, 2804, 2805, and 2809 of the Senate amendment, and modifications committed to conference: Mr. Conyers, Mrs. Collins of Illinois, Mr. Wise, Mrs. Boxer, and Messrs. Kleczka, Horton, Kyl, and Shays.

As additional conferees from the Committee on Interior and Insular Affairs, for consideration of division D of the Senate amendment, and modifications committed to conference: Messrs. Udall, Miller of California, Vento, Markey, Levine of California, Young of Alaska, Marlenee, and Craig.

As additional conferees from the Committee on the Judiciary, for consideration of sections 352, 552, 822, and 1343 of the House bill, and sections 804A, 833(a), 1102, 1218, 1226, 1251 through 1266, and 1503 of the Senate amendment, and modifications committed to conference: Messrs. Brooks, Kastenmeier, Frank, Staggers, Bryant, Fish Moorhead, and James.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 329(d), 553, 1324, and 2831 of the House bill, and sections 522, 631(b), 2805, 3132, and 3401 through 3407 and division D of the Senate amendment, and modifications committed to conference: Messrs. Jones of North Carolina, Studds, Hubbard, Tauzin, Dyson, Young of Alaska, Lent, and Shumway.

As additional conferees from the Committee on Post Office and Civil Service, for consideration of sections 361(c), 902, 905, 906, and 1217(b) of the House bill, and sections 831, 832, 834, 1001(a), 1502(b), 3202, and 3404 through 3406 of the Senate amendment, and modifications committed to conference: Messrs. Ford of Michigan, Clay, and Sikorski, Ms. Oakar, and Messrs. Ackerman, Gilman, and Horton, and Mrs. Morella.

As additional conferees from the Committee on Public Works and Transportation, for consideration of section 2803 and division D of the House bill, and sections 1216, 1232, 2804, and 2814 of the Senate amendment, and modifications committed to conference: Messrs. Anderson, Roe, Oberstar, Bosco, Savage, Hammerschmidt, Petri, and Packard.

As additional conferees from the Committee on Science, Space, and Technology, for consideration of sections 802, 804, 804A, 1001, 1002, 1501, 1502, and 3130B of the Senate amendment, and modifications committed to conference: Mr. Roe, Mr. Scheuer, Mrs. Lloyd, Messrs. Valentine, Mineta, Walker, Ms. Schneider, and Mr. Boehlert.

As additional conferees from the Committee on Small Business, for consideration of section 813(e) of the Senate amendment, and modifications committed to conference: Mr. LaFalce and Mr. McDade.

As additional conferees from the Committee on Ways and Means, for consideration of section 1223 and division D of the Senate amendment, and modifications committed to conference: Messrs. Rostenkowski, Gibbons, Jenkins, Downey, Pease, Archer, Vander Jagt, and Crane.

As additional conferees from the Committee on Ways and Means, for consideration of section 645 of the Senate amendment, and modifications committed to conference: Messrs. Rostenkowski, Ford of Tennessee, Downey, Pease, Matsui, Archer, Vander Jagt, and Crane.

There was no objection.

APPOINTMENT OF CONFEREES ON S. 1430, NATIONAL AND COMMUNITY SERVICE ACT OF 1990

The SPEAKER. The Chair appoints the following conferees and without objection, reserves the right to appoint additional conferees on S. 1430:

From the Committee on Education and Labor, for consideration of the Senate bill (except sections 222, 501, 502, 507 and 508), and the House amendment (except sections 132(e), 191-95, and 199) and modifications committed to conference: Messrs. Hawkins, Ford of Michigan, Gaydos, Miller of California, Kildee, Williams, Martinez, Owens of New York, Sawyer, Mrs. Lowey of New York, Mrs. Unsoeld, Messrs. Goodling, Gunderson, Coleman of Missouri, Petri, Tauke, Mrs. Roukema, and Mr. Fawell.

From the Committee on the Judiciary, for consideration of section 132(e) of the House amendment, and modifications committed to conference: Messrs. Brooks, Edwards of California, Staggers, Fish, and Dannemeyer.

From the Committee on Energy and Commerce, for consideration of sections 222, 501, and 502 of the Senate bill, and modifications committed to conference: Messrs. Dingell, Thomas A. Luken, Waxman, Lent, and Whittaker.

Except that, for consideration of sections 501 and 502, Mr. Madigan is appointed in lieu of Mr. Whittaker.

From the Committee on Foreign Affairs, for consideration of sections 507 and 508 of the Senate bill, and sections 191-99 of the House amendment, and modifications committed to conference: Messrs. Fascell, Berman, Levine of California, Broomfield, and Gilman.

From the Committee on Interior and Insular Affairs, for consideration of subtitle C of title I of the Senate bill, and title II of the House amendment, and modifications committed to conference: Messrs. Udall, Vento, Lewis of Georgia, Young of Alaska, and Lagomarsino.

There was no objection.

☐ 1750

ANDEAN TRADE PREFERENCE ACT OF 1990—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-244)

The Speaker laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Ways and Means and ordered to be printed.

(For message, see proceedings of the Senate of today, Friday, October 5, 1990.)

FURTHER MESSAGE FROM THE PRESIDENT

A further message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

FINAL REPORT OF COMMISSION ON THE BICENTENARY OF THE HOUSE OF REPRESENTATIVES

(Mrs. BOGGS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOGGS. Mr. Speaker, today I am submitting to the House the final report of the Commission on the Bicentenary of the House of Representatives and the report of the activities of the Office for the Bicentennial of the House since its inception in 1983.

It has been my great pleasure to serve the House in the capacity of chairman, and to work with my colleagues on the Commission in conducting the activities related to the 200th anniversary of the House of Representatives.

Mr. Speaker, I believe the publications, exhibitions, symposia, and other special events held during the bicentennial celebration have increased public awareness of the history of Congress and have established a firm foundation on which to build in the future. One reviewer called the congressional bicentennial "a triumph of advance planning," and I would like to thank my colleagues on the Commission and the staff of the Office for the Bicentennial for the overall success of the many programs that made up the bicentennial agenda.

I would also like to thank the Librarian of Congress and the staff of the Library for the many contributions they have made to the bicentennial of Congress. In addition to mounting three major exhibitions, the Library provided constant support and encouragement for many other programs mentioned in this report.

Under the leadership of Senator Byrd, the Senate Bicentennial Commission made many outstanding contributions to the overall commemoration, and I want to express my sincere appreciation to Senator Byrd and the other Members of the Senate commission for the high level of enthusiastic cooperation that sustained all of us during the years of planning and execution of our various projects.

This report also contains some proposals for the future of the Office of the Historian of the House of Representatives. It is important that the same kind of advance planning which made the bicentennial programs work so well be applied to the Office of the Historian in the years ahead so we can continue to build on our historical understanding of Congress as it begins its third century.

TEXTILE, APPAREL, AND FOOTWEAR TRADE ACT OF 1990—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-245)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.R. 4328, the "Textile, Apparel, and Footwear Trade Act of 1990," which imposes import quotas on textiles, textile products, and nonrubber footwear. This highly protectionist bill would damage the national economy, increase already artificially high costs to consumers of several basic goods, and abrogate our international agreements. It would also reverse the tremendous progress we are making to generate a global economic renaissance.

Economic indicators illustrate that the problems this bill is intended to address do not exist. Despite assertions to the contrary, the textile industry has done well. Domestic production has been up slightly since 1987. Unemployment in major textile-producing States is currently lower than the national average. Since 1989, the textile industry has continued to operate at a higher rate of capacity than the average for all U.S. manufacturing industries.

All consumers, and particularly those at lower income levels, would be adversely affected if this legislation were to become law. The consumer costs of all restrictions on textile and apparel imports are conservatively estimated to increase to a total of $1650 billion over the next 5 years—that amounts to an onerous $2,600 for a family of four over that same period. These costs would continue to rise annually. In essence, this legislation picks the pockets of U.S. consumers in order to subsidize the textile industry at a cost of $70,000 annually per job saved.

Furthermore, U.S. merchandise exports, which have increased by more than 9 percent in the first half of this year, would be jeopardized. We could anticipate swift retaliation by countries exporting textiles and footwear if this bill became law. These countries have large and rapidly growing markets for U.S. exports, which would be placed at risk by the new restrictions required under H.R. 4328. They would retaliate against our most competitive exports, such as agriculture, aerospace, high technology, capital goods, and services, to the detriment of domestic employment in these industries.

All of these economic costs to consumers and American industry would be incurred without eliminating a single "unfair" trade practice or opening even one closed market abroad. Rather than address the industry's competitive problems constructively, this legislation merely closes our markets and insulates the textile, apparel, and footwear industries from international competition.

We already have very effective laws that provide remedies to unfair competition from abroad, which various sectors of the textile and apparel industries have used when necessary. Our best hope for opening new markets overseas and for sustaining our textile and apparel industries is not this legislation, but the Uruguay Round of global trade talks, now in its critical final weeks.

We are working in the Uruguay Round to negotiate a means for the textile and apparel industries to:

- —Enhance their international competitiveness in the long term and to open foreign markets to our exports.
- —Ensure that the current special quota protection for the industry is not terminated abruptly, but is phased in over a reasonable period of time to protect those parts of the industry that require more time to adjust to import competition.
- —Provide sufficient stability so that our textile and apparel industries, as well as our importers and retailers, have a smooth, gradual path of adjustment to the regular rules of the General Agreement on Tariffs and Trade (GATT), as they are strengthened in the Round.

H.R. 4328 would eliminate any hope we have of achieving a successful Uruguay Round agreement in December that accomplishes these objectives. The bill would do this by taking a sector of considerable importance in international trade off the negotiating table. Furthermore, it would be an egregious violation of GATT rules, our commitments under the Multifiber Arrangement (MFA), and the numerous bilateral agreements we have negotiated under the MFA's auspices. This protectionist bill unquestionably would result in a mass exodus of perhaps half the 100 nations participating in the Round. All that we hope to achieve for the textile and apparel industries would be lost, as would all of our efforts for American businesses, consumers, and workers.

Beyond this economic calamity, H.R. 4328 is reprehensible at a time when the United States' highest international priority is to strengthen international cooperation. Many of the countries whose interests would be damaged by H.R. 4328, such as Turkey and Egypt, are ones that have cooperated effectively in resisting Iraqi aggression in the Persian Gulf. In addition, this bill would undercut our attempts to rebuild economies on free-market principles and to build a strengthened global trading system that will permit trade to expand and thereby increase world prosperity and stability.

Additionally, while the Congress holds the authority to regulate commerce with foreign nations, several provisions of H.R. 4328 interfere with the President's constitutional prerogatives in conducting international negotiations and in proposing legislation.

The Textile, Apparel, and Footwear Trade Act of 1990 is simply not the panacea advertised by its proponents. Instead, it is blatantly protectionist, unwarranted, economically harmful, and internationally unviable.

Accordingly, I am disapproving H.R. 4328.

GEORGE BUSH.

THE WHITE HOUSE, *October 5, 1990.*

□ 1800

The **SPEAKER**. The objections of the President will be spread at large upon the Journal, and the message and the bill be printed as a House document.

Mr. **ROSTENKOWSKI**. Mr. Speaker, I ask unanimous consent that further consideration of the veto message on the bill, H.R. 4328, be postponed until Tuesday, October 9, 1990.

The **SPEAKER**. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 660, FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1991

Mr. **MOAKLEY**. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 495 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 495

Resolved, That upon adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 660) making further continuing appropriations for the fiscal year 1991, and for other purposes. The joint resolution shall be debatable for not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The amendments printed in section 2 of this resolution shall be considered as having been agreed to. All points of order against the joint resolution, as amended, and against its consideration are hereby waived. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit.

SEC. 2. (A) On page 7, line 22, strike "October 6, 1990" and inserting "October 12, 1990."

(B) Insert at the end of the joint resolution the following new section:

"SEC. 114. EXTENSION OF TEMPORARY INCREASE IN PUBLIC DEBT LIMIT.

"Section 1 of Public Law 101-350 is amended by striking 'October 6, 1990' and inserting 'October 12, 1990.'"

SEC. 3. House Resolutions 475, 482, and 492 are hereby laid on the table.

The **SPEAKER**. The gentleman from Massachusettes [Mr. MOAKLEY] is recognized for 1 hour.

Mr. **MOAKLEY**. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], and pending that, I yield myself such time as I may consume.

Mr. **MOAKLEY**. Mr. Speaker, House Resolution 495 makes it in order to consider House Joint Resolution 660 in the House, with 1 hour debate time equally divided and controlled by the chairman and ranking minority member of the Appropriations Committee.

The rule waives all points of order against the joint resolution as amended and against its consideration. The rule provides that the amendment printed in section 2 of the rule will be considered to have been agreed to.

The amendment in section 2 of the rule changes the date of the continuing resolution, from October 20 to October 12. It also extends the temporary increase in the debt limit until October 12. The debt limit extension changes only the date not the dollars.

The rule provides one motion to recommit. Finally, the rule lays on the table the following rules: House Resolution 475, which provides for the consideration of the first fiscal year 1991 continuing resolution; House Resolution 482, which waives the two-thirds requirement against rules reported on Sunday, September 30; and House Resolution 492, the first rule the committee granted to considered House Joint Resolution 660.

Mr. Speaker, we all know that we have no budget agreement. But our responsibility did not end with the defeat of the conference report. Congress must still enact a continuing resolution, suspend sequestration until we can agree on a budget, and extend the debt limit. We must do all of this before midnight tonight.

Mr. Speaker, it is time to act. House Resolution 495 is a fair rule. I urge its adoption.

Mr. **SOLOMON**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MOAKLEY] for yielding this time to me.

Mr. Speaker, my colleagues, this is a closed rule that provides for 1 hour of debate on a short-term continuing resolution. There are two self-executing provisions in this rule. One such provision extends the life of this particular resolution until the date of October 12, 1 week from today. The other self-executing provision temporarily extends the debt ceiling until October 12, as well, but does not raise the actual debt limit itself.

Mr. Speaker, the continuing resolution itself waives the imposition of sequestration until October 12. In other words, Mr. Speaker, Congress is trying to dodge the bullet again here tonight.

It is precisely for that reason, Mr. Speaker, that I cannot support this rule, nor can I support the continuing resolution. Once again, Congress is waiving a law that it finds inconvenient. There is an attitude prevalent in this Congress which can be summed up in the following three statements:

> There is not a House rule we cannot set aside; there is not a House precedent we cannot overturn; and there is not a law that we can't ignore if the pressure to maintain business as usual around here gets tough enough.

Mr. Speaker, business as usual is all over at midnight tonight. The official statement that accompanied the budget agreement calls for good-faith negotiations on both sides of this aisle, not for free-floating continuing resolutions that bear no resemblance to a bipartisan agreement at all.

Mr. Speaker, I will now read from another portion of the official statement from the budget summiteers. It reads as follows:

> The President has stated that his intention is that no further continuing resolutions, beyond October 5, shall be signed until a budget resolution with reconciliation instructions fully reflecting the budget summit agreement shall have passed both Houses of Congress.

Mr. Speaker, that has not happened. I would advise my colleagues that the statement I just read still stands. President Bush himself reiterated it to the House Republican leader, the gentleman from Illinois [Mr. MICHEL], and Press Secretary Marlin Fitzwater reiterated that statement at his daily press briefing as early as this morning.

□ 1810

Mr. Speaker, we are now meeting under unprecedented circumstances, and one thing is fully clear: The time for business as usual is over and done with here tonight. Short-term stopgap CR's are a thing of the past. If this CR goes through here tonight, I do not know whether the President will veto the whole thing outright or simply let it go unsigned. Either way, the ax falls at midnight tonight. Make no mistake about it.

Rather than approving one more dying gasp at trying to maintain the appearance of normalcy, we ought to defeat this rule, because Members on both sides of the aisle are being gagged. The Committee on Rules this afternoon turned down my motion to

make in order a substitute rule to allow the gentleman from Wisconsin [Mr. OBEY] from your side of the aisle, the gentleman from Texas [Mr. ARMEY], and the gentleman from California [Mr. DANNEMEYER] from our side of the aisle to offer clear altenative substitutes to the budget resolution. The Democratic majority also defeated an amendment supported by the gentleman from Delaware [Mr. CARPER] to strike the sequestration waiver from this CR here tonight. Finally, the Democratic majority defeated my amendment to strike the sequester waiver, but exempt the necessary functions of government such as VA hospitals, air traffic controllers, meat inspectors, and other vital functions that mean so much across the Nation.

Mr. Speaker, it is obvious the Democratic majority does not want an open and fair debate on this issue on this floor. Otherwise, they would have allowed those amendments. We would have had our chance to debate it clearly here today.

Mr. Speaker, this rule ought to be defeated. If it is defeated, we will go back upstairs and we will make in order these alternatives that represent both sides of the aisle, Democrats and Republicans alike.

Mr. Speaker, I reserve the balance of my time.

Mr. **MOAKLEY**. Mr. Speaker, I have no requests for time.

Mr. **SOLOMON**. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. MARTIN], a member of the Committee on Rules.

Mrs. **MARTIN** of Illinois. Mr. Speaker, there are a lot of reasons to defeat this rule, and I hope Members listen carefully to one of them. For those Members who have wondered what the problem has been, it has been because it is finally something that could hit all of us if we sequester. I do not care who you are, it is always different to talk about someone else getting hurt. If it is someone else, although we empathize and sympathize, boy-o-boy, when it hits us, it is tough.

Mr. Speaker, I know what I am going to ask Members is an extraordinarily difficult thing to do, but I think it may actually help in the long run, and indeed might actually say something to the people that we represent. I am asking Members to defeat the previous question. I understand those are usually leadership roles. I do not act on that behalf.

I also understand that Members can go home and nobody can talk about the previous question. For those of us who work hard on rules, describing what a wonderful job we have done on the previous question does not really move people to applause.

The reason to defeat this is because I am then, with your help, going to try to put on an amendment that does this: It says that Members of the House and Members of the Senate, the Vice President of the United States, the Director of OMB, and the Cabinet, if we move the sequestration, will be subject to sequestration too, and their salaries, until December 31.

Mr. Chairman, this is a very carefully drawn amendment. At all times I have tried to cooperate with both sides, who do not like it a lot, because they are trying to protect all of us, and I understand that. As someone who also was cochair of the task force that totally revamped how we look at things, I think this is well in keeping with what I am asking.

Mr. Chairman, this is saying to everybody that if we do not do our job, and if we cannot complete our work, and if we cannot force ourselves to agree, no matter how hard it is, and we sequester, that we get some of it too.

I know people think everybody here is rich, and we joke that maybe that is the other body. I cannot tell you how many Members have kids in college, but you know that I know that. I know about the two houses and the mortgages, and I know how no one appreciates that we do not get a per diem. I know all of that, but we should still do this so we once and for all say that the people's house recognizes what it is like to be a real person, and that when Government does not act, Government can hurt, and that we can at least share that hurt.

Mr. Speaker, I am asking Members to defeat the previous question so that that amendment can be offered. Not because it brings us to conclusion on the budget debate, not because it will change by too much the good or the bad that Members as individuals have done, but simply because it is the right thing to do if we sit here as representatives of the people.

Mr. Speaker, across party lines, with all the difficulties that brings, I ask Members to defeat the previous question.

Mr. **SOLOMON**. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DANNEMEYER].

Mr. **DANNEMEYER**. Mr. Speaker, I rise also to request or give notice to the House that I will ask to defeat the previous question, along with my colleague, the gentlewoman from Illinois [Mrs. MARTIN], to give an opportunity for the House to consider an alternative budget that I believe addresses the need that is pressing upon all of us.

The gentleman from New York [Mr. SOLOMON], a member of the Committee on the Budget, presented this idea to the Commiteee on the Budget today, and it was not made in order by this rule. I would like to describe very briefly what it does so that Members can appreciate what it would entail if I were given this opportunity today.

Mr. Speaker, I can say by way of preliminary remarks that if we learned anything last night from what is for all of us still a digesting experience, it is that the people's house, and in this I agree with the gentleman from Illinois [Mr. ROSTENKOWSKI], chairman of the Committee on Ways and Means, the people of America spoke last night through the House membership in saying we do not want to solve the deficit problem by raising taxes or increasing fees on Medicare beneficiaries in America. That is what it said to this Member from California.

This proposal I am talking about would entail a reduction of the deficit over the next 5 years of some $424 billion. Very briefly, the numbers are in the defense category, the same that was in the budget summit we considered, a little less than $170 billion over 5 years. Entitlements, by placing a cap on what growth can take place of no more than 7.7 percent a year. Nondefense discretionary, and this is a cornerstone of it, to be honest, it is a 4.5-percent cap in that category. That achieves a reduction of some $137.9 billion over the 5 years. Interest on money we do not have to borrow is $54 billion.

Then, of course, there is a provision in here that I debated with some Members as to whether to put in here which deals with the subject that has such as great following around America, namely, foreign aid.

How many Members have been in town hall forums and heard questions time and again, "Congress, how do you continue to fund foreign aid?"

Well, it cuts it by a third, which over 5 years would produce $32.4 billion in reductions. That is a total of $424 billion over 5 years.

Mr. Speaker, this proposal does not raise anybody's taxes, it does not raise anybody's fees. It seeks to reduce the deficit by cutting spending, or at least putting a cap on it.

I want to emphasize this proposal would not make any reductions in retirement, or Social Security, Federal military, veterans, Medicare, or Medicaid Programs.

□ 1820

The 4.5-percent cap, we have heard talk of 4 percent, and the 4.5-percent cap was utilized because we calculated that by projections we could not accommodate the projected increase in servicing the needs of Medicare and Medicaid beneficiaries under 4 percent. That is why it is 4.5 percent. I would hope that we could make that in order.

I will make just a brief comment on sequestration. Mr. Civiletti, who was the Attorney General for President Carter in 1970 or during the early

1980's, I believe wrote a memorandum stating that in the Antideficiency Act the President of the United States, in cases of emergency involving the safety of human life or the protection of property, has authority to order the continuation of activities for the sake of protecting human life or the protection of property.

The Wall Street Journal talked about this on September 27, 1990, and I will read in part very briefly.

There are some other improvements Mr. Bush could make to the distribution of cuts under Gramm-Rudman. Education, Labor and the EPA are among the agencies scheduled for sequestered cuts of less than 5 percent. Maybe when a budget is eventually passed these agencies could contribute to a fund to pay air traffic controllers.

Mr. Civiletti's memorandum cited two instances of where the President would have the authority under this law, the Antideficiency Act, to keep air traffic controllers working, to keep meat inspection going along in this country so that we do not have to send word out to the ranchers to take their cows away from the grass and interrupt the food chain, at least in the development of meat.

So I am saying that we can live with sequestration if that is what it takes. I am sorry that this rule does not permit us a separate vote on that. But in my view, the previous question should be defeated, and then I would be in opposition to the rule if the previous question is affirmed.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for his statement.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time.

CALL OF THE HOUSE

Mr. MOAKLEY. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 430]

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bates
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Brennan
Brooks
Broomfield
Browder
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Costello
Courter
Cox
Coyne
Craig
Crane
Dannemeyer
Darden
Davis
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hefley
Hefner
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Lukens, Donald
Machtley
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

The SPEAKER. On this rollcall, 394 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call were dispensed with.

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1991

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and on a division (demanded by Mrs. Martin of Illinois) there were—ayes 241; noes 28.

Mrs. MARTIN of Illinois. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

So the previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

So, the resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. WHITTEN. Mr. Speaker, pursuant to House Resolution 495, the resolution just adopted, I call up the joint resolution (H.J. Res. 660) making further continuing appropriations for the fiscal year 1991, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 660, as modified by section 2 of House Resolution 495, is as follows:

H. Res. 660

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1991, and for other purposes; namely:

Sec. 101. (a) Such amounts as may be necessary for continuing projects or activities (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1990 and for which appropriations, funds, or other authority would be available in the following appropriations Act:

The Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991;

The District of Columbia Appropriations Act, 1991;

The Energy and Water Development Appropriations Act, 1991;

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956;

The Departments of Labor, Health and Human Services; and Education, and Related Agencies Appropriations Act, 1991;

The Military Construction Appropriations Act, 1991;

The Rural Development, Agriculture, and Related Agencies Appropriations Act, 1991;

The Department of Transportation and Related Agencies Appropriations Act, 1991;

The Treasury, Postal Service, and General Government Appropriations Act, 1991; and

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991.

(b) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this section as passed by the House as of October 1, 1990, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1990, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided*, That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate of operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990.

(c) Whenever an Act listed in this section has been passed by only the House as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the current rate or the rate permitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990; *Provided*, That where an item is funded in applicable appropriations Acts for the fiscal year 1990 and not included in the version passed by the House as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by applicable appropriations Acts for the fiscal year 1990, at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990.

Sec. 102. Such amounts as may be necessary to continue existing programs and activities (not otherwise specifically provided for in this joint resolution) which were conducted in fiscal year 1990, under the appropriation, fund, or authority granted by applicable appropriations Acts for the fiscal year 1990, at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990, for which provision was made in the following Acts: The Department of the Interior and Related Agencies Appropriations Act, 1990, and the Legislative Branch Appropriations Act, 1990.

Sec. 103. Such amounts as may be necessary to continue existing programs and activities, which were conducted in fiscal year 1990, for which provision was made in the Department of Defense Appropriations Act, 1990, but such activities shall be funded at not to exceed an annual rate for new obligational authority of $262,969,000,000, and this level shall be distributed on a pro rata basis to each appropriation account utilizing the fiscal year 1991 amended budget request as the base for such distribution and shall be available under the terms and conditions provided for in the applicable appropriations Acts for fiscal year 1990, notwithstanding section 502(a)(1) of the National Security Act of 1947: *Provided*, That no appropriation or funds made available or authority granted pursuant to this section shall be used for new production of items not funded for production in fiscal year 1990 or prior years, for the increase in production rates above those sustained with fiscal year 1990 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1990, except projects, activities, operations, or organizations relating to "Operation Desert Shield": *Provided further*, That no appropriation or funds made available or authority granted pursuant to this section shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later; *Provided further*, That no appropriation or funds made available or authority granted pursuant to this section for procurement and research, development, test, and evaluation, shall be used to fund any program, project, activity, operation, or organization at a rate for operations in excess of the current rate or the rate provided for in the budget estimates for fiscal year 1991, whichever is lower, during fiscal year 1991, except programs, projects, activities, operations, or organizations relating to "Operation Desert Shield".

Sec. 104. Notwithstanding any other provision of this joint resolution, such amounts as may be necessary to continue the Aerostat Program of the United States Customs Service which was conducted in fiscal year 1990 at a rate of operations not exceeding the current rate and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1990.

Sec. 105. Appropriations made by sections 101, 102, 103, and 104 shall be available to the extent and in the manner which would be provided by the pertinent appropriations act.

Sec. 106. No appropriations or funds made available or authority granted pursuant to sections 101, 102, 103, and 104 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1990.

Sec. 107. No provision which is included i
an appropriations Act enumerated in sec
tion 101 but which was not included in th
applicable appropriations Act for fiscal yea
1990, and which by its terms is applicable t
more than one appropriation, fund, or au
thority shall be applicable to any appropria
tion, fund, or authority provided in thi
joint resolution.

Sec. 108. Unless otherwise provided for i
this joint resolution or in the applicable ap
propriations Act, appropriations and fund
made available and authority granted pur
suant to this joint resolution shall be avail
able until (a) enactment into law of an ap
propriation for any project or activity pro
vided for in this joint resolution, or (b) th
enactment of the applicable appropriation
Act by both Houses without any provisio
for such project or activity, or (c) Octobe
12, 1990, whichever first occurs.

Sec. 109. Appropriations made and author
ity granted pursuant to this joint resolutio
shall cover all obligations or expenditure
incurred for any program, project, or activ
ty during the period for which funds or au
thority for such project or activity are avail
able under this joint resolution.

Sec. 110. Expenditures made pursuant t
this joint resolution shall be charged to th
applicable appropriation, fund, or author
zation whenever a bill in which such appl
cable appropriation, fund, or authorizatio
is contained is enacted into law.

Sec. 111. No provision in any appropria
tions Act for the fiscal year 1991 referred t
in section 101 of this joint resolution tha
makes the availability of any appropriatio
provided therein dependent upon the enact
ment of additional authorizing or other leg
islation shall be effective before the date se
forth in section 108(c) of this joint resolu
tion.

Sec. 112. Appropriations and funds mad
available by or authority granted pursuan
to this joint resolution may be used withou
regard to the time limitations for submis
sion and approval of apportionments se
forth in section 1513 of title 31, Unite
States Code, but nothing herein shall b
construed to waive any other provision o
law governing the apportionment of funds.

Sec. 113. (a) Any order on sequestratio
for fiscal year 1991 issued before, on, o
after the date of enactment of this joint res
olution pursuant to section 252 of the Ba
anced Budget and Emergency Deficit Con
trol Act of 1985 is suspended and no actio
shall be taken to implement any such orde

(b) Subsection (a) shall cease to be effe
tive on the date set forth in section 108(c

Sec. 114. Extension of Temporary In
crease in Public Debt Limit.—Section 1 o
Public Law 101-350 is amended by strikin
"October 6, 1990" and inserting "Octobe
12, 1990".

The SPEAKER pro tempore (Mr
Spratt). Pursuant to the rule, the gen
tleman from Mississippi [Mr. Whit
ten] will be recognized for 30 minutes
and the gentleman from Massachu
setts [Mr. Conte] will be recognize
for 30 minutes.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I as
unanimous consent that all Member
may have 5 legislative days withi
which to revise and extend their re
marks, and include therein extraneou
material, and that I may include tabu
lar material on House Joint Resolu

tion 660, the joint resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume. House Joint Resolution 660 is a continuing resolution for only one more week. It suspends sequester for 1 week and extends the debt limit for 1 week.

This will not provide the committee near enough time to complete action on 13 appropriate bills. Being out here every week to get one more week is disruptive not merely to our committee but to the orderly work of the Congress. Because we have been requested to do so, I present this resolution to the House.

The budget resolution was due to have been completed April 15, but it was not.

☐ 1850

Our committee was asked to wait. This we did. Then the House of Representatives passed a budget resolution May 1, but not the Senate, and we were asked to wait again. On June 19 the House deemed the House-passed resolution to be the conference agreement until a real one was passed, and on that same day we passed our first bill, and on July 30 we passed the 10th bill.

Our committee conformed to the limits in the resolution. The House had passed 10 bills and the Senate had passed 4 on September 25 when the committee reported a short-term clean continuing resolution through October 20 and appropriating $1.9 billion for Operation Desert Shield. That went for 20 days. We were asked to reduce the 20 days to 5, which we did, and today is the 5th day.

Mr. Speaker, our committee has one of the heaviest jobs in the House, working through 13 subcommittees, conducting 280 days of hearings with nearly 4,900 witnesses who bring to our attention hundreds of thousands of items. This is documented in 90 printed hearing volumes of over 97,000 pages.

The committee has completed action on 12 bills and has another coming before the committee next week. The House has passed 10 bills and the Senate has passed 7 bills. This means we must complete action on three bills in the House, have conference, and complete conference action on all 13 and have all bills signed.

Mr. Speaker, I call attention to the fact that since 1945 our Committee on Appropriations has held the total of appropriation bills to $173 billion below the recommendations in the President's budget, so our financial plight is not the fault of our Committee on Appropriations.

Recent actions of the Congress beyond our control may once again bring us to a point where a continuing resolution for the rest of the year may be the only way to complete our work in a timely manner, which none of us desire.

Mr. Speaker, doing a continuing resolution 1 week at a time interferes with our committee in the discharge of its duties.

Mr. Speaker, I know you are told by the President's senior advisers, "If you don't do what we say to do, the President will veto the bill."

I do not believe that. If the country is brought to its knees, it will not be because of our Committee on Appropriations.

It has not been our committee which caused our debt. It has not been our committee which has caused the delay on our appropriations bills. It is our committee that bears the load of providing for an orderly continuation of the Government.

Mr. Speaker, as has been pointed out, ours are the bills that have to eventually pass. It is fast reaching the point where we will have to proceed with our bills, regardless.

Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the continuing resolution.

Mr. Speaker, I am disappointed in this body.

In 15 minutes, this House recklessly trashed a bipartisan compromise budget agreement that took 4 months to craft. When Members discovered that a $500 billion deficit reduction plan might cause a little pain, they quaked and they cowered and they ran for the hills. It was easy to find something in that package to dislike. It was easy to bend to the will of special interests who did not like the agreement. But it was impossible to find courage enough to do the right thing for this country.

I am dismayed that this body treated our country's leadership with such disdain. The President of the United States, the Speaker of the House of Representatives, and the majority and minority leaders of both the House and the Senate sweated blood over this package and asked for your help. And Members of this body thumbed their noses at them. They said they could do better.

That agreement was as fragile as china. But this House picked it up, and without a second thought, threw it against the wall and made a mess.

Mr. Speaker, this country's leadership provided Members with enough political cover to shade an elephant and a donkey. Vote for the budget agreement, and they promised to take the blame.

The President agreed that differences over details in the package could be addressed through the reconciliation process. If you had a problem, like I did, with taxing home heating oil, or you did not like the way the agreement treated Medicare, you could take your case to Ways and Means. If you opposed the way highway trust funds would be allocated under the proposal, Public Works was there to listen.

The proposed changes to agricultural programs still had to go through the Agriculture Committee.

I joined the Speaker and the minority leader and the majority leader in coming to the well to provide support and cover for those Members who would have the courage to do the right thing. All we wanted to do was to move the process forward.

But the House chose instead to risk chaos, disorder and calamity.

Mr. Speaker, last night the House clearly expressed its will. And we all know what the House wants. It wants no new taxes. It wants no entitlement reform. It wants no spending cuts. And that is the problem. It is time for this body to learn that you just cannot have it all.

Mr. Speaker, the House has voted to leave us dangling by the thinnest thread over the rocky cliffs of financial catastrophe. We need to pass this resolution to avoid total chaos.

Unless we are eager to throw in the towel and altogether abandon our responsibility to govern, we must pass this CR.

We are in a deep, deep hole, and we are not going to get out of it by digging it even deeper. I do not know what the answer is right now, but I do know one thing: Chaos is not the answer. Let us take a week and try, once again, to find a way to do the responsible thing—not for the good of special interests; not for the good of our personal political fortunes; but for the good of the country.

Finally, Mr. Speaker, I would note that this new CR extends Government spending until October 12: Columbus Day. Christopher Columbus endured unbelievable hardships to discover this new world. With 15th century technology, he sailed across unchartered waters to lands of which he knew nothing. And now, in 1990, with all of our "progress" and five centuries of development, we are having a harder time passing a budget than Christopher Columbus had discovering America.

I urge my colleagues to vote "aye".

Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, to quote the inimitable Yogi Berra, this is "Deja vu, all over again."

Last week we passed a 1-week continuing resolution because we were

close to agreement on the budget and needed a few more days to consumate the deal.

Well, here we are again, 1 week later, being asked to vote on another CR—only this time we do not have a deal. We are not even discussing any possibilities. We do not know for sure what the President will do with this bill.

I voted for the budget resolution, because I believed we would not get a better alternative.

I was right. Not only do we not have a better alternative, we have no alternative. We are going to just continue on under a CR the same bankrupt practices that got us into this mess in the first place.

My tough vote was last night. I supported a budget agreement that was not good. Today my vote is easy. I am not only a "no" vote on a CR, I'm a "heck no."

The American people are demanding that Congress do something. The House is the body of the people. It is incumbent that we accept the yoke of leadership we thrust upon ourselves by our decision to reject the budget proposal.

Whether you voted yea or nay last night is now irrelevant. No matter how we voted, everyone who voted said there was a better alternative. It is now up to us to develop that better solution.

A continuing resolution that exempts spending from Gramm-Rudman sequestration is not acceptable.

And, as last night demonstrated, an agreement reached by a few, is not acceptable.

This body must come together, put all proposals on the table, to develop a budget resolution.

I urge the Speaker to bring before the House a budget resolution for debate under procedures that allow for the full consideration of all proposals for spending cuts, increased revenues, entitlement reform, economic growth incentives, new spending priorities, and enforcement provisions.

All of us should have the opportunity to have his or her proposal heard and voted on. We should debate the Stark proposal on Medicare—and vote on it. We should debate the 4-percent solution—and vote on it. We should let the Congress decide on whether to cut capital gains, raised individual income taxes, or limit COLA's.

It is time to step forward and be counted. Bring your proposals. Let the Congress be the free-wheeling body of leadership and debate it was intended to be.

But let us not pass this continuing resolution, not in this form.

☐ 1900

Mr. CONTE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SPRATT). Under the rule, the previous question is ordered on the joint resolution.

The amendments printed in section 2 of House Resolution 495 are considered as having been adopted.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on passage of the joint resolution.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 300, nays 113, not voting 20, as follows:

[Roll No. 431]

YEAS—300

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bateman
Bates
Bellenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Brennan
Brooks
Broomfield
Browder
Bruce
Bryant
Bustamante
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carr
Chapman
Clarke
Clay
Clement
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Costello
Coyne
Craig
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frost
Gallegly
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray
Green
Guarini
Hall (OH)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hefley
Hefner
Hertel
Hoagland
Hochbrueckner
Hopkins
Hoyer
Hubbard
Hughes
Hutto
Jacobs
James
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Machtley
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Payne (NJ)
Pelosi
Perkins
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ravenel
Ray
Richardson
Rinaldo
Roberts
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schumer
Serrano
Sharp
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Smith (VT)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauzin
Taylor
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Valentine
Vento
Volkmer
Walgren
Walsh
Washington
Watkins
Waxman
Weiss
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)

NAYS—113

Archer
Armey
Baker
Ballenger
Bartlett
Barton
Billey
Brown (CO)
Buechner
Bunning
Burton
Byron
Carper
Chandler
Clinger
Coble
Coleman (MO)
Cooper
Courter
Cox
Crane
Dannemeyer
DeLay
Dickinson
Dornan (CA)
Douglas
Dreier
Edwards (OK)
Fawell
Fields
Frenzel
Gallo
Gekas
Gillmor
Gingrich
Goodling
Goss
Grandy
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Herger
Hiler
Holloway
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
Johnson (CT)
Kolbe
Kyl
Laughlin
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lukens, Donald
Marlenee
Martin (IL)
McCandless
McCollum
McEwen
McMillan (NC)
Michel
Miller (OH)
Miller (WA)
Montgomery
Moorhead
Nielson
Oxley
Packard
Paxon
Payne (VA)
Pease
Penny
Petri
Porter
Pursell
Regula
Rhodes
Ridge
Ritter
Roukema
Sangmeister
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stearns
Stenholm
Stump
Sundquist
Tauke
Thomas (CA)
Upton
Vander Jagt
Visclosky
Vucanovich
Walker
Weber
Weldon
Young (FL)

NOT VOTING—20

Boxer
Brown (CA)
Coughlin

Crockett
Dymally
Fish
Frank
Hawkins
Hayes (LA)
Henry
Huckaby
Jones (NC)
Lowery (CA)
Luken, Thomas
Madigan
McCrery
Obey
Quillen
Robinson
Smith (NE)

☐ 1925

The Clerk announced the following pair:

On this vote:

Mr. McCrery for, with Mr. Quillen against.

Mr. ARMEY changed his vote from "yea" to "nay."

Messrs. SAXTON, KASICH, ROHRABACHER, and BROOMFIELD changed their vote from "no" to "aye."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask for this time that I might inquire of the distinguished majority leader how we intend to proceed for the balance of this day and tomorrow.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

It is our plan to not have further votes this evening. Members can leave without the fear that there will be a vote tonight. Later this evening when we find out exactly what the Senate has done on the continuing resolution, we can tell Members exactly when they will have to be here tomorrow.

I would say this about tomorrow: That either later tonight or tomorrow morning we will be able to tell Members whether they will need to be here at 12, or at 3, or it is possible, although not probable, that they will not have to be here at all. So later tonight, I would say within the next 2 hours, or tomorrow morning, the Cloakrooms will be in a position to tell Members exactly when they will need to be here tomorrow.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES ON SATURDAY, OCTOBER 6, 1990, UNTIL 3 P.M.

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare recesses on the legislative day of Saturday, October 6, 1990, until 3 p.m.

The SPEAKER pro tempore (Mr. SPRATT). Is there objection to the request of the gentleman from Missouri?

There was no objection.

ADJOURNMENT TO SATURDAY, OCTOBER 6, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12 noon on Saturday, November 6, 1990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

CONFERENCE REPORT ON H.R. 4151

Mr. HAWKINS submitted the following conference report and statement on the bill (H.R. 4151) to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, the Community Services Block Grant Act; and for other purposes:

CONFERENCE REPORT (H. REPT. 101-816)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4151) to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, and the Community Services Block Grant Act; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Augustus F. Hawkins Human Services Reauthorization Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Section 1. Short title; table of contents.

TITLE I—HEAD START

Subtitle A—Amendments to the Head Start Act

Sec. 101. Short title.
Sec. 102. Statement of purpose and policy.
Sec. 103. Authorization of appropriations.
Sec. 104. Reservation of funds.
Sec. 105. Guidelines for local service delivery models; maintenance of current services.
Sec. 106. Comprehensive Head Start report.
Sec. 107. Conditions on renewed funding of grantees.
Sec. 108. Designation of Head Start agencies.
Sec. 109. Powers and functions of Head Start agencies.
Sec. 110. Technical amendments.
Sec. 111. Administrative costs.
Sec. 112. Neutrality.
Sec. 113. Participation in Head Start programs.
Sec. 114. Authority of Secretary.
Sec. 115. Notice and hearing.
Sec. 116. Staff qualifications.
Sec. 117. Requirements applicable to the Secretary.
Sec. 118. Cooperative research.
Sec. 119. Report on status of children.
Sec. 120. Study of Head Start participants.
Sec. 121. Poverty line.
Sec. 122. Comparability of wages.

Subtitle B—Head Start Transition Project

Sec. 131. Short title.
Sec. 132. Definitions.
Sec. 133. Head Start transition grants.
Sec. 134. Eligibility.
Sec. 135. Requirements.
Sec. 136. Application.
Sec. 137. Evaluation and report.
Sec. 138. Payments; Federal share.
Sec. 139. Coordination with follow through.
Sec. 140. Funding.

TITLE II—AMENDMENTS TO THE FOLLOW THROUGH ACT

Sec. 201. Technical amendments.
Sec. 202. Financial assistance for follow through programs.
Sec. 203. Applications and funding.
Sec. 204. Program improvement.
Sec. 205. Research and evaluation contracts.
Sec. 206. Evaluation.
Sec. 207. General and administrative provisions.
Sec. 208. Participation in other educational activities.
Sec. 209. Technical amendment.

TITLE III—AMENDMENTS TO THE STATE DEPENDENT CARE DEVELOPMENT GRANTS ACT

Sec. 301. Amendments to the State Dependent Care Development Grants Act.
Sec. 302. Waiver of existing percentage set-aside of allotments.
Sec. 303. Operation costs of after school care programs authorized.
Sec. 304. Report by grant recipients.
Sec. 305. Technical amendments.

TITLE IV—AMENDMENTS TO THE COMMUNITY SERVICES BLOCK GRANT ACT

Sec. 401. Authorization of appropriations.
Sec. 402. Eligible entities.
Sec. 403. State allocations.
Sec. 404. Applications and requirements.
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TITLE I—HEAD START

Subtitle A—Amendments to the Head Start Act

SEC. 101. SHORT TITLE.

This subtitle may be cited as the "Head Start Expansion and Quality Improvement Act".

SEC. 102. STATEMENT OF PURPOSE AND POLICY.

Section 636(b) of the Head Start Act (42 U.S.C. 9831(b)) is amended by inserting ", non-English language background," after "migrant".

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

Section 639 of the Head Start Act (42 U.S.C. 9834) is amended—

(1) by striking "$1,198,000,000" and all that follows through "1989, and", and

(2) by inserting after "1990" the following: ", $2,386,000,000 for fiscal year 1991, $4,273,000,000 for fiscal year 1992, $5,924,000,000 for fiscal year 1993, and $7,660,000,000 for fiscal year 1994".

SEC. 104. RESERVATION OF FUNDS.

(a) RESERVATION OF FUNDS.—Section 640(a) of the Head Start Act (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (1) by striking "and (3)" and inserting "through (5)",

(2) in paragraph (2)—

(A) in subparagraph (A) by striking "children, except that there shall be made available for use by Indian" and all that follows through "1985" and inserting ", except that there shall be made available for each fiscal year for use by Indian and migrant Head Start programs, on a nationwide basis, not less than the amount that was obligated for use by Indian and migrant Head Start programs for fiscal year 1990",

(B) in subparagraph (B) by striking "the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, Palau, the Commonwealth of",

(C) in subparagraph (C) by striking "the amount expended" and all that follows through "1982" and inserting "2 percent of the amount appropriated for any such fiscal year",

(D) by striking the penultimate sentence, and

(E) in the last sentence by inserting "or paragraph (3)" after "this paragraph",

(3) in paragraph (3) by striking "87 percent of the",

(4) by redesignating paragraph (2) the following:

"(3)(A) For any fiscal year for which the amount appropriated under section 639(a) exceeds the adjusted appropriation, the Secretary shall reserve the quality improvement funds for such fiscal year, for one or more of the following quality improvement activities:

"(i)(I) Not less than one-half of the amount reserved under this subparagraph, to improve the compensation (including benefits) of staff of Head Start agencies and thereby enhance recruitment and retention of such staff. The expenditure of funds under this clause shall be subject to section 653.

"(II) If a Head Start agency certifies to the Secretary for such fiscal year that part of the funds set aside under subclause (I) to improve wages cannot be expanded by such agency to improve wages because of the operation of section 653, then such agency may expend such part for any of the uses specified in the subparagraph (other than wages).

"(ii) To pay transportation costs incurred by Head Start agencies to enable eligible children to participate in a Head Start program.

"(iii) To employ additional Head Start staff, including staff necessary to reduce the child-staff ratio and staff necessary to coordinate a Head Start program with other services available to children participating in such program and to their families.

"(iv) To pay costs incurred by Head Start agencies to purchase insurance (other than employee benefits) and thereby maintain or expand Head Start services.

"(v) To make nonstructural and minor structural changes, and to acquire and install equipment, for the purpose of improving facilities necessary to expand the availability, or enhance the quality, of Head Start programs.

"(vi) To supplement amounts provided under section 640(a)(2)(C) to provide training necessary to improve the qualifications of the staff of the Head Start agencies, and to support staff training, child counseling, and other services necessary to address the problems of children participating in Head Start programs, including children from dysfunctional families, children who experience chronic violence in their communities, and children who experience substance abuse in their families.

"(B)(i) Funds reserved under subparagraph (A) for the first and second fiscal years for which funds are so reserved shall be allotted by the Secretary as follows:

"(I) 80 percent of such funds shall be allotted among the States in the same proportion as the Secretary allots funds among the States under paragraph (5) for the respective fiscal year.

"(II) 20 percent of such funds shall be allotted among the States, and used to make grants to Head Start agencies, at the discretion of the Secretary.

"(ii) Funds reserved under subparagraph (A) for any fiscal year subsequent to the second fiscal year for which funds are so reserved shall be allotted by the Secretary among the States in the same proportion as the Secretary allots funds among the States under paragraph (5) for the respective subsequent fiscal year.

"(iii) To be expended for the activities specified in subparagraph (A) in the first fiscal and second fiscal years for which funds are required by such subparagraph to be reserved, funds allotted under clause (i)(I) shall be used by the Secretary to make a grant to each Head Start agency that receives a grant from funds allotted under paragraph (5) for such fiscal year in the amount that bears the same ratio to the amount allotted under clause (i)(I) for such fiscal year for the State in which such agency is located as the number of children participating in the Head Start program of such agency in such fiscal year bears to the number of children participating in all Head Start programs in such State in such fiscal year.

"(iv) To be expended for the activities specified in subparagraph (A) in each subsequent fiscal year for which funds are required by such subparagraph to be reserved, funds allotted under clause (ii) shall be used by the Secretary to make grants to Head Start agencies that receive grants from funds allotted under paragraph (5) for such fiscal year, in such amounts as the Secretary considers to be appropriate. The aggregate amount of grants made under this clause to Head Start agencies in a State for a fiscal year may not exceed the amount allotted under clause (ii) for such State for such fiscal year.

"(v) If a Head Start agency certifies for such fiscal year to the Secretary that it does not need any funds under subparagraph (A), or does not need part of such funds it would otherwise receive under clause (iii) or (iv), then unneeded funds shall be used by the Secretary to make grants under this subparagraph without regard to such agency.

"(vi) Funds received under this subparagraph shall be used to supplement, not to supplant, funds received under paragraphs (2), (4), and (5).

"(4)(A)(i) If the amount appropriated under section 639(a) for fiscal year 1991 exceeds the adjusted appropriation, the Secretary shall reserve $30,000,000 for fiscal year 1991, to make grants to Head Start agencies to carry out early childhood intervention programs, to be known as 'Parent-Child Center's, within Head Start programs.

"(ii) The Secretary shall reserve $31,200,000 for fiscal year 1992, $32,448,000 for fiscal year 1993, and $33,745,920 for fiscal year 1994 to make grants to Head

Start agencies to carry out such early childhood intervention programs.

"(B)(i) Such early childhood intervention programs shall be designed—

"(I) to enhance the development of children who are less than 3 years of age; and

"(II) to strengthen the family unit by providing opportunities for increasing the child development skills and knowledge of their parents.

"(ii) Such early childhood intervention programs shall provide comprehensive services (such as social, health, and educational services) to low-income families with children who are less than 3 years of age. Such programs may provide such services to any eligible family during any period of time and may be center-based, home-based, or a combination of both.

"(C) Funds reserved under subparagraph (A) for a fiscal year shall be allotted as follows:

"(i) For Indian and migrant early childhood intervention programs, the Secretary shall allot the amount that represents the same proportion as such programs collectively received of the funds appropriated under section 639 for fiscal year 1990.

"(ii)(I) Subject to subclause (II) and after making the allotment under clause (i), the Secretary shall allot the remainder of such funds among the States in the same proportion as funds are allotted among the States under paragraph (5), except that the amount allotted for each State shall not be less than $200,000 or the amount that represents the same proportion of the funds appropriated under section 639 for fiscal year 1990 that were allotted for such State and used to carry out early childhood intervention programs, whichever is greater.

"(II) In any fiscal year for which such remainder is insufficient to allot the minimum amount required by subclause (I), the Secretary shall reduce ratably the minimum allotment required by such subclause.

"(D) The Secretary may not make a grant under this paragraph to a Head Start agency for a fiscal year unless—

"(i) such agency certifies that carrying out the early childhood intervention program for which such grant is requested will not reduce services provided by such agency to children who participate in other programs provided by such agency under this subchapter; and

"(ii) such agency certifies that to the maximum extent practicable, it will provide continuous service to children who receive services under this paragraph through compulsory school age, either through the early childhood intervention programs authorized by this paragraph or through other Head Start programs.

"(E) For purposes of this paragraph, the term 'low-income family' means a family that satisfies the eligibility requirements applicable under section 645(a).", and

(6) in paragraph (6), as so redesignated by paragraph (4)—

(A) by inserting "the Commonwealth of" before "the Northern Mariana", and

(B) by striking "or the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau".

(b) Definitions.—Section 637 of the Head Start Act (42 U.S.C. 9832) is amended—

(1) in paragraph (2) by striking "the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, Palau", and

(2) by adding at the end the following:

"(4) The term 'adjusted appropriation' means—

"(A) with respect to the first fiscal year for which funds are required by section 640(a)(3)(A) to be reserved, the sum of—

"(i) $35,000,000; and

"(ii) 110 percent of the amount appropriated under section 639(a) for the preceding fiscal year, adjusted to reflect the percentage change in the Consumer Price Index For All Urban Consumers (issued by the Bureau of Labor Statistics) occurring in the 1-year period ending immediately before the fiscal year with respect to which a determination is made under section 640(a)(3)(A); and

"(B) with respect to each subsequent fiscal year for which funds are required by section 640(a)(3)(A) to be reserved, the amount appropriated under section 639(a) for the preceding fiscal year adjusted to reflect the percentage change in the Consumer Price Index For All Urban Consumers (issued by the Bureau of Labor Statistics) occurring in the 1-year period ending immediately before the fiscal year with respect to which a determination is made under section 640(a)(3)(A).

"(5) The term 'quality improvement funds' means—

"(A) with respect to the first fiscal year for which funds are required by section 640(a)(3)(A) to be reserved, 10 percent of the amount appropriated under section 639(a) for such fiscal year; and

"(B) with respect to each subsequent fiscal year for which funds are required by section 640(a)(3)(A) to be reserved, 25 percent of the portion of the amount appropriated under section 639(a) for such fiscal year that exceeds the adjusted appropriation for such fiscal year.".

SEC. 105. GUIDELINES FOR LOCAL SERVICE DELIVERY MODELS; MAINTENANCE OF CURRENT SERVICES.

Section 640 of the Head Start Act (42 U.S.C. 9835) is amended—

(1) in subsection (d) by striking the last sentence, and

(2) by adding at the end the following:

"(f) The Secretary shall establish procedures to enable Head Start agencies to develop locally designed or specialized service delivery models to address local community needs.

"(g) If in any fiscal year, the amounts appropriated to carry out the program under this subchapter exceed the amount appropriated in the prior fiscal year, the Secretary shall, prior to using such additional funds to serve an increased number of children, allocate such funds in a manner that makes available the funds necessary to maintain the level of services provided during the prior year, taking into consideration the percentage change in the Consumer Price Index for all Urban Consumers, as published by the Bureau of Labor Statistics.".

SEC. 106. COMPREHENSIVE HEAD START REPORT.

The Head Start Act (42 U.S.C. 9801 et seq.) is amended by inserting after section 640 the following:

"COMPREHENSIVE REPORT

"Sec. 640a. (a) The Secretary shall prepare, through the Assistant Secretary for Planning and Evaluation, and shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate—

"(1) not later than July 1, 1993, an interim comprehensive report; and

"(2) not later than January 1, 1994, a final comprehensive report;

in accordance with this section.

"(b) The reports required by subsection (a) shall contain—

"(1) information concerning transportation, facilities, and methods for identifying and locating eligible children in both urban and rural areas, including cost, problems encountered, and innovative solution to such problems;

"(2) a description of the effect of the 1990 Decennial Census on the allotment of funds under this subchapter;

"(3) a description of the extent to which Head Start programs coordinate their respective activities with other programs serving young children, including local educational agencies;

"(4) separate descriptions of how this subchapter is administered by the headquarters of the Department of Health and Human Services and by its regional offices, including an analysis of the negotiations that occur between such regional offices and applicants for grants under this subchapter;

"(5) summaries of evaluations and studies of Head Start programs, conducted during the period covered by such report;

"(6) a description of the impact of expending funds under section 640(a)(3) on staff qualifications, staff wages, and staff turnover of Head Start agencies; and

"(7) information concerning the parents of children participating in programs receiving Head Start funding, including the—

"(i) employment status of such parents (including any change that occurred while the child was enrolled in Head Start);

"(ii) education level of such parents;

"(iii) the training or education that such parents received while their children were enrolled in Head Start programs; and

"(iv) the impact of parents' schedules on their ability to access Head Start Services and participate in the program.

"(c) The Secretary shall meet periodically with the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate to inform the committees of the progress made in preparing the reports required by subsection (a).".

SEC. 107. CONDITIONS ON RENEWED FUNDING OF GRANTEES.

(a) In General.—Section 641(c) of the Head Start Act (42 U.S.C. 9836(c)) is amended—

(1) by redesignating paragraph (1) as subparagraph (A),

(2) by inserting "(1)" after "(c)", and

(3) by striking paragraph (2) and the matter following such paragraph and inserting the following:

"(B) except that, if there is no agency of the type referred to in subparagraph (A) because of any change in the assistance furnished to programs for economically disadvantaged persons, the Secretary shall give priority in the designation of Head Start agencies to any successor agency that is operating a Head Start program in substantially the same manner as the predecessor agency that did receive funds in the fiscal year preceding the fiscal year for which the determination is made.

"(2) The Secretary shall conduct a full review of each designated Head Start agency at least once during each 3-year period, and shall determine whether each agency meets program and fiscal requirements established by the Secretary.

"(3) In carrying out a review of each Head Start agency under paragraph (2), the Secretary shall—

"(A) to the maximum extent practicable, carry out such review by using employees of the Department of Health and Human Services who are knowledgeable about Head Start programs;

"(B) ensure that an employee of the Department of Health and Human Services who is knowledgeable about Head Start programs supervises such review at the site of such agency;

"(C) measure the compliance of the programs of such agency with the performance standards in effect under section 651(b); and

"(D) identify the types and conditions of facilities in which such programs are located.

"(4) The results of a review conducted under this subsection shall not be sufficient alone for the purpose of determining whether to continue, or to discontinue, providing funds to a particular Head Start agency.".

SEC. 108. DESIGNATION OF HEAD START AGENCIES.

Section 641(d) of the Head Start Act (42 U.S.C. 9836(d)) is amended by adding at the end the following: "In selecting from among qualified applicants for designation as a Head Start agency and subject to the preceding sentence, the Secretary shall consider the effectiveness of each such applicant to provide Head Start services, based on—

"(1) any past performance of such applicant in providing services comparable to Head Start services, including how effectively such applicant provided such comparable services;

"(2) the plan of such applicant to provide comprehensive health, nutritional, educational, social, and other services needed to aid participating children in attaining their full potential;

"(3) the plan of such applicant to coordinate the Head Start program it proposes to carry out, with other preschool programs and with the educational programs such children will enter at the age of compulsory school attendance;

"(4) the plan of such applicant to involve parents of children who will participate in the proposed Head Start program in appropriate educational services (in accordance with the performance standards in effect under section 651(b) or through referral of such parents to educational services available in the community) in order to aid their children to attain their full potential;

"(5) the ability of such applicant to carry out the plans described in paragraphs (2), (3), and (4);

"(6) other factors related to the requirements of this subchapter; and

"(7) the plan of such applicant to meet the needs of non-English language children in the community.".

SEC. 109. POWERS AND FUNCTIONS OF HEAD START AGENCIES.

Section 642 of the Head Start Act (42 U.S.C. 9837) is amended—

(1) in subsection (b) by striking "and (4)" and inserting the following: "(4) involve parents of children participating in its Head Start program in appropriate educational services (in accordance with the performance standards in effect upon section 651(b) or through referral of such parents to educational services available in the community) in order to aid their children to attain their full potential; and (5)", and

(2) in subsection (c) by striking "with other State" and all that follows through the end and inserting "with schools that will subsequently serve children in Head Start programs, the State agency responsible for administering section 402(g) of the Social Security Act, and other programs serving the children and families served by the Head Start agency to carry out the provisions of this subtitle.".

SEC. 110. TECHNICAL AMENDMENTS.

Section 643 of the Head Start Act (42 U.S.C. 9838) is amended—

(1) by striking "Governor" the first place it appears and inserting "chief executive officer", and

(2) by striking "Governor" the second and third places it appears and inserting "such officer".

SEC. 111. ADMINISTRATIVE COSTS.

The first sentence of section 644(b) of the Head Start Act (42 U.S.C. 9839(b)) is amended by inserting "the required" after "including".

SEC. 112. NEUTRALITY.

Section 644 of the Head Start Act (42 U.S.C. 9839) is amended by adding at the end the following:

"(e) Funds appropriated to carry out this subchapter shall not be used to assist, promote, or deter union organizing.".

SEC. 113. PARTICIPATION IN HEAD START PROGRAMS.

The last sentence of section 645(a)(2) of the Head Start Act (42 U.S.C. 9840(a)(2)) is amended by striking "1990" and inserting "1994".

SEC. 114. AUTHORITY OF SECRETARY.

Section 645(c) of the Head Start Act (42 U.S.C. 9840(c)) is amended by adding at the end the following: "The Secretary may not issue or enforce any rule (as defined in section 551(4) of title 5 of the United States Code) or guideline that forbids any Head Start agency to carry out a Head Start program in accordance with the authority described in the preceding sentence.".

SEC. 115. NOTICE AND HEARING.

Section 646 of the Head Start Act (42 U.S.C. 9841) is amended—

(1) by inserting "(a)" after "Sec. 646.",

(2) in paragraph (3) by inserting "or reduced" after "terminated", and

(3) by adding at the end the following:

"(b) The Secretary may not prescribe any procedure that would modify the operation of section 1303.21 or 1303.33, or any of subdivisions (a) through (f) of section 1303.35, of title 45 of the Code of Federal Regulations as in effect on April 1, 1990.".

SEC. 116. STAFF QUALIFICATIONS.

(a) In General.—Section 648 of the Head Start Act (42 U.S.C. 9843) is amended—

(1) by striking the section heading and inserting the following:

"TECHNICAL ASSISTANCE, TRAINING, AND STAFF QUALIFICATIONS",

(2) by inserting "(a)" before "The Secretary shall",

(3) by inserting "training for personnel providing services to non-English language background children," after "such personnel,", and

(4) by adding at the end the following:

"(b)(1) The Secretary shall ensure that not later than September 30, 1994, each Head Start classroom in a center-based program is assigned one teacher who has—

"(A) a child development associate (CDA) credential that is appropriate to the age of the children being served in center-based programs;

"(B) a State awarded certificate for preschool teachers that meets or exceeds the requirements for a child development associate credential;

"(C) an associate, baccalaureate, or advanced degree in early childhood education; or

"(D) a degree in a field related to earl
childhood education with experience i
teaching preschool children and a Stat
awarded certificate to teach in a preschoo
program.

"(2) On request, the Secretary shall grant
180-day waiver of the applicability of para
graph (1) with respect to an individua
who—

"(A) is first employed after September 3
1994, by a Head Start agency as a teache
for a Head Start classroom;

"(B) is enrolled in a program that grants
child development credential (CDA); and

"(C) will receive such credential under th
terms of such program not later than 18
days after beginning employment as a teach
er with such agency.

The Secretary may not grant more than on
such waiver with respect to such indivic
ual.".

(b) Definition.—Section 637 of such Ac
(42 U.S.C. 9832), as amended by sectio
104(b), is amended by adding at the end th
following:

"(6) The term 'Head Start classroon
means a group of children supervised an
taught by two paid staff members (a teache
and a teacher's aide or two teachers) an
where possible, a volunteer.".

SEC. 117. REQUIREMENTS APPLICABL TO THE SECRETARY.

(a) In General.—Section 649 of the Hea
Start Act (42 U.S.C. 9844) is amended—

(1) in the section heading by striking "AN
PILOT PROJECTS" and inserting "PILC
PROJECTS, STUDIES, AND REPORTS", and

(2) by adding at the end the following:

"(d) Subject to subsection (a) through (c
the Secretary shall conduct, through gran
or contracts made or entered into wit
qualified persons, a study of various a
proaches to providing early, continuou
and comprehensive intervention to lo
income or at-risk children from birth to a
3 and to the families of such children. Suc
study shall describe and assess a variety
approaches to providing such services, i
cluding—

"(1) program funded under the Compr
hensive Child Development Act; and

"(2) Parent-Child Centers, home-base
Head Start programs, Head Start family da
care, and center-based Head Start (inclu
ing migrant and nonmigrant programs
that are in compliance with the perforn
ance standards under section 651(b).

Such study shall assess such approach
based on their appropriateness for specif
populations of children, including tho
from dysfunctional families, children of su
stance abusers, and children who experien
chronic violence in their communities.

"(e) The Secretary shall conduct, throug
grants or contracts made or entered in
with qualified persons, a study of Hea
Start family day care that is in complian
with the performance standards under se
tion 651(b). Such study shall consider the e
fectiveness of providing Head Start servic
in a family day care setting and assess th
program characteristics that are necessa
to ensure the programs are effective.

"(f) Not later than October 1, 1993, th
Secretary shall submit to the Committee o
Education and Labor of the House of Repr
sentatives and the Committee on Labor an
Human Resources of the Senate a repo
summarizing the results of the studies co
ducted under subsections (d) and (e).".

(b) Definitions.—Section 637 of the Hea
Start Act (42 U.S.C. 9832), as amended b

sections 104(b) and 116(b), is amended by adding at the end the following:

"(7) The term 'Head Start family day care' means Head Start services provided in a private residence other than the residence of the child receiving such services.

"(8) The term 'home-based Head Start program' means a Head Start program that provides Head Start services in the private residence of the child receiving such services.".

(c) CONFORMING AMENDMENTS.—Section 650 of the Head Start Act (42 U.S.C. 9845) is amended—

(1) by striking the section heading and inserting the following:

"ANNOUNCEMENT OF RESEARCH, DEMONSTRATION, PILOT PROJECTS, STUDIES, AND REPORT CONTRACTS",

(2) in subsection (a)(1) by striking "or pilot project" and inserting "pilot project, study, or report", and

(3) subsection (c) by inserting "reports," after "studies,".

SEC. 118. COOPERATIVE RESEARCH.

Section 651(c)(2) of the Head Start Act (42 U.S.C. 9846(c)(2)) is amended by adding at the end the following:

"The Secretary is encouraged to provide funds for community-based cooperative research efforts to enable Head Start directors to conduct evaluations of their programs with the assistance of qualified researchers not directly involved in the administration of the program or project operation.".

SEC. 119. REPORT ON STATUS OF CHILDREN.

Section 651 of the Head Start Act (42 U.S.C. 9846) is amended by adding at the end the following:

"(g)(1) At least once during every 2-year period, the Secretary shall prepare and submit, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report concerning the status of children (including disabled and non-English language background children) in Head Start programs, including the number of children and the services being provided to such children, Such report shall include—

"(1) a statement for the then most recently concluded fiscal year specifying—

"(A) the amount of funds received by Head Start agencies designated under section 641 to provide Head Start services in a period before such fiscal year; and

"(B) the amount of funds received by Head Start agencies newly designated under section 641 to provide such services in such fiscal year;

"(2) a description of the distribution of Head Start services relative to the distribution of children who are eligible to participate in Head Start programs, including geographic distribution within States;

"(3) a statement identifying how funds expended under section 640(a)(2), and funds allotted under section 640(a)(3), were distributed and used at national, regional, and local levels;

"(4) a statement specifying the amount of funds provided by the State, and by local sources, to carry out Head Start programs;

"(5) cost per child and how such cost varies by region;

"(6) a description of the level and nature of participation of parents in Head Start programs as volunteers and in other capacities;

"(7) information concerning Head Start staff, including salaries, education, training, experience, and staff turnover;

"(8) information concerning children participating in programs that receive Head Start funding, including information on family income, racial and ethnic background, disability, and receipt of benefits under part A of title IV of the Social Security Act;

"(9) the use and source of funds to extend Head Start services to operate full-day and year round;

"(10) using data from the evaluations conducted under section 641(c)(2)—

"(A) a description of the extent to which programs funded under this subchapter comply with performance standards and regulations in effect under this subchapter;

"(B) a description of the types of conditions of facilities in which such programs are located;

"(C) the types of organizations that receive Head Start funds under such programs; and

"(D) the number of children served under each program option;

"(11) the information contained in the documents entitled 'Program Information Report' and 'Head Start Cost Analysis System' (or any document similar to either), prepared with respect to Head Start programs; and

"(12) a description of the types of services provided to children and their families, both on-site and through referrals, including health, mental health, dental care parenting education, physical fitness, and literacy training.

Promptly after submitting such report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, the Secretary shall publish in the Federal Register a notice indicating that such report is available to the public and specifying how such report be obtained.".

SEC. 120. STUDY OF HEAD START PARTICIPANTS

(a) LONGITUDINAL STUDY REQUIRED.—The Head Start Act is amended by inserting after section 651 (42 U.S.C. 9846) the following:

"SEC. 651A. LONGITUDINAL STUDY OF HEAD START PARTICIPANTS.

"(a) IN GENERAL.—The Secretary shall conduct, through grants or contracts made or entered into with persons that have the qualifications specified in paragraphs (1) and (2) of subsection (b), a longitudinal study of the effects that the participation in Head Start programs has on the development of participants and their families and the manner in which such effects are achieved.

"(b) ADVISORY PANEL.—In carrying out the study required by subsection (a), the Secretary shall establish an advisory panel to provide advice and guidance to the Secretary, and to the individuals who carry out such study, concerning the design and execution of such study. Such panel shall be composed of—

"(1) individuals who have—

"(A) expertise in the current operation of Head Start programs;

"(B) professional backgrounds in child development and related fields; and

"(C) experience in the evaluation of Head Start programs or comparable programs; and

"(2) individuals who have expertise in designing and executing large-scale longitudinal studies.

"(c) CHILDREN AND FAMILIES TO BE STUDIED.—The study required by subsection (a) shall follow the progress of children and their families—

"(1) who have attended Head Start programs (including Parent-Child Centers) that are in compliance with Head Start Performance Objectives;

"(2) who represent specific subpopulations, including children from dysfunctional families; and

"(3) who have attended Head Start programs that represent the various program options and that are located in both urban and rural areas.

"(d) SUBCONTRACTING.—Persons selected to conduct the study required by subsection (a) may subcontract elements of the study to other persons with the approval of the Secretary. Such study may be carried out through a series of several small studies focused on specific program options and subpopulations.

"(e) FOCUS.—The study required under subsection (a) shall consider the degree to which social, physical, and academic development, including grade retention, motivation to achieve, special education placement, health (including long- and short-term health), secondary school graduation, delinquency, substance abuse, teenage pregnancy, literacy, college attendance, employment, and welfare participation of children and the parenting skills, employment, literacy, education level, motivation to achieve, and welfare participation of parents are affected by—

"(1) the program options selected by the Head Start program;

"(2) the number and configuration of hours, days, and years the child participates in Head Start;

"(3) the Head Start program quality, including training and experience of Head Start teachers and teacher aides, staff to child ratios, and group size;

"(4) the level of parental involvement in the Head Start program;

"(5) the supportive services provided to children and their parents through the Head Start program;

"(6) the Head Start curriculum;

"(7) the characteristics of a subsequent schooling of the child and family characteristics and behaviors that affect social, physical, health (including long- and short-term health), and academic development as such children move through the primary grades; and

"(8) other factors identified by the advisory panel, including the variables that sustain gains as such children move through the primary grades.

"(f) COMPARISION.—To the maximum extent feasible, the study required under subsection (a) shall provide for comparisons with appropriate groups composed of individuals who do not participate in Head Start programs.

"(g) COORDINATION.—The study required under subsection (a) shall be coordinated with the National Longitudinal Study conducted under chapter 1 that is administered by the Department of Education.

"(h) INTERIM REPORT.—Not later than January 1, 1994, the Secretary shall prepare and submit, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, an interim report concerning the design and progress of the study conducted under this section, including interim results of such study.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 639 of the Head Start Act (42 U.S.C. 9834) is amended—

(1) by inserting "(a)" after "SEC. 639.",

(2) by inserting "(other than section 651A)" after "subchapter", and

(3) by adding at the end the following:

"(b) There are authorized to be appropriated to carry out section 651A, such sums as may be necessary for fiscal years 1991 through 1996.".

SEC. 121. POVERTY LINE.

(a) ISSUANCE OF POVERTY LINE.—Subsection (a) is section 652 of the Head Start Act (42 U.S.C. 9847(a)) is amended to read as follows:

"(a) The Secretary shall issue annually (or at any shorter interval the Secretary considers to be feasible and desirable) a poverty line which, except as provided in section 645, shall be used as a criterion of eligibility for participation in Head Start programs.".

(b) DEFINITION.—Section 637 of the Head Start Act (42 U.S.C. 9832), as amended by sections 104(b), 116(b), 117(b), is amended by adding at the end the following:

"(9) The term 'poverty line' means—

"(A) the official poverty line (as defined by the Office of Management and Budget) adjusted to reflect the percentage change in the Consumer Price Index For All Urban Consumers, issued by the Bureau of Labor Statistics, occurring in the 1-year period or other interval immediately preceding the date such adjustment is made; or

"(B) the poverty line (including any revision thereof) applicable to this subchapter for fiscal year 1990, adjusted to reflect the percentage change in the Consumer Price Index For All Urban Consumers, issued by the Bureau of Labor Statistics, occurring in the period beginning October 1, 1989, and ending immediately before the date such adjustment is made;

whichever is greater.".

(c) TECHNICAL AMENDMENTS.—Section 652 of the Head Start Act (42 U.S.C. 9847) is amended—

(1) by striking subsection (b), and

(2) in subsection (c) by striking "(c) Revisions required by subsection (a) shall be made and issued" and inserting "(b) The poverty line shall be determined by the Secretary".

SEC. 122. COMPARABILITY OF WAGES.

Section 653 of the Head Start Act (42 U.S.C. 9848) is amended by adding at the end the following:

"The Secretary shall encourage Head Start agencies to provide compensation according to salary scales that are based on training and experience.".

Subtitle B—Head Start Transition Project

SEC. 131. SHORT TITLE.

This subtitle may be cited as the "Head Start Transition Project Act".

SEC. 132. DEFINTIONS.

As used in this subtitle:

(1) DEVELOPMENTALLY APPROPRIATE CURRICULUM.—The term "developmentally appropriate curriculum" means a curriculum that is appropriate for the child's age and all areas of the individual child's development, including educational, physical, emotional, social, cognitive, and communication.

(2) FAMILY SERVICES COORDINATOR.—The term "family services coordinator" means an individual who is trained to assist families in obtaining supportive services. Such individual may be an existing employee of the local educational agency or Head Start agency.

(3) HEAD START AGENCY.—The term "Head Start agency" means any agency designated as a Head Start agency under the Head Start Act.

(4) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the same meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Department of Health and Human Services.

(6) SUPPORTIVE SERVICE.—The term "supportive service" means service that will enhance the physical, social, emotional, and intellectual development of low-income children, including providing necessary support to the parents of such children and other family members.

SEC. 133. HEAD START TRANSITION GRANTS.

(a) IN GENERAL.—With funds made available under section 639(c) of the Head Start Act to carry out this subtitle, the Secretary may make demonstration grants to Head Start agencies and local educational agencies to develop and operate programs that assist low-income elementary school students grades kindergarten through 3 (giveing priority to students entering their first year of elementary school) and their families in—

(1) obtaining supportive services that build on the strength of families, including health, immunization, mental health, nutrition, parenting education, literacy, and social services (including substance abuse treatment, education, and prevention services); and

(2) supporting the active involvement of parents in the education of their children.

(b) TERM OF GRANT.—Each grant awarded under this subtitle shall be for a period of 3 years and shall be not less than $200,000.

SEC. 134. ELIGIBILITY.

(a) HEAD START AGENCY.—A Head Start agency shall be eligible for a grant under this subtitle if such Head Start agency has formed a consortium with one or more local educational agencies that received funds under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 and that serves children who have been served by such Head Start agency.

(b) Local Educational Agency.—A local educational agency shall be eligible for a grant under this subtitle if such agency receives funds under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 and has formed a consortium with one or more Head Start agencies serving children who will enroll in any elementary school located within the school district of such local educational agency.

(c) COOPERATING AGENCY.—A nonprofit agency or institution of higher education with experience in child development may participate in any consortium formed under subsection (a) or (b) in developing, operating, and evaluating programs assisted under this subtitle.

(d) FOLLOW THROUGH GRANTEES.—A local educational agency that is receiving assistance through a program under the Follow Through Act shall also be eligible for a grant under this subtitle if such agency meets the requirements of subsection (b).

SEC. 135. REQUIREMENTS.

(a) IN GENERAL.—The Secretary shall award grants under this subtitle to Head Start agencies and local educational agencies in both rural and urban areas.

(b) SPECIAL RULE.—The Secretary shall award at least one grant to one eligible applicant in each State before the Secretary may award a second grant within any one State.

(c) CONSIDERATION.—In awarding grants under this subtitle, the Secretary shall consider—

(1) the commitment of the Head Start agency and local educational agency to the program for which assistance under this subtitle is requested;

(2) the quality of the Head Start progran operated by a Head Start agency desiring financial assistance under this subtitle, a measured by compliance with Head Star program performance standards;

(3) the proportion of low-income childre in the school attendance area where the program assisted under this subtitle will be located;

(4) the suitability of the proposed progran for replication in other locations;

(5) the quality of information and plan in the application; and

(6) the commitment of the community t the proposed program, as evidenced by additional resources, in cash and in kind, available to the applicant to support the program.

(d) PRIORITY.—The Secretary shall give priority to applicants that will operate a program under this subtitle at a school designated for a schoolwide project under sectio 1015(a) of the Elementary and Secondar Education Act of 1965.

SEC. 136. APPLICATION.

(a) IN GENERAL.—Each Head Start agenc or local educational agency desiring a gran under this subtitle shall submit an application to the Secretary at such time, in suc manner, and accompanied by such information as the Secretary may reasonably require. Each such application shall include—

(1) a description of the activities and services for which assistance is sought;

(2) a description of members of the consortium established in accordance with sectio 134, including any cooperating agency;

(3) a self-assessment of the Head Star agency's and local educational agency's programs to address the health, immunizatio mental health, nutrition, parenting education, literacy, social service (including substance abuse treatment, education, and prevention), and educational needs of lov income students and their families, including the use of a developmentally appropriat curriculum such as a model approach unde the Follow Through Act;

(4) a plan for the development of a supportive services team of family service coordinators to—

(A) assist families, administrators an teachers to respond to health, immunization, mental health, nutrition, social servic and educational needs of students;

(B) conduct home visits and help student and their families to obtain health, immunization, mental health, nutrition, parentin education, literacy, education (including tutoring and remedial services), and socia services (including substance abuse treament, education and prevention), for whic such students and their families are eligibl

(C) coordinate a family outreach and support program, including a plan for involving parents in the management of the program assisted under this subtitle, in cooperation with parental involvement effor undertaken pursuant to the Follow Throug Act, chapter 1 of title I of the Elementar and Secondary Education Act of 1965, th Head Start Act, part B of chapter 1 of title of the Elementary and Secondary Educatio Act of 1965 (Even Start), and the Educatio of the Handicapped Act of 1975;

(D) assist families, administrators, an teachers in enhancing developmental continuity between the programs assisted unde the Head Start Act and elementary schoo classes; and

(E) prepare a plan for the transition o each child from Head Start or comparabl programs to kindergarten, including—

(i) a meeting of the early childhood development program teacher with the kindergarten teacher and the child's parents to discuss the transition of each child and to address any particular educational needs of such child; and

(ii) the transfer of knowledge about the child, including the transfer (with parental consent) of written records from the early childhood development program teacher to the kindergarten teacher to become part of the school record of the child;

(5) the designation of a member of the supportive services team described in paragraph (4) who will serve as the supervisor of such supportive services team;

(6) assurances that State agencies, local agencies, and community-based organizations that provide supportive services to low-income students served by such Head Start agency or local educational agency have been consulted in the preparation of the plan described in paragraph (4);

(7) assurances that State agencies, local agencies, and community-based organizations that provide supportive services to low-income students served by such Head Start agency or local educational agency will designate an individual who will act as a liaison to the supportive services team described in paragraph (4);

(8) a description of the target population to be served by the supportive services team described in paragraph (4) including families previously served under the Head Start Act, part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (Even Start), or comparable early childhood development programs;

(9) a description of the supportive services to be provided, directly or through referral;

(10) a plan to ensure the smooth transition of children served under the Head Start Act, part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (Even Start), Education of the Handicapped Act of 1975, and comparable early childhood development programs to elementary schools;

(11) assurances that, and a plan describing how, families will be involved in the design and operation of the program assisted under this subtitle;

(12) a description of the Federal and non-Federal resources that will be used to carry out the program;

(13) if the applicant has applied for, or is receiving, assistance through a program under the Follow Through Act—

(A) a description of the activities that will be funded under this subtitle and the activities that will be funded with assistance provided under the Follow Through Act; and

(B) a description of the manner in which activities funded under this subtitle and activities funded with assistance provided under the Follow Through Act will be coordinated within the elementary school;

(14) assurances that the supportive services team described in paragraph (4) will be equipped to assist children and families with limited English proficiency and disabilities, if appropriate;

(15) a plan describing how the program assisted under this subtitle will be sustained, with chapter 1 funding or other Federal and non-Federal funding sources, after the grant has expired;

(16) program goals; and

(17) such other information as the Secretary may reasonably require.

(b) SPECIAL RULE.—Each supportive services team developed pursuant to paragraph (4) of subsection (a) shall include at least 1 family service coordinator for every 35 children to be served.

SEC. 137. EVALUATION AND REPORT.

(a) EVALUATION.—The Secretary shall, through grants, contracts or cooperative agreements, provide for the continuing evaluation of the programs assisted under this subtitle in order to determine the effectiveness of such programs in achieving stated goals, the impact of such programs on related programs, and the implications of the design and operation of such programs for the effective delivery of services.

(b) LOCAL EVALUATION AND INFORMATION.—

(1) REQUIREMENT.—Each Head Start Agency or local educational agency receiving a grant under this subtitle shall carry out an evaluation of the rogram assisted under this subtitle in order to determine the effectiveness of the program in achieving stated goals, the impact of the program on the families served and the community, the problems encountered in the design and operation of the program and ways in which such problems were addressed, and the impact of the program and ways in which such problems were addressed, and the impact of the program on the Head Start Agency and local educational agency.

(2) INFORMATION.—Each Head Start agency or local educational agency receiving a grant under this subtitle shall furnish to the Secretary any information the Secretary shall request in order to carry out the evaluation described in subsection (a).

(c) REPORT.—Not later than September 30, 1993, the Secretary shall, prepare and submit, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report concerning evaluations conducted pursuant to subsections (a) and (b), including the strengths and weaknesses in the design and operation of programs assisted under this subtitle and the effectiveness of such programs in achieving stated goals.

SEC. 138. PAYMENTS; FEDERAL SHARE.

(A) PAYMENTS.—The Secretary shall make a grant to each Head Start agency or local educational agency having an application approved under section 136, to pay the Federal share of the cost of the activities described in the application.

(b) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share shall be 80 percent of the cost of the activities described in the approved application.

(2) NON-FEDERAL SHARE.—The non-Federal share of such cost may be in cash or in kind fairly evaluated, including planned equipment or services.

(c) SUPPLEMENTAL OF FUNDING.—

(1) IN GENERAL.—All Federal funds and funds paid as a part of the non-Federal share under this subtitle shall be used to supplement the level of State and local public funds expended for services assisted under this subtitle in the previous fiscal year.

(2) SATISFACTION OF REQUIREMENT.—The supplementation requirement of this subsection shall be satisfied with respect to a particular program if the aggregate expenditure in the program for the fiscal year in which services are to be provided will not be less than the aggregate expenditure in the program in the previous year, excluding Federal and non-Federal funds provided under this subtitle.

SEC. 139. COORDINATION WITH FOLLOW THROUGH.

The Secretary shall arrange with the Secretary of Education to coordinate the programs established under this subtitle with the programs established under this subtitle with the programs established under the Follow Through Act to enable local educational agencies to submit a single application for funding under both such programs, and shall, to the extent practicable, coordinate the promulgation of regulations that apply to such programs.

SEC. 140. AVAILABILITY OF FUNDS.

Section 639 of the Head Start Act, as amended by section 120(b), is amended by adding at the end the following: "(c)(1) If the amount appropriated under subsection (a) for fiscal 1991 exceeds the adjusted appropriation, the Secretary shall make available not less than $20,000,000 to carry out the Head Start Transition Project Act.

"(2) The Secretary shall make available not less than $20,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the Head Start Transition Project Act.".

TITLE II—AMENDMENTS TO THE FOLLOW THROUGH ACT

SEC. 201. TECHNICAL AMENDMENTS.

The Follow Through Act (42 U.S.C. 9861-9877) is amended—

(1) by inserting after section 661 the following: "PART 1—DIRECT SERVICES," and

(2) in section 668—

(A) by striking "this subchapter" each place it appears and inserting "part 1," and

(B) in subsection (a) by inserting "programs and" after "participating in."

SEC. 202. FINANCIAL ASSISTANCE FOR FOLLOW THROUGH PROGRAMS.

(A) PRIORITY.—Section 662(a) of the Follow Through Act (42 U.S.C. 9861(a)) is amended by adding at the end the following: "For the purpose of making grants under this section, the Secretary shall give priority to any local educational agency that requests the grant for purposes of carrying out a Follow Through program in a school that—

"(1) is designated as a schoolwide project under section 1015(a) of the Elementary and Secondary Education Act of 1965; and

"(2) has a high concentration of children described in the first sentence of this subsection.".

(b) PROVISION OF ASSISTANCE.—Section 662 of the Follow Through Act (42 U.S.C. 9861) is amended—

(1) in the first sentence of subsection (a) by inserting "quality pre-school" after "similar,"

(2) in subsection (c)

(A) in the first sentence by striking "this section shall provide such" and inserting "this part shall use model Follow Through approaches for which financial assistance is provided under section 664A and shall provide directly, through referral or a program established under the Head Start Transition Project Act, or by using any combination of these methods,", and

(B) in the second sentence by striking "projects" and inserting "programs", and

(C) in the last sentence by striking "project" and inserting "program", and

(3) by adding at the end the following:

"(d) The Secretary may not refuse to provide financial assistance under subsection (a) to an applicant solely because such applicant proposes to carry out a Follow Through program during a period in which school is not in regular session, at more than one site, or both.

"(e)(1) In making grants under subsection (a), the Secretary shall provide sufficient funds to enable programs to meet the requirements of subsection (c).

"(2) If the aggregate amount appropriated for a fiscal year to carry out this subchapter

exceeds $15,000,000, the amount of each such grant shall be not less than $200,000.

"(f) Notwithstanding subsection (c) any local educational agency that receives a grant under subsection (a) for purposes of carrying out a Follow Through program in an elementary school that-

"(A) receives funds under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

"(B) is designated as a schoolwide project under section 1015(a) of such Act;

may use such grant to serve all children attending such school in kindergarten through grade 3.".

"(c) TECHNICAL AMENDMENT.—Section 662(c) of the Follow Through Act (42 U.S.C. 9861(c)) is amended by striking "projects" and inserting "programs".

SEC. 203. APPLICATIONS AND FUNDING.

The Follow Through Act (42 U.S.C. 9861-9877) is amended by striking section 663 and inserting the following:

"CONSIDERATION OF APPLICATIONS

"SEC. 663. (a) IN GENERAL.—A grant under this part pay be made only to an applicant that submits an application to the Secretary containing such information as may be required by the Secretary by rule.

"(b) CONTENTS OF APPLICATION.—Each application for a grant under this part shall—

"(1) provide that the program for which assistance is requested will be administered by or under the supervison of the applicant;

"(2) contain an assurance that applicant will prepare, and submit to the Secretary, regular evaluations of and reports concerning such program;

"(3) estimate the number of children who are eligible for Follow Through services in the geographical area served by such program and the approximate number to be served by such program;

"(4) describe which model Follow Through approach the applicant intends to use, and the manner in which the applicant will implement such approach;

"(5) provide evidence that the applicant has made a formal arrangement to receive technical assistance and training relative to such approach from an appropriate agency, institution, or organization that receives funds under section 644A;

"(6) provide an assurance that the instructional program, including textbooks and other materials provided by the applicant, is appropriate to the ages and devlopmental needs of the children to be served by such program and to the model Follow Through approach selected;

"(7) specify the manner in which the applicant will provide comprehensive services, including through agreements with public or private entities to provide, make referrals to, or coordinate the provision of such services to children and their families theough the program established under subchapter B, the Head Start Transition Project Act, or another comprehensive program;

"(8) provide for direct participation of parents as provided in section 662(c), and include a cerification that such application has been approved by a committee (established in accordance with rules issued by the Secretary) that represents parents of children who participate, and parents of children who are likely to participate, in such program;

"(9) describe how the applicant proposes to coordinate services under this part with services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the Bilingual Education Act, and the Education of the Handicapped Act of 1975;

"(10) demonstrate that—

"(A) athe applicant has entered into a formal arrangement with local Head Start programs and other preschool programs for such cooperation and activities as are necessary to ensure an effective transition of eligible children entering the Follow Through program carried out by such applicant; and

"(B) the follow Through activities to be provided by the applicant have been specifically designed to coordinate with, and build on, those activities provided to participants in local Head Start or other similar preschool programs;

"(11) describe the expected or, if possible, actual impact of such program on the applicant's regular school program; and

"(12) contain—

"(A) a certification that the applicant submitted such application to the State educational agency (as defined in section 1471(23) of the Elementary and Secondary Education Act of 1965) for a reasonable period for comment before submitting such application to the Secretary; and

"(B) any comments received from such agency during such period.".

SEC. 204. PROGRAM IMPROVEMENT.

(a) RESEARCH, EVALUATION, AND RELATED MATTERS.—The Follow Through Act (42 U.S.C. 9861-9877) is amended by striking section 664 and inserting the following:

PART II—PROGRAM IMPROVEMENT

"RESEARCH

SEC. 664. The Secretary may provide financial assistance, through grants and contracts, to public and private nonprofit agencies, institutions, and organizations to conduct research—

"(1) to improve Follow Through approaches;

"(2) to develop model Follow Through approaches; and

"(3) to meet the special needs of children who are eligible to participate in Follow Through programs.

"TECHNICAL ASSISTANCE AND TRAINING

"SEC. 664A. (a) The Secretary shall make grants to public and private nonprofit agencies, institutions, and organizations—

"(1) to provide technical assistance to assist in the development, inplementation, and expanded use of model Follow Through approaches; and

"(2) to provide training in conjunction with the operation of Follow Through programs or other programs that adopt such approaches.

"(b)(1) Technical assistance with respect to a particular model Follow Through approach may not be provided under subsection (a)(1) in more than 5 fiscal years to a particular recipient of financial assistance under section 662(a).

"(2) In the case of a recipient of financial assistance under section 662(a) that has received technical assistance prior to the date of enactment of this part, the Secretary may limit the provision of technical assistance with respect to a particular Follow Through approach under subsection (a)(1) to 3 fiscal years.

"RESOURCE AND EXPANSION

SEC. 664B. The Secretary may make grants to entities which operate, or previously operated, Follow Through programs that the Secretary finds to be effective—

"(1) to act as Follow Through resources to develop and provide information on the operation of their respective programs;

"(2) to promote the adoption of similar programs by local educational agencies; and

"(3) to assist agencies, institutions, and organizations that receive funds under section 664A, in providing technical assistance and training.

"NATIONAL CLEARINGHOUSE

"SEC. 664C. (a) If the amount appropriated to carry out this subchapter is not less than $30,000,000, then the Secretary shall make a grant to an organization that represents entities referred to in sections 662, 664A, and 664B to establish a national clearinghouse on Follow Through programs (hereinafter in this section referred to as the clearinghouse), which shall provide information, without charge or at such reasonable cost as the Secretary may determine, to the public concerning—

"(1) programs that receive financial assistance under section 662;

"(2) model Follow Through approaches;

"(3) the kinds of technical assistance and training available under section 664A;

"(4) the procedure to obtain technical assistance and training available under section 664A; and

"(5) Follow Through research and evaluations.

"(b) The Secretary shall make available to the clearinghouse all research and evaluations that relate to Follow Through programs and for which the Secretary provides, or has ever provided, funds.

"(c)(1) The Secretary shall promote the awareness and use of model Follow Through approaches by—

"(A) providing information to recipients of grants and contracts under section 1562 of the Elementary and Secondary Education Act of 1965 concerning programs and activities that receive assistance under this title; and

"(B) making information concerning such programs and activities available to such recipients without charge.

"(2) From amounts appropriated for each fiscal year to carry out this part, the Secretary shall expend not less than $100,000 to pay for the costs incurred by such recipients to disseminate information relating to programs and activities funded under this part.".

(b) CONFORMING AMENDMENT.—The Follow Through Act (42 U.S.C. 9861-9877) is amended by striking section 667.

SEC. 205. RESEARCH AND EVALUATION CONTRACTS.

Section 665 of the Follow Through Act (42 U.S.C. 9864) is amended—

(1) in the heading of such section by striking ", DEMONSTRATION, AND PILOT PROJECT" and inserting "AND EVALUATION", and

(2) in subsection (a)(1) by striking ", demonstration, or pilot project" and inserting "or evaluation".

SEC. 206. EVALUATION

Section 666(a) of the Follow Through Act (42 U.S.C. 9865(a)) is amended—

(1) by striking the last sentence and inserting "Such continuing evaluation shall measure the impact of such programs on participating parents and on entire schools and school districts in which such programs are carried out.".

(2) by inserting "(1)" after "(a)", and

(3) by adding at the end the following:

"(2) The evaluation required by paragraph (1) shall include evaluations of local educational agencies that receive Follow Through grants for use in a school that is designated as a schoolwide project under section 1015(a) of the Elementary and Secondary Education Act of 1965. Such evaluation shall compare children who only receive services under a grant under chapter 1 of title I of the Elementary and Secondary

Education Act of 1965 with children who receive services under such a grant and under a Follow Through grant for the purposes of determining whether the comprehensive services provided to the latter children through the model Follow Through approach had a positive effect on their educational progress and overall developmental progress. To the extent practicable, such comparison shall be made on the basis of results of evaluations conducted under such chapter and evaluations conducted under this subsection, and shall take into account the amount of funds provided to the project.".

SEC. 207. GENERAL AND ADMINISTRATIVE PROVISIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—The Follow Through Act (42 U.S.C. 9861-9877) is amended by inserting after section 666 the following:

"PART III—GENERAL AND ADMINISTRATIVE PROVISIONS

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 667. (a) There are authorized to be appropriated to carry out this subchapter $20,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994.

"(b) Of the amount appropriated for each fiscal year to carry out this subchapter—

"(1) 70 percent shall be available to carry out part I; and

"(2) 30 percent shall be available to carry out part II.

"(c)(1) Except as provided in paragraph (4), financial assistance provided under part I for a Follow Through program shall not exceed 80 percent of the approved costs of the program assisted, except that the Secretary may approve assistance in excess of such percentage if the Secretary determines, in accordance with rules establishing objective criteria, that such action is required to carry out such part.

"(2) Non-Federal contributions may be in cash or in kind, fairly evaluated, including plant, equipment, and services.

"(3) The Secretary may not require non-Federal contributions in excess of 20 percent of the approved costs of the Follow Through program assisted.

"(4) Financial assistance provided under part I for a Follow Through program carried out in an elementary school that—

"(A) receives funds under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

"(B) is designated as a schoolwide project under section 1015(a) of such Act;

may be expended to pay 100 percent of the approved costs of the program assisted.

"(d) An application for assistance under this subchapter may not be approved unless the Secretary is satisfied that the services to be provided under this chapter by such applicant will be in addition to, and not in substitution for, services previously provided without Federal assistance. The requirement imposed by the preceding sentence shall be subject to such rules as the Secretary may issue.".

(b) CONFORMING AMENDMENT.—Section 670 of the Follow Through Act (42 U.S.C. 9861 note) is repealed.

SEC. 208. PARTICIPATION IN OTHER EDUCATION ACTIVITIES.

The Follow Through Act (42 U.S.C. 9861-9877) is amended by inserting after section 669 the following:

"PARTICIPATION IN OTHER EDUCATIONAL ACTIVITIES

"SEC. 669A. (a) The Secretary shall facilitate the participation of entities that receive funds under sections 664A and 664B in training and technical assistance activities carried out under other Federal programs that provide assistance to children in elementary schools, including programs and activities carried out under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

"(b) The Secretary shall consult with the Secretary of Health and Human Services in the coordination of the program established under this Act with the programs established under the Head Start Transition Project Act to enable local educational agencies to submit a single application for funding under both such programs and shall, to the extent practicable, coordinate the issuance of regulations governing such programs.".

SEC. 209. TECHNICAL AMENDMENT.

Section 668(a) of the Follow Through Act (42 U.S.C. 9867(a)) is amended by inserting "programs and" before "projects".

TITLE III—AMENDMENTS TO THE STATE DEPENDENT CARE DEVELOPMENT GRANTS ACT

SEC. 301. AMENDMENTS TO THE STATE DEPENDENT CARE DEVELOPMENT GRANTS ACT.

Section 670A of the State Dependent Care Development Grants Act (42 U.S.C. 9871) is amended—

(1) by striking "is authorized" and inserting "are authorized",

(2) by striking "1987, 1988, 1989, and", and

(3) by inserting after "1990" the following: "and 1991, and such sums as may be necessary for fiscal years 1992, 1993, and 1994".

SEC. 302. WAIVER OF EXISTING PERCENTAGE SET-ASIDE OF ALLOTMENTS.

Section 670D(c) of the State Dependent Care Development Grants Act (42 U.S.C. 9874(c)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(2) by striking "Of" and inserting "(1) Except as provided in paragraph (2), of", and

(3) by adding at the end the following:

"(2) For any fiscal year the Secretary may waive the percentage requirements specified in paragraph (1) on the request of a State if such State demonstrates to the satisfaction of the Secretary—

"(A) that the amount of funds available as a result of one of such percentage requirements is not needed in such fiscal year for the activities for which such amount is so made available; and

"(B) the adequacy of the alternative percentages, relative to need, the State specifies the State will apply with respect to all of the activities referred to in paragraph (1) if such waiver is granted.".

SEC. 303. OPERATION COSTS OF AFTER SCHOOL CARE PROGRAMS AUTHORIZED.

(a) USE OF ALLOTMENTS.—

(1) IN GENERAL.—Section 670D(a)(1) of the State Dependent Care Development Grants Act (42 U.S.C. 9874(a)(1)) is amended by inserting "operation," after "establishment,".

(2) OPERATION AND SITES.—Section 670D(b)(1) of the State Dependent Care Development Grants Act (42 U.S.C. 9874(b)(1) is amended—

(A) by inserting "operation," after "establishment," and

(B) by striking "in public" and all that follows through "communities".

(3) PARTICIPATION OF CERTAIN CHILDREN.—Section 670D(b)(1) of the State Dependent Care Development Grants Act (42 U.S.C. 9874(b)(1)) is amended by adding at the end the following: "Amounts so paid to a State and used for the operation of such child care services shall be designed to enable children, whose families lack adequate financial resources, to participate in before or after school child care programs.".

(4) RESOURCE AND REFERRAL SYSTEM.—Section 670D(f) of the State Dependent Care Development Grants Act (42 U.S.C. 9871(f)) is amended by inserting "operate," after "expand,".

(b) LIMITATIONS.—Section 670D(d) of the State Dependent Care Development Grants Act (42 U.S.C. 9874(d) is amended—

(1) by striking paragraph (1),

(2) by redesignating paragraph (2) as paragraph (1),

(3) by striking paragraph (3), and

(4) by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

SEC. 304. REPORTS BY GRANT RECIPIENTS.

(a) IN GENERAL.—Section 670E(c) of the State Dependent Care Development Grants Act (42 U.S.C. 9875(c)) is amended—

(1) by inserting "(1)" after "(c)", and

(2) by adding at the end the following:

"(2) The chief executive officer of each State shall include in such a description of—

"(A) the number of children who participated in before and after school child care programs assisted under this subchapter;

"(B) the characteristics of the children so served including age levels, handicapped condition, income level of families in such programs;

"(C) the salary level and benefits paid to employees in such child care programs; and

"(D) the number of clients served in resource and referral systems assisted under this subchapter, and the types of assistance they requested.".

(b) DATE OF REVISION.—Subsection (c)(1) of section 670E of the State Dependent Care Development Grants Act (42 U.S.C. 9875(c)), as so redesignated by subsection (a), is amended by striking out "September 30, 1987" and inserting "September 30, 1991".

SEC. 305. TECHNICAL AMENDMENTS.

(a) USE OF ALLOTMENTS.—Section 670D of the State Dependent Care Development Grants Act (42 U.S.C. 9874) is amended—

(1) in the first sentence of subsection (a)(1) by striking "for fiscal year 1985 and fiscal year 1986",

(2) in the first sentence of subsection (b)(1) by striking "for fiscal year 1985 and fiscal year 1986",

(3) in subsection (b)(2)—

(A) in subparagraph (D)—

(i) by inserting "school-age children," after "diverse", and

(ii) by inserting a comma after "children" the last place it appears, and

(B) in subparagraph (F)—

(i) by striking "Governor" and inserting "chief executive officer of the State", and

(ii) by striking "the provisions of",

(4) in subsection (d)(1) by striking "subsection (a)" and inserting "subsections (a) and (b)",

(5) in subsection (f) by striking ", which prior to the date of enactment of this subchapter, are provided" and inserting "which are provided before the date of the enactment of this subchapter,", and

(6) in subsection (g) by striking "operating activities to be carried out" and inserting "carrying out activities".

(b) APPLICATION AND DESCRIPTION OF ACTIVITIES.—The last sentence of section 670E(c) of the State Dependent Care Development Grants Act (42 U.S.C. 9875(c)) is amended by striking "until September 30, 1987,".

(c) DEFINITIONS.—Section 670G of the State Dependent Care Development Grants Act (42 U.S.C. 9877), is amended—

(1) in paragraph (2)(C) by striking "a person" and inserting "an individual",

(2) in paragraph (7) by inserting "in" after "State" the first place it appears, and

(3) in paragraph (10) by striking "Trust Territory of the Pacific Islands," and inserting "Federated States of Micronesia, the Republic of the Marshall Islands, Palau,".

TITLE IV—AMENDMENTS TO THE COMMUNITY SERVICES BLOCK GRANT ACT

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—Section 672(b) of the Community Services Block Grant Act (42 U.S.C. 9901(b)) is amended—

(1) by striking "is authorized" and all that follows through "1989, and", and inserting "are authorized to be appropriated",

(2) by inserting after "1990," the following: "$451,500,000 for fiscal year 1991, $460,000,000 for fiscal year 1992, $480,000,000 for fiscal year 1993, and $500,000,000 for fiscal year 1994", and

(3) by inserting "(other than section 681A)" after "subtitle".

(b) AUTHORIZATION OF APPRORPRIATIONS FOR COMMUNITY FOOD AND NUTRITION PROGRAMS.—Section 681A(c) of the Community Services Block Grant Act (42 U.S.C. 9910a(c)) is amended—

(1) by striking "each of the fiscal year", and 1988, 1989, and" and inserting "fiscal year", and

(2) by inserting after "1990" the following: ", $10,000,000 for fiscal year 1991, $15,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994".

SEC. 402. ELIGIBLE ENTITIES.

The third sentence of section 673(1) of the Community Services Block Grant Act (42 U.S.C. 9902(1)) is amended—

(1) by striking "In" and inserting "If",

(2) by striking "not presently" and inserting "is not, or ceases to be,",

(3) by striking "Governor" and inserting "chief executive officer",

(4) in subparagraph (C) by inserting after "new area." the following: "In making a designation under this subparagraph, such chief executive officer shall give priority to such organization.", and

(5) by striking "The Governor's" and inserting "Such officer's".

SEC. 403. STATE ALLOCATIONS.

Section 764(a) of the Community Services Block Grant Act (42 U.S.C. 9903(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (3), and

(2) by inserting after paragraph (1) the following:

"(2)(A) Subject to subparagraph (B) and (C), if the amount appropriated under section 672 for each fiscal year which remains after—

"(i) the Secretary makes the apportionment required in subsection (b)(1); and

"(ii) the Secretary determines the amount necessary for the purposes of section 681(c);

exceeds $345,000,000, the Secretary shall allot to each State not less than one-half of 1 percent of the amount appropriated under section 672 for such fiscal year.

"(B) Subparagraph (A) shall not apply with respect to a fiscal year if the amount alloted under paragraph (1) to any State is less than the amount allotted under such paragraph to such State for fiscal year 1990.

"(C) The amount allotted under subparagraph (A) to a State shall be reduced, if necessary, so that the aggregate amount allotted to such State under such subparagraph and paragraph (1) does not exceed 140 percent of the aggregate amount so allotted to such State for the fiscal year preceding the fiscal year for which a determination is made under this paragraph.".

SEC. 404. APPLICATIONS AND REQUIREMENTS.

(a) ASSURANCE BY STATE.—Section 675(c)(11) of the Community Services Block Grant Act (42 U.S.C. 9904(c)(11)) is amended—

(1) by inserting ", or reduced below the proportional share of funding it received in the previous fiscal year," after "under this Act" the last place it appears,

(2) by inserting "or such reduction" after "such termination", and

(3) by adding at the end the following:

"For purposes of making a determination with respect to a funding reduction, the term 'cause' includes—

"(A) a statewide redistribution of funds under this subtitle to respond to—

"(i) the results of the most recently available census or other appropriate data;

"(ii) the establishment of a new eligible entity;

"(iii) severe economic dislocation; and

"(B) the failure of an eligible entity to comply with the terms of its agreement to provide services under this subtitle.".

(b) OPPORTUNITY FOR COMMENT.—Section 675(c) of the Community Services Block Grant Act (42 U.S.C. 9904(c)) is amended—

(1) in paragraph (10) by striking "and" at the end.

(2) in paragraph (11) by striking the period at the end and inserting "; and", and

(3) by inserting after paragraph (11) the following:

"(12) in the case of a State which applied for and received a waiver from the Secretary under Public Law 98-139, provide assurances that funds will not be provided under this subtitle by such State to an organization to which such State made a grant under this subtitle in fiscal year 1984 unless such organization allows, before expending such funds, low-income individuals to comment on the uses for which such organization proposes to expend such funds.".

(c) PROCEDURES FOR REVIEW OF REDUCTION OF FUNDING.—Section 676A the Community Services Block Grant Act (42 U.S.C. 9906) is amended—

(1) in the heading by inserting "OR REDUCTION" after "TERMINATION",

(2) in the first sentence of subsection (a) by inserting "or reduces" after "terminates", and

(3) in the first sentence of subsection (b) by inserting "or reduction" after "termination".

SEC. 405. DISCRETIONARY AUTHORITY OF SECRETARY.

(a) PLANNING AND DEVELOPMENT OF RURAL RENTAL HOUSING.—Section 681(a)(2)(D) of the Community Services Block Grant Act (42 U.S.C. 9910(a)(2)(D)) is amended by striking "rural housing and community facilities development" and inserting "the planning and development of rural housing (including rental housing for low-income individuals) and community facilities".

(b) ACTIVITIES FOR LOW-INCOME YOUTH.—Section 681 of the Community Service Block Grant Act (42 U.S.C. 9901) is amended—

(1) in subsection (a)(2)(F) by striking "recreational activities" and inserting "instructional activities described in subsection (b)",

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and

(3) by inserting after subsection (a) the following:

"(b) Any instructional activity carried out under subsection (a)(2)(F) shall be carried out on the campus of an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965) and shall include—

"(1) access to the facilities and resources of such institution;

"(2) an initial medical examination and follow-up referral or treatment, without charge, for youth during their participation in such activity;

"(3) at least one nutritious meal daily, without charge, for participating youth during each day of participation;

"(4) high quality instruction in a variety of sports (that shall include swimming and that may include dance and any other high quality recreational activity) provided by coaches and teachers from institutions of higher education and from elementary and secondary schools (as defined in sections 1471(8) and 1471(21) of the Elementary and Secondary Education Act of 1965); and

"(5) enrichment instruction and information on matters relating to the well-being of youth, such as educational opportunities and study practices, the prevention of drug and alcohol abuse, health and nutrition, career opportunities, and job responsibilities.".

SEC. 406. COMMUNITY FOOD AND NUTRITION.

(c) CONFORMING AMENDMENT.—Section 681A(a) of the Community Services Block Grant Act (42 U.S.C. 9910a) is amended by striking "local, and statewide" and inserting "local, Statewide, and national".

(b) AMOUNT OF GRANTS.—Section 681A of the Community Services Block Grant Act (42 U.S.C. 9910a) is amended—

(1) by striking subsection (b),

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (a) the following:

"(b)(1) Of the amount appropriated for fiscal year to carry out this section, the Secretary shall allot funds for grants under subsection (a) as follows:

"(A) From 60 percent of such amount (bu not to exceed $3,600,000), the Secretary shal allot for grants to eligible agencies for statewide programs in each State the amoun that bears the same ratio to 60 percent of th amount appropriated for such fiscal year a the low-income and unemployed populatio of such State bear to the low-income and unemployed populations of all the States.

"(B) From 40 percent of such amount (bu not to exceed $2,400,000), the Secretary shal allot for grants on a competitive basis to eligible agencies for local and statewide programs.

"(2) Any amounts appropriated for fiscal year to carry out this section in exces of $6,000,000 shall be allotted as follows:

"(A) The Secretary shall use 40 percent o such excess to make allotments for grant under subsection (a) to eligible agencies fo statewide programs in each State in an aggregate amount that bears the same ratio t 40 percent of such excess as the low-incom and unemployed populations of such Stat bears to the low-income and unemploye populations of all States.

"(B) The Secretary shall use 40 percent o such excess to award grants under subsec

tion (c) on a competitive basis to eligible agencies for local and statewide programs.

"(C) The Secretary shall use the remaining 20 percent of such excess to award grants under subsection (a) on a competitive basis to eligible agencies for nationwide programs, including programs benefiting Native Americans and migrant farm workers. In any fiscal year, the Secretary may not make grants under this subparagraph to a particular eligible agency in an aggregate amount exceeding $300,000.

"(3) For purposes of paragraphs (1)(A) and (2)(A), an eligible agency shall demonstrate that the proposed program is statewide in scope and represents a comprehensive and coordinated effort to alleviate hunger within the State.

"(4) From the amounts allocated under paragraphs (1)(A) and (2)(A), the minimum total allotment for each State for each fiscal year shall be—

"(A) $15,000 if the total amount appropriated to carry out this section is not less than $7,000,000 but less than $10,000,000;

"(B) $20,000 if the total amount appropriated to carry out this section is not less than $10,000,000 but less than $15,000,000; or

"(C) $30,000 if the total amount appropriated to carry out this section is not less than $15,000,000.

For purposes of this paragraph, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(5) From funds allotted under paragraphs (1)(B) and (2)(B) in any fiscal year, the Secretary may not make grants under subsection (a) to an eligible agency in an aggregate amount exceeding $50,000.".

(c) Reports.—Section 681A of the Community Services Block Grant Act (42 U.S.C. 9910a) is amended—

(1) by redesignating subsection (c) as subsection (d), and

(2) by inserting after subsection (b) the following:

"(c) For each fiscal year, the Secretary shall prepare and submit, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report concerning the grants awarded under this section. Such report shall include—

"(1) a list of grantees;

"(2) the amount of funding awarded to each grantee; and

"(3) a summary of the activities performed by grantees with funds awarded under this section and a description of the manner in which such activities meet the objectives described in subsection (a).".

SEC. 407. ANNUAL REPORT.

(a) Report Required.—The Community Services Block Grant Act (42 U.S.C. 9901-9912) is amended by striking section 682 and inserting the following:

"ANNUAL REPORT

"Sec. 682. (a)(1) For each fiscal year beginning after September 30, 1991, the Secretary shall, by contract with an entity that is knowledgeable about programs and projects assisted under this subtitle, prepare a report containing the following information:

"(A) The identity of each eligible entity, agency, organization, and person that receives, directly or indirectly, funds to carry out this subtitle in such fiscal year.

"(B) With respect to each particular purpose or activity referred to in section 675(c)(1)—

"(i) the aggregate amount of such funds expended in such fiscal year to achieve such purpose or carry out such activity; and

"(ii) the number of individuals who directly beneifted from the amount so expended.

"(2) For any fiscal year beginning after September 30, 1991, the Secretary may, by contract, include in such report any additional information the Secretary considers to be appropriate to carry out this subtitle, except that the Secretary may not require a State to provide such additional information until the expiration of the 1-year period beginning on the date the Secretary notifies such State that such additional information will be required to be provided by such State.

"(3) The Secretary may not carry out this subsection by entering into a contract with any State, eligible entity, agency, organization, or person that receives, directly or indirectly, funds to carry out this subtitle.

"(b) Not later than 180 days after the end of the fiscal year for which a report is required by subsection (a) to be prepared, the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate—

"(1) such report in the form in which it was received by the Secretary; and

"(2) any comments the Secretary may have with respect to such report.

"(c) Of the funds made available under section 681(d), not more than $250,000 shall be available to carry out this section.".

"(b) Conforming Amendment.—Section 681(d) of the Community Services Block Grant Act (42 U.S.C. 9910), as so redesignated by section 405(b)(2), is amended by inserting ", section 682," after "this section".

SEC. 408. TECHNICAL AMENDMENT.

Section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) is amended by striking "for all Urban" and inserting "For All Urban".

TITLE V—AMENDMENTS TO THE CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE ACT OF 1985

SEC. 501. ADEQUACY OF SCHOLARSHIPS.

(a) Training Assistance. — Section 603(b)(1)(C) of the Child Development Associate Scholarship Assistance Act of 1985 (42 U.S.C. 10902(b)(1)(C)) is amended by inserting "(including, at the option of the State, any training necessary for credentialing)" after "credentialing".

(b) Limitation.—Section 603(b) of the Child Development Associate Scholarship Assistance Act of 1985 (42 U.S.C. 10902(b)) is amended—

(1) In paragraph (1)(C) by striking "and" at the end,

(2) by redesignating paragraph (2) as paragraph (3), and

(3) by inserting after paragraph (1) the following:

"(2) not more than 35 percent of the funds received under this title by a State may be used to provide scholarship assistance under paragraph (1) to cover the cost of training described in paragraph (1)(C); and".

SEC. 502. DEFINITIONS.

Section 604 of the Child Development Associate Scholarship Assistance Act of 1985 (42 U.S.C. 10903) is amended—

(1) in paragraph (1) by striking "poverty line, as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))" and inserting "130 percent of the lower living standard income level",

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and

(3) by inserting after paragraph (1) the following:

"(2) the term 'lower living standard income level' means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary of Labor and based on the most recent lower living family budget issued by the Secretary of Labor;".

SEC. 503. AUTHORIZATION OF APPROPRIATIONS.

Section 606 of the Child Development Associate Scholarship Assistance Act of 1985 (42 U.S.C. 10904) is amended—

(1) by striking "is authorized" and inserting "are authorized",

(2) by striking "each of the fiscal years 1987, 1988, and 1989, and" and inserting "fiscal year", and

(3) by inserting after "1990" the following: ", $3,000,000 for fiscal year 1991, and such sums as may be necessary for fiscal years 1992, 1993, and 1994".

TITLE VI—AMENDMENTS RELATING TO DEMONSTRATION PARTNERSHIP AGREEMENTS ADDRESSING THE NEEDS OF THE POOR

SEC. 601. PROGRAMS FOR SPECIAL POPULATIONS.

Section 408 of the Human Services Reauthorization Act of 1986 (42 U.S.C. 9910b) is amended—

(1) in subsection (e)—

(A) in paragraph (2) by striking "subsection (c)" and inserting "subsection (d)", and

(B) in paragraph (4) by striking "subsection (d)(2)" each place it appears and inserting "subsection (e)(2)",

(2) by redesignating subsections (c), (d), (e), (f), and (g) as subsections (d), (e), (f), (g), and (h), respectively, and

(3) by inserting after subsection (b) the following:

"(c) Programs Directed to Special Populations.—(1) In addition to the grant programs described in subsection (a), the Secretary shall make grants to eligible entities for the purpose of demonstrating new and innovative approaches to addressing the problems of, and providing opportunities for leadership development, community involvement, and educational success to, disadvantaged persons between the ages of 14 and 25 from populations experiencing conditions such as a high poverty rate, high unemployment, high dropout rate, low labor force participation, low enrollment in college or participation in other post high school training classes, high incidence of involvement in violence, and a high rate of incarceration. Services provided through approaches funded by such grants may include assessment and development of employability plane, remedial education, motivational activities, life skills instruction, community service, mentoring, access to information on available financial aid, campus visits, career education, cultural enrichment, and employment training, placement, and follow-up.

"(2) Such grants may be made only with respect to applications that—

"(A) identify and describe the population to be served, the problems to be addressed, the overall approach and methods of outreach and recruitment to be used, and the services to be provided;

"(B) describe how the approach to be used differs from other approaches used for the population to be served by the project;

"(C) describe the objectives of the project and contain a plan for measuring progress toward meeting those objectives; and

"(D) contain assurances that the grantee will report on the progress and results of the demonstration at each time and in such manner as the Secretary shall require.

"(3) Notwithstanding subsection (b), such grants shall not exceed 80 percent of the cost of such programs.

"(4) Such grants shall be made annually on such terms and conditions as the Secretary shall specify to eligible entities that serve the populations described in paragraph (1) and that are located within those areas where such populations are concentrated.".

SEC. 602. AUTHORIZATION OF APPROPRIATIONS.

Section 408(h) of the Human Services Reauthorization Act of 1986 (42 U.S.C. 9910b(g)), as so redesignated by section 601, is amended—

(1) by inserting "(1)" after "(h)",

(2) by striking "$5,000,000" and all that follows through "1990", and inserting "$10,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994",

(3) by inserting "(other than subsection (c))" before the period, and

(4) by adding at the end the following:

"(2) There are authorized to be appropriated $10,000,000 for fiscal year 1991 and such sums as may be necessary in each of the fiscal years 1992 through 1994, to carry out subsection (c).".

TITLE VII—AMENDMENTS TO THE LOW-INCOME HOME ENERGY ASSISTANCE ACT OF 1981

SEC. 701. FORWARD FUNDING OF LIHEAP.

Section 2602 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621) is amended by adding at the end the following:

"(c)(1) In fiscal year 1993 and each fiscal year thereafter, amounts appropriated under this section for any fiscal year for programs and activities under this Act shall be made available for obligation only on the basis of a program year. The program year shall begin on July 1 of the fiscal year for which the appropriation is made.

"(2) Amounts appropriated for fiscal year 1993 shall be available both to fund activities for the period between October 1, 1992, and July 1, 1993, and for the program year beginning July 1, 1993.

"(3) There are authorized to be appropriated such additional sums as may be necessary for the transition to carry out this subsection.".

SEC. 702. REAUTHORIZATION.

Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended—

(1) by striking "$2,050,000,000" and all that follows through "1989, and", and

(2) by inserting after "1990" the following: ", $2,150,000,000 for fiscal year 1991, $2,230,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994. The authorizations of appropriations contained in this subsection are subject to the program year provisions of subsection (c).".

SEC. 703. STATE ALLOTMENTS.

Section 2604(f) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(f)) is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively,

(2) by inserting "(1)" after "(f)",

(3) in the matter preceding subparagraph (A), as so redesignated by paragraph (1), by striking "up to 10 percent" and inserting "in accordance with paragraph (2) a percentage",

(4) in the matter following subparagraph (C), as so redesignated by paragraph (1)—

(A) by striking "any" the first place it appears and inserting "a", and

(B) by striking "paragraphs (1), (2), and (3)" and inserting "subparagraphs (A), (B), and (C)", and

(5) by adding at the end the following:

"(2)(A) Not to exceed 10 percent of the funds payable to a State under this section for each of the fiscal years 1991 through 1993 may be transferred under paragraph (1).

"(B) Beginning in fiscal year 1994, no funds payable to a State under this section shall be transferred under paragraph (1).".

SEC. 704. APPLICATION.

(a) Certifications.—Section 2605(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(b)) is amended—

(1) in paragraph (12) by inserting "timely and meaningful" after "provide for",

(2) in paragraph (13) by striking "and" at the end,

(3) in paragraph (14) by striking the period and inserting "; and", and

(4) by adding at the end the following:

"(15) beginning in fiscal year 1992, provide, in addition to such services as may be offered by State Departments of Public Welfare at the local level, outreach and intake functions for crisis situations and heating and cooling assistance that is administered by additional State and local governmental entities or community-based organizations (such as community action agencies, area agencies on aging, and not-for-profit neighborhood-based organizations), and in States where such organizations do not administer functions as of September 30, 1991, preference in awarding grants or contracts for intake services shall be provided to those agencies that administer the low-income weatherization or energy crisis intervention programs.".

(b) State Plan.—Section 2605(c)(2) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(c)(2)) is amended by inserting "timely and meaningful" after "will facilitate".

SEC. 705. AUTHORITY TO USE FUNDS FOR WEATHERIZATION.

Section 2605(k) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(k)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B),

(2) by striking "Not" and inserting "(1) Except as provided in paragraph (2), not", and

(3) by adding at the end the following:

"(2)(A) If a State receives a waiver granted under subparagraph (B) for a fiscal year, the State may use not more than the greater of 25 percent of—

"(i) the funds allotted to a State under this title for such fiscal year; or

"(ii) the funds available to such State under this title for such fiscal year;

for residential weatherization or other energy-related home repair for low-income households.

"(B) For purposes of subparagraph (A), the Secretary may grant a waiver to a State for a fiscal year if the State submits a written request to the Secretary after March 31 of such fiscal year and if the Secretary determines, after reviewing such request and any public comments, that—

"(i)(I) the number of households in the State that will receive benefits, other than weatherization and energy-related home repair, under this title in such fiscal year will not be fewer than the number of households in the State that received benefits, other than weatherization and energy-related home repair, under this title in the preceding fiscal year;

"(II) the aggregate amounts of benefits that will be received under this title by all households in the State in such fiscal year will not be less than the aggregate amount of such benefits that were received under this title by all households in the State in the preceding fiscal year; and

"(III) such weatherization activities have been demonstrated to produce measurable savings in energy expenditures by low-income households; or

"(ii) in accordance with rules issued by the Secretary, the State demonstrates good cause for failing to satisfy the requirements specified in clause (i).".

SEC. 706. AUTHORITY TO CARRY FUNDS OVER.

Section 2607(b)(2)(B) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8626(b)(2)(B)) is amended by striking "15 percent" and inserting "10 percent".

SEC. 707. LEVERAGING INCENTIVE PROGRAM.

(a) Establishment.—The Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621-8629) is amended by inserting after section 2607 the following:

"INCENTIVE PROGRAM FOR LEVERAGING NON-FEDERAL RESOURCES

"Sec. 2607A. (a) Beginning in fiscal year 1992, the Secretary may allocate amounts appropriated under section 2602(d) to provide supplementary funds to States that have acquired non-Federal leveraged resources for the program established under this title.

"(b) For purposes of this section, the term 'leveraged resources' means the benefits made available to the low-income home energy assistance program of the State, or to federally qualified low-income households, that—

"(1) represent a net addition to the total energy resources available to State and federally qualified households in excess of the amount of such resources that could be acquired by such households through the purchase of energy at commonly available household rates; and

"(2)(A) result from the acquisition or development by the State program of quantifiable benefits that are obtained from energy vendors through negotiation, regulation or competitive bid; or

"(B) are appropriated or mandated by the State for distribution—

"(i) through the State program; or

"(ii) under the plan referred to in section 2605(c)(1)(A) to federally qualified low-income households and such benefits are determined by the Secretary to be integrated with the State program.

"(c)(1) Distribution of amounts made available under this section shall be based on a formula developed by the Secretary that is designed to take into account the success in leveraging existing appropriations in the preceding fiscal year as measured under subsection (d). Such formula shall take into account the size of the allocation of the State under this title and the ratio of leveraged resources to such allocation.

"(2) A State may expend funds allocated under this title as are necessary, not to exceed .0008 percent of such allocation or $35,000 each fiscal year, whichever is greater, to identify, develop, and demonstrate leveraging programs. Funds allocated under

this section shall only be used for increasing or maintaining benefits to households.

"(d) Each State shall quantify the dollar value of leveraged resources received or acquired by such State under this section by using the best available data to calculate such leveraged resources less the sum of any costs incurred by the State to leverage such resources and any cost imposed on the federally eligible low-income households in such State.

"(e) Not later than July 31, of each year, each State shall prepare and submit, to the Secretary, a report that quantifies the leveraged resources of such State in order to qualify for assistance under this section for the following fiscal year.

"(f) The Secretary shall determine the share of each State of the amounts made available under this section based on the formula described in subsection (c) and the State reports. The Secretary shall promulgate regulations for the calculation of the leveraged resources of the State and for the submission of supporting documentation. The Secretary may request any documentation that the Secretary determines necessary for the verification of the application of the State for assistance under this section.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 2602 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621), as amended by section 701, is amended—

(1) by inserting "(other than section 2607A)" after "title", and

(2) by adding at the end the following:

"(d) There are authorized to be appropriated to carry out section 2607A, $25,000,000 in fiscal year 1992, and $50,000,000 in each of the fiscal years 1993 and 1994.".

SEC. 708. WITHHOLDING OF FUNDS.

Section 2608(a)(2) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8626(a)(2)) is amended by striking "in an expeditious and speedy manner to" and inserting "in writing in no more than 60 days to matters raised in".

TITLE VIII—AMENDMENTS TO THE COMPREHENSIVE CHILD DEVELOPMENT CENTERS ACT

SEC. 801. AUTHORIZATION OF APPROPRIATIONS.

Section 670T(a) of the Comprehensive Child Development Act (42 U.S.C. 9887) is amended by striking "appropriated" and all that follows through "1993", and inserting "appropriated, $50,000,000 for each of the fiscal years 1991, 1992, 1993, and 1994".

TITLE IX—COORDINATED SERVICES FOR CHILDREN, YOUTH, AND FAMILIES

SEC. 901. SHORT TITLE.

This title may be cited as the "Claude Pepper Young Americans Act of 1990".

SEC. 902. FINDINGS.

Congress finds that—

(1) children and youth are inherently the most valuable resource of the United States;

(2) the welfare, protection, healthy development, and positive role of children and youth in society are essential to the United States;

(3) children and youth deserve love, respect, and guidance, as well as good health, shelter, food, education, productive employment opportunities, and preparation for responsible participation in community life;

(4) children and youth have increasing opportunities to participate in the decisions that affect their lives;

(5) the family is the primary caregiver and source of social learning and must be supported and strengthened;

(6) when a family is unable to ensure the satisfaction of basic needs of children and youth it is the responsibility of society to assist such family; and

(7) it is the joint and several responsibility of the Federal Government, each State, and the political subdivisions of each State to assist children and youth to secure, to the maximum extent practicable, equal opportunity to full and free access to—

(A) the best possible physical and mental health;

(B) adequate and safe physical shelter;

(C) a high level of educational opportunity;

(D) effective training, apprenticeships, opportunities for community service, and productive employment and participation in decisions affecting their lives;

(E) a wide range of civic, cultural, and recreational activities that recognize young Americans as resources and promote self-esteem and a stake in the communities of such Americans; and

(F) comprehensive community services that are efficient, coordinated, readily available, and involve families of young individuals.

SEC. 903. DEFINITIONS.

As used in this title:

(1) COMMISSIONER.—The term "Commissioner" means the Commissioner of the Administration on Children, Youth, and Families, as established under section 915.

(2) COUNCIL.—The term "Council" means the Federal Council on Children, Youth, and Families, as established under section 918(a).

(3) NONPROFIT.—The term "nonprofit", as applied to any agency, institution, or organization, means an agency, institution, or organization that is, or is owned and operated by, one or more corporations or associations, no part of the net earnings of which may lawfully inure to the benefit of any private shareholder or individual.

(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(5) STATE.—The term "State" includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(6) YOUNG INDIVIDUAL.—The term "young individual" means any child or youth from birth to 21 years of age.

SUBTITLE A—ESTABLISHMENT OF ADMINISTRATION AND AWARDING OF GRANTS FOR PROGRAMS

CHAPTER 1—ADMINISTRATION ON CHILDREN, YOUTH, AND FAMILIES

SEC. 915. ESTABLISHMENT OF THE ADMINISTRATION ON CHILDREN, YOUTH, AND FAMILIES.

(A) IN GENERAL.—There is established within the Department of Health and Human Services an Administration on Children, Youth, and Families.

(b) COMMISSIONER.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Administration on Children, Youth and Families, as established under subsection (a), shall be headed by a Commissioner on Children, Youth, and Families.

(B) COMPENSATION.—Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"Commissioner, Administration on Children, Youth, and Families.".

(2) APPOINTMENT.—The President, by and with the advice and consent of the Senate, shall appoint the Commissioner.

SEC. 916. FUNCTIONS OF THE COMMISSIONER.

(a) IN GENERAL.—The Commissioner shall—

(1) serve as the effective and visible advocate for children, youth, and families within the Department of Health and Human Services and with other departments, agencies, and instrumentalities of the Federal Government by maintaining active review and commenting responsibilities, as appropriate, concerning Federal policies affecting young individuals, and the families of young individuals;

(2) collect and disseminate information related to the problems of young individuals and the families of such individuals;

(3) assist the Secretary in appropriate matters pertaining to young individuals, and the families of such individuals;

(4) administer the grants authorized under this subtitle;

(5) develop plans and conduct research in the field of young individuals, and the families of such individuals;

(6) assist, to the maximum extent practicable, in the establishment and implementation of programs designed to meet the needs of young individuals for supportive services including—

(A) health and mental health services;

(B) housing and shelter assistance;

(C) education and training services;

(D) protective services;

(E) foster care;

(F) teen parenting support;

(G) child care;

(H) family support and preservation;

(I) teen pregnancy prevention and counseling;

(J) counseling on the effects of violence in the communities of such individuals and their families;

(K) recreational and volunteer opportunities; and

(L) comprehensive early childhood development;

(7) provide technical assistance and consultation to States and the political subdivisions of such States with respect to programs for young individuals;

(8) prepare, publish, and disseminate educational materials concerning the welfare of young individuals;

(9) gather statistics concerning young individuals, and the families of such individuals, that other Federal agencies are not collecting;

(10) to the maximum extent practicable coordinate activities carried out or assisted by all developments, agencies, and instrumentalities of the Federal Government with respect to the collection, preparation, and dissemination of information relevant to young individuals and the families of such individuals;

(11) stimulate more effective use of existing resources and available services for young individuals and the families of such individuals;

(12) develop basic policies and set priorities with respect to the development and operation of programs and activities conducted under this title;

(13) convene conference of authorities and officials of organizations, including Federal, State, and local agencies, and nonprofit private organizations, of programs for children, youth and their families for the development and implementation of policies related to the priorities and purposes of this title, including topics such as the establishment of a nationwide network of comprehensive, coordinated services and opportunities for such individuals;

(14) conduct periodic evaluations of the programs and activities related to the purposes of this title; and

(15) develop, in coordination with other agencies, methods to ensure adequate training for personnel concerning children, youth and families and to ensure the adequate dissemination of such information to appropriate State and community agencies.

(b) ENCOURAGEMENT OF VOLUNTEERISM.—In executing the duties and functions of the Administration under this subtitle and in carrying out the programs and activities authorized under this title, the Commissioner, in consultation with the Director of the ACTION Agency, shall take necessary steps to coordinate with and seek the advice of voluntary agencies and organizations that provide services related to the purposes of this title.

SEC. 917. FEDERAL AGENCY CONSULTATIONS.

(a) IN GENERAL.—The Commissioner shall consult and cooperate with the heads of all appropriate Federal agencies or departments administering programs or services that are substantially related to the purposes of this title.

(b) INTERAGENCY AGREEMENTS.—To the extent practicable, the Commissioner shall facilitate cooperation through the entering into of interagency agreements.

SEC. 918, FEDERAL COUNCIL ON CHILDREN, YOUTH, AND FAMILIES.

(a) ESTABLISHMENT.—There is established a Federal Council on Children, Youth, and Families.

(b) NUMBER OF MEMBERS.—The Council shall be composed of 18 members to be appointed in accordance with subsection (d).

(c) TERM OF MEMBERSHIP.—Each member of the Council shall serve for a 3-year term without regard to title 5, United States Code.

(d) APPOINTMENT OF MEMBERS.—

(1) IN GENERAL.—The Council shall be composed of—

(A) six members who posess such skills and qualifications so as to be representative of—

(i) rural and urban populations; and

(ii) national organizations with an interest in young individuals, families, early childhood development, elementary and secondary education, business, labor, minorities, and the general public;

(B) six members who are representatives of public, State or local agencies that serve children, youth and their families and include representatives of child welfare and child mental health agencies; and

(C) six members who are cabinet-level representatives of Federal agencies that have responsibility for programs relating to children, youth and families.

(2) AGE OF MEMBERS.—At least one of the individuals appointed to the Council under paragraph (1)(A) shall be under the age of 21 at the time of such appointment.

(3) APPOINTING AUTHORITY.—Of the members of the Council who are appointed under paragraph (1)—

(A) six of the members described under subparagraphs (A) and (B) shall be appointed by the President pro tempore of the Senate on the recommendation of the Majority and Minority Leaders of the Senate;

(B) six of the members described under subparagraphs (A) and (B) shall be appointed by the Speaker of the House of Representatives on the recommendation of the Majority and Minority Leaders of the House of Representatives; and

(C) the members described under subparagraph (C) shall be appointed by the President.

(e) VACANCY.—

(1) FILLING VACANCY.—A vacancy on the Council shall be filled in the same manner in which the original appointment was made.

(2) POWERS OF BOARD.—A vacancy on the Council shall not affect the powers of the Council.

(3) TERM OF APPOINTMENT.—A member of the Council who is appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of such term.

(f) REAPPOINTMENT.—Each member of the Council shall be eligible for reappointment to the Council.

(g) EXPIRATION OF TERM.—Each member of the Council may serve after the expiration of the term of membership until the successor of such member has taken office.

(h) TRAVEL EXPENSES.—Each member of the Council, while serving on business of the Council away from the home or regular place of business of such member, may be allowed subsistence in the same manner as the expenses authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

(i) CHAIRPERSON.—The President shall designate the Secretary of Health and Human Services to serve as the Chairperson of the Council. In the event that the Secretary chooses to designate the functions of Chairperson under this subsection, such designation may only be made to the Commissioner.

(j) MEETINGS.—Not less than once during each 6-month period, the Chairperson of the Council shall call a meeting of the Council.

(k) DUTIES OF THE COUNCIL.—The Council shall—

(1) advise and assist the President on matters relating to the special needs of young individuals;

(2) review, evaluate, and inventory on a continuing basis Federal policies, programs and other activities affecting young individuals that are conducted or assisted by all Federal departments and agencies for the purpose of appraising the value and the impact of such policies, programs, and activities on the lives of young individuals, and of identifying duplication of services for young individuals and the families of such individuals;

(3) make recommendations to the President, the Secretary, the Commissioner, the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate concerning changes in such policies and programs that can streamline services, reduce duplication of services and encourage the coordination of services provided to young individuals and the families of such individuals at the State and local level; and

(4) provide public forums, including public hearings, conferences, workshops, and other meetings, for discussing and publicizing the problems and needs of young individuals and obtaining information relating to such individuals.

(1) STAFF.—The Chairperson shall appoint staff personnel to assist the Chairperson in carrying out the duties required under subsection (k).

(m) INFORMATION AND ASSISTANCE.—The head of each Federal department and agency shall make available to the Chairperson such information and other assistance as the Chairperson may require to carry out the duties required under subsection (k).

(n) REPORTS.—

(1) SUBMISSION TO THE PRESIDENT.—In fiscal year 1992 and each fiscal year thereafter, the Chairperson shall prepare and submit—

(A) interim reports as the Chairperson considers to be appropriate; and

(B) an annual report of the findings and recommendations of the Council concerning the matters described in paragraphs (2) and (3) of a subsection (k);

to the President not later than March 31 of each year.

(2) REVIEW AND SUBMISSION TO CONGRESS.—

(A) COMMENTS AND RECOMMENDATIONS.—The President may make comments and recommendations concerning reports submitted under paragraph (1).

(B) SUBMISSION TO CONGRESS.—The President shall submit such comments, recommendations, and reports to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(o) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to carry out this section $200,000 for each of the fiscal years 1991 through 1994.

(p) TERMINATION.—The Council shall terminate on September 30, 1995.

SEC. 919. ADMINISTRATION.

(a) DUTIE OF COMMISSIONER.—In carrying out this subtitle, the Commissioner is authorized to—

(1) provide consultative services, technical assistance, and short-term training to the independent State bodies;

(2) conduct research and demonstrations;

(3) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this subtitle;

(4) provide staff and other technical assistance to the Council;

(5) evaluate the effectiveness of program authorized under this subtitle and periodically publish analysis of the results of such evaluations; and

(6) not later than 180 days after the end of each fiscal year, prepare and submit, to the President and the chairman of the Committee on Education and Labor of the House of Representatives and chairman of the Committee on Labor and Human Resources of the Senate, a report concerning the activities carried out under this subtitle and concerning such other activities as the Secretary determines appropriate.

(b) UTILIZATION OF SERVICES AND FACILITIES.—

(1) IN GENERAL.—Subject to agreements made between the Commissioner and the head of such agency or organization, in carrying out the duties referred to in subsection (a) the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organizations.

(2) PAYMENT.—The Commissioner may pay for such services and facilities, in advance or by way of reimbursement, as may be provided in such agreement.

(c) RESERVATION OF FUNDS.—Of the aggregate amount appropriated to carry out this title in any fiscal year, the Secretary may reserve not more than 10 percent for salaries and expenses of the Administration on Children, Youth, and Families related to the administration of this title.

CHAPTER 2—GRANTS FOR STATE AND COMMUNITY PROGRAMS FOR CHILDREN, YOUTH, AND FAMILIES

SEC. 925. PURPOSE.

It is the purpose of this chapter to encourage and assist State and local agencies to coordinate resources, reduce barriers to services, and develop new capacities to ensure that State and community services designed to serve children, youth, and families are more effective and comprehensive.

SEC. 926. DEFINITIONS.

As used in this chapter:

(1) Community referral services.—The term "community referral services" means services to assist families in obtaining community resources, including health care, mental health care, employability development and job training, and other social services.

(2) Core services.—The term "core services" means—

(A) educational and support services provided to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children; and

(B) the early developmental screening of children to assess any needs of such children and to identify specific types of support that may be provided;

(C) outreach services;

(D) community referral services; and

(E) follow up services.

(3) Follow up services.—The term "follow up services" means services provided to ensure that necessary services are received by families and are effective in meeting their needs.

(4) Independent State body.—The term "independent State body" means the entity established under section 930.

(5) Lead agency.—The term "lead agency" means an existing State agency, or other public or nonprofit private entity designated by the chief executive officer of the State as the agency responsible for the development and implementation of local family resource and support programs. Such agency shall have demonstrated ability to work with other State and community based agencies, to provide training and technical assistance, and shall also have a commitment to parental participation in the design and administration of family resource and support programs.

(6) Other services.—The term "other services" and "other support services" includes—

(A) child care, early childhood development and intervention programs;

(B) employability development services (including skill training);

(C) educational services, such as scholastic tutoring, literacy training, and General Educational Degree (GED) services;

(D) nutritional education;

(E) life management skills training;

(F) peer counseling and crisis intervention, family violence counseling and referrals for such services;

(G) referral for substance abuse counseling and treatment referral; and

(H) referral for primary health and mental health services.

(7) Outreach services.—The term "outreach services" means services provided to ensure (through home visits or other methods) that parents are aware of and able to participate in family resource and support program activities.

SEC. 927. ESTABLISHMENT OF PROGRAMS.

The Commissioner shall make grants—

(1) in each State under section 931 to improve State planning and coordination of services, and under section 932 to expand supportive services, in order to promote the availability of developmental, preventive, and remedial services to children, youth and their families that are designed to ensure—

(A) adequate and safe physical shelter whether in their own homes or, if necessary, in out-of-home programs;

(B) high quality physical and mental health care;

(C) the enhancement of the development of children to ensure that children enter school prepared and ready to learn;

(D) highest quality educational opportunity;

(E) effective training and apprenticeships to increase the likelihood of employment;

(F) opportunities for community service and productive employment, and for participation by children and youth in decisions affecting the lives of such children and youth; and

(G) a wide range of civic, cultural, and recreational activities that recognize young individuals as resources and promote self-esteem and a sense of community; and

(2) to States on a competitive basis under section 933 to establish family resource programs (including family support centers) in order to enhance the ability of families to remain together and to thrive through the provision of community based services that—

(A) promote and build family and parenting skills;

(B) promote and assist families in the use of formal and informal family support services;

(C) create a support network to strengthen and reinforce good parenting; and

(D) are closely linked with, but not duplicative of, other community resources.

SEC. 928. ADMINISTRATION.

(a) In General.—The Commissioner shall administer programs under this chapter through the Administration on Children, Youth, and Families.

(b) Technical Assistance.—In carrying out this chapter, the Commissioner may request the technical assistance and cooperation of the Secretary of Education, the Secretary of Labor, the Attorney General, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Director of the Office of Community Services, and such other agencies and departments of the Federal Government as may be appropriate.

SEC. 929. STATE PLAN.

(a) Submission of Plan.—The chief executive officer of a State, in order to be eligible for grants from an allotment under section 931, 932, or 933 for any fiscal year, shall prepare and submit to the Commissioner a State plan for a 3-year period.

(b) Revisions of Plan.—Each chief executive officer of a State may make annual revisions of the State plan referred to in subsection (a).

(c) Content of Plan.—The chief executive officer of a State shall include within the State plan of that State assurances as required under sections 931, 932, or 933, and a description of the proposed multi-year plans of the State for program development and implementation.

(d) Type of Application.—A State may apply for funds under one or more of the following categories:

(1) section 931;

(2) sections 931 and 932 jointly; or

(3) section 933.

In the case of each category, the State application and plan shall comply only with the requirements of the appropriate section.

(e) Approval of Plan.—

(1) In general.—The Commissioner shall approve any State plan under sections 931 and 932 that the Commissioner determines meets the requirements of such sections.

(2) Notice and Opportunity to Correct Deficiencies.—The Commissioner shall not make a final determination disapproving any State plan, modifying such plan, or declaring a State to be ineligible to receive funds under sections 931 and 932 without previously affording such State reasonable notice and opportunity to correct deficiencies in its application.

SEC. 903. INDEPENDENT STATE BODY.

(a) Designation.—A State shall not be eligible to receive a grant from an allotment under section 931 or 932 unless—

(1) the chief executive officer of such State designates an independent State body that is composed of—

(A) cabinet level representatives from each agency of such State that has responsibilities for programs affecting young individuals who shall comprise a majority of the independent State body; and

(B) individuals appointed from among—

(i) private nonprofit providers of services to young individuals;

(ii) advocacy and citizens groups concerned with young individuals;

(iii) committees of the legislature of such State that have responsibility for young individuals;

(iv) leaders who are young individuals, including such leaders who are recipients of services provided under this subtitle;

(v) representatives of the business community;

(vi) representatives of employees of providers of services to young individuals;

(vii) representatives of general purpose local government; and

(viii) such staff as shall be necessary to—

(I) develop a State plan to be submitted to the Commissioner for approval under section 931;

(II) administer and monitor the State plan within such State;

(III) assist in the coordination of all State activities related to the purpose of the title;

(IV) serve as an effective and visible advocate for young individuals by reviewing and commenting on all State plans, budgets, and policies that affect such individuals and the families of such individuals by providing technical assistance to any agency, organization, association, or individual representing the needs of young individuals; and

(2) the independent State body designated under paragraph (1)—

(A) develops a system for the distribution within the State of funds received under sections 931 and 932 by the chief executive officer;

(B) submits a description of such system to the Commissioner for review and comment; and

(C) ensures that preference will be given in such distribution of funds to developing or supporting local service delivery systems that—

(i) provide a range of services organized to tailor responses to needs rather than a predetermined array of services;

(ii) are rooted in and part of the communities that such systems are designed to serve as measured by the degree to which public and private community leaders and young individuals participate in the planning of such systems; and

(iii) demonstrate an ability to develop systematic collaboration among service providers on behalf of children, youth and families, including joint planning, joint financing, joint service delivery, common intake and assessment, and other arrangements that promote more effective service systems for such individuals.

(b) Existing Entity.—The Commissioner may approve a State plan in which the chief executive officer of the State designates as the independent State body an existing State entity that is comprised of the parties described in subsection (a) and that is authorized to conduct the same range of interagency planning and coordination activities.

SEC. 931. STATE COORDINATION OF SERVICES.

(a) Authority.—The Commissioner shall make grants under this section to States on a formula basis for the purpose of improving the coordination of services provided to children, youth, and families.

(b) Application.—To be eligible to receive a grant under this section, the chief executive officer of a State shall prepare and submit to the Commissioner an application containing a plan providing assurances that—

(1) the independent State body is committed to interagency planning that results in statewide policies promoting systematic collaboration among agencies on behalf of young individuals as demonstrated by joint planning, joint financing, joint service delivery, common intake and assessment, and other arrangements that reduce barriers to services and promote more effective local service delivery systems for young individuals;

(2) such plan will be based on needs as identified through an analysis of updated reports (such as "State of the Child" reports) prepared by the State, including detailed information gathered by the State, to the extent practicable, on young individuals and the families of such individuals concerning—

(A) age, sex, race, and ethnicity;

(B) the residences of such individuals;

(C) the incidence of homelessness among such individuals;

(D) the composition of families of such individuals;

(E) the economic situations of such individuals;

(F) the incidence of poverty among such individuals;

(G) experiences in the care of such individuals away from home;

(H) the health of such individuals;

(I) violence in the homes or communities of such individuals;

(J) the nature of the attachment of such individuals to school and work;

(K) dropout rates of such individuals from school; and

(L) the character of the communities in which such individuals reside;

(3) the system to be used for the distribution of funds within the State will require that—

(A) each area have an equal opportunity to apply for or receive funds under this chapter; and

(B) the public be given an opportunity to express views concerning the development and administration of such plan;

(4) the independent State body will provide an inventory of existing public and private services for children, youth and their families and will evaluate the need for supportive services within the State to address the purposes of this title and determine the extent to which existing public and private programs meet such need;

(5) the independent State body will make such reports, in such form, and containing such information, as the Commissioner may require;

(6) such fiscal control and fund accounting procedures will be adopted as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid under this chapter to the chief executive officer of the State, including any such funds paid to the recipients of a grant or contract;

(7) the independent State body will conduct periodic evaluations of activities and projects carried out pursuant to sections 931 and 932 and will report the results and recommendations to the chief executive officer of the State and the State legislature;

(8) the chief executive officer of the State will provide technical assistance or in-service training opportunities for personnel responsible for carrying out the purposes of sections 931 and 932; and

(9) the chief executive officer of each State will provide for the implementation of the requirements of section 932, relating to supportive services.

(c) Use of Grants to States.—Notwithstanding section 934(g), the amounts made available to each State under section 934(a) may be used to make grants to a State to enable such State to pay such percentages as the independent State body of such State determines to be appropriate, of the cost of administering the State plan of such State including—

(1) the costs of the preparation of such plan and the provision of technical assistance to local areas;

(2) the costs of the evaluation of activities carried out under such plan;

(3) the costs of the collection of data and the carrying out of analyses related to the need for supportive services within the State;

(4) the costs of the dissemination of information obtained under paragraph (3); and

(5) the costs of the provision of short-term training to personnel of public or nonprofit private agencies and organizations engaged in the operation of programs authorized by this chapter.

(e) Supplement Not Supplant.—Amounts received by a State under sections 931 and 932 shall be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the purposes for which grants are made under sections 931 and 932. In no event shall such expenditures be used to satisfy the matching requirements of any other Federal program.

(f) Relationship to Family Resource and Support Program Grants.—If a State intends to apply for a grant under section 933 to be used for the same calendar year as the grant under this section, such State shall include in the application for a grant under this section a description of plans for family resource and support programs and for the coordination of the use of all funds received under this chapter.

SEC. 932. SUPPORTIVE SERVICES.

(a) Authority.—The Commissioner shall carry out a program for making grants to a State, that has designated an independent State body under section 930 and provided for coordinated services under section 931, for distribution by the chief executive officer under a State plan approved under section 931 to demonstrate successful program approaches to fill service gaps identified through State planning and advocacy efforts for any of the areas specified in paragraph (2).

(b) Eligible Services.—The services eligible to be provided under subsection (a) are services—

(1) that are designed to facilitate the provision of comprehensive community based services that are efficient, coordinated, and readily available through such activities as case planning, case management, intake and assessment, and information and referral; and

(2) that serve any of the following purposes—

(A) provide adequate and safe physical shelter to young individuals and the families of such individuals, especially in emergency circumstances;

(B) provide transitional living services to young individuals who are homeless;

(C) enable young individuals to attain and maintain physical and mental well-being;

(D) provide health screening to detect or prevent illnesses, or both, that occur most frequently in young individuals as well as better treatment and counseling;

(E) enhance the development of children to ensure that such children enter school prepared and ready to learn;

(F) promote the highest quality of educational opportunity, especially through dropout prevention programs, remediation for young individuals who have dropped out of school, and vocational education;

(G) provide effective training apprenticeships and employment opportunities;

(H) promote participation in community service and civic, cultural, and recreational activities that value young individuals as resources and promote self-esteem and a stake in the community;

(I) promote the participation of young individuals in decisions concerning planning and managing the lives of such individuals;

(J) encourage young individuals and the families of such individuals to use any community facilities and services that are available to such individuals;

(K) ensure that young individuals who are unable to live with the biological families of such individuals have a safe place to live until such individuals can return home or move into independent adult life; and

(L) prevent the abuse, neglect, or exploitation of young individuals.

SEC. 933. FAMILY RESOURCE AND SUPPORT PROGRAM GRANTS.

(a) Authority.—The Commissioner shall make grants under this section to States on a competitive basis, for the purpose of developing, expanding, and operating a network of local family resource and support programs in collaboration with existing health, mental health, education, employment and training, child welfare, and other social services agencies within the State.

(b) Amount of Grant.—The amount of a grant awarded under this section for the first year in which a program is operated or expanded under this section shall not exceed $6,000,000 nor be less than $1,500,000 based on an assessment by the Commissioner of the application submitted by the State under subsection (d), the scope of the proposed program to be operated or expanded, and the population to be served by the program.

(c) Duration.—

(1) In general.—A grant awarded under this section shall be for a term of 3 years.

(2) Limitation.—

(A) Use.—During the 12-month period immediately after the date on which the grant is awarded to a State under this section, the State may use the funds received under such grant exclusively for program development. Subsequent to such period grant funds shall be used for program implementation and operation unless the Commissioner grants a waiver from this limitation.

(B) Reporting requirements.—To receive funds after the period referred to in subparagraph (A) and after the 12-month period immediately following such initial period, the State shall report to the Commissioner concerning the plans of the State for—

(i) the establishment and expansion of a network of family resource and support programs in the State;

(ii) the number of family resource and support programs that have been expanded or newly established with grant funds under this section;

(iii) the nature of those programs, including the populations served and services provided; and

(iv) the extent of local community and parental participation in the development, operation, and governance of the programs.

(d) Application.—To be eligible to receive a grant under this section a State shall prepare and submit, to the Commissioner, an application at such time, in such form, and containing such information as the Commissioner shall require, including—

(1) an assurance that the chief executive officer of the State will designate a lead agency to assume responsibility for the development and implementation of family resource and support programs;

(2) an assurance that the State has a process for effective program development that—

(A) does not duplicate current processes or programs;

(B) makes publicly available a written plan for the establishment of a network of local family resource and support programs; and

(C) involves appropriate personnel in the development process, including—

(i) parents and prospective participants in family resource and support programs;

(ii) staff of existing family resource and support programs;

(iii) representatives of State and local government social service, health, mental health, education, employment, and economic development agencies;

(iv) representatives of the business community;

(v) representatives of general purpose local government;

(vi) representatives of local communities in which family resource and support programs are likely to be located; and

(vii) other individuals with expertise in the services that the family resource and support programs of the State intend to offer;

(3) a description of the current family support programs in the State, the current unmet need for such services, and the intended scope of the State family resource and support program, the population to be served, the manner in which the program will be operated, and the manner in which such program will relate to other community services and public agencies;

(4) a description of the projected level of financial commitment by the State to developing a family resource and support program;

(5) a description of the core services, as required under this chapter, and other support services to be provided by the program and the manner in which such services will be provided;

(6) assurances that the State program will maintain cultural diversity;

(7) a description of the guidelines for requiring parental involvement in State and local program development, policy design, and governance and the process for assessing and demonstrating that parental involvement in program development, operation, and governance occurs;

(8) an assurance that, in awarding local grants, priority will be given to programs serving low-income communities and programs serving young parents;

(9) a description of the local interagency planning process to be utilized to develop and implement local family resource and support programs;

(10) a description of the criteria that the State will utilize for awarding grants for local programs so that they meet the requirements of subsection (f);

(11) a plan for providing training, technical assistance, and other assistance to local communities in program development;

(12) a description of the methods to be utilized to evaluate the implementation and effectiveness of the family resource and support programs within the State; and

(13) a description of proposed actions by the State that will reduce practical and regulatory barriers to the provision of comprehensive services to families, including family resource and support programs.

(e) Criteria.—In determining whether to award a grant to a State under this section the Commissioner shall consider—

(1) the plans for program development, expansion, and operation by the State, including the amount of training, technical assistance and other support that the State will provide to local communities in the development and operation of their programs;

(2) the established guidelines for requiring and assessing parental involvement in local program development, policy design, and governance;

(3) the budget of the State for the expenditure of Federal and State funds and the ability of the program to secure financial commitments from a variety of sources, including public and private entities; and

(4) any other factors determined appropriate by the Commissioner.

(f) Local Program Requirements.—A State that receives a grant under such section shall use such grant to establish local family resource and support programs that—

(1) implement a community planning process involving parents, local public and private non-profit agencies responsible for providing health, education, employment training, Head Start and other early childhood, child welfare, and other social services to determine local family needs, and identify appropriate community agencies to administer such programs locally;

(2) provide core services, and other services directly or through contracts or agreements with other local agencies; and

(3) involve parents in the development, operation, and governance of the program.

SEC. 934. AUTHORIZATION OF APPROPRIATION AND ALLOTMENT.

(a) Administration on Children, Youth, and Families; State Coordination; Supportive Services.—

(1) Authorization of appropriations.—There are authorized to be appropriated to carry out sections 919, 931, and 932 of this title, $30,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992, 1993, and 1994. Funds appropriated under this paragraph shall remain available for expenditure in the fiscal year succeeding the fiscal year for which such funds are appropriated.

(2) Availability of appropriation.—Of the amount appropriated under paragraph (1) for any fiscal year—

(A) not more than 10 percent shall be available to carry out section 919; and

(B) not less than 90 percent shall be available to carry out sections 931 and 932.

(3) Allotment formula.—Except as provided in paragraph (4), from the amount available under paragraph (2)(B) for each fiscal year, a State shall be allotted an amount that bears the same ratio to the amount appropriated for such fiscal year as the population of the State that is under the age of 21 bears to the population of all States that is under the age of 21.

(4) Exceptions.—

(A) In general.—Except as provided in subparagraph (B) and subject to the availability of appropriations under paragraph (1), no State shall be allotted less than $300,000 under the formula established under paragraph (3).

(B) Limitation on allotment.—Notwithstanding subparagraph (A), Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than $75,000 under the formula established under paragraph (2).

(b) Determination of Age.—The number of individuals under the age of 21 in each State shall be determined by the Commissioner on the basis of the most recent data available to the Commissioner.

(c) Transfer of Allotted Funds.—Whenever the Commissioner determines that—

(1) any amount allotted to a State for a fiscal year under section 931 or 932 will not be used by such State for carrying out the purpose for which such allotment was made; or

(2) a State has failed to qualify under the State plan required under section 929; the Commissioner shall make such allotment available for carrying out such purposes to other participating States in a proportional manner based on the relative population of the State of individuals under the age of 21.

(d) Family Resource and Support Programs.—There are authorized to be appropriated to carry out section 933, $30,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994.

(e) Limitation.—A State shall not use in excess of 10 percent of a grant awarded under section 932 or 933 for administrative activities at the State level.

(f) Grants for Indians.—The Commissioner shall use 1 percent of the amount appropriated under this section for each fiscal year to make allotments to Indian tribes and tribal organizations (such terms having the same meaning given to such terms in section 4(b) and 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b (b) and (c))) that submit to the Commissioner a plan that meets criteria consistent with the provisions of this chapter and that comply with other requirements established by the Commissioner.

(g) Limitation.—Grants made under this subtitle may be used to pay not more than 80 percent of the cost of—

(1) the preparation, administration, and evaluation of State plans under section 931;

(2) the development of comprehensive, efficient, coordinated supportive services under section 932; and

(3) the development, expansion, and operation of local family support and resource programs under section 933.

The remaining 20 percent of such cost shall be paid by the State with funds from non-Federal sources.

CHAPTER 3—

NATIONAL CLEARINGHOUSE

SEC. 955. SHORT TITLE.

This chapter may be cited as the "Family Resource Act".

SEC. 956. FINDINGS AND PURPOSE.

(a) Findings.—Congress finds that—

(1) fundamental changes in the demographics and economics of family life in the United States over the past 20 years have had a profound effect on children and their parents;

(2) since 1966, the number of women working outside the home has increased by 92 percent and the number of two earner families has increased by over 50 percent;

(3) 61 percent of the children born today will live in a single-parent family before reaching the age of 20, with one out of every three single female heads of households living on income below the Federal poverty level;

(4) one out of every four children under the age of 6 in the United States currently lives below the Federal poverty level;

(5) over the past 10 years, parents have increasingly come together with other parents to organize family resource and support programs that promote healthy child development and increase parental competency, particularly families at risk; and

(6) Federal investment in promoting the development of family resource and support programs will reap long-term benefits for individual families and the nation as a whole.

(b) Purpose.—It is the purpose of this Act—

(1) stimulate the development and expansion of family resources and support programs that are prevention oriented;

(2) encourage early intervention of such programs with families to ameliorate problem situations before such situations become crises; and

(3) assist parents in enhancing their children's development to ensure that their children enter school prepared and ready to learn.

SEC. 957. DEFINITION.

As used in this chapter, the term "family resource and support programs" means community-based services that offer sustained assistance to families at various stages in their development. Such services shall promote parental competencies and behaviors that will lead to the healthy and positive personal development of parents and children through—

(1) the provision of assistance to build family skills and assist parents in improving their capacities to be supportive and nurturing parents;

(2) the provision of assistance to families to enable such families to use other formal and informal resources and opportunities for assistance that are available within the communities of such families; and

(3) the creation of supportive networks to enhance the childrearing capacity of parents and assist in compensating for the increased social isolation and vulnerability of families.

SEC. 958. ESTABLISHMENT OF NATIONAL CENTER ON FAMILY RESOURCES AND SUPPORT PROGRAMS.

(a) Establishment.—The Commission shall establish, through grant or contract, a national center for the collection and provision of programmatic information and technical assistance that relates to all types of family resources and support programs, to be known as the "National Center on Family Resources and Support Programs".

(b) Functions.—The national center establishment under subsection (a) shall serve as a national information and data clearinghouse, training, technical assistance, and material development source for family resource and support programs. Such center shall—

(1) develop and maintain a system for disseminating information on all types of family resource and support programs and on the state of family resources and support program development, including information concerning the most effective model programs;

(2) develop and sponsor a variety of training institutes and curricula for family resources and support program staff:

(3) identify several model programs representing the various types of family resource and support programs to develop technical assistance materials and activities to assist other agencies in establishing family resources and support programs; and

(4) develop State-wide networks family resource and support programs for the purpose of sharing and desseminating information.

SEC. 959. EVALUATION.

The Commissioner shall, through grants or contracts awarded or entered into with independent auditors, conduct evaluations and related activities, of family resource and support programs, including—

(1) evaluations of on-going programs;

(2) process evaluations focusing on implementation strategies; and

(3) the development of simple evaluation models for use by local family resource and support programs.

SEC. 960. AUTHORIZATION OF APPROPRIATIONS.

(a) Establishment of Center.—To carry out section 958, there are authorized to be appropriated $2,300,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994.

(b) Evaluation.—To carry out section 959, there are authorized to be appropriated $700,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994.

Subtitle B—White House Conference on Children, Youth, and Families

SEC. 981. SHORT TITLE.

This subtitle may be cited as the "1993 White House Conference on Children, Youth, and Families".

SEC. 982. FINDINGS.

(a) Findings.—The Congress finds that—

(1) children and youth are inherently our most valuable resource and their welfare, protection, healthy development, and positive role in society are essential to the Nation;

(2) children and youth deserve love, respect, and guidance, as well as good health, shelter, food, education, productive work, and preparation for responsible participation in community life;

(3) an increasing opportunity for children and youth to participate in the decisions that affect their lives is essential;

(4) the family is the primary caregiver and the source of social learning which must be supported and strengthened, but when families are unable to ensure the satisfaction of the needs of children and youth, it is society's responsibility to assist them;

(5) at a minimum, all children and youth need and deserve access to—

(A) the best possible physical and mental health;

(B) adequate and safe physical shelter;

(C) the highest quality of educational opportunity;

(D) effective training, apprenticeships, opportunities for community service, and productive employment;

(E) the widest range of civic, cultural, and recreational activities which recognize young Americans as resources and promote self-esteem and a stake in their communities;

(F) comprehensive community services which are efficient, coordinated, and readily available; and

(G) genuine participation in decisions concerning the planning and managing of their lives; and

(6) there is a great need for a comprehensive national policy with respect to young individuals, designed to engage Federal, State, and local government agencies, youth organizations, and other voluntary organizations.

(b) Statement of Policy.—It is the policy of the Congress that the Federal Government should work jointly with the States and their citizens to develop recommendations and plans for action to meet the challenge and needs of young individuals.

SEC. 983. AUTHORITY OF THE PRESIDENT AND SECRETARY; FINAL REPORT.

(a) Calling of the Conference.—The President shall call a White House Conference on Children, Youth, and Families in 1993 in order to develop recommendation for further action in the field of children youth, and families which will further the policy set forth in section 982(b). The Conference shall be planned and conducted under the direction of the Secretary in cooperation with the Commissioner and with the heads of such other Federal departments and agencies as are appropriate. Such assistance may include the assignment of personnel.

(b) Purposes of the Conference.—The purposes of the Conference shall be—

(1) to increase the public awareness of the value and needs of young individuals;

(2) to examine the well-being of young individuals as well as the problems which they face;

(3) to describe the extent to which young individuals with identified needs do not receive services to meet such needs;

(4) to determine the reasons why young individuals are not receiving needed services and

(5) to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate to improve the well-being of youth and thei families.

(c) Conference Participants and Delegates.—

(1) Participants.—In order to carry out the purposes of the Conference, the Conference shall bring together—

(A) representatives of Federal, State, and local governments, including representatives of the General Accounting Office;

(B) professionals who are working in the field of children, youth, and families; and

(C) representatives of the general public particularly young individuals.

(2) Selection of delegates.—The delegates to attend the Conference shall be selected without regard to political affiliation or past partisan activity and shall, to the best of the appointing authority's ability, be representative of the spectrum of thought in the field of children, youth, and families.

SEC. 984. CONFERENCE ADMINISTRATION.

(a) Administration.—For purposes of carrying out this subtitle, the Secretary shall—

(1) request the cooperation and assistance of the heads of such other Federal departments and agencies as may be appropriate;

(2) furnish all reasonable assistance to State agencies administering programs related to children, youth and families, and to other appropriate organizations, to enable them to organize and conduct conferences in conjunction with the Conference;

(3) prepare and make available for public comment a proposed agenda for the Conference which reflects, to the greatest extent possible, the major issues facing children, youth, and families consistent with subsection (a);

(4) prepare and make available background materials which the Secretary deems necessary for the use of delegates to the Conference; and

(5) engage such additional personnel as may be necessary to carry out this section without regard to provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) Duties.—The Secretary shall, in carrying out the Secretary's responsibilities and functions under this section, ensure that—

(1) the conferences under subsection (a)(2) will be conducted so as to ensure broad participation of young individuals;

(2) the proposed agenda for the Conference under subsection (a)(3) is published in the Federal Register not less than 180 days before the beginning of the Conference and the proposed agenda is open for public comment for a period of not less than 60 days;

(3) the final agenda for the Conference, taking into consideration the comments received under paragraph (2), is published in the Federal Register and transmitted to the chief executive officers of the States not later than 30 days after the close of the public comment period provided for under paragraph (2);

(4) the personnel engaged under subsection (a)(5) shall be fairly balanced in terms of points of views represented and shall be appointed without regard to political affiliation of previous partisan activities;

(5) the recommendations of the Conference are not inappropriately influenced by any appointing authority or by any special interest, but will instead be the result of the independent judgment of the Conference; and

(6) to the extent practicable, current and adequate statistical data (including decennial census data) and other information on the well-being of young individuals in the United States are readily available, in advance of the Conference, to the delegates of the Conference, together with such information as may be necessary to evaluate Federal programs and policies relating to children and youth. In carrying out this subparagraph, the Secretary may make grants to, and enter into contracts with, public agencies and nonprofit private organizations.

SEC. 985. CONFERENCE COMMITTEES.

(a) Advisory Committee.—The Secretary shall establish an advisory committee to the Conference which shall include representatives from the Federal Council on Children, Youth, and Families, public agencies, and nonprofit private organizations as appropriate.

(b) Other Committees.—The Secretary may establish such other committees, including technical committees, as may be necessary to assist in the planning, conducting, and reviewing of the Conference.

(c) Composition of Committees.—Each committee established under this section shall be composed of professionals and public members, and shall include individuals from low-income families and from minority groups.

(d) Compensation.—Members of any committee established under this section (other than any officers or employees of the Federal Government), while attending conferences or meetings of the committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at a rate to be fixed by the Secretary, but not to exceed the daily rate payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code (including travel time). While away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of such title for persons employed intermittently in Federal Government service.

SEC. 986. REPORT OF THE CONFERENCE.

(a) Proposed Report.—A proposed report of the Conference which shall include a statement of comprehensive coherent national policy on children, youth, and families together with recommendations for the implementation of such policy, shall be published and submitted to the chief executive officers of the States not later than 180 days following the date on which the Conference is adjourned. The findings and recommendations included in the published proposed report shall be available immediately to the public.

(a) Response to Proposed Report.—The chief executive officers of the States, after reviewing and soliciting recommendations and comments on the proposed report of the Conference, shall submit to the Secretary, not later than 180 days after receiving such report, their views and findings on the recommendations of the Conference.

(c) Final Report.—Not later than 180 days after submission of the views and comments of the chief executive officers of the States, the Secretary shall—

(1) prepare a final report on the conference, which shall include—

(A) a statement of the policy and recommendations of the Conference;

(B) the views and comments of the chief executive officers of the States; and

(C) the recommendations of the Secretary, after taking into consideration the views and comments of such officers, for administrative and legislative action necessary to implement the recommendations of the Conference; and

(2) publish and transmit such report to the President and the chairman of the Committee on Education and Labor of the House of Representatives and chairman of the Committee on Labor and Human Resources of the Senate.

SEC. 987. DEFINITIONS.

For purposes of this subtitle—

(1) the term "Conference" means the 1993 White House Conference on Children, Youth, and Families; and

(2) the terms "child", "youth", and "young individual" means an individual who is less than 21 years of age.

SEC. 988. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorization.—There are authorized to be appropriated such sums as may be necessary, for each of the fiscal years 1993 and 1994, to carry out this subtitle. Sums appropriated under this subsection shall remain available until the expiration of the 1-year period beginning on the date the Conference is adjourned. New spending authority or authority to enter into contracts as provided in this subtitle shall be effective only to the extent and in such amounts as are provided in advance in appropriations Acts.

(b) Return of Unexpended Funds.—Any funds remaining upon the expiration of the 1-year period referred to in subsection (a) shall be returned to the Treasury of the United States and credited as miscellaneous receipts.

TITLE X—EFFECTIVE DATES.

SEC. 1001. EFFECTIVE DATES.

(a) General Effective Date.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on October 1, 1990.

(b) Special Effective Dates.—(1) The amendment made by section 207(b) shall take effect immediately before October 1, 1990.

(2) Section 646(b) of the Head Start Act, as added by section 115, shall take effect on April 1, 1990.

And the Senate agree to the same.

From the Committee on Education and Labor, for consideration of the House bill, and the Senate amendment and modifications committed to conference:

Gus Hawkins,
William D. Ford,
Dale E. Kildee,
Tom Sawyer,
Jolene Unsoeld,
Nita M. Lowey,
Glenn Poshard,
Bill Goodling,
Tom Tauke,
Tom Coleman,
Fred Grandy,

From the Committee on Energy and Commerce, for consideration of title II of the Senate amendment, and modifications committed to conference:

John D. Dingell,
Philip Sharp,
Billy Tauzin,
Terry L. Bruce,
E. Towns,
Doug Walgren,
Al Swift,
Norman F. Lent,
Carlos J. Moorhead,
Jack Fields,
Managers on the Part of the House.

Edward M. Kennedy,
Christopher J. Dodd,
Claiborne Pell,
Tom Harkin,
Brock Adams,
Barbara A. Mikulski,
Jeff Bingaman,
H.M. Metzenbaum,
Paul Simon,
Dan Coats,
Orrin G. Hatch,
Nancy Landon
Kassebaum,
James M. Jeffords,
Strom Thurmond,
Thad Cochran,
David Durenberger,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the

amendment of the Senate to the bill (H.R. 4151) to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, and the Community Services Block Grant Act; and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

Head Start Act

HEAD START SHORT TITLE

The House bill.—The House bill has no comparable provision.

Senate amendment.—The Senate amendment provides that the short title will be the "Head Start Expansion and Quality Improvement Act of 1990".

Conference agreement.—The House recedes.

HEAD START PURPOSE AND POLICY

The House bill.—The House bill has no comparable provision.

Senate amendment.—The Senate amendment amends the purpose and policy section to include non-English background children.

Conference agreement.—The House recedes.

RESERVATION OF FUNDS/QUALITY FUNDS

The House bill.—The House bill distributes quality set-aside funds to each Head Start grantee for the first two fiscal years based on the number of children participating in each program. The Secretary determines the intrastate distribution of funds in the outyears. If a Head Start agency has met the wage ceiling, as provided in Section 653, it may use funds intended for wages on other quality improvement activities.

Senate amendment.—The Senate amendment provides that the Secretary determine the distribution of the quality set-aside funds in all fiscal years.

Conference agreement.—The Senate recedes with an amendment providing that in the first two fiscal years for which quality funds are available, the Secretary have discretion over 20 percent of the funds for the quality activities outlined. The remaining funds would be distributed to states and grantees by formula.

TRAINING

The House bill.—The House bill provides that the Secretary shall not reserve any less for training than was provided in 1990.

Senate amendment.—The Senate amendment provides that the Secretary shall not reserve any less for training than 2 percent of each year's total allocation. The Senate amendment includes training among the allowable uses of the quality set-aside.

Conference agreement.—House recede. The Conferees view the training set-aside as a floor and would encourage the Secretary to reserve additional funds if necessary to meet the training objectives of the legislation.

UNUSED FUNDS/CONSISTENCY OF STATE FUNDING

The House bill.—The House bill provides that a Head Start agency may return any unneeded quality improvement funds and that the aggregate amount of the quality grants for each state be consistent with the state's Head Start allocation.

Senate amendment.—The Senate amendment has no comparable provision.

Conference agreement.—The Senate recedes.

PARENT-CHILD CENTERS

The House bill.—The House bill distributes parent-child center funds based on the existing Head Start formula.

Senate amendment.—The Senate amendment gives the Secretary discretion over the distribution of parent-child center funds. The Senate amendment also provides that to the maximum extent practicable, Head Start agencies which provide parent-child services must certify that they will provide continuous services for such children through the age of compulsory school attendance.

Conference agreement.—The agreement provides that funds be distributed by a formula which includes a $200,000 minimum grant per state and a ratable reduction. The Conferees expect the Secretary to fund only one program in those states receiving approximately $200,000. The Conferees strongly support the provisions of continuous intervention strategies to children from birth through compulsory school age. However, the conferees recognize that circumstances such as a change in the permanent residence or in the parent's employment situation may preclude a parent from seeking such services. The Conferees wish to clarify that funding for Head Start agencies to carry out early childhood education intervention programs known as Parent-Child Centers shall not be predicated upon a grantee's ability to provide continuous services to eligible children from birth to compulsory school age. Adds the additional costs necessary for the Parent-Child Centers to the trigger which protects current services.

NON-ENGLISH BACKGROUND CHILDREN

The House bill.—The House bill has no comparable provision.

Senate amendment.—The Senate amendment adds services for non-English background children to the list of priorities for which funds under the 13 percent reservation are to be used.

Conference agreement.—The House recedes with amendment to strike the reservation language and insert, within the Designation of Head Start Agencies section, a requirement that the Secretary consider the plan of new agencies to meet the needs of non-English background children prior to designation of such agency.

TREATMENT OF MARSHALL ISLANDS

The House bill.—The House bill has no comparable provision.

Senate amendment.—The Senate amendment includes the Marshall Islands in the Secretary's discretionary fund and makes certain corresponding technical changes.

Conference agreement.—The House recedes.

REPORTING REQUIREMENTS

The House bill.—The House bill requires annual reporting on: (1) the amount of funds received by existing and newly designated Head Start programs; (2) a description of the distribution of Head Start services relative to distribution of eligible children; (3) a description of how funds under 640(a)(2) and 640(a)(3) [quality funds] were distributed; (4) a description of state and local funds used in the Head Start program; (5) cost per child by region; (6) employment status of parents; (7) teacher salaries and educational level; (8) number of parents who also receive benefits under Title IV of Social Security [welfare]; (9) the use and source of non-federal funds; and (10) the use and source of funds to extend programs to full-day, full-year.

The House bill also provides that a comprehensive report shall be submitted to Congress by 1994 containing: the Program Information Report and Head Start Cost Analyses System report; a description of the effect of the 1990 Decennial Census on the allotment of funds; a description of the coordination between Head Start and local elementary schools; a description of the extent to which Head Start families use other social service programs in the community; a description of the negotiations that occur between the Department and applicants; the condition of Head Start facilities; and results of recent studies on Head Start; the results of the quality set-aside on staff and items 1 through 4 above.

The House bill also requires that the Secretary develop guidelines that define criteria to enable Head Start agencies to modify or implement their service delivery models.

Senate amendment.—The Senate amendment requires that the Secretary prepare a report for Congress once every 2 years containing the status of children including the number and types of services being provided to such children. The report shall include information concerning tranportation, facilities, and methods for identifying and locating eligible children in both urban and rural areas, including cost, problems encountered and innovative solutions to such problems; information concerning the distribution of funds including the proportion of funds distributed to newly designated agencies, and the distribution relative to the number of eligible children; state and local funding sources; the cost per child by region; where available and appropriate, a description of the effect of the 1990 Decennial Census on the allotment of funds; information concerning children participating in programs receiving Head Start funding, including family income, racial and ethnic background, gender, disability, and receipt of benefits under Title IV of the Social Security Act [welfare]; information concerning the parents of children participating in programs receiving Head Start funding, including employment status, educational level, educational training received during a child's participation in Head Start, and the level and nature of participation of parents in the program; information concerning staff including salaries, education, training, experience and turnover; a description of services provided to children and parents; the use and source of Head Start funds at the national, regional and local levels; a description of programs funded including local designed or specialized programs; and summaries of recent evaluations and reports;

The Senate amendment requires the Secretary to establish procedures to enable Head Start agencies to develop locally designed or specialized service delivery models to address local community needs.

The Senate amendment also requires the Secretary to conduct, through grants or contracts, a study of various approaches to providing early, continuous and comprehensive intervention to low-income at-risk children from birth to age 3.

Conference agreement.—The House recedes on the biennial report and the early childhood study. The Senate recedes on the comprehensive report. The biennial report includes: (1) the amount of funds received by existing and newly designated Head Start programs; (2) a description of the distribution of Head Start services relative to distribution of eligible children; (3) a description of how funds under 640(a)(2) and 640(a)(3) [quality funds] were distributed; (4) a description of state and local funds used in the Head Start program; (5) the cost per child by region; (6) the level and nature of participation of parents in the Head Start program as volunteers or in other capacities; (7) information concerning Head Start staff, including salaries, education level, training, experience and turnover; (8) information concerning children participating in programs receiving Head Start funding including family income, racial, ethnic background, disability and number of parents who also receive benefits under Title IV of Social Security [welfare]; (9) the use and source of funds to extend programs to full-day, full-year; (10) using data from the evaluations conducted under Section 641—(i) the extent to which programs funded under this subchapter comply with performance standards; and (ii) the type and condition of facilities in which such program are located; (iii) the type of organizations that receive Head Start funds under such programs; and (iv) the number of children served under each program option; (11) the information contained in the documents entitled "Program Information Report" and "Head Start Cost Analysis System" and (12) a description of the types of services provided to children and families though referrals.

The conference agreement provides that a comprehensive report shall be conducted through the office of the Assistant Secretary for Planning and Evaluation and shall be submitted to Congress by 1994 containing: 1) information concerning transportation, facilities, and methods for identifying and locating eligible children in both urban and rural areas, including cost, problems encountered and innovative solutions to such problems; 2) a description of the effect of the 1990 Decennial Census on the allotment of funds; 3) a description of the coordination between Head Start programs and programs serving young children including local educational agencies; 4) a description of the negotiations that occur between the Department and applicants; 5) the results and analysis of recent studies on Head Start; 6) a description of the impact of quality funds reserved under Section 640(a)(3) on staff qualifications, wages and staff turnover including information on the number of teachers and teachers aides who have or are enrolled in the Child Development Credential program; and 7) information concerning the parents of children including employment status, education level, training received, and impact of parent's schedule on their ability to access the program. The Conferees expect that the Department will provide comprehensive data on the number and locations of eligible Indian and Migrant children.

The House recedes on Senate study of various approaches to providing early, continuous, and comprehensive intervention to low-income at-risk children from birth to age 3.

The Conferees expect the Department to meet regularly with the House Committee on Education and Senate Committee on Labor and Labor and Human Resources to inform the committees of the progress being made in preparing each matter required in the comprehensive report.

EVALUATIONS

The House bill.—The House bill amends the "Evaluation" section of the existing law by requiring that a comprehensive review of at least one-third of all Head Start agencies be done annually and that each agency be evaluated at least once every three years.

Senate amendment.—The Senate amendment amends the "Designation of Head Start Agencies" section to require a full review of at least one-third of all Head Start agencies annually and that each agency be evaluated at least once every three years to determine if the agencies are meeting the program and fiscal requirements of the act.

Conference agreement.—The House recedes with an amendment which clarifies that such evaluations alone are not a condition of refunding. In cases of unsatisfactory evaluations, the conferees expect the Secretary to work with the individual grantees to correct deficiencies. The conference agreement also requires the Secretary to include in the review of Head Start grantees an evaluation of the condition of facilities in which Head Start services are being provided. The conferees intend that the reviews required under this section be conducted with monitoring devices which evaluate each of the performance standards in effect under Section 651(b). The conferees also note that the changes to section 641(c)(2) are purely technical and do not effect the operation of that section.

POWERS, DESIGNATION, COORDINATION OF HEAD START AGENCIES

The House bill.—The House bill adds the involvement of parents in appropriate educational activities to the list of requirements that must be met to continue as a Head Start agency and expands the existing coordination provision to include schools that will subsequently serve Head Start children.

The House bill requires the Secretary to consider the effectiveness of the grantee's past performance in providing services similar to Head Start services; the plan of such applicant to provide services; the plan of such applicant to coordinate with other preschool programs and LEAs; the plan of such applicant to involve parents of participating children in the program; the ability of the applicant to carry out these plans; and the plan of such applicant to meet the needs of non-English background children.

Senate amendment.—The Senate amendment expands the coordination provisions of the existing law to include schools and the state agency responsible for administering welfare reform and other programs serving children and their families served by Head Start.

Conference agreement.—The Senate recedes with an amendment to include coordination with the state agency administering the JOBS program under the welfare program.

LONGITUDINAL STUDY

The House bill.—The House bill provides for a twenty year longitudinal study with samples representing the national population and various subpopulations. The study shall include: information on characteristics of the Head Start programs in such study; the children and families participating in the program; the effects of the Head Start program including the effects of more than one year of services; the effects on the parent-child relationship; the long and short-term effects on the health of such children and their families; changes that occur in the community in which such program operates; the school grades, grade retention, motivation, special education placement, secondary school graduation, delinquency, college attendance, welfare participation and employment of such children; and variables that sustain gains as children move through the primary grades.

It also requires the Secretary to periodically report to the House Education and Labor and Senate Labor and Human Resources committees.

Senate amendment.—The Senate amendment provides for a twenty year longitudinal study following the progress of children who (1) have attended programs that are in compliance with Head Start Performance Objectives; (2) who represent specific subpopulations, including children from dysfunctional families; and (3) who have attended Head Start programs that represent the various program options that are located in both urban and rural areas. Subcontracting and the use of small studies by the program participants is authorized.

The study's focus is on the degree to which social, physical, and academic development, including grade retention, motivation to achieve, special education placement, health, secondary school graduation, delinquency, substance abuse, teenage pregnancy, literacy, college attendance, employment and welfare participation of children and the parenting skills, employment, literacy, education level, motivation to achieve, and welfare participation of parents are affected by: (1) the program options; (2) the number and configuration of hours, days and years the child participates in the program; (3) program quality; (4) the level of parental involvement; (5) supportive services; (6) Head Start curriculum; and (7) subsequent schooling and family characteristics and behavior which affects social, physical, and academic development.

Conference agreement.—The House recedes with the following amendments: (1) clarify that the grant or contract recipients must meet the same requirements as the advisory panel; (2) authorize the study for six years with the expectation that subsequent Congresses will reauthorize it to encompass twenty years; (3) clarify that universities are eligible grant and contract recipients; (4) clarify in the Section 115(c) that both children and families are to be studied; (5) clarify the definition of "health" to include long- and short-term health effects; (6) expand the focus to include variables that sustain gains as children move through the primary grades; and (7) require an interim report to the House Education and Labor and Senate Labor and Human Resources Committee by October 1, 1993 on the progress of the study, this interim report may be included in the biennial report required under Section 651(g).

The conferees wish to clarify that the study's design should take into consideration multi-year services, the impact of the program on the parent-child relationship, and how changes in the community may impact on the items being studied (such as a plant closing on the needs of participating families). The Conferees also wish to clarify that the coordination required between the Head Start and Chapter One study does not require a joint effort.

FAMILY DAY CARE

The House bill.—The House bill directs the Secretary to determine within three years whether family day care providers can provide Head Start services effectively and how much services would be designed to ensure high quality and comprehensiveness, and publish the facts relied upon to make such determinations in the Federal Register.

Senate amendment.—The Senate amendment includes a requirement that the Secretary conduct, through grants or contracts, a study of Head Start family day care. The report is to consider the effectiveness of providing Head Start services in a family day care setting and assess the program characteristics that are necessary to ensure that programs are effective.

Conference agreement.—The House recedes with an amendment that the study be submitted to the Congress by October 1, 1993 and that the programs studied meet Head Start performance standards. The study should review both currently funded programs as well as newly funded family day care programs.

STAFF QUALIFICATIONS

The House bill.—The House bill has no comparable provision.

Senate amendment.—The Senate amendment requires that each Head Start classroom in a center-based program have one teacher who (1) has a CDA credential; (2) a state awarded certificate for preschool teachers which meets or exceeds the requirements of the CDA; (3) an associate, baccalaureate, or advanced degree in early childhood education; (4) a degree in a field related to early childhood education with experience in teaching preschool children and a state awarded certificate to teach in a preschool. The Senate amendment also adds a definition of a Head Start classroom as a group of children supervised and taught by two paid staff members.

Conference agreement.—The House recedes with an amendment which allows a Head Start grantee to request from the Secretary a waiver for an individual who is enrolled in a child development credential associate program and will complete such program within a six month period. A single staff member may not receive more than one such waiver.

COOPERATIVE RESEARCH

The House bill.—The House bill has no comparable provision.

Senate amendment.—The Senate amendment encourages the Secretary to provide funds for community-based cooperative research efforts to enable Head Start directors to conduct evaluations of their programs with the assistance of qualified researchers not directly involved in the administration of the program or project operation.

Conference agreement.—The House recedes.

COMPARABILITY OF WAGES

The House bill.—The House bill has no comparable provision.

Senate amendment.—The Senate amendment directs the Secretary to encourage Head Start agencies to provide compensation according to salary scales that are based on training and experience.

Conference agreement.—The House recedes.

HEAD START TRANSITION PROJECTS

House bill.—The House bill has no comparable provisions.

Senate amendment.—The Senate amendment sets aside, from the annual Head Start appropriation, not less than $20 million each year for Head Start Transition Projects, which would provide for a smooth transition of children from Head Start to kindergarten and enable elementary schools to adopt the Head Start model for supportive services and parental involvement. Head Start agencies and local educational agencies receiving these funds would employ a team of family services coordinators to facilitate communication among low-income families and the schools, help these families obtain needed services, and ensure that there is developmental continuity between early childhood and elementary school programs.

Conference agreement.—The House recedes with an amendment making several changes to the Senate amendment. The first change strikes at the age 5 to 8 provision regarding eligible children and substitutes "grades kindergarten through 3". The agreement also: establishes a minimum grant amount of $200,000; focuses attention on the needs of the individual children without requiring individual education plans; and makes the minimum $20 million reservation of funds from the annual Head Start appropriation subject to trigger designed to ensure that funding this program will not reduce the amount needed to maintain current Head Start service levels.

Section 135(b) of the agreement provides that the Secretary shall award at least one grant to one eligible applicant in each state before the Secretary may award a second grant within any one state. The conferees wish to emphasize that the term "eligible applicant" means that an applicant should be required to satisfy minimum requirements in order to receive a grant, even if it is the only applicant from that state.

Section 136(a)(3) of the conference agreement requires each application for assistance to include a self-assessment of the school district's and Head Start agency's programs to address the range of children's needs. By self-assessment, the managers intend that an applicant shall determine the degree to which its current programs and resources enable it to meet the requirements of this Act, including the provision of comprehensive services and the use of a developmentally appropriate instructional program.

FOLLOW THROUGH

PROVISION OF COMPREHENSIVE SERVICES

House bill.—The House bill has no similar provision.

Senate amendment.—The Senate amendment specifies that comprehensive services may be provided in the Follow Through program, by referral, or through a Head Start Transition project.

Conference agreement.—The House recedes with an amendment specifying that comprehensive services in the Follow Through program also may be provided through a combination of these sources. The conferees wish to emphasize that applicants proposing to provide services by referral remain responsible for ensuring that Follow Through students actually receive the full range of quality services as required by the Act.

MINIMUM GRANT AMOUNT

House bill.—The House bill provides that, when the amount appropriated to carry out this Act exceeds $15 million, the amount of each grant under section 662 shall not be less than $200,000.

Senate amendment.—The Senate amendment has no comparable provision.

Conference agreement.—The Senate recedes.

EFFICIENT ADMINISTRATION

House bill.—The House bill requires applicants to provide for the proper and efficient administration of their programs.

Senate amendment.—The Senate amendment has no comparable provision.

Conference agreement.—The House recedes. This requirement was dropped only because the conferees consider it unnecessary to require what is an inherent responsibility of the administering agency.

REGULAR EVALUATION AND REPORTS

House bill.—The House bill, in two separate paragraphs, requires applicants to provide for regular program evaluation and reports.

Senate amendment.—The Senate amendment, in a single paragraph, requires applicants to provide assurances that regular evaluations and reports will be made to the Secretary.

Conference agreement.—The House recedes.

MANNER OF PROVIDING COMPREHENSIVE SERVICES

House bill.—The House bill has no comparable provision.

Senate amendment.—The Senate amendment requires an applicant to specify the manner in which it will provide comprehensive services.

Conference agreement.—House recedes.

COORDINATION WITH HEAD START

House bill.—The House bill has no comparable provision.

Senate amendment.—The Senate amendment requires applicants to demonstrate that their Follow Through activities have been designed to coordinate with, and build upon, those activities provided to participants in local Head Start and other quality preschool programs.

Conference agreement.—The House recedes. The conferees note that, in general, all of the model Follow Through approaches build upon the gains and activities that students received in preschool. Nevertheless, this evidence alone in an application would not be sufficient. It is important that the described coordination activities be those mutually agreed upon by the Follow Through program, the Head Start program, and the parents.

TECHNICAL ASSISTANCE

House bill.—The House bill has no comparable provision.

Senate amendment.—The Senate amendment provides that, in the case of a recipient of technical assistance which received such assistance prior to the date of enactment of this part, the Secretary may limit the provision of technical assistance relative to a particular Follow Through approach to 3 years.

Conference agreement.—House recedes. The conferees wish to emphasize that the five and three year limitations on the receipt of technical assitance apply to "a particular Follow Through approach." Therefore, if a local program decides to adopt a different approach, it would be eligible for such assistance for a new five year period.

NATIONAL CLEARINGHOUSE

House bill.—The House bill provides that, when the amount appropriated to carry out the Act reaches $30 million, the Secretary shall by grant establish a national clearinghouse on Follow Through programs and that the amount of such grant shall not be less than $300,000 per year.

Senate amendment.—The Senate amendment has no comparable provision.

Conference agreement.—Senate recedes.

INFORMATION DISSEMINATION

House bill.—The House bill provides for the dissemination of information related to Follow Through approaches.

Senate amendment.—The Senate amendment provides for the dissemination of information related to programs and activities funded under this part.

Conference agreement.—House recedes. It should be noted that "programs and activities under this part" specifically refers to Follow Through research and evaluation under sections 664 and 666, the model approaches in regard to which technical assistance and training is provided under section 664A, and resource and expansion under section 664B. The conferees intend that the information disseminated should identify and distinguish the various model approaches described, researched, and/or evaluated.

AUTHORIZATION OF APPROPRIATIONS

House bill.—The House bill authorizes appropriations to carry out the Follow Through Act as follows:

Fiscal year:	
1990	$10,000,000
1991	20,000,000
1992	30,000,000
1993	40,000,000
1994	50,000,000

Senate amendment.—The Senate amendment authorizes appropriations to carry out the Follow Through Act as follows: $20 million for FY 1991 and such sums as may be necessary for FYs 1992, 1993, and 1994.

Additionally, the Senate amendment provides that, of the 30 percent of the annual appropriation available for part II, one-third of such amount shall be made available to develop model Follow Through approaches.

Conference agreement.—House recedes with an amendment striking the Senate language requiring that one-third of the part II funding be spent on the development of Follow Through approaches. It is the intent of the conferees that the Secretary, after satisfying the part II requirements related to technical assistance and training, shall have discretion in committing remaining part II funds toward research. While Follow Through models should be evaluated on their merits as opposed to their age, and may be updated as needed, the Department may deem it prudent to support the development of new Follow Through model approaches as well.

COORDINATION WITH HEAD START TRANSITION PROJECT ACT

House bill.—The House bill has no comparable provision.

Senate amendment.—The Senate amendment requires the Secretary of Education to consult with the Secretary of Health and Human Services in the coordination of this Act with the Head Start Transition Project Act to enable local educational agencies to submit a single application for funding under both such programs. The Secretary of Education is also directed, to the extent practicable, to coordinate the issuance of regulations governing such programs.

Conference agreement.—House recedes.

State Dependent Care Development Grants Act

WAIVER PROVISION

The House bill.—The House bill provides that a state may apply to the Secretary for a waiver of the provision which divides the funding within each state 60 percent for school-based programs and 40 percent to resource and referral programs.

Senate amendment.—The Senate amendment has no similar provision.

Conference agreement.—The Senate recedes.

OPERATION COSTS

The House bill.—The House bill has no comparable provision.

Senate amendment.—The Senate amendment permits Dependent Care funds to be used for operational costs.

Conference agreement.—The House recedes.

REPORTING REQUIREMENT

The House bill.—The House bill has no comparable provision.

Senate amendment.—The Senate amendment adds new reporting requirements requiring states to report on the number and characteristics of children served in before and after school programs, salary levels of staff in such child care programs, the number of clients for resource and referral programs, and the characteristics of clients served by resource and referral programs.

Conference agreement.—The House recedes with technical amendments.

Community Services Block Grant

ELIGIBLE ENTITIES

House bill.—The House bill amends the definition of eligible entity by making it possible for an organization that received a grant in a waiver state in 1984 (thereby making it an "eligible entity") to decline from serving as an eligible entity, thereby passing such designation and the responsibility for providing services on to the local community action agency.

Senate amendment.—The Senate amendment has no similar provision.

Conference Agreement.—The House recedes.

STATE ALLOCATIONS

House bill.—The House bill provides that the minimum state allocation will increase to one-half of one percent when the appropriation reaches $345M. It stipulates that the increase shall not apply if allocations based on the current minimum allocation would result in: 1) a state receiving less than its FY '90 allocation; or 2) a state receiving an allocation greater than 140 percent of its previous year's allocation.

Senate amendment.—The Senate amendment sets the trigger for the increase in the minimum state allocation at $360 million. It provides that in order for the increase to occur, each state must receive no less than its allocation for the preceding fiscal year. Notwithstanding the increase in the minimum allocation, no state can receive an allocation greater than 140 percent of its previous fiscal year's allocation.

Conference Agreement.—The conferees agree to an amendment setting the trigger for increasing the minimum state allocation at $345 million. The amendment stipulates that the each state must receive no less than its 1990 allocation and that adjustments shall be made to allocations to ensure that no state receives more than 140 percent of its previous year's allocation.

APPLICATIONS AND REQUIREMENTS

House bill.—The House bill states that no community action agency that received funding in the previous fiscal year will have its funding substantially reduced unless cause for the reduction is determined through hearings on the record before the county, and state, and review by the Secretary. The section also requires that states which received a waiver under Public Law 98-139 not give funds to any organization unless such organization allows low income individuals an opportunity to comment on the uses of funds before their expenditure.

Senate amendment.—The Senate amendment has no similar provision.

Conference Agreement.—The Conferees agree to an amendment extending the current protections given to community action agencies and migrant and seasonal farmworker organizations concerning termination of funding to reductions in funding, and making conforming technical changes. Such organization shall not have its funding reduced below the proportional share of the funding it received in the previous fiscal year unless such reduction is the result of a statewide redistribution of funds designed to respond to specific circumstances, or is the result of noncompliance. It is the intent of the conferees that this provision apply to community action agencies and migrant and seasonal farmworker organizations which receive funds directly or indirectly under the Act. Other entities which may receive funds from community action agencies or migrant and seasonal farmworker organizations are not covered by the provisions of this subsection should their funding be reduced or terminated. The amendment also clarifies that low income people in all states must be given an opportunity to comment on the expenditure of CSBG funds.

ACTIVITIES FOR LOW-INCOME YOUTH

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment strikes the works "national or regional" from the purpose of the program for low-income youth.

Conference Agreement.—The Senate recedes.

House bill.—The House bill states that instruction in a variety of sports, or another high quality recreational activity, shall be provided by coaches and teachers from institutions of higher education and secondary schools.

Senate amendment.—The Senate amendment states that instruction in a variety of sports, that shall include swimming, and that may include dance, shall be provided by coaches and teachers from institutions of higher education, and elementary and secondary schools.

Conference Agreement.—The Conferees have agreed to combine the provisions to read: "in a variety of sports, that shall include swimming, and may include dance, or another high quality recreational activity, provided by coaches and teachers from institutions of higher education, and from elementary and secondary schools . . .".

ANNUAL REPORT

House bill.—The House bill requires that the annual report on the CSBG program be transmitted to Congress no later than 60 days after the end of the fiscal year for which the report was prepared.

Senate amendment.—The Senate amendment requires that the annual report on the CSBG program be transmitted to Congress

no later than 180 days after the end of the fiscal year.

Conference Agreement.—The House recedes.

Community Food and Nutrition

AUTHORIZATION OF APPROPRIATIONS

House bill.—The House bill authorizes the following appropriations for Community Food and Nutrition: $10M in 1991; $15M in 1992; $18M in 1993; and $20M in 1994.

Senate amendment.—The Senate amendment authorizes the following appropriations for Community Food and Nutrition: $10M in 1991; $15M in 1992; $20M in 1993; and $25M in 1994.

Conference Agreement.—The House recedes to the Senate authorization levels for fiscal years 1993 and 1994.

COMMUNITY FOOD AND NUTRITION PROGRAM

House bill.—The House bill maintains the current distribution formula (60% to states, 40% to competitive grants for local and statewide initiatives) for the first $10M appropriated to Community Food and Nutrition. The bill requires that appropriations in excess of $10M be divided 50/50 between the states and competitive grants categories. Within the competitive grant category: not less than $50,000 and not more than $250,000 shall be used to make grants for technical and training assistance focusing on the nutrition needs common to several regions of the U.S.; and not less than $100,000 and not more then $500,000 shall be used for research and demonstration project grants relevant to alleviating hunger in the U.S.

Senate amendment.—The Senate amendment maintains the current distribution formula for the first $5M appropriated to Community Food and Nutrition Appropriations in excess of $5M will be distributed as follows: 40% to states; 40% to competitive grants for local and statewide initiatives; and 20% to competitive grants for nationwide programs including programs benefiting Native Americans or migrant farmworkers.

The section also revises the purpose of the program to include providing grants for "national" programs, establishes a rolling small state minimum once the appropriation reaches $7M, and requires an annual report on the program.

Conference Agreement.—The House recedes with an amendment which raises the trigger for changing the allocation formula, from $5 million to $8 million, and sets the maximum grant size for those grants awarded under the twenty percent set-aside for nationwide programs including those benefiting Native Americans and migrant farmworkers at $300,000.

Child Development Associate Scholarship Assistance Act of 1985

ELIGIBILITY LEVEL

The House bill.—The House bill raises the eligibility level to 125 percent of the lower living standard and defines lower living standard.

Senate amendment.—The Senate amendment raises the eligibility level to amount that does not exceed 150 percent of the poverty level.

Conference agreement—The Senate recedes with an amendment to increase the eligibility level to 130 percent of the lower living standard.

TRAINING

The House bill.—The House bill permits states to use up to 20 percent of its state allotment for training associated with the CDA.

Senate amendment.—The Senate amendment permits states to use up to 50 percent of its state allotment for training associated with the CDA.

Conference agreement—The Senate recedes with an amendment to increase the percentage of funds permitted for training to 35 percent.

Demonstration Partnership Program

House bill.—The House bill authorizes $10M for the Demonstration Partnership Program (DPP) in 1991 and such sums through 1994.

Senate amendment.—The Senate amendment authorizes $10M for the Demonstration Partnership Program (DPP) in 1991 and such sums through 1994, and amends DPP to include an additional $10M authorization of appropriations for Programs Directed To Special Populations.

Conference agreement—The House recedes with an amendment expanding the age range for eligible participants in Programs Directed To Special Populations to include 14 through 25 year olds and expanding the range of services to include mentoring, career education, and other services. The conferees encourage the recipients of funds under the Programs Directed To Special Populations to coordinate (when feasible) their efforts with other similar programs such as the Youth Opportunities Unlimited (YOU) program operated by under the Department of Labor.

The Low-Income Home Energy Assistance Program

FORWARD FUNDING

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment provides for the forward funding of LIHEAP by changing the current program year from October 1 to July 1 beginning in fiscal 1992. Under the provision, LIHEAP funding would be made available from July to June, rather than the normal October to September cycle.

Conference agreement—The Agreement adopts a modified version of the Senate provision for forward funding to provide for flexibility in its implementation. In order to ensure adequate time to procure the additional budget authority necessary for the provision to be implemented, the Agreement makes the forward funding applicable beginning in fiscal 1993. The conferees encourage the Appropriations Committee to implement the provision at the earliest possible opportunity.

REAUTHORIZATION

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment authorizes the following appropriations for LIHEAP:

1991	$2,150,000
1992	2,230,000
1993	such sums
1994	such sums

Conference agreement—The House recedes. In reauthorizing LIHEAP the conferees wish to clarify that in those instances where the Secretary has deemed it necessary to withhold funds from a grantee, no additional hearing will be required should one fiscal year end and another begin before the process outlined under Sec. 2608 of the law has been completed.

Also, the conferees would like to clarify that the Single Audit Act applies to LIHEAP. The current discrepancy between the LIHEAP statute and the Single Audit Act has caused much confusion among LIHEAP grantees. The conferees hope that clarifying that the Single Audit Act applies will alleviate this confusion and reduce audit-related concerns.

STATE ALLOTMENTS

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment allows states to continue to transfer up to 10 percent of LIHEAP funds to other social service programs for fiscal years 1991, 1992, and 1993 and eliminates the authority after FY 1993.

Conference agreement—The House recedes. Understanding the problems the elimination of the transfer out authority will pose for many states, the conferees are providing those states which transfer a portion of their LIHEAP funds into other block grant programs three years to find additional sources of funding for those programs. The conferees direct the Secretary to make every effort to inform states that the authority to transfer funds ends after 1993 and that states are to transfer no greater percent of funds than in FY 1990. The Secretary is to monitor the efforts of those states to prepare for the complete elimination of the transfer-out provision and to periodically inform the Congress of state efforts to identify or provide resources to replace transferred funds.

APPLICATION

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment adds "timely and meaningful" to the requirement that states provide for public participation in the development of state plans. Beginning in FY 1992, those states that are operating LIHEAP primarily through their public welfare departments must also utilize organizations such as community action agencies, area agencies on aging and community-based nonprofits to perform outreach and intake functions for crisis assistance and heating and cooling assistance. States that do not use community-based organizations for outreach and intake as of September 30, 1991, must give preference in the awarding of grants to those agencies operating the low income Weatherization program or the Crisis Assistance Programs.

Conference agreement—The House recedes. The conferees believe that intake or application processing are best provided by experienced service providers with approved federal and state grant management systems. If states are already offering alternate intake sites in some areas, this section does not require them to modify their system of program management in those areas.

The conferees recognize the potential for significantly increased administrative expenses for some states to comply with the new alternative site requirements, and intends to monitor possible effects on the program and recipients.

It is the intent of the conferees that the Secretary utilize funds provided under Sec. 2609A (Technical Assistance and Training) to provide assistance to those states which, at the time of enactment of this legislation, only provide outreach and intake services for LIHEAP through their Departments of Public Welfare. The conferees do not expect this assistance to extend past fiscal year 1992, when the new provisions regarding outreach and intake take effect. The conferees understand several of these states are already using the entire 10 percent of their LIHEAP funds to administer this program and believe the Department should assist such states in making the transition required under the law.

AUTHORITY TO USE FUNDS FOR WEATHERIZATION

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment permits states to apply for a waiver to use up to 25 percent of their allocation for low-cost residential home repair or energy related home repair for low income persons. States applying for the waiver must demonstrate that (i) they will serve the same number of homes as in the previous year and that the aggregate number of households served will not be less than the previous year, or (ii) the state has good cause for failing to satisfy the above requirements.

Conference agreement—The House recedes with an amendment that clarifies the intent that the public be allowed to submit comments on any waiver request and that the state must demonstrate good cause in cases where it fails to provide the same level of LIHEAP benefits as in the previous year. The conferees intend that the public comment procedure not require hearings and that the process will be carried out in a timely and expeditious manner.

AUTHORITY TO CARRY FUNDS OVER

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment reduces from 15 percent to 10 percent the amount of funds a state may carry over from one year to the next.

Conference agreement—The House recedes.

INCENTIVE PROGRAM FOR LEVERAGING NON-FEDERAL RESOURCES

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment authorizes $25 million for FY 1992 and $50 million for FY 1993 and FY 1994 for distribution by the Secretary to states based upon their success in leveraging additional non-federal resources for LIHEAP. Funds will be awarded by formula taking into account the level of a state's leveraging effort as a percentage of the leveraging efforts of all states.

House bill.—The House bill does not have a comparable provision.

Conference agreement—The House recedes with an amendment which expands the definition of leveraged resources. The conferees intend that the Secretary develop a formula which apportions the supplementary funds under subsection (a) based upon the proportion of a state's leveraged funds, as quantified under subsection (d), to the total amount of leveraged funds of all states. Thus, states that leverage a greater percentage of their regular allocation relative to other states will receive a proportionally greater increase in their regular allocation.

COMPREHENSIVE CHILD DEVELOPMENT CENTERS ACT

REAUTHORIZATION

House bill.—No comparable provision.

Senate amendment.—Authorizes $50 million for the Comprehensive Child Development Centers Act in each of the following fiscal years 1991, 1992, 1993 and 1994.

Conference agreement—House recedes.

COORDINATED SERVICES FOR CHILDREN, YOUTH, AND FAMILIES

TITLES

House bill.—The House bill has no comparable provisions.

Senate amendment.—The Senate amendment cites this title as the "Coordinated Services of Young Americans Act of 1990" and subtitle A of this title as the "Young Americans Act of 1990".

Conference agreement.—The House recedes with an amendment which cites the title as the "Claude Pepper Young Americans Act of 1990".

FINDINGS

House bill.—The House bill has no comparable provisions.

Senate amendment.—The Senate amendment contains findings which provide the framework for a cohesive national policy regarding children, youth, and families.

Conference agreement.—The House recedes.

ADMINISTRATION ON CHILDREN, YOUTH, AND FAMILIES

House bill.—The House bill has no comparable provisions.

Senate amendment.—The Senate amendment establishes, within the Department of Health and Human Services, an Administration on Children, Youth, and Families (ACYF) to be headed by a Commissioner on Children, Youth, and Families. It also contains provisions relative to the functions and duties of the Commissioner as well as to federal agency consultations. Finally, the Senate amendment authorizes appropriations in the amount of $1 million for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 through 1994.

Conference agreement.—The House recedes with an amendment which makes the language relative to the duties of the Commissioner permissive rather than directive, and provides that the Commissioner's annual report shall be submitted to the House Committee on Education and Labor and to the Senate Committee on Labor and Human Resources instead of to the appropriate committees of Congress. Additionally, the agreement strikes the authorization of appropriations to carry out the duties of the Commissioner and substitutes language which provides that, of the amount appropriated to carry out this section, the Commissioner may reserve up to 10 percent for salaries and expenses of ACYF related to the administration of this Act.

FEDERAL COUNCIL

House bill.—The House bill has no comparable provisions.

Senate amendment.—The Senate amendment establishes an 18 member Federal Council on Children, Youth, and Families to review and evaluate federal policies and programs affecting young individuals and to report annually to the President, Secretary, Commissioner and the Congress regarding their findings and recommendations. The amendment requires the Council to make recommendations regarding methods to reduce duplication and enhance coordination of services, and provides that the Council terminates after September 30, 1995. It authorizes appropriations in the amount of $200,000 for each of the fiscal years 1991 through 1994.

Conference agreement.—The House recedes.

GRANTS FOR STATE AND COMMUNITY PROGRAMS

House bill.—The House bill has no comparable provisions.

Senate amendment.—The Senate amendment provides that it is the purpose of this chapter to encourage and assist state and local agencies to coordinate resources, reduce barriers to services, and develop new capacities to ensure that state and community services designed to serve children, youth, and families are more effective and comprehensive. To accomplish this, the Senate amendment authorizes three separate and distinct programs of grants to states to—(i) improve state planning and coordination of services, (ii) expand supportive services, and (iii) establish and operate local family resource and support programs. While each of these authorized programs has its own requirements and authorization of appropriations, the Senate amendment provides that a state may apply for funding for all, a combination, or any one of these programs.

Conference agreement.—The House recedes with an amendment which consolidates the authorizations of appropriations and the making of formula grants for state planning and supportive services. Under this consolidation, appropriations are authorized in the amount of $30 million for fiscal year 1991 and such sums as may be necessary for fiscal year 1992 through 1994. Additionally, the agreement eliminates the individual federal/state match requirements for state planning, supportive services, and family resource and support programs, and instead, provides that the federal share for all of these programs is 80 percent and that the funds for the 20 percent state match must be from nonfederal sources.

The conferees want to strongly emphasize that state planning and coordination of policies and programs is of paramount importance. Thus, the conference agreement provides that, while a state may apply solely for funding for state planning and coordination or for family resource and support, it may not apply for supportive services alone unless it meets all of the state planning requirements (as determined by the Commissioner). This is designed to indicate the high priority which the Congress places on increased state coordination of services.

State grants for family resources and support programs are included in this chapter because they are designed to help build networks of family resources and support programs within states, and optimally, decisions regarding the funding of such grants should be made with the knowledge of how they will fit into a coordinated state system of services for children, youth, and families.

Family resource and support (FRS) programs are an important new form of community assistance for families. Significantly, they are designed to assist families before crises arise and without imposing categorical restrictions on eligibility. FRS programs, which are found in numerous communities across the country, seek to:

(1) Improve parent's skills and capacities to support, guide, and nurture their children;

(2) Assist families in using formal and informal community resources; and

(3) Create a supportive network designed to enhance parents' childrearing capabilities and to compensate for the increasing isolation and vulnerability of many families.

While specific programs are adapted to local needs, all FRS programs differ from more traditional social services in that they—(i) promote voluntary parental participation and ownership in the program, (ii) provide a comprehensive, development approach to services rather than one based upon an identified problem or crisis that in turn defines the scope of the services for which the family may be eligible, and (iii) enable parents to help themselves. FRS programs build on family strengths and connect parents with other parents in their communities. Many are neighborhood drop-in centers, such as Maryland's family support centers in which a wide range of social, health, educational, and employment-related activities occur. Others emphasize school-based activities.

In order to ensure that programs are comprehensive and retain their community orientation, the conferees intend that funding priority be given to states which—(i) demonstrate a policy, program, and financial commitment to FRS programs, (ii) link and coordinate FRS programs to other health, education, and social service initiatives, and (iii) involve parents and local FRS providers in the design of the statewide network.

Further, the conferees intend that states not use these funds to support traditional, crisis-oriented services which assist families only after problems occur. Instead, they should establish and support FRS programs which—(i) are available to a wide range of parents in a community, (ii) evidence substantial parental involvement in their design and governance, (iii) reflect a philosophy of enabling families to help themselves, and (iv) clearly have as their goal building parenting capacities as well as promoting the full and healthy development of children.

Grants under the Claude Pepper Young Americans Act of 1990 are not intended to fund projects or activities which provide family planning and reproductive health services. Such services, with appropriate safeguards and limitations, are funded through various federal and state health programs, and it is not the conferees intent to duplicate such funding through this grant program.

NATIONAL CLEARINGHOUSE

House bill.—The House bill has no comparable provisions.

Senate amendment.—The Senate amendment provides that this chapter may be cited as the "Family Resource Act." It directs the Commissioner to establish a National Center on Family Resource and Support Programs which shall serve as a national information and data clearinghouse and as a source of training, technical assistance, and material development for family resource and support programs. The amendment also directs the Commissioner to award grants or contracts to conduct evaluations and related activities of family resource and support programs. Finally, the amendment authorizes to be appropriated $3 million for fiscal year 1991 ($2.3 million for the establishment and operation of the National Center and $700,000 for evaluation) and such sums as may be necessary for fiscal years 1992 through 1994.

Conference agreement.—The House recedes. The conferees intend that the National Center maintain close associations with local FRS programs and ensure that materials, training, and technical assistance reflect the experience and needs of practitioners.

With regard to evaluation of FRS programs, the Commissioner should consider assessing state networks as well as local programs.

Together, the FRS grant program, the National Center, and the evaluations of these programs are intended to promote a strong base of programs at the local level, clear policy directly for family support at the state level, and an ongoing capability to indentify cost-effective family support strategies on a national basis.

WHITE HOUSE CONFERENCE

House bill.—The House bill has no comparable provisions.

Senate amendment.—The Senate amendment directs the President to convene a White House Conference on Young Americans in 1992 and authorizes appropriations in the amount of such sums as may be necessary for fiscal year 1992 and 1993.

Conference agreement.—The House recedes with an amendment changing the title heading to read "TITLE IV—WHITE HOUSE CONFERENCE ON CHILDREN, YOUTH, AND FAMILIES" and the short title to the "1993 White House Conference on Children, Youth, and Families". Additionally, the conference agreement adds provisions describing the purpose of the conference and requires that Conference delegates be selected without regard to political affiliation or pass partisan activity.

The conferees changed the short title to emphasize that assistance for children and youth should be approached in the context of their families where possible.

The Conference was postponed to 1993 in order to give the Commissioner and the Secretary an opportunity to develop Administration support, as well as a budget request, for the Conference.

Finally, the conference agreement also authorizes appropriations in the amount of such sums as may be necessary, but does so for fiscal years 1993 and 1994.

HEALTH AND SOCIAL SERVICES FOR STUDENTS ACT OF 1990

House bill.—The House bill has no similar provision.

Senate amendment.—Creates a new program authorizing planning and operating grants to local educational agencies for programs which provide supportive health, mental health, and social services to eligible students and their families at the school site.

Conference agreement.—The Senate recedes.

From the Committee on Education and Labor, for consideration of the House bill, and the Senate amendment and modifications committed to conference:

GUS HAWKINS,
WILLIAM D. FORD,
DALE E. KILDEE,
TOM SAWYER,
JOLENE UNSOELD,
NITA M. LOWEY,
GLENN POSHARD,
BILL GOODLING,
TOM TAUKE,
TOM COLEMAN,
FRED GRANDY,

From the Committee on Energy and Commerce, for consideration of title II of the Senate amendment, and modifications committed to conference

JOHN D. DINGELL,
PHILIP SHARP,
BILLY TAUZIN
TERRY L. BRUCE,
E. TOWNS,
DOUG WALGREN,
SAL SWIFT,
NORMAN F. LENT,
CARLOS J. MOORHEAD,
JACK FIELDS,
Manager on the Part of the House.

EDWARD M. KENNEDY,
CHRISTOPHER J. DODD,
CLAIBORNE PELL,
TOM HARKIN,
BROCK ADAMS,
BARBARA A. MIKULSKI,
JEFF BINGAMAN,
H.M. METZENBAUM,
PAUL SIMON,
DAN COATS,
ORRIN G. HATCH,
NANCY LANDON KASSEBAUM,
JAMES M. JEFFORDS,
STROM THURMOND,
THAD COCHRAN,
DAVID DURENBERGER,
Managers on the Part of the Senate.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 435. An Act to amend the Appalachian Regional Development Act of 1965 to include Columbiana County, Ohio, as part of the Appalachian region;

H.R. 971. An act to require the Federal Communications Commission to prescribe rules to protect consumers from unfair practices in the provision of operator services, and for other purposes;

H.R. 1677. An act to require the Federal Communications Commission to reinstate restrictions on advertising during children's television, to enforce the obligation of broadcasters to meet the educational and informational needs of the child audience, and for other purposes; and

H.R. 2809. An act to provide for the conveyance of certain lands to the State of California, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 3155. An act to extend the expiration date of the Defense Production Act of 1950 to October 20, 1990.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills and a joint resolution of the House of the following title:

On October 4, 1990:

H.R. 3657. An act to amend the Securities Exchange Act of 1934 to strengthen regulatory oversight of the United States securities markets, improve supervision of financial market participants, and improve the safety and efficiency of market mechanisms, and for other purposes;

H.R. 5641. An act to amend title 5, United States Code, with respect to retirement of members of the Capitol Police;

H.R. 5643. An act to grant a temporary extension on the authority under which the Government may accept the voluntary services of private-sector executives; to clarify the status of Federal employees assigned to private-sector positions while participating in an executive exchange program; and for other purposes; and

H.J. Res. 482. Joint resolution designating March 1991 as "Irish-American Heritage Month."

ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 28 minutes p.m.) under its previous order, the House adjourned until tomorrow, Saturday, October 6, 1990, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4009. A letter from the Comptroller General, transmitting a report on the status of budget authority that was proposed for rescission by the President in his seventh special impoundment message for fiscal year 1990, dated June 29, 1990; to the Committee on Appropriations.

4010. A letter from the Administrator, Energy Information Administration, transmitting the second quarter 1990 report on status of U.S. coal imports, pursuant to 42 U.S.C. 7277(a); to the Committee on Energy and Commerce.

4011. A letter from the Secretary, Department of Health and Human Services, transmitting the 1990 annual report on the Indian Health Service [IHS] health facilities construction priority system, pursuant to Public Law 100-713, section 301 (102 Stat. 4813); jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

4012. A letter from the Comptroller General, General Accounting Office, transmitting a report on certification of verification of certain expenses of the President and Vice President during fiscal year 1988 and the period from October 1, 1988, to January 20, 1989, pursuant to 3 U.S.C. 105(d), 106(b); jointly, to the Committees on Government Operations and Post Office and Civil Service.

4013. A letter from the Comptroller General, General Accounting Office, transmitting a report on the financial audit of the Civic Achievement Award Program for fiscal years 1989 and 1988, pursuant to 2 U.S.C. 1003; jointly, to the Committees on House Administration and Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5679. A bill to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act; with an amendment (Rept. 101-803). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5702. A bill to amend the Public Health Service Act to provide for an improvement in the health of members of minority groups, and for other purposes; with amendments (Rept. 101-804). Referred to the Committee of the Whole House on the State of the Union.

Mr. DELLUMS: Committee on the District of Columbia. H.R. 5749. A bill to amend the Act entitled "An Act to incorporate the American University", approved February 24, 1893, to clarify the relationship between the Board of Trustees of the American University and the General Board of Higher Education and Ministry of the United Methodist Church (Rept. 101-805). Referred to the House Calendar.

Mr. DELLUMS: Committee on the District of Columbia. H.R. 4257. A bill to create a supreme court for the District of Columbia, and for other purposes; with amendments (Rept. 101-806). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 495. Resolution providing for the consideration of H.J. Res. 660 a joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes (Rept. 101-807). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3095. A bill to amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of medical devices, and for other purposes; with an amendment (Rept. 101-808). Referred to the Committee of the Whole House on the State of the Union.

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 5708. A bill to authorize acquisition of certain real property for the Library of Congress, and for other purposes (Rept. 101-809). Referred to the Committee of the Whole House on the State of the Union.

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 4463. A bill to authorize the Board of Regents of the Smithsonian Institution to plan, design, construct, and equip space in the East Court of the National Museum of Natural History building, and for other purposes (Rept. 101-810, Pt. 1). Ordered to be printed.

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 5419. A bill to designate the Federal Building at 88 West 100 North in Provo, Utah, as the "J. Will Robinson Federal Building"; with an amendment (Rept. 101-811). Referred to the House Calendar.

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 5595. A bill, to redesignate the Federal building located at 1 Bowling Green in New York, New York, as the "Alexander Hamilton United States Custom House" (Rept. 101-812). Referred to the House Calendar.

Mr. CONYERS: Committee on Government Operations. Report on consumer cost of continued State motor carrier regulation (Rept. 101-813). Referred to the Committee of the Whole House on the State of the Union.

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 4888. A bill to improve navigational safety and to reduce the hazards to navigation resulting from vessel collisions with pipelines in the marine environment, and for other purposes; with an amendment (Rept. 101-814, Pt. 1). Ordered to be printed.

Mrs. BOGGS: Commission on the Bicentenary of the U.S. House of Representatives. Final Report of the Commission on the Bicentenary of the U.S. House of Representatives 1990 (Rept. 101-815). Referred to the House Calendar.

Mr. HAWKINS: Committee of conference. Conference report on H.R. 4151 (Rept. 101-816). Ordered to be printed.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 3977. The amendment recommended by the Committee on Merchant Marine and Fisheries referred to the Committee on Interior and Insular Affairs for a period ending not later than October 6, 1990, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(i), rule X.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. RICHARDSON:

H.R. 5796. A bill to conduct certain studies in the State of New Mexico; to the Committee on Interior and Insular Affairs.

By Mr. GILMAN:

H.R. 5797. A bill to regulate commerce and prohibit unfair or deceptive acts or practices in commerce, and for other purposes; jointly, to the Committee on Energy and Commerce and the Judiciary.

By Mr. HERTEL:

H.R. 5798. A bill to amend the Export Administration Act of 1979 to prohibit the export of refined petroleum products during a period of war or hostilities between the United States and any other country; to the Committee on Foreign Affairs.

By Mr. McDADE:

H.R. 5799. A bill to establish an Office of Youth Entrepreneurship in the Small Business Administration, and for other purposes; to the Committee on Small Business.

By Mr. SENSENBRENNER (for himself, Mr. Stark, Mr. Bliley, Mr. Madigan, Mr. Gilman, Mr. Bereuter, and Mr. Frost):

H.R. 5800. A bill to amend title IX of the Civil Rights Act of 1968 to increase the penalties for violating the fair housing provisions of the act, and for other purposes; to the Committee on the Judiciary.

By Mr. TRAFICANT:

H.R. 5801. A bill to establish the Harriet Taylor Upton National Historic Site in Warren, OH; to the Committee on Interior and Insular Affairs.

By Mr. WHITTEN:

H.J. Res. 664. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes; to the Committee on Appropriations.

By Mr. FALEOMAVAEGA (for himself, Mr. Shumway, Mr. Flake, and Mr. Blaz):

H. Con. Res. 380. Concurrent resolution expressing the sense of the Congress that the people of the Province of Punjab in India should be given the opportunity to determine its political status; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 98: Mr. Edwards of California.

H.R. 201: Mr. Frank, Mr. Mrazek, Mr. Hertel, and Mr. Jontz.

H.R. 222: Mr. Payne of Virginia.

H.R. 690: Mr. Harris.

H.R. 2025: Mr. Mineta and Mr. Shays.

H.R. 2531: Mr. Durbin and Mr. Wilson.

H.R. 2902: Mr. DeWine.

H.R. 2975: Mr. Brooks.

H.R. 3037: Mr. Goss.

H.R. 3243: Mr. McCloskey and Mr. Regula.

H.R. 3283: Ms. Pelosi.

H.R. 3885: Mr. Emerson.

H.R. 3936: Mr. Owens of Utah, Mr. McDade, Mr. Hubbard, Mr. Robinson, and Mr. Smith of Florida.

H.R. 4181: Mr. Dickinson, Mr. Rowland of Georgia, Mr. Hatcher, and Mr. Espy.

H.R. 4258: Mr. Young of Florida.

H.R. 4670: Mr. Dellums.

H.R. 4756: Mr. Clement, Mr. Hamilton, Mr. Sisisky, Mr. Robinson, Mr. Oberstar, Mr. Evans, Mr. Payne of Virginia, Mr. Petri, Mr. Carper, Mr. Rogers, Ms. Long, Mr. Sundquist, Mr. Clinger, Mr. Smith of New Hampshire, Mr. Volkmer, Mr. Bosco, Mr. Emerson, Mr. Perkins, Mr. Davis, and Mr. Hiler.

H.R. 4993: Mr. Ritter, Mr. Madigan, and Mr. Machtley.

H.R. 5028: Mr. Mineta.

H.R. 5097: Mr. Durbin.

H.R. 5142: Mr. Walgren.

H.R. 5145: Mr. Clinger.

H.R. 5189: Mr. McCrery.

H.R. 5202: Mr. Dixon.

H.R. 5351: Mr. Hefley.

H.R. 5361: Mr. Roth.

H.R. 5367: Mr. Solarz.

H.R. 5392: Mr. Matsui.

H.R. 5393: Mr. Matsui.

H.R. 5404: Mr. Sarpalius, Mr. Weber, Mr. Stallings, and Mr. Lancaster.

H.R. 5490: Mr. Vento, Mr. Dixon, and Mr. Lewis of California.

H.R. 5585: Mr. Miller of Washington and Mr. Emerson.

H.R. 5603: Mr. Stark.

H.R. 5616: Mr. Hertel.

H.R. 5652: Mr. Nowak, Mr. Manton, Mr. Burton of Indiana, Mr. Rahall, and Mr. Sisisky.

H.R. 5666: Mr. Evans, Mr. Fish, Mr. Frank, Mr. Frost, Mr. Smith of Florida, and Mr. Weiss.

H.R. 5695: Mr. Hawkins, Mr. Martinez, Mr. Udall, Mr. DeFazio, Mr. Owens of Utah, Mr. Faleomavaega, Mr. Markey, Mr. Murphy, Mr. Stark, Mr. Matsui, Mr. McDermott, Mrs. Boxer, Mr. Lantos, Mr. Panetta, Mr. Beilenson, and Mr. Roybal.

H.R. 5723: Mr. Fascell, Mr. Kolter, Mr. Traficant, Mr. Roe, Mr. Lipinski, and Mr. Oberstar.

H.R. 5758: Mr. Johnson of South Dakota, Mr. Walgren, and Mr. Kolter.

H.R. 5766: Mr. Horton, Mr. Lipinski, Mr. Jontz, Mr. McNulty, Mr. Rohrabacher, Mr. Whittaker, Mr. Rangel, Mr. Skeen, Mr. Guarini, Mr. Miller of Washington, Mr. Hyde, Mr. Paxon, and Ms. Ros-Lehtinen.

H.J. Res. 492: Mr. Huckaby, Mr. Sisisky, Mrs. Byron, Mr. Bateman, Mrs. Lloyd, Mr. Tauzin, Mr. Ortiz, Mr. Fascell, and Mr. Synar.

H.J. Res. 518: Mr. McDade, Mrs. Unsoel Mr. Chapman, and Mr. DeFazio.

H.J. Res. 543: Mrs. Smith of Nebrask Mr. Berman, and Mr. Barton of Texas.

H.J. Res. 566: Mr. Wolpe, Mr. Perkin Mr. Hoagland, Mr. Madigan, Mr. Pric Mrs. Collins, Mr. Ritter, Mr. Lagomarsin Mr. Hochbrueckner, Mr. Vento, and M Guarini.

H.J. Res. 595: Mr. Poshard, Mr. Hough ton, Mr. Lehman of Florida, Mr. Levin o Michigan, Mr. Hall of Ohio, Mr. Leath o Texas, Mrs. Unsoeld, Mr. Upton, Mr. Valen tine, Mr. Wise, Mr. Schiff, Mrs. Saiki, M Slattery, Mr. Stearns, Mr. Staggers, M Sawyer, Mr. Slaughter of New York, M Solomon, Mr. Crockett, Mr. Darden, M Frenzel, Mr. Hubbard, Mr. Wylie, and M Hastert.

H.J. Res. 643: Mr. Stangland, Mr. Oli Mr. Price, Mr. Smith of New Jersey, Mr Boggs, Mr. Durbin, Mr. Schaefer, Mr. Pa netta, Mr. Synar, Mr. Hochbrueckner, M Kasich, Mr. Pallone, and Mr. Craig.

H. Con. Res. 151: Mr. Aspin, Mr. Evan Mr. Kennedy, Mr. Nagle, Mr. Oberstar, an Mr. Traficant.

H. Con. Res. 293: Mr. Tauzin.

H. Con. Res. 331: Mr. Lancaster.

H. Con. Res. 379: Mr. Wolpe and Mr. La Falce.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLU TIONS

Under clause 4 of rule XXII, spon sors were deleted from public bills an resolutions as follows:

H. Con. Res. 293: Mr. Gilman.

SENATE—*Friday, October 5, 1990*

(Legislative day of Tuesday, October 2, 1990)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable RICHARD H. BRYAN, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Call unto me, and I will answer thee, and shew thee great and mighty things, which thou knowest not.—Jeremiah 33:3.

Eternal God, sovereign Lord of history, powerful as the Senators are, they have no power over time—either to hasten or delay. While they struggle, the clock ticks inexorably. Which brings to mind the story of the little boy who, when the hall clock struck "13" ran into his parents' room crying, "Mama! Daddy! It's later than it's ever been before."

It is later than it's ever been before, Lord, and onerous issues with dangerous implications weigh upon Your servants. Time does not stop while they struggle for solution, and resolution eludes them. Mighty God, demonstrate Your presence and Your power at this crucial juncture in national and world affairs. Overcome our indifference to Thee—overrule any hindrance that would blind or deafen us against Your intervention and timely remedy.

We pray in Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 5, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD H. BRYAN, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BRYAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, it is my understanding that the Journal of proceedings has been approved to date.

The ACTING PRESIDENT pro tempore. That is correct.

SCHEDULE

Mr. MITCHELL. Mr. President, for the information of Senators, I will be consulting momentarily with the distinguished Republican leader and other Members of the leadership, and Senator CRANSTON, and then we will be discussing with the House leadership on the best course of action to follow for the day. I will have an announcement shortly.

RESERVATION OF LEADERSHIP TIME

Mr. MITCHELL. In the meantime, I reserve the time of the two leaders, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MONEY LAUNDERING ENFORCEMENT AMENDMENTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that at 9:30 a.m. this morning, the Senate proceed to the consideration of S. 3037, the money laundering enforcement amendments of 1990.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, following the period for morning business then, the Senate will proceed to the consideration of this legislation. It will, of course, then be open for amendment and debate.

In the interim, I will be consulting with the distinguished Republican leader and Members of the House and Senate leadership to determine the most appropriate course of action with respect to the budget and related matters, and I hope to have an announcement in the near future.

I thank my distinguished colleagues. I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

THE BUDGET

Mr. SANFORD. Mr. President, the news this morning is that the House of Representatives rejected the summit budget. There were a great many reasons for rejecting this budget agreement, a great many good reasons for rejecting it, but perhaps the best reason was that it locked us into a 5-year plan.

In that 5-year plan were seeds of disaster, national disaster, because it would permit us to continue a process that allows us to hide part of the problem. For 10 years, we have not told the public the truth; we have covered up the previous debts. We have invented a way to get a lesser figure to claim as our deficit. We have been claiming we were reducing our deficits, when in truth, we have not reduced them in 10 years.

It was the perpetuation of that deceit the summit agreement required, that bothered me, that we were going to continue for 5 more years to cover up the real deficits, the real problem of debt. The problem right now, is not the appropriations that keep basic Government programs running. The problem is the interest we pay on the debt, and that debt has been built up from less than $1 trillion to more than $3 trillion, virtually in secret, without anyone being quite aware. We were not reducing the real deficit, the increase and debt. Each year we have been adding a considerable amount of money to the national debt, generally $200 billion, $250 billion.

This budget agreement claimed that for the next 5 years, we were going to have, what the President grandly called, a deficit reduction program that is going to take $500 billion off of the increase in debt, and it would. But what he failed to say, is that while taking off $500 billion, we would still be adding, by his own figures, $1.2 trillion to the debt. At the end of this grand deficit program, over $1 trillion in accumulated and hidden deficits.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Mr. President, the time is going to come when we cannot handle the interest payments on the national debt. The time is going to come when we cannot sell the bonds to cover the national debt. The day we offer bonds and Japan's investors have something else to do with their money, will make S&L crisis seem like a minor occurrence, because we will then not be able to finance this Nation's debt unless we run interest rates up awfully high.

We are going to find, if the Germans and the Japanese pull out of our markets, that we simply cannot draw the necessary money for interest from investors in the United States; it is not here. At the end of the proposed 5-year plan, the national debt will be $5 trillion. So I think that we did right in starting over.

How did we get in this trouble? By letting the White House get into the summit.

Mr. President, that is no way to build the budget. The President sent over his budget. We took his budget in the Senate Budget Committee, Ways and Means Committee in the House, and worked on it. The Senate Budget Committee reported a pretty good budget in early May, that called for $43 billion in real deficit reduction.

The White House called us back to the drawing board because their budget estimates were wrong. The deficit was much larger than earlier estimated. Unfortunately, past summits have not worked well.

The President's insistence on a capital gains tax reduction, I think, distorted the direction of the summit. It confused the issue. We spent all summer arguing whether or not the President was going to get a tax reduction that would, by and large, benefit the rich. The summit halted regular congressional action on the budget.

I hope now, Mr. President, that we will return to the regular order, as we say in the Senate. I would like to see us return the process to the appropriate committees. I think the Budget Committee in the Senate could come up with a budget for 1 year in short order. I think it would be a budget that the Senate would accept. We could then turn our attention to a multiyear agreement next year.

I think by moving the summit to Andrews Air Force Base and to the White House and away from Congress has taught us a lesson that we should have known. The President should propose a realistic budget, and Congress should act on it.

The power of the White House, the power of the President, could not sell this summit agreement. It should not have been able to.

So I hope we can return to the regular order. I would like to see the Budget Committee meet today and get on with the business of putting together a budget resolution that will meet the needs of the Nation, and which can pass the Congress.

I am sure there are various ways to go. But I believe if we put the Congress back in charge of the business of Congress we would be more likely to succeed.

Mr. President, I thank you and I yield the floor.

THE BUDGET

Mr. LAUTENBERG. Mr. President, the Congress and the White House need to regroup, and put together a budget plan that gets our fiscal house in order. We should do it without delay. And we should do it in a way that is fair to New Jersey, working middle-class Americans, and the elderly.

The need for deficit reduction is apparent to all. It is urgent and it is critical. We simply must do something to get control of our country's debt and our Nation's future. And we must do it soon.

I am committed to reducing our deficit and I have supported proposals to do so. Just this year, we in the Senate Budget Committee developed a budget resolution that would have reduced the deficit by about $54 billion. That is 25 percent more than called for in the summit agreement for 1991.

Reducing the deficit is simply vital. But it is equally important that we do so in a forward-thinking, growth-promoting, and fair manner. As serious a sickness as the deficit is, we should not accept a treatment that makes other societal problems even worse.

The budget summit agreement rejected last night in the House was the wrong cure. It was a bad plan for New Jersey. And it deserved to be considered seriously by the Congress, not rushed through without an opportunity for thorough consideration, modifications, and input from the public.

But before I discuss that plan in more detail, I want to commend the majority leader and the other participants in the budget summit for their work. They have put in long, difficult days and have demonstrated real political courage. They deserve much credit and many thanks for their efforts.

Mr. President, as we move forward now to develop an alternative approach to deficit reduction, I think it would be worthwhile to lay out some of the flaws in the summit package so that we can begin to make the necessary corrections.

From my perspective, the bottom line about this agreement was its lack of fairness. It was unfair to my State of New Jersey, to middle class, working Americans, to the elderly, and t
the future of our country.

Mr. President, the people of Ne
Jersey are not less willing than other
to contribute their share to a fair an
reasonable deficit reduction package
We know it is time to bite the bullet
But we do not want to have to tak
the leftovers.

This deficit reduction package, Mr
President, was simply not fair to Ne
Jersey. For starters, the new taxes i
proposed would have fallen disproportionately on New Jerseyans. In fact
according to a report by the Ta
Foundation, New Jersey would hav
been hit harder than all States bu
two. That report found that the average New Jersey family of five woul
have paid another $550.40 each yea
under this agreement. That is 25 percent more than the national average.

Mr. President, the people of Ne
Jersey are presently adjusting to a significant change in the State tax structure. Our economy is struggling
Working New Jerseyans are har
pressed to pay their mortgages
Pressed to save for their children'
education. Pressed to keep their head
above water.

Under these circumstances, no responsible elected official would hav
supported an agreement that woul
have placed a disproportionate shar
of the tax burden on New Jersey. No
would it have been right to support a
agreement that hits average, middl
class people harder than the wealthiest of Americans.

Mr. President, working, middle-clas
Americans have suffered under an increasingly regressive tax system fo
too long. Over the past decade, much
of the burden of paying taxes ha
been shifted—from the rich to th
middle class. It is an outrageous development with dramatic effects.

According to one recent study, th
wealthiest 1 percent of the population—those with incomes of $549,00
each—will pay an average of $82,19
less in Federal tax this year compare
to what they would have paid unde
the tax system in effect before 1978
That works out to a 36-percent ta
cut. Meanwhile, Mr. President, 9 ou
of 10 other Americans have had thei
taxes increased.

The cost of the huge tax breaks fo
the wealthy, Mr. President are enormous. Just in 1990, the breaks given t
the top 1 percent of the populatio
have cost the Treasury nearly $85 billion.

Think about that, Mr. President
The budget summit agreemen
claimed to achieve $40 billion in defici
reduction in the first year; $40 billio
through things like higher taxes o
heating oil. Higher taxes on gas. Dee
cuts in Medicare for our elderly.

Yet if instead we treated the riches
of the rich the same as they wer

treated about 13 years ago, we reportedly could reduce the deficit more than twice as much as this agreement provides.

Mr. President, I am not advocating a return to the exact tax policies of 13 years ago. But I think these statistics show that the Reagan tax cuts left us with a legacy of inequity. And the summit agreement would only make matters worse.

In addition to proposing additional taxes on the middle class, Mr. President, the agreement could have opened up needless loopholes in the Tax Code. The administration said its proposals would help stimulate investment in emerging small businesses, a goal I support. But, according to many experts, the proposals would lead to significant abuses. Instead of stimulating economic growth, we could have seen a proliferation of companies designed only to provide investors with up-front deductions. The only winners in such arrangements would be wealthy investors, lawyers, accountants, and syndicators.

I was also concerned about tax breaks in the agreement that were provided to a handful of special interests. While average Americans would have paid more for their gas, the oil and gas industry actually would have received a tax break. There is also an unspecified tax break for the ethanol industry.

But, Mr. President, while these favored interests would have received special tax treatment, the agreement failed to extend existing tax provisions that benefit the middle class. In particular, I would highlight the Mortgage Revenue Bond Program, which helps moderate-income people achieve the American dream of homeownership. Mr. President, how could we in good conscience have been expected to give a tax break to the oil and gas industry with one hand, and with the other hand take away a tax provision that provides homeownership opportunities to ordinary Americans?

Mr. President, I was also particularly concerned about the Medicare cuts that have been proposed in the summit agreement. We have been swinging the budget ax at Medicare for years. And if we had approved the kind of cuts called for in this agreement, it is our senior citizens who would have been bloodied.

A $60 billion cut in Medicare, Mr. President, is a very deep cut. It could have had a severe impact on New Jersey's hospitals, which are already strained to the breaking point. And it threatened to place significant new burdens on those people who happen to be both elderly and sick.

Mr. President, it does not make sense to target these people for such deep cuts. Many of them are already struggling. Millions live week to week, on fixed incomes, with little or no financial security.

So, Mr. President, this agreement was unfair to New Jersey. Unfair to working, middle class Americans. And unfair to senior citizens.

It was also unfair to the future of this country.

Mr. President, while the tax burdens has been shifted from the rich to the middle class over the past decade, there has been another important shift. We have taken enormous resources away from initiatives designed to help Americans here at home. And shifted piles of money to the Pentagon.

Let us get a little perspective, Mr. President. In 1980, at the heart of the cold war, soon after the Soviet Union had invaded Afghanistan, this country spent a total of $134 billion on defense.

Under this agreement, not even including the costs of Operation Desert Shield, defense spending would have been locked in for 1991 at $298 billion. Then, on top of that, add another $11.5 billion for our operations in the Middle East.

So we would have gone from $134 billion to almost $310 billion in just 10 years. Mr. President, even taking inflation into account, that is an enormous increase.

But while spending on the Pentagon has exploded, what has happened to those programs that are designed to help Americans here at home?

Well, from 1980 to 1989, nondefense discretionary spending was cut from 24 percent to 16 percent of the budget. We have seen real cuts in education, in housing, in community development. We've failed to maintain our physical infrastructure, and we continue to neglect the needs of America's infants and children.

In a nutshell, Mr. President, we have underinvested in this Nation's future. Because we have been putting our money into the Pentagon.

That has to change. The American people know that. And the Democrats in Congress know that.

But for some reason, this administration has wanted to freeze these skewed priorities into place. And that is what this agreement would have done. While cutting defense a modest amount, it would have placed virtually insurmountable procedural obstacles on future efforts to shift priorities from defense to domestic programs. That, Mr. President, was unacceptable.

Mr. President, despite all its flaws, some said that Congress had no choice but to accept the summit agreement. The President told the Congress that the agreement could not be amended. Take it or leave it, he said. It cannot be improved. And if you try, I will veto it.

I simply reject that approach, Mr. President. The American people do not send their Senators to Washington to be walking, talking rubber stamps. If we thought this agreement could be improved, it was our job to try. In fact, Mr. President, it was our duty.

So let me sum up.

We had a budget agreement that was unfair to New Jersey. That hurt working, middle class Americans and the elderly disproportionately. That continued overfunding of the Pentagon and underinvesting in America's future. And that locked all this into concrete for several years.

Mr. President, that is why I would have opposed this agreement had it reached the Senate. And it is why we have to go back to the drawing board and come up with something better.

VA-HUD-INDEPENDENT AGENCIES APPROPRIATIONS BILL

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 5158, the VA-HUD-independent appropriations bill and has found that the bill is under its 302(b) budget authority allocation by less than $50 million and under its 302(b) outlay allocation by less than $50 million.

I compliment the distinguished manager of the bill, Senator Mikulski, and the distinguished ranking member of the VA-HUD-Independent Agencies Subcommittee, Senator Garn, on all of their hard work to bring this bill to this point in the process.

Mr. President, I have a table from the Budget Committee showing the official scoring of the VA-HUD-independent agencies appropriations bill and I ask unanimous consent that it be printed in the Record at this point.

There being no objection, the table was ordered to be printed in the Record, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 5158—VA-HUD-INDEPENDENT AGENCIES SUBCOMMITTEE—SPENDING TOTALS (SENATE REPORTED)

[In billions of dollars]

	Fiscal year 1991	
	Budget authority	Outlays
302(B) Bill Summary		
H.R. 5158, Senate reported, (new budget authority and outlays)	78.6	40.6
Enacted to date	0.0	37.9
Adjustment to conform mandatory programs to resolution assumptions	0.3	0.5
Scorekeeping adjustments	0.0	0.0
Bill total	78.9	78.9
Senate 302(b) allocation	78.9	78.9
Difference	−(*)	−(*)
Bill total above (+) or below (−):		
President's request	3.0	−0.9
House-passed bill	−1.7	−0.3
House 302(b) allocation	−2.0	−0.5
Programmatic baseline	4.0	0.6

MONEY LAUNDERING ENFORCEMENT AMENDMENTS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of S. 3037, which the clerk will report.

The legislative clerk proceeded to call the roll.

The legislative clerk read as follows:

A bill (S. 3037) to authorize Federal depository institution regulatory agencies to revoke charters, terminate deposit insurance, and remove or suspend officers and directors of depository institutions involved in money laundering or monetary transaction reporting offenses, to amend chapter 53 of title 31, United States Code, to require the Secretary of the Treasury to issue regulations concerning the identification of nonbank financial institutions subject to the Bank Secrecy Act, to prohibit illegal money transmitting businesses, to provide for the standardization of advertised yields on savings accounts and investments, to require the uniform disclosure of the key costs of such accounts and investments, and for other purposes.

The Senate proceeded to consider the bill.

Mr. KERRY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts [Mr. Kerry] is recognized.

Mr. KERRY. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KERRY. Mr. President, this is the fourth day that we have been on this bill. We are now on the bill. It is open to amendment. At no time in the last 4 days has more than one amendment appeared. That one amendment, Mr. President, is not an amendment that is germane to the issue of money laundering, or to the other titles of this bill.

The fact is this is a bill that does not have opposition. It is a bill that passed unanimously in the House of Representatives, unanimously in the Banking Committee, and it ought to pass unanimously in the U.S. Senate if the Senate is serious about dealing with money laundering, drug laundering, other titles that are represented in the bill.

This Senator is certain that there is more going on here in a 3½, 4-day process of losing the Senate's time than mere opposition to the bill, seeing as opposition has never appeared until this point in time.

What is really happening is that there are people on the other side of the aisle who, regrettably, are using this in the context of the 1990 elections, and they are unwilling to see this piece of legislation pass for fear that it might somehow advantage Senators involved in it. I think that is really tragic. We always talk about trying to do the Nation's business and trying to proceed here as expeditiously as possible, and be serious.

This is the kind of thing that can come back to haunt people on the other side, too. There is not one piece of legislation here that does not have somebody's name on it or has not involved someone at some point in time. If everybody is going to start second guessing strategies about campaigns and things, and bring it to the floor every minute, it seems to me that the people lose. And the people are tired of losing, Mr. President. They are really tired of losing because of these kinds of petty antics.

This bill is open to amendment. There is no amendment pending on the Democratic side at this moment. We are ready to vote. We are ready to vote. We have been here for 4 days ready to vote. We are ready to vote now.

So, Mr. President, I hope we can proceed to that vote as expeditiously as possible. I hope anybody who does have an amendment will take advantage of that now. The clock is running. We are here. Nobody has filed cloture or anything in order to give people the opportunity to have a fair shake at it. But I do want to serve notice that the majority leader is obviously prepared to file cloture if people are not going to appear, and they are not going to debate and simply are going to let the clock run.

I hope at that time they will not then come to the floor with arguments, "Well, you did not give us a chance; you never let us debate it; you did not give us an opportunity to bring an amendment." For 4 days now there has been that opportunity. We are here, and we are prepared to vote.

Mr. GARN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Utah [Mr. Garn] is recognized.

Mr. GARN Mr. President, may I just echo Senator Kerry's remarks. This is getting to the point of being ridiculous. The American people ought to be very disgusted with Congress; not just on this bill. They deserve a great deal more than they are getting from their elected representatives.

Today is October 5, the scheduled adjournment date for the 101st Congress. After 9 months in office what have we done? Nothing; absolutely nothing. It becomes embarrassing to go out and talk to the people. We have not gotten a budget. There has been partisan bickering back and forth. There ought to come a time when the partisanship ends, and when we do the Nation's business and go home.

The Founding Fathers did not intend that we stay in session from January until December every year. I think they expected that we might live and work with the people who elected us to represent them. That means Senator Kerry in Massachusetts, Senator Garn in Utah, actually should be with the people we are supposed to represent, listening to them, finding out how they think, and coming back here representing their will.

But no, we reside inside the capital beltway all year long. We lost touch with reality. There is no reality in this town.

I did not like that budget last night, either. But it is an irresponsible thing to reject it. We are going to have air controllers off on Monday.

I hear people talking about how it was only a $500 billion reduction in the deficit and we still have $1 trillion left. Of course, do those people have a plan for the other $1 trillion? If you cannot pass this one, do they think they can raise taxes enough and cut expenditures enough to take another $1 trillion out?

The rhetoric on both this floor and the House floor is so disgusting the American people ought to rise up and toss every incumbent out until we start doing our work.

So then we have a money laundering bill on the floor for 4 days which nobody disagrees with. I am, frankly, tired of sitting out here on the floor for the fourth day in a row disrupting my schedule—I have important things that I could do—with nobody coming over here; not doing any work at all. We should close the place down. We are not doing anything.

This Senator has had a belly full of it, to put it bluntly. If somebody does not want to offer an amendment, let us move it; let us go to third reading, and see if that will get them out of their Cloakroom.

I yield the floor.

Mr. KERRY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I want to thank the distinguished Senator from Utah for his comments. He has very patiently been out here and very patiently been working with me to try to deal with each of the amendment problems that arose along the way.

Originally, we had an agreement with respect to this bill, that if the bill had no amendments, we would pass it. In keeping with the spirit of that, I went to the Members on my side.

The good Senator from Illinois, Senator Dixon, had an amendment about fair lending. He cares about that a great deal. Minorities in this country are being discriminated against by an extraordinary ratio in the lending practices of certain banks. Senator Dixon cares about that very deeply. He was prepared to bring that amendment on this bill.

The Senator from Ohio, Senator Metzenbaum, had a check cashing amendment that he cares about very, very deeply. We have debated that issue on the floor before. There are a lot of citizens in the United States who do not even have bank accounts; they do not have that kind of money. They cannot cash their checks. When they go somewhere to cash a check, they are hit with usurious interest rates or a fee or a charge for the purpose of cashing that check.

And the question is whether or not banks should cash their checks at the rate that checks are cashed for other people. Senator Metzenbaum wanted to bring that amendment to the floor.

Senator Biden had some additional amendments he wanted to bring to the floor. We went to each of them, and each of them backed off in the interest of moving legislation on the floor of the U.S. Senate. Each of them withheld their personal agenda in an effort to try to get this bill, which is not controversial, through the Senate.

Senator Garn, likewise, went from Senator to Senator, but, boy, we found that was a moving target. One Senator, who we had received word had an objection, I called personally, and he did not even know about the objection. So they kept rising out of the shadows.

Here we are, 4 days later, ready to vote, ready to vote, after taking 4 days on a noncontroversial piece of legislation. I join my colleague from Utah in voicing a frustration. If we cannot move a noncontroversial piece of legislation, it is no wonder the American people are wondering whether or not we can move something as controversial as the budget. That has been an extraordinary process in and of itself.

Mr. President, we are ready to proceed, and we are ready to vote. There is no amendment that has yet appeared. As the Senator from Utah said, we are prepared to go to third reading and have a vote. But we will, obviously, in keeping with the manner with which we work with our leadership, wait until such time as that has been declared appropriate to us. But we certainly invite those who have amendments to come to the floor now, and to help us do the business with respect to that.

THE BOSTON RED SOX

Mr. KERRY. Mr. President, I want to take some time to say a word about something positive that happened in a State where things have been very difficult lately.

As many people know, Massachusetts is hurting economically. We have had people laid off from countless companies. Banks and the economy has taken a tailspin over the course of the last year and a half. In the midst of all of that, Mr. President, we have a no-quit baseball team. That has made a lot of people feel pretty good, I must say. It really has.

Maybe as we wrestle with the challenge of this budget, as we go through these next painful days, it might be possible to even take example from the Boston Red Sox, from their hanging in at the last moment.

I think that those who watched and take an interest in America's sport, which we know is most people, watched one of the greatest clutch catches that I have seen since Dwight Evans robbed Joe Morgan in the 1975 World Series. We saw a team which kept coming back, even though everybody said they did not have it and did not have a chance.

I think Tom Brunansky's extraordinary catch lifted the hearts of Red Sox fans and people all over New England. I can tell you that from the Berkshires to Cape Cod, from one end of the State to the other, Red Sox fans have been happy to be able to cheer for Roger Clemens and for our own Jeff Riordan from Dalton, MA, and Mike Bodicker, who won the game the other night.

We are particularly proud of Joe Morgan's magic. He said, "It is not magic; it is fundamental and hard work." Perhaps we can use a little of that touch down here over the course of the next few days.

Obviously, they face an awesome team. Most people in the country do not give them many odds to be able to beat the Oakland Athletics. But it is my sense that that special spirit that has carried them thus far is a spirit that can yet persevere.

Perhaps all of us in the Senate here ought to take a little lesson from what the Red Sox have been able to accomplish over the course of this year.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MONEY LAUNDERING ENFORCEMENT AMENDMENTS

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2933

Mr. KERRY. Mr. President, on behalf of myself and Senator Garn, as the managers of the bill, I send to the desk a series of amendments that are the managers' amendments which have been worked out with all parties and agreed upon.

One is a fair trade in financial services amendment which was adopted unanimously in the Senate on Wednesday in the Defense Production Act. The next is a fair lending amendment which was passed by the Senate Banking Committee. The third is an expedited funds availability amendment which adds emergency temporary suspension authority for the Federal Reserve. The fourth is a Truth in Savings Act. The fifth is an extension of the deadline for issuance by the Treasury of the Department's final regulation on funds transfers. The sixth is a series of amendments on money laundering passed in the crime bill previously.

I send those to the desk and ask for their immediate consideration.

The ACTING PRESIDENT pro tempore. Is it the request of the floor managers to have the amendment considered en bloc?

Mr. KERRY. It is indeed. I ask unanimous consent that all these amendments be considered en bloc, and I ask unanimous consent the motions to reconsider and motions to table be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Massachusetts [Mr. Kerry], for himself and Mr. Garn, proposes an amendment numbered 2933.

Mr. KERRY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The text of the amendment is printed in today's Record under "Amendments Submitted.")

Mr. KERRY. Mr. President, we are in agreement on this and we are prepared to vote.

Mr. GARN. The minority has no objection.

Mr. RIEGLE. Mr. President, the managers' amendment includes the Fair Trade in Financial Services Act, the Fair Lending Enforcement Act of 1990, and consensus amendments to the money laundering and consumer provisions of S. 3037.

The amendment incorporates in full the provisions of S. 2028, the Fair Trade in Financial Services Act, which was reported by the Banking Committee with broad bipartisan support on May 24, 1990. These provisions, which amend the International Banking Act of 1978, the Securities Exchange Act of 1934, and the Investment Advisers Act of 1940, are designed to give Department of Treasury officials new leverage in their negotiations to obtain competitive access to foreign banking

and securities markets such as those in Japan.

The managers' amendment also includes the Fair Lending Enforcement Act of 1990, S. 3049, which was reported by the Banking Committee. The Fair Lending Enforcement Act of 1990 is designed to improve enforcement of mortgage antidiscrimination—fair lending—laws. I want to commend Senators Dixon and Bond for their work on this bill.

Specifically, the legislation requires depository institution regulatory agencies to establish separate consumer compliance programs with specially trained examiners to ensure compliance with all consumer protection laws. It requires regulatory agencies to refer to the Attorney General any cases where there is reason to believe a pattern or practice of violations of the Equal Credit Opportunity Act has occurred. Individual cases of suspected discrimination involving real estate would be referred to HUD. S. 3049 corrects a drafting error in a recent amendment to the Home Mortgage Disclosure Act in order to take mortgage bankers out of the $10,000,000 exemption and require the Federal Reserve Board, in consultation with HUD, to establish a comparable exemption for low-asset mortgage bankers. Finally, the legislation requires lenders to provide loan applicants with copies of their appraisals, to help determine if loans are being denied because properties are underappraised.

The managers' amendment includes most of the money laundering provisions from S. 1970, Senator Biden's crime bill. These provisions would strengthen and improve the operation of the money laundering statutes and should be included in S. 3037. Several of the amendments are purely technical amendments. The managers did not include the provision from S. 1970 which would create a safe harbor for depository institutions from civil suits. Members of the Banking Committee considered safe harbor proposals, but instead decided during the committee's consideration of S. 3037 to include a provision offered by Senator Kerry which would address prosecutorial policies. The managers do not believe the two approaches are compatible and therefore did not include the safe harbor in this amendment.

The managers' amendment contains consensus amendments to title III of the bill. These amendments include an amendment to the expedited funds availability provisions which grants the authority to the Board of Governors of the Federal Reserve to suspend the availability schedule for checks if the Board finds a pattern of significantly increased losses at depository institutions that are attributable to the schedule and suspension of the schedule is necessary to diminish the volume of such losses. The Board would be permitted to suspend the schedule only for 60 legislative days or less and would be required to report the reasons for the suspension to Congress. Depository institutions' customers would be notified of the suspension. The GAO is required to report to Congress on the implementation of the permanent schedule under the Expedited Funds Availability Act. The amendment includes one minor change in the Truth in Savings portion of the bill to permit disclosure of basic terms to existing customers in the next regularly scheduled mailing rather than by a separate mailing.

Finally, the managers' amendment extends the deadline for issuance by the Treasury Department of the wire transfer regulations required in title II, the money laundering provisions of S. 3037. The Banking Committee agreed to a January 1, 1990, deadline. Assistant Secretary of the Treasury for Enforcement Peter Nunez testified before the committee in May that the Treasury Department expected to issue proposed regulations in July. Those proposed regulations have not yet been issued, but are expected to be issued some time this week. Therefore, in order to permit the banking agencies and the financial industry to review the proposal and prepare comments, the managers' amendment extends the deadline for the issuance of final regulations by 3 months, from January 1 to April 1, 1991.

I urge my colleagues to support these provisions.

The ACTING PRESIDENT pro tempore. There being no further debate, the question is on agreeing to the amendments submitted en bloc.

The amendment (No. 2933) was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KERRY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KERRY. Mr. President, we have now been here for about an hour and 10 minutes on the bill. The managers have adopted the managers' amendment.

There is no further business yet, although we are told there may be lurking, somewhere out there, one or two amendments.

I want to repeat, we are prepared to proceed. We would like to go to third reading. We are prepared to go to third reading.

If any Senator has an amendment, if the Senator wants to come down in the next 10 minutes or so we are obviously prepared to move forward on amendments. This bill is ready to be voted on. On the Democratic side there are no amendments whatsoever. We are prepared to proceed.

I do not know if the Senator from Utah knows specifically of somebody coming momentarily but I know he is anxious to vote on this.

Mr. GARN. There has been somebody coming momentarily for 4 days.

Mr. KERRY. Well, maybe we can redefine "momentarily" here on the floor of the Senate momentarily.

Mr. President, again I say we are prepared to go to third reading. I do not know if anybody has an amendment but I suggest we confere with our leaders and see what the possibilities are.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I ask unanimous consent to proceed as in morning business for 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

BUDGET OPTIONS

Mr. NICKLES. Mr. President, there is a lot of discussion on the budget. I know my colleagues and others will be meeting shortly to talk about our options; how we can get out of the dilemma we are in; what should be contained in the continuing resolution. I, for one, will mention my preference would be that the continuing resolution, which we need to pass and pass today, would have spending levels not to exceed the spending levels that are in 1990; in other words, no increases; no increases in any of the appropriations levels over this year. That includes discretionary and mandatory.

I am afraid in the appropriations process—and I am on that committee—that we have allowed over the years and maybe through the budget process, whatever, but we have allowed a great percentage of the appropriations to be called mandatory. So the appropriators have very little control—only $212 billion out of the total Federal spending of $1.3 trillion. I think that is a mistake.

Again, I urge my colleagues, and I will urge my colleagues, to set the 1991

CR levels at levels not to exceed the appropriated levels for 1990. I think that way at least we will have some savings, one might say, from anticipated spending levels while we are working on further resolutions of this budget dilemma.

I might mention also, Mr. President, that I have heard a lot of discussion over the fact we are paying the price of the changes that were made in the Tax Code back in 1981, or maybe since then. When I hear my colleagues say that, I continually get the feeling that they think we are undertaxed.

Mr. President, taxes have risen dramatically since 1980. Unfortunately, so has spending. The spending level in 1980 was $590 billion. In 1990, spending will be more than double that amount. This year, just concluded, 1990, we will spend $1.262 trillion, $1,262 billion, well over double what we spent in 1980.

Revenues, interestingly enough, in 1980, were $517 billion; revenues in 1990 are $1.044 trillion, or $1,044 billion. In other words, revenues have more than doubled in the last 10 years. The problem is that spending has grown even faster. Spending has more than doubled in the last 10 years and, therefore, the deficit has widened even further. Revenues have been compounding, have been growing rapidly. If you look at the revenue growth, we have many years in the double digit figures.

Unfortunately, we have more years in the double digit figures on the expenditure side. Expenditures have been growing at rates well in excess of inflation, and that is our problem. The problem is that we are not undertaxed. The problem is that we have overspent. Spending today is 12.8 percent above last year. Revenues are 4.2 percent above last year. In other words, revenues may be keeping up with inflation this year.

The economy is a lot slower this year than in previous years, but the problem is expenditures are about three times the rate of inflation this year. And so, again, for my colleagues who say the problem goes back to 1980 and we cut taxes too much in 1981, I disagree. I think revenues have been growing and growing very rapidly. The problem is spending has been growing much more rapidly.

Again, to take some of the steps to help dig ourselves out of the fiscal dilemma that we are in, I would encourage, one, the level of CR not exceed the level of spending we had last year; that is, a freeze on the appropriated accounts until we resolve our fiscal problem. Maybe it will be 1 week; maybe it will be 2 weeks; maybe it will be in a lameduck session. I do not know. At least it will give us an incentive not to go at the higher levels.

We have worked on several appropriations bills that are compounding at 10, 11, 12, 13, 14, 15, 16 percent increased over last year's level. I do not think it would be right for us in the CR to reward ourselves by allowing those higher amounts to go into effect during the CR. I think during the period of the CR, we should really be fiscally prudent, and the first step in that regard, Mr. President, I believe would have the CR funded at last year's levels.

One additional comment, Mr. President, if we are considering various options. That would be to reduce somewhat the size of the sequester. Maybe we can say the size of the sequester will begin anywhere from $85 billion to $100 billion. The budget package that was taken before the House and defeated last night would have reduced the deficit by about $40 billion next year. We could reduce the amount of the sequester from 85 to 40, and so you would have a $40 billion deficit reduction package in the sequester.

How long will that last? If the sequester lasted a month, until we passed our budget, it would last a month. So what? If it lasts a month, what is that reduction? It is a reduction of about $3 billion. I do not think it will hurt anybody. Sure, there will be inconvenience, but we can eliminate a lot of the inconvenience if we gave the administration flexibility in managing that sequester so we would not have to shut down the air traffic control towers, so we would not have to shut down a lot of vital public services in administering that sequester. I think we can handle that if we give the administration some flexibility. And I would hope that we do so.

I do not think it is necessary for us to maximize the pain on our constituents in order for us to get our fiscal house in order. I do not think it is necessary for us to furlough thousands of employees for us to get our fiscal house in order. So let us have a sequester of, say, $40 billion and let us give the administration some flexibility in managing that reduction, and surely that is the least we can do.

The net result there will be, too, we are making our targets. Maybe the sequester would last all year, but I doubt it. My guess is many of us in Congress would come together and pass a responsible budget package. If not, I think we can live with it. If not, I think we can continue spending on appropriate levels equal to the levels we appropriated last year.

Again, Mr. President, I think those will be giant steps in the right direction. It would help get us out of the fiscal impasse that we find ourselves in now.

Mr. President, I ask unanimous consent to print in the RECORD a chart entitled "Historical Budget Data."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HISTORICAL BUDGET DATA—1970 to 1990 PLUS 1991 OPTIONS

[In millions of dollars.]

Year	Total outlays	Percent	Total receipts	Percent	Federal deficit	Percent
1970	$195,649	NA	$192,807	NA	$2,842	NA
1971	$210,172	7.4	187,139	−3	23,033	710
1972	$230,681	9.8	207,309	11	23,373	1
1973	$245,707	6.5	230,799	11	14,908	−36
1974	$269,359	9.6	263,244	14	6,135	−59
1975	$332,332	23.4	279,090	6	53,242	768
1976	$371,779	11.9	298,060	7	73,719	38
1977	$409,203	10.1	355,559	19	53,644	−27
1978	$458,729	12.1	399,561	12	59,168	10
1979	$503,464	9.8	463,302	16	40,162	−32
1980	$590,920	17.4	517,112	12	73,808	84
1981	$678,209	14.8	599,272	16	78,936	7
1982	$745,706	10.0	617,766	3	127,940	62
1983	$808,327	8.4	600,562	−3	207,764	62
1984	$851,781	5.4	666,457	11	185,324	−11
1985	$946,316	11.1	734,057	10	212,260	15
1986	$990,258	4.6	769,091	5	221,167	4
1987	$1,003,830	1.4	854,143	11	149,687	−32
1988	$1,064,044	6.0	908,954	6	155,090	4
1989	$1,142,900	7.4	990,800	9	152,100	−2
1990	$1,262,500	10.5	1,044,000	5	218,500	44

Mr. NICKLES. Mr. President, I yield the floor.

ORDER OF PROCEDURE

Mr. KERRY. Mr. President, on behalf of the majority leader, I ask unanimous consent that Senator CONRAD be recognized for a period of 10 minutes, and that Senator SYMMS be recognized, following the remarks of Senator CONRAD, for a period of 10 minutes, and following the remarks of Senator SYMMS the Senate stand in recess until the hour of 12 noon today.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and the request of the Senator from Massachusetts is agreed to. The Senator from North Dakota is recognized.

Mr. CONRAD. I thank the Chair and the manager of the bill, the distinguished Senator from Massachusetts, for this time.

THE BUDGET

Mr. CONRAD. Mr. President, we all know now that the budget agreement failed last night in the House of Representatives. There is a lot of gnashing of teeth, a lot of concern about the Government closing down, a lot of people who said last night in the debate, "If you do not take this package, it is all over."

Mr. President, that is not the case. That need not happen. There is an opportunity now to do the job of deficit reduction and to do it right. I call on my colleagues, I call on our leadership, and I call on the President to take this opportunity. Let us do it right.

Let us first have a continuing resolution that continues the vital operations of Government, and then let us take the time to write a deficit reduction proposal that is fair and that can pass. Let us not write it behind closed

doors in a smoke-filled room. Let us write it on the floor of the Senate and on the floor of the House where the people of the United States can watch and see what it is we are doing. Let us do it the old-fashioned way. Let us do it the way the Constitution thought we would do it. Let us do it in the open.

Those who want to argue for the rich, let them do it on the floor of the Senate. Those who want to wipe out the farm program, let them do it on the floor of the Senate so the people can see. Those who want to stick it to the elderly sick, let them do it on the floor of the Senate. Those who want to do it to a region of this country, let them try to do it in the open where people can see and hear and then hold them accountable.

Mr. President, I think first we have to analyze why that package failed last night. I believe it failed because it was fundamentally unfair. That package which was put together at Andrews Air Force Base in a closed room with eight people meeting around a table was not fair. We can do better than that. I am confident that if we work together, Republican and Democrat, in the open air, for all to see, we will do better.

Let us write a package that does not stick it to the middle income, because that is what the package did that failed last night. Their taxes went up at twice the rate of the rich. That is not fair, and everyone knows it. That is a key reason why the package was rejected last night. That package had loopholes for the rich big enough to drive a Mack Truck through. We can do better than that and we will do better than that if we do it on the floor of the Senate.

Mr. President, let us write a package that does not stick it to the elderly sick. That is what the package did that was attempted to be sold last night. More than half of the cuts came out of the hides of the elderly sick.

Let us write a package that does not stick it to the farmers in this country. I was intrigued to see the quote of U.S. Secretary of Agriculture Clayton Yeutter. He said, "farmers are willing to take their fair share of the cuts, but they want to be assured that it is a fair share."

That package was not a fair share for the farmers of this country. They took by far the biggest hit proportionately of any group of this country, a 24-percent cut. The next biggest, defense and Medicare, took about a 9- to 10-percent cut. But even more than that, agriculture came off a different base because the others had inflation calculated in before their cuts occurred. Not agriculture. Agriculture has their spending held flat—target prices held even for 5 years. So not only were they cut 24 percent, but they had nearly a 20-percent loss because inflation had not been figured in. The real net effect was to cut agriculture 41 percent. That is not fair. That is not going to pass this Chamber with my vote. I can tell you it is not going to pass this Chamber with the votes of others who are in the farm bloc either.

We are willing to take our fair share, but let us remember agriculture has been cut 60 percent since 1986. Let us remember that it is held flat, no inflationary increase in those target prices for the next 5 years. We have already taken a dramatic hit and a dramatic cut. Frankly, agriculture, rural America, cannot stand much more.

Let us write a package that does not stick it to any region of the country. I was interested that Mr. Darman said, "It hasn't been designed"—referring to the package—"to try to equalize by region."

Further quoting Mr. Darman, he said, "It is also not, in my opinion, something that discriminates by region in a way that's especially preferential to one or unfavorable to another."

Mr. President, we did an analysis of this package. We looked at the major spending cuts, the major revenue items, and then we prepared a table and looked at the effect on States. Do you know what we found? We found that the State that was hurt the very most was my State, North Dakota. No. 2 was South Dakota. No. 3 was Nebraska. No. 4 was Iowa. No. 5 was Montana.

It sounds like a region of the country to me, Mr. President. It sounds like my region of the country, the very region of the country that has been devastated by drought, that is now beset by dramatic cuts in commodity prices.

The price of a bushel of wheat, as I have informed my colleagues, in the last 60 days has dropped from $3.50 a bushel to $2. That very region of the country that is in the deepest trouble, been hit the hardest, was now being told, "We are going to hit you again."

Mr. President, that is not fair. We can do better than that.

Let us write a package that does not keep paying the bills for Europe and Japan. We are spending over $100 billion a year paying the military bills for Europe. They are well able to pay their own bills. We are spending nearly $50 billion a year paying the bills for Japan. They can pay their own bills. We are over there paying their bills and we cannot even pay our own. We cannot even pay our own, and we are running out seeing whose bills we can pick up. That does not make any sense.

In this package that was advertised to cut the military spending by $170 billion over the next 5 years, it sounds like a big number.

Let me share with the American people what it would take in terms of a cut just to get back to the cold war average level of defense spending in this country. The cold war average would require a cut of $250 billion over the next 5 years, not $170 billion like was in this package, not $200 billion, but $250 billion just to get back to the cold war average.

Mr. President, the Warsaw Pact has collapsed. West Germany just announced they are going to be spending $8 billion over the next 4 years to keep the Soviet troops in East Germany. Now, we are going to be spending $100 billion a year to protect the Western Europeans from the Soviet troops they are paying to stay in East Germany.

We can do better, Mr. President. We have the opportunity now to do it.

Every time there is a dark cloud there is sunshine behind that cloud. As we meet today, there is a dark cloud called sequester. But we can help that cloud blow away and see the bright sunshine of this Congress and this President working together to fashion a budget package that reduces that deficit and despair.

That is our opportunity. Let us take advantage of it.

I thank the Chair.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Idaho [Mr. SYMMS] is recognized.

Mr. SYMMS. Thank you, Mr. President.

THE BUDGET

Mr. SYMMS. Mr. President, this morning there is a great deal of consternation by many of our colleagues about what happened last night in the House of Representatives. We have high regard and respect for those Members of the negotiating team—the majority leader, the minority leader, the Speaker of the House, the Republican leader of the House, the Director of the Budget, the Secretary of Treasury, and President's representatives and so forth, all men of very high ideals. We all hold them in very high esteem. But I think it should be a lesson to all of us that when those of us here in Washington sit around and talk to each other, sometimes we misread what the people out in America are thinking.

The American people spoke very clearly in the last election that they wanted a budget that was balanced but on the basis of a restraint in the growth of spending, and not on the basis of raising taxes. Probably if there was one sentence in the campaign that had more to do with the election of this President, it was "No new taxes; read my lips."

A week ago or 10 days ago, a group of Senators introduced a budget called the 4-percent solution. I believe that I said on the floor at that time, I have not checked the Record, but I think I said—that I know a lot of the Senators today do not think this is a very attractive solution, but wait a week or 10 days, 2 weeks, and you may come back and find out it looks a lot better.

Mr. President, I believe with my heart that it looks a lot better today. I think this is not Armageddon. I personally believe that it was a good thing that happened last night on the House floor if we take it in a good sense, and if we do not try to take it in some sense that we are going to patch around the edges.

What I fear is, having been in this town serving in the House and the Senate, I can guess at what will happen: The Representatives in the House will come in and try to fix the Medicare so it is a little less offensive to those recipients of Medicare that are opposing the package. They will try to fix the gas tax and make it a somewhat broader based energy tax, so it is a little less offensive. They will try to patch it around the edges and bring it back to another vote, and hope they can get 218 votes in the House and 51 votes in the Senate, and find something the President will sign. Everybody will go back home; business as usual. They will say they have solved the great crisis in the budget in Washington DC.

However, the fundamental flaw in the package is that it is based on real taxes. Out of the hip pockets, of working men and women in America the Government will take the tax money. And then the other domestic spending reductions that are really the ones that are going to have the most impact are probably going to get dropped only to have the defense budget take up the slack.

So there again you have a budget that is business as usual in Washington. Tax, spend, and elect; keep the bureaucratic welfare state growing; take the cuts out of defense. If you have to reduce spending, raise the taxes on the middle class, because, after all, that's where the money is.

Few people worry about the fact that the package that was voted down last night would have decimated the Federal Highway Program in the United States, decimated the States' and counties' ability to raise taxes to pay for their roads and bridges, because the Federal Government will have already taken that money from increased fuel taxes and funneled it into the Federal bureaucratic welfare state.

I view this event that happened last night in a very positive sense. I am hopeful that the President now will say what he really has been very careful not to say heretofore. I have to say that when I see my President, President George Bush, on television saying, "Blame me; do not blame the Members of Congress for this," it is no wonder that the people out in Nevada, Idaho, Montana, or in New Hampshire or other places, get confused as to what this philosophical argument is about here in Washington, DC.

The way I remember it, it was the Democrats who wanted to have a tax part in this budget, and who wanted to raise taxes. It was the Republicans who wanted to reduce spending. But what happened was a great confusion came in the land when the President agreed that he would put taxes on the table.

I must say, and I commend the majority leader, I think he has done a masterful job in spinning the story through the media to suit the argument that somehow Republicans were not for fairness and Democrats want fairness, that the Republicans want nothing but to have the middle-income working people pay for this, and that the Democrats were fighting that off.

It is interesting in how this story played. But I think part of the problem is that our President, who I have the greatest respect for, has been a little too nice in this argument. There have been too many people talking to each other here in Washington, and not out talking to the American people, who are ultimately going to decide who serves in the Congress of the United States.

If I could have my wishes right now, I would appeal to the leadership in my party to urge this President to ask Congress for a continuing resolution, Mr. President, that will fund the Government, say, until the 10th of November—I am sure to the distinguished Presiding Officer, the 10th of November means a lot to him. I just picked that number out of a hat—that we will have a continuing resolution; it will not exceed last year's funding level, no baseline, that meets last year's funding level; that he implement a partial sequester; that he waive the sequester on public safety, such as air traffic controllers; and he waive the sequester by Executive order on meat inspectors, and keep the milk flowing into the inner city to the underprivileged children that need milk in those early formative years.

If those in Congress do not like him waiving it by Executive order, they could take him to court; I guess that there will not be one Republican in the Congress and there will not be one Democrat in the Congress who would challenge the President in using some common sense and applying it to a sequester. In that month we would save a few billion dollars, and do a service to the country and to the taxpayers.

In between, let us have an election this November to let the people help decide what you ought to do. If the people want a budget with a lot of taxes in it, then choose which candidate you want to vote for and come January 15, or whenever it takes place, the President could sign the resultant budget. I will sign the taxes that the Congress passes if we let the American people vote on it and thereby put their Congressmen and their Senators up for election to a test. Will they give them a budget that is a commonsense budget, which restrains the growth of spending, achieves a balanced budget over a reasonable period of years without a big tax increase on the American people? Put this to a test.

What happens is, like the election in 1988, bring everybody to Washington, and spend too much time talking to each other. I have the highest regard for our leaders in the Congress, and our President and administration, but when they are so busy with what is going on here, we lose sight of the philosophical argument. If we want the bureaucratic welfare state to continue to grow the way it is we can raise taxes and feed the machine, and it will grow. We will break the economy in the process, but we will sure have a big bureaucratic welfare state. It is fascinating to this Senator to look around the world, Mr. President, and see that the enlightened people behind the Iron Curtain countries opt for perestroika. I say we need perestroika in the United States.

What seems to be happening is, in addition to our continuing to fund the current bureaucratic welfare state, we are passing more bills, more laws, more regulations, day after day, to grow a bigger bureaucratic welfare state, to pattern ourselves after those people who have been living in poverty and poorness.

I see that our distinguished colleague from Illinois is here. If he is seeking recognition, we will need to ask unanimous consent for him to speak, because the Senate is under a unanimous-consent order to go into recess as soon as this Senator completes his 10 minutes. Is the Senator seeking time?

Mr. SIMON. Mr. President, I ask unanimous consent to address the Senate as in morning business following the Senator. I will speak for a few minutes.

The PRESIDING OFFICER (Mr. Robb). Without objection, it is so ordered.

Mr. SYMMS. Mr. President, how much time do I have left?

The PRESIDING OFFICER. Fourteen seconds.

Mr. SYMMS. If I might have 30 seconds to wrap up.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I will wrap up. I thank the indulgence of the Chair and my colleagues.

I do think we should not take the vote in the House as some Armageddon or end all problems. We need to take a message from the American people that what they want from their Congress is common sense. The 4-percent solution that many of us offered looks very attractive to me, very moderate. We can allow Government to grow at a 4-percent rate and have a balanced budget by 1995 and avoid a big recession. This Senator believes if we pass a tax increase and we pass more regulatory legislation like is pending now before us, which will burden banks, small country banks with more regulation, the Clean Air Act which will burden every person in America with an additional $30 to $50, $60 billion in regulatory costs and other legislation, we are asking to put this country in a tailspin economically and into a recession.

Yet, if we have a commonsense budget, restrain the growth of spending, ask a little more sacrifice from sacrifice from all of us in the country, and not allow the Government to grow at a rate any more than 4 percent—less if we can do it—we do not need new taxes, and we can have a growth in the economy. Maybe then we can have a little perestroika in America where all the ideas of freedom, liberty, and opportunity economics started. We have done so much with our people in such a short span of history, because basically they are free, and more government will make them less free. That is why I commend the House of Representatives for their intelligent vote last night to vote down that package which spells nothing but bigger government and less freedom for the people

I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

THE BUDGET AGREEMENT

Mr. SIMON. Mr. President, I want to speak for a few minutes on what happened in the House last night. The world is not going to end because of what happened last night. I hope we come up with some sensible solutions.

The reality is that that package—and you cannot separate the budget from the package that was agreed upon at the summit—as has been pointed out by a number of people, is unfair to seniors, and there is a lack of equity in terms of being unfair to people of modest income. Senator Conrad has just pointed out the agricultural sector takes an unfair hit in the process of the whole thing, a 24-percent cut, much higher than any other segment.

Let me point out a couple of other things that concern me, also. I agree that we are all going to have to make sacrifices. The Presiding Officer serves on the Budget Committee, on which I also serve, and I have been willing to make tough decisions and tough goals. I commend the Senator from Virginia for being willing to do that, also. He has been a most impressive member of the Budget Committee. I want to say that.

Let me just take two examples. First of all, in the national defense function, we start off with a number that is higher than either the Senate Budget Committee or the House Budget Committee. That is bad enough. We start off with $289 billion, but we go up in fiscal year 1995 to $364 billion, an increase of $75 billion over the fiscal year 1991 figure.

There ought to be some kind of rational examination of what has happened in the world. The cold war is over. We do not face the same kind of Soviet threat that we faced before. Yes, we have to have a highly mobile, very effective force to handle the kind of Iraq situation that may come up. But we do not need an increase of $75 billion over the next few years in the defense expenditure.

Plus, there is another aspect to this that I have never seen before in 16 years in Congress. That is, part of the budget agreement is, if we want to shift some money from defense over to education or health care or any other function, it takes a 60-percent vote of the House and the Senate to do that. I know of no precedent for that. I know of no reason we should have defense being this sacred cow. I want a strong defense, but let us put everything out on the table on an equal basis.

By comparison, let us take function 500: Education, training, employment, and social services. About half of that goes for education. The budget authority for fiscal year 1991 is $43 billion. The budget authority for fiscal year 1995, $47 billion, is an increase of about $4 billion. If you just take a 4-percent inflation factor, if my mathematics are correct—and I am just roughly sketching this out—for national defense, we would have a $45 billion increase over fiscal year 1991 to 1995 and, frankly, I do not think that is justified. But let us just say a $45 billion increase, while the resolution calls for a $75 billion increase.

Then let us go down to this area of education, which I think any rational analysis says we have to do much, much better. Get down to education, where we have a $4 billion increase, if you assume a 4-percent inflation factor, we would have a $10.8 billion increase. In other words, in the area of education, we are not keeping up with inflation. In the area of defense, we are going way ahead of inflation in expenditures.

I do not think that is a rational thing to do. I have to believe, if someone from Mars were to come down here and take a look at our needs, I think that that person from Mars would come to the conclusion that our military threat has diminished and we do not need to pile up all the weapons any more. We can cut back.

We are now 20 percent of the world's economy. We do not need all the bases that we had when we were 40 percent of the world's economy. Japan and other nations can share more of the burden.

I also believe that anyone coming and looking at our situation rationally would have to say we are going to have to do much better in the area of education. And yet this budget goes in precisely the opposite direction. I think that is a mistake, and I hope as we revise this we can come up with a more rational approach.

Mr. President, I understand that we stand in recess automatically at the end of my remarks.

The PRESIDING OFFICER. The Senator is correct.

Mr. SIMON. I note the Senator from South Carolina has just come on the floor. I do not know if he wishes to speak.

Mr. HOLLINGS. I do not.

Mr. SIMON. All right. With that I yield the floor, Mr. President.

RECESS UNTIL 12 NOON

The PRESIDING OFFICER. Under the previous order the Senate will now stand in recess until 12 noon.

Thereupon, the Senate, at 11:20 a.m., recessed until 12 noon; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. Reid].

The PRESIDING OFFICER. The Presiding Officer, in his capacity as a Senator from the State of Nevada suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MONEY LAUNDERING ENFORCEMENT AMENDMENTS

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Are there further amendments to the bill now pending?

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I have no further amendments. There are no amend ments on this side. We are prepared to vote.

The PRESIDING OFFICER. There being no further amendments, the question is on the engrossment and third reading of the bill.

The bill was read for the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. DURENBERGER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I ask unanimous consent that the Senator from Pennsylvania be permitted to proceed with an amendment, notwithstanding third reading, subsequent to which there will be a voice vote.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Pennsylvania is recognized.

AMENDMENT NO. 2934

(Purpose: Tc specify an effective date for regulatory amendments affecting the management of collective investment funds by institutions exercising fiduciary powers)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. Heinz] proposes an amendment numbered 2934.

Mr. HEINZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . REGULATIONS AFFECTING FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE FUNDS.

Any final regulations regarding the management of collective investment funds by institutions exercising fiduciary powers amendment Part 12 of the Code of Federal Regulations, section 9.18, as proposed by the Office of the Comptroller of the Currency on February 7, 1990 (55 F.R. 4184), shall not become effective prior to 1 year following the date of enactment of this Act.

Mr. HEINZ. Mr. President, on February 7 of this year, the Comptroller of the Currency released a proposal to substantially modify and in certain instances repeal longstanding rules governing fiduciary powers of national banks and the use of collective investment funds.

I am troubled by the proposed abolition of the current prohibition on advertising common trust funds, as well as the repeal of existing restrictions which preclude banks from double charging trust beneficiaries for trust services and common trust fund management fees.

These actions, in my view, could have the effect of converting common trust fund activities established for the convenience of a bank in the administration of fiduciary accounts into a grant of broad authority to sponsor, to underwrite, to distribute mutual funds without addressing adequately issues concerning the protection of bank customers, conflict of interest, and functional regulation.

As my colleagues well know, Mr. President, I have previously supported congressional efforts to address financial modernization and to expand bank powers into areas like this. In March 1988, the Senate overwhelmingly approved, by a vote of 94 to 2, with my support, the Proxmire Financial Modernization Act.

Mr. KERRY. Will the Senator suspend for a moment?

Mr. HEINZ. I am pleased to.

Mr. KERRY. Could I put in a quorum for one moment? Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. GARN. I object.

The PRESIDING OFFICER (Mr. Kohl). Objection is heard.

The clerk will continue to call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Akaka). Is there objection?

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. Will the Senator from Pennsylvania withhold?

Is there any objection to calling off the quorum call? Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, on February 7, 1990, the Comptroller of the Currency released a proposal to substantially modify, and in certain instances repeal, long-standing rules governing fiduciary powers of national banks and the use of collective investment funds.

I am troubled by the proposed abolition of the current prohibition on advertising common trust funds as well as the repeal of existing restrictions which preclude banks from double charging trust beneficiaries for trust services and common trust fund management fees.

These actions, in my view, could have the effect of converting common trust fund activities, established for the convenience of a bank in the administration of fiduciary accounts, into a grant of broad authority to sponsor, underwrite and distribute mutual funds without addressing adequately issues concerning the protection of bank customers, conflicts of interest and functional regulation.

I have previously supported congressional efforts to address financial modernization. In March 1988, the Senate overwhelmingly—(94 to 2)—adopted the Proxmire Financial Modernization Act. The Senate determined that bank securities activities should be conducted in a separately capitalized securities affiliate subject to regulation under the Federal securities laws. The legislation placed certain firewalls between the bank and the securities affiliate to protect the Federal Deposit Insurance System and to mitigate potential conflicts of interest. Last, the bill mandated adequate disclosures to reduce the risk that consumers would confuse federally insured deposits with noninsured securities products.

The OCC proposal does not reflect these policies which the Senate strongly endorsed in connection with that legislation.

With respect to lifting the prohibition on advertising of common trust funds, I am concerned that absent adequate protections, bank customers could confuse bank common trust fund investments promoted and sold by bank on bank premises with federally insured deposits.

The Senate passed, as an amendment to the National Affordable Housing Act the Depositor Protection and Abuse Prevention Act of 1990, (S. 2058) which prohibits the sale of certain securities of bank affiliates on bank premises. The bill was introduced in the wake of recent experiences that demonstrate how easily bank customers can be misled concerning the insured status of investments sold by bank employees on bank premises.

With respect to conflicts of interest, I am concerned that bank trustees with broad discretionary authority may be inclined to favor bank-sponsored investment products over mutual funds sponsored by unaffiliated companies.

The OCC proposal repeals restrictions on double charging of fees, which was intended to address potential conflicts of interest. This action appears to unnecessarily remove a level of protection for bank trust account beneficiaries.

Moreover, the OCC proposal would permit banks to charge fees against trust assets to recoup costs associated with advertising the fund. In my view, banks should bear the promotional expenses relating to the sale of common trust funds.

The OCC proposal also portends the broad public sale of common trust funds without providing the full panoply of protections provided by the Federal securities laws. Functional regulation was an integral component of the Proxmire Financial Modernization Act. Accordingly, it is inappropriate to extend the securities activities of banks without also extending the protections that have long applied to the sale of mutual fund investments.

Over the past several years the Senate Banking Committee has been active in formulating and adopting legislation which addresses the appropriate scope of bank activities. Many members of the committee, including me, feel strongly that Congress is responsible for establishing policies in the financial services area. Unfortunately, while the Senate has addressed these issues, the House of Representatives has not.

The Banking Committee intends once again to address these issues at the start of the next Congress in the context of comprehensive legislation to modernize our financial services industry.

In my view, prudence dictates that the OCC await congressional action on financial modernization before establishing policies that have a profound impact on the scope of bank securities activities.

Consequently, I offer a straightforward amendment that would place a one year moratorium on the changes proposed by the Comptroller of the Currency to the regulations relating to the management of collective investment funds.

I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 2934) was withdrawn.

Mr. DIXON. It is my understanding that language in the committee report clarifies that section 318 permits creditors to offer multiple margins. The report language specifies that multiple margins may be offered "for example, by tying the amount of the margin to the credit line or whether the consumer pays closing costs for the plan." These examples specified in the report relate only to specific features of the home equity plan. Am I correct that the statute would also allow creditors to offer multiple margins based on aspects of the consumer's credit situation, such as the consumer's credit limit, credit history, and amount of available equity?

Mr. DODD. The Senator is correct. The ability of a creditor to offer multiple margins is not limited to tying the amount of the margin to specific features of the loan. Margins may also be tied to specified aspects of a consumer's application. Section 318 means that the disclosure to the consumer must include each margin actually being offered and a description of the circumstances under which each margin is available.

Mr. DIXON. I believe that is an accurate description of the committee's intent. For example, it is my understanding that the disclosure could state different margins which would be available to a consumer based on a review of the consumer's credit qualifications.

Mr. DODD. The Senator's understanding is correct. The disclosure, however, would have to state the different margins in the same manner outlined in the committee report. The creditor would have to clearly set forth and describe the specific criteria to which the applicable margin is tied. For example, the creditor could disclose that the lowest margin is only available to consumers with prompt payment histories, low debt-to-income ratios, and other low risk consumer characteristics. In addition, the use of so-called creditworthiness criteria would have an impact on section 1647(d) of existing law, which relates to terms changed after application. This section is designed to protect consumers from incurring any costs paid in connection with a home equity loan application when key terms and conditions are changed before an account is opened. Because the consumer would not know the exact rate he or she would be getting when a creditor discloses different margins based on the creditor's evaluation of the consumer's creditworthiness, the failure to offer the consumer the lowest disclosed rate would, for purposes of section 1647(d), constitute a term changed after application that would permit the consumer to elect not to enter into the plan agreement and entitle the consumer to a refund of all fees paid by the consumer in connection with such application.

Mr. DIXON. I thank the Senator. His explanation clarifies the meaning of the statute and is eminently fair.

Mr. GRAHAM. Mr. President, I rise in support of the money-laundering provisions we are passing today. Money laundering is not a new activity—organized crime has always used the process to hide their illegal profits. But the narcotics traffickers have refocused law enforcements' attention on the process because of the incredible amount of money they are laundering. In Florida, the impact that dirty money has had on our local economics, real estate values, and banking practices is well documented. It is commonly estimated that drug traffickers' illegal profits are larger than the gross profits of all the Fortune 500 companies combined. That is over $100 billion a year.

Targeting the profits that the drug kingpins take may not produce multiton cocaine hauls, but we know that these narcoterrorists are also profit-motivated businessmen. We can help shut their businesses down by affecting their bottomline.

The States and banks have been helping Federal law enforcement agencies collect currency transaction data and investigate money laundering cases. The bill we are passing today improves the data collection process, and speaks to the issue of Federal-State cooperation in sharing that data.

The 1988 Anti-Drug Abuse Act amended both forfeiture statute and money laundering law. Senator Kerry was the driving force behind an amendment that requires the Treasury Secretary to pursue international agreements that would establish a mechanism of sharing currency transaction information. We cannot discuss international currency movements without including wire transfers. This issue is also dealt with in the bill.

Three of my major concerns are addressed in the money laundering bill. First, the bill now includes a fifth factor to be considered prior to any revocation or termination of charters or Federal deposit insurance after conviction of money laundering or currency reporting violations. That factor is whether the depository institution maintained, according to the review of the regulatory agency, a program of money-laundering deterrence and compliance that clearly exceeds federally required measures; adequately monitored the activities of its officers and employees, and promptly reported suspected violations to law enforcement.

This provision encourages banks to actively fight money launderers. It is similar in concept to the safe harbor provision in 1988 Anti-Drug Abuse Act that applies to the airline and shipping industry. On February 19, 1990, worked as a customs inspector a Miami International Airport and had the opportunity to learn about a voluntary safe harbor program and how the airline and shipping industries comply with it. An effective safe harbor program encourages training, supervision, and higher standards of operation. In the shipping and airline industry these improved efforts translate into better cooperation with the U.S. Customs Service and therefore improved drug interdiction efforts. Our intent is for this fifth factor in the bill before us to encourage the same positive role for financial institutions with regard to money laundering enforcement.

Second, the bill now includes an important provision requiring the State comptroller be notified of the pretermination hearing that is scheduled upon the conviction of a State bank or a credit union of money laundering violations.

And third, the bill allows States access to Federal currency reports—domestic currency transaction reports [CTRS], U.S. citizen's transactions with a foreign financial agency, and reports on exporting money out of the United States. None of these reports include wire transfers in their definition.

This was put into the bill in order to help relieve States of the administrative burden and expense of duplicating Federal reporting requirements. Florida has already developed its own system of CTR reporting that mirrors the Federal one—they will now be able to request and receive the Federal reports. States will still have to determine uses for the data and analyze it themselves.

Mr. President, let me thank the majority and minority staffs of the Banking Committee as well as my own staff for their tireless efforts on this piece of legislation. This bill is a continuation of the U.S. effort to go after illegal drug profits through money laundering.

Mr. DIXON. Mr. President, the Senate Banking Committee unanimously approved the Fair Lending Enforcement Act of 1990. That bill, which became S. 3049, has now been included as part of the managers' amendment to S. 3037. I thank the managers of the money laundering bill for agreeing to its inclusion.

We started working on the issue of mortgage discrimination in 1989. Last October the Subcommittee on Consumer and Regulatory Affairs held a hearing on the subject. The subcommittee heard troubling statistics which showed that blacks and minority neighborhoods got fewer loans and got rejected for loans more often than whites and white neighborhoods—even when incomes were comparable. We also heard about the inadequate regulatory response to this situation.

In May the subcommittee held a followup hearing. Some of the agencies reported new initiatives, which I commended. Yet, we still heard that the regulatory agencies find exceedingly few violations during examinations; never refer cases to the Justice Department; and have policies which do not adequately compensate victims of discrimination. Although I expect to continue both to hold oversight hearings and to develop legislative proposals, if need be, the time has come for some legislation from Congress to improve enforcement of our fair lending laws.

This bill would enhance enforcement of the Equal Credit Opportunity Act and, indirectly, the Fair Housing Act, which are the two overlapping laws dealing with mortgage discrimination. The bill has four parts.

Part 1 would require lenders to provide loan applicants with a copy of the appraisal, so long as the loan applicant has paid for it. In hearings we learned that discrimination may occur in the appraisal of a property. By providing the loan applicant with the appraisal, he or she—perhaps with the aid of counsel—will better be able to determine whether a racially discriminatory under appraisal was the reason for the loan denial. At our May 16 hearing, every single witness supported this proposal.

Part 2 would require the regulatory agencies to establish separate consumer compliance programs with specially trained examiners, and the head of this consumer program would have to report directly to the head of the agency. Both the Federal and OTS have testified that the only way for the agencies to be serious about consumer compliance is by having separate consumer examiners. Requiring the agencies to have separate consumer compliance programs, but not a separate consumer division, gives the agencies reasonable flexibility in their organizational structure.

Part 3 would require appropriate cases to be referred to the Department of Justice or the Department of Housing and Urban Development. Under current procedures, when a regulatory agency finds discrimination, it directs the depository institution to change any discriminatory policies or practices. Victims of discrimination are invited to reapply for loans, but full compensation for damages incurred is not sought. HUD, under the Fair Housing Act, is set up to conciliate claims and to handle damage claims in a more compensatory manner.

The bill overturns a court case which inappropriately tied the Justice Department's hands in enforcing the Equal Credit Opportunity Act. Currently, Justice rarely brings ECOA cases because it can obtain only injunctive relief. The bill would allow Justice to seek actual and punitive damages under the limits already specified in the statute.

Part 4 would provide for a small-mortgage banker exemption from the Home Mortgage Disclosure Act. The new exemption would be tailored to the mortgage banking industry. The current $10,000,000 asset exemption—a drafting error in FIRREA—was not meant to apply to mortgage bankers and results in exempting all but about 30 mortgage banking companies throughout the United States.

In a colloquy with other members of the Banking Committee, I earlier explained some of the changes between my original bill and the bill now included as part of the managers' amendment. One provision I did not describe earlier deals with credit unions. The managers' amendment clarifies that the bill applies to federally insured credit unions, not just federally chartered credit unions; the original language was inconsistent on this point. However, the amendment recognizes that the States, in coordination with the National Credit Union Administration, examine State-chartered/federally insured institutions. The amendment clarifies that NCUA will not have to start examining the State-chartered institutions, unless the States fail to have consumer compliance programs. The managers' amendment also clarifies that consumer compliance examinations do not have to be conducted at a different time from safety and soundness examinations.

In conclusion, I remind my colleagues that there is too much evidence of discrimination in mortgage lending for Congress to stand by without acting. Mortgage discrimination is illegal under more than four different statutes. What we need today is better enforcement of those laws. This bill takes a very practical, reasonable approach to strengthening enforcement of our fair lending laws. I ask my colleagues to join with me in supporting the Fair Lending Enforcement Act of 1990. America's working families—of all races—have earned their fair share of the American dream. Their rights to be free from discrimination in lending must be vigorously enforced.

FAIR LENDING AMENDMENTS

Mr. GARN. I understand that my colleague from Illinois has accepted several changes to the Fair Lending Enforcement Act of 1990 made by the managers' amendment which includes that act as part of the money laundering bill.

Mr. DIXON. The most significant change allows each of the regulatory agencies to consider the size of the institution and the complexity of the consumer examination issues presented in allocating personnel within their consumer compliance programs. I would like to clarify that, although the statutory language is essentially the same for all regulatory agencies, the factors to be applied will yield different results for the National Credit Union Administration than for the Federal banking agencies.

Mr. GARN. That is my understanding, as well.

Mr. DIXON. For example, credit unions are not subject to the Community Reinvestment Act. Also, credit unions tend to be smaller than national banks and have less sophisticated portfolios. By contrast, banks and thrifts generally are larger than credit unions. Their portfolios are more sophisticated and, because they are subject to the Community Reinvestment Act, they normally present more complex consumer compliance issues. For

these reasons, the Federal banking agencies will presumably need to devote considerably more examiners exclusively to consumer compliance issues than will the National Credit Union Administration.

Furthermore, credit union directors are democratically elected and credit unions often have committees of members who respond to consumer complaints. These differences in structure and mission of credit unions may lead to a lesser need for consumer compliance examiners working exclusively in that area. These differences, however, do not mean that we intend for the National Credit Union Administration to place a lesser priority on consumer compliance than the other Federal banking agencies.

Mr. GARN. I agree with my colleague, the chairman of the subcommittee which held hearings on fair lending issues, and the author of this bill. I would like to add that it is not the committee's intent to diminish agency efforts regarding safety and soundness examinations.

Mr. DIXON. That is certainly correct. Establishing a separate consumer compliance program promotes specialization. Specialization should enhance the effectiveness of both the consumer compliance and safety and soundness examination programs.

Mr. GARN. I understand that the managers' amendment drops the "frequency of examinations" provision for the Federal banking agencies. The Office of the Comptroller of the Currency objected strenuously to this provision because of their statistical sampling technique for consumer compliance examinations.

Mr. DIXON. I agreed to drop this provision because we could not reach agreement at this time on appropriate statutory language. The regulatory agencies should not interpret this as any lessening of interest by Congress in regular consumer compliance examinations.

Mr. GARN. I thank my colleague from Illinois and agree that these explanations accurately reflect the committee's intent in bringing this bill before the Senate. I now wish to acknowledge my colleague from Missouri, the ranking Republican member of the Senate Banking Subcommittee on Consumer and Regulatory Affairs.

Mr. BOND. I would like to join my colleagues in their understanding of the purposes and requirements of this legislation. I agree with their preceding discussion.

Mr. RIEGLE. I join in as well in my colleagues' understanding and applaud their efforts in putting forward this important piece of civil rights legislation.

Mr. President, today is the fourth day of Senate consideration of S. 3037, the Money Laundering Enforcement Amendments of 1990, reported by the Senate Banking Committee. The legislation has five parts: Titles I and II contain the money laundering enforcement measures; title III contains the Truth in Savings and Investment Act, amendments to the Expedited Funds Availability Act, and the Home Equity Consumer Protection Act; title IV contains the Counterfeit Deterrence Act of 1990; and title V contains the Coin Redesign Act. Almost all of the members of the Banking Committee were involved in this effort.

With respect to the money laundering provisions, I want to commend Senators KERRY and D'AMATO for introducing legislation which will strengthen enforcement efforts and increase the pressure on drug money launderers. The money laundering titles of S. 3037 incorporate most of the provisions of their bills—S. 2327, which Senator KERRY introduced and which I joined Senators METZENBAUM, GARN, BOND, BRYAN, and HATCH in cosponsoring, and S. 2651, which Senator D'AMATO introduced and which Senators DODD, WILSON, DECONCINI, DOLE, COATS, and THURMOND cosponsored.

S. 3037, reported by the Banking Committee, increases the penalties for money laundering by authorizing regulators of depository institutions, in appropriate cases, to revoke a charter, terminate deposit insurance and remove employees convicted of money laundering. S. 3037 also addresses a gaping hole in money laundering enforcement efforts which the committee discovered in hearings last fall—the money transmitting, money exchanging, and check cashing industries. The legislation requires depository institutions to identify their customers that are nonbank financial institutions, including money transmitters, money exchangers, and check cashers, to the Treasury Department. Conducting a money transmitting business without the appropriate State license will become punishable as a Federal felony. Furthermore, S. 3037 requires the Secretary of the Treasury to promulgate final regulations requiring depository institutions, money transmitters, and others to keep records of international and other funds transfers, another gap in enforcement efforts discovered by the Banking Committee.

Title III of the bill, the Truth in Savings and Investment Act, is the product of joint efforts of former Consumer Subcommittee Chairman DODD and the current chairman and ranking member, Senator DIXON and Senator BOND. Very briefly, the provisions of this title are designed to enable consumers to compare different savings and investment products so they can make better informed decisions on how to invest their money. The title also amends the Home Equity Loan Consumer Protection Act to require lenders to disclose the margin used in determining the annual percentage rate charged. Finally, the title amends the Expedited Funds Availability Act to clarify the holds depository institutions may place upon deposits to nonproprietary automated teller machines.

Title IV contains the Counterfeit Deterrence Act of 1990 which is substitute language to S. 2748 and was drafted by Senator GARN and me and supported by the Treasury Department the Secret Service, and the private sector. The provisions adopted by the committee modify current law to further define counterfeit deterrents to take into account new technologies while protecting legitimate uses of advanced computerized technology. The legislation also increases penalties for counterfeiters.

I want to complement Senators CRANSTON and GARN for their fine work on the coin redesign legislation contained in title V. This title authorizes the modernization of the designs on the reverses of U.S. circulating coins—some of which are 52 years old—in order to better reflect today's values and accomplishments. Profits from the sale of uncirculated and proof sets of these coins will be deposited in the general fund of the U.S. Treasury.

I strongly urge my colleagues to support this legislation. S. 3037 represents a substantial and important effort by the Banking Committee. This is sound legislation and I urge its enactment.

Mr. BIDEN. Mr. President, drugs have become an insidious plague in this country. Everyday we are confronted by their disastrous effects on the minds and bodies of our children. We are struggling to hold back a tide of crime and violence flooding our courtrooms, classrooms and emergency rooms with the victims of this epidemic.

But the devastating impact of drugs does not end here. As drug addiction and corruption spread across America they increasingly invade and undermine the institutional foundations of our society.

The hugh profits garnered by drug dealers makes money as important motivation for drug trafficking, as is the addict's craving for drugs.

Drug money drives drug dealers to press into new schoolyards and neighborhoods;

Drug money supports sophisticated international distribution networks;

Drug money funds ruthless, heavily armed street gangs as they push their product; and

Drug money draws legitimate businessmen and bankers into criminal commerce.

To effectively attack drugs, we must successfully attack the financial underpinnings of the drug trade.

We must track and seize every possible ill-gotten dollar and ensure that drug money launderers face the same stiff prison sentences that drug dealers face.

That is exactly what we did in the Money Laundering Control Act of 1986, which I coauthored with Senator THURMOND and Senator D'AMATO. That law made money laundering a criminal offense, punishable by up to 20 years behind bars. It also authorized the forfeiture of the profits of the drug trade, which can be channeled back to the law enforcement agencies that are on the front lines of the drug war.

The amendment that I am offering today builds on the money laundering law that we passed in 1986. Specifically, my amendment would:

Foster cooperation in international money laundering cases by allowing U.S. law enforcement agencies to conduct joint money laundering investigations with foreign governments and to share the seized proceeds from these cases;

Assist U.S. authorities in tracking international drug money, by prohibiting the structuring of financial transactions in ways that could avoid the currency import/export reporting requirements under Federal law;

Require the Treasury Department to take a hard look at whether the banks and other financial institutions are complying with the currency transaction reporting requirements, and how these reports can be used more effectively by U.S. law enforcement agencies.

Mr. President, I want to thank my colleagues on the Senate Banking Committee—particularly the chairman, Senator RIEGLE, and the Senator from Massachusetts, Senator KERRY—for their cooperation on this amendment.

I ask unanimous consent that a section-by-section analysis of my amendment be printed in the RECORD at this time.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF BIDEN MONEY LAUNDERING AMENDMENT

Sec. 601. REPORT ON CURRENCY TRANSACTIONS.

Section 601 relates to the various reports that individuals and financial institutions must file in accordance with recently enacted anti-money laundering statutes. The provision requires the Secretary of the Treasury to report to Congress on the degree to which these statutes are being complied with and on the uses the government is making of the reports that are filed. Subsection (b) further requires the Secretary to establish an advisory group to inform representatives of the financial industry of these matters. The latter provision should encourage greater compliance with the reporting requirements, and to promote greater voluntary disclosures of unlawful financial activity.

Sec. 602. ELECTRONIC SCANNING TASK FORCE.

Sections 502 of S. 1970 creates an Electronic Scanning Task Force to study methods of using advanced printing and computer technology to assist U.S. law enforcement authorities trace suspicious money flows. A similar provision has been included in the House money laundering bill.

Sec. 603. COOPERATIVE INVESTIGATIONS OF FOREIGN AUTHORITIES.

Sections 603 (section 503 of S. 1970) authorizes the Attorney General to share the proceeds of a cooperative money laundering forfeiture case with a participating foreign government. Sections 6074 and 7366 of the Anti-Drug Abuse Act of 1988 amended 21 U.S.C. 881(e) and 19 U.S.C. 1616a, respectively, to provide for the equitable sharing with a foreign nation of property seized from drug traffickers where the foreign nation participated in the seizure. Under the Anti-drug Abuse Act amendments, transfers of property to participating foreign nations may be made where the transfer is authorized in an international agreement between the United States and the foreign country.

In thus amending the law to permit sharing of forfeited property or proceeds with foreign nations, Congress neglected to make a conforming amendment to 18 U.S.C. 981(i). Under 18 U.S.C. 981(i), however, such transfers could only be made "to the extent provided by treaty"—a restriction which rendered the provision virtually useless from a practical standpoint and which was the reason for seeking the amendments in the Anti-Drug Abuse Act of 1988 that relaxed the requirement so as to permit such transfers pursuant to an international agreement.

SEC. 604. CONFORMING AMENDMENT TO 1988 ANTI-DRUG BILL.

Section 604 amends the Right to Financial Privacy Act to expand the circumstances under which law enforcement agents can gain access to evidence of money laundering by bank insiders. Section 6186 of the Anti-Drug Abuse Act of 1988 created an exemption from the Right to Financial Privacy Act of 1978 for the financial records of "insiders". It provided that the Act does not apply to the transfer of financial records of financial institution officers, directors, controlling shareholders or certain major borrowers to federal or State law enforcement agencies where such records may be relevant to possible crimes against financial institutions or supervisory agencies by such persons, or to possible money laundering violations covered by the Bank Secrecy Act. The latter Act is described by reference to "any provision of subchapter II of chapter 53 of title 31, United States Code.

The quoted exemption for insider records pertaining to title 31 money laundering offenses should encompass money laundering offenses under 18 U.S.C. 1956 and 1957, since such offenses fall equally within the rationale and purpose of the provision. The instant amendment would accomplish this conforming addition.

SEC. 605. CLARIFYING TITLE 18 MONEY LAUNDERING LAW.

Section 605 clarifies current law and is not intended to have any substantive effect. The current definition of "monetary instrument" in 18 U.S.C. 1956(c)(5) is not subdivided into paragraphs (i) and (ii) as is proposed here. Thus, even though currently no comma precedes the phrase "in bearer form or otherwise in such form that title thereto passes upon delivery", and even though that phrase, in the present statute, is repeated after both "investment securities" and "negotiable instruments", both indicating that the "in bearer form" phrase was meant to modify only "investment securities" and "negotiable instruments", prosecutors have encountered repeated questions as to whether the "in bearer form" limitation is applicable also to travelers' checks, personal checks, bank checks, and money orders. Such reading would restrict the operation of the money laundering offenses to which the definition of "monetary instrument" is applicable in a manner inconsistent with the intent of Congress, and no case law exists to support this strained interpretation. Nevertheless, because the issue appears to be a persistent source of confusion and a potential source of litigation, a clarifying amendment would seem worthwhile. By subdividing the definition into two branches, the amendment makes clear that the phrase "in bearer form * * *" modifies only the categories of "investment securities" and "negotiable instruments" in the statute.

SEC. 606. LAUNDERING PROCEEDS OF FOREIGN OFFENSES.

Section 606 resolves an inconsistency in the money laundering statute. That statute makes it an offense to launder the proceeds of any form of "specified unlawful activity". It is not required that the launder know what form of unlawful activity was involved as long as he knows that it was some offense that would be a felony under "state or federal law."

The inconsistency is that while the "specified unlawful activity" could be an offense under foreign law, section 1956(c)(7)(B), the knowledge requirement relates only to "state or federal law". Thus a person who launders the proceeds of a foreign offense might not be prosecutabie under the statute as currently drafted because the underlying offense would not be covered by the knowledge requirement. The amendment resolves this possible problem by expanding the knowledge requirement to include foreign offenses where the offense would qualify as a "specified unlawful activity" if committed in the United States.

SEC. 607. AMENDMENTS TO FIRREA (S&L BAILOUT) LAW.

Section 607 amends the anti-money laundering statute, 18 U.S.C. 1956, to conform with certain provisions in the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRRE Act), Pub. L. 101-73. The act amended, increased the penalties for, and provided for forfeiture relating to violations of several offenses relating to financial institutions. The conforming amendments adds these same offenses (sections 1005, 1006, 1007, and 1014 of title 18) to the definition of "specified unlawful activity" in the money laundering statute. A second conforming amendment strikes the reference to section 1344 from this defintion since that reference was made redundant by the addition of section 1344 to the list of predicates for a RICO violation, 18 U.S.C. 1961, in the FIRRE Act.

SEC. 608. TECHNICAL CORRECTION TO 1988 ANTI-DRUG BILL.

Section 608 effects a correction to the list of predicate offenses in 18 U.S.C. 1956(c)(7)(D). Section 6466 of the Anti-Drug Abuse Act of 1998 amended the definition of "specified unlawful activity" for the purposes of the money laundering statute, 18 U.S.C. 1956, to include a reference to section 310 of the Controlled Substances Act, 21 U.S.C. 830, relating to precursor and essential chemicais. That reference, however, is

to a provision that contains no criminal penalty but rather only a direction to keep records and file reports regarding such chemicals. Felony penalties are set forth elsewhere in the Chemical Diversion and Trafficking Act of 1988 for importing, exporting, possessing or distributing a listed chemical with intent to manufacture a controlled substance and for other miscellaneous trafficking-type offenses involving listed chemicals. Misdemeanor penalties are set forth for recordkeeping violations. It is thus evident that the reference to 21 U.S.C. 830 in section 1956(c)(7)(D) is incorrect. An appropriate reference is provided by the amendment here to any felony violation, i.e., trafficking-type offenses, of the Chemical Diversion and Trafficking Act of 1988 involving precursor and essential chemicals.

SEC. 609. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 609 amends the money laundering statute to enhance the effectiveness of undercover operations against international money launders. Section 6465 of the Anti-Drug Abuse Act of 1988 amended the money laundering statute, 18 U.S.C. 1956, to permit a conviction for conducting a financial transaction involving property that the defendant believed—based on the representation of an undercover law enforcement officer—to be the proceeds of unlawful activity. This amendment made it possible for federal law enforcement agents to conduct undercover operations against money launderers by posing as drug traffickers.

The 1988 amendment, however, applied only to the offense of conducting a financial transaction. Logically, it should also have applied to the offense of transporting or transmitting the proceeds of unlawful activity by wire or some other means, as set forth in section 1956(a)(2). This section makes that conforming amendment to subsection (a)(2). It is necessary to allow federal agents to maintain undercover operations against international money launderers who knowingly participate in wire transfers of the proceeds of unlawful activity.

SEC. 610. PROHIBITION ON STRUCTURED TRANSACTIONS.

Section 610 amends section 5316 of title 31, United States Code, to prohibit the structuring of transactions to avoid the monetary import and export reporting requirements, the so-called CMIR reporting requirements. Under current law, structuring a financial transaction to avoid the reporting requirements under section 5313 is a criminal offense. This amendment simply extends this prohibition to include structuring transactions to avoid the currency import/export reporting requirements under section 5316.

Mr. KERRY. Mr. President, I thank the distinguished Senator from Pennsylvania for his cooperation in this matter and for his assistance in helping us to move forward at this point in time.

Mr. President, I do not believe there is any further amendment or any further debate. I believe third reading has taken place.

The PRESIDING OFFICER. If there be no further debate, the bill, having been read the third time, the question is, Shall the bill, as amended, pass?

So the bill (S. 3037), as amended, was passed, as follows:

S. 3037

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Money Laundering Enforcement Amendments of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title, table of contents.
TITLE I—TERMINATION OF CHARTERS AND INSURANCE
Sec. 101. Revocation of charter of Federal depository institutions convicted of money laundering or cash transaction reporting offenses.
Sec. 102. Termination of insurance of State depository institutions convicted of money laundering or cash transaction reporting offenses.
Sec. 103. Removal of parties involved in currency reporting violations.
Sec. 104. Unauthorized participation.
Sec. 105. Access by State financial institution supervisors to currency transactions reports.
TITLE II—MONEY LAUNDERING ENFORCEMENT
Sec. 201. Identification of financial institutions.
Sec. 202. Prohibition of illegal money transmitting businesses.
Sec. 203. Compliance procedures.
Sec. 204. Nondisclosure of orders.
Sec. 205. Provisions relating to recordkeeping with respect to certain international funds transfers.
Sec. 206. Use of certain records.
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TITLE III—TRUTH IN SAVINGS
Sec. 301. Short title.
Sec. 302. Findings and purpose.
Sec. 303. Definitions.
Sec. 304. Disclosure of yields and terms of accounts.
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Sec. 307. Distribution of schedules.
Sec. 308. Periodic statements.
Sec. 309. Payment of interest.
Sec. 310. Regulations.
Sec. 311. Administrative enforcement.
Sec. 312. Civil liability.
Sec. 313. Credit unions.
Sec. 314. Review of disclosure requirements for open-end management investment companies.
Sec. 315. Effect on State law.
Sec. 316. Effective date of regulations.
Sec. 317. Expedited Funds Availability Act amendments.
Sec. 318. Home Equity Loan Consumer Protection Act amendment.
TITLE IV—COUNTERFEIT DETERRENCE ACT OF 1990
Sec. 401. Short title.
Sec. 402. Increase in penalties.
Sec. 403. Deterrents to counterfeiting.
Sec. 404. Reproductions of currency.
TITLE V—COIN DESIGN
Sec. 501. Denominations, specifications, and design of coins.
Sec. 502. Design changes required for certain coins.
Sec. 503. Design on obverse side of coins.
Sec. 504. Selection of designs.
Sec. 505. Reduction of the national debt.

TITLE I—TERMINATION OF CHARTERS AND INSURANCE

SEC. 101. REVOCATION OF CHARTER OF FEDERAL DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

(a) NATIONAL BANKS.—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by adding at the end the following:

"(c) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—(A)(i) If a national bank has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Comptroller of the Currency a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) After receiving written notification from the Attorney General of such a conviction, the Comptroller of the Currency shall issue to such national bank a notice of his or her intention to terminate all rights, privileges, and franchises of such bank and schedule a pretermination hearing.

"(B) If a national bank is convicted of any offense punishable under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Comptroller of the Currency may issue to such national bank a notice of his or her intention to terminate all rights, privileges, and franchises of such bank and schedule a pretermination hearing.

"(C) Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

"(2) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under paragraph (1), the Comptroller shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the bank has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be significant losses to the Federal deposit insurance funds or the Resolution Trust Corporation; and

"(E) whether the bank maintained at the time of the conviction, according to the review of the Comptroller of the Currency, a program of money laundering deterrence and compliance that clearly exceeds federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, a bank that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within a national bank, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding voting stock of such bank or its holding company. If the institution is a Federal branch of a foreign institution, the term 'senior management officials' means those individuals who exercise major supervisory control within any branch of that foreign institution located within the United States. The Comptroller shall by regulation specify which officials of a national bank shall be treated as senior management officials for the purpose of this subsection.".

(b) Federal Savings Associations.—Section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended by adding at the end the following:

"(w) Forfeiture of Charter for Money Laundering or Cash Transaction Reporting Offenses.—

"(1) In general.—(A)(i) If a Federal savings association has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Director a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) After receiving written notification from the Attorney General of such a conviction, the Director shall issue to such savings association a notice of his or her intention to terminate all rights, privileges, and franchises of such savings association and schedule a pretermination hearing.

"(B) If a Federal savings association is convicted of any offense punishable under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Director may issue to such savings association a notice of his or her intention to terminate all rights, privileges, and franchises of such savings association and schedule a pretermination hearing.

"(C) Subsection (d)(7) shall apply to any proceeding under this subsection.

"(2) Factors to be considered.—In determining whether a franchise shall be forfeited under paragraph (1), the Director shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the association has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be significant losses to the Federal deposit insurance funds or the Resolution Trust Corporation; and

"(E) whether the association maintained at the time of the conviction, according to the review of the Director, a program of money laundering deterrence and compliance that clearly exceeds federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) Successor liability.—This subsection does not apply to a successor to the interests of, or a person who acquires, a savings association that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) Definition.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within a savings association, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding voting stock of such savings association or its holding company. If the savings association is a United States branch of a foreign institution, the term 'senior management officials' means those individuals who exercise major supervisory control within any branch of that foreign institution located within the United States. The Director shall by regulation specify which officials of a savings association shall be treated as senior management officials for the purpose of this subsection.".

(c) Federal Credit Unions.—Title I of the Federal Credit Union Act (12 U.S.C. 1752 et seq.) is amended by adding at the end the following new section:

"SEC. 130. FORFEITURE OF ORGANIZATION CERTIFICATE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

"(a) Forfeiture of Franchise for Money Laundering or Cash Transaction Reporting Offenses.—(1)(A) If a credit union has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(B) After receiving written notification from the Attorney General of such a conviction, the Board shall issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of such credit union and schedule a pretermination hearing.

"(2) If a credit union is convicted of any offense punishable under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Board may issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of such credit union and schedule a pretermination hearing.

"(3) Section 206(j) shall apply to any proceeding under this section.

"(b) Factors To Be Considered.—In determining whether a franchise shall be forfeited under subsection (a), the Board shall consider—

"(1) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(2) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(3) whether the credit union has fully cooperated with law enforcement authorities with respect to the conviction;

"(4) whether there will be significant losses to the credit union share insurance fund; and

"(5) whether the credit union maintained at the time of the conviction, according to the review of the Board, a program of money laundering deterrence and compliance that clearly exceeds federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(c) Successor Liability.—This section does not apply to a successor to the interests of, or a person who acquires, a credit union that violated a provision of law described in subsection (a), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this section or regulations prescribed under this section.

"(d) Definition.—For purposes of this section, the term 'senior management officials' means those individuals who exercise major supervisory control within a credit union, including members of the board of directors. The Board shall by regulation specify which officials of a credit union shall be treated as senior management officials for the purpose of this section.".

SEC. 102. TERMINATION OF INSURANCE OF STATE DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

(a) State Banks and Savings Associations.—

(1) In general.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end the following new subsection:

"(v) Termination of Insurance for Money Laundering or Cash Transaction Reporting Offenses.—

"(1) In general.—(A)(i) If an insured State depository institution, including a State branch of a foreign institution, has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Corporation a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) After receipt of written notification from the Attorney General by the Corporation of such a conviction, the Board of Directors shall issue to such insured depository institution a notice of its intention to terminate the insured status of the insured depository institution and schedule a hearing on the matter, which shall be conducted in all respects as a termination hearing pursuant to paragraphs (3) through (5) of subsection (a) of this section.

"(B) If an insured State depository institution, including a State branch of a foreign institution, is convicted of any offense punishable under section 5322 of title 31, United States Code, after receipt of written notification from the Attorney General by the Corporation, the Board of Directors may initiate proceedings to terminate the insured status of such insured depository institution in the manner described in subparagraph (A).

"(C) The Corporation shall simultaneously transmit a copy of any notice issued under this paragraph to the appropriate State financial institutions supervisor.

"(2) Factors to be considered.—In determining whether to terminate insurance under paragraph (1), the Board of Directors shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the institution has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be significant losses to the Federal deposit insurance funds or the Resolution Trust Corporation; and

"(E) whether the institution maintained at the time of the conviction, according to the review of the Corporation, a program of money laundering deterrence and compliance that clearly exceeds federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) Notice to state banking supervisor and public.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board of Directors shall—

"(A) notify the State banking supervisor of any State depository institution described in paragraph (1) and the Director of the Office of Thrift Supervision, where appropriate, at least 10 days prior to the effective date of the order of termination of the insured status of such depository institution, including a State branch of a foreign bank; and

"(B) publish notice of the termination of the insured status of the depository institution.

"(4) Deposits uninsured.—Upon termination of the insured status of any State depository institution pursuant to paragraph (1), the deposits of such depository institution shall be treated in accordance with section 8(a)(7).

"(5) Successor liability.—This subsection does not apply to a successor to the interests of, or a person who acquires, an insured depository institution that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(6) Definition.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within an insured depository institution, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding voting stock of such institution or its holding company. If the institution is a State branch of a foreign institution, the term 'senior management officials' means those individuals who exercise major supervisory control within any branch of that foreign institution located within the United States. The Board of Directors shall by regulation specify which officials of an insured State depository institution shall be treated as senior management officials for the purpose of this subsection.".

(2) Technical amendment.—Section 8(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)(3)) is amended by inserting "of this subsection or subsection (v)" after "subparagraph (B)".

(b) State Credit Unions.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following new subsection:

"(t) Termination of Insurance for Money Laundering or Cash Transaction Reporting Offenses.—

"(1) In general.—(A)(i) If an insured State credit union has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) After written notification from the Attorney General to the Board of Directors of such a conviction, the Board shall issue to such insured credit union a notice of its intention to terminate the insured status of the insured credit union and schedule a hearing on the matter, which shall be conducted as a termination hearing pursuant to subsection (b) of this section, except that no period for correction shall apply to a notice issued under this subparagraph.

"(B) If a credit union is convicted of any offense punishable under section 5322 of title 31, United States Code, after prior written notification from the Attorney General, the Board may initiate proceedings to terminate the insured status of such credit union in the manner described in subparagraph (A).

"(C) The Board shall simultaneously transmit a copy of any notice under this paragraph to the appropriate State financial institutions supervisor.

"(2) Factors to be considered.—In determining whether to terminate insurance under paragraph (1), the Board shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the credit union has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be significant losses to the credit union share insurance fund; and

"(E) whether the credit union maintained at the time of the conviction, according to the review of the Board, a program of money laundering deterrence and compliance that clearly exceeds federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) Notice to state credit union supervisor and public.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board shall—

"(A) notify the commission, board, or authority (if any) having supervision of the credit union described in paragraph (1) at least 10 days prior to the effective date of the order of the termination of the insured status of such credit union; and

"(B) publish notice of the termination of the insured status of the credit union.

"(4) Deposits uninsured.—Upon termination of the insured status of any State credit union pursuant to paragraph (1), the deposits of such credit union shall be treated in accordance with section 206(d)(2).

"(5) Successor liability.—This subsection does not apply to a successor to the interests of, or a person who acquires, an insured credit union that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(6) Definition.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within an insured credit union, including members of the board of directors. The Board shall by regulation specify which officials of an insured State credit union shall be treated as senior management officials for the purpose of this subsection.".

SEC. 103. REMOVAL OF PARTIES INVOLVED IN CURRENCY REPORTING VIOLATIONS.

(a) FDIC Insured Institutions.—

(1) Violation of reporting requirements.—Section 8(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(2)) is amended to read as follows:

"(2) Specific violations.—Whenever the appropriate Federal banking agency determines that—

"(A) an institution affiliated party committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, unless such violation was inadvertent or unintentional;

"(B) an officer or director of an insured depository institution knew that an institution affiliated party of the insured depository institution violated any such provision or any provision of law referred to in subsection (g)(1)(A)(ii); or

"(C) an officer or director of an insured depository institution committed any violation of the Depository Institution Management Interlocks Act,

the agency may serve upon such party, officer, or director a written notice of its intention to remove him from office. In determining whether an officer or director should be removed as a result of the application of subparagraph (B), the agency shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph.".

(2) Felony charges.—Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended to read as follows:

"(1)(A) Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956 or 1957 of title 18, United States Code, or an offense punishable under section 5322 of title 31, United States Code,

the appropriate Federal banking agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the depository institution.

"(B) A copy of such notice shall also be served upon the depository institution. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the agency.

"(C)(i) In the event that a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against such party in connection with a crime described in subparagraph (A)(i), and at such time as such judgment is not subject to further appellate review, the agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution except with the consent of the appropriate agency.

"(ii) In the event of such a judgment of conviction or agreement in connection with a violation described in subparagraph (A)(ii), the agency shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution except with the consent of the appropriate agency.

"(D) A copy of such order shall also be served upon such depository institution, whereupon such party (if a director or an officer) shall cease to be a director or officer of such depository institution. A finding of not guilty or other disposition of the charge shall not preclude the agency from thereafter instituting proceedings to remove such party from office or to prohibit further participation in depository institution affairs, pursuant to paragraph (1), (2), or (3) of subsection (e) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the agency.".

(b) Credit Unions.—

(1) Violation of reporting requirements.—Section 206(g)(2) of the Federal Credit Union Act (12 U.S.C. 1786(g)(2)) is amended to read as follows:

"(2) Specific violations.—Whenever the Board determines that—

"(A) an institution affiliated party committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, unless such violation was inadvertent or unintentional;

"(B) an officer or director of an insured credit union knew that an institution affiliated party of the insured credit union violated any such provision or any provision of law referred to in subsection (i)(1)(A)(ii); or

"(C) an officer or director of an insured credit union committed any violation of the Depository Institution Management Interlocks Act,

the Board may serve upon such party, officer, or director a written notice of its intention to remove him from office. In determining whether an officer or director should be removed as a result of the application of subparagraph (B), the Board shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph.".

(2) Felony charges.—Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended to read as follows:

"(1)(A) Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956 or 1957 of title 18, United States Code, or an offense punishable under section 5322 of title 31, United States Code,

the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the credit union.

"(B) A copy of such notice shall also be served upon the credit union. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Board.

"(C)(i) In the event that a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against such party in connection with a crime described in subparagraph (A)(i), and at such time as such judgment is not subject to further appellate review, the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Board.

"(ii) In the event of such a judgment of conviction or agreement in connection with a violation described in subparagraph (A)(ii), the Board shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Board.

"(D) A copy of such order shall also be served upon such credit union, whereupon such party (if a director or an officer) shall cease to be a director or officer of such credit union. A finding of not guilty or other disposition of the charge shall not preclude the Board from thereafter instituting proceedings to remove such party from office or to prohibit further participation in credit union affairs, pursuant to paragraph (1), (2), or (3) of subsection (g) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the Board.".

SEC. 104. UNAUTHORIZED PARTICIPATION.

Section 19(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)(1)) is amended by inserting "or money laundering" after "breach of trust".

SEC. 105. ACCESS BY STATE FINANCIAL INSTITUTION SUPERVISORS TO CURRENCY TRANSACTIONS REPORTS.

Section 5319 of title 31, United States Code, is amended—

(1) in the first sentence, by striking "to an agency" and inserting "to an agency, including any State financial institutions supervisory agency,"; and

(2) by inserting after the second sentence the following new sentence: "The Secretary may only require reports on the use of such information by any State financial institutions supervisory agency for other than supervisory purposes.".

TITLE II—MONEY LAUNDERING ENFORCEMENT

SEC. 201. IDENTIFICATION OF FINANCIAL INSTITUTIONS.

(a) Title 31, United States Code, is amended by inserting after section 5326 the following:

"§ 5327. Identification of financial institutions

"By July 1, 1991, the Secretary shall prescribe regulations providing that each depository institution identify its customers which are financial institutions as defined in section 5312(a)(2) (H) through (Y) and the regulations thereunder and which hold accounts with the depository institution. Each depository institution shall report the names of and other information about these financial institution customers to the Secretary at such times and in such manner as the Secretary shall prescribe by regulation. No person shall cause or attempt to cause a depository institution not to file a report required by this section or to file a report containing a material omission or misstatement of fact. The Secretary shall provide these reports to appropriate state financial institution supervisory agencies for supervisory purposes.".

(b) Section 5321 of title 31, United States Code, is amended by adding a new subparagraph (a)(7) as follows:

"(7)(A) The Secretary may impose a civil penalty on any person or depository institution, within the meaning of section 5327, that willfully violates any provision of section 5327 or a regulation prescribed thereunder.

"(B) The amount of any civil money penalty imposed under subparagraph (A) shall not exceed $10,000 per day for each day a report is not filed or a report containing a material omission or misstatement of fact remains on file with the Secretary.".

SEC. 202. PROHIBITION OF ILLEGAL MONEY TRANSMITTING BUSINESSES.

(a) In General.—Chapter 95 of title 18, United States Code, is amended by adding at the end the following section:

"§ 1960. Prohibition of illegal money transmitting businesses

"(a) Whoever conducts, controls, manages, supervises, directs, or owns all or part of a business, knowing the business is in illegal money transmitting business, shall be fined in accordance with this title or imprisoned not more than 5 years, or both.

"(b) Any property, including money, used in violation of the provisions of this section may be seized and forfeited to the United States. All provisions of law relating to the seizure, summary, and judicial forfeiture procedures, and condemnation of vessels, vehicles, merchandise, and baggage for violation of the customs laws; the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from such sale; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred or alleged to have been incurred under the provisions of this section, insofar as applicable and not inconsistent with such provisions. Such duties as are imposed upon the collector of customs or any other person in respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the customs laws shall be performed with respect to seizures and forfeitures of property used or intended for use in violation of this section by such officers, agents, or other persons as may be designated for that purpose by the Attorney General.

"(c) As used in this section—

"(1) the term 'illegal money transmitting business' means a money transmitting business that affects interstate or foreign commerce in any manner or degree and which is knowingly operated in a State—

"(A) without the appropriate money transmitting State license; and

"(B) where such operation is punishable as a misdemeanor or a felony under State law;

"(2) the term 'money transmitting' includes but is not limited to transferring funds on behalf of the public by any and all means including but not limited to transfers within this country or to locations abroad by wire, check, draft, facsimile, or courier; and

"(3) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

(b) Chapter Analysis.—The chapter analysis for chapter 95 of title 18, United States Code, is amended by adding at the end the following item:

"1960. Prohibition of illegal money transmitting businesses.".

SEC. 203. COMPLIANCE PROCEDURES.

Section 5318(a)(2) of title 31, United States Code, is amended by inserting before the semicolon "or to guard against money laundering".

SEC. 204. NONDISCLOSURE OF ORDERS.

Section 5326 of title 31, United States Code, is amended by adding at the end the following:

"(c) Nondisclosure of Orders.—No financial institution or officer, director, employee or agent of a financial institution subject to an order under this section may disclose the existence of or terms of the order to any person except as prescribed by the Secretary.".

SEC. 205. PROVISIONS RELATING TO RECORDKEEPING WITH RESPECT TO CERTAIN INTERNATIONAL FUNDS TRANSFERS.

Section 21(b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(b)) is amended—

(1) by striking "(b) Where" and inserting "(b)(1) Where"; and

(2) by adding at the end the following new paragraph:

"(2) Funds Transfers.—

"(A) In general.—Before April 1, 1991, the Secretary, after consultation with the Board of Governors of the Federal Reserve System and State Banking Departments, shall prescribe such final regulations as may be appropriate to ensure that insured depository institutions, businesses that provide check cashing services, money transmitting businesses, and businesses that issue or redeem money orders, travelers' checks or other similar instruments maintain such records of payment orders which—

"(i) involve international transactions; and

"(ii) direct transfers of funds over wholesale funds transfer systems or on the books of any insured depository institution, or on the books of any business that provides check cashing services, any money transmitting business, and any business that issues or redeems money orders, travelers' checks or similar instruments as will have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

"(B) Factors for consideration.—In prescribing the regulations required under subparagraph (A), the Secretary shall consider—

"(i) the usefulness in criminal, tax, or regulatory investigations or proceedings of any record required to be maintained pursuant to the proposed regulations; and

"(ii) the effect the recordkeeping required pursuant to such proposed regulations will have on the cost and efficiency of the payment system.

"(C) Availability of records.—Any records required to be maintained pursuant to the regulations prescribed under subparagraph (A) shall be submitted or made available to the Secretary upon request.".

SEC. 206. USE OF CERTAIN RECORDS.

Section 1112(f) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(f)) is amended—

(1) in paragraph (1), by inserting "or the Secretary of the Treasury" after "the Attorney General"; and

(2) in paragraph (2), by inserting "and only for criminal investigative or prosecutive purposes relating to money laundering by the Department of the Treasury" after "the Department of Justice".

SEC. 207. REPORT ON CURRENCY CHANGES.

The Secretary of the Treasury, in consultation with the Attorney General and the Administrator of Drug Enforcement, shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, not later than 90 days after the date of enactment of this Act, on the advantages for money laundering enforcement, and any disadvantages, of—

(1) changing the size, denominations, or color of United States currency; or

(2) providing that the color of United States currency in circulation in countries outside the United States will be of a different color than currency circulating in the United States.

SEC. 208. REPORT ON BANK PROSECUTIONS.

(a) In General.—The Attorney General, after obtaining the views of all interested persons and agencies through public notice and comment procedures, shall determine to what extent compliance with the Money Laundering Control Act (18 U.S.C. 1956 and 1957), the Bank Secrecy Act (31 U.S.C. 5322), criminal referral reporting obligations, and cooperation with law enforcement authorities generally would be enhanced by the issuance of guidelines for the prosecution of financial institutions for violations of such Acts.

(b) Report.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall transmit to the Congress a report on such determination.

TITLE III—TRUTH IN SAVINGS

SEC. 301. SHORT TITLE.

(a) This title may be cited as the "Truth in Savings and Investments Act".

SEC. 302. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds that—

(1) the ability of consumers to make informed decisions among savings and investment options would be enhanced; and

(2) competition among depository institutions and investment companies would be increased,

if there were uniformity in the calculation and disclosure of the yields and the basic terms and conditions of savings accounts and investment accounts.

(b) Purpose.—It is the purpose of this title to require—

(1) standardization of the method of calculating yields which are payable on accounts and investments; and

(2) the clear and uniform disclosure of the key costs associated with such accounts and investments,

so that consumers can make meaningful comparisons among the competing claims of depository institutions and investment companies.

SEC. 303. DEFINITIONS.

For the purposes of this title—

(1) Account.—The term "account" means an account offered other than for a business purpose to 1 or more individuals or an unincorporated nonbusiness association of individuals by a depository institution into which a customer deposits funds. Such term includes a demand account, time account, negotiable order of withdrawal account, and share draft account.

(2) Annual percentage yield.—The term "annual percentage yield" means the total amount of interest that would be received on a $100 deposit, based on the annual rate of simple interest and the frequency of compounding for a 365-day period, expressed as a percentage calculated by a method which shall be prescribed by the Board in regulations.

(3) Board.—The term "Board" means the Board of Governors of the Federal Reserve System.

(4) Depository institution.—The term "depository institution" has the meaning given such term in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act.

(5) Interest.—The term "interest" includes a dividend paid with respect to a share draft account which is an account within the meaning of paragraph (1).

(6) Multiple rate account.—The term "multiple rate account" means an account that has 2 or more annual rates of simple interest which take effect in succeeding periods and which are known at the time of disclosure.

SEC. 304. DISCLOSURE OF YIELDS AND TERMS OF ACCOUNTS.

(a) In General.—Except as provided in subsection (c), an advertisement, announcement, or solicitation initiated by any depository institution, or by any other entity, relating to any account—

(1) may not include a reference to a specific rate of interest payable on amounts held in such account, or to a specific yield or rate of earnings on amounts so held, other than a reference to the annual percentage yield; and

(2) shall, if it contains a reference to the annual percentage yield, state the information described in subsection (b) in a clear and conspicuous manner.

(b) Information Required To Be Disclosed if Annual Percentage Yield is Used.—The information required to be disclosed by subsection (a)(2), to the extent applicable, is the following:

(1) The period during which such annual percentage yield is in effect.

(2) All minimum account balance and time requirements which must be met in order to earn the advertised yield (and, in the case of accounts for which more than 1 yield is stated, each annual percentage yield and the account minimum balance requirement associated with each such yield shall be in close proximity and have equal prominence).

(3) The minimum amount of the initial deposit which is required to open the account in order to obtain the yield advertised, if such minimum amount is greater than the minimum balance necessary to earn the advertised yield.

(4) A statement that regular fees or other conditions could reduce the yield.

(5) A statement that a penalty shall be imposed for early withdrawal.

(c) Broadcast and Electronic Media and Outdoor Advertising Exception.—The Board may, by regulation, exempt—

(1) advertisements, announcements, or solicitations made by any broadcast or electronic medium,

(2) any outdoor advertising display not on the premises of the depository institution, or

(3) any advertising display on the premises of the depository institution or other entity offering the account or investment,

from any disclosure requirements described in paragraph (3) or (4) of subsection (b) if the Board finds that any such disclosure would be unnecessarily burdensome.

(d) Misleading Descriptions of Free or No-Cost Accounts Prohibited.—No advertisement, announcement, or solicitation made by any depository institution may refer to or describe an account as a free or no-cost account if—

(1) in order to avoid fees or service charges for any period—

(A) a minimum balance must be maintained in the account during such period; or

(B) the number of transactions are limited during such period; or

(2) any regular service or transaction fee is imposed.

(e) Misleading or Inaccurate Advertisements, Etc., Prohibited.—No depository institution shall make any advertisement, announcement, or solicitation relating to an account that is inaccurate or misleading or that misrepresents its deposit contracts.

SEC. 305. ACCOUNT SCHEDULE.

(a) In General.—Each depository institution shall maintain a schedule of fees, charges, yields, and other terms and conditions applicable to each class of accounts offered by the depository institution, in accordance with the requirements of this section and regulations which the Board shall prescribe. The schedule for each class may be in the form of separate schedules or one comprehensive document. The Board shall specify, in regulations, which fees, charges, penalties, terms, conditions, and account restrictions must be included in a schedule required under this subsection. A depository institution need not include in such schedule any information not specified in such regulation.

(b) Information on Fees and Charges.—The schedule required under subsection (a) with respect to any account shall contain the following information:

(1) A description of all fees, periodic service charges, and penalties which may be charged or assessed against the account (or against the account holder in connection with such account), the amount of any such fees, charges, or penalties (or the method by which such amounts will be calculated), and the conditions under which any such amounts will be assessed.

(2) All minimum balance requirements that affect fees, charges, and penalties, including a clear description of how each minimum balance is calculated.

(3) Any minimum amount required with respect to the initial deposit in order to open the account.

(c) Information on Yields.—The schedule required under subsection (a) with respect to any account shall include the following information:

(1) Any annual percentage yield.

(2) The period during which any annual percentage yield will be in effect.

(3) Any annual rate of simple interest.

(4) The frequency with which interest will be compounded and credited.

(5) Any minimum balance which must be maintained to earn the rates and obtain the yields disclosed pursuant to this subsection and a clear description of how such minimum balance is calculated.

(6) A clear description of any minimum time requirement which must be met in order to obtain the yields disclosed pursuant to this subsection and any information described in paragraph (1), (2), (3), or (4) that will apply if any time requirement is not met.

(7) A statement, if applicable, that any interest which has accrued but has not been credited to an account at the time of a withdrawal from, or the closing of, the account will not be paid by the depository institution or credited to the account by reason of such withdrawal or closing.

(8) Any provision or requirement relating to nonpayment of interest, including any charge or penalty for early withdrawal, and the conditions under which any such charge or penalty may be assessed.

The information described in paragraphs (1), (3), and (4) shall be provided for each period during which a different annual rate of simple interest is in effect (or, if applicable, the method for computing such information).

(d) Other Information.—The schedule required under subsection (a) shall include such other disclosures as the Board may determine to be necessary to allow consumers to understand and compare accounts, including frequency of interest rate adjustments, account restrictions, and renewal policies for time accounts.

(e) Style and Format.—Schedules required under subsection (a) shall be written in clear and plain language and be presented in a format designed to give consumers the ability to readily understand the terms of the accounts offered.

SEC. 306. DISCLOSURE REQUIREMENTS FOR CERTAIN ACCOUNTS.

The Board shall by regulation prescribe such modifications in the disclosure requirements under this title relating to annual percentage yields as may be necessary to carry out the purposes of this title in the case of—

(1) accounts with respect to which determination of annual percentage yield is based on an annual rate of interest that is guaranteed for a period of less than 1 year;

(2) variable rate accounts;

(3) accounts which, pursuant to law, do not guarantee payment of a stated rate; and

(4) multiple rate accounts.

SEC. 307. DISTRIBUTION OF SCHEDULES.

(a) In General.—Any schedule required under section 305 shall be—

(1) made available to any person upon request; and

(2) provided to any potential customer before an account is opened or a service is rendered,

beginning not more than 6 months after the publication of regulations issued by the Board in final form.

(b) Notice to Current Account Holders.—For any account for which the depository institutions delivers an account statement on a quarterly or more frequent basis, the depository institution shall include on or with any regularly scheduled mailing posted or delivered within three months after publication of regulations issued by the Board in final form, a statement that the account holder has the right to request an account schedule containing the terms, charges, and interest rates of the account, and that the account holder may wish to request such an account schedule.

(c) Distribution in Case of Certain Initial Deposits.—If—

(1) a depositor is not physically present at an office of a depository institution at the time an initial deposit is accepted with respect to an account established by or for such person; and

(2) the schedule required under section 305(a) has not been furnished previously to such depositor,

the depository institution shall mail the schedule to the depositor at the address shown on the records of the depository institution for such account not later than 10 days after the date of the initial deposit.

(d) Distribution of Notice of Certain Changes.—If—

(1) any change is made in any term or condition which is required to be disclosed in the schedule required under section 305(a) with respect to any account; and

(2) the change may reduce the yield or adversely affect any holder of the account,

all account holders who may be affected by such change shall be notified and provided with a description of the change by mail at least 30 days before the change takes effect. This subsection does not apply to changes in annual percentage yields of variable rate accounts.

(e) Distribution in Case of Accounts Established by More Than 1 Individual or by a Group.—If an account is established by more than 1 individual or for a person other than an individual, any distribution described in this section with respect to such account meets the requirements of this section if the distribution is made to 1 of the individuals who established the account or 1 individual representative of the person on whose behalf such account was established.

SEC. 308. PERIODIC STATEMENTS.

A depository institution shall provide to each of its account holders on or accompanying each periodic statement clear and conspicuous disclosures of—

(1) the annual percentage yield;

(2) the amount of interest earned; and

(3) any fees or charges imposed.

SEC. 309. PAYMENT OF INTEREST.

(a) Determination of Balance on Which Interest is Calculated.—Except as provided in subsection (c), interest shall be calculated on the principal balance in an interest-bearing account at a depository institution by using—

(1) the average daily balance method, which is the sum of each day's closing balance divided by the number of days in the period, or

(2) the day of deposit to day of withdrawal method, as defined by the Board.

Each agency referred to in section 311 shall, in connection with its examination functions, examine the accuracy of depository institutions' balance calculations.

(b) Date by Which Interest Must Accrue.—Interest on accounts that are subject to this title shall begin to accrue not later than the business day specified for interest bearing accounts in section 606 of the Expedited Funds Availability Act, subject to subsections (b) and (c) of such section.

(c) Special Rule for Credit Unions.—Subsection (a) shall not apply to an account at a depository institution described in section 19(b)(1)(A)(iv) of the Federal Reserve Act if the depository institution—

(1) calculates the accrual of interest or dividends by a method other than the method described in subsection (a) with respect to all funds, including cash, deposited in such account; and

(2) provides notice of interest payment policy in the manner required by section 605(e) of the Expedited Funds Availability Act.

(d) Calculated on Full Amount of Principal.—Interest on an interest-bearing account at any depository institution shall be calculated by such institution on the full amount of principal in the account for each day of the stated calculation period at the rate or rates of interest disclosed pursuant to this title.

(e) No Particular Method of Compounding Interest Required.—Subsection (d) shall not be construed as prohibiting or requiring the use of any particular method of compounding or crediting interest.

SEC. 310. REGULATIONS.

(a) In General.—The Board, after consultation with each agency referred to in section 311(a) and after providing public notice and opportunity for comment, shall prescribe regulations to carry out the purpose and provisions of this title. The regulations may contain any classification, differentiation, or other provision, and may provide an exception for any class of accounts which, in the judgment of the Board, may be necessary or proper to carry out the purposes of this title, to prevent circumvention or evasion of the requirements of this title, or to facilitate compliance with the requirements of this title.

(b) Model Forms and Clauses.—

(1) In general.—The Board shall publish model forms and clauses for common disclosures to facilitate compliance with this title. In devising such forms, the Board shall consider the use by depository institutions of data processing or similar automated machines.

(2) Use of forms and clauses deemed in compliance.—Nothing in this title may be construed to require a depository institution to use any such model form or clause prescribed by the Board under this subsection. A depository institution shall be deemed to be in compliance with the disclosure provisions of this title if the depository institution—

(A) uses any appropriate model form or clause published by the Board; or

(B) uses any such model form or clause and changes it by—

(i) deleting any information which is not required by this title; or

(ii) rearranging the format,

if in making such deletion or rearranging the format, the depository institution does not affect the substance, clarity, or meaningful sequence of the disclosure.

(3) Public notice and opportunity for comment.—The Board shall adopt model disclosure forms and clauses after giving appropriate notice and opportunity for public comment in accordance with section 553 of title 5, United States Code.

SEC. 311. ADMINISTRATIVE ENFORCEMENT.

(a) In General.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Board; and

(C) depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act (other than member banks of the Federal Reserve System) by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act, by the Director of the Office of Thrift Supervision in the case of depository institutions described in clause (v) or (vi) of section 19(b)(1)(A) of the Federal Reserve Act;

(3) the Federal Credit Union Act, by the National Credit Union Administration Board in the case of Federal credit unions; and

(4) the Federal Trade Commission Act, by the Federal Trade Commission in the case of State-chartered credit unions.

(b) Additional Enforcement Powers.—

(1) Violation of this title treated as violation of other acts.—For purposes of the exercise by any agency referred to in subsection (a) of such agency's powers under any Act referred to in such subsection, a violation of a requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act.

(2) Enforcement authority under other acts.—In addition to the powers of any agency referred to in subsection (a) under any provision of law specifically referred to in such subsection, each agency may exercise, for purposes of enforcing compliance with any requirement imposed under this title, any other authority conferred on such agency by law.

(c) Regulations by Agencies Other Than the Board.—The authority of the Board to issue regulations under this title does not impair the authority of any other agency referred to in subsection (a) to make rules regarding its own procedures in enforcing compliance with the requirements imposed under this title.

SEC. 312. CIVIL LIABILITY.

(a) Civil Liability.—Except as otherwise provided in this section, any depository institution or other entity offering an account that fails to comply with any requirement imposed under this title or any regulation prescribed under this title with respect to any person who is an account holder is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2)(A) in the case of an individual action, such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than $100 nor greater than $1,000; or

(B) in the case of a class action, such amount as the court may allow, except that—

(i) as to each member of the class, no minimum recovery shall be applicable; and

(ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of $500,000 or 1 percent of the net worth of the depository institution involved; and

(3) in the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with a reasonable attorney's fee as determined by the court.

(b) Class Action Awards.—In determining the total amount of an award in a class action, the court shall consider, among other relevant factors—

(1) the amount of any actual damages awarded;

(2) the frequency and persistence of failures of compliance;

(3) the resources of the depository institution;

(4) the number of persons adversely affected; and

(5) the extent to which the failure of compliance was intentional.

(c) Bona Fide Errors.—

(1) General rule.—A depository institution may not be held liable in any actio brought under this section for a violation o this title if the depository institution demonstrates by a preponderance of the evidence that the violation was not intentiona and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any suc error.

(2) Examples.—Examples of a bona fid error include clerical, calculation, compute malfunction and programming, and printin errors. An error of legal judgment with respect to a depository institution's obligatio under this title is not a bona fide error.

(d) Jurisdiction.—Any action under thi section may be brought in any Unite States district court, or in any other cour of competent jurisdiction, within one yea after the date of the occurrence of the violation involved.

(e) Reliance on Board Rulings.—No provision of this section imposing any liabilit shall apply to any act done or omitted i good faith in conformity with any rule, regulation, or interpretation thereof by th Board, or in conformity with any interpretation or approval by an official or employe of the Federal Reserve System duly authorized by the Board to issue such interpretation or approval under procedures prescribed by the Board, notwithstanding, th fact that after such act or omission has occurred, such rule, regulation, interpretation or approval is amended, rescinded, or determined by judicial or other authority to b invalid for any reason.

(f) Notification of and Adjustment fo Errors.—A depository institution shall no be liable under this section or section 31 for any failure to comply with any requirement imposed under this title with respec to any account if—

(1) before—

(A) the end of the 60-day period beginnin on the date on which the depository institution discovered the failure to comply;

(B) any action is instituted against the depository institution by the account holde under this section with respect to such failure to comply; and

(C) any written notice of such failure t comply is received by the depository institution from the account holder, the depository institution notifies the account holder o the failure of such institution to compl with such requirement; and

(2) the depository institution makes suc adjustments as may be necessary with respect to such account to ensure that—

(A) the account holder will not be liabl for any amount in excess of the amount actually disclosed with respect to any fee o charge;

(B) the account holder will not be liabl for any fee or charge imposed under an condition not actually disclosed; and

(C) interest on amounts in such accoun will accrue at the annual percentage yield and under the conditions, actually disclose (and credit will be provided for interest already accrued at a different annual percentage yield and under different condition than the yield or conditions disclosed).

(g) Multiple Interests in 1 Account.—If more than 1 person holds an interest in any account—

(1) the minimum and maximum amounts of liability under subsection (a)(2)(A) for any failure to comply with the requirements of this title shall apply with respect to such account; and

(2) the court shall determine the manner in which the amount of any such liability with respect to such account shall be distributed among such persons.

(h) Continuing Failure to Disclose.—

(1) Certain continuing failures treated as 1 violation.—Except as provided in paragraph (2), the continuing failure of any depository institution to disclose any particular term required to be disclosed under this title with respect to a particular account shall be treated as a single violation for purposes of determining the amount of any liability of such institution under subsection (a) for such failure to disclose.

(2) Subsequent failure to disclose.—The continuing failure of any depository institution to disclose any particular term required to be disclosed under this title with respect to a particular account after judgment has been rendered in favor of the account holder in connection with a prior failure to disclose such term shall be treated as a subsequent violation for purposes of determining liability under subsection (a).

(3) Coordination with section 311.—This subsection shall not limit or otherwise affect the enforcement power under section 311 of any agency referred to in subsection (a) of such section.

SEC. 313. CREDIT UNIONS.

(a) In General.—No regulation prescribed by the Board under this title shall apply directly with respect to any depository institution described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

(b) Regulations Prescribed by the NCUA.—Within 90 days of the effective date of any regulation prescribed by the Board under this title, the National Credit Union Administration Board shall prescribe a regulation substantially similar to the regulation prescribed by the Board taking into account the unique nature of credit unions and the limitations under which they may pay dividends on member accounts.

SEC. 314. REVIEW OF DISCLOSURE REQUIREMENTS FOR OPEN-END MANAGEMENT INVESTMENT COMPANIES.

The Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 66. REVIEW OF DISCLOSURE REQUIREMENTS FOR YIELDS AND TERMS.

"Not later than January 1, 1991, and annually thereafter, the Commission shall consult with the Board of Governors of the Federal Reserve System (and any other agency it deems appropriate) to review the regulations prescribed under this title and the Securities Act of 1933 and the regulations prescribed under the Truth in Savings and Investments Act to determine whether such regulations are providing consumers the ability to compare effectively savings and investments options. If at any time as a result of such review, the Commission finds its regulations are not providing consumers the ability to effectively compare savings and investments options, it shall modify its regulations to assure that consumers have such ability.".

SEC. 315. EFFECT ON STATE LAW.

(a) In General.—The provisions of this title do not supersede any provisions of the law of any State relating to the disclosure of yields payable or terms for accounts to the extent such State law requires the disclosure of such yields or terms for accounts, except to the extent that those laws are inconsistent with the provisions of this title, and then only to the extent of the inconsistency. The Board is authorized to determine whether such inconsistencies exist.

(b) Balance on Which Interest is Calculated.—The provisions of this title shall supersede any provisions of any State law relating to the determination of the balance on which interest is calculated to the extent such State law specifies the manner for determining the balance on which interest is calculated.

SEC. 316. EFFECTIVE DATE OF REGULATIONS.

The Board shall issue regulations to carry out this title in final form not later than 9 months after the date of enactment of this title. Such regulations shall take effect not later than 6 months after publication in final form.

SEC. 317. EXPEDITED FUNDS AVAILABILITY ACT AMENDMENTS.

(a) Availability of Cash Deposits.—Section 603(a) of the Expedited Funds Availability Act (12 U.S.C. 4002(a)) is amended—

(1) in paragraph (1)(A), by striking "staffed by individuals employed by such institution";

(2) in paragraphs (2)(B)(ii) and (2)(C)(ii), by striking "and is staffed by individuals employed by such institution";

(3) in paragraph (2)(F)—

(A) by striking clause (i); and

(B) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(4) by adding at the end the following:

"(3) In the case of a deposit subject to paragraph (1)(A) or (2) of this subsection that is deposited in a facility that is not staffed by individuals employed by such institution the Board may, by regulation or order, extend the time by which such funds must be available for withdrawal by one business day if the Board determines that, because of operational constraints due to the location of the facility, the receiving depository institution cannot reasonably be expected to make the funds available for withdrawal as provided in paragraph (1)(A) or (2).".

(b) ATM Deposits.—

(1) In general.—Section 603(e) of the Expedited Funds Availability Act (12 U.S.C. 4002(e)) is amended—

(A) in paragraph (1)(A), by striking "6" and inserting "4";

(B) in paragraph (1)(C), by striking "1990" and inserting "1994"; and

(C) in paragraph (2)(D), by striking "1990" and inserting "1994".

(2) Effective date.—The amendment made by paragraph (1)(A) shall take effect on September 1, 1990.

(c) Safeguard Exceptions.—Section 604 of the Expedited Funds Availability Act (12 U.S.C. 4003) is amended—

(1) in subsection (b), by inserting "(a)(2)," after "subsection";

(2) in subsection (c)(1), by striking "(F)" after "subsections (a)(2)";

(3) in subsection (d), by inserting "(a)(2)," after "subsections";

(4) in subsection (f)(1)(A)(i), by striking "day" and inserting "time period within which"; and

(5) in subsection (f), by adding at the end of paragraph (2) the following:

"(D) In the case of a deposit to which subsection (b)(1) or (b)(2) applies, the depository institution may, for nonconsumer accounts and other classes of accounts, as defined by the Board, that generally have a large number of such deposits, provide notice at or before the time it first determines that the subsection applies.

"(E) In the case of a deposit to which subsection (b)(3) applies, the depository institution may, subject to regulations of the Board, provide notice at the beginning of each time period it determines that the subsection applies. In addition to the requirements contained in paragraph (1)(A), the notice shall specify the time period for which the exception will apply.".

(d) Loss Allocation.—Section 611(f) of the Expedited Funds Availability Act (21 U.S.C. 4010(f)) is amended—

(1) by inserting "or other entities participating in the payments system, including the States and political subdivisions thereof on which checks are drawn." after "depository institutions"; and

(2) by inserting "finance charges, reasonable attorneys' fees, and other expenses related to the check" after "amount of the check giving rise to loss or liability".

(e) Modification of Funds Availability Schedule.—Section 604 of the Expedited Funds Availability Act (12 U.S.C. 4003) is amended by striking subsection (e) and inserting the following:

"(e) Prevention of Fraud Losses.—

"(1) In general.—The Board may, by regulation or by order, modify the funds availability schedule provided for in section 603 for not more than 60 days (excluding Saturdays, Sundays, legal holidays, or any day either House of Congress is not in session) for any classification of checks if the Board finds—

"(A) that a pattern of significantly increased losses at depository institutions exists that is attributable to the schedule; and

"(B) that modification of the schedule is necessary to diminish the volume of such losses.

"(2) Report to Congress.—Not later than 10 days after modifying the funds availability schedule pursuant to paragraph (1), the Board shall transmit a written report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate which shall specify—

"(A) the action taken by the Board;

"(B) the Board's specific reasons for modifying the schedule; and

"(C) any legislative or regulatory recommendations for preventing the need for future modifications of the schedule.

"(3) Notice of change in policy.—Notwithstanding the provisions of section 605(c)(2), a depository institution shall send a written notice to consumer customers within 10 days following a change in policy resulting from the modification of the funds availability schedule pursuant to paragraph (1) with respect to when customers may withdraw funds deposited into consumer accounts, and shall promptly post a notice of the modification at all branches and automatic teller machines which accept deposits.".

(f) GAO Report.—

(1) In general.—Not later than 180 days following the date of enactment of this subsection, the Comptroller General of the United States shall submit a written report to the Congress evaluating the payments system changes that were implemented pursuant to the Expedited Funds Availability Act and the implementation of the permanent funds availability schedule established by section 603(b) of such Act.

(2) Contents of report.—The report required by paragraph (1) shall contain—

(A) a description of any changes that have been made in the payments system to accelerate the collection or return of checks;

(B) a description of any increases in check-related losses at depository institutions due to the implementation of section 603(b) of such Act;

(C) an assessment of the risks of check-related losses at depository institutions due to the implementation of section 603(b) of such Act and an evaluation of the reasonableness of the permanent schedule availability deadlines;

(D) recommendations for actions that can be taken by banks, clearinghouses, or the Federal Reserve to facilitate the check clearing process and reduce the risk of check-related losses, together with an estimate of the costs and effects on consumers and other users of the payments system associated with such changes; and

(E) any other information or recommendations that the Comptroller General considers pertinent in effecting improvements to the payments system.

SEC. 318. HOME EQUITY LOAN CONSUMER PROTECTION ACT AMENDMENT.

(a) In General.—Section 127A(a)(2)(A) of the Truth in Lending Act (15 U.S.C. 1637a(a)(2)(A)) is amended by inserting after "rate will be computed" the following: ", including a statement of the margin that applies under the plan,".

(b) Effective Date.—Regulations implementing the amendment made by subsection (a) shall become effective on October 1, 1991.

TITLE IV—COUNTERFEIT DETERRENCE ACT OF 1990

SEC. 401. SHORT TITLE.

This title may be cited as the "Counterfeit Deterrence Act of 1990".

SEC. 402. INCREASE IN PENALTIES.

Section 474 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever" the first time it appears;

(2) by striking "United States; or" at the end of the sixth undesignated paragraph and inserting "United States—";

(3) by striking the seventh undesignated paragraph;

(4) by amending the last undesignated paragraph to read as follows:

"Shall be fined not more than $50,000 for each violation, or imprisoned not more than 20 years, or both."; and

(5) by adding at the end thereof the following:

"(b) For purposes of this section, the terms 'plate', 'stone', 'thing', or 'other thing' includes any electronic method used for the acquisition, recording, retrieval, transmission, or reproduction of any obligation or other security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system (pursuant to section 504) to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press and others shall not be unduly restricted.".

SEC. 403. DETERRENTS TO COUNTERFEITING.

(a) In General.—Chapter 25 of title 18, United States Code, is amended by inserting after section 474 the following new section:

"§ 474A. Deterrents to counterfeiting of obligations and securities

"(a) Whoever has in his control or possession, after a distinctive paper has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States, any similar paper adapted to the making of any such obligation or other security, except under the authority of the Secretary of the Treasury, shall be fined not more than $50,000 or imprisoned not more than 20 years, or both.

"(b) Whoever has in his control or possession, after a distinctive counterfeit deterrent has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States by publication in the Federal Register, any essentially identical feature or device adapted to the making of any such obligation or security, except under the authority of the Secretary of the Treasury, shall be fined not more than $50,000 for each violation, or imprisoned not more than 20 years, or both.

"(c) As used in this section—

"(1) the term 'distinctive paper' includes any distinctive medium of which currency is made, whether of wood pulp, rag, plastic substrate or other natural or artificial fibers or materials; and

"(2) the term 'distinctive counterfeit deterrent' includes any ink, watermark, seal, security thread, optically variable device, or other feature or device;

"(A) in which the United States has an exclusive property interest; or

"(B) which is not otherwise in commercial use or in the public domain and which the Secretary designates as being necessary in preventing the counterfeiting of obligations or other securities of the United States.".

(b) Chapter Analysis.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding after the item for section 474 the following:

"474A. Deterrents to counterfeiting of obligations and securities.".

SEC. 404. REPRODUCTIONS OF CURRENCY.

Section 504 of title 18, United States Code, is amended—

(1) in paragraph (1)(D), by striking the comma at the end thereof and inserting a period;

(2) in paragraph (1), by striking "for philatelic" from the text following subparagraph (D) and all that follows through "albums).";

(3) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2) The provisions of this section shall not permit the reproduction of illustrations of obligations or other securities, by or through electronic methods used for the acquisition, recording, retrieval, transmission, or reproduction of any obligation or other security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press or others shall not be unduly restricted."; and

(4) in paragraph (3), as redesignated by paragraph (3) of this subsection, by striking "but not for advertising purposes except philatelic advertising,".

TITLE V—COIN DESIGN

SEC. 501. DENOMINATIONS, SPECIFICATIONS, AND DESIGN OF COINS.

Subsection (d)(1) of section 5112 of title 31, United States Code, is amended by striking the fourth sentence.

SEC. 502. DESIGN CHANGES REQUIRED FOR CERTAIN COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(3) The design on the reverse side of the half dollar, quarter dollar, dime coin, 5-cent coin and one-cent coin shall be selected for redesigning. One or more coins may be selected for redesign at the same time, but the first redesigned coin shall have a design commemorating the two hundredth anniversary of the United States Constitution for a period of 2 years after issuance. After that 2-year period, the bicentennial coin shall have its design changed in accordance with the provisions of this subsection. Such selection, and the minting and issuance of the first selected coin shall be made not later than 1-year after the date of the enactment of this paragraph. All such redesigned coins shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. 503. DESIGN ON OBVERSE SIDE OF COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(4) Subject to paragraph (2), the design on the obverse side of the half dollar, quarter dollar, dime coin, 5-cent coin, and one-cent coin shall contain the likenesses of those currently displayed and shall be considered for redesign. All such coin obverse redesigns shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. 504. SELECTION OF DESIGNS.

The design changes for each coin authorized by the amendments made by this title shall take place at the discretion of the Secretary and shall be done at the rate of one or more coins per year, to be phased in over 6 years after the date of the enactment of this Act. In selecting new designs, the Secretary shall consider, among other factors, thematic representations of the following constitutional concepts: freedom of speech and assembly; freedom of the press; right to due process of law; right to a trial by jury; right to equal protection under the law; right to vote; themes from the Bill of Rights; and separation of powers, including the independence of the judiciary. The designs shall be selected by the Secretary upon consultation with the United States Commission on Fine Arts.

SEC. 505. REDUCTION OF THE NATIONAL DEBT.

Subsection (a)(1) of section 5132 of title 31, United States Code, is amended by inserting after the third sentence the following: "Any profits received from the sale of uncirculated and proof sets of coins shall be deposited by the Secretary in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.".

TITLE VI—FAIR TRADE IN FINANCIAL SERVICES

SEC. 601. SHORT TITLE.

This title may be cited as the "Fair Trade in Financial Services Act of 1990".

SEC. 602. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR BANKS AND BANK HOLDING COMPANIES.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following:

"NATIONAL TREATMENT

"Sec. 15. (a) Purposes.—This section is intended to—

"(1) encourage foreign countries to accord national treatment to United States banks and bank holding companies that operate or seek to operate in those countries; and

"(2) seek an end to discrimination against United States banks and bank holding companies.

"(b) Annual Reports Required.—For each calendar year beginning on or after January 1, 1991, the Secretary of the Treasury shall, not later than May 1 of the following calendar year, submit to the Congress a report—

"(1) identifying each foreign country—

"(A) that, according to the most recent report submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, does not accord national treatment to United States banks and bank holding companies; and

"(B) with respect to which no determination under subsection (d)(1) is in effect;

"(2) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(3) describing the results of negotiations conducted pursuant to subsection (c)(1).

"(c) Negotiations Required.—

"(1) In general.—The Secretary of the Treasury shall initiate negotiations with any foreign country described in subparagraphs (A) and (B) of subsection (b)(1) to ensure that that country accords national treatment to United States banks and bank holding companies.

"(2) Negotiations not required.—Paragraph (1) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(A) determines that such negotiations would be fruitless or would impair national economic interests; and

"(B) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(d) Discretionary Sanctions.—

"(1) In general.—A Federal banking agency may, in consultation with the Secretary of the Treasury, deny any application, and disapprove any notice, filed by a person of a foreign country if the Secretary has published in the Federal Register (and has not rescinded) a determination that the foreign country does not accord national treatment to United States banks and bank holding companies.

"(2) Review.—The Secretary of the Treasury shall annually review any determination under paragraph (1) and decide whether that determination should be rescinded.

"(e) Preventing Existing Entities From Being Used To Evade This Section.—

"(1) In general.—If a determination under subsection (d)(1) is in effect with respect to a foreign country, no bank, foreign bank described in section 8(a), branch, agency, commercial lending company, or other affiliated entity that is a person of that country shall, without prior approval pursuant to paragraph (3) or (4), directly or indirectly, in the United States—

"(A) commence any line of business in which it was not engaged as of the date on which that determination was published in the Federal Register; or

"(B) conduct business from any location at which it did not conduct business as of that date.

"(2) Exception.—Paragraph (1) shall not apply with respect to transactions under section 2(h)(2) of the Bank Holding Company Act of 1956.

"(3) State-supervised entities.—

"(A) This paragraph shall apply if—

"(i) the entity in question is an uninsured State bank or branch, a State agency, or a commercial lending company;

"(ii) the State requires the entity to obtain the prior approval of the State bank supervisor before engaging in the activity described in subparagraph (A) or (B) of paragraph (1); and

"(iii) no other provision of Federal law requires the entity to obtain the prior approval of a Federal banking agency before engaging in that activity.

"(B) The State bank supervisor shall consult about the application with the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act). If the State bank supervisor approves the application, the supervisor shall notify the appropriate Federal banking agency and provide the agency with a copy of the record of the application. During the 45-day period beginning on the date on which the appropriate Federal banking agency receives the record, the agency may, after consultation with the State bank supervisor, issue an order disapproving the activity in question. The period for disapproval under the preceding sentence may, in the agency's discretion, be extended for not more than 45 days.

"(4) Federal approval.—If the transaction is not described in paragraph (3)(A), the entity in question shall obtain the prior approval of the appropriate Federal banking agency.

"(5) Informing state supervisors.—The Secretary of the Treasury shall inform State bank supervisors of any determination under subsection (d)(1).

"(6) Effect on other law.—Nothing in this subsection shall be construed to relieve the entity in question from any otherwise applicable requirement of Federal law.

"(f) National Treatment Defined.—A foreign country accords national treatment to United States banks and bank holding companies if it offers them the same competitive opportunities (including effective market access) as are available to its domestic banks and bank holding companies.

"(g) Person of a Foreign Country Defined.—A person of a foreign country is a person that—

"(1) is organized under the laws of that country;

"(2) has its principal place of business in that country;

"(3) in the case of an individual—

"(A) is citizen of that country, or

"(B) is domiciled in that country; or

"(4) is directly or indirectly controlled by a person described in paragraph (1), (2), or (3).

"(h) Exercise of Discretion.—In exercising discretion under this section—

"(1) the Secretary of the Treasury and the Federal banking agencies shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(2) the Federal banking agencies, in consultation with the Secretary of the Treasury—

"(A) shall consider, with respect to a bank, foreign bank, branch, agency, commercial lending company, or other affiliated entity that is a person of a foreign country and is already operating in the United States—

"(i) the extent to which that foreign country has a record of according national treatment to United States banks and bank holding companies; and

"(ii) whether that country would permit United States banks and bank holding companies already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's banks and bank holding companies; and

"(B) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purposes of this section.".

SEC. 603. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR SECURITIES BROKERS AND DEALERS.

Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended by adding at the end the following new paragraph:

"(11) National treatment.—(A) This paragraph is intended to encourage foreign countries to—

"(i) accord national treatment to United States brokers and dealers that operate or seek to operate in those countries; and

"(ii) seek an end to discrimination against United States brokers and dealers.

"(B) For each calendar year beginning on or after January 1, 1991, the Secretary of the Treasury shall, not later than May 1 of the following calendar year, submit to the Congress a report—

"(i) identifying each foreign country—

"(I) that, according to the most recent report submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, does not accord national treatment to United States brokers and dealers; and

"(II) with respect to which no determination under subparagraph (D)(i) is in effect;

"(ii) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(iii) describing the results of negotiations conducted pursuant to subparagraph (C)(i).

"(C)(i) The Secretary of the Treasury shall initiate negotiations with any foreign country described in subclauses (I) and (II) of subparagraph (B)(i) to ensure that that country accords national treatment to United States brokers and dealers.

"(ii) Clause (i) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(I) determines that such negotiations would be fruitless or would impair national economic interests; and

"(II) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Energy and Commerce of the House of Representatives.

"(D) The following provisions shall apply if the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination that a foreign

country does not accord national treatment to United States brokers and dealers:

"(i) The Commission may, in consultation with the Secretary of the Treasury—

"(I) deny any application for registration under this subsection filed by a person of that foreign country; and

"(II) prohibit any person of that foreign country from acquiring control of a registered broker or dealer, irrespective of when the acquisition was initiated.

"(ii) No person of that foreign country, acting directly or indirectly, shall acquire control of any registered broker or dealer unless—

"(I) the Commission has been given notice 45 days in advance of the acquisition, in such form as the Commission shall prescribe by rule; and

"(II) the Commission has not prohibited the acquisition.

"(iii) The Commission may, by order, extend the notice period with respect to any particular acquisition for not more than 60 days.

"(iv) The Secretary of the Treasury shall annually review any determination under this subparagraph and decide whether that determination should be rescinded.

"(E) A foreign country accords national treatment to United States brokers and dealers if it offers them the same competitive opportunities (including effective market access) as are available to its domestic brokers and dealers.

"(F) A person of a foreign country is a person that—

"(i) is organized under the laws of that country;

"(ii) has its principal place of business in that country;

"(iii) in the case of an individual—

"(I) is a citizen of that country, or

"(II) is domiciled in that country; or

"(iv) is directly or indirectly controlled by a person described in clause (i), (ii), or (iii).

"(G) In exercising discretion under this paragraph—

"(i) the Secretary of the Treasury and the Commission shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(ii) the Commission, in consultation with the Secretary of the Treasury—

"(I) shall consider, with respect to a broker or dealer that is a person of a foreign country and is already operating in the United States—

"(aa) the extent to which that foreign country has a record of according national treatment to United States brokers and dealers; and

"(bb) whether that country would permit United States brokers or dealers already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's brokers or dealers; and

"(II) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purposes of this paragraph.".

SEC. 604. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR INVESTMENT ADVISERS.

Section 203 of the Investment Advisers Act of 1940 (12 U.S.C. 80b-3) is amended by adding at the end the following new subsection:

"(i) National Treatment.—

"(1) Purposes.—This subsection is intended to encourage foreign countries to—

"(A) accord national treatment to United States investment advisers that operate or seek to operate in those countries; and

"(B) seek an end to discrimination against United States investment advisers.

"(2) Annual reports required.—For each calendar year beginning on or after January 1, 1991, the Secretary of the Treasury shall, not later than May 1 of the following calendar year, submit to the Congress a report—

"(A) identifying each foreign country—

"(i) that, according to the most recent report submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, does not accord national treatment to United States investment advisers; and

"(ii) with respect to which no determination under paragraph (4) is in effect;

"(B) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(C) describing the results of negotiations conducted pursuant to paragraph (3)(A).

"(3) Negotiations required.—(A) The Secretary of the Treasury shall initiate negotiations with any foreign country described in clauses (i) and (ii) of paragraph (2)(A) to ensure that that country accords national treatment to United States investment advisers.

"(B) Subparagraph (A) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(i) determines that such negotiations would be fruitless or would impair national economic interests; and

"(ii) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Energy and Commerce of the House of Representatives.

"(4) Discretionary sanctions.—The following provisions shall apply if the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination that a foreign country does not accord national treatment to United States investment advisers:

"(A) The Commission may, in consultation with the Secretary of the Treasury, deny any application, and disapprove any notice, filed pursuant to this title by a person of that foreign country.

"(B) The Commission may, in consultation with the Secretary of the Treasury, prohibit any person of that foreign country from acquiring control of a registered investment adviser, irrespective of when the acquisition was initiated.

"(C) No person of that foreign country, acting directly or indirectly, shall acquire control of any registered investment adviser unless—

"(i) the Commission has been given notice 45 days in advance of the acquisition, in such form as the Commission shall prescribe by rule; and

"(ii) the Commission has not prohibited the acquisition.

"(D) The Commission may, by order, extend the notice period with respect to any particular acquisition for not more than 60 days.

"(E) The Secretary of the Treasury shall annually review any determination under this paragraph and decide whether that determination should be rescinded.

"(5) National treatment defined.—A foreign country accords national treatment to United States investment advisers if it offers them the same competitive opportunities (including effective market access) as are available to its domestic investment advisers.

"(6) Person of a foreign country defined.—A person of a foreign country is a person that—

"(A) is organized under the laws of that country;

"(B) has its principal place of business in that country;

"(C) in the case of an individual—

"(i) is a citizen of that country, or

"(ii) is domiciled in that country; or

"(D) is directly or indirectly controlled by a person described in subparagraph (A), (B), or (C).

"(7) Exercise of discretion.—In exercising discretion under this subsection—

"(A) the Secretary of the Treasury and the Commission shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(B) the Commission, in consultation with the Secretary of the Treasury—

"(i) shall consider, with respect to an investment adviser that is a person of a foreign country and is already operating in the United States—

"(I) the extent to which that foreign country has a record of according national treatment to United States investment advisers; and

"(II) whether that country would permit United States investment advisers already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's investment advisers;

"(ii) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purposes of this subsection.".

SEC. 605. CONFORMING AMENDMENTS SPECIFYING THAT NATIONAL TREATMENT INCLUDES EFFECTIVE MARKET ACCESS.

(a) Quadrennial Reports on Foreign Treatment of United States Financial Institutions.—Section 3602 of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5352) is amended—

(1) in paragraph (3), by striking "and securities companies" and inserting ", securities companies, and investment advisers"; and

(2) by adding at the end the following: "For purposes of this section, a foreign country denies national treatment to United States entities unless it offers them the same competitive opportunities (including effective market access) as are available to its domestic entities.".

(b) Negotiations To Promote Fair Trade in Financial Services.—Section 3603(a)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5353(a)(1)) is amended by inserting "effective" after "banking organizations and securities companies have".

(c) Primary Dealers in Government Debt Instruments.—Section 3502(b)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5342) is amended—

(1) by striking "does not accord to" and inserting "does not offer";

(2) by inserting "(including effective market access)" after "the same competitive opportunities in the underwriting and distri-

bution of government debt instruments issued by such country"; and

(3) by striking "as such country accords to" and inserting "as are available to".

TITLE VII—FAIR LENDING ENFORCEMENT

SEC. 701. SHORT TITLE.

This title may be cited as the "Fair Lending Enforcement Act of 1990".

SEC. 702. APPRAISALS.

Section 701 of the Equal Credit Opportunity Act (15 U.S.C. 1691) is amended by adding at the end the following:

"(e) Each creditor shall promptly furnish an applicant, upon written request by the applicant made within a reasonable period of time of the application, a copy of the appraisal report used in connection with the applicant's application for a loan that is or would have been secured by a lien on residential real property. The creditor may require the applicant to reimburse the creditor for the cost of the appraisal.".

SEC. 703. CONSUMER COMPLIANCE PROGRAMS.

(a) FDIC.—The Federal Deposit Insurance Act is amended by adding at the end the following:

"SEC. 35. CONSUMER COMPLIANCE PROGRAM.

"(a) Establishment Required.—Each appropriate Federal banking agency shall establish a separate consumer compliance program. The head of the consumer compliance program shall report directly to the head of the agency.

"(b) Definitions.—For purposes of this section—

"(1) Consumer compliance examination.—The term 'consumer compliance examination' means an examination of an insured depository institution to determine the extent to which such institution is in compliance with all applicable laws and regulations relating to consumer protection, including fair lending and community reinvestment laws.

"(2) Consumer compliance examiner.—The term 'consumer compliance examiner' means an examiner who specializes in assessing compliance with all applicable laws and regulations relating to consumer protection, including fair lending and community reinvestment laws.

"(c) Consumer Compliance Examinations.—

"(1) Conducted by consumer compliance examiners.—Consumer compliance examinations shall be conducted by consumer compliance examiners under the supervision or oversight of the head of the consumer compliance program. Each appropriate Federal banking agency may consider the size of the depository institution and the complexity of the consumer compliance examination issues presented in determining whether to assign to a particular examination a consumer compliance examiner who exclusively conducts consumer compliance examinations or an examiner who has only received specialized training in consumer compliance examinations. In making this determination each appropriate Federal banking agency shall also consider whether substantive questions of compliance have been raised in previous examinations or in comments or complaints from the public.

"(2) Examination upon request under certain circumstances.—Any bank holding company or savings and loan holding company which controls an insured depository institution which determines that a consumer examination of such depository institution may be appropriate to expedite an application or notice for a deposit facility described in section 803(3) of the Community Reinvestment Act of 1977 (12 U.S.C. 2902(3)) may request in writing the appropriate consumer compliance program to conduct an examination of the depository institution pursuant to paragraph (1).

"(d) Additional Responsibilities.—In addition to the responsibilities established by subsection (c), the head of each consumer compliance program shall—

"(1) develop procedures for consumer compliance examinations and other procedures necessary to implement all applicable laws relating to consumer protection, including fair lending and community reinvestment laws;

"(2) train and supervise or oversee consumer compliance examiners;

"(3) develop career opportunities for consumer compliance examiners comparable to those for safety and soundness examiners;

"(4) respond to consumer complaints and inquiries;

"(5) undertake supervisory action and initiate enforcement proceedings with respect to all applicable laws and regulations relating to consumer protection, including fair lending and community reinvestment laws;

"(6) make recommendations to its agency concerning policies and adopt policies with respect to all applicable laws and regulations relating to consumer protection, including fair lending and community reinvestment laws; and

"(7) perform any other duties and functions related to the consumer compliance program.

"(e) Effective Date.—The establishment of separate consumer compliance programs in each of the agencies shall be completed no later than January 1, 1993.

"(f) Reports.—Each consumer compliance program shall prepare a description of its activities, which shall be included in the agency's annual report to the Congress.".

(b) NCUAB.—Title I of the Federal Credit Union Act is amended by adding at the end the following:

"SEC. 130. CONSUMER COMPLIANCE PROGRAM.

"(a) Establishment Required.—The Board shall establish a separate consumer compliance program. The head of the consumer compliance program shall report directly to the Board.

"(b) Definitions.—For purposes of this section—

"(1) Consumer compliance examination.—The term 'consumer compliance examination' means an examination of an insured credit union to determine the extent to which such credit union is in compliance with all applicable laws and regulations relating to consumer protection, including fair lending laws.

"(2) Consumer compliance examiner.—The term 'consumer compliance examiner' means an examiner who specializes in assessing compliance with all applicable laws and regulations relating to consumer protection, including fair lending laws.

"(c) Consumer Compliance Examinations.—

"(1) Frequency.—The Board shall conduct an on-site consumer compliance examination of each credit union within its jurisdiction either at least once every 2 years, or as frequently as the Board conducts regular on-site safety and soundness examinations of such credit union, whichever is less frequent.

"(2) Conducted by consumer compliance examiners.—Consumer compliance examinations shall be conducted by consumer compliance examiners under the supervision or oversight of the head of the consumer compliance program. The Board may consider the size of the institution and the complexity of the consumer compliance examination issues presented in determining whether to assign to a particular examination a consumer compliance examiner who exclusively conducts consumer compliance examinations or an examiner who has only received specialized training in consumer compliance examinations. In making this determination the Board shall also consider whether substantive questions of compliance have been raised in previous examinations or in comments or complaints from the public.

"(d) Additional Responsibilities.—In addition to the responsibilities established by subsection (c), the head of the consumer compliance program shall—

"(1) develop procedures for consumer compliance examinations and other procedures necessary to implement all applicable laws relating to consumer protection, including fair lending laws;

"(2) train and supervise or oversee consumer compliance examiners;

"(3) develop career opportunities for consumer compliance examiners comparable to those for safety and soundness examiners;

"(4) respond to consumer complaints and inquiries;

"(5) undertake supervisory action and initiate enforcement proceedings with respect to all applicable laws and regulations relating to consumer protection, including fair lending laws;

"(6) make recommendations to its agency concerning policies and adopt policies with respect to all applicable laws and regulations relating to consumer protection, including fair lending laws; and

"(7) perform any other duties and functions related to the consumer compliance program.

"(e) Effective Date.—The establishment of a separate consumer compliance program shall be completed no later than January 1, 1993.

"(f) Reports.—The consumer compliance program shall prepare a description of its activities, which shall be included in the Board's annual report to the Congress.".

(c) Special Rule for State Chartered Credit Unions.—Section 204 of the Federal Credit Union Act (12 U.S.C. 1784) is amended by adding after the second sentence a new sentence to read: "The Board shall conduct consumer compliance examinations as set forth in section 130 of State chartered, federally insured credit unions only if the appropriate State supervisory agency has not established an examination program similar to that described in section 130.".

SEC. 704. ENFORCEMENT OF EQUAL CREDIT OPPORTUNITY ACT.

(a) Pattern or Practice.—Section 706(g) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(g)) is amended by adding at the end the following: "Each of the agencies referred to in paragraphs (1), (2), and (3) of section 704(a) shall refer the matter to the Attorney General whenever it has reason to believe that 1 or more creditors has engaged in a pattern or practice of discouraging or denying applications for credit in violation of section 701(a) of this title. Each of such agencies is authorized to refer the matter to the Attorney General whenever it has reason to believe that 1 or more creditors has violated section 701(a) of this title.".

(b) Damages.—Section 706(h) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(h))

is amended by inserting "actual and punitive damages and" after "including".

(c) Notice to HUD.—Section 706 of the Equal Credit Opportunity Act (15 U.S.C. 1691e) is amended by adding at the end the following:

"(k) Whenever an agency referred to in paragraph (1), (2), or (3) of section 704(a) has reason to believe that a violation of this title has occurred, as a result of receiving a consumer complaint, conducting a consumer compliance examination, or otherwise, and that the alleged violation would be a violation of the Fair Housing Act (42 U.S.C. 3601 et seq.), and the agency does not refer the matter to the Attorney General pursuant to subsection (g), it shall—

"(1) notify the Secretary of Housing and Urban Development of the violation; and

"(2) notify the applicant that the Secretary of Housing and Urban Development has been notified of the alleged violation and that remedies for the violation may be available under the Fair Housing Act.".

SEC. 705. HOME MORTGAGE DISCLOSURE ACT.

(a) In General.—Section 309 of the Home Mortgage Disclosure Act (12 U.S.C. 2808) is amended—

(1) by striking "depository" before "institution";

(2) by inserting "specified in section 303(2)(A)" after "institution"; and

(3) by adding at the end the following: "The Board, in consultation with the Secretary, may exempt institutions described in section 303(2)(B) that are comparable within their respective industries to institutions that are exempt under the preceding sentence.".

(b) Effective Date.—This section shall become effective on January 1, 1991.

TITLE VIII—INTERNATIONAL MONEY LAUNDERING

SEC. 801. REPORT ON USES MADE OF CURRENCY TRANSACTION REPORTS.

Not later than 180 days after the effective date of this section, and every 2 years for 4 years, the Secretary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 (regarding transactions involving currency) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze, and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of—

(A) violations of the criminal laws of the United States;

(B) violations of the laws of foreign countries; and

(C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to in paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

SEC. 802. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) Electronic Scanning Task Force.—(1) Not more than 30 days after the date of enactment of this Act, the Secretary of the Treasury (referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary, shall, at a minimum appoint the following to the Task Force:

(A) The Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member).

(B) At least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) Coding and symbology;

(ii) Scanning systems.

(iii) Computer data compilation.

(C) Representatives from each of the following:

(i) The Bureau of Engraving and Printing.

(ii) The Federal Reserve Board.

(iii) The United States Secret Service.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) Report to the Congress.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1) and includes any additional recommendations by the Secretary.

(c) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 803. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by—

(A) striking the first 2 sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country that participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (A) has been agreed to by the Secretary of State, (B) is authorized in an international agreement between the United States and the foreign country, and (C) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(B) striking the last sentence.

SEC. 804. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 805. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means—

"(A) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders; and

"(B) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 806. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) of title 18, United States Code, is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 807. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005 through 1007 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 808. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances

Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 809. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 810. STRUCTURING TRANSACTIONS TO EVADE CMIR REPORTING REQUIREMENTS.

(a) Section 5316(d) of title 31, United States Code, is amended to read as follows:

"(d) No person shall for this purpose of evading the reporting requirements of this section—

"(1) fail to file a report required by this section, or cause or attempt to cause a person to fail to file a report required under this section;

"(2) file, or cause or attempt to cause a person to file a report required under this section that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments.".

Mr. KERRY. Mr. President, I move to reconsider the vote by which the bill as amended, was passed.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KERRY. Mr. President, I would like to express my appreciation to the distinguished ranking member of the Banking Committee, the Senator from Utah, Senator GARN. I would like to thank the minority leader, Senator DOLE, for helping us to break this logjam in the last moments here. And I express my appreciation to the staffs of both sides who have been waiting so patiently and helping so effectively with respect to this legislation, not just before it came to the floor, but particularly in the last few days.

I am particularly grateful to Senator GARN for his integrity and for his sense of propriety and priorities. We have both agreed that this is not a Democratic piece of legislation, and it is not a Republican piece of legislation; it is a bipartisan effort to try to improve our ability to be able to fight drug money laundering, and we believe, both of us, as Senators and citizens, that this will assist us in that process. I think it is an important bill for that reason.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of all Senators with respect to scheduling of the House and the Senate today, I have spent the past several hours in discussions with representatives of the administration, Members of the House leadership, as well as Members of the Senate leadership. I have had extensive discussions with the distinguished Republican leader, Senator DOLE, with respect to these matters.

It now appears that the House will shortly be taking up a continuing resolution to fund the continued operations of Government beyond the expiration deadline of midnight tonight contained in current law, and that it will be a matter of a few hours before the House acts on that.

There is no further business pending before the Senate at this time, the Senate having just acted and approved by voice vote the money laundering bill which had been the pending business.

Accordingly, following discussions with the distinguished Republican leader, I have concluded that the wisest course of action for the Senate now is to recess until 6 p.m., by which time we will either have received the continuing resolution from the House or be in a better position to assess the time at which we will receive it.

Although we all, of course, would like precision in scheduling, the matters with which we are dealing are inherently imprecise, and it is not possible for the House leadership at this time to predict with certainty, at exactly what time they will be able to conclude action on the pending matter.

And so, Mr. President, Senators should be aware that we will have to act on that measure sometime this evening, and Senators should remain in or around the Capitol and be available at that time. I will have more information at 6 p.m., at which time I will make a public announcement here. If any further information is developed in the interim, both the Democratic and the Republican Cloakrooms will notify their respective Members of any up-to-date information.

I apologize to my colleagues for any inconvenience this may cause. As I stated earlier, it is not possible to be more precise at this time. But we will have to take some action this evening prior to the midnight deadline.

ORDER FOR RECESS UNTIL 6 P.M. TODAY

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator GRAHAM of Florida be recognized to address the Senate, and that upon the completion of his remarks, Senator HATFIELD be recognized to address the Senate, and that upon the completion of Senator HATFIELD's remarks, the Senate stand in recess until the hour of 6 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET RESOLUTION

Mr. GRAHAM. Mr. President, it had been my intention yesterday while working on this statement, to deliver this in the context of what I anticipated would be a Senate debate on that agreement. The events of last evening in the House of Representatives rendered that effort a nullity. However, I appreciate the opportunity to submit those remarks for the RECORD.

Mr. President, I would like to use this time to make a few comments as to where we go from here.

Mr. President, I think we have learned some lessons, both on process and substance, as a result of our recent experience. On process, I think that we have vindicated the traditional congressional processes, processes which emphasize orderly, open procedures, yes, sometimes contentious, but in the best spirit of democracy; procedures that inform and involve the public and large numbers of their representatives here in the Congress so that there is a sense of confidence drawn from understanding and direct participation in the final results of that process.

I am pleased to say, from conversations today, that I understand that we are going to be returning to a more traditional legislative process as we move forward.

As to substance, Mr. President, I believe that one of the key objections to the plan that was presented and rejected by the House of Representatives early this morning was the fact that it was seen as lacking policy orientation. You may ask, why are we doing this? What are the destinations that this budget agreement will lead us? Beyond those that related to the reduction of the deficit itself, obviously a highly desirable and critical objective, the plan seemed to be devoid of other discernible objectives.

Mr. President, let me suggest what I think should be at least two objectives of the next plan upon which we will vote. One of those should be economic growth. I was concerned when I read a news article last week in which one of the members of the budget summit negotiating team from the other House stated that the only element in the budget agreement which was proeconomic growth was the capital gains provision. I believe that that is a trivialization of the rest of the budget.

But the fact that there was not a clean set of objectives and initiatives, both on the tax and the spending side, that would move us toward a progrowth policy was a deficiency in that budget agreement.

Mr. President, I believe, that, for instance, we should have a very strong component in the budget agreement as it relates to those things that will contribute to America's long-term economic prosperity. And those include intelligent tax policy that will stimulate private sector investment and expansion. They include spending in those domestic programs which will have a significant positive impact on our future economic viability.

I particularly point to the need for such a directive in the area of education and transportation. There are no two areas in which an investment today will bring greater economic dividends in the future than in education and transportation.

Second, Mr. President, I believe that we should have as a policy objective of the new agreement how to begin to rationally deal with our Nation's health policy, particularly as it relates to a health policy for our elderly. Of all of the components of the budget agreement, the one that drew the greatest public animosity was the proposal for the savaging cuts in Medicare.

Under the budget agreement, Medicare would have been cut by $60 billion over the next 5 years. A program that represents approximately 10 percent of the Nation's spending would have been asked to carry almost 25 percent of the spending reductions in the agreement.

Not only was that unfair in terms of the allocation of burden, Mr. President, but it also failed to have any policy objective. When asked why are such deep cuts being recommended in Medicare, the President was reported to have responded: First, it is a large duck, and when you go hunting you have to hunt for big ducks. And, second, there has been an increasing cost of America's health care.

The first is clearly a true statement. This is a big program. The second is also true, that there has been an increase at a rate substantially above the cost of living in America's health care. But there was nothing in the plan that was presented to the House of Representatives yesterday that would have moved us toward a more rational national health care policy.

Mr. President, it has been my feeling that an important step toward rationality in Medicare and then being able to use the Medicare Program as one of the important ingredients toward a rational national health policy would be to move Medicare toward a trust fund status.

That is exactly what we did with Social Security in 1983. We identified a discrete revenue source. We dedicated it to the Social Security Program. And since 1983, Social Security has not only been saved from its impending financial collapse, but it also has allowed us to deal with Social Security on a more intelligent basis, and to consider the kinds of policy directions which I believe the Senator from New York may well present to this Senate before we adjourn.

We should take a similar step as it relates to Medicare. We should provide a dedicated revenue source so that it no longer is part B of Medicare drawing on the Federal general revenue Treasury in excess of $40 billion a year.

We should use this also as an opportunity to look at part A of Medicare, the portion of Medicare that relates to hospital payments, which is in the same fiscal distress that Social Security was 10 years ago.

I believe, Mr. President, that by acting in this manner as it relates to Medicare, that it could become the engine by which we could begin to deal with fundamental issues, such as containing the cost of health care for all Americans, directing us toward a more intelligent policy of access to quality, affordable health care.

I suggest we see the events of yesterday, not as an affront to our ability to govern, not as the end of the process, but rather as the time for new beginnings, and that those new beginnings, should be infused with our tradition of parliamentary democracy as the process by which we move toward determination of important public issues.

We also use that process to deal with important policy issues before our Nation today, economic growth and America's health care system, being two of those important issues.

All around the world, people, when given the chance, are electing democracy. A look at the map of the world as it exists in the fall of 1990 is startlingly different than that map in the fall of 1989. Countries which had been for generations under the yoke of totalitarian governments have thrown those governments out of power and have replaced them with democratic regimes with new, vigorous leaders.

Democracy has won the battle for the minds and the hearts and the commitment of the peoples of the world. We, as the oldest democracy on this planet, have the responsibility to continue to lead, to demonstrate that a government of, by, and for the people, can deal with those fundamental issues which will shape the quality of our society. The next few days will give us an opportunity to rededicate ourselves to that responsibility and to demonstrate to the people of this country and the people of the world, who are looking to this country for democratic leadership, our capacity to lead.

Mr. President, It has been my intention to vote for the budget agreement. I understand the importance to our Nation of reducing the Federal budget deficit. I had hoped to be able to support a plan which set us on a firm and fair path to that objective. However, as I studied the agreement, it became apparent that it failed. Failed because it does not significantly reduce the rate by which our national debt is growing. Failed because the inequitable distribution of new taxes and reductions of existing programs will cause this agreement—if adopted by Congress and the President—to be rejected by the American people.

In President Bush's speech to the Nation on October 2, 1990, he said, "Any workable solution must be judged as a whole, not piece by piece." I can say to the President that I have looked at the whole forest and have found it to be blighted.

First, although we may be achieving savings of $500 billion over 5 years, the national debt will grow by $942 billion. I arrived at this cumulative number by taking the baseline deficit for 1991-95 and including Resolution Trust Corporation spending plus removing the Social Security surplus, which has served to mask the true extent of the deficit. A $942 billion addition to the national debt over 5 years is essentially the same rate of additional borrowing as during the 1980's.

The underlying numbers for the President's deficit reductions are based on optimal economic assumptions. Who believes that in 1993 short-term interest rates will have fallen from the present almost 8 percent to 4.9 percent or that the rate of growth of our gross national product will have accelerated from less than 1 to 4.5 percent? Similar fantasy figures were part of the calculation in last year's savings and loan rescue legislation. These falsities were a key factor in the recalculation of the cost of the bailout from $50 billion in 1989 to $500 billion or more in 1990.

Mr. President, I predict a similar recalculation will occur within the year that will increase the estimate of the national debt to more than a trillion dollars if we adopt this agreement. President Bush in his speech to the

Nation also said, "With your help we can at least put this budget crisis behind us and face the other challenges that lie ahead." So much for putting the crisis behind us.

Second, is the question of equitable tax treatment. Quoting President Bush again from his October 2 speech, he said:

> Everyone who can should contribute something, and no one should have to contribute beyond their fair share.

How do you define "fair share"? The New York Times, October 3, printed a chart showing the Federal tax rate increasing by 3 percent on individuals making $20,000–$30,000 but for those individuals making $200,000 and over we are only increasing their rates by 0.3 percent. These are regressive taxes hitting low- and middle-income Americans disproportionately compared to high-income people. I would not say this defines "fair share."

Moving inside the forest of the budget agreement, I find an especially diseased three: the proposal to slash Medicare by $60 billion. A few weeks ago, I spoke on the Senate floor to express my outrage at an emerging deficit reduction package with draconian Medicare reductions as a principal element. Many of my worst fears became reality in the budget proposal.

The budget accord requires $60 billion in Medicare payment cuts and beneficiary increases over the next 5 years. This amount far surpasses any other domestic program cuts.

The budget agreement does not meet any of the health care objectives which a deficit reduction process should address. Deficit reduction should focus on long-term goals and solutions to fundamental American concerns and priorities.

Everyone—from senior citizens to providers, to lawmakers—agrees that health care costs are rising at an astronomical rate. Medicare benefit payments have been growing 12.2 percent per year between 1980 and 1989, significantly higher than the inflation rate.

The budget agreement does not consider long-term implications and check rising health care costs. Through increased premiums and deductibles, it does not restrain health care utilization. Instead, it shifts deficit reduction costs to our Nation's elderly, who live on a fixed income, and especially to low- and middle-income seniors.

Deficit reduction cuts should be fair and balanced. The $60 billion in Medicare cuts equals more than half the deficit reduction in entitlement programs and 25 percent of all cuts. The Medicare Program decrease would affect the 33 million Medicare eligible Americans and the 2.2 million who reside in Florida disproportionately and inequitably.

These budget cuts and premium increases follow years of Medicare changes. Over the past 10 years, Medicare premiums have risen more than 300 percent, about six times the rate of inflation. Older Americans now spend about 18 percent of their income on health care; when Medicare was first enacted seniors spent 15 percent on out-of-pocket costs. In part, due to lagging reimbursements, three hospitals in Florida closed in the last 2 years, and a dozen small rural hospitals are struggling to keep their doors open.

Mr. President, I fear that low-income individuals will suffer inordinately under this budget proposal. Low- to middle-income persons could drop part B coverage rather than pay higher deductibles, copayments, and premiums. Although over 97 percent of Americans participate in Medicare, part B physician coverage is voluntary. In addition, States will face Medicaid increases to over the premium and deductibles for those individuals under the poverty level. In Florida, over 290,000 individuals would fall into this category.

The American people must ultimately accept the summit agreement. My offices have received over a thousand calls a day in opposition to the Medicare reductions. The onslaught brought on by the 1988 Catastrophic Health Care Act will pale in comparison to elderly anger at this budget. At least with catastrophic, seniors received additional coverage—in this case, premiums increase and benefits are likely to decrease.

This year we celebrated the 25th anniversary of Medicare's enactment. I cannot accept a budget which undermines the integrity of a quarter century of health care progress. I look forward, instead, to lauding the program's accomplishments and stability in another 25 years.

Defeating the budget agreement is a crucial step in avoiding any detour from the celebration of the dignity of older Americans and the compassion of our Nation.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Montana.

Mr. BURNS. I ask unanimous consent I be recognized for 3 minutes and then the honorable Senator from Oregon [Mr. HATFIELD] be recognized pursuant to the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET RESOLUTION

Mr. BURNS. Mr. President, I rise today to discuss the budget resolution that failed to pass the House last night.

I commend President Bush for the leadership he has shown in trying to resolve the budget dilemma we all face. Despite his campaign pledge of no new taxes, he was willing to take the political heat and put taxes on the table in order to get the budget talks started. Once the budget package was announced he got behind it 100 percent and did not take any partisan swipes in trying to get it passed. The President has shown real leadership but Congress has refused to go along.

Now it is time for Congress to act like the real legislative body the founders of this country intended us to be. I think Congress should send the President a continuing resolution to run this Government until October 20. President Bush should sign it to give Congress the time to legislate a budget package and put it on his desk. We in Congress are responsible for legislating the taxing and spending for this Federal Government. The President is responsible for administering our budget.

I personally oppose the budget package worked out by the summiteers because it would increase taxes to finance runaway Federal spending, not decrease the deficit. I think all Americans would allow Congress to increase taxes if there was a guarantee it would go to reducing the deficit. I think that was President Bush's reason for putting taxes on the table in the first place. But to use new taxes to increase Government spending is a mistake.

I have been joined by 10 of my colleagues in the Senate in offering legislation that would balance the budget by 1997 without increasing taxes. As a former cattle trader, I know we must be willing to compromise from our position to get a deal, and I am willing to do that.

I invite all my colleagues in the Senate to take a look at our proposal, S. 3036, and to work with us on a budget package that can pass both Houses of Congress and be signed by the President.

I think that is what Americans want and the sooner we head down that path the better off we will all be.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

THE WAR POWERS ACT

Mr. HATFIELD. Mr. President, as I begin a few remarks I intend to make, I think there is no one in the entire Chamber with whom I would rather share these remarks than the presiding officer, the extraordinary Senator from the State of Nebraska [Mr. KERREY].

This morning I read the Washington Post, and the front page story carried this particular quote. I must admit I was highly disturbed.

> President Bush has initiated private discussions with Members of Congress on the possible use of military force in the Persian Gulf to meet in advance any congressional objections that could arise if he sends U.S. troops into battle there. * * *

That paragraph, in my view, is a wake-up call. It is a wake-up call for

the Congress to take its statutory responsibility that we have avoided and dodged and sidestepped for so long. Because, unless Congress is willing to take its specific duty under the War Powers Act, let us not be then surprised that where we have now almost 200,000 troops in the Middle East that are there in station or in position, they may well be in battle within the next few weeks.

Look at the facts. Congress will probably be in session only about 2 weeks longer, and it is a very long stretch until we convene the 102d Congress, in mid-January to be exact. In the interim, the 535 Members of Congress will be scattered to the four winds.

In the article I just quoted, I now want to refer to what the Secretary of Defense, Mr. Cheney, commented, and that is, it was probably "an advantage that the Congress was out of town" when the President deployed troops in August.

Mr. President, in my view, the handwriting is on the wall. We are about to enter into an extended period of time where tensions and high opportunities for consultation between the President and Congress are few. As the pressure for the President to use military force builds and escalates, Congress will have offered no law which either offers support or restraint: Hands off. We just do not want any part of it.

One week ago I stood on this floor and reminded my colleagues of this administration's track record on the use of U.S. troops. Perhaps few were listening, because the Senate went ahead and adopted a resolution overwhelmingly, with only three objections, three nay votes: the Senator from Nebraska presiding in the chair today; the Senator from Massachusetts [Mr. KENNEDY]; and myself.

This resolution, I believe, was nothing more than a Senate press release or perhaps worse, a blank check. Nevertheless, it was, a refusal of the U.S Senate to take a position on the War Powers Act, an act that we created right in this body. We passed it over President Nixon's veto, determined that we were going to take a position and never have another Presidential war like Vietnam.

But the list I read is telling. I can repeat the facts, because I believe that since this administration has come to office, it has authorized the U.S. troops involvement in five separate instances. The first time, the President ordered extra troops into Panama to augment the United States forces already in the region. Congress was in session at the time but did not authorize the action.

Let me list the other four experiences: December 1, 1989, United States fighter planes gave cover to President Aquino's troops as they successfully fought off a coup attempt in the Philippines. No congressional authorization was given. Congress was out of session. December 19, 1989, the United States invaded Panama, ousting General Noriega. No congressional authorization was given. Congress was out of session at the time.

August 5, 1990, United States Marines moved to rescue Americans threatened by the Liberian civil war. No congressional authorization was given. Congress was out of session at the time.

August 8, 1990, United States troops were ordered to Saudi Arabia to defend the country against a threatened invasion of Iraq. No congressional authorization was given. Congress was out of session during the initial deployment.

Four times out of five. Mr. President, I do not challenge one moment the constitutional authority of the President, where U.S. persons or property are endangered; that as Commander in Chief of the Armed Forces of this country, under the constitutional authority, he acted and acted probably sincerely and accurately. And that is another issue.

But the point is, when Mr. Cheney tells us that Congress being out of town on those instances was probably a facilitating factor in those decisions, that bothers me deeply. And none of those decisions that were made by the President at that time carried with it, in effect, a lingering, long-term possible involvement, as does the situation today. We are not comparing apples and oranges. We are not being inconsistent at all. We are merely saying that when the President is talking to leaders of Congress about possible warmaking activity in the Middle East, we will be home. We will be out of town. We will be in sine die adjournment.

My assertion, Mr. President, is that this country is likely to see military action while, as I say, Congress has not taken one step to assume a partnership role. We are not playing an adversary to the President. We were established as a partnership, both in the Constitution and under the War Powers Act.

Look at the statistics and listen to the words of the Secretary of Defense, and I want to repeat them: "It was an advantage that Congress was out of town," when those initial deployment of troops took place.

Advantage for whom? What was the advantage? For the 200,000 service men and women who had been sent to the desert wondering if the madman Saddam Hussein will lob a chemical weapon their way? The absence of congressional authorization is no advantage to them. It only increases the precariousness of our position there as they train, watch, and wait in Saudi Arabia and on the seas, wondering why they are there only at the behest of the Commander in Chief and not by the elected Representatives of the people.

We have handled this situation, from the congressional point of view, very badly. We have skirted our constitutional duties; we have ignored our own laws and we have failed our own troops and the families of those troops.

Since last Friday, when I objected to the limitation of debate on the concurrent resolution on the Persian Gulf, this Senate has done some talking about the Mideast situation—talk, talk—but we still have not found our true voice and still would refuse to offer up and pass legislation which has the force of law, and provide direction to the President and his Cabinet in partnership, not as an adversary.

I listened to the debate this last Tuesday, when the leadership outlined thé thoughts on what the nonbinding resolution did and did not do. The leadership stated, "It is believed that the resolution did not constitute a blank check." He said, "This resolution is not a Gulf of Tonkin resolution."

I know he is absolutely sincere in his position, but I fear that time may prove him wrong. We created a piece of paper that a President can use, at least to the public, as some participating role that the Congress established by approving his policy as such.

What really mystified me about today's debate was all the discussion about how Congress, bypassing the resolution, was not declaring that our Nation is at war. Of course, it was not. That is not the point. The point is we may soon find ourselves waging war. And those of us who watched the decade-long tragedy of Vietnam know all too well that we can have war without the declaration. The shooting does not wait for the Congress in this day and age. Unless we draw some parameters, I believe we then stand accused of neglect of duty.

Believe me, Mr. President, as one who served in the military, as has the Presiding Officer, a neglect of duty in wartime can end up with a court martial and a firing squad, and yet the Congress escapes any accountability of our failure of standing to the duty post when we should be there.

I am taking the floor today to offer a suggestion to my colleagues, to offer a resolution which takes some responsibility, a resolution which is true to the letter and the spirit of the War Powers Act that we felt so strongly about that we passed it over a Presidential veto.

This resolution states congressional authorization for the troops for the purpose of carrying out the United Nations Security Council resolutions and for the protection of Saudi Arabia against an offensive initiative by Iraq.

I say to my friends, this does not in any way contradict the President's policy that has been established by unilateral action. This affirms the President's policy, but it puts the Congress on record rather than letting us remain as spectators in the grandstand; it forces the Congress down on to the playing field.

That is the role that we have under law. The authorization would be in effect for 90 days until we convene the next Congress. It establishes that bridge when we are out of town. The bill recognizes the President's authority to protect the lives of American citizens and conforms to the War Powers Act.

The resolution also calls upon the President to consider placing U.S. troops under U.N. multilateral chain of command to ensure that the United States does everything possible to avoid becoming a lightning rod for Saddam Hussein.

I feel very strongly that this Senate should speak firmly and with one voice. I believe we should do more than authorize defensive action. Perhaps this resolution, if it is considered, would be altered. That is fine. The Senate may work its will. I know I have colleagues who have other perspectives and dimensions to this problem, but, nevertheless, are seeking some, at least of the same goal that I seek; and that is, to put the Senate on record in a way that puts us into true partnership with the Commander in Chief.

All I am offering today is a vehicle for this body to accept its responsibility. For unless we do, there will be further meetings between the President and a few Members of Congress. Different scenarios and details will be spun about, new justifications for waging war developing each day, and our Nation will continue to slip and slide toward armed conflict by Presidential policy exclusively.

Congress will have gone home, and unless we accept this call to act by considering this resolution and have a vote upon it, we could very well come back into the 102d Congress and find ourselves trying to find an answer to how we are in war again without the authorization and without the partnership of the Congress.

Mr. President, I ask for the immediate printing of this resolution that I now send to the desk.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 376

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION FOR DEPLOYMENT AND USE OF UNITED STATES ARMED FORCES IN AND AROUND THE ARABIAN PENINSULA.

(a) Authorization.—Pursuant to its war powers under the Constitution and the War Powers Resolution, the Congress hereby authorizes the President for a period of 90 days after the date of enactment of this Act to deploy United States Armed Forces in countries in and around the Arabian peninsula, only to carry out either or both of the following missions:

(1) To deter and defend the territorial integrity of Saudi Arabia against acts of aggression by Iraq.

(2) To enforce United Nations Security Council Resolution 665 or any other resolution adopted by United Nations Security Council that authorizes United Nations members to take additional steps to enforce United Nations Security Council Resolution 661, regarding economic sanctions against Iraq.

(b) Application of Existing Law.—Any deployment, introduction, or use of United States Armed Forces not covered by this authorization that involves hostilities may be undertaken only pursuant to the War Powers Resolution or the enactment by the Congress of additional legislation authorizing such activities.

SEC. 2. AFFIRMATION OF THE PRESIDENT'S CONSTITUTIONAL DUTY TO PROTECT UNITED STATES CITIZENS.

The Congress recognizes the constitutional duty of the President to protect the lives of United States citizens, and nothing in this Act shall be interpreted as a constraint on such constitutional duty.

SEC. 3. MULTILATERAL CHAIN OF COMMAND.

The President shall take every practicable step to establish a multilateral chain of command that places United States Armed Forces under the command of the United Nations for purposes of section 1(a)

SEC. 4. CONFORMITY WITH WAR POWERS RESOLUTION.

The authorization contained in section 1(a) shall be considered to constitute a specific authorization for the use of United States Armed Forces under section 5(b) of the War Powers Resolution.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. HATFIELD. I am happy to yield.

Mr. MOYNIHAN. I came just a bit late on the floor. I wondered whether the distinguished Senator from Oregon has made reference to a front-page story in the Washington Post?

Mr. HATFIELD. I did.

Mr. MOYNIHAN. "Bush Consults on Use of Force in Gulf Private Talks With Lawmakers Aim at Meeting Objections in Advance."

The Senator did?

Mr. HATFIELD. I did. To the Senator from New York I respond I did make reference not only to the President's statement but something equally alarming to this Senator and that is the statement of the Secretary of Defense having stated that it was an advantage for the Congress to have been out of town.

Mr. MOYNIHAN. If I may say rhetorically in answer to a question, I think the Senator is entirely right. On this side of the aisle, from the first, we have sought to engage the administration in some understanding of how shall we work the necessary joint consultations and agreements that are always required in the case where American forces are committed to battle, or to whatever overseas purposes, in the new context of a Security Council action. I have made the point—it is not any way commanding but it is significant. Article 25 of the charter binds members to abide by Security Council resolutions. I made the point that when the charter was drafted and when it was as a treaty agreed to by the Senate it was anticipated that the Security Council would have by prior agreement forces available to it that could be committed. None of those things actually happened. Now they are. We get very little response.

I am chairman of the Subcommittee on the Near Eastern and South Asian Affairs. From the first I have spoken on this floor, I mentioned that I was asking our Representative to the United Nations the same questions the Senator was on Thursday 2 weeks ago, 2 weeks and a day ago when the Senator was on the floor saying why are we not responding as a body.

No one from the administration has spoken with me—none. I do not requrie to be spoken of, but if they are interested you might have thought they would have done so.

Then last week on the day that we adopted this resolution referred to, the Senator from Maine was on the floor, and I spoke about what could appear to others as a two-track policy. We say fine, if you are working within the United Nations, within the context of the United Nations, stay that way and we stay with you. But simultaneously we read these stories and discussions of surgical strikes and the like as if there are two views downtown in the administration. That would be not unusual, but if it were deliberate, it woud be unforgivable in my view.

I read this. I was depressed. Not a single response to our action. It was on Tuesday that we acted. We previously expected Monday. It was on Tuesday. No response. Then this. And in the context of a debate—and the Senator is on his feet and will speak further—a debate in which we said now, listen, this is troubling. This requires some response. They have the makings of a policy in ruins.

And also in my view—and this is very personal perhaps—I would like to see a system of collective security working in this world. I would like to see the charter abided by—this seems to be such a moment—than to have the war party, the go-it-alone party, or just use the United Nations for purposes until it has served those purposes and then break it. This is not a policy of appeasing Saddam Hussein. It is a policy of responding collectively.

Mr. HATFIELD. That is right.

Mr. MOYNIHAN. I could not more agree with the suggestion that a U.N. command would make clear that it was

the world against Iraq, not the United States. I can only express my bafflement about his behavior and my appreciation of the commitment of the Senator from Oregon.

I see the Senator from Maine and the Senator from Minnesota.

Mr. COHEN. If the Senator will yield for a comment as opposed to a question that pertains to the statement just made by the Senator from New York——

Mr. HATFIELD. Mr. President, first of all, I thank the Senator from New York for his comments. I would be very happy to yield the floor and have the Senator from Maine have the floor.

Mr. COHEN. I was just going to respond to both my colleagues that a similar question was just raised during a House-Senate Armed Services Committee conference, as to whether or not the leaders of the Senate Armed Services Committee have been involved in these private discussions. There appears to be considerable error in at least the implications, erroneous implications being drawn, because there have been no such private sessions with the leadership of the Armed Services Committee as indicated in this particular article. So I think we have to go back and read it more carefully. There was a meeting that took place a couple weeks ago, a general leadership meeting at the White House but since that time according to the information I have received there have been no such private discussions.

Mr. MOYNIHAN. Would the Senator have any reason to wonder then why this story appeared?

Mr. COHEN. I do wonder why. I do not know the basis of it. I would have thought that if the White House were concerned about what congressional reaction might be, they might well have dialed the office of the Senator from New York, to inquire about his views. He and I were on this floor debating the issue of what kind of notification might be required, what kind of participation Congress might wish to establish in working with the White House.

I have been sitting patiently by my phone for the last 3 or 4 days and the phone has not rung, to the surprise of the Senator from New York but I have received no such phone call and, frankly, did not anticipate receiving such a phone call.

I say to my friends from Oregon and from the State of New York that I think it would be a mistake for the Executive to adopt an attitude saying we really do not need them, or want them, or we will be looking forward to the day when they depart from the city of Washington, DC, and that we will have a freer hand. If that is an attitude that is being widely circulated in the White House, I think it would be a mistake.

I am not sure it is. It may be that much of this is constructed in a way from various sources which gives a misleading impression. I share the concerns voiced by my friends from Oregon and New York in terms of the implications.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. MOYNIHAN. Could I ask the Senator to yield for a question?

Mr. HATFIELD. I will be very happy to yield.

Mr. MOYNIHAN. I observe the distinguished Senator from Rhode Island, who is chairman of the Committee on Foreign Relations, who was working in San Francisco 46 years ago on this very provision. I would ask him, the Senator from Maine has not heard from the administration. The Senator from New York, who is chairman of the subcommittee, has not heard. Has the chairman of the Committee on Foreign Relations perhaps heard? I wonder if the Senator might make that inquiry.

Mr. HATFIELD. I would make that inquiry of the Senator from Rhode Island.

Mr. PELL. Since a group of us came back from the Near East together several weeks ago and reported to the President, and for attendance at a White House leadership meeting, there has been no consultation of which I am aware between the administration and the Foreign Relations Committee.

Mr. MOYNIHAN. Then there has been none.

Mr. COHEN. If the Senator will yield, we also have present the chairman of the Armed Services Committee. We might inquire as to whether he has been involved in private discussions consistent with the article that appeared in today's Washington Post.

Mr. NUNN. I have not read the whole article in the Washington Post. I only read the front part of it. I have this early bird and it has the front page, and frankly I have not yet been able to find the next continuing page. My more well read colleagues perhaps could help me find the point in the early bird.

I believe it was 2 weeks ago today I was invited to the White House to meet with President Bush and a number of his leaders in the Cabinet. I believe Secretary Cheney was not there, but I believe that Secretary Baker was there, and the National Security Adviser Brent Scowcroft, and a number of others. But that meeting was a general leadership meeting.

Senator Mitchell was there. Congressman Foley, the Speaker, was there. I know Senator Warner was there. I believe the Foreign Relations Committee was included in that meeting.

Mr. PELL. I was at that meeting, to the best of my recollection.

Mr. NUNN. That was 2 weeks ago today. We had a very thorough discussion. The President gave his views. He told us about the dangers there, and he told us about the sensitivities from his perspective. He went around the room and invited the views of others.

Congressman Foley, the Speaker, gave his views. Senator Mitchell gave his views. I gave my views, and made six or seven points to the President. I would say that the general thrust of the meeting of the President was that he should do his best, first of all. I think people congratulated him on working through the United Nations. I think that was the general thrust of the meeting. I know that was the thrust that I picked up. I think there also was a clear kind of consensus emerging there that we ought to continue to try to work through the United Nations.

I remember that I did say—and I said this publicly. I do not mind repeating it. I said the President has done a superb job rounding up a posse. Now that we have done that, we cannot be the Lone Ranger. We have to work with international community, the first preference, of course—the United Nations. I went on to say that I felt whatever happened in the United Nations we needed to keep our key allies in this particular situation informed, and that would include the Arab nations.

We were working with Britain, France, and some of the NATO nations. Also in this situation, it would include the Soviet Union. We needed to keep them informed of the activity.

We went on to discuss other things in some detail. I will not try to repeat that nor do I think I should here, but I believe that was the thrust of the meeting.

The President gave the Members there a chance to be heard. Of course, in a group of leaders of the Congress that large you never get unanimous views and some people expressed different views. But that is the thrust of the meeting. I have not been invited to any further meetings.

Mr. MOYNIHAN. That was the last meeting.

Mr. NUNN. That was the only meeting in which I met with the President. Of course, I meet with the Secretary of Defense constantly because of defense going on. But as far as a Middle East discussion with the President of the United States that is the only one in which I have been included.

Mr. HATFIELD. Mr. President, as my colleagues demonstrated here today, there is a great willingness to be a partner in this whole process, and on this very specific policy. I am baffled on two fronts I must confess. I am baffled as to the White House's attitude toward the Congress as has been expressed here by my colleagues when there is a 75 percent public support for the President's policy out there when last Tuesday we passed a nonbinding resolution commending the President by a vote of 96 to 3, whatever it was.

The President is not an adversary. I do not think we feel that way in the Congress, or at least we should not be. If I were the President, I would want the Congress on record when it so willingly stands there ready for some kind of role to play. But I am equally baffled nevertheless not understanding the White House's attitude.

I do not understand the Congress' attitude because we have ample reason to participate in this whether we are invited to or not. We have the legal vehicle to establish a partnership role. I must say from my perspective, it is equally baffling why the White House has not communicated in a role that would invite and be a willing partner into this policy from the congressional point of view, and second, why we do nothing to invite ourselves into a partnership where we have every legal vehicle to do so. So I am baffled on two fronts, Mr. President.

Mr. NUNN. If I could respond briefly——

The PRESIDING OFFICER. The Chair advises that under the previous order, the Senate is to stand in recess after the remarks of the Senator from Oregon.

Mr. HATFIELD. Mr. President, may I retain my right to the floor and yield to my colleagues?

Mr. NUNN. If I could just ask the Senator from Oregon a question, what is it that the Senator believes that the Congress should do? I missed that point.

Mr. HATFIELD. I respond to my colleagues from Georgia, Mr. President, by saying that I have today introduced this resolution under the scope of the War Power Act, not waiting for the so-called document from the White House, but to authorize the troops there now for the 90 days that we will be in recess; also to carry out specifically the U.N. Security Council Resolution 665, and for any other resolution by the U.N. Security Council, and then to review that policy when we come back. It puts us on record as authorizing what has occurred, affirming the President within this War Power Act.

There are other ways to approach this perhaps, but my point is the resolution we passed last Tuesday, I refer to as a press release of the institution of the Senate, did not bind us to anything. It did not bind the President to anything. It was just a press release. I would like to see us take some action that puts us into a legal partnership with the President in this particular policy.

Mr. NUNN. If I could say to my friend from Oregon, I will be one of those who believes the War Powers Act needs substantial revision, but it is the law. I think that all of us have to respect the law. The problem with the War Powers Act—there are several problems, but one is that the President obviously is not going to trigger it, this President or any other President.

Mr. HATFIELD. We can trigger it.

Mr. NUNN. We can if we can pass the bill and get it down to the President, have him sign it, or in lieu thereof, override a veto. Of course we have never been able to muster two-thirds vote in the House and Senate to do that.

Mr. HATFIELD. We did on the initial War Powers Act. We passed it over President Nixon's veto.

Mr. NUNN. That was the last time. I do not think the Senator would believe we would have two-thirds of this body at this moment pass a resolution to trigger the timing element of the War Powers Act and have the President veto it, which I believe that he would, and then come back and override the veto.

Mr. HATFIELD. Mr. President, I would like to respond. I have no guarantee. I am only saying that Congress at least has taken that step, and that the President has the right to veto the bill if he selects to do so. That is another story. I am not so sure he would. But nevertheless that is speculative. But it does take the first step; that is, we the Congress take the first step under an existing law that may be flawed and all that, but it is still existing law. That is what I am basing this resolution on.

Mr. NUNN. I say to my friend, the Senator from Oregon, that there probably would be parts of the resolution that I would agree with. I would like to read it and study it, and I will.

I certainly think we ought to set up a consultative mechanism to give the President clear directions from the Congress that we expect consultation during this interim period after we go out as well as while we are in. I am very much in favor of that part of the War Powers Act.

I think we need to revise the War Powers Act to eliminate the part which I think is never going to work, never has worked, it never will work under any President, in my opinion, and that is the automatic withdrawal in absence of congressional action. That is what is wrong with the War Powers Act.

The War Powers Act, when it is kicked off by a notice from the President, or if we override a veto, pass a provision that says it is being implemented, it requires the President to withdraw the forces within 60 days, I believe 30 more days on an extension, unless Congress acts.

So by sitting here under the War Powers Act and doing nothing we can basically, after the trigger comes in under the War Powers Act, require the withdrawal of forces from Saudi Arabia or anywhere else. That is what is wrong with the War Powers Act. That is not congressional participation. What that is, is an act on the book that says to the President, when you send forces abroad, you send us a notice up here, we can sit on our hands on our chairs, we can run home, recess, the clock is ticking away, and if we do not do something, Mr. President, you bring them back. To me that does not makes sense in the modern world. That part of the War Powers Act needs eliminating.

The consultative part of it needs to be implemented, and in fact I think we need to strengthen that part of it. We need to tell the President what he needs to do in terms of consultation. We need to appoint by a position certain people to be consulted with on behalf of the Congress, and then we would be making progress.

In the ultimate, I would have to say to my friend from Oregon, the way we control this issue is through the purse. My friend from Oregon has a big hand on that purse. That is the ultimate sanction in terms of the Congress. That is what we have the power over. If we do not fund it, it will not happen. If we do not fund it at some point the money is gone. That is a tough, tough instrument. No one ever wants to cut off funds when we are engaged in some kind of foreign contingency. That is the power. The question is whether we ever decide to use that.

Mr. MOYNIHAN. Will the Senator yield for a comment?

Mr. HATFIELD. I am happy to yield. But may I respond a minute, if I could?

Mr. President, I would like to make two responses to the Senator from Georgia. Obviously, the Senator from Georgia is legally trained, and he is a lawyer. I need not say more. But nevertheless——

Mr. NUNN. I think you need to say more than that.

Mr. HATFIELD. May I speak as a nonlawyer? We can find the flaws in the War Powers Act, and we can listen to the arguments between the lawyers. Nevertheless, let me just make one simple layman's observation: It is the law of the land. I know of no revision instrument that is in place or that is in process. Therefore, it is the law of the land. And all of these parts to the war powers in no way, negate that first step that the Congress can take to trigger its responsible partnership role.

There is no way that we can excuse ourselves from inaction merely because, well, the President might veto it, or parts are not operative down the line.

I cannot recall, but I think the Senator from Georgia was here when the war powers was adopted. We had Jake Javits, the Senator from New York, who was considered to be one of the best constitutional lawyers. We had other lawyers on this floor, who stood up and gave an answer to every one of those charges about its flaws, and we had eloquent responses arguing it out. But the majority of this body adopted the law as it now is on the statute books.

All I am saying, is that I do not think we can engage in legal speculation about what would happen or not happen, and avoid the responsibility that permits us to trigger a partnership role. That is all I am saying.

Secondly, I want to say this about the purse strings. I can recall very vividly when Senator McGovern and I offered a resolution to cut off the funding of the Vietnam war; we went around to the Senate colleagues, including the chairman of the Senate Foreign Relations Committee, Senator Fulbright, and other people, and we could get only five other cosponsors. And you had dozens of people out here criticizing the war, dissenting from the war policy.

We could only get five cosponsors because the answer was that "you cannot cut off the funds now." We said it is prospective. As of the end of a certain period, the funds will be cut off, because once you get those troops in there and once you get them into battle, then to say cut off the funds or control the policy by the purse strings is absolutely not realistic.

Mr. NUNN. Will the Senator yield on that point? I think the Senator makes a good point. However, again, the Senator said we should not refrain from triggering the War Powers Act on the theory that the President may veto it. That is too much of a legal argument. That is the same thing the Senator is using on the purse.

The fact that power has not been exercised does not mean it could not be. It means Congress chose not to exercise it during the Vietnam war.

I say to the Senator, further, that the big problem with the War Powers Act is that, actually, in a nuclear age the War Powers Act, itself, would permit the President to fight a nuclear war without ever talking to Congress, and if it lasted within 60 days—which I do not know of anybody who believes it would not be over within that period of time, or at least the damage would have been absolutely tragic at that period of time, and probably in the first few days—the War Powers Act would say everything is fine.

So if we really are worrying about nuclear war, I submit that the War Powers Act does not address that.

I say also that the War Powers Act does not address what happened in Saudi Arabia. The Senator says we cannot cut off the purse strings after the troops are deployed. The President already has them over there now. He had them over there before there was any triggering of the war powers. So I think the Senator is making the case strongly that the War Powers Act does not work.

I agree with the Senator that it is the law of the land, but it ought to be revised. It is not working. It is having the effect of cutting Congress out of the act more than it ever is doing anything to make Congress part of the act.

The other thing wrong with it, if I could keep going, is we should not have numbers of days in it. That is probably where I differ with my good friend on this resolution, if he has 90 days in there.

When you say the number of days and when you have a military mission abroad, which nobody in the world knows the number of days it is going to take, when you put the number of days on it, you give a tremendous psychological advantage to your adversary.

I do not believe we should say 60 days or 90 days. If we are going to define a policy, we ought to say what the military mission is, and give the President and the troops a chance to carry it out. If we are not going to do that, we should not specify the number of days. Putting that in there creates a tremendous problem and works against our own interests and, in many cases, when you start giving a congressional deadline for military activity, what you do is precipitate the very conflict you hope to avoid.

So I think we have to be very careful in this area. There were some good people who worked on the War Powers Act. But I say that it simply has not worked. I see no indication that it is going to work.

Mr. HATFIELD. Mr. President, I would just like to say that the Senate engages in speculation on one hand, and ignores the pragmatic events of the moment. Everything that the Senator has indicated is speculation, speculation. He gets into nuclear war and all that. That is not the issue at hand.

The very simple thing is, we can speculate about laws and all the things about it, but it all ends up, the bottom line is, it is an excuse to do nothing; it is an avoidance, because we can say, well, it may be flawed, or it is this, or it has to work.

Let me say that to compare this back to the Vietnam war, the Senator engaged in speculation on one hand, and I am engaging in imperical data and experience on the other hand. That is, when we introduced that, it was not just because of the deployment; we were involved in bloody warfare. I did not indicate that it was because the President has deployed; I said deployed and embattled. Once they engage in battle, we have no role left to really play. That is not speculation, but empirical experience of the McGovern-Hatfield amendment, as it related to the Vietnam war. I would like to keep it right down to the pragmatic instance at hand.

Mr. NUNN. Would the Senator's resolution—as I understand it—give the President the authority to basically, if necessary, and if need be, fight a war for the next 90 days? Or would it preclude him from doing that.

Mr. HATFIELD. It does not address the question of war, except as it engages in the authorization of those troops already there. That puts the Congress on record.

Mr. NUNN. What would it do——

Mr. HATFIELD. Does the Senator know the alternative? To come back and find the battle, everybody is going to be up here making a speech about the Bush war. That is the alternative to what the Senator says.

Mr. NUNN. What would the Senator's resolution do to prevent the President, while we are gone, from starting a war in the Middle East and fighting it until we got back? Is there anything in the resolution to prohibit him from doing that?

Mr. HATFIELD. The Senator is engaging in speculation. I am taking this from the War Powers Act. Does it restrict the President to wage war?

Mr. NUNN. No.

Mr. HATFIELD. Neither does the resolution. It is nothing more, nothing less; not all this speculative, what if this and that. It takes it out of the War Powers Act. Congress goes on record authorizing the troops that are there, and we have to deal with whatever consequences come, because we have no other way to do it when we adjourn to go home anyway.

So let us keep the reality of the moment and instead of all of this What if, because all I am doing is taking it from the law, and it is only asking the Congress to stand up instead of avoiding and dodging ways not to take action, and it puts us on record of authorizing the President's action thus far under the war powers.

I yield to the Senator from New York.

Mr. MOYNIHAN. I note that the Senator from Maine would like to speak, also.

Between my two friends here, are we not basically saying that we need to establish a relationship with the administration with respect to what is going on, and we have not? I believe very strongly that down there in their legal counsel's office there is a terror of this War Powers Act in thinking that you might even reach the subject. The President is not being well advised. It may sound large, but he has put his Presidency at issue here, in an effort never before undertaken of its kind to have economic sanctions to put an end to acts of aggression. Economic sanctions are not a kinder, gentler form of behavior. They are tough, hard, demanding, and hugely demanding of the country that imposed it.

It seems to me that what I hear from the comments of the Senator from Maine is that someone down in the executive branch had better listen or they could indeed find themselves all alone with an immensely debilitating and demanding and possibly ruinous policy; whereas, we would like to see, and I think the Senator from Oregon would like to see the policy of the charter put in place. That would be a new exercise.

They ought to come up and say to the Senator from Rhode Island, the chairman of the Foreign Relations Committee, and the Senator from Georgia, the chairman of the Armed Services Committee: How do you think we might best go about this; at the minimum that, and yet we have all testified to silence. I am baffled.

But I once again thank the Senator for raising the subject.

Mr. HATFIELD. I agree with the Senator from New York. I am baffled, too. The chairman of the Foreign Relations Committee, the chairman of the Armed Forces Committee, and the ranking members of the committees have not been consulted.

Mr. MOYNIHAN. And the Intelligence Committee.

Mr. HATFIELD. And the Intelligence Committee.

I am baffled by that. Nevertheless, what is the alternative? The alternative is to go home and say we were not invited. We were not invited there.

Mr. MOYNIHAN. May I say I much agree. If they do not come to us, we must go to them.

Mr. HATFIELD. Exactly.

Mr. MOYNIHAN. We must be stronger than we have been.

Mr. HATFIELD. if it takes a vehicle of this kind.

I yield to the Senator from Maine.

Mr. COHEN. Mr. President, a couple of weeks ago, the Washington Post published an article I wrote pointing out precisely this dilemma. That is, the War Powers Act is not working because, first, the President does not recognize the constitutionality; and second, the Congress itself does not recognize its viability.

So we have a unique situation in which we have passed a bill that has been put into law over the objection of a President, and we have ignored it. We have ignored it for a variety of reasons. The Senator from Georgia has pointed out several of those reasons.

No. 1, by fixing a time certain, we have not necessarily aided our own cause, but rather perhaps emboldened the enemy to simply sit down tight, wait it out, and watch the troops then be removed. We decrease our leverage, rather than increase our leverage.

Under the War Powers Resolution, we engage something of an act of cowardice simply by doing nothing; we overturn a Presidential decision by doing nothing. That is not a concomitant role or a coequal partnership in the entire field of declaring or waging war as such.

I think the Senator from Oregon suggested that there is nothing in the works. There is. There is a bill that has been sponsored by the Senator from Georgia; the majority leader, Senator MITCHELL; myself, and others, called S 2. And it is designed precisely to deal in an effective way with the war powers question.

Mr. MOYNIHAN. Consultative group.

Mr. COHEN. A consultative group, and with an expedited process, by a vote of both Houses. That is for me a preferred result. It is not on the books. What I was suggesting in the article published in the Post was that Congress itself cannot continue to accuse the executive branch of trying to circumvent the law or abuse the law, as occurred in Watergate or Irangate, while we ourselves ignore the laws we pass.

Mr. HATFIELD. Simple laws.

Mr. COHEN. It may be that the 90-day period is offensive. I think what the Senator from Oregon is trying to do is say while we are out of session, while we are gone, we want to say simply yes, we support President Bush's decision to deploy the troops. We want to see them continue to remain there, and he may, in other contexts, have to go to war. Something may occur.

Mr. MOYNIHAN. In the context of the United Nations.

Mr. COHEN. I yield on that point to the Senator from New York, but it is not an open-ended type of approval. It might be by the time we come back in January, or whatever timeframe it might be.

I also will suggest in terms of where we go from here as far as insisting on that consultative role, I do think we have to take the initiative. I do not think we can simply ignore it. I do not know that we can go away and say the President has made the decision. We knew about it. After all, we passed a resolution overwhelmingly in favor of it. And that, by implication, if nothing else, would indicate that we are solidly behind what he intends to do.

I think we ought to, as an institution, assert ourselves. I would prefer to go with S. 2, frankly, as perhaps an amendment to start debating. We have only started to debate this issue this past week. This is the first time, I think, in recent years, we really started to debate the issue.

We had a similar situation, as I recall, back during the deployment of peacekeeping forces into Lebanon. Again, there was no War Powers Resolution provision invoked on the part of the executive. But we authorized specifically, as I recall, the deployment of those forces for a period of 18 months.

Mr. HATFIELD. That is correct.

Mr. COHEN. It was not 60 days or 90 days; it was a period of 18 months. A great tragedy occurred. Many of our marines were killed over there in a bombing attack in Beirut. We lost well over 250 or 300 marines, as I recall. It may have been more. We bore an equal responsibility; it was not President Reagan's debacle at that point, since we said that; we favor this peacekeeping deployment.

Mr. MOYNIHAN. Nor were there recriminations.

Mr. HATFIELD. There were no recriminations.

Mr. COHEN. There was not anyone in the Senate or House pointing a finger at the President, saying this is what you have done to our brave young men. That was not what occurred. It was a shared responsibility.

I think that is precisely what the Senator is trying to do.

Mr. NUNN. I say to the Senator from Maine—will the Senator from Oregon yield?

Mr. HATFIELD. I will.

I only want to say before the Senator from Georgia arrived, I not only have questioned the front-page story in the Post as it related to the President's reported consultations with certain leaders of the Senate.

What equally bothered me was a quotation from the Secretary of Defense, Mr. Cheney, who said that in the previous deployment, it was an advantage to have the Congress out of town. I am only indicating that it is a long time between now and January, mid-January 1991, when Congress reconvenes.

This bothers me. This bothers me deeply, because again it is almost as if the story had a linkage between those two statements giving us a signal, and that really helped give rise to this.

I want to also comment, I think this is the most extensive debate we have had, or discussion. The Senator from New York has spoken on this floor; the Senator from Nebraska [Mr. KERREY] has spoken on this floor; I have spoken on this floor; the Senator from Washington State [Mr. ADAMS]; but always singly. To get a group together to discuss this issue I think is an important step forward.

I also feel that S. 2 is excellent. I am glad to be informed of that particular concept that is in committee. But again I am saying we are facing sine die in the next 2 weeks. I do not visualize S. 2 coming out of committee and being acted on and signed into law.

But there is the War Powers Act on the books, and all I am just saying is it gives us an opportunity, and basically I am looking for a hook to hang this on. It gives us that hook, with all its flaws or all of the kinds of faults we may find with that act.

I am not wanting to bring an adversarial role between the White House and the Congress. As I say, I am equally appalled at how these things have sort of moved along. We cannot point to the White House and blame the White House entirely.

I think again we have an opportunity and a responsibility to just trigger some kind of action that indicates a role that we are willing to stand up and take for ourselves under the law, and I do not consider that resolution other than just a poll of the Senate, and I am in support of the President's policy.

I yield to the Senator from Georgia.

Mr. NUNN. Mr. President, I say to my friend from Oregon, I believe we all agree—I know I agree with the Senator from Oregon—on the problem, in stating the problem. I think there is a problem. The problem I have is thinking through the solution or any approach to the solution.

It seems to me before we go home we ought to do something. I submit that we have implicitly authorized what the President is doing by the resolution that is already passed. We basically, as I recall it, set it forth in the United Nations—we were acting under the United Nations. I think, implicit in that, we authorize the forces that the President has deployed.

What I do think we ought to do before we go home is we ought to pass at least a resolution that says to the President: We have the following leaders, by position, that ought to be consulted with on a regular basis while the Congress is not in session. That is the least that we should do, and we ought to make that absolutely clear and abundantly clear.

Again, I have not read the Senator's resolution. I probably would agree with much of it, but I believe that would be a step forward.

If I could add one other comment to the comments of the Senator from Maine. There were some of us who were opposed to the Lebanon resolution, and I was one of those who voted against that for the reason that I have outlined here. For one thing, we did not say what the mission was. No one could say what the mission was over there. That turned out to be the problem. I made that point in the debate here.

The second point was we put a time limit on it. If you have a mission, you cannot prescribe a time limit for it in Congress. Those two things work against each other. If you do not have a mission, which we did not in Lebanon, I suppose you could put any time on it you want to.

We have just seen the great presentation on the Civil War. If during those years in the Senate and the House here in Washington, if it had been a time limit put on President Lincoln, as Commander in Chief, in terms of how long he could prosecute that war, we would be meeting probably in Richmond today rather than here.

Mr. HATFIELD. Mr. President, the Senator from Georgia has now triggered another problem for me which really frightens me more than anything. He said, not in an adversarial way but just in a comment generally, he said the resolution we passed on Tuesday implies there was an authorization of the President's troops that he has deployed there. I believe that is what Senator indicated.

Mr. NUNN. It said we have approved of what the Senate did today.

Mr. HATFIELD. The Senator used the word "authorize."

Mr. NUNN. I consider that when we approve of what the President has done to this date, and he has over 150,000 troops in Saudi Arabia, that we have implicitly, if not explicitly, condoned that or authorized that.

(Ms. MIKULSKI assumed the chair.)

Mr. HATFIELD. Have authorized those troops.

I will tell you why that bothers me even more. And I think the Senator is right; I am not challenging the Senator's comments.

In a concurrent resolution, nonbinding, but nevertheless when that word "authorization" of those troops was used in that, it was followed by "and appropriations"—"and appropriations." That was one of the things that caught my eye, and that was in the last paragraph.

Again, I can just see, having gone through the experience of the Vietnam war period, when President Johnson invited all the Governors to the White House to brief them on the Vietnam war after a resolution had been adopted supporting his policy by a vote of 49 to 1—I was the only Governor voting no—the first thing he did was pull out the Gulf of Tonkin Resolution. Now that was a joint resolution. But, nevertheless, he wanted to show paper of how the Congress had in effect approved of his policy; therefore, it was not the Johnson war policy, it was not the President's war. Here Congress, except for two votes, had passed a resolution.

All I am saying is that when you use the word "authorization," as was used in that resolution last Tuesday "and appropriations," it bothers me that we have had a piece of paper—and I am not suggesting President Bush is going to do that or anything, but I am saying, having experienced that one instance in history, I am cautious, very cautious about giving the President any paper that states that we have in any way implicitly or explicitly authorized and appropriated a policy of deploying troops abroad.

Mr. NUNN. If the Senator would yield on this point. The Senator makes a good point, I believe. I wish we had that resolution before us, but we do not. But I believe those words "authorized and appropriated" were down at the bottom part of the resolution and that was setting forth the procedure we wanted the President to follow; first, the United Nations, in accordance with the Constitution of the United States, and in accordance with the statutes of the United States, including authorization and appropriation.

Mr. MOYNIHAN. I believe that is correct.

Mr. NUNN. I believe that was the context of that, basically the intent of that, because I was involved, to some extent, in the drafting. It was to make it clear that his actions there do follow under the authorization and appropriation of Congress, that we have to authorize and appropriate.

Mr. HATFIELD. I say to the Senator that is all this resolution seeks to do, to authorize those troops under a law that is on the books and not under what I call a press release action of a concurrent resolution.

Mr. NUNN. I thank the Senator for his service. I think he has really served the Senate well.

Mr. HATFIELD. I yield to the Senator from North Carolina.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. HELMS. Madam President, notwithstanding the previous order, I ask unanimous consent that, at the conclusion of Senator HATFIELD's colloquy with his colleagues, I be recognized as in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. COHEN. Will the Senator amend his request to include the Senator from Maine to follow?

Mr. HELMS. I certainly will, Madam President.

The PRESIDING OFFICER. Is there objection?

Without objection, the request of the Senator from North Carolina is agreed to.

Mr. HATFIELD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina [Mr. HELMS] is recognized.

Mr. HELMS. Madam President, I thank the Chair very much.

THE MOCK BURIAL OF MIA'S

Mr. HELMS. Madam President, the Department of Defense announced several days ago that the remains of four U.S. servicemen, missing in action in Laos since March 5, 1971, would be interred in a military burial today at Arlington National Cemetery. The names of the four are: Sp4c. Joel C. Hatley, from Albemarle, NC; Capt. David L. Nelson, from Kirkland, WA; WO Ralph Moreira, from Beaver Falls, PA; and Sp4c. Michael E. King, from Calhoun, GA.

On September 21, the Department of Defense stated that:

> Remains recovered during January 5-10, 1990, joint excavation efforts by the U.S. and Lao governments have resulted in accounting for the four servicemen. * * * The remains of these Americans will depart Hickam Air Force Base in Hawaii for a full military honors ceremony * * * and will travel to Travis Air Force Base, CA, for the final journey home.

Madam President, almost anyone reading such a statement as that which I have just quoted, might well conclude that U.S. experts have made positive identification of the remains, and that the families of the four men will at last be comforted by the knowledge that they know where the bodies of their loved ones lie.

Unfortunately, that is not the case.

There are no remains whatsoever for Specialist 4 Hatley or for Captain Nelson. For Warrant Officer Moreira and Specialist 4 King, there are minuscule fragments of bone and a tooth not positively identifiable by any objective forensic analysis. Yet four coffins will be buried with full military honors.

Madam President, I have contacted the families of both Specialist Hatley and Captain Nelson. They were thrilled when they first got the news that their sons had been found; but they were shocked when they were told, upon further inquiry, that no actual remains were being returned, just four empty coffins.

Why does the Department of Defense put the families of MIA's through this kind of charade?

The answer, Madam President, lies in a highly convoluted system of investigation and analysis that depends more upon procedure and methodology than upon practical result. For example, in announcing what amounts to mock burials at Arlington Cemetery related to the four men, the Department of Defense proudly talked about "remains," and cases "accounted for." In a question and answer statement, DOD says:

> Q. How many remains recovered from Southeast Asian countries have thus far resulted in the accounting for missing Americans?
>
> A. Including these individuals, 287 Americans (245 from Vietnam, 40 from Laos, and 2 from PRC) previously missing in Southeast Asia have been accounted for.
>
> Q. How many Americans are still unaccounted for in Indochina?
>
> A. With this determination, there are still 2,298 Americans (1,677 in Vietnam, 530 in Laos, 83 in Cambodia, and 6 in PRC Coastal Waters) missing in Indochina.

Clearly, the implication in these statements is that physical remains have been recovered and restored to the families of the missing servicemen. Yet that is not what the bureaucratic system means. DOD obviously has its own language, its own definitions of ordinary words, its own purposes to be served.

When DOD says "accounted for," it means only that DOD has gone through a stereotyped process that allows it to close the files on a case. It means first of all that all reports of sightings of specific individuals by eyewitnesses—so-called live-sighting reports—have been checked out, and either dismissed or investigated. Of course it is easier to dismiss reports by discrediting the witnesses, or by insisting that the reports meet bureaucratic criteria than it is to check them out.

Since the fall of Saigon in 1975 up to September 1, the U.S. Government says it has received 12,184 live sighting reports. DOD states that it has rejected 68 percent of these reports by correlation with Americans who were in Southeast Asia during the period. But the criteria for correlation are themselves suspect, frequently bureaucratically rigid, and to be honest about it, absurd. I will explain this in a moment with respect to the four mock burials today. Undoubtedly, many reports are mistaken, many are distorted, and many are fabricated. But DOD seems to be claiming by its own statistics that over two-thirds of the reports can be summarily dismissed.

Second, DOD's use of the term "remains" does not meet the ordinary definition of the word. For DOD, the word "remains" refers not to the actual physical remains, but to an abstract concept deduced from circumstances.

In the case of the four servicemen, an excavation team found remnants of a helicopter at the site where it presumably crashed on March 5, 1971. In the intervening 19 years, many things could have happened to the bodies of those killed in the crash. A fire could have consumed most of the bodies, including most of the bones. The process of tropical decay could obliterate most traces. Wild animals could drag bodies away. The difficulty of finding actual remains, and identifying them correctly, is indeed formidable. This Senator does not want to minimize the difficulties facing DOD. I acknowledge that.

In practice, DOD works by a process of deduction. Records of the incident would show who was pilot and copilot and crew. Any remains found in the appropriate places in the wrecked vehicle are then arbitrarily assigned to the case of the crewman who was supposed to be sitting in that place. That is reasonable enough. In some cases, teeth and dental work can be identified, but in many cases human fragments are too small to be positively identified. Nevertheless, the case is stamped "resolved," tentative though the identification may be.

Many families would prefer to know simply that the vehicle had been found at the crash site, and that unidentifiable remains were recovered inside. They would be happy to join in a ceremony commemorating anyone who may have died in the crash, but they are disturbed when told that remains have been identified as their loved one even though, in fact, no positive identification is possible.

However, DOD goes even further. When no actual human remains are found in the crash, or not enough remains are found to account for each of the crewman, the DOD declares that the whole crew has been accounted for. Thus empty caskets are returned as symbolic remains. That is why no actual remains are being buried today for two of the missing airmen.

The problem with this method, although bureaucratically convenient for closing cases, is that it is dishonest. The missing servicemen may well have escaped by jumping in the last moments of the crash—something not impossible in a helicopter that falls in a certain way. If that is the case, the man may have survived and disappeared as a prisoner of war.

You see, Madam President, that raises another question of great moment to these families. I say again, we have talked with them and we know how they feel about it.

This possibility is very inconvenient for closing cases, particularly if there are live-sighting reports of the missing airman. That is exactly what happened in the case of Captain Nelson. In 1986, a Laotian eyewitness, a member of the Royal Laotian Army, reported that he had been imprisoned in 1978 with Captain Nelson and another westerner, that he had nursed Captain Nelson, who was badly burned, as best he could in the prison camp, and buried him in the camp when he died. He provided specific locations, geographical names, a hand-drawn map of the camp, and the site of the grave in the camp.

Press reports have stated that, instead of treating the Laotian eyewitness' information seriously, DOD sought to discredit him. DOD adiminstered lie detector tests on him, and claimed that he was lying, even though he had no discernible motivation to lie, and the information on his map checked out with other sources. Indeed, some reports say that he was threatened with deportation from the United States, where he now lives, if he did not retract his story. There was no reason for him to concoct the story. But it seems to this Senator that, to submit this man to a lie detector test

and to threaten him with deportation and that sort of thing is beyond the pale. I hope that these reports are inaccurate, especially since the conduct of the interrogation team was questionable and no native language statement was taken from a witness not thoroughly familiar with English. In my opinion, his testimony should be reexamined by competent experts.

Nevertheless, this is an example of a "live-sighting report" that was "resolved" through "correlation." Meanwhile, DOD insists that the empty casket that will be buried in Arlington is the true "remains" of Captain Nelson. The quoted words are bureaucratese.

The question remains as to why such efforts are made to resolve cases instead of vigorously prosecuting any reasonable leads on MIA's. I cannot answer that question yet, but I am very disturbed by a further statement that appears in the DOD guidance on these cases. DOD states:

> The serious cooperation of the Lao Government was instrumental in achieving productive results from this joint operation and is deeply appreciated by the U.S. Government. The most important measure by which to judge the success of agreements reached between Washington and Vientiane to broader cooperation on the POW/MIA issue is obtaining final answers for the families of Americans missing in action in Southeast Asia.

Madam President, I know I have gone on too long about this, but this is a matter of extreme interest to me. It has been for many, many years. But I am bound to reiterate, DOD has not obtained final answers for the family nor can the results be described as truly productive, when nothing has been produced.

But this fawning appreciation lavished upon a government that may well be concealing the fate of many other American MIA's suggests that politics has been placed before the American family.

Mr. President, with the able assistance of the distinguished senior Senator from Iowa [Mr. GRASSLEY] I have been studying the question of MIA/POW's very closely. Recently, DOD granted access to the 12,000 files on open cases to me and Mr. GRASSLEY—an access I am sorry to say, which was granted reluctantly, and after many weeks. Mr. GRASSLEY and expert analysts on my staff have personally spent more than 110 man-hours reviewing hundreds of these documents. These files are classified, and it is not my intention to discuss them at this time. Of course, these four cases I have been discussing here today, are based upon open sources and unclassified documents.

However, I can say that we have found a number of problems similar to those cases which I have been discussing today. Although certain elements in the U.S. Government were bitterly opposed to an independent examination of the cases by qualified independent experts, I deeply appreciate the efforts of top-level officials to make the documents available to elected representatives of the people for proper oversight purposes. In the weeks to come, I hope that even greater access will be granted to make evaluation of the cases go more smoothly. The American people will not rest until they are convinced that the questions relating to MIA/POW's are satisfactorily cleared up.

Mr. President, I ask unanimous consent that the unclassified DOD cable relating to the cases of the four servicemen be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PUBLIC AFFAIRS—POW/MIA—PRESS GUIDANCE FOR IDENTIFICATION OF REMAINS

1. A joint U.S./Lao excavation has resulted in the accounting for four American servicemen. These remains are scheduled to depart Hawaii on September 21, 1990.

2. The following press release may be made after 1400 hrs (est). 14 Sept 1990: Quote: Remains recovered during Jan. 5–10, 1990 joint excavation efforts by the U.S. and Lao governments have resulted in accounting for the following American servicemen:

David L. Nelson, Cpt., USA, Kirkland, WA.

Ralph A. Moreira, Jr., WO-1, USA, Beaver Falls, PA.

Doel C. Matley, Spec 4, USA, Albemarle, NC.

Michael E. King, Spec 4, USA, Calhoun, GA

The remains of these Americans will depart Hickam Air Force Base in Hawaii with a full military honors ceremony at 8:00 a.m., Hawaii time, September 21, 1990, and will travel to Travis Air Force Base, Calif., for the final journey home.

The serious cooperation of the Lao government was instrumental in achieving productive results from this joint operation and is deeply appreciated by the U.S. government. The most important measure by which to judge the success of agreements reached between Washington and Vietnam to broaden cooperation on the POW/MIA issue is obtaining final answers for the families of Americans missing in action in Southeast Asia. End quote.

3. Local media interest at each serviceman's home of record is anticipated. Service manpower/personnel offices should prepare and forward to service public affairs offices circumstances of loss and biographical data on the individuals identified for use in response to query.

4. The following general guidance is provided:

A. Discussion with media should emphasize that POW/MIA accounting is a separate humanitarian issue.

B. Address the possibility of live Americans being held against their will using only the official USA position. Outlined in answer four below.

C. Emphasize that the use is deeply committed to achieving the fullest possible accounting for all missing Americans.

5. The following Q's and A's may be used in response to specific query:

Q1. Was the next of kin of these individuals been notified?

A1. Yes.

Q2. How many remains recovered from southeast Asian countries have thus far resulted in the accounting for missing Americans?

A2. Including these individuals, 287 Americans (245 from Vietnam, 40 from Laos, and 2 from PRC) previously missing in Southeast Asia have been accounted for.

Q3. How many Americans are still unaccounted for in Indochina?

A3. With this determination, there are still 2.298 Americans (1,877 in Vietnam, 630 in Laos, 83 in Cambodia and 6 in PRC Coastal Waters) missing in Indochina.

Q4. What is the U.S. Government's position on the possibility that Americans may still be held captive in Indochina?

A4. Although we have thus far been unable to prove that Americans are still detained against their will, the information available to us precludes ruling out that possibility. Actions to investigate live-sighting reports receive, and will continue to receive, necessary priority and resources based on the assumption that at least some Americans are still held captive. Should any report prove true, we will take appropriate action to ensure the return of those involved.

Q5. Why does the U.S. government operate on the assumption that Americans are held captive?

A5. Since the fall of Saigon in 1975, and as of September 1 this year, the U.S. has received 12,184 reports related to the POW/MIA issue, most of them from Indiochinese refugees. Of the total reported, 1,435 are firsthand live-sighting reports. Approximately 68 percent of these have been resolved through correlation with Americans who were in Indochina but have since returned to the United States. Another 26 percent are known or suspected fabrications by the source. However, 106, or approximately seven percent of the reports, are under continuing investigation in an attempt to confirm the information. All reports pertaining to the POW/MIA issue are thoroughly investigated on a priority basis. Additionally, we are actively pursuing many discrepancy cases. These are cases of Americans for whom there was strong evidence that they survived their incident and were captured by Indochinese governments, or about whom those governments should have information. Yet neither these cases nor their remains have been returned.

Q6. How can you be certain of these determinations?

A6. We have complete confidence in our identification and review process. Following the analysis and recommendation of the U.S. Army central identification laboratory, Hawaii, these cases were reviewed by forensic consultants who agreed with the laboratory's findings. All information has been made available to the next of kin, and they have been thoroughly briefed on the findings.

Q7. When was the last repatriation of remains?

A7. The most recent repatriation of remains which resulted in the accounting for these American servicemen was as a result of joint excavation efforts of the U.S. and Lao governments. January 5–17 1990.

Q8. Have U.S. Government efforts to obtain the cooperation of the Lao government met with success?

A8. Yes. In Laos there has been a significant increase in productive joint activities in recent years. Including surveys and excavations of crash sites. Official U.S. delegations to Laos in January and November 1989 reached important agreements with Lao government officials concerning measures to significantly expand BT.

COMMUNIST CHINA'S NUCLEAR PRESENT TO SADDAM

Mr. HELMS. Mr. President, the Independent of London, one of Britain's most prestigious newspapers, reported on September 30 that the Communist Chinese have sold seven tons of lithium hydride to Iraq. Lithium hydride is on the United States Commodity Control List and is severely restricted by our export control laws due to its unique properties.

According to The Independent, lithium hydride can be used to make nerve gas, to make ballistic missile fuel, and, finally, to make hydrogen bombs. Lithium hydride has very limited civilian uses: pharmaceuticals and computer—but only in very small quantities.

At the same time that the Communist Chinese were publicly supporting U.N. sanctions on Iraq, they were secretly trying to make $1.5 million selling Saddam the means to destroy any target in the Middle East. Quoting a British weapons proliferation expert, the Independent says, "It's hard to imagine a more cynical deal than this one."

Who would dispute that statement?

Mr. President, the Independent further reports that Western intelligence services were aware of this alarming sale and the United States Embassy at Beijing made complaints to the Communist Chinese, clearly without success.

I raise this question, having found them committing this crime, what is the U.S. Government going to do? Frankly the State Department's record in dealing with Communist China in recent years is abysmal. His Holiness, the Dalai Lama, this year's Nobel laureate, came to the United States last month but was not invited to Washington. The Republic of China on Taiwan offered the United States $100 million to help defray our costs in the gulf but they were turned down. The State Department was afraid of offending Communist China.

What is this Communist China that the State Department does not want to offend? Is this the same Communist China which has completely integrated slave labor into its economy—as the General Accounting Office has charged? Is this the same regime accused of mass executions and holding its citizens in jail for their political beliefs as the Asia Watch has charged? Without a doubt, it is.

Mr. President, the State Department stands accused in the world's press for having served as an apologist for Saddam Hussein. The soothing words given privately by our ambassador and backed up by official statements in public by higher officials sent a signal to the Iraqi dictator that aggression will not be opposed.

You would hope that our State Department diplomats had learned something from that experience, but apparently not. Instead of welcoming the Dalai Lama and a check from Taiwan, they are excusing the Peking regime of all of its crimes. We are in the same position now with Peking that we were in with Iraq last July. The Congress is pointing to flagrant human rights abuses and aggression and the Department of State is resisting every inch of the way.

Mr. President, it is time to do with Peking what we should have done with Iraq 2 years ago: lift most-favored-nation treatment and cut them off from Western technology.

Mr. President, I ask unanimous consent that two articles from the September 30, 1990 issue of the Independent of London be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the London Independent, Sept. 30, 1990]

CHINESE ARMS DEALERS FLAUNT U.N. EMBARGO: CHINA SHIPS VITAL NUCLEAR CARGO TO IRAQ

(By Tim Kelsey)

In flagrant breach of the United Nations embargo, China has sold Iraq large quantities of a rare chemical used in the manufacture of nuclear weapons and missile fuel. *The Independent on Sunday* has learned that, in a secret deal 10 days ago, a subsidiary of North China Industries Corporation (Norinco), a Chinese state company, agreed to supply about seven tons of lithium hydride to Baghdad.

The revelation is likely to have grave diplomatic repercussions, since it jeopardises Peking's attempts to remove the stain of Tiananmen and to improve its reputation in the West. As a permanent member of the UN Security Council, China has aligned itself with the West on a number of crucial votes, including resolution 661 in August, which banned trade with Iraq. It is possible that the central government in Peking may not have been made aware by Norinco of the deal.

Intelligence reports relating to possible sales to Iraq by Norinco have already aroused concern in Washington. Earlier this week, the US embassy in Peking advised the Chinese of US anxiety over the company's activities. It is not known if this related to the lithium hydride deal.

The sale has shocked and alarmed scientists and weapons proliferation experts. "In view of its potential nuclear applications, it is very serious indeed," said Frank Barnaby, a former Aldermaston scientist and author on military technology.

The most frightening, but in an Iraqi context least likely application of lithium hydride, is in hydrogen bombs. Only five countries, including China and Britain, have tested hydrogen bombs, and scientists agree that Iraq will not have the know-how to build such a weapon for at least a decade. But defense experts say that Saddam Hussein is stockpiling components for future development of such a weapon. Lithium hydride is also used in making the atom bomb, although alternatives are available which can perform the same functions. Intelligence sources believe Iraq may be able to build an atom bomb within five years.

It is thought most likely that Iraq wants the chemical for use in fuel for ballistic missiles. It is working on rockets capable of reaching Tel Aviv, Riyadh, and southern Europe.

Scientists are also worried that lithium hydride could be used in the manufacture of nerve gasses. "It is a precursor for lithium aluminum hydride, which is an extremely powerful reducing agent, and potentially of use in the production of nerve gasses," said Julian Perry-Robinson, an internationally-respected authority on chemical weapons. John Hassard, a weapons proliferation expert at Imperial College, London, said: "This is extremely disturbing, particularly in view of Iraq's proven use of nerve gas in the past. It is a very grave potential problem."

Lithium hydride has very few civil applications. It is used in pharmaceuticals, and in the computer industry, but only in minute quantities. Iraq is believed to have tried to buy the chemical in the past, but there are only three manufacturers in the West, all of whom would have been suspicious of an order even one-tenth this size.

The sale was conducted in great secrecy. Just before the UN arms embargo was imposed, sales material was sent from Peking to five arms dealers worldwide, including three in Europe and one in Latin America. *The Independent on Sunday* has obtained copies of some of the documents. They suggest potential uses for the chemical "in the space industry as a high energy fuel" and "as an excellent catalyst used in the organic-synthesis industry" which could include the manufacture of poison gas.

The Chinese offered 10 tons for sale, priced at around $210,000 a ton. The offer was open to any purchaser, but within days Iraq agreed to buy around seven tons, at a total cost of approximately $1.5m, according to defense sources. Delivery was to be within 20–30 days of purchase.

It is likely that the lithium hydride is still in China. Sources suspect the Chinese planned to fly it to Tehran, and then forward it as "pharmaceuticals" to Baghdad.

It was clearly intended to be a pilot sale: it was confirmed to parties approached by the Chinese that additional quantities of lithium hydride were available. This has underscored the worst fears of weapons proliferations experts in the West. "There has always been a tension between commercial expedience and their concern for international security," said one. "It's hard to imagine a more cynical deal than this one."

[From the London Independent, Sept. 30, 1990]

PEKING'S ARMS DEALERS UNDO ITS GOOD WORK

China has endangered months of painstaking work to improve relations with the West with its apparent failure to control a freewheeling state company more interested in dollars than diplomacy.

Evidence that a Chinese firm has sold large quantities of lithium hydride to Iraq is likely to damage severely Peking's efforts to present a more co-operative face to the outside world.

"The stakes are so high for China I can hardly believe they would do this," said one

military attaché in Peking. "But it is not entirely out of character."

On Friday Italy, the current president of the European Community, said it was going to recommend to EC members a full normalisation of relations with China, and an end to the trade restrictions imposed after the Tiananmen Square massacre of 4 June 1989. The decision had been made, explained the Italian Foreign Minister, Gianni De Michelis, in the context of Peking's support in the UN against Iraq.

It seems inconceivable that the central government would risk losing good will in the West by trading with Iraq. The culprit would seem to be the powerful and profit-hungry state firm, Norinco, which has more than 200 factories, countless subsidiaries and employs upwards of one million people.

Sources close to the negotiations have identified a "sister corporation" of Norinco, which produces everything from arms to bicycles, as the suppliers.

China has mined lithium ore and produced compounds since the 1950s, driven partly by its ambition (successfully realised in 1967) to build its own hydrogen bomb. It has also legitimately exported lithium products, mainly to Japan. But these did not include lithium hydride, according to defence industry sources. In the past, sales of lithium compounds were not managed by Norinco, or its subsidiaries, but by another government agency, the China National Non-Ferrous Metals Import Export Corporation. The fact that a Norinco sister company is handling this deal suggests that the Chinese are seeking to move into defence related sales of the chemical.

American suspicions that it had been trading with Iraq in breach of the UN embargo led last week to the US embassy warning the Chinese authorities.

Publicly, China has been steadfast in its opposition to Iraqi aggression. It is a commitment that has often combined with veiled criticism of US military intervention, but has been seized on as a way of helping to erase the stigma of last year's Peking massacre and put pressure on Western nations to lift sanctions.

For the US in particular, cooperation in the Gulf and respect for the UN-mandated trade embargo on Iraq has become the key yardstick by which China is measured. Peking has repeatedly and categorically denied rumours of arms or other sensitive sales to Iraq. Questioned by The Independent on Sunday, the Chinese Foreign Ministry yesterday said "all import and export trade with Iraq has already stopped". Senior leaders have also put their own prestige on the line by vowing to enforce the trade embargo on Iraq. Last month the Prime Minister, Li Peng, said: "China voted for the UN Security Council Resolutions 660 and 661 and hopes that these resolutions will be implemented effectively."

International confidence in China's commitment to arms control in the past has never been great. Its refusal to sign the Nuclear Non-Proliferation Treaty has been a source of lasting concern to defence analysts in the West. But its attendance as an observer at the fourth review conference of the treaty earlier this year encourage some experts to hope China was changing policy.

China exploded its first nuclear bomb on 16 October 1964 in the deserts of Xinjiang, and has built a plant to manufacture lithium 6 deuteride—a compound used in the hydrogen bomb—in Inner Mongolia. Its sale of ballistic missiles to Saudi Arabia last year was an example of a "world view dictated by economic considerations and not informed by political responsibility," according to one diplomat. But official credibility has been most strained by the activities of China's arms merchants, who have proved both impervious to diplomatic pressure and insensitive to the diplomatic interests of their own government. During the Gulf war they supplied both Iran and Iraq. Having denied selling Silkworm missiles to Iran, Peking later admitted such weapons may have made their way to Tehran via "middle-men". These aggressive arms salesmen included Norinco.

According to Jane's Defence Weekly, Iraq in the past purchased from China as many as 1,000 T-69 tanks, Red Arrow anti-tank weapons, F-7 reconnaissance jets as well as artillery shells, mines and vast quantities of small-arms ammunition. Following the Iraqi invasion on 2 August, China pledged to halt any further such sales, but left open the possibility that contracts already signed might be honoured. American diplomats in Peking say that China seems to have stood by this commitment for the most part. Nonetheless, there have been persistent but still unsubstantiated reports that artillery shells and ammunition rounds were still getting through.

The potential diplomatic fallout of the lithium hydride deal suggests that the central government may have been unaware of it. "They have wanted to be straight on the Gulf . . . This has been helpful in all respects. They have too much to lose," said a U.S. diplomat. Any hint of double-dealing would not only damage China's image but also its economic interests by reviving pressure in the US Congress to suspend China's status as a most favoured trading nation. This would sharply increase US tariffs on Chinese goods and deliver a serious blow to its export earnings. Peking also needs Washington's help if it is to enter the world trade organization GATT and secure a full resumption of World Bank lending suspended after Tiananmen. Over the past decade, however, the central government has steadily lost control over state-run companies, some of which have become semi-independent bureaucratic and commercial fiefdoms. Poly Technologies Inc. for example, an arms firm run by the People's Liberation Army, enjoys almost limitless freedom thanks to its army links and its close contacts with the sons and daughters of Deng Xiaoping and other veteran revolutionaries. Norinco, though less well connected, has enormous power by virtue of its size.

The central government has itself acknowledged the dangers inherent in China's foreign trade system. Only two weeks ago, Zhang Tuobin, the Minister of Foreign Economic Relations and Trade, called for an end to "irregularities" among Chinese trading companies: "It is specially significant for the foreign trade sector to operate honestly and to combat irregularities because, as its operation can be seen by the outside world, its conduct has a close bearing not only on China's economic development but also on its international image and reputation," he said.

The PRESIDING OFFICER. Under the previous order, the Senator from Maine is recognized.

SOVIET UNION IN IRAQ

Mr. COHEN. Thank you, Madam President. Earlier this afternoon, there was a fairly lengthy discussion based on the reports that appeared i the daily newspapers about the Whit House either wishing, or not wishing to consult with key Members of Con gress about the possibility of conflic in the Middle East. There are number of other items that appeare in today's newspapers which attracte my eye, in addition to the budge problems that we are currently tryin to negotiate in these final hours. Bu they also pertain to the Middle East.

There was one headline story tha said, "Iraq Rebuffs Suggestion of Pull out," and that Saddam Hussein appar ently prefers war to submission. Tha was a bold headline. This was anothe story which indicated that "Gorba chev Aide Meets Iraqi on Soviet Trapped in the Gulf." Another ite which said "Gorbachev Sends Secre Message to Saddam Hussein" in th personage of Mr. Primakov.

Madam President, I would like t take a few moments this afternoon t discuss something I have mentione on several occasions which I thin continues to receive too little atten tion on the part of my colleagues an perhaps others.

The United States has been reluc tant to press the Soviet Union ver hard because, on the one hand, th Soviet Union has been quite helpful i terms of its support for the U.N. dec sion on sanctions and the deploymen of troops to the region. It had the op portunity to veto such a resolutio the resolution that passed in the U.N Security Council. And so it reflected termination of the cold war mentalit Indeed, they have entered into th new age of today. So we were ver praiseworthy and complimentary o the Soviet Union in cooperating in thi regard.

On the other hand, I do not thin we have gone far enough. I think w have been a bit too reluctant to crit cize the Soviet Union, and it pertain to, I believe, the Soviet Union perhap holding the key to a peaceful resolu tion of the situation in the Persia Gulf.

This is an ambivalence about th Soviet policy, and it surrounds th continuing presence of their techn cians, call them advisers or techn cians. We have the following situatio

The Soviet Union now has in Ira anywhere from 154 or 155 advisers, a they maintain, 500 to 1,000 perso nel—we call them technicians—tha we believe they currently have in Ira Whether one calls them technicians o advisers, it is clear that, nonetheles they do provide some measure of su port to the Iraqi regime.

Whether it is in the form of econom ic advice—some Soviet leaders hav suggested that most of them are ec nomic advisers, whatever that means or whether they are military advise or technicians, it seems clear to m that whatever advice they are giving to the Iraqis can only be helpful to them substantively or, in addition to that, morally or psychologically.

I still would like to know why it is that the Soviet Union has not withdrawn their 154 advisers or their, what we call 500 to 1,000 technicians, whatever the number, and the number is not critical. I think it is important, but it is not critical. Why is it they have refused to withdraw those particular individuals?

Initially, it was suggested that they are there simply to carry out the contractual arrangement with Iraq. After all, the Soviet Union had been a prime supporter of the Iraqi regime. They have supplied them with much of their military equipment, including the Scud-B's that we hear so much about, the T–72 tanks, and many other types of lethal equipment. They had been a principal supporter of Iraq over the years. And now they have contracts that they have to honor, and those technicians or advisers are helping those Iraqi military personnel, or others, maintain the viability of that equipment. That is the rationale that was originally offered.

Frankly, I cannot accept that. The notion that somehow the intrinsic value of a contract signed some years ago or months ago, long prior to the Iraqi invasion of Kuwait, outweighs that of hopefully preventing the breakout of war in the Persian Gulf, strikes me as a deception masquerading as a principle. I simply cannot accept that as a rationale.

I raised this at the White House. I also raised it with Secretary Baker who testified before the Senate Foreign Relations Committee. Secretary Baker said we would like to have the Soviet advisers come out, provided they were free to leave. Of course, that raised the possibility that, perhaps, they are not free to leave. Immediately, there was a statement put out by the Iraqi foreign minister that, of course, the Soviet technicians, advisers, citizens, are free to leave.

I am not to sure. But it certainly was a fundamental issue. If they were not free to leave, then it seems to me this is a world class story. This is something that merits a headline: Soviet citizens being held hostage or guests in Saddam Hussein's house of horrors. That would be a major world story, if they are not free to leave. And if they are free to leave, but the Soviets choose not to remove them, that, too, is a story worthy of world attention.

It seems to me the Soviets cannot maintain, as General Moiseyev did just 2 days ago while traveling in this country, that the integrity of those contracts are more important than the impact of what the removal might be.

I submit, Madam President, that if the Soviet Union were to say to Saddam Hussein, "we think you have done a terrible thing; we think this is an outrage against the United Nations community, the international world order as such; that you have taken an act of aggression, that you are threatening world peace, that you could, in fact, precipitate a conflict that could cost hundreds of thousands of lives potentially, and yet we maintain that the integrity of our contracts are more important than withdrawing those forces," then I do not think we could accept that, nor should we accept that.

It may be that the Soviets have a number of different motivations. Obviously, they may be interested in trying to keep a door open to the Arab world. After all, they have been principally viewed as supporters of the Arab cause over that of Israeli security, in the Middle East. Perhaps they do not want to take that last, final step that would have a tremendous psychological impact, if not a practical impact. And I think that it might have a practical impact. It would have a tremendous psychological impact on Saddam Hussein, making clear that he truly is isolated now; there is no lifeline back to the Soviet Union, no hope for more T–72 tanks, no hope for greater Soviet advice, technical or military, economic advice. That is all shut off. We are pulling our forces, our technicians, our people out of your country because you have behaved in a completely unacceptable fashion and we are not going to contribute to your survival, your economic survival or, indeed, your military efficiency 1 day longer.

That is what Mikhail Gorbachev should be doing. That is what he is not doing. Instead, he is sending a general out to say, well, we have military contracts and we have this contractual arrangement which we must maintain.

I do not think that is the case. Perhaps they are not free to leave. As a matter of fact, in recent days I have received some information—I do not know if it is accurate or inaccurate, but I have received information that perhaps they are staying because the Iraqis have said they cannot leave, not until the contractual arrangements are completed. So they are being held there against their will, and the Soviet Union itself, does not wish to raise this issue to a level of international concern. That would be very embarrassing. After all, what would Mikhail Gorbachev say at that point? Mikhail Gorbachev, the leader of one of the most militarily powerful nations on Earth, looks over and he sees a country his nation has been supporting over the years saying we are not letting your people go; we are going to hold them as guests in our country. They are now hostage to these contracts. What would his reaction be? Would he sit there with a calendar and start crossing the days off in which his people are being held hostage? That is apparently something they do not wish to face up to. If that is not the case, then it seems to me they have an obligation to pull out those advisers or technicians. That would be a way in which the Soviet Union truly could contribute to resolving this issue in a peaceful way.

Right now we have a situation in which the Soviet Union is warning us that we should take no military action. Indeed, I do not believe that any of us are advocating we do take military action. We are hoping that it will not be taken. But the Soviet Union has now adopted the position, do not take any military action; it must be settled diplomatically. By the way, we have some suggestion if only Saddam Hussein will remove his forces back to Baghdad, we are sure we can work this out at the bargaining table. That is a line that has been followed by the French, with President Mitterrand. This is also a position which it appears the United States may even be evolving toward. Frankly, the only person speaking out against this happens to be Margaret Thatcher, who is saying, wait a minute; we are not going to reward Saddam Hussein for his aggression by suggesting, by implication, that all you have to do is pull your troops out, go back to Baghdad and we will sit down and negotiate for your access to those fields you have taken by force. She has said, no, that cannot be; that should not be tolerated. It should not even be suggested by anyone who is interested in preserving world order or peace because that, indeed, would amount to rewarding Saddam Hussein for the very acts for which we now stand poised with well in excess of 100,000 troops in the Middle East against his forces.

I must say, Madam President, that if the Soviet Union were not to insist it has to adhere to its contracts and take this step, it would have in my judgment again, not only psychological implications—I think it would have a practical implication as well, to the extent that those advisers are needed there to upgrade the capability of the sophisticated equipment that they have furnished to Saddam Hussein.

By the way, there was also an item in today's paper which indicates that the United States now has come to the conclusion that Iraq has devastating fuel air explosive devices, something that can be tantamount to a tactical nuclear weapon in the way in which it could operate. To the extent that the Soviet Union or others have now contributed to Saddam Hussein's having this capability, we know he has chemical weapon capability. We know he is about to deploy a biological weapons capability. We know he is trying desperately to acquire a nuclear weapons capability. And yet we have the situation where the Soviet Union is saying yes, we have to honor our contracts to

make them more efficient. Efficient in what? Efficient in killing, potentially, American soldiers in the Persian Gulf?

If a situation comes up in which we are called upon to vote for some kind of assistance, economic or otherwise, to the Soviet Union, and they are in desperate need to economic assistance, I would find it very hard to justify supporting a nation who is lending economic, military, or moral support to Saddam Hussein. I could not justify doing that. I doubt very much whether the American people under any circumstances would support such a position on the part of the United States.

Madam President, I take the floor this evening simply to point out that there is some ambiguity in the Soviet policy. It is now promoting a diplomatic solution to the situation in the Persian Gulf, which I heartily support. But they have not done the one thing which may have the greatest psychological and practical impact upon the Iraqis as anything they might do. That is to say, you are not going to have the benefit of our capabilities any longer. No more technical advice. No more support for these systems. We are pulling out our citizens. And if they are not free to go, then I think the world should know that Saddam Hussein has turned upon his principal benefactor over the years. That, too, is worthy of world attention.

Madam President, I ask unanimous consent that the time be extended for comment until such time as the Senator from Iowa has spoken and the Senator from Delaware, Senator ROTH.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair advises both Senators that under the previous order, we were originally scheduled to recess upon the termination of the comments of the Senator from Maine. Under the unanimous-consent agreement, the Senator from Iowa will be recognized, the Senator from Delaware will be recognized, and then we will recess until the hour of 6 p.m.

The Senator from Iowa.

Mr. GRASSLEY. I thank the Chair.

I thank the Senator from Maine for asking unanimous consent. I thank the Senator from Maryland, who is serving as our Presiding Officer, for waiting for me to make my remarks.

THE BUDGET

Mr. GRASSLEY. Madam President, 5 months ago, I joined my colleagues on the other side of the aisle, meaning the Democrat Members of this body, for a vote that took place within the Senate Budget Committee, which vote produced a budget agreement for fiscal year 1991. Madam President, I was the only Republican to support the budget that came out of the Senate Budget Committee. I cast that "aye" vote as much for the procedure of budgeting as well as for the substance of that specific budget.

I wanted to help move the budget process to avoid the very same things that we are going through right now that I anticipated would be happening. I took that step across the political line to the other side of the aisle, despite risking animosity against me from my fellow Republicans. At the time I suggested a two-track budget approach that included moving a budget resolution through Congress while the summit was meeting.

I also voiced reservations about budget summits because usually budget summits produce little deficit reduction, and lots of smoke. And as just such a case in point, what do we have to show for 5 months of summiting?

Because I supported my colleagues on the other side of the aisle in that vote, I believe that I have a right and I have even a responsibility to get on their case.

It is not the budget summit that has failed. What has failed is the budget process, and the part of that process that failed is the part that Congress is responsible for. It is now 7 months, if you remember, after the President submitted his budget for fiscal year 1991. We have yet to pass a budget resolution in this body or in the Congress as a whole.

Why did not the Congress move ahead with a budget resolution in the event of a failed summit? The reason is because the majority in Congress was looking for political cover—in a sense, wrap your arms around the President's neck. If you fall, the President falls with you, and you can blame the fall on him.

There is just one problem with that scenario, Madam President. In the process of looking for political cover, the leadership here in the Congress has abdicated its responsibility to dispose of the Federal budget, and the Congress as a whole has also abdicated its responsibility. The President of the United States cannot be blamed.

Why in the world would a responsible Congress put all of its eggs in a summit basket, thereby avoiding its constitutional responsibility to produce a budget, and then blame it on the President? What kind of logic is that?

Of course, I think that is pure and unadulterated blatherskite. Just in case, Madam President, you do not know what blatherskite means, it means just pure poppycock. We, the Congress, should have been doing this budget work in March and April, maybe even up through May, not 3 weeks before sine die.

Let me voice another concern, Madam President, We keep hearing on radio and TV, even this morning, and even in the papers this morning that the President on the one hand and the leadership in Congress on the other are running this process. Might I suggest that is indeed what the problem is, because this is microwave management of the budget process; you know fix the ingredients, cook the numbers package it up at the last minute, an run it through Congress for a brie week.

Well, that is not how the proces works around here, Madam President That is not how the Constitution written 203 years ago, anticipated tha this process worked. That is not how the budgeting process worked fo probably 200 years.

Also, you need to know that th public knows what that constitutiona process is. And the public is accustomed not to microwave managemen but they are accustomed to home cooked budgeting with their own 53 elected representatives involved a cooks; the ingredients usually cooke in a large open pot, over a low simmer and over a long period of time. And al 535 cooks get to stir the pot befor that process is done. And everyon gets to peer into the pot, to taste i and to suggest through this proces how to make it better.

That is the way it should be don Madam President. That is the norma budget process. This microwave management just does not work. It was gamble, and it did not work. It violate the separation of powers and th checks and balances of our constitutional process. It prostitutes the whol process.

The majority in this Congress wh took that gamble and lost—and tha abdicated its responsibility to mak the process work—should not poi the finger at the President and say is his fault. They should be beatir their breasts and saying mea culpa.

There is no doubt in my min Madam President, that budget summiting at the 11th hour was a mistak and it has eroded the public's con dence in our ability to govern. This not Monday morning quarterbackin because I warned about summits bac in May. And this is not partisan sni ing, Madam President, partisan sni ing on my part, because, as I said ear er, I was the only Republican who su ported the budget out of the Budg Committee. That was in May.

I am simply calling it like it is. Co gress has no one to blame but itse We have seen the enemy and it is u It is time for the majority in this Co gress to loosen its grips around th President's neck, stand on its own tw feet and take responsibility for its ow inaction and failure.

I joined that side of the aisle in M because I did not want to see the pro ess come to a grinding halt, and y that is exactly what has occurred. think the burden of moving that pro ess forward again is squarely on th shoulders of the majority in the Congress. And that majority does not have to be just a one-party majority because if we let the process work, the process will bring a working majority together.

Thank you, Mr. President.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER (Mr. Glenn). The Senator from Delaware is recognized.

THE BUDGET AGREEMENT

Mr. ROTH. Mr. President, I rise to address the issues raised by the budget summit agreement. I wish to bring to my colleagues attention a proposal I have developed, and I urge the budget negotiators and the other Members of the Congress to look carefully at this plan. But first, let me state that I appreciate the long hours and hard work put in by the participants of the budget summit, especially under extremely difficult circumstances. I think the President and congressional leadership from both parties should be commend for their willingness and ability to draft a bipartisan proposal. However, last night's vote on the budget resolution conference report in the other body clearly indicates that we need an alternative.

The debate last night focused on several issues, with the summit's Medicare changes and tax increases bearing the weight of the controversy. Last Thursday, I addressed the Senate and introduced into the record an alternative to the proposal being discussed by the budget summit.

This alternative would reduce the Federal deficit by $400 billion over the last 5 years. It would help get our deficit down by:

Reducing defense spending by $6 billion in the first year and $176 billion over the next 5 years;

Reducing entitlement spending by $6 billion in the first year and $58 billion over the next 5 years; and

Reducing nondefense discretionary spending by $4 billion in the first year and $65 billion over the next 5 years.

In addition, this plan raises $39 billion in new revenues over the next 5 years and $13 billion in new user fees. Mr. President, I ask unanimous consent that a detailed chart of the specific spending and tax proposals that I have outlined be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Item	Fiscal year—					
	1991	1992	1993	1994	1995	1991–95
Revenue items:						
IRA (w/rollover)	$1.50	$3.40	$3.30	$3.30	$3.30	$14.80
Extension of current law tax provisions	1.85	3.04	2.97	2.90	2.81	13.57
Retiree health benefits rollover	.50	.20	.20	.10	.10	1.10
Insurance company taxes	1.80	1.90	1.90	1.80	1.70	9.10
Pollution excise taxes	.10	.10	.10	.10	.10	.50
Subtotal of increases	3.85	6.64	6.47	6.30	6.21	39.07
Spending cuts:						
Defense	6.00	17.00	34.00	50.00	69.00	176.00
Non defense discretionary	4.00	10.00	14.00	18.00	19,00	65.00
Entitlement changes	5.34	9.09	11.30	14.30	17.86	57.89
User fees	5.74	1.70	1.80	1.61	1.90	12.75
Net interest	1.10	4.50	9.40	14.80	22.00	51.80
Subtotal of cuts	22.18	42.29	70.50	98.71	129.76	363.44
Total	26.03	48.93	76.97	105.01	135.97	402.51

Item	Fiscal year—					
	1991	1992	1993	1994	1995	1991–95
Revenue items:						
IRA (w/rollover)	$1.50	$3.40	$3.30	$3.30	$3.30	$14.80
Extension of expiring provisions:						
(a) Permanent research and development credit	(.50)	(.90)	(1.10)	(1.30)	(1.60)	(5.40)
(b) Educational Assistance Act	(.23)	(.33)	(.35)	(.36)	(.37)	(1.63)
(c) Health insurance for self-employed	(.25)	(.31)	(.36)	(.41)	(.46)	(1.79)
(d) Foreign allocation of R&D	(.50)	(.71)	(.77)	(.84)	(.90)	(3.72)
(e) Mortgage rev. bonds and credit certificate	(.01)	(.05)	(.14)	(.24)	(.33)	(.77)
(f) Airport and airway trust fund taxes	.88	1.56	1.67	1.81	1.99	7.91
(g) IRS user fees	.06	.06	.06	.06	.60	.30
(h) Administrative expense limits of private foundations						
(i) Tax on Deep Seabed Hard Mineral						
(j) Telephone Excise Tax Extension)	1.50	2.50	2.70	2.90	3.10	12.70
(k) FUTA 0.2% Surtax Extension	.77	1.09	1.12	1.15	1.18	5.31
Extension of Leaking Underground Storage Tax	.13	.13	.13	.13	.14	.66
Retire health benefits with reversion compromise	.50	.20	.20	.10	.10	1.10
Ozone depleting chemical excise tax	.10	.10	.10	.10	.10	.50
Loss deductions and salvage values for insurance co	.30	.20	.20	.20	.20	1.10
Amortize insurance policy deferred acquisition expenses	1.50	1.70	1.70	1.60	1.50	8.00
Subtotal of increases	3.85	6.64	6.47	6.30	6.21	39.07
Spending cuts:						
Defense	6.00	17.00	34.00	50.00	69.00	176.00
Non-Defense discretionary	4.00	10.00	14.00	18.00	19.00	65.00
Agriculture subsidies:						
(a) Reduce price supports	.50	1.10	1.40	2.00	2.50	7.50
(b) Reduce REA loan subsidies	.07	.19	.33	.43	.50	1.52
Medicare:						
(a) Secondary payer reform	.31	1.27	1.63	1.98	2.33	7.52
(b) Part B premium floor 25 percent		.67	1.75	3.13	4.81	10.36
(c) Rural hospital capital at 85 percent	.17	.21	.23	.25	.27	1.13
(d) Urban hospital capital at 75 percent	1.36	1.72	1.88	2.05	2.22	9.23
(e) Overvalued procedures	.11	.18	.21	.24	.26	1.00
(f) Durable medical equipment	.11	.20	.22	.25	27	1.05
Medicaid:						
(a) Eliminate Federal Medicare match	.61	.66	.71	.76	.81	3.55
(b) Pay employee premium if cost effective	.18	.22	.26	.31	.97	1.94
General Government and Postal Service:						
(a) Federal retirement lump sum	1.00	1.70	1.70	1.80	1.90	8.10
(b) Federal employee health program	.32	.37	.38	.50	.42	1.99
(c) Postal service indirect subsidy	.60	.60	.60	.60	.60	3.00
User fees:						
(a) Customs	.81	.82	.84	.86	.88	4.21
(b) Nuclear Regulatory Commission	.30	.32	.33	.34	.36	1.65
(c) Naval petroleum reserve	1.00	(.09)	(.03)	(.27)	(.03)	.58
(d) Food and Drug Administration	.16	.16	.16	.17	.17	.82
(e) Strategic petroleum reserve	3.00					3.00
(f) Additional user fees	.47	.49	.50	.51	.52	2.49
Net interest	1.10	4.50	9.40	14.80	22.00	51.80
Subtotal of cuts	22.18	42.29	70.50	98.71	129.76	363.44
Total	26.03	48.93	76.97	105.01	135.97	402.51

Note.—Estimates based on CBO, OMB and JCT figures.

Mr. ROTH. Mr. President, putting together a budget is hard. I have experienced this as I attempted to put together this plan, just as I am sure the budget summit grappled with putting together their proposal.

But for those who believe that the changes in Medicare are too large, the Roth alternative takes a more reasonable approach. Instead of savings of more than $60 billion in Medicare of the next 5 years, my proposal would save half that amount. Beneficiaries would be protected from large premium increases and their deductibles would remain unchanged.

For those who believe that the tax increases are too large, the Roth alternative takes a different approach. This proposal has minimal revenue increases. This proposal drops the proposed tax cuts for small business contained in the budget summit. At the same time, the proposal does away with the reduction in the capital gains tax. I am willing to forgo this for the moment as we try to forge a bipartisan agreement which will reduce the deficit without harming the economy. Finally, my proposal does away with all taxes imposed on individuals and families, like the gasoline taxes, contained in the budget summit proposal.

For those who believe that the reductions in agriculture subsidies are too large, this alternative would reduce subsidies by a lesser amount. The summit had $13 billion—this plan would save $7.5 billion.

Mr. President, the problem we are facing may be due to the fact that we are trying to do too much too fast. Needed is the fact that a $500 billion package requires tax and spending decisions that are practically achievable at this time. But if we cannot achieve a $500 billion package, I think we can achieve a $400 billion plan. Mr. President, even a $400 billion deficit reduction package would be the largest in history, yet it would not burden the

American people, and our economy, with large, new taxes.

Mr. President, the No. 1 challenge facing our country is competitiveness. The largest employment statistics, announced this morning, along with the latest GNP figures, do not inspire confidence in our economy. But I strongly believe we can continue our economic expansion with the right mix of economic and budget policies.

Mr. President, I believe this alternative will work. I reach out to my Republican and Democratic colleagues. I urge you to look at this proposal. I believe this proposal will help the Congress and administration break the budget gridlock. It is a productive response to meeting the fiscal necessities given the current economic climate, without requiring the furloughing of Federal employees who provide needed services, and it will not require tax increases on the American people at the very time the economy is very sluggish.

Mr. President, an opportunity exists. It will not be here too long. I urge my colleagues to seize this opportunity in our struggle with the deficit and enact some changes which will help meet our shared goals of a lower deficit and stronger economy.

OPPOSING PROPOSED DEFICIT REDUCTION PACKAGE

Mr. PRESSLER. Mr. President, with great reluctance I must state my opposition to the budget agreement proposal. The budget problem needs to be addressed quickly—and we should stay here until we get it done. But the proposal before us was just too unfair to my State. I cannot support it as written. We must address the inequities.

As one who has had a long voting record in favor of spending controls, balanced budgets, line-item vetoes, and other touch budget measures, my purpose here is not simply to throw rocks at the proposal. While I do not support this budget package, it would be irresponsible to vote against it without detailing some of my specific suggestions and alternatives.

Too much of the burden of this deficit reduction package falls on the elderly, the wage earner, and rural America. That is unacceptable. I think all Americans are willing to share if the burden is distributed equally. But it is very unfair, I think, to put the burden on middle America when areas such as foreign military aid are untouched. I do not understand the logic of a program that asks deep sacrifices of our farmers, from our elderly, and from our wage earners, but does not even touch foreign aid—particularly to countries who have proven time and time again to be unfriendly to U.S. interests. Not only does this budget package spare any foreign aid cuts, but at the same time we are proposing to forgive $6.7 billion of Egyptian debt to the United States, with certainly billions more debt relief to other countries to follow. To me, this makes no sense. Let us help our friends and aid our allies in a fair manner. But they certainly should not get a higher priority than our own citizens. And, more importantly, we can eliminate completely a great deal of foreign aid to countries who repeatedly vote against us in the United Nations or use our own aid against us later on. Reductions in foreign aid could cut the deficit by billions of dollars over the next 5 years.

Another area in which I would propose to offset Medicare and agricultural program cuts would be defense spending. I am for a strong defense. I do not feel comfortable suggesting deeper defense cuts than have already been made. But this is an issue of priorities. We need to come up with the money somewhere. We can make deeper cuts in defense as an alternative to the deep Medicare and agricultural program cuts that have been proposed.

I propose eliminating production of the B-2 bomber and cutting Pentagon waste. By cutting the B-2 bomber, at least $35 billion could be saved over the next 5 years. Congress should also push for accelerated withdrawals of United States troops from Europe, Japan, and South Korea. These countries can afford to pay for their own defense.

On the revenue side, I have always been reluctant to support tax increases. But recognizing the need to compromise, I would agree to eliminating the so-called high income bubble by increasing taxes for those with adjusted gross incomes over $113,000. I think more of the burden on the revenue-raising side of this package should come from the rich. The middle class and poor are hit by regressive excise taxes on consumer products contained in the package defeated by the House of Representatives last night. By eliminating the bubble, Congress could raise almost as much revenue as would be raised by the proposed Medicare cut.

Another absolutely outrageous and unnecessary provision in this budget agreement deals with the highway trust fund. It increases the minimum return for large, urban States from 85 to 95 percent. Changing the highway formula moves money into Texas and other populous States. I seriously question the motives for changing the highway funding formula in the budget agreement. When populous States like Texas try to grab more highway money, their hands are usually found in the pockets of smaller States like South Dakota. I will not vote for an agreement that robs South Dakota of its highway funding.

Mr. President, the inequities of the budget reform package must be addressed now. Budget reform must be fair and shared by all Americans.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,029th day that Terry Anderson has been held captive in Beirut.

Today in the Foreign Relations Committee we heard the testimony of the United States Ambassadorial nominee to Lebanon, Ryan C. Crocker. In his opening statement Mr. Crocker spoke of the priorities of the United States and commitment to the hostages still held in Lebanon. I ask unanimous consent that this piece of his statement be printed in the Record.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

> This conflict [in Lebanon] has touched the United States directly and painfully: the assassination of our Ambassador in 1976 and the bombings of the American Embassy and the Marine Barracks in 1983 during my own previous assignment to Beirut. It continues to affect us all through the plight of the six American hostages who are held in Lebanon. I can assure you Mr. Chairman, that the United States has no higher priority in Lebanon than the safe and unconditional return of our hostages.

The PRESIDING OFFICER. In accordance with the previous order, the Senate stands in recess until the hour of 6 p.m.

Thereupon, The Senate, at 5:03 p.m., recessed until 6 p.m.; whereupon, the Senate reassembled when called to order by the Acting President pro tempore.

Mr. MITCHELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, the House of Representatives is just in the process of taking up the continuing resolution which includes a waiver of sequester and extension of the debt limit.

My understanding, although I have not seen the legislation itself, is that it will extend until next Friday, midnight. It is for 1 week.

I will shortly hope to meet with the distinguished Republican leader to obtain his views before making the decision on how best to proceed with respect to the Senate schedule for the rest of the evening, and I hope to have an announcement in that regard shortly.

We are also checking with the staff on the House side to get the best current estimate of when the House might complete action on the measure and when we might be able to take it up here.

So I will shortly have an announcement, following the consultation I have just described, and for the moment I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. METZENBAUM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that I might be able to proceed as if in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE BUDGET AGREEMENT

Mr. METZENBAUM. Mr. President, we all know that the budget summit agreement is no longer a reality. It did not come to pass. It is a fact that some of us found fault with it, felt that it was one-sided, that it provided too much for the wealthy, and placed too much of a burden on middle-class Americans, and the farmers. It hit the poor, and it was a giveaway to the rich.

But in all fairness, I think it came about because the negotiators were put in a very difficult spot. They were put in that spot because for 8 years the President of the United States had failed to provide any leadership in moving us toward a balanced budget, and it added $2 trillion to the deficit.

This President that is presently in office had waited until the very last minute to give up on the whole question of a capital gains tax cut.

We know of some of the egregious provisions that were in that budget proposal. I would like to discuss this evening perhaps a new thrust, a new direction for a budget, not totally different, but with enough changes that I think it would be much fairer to the American people.

I think that we can cut defense spending in view of what is happening throughout the world—not including, of course, the Desert Shield situation—to a compromise level between what the House and the Senate passed in their respective budget resolution; not something below that which was in the budget that was defeated. The total cut over 5 years in the defense budget would be $218 billion. That is $41.7 billion more than the summit agreement. But the fact is that it is $20 billion less than the House Armed Services Committee had proposed, and it is halfway between the Senate and the House Budget Committee figures.

So it seems to this Senator that it is a reasonable figure, and we would pick up $41.7 billion more than the summit agreement. We can greatly reduce, therefore, cuts in Medicare benefits to senior citizens. The benefit cuts would be reduced from the $30 billion under the summit to a figure less than $10 billion, to $9.6 billion.

That makes sense because it is not logical to be balancing this budget on the backs of the senior citizens of this country, on those in need of medical care. And yes, they still would be paying some portion of it, but a far lesser proportion than that which was originally called for of $30 billion. It would be reduced to $9.6 billion.

Under the concept that I would have, the Medicare providers would still pay the additional $30 billion called for under the summit agreement, and that cut would remain extant.

With respect to where some of the funds would be coming from, in order to do some of the other cuts and savings that I will talk about subsequently, I see no reason for the Medicare tax wage cap to be in place.

Why should Medicare taxes be capped arbitrarily at $51,000, as at present, or at $73,000, as envisioned under the budget summit? There is not any reason why those whose salaries are in excess of $73,000 should not continue to pay the same rate of tax on their incomes over $73,000. Lifting that cap on those salaries would raise $53.7 billion over 5 years, $40.7 billion more than the summit agreement, and would place the burden on those most able to pay it, those whose incomes were in excess of $73,000 a year.

One of the reasons we have to find some additional dollars is because I believe that we have to make cuts in addition to the cuts as far as the Medicare is concerned.

The farm State Senators have been on the floor complaining and speaking out about the fact that they did not feel farmers in this country were in a position to bear the burden of a $13.8 billion cut in agricultural programs. That is what the summit cuts provided for, $13.8 billion in cuts.

Under the proposed budget that I would suggest to this body we would cut that to $6.9 billion, or slash it in half. Why should farmers have to bear such a heavy burden in an effort to reduce the deficit?

There is another item that the summiteers brought to us.

That is, they provided that part of the way to balance the budget would be to say to those who are on unemployment compensation that they should have to give up the first week of unemployment compensation. I believe that we ought to eliminate the additional unemployment compensation 1-week waiting period in the summit agreement. I would not eliminate the waiting period entirely, but the summiteers would go to 2 weeks from 1 week. I think 1 week waiting period is more than adequate and may be tough enough on the unemployed individual. But to ask the unemployed individuals to bear the burden of balancing the budget on their backs, to me, is absurd. People who have been laid off from their jobs are the last people who should be called upon to make up the deficit.

On the other side, when we talk about income—and I am trying to give some balance to this proposal that I would suggest to this body—I believe that it is time that we eliminate the bubble in the Tax Code. I know the President does not want to do that, but I do not know why he does not want to do that. I do not know what the logic can be of having a Tax Code that goes up to 33 percent on those earning up to $185,000, if they are married or $109,000, if single, and all of a sudden, it drops to 28 percent. Maybe they do this in Abu Dhabi. Maybe they have the rich pay less in Saudi Arabia. Maybe they do it in Qatar and some other countries around the world, but it is an absurdity for a civilized nation, one that claims to be civilized, to provide that the wealthiest people pay a lesser rate of tax than those who earn a lesser amount of money.

So I think that it is time we face down the President. I think that the Democrats ought to send him a budget, whether he likes it or not, and let him veto it. Let that be on his back. I do not think we can get an agreement between the Republicans and the Democrats on a budget. I think the Democracts ought to have their own budget, and we ought to send it to the President, and if he wants to veto it, so be it. And I believe that that Democratic budget ought to provide for elimination of the bubble.

I am aware of the fact that the leaders of this body, both in the Senate and in the House, advocated that position in the negotiations and that they had to give up that position in order to try to bring about some agreement, I guess partially in order to the President to back off on the capital gains tax cut. But, as I see it, the summiteers came to an agreement, the President and the leadership of the House and Senate came to an agreement, and after they came to an agreement with respect to a budget, what happened? The American people suddenly realized what the agreement was and maybe one of the few times in history

when the President, the leaders of his party in Congress, and the leaders of the minority party in Congress all had agreed upon a package, the people's voice was heard.

What happened was a majority of Democrats and a majority of Republicans voted against that budget. That sends a loud and clear message. The people have a say as to what kind of budget they want. They want a budget that is fair and equitable. I believe they understand full well what it means for rich people in this country not to have to pay a fair share of the cost of doing business in this country. They are aware of what happened with the 1986 tax bill. In the 1986 tax bill, when we eliminated a lot of these special tax giveaways, we reduced taxes across the board, so that the taxes now for the wealthiest people are 28 percent on everything over the amount previously stated by me. They understand what is going on. And now they saw this was just going to be expanded upon and that their ox was going to be gored, and they were going to be called upon to pay more for cigarettes and liquor and wine and so many other necessities, and they were going to have their Medicare cut. Their voices were heard. There is not a Member of this body, there is not a Member of the House whose phones were not ringing off the wall because the people of this country understood what the Congress was about to do at the behest and urging of the President of the United States. And they said "No." The Members of Congress said "No."

I think it is time that we send the President a budget that makes sense, a budget that we can stand tall and be proud of. If he does not like it because it is going to place some of the burden on some of his wealthy friends, that is his problem. But a Democratic budget ought to reflect the view of the overwhelming majority of the people in this country. This budget ought to eliminate tax increases on home heating oil, which is provided for in the summit agreement. Why should those who need heating oil for their homes be called upon to pay extra taxes for that heating oil? I think we ought to eliminate the gasoline tax increases and the increase in the excise taxes on beer and wine and spirits and cigarettes.

Who pays those taxes? Who pays them? Working people pay them, people who will drive to work and need their car for work, people who want a cigarette. I do smoke, and I do not approve of it, but I do not believe those are the people who should be called upon to bear the burden of the deficit. Is it so terrible that you drink a bottle of beer that we would call upon those who drink beer in order to balance the budget and say to the wealthiest people in this country, I tell you what we are going to do for you. We are going to make it possible for you to have some new capital gains tax cuts. We are going to hide them. It is not going to be called a capital gains tax cut. What we are going to do is say to you, when you buy stock, we are going to permit you to deduct 25 percent of the cost of that stock up to $200,000 of that stock. That was in the summit agreement. What an absurd proposition. Never before in the history of this Nation was there such an absurd proposition brought before the Congress of the United States.

Then, as if that were not bad enough, it provided that when you sold your stock, you could choose one of two ways in filing your tax return. One way is you could just report 50 percent of the sales price and pay taxes only on 50 percent of the sales price. That is just a reduced capital gains tax with a different way of getting to it.

The other way is that you could take the cost of your stock and adjust it to cost basis as related to inflation over a period of years. Every special provision in that bill was to help, not the farmers, not the working people, not the people who needed medical care, but to help those who are the "haves" of this country, and let those who are fighting hard to make a daily living pay the burden.

I would also extend the 10-percent summit agreement luxury tax to private airplanes. It was not done. Why should those who can afford to buy private planes not have to pay a luxury tax on those planes. Simple enough. If you can afford $2.5 million or $10 million for a plane, you can afford to pay that extra 10 percent tax on that. I would lower the threshold to $30,000 for those who are buying boats or airplanes. Less than that amount, I can understand that could be middle-income people. But when you are buying a plane or a boat or a yacht in excess of those dollars, I think it is entirely appropriate that there be a tax of 10 percent on that excess, not the $100,000 figure with respect to yachts that was in the proposal of the summiteers. The airplanes were not even included.

I believe we ought to eliminate the energy incentive tax reductions that were provided for in the summit agreement and which were asked for by the President in his State of the Union message. How much more do you have to give the oil and gas producers as an incentive than the $40 price per barrel that presently is the price for oil in this country and throughout the world? How much more incentive do you have to give them, tax reductions, special writeoffs?

That is the kind of thing we thought we were getting rid of in 1986, and we did, and now we are coming in through the back door because the President is insisting on those special kind of tax incentives for those in the energy field.

I mentioned before this matter of eliminating these special tax loopholes, that and the special 25 percent tax writeoff when you buy stock. And I mentioned the matter of special treatment with respect to taxes when you sell your stock. I do believe that we ought to do something in this area that has been talked about but really the summiteers did not attend to. I think we ought to replace it with more sensible small business venture capital and seed capital bills similar to those now pending in the Senate.

I believe we ought to indeed have incentives for people to invest in small businesses, but I do not believe small business ought to be big businesses under the guise of small business. I believe we can agree upon a definition of small business and see to it that we do provide some incentives, but we have to preclude ourselves from running away with that definition. And when we do, we have to make it logical and reasonable enough so it does not have that great an impact upon the revenues to our Government.

But as a matter of fact, there are two bills pending in the Senate. Those bills, I think, are off on the right track and I would have little difficulty in using them as a basis in order to work out something as far as tax incentives for those investing in small businesses.

There is another provision in the summiteer's proposal that I think we ought to eliminate, and that is the $2 billion reduction in the Student Loan Program. What kind of absurdity is that? We are talking about trying to further the educational aspirations, hopes, and needs of young people in this country. The Student Loan Program has had some problems in collections. But is that the reason that we would eliminate and cut back $2 billion in the Student Loan Program? That would be just turning the clock backwards. That would be keeping more young people from being able to go to college.

We ought to do more about the collection process, but that does not mean we ought to eliminate the rights of young people to participate in the Student Loan Program.

Doing all that I have said here this evening, doing all of that, we would still save $38 billion more than the summit agreement. In other words under the package that the summiteers had agreed to, there would be $500 billion savings. Under the plan that I would propose, a copy of which I will submit for the RECORD, using the CBO numbers, this plan would result in a budget reduction of $548.6 billion over the next 5 years.

It would be a fairer plan. It would be a reasonable plan. It would be a plan that I believe the American people would be more, far more prepared to accept than that which we have been discussing. And if there are some Republicans who would not be comfortable with it, or if the President would not be comfortable with it, that, I believe, is his problem.

I do not think we have to be certain to send him a vetoproof measure. I do not think we have to concern ourselves as to whether he will or will not sign it. I think it is our responsibility as Democrats in the U.S. Senate to send down a Democratic budget, hopefully get as many Republicans as possible to sign on to that budget, and if the President wants to sign it, well and good. But if he does not, let the people of this country know why a sequestration is needed.

I think that to do less than that would be failing to meet up to our own responsibilities.

Mr. President, I ask unanimous consent to print in the RECORD a copy of the figures in connection with the proposed budget the Senator from Ohio has been speaking to.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARISON OF PROPOSAL WITH SUMMIT AGREEMENT

[In billions of dollars]

	Savings over 5 years		
	Summit	Metz. proposal	Difference
Discretionary (increase defense savings)	176.3	218	41.7
Entitlements:			
Reduce Medicare cuts	60	39.6	−20.4
Reduce Agriculture cuts	13.8	6.9	−6.9
Reject unemployment insurance cut	3.9	No Cut	−3.9
Revenues:			
Burst bubble	0	45	45
Gas tax increase	45	0	−45
Cigarette tax	5.9	0	−5.9
Beer, wine, distilled spirit tax	10	0	−10
Eliminate Medicare wagecap	13	53.7	40.7
Eliminate energy incentives	−4	0	4
Alter Small Business incentives	−12.1	0.8	11.3
Student loan	2	2	−2
Grand Total	500	548.6	48.6

Mr. METZENBAUM. Mr. President, I yield the floor and suggest the absence of a quorm.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I say to the Members of the Senate, the House has now completed action on the rule and is proceeding to consideration of the continuing resolution which, as I earlier stated, would continue to fund the operations of the Government through midnight next Friday, 1 week from this evening.

I am now advised by House staff that it is anticipated that we would receive that matter, assuming favorable action by the House, sometime between 8:30 and 9 p.m. this evening.

I met off and on throughout the day with the distinguished Republican leader and with House leaders in attempting to determine the best way to proceed with respect to Senate consideration of the measure. We will be continuing these meetings shortly. For now, it appears that the most prudent course would be for the Senate to stand in recess until 9 p.m., at which time we can anticipate that action by the House will have been completed.

In the event of further information developing between now and 9 p.m., Senator DOLE and I will notify the respective cloakrooms so that Senate offices may be notified immediately.

RECESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now stand in recess until 9 p.m., this evening.

There being no objection, at 6:59 p.m., the Senate recessed until 9 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. DASCHLE].

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, we are attempting to determine the best course to proceed with respect to handling the pending matter, and I have had continuous discussions with the Republican leader as we attempt to bring those to a conclusion now.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MAKING FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1991

Mr. BYRD. Mr. President, House Joint Resolution 660 extends the current continuing resolution (H.J. Res. 655, Public Law 101-403) from October 5 to October 12, 1990. It continues to provide temporary, restrictive financing for fiscal year 1991, which began on October 1, 1990. In addition, House Joint Resolution 660 continues to provide that implementation of any sequestration order is suspended for the term of the continuing resolution.

So far, the House has passed 10 of the 13 annual appropriation bills. The Senate Appropriations Committee has reported seven of those bills to the Senate, all seven of which have been passed.

It is critical that the Senate complete action on this continuing resolution today. This resolution is not a budget buster; it does not in any way prejudice the budget agreement. It simply allows for the continuation of the operations of the Federal Government for the period from October 5 through October 12, under the terms and conditions of the first continuing resolution for fiscal year 1991.

As I indicated in my remarks in connection with the content of the first fiscal year 1991 continuing resolution—House Joint Resolution 655, this resolution follows the same basic form and concept as have other continuing resolutions in previous years. In summary, the resolution provides restrictive funding for 13 appropriation measures depending on their legislative status as of October 5, 1990, under a formula that specifies that:

First, when the particular appropriations bills has passed both Houses, and the amount as passed by the House is different from that as passed by the Senate, the project or activity is continued under the lesser amount or more restrictive authority.

Second, when provision is made for a program in only one version of a bill as passed by both the House and the Senate, the rate of operations shall not exceed the current rate or the rate provided by the one House, whichever is lower.

Third, when the particular appropriations bill has passed only the House, the rate of operation for a particular program shall not exceed the current rate or the rate provided by the House, whichever is lower.

Fourth, when provision is not made for a particular program in a bill that has passed only the House and that program was funded in fiscal year 1990, the program shall be continued at the current rate.

Fifth, finally, when a bill has not passed either the House or the Senate by October 5, programs under these bills shall be continued at the current rate, except for defense, which is continued at a special rate, consistent with the House 302(b) allocation for defense for fiscal year 1991.

Under the provisions of the resolution, it is expected that the Essential Air Services Program will continue without any service reduction and that the Office of Commercial Space Transportation will continue at the current rate, in view of its important safety responsibilities associated with licensing the commercial space industry.

Mr. President, the continuing resolution also extends a provision which suspends any sequester orders for the term of the continuing resolution. It is

absolutely imperative that the sequester order be suspended so as to avoid unnecessary disruption of essential governmental services to the public such as veterans medical care, air traffic control operations, inspection of food and drugs, the apprehension and prosecution of violent criminals and those associated with the savings and loan scandal and other activities related to essential services, especially those related to the protection of the health and safety of human life and property. Without the above-mentioned language, the sequester would be triggered and would result in serious and widespread reductions in Government services.

I ask unanimous consent that an illustrative list of the potentially adverse consequences of the implementation of the sequester order, as reported to the committee by several of the departments and agencies of the Government, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BYRD. In summary, Mr. President, the timely enactment of this continuing resolution, which incorporates a provision to delay the implementation of the sequester order, is critical to maintaining essential governmental services needed to protect the health and safety and property of our citizens and avoid unnecessary widespread disruption in the provision of governmental services.

I might also point out that this resolution contains an extension of the debt limit through October 12.

I urge the adoption of this resolution.

EXHIBIT 1

JUDICIARY

A 30% sequester in the Judicial Branch would cause the release of 46,000 potentially dangerous probationers and parolees from supervision.

JUSTICE DEPARTMENT

Layoffs would cause severe curtailment of criminal litigation and prosecutions under the Violent Crime program and the Financial Institution Fraud program.

Layoffs would result in a 41 percent decrease in the number of investigations conducted by the Organized Crime Drug Enforcement Task Force and actually cost the Government money because of an estimated $294 million reduction in seizures and forfeitures.

Six thousand FBI personnel would be laid off which will cause curtailment of investigations in the S&L fraud cases, rendering many cases unprosecutable because of the lapse in the Statute of Limitations. Drug and organized crime investigations would be restricted or not investigated at all.

Drug enforcement operations in smaller U.S. cities and rural areas without DEA offices would be severely restricted because of reductions in travel funds.

Cutbacks in the Immigration and Naturalization Service would result in 5,000 fewer drug seizures and a reduction in the apprehension of 8,000 criminal aliens entering the U.S.

AGRICULTURE DEPARTMENT

The nation's 7,800 meat and poultry plants, employing over 400,000 people, and which cannot operate without Federal inspection, would have to be shut down for 137 days while USDA employees are furloughed.

The Forest Service estimates that the reduction in timber sales as a consequence of a sequester would result in a loss of revenue to the Treasury of the $400-$500 million that would otherwise have been paid by the estimated 70–80 thousand timber industry jobs that would be lost due to the reduced timber sales.

FOOD AND DRUG ADMINISTRATION

The safety of the nation's blood supply could no longer be guaranteed. Blood banks would be inspected only once every two years, increasing the risk of AIDS, hepatitis, and other serious diseases transmitted through contaminated blood.

FDA's special programs to improve access for the desperately ill to promising AIDS and other therapies may have to be substantially abandoned.

DEPARTMENT OF DEFENSE

A full year sequester would not be manageable without significant damage to national defense. All Defense agencies would be required to furlough personnel. Virtually every defense procurement program would be reduced by about 35% and the Department would have to renegotiate the contract prices and lower the quantities of most equipment it planned to purchase.

DEPARTMENT OF ENERGY

A full year sequester would require the layoff of about 900 DOE personnel and the layoff of a further 52,000 contractor personnel.

DEPARTMENT OF THE INTERIOR

The Washington Monument and other parks and monuments would close 2 days a week. Many National Parks would close during the winter and some park areas would close year-round.

Forest fires of the type which had previously been contained by the Federal Government, would be left to burn freely.

FEDERAL AVIATION ADMINISTRATION

Six thousand flights a day at 40 key airports would be reduced. Research in new weapons and explosives detection equipment would be postponed, along with wind shear research and development.

FEDERAL HIGHWAY ADMINISTRATION

Rehabilitation of over 2,000 bridges and 13,500 miles of Interstate highways would not be conducted with the respective loss of at least 100,000 jobs and increased traffic fatalities.

OTHER TRANSPORTATION

Five hundred thousand commercial vehicles and driver inspections would not be conducted, resulting in an increase in unfit vehicles and drivers on the highway.

Operation of the program which ensures that drunk drivers and criminals with suspended driving licenses do not obtain licenses in other states would be curtailed.

Coast Guard drug interdiction patrols, both on sea and in the air would be greatly curtailed and other marine search, rescue, and law enforcement activities would be limited.

Mass Transportation operating assistance would be curtailed with special adverse impact on medium and small cities, such as Buffalo, Detroit, Phoenix and Kansas City.

The Federal Railroad Administration would be required to terminate its oversight activities for drug testing of railroad employees.

Amtrak would be brought to the brink of bankruptcy, and the maintenance of the Northeast Corridor train lines would be greatly reduced, thus endangering hundreds of thousands of passengers that ride between Boston and Washington, DC every year.

Federal inspections of interstate oil and gas pipelines would be cut by 40%.

DEPARTMENT OF THE TREASURY

Cuts in law enforcement training would result in 18,000 Federal law enforcement officers and agents not being trained for the war on drugs.

Violent Crime task forces, instead of being expanded from eight U.S. cities to sixteen cities, would be completely abandoned.

Over 2,700 repeat armed career criminal suspects would not be prosecuted as a result of staff cutbacks.

Staff reductions at the Bureau of Customs would result in a 50% reduction in arrests indictments and convictions for narcotics violations.

IRS staff cutbacks would result in 570,000 tax audits not being conducted and a total revenue loss in the range of $10 billion.

POSTAL SERVICE

Preferred mail rates to non-profit organizations such as United Way, the Gir Scouts, etc. would be increased, thus adversely affecting the ability of many voluntary organizations to raise funds for continued existence.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The Department's oversight and audit responsibility over the millions of people who deal with the Department would be curtailed, with a resulting increased opportunity for fraud and abuse.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Drug abuse treatment and prevention efforts would be reduced by $648 million.

AIDS funding would be reduced by $47 million.

Medicare claims processing would be curtailed, resulting in a backlog of 261 million claims. Medicare audits would be curtailed resulting in a loss to the Treasury of $2 billion.

78 million meals to older Americans would be eliminated.

Social Security audit activities would be reduced, increasing erroneous payments by $10–$15 billion.

Biomedical research would be reduced by $3.5 billion.

Head Start would be reduced by over $500 million, eliminating help for 185,000 children.

Childhood immunizations would be eliminated for 1,600,000 children.

The Department of Education would be reduced by $6.5 billion.

Homeless programs would serve 87,500 fewer people.

Black lung clinics would serve 10,600 fewer patients.

Mr. KERRY. Mr. President, I rise in support of this short-term continuing resolution, debt limit extension and sequester waiver with deep regret. I, like millions of Americans, had great hope that the White House and congres sional leadership would propose an agreement that would win widespread support by making the tough choices, but make them fairly. That would have kept us from having to pass another short-term continuing resolution which we are now doing unanimously, Democrats and Republicans alike.

Unfortunately, and despite the hard work and great effort devoted to producing the proposed agreement by the White House and congressional leaders the agreement was fatally flawed. And, as a result it was soundly defeated in the House where it received the votes of neither a majority of Democrats or Republicans.

Mr. President, while I am very disappointed that the House was unable to pass a budget agreement, I am pleased that at least the Congress was presented with a proposal to consider, to debate and to act upon. The White House and the congressional leadership has heard from the Congress and from the American people regarding the specifics of the budget agreement. Hopefully, with their explicit guidance, the summiteers will be able to modify their proposal and return to Congress with a budget agreement that the country can accept and that will be enacted. That is the way the process should work, and I hope will work.

I am supporting the continuing resolution tonight, a short 5-day resolution, to give the summiteers a chance to produce a new budget agreement for the Congress to consider. I would oppose a long-term resolution at this time because we must continue the pressure on all parties to come to a fair and acceptable agreement. We must redouble our efforts to produce a serious, long-term deficit reduction plan, but it must be a fair plan. Unfortunately, the budget agreement could not, in my opinion, pass that test.

I regret that the President has indicated that he may veto even this short-term resolution if it is passed by the Congress. While we are all frustrated with the failure to enact a resolution last night, we cannot shut the Government down, thrown innocent Federal workers out on the street and cut or disrupt critical services to our citizens. I believe a veto would be unwise and unnecessary, and I hope the President would not pursue such a course.

Mr. President, as I indicated in my remarks in the Senate on September 30, when we passed the short-term continuing resolution that expires tonight, there are three criteria that I will apply to any budget agreement that comes before the Senate—three criteria that were not met by the proposal overwhelmingly defeated in the House last night. Three criteria that must be met in order for me to support a budget agreement. I believe they are reasonable. I believe they are the criteria that the people of Massachusetts would expect me to apply before casting my vote, and I will do so.

The criteria are the following:

> First, it must be fair to the working people of Massachusetts. It must not discriminate against our region of the country. It must not continue or increase the burden on the middle-class families of our state and unfairly benefit those with substantial wealth.
>
> Second, it must be consistent with the expansion of the Massachusetts economy and recovery from the serious recession that we are currently in.
>
> Third, it must have real, substantial multiyear reductions and abandon the recent practice of phony budgets with rosy economic assumptions and gimmickly short-term measures predominating.

Mr. President, I have been a strong supporter of deficit reduction since I came to the Senate. I understand that it is crucial to our Nation's economic health. I understand that it requires tough choices. But we dare not enact a budget agreement that will back us into several years of unfair results from one unwise decision. I will make the tough choices, but I will not make what I believe to be the wrong choices for the people of Massachusetts.

Mr. DODD. Mr. President, in the last week, Congress has been asked to hold its collective nose and vote for a budget compromise that no one truly likes. We were told that despite its imperfections, the budget proposal was better than nothing at all and that without some action, there would be a mindless across-the-board sequester bringing many elements of essential government to a screeching, irrational halt.

I wanted to support a budget agreement, and I still hope that the difficult process in which we are now engaged will produce a buget I can support. We desperately need a budget agreement so that we can limit or avoid a shutdown of the Federal Government and send a message to the Federal Reserve Board and the markets that will restore confidence and stability and help restimulate the economy.

On the other hand, Mr. President, I simply could not and cannot support a budget package which is not fundamentally fair and meaningful. While I truly appreciate the herculean efforts of the leadership in both Houses who labored mightily to bring us the budget compromise of the past week, I am unable to support a budget plan which puts the burden of our deficit on the backs of the most vulnerable Americans—elderly and disabled people and children.

The agreement simply was regressive. The consumption taxes that dominated the package guaranteed a regressive bias to the compromise, extracting most of the deficit reductions from lower and middle-income groups that can least afford it.

Increased Medicare premiums and deductibles also placed a greater burden on poor taxpayers than on the rich. Health care costs have been skyrocketing for a decade; Americans pay more for health care than any country in the industrialized world, but we have huge health care gaps that leave many without care, particularly children and older people. Instead of offering relief, the budget agreement would have mandated the largest increase in Medicare payments imposed by any President or Congress since the program began 25 years ago. Medicare beneficiaries would have been required to pay nearly double for their coverage by 1993.

The agreement also included a tax on home heating oil—a necessity of life for many Americans, particularly those of us in the Northeast. While $4 billion in tax breaks for the oil companies was doled out, a tax which hits the poor and the elderly was added at the last minute.

As we return to the table and reopen the question of fair and responsible deficit reduction, we in Congress should look at the only solution which truly would benefit the majority of Americans—restoring to this country a progressive income tax. For the last decade, lower and middle-income Americans have shouldered a disproportionate share of the burden. The proposed budget agreement only would have worsened their plight.

Those people in the very highest income brackets, who gained so dramatically in wealth and tax benefits in the last decade, were not asked to pick up a proportionate new responsibility for deficit reduction.

I would urge that Democrats and Republicans in the Congress work with the President to produce a budget agreement that is fair, reasonable, equitable, and meaningful. We are capable of producing a much better plan than the one reflected in the compromise package.

The problems in the past week's budget agreement can be resolved if we work together to make some modifications—and if we adhere to the principle of fairness.

I look forward to supporting a budget proposal that will responsibly adjust spending priorities, reform the budget process without reducing economic growth, and require the wealthy to bear their fair share of the cost of Government without shoving the brunt of that cost onto the poor, the middle class, and the elderly.

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate receives House Joint Resolution 660, it be deemed to have been read the third time and passed and the motion to reconsider be deemed laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (H.J. Res. 660) was deemed passed.

Mr. DOLE. Is that the CR we just passed?

Mr. MITCHELL. The CR we just passed. Although it is one of those things that took only a moment to occur, it took several hours in the preparation.

I thank my colleagues for their cooperation, the distinguished Republican leader, the distinguished Senator from New York, the chairman of the committee, and all of our colleagues who cooperated in making this possible.

I am pleased to yield.

Mr. DOLE. Mr. President, if the majority leader will yield, I understand now this will go to the President and then he will decide whether or not to keep it, study it for a few days, or to sign it, or to veto it and send it back. I assume if it were vetoed—I think the House comes in at 12 tomorrow. I am not certain of the time. In any event then it would come to us, I assume, shortly after that time.

Mr. MITCHELL. That is correct.

Mr. President, it is my understanding that the House will be coming in at noon tomorrow. They are coming in at noon with the authority to be in recess between noon and 3 p.m., depending on the situation at that time.

Of course, Mr. President, it is my hope that following his study of the matter the President will decide to sign the measure. Failure to do so will, of course, result in the operations of the Government coming to a halt and the sequester occurring as well. I understand that there are arguments on both sides of that issue. I merely state my own view that it is my strong and fervent hope that the President will sign it because not to do so, it seems to me, would create an undesirable situation which all should be seeking to avoid. I undersand the arguments all ways.

I thank my colleagues for permitting this matter to occur.

Mr. DOLE. Mr. President, if the majority leader will yield further, I do not have any exact knowledge of what the President may do. I have some idea. But I am not certain that final judgment has been made. I think it is fair to say the President was disappointed that the House failed to pass the budget summit agreement, but certainly he has praised the work of the leadership on the House side, the Republican leader, the Speaker, and the majority leader on the Democratic side.

I think I am safe in saying had it passed the House we could have dealt with it in the Senate. I think we had the requisite number of votes on each side—each have 50 percent or more—and passed the budget resolution if it were not rejected by the House last evening.

Now the President is faced with the very difficult decision on how to get a budget resolution and get some resolution of what we have been working on for several months. I happen to believe that 90 percent of the budget agreement is satisfactory. There are four or five key areas that need some attention.

I would hope we would continue using the framework of the budget summit and find some way to resolve the other differences soon. I think that is the President's hope. And that is why he will be looking very carefully at whether or not to sign the CR or to hold the CR to see if Congress might respond within 24 hours or 48 hours, or at some appropriate time to veto it, and send it back, where I believe the veto would be sustained in the U.S. Senate.

Mr. MITCHELL. Mr. President, if I might comment further, I believe the distinguished Republican leader's estimate of what would have occurred in the Senate had the House enacted the budget resolution is correct. I believe that there would have been a majority vote on both sides and, accordingly, a majority in the Senate.

However, as we know, the House rejected the package, by a substantial margin. Therefore, the question is how do we best proceed to achieve the common objective of significant deficit reduction in the manner that produces the best result with the least undesirable effects.

Now, there are some certain problem areas, as the distinguished Republican leader indicated and, as he knows, we have met for several hours today with Members of the House leadership and relevant committee chairman and ranking members in an effort to go over those matters. Whatever our view was about the prior agreement, it is obvious that at least in its total form it was rejected by the House, by a substantial margin, and we have to proceed from there.

I believe that we can resolve the matter in the way that achieves our objective, and I say with all due respect that I do not believe going to sequester, discontinuing the operations of Government as of midnight tonight, will in any way move us toward this objective.

Indeed, it is my view—and I recognize this is a personal view not shared by all—that it will have the opposite effect; that it will make it more difficult; that it will create pressures that will operate in a manner different from those intended; and I think we cannot lose sight of the fact that it could have an adverse effect upon many thousands of individuals and families.

It is often difficult. When we deal with these large numbers and we see table after table in the billions of dollars, we lose sight of the fact that what we are ultimately dealing with are individual American citizens and families, their lives, their fears, their hopes.

So I urge the President, after giving it careful study—and I know that he will—to sign this measure; to encourage continuation of the process that we started some months ago that received a significant setback last night, but still remains, in my judgment, the most appropriate way to resolve this, using the legislative process and the relevant committees of jurisdiction in the House and Senate, and trying to find a way to get what we always have to in a democracy, and that is the best product that is capable of enactment into law. Given the disparate views of the 535 Members of Congress, there are 535 opinions on what that is, and there has to be a process by which we reconcile those often conflicting objectives.

In my humble opinion, we can do that. I believe we will do that. And I believe that we can spare needless anguish and pain, and help move us further toward that objective if this legislation is signed and we can continue it right away tomorrow.

As the distinguished Republican leader knows, it has been my hope that the conference committee, the budget conference committee, could have met this evening. As the Republican leader knows, in a meeting this morning with the House leadership, I urged that course of action so that we could get this process moving forward, and that if they could not do it this evening, and it obviously is a late hour, I would recommend they do it tomorrow. These are responsible people who I hope would help sort this out and make whatever judgments that are necessary.

So I conclude by simply repeating my hope that this will be signed into law. But if it is not, and the House meets to override it and does override, then obviously we would be back sometime tomorrow afternoon. And we will have to recess until that time, a time that I will not set before I discuss it with the Republican leader.

Mr. DOLE. If the majority leader will yield, we will attempt to ascertain what the President plans to do. I think it is a very difficult decision for him. Here is 1 week gone. I do not see how we are going to be out of here by the 19th of October. There are still a number of appropriation bills. We do not have a budget. Some suggest maybe we will be back after the election. That may be true. I do not know at this point. I doubt it; I hope not. It could happen.

I think that the President must determine after reflecting, as I know he will, as to how do we get something moving, how do we urge those who were so quick to find fault with the product last evening to get onboard. Even after we make some changes. People were in fairly hard positions.

And even if the changes were made, some indicate that might not even change the vote. Even if we made changes, it will not change any votes.

So I think the President must determine what is in the long-term national interest. Certainly deficit reduction is a very important concern to him and to us. I think he wants to do that. So it does not in any way alienate the cooperation he has had with the leadership on both sides. I think that is the judgment the President will make and I feel certain he will make the right judgment, whatever that may be.

I would just indicate that I believe on this side of the aisle there are enough of us who are willing to support the President—if he should decide to veto the CR—to sustain that veto, again in an effort to speed up the process. Because if we delay it until next Friday, then there is another week. Then we will be delayed until the next Friday.

Sooner or later, we have to come to grips with very tough choices. And some people do not like tough choices. They like to talk about tough choices, they like to make tough speeches, talk about the budget, the budget deficit. But then when it comes time to make a choice, there is something wrong with the package. And I think in many cases that is true. I think Members truly believe they cannot support the package. So I do not question anybody's motives for voting for or against any particular measure. But it does put a great deal of pressure on the President, who has the ultimate responsibility.

I am prepared to support him in whatever he does.

Mr. MITCHELL. Mr. President, in view of the enactment of the continuing resolution, I now will announce that there will be no more votes this evening. We will have a brief quorum call—and if any other Senators wish to speak, they will be free to do so—following which I will discuss with the Republican leader and others the best time for coming in tomorrow, and we will make an announcement of that later.

So Senators are no longer required to stay. There will not be any more votes this evening.

Mr. HOLLINGS. Mr. President, I think it ought to be clearly understood that in the unanimous consent requested for the continuing resolution, it also contained an extension of the debt limit and an extension of the Gramm-Rudman-Hollings provisions.

I went along, and that is why I am making this public record, with the distinguished majority leader with respect to his commitment last year, and again this year several times, relative to the particular provisions that I had introduced in January a year ago on putting Social Security off budget.

I really resist the categorization of being an obstructionist when I bring it up. The fact of the matter is that January a year ago I determined by that time to stop, as has been characterized by the distinguished Senator from New York, to stop the stealing from the Social Security trust fund, and as has been characterized by the Senator from Pennsylvania as embezzlement, and I wanted to put it totally off budget and treat it as a trust.

It took me all spring long to bring everyone around, particularly the majority of the Budget Committee. Thereupon, the distinguished majority leader and the Speaker of the House and the distinguished chairman of the Social Security Subcommittee, the Senator from New York [Mr. MOYNIHAN] and all of us in public appearances said this was a priority.

And that was by the beginning of the summer when the debt limit came up. It was temporary. I got a firm commitment then from the majority leader that it would come up on the permanent debt limit. When the permanent debt limit came up, the majority leader then committed to bringing it up the following year, early in the year, no later than February.

Then we voted it out by a vote of 20 to 1 in the Budget Committee. We have been waiting a turn to bring this particular measure up. And to my dismay, rather than adhering to the 20-to-1 vote in the Senate Budget Committee to treat this as a trust fund and stop the theft and stop the embezzlement, the so-called summit package came up with a raiding of Social Security over a 5-year period to the tune of $169 billion, with the President of the United States on national TV saying we did not mess with Social Security. We just robbed it blind. So somewhere, sometime we ought to clear the truth from the falsity, and the commitments from the unkept commitments, and not be treated as an obstructionist.

A moment ago I came to the floor, and I understood that the leader had promised the distinguished Senator from New York a call for the consideration of his particular initiative to put Social Security on a pay-as-you-go basis. I have hailed the Senator from New York on his leadership. I guess I was the second or at least the third sponsor. It was in December of last year when the distinguished Senator from New York brought it up.

He has been our leader in Social Security trust fund treatment, and I cosponsored that, and I will vote for it and join him. I was told by the majority leader I could bring it up as an amendment, which I do not mind doing. I would like to get it up as an amendment and bring it up for a vote. I do not know how the body would vote on treating Social Security on a pay-as-you-go basis versus treating Social Security as a trust fund. There could be a not carrying vote. I will take my chances and put it on. I will support, of course, my own amendment and that of the distinguished Senator from New York, but I did not want to offend the leadership position taken by the Senator from New York.

I say these things to put everybody on notice of the fact that I do not nag. I know the burdens on the majority leader. I know the burdens on the summiteers and everyone else. I do not nag and race around and threaten and everything else, but it has not been forgotten; it has been pursued.

In August of this year I, of course, let my distinguished colleague from Pennsylvania take that position. I sat here and watched. We were the last to leave on Friday night. I have been here each time protecting it. The Senator from Pennsylvania, Senator HEINZ, joins me, I take it, with the majority of the Budget Committee and the distinguished Senator from New York.

I have not been an obstructionist, and I have not gotten in the way when people ask why am I bringing it up. I brought it up in January 1989 and thereupon worked all spring long to bring them around. I was resisted and then finally got it and said, Mr. Majority Leader, you put your name first on this measure.

Then we got the Speaker to come, and we had a big public show before TV. Then, of course, we did nothing on the temporary debt limit. We did nothing on the permanent debt limit and promised the early part of the year, no later than February. Now it is October and past adjournment time and we are into another fiscal year.

It has not been from a lack of interest. I have been trying to pace myself and make sure it was considered. A red flag raised immediately when I saw this crowd work for 4 months and rob the Social Security interest cause to the tune of $169 billion and come out for the Good Government Award, how they had worked so hard.

I could go into the things they worked so hard on. I think the House did a good job last night. I am glad they did it. Maybe we will sober up and maybe we will start getting truth in budgeting. I have not heard my colleagues who joined with me in Gramm-Rudman-Hollings recently, but that was the trust, that everything was on top of the table; no more games, no more mirrors, no more smoke. They started off putting the rouge on the rosy scenario, hiding it here, forgetting about FSLIC that Seidman says here in October we need another $100 billion for. So the very

tenets of truth in budgeting of Gramm-Rudman-Hollings are being totally ignored, and then everybody goes on national TV saying Gramm-Rudman-Hollings does not work.

Well, neither do the Ten Commandments. But we do not do away with the Ten Commandments, and fiscally we should not do away with this commandment, this particular initiative. Gramm-Rudman-Hollings and "everything on the table" got us to that summit, unfortunately. I did not think it was a good idea.

But that is why I did not object. I wanted to get that understanding. I appreciate the courtesy of the distinguished chairman of the Social Security Subcommittee for his indulgence in considering our amendment. I want to join hands with him. I hope he gets a majority vote putting Social Security on a pay-as-you-go basis, but I want to put Senators on notice I am putting it up as an amendment. I hope we get a vote separately, not a voice vote, on that when we bring it up next week and, of course, a rollcall on the initiative of the distinguished Senator from New York. Then if the initiative does not carry enough force to take along my amendment, we will come back with a reminder of our particular commitments.

Somehow we have to get in here and fight for the easiest thing in the world, what everybody wants. They have taken a categoric position we have a trust fund and we do not mess around with it. Then when we start messing around with it and are not even given a vote, we are looked upon as some kind of obstructionists here on Friday night.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, first I would like to express my compliments and also my respect to the Senator from Maine and the Senator from Kansas for the leadership they provided this body throughout the most recent chapter of this budget debate.

As I listened carefully to both our leaders, I detect there is serious work now going on to try to resolve this budget issue.

Yesterday I was prepared to pitch in, as I did two times, with the leadership to support the President and do what we could to past that package. But that is history.

Now there is a renewed effort. I associate myself with those who believe we should not in any way signal to the President that we ought to shut down the Federal Government. To lock out a number of honest, hardworking civil servants, who day in and day out labor to make this Government work, irrespective of who is President, irrespective of which party has the executive branch or, indeed, which party controls the Chambers of the Congress. Year after year that group carries forward the basic structure of our Government. To lock them out is unfair.

I do not think in any way will it encourage this body to proceed to do its work more conscientiously. Locking them out? No. Locking this door? Yes. Let us stay here and do the job for which we have been elected. We all raised our hands at one time or another as we took the oath of office in this Chamber to support the Constitution and to perform our duties.

I am very hopeful the President will not veto the joint resolution that we passed tonight providing for a reasonable period of additional time within which to work out this budget situation. If that veto is lodged, this Senator from Virginia will not vote to sustain that veto.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, let me add my voice, if I can, to those of other colleagues, the Senator from Virginia, encouraging the President not to veto the continuing resolution. Many of my colleagues have questioned me about the impact of a furlough on air traffic controllers, and I have contacted many aviation experts and believe if a continuing resolution is not enacted and the air traffic controller work force is furloughed due to shutdown of Government, there will be a total breakdown of the Nation's air transportation system. The Air Transport Association estimates that, if there is a total shutdown of the air traffic control system, approximately 18,000 flights a day will be grounded. It is estimated that 1.2 million air passengers will be stranded each day of the furlough. And the cost to the economy will be well over $1 billion.

The ramifications of a furlough of air traffic controllers also reaches into the cargo arena. Foreign packages as well as domestic would sit in cargo terminals and not be delivered. I cannot fully comprehend what a shutdown of air cargo would do to American businesses. There is no doubt that air traffic controllers are essential employees, and it is hoped that some decision can be reached, if there is a veto and it is sustained, as we hear tonight, to avoid the enormous consequences to air travelers and cargo. Federal agencies in Washington must realize that, if the system is totally shut down and controllers are furloughed, then 400,000 employees in the air carrier industry will also be out of work.

Mr. President, it is my understanding that certain Federal employees essential for public health and safety and for the protection of property can be exempted from furloughs under a shutdown of Government. Such employees in the past have included FBI employees engaged in criminal investigations, USDA meat and poultry inspectors and National Transportation Safety Board aircraft accident inspectors. Clearly, other such exempted personnel should include mine safety and health inspectors, medical personnel at VA hospitals, Federal marshals, wardens and other law enforcement personnel, to name only a few.

So, Mr. President, I encourage the President of the United States and the Office of Management and Budget to very carefully consider the consequences of widespread furloughs among these essential personnel. The President has the authority, if he does veto the continuing resolution, and it is sustained, to keep the essential services of Government functioning, even in the absence of the continuing resolution.

Mr. President, I urge him to strongly do these things and especially not veto the continuing resolution. I yield the floor.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO LAWRENCE F. "LARRY" O'BRIEN

Mr. MOYNIHAN. Mr. President somewhere the poet William Butler Yeats writes of a man who "wa blessed and had the power to bless." There could not be a better evocation of the person and the life of Lawrence F. "Larry" O'Brien, who died thi week, aged 73.

We knew each other a full 30 years from John F. Kennedy's 1960 campaign for President. I served with him in the Kennedy, and then the Johnson administrations and grew ever more admiring, indeed, a word that would have embarrassed him, devoted. We last saw each other not weeks ago.

He blessed all the institutions he touched, above all the Democratic Party in which he began his work—it was that, a vocation—in the north end of Springfield, MA, where, as the Springfield Union-News notes in an affectionate obituary, his father, who hailed, as did his mother, from the County Cork, ran "a popular saloon." Will we ever truly absorb what the American democracy owes to that singular breed? He went from walking about the wards of Hungry Hill to become a congressional aid, a Presidential adviser, Postmaster General and twice Democratic National Chairman. Chairman, that is, of the oldest political party on Earth, the oldest in the history of mankind. We will celebrate our bicentennial in New York City in 1992, observing the "botanizing expedition" up the Hudson Rive during which Aaron Burr and Thomas Jefferson forged the first national political institution in our history, and in doing so, changed the history of government and politics the world over.

His talent and his joy was to bring people into the circle of public life, which is what politics is. A noble calling, as President Kennedy put it; and for a democracy an indispensable duty. My wife Elizabeth was cochairman, as the term then was, of Citizens for Kennedy in central New York State in the 1960 campaign. Just weeks ago she was sorting through some papers at our farm and came across the "O'Brien Manual," as it has become known technically. It has a pale blue cover, with the title "Field Worker's Manual" printed in dark blue. It was sent to party workers across the land, and it touched our land. When John F. Kennedy became President there were literally millions of his fellow Americans who knew that they had had a part in the making of the President, 1960.

He was gracious in victory; more so in defeat. I will ever remember watching him on television at about 4 o'clock in the morning in August, or was it July?—no matter—of 1972 as the Democratic Convention ground to the conclusion of another awful day of dispute and dissension. He was national chairman. He had seen to it that everyone had been heard. Had waited patiently until all were finished, or at least exhausted. Then he came to the podium and blew a kiss to the conventional all. "You're wonderful," he exclaimed. And he believed it.

He is survived by his wonderful and beloved Elva, and his son, Lawrence F. O'Brien III, of this city. Hail to our chief.

Mr. President, I ask unanimous consent that David Broder's affectionate memoir be included in the RECORD at this point.

There being no objection, the memoir was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 3, 1990]

LARRY O'BRIEN'S VICTORIES

(By David S. Broder)

Lawrence F. O'Brien, who died last week of cancer, was many things: a key figure in John F. Kennedy's "Irish Mafia," an architect of Lyndon Johnson's Great Society legislation, a Cabinet member, the target of the Watergate break-in that eventually cost Richard Nixon the Presidency and, later in life, a most successful commissioner of the National Basketball Association.

But above all else, Larry O'Brien was a Democrat—a politician devoted to the nurture of his party. To salute him and his work is to defend what is now most denigrated in American politics: the principle that parties matter, even more than personal ambitions or the policy clashes of the moment.

The son of immigrants from County Cork who ran a rooming house and restaurant in Springfield, Mass., he was different from the others in the Kennedy circle—and not just because he had no enthusiasm for touch football. O'Brien had been actively involved in Democratic politics before JFK came along, and he stayed involved long after he was gone.

Devoted as he was to President Kennedy and to his brother Robert Kennedy, it was perfectly in character for O'Brien to give generously of his talents to President Johnson and to Hubert Humphrey, when they carried the Democratic banner after the deaths of the Kennedy brothers.

Some Kennedy courtiers never forgave O'Brien for that. But anyone who understood him knew that his concept of loyalty went well beyond the individual to an institution he genuinely believed served the interests of most Americans—the Democratic Party.

I met O'Brien during the West Virginia primary of 1960. We hooked up one day at the Kennedy headquarters in the basement of the Kanawha Hotel in Charleston, where he and Matt Reese and Bob McDonough worked the phones 18 hours a day, and drove together down to Beckley. By the end of the drive, I'd not only had a lesson in O'Brien's techniques for political organizing but an insight into the values that framed his life.

He was a small-d democrat as well as a Democrat. He believed that the people could and should rule. But unlike so many of the current crop of self-proclaimed "populists," who visualize themselves as personal embodiments of the mass will, O'Brien understood that popular rule required mobilization. And mobilization required political party organization.

The secret of his success as a political organizer was no secret at all; he laid it out in simple terms in the "O'Brien Manual." It is all about participation, about techniques for expanding the campaign from the cadre of insiders to wider and wider circles of volunteers; of reaching people at the doorstep and giving them a sense of involvement in a candidacy.

My dog-eared copy reads: "Volunteers are essential to the success of any political campaign. . . . There is no such thing as having a surplus of volunteers. . . . There is always work to be done in a political campaign."

It is no accident that the campaigns he helped design in the 1960s saw levels of turnout the Democrats have not been able to match ever since.

His techniques as a congressional liaison for Kennedy and Johnson rested on the same principle—finding ways to involve Members of Congress enough in the framing of a program that they acquired a sense of ownership in seeing it passed. It wasn't easy, for Kennedy had too few allies on Capitol Hill and Johnson had almost too much ego to let others play. But O'Brien did the job with skill, in large part because he never let himself become a cynic.

"I always felt," he wrote, "that we could never discount any Member of Congress, no matter how much we might disagree with him. The people of his state or his district had elected him; he spoke for them and he was, therefore, deserving of our respect."

O'Brien understood that the goal of politics was not just to win but to govern. The policy issue that concerned him most, always, was education. He knew, as well as Mr. Jefferson, that democracy without education was a contradiction in terms. I don't believe I had any interview with him during the Kennedy years that he did not express his frustration at the lack of votes to pass a federal aid-to-education bill. I know he was never happier than when Johnson signed the landmark education bills of his Presidency.

But the job O'Brien valued most was the chairmanship of the Democratic National Committee, though the two times he held it between 1968 and 1972 were hard times for his party. "I'm proud to be known as a politician," he wrote in his memoirs. "Politics is the art of the possible, and it is an intensely personal art."

O'Brien practiced that art as well as anyone Washington has seen in a long, long time. He titled his book "No Final Victories," because he was always a realist. But his final victory was sustaining the Democratic Party—both in government and at the grass roots—at a time when that was tough to do.

THE 30TH ANNIVERSARY OF THE SPURWINK SCHOOL

Mr. COHEN. Mr. President, in my home State of Maine, we are preparing to celebrate the 30th anniversary of the Spurwink School.

This outstanding institution, established in 1960, has specialized in helping seriously emotionally disturbed children, adolescents and adults. First designed as a group home serving just six children, the Spurwink School has grown to become a network of community-based residential treatment centers, intermediate care facilities, waiver homes, therapeutic foster homes, day activity and day treatment centers located not only in Maine, but in New Hampshire and Rhode Island as well.

In 1986, the National Institute of Mental Health conducted a survey of more than 2,500 programs for residential and day treatment around the country, and I am proud to say that Spurwink School was one of 11 chosen as a model program.

The growth, success and maintenance of quality programs over Spurwink's 30-year history is a tribute to the many hard working and creative members of the school's staff and governing bodies. During the last three decades literally thousands of young people and adults with special needs have been served by the talents and energies of the Spurwink employees.

Today, as a national role model for schools across the country, Spurwink is recognized for the quality of its programs and its ability to respond to the needs of the handicapped.

Mr. President, we all agree education must be our Nation's highest priority. And when we witness the success of an educational system like the one employed by Spurwink School, we must vigorously applaud it.

Mr. President, my State, and our country, are fortunate to have an institution as fine as the Spurwink School serving those with special needs.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting a nomination which was referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

ANDEAN TRADE PREFERENCE ACT—MESSAGE FROM THE PRESIDENT—PM 150

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Finance:

To the Congress of the United States:

I am pleased to transmit a legislative proposal entitled the "Andean Trade Preference Act of 1990" and a section-by-section analysis. The Andean nations are engaged in a serious struggle to combat illegal narcotics trafficking. It is incumbent upon the United States to aid them in their efforts to develop legitimate trading opportunities for their people. Their struggle is our struggle as well.

This proposal would implement my Andean Trade Preference Initiative of July 23, 1990. It would create a trade preference program patterned after the Caribbean Basin Initiative (CBI) for four Andean countries—Bolivia, Colombia, Ecuador, and Peru.

The Andean Trade Preference Initiative is intended to:

—fulfill, in part, my commitment at the Cartagena Summit to expand economic alternatives for these four Andean countries;

—complement the program of economic assistance, drug control, and the economic reforms agreed on with the Andean countries; and

—provide U.S. economic support to those Andean countries that are fighting to eliminate the production, processing, and shipment of drugs.

Just as CBI did for the countries of the Caribbean Basin, the Andean Trade Preference Act of 1990 will provide the authority to establish duty-free treatment of imports from the four Andean countries. These trade preferences would be granted for a period of 10 years.

The legislation outlines the rule-of-origin requirements for duty-free entry. Articles must be imported directly from a beneficiary country. These imports must consist of at least 35 percent value-added in one or more of the beneficiary countries, or one or more of the CBI countries, to which 15 percent of the total value from U.S.-made components may be applied. If foreign components are used to produce an article, the final product must be substantially transformed into a "new and different article of commerce" in one or more of the beneficiary countries. Products not qualifying under these three requirements will be dutiable.

Products that are particularly sensitive to import competition will still be dutiable. These products include textiles and apparel; footwear; canned tuna; petroleum and petroleum products; and watches and watch parts. Handbags, luggage, flat goods, work gloves, and leather wearing apparel also will continue to be dutiable, but will be subject to the same duty reduction program as has been made available to products from the Caribbean Basin. Duty-free entry of sugars, syrups, and molasses is provided consistent with the tariff-rate quotas on these products.

The proposal includes provisions for general import relief and emergency relief to safeguard domestic industries. Specific relief provisions are also included to safeguard domestic industries producing perishable products (i.e., live plants and fresh cut flowers, certain fresh or chilled vegetables, certain fresh fruit, and concentrated citrus fruit juice).

To assess the effects of the legislation on the U.S. economy and on particular industries producing like or directly competitive articles, the U.S. International Trade Commission would be required to issue reports to the Congress. The first such study will assess the effectiveness of the Act during its first 2 years, with annual reports thereafter. The proposal also requires the Secretary of Labor to report to the Congress annually on the impact of the Act on U.S. labor.

Enactment of the Andean Trade Preference Act of 1990 will permit the United States to support the efforts of the Andean countries to eliminate the production, processing, and shipment of illicit drugs. In conjunction with other Andean trade measures announced on July 23 and the Enterprise for the Americas Initiative announced on June 27, it will also increase the prospects for economic growth and prosperity in the Andean countries and throughout the hemisphere. I look forward to working closely with the Congress to enact this vital initiative.

GEORGE BUSH.

THE WHITE HOUSE, *October 5, 1990.*

MESSAGES FROM THE HOUSE

At 10:06 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the bill (S. 2017) to provide a permanent endowment for the Eisenhower Exchange Fellowship Program; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 418. Joint resolution calling for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty Consultative Parties, for the full protection of Antarctica as a global ecological commons.

ENROLLED BILL SIGNED

At 4:56 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1677. An act to require the Federal Communications Commission to reinstate restrictions on advertising during children's television, to enforce the obligation of broadcasters to meet the educational and informational needs of the child audience, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

At 9:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 3155. An act to extend the expiration date of the Defense Production Act of 1950 to October 20, 1990.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 660. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 3155. An act to extend the expiration date of the Defense Production Act of 1950 to October 20, 1990;

H.R. 435. An act to amend the Appalachian Regional Development Act of 1965 to include Columbiana County, Ohio, as part of the Appalachian region;

H.R. 971. An act to require the Federal Communications Commission to prescribe rules to protect consumers from unfair practices in the provision of operator services, and for other purposes;

H.R. 2809. An act to provide for the conveyance of certain lands to the State of California, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES PLACED ON THE CALENDAR

The following joint resolution was read the first and second times by unanimous consent, and placed on the calendar:

H.J. Res. 418. Joint resolution calling for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty Consultative Parties, for the full protection of Antarctica as a global ecological commons.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 5, 1990, he had presented to the President of the United States the following enrolled bills:

S. 1128. An act for the relief of Richard Saunders;

S. 1229. An act for the relief of Maria Luisa Anderson;

S. 1683. An act for the relief of Paula Grzyb;

S. 1814. An act for the relief of Wilson Johan Sherrouse; and

S. 3155. An act to extend the expiration date of the Defense Production Act of 1950 to October 20, 1990.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

S. 3160. An original bill to authorize the relocation of the Southeast Light on Block Island, Rhode Island (Rept. No. 101-497).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1118. A bill to provide for the transfer of the Platoro Reservoir to the Conejos Water Conservancy District of the State of Colorado, and for the protection of fish habitat on the Conejos River (Rept. No. 101-498).

H.R. 2567. A bill to authorize additional appropriations for the construction of the Buffalo Bill Dam and the Reservoir, Shoshone Project, Pick-Sloan Missouri Basin Program, Wyoming (Rept. No. 101-499).

S. 620. A bill for the relief of Leroy W. Shebal of North Pole, Alaska (Rept. No. 101-500).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 1767. A bill to reimburse individuals for expenses incurred to test cattle for brucellosis organisms carried outside Yellowstone National Park by elk and bison, and for other purposes (Rept. No. 101-501).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 2802. A bill to authorize the establishment of the Fort Totten National Historic Site (Rept. No. 101-503).

H.R. 3863. A bill to amend the National Trails System Act to provide for the study and designation of the Underground Railroad Historic Trail (Rept. No. 101-504).

H.R. 4834. A bill to provide for a visitor center at Salem Maritime National Historic Site in the Commonwealth of Massachusetts (Rept. No. 101-506).

H.R. 5084. A bill to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes (Rept. No. 101-507).

By Mr. BIDEN, from the Committee on the Judicary, with amendments:

H.R. 426. A bill for the relief of Christy Carl Hallien of Arlington, Texas.

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. Res. 334. An original resolution reaffirming United States policy regarding the independence of the Baltic States.

By Mr. INOUYE, from the Select Committee on Indian Affairs, without amendment:

S. 2888. A bill relating to Indian health care (Rept. No. 101-508).

S. 2995. A bill to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under the Social Security program (Rept. No. 101-509).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

Richard A. Claytor, of California, to be an Assistant Secretary of Energy (Defense Programs).

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 101-20. Treaty on the Final Settlement With Respect to Germany (Exec. Rept. No. 101-33).

TEXT OF RESOLUTION OF RATIFICATION

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty on the Final Settlement with Respect to Germany and its related Agreed Minute, signed by the United States of America, the Federal Republic of Germany, the German Democratic Republic, the French Republic, the Union of Soviet Socialist Republics, and the United Kingdom of Great Britain and Northern Ireland in Moscow on September 12, 1990.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BURDICK:

S. 3160. An original bill to authorize the relocation of the Southeast Light on Block Island, Rhode Island; from the Committee on Environment and Public Works; placed on the calendar.

By Mr. BOREN (for himself and Mr. PRYOR):

S. 3161. A bill to amend the Internal Revenue Code of 1986 to prohibit the retroactive application of Treasury Department regulations and rulings; to the Committee on Finance.

By Mr. BAUCUS:

S. 3162. A bill to amend the Internal Revenue Code of 1986 to increase the amount of bonds eligible for certain small issuer exceptions, and for other purposes; to the Committee on Finance.

By Mr. BENTSEN:

S. 3163. A bill to make technical corrections to certain customs and tariff laws; to the Committee on Finance.

By Mr. BRADLEY:

S. 3164. A bill to provide for youth sport programs at public housing projects that have substantial drug problems; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LIEBERMAN (for himself, Mr. GLENN, Mr. LEVIN, Mr. AKAKA, and Mr. KOHL):

S. 3165. A bill to amend the Internal Revenue Code of 1986 to extend to 10 years the period of limitation on collection after assessment; to the Committee on Finance.

By Mr. LEVIN (for himself and Mr. DODD):

S. 3166. A bill to amend the Public Health Service Act to extend the immunization program for vaccine-preventable diseases, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN:

S. 3167. A bill to cut Social Security contribution rates and return Social Security to pay-as-you-go financing, and for other purposes; placed on the calendar.

By Mr. BREAUX (for himself, Mr. JOHNSTON, Mr. ROBB, Mr. COCHRAN, Mr. LOTT, and Mr. WARNER):

S. 3168. A bill to amend the Natural Gas Pipeline Safety Act; the Hazardous Liquid Pipeline Safety Act of 1979; and the Ports and Waterways Safety Act to establish permanent offshore pipeline inspection and burial requirements which will improve navigational safety in coastline waters; to the Committee on Commerce, Science, and Transportation.

By Mr. LAUTENBERG:

S. 3169. A bill to provide for the reduction of metals in packaging; to the Committee on Environment and Public Works.

By Mr. HATFIELD:

S.J. Res. 376. A bill authorizing the deployment and use of United States Armed Forces only to deter aggression by Iraq against Saudi Arabia or pursuant to the authority of the United Nations to enforce economic sanctions against Iraq; to the Committee on Foreign Relations.

By Mr. LAUTENBERG (for himself and Mr. BRADLEY).

S.J. Res. 377. A joint resolution designating the Oak as the National Arboreal Emblem; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PELL, from the Committee on Foreign Relations:

S. Res. 334. An original resolution reaffirming United States policy regarding the independence of the Baltic States; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOREN (for himself and Mr. PRYOR):

S. 3161. A bill to amend the Internal Revenue Code of 1986 to prohibit the retroactive application of Treasury Department regulations and rulings; to the Committee on Finance.

TAXPAYER REGULATORY RELIEF ACT

● Mr. BOREN. Mr. President, I rise today to introduce the Taxpayer Regulatory Relief Act. If enacted, this bill will prohibit the Treasury Department and the Internal Revenue Service from writing retroactive regulations.

Under the present statutory scheme, Treasury and the IRS often issue regulations retroactively, notwithstanding that the statutory change has a specific effective date. I believe this practice to be both unfair and bad for the economy. Unfair, because the IRS often changes the rules in midstream: A taxpayer should be able to rely on the rules of the road at the time he or she fills out a tax return; bad for the economy, because such practices have a chilling effect on legitimate business transactions.

The bill provides that all regulations to implement broad legislative guidelines issued by Treasury and the IRS are to be prospective from the date of issuance in final form. In the interim between the effective date of the statute and the effective date of the regulations, taxpayers will be deemed to have satisfied the necessary requirements if they made a good-faith, reasonable effort to interpret the statute that results in substantial compliance.

The general rule requiring that the regulations be prospective could be superseded by a special legislative grant authorizing the Treasury to issue regulations retroactively with respect to a specific statutory provision.

Mr. President, this legislation has the support of the small business community. National Small Business United, the Small Business Legislative Council, the National Federation of Businesses, and the U.S. Chamber of Commerce all support the Taxpayer Regulatory Relief Act.

I believe this bill will provide some fairness to the administration of the Internal Revenue Code. I urge my colleagues to cosponsor.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3161

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Taxpayer Regulatory Relief Act of 1990".

(b) AMENDMENT OF THE 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. RELIEF FROM RETROACTIVE APPLICATION OF TREASURY DEPARTMENT REGULATIONS AND RULINGS.

(a) RULES AND REGULATIONS.—Subsection (b) of section 7805 is amended to read as follows:

"(b) RETROACTIVITY OF REGULATIONS OR RULINGS.—

"(1) IN GENERAL.—All final, temporary, or proposed regulations and rulings issued by the Secretary shall apply prospectively from the date of publication of such regulation or ruling in the Federal Register.

"(2) CONGRESSIONAL AUTHORIZATION.—The prospective only treatment of paragraph (1) may be superseded by a specific legislative grant from Congress authorizing the Secretary to prescribe the effective date with respect to a statutory provision."

SEC. 3. EFFECTIVE DATE.

(a) The amendments made by this Act shall be effective for any temporary or proposed regulation published as a final regulation after September 27, 1990.●

By Mr. BAUCUS:

S. 3162. A bill to amend the Internal Revenue Code of 1986 to increase the amount of bonds eligible for certain small issuer exceptions, and for other purposes; to the Committee on Finance.

ELIGIBILITY OF CERTAIN BONDS FOR SMALL ISSUER EXCEPTIONS

● Mr. BAUCUS. Mr. President, recently State and local officials in Montana made me aware of continuing problems they are facing in the area of tax-exempt financing. I regret to report that those problems stem from well-intentioned, though perhaps, overzealous changes which we made to the tax code in the Tax Reform Act of 1986. To address the legitimate concerns of State and local governments, today I am introducing legislation which will ease the financing burden placed on State and local governments by continuous changes in the tax law regarding tax-exempt financing.

During consideration and passage of the 1986 Tax Reform package, Congress significantly reduced the ability of State and local governments to use tax-exempt bonds to finance governmental projects. At the time, sweeping changes were made, in part in response to perceived abuses by the industry, and in part as the result of the process pursued during negotiation of the 1986 act. Some of those changes were appropriate and some, with the benefit of hindsight, were excessive.

The legislation which I am introducing addresses the excesses without touching the provisions enacted to avoid abuses in the tax-exempt bond area. This bill deals primarily with administrative burdens created by the 1986 act which serve no appropriate Federal purpose and dramatically increase the cost and complexity of State and local financing.

Currently the Congress is considering a massive deficit reduction package. Many of the provisions contained within that package will dramatically impact the ways in which State and local governments raise funds. The increase in Federal reliance on excise taxes is tapping a traditional State and local source of revenues. Some provisions directly require increased expenditures by State and local governments for programs like Social Security and Medicare. Then there are the cuts in this deficit reduction package, and during the past decade, which have all but eliminated many programs, which directly funded State and local projects in areas like rural development, economic revitalization, environmental compliance, international competitiveness, and infrastructure development.

As a result of all these changes, the need for State and local governments to increase their financing capacity is obvious. This legislation will improve their ability to do that at lower cost and with less Federal regulation. It will be particularly helpful to small municipalities, such as those in Montana, which borrow less frequently and can ill afford the cost of complex regulation. Specifically this legislation will do the following:

First, raise the current exemption for small municipalities from compliance with the rebate requirement from $5 million to $25 million. This is appropriate both in recognition of the fact that project costs have increased since 1986 and that small borrowers will try to borrow as infrequently as possible, seeking to combine several projects at one time to hold down their borrowing expenses.

Second, allows issuers to keep 10 percent of the arbitrage earned during financing to reduce project costs. Current law requires a 100 percent rebate payment if an issuer is not eligible for the small issuer exception. This results in complex arbitrage investment decisions, which usually result in uneconomical investment practices to avoid arbitrage rebate payments. The Federal Government loses the possible payment, which often gets diverted to investment contract providers, thereby benefiting neither the State or Federal Government.

Third, eliminates the regulatory requirement that issuers restrict the yield on their investments if they are paying a rebate to the Federal Government.

Fourth, makes the change enacted in the 1989 tax bill to provide rebate relief for construction projects spending their proceeds in 2 years retroactive to 1986 for projects eligible to comply. Since Congress recognized the need for this change in the 1986 act, issuers who complied with this policy should have the benefit of the change.

Fifth, eliminates the requirement that a governmental issuer spend no more than 5 percent of the proceeds of the borrowing on a disproportionate or unrelated project. This 1986 act requirement was unnecessarily restrictive given the other restrictions placed on the issuance of governmental bonds.

Sixth, increases the market for bonds of small governmental issuers from $10 to $25 million when the bonds are purchased by a bank. Small communities often rely on their local banks to purchase their bonds but the requirements of current law disallow interest costs the banks incur for owning tax-exempt bonds. This change will make banks more interested in purchasing the bonds, thereby reducing the interested costs of the governmental issuer.

These changes will make the issuance of tax-exempt bonds less complicated and costly for State and local governments. The Treasury Department is currently trying to revise the 243-page arbitrage rebate regulations in response to Congress admonition in the 1987 Tax Act, that the regulations be workable and reasonable for the governmental units required to comply with the regulations. The provisions included in this legislation, will provide statutory safe harbors for governmental issuers. This will benefit both the Treasury as it undertakes those revisions, and governmental issuers, as they try to comply with complex Federal tax law.

While this bill will not solve the complex problems facing State and local governments in the areas of rural development, infrastructure improvement, environmental compliance, international competitiveness, and improved education, it will make those jobs a little easier and less costly. I urge my colleagues to join me in enacting this legislation as part of the budget package we are considering.●

By Mr. BENTSEN:

S. 3163. A bill to make technical corrections to certain customs and tariff laws; to the Committee on Finance.

TECHNICAL CORRECTIONS TO CERTAIN TRADE AND CUSTOMS LAWS

● Mr. BENTSEN. Mr. President, today I am introducing legislation to make necessary technical corrections to the Customs and Trade Act of 1990 (Public Law 101-382).

The Customs and Trade Act of 1990 was enacted on August 20, 1990. Since enactment, a number of technical and inadvertent errors in the legislation have come to the Finance Committee's attention. Those errors relate primarily to the miscellaneous tariff provisions of the act.

The legislation I am introducing today makes necessary changes to customs and tariff laws to correct these errors. All provisions of this legislation are consistent with the conference agreement on the act. They are necessary to carry out congressional intent in passing the original legislation.

I am introducing this legislation today so that Members of the Senate have an opportunity to review the legislation in anticipation of any action that might be taken on it.●

By Mr. BRADLEY:

S. 3164. A bill to provide for youth sport programs at public housing projects that have substantial drug problems; to the Committee on Banking, Housing, and Urban Affairs.

SPECIAL PROGRAM OF RECREATIONAL TRAINING ACT

● Mr. BRADLEY. Mr. President, today I rise to introduce the SPORT [Special Program of Recreational Training] Act of 1990. This legislation will authorize a program within the Department of Housing and Urban Development [HUD] to provide grants for organized sports activities for the young residents of public housing.

As a former professional athlete, I know first hand the importance of sports for young people. Organized sports provide discipline, self-confidence, and guidance to help a young person through the difficult process of growing up. The lessons learned through sports are valuable ones that can enhance many different aspects of life. The lives of young people growing up in public housing are particularly difficult and complex. Organized sports can be an inexpensive and fun way to help these children at risk find a meaning and purpose in life. The SPORT Program can be a healthy alternative to the lure of drugs.

Under this bill, public housing authorities, units of State and local government and nonprofit organizations will be eligible to apply for grants of up to $125,000. Funding would be used for activities such as development of recreational facilities, acquisition of sports equipment, and organization of youth sports leagues.

The SPORT Grants Program would replace a similar project administered by HUD prior to enactment of the HUD Reform Act of 1989 which eliminated the discretionary authority for this program. This act provides the authority and guidelines for a new program to promote organized sports and activities at public housing developments.

This bill is another weapon to combat the war on drugs. Drugs have hit all segments of society but the impact on kids in public housing has been severe. Sports can mean the difference between a life of drugs and crime and being a productive member of society. I urge adoption of this bill.●

By Mr. BREAUX (for himself, Mr. Johnston, Mr. Robb, Mr. Cochran, Mr. Lott, and Mr. Warner):

S. 3168. A bill to amend the National Gas Pipeline Safety Act; the Hazardous Liquid Pipeline Safety Act of 1979; and the Ports and Waterways Safety Act to establish permanent offshore pipeline inspection and burial requirements which will improve navigational safety in coastline waters; to the Committee on Commerce, Science, and Transportation.

NAVIGATIONAL SAFETY AND OFFSHORE PIPELINES HAZARDS REDUCTION ACT

● Mr. BREAUX. Mr. President, today I am introducing legislation which will substantially improve operating safety in the Gulf of Mexico for the more than 30,000 commercial, recreational fishing/shrimping, and other vessels that ply those waters. In these same waters, along the Louisiana coast alone, there are more than 2,500 miles of large-diameter pipelines and some 16,000 miles of flow lines running between platforms and wells.

As I introduce this bill, Mr. President, I recall the October 3 anniversary of the tragic *Northumberland* Zapata Haynie Corp. fishing vessel accident off the southwest coast of Louisiana and southeast coast of Texas in the Sabine Pass. The *Northumberland* struck, in shallow navigable waters, an exposed natural gas pipeline. This pipeline should have been buried. The resulting fire and explosion took the lives of 11 fishermen, 10 of them were residents of Louisiana.

Mr. President, the *Northumberland* tragedy raised the urgency of this matter, but it was not the first of such accidents. While no Federal agency has an accurate count of other than major cases, we can document at least 10 cases dating back to 1965. Some of them have included loss of lives. The *Sea Chief* struck a line in July 1987. One person died. On July 15, 1979 the *Pete Tide II* hooked a pipeline, and two men are missing and presumed dead. There is evidence of hundreds of serious pipeline strikes, wherein cases were quietly settled outside of the glare of publicity.

Members of the congressional delegations of Gulf Coast States have grieved with families and friends of the *Northumberland* fishermen. We are equally aggrieved that Federal law, rules, and regulations were not sufficient to prevent such an accident in the first place.

When the insufficiency of Federal law became clear, Mr. President, my colleague and friend, Representative Billy Tauzin, chairman of the House Subcommittee on Coast Guard and Navigation—worked to develop corrective legislation. The bill that I am introducing today is the companion bill to Mr. Tauzin's bill, H.R. 4888. The

full House Energy and Commerce Committee has approved the bill, as well as the House Committee on Merchant Marine and Fisheries; formal approval is expected today, October 5, in the House Committee on Public Works and Transportation.

Mr. President, I recognize that there are other pipeline problems which need to be considered. Are our waters and their environments adequately protected against leaky hazardous liquid pipelines? Who is responsible for clearing abandoned pipelines? And, there are other issues which do not rise to the level of urgency raised here today. The complexity of some issues not addressed here deserve careful research and study, which can be afforded them in the next Congress.

This bill, Mr. President, is narrowly focused. It is a water-highway safety bill; it does no more than serve the immediate need to have our coastline waters permanently cleared of the potentially dangerous obstructions of exposed underwater pipelines. It says that once pipelines are buried as is presently required, pipeline operations must keep them buried. Interested industries, including appropriate fisheries, gas, pipelines, and oil company representatives, recognized the necessity and participated in the development of the legislation. Of equal importance is the support provided by the Army Corps of Engineers and the Departments of Transportation—the Coast Guard and the Office of Pipeline Safety—and the Interior—the Office of Minerals Management.

The collaboration of these interests, Mr. President, has resulted in an agreement on the following major provisions for improving the safety of gulf coastline navigation:

The Secretary of Transportation must establish standards in 6 months which will define exposed pipeline facilities that constitute hazards to navigation; and, have in place within 30 months mandatory, periodic, permanent inspection requirements and procedures.

Within 18 months of enactment, operators of offshore pipeline facilities must do an initial inspection of lines and report any exposed or hazardous conditions to the Secretary of Transportation. This provision only applies to facilities that are located in less than 15 feet of water. Hazards must be marked with a Coast Guard approved marine buoy.

The Secretary is directed to consult with appropriate Federal, State agencies, pipeline owners/operators, the fishing industry, and others about pipeline burial, burial methods and depth, shallow water rights-of-way, and on the availability and quality of navigational charts.

Mr. President, I believe Senators will recognize the urgent need for this legislation, and will support our efforts to enact this legislation during this Congress.●

● Mr. JOHNSTON. Mr. President, the waters of the Gulf of Mexico provide the people of the State of Louisiana with many trades such as shrimping, fishing, commercial shipping and recreational boating just to mention a few. These same waters, however, are the home of more than 18,000 miles of federally regulated oil and gas pipelines. A total of 191 natural gas pipelines come ashore from the Gulf of Mexico, 154 of which make landfall on the coast of Louisiana.

In the last decade, a deadly problem surfaced. Natural gas pipelines in less than 12 feet of water are required by law to be buried at least 3 feet beneath the sea floor. In recent years, many of these pipelines have become exposed. The exposure of these pipelines in areas heavily traveled by fishing and trawling vessels poses an immediate hazard to navigation and a potential threat to the marine environment.

In October of last year a fishing vessel, the *Northumberland*, struck an exposed subsea natural gas pipeline. The 168-foot boat carried a crew of 14. An explosion and resulting fire killed 11 crewmen and injured 3 others. The accident occurred approximately three-quarters of a mile offshore and 4 miles from Sabine Pass, TX.

This incident is not the first of its kind to happen in the shallow waters of the Gulf of Mexico. There have been at least two other fatal accidents in recent years involving exposed submerged pipelines. One in particular stands out in my mind due to the similarities to the *Northumberland* tragedy. In July 1987, the F/V *Sea Chief*, a fishing boat of comparable type and size to the *Northumberland*, struck an exposed subsea natural gas pipeline in comparable depths of water and distances from the shoreline of Louisiana. Both the F/V *Sea Chief* and the *Northumberland* trawled for menhaden, a small fish used in preparation of chicken feed. One crewman was killed and another never found in the explosion and fire that ensued aboard the F/V *Sea Chief*. In that case, the Coast Guard determined that the pipeline had most likely been exposed through coastal erosion.

Current Federal law regulates the initial burying of the pipeline and then requires only periodic aerial or surface inspections by the pipeline company of the submerged pipelines. Although the courts have overwhelmingly ruled in favor of vessel owners in accidents where the pipeline operators failed to properly maintain and inspect their pipelines, by then it is too late. A fatality has occurred. What we need is legislation establishing a compliance procedure to ensure that each pipeline stays buried.

A bill, introduced by my good friend and colleague from Louisiana, does just that. This bill requires that, within a 12-month period, all natural gas and petroleum pipelines in the Gulf of Mexico must be inspected and any pipelines found to constitute a hazard to navigation must be reburied. The bill further requires that upon discovery of a hazard to navigation, the operator of a pipeline facility must mark the area with a marine buoy until the exposed area can be reburied. The measure mandates that the Department of Transportation require long-term, periodic inspections in addition to the initial inspection.

My concern is for the safety of the people who depend on the Gulf of Mexico for their livelihood. Accordingly, I pledge my full support to facilitate the consideration, and ensure the enactment, of this bill. I commend my colleague from Louisiana for his hard work on this legislation and strongly urge your support of it.●

By Mr. LAUTENBERG:

S. 3169. A bill to provide for the reduction of metals in packaging; to the Committee on Environment and Public Works.

REDUCTION OF METALS IN PACKAGING ACT

● Mr. LAUTENBERG. Mr. President, today I am introducing the Reduction of Metals in Packaging Act. This bill, which is based on the efforts of the Coalition of Northeast Governors [CONEG], in cooperation with nearly two dozen environmental and industry groups, will phase down the use of four metals—cadmium, mercury, lead, and hexavalent chromium—in packaging in favor of more benign alternatives. This will tackle waste at the source, before it is generated and before it is emitted into the air, soil, and water.

Mr. President, lead, mercury, cadmium, and chromium are among the most harmful substances found in packaging today. A 1989 report by the Office of Technology Assessment identifies cadmium, mercury, and lead as the principal toxic metals in municipal solid waste. The medical community has concluded that these metals can damage the nervous system and cause mental retardation. As part of our solid waste stream, these metals pose significant threats to the environment and public health. When disposed of in landfills, these metals can leach into ground water and poison our drinking water supplies or migrate into surface waters where they harm fish and wildlife. Humans and wildlife can also inhale or injest these toxic metals when they are incinerated, either through air emmissions or landfill disposal of the incineration ash.

And hexavalent chromium can cause lung cancer. Last year, the Environmental Protection Agency banned the use of hexavalent chromium in certain heating and air conditioning systems because they release dangerous amounts of chromium into the air.

Sources of lead in packaging include solder in steel cans, paint pigments, ceramic glazes and inks, and plastics. Cadmium is found in metal coating and plating, in pigments for some plastics, and in some printing inks. Chromium is also used to plate metal products and appears in paints, pigments, and dyes. Mercury too is found in certain paints.

Mr. President, alternatives to these harmful materials in packaging are available. For example, the National Association of Printing Ink Manufacturers has noted that the use of lead-based orange and yellow inks can be further reduced by using organic pigment substitutes. Progress is already being made in many areas. The use of lead in soldering food cans declined 77 percent between 1979 and 1986.

Mr. President, packaging comprises nearly one-third of all municipal solid waste. It is about time that we stop using these dangerous metals in packaging when safe alternatives are readily available.

The bill I am introducing today requires that manufacturers reduce the total concentration of cadmium, mercury, lead, and chromium in packaging to 600 parts per million in 2 years, 250 parts per million in 3 years, and 100 parts per million in 4 years. It does allow exemptions for packaging that either is made from recycled materials or where the metals are needed to protect the contents, such as medical products used in radiation and x rays. Further, this legislation requires that manufacturers present certificates showing that they are complying with these reductions. Finally, this bill calls for the EPA to report on how effective these steps prove to be and whether other toxic materials should be reduced as well.

This legislation complements S. 1112 and S. 1113, introduced by Senators Baucus and Chafee. Both these bills address toxic materials in products and their packaging and ban the disposal and incineration of batteries, which account for the bulk of lead, cadmium, and mercury in municipal solid waste. The bill I am introducing today will also complement legislation developed by Senators Reid and Bradley to reduce exposure to the harmful effects of lead. Together, my legislation and these other bills will help prevent harmful materials from infecting our soil, air, water, and ultimately ourselves and our children.

Mr. President, the bill I am offering today reflects the hard work of CONEG and industry and environmental organizations. I commend all of the organizations involved for their effort to protect the environment from these toxic materials.

In the mere 8 months since CONEG developed this model legislation, eight States have adopted legislation to reduce toxic metals in packaging; including: Connecticut, Maine, New Hampshire, New York, Rhode Island, Vermont, Iowa, and Wisconsin. Other States currently have similar legislation pending. Mr. President, the swift action on behalf of the States to enact this legislation indicates that getting toxic metals out of packaging is a pressing problem—and one that can be solved efficiently and effectively under this bill. We have waited much too long to control these dangerous metals. CONEG realizes that the time is ripe for a national effort and has endorsed this legislation. The Congress now needs to build on the pathmaking efforts of the States and enact this bill.

I urge my colleagues to support this legislation.

I ask unanimous consent that the bill be included in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3169

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reduction of Metals in Packaging Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the management of solid waste can pose a wide range of hazards to public health and safety and to the environment;

(2) packaging comprises a significant percentage of the overall solid waste stream;

(3) the presence of heavy metals in packaging is a part of the total concern in light of their likely presence in emissions or ash when packaging is incinerated, or in leachate when packaging is landfilled;

(4) lead, mercury, cadmium, and hexavalent chromium, on the basis of available scientific and medical evidence, are of particular concern;

(5) it is desirable as a first step in reducing the toxicity of packaging waste to eliminate the addition of these heavy metals to packaging; and

(6) the intent of this Act is to achieve this reduction in toxicity without impeding or discouraging the expanded use of post-consumer materials in the production of packaging and its components.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "package" means a container providing a means of marketing, protecting, or handling a product and includes a unit package, an intermediate package, and a shipping container as defined in ASTM D996, and unsealed receptacles such as carrying cases, crates, cups, pails, rigid foil and other trays, wrappers and wrapping films, bags, and tubs;

(2) "distributor" means any person, firm, or corporation who takes title to goods purchased for resale; and

(3) "packaging component" means any individual assembled part of a package such as, but not limited to, any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coatings, closures, inks, and labels.

SEC. 4. PROHIBITION/SCHEDULE FOR REMOVAL OF INCIDENTAL AMOUNTS.

(a) The Administrator of the Environmental Protection Agency shall issue such regulations as may be necessary to require, not later than 2 years after the date of the enactment of this Act, that no package or packaging component shall be offered for sale or for promotional purposes by its manufacturer or distributor in any State of the United States, which includes, in the package itself or in any packaging component, inks, dyes, pigments, adhesives, stabilizers, or any other additives, any lead, cadmium, mercury, or hexavalent chromium which has been intentionally introduced as an element during manufacturing or distribution as opposed to the incidental presence of any of these elements.

(b) Such regulations shall further provide that not later than 2 years after the date of the enactment of this Act, no product shall be offered for sale or for promotional purposes by its manufacturer or distributor in any State of the United States, in a package which includes, in the package itself or in any of its packaging components inks, dyes, pigments, adhesives, stabilizers, or any other additives any lead, cadmium, mercury, or hexavalent chromium which has been intentionally introduced as an element during manufacturing or distribution as opposed to the incidental presence of any of these elements.

(c) For purposes of such regulations, the sum of the concentration levels of lead, cadmium, mercury, and hexavalent chromium present in any package or packaging component shall not exceed the following—

(1) 600 parts per million by weight (0.06%) effective two (2) years after the date of the enactment of this Act;

(2) 250 parts per million by weight (0.025%) effective three (3) years after the date of the enactment of this Act; and

(3) 100 parts per million by weight (0.01%) effective four (4) years after the date of the enactment of this Act.

SEC. 5. EXEMPTIONS.

(a) Such regulations shall be applicable to all packages and packaging components except the following—

(1) those packages or package components with a code indicating date of manufacture that were manufactured prior to the effective date of this statute;

(2) those packages or packaging components to which lead, cadmium, mercury, or hexavalent chromium have been added in the manufacturing, forming, printing, or distribution process in order to comply with health or safety requirements of Federal law or for which there is no feasible alternative, except that the manufacture of a package or packaging component must petition the Environmental Protection Agency for any exemption from the provisions of this subsection for a particular package or packaging component based upon either criterion. The Administrator of the Environmental Protection Agency may grant a 2-year exemption if warranted by the circumstances. Such an exemption may, upon meeting either criterion of this subsection, be renewed for 2 years. For purposes of this subsection, a use for which there is no feasible alternative is one in which the regulated substance is essential to the protection, safe handling, or function of the package's contents; or

(3) packages and packaging components that would not exceed the maximum contaminant levels set forth in subsection (c) of

section 4 of this Act but for the addition of post-consumer materials.

(b) The provisions of subsection (a) shall be of no effect on and after the expiration of the 72-month period following the date of the enactment of this Act.

SEC. 6. CERTIFICATE OF COMPLIANCE.

(a) Such regulation shall require, not later than 2 years after the date of the enactment of this Act, a Certificate of Compliance (stating that a package or packaging component is in compliance with the requirements of this Act) be furnished by the manufacture or supplier of such package or component to its purchaser. Where compliance is achieved under the exemptions provided in subsection (b) or (c) of section 5, the Certificate shall state the specific basis upon which the exemption is claimed. The Certificate of Compliance shall be signed by an authorized official of the manufacturing or supplying company. The purchaser shall retain the Certificate of Compliance for as long as the package or packaging component is in use. A copy of the Certificate of Compliance shall be kept on file by the manufacturer or supplier of the package or packaging component. Certificates of Compliance, or copies thereof, shall be furnished to the Environmental Protection Agency upon its request and to members of the public in accordance with section 9.

(b) If the manufacturer or supplier of the package or packaging component reformulates or creates a new package or packaging component, the manufacturer or supplier shall provide an amended or new Certificaate of Compliance for the reformulated or new package or packaging component.

SEC. 7. FEDERAL ENFORCEMENT.

Whenever on the basis of any information the Administrator of the Environmental Protection Agency determines that any person has violated or is in violation of this Act, the Administrator may issue an order assessing a civil penalty in an amount not to exceed $25,000.

SEC. 8. REVIEW BY THE ENVIRONMENTAL PROTECTION AGENCY.

The Administrator of the Environmental Protection Agency shall review the effectiveness of this Act no later than 42 months after the date of its enactment and shall report to the Congress the results of such review. The report may contain recommendations to add other toxic substances contained in packaging to the list set forth in this Act in order to further reduce the toxicity of packaging waste, and shall contain a recommendation whether to continue the recycling exemption as it is provided for in subsection (c) of section 5 of this Act, and a description of the nature of the substitutes used in lieu of lead, mercury, cadmium, and hexavalent chromium.

SEC. 9. PUBLIC ACCESS.

Any request from a member of the public for a copy of any Certificate of Compliance from the manufacture or supplier of a package or packaging component shall be—

(1) made in writing with a copy provided to the Administrator of the Environmental Protection Agency;

(2) made specific as to package or packaging component information requested; and

(3) responded to by the manufacturer or supplier within 60 days.

Sec. 10. Non-Preemption.—Nothing in this Act shall be construed so as to prohibit a State from enacting and enforcing a standard or requirement with respect to toxic metals in packaging that is more stringent than a standard or requirement relating to toxic metals in packaging established or promulgated under this Act.●

By Mr. HATFIELD:

S.J. Res. 376. Joint resolution authorizing the deployment and use of United States Armed Forces only to deter aggression by Iraq against Saudi Arabia or pursuant to the authority of the United Nations to enforce economic sanctions against Iraq; to the Committee on Foreign Relations.

(The remarks of Senators, and the text of the joint resolution appear earlier in today's Record.)

By Mr. LAUTENBERG (for himself and Mr. Bradley):

S.J. Res. 377. Joint resolution designating the oak as the national arboreal emblem; to the Committee on the Judiciary.

DESIGNATION OF THE OAK AS THE NATIONAL ARBOREAL EMBLEM

● Mr. LAUTENBERG. Mr. President, I rise today to introduce legislation on behalf of myself and Senator Bradley to designate the oak as the national arboreal symbol.

The oak tree is a fitting choice for the United States' national arboreal symbol. Over 300 species of oak are native to North America, and many turn beautiful colors in early autumn. The oak is found in every State of the Union. Oak wood is hard and strong, symbolic of the strength of our Nation and its people. The oak has played an important role in the building of our Nation. We and our ancestors have used the oak for housing, furniture, food, and decoration. All in all, the oak would make an excellent symbol to highlight our Nation's diversity, beauty, strength, durability, and longevity.

The International Society of Arboriculture strongly supports the designation of the oak as our Nation's arboreal symbol, and, in a recent poll, found that an overwhelming majority of those sampled favored the oak as our arboreal symbol.

This year the Senate and House of Representatives highlighted the importance of the tree by passing Senator Bradley's legislation proclaiming the last Friday of April as "National Arbor Day." The President too, has recognized the importance of trees to our Nation: his "America the Beautiful" program calls for public and private sector cooperation to plant, improve, and maintain nearly one billion additional trees annually.

Mr. President, adoption of a national tree would heighten environmental awareness and appreciation of the importance of our arboreal resources, and I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that a copy of a letter by the International Society of Arboriculture urging adoption of the oak as our national tree be printed in the Record following my statement along with the text of our legislation.

There being no objection, the material was ordered to be printed in the Record, as follows:

S.J. Res. 377

Whereas the oak has more than 300 species native to North America;

Whereas the oak is grown today in every State;

Whereas the oak represents durability and longevity;

Whereas the fruit of the oak, the acorn, was used as food by early native Americans;

Whereas, in a poll conducted by the International Society of Aboriculture, the oak was selected by a majority of people as the tree that symbolizes the United States;

Whereas the oak has been renowned in art, music, and literature; and

Whereas it is fitting and proper that the United States have a national arboreal emblem: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the tree commonly known as the oak is designated and adopted as the national arboreal emblem of the United States, and the President is authorized and requested to declare such fact by proclamation.

International Society
of Arboriculture,
Urbana, IL, September 13, 1989.

Hon. Frank R. Lautenberg,
Senate Office Bldg.,
Washington, DC.

Dear Senator Lautenberg: In August of 1988, I had the honor of being appointed the Chairman of the National Tree Committee by President Claude Desjardins of the International Society of Arboriculture. With this appointment, President Desjardins instructed me to conduct a nationwide survey not only of our ISA Chapter membership but other arboricultural and horticultural organizations to determine which tree should be nominated as our National Tree. Although we have a National Bird—the Bald Eagle—and a National Flower—the Rose—no President or Congress has ever established a National Tree.

In the past year, more than 1,000 ballots from 38 states have been cast to nominate a national tree. Many individual citizens have also participated in the survey. To date the genus Quercus or Oak is leading the balloting by a wide margin.

We are enclosing a few copies of the many news clippings from all over the country supporting this important effort. The three major New Jersey arboricultural organizations also strongly support this important endeavor. They are the Arborists Association of New Jersey, the New Jersey Chapter of the ISA, and the New Jersey Shade Tree Federation. Members of New Jersey Garden Clubs and Environmental Commissions have also cast nominating ballots for a National Tree. Our balloting records are available for your examination.

On behalf of the officers and members of the International Society of Arboriculture, as well as the arboricultural organizations in New Jersey, may I respectfully urge you to introduce legislation in Congress to make the Oak our National Tree.

Sincerely,

Harry J. Banker,
Chairman, National Tree Committee.

National Tree Ballot Count as of Apr. 2, 1990

Abies	3
Acer	126
Aesculus	5
Ailanthus	1
Amelanchier	3
Asimina	1
Betula	10
Carya	5
Catalpa	1
Castanea	8
Cedrus	3
Cercis	1
Cocos	13
Cornus	25
Cupressa	1
Fagus	21
Fraxinus	5
Ginkgo	58
Gleditsia	1
Gymnocladus	1
Ilex	7
Juglans	7
Juniperus	7
Liquidambar	8
Lirodendron	9
Magnolia	7
Malus	25
Mimosa	1
Morus	2
Oxydodendron	1
Picea	23
Pinus	151
Platanus	9
Populus	19
Prunus	16
Pseudotsuga	16
Prospis	1
Pyrus	1
#1 Quercus	5,728
Robinia	3
Salix	19
Sassafras	2
Sequoia	133
Sorbus	1
Taxodium	5
Tilia	3
Tsuga	2
Ulmus	36
Zelkova	1
Total	6,535●

ADDITIONAL COSPONSORS

S. 1677

At the request of Mr. Boschwitz, the name of the Senator from Indiana [Mr. Coats] was added as a cosponsor of S. 1677, a bill to amend the Railroad Retirement Solvency Act of 1983 to provide a 3-year extension of the transfer of revenues attributable to taxation of tier 2 benefits to the Railroad Retirement Account.

S. 1860

At the request of Mr. Boren, the names of the Senator from South Carolina [Mr. Hollings], and the Senator from Rhode Island [Mr. Pell] were added as cosponsors of S. 1860, a bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war.

S. 2356

At the request of Mr. Symms, the name of the Senator from Washington [Mr. Gorton] was added as a cosponsor of S. 2356, a bill to amend the Internal Revenue Code of 1986 to allow tax-exempt organizations to establish cash and deferred pension arrangements for their employees

S. 2657

At the request of Mr. Wilson, his name was added as a cosponsor of S. 2657, a bill to direct the Secretary of the Interior, acting pursuant to the Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388) and Acts amendatory thereof and supplementary thereto, to undertake certain studies to investigate opportunities for wastewater reclamation and reuse, to conduct studies of groundwater, and for other purposes.

S. 2750

At the request of Mr. Sasser, the name of the Senator from South Carolina [Mr. Thurmond] was added as a cosponsor of S. 2750, a bill to amend the Federal Property and Adminstrator Services Act of 1949 to authorize the Administrator of General Services to make available for humanitarian relief purposes any nonlethal surplus personal property, and for other purposes.

S. 2822

At the request of Mr. Lautenberg, the names of the Senator from Connecticut [Mr. Dodd], and the Senator from Massachusetts [Mr. Kennedy] were added as cosponsors of S. 2822, a bill to promote and strengthen aviation security, and for other purposes.

S. 2902

At the request of Mr. Pryor, the name of the Senator from Louisiana [Mr. Breaux] was added as a cosponsor of S. 2902, a bill to amend the Internal Revenue Code of 1986 to clarify portions of the code relating to church and welfare benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 2993

At the request of Mr. Daschle, the name of the Senator from Illinois [Mr. Simon] was added as a cosponsor of S. 2993, a bill to amend the Internal Revenue Code of 1986 to extend the solar, geothermal, ocean thermal energy tax credits through 1995.

S. 3002

At the request of Mr. Moynihan, the name of the Senator from California [Mr. Wilson] was added as a cosponsor of S. 3002, a bill to amend title XIX of the Social Security Act to permit coverage of residential drug treatment for pregnant women and certain family members under the Medicaid Program, and for other purposes.

S. 3091

At the request of Mr. Thurmond, the names of the Senator from Arizona [Mr. McCain], and the Senator from Nevada [Mr. Reid] were added as cosponsors of S. 3091, a bill to amend the Act incorporating the American Legion as to redefine eligibility for membership therein.

S. 3118

At the request of Mr. Moynihan, the names of the Senator from New Jersey [Mr. Bradley], and the Senator from Pennsylvania [Mr. Heinz] were added as cosponsors of S. 3118, a bill entitled "the Medicaid Drug Dependency Treatment Coverage Act of 1990."

SENATE JOINT RESOLUTION 263

At the request of Mr. Helms, the names of the Senator from Indiana [Mr. Coats], the Senator from Georgia [Mr. Fowler], the Senator from Iowa [Mr. Grassley], the Senator from California [Mr. Wilson], the Senator from Alaska [Mr. Stevens], and the Senator from Virginia [Mr. Warner] were added as cosponsors of Senate Joint Resolution 263, a joint resolution to designate October 11, 1990, as "National Society of the Daughters of the American Revolution Centennial Day."

SENATE JOINT RESOLUTION 305

At the request of Mr. Thurmond, the names of the Senator from New Hampshire [Mr. Humphrey], and the Senator from Massachusetts [Mr. Kerry] were added as cosponsors of Senate Joint Resolution 305, a joint resolution to designate the month of September 1990, as "National Awareness Month of Children With Cancer."

SENATE JOINT RESOLUTION 344

At the request of Mr. Thurmond, the names of the Senator from Minnesota [Mr. Boschwitz], and the Senator from Alaska [Mr. Murkowski] were added as cosponsors of Senate Joint Resolution 344, a joint resolution to designate the week of November 18 through 24, 1990, as "National Wild Turkey Week" and November 22, 1990, as "National Wild Turkey Day."

SENATE JOINT RESOLUTION 352

At the request of Mr. Simon, the name of the Senator from Louisiana [Mr. Johnston] was added as a cosponsor of Senate Joint Resolution 352, a joint resolution designating the month of September, 1991, as "National Growth Month."

SENATE RESOLUTION 296

At the request of Mr. Roth, the names of the Senator from Colorado [Mr. Armstrong], the Senator from Illinois [Mr. Dixon], the Senator from Pennsylvania [Mr. Specter], the Senator from Mississippi [Mr. Cochran], the Senator from Connecticut [Mr. Dodd], the Senator from Nevada [Mr. Reid], and the Senator from Nebraska

[Mr. Exon] were added as cosponsors of Senate Resolution 296, a resolution to express the sense of the Senate to the support of Taiwan's membership in the General Agreement on Tariffs and Trade.

SENATE RESOLUTION 334—ORIGINAL RESOLUTION REPORTED REGARDING THE INDEPENDENCE OF THE BALTIC STATES

Mr. PELL, from the Committee on Foreign Relations, reported the following original resolution; which was placed on the calendar:

S. Res. 334

Resolved,

(a) The Senate finds as follows:

(1) the President and Secretary of State have made repeated statements emphasizing long-standing United States policy to reject, and not recognize, the incorporation of the Baltic States by the Union of Soviet Socialist Republics; and

(2) the President and his representatives have also stressed that this policy is in no way altered or compromised by the provisions of the Treaty on the Final Settlement with Respect to Germany.

(b) It is the sense of the Senate that the President should take all appropriate steps to ensure that the act of United States ratification of the Treaty on the Final Settlement with Respect to Germany, and the affirmation of the definitive nature of the borders of a unified Germany which the Treaty entails, are not construed by any government to imply any diminution or compromise of United States determination not to recognize the forceful incorporation of the Baltic States by the Union of Soviet Socialist Republics.

AMENDMENTS SUBMITTED

MONEY LAUNDERING ENFORCEMENT ACT

KERRY (AND GARN) AMENDMENT NO. 2933

Mr. KERRY (for himself and Mr. Garn) proposed an amendment to the bill (S. 3037) to authorize Federal depository institution regulatory agencies to revoke charters, terminate deposit insurance, and remove or suspend officers and directors of depository institutions involved in money laundering or monetary transaction reporting offenses, to amend chapter 53 of title 31, United States Code, to require the Secretary of the Treasury to issue regulations concerning the identification of nonbank financial institutions subject to the Bank Secrecy Act, to prohibit illegal money transmitting businesses, to provide for the standardization of advertised yields on savings accounts and investments, to require the uniform disclosure of the key costs of such accounts and investments, and for other purposes, as follows:

At the end of the bill, add the following:

TITLE VI—FAIR TRADE IN FINANCIAL SERVICES

SEC. 601. SHORT TITLE.

This title may be cited as the "Fair Trade in Financial Services Act of 1990".

SEC. 602. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR BANKS AND BANK HOLDING COMPANIES.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following:

"NATIONAL TREATMENT

"Sec. 15. (a) Purposes.—This section is intended to—

"(1) encourage foreign countries to accord national treatment to United States banks and bank holding companies that operate or seek to operate in those countries; and

"(2) seek an end to discrimination against United States banks and bank holding companies.

"(b) Annual Reports Required.—For each calendar year beginning on or after January 1, 1991, the Secretary of the Treasury shall, not later than May 1 of the following calendar year, submit to the Congress a report—

"(1) identifying each foreign country—

"(A) that, according to the most recent report submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, does not accord national treatment to United States banks and bank holding companies; and

"(B) with respect to which no determination under subsection (d)(1) is in effect;

"(2) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(3) describing the results of negotiations conducted pursuant to subsection (c)(1).

"(c) Negotiations Required.—

"(1) In general.—The Secretary of the Treasury shall initiate negotiations with any foreign country described in subparagraphs (A) and (B) of subsection (b)(1) to ensure that that country accords national treatment to United States banks and bank holding companies.

"(2) Negotiations not required.—Paragraph (1) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(A) determines that such negotiations would be fruitless or would impair national economic interests; and

"(B) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(d) Discretionary Sanctions.—

"(1) In general.—A Federal banking agency may, in consultation with the Secretary of the Treasury, deny any application, and disapprove any notice, filed by a person of a foreign country if the Secretary has published in the Federal Register (and has not rescinded) a determination that the foreign country does not accord national treatment to United States banks and bank holding companies.

"(2) Review.—The Secretary of the Treasury shall annually review any determination under paragraph (1) and decide whether that determination should be rescinded.

"(e) Preventing Existing Entities From Being Used to Evade This Section.—

"(1) In general.—If a determination under subsection (d)(1) is in effect with respect to a foreign country, no bank, foreign bank described in section 8(a), branch, agency, commercial lending company, or other affiliated entity that is a person of that country shall, without prior approval pursuant to paragraph (3) or (4), directly or indirectly, in the United States—

"(A) commence any line of business in which it was not engaged as of the date on which that determination was published in the Federal Register; or

"(B) conduct business from any location at which it did not conduct business as of that date.

"(2) Exception.—Paragraph (1) shall not apply with respect to transactions under section 2(h)(2) of the Bank Holding Company Act of 1956.

"(3) State-supervised entities.—

"(A) This paragraph shall apply if—

"(i) the entity in question is an uninsured State bank or branch, a State agency, or a commercial lending company;

"(ii) the State requires the entity to obtain the prior approval of the State bank supervisor before engaging in the activity described in subparagraph (A) or (B) of paragraph (1); and

"(iii) no other provision of Federal law requires the entity to obtain the prior approval of a Federal banking agency before engaging in that activity.

"(B) The State bank supervisor shall consult about the application with the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act). If the State bank supervisor approves the application, the supervisor shall notify the appropriate Federal banking agency and provide the agency with a copy of the record of the application. During the 45-day period beginning on the date on which the appropriate Federal banking agency receives the record, the agency may, after consultation with the State bank supervisor, issue an order disapproving the activity in question. The period for disapproval under the preceding sentence may, in the agency's discretion, be extended for not more than 45 days.

"(4) Federal approval.—If the transaction is not described in paragraph (3)(A), the entity in question shall obtain the prior approval of the appropriate Federal banking agency.

"(5) Informing state supervisors.—The Secretary of the Treasury shall inform State bank supervisors of any determination under subsection (d)(1).

"(6) Effect on other law.—Nothing in this subsection shall be construed to relieve the entity in question from any otherwise applicable requirement of Federal law.

"(f) National Treatment Defined.—A foreign country accords national treatment to United States banks and bank holding companies if it offers them the same competitive opportunities (including effective market access) as are available to its domestic banks and bank holding companies.

"(g) Person of a Foreign Country Defined.—A person of a foreign country is a person that—

"(1) is organized under the laws of that country;

"(2) has its principal place of business in that country;

"(3) in the case of an individual—

"(A) is citizen of that country, or

"(B) is domiciled in that country; or

"(4) is directly or indirectly controlled by a person described in paragraph (1), (2), or (3).

"(h) Exercise of Discretion.—In exercising discretion under this section—

"(1) the Secretary of the Treasury and the Federal banking agencies shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(2) the Federal banking agencies, in consultation with the Secretary of the Treasury—

"(A) shall consider, with respect to a bank, foreign bank, branch, agency, commercial lending company, or other affiliated entity that is a person of a foreign country and is already operating in the United States—

"(i) the extent to which that foreign country has a record of according national treatment to United States banks and bank holding companies; and

"(ii) whether that country would permit United States banks and bank holding companies already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's banks and bank holding companies; and

"(B) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purposes of this section.".

SEC. 603. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR SECURITIES BROKERS AND DEALERS.

Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended by adding at the end the following new paragraph:

"(11) National treatment.—(A) This paragraph is intended to encourage foreign countries to—

"(i) accord national treatment to United States brokers and dealers that operate or seek to operate in those countries; and

"(ii) seek an end to discrimination against United States brokers and dealers.

"(B) For each calendar year beginning on or after January 1, 1991, the Secretary of the Treasury shall, not later than May 1 of the following calendar year, submit to the Congress a report—

"(i) identifying each foreign country—

"(I) that, according to the most recent report submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, does not accord national treatment to United States brokers and dealers; and

"(II) with respect to which no determination under subparagraph (D)(i) is in effect;

"(ii) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(iii) describing the results of negotiations conducted pursuant to subparagraph (C)(i).

"(C)(i) The Secretary of the Treasury shall initiate negotiations with any foreign country described in subclauses (I) and (II) of subparagraph (B)(i) to ensure that that country accords national treatment to United States brokers and dealers.

"(ii) Clause (i) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(I) determines that such negotiations would be fruitless or would impair national economic interests; and

"(II) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Energy and Commerce of the House of Representatives.

"(D) The following provisions shall apply if the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination that a foreign country does not accord national treatment to United States brokers and dealers:

"(i) The Commission may, in consultation with the Secretary of the Treasury—

"(I) deny any application for registration under this subsection filed by a person of that foreign country; and

"(II) prohibit any person of that foreign country from acquiring control of a registered broker or dealer, irrespective of when the acquisition was initiated.

"(ii) No person of that foreign country, acting directly or indirectly, shall acquire control of any registered broker or dealer unless—

"(I) the Commission has been given notice 45 days in advance of the acquisition, in such form as the Commission shall prescribe by rule; and

"(II) the Commission has not prohibited the acquisition.

"(iii) The Commission may, by order, extend the notice period with respect to any particular acquisition for not more than 60 days.

"(iv) The Secretary of the Treasury shall annually review any determination under this subparagraph and decide whether that determination should be rescinded.

"(E) A foreign country accords national treatment to United States brokers and dealers if it offers them the same competitive opportunities (including effective market access) as are available to its domestic brokers and dealers.

"(F) A person of a foreign country is a person that—

"(i) is organized under the laws of that country;

"(ii) has its principal place of business in that country;

"(iii) in the case of an individual—

"(I) is a citizen of that country, or

"(II) is domiciled in that country; or

"(iv) is directly or indirectly controlled by a person described in clause (i), (ii), or (iii).

"(G) In exercising discretion under this paragraph—

"(i) the Secretary of the Treasury and the Commission shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(ii) the Commission, in consultation with the Secretary of the Treasury—

"(I) shall consider, with respect to a broker or dealer that is a person of a foreign country and is already operating in the United States—

"(aa) the extent to which that foreign country has a record of according national treatment to United States brokers and dealers; and

"(bb) whether that country would permit United States brokers or dealers already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's brokers or dealers; and

"(II) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purposes of this paragraph.".

SEC. 604. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR INVESTMENT ADVISERS.

Section 203 of the Investment Advisers Act of 1940 (12 U.S.C. 80b-3) is amended by adding at the end the following new subsection:

"(i) National Treatment.—

"(1) Purposes.—This subsection is intended to encourage foreign countries to—

"(A) accord national treatment to United States investment advisers that operate or seek to operate in those countries; and

"(B) seek an end to discrimination against United States investment advisers.

"(2) Annual reports required.—For each calendar year beginning on or after January 1, 1991, the Secretary of the Treasury shall, not later than May 1 of the following calendar year, submit to the Congress a report—

"(A) identifying each foreign country—

"(i) that, according to the most recent report submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, does not accord national treatment to United States investment advisers; and

"(ii) with respect to which no determination under paragraph (4) is in effect;

"(B) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(C) describing the results of negotiations conducted pursuant to paragraph (3)(A).

"(3) Negotiations required.—(A) The Secretary of the Treasury shall initiate negotiations with any foreign country described in clauses (i) and (ii) of paragraph (2)(A) to ensure that that country accords national treatment to United States investment advisers.

"(B) Subparagraph (A) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(i) determines that such negotiations would be fruitless or would impair national economic interests; and

"(ii) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Energy and Commerce of the House of Representatives.

"(4) Discretionary sanctions.—The following provisions shall apply if the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination that a foreign country does not accord national treatment to United States investment advisers:

"(A) The Commission may, in consultation with the Secretary of the Treasury, deny any application, and disapprove any notice, filed pursuant to this title by a person of that foreign country.

"(B) The Commission may, in consultation with the Secretary of the Treasury, prohibit any person of that foreign country from acquiring control of a registered investment adviser, irrespective of when the acquisition was initiated.

"(C) No person of that foreign country, acting directly or indirectly, shall acquire control of any registered investment adviser unless—

"(i) the Commission has been given notice 45 days in advance of the acquisition, in such form as the Commission shall prescribe by rule; and

"(ii) the Commission has not prohibited the acquisition.

"(D) The Commission may, by order, extend the notice period with respect to any particular acquisition for not more than 60 days.

"(E) The Secretary of the Treasury shall annually review any determination under this paragraph and decide whether that determination should be rescinded.

"(5) National treatment defined.—A foreign country accords national treatment to United States investment advisers if it offers them the same competitive opportunities (including effective market access) as are available to its domestic investment advisers.

"(6) Person of a foreign country defined.—A person of a foreign country is a person that—

"(A) is organized under the laws of that country;

"(B) has its principal place of business in that country;

"(C) in the case of an individual—

"(i) is a citizen of that country, or

"(ii) is domiciled in that country; or

"(D) is directly or indirectly controlled by a person described in subparagraph (A), (B), or (C).

"(7) Exercise of discretion.—In exercising discretion under this subsection—

"(A) the Secretary of the Treasury and the Commission shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(B) the Commission, in consultation with the Secretary of the Treasury—

"(i) shall consider, with respect to an investment adviser that is a person of a foreign country and is already operating in the United States—

"(I) the extent to which that foreign country has a record of according national treatment to United States investment advisers; and

"(II) whether that country would permit United States investment advisers already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's investment advisers;

"(ii) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purposes of this subsection.".

SEC. 605. CONFORMING AMENDMENTS SPECIFYING THAT NATIONAL TREATMENT INCLUDES EFFECTIVE MARKET ACCESS.

(a) Quadrennial Reports on Foreign Treatment of United States Financial Institutions.—Section 3602 of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5352) is amended—

(1) in paragraph (3), by striking "and securities companies" and inserting ", securities companies, and investment advisers"; and

(2) by adding at the end the following: "For purposes of this section, a foreign country denies national treatment to United States entities unless it offers them the same competitive opportunities (including effective market access) as are available to its domestic entities.".

(b) Negotiations to Promote Fair Trade in Financial Services.—Section 3603(a)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5353(a)(1)) is amended by inserting "effective" after "banking organizations and securities companies have".

(c) Primary Dealers in Government Debt Instruments.—Section 3502(b)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5342) is amended—

(1) by striking "does not accord to" and inserting "does not offer";

(2) by inserting "(including effective market access)" after "the same competitive opportunities in the underwriting and distribution of government debt instruments issued by such country"; and

(3) by striking "as such country accords to" and inserting "as are available to".

TITLE VII—FAIR LENDING ENFORCEMENT

SEC. 701. SHORT TITLE.

This title may be cited as the "Fair Lending Enforcement Act of 1990".

SEC. 702. APPRAISALS.

Section 701 of the Equal Credit Opportunity Act (15 U.S.C. 1691) is amended by adding at the end the following:

"(e) Each creditor shall promptly furnish an applicant, upon written request by the applicant made within a reasonable period of time of the application, a copy of the appraisal report used in connection with the applicant's application for a loan that is or would have been secured by a lien on residential real property. The creditor may require the applicant to reimburse the creditor for the cost of the appraisal.".

SEC. 703. CONSUMER COMPLIANCE PROGRAMS.

(a) FDIC.—The Federal Deposit Insurance Act is amended by adding at the end the following:

"SEC. 35. CONSUMER COMPLIANCE PROGRAM.

"(a) Establishment Required.—Each appropriate Federal banking agency shall establish a separate consumer compliance program. The head of the consumer compliance program shall report directly to the head of the agency.

"(b) Definitions.—For purposes of this section—

"(1) Consumer compliance examination.—The term 'consumer compliance examination' means an examination of an insured depository institution to determine the extent to which such institution is in compliance with all applicable laws and regulations relating to consumer protection, including fair lending and community reinvestment laws.

"(2) Consumer compliance examiner.—The term 'consumer compliance examiner' means an examiner who specializes in assessing compliance with all applicable laws and regulations relating to consumer protection, including fair lending and community reinvestment laws.

"(c) Consumer Compliance Examinations.—

"(1) Conducted by consumer compliance examiners.—Consumer compliance examinations shall be conducted by consumer compliance examiners under the supervision or oversight of the head of the consumer compliance program. Each appropriate Federal banking agency may consider the size of the depository institution and the complexity of the consumer compliance examination issues presented in determining whether to assign to a particular examination a consumer compliance examiner who exclusively conducts consumer compliance examinations or an examiner who has only received specialized training in consumer compliance examinations. In making this determination each appropriate Federal banking agency shall also consider whether substantive questions of compliance have been raised in previous examinations or in comments or complaints from the public.

"(2) Examination upon request under certain circumstances.—Any bank holding company or savings and loan holding company which controls an insured depository institution which determines that a consumer examination of such depository institution may be appropriate to expedite an application or notice for a deposit facility described in section 803(3) of the Community Reinvestment Act of 1977 (12 U.S.C. 2902(3)) may request in writing the appropriate consumer compliance program to conduct an examination of the depository institution pursuant to paragraph (1).

"(d) Additional Responsibilities.—In addition to the responsibilities established by subsection (c), the head of each consumer compliance program shall—

"(1) develop procedures for consumer compliance examinations and other procedures necessary to implement all applicable laws relating to consumer protection, including fair lending and community reinvestment laws;

"(2) train and supervise or oversee consumer compliance examiners;

"(3) develop career opportunities for consumer compliance examiners comparable to those for safety and soundness examiners;

"(4) respond to consumer complaints and inquiries;

"(5) undertake supervisory action and initiate enforcement proceedings with respect to all applicable laws and regulations relating to consumer protection, including fair lending and community reinvestment laws;

"(6) make recommendations to its agency concerning policies and adopt policies with respect to all applicable laws and regulations relating to consumer protection, including fair lending and community reinvestment laws; and

"(7) perform any other duties and functions related to the consumer compliance program.

"(e) Effective Date.—The establishment of separate consumer compliance programs in each of the agencies shall be completed no later than January 1, 1993.

"(f) Reports.—Each consumer compliance program shall prepare a description of its activities, which shall be included in the agency's annual report to the Congress.".

(b) NCUAB.—Title I of the Federal Credit Union Act is amended by adding at the end the following:

"SEC. 130. CONSUMER COMPLIANCE PROGRAM.

"(a) Establishment Required.—The Board shall establish a separate consumer compliance program. The head of the consumer compliance program shall report directly to the Board.

"(b) Definitions.—For purposes of this section—

"(1) Consumer compliance examination.—The term 'consumer compliance examination' means an examination of an insured credit union to determine the extent to which such credit union is in compliance with all applicable laws and regulations relating to consumer protection, including fair lending laws.

"(2) Consumer compliance examiner.—The term 'consumer compliance examiner' means an examiner who specializes in assessing compliance with all applicable laws and regulations relating to consumer protection, including fair lending laws.

"(c) Consumer Compliance Examinations.—

"(1) Frequency.—The Board shall conduct an on-site consumer compliance examination of each credit union within its jurisdiction either at least once every 2 years, or as frequently as the Board conducts regular on-site safety and soundness examinations of such credit union, whichever is less frequent.

"(2) Conducted by consumer compliance examiners.—Consumer compliance examinations shall be conducted by consumer compliance examiners under the supervision or oversight of the head of the consumer compliance program. The Board may consider the size of the institution and the complexity of the consumer compliance examination issues presented in determining whether to assign to a particular examination a consumer compliance examiner who exclusively conducts consumer compliance examinations or an examiner who has only received specialized training in consumer compliance examinations. In making this determination the Board shall also consider whether substantive questions of compliance have been raised in previous examinations or in comments or complaints from the public.

"(d) Additional Responsibilities.—In addition to the responsibilities established by subsection (c), the head of the consumer compliance program shall—

"(1) develop procedures for consumer compliance examinations and other procedures necessary to implement all applicable laws relating to consumer protection, including fair lending laws;

"(2) train and supervise or oversee consumer compliance examiners;

"(3) develop career opportunities for consumer compliance examiners comparable to those for safety and soundness examiners;

"(4) respond to consumer complaints and inquiries;

"(5) undertake supervisory action and initiate enforcement proceedings with respect to all applicable laws and regulations relating to consumer protection, including fair lending laws;

"(6) make recommendations to its agency concerning policies and adopt policies with respect to all applicable laws and regulations relating to consumer protection, including fair lending laws; and

"(7) perform any other duties and functions related to the consumer compliance program.

"(e) Effective Date.—The establishment of a separate consumer compliance program shall be completed no later than January 1, 1993.

"(f) Reports.—The consumer compliance program shall prepare a description of its activities, which shall be included in the Board's annual report to the Congress.".

(c) Special Rule for State Chartered Credit Unions.—Section 204 of the Federal Credit Union Act (12 U.S.C. 1784) is amended by adding after the second sentence a new sentence to read: "The Board shall conduct consumer compliance examinations as set forth in section 130 of State chartered, federally insured credit unions only if the appropriate State supervisory agency has not established an examination program similar to that described in section 130.".

SEC. 704. ENFORCEMENT OF EQUAL CREDIT OPPORTUNITY ACT.

(a) Pattern or Practice.—Section 706(g) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(g)) is amended by adding at the end the following: "Each of the agencies referred to in paragraphs (1), (2), and (3) of section 704(a) shall refer the matter to the Attorney General whenever it has reason to believe that 1 or more creditors has engaged in a pattern or practice of discouraging or denying applications for credit in violation of section 701(a) of this title. Each of such agencies is authorized to refer the matter to the Attorney General whenever it has reason to believe that 1 or more creditors has violated section 701(a) of this title.".

(b) Damages.—Section 706(h) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(h)) is amended by inserting "actual and punitive damages and" after "including".

(c) Notice to HUD.—Section 706 of the Equal Credit Opportunity Act (15 U.S.C. 1691e) is amended by adding at the end the following:

"(k) Whenever an agency referred to in paragraph (1), (2), or (3) of section 704(a) has reason to believe that a violation of this title has occurred, as a result of receiving a consumer complaint, conducting a consumer compliance examination, or otherwise, and that the alleged violation would be a violation of the Fair Housing Act (42 U.S.C. 3601 et seq.), and the agency does not refer the matter to the Attorney General pursuant to subsection (g), it shall—

"(1) notify the Secretary of Housing and Urban Development of the violation; and

"(2) notify the applicant that the Secretary of Housing and Urban Development has been notified of the alleged violation and that remedies for the violation may be available under the Fair Housing Act.".

SEC. 705. HOME MORTGAGE DISCLOSURE ACT.

(a) In General.—Section 309 of the Home Mortgage Disclosure Act (12 U.S.C. 2808) is amended—

(1) by striking "depository" before "institution";

(2) by inserting "specified in section 303(2)(A)" after "institution"; and

(3) by adding at the end the following: "The Board, in consultation with the Secretary, may exempt institutions described in section 303(2)(B) that are comparable within their respective industries to institutions that are exempt under the preceding sentence.".

(b) Effective Date.—This section shall become effective on January 1, 1991.

On page 62 between lines 16 and 17, insert the following:

(e) Modification of Funds Availability Schedule.—Section 604 of the Expedited Funds Availability Act (12 U.S.C. 4003) is amended by striking subsection (e) and inserting the following:

"(e) Prevention of Fraud Losses.—

"(1) In general.—The Board may, by regulation or by order, modify the funds availability schedule provided for in section 603 for not more than 60 days (excluding Saturdays, Sundays, legal holidays, or any day either House of Congress is not in session) for any classification of checks if the Board finds—

"(A) that a pattern of significantly increased losses at depository institutions exists that is attributable to the schedule; and

"(B) that modification of the schedule is necessary to diminish the volume of such losses.

"(2) Report to Congress.—Not later than 10 days after modifying the funds availability schedule pursuant to paragraph (1), the Board shall transmit a written report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, which shall specify—

"(A) the action taken by the Board;

"(B) the Board's specific reasons for modifying the schedule; and

"(C) any legislative or regulatory recommendations for preventing the need for future modifications of the schedule.

"(3) Notice of change in policy.—Notwithstanding the provisions of section 605(c)(2), a depository institution shall send a written notice to consumer customers within 10 days following a change in policy resulting from the modification of the funds availability schedule pursuant to paragraph (1) with respect to when customers may withdraw funds deposited into consumer accounts, and shall promptly post a notice of the modification at all branches and automatic teller machines which accept deposits.".

(f) GAO Report.—

(1) In general.—Not later than 180 days following the date of enactment of this subsection, the Comptroller General of the United States shall submit a written report to the Congress evaluating the payments system changes that were implemented pursuant to the Expedited Funds Availability Act and the implementation of the permanent funds availability schedule established by section 603(b) of such Act.

(2) Contents of report.—The report required by paragraph (1) shall contain—

(A) a description of any changes that have been made in the payments system to accelerate the collection or return of checks;

(B) a description of any increases in check-related losses at depository institutions due to the implementation of section 603(b) of such Act;

(C) an assessment of the risks of check-related losses at depository institutions due to the implementation of section 603(b) of such Act and an evaluation of the reasonableness of the permanent schedule availability deadlines;

(D) recommendations for actions that can be taken by banks, clearinghouses, or the Federal Reserve to facilitate the check clearing process and reduce the risk of check-related losses, together with an estimate of the costs and effects on consumers and other users of the payments system associated with such changes; and

(E) any other information or recommendations that the Comptroller General considers pertinent in effecting improvements to the payments system.

On page 44, strike line 14.

On page 44, between lines 20 and 21, insert the following:

(b) Notice to Current Account Holders.—For any account for which the deposity institution delivers an account statement on a quarterly or more frequent basis, the depository institution shall include on or with any regularly scheduled mailing posted or delivered within three months after publication of regulations issued by the Board in final form, a statement that the account holder has the right to request an account schedule containing the terms, charges, and interest rates of the account, and that the account holder may wish to request such an account schedule.

At page 33, line 1, strike "January 1" and insert "April 1."

At the end of the bill, add the following:

TITLE VI—INTERNATIONAL MONEY LAUNDERING

SEC. 601. REPORT ON USES MADE OF CURRENCY TRANSACTION REPORTS.

Not later than 180 days after the effective date of this section, and every 2 years for 4 years, the Secretary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 60501 of the Internal Revenue Code of 1986 (regarding transactions involving currency) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze, and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of—

(A) violations of the criminal laws of the United States;

(B) violations of the laws of foreign countries; and

(C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to in paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

SEC. 602. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) Electronic Scanning Task Force.—(1) Not more than 30 days after the date of enactment of this Act, the Secretary of the Treasury (referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary, shall, at a minimum appoint the following to the Task Force:

(A) The Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member).

(B) At least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) Coding and symbology.

(ii) Scanning systems.

(iii) Computer data compilation.

(C) Representatives from each of the following:

(i) The Bureau of Engraving and Printing.

(ii) The Federal Reserve Board.

(iii) The United States Secret Service.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) Report to the Congress.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1) and includes any additional recommendations by the Secretary.

(c) Authorization of Appropriations.—There are authorized to be appropriated $250,000 to carry out the purposes of this section.

SEC. 603. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by—

(A) striking the first 2 sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country that participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (A) has been agreed to by the Secretary of State, (B) is authorized in an international agreement between the United States and the foreign country, and (C) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(B) striking the last sentence.

SEC. 604. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 605. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means—

"(A) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders; and

"(B) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 606. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) of title 18, United States Code, is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 607. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005 through 1007 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 .(relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 608. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 609. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 610. STRUCTURING TRANSACTIONS TO EVADE CMIR REPORTING REQUIREMENTS.

(a) Section 5316(d) of title 31, United States Code, is amended to read as follows:

"(d) No person shall for the purpose of evading the reporting requirements of this section—

"(1) fail to file a report required by this section, or cause or attempt to cause a person to fail to file a report required under this section;

"(2) file, or cause or attempt to cause a person to file a report required under this section that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments.".

HEINZ AMENDMENT NO. 2934

Mr. HEINZ proposed an amendment to the bill S. 3037, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . REGULATIONS AFFECTING FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE FUNDS.

Any final regulations regarding the management of collective investment funds by institutions exercising fiduciary powers amending Part 12 of the Code of Federal Regulations, section 9.18, as proposed by the Office of the Comptroller of the Currency on February 7, 1990 (55 F.R. 4184), shall not become effective prior to 1 year following the date of enactment of this Act.

PERMANENT AUTHORITY FOR THE UNITED STATES SUPREME COURT POLICE

LEAHY AMENDMENT NO. 2935

Mr. MITCHELL (for Mr. LEAHY) proposed an amendment to the bill (H.R. 4757) to provide permanent authority for the United States Supreme Court Police, as follows:

Strike out all after the enacting clause and insert in lieu thereof: That section 9(c) of the Act entitled "An Act relating to the policing of the building and grounds of the Supreme Court of the United States," approved August 18, 1949 (40 U.S.C. 13n(c)), is amended in the first sentence by striking out "1990" and inserting in lieu thereof "1993".

RELIEF OF NEBRASKA ALUMINUM CASTINGS, INC.

BIDEN AMENDMENT NO. 2936

Mr. MITCHELL (for Mr. BIDEN) proposed an amendment to the bill (S. 3043) for the relief of Nebraska Aluminum Castings, Inc., as follows:

On page 1, line 7, insert after the first comma, the following: "the sum of $95,000".

MEDICAID DRUG DEPENDENCY TREATMENT COVERAGE ACT

MOYNIHAN AMENDMENT NO. 2937

Mr. MITCHELL (for Mr. MOYNIHAN) proposed an amendment to the bill (S. 3118) entitled the "Medicaid Drug Dependency Treatment Coverage Act of 1990," as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Drug Dependency Treatment Coverage Act of 1990".

SEC. 2. MEDICAID COVERAGE OF ALCOHOLISM AND DRUG DEPENDENCY TREATMENT SERVICES.

(a) IN GENERAL.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended)—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (21);

(B) by redesignating paragraph (22) as paragraph (23); and

(C) by inserting after paragraph (21) the following new paragraph:

"(22) alcoholism and drug dependency treatment services (as defined in subsection (t)); and"; and

(2) by adding at the end the following new subsection:

"(t) The term 'alcoholism and drug dependency treatment services' means alcoholism and drug dependency treatment services (including counseling) otherwise allowable under a State plan (as described in section 1902) provided on an inpatient basis by a hospital, nursing facility, psychiatric hospital, or a distinct unit in a general hospital, or on an outpatient basis by any entity otherwise eligible to participate as a provider of health care services under a program under a State plan approved under this title.".

(b) STATUTORY CONSTRUCTION.—Nothing in this Act shall be construed so as to affect sections 1905(a)(1), 1905(a)(4)(A), 1905(a)(14), and 1905(a)(16) of the Social Security Act (42 U.S.C. 1396d (a)(1), (a)(4)(A), (14), and (16), respectively) and the manner following paragraph (23) of section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)).

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after the date of the enactment of this Act.

NATIONAL AWARENESS MONTH OF CHILDREN WITH CANCER

THURMOND AMENDMENT NO. 2938

Mr. BOSCHWITZ (for Mr. THURMOND) proposed an amendment to the joint resolution (S.J. Res. 308) to designate the month September 1990 as "National Awareness Month of Children With Cancer," as follows:

On page 2, line 3, strike "September," and insert in lieu thereof "October,".

Amend title by striking "September," and inserting in lieu thereof "October,".

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Friday, October 5, 1990, to hold hearings on abuses in Federal student aid programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a hearing during the session of the Senate on October 5, 1990, at 2 p.m. on the nomination of Joseph M. McLaughlin, to be U.S. circuit judge for the second circuit, Thomas G. Nelson, to be U.S. circuit judge for the ninth circuit, James B. Loken, to be U.S. circuit judge for the eighth circuit, Diane Gilbert Weinstein, to be a judge of the U.S. Claims Court, Donna M. Owens, to be Director of the Bureau of Justice Assistance.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

WRITINGS OF COL. WILLIAM J. RISCH, BELLEVUE, KY

● Mr. McCONNELL. Mr. President, the other day I was going through my mail and came across a letter from Col. William J. Risch of Bellevue, KY. Colonel Risch expressed his concerns on a wide range of topics, and enclosed several works of poetry that he penned.

I would like to bring two of Colonel Risch's poems to the attention of my colleagues. The first, entitled "Dark Days on Iwo Jima," clearly depicts the dangers and rigors of combat. The second, entitled "The Vietnam Veteran," shows the pain and frustrations many veterans experienced in Vietnam and America. I think there is one particularly telling line, one that demonstrates the love of country in all our veterans hearts: "If he had to protect you again, He would gladly say, 'I'll go!' "

Mr. President, I ask that a copy of Colonel Risch's poems appear in the RECORD for the benefit of all my colleagues. As we go about our busy lives, let us not forget to keep America's veterans in our hearts and minds.

The poems follow:

DARK DAYS ON IWO JIMA

(By Col. William Risch)

I am glad I am alive today
Because we went through Horrow
If I would make one Mistake
There wouldn't be no tomorrow.

I lay in my Fox Hole
In Heat, Rain and Thunder
I Wouldn't be here Today
If I would have made one blunder.

Its hard to sleep at Night
When you haven't had a Bath
But that's all over Now
That's all in the Past.

People in this Land
Don't know what we went Through
I heard one Sea Bee Say
"Oh God"! If people only Knew.

THE VIETNAM VETERAN

(By Col. William Risch)

We Came back from Vietnam
We walked with our heads held high
I lost a few of my buddies
Many times I sit and cry.

People look at you and Stare
They just don't understand
We fought for our Country
In some God forsaking land.

If the people saw Everything
They would treat us Better
We didn't ask to go over There
In that hot jungle weather.

I went into a sleazy bar
Some made a Sarcastic Slur

Where did you get all those Medals
Did you buy them over there.

When I pulled off my uniform
I felt like a Stupid Goose
I asked myself why did I go
Then I said "Oh What's The Use"!

What's wrong with the Veteran
He did Fight too and Fro
If he had to protect you again
He would Gladly say "I'll Go."●

DOMESTIC VIOLENCE

● Mr. ROCKEFELLER. Mr. President, today I rise to speak on one of the most pressing and upsetting issues in our country today: Domestic violence. As one of the foremost health threats against women in the United States, domestic violence is especially horrible because it undermines a basic structure of society—relationships of respect within families. A woman is battered every 18 seconds in our country. The rate of assaults against women ages 20-24 has risen 48 percent since 1974, and the rate of rapes has risen four times as fast as the total crime rate in the last 10 years. Yet, often our society is silent and refuses to intervene. Mr. President, it is time to break this insidious trend.

I am proud to say citizens in my State have done a great deal for these victims. The West Virginia Coalition Against Domestic Violence was formed in 1979, and in 1989 two coordinators were hired to run the coalition. The 12 shelters in my State serve nearly 1,000 people every month, providing them with group support, information and referral services, counseling, crisis intervention and advocacy, and emergency support services. Very few people work in these centers full time, and so they rely on substantial volunteer support. Fortunately, there is a lot of it. Volunteers work selflessly for many hours, donating not only time but warmth and sympathy as well. In one shelter alone volunteers worked for over 2,750 hours in a year—and this is common throughout the State.

West Virginia has also passed legislation to help stop this violence. The Domestic Violence Act of 1990 made possible many important steps to help protect women. It included verbal and emotional belittling in its definition of abuse, extended the family protection order from 30 to 60 days, and mandated uniform law enforcement response to domestic violence.

I am sorry to say, however, that this bill was passed only after the community was made painfully aware of an extremely tragic and fatal incident of domestic violence. Cheryl Zirkle, a victim of family assault, was murdered in Elkins, WV on February 13, 1990. Following this incredibly sad event, concerned citizens staged a demonstration where the community turnout was enormous. The community's demonstration not only improved working relationships with local law enforcement officials, it also raised community awareness. These West Virginians were not willing to sit back and let women be abused. They decided to fight back.

Mr. President, we need to take a similar initiative nationwide. Every time a woman or child is battered, all of society is punished. By not making a more serious effort to combat this cycle of violence, we are all guilty. It is time to break the silence, to show these women that we are on their side, and fight for their health and dignity.●

TELEPHONE OPERATOR CONSUMER SERVICES IMPROVEMENT ACT

● Mr. SIMON. Mr. President, I was pleased to join my colleagues on Monday in passing S. 1660, the Telephone Operator Consumer Services Improvement Act of 1990. This legislation will give consumers a fair chance to protect themselves against unfair business techniques and will also protect the reputations of honest businesses.

Alternative Operator Services [AOS] are resellers who pay commissions or rebates to supply communications services to hotels, motels, hospitals, airports, universities, and private payphone firms. The commissions are paid for the right to provide the transient customers of these institutions and pay-phone firms with operator services for long-distance calls. The result of providing these services means higher than necessary costs for the consumer.

I originally became involved in this issue after I received a letter from a constituent in my home State of Illinois. Understandably, my constituent was outraged because he had unknowingly used the services of an AOS while on vacation and received his bill, which listed exorbitant charges. I shared his sense that this was not a fair deal and began checking into the issue. I was amazed when I found out that not only is this practice widespread, it is legal.

AOS companies are relatively new to the communications field; they entered the market after the breakup of AT&T as ordered by Judge Green. While competition in the marketplace is a desirable goal, AOS works against the free market system. Since the owners of the pay phones do not use these phones, they have no incentive to keep the costs down. Instead, the incentive is in increasing the costs as the owners can get a percentage of the profits. So rather than competition to benefit the consumer, there is competition to find the most expensive service.

In 1989 I sent a letter to Senator HOLLINGS, chairman of the Commerce, Science, and Transportation Committee, requesting that this committee investigate the matter, and I joined Senator BREAUX in introducing S. 1660. I am pleased by the response of my colleagues to this situation. It has resulted in the passage of this legislation. With the enactment of S. 1660, consumers will finally have the right to make an informed choice in making calls and to protect themselves from unfair and deceptive practices. Another important point is that it will protect those service providers who have been playing by the rules of fairness from the beginning. This is a good bill, and I applaud my colleagues for passing S. 1660.●

POPULATION PRESSURES AND ENVIRONMENTAL DEGRADATION IN ASIA

● Mr. BOSCHWITZ. Mr. President, having discussed earlier the linkage between population pressures and the state of the environment in three other regions of the globe, I would like to conclude today with a brief review of the problems in Asia.

On the surface, Asia as a region may appear to be somewhat better off in this regard than the rest of the developing world. It has had a fair degree of economic growth, in large part due to an abundance of natural resources. And fertility rates have declined, as a rule, faster than in most other parts of the Third World.

Efforts to bring about sustainable and environmentally sound development in Asia involve a variety of complex factors. But it is clear to me that past rapid population growth has been a key underlying cause of unsustainable development in this region of the world, development often accompanied by increasing destruction and degradation of the region's natural resources.

In the name of "development" and short-term economic gain, forests have been and are still being destroyed without regard to regeneration; wildlife habitats are eliminated and soil degraded; coastal areas are threatened with actions that will destroy the very features that make them economically valuable; cities are increasingly polluted from uncontrolled sewage and industrial waste. In retrospect, many shortsighted efforts to deal with unanticipate surging populations have led to situations, for at least some countries of the region, that today threaten options for those countries' future productive activity and growth.

I should point out, by the way, that some of the most successful family planning efforts in the world have taken place in Asia. Population growth rates in that region have been declining steadily over the last 25 years. Countries like Japan, Korea, and Singapore have some of the lowest rates in the world. The average for

Asia is now the lowest among the developing regions.

This reduction in birth rates is, in relative terms, a success story demonstrating what can be accomplished when countries make a high-level national commitment to such reduction, provide appropriate services, and have access to financial and technical resources from outside donors, including, very particularly, the U.S. Agency for International Development.

But Asia's long-term population picture is less rosy. Today, more people live in Asia than in the United States, Canada, Europe, and the Soviet Union combined. Thus, small changes in fertility rates in this large population base, particularly in South Asia, can translate into untold millions more people in future generations.

Consider India. Almost half the people in all of Asia, excluding China, live there. Twenty-six million births—one in every five in the world—occur in India each year. About 52 million people have been added to India's population in the past 3 years—equivalent to the entire poplulation of Egypt or Thailand. If each woman capable of bearing children were to have one less child than the current pattern, India would have 181 million fewer people by the year 2025.

Contraceptive use rates in India are moderately high; 35 percent of women are using contraception. However, India's population program is heavily reliant on a single method—sterilization. Couples who opt for sterilization typically already have three or four children. What is needed is more emphasis on spacing of births, and better access to a wide range of methods and services.

In Pakistan, seven children per woman is the norm, and contraception is practiced by only 8 percent of married women. Nearby Bangladesh is another densely populated and poor country where much remains to be done. The national contraceptive prevalence rate there is 33 percent. But demonstration projects that made available a wide range of contraceptive options and counseling and support from village workers have led not only to fairly dramatic fertility reductions, but also to improved women's status, both in their homes and the larger community.

Many family planning challenges remain in Asia. As elsewhere in the world, reducing population growth is not the only factor in improving the pace of development. But it is, as I hope these talks have demonstrated, a vital component of sustainable and environmentally sound development.

Mr. President, I look forward to your support and that of my other colleagues here, this year and in the years ahead, for the family planning programs of the Agency for International Development. Unless we allow, and budget adequately for, continuation and expansion of this very valuable work, I have some doubts that viable economic development is ever going to take place in most of the Third World.●

GILDA F. AMANTEA

● Mr. SIMON. Mr. President, Just before I left for the August recess, I received an impressive letter from Gilda F. Amantea of Chicago. Mrs. Amantea is one of the 3,240 parents elected to the 540 local school councils that now run schools in Chicago.

After reading Mrs. Amantea's letter, I called her on the phone to find out more about her. About 34 years old with 3 children, she recently completed her GED and is now attending Oakton Community College part time. If she could afford to, she would go to college full time and become a teacher. Mr. President, it strikes me that there are a lot of people out there like Mrs. Amantea who would be valuable to the schools if we gave them more encouragement. Reviving the Teacher Corps, as proposed in S. 1676 currently on the Senate floor, is one way to tap the energy and enthusiasm of people like Gilda Amantea. In addition, next year, when we reauthorize the Higher Education Act, we should ask ourselves again, how can we help Gilda Amantea become a teacher?

There is nothing startlingly new in the letter I received from Mrs. Amantea, but its tone and spirit are most impressive, Mr. President, I ask that the letter be included in the Record.

The letter follows:

Chicago, IL, June 30, 1990.

Dear Senator Simon: The reason for my writing you is to respond to your letter dated June 11, 1990 concerning the education of our children.

You asked if I had any idea on how to improve the education system? Well matter of fact I have several deep down inside I know this would work we would have to investigate a little more because at this time I wouldn't have any idea on how much this would cost, however I do want to share my ideas with you, because it was your letter that motivated me to respond. I feel that you are sincere when you ask for my imput. I will try to answer them one on one and then summarize my feelings. Here they are.

1. How do we prepare young children for school? I feel that the Head Start program is a Head Start on helping children. We could expend these programs to all schools and all children, in the neighborhood and for the bussed children. Offer parents a minimum wage to participate in the classrooms.

2. How can we get parents more involved? Speaking from experience as a volunteer for the past seven years is there are many parents life myself who enjoyed volunteer however volunteering doesn't put food on the table or cloth my children. That is why I had to return to work. I love children and have a great way of getting though to them, if I would of been offered pay say minimum wage with benefits of hospitalization for my children and family. I would still be there. It was because being around children that not wanted me to return to school at the age of 33 years old. I was a high school dropout but now attend college two nights a week. Mr. Simon you don't need a college degree to help children. There are many parents and grandparents, community persons, seniors etc., that have love for children and have basic skills with math and reading. The two most important skills that our children are failing. Get us into each classroom! We can make a difference!!!

3. Good teachers who get discouraged? Why are they discouraged? Should be the question? I feel that the class size is too large. One teacher to handle (let alone teach) 30 small children is ridiculous! Get the teacher (each teacher) and aide. Not a college graduate, but a concerned parent into the classroom. Teacher can instruct and the parent aides would go around the room help each child? A child with a little encouragement and little more attention can excel! I truly believe this. Team teach is also a good idea. All day school 9 to 5 with two people a teacher and an aide can accomplish much more than one teacher to 30 students. 9-3 with little time. How about it Mr. Simon let's give this a try too! Too much to accomplish in little time.

4. Concerning children who are labeled Troublemaker, why is the child a troublemaker? Should be the question. Maybe because he needs a little more attention, a little stroke of care once in a while to encourage him. Someone to tell him he is special. Maybe this child is fraustrated that he is not able to understand what is going on in a classroom filled with 30 students. Removing or "kick that child out" is not the answer. We have to reach out and reach into his innerself, when a child believes he can do it, he will do it.

5. When the children are realy trying hard, these children are the ones that need to be zoned in on. Why are they slipping? Do they need more instructions or explanation of the problem. These children are motivated, what they need continued support to keep them interested in what they are learning.

6. Substitute teachers capabilities? Each school should have one or two substatitute assigned to that school so both the teacher and the children are familiar with each other. Also a lesson plan from the classroom teacher would help a great deal, the principal can be given daily sheets on where the classroom is at a certain subject. Substitutes can review lessons with the children. Perhaps this substitute can shed some light on something that the teacher could not?

Supplies and books? Teaching children to take care of them things is something we all can be involved in. When you respect what a book stands for the way you treat it make a difference! Be sure that books are up to date and that children can relate to what is in the book, that is, the book should relate to what is happening at the present time in their environment.

8. Foundations helping schools? I think the adopt a school program is a start but needs to be expanded. Sometimes businesses think that they have to contribute large amounts of money. They don't, a little from everyone helps. And they can help with supplies. Paper pencils, pens, crayons, tools etc. Anything that would help, even nutritious snacks and treats. Certificates to popular fast food stores. Gift certificates from stores, these can be used as incentives and awards for children who are trying to learn and work hard!!

9. Special Projects are excellent! Yes it would work at our school!! Talking with parents and teachers, the problem some children have is handing in home work! When you ask Teachers why? They respond that the parents don't help the children! When you ask the parents, they say that they don't understand the homework to help their children and that perhaps it was hard for the child to understand the work with $30 students in the room. What I would like to see (again it involves getting parents to participate). Let the Board of Education open the schools all day, hire parents to supervise the children and have the children study together with their friends! Why do some children find it easer to do homework and for others its too hard! One, could be no supervision at home because both parents NEED to work. Two, child needs a little more help to understand. Three, doesn't have anywhere or tools to help him do it. Four feels that no one cares if he does it or not! Five, A peer could help him understand the work at their level. They also have time to socialize with each other. Home work can be fun when you have the motivation to do it. Children don't need T.V. They need each other's company and a sense of belonging to help them understand. T.V. for some children is the only friend. Get this child in a classroom after school to do homework with friends and you'll see this child soar.

10. For the student who excels? I don't think they are stimulated enough. What I suggest is Departmental classes at all levels of teaching. Example, if a child is in 1st grade, he does first grade work in some areas and 2d or 3d grade in reading and math. Why not move these children to other classrooms for that time period. Perhaps the system that they use in upper grades should be expanded to primary and intermediate levels too! The child will be stimulated to do more. This system would have to benefit all children. Not to retain or hold back or (flunk) a child but to move all the children in that school to classrooms and levels that will motivate the child to do more. Don't label children Dump or Brainy or Nerd! When everyone in the class is at the same level for that particular subject, there is a teacher and have an aide that will inspire that child. Different teachers move different talents. Match that teacher to the right subject and the product will be a child who feels that he understands what he is doing and this in turn helps with positive self esteem. At the present time each room does have separate "groups" however, this is where we make the mistake of labeling children Smart, Slow, & Dumb. The child's self esteem is lowered among his classroom peers. Allowing departmental classrooms at 1st grade—8th is an excellent idea. This would have to be well organized which will take a lot of work to begin it. Reform is an excellent idea. However, it happened all at once. No one knew what we were doing. Perhaps pilot programs would be best to see if they work. Please Mr. Simon give this some thought. We all need to do something. Our children are turning to drugs and crime to give them a High Self Esteem! Let's help our children get high on Life. Let's help our children feel good about themselves. We must help our children love themselves before they can love learning or anything else. Let's examine our own feelings, what makes us like or dislike something. Why do we work extra hard at something and not enough at other things.

Well these are my ideas Senator Simon, I'm not going to re-write this because I feel my true thoughts are on this paper. I would truly appreciate in hearing from you on what you think of these ideas. I think you are sincere. Help me to help kids. Reach out to me Mr. Simon and together we can reach out to our children. Let's tell our children and help them believe that They are special! Thank you and God Bless you.

Sincerely.

Mrs. Gilda F. Amantea.●

SALUTE TO WATSON, MN

● Mr. BOSCHWITZ. Mr. President, I rise today to bring to the attention of this body the outstanding accomplishments of the town of Watson, MN. Watson is not a big city—a little over 200 people live there—but it has done big things and will soon be receiving a big award.

The Environmental Protection Agency is nationally recognizing Watson in a ceremony in Washington, DC, with its "1990 Operation and Maintenance Excellence Award," for having one of the most improved wastewater treatment plants in the country. Watson has already received EPA's region 5 award for operation and maintenance excellence.

The award is based on the plant's perfect compliance record throughout 1989; the enthusiasm and hard work of the new operator to refurbish and return the 35-year plant to full service; the support of the community for the plant's restoration; and the effective training and technical assistance provided to the city by the Minnesota Pollution Control Agency's outreach program.

The Watson plant treats 20,000 gallons of wastewater daily. The plant consistently removes from wastewater more than 90 percent of polluting biochemical oxygen demand and suspended solids. It also effectively disinfects wastewater and neutralizes disinfectant residues. From what I know about wastewater treatment facilities, Watson's record is among the very best.

Mr. President, I also understand it only cost the city $15,000 to come into compliance with EPA regulations and to obtain this remarkable record. Where many cities would have spent $1.5 million for a new plant, with proper technical assistance and a lot of hard work, Watson was able to achieve the same results with its current facility. Truly an effective use of taxpayers' dollars.

I would also like to commend plant operator Harlis Nordaune and Watson Mayor Robert Buchanan for their hard work and dedication to this project. Without their devotion to the project, this award wouldn't be possible.

Again, Mr. President, I am very pleased to recognize Watson, its residents, and its fine wastewater treatment facility.●

NOTICE OF DETERMINATION B THE SELECT COMMITTEE O ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of Rule 35 tha I place in the Congressional Recor notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or foreign educational or charitable organization involving travel to a foreig country paid for by that foreign government or organization.

The select committee has received request for a determination under rul 35 for David McKean, a member o the staff of Senator John Kerry, t participate in a program in Canada sponsored by the Institute de Formation Intrbancaire [INSIG], and th International Crime Police Organization, on May 30, 1990.

The committee has determined tha participation by Mr. McKean in th program in Canada, at the expense o the INSIG, and the Internationa Crime Police Organization, is in the interest of the Senate and the Unite States.●

POPULATION PRESSURES AN ENVIRONMENTAL DEGRADATION IN LATIN AMERICA

● Mr. BOSCHWITZ. Mr. President, spoke here several times earlier thi summer about the clear link betwee world population pressures and th degradation of our global environment. Previously, I described this linkage in the Near East and in sub-Saharan Africa. Today, I would like t touch briefly on the situation in Lati America and the Caribbean.

In 1950, the populations of North America and of Latin America wer roughly equal—165 million inhabitant each. Let us look at what's happene since then, over the past four decade

Today, the combined population o the United States and Canada total 278 million. South of the Rio Grande however, the corresponding figure i 447 million, more than double its siz 40 years ago, more than 60 percen larger than that of its northern neighbors.

Population growth in Latin Americ and the Caribbean has been particularly explosive in the cities, where migration from rural areas compound growth due to high fertility. Four o the world's ten largest cities are i Latin America: Mexico City, Sa Paulo, Buenos Aires, and Rio de Janeiro. Lima, which now ranks 25th, wil overtake Chicago and London in siz during the next decade.

If we think New York City is crowded, consider this: Sao Paulo is smaller in area than Philadelphia, but it has as many people as New York City and Philadelphia combined. Simply imagine Mexico City, with almost twice as many people as New York City crammed into less than half the space.

This growth brings in its wake very negative consequences for the ecology of the region. This spring, the well-regarded World Resources Institute characterized Latin America's environmental situation this way. "Increasingly," and I quote, "pollution and environmental degradation are blighting the natural resources of the region, decreasing its productive potential for current and future generations, and threatening human health and the very existence of countless plant and animal species."

I think most of you know of my grave concerns about the world's diminishing forests. As I have previously described, both here and at last spring's Interparliamentary Conference on the Global Environment, half of the world's tropical forests have been lost since the turn of the century.

More and more people have led to increasing acceleration of land clearing. The resultant destruction of trees continues today, with precious little in the way of planned reforestation. This destruction's going on, most unfortunately, in Brazil, which has the world's largest remaining tropical forest, and by far the largest area of annual deforestation. It is also going on in Costa Rica, which has much smaller forest areas, but probably the highest annual rate of forest loss, an estimated 7.6 percent, in the world.

My concerns, and those of most Latin American leaders, however, go beyond forests, important as those resources are. Increasing population pressures have been directly responsible for the region's intensification of agriculture, for opening of marginal land, for the diversion of river and ground water, and for continuing soil erosion.

These burgeoning numbers of people have created life-threatening air, water, and other forms of pollution in crowded urban areas, river pollution from untreated sewage and from mining and other industrial operations, and damage to coastal estuaries and other marine resources through pollution, clearing of mangrove swamps, and overfishing.

In addition, Latin America is a significant contributor to global environmental problems through emissions of carbon dioxide and other greenhouse gases. Population pressure is not the only cause of this rape of the land. Other culprits include land tenure inequities, lack of emission controls, and very serious fiscal indebtedness.

Ultimately, most of these problems are closely interrelated, and, in my view, can be traced to excessive population growth, by which I mean growth at levels that threaten sustainable development, growth that outpaces resources, and, lastly, growth that substantially exceeds the opportunities for productive employment.

Notable achievements in slowing population growth have taken place in a number of countries. Brazil, Colombia, and Mexico together account for almost 61 percent of the region's total population, have all achieved impressive declines in population growth and fertility. Families in those countries have about half of the number of children that families had 30 years ago, primarily due to the increased use of contraceptives by women.

But progress is mixed. The average Haitian woman, for example, has approximately eight children. And only 7 percent of married women in that country use any form of contraception. Most countries in the region fall somewhere between these two extremes, with moderate progress in increasing access to family planning services.

Mr. President, family planning will not solve all of Latin America's problems by any means. But it can help to buy time needed to cope with other development challenges. Previous United States investments of money and expertise have paid off in Brazil, Colombia, and Mexico. We need now, and over the coming years, to provide modest increases in the family planning budget of the Agency for International Development, increases that will allow for continuation and expansion of this work for the whole of the region. I look forward to your support in coping with the extremely serious threat that rapid population growth poses to our planet's quality of life.●

VICTIM RIGHTS AND RESTITUTION ACT AFTER PASSAGE IN THE HOUSE

● Mr. NICKLES. Mr. President, during today's consideration of comprehensive crime legislation, the House of Representatives acted on an amendment I offered here in the Senate to provide rights and restitution to crime victims. I am pleased to report that the House passed the landmark Victim Rights and Restitution Act.

Passage of this amendment signals a great victory for all victims of crime, both State and Federal. When this bill becomes law, crime victims will enjoy rights at the Federal level that most States already guarantee. Most important are the act's restitution provisions, making criminals pay for their crimes. Under the legislation, crime victims will be entitled to receive full financial compensation directly from the criminal in the form of mandatory restitution. The law will ensure that crime will not pay—but criminals will. The Victim's Act also overturn two recent Supreme Court decisions that limit the scope and effectiveness of court-ordered restitution.

Last spring as the Senate began formulating what would become the omnibus crime package, I realized that in reforming the judicial system to facilitate more effective and efficient methods of dealing with criminals, we were overlooking the most important part of the crime-fighting equation: the victims. I believe very strongly that laws need to be changed to help our police officers and courts deal with the overwhelming increase in crime and I think many of the provisions in the Senate crime bill are headed in the right direction. What the original bill failed to do, however, was to improve the system at the other end.

The Victim Rights and Restitution Act establishes rights for victims of crimes tried in Federal court including the right to be notified of and involved in court proceedings, the right to be protected from the accused, the right to be treated fairly and with respect, and the right to be informed of the detention status of the convicted criminal.

More importantly, the Victim's Act mandates that courts order restitution in all Federal criminal cases. Victims would be able to recover financial losses resulting from the criminal act. This restitution order would be a condition of any form of release for the offender. The legislation would ensure that the criminal not only pays his debt to society, but he also pays his debt to this victim.

The Victim's Act also serves to close damaging loopholes in current law. In May 1990, the Supreme Court ruled in the Davenport case that a criminal can avoid paying court-ordered restitution by declaring bankruptcy under Chapter 13 of the bankruptcy code. This is wrong. If this loophole is allowed to remain on the books, no restitution order will be enforceable because criminals will be able to escape the court order through the bankruptcy code. My bill prohibits the discharge of restitution orders as part of a bankruptcy proceeding.

Also in May of this year, the Supreme Court ruled in the Hughey case that restitution could not be ordered for crimes beyond the scope of the offense of conviction. So, if a criminal is convicted of a criminal offense, but plea bargains his way out of a conviction on a second offense, he cannot be held responsible to repay the victim of the second offense. My bill would allow the court to consider the course of criminal conduct and order restitution for crimes other than the offense of conviction. Plea bargains should not

result in victims being denied the justice they deserve which certainly includes full restitution from the offender.

Mr. President, the Victim Rights and Restitution Act has received the written endorsements of victim rights experts across the Nation including the National Organization for Victim Assistance, the National Victim Center, Mothers Against Drunk Driving, and the National Coalition Against Sexual Assault.

In its letter of support, the National Victim Center called the act "one of the most comprehensive and necessary bills we have seen emerge from Congress. It will undoubtedly change a criminal justice system that for too many innocent victims is more criminal than just." Mothers Against Drunk Driving states that the act "promises significant protection for the rights of victims and better judicial response to their unique needs." The Justice Department has also expressed its support for the measure.

I am pleased this landmark victim's legislation has been approved by both Houses of Congress. I appreciate the support the chairman of the Senate Judiciary Committee has given this amendment and extend a personal thanks to Congressman MIKE OXLEY of Ohio, who offered the legislation in the House today.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the executive session to consider the following nominations: Calendar Nos. 1035, 1040, 1041, 1042, 1043.

I further ask unanimous consent that the nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action; and the Senate return to legislative session.

I further state for the RECORD that Wayne Berman, Calendar No. 1035, has made a commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF COMMERCE

Wayne Lee Berman, of New York, to be an Assistant Secretary of Commerce.

DEPARTMENT OF JUSTICE

Benjamin F. Marsh, of Ohio, to be a member of the Foreign Claims Settlement Commisson of the United States for the term expiring September 30, 1992.

Stephen B. Higgins, of Missouri, to be U.S. attorney for the Eastern District of Missouri for the term of 4 years.

Doris Swords Poppler, of Montana, to be U.S. attorney for the District of Montana for the term of 4 years.

Arthur D. Borinsky, of New Jersey, to be U.S. Marshal for the District of New Jersey for the term of 4 years (reappointment).

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

BILLS INDEFINITELY POSTPONED—S. 663 AND H.R. 2151

Mr. MITCHELL. Mr. President, I ask unanimous consent that the following items be indefinitely postponed: Calendar No. 133, S. 663 and Calendar No. 348, H.R. 2151.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT AUTHORITY FOR THE UNITED STATES SUPREME COURT POLICE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 571, H.R. 4757, an act to provide permanent authority for the Supreme Court police.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4757) to provide permanent authority for the United States Supreme Court police.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2935

(Purpose: To provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police)

Mr. MITCHELL. Mr. President, on behalf of Senator LEAHY, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] for Mr. LEAHY, proposes an amendment numbered 2935.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof:

That section 9(c) of the Act entitled "An Act relating to the policing of the building and grounds of the Supreme Court of the United States," approved August 18, 1949 (40 U.S.C. 13n(c)), is amended in the first sentence by striking out "1990" and inserting in lieu thereof "1993".

Amend the title so as to read: "To provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2935) was agreed to.

Mr. BIDEN. Mr. President, I am pleased to join my colleague from South Carolina, the distinguished ranking member of the Judiciary Committee, Senator THURMOND, in urging passage of a bill to provide for a 3-year extension of authority for the Supreme Court Police.

When I joined Senator THURMOND earlier this year in introducing this legislation, I commented on the importance of providing adequate safeguards for the Justices serving on the bench of our Nation's highest court. Because the Supreme Court must involve itself in the most controversial issues of the day, the Justices are, unfortunately, potential targets.

The legislation before us extends for 3 more years the authority of the Supreme Court Police to provide security for Supreme Court Justices beyond the building and grounds of the Court. Without this authority, it would be impossible to guarantee that the Justices will be protected in all phases of their service.

The bill introduced by Senator THURMOND and myself would have made permanent the authority of the Supreme Court Police to protect the Justices beyond the grounds of the Court. Chief Justice Rehnquist had requested this change.

Because of the concerns of some Members, the original legislation has been amended to include a sunset provision requiring the Senate to review this authority before the end of 1993. It is my view that the Senate should then seriously reconsider the Chief Justice's request to make this authority permanent.

Mr. President, I urge the Senate to pass this security measure for the Justices of the U.S. Supreme Court.

Mr. THURMOND. Mr. President, today, I rise to strongly urge my colleagues to vote in favor of this legislation. On May 3, 1990, I introduced this important legislation which will ensure the continued availability of police protection to the U.S. Supreme Court Justices while they are off o the Supreme Court grounds.

Under current law, the Supreme Court Police may provide protection outside of the Court grounds to the Supreme Court Justices, and to any officer, employee, or official guest of the Supreme Court. Unfortunately, this authority expires at the end of this year. This legislation as originally introduced would replace the statute's sunset provision with a permanent authorization for protection. However, concerns were raised about eliminating the sunset provision. Therefore, this legislation simply extends the police protection for an additional 3 years.

Mr. President, this provision of law is rarely, if ever, used. For example, last year it was only utilized by the Court on three occasions at a total cost of only $541. Yet, it is necessary. Should events arise which would require the police protection of the Chief Justice or an Associate Justice, protection ought to be available. In this time of escalating crime, drug trafficking, and narco-terrorism, it is essential that the U.S. Supreme Court Justices and their employees have police protection if, and when, the unfortunate need should arise.

In closing, this legislation was requested in a letter I received from Chief Justice Rehnquist. He has expressed concern that this protection should be available if the need for such protection should ever arise. I believe that we ought to take this necessary step to enhance the safety of our Nation's highest court.

For these reasons, I urge my colleagues to support this legislation.

The PRESIDING OFFICER. If there be no further debate, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall the bill pass?

So the bill (H.R. 4757), as amended, was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that Calendar No. 531, S. 2572 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELIEF OF NEBRASKA ALUMINUM CASTINGS, INC.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 910, S. 3043, a bill for the relief of Nebraska Aluminum Castings, Inc.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3043) for the relief of Nebraska Aluminum Castings, Incorporated.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with amendments as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 3043

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SATISFACTION OF CLAIM AGAINST THE UNITED STATES.

(a) IN GENERAL.—The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated **[**the sum of $95,000, plus interest from March 26, 1986.**]** to Nebraska Aluminum Castings, Inc., of Hastings, Nebraska, for costs arising out of the rejection by the United States Army of a proposal by Nebraska Aluminum Castings, Inc., in response to Solicitation No. DAAKO1-85-B-BO6O issued on August 27, 1985, by the United States Army Troop Support Command, for hand-held aluminum compasses.

(b) CONDITION OF PAYMENT. The payment of the sum referred to in subsection (a) shall be in full satisfaction of any claim of Nebraska Aluminum Castings, Inc., against the United States arising out of the proposal rejection described in such subsection.

[(c) RATE OF INTEREST.—The payment of interest authorized by this section shall be computed in the same manner as interest allowable under section 2516(a) of title 28, United States Code, for a judgment of the United States Claims Court entered on March 26, 1986.**]**

SEC. 2. LIMITATION ON ATTORNEY AND AGENT FEES.

(a) IN GENERAL.—Not more than 10 percent of the amount appropriated pursuant to section 1 shall be paid to or received by any agent or attorney for services rendered in connection with the claim described in such section.

(b) ENFORCEMENT.—Any person who violates the provisions of this section shall be fined not more than $1,000.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

AMENDMENT NO. 2936

Mr. MITCHELL. Mr. President, on behalf of Senator Biden I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. BIDEN, proposes an amendment numbered 2936.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 7, insert after the first comma, the following' "the sum of $95,000".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2936) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed; as follows:

S. 3043

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SATISFACTION OF CLAIM AGAINST THE UNITED STATES.

(a) IN GENERAL.—The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, the sum of $95,000, to Nebraska Aluminum Castings, Inc., of Hastings, Nebraska, for costs arising out of the rejection by the United States Army of a proposal by Nebraska Aluminum Castings, Inc., in response to Solicitation No. DAAKO1-85-B-BO6O issued on August 27, 1985, by the United States Army Troop Support Command, for hand-held aluminum compasses.

(b) CONDITION OF PAYMENT.—The payment of the sum referred to in subsection (a) shall be in full satisfaction of any claim of Nebraska Aluminum Castings, Inc., against the United States arising out of the proposal rejection described in such subsection.

SEC. 2. LIMITATION ON ATTORNEY AND AGENT FEES.

(a) IN GENERAL.—Not more than 10 percent of the amount appropriated pursuant to section 1 shall be paid to or received by any agent or attorney for services rendered in connection with the claim described in such section.

(b) ENFORCEMENT.—Any person who violates the provisions of this section shall be fined not more than $1,000.

Mr. MITCHELL. I move to reconsider the vote.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEDICAID DRUG DEPENDENCY TREATMENT COVERAGE ACT OF 1990

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of S. 3118 to amend title XIX of the Social Security Act to clarify coverage of alcoholism and drug dependency treatment services and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3118) entitled the "Medicaid Drug Dependency Treatment Coverage Act of 1990."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being not objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2937

Mr. MITCHELL. Mr. President, on behalf of Senator MOYNIHAN, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. MOYNIHAN, proposes an amendment numbered 2937.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Drug Dependency Treatment Coverage Act of 1990".

SEC. 2. MEDICAID COVERAGE OF ALCOHOLISM AND DRUG DEPENDENCY TREATMENT SERVICES.

(a) IN GENERAL.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (21);

(B) by redesignating paragraph (22) as paragraph (23);

(C) by inserting after paragraph (21) the following new paragraph:

"(22) alcoholism and drug dependency treatment services (as defined in subsection (t)); and"; and

(2) by adding at the end the following new subsection:

"(t) The term 'alcoholism and drug dependency treatment services' means alcoholism and drug dependency treatment services (including counseling) otherwise allowable under a State plan (as described in section 1902) provided on an inpatient basis by a hospital, nursing facility, psychiatric hospital, or a distinct unit in a general hospital, or on an outpatient basis by any entity otherwise eligible to participate as a provider of health care services under a program under a State plan approved under this title.".

(b) STATUTORY CONSTRUCTION.—Nothing in this Act shall be construed so as to effect sections 1905(a)(1), 1905(a)(4)(A), 1905(a)(14), and 1905(a)(16) of the Social Security Act (42 U.S.C. 1396d (a)(1), (a)(4)(A), (14), and (16), respectively) and the matter following paragraph (23) of section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)).

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after the date of the enactment of this Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2937) was agreed to.

Mr. MOYNIHAN Mr. President; with the great cooperation of our distinguished chairman, Senator BENTSEN, and of our ranking Republican, Senator PACKWOOD, the Committee on Finance has discharged S. 3118, the Medicaid Drug Dependency Treatment Coverage Act of 1990. This measure would simply codify current administration policy with regard to the reimbursement by the Federal Medicaid Program of treatment services for crack cocaine and other alcohol and drug addictions.

Just 1 year ago I took to the floor to introduce S. 1673 the Drug Abuse Treatment Act of 1989. That bill was in large part a response by this Senator to my inability to get a clear response to the question of whether Medicaid would reimburse for the treatment of crack cocaine addiction. We did know that Medicaid would cover methadone for heroin addiction. But since a pharmacological treatment for crack cocaine has not become generally available, we were in the position of being told that since crack addicts had no treatment, crack addicts had no disease.

The following day I announced my intention to offer my bill as an amendment to the then pending bill S. 1711, the National Drug Control Strategy Act of 1989. In short order, on October 3, 1989, I offered a modified version of the original proposal and with the cosponsorship of our distinguished Republican leader Senator DOLE, the Senate unanimously passed amendment 919. The operative section of the amendment stated:

> * * * treatment on request may be provided to all individuals eligible for assistance under this title (A) who desire to rid themselves of substance abuse problems, and (B) whose income and resources are insufficient to meet the cost of such treatment.

The Senate unanimously endorsed the proposition that Medicaid should and would reimburse any eligible man or woman who sought treatment for addiction to crack cocaine. This no small accomplishment, however, was all but lost on those whose responsibility it is to see to it that the principles of the Anti-Drug Abuse Act of 1988, Public Law 100-690, be implemented fully To wit, section 2012 of the act entitled "Purposes":

> It is the purpose of this subtitle * * * to increase to the greatest extent possible, the availability and quality of treatment services so that treatment on request may be provided to all individuals desiring to rid themselves of their substance abuse problem.

With no little effort from this Senator over the past months to get an answer to my question concerning the administration's policy with regard to Federal Medicaid reimbursement for crack cocaine treatment services, on May 23, 1990, I received the kind of reasoned and professional response we have come to expect from our most capable Administrator of the Health Care Financing Administration, Dr. Gail Wilensky.

Dr. Wilensky's letter clarifies—for the first time—for us and for the States the extent to which the Federal Medicaid Program will pay for the treatment of crack cocaine addiction. Her statement that "it is simply not true that Federal Medicaid policy will not permit payment to hospitals for treatment of crack cocaine addiction" was a most welcome pronouncement. Even more so her statement that:

> The Medicaid program offers a wide range of benefits which may be of use to crack cocaine addicts. Beyond payment for impatient and outpatient hospital treatment which are mandatory benefits, States also have the option to include clinic and rehabilitative services in their Medicaid benefit packages. These could range from short episodes to full day treatment programs.

Mr. President, the States did not know this. Perhaps now, with the passage of the bill the Senate considers today, they will do.

At a hearing before the Senate Committee on Finance on June 28, which addressed the tragedy of crack babies, Secretary Sullivan agreed with the position described in Dr. Wilensky's letter.

I would now take a moment to inform my colleagues that their patience has been rewarded. I have harangued a bit. But this has been a matter of simple yet great importance. Drug addiction is a disease of the brain. It must be treated as such. What services exist must be readily available to eligible individuals who seek treatment.

On August 20, 1990, Dr. Wilensky again wrote to me. This time enclosing a letter she had directed to be sent to all State Medicaid directors outlining the services that the Federal Medicaid Program would reimburse for the treatment of substance abuse and specifically crack cocaine addiction. This is a matter of some consequence. Problems remain. Limitations exist. Those we in Congress can address. But the administration has now clearly delineated for the States the services available to them for the treatment of crack addiction.

The bill before the Senate would codify in the statute the two letters from the Health Care Financing Administration thereby making permanently and explicitly clear to the States the current scope of the Federal Medicaid Program with regard to the variety of services and reimbursement for substance abuse treatment.

The Congressional Budget Office has provided me with a "no cost" estimate for this clarification.

Mr. President, I ask unanimous consent that the CBO cost estimate and the two letters from Dr. Wilensky be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRELIMINARY CBO STAFF ESTIMATE

Proposal: Draft bill language codifying letter from G. Wilensky. Proposal would clarify current law with respect to States' ability to provide substance abuse treatment services under Medicaid.

Preliminary CBO Staff estimate: Outlays by fiscal year, in millions of dollars; 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year total, 0.

Date: 01-Oct-90, 05:35 PM.

Analyst: Jean Hearne.

Basis of estimate: The preliminary estimate of no cost is based upon the current ability to provide substance abuse services in entities authorized by the State to do so. The draft language would clarify current law and would not result in additional expenditures to the Medicaid program. Estimate is subject to uncertainty due to being on draft language. The final language may require a separate cost estimate.

DEPARTMENT OF HEALTH AND
HUMAN SERVICES,
Washington, DC, May 23, 1990.

Hon. DANIEL P. MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: I am writing to convey our concern that there may be some misunderstanding about Medicaid coverage for crack cocaine addiction. The intent of this letter is to clarify what coverage does exist under the Medicaid program. To the extent individuals are eligible for Medicaid and need inpatient hospital care, it is covered under the Medicaid program. For mandatory Medicaid benefits, such as inpatient hospital services, our regulations explicitly prohibit States from using a recipient's diagnosis, type of illness, or condition as the basis for arbitrary limiting or denying coverage.

A State may determine that the hospital setting is not appropriate for the treatment of certain conditions. However, it is simply not true that Federal Medicaid policy will not permit payments to hospitals for treatment of crack cocaine addiction.

In fact, the Medicaid program offers a wide range of benefits which may be of use to crack cocaine addicts. Beyond payment for inpatient and outpatient hospital treatment which are mandatory benefits, States also have the option to include clinic and rehabilitative services in their Medicaid benefit packages. These services provide outpatient care that could range from short episodes to full day treatment programs.

Although the above services are allowable for all States, they are optional. Each State designs its own program, building on the basic Federal requirements. States establish their own regulations and instructions and construct eligibility, coverage, and payments rules with which they operate their programs. Thus, general statements about Medicaid must be quite general to be applicable across the board.

Another difficulty in discussing an issue like treatment of crack cocaine addiction is that Title XIX of the Social Security Act provides coverage for generic services rather than coverage for specific diagnoses or conditions. Thus, when a specific condition is discussed, it is necessary to determine the appropriate services the State Medicaid program offers that can be used to treat the condition. In raising the question of hospital care and crack cocaine addiction, the issue must be posed as follows—what if any, type of inpatient hospital care is medically appropriate for the treatment of crack cocaine addiction? This is a question that must be answered by the individual State in developing its Medicaid coverage package.

Medicaid has one statutory restriction that is of particular relevance to the coverage of substance abuse services. Title XIX precludes the payment for services to individuals between the ages of 22 and 65 in institutions for mental diseases (IMDs). Under the International Classification of Diseases, Clinical Modification (ICD-9-CM), alcohol and drug abuse are classified as mental disorders. Consequently, facilities that exclusively treat psychiatric or substance abuse disorders are considered by Medicaid as IMDs. This restriction in Medicaid coverage relates to the long standing State role in supporting mental health and substance abuse treatment services and operating State mental institutions.

While recognizing the States' primary role in providing services in these areas, the Federal government does target substantial support to States for the prevention and treatment of substance abuse through many activities, most notably the Alcohol, Drug Abuse, and Mental Health Services Block Grant. This grant program provides funds to the States to enhance and expand alcohol, drug abuse, and mental health services according to individual States needs. In response to the National Drug Control Strategy, the drug abuse portion of this block grant has been significantly increased this year. The Alcohol, Drug Abuse, and Mental Health Administration also has funds available through several categorical programs which target pregnant women and their infants as well as high-risk populations.

Like you, Dr. Sullivan and I remain strongly committed to fighting drug abuse and reducing the demand for drugs. Should you or your staff require further information on this matter please contact me or Thomas Gustafson, Acting Director, Office of Policy Analysis, of my staff. He may be reached at (202) 245-0500. We welcome your interest in this area, and look forward to working with you on matters of mutual concern.

Sincerely,

GAIL R. WILENSKY, PH.D.,
Administrator.

DEPARTMENT OF HEALTH
AND HUMAN SERVICES,
Washington, DC, August 20, 1990.

Hon. DANIEL P. MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: I am responding to your letter of July 16 regarding current Medicaid payment for drug abuse treatment. You indicated that my recent explanation of the Medicaid policy was "a most welcome pronouncement." I assure you that Secretary Sullivan agrees with the position described in my letter to you.

As you know, we share your concerns about drug addiction and related problems. We thought it would be helpful to remind States of the extent to which the Medicaid program could be used to help persons with these conditions. Therefore, we sent letters to each State Medicaid Director reminding them of services available under the program. A copy of that letter is enclosed. I hope you will find it informative.

We appreciate your continued interest in this important national issue. Please be assured that we support all efforts to resolve this problem.

Sincerely,

GAIL R. WILENSKY, PH.D.,
Administrator.

DEPARTMENT OF HEALTH
AND HUMAN SERVICES,
Baltimore, MD, August 2, 1990.

ALL STATE MEDICAID DIRECTORS: The Medicaid program is an excellent resource in the national effort to deal with drug addiction and related problems. Because Medicaid's benefits are described in terms of specific services rather than the conditions to be treated, there are often misunderstandings as to the extent that the Medicaid program's benefits can help persons with drug addiction and related problems. I am writing to review the ways that available Medicaid benefits relate to the treatment of these conditions in order to ensure that all States are aware of these possibilities.

A number of primary care services may be used, including physicians' services, clinic services, and pharmaceuticals (e.g., methadone). Additionally, services appropriate for treating addiction may be provided (1) by home health agencies, (2) under home and community-based services waivers, and (3) as part of the EPSDT benefit constellation. A number of States have also used freedom of choice waivers or exceptions to their State plans to implement managed care programs targeted to substance abuse. Case management may be used to coordinate the needed services, and special day treatment programs may be established that combine needed therapy, counseling and other services.

Inpatient hospital benefits may be used for acute treatment of symptoms, detoxification and drug-related medical complications. Rehabilitation services may be provided in a wide variety of settings. These include outpatient programs in hospitals and clinics, and inpatient programs located in nursing facilities, psychiatric hospitals, and special units in general hospitals. Rehabilitation services may also be provided in settings that are not Medicaid participating facilities.

Although payment restrictions relating to institutions for mental diseases (IMDs) can affect some inpatient programs for treating chemical dependency, it is important to remember that these restrictions do not apply to any facility that has less than 17 beds. For this reason, it may be advantageous to set up this type program in smaller facilities, even though room and board payment would not be made unless it is a participating facility. Optional IMD benefits are also available in psychiatric facilities for individuals under age 21 and for individuals age 65 and over regardless of the size of the facility.

There are many State and local programs funded by the Office of Substance Abuse Prevention, National Institute on Drug Abuse, and Health Resources and Services Administration. You may find it worthwhile to collaborate with these programs. If your State is interested in expanding Medicaid services in the area of substance abuse treatment, we can support this effort by responding to questions as they arise in developing new programs. Please contact your HCFA Regional Office.

Sincerely,

ROZANN ABATO,
Acting Director,
Medicaid Bureau.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Drug Dependency Treatment Coverage Act of 1990".

SEC. 2. MEDICAID COVERAGE OF ALCOHOLISM AND DRUG DEPENDENCY TREATMENT SERVICES.

(a) IN GENERAL.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (21);

(B) by redesignating paragraph (22) as paragraph (23); and

(C) by inserting after paragraph (21) the following new paragraph:

"(22) alcoholism and drug dependency treatment services (as defined in subsection (t)); and"; and

(2) by adding at the end the following new subsection:

"(t) The term 'alcoholism and drug dependency treatment services' means alcoholism and drug dependency treatment services (including counseling) otherwise allowable under a State plan (as described in section 1902) provided on an inpatient basis by a hospital, nursing facility, psychiatric hospital, or a distinct unit in a general hospital, or on an outpatient basis by any entity otherwise eligible to participate as a provider of health care services under a program under a State plan approved under this title.".

(b) STATUTORY CONSTRUCTION.—Nothing in this Act shall be construed so as to affect sections 1905(a)(1), 1905(a)(4)(A), 1905(a)(14), and 1905(a)(16) fo the Social Security Act (42 U.S.C. 1396d (a)(1), (a)(4)(A), (14), and (16), respectively) and the matter following paragraph (23) of section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)).

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after the date of the enactment of this Act.

Mr. MITCHELL. I move to reconsider the vote.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table is agreed to.

NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 328, to designate October 1990 as the month to commemorate awareness of domestic violence and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 328) designating October 1990 as "National Domestic Violence Awareness Month."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The joint resolution was considered, ordered to a third reading, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 328

Whereas it is estimated that a woman is battered every fifteen seconds in America;

Whereas domestic violence is the single largest cause of injury to women in the United States, affecting six million women;

Whereas urban and rural women of all racial, social, religious, ethnic, and economic groups, and of all ages, physical abilities, and lifestyles are affected by domestic violence;

Whereas 31 percent of female homicide victims in 1988 were killed by their husbands or boyfriends;

Whereas one-third of the domestic violence incidents involve felonies, specifically, rape, robbery and aggravated assault;

Whereas in 50 percent of families where the wife is being abused, the children of that family are also abused;

Whereas some individuals in our law enforcement and judicial systems continue to think of spousal abuse as a "private" matter and are hesitant to intervene and treat domestic assault as a crime;

Whereas in 1987, over three hundred and seventy-five thousand women, plus their children, were provided emergency shelter in domestic violence shelters and safe homes, and the number of women and children that were sheltered by domestic violence programs increased by one hundred and sixty-four thousand between 1983 and 1987;

Whereas 40 percent of women in need of shelter may be turned away due to a lack of shelter space;

Whereas the nationwide efforts to help the victims of domestic violence need to be expanded and coordinated;

Whereas there is a need to increase the public awareness and understanding of domestic violence and the needs of battered women and their children; and

Whereas the dedication and successes of those working to end domestic violence and the strength of the survivors of domestic violence should be recognized: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1990 is designated as "National Domestic Violence Awareness Month". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe this month by becoming more aware of the tragedy of domestic violence, supporting those who are working to end domestic violence, and participating in other appropriate efforts.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL NUTRITION MONITORING AND RELATED RESEARCH ACT OF 1990

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1608, the National Nutrition Monitoring and Related Research Act, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1608) to strengthen national nutrition monitoring by requiring the Secretary of Agriculture and the Secretary of Health and Human services to prepare and implement a ten-year plan to assess the dietary and nutritional status of the United States population, to support research on, and development of, nutrition monitoring, to foster national nutrition education, to establish dietary guidelines, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DOLE. Mr. President, as someone who has a long history in the nutrition area, I am pleased to see a national nutrition monitoring bill move toward final passage. This measure is designed to establish a comprehensive coordinated system for collecting and distributing information on the nutritional status of Americans. Such a system will provide a sounder knowledge base for our Federal food assistance, nutrition education, and nutrition research programs.

The measure before us incorporates language, some suggested by the administration, that makes its provisions more workable and cost-effective than those of previous versions of this legislation. In particular, I am pleased that the bill gives the President appropriate flexibility in naming his appointees to the new advisory council that is to be established. This language is similar to an amendment I successfully offered to the Senate version of this legislation.

The National Nutrition Monitoring Act is supported by a broad array of major agricultural, health, and advocacy organizations. I commend the sponsors on their efforts, and I urge my other colleagues to give this measure their support.

Mr. BINGAMAN. Mr. President, almost a year ago to the day, the Senate passed a piece of legislation very important to me and many of my colleagues, S. 253, the National Nutrition Monitoring and Related Research

Act of 1989. Today, I have the pleasure once again of discussing the National Nutrition Monitoring bill, this time in the form of H.R. 1608, which passed the House earlier this week. The House bill is nearly identical to S. 253, with the exception of five minor amendments which I will outline below.

Before going into detail about the House amendments, Mr. President, I wish to note that once enacted, this measure will greatly enhance the Federal Government's ability to collect and disseminate important information about the nutritional quality of our food supply. I believe this legislation is crucial to the health and well-being of all Americans, and I urge its swift passage and enactment into law.

A. THE NEED FOR LEGISLATION

I am pleased to say that over the past 3 or 4 years, some significant improvements have been made in Federal efforts to coordinate nutrition-related research. I believe that much of the improvement is a direct result of the congressional concern this legislation embodies, which our distinguished colleague in the House, Representative GEORGE BROWN, first introduced more than a decade ago. Despite this improvement, current Federal efforts related to nutrition monitoring remain largely inadequate and disjointed. In 1990, we still do not have a comprehensive nutrition monitoring program in this country. In 1990, we still do not know the nutritional status of our citizens. And without knowledge of this fundamental component, how can we—at this critical time in our Nation's history—develop programs to encourage safer, more nutritious food consumption nationwide? How can we develop programs to deal with the many diseases associated with dietary habits?

I believe that we can lay the groundwork for a truly coordinated national data-gathering program only through a congressional mandate, such as S. 253 and H.R. 1608. Fortunately, an overwhelming number of my colleagues agree. During the 100th Congress, both the House and the Senate overwhelmingly passed legislation nearly identical to this bill. Unfortunately, that measure was vetoed by former President Reagan.

I am confident that no such veto looms on the horizon with respect to this version of the bill and that the American people will soon reap the benefits of a national nutrition surveillance system capable of providing the type of up-to-date information essential to the development of effective nutrition education, nutrition research, and nutrition intervention programs.

B. H.R. 1608 PROVISIONS

H.R. 1608 recognizes that we must streamline the administrative functions of Federal nutrition monitoring programs if we are to better understand the relationship between diet, nutrition, and health.

Title I of the act establishes a 10-year coordinated nutrition monitoring and research program that is to be the joint responsibility of the Secretaries of the Departments of Agriculture and Health and Human Services. An interagency board will help the Secretaries to develop a comprehensive plan for nutrition monitoring and to implement the program. The bill also stipulates that an administrator may be appointed to serve as a coordinator for the plan and program activities.

The 10-year comprehensive plan will serve both as a focal point for nutrition monitoring activities and as a means to identify national nutrition monitoring priorities. The coordinated program will build upon the 1981 Joint Implementation Plan for a Comprehensive National Nutrition Monitoring system and will include, among other components:

A grant program to encourage and assist State and local monitoring initiatives;

An annual interagency budget for each fiscal year of the program;

A means to stimulate academic-industry-government partnerships that will help meet national nutrition monitoring needs and foster productive interaction; and

A biennial report, through contract with a nationally known scientific body, on the dietary, nutritional, and health-related status of the American people and the nutritional quality of our food supply.

Title II establishes an advisory council, to be appointed by the President and the Congress, that will provide scientific and technical advice on the development and implementation of the national nutrition monitoring program established under title I. The Council will also evaluate the effectiveness of the program.

Title III of the legislation directs the Secretaries to publish a report, based on current scientific and medical knowledge, containing nutritional and dietary information and guidelines for the general public. Entitled "Dietary Guidelines for Americans," the report is to be updated at least every 5 years.

Title III also requires a public comment period before a Federal agency may issue certain dietary guidance if either Secretary finds the guidance inconsistent with the "Dietary Guidelines for Americans." Briefly, after a 60-day period during which the Secretaries are to review internally the proposed regulations, if either Secretary—or both Secretaries—objects to the proposal, the proposing agency must publish a notice of comment in the Federal Register. After the expiration of a 30-day comment period, either Secretary may approve the guidance for dissemination to the public. The guidance must be accompanied by an explanation of its basis and purpose which addresses any substantive comments received.

C. HOUSE AMENDMENTS

Mr. President, I would like to take this opportunity to briefly outline the amendments that the House Agriculture Committee developed, largely at the request of the Department of Agriculture. I believe these amendments are perfectly acceptable and should not threaten the realization of this bill's chief purpose: to enhance our ability to collect and disseminate important information about the nutritional quality of our food supply. Indeed, in many ways, these amendments strengthen this bill.

1. BIENNIAL REPORT

This amendment reduces the reporting requirements of USDA and DHHS. As amended, the legislation would require the agencies to contract with a scientific body and publish, at least every 2 years, a report on the dietary, nutritional, and health-related status of the American people, the nutritional quality of the food supply. This requirement may be waived, however, if the Secretaries determine that within a 2-year period, data sufficient to warrant a report has not been gathered. If no report will be issued, the Secretaries are to inform Congress of that fact. However, a report must be published at least every 5 years.

2. ADVISORY COUNCIL APPOINTMENTS

This amendment clarifies that presidential appointments to the advisory council are to be based upon the recommendations of the Secretaries of USDA and DHHS.

3. ADVISORY COUNCIL MEMBERSHIP

This amendment clarifies that council membership will include at least two representatives each from the following areas: public health, nutrition monitoring research, and food production and distribution.

4. GRANT PROGRAMS

This amendment clarifies that the bill's grant programs are to be implemented to the extent that funds are made available.

5. SAMPLING GROUPS

This amendment deletes the words "geopolitical" from the described sampling groups.

In summary, Mr. President, the restructuring mandated in H.R. 1608, as amended, will ensure the effective use of Federal and State funds. It will help develop State and local initiatives to improve monitoring methods and standards. It will stimulate academic, industrial, and governmental partnerships. And, most important, it will help ensure that the American public receives the most up-to-date and comprehensive dietary guidance possible

so that healthful dietary decisions may be made.

D. CONCLUSION

I am pleased to note that this legislation, which is the result of long and intensive negotiations spanning a number of years, has won the support of a strong bipartisan coalition in the Congress and a coalition of more than 70 organizations representing health, diet, agriculture, and commodity interests. These organizations include the American Heart Association, the American Dietetic Association, the National Grange, the National Cattlemen's Association, and the United Egg Producers.

I ask unanimous consent that a more complete list of supporters, and a letter expressing their views on the legislation, be printed in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BINGAMAN. Mr. President, I would like to conclude by thanking my colleagues on the Governmental Affairs and Agriculture Committees for their assistance in the development and evolution of this legislation. The distinguished chairman of the Committee on Governmental Affairs, Senator GLENN, has provided tremendous leadership as that committee has sought ways in which the Congress can help improve health care, reduce health-care costs, and generally promote good health. His enthusiastic support for health promotion and disease prevention is a testimony to his concern for the well-being of all Americans.

I would like to thank the distinguished chairman of the Agriculture Committee, Senator LEAHY, and the distinguished ranking member, Senator BOSCHWITZ, for their role in this legislation. We are indebted to them and all of the committee members for their efforts to ensure passage of this legislation. It has indeed been a pleasure to work with the chairman, Senator BOSCHWITZ, and other members of the Agriculture Committee over the past few years.

Finally, I wish to acknowledge the tremendous staff contributions to this bill. Dr. Eileen Chofness and Gioia Bonmartini of the Governmental Affairs Committee, Laura Madden of the Agriculture Committee, and Donna Porter, who is on sabbatical from the Congressional Research Service, all have provided valuable assistance to me and my staff.

I would also like to thank and acknowledge the tremendous contribution of the American Heart Association, and in particular, Mary Crane. Her tireless work and enthusiasm truly are admirable.

Without the diligence and hard work of these people, and many others who I have not listed, we would not be in a position to take this important step toward implementing a comprehensive national nutrition monitoring system. Many long hours of effort over the past decade have gone into developing a plan for such a system that all interested parties can support.

The entire Nutrition Monitoring Coalition in the Senate, the House, and the private sector has come together in the spirit of cooperation to support this legislation. I hope we will be joined by the rest of our colleagues today in passing this bill and sending it to the President for his signature. Thank you.

EXHIBIT 1

JULY 11, 1990.

Hon. KIKA DE LA GARZA,
Committee on Agriculture,
House of Representatives,
Washington, DC.

DEAR CHAIRMAN DE LA GARZA: On behalf of the more than 30 national organizations that have endorsed the nutrition monitoring bill reported by the House Agriculture Subcommittee on Department Operations, Research and Foreign Agriculture in March 1990, we strongly urge you to support passage of this important legislation.

Recently, the U.S. Department of Agriculture and the Department of Health and Human Services have developed a package of amendments to the nutrition monitoring bill. We have reviewed those amendments and endorse their inclusion with minor modification (see attached).

Speedy action by the Committee on Agriculture will help ensure the eventual development of a coordinated comprehensive nutrition monitoring system.

Again, we strongly urge you to support the passage of nutrition monitoring legislation.

Sincerely,

AMERICAN DIETETIC ASSOCIATION.
AMERICAN HEART ASSOCIATION.
NATIONAL CATTLEMEN'S ASSOCIATION.

SEPTEMBER 13, 1989.

Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BINGAMAN: Our organizations and their members strongly urge you to support the passage of nutrition monitoring legislation reported by the Senate Committee on Governmental Affairs.

In the 100th Congress, such legislation passed the Senate twice via unanimous consent requests and passed the House in a 311 to 84 vote. These overwhelmingly favorable votes clearly point to the broad bi-partisan support that this proposed legislation enjoys.

This legislative mandate would require Federal agencies to develop and coordinate a comprehensive national nutrition monitoring system. It would provide for responsible government by requiring the Department of Health and Human Services, the Department of Agriculture, and others to "speak with one voice" on diet, nutrition and health.

Again, we strongly urge you to support the passage of this important legislation.

Sincerely,

American Academy of Pediatrics, American Association of Retired Persons, American Baptist Churches, USA, American College of Preventive Medicine, The American Dietetic Association, American Farm Bureau Federation, American Federation of State, County, and Municipal Employees, American Heart Association, American Home Economics Association, The American Meat Institute, American Medical Student Association, American Public Health Association, Association of Schools of Public Health, Association of State and Territorial Health Officials, Association of Teachers of Preventive Medicine, Bread for the World.

Food and Research Action Center, Mennonite Central Committee, National Broiler Council, National Cattlemen's Association, National Consumer League, National Farmers Union, National Milk Producers Federation, National Osteoporosis Foundation, National Pork Producers Council, National Rural Health Association, National Rural Housing Coalition, National Student Campaign Against Hunger, Public Voice for Food and Health Policy, Second Harvest, Service Employees International Union, Society for Nutrition Education, United States Conference of Local Health Officers, World Hunger Education Service.

Mr. BOSCHWITZ. Mr. President, as an original cosponsor of this bill, I am very pleased that we are able to complete final action on the National Nutrition Monitoring and Related Research Act today and send it on to President Bush for signature.

Certainly there have been improvements in the cooperation of nutrition monitoring in the past few years. However, I remain concerned that our current system does not adequately address the nutrition and health needs of Americans.

This legislation strengthens the cooperation that has been developing among the Federal agencies. A comprehensive and coordinated nutrition monitoring system will be established to assess the dietary and nutritional status of our Nation's population. The bill also better coordinates the efforts of Federal agencies regarding dietary guidance.

As the ranking Republican on the Senate Nutrition Subcommittee and a strong supporter of Federal nutrition programs, I realize that accurate, timely data are vital to help us determine how effective Federal hunger programs are.

This legislation has received broad bipartisan support in Congress. In addition, a wide range of organizations have enthusiastically endorsed the bill.

I urge my colleagues to support this vital legislation to monitor the nutritional health of Americans.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 1608) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. I move to reconsider the vote.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CLAUDE PEPPER FEDERAL BUILDING AND JOHN F. KENNEDY CENTER AUTHORIZATION FOR REPAIRS AND MAINTENANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Environment Committee be discharged en bloc from consideration of the following: H.R. 4985, the Claude Pepper Federal Building and H.R. 5070, John F. Kennedy Center Authorization for Repairs and Maintenance; and that the Senate then proceed, en bloc, to their consideration, that the bills be deemed read a third time and passed, and the motion to reconsider the passage of these bills be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bills (H.R. 4985 and H.R. 5070) were passed.

THE SAN CARLOS MINERAL STRIP ACT

Mr. MITCHELL. I ask unanimous consent that the Senate proceed to consideration of H.R. 4593, the San Carlos Mineral Strip Act, just received from the House.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4593) to transfer to the Secretary of the Interior the administration of the surface rights in certain lands presently within the boundaries of the San Carlos Indian Reservation, Arizona, and managed by the Forest Service as part of the Coronado National Forest, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. McCAIN. Mr. President, I am pleased to support the passage of H.R. 4593, the San Carlos Mineral Strip Act of 1990. This bill will resolve a problem relating to the boundary of the San Carlos Apache Reservation which has existed for much of this century.

The south boundary of the San Carlos Reservation was originally established by President Ulysses S. Grant in 1872.

In 1896, the San Carlos Tribe conditionally ceded a total of 232,000 acres of mineral strip land to the United States. In ratifying the agreeement, Congress expressly provided that the lands so surrendered shall be open to occupation, location, and purchase under the provisions of the mineral-land laws only."

San Carlos mineral strip lands were subsequently added to the Crook National Forest—now known as the Coronado National Forest—by Presidential proclamation on July 1, 1908, and March 21, 1917. These actions were prohibited by the Act of June 10, 1896. They also violated section 24 of the Act of March 3, 1891, which authorized the Federal forest reserves to be created from public lands, not Indian lands, as well as section 10 of the 1891 Act which stated "[T]hat nothing in this act shall change, repeal or modify any agreements or treaties made with any Indian tribes for disposal of their lands, or of any land ceded to the United States to be disposed of for the benefit of such tribes. . . ."

In 1963, Under Secretary of Interior Carr issued an order restoring the subsurface rights in the mineral strip to the San Carlos Apache Tribe, subject to any valid existing rights.

In 1969, Secretary Udall issued an order restoring the surface rights in the mineral strip to the tribe. However, the Forest Service objected that National Forest lands were not subject to the authorities under which the Secretary of the Interior's order was issued, and that there was no other authority by which the Secretary of the Interior could legally transfer National Forest lands to the tribe.

Mr. President, H.R. 4593 settles this dispute once and for all. The bill affirms that the mineral strip lands are a part of the San Carlos Apache Reservation as established by Executive orders in 1871 and 1872.

A new survey is to be conducted pursuant to those executive orders and the correct boundary is to be fenced. I would estimate that the amount of acreage that will be affected is 11,853 acres. The boundaries of the Coronado National Forest will be modified accordingly.

Since the San Carlos Apache Tribes has indicated that it may seek damages against the United States as a result of Federal occupancy of the lands—it would be inappropriate to try to influence the outcome of that potential litigation here—language has been included to make it clear that nothing in the act can be construed to enhance or diminish any such claims. The tribe will have to make its case in the courts if it chooses to do so.

The bill includes language directing the Secretary of the Interior to acquire the permanent improvements on the grazing allotment located on the mineral strip lands which are subject to a grazing permit from the Forest Service on the date of enactment.

The Secretary is directed to pay $122,842 for such improvements, an amount based upon a BIA-obtained appraisal in 1978. H.R. 4593 is supported by the administration, the San Carlos Apache Tribe, and the interested non-Indians. This is a fair settlement to an old dispute and I urge my colleagues to support S. 4593.

In closing, I would like to thank my colleagues in the House, Mr. UDALL and Mr. KYL, for their work on this bill.

Mr. DeCONCINI. Mr. President, I rise today in support of H.R. 4593, the San Carlos Mineral Strip Act of 1990, and urge the passage of this critically needed legislation. This act finally and conclusively brings an equitable solution to a serious problem that has existed, in essence, since 1908 when Indian lands being administered for the benefit of the San Carlos Apache Tribe were included in the National Forest System. The problem has been particularly acute since 1969 as the result of a jurisdictional dispute between the Departments of the Interior and Agriculture.

The San Carlos Indian Reservation was established by Executive orders in 1871 and 1872. Subsequently, in 1896, about 232,000 acres on the south side of the reservation were conditionally ceded to the United States to be opened up for mineral exploration with the tribe to receive the proceeds from any mineral sales. This land was and still is referred to as the San Carlos Mineral Strip. Under this arrangement, the United States was to be merely a trustee over these Indian lands. The Indians were to remain the beneficial owners of the land until such time as any particular tract of the San Carlos Mineral Strip was sold and the proceeds deposited to their benefit.

Beginning in 1908 and contrary to this trust status, 10,650 acres of the San Carlos Mineral Strip lands were added by Presidential proclamations to the National Forest System. They continue to be administered today by the Department of Agriculture as part of the Coronado National Forest.

In the 1930's, when it was determined that these lands would no longer be developed for mineral resources, the Secretary of the Interior released the San Carlos Mineral Strip from its status as set aside for mineral development. These lands were then to be returned to Indian trust status. Administrative efforts, begun in the 1930's, to return these lands to the tribe have, however, been pitifully slow and unsuccessful.

In 1969, the Secretary of the Interior restored to the tribe full surface rights in the mineral strip lands and effectively transferred management of all those portions of the mineral strip under Interior Department control to the tribe. The Forest Service, however, has refused to recognize the authority of the Secretary of the Interior to restore land that is in the National Forest System. The Forest Service,

while agreeing that these lands should be returned to the tribe, has insisted that only congressional action can accomplish a return of the land to reservation status and full tribal jurisdiction.

Mr. President, it is time to put this jurisdictional dispute aside. The portion of the mineral strip covered by the legislation before us today, the 10,650 acres within the Coronado National Forest, is the last segment of tribal land that has not been returned to Indian trust status. In order that there be no question as to the status of this land, it is time that Congress recognize and acknowledge that these lands are part of the San Carlos Indian Reservation, subject to the administration of the Secretary of the Interior as tribal trust lands and return them to the jurisdiction of the tribe. The legislation before us today accomplishes this goal.

This legislation also ensures equity for all persons affected by this longstanding dispute between governmental agencies. The Secretary of the Interior is authorized to acquire the permanent improvements made in good faith by persons holding a grazing allotment under a permit issued by the Forest Service on the land that was administered as part of the Coronado National Forest. In 1974, Congress passed a similar provision, Public Law 93-530, the San Carlos Mineral Strip—Purchase law, which appropriated funds for and directed the Secretary of the Interior to purchase from private individuals all range improvements made by them on the lands that he had returned to the San Carlos Indian Tribe. To date the only person who has not been compensated for range improvements has been the rancher whose grazing allotment is in the disputed area within the boundary of the National Forest.

Mr. President, this legislation is necessary to properly restore the control and administration of Indian tribal lands to the San Carlos Apache Tribe as part of their historic and cultural heritage and to ensure equitable restitution to those who relied in good faith on the permits issued for grazing rights by agencies of the U.S. Government. I sincerely and earnestly urge my colleagues to join me in the support and passage of this fair and just legislation.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 4593) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. I move to reconsider the vote.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE DEFENSE PRODUCTION ACT OF 1950

Mr. MITCHELL. Mr. President, I ask the Chair to lay before the Senate H.R. 486.

The PRESIDING OFFICER. The clerk will report.

A bill (H.R. 486) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes.

Mr. MITCHELL. I move that the Senate insist on its amendment, request a conference with the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. RIEGLE, Mr. SARBANES, Mr. DODD, Mr. DIXON, Mr. SASSER, Mr. GARN, Mr. HEINZ, Mr. GRAMM, and Mr. D'AMATO conferees on the part of the Senate.

NATIONAL AWARENESS MONTH OF CHILDREN WITH CANCER

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 305 to designate the month of December 1990 as National Awareness Month of Children With Cancer; and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 305) to designate the month of September 1990, as "National Awareness Month of Children With Cancer."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

AMENDMENT NO. 2938

(Purpose: To change month to be commemorated from September to October)

Mr. BOSCHWITZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. BOSCHWITZ], for Mr. THURMOND proposes an amendment numbered 2938.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 3, strike "September," and insert in lieu thereof "October,".

Amend title by striking "September," and inserting in lieu thereof "October,".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2938) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 305

Whereas cancer causes more than 10 percent of all deaths among children in the United States between the ages of 1 and 10;

Whereas cancer is second only to accidents as the leading cause of death for children in that age group;

Whereas families that have a child cancer victim encounter one of life's most tragic experiences;

Whereas parents of children suffering from cancer need the support and compassion of their employers, and the siblings of such children need special attention at home and in school;

Whereas dramatic progress has been made in the early diagnosis and treatment of cancer in children;

Whereas the number of children who die each year from cancer has decreased by approximately one-third since 1973;

Whereas private sector organizations and government agencies have been responsible for significant progress in the fight against cancer in children; and

Whereas these organizations and agencies, which help children suffering from cancer and their families cope with the emotional and financial stress caused by cancer treatment, are worthy of praise and support: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October, 1990, is designated as "National Awareness Month for Children with Cancer", and the President is requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

The title was amended so as to read: "Joint resolution to designate the month of September 1990 as 'National Awareness Month of Children With Cancer'."

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FIREFIGHTERS' SAFETY STUDY ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 806, H.R. 4522, the Firefighters' Safety Study Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4522) to improve the information available to emergency response personnel in the field, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BRYAN. Mr. President, as chairman of the Consumer Subcommittee, and cochairman of the Congressional Fire Services caucus, I am pleased to recommend to the full Senate the Firefighter Safety Study Act of 1990. The purpose of this legislation is to improve the emergency response information used by firefighters and emergency response personnel while responding to fires and other hazards.

As we all know, firefighters and emergency response personnel are often required to respond to emergencies involving dangerous substances. Because of the dangers associated with these materials, it is vital that they have the best and most reliable information possible when responding to these hazards.

There have been too many incidents where firefighters and emergency personnel have had to deal with dangerous chemicals in certain emergencies but were equipped with insufficient information and instruction on how to handle such materials. This lack of information has resulted in serious injuries and, in some cases, death.

The bill provides for the formation of a special working group of Federal, State, and local officials and representatives of private industries to review information used by firefighters and emergency response personnel, particularly as it relates to hazardous materials. This working group would be required to report to Congress within 1 year the results of its study, along with recommendations to ensure that the information used by emergency response personnel is accurate and reliable.

I believe that this is a good bill and one that serves an important purpose. Therefore, I would hope that we can proceed to approve this legislation, and I urge my colleagues to support it.

Mr. HOLLINGS. Mr. President, as chairman of the Commerce Committee, I am pleased to express my support for H.R. 4522, the Firefighter Safety Study Act of 1990. This bill is designed to improve the kinds of information and materials provided to emergency personnel when responding to emergencies involving hazardous materials.

As my colleagues well know, firefighting and emergency response are very dangerous professions. Firefighters and emergency response personnel are required to respond not only to fires and medical emergencies, but also to situations involving hazardous substances. Because of the dangers associated with these materials, medical experts and those in the scientific field have stressed how important it is that proper instructions be given on how to handle such emergencies.

As a resident of South Carolina, a State that has become the repository of much of this Nation's hazardous materials, I certainly can appreciate the need for and importance of this legislation. This bill serves a vital purpose, and I hope that my colleagues will join me in supporting its passage.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 4522) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURE PLACED ON CALENDAR—S. 3167

Mr. MITCHELL. Mr. President, I ask unanimous consent that on Tuesday, October 9, 1990, at 10 a.m., the Senate proceed to the consideration of S. 3167, Senator MOYNIHAN's Social Security pay-as-you-go bill; I further ask unanimous consent that the bill be placed in the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR SATURDAY, OCTOBER 6, 1990

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 2 p.m. on Saturday, October 6; that following the prayer, the Journal of the proceedings be deemed approved to date; and that the time for the two leaders be reserved for their use later.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, for the information of Senators, we do not know whether it will be necessary to have a vote tomorrow because we do not yet know what action the President will take with respect to the continuing resolution just passed. If the President vetoes that measure, then it will go to the House where it will be taken up, we assume, sometime in the early afternoon. The House is coming in at noon. If the House overrides the veto, then it will come to the Senate for a vote on the override.

Therefore, I urge Senators to check with their respective cloakrooms tomorrow before coming in. We should have a better idea at that time, first, as to what the President's action has been, which may make our session unnecessary or, if the President does veto it, and I hope very much that he will not, but if he does, then what the House action can be expected and what action will occur in the House. We will do our best to inform Senators as soon as possible as to what will occur at what time here in the Senate. The session tomorrow has been set as a precaution in the event there is a veto and it is overridden by the House and a vote then becomes necessary in the Senate.

Mr. WARNER. Will the Senator yield for a question?

Mr. MITCHELL. Certainly.

Mr. WARNER. I was given the clear impression during the earlier statements of the distinguished majority leader and the distinguished Republican leader that there is an ongoing effort in the Senate to try to work out a compromise budget; am I not correct in that?

Mr. MITCHELL. The Senator is correct.

Mr. WARNER. So when the distinguished leader says we would not have to have a session tomorrow, a person observing what we are saying here might interpret that as saying we are going to pack up and are going to take a holiday tomorrow, which is not the case.

Mr. MITCHELL. No, that is not the case.

Mr. WARNER. Maybe some clarification along that line would be in order, that while we may not have a formal session there will indeed be a group working primarily with the leadership and other Members who have responsibility to try to make up the initial recommendation of the package.

Mr. MITCHELL. Yes, and I thank the Senator for raising the point.

If I did not make myself fully clear, let me do so. My reference to the Senate session was merely to the formal meeting of the Senate and in this Chamber. In fact, the continuing effort to which the Senator refers involves more than just Members of the Senate. It involves Members of the House and the House leadership. I have discussed the matter with the majority leader in the House as late as just a short time ago this evening. We will be here in the morning, along with other participating Senators and House Members and staff, to continue the effort that is under way to try to reach some resolution of the matter. It is possible that there could be some action with respect to a budget resolution, although I do not want to indicate that as likely. It depends upon what develops tomorrow. But, yes, the Senator is correct. There is continuing intensive effort.

It had been my hope, and it was my suggestion earlier today, that the conference committee on the budget resume this evening, informally, to continue their discussions on a budget resolution. That proved not to be possible. But I certainly hope that such action will be possible tomorrow and that that will be part of the continuing discussions in an effort to reach a resolution of the budget.

Mr. WARNER. I thank the distinguished leader. I am sure the Republican leader, as I heard his remarks, will likewise be working throughout the weekend to try to reconcile such differences so that we can have a package. I know it is his hope that we can reach a satisfactory package not only to this body and to the House but to the President and to put this matter to rest once and for all.

Again, I commend our distinguished colleague from Maine as well as the distinguished Senator from Kansas. This may well be remembered as one of their finest hours.

Mr. MITCHELL. I thank my colleague very much for his comments.

MAKING FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1991

The PRESIDING OFFICER. The Chair notes for the record House Joint Resolution 660, the continuing resolution, has been passed and the motion to reconsider laid upon the table pursuant to the previous order.

RECESS UNTIL 2 P.M. TOMORROW

Mr. MITCHELL. If there be no further business to come before the Senate and no other Senator seeking recognition, I now ask unanimous consent the Senate stand in recess until 2 p.m. on Saturday, October 6; that following the prayer, the Journal of proceedings be deemed approved to date, and that the time for the two leaders be reserved for their use later.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate, at 10:40 p.m. recessed until Saturday, October 6, 1990, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate October 5, 1990:

DEPARTMENT OF STATE

CONNIE MACK, OF FLORIDA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FORTY-FIFTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 5, 1990:

DEPARTMENT OF COMMERCE

Wayne Lee Berman, of New York, to be an Assistant Secretary of Commerce.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate

DEPARTMENT OF JUSTICE

Benjamin F. Marsh, of Ohio, to be a Member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 1992.

Stephen B. Higgins, of Missouri, to be U.S. Attorney for the Eastern District of Missouri for the term of 4 years.

Doris Swords Poppler, of Montana, to be U.S. Attorney for the District of Montana for the term of 4 years.

Arthur D. Borinsky, of New Jersey, to be U.S. Marshal for the District of New Jersey for the term of 4 years.

EXTENSIONS OF REMARKS

A BILL TO CREATE A SUPREME COURT FOR THE DISTRICT OF COLUMBIA, AND FOR OTHER PURPOSES

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. DELLUMS. Mr. Speaker, I submit for the RECORD the following report on the amendment in the nature of a substitute to the bill H.R. 4257, which I intend to bring to the floor on Monday, October 15, 1990.

REPORT ON THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO ACCOMPANY H.R. 4257

PURPOSE OF LEGISLATION

A bill to create a Supreme Court for the District of Columbia, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

In 1986, Chief Judge William Pryor of the District of Columbia Court of Appeals engaged Congressman Mervyn M. Dymally, Chairman of the Subcommittee on Judiciary and Education, in considerable discussion about the creation of a local Supreme Court, noting a considerable backlog and delay in the appellate calendar. At that time, there was a 15-month delay from the point of the filing of an appeal. Today there is a 22-month delay, which is about four (4) times longer than recommended by American Bar Association (ABA) standards. Chief Judge Pryor referred to the Subcommittee Chairman's attention several different studies on the issue.

By the beginning of our hearings in 1988, there were three different studies regarding creation of a Supreme Court in the District of Columbia.

The first was the final report of the Subcommittee on the Workload of the D.C. Court of Appeals Judicial Planning Committee dated August 1979. In that report, the subcommittee cited a 15.5-month average delay from notice to appeal (three times longer than that contemplated by ABA standards) and concluded that an Intermediate Appellate Court should be established in the District of Columbia.

The second report was a copy of a 1986 National Center for States Courts (Southeastern Region) Study on Appellate Delay in the D.C. Court of Appeals, which concluded that "serious consideration should be given to the creation of an Intermediate Appellate Court" and a 1987 resolution of the Board of Directors of the Bar Association of the District of Columbia, which "urges the creation of an Intermediate Appellate Court for D.C. * * *."

The third was a September 1987 Resolution of the Board of Directors of the Bar Association of the District of Columbia, which endorsed the idea of an intermediate court.

Each concluded that there was a need for a Supreme Court in the District of Columbia in order to alleviate its backlog and improve the quality of justice in the District of Columbia. Staff Counsel was assigned to further explore the matter and to develop a bill to establish a three (3) tier court system.

Since 1980, several states have added Intermediate Appellate Courts. According to studies of those courts, the addition of an Intermediate Court has result in a considerable increase in total appellate case dispositions. Those states include Idaho (1982), Minnesota (1983), South Carolina (1983), and Virginia (1985). For example, in Virginia total appellate dispositions in 1980-84 averaged 1,968 annually. Total appellate dispositions in 1986 were 2,479—a 26 percent increase.

It is important to note that the Appellate and Supreme Courts have two distinct functions. The Intermediate Court generally has an error correcting function—correcting errors in the lower court's application of law. The Supreme Court—as the highest state court—has a law stating (law development) function and a *final* error correcting function—being the final interpreter of the law. These functions are more logically performed by a court sitting en banc (as a whole) rather than by a subpanel of a larger court in the Court of Appeals.

Presently, in the D.C. Appellate Court, nine (9) members sit most frequently in separate three (3) judge subpanels. Although authorized to meet en banc, it very rarely does. Thus, it is seldom that a legal opinion represents the full opinion of the majority of the Appellate Court. This shortcoming affects law development in the District of Columbia.

The proposed legislation revises the system to address the appellate backlog problem and the policy concern of having an appellate judicial system with both law stating and error correcting functions.

II. Legislative History

A. Introduction of First Bill: H.R. 4366

On April 13, 1988, Messrs. Walter E. Fauntroy, Chairman of the Subcommittee on Fiscal Affairs and Health; Mervyn M. Dymally; and Romano L. Mazzoli introduced H.R. 4366, a bill to establish a Supreme Court of the District of Columbia, and for other purposes. On April 19 and 28, 1988, the Subcommittee on Judiciary and Education held hearings on H.R. 4366.

Witnesses included the Honorable William C. Pryor, then Chief Judge of the D.C. Court of Appeals, accompanied by both Larry P. Polansky, then Executive Officer of the D.C. Courts, and Richard B. Hoffman, Clerk of the Court of Appeals; Frederick D. Cooke, Jr., then Corporation Counsel for the District of Columbia; Charles A. Horsky, Esq., former Chairman of the D.C. Bar Subcommittee on the D.C. Court of Appeals; Sidney White Rhyne, D.C. Bar Association; the Honorable Wilhelmina Rolark, D.C. Councilmember and Chairperson of Committee on the Judiciary; and Nathaniel Speights, President of the Washington Bar Association.

B. Introduction of Revised Bill: H.R. 3470

Per the recommendation of Mr. Fauntroy's Judicial Mission Team and their independent hearings, on October 16, 1989, Mr. Fauntroy introduced H.R. 3470, a similar but revised bill to establish a Supreme Court of the District of Columbia. This bill authorized eight (8) additional judges for the Superior Court of the District of Columbia and revised the present Hearing Commissioner system in the Superior Court of the District of Columbia.

C. 1989 Hearings on H.R. 3470

On October 26 and November 2, 1989, the Subcommittee on Judiciary and Education held hearings on H.R. 3470. Pursuant to a request from minority members of the subcommittee, and additional hearing was held on November 15, 1989, at which time the subcommittee received testimony from several opponents of the bill.

Witnesses at the October 26, 1989, hearing included Herbert Reid, Corporation Counsel for the District of Columbia; the Honorable Wilhelmina Rolark, Chairperson of the D.C. Council Judiciary Committee; the Honorable Fred B. Ugast, Chief Judge of the D.C. Superior Court; and the Honorable Judith Rogers, Chief Judge of the D.C. Court of Appeals.

Witnesses at the November 2, 1989, hearing included James P. Schaller, Esq., Chairman of the D.C. Bar Special Committee to Study the D.C. Court of Appeals; Sidney White Rhyne, Esq., Chairman of the Bar Association of D.C. Study Committee on the D.C. Intermediate Appellate Court; and the Honorable Charles McC. Mathias, Jr., President of the Council for Court Excellence, accompanied by Charles A. Horsky, Esq.

Witnesses at the November 15, 1989 hearing included the Honorable John W. Kern, III, Senior Judge of the D.C. Court of Appeals; Alan I. Herman, Esq., Former Clerk of the D.C. Court of Appeals; and the Honorable Frank Q. Nebeker, Chief Judge of the U.S. Court of Veterans Appeals and Former Associate Judge of the D.C. Court of Appeals. These witnesses opposed the legislation and recommended that additional judges be added to the Court of Appeals in order to address the backlog.

Earl Silbert, Esq., former U.S. Attorney for the District of Columbia, submitted a written statement for the record at the November 15th hearing. Although it did not present testimony, the Department of Justice provided a written statement in opposition to the bill.

A subcommittee mark-up of H.R. 3470, originally scheduled on March 6, 1990, was postponed to Thursday, March 15, 1990, per D.C. Committee Member Rohrabacher's request.

D. Introduction of Revised Bill: H.R. 4257

Based upon a substantial hearing record, on March 14, 1990, Messrs. Fauntroy and Dymally introduced a new bill, H.R. 4257, which is a revised version of H.R. 3470. It includes several recommendations from the last series of hearings.

On Thursday, March 15, 1990, the Subcommittee on Judiciary and Education referred H.R. 4257 to the full committee. Further, it agreed to incorporate the record for H.R. 3470 as the record for H.R. 4257.

The Committee in mark-up on October 2, 1990, adopted an amendment in the nature of a substitute to H.R. 4257. This legislation accomplishes several things:

1. It establishes a seven member supreme court by elevating the present nine member appellate court and by attrition allowing the size to diminish to seven. The President would then appoint nine new judges to fill the appellate division.

2. It provides for four additional superior court judges, two to be appointed by the President in October, 1992; two to be appointed by the President in October, 1993.

3. It changes the make-up and size of the Joint Committee on Judicial Administration. Presently the committee has five members, two from the appellate and three from the superior court. Under the new bill, there would be a seven member joint committee made up of the chief justice of the supreme court, two associate justices; the chief judge of the appellate court; and the chief judge of the superior court and two associate judges.

4. The new bill upgrades the hearing commissioners to judicial magistrates and increases their number from 14 to 20 by October 1, 1995.

5. The new bill authorizes $15.5 million over a 6 year period beginning FY 1991—ending September 30, 1996.

It is important to note that the appellate and supreme courts have two distinct functions. The intermediate court generally has an error correcting function—correcting errors in the lower court's application of law. The supreme court—as the highest state court—has a law stating (law development) function and a final error correcting function—being the final interpreter of the law. These functions are more logically performed by a court sitting en banc (as a whole) rather than by a subpanel of a larger court in the court of appeals.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

SECTION-BY-SECTION ANALYSIS OF THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 4257

TITLE I. SUPREME COURT OF THE DISTRICT OF COLUMBIA

Section 101. Amends Title 11 of the D.C. Code and adds a new Chapter 6 after Chapter 5.

Chapter 6 contains three subchapters. Subchapter I provides for the establishment of a seven (7) member court and outlines various administrative and other guidelines regarding compensation, hearing quorum, assignments, and reporting requirements. Subchapter II outlines the Court's jurisdiction and certification authority. Subchapter III contains miscellaneous provisions regarding the Court's contempt powers, rules, and the judicial conference.

Section 102. Section 102 provides transition provisions for the Supreme Court. It elevates present Court of Appeals judges to the Supreme Court for the remainder of their terms and reduces high court numbers from nine (9) to seven (7) through attrition. Those judges on the Court of Appeals who decide not to serve on the Supreme Court may remain on the Court of Appeals by providing written notice to the Chief Judge of that court within thirty (30) days of the date of enactment of this bill. This section gives the Joint Committee responsibility for the court's transition, including staff hirings, facility preparation, and equipment purchases. The Joint Committee would also be responsible for submitting a transition report to the Congress within 120 days of the legislation's enactment.

Section 103. Contains several conforming technical and other amendments to the Home Rule Act, the District of Columbia Code, and the United States Code. Specifically, these amendments are made in Section's 431, 432, and 434 of the Home Rule Act; Title 11: Chapters 1, 3, 7, 9, 15, 17, 25, and 26; Title 13: Chapter 3; title 17: Chapter 3 of the D.C. Code; and Title 28 of the United States Code.

While most of these amendments are technical in nature, there are several substantive amendments, which are outlined below.

TITLE 11, D.C. CODE

Chapter 1. Chapter 1, Section 11-102, provides that the Supreme Court of the District of Columbia is the highest court of the District of Columbia. It further states that final orders of the Supreme Court and those Appellate decisions where Supreme Court review is denied are reviewable by the United States Supreme Court.

Chapter 3. Chapter 3 is amended at 11-301 regarding the jurisdiction over appeals from the Supreme Court of the District of Columbia. This section provides that the United States Court of Appeals for the District of Columbia Circuit has jurisdiction of appeals from judgments of the Supreme Court of the District of Columbia regarding certain criminal laws not applicable exclusively to the District of Columbia.

Chapter 7 & 9. Sections 11-703(b) and 11-904(b) increase the additional compensation for the Chief Judges of the Superior Court and the Court of Appeals from $500.00 to $2,500.00.

Section 11-708 is amended to leave to the discretion of the Chief Judge of the Court of Appeals the number of law clerks for the court and law clerks and secretaries for the senior judges. Section 11-910 is amended to authorize the Chief Judge of the Superior Court to appoint and remove law clerks for the courts, who will also serve under his or her direction.

Chapter 15. Section 11-1504(a)(1) is amended to prohibit retired judges from serving or performing judicial duties on the Supreme Court of the District of Columbia.

Chapter 17. This section addresses the management of the revised court system. It preserves the management approach under which the courts have operated since 1970, vesting management in a Joint Committee on Judicial Administration.

Subsection 1701(c)(1) regarding the Joint Committee is amended to increase the Committee to seven (7) members, the Chief Justice of the Supreme Court, two associate justices, the Chief Judge of the Court of Appeals, and three judges from the Superior Court—including its Chief Judge.

Section 11-1702 is amended to provide the Chief Justice with parallel authority over internal administrative matters.

Section 11-1721 is amended to provide three (3) clerks, one for each Appellate Court and one for the Trial Court, respectively appointed by the Chief Justice of the Supreme Court and Chief Judge of the Appellate and Superior Court.

Section 104. Provides for an authorization of federal funds for the purpose of implementation of the various amendments as follows:

Fiscal year 1991—$500,000.
Fiscal year 1992—$5 million.
Fiscal year 1993—$4 million.
Fiscal year 1994—$3 million.
Fiscal year 1995—$2 million.
Fiscal year 1996—$1 million.

This federal authorization is consistent with the previous federal authorization regarding the creation and establishment of the D.C. Court System in the 1970 Court Reorganization Act.

TITLE II. JUDGES OF THE DISTRICT OF COLUMBIA COURTS

Section 201. Amends Section 11-1503(a) to provide for the Chief Justice and Chief Judges to be appointed by the Judicial Nomination Commission for a four (4) year term and the first Chief Justice of the Supreme Court to be appointed by statute, as provided in Section 102(a).

Section 202. Amends Section 11-903, as amended by Section 138 of the D.C. Appropriations Act of 1990. It adds two Superior Court Judges in fiscal year 1992 and two additional judges in fiscal year 1993, which would bring the total number of Superior Court judges to 63.

Section 203. Requires those provisions to take effect on the date of enactment of this Act.

TITLE III. JUDICIAL MAGISTRATES

This Title represents another major revision to the local court system. Modification of the present Superior Court Hearing Commissioners' title, selection, and tenure processes, and authority is intended to alleviate the Superior Court's calendar and give increased status to the Hearing Commissioners.

Section 301. Section 301(a) would amend Section 11-1732 of the D.C. Code to replace Hearing Commissioners with Judicial Magistrates. In fiscal year 1991, the present 14 Commissioners would be grandfathered in as Magistrates and would finish out the remainder of their terms as such. Upon completion of their terms, they would become subject to review by the Judicial Tenure Commission. In 1992, the Magistrate authorization would be increased from 14 to 16, in 1993 from 16 to 18, and in 1995 from 18 to 20.

Pursuant to the amended 11-1732 (b) and (d), Judicial Magistrates would be recommended by the Judicial Nomination Commission and appointed by the Chief Judge of the Superior Court with the approval of a majority of the active Superior Court judges.

The Magistrates would be subject to the same qualifications as previous Hearing Commissioners and would be appointed to six (6) year terms, rather than the present four (4) year terms.

Subsection 11-1732(e) provides that the Magistrates would be compensated at a rate equal to 80 percent of the compensation paid to judges.

Subsection 11-1732(f) addresses magistrate jurisdiction and is one of the more critical components of this revision.

All Magistrate decisions must be authorized by the Chief Judge and subject to the rules of the Superior Court. As such, a Magistrate may make findings and enter final orders or judgments in the following areas:

1. Landlord and Tenant Disputes;
2. Small Claims Proceedings;
3. Civil Proceedings at law or in equity when the amount at issue is less than $25,000.00;
4. Criminal Misdemeanors;
5. Conditions of Release in Criminal Cases;
6. Preliminary Examinations and Probation Revocation Hearings regarding Probable Cause;
7. Civil Pre-trial Discovery;
8. Traffic Offenses;
9. Proceedings related to the Mentally Retarded;
10. Uncontested Family Matters;

11. Contested Child Support Matters;

12. Contested Child Delinquency and Neglect Matters;

13. Proceedings related to Commitment of the Mentally Ill;

14. Proceedings related to the Substantially Retarded and matters involving Interstate Juveniles;

15. Uncontested Probate and Fiduciary Proceedings.

Section 301(b) provides that the Commission on Judicial Disabilities and Tenure shall be authorized to remove judicial magistrates.

Section 302. Requires the Chief Judge of the Superior Court, in consultation with members of the Unified Bar of the District of Columbia, to conduct a study of the utilization and effectiveness of Judicial Magistrates and to submit an annual report to the Congress and the Mayor of the District of Columbia for the first 3 years after the date of enactment.

Section 303. Provides that the provisions in this Title would take effect immediately.

H.R. 4257

COMMITTEE VOTE

The Full Committee favorably reported the bill by a vote of 11-1.

INFLATIONARY IMPACT STATEMENT

This bill, if enacted into law, will have no foreseeable inflationary impact on prices or costs in the operation of the national economy.

BUDGET AUTHORITY STATEMENT

This legislation creates no new budget authority or tax expenditure by the federal government. Therefore, a statement required by section 308(a) of the Congressional Budget and Impoundment Control Act of 1974 is not necessary.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

EFFECTIVE DATE

The effective date of this act except as otherwise provided, is one year after the enactment of this act.

COMMITTEE ON GOVERNMENT OPERATIONS OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Operations were received as referred to in clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives.

Dissenting Views of Mr. Rohrabacher

As the Vice Chairman of the Subcommittee on Judiciary and Education, which has jurisdiction over this legislation, I sat through hearings in which witnesses for and against this bill were allowed to testify. I was not convinced that the caseload and structure of the District of Columbia court system is such that an additional level of appelate review is required. There are other, less expensive ways of addressing the problems of the D.C. court system, as pointed out by some of the witnesses before our subcommittee.

I would also note that the Administration opposes this legislation, and directly takes issue with the assertions that this bill will help in the fight against crime in the District of Columbia. In fact, it is the contention of the Justice Department that this bill will hurt the fight against crime by placing additional appelate response burdens on the U.S. Attorney's office, which after all is the office responsible for prosecuting criminals in the District of Columbia.

Finally, I find it to be especially inappropriate for the federal government to spend $15.5 million on establishing another level of the local court system, at the same time as the District of Columbia Committee is proposing an increase, based on a formula under the District's control, in the authorization level for the District's federal payment. If the City Council and Mayor believe that this additional layer of appeal is necessary, they should be able to find the necessary funds in their own budget.

H.R. 5505, LEGISLATION TO REPEAL NRC'S BELOW REGULATORY CONCERN POLICY

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. MILLER of California. Mr. Speaker, on August 3, 1990, I introduced H.R. 5505, legislation to protect the right of State and local governments to prohibit the disposal of radioactive waste in ordinary landfills and to overturn the Nuclear Regulatory Commission's "Below Regulatory Concern" policy. Similar legislation was introduced in the other body by Senate Majority Leader GEORGE J. MITCHELL.

In the brief period of time that has passed since its introduction H.R. 5505 has received overwhelming support from my colleagues in the House of Representatives and from numerous environmental organizations. H.R. 5505 was passed unanimously by the Interior Committee on September 12, 1990, and has been cosponsored by 60 House Members. In addition, I have received letters in support of H.R. 5505 from the States of Minnesota, New York, Alaska, Illinois, Pennsylvania, Hawaii, and Rhode Island.

Mr. Speaker, I request that the following letters in support of H.R. 5505 be printed in the RECORD:

State of Illinois,
Office of the Governor,
Springfield, IL, September 17, 1990.
Hon. George Miller,
Rayburn House Office Building, Washington, DC.

Dear Congressman Miller: Thank you for your letter concerning H.R. 5505, your bill to protect states rights to prohibit the disposal of low-level radioactive waste in ordinary landfills. The State of Illinois is on record in opposition of the Nuclear Regulatory Commission's Below Regulatory Concern policy, and supports efforts to repeal the policy.

Your bill and that of Senate Majority Leader Mitchell have been reviewed by the Illinois Department of Nuclear Safety. My Washington office is working with your staff in order to craft the best bill possible.

Your efforts on behalf of the states are most appreciated.

Sincerely,

James R. Thompson,
Governor.

State of Minnesota,
Office of the Governor,
St. Paul, MN, September 4, 1990.
Hon. George Miller,
House of Representatives, Rayburn House Office Building, Washington, DC.

Dear Congressman Miller: Thank you for contacting me regarding your legislation to protect the right of states to prohibit the disposal of low-level radioactive waste in landfills. I am pleased you have taken the initiative on this important issue and fully support the intent of your legislation.

Earlier this year, I supported legislation enacted by the Minnesota Legislature that prohibits the treatment, recycling, or disposal of low level radioactive waste at any Minnesota facility that is not specifically licensed to handle low level radioactive wastes. The legislation also requires a comprehensive study be completed on all issues surrounding the disposal of low level radioactive wastes.

Minnesota's legislation, which is sunsetted in 1996, gives our state more time to study the issues surrounding the disposal of low level radioactive wastes. Allowing sufficient time for the study before low level radioactive wastes are actually placed in landfills will eliminate the potential for very serious environmental consequences that may need to be mitigated in the future. Your legislation will affirm Minnesota's authority to impose a moratorium on low level radioactive waste disposal at unlicensed facilities.

Please let me know if there is anything I can do to assist you with your efforts to pass this needed legislation.

Sincerely,

Rudy Perpich,
Governor.

State of New York,
Executive Chamber,
Albany, NY, September 11, 1990.
Hon. George Miller,
Rayburn House Office Building,
Washington, DC.

Dear George: Thank you for your recent letter apprising me of your bill, H.R. 5505, to bar the federal government from preempting state regulation of radioactive wastes "below regulatory concern" (BRC). I am pleased to tell you that I support the enactment of H.R. 5505 and its companion bill in the Senate, S. 2979.

As a matter of general policy, I oppose federal government preemption of state authority to set more stringent standards for the protection of public health and safety than those set by the federal government. Preemption not only violates basic principles of federalism, it prevents the states from protecting their citizens' health and safety in cases where excessive federal deregulation may place their citizens at risk.

The BRC question well illustrates the rationale for opposing preemption. As you note in your letter, the Nuclear Regulatory Commission's proposed level for BRC exposure is several times greater than levels adopted by the U.S. Environmental Protection Agency and several other nations. My agencies have examined and discussed your bill in some detail, and concur that this divergence raises legitimate health and safety issues which the states should retain the authority to address. I applaud your leadership in introducing legislation that would protect the states' right to address these issues.

Sincerely,

Mario M. Cuomo.

Executive Chambers,
Honolulu, HI, September 17, 1990.
Hon. George Miller,
House of Representatives, Rayburn House Office Building, Washington, DC.

Dear Representative Miller: Thank you for your August 15, 1990, letter forwarding a copy of your Bill, H.R. 5505, regarding state regulated disposal of low-level radioactive waste.

As you may know, the State of Hawaii is a member of the Northwest Interstate Compact of States as established under the Low-Level Radioactive Waste Policy Act and transports its waste to the State of Washington for disposal. I believe that your proposed legislation, in conjunction with the Nuclear Regulatory Commission's proposed Below Regulatory Concern (BRC) policy, would provide relief to the three national low-level radioactive waste disposal sites, to include Hanford, Washington, from being pressured to receive and dispose of BRC low-level radioactive waste. More importantly, your legislation would also assure the several states the opportunity to regulate the disposal of BRC waste material in their local disposal sites or landfills.

In view of the above, I concur with your proposal to allow states the opportunity to fill the regulatory gap created by the Nuclear Regulatory Commission's change in policy. Should you wish to discuss this matter further with our lead agency in this regard, please contact Dr. John Lewin, Director of the State's Department of Health at (808) 548-6505.

With kindest regards,

Sincerely,

John Waihee.

Commonwealth of Pennsylvania,
Department of Environmental Resources,
Harrisburg, PA, September 18, 1990.
Hon. George Miller,
Congress of the United States, Rayburn House Office Building, Washington, DC.

Dear Representative Miller: Thank you for your letter dated August 15, 1990, concerning your introduction of H.R. 5505 in response to the Nuclear Regulatory Commission's (NRC) "Below Regulatory Concern" (BRC) policy statement. The Department of Environmental Resources is very supportive of your timely legislation and we will notify our Pennsylvania delegation of our position.

As you know, Governor Casey recently signed into law Act 107, the Low-Level Radioactive Waste Disposal Regional Facility Act which prohibits disposal of BRC waste at unlicensed waste disposal facilities. In addition, the Appalachian States Low-Level Radioactive Waste Compact Law makes it "unlawful for any person to dispose of any low-level waste within the region unless the waste was generated within the region or unless authorized to do so both by the Compact Commission and by the law of the host state in which the said disposal takes place."

The enclosed testimony of R. David Myers, Deputy Secretary for Public Liaison, Pennsylvania Department of Environmental Resources, presented before your committee, the U.S. House Interior and Insular Affairs Committee, Subcommittee on Energy and the Environment, expresses the Department's concern with the NRC adoption of Federal BRC regulations mandatory for states that assume responsibility for the regulation of radioactive materials.

As expressed in the enclosed testimony, the Department opposes any attempt by the NRC to require states to adopt BRC regulations. The Commonwealth intends to carry out the letter of Pennsylvania law which requires the disposal of all low-level radioactive waste in a licensed facility.

Sincerely,

Arthur A. Davis,
Secretary.

State of Alaska,
Office of the Governor,
Juneau, AK, September 25, 1990.
Hon. George Miller,
House of Representatives, Rayburn House Office Building, Washington, DC.

Dear George: Thank you for asking us to lend our support to your efforts to protect the right of States to prohibit the disposal of low-level nuclear reactor wastes in landfills. We have reviewed H.R. 5505, and look forward to assisting you in working toward its passage.

Although Alaska has no nuclear reactors, we do have stringent regulations regarding the disposal of hazardous wastes. We have only one facility in the State licensed to accept hazardous wastes; none, however, is certified to accept reactor wastes. We are part of an interstate compact governing the disposal of low-level radioactive wastes generated by medical, scientific and educational activities, and we currently regulate such disposal.

As you correctly point out, the waste disposal challenge facing the States is daunting enough without the addition of potentially dangerous wastes being added to our overtaxed landfill capacity. Further complicating the matter for Alaska is the fact that our remote communities barely have the resources to construct or manage landfills for non-hazardous household wastes. It is inconceivable that they could be made to accept radioactive wastes in these unlicensed landfills—even over local objections.

Perhaps most compelling, though, is the fact that once again the federal government is attempting to override State efforts to protect their citizens by preempting strong State environmental protection laws and stringent health and safety standards. Local water quality standards, landfill regulations and waste disposal requirements are issues that directly affect the health and well-being of local citzens, and they must have a voice in setting those standards. We have appreciated the opportunity to work with you on other anti-preemption efforts, and support your efforts in this one as well.

Thank you again for the opportunity to share our views on this important issue.

Sincerely,

Steve Cowper,
Governor.

State of Rhode Island and Providence Plantations, Executive Chamber,
Providence, RI, September 7, 1990.
Hon. George Miller,
Representative, Rayburn House Office Building, Washington, DC.

Dear Representative Miller: I have been requested by Governor DiPrete to respond to your August 15 letter regarding NRC's new "Below Regulatory Concern" (BRC) Policy. Although Rhode Island does not have any nuclear power plants, Rhode Island does generate low-level radioactive waste from our hospitals and universities, and the Governor feels that it is appropriate for low-level radioactive waste to be disposed of in NRC sanctioned disposal facilities and support your legislation to prohibit its disposal at solid waste facilities.

Rhode Island feels that it is more important to work with generators to reduce their low-level waste through source reduction and compaction. Provisions to require better source reduction could serve to reduce the low-level radioactive waste equivalently to this new BRC policy without creating a potential hazard to population. If the Governor can be of any further assistance in this matter, please do not hesitate to contact me or Victor Bell in our Department of Environmental Management at (401) 277-3434.

Sincerely,

Anna F. Prager,
Senior Policy Analyst.

EDUCATION AND THE ECONOMY

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. FRENZEL. Mr. Speaker, the National Center on Education and the Economy's Commission on the Skills of the American Workforce, chaired by former Labor Secretaries William E. Brock and Ray Marshall, recently completed months of research that focused on how the United States can improve the education of its students and workers to help us improve our productivity and international competitiveness.

Printed below is an op-ed piece from the Washington Post on the study as well as the executive summary of the study. The group has some illuminating and disturbing conclusions regarding our educational system. It also details a 5-point program including educational performance standards, more focus on specific job-training programs in the schools and incentives for employers to invest more in worker training and education.

I commend the study as must reading for those who are concerned about United States competitiveness.

[From the Washington Post, Sept. 3, 1990]

Building a Better Work Force

(By William E. Brock and Ray Marshall)

Labor Day, a recognition of the accomplishments of our nation's work force, also signals the return to school for millions of students. Unfortunately, these two events have little in common other than their placement on the calendar. The world of work and what one learns in school are more disconnected than ever in the United States.

This September, we have little to celebrate in this country. We continue to lose ground in many international markets, our real earnings and productivity growth have declined, our students rank at the bottom on international achievement tests and we all but ignore the one million high school dropouts we "lose" every year.

Why?

Part of the problem is the American workplace, which is still based on a system of mass manufacture pioneered during the early 1900s. Under this system, complex jobs are broken into simple rote tasks that workers can repeat with machine-like efficiency; for many workers, an eighth-grade education is about all they need to do their jobs. For employers, financial success depends on keeping labor costs down; therefore, workers with high-level skills do not necessarily receive higher wages. Further, only 8 percent of America's front-line workers receive any formal on-the-job training.

The other part of the problem is our education system. It serves the needs of only 30 percent of our young people—those who proceed to college. The other 70 percent receive the worst job preparation in the developed world, even though it is they who will make or break our economic future.

To ensure a more prosperous future for all Americans, we need to make some fundamental changes in the workplace and in the schools. By the year 2000, more than 70 percent of American jobs will not require a college education—building a relationship between school and work is nothing short of an economic necessity.

As two former labor secretaries, we recently co-chaired the National Center on Education and the Economy's Commission on the Skills of the American Workforce, a group of leaders from business, labor, education and government gathered to study the future skills needs of our nation's non-college work force.

After months of research in businesses and in schools in the United States and in six foreign countries, the commission offered some ideas for change.

First, to meet global competition, the commission believes the United States must create an education performance standard—bench-marked to the highest in the world—to be met by all American students at age 16, the age at which young people can legally leave school in most states. Students who meet the standard would qualify to enroll in a college-preparatory program, to begin studying for a skilled non-college occupation or even to enter the work force. However, those who did not meet the standard would be required to continue their education toward the performance standard as a condition for being allowed to work part-time before age 18.

Certain young people, for a variety of personal or societal reasons, do not do well in the present public school environment. Therefore, the commission also proposed alternative learning programs to recover nearly all of our dropouts and help them meet this new educational standard. The programs would provide counseling and job-experience services, would combine work with studies and would interact closely with the business community.

At present, there is no consensus about how to prepare students for the world of work if they are not college bound. To accomplish this goal, the commission recommended a comprehensive system of technical training and certification for non-college professions. We used the word "professions" deliberately, because these certificate programs would set higher standards and reward higher skills in a range of occupations. This would be an opportunity for business and labor to work together to create anew the skilled crafts on which America was built.

These recommendations, together with those which would provide incentives for greater investment in the training of front-line workers by all employees, have the potential to once again build the world's premier work force.

This September, as our workers celebrate Labor Day and our students return to the classroom, we ought to be conscious of the choices we are making. Only when we begin to insist on a high-skills, high-wage economy—in our schools and in our companies—will our workers and students have cause for celebration.

Executive Summary

THE PROBLEM

Since 1969, real average weekly earnings in the United States have fallen by more than 12 percent. This burden has been shared unequally. The incomes of our top 30 percent of earners increased while those of the other 70 percent spiraled downward.

In many families, it now takes two people working to make ends meet, where one was sufficient in the past.

The United States is in the midst of the second longest economic expansion in its history. But that expansion is built largely on the fact that 50 percent of our population is employed compared with 40 percent in 1973. Forty million new jobs were created as the "baby boom" generation reached working age, and more women entered the workforce. More of us have been working so we produced more.

However, workforce growth will slow dramatically in the 1990's. We can no longer grow substantially just by adding new workers.

The key to maintaining, to say nothing of improving, our standard of living is productivity growth—more products and services from every member of the workforce.

But, during the past two decades, our productivity growth has slowed to a crawl. It now takes nearly three years to achieve the same productivity improvement we used to achieve in one year.

If productivity continues to falter, we can expect one of two futures. Either the top 30 percent of our population will grow wealthier while the bottom 70 percent becomes progressively poorer or we all slide into relative poverty together.

THE TASK

To ensure a more prosperous future, we must improve productivity and our competitive position. We cannot simply do this by using better machinery, because low wage countries can now use the same machines and can still sell their products more cheaply than we can.

The key to productivity improvement for a high wage nation lies in the third industrial revolution now taking place in the world. The steam engine and electric motor drove the first two industrial revolutions, causing profound changes in work organization. This boosted productivity, quality and living standards dramatically. The creation of the modern factory in the 1800's and mass production in the 1900's followed these technology breakthroughs.

The advent of the computer, high speed communication and universal education are heralding a third industrial revolution, a revolution the key feature of which is high performance work organization.

THE ORGANIZATION OF WORK IN AMERICA

The organization of America's workplaces today is largely modeled after the system of mass manufacture pioneered during the early 1900's. The premise is simple: Break complex jobs into a myriad of simple rote tasks, which the worker then repeats with machine-like efficiency.

The system is managed by a small group of educated planners and supervisors who do the thinking for the organization. They plan strategy, implement changes, motivate the workers and solve problems. Extensive administrative procedures allow managers to keep control of a large number of workers. This form of work organization is often referred to as the "Taylor" model.

Most employees under this model need not be educated. It is far more important that they be reliable, steady and willing to follow directions.

But in the world's best companies, new high performance work organizations are replacing this "Taylor" method. These companies are using a new approach to unleash major advances in productivity, quality, variety, and speed of new product introductions.

Mass production methods will continue to produce high volume, inexpensive goods and services for a long time to come. But what the world is prepared to pay high prices and high wages for now is quality, variety and responsiveness to changing consumer tastes, the very qualities that the new methods of organizing work make possible.

"Tayloristic" methods are not well suited to these goals. Firms struggling to apply the traditional methods of work organization to more complex technologies, more frequent product introductions, increased quality requirements and proliferating product variety often create cumbersome and inefficient bureaucracies.

The new high performance forms of work organizations operate very differently. Rather than increasing bureaucracy, they reduce it by giving front-line workers more responsibility. Workers are asked to use judgment and make decisions. Management layers disappear as front-line workers assume responsibility for many of the tasks—from quality control to production scheduling—that others used to do.

Work organizations like these require large investments in training. Workers' pay levels often rise to reflect their greater qualifications and responsibilities. But the productivity and quality gains more than offset the costs to the company of higher wages and skills development.

Despite these advantages, 95 percent of American companies still cling to old forms of work organization.

IS THERE A SKILLS SHORTAGE IN THE UNITED STATES?

Because most American employers organize work in a way that does not require high skills, they report no shortage of people who have such skills and foresee no such shortage. With some exceptions, the education and skill levels of American workers roughly match the demands of their jobs.

Our research did reveal a wide range of concerns covered under the blanket term of "skills." While businesses everywhere complained about the quality of their applicants, few talked abut the kinds of skills acquired in school. The primary concern of more than 80 percent of employers was finding workers with a good work ethic and appropriate social behavior: "reliable," "a good attitude," "a pleasant appearance," "a good personality."

Most employers we interviewed do not expect their skill requirements to change. Despite the widespread presumption that advancing technology and the evolving service economy will create jobs demanding higher skills, only five percent of employers were concerned abut a skills shortage. These were mainly large manufacturers, financial service organizations and communications companies.

The reason we have no skills shortage today is that we are using a turn-of-the-century work organization. If we want to compete more effectively on the global economy, we will have to move to a high productivity work organization.

HOW WE PREPARE OUR FRONT-LINE WORKERS FOR WORK

More than 70 percent of the jobs in America will not require a college education by the year 2000. These jobs are the backbone of our economy, and the productivity of workers in these jobs will make or break our economic future.

No nation has produced a highly qualified technical workforce without first providing its workers with a strong general education. But our children rank at the bottom on most international tests—behind children in Europe and East Asia, even behind children in some newly industrialized countries.

More than any other country in the world, the United States believes that natural ability, rather than effort, explains achievement. The tragedy is that we communicate to millions of student every year, especially to low-income and minority students, that we do not believe that they have what it takes to learn. They then live up to our expectations, despite the evidence that they can meet very high performance standards under the right conditions.

Unlike virtually all of our leading competitors, we have no national system capable of setting high academic standards for the non-college bound or of assessing their achievement against those standards.

America may have the worst school-to-work transition system of any advanced industrial country. Students who know few adults to help them get their first job are left to sink or swim.

Only eight percent of our front-line workers receive any formal training once on the job, and this is usually limited to orientation for new hires or short courses on team building or safety.

The American post-secondary education and training system was never designed to meet the needs of our front-line workers. The system is a combination of education programs for full-time college students and short term training for the severely disadvantaged, and can be difficult to access. Because employers have not set training standards, few students can be sure that there is a market for the courses they pursue. Education is rarely connected to training and both are rarely connected to an effective job service function.

ANOTHER WAY

While the foreign nations we studied differ in economy and culture, they share an approach to the education and training of their workers and to high productivity work organization.

They insist that virtually all of their students reach a high educational standard. We do not.

They provide "professionalized" education to non-college bound students to prepare them for their trades and to ease their school-to-work transition. We do not.

They operate comprehensive labor market systems which combine training, labor market information, job search and income maintenance for the unemployed. We do not.

They support company based training through general revenue or payroll tax based financing schemes. We do not.

They have national consensus on the importance of moving to high productivity forms of work organization and building high wage economies. We do not.

Our approaches have served us well in the past. They will not serve us well in the future.

THE CHOICE

Americans are unwittingly making a choice. It is a choice that most of us would probably not make were we aware of its consequences. Yet every day, that choice is becoming more difficult to reverse. It is a choice which undermines the American dream of economic opportunity for all. It is a choice that will lead to an America where 30 percent of our people may do well—at least for awhile—but the other 70 percent will see their dreams slip away.

The choice that America faces is a choice between high skills and low wages. Gradually, silently, we are choosing low wages.

We still have time to make the other choice—one that will lead us to a more prosperous future. To make this choice, we must fundamentally change our approach to work and education.

1. Problem: Two factors stand in the way of producing a highly educated workforce: We lack a clear standard of achievement and few students are motivated to work hard in school. One reason that students going right to work after school have little motivation to study hard is that they see little or no relationship between how well they do in school and what kind of job they can get after school. Other advanced industrial nations have stringent performance standards that virtually all students must meet at about age 16 and that directly affect their employment prospects.

Recommendation: A new educational performance standard should be set for all students, to be met by age 16. This standard should be established nationally and benchmarked to the highest in the world.

We propose that all American students meet a national standard of educational excellence by age 16, or soon thereafter. Students passing a series of performance based assessments that incorporate the standard would be awarded a Certificate of Initial Mastery.

Possession of the Certificate of Initial Mastery would qualify the student to choose among going to work, entering a college preparatory program or studying for a Technical and Professional Certificate described below.

Creation of the Certificate of Initial Mastery standard would require a new approach to student performance assessment. We recommend the creation of new performance based examinations for which students can explicitly prepare. The assessment system would provide multiple opportunities for success rather than a single high stakes moment of possible failure. Most important, the examination, though set at a very high standard, is not intended as a sorting mechanism on the pattern of virtually all the major tests now in use. Our goal is to set a tough standard that almost everyone will reach, although not all at the same time.

Once created, this system would establish objective standards for students and educators, motivate students and give employers an objective means to evaluate the accomplishments of students.

2. Problem: More than 20 percent of our students drop out of high school—almost 50 percent in many of our inner cities. These dropouts go on to make up more than one third of our front-line workforce. Turning our backs on those dropouts, as we do now, is tantamount to turning our backs on our future workforce.

Recommendation: The states should take responsibility for assuring that virtually all students achieve the Certificate of Initial Mastery. Through the new local Employment and Training Boards, states, with federal assistance should create and fund alternative learning environments for those who cannot attain the Certificate of Initial Mastery in regular schools.

All students should be guaranteed the educational attention necessary to attain the Certificate of Initial Mastery by age 16, or as soon as possible thereafter. Youth Centers should be established to enroll school dropouts and help them reach that standard. Federal, state and local funds should be raised or reallocated to finance these dropout recovery programs. Once the Youth Centers are created, children should not be permitted to work before the age of 18 unless they have attained the Certificate of Initial Mastery or are enrolled in a program to attain it.

3. Problem: Other industrial nations have multi-year career-oriented educational programs that prepare students to operate at a professional level in the workplace. Graduates of these programs have the skills to hit the ground running when they get their first full-time job at age 19 or 20. America prepares only a tiny fraction of its non-college bound students for work. As a result, most flounder in the labor market, moving from low paying job to low paying job until their mid-twenties, never being seriously trained.

Recommendation: A comprehensive system of Technical and Professional Certificates and associates' degrees should be created for the majority of our students and adult workers who do not pursue a baccalaureate degree.

Technical and Professional Certificates would be offered across the entire range of service and manufacturing occupations. A student could earn the entry-level occupation specific certificate after completing a two- to four-year program of combined work and study, depending upon the field. A sequence of advanced certificates, attesting to mastery of more complex skills, would be available and could be obtained throughout one's career.

The Secretary of Labor should convene national committees of business, labor, education and public representatives to define certification standards for two- to four-year programs of professional preparation in a broad range of occupations. These programs should combine general education with specific occupational skills and should include a significant work component.

Students could pursue these programs at a wide variety of institutions accredited to offer them, including high schools, community colleges and proprietary schools. The system should be designed to make it possible for students to move easily between the Certificate programs and college.

A means should be established to ensure that all students can receive financing to pursue these programs.

4. Problem: The vast majority of American employers are not moving to high performance work organizations, nor are they investing to train their non-managerial employees for these new work organizations. The movement to high performance work organizations is more widespread in other nations, and training of front-line workers funded in part by national assessments on employers or general public revenues, is commonplace.

Recommendation: All employers should be given incentives and assistance to invest in the further education and training of their workers and to pursue high productivity forms of work organization.

We propose a system whereby all employers will invest at least one percent of their payroll for the education and training of their workers. Those who do not wish to participate would contribute the one percent to a general training fund, to be used by states to upgrade worker skills. We further recommend that public technical assistance be provided to companies, particularly small businesses, to assist them in moving to higher performance work organizations.

5. Problem: The United States is not well organized to provide the highly skilled workers needed to support the emerging high performance work organizations. Public policy on worker training has been largely passive, except for the needs of a small portion of the severely disadvantaged population. The training system is fragmented with respect to policies, administration and service delivery.

Recommendation: A system of Employment and Training Boards should be established by Federal and state governments, together with local leadership, to organize and oversee the new school-to-work transition programs and training systems we propose.

We envision a new, more comprehensive system where skills development and upgrading for the majority of our workers becomes a central aim of public policy.

The key to accomplishing these goals is finding a way to enable the leaders of our communities to take responsibility for building a comprehensive system that meets their needs. The local Employment and Training Boards for each major labor market would:

Take responsibility for the school-to-work and Youth Center-to-work transition for young people.

Manage and oversee the Youth Centers.

Manage and oversee a second chance system for adults seeking the Certificate of Initial Mastery.

Manage and oversee the system for awarding Technical and Professional Certificates at the local level.

Manage a labor market information system.

Manage and oversee the job service.

Coordinate existing programs.

The states would need to create a parallel structure to support the local Boards, coordinate statewide functions and establish state standards for their operation.

IN CONCLUSION

America is headed toward an economic cliff. We will no longer be able to put a higher proportion of our people to work to generate economic growth. If basic changes are not made, real wages will continue to fall, especially for the majority who do not graduate from four-year colleges. The gap between economic 'haves' and 'have nots' will widen still further and social tensions will deepen.

Our recommendations provide an alternative for America. We do not pretend that this vision will be easily accepted or quickly implemented. But we also cannot pretend that the status quo is an option. It is no longer possible to be a high wage, low skill nation. We have choices to make:

Do we continue to define educational success as 'time in the seat,' or choose a new system that focuses on the demonstrated achievement of high standards?

Do we continue to provide little incentive for non-college bound students to study hard and take tough subjects, or choose a system that will reward real effort with better pay and better jobs?

Do we continue to turn our backs on America's school dropouts, or choose to take responsibility for educating them?

Do we continue to provide unskilled workers for unskilled jobs, or train skilled workers and give companies incentives to deploy them in high performance work organizations?

Do we continue in most companies to limit training to a select handful of managers and professionals, or choose to provide training to front-line workers as well?

Do we cling to a public employment and training system fragmented by institutional barriers, muddled by overlapping bureaucracies and operating at the margins of the labor market, or do we choose a unified system that addresses itself to a majority of workers?

Do we continue to remain indifferent to the low wage path being chosen by many companies, or do we provide incentives for high productivity choices?

Taken together, the Commission's recommendations provide the framework for developing a high quality American education and training system, closely linked to high performance work organizations. The system we propose provides a uniquely American solution. Boldly executed, it has the potential not simply to put us on an equal footing with our competitors, but to allow us to leap ahead, to build the world's premier workforce. In so doing, we will create a formidable competitive advantage.

The status quo is not an option. The choice we have is to become a nation of high skills or one of low wages.

The choice is ours. It should be clear. It must be made.

NGA GROCERS CARE AWARDS

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. DE LA GARZA. Mr. Speaker, I wish to bring to the attention of the House the community contribution of the American independent retail grocers and their wholesalers.

In past years, through passage of the National Grocers Week, the House and Senate have recognized the important role these businesses play in our economy. This week, September 30–October 6, 1990, commemorates the sixth year we have recognized this important segment of the food industry.

Next week, National Grocers Association, heads of philanthropic and consumer groups will honor outstanding independent retail grocers and wholesalers as well as their State association executives for their community service with the NGA "Grocers Care" Awards.

This annual celebration highlights the important role small business plays. According to Thomas K. Zaucha, president and CEO of the National Grocers Association [NGA]:

> Active leadership with community service projects reflect the commitment independent retail grocers and their wholesalers have to the communities they serve.

GROCERS CARE AWARD HONOREES

The "Grocers Care" awards ceremony will be held Tuesday, October 9, in New Orleans, Louisiana. Representatives from companies, organizations and associations around the United States will be honored. These honorees include:

Alabama: Peter Gregerson, Sr., Gregerson's Foods, Gadsden;

Arkansas: Roy Foster, Foster's Shop-n-Save, Hot Springs Village; Don Pennington, Harvest Foods, Little Rock;

California: Morrie Notrica, 32nd Street Market, Los Angeles; Alan Scharm, Gelsons Market, Encino; Mark Kidd, Mar-Val Food Stores, Lodi; Darioush Khaledi, Top Valu Markets, Long Beach; Pat Young, Young's Payless Market, Lockeford; Don Kaplan, Bonfare Markets, San Ramon;

Florida: Lorena Jaeb, Pick-Kwik Food Stores, Mango; Doyle LaGrone, LaGrone's IGA, Plant City; James H. Rines, Rines AG Market, Indiantown;

Georgia: Fred Ligon, Fred's Super-Valu Foods, Madison; Billy Griffis, T.J. Morris Co., Statesboro;

Idaho: Steve Zimmerman, M&W Markets, Boise;

Illinois: Daryl Bridwell, Bridwell's Supermarket, Paris; Robert Walker, Walker's Supermarkets, Mattoon; Steven Zeidler, Mr. Z Supermarkets, Lombard;

Indiana: Larry Contos, Pay Less Super Markets, Anderson; Daniel O'Malia, O'Malia Enterprises, Noblesville; Ed Polieta, Money Miser, Wheatfield; Gilbert Pautius, Al's Markets, Michigan City; Gerald Bardeson, Key Markets, Hammond; Joseph Rupp, Royal Super Foods, Evansville; Bill Reitz, Scott's Food Stores, Ft. Wayne;

Iowa: Robert Hand, Dahl's Foods, Des Moines; Jim Conrey, Jim's Super Valu, West Liberty;

Kentucky: Kenneth Techau, Techau's, Cynthiana; Danny Allnutt, Food World, Williamsburg; Charles Lynxwiler, Piggly Wiggly Super Markets, Mayfield;

Louisiana: Ferdie Barbier, Big B Supermarket, Belle Rose; Anthony Rouse, Rouse Supermarkets, Thibodaux; John Schwegmann, Schwegmann Giant Super Markets, New Orleans; Hillar Moore, Associated Grocers Inc., Baton Rouge;

Maryland: Tom Smith, Tom's Thriftway, Cardiff; John McCormick, McCormick & Company, Baltimore;

Michigan: Larry Shoaff, Ric's Food Center, Interlochen; Lowell McDonald, McDonald's Food & Family Center, Bad Axe; Glenn Hartley, Plumb's Stores, Muskegon; Bud Peel, Buds Country Market, Jonesville; Kathleen Ferguson, Ashcraft's Market, Alma; Tom Hormacek, Pinny Food Center, Pinconning; Gene Southworth, Litchfield Thriftway, Litchfield; Bill Dawson, Glen's Markets, Gaylord; Bob & Dorothy Anderson, Snyder's IGA, Perry; Patrick Quinn, Spartan Stores, Grand Rapids;

Minnesota: Vince Caron, A&S Foods, Litchfield; Myron Machart, Tersteeg's Holiday Market, Redwood Falls; Bill Farmer, Fairway Foods, Minneapolis, Elliot Christensen, Elden's IGA, Austin; Jeff Marchand, Country Market, Brainerd; Daniel Coborn, Coborn's, St. Cloud; Jim Flury, Barlow Foods, Rochester;

Missouri: Doris Carr, Bob's IGA, Kansas City; Donald Woods, Woods Super Market, Bolivar;

Montana: Charlean Keller, Kons IGA, Billings;

New Hampshire: Chuck Butson, Butson's Supermarkets, Woodsville; Ronald Violette, Violette's IGA, Milford; Vernon Violette, Violette's Supermarket, Newport; Robert Cricenti, Cricenti's Market, New London;

New Jersey: Joe Pagano, Pagano's IGA, Bayonne; Jerome Yaguda, ShopRite/Wakefern Food Corp., Elizabeth;

New York: Ray Furnal, Hilton Food Market, Hilton;

North Carolina: Dewey Hill, Hill's Food Stores; Whiteville;

Ohio: Joe & Mike Bolognue, Bolognue Brothers Apples, Canton; Terry Littrell, Cardinal Foods, Columbus; Walter Churchill, Churchill's Super Markets, Sylvania; Darrel Steele, Darrel's Super Valu, New Lebanon; Charles Warren, Fleming Foods of Ohio, Massillon; Bob & Scott Gardner, Gardners Cardinal, Norwalk; Henry Nemenz, HP Nemenz Food Stores, Poland; Lloyd Bay, L.T. Bay Enterprises, Lithopolis; Harold Massie, Massie's Super Market, Portsmouth; Richard McKenzie, McKenzie's Fine Foods, Worthington; Robert Eastman, Ohio Valley Supermarkets, Gallipolis; Tony Bailey, Sacks Food Avenue, Amelia; Ann Pinchera, Super Valu Stores, Xenia; Lee Schear, Metro Markets, Inc., Dayton; Mark Ossage, Dillonvale IGA, Cincinnati; Michael Needler, CWC Companies, Inc., Findlay; John Olszeski, Hartville Foods Inc., Hartville; Burt Salzman, Dave's Supermarket, Cleveland; James Grace, Abbott's Super Duper, Columbus;

Oklahoma: L.M. "Larry" Dillard, Love's Country Stores, Paul's Valley; Steve Buchanan, Buchanan Food Mart, Oklahoma City; Scott Petty, Petty's Fine Foods, Tulsa; Maurice Box, Box Food Stores, Tahlequah;

Oregon: Gordon Smith, Vernonia Sentry, Vernonia; Bob Ray, Sandy Sentry, Sandy; Jim Robinson, Thriftway, Portland; Alan Jones, United Grocers, Portland;

Pennsylvania: Carole Bitter, Friedman's Supermarkets, Butler; Paul Bunyan Stores, Erie; Christy Spoa, Christy's Markets, Ellwood City;

South Dakota: Kevin Scheel, Randall Foods, Huron; Ken Fiedler, Ken Fairway Stores, Aberdeen; John Clarke, County Fair Food Store, Mitchell;

Tennessee: Eddie McMillan, Food City, Knoxville; Jim Bolonda, Red Foods, Chattanooga;

Texas: Jay Madden, Carls Supermarkets, Mission; Doug Pendley, Affiliated Foods, Keller; Ray Bishop, Town & Country Food Stores, San Angelo; Benny Cooper & George Lankford, Affiliated Foods, Amarillo: Jody Gerland, Gerland's Food Fair, Houston; Robert Onstead, Randall's Food Markets, Houston; Donald Bonham, Fiesta Mart, Houston; Jere Lawrence, Lawrence Bros., Sweetwater;

Utah: Terry Harmon, Harmon's West Valley City; Ken Macey, Macey's, Salt Lake City;

Virginia: Daniel Maenza, Wade's Super Markets, Christiansburg; Ray Urbanbrite, Ray's of Virginia, Inc., Stanton;

Washington: A.J. Weiks, Al's Mega Foods, Olympia; Jim Bourland, O'Neils Markets, Tacoma; Chris Brown, Wrays, Yakima; Don Whittaker, Rosauers Supermarkets, Spokane;

West Virginia: Harold Wilkes, Mini-Giants, Parkersburg;

Wisconsin: Don Miller, Sentry Foods, Waunakee; George Prescott, Prescott Supermarkets, West Bend: Dave Skogen, Skogen's IGA, Onalaska; Bill Confer, Roundy's, Milwaukee; Anton Grasch, Grasch's Foods, Brookfield.

The following state associations are instrumental in coordinating information relative to the community service activities of their members:

Arkansas Grocers and Retail Merchant Association, California Grocers Association, Southern California Grocers Association, Georgia Grocers Association, Illinois Food Retailers Association, Grocers Association of Iowa, Kentucky Grocers Association, Louisiana Grocers Association, Mid-Atlantic Food Dealers Association, Michigan Grocers Association, Minnesota Grocers Association, Missouri Grocers Association, New Hampshire Retail Grocers Association, New Jersey Food Council, New Mexico Grocers Association, Ohio Grocers Association, Oklahoma Grocers Association, Association of Oregon Food Industries, Rhode Island Food Dealers Association, South Dakota Retailers Association, Tennessee Grocers Association, Retail Grocers of Houston, Utah Retail Grocers Association, Vermont Grocers Association, Washington State Food Dealers Association and Wisconsin Grocers Association.

"Grocers Care" awards recognize the involvement of individual food retailers and wholesalers in community programs. A sampling of exemplary contributions includes:

Participation in a single day sales support of "Grocers Fight Cancer," American Heart Association, American Diabetes Alert, Red Cross and other national charity organizations where a percentage of sales are donated;

Voter registration campaigns;

Local educational commitments through scholarships, percentage of sales direct contributions;

Contributions of time, funds and buildings in support of the Arts;

Programs to shelter and feed the homeless and hungry;

Fitness programs and support in planning activities as well as supply healthy food;

Sports tournaments in support of hospitals, fire and police departments;

Safe trick or treat events;

Reading programs to fight illiteracy;

Senior citizen assistance; and

Boy and Girl Scouts, Little and Lassie Leagues, and other sports program sponsorships.

TRIBUTE TO REPRESENTATIVE RUDY DININNI

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. GEKAS. Mr. Speaker, I wish to draw the attention of my colleagues to the accomplishments of a fine Pennsylvania legislator, who is retiring after serving wisely and well for over two decades.

Rudolph Dininni, known to most of his friends and constituents as Rudy, has represented Pennsylvania's 106th House district since 1966. Throughout those years, he became known as the friendly and generous House member who never forgot a face. Since I had the honor of calling him a colleague when I served in the Statehouse, I know firsthand the dedication and love with which Rudy approached his job. His constituents indeed have been fortunate.

Rudy's legislative record has been a proud one. As Republican chairman of the House Committee on Transportation, he tirelessly worked to improve Pennsylvania's roads, undoubtedly saving countless lives.

Children too young to understand the importance of safe roads or the legislative process know Rudy as the man who brings Santa to Rutherford every Christmas Eve. On that very special night, Rudy Dinnini sponsors a float pulling Santa Claus through the town's streets tossing candy and gifts to the children. This loving gesture captures the nature of the man.

Before running for the House, Rudy had a long and varied career that included farming, banking, construction, and real estate. Certainly his exposure to so many fields helped him understand his needs and values of this constituency. He entered politics because he wanted to make a contribution to his community. That is always the best reason to seek public office.

Mr. Speaker, I thank Representative Rudy Dininni for his years of service to our fine State of Pennsylvania.

JOHN PASSIDOMO: A LEADER WITH AN EYE TO THE FUTURE

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mrs. LOWEY of New York. Mr. Speaker, I rise today to congratulate Mr. John Passidomo of Harrison, NY, on being honored by the White Plains Knights of Columbus during their Columbus Day celebrations. I have known John and his remarkable wife Gloria for many years, and I am proud to say that I have learned much from his example of public service.

John Passidomo served my home community, Harrison, NY, as its supervisor for 18 years. He set an example of leadership that reflected his understanding of the need to balance priorities with an eye toward the future. His philosophy has been the guiding force which has made Harrison an exceptional community for those who call it home. He also has served as New York Commissioner of Motor Vehicles and currently is a member of the New York State Cable Commission.

John Passidomo is a creative individual with an understanding of the need to respond effectively to the needs of his community. He had the foresight to implement the 100-acre corporate park concept which has been tailored to meet the needs of single corporations in many communities in the Northeast including several in Westchester County.

John Passidomo is a man who loves his community deeply. Service to his neighbors is an integral part of his life. Wherever he goes in Westchester, he is surrounded by friends and admirers. It is totally appropriate that he is being honored by the Knights of Columbus in this very special way.

COLUMBUS DAY

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Ms. PELOSI. Mr. Speaker, as we celebrate Christopher Columbus' arrival in the America's, we ought not to think of ourselves as merely commemorating an event which took place back in 1492, we ought, as well, to think of ourselves as celebrating the enduring legacy which that event has left us.

Columbus' passage to the New World helped to usher in the modern age. His landing and the landing of those he brought with him helped to shape our present day America. Because Christopher Columbus had the determination and courage to initiate the flow of people and ideas across the Atlantic nearly 500 years ago, today America is a land of venturing spirits, visionaries, scientists and innovators, and perhaps most significant, a land of culturally and ethnically diverse persons.

Columbus' voyage paved the way for Italians, Spanish, Portuguese, English, Irish, German, and eventually Africans and Asians to come together in the New World. As an Italian American, I am proud to honor Cristoforo Columbo for helping to give America the very rich heritage it derives from the immigrants of the Old World.

I can think of no better example of the legacy of diversity of persons and ideas Columbus bequeathed to us than my own district of San Francisco. Of San Francisco's population, approximately 13 percent of its people are African-American, 12 percent Hispanic-American, 22 percent Asian-American and Pacific Islander, and almost 1 percent are American-Eskimo and Aleut.

We in San Francisco have already begun to celebrate Columbus' linking of the Old and New World. Among the many events San Francisco has held are a pageant in honor of Queen Isabella, a reenactment of the landing of Columbus and his return to Spain, a coronation ceremony hosted by Mayor Agnos in city hall, an art and cultural exhibit held at San Francisco Town and Athletic Club, a children's art contest, a blessing of the fishing fleet at Fisherman's Wharf by the pastor of St. Peter and Paul Church. This Columbus Day, in a civic ceremony atop Telegraph Hill, a wreath will be laid at the statue of Columbus, and of course there will be the traditional Columbus Day Parade.

Mr. Speaker, as Americans of various backgrounds celebrate Columbus Day, let us each in our way reflect on it not solely as an important historical event, but as one whose significance continues to influence us today.

THE SPORTS LOTTERY PROVISION IN THE COMPREHENSIVE CRIME CONTROL ACT OF 1990

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. FISH. Mr. Speaker, I have always been a supporter of State-conducted and State-operated lotteries. In the last two decades the growth of State lotteries has been dramatic. State lotteries have provided an important, new source of revenue for programs needed at the State and local level. In my own State, the New York Lottery has been in operation for over 15 years and continues to be a great success story.

However, I do not believe that it is a wise policy for the States to use the results of professional and collegiate sporting events as the basis for determining their lottery winners.

Sports-based State lotteries would have numerous adverse consequences. First, they undermine public confidence in the integrity of the games themselves. Mere "breaks of the game" or strategy choices would become the source of suspicion and cynicism—undermining public confidence in the honesty of what transpires on the field. Controversial or close calls would be viewed differently because of their impact on lottery winnings. Second, sports-based lotteries convert team sports from a wholesome family entertainment into a vehicle for gambling. This communicates very negative values about sports and the legitimacy of sporting events to the youth of America. Further, the legalization of team sports betting by a State or municipality would increase the chances that persons gambling on games will attempt to influence the outcome of those games. Third, State government sponsorship of sports lotteries would carry with it unintended symbolism. If States like Oregon make betting on sports a public institution, they really are incorporating it into the fabric of public policy and implicitly are giving it the stamp of an official sanction. Fourth, State-supported sports lotteries would borrow on and utilize the trademarks, business goodwill and the traditions of well-known sports franchises and they would do so without any renumeration to the trademark owners. For example, what right does a State have to use the legendary name "Boston Celtics" or to profit from the popularity of the "Los Angeles Dodgers."

Mr. Speaker, there is an array of amateur and professional sports groups that favor the language in section 2202 of the crime bill. This includes the NCAA, the National Basketball Association [NBA], the National Football League [NFL], the Major League Baseball and the National Hockey League [NHL]. Congress has a legitimate interest and right to prevent the use of interstate commerce and communications in connection with sports lotteries. The State lotteries have been a financial success without having their random winnings depend upon the outcome of sporting events. There is simply no reason to change what has been a successful system at the cost and expense of the legitimacy of professional and collegiate sports in the United States.

TAKING ANOTHER LOOK AT DIETARY SALT

HON. HOWARD C. NIELSON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. NIELSON of Utah. Mr. Speaker, for the past decade, the Federal Government has promoted dietary guidelines for Americans to improve nutrition and reduce the incidence of chronic diseases.

The public is properly concerned with the link between good nutrition and good health. Informed consumers make better dietary choices for themselves and their families. Public health authorities must also incorporate new scientific discoveries into their public information and regulatory programs.

One area of continuing controversy is the linkage of dietary sodium to hypertension. Table salt is the most common source of dietary sodium, and the State of Utah is a major U.S. production center of salt.

The controversy concerning dietary sodium was explored earlier this year in Consumer Reports, which is dedicated to providing consumers with independent and objective information and advice. Because it may be of interest to my colleagues as well as Federal and State public health authorities, I submit the following article for the RECORD.

[From Consumer Reports magazine, January 1990]

TOO MUCH SALT?

"Most people would do well to banish the salt shaker from the dining room table," said nutrition expert Jean Mayer a generation ago. Over the years, that advice has become an axion in public-health circles. Cutting back on salt, says the American Heart Association, is "safe, feasible, and probably useful in prevention of high blood pressure in many Americans." Federal public-health agencies currently advocate that all Americans "moderate" their salt intake.

Although there are sound public-health reasons for such advice, it is probably irrelevant to the health of most people who act on it. A growing body of scientific evidence indicates that the role of dietary salt as a threat to health has been greatly exaggerated.

SPOTLIGHT ON SODIUM

Salt is relevant to health mainly because it's the principal source of sodium in the diet. Sodium helps regulate body fluids, and animal studies indicate that it influences blood pressure. Salt, or sodium chloride, is about 40 percent sodium. (Sodium also occurs naturally in many foods and is a common component of certain food additives, such as monosodium glutamate and sodium nitrite.)

Everyone needs some sodium in the diet to replace routine losses. The Food and Nutrition Board of the National Academy of Sciences/National Research Council has estimated that an "adequate and safe" intake of sodium for healthy adults is 1100 to 3300 milligrams a day, the equivalent of approximately ½ to 1½ teaspoons of salt. Americans, on average, consume at least twice that amount—some 2300 to 6300 milligrams of sodium daily, according to estimates by the Food and Nutrition Board.

Most people appear to suffer no ill effects from such amounts. But a significant minority is affected by dietary sodium. That minority includes roughly half of American adults who develop hypertension, a persistent elevation of blood pressure above normal levels. A high sodium intake raises their blood-pressure levels. Some researchers believe sodium can also contribute to the development of the disease, a hypothesis not yet proven.

THE PUBLIC-HEALTH STANCE

Until the 1980s, advice to cut back on sodium was directed primarily to people with hypertension or a family history of the disease. During the last decade, however, the admonition was extended to the public at large. While some experts on hypertension view the "official" line on salt as reasonable and practical, others consider it unwarranted and lacking in scientific merit.

At the crux of the disagreement is a question common to many public-health policies; Is it reasonable to prescribe something for an entire population to protect a vulnerable minority—in this case, people susceptible to hypertension? The issue in this instance arouses further argument because there's no proof in humans that excess sodium actually causes hypertension or that lowering sodium intake will prevent the disease.

While only a minority of Americans might benefit from a sharp reduction in sodium intake, that minority is by no means a small one. An estimated 60 million people in the U.S. are hypertensive, and about half of them are believed to be sensitive to sodium. The advice to the whole population is also influenced by the fact that there is no practical way to predict who is, or will become, sensitive to sodium.

Experimental evidence in rates indicates that sensitivity to sodium can be inherited, and many experts believe that the same may be true of humans. Some people are resistant to hypertension and never develop the disease even though they eat large amounts of salt all their lives. Others appear to inherit a susceptibility to high blood pressure, and a high-salt diet may promote the disease. If this theory is correct, susceptible people may be able to avoid hypertension by using salt sparingly throughout life.

PRIMITIVE DIETS

Evidence that a low-salt diet may prevent hypertension comes largely from population studies. In cultures where diets are extremely low in salt, such as the Kung Bushmen of Africa and the Yanomamo Indians of Brazil, there is virtually no hypertension. Moreover, their blood pressure does not rise with age, as does that of people in industrialized societies. By contrast, about 40 percent of the farmers of northern Japan, who preserve food in salt, have high blood pressure. Those farmers consume as much as 30,000 milligrams of salt daily, compared to less than 500 milligrams for the African and Brazilian tribes.

Similar studies have been carried out on more than 20 cultures, ranging from Greenland Eskimos to natives of the Solomon Islands. Taken together, the studies show that hypertension is rare in populations that use very little salt. Conversely, in societies that consume a lot of salt, a significant minority of people develop the disease.

IS SALT THE VILLAIN?

While such studies appear to point the finger at salt, they don't make an ironclad case. The low-salt groups are all relatively primitive, pre-industrial societies. Salt intake isn't the only thing that sets them apart from Americans. They are much leaner and more physically active than Americans, their diets differ in many other ways, and they are free from various stresses of modern industrial life.

"In low-salt cultures, body weight doesn't rise with age, and we know that obesity is a major factor in hypertension," says Dr. Harriet Dustan, professor of medicine at the University of Alabama and an expert on hypertension. Primitive societies also eat lots of potassium-rich foods, she notes, and some researchers suspect that a liberal potassium intake helps to keep blood pressure down. Finally, says Dustan, there's the homogeneity of pre-industrial groups. "Their gene pool is relatively small," an important factor if hypertension is genetically determined. If a society starts out relatively free of hypertension and remains homogeneous, succeeding generations are likely to escape the disease as well.

A MISSING LINK

The hypertension incidence is studied within a population rather than across different cultures, the link between salt intake and the disease tends to vanish. Studies of people living in the same community, for example, have repeatedly failed to document a salt-hypertension connection.

In a typical study several years ago, researchers at Yale University School of Medicine examined the effect of salt intake on blood pressure among 3,566 Connecticut residents who had never been diagnosed as hypertensive. All the subjects were interviewed about their salt intake and had their blood pressure recorded.

After developing an approximate "index" of salt intake, the scientists compared the mean blood pressure of those in the top 10 percent of the index with the mean of those in the bottom 10 percent. The difference in average blood pressure between those eating the most or the least salt was insignificant.

More recent evidence has cast further doubt on the link between salt and blood pressure. One major study involved 7,354 middle-aged people selected at random throughout Scotland. They were asked about various factors that could affect blood pressure, and their urine was analyzed for sodium excretion (an indicator of salt consumption). The results of the study, reported in the British Medical Journal in 1988, indicated that several factors, including alcohol consumption and potassium intake, had "significant independent effects" on blood pressure, but that sodium did not. "The most likely explanation of these results," the researchers concluded, "is that the relation between sodium and blood pressure in the population is weak and that potassium and alcohol are of greater importance."

THE INTERSALT STUDY

The most ambitious and far-reaching study to date, however, involved an international effort among scientists in 32 countries. Called "Intersalt," it was designed to subject cross-cultural comparisons—the chief basis for the theory that salt consumption affects blood pressure—to careful scientific observation under controlled circumstances. Instead of focusing on a single culture, it compared dozens of societies around the world. The Intersalt Cooperative Research Group enlisted scientists from 52 medical centers in 32 countries and then trained them in standardized methods of data collection. Each center recruited 200 men and women from ages 20 to 59 and, like the Scottish study, compared blood-pressure readings and the amount of sodium excreted in the urine over a 24-hour period. Among the 10,079 participants, salt intake ranged from less than 500 milligrams a day for the Yanomamo Indians of Brazil to some 35,000 milligrams among residents of northern China.

Overall, the Intersalt study found that salt intake had only a minor influence on blood pressure. At four centers where participants had very low salt intakes, blood pressure was also low. But for the other 48 centers, there was no relationship between salt intake and either median blood pressure or high blood pressure. For example, blacks in Goodman, Miss., had the fifth-lowest salt intake of the 52 groups but the third-highest prevalence of hypertension.

The headline of an editorial accompanying the 1988 Intersalt report in the British Medical Journal essentially summed up the findings: "Salt has only small importance in hypertension."

SYSTOLIC PRESSURE AND AGE

Both the Intersalt and Scottish studies reported a positive association between sodium intake and systolic blood pressure with age. (Systolic pressure is the pressure exerted against the arterial walls when the heart contracts; diastolic pressure, usually considered the more important indicator of hypertension, is the pressure between contractions.) Older people with high systolic pressure tended to eat more salt.

Whether reducing sodium intake would have much of an effect on systolic blood pressure in the elderly remains unclear, however. "I think it's pretty much due to stiffening, a loss of flexibility, of the major blood vessels," says Dr. Ray Gifford, vice chairman of the Cleveland Clinic's division of medicine and a hypertension expert. "It's like pumping water into a stiff tube; you build up pressure because there's no resiliency there. What sodium has to do with that, I'm not sure."

IF YOU'RE HYPERTENSIVE

While cutting back on salt may not prevent high blood pressure, about half of all people who already have hypertension will benefit from a reduction in salt. Often, the cutback needn't be drastic. Many hypertensives experience a significant fall in blood pressure by reducing sodium intake to about 200 milligrams a day. A few, however, need a more stringent low-salt diet. Still others show no improvement no matter how strict the regimen.

Concentrating mainly on salt restriction can be self-defeating, however, if other important measures are neglected. An obese person, for example, should put weight loss at the top of the list. "If you have fairly significant obesity to begin with, and you reduce significantly, you can accomplish a lot more than by sodium restriction," says Dr. Norman Kaplan, a hypertension expert at the University of Texas Southwestern Medical School in Dallas. Similarly, a person who drinks heavily should cut back on alcohol before cutting back on salt.

Even those patients who seem to benefit from adopting a salt-restricted diet may not be responding solely to a reduction in sodium. "These are the people who are willing to take steps to change things," says Dr. Barry Massie, an associate professor of medicine at the University of California in San Francisco. "They might be smoking less, drinking less, and exercising. And if you stick to a low-salt diet, you also tend to lose weight. So you can't pick out salt alone as the cause."

PEOPLE AT RISK

Although most Americans won't develop hypertension even if they go heavy on salt, there's no way to tell in advance who they are. But there are certain risk factors that suggest which people are more likely to become hypertensive.

A family history of hypertension.—If either of your parents or a brother or sister developed hypertension, you're about twice as likely to do so as someone without that background. "If someone has a family history of hypertension, it won't hurt to cut down on sodium and it might help," says Kaplan.

Race.—Black people are twice as likely as whites to develop hypertension. In blacks, the disease develops earlier in life, is often more severe, and is more likely to be fatal at a younger age than in whites. In the Intersalt study, blacks in Goodman, Miss., developed high blood pressure even with a very low salt intake, which indicates that sodium wasn't a factor. But the chance that heavy salt use might increase the risk for blacks remains a possibility.

Obesity.—Studies show a higher prevalence of hypertension in obese people than in lean people. For an overweight person who develops hypertension, weight loss is one of the most effective ways to reduce blood pressure, often to normal levels. Watching salt intake should generally be subordinate to counting calories.

Age.—In Western societies, blood pressure rises with age. Nearly half of all Americans who live to age 74 develop hypertension, mainly from stiffening of the arteries. Whether or not sodium restriction helps to reduce blood pressure in the elderly is still uncertain, but many physicians advise older patients to cut back on salt on the chance that it might help. (Those with illnesses involving fluid retention such as congestive heart failure, must restrict sodium intake.)

If you have normal blood pressure and none of those risk factors, chances are it won't matter much if you restore the salt shaker to the table.

When Your Numbers Are Up—The Anatomy of Hypertension

Fear, sex, "aggravation," excitement—they all hike your blood pressure. But your body can take these transient rises in stride. Trouble starts when your blood pressure goes up and stays up. It means you have hypertension, a persistent elevation of blood pressure above normal levels. (The term "tension," here, means pressure, not nervous tension.)

The body regulates blood pressure through a complex system of checks and balances. Nerve signals, hormones, and other influences act to widen or narrow the artenioles—small, muscular blood vessels that deliver oxygen and nutrients to body tissues. When a part of the body works hard (the stomach during digestion, muscles during exercise, nearby arterioles expand to allow increased blood flow. Arterioles in other parts of the body constrict to maintain normal blood pressure. If they didn't, blood pressure would fall.

In some people, the regulatory system goes awry. Arterioles throughout the body constrict at the same time and stay constricted. The heart is forced to work harder to maintain blood flow, and pressure throughout the arterial system rises and remains elevated. Eventually, the heart enlarges and the linings of the blood vessels become damaged and narrowed. That causes decreased blood flow to the heart, brain, and kidneys.

Sometimes the problem arises from a disorder of the kidneys or the adrenal glands, and it may be corrected by surgery. In most cases, however, the cause of the regulatory breakdown remains obscure. Hypertension of unkown cause is called *essential* hypertension. If the disease isn't detected and treated, it can lead to heart failure, stroke, or kidney failure. The higher the blood pressure, the greater the risk of such complications.

PENNSYLVANIA COUPLE HONORED

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. GEKAS. Mr. Speaker, I would like to draw the attention of my colleagues to a very special couple from my congressional district.

Phyllis and Norman Lipsett have been selected to receive Israel's 1990 Heritage Award, presented by the Harrisburg Committee State of Israel Bonds. The award recognizes the Lipsetts' leadership, community service and dedication to their community, Judaism, and the State of Israel.

For more than three decades, the Lipsetts have served on charitable boards such as the Boards of Beth El Temple, the Jewish Home of Greater Harrisburg and Guild, the UJC Endowment Fund, and the Board of Overseers of the Jewish Theological Seminary. They helped establish the Israel Center for the Elderly and Blind in Harrisburg's twin city Ma'alot. In addition, they separately work with Capital Health System, the Central Pennsylvania Literacy Council, and the Drug and Alcohol Advisory Board. Norman is a founding member of the Ronald MacDonald House.

Mr. Speaker, these are just a few of the causes through which the Lipsetts have strived to make our world a better place. And not only have they touched lives across the globe, but they have improved lives right in our central Pennsylvania community. For that, I am proud to call them constituents.

FAMILY SERVICES OF WESTCHESTER: SERVING FAMILIES IN TIMES OF NEED

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mrs. LOWEY of New York. Mr. Speaker, today I rise to draw attention to an organization in my district which provides invaluable service to Westchester families who are experiencing rough times. Family Services of Westchester recently marked its 35th year of helping people in 33 communities across my district.

The traditional American family has been the cornerstone of American society. However, today families are encountering more and more difficult obstacles. The pressures of our society today have sent divorce rates skyrocketing. There are an unprecedented number of single parents struggling to raise their children. Families today often include elderly parents who need special care. The teen pregnancy rate is very troubling, and teens need counseling to help them cope with the dilemmas which accompany pregnancy.

Where can families turn to help them with these and countless other problems. Each year, more than 6,000 individuals look to Family Services of Westchester [FSW] for help. Whatever their problems, Family Services of Westchester tries to help find solutions.

From elder-care to big brother/big sister programs, FSW lends a hand to families who are seeking help. Thirty-five years ago, FSW had just one counselor and a budget of $26,000. Today, the staff numbers 80 and the budget is $2.5 million a year. Although funding is always a problem, United Way and private contributions make up half of the FSW's budget. The increased budget has enabled FSW to add numerous services to help families cope with changing times, and the staff is constantly handling overflowing caseloads.

Mr. Speaker, Family Services of Westchester is a shining example of a program that should be emulated throughout the United States. It is heartening indeed, that at a time when families face trials and tribulations, there is an organization which is helping families cope.

RECOGNIZING NATIONAL BREAST CANCER AWARENESS MONTH—OCTOBER 1990

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Ms. PELOSI. Mr. Speaker, I rise today to recognize National Breast Cancer Awareness Month, October 1990. It is important that all women understand the importance of screening for early detection that can save lives.

In 1990, over 150,000 new cases of breast cancer will be diagnosed in this country and almost 44,000 American women will die of the disease. Most tragic is the number of deaths that could be prevented if the cancer had been detected in the early stages, over 90 percent of the women whose breast cancer is detected in the early stages survive and continue to lead a productive life. The most important risk factors for breast cancer are age and a family history of breast cancer. Two-thirds of all breast cancers occur in women over 50 years of age.

The purpose of National Breast Cancer Awareness Month is to promote awareness of breast cancer and how to prevent it from spreading and killing more women. One of the easiest prevention methods is the breast self examine procedure. It is recommended that all women over the age of 20 examine their breasts once a month. A doctor or a pamphlet from the local American Cancer Society can explain this procedure to you.

Another preventive method is a mammogram, which is a special breast x ray that can reveal a small breast cancer up to 2 years before it can be detected by examination. This important test is extremely safe, as modern mammography uses very low amounts of radiation. Women should consult with their doctor on how often to schedule a mammography. Congress is currently working on making mammographies more affordable and accessible to poor women.

I encourage all women of all ages to call their local American Cancer Society or public health department to see what activities are taking place in their communities in conjunction with National Breast Cancer Awareness Month. It can save your life. Thank you.

GOOD POINTS FROM HENRY WAXMAN

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. STARK. Mr. Speaker, I would like to include in the RECORD at this point an outstanding article by our colleague HENRY WAXMAN, which appeared in the October 1, 1990 Los Angeles Times.

It is a perfect explanation of why we need to change the Medicare part of the budget negotiations:

Frenzy of Cuts in Medicare Plugs Deficit

(By Henry A. Waxman)

This summer Congress and the White House had public celebrations of the 25th anniversary of Medicare. Now a private party—the "budget summit"—has turned back the clock on 25 years of Medicare progress in providing health care to the elderly and disabled. The elderly—and the Medicare program they rely on—are bearing the burden of the summit's failure to raise the revenues needed to reduce the deficit.

The summit participants have homed in on the Medicare program for massive savings. The budget summit requires $60 billion in payment cuts and beneficiary cost increases over the next five years, an amount far larger than the cuts in any other domestic program. The President held on his demand for capital-gains cuts until the end and "settled" for $25 billion tax incentives for businesses and investors. Meanwhile, rather than raising revenues from those best able to pay them, summiteers of both parties seem to have concluded that the elderly can shoulder the burden of deficit reduction.

So the summit requires an increase in the Medicare premium from about $360 a year to more than $650 in 1995—roughly equal to the average monthly Social Security check today. The summit endorses doubling the deductible, even for those struggling on subsistence budgets. Included in this frenzy of program cuts are also steep drops in payments for services, cuts that threaten the viability of many hospitals and health-care institutions on which millions of other Americans also rely.

The impact of these budget proposals will be dramatic. Raising the Medicare premium to cover 5 percent more of the program's costs will affect every participant. This reduction will mean hardship for many—and a reminder to them all that they are being asked to solve a deficit problem they didn't create.

How can we explain the surplus in the Social Security Trust Fund when a higher Medicare premium means a reduction in every Social Security check? And the situation will get worse, because cutting Medicare coverage by increasing deductibles and co-insurance will mean that private Medi-Gap supplemental coverage will cost more as well.

All the news for the elderly in this budget is bad. Especially reprehensible are the effects of these budget proposals on the low-income elderly—40% of the elderly have incomes of less than $12,000 per year. Nearly half of all elderly women and two-thirds of all elderly minorities are in this group. While some of these people are so poor that they qualify for the minimal services of Medicaid, nearly one-quarter of all elderly Americans rely entirely on Medicare as their only form of insurance. For them the premium and deductible increases will be trully catastrophic.

These budget cuts and premium increases follow a decade of Medicare changes. Over the past 10 years Medicare premiums have risen more than 300%, or about six times the rate of inflation. While the price has gone up, protection has gone down. When Medicare was enacted 25 years ago the elderly spent about 15% of their incomes on health and long-term care; today, even with Medicare, they spend more than 18% for these services. There's no help with prescription drugs, no protection against financial ruin from costs of nursing-home care.

Perhaps the most serious consequence of all is the great risk that will be created for Medicare itself. It is now unquestionably one of the most broadly supported federal programs. Much of that support comes from attracting all income classes to it, as well as all ages—because each of us knows that it is there for us in the future and, most important, for our parents today.

But reforming the way we pay physicians one year and reneging on the reforms by freezing payments the next undermines Medicare. Redesigning it to provide catastrophic benefits one year and repealing them the next undermines it. Adopting income-tested premiums one year, repealing them the next and reconsidering them the year after undermines it. Letting premiums and deductibles soar undermines it and hurts all who depend on it.

It is remarkable that the budget negotiators have so quickly turned to the elderly to bear so much of the deficit burden. And in the end, it will not solve the deficit problem—only restructuring our tax system so that the wealthier carry their fair load will do that.

The urgency of the budget deficit must be tempered by the urgency of maintaining confidence and stability in the program of health care for the elderly and disabled. Now is not the time to turn our backs on 25 years of Medicare.

A TRIBUTE TO CAPT. THOMAS G. KELLEY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. SKELTON. Mr. Speaker, it gives me great pleasure to pay tribute to an outstanding naval officer, Capt. Thomas G. Kelley, who retired from the Navy on August 31, 1990, at the Navy Memorial in Washington. During his 30 years of service as a naval officer, Captain Kelley proved his leadership abilities under fire which won him the prestigious Medal of Honor, among other awards for courage.

After graduating from Holy Cross in 1960, Thomas Kelley entered the Navy through Officer Candidate School [OCS]. He later earned a master's degree at the Navy Postgraduate School and graduated from the Armed Forces Staff College.

As a Navy lieutenant in the Mekong Delta, Republic of Vietnam, Kelley earned a place in naval history by maneuvering his river assault craft during an ambush to shield a disabled boat and army troops. The loss of an eye during the ambush did not hamper Lieutenant Kelley; he continued to relay orders as he lay immobilized on the deck of his boat until enemy fire ceased.

Captain Kelley also made his mark in Washington but not before achieving his ultimate goal of serving as a commander at sea. He commanded the Frigate U.S.S. *Lang* (FF 1060) from September 1977 to December 1979. The captain proved his ashore capabilities in Washington by serving as a special assistant to the Chief of Navy Personnel for Legislative Affairs. Credit is given to Captain Kelley for successfully explaining Navy manpower strategy to Members of Congress and their senior staffs.

Mr. Speaker, I know that my colleagues in the House join me today in recognizing Capt. Thomas G. Kelley's 30 years of leadership and devotion to our country.

THE ANCIENT ORDER OF HIBERNIANS AND IMMIGRATION REFORM

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. GILMAN. Mr. Speaker, I rise today to bring to the attention of my colleagues the efforts of the Ancient Order of Hibernians in supporting a comprehensive reform of our immigration system.

In particular, the Ancient Order of Hibernians played a positive role throughout the recent debate on a measure introduced by my colleague from Connecticut, Mr. MORRISON, the Family Unity and Employment Opportunity Immigration Act, H.R. 4300, which was approved by the House this week. This important legislation would allow their countrymen to emigrate freely and fairly to the United States.

Irish-American immigrants have contributed to our Nation faithfully and well, from laboring on our railroads and canals to serving in the highest elected offices of our land, and they have served with distinction in our Armed Forces, from Gettysburg to Saudi Arabia.

His Eminence John Cardinal O'Connor has said that the issue of immigration is "Not a matter of charity. It is a matter of justice. It is something we owe to our Irish forebears."

The Ancient Order of Hibernians, founded by Irish-American immigrants to protect the rights of immigrants, has long served as a voice for Irish-American concerns, with regard to both the violence in Northern Ireland and to the plight of immigrants here in America.

In commending the Ancient Order of Hibernians on their efforts to reform our immigration laws, I wish to draw particular attention to "Project One Million," a joint effort on the part of the Ancient Order of Hibernians and the

Irish Immigration Reform Movement, to make one million contacts with President Bush in support of immigration reform.

Mr. Speaker, in order to share the following views with my colleagues, I wish to enter the text of "I Remember," the ADH creed of "Project One Million," at this point in the CONGRESSIONAL RECORD:

ANCIENT ORDER OF
HIBERNIANS IN AMERICA,
Woodside, NY.

I AM PART OF PROJECT ONE MILLION BECAUSE * * *

I remember that our people were once immigrants, and that they were shut out of American society.

I remember in my mind's eye the signs that said "NO IRISH NEED APPLY."

I remember how poor our people were and how hopeless the future must have seemed back then.

I am part of Project One Million, because * * *

I remember the 150,000 Irish immigrants who fought to save the Union just one hundred and twenty-five years ago. Though I am quiet and not easily stirred into action,

I do remember what Robert E. Lee said of the Irish Brigade at Fredericksburg, and

I do remember the Bloody Lane at Antietam and the Wheatfield at Gettysburg, and yes

I remember the 257 Irish Immigrants who have received the Congressional Medal of Honor.

I remember when all we had was faith; but it was the faith to move mountains, and with it we built churches and schools and hospitals that are still in use today.

I remember all of the Irish who worked on the canals, especially the Erie Canal, the Gateway to the West, and

I remember all of the Irish who built the railroads that made this sprawling country into one nation from sea to shining sea. * * *

I remember the heroes and the fainthearted, the politicians and the statesmen, the saints, the rascals and the sinners, all of them, and

I remember that it took pluck and luck and sweat and blood, and not a few tears for us to get to where we are now, and to enjoy the acceptance we have today. But most of all it took hard work, the kind of work that needs doing now before October 5, 1990.

Project One Million is supported by the Irish Immigration Reform Movement, The American Irish Political Education Committee, and The Irish American Unity Conference—and by everyone who wears green on St. Patrick's Day.

PATRICK HURLEY.

EMPLOYER: AGENCY IS BULLYING HIM ON MINORITY HIRING

HON. WILIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. GOODLING. Mr. Speaker, I would like to call to my colleagues attention to an article which recently appeared in the Eau Claire Leader-Telegram regarding an issue which we will soon be again debating—hiring quotas.

Although none of us supports workplace discrimination, do we really want to subject employers like Mike Welbel to this type of costly litigation? Do we really want to force employers like this to defend their hiring decisions against pure statistics?

EMPLOYER: AGENCY IS BULLYING HIM ON MINORITY HIRING

(By Mario Fox)

CHICAGO.—Mike Welbel's lamp company employs 26 people—21 Hispanics and five blacks. Yet the Federal Government has accused him of job discrimination.

The U.S. Equal Employment Opportunity Commission recently ordered him to pay more than $130,000 for not hiring enough blacks, an order that might put the lights out on his Daniel Lamp Co.

"I don't have that kind of money. The whole business isn't worth that much," Welbel said Friday at his business on the city's West Side.

Based on a 1989 complaint, the EEOC accused him of hiring bias for the past two years even though, he said, more than 70 percent of the people he hired during those years were Hispanic.

"Why is the EEOC pitting Hispanics against Blacks?" Welbel said. "Does it want to make Daniel Lamp's 26 minority employees unemployed so it can report that it badgered another small employer into oblivion?"

The EEOC isn't saying anything publicly.

"When charges are filed and a case is in the administrative process, the commission cannot talk about them. I couldn't even confirm that the individual has a complaint," EEOC spokesman Mitchell Edison said Friday.

"Many of these cases end up in Federal district court. But until then, it is not public record," Edison said in a telephone interview.

Welbel's employees are shocked by the EEOC's action.

"Look around. He hires a lot of minorities," said Johnathan Poe, 20, a black who has worked at Dennis Lamp for six months. "He treats everybody well. I never had any trouble here."

Welbel, 42, said he can't even afford to pay the legal costs of fighting the agency's charges against him. "My wife and I started this business nine years ago with $3,000 borrowed money. We got a second mortgage on our Chevy wagon," he said.

Welbel's problems started in May 1989 when he was informed that a Lucille Johnson filed a complaint with the EEOC, saying she applied for a job and wasn't hired because she was black.

Welbel said he didn't interview the woman and has no record of her application. He thinks his general manager, Vital Lora, may have talked to her, but he left the company months ago and moved out of state.

Chicago's directory assistance had no telephone listing for Lora, nor could Johnson be located. The EEOC and Welbel's lawyer, Martin Dennis, refused to divulge her address or telephone number.

Soon after Johnson filed her complaint, two EEOC representatives visited the lamp company. "I thought, 'What do I have to hide? All my employees are black or Hispanics.' So I opened my books to them," said Welbel, of suburban Buffalo Grove.

The EEOC told him he must pay Johnson $340 in wages she lost by not being hired.

No problem, Welbel thought—a small price to be rid of the headache.

But that was not all.

Welbel said the EEOC maintains that employers within a 3-mile radius of Daniel Lamp had an average of 31.3 percent of black laborers, so Welbel should have the same percentage.

So the agency is demanding he pay $123,000 to six other blacks whose names were in Welbel's files but weren't hired. He also must spend $10,000 on newspaper advertising to find those six blacks.

For years, Welbel has done much of his hiring through the Spanish Coalition for Jobs Inc., which trains and refers people for employment.

Carlos Ponce, the coalition's executive director, said whites and blacks are in the organization's training program.

"Because we get Federal funds, we naturally follow the guidelines of the EEOC. We don't discriminate on the basis of race, religion, etc.," he said. "We refer our trainees on the basis of qualification for position and availability."

But the EEOC has refused to back down, Welbel said. "They won't budget a penny," he said.

YOUTH ENTREPRENEURSHIP ACT OF 1990

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. MCDADE. Mr. Speaker, I rise today to salute the young men and women, under the age of 29, who are important to the future economic strength and vitality of the United States, and to promote youth entrepreneurship. These young people are bringing an innovative spirit and vigor to the marketplace by providing new goods and services, revenues, and job opportunities. Evidence of this fact is reflected in the top 100 young entrepreneurs who earned a total of over $700 million in 1989. The efforts of these young people to nurture and challenge their own business skills is admirable. However, for the United States to be economically successful in this decade and beyond, we must make systemic changes to the Nation's educational curriculum to assure that entrepreneurial skills are taught our youth from the schoolroom to the boardroom. For this reason, I am introducing the Youth Entrepreneurship Act of 1990. This measure would establish the Office of Youth Entrepreneurship within the U.S. Small Business Administration for the purpose of promoting business education and the acquisition of entrepreneurial skills by our young people.

Every day in this country, businesses are restructuring to meet the future. They are becoming more competitive and more responsive to the consumer's needs. Should our educational system do less to meet the entrepreneurial needs of the future? Should it be any less sensitive to change? I believe that our educational system must become innovative and entrepreneurial if it is to play a role in strengthening the American economy. The Office of Youth Entrepreneurship can play a critical role in the formulation of the Nation's entrepreneurial curriculum. This bill instructs the Director of that office to promote the development of programs that teach educators about the virtues and fundamentals of youth entrepreneurship and encourage the establishment of business mentorship programs in elementary schools, secondary schools, colleges, and universities. Business mentors can be a source of inspiration and guidance who can share their life and professional experiences and success with young people who aspire to start their own businesses.

Second, this act instructs the Director of the Office of Youth Entrepreneurship to positively impact the development of the Nation's educational curriculum by forming business advisory groups that will help develop curriculum which reflect the needs of local businesses. It is important that the curricula that result from these advisory groups be tailored toward producing business leaders with flexible skills that can respond to rapid and unpredictable changes in the marketplace. It is here where we can have the greatest impact on the future competitiveness of the United States. In reality, entrepreneurial education could be America's most effective economic program. It could be our most productive jobs and antipoverty program. Entrepreneurial education could be the way to out-compete the Japanese, the South Koreans, and the Germans.

Third, in order to facilitate the networking of organizations and individuals which promote youth enterpreneurship, this act requires the Director of the Office of Youth Entrepreneurship to compile, maintain, and distribute a list of organizations which are dedicated to promoting youth entrepreneurship. This list will help reduce the informational void which currently exists amongst those concerned with promoting youth entrepreneurship.

Finally, the act directs the Office of Youth Entrepreneurship to conduct a study of the educational methods that are most effective in promoting youth entrepreneurship and report its findings to Congress no later than 1 year after the enactment of this act. By identifying the best methods by which to continuously develop and challenge the enterpreneurial skills of our youth from elementary school to the boardroom, we will once again be able to reassert our leadership as a world economic force.

The Youth Entrepreneurship Act of 1990 presents an opportunity to change the focus of our productions process to invest more heavily in training and to reshape our thinking in order to promote continuous entrepreneurial learning. More that 2,200 years ago, Aristotle wrote,

> All who have mediated on the art of governing mankind have been convinced that the fate of one's country depends on the education of youth.

His words are just as true today as they were when he spoke them. Please join me in supporting the Young Entrepreneurship Act of 1990 so that America will continue to be a viable economic force in the coming decade and beyond.

LET'S VOTE ON THE BRADY BILL

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. BROWN of California. Mr. Speaker, I rise to express my disappointment that the provisions of the Brady bill were not allowed to be offered as an amendment to the crime bill. As you know, the Brady bill would establish a national 7-day waiting period for the purchase of handguns. While we are all intent on cracking down on crime, so far the House has not taken adequate steps to insure that individuals with criminal records cannot walk into a gun shop and walk out with a weapon.

By creating a national 7-day waiting period for handgun purchases, the Brady bill would provide law enforcement officials with a much needed opportunity to review the background of potential purchasers and keep honest gun dealers from selling handguns to those who are legally barred from handgun ownership. Further, it would provide a cooling off period during which a person, intent on violence, may calm down.

The Brady bill simply provides an enforcement mechanism for the 1968 Gun Control Act which prohibits criminals, drug addicts, minors, illegal aliens, and those diagnosed mentally ill from buying handguns. Many States currently have a waiting period so that background checks can be carried out on potential purchasers.

Where waiting periods and background checks exist, we know they work to keep guns out of the wrong hands. For example, the California Attorney General's office reports that that State's waiting period caught 1,200 prohibited handgun buyers in 1 year alone. Another example, drawn from New Jersey, shows that in the 19 years that State has required a background check, 10,000 convicted felons have been caught trying to buy handguns.

The lack of a national policy on handgun sales undermines the effectiveness of the waiting periods and background checks that do exist in some parts of this country and makes a mockery of the 1968 Gun Control Act. Currently, criminals have a free ride to travel to States and municipalities where waiting periods do not exist, purchase the weapons of their choice, and transport them to wherever they desire. John Hinckley, Jr., walked into a Dallas pawn shop and instantly obtained a pistol. This despite lying about his address on the Federal firearm form that he was required to fill out. He later used that same pistol in his failed assassination attempt of President Reagan—an attempt that wounded the President and left his press secretary, James Brady, partially paralyzed. A national 7-day waiting period would have allowed the Dallas Police to run a background check on Hinckley and block his purchase.

Most major police organizations have endorsed this bill. The Federal Law Enforcement Officers Association, the Fraternal Order of Police, the International Brotherhood of Police Officers, the International Association of Chiefs of Police, the National Organization of Black Law Enforcement Executives, the National Association of Police Organizations, and the National Sheriff's Association are just some of the law enforcement organizations that have spoken in favor of the Brady bill. The police are asking us to give them this important tool for keeping guns out of the hands of criminals; it is high time that we do it.

Some have argued that this bill would infringe upon second amendment rights. I cannot see how a waiting period for handgun purchases can, in any sense, be interpreted as an infringement upon Constitutional rights. The Brady bill will simply allow us to serve the public's interest and enforce the law by keeping handguns away from criminals who prey upon society and endanger the lives of our police officers.

I hope that this Congress will be given an opportunity to act on the Brady bill before the end of the session. It is an important and simple reform that will finally put teeth into the Gun Control Act passed more than 20 years ago. I know my colleagues want to get tough on crime, and I can't think of a better place to start than to take steps to keep guns out of the hands of criminals.

THE ECONOMIC CRIMES ACT OF 1990

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. GILMAN. Mr. Speaker, I would like to take this opportunity to draw the attention of my colleagues to a bill I have introduced today, H.R. 5797, the Economic Crimes Act of 1990, legislation to address the growing problem of fraud against consumers, our Government, and business entities throughout our Nation.

Statistical evidence indicates that the overall economic loss due to fraud may total more than $400 billion per year, and our constituents have made it clear that this Nation is increasingly subject to fraud against our Government, our businesses, and against the citizens of our Nation. Fraud has become an epidemic that must be stopped quickly and effectively.

Currently, there are a multitude of statutes designed to process complaints against various forms of fraud. It has become all too clear that these statutes are unwieldy, inconsistent, and ineffective. Fraud today comprises more than three-fourths of the class in all the courts of our Nation. This waste of our resources must be stopped.

Specifically, my legislation would protect our Government, our business sector, and our Nation's consumers against deceptive advertising practices, misleading representation of goods or services, and against all forms of coercion. It would provide for uniform standards and effective and efficient enforcement by various agencies of the State, Federal Government, and the private sector, against all forms of fraud.

Mr. Speaker, I insert the full text of H.R. 5797 at this point in the CONGRESSIONAL

RECORD, and I invite my colleagues to cosponsor this vital measure.

H.R. 5797

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Economic Crimes Act of 1990".

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside such State;

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A); and

(C) within the District of Columbia or within any territory or possession of the United States.

(2) The term "organization" means an entity, other than a government, established or organized for any purpose, and includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, estate, society, union, club, church, and any other association of persons.

(3) The term "consumer" means any individual who is offered or supplied any goods or services for personal, family, or household purposes, and any small business concern which is offered or supplied any goods or services for use in connection with the business of such concern.

(4) The term "agency of government" includes the Federal Government, State governments, and governments of political subdivisions.

(5) The term "goods" means personal and real property, but such term does not include securities or interests in securities.

(6) The term "sale" means any transfer of goods or services in exchange for anything of value.

(7) The term "services" means any benefit resulting from the labor, skill, or time of another person or from the use of property, including labor, professional service, transportation, telephone, mail, other public service, electricity, gas, other public utility service, banking, accommodations in hotels, restaurants, or other places, admission to exhibitions, performances, or other places, and the use of property owned by another person.

(8) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and any other territory or possession of the United States.

(9) The term "State attorney general" means the chief legal officer of a State, or any other person authorized by State law to bring actions under section 3, 4, or 5. Such term includes the Corporation Counsel of the District of Columbia. Such term does not include any person employed or retained—

(A) for a contingency fee based on a percentage of the monetary relief awarded in the action involved; or

(B) on any other contingency fee basis, unless, in the cae of actions brought under section 4(a)(1), the amount of the award of a reasonable attorney fee to a prevailing plaintiff is determined by the court under section 4(d)(1).

(10) The term "statement" means any representation in any form of advertising, any oral or visual presentation, or any other representation, presentation, or conduct which is communicated to consumers.

(11) The term "supplier" means any person who is in the businesss of making goods or services available to consumers.

(12) The term "deceptive practice" means any of the following:

(A) offering or advertising goods or services for sale to an organization, consumer, or agency of government and not selling such goods or services as so offered or advertised, or without ability to supply reasonably expectable public demands, unless the offer or advertisement clearly and conspicuously discloses the limitation;

(B) making false or misleading statements with respect to goods or services which are offered for sale or sold to an organization, consumer, or agency of government with respect to—

(i) the need for such goods or services;

(ii) the need for repair or replacement of such goods or services;

(iii) rights, privileges, or remedies, in connection with the purchase of such goods or services;

(iv) prior ownership of such goods or services;

(v) the grade, age, quality, style, standard, or model of such goods or services; or

(vi) price or quality comparisons with similar goods or services offered for sale to organizations, consumers, or agencies of government by the same or another supplier;

(C) making a statement that goods or services offered for sale, or sold to organizations, consumers, or agencies of government, have sponsorship, approval, origin, safety or performance characteristics, ingredients or components, uses, features, benefits, or qualities which the goods or services do not have;

(D) accepting consideration for goods or services and failing to deliver such goods or perform such services as promised or failing to return or refund deposits or advance payments for goods or services which are not rendered in absence of any default or breach of obligation on the part of the organization, consumer, or agency of government making such deposits or advance payments;

(E) using physical force, threat of physical force, tortious threats or harassment, or misrepresentation of law in the course of a sale or attempted sale to an organization, consumer, or agency of government of goods or services or in the course of collection of the purchase price or any portion of the purchase price of goods and services from an organization, consumer, or agency of government;

(F) making a statement that goods are original or new if such goods are deteriorated, altered, reconditioned, reclaimed, or otherwise used; or

(G) making any false or misleading statement with respect to the reasons for, existence of, or amount of, any price reduction in connection with the sale of any goods or services.

SEC. 3. SANCTIONS RELATING TO UNFAIR CONSUMER PRACTICES.

(a) IN GENERAL.—Any contract or agreement in commerce which provides for the purchase of goods or services and which results from a transaction involving a deceptive practice by a supplier may be voided by the affected organization, consumer, or agency of government.

(b) CRIMINAL PENALTIES.—Any person who induces an organization, consumer, or agency of government to enter into a contract or agreement pursuant to or in furtherance of a deceptive practice shall be subject to the same penalties as are provided by section 1963 of title 18, United States Code, for persons who violate that section.

(c) DAMAGES.—Any person who induces an organization, consumer, or agency of government to enter into a contract or agreement pursuant to or in furtherance of a deceptive practice shall be liable to such organization, consumer, or agency of government in an amount equal to 300 percent of the damage or loss sustained, together with an amount equal to the cost of any legal action required (including a reasonable attorney fee). Such amount may be recovered in a civil action in an appropriate district court of the United States or in any State court of competent jurisdiction.

(d) COURT ENFORCEMENT.—The district courts of the United States may have jurisdiction of any action brought under this section without regard to the citizenship of the parties or the amount in controversy. An action under this section may be brought not later than three years after the date on which the deceptive practice was discovered or reasonably should have been discovered.

SEC. 4. ACTIONS BY STATE ATTORNEYS GENERAL.

(a) IN GENERAL.—(1) Any State attorney general may bring an action in the name of the State, as parens patriae on behalf of organizations and consumers residing in the State, in any district court of the United States having jurisdiction over the defendant, or in any State court of competent jurisdiction, to secure relief as provided for in this section for any dmage or loss—

(A) which is sustained by such organizations or consumers by reason of any unfair consumer practice; and

(B) with respect to which an action may be brought by any injured party under section 3.

(2) An action under this section may be brought not later than 3 years after the date on which the deceptive practice was discovered or reasonably should have been discovered.

(3) The court shall award to the State as monetary relief an amount equal to 300 percent of the total damage or loss sustained, together with an amount equal to the cost of the action (including a reasonable attorney fee).

(4) The court shall exclude from the amount of monetary relief awarded in any action brought under paragraph (1) any amount of monetary relief which—

(A) duplicates amounts which have been awarded for the same damage or loss under section 3, or

(B) is properly allocable to organizations or consumers who have excluded their claims in accordance with subsection (b)(2).

(b) NOTICE.—

(1) In any action brought under subsection (a)(1), the State attorney general shall, at such times, in such manner, and with such content, as the court may direct, cause notice of such action to be given by publication. If the court finds that notice by publication would deny due process of law to any person, the court may direct further notice to any such person according to the circumstances of the case.

(2) Any person on whose behalf an action is brought under subsection (a)(1) may elect to exclude from adjudication the portion of the State claim for monetary relief attributable to such person by filing notice of such election with the court not later than the

end of the period specified in the notice given under paragraph (1).

(3) The final judgment in any action brought under subsection (a)(1) shall be res judicata as to any claim based upon a deceptive practice under this Act by any person on behalf of whom such action was brought and who fails to give the notice specified in paragraph (2) before the end of the period specified in the notice given under paragraph (1).

(c) DISMISSAL OR COMPROMISE.—Any action brought under subsection (a)(1) may not be dismissed or compromised without the approval of the court. Notice of any proposed dismissal or compromise shall be given in such manner as the court directs.

(d) FEES AND DAMAGES.—In any action brought under section 3, 4, or 5—

(1) the amount of any attorney fee to the prevailing plantiff shall be determined by the court; and

(2) the court shall award a reasonable attorney fee and actual and consequential damages to a defendant upon a finding that the plantiff has acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

(e) MONETARY RELIEF.—Any monetary relief recovered in any action brought under subsection (a)(1) shall—

(1) be distributed in such manner as the district court in its discretion may authorize, or

(2) be deemed a civil penalty by the court and deposited with the State as general revenues;

subject to the requirement that any distribution procedure adopted by the court shall afford each person involved a reasonable opportunity to secure his appropriate portion of the net monetary relief.

SEC. 5. ENFORCEMENT.

The Attorney General of the United States, the appropriate United States attorney, the Postal Service, the Federal Trade Commission, the Secretary of Health and Human Services on behalf of the Food and Drug Administration, or the State attorney general of any State in which a prohibited act or practice occurred (as parens patriae of the people of such State, after notifying the Attorney General of the United States) may, upon a finding that any person is engaged or is about to engage in any act or practice which constitutes a deceptive practice, may issue subpoenas, and bring an action in the appropriate district court of the United States, or in any State court of competent jurisdiction, to enjoin such act or practice and obtain sanctions in accordance with section 3. Such courts shall have jurisdiction over such actions and shall provide appropriate relief. Such courts may grant a temporary restraining order, or a preliminary or permanent injunction without bond.

TRIBUTE TO THE REVEREND N. LAMONTE NEWSOME, PASTOR OF SERENITY BAPTIST CHURCH, PATERSON, NJ

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. ROE. Mr. Speaker, on Saturday, October 13, residents of my Eighth Congressional District and the State of New Jersey will join the parish community of Serenity Baptist Church, which has been a spiritual focal point and a beacon of faith for countless numbers of worshipers, on the welcoming of Rev. N. LaMonte Newsome to their holy family as pastor.

This occasion will be observed with a special installation banquet on October 13, 1990, at the Excelsior Banquet Hall in Saddle Brook, NJ. I know that this event will be a source of great pride to the entire congregation, and especially to this fine church's new spiritual leader, Rev. N. LaMonte Newsome, pastor, and his wife Teri.

Mr. Speaker, as a means of providing you and our colleagues with the details of this important event, I would like to insert for the RECORD the official history of Serenity Baptist Church along with the biography of Rev. N. LaMonte Newsome:

The Reverend N. LaMonte Newsome is a graduate of Hampton Institute, Hampton, VA, as well as the school of theology at Virginia Union University where he received his master's of divinity in May 1988. It was at this time that he was ordained into the gospel ministry by the Peninsula Ministerial Alliance and the First Baptist Church in Hampton, VA.

Reverend Newsome has served in the past as the associate minister for the First Baptist Church where his particular responsibility was that of the youth ministry. While serving in this capacity, he initiated several major programs oriented toward young adults, including workshops and theatrical revivals for the Greater Tidewater Area of Virginia.

As a community activist, Reverend Newsome has served as the chairman of the Youth Development Committee for the Coalition for Good Government, as well as the Hampton Youth Service Commission and the Peninsula Family Services and Traveler's Aid, Inc. He is presently employed at the U.S. Army Fort Monmouth, NJ, Office of Equal Employment Opportunity as an equal opportunity manager.

Mr. Speaker, it is Rev. Newsome's combination of theological studies and civil services which has brought him, through the direction of God, to Serenity Baptist Church.

Serenity Baptist Church was established under the leadership of Rev. Willie James Worthem on September 29, 1979. Guided by the hand of the Lord, he dreamed of broadening the Christian faith in the Paterson area. Weekly worship services were held at the Riverside Baptist Church, and eventually Sunday school classes were established. Over the years, they have been able to create many different internal committees to carry out the works of the Lord.

Mr. Speaker, for the past 11 years, Serenity Baptist Church has been able to nourish needy bodies with spiritual food and their minds with the feeling that someone cares. I know that you and all our colleagues here in Congress will want to join me in extending our warmest greetings and best wishes to Reverend Newsome as the new pastor of Serenity Baptist Church. We do indeed salute an esteemed pastor and institution for their service to their church, our Nation, and all mankind.

COLUMBUS DAY, 1990

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. BILIRAKIS. Mr. Speaker, I rise today to pay tribute to the man who set out on a voyage of exploration nearly 500 years ago, a voyage that resulted in the discovery of America. That man, of course, was Christopher Columbus.

It is fascinating to me to think back to that time some five centuries ago, to reflect on the foresight and courage of this great explorer as he set out into the unknown with but three tiny ships and a handful of men.

Columbus' four voyages to the new world were fraught with hardship and danger. However, Columbus persevered and though he died without grasping the full significance of his actions, an entry in his diary proved profoundly prophetic.

On his third voyage, he wrote on spotting the mainland of what would be America: "I believe that this is a very great continent, until today unknown . . . and if this be a continent it is a marvelous thing, and will be so among all the wise."

On Monday, we will celebrate for the 20th year in a row the day set aside in honor of Christopher Columbus. However, it is fitting at this time that we remember and honor the contributions to America of all Italian-Americans—sons and daughters of Italy who in their own way have followed Columbus to America.

It has been reported that the average Italian came to these shores with but $17, and settled in the major cities of the east. While it is a fact widely known, that most of these immigrants planned only a brief sojourn in America, followed by a return to Italy, only a few followed through. The remainder stayed and gave to this land generations of its teachers, athletes, artists, musicians, doctors, lawyers—even politicians. Also, it was an Italian in point of fact—Francesca Cabrini—who became the first American saint.

Ten years ago, the Rev. William J. O'Halloran, president of Lemoyne College, remarked upon this in words difficult to improve upon. I would like to close my remarks today with Rev. O'Halloran's: "We salute Christopher Columbus on this day of his discovery and we salute the Italian-American people who discover in our own day, the new Americas of opportunity and challenge."

IN RECOGNITION OF MOIRA JACKSON

HON. Nancy PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Ms. PELOSI. Mr. Speaker, I rise today to recognize the 80th birthday of an extraordinary woman, Moira Jackson.

Moira has been a member of the California Senior Legislature for 10 years, a member of the California Commission on Aging, and the

San Francisco Commission on Aging. She has authored proposals for medication education for seniors and senior health services which have been adopted by the California State Legislature to become model programs for seniors throughout the State. She has also volunteered her considerable talents in countless organizations whose mission is to assist and advocate for seniors.

I was proud to appoint Moira as the senior intern representing the Fifth Congressional District, a position in which she served with great distinction and great vigor.

Moira's life and works are dedicated toward the improvement of life for seniors, and I am proud to say that the citizens of the State of California are better because of her efforts. At 80 years young, Moira is an example of the truism, "you are only as old as you feel." She will be celebrating her "Gift of Life" with a Mass and reception at St. Teresa's Church in San Francisco on October 6.

Mr. Speaker, I wish to celebrate the "Gift of Life" Moira has bestowed upon us all through her good deeds.

PRESIDENT BUSH URGES CONGRESSIONAL ACTION ON LEGISLATION RE PUERTO RICO'S POLITICAL STATUS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. LAGOMARSINO. Mr. Speaker, I have just received a letter from President Bush urging the Congress to act quickly on legislation providing a referendum on Puerto Rico's political status. The President's words reflect his genuine and stalwart support of the right of the people of Puerto Rico to choose their relationship with the United States.

During President Bush's first address to a joint session of the Congress last year, he expressed his long-held belief that the people of Puerto Rico should be able to decide their future relationship with the United States. Although he expressed his strong personal preference for statehood, he asked the Congress to take the steps necessary to let the people decide in a referendum.

Since the President's request, committees of jurisdiction in both the Senate and the House have labored to develop legislation authorizing a referendum in Puerto Rico in 1991. Senators BENNETT JOHNSTON and JAMES MCCLURE of the Senate Committee on Energy and Natural Resources completed through herculean efforts a bill over a year ago detailing precisely the terms of the three prevailing status preferences in Puerto Rico: independence, statehood, or a commonwealth relationship.

Recently the Committee on Interior and Insular Affairs and the Committee on Rules favorably reported H.R. 4765, the Puerto Rico Self-Determination Act. The legislation gained approval by the committees only after months of complex discussions with various parties in Puerto Rico supporting different status options.

I urge my colleagues to support legislation providing the 3.6 million U.S. citizens of Puerto Rico with the opportunity to decide their future relationship with the United States. The enactment of such measure will be a testament to the democratic principles upon which this Nation was founded. "We the People," including the United States citizens of Puerto Rico, have a right to participate in the governance of the country in which they reside.

President Bush's letter follows:

THE WHITE HOUSE,
Washington, DC, October 5, 1990.

Hon. ROBERT J. LAGOMARSINO,
House of Representatives,
Washington, DC.

DEAR BOB: I applaud everything you have done to give the people of Puerto Rico the chance to declare what they want their political future to be. Your subcommittee performed truly historic labor, and now your bill is about to come to the House floor.

As you know from my first address to Congress, this issue is important to me, and not just because of my long-standing interest in Puerto Rico. As President in a time of democratic growth and vibrancy throughout the world, I strongly believe it is past time that we guarantee the residents of the Island a voice in resolving the political status of Puerto Rico, American territory for 92 years. We owe this to them, and we owe it to a world that watches to see whether the United States of America believes as much in the consent of the governed now as it did in 1776.

I would urge the entire Congress to act affirmatively and rapidly on whatever responsible measure comes before them to call for a referendum on Puerto Rico's political status. And I stand ready to sign such legislation when it reaches my desk.

Sincerely,

GEORGE BUSH.

H.R. 1461

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. SPRATT. Mr. Speaker, I rise to express my support for H.R. 1461, the Textile Machinery Modernization Act. This legislation is designed to revitalize America's beleaguered domestic textile machinery manufacturers.

Over the past three decades, domestic textile manufacturers have suffered serious financial setbacks at the hands of imported machinery. In 1960, U.S. producers supplied 93 percent of the domestic market for machinery. By 1982, that was down to 48 percent, and in 1988 it dropped to 35 percent. In 1972, the U.S. textile machinery industry recorded a trade deficit of $270 million. That rose to $618 million in 1986. Unless our Government takes speedy and effective steps today, we will witness the continued decline and eventual disappearance of this critical domestic industry.

H.R. 1461 would establish a fund within the Treasury Department to support research for textile machinery modernization. The money for this fund would come from a small duty imposed on imported textile machinery. The Commerce Secretary would administer this fund by providing grants to finance research projects.

The Commerce Department has concluded that this industry's critical need is research and development to close a technology gap. H.R. 1461 is a modest, but important step in the direction of closing that gap. Just as America cannot afford to lose its domestic textile industry, we cannot afford to lose our textile machinery industry. Even in a time of tight budget constraints, our Government cannot afford to ignore its responsibility to help save vital domestic manufacturing industries like textile manufacturers.

POLICE OFFICER MARY RUDY HONORED

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. MANTON. Mr. Speaker, I want to pay tribute to a special constituent of mine, police officer Mary Rudy. This evening, Mary will be honored by her friends and colleagues as she retires from the New York City Police Department [NYPD].

Mary Rudy joined the NYPD in December 1973, and was assigned to the 108th precinct in Long Island City, Queens, in June 1984. Working in the 108 was especially exciting for Mary. She was born and grew up within blocks of the station house. She protected her longtime friends and neighbors working this job.

Mary was a victim of the city's budget problems in 1974 when the department experienced a reduction in force. However, she did not give up her determination to serve the city as a police officer.

Mary returned to the 108th precinct in 1977 and served there on patrol, as captain's clerical, as youth coordinator and, finally, as community affairs officer. She went from the 108 to the auto crime division where she also distinguished herself.

Mary Rudy has been an outstanding police officer. She is dedicated, courageous, intelligent, and empathetic. Her courage is demonstrated best, perhaps, by her gallant fight against cancer. Mary came back to the NYPD twice after bouts with the disease.

Mary Rudy is now retiring from the department on disability and her friends want her to know how much they appreciate her. They plan to thank her for her devotion to the community and to the police department. They plan to tell her how much they admire her perseverance and faith. They plan to say "Well done, Mary Rudy."

Mr. Speaker, I know my colleagues join me in congratulating Mary Rudy and in wishing her all possible happiness in the years ahead.

RECOGNIZING JOHN R. POPE, M.D.

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. SYNAR. Mr. Speaker, I rise to honor a physician whose healing hand has touched the lives and hearts of many Oklahomans. Dr. John R. Pope, a cardiologist on the staff of the Holt-Crock Clinic in Fort Smith, AR, is an exemplar of the ideals expressed in the Hippocratic oath:

> I will follow that system of regimen which, according to my ability and judgment, I consider for the benefit of my patients. . . While I continue to keep this oath unviolated, may it be granted to me to enjoy life and the practice of the art, respected by all men, at all times.

Dr. Pope is, indeed, respected by all who have had the privilege to know him. He has been honored by the Mayor of Fort Smith, the Governor of Arkansas, and the Oklahoma House of Representatives. C.B. and Ann Miller, of Sallisaw, OK, have donated a patient room at Sparks Hospital, Fort Smith, in thanksgiving for his professional practice and skill.

Mr. Speaker, I invite my colleagues to join me in recognizing Dr. John R. Pope.

OPPOSING THE PERSIAN GULF RESOLUTION

HON. JAMES A. McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. McDERMOTT. Mr. Speaker, for 2 months, Congress has given the President a free hand to resolve the crisis in Kuwait. We supported the President in his initial attempts to contain Iraqi aggression and to mobilize the support of the international community. We agreed with the President that Saddam Hussein's actions could not go unanswered—for whenever one nation's sovereignty is violated, every nation's is threatened.

I support this resolution's call to strengthen international efforts, to commend the prompt response of the United Nations, and to work for a diplomatic solution to this crisis. These are appropriate and essential measures.

I support our service men and women in the Persian Gulf region, and those in the Ready Reserve and the National Guard who have been called to duty. Their lives have been disrupted and those sent overseas are at great risk of military and terrorist attack. We all respect their dedication and courage. I fear for the Americans being held hostage and my prayers are with them and their families.

But as the days since August 2 have passed, we have entered a new phase in this crisis. The imminent threat of attack on Saudi Arabia has diminished. Now we must respond to a lingering threat. In view of this shift, I have concerns about the strength of our commitment, the length of our commitment, and the fundamental purpose of our commitment.

There is talk of direct attack by U.S. troops. Various military scenarios are openly discussed. There is talk also of a deepening stalemate. The prospect of our prolonged presence in the region has increased in recent weeks, and this prospect raises serious and troubling questions.

Are we doing everything possible to resolve this crisis by means other than military force? "I am convinced that peace will not be established by military means. Sooner or later the issue is bound to be settled at the conference table. Eventually, why not now?" This is the question Senator Ernest Gruening posed on August 6, 1964, during debate of the Gulf of Tonkin resolution.

This resolution is not the Gulf of Tonkin. It does not commit us to future action and the circumstances of our intervention are quite different. But Senator Gruening's essential question bears repeating today. He went on to ask if all of the parties involved has sought, as required by the U.N. charter, "first of all—a solution by negotiation? Have they sought a solution by inquiry? Have they sought a solution by mediation? Have they sought a solution by conciliation? Have they sought a solution by arbitration? Have they sought a solution by judicial settlement? Have they sought a solution by 'resort to regional agencies or arrangements'? Have they sought a solution by resort to 'other peaceful means of their own choice'?"

At this point, it is not clear to me whether or not we are seeking a peaceful resolution or military intervention. As 100,000 troops languish in the desert, the potential for escalation grows each day.

I believe that the United Nations should be the guiding hand in our response to this crisis. Its support thus far has been vital, and the response of the world community has been reassuring. At this point, responsibility for restoring Kuwait, for stopping Hussein, for ensuring the world order, rests overwhelmingly with the United States. If Hussein is truly a world threat, the United Nations should step in to deploy a multinational force or to initiate a negotiating effort.

Certainly the United States must share the global burden of halting tyranny, and our initial response to assist Kuwait and Saudi Arabia was appropriate. But there is no direct threat to the United States, and I am uneasy whenever the "national interest" is invoked to justify risking American lives. Certainly a continued abundance of foreign oil is not worth this risk. Stability in the Middle East is clearly in our interest, but I am not convinced that prolonged deployment of United States troops is the best way to achieve it.

Finally, I do not want the United States to become a nation accustomed to using military force as the means of first resort rather than last, or to applying military might when steady negotiations might succeed, or to relying on the military to cure the failures of diplomacy. Over the past decade, we have gone on a binge of cut-rate military adventures that may well undermine rather than promote our influence in the world.

This President knows how to talk tough. I want to hear him talk tough about peace. I cannot support this resolution or our continued presence in the gulf until I am convinced of his resolve to seek other means to end this crisis and to respect the process of consultation with Congress that our constitutional institutions provide.

I served in the Navy during the Vietnam era. I treated the casualties of that war. For too long, our country lied to those soldiers, and we deluded ourselves. I never again will consent to risking American lives for vague "national interests." We are deluding ourselves again if we think there will be winners in a shooting war in the gulf. I want to be sure that we have exhausted all other means before we ask our citizens—or any others—to make this sacrifice. As we seek long-term stability for the region, we must look beyond the deployment of U.S. troops. Only a negotiated settlement can bring lasting peace to the Middle East.

REMEMBERING SHIRLEY SCHECTER

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. SCHUMER. Mr. Speaker, the community of Canarsie and our Nation have lost a great asset. Shirley Schecter recently passed away.

One of the great joys of my job is being able to meet the many fine community leaders of Brooklyn. Without pay and with great personal sacrifice, these men and women give of their time and energy for the community. Shirley Schecter was such a person.

In 1978, Shirley joined the staff of the Remsen Heights Senior Center as a bookkeeper. By 1983, she was the director of the center. But Shirley was more than the head of the vibrant center, she was its heart and soul. Her dedication and genuine affection for the seniors she served was evident in everything she did. With Shirley the seniors got more than service with a smile. They got service with a smile, a joke and a hug.

Outside the senior center, Shirley Schecter was committed to improving her community. She served as president of the Ladies Auxiliary of the Crown Heights Post of Jewish War Veterans and held just about every post in Hadassah.

We will miss Shirley dearly. But her commitment and the example Shirley set, will not soon be forgotten.

BUDGET RESOLUTION IS BEST OPTION

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mrs. VUCANOVICH. Mr. Speaker, I voted yesterday in favor of the budget resolution because it is the responsible choice between the lesser of two evils. I agonized over this decision, weighing the tough vote for the budget summit provisions against the catastrophe of across-the-board cuts in life or death Federal programs.

Yesterday we had the opportunity to balance the budget, and this is something I've been committed to do since I was sworn in in 1983. This vote shows that when Congress had an opportunity to show some backbone, it was their decision to opt for chaos.

I am very unhappy with the cuts in Medicare, and the effect this proposal could have on the elderly. The reality is, though, that the alternative we now face, a $130 billion sequester will be a catastrophe for every American: the elderly, the sick, the poor, veterans, students, and our brave young men and women in the military.

Under sequestration Medicare will fare no better. Reductions would be limited to 2 percent and all hospital, doctor and other provider payments would be reduced by 2 percent. Beneficiary services may not be cut and coinsurance may not be increased as a result of sequestration. However, some providers may alter the quality or quantity of services delivered in an effort to absorb the reductions. On the other hand, the administration of the Medicare Program would be subject to the full 32.4 percent sequestration. This would affect the processing of claims and the implementation of the program.

Of great concern to me was the decision to establish an annual fee of $100 per claim to keep hardrock mining claims on public lands active, which replaces the current Federal requirement that claimholders spend at least $100 per year on development of the claim.

Mr. Speaker, the OMB estimate of $390 million of revenue over a 5-year period is completely unrealistic. In fact, the figure may be much lower; CBO has estimated that receipts to the Treasury will only be $120 million. Whatever the true number will be, it is a fact that this $100 fee per claim will have a very large, detrimental impact on the Nevada economy, that we are still trying to assess. I only voted in favor of the budget because there existed an opportunity to change these revenue raising provisions when the resolution is sent to the Interior Committee for reconciliation. I hope any new budget resolution will eliminate this $100 fee per claim.

Furthermore a sequester will cut $742 million from Social Security, deny needed medical care for 83,000 veterans in hospitals and 1.7 million more veteran outpatients. It will deny one-third of needy students loans for their college education, put 113,000 children out of the Head Start Program, and paralyze commercial airline travel nationwide.

We made a commitment to our brave young men and women that we will support them as they face Iraq. A sequester will cut defense activities by almost 50 percent, and we are going to leave them out in the desert without the support they desperately need.

In ideal circumstances, I prefer fundamental reforms to the budget process, and strong, enforceable reductions in spending. But I wonder if Congress will ever show that kind of courage.

I made this tough decision because I am truly committed to reducing the deficit. If Congress responds today with temporary spending measures and more smoke and mirrors, I will not vote for any continuing resolution or budget bill.

HONORING HERMAN R. FAST, WEST COVINA CITY MANAGER

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. TORRES. Mr. Speaker, I rise today to recognize a special individual, Mr. Herman R. Fast, city manager for the city of West Covina, CA. Bob is retiring from the position of city manager after 14 years in that capacity. He will be honored at a special dinner on, October 28, 1990.

Bob Fast has served the community of West Covina as its city manager, a position that he has held since 1976. I commend Bob for his sincere dedication to the citizenry of West Covina.

Bob was born at Mountain Lake, MN. He received his bachelor of science degree in engineering at the University of Minnesota. In 1955, he moved to California where he earned his masters of science degree in public administration from California State University, Los Angeles. Bob is married to Doris Fast; he has three grown children, Mary Kay McMillan, Patricia A. Nelson, and Robert J. Fast.

Prior to his tenure as city manager, Bob had the unique opportunity of serving the city of West Covina in several capacities. He became a member of its planning commission, assistant city manager, and public services director. Bob additionally served as a representative to the League of California Cities, Los Angeles Division; Los Angeles City-County Consolidation Commission; and on the public works subcommittee as vice-chairman and chairman. A resident of West Covina, Bob has actively participated in numerous community activities.

Mr. Speaker, on October 28, 1990, the citizens of West Covina will say farewell to a dynamic individual. A man with the ability not only to shape new ideas, but a leader who was able to make those ideas a reality. I ask my colleagues to join with me in a salute to a fine individual and friend, Herman R. Fast, for his outstanding record of service to the community of West Covina. And, to wish both he, and his wife, Doris, best wishes for a successful future.

GERMANY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. HOYER. Mr. Speaker, yesterday representatives of the four victorious powers of World War II suspended control of Berlin and today 41 years of national division ended. Last winter civil society staged a successful, bloodless revolution in East Germany and over the past 11 months we witnessed the breaching of the wall, the collapse of communism and the first free elections in the East.

Fifteen years ago the Helsinki Final Act spoke to the aspirations of the citizens of the 35 signatory states. It established a framework in which the interdependence of peace, security, and human rights proved to be more than words. The revolutions of 1989 proved that civil society energized by cries of peace and freedom for all men and women in a world of justice could coalesce to bring down the Communist tyranny that had ruled for 45 years. We witnessed a collective consensus with immense moral force surge forth demanding that human dignity as a political issue be reckoned with. And when regimes failed to respond they fell. Human rights triumphed as a crucial determinant governing the relationship between state and society.

The legacy of communism will not be eradicated overnight. As President Vaclav Havel stated before the U.S. Congress:

> The communist type of totalitarian system has left * * * a legacy of countless dead, and infinite spectrum of human suffering, profound economic decline and, above all, enormous human humiliation * * *.

The task of nation building lies ahead for all Germans. Wedded to democratic ideals the peoples of Germany will overcome the legacy of World War II.

UNFAIR BUDGET AGREEMENT

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. KLECZKA. Mr. Speaker, I rise today to express my dismay about the budget summit agreement which came before the House late last night. This package, which was negotiated for months, would have driven the tax burden sword further into the backs of elderly and middle-income taxpayers.

These are the same Americans who have seen their tax burden increase throughout the 1980's. And now, we are going to slap them with the bill for the Reagan-era mess. I say "no fair."

The $60 billion cut in Medicare programs for the elderly was a truly cruel proposal. This represented half of all domestic program cuts. These seniors' out-of-pocket deductible would have doubled. Their monthly premiums nearly would have doubled, and clinical lab services would cost them more. They don't deserve another hit.

This budget would stick the middle class with a 12-cent increase in the gas tax and another 2-cent levy on home heating oil. In return, oil and gas companies would get $4 billion in new tax breaks. This would result in windfall tax savings for the owners of these energy resources.

Furthermore, the landmark Tax Reform Act of 1986 would be undermined by the budget package. Tax shelters, which primarily benefit wealthy individuals, would once again be allowed to flourish under the so-called "growth incentives" proposed by the President and included in the budget plan.

Mr. Speaker, the disparity in the tax burden between upper and lower income categories over the past decade has been confirmed again and again by congressional studies. The top 20 percent of income earners paid less of their income in taxes in 1990 than in 1977.

The bottom 80 percent paid more in taxes over the same period.

The budget package increases this inequity in tax distribution. It increases taxes for those Americans earning between $20,000 and $50,000 by 3 percent to 3.5 percent. As for those earning over $200,000 per year, the average tax increase was only about 0.3 percent. Clearly, this is unfair.

The time is now to clear up these inequities, especially in the Medicare provisions, and draft a compromise that achieves the deficit reduction goal in a fair and responsible manner. With these changes, this Member of the House will be more willing to swallow had and vote to pass a budget bill.

HARRIET TAYLOR UPTON NATIONAL HISTORIC SITE

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. TRAFICANT. Mr. Speaker, today I introduced legislation that would designate the former residence of famous suffragette Harriet Taylor Upton of Warren, OH, a national historic site.

Harriet Taylor Upton dedicated her life to the cause of women's rights. In 1921, she served as a representative from Ohio on the national executive committee of the State Suffrage Association. She also served as an honorary vice president of the association that same year. As treasure of the National American Woman Suffrage Association, Harriet Taylor Upton transformed the association into a debt-free, profitable organization.

In addition to her work in the suffrage movement, Mrs. Upton was a major figure in other spheres of national politics. She served as vice chairperson of the executive committee of the Republican National Committee—the first woman to ever hold that position from either party. She was also instrumental in opening the U.S. diplomatic corps to women.

My legislation would give the U.S. Department of the Interior the authority to acquire the property with either Government money, donated funds or by exchange. The former resident would be designated as the Harriet Taylor Upton National Historic Site and would be administered by the National Park Service.

I encourage my colleagues to cosponsor this bill. Harriet Taylor Upton's residence is a precious historic landmark. It should be preserved and maintained to educate future generations of Americans and as a lasting tribute to this great American.

DEDICATION OF THE CHARLES J. STROSACKER CENTER FOR HUMAN SERVICES

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. SCHUETTE. Mr. Speaker, I rise today in honor of each individual and organization involved in making the Charles J. Strosacker Center for Human Services a reality. The board of directors of the United Way of Midland County will hold an open house for the public at the Strosacker Center on October 9, 1990.

According to By the Way . . ., a publication of the United Way of Midland, the Strosacker Center is named in honor of the Charles J. Strosacker, who funded the Charles J. Strosacker Foundation. In conjunction with other Midland foundations, the Strosacker Foundation provided funds to purchase and renovate the former Sears building on Midland's Main Street. The entire capital cost of the project was funded by foundations, so moneys from United Way contributions were not, in any way, used for the building. A formal dedication honoring the late Mr. Strosacker and the foundation supporters will be held later this year.

The Strosacker Center is intended to provide efficient office and program space for human service agencies such as the Midland County Council on the Aging, the Voluntary Action Center of Midland County, ARC, Big Brothers/Big Sisters, and the Midland County Chapter of the American Red Cross. The various agencies share space and a level of visibility which has helped to promote greater accessibility to those who are in need of their services.

Mr. Speaker, and my colleagues in the House, join me today in applauding the United Way, and all other responsible organizations and individuals for the opening of the Charles J. Strosacker Foundation. Their dedication to the service of others is to be recognized and commended.

TOWARD EXCELLENCE IN SCIENCE

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. SCHAEFER. Mr. Speaker, I rise today in well-deserved recognition of a teacher from the Sixth District of Colorado, Sue Anne Berger, who is firmly committed to achieving one of the President's top priorities—ensuring that American students are "first in the world in math and science" by the year 2000. Ms. Berger, a teacher from Bear Creek High School in Lakewood, CO, has been selected as a 1990 recipient for a prestigious Presidential Award for Excellence in Science and Mathematics Teaching.

A 27-year veteran of teaching, Sue Anne Berger brings top credentials to her chosen profession. With a bachelor of science in chemistry, a master's of combined science and masters of science in mineral economics to her credit, she brings a broad knowledge of the sciences to Colorado and sets a high academic standard for all teachers. In addition, she has been honored with the Institute of Electrical and Electronics Engineering Outstanding Teacher Award, the Colorado School of Mines Sigma XI Award and the American Chemical Society High School Chemistry Teacher's Award.

Berger has developed methods to open up the world of science to children of all ages. She has created innovative programs to enliven science for every level student. They include: descriptive teaching techniques; microscale chemistry labs; and hands on chemistry for 9- to 10-year-olds. Perhaps one of her most valuable teaching approaches, however, is a course entitled "Chemistry for Elementary Teachers." This course is a teaching aid which imparts effective science teaching skills to the educators who will have the first opportunity to interest our children in the sciences. In this way she has created a positive ripple effect that will impact thousands of children in Colorado.

Again, I would like to congratulate Sue Anne Berger for her selection as a recipient of a 1990 Presidential Award for Excellence in Science and Mathematics Teaching. Her unique contributions have opened up the magical world of science for many Colorado children.

SENATE—*Saturday, October 6, 1990*

(Legislative day of Tuesday, October 2, 1990)

The Senate met at 2 p.m., on the expiration of the recess, and was called to order by the Acting President pro tempore [Mr. Bryan].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Though I speak with the tongues of men and of angels, and have not love, I am become as sounding brass, or a tinkling cymbal.—I Corinthians 13:1.

Owe no man anything, but to love one another; for he that loveth another hath fulfilled the law.—Romans 13:8.

Gracious God, infinite in love and understanding, help us in this time of great tension to find our way. Save us from fragmentation. Remind us, "United we stand, divided we fall." "A house divided against itself cannot stand." Either we stand together, or we fall apart.

Thou alone dost know, Lord, the minds and hearts of Your servants in Congress—their motivation—the pressure upon them from constituents often who are misinformed. Knowing the future, Thou dost know how close we are to a precipice, to catastrophe. Save us, Lord, from winning battles and losing the war.

Holy Father, there are those who undoubtedly feel calling upon God is irrelevant in pragmatic politics. But our Founding Fathers understood its importance. Some of our greatest leaders depended on prayer. President Lincoln, in a time of great national crisis, discovered often there was no other place to go except to his knees. In wisdom and love, patient Father in heaven, lead us to a just and equitable solution.

In His name, who is love incarnate, we pray. Amen.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, and I say to the Members of the Senate, the President has vetoed the continuing resolution enacted last evening by the House and Senate which would have extended the operations of Government through midnight next Friday. The House will be coming into session at 3 p.m. to take up the veto override.

If the House overrides the veto, then the matter will come before the Senate for consideration and we will have a vote on the veto override sometime later this evening.

According to the members of the House staff handling the processing of the matter, we can expect House action to be completed, and if the veto is overridden, the papers to be in the Senate by approximately 5 p.m., perhaps sometime thereafter.

So I am shortly, following consultation with the distinguished Republican leader, going to suggest that the Senate stands in recess, following remarks from certain Senators who are here and wish to address the Senate, until 5 p.m., at which time we will be in a position to make an announcement regarding any action that may be necessary this evening.

If there is to be a vote on the veto override, I have, again following consultation with the Republican leader, decided that we will give Senators a minimum of 3 hours' notice before such time as a vote occurs, so that those Senators who are not present in the Nation's Capital can return for that vote. So we will be in a position to make an announcement at about 5 p.m.

Those who wish to do so, of course, have available to them directly viewing the House proceedings so they would know as soon as the vote occurs whether or not the veto was overridden and, if so, whether action here would be necessary.

In addition, I will be consulting with the distinguished Republican leader further this afternoon to determine whether there will be any other purpose for our being in session, and whether or not any session of the Senate will be necessary on tomorrow.

We are continuing the effort to reach agreement on the budget. It is my hope that the budget conference committee will reconvene today, that is, members of both parties and both Houses, in an effort to see if some progress toward that objective is possible.

ORDER FOR RECESS UNTIL 5 P.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator Sanford be recognized to address the Senate for 5 minutes; that thereafter, Senator Bond be recognized to address the Senate for 5 minutes; that thereafter, Senator Boschwitz be recognized to address the Senate for 10 minutes; that thereafter, Senator Specter be recognized to address the Senate for 10 minutes; and that thereafter, Senator Conrad be recognized to address the Senate for 5 minutes; and that following the using or the yielding back of that time, the Senate stand in recess until the hour of 5 p.m. today.

Mr. DOLE. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. DOLE. Mr. President, I was not aware of the 3-hour notice before we vote. I wonder if the time can start not at 5 o'clock but from the moment we know there will be a vote over here. That may be 4 o'clock on the House side.

Second, if someone needs to get somewhere else after, the vote can run for awhile, if necessary.

Mr. MITCHELL. I certainly would be agreeable to that. Frankly, Mr. President, it had been my hope that the House would have already acted and we would have known now, so that the vote in the Senate would have occurred perhaps sometime this afternoon.

We are trying to juggle two things here: One, to accommodate those Senators who are not in the Capitol by giving them time to get back, and to accommodate those who are here to have the vote as early as possible so they can go wherever they are going. That intersection will be at about 3 hours after the House votes. We will attempt to notify as many Senators as possible when we can. We are just trying to accommodate as many Senators as possible.

Mr. BOSCHWITZ. I would say, if the Senator will yield, I am in the latter group. I want to go off in the last plane that leaves at about 8 or so, so I am hopeful we will be able to vote. Does the majority leader feel there will be much time used after the vote in the House, after it comes over here, or are we going to proceed quickly?

Mr. MITCHELL. First, let me say that our voting on a veto override is, of course, conditioned on the House's overriding the veto, and we do not know that yet.

Mr. BOSCHWITZ. I understand.

Mr. MITCHELL. If it is not overridden in the House, then we will not take it up. Second, since I have a feeling that the President's decision to veto it was not made until after he had some assurance of votes to sustain the veto on the Republican side, I do not think a debate is going to change too many minds. So it would be my expectation that it could be a relatively short debate. We all know what the issues are, and if the votes are there for sustaining the veto, or, in any event, whether they are there to sustain or override the veto, I think that we ought to do that with relatively brief but what I know, I am confident, will be informative and incisive debate.

Mr. BOSCHWITZ. The President is mindful, as he should be, about counting votes.

The ACTING PRESIDENT pro tempore. Is there objection to the unanimous-consent request propounded by the majority leader? The Chair hears none. The request is agreed to.

Under the previous order, the Senator from North Carolina [Mr. Sanford] is recognized.

A MANUFACTURED CRISIS

Mr. SANFORD. Mr. President, this is a manufactured crisis. Congress, with a considerable sense of responsibility, voted to keep the Government going for a few days in order to work out of the mess that the President's summit budget has caused.

The President's veto of the continuing resolution is juvenile, I started to say, but that word has too much dignity for the act. It was a childish act, a temper tantrum because his summit maneuver did not work. The President tied the hands of Congress for 4 months and now expects to force Congress to rush to do his bidding. It is now clear that the President is the one who has brought the Government to a halt. It is a childish temper tantrum.

Congress has acted in good faith throughout this exercise. This mess is caused by President Bush. His budget sent to Congress last February was a fraud, predicting a mere $64 billion deficit, one-fifth of the true deficit that we now face. It was his deceit that caused us to have to resort to a summit.

President Bush is more responsible for the massive debt than anyone in government. He has continued to practice the 10 years of deceitful budget coverup. His summit 5-year budget would have added $1.2 trillion to the debt we are putting on our children, Mr. President.

Congress did the responsible thing in voting down the summit budget. It was a very bad budget. It is now time for Congress to force the President to accept an honest budget. The President has caused enough budget mischief. Congress should not be rushed into accepting a very bad budget.

I say, Mr. President, to the Federal employees, to the citizens disadvantaged by the lack of public services, "Do not call your Congressman. Call the White House."

I thank the Chair.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Missouri [Mr. Bond] is recognized for a period of 5 minutes.

Mr. BOND. Mr. President, I thank the Chair.

SUGGESTIONS FOR IMPROVING THE BUDGET

Mr. BOND. I came to try to offer some constructive suggestions on what is obviously a very critical situation for us and this country. Let me say, though, that I am very disappointed to hear an attempt at this point to blame the President as being the one solely responsible for the quandary which we face. The President obviously is part of the process, but he cannot spend a nickel until we authorize it and appropriate it. We are not going to confuse the American taxpayers, the American citizens by saying, "Oh, it is all the President's fault." Come on, we are all big boys, big girls. We have been around a little while. We have a stake in this. We have a responsibility to deal with this budget problem. To say that Congress has acted completely in good faith and has no responsibility is about as effective as saying "the dog ate my homework" or "the Devil made me do it." That just is not going to wash.

I talked to many people back in my State of Missouri who are very fed up with everybody in Washington, both the executive and the legislative branches, and they expect us to do something. I can tell you that the time has long passed when we are going to gain any points or make any progress saying it is the Republicans' fault, it is the Democrats' fault. Sure, we could point the finger at the House of Representatives; they were the first party to have an opportunity to vote on the budget agreement. They voted it down. I happen to think that that threatens to bring real chaos on this country. But I am not saying that they are venal. I am not saying, "Write the Members of the House of Representatives." I say, let us get about doing something about this mess we are in.

We have a real problem, Mr. President. It is not going to be solved by a short-term continuing resolution extending for a few more days the ability of the Government to spend when we cannot get our spending under control.

Most Members of this body and most people who follow Government and economics respect the chairman of the Federal Reserve. Alan Greenspan has said that if we do not have a credible, honest-to-goodness deficit reduction plan that is enforceable and that carries over a number of years, then we are going to see the cost of our fiscal irresponsibility in higher interest rates and higher unemployment.

Chairman Greenspan said what we all said: the budget agreement was not the greatest. I respect our leaders in this body who worked hard to get that deficit reduction agreement. I commend them for probably the most significant process reform that we have seen at least in the 3½ or 3¾ years that I have been here, some means of assuring we do not spend money in the outyears above and beyond what we have agreed upon. That was a very good part. There are a lot of ugly parts. There are parts I did not like, and there are parts that people in my State did not like, and I am sure every Member of this body has people back home telling them they do not like the gas tax; they do not like the Medicare costs.

I hope we can get about solving the problem and coming up with a modification of that summit agreement that will enable us to get out of this quandary. I suggest freezing domestic spending at 1990 levels, including agriculture—and I will say why in just a minute—taking those savings and the $11 billion in what may become a massive tax shelter for small business and using those funds to eliminate the gas tax as a deficit reduction measure and to provide more relief for lower income elderly who have the potential of facing higher Medicare costs. The moneys available would also let us give some relief to homeowners from the ravages of inflation. Rather than lowering the capital gains tax, we could permit them to index the base of their home from when they purchase it. These would deal with many of the problems we found in my State and I am sure in other States.

I hope that a proposal like this would allow Democrats and Republicans to come together with the President and say we acted responsibly; we can balance our checkbook; we are shaking the notion that we are the gang that cannot shoot straight. That, Mr. President, is the view that we have conveyed, the message we have sent to our people. It is time that we got rid of it.

Agriculture can be cut in future years when we reach an agreement under the GATT negotiations to bring down subsidies and overseas dumping of agricultural surpluses. That will allow us to make substantial reductions. But to do so now unilaterally is to disarm us in the critical GATT negotiations and threaten higher costs and loss of exports on our farmers. These are items I hope will be constructive, Mr. President.

I would like to see us working together as Democrats and Republicans, legislative and executive. We need to stop the finger pointing and start the solution.

I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Minnesota [Mr. Boschwitz] is recognized for 10 minutes.

Mr. BOSCHWITZ. I thank the Chair.

I ask my friend from Missouri, is he going to be supportive of the Presidential veto?

Mr. BOND. The Senator from Minnesota is correct.

CONTINUING RESOLUTIONS

Mr. BOSCHWITZ. I too, Mr. President, am rising to say that I will support the Presidential veto of this continuing resolution. This is the 36th continuing resolution since March of 1981. We have gotten into the habit here in the Senate and here in the Congress of doing business by continuing resolutions.

We are now past the beginning of the fiscal year. Not a single appropriations bill has been passed into law that would fund Government agencies for this fiscal year. There can, in reality, be no sequester. There is nothing to sequester. Nothing has been appropriated unless this continuing resolution were to go forward and then you were to sequester from it.

But a continuing resolution is not the way to do business. I recall when President Reagan, in one of his State of the Union messages, picked up a continuing resolution. I think it was 2,000 pages long. Not a single Member of this body knew what was really in that continuing resolution.

Lots of mischief are in these bills that are passed in an overnight fashion, when they are negotiated and put together in the earliest hours of the morning by staff, often without the consultation of Senators or Congressmen. It is just the wrong way to govern. We were not sent down here to govern that way.

So I am against continuing resolutions, just continuing and continuing the process. This is already the second continuing resolution. Now there should be a third, and then a fourth. If you give the Congress of the United States three more days to come up with a budget, they will come up with it on the third day. If you give them 45 days in order to give them time to consider it, it will be on the 45th day.

I know that earlier this year people said well, it is not unlikely that the budget summit will conclude prior to the August recess. And the President has been most forthcoming. He first delayed in June and gave us more time to come up with a budget resolution. Then he gave another delay in August, and against last week. How long will we delay? The time has come to govern. We cannot govern by continuing resolutions where everything is thrown into the pot and mixed around, and nobody really knows what the ingredients are.

So I will support the President's veto because that veto will draw this process to a conclusion. It will indeed shut down the Federal Government to a large degree. It will indeed inconvenience very many Federal workers. It will create some hardships for some Federal workers. I understand that. But continuing resolutions will also create some hardship for the way this country is governed. And it is time that we get on to the business of governing it in a more organized fashion.

I often talk to my constituents about the fact that this body of 100 people contains about 65 lawyers. You know, those fellows will negotiate on and on in as much time as you give them. If you give those set of lawyers, and of course there are a couple hundred or three hundred of them over in the House, something like that—no wonder this negotiation goes on and on.

There are too few businessmen. I see the Senator from Idaho, who, as was I, was a businessman in his career. We could conclude this very, very rapidly. We are used to concluding things very rapidly. Lawyers are used to getting continuances, and going on and going on. That is not the way to do business. But regrettably, it is the way that we do business here in the Senate of the United States.

I agree with my distinguished colleague from Missouri who said that even though the package is now history, it had very many strong process reforms. He said that they were the best budget process reforms that had occurred in the 3½ years that he has been here. They are the best process reforms that have occurred in the 12 years that I have been here. It would cap appropriations and have enforcement provisions. It would also prevent new entitlement programs from arising unless they were on a pay as you go basis.

It also dealt with supplemental appropriations, because toward the end of the fiscal year we always seem to run out of money, and then we have dire emergency supplementals. It dealt with that as well. It dealt with reconciliation because reconciliation normally is done 1 year at a time. All of us are expert in moving expenses from 1 year to the other, and not saving a dime but claiming that we saved a lot.

So the process reform in the budget package has failed, and that is now history. I hope at least those process reforms will show up once again in this new package.

Let me just say a word about my friend from North Carolina, who I see is no longer on the floor, but he said the Congress acted with a considerable sense of responsibility.

I do not share that particular feeling. He said that the President's veto was a childish temper tantrum. I wish he had not said that. I hope this will not become a partisan fight. Certainly, my vote to sustain his veto is in a degree partisan. I am a Republican. I want to support a Republican President. But I think it also deals with the facts that we cannot continue to govern by continuing resolutions. We simply have to pass appropriations bills. We have to get on with the business of having a budget for the fiscal year that has already begun. One continuing resolution leads to another.

We are going to be here right up to Christmas. Very frankly, our only hope of not having a lameduck session is to get on with it, have the President force us to get on with it, and then write the necessary enabling legislation that it takes to bring that budget into effect.

My good friend from North Carolina said that the Congress should not be rushed. Those were his words. I do not agree with that. He said that the President was deceitful. I certainly do not agree with that.

This morning I talked to two Minnesotans, John and Helen, and they were terribly upset about this budget package. They thought that their Social Security had in some way been imposed upon. Social Security is not touched. They thought that she could no longer go to the hospital, and Helen has some health problems. I said that part A of Medicare, the larger part of Medicare that deals with hospitals, has not been touched by the budget agreement; that part B that deals with doctors has been touched, and that they would now pay for the first year $3.60 a month more. The annual deductible that now is $75 would go to $100, and then would go to, in the second year, $125, and in the third year to $150.

They had not understood the parameters of this agreement. They had been scared by press reports, and by just misunderstanding. They did not understand that it was not as extensive as they had feared.

So I say to the Johns and Helens of Minnesota and the rest of the country that this is not such an onerous agreement. The agreement that will be forthcoming probably should look something like the agreement that has failed.

Yes, some of the rough edges will be taken off but the idea of renegotiating the entire thing I think should not be done. I think that agreement came pretty close to the mark.

Mr. President, I am going to vote to sustain the President's veto. I think the time for action has come. I am glad that the President is pushing us to take action. I am glad that the President is not going to just go from one continuing resolution to another. That is not the way to govern. It is time that the Congress acted. The President has given us adequate time. The fiscal year has begun. We have in the budget agreement that has already come forth a pretty good roadmap of what to do. I trust we can get the whole thing resolved by Tuesday noon.

I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from Pennsylvania [Mr. Specter] had 10 minutes reserved to be followed by Senator Conrad.

Mr. SYMMS. Will the Senator yield for a request? I ask unanimous consent that I be added to the list of Senators to get 10 minutes to speak.

The ACTING PRESIDENT pro tempore. Is there objection? The Senator from Idaho has asked that he be given 10 minutes to speak following Senator Conrad.

Mr. FORD. I have no objection, Mr. President. I would like to be added to the list for 5 minutes following the distinguished Senator from Idaho.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Idaho is added for 10 minutes, and the distinguished Senator from Kentucky for 5 minutes. The Senator notes the absence of the Senator from Pennsyvlania who has 10 minutes reserved to him under the previous order. Senator Conrad is recognized.

Mr. CONRAD. Mr. President, I ask for 10 minutes. I think the original order was for 5, but others were granted 10.

The ACTING PRESIDENT pro tempore. Is there objection?

The Chairs hear none, the Senator's time is expanded to 10 minutes.

THE PRESIDENT'S VETO

Mr. CONRAD. I thank the Chair and my colleagues for their indulgence as well.

Mr. President, I believe the President's veto of the continuing resolution is a mistake. The summit process went for 4 months and failed to reach a conclusion, failed to reach a conclusion that could pass the Congress of the United States. And now we are told, those of us who have been left out of this process for 4 months, that we are to produce a package in 48 hours.

Mr. President, it does not quite add up. Four months they have been out closeted at Andrews, 4 months, meeting in closed meetings, eight men around a table. The rest of us were not advised of what was in that negotiation. And now they failed to produce a package that could pass. Perhaps one of the reasons they cannot produce a package that will pass is because most of us were not consulted as they went through that process. Now they have come back and said, well, that process is broken down. All of you do the job in 48 hours.

Mr. President, that is not going to work. The President, it seems, is trying to get us to choke down a package that has been totally rejected, totally rejected. Not only by our side of the aisle in the House of Representatives, but by his own side of the aisle in the House of Representatives.

Has the President missed the vote in the House of Representatives? His own whip of his own party rejected the package. One of the people who was a negotiator rejected the package, led the revolt. We need to be given a little time here so other constitutional process can work. There is a genius in that document. The genius is a separation of powers.

The President, the administrative branch of Government, the judiciary, the Supreme Court, and the Congress, the legislative branch of Government, we need a chance to let the legislative process work. That is the genius of America, 435 Congressmen elected from the 50 States, 100 Senators elected to come and make these decisions, not 8 people in a closed room.

Let us let the constitutional process work. Let us let the genius of that document unfold here on the floor, and let us produce a result that we can be proud of and that can pass. That is what we ought to be doing.

Mr. President, let us turn to the package that the President is apparently trying to have us choke down. Did he not get the message? He called on the people of the United States to phone in, call your Congressman, call your Senator, and tell them to pass this package.

Well, you know what? The people did call in; they called my office, and it was 7 to 1 against his package. Seven to one. I am told that every other Member had the same kind of experience. So the President told the American people, asked the American people, let us know what you think, and, boy, they did. They said thumbs down. They said thumbs down for a very good reason: this package is no good. It is not fair. And you know, they are pretty smart. The American people are pretty smart, because the package was not any good. It was not any good, is not any good, did not pass, is not going to pass, and should not pass.

That package was not fair to the middle class in this country. They could come up with a tax package that increased their tax at double the rate of the increase for the rich, after the rich have already had tax cut after tax cut after tax cut. And we are told, let them go again, let them go again, let them have another break.

I do not believe that package would have increased the rich's taxes at all. I am a former tax commissioner, and that package had loopholes big enough to drive a moving van through. I will tell you, every rich person's accountant in this country, every tax attorney in this country, their mouth was watering at the potential to reduce the taxes on their client's income.

Mr. President, it was not fair to the middle class. It was not fair to the elderly sick. That is a good group to pick up. By God, they cannot fight back very well. Let us pick on the elderly sick. Let us sock it to them. Let us take over half of the cuts that were in that package out of their hide. That is a great way to operate around here. That is courage.

The President says to us, this is a fair package. That is not a fair package, not a fair package for the middle class, not a fair package for the elderly sick, not fair package for the farmers of this country. Let us review the record. This package said, proportionately, agriculture takes the biggest cut, take the biggest cut agriculture, because you have already been cut 60 percent over the last 5 years, so come on in and take another cut. That is fair. We will give you the biggest cut. You have been cut 60 percent over the last 5 years, and so let us give you another 24 percent cut.

But that does not even tell the whole story, Mr. President, because agriculture is the only functional area which has been frozen for the next 5 years before they ever started cutting. Absolutely. The baseline for every one of these other categories has an inflation adjustment. They have inflation built in. But not agriculture. And so the total cut to agriculture was 41 percent, compared to 10 percent for defense, 9 percent for Medicare. How can anybody stand here on this floor and say that was a fair package?

And regionally, Mr. President, we did an analysis and looked at major cuts, major revenue, and we put the States in order. No. 1, my State of North Dakota. No. 2, South Dakota. No. 3, Nebraska. I see the distinguished senior Senator from Nebraska on this floor now. No. 4, Iowa. No. 5, Montana.

And Mr. Darman, the head of the OMB, has the nerve to tell the Associated Press that there is no regional unfairness in this package. Who is he kidding?

That was not fair regionally. It was not fair to the elderly sick. It was not fair to the middle class. It was not fair to the farmers.

In the middle of all that, Mr. President, apparently the assumption is we are going to keep on paying the bills for Japan and Europe when we cannot pay our own bills—$100 billion a year for Europe, $50 billion a year for Japan. We have to borrow the money from them to do it and we wonder why this country is in trouble and this President is trying to get us to choke down a package that says stay the course, keep right on doing it, this makes sense for America's economy.

It does not make sense. It does not make sense. The American people are smart enough to have figured that out. So when the President said call, they called and they said no. The Congress got the message. I wish the President had gotten the message.

Mr. President, I would love to see somebody come in this Chamber and tell us that we ought to write a check for $100 billion for Europe, write a $50 billion check for Japan. But that is exactly what that summit agreement suggested we do. The American people said no.

We can do so much better, Mr. President, we can do so much better, if we do our business out here in the open, right in front of the American people, right the way the Constitution said to do it and we will write a package that is fair to the middle class, that is fair to the elderly sick, that is fair to the farmers, that is fair regionally, and that meets this deficit crisis.

Mr. President, that is our opportunity. We ought to seize it.

I thank the Chair and yield the floor.

The **ACTING PRESIDENT** pro tempore. Under the previous order, the Senator from Idaho [Mr. SYMMS] is recognized for a period of 10 minutes.

THE PRESIDENT'S VETO

Mr. **SYMMS**. Mr. President, I rise this morning to announce that I will support the President's veto of the continuing resolution as my colleague from Minnesota just mentioned that he would. I do not know whether this was the right thing for the President to do or not. I think many people who have said it is the wrong thing, were they President, they might have made the same decision because of the frustration and the difficulties of dealing with a Congress in which the majority party in the Congress has a different philosophy than the President.

I do think this: If this is going to be a successful exercise, and we are going to end up with a better resolution of the problem, and a better budget process, and hopefully, a balanced budget in the future fiscal years of this decade, the President himself must say very clearly to the American people that they are really getting exactly what they voted for.

The fact is, Mr. President, I have an uncle who is a political scientist and educator, who has spent his entire career in education. Incidentally, he happens to be a member of the majority party here in this body, and he would probably, by definition, call himself a liberal Democrat. He told me at the time that President Reagan was elected, the American people are going to get a big shock because Ronald Reagan is not going to be able to come to Washington and do what Maggie Thatcher has done in England and get the legislative body to form coalitions and pass her programs and put them into effect.

The American people think when the President is elected the Government is going to end up doing what he wants. However, our constitutional system and the media's influence presently prevent that.

So, in my opinion, in order for this process to be successful—and I hope it is successful and I hope we do as the Senator from Minnesota said—have this resolved by Tuesday or Wednesday of this week, and pass a budget with the Congress adjourning sine die by the close of the week and going home to not come back until next year, it will save the American people a lot of grief. I say that because there is still a lot of legislation laying out there that is going to impose a lot of Government, a lot more cost, and a lot more interference on a lot of people, and there is some of those pieces of legislation that are in the conferences right now that this Senator hopes do not get back over here until this Congress adjourns so we can start over and rethink and relook at some of those pieces of legislation.

In order for this budget process to be successful the President is going to still have to at some point take his gloves off and say to the American people, look you elected a President who ran on the most conservative platform of anybody in the 20th century, and elected him by a big majority and you turn right around on the same day and you elect a liberal Democratic majority to the House and Senate who have a different philosophy, a different vision of America.

It is not a surprise to this Senator that we are now in a conflict. In fact, it is a surprise to me that we have not had more crises and more conflicts, and that we have worked as well as we have when you look at how fundamentally different we are on the issues. There is one large body of thought here who believes we should raise revenues and a large body of thought in the Congress and the country that think we should hold the line on spending.

The facts of it are, Mr. President, that the Government has the power to borrow money, to fulfill their spending obligations, and it has the power to tax people to fulfill its spending obligations. Or it can end up through the Federal Reserve System printing money to fulfill those spending obligations and inflate the currency. Printing money is the most dishonest way of fulfilling the obligations. Borrowing it or taxing for it is much more honest because you really have to pay for it eventually, or incur the wrath of the electorate when you extract their money. But regardless of how the Government raised the money, the fact of the matter is, Mr. President, that we spend too much money.

The Senator from Missouri said earlier that we could freeze these appropriated accounts, if we would freeze the budget, it would give us quite a lot of money. Let's be honest, there is confusion out there. If you get outside of the Budget Committee or outside this Chamber, outside the Beltway, and you talk to people supposedly we are cutting all this money out of the budget. In fact, the myth has been annually circulated that we have been cutting the budget ever since I have been a Member of the Senate. That we have been cutting billions of dollars from every budget since 1981.

Interestingly enough, I think the first budget we had when I came over to the Senate was something like $600 billion. Now it is twice that much. It is $1.2 trillion or $1,200 billion plus and that is after all the cuts that have taken place. Why is this? Because inside the Beltway we never say you spent x number of billion dollars last year, and we are now spending y number of billions over last year. It is always on a projected growth, current services budget that we compare the next year's increases or reductions to. It is no wonder that the budget process confuses the American people.

Fundamentally, there is a basic philosophical difference between me and those of my colleagues who may disagree with me on some basic philosophies of economics.

I believe we can reach a budget compromise, despite this fact.

However, I think the American people need to hear from all of us that if they do not want to have these crises or these confrontations—and I am sure my colleague from Kentucky who is about to speak next would probably agree with this—they should elect a liberal Democratic President who then could probably work with the Democrats in Congress better. Or more preferably, they should elect a conservative Republican House and Senate to work with a conservative Re-

publican President who could easily work out their differences.

However, the system is in crisis here this morning. I hope the President is successful and I hope he has done the right thing.

I do want to say again, that it is not all that complicated what is going on here. It is very hard to accomplish this, but it is a rather simple solution. We simply spend too much money and we never can agree with each other on where it is we ought to make the cuts in Government.

One Senator who just spoke eloquently comes from North Dakota where they are in an impoverished situation. They have cheap wheat prices. The primary income for the people in that State is wheat, a State where they have had a lot of drought the last few years. Also, the cuts in the farm program are very difficult cuts in agriculture for those people in that State. I am sympathetic with that, coming from an agricultural State myself. But, nevertheless, the fact of the matter is that the present crisis is not all that complicated to figure out. Government revenues have been growing at a very rapid rate all through the eighties, but the appetite to spend money on whatever program it may be—whether it is the Defense Department, whether it is the Agriculture Department, or whether it is this or that regulatory alphabet soup agency that is out there—the appetite to spend money continues to grow at a rate faster than the revenue that comes in.

Mr. President, I think there is one thing we need to think about, and I know that the common thread that I keep hearing here in the Chamber, is if we do not solve this budget package, we are going to have a lot of problems in the financial markets. My good friend from Missouri was talking about some of the things that Chairman Greenspan of the Federal Reserve said, but it is important for the Members to notice what the responses of the markets have been. The Chairman of the Federal Reserve made a comment, that if this package is passed, the one that was voted down by the House, he implied he might drop short-term interest rates.

The second that happened, the dollar hits the tank on the international financial markets.

Now, the Fed, for the last several years, through Manny Johnson and Wayne Angell, has been keying off of commodity prices and a stable dollar and, most importantly, off the yield curve, the differences between short- and long-term interest rates which keeps a stable dollar.

In my opinion, Mr. President, the markets are looking at this package that came out of the budget compromise just the opposite of what most of the people in the Senate are interpreting. If you look very carefully, the stock market yesterday morning opened headed down. Only after everyone realized on Wall Street, that maybe we are going to get a sequester in Congress and maybe Government really will spend less money, did the crash of the stock market stop, turn around, and close almost unchanged from Thursday's trading. I invite my colleagues, when Monday's Wall Street Journal comes out, to take the Wall Street Journal and look at what is happening in the international currencies.

The **ACTING PRESIDENT** pro tempore. The Chair would inform the Senator from Idaho that his 10 minutes have expired.

Mr. **SYMMS**. I ask unanimous consent that I might extend my comments for 2 minutes.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

Mr. **SYMMS**. I invite my colleagues to note the fact that in international currency markets all throughout the period of this so-called compromise, the dollar has actually been going down and down and down. It has been dropping dramatically against the pound, dramatically against the yen and other currencies.

What that means is that Federal Reserve Chairman Greenspan, who I believe is a very responsible American, and the other governors of the board, will have no choice but to push interest rates up, not down as he has implied, to defend the dollar. So we should be telling ourselves how lucky we are, and how lucky America is that the House voted down that package.

We need a better package, and it needs to truly and deliberately, reduce spending. The markets are looking to see if Congress has the courage to reduce spending, freeze spending, or even just hold the lid on the growth of spending.

We would do better by limiting spending to 1 or 2 percent growth across the board on the budget, and no new taxes. Because basic economics tells you when you are going into a recession, if you raise taxes on work and on savings and on investments you are going to get less of it.

Money travels nowadays very rapidly around the world because of electronic transfers and so forth. Americans and people in other countries now invest where they think they will have the most favorable return on invested capital. They look for countries that have a more capitalistic view, if you will, and a less socialistic view, if you will.

Mr. President, money will flow to those countries that are receptive to open markets and nonregulatory States, and governments that control their spending.

Foreign investors thought America was a good place to invest during the 1980's. If we think we have problems today in the Congress, because we keep adopting continuing resolutions, come back next year and see where we are here in the Congress. I dare say it will be worse.

So I urge my colleagues to not be afraid of a sequester. In fact, we can modify the sequester order. Let us take out $50 billion in real reductions via a sequester and let us tell the President he has the authority to keep the meat inspectors, keep the FAA people working, and reduce spending across the board in the rest of Government so that it really is a meaningful reduction, without hardship to necessary governmental functions.

If, in fact, it is a meaningful reduction we will get a favorable response in the world; the American people will be better served, and the Government will have to work a little bit harder with a few less employees. But, Mr. President, that may be a good thing. In this Senator's opinion, it would be a good thing.

So I urge my colleagues, in the next 2 days, let us come up with a budget, for the best we can agree on between colleagues who have philosophical differences in growth economics, free enterprise, and vision of government.

We can make a compromise. But let us not do this by raising taxes on the very people who are paying the bills. Let us not kill the goose that lays the golden egg; that is, the working men and women of America who are the ones that suffer every time the profligate spenders in Washington simply cannot say no.

Mr. President, I yield the floor.

The **ACTING PRESIDENT** pro tempore. The Senator from Pennsylvania [Mr. SPECTER].

Mr. **SPECTER**. Mr. President, I suspect that speeches this afternoon are becoming——

The **ACTING PRESIDENT** pro tempore. If the Chair might inform the Senator, under the previous order, Senator FORD is scheduled to speak for 5 minutes. I know the Senator previously requested 10 minutes of time, but to do so will need unanimous consent.

Mr. **SPECTER**. I ask such unanimous consent to that effect.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered. The Senator from Pennsylvania is recognized for a period of 10 minutes.

THE PRESIDENT'S VETO

Mr. **SPECTER**. Mr. President, the speeches this afternoon may be somewhat tiresome to those who are in the gallery and those who may be watching on C-SPAN II or those who would rather watch the Saturday afternoon football games. But I believe that it is important to articulate the reasons why the President's veto ought to be sustained, at least as I see it.

I intend to vote to sustain the President's veto because I believe that it will put the maximum pressure on the Government to govern. The U.S. Government has become the laughingstock of the country, really the laughingstock of the world. That is because we are unable to accomplish our fundamental and principal business: to establish a budget to allocate $1.2 trillion in as fair and equitable a way as we can, recognizing all the while, that politics is the art of the possible and accommodation and compromise are indispensable ingredients in our work.

Mr. President, the budget proposal which was agreed to by the leadership in both Houses, along with the President, was not a good budget. It was a bad budget. But the question is not how bad it was but rather whether it was better than no budget at all and whether it was better than a sequester. So that those of us who had to make a choice are really facing an issue of the lesser of the alternative evils.

This Senator made a speech on September 26 of this year regarding the impact of sequestration. It appears in the Congressional Record, S13902, which I would refer to so that I may abbreviate these remarks. I said at the time that the sequestration was unthinkable because it would exemplify the failure of Government. We would have the air traffic controllers not regulating air traffic. We would have the meat inspectors not inspecting meat. We would have a million school children not being innoculated. I said that the sequestration is irrational.

When my distinguished colleague from Idaho, Senator Symms, talks about the sequestration going forward, he urged us to come out and modify the sequestration. But, are we going to modify the sequestration when we cannot agree on anything to start with? We have 537 people in the Government, 100 in the Senate, 435 in the House, the President, and the Vice President, all elected. And as a group we cannot agree on anything.

The issue is: What will make this Government govern? In the 10 years that this Senator has been here, the only thing that I have seen work is the maximum possible pressure.

Typical of our budget recently, was an agreement at 3 a.m. on a December 22, because Christmas was coming. And had the Congress had the ability to postpone Christmas, we might still be here.

[Laughter.]

Mr. SPECTER. Well, somebody is listening.

[Laughter.]

Mr. SPECTER. And that is precisely, Mr. President, why I think President Bush is preeminently correct in saying that he is not going to allow a continuing resolution for 7 days because, as sure as we are here now on a Saturday at 3 o'clock in the afternoon, we would be here next Saturday at 3 o'clock in the afternoon asking for 7 more days.

Beyond that, we would be here on the following Saturday and as many successive Saturdays as the absence of pressure would permit procrastination. That seems to be what the Congress does best: Nothing. More procrastination. I think President Bush is exactly right in compelling the Congress to act. Now we do not have 2 days without disastrous effects of the Government not functioning—in a sense it is surprising we have electricity in the room and have anybody tending to this Chamber so we can argue about what we ought to be doing. We ought to come to grips, with it just as promptly as we can, and this pressure is indispensable.

Mr. President, at some length in the speech on September 26 I articulated my reasons for saying that if the Government did not demonstrate its ability to govern, there were going to be 537 people looking for new jobs because America is fed up with our inability to come to grips with the deficit problem and to solve the many other pressing issues our Nation is facing.

There is a suggestion circulating, Mr. President, that President Bush might sign a continuing resolution if it contained sequestration. This Senator wants to state flatly, now, that I will not support that. A continuing resolution to keep the Government going with sequestration will be seized upon by some as a preferable way to deal with the budget problem. However, as I said before, sequestration is totally irrational and does not permit selection of the alternative and priorities.

The sequestration, for those who may not know its impact, involves an across-the-board cut. Certain expenditures are exempt. It was adopted back on December 11, 1985, as part of Gramm-Rudman-Hollings, when we were trying to deal with the budget deficit.

But it was not possible to predict then and it is not possible to say now exactly what the impact of sequestration will be except that we know, as Senator Domenici articulated it, it is a planned train wreck. It was a planned train wreck so that it would compel Congress to avoid it at all costs. The cuts simply are not rational. Certainly, they are not as rational as the Congress and the Executive can make them.

So, Mr. President, I find the idea of a continuing resolution with sequestration to be totally unacceptable. We are here this Saturday. We are prepared to be here this Sunday and we are prepared to be here this Monday. We ought to stay until we get the problem solved.

The budget resolution has been turned down in the House of Representatives. It is time to see what better alternative there is. We have to face up to our responsibility and govern, because that is what we were sent here to do.

Mr. President, I yield the remainder of my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Kentucky [Mr. Ford] is recognized for 5 minutes.

OVERRIDE THE PRESIDENT'S VETO

Mr. FORD. Mr. President, I thank the Chair. I guess all the zoos except this one are closed. And the admission here is free.

This has become a zoo, in my opinion. The Senator from Idaho said we got exactly what we voted for. We got exactly what we voted for? We started back in 1981 with Reaganomics. We voted for a balanced budget in 1983. I remember it well: balanced budget in 1983; $250 billion deficit in 1983. Cut taxes, increase the military; everything will be fine.

Well, they cut the taxes on the rich from 70 percent on unearned income down to 28 percent. It did not help the middle class. We got exactly what we voted for. Everything is going to be OK.

Then we hear the Senator from Idaho say that we have the most conservative platform and the most conservative President in the last decade elected 2 years ago: "No new taxes; read my lips."

Let me say to those on the other side who are trying to blame the Democrats, you had a President, you had a majority in the Senate and we went down the tubes. What is exactly what happened. We have not been able to get out from under those 6 years yet. Conservative platform—increase taxes on the middle class.

The President was not in the budget summit with Mr. Sununu, Mr. Darman, and Mr. Brady. He was in Kennebunkport setting new records: Under 2 hours to play 18 holes; out on the water fishing, not catching any fish; leaving three times in our airplane to go politic and raise money for Republican candidates. He should have been here sitting as the table.

Mr. Sununu sat there like a stump. So now everybody is trying to shift the blame over on this side. This body is controlled by the minority, and do not let anyone ever fool you. We got 65 ayes the other day; 35 nays; and the

nays won. If that is not control, I do not know what is.

So we talk about, "I like this veto of the continuing resolution." Let me tell my colleagues, we are not trying to inflict pain on anyone. It is the President who is inflicting pain on the American people. He is the one who embraced new taxes. He is the one who wanted to cut Medicare. He got on national television, and said: This is my budget. I embrace it. He could not get a majority of his own party in the House to vote for it. A Member of the Republican leadership on the House side led the opposition against President Bush. The President said it was his budget. The people spoke when they elected him. They sure spoke when the telephones started ringing. There were so many calls coming in you could not call out. If you make over $200,000 a year, you have a real friend in the White House.

Who is inflicting pain? The President is. Because he is the one who vetoed the continuing resolution to give us an opportunity. He is as much at fault, the administration is as much at fault because the budget was turned down, as anyone. Now he will not even give us time to try to put it back together. And it will be difficult, at best.

The ACTING PRESIDENT pro tempore. The Chair will inform the Senator from Kentucky his time has expired.

Mr. FORD. Mr. President, I ask for 2 more minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FORD. Mr. President, we got exactly what we voted for? I am not sure. We could not even bring up a bill to encourage the American people to register to vote. We could not get it up. We had a cloture motion, if you remember. We voted on it, and guess who voted against encouraging Americans to vote? When you get a driver's license, you are automatically registered to vote—they voted against it; although 90 percent of Americans eligible to vote have a driver's license. It is just like the World Series—baseball you watch on and off during the year, but when it comes down to the playoffs and the World Series, you really get interested.

That is how it is in politics, Mr. President. When you get closer to the election, you get interested in the election, and you find out you should have registered to vote 30 days ago. If you got your driver's license, you would have been ready and able to vote.

Let me tell my colleagues one other thing. I am not sure, but that with the veto of the continuing resolution, we will default on payments. I am not sure—and I am going to do some research on it—that we will have a penalty to pay because we defaulted on our payments. Think about that 1 minute. It is going to cost us more money than we are talking about. So we default on our payment, where are we?

I ask everybody to override this veto. Give us another week. Let us get out in front of the American people. I am for that, and let us begin to develop a budget that the people understand and, when we pass it, will put us back on the right track. It is about time that the House and the Senate took Government back and started answering and responding to the people.

Mr. President, I yield the floor.

Mr. EXON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska [Mr. Exon].

Mr. EXON. Mr. President, I ask unanimous consent that I be allowed to proceed for no longer than 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NOT A TIME FOR BLAMING

Mr. EXON. Mr. President, I have been listening with great interest to my colleagues on both sides of the aisle on this very difficult situation we are in. I do not panic under these situations because, as the Governor of the State of Nebraska for 8 years, we had some version of the crisis that we are facing today. Somehow we worked our way out of it.

When I was Governor of Nebraska, there was a lot of gnashing of teeth from time to time, and I, too, took veto action on spending measures that I thought we could not afford. There were confrontations between the executive and the legislative branches in the State of Nebraska, as there are controversies today. But somehow the process worked its way through, and when the Governor's veto was overridden by the legislative body, it then became law. Those vetoes that I exercised that were not overridden, why, the law did not go into effect.

But this was not personal animosity. There were no attempts to say this idea is good and this idea is bad. We all have our responsibilities, I suggest, as elected officials, to do what we think is right and not to be overly persuaded by a few people getting together in a room and attempting to tell everybody else in the Senate or in the House of Representatives what we should do.

It is my firm belief that the people of the United States as a whole were not only shocked, were not only dismayed, but were overwhelmingly against the President's budget summit. I will not go into that in great detail, but at least that is the impression that I am receiving from my constituents in Nebraska, and that is what we are hearing from clear across the land.

It was clear to me that, given the overwhelming vote by both Democrats and Republicans in the House of Representatives the other night, that that Presidential package would not be accepted by the other very important part of our Government, the elected officials, Democrats and Republicans, in the Senate and the House.

So I simply suggest, Mr. President, that this is not a time for hand grenade throwing. This is not a time, I suggest, as we try and work out this proposition, to be blaming liberal Democrats, conservative Republicans. The Chair knows that the Senator from Nebraska is a Democrat, but I have never been accused of being a liberal Democrat. Therefore, I try to do what I think is right regardless of my political affiliation.

In this particular instance, Mr. President, I went against the dictates of the President and the dictates of the leadership of the Democratic Party. I do not believe that most people, if they knew and understood the leadership of the Democratic Party in the House and the Senate, could honestly call them liberal Democrats, if that connotation has a bad connotation, which I do not necessarily suggest that it does.

Panic after panic after panic. I remember when the national debt of the United States broke through the $1 trillion figure 10 years ago just after Ronald Reagan was elected President. I remember some of the statements that I heard on the floor at that time that the markets were going to have a negative reaction to all of this, and the sky was falling, and we were in dire, dire straits. I thought we were in some significant difficulty at that time, but if my colleagues will look at the record in the last 10 years, they will see that the national debt of the United States not only exceeded $1 trillion under Ronald Reagan, but went up consistently all during his period as the President of the United States when he had the right to veto any time that he saw fit.

The ACTING PRESIDENT pro tempore. The Chair informs the Senator that his time has expired.

Mr. EXON. Mr. President, I ask unanimous consent for 2 additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. EXON. I simply say, Mr. President, that the record under Ronald Reagan with George Bush as his right-hand man and now George Bush as President of the United States has seen the national debt of the United States go from under $1 trillion in 10 years to over $3 trillion today. And if the President's budget recommendation to us that was voted down would have been passed with all of its other shortcomings and with all of this other opposition that the people stated and that their Representatives stated here, the national debt would have continued to go on up in the next 4 years or 5 years to $5 trillion. Imagine that, I say to my colleagues, Mr. President.

There are a lot of things wrong with what the President recommended to us, and I think we were wise in turning it down. Therefore, I thought it was time to give us time, at least a week's time, to say to the President that, "We looked at your proposition; it was rejected by the people as a whole and it was rejected by their Representatives in the House and very likely, I suspect, would have been rejected if voted upon by their elected Representatives here in the U.S. Senate."

I just hope that, if we are going to talk about a sequester, then we should recognize what the commitment was when the Gramm-Rudman law went into effect. It was said time and time again that under the sequester, if that train wreck ever occurred, we would cut half of the money out of national defense and half of the money out of domestic programs. How many of my colleagues remember that? How much of the intended sequester that we are hearing about now is going to go along those lines? Little, if any, I suggest. All the things I have heard today I heard 5 years ago when Gramm-Rudman was passed. It promised to balance the Federal budget on October 1, 1990. That was 5 days ago. We are in far worse shape than we were when that was enacted.

I simply say, Mr. President, above everything else—and let me close on this—above everything else, if the President's recommendations had passed this body, it would not have eliminated the serious problem that we have with deficits and rising national debt. In fact, it would probably have had no significant effect at all. Therefore, I plead for time. I plead for putting partisanship aside. I plead for not trying to blame. I emphasize that we should not be trying to destroy the Presidency or the Congress. We have to get our work done, and I am prepared to stay here and be a key player in this as long as is necessary, although I would rather have been elsewhere. I yield the floor.

Mr. SARBANES. Mr. President, I ask unanimous consent to proceed for 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CLOSING GOVERNMENT OPERATIONS

Mr. SARBANES. Mr. President, this morning the Washington Post paper is headlined "Bush Closes Most Government Operations." I would like to address this issue.

Subsequent to the defeat of the budget package in the House early Friday morning, a continuing resolution was sent over to the Senate yesterday. That continuing resolution was to be valid until next Friday, this coming Friday at midnight. That would have kept the Government functioning and would have allowed an effort that was then under way in the Congress to try to regroup and recoup a budget settlement. In fact, the leadership was engaged in that very endeavor. It is my understanding that the White House even had sent representatives to such a discussion.

The continuing resolution passed the House and the Senate yesterday evening. It proposed to provide appropriations for the operation of the Government for 1 week. Unfortunately, it was vetoed this morning by the President, apparently on the advice of the same people in the administration who have been very much involved in these budget discussions.

Even though it is a holiday weekend and therefore Government activity is not at full level, this action by the President is going to cause a good deal of misery around the country. The question is, Why did the President take this action?

In trying to address it, I first of all ask unanimous consent to have printed in the RECORD an article from the New York Times of this morning entitled "Bush Aides' Tactics Irritate the House."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BUSH AIDES' TACTICS IRRITATE THE HOUSE

(By Maureen Dowd)

WASHINGTON, October 5.—By the day of the budget vote, it was already glaringly apparent to some White House officials and Republican strategists that the bad-cop, bad-cop routine of John H. Sununu and Richard G. Darman was not working.

"The people in the White House did not serve the President well on this," said Representative Bud Shuster, a Pennsylvania Republican who crossed swords with Mr. Darman on Monday and voted against the President's budget deal with Congress on Thursday. "They antagonized so many Republicans, it was awful."

The chief of staff and budget director pride themselves on their reputation around the White House as "raging bulls" who snort and paw the earth get their way on domestic policy and budget matters. But the routine that allows them to dominate the White House backfired this week on Capitol Hill, contributing to the humiliation that George Bush suffered at the hands of his own party early this morning.

By today, there was a loud chorus of complaints in Washington that the two men, who both glory in a haughty intellectualism and an open disdain for Congress, had badly miscalculated the temper of House Republicans, the threshold for bully-lobbying and the willingness of members of Congress to play follow the leader.

NIXON AIDES REMEMBERED

Capitol Hill denizens said that they had not seen so much fury aimed at the White House in many years.

"They're being referred to up here as Haldeman and Ehrlichman," said Mr. Shuster, the Pennsylvania Republican, alluding to President Richard Nixon's vengeful and high-handed aides, Bob Haldeman and John Ehrlichman. "In the beginning, I felt badly about the way I voted. In the end, it didn't bother me a bit because of those guys."

When Representative Dan Rostenkowski, Democrat of Illinois, made a scathing speech on the House floor late Thursday night about unnamed "unelected officials" who were ruining the budget process, he got a standing ovation on both sides of the aisle.

Publicly, White House officials were supportive of Mr. Sununu and Mr. Darman, noting that they were simply trying to complete months of difficult and delicate negotiations. But privately, some Bush officials, watching the White House desperately regrouping to win back Republicans, agreed that the mood between the White House and House Republicans had been strained by Mr. Sununu and Mr. Darman's "anti-Dale Carnegie approach."

As Mr. Sununu and Mr. Darman rushed back over to Congress today to court the House Republicans they had tried to coerce just the day before—accompanied by the more popular Defense Secretary and former Republican Whip, Richard Cheney—jokes circulated about the failure of the President's men to push their deal through.

Some members were referring to Mr. Sununu, Mr. Darman and Nicholas Brady, the Treasury Secretary who helped lobby, as "The Three Stooges," for their mistaken assumption that the House members would simply fall into line with the leaders' deal, after being excluded until the last-minute and then treated in rather pre-emptory fashion.

Others members were trading a joke that was illustrative of their bitterness over the White House's failure to include them or listen to their concerns: "What's the difference between Mousketeers and Summiteers? Mousketeers have ears."

CLEAR IRRITATION

One Democratic consultant, Robert Squier, said: "Sununu believes he's at the top of a chain of command that starts at the White House and goes to Congress, that the White House gives the orders and Congress will follow. He's never gotten used to the fact that this is not the New Hampshire Legislature and that he's not the Governor any more."

At an usually animated and tense Cabinet Meeting today, several Cabinet members were clearly irritated with Mr. Sununu and Mr. Darman, fretting that the two men were too eager for revenge against Representative Newt Gingrich, the Republican who led the revolt away from the bipartisan deal, and too committed to the cloistered bipartisan budget process.

On the eve of elections, Republicans in the House were already feeling touchy because of the way Mr. Bush had stripped the party of its two main issues by agreeing to raise taxes and cut defense spending.

"A ROTTEN DEAL"

Mr. Bush sat quietly in a meeting in the Cabinet room on Tuesday with 15 members of Congress as Mr. Sununu loudly berated Representative Fred Upton, a Republican lawmaker from Michigan who had just explained that he would not vote for the bipartisan package because he thought it was "a rotten deal."

After Mr. Upton quietly but firmly gave his reasons for voting no, Mr. Sununu erupted in a brief tirade, demanding of the Congressman, "What are you smoking?"

At the Republican conference on the Hill on Monday, Mr. Shuster had a minor verbal dust-up with Mr. Darman. When he began to ask the budget director a question about the percentage of tax that pertained to transportation, Mr. Darman interrupted as though he were in his former profession of Harvard professor and Mr. Shuster was a dense student.

"Do you want to talk or do you want to listen?" Mr. Darman asked the Congressman.

In the cloakroom today, members angrily traded rumors of White House threats and contemptuous behavior.

Representative Ralph Regula, an Ohio Republican who had his reservation for the Presidential box at Kennedy Center abruptly canceled on Wednesday night after he said he was "leaning against" the budget deal, said today that the Bush Administration approach "doesn't work."

"Count the votes," said Mr. Regula, who voted against the plan. "We're here to represent the people, not the White House." The Congressman said he was able to take a group of his constituents to see "The Playboy of the Western World" after all. "I called Ticketron," he said, triumphantly.

The Democrats had their own grudges. During the budget negotiations at Andrews Air Force base, Mr. Sununu put his legs up on the conference table, with his feet sticking near Senator Robert C. Byrd's face.

After the incident, Senator Byrd, a Democrat from West Virginia, gave a speech to the 21 negotiators and their staffers inside the meeting room, saying that in four decades in the Senate, he had never been treated with such disrespect.

"After that," said a House Democrat, "Byrd became a lot tougher negotiator on behalf of the Democrats."

Mr. SARBANES. In that article, it is said:

> By the day of the budget vote, it was already glaringly apparent to some White House officials and Republican strategists that the bad-cop, bad-cop routine of John H. Sununu and Richard G. Darman was not working.
>
> "The people in the White House did not serve the President well on this," said Representative Bud Shuster, a Pennsylvania Republican who crossed swords with Mr. Darman on Monday and voted against the President's budget deal with Congress on Thursday. "They antagonized so many Republicans, it was awful."
>
> The Chief of Staff and the budget director pride themselves on their reputation around the White House as "raging bulls," who snort and paw the earth to get their way on domestic policy and budget matters. But the routine that allows them to dominate the White House backfired this week on Capitol Hill.

And it goes on to talk about their open disdain for the Congress—this is Sununu and Darman—and also their bully lobbying, which was reflected on this issue.

Now, of course, they have obviously recommended to the President the bludgeoning tactics reflected in the veto. This is at a time when the leadership and other involved and interested parties in the Congress are trying to see if a comprehensive budget agreement cannot be restructured subsequent to the vote that took place on Thursday evening in the House. The administration has decided to close down the Government.

This closing down is the result of a decision made downtown. The Congress sent down a continuing resolution. It was not long-term. It was for 1 week. No one was trying, through the continuing resolution, to avoid the necessity of meeting the challenge of the comprehensive budget issue. The continuing resolution would have provided a few more days to try to work out this matter without closing down the Government. Unfortunately, the decision to close down the Government was made downtown and the President exercised the veto.

The ACTING PRESIDENT pro tempore. The Chair informs the Senator that his 5 minutes have expired.

Mr. SARBANES. I ask unanimous consent to proceed for another 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SARBANES. Could I make a parliamentary inquiry. Are we in morning business?

The ACTING PRESIDENT pro tempore. We are acting under a previous order, under the terms of which, in the absence of a request by any other Senator other than the Senator who now has the floor asking for time, we will stand in recess until the hour of 5 p.m.

Mr. SARBANES. There is no one else waiting to speak?

Mr. SIMPSON. Mr. President, I would request that right for 5 minutes under unanimous consent.

The ACTING PRESIDENT pro tempore. If that is a unanimous-consent request, the Chair would so construe it. Is there any objection?

Without objection, following the additional 5 minutes requested by the Senator from Maryland, the Senator from Wyoming will have 5 minutes before we go into recess.

Mr. SARBANES. Mr. President, in discussing this article which I submitted to the RECORD, let me continue to quote it:

> Capitol Hill denizens said they had not seen so much fury aimed at the White House in many years. "They're being referred to up here as Haldeman and Ehrlichman."

Referring to Sununu and Darman. This is quoting a Republican Member of the House.

> "In the beginning I felt badly about the way I voted. In the end, it didn't bother me a bit because of those guys."

And then the article goes on to report an apparently animated and tense Cabinet meeting with sharp exchanges between several Cabinet members and Mr. Sununu and Mr. Darman.

A good-faith effort is being made, has been underway actually since the vote on Thursday, to try to come back and address the budget problem. In order to deal with that and not close down the Government, you need a continuing resolution.

For the life of me, I do not understand why the President vetoed this continuing resolution. Why have the people downtown, the President's advisers, chosen to deepen and intensify a difficult situation? Why have they put at some risk and jeopardy thousands of Americans across the country which will intensify with the passage of time? Why are we going through the exercise of shutting down the Government and opening it up again, which in and of itself involves expense—completely wasted money, completely and totally wasted money. They have kept the people in the executive branch on the end of that string now for the last few weeks with a very sharp and harmful impact on morale, with a complete distraction from the job that needs to be done. Why are we going through this exercise? Why has the President closed down the Government?

Administration spokesmen say they are going to intensify the pressure leading up to a budget package. Well, they are not going to get it in the next hour, they are not going to get it in the next 2 hours. In the meantime, the impact of closing down the Government is beginning to take effect, is taking effect, has been felt.

It is not as though we sent the President a continuing resolution that extended for months or even weeks. Had that been the case, I could understand the White House saying, "Now, wait a minute, here is the Congress trying to send down this continuing resolution to keep the Government going on a normal basis, but they have a very long time period here. They have months. They are carrying it over until next February and will not come to grips with the budget problem."

That is not what was done in this continuing resolution. This continuing resolution which we passed last night on a voice vote, passed overwhelmingly in the House, ran only until next Friday evening. It would have given us a few days in which to try to work out a comprehensive budget solution.

The President vetoed it. I now understand that they are making a party appeal to sustain the President's veto. The administration is saying vote with us to close down the Government, vote with us to sustain this veto so we can keep the Government shut down, have the pain that follows along with such a shutdown take place in order to increase the pressures.

I quoted what has been said about Mr. Darman and Mr. Sununu. It is interesting it was being said by members of the Republican Party, not by Democrats. It talks about Mr. Sununu in fact berating Republican lawmakers in meetings with them—Mr. Darman doing the same.

The ACTING PRESIDENT pro tempore. The Chair would inform the Senator from Maryland that the time——

Mr. SARBANES. I ask to proceed for 1 more minute.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, to sum it up, it seems to me that what we need to do here now is pass a continuing resolution, allow the Government to continue with a resolution for a limited period of time, allow the Government to continue, not go through this exercise which is wasteful in terms of finances, wasteful in terms of stress, wasteful in the legacy it will leave behind in terms of comity between the executive and the legislative branches, allow the effort that is now underway to try to work on a comprehensive budget response to take place.

The budget package did not pass the House last Thursday night. That is regrettable but it did not. This is a democracy. People do not take their marching orders—certainly not from these unelected officials about whom this article is written.

It seems to me that we need to go back and give that process a chance to work, and do it without the disgraceful development here of closing down the Government when it was not necessary, was not required, and makes no contribution. Not only does it not make a contribution toward solving this matter, but in fact it worsens the situation. It has a negative impact.

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from Wyoming [Mr. Simpson] is recognized.

Mr. SIMPSON. Mr. President, I ask unanimous consent that I be allowed to proceed for 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I, too, have been listening to the activities on the floor and the comments of those who have spoken, all of whom have started with the premise that they did not "intend to be partisan" and then certainly touching very closely to it, if not right smack in the middle of it.

I am fascinated by it all—because it was the President of the United States who started the negotiations going—nobody else. And he did it by putting on the table one of his most sacred campaign promises. That is what the President of the United States did. He said he would deal with tax revenue increases, and it kind of shocked those on the other side of the aisle. They wished he had not done that because they had a lot of fun with "read my lips." So George Bush stepped forward because he believed more in his country than he does in partisanship, and he laid it right on the table.

You cannot feel sorry for the Democrats in this situation. This was not the President's budget that went down the tubes. This was the Democrat leaders budget and the Republican leaders budget. It was not as if the Democrats were just sitting aside and barking into the full moon. They were right there smack in the middle of it. Their leaders were right there smack in the middle of it.

Speaker Foley, Majority Leader Gephardt, Senator George Mitchell, our fine majority leader, Bob Dole, our respected and able leader—that is who was there. It was not Haldeman and Ehrlichman who were there. It was not two sinister characters. It was not just one newspaper article telling us about the people who were there. This was about Democrats and Republicans, and the President of the United States who were trying to desperately put something together. And I say it was the President who started it all and got it rolling along.

But we never ever saw very much come from the other side. No. What we saw come out was class warfare. What about the rich, those slobs, those people who earn over this certain amount of money? What about these evil sinister slobs?

That is not very becoming. That is old Democrat stuff. That is class warfare. Democrats love it. I do not know what it takes to get that across.

We are spending $600 billion a year on health care. You have not really dented a thing, not a heavy dent. We are spending $260 billion a year in Social Security and have not even made a dent. We are spending tons of bucks on the entitlements program with no means testing, and we have not made a dent. What do you think is going to happen? Nothing. When you exempt and set aside 75 percent of the budget of the United States from our efforts—and you cannot even touch it—does any sane person doubt what is happening here? And every one of us voted for those exemptions, because we said "Oh, Lord, get the special interest groups out of there; or the mail room will break down." Do not touch Social Security, do not touch this, do not touch that, do not even touch them with a means test, do not even touch them if they are millionaires—and we did not.

But let us go to the final result of that class warfare, let us just say that if you confiscated the net worth and the entire assets of all of the rich people in the United States—just take everything they have, their big houses, their place on the sea, or up in the mountains, or the yacht—take it all, confiscate it all—and the proceeds from that fire sale will run the Government for about 4½ months. That is where we are, ladies and gentlemen. That is where we are.

The debt limit which we will extend today is $3,214,000,000,000. We have really not even done a thing toward resolving that. The deficit has a range and span so that none of us are able to determine exactly where it is. But we are hip deep in it and that is a long way off the ground in my particular case.

So if you took all the wealthy people and just trashed them, just ripped it all out of their hands, you would run the Government for 4½ months. Is that sense? That is goofy.

This is a great game of chicken caused by the failure of the Congress, not by George Bush, to deal honestly with doing something with the entitlements programs of the United States. That is what it is. Nothing more, nothing less. Our leaders could not even get a means test, could not even add a percentage point on people who really are up there in the heavy money volume area, could not even include a little more of a wealthy person's Social Security in the tax base—could not even get that done. I speak too of people who are more than just middle class. These folks are rich. No wonder there is displayed here today animosity, partisanship, irritation, anguish, embarrassment.

We are all here today because we are embarrassed. They set this thing up yesterday so we would have a session on Saturday before we even knew what we were to do or where we were going because we do not want to be home today because too many people would say, "What in Heaven's name are you doing?" And they do not care a whit whether it is Republicans doing it, or Democrats doing it. They just absolutely cannot believe it.

But it would reach the epitome of scapegoating if we were suddenly now to blame Sununu and Darman for this hideous exercise.

But when you have set aside and exempted from our work 75 percent of the budget of the United States, can anyone imagine that will not be anguish in all that we do?

So we received this package and we looked at it—and the reason we did what we did is because the phone calls began to roll in. Somebody got out there and ginned them up and said, "What are you doing to the veterans, and to the poor people and to the wretched, the old and infirm?"

The answer is, not very much. In fact, we are not doing anything to veterans compensation—not one thing; not one thread of their compensation or pension is touched here. The VA

direct heath care account is touched 2 percent and then never over 1 percent—even when the rest of the budget sequester might be 32 percent. That is what we are doing for veterans—keeping our promise to them.

And so we were trying to do something with part B premiums under Medicare. Ladies and gentlemen, part B of Medicare is a voluntary procedure. You do not have to be in part B. The reason people are in part B is because it is the best show in town, pretty good insurance—physicians, lab coverage, and so on. That is what part B is. You do not have to be part of it. It is voluntary and elective. But if you are part of it, your premium was going to go up from $27.50 a month, going up $3.90 a month. That is what was happening, and that was all that was happening, $3.90 a month, on a voluntary program you do not even have to belong to. But the reason you do get in it is because it is a pretty good plan. It was going to be up to $54 a month, as we phased it in over the 5 year period. If you do not want it, do not do it. But you might remember this: When the beneficiary is paying only 25 percent of the premium "good old Joe," the working man in the United States, is paying 75 percent of it all.

When are we going to wake up and smell the coffee? Here you have a program where the beneficiary—and we are going to try to take him up to 30 percent of the cost of the premium, and guess who is paying the remaining 70 percent? I'll tell you who? Joe Six-Pack, of course, the guy we always bleed about all over this floor. Why should he or she have to pay the premium for the beneficiary who gets all the services under part B of Medicare? Ask them that. Stick with the facts here.

It is said that we will not get a package in an hour or 2 hours, and we may not get one in 10 hours. But I'll bet you a buck we will get one before Tuesday morning when Americans go back to work. This is the only thing we understand.

I must say, in closing, that there is also a role for the media in the United States and in this situation, they sure botched it. If their role is to report and educate, then they sure missed the boat. Day after day we see some wretched soul with a mike rammed in their ear, and the entreaty, "Tell us how bad it is." And get them to respond, "Well, I guess I will never eat again. I will never be able to do this or that again." They probably were not even in part B of the premium structure. But I can tell you this, the only other thing we did—and this is the only other thing we did to seniors—we raised the annual deductible from $75 a year to $150 a year. That was the total hit.

So as long as nobody is working hard on the real issue of the entitlements and nobody intends to deal with 75 percent of the budget, then I am ready to put all of us in just about as much anguish as we should go through until we all wake up and smell the coffee, and see who is doing what to whom. That is what is happening in this country right now.

We are just sitting here today because we simply will not touch any of those programs, because if we do then here comes the National Association for the Preservation of Social Security. There is Jim Roosevelt and his happy band of squirrels who come by to pound your brains in, and they make tons of money. They pick up scratch all over the United States at $10 a whack, and they have about $34 million in the till, and they pay all these dandy people to work here, and pay them big money to beat our brains in. That is a nice outfit. Do not send them $10 bucks anymore. Send them something in the envelope though. They have to pay the postage, so put a brick in there and mail it back to them. The next time you hear from AARP, remember that in many ways, it is "a money machine." You send your $5 and you get all sorts of benefits, by god. They are in on this party, and they have children and grandchildren, and if you and they want to leave your children and grandchildren $3.244 trillion of debt and all of the rest of this by failing to touch 75 percent of the American budget—take what you get. I thank the chair.

Mr. SASSER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. SASSER. I ask unanimous consent that I be extended 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE PRESIDENT'S VETO

Mr. SASSER. Mr. President, I was distressed to learn this morning that the President of the United States chose to veto the continuing resolution that was passed by both Houses of Congress last evening. I feel constrained to say that the President was badly served by his advisers, who persuaded him to veto this continuing resolution.

Bear in mind, as the distinguished Senator from Maryland has indicated, this was a temporary continuing resolution, a resolution that would have kept this Government in operation for a week, in order for the Congress to regroup, work with the administration and come back with a satisfactory budget plan.

In vetoing this continuing resolution, what did the President do? No. 1, he shut down the Government of the United States. Here in Washington, many families arrived here as tourists having saved for vacations, to see some of the national monuments which are shrines to our democracy. They were turned away today because the President chose to veto this continuing resolution.

Why would he do that, Mr. President? What does that say to those Members of both bodies of this Congress who have worked for months, for weeks, who have worked many nights, on occasion all night, who have given up time with their families, in an effort to try to fashion a bipartisan budget agreement? What does this say to them?

That was a very difficult budget agreement. Many items in that agreement were bitter, indeed. It was bitter gall for me to have to accept some of these proposals that were advanced by the men representing the administration, advanced by the Budget Director, and advanced by the White House Chief of Staff.

But in the final analysis, we compromised and compromised and compromised, and we may have compromised too much. We Democrats in those negotiations may have made such compromises, that in my judgment, encroached upon our basic principles.

Why did we do that? All in an effort to get a budget agreement so we could demonstrate to the American people that this Government, that this Congress, and this administration, were capable of governing, and that we could go forward with our day-to-day obligations.

When that budget agreement came to the floor of the House of Representatives, the people of this country got their first look at it, and the people of this country rejected it.

I accept their judgment. My offices in the State of Tennessee got over 1,500 telephone calls in the space of just a few days, the heaviest telephone traffic that we had ever received. They were against this budget agreement by 100 to 1. They listened to the President's message. They took his advice to register their opinions with their elected representatives, and they were overwhelmingly opposed to the budget agreement. Responding to their constituent's wishes the House of Representatives, in a bipartisan way, also rejected the agreement just the other evening.

The administration, which had undue influence in the fashioning of that agreement, in the final analysis, could not even deliver a majority of the President's own party in support of it. Why not? Because the American people had rejected it.

We can say that these telephone calls were instigated. We can say that this was the result of lobbyists. But I will tell you the elderly citizens of my State who called my offices were opposed to the Medicare cuts in this agreement. They took the position they did not make this deficit; it ought not to be resolved on their backs. And the middle class and the working poor who called my offices, who drive to work, sometimes long distances, rejected large portions of the tax package including the gasoline tax.

So the people spoke, and the House of Representatives listened to their constituents, and that is what this country is all about. The people are supposed to have a say in their own business and they did not like this agreement that was produced behind closed doors. They did not like this agreement that was produced with a shotgun of sequester, the threat of sequester held to the heads of the negotiators by the representatives of the administration.

The budget agreement was rejected in spite of valiant efforts by Members of the leadership on the House side on both sides of the aisle to try to persuade their Members to support the agreement.

I do not think I have ever heard a more eloquent speech than the one made by the leader of the minority party, the leader of the President's party, Congressman MICHEL, from Illinois, on the floor of the House of Representatives just night before last. He begged his Republican colleagues to follow the leadership of the President. The Speaker of the House of Representatives, in a very unusual moment, took the floor of the House and implored his colleagues to support this agreement.

Rarely does the Speaker of the House of Representatives vote, but the first vote cast in favor of this agreement was cast by the Speaker of the House of Representatives, the Honorable THOMAS FOLEY, of Washington. That represents to me good faith on the part of the leadership of this Congress to live up to that agreement. And we were prepared here in the Senate, even though it was bitter gall indeed, for this Senator to support this agreement, that in the final analysis had almost been dictated to us by the White House staff.

But it was overwhelmingly defeated. It went down in a bipartisan way. It was rejected by both parties. It was rejected by the American people. So we asked the administration and the President to give the Congress the representatives of the American people just a few more days to come back and fashion an agreement that will be acceptable to our constituents.

What is the response? The response from the White House is to veto a temporary continuing resolution and to shut down the Government.

Now, Mr. President, I see a pattern emerging here. My mind goes back to the spring of this year when as chairman of the Senate Budget Committee I was striving valiantly to try to produce a budget, to move a budget through that committee. One that would reduce the staggering deficits that have come about as a result of failed fiscal policies of the preceding administration, which this administration seemed intent on carrying on.

As I tried to fashion that budget agreement in a bipartisan way, with colleagues on both sides of that committee, it became crystal clear to me that this administration and leading figures in this administration did not want a budget to come out of the Budget Committee of the Senate of the United States. They wanted to frustrate the process. They wanted to stagnate the process. They wanted to defeat the process. They were throwing sand in the wheels of government in the Senate Budget Committee this spring.

Mr. SARBANES. Mr. President, I ask unanimous consent that the Senator from Tennessee be recognized for another 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SASSER. Mr. President, when we got down to the 11th hour after days and days and days and days of an effort to fashion a budget in the Budget Committee of the Senate of the United States, I learned that the Director of the Office of Management and Budget was making telephone calls to Republican Senators urging them not to support a budget agreement. The Chief of Staff of the White House was talking to members of the minority on the Budget Committee, apparently, as related to me, by them, urging them not to vote for a budget to come out of the committee.

Why would they want to frustrate the legitimate aims of government? Why would they want to frustrate the budget process?

But almost instantly, within a matter of a few hours after that budget emerged from the Senate Budget Committee, there came the request for our leadership to meet with the President and try to put together an agreed settlement. After being unsuccessful in frustrating the effect to bottle up the budget in the committee, then came the request to negotiate.

The leadership did that and they charged some Members of this body and Members of the other body to carry on negotiations. It went on for months, weeks, all night on occasion, until finally an agreement was fashioned.

We in the Congress and particularly on this side of the aisle have gone the last mile with this administration in trying to deal with the fiscal problems of this Government. Last night we saw the pattern of confrontation continue. We passed a continuing resolution here in order to give us time to work out a budget agreement, so that this Government could continue to operate in an orderly fashion as the American people have a right to expect it to operate.

The first word was, well, the President will not sign the continuing resolution. And then later we learned this morning that the President would veto the continuing resolution. And I am reliably advised that the reason the administration changed its mind and, rather than letting the continuing resolution die by not signing it, and why they decided to veto it, is that in the interim they have been able to persuade enough Senators on the other side of the aisle to sustain the President's veto.

Mr. President, I ask you and I ask my colleagues: Who bears the responsibility for shutting down the Government of the United States and all of the dire consequences that may ensue? It is not this Congress. It is not our negotiators who negotiated out their hearts. It is not the leadership of the minority, Mr. MICHEL, who took the floor of the House of Representatives and implored in eloquent fashion his colleagues to support it on the Republican side. It is not the Speaker of the House of Representatives or the majority leader there, Mr. GEPHARDT, who worked as hard as I have seen two men ever work to produce a bipartisan agreement.

No, this government is being shut down because the President is being badly served by those who advise him. They are telling him that the only way he can have his will over the Congress, exert his will over the American people, is by shutting down the Government, depriving the people of the Government they paid for, all in an effort to embarrass the legislative body of this Government.

I submit, Mr. President, that this is a sad day. It is a sad day for the administration that presently occupies the White House. And it defeats the comity that should exist between the executive and the legislative branch of Government.

I said this morning that I thought the veto of the continuing resolution was irresponsible and counterproductive, and I will submit, in the final analysis, mean-spirited. I request and implore and beseech the administration to take its hand off this Congress and to allow Members on both sides of the aisle to vote their own conscience when the question comes to us today as to whether or not we will override the President's veto.

Mr. SARBANES. Mr. President, I ask unanimous consent to proceed for 5 minutes.

The PRESIDING OFFICER (Mr. BURDICK). Without objection, it is so ordered.

Mr. SARBANES. Mr. President, I commend the very able Senator from

Tennessee, the chairman of the Budget Committee, for his very fine statement. I know of no Member of the Congress who has worked harder and with greater ability to try to fashion a budget agreement than the very able and distinguished Senator from Tennessee.

Mr. President, what is being used here is a bludgeoning tactic, to put it very bluntly. It is the blackjack tactic applied not only to the Congress but to the American people.

The House did not pass this budget proposal on Thursday night, regrettably. But that was an exercise of free judgment. Mr. Sununu and Mr. Darman do not dictate to the Members of the Congress how they ought to vote. And they were not about to be dictated to, and they made their judgment.

Now the administration has closed down the Government to bludgeon the Congress, bludgeon the American people, to accept exactly what the administration wants in order to lift this closing of the Government which the President has brought about by vetoing the continuing resolution.

The continuing resolution was for 1 week, 1 week only, during which time the Congress would have been able to address the aftermath of the vote on last Thursday and try to put together a comprehensive budget approach.

I heard someone say, "Well, you know, this is happening on a holiday weekend, and therefore the impact will not be as great." Well, the impact on some of the activities of Government will not be fully felt until Tuesday, but the impact on American citizens is being felt right now. They had on the radio, as I was coming in, stories of people who had traveled long distances to come to Washington on this holiday weekend. They were off from work. They had an opportunity to come here. Everything has been closed down.

All of the institutions of the Smithsonian, the museums, are closed down today. Now for working people, that makes a difference. It is working people who can take their children to the museums on the holiday weekends. They do not have the luxury of going to the museums of the Smithsonian on working days.

So, Mr. President, what we are confronting here is we have a situation where we sought an additional handful of days in order to address a serious budget problem and that was denied to the Congress. I deeply regret that. I do not think that that kind of tactic should be applied to the Congress or to the American people.

I yield the floor.

Mr. SASSER. Mr. President, I ask unanimous consent that I be allowed to continue for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, this morning there was a meeting at the White House between the leadership of the House and Senate and the President of the United States. Following that meeting, the Senate majority leader, Senator MITCHELL, was questioned by the press as he emerged from the White House. The distinguished majority leader was asked his views on the President's decision to veto the continuing resolution and in essence shut down the Government of the United States.

Senator MITCHELL answered in these words:

> President Bush's decision to shut down the Government is wrong and unnecessary. It will not advance the President's position in the negotiating process.

And further he said that "it will serve no useful purpose, and the President now has before him legislation which, if merely signed, would continue the operations of Government."

The majority leader continued:

> This decision by the President to shut down the Government, to cause this unnecessary pain and anguish to thousands of American families, is not helpful.

I would add that it is totally unnecessary.

What we have here, it appears to me, is an effort on the part of some advisers of the President to exert their will and their view over what the priorities of the budget of the U.S. Government should be over the will of the majority of this Congress, and indeed, in contravention, as I perceive it, of the will of the majority of the American people.

I think it is high time that the administration let this Congress work its own will on the budget and allow us to sit down with our colleagues on the other side of the aisle, unfettered by administration pressure or unfettered by administration advice or unfettered by administration threats, to deal with the fiscal problems of this Government.

I am confident that if that occurred, the Congress could do its duty and present the President with a budget and with a budget reconciliation.

Now, it might not be precisely the one that certain members of the administration favor. It might not have a very large reduction in Medicare. It might not have some of the revenues that were urged on the negotiators by the administration. I dare say it would probably have a revenue portion of the budget agreement that would be more progressive, that would be fairer, that would put less of burden on the middle class and working people of this country and place that revenue burden more on the wealthier portion of our body politic.

But, if that is the will of the Congress, then that is the way it ought to be, and the President ought to respect that, and members of his administration, in my view, ought to respect it. This is a Government of three coequal branches. Congress ought to be allowed, in the final analysis, I believe, to work its will on the budget. We tried it the other way. We tried to come up with a budget agreement that was tilted, I think, predominantly in the direction the administration wished it to be, that was fashioned primarily by the wishes of the administration negotiators. That has been rejected overwhelmingly by Members of both parties in the House of Representatives, and it was overwhelmingly rejected by the American people.

So it is time to go back to the drawing board. We are ready to do that. But I think to hold a pistol to the head of the Congress, to shut down the Government of the United States, to disrupt the lives of tens of thousands of American citizens is a failure of Government. It is the wrong way to go. The President, in my view, has made a serious error in vetoing the temporary continuing resolution that was presented to him just last evening.

But it is not too late. The administration should back off and allow this Congress to work its will on the President's veto. And, if the Congress, of its own free will, Members on both sides of the aisle, wish to vote to override that veto, then I submit they ought to be allowed to make that decision, a decision of conscience, and the administration should not seek to unduly influence any Member of this body or of the House of Representatives when the veto override comes up for a vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have a parliamentary inquiry. Are we as in morning business?

The PRESIDING OFFICER. The Senator needs consent to speak right now.

Mr. DOMENICI. I ask unanimous consent I be permitted to speak for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I was not present on the floor for the entire statement made by the Senator from Tennessee, the chairman of the Budget Committee. I am not going to speak on the veto. But I did hear a few remarks about letting the budget process work its way, and the White House need not be part of it. Some allusions were made to why we did not get a budget resolution earlier in the year, and some of that was blamed on the White House. I would just like to make a few brief remarks on both.

Frankly, I am the ranking member of that committee. I serve with my good friend from Tennessee. As far as why we did not get a budget resolution earlier this year, suffice it to say from this Senator's standpoint the White House had nothing to do with it, so we ought to make sure the record is clear. If they called me, I do not remember it. And if they called me, they did not call me to tell me not to support it, because they did not have to. Frankly, it was the kind of budget resolution that most Members on this side of the aisle could not support. As a matter of fact, I believe it would have been called up had it had the support from both sides of the aisle. I do not think it did. That is why we never got a budget resolution, plain and simple.

Aside from the fact that it cut too much out of defense, in my opinion, and would not receive the support of this body, in addition it was, when it comes to cutting spending for domestic programs across the board, it really was kind of a phony. I say that guardedly. I do not usually use words like that. Some used those kinds of words before and called Director Darman's budget the year before, called some of his unspecified savings, "black box." Everyone should know the budget resolution that was reported had a black box so it could get out of committee. It increased all the spending in the areas where you need votes, and then down at the bottom it had a little box and it took all the money away. It took $4.5 or more billion away, but it did not say where. So you could say it did not cut, but it did cut. I think that is enough to talk about it. There are some other things wrong with it, but the White House did not have anything to do with that.

Second, as to why we should not just proceed with a budget resolution put together by Members of the House and Members of the Senate now in these too late hours and leave the White House out, let me suggest this body did not have the courage until the President said, let us meet to talk about the serious issues. If we do not want the President in now, why did we have him in before? I know why. Because we needed the President of the United States to agree that we would increase taxes, that there could be new revenues in this package. In fact, he said, let us have a summit and everything will be on the table. And that was not enough. We did not meet for 3 weeks until he said the magic words. So he was the stimulus for getting it together. It did not fall apart on his score. It was not his fault it fell apart over in the U.S. House. It was somebody else's fault.

To say all that work and all those commitments ought to just disappear and we ought to do our work—our, Congress'. We are really good at doing our work. We leave him out and then we want him in 2 or 3 or 4 weeks to sign what we produce. Is that not wonderful? That will produce wonderful policy, I am sure, wonderful for those who are not Members of the President's party. But why is he not part of it?

Someone would say, oh, he can veto it. Everyone should understand this process is on this kind of track. A budget resolution is going to be produced, either with his help and his people's help or without it, and all it does is leave it up to all the committees of the Congress in 2 or 3 weeks to produce legislation that we are going to put into law, all in one package, take it or leave it.

With time running out, I hope that is no one's plan. I hope no one thinks we ought to just leave the President out, leave out the agreements that were good agreements made in the summit, and do our thing, which we have not been able to do thus far, and, if we can do it now, we will do it, because he made a commitment that permits us to do it. We could not come close to putting a budget resolution together without his commitment, his willingness to say, put revenues on the table. Now we are going to use that, put a budget resolution together, and say, "We do not need you, and somehow or other we are going to do it, and somehow or other it is just going to come out neat." Does anyone believe that?

We all know where the restraint in Government has to come. And it is tough. And I surmise if we put one together without the President and without Republicans, without the minority, it will not restrain the Government where the Government has to be restrained because that is too tough. And then we will say, here we are, 3 weeks down the line, the same arguments being made that are being made here today, but now we have a big piece of legislation. We send it over to the President, and it is all protected as it runs through Congress. You can hardly amend it, it does not take very long, because that is called reconciliation: Sign it, take it or leave it.

I believe the President has been decent. He has been sincere. His people have worked just as hard as we have and we are reasonably close to having a proposal that will fix the deficit and that could be sold to both sides of the aisle.

In fact, I believe, instead of saying no more summiteers, that if we would put back into position that framework that we had and change three or four things, I surmise that they would come up with something that would pass. We ought to do that. I am not the leader, so I am not complaining, but obviously we should not abandon the framework that brought us as close as we got to a real, tough but fair budget proposal.

Mr. **SARBANES**. Will the Senator yield for a question?

Mr. **DOMENICI**. I will be pleased to.

Mr. **SARBANES**. Assuming for a moment everything the Senator said, in terms of how he would like to proceed, does the Senator think that a contribution is made towards a positive environment in which to try to address how to recoup from last Thursday's votes in the House by vetoing a very short-term continuing resolution and creating this kind of chaos and pressure?

Mr. **DOMENICI**. Was my colleague finished with the question?

Mr. **SARBANES**. I was.

Mr. **DOMENICI**. Let me say this. I, frankly, believe we all are entitled to our views. The distinguished Senator from Maryland is entitled to his. I am entitled to mine. But I think the President is entitled to his also.

I was not privy to the reasoning and rationale, but I saw some of his discussion about it and what he said was that he thought we needed to keep our feet to the fire and get the job done. That is the President's opinion, and he believes that that will work.

Mr. **SARBANES**. If this continuing resolution, as I said earlier, and I do not think the Senator was here when I spoke, had been for a matter of weeks or months, one of those long-term things, I can understand that argument which says they are working in such a broad timeframe that the pressure is going to be taken off. That was not the case here. This was a 1-week CR, and it seems to me the pressure of trying to reach an agreement would still be present without paying the price that is involved in closing down the Government.

Mr. **DOMENICI**. It appears to me that, as the President said this morning, in spite of the perceptions of the Presidency with reference to this Congress, he has terribly few powers, and he sees it that this is one of his powers that he wants to exercise to make us do our work.

I am not certain that if it is sustained, and I assume it will be, either there or here, I am not at all certain that that is the end of continuing resolutions. As a matter of fact, I understand there is a continuing resolution in the mill to take the place of this. Perhaps my colleagues have not heard of it, but I understand there is one in the mill that will take the place of this, that indeed will come right behind it, that might do the job.

It might be satisfactory to the Senator from Maryland also in terms of how it reads and what it does. In fact, I said here today that I stood up not to talk about it—I am pleased to answer questions and pleased to talk about it; when we get it over here we will probably debate it some more. Who knows, maybe it will be debated 3 or 4 hours so we will all get a chance to talk about it.

I really came to the floor to make the point, and I urge the distinguished Senator from Maryland, who is influential with his leadership, that everyone seriously consider the dilemma we are putting ourselves in when we say the summit framework as encapsulated in that resolution which failed, and my colleague understands it carried some language that said in addition to that, we are going to do other things in the reconciliation bill that will make all these things enforcable, that will change these processes.

I am urging that we find a way to respond to the clamor of committees for input and the clamor from House and Senate Members for input. The Senator and I have been here long enough to know what that means; that we find a way to respond to it without leaving the White House out of the loop, and without destroying the basic framework that was established because I honestly believe nothing good will come of it.

That is all I meant. It had nothing to do with this particular CR.

Mr. **SARBANES**. Except I want to say to the Senator, I think the veto of the CR contributes to potentially fragmenting the summit framework which he is concerned about. In other words, I think that it was a very bad mistake to veto this CR. It was not a long-run CR. It was clearly not an effort to escape from the problem of trying to resolve the comprehensive budget question, which was not resolved last Thursday evening because it went down.

Because it went down; there is a problem that has to be faced. It has to be faced in the House, here in the Senate by both parties, and by the President. To veto the continuing resolution, simply extending the appropriations for 1 week while we have a chance then to address the situation, perhaps in the way the Senator has outlined—I am not taking a position on that part of it—but to exercise the veto is not a positive contribution in trying to work out the problem with which we are now confronted.

Mr. **DOMENICI**. Mr. President, do I have the floor?

Mr. **SARBANES**. Mr. President, I ask unanimous consent that the Senator be able to continue for 3 minutes.

Mr. **DOMENICI**. I only need 2 more minutes.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **DOMENICI**. I thank the Chair. Let me conclude my remarks by saying I came here—and I repeat I am concerned about things falling apart that I do not necessarily think can be put back together, and that worries me. I really think those who are responding to the desire of Members to fix the summit understandings, if they really literally mean they are going to listen to everybody and fix everybody's concerns, it is impossible. Instead of having a real constructive effort follow on to what has already been done, it is going to be destructive and we will end up at the end of the year with relatively little in real deficit reduction, maybe another sham, maybe something that has to be put off for months.

I think that is deplorable when we were within days of getting something done. I say to my friend from Maryland, I believe the anger, the bitterness that arose 2 days before that vote and immediately subsequent to it in the House, had already begun to deteriorate the notion of keeping the summit framework intact.

So my answer to my colleague is, I do not believe what we do here today, what the President did 3 hours ago or 4, has anything to do with it. I do not think it is going to be a plus or minus. There are some who think it will be a plus because it will get us to do our work, but I really do not believe it has much to do with it.

Mr. **SARBANES**. Will the Senator yield on that point?

Mr. **DOMENICI**. I yield for a question. I am scheduled to be somewhere.

Mr. **SARBANES**. When the Senator concludes, I want to make one very specific point.

Mr. **DOMENICI**. Let me conclude by saying that it is absolutely imperative that we not fall back into the trap of business as usual in putting together the budget resolution, in letting that be followed by a so-called law called reconciliation to carry out the instructions. We will truly have wasted months of effort when, if we were on a football field, whether one liked the summit agreement or not, we had gone 90 yards and they were slow, begrudging, they took forever kind of yards. But we were on the 10-yard line, not the 50. Maybe we were even on the 8- or 7-yard line, as one looks at that framework and sees where the problems were. We were way down the playing field.

I truly urge those who are thinking about it understand that while people are angry about specifics, we have a responsibility to this Nation to fix the deficit and we cannot fix it by easy, no-paying programs. These who are angry about specifics also want the deficit fixed. If we keep it as a package, we are apt to have a chance to get it done. I yield the floor.

Mr. **SARBANES**. Mr. President, I ask unanimous consent to proceed for 2 minutes, and I want to address my colleague.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **SARBANES**. Mr. President, I want to say to the able Senator from New Mexico, the ranking member on the Budget Committee, for whom I have great regard, and I think he knows that, I had publicly indicated in my State that I supported the budget package and was prepared to vote for it even though I had grave misgivings about many of the provisions in it. I certainly was not the package that would have put together.

But I say to the Senator that thi tactic, this veto of the continuing resolution, this bludgeoning tactic that obviously has been counseled to th President, I think, by both Mr Sununu and Mr. Darman, as far a this one Senator is concerned, is affecting my view about this budge framework and this budget process.

I do not think this closing down th Government is a contribution towar solving the problem. In fact, just th reverse. It is a negative. It is an effort in effect, to step on the neck of th Congress and on the necks of th American people as we try to resolv now this budget situation by applyin a heavy and, in my view, imprope pressure; namely, the closure of th Government.

No one is trying to get a continuin resolution that extends so far in tim that it can be said well, you are jus trying to duck the problem. We ar talking about a 1-week extension t try to make the process work and g back and rethink where we are afte what happened Thursday night on th House vote. To come along and us these tactics is abusive.

And so I repeat again as I said whe I first came to the floor, Mr. President, I condemn this tactic. It ough not to have been done. The continuin resolution should have been signed giving us a week to go back to work t try to resolve this matter. I think i has worsened the framework, made i more difficult now to achieve a satisfactory result.

HOUSE FAILS TO PASS BUDGET SUMMIT PROPOSAL

Mr. **KERREY**. Mr. President, th stage for last night's failure by th House to pass the budget summit proposal was set with a full Moon an deepening fall colors. The dry and falling leaves, the red and orange whic has appeared so suddenly remind m of harvests past.

The failure itself jogged loose another memory from my youth. Movi theatres were a favorite gatherin place when I was a boy. One of th most commonly shown previews at th movie theatre contained the display o the unsuccessful attempt by man t fly. Bicycles and other contraption rigged with wings that flapped slowly rushed down ramps or leapt from buildings with great hope and promise—only to crash in an instant.

As the budget summit crashed in the House vote last night, I thought o these earlier setbacks. Then the ethereal dream of man to fly; now it is the dreary need to reduce the deficit. Now as then, we are going to have to g back to the drawing board until we get a plan which will fly.

Will we fail a second time? Maybe, but if we genuinely see the great good which could come from our labors—rather than just the negatives—we will persevere. We all appreciate how the fear of negative sanctions work as effective motivators. The axe of a sequester has gotten our attention and forces us to the task; the darkening clouds of an economic recession bring political movements which were previously unthinkable.

However, if we are moved by fear alone, we will address the deficit as if it is a mechanical problem to be solved by statisticians and programmers. We will attack it with the same intensity as we would a mathematical formula, and though we may get an answer which is technically correct, it will not be good enough for the human beings who form the communities of this country.

Warren Buffett once told me that reducing the deficit—he is still more concerned about the trade deficit—is like dieting. We must see ourselves healthier—and with this image in mind we will be able to consume fewer calories today.

I believe we must see and want lowered interest rates, increased savings and economic growth. I also believe we must see the tremendous potential of our children that is being squandered by our failure to provide a rich and healthy environment for them. I believe the deficit must be reduced so that we can get on to the business of investing in the value of human lives again.

This morning—as we all drag to the top of this hill where we do our work—we must keep our minds and hearts directed toward the children of our future; 45 million of whom are dragging themselves into classrooms this morning to do the work of their schools. We must consider the increasing problems faced by American families as they struggle to cope with the daunting costs and tasks of living in the U.S.A.

The failed package of our leaders contains some very good work. They have cleared the brush and leveled the ground and have most of the foundation built. It is the structure of this house which must be designed and erected.

Let me describe two of the most important things the summiteers accomplished. First, they have cleared away the simplistic notion that the deficit is under control—as the President said in January—and that it can be reduced with easy solutions like a flexible freeze or improved tax collection.

As a consequence of this exercise—which we must now continue—the size of the deficit is beginning to be understood by all. In fact, the summit proposal was subject to the most effective attack by those who pointed out that it merely reduced the increase. Even after the so-called painful cuts, the deficit would still grow to an estimated $254 billion—last year we finished our work estimating the deficit at $110 billion; its actual size is $260 billion. Even after the tax increases we would still see a 5-year increase in the national debt of $1.2 trillion.

The second revelation of the summiteers, is that we now have before us an opportunity to consider the fairness of our tax system. It is clear from the protests that middle income Americans know what happened to them in the 1980's: they got the shaft. Not surprisingly, they didn't like it, and are up in arms at the prospect of having it done to them one more time.

The smart editorial page writers, who didn't see much wrong with the gas tax, cigarette tax, beer tax, and other middle income taxes, have never been very sympathetic to the bowling alley crowd of my origins. The bowling alley crowd—who have always done the real work of this country—revolted. Their message: You are nickel-and-diming us to death.

The charts that finally came out from the Ways and Means Committee, the Joint Economic Committee and others bore them out: They are being nickled-and-dimed to death—and the percentage of the increase that they were being asked to bear is greater than that of someone filing a tax return of more than $200,000.

Yet, the specter of new loopholes for the rich, questionable business incentives, and a so-called luxury tax that was a joke both in the portion of the market to which it applied and the amount which it was to raise were also part of this package.

We must go back to the drawing boards. We must look beyond what was proposed. We must look at a so-called bubble which gives 600,000 high income taxpayers a lower marginal tax rate than some taxpayers with lower taxable incomes. We could look at an additional limitation on deductions for business meals and entertainment. We could question whether or not we really need additional tax incentives for energy sources when the market itself may provide those. We should look again at the questions which have been raised about the proposed small business incentives.

We need to take a hard second look at the gas and heating oil taxes and at the portion of the burden we are asking the elderly ill, the unemployed, the farmers and the veterans to bear.

The parameters have been set. We aren't going far beyond them. I don't propose that we do. But, we can do some work on that package that will make it a better proposal.

My hope and belief is that we will get back to work on building a package that will fly. My belief is that we should build it for a long flight. It should do more than stay in the air until we get beyond the elections of 1990 or 1992. It should take us into the 21st century where we will need to be stronger and healthier than we are today.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,030th day that Terry Anderson has been held captive in Beirut.

MESSAGES FROM THE HOUSE

At 2:07 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the bill (S. 1430) to enhance national and community service, and for other purposes, with amendments; it insists upon its amendments to the bill, asks a conference with the House on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Education and Labor, for consideration of the Senate bill—except sections 222, 501, 502, 507, and 508—and the House amendment—except sections 132(e), 191-195, and 1991—and modifications committed to conference: Mr. Hawkins, Mr. Ford of Michigan, Mr. Gaydos, Mr. Miller of California, Mr. Kildee, Mr. Williams, Mr. Martinez, Mr. Owens of New York, Mr. Sawyer, Mrs. Lowey of New York, Mrs. Unsoeld, Mr. Goodling, Mr. Gunderson, Mr. Coleman of Missouri, Mr. Petri, Mr. Tauke, Mrs. Roukema, and Mr. Fawell.

From the Committee on the Judiciary, for consideration of section 132(e) of the House amendment, and modifications committed to conference: Mr. Brooks, Mr. Edwards of California, Mr. Staggers, Mr. Fish, and Mr. Dannemeyer.

From the Committee on Energy and Commerce, for consideration of sections 222, 501, and 502 of the Senate bill, and modifications committed to conference: Mr. Dingell, Mr. Thomas A. Luken, Mr. Waxman, Mr. Lent, and Mr. Whittaker: Except that, for consideration of sections 501 and 502, Mr. Madigan is appointed in lieu of Mr. Whittaker.

From the Committee on Foreign Affairs, for consideration of sections 507 and 508 of the Senate bill, and sections 191-199 of the House amendment, and modifications committed to conference: Mr. Fascell, Mr. Berman, Mr. Levine of California, Mr. Broomfield, and Mr. Gilman.

From the Committee on Interior and Insular Affairs, for consideration of subtitle C of title I of the Senate bill and title II of the House amendment, and modifications committed to conference: Mr. Udall, Mr. Vento, Mr. Lewis of Georgia, Mr. Young of Alaska, and Mr. Lagomarsino.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4739) to authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Armed Services, for consideration of the entire House bill, the entire Senate amendment (except division D), and modifications committed to conference: Mr. Aspin, Mr. Bennett, Mr. Montgomery, Mr. Dellums, Mrs. Schroeder, Mrs. Byron, Mr. Mavroules, Mr. Hutto, Mr. Skelton, Mr. Leath of Texas, Mr. McCurdy, Mr. Foglietta, Mr. Hertel, Mr. Sisisky, Mr. Ray, Mr. Spratt, Mr. McCloskey, Mr. Ortiz, Mr. Darden, Mr. Evans, Mr. Bilbray, Mr. McNulty, Mr. Browder, Mr. Dickinson, Mr. Spence, Mr. Stump, Mr. Courter, Mr. Hopkins, Mr. Davis, Mr. Hunter, Mr. Martin of New York, Mr. Kasich, Mr. Bateman, Mr. Blaz, Mr. Ireland, Mr. Hansen, Mr. Rowland of Connecticut, and Mr. Kyl.

From the Committee on Armed Services, for consideration of division D of the Senate amendment, and modifications committed to conference: Mr. Aspin, Mr. Bennett, Mr. Dellums, Mrs. Schroeder, Mr. Mavroules, Mr. Skelton, Mr. McCurdy, Mr. Hertel, Mr. Spratt, Mr. Evans, Mr. Montgomery, Mrs. Byron, Mr. Hutto, Mr. Leath of Texas, Mr. Foglietta, Mr. Sisisky, Mr. Ray, Mr. McCloskey, Mr. Ortiz, Mr. Dickinson, Mr. Stump, Mr. Courter, Mr. Davis, Mr. Hunter, Mr. Hansen, Mr. Kyl, Mr. Spence, Mr. Hopkins, Mr. Martin of New York, Mr. Kasich, Mr. Bateman, and Mr. Blaz.

As additional conferees from the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 2 of Rule XLVIII: Mr. Beilenson, Mr. Kastenmeier, and Mr. Hyde.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 324, 335, and 336, and division D of the House bill, and sections 1216, 1249, and 2806 through 2808 of the Senate amendment, and modifications committed to conference: Mr. Gonzalez, Ms. Oakar, Mr. Vento, Mr. Torres, Mr. Neal of Massachusetts, Mr. Wylie, Mr. Shumway, and Mr. Roth.

As additional conferees from the Committee on Education and Labor, for consideration of section 504 and division D of the House bill, and sections 854, 1216, and 3130B of the Senate amendment, and modifications committed to conference: Mr. Hawkins, Mr. Ford of Michigan, Mr. Williams, Mr. Martinez, Mr. Sawyer, Mr. Goodling, Mr. Coleman of Missouri, and Mr. Gunderson.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 341, 345, 2834(c), 2851, 2852, 3134, 3135, and 3201 of the House bill, and sections 319, 813(f), 1003, 1222, 2821, 2824, 3130B, 3133, 3134, 3201, and 3202 and division D of the Senate amendment, and modifications committed to conference: Mr. Dingell, Mr. Thomas A. Luken, Mr. Sharp, Mr. Swift, Mr. Eckart, Mr. Lent, Mr. Moorhead, and Mr. Whittaker.

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 226, 232, 303, 332, 352, 1037, 1331(a), 1346, 1347, 1401 through 1408, 3133, and 3141 through 3144 of the House bill, and sections 304, 852, 1106, 1107, 1211, 1213 through 1215, 1224, 1225, 1242 through 1244, 1246, 1271 through 1275, 1304(d), 2811, 2812, and 3141 of the Senate amendment, and modifications committed to conference: Mr. Fascell, Mr. Hamilton, Mr. Yatron, Mr. Solarz, Mr. Smith of Florida, Mr. Broomfield, Mr. Gilman, and Mr. Lagomarsino.

As additional conferees irom the Committee on Government Operations, for consideration of sections 227, 802, 803, 804, 807, 835, 1302, 1303, and 2822 of the House bill, and sections 811, 812(f), 813(a), 813(c), 813(d), 816, 817, 818, 819, 833(a), 1205, 1207, 2804, 2805, and 2809 of the Senate amendment, and modifications committed to conference: Mr. Conyers, Mrs. Collins, Mr. Wise, Mrs. Boxer, Mr. Kleczka, Mr. Horton, Mr. Kyl, and Mr. Shays.

As additional conferees from the Committee on Interior and Insular Affairs, for consideration of division D of the Senate amendment, and modification committed to conference: Mr. Udall, Mr. Miller of California, Mr. Vento, Mr. Markey, Mr. Levine of California, Mr. Young of Alaska, Mr. Marlenee, and Mr. Craig.

As additional conferees from the Committee on the Judiciary, for consideration of sections 352, 552, 822, and 1343 of the House bill, and sections 804A, 833(a), 1102, 1218, 1226, 1251 through 1266, and 1503 of the Senate amendment, and modifications committed to conference: Mr. Brooks, Mr. Kastenmeier, Mr. Frank, Mr. Staggers, Mr. Bryant, Mr. Fish, Mr Moorhead, and Mr. James.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 329(d), 553, 1324, and 2831 of the House bill, and sections 522, 631(b) 2805, 3132, and 3401 through 3407 and division D of the Senate amendment and modifications committed to con ference: Mr. Jones of North Carolina Mr. Studds, Mr. Hubbard, Mr. Tauzin Mr. Dyson, Mr. Young of Alaska, Mr Lent, and Mr. Shumway.

As additional conferees from the Committee on Post Office and Civil Service, for consideration of sections 361(c), 902, 905, 906, and 1217(b) of the House bill, and sections 831, 832, 834 1001(a), 1502(b), 3202, and 340 through 3406 of the Senate amendment, and modifications committed to conference: Mr. Ford of Michigan, Mr Clay, Mr. Sikorski, Ms. Oakar, Mr Ackerman, Mr. Gilman, Mr. Horton and Mrs. Morella.

As additional conferees from the Committee on Public Works and Transportation, for consideration o section 2803 and division D of the House bill, and sections 1216, 1232 2804, and 2814 of the Senate amendment, and modifications committed to conference: Mr. Anderson, Mr. Roe Mr. Oberstar, Mr. Bosco, Mr. Savage Mr. Hammerschmidt, Mr. Petri, and Mr. Packard.

As additional conferees from the Committee on Science, Space, and Technology, for consideration of sections 802, 804, 804A, 1001, 1002, 1501 1502, and 3130B of the Senate amendment, and modifications committed to conference: Mr. Roe, Mr. Scheuer Mrs. Lloyd, Mr. Valentine, Mr Mineta, Mr. Walker, Ms. Schneider and Mr. Boehlert.

As additional conferees from the Committee on Small Business, for consideration of section 813(e) of the Senate amendment, and modifications committed to conference: Mr. LaFalce and Mr. McDade.

As additional conferees from the Committee on Ways and Means, for consideration of section 1223 and division D of the Senate amendment, and modifications committed to conference: Mr. Rostenkowski, Mr. Gibbons, Mr. Jenkins, Mr. Downey, Mr. Pease, Mr. Archer, Mr. Vander Jagt, and Mr. Crane.

As additional conferees from the Committee on Ways and Means, for consideration of section 645 of the Senate amendment and modifications committed to conference: Mr. Rostenkowski, Mr. Ford, of Tennessee, Mr. Downey, Mr. Pease, Mr. Matsui, Mr. Archer, Mr. Vander Jagt, and Mr. Crane.

At 7:25 p.m., a message from the House of Representatives, delivered by

Mr. Hays, one of its reading clerks, announced that the House of Representatives having proceeded to reconsider the joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was,

Resolved, That the said joint resolution do not pass, two-thirds of the House of Representatives not agreeing to pass the same.

RECESS UNTIL 5 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 5 p.m.

Thereupon, at 4:30 p.m., the Senate recessed until 5 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. Ford].

The PRESIDING OFFICER. The Chair, using his prerogative as a Senator from Kentucky, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, the House is now completing a vote on the override of the President's veto of the continuing resolution. It appears that the veto will be sustained.

I will shortly meet with the distinguished Republican leader and will also attempt to talk with the House leadership to determine what their next course of action is, and as soon as I do that I will have an announcement on what our plans will be for the remainder of the day.

In the meantime, I will shortly seek consent to recess subject to the call of the Chair, rather than setting it at a specific time. That will give us flexibility to make any announcement that is appropriate at the earliest possible time.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. MITCHELL. Accordingly, Mr. President, I ask unanimous consent that the Senate now stand in recess subject to the call of the Chair.

There being no objection, at 5:06 p.m., the Senate recessed, subject to the call of the Chair.

The Senate reassembled at 7:24 p.m., when called to order by the Presiding Officer [Mr. Ford].

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I have just discussed with the distinguished Republican leader who is present on the floor and Members of the House leadership, the current situation in the House and what may be expected to occur there in the next 24 hours. It now appears that there will not be any action in the House this evening that would cause us to be in session and taking up any measures in the Senate this evening. Accordingly, I will now state that there will be no rollcall votes this evening and it is my intention to shortly recess for the day.

Tomorrow the House will come into session at 1 p.m. Efforts are continuing there to reach agreement on a budget resolution which can be presented to the House for action tomorrow.

The House, a short time ago, took action which permitted the reconvening of the budget conference committee and it is their hope and ours that the conference committee will be meeting this evening to attempt to move toward the development of a budget resolution conference report, which could then be acted upon in the House tomorrow and which, if that did occur, would require action in the Senate later tomorrow.

Accordingly, following consultation with the Republican leader, I will shortly seek consent to recess until 6 p.m. tomorrow with the advice to all Senators that they call in through the day to their respective cloakrooms to seek updates on the current situation in the House of Representatives, because if the House does not take any action tomorrow there will, of course, not be any reason for the Senate to be in and acting tomorrow.

The only reason for setting the Senate session for 6 p.m. tomorrow instead of going over until Monday is in the hope and expectation that the House may take action tomorrow which would permit us then to proceed with respect to whatever measure the House acted on.

So, we will be in session tomorrow at 6 p.m. We will take action thereafter tomorrow if the House has, prior to or sometime during the day or evening tomorrow, acted on a measure in such fashion as would permit us to act on it. If no such action occurs in the House, then our session tomorrow would be merely pro forma. Therefore, before making plans to come in, Senators should check throughout the day, again with their respective cloakrooms, on the progress of what is occurring in the House during the day tomorrow.

So, Mr. President, I am pleased now to yield to the distinguished Republican leader.

Mr. DOLE. Mr. President, I thank the majority leader.

It could be that if they reached some agreement in conference tomorrow on the budget, there could be a budget conference report tomorrow night if the House acts. That could come sometime after 6, as I understand it.

We might need considerable notice. I think there will be a number of Members on each side of the aisle who may not be in the area, in some other States, for example, and it would take a while for them to return.

I assume if the budget conference report passed, then there would be a straight continuing resolution that would keep the Government going for a couple of weeks while we work on reconciliation. I guess those are the two possibilities which may or may not occur. We just do not know at this time.

Mr. MITCHELL. That is correct. Depending, of course, upon what happens with the budget resolution, we may be able to dispose of the continuing resolution in a relatively brief period of time, perhaps by voice vote.

Mr. DOLE. And maybe even the conference report on the budget by voice vote.

Mr. MITCHELL. That is possible, and that would certainly be my hope, if we can do so. Obviously that will require further consultation between us and other Members of the leadership, and particularly the Budget Committee. But that is possible and that is the kind of thing that Senators will have to check on during the day. We obviously will keep them advised and then have an announcement at 6 p.m. tomorrow when we come into session.

Mr. President, obviously, there is a high level of uncertainty in what will occur. It is my very strong hope, and I know the Republican leader shares this, that we will be able to reach agreement on a budget resolution that will enable us to proceed to what is the essential task of developing the reconciliation bill.

Unfortunately, as we have all seen, what has occurred is that the budget resolution has become invested with at least the perception of the characteristics of the reconciliation bill and a vote on the budget resolution has now be deemed to be a vote on the entire legislative package that ordinarily occurs in the reconciliation bill. I hope that we can get a budget resolution passed so that we can begin the very difficult task of trying to put together a reconciliation bill that would deal with the problem. That is an essential first hurdle.

The budget resolution does not solve the problem. It is an internal congressional action. It does not require presentment to the President. It does not bind us beyond the aggregate numbers and the instructions to the committees with respect to their contribution to the aggregate level. So it is my hope that we can do that.

If we cannot do that tomorrow, then, of course, it seems implicit, but I think it should be made explicit, that a Monday session would be possible because we have to get this done and I hope very much that we can get it done before the holiday ends and the severe adverse effects of the current situation are actually felt on Tuesday morning.

So, we will keep Senators advised as best we can on both sides. I recommend strongly again that Senators call in throughout the afternoon tomorrow to be kept abreast of what is happening so that they do not make unnecessary trips to and from the Capitol. There is no assurance that there will be a vote at 6 o'clock or that any action will be necessary. That depends very largely, if not entirely, upon what occurs in the House prior to that time.

Mr. President, if there is no further business to come before the Senate, the distinguished Senator from Rhode Island has requested the opportunity to address the Senate, and I am about to seek consent to recess following his remarks unless other Senators wish to be included in this request.

Mr. MITCHELL. Mr. President, I now ask unanimous consent that Senator Pell be recognized to address the Senate and that at the conclusion of his remarks the Senate stand in recess under the previous order until 6 p.m. on Sunday.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PRESIDENT'S VETO

Mr. PELL. Mr. President, I regret very much that the President chose to close down the Government of the United States by his veto. I regret also that the House of Representatives has been unable to override that veto. If the Senate had been given an opportunity to act, I would have voted to override the President's veto, I would have voted to permit the Government to continue to function.

It is deplorable, indeed shameful, that our Government is being brought to a standstill by disagreement over budget policies. The American people deserve and expect a better and a more solid performance.

The summit budget agreement presented to the Congress by its leadership and by President Bush was rejected last week. I rejected the agreement, the American people rejected the agreement, and the Congress rejected the agreement.

The Congress then proposed that budget deadlines be deferred for a week to permit action on a new budget. President Bush has said no, he will not permit further time, but will shut down the Government without further delay. I think he is badly mistaken.

This is an artificial crisis that is totally unnecessary. The administration strategists apparently believe that shutting down the Government will put pressure on the Congress to pass a budget that meets with its approval. Shutting down the Government may indeed put some pressure on Congress, but more importantly it punishes the American people. It deprives the people of Government services they want, need, expect, and deserve.

Our Nation would not collapse if the Congress were given a few more days to prepare a budget that the American people will find more acceptable. The Congress now must act, not with due speed and deliberation, but with haste, to avoid imposing unnecessary penalties on the American people.

Mr. MOYNIHAN. Will the Senator from Rhode Island yield for a comment?

Mr. PELL. I will be glad to yield.

The PRESIDING OFFICER. The chair will say to the distinguished Senator, he can secure the floor in his own right by unanimous consent.

Mr. MOYNIHAN. I thank the Chair.

May I say in response to the statement, characteristically brief, concise, and precise, of the Senator from Rhode Island, that he has other things to do than the idiocy in which we will find ourselves caught up next week or beyond.

The Senator from Rhode Island is the chairman of the Committee on Foreign Relations. He is trying to manage matters of the utmost importance. He will be bringing momentarily a treaty to the floor of this body that brings an end to the Second World War in Europe; the 4-plus-2 agreement that brings the unification of Germany and the withdrawal from Germany, save under other agreements, of all the occupying powers—the Soviet Union, the United States, France, Britain—that have been going on since 1945.

He will soon have the most important conventional arms treaty in history to manage. He has on his hands 200,000 American men and women deployed in the gulf, possibly at war any instant, exposed to the utmost dangers; negotiating a multinational coalition that has no equivalent in history.

The chairman of the committee and his committee have work to do instead of which we will be trying to put together an agreement which, one way or the other, will not be 5 percent different, one outcome from the other.

If I have a touch of asperity in my voice, it is in amazement at the statesmanlike nature of the chairman's remarks. He knows how important his work is and how much he is being diverted by irresponsible behavior on many quarters, and not just on Capital Hill.

Mr. PELL. Mr. President, I thank the Senator very much indeed for his nice remarks. I remind him of the real definition of a statesman, which is that of being a successful and dead politician.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. For what purpose does the Senator from Nebraska rise?

Mr. EXON. I ask that I might be able to continue for no more than 3 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PRESIDENT'S VETO

Mr. EXON. Mr. President, I know there has been a lot of hard work going on in the Congress of the United States these last few hours. However, I must say that despite those efforts I was very disappointed to hear that we, seemingly, have concretely accomplished nothing today. We are coming in at 6 p.m. tomorrow, as I understand it. I do hope that at least by that time we will have something to vote on, to begin to do something about this proposition.

I, for one, Mr. President, was discouraged when the President saw fit to veto the measure that would have allowed us some time to work out the difficulties. I hope all will undertand that for 4 months we were locked in secret negotiations—and evidently the President. The budget submitted, it was assumed by the President and the leadership, would automatically solve the problem.

I think it is a little bit too much to ask that, since it took them 4 months to come up with something that was overwhelmingly objected to in the House of Representatives, that in a very few hours we can do something totally different that would be agreed to. That is why we desperately needed that 1 week, without the chaos and the confusion that the President's action will cause across this great country of ours.

Nevertheless, whether that is right or wrong, that action has been taken. I do hope that when we come back tomorrow, we will have at least an option to begin meaningful debate on what the options might be and come to some kind of a consensus that we should be coming to, to meet this problem that many of us have predicted would be happening for many, many years and have offered many, many plans to avert.

I simply appeal to those on both sides of the aisle who, notwithstanding the box that the President has put us into, unfortunately, that we still have an obligation to discharge our duties now. I hope that nonpartisanship and good will can now prevail in the next few hours, and let us get on with settling this most difficult task in one fashion or another. I thank the Chair, and I yield the floor.

ORDERS FOR SUNDAY, OCTOBER 7, 1990

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 6 p.m. on Sunday, October 7; that following the prayer the Journal of the proceedings be deemed approved to date; and that the time for the two leaders be reserved for their later use.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 6 P.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate now stands in recess until Sunday, October 7 at 1990, at 6 p.m.

Thereupon, the Senate, at 7:41 p.m., recessed until Sunday, October 7, 1990, at 6 p.m.

HOUSE OF REPRESENTATIVES—*Saturday, October 6, 1990*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray using the words of St. Francis of Assisi:

Lord, make us instruments of Your peace. Where there is hatred, let us sow love; where there is injury, pardon; where there is doubt, faith; where there is despair, hope; where there is darkness, light; and where there is sadness, joy.

O, Divine Master, grant that we may not so much seek to be consoled as to console; to be understood as to understand; to be loved as to love; for it is in giving that we receive; it is in pardoning that we are pardoned; and it is in dying that we are born to eternal life. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BROWN of Colorado. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BROWN of Colorado. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

Mr. SPEAKER. Pursuant to clause 5, rule I, further proceedings on this question will be postponed until the end of the legislative day.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Arizona [Mr. RHODES] come forward and lead the House in the Pledge of Allegiance.

Mr. RHODES led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC, *October 6, 1990.*

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in clause 5 of rule III of the Rules of the U.S. House of Representatives, the Clerk received at 10:15 p.m. on Friday, October 5, 1990 the following message from the Secretary of the Senate: That the Senate passed without amendment H.J. Res. 660.

With great respect, I am,
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled joint resolution on Friday, October 5, 1990:

H.J. Res. 660. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes.

DAY OF DISGRACE FOR PRESIDENT BUSH

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, today we are witnessing pick-and-choose government run by a President who in defeat is acting like a willful child.

The President has shut down the Government, and he is choosing what services he will permit the American people to enjoy and what services they will be denied, even though this House and the Senate sent the authority for this Government to function to the President yesterday. There is no need for this.

Under his definition of necessary services we saw NASA launch the space shuttle this morning, but the Statue of Liberty is closed to Eagle Scouts.

Why permit Americans to visit our preeminent symbol of freedom when the President is acting like a ruler most of the immigrants fled away from?

This is a day of disgrace for the President, but it need not be. He should stop this attempt at running the Government himself, contrary to the Constitution, and permit the Congress to write a budget.

This stalemate has been created by the President with phony budget assumption numbers earlier this year and his insistence on helping his rich friends. Now it is time to stop and let the constitutional authority work.

LET US GET THE UNFAIRNESS OUT OF THE BUDGET AND GET ON WITH IT

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, time is wasting and the Government is closing down while the world waits on Congress to pass a budget. The only way we're going to pass one is to get rid of the major flaws in the last one. It's no secret what we've got to do.

The first thing is burst the bubble that gives the richest taxpayers, couples earning over $185,000, a lower 28 percent marginal rate than people who earn less. Why should the poor and the middle class pay more taxes when the very richest people, 600,000 taxpayers, less than 1 percent of all taxpayers, don't even take a hit.

I will have some more for you guys on the Democrat side later.

If anyone can take the hit, and if anyone should take the hit, it's the wealthiest 1 percent of Americans. Let the wealthy pay at 33 percent, too. That's fairness. It's time someone, yes, a Republican, came out and said it like it is.

The second thing that's got to change is the Medicare proposal. Of the $60 billion in savings over 5 years, $30 billion comes from the elderly who receive Medicare benefits. More than half comes from raising the premium seniors pay monthly from 25 percent of the program cost to 30 percent—$18 billion, a 20-percent increase. Why are we socking it to the elderly? Where are they going to get the money?

And the third thing is the Democratic proposal—shame on you guys—for a 2-cent-a-gallon home heating oil tax. Talk about kicking the poor and elderly when they're down.

If you want a fair package, you have to shift the burden to the people who can afford it. And I call upon the "big eight," our negotiators, to get off their duffs today, to make these changes I propose now, before it's too late.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

THE WORLD IS NOT COMING TO AN END

(Mr. DARDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DARDEN. Mr. Speaker, in the late 1700's the Connecticut Legislature was in session and was experiencing some very turbulent times. About that time the first major eclipse of the sun in their lifetime came about, and many people feared that in fact the world was coming to an end because it all of a sudden had become dark.

But the Speaker of that legislature, one Abraham Davenport, upon receiving a motion to adjourn from one of the nay-sayers because it was, in fact, a very dark day, and perhaps the world was coming to an end, that they ought to adjourn, the Speaker, Abraham Davenport, said to the group assembled, "Bring in the candles, light up the lamps. If this is indeed the end of the world, I want it to be said that when the world came to an end the Connecticut Legislature was in session."

Mr. Speaker, I do not think the world is going to come to an end today. I think we have some very serious problems, but it is important that we keep our demeanor about us, that we continue to strive for a solution to this problem and that we realize that the world is not coming to an end.

Many of us have events scheduled back in our districts. I know that I am having 500 or 600 of my closest friends come to an event for me tonight where I probably will not be, and I know everybody else has their plans. But let us stay here. Let us keep our good humor and our demeanor, and let us do the job of the American people. Let us get it done, and remember the world is not coming to an end.

□ 1210

THE PRESIDENT, SENATE, AND HOUSE LEADERS ARE TO BLAME

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, now is not the time for partisan cheap shots, and the gentleman from Florida [Mr. Smith] just did an egregious one on the President of the United States.

If you look at the fine print of the budget summit agreement that was announced last Sunday, it said expressly that unless the Congress came up with an agreeable budget summit package, there would be no more continuing resolutions signed after Friday, October 5. The President did just what he said when he signed off on the budget summit package last Sunday.

There are other people who signed off on that, the Speaker of this House, the majority and minority leaders of this House, the President pro tempore of the other body and the majority and minority leaders of the other body. They are just as much to blame for the Government shutting down as the President of the United States is.

So let us start getting together and put together a package that can be signed so that we can get the public's business done and go home so the gentleman from Georgia can enjoy the 500 or 600 friends who are coming to his house tonight.

THE PRESIDENT AND CONGRESS MUST BRING PEACE AND FINANCIAL STABILITY

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENNETT. Mr. Speaker, I have not spoken on the budget, because I thought other people probably knew more about it than I did, those who have been on the budget summit.

But I have a very deep feeling about two things that are happening now in our country. One of them has to do with the war, and the other one has to do with the budget. We all come down to the fact that when you are in a position of responsibility, as we are in Congress, or as the President is in the White House, it is up to us, and it is up to the President to make Government work.

The people I have been elected by, who sent me here to Congress, expect me to see that the Government works. They are not prepared to do anything about it. They have got to take care of their responsibilities to make a living for their families, and they expect to see their regularly elected officials see that the Government works out its problems.

It is very distressing to me to see what is occurring not only with regard to the budget but also as to what I read in the paper about the President inviting people into the White House talking to them about when belligerence will actually occur in that area over there in the mideast. That concerns me very, very deeply.

We have a Constitution which says that the warmaking powers of the United States are in the hands of the Congress and not in the hands of the President. When they were arriving at the language that they would put in the Constitution, they selected the language they did with the thought that the President would be able to bring out troops and things of that kind in a belligerent capacity if we were actually attacked, but if we were ourselves mounting a situation which would bring about a war, that was not to be the case. Only the Congress has that constitutional responsibility and authority.

I hope the President and the Congress together can bring peace to this world and bring financial stability to our country.

FACE UP TO RUNAWAY SPENDING

(Mr. BROWN of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Colorado. Mr. Speaker, we are here today because this House has not done its work, and neither has the Senate. We have had all year. We have not gotten the appropriation bills through, although I think it is clear that the House has done a far better job than the Senate in facing up to those responsibilities.

The fact is the crisis we are in is a product of a failure for us to do our job. Now is not the time to throw stones at others. What we ought to do is settle down and get our work done.

What can we do in the way of a compromise? Do we have to increase the burden on working people? Absolutely not. We can get a budget that dramatically reduces the deficit, and we can do it by giving entitlement programs a cost-of-living increase and by freezing discretionary spending for 1 year.

If we will just quell the appetite to hand out more and more taxpayers' money, we will get this budget crisis under control, but we will not do it by sticking it to the American working men and women once again.

Taxes are up 107 percent in the last decade.

The answer to our problems is not to impose heavier burdens on the people who work and make this country go. The answer to our problems is to face up to the runaway spending.

SETTLEMENT IS WITHIN OUR REACH

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, I am truly embarrassed. I think every Member in this House is truly embarrassed. The very credibility of our institutions of Government have come under great question. There has been a firestorm of resentment and outrage around our country. Nobody out there today separates Democrats from Republicans, the House from the Senate, the executive from the legislative branch. It is the entire Government that has come under a cloud. Our very competence to govern is in question.

It is the very institution of government that people think are failing them and, indeed, we are failing them.

We are an advanced, sophisticated, prosperous Nation with a proud 200-year history of democracy. Even now, we have over 150,000 troops in the Persian Gulf, Mr. Speaker, ready to fight for the ideals and freedoms that our Government stands for. And yet, our President closes down this same Government at home? That is preposterous, unworthy, and unacceptable.

Mr. Speaker, the New York Times this morning berates the "appallingly small cuts in defense that are in the failed budget agreement as though no one had noticed that the cold war was over." The cold war is over, and it should be recognized as a memory. We have the opportunity to cut tens of billions more from defense over the next 5 years. We should ax SDI, ax the B-2 bomber, and ax the many more military systems that have outlived their reason for being, with the demise of the cold war. But cutting these two albatrosses will suffice, for now, to give us substantial breathing space. Cut them out, and cut them out now.

A settlement is within our reach. We ought to grasp the nettle and make this settlement. We ought to stop taxing the elderly, the poor, and the middle class. And we must be willing to make the wealthiest among us pay their fair share.

Mr. Speaker, we ought, as my colleague, the gentleman from Massachusetts [Mr. Conte] said, to burst that bubble, and get on with the settlement.

Burst that bubble, reduce the hit on Medicare, and cure this offensive regressivity. The Wall Street Journal noted a couple of days ago, that under the failed budget agreement, our poorest citizens would have paid 7.6 percent more in taxes, while those people earning upwards of $200,000 would pay a mere 1.7 percent more in taxes. That is offensive and unacceptable to the American public, which believes in fairness, equity, and even burden sharing.

Imagine what they are saying about us around the world, what the rest of the world's leaders are saying, what Prime Ministers Thatcher, Kohl, and Kaifu are thinking now about the safety and security of their investments in this country. What can the Japanese possibly think about the safety and security of the billions of dollars of United States Treasury bills they have bought, when the President thinks he can simply ask the last person in Government to turn off the lights before they leave the premises?

A century ago a British legal philosopher explained, "the law is not an ass." Were he here today, would he have been so kind about those who are charged with making and executing our laws?

LEFT, RIGHT, AND CENTER MUST COME TOGETHER

(Mr. SHAYS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAYS. Mr. Speaker, I was elected in 1987, and my first objective was to help control the rising Federal budget deficits. I voted for the Kasich amendments which cut spending. There were only 38 of us who supported his amendment last year. I supported the Kasich amendment again this year, and while there were more, there were still only 120 who supported it.

Mr. Speaker, my first real opportunity to vote for a meaningful and comprehensive deficit reduction package was to support the budget summit with all its flaws, and I supported it. It cut spending, it raised some taxes, and it helped control the growth in entitlements. It was not a great package but it was a responsible one.

With its defeat maybe we can do better. There is no question that the right is against it because there are taxes, and because they do not want defense cuts. The left is against it, because they do not want cuts in domestic spending.

Somewhere the right, the left, and the center are going to have to come together. We are going to have to get out a deficit reduction package.

In conclusion, I would vote to eliminate the bubble for the wealthiest in our society. I would want to see, in its place, the capital gains tax exemption.

I want a package that will reduce this deficit. And I intend to vote for one.

LET US GET REJUVENATED BY THE WISDOM OF THE AMERICAN PEOPLE

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, I understand the President has just vetoed the continuing resolution. Unfortunately that means more confrontation, more partisan bickering, more grief on the part of people who need the Federal services and more exasperation by the American people in this country.

It does not take an Albert Einstein physicist to figure out what to do. It does not even take the genius of a Thomas Jefferson to figure out what to do. It just takes good judgment and a sense of fairness that the folks in this country expect of us in order to get them out of this mess.

I supported the agreement to keep the process going.

What do we do now? I think the Speaker and the Republican leader and all of the other leaders of this country, and particularly the President, ought to take the basic summit agreement and make the changes of what the American people were yelling at us to make, burst the bubble, as the gentleman from Massachusetts [Mr. Conte] said, to have a little higher part of this battle paid for by the wealthy in this country, and reduce the Medicare cuts. There are other parts that we can do.

Above all the American people believe and want a budget agreement and want one that is fair, and then let us get out of this town. Let us go home after we have taken care of this problem, and let us get rejuvenated by the wisdom of the American people.

PROBLEM IS LIBERAL CAREER POLITICIANS

(Mr. SCHUETTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUETTE. Mr. Speaker, the reason we are here today is because Congress is out of control, and it does not take a genius for people to understand that when you raise taxes, cut Medicare, lay people off and then have a pay raise, Congress is out of control, and the problem is the liberal career politicans.

What we need, frankly, in any budget agreement is a first paragraph that says, "Rescind pay increases," and if there are going to be furloughs for Federal workers and cuts in programs to the poor, we ought to furlough Congress and cut Congress' pay.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. Mazzoli). The Chair would desire to tell our friends in the gallery, and you are friends and you are our guests, and we are glad you are here, the rules of the House forbid demonstrations of either support or opposition to statements made on the floor.

AMERICANS WILL NOT BE IMPRESSED WITH A GOVERNMENT SHUTDOWN

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, let us get a budget this weekend.

Americans will not be impressed with a Government shutdown come Tuesday.

□ 1220

Americans will not be impressed with partisan posturing, each side blaming the other. Americans will not be impressed with days or weeks of continued deadlock. The time for argument is past. The time for agreement has come. The budget summit package was rejected. It was not perfect. It was painful, but it would have seriously cut the deficit.

We can make the package more fair and more palatable. We know it has to be done. Let Members get the job done this weekend.

LET'S WORK TOGETHER

(Mr. SCHIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHIFF. Mr. Speaker, I voted for the continuing resolution to keep the Government operating through next Friday. I have heard that the President has vetoed or is about to veto the continuing resolution. I intend to vote to override that veto if that has occurred because I think that we should not bring government to a halt while we try to resolve this very difficult problem.

However, I do have to sympathize with the President in this respect: If so many Members of this body and the other body continue to believe that their idea of fairness is the only possible idea of fairness, and their program is the only possible program, then we will be here past October 12, 1990. We will be here past October 12, the year 2000, and still not have gotten anything accomplished. We have to work together.

CONSIDER PROGRESSIVE CAPITAL GAINS

(Mr. DeFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DeFAZIO. Mr. Speaker, it appears inevitable that the next budget package will include some kind of a capital gains allowance in exchange for finally bursting the regressive bubble. Let Members think about a progressive capital gains rate so we do not give all the progressivity in revenue gained by bursting the bubble. Set up a system of capital gains that encourages Americans at all income levels to invest long term, and fairly distribute the benefits. Reduce the marginal tax rates on capital gains by 5 percent a year in each tax bracket. Why have a flat rate capital gains tax which only benefits the people in the top and highest brackets? If a person is in the 15-percent bracket, holding something for 3 years, they get a 15-percent reduction in their tax rate, they pay 12.75 on the gains, if a person is in the 33 percent bracket, they pay at 28.05; in the 28 percent bracket, 23.8. It is more fair, it loses less revenue, and it would still, I think better encourage long-term investment in the future of America.

Finally, it accomplishes the objective which has brought Members to this impasse, which is finally making the tax system progressive once again in the greatest tradition of this country, those who have the most and can afford to pay the most should pay more than middle income and working people.

[In percent]

Asset held	Tax rate		
	15	28	33
1 yr	14.25	26.6	31.35
2 yrs	13.5	25.2	29.7
3 yrs	12.75	23.8	28.05
4 yrs	12	22.4	26.4
5 yrs	11.25	21	24.75

CUT SPENDING OR RAISE TAXES?

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, Americans need to know what this fight is all about. We can have a budget in 5 minutes. All we have to do is agree to $135 billion in new taxes, 10 cents a gallon on every gallon of gas that America buys. A tax increase of such a magnitude, it will put the United States into recession and put hundreds of thousands of people out of work.

We can cave in and spend that extra money. The problem is this battle is between 2 philosophies: Do we spend more money, or do we keep taxes low. That is the question.

Now, I think all Members need to know one more time, 10 years ago we had $599 billion in tax revenues. This fiscal year we will get $1.2 trillion in tax revenues, more than double. However, that is not enough. We want to spend more. We are getting $80 billion a year in tax revenues right now, and we will get it for the next 4 to 5 years. However, $400 billion in new tax revenues over the next 5 years is not enough. They want more. They want $135 billion in new taxes that will put the United States into a recession. That is what the battle is all about, America. Do we want more taxes or do we want to control spending?

READ OUR VOTES

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute.)

Mr. TRAFICANT. Mr. Speaker, we have gone from "read my lips," to "read my veto." It is time for Congress to reiterate today, to the Nation, to "read our votes." No, not to a budget that is un-American. Let me say this to the Congress, any budget that would raise premiums on Medicare but not touch foreign aid is un-American. That is what the American people in my district are telling me.

When this President attended a $25,000 a plate fund raiser, he broke bread with the president of British Petroleum. None of my truckers were there. None of my seniors were there. None of my veterans were there, and they want me to vote no. I do not have a tough race, and I hope it does not get tough. That has nothing to do with it.

This budget is bad if we have to shut this budget down. Let Members get a good budget for America.

FURLOUGH WHITE HOUSE NONESSENTIAL STAFF

(Mr. VOLKMER asked and was given permission to address the House for 1 minute.)

Mr. VOLKMER. Mr. Speaker, last night when Marlin Fitzwater from the White House addressed the Nation and told the Nation that the President would not sign the continuing resolution, in his remarks he said that the only Members who voted against the budget were those who did not have the courage, and those who are afraid of reelection.

Well, Mr. Fitzwater, I want you to know that I voted against the budget resolution because, as has been said here before, it was grossly unfair to the low and middle income. I do not plan to vote for any budget Mr. Fitzwater, as long as it contains those provisions that are unfair to those people.

In the meantime, I want to say to the other American that lives in that little White House, and this imperial Presidency, as he is releasing people from the Social Security offices and other offices that are not essential for safety and health, at the same time he should be releasing the White House cooks, valets, doormen, gardeners, press persons, waiters, housekeepers, chauffeurs. They are not necessary for the safety and health of the Nation. Let them all go, I say, Mr. President. Tell the President, "Let them go." He doesn't need any of those people. Absolutely not. Mr. President, I say, give notice to your help. They are no longer essential employees.

ANNOUNCEMENT OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. Mazzoli). The Chair would ask the gentleman in the well to address the Chair in his remarks under the rules. It might be timely for the Chair to state again that under the rules of the House, persons need to be addressed in the third persons through the Chair, rather than directly.

RENEWAL OF BUDGET PROPOSAL

(Mr. INHOFE asked and was given permission to address the House for 1 minute.)

Mr. INHOFE. Mr. Speaker, today is a day to make a lot of accusations and to get all Members upset, but I think today is a day to renew something that I proposed last Monday.

Last Monday, I proposed that we take the summit proposal, that we cut the gas tax, that we cut out the cuts that would be Medicare that would end up costing $118 billion over a 5-year period. This could be very easily made by taking the nonmilitary discretionary accounts and cutting them by 12½ percent, and allow the appropriate committees in Congress to come in and do it and make the determination of those programs that should be cut.

A lot of sacred cows and pet programs would go down with it, but that is what the American people want. They do not want more taxes. They want to cut spending. I think it is time to renew that offer, which I am going to do today.

A SALUTE TO CONGRESS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I want to say how proud I am to be a Member of this body. I think this week we finally got our spines out of the cloakroom. In 1981 we saw a pattern started by the Reagan-Bush administration, and that was to march this body right down to the last day, and then shove a deal at Members that they could never pass on this House floor, that could only pass in the last minutes, and say, "Either sign it or we shut everything down."

Well, it worked a lot in the 1980's. We see where it got the United States, one of the most unfair Tax Codes this country has ever had, and incredible deficits.

I am very proud that we did not blink this time. I am also very proud that we are going to have a chance to show we can keep this Government going and come up with a much, much better budget. Now, it is painful for those who are going through the turbulence of these days. It is very, very painful for all Members. We do not like it. This is not pleasant. However, the alternative of signing a 5-year deal that would cost the average family in America $2,500 more in taxes is certainly not a good alternative. So the turbulence of a few days is much better than an incredible package we would have to live with for 5 years.

I salute your courage, Congress. Hang in there and keep battling. Override this budget and let Members show them.

□ 1230

CONGRESS SHOULD GET TOGETHER AND SOLVE BUDGET IMPASSE

(Mr. de la GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. de la GARZA. Mr. Speaker, I voted for the resolution for my own reasons, but I do not point the finger or chastise anyone who voted "no" for their own reasons.

The fact is that we are caught in an impasse that seems to be very difficult to resolve. It is not. It is very simple.

I just want to relate to you one item. A family from California, a husband and wife, two children, came to Washington. This morning they called me. All the museums are closed. That is not what we should be doing.

I urge the President to sign this resolution, because that is the way we can continue doing business.

My area does not approve a reduction in Medicare. My area cannot sustain higher gas taxes. I will protect those interests to the best of my ability.

Someone may question why I voted for the resolution. As I said, it was for other reasons, but now I think that instead of finger pointing, we should get together. We know what cannot pass this House. We know what the President will not accept. Now we have to come somewhere in-between.

OVERRIDE PRESIDENT'S VETO

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, where is the President of the United States when 250 million Americans need him?

Congress has given the President a budget to keep the Government open and he vetoed it. He vetoed it. He says if he does not get what he wants, shut the Government down.

Mr. Speaker, we cannot afford to shut the Government down. He is willing to hold every American hostage, all 250 million of you, including the elderly, the sick, the disabled, the veterans, the poor, everybody, he is willing to hold hostage if he does not get what he wants.

Congress does not have this attitude. We are not willing to shut it down. We do not have everything that we want in the bill, but this is a 50-50 working proposition.

We just killed a monster the other night that Dr. Frankenstein would have been proud to have had. Now we have got to look forward to the bargaining table to get something that we can work together and open the Government back up and find the ability to balance our budget; but in the meantime, we have got to override this veto when it comes back, possibly today, so that we open the door of Government Tuesday morning and allow the services to be continued.

THE SUM OF THE BUDGET IS MORE THAN ITS INDIVIDUAL PARTS

(Mr. McMILLEN of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remaks.)

Mr. McMILLEN of Maryland. Mr. Speaker, I just came back from my district this morning. The American people are mad and they are scared.

I think the time has come for all of us to put away our partisan differences, our parochial differences, our individual concerns. Let us pass a budget and show the world that the executive and legislative branches of this Government can truly govern.

I do not like this budget agreement, but it is better than chaos, gridlock, and uncertainty.

This economy is on a slippery slope. Are we going to be remembered as the President and the Congress who pushed this economy over the cliff?

Mr. Speaker, now is the time for all of us to be leaders, to stand up and do what is right for this country. Passing a budget with real deficit reduction must be a greater and more pressing priority than all of our individual concerns. The sum of this budget is truly greater than its individual parts.

THE PRESIDENT SHOULD BE LISTENING TO THE VOICES OF THE PEOPLE

(Mrs. COLLINS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS. Mr. President, yesterday many of us voted for the continuing resolution because we felt that we did not want to see the Government close down. As has been said before, the President has decided to veto it because the President does not have his way about what he wants for the people.

It is my belief, Mr. Speaker, that the President has forgotten that we represent the people, too. We represent 500,000 or 600,000 people in our districts. They are the voices we are listening to, as he should be listening to the voices of all Americans.

Americans have said they do not want to pay more for Medicare and have less service. They have said they want cuts in defense.

Mr. Speaker, even though we are in a crisis right now, there is still room for cuts.

People are watching television. They see that NASA is sending money to the Moon, money to foreign people, and so forth.

We are an American people who believe in democracy, but we also believe in taking care of our own as well.

So I say to the President, Mr. Speaker, that he should come down off his imperial throne and listen to those of us who sent him there and who sent us here to represent them.

THE PRESIDENT SHOULD NOT SHOOT THE INNOCENT

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, the President has pushed us up against a budget deadline and expected the Congress to roll over and give him a budget package which hit middle Americans twice as hard as it hit the wealthy. That simply is not fair.

Now to compound the problem, he has vetoed the continuing resolution to keep the Government going.

I simply have one suggestion. If the President is unhappy with the action of the Congress, and I think that action was right, if the President is unhappy with our action he ought to shoot at Congress. He ought to squawk at us. He should not hold Boy Scouts at the Washington Monument hostage to his demands to pass a budget which preserves and protects the privileged position of the wealthiest people in this society. He should not prevent Boy Scouts from getting into the Washington Monument. Because the Government is shut down, they cannot get in because he wants so badly to protect high income people from paying their fair share of taxes.

He ought not to shoot the innocent. He ought to come down and deal with the bipartisan leadership of both Houses and put together a package which has far more justice than that outrageous package which the Congress justifiably turned down 2 days ago.

PRESIDENT TAKES ALL THE MARBLES AND GOES HOME

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, I noticed on my way in today that the only Federal building open for tourists apparently is the Capitol, and perhaps well it should be, because that is where the work is being done.

The other night a bipartisan majority, Democrats on this side of the aisle, and Republicans on that side of the aisle, rejected the budget summit deal, rejected the priorities, many of those priorities that the President tried to get in there. They rejected in the battle of priorities, higher taxes on working people. They rejected Medicare cuts that would ravage the elderly.

So what was President Bush's reaction? "Not my way, then no way. I'll take all the marbles and go home."

Well, if he can do that, that would be fine, but when the President goes home the Government shuts down.

So Mr. Speaker, make no mistake about it, this Government today is being shut down over priorities. I hope that all the tourists in town will make a stop by the White House and let them know their priorities. Their priorities are to have a Government.

George Bush was not elected to be the President of no Government, and that is the kind of Government we have today. It is time to get this Government up and running again.

BUDGET IS NOT A QUESTION OF PERSONALITIES

(Mr. HAYES of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES of Illinois. Mr. Speaker, I was sitting in my office watching the television when the press conference occurred on the White House lawn, I guess. I could not stand it any longer. I had to come over here and make my position very clear.

The President made it clear he is going to veto the continuing resolution. This is not a question of personalities. It is a question of what this Congress of ours does to protect the rights of people, the rights of people, to be in a position where we as a Congress stop running from what is right and what is wrong. That is basically where you make your decision.

□ 1240

I am sick and tired of being in the position where we ignore the poor and the middle-class in this country and just are concerned about those who have. I have no problem with people becoming millionaires, but do not do it at the expense of others. There is a mass of people in this country who need a right to live in human decency. They do not even have a place to live.

We are not concerned about them.

I think it is high time we prioritize our agenda in such a way that we spend our tax dollars on those who are fortunate enough to be working. Cut the budget, and let him veto it; but let us override the veto and stand up for the American people.

IT IS TIME FOR CONGRESS TO STAND UP TO THE PRESIDENT

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, President Bush is behaving like a child who threatens to hold his breath and die unless you give him what he wants.

This Congress passed a continuing resolution yesterday to continue appropriations for the Government for another week while the budget resolution situation is being worked out. That is not good enough for the President. He gets what he wants immediately, or he shuts the Government down.

What an outrageous course of conduct.

Do you know what he is trying to do? He is trying to shift the burden for having shut the Government down to Congress because now he has vetoed it, now it comes to Congress and it requires two-thirds vote in each body to override that veto. If we do not do it, then he says, "It is not me, it is Congress."

It is time for Congress once again to stand up and demonstrate that we will not be bullyragged into doing what is unfair to the American people. Vote to override the veto.

SOME SWAPPING IN THE BUDGET IS POSSIBLE

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, I just watched C-SPAN or CNN, and I heard the President say that it is the Congress, that Congress is at fault for the problem and that we are just thinking of our individual districts.

The fact is, when I voted against the budget that was proposed and we had no way of amending it, it was just an up or down vote, a take-it-or-leave-it vote, I was not just thinking of the middle-class in my district. I was thinking of the middle-class in this country who have picked up the tab pretty much for all the problems that we have in this country and they are fed up with having a different tax rate than the very, very wealthy who make over $200,000 a year and were held harmless by the budget proposal.

I was not thinking only of the older Americans in my district when I voted against the budget package, I was thinking of the entire older American and disabled American population in this country. I believe that the suicide rate is going up for older people in this country because they can hardly afford the health costs.

We cannot just keep hammering away at the older people.

I think there is some swapping to be done, however. I would like to make some proposals for that. I think that we ought to increase the rate of taxation for the $200,000-and-over crowd and use that money against the money they were going to cut with respect to Medicare.

I think we can do away with some of the defense dollars, particularly those dollars that go abroad, and keep to the House budget that wanted to cut defense $6 billion and use that against the gasoline tax that we were going to charge our consumers.

I think we can take the special tax breaks to the tune of $12 billion, $3 billion per year, that were in the budget that we rejected, and put it back into Federal employee programs and veterans programs and the unemployment programs and the student loans. It is a real simple way of swapping, and then we could all go home and the American people would be, I think, satisfied.

IT IS TIME THE PRESIDENT READ THE LIPS OF THE AMERICAN PEOPLE

(Mr. CARR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARR. Mr. Speaker, at his request, the American people read the American people's lips, and now it is about time the President read the lips of the American people: No unfair taxes, no unfair budgets, and "no" to holding the American people hostage.

Mr. Speaker, the President's veto is nothing short of being childish. He has essentially said, through empty spitefulness, that if he cannot have his way, he is going to take his marbles and go home.

The American people know the difference between having a budget and paying bills. Heck, a lot of Americans do not have a budget, but they are required to pay their bills. Our Government may not have a budget but it is required to pay its bills.

We should override this veto and go on with the work of trying to get a budget.

THE AMERICAN PEOPLE ARE BEING HELD HOSTAGE TO THE THREAT OF SEQUESTRATION

(Mr. DELLUMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELLUMS. Mr. Speaker, consider this: If a foreign agent were to take American hostages, the first thing the President of the United States would say is, "I refuse to negotiate under duress, I refuse to negotiate with a gun to my head."

Yet, today millions of American people are being held hostage and we are being forced to negotiate with the gun of sequestration to our collective head.

Mr. Speaker, we are not the enemy. I came here to fight. I came here to stand up for my constituency. I will continue to call for the repeal of Gramm-Rudman; I will continue to reject the absurdity of summitry and I will continue to stand here and to fight for fairness and economic justice.

We cannot lock ourselves into 5-year proposals based on programs and ideas calculated to render us impotent in our capacity to address the human misery of our people.

No solution built on the backs of the poor, working-class and middle-class human beings; we reject it, Mr. Speaker.

KENTUCKIANS ENDORSE 5-PERCENT CUT ACROSS THE BOARD FOR CONGRESS AND 13 MAJOR DEPARTMENTS OF OUR FEDERAL GOVERNMENT

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, 254 Members of the U.S. House of Representatives voted early yesterday morning against this budget summit proposal.

Of the Kentucky delegation, seven out of seven voted "no."

There are those who would say, "Well, those who voted against this summit budget proposal are just interested in reelection and are worried about November 6." Well, those who know the Kentucky delegation realize that two of our seven Congressmen are unopposed and this Member of Congress does not have that tough a race with a third-party candidate opposing my reelection on November 6.

The people of Kentucky do not want higher taxes. The Kentuckians I represent want less Government spending. My constituents would endorse a 5-percent cut across the board for Congress and also for the 13 major departments of our Federal Government.

What is the Federal spending program that is most unpopular in my own district? Foreign aid. But not one dime, yes not one penny was offered for cuts in foreign aid in the defeated budget proposal. We send two foreign countries as much as $3 billion a year while we do not have revenue sharing for our counties and cities in the United States. We send a total of many billions of dollars in foreign aid to countries who don't vote with us at the United Nations.

Yes, the people of America were upset about the higher taxes in the defeated budget proposal. That is why a majority of the House Members voted "no" early yesterday morning.

THE REAL PROBLEM IN GOVERNMENT IS THE CONGRESS OF THE UNITED STATES

(Mr. GEKAS asked and was given permission to address the House for minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, the President has succeeded in what he has attempted to do, to focus to the American people that the real problem in Government this day and tomorrow and yesterday is the Congress of the United States.

The very reaction of all those who have spewed venom against the President here today have proved once and for all that the President is correct.

If the President had signed this continuing resolution to postpone the crisis to another crisis for another crisis, he would have said the Congress is back doing business as usual. We understand that.

It is the Congress that is failing its responsibility, and the President through what he has said by vetoing the continuing resolution, has pointed it out once and for all.

□ 1250

Mr. Speaker, I ask my colleagues "Do you know what?" He did not even have to point that out to the people of the United States because the people already know that.

Now this Government is not going to shut down, and the opponents of the President are taking a grand opportunity to say, "See, American people We're not going to let the Government shut down when we know it's not going to shut down," but in the meantime the President has proved that the Congress is incapable of overcoming crisis and continuing the crisis to the detriment of the American people.

THE COMPREHENSIVE CRIME CONTROL ACT

(Mr. KASTENMEIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KASTENMEIER. Mr. Speaker, yesterday I voted against final passage of H.R. 5269, the Comprehensive Crime Control Act. I was joined by 54 Members of Congress who refused to be swept up in the politics of the present, voting negatively on a bill that is bad for the country, bad for the courts, bad for attorneys, bad for defendants, bad for our prisons, and bad for civil liberties.

Admittedly, the crafting of effective criminal laws is an arduous and hazardous endeavor especially during the final days of the Congress when passions and pressures run high We, as elected officials accountable to the public, certainly should not shirk our responsibility in this regard. But, we must remember our constitutional oath. And we must recognize that the substance of the penal law has profound effect on our daily lives as well as those of our families and constituents.

We, as a country, are graded by the quality of our laws and procedures. In my view, H.R. 5269 flunks the test.

As a former member of the National Commission to Reform the Criminal Law, the Brown Commission, and the recent Federal Courts Study Committee, I have long been concerned about the rationality, clarity, and quality of our criminal laws. In my capacity as chairman of the House Judiciary Subcommittee on Courts, Intellectual Property, and the Administration of Justice—which has jurisdiction over this Nation's prisons, courts, U.S. attorneys and U.S. marshals—I have witnessed the gradual erosion of civil liberties, the development of conflicting criminal justice policies, a breakdown in citizen confidence in the rule of law, a crisis in corrections, and a Federal judiciary near the point of breakdown.

Let me identify my reservations about the Comprehensive Crime Control Act that we just passed.

HABEAS CORPUS

The Federal habeas corpus proceeding exists for the purpose of ensuring that no person will be sent to prison, or worse yet, put to death, until he is tried and convicted in a manner consistent with the Constitution of the United States. Ironically, however, H.R. 5269, as passed by the House, is so preoccupied with putting people to death as quickly and efficiently as humanly possible, that this essential purpose has been completely lost.

In crafting habeas corpus procedures, we must be mindful of those who would abuse such procedures. There is an incentive for petitioners to protract habeas corpus proceedings indefinitely, if given the opportunity, as a means to fend off ultimate execution of sentence. That opportunity was denied in the habeas procedures contained in the bill reported out of the Committee on the Judiciary.

The opportunity that the bill reported out of the Committee on the Judiciary did not deny, is the opportunity to receive a thorough and fair judicial review of competently presented habeas petitions. That opportunity is denied altogether in the bill that has passed this body.

H.R. 5269 offers no assurances that competent counsel will be provided to defendants at trial or beyond, because it gives the States the choice of whether to opt into the bill; the result is a two-tiered system, in which the States that choose not to opt in will be under no obligation to provide competent counsel. Wealthy defendants will receive the best representation that money can buy, while poor defendants—particularly in capital cases—will continue to receive counsel that is nothing short of shocking: Lawyers who are drunk, lawyers who call their clients garbage to the jury, lawyers who plug their parking meters during a critical phase of trial, lawyers who are members of the Ku Klux Klan, and lawyers who are law students and not lawyers at all.

More fundamentally, the bill just passed preserves the procedural hurdles that often prevent the courts from addressing the merits of habeas petitions, meaning that defendants will be put to death notwithstanding that they were unconstitutionally convicted. If, for example, it is discovered that a convicted prisoner has been sentenced to death on the basis of deliberately perjured testimony, but that discovery is not made until too late in the proceedings, H.R. 5269 will send that defendant to his death.

Paradoxically, by failing to insist upon the provision of competent counsel, the bill ensures that bad lawyers will continue to make bad mistakes, necessitating more retrials and longer delays. And by preserving nonsensical procedural impediments, the bill ensures that needless litigation over the procedural impediments will continue to occur, delaying matters still further.

PRISON INDUSTRIES

While the bill creates an ever-increasing array of offenses which will be used to send an ever-increasing number of people to prison, it simultaneously ties the hands of the Federal prisons which will have to cope with the influx of prisoners. Our prisons are already operating at 170 percent of capacity. The prison population is expected nearly to double in the next 5 years. In the face of desparate overcrowding, prison violence becomes an increasingly real possibility. Prison industries is the key to preventing such violence. It is work that keeps prisoners busy, forestalls idleness, and alleviates the boredom that gives way to riot. My subcommittee has received letters from associations of prison guards expressing fear for their lives if prison industries is cut back. And the Department of Justice has urged that prison industries not be crippled by additional restrictions upon product expansion.

Yet such restrictions are included in this bill, which provides that the Bureau of Prisons may not expand further in several product lines. It is safe to anticipate that if this provision becomes law, every industry in America that competes for business with Federal prison industries will request similar treatment. And in the process, our Federal prisons will be rendered incapable of managing the influx of prisoners that the rest of this bill will be sending them.

EXCLUSIONARY RULE

Simply stated, the bill eviscerates the exclusionary rule. By creating a warrantless, good faith exception to the rule, it confers upon the police unfettered discretion to conduct any search or seizure the police deem to be reasonable. It removes the requirement that a magistrate review the evidence and approve the search before it is conducted, making it all the easier for police to make illegal searches and seizures only to defend them after the fact as undertaken in good faith. Indeed, it effectively encourages the police to remain as ignorant of the law as possible, so as to ensure that their searches are not knowingly unlawful and thereby remain in good faith.

Criticism of this bill's treatment of the exclusionary rule should not be construed as criticism of the police. Crime control depends upon zealous law enforcement, and it is unfair to expect the police to stop short, curb their zeal and preoccupy themselves with their suspect's constitutional rights, in the absence of a meaningful exclusionary rule. Sadly, however, this bill does not preserve a meaningful exclusionary rule.

DEATH PENALTY

As regards the death penalty, H.R. 5269 is fundamentally flawed and constitutionally suspect. The bill is designed to put more people to death. The death penalty could be imposed if a defendant acts with reckless disregard and someone dies in the course of the criminal activity. An individual could receive the death penalty for a manslaughter conviction—such as reckless driving—if a death occurs.

The amendment will almost certainly result in litigation and conflicting decisionmaking by trial courts. It will promote confusion, inconsistent application of the criminal laws, and disparate sentences, something we voted against—upon the advice of penal law experts—several years ago.

The bill even attempts to micromanage the sentencing authorities in the Federal judiciary by manipulation of aggravating and mitigating factors. The Supreme Court held several years ago that aggravating factors should serve to narrow the death eligible class of defendants, not expand it. The amendment lists 11 aggravating factors and 3 mitigating factors, which gives some idea of its intended effect. The bill is an insult to Federal judges and jurors. It is an assault on fundamental fairness. And, in my opinion, it is unconstitutional.

In short, in the past 2 days, we have voted to put more people in jail, but to reduce the amount of work done by prison inmates; to prosecute more offenses but to sequester prosecutors; to create a two-tier approach for habeas corpus; to promote racial justice while subjecting more blacks and Hispanics to the death penalty; to give more work to the Federal courts but to reduce penalty; to give more work to the Federal courts but to reduce judicial discretion to apply the exclusionary rule.

I am particulary disappointed in the lack of leadership from the U.S. Department of Justice which knows full well, but refuses to admit, that we face a twin crisis in the Nation's correctional system and the Federal courts as well. The only proposals to emanate from the Department are ones that exacerbate this crisis. Any vision about how to improve the correctional system and the Federal courts is singularly missing. Justice should be impartial but not blind.

Like other policy areas, we are engaging in voodoo criminal justice. We cast sorcerer's spells and hex criminal activities. We even promote the barbaric rite of the death penalty.

My only consolation is that all of this will not work. In 2 years, we will return for our biannual ritual of comprehensive crime control. Things will have to get worse before they get better.

Then, maybe we will understand that the criminal justice system is a mirror which reflects ourselves. I do not like what I see.

YOU DON'T HEAR ABOUT REAGANOMICS ANYMORE

(Mr. HUGHES asked and was given permission to address the House for 1 minute.)

Mr. HUGHES. My colleague, the gentleman from Pennsylvania [Mr. GEKAS], says the Congress is responsible, the Congress is responsible. Well,

perhaps the gentleman is partly responsible. Part of the problem is that we did not share with the American people honestly in the last election the needs and priorities of this country. We got off on the Willie Horton issues and had a lot of demagoguery, and we did not share with the American people the deplorable condition of our American economy unfortunately.

Mr. Speaker, those who voted for that 1981 tax bill are partially responsible. That emptied the Treasury of $1 trillion. It was called Reaganomics. We could cut taxes by a trillion dollars, build up the military significantly, and balance the budget by 1985. My colleagues do not hear about Reaganomics anymore. Basically it has left us in shambles. I looked for 3 days for something I could support in that budget resolution. I did not participate in it. I could not find anything I liked about it.

I generally like to support any President, whether he be a Democrat or Republican. I give him the benefit of the doubt. He has the presumption in his favor.

I could not find anything I could in fact like and vote for because we did not work our will in this Congress. We are the ones that are to work the will. The same people that sent the President's budget to us, Mr. Darman, and for which no Republican wanted to offer it here on the floor of the House, helped craft this particular budget and then tried to jam it down our throats.

Mr. Speaker, that is not the way we work. Do not close down the Washington Monument and hurt the kids. Let us work together and try to develop something that is reasonable.

IT WONDERS ME

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, up in Pennsylvania Dutch country we have a saying: It wonders me. What that saying means is it causes me to wonder.

As I sat here this morning and listened to the speeches one has to have cause for wonder. We have had people come to the floor who voted for the budget resolution the other night and then gave us a whole string of things that they would now change. They would now want to have all kinds of things that they would change in the very budget resolution that they voted for.

We have had a number of people come here today and suggest that it is the President's fault the Government shut down. Most of these are people who voted continuously to do things like bean budgets rather than meet budget deadlines.

The Congress has yet to meet one budget deadline this year. We have acted illegally throughout the course of the year.

It also has to wonder one a little bit about the people who are complaining about the President's veto of the continuing resolution when in fact yesterday in the House Committee on Rules an opportunity was given to make the sequester or the shutdown of the Government rational, and it was turned down on a party line vote in the Committee on Rules because the leadership of the other side did not want to have this thing done rationally.

So, Mr. Speaker, I say to my colleagues, "It does have to wonder you. It wonders you why the President of the United States would continue to deal with folks who come to the House floor and treat him so viciously."

THIS IS A CONSTITUTIONAL EXPERIENCE FOR AMERICANS

(Mr. RANGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RANGEL. Mr. Speaker, not long ago we had an opportunity on public television to view an excellent series on the Civil War. It was an educational experience for most Americans. Now I think Americans will have an opportunity to have a constitutional experience to see whether or not we in the House of Representatives govern or whether or not the President can depend on the handful of appointed officials to dictate the economic future of the United States. That process was severely violated not long ago when people met at Andrews Air Force Base and attempted to shove down the American people's throats an unfair balanced budget that was balanced off of the backs of the poor folks and those that were on Medicare, and the taxes were actually raised through excise taxes on the poorest of the poor.

Mr. Speaker, this Congress did the right thing. The proudest moment I felt as a Member of this House was in rejecting it and telling the President and the American people, "Give us an opportunity to do what we are paid to do, and that is to work out a fair and a balanced budget and reduce the deficit."

And what does he give us? What does he give our troops in Saudi Arabia? What does he give their families that are home concerned? What does he give the poorest of Americans, those that are homeless, and jobless and without hope? A veto.

I hope we give the American people what they deserve, an override.

THE PRESIDENT SHOWS DISREGARD FOR WORKING AMERICA

(Mrs. UNSOELD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. UNSOELD. Mr. Speaker, the President went before the American public and asked the public to support his budget, and the American people said "no" because, once again, that budget would have hit working America in the gut.

The Congress yesterday decided we must solve this problem in an orderly fashion, and we sent that tool, the short-term continuing resolution, to the President, and it was vetoed this morning. The President by that veto showed disregard for order and disregard for working America, and instead he chose chaos. We must send the message back to him so that the Congress can exercise its constitutional duty on behalf of the people we work for to solve this problem on behalf of all the American public.

THAT DOG DON'T HUNT

(Mr. JONES of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES of Georgia. Mr. Speaker, last night the President's spokesman engaged in as remarkable a piece of revisionist history that we will ever hear, blaming the Congress for the budget impasse, blaming the Congress for putting thousands of Americans out of work, as if the White House could walk away from the scene of the crime, whistling in the dark.

To the gentleman from Pennsylvania [Mr. WALKER], my friend, I will say that we have a saying down in Georgia, too. Our saying is: That dog don't hunt.

The American people do not want fault-finding. There is plenty of blame to go around here at both ends of Pennsylvania Avenue because that negotiating table has had two sides.

What the American people want is not blame. The American people want solutions, and they want them now.

NO MORE DEMAGOGUERY

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, I am disappointed in this Congress today and this House of Representatives. One after another speaker is getting up here and trashing the President of the United States. Quite frankly, that is appalling.

I hear speaker after speaker, come up here saying his budget was rejected. My colleagues of the Congress must be reminded that that budget was fashioned, not by the President of the United States, but by the joint leadership of the Congress: the Speaker of this fine institution, who happens to be one of their fellow Democrats; the majority leader of the Senate, who happens to be one of their fellow Democrats, along with Republicans.

This was a bipartisan effort. Do my colleagues know why it was a bipartisan effort? Because the American people demand that we get our fiscal house in order.

George Bush did not create a $4 trillion national debt. The President cannot appropriate one penny. Every cent must be appropriated by Congress. That $4 trillion national debt means that every single day we are spending $500 million just in servicing that debt. That does not feed anybody, or educate anybody, or clothe anybody, or take care of the health care needs of anybody, it simply services the national debt.

And do my colleagues know who created that debt? We did. The Congress. Mea culpa.

I say to my colleagues, that I am willing to vote for programs to educate our young people, but I am also willing to stand in this well and say, "Let's finance that program. Let's not have any more deficit spending. I want clean air and clean water, and I'm willing to stand here and vote yes for a tax to pay for that clean air and clean water."

Americans want some leadership from us. What I would say to my colleagues is, "Read my lips, no more demagoguery."

LEGISLATIVE GRIDLOCK

(Mr. **MFUME** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **MFUME**. Mr. Speaker, 4 years ago I came to this body out of a great sense of commitment and pride, a great deal of respect for this institution and its Members, and not once in that period have I taken this well to impugn the integrity of any Member of this body, not once, and I will not do it today.

We vote in different ways, for different reasons, because of different ideological backgrounds, but we all have a basic premise of being here, and that is to govern.

So, Mr. Speaker, I am distressed, and I come to this well in that manner this morning, that we are at a point constitutionally and legislatively, where gridlock has occurred, where people are questioning the ability of this institution, that has served this Nation and this world so well, as to whether or not we can, in fact, continue.

□ 1300

So I call upon the President, just as he called upon us, to put aside our partisan leanings this time, to allow this body another week to work its will, and not to veto a bill that will carry us on, but would allow us to work our will. That is what we ask, not to come here and to lambaste him, and not particularly to have him lambaste us, but to be reminded that we came here, not to play games, but to serve.

So, Mr. Speaker, I would hope, despite what we feel this morning, we are able to come here and override this veto and do the right thing.

GREAT MOMENTS IN LIFE LOST FOREVER

(Mr. **SYNAR** asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. **SYNAR**. Mr. Speaker, I yield to the gentleman from California [Mr. DELLUMS].

Mr. **DELLUMS**. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, today should be perhaps one of the happiest days of my life. I have lived long enough for my oldest son to be married today, to have chosen someone to walk the rest of his life with. And it is such a beautiful day out there. It is one of the most incredible days to be married, and I thank all of the powers that be, and that are more powerful than myself, that gave my wife and me and our other two children this fantastic opportunity to witness the wedding of two wonderful, beautiful human beings.

But there is incredible sadness and great pain in my heart because, once again, this may be one more beautiful moment in the lives of my children that I will miss because we are here on the weekend doing business that we should have done some other time.

I have said to many of my young colleagues, "Take every moment that you have to be with your children, because it goes by in a fleeting second." Yet here I am on the verge of being 55 years of age, with a beautiful 28-year-old son about to be married, and here we are fighting to override a veto. What an incredible juxtaposition and what extraordinary pain.

NOT PRESIDENT-BASHING, JUST MORE POLITICS

(Mr. **HEFNER** asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. **HEFNER**. Mr. Speaker, I do not rise to bash the President of the United States and argue with the gentleman from New York. I voted for clean water, for senior citizens, for Medicare, and for many of these programs, and we made some tough choices to pay for them. But today we are here, and let us face it, this is politics. The only people who are going to win from this are the "hired guns" that are doing TV spots for the candidates that are being reelected to the other body and to this body, to see who can get the most mileage out of it. They are going to be getting 15 percent of the TV ads they place this week. Who is going to get the advantage?

In the meantime, people are here trying to see the Smithsonian and the Washington Monument, things they have paid for, and they cannot see them because we are playing politics. If that is bashing the President, so be it, but it is politics. If this were 6 months ago, it would not even be happening.

Mr. Speaker, what is wrong with keeping the Government running?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore (Mr. MAZZOLI). The Chair would once again suggest to our friends in the gallery that the rules in the House forbid demonstrations either in support of or in opposition to what is said.

SHUTTING THE GOVERNMENT DOWN—A BAD DEAL

(Mr. **McCLOSKEY** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **McCLOSKEY**. Mr. Speaker, it would appear today that Mr. Darman and Mr. Sununu want President Bush to be the President in history who slashed Medicare benefits tremendously. If they do not get to throw the senior citizens of the United States over the bridge, so to speak, they are going to shut down the Federal Government.

Just look at what is at stake here. I say to the President, just pick up the New York Times today and realize how increasingly the American people in every city and town from coast to coast realize this is a bad deal. I say to the President, use some common sense and restore justice and order and let our Government run. We are willing to compromise. You should be, too.

RECESS

The **SPEAKER** pro tempore. Pursuant to the order of the House of Friday, October 5, 1990, the Chair declares the House in recess until 3 p.m.

Accordingly (at 1 o'clock and 5 minutes p.m.), the House stood in recess until 3 p.m.

□ 1500

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 3 p.m.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Kalbaugh, one of his secretaries.

THE JOURNAL

The **SPEAKER**. Pursuant to clause 5 of rule I, the pending business is the question of the Speaker's approval of the Journal.

The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **BROWN** of Colorado. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 264, nays 101, not voting 68, as follows:

[Roll No. 432]

YEAS—264

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Barnard
Bartlett
Beilenson
Bennett
Bevill
Bilbray
Bonior
Borski
Bosco
Boxer
Brooks
Broomfield
Browder
Bruce
Bryant
Bustamante
Byron
Cardin
Carper
Carr
Chapman
Clarke
Clement
Clinger
Coleman (TX)
Collins
Combest
Condit
Conte
Cooper
Costello
Coyne
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Duncan
Durbin
Early
Eckart
Edwards (CA)
Emerson
Engel
English
Erdreich
Evans
Fascell
Fazio
Feighan
Fish
Flippo
Foglietta
Frank
Frost
Gaydos
Gejdenson
Geren
Gibbons
Gillmor
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horton
Houghton
Hoyer
Hubbard
Hughes
Hutto
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
Lagomarsino
Lancaster
Lantos
Laughlin
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Pallone
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Rinaldo
Ritter
Roe
Rose
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Sawyer
Scheuer
Schiff
Schulze
Schumer
Serrano
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (VT)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Taylor
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Unsoeld
Valentine
Vento
Volkmer
Washington
Watkins
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron

NAYS—101

Armey
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Brown (CO)
Buechner
Bunning
Burton
Campbell (CA)
Chandler
Clay
Coble
Coleman (MO)
Coughlin
Cox
Craig
Crane
DeLay
DeWine
Dickinson
Dornan (CA)
Douglas
Dreier
Edwards (OK)
Fawell
Fields
Frenzel
Gallo
Gekas
Gingrich
Goodling
Goss
Grandy
Hancock
Hastert
Hefley
Hiler
Hopkins
Hunter
Inhofe
Ireland
Jacobs
James
Kolbe
Kyl
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lukens, Donald
Machtley
Marlenee
Martin (NY)
McCandless
McGrath
McMillan (NC)
Meyers
Miller (OH)
Miller (WA)
Molinari
Murphy
Oxley
Parris
Pashayan
Paxon
Regula
Rhodes
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Saxton
Schaefer
Schroeder
Schuette
Sensenbrenner
Shays
Sikorski
Smith (TX)
Smith, Robert (NH)
Smith, Robert (OR)
Spence
Stangeland
Stearns
Sundquist
Tauke
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Weber
Whittaker
Wolf
Young (AK)
Young (FL)

NOT VOTING—68

Baker
Ballenger
Bateman
Bates
Berman
Boggs
Boucher
Brennan
Brown (CA)
Callahan
Campbell (CO)
Conyers
Courter
Crockett
Dannemeyer
Dwyer
Dymally
Dyson
Espy
Flake
Ford (MI)
Ford (TN)
Gallegly
Gephardt
Gilman
Hansen
Hayes (LA)
Henry
Herger
Holloway
Huckaby
Hyde
Jones (NC)
LaFalce
Livingston
Lowery (CA)
Luken, Thomas
Madigan
Martin (IL)
McCrery
McEwen
Michel
Montgomery
Morrison (CT)
Nelson
Owens (NY)
Packard
Panetta
Quillen
Ray
Richardson
Ridge
Robinson
Rostenkowski
Roth
Savage
Schneider
Smith (NE)
Smith, Denny (OR)
Solomon
Stump
Tauzin
Towns
Vander Jagt
Visclosky
Walgren
Waxman
Weldon

□ 1528

So the Journal was approved.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present for rollcall No. 432, I would have voted "aye."

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1991—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. 101-246)

The **SPEAKER** pro tempore (Mr. MURTHA) laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.J. Res. 660—a resolution making continuing appropriations—which would extend funding for the Federal Government through October 12, 1990. In providing for such funding, H.J. Res. 660 would also suspend the sequester that is required by the Gramm-Rudman-Hollings law. The sequester would be suspended even though the Congress has failed repeatedly to act in any meaningful way to reduce the Federal deficit. Under these circumstances, I simply cannot approve H.J. Res. 660.

When the Budget Summit Agreement was announced by the Bipartisan Leadership on September 30th, I indicated that I would not sign a continuing resolution until a satisfactory budget resolution was passed. The Congress failed to pass such a budget resolution during the past week. I have made the difficult political decisions that are required to achieve a meaningful reduction in the Federal deficit. Responsible congressional action to reduce the deficit can be delayed no longer. It is time for the Congress to act responsibly on a budget resolution—not time for business as usual.

I urge the Congress to concentrate its energies on passing a satisfactory budget resolution to clear the way for approval of another short-term continuing resolution, and the enactment of meaningful deficit reduction legislation no later than October 19th.

I note that H.J. Res. 660 would also increase the Federal debt limit until October 12th. If it becomes clear that the Congress cannot pass a satisfactory budget resolution by October 9th, I urge that it enact a clean bill extending the debt limit so that the U.S. Government will not default on its obligations on October 11th. The latest date by which action on a debt limit extension is needed to avoid default is October 9th, so that the Treasury can auction securities on October 10th and settle them on October 11th.

George Bush.

The White House, *October 6, 1990.*

The SPEAKER pro tempore. The objections of the President will be spread at large upon the Journal, and the veto message and the joint resolution will be printed as a House document.

The question is, Will the House, on reconsideration, pass the joint resolution, the objections of the President to the contrary notwithstanding?

The Chair recognizes the gentleman from Mississippi [Mr. Whitten].

Mr. WHITTEN. Mr. Speaker, as I understand it, we will have an hour on this side, and it is customary to yield half that time to my colleague, the gentleman from Massachusetts [Mr. Conte], and I do so at this time.

The SPEAKER pro tempore. The gentleman is correct.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may desire.

Mr. Speaker, I am proud of being a Member of this Congress, and I have tried to conduct myself as though Congress were an equal branch of the Government and each of the other branches were also equal.

I remember when the late Claude Pepper said one time that our Government was like the ancient Russian troika, a carriage pulled by three horses, "if they didn't pull in the same direction, you didn't get anywhere."

During the time I have been chairman of this Appropriations Committee, with the support of the members, my friends, we have handled 157 appropriation bills. Of those, 155 bills have been presented to the President, and 145 of those 155 have been signed by the President. Ten bills were vetoed by the President; one was overridden, and we worked out the others.

We on the Appropriations Committee have done our best to run a bipartisan committee. In my own judgment, there are three things that could happen here that I could recommend, subject to your approval: One is to refer to committee, another to defer it to a later time, or we could vote to override now.

May I say at this time that I was deeply disappointed when the President vetoed this bill. We know for all practical purposes that the Government would close down in this circumstance. And may I just pause to say that we had better get rid of this sequestration business. It was written to make us do that which we do not believe in, and if we are going to have one branch or the other threaten to close the Government down unless we do as they say, it cannot be sound in the long run.

Now, when I say this, I have not had a chance to study it, but I understand that these exemptions to Government operation come from interpretations of an attorney general's opinion. An attorney general's opinion may keep us from being prosecuted, but it does not change the law, whatever the law is. That is one thing to remember.

But the one thing I call to your attention is that this so-called summit agreement was based on assumptions and projections, and for anybody to project what will happen in the next 4 years and try to tie the hands of the Appropriations Committee or any committee, is very, very shortsighted, in my opinion. In the first place, we cannot do it because every Congress is going to act for itself. We did not see any cuts in the agreement in some of these programs that have a foreign address; it was only in the domestic programs that the agreement proposed cuts.

So may I say again that we have a chance here, if Members are so strong against closing the Government down, to prevent it. I do not see any other vote that any Member could cast here, in my own opinion—and how a Member votes is his business—than a vote to override. When we have an opportunity to have 7 days to work this out and keep the Government in operation, we certainly should take it, in justice to ourselves. So I hope the Members will override this veto.

Let me point this out: I called the following things to the attention of the participants at the summit, and every time I called attention to these things, they changed the subject. Every time I pointed out these facts, they changed the subject.

These are from the executive branch's figures. Because of the 1981 tax bill which forgave the windfall profits tax, we are out $2 trillion in income. Listen to these figures. We have failed to have $2 trillion in income because of that 1981 act. Not only that, but we are out $1 trillion because we are letting producers from foreign countries send their products to the United States to get our domestic markets while we have the Secretary of Agriculture running around begging these same countries to let us send our products to them. But we let their products in first while they continue to exclude our products.

So when we look for the cause of our problems, and I remember my early experience: I was raised practicing law, you might say, any problem I might encounter, I said, "What is the situation? How did we get there?" I still believe that. We should go after the causes, but every time I brought it up, my good friends in the deficit-reduction group changed the subject.

I cannot help but believe, although it may not be intended, that when you cut down on the aged and you add 8 cents to a gallon of gasoline when the price has already shot up, it just does not make sense to me when we look at what was in the budget agreement.

Let me tell the Members something else that has happened. On television we have seen a sign for 3 straight days where the Republicans are for freezing everything the Democrats want to cut. Let me say this to those of you who think about politics—I never think about that except where I am concerned—I told the President of the United States, when he was Vice President, and President Reagan when he asked me down to the White House, "Mr. President, you may freeze everything, but you are not going to get by with cutting it." I still believe that.

So I hope Members will vote to override this to protect ourselves. The President has set this in motion, and I regret to say that because we have been personal friends for a long time. But the Congress is the one to be affected. We will be the ones that will be affected if we do not override this. I hope the Members will override it.

Mr. Speaker, I reserve the balance of my time.

□ 1540

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. Johnson].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in support of sustaining the veto of the President. I think it is imperative that every one of us, regardless of party, rise to the challenge of providing for the United States of America a budget that will address the needs of our people and reduce the deficit.

If we sustain the President's veto, we send a very clear signal to ourselves, not just to him, that there can be no more business as usual. We know that CR's are a disease, they are a malignancy, they are business as usual.

I would hope that when we sustain the President's veto, that then the leadership would come back with a continuing resolution that would continue the funding of the Government with sequestration to that level and only to that level of the summit agreement. That way we start out in this fiscal year with some modicum of fiscal discipline that does not have to be made up for, the lack of which does not create some deficit that has to be made up for later.

If we sustain the President's veto, we can pass a much more responsible continuing resolution that is fair to Federal employees and is fair to us, by keeping our feet to the fire.

If we sustain the President's veto and the leadership of this House refuses to bring forward such a continuing resolution, we do have 2 days before Federal employees have to go back to work. Actually we all know that what is lacking is not number crunching, what is lacking is the will to make the tough decisions that have to be made in order to get a deficit reduction package.

Mr. Speaker, let us have no more business as usual. Let us sustain the President's veto.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. Green].

Mr. GREEN of New York. Mr. Speaker, yesterday I voted for the continuing resolution because it was the only game in town. Happily, it is not the only game in town today, and therefore I vote to sustain the President's veto.

Mr. Speaker, I do so because the Republican leadership is prepared, if permitted by the Democratic majority in this House, to offer a continuing resolution, a short-term continuing resolution, which will provide for a $40.1 billion partial sequester. That is exactly the amount of deficit reduction that we agreed and the leadership agreed to accomplish in the bipartisan agreement, that unfortunately failed earlier this week.

So we have a continuing resolution available to us which can achieve the purpose of deficit reduction, not the present one under consideration.

Mr. Speaker, I think it is important that we show the Nation we are prepared to achieve that deficit reduction, and therefore I shall vote to sustain the President.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. Pursell].

Mr. PURSELL. Mr. Speaker, I want to congratulate our courageous leader, the gentleman from New York [Mr. Green]. I too want to ask Members to sustain the President's veto. Democrats and Republicans, including Carl Pursell, get insatiable habits from time to time, so I think it is important that the President of the United States exercises that veto. It is his only constitutional tool to keep an equal branch of Government here with a check and balance. So I am very much supportive of this, and I think the Republican Party and the Democratic Party can craft a good budget. I think the people back home are asking for fiscal responsibility, a balanced budget, less taxes, and I think we can do it.

Mr. Speaker, we have got $1,234,000,000,000 in this budget. I think we have to be careful that we do not continually increase the interest on the national debt. There will be $185 billion this year in interest on the national debt alone. My children are going to have to pay for that.

So we are here because of that crisis. Let us stand up and sustain this veto. I think we can work this out and have a sense of fiscal responsibility among both political parties.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. Smith].

Mr. SMITH of Iowa. Mr. Speaker, we not only have a fiscal crisis, a deficit crisis, we have a constitutional crisis. We have a situation where the President is spending money without an appropriation. The Constitution says that no money shall be spent unless it is appropriated but he has authorized some functions to continue.

Mr. Speaker, if this does not pass, if we do not override the veto, he will be spending money for at least several days for the first time on the basis of an old Attorney General's opinion, for those purposes that are not just for life, and death, but for whatever he says is essential.

If this continues and is not challenged, that would be a serious precedent. It will have to be challenged. It will take several days to resolve it. If the President can spend money not appropriated for whatever he wants, we might as well not have a Congress. The White House operators will just decide from now on what they consider essential and spend the money, use the money without an appropriation authorizing it.

Mr. Speaker, we have both a constitutional crisis and a deficit crisis. We need time. Under any scenario that anyone has, we need until next Friday to resolve and approve an agreement.

Mr. Speaker, the majority voted here Thursday night not to give the committees until next Friday to resolve differences in the package of revenue increases and reduced expenditures. That was the vote we had. It was not to send the tentative package to the committees under an agreement to give them until next Friday while we operate on a continuing resolution. So the committee now does not have permission to have until next Friday. So the only thing that is left to do is to have the conference of the Budget Committee reconvene and give them a few days. That is the same thing as saying send it back to the summit and denies the broader congressional participation where we could have a greater opportunity to improve it.

Under any scenario we have here, we need at least until next Friday as provided in the bill which was vetoed. People are being hurt. Within the marble walls of this Capitol, some may not feel it, but people out there are being hurt. Unlike some are saying, the Government does not wait until next Friday to shut down. It is down at this minute and there are some important functions on weekends and holidays. We should not hurt people just because we have a divided Government.

The people gave us this divided Government, not by accident. Twenty out of the last 24 years they have voted in State after State and on a national basis, that they wanted divided Government. They have not chosen to give consent to either party controlling both the executive and legislative branch. That means they want those elected to compromise and that means the majority in neither party can have it all their own way. We need at least until next Friday to consider and develop the appropriate bills. I say override the veto.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. Gallo].

Mr. GALLO. Mr. Speaker, I rise in support of the President's veto. I would just like to relate some of the conversations that I have had with Federal employees in my district. It is a very touchy period for them. I explained the best I could as to what was happening.

They say, "It has taken you 4½ months, and then on the eve of that budget summit and the vote, you turn it down."

Actually, what we are doing right now I think is using Federal employees as pawns. They do not want to wait 7 days to find out whether they have a job or whether they are being furloughed. They want to know now.

Mr. Speaker, I think that is our job, to make sure we take care of it now. That is way I am in support of this, because I do not think we can delay any further, and it is not fair to the Federal employees.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will vote to override the President's veto.

When the first continuing resolution of the fiscal year went before the Appropriations Committee on September 25, I led my Republican colleagues on the committee in opposing the measure. I did so to keep budget negotiators' feet to the fire—to force a resolution of the budget gridlock and development of a deficit reduction package that the administration and congressional leadership could both support. No budget agreement, no CR.

Well, we kept their feet to the fire, and over the next weekend, the summiteers descended from the mountaintop with a compromise budget package. Nobody loved it, but it was a compromise that leadership could accept, and the President signed a short-term continuing resolution to keep the Government up and running.

We all know what happened next. The outlines of the budget agreement included in the conference report on the budget resolution, came before this body for a vote. And it went down in flames—torched by Members from both sides of the aisle.

So we are back at step one—back at the negotiating table. We still need a budget resolution, but we also need some time to put one together.

This morning I explained the changes to the agreement that I think are necessary: Adjust marginal tax rates to burst the bubble; look for maybe a more useful growth package for the economy, instead of the $11.4 billion investment package that's in there now; ease the burden on Medicare recipients; and above all take out the Democratic-sponsored tax on the poor and the elderly on home heating oil inserted by that gentleman from Texas who ran for the Vice Presidency last time; exempt home heating oil from additional taxation; get rid of $4 billion in oil producer and petrochemical company tax breaks, and do whatever it takes to get enough Members on board to support the package.

But, Mr. Speaker, this course of action takes time. We need to go Member to Member to find out why they voted against the budget agreement and learn what we need to do to gain their support.

Clearly, Mr. Speaker, the American public did not cause this mess, and they should not be the ones to suffer. They should not have to endure the pain caused by our inability to support our leadership and enact a budget package. Federal workers should not have to take the heat for our failures. Let's not load the burden of our differences onto the backs of the people who depend on the Government for vital and lifesustaining services.

The burden for inaction should not be borne by the American people. We have an obligation to lead the country and produce a budget. We are the ones to blame—not our Government workers and beneficiaries of Federal programs.

All this continuing resolution does is keep Government up and running for another week. It suspends sequester for a week. It extends the temporary debt ceiling for a week. It gives us a week to work things out.

But what if we sustain the President's veto? What happens if we close down the Government and fail to extend the temporary increase in the debt limit? What happens if we permit the Government to go bankrupt because of the failure of this Congress to demonstrate courage and will? I'll tell you what happens: chaos, disruption, disorder, pain, suffering, collapse.

I cannot in good conscience vote to sustain the veto.

I felt that I made the courageous and tough vote last Thursday night in supporting a painful deficit reduction package.

Mr. Speaker, the answer to gridlock is not chaos. Differences are not reconciled through disruption. And progress is not achieved through breakdown.

I urge my colleagues to vote "aye."

□ 1550

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. Obey].

Mr. OBEY. Mr. Speaker, we are here at this moment because 58 percent of the Republicans in this Chamber and 56 percent of the Democrats in this Chamber voted "no" on a package which we thought was unfair to the middle class and senior citizens. To give us more time to try to work out our differences, we passed a continuing resolution which the President has now vetoed.

To sustain that veto is simply to shoot the innocent because of a fight between the Congress and the President. We were not elected to do that and the President was not elected to do that. In all decency, we ought to pass this motion to override the veto.

There are those who say they want restraint in spending. This resolution gives it. In the case of bills passed by both Houses. This continuing resolution spends, at the lower of the Senate or the House level. It provides that we spend at the lower of the House or Senate level, or at the lower of current law or the House-passed bill, whichever is lower in the case of bills passed only by the House. That means on an annualized basis it would spend at a level $40 billion below the House-passed budget resolution this year. It would spend at a level $25 billion below last year's spending level. That is $25 billion in savings on an annualized basis. You get the fiscal restraint you are looking for if they vote for this resolution.

I beg the President to understand that every hour that he ties us up voting on motions like this because of his veto is an hour which our leaders and our negotiators cannot spend on what they ought to be doing, putting together that substitute budget which we hopefully can all vote for.

What we ought to do is to pass this, knock it off, get down to the business of producing a new budget. And the only way we can do that is to vote "yes" on this resolution.

Mr. CONTE. Mr. Speaker, I yield 1 minute to my good friend, the gentleman from Texas [Mr. Armey].

Mr. ARMEY. I thank the gentleman for yielding, because 1 minute is about all I need to make one point clear and get the record straight.

We are not here today on October 6 dealing with a budget that is not completed or appropriations that are not completed because the President did or did not do his duty. The law of this land says that this Congress shall complete a budget on April 15. Every American citizen made their deadline on that date; we did not. It says we will complete appropriations in this body on June 10. We did not do that. It is our failure.

And as for all the spin on this story, let me tell you this: If Machiavelli were alive today he would be headmaster in the White House because they are so without guile over there. He would be an apprentice over here.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Fazio].

Mr. FAZIO. Mr. Speaker, this morning the press received a notice to attend a photo opportunity in the office of the minority whip, Mr. Gingrich. This was to show in visual terms the new unity among the Republicans. Mr. Gingrich was committed to helping the President obtain his goal today.

The new Republican unity is bringing the Government of the United States to its knees. That is the situation we face. The antigovernment forces have finally found common ground. They want to show the American people that it is the Congress that has failed in its responsibility when, in fact, every one of us knows that those three people who were assigned by the President to participate in the summit are inextricably involved in the failure to govern that occurred the other night. Mr. Sununu, Mr. Darman and Mr. Brady hung tough for principles which made it impossible for us to pass a bipartisan agreement the other night.

□ 1600

I think we all understand, if we bring the forum back to Congress, letting our elected leaders in both parties work together, that sometime this evening or tomorrow we can put together a budget resolution that this President will find acceptable. We all know that.

We have to reject this effort to wipe clean the hands of the President from this fiasco. This is a failure to govern that is bipartisan. It is bicameral. It is nonideological. We do not need to retreat back to our corners to come out fighting and give the American people another disgraceful 2-week delay in coming to some closure on the work that should have been done long ago. We do not need to be arguing about whether we should keep the people here in the balcony from going to the Smithsonian or the Washington Monument today when they have every right to do that.

We need to grow up. We need to stop being carping critics, recriminating from one end of Pennsylvania Avenue to the other.

This is a government that will only work when we work together, and we can do that if we begin by passing this veto override, letting the Government

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continue, and then going back to work to finish the job we were elected to do.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. Dornan].

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. Murtha). Let the Chair remind the gallery that they are here as guests of the House. There will be no show of any kind of expression of support for any of the speakers. We appreciate their presence, but we want no show of support.

Mr. DORNAN of California. I again thank the Speaker.

Mr. Speaker, the gentleman from Mississippi [Mr. Montgomery] once said that I am the best tour guide in this sitting Congress. Anybody who runs into a closed museum today at 5 o'clock, I will give them a tour of the Capitol as good as any they will see in any of the museums.

Mr. Speaker, I do not rise today just as Bob Dornan or as a conservative, I am the elected 2-year chairman of the conservative action arm in the House, the Republican Study Committee, and I would expect the distinguished leader of the Democratic Study Group, the action arm and the conscience that drives the agenda on their side, to be against the President on this. I am asking every one of the 130 members of the Republican Study Committee to, please, please, stand with your President on this. This is the key vote to accomplish something, and I am ready to stay until 4, 5, 6 o'clock tonight. I had 8 hours of sleep last night for the first time in about 3 weeks, and I am ready to go. Let us stay.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. Gunderson].

Mr. GUNDERSON. Mr. Speaker, on Thursday night 149 Democrats voted "no" on the budget compromise. On Thursday night 105 Republicans, of which I was one, voted "no" on that budget compromise that was brought forth. Last Sunday, the Speaker of the House, the leadership of both parties and the President of the United States made a public announcement that Friday there would be no more CR's until there was a budget agreement.

What we now have facing us today is that those of us on both sides are suggesting that we can vote "no," and have business as usual, politics as usual, and that just does not go. You cannot have it both ways. If you voted "no," then you have got to keep the feet to the fire of the Congress of the United States to get an agreement.

We have 2 more days, all day Sunday, all day Monday, and half a day today. I come from a rural district, a lot of farmers. They do not take vacation. They do not take weekends off until the work is done. We ought not either. Sustain the President's veto, and get on with getting the work done.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. Durbin].

Mr. DURBIN. Mr. Speaker, unless we override this veto, we will be endorsing the President's strategy of treating 2 million Federal workers like Saddam Hussein treats his so-called guests in Iraq.

Defeating this 7-day continuing resolution straps Federal employees to the machinery of the Government and leaves them to suffer in the withering political crossfire between Capitol Hill and the White House.

This crisis began when President Bush failed to deliver his budget in a timely fashion. It continued when not one single member of the Republican membership of this House would offer President Bush's budget on the floor of this Chamber, and it continued when the President's budget summit proposal was rejected not only by Democrats but by the President's own political party.

The burden is on Congress, and the Constitution requires as our Forefathers intended, but while we labor over this difficult but attainable task, let us not penalize nurses in veterans' hospitals, Federal prison guards, air traffic controllers and Federal drug prosecutors.

Many Republicans have told us how much courage it takes to penalize the Federal work force. I have never heard of any definition of courage, political or otherwise, which includes victimizing innocent people. The Republicans and President Bush are threatening to hold their breath until the Federal work force turns blue.

Reject this veto. Vote for common sense and common decency and override this styptic-hearted veto.

Mr. CONTE. Mr. Speaker, I yield 30 seconds to my good friend, the gentleman from Kansas [Mr. Roberts].

Mr. ROBERTS. Mr. Speaker, please, can we not end this partnership? You know, I am one of the back-rail troops, and I only get 30 seconds. I do not come to the well often.

Can we quit lobbing handgrenades back and forth? Can we quit making the 1-minutes?

Sure, the President is at fault; sure, the Democrats are at fault; sure, the Republicans are at fault.

You want 435 votes on this? My gosh, we cannot even decide when to adjourn let alone do a summit.

This is far more serious than this petty partisanship. Do you want an answer? I will give you an answer. We did not sell any cows in Dodge City for 3 days when we even hinted about a sequester, and yet I am going to support the President, because I think we are close to an agreement.

Let us not really put this off any longer. End this budget purgatory.

Do you want an agreement? The gentleman from Kansas [Mr. Slattery], the gentleman from Kansas [Mr. Roberts], the gentleman from New Mexico [Mr. Skeen]; heart-of-America, back-rail-troops agreement, you take Medicare from 60 to 40, you get the bubble, we get the bubble, let us burst the bubble—we get capital gains, end the so-called investment subsidies, put in the same spending caps, and let us go down the road.

End the partisanship, please.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Thomas].

Mr. THOMAS of California. Mr. Speaker, some people know that I can be almost as partisan as anybody else when the occasion calls for it. But I do not think this is the time for partisan rhetoric.

We are going to do on our side what you would do on your side as a political party. We are going to sustain our President's veto, but after that, let us try and lower the partisan hormones just a little.

The real resolution to this deficit crisis, is if you, my Republican colleagues, will admit that the Democrats are not trying to undermine national security, and let the Democrats write the defense portion of the budget.

□ 1610

Democrats, we can solve this deficit problem if you would all admit that Republicans do not have stone hearts, that if you let Republicans write the domestic portion of the budget, you would find that the elderly, the poor and the others will be taken care of This is the problem. If we would agree to accept each other's work product i advance, Democrats on defense spending, Republicans on domestic spending, we would not have a deficit problem.

Do not ask Republican Members t reject our President. We still support our President. We will sustain the veto. Then let Members move a C with the only possibility, the summit agreement for 1 year, $40 billion, and start looking at each other from each other's shoes. Then we can solve the problem.

If we do not want to do that, the people have every right to shake their heads and laugh at Members, as the have been doing for most of thi debate.

Mr. WHITTEN. Mr. Speaker, I yiel 1 minute to the gentleman from Oklahoma [Mr. Synar].

Mr. SYNAR. Mr. Speaker, fello Americans, Oklahomans know the difference between a good deal and a ba deal.

The other night they spoke throug the Members and said the budget dea was a bad deal. A bad deal for working Americans, for farmers, and for elderly. The President cannot hold this Nation hostage for the sake of a bad deal. It is wrong. It is irresponsible. It hurts the people who are the most vulnerable in our society, and the people who sent Members here. We can do no less than override this veto.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. Applegate].

Mr. APPLEGATE. Mr. Speaker, Congress has got to wake up and take a look and act responsibly today. We have got to do this by overriding an irresponsible veto. We cannot allow the President of the United States to shut the Nation down.

To my Republican friends over here, this may be the most important vote they make, and it may be their last. I would suggest that they take a look and talk to their most distinguished gentleman from Massachusetts [Mr. Conte] and follow his lead. He has got a lot of guts, but he is one who has foresight and who has a humane feeling for the people in this country. We, on this side of the aisle, are not going to sell the American people out. We are not going to see the veterans have their checks stopped. We are not going to see Social Security recipients have their checks stopped. We are not going to see the disabled have their checks stopped.

We must act responsibly and override the President's veto.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentlewomen from Ohio [Ms. Oakar].

Ms. OAKAR. Mr. Speaker, I, as I am sure other Members have heard, have received calls from across the country indicating that when they call the comment line of the White House, the comment line is closed. People, the American people, have no access to allowing the White House to know what their views are. I think this is wrong.

I, personally, think that the people who were well-intentioned in trying to bring about a budget resolution during the time the budget negotiation were very insulated, because they were in a room where they did not hear from a lot of people, grassroots people, who do not want an increase in their tax, senior citizens who are afraid to lose their Medicare and others.

I think it is time that the President listened to the American people. I think it is time that the President hear from the American people and listen to the American people's priorities. Open that White House line. Override the veto.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. Dreier].

Mr. DREIER of California. Mr. Speaker, I rise simply to extend hearty congratulations to the President. I hope very much that my colleagues sustain his veto.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to my good friend, the gentleman from Pennsylvania [Mr. Ridge].

Mr. RIDGE. Mr. Speaker, last Thursday evening we were presented a budget package. It was painful. It was problematic. However, it was the right thing to do.

We all knew what the budget package was. It was simply a blueprint. We had 2 weeks to fill in the blanks. We failed to do that. In failing to do that, we ignored our President. The last time I checked, the country overwhelmingly elected him. In failing to do that, we ignored our leader, and we elected them, and we rejected the package.

Therefore, we are here on a beautiful Saturday afternoon, not because the President failed, but because we failed. We as an institution and we as individual Members. Ultimately, it is our responsibility to authorize programs, and it is our responsibility to appropriate dollars for those programs. We are here today not because we are taxed too little. We are here because we spend too much. We are here today because none of the tough choices that I have heard all Members claim they are willing to make for the last 8 years have ever been made. We are here because it was easier to say no to a painful package than it was to say yes to those tough choices we have been talking about.

I do not know about all the other Members, but I understand the political predicament. No Member has ever lobbied me for less. Nobody. As an institution, Congress has failed the American people, and the continuing resolution is our report card. When we have to come up with a continuing resolution, that means we get an F. An F is a failure.

We have time to devise an acceptable budget package before the unnecessary dislocations occur if we are willing to lead the polls and not try to follow them.

One final thought. The President said if we failed to pass the summit agreement he would veto the continuing resolution. For all those who have chastized him because of the events of the last 2 years made him renege on a campaign pledge, I read his lips on this one. He did what he said he would do. I encourage my colleagues to sustain him.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. Smith].

Mr. SMITH of Florida. Mr. Speaker, what we witnessed here the other night in the rejection of the President's budget agreement was the ultimate rejection of Reaganomics. For 10 years, they have been pushing that agenda. Give the rich a break, tax the middle-class, cut the benefits to the poor. Do Members know what happened the other night? Mr. and Mrs. America out there, even the Republicans in this room, finally said, "Enough is enough. You have gone too far."

Mr. President, we will not support you. When you want to close the deficit on the backs of the elderly and screw the middle-class once again, and give your rich friends another break. We will not do it any more. Mr. President, you have heard them. Mr. Speaker, he has got to now hear Members. We will do our work, stay out of our job, leave the Constitution tampering alone, we will help govern America. We, however, will not allow the President to take the people of this country and shut them off from their Government.

Sustain this veto and Members sell out your constituents. Override this veto, and pay homage to the people that sent all Members here.

□ 1620

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The Speaker pro tempore (Mr. Murtha). The Chair will remind all Members to address the Chair, rather than the President directly.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. Miller].

Mr. MILLER of California. Mr. Speaker, this is a partisan fight. America ought to be very glad that the Democrats were at the summit and that the Democrats were in the House the other night, because when the Republicans came to the summit, the first thing they offered was to cut Medicare, not by $60 billion, but by $90 billion, and 5 months later at the end of the summit their last offer was to pick up $1 billion by taking 100,000 children who are multiply handicapped and denying them SSI benefits. They were going to do this so corporate jets would not have to be taxed, so the rich would not have to pay through the bubble, so the rich could have capital gains.

This is a partisan fight, Mr. Speaker. It is about the direction of this country. It is about the direction of our party and it is about whether or not the middle class, as under the summit last night, will have 10 times the burden of the wealthy, about whether the poor will sustain those cuts.

This is not a nice fight. It is an important fight. It is about the direction of this country.

We need a budget agreement for the 1990's, not one that endorses the greed of the 1980's.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. Kolbe].

Mr. KOLBE. Mr. Speaker, I rise to urge my colleagues to sustain the President's veto. Last weekend I voted for the continuing resolution. At that time we had what we thought was a budget agreement and we needed some time to work that out. Adopting a continue resolution was the responsible thing to do then.

I voted for the summit agreement last Thursday, flawed though I thought it was, as badly flawed as it was. But this body failed. This Congress failed. Equal proportions of Democrats and Republicans voted against that budget summit agreement.

It was this body, this House that failed to get it done.

The President upheld his part of the bargain. The President and the House leadership agreed last weekend that if we did not have an agreement we would not go forward with more continuing resolutions.

Now it is our turn, our time to take a little bit of medicine. It is our turn to sustain the veto, not because we want to shut down the Government, and we will not, but to keep the heat on to make sure that we do get an agreement.

If we pass a continuing resolution for 7 days, you and I know we will be here 7 days from now dealing with this. If we pass one for 3 days, we will be here 3 days from now carrying on the same arguments.

We need to sustain the veto to get a budget summit agreement now.

I urge my colleagues to vote to sustain the President's veto.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. Jacobs].

Mr. JACOBS. Mr. Speaker, I rise to a point of clarification. Somebody mentioned Oklahoma a minute ago, and Senator Monroney used to say out in Oklahoma, "If they want to know what a cowboy would do when he got drunk, they found out what he did the last time he got drunk."

The last time an administration sent Federal workers home, at the end of the month they paid them every penny they would have paid them if they had stayed on the job.

So however this goes, I would counsel the White House, "Don't do that again. We don't need any more paid vacations for Federal employees. They already have some scheduled."

Mr. CONTE. Mr. Speaker, I yield 1 minute to my young protege, the gentleman from Ohio [Mr. Kasich].

Mr. KASICH. Mr. Speaker, I wanted everyone to take a breath after the deal went down the other night, and I supported the CR that was available; however, if we sustain the President we will have a sequestered CR that represents a change in business as usual, which I believe the people want, but it does give us time to do what I think we ought to do, and that is to work out an agreement that will be positive; but I want to say something to the dealmakers, to the Silvio Conte's of this world. The people want change, even if it means closing the Washington Monument. If they had their way, they would close the Capitol and open all the other monuments up, I can tell you that; but what those on the left and those on the right are saying is one consistent thing. We are sick and tired of the old shopworn ways that we have operated this place and we want real change.

In this agreement, we want a little bit of revolution, not continued evolution away from where the American people are.

Support the President, get the CR going, and let us put together a deal that is going to represent a change in the way this country has been going.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. Rangel].

Mr. RANGEL. Mr. Speaker, this does not really have to be partisan. A great American said many years ago that in the House the people govern.

Not too long ago our leaders, Republicans and Democrats, met with the President's staff and fashioned a package that they brought to this House. After examining that package, it became abundantly clear that the sick and the old folks in this country would get less benefits and would have to pay more money for them, that the tax package not only protected the rich of this country, but gave them $12 billion in shelters, and at the same time was taxing the very small commodities that poor working folks enjoy.

So what happened when in this House it was examined? As a great American said, the people spoke, because our President who got on television and asked the American people to call us, and they did call us and they said, "Vote no," and we did.

I am asking you to override the veto and let the American people speak once again.

Mr. CONTE. Mr. Speaker, I yield 1½ minutes to my good friend, the gentleman from Indiana [Mr. Myers].

Mr. MYERS of Indiana. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, I came to the floor this afternoon undecided how I might vote on this override. I did not intend to even speak today, but I have been troubled, and I think the rest of the Nation is by what I hear this afternoon.

Has there not been enough partisanship? Has there not been enough bashing?

I think it is time for us to start thinking about our country. This is not a Democratic problem. It is not a Republican problem. It is a problem for our entire country, and I think it is time all of us put this partisanship aside, and I have not seen it this afternoon.

□ 1630

I shall vote to override the President's veto. He is a friend of mine. We came to Congress together. It is not bashing the President when I do that. But I think it is time that we give the country and to give us a few more days to resolve this.

But I want to say, next Friday if we have not settled this problem, if we are not closer to settling, at least than we are now, I may not vote to override the President's veto then. I will side with him at that point.

I think it is altogether fair that we be given a little more time.

So let us lay aside this partisanship. Let us do that on November 6. Let us do that outside. Let us think about the people's responsibility here that has been given to us.

Mr. President and our leaders here who fashioned this agreement that brought us here, the budget summitry, it was not a Democrat or a Republican, certainly today I say, but I think both of us, both Democrats and Republicans, are sincere in trying to resolve this. I would be voting—I say to the President, "Mr. President, it is not that I love Ceasar less but that I love Rome more."

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. Hefner].

Mr. HEFNER. Mr. Speaker, the people that are benefiting the most from this debate and from this exercise that we are going through are the hired guns that are in the politica campaigns that are putting together 30-second TV spots to try to get candidates elected 2 or 3 weeks from now.

But I got a solution for this problem We passed the budget here. The President has not had his budget aired. would suggest to put the thing to res that we say to the President of the United States, "Mr. President, you work with your party, not somebody that is in your administration, bu elected officials, bring your budget up here with your priorities, and let' vote for it here on the floor of this House, and then we can get on with business. Find out what your priorities are. If they are capital gains and protecting the rich and the bubble, let' vote on it and get it over with where i will have your fingerprints on the budget along with everybody's else' where we can separate all the fact out."

Mr. CONTE. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. Lewis].

Mr. LEWIS of California. Mr. Speaker, it is clear to all the Members tha there is many an issue that has littl to do with partisan politics. We hav demonstrated that to each other an in important circumstances more than once.

On this budget package there were 105 Republican Members who voted "no" and 149 Democrats. I was a Member who voted "aye."

It was a package, however, that few of us thought was a very effective package. Most of us wanted to vote "no." The reality is that we are faced with a crisis. Unless we move soon, well before the election, our economy could see a major downfall, and that could be disaster not just for us individually but for Congress and the country.

Because of that, the President indicated he would veto a continuing resolution.

The President vetoed the continuing resolution because he knows full well that none of us in this Chamber wants to see citizens furloughed from their jobs. He knows full well that that pressure point is critical to make the tough decisions that are left.

We are not that far apart. But if we wait another week, it will be continued another week, we will be beyond the election, and I must say the downfall in the economy between now and then could mean disaster to many more of us than will be affected by this vote today.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

Mr. Speaker, I think the gentleman has hit it right on the head. I voted for the continuing resolution yesterday, but I think we need to bring this thing to a head right now. If we do not do it now, we will be here next week doing the same thing and go on and on and on.

Mr. LEWIS of California. All of us will be here next week. I urge you to sustain this veto.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. Downey].

Mr. DOWNEY. Mr. Speaker, I yield to the gentleman from California [Mr. Dellums].

Mr. DELLUMS. I thank the gentleman for yielding.

Mr. Speaker, today my first-born is to be married at 5, and again I find myself standing in the Chamber praying this is not one more time when I miss one more event of young children that I love and that love me.

To get married in 1990 is an act of love, it is an act of faith, it is an act of hope, it is an act of idealism.

The veto is an act of cynicism. I ask you to cut off this debate. We know how we are going to vote. Let us override this veto and let me love my son.

The SPEAKER pro tempore (Mr. Murtha). There remain 14½ minutes of debate: The gentleman from Massachusetts [Mr. Conte] has 6½ minutes remaining and the gentleman from Mississippi [Mr. Whitten] has 8 minutes remaining.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. Frenzel].

Mr. FRENZEL. Mr. Speaker, you have heard what this side has to say about this vote. We believe the President needs to be sustained.

The Congress, this House, certainly the majority of the House, wants to consider business as usual, take this to a continuing resolution.

When that runs out, take us to another one.

We do not want any deadlines, we do not want to be forced to have too many unhappy decisions. We do not want to tell anyone that they have to sacrifice anything.

That is what you get with a vote to override the President.

Now, if you are fortunate enough to sustain the President's wise decision, there will be another continuing resolution coming, there will be a chance to pass a continuing resolution with a partial sequester at the rate of savings that was embodied in the budget resolution which failed the other night. That would be a short term which would give the negotiators some incentive, some reason to continue with their negotiations.

If we vote this continuing resolution without any incentive in it, the negotiators will take another nap and they have already been on a 6-months' session. Perhaps with a little help they can make it to a Rip Van Winkle 20 years.

But the public demands better than that. If the President's veto is not sustained, he will lose all his ability to convince the Congress to come to some kind of a conclusion.

The Congress has proved to be expert——

Mr. CONTE. Mr. Speaker, regular order.

The SPEAKER pro tempore. The gentleman from Minnesota is recognized.

Mr. FRENZEL. Mr. Speaker, in deference to weddings, I just repeat, the best thing we can do to help the President and ourselves and the people is sustain the veto and put the negotiators back to work.

□ 1640

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to my last speaker, the gentleman from Illinois [Mr. Michel].

Mr. MICHEL. Mr. Speaker, I think it comes as no surprise that I would obviously rise and ask you to sustain the President's veto of the continuing resolution.

We have had some very partisan exchanges, and I guess that is no more than what my colleagues would expect when the President vetoes a piece of legislation or throws a roadblock, maybe, in the way of some folks' way of thinking. That is natural, but, as my colleagues know, the President, in his message said responsible congressional action to reduce the deficit can be delayed no longer, and I think many of us would have to agree with that. It is time for Congress to act responsibly on a budget resolution; no time for business as usual.

"Business as usual." We have heard that little phrase a thousand time. It is one of the major cliches of the American political language, an overly familiar phrase that skims over the surface of our minds. But in my view the President has used it in a fresh and rather invigorating sort of way. He has reminded us that we do have business to conduct, new, important business, and we cannot allow ourselves to drift back to business as usual.

Now, we are meeting on a weekend, of all things. Why? Kind of extraordinary because we are in extraordinary times, and I consider it just another step to get us to where we eventually want to go. I do not like it, quite frankly, that we are even being consumed taking up this time when some of us could be doing what I think we can do if we just get another shot at it or two.

So, this veto, I think, is going to be sustained.

Now I want to make a little pitch over here. Boy, I will tell you, it will be kind of a thing of personal pride, if it were done on our side. It is the only time we have got any leverage over here. As my colleagues know, we only need one-third of our Members, and we can support the President's position. It is the only time we really have that kind of leverage.

In all respect to my friends over here who made their point, I am talking this way now, and we can do it, if we will, and the gentleman from Minnesota [Mr. Frenzel] has also pointed a little way there. It is not the end of the world here. Let us not become deluded there. This is just again another one of the steps in the process, and it just applies a little more pressure on all of us, and, as my colleagues know, we are in a weekend here. This is Saturday. Tomorrow is Sunday. Monday is a holiday. Brother, I think it would be the greatest holiday ever if we just hunkered down here and wrapped this thing up for good this weekend once and for all.

So, Mr. Speaker, one final point. We had a big controversy the other night on whether or not we adopt or not adopt the conference report, and normally it takes on something in finality, but really the way we are wrapped in a procedural morass here is the fact that that conference report on the budget resolution is not final. It is another procedural thing that gets us to reconciliation. We did not get that point across a couple nights ago, or whenever it was. It is a procedural thing that gets us to the place where the committees do their work, they got 10 days to do it, and that is the time when you really get your big vote up or down. The President, if he does not like that reconciliation bill—he is going to veto it. So, we are again moving again, step at a time, tortuous as it is, and I know it gives my colleagues some angst over here, and I understand that. Just give some of us, and I know the gentleman from Massachusetts [Mr. Conte] and a few others spoke that way, but I am hoping that the rest of them who spoke that way, we can get the number here, if we will just get over the hump this time. Then the next step, and do not plan to take the whole weekend off here. We are locked in on Saturday. That is blown.

So, if we just hunker down and we are given the pressure to do that, I think we can come back here with something that we can get a sufficient number here, a sufficient there, and pass this thing and get out of town.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas [Mr. Alexander].

Mr. ALEXANDER. Mr. Speaker, I rise for two purposes: to override the President's veto, and to get the gentleman from California [Mr. Dellums] to the church on time.

More and more, each day, citizens are realizing that it is unavoidable that deficits due to the excesses of the Reagan years have to be paid back in some form.

But, we must insist that the payback be fair, and not fall more heavily on middle-class working families, farmers, and the elderly.

We must insist that the payback is fair.

The White House obviously disagrees.

So, we must continue to try to reach accord on the budget.

My people have told me—by a 6-to-1 margin—what they want: They want a plan which requires the burden to be evenly distributed, not one which asks too much of the middle class and too little of the super rich.

I believe we will be able to craft such a package.

Meanwhile, it is not necessary to shut down the Government and make people suffer so the White House can make a political point.

It's rather like shooting innocent hostages to attract attention.

This shutdown will not change anything in terms of where we are in the process of arriving at a budget agreement which is more fair than the one we rejected this week.

What it does do is harm Federal employees and those who depend on Federal services.

If the action of the White House in shutting down the Government would help us reach our goal 1 minute faster, I would support it.

But, it doesn't. Therefore, I will vote to override.

Mr. WHITTEN. May I say this, Mr. Speaker, where the summit group has been tied up for so long, anybody who feels that in 2 hours, or 3 hours, or 24 hours, they will get together, is hopefully optimistic.

I want to call my colleagues' attention to this. The President's veto is like a check that has to have two endorsers. If my colleagues endorse his veto, my colleagues are the ones that are closing up all these things, not the President by himself because he has got to have my colleagues' signature before they close. I say that to who I consider my friends. I also say that I have been on this summit. I did not see any evidence of any agreement. I heard of it. Those on it with seniority did not get to be included in the White House talks. We did not have the privilege of talking to the President.

But let me say to my colleagues again, and for the world, this check has to have two endorsements. We have got one. That is the President. It is up to my colleagues as to whether they endorse it and close all these facilities.

Mr. Speaker, I yield such time as he may consume to the gentleman from North Dakota [Mr. Dorgan].

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the veto message of the President to the joint resolution (H.J. Res. 660) making further continuing appropriations for the fiscal year 1991, and for other purposes, and that I may include extraneous and tabular material.

The SPEAKER pro tempore (Mr. Murtha). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MURTHA. Mr. Speaker, I firmly believe we must override the veto of the President on this continuing resolution. The funding of the Government must be maintained so that essential services continue for the taxpayers of this country.

The country is currently facing a military crisis in the Middle East which could break out into an actual military confrontation. This is not the time to put roadblocks in the path of our defense establishment. We must support our Armed Forces and specifically the troops in the Middle East. We will not be able to pay our Armed Forces without this continuing resolution authority. Other defense operations may have to be curtailed and that is not acceptable.

I urge you to vote to override the President's veto of this continuing resolution.

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise in support of the effort to over-ride President Bush's veto of the continuing resolution—a resolution which is necessary to keep our Government going for the next week while a fairer budget agreement is acted upon.

The budget agreement which I voted against this past Friday would have created massive tax shelters for the super-rich while "sticking it" to the middle class, farmers, and the elderly—all the while, leaving foreign aid and defense spending virtually untouched. This agreement was simply not acceptable to me or to my South Dakota constituents. While I recognize that any budget agreement must involve compromise and will not likely be entirely satisfactory to me, it must provide for tax fairness and it must be premised on the need to assist our own citizens prior to bailing out every corner of the world with military and foreign aid subsidies.

I am confident that such a budget agreement can be reached and that the President's choice to close down the Government is both unnecessary and counterproductive. The President's veto only serves to disrupt our Nation's economy, negatively impact the lives of Federal employees, and causes serious problems for the people who are innocent in all of this—the American public.

Mr. OWENS of Utah. Mr. Speaker, cool heads are needed back here, not partisan accusations. The people are disappointed and they are angry because they want the Government to function, not to disrupt their lives. They have a right to expect that the machinery of Government will hum, not rattle and grind to a halt.

It is a time for Democrats and Republicans to work together, not pin blame. I supported the package of budget tradeoffs, though it was terribly unfair to elderly and middle income groups, because I was convinced that it served the national interest at a time of crisis, and because the President and Speaker signaled that the worst injustices could be corrected after it passed.

When that failed, I voted for this 6-day continuing resolution and to send Congress and White House leaders back to the bargaining table to come up with another package which Congress could support. Budget summitry is a weak, last ditch process, but it is the Nation's best opportunity for a bipartisan solution to a genuine crisis, and we should play it out.

Now everybody's pointing fingers, starting with President Bush, and all are scrambling for political cover, and nothing positive is being done.

The President decided to close down the Government instead of trying to keep it running. That will turn out, I believe, to be a costly mistake because enormous and widespread suffering will result, not only by Federal employees, who are being used as pawns by the President. The Government cannot stop its essential functions without impacting very badly on business and the economy in general—and both are already in a serious downturn. Make no mistake about it, when you close down the Government, you close down the Government.

Those who like the idea of forcing the Government to close down, have no idea what it means. Without this continuing resolution, into which is integrated the authority to increase the debt ceiling, there will be no Medicare, no Social Security, no defense. None. For the first time since the founding of the Republic, the U.S. Government will bounce its checks. From here on in, the Government will pay a risk premium on its borrowing, and this will cost an estimated $5.5 billion in the first year alone.

I'll vote to override the President's veto, though I fear it will be a party line vote and will not solve the problem. We'll stay around to try to find another solution if it does not, and I know that one is available if we'll quit politics as usual, forget the election 4 weeks away, and do what is right for the country. We can work out an agreement if everybody will just give a little and quit maneuvering to look good.

Mr. RAHALL. Mr. Speaker, I rise in support of overriding the President's veto of the short-term continuing resolution to keep Government running. Let us be fair to all Americans. Let us begin by keeping Federal workers from being furloughed.

Next, let us be fair to elderly recipients of Medicare coverage, and put the money back.

Let us agree to a budget that doesn't allow defense spending to increase by $51 billion over the next 5 years, while education is cut by $2 billion.

Can't cut defense? Nonsense.

There are, according to a GAO study only a few months old, $34 billion in defense spare parts scattered so widely in warehouses here and abroad that they don't even know how to find them, much less use them; $34 billion in lost defense spare parts—adds up to $34 billion in lost, misspent revenues we can't even account for.

Let's not take it out on senior citizens, poor college students, postal workers, and people eligible for unemployment checks.

In the budget resolution just defeated, foreign aid was not cut by one dime—not a dime from its $15 billion-plus price tag.

Let us revisit foreign aid, and get enough dollars so that veterans programs won't need to take a hit next year.

And lest anyone forget the main reason for the budget's defeat the other morning, let us revisit the Tax Code and burst the bubble of the rich, so that the next budget resolution does not tax the poorest among us by 7.6 percent, while taxing the richest 1 percent of us by only a piddling 1.7 percent.

It was capital gains tax reduction demands that delayed the budget-making process until the eleventh hour.

Let us say no to it by taxing the rich, and help the low and middle income America by saying no to gasoline taxes they can't afford, and home heating oil taxes they can't afford; and health care cuts they can't afford.

Cut defense, cut foreign aid, and tax the richest among us, if you want my vote on a budget resolution for fiscal year 1991.

Mr. WHITTEN. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question is, Will the House, on reconsideration, pass the joint resolution, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 260, nays 138, not voting 36, as follows:

[Roll No. 433]

YEAS—260

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Browder
Bruce
Bryant
Bustamante
Byron
Cardin
Carr
Chapman
Clarke
Clay
Clement
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Costello
Coyne
Darden
de la Garza
DeFazio
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grant
Gray
Guarini
Hall (OH)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Hoyer
Hubbard
Hughes
Hutto
Jacobs
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parris
Pashayan
Patterson
Payne (NJ)
Pelosi
Perkins
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ravenel
Roe
Rose
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stallings
Stangeland
Stark
Stokes
Studds
Swift
Synar
Tallon
Tanner
Taylor
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walgren
Washington
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)

NAYS—138

Archer
Armey
Ballenger
Bartlett
Barton
Bilirakis
Bliley
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Campbell (CA)
Carper
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox
Craig
Crane
Davis
DeLay
DeWine
Dornan (CA)
Douglas
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Fish
Frenzel
Gallo
Gekas
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hall (TX)
Hancock
Hastert
Hefley
Herger
Hiler
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
James
Johnson (CT)
Kasich
Kolbe
Kyl
Lagomarsino
Laughlin
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Lukens, Donald
Machtley
Marlenee
Martin (NY)
McCandless
McCollum
McDade
McMillan (NC)
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morrison (WA)
Nielson
Oxley
Parker
Paxon
Payne (VA)
Pease
Penny
Petri
Porter
Pursell
Ray
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Slaughter (VA)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stearns
Stenholm
Sundquist
Tauke
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Weber
Weldon
Whittaker
Wylie
Young (FL)

NOT VOTING—36

Baker
Bates
Berman
Brown (CA)
Callahan
Campbell (CO)
Courter
Crockett
Dannemeyer
Dymally
Gallegly
Hansen
Hayes (LA)
Henry
Holloway
Huckaby
Jones (NC)
Livingston
Madigan
Martin (IL)
McCrery
McEwen
Montgomery
Packard
Quillen
Richardson
Robinson
Rostenkowski
Roth
Schneider
Smith (NE)
Smith, Denny (OR)
Stump
Tauzin
Towns
Vander Jagt

□ 1703

The Clerk announced the following pairs:

On this vote:

Mr. Tauzin and Mr. Dymally for, with Mr. Quillen against.

Mr. Roth and Ms. Schneider for, with Mr. McEwen against.

So, two-thirds not having voted in favor thereof, the veto of the President was sustained and the joint resolution was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The message and the bill are referred to the Committee on Appropriations.

The Clerk will notify the Senate of the action of the House.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 310, CONGRESSIONAL BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEARS 1991, 1992, 1993, 1994, AND 1995

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-817) on the resolution (H. Res. 496) providing for consideration of the conference report on the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the U.S. Government for the fiscal years 1991, 1992, 1993, 1994, and 1995, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 310, CONGRESSIONAL BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEARS 1991, 1992, 1993, 1994, AND 1995

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 496 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 496

Resolved, That upon adoption of this resolution the conference report on the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the United States Government for the fiscal years 1991, 1992, 1993, 1994, and 1995, shall be considered as recommitted to conference, notwithstanding the prior action of the House on the conference report.

SEC. 2. All points of order against any subsequent conference report on House Concurrent Resolution 310 and against its consideration are hereby waived. Any such conference report shall be considered as read when called up for consideration. Debate on any conference report shall be limited to not more than 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget.

SEC. 3. No motion with respect to disposition of House Concurrent Resolution 310 shall be in order except pursuant to this resolution or a subsequent order of the House.

SEC. 4. The allocations of spending and credit responsibility to the committees of the House, to be printed in the CONGRESSIONAL RECORD by the chairman of the Committee on the Budget as soon as practicable, shall be considered to be the allocations required to be printed in the joint statement of the managers on House Concurrent Resolution 310 pursuant to section 302(a) of the Congressional Budget Act of 1974.

SEC. 5. Rule XLIX shall not apply with respect to the adoption by the Congress of any conference report on the concurrent resolution (H. Con. Res. 310).

The SPEAKER pro tempore (Mr. MFUME). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 496 sets the process in motion to bring a new budget agreement to the floor. This is a procedural matter; it is not an attempt to reconsider the budget we recently defeated.

The rule provides that the conference report on the budget will be recommitted to conference upon adoption of the rule. The rule waives all points of order against any subsequent conference report on H. Con. Res. 310 and against its consideration.

Mr. Speaker, debate on a new conference report will be 2 hours, equally divided and controlled by the chairman and ranking minority member of the Budget Committee.

The rules makes in order no other motion with respect to disposition of House Concurrent Resolution 310 except by this or subsequent rule. The rule also provides that the Budget Committee chairman will print in the CONGRESSIONAL RECORD allocations of spending and credit which will be considered to be the allocations required under section 302(a) of the Budget Act.

Finally, Mr. Speaker, the rule provides that rule 49 will not apply with respect to any conference report on House Concurrent Resolution 310. Under rule 49 when Congress adopts a conference report on a budget resolution, the House is deemed to have adopted a measure increasing the debt limit to the amount specified in the budget resolution.

Mr. Speaker, the Federal Government has been shut down. The President has vetoed the short-term continuing resolution and has vowed to veto any other attempt to keep the Government running at full power at least until a budget agreement has been reached.

Mr. Speaker, it is our duty to speed up the process by which agreement can be reached; it is our responsibility to see to it that those who depend upon Government are not made to suffer because Congress and the President do not agree.

The best we can do now is make available a vehicle in which to place any budget and clear the way for its consideration in the House. That is the purpose of this rule.

The rule sends the budget resolution back to conference and allows the House to consider any subsequent conference report.

I urge adoption of the rule.

□ 1710

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is not much point in having an extended debate on this issue. We have before us what is essentially a partisan ploy.

My concern is very simple, and I speak for every Member of this side of the aisle. We do not want to be in a position of being blindsided by a Democrat budget resolution.

In the absence of an agreement or instructions to the conferees, we cannot allow ourselves to be placed in this kind of untenable position. Without belaboring the point, Mr. Speaker, I would note further that we cannot in good conscience be party to reviving a defunct conference committee in this fashion.

This rule is fraught with too many loopholes. It waives all points of order, as usual, and includes a bizarre provision that requires the chairman of the Budget Committee to provide as soon as practicable the spending allocations that are mandated by the Budget Act. As soon as practicable. What in the world does that mean?

By law, this Congress was required to complete its action on a concurrent budget resolution 25 weeks ago. By law, we were to have completed all appropriation bills 17 weeks ago. And by the law of the land, we were to have completed reconciliation 16 weeks ago.

So do not come back to us with this nonsense about getting the budget numbers as soon as practicable.

Mr. Speaker, I yield such time as he might consume to the distinguished gentleman from Minnesota [Mr. FRENZEL], the ranking member of the Committee on the Budget.

Mr. FRENZEL. Mr. Speaker, this House resolution which provides that the conference committee on the budget resolution will be reconstituted and take up its work in trying to figure out a new budget resolution is probably a pretty good resolution, but it is offered at the wrong time.

The distinguished gentleman from New York [Mr. SOLOMON] has already suggested that as far as we know the potential conferees, of whom I am likely to be one, do not have any instructions, no charter, no agreement with one another. The leaders of this House, majority and minority, the summitteers, or any other leaders, elected or appointed or self-appointed, have not come to any agreement on how we are going to settle a budget resolution.

To create the committee of conference now, with its very important powers of being able to drop on us a budget resolution at any time, is to the Republican side of this House incurring undue risk. We believe that good faith negotiation would require that whatever negotiation is being undertaken continue to go forward and that this resolution be passed only after there is some kind of an agreement as to how the to-be-appointed conferees will bring forth the budget resolution.

Mr. Speaker, we are not objecting to this resolution on the ground that it waives all points of order or on the ground that we strike out some other rules. We are saying that in the negotiating environment which exists at this time, the House makes a real mistake, this disadvantages the minority and causes the minority to negotiate far more carefully and far more slowly than we could in the rather open environment in which we thought we were operating.

I hope the House will turn down this resolution, and in the likely event that it does not, I hope that the conferees are not appointed until we know which direction the leadership of this House is taking us.

I thank the gentleman for yielding time to me.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WALKER], the deputy minority whip.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I beg to differ slightly with the two gentlemen who spoke before on our side, but I come to the same conclusion. The gentleman from New York said that this is a largely partisan question that is involved in this rule. I would say differently. Some of us on this side of the aisle voted against the budget resolution the other evening, and one of the reasons why we did was because when we saw the details of the budget resolution we were disturbed by them.

Under the process that will be set up by this rule, literally you could bring a budget resolution to the floor and have consideration of it without the Members ever seeing a copy of it, because under this particular rule all points of order are waived against the consideration of it, and all the points of order are waived on any conference report. So, therefore, regardless of the form that it is in, the House will act without necessarily knowing the details. I think that that probably is a bad idea given the concern that this House expressed just the other evening.

I would, therefore, also disagree with the gentleman from Minnesota [Mr. FRENZEL] just slightly, and that is that I do believe those particular provisions are a problem. When we begin waiving points of order this late in the session, and we do not know exactly what is coming down the pike, we ought not to adopt a pig in the poke. If we adopt this resolution that is what we are doing, and we are giving ourselves the impossibility that at some point in the near future a budget resolution could be dumped on the floor, and we will have no idea what is in it.

Again I thank the gentleman for yielding time to me.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. PANETTA], the chairman of the Committee on the Budget.

Mr. PANETTA. Mr. Speaker, I rise in support of the rule.

The only purpose for this rule, the only purpose for this rule is to get us back in conference on the budget resolution. For those who are arguing that we have to move fast, this is essential for us to be able to get into the conference and be able to pull the budget resolution back together again so we can bring it back to the floor. This is an essential step. If we do not have this, we cannot even get to first base in terms of trying to pull the elements that we need together to get a budget resolution.

□ 1720

At that point, I want to share with the Members, we have had discussions with the leadership on the minority side, with others, to try to see if we can find a resolution to the concerns that were raised in the budget resolution when we voted on it Thursday. We are making some progress, and I feel that if we can continue to work at it we have the opportunity perhaps to be able to then bring it into a conference, get it adopted, and bring it as soon as possible to the floor so we can end this crisis that faces the country and faces this institution.

The rule puts the House back into conference with the Senate and provides basically the same rule governing the consideration of the subsequent report of the committee on the conference that we voted on before. There is nothing new here. There is nothing hidden.

This is basically to get us to conference.

Please, give us that opportunity and vote for this rule.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MFUME). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 285, noes 105, answered not voting 43, as follows:

[Roll No. 434]

AYES—285

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bateman
Beilenson
Bennett
Bereuter
Bevill
Bilbray
Bilirakis
Billey
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Bruce
Bryant
Bustamante
Byron
Campbell (CA)
Cardin
Carper
Carr
Chapman
Clarke
Clement
Clinger
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Coyne
Craig
Darden
de la Garza
DeFazio
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grant
Gray
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hefley
Hefner
Hertel
Hoagland
Hochbrueckner
Horton
Houghton
Hoyer
Hubbard
Hughes
Hutto
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Michel
Mineta
Mink
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Parris
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Porter
Poshard
Price
Rahall
Rangel
Ravenel
Ray
Ridge
Rinaldo
Roberts
Roe
Ros-Lehtinen
Rose
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Schaefer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (VT)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Taylor
Thomas (GA)
Torres
Torricelli

Traficant
Traxler
Udall
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whittaker
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)

NOES—105

Archer
Armey
Ballenger
Bartlett
Barton
Bentley
Brown (CO)
Buechner
Bunning
Burton
Chandler
Coble
Coleman (MO)
Combest
Cox
Crane
Davis
DeLay
DeWine
Dickinson
Dornan (CA)
Douglas
Dreier
Duncan
Edwards (OK)
Fawell
Fields
Frenzel
Gallo
Gekas
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hammerschmidt
Hancock
Hastert
Herger
Hiler
Hopkins
Hunter
Hyde
Inhofe
Ireland
James
Kasich
Kolbe
Kyl
Lagomarsino
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Lukens, Donald
Marlenee
Martin (NY)
McCandless
McCollum
McGrath
McMillan (NC)
Meyers
Miller (OH)
Miller (WA)
Molinari
Moorhead
Myers
Oxley
Pashayan
Paxon
Petri
Pursell
Regula
Rhodes
Ritter
Rogers
Rohrabacher
Saxton
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Slaughter (VA)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stangeland
Stearns
Sundquist
Tauke
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Washington
Weber
Weldon
Young (FL)

NOT VOTING—43

Baker
Bates
Berman
Brown (CA)
Callahan
Campbell (CO)
Clay
Courter
Crockett
Dannemeyer
Dellums
Dymally
Gallegly
Hansen
Hayes (LA)
Henry
Holloway
Huckaby
Jones (NC)
Leath (TX)
Livingston
Madigan
Martin (IL)
McCrery
McEwen
Miller (CA)
Montgomery
Packard
Quillen
Richardson
Robinson
Rostenkowski
Roybal
Schneider
Shuster
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Stump
Tauzin
Towns
Vander Jagt
Whitten

□ 1739

Mr. BROWN of Colorado changed his vote from "aye" to "no."

Mrs. JOHNSON of Connecticut and Messrs. SHAYS, SKEEN, and BROOMFIELD changed their vote from "no" to "aye."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

□ 1740

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked for this time so that I might inquire of the distinguished majority leader how we intend to proceed for the balance of the evening and the balance of the weekend, if possible.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, it is our intent to ask for a unanimous consent that the House be declared in recess now until not later than 8 o'clock. We are continuing to try to see if there is a way to bring a modified budget out of conference later tonight. That may or may not be possible. If it is not, and I have some doubts that is is, but we are going to continue to talk about it.

We will be back on tomorrow, and I would suggest probably 1 o'clock will be the starting time tomorrow.

Members could leave at this point and know that there would be a 2-hour notice tonight until you would have to come back so Members would be able to go home or go to their offices. Tomorrow would be a 1 o'clock, not 12.

Mr. MICHEL. Might I inquire of the distinguished majority leader, would that be a perpetual kind of thing that would run through the night, or would we say after 10 or 11 o'clock that was it?

Mr. GEPHARDT. No. We would know before 8 o'clock whether there is any intention to do anything in here tonight.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield just briefly?

Mr. MICHEL. I yield to the gentleman from California.

Mr. THOMAS of California. My understanding, Mr. Speaker, is not later than 8, but we are going to go on 2 hours notice? That gives us 15 minutes.

Mr. GEPHARDT. Two hours notice on or before 8 o'clock.

Mr. WEBER. Mr. Speaker, will the gentleman yield to me?

Mr. MICHEL. I yield to the gentleman from Minnesota.

Mr. WEBER. Mr. Speaker, as I understand it, the unanimous consent request will be for a recess authority, with a 2-hour notification.

Mr. GEPHARDT. The unanimous consent for a recess authority until no later than 8 o'clock; that means we will not have business here until 8 o'clock at the earliest and we will give notice before 8 o'clock as to whether or not we intend to try to do anything.

Mr. WEBER. Mr. Speaker, if the gentleman will yield further, what business might we anticipate being taken up in the course of tonight if indeed we were to come back in session?

Mr. GEPHARDT. The only thing that might be possible would be if we were able to reach some agreement in the conference on the budget and to be able to bring that conference report back to the House.

There would obviously be allowed ample time for both the Republican Conference and the Democratic Caucus to meet to consider that material.

Mr. WEBER. Mr. Speaker, if the gentleman will yield further, is there any intention of bringing up another continuing resolution tonight at any point?

Mr. GEPHARDT. There would be no intention probably until tomorrow.

Mr. WEBER. Mr. Speaker, if the gentleman will just yield further, I am not going to object at this point because I do not want to cut off the discussion, but speaking for myself and for many Members, I would object very strongly to the consideration of any resolution of the budget problem in the middle of the night.

Mr. GEPHARDT. Absolutely.

Mr. WEBER. Now, I understand we are here over the weekend, but it seems to me that Members should be afforded at least some opportunity, if they want to, to go home and rest and spend the evening with their families. If we have to come back on Sunday, that is all right, but we ought to be able to assure Members that they are not going to have to come back at 8, 9, 10, 12, 1, or 2 in the morning.

Mr. GEPHARDT. We obviously will not have a session here late at night. We are trying our level best to try to produce a budget agreement that we can get a majority for in this House and eventually in the Senate.

Mr. WEBER. Why is it not possible for us to adjourn to a time specific on Sunday or even Monday?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield further, it is impossible for us to be able to predict with certainty when this business will be ready for the floor. We are doing our best to reach some agreements. We are working on it every minute that we have been here today. We were interrupted by a 3-hour transaction on the continuing resolution.

Mr. WEBER. Mr. Speaker, if the gentleman will yield further, though, it is possible since we are not with a short-term continuing resolution for us to say we are not going to deal with the budget prior to a time specific.

Mr. GEPHARDT. I just said a moment ago that the House will know before 8 o'clock whether or not we intend to try to consider that matter tonight, so you will have notice before then. Obviously, we would then want to run it say between 9 and midnight if we were going to do it tonight.

Mr. WEBER. I must, I would inform the majority leader that I would object to considering a budget between 9 and midnight.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield further, we have been saying all day that this is a very important matter. We have been saying that time is of the essence. We just had a vote.

Mr. WEBER. Well, if the gentleman will yield further, those on the Demcrat side may wish to applaud a budget they have not yet seen, but I do not. I want some time to look at it and study it, and I think most on our side would feel the same way. One day or even less than that is not an inordinate amount of time to study the budget of the United States.

Mr. MICHEL. Mr. Speaker, let me if I might, make another observation that I have to share with the majority leader, and that is if we are in a state where we are currently, without a continuing resolution in effect, but another one in which we are going to have to act, that it looks a little bit ridiculous if the Government shut down and the Congress took the weekend off.

So with no prejudice one way or another, I am just saying that we are trying to do this in an orderly and presentable a fashion as possible.

I understand the gentleman's problem, because certainly I know full well that I could not possibly bring some new crafted budget in. If it were, it would not be all that terribly far from what we currently have agreed to in order to open this thing up, you know, unmercifully. We would just be here forever. We cannot do that.

But I would surely have to assure the gentleman there is no way we could expect to come to the floor without my coming back to our own conference and saying, "Folks, this is roughly what we've got. Now, what is your reaction to this?"

Obviously, if we think it is good, we would be asking some of you who voted the other way, there is significant enough of a difference here for you to come aboard this time.

I have to be very careful, I have to tell you quite frankly, that in that process, the 71 or 72, or whoever were there, it cannot be something that erodes that support, or what have I gained, you see?

Mr. WEBER. Mr. Speaker, will the gentleman yield to me?

Mr. MICHEL. I yield to the gentleman from Minnesota.

Mr. WEBER. I understand that fully. I am not objecting to the notion that we have to work this weekend, but as the distinguished leader has just pointed out, the leader is going to be coming to many of us and some on the other side of the aisle to support whatever budget we bring to the floor.

What I am objecting to is the notion that we could be asked to consider that and vote on that yet tonight or sometime in the middle of the morning.

I do not understand why it is not possible to let Members go home for the evening and the best part of the day tomorrow even perhaps and come back if we must this weekend, at least on Sunday after we have time to think about it.

Mr. DeLAY. Mr. Speaker, will the distinguished minority leader yield?

Mr. MICHEL. I am happy to yield to the gentleman from Texas.

Mr. DeLAY. Mr. Speaker, I am just trying to find out, and maybe the distinguished majority leader or our minority leader would point out to us, what is going on and who is doing the negotiations? Has the summit been reconvened?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, we just took an action to reform a conference on the budget between the House and the Senate. That conference can now begin to work and the members of that conference who have been appointed can meet and work on the budget.

In the meantime, Members on the Democratic side in the House and on the Republican side in the House have been informally communicating to try to see if there is some way to put a budget package together that can reach a consensus.

□ 1750

Mr. DeLAY. Who has been appointed to that conference from the House?

Mr. GEPHARDT. I believe Mr. Frenzel, Mr. Panetta, and myself. I am not sure if there is another member of that—on the other side there is Mr. Sasser. Mr. Archer, I think, is on it.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Speaker, I have been proud of the work the majority leader has done, our Speaker, the minority leader, and I guess for the past 2 weeks they probably have not had 4 consecutive hours of sleep. Yet the majority leader has shown up every morning, he has attended our caucuses, he is on the floor, and informed us of what is going on.

With all respect to my friend from Minnesota, and I realize having a family—which I have—they would like to get back home. But people were locked out of the Smithsonian Institutions this afternoon. They were not allowed to go into the Washington Monument.

I think we ought to be here and work if it takes all night long, and frankly even if we are here at 3 in the morning I think we ought to get it done tonight, this weekend, and not take time off.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from California.

Mr. LEWIS of California. I thank the gentleman for yielding.

Mr. Speaker, if I may have a colloquy with the majority leader. I understand, and I think all of us really understand, the pressure that you are under and you do need some flexibility. But indeed you also understand the challenge before us by way of the vote that we had the last time that we were here.

Is it your intention after these negotiations take place to give a reasonable amount of time for your Members to study the package before they come to the floor and, if so, how much? And if you do not feel that you can give that number, at least it is important that we have enough notice so that we can have the full-scale conference that my leader referred to, so that my Members may have an opportunity to weigh the measure.

Mr. GEPHARDT. If the gentleman will yield, I do not want to recriminate in any way, but we have spent 3 hours now today here on the floor dealing with the continuing resolution.

We are now here spending another half hour talking about this, and I am more than willing to talk about it. But we are quickly eating this day up in terms of our ability to come back and, in an orderly way, do exactly what the gentleman has described, which is absolutely necessary. That is that there would be time for his conference and our caucus to look at whatever recommendations we have, to think about them, and then to be able to vote.

I rather think that we are running out of time to do it today. I had hoped that we could perhaps do this because I think it is important that we do it. But we are not going to do this in a slipshod manner. We are not going to force Members to vote without knowing what is going on. And if we run out of time today to do it, even if we have an agreement, we will put it over until tomorrow, give time for both the conference and the caucus to meet and look at what we have, if we have it.

Mr. EDWARDS of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. I thank the gentleman for yielding.

Let me go back to a point that the gentleman from Minnesota [Mr. Weber] made: If you are worried about working, I will stay right here on the floor all through the weekend, Monday, Tuesday, as long as you want. It is not a matter of whether you are going to work, it is a matter of whether you are going to vote having read the material. Do not say we can do it in a conference or a caucus; we cannot sit there, 170 or 200-some people in one room for an hour, and say we know what is in this bill. The reason that the last attempt went down was because Members had time to read it,

to see what the assumptions were, to see the mistakes.

You owe it to your constituents just as I owe it to mine to have adequate time to read through whatever the agreement is.

Mr. Speaker, let me have order, please. Don't just stand there saying, "Work, work, work."

The SPEAKER pro tempore (Mr. Mfume). The gentleman will suspend. The gentleman shall suspend.

The Chair will request order and will request it of all Members. The distinguished minority leader, the gentleman from Illinois [Mr. Michel] controls the time.

Mr. EDWARDS of Oklahoma. Mr. Speaker, will the gentleman continue to yield?

Mr. MICHEL. I will continue to yield to the gentleman.

Mr. EDWARDS of Oklahoma. The booing, this hissing, the chanting, when we are talking about raising the taxes on the American people or cutting spending or adjusting Medicare, that is nonsense; what is required is a chance for the Members of Congress to read the legislation and make an intelligent, informed discussion on it. That is all that we are asking for.

Mr. MICHEL. Mr. Speaker, the gentleman makes a valid observation.

Mr. Speaker, I yield to the gentleman from California [Mr. Dornan].

Mr. DORNAN of California. I thank my distinguished leader for yielding.

I just want to say to my classmate, from the spirit of 1976, that you made the most forceful speech I have ever seen you or any Member make on the floor the other night. In it you said that budget summitry was bad, bad, wrong, that we should never do it again.

I notice that the same people you just named, all distinguished colleagues, every one of them a hard worker, are the same people who were in the cobra-summit committee. Bad, bad.

I just want to work tonight with study time.

Everybody in this Chamber does their best study time at night when the phones are not ringing and the staff is not disagreeing with us. Mr. Weber is asking for good study time. All I want to know is—and I agree with the work chant. I already said in the well I am ready to work and take tours. I just took three people on a tour who got shut out of the museum.

So that no one disagrees and tempers will stay cooled here, my study committee is meeting in the caucus room 345 at 6. I will cancel it in a minute for a conference. But let us keep the friendly mood going here. It is the Lord's day in 6 hours. Some of us are not going to do it. We are not going to do something imprudent.

Mr. MICHEL. Mr. Speaker, we have not had a woman's voice in here yet.

Mr. Speaker, I yield to the gentlewoman from New Jersey [Mrs. Roukema].

Mrs. ROUKEMA. I thank the minority leader for yielding.

Mr. Speaker, I want to thank the gentleman from California for cooling passions here. That is an extraordinary situation.

Seriously, Mr. Leader, I do want to ask a question here, and it is a serious question because I am concerned as my colleague from Minnesota is, and our leader from Oklahoma has expressed the concerns, about knowing what is in the document when it comes back.

But we have a leader here. I want to ask our leader, are you confident that you can protect the interests of the minority here under this procedure? Mr. Leader, I think if we elect a leader, we ought to let him lead, and I am looking to you for your leadership now and the confidence that you can give to us to sooth our concerns. And anybody who knows me knows that I read the small print in all of these things, and I intend to do that here. But I am confident that Mr. Michel would not lead us down the primrose path.

So I ask the leader for his comment now.

Mr. MICHEL. I thank the gentlewoman for her comments. I think all of us would have to agree regardless of what side of the aisle we are on, that if we get too far, kind of like a platoon leader without the troops. I can recall the days, when, "You know, I am your leader, but tuck it up a little tighter, folks. I don't want too much space between us."

I have always found that a leader, to maintain his position, just could not get too far out in front of his troops. But we are dealing with some very, very sensitive matters and for a commitment 5 years out. Everybody certainly is deserving of that opportunity to know exactly what we have wrought whenever it comes about.

I would honor everybody's feelings in that regard.

I yield to the distinguished gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I would simply like to say that I fully agree with and understand the concerns of the gentleman from Oklahoma, the gentleman from Minnesota. Frankly, given some of the conversations I have heard about some of the suggestions being made about the changes in the budget summit, I am still very skeptical that I am going to wind up voting for it.

But it seems to me that when we turned down the motion to override the President's veto, that we did, all of us, individually, give up the luxury of having a lot of time to review what came out of the summit. That is the practical fact of life.

Without that continuing resolution, we simply do not have that time.

So it seems to me that all of us have enough faith in the gentleman from Illinois, the gentleman from Missouri, the gentleman from California, and the gentleman from Minnesota, the chairman and ranking minority member of the Budget Committee, and the best thing we can do to assure ourselves that we have enough time to review that agreement is to get out of here now to give them an opportunity to go to work so that they can get the job done.

□ 1800

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, I thank the gentleman from Illinois [Mr. Michel] for yielding.

I did not want to speak until after the veto effort. I am delighted though, although I have to say to all of my friends, now they understand the tucking tradition over here. We were not as tucked the other evening as we were this afternoon, so this afternoon worked better from our standpont. We kept pretty tight behind our leader, and it worked fairly well, but I have two concerns.

First of all, I say to the gentleman from Wisconsin [Mr. Obey] that if the Congress simply wanted this evening to pass a signable continuing resolution, and we already have a commitment from the administration as to what they would sign, we could pass the continuing resolution tonight. We could have an entire week to work this out. So, there is no artificial emergency, except that which the majority wishes to schedule. But we could pass a signable continuing resolution tonight, and the Government could be back at full strength in the morning.

So, if we suspend tonight, let no one be under any confusion. The Democratic leadership will have decided to go home without having passed a signable continuing resolution. That happens to be technically true. My colleagues may not agree with it, but it is true.

Second, I am not concerned just for the Members, and this seems to me a great peculiarity. We are talking about a giant, massive, decisive, important 5-year, $500 billion budget decision. I would hope that we would have an orderly procedure which would last several days so that the country—remember the country? The people who called in all week? The country might actually have a chance to look at a 5-year.

I understand for those who are wise and experienced legislators that it is hard to do something if we actually let the country watch it, but I frankly am very concerned if we are going to bring a document out on a very short time frame, run it through the House, and, by the way, if we do, I will predict tonight it will get totally bogged down in the procedures of the Senate. It will not get quickly out of the Congress. It will just stay enmeshed in the Senate for a while.

So, I just think we ought to take the time and actually let the people of America watch what democracy is since we have heard Vaclav Havel, and Lech Walesa and all those people who talk about democracy. We might actually try it and let the American people watch.

Mr. MICHEL. Mr. Speaker, if I might just ask the gentleman from Missouri [Mr. GEPHARDT], the distinguished majority leader, one more question.

The gentleman from Missouri [Mr. GEPHARDT] made mention of our meeting tomorrow at 1 p.m.

Mr. GEPHARDT. The gentleman from Illinois [Mr. MICHEL] is correct.

Mr. MICHEL. Now we will be in a new day, and could we take up that continuing resolution first off tomorrow as an order of business?

Mr. GEPHARDT. We will check with the chairman. I would think it would.

Mr. MICHEL. That will, maybe, allay some feelings of some, and then, quite frankly, I would be for the rest of the evening, or the balance of this evening, to get over this first increment of 2 hours, if we do have the recess, and then we will do whatever we can do, and then there will be a judgment, what; around 8 o'clock, as to whether or not there is anything happening for the balance of the evening and then come back and reconvene at 1 o'clock tomorrow.

All right.

REQUEST FOR RECESS

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the House be declared in recess until no later than 8 p.m.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from Missouri?

Mr. WEBER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, this afternoon I was unavoidably absent from the Capitol for the Speaker's approval of the Journal, rollcall No. 432. Had I been present I would have voted "yes."

THE WHITE HOUSE STRATEGY

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, I did not get a chance to deliver my address during the CR because I was fortunate enough to be after the wedding of the child of the gentleman from Califorina [Mr. DELLUMS], and so, while we are here in session, I thought I would make a few points now.

First, I think there is one thing all of us in this Chamber know about the summit, whether we be Democrat or Republican, and that is, if it were left to our four leaders, the gentleman from Washington [Mr. FOLEY], the genttleman from Illinois [Mr. MICHEL], Mr. MITCHELL and Mr. DOLE, we would have had an agreement months ago.

No, it was not this Congress that messed up the summit. It was not the Democrats, and it was not the Republicans. We all know what happened, and it was that the White House and the minions there, Mr. Sununu and Mr. Darman, not only used bully boy tactics that alienated many of the Republicans, but, much worse than that, when Darman and Sununu at the summit started pushing demands on the summiteers, they were told by people from both parties, from all parts of the political spectrum, that this was not going to sell, that this would kill the summit. But they persisted. They persisted in demanding that the tax system be inequitable. They persisted in demanding that there be deep cuts in Medicare, cuts so deep that very few Members on either side of the aisle would vote for them. They insisted on putting such nasty provisions in that summit, such as the unemployment insurance provision, and they were told, time and time again, Mr. Sununu and Mr. Darman, that, if these kinds of provisions were put in the package, it was doomed to failure. But they had a strategy, my colleagues. The strategy was that this House and the American people would swallow anything if backed up against the wall. If we were told that it was this or nothing, we would vote for this, and, in fact, their strategy had some merit, and that was it had happened in the past.

ANNOUNCEMENT OF MEETING OF CONSERVATIVES ON THE BUDGET

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute.)

Mr. DORNAN of California. Mr. Speaker, I think everybody was in a good mood here when we came in today, and I think we are getting back to it, and in the spirit of peace and harmony and work, work, work, the Republican Study Committee is going to meet as soon as the gentleman from Wisconsin [Mr. ROTH] has done his excellent 1-minute. We are going to meet very briefly and then go home to our families for dinner.

□ 1810

But for about 15 minutes the conservatives in this Congress—and we invite any conservatives on the majority side—will meet at the Cannon Building, in the Caucus Room, room No. 345. The door is open. I am going over there right now. And the feeling over there is—good—good.

GOOD NEWS AND BAD NEWS

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, during an earlier recess today and did my every-other-day run. Of course, we know that today was one of the beautiful days in this year. I noticed thousands upon thousands of people who were on the Mall, most of whom, I guess, had been locked out of the Smithsonian Institutions and locked out of the Washington Monument and the Jefferson Memorial. That is, of course, very sad because it could have been avoidable.

These people, Mr. Speaker, it ought to be noted, run the gamut. They were the rich people, the poor people, young people, old people, disabled people, and not disabled people, the very sort of people, Mr. Speaker, who are very much for the House, the Senate, and the White House getting their act together and getting a budget resolution. That is the bad news, Mr. Speaker.

The good news, Mr. Speaker, is twofold. A lot of these wonderful people had a chance to walk in this glorious day that the good Lord brought us today and get some exercise and kick the leaves and smell the smells along that beautiful mall. The other good thing is this: I am not so sure that many of us have ever ridden the carousel on the Mall, but the carousel had no empty seats today. All the animals and all the seats were taken, but in an earlier time of the year that might not have been.

So in everything there is good news and bad news. In this case I think in some respects the good news outweighs the bad news.

TIME TO FISH OR CUT BAIT

(Mr. ROTH asked and was given permission to address the House for 1 minute.)

Mr. ROTH. Mr. Speaker, I am not here to point fingers, but there is a time to study, there is a time to debate, and there is a time to act. Now is the time to act. This budget process has been going on since April and May, day in and day out.

Now our Government has shut down, and this is irresponsible. We must act. We must move forward. We owe it to the country. Time is of the essence. People are being furloughed. People are losing their jobs, and people with families are being hurt. Yet we are talking, talking, talking. There is a time to talk, and there is a time to act. Now is the time to act.

We have an old saying that says, "Either fish or cut bait." Talk is cheap. Now is the time to move forward. We owe it to the country. We should be here debating this and voting on it and getting on with the Government's business.

H.R. 5779, BUSINESS CASH REPORTING COMPLIANCE ACT OF 1990 NEEDED TO CURB TAX EVASION AND MONEY LAUNDERING

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and to include extraneous matter.)

Mr. PICKLE. Mr. Speaker, on Wednesday, I along with every Member of the Subcommittee on Oversight, introduced H.R. 5779, the Business Cash Reporting Compliance Act of 1990. This legislation will close the loopholes in Internal Revenue Code section 6050I and strengthen the IRS's ability to identify taxpayers with sizable cash incomes that might otherwise be underreported. H.R. 5779 is a strong antitax evasion and money laundering bill.

The Subcommittee on Oversight recently conducted an extensive undercover investigation which exposed the U.S. business community's predisposition to violate section 6050I. Ninety-six percent of the merchants probed agreed to take large sums of cash, without question, and not report the transactions to the IRS. Ninety-five percent of the merchants were willing to take false names and more than 25 percent suggested ways to avoid the reporting rules.

While subcommittee investigators were traveling across the country collecting evidence on merchants ready and willing to violate the law, a team of Federal law enforcement agents were preparing its first major sting. Posing as drug dealers and boasting the illegal source of their cash, agents from the IRS and Drug Enforcement Agency bought almost 900,000 dollars' worth of luxury items from five leading New York car dealerships. A dozen executives and salesmen and three insurance agents were arrested on charges of violating money-laundering laws and disguising the true ownership of the vehicles. According to Federal agents, the investigation, code-named Operation Drug Wheels is the largest investigation of its kind in the Nation to date. I'm confident it won't be the last. I am submitting for the RECORD the press release issued by the U.S. attorney's office in Manhattan outlining the operation in more detail.

With this major bust, the business community has been unmistakenly put on notice. The time has come for those who knowingly accept large sums of cash and deliberately conceal the transactions from the IRS to face the consequences. Their actions aid and abet tax evasion and seriously undermine this Nation's war on drugs. There is no excuse for their flagrant violation of the law.

H.R. 5779 will assist in bringing a stop to this behavior. The bill ups the ante for violators and tightens the reporting requirements making it more difficult for merchants and clients to structure their transactions in an effort to conceal their cash. I urge my colleagues to support H.R. 5779.

OUTLINE OF ARRESTS, CHARGES, AND FORFEITURES

Fifteen individuals, five automobile dealerships, and two insurance company agencies were charged in sealed complaints yesterday in federal court in Manhattan with money laundering, cash reporting violations and mail fraud. The complaints were unsealed today.

Thirty-one (31) new cars of a retail value of more than $877,000 were also seized as part of an undercover investigation into the laundering of narcotics money by car dealers and automobile insurers. They included 6 Mercedes Benz, 6 Mazdas, 6 Nissan, 7 Acuras, 5 Fords and a Cadillac. All are 1990 models except for the Mercedes and a Nissan Navajo, which are 1991 models. A list of the automobiles actually seized is attached as Addendum A. In addition, seven bank accounts of the automobile dealerships were seized yesterday pursuant to seizure warrants.

Concurrent with the arrests, the car dealerships and the insurance company agencies, which are alleged to have been involved in the money laundering were searched yesterday pursuant to warrants by a team of federal agents from the Internal Revenue Service, the Drug Enforcement Administration, and the United States Postal Inspection Service.

The car dealerships charged are: Gidron Ford, Inc., 251 Main Street, Mt. Kisco; Mercedes Benz Manhattan, Inc., 536 W. 41st St. in Manhattan; Manhattan Nissan, Inc., 799 Eleventh Ave. in Manhattan; Bronx Auto Mall, Inc., d/b/a "Bronx Acura", 2625 East Tremont Avenue in the Bronx; and 11th Avenue Motors, Inc. d/b/a "Manhattan Mazda" and "City Mazda", 801 Eleventh Ave. in Manhattan.

The insurance agencies charged are: Allstate Insurance, 3176 Bainbridge Ave., Bronx; DCAP Insurance Agency, 1980 E. Tremont Ave., Bronx.

The 15 individual defendants are listed in Addendum B.

"It is imperative that the business community realize that it cannot act as an aider and abettor in the money laundering schemes of the drug kingpins without subjecting itself to serious consequences," said United States Attorney General Dick Thornburgh. "Federal prosecutors will pursue these drug proceeds through whatever disguised means are employed."

According to Otto G. Obermaier, United States Attorney of the Southern District of New York, Peter P. Farrell, Chief, Criminal Investigation Division of the Internal Revenue Service, Robert A. Bryden, Special Agent in Charge of the Drug Enforcement Administration, and John Slavinski, Postal Inspector in Charge, United States Postal Inspection Service, the arrests, searches, and seizures are the result of joint undercover investigation conducted by the United States Attorney's Offfice, the Internal Revenue Service, and the Drug Enforcement Administration, and assisted by the United States Postal Inspection Service.

The investigation, code-named "Operation Drug Wheels" is the largest investigation of its kind in the nation to date. It revealed that employees of the automobile dealerships, with the assistance of the insurance company employees, were aiding nacotics dealers by knowingly accepting drug profits in cash for the purchase of automobiles and concealing the identity of the purchasers and the cash.

The applicable statutes are discussed in Addendum C.

Four of the criminal complaints filed yesterday charge a conspiracy to commit a money laundering offense, the money laundering offense itself, a conspiracy to violate the cash reporting requirements, and an actual violation of those requirements. The complaints each allege that in the past convicted narcotics dealers purchased cars for cash from the defendants and with their assistance disguised the true ownership of the vehicles—the automobile dealers knowing full well that the purchasers were drug dealers. The complaints each further allege that these automobile dealers, some with the collaboration of the named insurance agencies, recently sold or attempted to sell a fleet of new cars for cash to federal undercover agents posing as narcotics dealers. In each instance, as the complaint alleges, the undercover agents spoke openly of their drug trafficking and the sources of their cash. Allegations are made that the dealers and insurance agents assisted in concealing the true ownership of the automobiles in order to protect the identity of their customers, the purported drug dealers. Each of the four criminal complaints also alleges that a search of the records maintained by the Department of the Treasury revealed that the necessary cash receipt forms were almost never filed.

The fifth complaint charges an automobile insurance agency, DCAP, and two individuals with committing mail fraud by concealing the true ownership of many of the automobiles purchased and ordered in the undercover operation.

Gidron Ford (Mt. Kisco) and Richard D. Gidron, Jr., along with Anthony Lopez and the Allstate Insurance Company agency on Bainbridge Avenue, Bronx are alleged to have received cash in payment for six new cars, from federal undercover agents who openly admitted that the cash was the proceeds of large-scale narcotics trafficking. The defendants, it is alleged, also helped to conceal the true ownership of the automobiles in an attempt to hide the assets of the purported drug dealers by preparing purchase agreements in the names of "Ray Charles", "Arsenio Hall", and "Eddie Murphy". The complaint goes on to allege that a convicted narcotics dealer purchased two Mercedes Benz automobiles from Lopez and the Dick Gidron Cadillac dealership in the past. Lopez, describing those past transactions, the allegations continue, remarked, "[the] way we did it—everything we did—was totally illegal. . . ." According to the criminal complaint, Department of Treasury records show that over the past five years Dick Gidron Cadillac, Inc. and Gidron Ford, Inc., have deposited millions of dollars in cash, but have filed only one Form 8300.

The Mercedes Benz Manhattan, Inc. dealership, Lawrence Nash, a salesman, and Charles Luciano, the general sales manager, are charged with similar money lanudering and cash reporting violations. In a criminal complaint, it is alleged that the federal undercover agents purchased or arranged to purchase five Mercedes Benz automobiles for cash at one time. One undercover agent asked Nash, "What's the most . . . cars a doper ever bought from you?" and Nash responded that the undercover's purchase was the largest deal. Luciano assured the purported drug dealers that their purchases and ownership of the cars would be disguised and not revealed to any investigative authorities. The complaint alleges that known drug dealers purchased cars for cash in the past and that the dealership over the past five years has failed to file the necessary cash receipt forms.

11th Avenue Motors, Inc. d/b/a "Manhattan Mazda" and "City Mazda", Manhattan Nissan, Inc., Thomas Dunn, Richard Morris, Thomas Muridian, Carlos Franco, and Carlos Zepeda, are charged with money laundering violations and cash receipt reporting offenses involving six Mazda automobiles and six Nissans. A complaint alleges that a convicted narcotics dealer reported that other narcotics traffickers purchased 4-wheel drive Nissan automobiles from "City Mazda" for cash. The cash, although paid in a single installment, was separated by the Mazda dealership's salesman into installments under the $10,000 reporting requirement and the cash receipts were made out in the names of a professional basketball star and a fashion designer, among others. The complaint further alleges that a search of the IRS Data Bank showed that neither 11th Avenue Motors, Inc. nor Manhattan Nissan, Inc. has ever filed any of the necessary cash receipt reporting forms. During the course of the undercover operation, as the complaint alleges, although the undercover agents spoke of importing "loads" of narcotics, arrests of crew members, and seizures by U.S. Customs, Dunn, Morris, Muridian, Franco, and Zepeda all assured the undercovers that cash was no problem. The complaint alleges that the purchase orders for the Nissans and the Mazdas were written in the names of "Mary Brown" and "Jim Jones" to hide the identity of the undercover agents posing as drug dealers.

Bronx Auto Mall, d/b/a "Bronx Acura", Michael D. Miele, Glen Peterson and Brad Schwartz are charged in one complaint with money laundering and cash reporting offenses relating to the sale of seven Acura Legend automobiles. Harvey Grossman, Rebecca Morales, and DCAP Insurance Co. (East Tremont Agency) are charged in a separate criminal complaint with mail fraud in aid of the concealment of undercover agents' purchases of Acuras and other new cars. The Acura complaint alleges that a convicted member of a crack distribution network reported that other crew members of the network purchased Acuras at "Bronx Acura" under false names with the assistance of the salesman and that when the cars were not picked up as scheduled, the salesman called to ask if the buyers were in jail. In the course of the undercover operation, Peterson assured the undercover agents that the purchases would not be identified with them and referred to other satisfied customers who were also in the drug business. It is further alleged in the complaint that when the undercover agent mentioned that he had sold "a load [of narcotics]" during the weekend and had a supply of cash, Schwartz asked the undercover agent for a sample of the drugs. During the course of the undercover negotiations for the purchase of the Acura automobiles, Schwartz telephoned Grossman at the DCAP Insurance Agency and told Grossman that it would be "worth a lot of money to these people to be able to register these cars without anybody being involved." The affidavit in support of the mail fraud complaint alleges that when the undercover agents arrived at DCAP Insurance, Grossman had six drivers' licenses arrayed on his desk to use in disguising the true ownership of the new cars. During their later discussions, as alleged in the complaint, Grossman noted that through a contact at the Department of Motor Vehicles he could sell "fake" drivers' licenses to the undercover agents to permit them to conceal the ownership of their other new car purchases as well. The complaint further alleges that when the undercover agents returned to DCAP Insurance, Morales counted out the money they provided for the purchase of ten sets of fake documents.

Fifteen individual defendants were presented on the criminal complaint yesterday and this morning and have been released on bail.

Mr. Obermaier praised the work of the Criminal Investigation Division of the Internal Revenue Service which supplied the lead undercover investigator and the Drug Enforcement Administration which provided additional undercover agents and assisted in the course of the investigation. He also expressed his appreciation for the work of the United States Postal Inspection Service and the Intelligence Division of the New York City Police Department.

Assistant United States Attorneys Paul G. Gardephe, Deborah Landis, and Adria de-Landri are in charge of the prosecution and forfeitures in these cases.

ADDENDUM A.—VEHICLES SEIZED FOR FORFEITURE

Make	Year/model	Color	Purchase price
Dick Gidron Ford, Inc.			
Ford	1990 Thunderbird	White	$25,157.40
Ford	1990 Mustang	Black	18,664.88
Cadillac	1990 Sed. DeVille	Gray	32,033.75
Ford	1990 Explorer	Black	24,077.38
Ford	1990 Probe LX	Gray	21,750.00
Ford	1990 Thunderbird	Blue	21,966.50
Subtotal			143,649.21
Mercedes Benz Manhattan, Inc.			
Mercedes Benz	1991 190E	White	33,001.50
Mercedes Benz	1991 190E	Red	33,001.52
Mercedes Benz	1991 190E	Blue	33,651.00
Mercedes Benz	1991 190E	White	33,001.50
Mercedes Benz	1991 300SEL	White	58,000.00
Mercedes Benz	1991 190E	Dark blue	33,000.00
Subtotal			223,655.52
11th Avenue Motors, d/b/a Manhattan Mazda, and City Mazda			
Mazda	1990 929	Burgundy	27,344.98
Mazda	1990 929	Burgundy	27,344.98
Mazda	1990 MX6	White	18,249.81
Mazda	1990 RX7	Blue	22,877.50
Nissan	1990 300ZX	Burgundy	32,944.75
Mazda	1991 Navajo	White	21,952.78
Mazda	1990 626 LXB	Black	17,430.00
Subtotal			168,144.80
Manhattan Nissan, Inc.			
Nissan	1990 300ZX	Black	31,537.50
Nissan	1990 Maxima SE	White	22,872.09
Nissan	1990 Maxima SE	Burgundy	22,872.09
Nissan	1990 300ZX	White	32,620.00
Nissan	1990 Pathfinder	Charcoal	24,988.38
Total			134,890.06
Bronx Auto Mall, Inc., d/b/a Bronx Acura			
Acura	1990 Legend	Gold	28,282.84
Acura	1990 Legend	Ivory	28,282.84
Acura	1990 Legend	Dark gray	28,282.84
Acura	1990 Legend	Red	28,282.84
Acura	1990 Legend	Gold	28,282.84
Acura	1990 Legend	Blue	28,282.84
Acura	1990 Legend	Black	34,109.34
Subtotal			207,053.87
Total			877,394.16

ADDENDUM B.—INDIVIDUAL DEFENDANTS

1. Richard D. Gidron, Jr., Fordham Hill Oval, Bronx, N.Y.; Larry Bikan, 125 Bryant Pond Rd., Putman Valley, N.Y.; Anthony Lopez, 332 Bear Ridge Road, Hartsdale, N.Y.

2. Larry Nash, 39 Roberts Road, New City, N.Y.; Charles Luciano, 40 Devon Road, Essex Falls, N.J.

3. Thomas Dunn, 86-27 Forest Pkwy, Woodhaven, N.Y.; Richard Morris, 45 Wagner Place, Irvington, N.J.; Thomas Muridian, 9 Rosemont Drive, New City, N.Y.; Carlos Franco, Carlos Zepeda, 156-30 80th Street, Howard Beach, N.Y.

4. Michael Mible, 151-28 80th Street, Howard Beach, N.Y.; Glenn Peterson, 1245 Bradford Ave., Bronx, N.Y.; Brad Schwartz, 215 Middle Neck Road, Great Neck, N.Y.

5. Harvey Grossman, 5 East 87th Street, N.Y., N.Y.; Rebecca Morales, 140-23 Asch Loop, Bronx, N.Y.

ADDENDUM C.—STATUTES INVOLVED

The Federal money laundering laws make it unlawful for anyone, "to conduct or attempt to conduct a financial transaction involving property represented by a law enforcement officer to be the proceeds of specified unlawful activity [*e.g.,* narcotics trafficking] . . . with the intent (A) to promote the carrying on of specified unlawful activity; (B) to conceal or disguise the nature, location, source, ownership, or control of property believed to be the proceeds of specified unlawful activity; or (C) to avoid a transaction reporting requirement . . ." Violators may be fined $500,000 or imprisoned for not more than 20 years, or both. 18 U.S.C. § 1956(a)(3).

The Federal transaction reporting laws and regulations require that those engaged in a trade or business who receive more than $10,000 in cash in any one transaction must file a Form 8300 with the Internal Revenue Service, reporting the amount of cash received, identifying the customer from whom it was received, and specifying the date and nature of the subject transaction. Each violation carries a possible five years in prison and $25,000 fine for individuals and a $100,000 fine for corporations. 26 U.S.C. § 60501, 7203.

BIPARTISAN APPROACH NEEDED IN BUDGET CONSIDERATIONS

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, there is no one who more desperately wants to ensure that the necessary services of the Federal Government continue to proceed than our great President, George Bush. It is very clear to me that the debate that we had on the continuing resolution unfortunately exacerbated the partisanship. I remember the statements made by my good friend, the gentleman from California [Mr. MILLER] during that debate, which I truly believe played a role in encouraging this "us versus them" mentality. That is a very unfortunate thing.

President Bush, as he tried to put together this package that had been agreed upon by our joint leaderships, wanted to see us put partisanship aside, but unfortunately there are still many on the other side of the aisle, Mr. Speaker, who are attempting to encourage it. I hope very much, as we work through this evening and tomorrow, as we move ahead with our attempts to put together a continuing resolution and budget package which can be accepted by a majority of this House, that we keep our heads cool and avoid the kind of partisanship we have witnessed here today.

FINAL DECISION ON BUDGET SHOULD BE FORTHCOMING THIS WEEKEND

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKS. Mr. Speaker, I have the privilege of representing thousands of Federal Government employees in the Takoma-Kitsap County area in the great State of Washington, and I want them to know tonight that I am hopeful that this Congress, if we can pull together, can get a budget resolution adopted over this weekend and then enact a continuing resolution in order to keep the Government functioning.

I am just concerned that we are having these objections so that the House cannot go out of session for a couple of hours and then recess and come back and look at this budget package and make a final decision. I would hope that tempers would cool and we would allow our negotiators an opportunity to give us an agreement so the Government can operate next week.

NO REASON TO PUT OFF DEBATE ON CONTINUING RESOLUTION

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, if the majority wants to continue to work on this floor, then why do we not bring out the CR that they are working on? Let them bring it to the floor, and let us get with it. Let us do that CR. If they want to continue the Government, why do they not bring the CR out on the floor? Let them bring up the CR if it is already written.

They know what they want. They can bring it to the floor and let us vote on it. Bring the CR to the floor and let the House work. Why do they want a recess?

Mr. Speaker, let us bring the CR to the floor and let us vote on it.

ADOPTION OF A BUDGET TONIGHT POSSIBLE

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, the gentleman from Texas [Mr. DELAY] has just made a valid point. There is no reason why any facilities of the U.S. Government have to be closed down tomorrow, and there is no reason why we cannot continue to do our work. All we have to do is bring the continuing resolution to the floor and we can pass it in a matter of moments.

The President has indicated he would sign a continuing resolution that does not fund the budget above the level that was already agreed to by the budget summiteers. All we have to do is put that level of funding in the CR. It is something that virtually all of us, I think, agree to. We could adopt it tonight. In that way the Government can continue uninhibited. We can continue to do our work, and no one suffers.

It seems to me, Mr. Speaker, eminently reasonable that we could adopt the CR, as amended, this evening.

☐ 1820

PRESIDENT WILL SIGN PROPER CONTINUING RESOLUTION

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, it is apparent that the business of the House is finished for the day. That does not need to be the case. We have heard a number of speeches today referencing the folks who are visiting the Capitol because there are no other monuments or no other museums open in the town.

The fact is that the President has indicated that he can sign a continuing resolution that will have a provision in it that will allow the sequester to kick in at the same rate as was agreed to by the bipartisan congressional leadership in the budget that was on the floor the other night.

There is no reason not to go ahead with that. We have the availability of time here this evening. Why not bring that to the floor, take it up, and allow the Government to go back to functioning tomorrow morning? We took up this measure late last night. We can take it up late tonight, get the President's objections taken care of, and move forward from there, and assure that the budget process is being negotiated, not under the guise of a CR not having been passed, but with the standard procedures, where something can get done rationally.

BUDGET DEBATE IS ABOUT PRINCIPLES

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, sometimes the democratic process is not a very pretty process. In fact, seldom does it look as unattractive as it has been looking the past several days. But in many ways its weakness is also its strength, because this is not frivolous, this debate. The debate we are involved in in these past days is about principles, how we tax, how we spend, how we reduce the Federal deficit, who pays, and how much.

Some years ago I read in the local newspaper a couple of politicians being quoted. They said, "This argument has been reduced to a debate about principle." I kind of smiled, and I thought, I hope so. That is why we are here.

We have deep divisions in this Chamber about who ought to pay and how much and where the budget cuts should come from.

In the Cloakroom minutes ago I heard the President say the Congress is responsible. Well, 9 months ago this tortured trail began. The President sent a budget down here. In fact, it was such a worthless budget, it was not even offered. It was not offered.

CONTINUING RESOLUTION WOULD ALLOW TIMELY CONSIDERATION OF BUDGET

(Mr. GINGRICH asked and was given permission to address the House for 1 minute.)

Mr. GINGRICH. Mr. Speaker, the gentleman from North Dakota [Mr. DORGAN] was making a very valid point, that this debate is not just child's play, this struggle is not minor.

This is real. This is what democracies are all about.

I just wanted to make two points which I said earlier in the colloquy. First, we clearly could pass a continuing resolution tonight and have it signed. The President has indicated he would sign one. So anyone who is worried about why Government workers are not going to work in the morning, the Democratic leadership can bring a continuing resolution in at any time tonight and pass it.

Second, it is vital that the budget resolution come slowly enough that we be able to have the country look at it. Not just Congress. It is vital that we slow down and take our time on an issue which is being made precisely for the reason the gentleman from North Dakota indicated. These are major issues of major importance.

REPUBLICANS WANT REDUCED SERVICES, BUT NO REVENUE INCREASES

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, it is rather interesting now we are given the choice where we are told we can bring a CR to the floor that would allow for $40 billion in revenue reduction within that resolution, recognizing that even the summit agreement had some revenues into it.

So again we are presented with the position by the Republican Party that all of the deficit reduction will fall on cuts in programs for the poor, will fall on cuts in programs for services to the middle class, but will not require any revenues nor any increases to be paid by anybody else who can afford it in this country. The $40 billion in deficit reduction that the summiteers agreed to included revenues.

The point is this. That is what this struggle is about, Mr. Speaker. It is about the question of how the resources in this country are used and who pays for that. It is fundamental. It is fundamental, and it is coming at a time when the direction of this country has changed. We added 1 trillion new dollars to the deficit in the 1980s. We had junk bonds, savings and loan scandals, and military scandals from one end of this country to the other.

The question now is, are the 1990's going to be different, is the middle class going to get a break, are the poor and the elderly going to get the services they are entitled to, and are the wealthy going to contribute something.

DECENCY AND EQUITY NEEDED

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

The SPEAKER pro tempore (Mr. Mfume). Without objection, the gentleman from New York is recognized for 1 minute.

There was no objection.

Mr. SCHEUER. Mr. Speaker, I believe that the next 28 or 48 hours, surely by Tuesday morning when the American people go back to work, we are going to come up with the answer to this problem. The pieces in the jigsaw puzzle that have to be put together are perfectly clear, and they have been discussed ad infinitum here in the last day or two.

I think there is a thirst out there among the American people for decency, for equity, for burden sharing. That makes sense.

At this point in history we have the all-time 50-year low rate for taxation, both for individuals and for corporations. The package that we just looked at, according to the Wall Street Journal a couple of days ago, would have taxed the people in our country making less than $10,000 a year at a 7-percent increase. But the people making over $200,000 a year would get a 1.7-percent increase.

Mr. Speaker, that is not equity, that is not decency. We can do better than that.

PASS BUDGET AND PUT COUNTRY BACK ON TRACK

(Mr. OBEY asked and was given permission to address the House for 1 minute.)

The SPEAKER pro tempore. Without objection, the gentleman from Wisconsin is recognized for 1 minute.

Mr. OBEY. Mr. Speaker, I yield to the gentleman from North Dakota [Mr. Dorgan].

Mr. DORGAN of North Dakota. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, let me finish the point I was making earlier. When the President said the Congress was at fault, of course, the Congress had some responsibility. There is no question about that. The process has not worked for us. The President sent a budget here 9 months ago, and it was not even considered, because it was worthless. It was not even offered.

But we have failed as well. All of us have failed. We should never again have another budget summit. It finally brought to us a product that no one here would support, that we could not provide a majority to pass. We should not do that again. We have to reform our processes in this House.

The gentleman from Minnesota said let us not work past 9 o'clock. But the Government is stopped. Let us work until we finish our business in this House and in this Congress. Pass a budget and get this country back on track. The sooner we do it, the better.

PRESIDENT IS SHUTTING DOWN GOVERNMENT, NOT CONGRESS

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

The SPEAKER pro tempore. Without objection, the gentleman from New York is recognized for 1 minute.

There was no objection.

Mr. WEISS. Mr. Speaker, the President by his action in vetoing the resolution to continue appropriations for 1 week has in fact shut down the Government of the United States. It is now his position that he can pick and choose as to which function of Government he will allow to continue to operate. Some have already stopped operating.

Some of our friends on the other side of the aisle tell us that oh, the President will sign a continuing resolution. All we have to do is give him what he wants.

Do you know what he wants? He wants Gramm-Rudman sequesters to be allowed to go into effect. He wants $40 billion to be cut by having sequestration go into effect.

Mr. Speaker, sequestration is a modified version of shutting down the Government. So on the right hand he wants to shut down Government, and on the left hand he wants to shut down the Government. And no matter what he says, you cannot shift that burden onto the Congress of the United States. It is the President who is shutting down the Government and hurting millions of people in the process.

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VACATING SPECIAL ORDERS

Mr. GOSS. Mr. Speaker, I ask unanimous consent that any special orders for 60 minutes previously entered into for the gentleman from California [Mr. Dornan] be vacated.

The SPEAKER pro tempore (Mr. Mfume). Is there objection to the request of the gentleman from Florida?

There was no objection.

THE BUDGET PACKAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. Owens] is recognized for 5 minutes.

Mr. OWENS of New York. Mr. Speaker, I have heard a number of statements that all of us have failed, Democrats and Republicans, the House of Representatives, and the Senate. I think the House of Representatives has not failed. We voted on a budget more than 2 months ago. We

passed a budget resolution. It was up to the other body to pass a budget resolution and negotiation should have taken place between the two bodies and all of this could have taken place without a summit. So I do not think we have failed, all of us have failed. I think some of us in the Congress have failed, but certainly the House of Representatives did not fail in passing a budget.

I think that we had our finest hour 2 nights ago when we voted down a budget package which was ridiculous, a budget package which sought to continue the very worst features of the Reagan administration, a budget package which had in it a $74.2 billion item for the savings and loan associations. They were so afraid of that item until it was not included in the document that was originally circulated to the Members of the House. The $74.2 billion that was placed in the budget for the savings and loan association bailout was given to us in a document called "Major Technical Revisions."

Technical revisions traditionally in this House have been revisions made by the staff. They dot some "i's," they cross some "t's," they make some corrections, and it is left up to staff, things that are so unimportant that staff can do them instead of elected representatives. This is the first time in history ever that a $74.2 billion item has been labeled a major technical revision and placed in the budget as if there should be no debate about it.

It is the costliest technical revision in the history of the country. It is the most immoral act in that budget agreement which has a lot of immoral acts.

The immorality of it arises from the fact that the savings and loan bailout is an effort to pay back money to meet the obligations that we have to the depositors, and we should meet those obligations, but we as taxpayers are being forced to meet the obligations to pay back money that has been stolen by S&L crooks who sat on the boards of directors, who were CEO's, chief executive officers, were lenders who loaned at exorbitant rates to each other, all kinds of crooked deals with land, jacking up the price of land, and selling buildings to each other for more than they cost, all kinds of conflicts of interest. That is how we got the savings and loan scandal, the savings and loan swindle. To have no discussion of the progress in terms of the bailout and what we are doing about these crooks, and at the same time put in $74.2 billion in the budget is immoral.

There is a need for a long discussion of exactly where we are now with the S&L bailout, and what is this $74.2 billion going to go for. What happened to the first $50 billion that we put in, part of it on budget, part of it off budget? What is going on with the prosecution of the people who did the stealing?

The Federal Government, under Attorney General Thornburgh, appears to be paralyzed. They cannot prosecute anybody.

The worst offender in the country, Charles Keating, has been prosecuted by the Los Angeles district attorney. Thank God for the Los Angeles district attorney. They took steps to prosecute one of the worst offenders. They put him in jail. They have looked at him and said look, it is not so subtle what you have done, and we are not going to sue you in civil court. You sold junk bonds, you sold worthless bonds in the lobbies in your banks to senior citizens and to widows, and you sold them to 21,000 people, and they were worthless, and then you took more than $21 million of these people's money and you are a crook. We are going to prosecute you as a criminal, $5 million bail, and he is being treated like the crook he is.

Thornburgh, and the rest of his office, the Attorney General's office and the FBI, they seem to be lost in a maze. They cannot come right out and deal with crooks as crooks. They are suing Keating. Keating and other crooks are being sued. It is like having slick Willy Sutton who used to rob banks. For all of his lifetime he never got over $1 million. Put all of the money that Willy Sutton stole while robbing banks, and it was not $1 million. It is like saying we should have sued him instead of putting him in jail as a crook.

Keating has given us a bill of $2 billion. And there are plenty of other S&L's that have been closed down with multibillions of dollars in bills handed to the taxpayers.

The General Accounting Office has estimated that it will be $500 billion at least. Stanford University has a study that says it is going to be at least a trillion dollars that the American people are going to be paying back over the next 20 years. And yet the President and the budget summiteers chose to deal with this in an offhanded way. They just put it in the budget as a technical revision, another $74.2 billion.

It is the most immoral act of an agreement that is full of immoral acts.

PHILOSOPHICAL DIFFERENCES ON THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa [Mr. Leach] is recognized for 5 minutes.

Mr. LEACH of Iowa. Mr. Speaker, in this constitutional crisis, we have embarked today on a debate that goes to the root of philosophy as well as procedures. My own sense is that the White House may have erred a bit by standing by the views of legislators who would not stand by the President.

There is, after all, a great center in this body, and more importantly in the country, that supports the general framework of the President's approach, but would like to shift the internal balance of the budget brought forth this past week.

My sense also is that the majority party in Congress has little to be proud of. After all, no spending bills have been passed for the fiscal year that has already begun. Democratic members of the summit were conspicuous in their desire to postpone decisionmaking and present limited alternatives until the President announced a September 28 deadline.

More importantly, while there is a great question of fairness in details of the deficit reduction package that was presented to the House, there is a greater question of fairness in not having a package at all.

It is not fair, for instance, to Federal employees that this Congress cannot do its job on a timely basis.

□ 1840

It is not fair to the young of America to add an additional $300 billion to the national debt.

It is not fair to those who will be thrown out of work by the inability of Government to govern.

It is not fair to the elderly who will have to pay more for the same amount of food and medicine because of a refusal of this Congress to rein in deficits.

It is not fair to taxpayers who will have to pay more for nothing, that is, interest on the national debt.

If one assumes that the fairest budget of all is a balanced one, this Congress has failed the most important test of fairness.

It is not enough for the majority party to have the conviction to criticize. It must also have the courage to embrace pain. Just as we cannot fix a broken tooth with a cherry sucker, we cannot reduce the deficit without raising taxes or reducing spending.

Given the excesses of the past several decades, there is no way to avoid a tax increase or benefits revolt, no way for Members of Congress to hide from the telephone.

The lesson of the S&L debacle, the greatest one of all, is that the longer problems of insolvency are put off, the more expensive they will be later to rectify. The day of reckoning cannot be postponed forever. With regard to the gargantuan deficits, it is clear it has finally arrived.

It is now up to the majority party to lead. By turning back the President's initiative, the mantle of responsibility falls squarely on the shoulders of the Democratic Party.

It is this Member's view that the minority should listen. It should wait. It should be willing to work constructively on the detail, but based upon the record, it is not a time to have a great deal of confidence.

WHY THE AMERICAN PEOPLE ASKED FOR REJECTION OF THE BUDGET SUMMIT

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California [Mr. MILLER] is recognized for 5 minutes.

Mr. MILLER of California. Mr. Speaker, Members of the House, today during the discussions on the continuing resolution and the closedown of our Government and the prospect for us to reach an agreement, many people suggested that this was a frivolous debate, that this debate should be ended, that we should get on about our work.

I suggest to the people of this House and to the people of this Nation that this is a most important debate. This is a debate of how we will spend our money over the next decade. This is a debate about how we shall share the burdens of American life and how we shall reward those who share the benefits. This is a debate about how other nations shall share with us the burdens that we carry throughout the world, the nations that we protect, the sealanes that we keep open. Should those just be burdens of the American taxpayer, or should those burdens be shared by the nations that benefit?

We pay $29 a barrel for oil from the Middle East, and oil from the Middle East to the United States costs the American taxpayer $29 before we buy it. Why does it cost you $29? Because that is the defense cost before Iraq, last year and the year before, that we spent to keep the sealanes in the Middle East open.

The beneficiaries were not just Americans. They were not just people who drive in California or heat their homes in New England or till their farms in the Midwest. They were the Europeans. They were the Latin-Americans. They were the Asian countries. They contributed nothing to that.

That is what this debate is about tonight, tomorrow, and the next day, and it was about this last week. It is about the fact that in this last decade we added a trillion new dollars of debt.

We were told at the outset of the 1980's, much in debate like this, that we could lower taxes, increase defense spending, and have a smaller debt. They lied. They lied to the American people. Because in fact what we saw was, yes, we had lower taxes. What we saw was the people in the top 1 percent, the top 1 percent of earners in this country had their taxes reduced 23 percent. They had their incomes increased 90 percent. And yet we saw no relief for middle-income workers. They, in fact, saw their taxes go up. We saw very little, or no relief for poor workers, people who get up every day and go to work but at the end of the year they are poor. Their taxes were relieved a tiny, tiny bit, or maybe not at all when you figure in Social Security.

But what did you see? Those people who earned on an average of $550,000 got the biggest tax cut in this Nation. This debate tonight is about what will those people pay in the 1990's.

The question is: Should those who enjoyed the party, in fact, pay for the party, or should those who were not invited to the Reagan party, to the trickle-down economics, to the voodoo economics that George Bush described, should they have to pay?

When the summiteers went to the summit, they went for one reason, because they did not want to have the debate that we are now having in public. They went to Andrews Air Force Base.

If the American public knew what the President and John Sununu and Mr. Darman were offering at Andrews Air Force Base, they would need Andrews Air Force Base to protect them. They offered not $60 billion in cuts in Medicare that this House on a bipartisan basis rejected. They offered $90 billion in cuts in Medicare. That was their opening bid. And they struggled back and forth, struggled as they might between Democrats and Republicans.

And what was one of the things they threw on the table at the very last minute? They decided that they would take away Social Security from severely disabled children, children who are multiple handicapped in many instances, both physically and mentally handicapped, children who are blind, children who suffer from these handicaps. Our Government gives them a minimal allowance to survive. The summiteers, in the name of equity, in the name of balancing the budget, wanted to take away $1 billion from those 100,000 children so they could balance the budget.

No wonder they were at Andrews. No wonder they were there in secret. No wonder they do not want this debate on the floor of the Congress where the American public can see it.

Because the last time the President told the American public to pay attention to the budget, they called our offices overwhelmingly and asked us to reject it, reject it because of its cruelty, because of its meanness.

THE MORE WE TALK, THE LESS WE DO

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York [Mr. HOUGHTON] is recognized for 5 minutes.

Mr. HOUGHTON. Mr. Speaker, I am not going to take 5 minutes. I am probably going to take 1 or 2 minutes.

I know this is a house of debate. I know also it is a house of the people. And the people, frankly, have had it up to here with our oratory

Forget about philosophy, forget about different opinions, forget about the dramatics, we all have a different approach to the budget. We all could point our finger accusingly at someone and make a very effective point, and so with no disrespect to my associates, I am sick and tired of all this discussion in words and talk. The more we talk, the less we do.

You do a job in the amount of time you allow yourself to do it. Let us get to work and do it and dim the lights of this House and go about the process.

NO NEW GASOLINE TAX

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. HAMMERSCHMIDT] is recognized for 10 minutes

Mr. HAMMERSCHMIDT. Mr. Speaker, we are all committed to reducing the Federal deficit, but increasing gasoline and diesel fuel taxes to reduce the deficit, as contemplated in the budget summit agreement, is decidedly the wrong way to do it. It would be an extremely regressive tax and would be injurious to our Federal-aid highway program and the national economy.

Many Americans are concerned, and none more so than the fine transportation organizations that make up the American Transportation Advisory Council [ATAC]. They know better than most the value of maintaining a strong highway system and the importance of preserving the integrity of our highly successful and deficit-proof highway trust fund.

I would like to share with my colleagues the following letter that I received from ATAC, which states very forcefully and eloquently the importance of not using any gas tax increase for deficit reduction.

Hopefully we can make sure that all gasoline tax revenues collected will go into the highway trust fund as we move into the reconciliation process.

AMERICAN TRANSPORTATION ADVISORY COUNCIL,
Washington, DC, October 1, 1990.

Hon. JOHN PAUL HAMMERSCHMIDT,
House of Representatives,
Washington, DC.

DEAR MR. HAMMERSCHMIDT: While the undersigned organizations support the need to reduce the federal budget deficit, we are concerned about the approach taken by the budget negotiators to reach the $500 billion five-year deficit reduction goal.

The member of the American Transportation Advisory Council (ATAC) oppose any effort to raise the federal motor fuels taxes to achieve deficit reduction. For more than 34 years, motor fuel taxes paid by highway users have financed the nation's highway improvement programs and in recent years, urban mass transit grants.

The success of the Federal-aid Highway Program is due, in large measure, to the user financing mechanism of the Highway Trust Fund. The public supports road programs because they can see the benefits gained from the payment of the federal and state motor fuel taxes. With surface transportation needs growing at an alarming rate, sufficient investment must be made if our transportation system is to provide the level of service which Americans demand and on which the national economy depends.

A gas tax increase for deficit reduction would destroy the most equitable and dependable source of transportation development funding. It would remove the link between the user-pay concept and transportation improvement work seen by business and the motoring public.

The American Transportation Advisory Council urges you to reject the portion of this deficit package which proposes a 10 cents-per-gallon increase in the motor fuels tax for deficit reduction. The integrity of the Highway Trust Fund must be maintained to meet this nation's future highway needs.

Respectfully submitted,
American Road and Transportation Builders Association.
Associated General Contractors.
Construction Industry Manufacturers Association.
National Asphalt Pavement Association.
Partnership for Improved Air Travel.
National Stone Association.
Highway Users Federation.
Associated Equipment Distributors.
Salt Institute.
Virginia Road and Transportation Builders Association.
Wilbur Smith Associates.
American Concrete Pipe Association.
American Society of Civil Engineers.
United Bus Owners of America.
National Moving and Storage Association.
International Bridge Tunnel and Turnpike Association.
The Road Information Program.
National Waterways Conference.
Better Roads and Transportation Council.
American Consulting Engineers Council.
National Society of Professional Engineers Association.
National Utility Contractors Association.
Washington Representative, Florida Department of Transportation.
American Trucking Associations.
National Redi Mixed Concrete Association.
Associated Builders and Contractors.
Portland Cement Association.
International Road Federation.
Contech Construction Products.
American Bus Association.
National Coal Association.
Parsons Brinckerhoff.
Asphalt Institute.
American Public Works Association.
National Association of Counties.
Art Cameron Associates.
American Public Transit.
Donohue Associates.
U.S. Chamber of Commerce.
National Aggregates Association.

INTRODUCTION OF THE CIVIL RIGHTS AMENDMENTS OF 1990

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. SENSENBRENNER] is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Speaker, today I am introducing the Civil Rights Amendments of 1990. The purpose of this bill is to rectify an inadequacy in our civil rights laws by increasing the criminal penalties to punish as a felony any violation of section 3631 of title 42, United States Code, in which damage exceeded $100, or fire was used or attempted to be used, or a firearm was used or carried during the commission of a violation of fair housing rights.

Consider the following examples:

A man spreads gasoline throughout a house recently rented by a black family and sets it on fire. Because no one is inside at the time, no one is injured, but the house is seriously damaged.

In an unrelated incident, a man lights gasoline to destroy a trailer in which a white woman lives with her biracial children because he saw the mother socializing with a white man. Fortunately, no one is injured, but the trailer is burned to the ground.

In each instance, the Department of Justice prosecuted the wrongdoers for violation of the rights and protections of the Fair Housing Act for interference by force or threat of force with an individual exercising of those rights, section 3631 of title 42, United States Code.

Despite the outrageous and criminal nature of these acts and the serious danger posed to the lives and safety of others, current Federal law only allowed each of the defendants to be charged with a misdemeanor, punishable by a maximum fine of $100,000 and 1 year in jail.

The proposed amendments would allow such acts to be punished as a felony rather than merely a misdemeanor.

Crossburnings are another type of conduct which should be chargeable as a felony. Even though there is often no bodily injury or significant property damage, crossburnings inflict enormous psychological damage on victims, particularly children who live in a targeted house.

The proposed amendments would not change the basic requirements that the Government prove that a perpetrator had "by force or threat of force willfully injure[d], intimidate[d] or interfere[d] with" another person because he is engaging in activity protected by the Fair Housing Act or encouraging others to do so.

The sole effect of the amendments would be to authorize the Government to charge a felony if it could establish one of the three enhancement factors. These factors would then be on a par with bodily injury and permit the imposition of a sentence that more accurately reflected the gravity of the defendant's conduct.

I urge the support of my colleagues on this matter.

A TRIBUTE TO ROBERT B. PEASE

The **SPEAKER** pro tempore (Mr. MFUME). Under a previous order of the House, the gentleman from Pennsylvania [Mr. COYNE] is recognized for 5 minutes.

Mr. COYNE. Mr. Speaker, I rise today to offer my congratulations to Mr. Robert B. Pease, who is retiring after 4½ decades of civic service to the people of Pittsburgh.

Mr. Speaker, the cities of America have witnessed dramatic changes over the past few decades. We spend much of our efforts here in Congress trying to enact legislation to deal with urban problems. Yet among the many great cities in this Nation, Pittsburgh stands as one which has remained vital. Our downtown area has experienced more than one renaissance, and our neighborhoods remain dynamic. We in Pittsburgh have accomplished these goals in large part because of the lifelong dedication of Mr. Robert B. Pease.

Robert B. Pease's dedication to public service began during World War II when he served his country as a navigator in the 15th Air Force in the European theater. After the war, he graduated from Carnegie Institute of Technology—now Carnegie Mellon University—with a degree in civil engineering. From 1949 to 1953 he learned the art of redevelopment at Carnegie Tech, making major contributions to the university's own reconstruction.

In 1953, he joined the newly formed Urban Redevelopment Authority of Pittsburgh as an engineer. At the time, the URA was engaged in the large-scale renaissance of Pittsburgh. Bob quickly rose through the URA and became its executive director in 1958. For the next decade, he spearheaded the urban renewal of America's premier "Renaissance City" and created an example of urban redevelopment that set the standard for the Nation.

Since 1968, Bob has served our city as executive director of the Allegheny Conference on Community Development, one of America's most successful examples of public-private partnerships. Under Bob's able guidance, the Alleghany Conference has provided leadership in urban renewal, neighborhood revitalization, public education, and housing.

Mr. Speaker, we often hear that America has become so complex that individuals no longer matter. Yet, Bob Pease is an individual who has mattered. He has been a major player in almost every civic undertaking that has accomplished anything of scale in our city throughout his career.

In retirement, I am sure Bob will continue to provide leadership to our community through his many board positions. Those of us who have been involved in civic affairs will continue to seek his advice.

My warmest congratulation to Bob and his entire family on his retirement. I commend him for providing us with an example of how one person's career can add substantially to the quality of life in America's cities.

AN EXPLANATION OF WHAT IS GOING ON

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. OBEY] is recognized for 5 minutes.

Mr. OBEY. Mr. Speaker, before I start, I think I should explain exactly what is going on for the uninitated.

After the House declined to override the President's veto, the leaders of both parties suggested that we recess this House until 8 o'clock so that the summiteers could try to put together a new budget resolution and bring it back to us. When the motion was made to recess until that time, it was objected to by several Republican Members of the House, or one Republican Member of the House, and so, very frankly, what is happening here now is because we were unable, under the rules, to adjourn.

Some of us have simply been asked to fill in, to give the summit time to move and to comply with the rules of the House by staying in session while they try to do that.

□ 1850

In a sense, we are time fillers. However, I think we can fill that time usefully.

What I intend to do with this time is to try to explain why I think we are at this moment with respect to the national deficit, and what we are trying to do about it.

However, I yield to the gentleman from Oregon [Mr. DeFazio].

Mr. DeFAZIO. Madam Speaker, first a word to the many Federal employees if I could. I ran into a Federal employee from my district yesterday on temporary duty in Washington, DC. She said to me that she was worried about whether or not she would be reporting to work back home in Oregon on Tuesday. She was worried about whether the air traffic controllers would be allowed to work, to allow her plane to fly, so she could go back home to Oregon, and she worried as to whether or not she would have a job under the orders of the President.

However, she understood that what we were doing here was fighting over whether or not she would have fair working conditions, whether or not she would have a decent retirement system, whether of not she and her parents could now and in the future enjoy a decent Medicare system, and whether or not we would begin again in America to ask those of the greatest means to carry a fair share of the burden.

In the early 1980's, President Reagan spawned a fairy tale that we could reduce taxes on the rich, we could spend a lot more on the military, we could deregulate the savings and loan industry and other industries, and we would all be better off for it.

Well, it is 1990. Events have burst the bubble of Reaganomics. The national debt has tripled since 1980, the savings and loan scandal boggles the mind. We do not know how much that will cost. The evil empire that caused a trillion-dollar arms buildup has disappeared. Now we need to burst the bubble that still encapsules the White House down the street.

We will not slash Medicare here in the House of Representatives to subsidize more tax breaks for the rich. We will not cut unemployment benefits to subsidize more tax breaks for the rich. We will not raise a tax on all heating oil to subsidize more tax breaks for the rich. We will not continue to spend billions on weapons that do not work, to defend against a powerful evil empire that does not exist.

No more free lunch for the wealthiest 1 percent of Americans. We will burst the bubble here on this floor of the House of Representatives as many times as it takes. We burst it 2 nights ago, and we will burst it again and again until we restore a fair rate of taxation on the rich, until we restore a fair and equitable society for all Americans so that we can enjoy the fruits of our labor, and we can enjoy the great democracy of the United States of America.

It is not about partisan policics. It is about a White House that is suspended in time, that is trying to lock in Reaganomics, the cruelty of Reaganomics for 5 more long years. We cannot have it. We must not have it. We will stand firm here in this House.

Mr. OBEY. Madam Speaker, what I would like to do is try to give my own personal view of what has happened in the economy of this country which has created this situation which we face today, and what I think we ought to do about it.

I was elected to this House on April Fool's Day of 1969, so I have been here over 21 years. I have seen this House deal with a lot of problems. I have seen times when Democrats and Republicans have stood together, and I have seen when they fought very bitterly. This is one of those times when we are fighting very bitterly.

However, I do not think it is exclusively about politics. I have watched a number of the networks analyze what happened in the House the last 2 days, and I have heard reporters saying something like this. They say, "Well, you know, you have 435 politicians in the Congress, and they are all reacting to political pressures in their districts. That is why the President's package went down." Well, I would like to suggest that, believe it or not, believe it or not, there are officials in this Chamber and in the Senate and in other legislative bodies all around the country who do take positions not just based on political considerations. They also take positions based on what they happen to believe in.

I did not come here so that I could have a day-in-day-out political debate. I ran for office because I thought there were some things this country needed done. I ran for office because, frankly, I was mad as hell about some of the things the country was doing. I thought that we needed to change a lot of things. I thought that there were important principles to stand for, as well as thinking that there were plenty of important things which were important to stand against. One of the most important things in my view that we ought to stand for is economic policy and budget policy that both strengthens the ability of this economy to grow, and also presents a square deal to every working American in this country.

To try to explain why I think the House shot down the President's package the other night, I would like to explain what I think is happening to our economy. I want to start with the end of World War II. At the end of World War II our economy stood on top of the world. It was a colossus. It was unchallenged. Nobody could lay a glove on Americans. We were almost the only economy in the world that had not been ruined by the war. So for any young worker just entering the work force at that time, he faced a golden era in American economic history because in the first 25 years after World War II, the income of the average American essentially doubled. The real income, even after we adjust for inflation. The major reason for that is because wages went up by a very significant degree, about 80 percent of all the growth in the economic wealth of this country over those 25 years came from increases in wages.

Then we were hit with the oil shocks of 1973. We were hit with the oil shocks of 1977, and in my view what happened to the economy then revealed a number of major weaknesses in the American economy. It showed, for instance, that we really were not doing a very good job of hanging on to our ability to produce traditional products such as the good old-fashioned American automobile. We produced products which Americans thought were pretty good, but all of a sudden foreign competitors were producing products which a lot of consumers thought were better. That was not just true of autos. It was true of an awful lot of other items. So America began to lose market share with respect to an awful lot of those traditional products.

At the same time, Americans also began to have a great deal of difficulty in competing with foreign countries and selling new products on the market. VCR's are one example, television is another example. So, little by little, Americans lost our share of world markets for a whole range of products. We began to see a squeeze on income growth in this country, especially for people who earned their income through wages.

Then came the inflation of the late 1970's brought on by the second energy price oil shocks, and that led to the election of President Reagan in 1980. The President brought this Congress a set of new ideas about how to deal with the economy. Essentially, he proposed budgets in the form of the Gramm-Latta budget proposal in 1981, and in the form of the Hance-Conable tax amendment in 1981 to very much change the structure of the American budget and to try to change the nature of the American economy. If we take a look at that, we see why we are here today.

□ 1900

At the time that Ronald Reagan walked into the White House in January of 1981, our deficit was $57 billion. Our defense budget was $160 billion.

President Reagan told the Congress, "If you pass my budget, if you pass my tax bill, we will increase prosperity across the board. We will have a generalized increase in prosperity."

So we took what was called by the Senate Republican floor leader at that time, Howard Baker, we took what was called a riverboat gamble. I did not. I happened to oppose both of those actions.

I did not just say no, as a good many Members of this House just said no 2 days ago. I felt that I had the responsibility if I was going to have a constructive alternative.

So we went to work with a large number of Members of this body and we put together what we called at that time a progressive alternative to the President's budget. That alternative would have borrowed less, spent less, and provided lower tax levels for middle income taxpayers than the President's package. We were defeated, but we stood for something and we did so clearly. We did not just say no. We offered an alternative.

The guts of the Reagan proposal at that time were simply to say that over a 5-year period of time we ought to double military spending, and they suggested we could afford to do that because we would cut tax rates.

Now, I was never very good at math, either in high school or in college, but I always had a tough time figuring out how you could reduce your income, increase your spending, and balance the budget at the same time.

But the President said, "Don't worry. If you follow our package, we will generate so much by way of income growth in this country that we will wind up bringing more revenue into the Treasury, not less."

So the Congress followed his judgment. The Republican Party voted virtually unanimously in this House, with one dissenting vote on the budget, very few, I think no dissenting votes on the tax package. There may have been a few. I do not quite remember after 10 years.

On the Democratic side, the vast majority of us, about 175, opposed both those packages, but there were about 60 Democrats who did not and that coalition was enough to put the President's package into law.

Donald Regan, who was the Secretary of the Treasury at that time, said after all of it was passed, "Our program is now in place." I am quoting him virtually verbatim.

Well, I think we ought to take a look at what that program did, and it was not solely responsible. I want to be very clear on this. A lot of what has happened in this economy did not just happen because of Reaganomics. A lot happened because we have fundamental problems in this economy and this society has not faced up to those problems, and unfortunately in my view we have not had the leadership coming from the executive branch of the Government which forced American society to face up to those problems. We have essentially had the good news bearers in charge, in my view. We have had two Presidents and three sets of Presidential advisers since that time who have essentially said, "Let's just deliver the good news and paper over the bad news."

So we have muddled along for 10 years, subtly getting weaker and weaker in terms of our relative strength in the world economy, until today we face a very serious situation.

If you take a look at what has happened in the budget which has contributed, in my view, to that decline, what has happened is this. If you take a look at military spending as a percentage of the budget, it has increased by about 5 cents out of every dollar that we spend on our budget from 1980 to today.

What we spend on programs for retired people has remained as a share of the Federal budget just about even. It probably has gone up about half a cent out of every dollar in the budget from 1980 to today.

What we have spent for the nonelderly poor has essentially been cut by about 20 percent. What we have spent on interest has increased by almost 60 percent, because while we were spending about 9 cents out of every dollar on interest before Ronald Reagan went into the White House, today we are spending about 14 cents on the dollar.

Then we come to the biggest chance of all outside of interest, that is what I call the domestic investment portion of the budget, and I am not talking about programs that simply give checks to people. That is in the entitlement part of the budget. What I am talking about are the investments we make in kids by way of education, investments we make in science by way of research to stay on the cutting edge, whether it be science to put our equipment in space or send it to Mars, to whether it is science to keep us on the cutting edge of technological change so that we can remain competitive in producing products all around the world. We have seen a huge reduction in all that; but whether you are talking about education, what we invest in science, what we invest in health by way of health research at the National Institutes of Health, at the National Academy of Science, all of those, if you take a look at what we invest in community infrastructure, the highways, the bridges, the sewage treatment plants, things that you need to make communities a place where you can grow and prosper and be a good place for businessmen to create jobs and workers to make decent wages, if you take a look at that portion of the budget, you will see two things. You will see, first of all, that as a percentage of the budget we have shrunk that part of the budget by about 40 percent since 1980, and you will see that in real dollar terms, if you want to look at it in another way, you will see that in real dollar terms after you adjust for inflation, we have reduced what we are putting into those investments by about 30 percent. I think that has caused a tremendous amount of problems in terms of our ability to compete.

But that budget put in place by President Reagan at that time has done some other things, because it was really a 5-year plan upon which we all embarked. That budget also resulted in our doubling the military budget over 5 years time, and because that fact was accompanied by a tax proposal which cut huge amounts out of our revenue base and gave especially large tax cuts to the wealthiest people in this society, we wind up today with a budget deficit approximately three times, almost four times the size it was when Ronald Reagan walked into the White House.

Now, to understand the difference between the Democratic Party, or at least the Democrats who voted against the budget 2 days ago and the President's summit package, to understand why we voted against it, I think you have to look at who got what in the 1980's, because that is what this fight is all about. If you take a look at what happened to income growth in the 1980's, this is what you will see. From 1980 to today, the wealthiest 1 percent of American society increased its income on average from about $313,000 in 1980 to $556,000 today. That is a huge increase.

If you take a look, however, at the worker precisely in the middle of the income stream in this country, the mean level exactly in the middle, half of all American workers on top and half of all American workers below it, you will see that worker right exactly in the middle has lost in purchasing power on his income since 1980 about $2,000.

Now, that has been papered over because as the squeeze on middle Americans continued, American families in the main responded by simply sending more women into the workplace. A lot of women went into the workplace outside of the home because they wanted to.

□ 1910

But a lot of them left home and went into the workplace because they had to, to try to make up for the lost purchasing power of their husbands' incomes.

On average, on average the new second workers in the workplace over the last 10 years brought about $3,400 in additional income into every American family. That is on average.

High-income workers brought in a lot more and low-income workers, unfortunately, brought in a lot less.

So the income from that second earner in the economy managed to help keep the middle American family just floating with their head above water, not much gain at all over the 10 years, just staying even.

But about 30 percent of the additional income brought into families by those new working women, about 30 percent of that income was eaten up by transportation costs, child care costs, uniform costs, you name it.

And so the result is, that for American families in that broad middle, they have stayed just about where they were in the 1980's, while the high rollers in this society have been on the gravy train, if I can mix a metaphor.

But take a look at the tax side, at the same time. We have heard an awful lot about the Reagan tax cuts in 1980. But when you combine Social Security taxes with other taxes that taxpayers paid, you see that for virtually all taxpayers under $60,000 they have not had a real tax cut in the 1980's; they have had a tax increase. And the only families who have really cleaned up are families at the very, very top of the income scale, because the wealthiest 1 percent of American families in the 1980's have had, on average, a tax cut of $12,000 while virtually everybody below $50,000 or $60,000 a year has really had a tax increase. And that fact is, at the core of the concern for Democrats like yours truly, who voted against the President's summit package several days ago.

If you take a look at the income growth in the 1980's, for instance, you will see that the total income growth for American families in the richest 1 percent of the population was larger than the total combined income growth for 90 percent of all American families.

That is how astronomically the income of the richest 1 percent of Americans has grown. That is why we are insisting that in any budget deal we finally get a break for the middle class, for the middle-income worker. And that is what we had hoped we would get.

Now, you also need to understand one other fact about taxation. At the present time the Tax Code has, what is politely called, an anomaly and what I would call a rip-off. The Tax Code works pretty much like this: On all income up to about $42,000 you pay at a 15-percent rate. But then on income between $42,000 and $75,000 you pay at a 28-percent rate. Because of a new gimmick in the Tax Code, income between $75,000 and $175,000 is taxed effectively at the marginal rate of 33 percent. But then, once you get above $175,000 in income, that tax rate drops again. It drops 5 percent down to 28 percent.

What that means is: If you are making $200,000 a year, the marginal tax rate on your income is 5 percent lower than it is on somebody who makes $75,000 a year.

As my uncle used to say, "That just ain't fair." And it is not fair.

So what the Democratic Party has fundamentally believed is, that if we are going to have any budget deficit reduction package which includes taxes—and the President has now concluded that that is necessary, and so has the leadership of both political parties—what we say is that if any budget deal includes taxes, the very first place you ought to go to get the bucks is to that bubble, what is called the bubble, the drop in income tax levels for people making more than $175,000 a year.

Yet, when we looked at the summit agreement, we saw that is not what took place at all. We saw a summit agreement that wanted to cut Medicare by $60 billion, we saw changes in taxes which wound up in the end providing a double hit on someone making $16,000 to $25,000 a year. They wound up effectively losing twice as much of their income on a percentage basis as the wealthiest 1 percent of American families. And so that is what we objected to. We felt, for instance, that it was terribly unfair to say to a GI in Saudi Arabia now on the front lines who perhaps might have to lay down his life for his country in America's national interest, we found it quaint, to say the least, that the package the President was recommending would, in fact, impose a higher tax increase on that GI than it would somebody making a million bucks a year in this country. We thought that was backward. That is why we offered, Congressman Dorgan and I, tried to offer during the budget summit fight 2 days ago, we tried to get the right to offer a package that would make a number of changes. The first thing we wanted to do was to cut military spending by an extra $35 billion above the cuts provided in the summit agreement. You know, the summit agreement is an interesting document. When it sets the defense number, it exempts from the defense budget limit whatever amount is going to be spent on our war efforts in Saudi Arabia.

Now, I have been here 21 years: that is a long time. I never thought I would see the day when the defense budget is dedicated to all those expenses except the possibility of fighting a war. The logic of that escapes me.

I thought the whole purpose of the defense budget was to prepare us for war, and I think that makes about as much sense as saying, "OK, we are going to set a ceiling on Medicare, but we are not going to count what it costs to deliver health care to sick, old people."

I think it would make just about as much sense.

So we wanted to cut defense spending by about $35 billion. We wanted to move about $30 billion of that money into Medicare. We wanted to also eliminate the 2-weeks' waiting period for the unemployed to collect unemployment insurance because, as the summit agreement says, it said to those who lose their jobs, "Sorry, folks, we are going to make you wait 2 weeks before you can collect your first unemployment check."

We did not think that was fair. We also wanted to reduce the hit on veterans health programs by $1 billion, and we wanted to provide some adjustment in the agriculture number to ease the squeeze on farmers.

On the tax side, what we wanted to do was to eliminate that notoriously unjust bubble so we could get the very wealthiest people in this society to pay tax rates at least as high as people in lower groups. By eliminating that bubble, we would have raised $45 billion in revenue.

Then we wanted to say for all those making more than $200,000 a year, we would raise that marginal tax rate to 35 percent. So it would be an additional 2 percent above what somebody is paying if they make $75,000. That is hardly Karl Marx revisited. That is hardly confiscatory taxation. It simply is suggesting that we ought to have a tax code based on the ability to pay, not on your political ability to avoid taxation. That is what we asked for, and that is what we were fighting for.

□ 1920

Mr. Speaker, we also wanted to eliminate the outrageous $12 billion new items that would have created a whole new series of tax breaks for the very wealthy, which one network indicated would enable those with incomes over $700,000 to in fact reduce their taxation under the President's budget package. There is absolutely no reason on God's green earth why in the con-

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text of a deficit reduction package, we should be telling the richest people in America that they can explore the possibilities of a tax cut, especially given the fact of who had the biggest party in the 1980s.

So, that is basically what we were trying to do in the Dorgan-Obey budget proposal which we offered for consideration, and it was not that we were wedded to that proposal. What we were simply doing, by offering that proposal, is trying to put pressure on the system to move it toward fairness for the average taxpayer.

Let me tell my colleagues why I think that is important. As my colleagues know, this town pays a lot of attention to polls, and one of the polls that people are talking about these days is the new Los Angeles Times poll, which shows that a tremendous number of Americans are turned off on American politics.

Mr. Speaker, I think they are turned off with good reason. I happen to be immensely proud to be a politician. I got into politics because of what I thought Government, acting intelligently, could do to make the life of the average person better. I got into politics because I saw the abuse of power in my own State by a turkey by the name of Joe McCarthy a long time ago, who figured that the only way to succeed in politics was by smearing somebody else's reputation. I got into politics because I cared about civil liberties. I got into politics because I cared about a square deal for average working people in this country. I got into politics because, before I leave this place, I want to see universal health insurance so that every American who needs to see a doctor or needs to go to a hospital can go to that hospital, go to that doctor, without embarrassment because it is a basic American right, not because somebody is showing them a little kindness, much though, I think, we all ought to show people in that position, kindness, but I think people ought to have the right to access to health care simply based on the fact that they are an American and they live in the greatest country in the world.

Mr. Speaker, that is why I went into politics, and, when I look at the Los Angeles Times poll, it disturbs me because I think that the very essence of democracy is threatened when you have people turned off on the political system itself.

Mr. Speaker, people ask, Why are people turned off on politics, and some people say, Well, it's because they have got a lot of ethical problems. Mr. Speaker, I would be the first to admit that there have been some spectacular problems faced by the Congress and by the executive branch lately. However I think my record also indicates that I have been at the very core of all the efforts to strengthen the House ethics code, to strengthen campaign finance reform and to basically try to evaluate the American political system along the way.

However, Mr. Speaker, in my view there is a much more basic reason why average Americans are turned off on politics, and that is because they say that the political system no longer delivers a square deal for the average American. They say that politics is all too often the system by which the fix gets put in for the very wealthiest people in this society, and, unfortunately, if my colleagues take a lock at the Tax Code, that is exactly what it looks like because, if someone is making more than $60,000 or $70,000 a year, they are treated not too badly, and, if someone is making more than $200,000 a year, they are treated very, very well, indeed.

I think that if we want to restore people's confidence in the ability of the American political system to deliver what they have a right to expect from us, the place we have to start with is the Tax Code, and the place we have to start with is the budget. It just seems to me that the American public will not regain its faith in the American political system until they know that we will turn down every budget deal which gives a better deal to the wealthiest in this society than it does to the basic middle American, who does the most to carry the load, and who often gets the least out of the political system.

As my colleagues know, at the end of World War II the average American thought that Government was on his or her side because Government was helping him to go to school with the G.I. bill Government was helping young families to buy their first homes through the VA housing program and other housing programs. Today what do they see Government doing? Imposing taxes and providing tax breaks for the wealthiest among us, and in my view that, more than anything else, has to change. The people have to know that this system is strong enough to stand up to those who want special deals and can have the financial ability to lobby this place and the White House. They have to know that we are going to cut through all of that and produce a package which provides absolute, or at least reasonable, fairness for the average American.

In my view, the single most important thing we can do to restore the faith of the average American in the American political system is by earning that faith, by changing the Tax Code to provide a much better deal for working Americans than they get today, and we do that by eliminating the bubble, by, in my judgment, raising the taxes on people above $200,000 up to 35 percent, and then we will take a look at what we will do on taxes for the middle class. I do not expect tha any middle-class American expect that he will be able to avoid taxation but he should not be he first one i line because he is the guy who paid fo the party in the 1980's while the high rollers are the guys who went to th party. We should not expect workin class Americans to not only pay th bill, but also pay the tips.

So, it just seems to me that thos who voted down that budget packag this week because of that concern were right, and I hope that the summiteers recognize that, and bring us summit, which will give us the possibility at the reconciliation stage in thi process, to produce a tax package whole lot more fair than the packag presented by the leadership and supported by the President so vigorousl over the past week.

Mr. MAZZOLI. Mr. Speaker, will th gentleman yield?

Mr. OBEY. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I than the gentleman from Wisconsin [Mr Obey], my friend, for yielding, and am not sure my friend remembers, bu back in the 1970's, just soon after th gentleman from Wisconsin arrived i the House, he conducted a seminar fo those who had just been elected. I wa very much impressed by what the gentleman said then, and that goes bac almost 20 years, and I remain impressed by what the gentleman ha said, not just tonight in this specia order, but have said for the last several weeks concerning the questions o progressivity, and equity and fairnes in the Tax Code. I thank the gentleman for his leadership, and I woul also reflect on one other thing.

The gentleman from Wisconsin [Mr Obey] alluded to another problem o the part of the American people, th fact that they are losing faith. The have much misgiving about the fairness of the political system, how th political system operates, and the gentleman from Wisconsin who is in th well, is a leader in the House on th whole question of election reform. would just ask the gentleman ver simply, as he concludes his time, if h agrees with the gentleman from Kentucky, that we would be remiss in th 101st Congress if, despite all of thes anxieties we have over budget, and sequester, and continuing resolution and all of the things that are keepin us in session on Saturday night or wil have us in session tomorrow, would w not, I ask the gentleman from Wisconsin [Mr. Obey], be remiss if we did no attempt to pass some type of campaign reform even in these last weeks of the Congress?

Mr. OBEY. Mr. Speaker, let me simply say that until this year, when we did pass just a month ago or so, the Swift bill, I say up until that time, as the gentleman knows, the last campaign finance reform bill was the one with my name on it, the Obey-Railsback, in the 1970's.

□ 1930

I believe very strongly that we simply must have election reform. But I feel that any reform which does not include spending limits is in fact no reform at all. The most important reform that we can have is a reform which enables every single Member of this body to spend more time here working on the problems of this country and more time home listening to the views and concerns of our constituents, and less time on the fund-raising trail trying to raise money, because we know that under the way the political system works today, it is possible literally overnight for some lobby group to get mad at you and decide they are going to spend $200,000 or $300,000 against you in an independent expenditure and feed a lot of money to a potential opponent as well.

So it just seems to me that the best thing we can do to restore a sense of equilibrium in American politics would be to pass that kind of campaign financing.

Mr. MAZZOLI. Mr. Speaker, I would just say to the gentleman that I agree with him 100 percent. I supported him in the amendment he and the gentleman from Oklahoma offered on the question of public financing, which may not be possible in this Congress, but I hope the gentleman will continue to show his leadership on that question, because I do think ultimately the one hope we have of limiting spending and bringing the cost of campaigns down is to have some form of partial public financing that would be triggered after a candidate shows that he or she has reasonable support within their communities.

So I thank the gentleman for his leadership on the tax questions, on the questions of ethics, and certainly on the question of campaign reform.

Mr. OBEY. Mr. Speaker, I thank the gentleman from Kentucky.

As I said, I certainly think that is a part of restoring people's basic confidence in the political system, but I really believe in the end that when people evaluate the political system, they evaluate it most clearly in terms of how it has affected their own lives and what kind of pressures it brings to them and what kind of pressures it relieves and what kind of possibilities it creates for them.

I want to make one other point. When I talk about taxing the very wealthiest people in this society, I do not have anything whatsoever against people happening to have a lot of money. I congratulate them for it. I am happy that there are people in this country that can make it. Part of the American dream is always the idea that if you work hard enough and if you get lucky enough, just maybe you can make it big. Every American wants that, and I do not think many Americans begrudge people who do happen to do that.

All I suggest is that those people who are fortunate enough to be in those circumstances need to pay their fair share.

Let me tell the Members something: When I go back home, I run into many businessmen. I talked to a chief executive officer of a major corporation in my district just about 3 weeks ago. He happens to be in that very favored bracket, making more than $170,000 a year, and he said to me, "Dave, I don't understand it." Now he said, "Why doesn't the President support eliminating the bubble?" He said, "I find it embarrassing." He said, "Nobody can object if you eliminate the bubble." He said, "I shouldn't be paying a tax rate lower than people who make less than I do."

He said, "Why can't you guys get that done?"

I think that is a very good question. I do not understand it either, and I would ask the President that question: "Why can't we get that done?"

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I am very happy to yield to the distinguished minority leader.

LEGISLATIVE PROGRAM

Mr. MICHEL. Mr. Speaker, we were listening with unabashed attention to the very profound remarks of the distinguished gentleman from Wisconsin, and I hesitated really to interrupt that discourse, but I am most appreciative of the gentleman's yielding so that I might in turn ask the distinguished Speaker of the House a question as to how he sees our proceeding, No. 1, on the balance of this evening or into the night, and then how we would proceed tomorrow.

Mr. FOLEY. Mr. Speaker, let me say this to the distinguished Republican leader, if the gentleman will yield.

Mr. OBEY. I am happy to yield to the Speaker of the House.

Mr. FOLEY. Mr. Speaker, I am in the unusual role of acting in behalf of the majority leader, Mr. GEPHARDT, who is even now engaged in efforts of trying to obtain an agreement on the budget, which is what we are all anxious to do. But it appears clear that because of objections and concerns of Members on any consideration this evening, it would be unnecessarily demanding on Members to leave them in doubt about whether there will be a vote on the conference report tonight when almost assuredly that cannot take place.

So it will be my intention in a few moments to ask unanimous consent that when the House adjourns this evening, it adjourn to meet at 1 p.m. tomorrow. We are taking this time tomorrow to allow Members to attend church services and to be present in the House in the afternoon.

It is doubtful in my mind that there would be anything except procedural votes before about 2, but I cannot give assurances beyond that. There may be procedural votes almost immediately at 1 p.m.

It is our intention tomorrow to seek to proceed with an effort to reach a conclusion on a budget summit conference report which, if concluded, would be brought to the House tomorrow and considered by the House and subsequently approved by the Senate.

It is my hope that the House could concentrate its work for the rest of the evening tonight and into the early morning hours, which some Members will undoubtedly be doing in seeking this event, so that the full membership could be presented with a conference report at an early time tomorrow afternoon or evening or whatever time it requires.

In the meantime, it will be necessary, I assume, for Members on each side to be meeting and discussing their views and concerns. We have determined on this side—and I know that view is shared by the distinguished gentleman from Illinois—that it is very important that we obtain a budget resolution conference agreement, and that it is approved by the Congress this weekend, and as soon as possible. No one can give a precise date, but our joint efforts in that direction are most important.

I think that is about all that I can say at this time. I would be happy to respond to any questions the gentleman might have.

Mr. MICHEL. Yes. I thank the Speaker for that particular information.

I would assume that we would try and have a request that we both could agree with sometime tomorrow for recess authority after we once convene. I know on my side it is just imperative that we have a conference. I have nothing new to tell them yet, obviously, but, if nothing else, the conference might be held just so they could air their feelings, probably prior to our then going back to doing what we normally have to do. I assume that may be the situation on the other side of the aisle.

Mr. FOLEY. Yes indeed.

Mr. MICHEL. So I think we would want to alert Members, as the Speaker indicated, probably no more than with a call of the House or a vote on the Journal. I would not call it, but some of the Members may very well do that. So once we have convened the House, that is a prospect. Then beyond that we would take it step by step and hopefully make it a meaningful day, because I think every one of the Members, quite frankly, down deep in their

hearts, would like to get this thing resolved.

Mr. FOLEY. Mr. Speaker, I share those views entirely, and I think, for the convenience of both sides of the aisle and for the party conferences and caucuses meeting, as they almost surely should and will meet, that we need to obtain early recess authority.

Mr. MICHEL. Then I might also assume, Mr. Speaker, that having no further business in order for this evening, but not wanting to x out any Members making any further profound remarks in the nature of a special order, sometime we would come to the point where we would adjourn this evening without requiring the other Members to be present.

□ 1940

Mr. FOLEY. Mr. Speaker, I also agree with that.

ADJOURNMENT TO SUNDAY, OCTOBER 7, 1990

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 1 p.m. on Sunday, October 7, 1990.

The **SPEAKER** pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from Washington?

There was no objection.

AN EXPLANATION OF WHAT IS GOING ON, CONTINUED

Mr. OBEY. Mr. Speaker, reclaiming my time, if I could just note, Mr. Minority Leader, I remember in times past when I first came here when we were waiting for adjournment, sometimes rather than speeches, we were entertained by the vocal efforts of the minority leader—I mean in song, not in speech.

The next time someone asks me to fill in while you two are working out an agreement, if you could just make arrangements so I could bring my bluegrass band here, I think the minority probably would have a whole lot more fun than listening to my views on the economic developments the last 20 years.

Mr. MICHEL. I thank the gentleman for that comment. If I might just add to it, there were those days when either at adjournment or in moments when we were attempting to bide some time, there was much more conviviality and frivolity maybe, and humor and good accord between the parties at that time. I guess I would be remiss if I did not say I long for the return of some of those old days when there was much more of that in evidence.

I have to say, however, that quite frankly, even today, with a very contentious issue like voting to override or sustain the President's veto, which naturally brings us to some partisan exchange, it went quite well. Frankly in the last several days Members have all I think become more and more aware of the fact that it is absolutely necessary to come together in order finally to get a budget resolution to which we can get a majority vote in this House.

Mr. HOYER. If the gentleman will yield, I just want to say with the minority leader still on the floor, that I know, Mr. Minority Leader, that I speak for all Members on both sides of the aisle, to the degree that we have worked toward that objective of civility between the two sides, with respect for one another and positive actions on behalf of the country and its citizens, I think the minority leader, whom all of us admire and have a great deal of respect for, plays a very, very significant role in that effort.

Mr. MICHEL. I thank the distinguished Member.

Mr. CAMPBELL of California. If the gentleman will yield, the day should not pass without notice of one very happy event amidst potential turmoil, and that is that Stanford University defeated Notre Dame in football, and that this victory establishes to all in doubt not only the presence of God, but on which side she plays.

Mr. OBEY. Mr. Speaker, I yield to the gentleman from Indiana.

Mr. VISCLOSKY. Mr. Speaker, I appreciate the gentleman yielding. As a Notre Dame law graduate, I want to congratulate the gentleman, all of the residents of the State of California, and particularly Stanford University. They were the better football team today. They are an outstanding university. If Notre Dame has to lose a football game, it is a privilege to lose it to Stanford.

Mr. MAZZOLI. If the gentleman will yield, I would join with the gentleman. As a Notre Dame alumnus, I listened to the game on the radio and was in deep despair in the last quarter when Stanford scored its winning touchdown. As the gentleman has said, the university the gentleman represents is a topflight university, a topflight operation, as Notre Dame, is. If we had to lose, it was a worthy opponent we lost to.

Mr. OBEY. Mr. Speaker, let me observe, coming from Wisconsin, given our record the last 3 years, we were playing Michigan today. I have no idea how we are doing. All I know is I am praying.

Mr. DE LA GARZA. If the gentleman will yield, forgive me for not continuing with the topic, but I just wanted to advise Members that tomorrow, if there be time, I expect to take some time to visit about agriculture and the impact that agriculture has on the Federal budget.

We under the summit proposal that was defeated were allocated $1.3 billion for 1991, and $13 billion in the 5 years. But yet the impact of agriculture on the Federal budget is, if you can see the tiny little line that you cannot even see, this is the impact that programs in agriculture have on the Federal budget. We are being given a tremendous amount.

Also to lay some misconceptions or erroneous perceptions that all of the funds in agriculture go to farmers and farm support programs, again, this chart shows almost 50 percent is nutrition, food stamps and school lunches.

So when you are hitting agriculture you are aiming at the big farmer, and that actually is an erroneous perception. But it is not hitting the big farmer. Only 17 percent of the budget of the Department of Agriculture goes to farm support programs.

I think it is unfair, and I hope that the conference takes that into account. Because as the gentleman was mentioning, in the defense area the cost overrun in one system in defense would pay for all of agriculture for 1 year, more often than not. But if someone gets a few more dollars in agriculture, they are reprimanded, they are filed upon in Federal court, they are taken to court, some of them. If they were in error or if they were guilty, well, they should pay for it.

But in the Defense Department they call it a cost overrun, and everything is OK, as long as it is a cost overrun.

I want all Members to remember for tomorrow when I have more time than this 0.6 of 1 percent is what farm support programs impact on the budget. I hope that we can be treated accordingly.

Mr. SERRANO. If the gentleman will yield, I will not take long. I come down after watching the gentleman from Wisconsin [Mr. OBEY] to join in a discussion, being very supportive of what the gentleman is saying, but perhaps trying to bring us to another level, certainly in another direction.

Mr. Speaker, I will not interfere with the fact we want to adjourn, but I think at some time we have to begin to take the comments Members are making, which are so on target, and to begin to discuss how they affect people who live in districts like the South Bronx.

I was told that we had a good 6 or 8 years in the economy, and no one in my district really saw any of that goodness that took place in this country.

Over the last 2 or 3 weeks, I have been listening to conversations about stockholders and about bonds and about interest rates and cuts in certain areas. I am sure it has nothing to do with the fact that I have only been here 6 months, and it has nothing to do perhaps with a lack of understanding of some of these figures.

I think it has to do with a desire to see us discuss more and more the fact that 1 out of 4 babies that are born in my district now are testing positive with AIDS; that I have more babies born addicted to crack than any other place in the Nation; and that 62 percent of all young people in my district do not graduate from high school. That goes on and on and on and on. There are 125,000 individuals waiting to move up from a rat-infested apartment into public housing.

Now, I grew up in public housing. Why anybody would want to move up to public housing really indicates the condition that we are talking about.

I hope that within the next 24 hours a few Members would get up and try to bring this conversation that has to do with stocks and bonds and people who play the market and people who are affected by mathematical figures, and try to explain to me and other people in this country how all of these things can affect the AIDS patients in my district, the 62 percent who drop out, and the fact there is a large segment of this community in this country which does not enjoy the beauty and the strength and the goodness and the richness of this, the greatest country on Earth.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Dymally (at the request of Mr. Gephardt), for today, to attend the funeral of Mayor Tucker of Compton in the 31st Congressional District.

Mr. Hansen (at the request of Mr. Michel), for today, on account of attending a funeral.

Mr. Henry (at the request of Mr. Michel), from 6 p.m. Friday and Saturday, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Goss) to revise and extend their remarks and include extraneous material:)

Mr. Douglas, for 5 minutes, today.

Mr. Hammerschmidt, for 5 minutes, today.

Mrs. Bentley, for 60 minutes, each day on October 9, 10, 11, 12, 15, 16, 17, 18, and 19.

Mr. Leach of Iowa, for 60 minutes, today.

Mr. Boehlert, for 5 minutes, today.

Mr. Sensenbrenner, for 5 minutes, today.

Mr. Dreier of California, for 60 minutes, each day on October 12, 15, 16, 17, 18, and 19.

Mr. Dornan of California, for 5 minutes, each day on October 9, 10, 11, 12, 15, 16, 17, 18, and 19.

(The following Members (at the request of Mr. Miller of California) to revise and extend their remarks and include extraneous material:)

Mr. Coyne, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Owens of New York, for 5 minutes, today.

Mr. Obey, for 60 minutes, today.

Mr. Durbin, for 60 minutes, today.

Mr. Volkmer, for 60 minutes, today.

Mr. Mazzoli, for 15 minutes, today.

Mr. Gaydos, for 60 minutes, each day on October 9, 10, and 11.

Mr. Visclosky, for 15 minutes, today.

Mrs. Unsoeld, for 15 minutes, today.

Mr. Stenholm, for 15 minutes, today.

Mr. Miller of California, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

The following Members (at the request of Mr. Miller of California) and to include extraneous matter:)

Mr. Mrazek.

Mr. Weiss in two instances.

Mr. McMillen of Maryland.

Mr. Traxler.

Mr. Traficant.

Mr. Ackerman.

Mr. Lantos in two instances.

Mr. Bonior in two instances.

Mrs. Kennelly.

Mr. Manton in two instances.

Mr. Mazzoli.

Mr. Gonzalez.

Mr. Stark.

Ms. Slaughter of New York.

Mr. Skelton.

Mr. Miller of California.

Mr. de la Garza.

Mr. Roe in two instances.

Mr. Torres.

Mr. Schumer.

Ms. Pelosi.

Mr. Synar.

Mr. Scheuer.

Mr. Rahall.

ENROLLED JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 660. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes.

ADJOURNMENT

Mr. HOYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 50 minutes p.m.), under its previous order, the House adjourned until tomorrow, Sunday, October 7, 1990, at 1 p.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOAKLEY: Committee on Rules. H. Res. 496. Resolution providing for consideration of the conference report on H. Con. Res. 310, a concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal years 1991, 1992, 1993, 1994, and 1995 (Rep. 101-817). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. CONYERS: Committee on Government Operations. H.R. 5687. A bill to amend title 31, United States Code, to improve the financial management of the Federal Government by establishing a Chief Financial Officer of the United States within the Office of Management and Budget; by establishing a Chief Financial Officer within each executive department and within each major executive agency; and by requiring the development of systems that provide complete, accurate, and timely reporting of financial information; with an amendment; referred to the Committee on Post Office and Civil Service, for a period ending not later than October 9, 1990, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(o), Rule X (Rep. 101-818, Pt. 1). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 3977. Committee on Interior and Insular Affairs discharged from further consideration of H.R. 3977.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. YOUNG of Alaska:

H.R. 5802. A bill to provide for the transportation of cargo by vessel in the Aleutian trade, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. MICHEL.

H.J. Res. 665. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes; jointly, to the Committees on Appropriations and Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 222: Mr. Schiff.

H.R. 5505: Mr. Vento, Mr. Smith of Vermont, and Mr. McCloskey.

H.R. 5625: Mrs. Meyers of Kansas, Mr. Kildee, Mr. Boucher, Mr. Dorgan of North Dakota, Mr. Harris, Mr. Bustamante, and Mr. Lehman of Florida.

H.J. Res. 644: Mr. Fish, Mr. Schiff, Mr. Dwyer of New Jersey, Mr. Lancaster, Mr. Jones of North Carolina, Mr. Lehman of Florida, and Mr. Clarke.

H. Con. Res. 371: Mr. Hochbrueckner, Mr. Bustamante, and Ms. Kaptur.

EXTENSIONS OF REMARKS

WHERE THERE IS NO JUSTICE, THERE IS VIOLENCE

HON. CRAIG A. WASHINGTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 6, 1990

Mr. WASHINGTON. Mr. Speaker, I had planned to make a short statement on the floor during the consideration of the Sensenbrenner amendment. It is not my practice to make statements for the record because I believe that the more excellent way to address the serious problems with regards to the Sensenbrenner amendment would be to address them directly and forthrightly within earshot of all, in order that we may know exactly how an individual feels before voting on this very important matter. Unfortunately, due to the constrictures of the amount of time allowed for debate, I was unable to have an opportunity to speak on this matter.

While I certainly recognize that my 20 years' experience in the practice of criminal law give me no greater vantage point than any other Member of this Congress, it is my belief that having represented individuals in one dozen capital cases gives me a unique practical view.

There's no question but what there is racial discrimination present in the prosecution and trial of many criminal cases. There is no question but what racism raises its ugly head in the selection of cases wherein the death penalty is sought, in the trial on the merits and at the punishment phase of those capital cases. What I thought this Congress would attempt to do was to ensure that every person charged with the death penalty receive a fair trial before we hang 'em.

As a young, native lawyer who began a practice on February 1 of 1970, having recently studied law at Texas Southern University in Houston, I had great respect for the criminal Justice System. I loved, then, and do love now, our Constitution, with all my heart. I cried on the inside, time and time again, when I saw individuals of color present themselves in jury panel only to be stricken time and time again because the prosecutors felt that it was the right thing to do to remove all of the Blacks and Hispanics and other minorities from jury panels in general, and from capital cases in particular.

I suffered with the interpretation of the Supreme Court in Swain versus Alabama, because I knew that it presented an insurmountable hurdle for individuals to overcome when all knew and most readily conceded that discrimination was taking place.

Black people, in many instances, are the predominant victims of crime in our society. Why, then would they not make good jurors? It seemed to me then, as it does now, that it strikes a blow at the fairness and justice that our criminal justice system purports to ensure when preemptory challenges are used in a discriminatory manner.

I applauded the decision of the U.S. Supreme Court, finally, in Batson versus Kentucky which recognized that a case could be made on the use of discriminatory preemptory challenges in one case. I had been making Batson objections for almost 17 years before Batson was decided, only to have those cases go to the Texas Court of Criminal Appeals and the appeal turned down based upon Swain versus Alabama.

Now I hear my colleague, Mr. SENSENBRENNER admit that discrimination takes place, but argue that, in spite of such discrimination in court, the death sentence should be carried out.

How can we, as a civilized society, allow this to happen? It seems to me that the very least that we can do inasmuch as we have: added many new death penalty offenses, severely limited the right of habeas corpus, and otherwise made more likely the institution and prosecution of death cases, we must ensure that such individuals receive a fair trial before we hang 'em.

We must have justice, for where there is no justice, there is violence! Where there is no justice, there is violence! Where there is no justice, there is violence!

HONORING THE CENTER OF MEXICAN AMERICAN AFFAIRS AT WHITTIER COLLEGE

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 6, 1990

Mr. TORRES. Mr. Speaker, I rise today to honor the Center of Mexican American Affairs, the Hispanic Student Association and the Hispanic Alumni Organization of Whittier College. The organization will celebrate the 20th anniversary of their annual "Tardeada" on Sunday, October 21, 1990.

The purpose of the "Tardeada" is to serve as a welcome (Dienvenida) to the college's Hispanic students, their parents, and family members. Whittier College has demonstrated its longstanding commitment toward meeting the academic and social needs of its significant Hispanic student enrollment throughout the past 20 years.

Mr. Speaker, I ask my colleagues to join me in a special salute to Dr. James L. Ask, Jr., president of Whittier College and Mr. Martin Ortiz, director of The Center for Mexican-American Affairs for their continued efforts on behalf of Hispanic students at Whittier College. Therefore, it is with great honor that I congratulate Whittier College's faculty, staff, and students on the occasion of their 20th anniversary "Tardeada."

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

SENATE—*Sunday, October 7, 1990*

(Legislative day of Tuesday, October 2, 1990)

The Senate met at 6 p.m., on the expiration of the recess, and was called to order by the Honorable DAVID PRYOR, a Senator from the State of Arkansas.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Praise ye the Lord. Praise God in his sanctuary: praise him in the firmament of his power. Praise him for his mighty acts: praise him according to his excellent greatness. Praise him with the sound of the trumpet: praise him with the psaltery and harp. Praise him with the timbrel and dance: praise him with stringed instrument and organs. Praise him upon the loud cymbals: praise him upon the high sounding cymbals. Let everything that hath breath praise the Lord. Praise ye the Lord—Psalm 150.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 7, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. PRYOR thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President, Members of the Senate, throughout the day I and other Members of the Senate negotiating group have been meeting with our counterparts in the Senate, and with Members of the House, in an effort to develop a bipartisan budget agreement that will modify in some important respects the budget summit agreement reached between the President and the congressional leadership a week ago but rejected by a majority of the House of Representatives on late Thursday evening.

It is our hope that the budget committees' conference will resume this evening and report out the modified bipartisan budget agreement, and that the House will be able to take it up this evening and hopefully enact it. If that is the case, that measure will then come to the Senate tomorrow for action in the Senate on tomorrow.

No final agreement has been reached yet but we are working toward that end.

I have had numerous discussions today both in person and by telephone with the distinguished Republican leader, the chairman of the Senate Budget Committee, and the ranking Republican member of the Senate Budget Committee, as well as many members of the House leadership in an effort to move this forward.

Mr. President, I was part of the congressional leadership which worked out the agreement with the President which was announced a week ago today. I believe that it was in the best interests of the Nation for that agreement to be enacted, and for the budget resolution to be enacted. That would enable us to proceed with the real task of dealing with deficit reduction in the procedure known to those of us in the Senate as the reconciliation bill.

That was not to be the case as a majority of Members of the House of Representatives rejected that resolution. They did so no doubt believing they were acting in response to the wishes of their constituents and their perception of what is right for the country.

While I disagree with their decision, I respect it, and recognize that ours is a democracy in which, a majority of the Members of the House of Representatives having spoken, we must now move forward, not look backward in recrimination, but rather move forward to attempt to devise a budget package that will do the job of meaningful deficit reduction, and do it in a way that is acceptable to a majority of the Members of the House and the Senate.

There is no alternative. That is the only course of action that we can responsibly take, and is one that we have been attempting to move forward throughout the day. It is my hope that we will be able to do so and obtain favorable action on the resolution tonight in the House and tomorrow in the Senate.

I think it most unfortunate that the budget conference report on the resolution has come to be seen as the deficit reduction package, as we know that is not the case. The budget resolution is an internal congressional document which does not by itself have the force of law because it is not presented to the President for his signature. It is a mechanism which permits the Congress to move forward to deal with the specific changes in law that will in fact reduce the deficit and that will be included in the reconciliation bill to be voted upon in approximately 2 weeks.

In baseball terms, you cannot score a run until you get to first base. The budget resolution merely enables us to get to first base, and then to make the rest of the trip around to second, third, and get to home. We have to deal with the reconciliation bill.

The budget resolution in and of itself does not reduce the deficit by $1. The budget resolution in and of itself does not change the law by one bit. It is a procedural mechanism which establishes the aggregate levels of reduction and provides instructions to the respective committees as to what their share of those aggregate levels are.

Unfortunately for a variety of reasons, many of which were not foreseen, the budget resolution now under consideration has achieved the perception of being much more than that, or being the budget itself, or being the changes in law that will reduce the deficit. It is not that, and I think it important that we do what we can to demythologize the budget resolution which we are trying to get enacted so that we can get on with the business of passing the laws necessary to reduce the deficit in a fair and responsible way.

I hope my colleagues and those of the American people concerned about this process will think carefully about our being able to proceed in a rational and orderly fashion to deal with this problem. I hope very much that we can move forward this evening, continuing in a bipartisan fashion with Republicans and Democrats coming together to attempt to fashion a package that will achieve that objective.

That is what we have been working on throughout the day. That is what we hope will culminate in action by the conference committee this evening and the House of Representatives fa-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

39-059 O-91-40 (Pt. 19)

vorable approval of the conference report this evening.

Again, if that does occur, that will be taken up in the Senate tomorrow. It is my expectation that the Senate respective caucuses will occur tomorrow at 12:30, or at least informal meetings of Senators on both sides to be briefed on where matters stand at that time, and that for the Senate to come in at 2 p.m. to hopefully at that time act on what will have been approved in the House of Representatives this evening.

ORDER OF PROCEDURE

Mr. President, I will momentarily propound a unanimous-consent request. This has been cleared with the distinguished Republican leader with whom, as I earlier said, I have spoken and met several times during the day.

ORDERS FOR TOMORROW

Mr. MITCHELL. Accordingly, I ask unanimous consent that the Senate stand in recess until 2 p.m. on Monday, October 8, that, following the prayer, the Journal of proceedings be approved to date; and, that, following the time for the two leaders, there be a period for morning business not to extend beyond 2:30 p.m. with Senators permitted to speak therein for up to 5 minutes each.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

RECESS UNTIL 2 P.M. TOMORROW

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will stand in recess until 2 p.m. tomorrow.

Thereupon, the Senate, at 6:10 p.m., recessed until Monday, October 8, 1990, at 2 p.m.

HOUSE OF REPRESENTATIVES—*Sunday, October 7, 1990*

The House met at 1 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray using the words of John Greenleaf Whittier:

Dear Lord and Father of mankind,
  Forgive our foolish ways;
Reclothe us in our rightful mind,
In purer lives thy service find,
  In deeper reverence praise.
Breathe through the heats of our desire,
  Thy coolness and thy balm;
Let sense be dumb, let flesh retire;
Speak through the earthquake, wind and fire,
  O still small voice of calm!

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. WALKER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present. Pursuant to clause 5, rule I, the Chair will postpone the vote on the Speaker's approval of the Journal.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Georgia [Mr. BARNARD] come forward and lead the House in the Pledge of Allegiance.

Mr. BARNARD led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

PERMISSION FOR SPEAKER TO DECLARE RECESSES ON THIS LEGISLATIVE DAY

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare recesses on this legislative day until 4 p.m.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. WALKER. Mr. Speaker, reserving the right to object, I reserve the right to object to inquire what the business is that is going to be in order after 4 o'clock so that we may have some understanding of the context of the recess authority.

A number of us feel as though it is possible to bring up immediately a bill that was introduced that is a signable continuing resolution that is fiscally responsible that would result in no Federal employees being furloughed, and we think that it would probably be reasonable to get that up as early as possible and would be somewhat reluctant to agree to recess authority that would seem to delay such a piece of legislation from getting to the floor.

Can someone tell us what the schedule is? Are we recessing so that we can have a meeting that brings the continuing resolution to us at 4 o'clock, or are we, in fact, recessing so that we can come back and reexamine our options at 4 o'clock?

It would just be helpful for the membership to know.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the distinguished Speaker.

Mr. FOLEY. Mr. Speaker, I find somewhat surprising the gentleman's question since this resolution or request for a recess authority until 4 o'clock was cleared with the leadership on both sides, and the gentleman is a member of that leadership. I find that, accordingly, the objection to it or the question about it somewhat surprising, but I will answer the gentleman the best I can.

Mr. WALKER. I thank the gentleman.

Mr. FOLEY. It was the intention, I think, of both the political groups of the House, the Republican conference and the Democratic caucus, to have an opportunity this afternoon to meet in conference and in caucus. That was the request of the Republican leadership and the Republican conference, and it is the request of the Democratic leadership and the Democratic caucus.

I think those meetings are important for both party groups in facilitating our work in reaching a budget resolution, and this is a matter which was designed to facilitate that.

The schedule with regard to any other legislation is, in the judgment of this gentleman, secondary at this moment to getting a budget resolution. The President of the United States, in his veto message yesterday, suggested in the message itself that the Congress should concentrate its efforts on obtaining a budget resolution. I agree with the President. I think we should concentrate on those efforts.

If those efforts are successful today or tomorrow, we will have no problem with continuing resolutions, but to take up debates to shut the Government down partially or wholly or to proceed to take the actions that will keep the Government open is the task before us. I prefer, speaking for myself, to take the actions that will keep the Government open, that will give an answer to the American people on how we proceed, that will put our priorities forward clearly, and I think I represent, in that case, the views of the President, the views of the leadership in both parties, and I would hope the view of the gentleman from Pennsylvania.

Mr. WALKER. Further reserving the right to object. I thank the Speaker for his explanation.

One of the probems we have had here in the last few days, and I do not know if the people on the gentleman's side have experienced it as much as we have, but there has been a certain lack of communication with the general membership about just where we are going and how we are getting there.

This gentleman is reserving the right to object simply to figure out what the schedule is. I certainly agree with the distinguished Speaker that it would be useful to move ahead and get our work done so that we do not have this problem hanging over the country for an extended period of time.

I would say, however, that there is also a concern on the part of the membership that they not be rushed to judgment in terms of major agreements with which they may have to cast their votes.

It certainly will be helpful to have the party caucuses meet. That may facilitate some of the communication that I am talking about. On the other hand, I do not think that we need to be delaying action until later on in the day that we could take now.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

I will not object to the present request. I understand it has been worked out with the leadership, but it certainly would be helpful that at 4 o'clock if we had some idea of the design so that the Members could feel comfortable that they will not be asked to take major actions without being fully informed.

I thank the Speaker for his explanation.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore (Mr. Mazzoli). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The **SPEAKER**. The Chair will announce that the Chair will postpone 1-minute statements until later in the legislative day.

RECESS

The **SPEAKER**. Under a previous order of the House, the House will stand in recess until 4 p.m.

Accordingly (at 1 o'clock and 9 minutes p.m.), the House stood in recess until 4 p.m.

□ 1608

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. Moakley) at 4 o'clock and 8 minutes p.m.

AUTHORIZING A RECESS TODAY UNTIL 6 P.M.

Mr. **MONTGOMERY**. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare a recess today until 6 p.m.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

RECESS

The **SPEAKER** pro tempore. Pursuant to the previous order of the House, the Chair declares that the House will be in recess until 6 p.m.

Accordingly (at 4 o'clock and 9 minutes p.m.), the House stood in recess until 6 p.m.

□ 1800

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 6 p.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 1608. An act to strengthen national nutrition monitoring by requiring the Secretary of Agriculture and the Secretary of Health and Human Services to prepare and implement a 10-year plan to assess the dietary and nutritional status of the U.S. population, to support research on, and development of, nutrition monitoring, to foster national nutrition education, to establish dietary guidelines, and for other purposes;

H.R. 4522. An act to improve the information available to emergency response personnel in the field, and for other purposes;

H.R. 4593. An act to transfer to the Secretary of the Interior the administration of the surface rights in certain lands presently within the boundaries of the San Carlos Indian Reservation, Arizona, and managed by the Forest Service as part of the Coronado National Forest, and for other purposes;

H.R. 4985. An act to designate the Federal building located at 51 Southwest 1st Avenue in Miami, FL, as the "Claude Pepper Federal Building"; and

H.R. 5070. An act to amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration and other services necessary for the John F. Kennedy Center for the Performing Arts, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2331. An act to amend title 39, United States Code, to designate as nonmailable matter solicitations of donations which could reasonably be misconstrued as a bill, invoice, or statement of account due, and solicitations which are offered in terms implying any Federal Government connection or endorsement, unless such matter contains an appropriate conspicuous disclaimer, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 303) "An act to establish a framework for the conduct of negotiated rulemaking by Federal agencies" with amendments.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 427. An act to designate the Federal Building located at 1801 Gulf Breeze Parkway, Gulf Breeze, FL, as the "Bob Sikes Visitor Center";

S. 2879. An act to amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration and other services necessary for the John F. Kennedy Center for the Performing Arts, and for other purposes;

S. 2965. An act to designate the Federal building located at 51 Southwest 1st Avenue in Miami, FL, as the "Claude Pepper Federal Building";

S. 3046. An act to redesignate the Federal building located at 1 Bowling Green in New York, NY, as the "Alexander Hamilton United States Custom House";

S. 3062. An act to transfer the responsibility for operation and maintenance of Highway 82 Bridge at Greenville, MS, to the States of Mississippi and Arkansas;

S. 3068. An act to establish the Office of Take Pride in America, and for other purposes; and

S.J. Res. 206. Joint resolution calling for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty Consultative Parties, for the full protection of Antarctica as a global ecological commons.

SACRIFICES FOR ALL

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute.)

Mr. **MAZZOLI**. Mr. Speaker, there are so many serious things afoot with the budget, sequester, and all of these matters, I think it might be useful for us to have a change of pace to mention what all Members have given up to stay here in session to rescue the budget crisis. Yesterday, we know our colleague from California [Mr. Dellums] barely was able to make his son's wedding. I understand our friend from New York [Mr. Solomon] actually had to miss his oldest son's yesterday because of being here in session.

I guess in some respects my sacrifice is less, but because of being here today and yesterday I have had to miss celebrating our daughter and son-in-law's fourth wedding anniversary, and also to celebrate a wonderful occasion for our family, our son was judged outstanding in his moot court competition back home at the University of Lousiville Law School.

While we have given up in each and every way something, I think we are doing it for a noble cause, Mr. Speaker. This is obviously a very serious time in American history, and we obviously have to be here on duty to help the Speaker and to help our leaders on both sides of the aisle fashion an agreement to move our Government ahead. So while there is personal chagrin and personal sadness, in the long run these sacrifices today will be worth it.

PASS A CONTINUING RESOLUTION

(Mr. McEWEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **McEWEN**. Mr. Speaker, I have in my hand a statement from the office of the President of the United States in which he says, indeed encourages the Congress of the United States to pass a continuing resolution continuing the functions of this Government. To do any less is irresponsible on our part. We have the capacity to pass a continuing resolution to fund the Government, and I call upon this Congress to do so.

If we continue tonight to play this game of brinkmanship, we bring disserve and dishonor to this body. I would say to those who have run this Congress for 56 of the last 60 years, do not underestimate George Bush. The President understands what is at risk here. He has extended his hand to continue the operations of Government, and political gamesmanship that refuses to fund the Government for this week is irresponsible on the part of the party that dominates this House.

DEMOCRATS SHOULD SUBMIT ALTERNATIVE BUDGET

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **TRAFICANT**. Mr. Speaker, today begins a fight for the policy change of our Nation. This is much more than another budget though. I think bipartisanship is great, but 6 years ago when I ran for Congress I did not run on a bipartisan ticket. I ran as a Democrat, and there used to be a difference between a Democrat and a Republican and a two-party system is what made America great.

Today we have a hybrid party, and I am not so sure that these coalition governments are what the people want. It is evident that the budgets of the last 10 years have failed. I say it is the responsibility of the Democratic Party to submit an alternative budget for the people of this country. If we fail to do that, the Democratic Party will become a dinosaur. In fact, the American people are so turned off, they are about to turn off both parties.

I am not for raising taxes, and I am not going to vote for a budget that raises taxes. I would like to see Members take 50 percent of that NATO expenditure, 50 percent of foreign aid international assistance, and take the bubble of 5 percent and let taxes alone. However, the Nation is looking at the Democratic Party today.

AGREEMENT IS NEAR

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **SHAW**. Mr. Speaker, the hour now is becoming later. There are rumors on the floor that the House will not take up the budget, proposed budget until even later this evening.

I think that the American people are all viewing exactly what is going on in this House today. We have seen our viewing sections full over the last several days. It is perhaps because the other zoo is closed.

However, I do believe that if the members of the summit would get together, I think they do now have the nucleus of an agreement. I think it is not going to take anybody any wizardry to find out there are going to be increases in the top rates of our highest income taxpayers, I anticipate that. And I anticipate being able to support that, provided that there is a growth section in it which will include capital gains. I have no doubt that but both of these will be in here.

We will at last pop the bubble which makes absolutely no sense whatsoever. We will take that top range up slightly from the 28 percent, perhaps even as high as 32, and that we will have a growth factor in there which is vitally important, because we are at the front of a recession here in this country. This is not a break for the wealthy. It is a break for America's working people. It will not promote unemployment, discourage the onslaught of the recession, which we are getting into, and it will make it much easier on all American people.

What is good for the American capitalistic system is good for all people. It is good for jobs. I think that America's highest taxpayers, the people now who are in the top rates, are going to have to put in a little bit more. I think that is exactly what the Republicans and Democrats will eventually agree to.

If we can stop the posturing, if we can get our summiteers back to work, and if they will listen to the middle section of both of these parties, we can put together an agreement.

THE VETERAN AND HEALTH CARE

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **MONTGOMERY**. Mr. Speaker, if we really cannot get a budget soon, the veterans of this country are going to be seriously hurt. If I see something that will help save the veterans and other programs, I will support the programs.

In two succeeding weeks, the ABC-TV show, Primetime Live, aired stories critical of the care received in some Department of Veterans Affairs hospitals across the country. While I would agree that there have been cases of poor judgment by staff and poor care, the vast majority of our 172 VA hospitals are providing quality care for this country's veterans.

I fear that the ABC reports will frighten sick veterans from seeking treatment from the VA. That would be unfortunate because dollar for dollar, service for service, VA health care is among the best in the world. It is as good as private hospitals due to the fact that more than 100 top medical schools throughout the country are affiliated with VA hospitals.

It is a fact of life that every hospital, whether public or private, has problems from time to time with the adequate delivery of health care. When you slip hidden cameras into a hospital you can find problems. It would be unfair, however, to take these few instances and paint a broad picture of incompetence and indifference in our VA health care system. That would be a great disservice to the tens of thousands of dedicated employees who work for the VA.

Over the past 10 years or so, the medical inflation rate has been 10 percent or more. At the same time, we have only been able to secure a 3 or 4 percent increase in funding each year for our veterans programs here in Congress. We have made progress in the past couple of years. President Bush and Veterans' Affairs Secretary Ed Derwinski have helped us get additional funding for VA health care services. That has been a plus.

I don't condone the instances of insensitivity shown on Primetime Live and the persons responsible should be dismissed. But I know that the overwhelming number of VA empoloyees work very hard each day to care for veterans all across the country. And, I can tell you that veterans live longer and in less pain today as a result of the care they get at our VA hospitals.

AUTHORIZING THE SPEAKER TO DECLARE A RECESS UNTIL 8:15

Mr. **FOLEY**. Mr. Speaker, I rise to ask unanimous consent that it be in order for the Speaker to declare a recess of the House at any time up to 8:15 p.m.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. **SENSENBRENNER**. Mr. Speaker, reserving the right to object, would there be any assurance when we come back at 8:15 that there would be legislative business on the floor, or would it be like what has happened now, and what happened at 4 o'clock, and what happened at 1 o'clock?

Mr. **FOLEY**. Mr. Speaker, I will tell the gentleman that the conference committee on the budget resolution is meeting, or prepared to meet, and that if there is a resolution of the conference, of course there would be an opportunity for legislative business tonight. It is not for lack of determination to move forward on any Member's part, but the conference committee must be given an opportunity to reach a conclusion, and we have not though it either wise or considerate to have the Members waiting without any idea as to what is happening.

Therefore, as soon as it is possible we will advise the House.

By the way, this has been cleared, understand, on your side. It should no come as a surprise that we are making this request.

Mr. SENSENBRENNER. Mr. Speaker, further reserving the right to object, if there is a budget conference on the floor, is there any assurance there will be a continuing resolution considered tonight to keep the functions of Government operating?

Mr. FOLEY. If we adopt a conference report tonight, it would be my hope that we could also consider a continuing resolution tonight, yes.

Mr. SENSENBRENNER. Further reserving the right to object, is the distinguished Speaker aware that the other body is not planning any legislative business tonight, so that if we would consider these two pieces of legislation, they will not be around to act on them?

□ 1810

Mr. FOLEY. I am aware that there is that possibility. As the gentleman knows, however, under Senate rules the consideration of a conference report provide for 10 hours of debate and in the event we did adopt the conference report tonight, as I would hope we could, it would still be necessary for the Senate to act on it tomorrow. In any event, the House will have to consider the conference report and, of course, a continuing resolution must originate in the House.

Mr. SENSENBRENNER. Further reserving the right to object, I would hope that this material would be available for the Members to study and vote on at 8:15.

The Democratic Study Group has already issued an explanation sheet of what is in this revised conference report.

Mr. FOLEY. Neither the Democratic Study Group nor anyone else has any definitive information about a conference report. There is no such conference report. I am sure as usual they are giving the membership on both sides of the aisle the benefit of their tremendously competent research and very able predictions about what might happen. They are not always right, but they have a high degree of success in both research and predictions. I have not seen the report, but I can tell you one thing, there is no official conference report. There is no conclusion as far as I know at this moment as I speak of the conference.

I would remind the gentleman that this is not a Democratic conference. It is a conference on which Republican Members of the House and the Senate are Members. I am sure the gentleman knows what I am saying is correct.

Mr. SENSENBRENNER. Further reserving the right to object, the fact sheet that has been issued by the Democratic Study Group dated October 7, 1990, starts out by saying:

> This DSG fact sheet details with the revised budget conference report on H. Con. Res. 310 the Congressional Budget Resolution which the House is expected to consider today.

Apparently the DSG knows something that our Member, the gentleman from Minnesota [Mr. Frenzel] has not been made aware of, but I will send this explanation over to the distinguished Speaker so that he can review it.

Mr. FOLEY. I would be most happy to see it. Thank you very much.

Mr. SENSENBRENNER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. Murtha). Is there objection to the request of the gentleman from Washington?

Mr. DELLUMS. Reserving the right to object, Mr. Speaker, and I shall not object. I simply rise at this time to observe the fact that we were called in at 1 p.m. by unanimous consent to recess several times. No one has objected, Mr. Speaker, because all of us understand there is substantive work transpiring at this very moment that precludes our ability to expeditiously deal with the budget resolution.

I simply rise in order to give the Speaker an opportunity to explain to the membership and through us to the American people why we are not able to move at this particular point.

The last time we had an extension of time, several people here booed that who did not understand it, and I think we ought to take the opportunity to explain it fully to people, and I yield to the Speaker.

Mr. FOLEY. The respective parties of the House and Senate have acted to commit to the committee of conference between the House and the Senate the subject of a budget resolution. The conferees have that matter before them, and are working to reach a conference agreement to send back to the House and the Senate for consideration.

I know that people in the gallery and others in the country watching this may wonder why we are not acting immediately, but we have given this conference committee the duty of trying to work out a recommendation for solving the differences between the House and the Senate, with respect to the budget resolution, taking into consideration all of the views of the various Members and parties, as well as of the President, and coming back to us with a report so we can act on it tonight.

We are working to resolve this problem in the most expeditious, effective way that we can. I would think it would serve no purpose for us to merely sit here in session with no conference report to consider.

We will from time to time have recesses of the House to allow the committee to come back and give a report to the leadership on both sides. I ask Members and the public to be patient. We are trying to move this process forward.

I have a degree of optimism which I hope is well-founded that later this evening it will be possible for us to consider a conference report, and after that is adopted, as I hope it will be, that it will also be possible for us to consider a continuing resolution to continue the operation of Government and make any decision that Members wish about the President's recommendation in that regard.

That is the best that I can do to inform Members of the business over the course of the evening.

This is only the seventh time since the end of the World War II that the House has been in session on a Sunday. It is a day we respect out of tradition and history, but a severe problem faces our country and its people have the right to expect that the Members of both parties will stand available as long as there is the possibility of work to be done and progress to be made.

I think I speak for this side, as I hope I do for the gentleman's in suggesting that we accomplish as much as we can to resolve this problem tonight, and that the House be in session again tomorrow, another holiday, if necessary. I will ask that we do the work that the President, the country, our party leadership on both sides, have requested that we do.

Those who suggest we delay further or put off the decision that we are trying to make tonight bear the burden of responsibility for that delay.

I want every Member to be aware of everything that is brought to the floor that he or she will be asked to vote upon. That is reasonable and fair, but delays that are intended for some other purpose are not in the interest of the country, not in the interest of either party, and not in the interest of advancing the work that this Congress has sworn to do.

Mr. DELLUMS. Further reserving the right to object, I thank the Speaker for his very straightforward explanation as to what got us to this point.

I would only remind the Speaker and my colleagues that as I understand it there was also a unanimous-consent request for a recess in order for the Republican conference and the Democratic caucus to meet to explore the parameters of the budget proposal. Is that not correct?

Mr. FOLEY. Yes; I thank the gentleman for pointing that out.

I think that very often when the public views the Chamber in recess, with no action occurring on the floor, they imagine that no work is being done at all.

We had meetings this afternoon on both sides of the aisle, the Republican conference, the Democratic whip organization, and the Democratic caucus. They have been meeting constantly since the House first came into session at 1 p.m. this afternoon.

Woodrow Wilson, who was a student of the Congress as well as one of the great experts on American Government generally, said once in a somewhat overstated way that Congress in committee was Congress at work, while Congress on the floor was Congress on display.

Now, that is perhaps too strong a statement, because we do important work here; but the point is made that other work, important work, is done away from this particular Chamber.

When we are ready to bring a matter to the whole body for decision, it is reported here for debate and a decision to take place.

Mr. DELLUMS. Further reserving the right to object, Mr. Speaker, I thank the Speaker for his explanation.

I just want to say to all my colleagues that I did make it to the church on time, and thank you very much.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. SOLOMON. Reserving the right to object, Mr. Speaker and my colleagues, I will not hold up this body and I probably will not object, either; but I just want to say to the Speaker that no one on this side of the aisle is trying to hold up the work of this Congress.

I would like to just read the advisory of the President of the United States, George Bush, in his Statement of Administration Policy. It states that "if a continuing resolution covering the period October 6," which is yesterday, "through October 12," which is next Saturday, "is passed, that implements a sequester which on an annual basis would equal a reduction in spending of $40.1 billion," the 1991 savings of the bipartisan budget agreement, which was voted down on this floor the other day, "the President's senior advisors will recommend that he sign it."

The President has said that he will sign it.

We do have a request pending upstairs in the Rules Committee, where I will be going as soon as we leave here, where we would offer an amendment to the continuing resolution which would do just that. It would really keep this Government functioning all next week, allow our negotiators to continue to negotiate so that we could at the same time continue such services as veterans' hospitals, the air traffic controllers, the meat inspectors, and all necessary functions of government.

□ 1820

So I just want the Speaker to know I have a great deal of respect for you, sir, that we are not trying to impede, that we are trying to get this job done.

I thank you for your indulgence.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. Murtha). Is there objection to the request of the gentleman from Washington?

Mr. DANNEMEYER. Mr. Speaker, reserving the right to object, I would like to ask the Speaker a question if I may. I was interested to hear him comment, if I heard him correctly, that if the budget resolution 310 is adopted this evening, then perhaps the House can take up a continuing resolution. My question is, Mr. Speaker, if that is your pleasure, how did it come to be that the Rules Committee under a majority of members of your party declined our request to have a continuing resolution made in order with the rule that made this continuing resolution on the budget in order?

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the Speaker.

Mr. FOLEY. I thank the gentleman for yielding.

Yesterday when the President vetoed the continuing resolution of Friday, his veto message suggested that we concentrate our efforts on getting a budget resolution.

As the gentleman knows we cannot at the same time spend our hours here on the floor debating whether we are going to shut down the entire Federal Government, a third of it or half of it. I for one do not want to close any of the Federal Government even for a single day. I do not want to sequester 14.4 percent of the domestic accounts or 16.6 percent of the military accounts for a single day.

I will give you this assurance, as I have given the Republican leader, Mr. Michel, that when we bring a continuing resolution to the floor, whether tonight or tomorrow, that it will be possible for Mr. Michel or his designee, the Rules Committee permitting, to offer an amendment that would bring before the House the question of sequestering all accounts by $40.1 billion on an annual basis. The House should have the right to vote on that if we consider a continuing resolution.

I will personally recommend a vote against it, particularly if we have adopted a budget resolution.

Let us do what we are charged to do. As I have told him personally, I think the President made a mistake, I say it in vetoing the continuing resolution. I say that regretfully. This Government and all its departments could be open today while we are resolving this problem if he had simply put his signature on the temporary continuing resolution. He chose to do otherwise.

The House voted yesterday on the override. Two-thirds did not insist, and consequently the President's veto stands.

But the reason we are talking about continuing the Government is because the President has been unwilling to sign a continuing resolution in the absence of a budget resolution. Let us get the budget resolution done. Then we will not have endless arguments.

Mr. DANNEMEYER. Further reserving the right to object, I thank the Speaker for his observation that apparently a continuing resolution with the condition of sequestration in it will at least be made in order on the floor so that the Members will have a chance to vote on it. I thank the Speaker for that dispensation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

AN ALTERNATIVE BUDGET RESOLUTION

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, I think it is obvious that there is an impasse that has developed here, and I do not make any attempt to hide it at all. What bothers me a little is the point I just raised with our distinguished Speaker. I think the House should have an opportunity to vote on what the Democratic majority seeks to bring to the floor in the way of a budget resolution. There are some of us on the Republican side who seek also to present an alternative to the House for its consideration.

I make no secret of the fact that this Member from California has been attempting the last several days to present that to the House. The cornerstone is, frankly, restraint on spending, consistent with a 4.5-percent cap over the next few years.

That is a major cornerstone of this effort. It seeks deficit reduction with no increase in taxes. That contrasts between what our Democratic friends seek to have in a budget resolution. They yearn to raise our taxes.

There are some of us in this institution who do not want to raise the taxes as a means to resolving this dilemma. I think the American people are entitled to know who stands where on this issue of who supports tax increases and who is opposed to a tax increase in connection with deficit reduction.

It is a major difference today in the country. And I think the process should permit those of us who want to do it, reducing the deficit by cutting spending rather than raising taxes, should have the opportunity.

THERE IS NO REASON TO SHUT THE GOVERNMENT DOWN

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, what is at stake here is not whether it is going to be a Republican package or a Democratic package or what the President wants. What is at stake is whether America, the world's greatest democracy, is able to function.

We are becoming the laughingstock of the world. No one will want to invest here. We are being looked at as a Third World country.

Several days ago, Mr. Speaker, I responded to the President in his appeal that we act as Americans and we resolve the budget crisis. He acted like a President.

Two days later, he is acting as if he is chairman of the Republican Party denouncing Democrats, me, who supported him in a bipartisan effort.

The time to stop acting like politicians is over, and acting like responsible elected officials has come. It is very important that we not shut down the Government. There is no reason to do that. There is no reason that one employee should lose his job temporarily.

Let us pass a budget. There will be a budget tonight. Let us pass a continuing resolution so that the Government and America's reputation can survive.

A BUDGET ALTERNATIVE

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, before I go up to the meeting of the Committee on Rules, let me just suggest one way we can break this stalemate. I discussed it with Members on both sides of the aisle.

We can adjust the bubble, but not adjust it up, adjust it down to 28 percent for all Americans; we could then set a capital gains tax rate at 22 percent. We could then, ladies and gentlemen, set a new tax bracket of a 10-percent surcharge on all Americans earning over $300,000. If we did that and agreed on that here today, we could eliminate the home heating fuel tax, we could eliminate the gasoline tax almost entirely, and we would certainly eliminate the Medicare tax.

Why don't we start working on that? I think we will get a budget before 48 hours go by.

THE NEW BUDGET PACKAGE

(Mr. MOODY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOODY. Mr. Speaker, I congratulate the previous speaker from New York on his constructive suggestion that the rich begin to pay something approaching their fair share for the mess that faces us after 10 years of free ride for the very wealthy, as the deficit mounted and they bore little burden, but most of the benefit.

The new budget package that is shaping up this evening I think will be much better than the one rejected Thursday evening. It keeps the summit agreement at a solid $40 billion for 1 year and $500 billion for 5 years. It greatly softens the hit on the senior elderly or sick, it would lead to the deletion of the 2-week waiting period for unemployment compensation and the hit on home heating fuel.

Most importantly, it will allow the very wealthy to participate in this package in deficit reduction.

As the budget goes forward tonight, the relevant committees can begin to do their work to bring these results about. An "aye" vote is a green light to proceed on our constitutional duties to provide a package that is fair to the Nation and is in the spirit of real, enforceable deficit reduction.

BRING US SOME MORE ALTERNATIVES

(Mr. CALLAHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CALLAHAN. Mr. Speaker, yes, there is great confusion here in this House of Representatives. The Democrats are blaming the Republicans and the Republicans are blaming the Democrats. The President is blaming some and some are blaming the President.

But let me suggest to the leadership that obviously, since we are not going to accept the summit agreement that you reached after all of those months of deliberations, that you bring us some alternatives.

☐ 1830

Mr. Speaker, there are some of us that cannot support the gasoline tax, but there are some of us that can support an import tax on foreign oil coming into this country. There are some of us that find offensive the provisions in that bill that have to do with the legislation on controlling insurance companies. There are some of us that find offensive the fact that it does cost an awful amount of money for our senior citizens.

But bring us some alternatives, and permit us the opportunity to vote these alternatives up or down on an individual basis. Give us a rule that we can debate for a week. Give us the opportunity to address capital gains. Give us the opportunity to address alternatives to what the summit agreement came up with. Give us alternatives, and give them to us soon.

RICH GET RICHER MENTALITY MUST END

(Mr. JOHNSON of South Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of South Dakota. Mr. Speaker, we should have had a bipartisan agreement months ago. It is tragic that that was not able to occur at that time, but I would have to say that the budget agreement that was brought to this House the other night was one that I could not support, direly as we need an agreement. It is one that would have continued providing massive tax breaks for the very wealthy, while sticking it to the middle class, sticking it to the elderly, the farmers, a continuation of the same sort of rich-get-richer, and stick-it-to-everyone-else sort of mentality that has prevailed now in Washington for over a decade. The White House's initial budget proposals would have provided $11 billion in tax breaks for those Americans who earn over $50,000 a year, but would have required $4 billion of added taxes for Americans who earn less than $50,000 a year. It is the same sort of rich-get-richer trickle-down economics that has been so discredited for so long.

Mr. Speaker, I do not expect perfection in an agreement. I recognize a budget agreement necessarily involves give and take and compromise, but I am confident that we could have a budget agreement proposal this evening that will provide greater tax fairness, that will provide for reducing expenditures for foreign aid and for military expenditures abroad which will not place deficit reduction on the backs of our elderly and which will protect the interests of rural America.

THE BUDGET AND APPROPRIATIONS PROCESSES ARE BROKEN

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, I get a sense of deja vu here today. Here it is Sunday. The Government is shut down. Reminds me of 4 years ago, my first year in office. It was 2:30 in the morning, a week before the Christmas holidays were to begin. We were given a massive document, 1,400-page-thick, and we were asked to approve that document, to approve the spending

plan for this country for the following fiscal year, even though most of us had no idea what was contained wholly and totally inside of it.

The problem continues today, Mr. Speaker. The problem lies within this institution. Our forefathers designed a system to allow us to pass a budget and 13 appropriation bills. How many appropriation bills have we sent to the President this year? Here, in the month of October, not one. In the last 25 years, only 1 year have we in the Congress done our job, and passed the budget and appropriation bills, and allowed the give and take between the administration to set the tone for this country for the following fiscal year.

Mr. Speaker, there is definitely something broken here, and it is the budget process and appropriation process of this institution. Any budget agreement needs to have budget process reform, or it will not have the confidence of the American people.

LINK RATE INCREASE FOR THE $200,000 AND UP TO THE S&L BAILOUT

(Mr. OWENS of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of New York. Mr. Speaker, what the American people and the Congress should be remembering is that, as we go forward with this agreement, there is still a need to discuss the savings-and-loan swindle, the amount of $74.2 billion which is included in this budget package, and nobody is talking about it. That $74.2 billion additional to bail out the savings and loan associations is not linked to anything. In the minds of all Americans and in the mind of the Congress we ought to link that to the bursting of the bubble. An additional rate increase on the richest Americans, those above $200,000, should be placed on there just to pay for the S&L's. These are the people who enjoyed the party. The money flowed like a sieve through the S&L's, like a sieve into the hands of rich real estate dealers, accountants, lawyers, all kinds of people who made lots of money. Many millionaires were made as a result of the S&L swindle. Let them pay for it now.

My colleagues, link the increase in the rate for the $200,000 and above to the S&L $74.2 billion.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MURTHA). The Chair will remind the gallery that they are guests of the House and should not respond in any way to anything said on the floor of the House.

WE MUST COME TO AN AGREEMENT

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute.)

Mr. THOMAS of Wyoming. Mr. Speaker, this is the first time that I have been in this body at the end of a session at the end of 2 years, and I am disappointed in the process. We were to have had a budget prepared in April. We did not. We found excuses not to do that. We were to have appropriation bills in June. We found reasons not to do that, and still we have no agreement.

Mr. Speaker, we are right down to where we have our feet up to the fire. We do not make the best kind of decisions that way.

Second, the people in Wyoming have enough government. We do not need more government. During the past 10 years we have doubled the revenue to the Federal Government. There is not a shortage of revenue. It is a shortage of control in spending. It is a reason for us to limit the growth.

Finally, I just tell my colleagues that we must come to an agreement. It is our responsibility. We need to do it today and, at the latest, tomorrow.

REPORT ON RESOLUTION WAIVING CLAUSE 4(b) OF RULE XI AGAINST CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101–819) on the resolution (H. Res. 497) waiving the requirement of clause 4(b) of rule XI, against consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

WE HAVE TO PAY FOR WHAT WE WANT

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, a democracy is never a neat and tidy process. The Founding Fathers did not promise us wine and roses all the way 200 years ago. Winston Churchill once said that democracy is the worst possible form of government, except for all the other forms of government.

We have been through a very frustrating period. People around the country have watched in amazement as we began to close down the establishment of Government. People around the world, as my colleagues can read from today's press, are astonished and horrified that the richest Nation in the world, with 150,000 troops sweating their guts out in Arabian desert, with all that going on, our President decides to close down th process of governing, of providing necessary goods and services to the American people.

But rationality is returning. I thin we are going to wind this up in th next 24 hours.

However, Mr. Speaker, I hope w will remember some lessons, and th greatest lesson is, from this crunc that we are in, is that we have got t learn how to pay for the Gover ment's facilities and services that w want. There is no free lunch. We hav had Presidents telling us for the las 10 years that taxes are bad, that Gov ernment is sort of bad, that we ca have it all, that it is a free lunch. Thi is wrong, wrong, wrong.

Mr. Speaker, I would like to commend my colleagues for suggestin that we finally bring the wealthy, th rich among us, into the process. A ta surcharge has been suggested fo those making over $300,000 a year. would suggest we could do beter tha that, maybe $100,000 or $150,000 year, but that is the kind of thinkin we need.

Mr. Speaker, we have to learn to pa for the education we need, for th health care we need, for the affor able housing we need, for the infr structure we need, and pay for it lik responsible men and women, like responsible national leaders. That mea taxes. That means reducing wast There are a couple of hundred billio dollars to be sweated out of two gre big black holes in our society, our mil tary establishment and our healt care system. One of the military's ow former Defense Secretary Robe McNamara, suggested cutting the defense budget in half in 10 years. That $30 billion a year we should be cuttin incrementally. Our own Armed Services Committee is responsibly lookin at the demise of the cold war and the regional problems that are th only military threat left. The continued waste and unnecessary buildup the defense establishment is a slap the face to our children and senio who are again asked to shoulder ne cuts in health, education, and othe necessary benefits.

The other black hole, our healt care system, is an absolute parado We have the finest health care syste in the world, but it is riddled wit waste, with unnecessary and duplic tive treatment, with poorly manage administration. With over 31 millio Americans excluded from our healt care system, it is a crime not to set t work immediately to squeeze the fa out of the health care system.

The Joint Economic Committee las year had 9 days of hearings on how w could bring rationality to our healt service system. There is another $10 billion available by making people i the medical community practice rea sonably and efficiently. With this much money available under a lean and mean health care system, the Congress has a moral obligation to set a plan in motion to bring doctors, hospitals, clinics, senior citizen homes, and all other members of the health care system who have so far eluded efforts to discipline health care procedures and management in our country.

With a combined total of waste and unnecessary spending of $250 billion within these two systems, it is a patent absurdity that we would go first to our senior citizens and our children to make up the Federal deficit.

Mr. Speaker, if we learn these lessons today, we can avoid another budget circus tomorrow.

A REACTION AGAINST TAX-AND-SPEND LIBERALISM

(Mr. DUNCAN asked and was given permission to address the House for 1 minute.)

Mr. DUNCAN. Mr. Speaker, the people of this Nation are fed up. They are sick and tired of the tax-and-spend liberalism that has controlled this Congress for more than 30 years now—a liberalism that harms most the very people it professes to help the most.

They are resentful of a government that has become of, by, and for the bureaucrats instead of one that is of, by, and for the people. They are angry toward a government that acts like a ruler instead of a servant.

One of my constituents called the night before the budget summit vote. He said that he lived on less than $9,000 a year. He said "I live within my budget, but you guys don't live within yours."

The Federal Government will take in more than $1 trillion, $300 billion this fiscal year. Surely this is enough to operate even a wasteful, inefficient, and greedy government like ours.

Finally, Mr. Speaker, if we want to know where to begin cutting, the people of my district would say we should stop sending so many billions of dollars overseas and into outer space. We are spending money we do not have, and we must stop.

A MISUSE OF THE PRESIDENT'S VETO POWER

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENNETT. Mr. Speaker, at this time we are testing the Constitution of the United States, because it was that Constitution which gave the President the power of the veto. Until the time Andrew Jackson was President, no President ever used the veto except to raise a constitutional question against a law that had come before him for signature. Andrew Jackson was the first President to exercise a veto that went to the merits of the measure rather than on its constitutionality and this had to do with the bank of the United States. He was convinced that the bank was corrupt, and he said the system under which it was established should be abolished, and, therefore, he opposed the new charter on that basis.

Today we are involved in a veto situation with the President which has nothing to do with the merits of a bill before him. It is a continuing resolution just to run the Government, and he is not opposed to running the Government, but he is using the veto power in a way in which it has never been used or even been thought to be used, and we in Congress are breaking down one of the great things in the Constitution by having this summit. Having the summit means that the President is being taken into the legislative process of the Government, and our checks and balances are being eroded by this process.

It is a grave mistake to do what we are doing. The Congress ought to act on bills, send them to the President, and let him veto them if he does not like them. He can veto them, and then we can bring them up and see if we have enough votes to override. But actually the veto in this particular constitutional situation we have today is being used in a way that it has never been used before, in a way that I think is very improper.

It is being used not to test the validity of a particular bill but to express the will of the President about other bills and other matters before the Congress. This is a very dangerous thing, in my opinion, to change the Constitution of the United States, and this is a habit-forming sort of thing that might well occur again.

Mr. Speaker, we have the oldest constitutional government in history. It has lived longer than any other. It needs to be strengthened by our actions. We should not break it down by giving additional power to the President in the legislative process.

PROJECTED REVENUES FROM TAXES ON OIL AND GASOLINE

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, we need to do several things this evening. First, I believe we should bring the Solomon-Michel continuing resolution to the floor for a vote and pass it. That would keep the Government in business, and it would give our budget negotiators a chance to negotiate a final budget agreement. It would also have a modified version of sequestration which would require some nonessential Government functions to shut down, but it would protect essential Government services.

Second, we ought to begin to look at some alternatives in what I call the 40-percent solution that failed in the House of Representatives last Thursday night. I have a suggestion for the gasoline tax increase. I would suggest an oil import floor price of either $25 a barrel or $28 per barrel, using the same economic assumptions that were in that budget agreement.

The $25 floor price would raise $9 billion in 1991 and $36.5 billion in the 5 years of the agreement. The $28 floor price would raise $14 billion in 1991 and $64.4 billion over 5 years.

Some variation in a floor price for oil taxes has the support of such Democrats as our majority leader, the gentleman from Missouri [Mr. GEPHARDT] here in the House, and Senate Finance Committee Chairman LLOYD BENTSEN in the U.S. Senate.

We would not have a tax; we would have a user fee. We would have some production incentives for domestic production, we would have some stability in the world oil markets, and it would promote conservation in the United States.

A PRESCRIPTION FOR LESS RHETORIC, MORE COMITY

(Mr. HUGHES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUGHES. Mr. Speaker, yesterday was not one of the finest days in the House. I have been here 16 years, and I shared with my colleagues in the Democratic Caucus some thoughts about yesterday that I would like to share with the rest of the House and my colleagues on the Republican side at this time.

We can disagree, and we often do disagree, but we can do it civilly. We did not do that yesterday. There were a lot of catcalls yesterday. There were a lot of hisses and sisses, and I understand the frustrations were high. But frankly, that is no way to treat colleagues. We can accord one another respect, we can disagree and still not be disagreeable. It does not really help the process to have the bomb-throwers on either side get up and engage in a lot of rhetoric. Let us lower the rhetoric.

I have served in the Congress, as I said, for 16 years. Before that I was in law enforcement for about 10 years. There really is not a finer group of people than those I see here. Most of the Members are decent, honest people. There were about 25 here yesterday who engaged in that practice. That does not represent the views of the 435 generally that I serve with in the Congress.

As I say, Mr. Speaker, we all want to get this over with. So let us see if we can reduce the rhetoric and get on with the business of passing a budget so that the Government can continue operating as it should.

A RELATIONSHIP BETWEEN THE HOUSE RULES AND THE BUDGET PACKAGE

(Mr. SMITH of Iowa asked and was given permission to address the House for 1 minute.)

Mr. SMITH of Iowa. Mr. Speaker, the rules of the House are very complicated. They are unique. We do not operate under Robert's Rules of Order. It is difficult to understand these rules, even for Members. But that difficulty should not result in misleading the public.

We have a situation here where the Budget Committee reports a resolution on the budget. That resolution just suggests macro numbers for the budget for the year, and then the matter is referred to the committee to decide how the numbers will be accomplished. The budget resolution may suggest possible ways of reaching the result desired but the numbers to be voted on in the House is in a bill reported by the committees.

All we voted on 3 nights ago was to send the budget resolution overall spendings limits and revenue enhancements to the various committees. That resolution did not secure a majority of either Democrats or Republicans. We did not vote for or against a package of specific changes in the law. All this talk about the package we voted for or against is malarkey. Due to misleading statements, there are people out there who think we voted for a specific package, but we did not vote for or against a package. The resolution is not even a law. It is an internal document which does not have the standing of law or need be signed by the President. Voting down the resolution has caused us to lose 3 days now, and we are right back where we were 3 nights ago trying to agree on a resolution so the committee can vote.

It is time to stop worrying about perceptions in the country. Let us get the Nation's business done, let us send a bill to committee, and let them work on it for a few more days.

GOVERNMENT OVERSPENDING ADDS STILL MORE TO THE DEFICIT

(Mr. FAWELL asked and was given permission to address the House for 1 minute.)

Mr. FAWELL. Mr. Speaker, I think we should emphasize just how much overspending this Congress has been guilty of and how bad and how profligate it is. In doing so, I do have to bring out the fact that Congress has been under the control of the majority party.

In 1990 we will add $355 billion to the national debt for our children and our grandchildren to pay off. That is a $220 billion deficit, and, in addition another $135 billion because we have sucked out every last dollar of all the surplus trust funds we had in 1990. And in 1991 even the budget summiteers are saying there will be at least a $293.7 billion deficit and another $145 billion in borrowing all of the trust funds. This represents every last surplus dollar from our trust funds. Congress is like an alcoholic who has to find every liquor bottle in the house.

□ 1850

That adds up in these 2 years to just about $800 billion in new debt. In addition, Congress has not balanced a budget for 20 years in a row. How could anybody in America understand a Congress which is doing that? On top of all this, we have an estimated $290 billion of incurred interest in 1991 on the national debt which presently stands at $3.2 trillion.

That is the supreme irony of everything, $290 billion just to pay interest on the national debt. As a result, all the programs that we want, we cannot now afford, because we have been so profligate, because we have not done what is elementary to every business person in America and every household—balance your budget.

Now, please do not bring us another budget agreement where we do not really attack the real problem, which is restraints upon spending. In the budget summit agreement given to us, we had a cut from a 12-percent increase in spending in nondefense, for instance, down to 11 percent increase in spending. That is not recognizing the profligate spending problem which we have. Until we recognize that we need a budget agreement where the idea of cutting spending comes before new taxes, we will never solve this problem.

Remember, new taxes don't pay off deficits or debt—they are usually used to finance more Federal spending.

POLITICIANS WILL LISTEN TO THE PEOPLE

(Mr. DELLUMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELLUMS. Mr. Speaker, I have taken the well on numerous occasions and stated to Members that I believe the business of writing a national budget is the most important business of those of us who assume the responsibility of political leadership in this country, and that I believe the budget is the most significant document that any nation can develop, because our budget document is a statement of what we perceive to be important, our priorities, our values. So if you want to know something about a nation, look at its budget.

So what we do with respect to the budget is the most important business in which we engage.

I would like for Members to consider this point, Mr. Speaker: that maybe the fact that we have not arrived at a budget consensus, since we are indeed a representative government, maybe lies in the fact that the American people have not signaled us what ought to be the national consensus.

Now, in this moment of great chaos and pain, American people are now focusing upon us. Mr. Speaker, maybe the American people would take this moment to now signal clearly and without equivocation what that consensus ought to be.

Mr. Speaker, I would hope that as the American people speak, they would join me in saying let us have the boldness to move beyond the insanity of war as we have addressed the problems internationally, and move to a position of peace; that the American people would reject $300 military budgets, as I do; that the American people would understand that over the last 10 years we have spent in excess of $150 billion per annum to maintain our role in NATO, and now the Warsaw Pact at best has been rendered impotent, and at worst, it no longer exists; $150 billion a year.

Maybe they will join me in saying "Yes, we can find a peace dividend." Maybe, Mr. Speaker, the American people can join me in saying we do not need B-2 bombers and Trident submarines and MX missiles to endanger the lives of millions of our children, expanding nuclear weapons beyond comprehension, weapons that have no function but to destroy human life on this planet. Maybe, Mr. Speaker, the American people will join me in saying let us tax the wealthy and get off the backs of working class and middle class people in America. Maybe, Mr. Speaker, finally, they would join me in saying it is cruel and unusual to live in a society with 13 million children in poverty, and millions of people in poverty.

Mr. Speaker, let us reduce the human misery. If the American people say that, the politicians will follow gladly and we will have a magnificent budget for America.

SIMILARITIES BETWEEN CONGRESS AND CHRISTOPHER COLUMBUS

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I think it is perhaps a little bit ironic, but never theless may be a little appropriate, to remind ourselves this evening that we are on the Columbus Day weekend, the celebration of the great event of almost 500 years ago, the discovery of our country.

Mr. Speaker, there are some rather striking similarities that we might want to consider at this poignant moment. Columbus was broke, history tells us. He was deep in debt. He had no money whatever to finance his activities. When Columbus set out, he was certainly not sure where he was going, and when Columbus got there, he did not know where he was.

I suggest that there are some real similarities between Columbus and this institution. However, there is some very good news there, and perhaps if we can get on with the continuing resolution that has been suggested by several Members for a managed sequester, the Michel-Soloman resolution which the President had indicated he will sign, we will then have the advantage that Columbus did not have. We will have the advantage of time, to find out where we are and where we are going with this budget. I think the country deserves that.

BUDGET FIGHT HAD TO BE WAGED

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute.)

Mr. TORRICELLI. Mr. Speaker, with the wheels of the Federal Government coming to a halt and a budget stalemate dominating the national agenda, there is some need to explain to the American people why it is this is occurring before them.

In the first instance, it is not necessary. While the budget negotiations are going forward, the President could have signed a continuing resolution. But he chose not to. Like a petulant child, he would have it his way, or the Federal Government would not operate at all. Those who suffer are the American people in need.

Second, no matter what may be said by the media and the pundits, this is not much to do about nothing. This is a fundamental fight. None of us wanted to be here this holiday weekend. We would all prefer to be home with our families. But the price to support the request of the President to take billions away from needy people on Medicare and continue a decade long effort to shift the finances of this Government onto the backs of the middle-class, onto working families, and continue the efforts to give privilege upon privilege to the American wealthy.

No, this is not a fight about nothing; it is a fight about something very fundamental. We are all sorry about the inconveniences, but this fight had to be waged.

TIME TO WORK IN A BIPARTISAN MANNER

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, I was looking in my calendar earlier today and I was struck by the fact that today is October 7. October 5 was targeted adjournment sine die for this Congress. Think of that. Two days ago we were supposed to have been done. Rather, we have not even completed a budget agreement.

Now, because there was a budget agreement that did not get majority support on the Democratic aisle or did not get majority support on the Republican side, we have decided we are going to become partisan. So what we are going to do here tonight is not try to move the process toward a bipartisan agreement that puts the Government back on its feet and allows Federal workers to go to work on Tuesday. What we are going to do is play partisan politics.

I would suggest that if all the rhetoric we have heard for the last couple of weeks means anything at all, it is time we pass a continuing resolution that the President has said he will sign at the level of the budget agreement that your leaders and our leaders endorsed a week ago, and then get back on with the negotiations. No more politics as usual.

BE FAIR IN BUDGET RESOLUTION

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, for 3 days I have been one of those Members sitting back listening to the arguments. Everybody across the country wonders what is going on.

First of all, they do not understand. My own staff half the time does not understand what the budget resolution is and what the reconciliation act is in the end. People thought if you voted a few days ago for the budget resolution, you supported and endorsed everything in the suggestions from the budget summit.

Mr. Speaker, I did not agree with those suggestions. I did believe we had to pass a budget, and I believe today we have to pass a budget.

Mr. Speaker, I do not agree on the Medicare cuts. I do not think that the poorest and the hardest hit people in the country should bear the costs of this deficit reduction. In fairness, I think there are other places to find that money.

This is my suggestion: One, the taxes on gasoline. Let us forget about the taxes on gasoline and let us pass a windfall profits tax on those oil companies that are gouging the American public with the high price of oil now.

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How about the defense budget that our friend from California mentioned? The House budget was much less than the Senate, but they marked to the Senate budget. How about accepting the House budget?

People amaze me that we can continue to fight this battle day after day, and people say it is too partisan. Yes, it is partisan. The people elect a GOP President and a Republican President and then they are amazed that he wants to protect the rich and tax the middle class. Of course that is what he is going to do. That is their donors. They are not going to tax the rich. They are going to tax the middle class, and then people are amazed that he does it.

That is why we are so partisan. We Democrats are trying to protect the middle class and the poor, and we will continue to be partisan to protect them forever. And the GOP can continue to try to keep the bubble in, and keep the Republicans from increasing the taxes on the rich.

THE BUDGET BATTLE CONTINUES

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, this is a historic moment in the history of this country and of this body. We are engaged in great debate over the rule of the Federal Government and its cost to the American taxpayer.

Some in this body, and I might say they are largely Republicans, believe that the essential strength of this country comes from the grass roots, and they are the Members who also believe that $1.3 trillion is a lot of money, and that the taxes on the American people are already too high, at historic highs. That is right, too high already.

The average American worker works from January to May 8, more than 5 months, just to pay local, State, and Federal income taxes. Then if we add other taxes on top of that, maybe we add another month or two.

For God's sake, the American people are not undertaxed, and this demagoguery over rich versus poor is a lot of malarkey. The taxes that the Democrats have in mind hit the middle class right between the eyes, and that is the way it has always been.

We need a budget with a freeze that accommodates for some inflation, that gives us on top of the $1.3 trillion about $75 billion extra. It is enough for the appetites of our committee chairmen and the establishment in Congress.

SIGN LETTER AGAINST OFFENSIVE ACTIONS IN THE MIDDLE EAST

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, while the Congress has understandably been focused this past week on the budget crisis, there have been some very ominous reports in the newspapers. On Friday, for example, on the front pages of the major newspapers of this Nation, as a result of what I can only take to be orchestrated leaks from someplace in the administration, there were stories suggesting that the President has already made a decision to undertake offensive military action in Saudi Arabia against Iraq.

I have a letter circulating which urges the President not to accept the temptation urged upon him by some people within his administration, to undertake a military attack upon Iraq but to continue to pursue his diplomatic and nonmilitary efforts to resolve the crisis.

I ask my colleagues, if they have not already done so, to consider signing the letter to the President. I think that we may be in a position of warding off some terrible action because of inaction by the Congress.

THE BUDGET AGREEMENT ON EDUCATION AND HEALTH AND SAFETY

(Mr. GAYDOS asked and was given permission to address the House for 1 minute.)

Mr. GAYDOS. Mr. Speaker, I ask my colleagues to pay more specific attention to some of the details in this budget.

Internationally we are being criticized that our students do not measure up, our scientists are second class, and yet we have as one of the specifics a suggestion that $2 billion be cut out of the next 5 years as far as aid to education, loans, community colleges, proprietary schools, all of those sensitive areas. We on the Education and Labor Committee will do our duty, but we are going to do it under adverse circumstances.

We have even gone so far after 20 years of fighting to make OSHA effective that we are now asked to take the OSHA fines, increase those fines, and to use them to take part in this budget solution. That is unfair. I thought we would have more inspectors and more negotiators as far as OSHA is concerned. Give us more inspectors in the field. That is not what is going to happen.

In conclusion, let me suggest this: Public pressure I think substantially contributed to the fact that the negotiators pulled off immediately from Social Security and the consideration of that great program. But there still remains the other aspects of it, the Medicare, for instance. I think that should be untouchable. Surely we in this group, in this Congress, negotiators, all of us together, can sincerely find and determine another area to chop or cut and take hands off of Medicare.

CLARIFICATION ON WHAT BUDGET WE ARE TALKING ABOUT

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I take 1 minute just to ask my colleague from Pennsylvania, if I could, will the gentleman tell me which budget he was talking about that does the various things he was talking about?

Mr. GAYDOS. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Speaker, those are the suggested solutions. We are talking about $2 billion is suggested to be cut.

Mr. WALKER. So the gentleman is talking about the budget where we have a factsheet from the Democratic study group?

Mr. GAYDOS. I do not know what the gentleman is looking at.

Mr. WALKER. The revised budget, you are talking about the revised presentation over what we had the other evening?

Mr. GAYDOS. No; that was the other evening's budget. That is still in there.

Mr. WALKER. You are now talking about the new budget?

Mr. GAYDOS. No, I am talking about the concept of those that are directing their attention toward making a cut in that area.

Mr. WALKER. I am trying to figure out which one you are referring to. I mean, in essence I agree with some of the points you made. But are we talking about the one that was turned down the other evening, or are you talking about the budget coming to the floor later?

Mr. GAYDOS. The original that was turned down, that was in that budget. I now understand it is still in this budget.

Mr. WALKER. So there is one around that is coming, that you understand has some problem with it, is that correct?

Mr. GAYDOS. I am making an attempt to alert my colleagues to watch and to be alert in that particular area so that this does not occur again. That is what I am trying to say, the point I am trying to make.

Mr. WALKER. I thank the gentleman, and I concur with him on that. I think that it is absolutely essential, I think that it is absolutely essential that we do take a very close look at what these numbers mean, because if this factsheet is anywhere close to correct there are some numbers in this particular presentation which the American people should find very disturbing. And I think the gentleman has pointed out some of them, and we may have to point out some more in the course of the evening.

Mr. GAYDOS. If my colleague will yield, probably the reason why my interest is directed toward those points is because that is the jurisdiction of our committee. I am quite sensitive to that area, and those were the figures that I had.

Mr. WALKER. I thank the gentleman.

BUDGET PRIORITIES

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, hopefully in a short period of time the House will be voting on another budget resolution or budget agreement. To those who are visiting the Capitol today, or to those who visited the Congress today, they may be wondering what is going on.

What is going on is a battle of priorities, and if there is no easy answer it is because there is not one. It is an impasse. It is an impasse that this country is at as it tries to struggle with what to do in the 1990's, and how do we live in the 1990's and beyond.

What is at issue is whether we invest in this economy, and financially for those who have not been paying their fair share of taxes in the past, whether they are going to pay their fair share of taxes. It is an issue of fairness, an issue of who pays, an issue of how do we go forward.

I was interested to hear discussion from my friend on the other side of the aisle about whose budget, and indeed that is a fair question, because from the other side of the aisle there has not been any budget. There was no budget when the House voted on the budget back in the spring, and the Republicans had a chance to offer one, and they chose not to. I suspect there will not be a budget alternative offered in the near future. Once again, why go on the record if you do not have to? I think that is the answer.

We are going to put forward a budget, and hopefully it is a compromise, but it is going to be a budget that makes an investment in the future. That is what is at issue, is priorities.

I did not vote for the last budget, the one a couple of nights ago because I thought it had the wrong priorities. Based upon what I heard so far, and I hope is in the budget tonight, I intend to be on board and vote yes this time, because for the first time we begin moving toward the right priorities.

☐ 1910

THERE IS A SILVER LINING IN THE CLOUD

(Mr. SERRANO asked and was given permission to address the House for 1 minute.)

Mr. SERRANO. Mr. Speaker, growing up in the south Bronx, I have learned to look for a silver lining in every cloud that comes before me, and there is a silver lining in this problem.

It seems to me that a lot of the American people, and certainly a lot of Members of Congress, have not noticed the following: Throughout the world, countries are trying to imitate us. Democracy is being born in places that we never thought would take place.

Part of being a democratic system, part of being a democratic country is that sometimes Government does not agree on a budget, and so while we are all in favor of moving this along and while we are in favor of making sure that the American people are not hurt anymore this week, not tonight, not in an hour from now, we cannot have it both ways. We cannot be proud of the greatest democracy on Earth, and when the democracy does not reach a budget within the specified time, begin to criticize it as something that should be thrown away.

As the newest Member of Congress, I can tell you it hurts to see that we have not reached agreement, but I also think that it is democracy at its best. It is what people are trying to imitate, and we should not be ashamed of the process.

The result, the time it takes, maybe we should be upset, but not the process in full.

AMERICAN PUBLIC NOT WILLING TO HAVE TAXES RAISED

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, there are rumors all over this place this evening that we are about to get a new budget, although no one seems quite willing to admit what is in it; but the rumor is we are going to remove, at least part of it will be to remove $10 billion from revenues and $10 billion from entitlements to create what is called a $20 billion plug, and that $20 billion plug will be given over to the Committee on Ways and Means to do with whatever it likes, including raising taxes by $20 billion.

Mr. Speaker, if there was any message from the rejection by a majority of both Democrats and Republicans of the last budget deal to reach this floor just a couple of nights ago, it was that the American public is not willing to have its taxes raised.

If they were not willing to have the taxes raised by the amount that was rejected two nights ago, then a fortiori, they are not willing to have them raised by $20 billion more.

It seems to me that this rumor that we are hearing about it, if in fact it is true, is a nonstarter from the beginning. If that is what the Democratic leadership wants to bring to this floor, the American people are going to reject it, and I suggest that this House also will reject it.

SPACE SHUTTLE MISSION PROGRESSING NICELY

(Mr. NELSON of Florida asked and was given permission to address the House for 1 minute.)

Mr. NELSON of Florida. Mr. Speaker, in the midst of all of this budgetary crisis that we are going through, I want to give some good news. The good news is that happily the space shuttle mission Discovery is progressing nicely. We have launched the Ulysses probe in a very complicated and tricky set of maneuvers on the way to the planet Jupiter, and then using the gravitational pull of Jupiter it will accelerate the speed of the spacecraft, throwing it out of the solar plane at a 90-degree angle so that we will be able to take measurements of a part of the universe that we have never been able to, below the solar plane and above the solar plane.

I say happily, certainly for those of us who want to understand more about our universe, this is a happy occasion. It is also a happy occasion in that NASA has had such a public-relations problem recently with the hydrogen leaks, with the flaw that was discovered in the original manufacturing of the Hubble Space Telescope some 10 years ago, but now I think we are starting to put it into perspective and to see that, in a complicated research kind of program, we are able to get it together and go on and do what Americans do best, and that is release our spirit as discoverers and explorers.

Happily that is the direction in which the space program is going.

BUDGET-BALANCING AMENDMENT TO THE CONSTITUTION NEEDED

(Mr. INHOFE asked and was given permission to address the House for 1 minute.)

Mr. INHOFE. Mr. Speaker, I know that we have gone for several very, very long days now, and it does not look to a lot of people like many things are being done. But I think things are being done.

I can remember my father used to say that when bad things seem to happen, usually good things are happening. In fact, I remember a movie. The movie was called "The Sound of Music." In there you will remember that the nun said, "When God closes the door, he leaves a window open."

I think with all of this discussion that all of America should focus on the big problem. Eighty-seven percent of the people in America want a budget-balancing amendment to the Constitution.

Last July 17, we were able to force a vote through a lot of maneuvering and get a public record. In that public record, which I have right here, we came within seven votes of passing a budget-balancing amendment to the Constitution.

I have a feeling that even though this looks like all of these bad things are happening and we are going to reach a temporary resolution to the problem, and next year, maybe even before this session is over, we will be able to use the public sentiment who is standing by and watching all of this and getting a budget-balancing amendment to our Constitution so we will not have to go through all of this stuff again.

WE ARE ALL GOING TO GIVE ON SOMETHING

(Mr. SISISKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SISISKY. Mr. Speaker, I think it is very interesting; this is the first time that I have come in front of the House during this debate.

Maybe I am not hearing right. I thought I heard the Speaker of the House of Representatives say to the Members of this body that the conference committee was meeting on a new budget. We have a piece of paper here, I understand that, but the Speaker even explained that saying that the piece of paper was something that they may have judged, but they have been wrong before.

When Members come out here and say you are going to get a budget tonight and it is going to have $20 billion in taxes, $30 billion, $40 billion, you are not voting on that. You are voting on process, so let the committees of this House operate.

Every Member will have the opportunity to vote when the reconciliation bill comes out. That is when you can express yourself.

There is nothing wrong in expressing themselves now, but, Mr. Speaker, I can take any piece of paper or any budget, and I think you know, Mr. Speaker, that I would question any decrease in the amount going to the defense of this Nation, and yet there are other Members who want just that, and that is why we are in a problem.

But let me tell the Members, my friends, we are all going to give on something in order to help the economy of this country and, of course, to protect this country.

A GOOD VOTE FOR BOTH DEMOCRATS AND REPUBLICANS

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, there is a new budget deal in the works, but in terms of its effect on reducing the deficit it is not much different than the previous plan.

This new budget deal still requires a $40 billion cut in the deficit in the first year, and $500 billion over the 5 years of the program. The changes are not drastic. The changes simply allow more flexibility for the Committee on Ways and Means to decide how to apportion the Medicare and tax provisions.

The changes make it clear that while there are spending caps on defense and domestic spending, there are no floors. If we want to vote for less and to cut the deficit more, we are allowed to do that. The new deal makes it clear that we are expected to offset the cost of Desert Shield with contributions from other nations, and that any new initiatives must be done on a pay-as-you-go basis. In other words, no new spending unless there are cuts to offset that spending.

So we basically achieve the objective of deep deficit reduction with a little added flexibility in how we get there.

I think it is a good vote for both Democrats and Republicans to make.

RECESS

The SPEAKER pro tempore [Mr. MURTHA]. The House will stand in recess until 8:15 p.m.

Accordingly (at 7 o'clock and 19 minutes p.m.), the House stood in recess until 8:15 p.m.

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AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. HOYER] at 8 o'clock and 23 minutes p.m.

LEGISLATIVE PROGRAM

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, I have asked to proceed for the purpose of informing the House as best I can. We are at a point this evening when we are approaching some decision with respect to the evening schedule.

I know Members would have preferred to have that earlier, but the conference committee has not yet announced that it has reached a decision. Because it remains my hope that we can still take some action this evening, I would be reluctant to take any step which might send the House home, as much as I know Members would like to have an early departure. If we can have some expectation of a conference report or other action on a budget resolution, I think it would be most valuable and important to do so.

PERMISSION FOR SPEAKER TO DECLARE RECESS UNTIL 9:30 P.M. TONIGHT

Mr. FOLEY. It would be my intention at this time, Mr. Speaker, to ask unanimous consent that the Chair may declare a recess of the House at any time until 9:30 p.m. tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. WALKER. Mr. Speaker, reserving the right to object, and I shall not object, the question that continues to recur on our side is one that we have discussed in the course of the evening as to whether or not there is any chance at all that we could get a continuing resolution to the floor, given the fact that the budget process seems to be dragging out here. I know the Speaker had hoped earlier in the day to have something out, but we do have a recurring question. Is that at all a possibility for later on this evening?

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the Speaker.

Mr. FOLEY. Mr. Speaker, I will tell the gentleman there is that possibility, assuming we have taken up and disposed of the conference report on the budget resolution. However, I am extremely reluctant at this point to put the cart before the horse so to speak by doing continuing resolution with the dispute that will occur on that until we resolve the fundamental question of adopting a budget resolution or take another action to set that process forward.

Tomorrow is a Federal holiday. The next day is not. As I have said, it was our feeling on this side that we should not have this question of a continuing resolution before us at all, because the Government should not be closed. But it is, and we have to take action on the budget resolution to satisfy the concerns of the President in order to obtain his signature on the continuing resolution.

I am willing, as I have told Mr. MICHEL, the Republican leader, and say again to the House, at anytime we consider a continuing resolution to ask the distinguished chairman and members of the Rules Committee to make in order an amendment satisfying the President's desire that the House vote on whether or not we have a partial shutdown of the Government under a pro rata sequester of the Federal Government. I am opposed to that. I think it is unnecessary. But I made that commitment and I will keep it. But there is no commitment on taking up a continuing resolution first before the House has approached the responsibility of deciding on a budget resolution.

Mr. WALKER. Further reserving the right to object, I appreciate that explanation, and we do appreciate the Speaker's assurance to the minority leader that such an amendment would be made in order, and we know that he has assured us that he would follow through on that.

Further reserving the right to object, I yield to the gentleman from Minnesota, [Mr. WEBER].

Mr. WEBER. Mr. Speaker, I just wonder if the Democrats are not intending to bring their budget resolution to the floor tonight, I wondered if there is some time at which they do intend to bring a continuing resolution to the floor?

Mr. WALKER. I am glad to yield to the gentleman from Washington.

Mr. FOLEY. I would respond to the gentleman, if you will yield, that I have not been conscious of the fact that we have had problems in delay. We are trying to determine the position of the Republican side on the questions that are before the conference committee.

But in any case, we are trying to accommodate a reasonable opportunity for the committee to act. If it is impossible for the committee to act with unanimity, then perhaps they will have to make a judgment about coming back without being able to agree on a conference report. I do not have before me at the moment a solution to the problem. But believe me, we would like to act tonight and soon. I hope that that will not only be possible but possible in a way that assists in taking this budget resolution and conference report forward.

The President does not sign a budget resolution, as we all know, as he does a continuing resolution.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, I yield to the distinguished minority whip.

Mr. GINGRICH. I thank the gentleman for yielding.

I would just make the observation, because I watched earlier today on television the various comments about what our options are, first of all that if we were to pass a continuing resolution in a sensible form that was fiscally responsible, which would mean that for one we would be only at the budget summit number, which is $400.1 billion, which would mean for one only basically travel funds. No Federal employees would be furloughed. We would only be cutting spending in discretionary amounts such as travel money. And the administration has said:

> If a continuing resolution covering the period October 6 through October 12, 1990, is passed that implements a sequester which on an annual basis would equal a reduction in spending of $40.1 billion (the 1991 savings of the Bi-Partisan Budget Agreement), the President's senior advisers will recommend that he sign it.

□ 2030

Now, my only point is this: On behalf of the Republicans, I think on behalf of the President, there are millions of Americans who want to go to the national parks; there are thousands of Americans in this city who planned their vacations to be able to go to the Smithsonian, to the Washington Monument. There are Americans who want to do a variety of things Monday morning.

If this Congress, if the Democratic leadership in the House and Senate would simply this evening pass a signable continuing resolution which would cut nothing except travel money, not a single Federal employee would be furloughed. Tomorrow morning all over America people could use Federal facilities.

I would just simply ask the Speaker: Why are we inconveniencing millions of Americans, keeping this level of uncertainty?

Mr. FOLEY. If the gentleman will yield to me, I have a very easy answer to that.

Mr. WALKER. Further reserving the right to object, I am happy to yield to the distinguished Speaker.

Mr. FOLEY. Because the President vetoed a continuing resolution which would have allowed everybody to go to work, every national park to stay open, every Federal facility to be open. That was passed by this House with a bipartisan majority vote. It was passed by the Senate by a unanimous vote with every Republican and Democratic Senator supporting it. It went to the President, and he, I say with the greatest respect, made a terrible and unnecessary mistake in vetoing that bill.

Nobody is denied the use of Federal facilities because this body wanted it to happen, we did not; or because the U.S. Senate wanted it to happen, because it did not. It is because the President of the United States chose to exercise a veto which this body sustained, with all but 24 votes to sustain that veto, coming from the Republican side. That is why the American people are being inconvenienced.

Let us not have any doubt about it.

Mr. WALKER. Mr. Speaker, further reserving the right to object.

Mr. FOLEY. Now, we can have this battle later and probably will, but let me repeat again what the President said in the veto message that your side voted overwhelmingly to sustain yesterday. He said, "Please concentrate your efforts on getting a budget resolution." That is in the veto message.

I am reluctant, I will tell the distinguished whip, to take this House through another exercise of deciding how many of the American people will be inconvenienced, how many communal feeding centers will be closed down, how many schools programs, education facilities, and airports will be closed to satisfy the gentleman's desire for fiscal responsibility in a week when we are trying to get an ultimate solution to this problem rather than playing further games with the American people, the Federal budget or Federal workers.

Let us get on with the job of doing this.

Mr. WALKER. Further reserving the right to object, I yield to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, let me say to the distinguished Speaker just three things. First of all, under the continuing resolution the President has indicated he would sign, none of the institutions the gentleman described would be closed.

Second, this House is about to go back into recess. This House could easily simply avoid recess, spend the time passing the resolution, while working on the budget. And, third, it does seem to me, since I am often lectured about responsibility, that when the Democratic majority fails to override a veto, it has an obligation to respond to that failure by cooperating with the President. You failed to override the veto. Therefore, it seems to me, you have an obligation under the Constitution to allow the Government to operate and not simply to close it down.

Mr. FOLEY. Mr. Speaker, would the gentleman yield further to me?

Mr. WALKER. Mr. Speaker, further reserving the right to object, I am happy to yield to the distinguished Speaker.

Mr. FOLEY. Of all the people in this House, of all the people in this country who has little claim to cooperating with his President, it is the gentleman from Georgia.

Mr. WALKER, Mr. Speaker, further reserving the right to object, I would hope that we could keep the matter here on policy and not on personalities.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Minnesota [Mr. WEBER].

Mr. WEBER. Mr. Speaker, I wonder if the distinguished Speaker would return to the subject of why we are not in a position to vote on a budget tonight.

Apparently our Senate colleagues believe that the bipartisan conference has broken down, because they have adjourned until 2 o'clock tomorrow. If we believe that there is some other reason, if there is some other reason to believe that we are going to be able to vote on something, we must know something that they do not. I wonder what is the Speaker's presumption about the status of budget negotiations? I am assuming we are preparing to see a Democrat budget delivered to this floor.

Mr. FOLEY. Mr. Speaker, will the gentleman from Pennsylvania yield?

Mr. WALKER. Further reserving the right to object, I am happy to yield to the distinguished Speaker.

Mr. FOLEY. Responding to the gentleman from Minnesota, as we used to say in the law business, the gentleman's question contains a conclusion that is not in evidence.

We have had the Senate adjourn until tomorrow, but that does not mean that all of the possibility of a conference report has ended. The Senate conferees are here in the Capitol. The House conferees are here in the Capitol. They are available to meet.

The fact is that the Senate, under Senate rules, is provided 10 hours to debate any conference report on a budget resolution. It was unlikely under the circumstances that the Senate could conclude such an action tonight, and that is why they adjourned.

Mr. WALKER. Further reserving the right to object, I yield to the gentleman from Pennsylvania [Mr. GRAY].

Mr. GRAY. Mr. Speaker, I would like to just respond to something that has been said in this debate and questioning, and that is the continuing resolution. First of all, we had a vote, I believe yesterday, where anyone who wanted to prevent the stoppage of the Government could have voted to do that by simply voting to override the President's veto.

Secondly, I would also point out to the distinguished gentleman from Pennsylvania that the continuing resolution that we passed would have been $25 billion below, more than travel money, last year's funding.

I would also point out to the gentleman that the President's veto message stated very specifically something that was clear to all of us. He said he wanted a budget first and then a CR, so it is interesting that today we now

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want to have a CR before we have a budget from the minority side, and so I would simply say to the gentleman that I find it very interesting that we want to have a continuing resolution before we have the budget when we have what the President's veto message said.

Mr. WALKER. Further reserving the right to object, I would simply say to the gentleman a couple of things.

First of all, the President's complaint about the CR was the fact that in your CR you were making a specific attempt to eliminate the budget discipline which is available to the Government under Gramm-Rudman-Hollings. So that he is attempting to have that corrected in the message that he sent up here.

He regarded as an act of irresponsibility by the Congress to eliminate what little budget discipline is left, given the fact that Congress has had an inability to act on these matters up until now.

I would also point out to the distinguished Speaker and to the distinguished majority whip that when you all went into the budget summit agreement with the President, a part of that budget summit agreement was an understanding that should the budget fail on Capitol Hill, that the President would not sign any further CRs.

It is somewhat surprising then to me that you now claim that this is something totally unknown to you. That was part of the understanding that, as I understand it, everyone was a party to in the course of the events.

Mr. FOLEY. Mr. Speaker, will the gentleman yield further?

Mr. WALKER. I am happy to yield to the distinguished Speaker.

Mr. FOLEY. Mr. Speaker, I do not want to interrupt the distinguished Democratic leader who is biting his tongue, I think, as I am, at the suggestion that we agreed, any of us on the Democratic side, that the President would not sign a continuing resolution. It is not expressed in terms of the agreement as anything other than the President's unilateral intention, and there is a reason for that. There was never any agreement by any of the members of the summit on the Democratic side that there should be any delay, any interruption, any refusal to continue the Federal Government, even for 1 minute.

A recent statement by the White House Press Secretary that this was part of an agreement, was corrected by them, and the President made a personal assurance to us at the White House yesterday that he understood, as did Mr. Darman and the others, that we never agreed that he should take this action.

□ 2040

The action was his alone. The statement was made of his intention, but it was never part of any agreement, and explicitly did not have our consent or approval.

Mr. WALKER. I thank the gentleman. I would simply point out to the gentleman that it was part of the documents that were handed out to the Members that this was part of the understanding.

The gentleman may well be stating it correctly, and I think that it is useful for the House to know that, but it certainly was within the understanding of the Democratic leadership that that was the potential. The President is attempting now to compromise that by suggesting if we maintain the discipline that was incumbent in the bipartisan agreement, that for $40 billion worth of savings for a year, he will now sign a continuing resolution. It is that resolution which the House has failed to bring to the floor. It is that resolution that we are suggesting ought to come out to at least give Members the opportunity to have the Government operate at a disciplined level.

I yield to the gentleman from Pennsylvania [Mr. GRAY].

Mr. GRAY. I am having a difficult time understanding the gentleman because just the other night when he had an opportunity to support his President, and the bipartisan summit agreement that he continues to refer to over and over again, the gentleman from Pennsylvania did not support the summit agreement. Therefore, how can the gentleman from Pennsylvania tonight invoke summitry or any of its parts when the gentleman did not even support the President?

Mr. WALKER. I simply say to the gentleman that that was my position on the budget agreement. The majority of your people also did not support the budget agreement, and I invoke it only because the gentleman on your side of the——

Mr. GRAY. We are talking about the gentleman from Pennsylvania, not the majority. We are talking of the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Further reserving the right to object, I simply say to the gentleman that it was your leadership who signed on to that budget agreement. None of these Members did. Most of the Members on the minority side, and many on the majority side, never had an opportunity to have any input into that particular question. I have to think that is one of the reasons why your side lost, if the gentleman will allow me to complete my statement. Allow me to make my statement. The point being, one of the reasons why the gentleman failed along the way was because there was not enough consultation and because the budget, I do not think, was one where Members could accept leadership judgment fully.

Mr. GRAY. If the gentleman wil yield, I find his statement is absolutel astounding. I sat at Andrews Air Forc base for about 8 weeks. I saw at leas the person whom I believe is the minority leader of the House, at least h was as of this morning, and that is th gentleman from Illinois [Mr. MICHEL] He was there. I saw the minority whip the gentleman from Georgia [Mr GINGRICH]. He was there. I saw th ranking member of the Committee o the Budget, the gentleman from Minnesota [Mr. FRENZEL]. He was there The ranking member of the Committee on Ways and Means, the gentleman from Texas [Mr. ARCHER]. He wa there.

I do not understand how one ca even say to the American public tha your side was not represented, an your leadership did not sign on to th summitry.

Mr. WALKER. I thank the gentleman for his point, and further reserving the right to object, I point out tha the gentleman was there. The Speake was there, and a lot of leaders on you side were there, and your side did no carry a majority of your caucus. You caucus also abandoned your leadershi on the budget.

Therefore, I think that there i much bipartisanship on the belief o the general Members of this body tha the budget that was produced was a unworkable, unmanageable, and fiscally unsound budget. So at this point we now have to look at the whol package back together.

Mr. GEPHARDT. Mr. Speaker, wil the gentleman yield?

Mr. WALKER. I yield to the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. I understand that having watched the first part of thi over the television, that the concer here is that we need a continuing appropriation because we do not have budget. I have been sitting in th office of the Senate majority leade for the last 6 hours, trying to conven the conference on the budget so tha we could put an agreement together t bring to the floor. Up until now w have had all of the Democrats there We have had the Senate Republican there, but we cannot quite seem to ge the House Republicans to attend th conference to see if we could get budget agreement put together tonight.

I am going to leave here, and I wil go back. I hope someone will com from your side so that we can do wha the President has asked Members t do now for 5 months, what he aske Members to do yesterday and what h continues to ask Members to do today which is to put a budget resolution together.

We are ready to confer. We have been sitting in the room for 6 hours and I think it is time to begin t confer, to do the Nation's business to get a budget done so we can get the Nation's business done.

Mr. GRAY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Mr. Speaker, further reserving the right to object, I am happy to yield to the gentleman from Pennsylvania [Mr. Gray].

Mr. GRAY. Mr. Speaker, I hear the majority leader of the House saying there is a budget conference going on right now, and no one from your side is there. Could the gentleman explain why no one from your side will represent your side for the budget conference?

Mr. WALKER. Further reserving the right to object, that may be well above my pay grade, I would say to the gentleman, but I would simply say to the gentleman that there is a feeling on our side that we have not been very well consulted with in the course of developing the budget.

We were surprised early today to find a Democratic study group budget out on the floor explaining this whole document that the Republicans had not been consulted about, and we now understand there is a correction out saying it is possible that some of the figures in the conference report could change, so that maybe the DSG was not exactly accurate, but at least they had the feeling that something was coming down the track, that we were not familiar with. So, some of our people may be trying to figure out what is there before they go into a meeting where they are gong to be asked to adopt something.

Mr. FOLEY. Mr. Speaker, I respectfully ask again for unanimous consent that the Speaker may declare a recess up until 9:30 p.m. this evening.

The SPEAKER pro tempore. (Mr. Hoyer). Is there objection to the request of the gentleman from Washington?

There was no objection.

RECESS

The SPEAKER pro tempore. Without objection, the House will stand in recess until 9:30 p.m.

There was no objection.

Accordingly (at 8 o'clock and 45 minutes p.m.), the House stood in recess until 9:30 p.m.

CONFERENCE REPORT ON H. CON. RES. 310

Mr. PANETTA submitted the following conference report and statement on the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the United States Government for the fiscal years 1991, 1992, 1993, 1994, and 1995:

Conference Report (H. Rept. 101-820)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the United States Government for the fiscal years 1991, 1992, 1993, 1994, and 1995, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the resolution and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That the budget for fiscal year 1991 is established, and the appropriate budgetary levels for fiscal years 1992, 1993, 1994, and 1995 are hereby set forth.

MAXIMUM DEFICIT AMOUNTS

Sec. 2. The following levels and amounts in this section are set forth for purposes of determining, in accordance with section 310(i) of the Congressional Budget and Impoundment Control Act of 1974, as amended by the Balanced Budget and Emergency Deficit Control Act of 1985, whether the maximum deficit amount for a fiscal year has been exceeded, and as set forth in this concurrent resolution, shall be considered to be mathematically consistent with the other amounts and levels set forth in this concurrent resolution:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1991: $1,172,900,000,000.

Fiscal year 1992: $1,260,800,000,000.

Fiscal year 1993: $1,349,800,000,000.

(2). The appropriate levels of total new budget authority are as follows:

Fiscal year 1991: $1,485,600,000,000.

Fiscal year 1992: $1,562,600,000,000.

Fiscal year 1993: $1,582,400,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1991: $1,236,900,000,000.

Fiscal year 1992: $1,269,300,000,000.

Fiscal year 1993: $1,305,000,000,000.

(4)(A) The amounts of the deficits are as follows:

Fiscal year 1991: $64,000,000,000.

Fiscal year 1992: $8,500,000,000.

(B) The amount of the surplus is as follows:

Fiscal year 1993: $44,800,000,000.

RECOMMENDED LEVELS AND AMOUNTS

Sec. 3. (a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1990, October 1, 1991, October 1, 1992, October 1, 1993, and October 1, 1994:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1991: $858,600,000,000.

Fiscal year 1992: $923,900,000,000.

Fiscal year 1993: $987,900,000,000.

Fiscal year 1994: $1,045,200,000,000.

Fiscal year 1995: $1,101,400,000,000.

and the amounts by which the aggregate levels of Federal revenues should be increased are as follows:

Fiscal year 1991: $14,700,000,000.

Fiscal year 1992: $24,300,000,000.

Fiscal year 1993: $26,900,000,000.

Fiscal year 1994: $30,700,000,000.

Fiscal year 1995: $30,300,000,000.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1991: $75,400,000,000.

Fiscal year 1992: $83,200,000,000.

Fiscal year 1993: $88,900,000,000.

Fiscal year 1994: $95,200,000,000.

Fiscal year 1995: $101,400,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1991: $1,174,700,000,000.

Fiscal year 1992: $1,230,100,000,000.

Fiscal year 1993: $1,229,600,000,000.

Fiscal year 1994: $1,216,000,000,000.

Fiscal year 1995: $1,266,000,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1991: $1,002,300,000,000.

Fiscal year 1992: $1,024,800,000,000.

Fiscal year 1993: $1,049,900,000,000.

Fiscal year 1994: $1,059,900,000,000.

Fiscal year 1995: $1,080,900,000,000.

(4)(A) The amounts of the deficits are as follows:

Fiscal year 1991: $143,700,000,000.

Fiscal year 1992: $100,900,000,000.

Fiscal year 1993: $62,000,000,000.

Fiscal year 1994: $14,700,000,000.

(B) The amount of the surplus is as follows:

Fiscal year 1995: $20,500,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1991: $3,369,600,000,000.

Fiscal year 1992: $3,540,900,000,000.

Fiscal year 1993: $3,676,700,000,000.

Fiscal year 1994: $3,766,900,000,000.

Fiscal year 1995: $3,827,600,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1990, October 1, 1991, October 1, 1992, October 1, 1993, and October 1, 1994, are as follows:

Fiscal year 1991:

(A) New direct loan obligations, $21,000,000,000.

(B) New primary loan guarantee commitments, $106,800,000,000.

(C) New secondary loan guarantee commitments, $85,400,000,000.

Fiscal year 1992:

(A) New direct loan obligations, $17,800,000,000.

(B) New primary loan guarantee commitments, $109,600,000,000.

(C) New secondary loan guarantee commitments, $88,700,000,000.

Fiscal year 1993:

(A) New direct loan obligations, $18,200,000,000.

(B) New primary loan guarantee commitments, $112,100,000,000.

(C) New secondary loan guarantee commitments, $92,100,000,000.

Fiscal year 1994:

(A) New direct loan obligations, $18,400,000,000.

(B) New primary loan guarantee commitments, $115,450,000,000.

(C) New secondary loan guarantee commitments, $95,600,000,000.

Fiscal year 1995:

(A) New direct loan obligations, $18,600,000,000.

(B) New primary loan guarantee commitments, $118,100,000,000.

(C) New secondary loan guarantee commitments, $99,200,000,000.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations and new primary loan guarantee commitments for fiscal years 1991 through 1995 for each major functional category are:

(1) National Defense (050):

Fiscal year 1991:

(A) New budget authority, $288,300,000,000.

(B) Outlays, $297,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1992:

(A) New budget authority, $290,900,000,000.

(B) Outlays, $295,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1993:

(A) New budget authority, $291,100,000,000.

(B) Outlays, $292,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $351,500,000,000.

(B) Outlays, $341,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $364,900,000,000.

(B) Outlays, $351,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(2) International Affairs (150):

Fiscal year 1991:

(A) New budget authority, $19,200,000,000.

(B) Outlays, $17,400,000,000.

(C) New direct loan obligations, $1,900,000,000.

(D) New primary loan guarantee commitments, $7,200,000,000.

(E) New secondary loan guarantee commitments, $400,000,000.

Fiscal year 1992:

(A) New budget authority, $19,800,000,000.

(B) Outlays, $18,000,000,000.

(C) New direct loan obligations, $2,000,000,000.

(D) New primary loan guarantee commitments, $7,200,000,000.

(E) New secondary loan guarantee commitments, $400,000,000.

Fiscal year 1993:

(A) New budget authority, $20,600,000,000.

(B) Outlays, $18,500,000,000.

(C) New direct loan obligations, $2,100,000,000.

(D) New primary loan guarantee commitments, $7,500,000,000.

(E) New secondary loan guarantee commitments, $400,000,000.

Fiscal year 1994:

(A) New budget authority, $22,400,000,000.

(B) Outlays, $19,700,000,000.

(C) New direct loan obligations, $2,100,000,000.

(D) New primary loan guarantee commitments, $7,700,000,000.

(E) New secondary loan guarantee commitments, $500,000,000.

Fiscal year 1995:

(A) New budget authority, $23,800,000,000.

(B) Outlays, $20,700,000,000.

(C) New direct loan obligations, $2,200,000,000.

(D) New primary loan guarantee commitments, $8,000,000,000.

(E) New secondary loan guarantee commitments, $500,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1991:

(A) New budget authority, $15,200,000,000.

(B) Outlays, $15,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1992:

(A) New budget authority, $15,900,000,000.

(B) Outlays, $15,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1993:

(A) New budget authority, $16,500,000,000.

(B) Outlays, $16,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $17,100,000,000.

(B) Outlays, $16,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $17,700,000,000.

(B) Outlays, $17,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1991:

(A) New budget authority, $6,400,000,000.

(B) Outlays, $4,000,000,000.

(C) New direct loan obligations, $2,000,000,000.

(D) New primary loan guarantee commitments, $400,000,000.

Fiscal year 1992:

(A) New budget authority, $5,600,000,000.

(B) Outlays, $4,400,000,000.

(C) New direct loan obligations, $1,600,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1993:

(A) New budget authority, $6,400,000,000.

(B) Outlays, $5,000,000,000.

(C) New direct loan obligations, $2,000,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $6,800,000,000.

(B) Outlays, $5,300,000,000.

(C) New direct loan obligations, $2,100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $7,200,000,000.

(B) Outlays, $5,200,000,000.

(C) New direct loan obligations, $2,300,000,000.

(D) New primary loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):

Fiscal year 1991:

(A) New budget authority, $18,800,000,000.

(B) Outlays, $18,900,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1992:

(A) New budget authority, $19,900,000,000.

(B) Outlays, $19.600,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1993:

(A) New budget authority, $20,500,000,000.

(B) Outlays, $20,200,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $21,200,000,000

(B) Outlays, $20,600,000,000.

(C) New direct loan obligations $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $22,000,000,000

(B) Outlays, $21,200,000,000.

(C) New direct loan obligations $100,000,000.

(D) New primary loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1991:

(A) New budget authority, $18,000,000,000

(B) Outlays, $14,100,000,000.

(C) New direct loan obligations $9,000,000,000.

(D) New primary loan guarantee commitments, $7,000,000,000.

Fiscal year 1992:

(A) New budget authority, $22,600,000,000

(B) Outlays, $17,100,000,000.

(C) New direct loan obligations $8,800,000,000.

(D) New primary loan guarantee commitments, $7,300,000,000.

Fiscal year 1993:

(A) New budget authority, $20,400,000,000

(B) Outlays, $16,000,000,000.

(C) New direct loan obligations $8,600,000,000.

(D) New primary loan guarantee commitments, $6,600,000,000.

Fiscal year 1994:

(A) New budget authority, $18,200,000,000

(B) Outlays, $15,300,000,000.

(C) New direct loan obligations $8,600,000,000.

(D) New primary loan guarantee commitments, $6,700,000,000.

Fiscal year 1995:

(A) New budget authority, $19,200,000,000

(B) Outlays, $14,600,000,000.

(C) New direct loan obligations $8,400,000,000.

(D) New primary loan guarantee commitments, $6,800,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1991:

(A) New budget authority, $85,500,000,000

(B) Outlays, $87,000,000,000.

(C) New direct loan obligations $6,000,000,000.

(D) New primary loan guarantee commitments, $63,700,000,000.

(E) New secondary loan guarantee commitments, $85,000,000,000.

Fiscal year 1992:

(A) New budget authority, $85,400,000,000

(B) Outlays, $81,400,000,000.

(C) New direct loan obligations $3,300,000,000.

(D) New primary loan guarantee commitments, $65,500,000,000.

(E) New secondary loan guarantee commitments, $88,300,000,000.

Fiscal year 1993:

(A) New budget authority, $41,600,000,000

(B) Outlays, $39,700,000,000.

(C) New direct loan obligations, $3,400,000,000.

(D) New primary loan guarantee commitments, $67,800,000,000.

(E) New secondary loan guarantee commitments, $91,700,000,000.

Fiscal year 1994:

(A) New budget authority, $6,500,000,000.

(B) Outlays, $9,200,000,000.

(C) New direct loan obligations, $3,500,000,000.

(D) New primary loan guarantee commitments, $70,300,000,000.

(E) New secondary loan guarantee commitments, $95,100,000,000.

Fiscal year 1995:

(A) New budget authority, $2,600,000,000.

(B) Outlays, $3,200,000,000.

(C) New direct loan obligations, $3,600,000,000.

(D) New primary loan guarantee commitments, $72,100,000,000.

(E) New secondary loan guarantee commitments, $98,700,000,000.

(8) Transportation (400):

Fiscal year 1991:

(A) New budget authority, $32,300,000,000.

(B) Outlays, $30,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0

Fiscal year 1992:

(A) New budget authority, $33,500,000,000.

(B) Outlays, $31,900,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0

Fiscal year 1993:

(A) New budget authority, $34,700,000,000.

(B) Outlays, $33,100,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0

Fiscal year 1994:

(A) New budget authority, $36,000,000,000.

(B) Outlays, $34,300,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0

Fiscal year 1995:

(A) New budget authority, $37,400,000,000.

(B) Outlays, $35,500,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0

(9) Community and Regional Development (450):

Fiscal year 1991:

(A) New budget authority, $9,200,000,000.

(B) Outlays, $8,600,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $400,000,000.

Fiscal year 1992:

(A) New budget authority, $8,900,000,000.

(B) Outlays, $8,600,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $400,000,000.

Fiscal year 1993:

(A) New budget authority, $9,000,000,000.

(B) Outlays, $8,700,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $400,000,000.

Fiscal year 1994:

(A) New budget authority, $9,500,000,000.

(B) Outlays, $8,900,000,000.

(C) New direct loan obligations, $1,300,000,000.

(D) New primary loan guarantee commitments, $400,000,000.

Fiscal year 1995:

(A) New budget authority, $9,600,000,000.

(B) Outlays, $9,200,000,000.

(C) New direct loan obligations, $1,300,000,000.

(D) New primary loan guarantee commitments, $400,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1991:

(A) New budget authority, $43,000,000,000.

(B) Outlays, $41,800,000,000.

(C) New direct loan obligations, $0

(D) New primary loan guarantee commitments, $12,500,00,000.

Fiscal year 1992:

(A) New budget authority, $43,700,000,000.

(B) Outlays, $43,000,000,000.

(C) New direct loan obligations, $0

(D) New primary loan guarantee commitments, $12,900,000,000.

Fiscal year 1993:

(A) New budget authority, $44,400,000,000.

(B) Outlays, $44,000,000,000.

(C) New direct loan obligations, $0

(D) New primary loan guarantee commitments, $13,200,000,000.

Fiscal year 1994:

(A) New budget authority, $46,300,000,000.

(B) Outlays, $45,400,000,000.

(C) New direct loan obligations, $0

(D) New primary loan guarantee commitments, $13,300,000,000.

Fiscal year 1995:

(A) New budget authority, $48,100,000,000.

(B) Outlays, $46,900,000,000.

(C) New direct loan obligations, $0

(D) New primary loan guarantee commitments, $13,400,000,000.

(11) Health (550):

Fiscal year 1991:

(A) New budget authority, $66,300,000,000.

(B) Outlays, $65,500,000,000.

(C) New direct loan obligations, $0

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1992:

(A) New budget authority, $73,900,000,000.

(B) Outlays, $73,300,000,000.

(C) New direct loan obligations, $0

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1993:

(A) New budget authority, $81,300,000,000.

(B) Outlays, $80,900,000,000.

(C) New direct loan obligations, $0

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1994:

(A) New budget authority, $89,600,000,000.

(B) Outlays, $88,900,000,000.

(C) New direct loan obligations, $0

(D) New primary loan guarantee commitments, $350,000,000.

Fiscal year 1995:

(A) New budget authority, $98,500,000,000.

(B) Outlays, $97,500,000,000.

(C) New direct loan obligations, $0

(D) New primary loan guarantee commitments, $400,000,000.

(12) Medicare (570):

Fiscal year 1991:

(A) New budget authority, $122,400,000,000.

(B) Outlays, $104,900,000,000.

(C) New direct loan obligations, $0

(D) New primary loan guarantee commitments, $0

Fiscal year 1992:

(A) New budget authority, $133,500,000,000.

(B) Outlays, $120,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1993:

(A) New budget authority, $147,500,000,000.

(B) Outlays, $134,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $161,900,000,000.

(B) Outlays, $150,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $177,200,000,000.

(B) Outlays, $168,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1991:

(A) New budget authority, $196,800,000,000.

(B) Outlays, $160,000,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1992:

(A) New budget authority, $205,200,000,000.

(B) Outlays, $167,800,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1993:

(A) New budget authority, $212,800,000,000.

(B) Outlays, $175,300,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $223,500,000,000.

(B) Outlays, $185,300,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(14) Income Security (650):

Fiscal year 1995:

(A) New budget authority, $231,100,000,000.

(B) Outlays, $192,200,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(14) Income Security (650):

Fiscal year 1991:

(A) New budget authority, $3,800,000,000.

(B) Outlays, $3,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1992:

(A) New budget authority, $4,500,000,000.

(B) Outlays, $4,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1993:

(A) New budget authority, $4,900,000,000.

(B) Outlays, $4,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $5,400,000,000.

(B) Outlays, $5,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $6,000,000,000.

(B) Outlays, $6,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

Fiscal year 1991:

(A) New budget authority, $31,900,000,000.

(B) Outlays, $31,700,000,000.

(C) New direct loan obligations, $7,000,000.

(D) New primary loan guarantee commitments, $15,700,000,000.

Fiscal year 1992:

(A) New budget authority, $33,100,000,000.

(B) Outlays, $32,700,000,000.

(C) New direct loan obligations, $600,000,000.

(D) New primary loan guarantee commitments, $16,000,000,000.

Fiscal year 1993:

(A) New budget authority, $34,100,000,000.

(B) Outlays, $33,800,000,000.

(C) New direct loan obligations, $600,000,000.

(D) New primary loan guarantee commitments, $16,300,000,000.

Fiscal year 1994:

(A) New budget authority, $35,000,000,000.

(B) Outlays, $36,300,000,000.

(C) New direct loan obligations, $500,000,000.

(D) New primary loan guarantee commitments, $16,700,000,000.

Fiscal year 1995:

(A) New budget authority, $36,100,000,000.

(B) Outlays, $36,100,000,000.

(C) New direct loan obligations, $500,000,000.

(D) New primary loan guarantee commitments, $17,000,000,000.

(16) Administration of Justice (750):

Fiscal year 1991:

(A) New budget authority, $13,300,000,000.

(B) Outlays, $12,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1992:

(A) New budget authority, $14,400,000,000.

(B) Outlays, $14,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1993:

(A) New budget authority, $15,000,000,000.

(B) Outlays, $14,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $15,600,000,000.

(B) Outlays, $15,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $16,200,000,000.

(B) Outlays, $16,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1991:

(A) New budget authority, $11,700,000,000.

(B) Outlays, $11,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1992:

(A) New budget authority, $12,000,000,000.

(B) Outlays, $12,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1993:

(A) New budget authority, $12,300,000,000.

(B) Outlays, $11,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $12,500,000,000.

(B) Outlays, $12,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $13,000,000,000.

(B) Outlays, $12,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(18) Net Interest (900):

Fiscal year 1991:

(A) New budget authority, $215,600,000,000.

(B) Outlays, $215,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1992:

(A) New budget authority, $228,700,000,000.

(B) Outlays, $228,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1993:

(A) New budget authority, $239,200,000,000.

(B) Outlays, $239,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $243,700,000,000.

(B) Outlays, $243,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $244,500,000,000.

(B) Outlays, $244,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(19) Allowances (920):

Fiscal year 1991:

(A) New budget authority, $0.

(B) Outlays, −$95,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1992:

(A) New budget authority, $0.

(B) Outlays, −$113,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1993:

(A) New budget authority, $0.

(B) Outlays, −$86,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority, $0.

(B) Outlays, −$60,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority, $0.

(B) Outlays, −$76,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(20) Undistributed Offsetting Receipts (950):

Fiscal year 1991:

(A) New budget authority, −$23,000,000,000.

(B) Outlays, −$43,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1992:

(A) New budget authority, −$21,400,000,000.

(B) Outlays, −$49,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1993:

(A) New budget authority, −$22,700,000,000.

(B) Outlays, −$52,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1994:

(A) New budget authority,—$93,800,000,000.

(B) Outlays,—$115,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1995:

(A) New budget authority,—$109,100,000,000.

(B) Outlays,—$134,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

RECONCILIATION

SEC. 4. (a) Not later than October 15, 1990, the committees named in subsections (b) and (c) of this section shall submit their recommendations to the Committees on the Budget of their respective Houses. After receiving those recommendations, the Committees on the Budget shall report to the House and Senate a reconciliation bill or resolution or both carrying out all such recommendations without any substantive revision.

HOUSE COMMITTEES

(b)(1) The House Committee on Agriculture shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $1,022,000,000 in outlays in fiscal year 1991, $2,023,000,000 in outlays in fiscal year 1992, $3,214,000,000 in outlays in fiscal year 1993, $3,432,000,000 in outlays in fiscal year 1994, and $3,936,000,000 in outlays in fiscal year 1995.

(2) The House Committee on Banking, Finance and Urban Affairs shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $1,507,000,000 in outlays in fiscal year 1991, $2,635,000,000 in outlays in fiscal year 1992, $2,812,000,000 in outlays in fiscal year 1993, $3,081,000,000 in outlays in fiscal year 1994, and $3,223,000,000 in outlays in fiscal year 1995.

(3) The House Committee on Education and Labor shall report changes in laws

within its jurisdiction sufficient to reduce the deficit as follows: $215,000,000 in fiscal year 1991, $525,000,000 in fiscal year 1992, $760,000,000 in fiscal year 1993, $1,010,000,000 in fiscal year 1994, and $1,260,000,000 in fiscal year 1995.

(4) The House Committee on Energy and Commerce shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $3,731,000,000 in outlays in fiscal year 1991, $6,822,000,000 in outlays in fiscal year 1992, $9,224,000,000 in outlays in fiscal year 1993, $10,988,000,000 in outlays in fiscal year 1994, and $12,956,000,000 in outlays in fiscal year 1995.

(5) The House Committee on Interior and Insular Affairs shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $343,000,000 in outlays in fiscal year 1991, $400,000,000 in outlays in fiscal year 1992, $412,000,000 in outlays in fiscal year 1993, $425,000,000 in outlays in fiscal year 1994, and $438,000,000 in outlays in fiscal year 1995.

(6) The House Committee on Judiciary shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $91,000,000 in outlays in fiscal year 1991, $95,000,000 in outlays in fiscal year 1992, $99,000,000 in outlays in fiscal year 1993, $103,000,000 in outlays in fiscal year 1994, and $107,000,000 in outlays in fiscal year 1995.

(7) The House Committee on Merchant Marine and Fisheries shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $222,000,000 in outlays in fiscal year 1991, $241,000,000 in outlays in fiscal year 1992, $249,000,000 in outlays in fiscal year 1993, $256,000,000 in outlays in fiscal year 1994, and $263,000,000 in outlays in fiscal year 1995.

(8) The House Committee on Post Office and Civil Service shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficent to reduce outlays, or (C) any combination thereof, as follows: $2,165,000,000 in outlays in fiscal year 1991, $2,140,000,000 in outlays in fiscal year 1992, $2,780,000,000 in outlays in fiscal year 1993, $3,545,000,000 in outlays in fiscal year 1994, and $3,720,000,000 in outlays in fiscal year 1995.

(9) The House Committee on Public Works shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $42,000,000 in outlays in fiscal year 1991, $53,000,000 in outlays in fiscal year 1992, $53,000,000 in outlays in fiscal year 1993, $53,000,000 in outlays in fiscal year 1994, and $53,000,000 in outlays in fiscal year 1995.

(10) The House Committee on Science, Space, and Technology shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $5,000,000 in outlays in fiscal year 1991, $5,000,000 in outlays in fiscal year 1992, $5,000,000 in outlays in fiscal year 1993, $5,000,000 in outlays in fiscal year 1994, and $5,000,000 in outlays in fiscal year 1995.

(11) The House Committee on Veterans' Affairs shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $620,000,000 in outlays in fiscal year 1991, $645,000,000 in outlays in fiscal year 1992, $670,000,000 in outlays in fiscal year 1993, $695,000,000 in outlays in fiscal year 1994, and $720,000,000 in outlays in fiscal year 1995.

(12)(A) The House Committee on Ways and Means shall report (i) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (ii) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (iii) any combination thereof, as follows: $3,320,000,000 in outlays in fiscal year 1991, $9,245,000,000 in outlays in fiscal year 1992, $11,870,000,000 in outlays in fiscal year 1993, $14,148,000,000 in outlays in fiscal year 1994, and $17,020,000,000 in outlays in fiscal year 1995.

(B) The House Committee on Ways and Means shall report changes in laws within its jurisdiction sufficient to increase revenues as follows: $13,225,000,000 in fiscal year 1991, $24,135,000,000 in fiscal year 1992, $24,040,000,000 in fiscal year 1993, $28,950,000,000 in fiscal year 1994, and $28,450,000,000 in fiscal year 1995.

(C) In addition to the instructions in subparagraphs (A) and (B), the House Committee on Ways and Means shall report changes in laws within its jurisdiction sufficient to reduce the deficit as follows: $2,000,000,000 in fiscal year 1991, $3,000,000,000 in fiscal year 1992, $4,000,000,000 in fiscal year 1993, $5,000,000,000 in fiscal year 1994, and $6,000,000,000 in fiscal year 1995.

(D) The House Committee on Ways and Means shall report changes in laws within its jurisdiction which provides for an increase in the permanent statutory limit on the public debt by an amount not to exceed $1,900,000,000.

SENATE COMMITTEES

(c)(1) The Senate Committee on Agriculture, Nutrition, and Forestry shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $1,000,000,000 in fiscal year 1991, and $13,473,000,000 in fiscal years 1991 through 1995.

(2) The Senate Committee on Banking, Housing, and Urban Affairs shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $1,507,000,000 in fiscal year 1991, and $13,258,000,000 in fiscal years 1991 through 1995.

(3) The Senate Committee on Commerce, Science, and Transportation shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $232,000,000 in fiscal year 1991, and $1,335,000,000 in fiscal years 1991 through 1995.

(4) The Senate Committee on Energy and Natural Resources shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $36,000,000 in fiscal year 1991, and $364,000,000 in fiscal years 1991 through 1995.

(5) The Senate Committee on Environment and Public Works shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $392,000,000 in fiscal year 1991, and $1,808,000,000 in fiscal years 1991 through 1995.

(6)(A) The Senate Committee on Finance shall report (i) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (ii) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (iii) any combination thereof, as follows: $3,015,000,000 in fiscal year 1991, and $55,883,000,000 in fiscal years 1991 through 1995.

(B) The Senate Committee on Finance shall report changes in laws within its jurisdiction sufficient to increase revenues as follows: $13,225,000,000 in fiscal year 1991, and $118,800,000,000 in fiscal years 1991 through 1995.

(C) In addition to the instructions in subparagraph (A) and (B), the Senate Committee on Finance shall report changes in laws within its jurisdicton sufficient (1) to reduce outlays, (ii) to increase revenues, or (iii) any combination thereof, as follows $2,000,000,000 in fiscal year 1991, and $20,000,000,000 in fiscal years 1991 through 1995.

(D) The Senate Committee on Finance shall report changes in law within its jurisdiction which provide for an increae in the permanent statutory limit on the public debt by an amount not to exceed $1,900,000,000,000.

(7) The Senate Committee on Governmental Affairs shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $2,165,000,000 in fiscal year 1991, and $14,350,000,000 in fiscal years 1991 through 1995.

(8) The Senate Committee on Judiciary shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $91,000,000 in fiscal year 1991, and $495,000,000 in fiscal years 1991 through 1995.

(9)(A) The Senate Committee on Labor and Human Resources shall report (i) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (ii) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (iii) any combination thereof, as follows: $120,000,000 in fiscal year 1991, and $2,640,000,000 in fiscal years 1991 through 1995.

(B) The Senate Committee on Labor and Human Resources shall report changes in laws within its jurisdiction sufficient to increase revenues as follows: $45,000,000 in fiscal year 1991, and $840,000,000 in fiscal years 1991 through 1995.

(10) The Senate Committee on Veterans' Affairs shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficent to reduce outlays, or (C) any combination thereof, as follows: $620,000,000 in fiscal year 1991, and $3,350,000,000 in fiscal years 1991 through 1995.

SALE OF GOVERNMENT ASSETS

SEC. 5. (a) It is the sense of the Congress that—

(1) from time to time the United States Government should sell assets to nongovernment buyers; and

(2) the amounts realized from such asset sales will not recur on an annual basis and do not reduce the demand for credit.

(b) For purposes of allocations and points of order under section 302 of the Congressional Budget and Impoundment Control Act of 1974, the amounts realized from asset sales or prepayments of loans shall not be allocated to a committee and shall not be scored with respect to the level of budget authority or outlays under a committee's allocation under section 302 of that Act.

(c) For purposes of reconciliation under section 310 of the Congressional Budget and Impoundment Control Act of 1974, the amounts realized from asset sales or prepayments of loans shall not be scored with respects the level of budget authority, outlays, contributions, or revenues reconciled under a concurrent resolution on the budget.

(d) For purposes of this section—

(1) the terms "asset sale" and "prepayment of a loan" shall have the same meaning as under section 257(12) of the Balanced Budget and Emergency Deficit Control Act of 1985; and

(2) the terms "asset sale" and "prepayment of a loan" do not include asset sales mandated by law before September 8, 1987, and routine, ongoing asset sales and loan prepayments at levels consistent with agency operations in fiscal year 1986.

RESERVE FUND FOR CHILDREN

SEC. 6. (a) In the Senate, budget authority and outlays may be allocated to the Senate Committee on Finance for increased funding for children, including funding through tax credits, if the Committee on Finance or the committee of conference reports funding legislation that—

(1) will, if enacted, make funds available for that purpose; and

(2) to the extent that the costs of such legislation are not included in this resolution, will not increase the deficit in this resolution for fiscal year 1991, and will not increase the total deficit for the period of fiscal years 1991 through 1995.

(b) Upon the reporting of legislation pursuant to subsection (a), and again upon the submission of a conference report on such legislation (if such a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 302(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this section. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of such Act as allocations, functional levels, and aggregates contained in this resolution. The Committee on Finance shall report revised allocations pursuant to section 302(b) of such Act for the appropriate fiscal year (or years) to carry out this section.

And the Senate agree to the same.

That the Senate recede from its amendment to the title of the resolution.

LEON E. PANETTA,
RICHARD GEPHARDT,
Managers on the Part of the House.

JIM SASSER,
WYCHE FOWLER, Jr.
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the United States Government for the fiscal years 1991, 1992, 1993, 1994, and 1995, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the resolution struck out all of the House resolution after the resolving clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House resolution and the Senate amendment.

EXPLANATION OF CONFERENCE AGREEMENT

The following tables show the functional allocations and budget aggregates included in the conference agreement over five years for the total budget, the on-budget amounts and the off-budget amounts. In addition, a table is included which breaks out the credit amounts by function.

CONFERENCE AGREEMENT TOTAL BUDGET

[In billions of dollars]

	1991	1992	1993	1994	1995
Budget authority	1,485.6	1,562.6	1,582.4	1,593.4	1,668.4
Outlays	1,236.9	1,269.3	1,305.0	1,324.8	1,355.5
Revenues	1,172.9	1,260.8	1,349.8	1,433.3	1,511.7
Deficit (−) / surplus (+)	−64.0	−8.5	44.8	108.5	156.2
050 National Defense:					
Budget authority	288.3	290.9	291.1	351.5	364.9
Outlays	297.0	295.0	292.0	341.7	351.1
150 International Affairs:					
Budget authority	19.2	19.8	20.6	22.4	23.8
Outlays	17.4	18.0	18.5	19.7	20.7
250 General Science, Space and Technology:					
Budget authority	15.2	15.9	16.5	17.1	17.7
Outlays	15.2	15.7	16.1	16.8	17.4
270 Energy:					
Budget authority	6.4	5.6	6.4	6.8	7.2
Outlays	4.0	4.4	5.0	5.3	5.2
300 Natural Resources and Environment:					
Budget authority	18.8	19.9	20.5	21.2	22.0
Outlays	18.9	19.6	20.2	20.6	21.2
350 Agriculture:					
Budget authority	18.0	22.6	20.4	18.2	19.2
Outlays	14.1	17.1	16.0	15.3	14.6
370 Commerce and housing credit:					
Budget authority	85.5	85.4	41.6	−6.5	2.6
Outlays	87.0	81.4	39.7	−9.2	−3.2
400 Transportation:					
Budget authority	32.3	33.5	34.7	36.0	37.4
Outlays	30.7	31.9	33.1	34.3	35.5
450 Community and regional development:					
Budget authority	9.2	8.9	9.0	9.5	9.6
Outlays	8.6	8.6	8.7	8.9	9.2
500 Education, training, employment and social services:					
Budget authority	43.0	43.7	44.4	46.3	41.8
Outlays	43.8	44.0	44.0	45.4	66.3
550 Health:					
Budget authority	66.3	73.9	81.3	89.6	98.5
Outlays	65.5	73.3	80.9	88.9	97.5

CONFERENCE AGREEMENT TOTAL BUDGET—Continued

[In billions of dollars]

	1991	1992	1993	1994	1995
570 Medicare:					
Budget authority	122.4	133.5	147.5	161.9	177.2
Outlays	104.9	120.0	134.4	150.5	168.0
600 Income security:					
Budget authority	196.8	205.2	212.8	223.5	231.1
Outlays	160.5	167.8	175.3	185.3	192.2
650 Social security:					
Budget authority	339.5	367.0	396.2	427.5	460.9
Outlays	266.3	283.7	301.4	318.9	337.2
700 Veterans benefits and services:					
Budget authority	31.9	33.1	34.1	35.1	36.1
Outlays	31.7	32.7	33.8	36.3	36.1
750 Administration of justice:					
Budget authority	13.3	14.4	15.0	15.6	16.2
Outlays	12.3	14.2	14.9	15.4	16.0
800 General government:					
Budget authority	11.7	12.0	12.3	12.5	13.0
Outlays	11.7	12.8	11.8	12.0	12.4
900 Net Interest:					
Budget authority	194.4	201.9	206.2	203.8	197.0
Outlays	194.4	201.9	206.2	203.8	197.0
920 Allowances:					
Budget authority	0	0	0	0	0
Outlays	−96.6	−115.3	−88.3	−61.8	−77.4
950 Undistributed offsetting receipts:					
Budget authority	−26.6	−24.6	−28.2	−98.6	−114.1
Outlays	−48.5	−55.7	−58.7	−123.3	−142.5

CONFERENCE AGREEMENT ON-BUDGET ONLY

[In billions of dollars]

	1991	1992	1993	1994	1995
Budget authority	1174.7	1230.1	1229.6	1216.0	1266.0
Outlays	1002.3	1024.8	1049.9	1059.9	1080.9
Revenues	858.6	923.9	987.9	1045.2	1101.4
Deficit (−) / surplus (+)	−143.7	−100.9	−62.0	−14.7	−20.5
050 National defense:					
Budget authority	288.3	290.9	291.1	351.5	364.9
Outlays	297.0	−295.0	292.0	341.7	351.5
150 International affairs:					
Budget authority	19.2	19.8	20.6	22.4	23.8
Outlays	17.4	18.0	18.5	19.7	20.7
250 General science, space and technology:					
Budget authority	15.2	15.9	16.5	17.1	17.7
Outlays	15.2	15.7	16.1	16.8	17.4
270 Energy:					
Budget authority	6.4	5.6	6.4	6.8	7.2
Outlays	4.0	4.4	5.0	5.3	5.2
300 Natural resources and environment:					
Budget authority	18.8	19.9	20.5	21.2	22.0
Outlays	18.9	19.6	20.2	20.6	21.2
350 Agriculture:					
Budget authority	18.0	22.6	20.4	18.2	19.2
Outlays	14.1	17.1	16.0	15.3	14.6
370 Commerce and housing credit:					
Budget authority	85.5	85.4	41.6	−6.5	2.6
Outlays	87.0	81.4	39.7	−9.2	−3.2
400 Transportation:					
Budget authority	32.3	33.5	34.7	36.0	37.4
Outlays	30.7	31.9	33.1	34.3	35.5
450 Community and regional development:					
Budget authority	9.2	8.9	9.0	9.5	9.6
Outlays	8.6	8.6	8.7	8.9	9.2
500 Education, training, employment and social services:					
Budget authority	43.0	43.7	44.4	46.3	48.1
Outlays	41.8	43.0	44.0	45.4	46.9
550 Health:					
Budget authority	66.3	73.9	81.3	89.6	98.5
Outlays	65.5	73.3	80.9	88.9	97.5
570 Medicare:					
Budget authority	122.4	133.5	147.5	161.9	177.2
Outlays	104.9	120.0	134.4	150.5	168.0
600 Income security:					
Budget authority	196.8	205.2	212.8	223.5	231.1
Outlays	160.5	167.8	175.3	185.3	192.2
650 Social Security:					
Budget authority	3.8	4.5	4.9	5.4	6.0
Outlays	3.8	4.5	4.9	5.4	6.0
700 Veterans benefits and services:					
Budget authority	31.9	33.1	34.1	35.1	36.1
Outlays	31.7	32.7	33.8	36.3	36.1
750 Administration of justice:					
Budget authority	13.3	14.4	15.0	15.6	16.2
Outlays	12.3	14.2	14.9	15.4	16.0
800 General government:					
Budget authority	11.7	12.0	12.3	12.5	13.0
Outlays	11.7	12.0	11.8	12.0	12.4

CONFERENCE AGREEMENT ON-BUDGET ONLY—Continued

[In billions of dollars]

	1991	1992	1993	1994	1995
900 Net interest:					
Budget authority	215.6	228.7	239.2	243.7	244.5
Outlays	215.6	228.7	239.2	243.7	244.5
920 Allowances:					
Budget authority	0	0	0	0	0
Outlays	−95.4	−113.6	−86.6	−60.5	−76.4
950 Undistributed offsetting receipts:					
Budget authority	−23.0	−21.4	−22.7	−93.8	−109.1
Outlays	−43.0	−49.5	−52.0	−115.9	−134.4

CONFERENCE AGREEMENT OFF-BUDGET ONLY

[In billions of dollars]

	1991	1992	1993	1994	1995
Budget authority	310.9	332.5	352.8	377.4	402.4
Outlays	234.6	244.5	255.1	264.9	274.6
Revenues	314.3	336.9	361.9	388.1	410.3
Deficit (−) / surplus (+)	79.7	92.4	106.8	123.2	135.7
050 National defense:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
150 International affairs:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
250 General science, space and technology:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
270 Energy:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
300 National resources and environment:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
350 Agriculture:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
370 Commerce and housing credit:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
400 Transportation:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
450 Community and regional development:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
500 Education, training, employment and social services:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
550 Health:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
570 Medicare:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
600 Income security:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
650 Social security:					
Budget authority	335.7	362.5	391.3	422.1	454.9
Outlays	262.5	279.2	296.5	313.5	331.2
700 Veterans benefits and services:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
750 Administration of justice:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
800 General government:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
900 Net interest:					
Budget authority	−21.1	−26.8	−33.0	−39.9	−47.5
Outlays	−21.2	−26.8	−33.0	−39.9	−47.5
920 Allowances:					
Budget authority	0	0	0	0	0
Outlays	−1.2	−1.7	−1.7	−1.3	−1.0
950 Undistributed offsetting receipts:					
Budget authority	−3.6	−3.2	−5.5	−4.8	−5.0
Outlays	−5.5	−6.2	−6.7	−7.4	−8.1

CREDIT BUDGET FUNCTION TOTALS

[In billions of dollars]

	1991	1992	1993	1994	1995
Direct Loans	21.0	17.8	18.2	18.4	18.6
Guaranteed loans	106.8	109.6	112.1	115.5	118.1
Secondary guaranteed loans	85.4	88.7	92.1	95.6	99.2
050 Defense:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0
150 International affairs:					
Direct loans	1.9	2.0	2.1	2.1	2.2
Guaranteed loans	7.2	7.2	7.5	7.7	8.0
Secondary guaranteed loans	.4	.4	.4	.5	.5
250 General science, space and technology:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0
270 Energy:					
Direct loans	2.0	1.6	2.0	2.1	2.3
Guaranteed loans	.4	0	0	0	0
300 Natural resources and environment:					
Direct loans	.1	.1	.1	.1	.1
Guaranteed loans	0	0	0	0	0
350 Agriculture:					
Direct loans	9.0	8.8	8.6	8.6	8.4
Guaranteed loans	7.0	7.3	6.6	6.7	6.8
370 Commerce and housing credit:					
Direct loans	6.0	3.3	3.4	3.50	3.6
Guaranteed loans	63.3	65.5	67.8	70.3	72.1
Secondary guaranteed loans	85.0	88.3	91.7	95.1	98.7
400 Transportation:					
Direct loans	0	.1	.1	.1	.1
Guaranteed loans	0	0	0	0	0
450 Community and regional development:					
Direct loans	1.2	1.2	1.2	1.3	1.3
Guaranteed loans	.4	.4	.4	.4	.4
500 Education, training, employment and social services:					
Direct loans	0	0	0	0	0
Guaranteed loans	12.5	12.9	13.2	13.3	13.4
550 Health:					
Direct loans	0	0	0	0	0
Guaranteed loans	.3	.3	.3	.4	.4
570 Medicare:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0
600 Income security:					
Direct loans	.1	.1	.1	.1	.1
Guaranteed loans	0	0	0	0	0
650 Social security:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0
700 Veterans benefits and services					
Direct loans	.7	.6	.6	.5	.5
Guaranteed loans	15.7	16.0	16.3	16.7	17.0
750 Administration of justice:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0
800 General government:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0
900 Net interest:					
Direct loans	0	0	0		0
Guaranteed loans	0	0	0	0	0
920 Allowances:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0
950 Undistributed offsetting receipts:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0		0	0

RECONCILIATION INSTRUCTIONS

The conference agreement includes reconciliation instructions directing twelve House Committees and ten Senate Committees to report legislation to achieve savings over fiscal years, 1991-1995. The House Committee instructions specify savings targets for each of the five years. The Senate Committee instructions specify targets for fiscal year 1991 and for total savings over the five years.

The conference agreement requires House and Senate Committees to report reconciliation recommendations to their respective Budget Committees not later than October 15, 1990.

CONFERENCE AGREEMENT RECONCILIATION BY HOUSE COMMITTEE

[Deficit reduction in billions of dollars]

Committee	Fiscal year—					5-year
	1991	1992	1993	1994	1995	
Agriculture: Mandatory/fee savings	−1.022	−2.023	−3.214	−3.432	−3.936	−13.627
Banking: Mandatory/fee savings	−1.507	−2.635	−2.812	−3.081	−3.223	−13.258
Education and Labor: Deficit reduction (DR)	−.215	−.525	−.760	−1.010	−1.260	−3.770
Energy and Commerce: Mandatory/fee savings	−3.731	−6.822	−9.224	−10.988	−12.956	−43.721
Interior: Mandatory/fee savings	−.343	−.400	−.412	−.425	−.438	−2.018
Judiciary: Mandatory/fee savings	−.091	−.095	−.099	−.103	−.107	−.495
Merchant Marine: Mandatory/fee savings	−.222	−.241	−.249	−.256	−.263	−1.231
Post Office: Mandatory/fee savings	−2.165	−2.140	−2.780	−3.545	−3.720	−14.350
Public Works: Mandatory/fee savings	−.042	−.053	−.053	−.053	−.053	−.254
Science, Space and Technology: Mandatory/fee savings	−.005	−.005	−.005	−.005	−.005	−.025
Veterans: Mandatory/fee savings	−.620	−.645	−.670	−.695	−.720	−3.350
Ways and Means:						
Mandatory/fee savings	−3.320	−9.245	−11.870	−14.148	−17.020	−55.603
Deficit reductoin (DR)	−2.000	−3.000	−4.000	−5.000	−6.000	−20.000
Revenues (REV)	−13.225	−24.135	−24.040	−28.950	−28.450	−118.800
Committee total (DR)	−18.545	−36.380	−39.910	−48.098	−51.470	−194.403
Total reconciled [1] (DR): Mandatory/fee savings	−24.307	−45.009	−50.921	−60.711	−65.258	−246.206
IRS enforce initiatives (REV)	−3.037	−1.835	−1.803	−1.488	−1.213	−9.376
Miscellaneous other mandatory entitlement/fees	−.600	−.600	−.600	−.600	−.600	−3.000
Total revenue increases and mandatory spending cuts (DR)	−27.944	−47.444	−53.324	−62.799	−67.071	−258.582

[1] Savings that may result from action by more than one committee due to joint jurisdiction are counted only once in the total.

Note.—All amounts are outlays unless specified as REV (revenues) or DR (deficit reduction—outlays or revenues).

CONFERENCE AGREEMENT RECONCILIATION BY SENATE COMMITTEE

[In millions of dollars]

		1991	5-year
Agriculture:			
Unspecified mandatory/fees	0	1,000	13,473
Banking:			
Unspecified mandatory/fees	0	1,507	13,258
Commerce:			
Unspecified mandatory/fees	0	232	1,335
Energy:			
Unspecified mandatory/fees	0	36	364
Environment:			
Unspecified mandatory/fees	0	329	1,808
Finance:			
Unspecified mandatory/fees	0	3,015	55,883
Unspecified revenues	REV	13,225	118,800
Unspecified rev or mandatory	DR	2,000	20,000
Subtotal, Finance	DR	18,240	194,683
Government Affairs:			
Unspecified mandatory/fees	0	2,165	14,350
Judiciary:			
Unspecified mandatory/fees	0	91	495
Labor:			
Unspecified revenues	REV	45	840
Unspecified mandatory/fees	0	120	2,640
Subtotal, Labor	DR	165	3,480
Veterans:			
Unspecified mandatory/fees	D	620	3,350
Total reconciled to committees	DR	24,307	246,206
IRS enforcement	REV	3,037	9,376
Miscellaneous mandatory/fees	0	600	3,000
Total	DR	27,944	258,582

Note: Savings that may result from action by more than one committee due to joint jurisdiction are counted only once in the total. Outlays are specified as "0," revenues as "REV," and deficit reduction as "DR."

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTION 302(a) OF THE CONGRESSIONAL BUDGET ACT—FISCAL YEAR 1991

[In millions of dollars]

	Budget authority	Outlays	Entitlement authority
APPROPRIATIONS COMMITTEE			
Current level (enacted law):			
National defense	165	165	0
International affairs	765	784	0
Energy	250	250	0
Natural resources and environment	1,433	1,865	0
Agriculture	12,509	623	0
Commerce and housing credit	3,024	4,438	0
Transportation	479	477	0
Community and regional development	1,667	1	0
Education, training, employment, and social services	11,133	10,877	0
Health	49,507	49,910	0
Medicare	35,350	35,350	0
Income security	36,319	36,853	0
Social Security	47	47	0
Veterans benefits and services	16,763	16,645	0
Administration of justice	241	246	0
General government	6,231	6,232	0
Subtotal	175,883	164,754	0
Discretionary appropriations action (assumed legislation):			
National defense	288,918	297,660	0
International affairs	20,100	18,600	0
General science, space, and technology	15,090	15,063	0
Energy	6,222	5,562	0
Natural resources and environment	19,485	19,148	0
Agriculture	2,640	2,649	0
Commerce and housing credit	4,435	4,422	0

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTION 302(a) OF THE CONGRESSIONAL BUDGET ACT—FISCAL YEAR 1991—Continued

[In millions of dollars]

	Budget authority	Outlays	Entitlement authority
Transportation	14,323	30,240	0
Community and regional development	7,412	7,626	0
Education, training, employment, and social services	29,896	30,152	0
Health	16,790	16,224	0
Medicare	0	2,304	0
Income security	17,742	25,280	0
Social Security	0	2,317	0
Veterans benefits and services	13,989	14,109	0
Administration of justice	12,975	11,914	0
General government	10,184	10,142	0
Undistributed offsetting receipts	11,517	948	0
Subtotal	491,719	514,360	0
Discretionary action by other committees (assumed entitlement legislation):			
Income security	17,774	17,338	0
Veterans benefits and services	435	393	0
Undistributed offsetting receipts	−195	−195	0
Subtotal	18,015	17,535	0
Committee total	685,616	696,649	0
AGRICULTURE COMMITTEE			
Current level (enacted law):			
Energy	1,068	10	0
Natural resources and environment	440	435	0
Agriculture	9,004	10,965	8,813
Transportation	46	46	0
Community and regional development	56	850	0
General government	339	344	339
Subtotal	10,952	12,649	9,152
Discretionary action (assumed legislation):			
Income security	0	0	974
Undistributed offsetting	−1,000	−1,000	−921
Subtotal	−1,000	−1,000	53
Committee total	9,952	11,649	9,205
ARMED SERVICES COMMITTEE			
Current level (enacted law):			
National defense	11,301	11,259	1
Education training, employment, and social services	3	2	0
Income security	36,414	23,043	23,043
Subtotal	47,935	34,506	23,246

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTION 302(a) OF THE CONGRESSIONAL BUDGET ACT—FISCAL YEAR 1991—Continued

[In millions of dollars]

	Budget authority	Outlays	Entitlement authority
Committee total	47,935	34,506	23,246
BANKING, FINANCE, AND URBAN AFFAIRS COMMITTEE			
Current level (enacted law):			
International affairs	0	−1,279	0
Commerce and housing credit	77,833	77,907	0
Community and regional development	12	−5	0
Income security	200	281	0
General government	5	5	0
Net interest	22	22	0
Subtotal	78,072	76,931	0
Discretionary action (assumed legislation): Undistributed offsetting receipts	−197	−1,507	0
Subtotal	−197	−1,507	0
Committee total	77,875	75,424	0
DISTRICT OF COLUMBIA COMMITTEE			
Current level (enacted law): administration of justice	18	18	18
Subtotal	18	18	18
Committee total	18	18	18
EDUCATION AND LABOR COMMITTEE			
Current level (enacted law):			
Education, training, employment, and social services	24	13	5,358
Income security	92	89	7,504
Subtotal	116	102	12,863
Discretionary action (assumed legislation): Undistributed offsetting receipts	0	−120	−120
Subtotal	0	−120	−120
Committee total	116	−18	12,743
ENERGY AND COMMERCE COMMITTEE			
Current level (enacted law):			
Commerce and housing credit	54	53	0
Health	36	27	45,985
Income security	13,672	12,865	10,116
General government	7	7	7
Subtotal	13,769	12,952	56,109
Discretionary action (assumed legislation): Undistributed offsetting receipts	−336	−336	305
Subtotal	−336	−336	305
Committee total	13,433	12,616	56,414
FOREIGN AFFAIRS COMMITTEE			
Current level (enacted law):			
International affairs	8,176	8,714	0
Income security	835	368	368
General government	5	5	0
Subtotal	9,016	9,087	368
Committee total	9,016	9,087	368
GOVERNMENT OPERATIONS COMMITTEE			
Current level (enacted law): General government	20	19	0
Subtotal	20	19	0
Committee total	20	19	0
HOUSE ADMINISTRATION COMMITTEE			
Current level (enacted law):			
Education, training, employment, and social services	8	9	0
General government	29	21	93
Subtotal	37	29	93
Committee total	37	29	93
INTERIOR AND INSULAR AFFAIRS COMMITTEE			
Current level (enacted law):			
Energy	170	−102	0
Natural resources and environment	189	167	10
Community and regional development	475	471	404
Health	3	3	0
General government	800	797	830
Subtotal	1,637	1,335	1,244
Discretionary action (assumed legislation: undistributed offsetting receipts	−72	−56	0
Subtotal	−72	−56	0
Committee total	1,565	1,279	1,244
JUDICIARY COMMITTEE			
Current level (enacted law):			
Commerce and housing credit	217	226	0
Education, training, employment, and social services	910	805	0
Health	1	1	0
Income security	24	10	5
Administration of justice	653	658	135
General government	581	581	500
Subtotal	2,386	2,281	640
Discretionary action (assumed legislation): Undistributed offsetting receipts	−91	−91	0
Subtotal	−91	−91	0
Committee total	2,295	2,190	640
MERCHANT MARINE AND FISHERIES COMMITTEE			
Current level (enacted law):			
Natural resources and environment	427	431	0
Commerce and housing credit	67	65	0
Transportation	6	0	427
Income security	13	6	0
General government	6	6	0
Subtotal	519	508	427
Discretionary action (assumed legislation):	−200	−200	0
Subtotal	−200	−200	0
Committee total	319	308	427
POST OFFICE AND CIVIL SERVICE COMMITTEE			
Current level (enacted law):			
Health	0	−636	2,873
Income security	54,623	33,067	33,067
General government	12,199	12,199	0
Subtotal	66,822	44,629	35,940
Discretionary action (assumed legislation): Undistributed offsetting receipts	−885	−2,165	−1,230
Subtotal	−885	−2,165	−1,230
Committee total	65,937	42,464	34,710
PUBLIC WORKS AND TRANSPORTATION COMMITTEE			
Current level (enacted law):			
Energy	433	101	0
Natural resources and environment	159	178	0
Transportation	17,497	0	0
Community and regional development	5	5	0
General government	1	54	0
Subtotal	18,095	338	0
Committee total	18,095	338	0
SCIENCE, SPACE AND TECHNOLOGY COMMITTEE			
Current level (enacted law):			
General science, space, and technology	135	134	0
Energy	19	23	0
Education, training, employment, and social services	1	1	0
Subtotal	155	158	0
Discretionary action (assumed legislation): undistributed offsetting receipts	−5	−5	0
Subtotal	−5	−5	0
Committee total	150	153	0
VETERANS' AFFAIRS COMMITTEE			
Current level (enacted law): Veterans benefits and services	1,588	1,429	18,144
Subtotal	1,588	1,429	18,144
Discretionary action (assumed legislation):			
Veterans benefits and services	0	0	435
Undistributed offsetting receipts	−120	−120	−500
Subtotal	−120	−120	−65
Committee total	1,468	1,309	18,079
WAYS AND MEANS COMMITTEE			
Current level (enacted law):			
Education, training, employment, and social services	1,142	0	5,503
Medicare	134,026	114,263	114,267
Income security	28,940	21,137	49,276
Social Security	345,303	269,829	265,050
Administration of justice	164	165	0
General government	500	505	406
Net interest	286,302	286,302	286,302
Subtotals	796,378	692,201	720,804
WAYS AND MEANS COMMITTEE			
Discretionary action (assumed legislation): Undistributed offsetting receipts	3,626	−4,200	−4,200
Subtotal	3,626	−4,200	−4200
Committee total	800,004	688,001	716,604
UNASSIGNED TO COMMITTEES			
Current level (enacted law):			
National defense	−12,083	−12,083	0
International affairs	−9,841	−9,419	0
General science, space, and technology	−25	2	0
Energy	−1,762	−1,844	0
Natural resources and environment	−3,333	−3,324	0
Agriculture	−6,154	−137	0
Commerce and housing credit	−129	−112	0
Transportation	−52	−63	0
Community and regional development	−426	−349	0
Education, training, employment, and social services	−117	−59	0
Health	−37	−29	0
Medicare	−46,976	−47,017	0
Income security	−9,849	−9,836	0
Social Security	−5,850	−5,893	0
Veterans benefits and services	−1,092	−1,077	0
Administration of justice	−751	−690	−5
General government	−19,208	−19,216	0
Net interest	−91,924	−91,925	−72,029
Allowances	0	−96,600	0
Undistributed offsetting receipts	−38,642	−38,853	0
Subtotal	−248,251	−338,523	−72,034
Discretionary action (assumed legislation): Undistributed offsetting receipts	0	−600	0
Subtotal	0	−600	0
Committee total	−248,251	−339,123	−72,034
Total—current level	975,147	715,405	807,014
Total—discretionary action	510,453	521,495	−5,257
Grand totals	1,485,600	1,236,900	801,757

CONFERENCE REPORT FISCAL YEAR 1991 ALLOCATION OF CREDIT RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTION 302(a) OF THE CONGRESSIONAL BUDGET ACT

[In millions of dollars]

House Committee	Direct loans	Primary guarantees
Current level (enacted law):		
Agriculture	8,019	6,100
Banking, Finance and Urban Affairs	3,250	1
Education and Labor	0	12,810
Energy and Commerce	0	290
Merchant Marine and Fisheries	0	104
Public Works and Transportation	299	0
Veterans Affairs	675	15,650
Ways and Means	2	0
Unassigned	54	191
Subtotal	12,299	35,145
Discretionary action (assumed legislation):		
Appropriations	8,701	71,969
Education and Labor	0	(314)
Grand total	21,000	106,800

BUDGET SUMMIT AGREEMENT

On May 6, 1990, the President and the bipartisan congressional leadership agreed to convene a special budget group. Five months later, the negotiators reached agreement. The budget summit agreement represents the largest deficit reduction plan ever agreed to, an estimated $500 billion during the next five years.

This conference agreement includes five-year reconciliation instructions and discretionary spending limitations that reflect the work of the budget summit. All caps for discretionary spending are upper limits on spending and not floors.

The conferees believe that the adoption and implementation of the conference agreement will hasten the achievement of a balanced Federal budget, reduce the demand on private credit markets, and enhance the long-run growth potential of the United States.

LEADERSHIP ENFORCEMENT OF CONFERENCE AGREEMENT

It is the intent of the conferees that the bipartisan leaders of the House and Senate work with the committees of Congress to assure that the deficit reduction amounts required by this conference agreement will be achieved and will result in real, permanent savings.

It is the intent of the conferees that the House-reported reconciliation bill should not contain provisions extraneous to the agreement.

Should legislation under consideration by any committee fail to comply with the conference agreement, the conferees intend that remedial efforts shall be made by all parties to achieve such compliance. Further, the conferees intend that the bipartisan leaders shall take steps to enforce the agreement.

ACHIEVEMENT OF UNSPECIFIED SAVINGS

The conferees urge that the joint leadership of Congress agree on a package of changes in laws that provide mandatory spending to achieve deficit reduction of $3,000,000,000 (in addition to the amounts reconciled in this concurrent resolution) and seek to include that package in the reconciliation bill pursuant to this concurrent resolution.

FUNDING FOR IRS COMPLIANCE

It is the intent of the conferees that the additional amounts requested by the President in the fiscal year 1991 budget for the IRS compliance initiative—$191 million in budget authority and $183 million in outlays in fiscal year 1991, $172 million in budget authority and $169 million in outlays in fiscal year 1992, $183 million in budget authority and $179 million in outlays in fiscal year 1993, $187 million in budget authority and $183 in outlays in fiscal year 1994, and $188 million in budget authority and $184 in outlays in fiscal year 1995—shall be provided by action of the Appropriations Committees in order to raise the assumed amounts of additional revenues from increased IRS compliance funding consistent with the budget summit agreement. The Appropriations Committees will be held harmless vis-a-vis the summit agreement's discretionary spending caps for increased funding in these amounts.

BUDGET PROCESS REFORM AND ENFORCEMENT

To assure a $500 billion deficit reduction package is achieved and maintained, the conferees intend that the reconciliation act implementing this conference agreement include provisions to strengthen the budget process.

COSTS OF OPERATION DESERT SHIELD

This agreement assumes the current costs for Operation Desert Shield represent emergency funding requirements not subject to the defense caps. Funding for Desert Shield will be provided subsequently through the normal legislative process and this agreement makes no assumptions as to the amount that may be required. Desert Shield costs should be accommodated through allied burden-sharing contributions, offsets within other non-Desert Shield accounts of the defense budget and/or subsequent appropriations Acts. Desert Shield costs mean those incremental costs directly associated with the increase in operations in the Middle East and do not include costs which would be experienced by the Department of Defense as part of its normal operations absent Operation Desert Shield.

PAY-AS-YOU-GO FOR NEW INITIATIVES

The conferees do not intend to preclude the enactment of legislation providing for additional new initiatives. However, the conferees do intend that all new initiatives be paid for on a pay-as-you-go basis.

DEFICIT REDUCTION

The Managers expect that the legislative committees will maintain, to the greatest degree possible, the distribution of entitlement reductions and revenue increases in the bipartisan leadership agreement. The Managers expect that the shares of deficit reduction will closely parallel those of the summit agreement—36 percent discretionary, no less than 22 percent mandatory, no greater than 30 percent revenues, and 13 percent net interest. Further, the Managers expect that gross revenues would not exceed those assumed in the bipartisan budget summit agreement.

LEON E. PANETTA,
RICHARD GEPHARDT,
Managers on the Part of the House.
JIM SASSER,
WYCHE FOWLER, Jr.
Managers on the Part of the Senate.

☐ 2146

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. MURTHA) at 9 o'clock and 46 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Are there any Members who wish to be recognized for 1-minute speeches?

OBSERVATIONS ABOUT THE MINORITY PARTY

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute.)

Mr. TORRICELLI. Mr. Speaker, it is common in this House to hear members of the minority lament that for more than a generation they have been in the minority in this House. Indeed, Members hear it repeatedly.

Tonight, in an exchange on the floor with the Speaker and Members of the minority, it was never clearer why.

In 1 week, the Members of the minority have betrayed their own President, savaged their own leader, failed to participate in the continuing resolution to keep this Government operating and, tonight, leave their Senate colleagues, Democrats in the Senate, and this leadership, waiting for them to participate in budget discussions.

The American people during these years may have wondered why it is the Republicans are a minority, why is it, despite advantages in finance, in holding the White House, they continually cannot win elections.

My colleagues, if they wondered in the past, if they are watching tonight, they need wonder no longer. They richly deserve to be the minority that they are.

CONCERNS RELATING TO AGRICULTURE

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LA GARZA. Mr. Speaker, my colleagues, I take this time to address a question of the proposed budget and the negotiations that have gone on and will continue to go on perhaps into the evening.

I hope that some agreement is reached and that we might be able to proceed to the satisfaction of everyone.

Mr. Speaker, my concern this evening relates to agriculture and the Committee on Agriculture that I am a member of and my colleagues have honored me to allow me to be chairman. In the initial proposal, agriculture was asked to take a $1.3 billion cut which I was concerned with, because it was much higher percentagewise than the impact that we make on the budget.

☐ 2150

The proposal that is now floating around, or the discussions, and this

DSG sheet which has been bandied around this afternoon, I do not know whether it is accurate or not, but it shows a slight reduction on agriculture. I would like to say with all due respect that in the negotiation process we are now in a conference committee, House and Senate, on the agriculture, on the so-called farm bill, and there are Senate and House Members from the Committee on Agriculture and from about six other committees because of the collateral jurisdiction, and of course there is the administration to consult and advise, should there be need for it in relation to the position of the administration. However, they do not sit at the table as negotiators. They are our guests, and sit there as advisers or as consultants, and not as equal partners.

We asked them, or they asked to be heard, and it is a workable situation, but it is not that they sit at the table as negotiators. This is one of my concerns, that there seemed to be an obsession with the Director of the Office of Management and Budget in relation to agriculture. This is what I wanted to do, and I have already explained it to the negotiators. I wanted to share again with the Members of the House, if Members can see this chart, Members can see the tiny line at the bottom that is the impact that we, agriculture, make on the Federal Government. Yet the obsession of the gentleman and many others is that we are going to hit agriculture because they have been reading the editorials that are incorrect and have a misconception or erroneous perception, and at times consultants from outside of the Congress, but these are the facts of the $1 trillion plus budget. Six-tenths of 1 percent are the support programs for agriculture. Six-tenths of 1 percent. 0.63. However, editorials show this farmer got $1 million, and this one should or should not have, and I keep insisting and shall forever keep insisting that one cost overrun on a defense or offensive system in the Pentagon takes more than all of what agriculture is concerned with.

Also, I think it would be well for Members to realize that the support programs are but 17 percent of the Department of Agriculture, is what goes to farmer programs. If we look at this chart again, the red on the right, almost 50 percent is nutrition, food stamps, school lunch, feeding the elderly. Therefore, looking at the farmer that is involved or participating in a program that is only 16 or 17 percent of the Department of Agriculture, the major part is nutrition. If we now look at what is being discussed in the conference, that we are speaking of a reduction of some $500 billion, if we take that then, $300 billion are going to be cuts. The rest is going to be income. So if we take $300 billion, a general figure, of cuts, and agriculture impacts on the total budget only six-tenths of 1 percent, then I would assume that we should take six-tenths of 1 percent of the cuts, equal with everyone else. However, it does not come out that way because if we take the $300 billion, then 10 percent would be $30 billion, 1 percent would be $3 billion, and they want agriculture to take 13 percent in the 5 years. I think that this is not fair to agriculture. If we take it in a larger proportion, let me use one of the larger charts here that I have here so that we can more readily see, if I could have this chart that we are speaking about. Here is how we impact on agriculture. The bottom line, this is a trillion dollar budget that I must agree is exceedingly high, and reduction should be made in good faith and in good order, and cool, calm, and collected, I hope. However, I cannot remain cool, calm, and collected when we are making this much of an impact.

PARLIAMENTARY INQUIRY

Mr. ARMEY. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. (Mr. Murtha). The gentleman will state it.

Mr. ARMEY. Mr. Speaker, I want to make a parliamentary inquiry into whether this is a Texas minute we are having here?

The SPEAKER pro tempore. It is a Texas minute.

Mr. de la GARZA. It is an agricultural cut minute, much larger than we are supposed to have. That is what I am trying to get across.

I thank my distinguished colleague from Texas [Mr. Armey] for allowing me to make that point.

So, that is what it is. However, we are the best-fed people in the world, in the history of the world, for the least amount of disposable income of any other people in the world, in the history of the world, and if the Director of OMB says he wants to cut from agriculture, well, that is agriculture, but over here almost 50 percent is food stamps and nutrition and school lunch. Only this part here is a part, that is the erroneous perception that they have. Only this part here is what goes to farm support programs, and then it does not include cattle. It does not include poultry. It does not include hogs. They get no support. My fruit and vegetable production in my congressional district, all they get from the Government is harassment, to tell Members the truth. This is how it comes out.

Then, again, let me show Members, it is almost embarrassing that, and I point this out with pride, for being the best-fed people in the world, in the history of the world, and now we are going into organic, and we are going into a lot of other areas in agriculture, but yet when we look at the Federal Government and the functions, we start with Defense around $300 billion, and then we go to Social Security, and net interest, and that is too high. That is one of the areas that we need to cut, but we have already spent 99 percent of the budget by the time we get to agriculture. Shame on OMB's Director, when they want people in agriculture to take an inordinate amount of the cut, when we have already spent. That has not made the deficit. This has not made the deficit. This has not made the deficit. That has not made the national debt. This has not impacted at all the way we sit here with 99 percent of the budget already spent by the time we get to agriculture.

Therefore, I would hope that my colleagues, with some degree of charity and civic consciousness, and responsibility as realizing and appreciating we are the best-fed people in the world, for the least amount of disposable income per family, that when they ask for the cuts, that we be in proportion to the impact that we make.

□ 2200

Now, all along I have been saying that we will take our fair cut. We have been responsible. Every year I have stated, give us a number, let us decide, make the decision where the cuts are made and we will give you the number.

The other night when it was 1 to 3, I voted for the resolution, even though it was not in my estimation in my district, the Medicare part of it I thought would impact on my district, the gasoline tax would impact very hard on my district, and it was unfair, I thought, to agriculture, but nonetheless I voted for it because I thought it was the right thing to do.

I do hope now that we are reversing that position and we will be addressing those areas, but nonetheless as chairman of the Agriculture Committee I bit the bullet, regardless of political consequences, and I am not here pointing at anyone or crowing about it myself, but just so that Members will know that we have been responsible. We will continue to be responsible, but I think the honest and the fair thing to do is to allow us to be cut in proportion to the impact that we make.

Mr. Speaker, I hope this might help my colleagues in their deliberations and maybe entice some of you, even though you are being treated unfairly, the total aspect of the impact of what we do here goes beyond your immediate interest and beyond your immediate needs and beyond your fair and equitable responsibility, and I would hope that all of us will feel and act accordingly.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. de la GARZA. I am happy to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would just like to point out that I share a lot of the concerns of the gentleman. I would like to call to the attention of the membership that the leadership on that side has called a Rules Committee meeting for 10:15 to take up a budget resolution and a continuing resolution.

I would invite the gentleman from Texas [Mr. de la Garza] and others concerned like the gentleman is, to come up and testify; the gentleman from Wisconsin [Mr. Obey], the gentleman from Texas [Mr. Armey], the gentleman from California [Mr. Dannemeyer], myself, over the budget resolution that is going to be taken up there. Maybe we need an open rule and really air out our differences on this floor. Let us have a real budget. You are all invited to come up.

Mr. de la GARZA. Mr. Speaker, let me tell my distinguished colleague and dear friend that he did not hear me throughout this long minute mention this side or that side. That was one of the things that I was trying to get away from, because I do not feel that I want to point the finger at any official.

My dissatisfaction is with the Director of the OMB, that is the one and only one that I feel about, because that is where the figures the administration is using comes from.

Again, I did not come here to say this side or that side. All I came here to say was how agriculture benefits the entire country, how agriculture supports and provides that which is needed for our country, but yet somehow there is this benign neglect of agriculture because of erroneous conceptions.

Now, let me just finish once again. You may have heard my summary story. Why all this thing about agriculture? Why all this stuff about agriculture?

Well, let me tell you, you have seen what is happening now in the world, that there is our Secretary of State meeting with a distinguished Member the Foreign Minister of another country, but along with him is the Soviet Union's Foreign Minister.

You have seen what is happening in Poland, Czechoslovakia, Hungary, and to some degree Romania, the emergence of democracies. This came about for one reason and one reason only.

Our main concern was between the United States and the Soviet Union. Each side had enough megatonnage to destroy the world as we know it, but the deterrent, and we have to admit, and sadly I do, was military. We did not convince them with life, liberty and the pursuit of happiness. They were convinced that they did not want to have a miscalculation or go over the brink because we had the megatonnage. We had to treat them with soft gloves for the same reasons. They had the megatonnage; but then eventually the process came where now you have the emerging democracies. Why? Because of the military deterrent? No. Every minute of the day they knew where our troops were, but looked down at them from above. Every minute of the day they knew where our silos were. Everybody knew where our silos were.

I was in Montana one evening and I said, "What are all those lights over there?"

"That's where our silos are." Everybody knew where they were.

Every minute of the day they saw from above where our planes were on the ground or in the air. Every minute of the day they knew where our ships were, in port or at sea. The only thing they did not know where it was were the submarines, under the water. One submarine had enough megatonnage to destroy the world. That was the deterrent. That is what kept them from going over the brink. That is what eventually brought the emerging democracies and all this cooperation that we now have.

Now, the question was, how long can you keep a submarine under water? Well, I went on a submarine, nuclear powered and nuclear armed, and asked the question of the captain—if you just would allow me 30 more seconds, because this is the vital part. This is what my whole discourse, my whole 1 minute this evening is all about.

I asked the captain of the submarine, "How long can you keep the submarine under water?"

Now I know that the submarine can outlast the propellant, but at that time I did not know.

So I said, "How long can you keep it under water?"

He replied, "Well, why don't you take a guess."

So I was thinking of the propellant, long 15 years, short zero, so I said, "Seven years."

He looked at me and he smiled and he said no—a very young man. By the way, the average age, the median age of our submariners is 23 years old. Those people who are driving those submarines are 23 years old. That is the median.

But I said 7 years.

Well, his reply was, "No. I can keep the submarine under water—" and reminding you, that is what brought about all the emerging democracies, that is what kept peace in the world—I asked him how long.

He said, "As long as I have food for my crew."

So who is responsible for peace in the world? Who is responsible for the emerging democracies? That submarine. And who kept that submarine under water and managed properly? The farmers and ranchers of America, the producers.

So I leave you. I think my time has run out.

WHICH CLASS DESERVES SYMPATHY?

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute.)

The SPEAKER pro tempore. Without objection, the gentleman from California [Mr. Dannemeyer] was allowed to address the House for 1 minute.

Mr. DANNEMEYER. Mr. Speaker, I listened with interest to our colleague, the gentleman from New Jersey [Mr. Torricelli], and I kept waiting for the classes for whom he has sympathy, tenderness in his heart, compassion and understanding.

There is one class that the gentleman omitted, and I will give him the benefit of the doubt, it was just inadvertence, but perhaps it is psychological bias, given the fact that he is on the political left in American politics.

The class of people that the gentleman left out are the overburdened taxpayers of this country.

□ 2210

I do not know about the rest of you in your offices, but I received a fact sheet in my office from a gentleman in Columbus, OH. I do not know whether you received it. It is pretty long. I will read the closing paragraph of this:

> Taxes are too high. I pay 33 percent plus 4 percent to Ohio, 2 percent to Columbus, 1½ percent actual sales tax plus 3 percent other user tax plus 14 percent Social Security tax as a self-employed person equals a total tax load of 57.5 percent of my income. This is a disgraceful tax load. I am left with 42.5 percent of my income to pay for housing, utilities, food, clothing, transportation, medical, children's college, insurance. Am I rich because I am in the 33 percent tax bracket? I am not rich. No new taxes, please. Read my lips.

This is the class of people that is the concern of those of us in the House of Representatives this last week, last Thursday when we turned down that budget summit resolution. This is the concern we have this evening. We Americans are not undertaxed, my friends, we are spending too much money.

What we all were asking for, those of us who have that point of view, is an opportunity to present to the House for its consideration a budget resolution that will reflect that bias, that we are going to achieve a reduction in our deficit by cutting spending, not raising taxes.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. I thank the gentleman for yielding.

Mr. Speaker, I am surprised the gentleman did not bring in the gold standard at some point.

Mr. DANNEMEYER. Would you like for me to talk about that in a moment?

Mr. GEJDENSON. I would like to say to the gentleman the debate here is not whether all Americans are overtaxed or not; the debate which we have had now for some time is whether the people in the wealthiest portion of American income are paying their fair share.

What we are trying to get here is how do we apportion the patriotism that we all have, our desire to support our country, in some fair manner?

And the basic difference that I see between the gentleman's position and ours is that the gentleman wants to protect the very top bracket from being moved up and want to have the cuts occur from the people at the very bottom of the ladder.

Mr. DANNEMEYER. I will reclaim my time. I say it again, we are not undertaxed as a people, we do not need new taxes on cigarettes and beer and gasoline and to beat up on senior citizens by increasing their Medicare part B premiums.

We do not need new taxes. All we need are Members of Congress—I hope someday the gentleman will see it in his heart to join us, to exercise enough restraint so that we can cut 2 percent off of an appropriation bill that contains a multibillion-dollar increase over what we expended in the preceding year.

I can say to my colleague, some of us offered amendments to reduce appropriations bills by 10 percent and 5 percent and 2 percent. The majority of the House declined to even reduce one of those appropriation bills by 2 percent. Should the American people have any mystery in their minds as to what the institution as it is organized today wants to achieve? This institution is controlled by people that are so committed to spending other people's money to such an extent that we cannot as an institution bring ourselves to reduce an appropriation bill by 2 percent.

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to my friend from New York.

Mr. WEISS. Mr. Speaker, I thank my friend for yielding.

I was going to ask him: There was sort of a facetious comment a few moments ago about the gold standard. I was wondering whether the gentleman would be pleased to explain how the gold standard issue would relate to the issues raised by the distinguished chairman of the Committee on Agriculture, the gentleman from Texas, Mr. DE LA GARZA?

Mr. DANNEMEYER. I would be happy to do that for you. Neither America or the U.S.S.R. is now on the gold standard. Both nations would be well served to go forward to it.

One of the strengths of America in relation to our adversary behind the Iron Curtain is the productive nature of our economy. And the fact of the matter is that the Soviet Union and their satellite countries could not really develop an economy to provide the goods and services for the people of their country.

We on our side of the Iron Curtain were able to do that. And because of the fact that our economic system was more productive, we were able to provide an abundance of resources and goods for our citizens that were the dream of people all over the world.

Now, this did not happen all at once. The fact of the matter is, up until 1968 this Nation was on the gold standard in the sense that our currency was backed by gold.

As of that time, up until 1968, this Nation had the ability to sell Government debt for 2 percent. We had a 6-percent first-trust deed mortgage rate available for consumers in this country to participate in the American dream. And in 1968, the fact of the matter is we let the inflation genie out of the bottle by separating the link between the dollar and gold.

Then in 1971, Richard Nixon, our President, made the decision to close the gold window. As a result of having closed the gold window, we have not been on the gold standard since that time. The fact of the matter is that the strength of our economy has never—the Soviets have never been able to match that strength at all in any way whatsoever. And that fact came out last September when a member of the Federal Reserve Board by the name of Wayne Angell from the State of Kansas went to the Soviet Union and advised the Soviet leadership as to what they should do to rescue their economy from the doldrums in which it was mired.

Do you know what advice he gave them? He said they should back the ruble with gold and they should issue gold-backed bonds.

I happen to believe that was good advice for the Soviet Union and it is good advice for the United States of America.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

Mr. Speaker, you know, you cannot eat gold, but you can eat soybeans. Would it not make more sense to go on the soybean standard?

Mr. DANNEMEYER. History has shown, interestingly enough, that gold has the capacity for being not only a medium of exchange but a storehouse of value. And I admire the taste and utility of soybeans, but I do not think they can qualify as a storehouse of value.

For centuries man has dreamed of ways to grow gold or change iron into gold. No one has figured out how to do it.

On the other side of the coin, gold does not grow mold.

Mr. WEISS. Mr. Speaker, would the gentleman yield further to me?

Mr. DANNEMEYER. I yield to my friend from New York.

Mr. WEISS. I thank the gentleman for yielding.

Mr. Speaker, the perplexing problem that I have with this is that the gentleman refers to 1968.

Mr. DANNEMEYER. That is right.

Mr. WEISS. Now, my recollection is that the President of the United States at that time was a conservative Republican gentleman named Richard Nixon.

Mr. DANNEMEYER. No; Lyndon Johnson.

Mr. WEISS. Pardon?

Mr. DANNEMEYER. Lyndon Johnson was President in 1968.

Mr. WEISS. But by that time Richard Nixon was on his way to becoming President of the United States.

Mr. DANNEMEYER. No. History records that Lyndon Johnson, as our President, had two major problems on his plate. He had to finance the Great Society and the Vietnam war in the face of a Congress that did not want to produce the revenues.

So he made the decision, I think, on bad advice, to do it by the way of inflation, and that is what our society began in 1968, when we separated the link between the dollar and gold.

Mr. WEISS. Why did not Richard Nixon, who came into office immediately after that, reverse that policy?

Mr. DANNEMEYER. Mr. Nixon did not reverse that policy. Three years later, in 1971 he was faced with the reality of his advisors telling him, "Mr Nixon, if you don't shut the gold window, you will go down in history as the President who presided over the movement of what is left in our gold stocks out of this country to foreign central banks." And Mr. Nixon did not choose to go down in history in that capacity, and he shut down the gold window in 1971. He said to the American people it is merely temporary.

What he should have done at that time, in my opinion, was not to shut the gold window but face the reality of raising the price of paper dollars which we would exchange for our gold. If he had done that, we would have had far less destabilization in our economy than we have witnessed all during the seventies, and what we are dealing with, in truth, tonight.

This whole contest today is being driven by record-high interest rates, and I would hope someday that we can convince the House to begin issuing gold-backed bonds which can be sold on the market for 2 percent instead of causing the U.S. Government to be paying 8 percent to service its debt.

Mr. WEISS. Does not the Soviet Union have much more gold that we?

Mr. DANNEMEYER. On the contrary, we do not know how much gold they have. We believe there are about 100,000 tons of gold in the world. In private hands there are about 60,000 tons. In Government hands there are about 40,000 tons. The combined production of the Soviet Union and South Africa is about 1,500 tons a year. That quantity of production of gold is not close enough to destabilize the gold market at all.

The argument is sometimes made, which I would expect we are going to get to, if we were on the gold standard, it would help the Soviet Union. On the contrary.

Mr. BILBRAY. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Nevada.

Mr. BILBRAY. First of all, Mr. Speaker, the gentleman from California [Mr. DANNEMEYER] is right on the gold.

As my colleagues know, Nevada has become the biggest gold producing State in the Union, and practically the United States and Canada combined. Gold is a product that we in Nevada would like to see become a standard for use in this country.

But I would like to point out one thing in case the public is out there watching everything that is going on. They may wonder where we are at, what we are doing talking about the gold standard now and talking about a lot of things they think are immaterial to what is going on.

We are in the process of trying to get this thing resolved, and we are filling, they are watching filler, things that are important to the gentleman from California [Mr. DANNEMEYER], important to many of us, but certainly are not what we are looking at today. So, please, do not think we are a bunch of fools tonight.

Mr. CRANE. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Speaker, I thank the gentleman from California [Mr. DANNEMEYER], my colleague, for yielding.

I would just inject one thing here in the discussion of gold. I introduced legislation, one of the first pieces of legislation, when I came here in 1969 to restore our precious right to buy, sell and hold gold. It took 5 years before that became reality in 1974. Americans could again buy, sell, and hold gold legally for the first time in 40 years.

Mr. Speaker, I share in my compatriot's commitment to trying to restore gold standard because, when we have a gold standard, we have honest money. When I first came to Congress in contrast to what was the situation before FDR took us off the gold standard in 1934, the dollar that I paid for my home in 1970 is worth roughly 25 cents today.

Now, in terms of gold's value, it has escalated accordingly. Gold in 1970 was $35 per ounce. Today it's closer to $400 per ounce. But gold is a constant. It does not change value. All that changes is the denomination of it in terms of deteriorating paper. Those little pieces of paper the Federal Reserve System issues tell us it is legal tender, good for all debt public and private. That is paper. Backed by what? The Federal Reserve System has the authority to take the $1 bill, and print the word trillion after the one, just as Germany did in 1923. Then we resolve all of our economic problems. It is that easy.

I say to my colleagues, when you have a convertible currency, it keeps government honest. It is vastly more important than having a balanced budget amendment.

We went through the pain and anguish back in the last century of trying to play games when we were on a convertible standard, and Republicans did it. As my colleagues know, the Democrats were the party and Grover Cleveland was the man who acknowledged that when we play fast and loose with our money, we are inflicting our greatest injury on the man who earns his daily bread with the sweat of his brow. After Grover Cleveland shocked us Republicans by getting elected in 1884, the party of treason coming back into the White House, we defeated him after one term and elected Benjamin Harrison.

And what did Republicans do? They passed the protection McKinley tariff, which cut revenues off because that was the chief source of revenue to the Government. We passed a lot of pork barrel legislation, and we created the panic of 1893.

Now a lot of unintelligent Americans, economically unintelligent, knew that there was something fishy going on. There was a lot of easy money in circulation. So, they started converting it because it was convertible on demand to gold. They started making runs on the bank. At that time we had a requirement by law to have a hundred million dollars in gold reserves to back up all the paper in circulation. Runs on the banks forced the Government to buy gold to cover the mandated reserves several times before Harrison left office. Before Grover Cleveland took his second term, it once more dropped, and there was an imminent collapse in the offing. And Grover Cleveland, a man who was innocent of any of the misdeeds, got blamed for the panic in 1893. And while the Democrats were the ones who suffered the political grief, it was Cleveland who righted it by lowering the tariffs on the one hand, and getting J.P. Morgan to reassure the American people that there would be sufficient gold to back all the convertible paper in circulation.

It is an important lesson, but it is illustrative of what is the most important discipline on the natural predisposition of politicians to spend more than they take in. When we have a convertible currency, people who are not sophisticates in economics nevertheless know, as the German people learned in 1923, that when money is subject to the printing press and has no other known value, the temptation is compelling to print more, and more, and more, and that is why we are in the state we are in, and that is why I commend the gentleman from California [Mr. DANNEMEYER], my colleague, for resurrecting the debate on this issue.

Mr. Speaker, there will come a time, I guarantee my colleagues there will come a time, when we get back to a gold standard, and we will be back to honest money; and we will have the kind of inflation rates we had throughout the entire last century. And I am talking 1 to 2 percent annually. The convertible gold standard currency disciplined the politicians because there was truly a dreadful economic and political price to pay if one tried to ignore it. In the instance I cited, sad to say, you Democrats and especially Grover Cleveland caught the blame for what was not his doing. It was the doing of the Republicans at that time, but we need bipartisan cooperation to guarantee it does not happen again, and to restore integrity to our circulating medium, our pensions, insurance, and savings.

Mr. DANNEMEYER. Mr. Speaker, I thank the gentleman from Illinois [Mr. CRANE] for his contribution, and I yield back the balance of my time.

FAIRLY TAME STUFF

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute.)

The SPEAKER pro tempore. [Mr. MURTHA]. Without objection, the gentleman from Kentucky is recognized for 1 minute.

There was no objection.

Mr. MAZZOLI. My colleagues, following the colorful orations of the gentleman from Texas [Mr. DE LA GARZA], and the gentleman from California [Mr. DANNEMEYER] and the gentleman from Illinois [Mr. CRANE], what I am going to say, and I hope that some of my friends would join me, is fairly tame stuff. Maybe at this hour of the evening, as we hope to proceed into the consideration of our budget resolution, maybe some tame stuff is in order.

I would like perhaps to say two things, Mr. Speaker. One is a fairly mundane thing. In the event that somehow we cannot pull off a budget resolution tonight with a continuing resolution thereafter to end this terrible impasse, and I hope that this is not considered to be out of order to say it, but I am told that because the Federal buildings, including the monuments, are closed to tourists, that, the restrooms have also been closed or are inaccessible. I realize this is not exactly a huge, monumental problem compared to a $1 trillion budget, but I would request those powers that be, who have any control over emergency appropriations or emergency spending to, as we go into tomorrow, to maybe think about putting up some kind of restroom facilities so the people who are walking The Mall might have an opportunity to have this break.

I would like to change the subject just a bit, Mr. Speaker, to talk to my colleagues tonight about some of our other unfinished business. There is obviously a tremendous amount of interest nationally and internationally in the budget and continuing resolution, but we do have other legislation pending.

□ 2230

Some of the Members who are in the Chamber tonight, and perhaps observing these proceedings, are much more knowledgeable and much more in charge of these affairs than I am. But I would mention the Clean Air Act. We have in this last few weeks seemingly overlooked and totally forgotten about the Clean Air Act which is pending in the committee of conference.

I recognize that the issues of acid rain and stationary emissions and all of the questions dealing with alternative fuels and conservation are vexing, but they are terribly important.

I would hope in the waning hours of the 101st Congress we do not forget that that bill needs to be passed. It is one bill that, as we look down the road to the year 2000 and to the other generations, has a tremendous effect upon them.

The child care bill. Once again, the Senate has acted, the House has acted. We have pending in the committee of conference a child care bill we are hopeful could be adopted.

If one were to study the labor situation and the workplace situation, it is very clear that America's work force is changing, is becoming more feminine. It is becoming largely composed of working couples working in support of their families and who do need facilities for their children.

So I would hope and urge that at some point, Mr. Speaker, we have an opportunity to take up the child care bill.

The Civil Rights Act. Both Chambers have passed civil rights legislation. The President has said he would like to sign a civil rights bill. I believe we ought to try to send him a good civil rights bill that amends the 1964 act in a solid way. I hope he would sign that bill. Certainly I think we have the obligation to send that type of bill to the White House.

Mr. Speaker, I believe, and I realize this is very difficult, but we ought to pass firearms legislation. We have, as pending business for next week, the bill sponsored by our friend from New Jersey [Mr. Hughes] of which I am a cosponsor, the bill banning assault weapons.

In my own hometown of Louisville, Kentucky, an AK-47 assault weapon was used by a deranged former employee of a company to kill several people. We recognize the bill that came out of our subcommittee and the full committee, which I hope will come to the floor next week, will not solve all of those problems, but obviously making it more difficult to have assault weapons in commercial transactions would, I think, help.

Mr. TORRICELLI. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from New Jersey.

Mr. TORRICELLI. I thank the gentleman for yielding.

Mr. Speaker, earlier in this discussion the gentleman from California made reference to my remarks with regard to taxation. He was concerned that I had not mentioned the problem of the level of taxation in America, that that had been absent from my remarks.

The gentleman need not really have been concerned, because that indeed was central to why I took the floor, the idea that in fact we have reached a point where a great number of the American people, no matter how great their willingness to sacrifice, no matter how much they want to help with our national agenda, simply no longer have the resources.

I am certain we have all met such people and had such responses in our offices. I know I have. People who say, "Congressman, I hear this talk about how I need to do more, how the Government needs help. I simply do not have the money."

Indeed, that is why I think we have been here during this long holiday weekend, because the question is not simply before America how much they will be taxed, but who will pay the taxation, the idea that the American people at long last now understand that for more than a decade they have witnessed a significant shift onto the backs of working families.

People who do the work of America want to help, but simply no longer can bear the burden.

Mr. MAZZOLI. Mr. Speaker, reclaiming my time, I thank the gentleman from New Jersey [Mr. Torricelli] for his very important contribution.

Mr. Speaker, I would mention other pending bills. We have a housing bill pending. We have a crime bill, an omnibus crime bill, which came out of the gentleman from New Jersey's subcommittee and our full Committee of Judiciary. Of course, we wrestled with the bill quite a bit last week here on the floor.

The gentleman from New Jersey [Mr. Hughes] has shown great leadership in the crime bill and in the question of adequate and good firearms legislation. So I hope that before this Congress adjourns, we can get to the gentleman's legislation.

I would mention one other bill at least before I yield back my time, Mr. Speaker, and that is the campaign election reform bill. I agree with what the gentleman from New Jersey [Mr. Torricelli] said about the people being ill at ease and perhaps feeling dispossessed about their Government because of the taxation question. But I will tell Members, there is another issue which clearly affects the American people, and that is their belief, not necessarily founded, but their belief, their perception, that politics today is driven by money. Politics is not driven by issues, it is not driven by merit or demerit of the issue, but it is driven by money, by the special interests.

This house, in what I consider to be in an election year practically an act of true courage, did pass earlier this year a campaign reform bill.

It is a matter which conventional wisdom suggests would never be adopted in final form and sent to the President in an election year, because it is, as the lawyers say, against our own interest. But I believe it is so vitally important that this Congress reestablish the enternal truth which has guided this Nation since its foundation over 200 years ago, which is that people are or should be at the heart of the political process, and not money and not special interests.

So I would like to suggest that the Members of the conference committee who will be working on the question of voluntary limits on spending, who are going to be working on the question of political action committees and what influence they should have, who are working on the question of independent expenditures, and other questions among the leaders in this Congress on the issue is the gentleman from Kansas [Mr. Glickman], who is in the Chamber, and he and the gentleman from Oklahoma, [Mr. Synar] among

others, have shown leadership on this tough issue.

Mr. GLICKMAN. Mr. Speaker, would the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I happen to serve on that conference committee of campaign finance reform. I hope we can get a bill this year. If we cannot, it ought to be a high priority for next year.

The gentleman from Kentucky [Mr. Mazzoli] has weathered the storm of special interest financing, has proven you can be a successful in politics by basing your campaign on the contributions of average people, that we do not have to be locked into a perpetual battle for interest group money in this world, and one can be a successful politician and not be subject to the whims of having your hand out to every lobbyist and interest group in the world.

The gentleman has fought the battle and knows that can be done. From my perspective, I want to do everything I can to see that we pass sensible campaign finance legislation that elevates the role of the general public and diminishes the role a bit, not necessarily completely, but a bit of those folks that have money and interests and power in this world.

Mr. Speaker, I just wanted to compliment the gentleman from Kentucky [Mr. Mazzoli] on his stand, and hope that we can move forward with that legislation.

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman for his contribution. It has been valiant, and I think terribly necessary. As the gentleman from Kansas [Mr. Glickman] made reference, it is true that I have foresworn political action contributions. But one way or the other, I think there is a need in political circles, and not just at the Federal level, but all down the line, to limit campaign spending.

For example, persons campaigning for the State senate in the State of Kentucky where I served before coming to this body now expend as much as I spent in my very first race for this Congress and some of my earlier races thereafter.

That, of course, makes the American people feel like politics is just money, money, money, and that there is a money culture on Capitol Hill. That is wrong.

Mr. PENNY. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Minnesota.

Mr. PENNY. Mr. Speaker, I simply want to add my words of commendation to the gentleman from Kentucky [Mr. Mazzoli] regarding campaign finance. I agree with his remarks that there is too much money spent in campaigns, and far too much of that money comes from special interest groups.

The example the gentleman set out in his own reelection effort this year is one that all of us should follow. The gentleman showed commitment and conviction and courage, and I would hope that in the years ahead other politicians would have that same kind of courage in regard to the way we raise money and the way we spend money.

Mr. Speaker, it is really unfair to the American public that too often the seats in this institution go to the highest bidder. We have to do something to bring democracy back to this process and competition back to the political arena.

□ 2240

You have proven that you can eschew that reliance on special interest money and large campaign budgets and still win based on your integrity and your record, and I compliment you for that. You have set an example for all of us.

Mr. MAZZOLI. I thank the gentleman from Minnesota very much. And of course, he in his own way as a younger Member of this body has shown a great deal of courage, and a lot of foresight in the way he has handled his issues.

It is not so much a matter of heroism on my part or even courage, it is just a matter of belief. As the gentleman has said, democracy is premised on people, and in fact a root word of democracy is people. I believe the perception, and I do not want to make too much of it, of the perception becoming the reality, but the perception abroad in this land is that special interests dominate Capitol Hill, special interests dominate all of the State houses and virtually on down to the lowest elected officials.

I don't believe it is that way. I think the gentleman would share my belief that it is not the way, but the perception is so terribly important in how we run this country. And I think it is, therefore, important that we try to do what we can in our own way, individually and collectively as Members of this esteemed body, to make some changes to show the people how we feel about their government.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I am happy to yield to my friend, the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, does the gentleman have any time left?

Mr. MAZZOLI. If this is a Kentucky minute, and if the Kentucky minute matches the Texas minute that we were treated to a few minutes ago, I have about 30 seconds left.

Mr. HUGHES. I too want to congratulate the gentleman. I think he has put his finger on one of the major problems today with many of our institutions, and that is that the public has lost confidence in government and those that govern. That is probably one of the most unhealthy signs in our democracy today.

Political action committees are only a part of that problem. There is a tremendous cynicism that exists today, and we are going to have to work extra hard to try to overcome that. Certainly the gentleman's own effort at campaign reform is commendable. I have done something very similar over the years. I have attempted to limit my contributions back home from political action committees, but it is very difficult for some to do that.

When I started 16 years ago we did not see the proliferation of political action committees that we see today. People then did not contribute at work to a special fund so that their money would be contributed in one lump sum. They gave it individually. And I bet the gentleman probably has heard hundreds and hundreds of times as I have from individuals that contributed to me individually 16 years ago that they gave at the office, that they give to a political action committee. I hear it all the time, and frankly, you cannot expect them to contribute to you individually if they are contributing at the office or somewhere else to some trade association or other organization.

There is a misunderstanding in the country about political action committees. I do not know that the average person really understands that there are groups that have been formed really to receive funds from individuals, modest sums, often as small as a dollar, and that these contributors are just average Americans that happen to be working in one sector. They contribute to this single fund so that their moneys can be given in concert to those candidates who share their views. There is a tremendous misperception about PAC's. Does the gentleman not believe that is what has happened?

Mr. MAZZOLI. I certainly agree with what the gentleman has said. I think if my campaign at home is any kind of an example of what we might all see as we diminish our reliance upon political action committees and try to increase our reliance on individual contributions, I think the people sense that to be a good step and I think, therefore, the people, using my situation as an example, do respond in a very positive way with those dollars and $2 and $5 to which the gentleman has referred. I believe the people want very much to be involved in this governance of ours. And I believe that they have felt, wittingly or unwittingly that the laws, including our campaign laws, have sort of moved them away from the center of the stage and have moved into the center of political action committees.

So I just think we have an opportunity to move ahead. It is not easy. It is dangerous. It is delicate. It is difficult. One has to spend a lot more time beating the bushes for small contributions than you would at the higher level. But the sense of satisfaction, the sense of fulfillment, the sense that you get, that I got in this past election, probably like none since I got started over 20 years ago in the sense of having a real grassroots effort.

Mr. HUGHES. If the gentleman will yield further, you started out with crime and the crime bill and the Brady bill and some of the other initiatives that are awaiting floor action. I wonder if I can just enter into a dialog with the gentleman about the crime issue, since what we are attempting to do is to keep the House in session while the Rules Committee and our negotiators work out a budget resolution. We are attempting to just keep the House in session and we are talking about things of interest to ourselves and hopefully to the American public.

I am interested in crime. I have worked in the criminal justice field for 26 years now. There is no area that needs reform more than the criminal justice system.

We have lost something in our criminal justice system over the years since I worked in law enforcement, and that is the certainty that is essential to the system; certainty that people that commit crime are going to get caught, and certainty that once they are caught that they are going to be punished.

The gentleman is a very distinguished member of the Subcommittee on Crime and has worked over the years in trying to reform the system. He understands that the system is broken down in a number of different areas, not the least of which is in the prison system.

During debate on the crime bill, we talked about the death penalty, the exclusionary rule, and habeas corpus reform. But title I of the bill deals with some prison reform initiatives. While I think all of the other initiatives we talked about are very important, in my judgment title I dealing with prison reform probably will do more to place certainty back into the system than anything else in the bill. And why do I say that? The gentleman knows. But I wonder if we can share it with our colleagues, because I suspect that not too many people listening to the debate are aware of the fact that we have developed four new initiatives a year, eight over a 2-year period, that would provide intermediate prison sanctions.

One of the things that is happening in Washington, DC, and all around the country is that people, young people in particular, are being arrested every day. They are coming back into the system sometimes four and five times where a judge is faced with the realization that they are either going to have to send them back home to the same bad environment, or they are going to have to send them to jail where they are incarcerated with major offenders, and they come out worse for the experience.

Mr. MAZZOLI. That is exactly right.

Mr. HUGHES. They are often illiterate when they go in, and they are illiterate when they come out. They go in with drug problems and they come out with drug problems. They go in without skills and they come out without skills. What we are doing around the country today is shameful. In many instances, particularly at the State level, we are warehousing prisoners. Today in Ohio, for instance, you have to make a reservation to go to jail. The judges, when they sentence somebody, they send them home because they do not have the jail space.

These intermediate sanctions will enable us to develop new sanctions, something between jail and sending them home, particularly for the youthful offenders. Alternatives such as boot camp where we can offer them some training, and some skills, provide some discipline where perhaps we can restore some of their dignity and their self-esteem.

□ 2250

We must provide other options for our sentencing judges. We are not doing that in too many instances.

I want to thank the gentleman for his work in making that discussion possible.

Mr. MAZZOLI. Mr. Speaker, I yield to the gentleman from Florida [Mr. BENNETT], a pioneer in this effort of campaign reform, and also to thank my friend from New Jersey under whose leaderhsip I have been proud to serve for the past 16 years in this crime area, but without peer in this country.

Mr. BENNETT. Mr. Speaker, I congratulate the gentleman.

In a few seconds I cannot discuss what I thought I was going to discuss, but today there is a distribution of funds in the House of Representatives that if you are running for chairmanship of a committee or a position in the caucus or something like that, you can distribute funds to members of the caucus who vote for you. That ought to be prohibited.

We passed several years ago, Senator Spessard Holland and I, who took the leadership in the 26th amendment to the Constitution, to say that you could not have a poll tax as a prerequisite for voting. This was to prevent politicians from paying other's poll taxes as a pressure for voting for the politician. This is the same sort of thing, you should never have money passed out to people who are going to vote for you. That is something that this House should stop. Years ago this was a crime but that law was quietly repealed about 10 years ago and that repeal was a mistake.

Mr. MAZZOLI. Mr. Speaker, I would like to thank the gentleman who has shown his courage in many different subject areas over 40 years in the House, but nothing probably took more courage than to be in this behalf when he did.

BILLIONS CAN BE SAVED THROUGH SPENDING CUTS

(Mr. BROWN of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Colorado. Mr. Speaker, as our conferees deliberate tonight as to what they can do to put a budget together, I thought a couple of observations might be appropriate.

First, I think as a discussion of whether or not the taxpayers of this country are willing to do their part merits some observations.

Over the past decade, the taxpayers of this Nation have increased what they pay to the Federal Government by 102 percent. That is right. They have not had their taxes reduced. Their taxes have gone up and gone up dramatically. They pay 102 percent more this year than they did a decade ago.

If the question is whether or not the taxpayers of America have done their part or are willing to do their part, I believe the answer is very clear. They have done their part in spades.

The failure to bring the budget in line is not a question of a failure of this House to tax the working men and women of this Nation. We have done that. The failure is this House's inability to curtail spending.

There are some folks who are deliberating tonight as to how we can possibly bring that deficit down. I think it is incumbent upon us who would like to see it done without more tax increases on working people to suggest ways it can be done.

Here are some ideas that I think make sense. First of all, this House can vote to keep spending within the budget once they pass it. Let me be the first to acknowledge that part of the failure of our budgets are outrageous, unrealistic economic assumptions that are shared both by the White House and this House. The White House has not done a good job on coming up with realistic economic estimates, and this House, while it has criticized them, has adopted them, every one of them.

We must be willing to keep spending within the budget. That suggestion alone, if followed, would have saved an average of $20 billion a year for every year in the last 10 years. Now, that is an average, but we would have a deficit that is $200 billion less if we had kept spending within the budget each year. That is something we have the power to do.

The second thing I think we could do is look into the silly programs that I call red-face programs. That is a program when one accuses you of having voted for it you get a red face. Do we need a honey program? Will bees honestly lose interest in flowers if we do not pay $69 million a year? Of course not. It ought to be eliminated. The tobacco program could be eliminated, and liquidating the inventory could bring us $500 million this next year. We could revise the Davis-Bacon Act, not eliminate the portions that deal with wages, but simply eliminate most of the paperwork which is a nightmare and save anywhere from $500 million a year on up into the billions. That would save redtape and paperwork. We can eliminate the Appalachian Regional Commission. We can eliminate the FDR Memorial Commission, and that is not because we do not need an FDR Memorial. I think it would be fine, but to pay a Commission to meet for 40-plus years and not come up with a memorial seems a bit silly, doesn't it?

I think we could ask Japan to pay for its own national defense. To pay for their defense in 1946 might have made sense, perhaps even in 1950, and 1955, but to pay for it today is outrageous, and the American taxpayer should not have to bear that burden.

We could reduce the number of our men and women at arms in Europe. I think we could save substantial amounts of money if we do that, and I believe we ought to move ahead with it.

We ought to have a balanced-budget amendment, and this House knows it.

We ought to have a line-item veto to eliminate waste, and this House knows that as well.

When we think about these great issues, keep in mind that the budget we deliberate tonight is one this House by law should have done months ago. This House and the Senate, have not done their job. It is not the President who did not recommend the budget. He recommended one back in February. It is the House and the Senate that have not done their job to put a budget together.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Colorado. I am happy to yield to the gentleman from California.

Mr. DREIER. of California. Mr. Speaker, I thank my friend for yielding.

Mr. Speaker, I would simply like to say that I asked my distinguished friend from Colorado to yield about four times, and every time I asked him to yield, he came up with a more eloquent example of places in which we could responsibly make cuts which would benefit the taxpayer.

I would like to have my friend reiterate the line that he had at the very outset about, what was it, 102-percent increase over the past decade of the tax burden which has been imposed.

Mr. BROWN of Colorado. Tax revenue has gone up 102 percent, and our problem is not that we have not increased taxes. It is that spending has gone up 107 percent.

Mr. DREIER of California. If the gentleman will yield further, I would say to my friend it is to me extraordinarily important, and I cannot tell the gentleman how what he said brought to mind a study which for a number of reasons was thrown out in the eyes of many in this Congress and that was the 2,417 recommendations to save $424.4 billion over a 3-year period made by this organization that was privately funded known as the Grace Commission.

I think some of the examples that the gentleman mentioned were included in the Grace Commission study. The Grace Commission study is a place in which this Congress could look as we begin to address the problem that the American taxpayer faces.

I thank my friend for yielding.

Mr. BROWN of Colorado. Before I yield to my friend from Connecticut, let me first observe that if this Chamber is serious about deficit reduction, we could reduce our staff by 90 percent and still have the biggest congressional staff of any country in the world. Let me repeat that. Those are figures from the CRS. We could reduce our staff by 90 percent and still have a bigger staff than any country in the world. I do not know as we need to reduce it 90 percent, but we can achieve enormous savings if we will simply buckle down and not put it to the taxpayer once again.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Colorado. I am happy to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Let me commend my friend, and while I disagree with one of what he said, I certainly agree with the burden-sharing portion of his statement.

For the United States to subsidize the defense of our richest competitors in Western Europe and Japan at this point is ludicrous at a time when we are denying our own citizens vital services.

Where I would disagree with my friend is that the real debate here is not adding additional tax burden on working Americans. The question is whether the top 1 percent are paying their fair share, and that the proposal that was worked out at the White House and other proposals do not adequately address the need for some burden-sharing in this country that the top 1 percent whose income has grown from some $280,000 to over $500,000 in the last 10 years as compared to the middle class which I think the gentleman rightly pointed out actually has less disposable income today than they did 10 years ago.

Let us have the Europeans and the Japanese provide for their defense. It is a half century since the end of World War II. In this country let us share that burden so it is not just laid-off Federal workers, so it is not just working people that pay the tax, but the wealthiest 1 percent ought to pay their fair share as well.

I just saw a statistic today that said that the top 1 percent in this country has as much after-tax money as the bottom 40 percent. I think that there is something wrong in how our tax policy is working when we put most of the burden on that bottom 40 percent.

Mr. BROWN of Colorado. Let me say that I appreciate what the gentleman said. Certainly, coming from Connecticut, he would know more about the high-income taxpayers than I would from Colorado.

Mr. GEJDENSON. If the gentleman will yield further, I say that many of them are ready to pay their fair share.

Mr. BROWN of Colorado. I believe the gentleman's comments about our allies are exactly right. I must tell the gentleman I sincerely believe we ought to maintain our alliances, that we ought to be good allies. I believe the Europeans and the Japanese will be better allies if they carry their fair share rather than continue to be subsidized by America.

Mr. ROHRABACHER. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Colorado. I am happy to yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Speaker, there has been a lot of talk tonight over this debate about the tax package as to just who is protecting middle-class Americans.

What I have to ask is, just whom is kidding whom about who is a friend of the American taxpayer, the American working people. The Democrats have controlled this House, the House of Representatives for decades. How is it now that we have American people, American working class people who are being taxed at rates that were previously restricted simply for the wealthy?

Now, if the Democratic Party is in control of this House and the American middle-class think that they are overtaxed, and I believe they are, and I believe they are being taxed at rates right now that before were reserved only for the rich, how did this come about? Well, it certainly was not the fault of the party that did not control this House. The fact is that we were sold a bill of goods, meaning the American people were sold a bill of goods that we must raise the taxes on the rich. What happened during the last time we had a Democrat President, a Democrat Senate, and a Democrat House of Representatives? Why simply, the inflation rate went so far up that working class Americans were pushed into the highest tax brackets. Some people think that is exactly what they are planning again. Let Members not try to fool the American middle class as to who is their friend. Any person who is asking for higher Government spending, any person who is asking for higher taxes is an enemy of working class Americans because they are the ones who eventually pay the bill.

People can talk about we are going to tax business, and we are going to tax the rich, but the American working class people know they are the ones who end up paying the bill, because if we tax business, all we are really saying is, let Members let business collect the taxes, and pass it on to the Government, from the American working class consumers.

So, right now, we want to determine what direction we are going to go. It is not whether we are going to tax the wealthy, or are we going to tax the middle class. The real question is, are we going to keep control of spending, and are we going to keep control of taxes, because in the end, it is the working class people who will pay these taxes. Let me add that I remember the fight that went on when we were trying to index the tax rates so that working class Americans were not pushed into higher tax brackets. I remember that fight very well. Who was it who opposed the indexing of those tax rates in order to protect the American working class people? It was not the people on the Republican side of the aisle, I can tell Members that much.

So, what can I say as we look at this challenge of a dangerously high rate of deficit spending? I do not think the solution is taxes because working class people know they are going to end up paying the taxes, no matter how the wording goes. The fact is, the law can be worded in whatever, and it can be pointed at some business, or it can be aimed at some group of people, but it is the consumer who is going to pay for it, and the regular Americans. The question we should face is, how do we bring down spending? How do we cut out of the budget spending that is not absolutely necessary?

My colleague from Colorado has given Members a few suggestions. I think they are terrific suggestions, and I do believe that this side of the House, the Republican side, does have to bear some responsibility in the sense that for a decade now we have been unable, unwilling to make some of the cuts in defense that should have been made. I think that problem is being corrected on this side.

What I do not see is that same kind of honesty coming out of the other side of the House, who are not willing to make cuts in domestic programs, programs that are aimed specifically at special interests, whether they are rich farmers. I can remember a debate less than a month ago, trying to place a limit on the subsidies that a rich farmer can receive, if an individual happens to be a farmer and has an income over $100,000, net income, that is, after all of his expenses, we tried to put a limit on it and say he is just a rich individual who should not be receiving any more subsidy. How many of those people on the other side of this hall opposed that, and now are willing to raise the taxes on gasoline?

By the way, whether it is a tax on gasoline at the pump, or whether it is an oil import fee, who is kidding who? It is the consumer who is going to pay for it. Let Members have courage enough to talk about that and admit it.

Mr. BROWN of Colorado. Mr. Speaker, I might mention if we are looking for a place to cut spending, let Members eliminate the select committees that cannot draft legislation. If things are so tough to impose higher taxes on the American people, that is an extravagance we should do away with.

Mr. Speaker, I yield to the gentleman from Florida (Mr. SMITH).

Mr. SMITH of Florida. Mr. Speaker, I do not really want to comment all that much on what the gentleman from California has just said except to the extent that he had the distinct pleasure of not having to serve here during the Reagan years, otherwise he would have probably tempered what he had to say about whose responsibilities those attacks would fall on.

However, let me discuss with the gentleman something that he mentioned that we have mentioned on this side, that your colleagues have mentioned on that side, over the course of the last few days and which, frankly, we will have to discuss in the context of the future of this country, because it is coming to pass right now as a basis for reducing spending and reducing the deficit.

That is, what the gentleman mentioned as to the cost of maintaining our troops in Europe or NATO, and in Japan and Korea for the defense of our allies. It is really a little known fact in this country that we spend over $100 billion a year on those costs to protect our allies. It has been an investment which has paid off. There was peace in Europe. It was significant. After the Korean War and in Japan, there was no war, and we have been very successful. But the world scene has changed enormously. We should now come to grips with that. We should be able, as colleagues in this House, in the future, starting next year, without a doubt, to be able to sit down and plan how we can reduce our commitment in a new, more secure Europe.

Let me just say to the gentleman what most people do not also realize, it is something very, very frustrating, and somehow demeaning to the American public while we have shouldered these burdens, and many Americans have shouldered them willingly because their roots, their heritage, was in Western Europe or in other places, and they wanted to maintain freeedom and democracy, and ultimately we were right, and that system opposing the United States crumbled. However, for the last few years, and I am sure the gentleman would agree, we have heard this rhetoric coming out of Western Europe and Japan, saying, "You've got to reduce your deficit. You've got to reduce your deficit. You are hurting the world economy. You are spending too much." But all that spending, to a large degree, was for their benefit. We were spending it in England, and France, and Germany, and in Norway, and in Denmark, and in Belgium, and in Holland, and in other NATO countries including Turkey, and Greece for their security while they were sitting there, snug in their beds because the American defense umbrella was protecting them. They were telling the United States, "You must reduce your deficit."

However, the gentleman from Colorado (Mr. BROWN) I am sure is aware, as soon as we started to talk, even the smallest amount about reducing our commitment to NATO, why they were ready to commit hari-kari even in Western Europe. This is something that we are going to have to discuss because this is where the taxpayers really have a significant question, and have the right to question our priorities.

I would hope that the gentleman, while he will not be here, and I wish him luck, he will not be here, but many of the other colleagues on that side and this side will be here. I would hope, notwithstanding anything else, that we could, starting next year, have a bipartisan agreement on how to reduce our spending on defense commitments overseas, and thereby reduce the deficit and the tax burden on middle Americans.

Mr. BROWN of Colorado. Mr. Speaker, I thank the gentleman. It is my understanding that the European expenditures run about 17.9 percent of our defense budget. Nevertheless, it is an enormous figure.

THE JOURNAL

The SPEAKER. Before the Chair recognizes any other Members for 1 minute, pursuant to clause 5 of rule I, the pending business is the question of the Speaker's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BROWN of Colorado. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

The SPEAKER. Pursuant to clause 1, rule 1, the Journal stands approved.

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THE CONTINUING POW TRAGEDY

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, tonight I would briefly like to call to my colleagues attention an American tragedy of enormous pathos. It may bring all our lives into perspective and remind us that there are other things going on in the world than budget problems and there is pain out there in our land that transcends any hurt or discomfort of our own making in this 101st Congress.

As of this year there is only one American prisoner still carried on the rolls of our U.S. military active forces, one, repeat one, POW from the Vietnam conflict, our longest war. He is U.S. Air Force Col. Charles Shelton. Although I never met him, his wife is a good and dear friend. Charlie is my exact age. He received his Air Force Wings in 1955 as I did. He married in 1955 as I was. He has five grown children as I have. He was shot down over Laos on April 29, 1965, was a known POW for 5 years and then 20 years ago, faded into the abyss. That is why he is still carried as a POW. No proof whatsoever since 1970 that he is not still a prisoner. Charlie was in a cave for some of those 5 years with my best friend in the Air Force, Col. David Hrdlicka, shot down as a captain on May 18, 1965. Dave was also a known prisoner for about 5 years after which information about his fate dried up.

Like myself, Charlie and Dave are Catholics. And their wives are so very, very much like my wife. Charlie Shelton's beautiful wife Marian has been tirelessly fighting for her husband for 25 years. One of their sons, who was 9 or 10 when his dad was shot down, is now a Franciscan priest, several of the children married and made Charlie and Marian grandparents. But I am heartbroken to tell this Congress that sweet, wonderful, loyal Marian, wife of America's one and only prisoner of war from the Vietnam war, took her own life two nights ago.

This is yet another tragic page in the chronicle of our crippled effort to keep half of Vietnam free from Communist enslavement. Our hearts go out to Marian our prayers to the five Shelton children.

This is an unbelievable staggering tragedy. Life can be so hard for some families. Only God's wisdom can answer the mysteries involving this kind of pain. And how close this family's suffering is the pain of families who have loved ones hostages in the Middle East.

Did any of my colleagues see tonight's "60 minutes" show on CBS. If you did you now know what a sadistic beast Saddam Hussein is and always has been. He has killed and tortured and murdered to cling to his power. Our President's problems regarding Operation Desert Shield and all decisions regarding our fine young men and women in the gulf will be the true measure of his greatness, not any budget crisis. God knows we do not want any more Navy, Marine, or Air Force pilots taken prisoner or missing-in-action. We do not want any young hero like Dave Hrdlicka or Charlie Shelton shot down over Baghdad to be cut to pieces, as some Israeli pilots were after emergency ejections over enemy territory during the 1973 Yom Kippur war. But what do we do about the "Killer of Baghdad."

These decisions of life and death should put into perspective the struggle we are going through here trying to get our financial house in order.

Let us go through the next couple of weeks, keeping our friendships intact on both sides of the aisle, remembering that out there is a dangerous world. We have a great President to lead us through the storm ahead. It hurts beyond comprehension when an Air Force wife of 35 years, 25 of those years while her husband is a prisoner, whereabouts unknown, feels so deserted and lost and let down by her own country that she takes her own life.

I know Marian suffered so much in this life, that she has gone straight to heaven and is with her beloved Charlie now, if, that is, he's not still alive rotting in some Communist hellhole praying not to be forgotten by his countrymen. Marian, you kept faith with your young hero—your handsome fighter pilot. Rest in peace.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair wishes to announce that in receiving 1-minute requests, the Chair will resume the practice of considering those requests within the normal time limits.

The Chair is expecting within about 20 minutes to one-half hour the filing of the conference report.

THE TIME HAS COME TO STAND UP AND BE COUNTED

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, in the same spirit that the previous speaker has addressed the House in a moment of seriousness, I would take this 1 minute to ask all my colleagues on both sides of the aisle to do what my colleague, the gentleman from Kansas [Mr. ROBERTS], asked us yesterday, to please now, as we consider in just a few minutes a very serious matter before the House, the budget of the United States and how we are going to address the deficit problem that we have, that we stop lobbing hand grenades. We are still getting casualties on both sides.

The hour is late and it is time for us now to address a very serious problem.

There was a letter in this morning's Washington Post that says it very, very well:

> What ever happened to the plain old belt-tightening patriotism? I would proudly support any clear-eyed politician, Republican or Democrat, who would look directly at me in person or on television and say, in effect, the time has come for all Americans to stand up and be counted. The budget crunch is such that we must confront it together now for our own sakes and for that of our children.

That says it very well, and wherever you are out there, this is one Democrat who is saying the time is now. In just a few minutes we will get the opportunity to make that first important step. I hope that we can do it in the spirit of bipartisanship.

BUDGET ENFORCEMENT

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

The SPEAKER. Without objection, the gentleman from New York is recognized for 1 minutes.

Mr. SOLOMON. Mr. Speaker, and my colleagues on both sides of the aisle, the other day I was called to the White House, into the Oval Office, and President Bush, whom I deeply admire and respect, spend a great deal of time trying to convince me to vote for that budget package. He dwelled on how much there was in enforcement in that package. He failed to convince me, and I came back here and I voted against that package because I did not feel there was enough by way of enforcement mechanisms.

I did not feel that this Congress could really be trusted to make the spending cuts if we agreed to the tax increase.

I will just call your attention to the Democratic study group paper and what kind of enforcement this package coming before us in a few minutes really has. Read page 1, the last sentence, which says:

"Any deal that exceeds their allocations would be subject to a point of order."

Mr. Speaker, I assure you that is the line that replaces all the enforcement that was in the other package. That means there is no enforcement at all. That means we are going to submit to the second largest tax increase in the history of this country with no enforcement that this Congress is going to produce any spending cuts at all.

I just remind you all of that, because I have to vote against the package for that very reason. Let us build in some real enforcements and I will take a second thought. Without them, I cannot.

NEXT YEAR's DEFICIT WILL STILL BE $250 BILLION

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, we are all here this evening for a very serious problem, and that problem is the resolution of the deficit which faces us. While we talk about the difficult cuts in spending, while we talk about the tax increases that may be likely, when we talk about the order or magnitude of $40 billion, we ought also to reflect upon the fact that should we enjoy success in the endeavor we are embarking upon this evening, next year's deficit will still be $250 billion.

One of the problems I think that we have had in resolving this from a political standpoint on both sides of the aisle is the inability for our constituents to understand that this is a serious problem and that this has reduced their standard of living, perhaps imperceptibly, but nevertheless in a very real sense throughout the decade of the 1980's.

You have to look no further than the First Congressional District of Indiana, where the real wage rate earned by a worker in northwest Indiana today is 22 percent less than it was in 1980.

For the worker in Porter County, IN, that real wage rate is now 19 percent less than it was in the year of 1989.

There has been a lot of concern expressed about senior citizens in the debate, a lot of controversy about the Medicare Program.

CALL FOR THE HOUSE

Mr. RUSSO. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 435]

Ackerman
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Atkins
AuCoin
Baker
Ballenger
Barnard
Barton
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Browder
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Cox
Coyne
Craig
Crane
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Ford (TN)
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hefley
Hefner
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Hopkins
Houghton
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Manton
Marlenee
Martin (IL)
Martin (NY)
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shays
Shumway
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stearns
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Traficant
Traxler
Unsoeld
Upton
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (FL)

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The SPEAKER. On this rollcall, 383 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

AUTHORIZING EN BLOC AMENDMENTS DURING CONSIDERATION OF HOUSE JOINT RESOLUTION 666 FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1991

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that during the consideration of House Joint Resolution 666, making further continuing appropriations for fiscal year 1991, that it be in order for Representative MICHEL, or his designee, to offer an en bloc amendment to sections 108(c) and 114 changing the termination dates, in addition to the amendment made in order under the rule (H. Res. 498); further, that debate on the en bloc amendment be limited to 30 minutes, to be equally divided and controlled by the proponent and a Member opposed thereto.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 666, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-821) on the resolution (H. Res. 498) providing for con-

sideration of the joint resolution (H.J. Res. 666) making further continuing appropriations for the fiscal year 1991, and for other purposes, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON H. CON. RES. 310

(The conference report on House Concurrent Resolution 310 appears on pages 27958–27967 in today's RECORD.)

Mr. PANETTA. Mr. Speaker, pursuant to the previous order of the House, I call up the conference report on the House concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the U.S. Government for the fiscal years 1991, 1992, 1993, 1994, and 1995, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER. Pursuant to House Resolution 496, the conference report is considered as having been read.

The SPEAKER. Pursuant to House Resolution 496, The gentleman from California [Mr. PANETTA] will be recognized for 1 hour, and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 1 hour.

The Chair recognizes the gentleman from California [Mr. PANETTA].

(Mr. PANETTA asked and was given permission to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, I yield myself 9 minutes.

Mr. Speaker, first of all I want to apologize for the time that was involved here in trying to complete this conference report. In 14 years of working with the budget process, this was indeed one of the most unusual conferences that I have attended, in the sense that it was difficult to assemble all of the Members for various reasons that were not related to the conference. But we were able to have discussions with both the Republican leadership in the House, as well as that in the other body. We have had extensive discussions on the various pieces that are contained here in the conference, and we have now proceeded to complete the conference so that we can move forward.

We are tonight a government in crisis, and it is extremely important that we move forward with this budget resolution. We can no longer engage in just partisanship or games. The time has come for action to move this budget resolution.

The country is waiting, the people are waiting. We have a responsibility to exercise leadership tonight.

The goals that we sought here were bascially two: One was to try to address some of the concerns that had been raised as a result of the defeat of the budget resolution the other night on both sides of the aisle.

In addition to that, we tried to return to the basic purpose of a budget resolution, which I think every Member has to understand basically sets out aggregate numbers and tries to provide policy guidance pursuant to the summit agreement that was arrived at between the President and the leadership.

Those recommendations go forward to the committees. The committees then have the responsibility to meet those numbers and to present their recommendations. The test is that what they present is real in terms of deficit reduction, and that will be the test that we apply in this instance.

There are basically seven changes that have been made. I will address those briefly.

As I said, we have discussed this with the leadership on both the Republican side, as well as in the other body, so that every Member is familiar with the basic changes that we made.

No. 1, we basically preserved in the summit agreement the goals that were established by the summit that we achieve $40.1 billion in savings the first year, and over 5 years that we achieve $500 billion in savings.

We also maintained the aggregate numbers that were established by the summit, on revenues, on mandatory program savings, and on the discretionary accounts. All of that is maintained pursuant to the summit agreement.

Second, we modified reconciliation instructions to both the Committee on Ways and Means and the Committee on Finance to allow them to adjust particularly in the area of Medicare, as well as with regard to unemployment insurance.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Speaker, parliamentary inquiry.

The SPEAKER. Does the gentleman from California [Mr. PANETTA] yield for that purpose?

Mr. PANETTA. Mr. Speaker, I would prefer to continue my statement at this time.

The SPEAKER. The gentleman declines to yield.

Mr. PANETTA. Mr. Speaker, the specific policy decisions that raised tremendous concern on both sides of the aisle included home heating oil, the gas tax, issues related to capital gains, as well as tax rates. Those issues would be determined by the committees, in consultation with the bipartisan congressional leadership, so that both the Committee on Ways and Means and the Committee on Finance would consult with the bipartisan leadership in making their decisions in these areas.

All of the caps that have been provided here, caps for defense, caps for discretionary domestic spending, and also the caps for international spending, these would be spending caps, and would not represent floors, which means that we could achieve savings in each of those areas and those savings would go to deficit reduction.

There is a wall between each of these areas established under the summit agreement. We would maintain that wall. But what we seek to do is to provide that we can achieve savings, additional savings in each of these areas, and they would go for deficit reduction.

The funding for Operation Desert Shield is tightened up in the sense that there was concern that Desert Shield could possibly become a blank check for additional spending, and we wanted to ensure that the spending in this area was focused on the costs related specifically to Desert Shield.

In addition, there is a technical adjustment with regard to the defense budget authority to reflect the Senate-passed defense authorization bill. That would provide for about a $2.2 billion adjustment in the first 3 years.

On agriculture, what we did in agriculture is to move about $400 million in agricultural savings from the first year to the third year, so the first year would be approximately $1 billion. The 5-year savings would represent the overall savings that were provided under the summit.

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All other committees are required to achieve exactly the same amount as provided in the budget summit with the President and the congressional leadership.

We also indicate that obviously any new program would be paid for on a pay-as-you-go basis, something that was agreed to in the summit as well.

The bottom line here is that we have essentially tried to maintain the core of the agreement arrived at between the President and the leadership, tried to adjust those areas that Members have raised concerns about, particularly with regard to Medicare and unemployment compensation, and also provide some flexibility to the committees, which was the case even on the vote that was held the other night, but to recognize that flexibility, understanding that any savings to be achieved would have to be real and would have to meet the targets established for each of those committees.

Those, in summation, are the key points that we have provided here. Let me just conclude by saying how important it is that we act tonight.

It is not just the debate that has gone on here over the last 2 days that I think concerns all of us. It is the fact that this country is at risk tonight as we speak, economically, militarily with our troops located in the Persian Gulf, and certainly from a budget point of view as well. People in this country are looking to us tonight to solve this problem.

There was last night in the interviews on television with the tourists who were being kept out of the Smithsonian, there was an interview with a little girl who was trying to get into the Smithsonian to see the Constitution at the Archives, and of course it was closed. When they asked her the question why were you not let in, and she was very disappointed, and said we had come here for the purpose of seeing the Constitution and seeing the Archives, it was not so much what she said, it was the look in her eyes. For those of you who are parents, when you look into your children's eyes and there is that look of fright, that something is terribly wrong, you know that you have to reach out and try to provide some comfort. That look was in that girl's eyes.

That some concern exists with the American people. Democracy will survive. We go through these tests all of the time. That is the price we pay for freedom in this society.

But the responsibility in a democracy and the duty of all of us is to exercise leadership, tonight, to move this budget resolution, not only for that little girl but for the American people, and for all of us, and for this institution of the House of Representatives.

Let us do that tonight.

Mr. FRENZEL. Mr. Speaker, I yield myself 9½ minutes.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I appreciate the gentleman yielding. I wonder if I could ask my colleague a question.

I appreciated the explanation given and especially the concern that I have for the people who will be negatively affected by this package. But could the gentleman be very specific about one thing for all of us. Just how much gas tax is in this package?

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding.

The approach we have taken here is that all of the areas with regards to the gas tax, as well as capital gains for those who favor capital gains, those that are concerned about tax rates, those that are concerned about home heating oil, those are issues that will be determined by the committees of responsibility, as they should be, in consultation with the leadership of the Congress.

Mr. LEWIS of California. I thank the gentleman for his candor.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman for yielding. If the gentleman from California would please rise again, I just want to make sure that I understand, as I understand his points, Medicare, the cuts that were to accrue in Medicare are gone from the package?

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. PANETTA. Mr. Speaker, that is not correct. What we have provided here is room for modifications in that area if the committees so desire. The presentation basically provides for about $10 billion less in entitlement savings, $10 billion less in revenue savings, but it is made up with a $20 billion unspecified reconciliation to the committees.

Mr. LIVINGSTON. If the gentleman will yield further, the agricultural savings that were to be gained in this next year were put off for 2 years; that is, $400 million?

Mr. PANETTA. The total number was $1.4 billion that would be achieved the first year. We have taken $400 million of that and moved it to the third year. The overall 5-year savings remain the same in agriculture.

Mr. LIVINGSTON. The savings in home heating oil is left to the committees?

Mr. PANETTA. That is correct.

Mr. LIVINGSTON. The savings in gas taxes or the accrued revenues from gas taxes, presumably beer taxes and whatever happen to capital gains, that is all left to the committees?

Mr. PANETTA. If the gentleman will yield further, the purpose of a budget resolution has always been to present aggregate numbers to the committees. In reconciliation we provide the policy guidelines that determine those numbers. In this instance it was the summit agreement, and we will provide that to the committees as guidance. But the final determination as to what is in or out of this bill will be left to the committees.

Mr. LIVINGSTON. If the gentleman will yield further, the bill is very specific, very specific with respect to caps on defense and restrictive expenditures for Desert Shield. Our 200,000 young people who are over there in Saudi Arabia are now having the strings tightened on their purse, is that correct?

Mr. PANETTA. If the gentleman will yield, this is language that we have worked out with the administration, and it basically provides that for those expenditures that are presented on Desert Shield, they merely have to show that these expenditures relate to Desert Shield expenditures and not to just the normal operations of DOD, and I assume we would want to see that in any event.

Mr. LIVINGSTON. Surely. As I understand from the gentleman's eloquent statement about the little girl, that we are standing up for her rights and privileges and her future. But we are tightening the restrictions on the purse in Desert Shield in an effort to get this package?

Mr. PANETTA. No; that is not correct. Desert Shield still remains outside of the defense cap. It will be handled in a supplemental. What we want to ensure is that when it is presented those costs relate to Desert Shield.

Mr. LIVINGSTON. So finally, if the gentleman will yield, the flexibility in the gentleman's package is left entirely to the committees, and we really do not know what we are getting; is the correct?

Mr. PANETTA. In answer to the gentleman, the guidance is provided to the committees pursuant to the summit agreement, and obviously it would have to be done in consultation with the bipartisan leadership.

Our goal here is to work with the President and with the bipartisan leadership in a package in reconciliation that will be acceptable hopefully to both sides of the aisle.

Mr. LIVINGSTON. As vague as it may be, I thank the gentleman.

Mr. FRENZEL. Mr. Speaker, the budget agreement that is before us tonight has been presented to us only recently. But, in fairness to the conference committee which reported it, its changes, while not insignificant, are not too hard to understand.

At least to me it is not reasonable to complain that we have not seen it soon enough. The details of it, or most of them, were given to me two evenings ago by the distinguished chairman of the House Budget Committee. We have considered them and worked on them in our Republican councils.

I owe the distinguished gentleman and other conferees an apology for not being able to come to most of their conference committee meetings. The Republicans were busy trying to hammer out a position of their own after what they considered to be the changed conditions subsequent to the failure of the budget resolution on Friday night. And I apologize to all of the other people to whom I have acted in a waspish and owly fashion. It has been a long weekend for me as it has been for many of the others of my colleagues.

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But I do want to get back to saying the changes are not large in number. They may be important to some of you. They are important to me.

The first important fact not changed is that the overall summit agreement

structure is the same as was brought to us on Friday night.

The next thing is that there is an important change, and that is that the Committee on Ways and Means has been instructed to bring in $10 billion less in entitlement savings. Some Members think this will all be Medicare. Some believe it will be a combination of unemployment insurance and Medicare. And others have other speculations about it. I think the only thing that is certain is that there will be less entitlement savings in the new package.

As a result, we have been given some more flexibility in unspecified reconciled deficit reduction which, to me, sounds like the only place we can go is to raise taxes by $10 billion.

Due to an item which has been put in the statement of the managers, one can only assume that we are going to keep the same level of taxes so that the $10 billion extra is going to come out of tax incentives. I cannot read it any other way than that.

Otherwise, the committees will, as always, bring in the results of their determinations, and I believe it is still the chairman's intention and the leadership's intention to at least maintain the threat of an amendment if the committees do not meet their targets.

If any of you have this little sheet that tells you the changes that were made, there is a statement about how caps are upper limits and not floors. My own interpretation is that all of the agreed-upon spending limits are agreed-upon spending limits, and what the agreement really says is that the enforcement of these agreed levels will prevent us from exceeding the upper limits, and there is no enforcement on floors. I think that explains what we are dealing with here with more accuracy.

There is the funding of Desert Shield, which was investigated by the gentleman from Louisiana. That, I think, was put in this resolution mainly to calm the fears of people who believe there will be some leakage. The language does not have a lot of force and effect other than to make people more comfortable. The real force and effect will come from the supplemental appropriation which will contain similar language. I am told that it will be worked out with the administration, and it may be slightly different from the words in this agreement. But the intention is that Operation Desert Shield, which is exempted from the agreed limits, will not leak over into other Department of Defense operations.

There is a technical adjustment which reduces the BA only in fiscal year 1991 as a result of a disagreement between what Senator NUNN says the agreed Nunn number is and what the Democrat Committee on the Budget says it is. That is an $800 million downward adjustment.

There is also the $400 million agriculture adjustment we have already talked about.

The other parts of the agreement are as we have discussed it last Friday. But, I do need to say one thing about enforcement. The DSG put forth a paper today which indicated there was no enforcement, and that is, of course, technically correct. However, the strong enforcement, which I believe is one of the good parts of this package despite some infirmities that have crept into it, will be entered by a leadership agreement at the Committee on Rules level after reconciliation has been completed. There is the same enforcement that was in the budget resolution which we defeated Friday night. Yes, it is not reconciled to a specific committee, but the anticipation is that it will occur at the Committee on Rules level.

Mr. Speaker, for reasons I will explain later, I oppose the budget resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. PANETTA. Mr. Speaker, I yield 1 minute to the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I rise in support of the budget resolution, pay my respects to the chairman of the committee and the other conferees and the leadership for providing the flexibility, the assurances and the adjustments that are represented in this resolution and to preserve the prerogatives of the committees which cause so much concern in this body. I would trust that in a show of civility even if we have differences of opinion that we could discuss those differences as colleagues and ultimately get to a vote on this very important resolution.

Mr. FRENZEL. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Texas [Mr. ARCHER], the vice chairman of the Committee on Ways and Means.

Mr. ARCHER. Mr. Speaker, sadly this budget conference report is not a bipartisan agreement. Many of us worked many months this year agonizingly to reach a bipartisan agreement so that his country could move together cooperatively, but the summit agreement in all of its ramifications insofar as the restraints as to what could be done and could not be done, as to tax rates and many other items has been discarded, and now we have lump numbers assigned to the Committee on Ways and Means which has the major jurisdiction over this legislation.

Yes, if I were in the majority, I would like that, and I understand that that was used to get your votes. The votes that will finally be cast on this agreement will show and demonstrate to the public it is not bipartisan.

On the Committee on Ways and Means we are outnumbered 23 to 13, and when you put lump numbers that are subject to the majority being able to implement it without the constraints that were carefully hammered out during those months of summit negotiation, it ceases to be a bipartisan agreement.

As my friend, the gentleman from Minnesota [Mr. FRENZEL] said, it is an open door, and clearly has been labeled as such to get your votes on the Democrat side. I understand the Speaker has his problems. He has to try to pass a resolution to give you another $10 billion of taxes with an increase in spending of $10 billion, and that has been a trouble to me all the way through.

I bent as far I could last Thursday on the tax side. I can bend no farther. I particularly feel that when the chairman of our committee is going to establish what he calls his mark which becomes the enforcement mechanism for all of the taxes that go into this bill and lays it before our committee on Tuesday, that becomes the legislation, and no one else has any other input into it. Anyone who wishes to change it must then satisfy the burden of proof of knocking out any individuals item in that chairman's mark, and that is not bipartisanship, and that is not the spirit of the summit.

The promise that has been made to the Democratic Members is by putting lump numbers in we are going to let you solve your problems, and I can tell you will not get all of your problems solved, but in the process of trying to solve them, the odds are great that you will create massive problems for our side.

The increased spending in entitlements makes it more important to understand what has happened in discretionary spending, because while we are asking the working people of this country to pay higher taxes, this budget resolution provides for an additional $170 billion of new spending over the 5 years on discretionary spending. I do not think the people of this country want to be taxed to increase spending on domestic spending and discretionary spending. Perhaps I am wrong, but that is not the way I read my district nor the people that make input to me from across the country.

I must sadly say to you that I must oppose this budget resolution, and I wish that there were some way that we could bring back together the spirit of the restraints that the summit reached.

Mr. PANETTA. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I regret the position of the gentleman from Texas, but I understand it. He was a participant in the summit, and I respect his views as sincere.

I just want to share with him the fact that no one takes a back seat on spending savings to the chairman of the Committee on Ways and Means, who has said to me time and time again, "I want to bring out a bipartisan package that I want to work with the gentleman from Texas [Mr. Archer] on and ensure that the President is part of that effort."

□ 0010

I just want to share those views with Members that the package that the chairman of the Committee on Ways and Means intends to bring out is a package that will achieve the goals presented in the summit, and hopefully he will work with the Republicans in that effort.

Mr. ARCHER. Mr. Speaker, if the gentleman will yield, it would have been most helpful for me had the chairman contacted me and said that he would have liked to have me participate in the development of that, but that has not occurred. Regardless of the chairman's position, the numbers are still there, 23 to 13. That is a massive, massive hill to get cooperation from over the very tough decisions that lie ahead of Members.

I appreciate the gentleman's comments.

Mr. PANETTA. I understand, and I yield myself 1 additional minute.

The purpose here was to try to develop the flexibility on an issue that was of concern on both sides of the aisle, which was the Medicare reductions. All Members know that. All Members recognize the concerns that were registered out there. What we tried to do here is provide some flexibility to the committee to address that area. It does not necessarily mean that taxes are going to go up. It could mean that entitlement savings could replace those savings. In fact, what we have done is give the committee the ability to replace whatever it takes to try to modify those reductions. I am convinced, and I trust in the judgment of the chairman of the Committee on Ways and Means that he will do that.

Mr. Speaker, I yield 3 minutes to the gentleman from Georgia [Mr. Jenkins].

Mr. JENKINS. Mr. Speaker, I think everyone recognizes that we are running out of time. I regret very much that we have been unable, as an institution, to come to a bipartian budget agreement that must be decided tonight.

Obviously, when my good friend and colleague on the Committee on Ways and Means, the gentleman from Texas [Mr. Archer] says that they on the Republican side are going to be unable to work in the Committee on Ways and Means, as I understand it, in a bipartisan manner, the end result is that we on the Democratic side will end up having to write the legislation. That is unfortunate.

Now, if I recall correctly, both sides rejected the summit agreement. Both sides rejected the summit agreement. House Members indicated I think, by their votes, that they did not like the reductions, maybe in Medicare, that they did not like the taxes, possibly on gasoline, or that they did not like the other parts of the package. I agree with them. I think that the normal process should be to let the committee work, to work its will. That is the way it has always been.

If we do not like the package, at the end of this process, we always have the right to vote no. If we signed a pledge that we cannot get around, we can always vote no. I am sure that many Members will do that.

I simply want to say to my colleagues, as the American television viewers have watched for the last 2 or 3 days, that the people have not been too pleased with what they have seen in this institution. The facts are that the bubble in the Tax Code has to be eliminated, and the majority of Members on your side know that and have indicated that to many people on this side of the aisle. It simply is not defensible for a high income person to pay at a lower tax rate on ordinary income as is presently in the code.

Whatever we do, whether we reduce the impact on Medicare, whether we take gasoline taxes lower, the bubble is going to be gone because the majority of your Members, as well as the majority of our side, are going to eliminate the tax bubble. Therefore, I think it is incumbent upon this House to say to the Committee on Ways and Means to bring out a balanced package. Everyone will get hurt to some extent, but the country has to go forward. At some point we have to govern. Now is the time to begin. I urge you to vote "aye" on this proposal.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. Gilman].

Mr. GILMAN. Mr. Speaker, as we engage in a lengthy late hour debate on budget proposal No. 2—the son of budget No. 1—I rise to appeal to my colleagues to put partisanship behind us. We have heard too many harsh words on both sides of the aisle in the last few days. Let us work together tonight to enact a fair budget agreement acceptable not only to all the Members of this body but most important to our constituents back home.

In this debate I urge my colleagues to avoid partisanship and to focus, not on the upcoming November elections, but on working together to complete the job we were sent here to do, bearing in mind what President Bush stressed in his recent message; the need for bipartisanship, not interparty bickering.

There is no Member of this body who is not devoted to our Nation and who does not toil for the good and welfare of our citizens.

But, in doing so, we must respect the different approaches we may take to achieve those very same goals.

By working together I am certain we can and will achieve what all of us and our Nation are seeking—a fair and equitable budget.

Let us bear in mind on both sides of the aisle what a presidential nominee once said, "More important than winning an election is governing the Nation. That's the test of a political party * * * the acid, final test." Those were the words of Adlai Stevenson, in 1952.

Mr. Speaker, in the interest of bipartisanship, I support the proposal before us.

Mr. PANETTA. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. Schumer], a member of the Committee on the Budget.

Mr. SCHUMER. Mr. Speaker, we are here tonight at a very important juncture, and I would like to address this budget on both a substantive and a process basis.

On a substantive basis, I say to my colleagues, particularly on this side of the aisle, make no mistake about it, the basic structure of the summit remains intact. There are 2½ times the savings from spending cuts than from revenue increases. Many on our side of the aisle had always thought that ought to be one for one, that for every dollar of spending cuts to the constituencies that need help, there would be an increased dollar of revenues, but that was not to be. And it is not there.

Then, when we get to the cuts in spending, again, many on our side of the aisle thought for every dollar of domestic cuts there ought to be a dollar of defense cuts. There is not. There is greater cutting on the domestic side than on the defense side. Therefore, the framework of the summit, which hardly leans in the direction of our party, is still there. By abandoning it, I would say to my colleagues on this side of the aisle, they are making a mistake, but there were four major objections to the package, and the proposal by the gentleman from California deals with those.

First, Medicare. The cuts proposed in Medicare were so deep that everyone knew that they could not be accepted. Does Medicare have to bear some of its share of cuts? Yes, but the summit proposal would have meant the closing of hospitals, urban and rural alike, and it would have put a burden on beneficiaries, far too great, including beneficiaries who could hardly afford it. The new proposal allows that to change. Second, progressivity. From one end of the country to the other, Americans said that the middle class, the working people, and the poor people of this country should not pay a higher percentage of tax increases than the very wealthy. The original summit called for that. The new proposal allows the Committee on Ways and Means, which has had a tradition of enacting progressive taxes, to do so.

□ 0035

Third, defense. Many said that the defense number was too high. I still feel the number in this package is much too high, that we are wasting dollars that should be spent in other areas. The defense number was changed a little, but not very much.

Finally, the fourth objection, heard by many on this side of the aisle, that there should be no new taxes altogether. Well, your President, our President, has stated that in 1988, and when you examine the budget you realize that if you stick to a doctrine of no new taxes, you will have no new, old, present, or future deficit reduction.

So make no mistake about it. If you wish to cling to the doctrine of no new taxes, which of course is your right, you are saying we will never reduce this budget deficit, and in fact you will have written yourself out of the process today, tomorrow and in the future.

On the issue of process, the gentleman from Louisiana had talked about, "Well, what is in the package? Why don't we specify what Ways and Means is going to do?" We never have in the budget process, we never have.

The SPEAKER. The time of the gentleman from New York has expired.

Mr. PANETTA. Mr. Speaker, I yield 30 more seconds to the gentleman.

Mr. SCHUMER. Finally, on the issue of bipartisanship, the leader of the other body, the minority leader, Senator Dole, the Senator from New Mexico, Mr. Domenici, as well as the President have said they want the process to go forward. There are many people in the Republican Party participating in this, and simply because there is great disagreement in this body on the Republican side, we cannot hold up the package any longer. We must move forward in a bipartisan way, and if there are so many of you not on the train because of the turmoil in your caucus, that train must move out of the station and go forward anyway.

Mr. Speaker, I urge support of this resolution.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. Gallo].

Mr. GALLO. Mr. Speaker, I would like to thank the distinguished gentleman from Minnesota for yielding me this time, and thank him personally for the job he does as ranking member on the budget.

Let me say that when we went through the summit agreement, I agonized for 3 days, having my staff look up one side and down the other, to understand fully the impact that was going to take place and further understood that my President and my leadership was there and supportive.

I think I made no bones to any of them that I was not overly pleased with elements of that particular package.

In an effort to bring bipartisanship to this House and to that summit agreement, I voted for it; but tonight, to receive this at 11:30, one page that outlines very, very briefly what may be in the budget agreement and that the committees are going to take care of the whole thing, "Don't worry about a thing, Congressman Gallo. They are going to take care of it."

As the gentleman from Texas [Mr. Archer] said, I can understand the majority party taking that attitude when you have the numbers on each committee; but I do not think you can ask people on this side that made that hard vote to be all that trusting.

We just got word that the President is not in favor of the way this has been handled. I am not sure what his attitude will be overall. Maybe others will indicate that as this evening goes on.

But let me tell you, there were very few things that I thought were important in this, including the growth package. I understand that is gone.

I understand also that the open-end-edness that the gentleman from Texas had indicated is still a concern. Therefore, I cannot support this package.

Mr. PANETTA. Mr. Speaker, I yield myself just 20 seconds.

There is nothing in here that indicates that the growth package is either in or out. Again, that recommendation is being made pursuant to the summit agreement, but the ultimate judgment is going to be left to the Ways and Means Committee.

There are a lot of concerns about that growth package, and obviously it has to be weighed in the committee, along with the other proposals, and that is as it should be.

Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from California [Mrs. Boxer].

Mrs. BOXER. Mr. Speaker, I thank my chairman and I thank the Speaker.

Everybody is very tired and everyone, I think, is being very reasoned tonight. I think Members of both sides of the aisle should be complimented for that.

I would like to address myself to the comments of the gentleman from Texas [Mr. Archer]. I do not see him in the Chamber. I hope he can hear these comments.

The gentleman said that he understands that the Speaker has a problem, and that is why we are bringing this budget agreement here tonight.

I would say to my friend, the gentleman from Texas [Mr. Archer], it is not just the Speaker who has a problem. It is not just the President who has a problem. It is all of us, whether we are on the Democratic side of the aisle or the Republican side of the aisle. And the people of America have a problem. We have a horrible deficit. We have to deal with it, and this is the time.

I would say to my friend, the gentleman from New Jersey [Mr. Gallo] who I serve with on the Budget Committee and who is a very caring member of that committee and serves the task force that I chair. He is concerned about the impact of Medicare cuts on hospitals and on the elderly.

But he said the President, he has heard, is not that pleased with this process. The President is the one who told the Speaker and who told the people on the gentleman's side of the aisle that he wanted to see a budget resolution. He wanted to see it very quickly. He wanted to put this behind us, and I have to commend our leadership here for moving quickly.

Yes, the agreement is one page, because it is really a modification of the summit.

The gentleman from California [Mr. Panetta] heard from both sides of the aisle what the problems were, and those have been outlined—deep cuts in Medicare, loopholes in defense spending, unfair taxes, and the gentleman from California [Mr. Panetta] went to work with people with both parties, in both Chambers, to fix those problems, and I think we are on our way.

Finally, I want to make one last point to my friends on both sides of the aisle. The reason I am so pleased about this is that I do not want to see people who are not elected to Congress running our budget operation, and that is what happened as a result of the summit. Now we have the budget back where it belongs, in this Chamber.

Yes, we will have disagreements. We will have disagreements among ourselves, Democrats will, Republicans will and we will have problems with each other; but I would rather argue with Members in this Chamber over values, over priorities, over what is fair in terms of taxes, in what is fair in the way of spending. I would like to see that argument right here, not in some summit with eight people, well-meaning, hard-working leaders of both sides and staff of the President.

So I am very pleased to support this. I did not vote for the summit package. I think that this is a big improvement and I want to compliment everyone who worked on it.

Mr. FRENZEL Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. Green].

Mr. GREEN. Mr. Speaker, I do not know how I am going to vote on this budget resolution, because I really do not know much of what is in it. I hope that the next hour or so will elucidate that.

But I do feel insulted as a Member of this House at the way this resolution has been presented to us.

At 6 o'clock this evening we were handed a Democratic Study Group Report, only to have the Speaker say a few minutes later that we should not rely on it.

OK. Now shortly after this debate began, we have been handed two-thirds of a page. It contains such wonderful descriptions as, "Item 4. Funding for Operation Desert Shield will be covered by the attached guidelines."

Unfortunately, no guidelines are attached, and, on whatever original this copy was made, there were no staple marks, so I do not think anything has ever been attached to this document.

I know the gentleman from California [Mr. Panetta] told us that the relevant language has been worked out with the President, and I assume it has been because I trust the gentleman from California on that. But I really think that on something as important as Operation Desert Shield the Members of this House should be given the courtesy of knowing what the agreement is.

I am disturbed that we are now well into the debate, and I see the members of the majority staff are looking around to find a copy of the agreement. Maybe they will now give me a copy, but I wonder if they are going to give it to all the other Members of this House, so that we can all know what the rules are that govern a very important part of American foreign and military policy today.

□ 0030

Finally we are told, "Trust the Ways and Means Committee." Well, we trusted the Ways and Means Committee last year, and it brought back a 35-percent shortfall on its reconciliation instructions. The Budget Committee, which has statutory authority under the Budget Act to bring its own bill to the floor when a committee fails to meet its reconciliation responsibilities, failed to do so. I do not think that after last year's experience we ought to be asked to trust the Ways and Means Committee, and I do not think that after last year's experience we ought to be asked to trust the Budget Committee.

So I am deeply disturbed at all we are being asked to take on faith tonight. Past history does not entitle us to have that faith, particularly in view of the paucity of information we are being given.

I hope in the next hour we are going to learn a lot more about this resolution than we have been told up to now.

Mr. PANETTA. Mr. Speaker, I yield myself 30 seconds of time to respond to the gentleman from New York.

First of all, it would have been nice to have had a Republican at the conference so we could have discussed the language with regard to Desert Shield.

Second, the language is contained in the conference report which is available at the desk.

And third, if the gentleman is so interested in the language on Desert Shield, he can come over and I will give him a copy of it.

Mr. GREEN. Mr. Speaker, I really do not think 400 of us ought to have to line up at the desk to read the Desert Shield language, and I do not think only I should see it. All Members of the House are entitled to see it.

It is the most important foreign policy initiative in which this Government is engaged. I do not think we should have to take it on trust.

Mr. PANETTA. The gentleman is a member of the Committee on Appropriations. I wish we had some advance notice when those conference reports come to the desk as well.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. de la Garza] the chairman of the Committee on Agriculture.

Mr. de la GARZA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I really do not feel good having to say this, but Desert Shield seems to be coming into the picture for partisan reasons, for personal reasons, and I say it very sincerely, what appears to me to be beyond the personal interests of the individuals.

Mr. Speaker, I trust the gentleman from California. I trust my leadership.

Mr. Speaker, our oldest son is in Saudi Arabia. I should be the one—there are only two of us here—I should be the one who is questioning if we are taking care of Desert Shield.

I am not. I hope that my colleagues, for whatever reason, leave that out of this debate because one or two of us that has a personal interest is satisfied that it is being taken care of.

Mr. FRENZEL. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, when I began my part in this debate I apologized for not being at several meetings of the conference committee, but particularly the one at which the conference report was signed by all of the Democrats' conferees and none of the Republicans' conferees.

I do, however, recall being present for 3 months before the August break, night and day, waiting for the Democrats to bring in suggestions. I remember camping out at Andrews Air Force Base at Camp Runamok waiting for you guys. Now you can wait for us a minute or two. You are certainly going to have to before the night is out.

Mr. PANETTA. Mr. Speaker, I yield 5 minutes to the gentleman from Kansas [Mr. Slattery].

Mr. SLATTERY. I thank the chairman for yielding.

Mr. Speaker, I rise this evening as probably one of the least partisan Members of this body. I do not think you have seen me come down here and throw a lot of political spears.

I came this evening to plead with my colleagues on both sides of the political aisle to support this budget resolution. I say this because as far as I am concerned it is just fundamentally absurd for us to bring this Government to the stage where it is this evening.

The thought of us having several million Federal employees wondering whether they are going to go to work adds absolutely nothing to the deliberations of this body. And the thought of the entire world wondering whether this great democracy that they have attempted to emulate, can really govern itself is a sad commentary.

We ought to all be concerned about that fundamental point.

I seems to me, Mr. Speaker, that all of us here this evening are going to have to recognize that we truly have a divided government. I am absolutely amazed to hear speakers on both sides of the political aisle pretend like somehow one party is going to dominate this deliberation. Wrong; it is not going to happen.

The fact of the matter is, the Committee on Ways and Means is going to have to work out these terrible difficulties that yet remain in close consultation with the White House. We all know that this evening this budget resolution merely gives the Committee on Ways and Means the direction that it must have to move this process forward. We all know, also, that reconciliation will never become law without the President's signature. And we all know for that to happen we have to have at some point a bipartisan compromise.

We have to have that or we stay right here until hell freezes over.

Mr. Speaker, compromise in the political realm has become a dirty word. It leaves maybe a bad taste in your mouth. But I would suggest that compromise is really the cement that holds our families together. It holds our society together. It holds our democracy together.

And that is what we are going to have to do in the next few days to solve this mess that we find ourselves in.

And with that, Mr. Speaker, I would just like to offer maybe the details of a compromise that perhaps we can find 218 people to support.

It seems to me we are going to have to cut this proposed fuel tax at least in half. And then extend the 33 percent rate that middle income taxpayers are paying to all taxpayers above that level. Common sense demands that.

My friends on this side of the aisle have privately confided to me that they cannot defend that anomaly in the Tax Code today and they want to change it. And that is going to have to be part of the deal.

We are going to have to reduce the proposed tax incentives that somehow just grew out of this summit. Some of them are absolutely preposterous. The idea of additional tax incentives to encourage oil exploration at a time when the price of oil has doubled in the last year does not make sense. Have we lost our bloody minds?

We are going to have to also restore the current law in the area of unemployment insurance benefits. We all know what a fundamentally unfair proposition this is.

And, yes, in the final analysis we are going to have to do something with capital gains. We all know that. The Democrats are not going to win everything on that issue. We are going to have to recognize that.

I suggest we say we are going to have $5 billion to provide some kind of capital gains relief, $5 billion over 5 years, and I think we can deal with that problem in that context.

And, yes, we are going to have to reduce the Medicare cuts. People on this side of the aisle recognize they cannot go home and sell $60 billion worth of Medicare cuts, and we understand that on this side of the aisle also. We are going to have to get those cuts down in the range of $45 billion. I believe we can convince the people in this country that Medicare is going to consume nearly $700 billion in the next 5 years. Can we not find $45 billion out of that $700 billion in the next 5 years? I think we can.

Mr. Chairman, I know I have overextended my welcome here this evening. But I just hope that we can recognize that we must compromise if we ever want to wind this session down. And there is nothing wrong with that compromise.

And I suggest, Mr. Speaker, tonight, the sensible, the responsible thing for all of us to do is to support this budget resolution, to move on to the next stage of the process, which is the Ways and Means Committee, knowing that Mr. Archer, Mr. Rostenkowski, and the President and his troops are going to negotiate a deal that the President will sign or it is going nowhere.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Washington [Mr. Chandler].

□ 0040

Mr. CHANDLER. Mr. Speaker, on Thursday I voted with you and with my President on the summit package, which I thought was truly bipartisan. It was something I had believed in, a process that I thought was really our only way out of this mess that we are in, and, unfortunately, that strategy did not work.

However, Mr. Speaker, tonight I am afraid that we are embarking on another exercise that is not going to work one bit better.

Thursday we brought out a package that was defeated by 60 percent of our Members, and now I have to ask, "You brought the package out. Did you care that it lost? Was that part of the grand strategy? Why did you force a vote if you didn't know that you had the votes? You can count as well as we can."

Mr. Speaker, I was part of the whip organization over here, and I knew we were in deep trouble. I am sure the Speaker must have known it, too.

I think it is time we answered that question.

Now, tonight, Mr. Speaker, you bring out a new package. You strip out the specifics, you pass it, and you tell the country we're going to work for the next 2 weeks and walla! We're going to have deficit reduction. I have to ask you what makes you think there's going to be any more courage on this House floor 2 weeks from now than there was Thursday night.

If we could not pass a package that this Speaker put his prestige on the line for, how are we going to pass a reconciliation package 2 weeks from now when we are right on the doorstep of an election?

I think we are wasting our time, and I think it is time that we stop beating up on a President who has gone out and tried to lead this country, who has told the country we have a problem and has tried to do something about it in a very high risk way. We are going to put off this decision until it is too late. There will be no more courage then than there is now. Everybody is going to want to go home and get reelected. There will be a phony reconciliation package out here. All my colleagues will vote for it and hope that the President vetoes it and brings the Government to a standstill so they can blame him.

Mr. Speaker, that is the strategy. There could not be anything more clear. But I tell my colleagues this: "I liked what my friend from Kansas said, and, if what he says happens, I'll be there. If it's bipartisan, and if it's effective, and if it's a fair, I'll vote for it."

However, Mr. Speaker, I am sorry. I cannot participate in this.

Mr. PANETTA. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. Wise].

Mr. WISE. Mr. Speaker, I am sorry that the gentleman from Washington [Mr. Chandler] cannot participate in it, because I can. I voted no the other night also, Mr. Speaker. I am glad to be back. I am back because there is a budget proposal before us that makes sense, that truly, I think, has bipartisan earmarks to it and can provide the vehicle for us to get out of this mess. I am back because this leaves the tax question open, and it goes to where it ought to go, the committee of jurisdiction. I am back because it says to Medicare and those that are elderly and sick, "You're not going to get nailed for the full brunt of this deficit reduction," and indeed about a third of those cuts are lifted. I am back because it leaves the investment programs in this Nation intact, and I am back because it leaves the committees to do what they ought to do.

And now I would like to talk about numbers for a second. Someone said, "Well, it won't be fair because the Ways and Means Committee is 23 to 13." Well, the American people kind of elected that, made it happen that way, but even that being the case—oh, touchy, huh—but even that being the case, I have noticed that that 13 seems to stand in pretty well, and I might point out another point, and the number is one, zero. That is the President, as somebody else pointed out on our side of the aisle, can veto reconciliation. This gets the project moving.

However I am back also because I want to be involved in governing. I do not want to be standing out there saying, "no, no, no," to everything that goes on.

I watched the President's budget come up in January. Nobody really pushed that too hard. Gave us numbers that have since turned out to be $150 billion off the mark. I watched in spring when no Republican alternative was offered when they had a chance. I watched again at the summit where all the proposals turned out to be leaks and, therefore denied, and tonight I am back because I want to be about governing. This gets that going, and it lets us do something in this Chamber where men can be men, women can be women, and, most importantly, Members of Congress can be Members of Congress and do what we get paid to do.

Mr. FRENZEL. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from Vermont [Mr. Smith].

Mr. SMITH of Vermont. Mr. Speaker, I did not come here to represent Donald Trump, or Michael Milken, or the S&L thieves. I came here to represent the working men and women, the shopkeepers, the family farmers, the parents and the elderly of Vermont.

They deserve three things:

First, the honesty to tell them their government is broke and the economy is teetering.

Second, the fairness that comes with tax policies that insist that we all play our part that those who are well off.

Third, pay their fair share too. The ingenuity to give them a government longer on effectiveness, humanity, and intelligence, and shorter on bureaucracy, rules, and domination.

It is fair to insist that we end our grotesque obsession with deficit spending with a 5-year plan. This deficit contorts and disfigures our ability as a society to create either economic or social opportunity. This deficit is the enemy of our future.

And it is fair to insist that the burden be shared—that all Americans be in the barrel together with no groups escaping because of wealth or situation.

I supported the budget summit proposal last Thursday because it created a base from which we could create fairness in the 5-year plan as we debated a reconcilation bill over the next 2 weeks.

And when that failed, I supported the President's veto, because I believed that Congress needed it's feet held to the fire now, this weekend, when the only people hurt as regrettable as it is, would be tourists; before Tuesday when 10's of millions of Americans, whose only crime is that they have need or work for our government, pay the price of our institutional failure.

Our country is as great as the vision of hope, of opportunity, we create for our children; as great as the legacy we leave behind. The deficit destroys both.

And in the end it is not ideology and partisanship—yours, ours, or the crumbling facade of socialism that creates our future. Within the context of our constitutional democracy it is common sense, a heart that cares, the capacity to see what is right, and do it.

As our first Republican President, Abraham Lincoln, said over 125 years ago—

> The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty, and we must rise with the occasion.* * * we must think anew and act anew * * * and then we shall serve our country.

I stand in the well of the House tonight to say this package can create fairness we need; is effective to the deficit reduction task; and is enforceable.

It will have my support.

Mr. PANETTA. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. Gibbons].

Mr. GIBBONS. Mr. Speaker, I want to say to the gentleman from Minnesota [Mr. Frenzel] and the gentleman from Texas [Mr. Archer] and the gentleman from New York [Mr. Green] that we are all personal friends. We can all work together, and I hope we will. I extend to them my hand in friendship and my hand in sincerity, and I will try to work with them in all of this. I will try to work with everybody on all of this.

I think all of us should recognize that what we are talking about tonight is essentially a procedural problem. If we cannot pass this, then we cannot go to work. If we cannot to work, we can never solve this problem.

Essentially the Committee on Ways and Means must produce 194 billion dollars' worth of pain, 194 billion dollars' worth of pain. Now I do not ask my colleagues to trust the Committee on Ways and Means, but give us an opportunity to work. Give us an opportunity to bring back to our colleagues a package. They can accept it or reject it, or do whatever they want to with it, but do not keep us from working any longer. We can never get this job done.

I hope that my colleagues sitting over here to my left will find it within their hearts to be peacemakers, to let us proceed and judge us on the quality of the work that we bring back to our colleagues, and I say the same thing to my colleagues on the right over here.

That is, Mr. Speaker, "You don't have to trust any of us. We'll do the best we can. We'll take into consideration all of your views and what we think is best for this country. But give us the opportunity to go to work and get this problem solved. We don't need any more long speeches. We don't need any more histrionics. We just need the opportunity to go to work."

☐ 0050

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the gentlewoman from New Jersey [Mrs. Roukema].

Mrs. ROUKEMA. Mr. Speaker, I thank the gentleman for yielding. I really have no intention to adding to the political theater here tonight. Last night I said I always read the fine print, and my questions are going to be directed as to whether or not there is fine print here. If either the committee chairman or the ranking member can help me out here by reference to the statement of the managers or other documented agreements I would appreciate it.

Mr. Speaker, I think we have to shed some light, rather than more heat on this discussion. I was very hopeful tonight that I would be able to come in here and be pleased with the Medicare figures. But at first blush I have got to say that these restorations look more cosmetic than real.

It is very close, as far as I can tell, to what was in the original package for the first year, and indeed, over 5, if you are including a number of entitlements in this number here in the brief outlines. I do not know what the $9.2 billion represents with respect to Medicare, and I am concerned about that. I do not think it addresses the problem the way the gentleman from Kansas [Mr. Slattery] had hoped it would.

Second, there is no reference here to the so-called Pease floor. Every Member here knows how concerned I am for my State of New Jersey and other States like it that are concerned about the intimation that we are going to go after State and local tax deductibility and the mortgage interest deduction.

There is no specific reference here, to these issues. And, as far as I can tell, at the same time there is a $20 billion account in unspecified 5-year deficit reductions assigned for the Committee on Ways and Means, either for revenue increases or cuts in a programs.

I am frankly concerned that that is the way you are going to open the door, and it is going to be wide open for whatever the Committee on Ways and Means wants to do with respect to mortgage deductibility and double taxation of State and local taxes.

Mr. PANETTA. Mr. Speaker, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from California.

Mr. PANETTA. I thank the gentlewoman for yielding.

Mr. Speaker, what we tried to do here was create the flexibility within the Committee on Ways and Means to be able to reduce the hit on Medicare. That is something that is going to be left obviously to the judgment of the committee. Obviously it is not going to be $60 billion. Whether it is $50 billion or whether it is $40 billion is going to be worked out in the committee. This provides them the flexibility to do that. But they have to replace the savings that are included.

The flexibility is there, but they have to replace the savings used for that purpose of reducing the hit on Medicare.

Mrs. ROUKEMA. Mr. Speaker, reclaiming my time, the maximum savings in Medicare then is $45 billion, as compared to the $60 billion.

Mr. PANETTA. Mr. Speaker, if the gentlewoman will yield further, the maximum savings again, it allows flexibility down to 40, depending on what the committee decides. It may be higher than that. It may be at the 40 level. But what we tried to do was provide the flexibility in reconciliation so the committee could make that judgment.

Second, with regard to the Pease provisions, what we have done there is similar to the gas tax, capital gains, and the tax rates. That decision rests with the Committee on Ways and Means.

Mrs. ROUKEMA. Mr. Speaker, reclaiming my time, unfortunately the details of the so-called summit agreement have poisoned the well on these

issues. I am not at this point convinced that I can give you that blank check, because of the previous discussions.

Finally, I do want to say that I am concerned also again as to the latitude given the Ways and Means Committee for $20 billion. How does this relate to the earned income tax credit? I have not spoken on this before, but I do find it absolutely, totally, unsupportable to be contemplating creating another new entitlement program in the face of overwhelming deficits. I suspect, that the pressures will build on your side to expend some of this money for this new entitlement. That is a serious problem for me.

Mr. PANETTA. Mr. Speaker, I yield myself 20 seconds.

Mr. Speaker, the gentlewoman from New Jersey [Mrs. Roukema] is expressing exactly the reason we are providing the Committee on Ways and Means and the Committee on Finance with discretion on these issues, because there is concern about the deductions, because there is concern about the gas tax, and because there is concern about the growth package. We want the committee to work with these provisions, to allow them to make those judgments.

Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. Obey].

Mr. OBEY. Mr. Speaker, I will not take the 3 minutes that the gentleman kindly allotted to me. I simply want to say one thing: 3 days ago a majority of Members of both parties voted "no" on the package which they thought was essentially unjust. I think there were two main reasons why Members voted "no," at least on this side of the aisle, and I assume the reasons were roughly the same on that side.

First of all, because many of us felt that $60 billion was simply too much to cut out of Medicare, and we thought there ought to be another way.

Second, we were concerned because we thought that the tax package for which the summit agreement was designed to create momentum was a tax package that would wind up hitting middle Americans twice as hard as it hit Americans making more than $200,000 a year. We did not think that was fair, because we thought that equity was a core ingredient, or should be a core ingredient, in anything we did, especially with respect to taxation.

I think the changes that we have before us tonight are very simple. In essence, these ease the squeeze just a bit on agriculture in the first year and move it to the third to create more time for transition. They reduce the hit on Medicare, or they are designed to reduce the hit on Medicare by about one-third. That is a whole lot better position than we were in 3 days ago.

Third, because the first package was beaten, you have an entirely different spin on the question of revenue than you had 3 days ago. Because both parties essentially voted down that agreement, we have a clear message to the Committee on Ways and Means, a much clearer message than we would have had had that package passed, that we want a package which is fair to middle class Americans.

While I would like to see more, I think that is all we can ask at this stage. That is why, while I opposed the original agreement, I intend to support this one.

I have only one note of caution to add. I know that there is some discussion going around this place about the possibility of trading the bubble for capital gains at the reconciliation process 3 weeks from now.

I would simply caution Members to remember that if that is all you do, you wind up, in effect, reducing the effective tax rate on people making a million dollars by 2 percent. I do not think we want to do that.

I caution the Committee on Ways and Means not to bring that kind of package to the floor, but I congratulate the gentleman for making the progress he has made tonight. I would urge support for the resolution.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. Dannemeyer].

Mr. DANNEMEYER. I rise in opposition to the budget reduction.

Mr. Speaker, there should be no doubt in anyone's mind this evening that this revised agreement has a tax-increment package in it of anywhere between $134 and $194 billion beyond what the existing tax system collects from all of us in this country. Depending on what the Committee on Ways and Means does with the instructions will determine the size of the package.

☐ 0100

This Member made an effort on several occasions in the last few days to get the Rules Committee to make in order an alternative for the House to consider a budget package that would direct our committees to solve our deficit problem, not by raising taxes but by just putting a limit on how our spending expands in the next 5 years. For example, in nondefense discretionary if we just put a 4½-percent cap we would save a total of $137.9 billion. For entitlements, if we would put a 7.7-percent cap on growth, we would save $30.1 billion. In defense the numbers of the budget summit agreement for the next 5 years effectively freezing defense would save $169.8 billion. Other elements of the proposal are set forth as follows:

COMPARISON OF PROVISIONS—BUDGET SUMMIT AGREEMENT VERSUS BUDGET RECOVERY ACT

[In billions over 5 years]

	BS agreement	BR Act
Total deficit savings	$500	$424
Tax increases	134	0
Spending cuts	366	424
Defense [1]	182	170
Medicare	60	0
Other entitlement [2, 3]	8	0
Unemployment compensation	5	0
Veterans programs	3	0
Foreign aid [4]	0	32
Other non-defense discretionary [5]	0	138
Net interest	65	54
Special treatment:		
S&L bailout; not factored in GRH targets.		
Operation Desert Shield; excluded from package.		
Social Security surplus; not factored in GRH targets.		

Notes on Budget Recovery Act:

[1] Freezes defense spending for 5 years at fiscal year 1991 level assumed by BS.

[2] Allows annual growth averaging 7.7 percent.

[3] No reductions in retirement programs.

[4] Reduces annual amounts by one-third.

[5] Freezes programs for 5 years at fiscal year 1990 level.

COMPONENTS OF THE BUDGET RECOVERY ACT

[In billions by fiscal year]

Current services	1990	1991	1992	1993	1994	1995
Revenues [1]	1,044.2	1,121.4	1,194.2	1,278.6	1,363.0	1,441.1
Outlays [1]	1,264.3	1,384.2	1,441.8	1,451.5	1,443.1	1,506.4
Deficit	−220.1	−262.8	−247.6	−172.9	−80.1	−65.3
Savings:						
Defense [2]	9.8	20.5	29.7	51.6	58.2	169.8
Foreign aid [3]	6.0	6.5	6.5	6.5	6.9	32.4
Entitlements [4] [5]	.1	4.9	11.7	6.2	7.2	30.1
Non-defense discretionary [4]	12.0	21.0	28.2	34.9	41.8	137.9
Interest	2.2	5.7	10.1	15.2	20.8	54.0
Total savings	30.1	58.6	86.2	114.4	134.9	424.2
Net deficit/surplus	−232.7	−189.0	−86.7	+34.3	+69.6	
Economic adjustment factor [1]	−30.4	−58.4	−54.4	−35.8	−19.3	−198.3
Consolidated deficit	−263.1	−247.4	−141.1	−1.5	+50.3	

COMPONENTS OF THE BUDGET RECOVERY ACT—Continued

[In billions by fiscal year]

Current services	1990	1991	1992	1993	1994	1995
Less deposit insurance and Social Security surplus [1]	+48.6	+32.3	−39.2	−21.0	−42.0	
GRH deficit and [targets] [6]	[−214.5]	[−215.1]	[−180.3]	[−22.5]	+8.3	[0]

[1] Assumed by Budget Summit (BS).
[2] Frozen for 5 years at fiscal year 1991 level assumed by BS.
[3] Annual baseline reduced by one-third each year.
[4] All other spending subject to 4.5 percent cap on annual increase (1990 base); freeze on discretionary allows average annual growth of 7.7 percent in entitlements.
[5] No reductions are made in retirement (Social Security, Federal, Military), Veterans, Medicare, or Medicaid programs.
[6] Assumes that deficit levels to be the revised Gramm-Rudman-Hollings targets for those years, the target for 1995 being zero.

Unfortunately, Mr. Speaker, for reasons that are not entirely clear to me, I could only speculate, this rule under which we are considering this budget resolution does not permit any of us to even vote on the idea of solving the deficit problem by cutting spending rather than raising taxes. I am sorry to say that, but the Democrats have the majority in this House, and that is the way it is.

I think it would be instructive for all of us to let the body vote on whether or not we want to proceed with the course that this Member from California is outlining.

Let me conclude by making this observation: There is no bubble in our existing tax system. The Members on the Ways and Means Committee can explain this in detail. No person in America is paying a higher tax rate than 28 percent on their income. Going from $10,000 to $120,000, nobody pays a higher rate than 11.9 percent to 28 percent, and that is the way the Tax Code is structured. So this idea that somehow there is a bubble is just erroneous and I will attach this chart in the RECORD for Members to peruse.

THE NONEXISTENT BUBBLE

Income	$10,000	$20,000	$30,000	$40,000	$50,000	$60,000	$70,000	$80,000	$90,000	$100,000	$110,000	$120,000
Exemption	−2,050	−2,050	−2,050	−2,050	−2,050	−2,050	−2,050	−2,050	−2,050	−2,050	[1] 0	0
Taxable	7,950	17,950	27,950	37,950	47,950	57,950	67,950	77,950	87,950	97,950	110,000	120,000
Marginal rates:												
15 percent [2]	1,193	2,783	2,783	2,783	2,783	2,783	2,783	2,783	2,783	2,783	[3] 0	0
28 percent [4]	0	0	[5] 2,632	5,432	7,378	7,378	7,378	7,378	7,378	7,378	[6] 30,800	33,600
33 percent [7]	0	0	0	0	[8] 1,007	4,307	7,607	10,907	14,207	17,507	[9] 0	0
Total tax	1,193	2,783	5,415	8,215	11,168	14,468	17,768	21,068	24,368	27,668	30,800	33,600
Effective rates (percent)	11.9	13.9	18.1	20.5	22.3	24.1	25.4	26.3	27.1	27.7	28.0	28.0

Note: [All rates and levels effective 1990 for individual taxpayers; families would have additional exemptions.]

[1] Personal exemption eliminated for taxable income above $104,610.
[2] 15 percent rate applies to the first $18,550 of taxable income; this rate is eliminated on income above $104,610.
[3] 15 percent eliminated for taxable income above $104,610.
[4] 28 percent applies to taxable income above $18,550.
[5] 28 percent rate applied to taxable income above the first $18,550.
[6] Taxable income above $104,610 is subject to 28 percent only.
[7] 33 percent rate applied to taxable income between $44,990 and $104,610 and is used to gradually phase out benefits from the 15 percent rate and the personal exemption.
[8] 33 percent rate applies to taxable income between $44,900 and $104,610.
[9] 33 percent rate eliminated on taxable income above $104,610.

Note: [Deductions are not factored into this calculation; they would reduce taxes and effective rates even further.]
No taxpayer pays more than 28 percent in income taxes. The so-called "bubble" exists only to phase out both the personal exemption and the 15-percent marginal tax rate for higher income taxpayers.

Mr. PANETTA. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, the most important problem the American people face today is getting our deficit under control. The President recognized that this spring when he asked for a summit, when the economic indices were so frightening that he realized that a recession would march forward and cause great trouble in this country.

We agreed to the summit. That was not an easy pill for some of our committees to swallow, but we recognized that this is a serious national problem. We had hoped that the summit would work. It did not work.

During the summit the minority party had the advantage, almost 2 to 1 over the regular congressional committee system. Still, we tried to pass the summit, and cooperate. But the majority of both sides said no, the summit failed, regrettably. It is a dead dodo.

Our President recognized that we must find new ways to balance this budget, and that is going to include revenues as well as spending cuts. He has recommended that in the summit budget.

Had we passed the budget last week, Friday, our committees would already have been at work, and with the flexibility the President had promised we would have been able to have had 2 or 3 days work already. That did not happen. Now we are asking for almost the same thing. Really what we are doing tonight is just doing what we should have done in May. We didn't because of the President's request for a summit. But the fact of the matter is that now, we have no alternative. We have no other option but to pass this resolution tonight.

I say to you we have to produce a budget. That is what the people want. The people back home listening to us do not care so much whether it is a Democrat or Republican budget. They want to know when are we going to get a budget.

What are our options? The budget has failed. I had hoped that the bipartisan budget would have worked, but now the only thing that we can do is to go to the committees, which is essentially the same thing.

So I say to the minority: What are your options? You do not have any options. We must go this route unless you want to close the Government down.

Now, you may not want to trust the Ways and Means Committee, completely, and I understand that. Well, the chairman of our Ways and Means Committee has cautioned us a day or two ago that if we produce a bill, assuming this resolution is passed, he reminds us that we must pass a bill that is going to be fair, not just to the Ways and Means Committee but to both sides of the House. We appeal to you for your cooperation. We have no other option. We have to move forward with this budget and we must do it tonight.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Massachusetts, the bard of Pittsfield, Mr. SILVIO CONTE.

Mr. CONTE. Mr. Speaker, I have a little rhyme that I would like to share with this body. And with your indulgence, I will do so now, with apologies to an unknown lyricist:

In fourteen-hundred-ninety-two
Columbus sailed the ocean blue.
Through storms and gales and fiercest seas
And armed with foreign subsidies
He came upon this brave new land
Just he and his intrepid band.
In nineteen-ninety here we are.
I don't think we have come so far.
We scream and moan and boo and hiss.
We don't have time to take a—break.
We shout and jeer and fuss and bark.
We blame each other in the dark.
Although we've had five centuries,
We see no forest for the trees.
We're frightened by the interest groups.
We act like silly nincompoops.
We can't make cuts that cause some sting.
We cannot even do a thing.
And now we have run out of time.
And that, dear friends, is our own crime.
The government—it has shut down,
And we're the only game in town.
Let's work to get this budget through,
And get these tourists to the zoo.
If Christopher were here tonight,
He'd be astounded by our fight.
He'd know not why we can't agree.
It seems so elementary.
We're in such deep financial trouble,
That we will have to burst the bubble.
Home heating oil must be tax-free.
And we can't hurt the elderly.
Incentives that will make some sense
Could get this body off the fence.
And this is how I end my poem:
Let's pass some thing, and then go ho-em.

Mr. PANETTA. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, in the spirit of the last speaker, I would say I am not sure if it was Confucius or Garfield that once observed that when you find yourself in a hole, the first rule of thumb is to quit digging. And tonight I hope we are about to quit digging.

The deficit is a problem, no mistake about it. As we debate whether or not we are going to try to reduce the deficit by $500 billion, that will only reduce the net interest on our national debt in the next 5 years by 50 percent. All of the concern about $119 billion in taxes over the next 5 years will reduce the interest on our national debt by 12 percent.

I believe I have bipartisan credibility in this body. Last Friday morning I voted for the agreement that was brought by the President of the United States, the Speaker of the House, and the leadership on this side of the aisle. Last night or the day before that I voted against the CR because I believe we should first pass a budget before we pass a continuing resolution, and the majority of my colleagues voted in favor of having a CR without a budget.

Last night I was in the bipartisan majority since there were six votes that supported our President, three of us Democrats, three of us Republicans. There were nine Democrats, but I am talking about the majority of six that it took to support the President, because I believe the President was right last night in demanding that this body pass a budget before we pass a CR.

Now here we are tonight, and I thought we had from 6 o'clock last night until 1:10 Monday morning to come up with an alternative.

□ 0110

Then I find out, to my chagrin, that this side of the aisle did not even bother to come to the conference, and yet you got the guts to stand up and tell CHARLIE STENHOLM that my side of the aisle is not being fair at this late date. Forget what has happened in the last 6 months. Can we, please, forget about the past and concentrate only on the present?

We have got a problem. It is a serious problem. This budget we are about to vote on allows the process to move forward in exactly the same way, in my opinion, that we were voting on it last Friday morning. It has not changed that much.

I understand the budget process. I am sorry the rest of us do not.

We have a very, very serious problem, and I am disappointed that we find ourselves now once again in a partisan debate, and I could take additional time and challenge those on this side that believe that we have got to continue doing what we have been doing, because that is the best way to go about it. But that would not help anything.

What it is time for us now is to get on with helping to solve our problem.

Mr. President, I know you are watching this. I believe you will be pleased with the results of this budget when we present it to you, because if you are not, this is one Member that will once again stand with you and make sure that the enforcement is, in fact, real, and I believe the Speaker of the House will be doing the same thing.

If that is not enough for us in this body, I do not know what else is.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, it is a new day, but it is not a new deal. There are a number of phrases you can use, but please do not use the phrase "trust me."

I am a member of the Committee on Ways and Means, and I know some of you are trying to remember the poem about "The Spider and the Fly." I understand that.

Please, 23 to 13 was not dictated by the American people. It was dictated by your leadership in an attempt to control the key committees. They would prefer 2 to 1. It is control that dictates that number, not the American people.

What this package contains is $10 billion more in taxes and $10 billion less in entitlement cuts.

The bubble; the bubble was pushed in the name of fairness. It was Bradley-Gephardt, but all of a sudden no
if you get rid of the Bradley-Gephard
bubble, it is helping the rich. Yo
folks are wonderful at shifting positions, shifting sands.

Capital gains, you remember, th
Committee on Ways and Means, despite that number, passed capita
gains. This House passed capital gains
This House repudiated the leadershi
and, boy, are we going to pay, over an
over again.

You said, "Let us look at th
present. Let us not look at the past."

Thursday night we had in front o
us, small as they may be, protection
on spending cuts. The language wa
"The budget summit agreement includes provisions of the budge
summit agreement's recommendation
to strengthen the budget process an
enforce the agreement." The summi
agreement's recommendations t
strengthen the budget process and enforce the agreement. Is that languag
in this document? Yes or no? Chairman of the Committee on the Budget
Yes or no?

Mr. PANETTA. Mr. Speaker, wil
the gentleman yield?

Mr. THOMAS of California. I yiel
to the gentleman from California.

Mr. PANETTA. Mr. Speaker, th
language on what, sir?

Mr. THOMAS of California. Th
answer is no. The language in tha
package, and do you want me to rea
it to you? Let us be present. Let u
look at the specifics. It says, "T
assure a $500 billion deficit reductio
package is achieved, this conferenc
agreement includes provisions t
strengthen the budget process." I
does not say what it said before.

It is the old shift. It is the old shift

Revisiting what I just said, thi
package does not say that the enforcement provisions of the summit agreement are in the reconciliation package
It does not say that. The words are no
there. Do not tell me to trust you.
am about ready to sing "Back Hom
Again in Indiana."

The language here is not the summi
agreement. All it says is that the conference agreement include provision
to strengthen the budget process. Yo
want the base moving forward wit
trust on this? Come on.

Mr. PANETTA. Mr. Chairman,
yield myself 10 seconds.

What it provides is that to assur
the $500 billion deficit-reduction package is achieved and maintained, th
conferees intend that the reconciliation act implementing this conferenc
agreement include provisions t
strengthen the budget process. It i
our intent to proceed to implement, a
the gentleman from Minnesota [Mr
FRENZEL] has pointed out, a leadershi
amendment to implement the budget
process provisions that were containe
in the summit.

Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. Obey].

Mr. MOODY. Mr. Speaker and colleagues, I did not support Thursday night's budget, but I do support this one.

There are two groups of people in the body I would like to take a minute to speak to. One is those on this side of the aisle who voted "aye" on Thursday night who might be tempted to vote "no," and those on this side, my own side, who voted "no" who might be tempted to remain that way.

Let me suggest to those of my friends on the GOP side that there are three strong reasons for you to hold with your "aye" vote. First of all, the package is the same size. That is very important. It is very important to the White House. The President has stressed many times that it is the size of the package more than anything else, more than the details.

Mr. Speaker, the key to the package, by everyone's estimation, is the size of the package. As I think many of us saw today, Dan Quayle, our Vice President, stressed the size is essential if we are to avert a surge in interest rates which would be truly catastrophic for this Nation given the weak state of the economy.

The size is the same, $40 billion the first year, $40 billion the first year, $500 billion over 5 years.

No. 2, the package is more fair rather than less fair than what we voted "aye" for the other evening. Even those who supported the package frequently mentioned that they wished it had been more fair. I do not see how you can vote "aye" on a package that is not a fair and then turn around and vote "no" on a package that, by every measure, is more fair. That is a vote, I think, would be very hard to justify, and I hope none of you will be put in that position.

You cannot be saying, "Hey, the package tonight does not help the elderly hard enough. The package tonight does not distribute income upward, not nearly enough. The package tonight does not hit home heating fuel enough." You cannot be saying that; if you liked last Thursday's package, you certainly have got to like this one much more.

The third reason I would stress is the urgency, one which many of you yourselves have brought up. You grumbled, many of us grumbled, the package was not that great, but it was urgent. Well, if it was urgent Thursday night, it is a lot more urgent tonight.

We have a CR coming right after this, and on that CR is a debt ceiling, and if we do not pass that debt ceiling then, of course, the United States defaults.

I would urge those of you who voted "yes" the other night to retain that "yes" vote tonight.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. Boehlert].

Mr. BOEHLERT. Mr. Speaker, I feel that the House will do itself proud this morning by ending the stalemate and moving the process forward.

The events of the past days, I think, have been misleading particularly to those from afar. It has looked like organized confusion.

Of course, there has been debate, and it has been heated at times, and there are major differences. But what would one expect from a collection of 435 individuals of geographic and philosophic and so many other differences?

But despite those differences, I do not really think we are so far apart. I sense a broad bipartisan support for bursting the bubble in the interests of taxpayer fairness and broad bipartisan support for improvements in capital gains to encourage investment in America, and we have to end the tax on home heating oil, and we have to make improvements to Medicare and not require those who lose their jobs to have to wait 2 weeks without any income until they can collect their benefits.

□ 0120

But I think we should support this resolution because it maintains the spirit of the summit. It accedes to the wishes of the President and the demands of the American people that we get serious about deficit reduction. $40 billion in 1991, $500 billion over a 5-year period. When all is said and done, we all want to move toward that kinder and gentler Nation that the President seeks and we embrace. Let Members begin the journey here and now, as the Speaker said so eloquently from this well just 2 days ago, "If not now, when? If not us, who?"

Mr. PANETTA. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. Levin].

Mr. LEVIN of Michigan. Mr. Speaker, I want to speak tonight to the 71 Republicans, if I might, who voted for the first budget resolution.

What we are doing tonight is incorporating the flexibility that the Speaker expressed to Members before we voted, with the approval of the President. I worked hard with others to obtain that flexibility. Flexibility to reduce the increase in the Medicare premium, most of the 71 wanted that. That is incorporated. Flexibility to get rid of the punitive second waiting week in unemployment compensation. Most of the 71 Members wanted that out. We now take it out. Flexibility to look at the poorly constructed $12 billion in investment incentives. Many Members expressed desire that the Committee on Ways and Means look at that. That is what we are going to do. Flexibility to build more tax fairness into this package and that is what we are going to do.

The Committee on Ways and Means is composed, it is true, of more Democrats than Republicans, but with the veto power of the President. I want to say to the 71, I feel in my heart that if the package here had been presented a few days ago, your Members would have voted for it. Vote for it tonight and help save this Nation.

We must always remember our original purpose: To dramatically reduce the Federal budget deficit and thereby improve the economic future of all Americans. This was never going to be an easy or painless task. This resolution sustains the real reduction of $500 billion in the first resolution, which I supported in view of the assurances described above.

We are now confronted with twin crises. We have a Federal budget deficit that is crippling our economic future and that of our children. Now we also have an atmosphere of political chaos that threatens to further erode the belief of the American people in their political system. This is a battle which threatens to leave every participant a loser, including, and especially, all of the citizens of this Nation.

For 5 years, I have been talking at town meetings and on the floor of the House about the compelling need for getting a hold of the Federal deficit. It is the cancerous legacy of a decade of supply-side economics—the grand delusion of the 1980's.

As a member of the Ways and Means Committee, I pledge to do my part to resolve the budget crisis in a way that is fair and economically responsible. I hope that in doing so, we can gain the confidence of the American people in our ability to confront squarely and honestly the pressing national problems confronting us.

Mr. FRENZEL. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. Pursell].

Mr. PURSELL. Mr. Speaker, the hour is late. I am a little disappointed in my colleague from Texas who says we have not got the guts to stand up to the budget tonight. This budget should have been presented in May, and the appropriations in June.

I am in a position here that I am going to vote "no" on a budget that I have not studied and analyzed and looked at, and I have not seen.

However, I want to say this to our colleagues. We need constructive Republican alternatives. I am going to ask my President to continue a veto when bills are too high. I am going to ask my Committee on Appropriations to get our bills on time and get them to the President's office by October 1, all 13 appropriation bills. I am asking on both sides to eliminate the summitry. We have four tiers, now: The authorization tier, the appropriation tier, the budget tier, and now the summit tier. I think it is time to eliminate the top two levels and get back to basic fundamentals.

We have not got a game plan. If I was a coach and I had a deadline of October 1 to get on the field, I would like my players to see that plan and be ready to have some homework completed, and get a drill, and be ready to win a ball game. We will not win this ball game for the American people. We have not offered a vision for the future of this Nation. This is a bad plan. I am going to vote against it. I asked my President to support me, and I am going to support my President.

The SPEAKER pro tempore. (Mr. Synar). The Chair will inform the gentleman from Minnesota [Mr. Frenzel] he has 20½ minutes remaining, and the gentleman from California [Mr. Panetta] has 15 minutes remaining.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. Penny].

Mr. PENNY. Mr. Speaker, I rise in support of the budget resolution.

Mr. Speaker, this budget agreement would cut the deficit by $40 billion in the first year and $500 billion over the next 5 years.

In that respect it achieves the same overall objective of the budget summit agreement.

Savings of this magnitude represent real progress and I am convinced the provisions of this budget resolution will help to make those savings enforceable.

It is also instructive to compare this budget to the one adopted by the House last May. That budget cut the deficit by only $30 billion in the first year and roughly $250 billion over 5 years.

The bipartisan budget summit was a success in terms of emboldening our deficit reduction effort. This new agreement honors that goal and offers us additional flexibility in meeting it.

I urge both Democrats and Republicans to vote "yes."

Mr. PANETTA. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. Frank].

Mr. FRANK. Mr. Speaker, like my friend from Wisconsin, I am particularly interested in those who, having voted yes on Thursday, are thinking about voting no today. I understand the people who voted no on Thursday are going to vote no today. Some of them have evinced lately an enthusiasm for the agreement they voted against that they did not have when it was on the floor. When our friend from California whipped himself up into a frenzy because the current package does not include language that was in Thursday's package, I wonder why he voted against Thursday's package? However, I do not expect people who have not voted for a budget all year with a possible exception.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I yield to the gentleman.

Mr. THOMAS of California. That is one specific item in which the folks have changed it. All of the other numbers were the reasons I voted against it on Thursday.

Mr. FRANK. Mr. Speaker, I thank the gentleman. So I understand now that the presence or absence of that would not have made any real difference. That is what I suspected. The point now is the numbers. I address myself to those who voted yes on Thursday and are thinking of voting no today. As I understand it, as I listen to them, nobody liked the package Thursday. That was the most unloved offer ever dragged in off the streets. What people said is, "It's a bad package. I will vote for it anyway." As I understand it, the yesses on Thursday that plan to be noes today are saying that they voted for a bad package Thursday, but because we did not make it better enough today, they are going to vote against it. So, they voted no when it was bad, and yes when it was bad, they will vote no when it is better because it is not perfect. When they say, "Well, it's because it's not bipartisan."

Now we will talk about the merits. Are you saying, comparing Thursday's to today's, that today we do not hit the elderly hard enough? Because everybody agrees the elderly will be hit less hard this time than Thursday. Or maybe some people who voted yes on Thursday and they are planning to vote no today, said on Thursday we reached somehow tax equity perfection? So today we are not threatening middle class enough, the working people who have to suffer, enough?

I do not understand on what basis the people who voted yes. I understand a no and a no. I understand a yes and a yes. I understand a no and a yes because Thursday was not so good but today is better, but a yes and a no has no object. I hope people will tell me what it was so good about Thursday that they voted for it, that today because we are trying to make it better and more flexible, that those Members cannot vote for it.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. Shaw].

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding, and I will try for just a moment to put some logic in that argument, why some Members who very painfully voted yes the other night will be voting no this evening.

For three terms I was mayor of the city of Fort Lauderdale. Two terms before that I served on the city commission. Each year we would receive a budget of approximately an inch thickness. We pored over it for several meetings, for several days, or several weeks. We would have several hea ings.

Tonight, right now, it is 27 minute after 1 o'clock a.m. We are now in th second hour of the 2 hours that ar set aside for Members to take a look this budget. I was first somewhat o fended when I got a 1-page summar of a 5-year budget for this country. thought I was missing out on som thing until I got the 50-page summar Then I looked through that and found out it really did not have an more detail than the 1-page summar

Now, I know the budget procedure in this House really do not mean a lo If they mean anything at all, it is a p litical exercise that we go throug every year in order to try to put di credit on the other party. The Pres dent sends his down, the Democrat say its dead on arrival, then we do on and very often we Republicans do n even put one forward. If the Hous Democrats put one forward, they sa it down the hall to the Senate, the sail it back, and we turn it all dow like this year, like a skunk sitting the middle of road. However, it reall does not stop the procedure fro going forward.

We have $120 billion of taxes, u specified taxes, totally unspecifie taxes in this so-called budget resol tion. This is an insult to the intell gence of this House. We should not b made to come in here, just getting th document as we walk in the door, for 5-year budget for this country, and w should not be given it with such lac of detail. I urge a no vote without th details. We do not know what we ar voting on. It will come back to haun us. I urge all my colleagues to vote n because none of us have any idea wha we will be voting on.

Mr. PANETTA. Mr. Speaker, I yiel 2 minutes to the gentleman from Ohi [Mr. Traficant].

□ 0130

Mr. TRAFICANT. Mr. Speaker, was supposed to get 3 minutes, but be cause I am going to vote no, I only go 2.

I am going to tell you why I an going to vote no tonight, because I an a Democrat.

Tonight is not a debate about na tional issues, the budget. It is abou priorities and policies.

The Republican program has faile and we are sending a hybrid budge over so the President will accept it rather than challenge the politica agenda of the Nation.

I ran as a Democrat in 1984. I di not run on the bipartisan ticket.

I voted with the gentlewoman fron New York [Ms. Molinari], and th gentleman from Oregon [Mr. Smith] I believe in helping as much as I can but when it comes to setting th future of the national agenda, there i a difference between a Democrat and a Republican, and I am voting no because I am a Democrat.

Now let me tell you why. There is $150 billion that goes to take care of NATO, and we do not touch it.

The budget agreement defense amount was $283 billion. I tried to cut it to $277 billion. Everybody said that would be too much. Now it is $290 billion.

About the only cuts over there, some general got a vasectomy.

Let me go forward. There is $134 billion in new taxes.

I do not listen to what people say. I watch what they do, and Congress has put the burden on the backs of people who can least afford to pay all along, and I do not expect anything different from anybody now.

Foreign aid and international assistance, no one touches it, but we are playing with Medicare.

Let me say something to the Democratic Party tonight. Tonight the Democratic Party has an opportunity to seize the leadership of America and take us away from failed policies that have taken us into a group of trustees tonight.

I heard about Desert Shield. Eighty-two percent of the troops over there are Americans. My question tonight is, why do American kids keep coming home in body bags and pine boxes? Where is the the rest of the world?

We do not have to raise taxes. We could take 50 percent of NATO, 50 percent of foreign money, and put the 5-percent bubble back without raising one other tax, not one new tax, and the Democrat Party will seize the agenda for the future.

I do not like this hybrid business. I am not a part of a coalition government. I am a Democrat, and there is a difference between a Democrat and a Republican.

I am voting "no."

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, what we have before us tonight purports to be a bipartisan budget agreement. Now, that is a real misnomer, because what we have here is neither a budget nor an agreement and it certainly is not bipartisan.

In fact, Mr. Speaker, I have heard several people from the other side of the aisle tonight refer to it as a bipartisan agreement. I would like to know where the heck one side of the aisle gets off describing it as bipartisan, without reference to whether the other side is in agreement on this or not.

This thing, this sheet we have that purports to give us some details about this, really is more information than we need about it. Really, it could all be written in one sentence. It ought to just say, "There shall be a budget of the United States and we will determine what it will be in the future and the committees will determine how to implement it sometime in the future."

Now, Mr. Speaker, I was one of the 71 Republicans that did not vote for the budget resolution last Thursday night. I did so reluctantly. I did not like a lot of the things in there, but I thought it was the very best that we could get at that time. Looks like I was right, because what we are getting tonight is certainly a lot worse.

I cannot support this. To be an agreement the Republicans can support, it has to have some reasonable guidelines, some definition in it.

Now, Mr. Speaker, it does not have to be rigid. It does not have to be a complete rewrite of the tax laws, but it has to be reasonable. There have to be some outlines, some certainty where this reconciliation process is going to take us, not a blank check.

The vice chairman of the Ways and Means Committee pointed out to the extent there are any outlines to this, I do not think we can see anything except a blank horizon out there. The package does contain $10 billion more in taxes than we had the other night and thus, of course, $10 billion more in spending. Heaven forbid that we should ever apply it to deficit reduction.

The agreement we had last week was too much taxes and too little spending restraints, and this goes even further than that.

I urge, Mr. Speaker, let us quit this sham, get back to work for a real budget agreement.

Mr. PANETTA. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. Mr. Speaker, a few moments ago one of our Republican colleagues, the gentleman from Vermont, quoted Abraham Lincoln, challenging the Nation to disenthrall itself from the dogmas of the quiet past and to think and to act in a new manner. That was in 1861. That was a challenge to compromise, a challenge to be bipartisan, and that really is where we are tonight.

We find ourselves at the end of another rope, and not to compromise, not to work together and pass this budget resolution, will invite economic chaos next week. It is time to act.

I believe the Committee on Ways and Means will go to work next week, and I believe we can produce a revenue package that most Members in this Chamber will support and one the President will accept.

During the congressional debate over the League of Nations, Woodrow Wilson's closest adviser was a man named Colonel House. He told the President, "The best politics is to do the right thing." Well, that was hard to find the other night on the first budget resolution. It should not be hard tonight. Let us pass this budget resolution. Let us move this process forward.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Speaker, I thank my colleague, the gentleman from Minnesota, for yielding some time to me to talk tonight.

Mr. Speaker, I stood here several nights ago about this time in the evening or morning and took what I thought was a tough vote. I voted yes on the budget agreement, the budget summit, if you will, because I thought that I could go back home and look my constituents in the eye and say, "Yes, there are some real savings here. I'm going to do what you elected me to do when you sent me to Washington, and that is to start to balance the budget, that is to start to make some tough cuts."

You know, there was a pretty tightly crafted piece of legislation there. It had entitlement cuts and it had language and rescission agreements on how those cuts were going to come about. It had some pretty precise tax language in it on how we are going to balance those cuts off with revenue; but you know, I watch what happens around this House, and I watched very carefully the other night. I watched members of the Appropriations Committee, the chairman, the subcommittee chairman of that committee. They did not vote for that agreement. A majority of them did not vote for that agreement, along with their chairman. Why? Because it started to tighten down, it started to take money off the table. It started to say we need to make some tough decisions, not with a lot of Novocain, or not with a shot of ether, some real tough decisions on how we are going to order our priorities in this House.

Tonight we are asked to come here again and make another vote, and that vote does have the Novocain and that does have the shot of ether, because we can go sit in a corner while somebody else makes those tough decisions, whether it is the Appropriations Committee or the Ways and Means Committee. Well, I have a great deal of faith in them, but I have seen the results.

I think back home we call this buying a pig in a poke, and smart people do not do that.

Mr. PANETTA. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. TORRICELLI].

□ 0140

Mr. TORRICELLI. Mr. Speaker, the theme of the evening is the budget process and bipartisanship. Well, I do not serve on the Committee on the Budget, and I am not a real bipartisan kind of guy.

But I know this, it is not simply later in the evening, not simply later in the budget process. My friends, the simple truth is, if we do not bring some discipline to the finances of this Government, some order to this national economy, it is later in the life of the standard of living we have come to know, later in the life of the economy of our country.

I did not come here, my friends, as you did not come to this Congress, to preside over the gradual, slow, steady but certain decline in the standard of living of the American people. But that is what is happening.

Mr. Speaker, the 1980's began on January 20, 1981. We began 10 years of telling the American people the things they wanted to hear, not the things they needed to know. We told them that there were things you could have without sacrifice, benefits without paying for them.

My friends, the 1980's can come to a close on October 8, 1990; it can begin with this budget process.

This budget resolution is not as I would write it. It is not all my priorities. But it makes sense. It is without alternative.

So, my friends, I would say this to you: Join with your President in governing, join at least with your own leadership in governing, join with the majority in supporting this budget resolution, or get out of the way so that the rest of us can begin governing America.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, this evening brings a bizarre closing chapter to one of the most bizarre weeks in congressional history; bizarre because the country has been laughing at this institution all week and indeed tonight we add to the national joke.

Bizarre because we are presented with zero leadership when the Nation is crying out for leadership and responsibility; bizarre because there are no enforceable deficit reduction provisions in this budget package and the Nation is crying out for deficit reduction; bizarre because the Nation is seeking bipartisanship and they are presented with the worst type of partisanship.

Let use examine what we know about this budget—and it is not a lot, because it was just presented at 10:15 this evening.

First, we know it was conceived in entirely partisan posturing; no Republicans in the room, no negotiations, drafted in the caucus of one particular party.

Second, we know it is all posturing. There is no substance, no details, no results. No spending bills under this can be passed and signed into law. No tax bills are presented under this, can be passed and signed into law.

Third, we know there are no spending cuts in reality in this package. In fact, this package provides for $170 billion in domestic increases over current spending, and there are not even the enforcement provisions that were in the summit package from last Thursday night.

Fourth, we know it adds to the recession and has nothing that would bring us out of the recession and put American men and women back to work.

Fifth, we know at its heart this is a tax increase budget. At least $20 billion in additional taxes in addition to what was voted down last Thursday night by a majority of both sides of the aisle.

What we should do is turn this down, take a few days with a short-term CR with $40 billion in agreed-to cuts, ask our leadership to get together and demonstrate some leadership and responsibility.

I have two teenagers who have a word for what we are doing here tonight. The word is "nothing-burger."

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I rise in support of the conference agreement.

Mr. Speaker, I rise in support of the new conference agreement on the budget. I do so for two reasons. The first is that there really is no choice. A vote for this new budget resolution is the only responsible vote. In my judgment, it is absolutely essential that there be a budget agreement. It is essential that the budget process go forward. It is essential that we make the hard choices that have been avoided for far too long. It is essential that we avoid the chaos that this Nation and its people will face if we again fail to agree on a Federal budget.

Failure to agree now will, in my view, not only have serious economic repercussions, but will also trigger a very dangerous political and constitutional crisis. The American people deserve better than that.

My second reason for supporting this revised budget resolution is that this resolution, unlike the summit agreement, will give the legislative committees the flexibility they need to insure that the pain and burdens of deficit reduction will be spread fairly. The summit agreement would have placed far too heavy a burden on Medicare beneficiaries, would have required a 2-week delay in laid-off workers receiving their unemployment checks, would have placed the principal tax burden of deficit reduction on the backs of lower-income and middle-income working people, and would have provided $12 billion of new growth incentives that would have done little but encourage the growth of a new tax shelter industry that would once again help the wealthiest among us avoid paying their fair share of the Nation's taxes. These elements of the summit agreement were simply unfair. The American people understood that and so did a majority of this House from both parties.

Mr. Speaker, the past decade of supply-side economics has been a disaster for America. Contrary to its promise that lower taxes, primarily for upper income people, would ushe in a new era of increased savings, new investment, economic growth and prosperity, we have seen only a steady erosion of Federa revenues and of our economic strength Today the country stands on the brink of a recession.

The harsh truth is that we have, for too long, been substituting the wish for the reality And we simply can no longer wish our troubles away. We must face the reality of ou deficit crisis head-on. Even with the $40 billion in savings this budget resolution would achieve next year, we will still have a $254 billion deficit or $300 billion, if we do not count the Social Security surpluses.

And there are simply no easy or pain-free solutions. Certain things are given:

First, the administration—regrettably, in my view—has pledged to reject any defense number lower than that contained in the budget resolution before us.

Second, the interest on the national debt must be paid.

Third, there is a national consensus that Social Security benefits must not be cut, and that retirement programs be protected.

Yet these three elements alone claim over two-thirds of the total Federal budget. All domestic discretionary programs combined make up no more than 17 percent of the Federal budget. This category includes the war on drugs, all educational and job training programs, all health research, all environmental protection, all law enforcement, all transportation programs, all housing programs. And the list goes on. Incredibly, the Federal deficit today is so monstrous that everyone of these programs, and all of the Federal agencies that administer them, could be totally eliminated, and we would still have a Federal deficit of $100 billion.

The President, like most of us, has come to recognize that there truly is no realistic way to solve our deficit crisis without some combination of both spending cuts and new tax revenues. The real question we face is who should pay those taxes. I, for one, will not be able to support new tax legislation that again sticks it to the middle-class and the poor, while letting the wealthiest Americans off the hook.

Mr. Speaker, the past decade of supply-side economics has produced a few big winners and a lot of losers. The rich got very rich indeed—this year the income of the richest 1 percent of the population will total $564 billion, more than the total income of 40 percent of all American families—and all of this has come at the expense of the poor and the middle-class. It is time to say, "Enough." Those who have been the decade's economic victims cannot be asked to continue to pick up the tab, while the principal beneficiaries of the policies of the last 10 years, the wealthiest Americans, are sheltered from any burden. That is not right. That is not fair.

Mr. Speaker, we are a nation that has always pulled together in time of crisis. The American people, I believe, are willing to pull together and work together to get this Nation and its economy back on solid ground. What they are not willing to do is to tolerate an unfair budget and a political system that ignores average citizens and caters to the wealthy and the powerful.

Mr. Speaker, I will vote for the budget resolution before us. I believe it is vital that a significant, credible deficit reduction package be enacted, and that this process be kept moving. I don't do this lightly. I know there are those out there who are just waiting to attack, to say that we should all take "read my lips" pledges not to raise taxes, to say that we can balance the budget with cuts alone. What they will not tell you is that their real agenda is to lock in an unfair tax system that permits someone earning a $200,000 income to pay a lower marginal tax rate than an individual earning one-fourth as much.

Mr. Speaker, I am supporting this budget resolution because it provides a reasonable framework for meaningful deficit reduction. Its passage will keep the process moving and get us beyond political stalement. It discusses bipartisan support. But I must serve notice that neither I nor my constituents will be able to support a reconciliation bill that does not produce a much fairer distribution of the deficit-reduction burden than that proposed in the original summit agreement. I am prepared to make the hard choices. I am not prepared to make the wrong choices for this Nation, its people and its future.

Mr. Speaker, I urge support of this budget resolution.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, the integrity, the viability of the U.S. Government is at stake. The issue is not whether we can produce a budget or keep the Government from closing down or sequestering thousands of people or programs—but whether we can govern, whether we can keep the American democracy that the world looks up to as its beacon to become another banana republic laughingstock. This is our last chance to avoid chaos.

The President has said to the Congress after vetoing the continuing resolution to produce a budget. Well, here it is. It achieves the same cuts as the summit agreement—$500 billion over 5 years. It corrects some of the major concerns, such as Medicare cuts, to the point where every senior citizens group now supports the budget resolution. It says there must be tax increases—but asks the committees of Congress and not unelected White House officials to put together a package and deal with gasoline taxes, heating oil, and liquor taxes, and the bubble and capital gains and report back for up and down vote. It establishes a caps and not floors and says achieves savings in defense, in international programs, in discretionary funding, and let these savings go to deficit reduction.

Mr. Speaker, there is no reason to have any Government layoffs or services curtailed as a show of fiscal disruption.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, the budget resolution which I vote for tonight is substantially better than the one I voted against last Friday.

This budget allows us to reduce the burden of the gasoline taxes and it gives the committee the opportunity to require the upper income earners to pay their share of the taxes.

This budget also reduces the proposed cuts in Medicare from $60 billion to $42 billion and it allows us to cut some more of the overspending in defense.

For those and other reasons, this budget is more acceptable than that which we voted on 2 days ago.

I want to be clear however. I will vote for this budget because we must move this process forward. But I will not vote for the reconciliation bill that will follow this budget unless the budget savings in agriculture are accomplished in some part through an increase in loan rates. Our family farmers must not be required to bear budget cuts that are unfair. We will accept budget cuts in rural America, but we expect them to be fair.

Starting now, we must enact a budget and start doing the Government's work. The American people deserve a President and Congress that can and will work together to solve America's problems. We can't wait. It's time for all of us to pull together—now.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I rise in support of the conference agreement.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. GUARINI].

Mr. GUARINI. Mr. Speaker, I rise in support of the budget conference report. It is the right signal for the marketplace. It lays the foundation for lower interest rates.

Mr. Speaker, I rise in support of the budget conference report as the right signal to the marketplace and lays a foundation for lower interest rates. It sets the parameters for $500 billion in deficit and spending cuts over the next 5 years—while allowing the committees of jurisdiction to work their will in coming up with the specifics.

The initial summit agreement included unconscionable cuts in Medicare, shifted the tax burden even further on the backs of the working class and contained many sweetheart deals in the spirit of bipartisanship. I couldn't in good faith support an agreement that already made those important decisions for me—especially when they are detrimental to my own State of New Jersey.

My colleagues on the other side of the aisle are concerned about leaving those specific tax and spending decisions up to the committees. I ask them why? If we fail to enact a budget and the President decides to veto a continuing resolution again—it won't matter to the millions of Federal workers who is responsible or to the millions of investors when the market reacts like it did on October 19, 1987.

This conference report embodies the same overall revenue and spending targets agreed to by the President. Its passage will allow the Federal Reserve to react accordingly—lower interest rates and restore some confidence back in the marketplace. Its passage will allow the committees to roll up their sleeves and begin working on a bipartisan reconciliation bill. I urge my colleagues to support the budget.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Speaker, I voted for the first package the other night. Its purpose was to trim the deficit. As I said then, in the 1-minute preceding it, there was something bad in that package for everybody. It spread the pain in bipartisan fashion. It was a bad budget agreement, but it was the only one we had and we had to support it.

And the hard left did not support it, and our right did not support it, and now it is payback time because they have the numbers.

What have they done? They have taken this bill that we had the other night and shifted it leftward. Oh, they say it is a better, more fair bill, they say. This is a "don't worry budget," they say; this is the "no rough edges budget," they say; let the Ways and Means Committee handle all the problems; and let all the committees take care of the problems.

Well, ladies and gentlemen, I am voting "no" on this budget because it provides $10 billion less in entitlement cuts, because it provides $10 billion to $20 billion more in taxes than the agreement the other night; because it provides greater agricultural subsidies; because it is tougher on defense; and because it tightens the noose on our 200,000 young men and women in Desert Shield.

Ladies and gentlemen, this is a leftward budget. And for those who voted "no" the other night, you have got no excuse to vote "aye" on our side to this one. It is not a good package. We need to go back to the table in a bipartisan fashion, come back to the Senate, pass a budget for everybody in America. It is not going to be easy. It is going to be painful. But we need to get the deficit under control. And if we do not, we have got only ourselves to blame.

I urge a "no" vote on this package.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. NELSON].

Mr. NELSON of Florida. Mr. Speaker, I support the budget resolution.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL of California. Mr. Speaker, I rise in opposition to the conference report.

At a minimum, any budget deficit reduction package must insure a lower deficit. That is an unremarkable proposition. What is remarkable is that neither this package, nor the one developed by the budget summit, does guarantee a deficit reduction. The reason is that domestic and international discretionary spending, and entitlements other than those targeted specifically, are all allowed to grow at the inflation rate. If that inflation rate exceeds 6 percent, by my calculations, the growth in discretionary spending and entitlements permitted by this agreement will swamp the announced savings in this agreement. And if interest rates grow rather than fall, the assumed $70 billion in savings from debt service paid by the Federal Government will not materialize either. In that case, an inflation rate even lower than 6 percent would make this deficit reduction package into a deficit increase package.

What are the expectations about inflation and interest rates that underlie this agreement? They are the same that underlay the first budget agreement, and they are unrealistic. They are:

	1990	1991	1992	1993	1994	1995
Inflation (GNP deflator)	5.2	4.6	3.4	3.2	3.0	2.8
Interest rates (91-day Treasury bills)	7.7	7.2	5.7	4.9	4.4	4.2

Does any economist, does any citizen seriously believe inflation will fall every year? Does any economist, does any citizen seriously believe interest rates will fall every year?

These are untrue predictions; I will not vote for a budget agreement based upon them; and I cannot support a proposal that is more likely to increase the deficit than reduce it. To increase the deficit is to steal from our children. I will not do it.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. PASHAYAN].

Mr. PASHAYAN. I thank the gentleman for yielding.

Mr. Speaker, I have observed in this package—let me say first of all I have appreciated all the rather sweeping oratory that we have had tonight. I am going to take a little bit different direction. I am going to have a question for the chairman of the committee.

I have observed that there has been a concentration of taxes. In that concentration, the rates have been escalated quite dramatically; namely, in the various fluids; the gasoline of various kinds, and wine and beer.

I wanted to ask that under No. 2, where it says specific policy decisions, for example, capital gains, home heating oil, gas tax: Does that mean that the Committee on Ways and Means will be able to consider other taxes, excise taxes on other commodities with the notion of maybe finding a lot of other things to tax out there and not raise the rates so high, rather than taking a few items and raising the rates dramatically? Is that authority contained here? I should hope the chairman could also add whether there were any discussions along that line while these negotiations were going on. But more importantly, does this grant the Ways and Means Committee the authority to raise other excise taxes just a little bit rather than raising a few a lot?

□ 0150

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. PASHAYAN. I yield to the gentleman from California.

Mr. PANETTA. Again, Mr. Speaker, the point is to allow the Committee on Ways and Means to make those judgments based on the overall elements that would be on the table, so that the answer to the gentleman's question is that that is possible in the Committee on Ways and Means, if they decide to go in that direction. I would think they would try to prove the progressivity of the overall package, however.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Speaker and my colleagues, I am, I hope, known not to be one of the bomb or grenade throwers. If I were, I might have two in my pocket, and I might scatter them on either side of the aisle.

I am, frankly, alarmed, disturbed more than I can tell my colleagues, about how I believe this process has broken apart. I am one of the 71 who voted for the leadership role of the President, the Speaker, the majority leader, the minority leader at something like 2 days ago, less 30 minutes.

I cannot vote for this budget resolution, if I can call it a budget resolution, and the reason I cannot is that I signed onto that because there was some sense of commitment that that budget resolution was going to bind the committees of the Congress, and they would then implement legislation and reconciliation pursuant to it.

Now tonight I find myself in the position where the committee on which I serve, the Committee on Armed Services, is definitely going to be bound by this so-called agreement, but nobody else's committee apparently is bound by it. It is all to be worked out any way they choose to work it out.

I am very concerned about the way this process has turned from having been told that we had an agreement, it was bipartisan, and it was totally distasteful to me, but this country requires that we resolve this crisis, and all we have done since is fritter away the time.

Last night I came back here, and we voted on whether to sustain or override a Presidential veto, and what did we do? We sustained that veto. And what has happened since that occurred? The process has moved to the left, not to the center, not anywhere.

Let us pass a continuing resolution, put the Government back in business, and get back to a true bipartisan and binding, binding budget resolution.

Mr. FRENZEL. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey [Mr. RINALDO].

Mr. RINALDO. Mr. Speaker, I want to thank the gentleman from Minnesota [Mr. FRENZEL] for yielding me the time. I also want to compliment the chairman of the committee and the ranking member. They are both very sincere individuals, and I think that when the other side is right, I voted with the other side because I think one of the things we are supposed to do is what is best for our constituents here.

Mr. Speaker, let me tell my colleagues a little bit about my constituents. Let me tell my colleagues a little bit about my home State of New Jersey.

The people were just hit with an increase in excise taxes, an increase in the sales tax, a doubling of the State income tax, removal of exemptions on the sales tax, another tax increase totaling $3 billion, probably one of the largest tax increases of any State in the history of the United States of America.

On Friday night, some people here wanted to add more to that burden. I voted "no". And I voted "no" not because I did not want the process to be moving forward, but because I wanted to send the negotiators back to the bargaining table. I was hoping that, if we went back to the drawing board they could return with a better package.

I have read this package, and, quite frankly, it says nothing. When it talks about tax increases, it says the Committee on Ways and Means is free to meet its revenue increase target through any combination of tax measures, and that is a problem, my colleagues. It is a problem for me, and I think it is a problem for my constituents.

What I see here is worse than the original package, and I do not know what kind of new or increased taxes my constituents are going to be hit with, but I can say this: It is obviously a pig in a poke, it will not sell in Peoria, it is not going to sell in New Jersey, and I intend to vote "no."

Mr. FRENZEL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Speaker, I have listened to the debate very intently here this evening because I was not sure how I was going to vote when I came here tonight. I voted for the package on Thursday because I have wanted to vote for a balanced budget amendment for 23 years, and it was bipartisan, and it was supported by the President, for whom I have great personal affection.

However, Mr. Speaker, I think the most important thing we can do is vote for a balanced budget agreement.

Now, I was at the Republican Conference today, and two-thirds of our Members said "no" to any revenue enhancement. In my judgment that takes us out of the process right away. We can always vote "no" on reconciliation, if we do not like the package after it is fleshed out.

We have to feel good about our vote. I want to feel good about my vote, and I would feel very bad if this budget agreement is turned down tonight, and I plan to vote "aye."

Mr. PANETTA. Mr. Speaker, I yield 3 minutes to the distinguished majority whip, the gentleman from Pennsylvania [Mr. GRAY].

Mr. GRAY. Mr. Speaker, some of the debate that we have heard over the weekend reminds me of a story about two men on an airplane. The air-conditioning fails, and, after an hour, the first man turns to the other and says, "One of our deodorants isn't working," and the second man says, "It must be yours. I don't wear any."

Well, it is easy to say things are somebody else's fault, but tonight is not the time to fix the blame. It is time to fix the problem. The agreement before us can do just that, Mr. Speaker. It reflects a real attempt to listen to the Members of this House on both sides of the aisle who last Thursday night very eloquently argued for their positions.

What did they say? They said the Medicare cuts were too deep, we were hurting seniors. As one Member of this side of the aisle said, the Medicare portion is going to increase premiums, doubling them in a couple of years, and another distinguished Member of the minority side said that the package last Thursday night was a bad deal for the elderly.

We also heard from both sides of the aisle that tax increases were not fair, and in the words of a distinguished Member of the minority side from Illinois: "This is one of the most regressive forms of taxation."

"What kind of tax package is this? What kind of equity are we talking about in fairness?"

Mr. Speaker, we did listen, and we made some modifications. Now the Medicare cuts are not as deep. Now the committees that have jurisdiction have flexibility to look at the package and make adjustments for progressivity.

Is tonight's package perfect? Of course not, because each one of us here tonight has their own individual plan, but we must have one plan, not 435.

□ 0200

If we act tonight, we can achieve the largest deficit reduction in the history of this country. With all of its faults, we have before us a pro-low-interest rate agreement, which is a pro-growth, pro-jobs agreement, that can jump-start our sagging economy.

Now what do we hear? Well, first, that we are not acting in a bipartisan manner. Well, you cannot have it both ways, my friends. The complaints about Medicare were bipartisan, and the fix is bipartisan.

Now we hear people saying that there are taxes in the plan. But it was a Republican President that said we needed new revenues. Why do we not join him? If you do not want taxes, you have a responsibility to come forward and tell us what cuts you will make.

I urge Members to look at this plan. It is not the best, but I contend it is probably the one that we can unite behind and achieve economic growth. I urge support of this resolution.

Mr. BEVILL. Mr. Speaker, as Congress continues to seek passage of a budget resolution as its next step toward reducing the Federal deficit, we must realize that any resolution we pass is only a recommendation. It is a necessary recommendation, however, in order for the budget process to go forth. The recommendations in that resolution then will be sent to the committees of the House and Senate. They will be used as guidance in formulating legislation which achieves specific deficit reductions. It is those very committees which have the expertise in areas referred to in the resolution. The committees not only will fine tune the resolution's recommendations, they will be free to make needed alterations, as long as they remain within the parameters set by the resolution.

On Thursday evening, I supported the budget summit's resolution which had been sent to this body. I did so, not out of complete agreement and support for the contents of that proposal, but because it was the responsible step to take toward orderly implementation of deficit reduction. Had it not failed, the House committees would have been busy at this very moment, adjusting the specifics of that proposal in keeping with the welfare of our citizens. Such an agreement must be in place in order for our system to continue to function.

Several of the items within that agreement recommended spending cuts and tax increases which I found unacceptable. Specifically, the Medicare cost increases for our senior citizens were far in excess of being fair. The gasoline tax increase imposed far too great a burden on our rural citizens who often drive great distances to work. And the unemployment compensation changes would have severely penalized the unemployed. However, these measures, along with others I also opposed, would have gone before the House committee system. There they would have been debated, defined, or eliminated in order to provide fairness for all our citizens.

It is the job of Congress to use the budget resolution as a tool in legislating authorizations and appropriations. We are not tied to the specifics within these resolutions.

As chairman of the Energy and Water Development Appropriations Subcommittee, I have received 14 White House budgets. I have always considered every item recommended by the President, but I have never accepted these budgets in their entirety. Had I gone along with President Reagan's budget proposals, 13 of our Nation's waterways would have been closed. Today, those waterways are busy expanding our Nation's commerce. Also, the Nation's only fertilizer research center would have been jeopardized, severely damaging our agricultural production. This center has made it possible for our farmers to produce the world's most abundant harvests.

President Reagan's budgets zeroed out the Appalachian Regional Commission, created by Congress in 1965 to bring the 13 Appalachian States to parity with the rest of the Nation. The ARC's infant mortality program would have been eliminated, along with other health, education, and industrial development programs they provide.

I view the budget resolution before the House today, as well as the one we voted on Thursday, in the same light as the Presidential budget. They are recommendations deserving of our attention and consideration. But they do not replace congressional initiative or responsibility. Too much emphasis has been placed on the resolution and not enough on the real meat of deficit reduction, which will be accomplished by the committees of the House.

As you know, the Speaker has informed us today that the major senior citizens organizations in this country have notified the House they are supporting this resolution before us today. I also support this resolution, realizing that it may contain elements not acceptable. But, it is not in the final form yet, and needed changes will be made in committee. Therefore, I urge every one of my colleagues to support this resolution so that the committee system of the House can get on with the Nation's work and begin significant, lasting, and needed deficit reduction.

Mr. ROYBAL. Mr. Speaker, I rise to state that I will vote "yes" on this budget agreement.

Mr. Speaker, as you and the Members of this body know, I strongly opposed the first budget package and urged my colleagues to reject it. The regressive tax package hit lower- and middle-income Americans unfairly and the spending cuts hit elderly and disabled Medicare beneficiaries unfairly. Sixty billion dollars in Medicare cuts were the final straw that lost this Member's vote.

What was so bad about the summit's Medicare deal? First, the proposal to increase the annual Medicare part B premium to $652 by 1995 would have nearly devoured a month's Social Security check. Second, America's elderly have already experienced an erosion in their purchasing power as more and more of their limited incomes go for health care, now almost one-fifth of their incomes, even without further cuts. Third, the much-maligned Reagan 5-year Medicare budget cuts in his fiscal year 1987—$55 billion—and fiscal year 1988—$48 billion—budget proposals would have been surpassed by the budget summit 5-year deal to cut Medicare by $60 billion.

Though far from a perfect package, the new agreement is a substantial improvement and reduces the inequities of the original agreement. Instead of $60 billion in Medicare cuts,

the new agreement is closer to $40 billion. This is near the level that the aging organizations have indicated they will accept. As I have stated many times before, even these cuts are high and will pose a burden on beneficiaries. Key to my supporting this agreement is the expectation and understanding that Medicare beneficiaries will be protected from most of the cuts.

I further expect and understand that the tax-writing committee will be producing a tax package that substantially reduces the regressiveness of the original.

Mr. Speaker, I go along with the new agreement not because all my objections have been met but because it is more equitable and probably the best deal given the constraints. The time for divisiveness has long past; the time for good and caring government is now.

Mr. VENTO. Mr. Speaker, I rise in support of the budget resolution before the House this morning, October 8, 1990. While each of us can find fault with some of the goals, this plan has been significantly modified from the first product of the summit that was rejected October 5, 1990. The specific language of the October 5 budget resolution that outlined unacceptable changes in policy have been removed from this document tonight with the opportunity to address serious problems in the legislative process, changing the depth of Medicare cuts and limiting the oil tax break and the so-called small business tax break which has been so harshly criticized.

Mr. Speaker, in voting no on the original package I did so with careful thought—I knew that if, and I emphasize if, I voted for the budget resolution which was very unacceptable that I could not vote for the taxes, policy changes, and spending cuts, that were outlined in the earlier October 5 budget resolution in an overall reconciliation measure—the budget resolution would have been an easier vote than the implementation which would have been very difficult, under those circumstances maybe impossible.

Today as I vote for this budget resolution tonight I believe that it can be implemented—with good faith on the part of Members of Congress and the President. This measure gives us the opportunity to move forward in a fair manner.

The citizens spoke Thursday when this House rejected the initial budget resolution, today some of the various constituents that were opposed now favor this measure and the intent to carefully weigh the elements as we move through the legislative process in the days ahead.

Hopefully this will be a positive step that will permit reordering in a small way our Nation's priorities in the next few years. Lowering military spending reflecting the 1990's not the 1950's. Many of the concerns regarding economic forecasts and projections persist. Apparently we in Congress always want to claim much more impact and greater results than what is rationally possible, I understand the motivation but deplore the circumstance of raising expectation so unrealistically we simply set ourselves and the Congress up for criticism.

Let us vote this budget resolution up and be about the implementation the next 2 weeks.

The summit concept and process has been less than desirable, I hope that in the future Congress will be able to process our work in the regular order long before we enter into talks with the administration rather than in this compressed manner which is bound to cause confusion and misunderstanding.

Mr. Speaker, as has been demonstrated when we are up against the shut down of the National Government.

Mr. SYNAR. Mr. Speaker, tonight I will vote for the improved budget agreement. My Oklahoma constituents made it known that no matter what budget is agreed to, it must be fair. The alternative budget compromise provides for true deficit reduction, but it is also an acknowledgment that the groups in society who have to share the burden of deficit reduction must be carefully considered.

While the amount of deficit reduction nor the amount of revenues needed to be raised have changed, the agreement does not dictate the specifics within each category. This is important because the previous budget summit contained instructions which were rejected by the majority of the House and the American people.

The parameters of cuts and revenues set by this compromise leave the necessary flexibility for the appropriate committees to work out a final deal that is equitable. As I stated when I voted against the summit agreement, I know there is an alternative that is better.

I will reserve judgment on the final package which is expected in about 2 weeks. I will be reviewing the final bill with several thoughts in mind. In implementing the agreement, there should be provisions under Medicare that do not simply shift costs to beneficiaries who cannot afford to pay. The revenues to be raised must recognize that working Americans and the middle class have borne a disproportionate share of the cost of Government over the past 10 years. Finally, whatever is presented in 2 weeks must be fair.

Mr. HUGHES. Mr. Speaker, I rise in support of this conference agreement on the budget.

This agreement will bring the budget process back to the Congress where Members and their respective committees can work their will. That is the framework under our Constitution to set priorities and establish the fiscal policy for our country. The budget summit was a failure.

The conference agreement gives the Ways and Means Committee the flexibility to achieve basic fairness in reaching the revenue and entitlement targets. The committee can reduce the Medicare cuts and identify revenue options that will not subject any one sector of the economy or group in our society to an undue or unfair burden.

It also gives our other standing committees that same flexibility to find savings to reduce our huge deficits. Most importantly, passage of this resolution will move the budget process forward once again.

Ms. OAKAR. Mr. Speaker, I rise in guarded support of the budget resolution before us tonight.

This resolution corrects, what in my opinion, was an oversight in the original budget summit agreement, which superseded the committee system for consideration of important budget resolutions. Given the targets in this resolution, the committees can now exercise the proper authority given to the Members of this body by the Nation's voters.

I strongly objected to the original agreement's provisions which placed undue burden on senior citizens and middle-income Americans. The proposed cuts for Medicare, veteran's programs, unemployment benefits, and postal and Federal workers programs were grossly unfair. In contrast, this new agreement allows the Congress to more equitably distribute the burdens of eliminating the Federal budget deficit.

All committees should carefully consider their decisions related to this agreement. Clearly, the American people have voiced their opinion that the Medicare cuts were far too deep, the average middle-income taxpayer was being asked to shoulder too much of the cost of revenue increases, and that veterans, the unemployed and postal and Federal workers would have to, once again, sacrifice their pay and benefits for the purpose of deficit reduction.

In addition, I have great concerns regarding the single largest part of the Federal budget, the funding of the Defense Department. This area of the budget does not fairly receive its share of reductions. Further, I am concerned that the Desert Shield expenditures are not placed on budget to show all Americans the true costs of this operation to our Nation.

In closing, I wish to stress that my support for this budget resolution tonight does not necessarily commit my support for the final form of the budget reconciliation resolution. The primary basis for my final vote on the budget reconciliation conference report will be the fairness of its final content.

Thank you.

Mr. THOMAS of Wyoming. Mr. Speaker, there is little merit in continuing debate over the substance of the budget summit proposal. It has been flailed because it has too much tax and not enough spending control—and on the other hand because it has too much control and not enough tax.

I would like to make two points. One, as a member relatively new to this body, I would like to tell you that I am disappointed with the process that has brought us to tonight. The law required that we have a budget resolution in April. We found reasons not to do that. Instead, we procrastinated; we did not use the method available for making decisions * * * putting the alternatives before the body for debate and voting.

Finally, we settled on a summit group to solve the problem; that took it out of the hands of the Congress. And last, and most disappointing, the decision was held off until the eleventh hour so that the drafters could say, "This is an awful package, but it's the best possible. We are on the edge of a precipice and everyone should vote for it." Support for the proposal is simply continuing the practices of the past.

The second point: I have been here only a short time, but I have observed the behavior of Congress for several years. I've noted that revenues have doubled in the past 10-year period. In spite of the increase in revenues, spending has increased much more quickly—at such a pace that we have run-away deficits.

Now we come with another taxing package—one which will increase revenues, with little dedication to curtailing the growth of Government. And it is said this is the best alternative we can get.

We should reject that argument, Mr. Speaker. It is time for a fundamental change. People of Wyoming want less Government—not more. The people I represent want to cap the growth of Government—not encourage growth through additional taxes.

We need to reject this taxing proposal and replace it with one which encourages the economy and limits growth in spending.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the budget resolution before us, as I have indicated earlier, is different from the one that faced us Friday night. We have $10 billion less in entitlement savings reconciled in the bill, and the tradeoff is, of course, going to occur in taxes.

We will have $10 billion more in taxes, or, more likely, we will have $10 billion less in tax stimulus, leaving us no growth incentives in the bill when we are done, or $10 billion less in savings. Either way, the economy loses.

The bill is beginning to fall apart. In addition to the reduction in entitlement savings, we relieved the Committee on Agriculture of $400 million more in savings in fiscal year 1991 than we asked of it on Friday night.

On Friday night we had a bipartisan agreement. We had the President working hard for us and leaders on both sides working hard for us. As I recall, as one of those repudiated leaders, or would-be leaders, we got about the same percentage of vote on both sides of the aisle.

If there is any blame to be taken for the defeat of that resolution, I think both parties can share it. We went down together in about equal numbers.

However, the version before us tonight is not bipartisan. Yes, as the previous speaker indicated, the complaints were bipartisan. The fix is not bipartisan.

And, yes, we will act in the committees on reconciliation, as we always do. And we will be told to trust the committees, where the Republican proportion is considerably less than their 40 percent proportion of the House.

Mr. Speaker, some of us will trust those committees, and others of us will be quite nervous. We know that the Democrats can probably pass this resolution tonight by themselves, but, when they do so, they take on some awesome new responsibilities. They have to prove, for a change, that they are able to work with the minority and with the President, or otherwise face a certain veto of the product of reconciliation.

For those who have spoken in terms of conciliation, my longtime friend the gentleman from Florida [Mr. GIBBONS] and my friend the gentleman from Kansas [Mr. SLATTERY], we look forward to working with you and trying to achieve something together. But we believe that tonight we are not together. Most of us on this side shall oppose this resolution.

We believe that we should have passed the continuing resolution in a sequester mode last night. We find that our citizens are inconvenienced. But under the scenario that this majority leadership is directing, there will be no public official, no bureaucratic job, that will be threatened.

We believe that if you have a continuing resolution with a sequester, you will be able to reduce expenses other than payroll expenses for the first couple of weeks. We can clean out the supply closets in the first week and the travel budget in subsequent weeks. But if it does not look to the country like we are serious in reducing expenses through a continuing resolution, the public is going to laugh at our deficit reduction efforts. Later it will laugh at us as it sends us home.

The leadership of the House which found great amusement in delaying summit negotiations for 5 months is now seized with an urge for action. Bipartisan actions can be deferred, but partisan offerings are emergencies.

I shall vote against this bill. I wish it were otherwise. I am sorry we must proceed on this basis.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, it is very, very late, and I know that everybody is very, very tired. I am sorry to inform Members that when we finish this bill, we are going to have to stay here and go through a continuing appropriation. There will be a rule, and probably two votes after that. It could be 4 o'clock in the morning before we finish.

We are not going to meet tomorrow until about 8 o'clock at night, when we have to come back to see if the continuing is finished on the other side and try to process that bill, because, as all Members know, if we do not get it done, we have a shutdown of the Government beginning Tuesday morning. We want to avoid that in one manner or another.

But as tired as we are, and as we are going to be, and as much as tempers have been frayed and frustrations have risen in the past few days and weeks, I know that each Member feels as I do every time you walk on the floor of this House, that we are privileged and that we are honored to have the opportunity to be here to represent half a million Americans and to carry on this experiment in self-government in the greatest country in the history of the world on the face of the Earth.

The other night, even though I did not care that much for the plan, I wanted it to pass, because I thought the compromise had been tough to reach. I knew that if we did not pass it, the days after would have us edging into chaos, and that it would be hard to put the agreement back together again. I think that it is still possible to be able to put this agreement back together again.

The other night the people spoke. I understand on your side that the President called almost every Member. Members of the Cabinet called. I am told that former Presidents Ford, and Nixon called.

We do not have so many former Presidents to call. We did have the leadership on our side talk to almost every Member. We had a task force of over 50 people that talked to our Members over and over and over again to try to pass that package. But for all of that work and all of that persuasion, here, sir, the people govern.

Even though I was disappointed, and even though I was chagrined at what was to happen in the next few days, I was proud that the House reflects the people of this country, and their voices were heard as the vote came in, a resounding defeat for the package.

But now as we are here a couple of nights later, we have to make some changes in the package if we are to get it passed. We in the leadership on this side wanted to work with your leadership on your side to try to figure out how we could put this package back together. One of the things we heard was that people did not like the summit. They did not want some few going off to make the decisions for the rest of us. So in adjusting this package, we have said, let us not be so specific. Let us not take the agreement that was made in the small room. Let us send it back to the committees and let the committees work to shape the package.

We also felt that we should not change it too much, but change it as little as we could. It would have been easy to go to the Democratic caucus and say, "What does it take to get your vote; what does it take to get your vote; and what does it take to get your vote?" And then put together a big "D" Democratic package and roll it out and try to get it done. That would have been fun, it would have made a lot of people feel good, but it would not have helped us achieve the result.

So if we can pass this package tonight with these small changes, passing the trust back to the committees, the challenge in the next 10 or 14 days is for us, each of us, to be bigger than ourselves; to go back to our committees and do something that we have had a lot of trouble doing, and that is working in a truly bipartisan manner to reach the reconciliation instructions so we can produce a reconciliation bill in 10 days or 2 weeks that we can bring out here and get 218 votes, half of this side and half of this side, so that we can address this deficit problem that everybody in this room knows has to be solved for the future of the country, and I would even say the future of the world.

☐ 0210

We can do it. We do not have the luxury of being in a parliamentary system where we can just say I believe in what I believe in and I want to vote for only what I believe in, I will not compromise. I will only stand for the beliefs of myself and my party.

In Great Britain and France and Japan and other countries they can do that. We do not have that luxury. We have to compromise our beliefs and come to an agreement that will move the country in a positive direction.

I do not think I am overstating, and I do not think I am being melodramatic to tell you tonight that with all my heart I believe the country is at stake. These deficits cannot go on.

We have an S&L crisis that boggles the imagination. If we have a recession in the next 6 months we will lose another 300 or 400 savings and loans, and where will we get the money to bail them out and the depositors who will be standing in line wondering where their money is? And if we have that recession, the banks will be right behind, and where will it end?

We have kids in the desert, 150,000 of them, and their strength is only as strong and as much as our economic strength now and in the days ahead.

After our Democratic caucus this afternoon I walked over to the Capitol, and there was a group of tourists, citizens who were milling around the front of the Capitol. They gathered around me. They saw my blue suit and red tie and I guess thought I was one of them, and they were angry. One woman shook her finger in my face and she said, "Why can't you people get this done?"

Our citizens do not understand that this is a divided government. They do not understand that the one party controls the Presidency and another party controls the Congress. They do not understand why we cannot get this done.

Tonight we have a chance to begin to get it done, but if we are going to do it we have to be bigger and better and stronger and more willing to compromise in these next 2 weeks than we have been in the past.

We can do it. Let us get it done.

Mr. FRENZEL. Mr. Speaker, I yield back the balance of my time.

Mr. PANETTA. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 250, nays 164, not voting 20, as follows:

[Roll No. 436]

YEAS—250

Ackerman
Anderson
Andrews
Anthony
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brooks
Browder
Bruce
Bryant
Bustamante
Byron
Cardin
Carper
Chapman
Clarke
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Gray
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horton
Houghton
Hoyer
Hughes
Hutto
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowey (NY)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Parker
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Pickett
Pickle
Price
Quillen
Rangel
Ray
Richardson
Ridge
Roberts
Roe
Rose
Rowland (GA)
Roybal
Sabo
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (VT)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Taylor
Thomas (GA)
Torres
Torricelli
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walgren
Walsh
Washington
Watkins
Waxman
Weiss
Wheat
Whittaker
Whitten
Wise
Wolf
Wolpe
Wyden
Wylie
Yates

NAYS—164

Annunzio
Applegate
Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bilirakis
Bliley
Brennan
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Campbell (CA)
Carr
Chandler
Coble
Combest
Condit
Costello
Coughlin
Cox
Craig
Crane
Dannemeyer
Davis
DeWine
Dickinson
Dornan (CA)
Douglas
Dreier
Duncan
Dyson
Edwards (OK)
Emerson
English
Fawell
Fields
Frenzel
Gallegly
Gallo
Gaydos
Gekas
Gillmor
Gingrich
Goss
Grant
Green
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hiler
Hopkins
Hubbard
Huckaby
Hunter
Hyde
Inhofe
Ireland
James
Kasich
Kolbe
Kyl
Lagomarsino
Laughlin
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Long
Lowery (CA)
Lukens, Donald
Machtley
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McEwen
Michel
Miller (OH)
Miller (WA)
Moorhead
Morrison (CT)
Myers
Natcher
Nielson
Oxley
Packard
Pallone
Parris
Pashayan
Patterson
Paxon
Perkins
Petri
Porter
Poshard
Pursell
Rahall
Ravenel
Regula
Rhodes
Rinaldo
Ritter
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland (CT)
Russo
Saiki
Sangmeister
Sarpalius
Savage
Saxton
Schaefer
Schiff
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NJ)
Smith (TX)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stearns
Sundquist
Tauke
Tauzin
Thomas (CA)
Thomas (WY)
Traficant
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Williams
Yatron
Young (AK)
Young (FL)

NOT VOTING—20

Alexander
Brown (CA)
Campbell (CO)
Courter
Crockett
DeLay
Dymally
Hayes (LA)
Henry
Holloway
Jacobs
Jones (NC)
Madigan
Robinson
Rostenkowski
Smith, Denny (OR)
Stump
Towns
Udall
Wilson

☐ 0230

The Clerk announced the following pair:

On this vote:

Mr. DYMALLY for, with Mr. DELAY against.

Mr. SARPALIUS changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the conference report on House Concurrent Resolution 310, the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 1991

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 498 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 498

Resolved, That upon adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 666) making further continuing appropriations for the fiscal year 1991, and for other purposes. The joint resolution shall be debatable for not to exceed thirty minutes, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. It shall be in order to consider an amendment printed in section 2 of this resolution, offered by Representative Michel of Illinois, or his designee, said amendment shall be debatable for not to exceed thirty minutes, equally divided and controlled by the proponent and a Member opposed thereto. The previous question shall be considered as ordered on the joint resolution and amendment thereto to final passage without intervening motion except one motion to recommit, which may not contain instructions. All points of order against the joint resolution and against its consideration are hereby waived.

Sec. 2. Strike section 113 and insert in lieu the following:

"Sec. 113. (a) The order of the President issued on August 25, 1990, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is hereby modified by reducing the across-the-board percentage reduction reflected in such order and set forth in the report of the Director of the Office of Management and Budget issued on August 25, 1990, from 32.4 percent for nondefense programs and 35.3 percent for defense programs to 14.4 percent for nondefense programs and 16.6 percent for defense programs.

(b) Subsection (a) shall be effective as of October 6, 1990, and shall cease to be effective on the day following the date set forth in section 108(c)."

The SPEAKER. The gentleman from Massachusetts [Mr. Moakley] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the purposes of debate only, I yield 30 minutes to the gentleman from Tennessee [Mr. Quillen], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 498 makes it in order to consider House Joint Resolution 666 in the House, with 30 minutes of debate time equally divided and controlled by the chairman and ranking minority member of the Appropriations Committee.

The rule waives all points of order against the joint resolution and against its consideration. Two amendments are made in order. The amendments will be offered by Representative Michel or his designee and each will be debatable for 30 minutes.

Section 113 of the continuing resolution suspends sequestration until October 20. One Michel amendment would replace suspension with partial sequestration, cutting 14.4 percent from nondefense programs and 16.6 from defense programs. This Michel amendment puts sequestration in effect for the duration of the continuing.

The other Michel amendment is an en bloc amendment made in order under the unanimous-consent request I made when filing the rule. The en bloc amendment would change the duration of the continuing resolution and the duration of the temporary increase in the debt limit. It is my understanding that the Michel amendment will propose to move the date from October 20 back to October 12.

Finally, Mr. Speaker, the rule provides one motion to recommit which may not contain instructions.

Mr. Speaker, we have just adopted a budget plan. It will require some time for the committees to report the pieces of reconciliation, fleshing out the plan we just adopted tonight.

Our task tonight is to get the government funded and back to work, at least until October 20. By October 20 we expect to enact the legislation to put into effect the budget plan.

Our other responsibility tonight, Mr. Speaker, is to insure that the government does not default on its obligations, by extending the temporary debt limit increase. House Joint Resolution 666 would do that.

There are two issues in dispute. First, should we suspend sequestration while we work on legislation to implement the budget plan? The alternative is to provide for partial sequestration.

Mr. Speaker, the rule makes in order one Michel amendment which nicely frames that issue.

The other Michel amendment raises the question: How long do we keep the Government running before we must enact another continuing resolution?

Mr. Speaker, the hour is late. It is time to act. It is time to govern. House Resolution 498 is a fair way to proceed. I urge its adoption.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the able chairman of the Committee on Rules has explained the provisions of the rule, and I think it would be redundant for me to repeat them at this late hour.

□ 0240

I support the rule, with the Michel amendments.

Let me read a letter that our distinguished minority leader sent to the chairman of the Committee on Rules:

Office of the Republican Leader,
Washington, DC, October 7, 1990.

Hon. John Joseph Moakley,
Chairman, Committee on Rules, Washington, DC.

Dear Mr. Moakley: I request that the Committee on Rules make in order a complete substitute amendment to the Continuing Resolution which the Committee is considering this evening. The President has stated that the elements contained in my substitute amendment would be acceptable to him.

The amendment I am proposing would continue Government operations through October 12. It also implements a sequester which on an annual basis would equal a reduction in spending of $40.1 billion. The sequester would only be in effect until October 12. Finally the amendment changes the date for the public debt limit to October 12.

I thank the Chairman and the Committee Members for their consideration of this matter.

Sincerely,

Robert H. Michel,
Republican leader.

We all know that we need a continuing resolution. There is no need to debate it.

I support the Michel amendments. I think they should be adopted. I think both sides of the aisle should go along with them, because we do not want any more confrontation.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no request for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. WHITTEN. Mr. Speaker, pursuant to the rule just adopted, and the previous order of the House, I call up the joint resolution (H.J. Res. 666) making further continuing appropriations for the fiscal year 1991, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The text of the joint resolution is as follows:

H.J. Res. 666

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1991, and for other purposes, namely:

Sec. 101. (a) Such amounts as may be necessary for continuing projects or activities (not otherwise specifically provided for in

this joint resolution) which were conducted in the fiscal year 1990 and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991;

The District of Columbia Appropriations Act, 1991;

The Energy and Water Development Appropriations Act, 1991;

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956;

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1991;

The Military Construction Appropriations Act, 1991;

The Rural Development, Agriculture, and Related Agencies Appropriations Act, 1991;

The Department of Transportation and Related Agencies Appropriations Act, 1991;

The Treasury, Postal Service, and General Government Appropriations Act, 1991; and

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991.

(b) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this section as passed by the House as of October 1, 1990, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1990, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided*, That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990.

(c) Whenever an Act listed in this section has been passed by only the House as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the current rate or the rate permitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990: *Provided*, That where an item is funded in applicable appropriations Acts for the fiscal year 1990 and not included in the version passed by the House as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by applicable appropriations Acts for the fiscal year 1990, at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990.

Sec. 102. Such amounts as may be necessary to continue existing programs and activities (not otherwise specifically provided for in this joint resolution) which were conducted in fiscal year 1990, under the appropriation, fund, or authority granted by applicable appropriations Acts for the fiscal year 1990, at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990, for which provisions was made in the following Acts: The Department of the Interior and Related Agencies Appropriations Act, 1990, and the Legislative Branch Appropriations Act, 1990.

Sec. 103. Such amounts as may be necessary to continue existing programs and activities, which were conducted in fiscal year 1990, for which provision was made in the Department of Defense Appropriations Act, 1990, but such activities shall be funded at not to exceed an annual rate for new obligational authority of $262,969,000,000, and this level shall be distributed on a pro rata basis to each appropriation account utilizing the fiscal year 1991 amended budget request as the base for such distribution and shall be available under the terms and conditions provided for in the applicable appropriations Acts for fiscal year 1990, notwithstanding section 502(a)(1) of the National Security Act of 1947: *Provided*, That no appropriation or funds made available or authority granted pursuant to this section shall be used for new production of items not funded for production in fiscal year 1990 or prior years, for the increase in production rates above those sustained with fiscal year 1990 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1990, except projects, activities, operations, or organizations relating to "Operation Desert Shield": *Provided further*, That no appropriation or funds made available or authority granted pursuant to this section shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later: *Provided further*, That no appropriation or funds made available or authority granted pursuant to this section for procurement and research, development, test, and evaluation, shall be used to fund any program, project, activity, operation, or organization at a rate for operations in excess of the current rate or the rate provided for in the budget estimates for fiscal year 1991, whichever is lower, during fiscal year 1991, except programs, projects, activities, operations, or organizations relating to "Operation Desert Shield".

Sec. 104. Notwithstanding any other provision of this joint resolution, such amounts as may be necessary to continue the Aerostat Program of the United States Customs Service which was conducted in fiscal year 1990 at a rate of operations not exceeding the current rate and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1990.

Sec. 105. Appropriations made by sections 101, 102, 103, and 104 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

Sec. 106. No appropriation or funds made available or authority granted pursuant to sections 101, 102, 103, and 104 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1990.

Sec. 107. No provision which is included in an appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1990, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

Sec. 108. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) October 20, 1990, whichever first occurs.

Sec. 109. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

Sec. 110. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

Sec. 111. No provision in any appropriations Act for the fiscal year 1991 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 108(c) of this joint resolution.

Sec. 112. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

Sec. 113. (a) Any order on sequestration for fiscal year 1991 issued before, on, or after the date of enactment of this joint resolution pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is suspended and no action shall be taken to implement any such order.

(b) Subsection (a) shall cease to be effective on the date set forth in section 108(c).

Sec. 114. Extension of Temporary Increase in Public Debt Limit.—Section 1 of Public Law 101-350 is amended by striking 'October 6, 1990' and inserting 'October 20, 1990'.

The SPEAKER. Pursuant to House Resolution 498, the gentleman from Mississippi [Mr. Whitten] will be recognized for 15 minutes, and the gentleman from Massachusetts [Mr. Conte] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. Whitten].

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may require.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the consideration of House Joint Resolution 666.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, may I say to my colleagues that House Joint Resolution 666 is a continuing resolution until October 20—12 more days. It suspends sequester and extends the debt limit for the same period.

Mr. Speaker, when they start talking about money and debt and expenditures, the public's attention gets directed to our Committee on Appropriations.

I would like to tell my colleagues here that our Committee on Appropriations has held the total of appropriation bills since 1945 to $173 billion below the recommendations of our Presidents. So, our national financial plight is not the fault of our Committee on Appropriations.

Recent actions by the Congress, beyond our control, may once again bring us to a point where a continuing resolution for the rest of the year may be the only way to complete our work in a timely manner—which none of us desire.

It has not been our committee which has caused our debt. It has not been our committee which has caused the delay in our appropriation bills. But it is our committee that bears the load of providing for an orderly continuation of the government.

The budget resolution was due to be completed April 15, but was not, and our committee was asked by the leadership to wait. This we did. Then the House of Representatives passed a budget resolution May 1, but not the Senate, and we were asked again to wait. On June 19 the House deemed the House-passed resolution to be the conference agreement until a real one was passed, and on that same day we passed our first bill, and on July 30 we passed the 10th bill. Our committee conformed to the limits in that resolution.

The House had passed 10 bills and the Senate had passed 4 on September 25 when the committee reported a short term, clean continuing resolution to go to October 20. That was for 20 days. We were asked to reduce it to five. This we did, and that five ran out Friday, October 5.

We were than asked to go 7 days and did. The President kept that from operating by vetoing House Joint Resolution 660.

Mr. Speaker, our committee has one of the heaviest workloads in the House, working through 13 subcommittees, conducting 280 days of hearings with nearly 4,900 witnesses who bring to our attention hundreds of thousands of items. This is documented in 90 printed hearing volumes of over 97,000 pages.

Mr. Speaker, as has been pointed out, ours are the bills that have to eventually pass. It is fast reaching the point where we will have to proceed with our bills, regardless.

I am hopeful that we can do our job without asking for a continuing resolution for the rest of the year.

I call this to your attention, not only for the protection of the committees, but for the protection of the Congress.

This deficit has not been of our making, and we have tried to do the best we can to get our bills through on time.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the hour is late, and I will be very brief.

This resolution continues operations of the Government until October 20. It suspends sequester for that period, and it extends the limit on the national debt as well.

This resolution will grease the wheels of government to begin the end of this long and tortuous process. The House has adopted a budget resolution. That is a fact. What the Senate does is anyone's guess, but we in this House—so often referred to as the "People's House"—owe it to the Nation to act as leaders, and lift the veil of uncertainty from Federal employees, Government beneficiaries and millions of Americans who depend on the Federal Government for vital services.

Mr. Speaker, this resolution gives the process a chance to work in a serious atmosphere—not in chaos—not in a circus atmosphere that in the end punishes innocent people.

It is time to begin the end of the process. It is time to govern, and it is time to lead.

Vote "aye," and let us get on with the people's business.

Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, it is pretty late and there is no reason to take 3 minutes.

The CR, as I explained earlier, does not now have the Bob Michel amendment which will attach sequester to the CR.

If we are serious about saving $40.1 billion in this fiscal year, we have to start here. If we are not, and if you reject the prospect of sequester, you prove to the world that you were not serious in the first place and that you do not intend to save any money.

You will also probably earn yourself a veto. If you want to enact the CR, you had better vote for the Michel amendment.

Mr. CONTE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

AMENDMENTS EN BLOC OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Speaker, I offer amendments en bloc.

The Clerk read as follows:

Amendments en bloc offered by Mr. MICHEL:

In section 108(c) strike "October 20, 1990," and insert "October 12, 1990,".

In section 114 strike "October 20, 1990," and insert "October 12, 1990".

Mr. MICHEL (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER. Pursuant to the order of the House of earlier today, the gentleman from Illinois [Mr. MICHEL] will be recognized for 15 minutes and a Member opposed to the amendments en bloc will be recognized for 15 minutes.

The Chair recognizes the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, tonight we are faced with a resolution that continues appropriations and extends the debt limit through October 20 and which waives sequester for this same period.

The President has indicated to me that he will not accept a continuing resolution which does not embody a limited sequester.

Now, I had asked or requested the Rules Committee earlier this evening to make in order a complete substitute amendment. This amendment would have both reduced the length of the continuing resolution and debt limit from October 20 to October 12 and would have implemented a limited sequester that on an annual basis would be equal to a reduction in spending of $40.1 billion, the amount of savings assumed in the summit and in the budget resolution.

□ 0250

Instead I have given the right to offer two separate amendments, one to change the date of the continuing resolution and the debt limit, and the second to put in place a limited sequester.

In the interest of saving the time, I would make just several arguments in behalf of both amendments, and would urge Members to vote for the date change, because it would give all parties involved an interim point at which to assess where we are in implementing the budget resolution.

Second, a limited sequester mirrors the amount of savings contemplated in the summit and in the budget resolution, that we just adopted here tonight, puts pressure on the Congress to complete its work and deal with a large and increasing deficit.

It seems to me that if Members are really serious about the budget resolution just passed, then you would want to support this amendment to immediately implement the deficit reductions recommended by the summit.

A sequester of $40.1 billion, the amount of the savings for fiscal year 1991 provided in the budget summit agreement will result in across-the-board reductions of 14.4 percent in nondefense accounts, 16.6 percent from defense accounts after exempting military personnel account subject to the sequester.

However, if the sequester were applied for only 1 week, then the percentage reduction on an annual basis would be a little less than 3/10ths of 1 percent of defense accounts.

All national forests, museums, monuments, parks, battlefields will reopen immediately, remain open all week. Although there will be some cutback in hours, it would not occur until after the holiday weekend.

Critical meat, poultry and grain inspection, food quality grading will be able to continue, ensuring the normal supply of food. There would be a small decrease in the hours of operations that may be needed and overtime hours may be curtailed. Furloughs will be minimal, if at all, for air traffic controllers, FBI agents, Social Security Administration personnel and most other Federal civilian agency employees.

Generally there would be no noticeable disruption in the services provided to the public by Federal agencies.

But as was indicated earlier by the distinguished ranking member of the Committee on Rules, the statement on the part of the administration is, again, that if a continuing resolution covering the period October 6 through 12 is passed that implements a sequester which on an annual basis would equal a reduction in spending of $40 billion, the President's senior advisors will recommend that he sign it.

So we would in effect be getting over the shoals without another pass at a veto and overriding and all the rest. I would certainly urge Members to support both amendments, one to change the date from the 20th to the 12th; second, to implement the sequester.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The gentleman will suspend for a moment.

The Chair wishes to clarify what he believes is the parliamentary situation.

The amendment before the House is in two parts dealing with changing the date in the continuing resolution from the terms of the resolution on the 20th of October 1990 to the 12th of October 1990; and the second date change, which changes the date of the debt ceiling extension from the 20th of October 1990 to the 12th of October 1990.

The gentleman from Illinois asked that they be considered en bloc, and the Chair understood that to be the two date changes.

Mr. MICHEL. Yes.

The SPEAKER. The second amendment of the gentleman, involving sequestration, has not yet been read.

Mr. MICHEL. I appreciate the explanation to the Members.

Mr. Speaker, I yield to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. I thank the gentleman for yielding.

I want to clarify: I have here in front of me, and I will speak to the Republican Members over here: There were 25 Members who voted to override the President. Most of you came to us at that time and said that the reason you were voting to override the President was that you wanted to keep the Government functioning. Under Mr. MICHEL's amendment, you do just that, you keep the Government functioning.

So I would just urge you 25 that voted to override, now is your chance to support this, and you really ought to do it.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, with some misgivings, I voted for the budget a while ago. My misgivings come about because it is misunderstood. It deals only with functional categories. It must go to the various committees to work out the actual legislation and we will have a chance to vote against many of the items. But sequestration is one of the worst things that we deal with here in the history of this country.

It has appeared in the paper and several Members have said that the President has said if we do not pass the CR that the President wants, he will veto it. If we do not get rid of sequestration, we will be held up on everything that this Congress does. This President happens to be a friend of mine. I do not agree with his conduct in every case. I am sure he does not agree with mine. But if we are going to have sequestration where they bring the Government to a halt unless we do like they want down at the White House, we might just as well quit Congress and stay at home and look after your business there.

What I have here is, in order to get by for the time being, is a waiver only until October 20. I certainly hope you will stay with this, and I hope you will stay with me and get rid of the sequestration, because it is a surrender of all the authority and obligations that we have as a Congress. I hope you will vote this amendment down. I am surprised that my friend from Illinois, who is one of the finest people I ever knew, had to have a whole lot of pages to explain this one.

It is now October 8. May I point out again it is now October 8. This amendment would carry the resolution only to October 12, just 4 days from now.

The time we take extending continuing resolutions is time taken away from that time we need to spend working on the 3 bills we need to get through the House and the time we need to conference all 13 bills. And if you do pass this amendment, you invite continuing resolutions for the rest of the year on many of the appropriation bills. I hope you will vote with the committee.

The SPEAKER. The question is on the amendments en bloc offered by the gentleman from Illinois [Mr. MICHEL].

The amendments en bloc were rejected.

AMENDMENT OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MICHEL: Strike section 113 and insert in lieu the following:

"SEC. 113. (a) The order of the President issued on August 25, 1990, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is hereby modified by reducing the across-the-board percentage reduction reflected in such order and set forth in the report of the Director of the Office of Management and Budget issued on August 25, 1990, from 32.4 percent for nondefense programs and 35.3 percent for defense programs to 14.4 percent for nondefense programs and 16.6 percent for defense programs.

(b) Subsection (a) shall be effective as of October 6, 1990, and shall cease to be effective on the day following the date set forth in section 108(c)."

Mr. MICHEL. Mr. Speaker, I had previously spoken to the amendment. I am happy to yield such time as she may consume to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. I thank the minority leader for yielding.

Mr. Speaker and my colleagues, in the preceding debate on the budget resolution, we had a number of Members express a great deal of partisan tension and deep-seated concern. The concern was centered around one issue, and that issue was trust.

The budget resolution that we voted on tonight did not differ a whole lot from the budget resolution that we voted on a few nights ago, with one exception, and that is that it was not harnessed by the verbiage of the summit agreement and all that verbiage had been agreed to in a bipartisan fashion. In effect, you asked us to trust that through the process we could come out not only with the bottom line that the budget resolution set forth, but with a program that would roughly resemble the summit agreement.

Now, a few of us voted with you. This is an important vote. This is not a meat-ax approach. This is a vote that symbolizes whether you are or you are not dedicated to the budget resolution's goals that we just passed. This vote says: Are you going to care as much about the cuts that were committed to in that resolution as you are going to care about the tax increases?

☐ 0300

Mr. Speaker, this is a very important vote because, if we are going to adopt the fiscal discipline that was within the budget resolution, then we have to start now. We cannot start next week or in the weeks after.

Mr. Speaker, I ask my colleagues' indulgence. This is really a very important amendment. It goes to the heart of the problems that we have on this House floor, and it goes to the very cause of our ability to put the public interests above sometimes a partisan and personal interest.

Now, the gentleman from Illinois [Mr. Michel], our leader, has proposed a perfectly reasonable amendment that only says, "Let's demonstrate to the Nation that we are committed to the fiscal discipline that lies behind our budget resolution, and we're going to start with that today. We're going to figure out the details as we go through the process, and we hope to have that wound up soon, but that we are committed, not just to the tax in that resolution, but that we are committed to the spending discipline in that resolution," and I say to my colleagues, If you expect to have the trust in the committees and the trust in the end that will bring Presidential signature to the outcome of our budget process, then, my friends, you must join with us in making this continuing resolution a bipartisan resolution that demonstrates to all of America that, not only have we adopted a budget resolution for America, but one that involves fiscal discipline, writing the spending order of our House, as well as addressing our long-term problems.

Mr. Speaker, I urge a unanimous vote in support of the minority leader's amendment.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. Frost). The Chair will state the situation in the House at this point.

On this amendment the gentleman from Illinois [Mr. Michel] controls a total of 15 minutes, and the gentleman from Mississippi [Mr. Whitten] controls a total of 15 minutes.

Does the gentleman from Mississippi [Mr. Whitten] wish to be heard at this point?

Mr. WHITTEN. Mr. Speaker, I can see why my good friend, the gentleman from Illinois [Mr. Michel], passed this amendment on to be handled.

According to OMB, this amendment would cost the Department of Defense $710 million each week, $4.9 million from the FBI, $1.6 million from the Drug Enforcement Agency, $7.3 million from the prison system, $3.2 million from the Center for Disease Control, $7.6 million from the Alcohol, Drug Abuse, and Mental Health Administration, $20.8 million from subsidized housing programs, $3.7 million from NOAA, which includes the weather service, $15.5 million from compensatory education, $5.9 million from education for the handicapped, $17.6 million from student financial assistance, $8.4 million from the veterans program, $35.3 million from NASA, $8.8 million from FAA operations, $16 million from the IRS, and that would be each week—a total of $2.2 billion each week.

Mr. Speaker, this is budget authority. What they do not tell us is the 14.4 percent and 16.6 percent reductions in outlays will require sequestration of $111.9 billion in appropriations to produce $38.5 billion in outlays.

Mr. Speaker, I rise in opposition to the amendment. Members know my views on sequester—that I think it should be suspended for the entire year. I ask my colleagues to vote down this amendment.

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just make the observation that, as my colleagues know, if we cannot make that kind of a reduction within a short timeframe, I do not know how we are ever going to get around to saving the $40 billion we are all talking about.

As my colleagues know, the time to really implement this thing is now, and we got to get a taste of it, and the taste is going to be rather a bitter pill, but we cannot be putting it off, and putting it off, or we completely foul up the arguments we have been making all this week on how we need to reduce the deficit.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. Frenzel].

Mr. FRENZEL. Mr. Speaker, the President has talked about putting discipline into our process, and our friends on the Democrat majority side of the aisle have indicated they want to proceed on a bipartisan basis. On Friday night the Speaker said, "If not now, when; if not us, who?"

This is the night we test Democrats for size and for enthusiasm is reducing the deficit. We are watching. We are waiting with great enthusiasm to see whether they really want to save any money or not.

I say to them, "Good luck. I hope you pass the test."

Mr. MICHEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. Obey].

Mr. OBEY. Mr. Speaker, just one fact before we vote.

We have been told that we ought to begin the fiscal stringency, which we indicated we were willing to undergo, by the passage of the budget resolution. This continuing resolution would have us spending at a rate which is $35 billion below the budget resolution which we just approved and $24 billion below last year. It does exactly what we were asked to do on the other side of the aisle, and my colleagues ought to stick with the chairman.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Iowa [Mr. Smith].

Mr. SMITH of Iowa. Mr. Speaker, two quick points.

One is we do not have to take reductions out of these accounts. We will take care of whatever assignment we get, but we will not take the same amount out of every account. Some accounts have higher priorities. Surely my colleagues believe that. I would think that we could do a better job, if we get the assignment a week or 10 days from now and do whatever we have to at that time.

Another point: It will cost more money to reprogram all the computers that have to be reprogrammed twice than we are going to save by this. We are going to have to take a little percentage, a few dollars, a few cents, out of the benefit programs and various other programs. It will cost more money to administer it than it is worth.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. The question is on the amendment offered by the gentleman from Illinois [Mr. Michel].

The question was taken; and the Speaker announced that the noes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 186, noes 224, not voting 24, as follows:

[Roll No. 437]

AYES—186

Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bereuter
Bliley
Boehlert
Bosco
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Campbell (CA)
Chandler
Clarke
Clinger
Coble
Coleman (MO)
Combest
Condit
Conte
Coughlin
Cox
Craig
Crane
Dannemeyer
Davis
DeLay
Derrick
DeWine
Dickinson
Dornan (CA)
Douglas
Dreier
Duncan
Edwards (OK)
Emerson
English
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Geren

Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Grant
Green
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Herger
Hiler
Hopkins
Houghton
Hubbard
Hunter
Hyde
Inhofe
Ireland
James
Johnson (CT)
Kasich
Kolbe
Kyl
Lagomarsino
Lancaster
Laughlin
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lukens, Donald
Machtley
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morrison (WA)
Murphy
Myers
Nielson
Owens (UT)
Oxley
Packard
Pallone
Parker
Pashayan
Patterson
Paxon
Petri
Pickle
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland (CT)
Saiki
Sarpalius
Saxton
Schaefer
Schiff
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skaggs
Skeen
Slattery
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stallings
Stangeland
Stearns
Stenholm
Sundquist
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Whittaker
Wylie
Young (FL)

NOES—224

Ackerman
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Bilirakis
Boggs
Bonior
Borski
Boucher
Boxer
Brennan
Brooks
Browder
Bruce
Bryant
Bustamante
Byron
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins
Conyers
Cooper
Costello
Coyne
Darden
de la Garza
DeFazio
Dellums
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gray
Guarini
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horton
Hoyer
Huckaby
Hughes
Hutto
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Panetta
Parris
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Pickett
Poshard
Price
Rahall
Rangel
Ray
Richardson
Roe
Rose
Rowland (GA)
Roybal
Russo
Sabo
Sangmeister
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stokes
Studds
Swift
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Unsoeld
Vento
Visclosky
Volkmer
Walgren
Washington
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Yatron
Young (AK)

NOT VOTING—24

Alexander
Brown (CA)
Campbell (CO)
Courter
Crockett
Dymally
Hall (OH)
Hawkins
Hayes (LA)
Henry
Holloway
Jacobs
Jones (NC)
Leath (TX)
Madigan
Robinson
Rostenkowski
Smith, Denny (OR)
Stark
Stump
Towns
Udall
Wilson
Yates

☐ 0325

Mr. BARNARD changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

LEGISLATIVE PROGRAM

(By unanimous consent Mr. Michel was allowed to speak out of order for 1 minute.)

Mr. MICHEL. Mr. Speaker, before putting the question on final passage I would like to ask the distinguished majority leader to have a brief exchange with respect to the program.

I am happy to yield to the distinguished majority leader so that he might advise the Members on what the program would be, if any.

Mr. GEPHARDT. I thank the gentleman for yielding.

My understanding is that the Senate will take up the budget conference at 2 p.m., and they have a 10-hour debate rule. Therefore, we want to ask unanimous consent for recess authority so that we can come in at 8.

I would say to the Members that we would give 2-hour notice through the cloakrooms if there would be a need for any votes after 8. We could anticipate the Senate would probably finish the budget around 10 or 12, and they will then take up this continuing. We would then need to stand by any changes that they might make, conference reports, et cetera. Obviously we need to be standing by in order to get this done.

So Members should know that it could be 2, 3, or 4 o'clock in the morning when they might be needed here for a vote. Again, we will give 2 hours notice through the cloakroom.

Mr. MICHEL. On that request I see no reason for objection because of the ungodly hours again that may be required, and quite frankly, the way the other body does business sometimes it may not require a vote on our side, and it would be best just to check in. Members may not have to come for any kind of official business after that hour.

PERMISSION FOR SPEAKER TO DECLARE RECESSES

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare recesses on the legislative day of Monday, October 8, 1990, subject to the call of the Chair.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CRANE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 305, noes 105, not voting 24, as follows:

[Roll No. 438]

AYES—305

Ackerman
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Browder
Bruce
Bryant
Bustamante
Byron
Campbell (CA)
Cardin
Carper
Carr
Chapman
Clarke
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Coyne
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray
Guarini
Hall (TX)
Hamilton

Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hefley
Hefner
Hertel
Hoagland
Hochbrueckner
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
James
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Leach (IA)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Machtley
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Payne (NJ)
Payne (VA)
Pelosi
Perkins
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rose
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sarpalius
Savage
Sawyer
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schumer
Serrano
Sharp
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
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Smith (NE)
Smith (NJ)
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Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stangeland
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauzin
Taylor
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walgren
Walsh
Washington
Watkins
Waxman
Weiss
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Rogers
Rohrabacher
Ros-Lehtinen
Sangmeister
Saxton
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stearns
Sundquist
Tauke
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon

NOES—105

Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bliley
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Coble
Cox
Craig
Crane
Dannemeyer
DeLay
Dickinson
Dornan (CA)
Douglas
Dreier
Duncan
Edwards (OK)
Fawell
Fields
Frenzel
Gallegly
Gallo
Gillmor
Gingrich
Goss
Grandy
Green
Gunderson
Hancock
Hansen
Hastert
Herger
Hiler
Hopkins
Hunter
Hyde
Inhofe
Ireland
Johnson (CT)
Kasich
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lukens, Donald
Marlenee
Martin (IL)
McCandless
McCollum
McEwen
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Myers
Nielson
Oxley
Packard
Paxon
Pease
Penny
Petri
Porter
Pursell
Quillen
Rhodes

NOT VOTING—24

Alexander
Brown (CA)
Campbell (CO)
Courter
Crockett
Dymally
Hall (OH)
Hawkins
Hayes (LA)
Henry
Holloway
Jacobs
Jones (NC)
Leath (TX)
Madigan
Robinson
Rostenkowski
Smith, Denny (OR)
Stark
Stump
Towns
Udall
Wilson
Yates

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So the joint resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. PANETTA. Mr. Speaker, I was unable to be present to vote in favor of the Senate amendments to House Joint Resolution 666, the continuing appropriations resolution. Had I been present, I would have voted for the resolution.

ADJOURNMENT TO MONDAY, OCTOBER 8, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns this morning it adjourn to meet at 8 p.m. on Monday, October 8, 1990.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

By unanimous consent, leave of absence was granted to:

Mr. Henry (at the request of Mr. Michel), for today through Wednesday, October 10, on account of death in the family.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 427. An act to designate the Federal Building located at 1801 Gulf Breeze Parkway, Gulf Breeze, FL, as the "Bob Sikes Visitor Center", to the Committee on Interior and Insular Affairs.

S. 2879. An act to amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration and other services necessary for the John F. Kennedy Center for the Performing Arts, and for other purposes; to the Committee on Public Works and Transportation.

S. 3068. An act to establish the Office of Take Pride in America, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 3062. An act to transfer the responsibility for operation and maintenance of Highway 82 Bridge at Greenville, MS, to the State of Mississippi and Arkansas; to the Committee on Public Works and Transportation.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 4758. An act to provide for the construction, operation, and maintenance of an extension of the American Canal at El Paso. TX.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 247. An act to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such Act, and for other purposes;

S. 830. An act to amend Public Law 99-647, establishing the Blackstone River Valley National Heritage Corridor Commission, to authorize the Commission to take immediate action in furtherance of its purposes and to increase the authorization of appropriations for the Commission; and for other purposes;

S. 2437. An act to authorize the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park, and for other purposes.

ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 45 minutes a.m.) under its previous order, the House adjourned until today, Monday, October 8, 1990, at 8 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

[Omitted from the Record of October 6, 1990]

4014. A letter from the Comptroller General, General Accounting Office, transmitting a copy of a report entitled "Implementing Strategic Management Process Would Improve to Veterans"; jointly, to the Committees on Veterans' Affairs and Government Operations.

[Submitted October 7, 1990]

4015. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend chapter 631 of title 10, United States Code, authorizing additional foreign countries to acquire supplies and services from the Department of the Navy; to the Committee on Armed Services.

4016. A letter from the Secretary of Education, transmitting the annual report on Indian Education Act part a formula grant projects for fiscal year 1987, pursuant to 20 U.S.C, 241aa nt.; to the Committee on Education and Labor.

4017. A letter from the Administrator, Health Care Financing Administration, transmitting a report on the Rural Health Care Transition Grant Program, pursuant to 42 U.S.C. 1395ww nt.; to the Committee on Energy and Commerce.

4018. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of defense equipment sold commercially to Japan (Transmittal No. DTC-31-90), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

4019. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of defense equipment sold commercially to Japan (Transmittal No., DTC-25-90), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOAKLEY: Committee on Rules. House Resolution 497. Resolution waiving the requirement of clause 4(b) of rule XI, against consideration of certain resolutions reported from the Committee on Rules (Rept. 101-819). Referred to the House Calendar.

Mr. PANETTA: Committee of conference. Conference report on House Concurrent Resolution 310; with amendment (Rept. 101-820). Ordered to be printed.

Mr. MOAKLEY: Committee on Rules. House Resolution 498. Resolution providing for consideration of House Joint Resolution 666, a joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes (Rept. 101-821). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII.

Mr. WHITTEN introduced a joint resolution (H.J. Res. 666) making further continuing appropriations for fiscal year 1991, and for other purposes; jointly, to the Committees on Appropriations and Ways and Means.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

[Omitted from the Record of October 6, 1990]

535. By the SPEAKER: Memorial of the Legislature of the State of California, relative to the National Collegiate Athletic Association; to the Committee on Education and Labor.

536. Also, memorial of the Legislature of the State of California, relative to broadcasting emergency information; to the Committee on Energy and Commerce.

537. Also, memorial of the Legislature of the State of California, relative to supporting the opposition of the United States to the Iraqi invasion and annexation of Kuwait; to the Committee on Foreign Affairs.

538. Also, memorial of the Legislature of the State of California, relative to a Dollar for Dollar Act; to the Committee on Government Operations.

539. Also, memorial of the Legislature of the State of California, relative to the Aleda E. Lutz Department of Veterans Medical Center in Saginaw, MI; to the Committee on Veterans' Affairs.

540. Also, memorial of the Legislature of the State of California, relative to immigration employer sanctions; jointly, to the Committees on the Judiciary and Education and Labor.

541. Also, memorial of the Legislature of the State of California, relative to transportation policies; jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4591: Mr. Vento.

H.R. 5671: Mr. Frost, Mr. Skeen, and Mrs. Johnson of Connecticut.

H.R. 5751: Mr. Jontz.

H.R. 5771: Mr. Hiler and Mr. Campbell of Colorado.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

[Omitted from the Record of October 6, 1990]

242. By the SPEAKER: Petition of the Association of Pacific Island Legislatures, relative to disposing of chemical weapons on Johnston Island; to the Committee on Armed Services.

243. Also, petition of the Puerto Rico Manufacturers Association, relative to Puerto Rico's future political status; to the Committee on Interior and Insular Affairs.

244. Also, petition of the Association of Pacific Island Legislatures, relative to pay claims of Micronesian former employees of the Trust Territory government; to the Committee on the Judiciary.

245. Also, petition of the American Public Transit Association, relative to trust fund and motor fuel tax concerns; jointly to the Committees on Ways and Means and Public Works and Transportation.

[Submitted October 7, 1990]

246. By the SPEAKER: A petition of the Board of County Commissioners, Broward County, FL, relative to the WIC Program; to the Committee on Education and Labor.

EXTENSIONS OF REMARKS

H.R. 971 AS AMENDED BY THE SENATE

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 7, 1990

Mr. MARKEY. Mr. Speaker, the Senate-passed bill represents a compromise between H.R. 971, which passed this body on September 25, 1989, and S. 1660 as it was passed by the Senate Commerce Committee. The differences between the two bills are minimal and in most regards are technical drafting changes. The most significant change is that the Senate establishes specific statutory requirements for operator services providers [OSP's] and aggregators, who make telephones available to the public, rather than initiating a Federal Communications Commission [FCC] rulemaking procedure to impose the same regulatory requirements as did H.R. 971. In addition, to ensure that the FCC has the full administrative authority embodied in the Communications Act of 1934, the legislation is redrafted as an amendment to title II of the Communications Act.

REQUIREMENTS FOR OPERATOR SERVICES PROVIDERS (OSP'S)

The compromise amends the Communications Act to include provisions for providers of operator services. This section states that at a minimum, an OSP shall identify itself at the beginning of each telephone call and before a consumer incurs any charge for the call. It requires that a consumer be permitted to terminate a telephone call at no charge before the call is connected. Upon the customer's request, the OSP's must fully disclose the charges and methods by which the charges are collected and how complaints regarding such rates will be resolved.

The compromise also prohibits billing for unanswered telephone calls in equal access areas and, to reflect technical difficulties in nonequal access areas, requires OSP's to take necessary steps so that they do not knowingly bill for unanswered telephone calls. It requires OSP's to withhold payment of compensation to aggregators who block consumer's 950 and 800 access to interstate common carriers. This section prohibits the use of call splashing, which is the billing of a call from a location other than the call's origination points as a result of a call transfer between OSP's. In addition, OSP's who bill to a billing card issued by another carrier are prohibited from billing at rates greater than the rate of the issuing OSP unless the consumer consents. This language reflects the minimum requirements that were to be incorporated into the FCC's rulemaking proceeding in H.R. 971.

Furthermore, the compromise adds a requirement to the provision regarding the identification of the presubscribed OSP. This new requirement mandates that for the first 3 years, the OSP identify itself for a second time before connecting the call and before the consumer incurs any charge.

The legislation defines operator services as any interstate telecommunications service which includes automatic or live assistance to the consumer. This bill is not directed toward the traditional operator services provided by the local exchange carriers in their telephone service areas since they are already regulated by State authorities.

At a House Subcommittee on Telecommunications and Finance hearing, testimony was offered regarding a new billing service, known as billed party preference. Proponents contend that this emerging technology could give customers the ability to have their operator-assisted calls handled and billed by the carrier of their choice. Because at the time of consideration of this legislation the feasibility and benefits of this technology were yet to be determined, billed party preference was not addressed.

REQUIREMENTS FOR AGGREGATORS

Again, that compromise amends the Communications Act of 1934 to mandate that aggregators who make telephones available to the public meet the minimum requirements that H.R. 971 would have imposed through FCC rulemaking proceeding. This section requires the aggregators to post identifying information regarding the name, address, and toll-free number of the provider and a written disclosure that rates are available upon request. This section incorporates the condition that aggregators provide access to 800 and 950 numbers and ensures that no charge associated with access to such services is greater than the aggregators' charges for calls placed using a presubscribed OSP.

The compromise also added two new requirements. First, aggregators must provide the name and address of the enforcement division of the Common Carrier Bureau of the FCC on or near the telephone. This will assist those consumers who may have complaints regarding operator services by directing them to notify the appropriate Federal Government agency. Second, the compromise includes a new provision that waives the requirements for aggregators outlined in the legislation if State law or State regulation requires the aggregators to take actions that are substantially the same as those required by this section. This language will ensure that aggregators are not subject to requirements already covered by State law or regulation.

RULEMAKING PROCEEDING

These provisions mirror the requirements in H.R. 971 except for a change in the timing of the FCC rulemaking. The FCC is allowed 210 days to complete a rulemaking to enforce the provisions of the bill. The time period for compliance with these rules is reduced from 90 to 45 days. Congress granted the FCC additional time to conduct its rulemaking proceeding because certain other provisions, that were most necessary to protect consumers, are required through statute to be implemented 30 days after the enactment of the legislation. The compromise stipulates that the FCC must develop provisions in its regulations for the implementation of each of the requirements of the section and, like H.R. 971, allows the FCC to establish other such provisions determined to be necessary to fulfill the obligations of this section.

The compromise incorporates the language in H.R. 971 that ensures consumer safety is not hindered by this legislation. It retains the requirement in H.R. 971 mandating that the regulations establish minimum standards for the handling of emergency telephone calls. Moreover, it mandates that a Federal policy for informing the public of recent changes in the choices of operator services available to consumers in the market be drafted and implemented.

The compromise establishes a separate rulemaking proceeding on access and compensation to be completed within 9 months of the date of enactment. The FCC must establish rules requiring that aggregators ensure that consumers can access the carrier of their choice through the use of equal access codes, for example, 10XXX, or ensure that OSP's make available to consumers; 950 and 800 access from anywhere in the United States. The language provides that the FCC allow a reasonable period of time for the aggregators or the OSP's to meet the requirements imposed in this section. This language clarifies and improves on the access provisions in H.R. 971 by requiring that the FCC choose the preferred regulatory method to guarantee consumers have access to any OSP from every public phone.

The compromise retains House language requiring the FCC to consider the need for prescribing compensation to aggregators to cover the cost, if any, of routing calls for OSP's, other than for the presubscribed provider of operator services. This language reflects Congress' belief that the FCC should make a determination on the issue of compensation for aggregators.

TECHNOLOGICAL CAPABILITY OF EQUIPMENT

The provisions of H.R. 971 that address the technological capabilities of equipment were expanded to include software. Thus, any equipment and software manufactured or imported more than 18 months after enactment of this legislation and installed by any aggregator shall be capable of providing consumers with the access to interstate OSP's through the use of equal access codes.

FRAUD

The House language that requires the Commission to protect aggregators against exposure to undue risk of fraud was left unchanged in the amended version.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

RATE COMPLIANCE

The compromise likewise incorporates the provisions of H.R. 971 regarding the filing, review, and waiver of informational tariffs. Each OSP is required to file and keep open for public inspection an information tariff. The informational tariff would not only include the data specified in H.R. 971, but also would require OSP's to file reasonable estimates of the amount of traffic priced at each rate. The compromise adds to the House language by stipulating that any changes in rates, terms, or conditions of operator services be filed no later than the first day on which the changed rates, terms, or conditions are in effect.

If, in the review of informational tariffs, the FCC finds that the rates of any OSP appear unjust or unreasonable, the FCC may require such provider to demonstrate that its rates and charges are just and reasonable. Similarly, the FCC could supplement or replace this obligation by requiring that the OSP announce, at the beginning of each call, that its rates are available upon request.

Finally, the FCC must conduct a proceeding to determine whether the objectives embodied in the legislation are being achieved and report its findings to Congress. The proceeding will monitor and determine if the operator services industry is providing consumers with improvements in service quality, price, innovation, and other factors. If the FCC determines, through its review of the proceedings, the OSP's rates are unjust and unreasonable, the FCC must establish regulations to limit the amount of commissions or any other compensation given to aggregators by OSP's. However, if the FCC finds in its review that market forces are securing rates and charges that are just and reasonable, it may conclude that regulation of OSP's rates is not required.

BUDGET CRISIS

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 7, 1990

Mr. ANDREWS. Mr. Speaker, sometimes we in Congress are forced to choose between the lessor of two evils. It is not a pleasant task, but it is our responsibility to make these tough choices.

The deficit reduction package before us presents such a difficult choice.

We are forced into this situation by the way we now make our budgets—through highly charged summits that reach an accord just hours before the Federal Government can no longer pay its bills. This system narrows our choices dramatically. We are forced to choose between this budget and the mindless devastation of the Gramm-Rudman ax. I know of no one who would argue that this is a responsible or rational way to run our Nation's business.

I do not believe this is the best package we could come up with. While the plan spreads the burden across a broad section of the country, it requires more belt tightening from some than it does from others. Also, this package does little to advance important policy goals. For example, we should be reducing deaths from smoking through significant excise tax increases on tobacco products.

Obviously, reducing the Federal budget deficit will require many sacrifices. Yet, we must reduce the defict. There is no more.

It is my hope that the Committee on Ways and Means, on which I serve, will soon have an opportunity to work on this budget summit plan and reduce the more onerous portions of the package while spreading the burden with more equity.

Often we are constrained into choosing between the lesser of two evils. In this instance, the budget plan is preferable. Under Gramm-Rudman, Federal programs and services would be gutted and our economy would surely plummet.

For years, many of us have argued that deficit reduction is the Nation's top priority. Even though this bill falls short in some respects, it is the largest deficit reduction plan that we have ever considered. Let our actions today reflect our words of yesterday.

We cannot escape the fact that the Federal budget deficit has put us to the wall. The economy is growing weak, the deficit is too large, and projections on inflation and interest rates are bad. The mask of accounting gimmickry has fallen off; we must significantly reduce this deficit.

This agreement is not the one I would write. But the choice today centers on a much larger issue: Whether we shut down the Federal Government and wreak economic chaos, or we take responsible action to reduce the Federal budget deficit.

HOUSE OF REPRESENTATIVES—*Monday, October 8, 1990*

The House met at 8 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May we be open, O God of love, to Your gracious gifts to us—the gifts of wisdom for our minds and integrity for our souls, for a clarity in our vision that transcends our personal needs and for a spirit of respect and honor in all our relationships. Give us, we pray, the patience to truly listen and the courage to speak what we believe to be right. Above all else, O God, we recognize that You have called us to be Your people at this time with all the responsibilities of this day. Whatever our task may we remember our duty to do justice, to love mercy, and ever to walk humbly with You. This is our earnest prayer. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The **SPEAKER**. The Chair will ask the gentleman from Oklahoma [Mr. INHOFE] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. **INHOFE** led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. **GEPHARDT**. Mr. Speaker, I would like to state to the House the schedule for this evening. We are still awaiting action in the Senate on both the budget conference and on the continuing appropriation. We understand now that it may happen before midnight on both matters, but we do not know that, and so we are standing by to see when the continuing will be passed.

I think it is likely the continuing will have some differences with the bill that we passed here, so it is likely that some action will have to be taken on the House floor. We will give all Members 2 hours' notice through our respective cloakrooms and whip operations so that Members will be able to get back to the floor in case there is a recorded vote needed.

Mr. **QUILLEN**. Mr. Speaker, will the distinguished majority leader yield?

Mr. **GEPHARDT**. I am happy to yield to the gentleman from Tennessee.

Mr. **QUILLEN**. Mr. Speaker, the Senate has just started, and the word I have is that it will be at least 8 hours or longer, and coming back in at 8 0'clock tonight without any realistic view of what we are doing really is most unfair to the Members.

We have been in session now two consecutive Sundays, and since World War II, I think this makes history, and saying that it probably will be midnight, has the gentleman a reading from the Senate, or is that just speculation?

Mr. **GEPHARDT**. I have had a conversation with the majority leader in the Senate. He said they have a unanimous-consent agreement that the continuing appropriation could be taken up out of order, in other words, they could break into the budget consideration and take up the continuing appropriation. That is why he felt it may happen between now and midnight; it was a good likelihood that that could happen and, therefore, that is why I said what I did.

Mr. **QUILLEN**. If the distinguished majority leader will continue to yield, do we intend to come back in just for the continuing resolution and pass that or disagree with it, and then come back later for the budget conference report?

Mr. **GEPHARDT**. We do not have to take further action on the budget conference report if the Senate approves it. That is the end of it. We would have an agreement on the conference report.

The only matter we really have to deal with tonight is the continuing appropriation, and we hope to be able to do that.

Mr. **QUILLEN**. If the gentleman will yield further, if they make some changes in the budget resolution, does the gentleman intend to do that this evening?

Mr. **GEPHARDT**. If changes are made, there would either have to be a conference to deliberate on those changes and to come up with a conference report or there would have to be an attempt here to pass the changed bill on this side, so that it would meet up and conform with the bill they passed on their side.

Mr. **QUILLEN**. If the gentleman will continue to yield, does the gentleman intend to do that this evening in the event changes are made?

Mr. **GEPHARDT**. We hope to, because as the gentleman knows, tomorrow morning, very early, Federal employees will have to know whether they are able to go to work, and we want to try to get this done before then.

Mr. **QUILLEN**. I thank the gentleman for yielding.

Mr. **SOLOMON**. Mr. Speaker, will the distinguished majority leader yield further?

Mr. **GEPHARDT**. I am happy to yield to the gentleman from New York.

Mr. **SOLOMON**. Mr. Speaker, I would ask the majority leader if it is our understanding that the continuing resolution may be modified to perhaps move the date from October 20 back to October 12, which was the Michel amendment on the floor here the other day, and that they might further modify it to continue the appropriations at last year's level? If that is the case, is it acceptable to the majority so that there would not be any disagreement over on this side as far as the leadership is concerned?

Mr. **GEPHARDT**. We are still consulting with the committee chairmen here and other members on the committee. We have not made a decision. The latest information I had was they were considering the date to the 19th and using on the domestic side, I guess, last year's numbers, and then on the defense number, using a number between where the House was and where the Senate was. That is the latest I have heard. We will just have to wait and see what they come up with.

Mr. **SOLOMON**. I would just ask again, is that acceptable to the majority side as far as the gentleman knows?

Mr. **GEPHARDT**. It may well be. We have not finally gotten an answer to that question, but we will work toward that end.

Mr. **SOLOMON**. I certainly thank the gentleman for yielding.

Mr. **GEKAS**. Mr. Speaker, will the gentleman yield?

Mr. **GEPHARDT**. I am happy to yield to the gentleman from Pennsylvania.

Mr. **GEKAS**. Mr. Speaker, just to sum up what was said here, the budget resolution itself is of no relevance with respect to whether or not we pass it tonight or tomorrow if the Senate should change it or the next day or the following day. It is simply the CR, the continuing resolution, which is at stake.

In following up what the gentleman from New York asked, if the changes made by the Senate are in conformity with those preagreements made, there would only be one vote, up or down, just to conform with the Senate amendment? Is that correct, from our standpoint?

□ 2010

Mr. **GEPHARDT**. I believe that is correct.

Mr. **GEKAS**. If the gentleman will continue to yield, so that then the Senate would be through with the CR totally, and the final action would be taken here in plenty of time before the first bell rings for the Federal employees tomorrow morning?

Mr. **GEPHARDT**. That is the hope.

Mr. **GEKAS**. I thank the gentleman. I would simply urge that whatever agreement is reached, that it would be one that we can act on quickly over here in the House. I thank the majority leader.

Mr. **MONTGOMERY**. Mr. Speaker, will the gentleman yield?

Mr. **GEPHARDT**. I yield to the gentleman from Mississippi.

Mr. **MONTGOMERY**. Has the time been set tomorrow, what time we will come into session?

Mr. **GEPHARDT**. We will have to make that announcement later when we see what transpires tonight. If we cannot get the continuing done, we may have to be here. It may be that we will not have business here tomorrow.

Mr. **MONTGOMERY**. The time is not set when we come in tomorrow?

Mr. **FRENZEL**. Will the gentleman yield?

Mr. **GEPHARDT**. I yield to the gentleman from Minnesota.

Mr. **FRENZEL**. It looks like it will take a long time over in the Senate to do the job. I assume that the distinguished majority leader will be asking for recess authority?

Mr. **GEPHARDT**. I think we asked for that and obtained it last evening.

Mr. **FRENZEL**. Can the gentleman detail what the recess authority is? Would the gentleman talk about this now?

Mr. **GEPHARDT**. I would be happy to.

Mr. **FRENZEL**. I think it is important that the Members know what we are talking about. It seems to me if it will take a long time, we ought to recess to a time certain, so the Members are not hanging around here, if it is unnecessary for them to do so.

Mr. **GEPHARDT**. What I had suggested was that we offer to give Members 2 hours' notice so that they do not have to stay here if they are close enough that 2 hours is enough that they can get back here. I think they ought to go home until we know where we are.

Again, we are hopeful that the Senate will do its work on the continuing, interrupting the budget, and get it over here before midnight so we can get it done here.

Mr. **FRENZEL**. Is the gentleman aware that there would be a vote if, as we anticipate, the Senate has amended the CR? That a voice vote will not satisfy here?

Mr. **GEPHARDT**. There is no reason that I know of that we could not do it without a vote, unless the gentleman intends to ask for a vote. If he does, we will have a vote.

Mr. **FRENZEL**. The gentleman is perfectly content to scream a loud no, but I think there are Members that are going to want to vote on it. I think the leadership should understand that.

Mr. **GEPHARDT**. I understand.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS

Mr. **GEPHARDT**. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The **SPEAKER**. Is there objection to the request of the gentleman from Missouri?

There was no objection.

THANK YOU, AT&T

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **DE LA GARZA**. Mr. Speaker, I take this time to inform my colleagues of a very helpful and salutary aspect of corporate America. A couple of days ago in the middle of the night the phone rang and I answered it, and a voice said, "This is your AT&T free call from Saudi Arabia." The next words that I heard were, "Hi, Dad," and it was our son who was over there.

On behalf of all of the families, parents, wives, and the children of those men and women over there, I would like to say a very sincere thank you to the AT&T family, from your highest executive down to your technicians, and your linemen, and everyone that is employed by AT&T for making this available to our men and women who are serving in Saudi Arabia. Thank you, thank you, thank you.

CONGRESS HAS FAILED

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **KOLBE**. Mr. Speaker, we have heard them all by now. We have heard all those jokes about Congress. Members know, the one about the National Zoo being closed, but it does not make any difference because all the monkeys are right here. Those kind of jokes.

As one who believes in representative government, and one who believes in this institution, those biting jokes about this Congress hurt. This night and this week, those jokes, unfortunately, are too well deserved. This Congress has failed. Last night we adopted a budget resolution so lacking in direction, so devoid of specificity, it would be laughed out of any other legislative Chamber. However, as hollow as that resolution was, it was one that should have been adopted last April by this body, a conference report that should have been adopted last May. Our Committee on Ways and Means, our Committee on Appropriations, our other authorizing committees should have been working all summer, all fall on implementing this budget. Instead, here we are, October 8, 8 days into the new fiscal year, and we are just about, just about to give some direction to our committees about how to draft a budget for the fiscal year 1991.

This is the failure of Congress and its leadership at its very worst. The American people deserve better of this Congress, and they expect better. Let Members resolve to give that to them tonight. Let Members get this job done.

PROGRAMS CUTS NECESSARY

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **BENNETT**. Mr. Speaker, everybody in this country, in fact throughout the world, most people are looking at the budgetary problems the United States has tonight. However, there is one thing we are not looking at, and well we should, and that is that there really is not any real good way to balance the budget, and get ourselves in good fiscal situation, unless we meet the desires of our constituents to not pay additional taxes and do it in a way that we eliminate programs in the Federal Government. In the last 25 or 30 years, the United States has added many grant programs and other programs very needed, very helpful, very wonderful, to help a lot of people and a lot of different things, but the people of the United States are saying in no uncertain terms that they do not want to pay for it. So the best thing we can do in the oncoming months, we cannot do it before the end of this year I am afraid, we really ought to look at what programs we have that we could dispense with. Then there are some that are not really properly run, because of the looseness of the

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□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

structure. Some could be modified. However, it is much better to actually eliminate some of these grant programs which are bankrupting the U.S. Government, on the basis of the present income we have.

There is no trickery, no mystery, no something that is going to be discovered that is going to make it possible for Members to continue the affluent and spendthrift Government that we now have, for all these very good projects that are very good things, but we will just have to cut out some of these programs.

RECESS

The **SPEAKER** pro tempore (Mr. Mrazek). Pursuant to the order of the House of earlier today, the Chair declares the House in recess subject to the call of the Chair. Notice will be given 2 hours prior to reconvening, and bells will be rung 15 minutes before the House reconvenes.

Accordingly (at 8 o'clock and 19 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1250

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 o'clock and 50 minutes a.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is required, a joint resolution of the House of the following title:

H.J. Res. 666. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask for this time that I might proceed for 1 minute to inquire of the distinguished majority leader the program for this evening, or this morning, and for the next several days if that is possible.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the distinguished majority leader.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman.

We are in a few moments going to take up the continuing resolution. There are some differences in the Senate, so we will be taking it up here and having a vote in a few minutes.

Our plan is to not have a session on tomorrow, or today, Tuesday.

On Wednesday, we will have a meeting at noon. We will consider a number of suspensions. The vote will be held until the completion of all of the suspensions, and then we will, after that, after those votes, have the override of the textile bill.

Then on Thursday and Friday, we have a number of bills that we had talked about. There will be conference reports. We will be meeting all day and probably into the night on both of those days.

We will not have votes on Saturday or Sunday. We are getting used to that, but we are not going to do that this weekend.

Then obviously the next week will be very intense, and we have a lot of committee activity going on this week and next.

Mr. MICHEL. Will we have a list of those suspensions that will be scheduled for Wednesday?

Mr. GEPHARDT. Yes.

Mr. MICHEL. Are those already in the whip notice and that has not changed any?

Mr. GEPHARDT. Yes. The gentleman is correct.

Mr. MICHEL. Then we will roll the votes on Wednesday until they have all be concluded? I forget what the number is, but it was an extensive list, nearly 30.

Mr. GEPHARDT. Forty-three.

Mr. MICHEL. Then after that we would have the vote to either sustain or override the President's veto on the textile bill?

Mr. GEPHARDT. That is right.

Mr. MICHEL. I would underscore the point, as the distinguished majority leader said, that means working late Wednesday, Thursday, and Friday. The schedule is really closing in on us.

Mr. Speaker, while I have just a moment, if I might take this opportunity, because in all the furor over the last several days, one thing and another, I have never really had an opportunity to express my own feelings of appreciation for the manner in which the majority leader conducted himself as chairman of those prolonged, elongated, extensive summit deliberations. He has the patience of Job, and his ears just got bigger and bigger and bigger. He had to listen, listen, listen, and it is a traumatic experience to have to weather the storm all that time. I applaud him for what he has done.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield one moment, let me return to the compliment by the minority leader. There were many, many times when the going got rough, and I think everybody in this body knows that all of us believe that Bob Michel is the finest human being that we have known, and certainly one that I am proud to know, and I am proud to have been working with you in this effort, and I appreciate all that you did.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I would just like to find out if we are going to roll those votes on Wednesday, does the gentleman have any idea what time on Wednesday we will have our first vote for those of us who may be out of town?

Mr. GEPHARDT. If the gentleman will yield further, we cannot give the gentleman a certain time, but there are 43 different bills. I would say late in the afternoon, 5 or 6 o'clock would be a good guess.

Mr. BURTON of Indiana. If the gentleman will yield further, if we planned on being back here Wednesday at 5 o'clock, we should not miss any votes then?

Mr. GEPHARDT. That is correct.

Mr. MICHEL. We cannot guarantee it, I do not think.

Mr. GEPHARDT. Right.

Mr. MICHEL. But it stands to reason that if we do not come in until 12, 43 bills, the arithmetic tells us it is going to be very late.

TRIBUTE TO THE CHAIRMAN OF THE COMMITTEE ON APPROPRIATIONS

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, I would like to proceed for 1 more minute out of order, because I know we are going to move now to this appropriation bill.

I would also like to commend the chairman of the Committee on Appropriations who has been so willing and able to deal with so many continuing resolutions of different time periods. I think all of us in the Chamber appreciate his ability and willingness and capacity to deal with this and help us get through these continuing appropriations, and I want the chairman to know that I personally very much appreciate his help in a very difficult period.

ADJOURNMENT FROM LEGISLATIVE DAY OF MONDAY, OCTOBER 8, 1990, TO WEDNESDAY, OCTOBER 10, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns on the legislative day, of Monday, October 8, 1990, it adjourn to meet at noon on Wednesday, October 10, 1990.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION TO CONSIDER BILLS UNDER SUSPENSION OF THE RULES ON WEDNESDAY, OCTOBER 10, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the House be able to consider bills under suspension of the rules on Wednesday, October 10, 1990.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

POSTPONING CONSIDERATION OF VETO MESSAGE ON H.R. 4328, TEXTILE, APPAREL, AND FOOTWEAR TRADE ACT OF 1990, NOTWITHSTANDING ORDER OF THE HOUSE OF FRIDAY, OCTOBER 5, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that notwithstanding the order of the House of Friday, October 5, 1990, that further consideration of the veto message on H.R. 4328, the Textile, Apparel, and Footwear Trade Act of 1990 be postponed until Wednesday, October 10, 1990.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1991

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 666) making further continuing appropriations for the fiscal year 1991, and for other purposes, with Senate amendments thereto, and consider the Senate amendments in the House.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendments, as follows:

Senate amendments:

In subsection 101(b), after "the Senate as of October 1, 1990," insert "or at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990,".

In section 103, strike out "$262,969,000,000" and insert "$265,369,000,000".

In subsection 108(c), strike out "October 20, 199,language to their respective Budget Committees should be October 12.

(b) The Budget Committees should report the reconciliation bills no later than close of business October 13.

(c) It is the Sense of the Senate that the Senate should begin consideration of the reconciliation bill on the first day of session following its report by the Budget Committee.

□ 0100

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I move to concur in Senate amendments Nos. 1, 2, 3, 4, and 5.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. WHITTEN moves to concur in Senate amendments Nos. 1, 2, 3, 4, and 5.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume, and I appreciate the comments made by the majority leader very much.

May I say that our committee on Appropriations does have its hands full this year particularly because we have been delayed repeatedly, for one reason or another, and we have cooperated in connection with it. The first continuing resolution that we first reported went for 20 days, and we were asked to drop back to 5. The second one went until October 20 and we were asked to go to the 12th. This resolution went to the 20th, and now I come here tonight and the Senate had made an amendment making it the 19th instead of the 20th. These are examples of some of the recent actions of the Congress, beyond our control, which may once again bring us to a point where a continuing resolution for the rest of the year may be the only way to complete our work in a timely manner—which none of us desire.

At this time, I move to concur in the Senate amendments, and prior to a vote, I would like to point out that the amendments are thought to be important on their side. I do not think they are doing any material harm to the House position, and for that reason I do support them, but particularly in view of the fact that we all need to get through and get home. For that reason, I move to concur in Senate amendments 1, 2, 3, 4, and 5.

The SPEAKER. The gentleman from Mississippi [Mr. Whitten] is recognized for 1 hour.

Mr. WHITTEN. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. Conte] for purpose of debate only pending which I yield myself such time as I may consume.

May I say here, it has been a privilege to cooperate with my good friend, the gentleman from Massachusetts [Mr. Conte] these recent weeks when we have had many, many things to contend with.

Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker. I yield myself such time as I may consume.

Mr. Speaker, at the outset, I want to commend my counterpart, the chairman of the Committee on Appropriations, the gentleman from Mississippi [Mr. Whitten]. We have had a very, very difficult year. He has been most cooperative. I appreciate the cooperation he has given me.

I rise in support of the Senate amendments, Mr. Speaker, as I understand it, for spending in the appropriations bills, the Senate amendments would require that the rate of spending, while this continuing resolution is in effect, be at the lower of the House-passed bill, the Senate-passed bill or fiscal year 1990.

Under the continuing resolution as it passed the House, the rate for bills that had passed both the House and the Senate was to be at the lower of the two bills. The Senate amendment adds a third level, last year's level, and so would prevent any increases in spending over last year's level. This would impact on five appropriations bills: Treasury/Postal; Transportation; Energy and Water; D.C.; and Agriculture. This means no appropriations will now be spending at a rate higher than in fiscal year 1990, although they may be spending less.

If this spending rate were in effect for a full year, it would have the effect of reducing the rate of budget authority by as much as $11.3 billion. It is impossible to know exactly, because you have to go through each bill account by account.

For defense, the Senate amendments raise the annual amount on which spending under this CR is based by some $3 billion.

In addition, the Senate amendments change the expiration date of the CR, sequester suspension, and the debt ceiling from October 20 to October 19, and set forth a sense of the Congress timetable for the legislation that will need to be enacted to carry out the budget resolution.

Mr. Speaker, the witching hour is near when all Federal workers and programs will be affected by not having a continuing resolution in place. We need to take action to assure the orderly functioning of the government.

If we pass these amendments, we will have prevented the shutdown of the Government. We will have slowed the spigot of spending to increase pressure in the system to carry out the budget resolution. It is the responsible thing to do.

I urge that the House agree to the amendments of the Senate.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. Michel].

Mr. MICHEL. Mr. Speaker, as most of the Members know, early this evening the other body amended the continuing resolution that we sent over to them yesterday morning, and of course we had the debate with respect to my amendment, hoping that we could at least, during the period of a continuing resolution, make this savings that we were espousing at the time, at a level that would mirror what the summit had agreed to in a proportionate sort of way.

What the Senate had done is a good compromise. I certainly support that compromise, and it is my understanding in consultation with the administration that we adopt this resolution with the Senate amendments, then we have the support of the President, and it will not be vetoed. Adoption of the amendment will open the way for the Government to resume operations, provide the Congress an opportunity to continue its work on enacting a Federal budget that substantially reduces the Federal deficit over the next 5 years.

Specifically, as both gentlemen from Mississippi and Massachusetts have pointed out, we will outline the levels as I am sure they may very well have, in detail, in the extension of remarks.

I simply want to add to that that the Senate amendment further contains a sense of the Senate language setting forth a tight schedule for the next 2 weeks. Committees are to report reconciliation legislation to the Committee on the Budget by October 12. The Committee on the Budget will then report the reconciliation bill by October 13, and floor consideration will begin as soon as possible. Final action on the reconciliation bill is anticipated by October 18.

Now, those Members who have been over the traces before, and through this procedure, know that is a big order of business to get adopted, and through our committees by that very tight schedule. I hope the House is contemplating a similar expedited schedule. It is imperative that the Congress complete action on the separate appropriation bills, and a reconciliation bill acceptable to the administration by that time.

I have been told the President would have to withhold his signature from a further continuing resolution if an acceptable reconciliation bill has not been presented to him by the date of October 19. So we have plenty of work ahead of Members, and there will have to be some late nights around here.

Mr. WHITTEN. Mr. Speaker, may I say that I am surprised at some of the statements made by my colleague and friend, the gentleman from Illinois [Mr. MICHEL].

We must, to keep this country running right, begin to do our own business. I said in my remarks of yesterday that sequestration and Gramm-Rudman, are processes where, on the threat of veto, the executive branch absolutely can control the Congress of the United States. I insisted that we are going to waive sequestration. May I say that an amendment made here by the Senate is a sense of Congress, which I do not concur with, but I do not take issue with.

We have reconciliation where we tell those who know something about it, such as the Committee on Ways and Means, what to do. That seems to be the order of the day. I want to repeat again, this matter of letting any individual close the whole country down, which will close then at 7 o'clock in the morning if we do not do this, is not sound government.

I mentioned earlier, and I believe Claude Pepper was the first I heard say it, our system of government was very similar to the Russian Troika—a chariot with three horses that had to pull together. I have done that in my service here. I believe in that, but we cannot turn over to any group the right to close everything else down unless they have their way. I say that to my good friend down the street and others. I sincerely believe we need to do that. We must insist on being an equal and important branch of Government, and run our Government as we see fit.

□ 0110

Now, in saying that I would like to point out again that since I have been chairman of this committee, we have had 155 appropriation bills; 145 have been signed, and we worked the others out; 7 we failed to override. It takes cooperation and not tricks and not a case of closing the government down unless we do as we are told.

I have gone along because I do not want to have any part in closing the government down, which would be by 7 o'clock in the morning.

The Senate amendments I think were written for the purpose of trying to get it signed. I think for that reason we will go along with it; but I repeat again, let us look after our business and trust our good friends on the other side of the avenue to look after theirs and to work with us.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendments now under consideration, and that I may include extraneous and tabular material.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to make one point about the Senate amendments before I yield my time, so we have the record straight.

In section 115 of the CR that we are going to vote on in a few minutes, it says here:

> (a) It is the sense of Congress that the date by which committees should report their reconciliation language to their respective Budget Committees should be October 12.
>
> (b) The Budget Committees should report the reconciliation bills no later than the close of business October 13.

And then section (c) of that section says:

> It is the sense of the Senate that the Senate should begin consideration of the reconciliation bill on the first day of the session following its report by the Budget Committee.

I would just like to have the record clear on that.

Mr. WHITTEN. Mr. Speaker, the gentleman is correct. That was written on the other side of the Capitol, and I reserve on that part of it.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, when I saw this plan that we are about to vote on, it struck me that this would give us a chart by which we can be clear as a Congress that we will never again have stopgap funding, never again shall we put our Federal workers in jeopardy, never again shall we see the Federal Government be threatened to be closed down.

How? All we have to do is pass legislation that will say that if we do not have a budget by the end of the fiscal year, by September 30 of each fiscal year, that automatically the next day will be reenacted one of the current levels, House levels, Senate levels, that are inherent in the proposal about which we are here tonight; so the Federal workers can forever be satisfied that they will never face a crisis like this again, nor shall the House.

In fact, I have legislation like that which I have introduced. I am going to commend it to the reconciliation process and go before the Rules Committee and ask for their support.

Never again should we have stopgap funding. Never again crisis intervention.

Mr. CONTE. Mr. Speaker, I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion to concur.

The previous question was ordered.

The SPEAKER. The question is on the motion to concur offered by the gentleman from Mississippi [Mr. WHITTEN].

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONTE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 362, noes 3, not voting 68, as follows:

[Roll No. 439]

AYES—362

Alexander
Anderson
Anthony
Applegate
Archer
Armey

Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dicks
Dixon
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Grandy
Grant
Gray
Green
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hefley
Herger
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Lukens, Donald
Machtley
Madigan
Manton
Marlenee
Martinez
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nielson
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland (GA)
Roybal
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Robert (NH)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stearns
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Traficant
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Weiss
Weldon
Wheat
Whittaker
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NOES—3

Crane
Dannemeyer
Williams

NOT VOTING—68

Ackerman
Andrews
Annunzio
Aspin
Beilenson
Berman
Brooks
Broomfield
Bunning
Carper
Crockett
Dickinson
Dingell
Donnelly
Espy
Ford (MI)
Gradison
Guarini
Hall (OH)
Hayes (LA)
Hefner
Henry
Hertel
Johnston
Jones (NC)
LaFalce
Leath (TX)
Lehman (FL)
Lipinski
Luken, Thomas
Markey
Martin (IL)
Martin (NY)
Matsui
McDade
Moody
Morrison (CT)
Murphy
Nelson
Nowak
Owens (NY)
Panetta
Pease
Ray
Robinson
Rose
Rostenkowski
Rowland (CT)
Russo
Schumer
Shuster
Skelton
Smith (NE)
Smith, Denny (OR)
Smith, Robert (OR)
Stark
Stump
Tauke
Torricelli
Towns
Traxler
Udall
Vander Jagt
Waxman
Weber
Whitten
Wilson
Yates

□ 0142

Mr. CRANE changed his vote from "aye" to "no."

So the motion to concur was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present for rollcall No. 439, I would have voted "aye."

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON A BILL MAKING APPROPRIATIONS FOR THE DEPARTMENT OF DEFENSE FOR THE FISCAL YEAR 1991

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight, October 9, 1990, to file a privileged report on a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes.

Mr. MILLER of Ohio reserved al points of order on the bill.

The SPEAKER pro tempore (Mr MAZZOLI). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee has examined and found truly enrolled bills and joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4522. An Act to improve the information available to emergency response personnel in the field, and for other purposes

H.R. 4593. An act to transfer to the Secretary of the Interior the administration o the surface rights in certain lands presentl within the boundaries of the San Carlo Indian Reservation, Arizona, and manage by the Forest Service as part of the Coronado National Forest, and for other purposes and

H.J. Res. 666. Joint Resolution makin further continuing appropriations for th fiscal year 1991, and for other purposes.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, fo his approval, bills and a joint resolution of the House of the followin titles:

H.R. 1677. An act to require the Federa Communications Commission to reinstat restrictions on advertising during children' television, to enforce the obligation o broadcasters to meet the educational and informational needs of the child audience an for other purposes;

H.J. Res. 660. Joint resolution making further continuing appropriations for the fisca year 1191, and for other purposes;

H.R. 435. An act to amend the Appalachian Regional Development Act of 1955 to include Columbiana County, Ohio, as part o the Appalachian region;

H.R. 2809. An act to provide for the conveyance of certain lands to the State o California, and for other purposes; and

H.R. 971. An act to require the Federa Communications Commission to prescrib rules to protect consumers from unfair practices in the provision of operator services and for other purposes.

ADJOURNMENT

Mr. HOYER. Mr. Speaker, I mov that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 45 minute a.m.), under its previous order, th House adjourned until Wednesday October 10, 1990, at 12 noon.

SENATE—*Monday, October 8, 1990*

(Legislative day of Tuesday, October 2, 1990)

The Senate met at 2 p.m., on the expiration of the recess, and was called to order by the Honorable CHARLES S. ROBB, a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Put on then, as God's chosen ones, holy and beloved, compassion, kindness, lowliness, meekness, and patience, forbearing one another and forgiving one another, if any man has a quarrel against any; even as Christ forgave you, so also do ye.—Colossians 3:12–13.

Eternal God, perfect in patience and love, Congress is knee-deep in frustration, trying to please everyone. But this is democracy. We remember the words of Winston Churchill: "Democracy is the worst form of government, except for all the other forms."

As your servants struggle with conviction, conscience, and constituent demands, much, if not most, of the complaint comes from people who don't want their share of public funds touched or taxed. Help the people to remember, Lord, that they have their best opportunity to exercise their sovereignty in just 4 weeks. Forbid Lord, that any should forfeit their responsibility to this fundamental, indispensable foundation of our political system. In Jesus' name, who loves and forgives and forgets. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER.** The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 8, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Charles S. Robb, a Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ROBB thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The **ACTING PRESIDENT** pro tempore. Under the standing order, the majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, at 2:30 p.m., or as soon thereafter as possible, it is my intention that the Senate proceed to the consideration of the budget conference report. It was approved by the House of Representatives in the early morning hours of today, and it is imperative that the Senate approve that resolution and follow that with approval of a continuing resolution which will permit, in the first instance of the budget resolution, the process to move foward toward a reconciliation bill and a meaningful, fair, and responsible program to reduce the Federal budget deficit. In the latter instance of the continuing resolution, it will permit the continued funding of the Government until October 20, by which time it is our hope that we will have completed action on the former, the deficit reduction package.

The budget resolution on which we will vote, will not become law. It does not require the President's signature. It is an internal mechanism of the Congress to permit the Congress to move forward toward the changes in law that will be included in the reconciliation bill on which we will vote on or prior to October 20.

Unfortunately, in the past week, there has developed the perception that a vote on the budget resolution is itself a final vote on the budget and will itself cause changes in law such as those that have been suggested as part of the budget summit agreement and otherwise.

That is not the case. The budget resolution does not become law. It merely permits the Congress to proceed to enact those laws that will be necessary to implement a deficit reduction process.

I believe it imperative that the Congress proceed to adopt the budget resolution to permit the continued operation of the Government and to move toward the reconciliation bill on or prior to October 20 that will change the law and bring about the much-needed reduction in the deficit, which we all seek, in a fair and responsible way. I hope very much that can be done in a bipartisan fashion. Throughout the day on Saturday and yesterday, until very late last night, we were involved in discussions with our House colleagues and with our colleagues on the Republican side in the Senate, including the distinguished Republican leader, the ranking member of the Budget Committee, and many others. We have tried to structure this in a way that would make it truly bipartisan and would be acceptable to the President, so as to enable us to proceed to deal with the deficit in a fair and responsible way.

The two parties are now meeting in respective conferences to discuss the pending budget resolution and continuing resolution. It is my hope that out of that will emerge a broad consensus, embracing Members of both parties, that will enable us to act in a decisive manner to end the period of doubt and indecision and negative activity which has so rightly concerned the American people.

We all want to reduce the deficit. We recognize that in a Nation as large and diverse as ours there is not unanimity, nor even consensus, on precisely the best way to do it, and so each Member of Congress, being a responsible individual but representing a different constituency, has his or her own views on how best to do it. The process in which we are now engaged is an effort to reconcile those conflicting views in a manner that is acceptable to the President.

The President has been a principal participant in these budget negotiations. Indeed, I think it fair to say, as one who has participated in all of the summit meetings, that the dominant participants have been the President's representatives. They have done most of the talking and most of the negotiating from the administration's side.

We made a good faith effort to achieve consensus on a budget summit agreement. That was not accepted in the House of Representatives. We may all at a later point in life look back and speculate on how or why that happened, but this is not the time to point the finger of blame or to engage in recrimination. This is a democracy. Thank God for that. And in a democracy, we must have a majority of votes of the elected representatives of the people to move the process forward and to pass laws.

A majority of the House of Representatives has spoken. It is a decision with which I disagree, but I accept the result. All of us must now bend our efforts not toward engaging in Monday morning quarterbacking about what might have occurred but, rather, in looking forward to trying to deal with the situation in which we now find ourselves and moving forward to resolve the difficult situation which now exists.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

That can be done best by adopting this budget resolution. Indeed, it is my judgment at this point that can only be done by adopting this budget resolution. Failure to adopt this resolution will continue and deepen the crisis which now exists, and, with the ending of the holiday period tomorrow morning, it will be much worse than it has been over this past weekend.

So I repeat that it is my hope that we will be able to move shortly toward consideration of the budget resolution; that we will be able to get an agreement to reduce the length of time for its consideration; that we will have strong bipartisan support for adoption of the resolution; and that we will pass it by a substantial vote, and then move on to consideration of the continuing resolution so that we can demonstrate to the American people that we can act decisively, and that we can move this process forward. And hopefully, before this month is out, we can take strong, fair, and meaningful action to reduce the Federal budget deficit which we all know is necessary to the future economic health of our society.

Mr. LEAHY addressed the Chair.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I wish to reserve the remainder of my leader time, if any, and all of the leader time of the distinguished Republican leader.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The **ACTING PRESIDENT** pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 2:30 p.m., with Senators permitted to speak therein for not to exceed 5 minutes.

The Chair recognizes the Senator from Vermont [Mr. LEAHY].

THE BUDGET

Mr. LEAHY. Mr. President, I do not wish to interfere with what the distinguished majority leader has said, but I understand he has completed his statement.

Mr. President, I hope that the American public and Members of the Senate on both sides of the aisle will listen to what the distinguished Senator from Maine said. We are not playing some kind of an abstract game even though there are some who want to stage it that way.

This weekend, we have seen the unnecessary and symbolic closing of the Washington Monument, the unnecessary and symbolic closing of the Smithsonian, and the unnecessary and symbolic pileup of trash along the Mall. Some tried to make political points, calling the press and claiming these as examples of sequestration. This is the baloney kind of political and symbolic posturing that got us in this mess in the first place.

Since 1981, some have felt that we could handle the budget by symbols, and not by substance; that we could talk about what we wanted for America, without asking for any sacrifice or pain.

Sequestration is more than the inconvenience of having some of the national monuments close. It means that those on parole will not be supervised; that the savings and loan crooks cannot be prosecuted; that school lunches will not be served; that Meals on Wheels will not be there; that the Head Start Programs will not exist; and that our educational system will fall even further behind Japan, Europe, and the others.

These are the real effects of a sequester even if they do not photograph as well or show as well in a 10-second cut. No matter, because they are far more deadly to the United States.

Mr. President, I was 1 of the 12 in this body who voted against the program that got us in this mess in the first place. It is frustrating for me to see visitors come to Washington, DC, to find the monuments in the Nation's Capital closed. They come here for a firsthand view of democracy, to only find the doors slammed shut.

In 1981, we were told: Let us have a huge tax cut and 85 percent of the people in America said, "What a wonderful idea." We were told: Let us have a huge defense buildup and 80 or 85 percent of the people in the United States said, "What a wonderful idea." We were told: Let us have a balanced budget; again 80 to 85 percent of the people of the United States said, "What a wonderful idea."

But the President of the United States, and unfortunately a lot of Members of both parties in the Congress, did not have the guts to stand up and say: It may be popular, but you cannot do all three. You cannot have a huge cut in taxes, a huge buildup in defense, and a balanced budget.

There were very few people who said the Emperor has no clothes. Only 12 in the Senate voted against that package. Now those of the 12 who are still here will be asked to help try to get us out of this mess. Those who started the fiscal forest fire we face now ask those who did not start the fire to help put it out.

Mr. President, we have lived on symbols and empty promises for 10 years. We have tried to substitute rhetoric for reality. We have tried to find this easy "sloganeering" from the President to the Members of Congress, to get us out of this mess. It did not work.

Now the piper has to be paid. It is going to be a very, very painful payment. We have to ask ourselves are we willing to do it? Is the President willing to stand up and eschew symbols and go for a painful reality?

Is the Congress willing to do so? The American people can expect no less They can go back and find those who got us in this mess in the first place and if they want to replace somebody replace them. But they should also ask how many of us are willing to stand up and put this country back on its economic feet, and put this country in a position where finally we can start competing with Japan and Europe and bring out the best of our own country.

When I grew up, Mr. President, I grew up in a family where we were told each generation should try to make it better for the next generation I suspect the distinguished Presiding Officer was told the same thing by his parents.

We have squandered so much of the future of this country during the past 10 years. We have truly eaten our own seed corn. We are not leaving a better world for the next generation. But we must do more. We must prepare something for the next generation. I hope that we can.

We must follow the leadership of Senator MITCHELL and others to stand up and say: This has to be done. This must be done. We can no longer use excuses. We can no longer flee our responsibilities. There is no package of taxes, spending cuts, spending programs, tax programs that is going to be popular in the park.

It may be popular passing budgeted packages, but, Mr. President, the devil is in the details. Those details are going to make up the 30-second spots claiming that Congressman so and so, or Senator so and so voted to cut your Medicare. Who wants to face that ad? Congressman so and so, at a time when our brave men and women are in Saudi Arabia, voted against defense spending. Who wants to face that? Congressman so and so voted to raise your taxes, and on and on and on.

Well, Mr. President, some of us ought to be willing to take the heat; we cannot hide behind the comfort of dealing in symbols, and shoveling smoke instead of helping to lead this country. None of us owns a seat in the U.S. Senate none of us own a seat in the House of Representatives. We were sent here to do the best for our State and for our Nation, not the best for our political constituents, or for whatever might be the momentary poll.

Mr. President, there will be other speeches made on the specifics, but I listened to some of the speeches in this debate, and I think some of the ones giving them ought to go back to school to take a history course, just for the heck of it. It would be a very, very interesting procedure. We must stop thinking that the American people can think in only 30-second sound bites.

The American people expect the best of the greatest democracy in history, the greatest and most powerful nation in history. We are at a threshold of seeing this Nation slide into decline against Europe and Japan and other nations. We have the ability today to stop the decline, to reverse it, to get us back on the path of greatness. We cannot do it with empty symbols and with feel-good resolutions, and we cannot do it with things that are just going to be popular to every single special interest group from the left to the right. We can do it if we think of only one interest group, 260 million Americans, and stand up for them. That is the choice we have today.

Mr. President, I suggest the absence of a quorum.

The **ACTING PRESIDENT** pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **LEAHY**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. **LEAHY**. Mr. President, I ask unanimous consent that morning business continue under the same conditions as before, reserving the appropriate leaders' time until 3 p.m.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

Mr. **LEAHY**. Mr. President, I see nobody on the floor seeking recognition. I understand that both parties are still in caucuses. I suggest the absence of a quorum.

The **ACTING PRESIDENT** pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. **MIKULSKI**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. KOHL). Without objection, it is so ordered.

THE BUDGET

Ms. **MIKULSKI**. Mr. President, I almost was not here today, but I am. And I am ready to do my duty as a Senator on the important budget issue facing us. I was almost not here today because my mother was admitted to intensive care. I say that not to draw attention to myself or my family but to tell you a story about how the American people feel about the crisis confronting this Congress and this country today.

We received a call from mother's homemaker, a lady in the neighborhood who gets up and makes her breakfast, to say something terrible was happening to my mother. Fortunately, my sisters and I are only blocks away. We dashed there and found out that my mother could barely talk, could not catch her breath, and by ambulance we were ready to take her to a hospital in Baltimore served by the Sisters of Mercy, a hospital where my sisters and I were born.

While I am happy to report to you and to other Senators my mother is stable, what happened there at the hosptial was interesting because here was my mom, 75 years old, about my height and probably even twice as spunky when she is not set back; with the oxygen mask over her, with my sisters and I standing next to her, she asked me if I was coming to vote today.

Mr. President, I could not believe it, because only an hour earlier we did not know if my mother was going to live or die. I said, "Oh, I don't know, mom. I don't have it straight. I'm just worried about you." She said, "You have to go and vote. If the budget lost by one vote, I would have another heart attack. You go to Washington and save Medicare."

As I sat there with my mother, Sister Thomas, who heads up Mercy Hospital, said to me, "your mother is in the hands of God and the Sisters of Mercy. We will do our job by your mother. You go to Washington and you do your job. Save Medicare." Save Medicare.

Mr. President, I am here dressed a little bit more informally than I would ordinarily be to address the Senate, to participate in my formal duties. I just dashed out this morning.

Mr. President, I am here to save Medicare. I am here to save Medicare not only for my mom but for all the moms. I am here to save veterans' health care, not only for my uncles but all the men who benefit from that most important service. And most of all, I am here today to save the United States of America.

Mr. President, I am going to vote for the budget that will be presented to the Congress this afternoon. I am going to vote for it because I truly believe we are going to be able to make 40 billion dollars' worth of cuts. But we are going to do it in a way that is going to be fair; we are not going to cut Medicare in the way that was originally proposed. We are going to, instead, take a look at a tax package that goes after those who have and those who have benefited by this decade of glitz economy.

Mr. President, I look forward to being able to vote on raising the tax rates of people who make over $150,000 a year. I look forward to it. I think they ought to pay as much as an FBI agent, a schoolteacher, an electrician, a waterman, or a farmer in the State of Maryland. I think we should make sure that the people who make over $200,000 a year now, who only pay 28 percent on their taxes, will then begin to pay their fair share.

Mr. President, I advocate to the Finance Committee, let us put an additional surcharge on those people who make over $500,000 a year. I think the sports figures in our society ought to be able to step up to the bat and begin to pay their fair share. I think we ought to put on a surcharge when people make over $500,000. Who would they be? How about the people in the entertainment industry. Let them sing a tune of tax fairness.

Mr. President, I think that surcharge ought to go on the captains of industry so they start paying their fair share of this country's budget. I think the people who run the corporations ought to pay the same taxes as the people who work for the corporations.

Mr. President, I think it is time that the Wall Street go-go boys start paying their fair share. I am tired of hearing about Donald Trump. We ought to trump his card and call in the game. I am tired of wild card casino, speculative kinds of economics in this society.

So I know that when I vote on this budget today the decision will be made by the Finance Committee and the Ways and Means Committee. People have talked about this Democratic Congress not being able to do its job. The reason we have not been able to do this job is because we are trying to do business with another party that wants to protect that 2 percent that wants to live like parasites off the other 98 percent. I think we have all had it, and that is why we are going to be able to support this.

There are those who say, well, we ought to be able to make more cuts. I absolutely agree with that. I think we can make more cuts in the military. I think we can cancel that MX missile. I think we can cancel star wars. I think there are cuts we can make, and yet at the same time look out for the men and women who are out there performing their duties in Operation Desert Shield.

Mr. President, I think there are cuts in domestic spending. In my own Subcommittee that I chair in Appropriations, we fund the programs for veterans, housing, and space.

In our budget, in VA appropriations, we have eliminated the Moon Mars project. This is very special to the President. I know it will be very important to the future of space exploration. But, Mr. President, $300 million on a high-risk, Buck Rogers sci-fi project is not what is called for when people do not know whether we are going to have rail service to get to work. I would rather make sure they get to work than worry about whether we are going to get to Mars in the year 2040.

I believe we have to take a bit out of bureaucracy. In one agency, we froze the first-class travel of a Cabinet officer. I believe the American people ought to start going first class rather than Cabinet officers.

Mr. President, we have taken action to eliminate some of the public relations offices. If we are going to tell our story, let our actions speak for us.

Now when all is said and done, more needs to get done than said. I think if we start putting on our green eyeshades where there is fat to cut out, we do not have to cut out FBI agents, we do not have to cut out meat and poultry inspectors, we do not have to cut out claims examiners in Social Security. We need those people on the job. But there are a lot of things that we can cut. Also we can come up with the taxes—when people spend more on lawyers to evade the taxes than the taxes many of us pay.

Mr. President, that is what I call fairness. That is what I call a budget. When my name is called this afternoon, I am going to vote "aye." When I go back and see my mother tonight or tomorrow morning, I am going to say that, when I left her, I know that I left her in the hands of God and the Sisters of Mercy. And I pray that both of those are with me today when I cast my vote.

I yield back the remainder of my time, and I look forward to casting my vote.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **DIXON**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **DIXON**. Mr. President, I ask unanimous consent to proceed as in morning business for a brief period of time.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

THE INITIATION OF DIRECT FLIGHTS BETWEEN THE SOVIET UNION AND ISRAEL

Mr. **DIXON**. Mr. President, the Soviet Union and Israel are discussing the possible commencement of direct flights between those two countries. This could be a historic opportunity for both countries, and I wish to urge the Soviets and Israel to reach an accord at the earliest possible date.

There has been a considerable warming of relations between the Soviet Union and Israel in recent months. Consulates may soon open in each country, opening the prospect for further actions leading ultimately to normalization of relations.

A direct flights agreement is a critical first step in this process, and this Senator's impressions of the Soviet's pronouncements of glasnost and perestroika, will in part, be shaped by their willingness to conclude a satisfactory agreement.

A satisfactory agreement will include flights for the emigration of Soviet Jews and others, not just flights for those Soviets granted visitor's visas.

Should such an agreement be reached, at long last the prospect of allowing Soviet Jews to go directly to Israel to begin a new life in freedom would be upon us. We in the international community must work to ensure direct flights become reality.

As cochairman of the Congressional Caucus for Soviet Jews, I have spoken frequently on behalf of refuseniks and others who have been locked behind Soviet borders, unable to pursue their dream of life in their ancient homeland. While the flow of emigrants from the Soviet Union has risen dramatically, there are still hundreds of refuseniks who even in this era of glasnost cannot gain permission to leave the Soviet Union.

This is the story behind the story, Mr. President.

The struggle for freedom has come true for former refuseniks such as Georgi Samoliovich, Alexander Pyatetsky, and Vladimir Dashevsky, but it remains elusive for Mikhail Kazachkov, Sergie Veprinsky—whose wife, by the way, lives in Illinois—Anatoli Genis, and others who have waited as long as 10 years for permission to emigrate.

Mr. President, every step taken by these two countries toward a direct flights agreement represents a further opening in the window of opportunity for increased Soviet Jewish emigration. We must remain committed to the cause of free emigration from the Soviet Union.

I will continue to do all I can to support the commencement of direct flights. An agreement would be cause for celebration, Mr. President, and remind all of us to rededicate ourselves to the cases of those whose struggle for freedom continues.

TERRY ANDERSON

Mr. **MOYNIHAN**. Mr. President, I rise to inform my colleagues that today marks the 2,032d day that Terry Anderson has been held captive in Beirut.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER** (Mr. KERREY). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **DIXON**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **DIXON**. Mr. President, what is the order of business right now?

WHAT NORTH DAKOTA IS ALL ABOUT

Mr. **BURDICK**. Mr. President, I would never consider living anywhere but North Dakota. The people of my State truly are special, as I was reminded when a fine farmer and State Senator, Clark Ewen, passed away recently. Hearing Clark was dying of cancer, more than a hundred neighbors and friends organized to harvest almost 6 million pounds of his sugar beets in a single day. As his widow said, "That's the way people do things in rural communities. This Is What North Dakota Is All about."

A third-generation Red River Valley farmer, Clark Ewen started raising sugar beets in 1962. He helped organize the Red River Valley Beet Sugar Cooperative that merged with American Crystal Sugar in 1975. He worked to change the payment formula to reward beet farmers for higher levels of extractable sugar and to build huge storage facilities. Clark was truly a pioneer in my State's sugar beet industry.

To honor this individual and the spirit of Dakota, I ask unanimous consent that a newspaper story by Colleen Munro of the Grand Forks Herald be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Grand Forks Herald, Sept. 29, 1990]

'FOR EVERYTHING THAT HE'S DONE FOR BEETS'

(By Colleen Munro)

MAYVILLE, N.D.—It was a perfect morning to dig beets; dry, cool and sunny. Neighbors and friends of the late Clark Ewen did just that.

In the space of a single morning, seven lifters scooped out beets six rows at a time, chewing through 200 acres of the Ewen family's sugar beet crop.

As soon as one truck was full, another was there to take its place. A line-up of more than 100 trucks, two deep, waited for their turn to get in the field, snaking through the better part of a quarter mile.

Idle truck drivers left vehicles to gather in groups. They visited about the weather. The beet crop. And Clark Ewen.

"Clark was a good friend. We're doing it as a gesture for everything that he's done for beets," says Butch Lovas, a Hillsboro farmer and friend.

Ewen, former chair of the board of American Crystal Sugar and veteran sugar beet grower, died of cancer at age 59 in Mayville last Sunday. Friends and neighbors knew he was ill, and had decided long before his passing they would give the family a hand with harvest this year.

Ewen had a reputation of being peacemaker. But he was also admired for his dedication to farming.

A couple of weeks before he died, Ewen called his friend John Freije, mayor of Mayville. He wanted to see the farmstead, and his fields, one last time. His wife, Joann, drove the truck.

So Ewen, with hospital bed, IV, nurses and all was loaded into the back of Freije's pick-up truck. He got to see the fields he knew his neighbors would be harvesting for him one last time.

Lovas, along with Mark Steinberger, American Crystal agriculturalist for the Mayville area, coordinated the special harvest.

The idea got started in August, with people calling Lovas, asking how they could help. Early in September, a letter went out describing the plan to help the Ewens lift about a third of their beet crop.

And on Thursday, KDGO radio in Fargo reminded farmers about the special effort on its harvest report. Farmers came from as far as East Grand Forks and Moorhead to pay tribute to Ewen.

Hillsboro's pre-pile havest was finished on Thursday, so the factory was open on Friday just to receive beets from the Ewen farm.

Truck drivers gathered early in the morning at the Hillsboro factory, and formed a convoy out to the field south of Mayville. A neighbor said the trucks coming around the Blanchard corner sounded like a train at 7 a.m.

Nearly 6 million pounds of beets later, by early afternoon, the harvest was all done.

The women's auxiliary of the Congregational United Church of Christ in Mayville was ready with lunch for the troops afterword.

The Ewen family was there, too, through most of the morning and for lunch.

"It sounds like a cliche," said Joann Ewen, Clark's widow. "But this is what North Dakota is all about.

She said that her husband knew and approved of the harvest.

"He knew that everyone wanted to help, knew that that's the way people do things in rural communities," Joann Ewen said.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business has expired.

ORDER OF PROCEDURE

Mr. DIXON. Mr. President, I ask unanimous consent to proceed as though in morning business to discuss matters relevant to the consideration shortly of the budget resolution and the continuing resolution when they are before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET RESOLUTION

Mr. DIXON. Mr. President, as you know, and as all Members of the Senate know, and I am sure as the country knows, the House late last night—or I guess one could say early this morning because most of the work was done after midnight—passed a budget resolution and a continuing resolution that I expect are now in the hands of the Senate, or if they are not now in the hands of the Senate will shortly be here.

One of the, I think, giants in all that has occurred to date in the difficult months of discussions is here on the floor of the Senate with me, the distinguished senior Senator from Tennessee, the chairman of the Budget Committee. It will shortly become his major obligation to attempt to persuade a majority of the Senators of both political persuasions in this Chamber to act on a budget resolution and a continuing resolution that will determine the course of history for this Nation, I am convinced, for a period of time in the future.

I think many of us, even those who shrink from the task, are concerned about the chaotic result if we do not act, and I said at the conference today that I was a little amused when my wife and I, and my little grandson, my 3-year old grandson, were in Union Station Saturday night having a little pizza in a Chicago pizza parlor.

A person came up and said, "You are Senator DIXON." "Yes, sir." And he advised me that he was a constitutent of my State and said, "You know, I do not know why we are so concerned about sequestration. We have been here this weekend, and you cannot see a couple bears at the zoo, and you cannot get in the Washington Monument. Big deal."

And I thought maybe we ought to think in terms of what this sequestration really is, starting tomorrow. This is a legal holiday, Columbus Day. Were it not for these obligations, I would be in Chicago marching in the Columbus Day parade, having lunch with Joe DiMaggio, a great baseball player; later having the honor of introducing Gov. Mario Cuomo of New York State. But instead I am here, as I should be.

I would like to talk a little bit about sequestration. These figures are not inviolate, but this is information that the chairman of the Budget Committee, the President pro tempore, and others have distributed to tell you a little bit about what sequestration is.

Well, Mr. and Mrs. America, here is sequestration. Here is the alternative to acting now. In the Judiciary, a 30-percent sequester in the judicial branch would cause a release of 46,000 potentially dangerous probationers and parolees from supervision. That is sequestration.

In the Justice Department, layoffs would cause severe curtailment of criminal litigation and prosecutions under the Violent Crime Program and the Financial Institution Fraud Program. Layoffs in the U.S. Marshals Service would result in an increase of more than 3,000 felons at large into our society. Layoffs, under sequestration, would result in a 41-percent decrease in the number of investigations conducted by the Organized Crime Drug Enforcement Task Force, and would actually cost the Government money because of an estimated $294 million reduction in seizures and forfeitures.

Mr. President, under sequestration, 6,000 FBI personnel would be laid off. That would cause curtailment of investigations in the S&L fraud cases, which is the scandal in this country today, rendering a lot of those cases unprosecutable because of the fact that the statute of limitations would run out.

I hope most Americans understand what that means. I am a lawyer, and the statute of limitations is the limitation on the time in which you can bring prosecution of these cases. Drug and organized crime investigations would be restricted. Drug enforcement operations in smaller U.S. cities and rural areas would be severely restricted. Cutbacks in the Immigration and Naturalization Service would result in 5,000 fewer drug seizures and a reduction in the apprehension of 8,000 criminal aliens entering the United States.

Mr. President, that is the Judiciary and Justice Department. That is only part of the story.

You live in rural America, Mr. President, and my great State is always first or second in corn and first or second, soybeans; big competition, always, with Iowa. In the Agriculture Department, the Nation's 7,800 meat and poultry plants, employing 400,000 people, which cannot operate without Federal inspection, would have to be shut down for 137 days, while USDA employees are furloughed. The Forest Service estimates that the reduction in timber sales, as a consequence of a sequester, would result in a loss of revenue to the Treasury of one-half billion dollars.

The Food and Drug Administration, let us talk about that. The safety of the Nation's blood supply could no longer be guaranteed. Blood banks would only be inspected once every 2 years, increasing the risk of AIDS, hepatitis, and other serious diseases transmitted through contaminated blood.

I am on the Armed Services Committee, and I am chairman of the Subcommittee on Readiness, Sustainability, and Support, very jurisdictional to what is happening in Operation Desert Shield over in the Mideast. A full year sequester would not be manageable without significant damage to the national defense. All defense agencies would have to furlough personnel. Virtually every defense procurement program would have to be cut 35 percent.

The sequester would lay off about 900 Department of Energy personnel and 52,000 contractor personnel. I have the biggest airport in the world in my State, in Chicago, Mr. President, which is O'Hare. Six-thousand flights a day at 40 major airports in the country would be reduced.

Listen to this. Rehabilitation of over 2,000 bridges and 13,500 miles of interstate highway could not be done, and 100,000 jobs would be lost in that area.

What about Amtrak? Amtrak would be brought to the brink of bankruptcy. My State depends on Amtrak. In downstate Illinois, where I come from, from city to city in small-town America, Amtrak is the way you travel. It would be brought to the brink of bankruptcy by sequestration.

In the Postal Service, preferred mail rates to nonprofit organizations, such as the United Way, the Girl Scouts, and so forth, would be discontinued. In Health and Human Services, drug abuse treatment in America would be reduced $650 million; AIDS fundings, $475 million.

Medicare claims would be curtailed, resulting in $260 million in claims in backlog. Mr. President, in sequestration, 78 million meals to older Americans would be eliminated. Social Security audit activities would have to be reduced, increasing erroneous payments by about $15 billion. Biomedical research would be reduced $3.5 billion.

Head Start would be reduced by over $500 million, eliminating help for over 185,000 kids in America. Childhood immunizations would be eliminated for 1,600,000 kids. The Department of Education would be reduced by $6½ billion. Black lung clinics—and in my State, in southern Illinois, where they mine soft coal—would serve 10,600 fewer patients.

Well, Mr. President, I am indebted to my friend, the chairman of the Budget Committee, and others, who have brought this to our attention. For those that think there is an easy vote here, Mr. President, there is none.

This is not just the bear at the zoo, and the Washington Monument, and a park you cannot go into next weekend, for change. This is very, very serious stuff. And shortly, our friend, the chairman of the Budget Committee, will take the floor, along with his distinguished ranking member, who in his time has chaired this committee. Both have performed a great service to this country, representing different philosophical views and different political parties, but representing their States and their country the best they know how.

I hope that the Senate will listen, and I hope the country will listen, while some men who have a very difficult and unpleasant job to do, lay before this body, Mr. President, the frightful alternative to passing this budget resolution, which, of course, does not require the President's signature, but, important as well, a continuing resolution which does.

I say, in conclusion, that while what some of these fine men did in leadership of the summit was rejected by the House, the goal they seek of major reductions, a total of $500 billion in reductions, both by cuts and revenue in our budget deficit over the next 5 years, is a goal very much in the interest of a prosperous, well-managed, and decently run America. And I thank them for their efforts.

Mr. President, since I see that my colleagues are not quite ready to begin their discussions on the resolution, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislation clerk proceeding to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to proceed for 15 minutes with the understanding that if either one of the floor managers of the budget resolution or either one of the leaders wishes to speak or lay the budget resolution before the Senate, I will happily relinquish the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE POLITICAL PROCESS

Mr. BUMPERS. Mr. President, these are indeed times that try men's souls. I have been in the Senate 16 years, and I have never seen a time that I thought was more ominous for the future of the country than now. I do not quarrel with the antipathy and the cynicism that I sense across the country toward not just Congress but the whole political process.

I think if you were to ask the ordinary citizen on the street, "Do you think you ought to kick the rascals out?" you would get about an 80-percent "aye" response.

Incidentally, I agree with that. If you could kick the rascals out, maybe we could get something done around here. But you and I both know that, at times like this, people do not make distinctions between the rascals and the good guys. One of the reasons we are in this predicament is that 10 years ago the herd instinct swept across this floor and there was no distinction between what was right and what was wrong.

I do not really intend this to be partisan, but I do want to review why we are here today. I might also say that I heard one of the network commentators Friday night say that this mess started 10 years ago. Then they proceeded to show President Reagan saying we are going to cut your taxes 30 percent, we are going to double defense spending, and we are going to balance the budget.

I do not intend to be critical of that particular network, but I wanted to say, where were you 10 years ago when there were 11 lonely Senators standing on the floor saying that those promises were nonsense?

The next night I heard a network correspondent say, after the President vetoed the continuing resolution, that he had turned the heat up on Congress. Nobody said, "The President is being irresponsible. That this is going to shut down the Government." His veto was not to assure a sequester. It would shut down the Government, all Government. It would make one yearn to live in Eastern Europe if that took place.

That evening on that same network, the commentator implied that Congress cannot get its work done, cannot do anything. And yet it was the President's own party that killed his budget in the House.

Going back 10 years ago when this whole thing was set in motion, I am reminded of a good friend of mine who used to be in the House of Representatives. His name is Ray Thornton. He was president of the University of Arkansas. He was president of the University of Arkansas at the time this Reagan proposal, so-called supply side economics, came into vogue in 1981. Ray said to his father-in-law one day, "The President says he can cut taxes by 30 percent, double defense spending, and balance the budget." He said his father-in-law said, "What a dynamite idea. I wonder why nobody ever thought of that before?"

We have $3½ trillion in debt now to show why nobody ever thought of that before. It made no sense then. I have a speech here that I made on July 29, 1981—I am not sure that was the day we voted, but I think it was—in which I simply said you pass this bill and you are going to create deficits big enough to choke a mule. And we passed the bill and we doubled defense spending and we created deficits big enough to choke a mule.

Mr. President, do you know what that bill has cost the Treasury? I can remember pleading at that time. I said I will support a 5-percent tax cut but we do not have to do this all at one time. We are going to be here next year and the following year. Let us proceed with some caution here. But, as I say, I have never seen the herd instinct sweep across this floor quite like it did that day.

These are President Bush's figures that he submitted to us this year in his budget. As of this year, 1990, which ended September 30, that tax cut cost $1.763 trillion. Even with all the tax increases we have had since then, the net loss from that tax cut of 1981 is still well over $1 trillion.

Listen to what Mahatma Gandhi said:

> Performance of one's duties should be independent of public opinion. I have all along held that one is bound to act accordingly to what one appears to be right even though it may appear wrong to others. I admit that there is always a possibility of one's mistaking right for wrong and vice versa, but often one learns to recognize wrong only through unconscious error. On the other hand, if a man fails to follow a light within, fails to follow the light within, for fear of public opinion or any other similar reason, he would never be able to know right from wrong and in the end lose all sense of distinction between the two.

A lot of politics is involved in what is going on right now. So far as I am personally concerned, I do not like this budget resolution. I like it better than the one the House defeated the other night, but I do not like a lot of the provisions in it by any means. I will do my very best at the proper time, to change some of the priorities.

Defense spending, in the allocation of this budget, is higher than either the House or the Senate figure. Now I could wax and wane for an hour about that and I know some of my colleagues are also deeply disturbed by that defense number. By the same token, I would remind them that we all had a chance to cut defense when the defense authorization bill was on the floor, but we did not, and indeed, could not.

I would also remind you that the defense appropriations bill is coming through here sometime in the next 2 weeks and everyone will have a chance to offer cuts. I am going to offer an amendment to cut SDI by almost $1 billion. Others will attempt to eliminate the B-2 bomber. Some people will say we ought to bring 100,000 men home from Europe immediately. I have spent the last 3 years trying to get our forces in Korea reduced.

We have 50,000 men in Japan; 40,000 in Korea; 300,000 in Germany. And they cost billions of dollars. We do not need 50,000 people in Japan. Japan makes a contribution, but it is a pittance compared to what it costs us. And the same way with Korea. The Koreans make a small contribution but South Korea has twice the population of North Korea, 10 times the GNP rate, and we have 40,000 people there to defend South Korea. What kind of nonsense is that? The point I want to make is that everybody is going to have an opportunity to reduce that defense figure if they want to.

My problem, I should say problems, with the first budget resolution, included the gas tax, cuts in Medicare, and cuts in agriculture. Arkansas has the highest consumption of gasoline per registered vehicle in the country. That gasoline tax was devastating. We are No. 2 in the percentage of our people over 65, just behind Florida. And we are still an agriculture State, and farm programs were devastated under the budget proposal. I am glad it was defeated.

But in the final analysis, Mr. President, my really strenuous objection came when I saw the figures that showed people who make $10,000 a year—that is below the poverty line—7½-percent tax increase while people who made over $200,000 a year got a 1½-percent tax increase.

The only thing I could find in the Washington Post yesterday that I found very interesting was an article by Lester Thurow, the very esteemed, well-known and thoughtful economist at MIT. He laid it out so perfectly. Not only did he talk about the regressivity of that budget resolution, he also said that $40 billion, in light of a $290 billion deficit, is nothing. And that is true.

We are going to have a heck of a time getting a budget resolution through that will cut $40 billion in the year 1991. Even under Gramm-Rudman accounting, the deficit, after you cut $40 billion, will still be $250 billion. If you add Social Security and the trust funds, the deficit, after we have labored to cut $40 billion in spending and raise that much revenue, will be $390 billion.

The other day I was driving down Pennsylvania Avenue, and I saw a group of people in front of the White House. They had signs saying, "Tax the Rich." I thought, what a strange looking group of people. They did not look like the far-out kind who are concerned about income distribution in this country or the terrible disparity of wealth that has gone on a rampage in the last 10 years; they were well-dressed people. So I stopped and talked to a man. I said, "You favor taxing the rich?" He said "Yes." I said, "Who are these people?" He said, "They are rich people. These are all people who make $200,000 or more. We are tired of the White House pandering to us. We are patriots; we love America, too. We are concerned about this country and our children's future, just like everybody else."

I said, "Well, you have certainly got a friend in the White House. He does not think you ought to pay taxes." He said, "That is just it. We consider it rank discrimination against us."

I said, "Really?" He said, "Yes." And I said, "Well, have you seen the President?" He said, "No."

"Is this the point you want to make with him?"

"Yes."

I said, "Well, I wish you well," and I started to walk off. And I have already told him who I was, and he said, "Senator, just one other question. Who is Newt?"

I said, "Who is Newt?" "Yes," he says, "I see in the press all the time where everything has to be run by Newt. They think he will approve it or he will not approve it." He said, "I voted for Ronald Reagan twice, and George Bush once, but I have never voted for anybody named Newt."

So I told him who Newt was.

That is just an Art Buchwald spoof. None of that ever happened. But I thought, what an interesting thing it would be if it did happen. Because, you see, I happen to believe that even though the wealthy people of this country do not enjoy paying taxes any more than I do, you give them a choice of doing their share in this budget or watching this country go down the tubes and they will choose to do their share. They love America. Most of them have done extremely well under our system. Unhappily, nobody ever asked them for very much.

Mr. President, while I do not like this resolution, I am going to vote for it. I really do not like this resolution. I can give you 20 reasons not to vote for it. I do not like the defense number; I do not like the agricultural numbers; I do not like anything else in it, much. But there is one thing about it. It has one benefit that the other one did not. We will have an opportunity to amend it and change it the way we want it, and put some progressivity in the taxes that are going to be raised here. While the defense number is very high, it can be reduced. It is a ceiling, not a floor.

I am also going to vote for it because I know that people across the country are saying this place can not function. They are saying this is just like that shortstop position that Leo Durocher talked about. Durocher pulled his shortstop out of the game because he had let three successive balls roll between his legs. He said, "Take the bench; I am going to show you how to play shortstop." The first ball went right between his legs and he came back to the dugout and he said,

"you've got that position so screwed up, nobody can play it."

(Disturbance in the Visitors' Galleries.)

Mr. BYRD. Mr. President, may we have order in the gallery. There are not to be any demonstrations of approval or disapproval in the galleries.

The PRESIDING OFFICER (Mr. Bryan). The Senator is correct. Order in the galleries.

The time of the Senator from Arkansas has expired.

Mr. BUMPERS. My humor is irresistable, Mr. President.

Mr. BYRD. Mr. President, will the distinguished Senator from Arkansas yield?

Mr. BUMPERS. Yes, I am happy to yield.

Mr. BYRD. The Senator from Arkansas referred earlier—and I beg his pardon for interrupting him—he referred earlier to the defense numbers. It may be that he is laboring under a wrong impression. Or it may not be.

Mr. BUMPERS. On the defense numbers?

Mr. BYRD. Yes.

Mr. BUMPERS. Senator, the figure I saw, I thought I saw, and I may have looked at the wrong line, was $297.1 billion, I believe.

Mr. BYRD. I thought the Senator might be referring to the numbers that appear in the Record of yesterday, the House of Representatives, October 7, page H9143.

Mr. BUMPERS. What page is that on this resolution before us, Senator?

Mr. BYRD. I am not referring to the resolution right now. I think, from what I gather by the answer of the Senator, that I am not—he and I are talking about the same basic figures. I would like to refer to the figures that are on page H9143 of the Record of October 7, yesterday. The Congressional Record of the House. These numbers, I believe, were referred to in the conference, the Democratic conference today in the Senate.

I wanted to correct those numbers, for the Record. I thought the Senator might be referring to them and that is why I interrupted him. If he is not, I can wait until later.

Mr. BUMPERS. Senator, that is quite all right. I was looking at the same page you are looking at now and the budget numbers, 050, national defense. It shows budget authority for 1991 of $288.3 billion, and outlays of $297 billion.

Mr. BYRD. Yes.

Mr. BUMPERS. It was my understanding that this budget resolution had a cap of $297.1 billion. This is the first budget that came to us, is it not?

Mr. BYRD. What I would like to do, I would like to call the attention of the Senator to the numbers for fiscal year 1994 and 1995. He will note that in 1994, the figure for our budget authority for national defense is $351.5 billion, and in 1995 $364.9 billion, and for outlays in defense, $341.7 billion in 1994 and $351.1 billion in 1995.

I am sorry, because I do not now believe, as I listened to the Senator, that he was referring to those figures. But if he had been, I wanted to call to his attention that those figures are in error.

Mr. BUMPERS. They are in error?

Mr. BYRD. They are very much in error. Let me give the Senator the correct figures. Instead of $391.5 billion for fiscal year 1994 in budget authority for defense, the correct number would be $292 billion.

Mr. BUMPERS. In outlays?

Mr. BYRD. In budget authority.

Mr. BUMPERS. For 1991?

Mr. BYRD. For 1994. I am talking about 1994 and 1995, where the figures are grossly in error.

Mr. BUMPERS. Is the Senator saying the budget authority for 1994 is $282 billion?

Mr. BYRD. I am saying it is $292 instead of $351.5, as shown in that table.

Mr. BUMPERS. How on Earth did this happen? I do not understand.

Mr. BYRD. These are the nonbudget authority figures that were in the bill as passed by the Senate. So let me finish, if the Senator will allow me. Let me finish making the corrections. Instead of $351.5 in 1994, for budget authority under 050, national defense, the correct number is $292.0. In other words, a difference of $59.5 billion. And 1995, instead of $364.9 for budget authority, national defense, the correct number is $295.0; in other words, a difference of $69.9 billion.

Then for outlays, instead of $341.7 billion, as shown in the Congressional Record of yesterday, for 1994 the correct number is $290.0.

In other words, that is a difference of $51.7 billion. And for fiscal year 1995, instead of $351.1 billion in outlays for national defense, the correct number is $291.0, a difference of $60.1. So the conference agreement figures for defense printed on page H9143 of the Congressional Record of yesterday, October 7, 1990, misstates the defense budget authority and outlays for fiscal year 1994 and 1995 by the amounts that I have stated.

Mr. BUMPERS. That is very enlightening, and I appreciate that. As my colleague knows, I do not mean to reveal anything said in the caucus. He knows those numbers were bandied around in our caucus today, and there are some misperceptions.

Mr. BYRD. There were, and the reason I did not attempt to correct them then was because I did not have the correct figures at my fingertips, and I had to wait until I could secure those.

Mr. BUMPERS. I thank the Senator very much. I am pleased he interrupted me to clarify.

Mr. BYRD. I thank the Senator for the service he is performing, and I thank him for allowing me to interrupt him, which I very much regret having to do. But I felt that he was laboring under a misimpression because of these figures, and even though he was not even at that point, I thank him for giving me the opportunity for correcting them.

Mr. BUMPERS. I will close. I assume there are others who wish to speak while we are still waiting for this budget resolution to be laid down.

Let me just mention, Mr. President, the attitude of people across the country. We cannot blame the American people for what can only be described as a highly distrustful, cynical attitude about Congress.

As I have said on this floor many times, we all feel that the President shares a large part of the responsibility for whatever is going on here because of a lack of leadership. But that is not satisfactory to the people. They believe that the country is stagnant economically, that the deficit is going to ultimately result in our trading partners demanding that we pay them in marks and yen instead of dollars, as terrible as that may sound.

The Japanese have sold more American debentures since January 1 of this year than they purchased by a large margin. The Germans are engrossed in a terrible expense, close to a trillion dollars, probably, before it is over, in absorbing East Germany.

The economy is stagnant and cannot move as long as interest rates stay where they are. This budget resolution does not go far enough. And it certainly does not arrange priorities to suit me or the people in my State. But they expect, and they have a legitimate right to expect, this body to do something about the deficit.

If we want to see the stock market, which has been so volatile in the past 60-90 days, settle down, we must come up with realistic figures in this budget resolution and show the kind of resolve that people have a right to expect of us.

The people on Wall Street and the money managers across America are not dummies. They have analysts all over this town saying, "What does this mean? Is it real? Are they really serious about reducing the deficit? Are they going to finesse the problem yet one more year?"

You saw the market the other day. I spoke to a group of bankers downtown on Monday after the budget summiteers announced the budget proposal on Sunday. I told that group of bankers that the market would go up probably 100 points that day. As it turned out, it only went up 63 points. And I also predicted it would start south again as people began to realize that the budget resolution was not adequate, and especially that it was going nowhere.

So, Mr. President, I am going to support something that I do not much like because the alternatives are too ominous to even think about. Let me give an illustration. I have heard the Senator from West Virginia describe what will happen in case of a sequester. Let me tell my colleagues what it will do just in one instance in my State.

We are, by far and away, the biggest grower and processor of broilers. We have 12 big poultry plants in our State. One out of ten people in Arkansas work for the poultry industry or in related industries. We have 24,000 people working in poultry processing plants.

Tomorrow morning at 7 o'clock when those poultry plants would normally open, if we do not take action tonight, 24,000 people will be without jobs because they cannot process a single chicken unless there are Federal inspectors there. And the thousands of meat and poultry inspectors across the country will be without jobs tomorrow morning at 7 a.m., and 24,000 people in my State will be out of work just in the one industry.

Do my colleagues also know that the President wants us to pass some kind of a $40 billion sequester when we pass a continuing resolution to send to him. The word sequester doesn't mean much to most people. We talk about sequester on the floor, but many folks do not know what that means. They just know that they do not want to lose their jobs, and that they have bills they can't pay if they do.

The poultry industry is highly programmed. We have hundreds of millions of eggs being set every week in this country. From the time that egg is laid, they can tell you when that chicken will come off the processing line about 10 weeks later. There are hundreds of millions of chickens in chicken houses and they have to move on a given day at a given hour.

If we shut those plants down, not just in my State but all over America—beef packers and poultry processors—everything starts backing up. We will have a backlog of chickens that will be catastrophic to that industry.

If that happens in just one industry, with which I happen to be totally familiar, and we compound that with all the other things that would happen in the country, just imagine the result. There will be no drug enforcement. Thousands of felons on parole will be unsupervised. The list goes on and on. We will lose more by the chaos that results than we will ever save with a $40 billion sequester.

If the Government is shut down, within 2 or 3 weeks time I promise my colleagues that the poultry people will owe no taxes this year. That is how devastating it would be. So if we pass a continuing resolution and a budget resolution, and the President chooses to veto it, I will let him explain his action. I am going to do my duty this afternoon and try to avoid a shutdown. I am entitled to dislike this budget and yet vote for it, because I think it is essential as a responsible Senator not to let this shutdown happen. If the President says, "I want every 't' crossed just so, and every 'i' dotted just so, or I am going to veto it," let him explain it to the American people.

I do not know the President well. I knew him better when he was Vice President than now. He never invites me over for dinner, but I like him personally. I think he is a decent man. He is not without compassion.

Surely he is not going to stand on ceremony or on some devious mythical political proposition that this is the way to show his leadership skills; that he lets this country literally go into chaos tomorrow. It is a very ominous thought, is it not, Mr. President?

So I am hoping we get this budget resolution laid down, debated and voted on. I do not see that I have any choice, quite frankly, but to vote for this resolution. I do not think anybody else who really wants to be responsible does either because the consequences are too great.

Mr. President, I think the Ways and Means Committee and the Finance Committee are very likely to raise income tax rates and come back saying that in the future for wealthy people who make $170,000 or more, the tax rate will not go from 33 percent back to 28 percent. In the future, the rate will stay at 33 percent. That produces quite a bit of money. The argument will be made on this floor that if you do that, this economy, which is already stagnant and teetering, will go into a depression.

I used to buy that argument, and I think it has some credibility. But I also think a lot of people use it just to make sure taxes are not raised. There is a novelist, and I cannot think of his name now, who said he grew up in a household where Franklin Roosevelt was considered the biggest pariah ever to come down the pike in this country. He said his father was still cussing Franklin Roosevelt 30 years after he died because of all the taxes he had imposed. He said his father used to say, "Do you realize that Bing Crosby has to work for 6½ days before he ever makes a dollar for himself?" Back when Bing Crosby was working 6½ days a week to pay his taxes, he was making about 1,000 times or more in that half-day than my father was.

I was taught that Franklin Roosevelt was our savior because we got pure water. We got sewage facilities. We got REA. My father was a small-town hardware dealer. He could sell refrigerators and radios to country people who had never known those kinds of luxuries. So you can imagine how people in my household felt about Franklin Roosevelt.

I know all those arguments about not raising taxes because it will really speed this recession into a depression. I do not believe that any more than I believe that it really hurt Bing Crosby to pay his taxes. He still died with quite a bit of money.

And you tell me this. Since August 2, when Saddam Hussein invaded Kuwait, how is it that we are willing to pay in excess of $100 billion a year, for the increase price of oil in this country, in excess of $100 billion a year on an annualized basis—and a lot of it is going to people that we are not especially fond of—right out of the American consumer's pocket? They tell you that $40 billion, or $50 billion, or even $60 billion in increased income taxes over a 5-year period will send the economy into a tailspin. Yet you do not hear a peep, not a peep, not even a suggestion that we conserve energy in order to get the price down; not one single national appeal to even carpool to try to get oil prices down. We are going to cough up about $110 billion a year just for the increased price of oil since August. Yet some will say, "Yes, but you cannot call on the American people to pay any more in taxes, especially the wealthy."

For Senators who are concerned about the defense figures, let me reiterate that you will have two golden opportunities between now and the time that we leave here to do something about those numbers. I was pleased that the distinguished senior Senator from West Virginia pointed out that these figures in the Congressional Record are in gross error and the figures look much, much better than they did.

Mr. President, I had a letter from a man the other day. It is a common kind of letter we all get all the time: "Why don't you all stop that spending?" he asked.

Spending is always a question of priorities. One man's program is his livelihood, another is perceived by that same person as a boondoggle. Gerald Ford, in the only spate of humor I ever heard from him, said it did not take him long after he came to the Congress to realize the virtue and necessity of those magnificent projects out in Michigan and those boondoggles down in Arkansas. We are all that way, are we not?

I wrote this man and I said, "If you are really concerned about spending, do you want to cut student loans?" "No." "Do you want to kick Aunt Sarah out of the nursing home?" "No." "Do you want children to go unimmunized?" "No." We are going to lose 60, 70 children this year to measles. Three, four years ago a measles

death was unheard of in this country. We thought we had it conquered. Eight million children will die around the world this year just because they do not get the immunizations that are available to Americans.

What do you want to cut? The President said in his joint session address that the deficit will be $100 billion. He said it was now under control; that we would grow out of it without increasing taxes. That was all in only one sentence.

Four months later Dick Darman said that these had been a slight miscalculation; that the deficit was $150 billion. They made a little miscalculation. Three weeks later they admitted another miscalculation; it was going to be $170 billion. And now we know it is going to be $291 billion. Those are some pretty hefty miscalculations—triple the original estimate.

I might also say, in a partisan way, somebody always says something sounds pretty partisan to them. So be it. The President said the other day he was tired of Congress throwing phony figures around after he told us in January the deficit would be $100 billion for next year.

I wrote this man back, and I listed a whole host of things that I knew he did not want to cut. He does not want to cut Medicare. He does not want to cut Medicaid. Do you know what Medicaid is? That is health care for the poorest of the poor people in the country. We have 38 million people now with no health care coverage. He does not want to cut Medicaid. He does not want to cut Medicare.

Listen to this, Mr. President. If you just fund defense, Social Security, Medicare, Medicaid, interest on the debt, civil service pensions, and veterans pensions, just fund those seven and do not cut spending, for the other 493 functions, eliminate them, eliminate the FBI, eliminate Congress, eliminate the judiciary, the Federal prison system, the Drug Enforcement Administration, agriculture programs, eliminate all of those and just fund seven, you still have a whopping deficit.

I wrote this man back and I said, President Bush wants to go to Mars. Do you know what that costs, Mr. President? Five hundred billion dollars. He says cut all that spending, but he wants to go to Mars. Five hundred billion for that. He wants a space station, and we just appropriated $1.2 billion last week to continue the space station.

Did you hear any of that debate? When we started in 1984, the space station was supposed to cost $8 billion. The conservative estimates today are $32 billion. The space station has gone up in estimated cost by 80 percent every year since 1984; worse than the B-2 ever thought about.

But the President wants it. I tell them they might write the President about the so-called superconductor super collider, that physicists want to discover the origin of matter. I must confess as a political science major and lawyer I am not curious about the origin of matter. But I am glad somebody else is. The super collider started out at $5 billion. It is now up to $12 billion, and it is barely on the drawing board. Those are all exotic things that I divinely wish that we could afford. But you tell me. Is this deficit which threatens the economic fabric of this great Nation more important than these nice curious things that we would like to know?

And the Swiss, and I believe the Japanese, and a couple of other countries, have a super collider of their own going in Switzerland. There is a very good possibility they will find the answers to these questions after we have spent about $10 billion or $15 billion but before we even complete construction of our facility.

So when we start talking about controlling spending, it always depends on the question of priorities. There are people in this Senate who are as sensitive as I am about their children, about the future of this Nation. I think about Philadelphia. In 1787 there was the greatest assemblage of minds ever in the history of the world. That is not just according to me. That is according to everybody.

I said on the floor the other day, and it bears repeating. Alfred North Whitehead, a great British philosopher, said that only twice in the history of the world has man set about to do something and came as close to succeeding as was possible. One was the reign of Caesar Augustus, and the other was the drafting of the U.S. Constitution.

What has happened? In 203 years, what has happened? How many of you watched "the Civil War" the other evening, that magnificent documentary by Ken Burns? I have always been a Civil War buff but I never really felt in the fiber of my body the feelings that both sides had. It had always been sort of a clinical observation with me. But seeing and hearing David McCullough narrate that program on the Civil War, I felt for the first time the chill, the exhilaration and the excitement. The South thought they were going to decimate the North overnight. The North thought the war would be over in 90 days. All of a sudden, at First Manassas the bodies were on the wagons, and blood was everywhere in full view of all the socialites from Washington who had gone out to watch this massacre.

If Robert E. Lee had been the Northern commander, the war would not have lasted a year.

The man from Illinois was almost a laughingstock in his hometown—tall, gangly, high-pitched voice—never succeeded at much of anything. Finally, he got himself elected President because everything was so confused. It was a chaotic situation that brought him to power. Think about the greatness of this man, steering this country through easily the most traumatic event in the history of this great Nation. And he held this Republic together. He even said he would accept slavery if that would preserve the Union.

Then I could name some other heroes, certainly one of which was Franklin Roosevelt. Harry S. Truman is another. Here at a time when we are trying to get bipartisan support, I think about what on Earth has happened to leadership in this great Nation?

I was dead wrong about Harry S. Truman. I was a student at the University of Arkansas when he was president. I was embarrassed by him. I was just a kid, just a youngster. He wore those steel rimmed glasses, plastered his hair down with Vaseline hair tonic, had a nasal twang voice, and could not coordinate his words with his hands to save his life.

When he called up a music critic who criticized Margaret's singing, he called him an SOB. I was a little embarrassed that the President of the United States would use a term like that. I could not believe it until my daughter was born, and then I understood exactly how old Harry felt. Think about how that man on the advice of George Marshall, Averall Harriman, Clark Clifford, and other people that he surrounded himself with decided to implement the Marshall plan. His advisers said, "Mr. President, Europe is going to go to the Communists. We have devastated Europe. They are our enemies but if we do not want them to go Communist, we have to give them some help."

Harry Truman did not waste 10 minutes in making one of the most monumental decisions ever made in the history of the world. Think about what rich dividends we are collecting off that right now. Eastern Europe has folded because they want to be like Western Europe. Western Europe is where it is because of the Marshall plan. And the Marshall plan was there because of Harry Truman, who left office with a lower approval rating than Richard Nixon had when he left office.

The PRESIDING OFFICER. The Chair informs the Senator from Arkansas that the time originally requested by him has expired.

Mr. BUMPERS. By about 30 minutes Mr. President. I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. I am sorry I took up so much time. There are some distinguished colleagues here who wish to speak.

I strongly urge all of my colleagues to not just look at a particular item that bothers them in this budget proposed. I can certainly understand why they could do that. Believe me, I understand it.

I just pointed out to you a moment ago what that first budget resolution would have done to my State. But we simply cannot allow this Nation to fall into a state of chaos and anarchy starting tomorrow morning at 7 o'clock because there was some little part of this that we did not like.

Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, will the Senator allow a 30-second observation? I mean it as a compliment to the Senator from Arkansas. Back in 1981 he was 1 of the 11 who had the foresight to vote against the fiscal runaway train that got us here. I compliment him for that.

I would also note that unpopular as that vote was at the time for those 11 Senators, 7 still serve here, and 4 are retired at a time when each one of them could have easily been reelected but simply retired from the Senate.

So the Senator from Arkansas was right then, and the Senator from Arkansas is right today.

Mr. BUMPERS. I thank the Senator very much for his kind remarks.

Mr. WIRTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. WIRTH. We are in morning business at this time; is that correct?

The PRESIDING OFFICER. We are not. The Senator can make that request.

Mr. WIRTH. I ask unanimous consent to speak as in morning business for 10 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hearing none, it is so ordered.

Mr. WIRTH. If the leadership comes on the floor on the budget debate, we will move to that.

THE BUDGET

Mr. WIRTH. Over this last weekend, I had four airplane trips back and forth to Colorado. I flew out to Colorado on Friday night, had a very important speech there on Saturday morning, heard that we were going to vote in the Senate perhaps Saturday afternoon, flew back here and found there was not a vote, flew back to Colorado on Saturday night and came back early this morning for deliberations here this afternoon.

That comes with the turf. We all know the uncertainties of scheduling. I bring that up not for the purpose of saying that there is confusion about this, because we all knew about that, but rather to reflect on the fact that I saw an awful lot of people in a lot of different places over the last 72 hours. I cannot tell you how much hostility there is out there. I was asked over and over again, at the ticket counters, walking through airports, waiting outside, everywhere, "When are you all going to get your act together? When are you going to get together and make the decisions that have to be made for this country?" Mr. President, over and over again, they said, "for this country."

I was struck, as I had a lot of time on airplanes to think about this, to think about what we were doing and where we were going. I found myself musing on the Civil War drama that so many of us saw last week, in which it was very clear on both sides there was a tremendous sense of national resolve, a tremendous sense of shared value, a tremendous sense of purpose. People knew who they were, who their neighbor was, what ought to be done, and where we ought to go.

How familiar that drama was. And yet how far away, both in terms of being well over 100 years away, and how very different that is from today, in the distinct lack of shared values and lack of a shared national resolve.

The other time, coming closer to my own experience, is the post World War II era in which, again, we came out of that war victorious as a nation, but also with a tremendous sense of shared values, a tremendous sense of shared concern, a tremendous sense that we had national responsibilities to be fulfilled, and that those would require a significant amount of sacrifice.

In both of those situations we made that sacrifice, we reflected, and accurately worked upon that foundation as a Nation. How far we are from that today.

We are now engaged not in a great Civil War, but in a great battle, where we have allowed ourselves to become polarized on fundamental interpretations as to what we ought to be doing here.

On the one hand, there are those who say there is no way in the world that we can look at the crisis that we are currently in and deal with that with brevity. We cannot raise taxes, cannot move into the situation and pay for what we are voting to do. We cannot pay for the space station, cannot pay for Social Security, cannot pay for defense; just run up the deficit and do not pay for it.

Taxes are not on the table. We were told that we could not do anything like that; we were told 10 years ago. In fact, everything is going to be better off if we dramatically cut tax, taken away our ability to pay, which is a politically popular resolution, sounds good, if we say it fast enough, and we did at that point. But the chickens are coming home to roost.

While that is going on, we have, on the other hand, a sense that somehow the Government is going to pay for an endless number of programs, and we are going to index all of those, and there is going to be a sense of expectation that all is going to be met by the Federal Government. Do not worry about paying for it. But those programs are going to be ratcheted, retirement programs and medical programs, civil service programs, and all of these marching inexorably step by step by step, eating us alive. There are no revenues to pay for these, Mr. President, and no willingness to talk about them. And there is no stop to this endless escalation of programs and no willingness to talk about that either.

So we have this divergent approach in which one group is going this way, another that way, and we compound the problem by saying we are going to spend enormous amounts of money on defense.

So the problem is getting worse and worse and worse, and that is where we are today. The result of this is this huge budget deficit that we are now facing, and suddenly reality is coming home, and reality that many of us predicted in 1981, when we began to move in this direction. That reality is now coming home. The deficit has increased from $1 trillion in 1980—and it took us 200 years to build up that deficit, $1 trillion in 1980—to $3.5 trillion now. We have tripled, in a decade, the deficit of the United States. Interest on that deficit is escalating just as rapidly.

Those who warned us of that were told that was anti-American, antifree enterprise. But the drift has gone on for the last decade. The debt has gone up. Interest on the debt is now the second largest item in the Federal budget.

Our dependence on foreign capital has increased dramatically in a very dangerous way. Foreign ownership is gnawing away at a whole part of America. We can continue to sell off America to pay this debt, but that is very poisonous for our future.

Research and development has declined. Certainly our ability to invest in ourselves has gone away. We are all familiar with the horrors of the S&L scandal, when we said we could deregulate industries, get the Government off their back. That is costing us hundreds of billions of dollars.

I hope, behind that, the reality does not set in on the insurance system, or the banking system, and that we do not have a similar kind of problem.

In addition to these check problems, the other issues are right out there everybody is familiar with, if we are willing to address them. The gap between

rich and poor is greater today in the United States than ever in our Nation's history. The percentage of wealth controlled by a few at the top, is greater than it has ever been before, and that gap is growing and getting worse, and with that, we are inviting social dynamite and severe problems.

The drug issues pervade our cities and the country. Education remains unattended, as it ought to be attended. It ought to be looked at, our very survival depending upon the opportunities we give to people in this society, and our ability to compete with people all around in an increasing global economy.

I have very deep concerns about this, Mr. President. Our country appears to me to be in a drift on all of these accounts. We are being asked now to finally cope with it, finally in this resolution to think about what we want to do.

I was asked on all of those trips, "What are you doing for the country, for our country; what kind of national decisions have to be made?" That is what we are up to now. We are down a slick log, Mr. President. That is going to happen within the next few hours, as we vote on this budget resolution, which I desperately hope that we support. We should do it. I would have voted for the earlier budget resolution, Mr. President, had that come over here from the House. I have consistently voted for these as a member of the Budget Committee and will continue to do so, to try to move down this deficit.

Finally, Mr. President, I started with reference to where we were in the Civil War in a sense of national resolve, where we were after World War II in a sense of national resolve. Again, we want to learn from history, Mr. President.

Let me close by citing a piece written by Paul Kennedy, a Dilworth professor of history at Yale, who wrote a book that had a great impact on the country a couple years ago, "The Rise and Fall of the Great Power." He reminds us about the need to attend to the fabric of our own economic health, not to neglect it. Let us learn from history. In commenting about the situation in the Middle East, Mr. Kennedy wrote in the London Times earlier last month:

> Yet this focus on military capability, or on national will-power, may obscure rather than illuminate the larger question of America's real position in world affairs and the critically important, non-military dimensions of national power. If we allow this to happen, we will be repeating the blindness of many earlier great powers engaged in large-scale military operations abroad.
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> Consider, for example, Spain's decision in 1634 to send a powerful army into Germany to join its beleaguered Austrian Habsburg cousins during the Thirty Years War. Its infantry and generals were first-rate, its deployment (from Spain, via Milan, the Alps, the upper Rhine) swift and professional, its troops moving to the battlefront from a wide array of Spanish bases and possessions.
>
> No other European nation at the time could equal such force projection; Spain, it was clear, was still number one militarily. Yet in the non-military dimensions of power it was beginning to sag badly: massive debts, inefficient industries, reliance on foreign manufacturers, vested interests that debilitated rather than strengthened.
>
> Little attention was paid to those features in the excitement of watching the glittering Spanish battalions pour into the Rhineland. By the 1640's, however, the suspension of interest payments and declarations of bankruptcy by Spanish kings revealed the decline of Spanish power.
>
> Or consider the stupendous British force projection in the South African war, 6,000 miles from home, at the turn of the century. Before that war was won, the British had poured in more than 300,000 troops from all over the globe—India, the Near East, Australia, Canada and Britain itself. Simultaneously, the Royal Navy controlled the sea lanes: British cable communications had a world-wide monoploy; no other contemporary power could equal its global position.
>
> In the upsurge of British patriotism, however, it was easy to forget the other part of the story: the inadequate educational system, the meagre levels of investment, industry's growing uncompetitiveness, the vast trade deficit in manufactured goods. Those weaknesses would one day cause the collapse of British power.
>
> Is there a lesson here for the US? Many will doubtless claim that America in 1990 is not like Spain in 1634 on Britain in 1900. (And they will be right: no two countries in history are ever alike.) But that misses the basic point, which is that to remain number one generation after generation requires not just military capability, not just national will, but a flourishing and efficient economic base on which the nation's military strength ultimately rests.

The lessons of history have to be there for us and they are right in front of us today. The vote that we have and our willingness to start the process of making the difficult decisions on this deficit are going to be with us right now.

I hope we pass this resolution, and this is going to be easy tonight, Mr. President; this is an easy decision. We just are setting overall targets in this budget resolution. This is easy. Then we have to enforce it with very specific pieces of legislation related to raising taxes, related to moving in on entitlement programs, dramatically, and I hope more than in this resolution, cutting defense spending; less on defense and more on education, which I think is part of what this ought to be all about.

Those are the more difficult decisions we have to make, and we have to get on with those, as well, not, I would hope, concerning ourselves with what that poll might be, but doing what people asked me as I went across the country over this last weekend, asked me over and over again, "What are you doing for the country?"

For the country, we must support this budget resolution. We must get on with this process. If we do not, we have reason to suspect that the American public is reacting and should react in a very dramatic way to what is going on here.

Thank you very much for your courtesy, Mr. President.

I ask unanimous consent that the full article by Professor Kennedy be printed after my remarks in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the London Times, Sept. 1, 1990]

DISPLAY OF MIGHT, BUT A GULF WITH THE POWER THAT COUNTS

(By Paul Kennedy)

Among the responses to the Kuwait crisis in the American media and among strategic analysts, one of the more prominent has been a sense of satisfaction at the rapid projection of US military force halfway across the globe. After all the worrying talk of decline, it is clear once again that only America has the capacity to dispatch large military forces to Saudi Arabia, to deter further Iraqi aggression and preserve international order.

By comparison, the Germans and Japanese, touted as the new economic superpowers, have failed the basic test; the European Community has again displayed the weaknesses of not being a unitary state; a weakened Soviet Union is playing a marginal role.

America is still number one, the actor dominating the world's stage. Far from displaying imperial overstretch, it has robustly demonstrated its quasi-imperial power. The only worry at present is whether the American public has the will to support a conflict that might be long and bloody.

Yet this focus on military capability, or on national willpower, may obscure rather than illuminate the larger question of America's real position in world affairs and the critically important, non-military dimensions of national power. If we allow this to happen, we will be repeating the blindness of many earlier great powers engaged in large-scale military operations abroad.

Consider, for example, Spain's decision in 1634 to send a powerful army into Germany to join its beleaguered Austrian Habsburg cousins during the Thirty Years War. Its infantry and generals were first-rate, its deployment (from Spain, via Milan, the Alps, the upper Rhine) swift and professional, its troops moving to the battlefront from a wide array of Spanish bases and possessions.

No other European nation at the time could equal such force projection; Spain, it was clear, was still number one militarily. Yet in the non-military dimensions of power it was beginning to sag badly, massive debts, inefficient industries, reliance on foreign manufactures, vested interests that debiliated rather than strengthened.

Little attention was paid to those features in the excitement of watching the glittering Spanish battalions pour in the Rhineland. By the 1640s, however, the suspension of interest payments and declarations of bankruptcy by Spanish kings revealed the decline of Spanish power.

Or consider the stupendous British force projection in the South African war. 6,000 miles from home, at the turn of the century. Before that war was won the British had poured in more than 300,000 troops from all over the globe—India, the Near East, Austrialia, Canada and Britain itself. Simultaneously, the Royal Navy controlled the sea lanes: British cable communications had a world-wide monopoly; no other contemporary power could equal its global position.

In the upsurge of British patriotism, however, it was easy to forget the other part of the story; the inadequate educational system, the meagre levels of investment, industry's growing uncompetitiveness, the vast trade deficit in manufactured goods. Those weaknesses would one day cause the collapse of British power.

Is there a lesson here for the US? Many will doubtless claim that America in 1990 is not like Spain in 1634 or Britain in 1900. (And they will be right; not two countries in history are ever alike.) But that misses the basic point, which is that to remain number one generation after generation requires not just military capability, not just national will, but a flourising and efficient economic base on which the nation's military strength ultimately rests.

This, then, is the larger irony of President Bush's bold commitment of strong American forces to Saudi Arabia. The cause may be just, the deployment impressive and the actual fighting by US forces—if it comes to that—may demonstrate efficiency and resolve. But all this will divert national attention, energies and resources from dealing with America's growing fiscal, technological and educational weaknesses. Mr. Bush, like Philip IV of Spain, prefers the glorious role of commander-in-chief to haggling over budget deficits; and much of the American media reflects that inclination.

The most significant news item of recent weeks, however, was not datelined Baghdad or Kennebunkport but appeared on an inside page of The Wall Street Journal on August 21. It reported that next year's budget deficit will almost certainly be the largest in American history, between $250 billion and $300 billion.

The cost of the military deployment (estimated by some to reach $1.5 billion before October, even if no shots are fired), the likelihood of smaller cuts in overall defence spending (or none at all), the difficulty of raising the tax on petrol, the economic slowdown and consequent fall in revenues, will all weaken America's fiscal position. In consequence, the article concluded, the cuts in government spending authorised by the Gramm-Rudman budget law probably will likely be cancelled by legislation later this year.

Is it any surprise that the dollar's value has been sagging, the stock market tumbling, and voices are heard demanding that superrich Japan and Germany help pay the spiralling cost of America's force projection?

The United States may get out of the Gulf quite soon without serious fighting and cost. On the other hand, it may be dragged into a long and expensive stay in the Arab world which, whatever the military outcome and popular mood, will certainly worsen its fiscal position and make it increasingly dependent on foreign capital, as happened to Britain when it lingered too long east of Aden until the Suez crisis.

For that reason alone, it may be premature to dismiss Tokyo and Bonn as being relegated to the margins of world affairs. Imperial overstretch has rarely occurred because a great power had too little military force; on the contrary, it was likely still to possess massive forces and at times to deploy them a along way from home. The real problem, it seems has not been the force-projection capabilities of the current number one, but a failure to recognize that long-term wealth and strength depend on the non-military dimensions of national power and on making hard political decisions on the home front.

The emperors, kings, prime ministers and presidents of great powers have always preferred the heady world of diplomacy, war and international affairs to the unglamorous realm of fiscal reform, educational change and domestic renewal. That is understandable, since they will go down in history as leaders of this or that spectacular demonstration of the country's still-powerful military capacity. It is left to later generations to pay the price.

Mr. WIRTH. I yield the floor, and I thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Mississippi [Mr. Lott], is recognized.

Mr. LOTT. Mr. President, I ask unanimous consent to address the Senate as if in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET RESOLUTION

Mr. LOTT. Mr. President, as we wait for the leadership to bring forward the budget resolution, rather than delivering my thoughts on the subject later on tonight, I thought I would go ahead and do it now and maybe save the Members a little time later on.

First, I would like to comment on the fact that this is a so-called bipartisan leadership agreement with the support of the President. I emphasize that I think the leadership has tried very hard to come up with a package that is reasonable and one that could pass. It is tough being in leadership.

One of the criticisms of the leadership, both in the administration and the Congress now, is that they went on over the hill and did not look back to see if the troops were with them. That is probably true.

When you are in the leadership position and you are on top of the mountain—at the summit—lightning always strikes first at the top. I think that is probably what happened here. They were doing the best they could, but they came up with a package that the rank and file American people and rank and file Members of the House and Senate just could not support.

I do no intend for my remarks to be construed as being critical of our leadership on either side of the aisle. I think they have done a good job in view of their respective, very difficult positions.

A moment ago, somebody referred to the fact that this may have been caused by the 1981 fiscal runaway train. As a matter of fact, the absolute reverse is the case. In 1981 we passed budget resolutions then known as Gramm-Latta that actually cut spending, and that was probably the last time the Congress voted to cut spending—9 years ago.

It is very popular around here to talk about the fact that, when in 1981 we cut taxes a little bit on people, that contributed to the problems we had in the eighties. As a matter of fact, the eighties were pretty good; and as a matter of fact, I still do not accept the argument that when you allow the people to keep some of their own money in their own pockets, that is bad for the economy. I think the reverse is true.

I just had to refer to this fiscal runaway train. It was one of the few times we really showed any fiscal restraint around here.

The problem with this budget agreement still is basically simple. It is fundamentally a tax package, a tax increase package. Everybody says it; it is trite, but I repeat it: Only inside the beltway, around Washington, DC, and in the news media here in this city, in the Washington Post, and by some commentators, do they say, "Oh, the people are undertaxed."

Go out in the real world and ask the people, whether it is in Mississippi, Montana, Nevada, or Maine, "Are you undertaxed?" Look at all the taxes they have to pay and ask the people across the country, "What is the solution to the budget deficit?" and they will tell you, "There is too much spending. Do not tax me any more."

We get into these arcane discussions around here. Let us burst the bubble; do this, do that. The average people out there, the people working, paying the taxes, do not understand all the nuances. They ask very simply. "Is it going to cost us more in taxes or not?" If the answer is more taxes, they say, "That is not the way to solve the problem."

The reason the budget agreement went down in the House is because the American people spoke to their Representatives in the Congress—Democrats and Republicans—and said, "Reject this thing, because it is going to hit the average working, taxpaying person too hard."

Gasoline tax is a classic example. Gasoline taxes hit everybody, and they hit especially hard the low-income, middle-income, working people. Then we see in the Washington Post this morning, once again, talk about exempting home heating fuel that affects the ability to stay warm. What do you think they do in Mississippi and Texas when they have to pay 12 cents a gallon or 10 cents a gallon more? When you look at what has happened over the last 6 weeks, it could lead to a situation where people in all parts of the country cannot stay warm.

If we are going to have a petroleum fee, it has to be across the board. It has to hit Maine just like it hits

Texas. So I hope that exemption would not be put into place.

If you ask the people—and I understand there is a poll out right now—ask the people again, "Where do you want to control this deficit; how do you want to do it?" the response comes back with 83 to 12 percent of the people saying cut spending.

My colleagues will get up on the floor of the Senate and say, "Where would you cut?" I respond, how about everywhere? How about a hard freeze? As a matter of fact, if we would just have a hard freeze on domestic discretionary nondefense spending in the first year, we would save $6 billion. We could even allow for a nominal increase from 1991 through 1995, and that would save $3 billion.

But in the budget package that they tried to get through the House of Representatives, they had cuts in defense, not cuts in international accounts, no cuts in domestic discretionary accounts. As a matter of fact, it had increases.

Let us talk about this package we have before us now. This is one that has been described as a shell—fill it in any way you want to—or a blank check. I have heard it described as a prism. You can show it this way to one group, and they see one thing. Turn around and show it that way to a different group, and it shows another thing.

What they have done is take anything controversial—whether a gasoline tax or Medicare or anything else—and say that is not in there. We are going to leave a plug and let the Ways and Means Committee figure out whether it is going to be Medicare costs for Medicare recipients, or going to be a tax increase. So you can see what you want to see or not to see what you do not want to see. That is what is in the package. Now we have a budget resolution that is a ghost resolution.

We are going to be told: Let the process work. I have used that argument. I have bought that argument. Yes, let us move the process along, vote for this budget resolution, and then we will be told a week from now we have to vote for the reconciliation package because we voted for the budget resolution. They are going to have to come up with a better argument than just moving the process along.

Let me assure everyone that when the Ways and Means Committee in the other body gets through with the budget resolution, when they develop the reconciliation, it is going to be more tax, not less. And they have a long track record. I have watched them for years, now. Frankly, I have a little more faith in the Finance Committee here in the Senate. I believe that the chairman of the committee will try very hard in the Senate to keep home heating fuel from being exempted.

But when the smoke clears, what they are going to have to do is again look for tax increases. We have jumped that hurdle here in the Senate and in Washington. We have quit arguing over where should we cut spending. We have all gotten to the point now of identifying which taxes we are going to find acceptable.

That is the fundamental flaw. We are looking for more and more taxes, whether it is gasoline taxes—or call them fees. We have a whole long list.

I urge my colleagues to look at the budget resolution, look at the numbers in here. Each committee is told, here is a number, find it. On reconciliation, we are going to tell the various committees, you go out and find your numbers.

Let us just take one committee, the House Committee on Post Office and Civil Service. We tell them to come up with a deficit reduction of $2.165 billion for fiscal year 1991. Anybody here believe they are really going to get that? Look at their past record. The last time they were instructed to come up with a reduction of savings in the deficit, I think the record will show they ignored it. They just said we are not going to do that.

Is the leadership going to roll all these various chairmen in the House and the Senate? Who are we kidding? It does not work that way. So the number we are told we are going to get in the reconciliation from the various committees, that is just a joke. We are not going to get these real savings. And all you have in this budget resolution is a long list of numbers that are hard to even explain.

So, we are counting on the committees to do the job for us. We are just going to move the process along. I do not think this is going to produce any savings. I think all it is going to do is produce more tax increases.

Now some people will say, all right what is your package? I guess you could come up with 100 different packages right here in the U.S. Senate. But just in case anybody would like to see one, I have one. I have one right here that will save $6 billion in nondefense discretionary spending. It would take Chairman Nunn's numbers on defense, that is $10 billion savings; it would take $10.7 billion out of entitlements, and I can even specify where those savings would come from, and it would provide for $16 billion in revenue. I still think that is a wrong way to go, but if you want a package that we can consider, I have got numbers here that we could work on.

I urge my colleagues to vote against this shell of a budget resolution. I might go along with a continuing resolution, but I would like for it to be a shorter one. That way, the pressure will stay on the Congress to do its job and not come down to the wire on October 19, right up against the deadline, when once again we'll be told we have to take this thing whole hog, take it or the Government will be shut down again.

I predict that on October 19, that is what we will be doing. Taking reconciliation just like it is, so that we can go home. I think we ought to at least back date up to the 15th. If we are going to have another drop-dead date, it would better to be the 15th than the 19th. If we do that, I would take another look at the continuing resolution.

I am glad to yield to the distinguished Senator from Colorado.

Mr. ARMSTRONG. I have been listening to the distinguished Senator from Mississippi. I wonder if he would yield for a question.

Mr. LOTT. I am glad to yield.

Mr. ARMSTRONG. I heard a moment ago the Senator's reference to the savings which are directed by this budget resolution to the Committee on Post Office and Civil Service.

The PRESIDING OFFICER. The Chair would inform the Senator from Mississippi, who has the floor, that his time has expired.

Mr. LOTT. I ask unanimous consent to have 2 additional minutes so I could respond to the question of the Senator from Colorado.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. The Senator was commenting that he was not sure that savings of the magitude that had been suggested could actually be achieved and, in fact, if I understand his comment correctly, he was asking how in the world could they do that, particularly when it came to the post office.

I just wanted to tell him that we have done a little research on this and I think the essence of at least the $489 million in savings is that they are going to have the post office, which is now off-budget—we took it off-budget last year as part of the reform—they are now going to have this off-budget activity write a check for $489 million to the Government, which would put it back on budget. So at least that portion of it you can be sure will not be a real savings, will not be any reduction in the general level of expenditures. It will just be a bookkeeping trick.

If you look through this at several places, you have the same reason for skepticism. In fact, as you look at the proposal to pick up $9 billion as a result of enhanced enforcement by the IRS, all that means is that we are going to hire a few more IRS agents, and I suppose that it will bring in an extra $9 billion. We could as easily, I suppose, have said $19 billion or $29 billion or any other number, because it is just a supposition.

It is the same thing, if I could just sum up, as we once had around here, which was the magic asterisk. I do not know if the Senator remembers that, but it was just where we plugged in a number because it helped us achieve a total. If you look carefully at the proposed savings in the budget resolution, there are a lot of asterisks, or little places where we may have assumed things that may or may not pan out.

Mr. LOTT. You could probably call this budget resolution an asterisk. In a sense the original proposal for the specifics went down. Now they are saying we are going to take everything from the House, just vote to move the process along, and we will let the Ways and Means Committee and the Post Office and Civil Service Committee—and I am not picking on that one committee—fill in the blanks. This is one great big asterisk.

While I was not inclined to vote for the earlier agreement, I am even less inclined to vote for this because I have no idea what it means or what it is going to lead to. And if I vote for it, then I am going to be told I have an obligation to vote on the whole reconciliation package.

Mr. ARMSTRONG. What does the Senator think of the argument that is made in support of the budget resolution that, after all, we are not shooting with real bullets; it does not really change anything; it does not have any effect on subsequent legislation; therefore, this is virtually a ministerial act; it really does not count and should not be taken seriously?

Mr. LOTT. There is no question that Congress is firing with blanks. This is not a blank. This is real because we are going to have to pay the price with increased taxes.

Since there is another Senator waiting for time to speak, I yield the floor at this time, Mr. President.

(Applause in the galleries.)

The PRESIDING OFFICER. The Chair would inform spectators in the gallery that it is contrary to the rules of the U.S. Senate for spectators in the gallery to express either approval or disapproval of the remarks of any Senator on the floor, and if there is a further outbreak, the Chair will have to direct the Sergeant at Arms to take appropriate action.

The Chair recognizes the Senator from North Dakota [Mr. CONRAD].

THE DEFICIT

Mr. CONRAD. Mr. President, as the occupant of the Chair knows, in the last several days I have been on the floor arguing strongly against the summit agreement for deficit reduction. I argued strongly against it because I did not feel that agreement was fair. It was not fair to the middle class in this country; was not fair to the elderly sick; was not fair to the farmers of this country; was not fair regionally. It should have been rejected and has been rejected and should not come back.

Mr. President, I thought I would take the floor today to talk a little bit about how we got here. How do we find ourselves in such a difficult situation as we face today with deep disagreement in this Chamber and in the other Chamber not only between parties but among Members of the same party and between those of us on Capitol Hill and the White House?

I brought some charts along to show what has happened in the last 10 years. Very briefly let me review these charts with my colleagues.

The first one shows the trend of Federal spending and revenue from 1980 through 1991. Mr. President, the top line is the spending line, a steady increase over this 11-year period. The bottom line is the revenue line. And that shows a dramatic turn, because in 1981 the Congress passed a tax bill that dramaticaly cut taxes in this country. The result of that combination of increased spending, constant trend line up, and that dramatic tax reduction was that deficits exploded in this country. Deficits tripled on a yearly basis and more. The result of those increasing deficits was the Federal deficit in this country grew like a cancer.

This chart shows the growth in the national debt from less than $1 trillion when Ronald Reagan came into office to over $3 trillion today, and headed for $4 trillion.

At the same time we saw this dramatic increase in the Federal debt, we also saw the opening up of an enormous chasm in the trade deficit of this country. The United States went from being a country that ran trade surpluses to a country that ran enormous trade deficits.

Those budget deficits and trade deficits are related. One helps cause the other. As Federal deficits go up, interest rates go up, and that makes us less competitive. The trade deficit opened up so the trade deficit in 1989 was greater than the total of all the trade surpluses accumulated since the end of World War II. The result of that pattern was the United States went from being the largest creditor nation in the world, as recently as 1981, to now being the largest debtor nation in the world. The largest creditors, more countries owing us more money as recently as 1981 to now being the largest debtor nation. More countries owed us money than any other country in the world. We now owe an external debt of over $650 billion. That, Mr. President, suggests economic decline.

And, while we have seen this pattern, I think it is also instructive to look at what has happened in the tax burden in this country because one of my strongest objections to the summit agreement was that it was not favorable and not fair to the middle-income earners in this country.

Mr. President, this chart shows the annual change in taxes from 1977 to 1990. The tax changes are expressed in billions of dollars and it is expressed in terms of equal one-fifth categories of American taxpayers. So the lowest one-fifth have had a modest tax increase in this country; the second one-fifth a tax increase; the third one-fifth a tax increase, the fourth one-fifth a tax increase. The very top here is the top 1 percent in our country; the top 1 percent. What have they experienced? A dramatic tax reduction.

Mr. President, at the very time the wealthiest 1 percent have enjoyed a massive tax reduction we can also look to this chart which shows what has happened to the change in real income as well as Federal tax rates by the various categories in our society. This chart, too, is very revealing. It shows, again, that the lowest one-fifth have had a negative real income change and a modest tax rate change. The middle one-fifth, very modest real income change and a modest increase in taxes. The richest one-fifth, a dramatic increase in real income, over 25 percent and a modest tax reduction.

But look at the richest 1 percent among us. They have enjoyed real income increase of over 90 percent and their tax burden has reduced. Mr. President, that is not fair and that is why I among others so strongly objected to the package that was put before us that increased the income taxes, or the tax burden, I should say, on the middle-income people of this country, at double the rate of increase of the richest among us.

That was not fair. And it was rejected, and rejected overwhelmingly because the people of this country are pretty darned smart. They knew that package was not fair. They knew it should be rejected, and it was.

Mr. President, there is another area that is not fair either. This time it is on the spending side. Because, for too long, Mr. President, we have been paying the bills for Europe and Japan even when we cannot pay our own bills—$100 billion a year for Europe, $50 billion a year for Japan. And we have to borrow the money from them to do it. What sense does that make? Yet we continue the pattern. Pay Europe's bills; pay Japan's bills. And then wonder why we have a massive increase in the deficit here at home.

I looked back in my files for an article that appeared in the Economist. The Economist is a distinguished journal published abroad. This came from July 1987. Let me quote from that issue. They are suggesting that Europe ought to pay more of their own defense. Here is what they say:

> Why is that so desirable? Not just for the reason usually given that 240 million Amercians with an income at about a bit over $4 trillion do not see why 374 billion Europeans with nearly $3.5 trillion should need 300,000 American servicemen and about $100 billion a year of the American defense budget to guard them, giving nothing in reply except the cheery explanation that Europe is worth every penny of it.

Mr. President, Europe may be worth every penny of it, but they ought to be their pennies. They ought to be their dollars. It ought to be their contribution to their defense and we ought to say in this country that we are responsible for our defense and we are ready to meet that challenge. But we cannot continue to pay the bills for Europe and Japan when we cannot pay our own. And we cannot continue to pay the bills for Europe and Japan when we have to borrow the money from them to do it. That way lies weakness, not strength.

I have long believed, Mr. President, that the greatest threat to America's security is our economic vulnerability, and what could be more clear in these last 72 hours, as we have watched a great nation brought to its knees, its Government closed, its most sacred monuments and memorials closed, because we cannot pay our own bills.

It is time for change. It is time to say to the wealthiest among us: You have to pay more. You have to take more of this load. And it is time to say to our friends in Europe and Japan. It is time for you to pay your own bills, we cannot afford to do it any longer.

I believe those are fundamental principles against which any final resolution of this budget imbroglio should be measured. This budget resolution is not the final test. This budget resolution is simply guidelines about trying to achieve $500 billion of deficit reduction over the next 5 years. The details come later.

Mr. President, when we have the details they better meet these tests because the American people are smart, they know there is a problem. They do not know the precise numbers but they know there is trouble. They see the storm clouds on the horizon and they want it resolved.

They want this body and the other body and the President of the United States to face up to the challenge that we confront. No coverup, no phony estimates, no feel good programs, but for once: Truth and honesty. I am convinced if we go to the American people and are straight with them, they will support the hard choices that need to be made.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Washington [Mr. GORTON] is recognized.

Mr. GORTON. Mr. President, I ask unanimous consent I be permitted to speak for 10 minutes as in morning busines.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET RESOLUTION

Mr. GORTON. Mr. President, on Monday last, I stood before this Senate and was among the first to endorse the budget resolution which resulted from several months of negotiations involving leadership of both parties and this body and in the House of Representatives and the President of the United States. I agreed to that support not because it proposed a solution which I regarded as ideal, but because it did seem to represent a broad cross-section; it did spread the very real pain of attempting to save some $500 billion over a 5-year period from the deficit and because it called for strong, in fact, unprecedented enforcement mechanisms.

Within the 24 hours or so after I made those remarks, the President of the United States asked for public support for the bill, and the majority leaders, both of this body and of the House of Representatives, mildly endorsed a proposal in the drafting of which they had played a major role but essentially denounced it as unbalanced and unfair.

From that point on, almost all possibility of a broad bipartisan agreement unraveled. The Speaker of the House of Representatives and I believe the majority leader here said, if it is passed, the committees will work their will on it and it will change in some form in the way in which it was adopted by the summit agreement. That, because of the nature of the majority in both Houses, was not calculated to bring Members of the Republican Party into agreement with the proposal and the result we already know. Neither Republicans nor Democrats in the House were willing to give that proposal a majority of their votes.

On the next morning the most thoughtful suggestion which I heard mentioned came from the distinguished junior Senator from Texas [Mr. GRAMM] who said he felt that the next step in this process must be three fundamental goals:

First, it must reach the deficit reduction goals of the first proposal; that is to say, $40 billion in the first year, and $500 billion during the course of 5 years.

Second, it must be different from the proposal which was rejected and be perceived both in the Congress and in the country as being different.

And third, the Senator from Texas said that he felt strongly that it must be in a form which was regarded by both Republicans and Democrats as being more favorable to the causes which they sought, perhaps the most difficult of those three goals to reach.

In any event, when the President's veto of the continuing resolution was upheld in the House, that forced quick action with respect to another budget resolution. The majority party of the House drafted such a resolution and agreed to it last night.

Mr. President, that resolution met two of the three goals which the Senator from Texas set out. It meets the same goals with respect to budget deficit reduction and it is perceived to be different. It does not, however, meet the third of those goals. It was drafted by Democrats, largely in favor of Democratic positions.

It has two major differences, as I see it, from the one which was defeated in the House of Representatives last Thursday. The first is that it has few of the specifics which were a part of the statement of managers in connection with the first budget resolution. In other words, it leaves these generalized goals to the Ways and Means Committee, primarily in the House of Representatives, and the Finance Committee in this body. It is in that respect that I find it particularly troubling.

I am reminded of the line from Hamlet, Mr. President, and I find myself in the position of preferring to "bear those ills we have and fly to others that we know not of." I knew, whether I like it or not, what was in that first budget resolution and what it meant. I do not know what this budget resolution will lead to, and it is largely out of the control of the party of which I am a party.

The second major difference is that it gives each of those committees $20 billion in unspecified savings. In theory, of course, that $10 billion, which is taken out of entitlement savings and $10 billion out of tax increases, could be used to increase the amount of spending discipline which we had imposed on the Congress and on the country. As a matter of fact, we almost all know that what will happen is there will be $10 billion less in budget discipline and $10 billion over this 5-year period more in taxes.

Mr. President, I do not regard that at this point as a satisfactory solution and, therefore, will be among those who favored or would have voted for last week's solution and will not vote for this one this evening.

I may say, Mr. President, that that is a fairly close question. Certainly, this budget resolution creates a pattern which can allow for a responsible and balanced approach on the part of both of those distinguished committees and on the part of the House of Representatives and the Senate. It might lead to a good, effective, and enforceable reconciliation bill which will be balanced between tax increases, other forms of revenue and spending discipline. It may lead to a way in which the plan which it has for 5 years can effectively be enforced. It it does so, I will intend to support the much more difficult proposition of voting for a reconciliation bill which actually meets those goals in a way which is satisfactory to the President and I hope to a majority of Members of both of those parties.

At this point, however, the downside risk of turning this over, most particularly to the Ways and Means Committee in the House of Representatives, is not one which I wish to take. I believe that there is a legitimate fear that this budget resolution will result in more taxes and less spending discipline, and I believe that this is exactly what the people of the United States do not wish.

As a consequence, Mr. President, I intend to vote against this budget resolution with the hope that I am proven to be in error by the actions of the Ways and Means Committee, the House of Representatives, the Finance Committee and this body. And if I am, when the reconciliation bill appears on the floor for debate here, I will be happy to acknowledge it and to support a proposal which will at least begin to get us out of the fiscal mess that we find ourselves in at the present time and on the road to fiscal sanity.

Mr. BOSCHWITZ. Will the Senator from Washington yield?

Mr. GORTON. I will be happy to.

Mr. BOSCHWITZ. Let me ask the Senator, as my colleague knows, I just returned by plane from Minnesota and I noticed in the summary I received, there is $20 billion more in unspecified but reconciled reduction. The Senator says he is concerned that will be $10 billion more, cut $10 billion more in revenue that are not presently——

Mr. GORTON. Not quite, I say to my friend from Minnesota. I fear what I read in the newspaper and hear from the House of Representatives that it will mean $10 billion more in taxes and $10 billion more in spending. That is to say $10 billion less in spending discipline.

Mr. BOSCHWITZ. But then the $20 billion will not be the reconciled dificit; reduction will not be met.

Mr. GORTON. Yes, it will be. What I understand the leadership of the House to believe is that they will be required to reconcile $10 billion less in spending reductions in the entitlement field and match it by $10 billion more in taxes.

That is what the $20 billion in unspecified is; $10 billion comes from the tax side, $10 billion comes from the spending side. So all they need to do is add $20 billion in taxes and they will have accomplished the goal I have just outlined.

Mr. BOSCHWITZ. But the summary that I received also states, "Gross revenues will not exceed those in the summit agreement." Is that not correct?

Mr. GORTON. That is also correct. It is also deceptive because gross revenues in the budget summit included some $150 billion in new taxes against which somewhere between $12 billion and $15 billion or $18 billion of tax goodies, of new preferences—remember, the investment incentives were to be subtracted, so that the net of new taxes was approximately $130 billion. So it is very easy for the Ways and Means Committee in the House to strike all of those incentives—incidentally, I believe they should be stricken—but to add $20 billion to the taxes authorized here, still stay under the $150 billion gross but have a net increase in taxes of $10 billion over and above what the net of the earlier budget agreement called for.

Mr. BOSCHWITZ. So that the net revenues before were about $138 billion.

Mr. GORTON. About $130 billion, I believe. But in any event they will be $10 billion higher than that.

Mr. BOSCHWITZ. There was $14 billion more than that in some preferences that were added including that whole small business package.

Mr. GORTON. The Senator is correct.

Mr. BOSCHWITZ. So the word "gross" is the operative word in that particular regard.

Mr. GORTON. That is correct.

Mr. BOSCHWITZ. I thank the Senator. It looks like it followed the budget agreement that the Senator and I in our discussions would have voted for, but this one has departed from it in a way that is not readily noted from the description.

Mr. GORTON. It does. As I said in my own remarks, this is broad enough so that it could permit an ultimate reconciliation package which would be quite consistent with what the distinguished Senator from Minnesota and I supported a week ago today. The problem is it also could be very, very different from that proposal.

Mr. BOSCHWITZ. The Senator from Washington is somewhat apprehensive about such a reconciliation bill starting in the Ways and Means Committee of the House, I gather.

Mr. GORTON. The Senator from Washington is extremely apprehensive about the prospects there.

Mr. BOSCHWITZ. I share the apprehension. I thank the Senator.

Mr. GORTON. Mr. President, I yield the floor.

BUDGET NEGOTIATIONS

Mr. MITCHELL. Mr. President and Members of the Senate, as I announced earlier in the day, it had been my hope that we could proceed to consideration of the budget conference report at or shortly after 2:30 p.m. this afternoon. As is obvious, it now being some 4 hours later than that and we not having formally gone to the budget conference report, I was unable to gain consent to do that.

In the interim, however, two things have occurred. We have had a number of discussions among the leaders on the Budget Committee, the chairman and ranking member and others and I, with the distinguished Republican leader, in an effort to reach an agreement on the handling of the conference report and the continuing resolution in such a way that might ultimately reduce the amount of time that would otherwise have been consumed in consideration of those two measures.

In addition, I note that a number of Senators have made statements as though we were on the budget resolution, and it is my fervent hope that when we get to it, informative as those statements were, Senators will not make the same or similar statements again.

Mr. GORTON. Will the majority leader yield?

Mr. MITCHELL. Yes, I am pleased to yield.

Mr. GORTON. It was exactly for that purpose that this Senator spoke, and the distinguished Senator from Mississippi. The time which I had informally reserved has now been utilized, and we recognized that and hoped that we could reduce the time for debate after we had formally laid down the budget resolution.

Mr. MITCHELL. I thank my colleague for his cooperation in that regard, and I encourage all other Senators who have expressed an intention to speak when we get to the budget resolution to use this period of time to do so and then permit a reduction in time formally allocated to the resolution when we get to it, which I continue to hope will be shortly.

Having said I hoped to go to it at 2:30 and it now being 6:30, my hopes and expectations are not much to rely on for Members of the Senate, but I am an eternal optimist. I sincerely hope we are going to be able to resolve the matter in a way that we ultimately save time for all and permit us to complete action on both measures promptly.

That being the case, I am not able to say we are there yet. I conclude by saying it is incumbent upon the Senate to act on these measures today. We are not just dealing with numbers. We are not just dealing with what we call programs. We are dealing with individual human beings and their families and their hopes and fears and concerns.

It is our responsibility as public officials to act and act in what I hope will be a prompt and decisive manner to approve the budget resolution to

permit us to go forward in an attempt to develop a responsible, fair, and meaningful legislative package that will reduce the deficit.

The first step to that, the essential first step, is to pass the budget resolution. This is the time of the baseball playoffs, and to use a baseball analogy, you cannot score until you get to first base. The budget resolution is the means by which we get to first base. It does not score a run. It does not change the law. It does not have to be signed by the President. It simply is an internal mechanism of the Congress under the Budget Act that permits us to proceed to attempt to develop in the actual legislation on which we will be voting in a couple of weeks those changes in law that will produce savings in a fair, meaningful, and responsible way.

So I apologize to all of the Members of the Senate for the inconvenience resulting from our inability to bring this forward. It does require consent, and as we have all learned from many long months of experience getting 100 Senators to give their consent to anything can be a difficult task. I hope to be able to move to it very shortly in a way that all will agree is appropriate.

Mr. President, I yield the floor.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas [Mr. PRYOR] is recognized.

Mr. PRYOR. I see where some of our budget leaders in this debate are now coming to the floor. Therefore, I will not speak at this time.

The PRESIDING OFFICER. Who seeks recognition?

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COHEN. Mr. President, I ask unanimous consent that I might proceed for 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET

Mr. COHEN. Mr. President, I take the floor at this time to offer a few comments pertaining to the budget as we continue to negotiate as to whether we proceed with the taking up of the budget resolution or the continuing resolution.

I have been impressed with the vigor of the debate this evening, particularly those who have gone back over the past decade and tried to analyze why we are where we are.

Since we are living in the age of attribution, I want to attribute the following quote to the appropriate source, the Senator from South Carolina [Mr. HOLLINGS]. I remember reading some years ago, a statement that he delivered when he said the following:

> A veteran returning from Korea went to college on the G.I. Bill; bought his house with an FHA loan; saw his kids born in a VA hospital; started a business with an SBA loan; got electricity from the REA and soil testing from USDA. When the father became ill, the family was saved from financial ruin by Medicare and a life was saved with a drug developed through the National Institute of Health. His kids participated in the school lunch program, learned physics from teachers trained in a National Science Foundation program and went through college with guaranteed student loans. He drove to work on the Interstate and moored his boat in a channel dredged by Army engineers. When floods hit, he took Amtrak to Washington to apply for disaster relief, and spent some time in the Smithsonian museums. Then one day he wrote his congressman an angry letter asking the government to get off his back and complaining about paying taxes for all those programs created for ungrateful people.

I thought the comments delivered by my colleague, Senator HOLLINGS, were quite appropriate, pointing out that many Americans, indeed, most Americans, approve of the vast array of programs that have been adopted over the years, while at the same time they are unwilling to look at the costs required to pay for those particular programs.

I have been intrigued with some comments of my colleagues who have denounced this new revised budget proposal because it does not go far enough in one direction or the other. I have not heard many of my colleagues be specific in terms of which programs they want to cut deeply, whether this be the GI bill, or the FHA loan program, or the money for veterans' hospitals, or the SBA loan program, or the REA and soil-testing programs.

Certainly a lot of attention has been directed toward Medicare. I am not sure exactly why some of my colleagues are so eager to cut so deeply into Medicare when it provides so much in the way of relief for people who are hard pressed with medical bills.

It is unclear whether my colleagues want to cut the interstate highway fund, Amtrak, the drug enforcement, and National Science Foundation programs. I have not heard many specifics in terms of how many are eager to cut back those programs. There is some question on the part of a number of Members on this side. There is a fear of flying, or fear of flying blind. They are not quite sure exactly what direction we are heading, and at what speed we are traveling.

One of my colleagues suggested that this budget proposal sets up a pattern that could in fact be fair and balanced, provided the right things are put in the mix when it finally comes out of the reconciliation package, and that he could forsee the circumstance where he would find himself voting for the reconciliation package, but could not support this particular budget proposal.

I think that has been brought about because of a certain Delphic ambiguity that the administration has expressed toward this budget proposal. There is no indication coming from the White House as to whether they favor it or not. They have washed their hands. They have been through the budget summit. They were rejected in terms of the proposal that they helped to hammer out, and now they are not too sure they want to have any part with this particular process. So now there is doubt. There is doubt in the minds of a number of the Senators on this side as to exactly what the White House might do in the future.

There was a statement made by Chekhov many, many, years ago. He said:

> If you cry "Forward!" you must without fail make plain in what direction you intend to go. Don't you see that if, without doing so, you call out the word to both a monk and a revolutionary, they will go in directions precisely opposite?

And that is the problem that we face tonight. We are hearing the cry, "Let us go forward," but a number of Members are not sure exactly what that means. Does that mean defense cuts; higher taxes; does it mean less in taxes and more in social programs? It is very hard to determine exactly what direction the President ultimately will go. And there is some, I must say, distrust that you can at least evince from the words spoken by my colleagues particularly on this side.

They are not sure, No. 1, what this package will look like a week or 10 days from now. They fear, on one hand, Ways and Means will send a reconciliation package that will be completely unacceptable; that it may, in fact, even though it is unacceptable to a minority over here, be passed by a majority. And they are unsure exactly what the President might do with that reconciliation package. Even if it were to violate his pledge about new taxes, even if it were to violate his commitment for deeper reductions, they are not too sure whether the President would then veto the measure and they would be allowed the opportunity to sustain that veto.

Mr. President, there is no question that serious and lasting progress must be made to reduce the Federal deficit. The debate on how best to achieve this goal has been lengthy and at times fractious. I think it is critical, however, that we pass this budget resolution so that the committees can get on with the business of working to produce a budget reconciliation bill.

The budget resolution that we vote on today is primarily procedural. It sets forth the broad goal of reducing the Federal deficit by $40 billion this year and by $500 billion over the next 5 years. However, it leaves the committees with substantial latitude to reach these goals. This is a vote simply to allow the committees to commence work on meeting broad deficit-reduction targets. It is not a vote for their final product.

I have no intention of giving these committees a blank check in this matter. I will be carefully scrutinizing the committees' work to assure that the final budget agreement is fair and equitable.

Fairness is the yardstick by which any deficit reduction plan must be measured. If the burden of deficit reduction falls disproportionately on the elderly, the poor or the middle class, this principle of fairness is violated. Deficit reduction is a national problem, requiring the full and fair participation of everyone. Failure to meet this standard undermines confidence not only in the budget process, but in the entire Government as well.

Next week, after the committees make their final recommendations, each of us will have to decide whether these recommendations are fair and equitable. If not, we will have an opportunity to reject the budget plan when it is presented in the reconciliation bill.

I certainly intend to exercise that authority freely. If the final package is not substantially more equitable than the original budget summit agreement, I will oppose it. I will be looking very closely at the Medicare provisions. Medicare recipients should not be called upon to shoulder half of the cuts in domestic spending. Such a burden would simply be unfair. Likewise, a tax on home heating fuel is unacceptable because it places such a disproportionate burden on States like Maine.

It would be premature, however, to pass judgment now on a final budget package now since it has not even been developed. At this point, it is incumbent upon the Senate to pass this resolution and allow the committees to begin their work.

Failure to pass this resolution will simply delay our efforts to reduce our Federal deficit. In the short term, failure to pass this resolution will force the Federal Government to shut down. In the long run, it will undermine our ability to make serious and lasting progress to reduce the Federal deficit.

I urge my colleagues to join me in supporting this resolution, recognizing that each of us will have an opportunity to reject the final plan when we consider the budget reconciliation bill.

I hope my colleagues will put aside fear at this particular moment, reserve their right to reject the reconciliation package, and allow the committees an opportunity to fashion a reconciliation package that they can support in the future.

I yield the remainder of my time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I rise today in opposition to this budget resolution. The budget process is broke and, as far as I can tell, this package does not fix it. I can not support a package that is wrought in the dark of the night and is only described in terse prose on a few pieces of papers a few hours before the Senate is asked to vote upon it.

Like the rest of my colleagues, I am fully committed to the task of regaining fiscal control. Since World War II there has been a steady deterioration in our fiscal policy—deficits as a percentage of GNP have doubled every decade since the 1950's, and it is time to turn this trend around.

None of us is unaware that enormous Federal budget deficits have plundered our national savings to the point where our savings rate has more than halved—from 9 percent in the 1960's to under 4 percent in the 1980's. At a time when we struggle to remain internationally competitive and to foster investment, our savings rate is 40 percent of Germany's and only 20 percent of Japan's.

It is discouraging and almost frightening to realize that, in spite of the tax increases of the 1980's—yes, tax increases—Congress has heaped $1.6 trillion onto the national debt. That's bigger than our national budget has ever been. In fact, despite six tax-increasing budget summits since 1983, the deficit fell only in years when there was no summit and no new taxes.

It is largely because tax increases do not ever seem to lead to spending cuts or lower deficits, that I find myself in opposition to this budget resolution. Congress will just use the new taxes for new spending.

This budget resolution, like the failed budget summit agreement before it, shortsightedly contains the largest tax increase in history. Mr. President, the average American taxpayer already works until May 5 just to pay his or her tax bill. Never before have taxpayers had to work for the Government for such a long time.

In case you have missed the polls over the last few years, the American taxpayer has had enough. Two-thirds of the American public regard a tax increase as a way to feed Congress' appetite for overspending. Who are we to ignore the American public?

We need to eliminate waste, inefficiency, and mismanagement before we even consider raising taxes. This package is 0 for 3 and yet we are being asked to agree to the largest tax increase in history.

Not since World War II have we raised taxes to over 19.6 percent of GNP—as the package certainly will—without tipping the economy into recession. We can not justify a tax increase. Annual tax collections are already a third higher now than in the 1960's and 1970's but spending has grown even faster.

I know that some people say that we are undertaxed compared to other countries, but I disagree—I think that other countries are overtaxed and that Congress spends too much.

I also disagree with the approach taken on Medicare, however vaguely it is described in the three or four pieces of paper my staff has managed to glean. Despite the alleged changes from the budget summit agreement that the House defeated last week, the Medicare changes are still proposed for the wrong reasons in the wrong context.

Let me remind my colleagues that the last time we tried to balance the budget on the backs of seniors, a firestorm swept the country. We need to address rising health care costs, but any changes we make to Medicare without thorough reform or providing new benefits is a thinly veiled budget maneuver, and senior citizens from Alaska to Florida will know it.

In addition, I am concerned about the potential impact on Medicare providers—physicians and hospitals, and especially rural and high Medicare hospitals—because of this proposal. I submit that a meat-ax approach to Medicare provider reforms is no longer acceptable, yet we have no assurances that the committees will now once again pull the ax from shelf and aim at providers.

Any restructuring of Medicare must be debated openly before the public through the committee process with the input of Members and the comments of the public. This budget resolution, which is barely laid out for us so that we know what is in it, does neither.

I also strongly believe that without constructive changes to our budget process, we are going to face budget crises like these at regular intervals. We need real, structural reform in the budget process, not phoney changes

with fancy names that confuse the daylights out of everyone, including so-called budgeteers. We need budget reform that will require us to make our deadlines and that will impose discipline on Congress—the negligent keeper of the country's purse.

One of the most important budget reform measures we can adopt and should adopt is the line-item veto. The time has come for us to concede that Congress' desire to fritter away the taxpayer's hard earned dollars is insatiable. We need to give the President the line-item veto now.

While a minority of Americans want their tax raised, over 70 percent of American taxpayers, who fund preposterous projects and special interest programs each year, support giving the President the line-item veto. This package seems only to contain the complex budget measures that the failed summit agreement contained, which will worsen this already confusing process.

Under this proposal, we will continue missing deadlines and facing 11th-hour decisions again next year and the year after that and the year after that.

Finally, this agreement just will not work. The economic assumptions it is based on underestimate outlays; the temptation by committees to play smoke and mirrors games remains; and if the new taxes slow the economy, spending will burgeon.

It is vitally important to achieve the goal this agreement aims for—but it misses badly. As GAO recently wrote in a report on the budget deficit, deficits have an "ominous implication for economic growth."

I know that the President has had a difficult time negotiating with the Democratic leadership of this body. He has made serious concessions. In fact, he has had to go too far in his concessions to make the Democrats come along. It is because of many of these huge concessions that I oppose this package.

But, I also oppose this package because we—and that is me and many of my colleagues and the people we represent—do not know what is going to be put into it. Once these vague outlines are turned over to the various committees that are supposed to comply with them, who knows what will be rammed down our throats?

No, Mr. President, this budget resolution, as flawed at it is, is not as "good as we are going to get," as its supporters argue. It basically amounts to "business as usual" at a time when our constituents want change and results—the truth of the matter is that this budget resolution is not good enough.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I want to thank my colleague from Arizona for his courtesy in yielding.

Mr. President, I say to the Members of the Senate, as I have reported previously on several occasions during the day, we have been consulting with the distinguished Republican leader, the ranking member on the Budget Committee, the chairman of the Budget Committee and others, to develop a means by which the Senate could act on these two important matters, the conference report on the budget resolution and the continuing resolution, in such a manner that would permit us to move forward in the effort to develop a meaningful and fair budget reduction legislative package and also that will permit the continued funding of the Government and prevent the inconvenience and, indeed, much more than inconvenience, that would result by the inability of the Government to continue its operations after midnight tonight.

We are very close to an agreement in that regard. I particularly thank the distinguished Republican leader for his cooperative efforts throughout the day.

What I will momentarily do is to seek consent to proceed to the conference report on the budget resolution, and while that is being considered, at least during the opening statements of the managers, we will attempt to move finally to an agreement regarding the continuing resolution and then perhaps, if possible, an agreement limiting the time for debate on the budget resolution, which, it is at least my hope, we could complete action on prior to midnight; that is, on both of the measures if we are able to work it out.

Accordingly, Mr. President, I am going to seek the consent and then defer to the distinguished Republican leader and give him the opportunity to comment before any action is taken on the consent request.

CONCURRENT RESOLUTION ON THE BUDGET—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the conference report on House Concurrent Resolution 310.

Mr. DOLE. Reserving the right to object, and I shall not object.

The PRESIDING OFFICER. The distinguished Republican leader.

Mr. DOLE. Mr. President, I share the views expressed by the majority leader. We have been attempting to make some modification of the continuing resolution. We have been working with a number of my colleagues on this side and with the majority leader and others on the other side. We believe that we may have an agreement on that, which would expedite passage of the continuing resolution, hopefully prior to midnight. I understand the President will not sign the CR until we also agree to the budget resolution. I just confirmed that with the White House. That would not inconvenience workers or others because, as I understand the rules, they would come to work in the morning and they would be there for 3 hours and, by that time, surely, we will have the budget resolution agreed to and hopefully the CR.

There are, of course, all kinds of options with the CR. It is subject to debate. It could be filibustered. It could be filibustered on a motion to proceed, or on the CR itself. So it is within the power of anyone in the Senate or any group, or any of us to—in effect, we can shut down the Government, any one of us. I do not think that is the desire of anyone, but I want to make certain everyone understands there are a number of options available and that is why I felt, it seems to me, if we can work out some agreement, it would expedite the process and it would be in the best interest of this country.

I want to thank the distinguished Senator from Idaho, Senator McCLURE, for his help in crafting what we hope will be an agreement satisfactory to a number on this side. It may mean additional votes for the budget resolution; it should mean additional votes for the budget resolution itself.

I have no objection to the request of the majority leader.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows

The committee of conference on the disagreeing votes of the two Houses on th amendments of the Senate to the concurrent resolution (H. Con. Res. 310) settin forth the congressional budget for th United States Government for the fisca years 1991, 1992, 1993, 1994, and 1995 having met, after full and free conference have agreed to recommend and do recommend to their respective Houses this report signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will procee to the consideration of the conferenc report.

(The conference report is printed i the House proceedings of the RECOR of Sunday, October 7, 1990.)

The PRESIDING OFFICER. Pursuant to section 305(c) of the Congressional Budget Act, the time for debat on the conference report is limited t 10 hours, to be equally divided an controlled by the leaders or their designees.

Mr. DOMENICI addressed th Chair.

The PRESIDING OFFICER. Th Senator from New Mexico.

ORDER OF PROCEDURE

Mr. **DOMENICI**. Mr. President, I wonder before the distinguished majorty leader leaves the floor if I might just ask a question. It is my understanding the negotiations regarding the continuing resolution would indicate that if all is ready with the majority leader and the distinguished minority leader, the majority leader may want to proceed with it before completion of the budget resolution that is now pending before the Senate; is that correct?

Mr. **MITCHELL**. That is correct.

Mr. **DOMENICI**. Do I understand then if that is the case and the majority leader is ready, that the majority leader would request that we set this aside so he could proceed with the CR?

Mr. **MITCHELL**. That is correct. Indeed, I believe the preferable course of action would be to obtain consent now to permit the majority leader, following consultation with the Republican leader, to proceed to the continuing resolution at any time, notwithstanding the pendency of the conference report. But before propounding that, I want to make certain that it is agreeable with the Republican leader.

Mr. **DOLE**. It would be agreeable. In fact, I think some of my colleagues on this side would like that option. What they do not want to happen is for us to spend all the time on the budget resolution and then move to the CR.

In addition, I think the sooner we can take up the CR the better, because as I indicated, it might mean additional votes and fewer speeches, each of which would be welcomed.

The **PRESIDING OFFICER**. The Senator from New Mexico has the floor.

UNANIMOUS CONSENT AGREEMENT—HOUSE JOINT RESOLUTION 666

Mr. **MITCHELL**. Mr. President, in view of the distinguished Republican leader's response, I now ask unanimous consent that the majority leader, after consultation with the Republican leader, may move to the continuing resolution, House Joint Resolution No. 666, at any time notwithstanding the pendency of the conference report.

The **PRESIDING OFFICER**. Is there objection to the request of the majority leader? The Chair hears none. It is so ordered.

Mr. **MITCHELL**. Mr. President, I thank my colleagues and I will now yield to the distinguished chairman and ranking member of the Budget Committee and will continue efforts to complete action on this agreement that will permit us to proceed as earlier suggested.

The **PRESIDING OFFICER**. Who seeks recognition?

Mr. **SASSER** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Tennessee.

Mr. **SASSER**. I thank the distinguished majority leader.

PRIVILEGE OF THE FLOOR

Mr. **SASSER**. Mr. President, I ask unanimous consent that the following staff of the Committee on the Budget and its members be allowed to remain on the floor during consideration of the conference report to accompany House Concurrent Resolution 310:

Staff of the Committee on the Budget

REGULAR FLOOR PRIVILEGES

Majority staff: Tim Ahern, Kip Banks, Agnes Bundy, Steven Burns, John Callahan, John Cestar, Alan Cohen, Bill Dauster, Kathy Deignan, Randy Devalk, Matt Greenwald, John Hilley, Phil Kardis, Charles Marr, Doug Olin, Larry Stein, Gordon Stoddard, Barry Strumpf, Ingrid Taylor, John Wagster, Paul Weech, and David Williams.

Minority staff: Hal Brayman, Jim Capretta, Charlie Flickner, William Hoagland, Bill Hughes, Krys Krystynak, Melissa Longoria, Carole McGuire, Ann Miller, Michelle Mrdeza, Adele Obermayer, Roy Phillips, Cheri Reidy, Austin Smythe, and Peter Taylor.

Nondesignated: Alison Cormack, Lisa Guzzi, Anne W. Hill, and Sue Nelson.

These individuals have privileges to be admitted without pass under a previous letter to the Sergeant at Arms.

FIFTEEN MINUTE FLOOR PRIVILEGES

Lisa Bartko, Diane Bath, Alice Benton, Louise Echols, Elaine Gaither, Andres Gatta, and Bert Gilliam.

Amy Kestnbaum, Jackie King, Cathy Mallison, Angela Nicholas, Cris Ondrick, Beth Strader, and Carolyn Willis.

Staff of Members of the Committee on the Budget

REGULAR FLOOR PRIVILEGES

Staff member: Barry Strumpf, Laura Hudson, Joan Huffer, Chris McLean, Bruce King, John Weinberger, Judy Love, Brian Wheeler, Tracey Thornton, Vi Boyer, Jeff Anders, Julius Hobson, Nancy Mitchell, Hillel Weinberg, Jeff Kumer, Kris Kolesnik, Cesar Conda, Hazen Marshall, Rachel Sotsky, Mike Solon, and Julie Dammann.

Senator on Whose behalf request is made: Senator Hollings, Senator Johnston, Senator Riegle, Senator Exon, Senator Lautenberg, Senator Simon, Senator Sanford, Senator Wirth, Senator Fowler, Senator Conrad, Senator Dodd, Senator Robb, Senator Armstrong, Senator Boschwitz, Senator Symms, Senator Grassley, Senator Kasten, Senator Nickles, Senator Rudman, Senator Gramm, and Senator Bond.

The **PRESIDING OFFICER**. Is there objection? The Chair hears none. It is so ordered.

USE OF SMALL ELECTRONIC CALCULATORS ON THE FLOOR

Mr. **SASSER**. Mr. President, I ask unanimous consent that the presence and use of small electronic calculators be permitted on the floor of the Senate during the consideration of House Concurrent Resolution 310.

The **PRESIDING OFFICER**. Is there objection? The Chair hears none. It is so ordered.

Mr. **SASSER**. Mr. President, we take up this particular budget resolution at a moment of governmental crisis and, of public frustration through genuine agreements, through partisan contention and, frankly, sometimes through outright petulence. We have brought this Nation to the brink of fiscal collapse. Let us remind ourselves this evening that what we do or do not do here will not shut down the Government because the facts are that this Government is presently either shut down or in the process of shutting down even as I speak. What we are doing here this evening, hopefully, is to reopen all of the offices and functions of the Federal Government Tuesday morning.

I remind my colleagues that this is not a shining moment for anyone. Our countrymen are rightly tired of it. Citizens of this country are tired of what they perceive to be an endless and fruitless debate.

I am tired of it also. I am sick to death of all the bickering that has been going on. I think it is high time we pass a budget resolution in this body this evening.

In my view, the American people are not out there asking who is to blame. They do not care. They are not asking who is the heartless program cutter. They are not asking who is the person trying to raise the taxes. The American people are simply saying, for goodness sakes, fix it; do what we are paid to do—make decisions, legislate, keep this U.S. Government functioning.

The resolution before us gives us the opportunity to do the one thing I think is most needed at the present moment, and that is to govern. It does so without reducing the agreed size of the deficit reduction that is to be achieved over the next 5 years. This remains the single largest deficit-reduction package in the history of this republic.

The deficit-reduction package that we consider this evening will preserve the original form of the summit agreement that was entered into with the President of the United States. It will achieve $40 billion in savings for fiscal year 1991 and over 5 years it will achieve $500 billion in savings.

This agreement provides the kind of flexibility that Dr. Alan Greenspan, the Chairman of the Federal Reserve Board, has said he will use to lower interest rates and to pump a needed charge into this flagging economy that either is in recession or certainly teetering on the edge of recession.

This agreement reaches these very ambitious goals while at the same time incorporating some of the hard-won wisdom of the failed effort to pass the summit agreement in the House of Representatives four evenings ago. Sometimes we learn by losing, and certainly we learned a lesson the other evening when the American people, speaking through their elected representatives in both parties, chose to reject the summit agreement that had

been hammered out in cooperation with representatives of the White House and negotiators from both the House and the Senate for both parties.

I think what we learned last week was that the legislative process simply cannot be dictated to. We learned that the American people through their telephone calls will not have their lives shaped by an arbitrary exercise in number crunching.

The fundamental correctives to those problems are simply to return the freedom of the legislative body to make necessary policy decisions, to return that authority to the committees of competent jurisdiction in the Congress.

I say to my colleagues that those committees will have fixed and reliable savings targets to achieve, but at the same time they will be free to craft their own reconciliation provisions as they have always done. Specific policies are not going to be dictated to these committees. Legislative responsibility and flexibility is not going to be usurped by the budget summit agreement.

Instead, the committee members who understand the issues, which many of them have been dealing with for years, who understand the responses of the American people to particular issues, members who have worked with these issues for many years, such as Medicare, will be deciding how to structure the necessary program, how to effectuate the necessary policy changes, and how to make the necessary deficit reductions.

That will give us the opportunity to craft an overall reconciliation bill that is more sensitive to the needs and wishes of the American people.

We are simply not going to pull a Medicare deficit reduction number out of thin air and demand that it be met with policies that Members and the American people simply will not support. We are going to have the freedoms of the normal legislative process to bring to bear on all the tax policy decisions. We are going to have the freedoms of the normal legislative process to make the decisions in health care, to make the decisions that deal with agriculture policy and the destiny of the farmers of this country.

Every decision that is made will be made by those who have the expertise and the sensitivity to do it. We will give ourselves an opportunity to avoid some of the political land mines that we blundered into when we labored beneath the blindfold of the budget summit.

We have a return to the legislative process, to state it very simply, as it was designed. In my view, that ensures that we will reach the necessary deficit reduction totals but we will do that with sufficient policy sensitivity to give the resulting reconciliation package a chance to pass, a chance to pass in the Senate and a chance to pass in the House of Representatives.

I say to my colleagues that what we seek now is a budget resolution that will provide fundamental discipline but one that will still give us the chance to pass the true reconciliation policy which will come before us in a few days that really changes the law, changes the policy, and makes the savings.

This is a budget resolution that really is in fact a budget resolution. It makes no pretense of being anything else. It simply is an aggregate of numbers which go to the various committees and charge them with the responsibility of making savings in their committee of jurisdiction or raising revenues in their particular committee of jurisdiction.

It is the first step to necessary changes int he law itself. It enables us to move the process along, to a point that we are making decisions which do, indeed, require the President's signature, which do, in fact, have the force of law, which do, in fact, affect the day-to-day lives of the citizens of this country.

But we have to stand first before we can run. I say to my colleagues let us give the process a chance to work this evening, for if we kill the seed we will never know what kind of plant it may have produced.

I am sure there are going to be those who will feel that the resolution is not specific enough, and they will make that argument. They will say this resolution is not a specific number; it does not charge this committee with saving this much out of Medicare or some other programs. They will recite recent history. They will argue, will, we cannot trust the congressional committees.

But to those of my colleagues who make that argument, let me simply say that this resolution binds us only to the dimensions of a deficit reduction package upon which I believe most of us largely agree. The policies that will reach these dimensions will be worked out in a bipartisan way in the relevant committees.

For example, the distinguished chairman of the Finance Committee—and make no mistake about it, Finance has the biggest burden to carry in this budget resolution. The chairman of that committee, the very distinguished Senator, has traditionally taken a bipartisan approach to the Finance Committee. Other committee chairmen, I am sure, will do the same. But even if bipartisanship fails at the committee level, there is always a fail-safe guarantee. If 2 weeks from now we are dissatisfied, let us say, with the work of the Finance Committee or with the work of the Commerce Committee or with the work of the Governmental Affairs Committee, the bipartisanship leadership has agreed to work together to craft a leadership amendment that will clean up and cure these disagreements.

Let us say that fail-safe mechanism fails because anything that is devised by man or woman is not perfect. We still have a final safeguard of executive prerogative. If the President of the United States does not like what we craft or fashion or produce here within the guidelines established by this agreement, why then he can simply veto it and send it back to us and repair it.

I remind you, Mr. President, and my distinguished colleagues, that the President has vetoed 14 pieces of major legislation during his administration. And we have not overridden his veto a single time. I must confess to my colleagues on the other side of the aisle. I say that with some regret. But we have not been successful in overriding this President's veto one time this year.

Of course, we will never be absolutely certain that the complicated legislative process ahead of us is going to produce all of the positive results that we hope to achieve with a real, enforceable deficit reduction package, but we can certainly all work to that end.

I submit that we can be certain of one thing: if we do not pass this budget resolution, we will never even have a hope of reaching the desired conclusion. We will have killed this agreement and more importantly, Mr. President, I fear we will lay open a partisan rift within this body that will not heal soon, and may leave this Government in a state of tattered confusion for many, many days to come.

Mr. President, I began my remarks by saying that the American people simply do not understand. They do not comprehend, and rightfully so, our inability to perform the most basic functions of a legislative body. They do not understand the continuous sniping and bickering over matters which seem abstract and largely insignificant to them.

I guess that out of the literally thousands and thousands and thousands of constituents who telephone our offices to complain about the various unappealing elements of the summit accord, not one has said that this summit agreement was defective because it contains insufficient specific reconciliation instructions, or that they disagree with this budget amendment because of the caps on domestic discretionary spending that are going to be inadequately enforced.

No, Mr. President. They told me they did not like it because it cut too much out of Medicare. That is what they were saying. Or we do not like it because it has a gasoline tax in it. We do not like it because you are not cutting enough out of defense or you are not putting enough in for highways. But not one said that it had insufficiently specific reconciliation instructions. And nobody—nobody—said that the caps on domestic discretionary spending were inadequately enforced. No, of course not.

The people of this country are concerned about their daily lives. They are concerned about the services that their Government is going to deny them if we do not get it back open. They are concerned about the taxes that we are going to impose on them. They are also concerned, perhaps more than anything else, about the fundamental ability of their Government to govern. They are worried about it. They are angry about it. Quite frankly, I think they have a right to be.

So, in short, the stakes are simply too high for those of us in this body to get bogged down in procedural minutia. It is like Nero fiddling while Rome burned.

The opportunity for fighting the real policy battles of deciding what the law is going to be really is before us. And I think it should be debated at that time.

So in summation, we simply cannot allow this Government to continue the gradual shutdown that is occurring. It does not serve anyone's interest. It does not serve the interests of Democrats, certainly. It does not serve the interests of Republicans. It certainly does not serve the interests of a Republican President. It does not serve the interests of liberals or conservatives. It serves no one's interest to obstruct this process that we are trying to kick off here this evening.

So to the Members of this body on both sides of the aisle, I say that those of us who participated in the summit worked in good faith to produce an agreement, an agreement that would avert the catastrophe that is staring us brutally in the face right now, and we worked hard.

I worked hard with my distinguished colleague, Senator DOMENICI from New Mexico. While the rest of our colleagues were still on recess, we were back here in Washington rally locked up at Andrews Air Force Base for days trying to work out this summit. We have worked every Saturday and Sunday for the past 4 or 5 weekends. We left here last night, many of us, at midnight fighting to avert the catastrophe that is staring us in the face.

It is a very bitter thing for me to say, Mr. President, that we failed, and that this corrosive debate has now eaten into the very foundations of the legitimacy of our Government and into our own credibility as legislators.

I hope that tonight we can move forward and adopt this budget resolution. I urge my colleagues to act now to save the credibility of the U.S. Senate with the people of this country because, mind you, if we fail to act this evening, if we fail to pass this budget resolution, if we fail to pass a continuing resolution, and if this Government does not reopen for business as usual Tuesday morning, and if it should be ascribed to this U.S. Senate, I submit, Mr. President, that the American people will never forgive us, and they should not.

So I urge my colleagues, as we move into the debate here, to vote for this budget resolution, and after we have adopted it then we can move on to the very difficult policy decisions that are going to be ahead of us in the days and weeks.

Mr. President, I yield to the distinguished Senator from Minnesota.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I will speak briefly and then yield time to the Senator from Colorado.

Mr. President, I have not made up my mind what to do about this budget resolution. To me, it looks like the failsafes that the Senator from Tennessee speaks about are lacking; that we are not dealing in procedural minutiae, as he said, but what we really seem to be doing is extending the process for another couple of weeks without any real strong indication that it is going to come to a conclusion at that time.

What we are saying is that the leadership of the Congress could not give direction to the rest of us that would be accepted, and so we are going to give it to the committee. We hope they do a good job, and we are loosening the ties that the leadership package had upon us, and in loosening the ties we say to the committee, "now, you do it."

The distinguished Senator from Tennessee talks about the fact that we are now going to give it to the committees, to the nonpartisan committee chairman he spoke about. I sometimes wonder if he is in the same body that I am in. I have not noticed that the committee chairmen are nonpartisan or that we on our side are nonpartisan in this or in other matters.

I talked to a number of the people who called my office, and I had the director of my State operation in Minnesota talk to them, so that they would be answered by someone who had a detailed understanding of the process and of what we were doing. What they really said to us was, yes, some said, Medicare cuts were unbearable, but by and large they had a misunderstanding of what those so-called cuts were. They said in some instances, yes, the gas tax was too high. But by and large they expressed the lack of confidence in the Congress. They sometimes did not say it; they were just made. They were mad that we could not agree, and that in the process of not agreeing, that we were going to impose upon them some additional burdens. They were not quite sure what those burdens were.

In listening to the news and in listening to some of the networks, who kind of accumulated all this 5-year burden into one large figure, they certainly were scared. And they thought, here goes the Congress again, and their confidence in the Congress has fallen to new, lower levels.

Frankly, if you look at polls of some of the Members on both sides of the aisle, it is reflected in their reelection numbers, it is reflected in the margins they have or the margins that are developing against them, that indeed people are annoyed with us.

What we are doing now, in my judgment, is that we are going to pass a continuing resolution for the better part of 2 weeks, and then we are going to give it to the committees and say we are not going to give you as much direction as the leadership gave you, but do the best you can.

I differ with my colleague from Tennessee, that this is a failsafe type of mechanism or a failsafe type of procedure, because this agreement that we are giving them is certainly less precise than the agreement that the leadership worked out, for which I was prepared to vote.

This agreement comes with no mandates, because most budget agreements do not come with mandates as to how to achieve the goals that are set in the budget agreement; yet, while those goals might be mandated, the ways of getting there are not mandated. So I am afraid that we are just going to find ourselves 10 or 12 days down the road here with something that the committees have come up with, in which there has been enormous amount of effort made by every lobbyist in the country.

It is going to be a marvelous windfall for all the hotels and for the airlines, because we are going to be descended upon; there is no question about that. We are going to be descended upon by those who seek to protect their interests, and those interests can be very narrow.

There are 2 more weeks of that which we now have before us. I am afraid that at the end of those 2 weeks, we are not going to be nearer to a conclusion than we are tonight.

Look at closing down the Government and creating something of a crisis: I am afraid that these bodies, the Congress of the United States, the House and Senate, cannot operate well unless we have a crisis before us. Then that crisis becomes a mandate, and the outrage of the people that the crisis creates becomes a mandate, that results in our moving to a better, a more formidable, and a more enforceable

type of budget agreement. I do not think we are doing that now.

Unless the chairman has somebody who wants to speak on his side, I will yield to the Senator from Colorado.

Mr. SASSER. I say to the Senator from Minnesota that we have nobody wishing to speak at this time.

Mr. BOSCHWITZ. I yield to the Senator from Colorado. How much time is the Senator requesting?

Mr. ARMSTRONG. I would be pleased if the Senator would yield me not to exceed 30 minutes.

Mr. BOSCHWITZ. I yield 30 minutes to the Senator from Colorado.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from Colorado.

Mr. ARMSTRONG. Madam President, this whole budget crisis and our role in it is being discussed in very stern, even stirring, dramatic terms here tonight. In fact, it is being portrayed almost in heroic terms. Here is a tiny band of Senators and a handful of others who are bravely standing up to this deficit monster who somehow are trying to stem the tide and perform this heroic service for an uncaring country, for an ungrateful country.

Madam President, that may be the way it looks to some Members. It does not look that way to me. My hunch is, out in the country they do not think we look like heroes. They think we look like jerks.

The Denver Post summed it up:

> The annual Federal budget crises are as predictable—and their resolutions almost as fictional—as the recurring crises on daytime TV soap operas.
>
> This low-rated series, which might be titled "As the Economy Churns," annually stars the Federal Government preparing to shut down because the Gramm-Rudman budget law supposedly mandates sharp cuts in the deficit. At the last minute, Congress and the administration announce an agreement that keeps the Nation's airports and hospitals running and purports to begin solving America's long-term budget woes.
>
> The latter promise is never kept, of course, and there is little reason to think that the latest fiscal patchwork is any different. President Bush and congressional leaders claim the agreement reached over the weekend will trim $500 billion from the deficit over 5 years. However, as it has been with past fixes, most of those purported savings are to happen during the final years of the agreement, which makes them about as reliable as the estimates of 5 years ago showing how the deficit would be eliminated by this year.

Mr. President, the Denver Post goes on and critiques the outline of the agreement and then sums up with, I think, quite a memorable paragraph:

> A television soap opera whose crises were this predictable would be canceled for bad ratings. It can only be hoped that the voters are just as demanding in the voting booths this fall as they are in the Nielsen surveys.

Madam President, I ask unanimous consent that this Denver Post editorial appear at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ARMSTRONG. Madam President, as we begin the debate on this budget resolution, I cannot help remembering what happened when one of our colleagues was supposed to have been seen wondering around the Capitol with a glum look on his face. So the story goes, he was greeted with a hearty hello by one of his colleagues who said, "Cheer up; things could be worse." He reported afterward, "Well, I cheered up and, sure enough, things got worse."

That is sort of how I feel tonight, because when they announced this budget package a week ago, I felt pretty bad. I listened to the President, and he had invested a lot of his personal prestige in this. I listened to the leaders. They wanted to have a chance to present this package. I withheld any public comment until this time. And as I cheered, things got worse.

The truth of the matter is that this package that comes before us tonight is basically just like the package that came out a week ago, only it is a little worse.

The original summit package represented either the largest or the second largest increase in taxes in the history of our country, depending on whose figures you believe.

The Wall Street Journal, which is known for pretty insighful appraisal of these things, says it is the largest increase in taxes in the Nation's history. A congressional staffer whose judgment I respect points out that it may only be true if you include the so-called fees along with the taxes and roll them together. And even so, it may not be as large as the TEFRA tax increase of a few years ago.

But whether it is the largest tax increase or the second largest tax increase in history, this package is full of large, burdensome increases in taxes on gasoline and oil. There is an increase in personal tax rates, although it is cleverly disguised as a change in the itemized deductions for individuals. The way that works, it amounts to, I guess, about another 1-person increase on income tax brackets, and there is a tax on beer, automobiles, boats, furs, jewelry, and so on.

There are even, buried deep down inside the original budget package, some rather arcane but still rather significant increases in such thing as the taxes paid by corporations. They have a proposal in there which says that if you do not pay income taxes because of a dispute, if there is a judgment of a lawsuit, or something against a corporation where a matter has largest tax increase in history, this package is full of large, burdensome increases in taxes on gasoline and oil. There is an increase in personal tax rates, although it is cleverly disguised as a change in the itemized deductions for individuals. The way that works, it amounts to, I guess, about another 1-percent increase on inomce tax brackets, and there is a tax on beer, automobiles, boats, furs, jewelry, and so on.

There are even, buried deep down inside the original budget package, some rather arcane but still rather significant increases in such things as the taxes paid by corporations. They have a proposal in there which says that if you do not pay income taxes because of a dispute, if there is a judgment of a lawsuit, or something against a corporation where a matter has been in dispute, then you are charged interest.

That, of course, is the present law. What is new in this package is that that interest which is charged to a corporation under those circumstances is no longer deductible as a business expense for computing the taxes of that corporation.

I leave it to you whether or not that is fair. It seems to me that it is not. But the fact of the matter is that it represents another huge increase in taxes.

This new package that comes before us tonight is different in two or three ways. First of all, there are fewer savings in this package. One of the salient features of this proposal is that they have reduced somewhat the amount of savings that were expected to be obtained on the spending side. Second, there will be an increase of $10 to $20 billion in taxes above the $154 billion in the original package, which came out 7 days ago.

One is almost tempted to say we better pass it quick because it is getting steadily worse; and we better take this before it deteriorates any further. I also note in this package there is a significant change from the prior version in that we have no assurance of how these taxes will be structured. I want to say more about that in a moment, but that is a very, very significant change.

Now we have been told budget resolutions do not have detail, and that is true. But the prior package at least comes forward to us with a pledge by the joint leadership in this body and in the other body and from the White House that, if the final package did not meet a certain set of rather detailed specifications, it would be killed and that the leaders and the President would join in doing so.

We do not have any such assurance about this package, and so within a very few days we may face a tax package and for that matter a spending package quite different than anything that was originally contemplated.

Madam President, I would like to review briefly some of the arguments that have been presented in support of this package. Perhaps the most novel was suggested by the Senator from Tennessee a few minutes ago when he said we really need this kind of a package in order to ward off the threat of a recession.

Madam President, I agree with one of the newspaper writers—I think it was Tom Wicker, but I am not sure—who said that the idea of—and by the way, as the Rocky Mountain News noted, Mr. Wicker is not thought of generally as a fan of small government, but his point was this: That the notion of a huge tax increase to ward off a recession is more or less the same as using blood in the water as shark repellent.

This is Herbert Hoover's worst nightmare being started again. Heading into a recession, and most economists agree that we are on the brink of a recession probably the most unlikely proposal that most of us would think of is to cope with a recession by raising taxes, and not just raising one tax a little, but by raising every tax we can think of by quite a bit and in fact to come forward with the first or second largest tax increase in the history of our country.

Madam President, if tax increases make us strong, the proposition about which I have a lot of doubt, then our country must already be stronger than gangbusters, because in the last few years, we had tax increase after tax increase.

Some people have been sharing the experience they had with constituents, the phone calls, letters, and other contacts they had. I had contact with people, too, and I have yet to have typical constituents—I am not talking about inside the Beltway experts; somebody who works for think tanks or the White House or Congress—a person from home, a business person, a homemaker, somebody trying to make ends meet. I have yet to have even one such person approach me and look me in the eye and say, "You know, we are a little undertaxed. We think that this country really would be stronger and better, the economy would perform better, our life would be better if you just raised the gas tax, beertax, jewelry tax, fur tax, income tax, heating oil tax, and anything else that you might be able to think of."

Madam President, on the contrary, I find in talking to people at home that most of them seem to think that taxes are plenty high enough. They do not have access to detailed information about taxes and spending, but all Senators do. And all Senators know that as recently as fiscal year 1987, the receipts of this Government were $854 billion. This year, they are going to be about $1.67 trillion, an increase of $200 billion in just about 3 years.

I would say that is a pretty healthy increase. In fact, if you want to go back further, in 1960, receipts of this Government were $92 billion. That may seem like a long time ago to somebody, but you know when you reach a certain age you have a little greater sense of history and perspective, and 1960 is not that long ago.

In 1980, which is scarcely an eternity ago, the total receipts from taxes in this country for the Federal Government were $520 billion. This year, they are more than twice that. And yet we have the proposal before us tonight to increase the rates of taxation on practically every kind of human activity that is known to man.

Let me just say, Madam President, that if taxes are the secret to a strong economy and to a strong, growing country, then we must already be very, very strong indeed.

Madam President, the Senator from Tennessee has also suggested that, by gosh, we have to pass this budget resolution to reopen the Government. I do not know if that is true or not, but evidently the President does not think so because a couple nights ago, he vetoed the continuing resolution.

And in exploration of that, he cited a memorandum of law which has been presented to him which he and his staff believe to make clear that he has the power to keep the Government running, to keep all the essential functions of Government going, not just for a day or two, but indefinitely if necessary. That is to say, he is going to keep the Social Security checks going out, the FAA controllers at work, keep the Army guarding our country and the ships at sea steaming and the Desert Shield operation in Saudi Arabia going on.

I do not know whether or not this legal opinion is valid. I have not read it. Someday when I have a chance, I would like to. But it is my understanding from those who have looked at it that the President has, under existing statute and under his powers as Commander in Chief, sufficient authority to keep all of the functions of Government which he deems to be essential in place and running.

And in any case, even if that is completely dead wrong, we do not have to pass the budget resolution in order to reopen the Government, as the Senator from Tennessee put it, because right after this we are going to vote on a continuing resolution, and the continuing resolution would have that effect if indeed the President lacks the legal authority that he thinks he has.

The Senator from Tennessee also made the point that if we do not pass this quickly, we are liable to see some kind of partisan rift right here in the U.S. Senate. I say, ladies and gentlemen, it is about time we had a partisan rift around here.

One of the things gone haywire in this process is the attempt to smoke over, to obfuscate, to somehow diffuse the partisan differences in this Chamber. I do not always agree with everything the majority leader says. I agree with his statement on television the other night when he said there are deep and lasting real differences of opinion between Republicans in this Chamber and Democrats. But the way we have been acting portrayed either we do not believe that, or somehow we do not want the voters at home to know what those differences are.

I agree with the Wall Street Journal. What the United States dearly needs right now is a large, national debate over its priorities. Senator MITCHELL is right. There are deep, philosophical differences between the political ideologies of this country.

The purpose—hear this well, my colleagues, because this is getting lost in the shuffle—the purpose of a functioning democratic system is to clarify and resolve those differences, utimately, with elections in which the voters choose between two positions.

Well, now we have just been treated to about 5½ months in which the leaders of both parties have tried to find ways to avoid letting those differences of opinion come out in public, for understandable reasons. But in doing so they cheat the public out of the opportunity to know what is going on and to make an informed decision. So I reject the notion that we ought to vote for this budget resolution in order to avoid partisan discussions. That is what this is all about. We are not talking about personal discussion, we are not talking about personal animosities. We are talking about, among friends, among professional colleagues, deep, lasting differences of opinion which our voters at home have hired us and sent us here to debate and to discuss and to vote on, not to obfuscate.

Mr. President, one of the things we are told of this resolution is it does not really mean anything. This is just to keep the process moving. Now, that is a little different argument than the Senator from Tennessee made. He said this is a big, crucial issue of national policy. But in the cloakrooms and caucus rooms and out behind the scenes what at least some Senators have heard is, "You can vote for this; it doesn't really mean anything. It just keeps the processing going."

Well, this is real. This is a real policy decision. This is not the breakdown of the system. This is how the system is supposed to work. The system has been broken down all year. The system was broken down when the Budget Committee earlier this year decided it did not have the willpower or the courage or the information or the time to really develop a budget resolution. So we just sent out a pro forma resolution to the floor. And when it got to the floor, we said, "Well, this is too controversial, too

time-consuming," or something. So instead of having a debate on it and offering amendments and considering it, we just took it up and had a voice vote. There was no rollcall. Nobody knew anything. And it went off to conference and has been there ever since about mid-May and now it has finally come back.

All that time the system was broken. All that time from May 15, when a budget resolution is required by law to be considered, until now, the system was not working. Now, at long last it is working. And yet some people are being invited to vote for this on the grounds that well, this does not matter. I mean, it is not real. We are not shooting with real bullets.

I will tell you what is real about it. What is real about it is at least $150 billion in taxes. Now, if anybody thinks they are voting for this and it is just voting for a process, just voting to continue the consideration of this matter, they ought to think again. Because a vote for this budget resolution is a vote for a minimum of $150 billion in new taxes. You cannot tell for sure whether those are income taxes, gas taxes, oil taxes, or cigarette taxes. And we are all free to interpret in any way we want to how much of the tax burden is going to fall on which group of taxpayers and to say to ourselves, "Look, when the reconciliation bill comes back I do not have to vote for it. Just because I vote for the budget resolution does not mean that I am going to vote for the tax bill which follows." That, of course, is true. The reality is, if you vote for this, you are putting yourself on record in favor of the proposition that what this country needs as we teeter on the brink of a recession is a $150 billion tax increase.

Let me tell you something else that is real in this budget resolution. That is the mandate to increase the debt of this country by $1.9 trillion. I cannot tell you which page it is on, but somewhere very deep in this budget resolution is a 5-year increase in the national debt.

I was talking earlier about tax revenues. Let me just put in perspective the national debt. In 1960, a lot of people were alarmed about the growth of the national debt. It stood in that year at $283 billion. By 1980, it had gone to the breathtaking sum of $520 billion. I happen to remember what it was in 1978 because, when I ran, one of the things I accused my opponent of, one of the things I hung right around his neck was that he voted to increase the debt of this country to the staggering sum of $483 billion. And out our way people felt that was a little too much.

By 1985, it had risen to $734 billion. I beg your pardon. It had risen, by 1985, to $1.823 trillion. Somehow the word "trillion" does not come readily to one's lips. Now we have a national debt of about $3 trillion. If we vote for this budget resolution, anyone who chooses to do so, you are voting to increase it to $5 billion. That is real.

Mr. BOSCHWITZ. Trillion.

Mr. ARMSTRONG. Trillion. I thank the Senator from Minnesota. Somehow that word "trillion" just sticks in my throat. That is real.

I will tell you something else that is real. Anybody who thinks they are going to have some political cover to vote for this resolution and then pick and choose among the propositions that follow it better face the reality that when that happens, when the bill comes back, the first thing they are going to say is, "Well, look, you voted for the budget resolution. Are you now not prepared to vote for measures that follow?" Then there are variations on that theme.

Anyway, that is what I am against. I can just hear somebody saying, "Fine. You are against all this stuff. What is it substantially that you are for?" Well, I will tell you what I am for. I am for two broad propositions: First, reform of the budget process, because it has become a national joke.

One of our colleagues earlier said that he thought there were doubts about the Senate's credibility, that the public doubted the credibility of the Senate. Well, I tell my colleague he better wake up and smell the coffee, in Abigail Van Buren's memorable phrase.

Voters do not have any doubt about the credibility of the Senate. They made a decision about that. They do not believe in the Senate. A recent nationwide poll showed, among others, far beyond whether they think we have credibility on budget issues. Only 30 percent of the people in this country in a recent survey think that Members of Congress always or almost always tell the truth on any subject. People are not beginning to doubt our ability to govern. They know we have failed. They know that we have let down our responsibility. They know this process is a colossal flop. They also know that we are taking a dog-in-the-manger attitude.

Mr. MACK. Will the Senator yield?

Mr. ARMSTRONG. I wonder if the Senator from Florida knows where the phrase "dog in the manger" comes from?

Mr. MACK. It certainly is not the reason I asked the Senator to yield. I would be happy to hear the answer to that question.

Mr. ARMSTRONG. The answer to the question is that this comes from Aesop's fables. The dog got in the manger and barked and scared the cattle away. He would not eat the straw himself, and yet he would not let them eat it either.

Congress is doing the same thing. Congress will not balance the budget, will not show any fiscal responsibility, yet they also deny to the President the line-item veto and the other tools by which he could balance the budget. That is why I say it is like the dog in the manger.

Mr. MACK. The reason I asked the Senator to yield is that when he said "budget reform," I know that one of the thoughts that has come to my mind during this past year or so is that I really believe that there ought to be a repeal of the Budget Act of 1974, I believe that is when the Budget Act was put into place. I know my initial reaction to that when it was first proposed several years ago while I was serving on the Budget Committee in the House was that should not happen. But now that I look and see what has happened, it seems to me that the Budget Act of 1974 allowed us to begin talking about a multiyear budget process; that is, a series of spending and taxing decisions over a 5-year period. What is interesting to me, it seems that every year that we have put together a budget resolution, the tough decisions about what spending should be reduced or what taxes ought to be raised are pushed out into the outyears and we claim all of these. A little later on I will touch on that.

Mr. ARMSTRONG. Backloading.

Mr. MACK. I think it is important for people to focus on this budget resolution and ask what does it do in the first year and what does it purport to do in the second, third, fourth, and fifth years.

Mr. ARMSTRONG. I thank the Senator for his contribution. Anybody who follows the budget debates around here knows the Senator from Florida is not only one of the best-informed but he is also one of the most thoughtful Members of this body and is increasingly recognized as a leader in consideration of these matters. He is absolutely right. This thing is backloaded just as most of these budget deals are.

Well, I started to say what it is I am for. First, I am for process reform, and, second, I am for spending cuts. You do not have to cut anything to balance the budget. The truth of the matter is if you just went to a freeze or partial freeze, that over 5 years or a reasonable period of time you could get this thing in balance. I personally would like to go much further. I would like, for example, to cut back on the appropriations bills we have put through this year. They are running 10 and 12 percent ahead of last year. I would hold them to no increase. I would go for a freeze.

But I would go for more than that. Personally—I think I am one of just a handful in this regard—I would freeze all the cost-of-living adjustment programs, Social Security, veterans, you name it. You do not have to do that. You do not have to take that kind of bitter medicine to get the budget in balance. All you really have to do is something simple like take the defense cuts, plus a nondefense discretionary freeze for a couple of years and over a 5-year period that would make a big, big dent in the whole thing.

Personally, I would like to go further. I would like to cut defense. It is obvious we are going to do that. I am ready to cut agriculture, and I am from a farm State, but we ought to phase out of that business. I am not just here saying that tonight, I have been home to tell my farmers about that and a lot of them agree with me. It is not as if we spend an enormous amount of money helping the farmers. The fact is the farm program have bankrupted the farmers.

We have poured a torrent of Federal money into programs which, in the end, have not only been useless, they have been self defeating. They have made the situation for the family farmer much worse than it was a generation ago.

If my colleagues do not believe me, talk to the cattlemen and say to them, how would you like to be in the cattle industry under the same kind of programs of Federal support that we have for corn and wheat? Senators will find out fast what people who are not under these programs think of them.

I think we ought to do something to reform Medicare and yes, I think we ought to do it sooner rather than later. There is nothing wrong with the idea of saving some money in Medicare and there is certainly nothing wrong with the idea that relatively high-income families ought to pay a larger fraction of their own health care. I say whether it is by means testing or however we want to do it, it is time to reform Medicare.

I think we ought to curtail or abolish Amtrak. Again I am not running for anything so it is easy for me to say that. But when I was, I made it a point to go to Lamar, CO, where Amtrak enters my State and looked the voters in the eye. I said, folks, we know you love to have the train coming through here every day, but for sound national policy reasons I think we ought to abolish it. We had a good discussion and as far as I could tell, after we got done, they agreed.

I believe we are, in a lot of cases, underrating the people we represent. If we leveled with them and just said look, we have to make cuts in everything, most of them would agree.

Housing programs. We have 6 million units of subsidized housing in this country. Surely that is enough, without passing an enormous increase in the programs of subsidized housing. Could we not just reallocate some of the units we have that went to middle- and upper-income people, to low-income people and solve the problem that way instead of adding $10 or $15 or $20 billion of new subsidized housing units this year, especially in those programs which have been so scandal ridden?

Then, I think we could save a couple of billion dollars or at least a half a billion dollars in the operations of Congress itself. We are spending about $2 billion a year to run this place. Does anybody believe if we wanted to, we could not scale back by $300 or $400 or $500 million?

What is wrong with this budget package is not that it is too severe, not that it is too draconian, but it is too little, too late. The public has been excluded. There is too little accountability because so much was drawn up behind closed doors. I can remember when leadership consisted of trying to figure out what the country needed and then going around trying to sell it to the people. Now leadership, it seems to me, is can you put together a package without anybody knowing whose fingerprints are on the component parts of the package.

I think it is time for us to decide what are we willing to do if we really care about this and we are not just crying wolf. I think it is a serious problem. I believe the deficit is a problem which will come back to haunt us, is already haunting us. Our children cannot get jobs as good as they would like because of this deficit. We have become the world's largest debtor nation. We were the biggest creditor Nation a decade ago. Interest rates have ratcheted up and we are leaving behind a heritage of diminished prospects, not only for our children, but their children as well. It is not the end of the world. We are going to muddle through. Things are going to be OK but not good either.

As Senators, we ought to look ourselves in the eye when we get up in the morning and ask ourselves this question: Here we are, the leaders of the greatest nation in the world; a nation of people who are prudent, thrifty, hardworking, and sensible. And we are the leaders who have given these people a government which is none of these things.

Madam President, in closing I would like to say exactly what I would like to do next. If this budget resolution should perchance be defeated, which I doubt, what would I like to do next? I would like to do five things. I will tick them off.

First, I would like to pass a continuing resolution with a $40 billion sequester included in it on a very short time fuse; a week or 10 days, with a sequester built into it, but only lasting for a few days, as point No. 1.

Point No. 2, send our committees out and tell them to come back with the best package they can, not under reconciliation instruction that limits debate, but just under the regular procedures of the House and Senate with a short deadline and lots of moral suasion.

Third, I would like to make that continuing resolution with its sequester permanent, unless the committees come up with something better.

Fourth, I would like to give the President emergency power while Congress is in recess to exercise some discretion, some version of the line item veto or of enhanced rescission.

And then fifth, I think we ought to go home and beg the forgiveness of our constituents for not doing much, much better.

Exhibit 1

As the Economy Churns

The annual federal budget crises are as predictable—and their resolution almost as fictional—as the recurring crises on daytime TV soap operas.

This low-rated series, which might be titled "As the economy churns," annually stars the federal government preparing to shut down because the Gramm-Rudman budget law supposedly mandates sharp cuts in the deficit. At the last minute, Congress and the administration announce an agreement that keeps the nation's airports and hospitals running and purports to begin solving America's long-term budget woes.

The latter promise is never kept, of course, and there is little reason to think the latest fiscal patchwork is any different. President Bush and congressional leaders claim the agreement reached over the weekend will trim $500 billion from the deficit over five years. However, as it has been with past fixes, most of those purported savings are to happen during the final years of the agreement—which makes them about as reliable as the estimates of five years ago showing how the deficit would be eliminated by this year.

The agreement does appear to reduce the upcoming deficit by about $40 billion, mostly because of higher taxes on alcohol, cigarettes, gasoline and luxury goods. The deal also imposes a petroleum tax and a significant boost in Medicare premiums and raises taxes on the wealthy slightly by limiting the deductions of those who make over $100,000 a year.

Yet even that new revenue may not stop the deficit from growing this year. That's because on Sunday, Budget Director Richard Darman increased the estimate for the fiscal 1991 deficit to $293.7 billion. That is a sharp increase from $231 billion he estimated in July.

Deficit estimates have been soaring because of the faltering economy and the mushrooming costs of the savings-and-loan bailout. A shooting war in the Persian Gulf or persistence of the current $40 a barrel price for crude oil could make the performance even worse.

Finally, there is the risk that the economy, overstimulated and robbed of investment by the fiscal grotesqueries of the Reagan years, may simply collapse on the canvas.

Economic forecasting is a notoriously difficult art, and taxpayers shouldn't hold politicans responsible for the fine details. But they can—and should—hold Congress and Bush accountable for continuing to view the budget purely as political theater, to be tinkered with as campaign applause lines dictate.

For eight years under former President Reagan's "What, me worry?" borrowing binge, the nation lacked a clear blueprint to put its fiscal house in order. Two years into the Bush administration, we still don't have one.

A television soap opera whose crises were this predictable would be canceled for bad ratings. It can only be hoped that the voters are just as demanding in the voting booths this fall as they are in the Nielsen surveys.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield myself up to 30 minutes.

The PRESIDING OFFICER. The Senator from New Mexico, ranking member of the Budget Committee, is recognized.

Mr. DOMENICI. I was not present as Senator Boschwitz was handling matters for me. If there was a different arrangement I surely do not want to change that. Was there an arrangement made for someone else to speak?

Mr. BOSCHWITZ. I would say to the distinguished Senator from New Mexico that the Senator from Florida asked if he could speak after the Senator from Colorado. I responded if no one was there from the other side who wanted to speak, he could.

Of course, the Senator is running the floor for us.

Mr. DOMENICI. Senator, I am going to change my request to 2 minutes and then you are next.

Mr. MACK. I thank my colleague.

Mr. DOMENICI. I yield myself 2 minutes. Then I want to yield to the Senator from Florida.

The PRESIDING OFFICER. Without objection.

Mr. DOMENICI. Mr. President, I am going to speak a little more than this 2 minutes unless we are ready to do the CR, and want to get this thing finished off. Then I will probably restrain my remarks. Otherwise, I am probably going to take a half-hour sometime during the evening.

Let me say there is no one in this body I respect more than the very distinguished Senator from Colorado. As I heard him speak so eloquently about what he would do, I harken back to a day when I had arrived in the U.S. Senate. I think I had been here a year and a half. I was sitting in my front room. My last born are twins. They were 6 years old and I was told I did not have to come to work very early so I did not have to leave. They were there. I could stay until about 8:30, instead of leaving at 6 or 6:30.

They were watching television, and it disturbed me because they were not interested in me. So I pulled up close to them and I started talking to them. They really were not interested. I pushed a little harder. Finally one of them looked back over her shoulder and said: Daddy, you is no king. You is just a Senator.

It seems to me I would like very much to stand before the U.S. Senate as one of 100, on the Republican side of the aisle, where there is also a Democratic side of the aisle, and I would like to say that I do not want to do this because I have a better plan.

As a matter of fact, I would like to share with my colleagues my plan. The only problem is that my plan is terribly irrelevant because I am only one Senator and the U.S. Senate has to reduce this deficit.

It seems to me, what we are trying to accomplish with a President who is Republican, a Republican minority here in the Senate and a majority on the other side that are Democrats, we are trying to put together a package of deficit reduction activities and actions that will achieve $500 billion in deficit reduction over 5 years that will pass the U.S. Senate; that will be signed by the President of the United States; that will pass the U.S. House. If that is not our goal, we ought to quit now and everyone can give speeches, and we can all tell our people what we would do.

It is absolutely right that people say they are not going to vote for this if they do not want to. It is absolutely right, under our system, that they tell us what they would do. And it is absolutely right that they apply their philosophy to this—absolutely right.

When all of that is finished, we have to decide, as a U.S. Senate, whether we are going to get the first step in deficit reduction or not. And I will have something further to say in the evening, as to why I believe, under the circumstances, we better proceed to pass this resolution and take the first step in trying to get 500 billion dollars' worth of deficit reduction.

I do say to my friend who is the next speaker, that he made a point about 1-year budgets, and first year versus second and third and fourth years. I did not want to interrupt.

If we look at the reconciliation package, that is the committees being ordered to do things, some of which are very distasteful because they are taxes. Some are very distasteful because they are entitlements. Some we do not like but, nonetheless, take them all and list them.

If, in fact, they do their job and when they come back and we bring this reconciliation bill here, if I bring it here and lay it before the Senate, if they have done their job, I just want to make the point that each year in the next 5, there are savings and/or revenues that come from those activities. That is why we are getting 5-year events, 5-year effect.

We can talk about other accounts in another way, but I do believe it is absolutely urgent that many Senators who are wondering about this understand that if the entitlement and tax package is achieved, the only thing we have to control in the outyears is the appropriated accounts, and before we are finished, we will discuss budget process reform because it is contemplated by this summit event, dramatic budget process reform without which we should not vote for the final package when it comes over.

I will be pleased to yield. How much time does the Senator ask for?

Mr. MACK. I believe I would not take more than 15 minutes.

Mr. DOMENICI. I yield 15 minutes to the distinguished junior Senator from Florida.

Mr. DODD. Parliamentary inquiry, Mr. President. Who is controlling the time?

The PRESIDING OFFICER. Will the Senator withhold?

Mr. DODD. Parliamentary inquiry. Who is controlling the time?

The PRESIDING OFFICER. The Senator from Tennessee [Mr. Sasser] is controlling the side for the Democrats; the Senator from Minnesota [Mr. Boschwitz] has been designated by the minority leader to control time. It has subsequently, temporarily, been assumed by the Senator from New Mexico.

Mr. DOMENICI. I might say to my good friend, I was going to use mine to speak for half an hour. Senator Mack arranged to speak for 15 minutes. I did not use my half hour. Presumably, when he is finished, we will start rotating.

Mr. DODD. I thank my colleague.

The PRESIDING OFFICER. Will the Senator from Florida withhold? The Senator has yielded how much time to the Senator from Florida?

Mr. DOMENICI. Fifteen minutes.

The PRESIDING OFFICER. The Senator from Florida may proceed for 15 minutes.

Mr. MACK. Mr. President, let me again thank the Senator from New Mexico for both yielding the time and for his comments with respect to the reconciliation package, which I do understand. Also I want to say to my distinguished colleague and friend, the Senator from Colorado, I thank him for his kind comments a few moments earlier.

I rise to indicate at the beginning of my comments that I will be opposing this package for a number of reasons, the first of which is because I view it as being a tax package. I see it raising $165 billion in taxes, and I will touch on that a little bit later. Second, I do not believe it really cuts Federal spending. One of the reasons that I believe that goes to the point that Senator Armstrong and I spoke about a few minutes ago and that is because it shifts the major spending reductions into the outyears.

Third, I would raise the point that there is nothing in this package that encourages economic growth, and I make this point. If we really are serious about doing something about the deficit, the first thing we have to do is to make sure that we have a growing economy.

Last, I will say, as important as the others, is that, frankly, it makes me angry to find that we are still talking about roughly 50 percent of the domestic savings of this plan coming out of Medicare. Maybe I ought to try to explain how I arrived at 50 percent. We were originally told that domestic savings would be $119 billion. If we take $14 billion of that which, in fact, are user fees, we are down to $105 billion. As I understand it in the agreement that has been worked out—I do not really have all the details—roughly $10 billion of the Medicare reductions have been put back into place. So we are roughly talking about $50 billion in Medicare reductions. That is $50 billion out of a package of $105 billion domestic, and I claim that is pretty close to 50 percent. I think that is just too large to ask one group of Americans to pay in this deficit reduction package.

Let me frame the debate, again, from my perspective. The two most significant myths that have come out of Washington and come out of the Congress of the United States over the last several years are that Federal spending has been cut to the bone; that there really is not anything else that can be done to Federal spending. And the second is that the huge tax cuts that went into effect in 1981 created the deficit that we are dealing with today.

Let me address both of them. Again, reality, and Senator ARMSTRONG touched on these. In 1981, Federal spending was $75.8 billion. The estimate for 1990 is $1.2 trillion. It is hard for me to see how Federal spending has been cut to the bone.

With respect to taxes, if we go back to 1980, roughly $520 billion in taxes were collected in 1980. In 1990, as the Senator from Colorado indicated, $1,067,000,000 in taxes were collected in 1990. My point is that we are not here today dealing with this issue because Federal spending has been cut to the bone. It is because we have not done enough with respect to Federal spending.

One of the things that I have heard almost in the entire 8 years that I have been in Washington in the Congress, 6 years in the House, 2 years in the Senate, and this is actual wording: "Any fool knows that the only way to solve this problem is to raise taxes" as if raising the taxes would do away with the Federal spending problem and we solved the problem.

Let me make a couple of points here. Since 1982, there have been 13 different tax packages passed through the Congress. The Tax Equity and Fiscal Responsibility Act of 1982; the Highway Revenue Act, gasoline tax; Social Security amendments of 1983; Railroad Retirement Revenue Act of 1983; Deficit Reduction Act of 1984; Consolidated Omnibus Reconciliation Act of 1985; Omnibus Budget Reconciliation Act of 1986; Superfund amendments, continuing resolution; omnibus budget resolution, 1987; continuing resolution; Medicare catastrophic coverage, one of the 13, the only one that has been repealed; and the Family Support Act of 1988.

The calculation is that those tax increases from 1982 to 1989 amounted to $851 billion of tax increases. I just really ask the question: How much do we need? How much does this Government really need?

The reason I do not believe that this plan will work is very, very simple. Two points: One, there are 190,000 line items of the Federal budget—190,000 line items. I have been told that maybe one of those line items will disappear as a result of this budget resolution.

The second point is, and I heard this on C-SPAN yesterday while I was watching to see when we were coming back down here, one of the individuals who called in said they were looking at a Federal Register of some kind and indicated that there are 1,176 Federal programs. And I am pretty confident about this next statement. None of those Federal programs will disappear as a result of this budget resolution.

Again, I have to say to my colleagues both on the Democrat side and the Republican side, there is only one way to get control of this. We have to eliminate some Federal spending programs. If we can imagine there are 1,176 of these programs gobbling up every dollar that possibly can come into the coffers, and even with $850 billion over the last 8 years, that is not enough. I just ask people, what is enough?

This plan calls for, it says, $133 billion in taxes. There are $133 billion in what people refer to as taxes. Then there is $14 billion in what are called user fees. That is a way of funding the Government, any way you want to look at it. The last time I heard there was $18 billion in here of premium increases for Medicare. That brings the tax package to $165 billion. I think that this is, again, relying way too much on the tax side and not enough on the spending side.

Again, my colleagues have heard me say a couple of times, how much is enough? When is it going to stop? Is it not interesting that just last week the head of the General Accounting Office, Mr. Bowsher, said that these taxes, after they are passed, will not be enough; that the Congress will have to come back and raise more taxes a year from now, certainly within 3 years. Again, I think that makes my point, that as long as you leave all the Federal programs in place, it is just going to require more and more taxes each year to fund them.

Again, another study was done by Professor Hathaway several years ago. He looked at the taxing pattern of the Federal Government over a 40-year period and drew the conclusion that for every new $1 in taxes raised at the Federal level, the Congress found $1.58 to spend. I say if you look at this package, it indicates the same thing. You would conclude that as a result of this package there would be less Federal spending in 1995 than there is in 1990. That is absolutely wrong. The number goes up some $260 billion over the next 5 years. There is no cut in Federal spending.

I am going to say something now that is very elementary, but I think it needs to be said because nobody understands what we mean by a spending cut in the Congress of the United States. Let me use an example.

I have a young son. I say to Connie, look, we have $100 to spend for you to go to the movies. That is what you spent last year. We have to do something about it. What about a 5-percent cut. Do you know what Connie's reaction would be? He would say, gee, that means I only have $95 to spend next year.

That is not the way we do it in the Congress of the United States. We say that since the cost of the movies are going to go up, let us see, we would have to project then about $110 in spending for my young son to go to the movies. So, a 5 percent cut means that we only have $105 this next year to go to the movies. You see, that is a $5 increase in spending, not a $5 cut in spending. I think people understand that.

So when you hear people say around here we are cutting Federal spending, that is not what is happening. We are cutting Federal spending from an imaginary line that is increasing year after year after year. So under this program Federal spending will increase as it has done so often in the past.

Again, I want to restate the comment that was made in the colloquy that the Senator from Colorado and I had a moment ago. The major problem in this is again it is talked about as being a $500 billion spending plan. Interestingly enough, though, $117 billion in the discretionary accounts, whether that is defense or nondefense, have not been agreed to. They have not been agreed to. No one knows whether they are going to be in defense or whether thay are going to be in nondefense. If they are in nondefense, which one of the accounts would be affected?

So I raise the question in the beginning whether this really is a $500 billion package.

The second point I want to make with respect to the colloquy is what has happened in this particular spending plan is that the tough decisions have been moved off to 1993, 1994, and 1995. The best way to express it is for me to read from an article that was written by Paul Craig Robertson, I believe. He calls it "Numerical Chicanery."

He starts out by saying, "Do you believe that the Federal Government is going to spend fewer dollars in 1993, 1994, and 1995?"

You see, because that is what this budget resolution calls for. It actually calls for outlays to be less in 1993, 1994, and 1995.

He says, "Do you believe that outlay dollars in 1994 will be $50 billion below the amount the Government spends in 1992?" I certainly do not believe that, but those who are going to vote for this are apparently basing their support on that premise.

Then he goes on further to say that "The savings are based on the assumption that spending in absolute dollar terms in 1993, 1994, 1995 is below the level of 1992. In other words, the savings are based on the assumption of 3 years of budget cuts that individually are more severe than the threatened 1991 budget sequester."

He goes on further, "Do you believe that politicians who fear a sequester that would still allow a spending increase in 1991 are going to implement a budget plan that actually cuts spending, not in relation to some projected frowth figure but in relation to a previous year spending? I certainly do not believe it."

One further comment about the numbers and why I find this a plan that is hard for me to accept and believe.

The budget outlays, Federal spending in the year 1991, the year of crisis as it is being said, are going to increase by $128 billion. In other words, in the first year budget outlays are going to increase by $128 billion. In 1992, they are going to increase to some degree. But in 1993, 1994, and 1995, somehow magically, very magically, they are going to be cut below the 1992 level. That I find very hard to believe.

The last point that I want to make with respect to the package is that there is nothing in here that goes to the issue of economic growth. As I said a moment ago, I think that is the most important lack, I guess, of a feature. The most important thing we need to do is to follow policies that create growth. What we need to do is to cut the capital gains rate to 15 percent.

I know that there are two immediate reactions that come with mentioning cutting the capital gains rate. The first is that this is a big giveaway to the wealthy.

I ask people to refer to an editorial in the Wall Street Journal, July 25, 1989, where they showed what the distribution of the benefits of a lower capital gains rate would be. Interestingly enough, when there are less than $10,000 of earned income, they showed that 20.8 percent of all the benefits from a lower capital gains rate would go to that particular group. I know people have to be shaking their heads saying how in the world can this be?

The reason, No. 1 is, that is a group of retirees who have worked and saved all of their lives to set aside money for their retirement years when they are no longer working. They periodically sell off assets, and as they sell off those assets, they are allowed to maintain a certain standard of living. But they are being socked under the present tax plan to the tune of 28 percent. Many of us think that that ought to be reduced to 15 percent.

The other message you hear all the time is that it is going to cost the Federal Government money if you lower the capital gains rate. The same argument that was made in 1987 is being made all over again. Secretary Blumental in 1987 said if you cut the capital gains tax rate, it is going to cost the Federal Government money. In fact, he estimated that there would be a 25-percent loss.

The PRESIDING OFFICER. If the Senator from Florida will withhold, the Chair advises him the 15 minutes yielded by the controller of the time on his side of the aisle has expired.

Mr. MACK. I ask the Senator to yield me 1 minute to wrap up.

Mr. DOMENICI. Mr. President, I have more time requested than I have to yield, but I yield the Senator an additional minute.

Mr. MACK. I appreciate that.

Let me conclude by saying I believe that a lower capital gains rate will in fact increase the revenues. If you go back and look at the statistical data, you are going to find that is true. Capital gains is a voluntary tax. You only pay the tax when you decide to sell an asset. You decide to sell the asset when it is to your economic advantage to do that. If the rates are too high, you do not sell the asset. If you do not sell the asset, there is no income. If there is no income, there is no revenue to the Federal Government.

I say to my colleagues I think this budget resolution should in fact be defeated. There is nothing in it that is going to stimulate economic activity. It raises the taxes and it really does not control Federal spending.

I thank the Senator from New Mexico for yielding me the time.

I yield the floor.

The PRESIDING OFFICER (Mr. DASCHLE). Who yields time?

Mr. SASSER. Mr. President, I yield such time as the distinguished Senator from Connecticut may consume.

Mr. DODD. Mr. President, I thank my distinguished colleague from Tennessee.

Mr. President, for the purpose of my colleagues, I will not use a great amount of time here this evening, but I did want to take a few minutes to express my own views on the budget resolution that we may be voting on a little later this evening, and also to share some general comments about the events of these last several days that have caused us now to be in a situation where a good part of our Government is not operating.

Mr. President, I indicated last week that I had severe reservations about the summit budget proposal that failed to win a majority of votes in the House of Representaives. I expressed those reservations because I felt it placed too great a burden of the deficit reduction on the backs of some of our most vulnerable citizens.

I said that I wanted to support a budget resolution that would responsibly adjust spending priorities to perform the budget process without reducing economic growth and require the most affluent of our Nation to bear some fair share of the cost of government without shoving the brunt of that cost onto the middle-income taxpayers of this country.

It seemed absolutely essential that we agree on a budget compromise that would provide for serious long-term deficit reduction; a budget resolution that represents real progress toward the Federal deficit in a coherent manner.

Sound arguments, of course, can always be brought to bear against virtually every detail of any budget package. But there is an overriding need to start the deficit on a downward trend if we are to remain a strong country and are to leave our children a legacy of economic prosperity.

Mr. President, I intend to support the budget resolution now before us. The resolution is a major improvement over the resolution that was rejected by the House last week. This resolution retains some of the strengths of the summit budget agreement while ameliorating many of its most glaring faults. It represents the largest deficit reduction package in history. It preserves the overall summit agreement, including deficit reduction of $40.1 billion in fiscal year 1991, and $500 billion over fiscal years 1991-95.

However, Mr. President, the resolution modifies the reconciliation instructions to the Ways and Means Committee and Finance Committee by providing the discretion to specify some $20 billion worth of deficit reduction. It suggests that possible changes include lower Medicare cuts, revision of the unemployment insurance waiting period, elimination of the home heating oil tax, and revision of the tax incentive package.

All of these changes, Mr. President, would be in my view positive steps, and I urge the tax-writing committees to adopt these changes, and look elsewhere for cuts.

In addition, the committees would have more flexibility to write a fair tax package than one contemplated under the original budget agreement. My strong hope is that such a tax package will not be regressive as was the proposal in last week's budget compromise.

The burden of tax hikes and spending cuts should fall primarily on those who can afford them the most. Under no circumstances should the middle-income wage earner bear such a significant burden as I believe was in the rejected proposal.

This budget resolution is imperfect, as all budget resolutions are. But the solid deficit reduction it provides is far more important, Mr. President, than its flaws.

Our country must have a national budget, which means compromises have to be made. If this resolution fails, the growing deficit and the ongoing paralysis in budget making will continue to erode our ability to govern.

Once and for all, we must begin erasing this Federal deficit that has plagued this Nation for the past 10 years, and now is the time to end this fiscal insanity. All of us must come together in the spirit of cooperation to help solve this financial crisis.

We are now paying the price for the so-called supply side economics, championed under the Reagan administration. The crisis we face today stems in my view from two fundamental policy decisions made in the early 1980's at the insistance of the Reagan administration and with the overwhelming acquiescence of Congress: Huge increases in defense spending and massive tax cuts for primarily the wealthy.

This gigantic deficit created by these two decisions is the major reason, although not the only reason, that we are here tonight.

I happened to have voted against the Reagan tax bill in 1981, and I voted against the Reagan budget in 1981 as well because, as I said then, Mr. President, I did not think that "it presents the fiscal policy needed to increase productivity, employment, trade and growth while restraining inflation."

I quote further. I said "It falls far short of what we can and should develop both as an economic recovery plan and as a statement of national priorities." I concluded that the increased deficits that would be created by that tax bill outweighed the need for tax relief and would make a balanced budget a pipe dream.

Mr. President, I wish I had not been so right. We no longer can nonchalantly pile up huge deficits as we did in the 1980's. These deficits made us into a debtor nation dependent on paying foreign investors high interest rates to keep our own Government running. The total national debt from the beginning of our Nation to 1980 was $1 trillion. From 1980 to 1987, it tripled to $3 trillion. Interest on the national debt is now $180 billion. Mr. President, that is $500 million a day. Every day our Nation must borrow $500 million, and we borrow most of it from foreign sources.

The debt takes a special toll on our young people. We all pay hidden tax in higher interests for mortgages and credit because our Nation borrows so much. But young people pay the most because they have the most need to borrow.

Cutting the deficit is the only way to reduce the high cost of borrowing to consumers and Government without spurring inflation. It is the only way, Mr. President, we can afford to meet the new national needs without mortgaging the next generation's future.

Supporting this budget resolution for the sake of finally doing something tangible and meaningful does not enter the debate on taxes and spending programs. It just begins the debate. In the next days and weeks the committees of appropriate jurisdiction will implement legislation in the form of a budget reconciliation bill to implement the dollar targets contained in this resolution. If the final product represents real deficit reduction, and everyone shares fairly in the cuts, then we will have done our job.

I hope, Mr. President, we will pass this resolution and get about the business, the hard job that the reconciliation package requires.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I yield 10 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I rise to speak in opposition to the budget resolution, and I would like to begin by explaining why I intend to vote "no," even though I am hopeful that I am wrong.

I am hopeful that this budget resolution will prove to be an effective roadmap to adopt a budget reconciliation bill that will meet the fiscal needs of the Nation, and that will in fact reduce the deficit. But, Mr. President, I am very concerned that it will not.

Mr. President, I supported the original budget summit agreement not because I thought it was a great agreement—I did not—not because I supported every element in it—I did not—but because I thought it represented hard choices that needed to be made, a bitter pill that needed to be taken to cure the ills of the Nation.

Mr. President, whatever you thought of the budget summit agreement, it represented choices. It set out a blueprint. It defined what we were going to do and how we were going to do it.

Mr. President, the budget before us does not make choices. In fact, the budget before us is an effort to run away from making hard choices. A budget, Mr. President, is a blueprint for action. A budget is in fact a promise.

We put together the summit agreement. It was voted on in the House and it was rejected, and it was rejected because it asked, at least in the minds of those who voted against it, too much sacrifice, and the decisions were too hard.

But what we have done, rather than going back and making specific changes in that budget and giving people a new choice based on a concrete program, we have instead decided to bring forth a budget that says we will reduce the deficit in the sweet by and by; that we will do it in a way as yet undetermined; and we will do it when we get ready.

Mr. President, I think this moves away from making hard choices, and I am concerned that if we cannot agree on the easy part, if we cannot agree on the promise, how in the world are we ever going to agree on the actual program? What we have before us is a package that says we are now going to let committees make the decision. There is an oblique reference to the budget summit agreement, but if you read these instructions, you read in vain to find any real commitment to fulfill that agreement.

I am hoping that the moral suasion that still exists from that summit agreement will make it possible for us to move in that direction and come fairly close to that agreement. But there is no hard choice in this budget.

Mr. President, ultimately the American people want us to make choices, not promises. I have tried to come up with a way of explaining what I think the problem is here, and I came up with an analogy, and I just want to share it with my colleagues.

This budget would be roughly the equivalent of the following statement by a young suitor who might come to your house to seek the hand of your daughter. And the young suiter would show up on your front porch and say, "I want to marry your daughter. Your objective is that she is happily married, and I believe I can fulfill that objective, and I want you to give me her

hand. But I want you to understand that normally in the service, you have to pledge to love, honor, and cherish, and I am not willing to make that commitment. I am willing to set out some parameters, where we will discuss it. I am willing to come back after the fact and say that we will look at each one of those things. I may be able to come within 20 percent of one of them, but I am not willing to make that commitment."

Well, Mr. President, I think most of we parents would not be terribly impressed by that commitment. If the potential groom was not willing to make a commitment at the altar, the easy part, how can we expect him to live up to that commitment after the marriage?

The problem with this budget agreement—and I predict it will be a problem that is going to come back to haunt us in the coming weeks—is that we will have agreed to a budget which is supposed to be a plan, and a promise that makes no concrete promise. We supposedly are setting out a blueprint, a road map, and yet we do not agree on what that blueprint is or where the road map will lead us. And, yet, we are supposed to, within a week or 2 weeks, come forth with an actual program to reduce the deficit by $500 billion.

So, Mr. President, I believe we are moving in the wrong direction. I think we are avoiding hard choices and, quite frankly, I think by coming forward with a broad, general agreement with specifics to be determined later, that we make the ultimate decision more difficult.

So I am concerned about two things. One, we are not going to get as good an agreement as we had before; and two, we are more likely to get no agreement than was the case before.

So, Mr. President, I am not urging others to follow my lead in voting "no." I think it is something on which people have to make a determination for themselves. I think you can make strong arguments in either direction. But I come down on the side of voting "no," because I think this is a movement in the wrong direction. This is a movement to gain a 2- or 3-day reprieve from the public outrage which has existed for the last week. But in the process of gaining that reprieve, by not doing what a budget is supposed to do, by not setting out how we are going to achieve our goal, I think we make it harder to achieve it.

Finally, I think if my colleagues have watched the debate on this budget in the House, they have to be alarmed. Because as they listen to Member after Member, who has been told by his leadership, that this agreement allows them to do so-and-so, that this agreeement has assured them that there will be a specific outcome, I hear dozens of people all telling a different story.

I submit that if we are going to end up adopting an actual deficit reduction package, it is probably not good policy to have any doubt about what it is that we are supposed to do. And when we have Members who have been told that this is going to come out to their liking when they have totally diametrically opposed views, I submit that we are setting out a standard which cannot be achieved. I hope I am wrong.

I intend to work on the committees that I serve on and work in any capacity that I am asked to work to try to enforce this agreement. I am committed to working to try to produce a reconciliation bill that will meet the national need, but I do not believe that I would be honest to my constituents or my colleagues if I did not say that by adopting a budget, which basically makes undefined promises, that we are making the job that ultimately must be done harder to do, and we are making it more likely that our goals will not be achieved.

I am committed to doing that job. I will never give up in an effort to deal with this problem. If this turns out to be the vehicle, I will work very hard to make this process work. But I thought it was important that I come here and express my concerns, because I believe that we have made a road, which was already steep and already rocky, far steeper, far harder to climb, by our inability to define what it is we intend to do.

The day is coming quickly when we have to do it, and I submit that we better get on the job.

I yield the remainder of my time.

Mr. BOSCHWITZ. Mr. President, if there is nobody who wishes to speak on the other side, I will yield such time as is necessary to the distinguished senior Senator from Wyoming [Mr. WALLOP].

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I ask that the Chair inform me when 20 minutes has passed, if I have not completed by then.

Mr. President, I do not know who believes that this budget package will result in a $500 billion reduction. I challenge anybody who has been around this body, this Congress, to state that they believe in the budget reduction package, on the basis of either what we have done in the past or what they see contained in it.

As we look at the process which began when the majority party refused to allow the process to work at the budget summit, and forced the President into a negotiation—which he, in my estimation, was mistaken to have entered—we found all of a sudden that absent some risk, the parties became self-indulgent.

The majority party jumped into the politics of class, and cited that somehow or another their purpose was to accuse Republicans of favoring the rich. And those who claimed they were not willing to be parties to that, and who said to the world that it is the Republicans who are the party of the rich, then set about in the original agreement digging the socks off of the middle class—my State in particular—with the gasoline tax, with taxes that increased their role in fuel oil.

And absent some philosophy, both sides lapse into the politics of slogans There have been slogans attached to this effort. How else do you explain the politics of class when it does not exist in your constituency?

I do not find the people of Wyoming overwhelmingly bitter about the rich I do not find the rich overwhelmingly bitter about the poor. It is not the subject of which they talk. The subject of which they talk is whether or not this bloody Congress will get down to do its work. It has not, and, in my estimation, when all is said and done, it will not.

How else do you explain the tax decisions in the original bill that forget growth in America, that forget that investment creates jobs? How else do you explain a proposal that forgets all about tax policy and focuses on spite amongst Americans? How else do you explain an original bill that came out with that small company, that investment procedure which nobody thought was anything but another tax loophole, when we spent a couple years trying to get rid of loopholes? How else do you explain an investment proposal that, as most economists knew to be the case, created money failed to reduce the deficit?

Mr. President, who believes that this will result in a $500 billion reduction? The public does not. Look, if you will at the votes in Massachusetts. Look, if you will, at the vote in Oklahoma to limit terms. Look, if you will, at the politics in California. Look, if you will at the politics in Louisiana.

We in the Congress are viewed with scorn. We in the Congress isolate ourselves from the public we serve which is now perhaps awakened. But what we do is play for the Beltway press because that is what we read; the Washington Post, the New York Times other things have become our hometown newspapers, and that is where the slogans are repeated, and that is where the editorials are written, and that is where the politics of class are played.

That the budget process is a sham has been well spoken to by the Senator from Florida and the Senator from Mississippi.

One of the most obscure processes in that process is the so-called 302(b) allocation. Mr. President, while everybody in this body has all year said so many times he resents the size of the deficit, my goodness, we have to do something about it; who amongst us will explain why spending is 14 percent higher than it was a year ago?

All during the day last week when we were giving the greatest speeches, while the original budget proposal was going along, what did we do here on the Senate floor but vote for a HUD, VA and related agencies bill that was $19 billion higher than a year back, $2 billion higher than the budget, and nobody looked back, and only eight of us voted against that.

With every bill that we have passed this year, every appropriations bill, you go down to the desk and ask if it is within the budget; they say, yes. How can they all be within the budget if we are 14 percent higher than the spending we have already approved?

How do you do it? You do it with 302(b) allocations. I do not know how that process works; nobody else does. All I know is the 302(b) allocation is an excuse for higher spending and gives everybody a chance to say, "I voted for something that was within the budget."

We are a joke, Mr. President. And we rightfully are a joke to the American public. One of the jokes is the pay raise, and it is not about the pay raise. It is about a pay raise with posturing. What did we do but seek to raise our pay with the promise to change the ethics, which basically says to the American people, "If only you will pay me enough, I will, by God, behave this time. I have not yet, but if you pay me enough, I will learn how."

That is not the way this body behaves. This is not a body where people operate outside norms of ethics. But it is one that just cannot come up to the decision that is rightful to make, without making some kind of a big excuse.

How else do you explain election reform that is not about election reform but about insulating parties? The whole question is, Mr. President, it is about courage and responsibility, and those are the two things which are the most difficult for this body to rise to. How else do you explain tax proposals which return us not to tax policy but to favoritism, for revenge? How else do you explain the Medicare reform that increases revenue but does nothing about how it is spent? How else do you explain front-loading the tax increases and back-loading the spending reductions?

Examine this package, Mr. President. Do you believe it will reduce the deficit by $500 billion over the period of time?

One of the slogans that we talk about—one of them is included in a letter which I just signed—talks of smoke and mirrors. We talk about it in repetitive ad infinitum.

More likely this budget proposal is one of balloons and fans. Why? Because it is a tease. It promises things that we all know it will never deliver. It has no enforcement provisions. It just says that they should be raised. It contains $1.9 trillion increase in the debt limit over 5 years. Mr. President, I will say to the body: You will duck it, and you well know it.

The Senator from Arkansas, in an eloquent speech on the other side, said he did not like this thing; he could give us 20 good reasons why we should vote against it, but he said he will support it. Guess what, Mr. President? Those 20 good reasons will recur one by one by one, and there will be more than 20. And he will have the chance among his 20 good reasons to vote for it, and he will seize it, and he will not be alone, and it will not be partisan; it will be completely bipartisan. He will seize them one by one by one as they come along, and all the things going along in here will fall but for the tax increases.

The package contains no entitlement reform by design, and we will not have a package in reconciliation that puts some entitlement reform in front of us by design and by lack of courage.

Mr. President, if you look at the past as a mirror of the future, it is ugly, it is repetitive, and it is bipartisan. Examine for a minute, if you will, the continuing resolution process. It is absolutely typical of how this body has found a way to avoid being dinked for anything it does. You have seen them all. President Reagan even had a CR on his State of the Union desk that weighed 6 pounds or 8 pounds, or some incredible weight.

And you go home and your constituents say to you: How come you voted for all those bad things? And they will name one or two that were in a continuing resolution. You say, "Look, my friend, I know those bad things were in there, but you were for the women and children and I had to vote for them and I had to swallow the bad things."

On the other side of it, somebody will say, "Why did you vote against all those good things for the women and the children, or the veterans, or the other things?" And you will say, "I did not vote against those good things. I know they were in there, but the bad things outweighted them."

Who is to blame on either side when you go home? The answer, Mr. President, is nobody. Each of us has found a way to duck any accountability in front of the American people through the CR process.

Mr. President, who in here believes that this package will reduce the deficit by $500 billion in the stated time?

I have heard a lot of people talk about how the tax cuts came along and favored the rich. Who of those who are practicing the politics of class will talk about the Tax Reform Act of 1986 that took 6 million Americans off the tax rolls? Those 6 million people do not pay income taxes. No, no, that is not part of it. That does not work in the politics of class. These people were taken off the tax rolls because we raised the threshold upon which you entered the tax paying classes of America.

If you are thinking about it, who in here will remember TEFRA, TEFRA the biggest increase in the history of America until we get to this one. And it was to be returned with $3 in savings for every dollar in taxes that were raised.

In fact, Mr. President, what happened was that all we got out of TEFRA was the biggest tax increase in the history of America. We got no savings—and yet everybody is wondering why we are in trouble now. Every time you do that, Mr. President, you reduce the base from which the real resolution of the problem can take place. You raise the taxes and raise the deficit all at the same time.

Who in the Senate will remember in 1985 when we voted for real cuts in entitlements and in programs, a budget which we passed by one vote, including the vote of the sitting President of the United States when he was Vice President. Those were tough votes. And the Democratic majority in the House killed it dead and killed almost everybody who had voted for it who was up in the next election.

It is interesting that Congress is only too willing to deliver the gifts and is never willing to deliver the pain. Ask me for some day care, ask me for some anything, ask me for some new veterans benefits, ask me for anything that we have done this year and I will give it to you. But now is the time when you want to deliver the pain and take back something: oh, no, I have given you the gift. I do not have the stomach for the pain. But we are going to get the rich and we are going to the cash cow called the defense budget, as though there is no problem left for America to defend itself against in the world.

Mr. President, I would note something very interesting. Those who say we have nothing to fear in the world are the ones who also say that we have everything to fear if Gorbachev is no longer the leader of the Soviet Union. Why would we have anything to fear if Gorbachev is no longer the leader of the Soviet Union, if we have nothing to fear about what is in the Soviet Union?

The answer, Mr. President, is that we do have something to fear, but we will not even deliver to the American people the pain of telling them that a threat still exists. We have a cash cow called the defense budget and we can milk it and we can pay for things out of it.

So the process that we have seen going on in the summit was a political process and the result is a political result. And we find now here tonight even a more political result which has no consequences to us except that it will weaken the United States.

How will it weaken the United States? It will weaken it by curtailing investment, by eliminating the attractiveness of investment in America, and thus we lose jobs. And when we lose jobs, we weaken consumption. And when we weaken defense, we weaken America's resolve. And when we weaken our presence in the world, we weaken our influence in the world and thus we weaken our future, because without influence in the world much can happen upon which every American's job and every American's security depends.

We are perfectly willing to weaken the United States in the name of politics of class. We are perfectly willing to weaken us by telling Americans that there is nothing left for them to worry about. We are perfectly willing to weaken us by saying that we do not wish to create an investment climate that expands the economy and creates jobs.

So when all of this has taken place, Mr. President, what happens? The Congress will look for someone to blame. And we will blame the Japanese or we will blame the Germans or we will blame the Saudi Arabians or we will blame the Democrats or we will blame the Republicans or we will blame the President or we will blame the education system. But the last place on Earth we will look for blame is in the Congress of the United States. And I am telling you here tonight that is where the blame is collectible.

So alone in America—and I say that really, alone in America—we in Congress will declare ourselves blameless. But the public to which we claim to be so close knows different. The public has expressed itself in Massachusetts, in Oklahoma, in Louisiana, in California, and probably in the election coming. This is so primarily because we have been unwilling to do anything but give goodies and shun the honest expression of pain that is necessary to create the real savings which will come through the $500 billion.

Let us make no mistake about it, 5 years down the road, we will have been in this debate before then or we will be in this debate at that time and we will not have achieved the savings.

I call attention once again, Mr. President, to the mirror. The mirror on the past is the reflection of our future. The only thing I would say to my colleagues is, do not look in it too long and see yourselves. The sight is us and the sight is where the blame lies and the sight is where the reconciliation package is almost certain to fail.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. SASSER. Mr. President, is the Senator from Florida seeking recognition?

Mr. GRAHAM. Yes.

Mr. SASSER. Mr. President, I yield such time to the distinguished Senator from Florida as he may consume.

Mr. GRAHAM. Mr. President, it is my intention to vote for the concurrent resolution that is before us tonight. Last week I announced that had the original budget proposal reached the Senate, I would have voted no. And I outlined my reasons which were, essentially, that I thought it was unfair both in terms of where it sought to raise revenue and where it distributed the pain; that it did not deal effectively with the budget deficit and it particularly singled out one program, Medicare, for approximately $1 out of every $4 of reductions of the overall program.

I am pleased that many of those problems, many of those weaknesses, have now been resolved or we are on a path toward their resolution. We have certainly received a clear signal, a clear signal from the American people and from our leadership, that the issue of health care for elderly Americans will be revisited and that the consequence of that revisit will be to reduce the share of the total national burden that that part of the program is expected to carry, that that part of the budget is obligated for, to a more reasonable and more equitably distributed one.

We also, Mr. President, have assurance, as we turn to the Finance Committee and the Ways and Means Committee and ultimately to the full membership of the House of Representatives and the Senate, that we will be able to consider a tax program that will be more in concert with the statement that the President made in his address to the Nation last week, which was that everyone will be asked to carry some of the burden; no one will be asked to carry an excessive amount. I believe those are attainable objectives.

Mr. President, I continue to be concerned about the high level of deficits that will be left after we take this action. I am also concerned that we may be giving a misimpression to ourselves and to the American people in the concurrent resolution that we are about to adopt.

I know from having discussed this with the chairman of the Budget Committee that this is not his intention. But I want, for the record, to clearly state what the basis is of the numbers that are in this concurrent resolution and how they relate to what I believe the facts will be.

Mr. President, if you turn to page 3 of the concurrent resolution, at the bottom there is a line that says, "The amounts of the deficits are as follows."

These are the deficits that the concurrent resolution indicates will be in existence without considering the Social Security surplus. This is without the Social Security surplus. The estimate for fiscal year 1991 is that the deficit will be $143.7 billion.

The reality is that the Federal deficit for 1991, including the amount that will be spent this year for the Resolution Trust Corporation, the corporation established to complete the bailout of the savings and loan industry, will be approximately $265 billion. And for 1992, $245 billion. And for 1993, $182 billion. All of those figures, Mr. President, I give with some caution because they themselves are predicated on very unrealistic economic assumptions.

How many Americans believe that in 1993 the rate of economic growth will be almost 4 percent, given the fact that today we are less than 1 percent. How many Americans believe that the interest rate on short-term borrowings will be approximately 5 percent, given the fact that it is today 8 percent? Those are some of the economic assumptions upon which the numbers which I have just stated, numbers which are approximately $100 billion a year greater than what is contained in the concurrent resolution, would portray.

So, Mr. President, I will vote for this aware of the fact that we are still going to be making very significant additions to our national debt. Over the period of this 5-year period, we will be growing the national debt by approximately $1 trillion, which is to say if we did nothing tonight, we would add to the national debt over the next 5 years, $1.5 trillion. By what we are doing tonight, we are avoiding $500 billion and adding the $1 trillion. That is not, Mr. President, a happy legacy of this Congress to the future of America.

But, Mr. President, we ask ourselves what is the alternative? What can we do tonight, other than move forward in the manner that has the greatest prospect of giving us some control and giving to the American people some sense of confidence in their national leaders' ability to govern?

We have had some suggestions made tonight that maybe this can be a problem solved without any pain; that we can solve this problem strictly on the spending side by reducing the programs of the Federal Government. We have just started to witness what the consequences of that approach would be. If any Senator wants to have that fully played out I suggest we not act tonight and we begin to see the results tomorrow; whether, in the State of the

Presiding Officer, it is meat inspectors who will not be employed, or whether it is public health officers in my State, air controllers across the country, the whole array of critical services provided by the Federal Government which would not be available.

In my State, Mr. President, one of the most critical demands of the Federal Government is in the area of law enforcement. My State is a coastal State. Much of our law enforcement activity, much of our vulnerability is to illegal activity that comes across our Nation's borders. If we do not have an effective national Government, whether it be through the Coast Guard or Customs, which can protect our Nation's borders, and if we do not have an effective Federal criminal justice system within our boundaries that can then investigate, arrest, prosecute, and punish those who violate our laws, our people will be in even greater jeopardy. All of that system of protection of our people is at risk if we go the next step toward a full sequester, a shutdown or a substantial reduction of critical Federal programs.

Mr. President, because I believe our options are so limited, but with a clear understanding that the numbers that are contained in this concurrent resolution do not reflect the actual consequences to our Nation's economy as a consequence of adopting this concurrent resolution, but aware of the fact that to do less than this would be to impose even greater burdens on this and future generations of Americans, it is my intention to vote for this concurrent resolution.

I conclude by extending my congratulations to the majority leader, the minority leader, and the ranking member and chairman of the Budget Committee for the outstanding service they have rendered to this Chamber and to the Nation in bringing us to a position that we can act this evening.

Mr. SASSER. Mr. President, I thank the distinguished Senator from Florida for his very perceptive remarks tonight. I am doubly grateful for his kind comments regarding this Senator.

Mr. President, if no other Senator seeks recognition at this time?

Mr. DANFORTH. Mr. President, I might ask a question of the chairman of the Budget Committee. It is my understanding that the real difference between the budget resolution that we will be dealing with tonight and the budget resolution that we were contemplating a week ago is about a $20 billion swing. Is that correct?

Mr. SASSER. We keep the same levels of deficit reduction, and that is $40 billion, or slightly over $40 billion in the first year, $500 billion over the 5 years.

Then there is a swing in the jurisdiction of the Finance Committee with regard to revenues and/or entitlements.

Mr. DANFORTH. That is my understanding. I would say, to the chairman of the Budget Committee, I am going to support this budget. I would have supported it last week.

It is my belief based on representations by our leader, Senator DOLE, that we would have had a majority of Republican Senators for the budget resolution that we were contemplating last week. I do not know what the vote is going to be tonight.

I know some Senators have expressed great concern about this $20 billion that is going to be within the jurisdiction of the Ways and Means and Finance Committees.

I spoke with the minority staff director of the Budget Committee. I am told that this $20 billion, which apparently for some has upset the apple cart, amounts to 4 percent of the total deficit reduction package. And further, that it amounts to 0.003, if I am correct, 0.003 which I think is three one-hundredths of 1 percent of the projected Federal budget over the next 5 years, which is what we are dealing with.

I make this point for one simple reason. I think that one of the problems that we have gotten ourselves into in Congress is that we have 535 Members of Congress, each of whom has an absolutely perfect idea of how to deal with the budget deficit, and any deviation from our individual view of perfection is totally unthinkable. Therefore, some people say, we would have voted for the budget resolution that we were contemplating last week, but we cannot possibly vote for this because it gives the tax-writing committees jurisdiction over $20 billion spread over a period of 5 years, about $2 billion a year, and the estimated total Federal budget over those 5 years is about $6 trillion.

So $20 billion total, compared to $6 trillion of Federal budget, seems to me to be, although $20 billion is a large figure by any standard, but a very precious view of budgeting.

It seems to this Senator that after some 5 months of deliberation, some 5 months of negotiating among various summiteers, the time has come to get on with it, to get on with the business of government. If we have reached the point where we are going to fuss around by about three one-hundredths of 1 percent of the total budget and that is going to be the make or break for some Senators, then I would suggest that we have become so finicky in our approach to national policy and economic policy, in particular, that it is no wonder that we are stalemated.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Let me reply to my friend from Missouri by saying once again I think he has put his finger on the problem. The Senator from Missouri is known as an individual who gets to the meat of the coconut, and he has here this evening.

The majority leader stated today in the Democratic conference that since the budget summit agreement was initially defeated on the floor of the House of Representatives, that he and I together had been presented with no fewer than 34 separate budget proposals, just by members of the Democratic conference. Every Senator seems to have the proper formula for solving this fiscal dilemma that we seem to have ourselves in.

I might say this, and then I will yield to the distinguished majority leader, with regard to the $20 billion of fungibility that will be principally or exclusively within the jurisdiction of Finance and Ways and Means, the distinguished members of the Finance Committee could choose, if they wished, simply to not make all of the tax expenditures which were in the budget summit agreement, such as some of the incentives, so-called business incentives, some of the so-called energy incentives, and so forth, and actually save $20 billion just by throwing those so-called incentives overboard. I am suggesting that to the distinguished Senator from Missouri, but one Senator's incentives on occasion may become another Senator's budget waste.

I yield to the distinguished majority leader.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS-CONSENT AGREEMENT—HOUSE JOINT RESOLUTION 666

Mr. MITCHELL. I ask unanimous consent that when the Senate considers House Joint Resolution 666, that the only amendments in order be the Byrd-McClure amendments to be considered en bloc; and that no motions to commit be in order; that there be a time limitation of 10 minutes for debate on the joint resolution; and that the Byrd-McClure amendments be equally divided in the usual form.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1991

Mr. MITCHELL. Mr. President, I thank my colleagues for their cooperation in reaching this point.

Mr. President, having consulted with the distinguished Republican leader, I now ask unanimous consent that the Chair lay before the Senate House Joint Resolution 666.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 666) making further continuing appropriations for the fiscal year 1991, and for other purposes.

The Senate proceeded to consider the joint resolution.

AMENDMENT NO. 2939

Mr. BYRD. Mr. President, on behalf of Mr. MCCLURE and myself, I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, and Mr. MCCLURE, proposes an amendment numbered 2939.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In subsection 101(b), after "the Senate as of October 1, 1990," insert "or at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990,".

In section 103, strike the sum "$262,969,000,000" and insert in lieu thereof: "$265,369,000,000".

In subsection 108(c), strike "October 20, 1990," and insert in lieu thereof: "October 19, 1990,".

In section 114, strike "October 20, 1990" and insert in lieu thereof: "October 19, 1990".

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, this amendment is really a group of amendments, en bloc. They provide that the rate of operations for programs and activities of the Federal Government shall be continued through October 19, 1990, at the lower rate contained in House-passed appropriations bills, Senate-passed appropriations bills, or the current fiscal year 1990 rate, whichever is the lower.

One of the amendments changes the date for extension of the debt limit from October 20, 1990, to October 19, 1990.

The amendments would also change the amount to be available for the programs funded under the Department of Defense appropriations bill during the period of the continuing resolution from $262,969,000,000 to $265,369,000,000.

These amendments have been cleared by the leadership on both sides of the aisle.

I ask unanimous consent that the amendments be agreed to en bloc. But before I do that, I yield to Mr. MCCLURE or Mr. HATFIELD for such statements as they care to make.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I have participated in the summit in the earlier meetings and saw the summit move to reduce military spending for not only fiscal year 1991 but for the next 5 years, and I applauded that effort. I must say I do oppose this amendment which adds money back to the military spending programs which I do not think are necessary.

I want to say we have been in a state of paralysis long enough, and even though the votes are here to agree to these amendments, I urge we agree to them. I merely want to say I support the chairman of the committee and others who are trying to bring us out of the stalemate and get the appropriations process underway. We cannot afford this any longer. So that is the good part of the amendment. But I do oppose the amendment.

Mr. BYRD. Mr. President, I should state for the record that the programs for defense would be $2.3 billion below the summit figure.

Mr. President, I ask unanimous consent that the amendments be agreed to en bloc and that the motion to reconsider en bloc be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

The amendment (No. 2939) was agreed to.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I support this resolution on the problem with respect to the continuing resolution for a couple of reasons and I think they are very important reasons. First of all, it is necessary that we move forward, and I think all of us are very conscious of that necessity. This continuing resolution contains with it appropriate figures and real reductions in spending. There is a freeze in spending under this. I hope those of us who are very much concerned about limiting the growth of Federal spending during the period of time while we are trying to solve the budget problem are committed to some real savings, and this has some real savings in it. They are marginal, admittedly. We hope the period is short. But there are real savings in it and, therefore, it certainly has my support for that reason.

The second thing that I think is very important is that it sets up a timetable for the consideration of it that is about as short as anyone can reasonably expect to occur. It is not something that leaves the decision to some time in the future. It is something that forces a decision to be made at the earliest possible moment and under the tightest possible time schedule.

Both of those objectives, I think, are in tune with what the President of the United States has said that he wants. He wants some discipline in this process. He wants a budget resolution that moves us forward in this process and he wants some real restraint on spending while we do those things we have yet to do. This continuing resolution accomplishes all of those objectives.

I realize that all people on all sides can question how we got here, why we are where we are, how we get out of this mess, and I think the American public is saying to us, solve the problem.

I think that is the fundamental question we are addressing in this continuing resolution. We are going to solve the problem as fast as is possible for us to do so. I think this is a responsible and reasonable action for us to take. I applaud those on both sides of the aisle who contributed to this result.

It is not where I would like to be. I do not suppose anyone on this floor really says this is exactly what they wanted. But it is a way for us to move forward from where we are, not from where we would like to be but from where we are. I think it is an important effort in that respect. I certainly support it wholeheartedly. I am glad to cosponsor the amendment with my distinguished friend, the chairman of the Appropriations Committee, Senator BYRD from West Virginia.

I thank the Chair.

Mr. BYRD. Mr. President, House Joint Resolution 666, as amended, extends the operations of the Federal Goverment through October 19, 1990. It continues to provide temporary, restrictive financing for fiscal year 1991 which began on October 1, 1990. It also continues to provide for the extension of the debt limit ceiling through October 19.

Thus far, the House has passed 10 of the 13 annual appropriations bills. The Senate Appropriations Committee has reported seven of those bills to the Senate, all seven of which have been passed.

It is critical that the Senate complete action on the continuing resolution tonight. This resolution is not a budget buster. It does not in any way prejudice the budget agreement. It simply allows for the continuation of the operations of the Federal Government through October 19.

Under the provisions of this resolution, it is expected that the essential air services program will continue without any service reduction and that the Office of Commerce Space Transportation will continue at the current rate in view of its important safety responsibilities associated with licensing the commercial space industry.

Failure to enact this continuing resolution would cause massive reductions in all Federal agencies tomorrow morning. The Director of the Office of Management and Budget has issued instructions to the heads of executive departments and agencies indicating that if no continuing resolution is en acted by Tuesday, October 9, which begins 1 second after midnight tonight, instructions will be issued initiating a phase down of activities at Federal agencies to take place during the first 3 hours of tomorrow morning.

If, on the other hand, the continuing resolution now before the Senate is enacted, Federal agencies will be allowed to continue operations at the rates provided in the resolution.

I believe that enactment of the continuing resolution is vastly superior to a Government shutdown which would occur tomorrow morning if this resolution were not to be enacted. I urge my colleagues to support the resolution.

I thank the distinguished majority leader and the distinguished Republican leader for their excellent efforts in making it possible for this matter to be disposed of expeditiously.

I yield the floor.

Mr. MITCHELL. Mr. President, I wish once again to restate so that there is no misunderstanding in the Senate about the level of funding for the defense function under this amendment. The budget authority for fiscal year 1991 for the defense function under the summit agreement was $288.3 billion. This amendment provides that in this continuing resolution the level of funding, that is, budget authority for fiscal year 1991 for the defense function, will be $286 bililon. That is $2.3 billion less than the level in the budget summit agreement.

Mr. BYRD. Mr. President, will the majority leader yield?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Let me put a little emphasis on that figure also. What this really means, we are talking about 11/365 or $2.3 billion. In other words, Mr. President, this is just for 11 days, 11/365 or $2.3 billion.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANFORD). Without objection, it is so ordered.

Mr. BYRD. Mr. President, I make this statement because the Senate is considering the continuing resolution, which is managed by the chairman of the Senate Appropriations Committee and the ranking member of that committee, and there is an amendment which I shall send to the desk. It is a sense-of-the-Congress amendment. I shall read it. It is as follows:

> It is the sense of Congress that the date by which committees should report their reconciliation language to their respective Budget Committees should be October 12; that the Budget Committees should report the reconciliation bills no later than the close of business October 13; and that it is further the sense of the Senate that the Senate should begin consideration of the reconciliation bill on the first day of session following its report by the Budget Committee.

Mr. President, this amendment is a sense-of-the-Senate amendment. It is not mandatory and has no binding effect whatsoever. It expresses a pious hope, and if that hope is not realized, nothing can be done about it. It is an expression of the intent, intent and good faith.

But as I want to call to the attention of the Senate—and I am confident that the majority leader will want to comment on this part—should the Senate take up the reconciliation bill no later than the close of business on October 13, should the Senate take up the reconciliation bill on the first day of session following its report by the Budget Committee, which is a statement of intent, a statement of good faith, but were that to happen, then this could very well mean that after the Senate had acted on the Senate reconciliation bill and then proceeded to take up the House bill, the time under the rule could be doubled.

In other words, there could be 20 hours on the Senate reconciliation bill and 20 hours on the House reconciliation bill. So I merely state that to say that we are not going into this blindfolded. We know exactly what could happen, and I am sure that we are not going to let that happen.

So I think we should say that as we offer this sense-of-the-Senate pious hope resolution, so that we all know that we are not walking into that kind of situation with our eyes closed.

Before I send the amendment to the desk, I am sure the distinguished majority leader wishes to speak. Or would he prefer I send it to the desk?

Mr. MITCHELL. Yes.

AMENDMENT NO. 2940

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 2940.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the end of the joint resolution add the following:
>
> It is the sense of Congress that the date by which committees should report their reconciliation language to their respective Budget Committees should be October 12; that the Budget Committees should report the reconciliation bills no later than the close of business October 13; that it is the sense of the Senate that the Senate should begin consideration of the reconciliation bill on the first day of session following its report by the Budget Committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2940) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, if I might comment. We are all acting in good faith in an attempt to make a serious effort to deal with this very important national problem, in the most expeditious and thorough manner possible. The amendment offered by the Senators from West Virginia and Idaho expresses an intention that we do that, and that is our intention. We are going to do the very best we can to proceed as promptly as we can.

I have indicated to the Senator from Idaho that after the Budget Committee reports, we will then make an assessment depending upon the situation here and in the House as to the best way to get this done as promptly as possible, so as not to add time or to cause us to duplicate out efforts, which could occur even if we did or did not wait for the House bill.

Therefore, we are going to proceed, I want to assure all Senators, in good faith to move forward as promptly as possible in an effort to meet these very tight deadlines, and I will continuously, as I have throughout this process, review the matter with the distinguished Republican leader and with certainly the ranking member on the Budget Committee, as well as our colleagues and the Senator from Idaho.

Mr. McCLURE. Will the Senator yield?

Mr. MITCHELL. Yes.

Mr. McCLURE. Mr. President, I thank the Senator from Maine for the statement that he just made. I think all of us have to understand that there is an element of good faith in this. I think everyone on both sides of the aisle is trying to make it work in just exactly that way, as indeed the President of the United States and his administration are trying to make it work in that way.

As I understand where we are now, with this action, the authorizing committees, the committees of jurisdiction, will have through the 12th to make their recommendations on reconciliation; and that, if as a matter of

fact they do so, then the Budget Committee meets immediately following their recommendations and puts the package together in reconciliation and reports to the Senate. If the committees fail to meet their instructions, either by that date or in substance, then the Budget Committee, under existing law, is empowered to suggest the manner in which their jurisdictional subject matter should have been met. I mention that because I think it is a little bit more than just a precatory desire. It has a little bit of substance in empowing the Budget Committee to take action. That is the way I understand it, that by the end of the 13th, we will know what the shape of the proposed reconciliation is with respect to the several areas that are encompassed in the instructions in the Reconciliation Act.

I also understand—and certainly it is very true—that we cannot control what happens in the House of Representatives. The other body will follow their own process, and we are not trying to dictate to them. We have to await a Reconciliation Act from the House of Representatives before we can complete our action here. I agree with the distinguished majority leader that, indeed, we do not want to waste time over here going through a process twice. We do not want to extend that time beyond any reasonable bounds.

But I think we can at least put ourselves in a position to respond quickly when the other body has acted and submits that legislation to us. We can put ourselves in a position to react to that as quickly as is practicable and the Democratic leader and I and no one else can know exactly what it is they will give us nor exactly how we will have to react to it.

So I understand, and I want to be very clearly understood at this point that I understand what the distinguished Democratic leader is saying to us this evening; that there has to be some latitude for the leadership to respond to the situation as presented to us by the House of Representatives when they send that reconciliation act to us. Certainly, I accept it in exactly that manner for myself and I hope for some others on this side of the aisle. Our action tonight is an action of good faith, accepting good faith on the other side. Indeed we are going to try to expedite this matter as quickly as we can, because after we act it has to then go to the floor of the Senate, from there to a conference with the other body, in every likelihood, and come back in a conference report.

The concern I have, and many others have, whether we like where we are or not, we are up against an adjournment date. We want to give ourselves as much time as it is possible to give ourselves, to deal with the question as free of pressure as we can, and that means as early as possible so that we are not right up against an adjournment date; we are not faced with a take it or leave it that forces people to vote for it when they do not want to, or that automatically means we are back in a Lame Duck session after the election which I think all of us want to avoid.

So I accept the statement made by the distinguished Democratic leader and for myself I will welcome the opportunity to work with him and others in trying to make this process work the way it is outlined there this evening.

Mr. MITCHELL. Mr. President, I thank my colleague and I merely wish to state that lest there be any misunderstanding it is not the intention of the amendment most recently adopted to create any authority or power in the Budget Committee beyond that which exists in the existing Budget Act. We are not attempting to give them any new authority or power here. This merely establishes what we hope will be a timeframe within which action will occur.

Mr. President, I thank my colleagues. I hope that if the time for debate has expired we could proceed to dispose of this measure, and then I am going to seek consent to dispose of the budget resolution.

The PRESIDING OFFICER. All time for debate has expired.

The question is on the engrossment of the amendments and third reading of the joint resolution.

The amendments were ordered to be engrossed, and the joint resolution to be read a third time.

The joint resolution was read a third time.

The PRESIDING OFFICER. The joint resolution, having been read the third time, the question is, Shall it pass?

So the joint resolution (H.J. Res. 666), as amended, was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS-CONSENT REQUEST

Mr. MITCHELL. Mr. President, I ask unanimous consent that a vote on the adoption of the conference report on House Concurrent Resolution 310, the budget resolution, occur at 11:30 p.m. this evening with the time between now and then to be divided and controlled by Senators SASSER and DOMENICI.

The PRESIDING OFFICER. Is there objection?

The minority leader.

Mr. DOLE. Mr. President, could we extend the vote if we vote at 11:30 and the 15 minutes are up? We may have one late arrival.

Mr. MITCHELL. Certainly I think we have done that in every instance that occurred this year. It would be my intention to do that.

Mr. DOLE. If it becomes too late, say, 1 o'clock or——

Mr. MITCHELL. I do not think I understood "extend" in the same context as the Senator suggested. We have extended it, I think, as much as 20 minutes.

Mr. DOLE. A reasonable time. I say that would not be a reasonable time. I will work it out.

Mr. MITCHELL. We will work it out. I renew my request.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that a vote on the adoption of the conference report on House Concurrent Resolution 310, the budget resolution, occur at 11:45 p.m. this evening with the time between now and then divided and controlled between Senators SASSER and DOMENICI.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues and I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

CONCURRENT RESOLUTION ON THE BUDGET—CONFERENCE REPORT

Mr. SASSER. Mr. President, at this time I would yield 2 minutes to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. SASSER. Mr. President, I ask unanimous consent that the Chair vitiate the request for time for the Senator from Hawaii.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, the senior Senator from Georgia has indicated that he wishes to address the Senate and I yield to him 5 minutes at this juncture.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I thank my colleague from Tennessee and I thank all of those on both sides of the aisle who struggled long and hard to be able to pass this continuing resolution which has just passed, which will take a few days and at least alleviate the immediate hardship that was going to be so tough on so many people. I am certainly hopeful the President will sign this this evening.

I also commend the Senator from Tennessee, the Senator from New Mexico, the Senator from West Virginia, the Senator from Oregon [Mr. HATFIELD], and others who worked so hard on the budget resolution. We all know we are trying to save $500 billion over 5 years and everybody is trying to look for a way to do it where nobody gets hurt and nobody gets mad. By definition that is impossible. You do not save $500 billion without hurting someone and without costing someone some money or programs. It is impossible by definition.

The one thing I regret so far in this whole budget deliberation is something that no one has yet done. President Reagan never did it, President Bush has not done it, nor has the congressional leadership been able to gain the attention of the public in terms of addressing the issue of the overall deficit. The Senator from Florida talked about it tonight, but the American people need to be told or we are going to have another period of disillusionment in 6 months or a year. They need to be told this is only addressing a portion of the deficit, that the deficit is going to be probably between $1 trillion and $1.5 trillion over the next 5 years, and we are talking about cutting $500 billion.

Also I think the public needs to be told. I know the Senator from Tennessee has said this many times, that even those deficits are based on scenarios which are very, very optimistic.

Just one point that I think needs to be made and that is that the Bush administration's economic assumptions on which this whole deficit projection is based shows that we are going to go from a gross national product growth rate of 1.3 percent in 1991 to 3.8 percent in 1992. Well, now that is optimistic. I hope it will occur. And maybe it is possible it will occur. But at the same time they have the Treasury bill interest rate, 91-day T-bills, going down from 7.2 percent in this year with a slow economic growth to 5.7 percent in 1992, when we are going to be experiencing much stronger economic growth and much higher borrowing.

I do not know many people who believe that. So I am afraid when you look at these assumptions that we are going to have another whole period of disillusionment and the credibility of the Government itself, both political parties, the White House in particular, and the Congress also is going to be further eroded into the future.

That is not to say this package is not going to do some good. It is. But the problem is when you project deficits at this level, and it is really going to be at this level, and you end up cutting it down somewhat, it is still going to be higher than we are projecting now because the economic assumptions are simply not likely to hold.

I think that those paying attention to this debate in America might also want to know that the Bush administration's projection on 91-day Treasury bills in 1993, that is the interest rate the Government would pay, is 4.9 percent; 1994, 4.4 percent; 1995, 4.2 percent. The budget committees are not buying all these numbers, but for these deficits to come anywhere near the projections that is what the interest rates have to be.

I just do not know of anyone who is projecting that kind of interest rate decrease. I am hoping that will come about but I think it would be a near miracle if it does. Of course that makes an enormous difference in the deficit because we pay interest on the debt.

Mr. President, in the remaining 1 minute or 2 I have, I would like to address the defense numbers just very briefly. I have had a number of my colleagues, the Senator from Arkansas [Mr. PRYOR] and others who have expressed an interest in these numbers.

Suffice it to say that defense numbers are coming down somewhat from the summit levels. The reason for that is that the Senate-passed bill was lower by a small amount than the speeches I made back in the spring that laid out 5 years' budget projections with policy assumptions after analyzing the threat assessment and the strategy. The CBO scored our defense bill slightly below the numbers that I had anticipated, and we have seen because of the decrease of $2.2 billion in budget authority, not in outlays but in budget authority, over 3 years.

There are a number of people who are saying the defense numbers are too high. I can understand that frustration, but I believe that people have not focused really on what is happening in defense. We are making the most profound, sweeping changes in defense this year in a downward direction that we have made in at least the last 25 or 30 years.

The numbers that are in this resolution are the numbers that passed the Senate in the Senate authorization bill by a vote of 79 to 16. That has not been but about a month and a half ago. Some of those 16 may be part of those who are frustrated, but 79 Senators endorsed the numbers that are in this resolution we are considering.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SASSER. Mr. President, I yield the Senator from Georgia an additional 2 minutes.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I thank my friend from Tennessee.

Let me just make two or three other points. Defense spending cuts in this budget resolution over the next 5 years represent 36 percent of all the deficit reduction in this package. Add in the interest on debt saved by reason of the reduction and it comes to 40 percent. Forty percent of the $500 billion is coming out of defense.

I think it also should be said that as a share of the gross national product the defense spending is going to drop from 5.5 percent of the GNP in 1990 to 4 percent in 1995. And I will not go into the details on those numbers but in 1991 we will be cutting $25 billion out of budget authority; 1992, $35 billion out of budget authority; 1993, $47 billion out of budget authority; 1994, $60 billion out of budget authority; and 1995, $70 billion.

Mr. President, those are large numbers. It is going to be very difficult to meet those numbers.

I have also been asked by a number of people why do we not reduce forces in Europe. We are reducing forces in Europe. We are going to have to reduce forces in Japan, Korea, and the Philippines also to be able to meet these numbers. We did not do it all in this bill that passed this year. We only took 50,000 out of Europe. But we have taken approximately 500,000 people out of the force structure in the Defense authorization bill that passed. Those numbers will come down over 5 years—500,000 people over 5 years. That is going into law if our bill prevails on that point in conference.

In order to accomplish that—and that is where you save the money; you do not save money by bringing troops home from Europe directly unless you take them out of the force structure, and that is what we are going to be doing to save money—in order to meet that level, I have anticipated—now the commitee has not endorsed this, this is my assumption to get the numbers and the projections—I have assumed we are going to take about 50,000 out of Europe on an annual average, maybe more in some years, others less, 50,000 per year for the next 5 years. That is about 250,000 out of Europe.

The administration is not agreeing with that. The Secretary of Defense does not agree with that. The Joint Chiefs do not agree with that. But that is what I think we are going to have to do over the next few years, assuming the threat continues to diminish, and we have to relate our defense needs in Europe and elsewhere to the threat.

Mr. President, I thank my colleagues. I thank my colleague from Tennessee. I yield the floor.

Mr. SASSER. Mr. President, the Senator from Maryland has requested time. I yield 5 minutes to the distinguished Senator from Maryland.

Mr. SARBANES. I yield to the Senator from Georgia.

Mr. FOWLER. Mr. President, I thank the Senator from Maryland.

Mr. President, the budget summit was a long and difficult process, and made so not because of a lack of good will or commitment but because of the magnitude of the problems and the sharp differences among the participants as to how those differences could or should be addressed. Indeed, these same divisions were evident last Thursday when majorities of both Republicans and Democrats in the House rejected their President and the bipartisan congressional leadership in voting down the first budget resolution which sought to implement the budget summit agreement.

When we started the budget summit in May, the difficulties were daunting enough: a deficit which the President had reestimated at $200 billion, rather than the $93 billion he submitted in his January budget; ballooning costs associated with the bailout of savings and loan companies; and a looming across-the-board sequester, which would cut over $100 billion in Government programs, devastating everything from crime and drug enforcement, to education, to air traffic control, to environmental protection, to national defense.

But these obstacles were only magnified by events of late summer: the Iraqi aggression in the Persian Gulf, and the increasing signs of a weakening economy, both of which multiplied the deficit problem while narrowing the available options for solving that problem.

I have tried to support the President of the United States in this deficit reduction effort, by participating in the budget summit, in negotiating in good faith, and even in supporting a summit agreement which all participants in the summit know was very far from my liking.

Yet in spite of the policy differences I had with the President and his representatives, the only real criticism I have of the President's role in all of this is the one I made at the outset of the process: I do not believe that he has used the bully pulpit of the Presidency to prepare the public or their Representatives in the Congress for the sacrifices that would be a necessary part of any significant deficit reduction package. Whether you listen to the reaction in the country or to the debate in the House the other night I think you will have to agree that this is so.

The bipartisan agreement which emerged from the summit was not a "good news" document. It was not painless. It was not something that I, or any other participant, found it easy to support. Indeed, I venture to say that there is not a single member of the negotiating team who was completely happy with that package.

In response to last week's House defeat of the budget resolution, some changes have been made which make more explicit the role of House and Senate committees in shaping the final details of the deficit reduction package. More flexibility is provided to correct some of the inequities that many perceived in the original budget resolution conference report.

Yet, I do not want to mislead any Member of this Senate into believing that his new conference report will ultimately lead to easier choices. It may be less difficult to vote for this less specific deficit reduction plan tonight, but you will still be faced with the specifics when the reconciliation bill comes out of our committees. Even if the worst fears of my friend, the distinguished junior Senator from Texas, are realized and we use the lack of specificity to shortchange real deficit reduction, we will still pay the price down the road, when we have to face this deficit problem again and again.

Nonetheless, I believe that approval and implementation of the deficit reduction provided for in the budget conference report now before us is vital to our long-term national security. The budget package is about sacrifice: There are no easy ways to resolve the problems I have already alluded to.

It is about commitment: Now, with our servicemen and women on the front line in the Persian Gulf, is a time when we must demonstrate national unity and national resolve.

It is about our Nation's future: Without a solution to our budget, trade, and investment deficits, we will continue mortgaging our children's futures.

And, yes, it is also about political courage: Many of the things this agreement proposes to do are considered suicidal politically, and all of us who have signed on to the cause can look forward to Monday morning quarterbacking, negative TV ads, and special interest attacks.

This is a major effort, being the largest deficit reduction package in American history, by far, even if one takes the most pessimistic view of how the committees will implement its provision. But, given the magnitude of the problem, no other course was possible.

I would like to say a word about the comments that some are making about the unwillingness of our senior citizens to participate in this national sacrifice. I say that those who make such comments do not know older Americans very well. Our elders know about sacrifice. They weathered the Great Depression, and fought and won the Second World War. They love their country, and they want to make a contribution in this time of national need. What they don't want is to be singled out, unfairly, while others escape from any sacriface. I have no doubt in my own mind that when the need for this deficit reduction package is made clear to them, and when the alternatives are made plain, older Americans will be in the forefront urging us all to do what is right for our country.

Let me be clear on one point. There will be some difficult economic times ahead, whether or not this deficit reduction package is approved. But while, as I have said, no one could possibly endorse every item of this package with great enthusiasm, you must consider the alternatives if the agreement is not ratified.

First, the Federal Reserve Board will conclude that there is insufficient political will to correct our fiscal policy problems, and will therefore, understandably, fail to reduce interest rates. Second, the Gramm-Rudman across-the-board sequester will be triggered, producing not only the undesirable policy outcomes I mentioned before, but also taking more than twice the amount of money out of the economy as envisioned in the summit agreement. Both of these factors will worsen, rather than improve, our economic situation.

Some ask, why act now to take such massive amounts of dollars out of the economy even as we are on the brink of a recession? Up to a point, I would agree. Under any economic theory I am familiar with, now indeed is not the best time to be embarking on a major deficit reduction effort; 1985 would have been a better time; or 1987, when the first budget summit was held between President Reagan and the Congress, or even last year's summit. At all of those times, the economy was in better shape than it is today.

The truth of the matter is that the President and the Congress did not undertake serious deficit reduction in those years, when the economy was stronger and the job would have been somewhat easier. But, if we fail to act now, how much longer will the country have to wait; how much more will our budget, trade, and investment deficits have to grow; how much larger a share will have to go simply to pay interest on the national debt, before action is taken?

My answer is we cannot afford to wait. If we do nothing now, projections are that the Federal deficit will grow to over $300 billion over the next 5 years, not even including the effects of an economic downturn. If left unattended, this deficit problem is going to grow and grow, and it will be much more difficult, not easier, to solve it in the future.

Clearly, the budget summit agreement is open to attack on many fronts. It represents neither what the Democrats nor the President and the Republicans would have produced if they were able to enact a plan on their own.

A quick review of the initial offers which we presented to each other at Andrews Air Force Base should suffice as an indicator of what each side would like to have done.

Compared to the final agreement, the Republican package had larger cuts in entitlements, including Medicare and agriculture, and in domestic discretionary spending, and lower cuts in defense. The Democratic offer was just the reverse. On taxes, they offered tax breaks for the wealthiest; we offered higher taxes on those who make over $125,000 a year.

These are all legitimate and important differences which separate our two parties, and they are the very subjects which elections should be fought over, not the personal vilification or television attack ads which now dominate what passes for campaign debate.

But the budget summit agreement and this budget conference report which would start implementing it, is about governing, not campaigning, and all but one of the summit members understood that.

There were many policies which I fought hard for at Andrews but which didn't make it in the final agreement. Contrary to Wall Street Journal editorials, I supported inclusion of a capital gains provision as far superior to the so-called business incentives included in the final agreement, but I also felt very strongly that this had to be accompanied by higher tax rates for those earnings $125,000 or more, as in the original Democratic offer.

In closing I would like to cite the words of Benjamin Franklin, which were read for him by James Wilson on the final day of the Constitutional Convention, September 17, 1787, to conclude debate on that difficult, contentious compromise, the United States Constitution. Incidentally, the distinguished majority leader gave a Reader's Digest version of this statement on national TV the other night:

> I confess that there are several parts of this Constitution which I do not at present approve, but I am not sure I shall never approve them; for, having lived long, I have experienced many instances of being obliged by better information or fuller consideration to change opinions, even on important subjects, which I once thought right but found to be otherwise. It is therefore that the older I grow the more apt I am to doubt my own judgment and to pay attention to the judgment of others.* * *
>
> In these sentiments, sir, I agree to this Constitution with all its faults, if they are such * * * I doubt too whether any other convention we can obtain may be able to make a better Constitution. For when you assemble a number of men to have the advantage of their joint wisdom, you inevitably assemble with those men all their prejudices, their passions, their errors of opinion, their local interests, and their selfish views. From such an assembly can a perfect production be expected? * * *
>
> Thus I consent, sir, to this Constitution because I expect no better, and because I am not sure that it is not the best. The opinions I have had of its errors I sacrifice to the public good. I have never whispered a word of them abroad. Within these walls they were born, and here they shall die. * * *
>
> On the whole, sir, I cannot help expressing a wish that every member of the Convention who may still have objections to it would, with me, on this occasion doubt a little of his infallibility, and, to make manifest our unanimity, put his name to this instrument.

Mr. BURNS. Mr. President, I rise to express my opposition to the Democratic budget resolution now before us. I was prepared to vote against the original budget summit agreement for a number of reasons. And the day after the House defeated that budget package, I was hopeful that we could go back to the table and come up with a better plan.

Unfortunately, that did not happen. Instead we are presented with a budget resolution which is 10 times worse than the original one. It is worse because we do not even know what the agreement is. There is at least $150 billion in increased taxes in this package. It does not take a rocket scientist to figure out that this is a tax package, not a deficit reduction package. The $150 billion in increased taxes may come from gasoline, beer, wine, cigarettes, income or sales taxes. But one thing is for sure—the average American is going to fork over at least an additional $140 per year to Uncle Sam.

In addition to the outright tax increases included in this package, there are additional unspecified fees. The Commerce Committee, of which I am a member, is directed to come up with $1.3 billion in unspecified mandatory spending cuts or unspecified fees. I can tell you right now that the Commerce Committee's recommendation will be 100-percent fees. There will be no spending cuts. I know this because last year when we went through this exercise the members of the committee were presented with various recommendations which would achieve the required savings. Every provision was a fee. And when Senator Lott and I spoke up and asked "where are the cuts?" we were told that it was not counted as savings to cut programs under our committee's jurisdiction—that we had to raise fees to meet our reconciliation instructions.

Ten committees in the Senate are instructed to come up with similar packages—all of which could be 100-percent fees. Now inside the beltway people may call paying a fee to have your small business inspected for compliance with EPA regulations a spending cut. But I think that most people—especially people paying those fees—will think of them as taxes. This means that over 50 percent of this package could fall on the shoulders of the working people and small business owners in this country.

This is an approach I cannot and will not support.

In my opinion, we are approaching the question of serious deficit reduction from the wrong side of the equation. Revenues are not the problem—runaway Federal spending is.

This package does not ensure that one dime will be cut from the Federal budget. There is no effective enforcement mechanism in this package. It is business as usual for the U.S. Congress. We say we are going to cut spending and raise a few revenues to reduce the deficit. We promptly increase taxes and fill our coffers and the spending cuts never come to pass.

I have introduced a plan a couple of weeks ago called the 4-percent solution. The 4-percent solution brings the deficit under control by limiting growth in Federal spending to 4 percent over the previous year. It also reforms the budget process and strengthens Gramm-Rudman-Hollings to ensure that these savings are actually achieved. The package before us claims to cut spending, but includes no enforcement provisions to ensure us that those savings will actually accrue.

I have heard many supporters of the budget summit agreement and of this proposal say that those of us who oppose their package are just refusing to make the hard choices necessary to attack the deficit problem. I submit to you, Mr. President, that enactment of the 4-percent solution would force the hard decisions needed to get rid of our Federal budget deficit. Raising taxes is the easy way out—it is much more difficult to control Federal spending.

I reject this budget resolution for that reason. I doubt that any reconciliation package put together on the guidelines in this package will be acceptable to this Senator. It is for that reason that I must vote against this package in the hopes that it will be defeated and we can turn the focus away

from tax increases and back to controlling Federal spending and reforming the budget process.

THE TRUTH-IN-BUDGETING FREEZE

Mr. HOLLINGS. Mr. President, this past week is just about the worst Government I have ever seen in Washington, which is saying a lot. Secret summits, pollster politicians, deceitful claims, dangerous policy, abdicated responsibility—you name it, we have witnessed it in recent weeks.

Of course, this latest summit deal was doomed from the start. These summits are not the cure, they are the cancer. Each year the poor patient, the Federal budget, just gets worse and worse off. Last week, the House of Representatives rejected the summit package as if it were a diseased organ, which it was. They did the right thing, even if they did so for the wrong reasons. Now we have a chance to do better.

Mr. President, let us look back at that rejected summit package for a minute. After all, most of its basic elements have been preserved intact in this latest reincarnation that is before us today in the conference report. The summiteers claimed that their $500 billion in deficit reduction between 1991 and 1995 would balance the budget. But, in truth, they agreed to solve the problem by ignoring half of it. The General Accounting Office concluded only last month that it will take closer to $1 trillion in deficit reduction between 1991 and 1995 to balance the budget. On top of that, the summiteers included impossibly inflated economic assumptions, for instance, projecting 1992 economic growth at 3.8 percent and interest rates at 5.7 percent. At very best, the agreement's $500 billion objective is like throwing a 50-foot lifeline to a drowning man 100 feet off shore.

This agreement calls for only $16 billion in new taxes in 1991, but calls for $5 billion in new tax cuts next year—all of them targeted for the well off. As Lester Thurow wrote this past weekend:

> It is remarkable that the initial deal * * * would aggravate the very features of the current tax system that seemed most generally objectionable to tax experts and the public: Its small business growth incentives would offer new tax dodges to the wealthy.

So as far as the President's core constituency of high-income GOP voters is concerned, Mr. Bush has fulfilled his campaign pledge not to raise their taxes.

I am confounded by the press's willingness to take President Bush at his word when he claimed that the summit agreement "does not mess with Social Security." The truth is that the summit agreement robs Social Security blind, as does this latest revision of the summit agreement. Both packages expressly provides that a total of $169 billion will be borrowed from the Social Security trust fund between 1991 and 1995 in order to reduce the Gramm-Rudman-Hollings deficit. So, concerning the Social Security trust fund, this agreement ensures that there will be no trust and no fund.

Likewise, neatly tucked away in both the original agreement and in this revised version is a provision for putting all new expenditures for the S&L bailout off budget. At the same time, the statutory debt limit is extended for 5 years and left open-ended. The game here is to grant congressional authorization for a blank check to fund spending by the Resolution Trust Corporation. Of course, this comes at a time when FDIC Chairman Bill Siedman says he will need at least another $100 billion to keep the bailout rolling just in fiscal year 1991. This budget trick solves Congress' and the administration's No. 1 political problem by keeping the S&L mess out of sight and out of mind.

Aside from the deceit, both the original and revised packages included are downright dangerous in terms of policy. Both packages officially kill any idea of a peace dividend. Gone are predictions of defense budgets being pushed down toward $250 billion over the next several years. Instead, the budget deal expressly locks in Pentagon budgets at no lower than $292 billion annually for the next 3 years. What is more, the cost of Desert Shield—whether it end up at $5 or $50 billion—does not count against the $292-plus billion spending limit. Instead of a peace dividend, the agreement awards the Pentagon a war dividend by exempting it from significant cuts and giving it carte blanche in the Persian Gulf.

Mr. President, this budget agreement is especially shameful in that it fails to address our changing national priorities. During the last year, our Nation has moved from the cold war to the trade war. We have a crying need for new investment in education and infrastructure in order to get our country moving and competitive. This budget deal offers a martial plan, not the domestic Marshall plan we desperately require.

I can tell you that the extremely low-spending ceilings for domestic discretionary spending are not adequate to fund even current program obligations. Beyond that, the agreement assumes zero new initiatives by the self-styled education president, environment president, child care president, and his like-minded colleagues in Congress.

Mr. President, this budget resolution presents us with a formula for a gridlocked Congress and a do-nothing Government for the next 5 years, during which time the budget agreement calls for at least $1.2 trillion in additional deficit spending. The deal provides three-way veto authority to a willful minority in Congress. Take your pick from the Sununu veto, the Dole veto, and the Darman veto. The Sununu White House can exercise the traditional constitutional veto requiring 67 votes for override. The distinguished Republican leader, Senator Dole, has his own veto power under the provision requiring a 60-vote point of order for any bill exceeding the spending caps. And Dick Darman has yet a third veto option by virtue of OMB's authority under the terms of this package to rule unilaterally on whether a given bill violates the spending caps.

As I said, Mr. President, this is a sure-fire formula for a deadlocked legislature and a do-nothing Government. That may be just fine in the eyes of a President without an agenda. But America deserves an agenda, and a leadership willing to pay for it.

My own druthers, Mr. President, are for a package that incorporates an across-the-board spending freeze in conjunction with a cut in the capital-gains tax rate to 15 percent and an increase in the top income tax rate to 32 percent—a tradeoff that was endorsed this weekend by Vice President Quayle. I would also include entitlement savings of $6 billion as proposed by the President in his January budget submission—savings that do not gut Medicare in any way, shape, or form. This truth-in-budgeting freeze would save fully $50 billion in the first year, and in excess of $500 billion over 5 years.

Mr. President, I ask unanimous consent that a table illustrating the key elements of my budget plan be printed in the Record at this point.

There being no objection, the table was ordered to be printed in the Record, as follows:

Truth-in budgeting freeze—Fiscal year 1991

[Figures in billions]

Discretionary savings:	
Defense freeze (excludes Desert Shield)	$12
Non-Defense freeze	14
Entitlements [1]	6
Revenues	16
Interest	2
Total deficit reduction	50
Revenues:	
Eliminate tax bubble	4.2
Capital gains	5.0
Summit taxes [2]	6.8

[1] Entitlement savings include a freeze on doctor and hospital Medicare fees, elimination of lump sum, and assorted other summit agreement savings. No cuts in COLAs. Limits summit agriculture cuts to $1 billion.

[2] This excludes all trust fund revenues. It includes tobacco ($600 million), alcoholic beverages ($1.5 billion), luxury tax ($200 million), corporate underpayment interest limitation ($1.4 billion), itemized deductions ($500 million), payroll tax deposit ($1 billion), enhanced IRS enforcement ($700 million) and other summit savings.

Mr. HOLLINGS. Mr. President, I have shared this plan with many of our Senate colleagues. Some two dozen Senators have said they could support such a truth-in-budgeting freeze.

Mr. President, there is a great deal of justified anger in the country over this budget debacle, primarily incited by the obvious inequity and deceit of the original plan. In contrast, Americans will accept an honest plan on the part of Government to deal with this fiscal crisis, as long as everyone shares the burden. My freeze ensures honesty and fairness.

The plan is simple—freeze all spending at last year's levels. On the spending side, this would mean a $12 billion savings in defense spending, excluding Desert Shield, a $14 billion savings in domestic discretionary spending, and entitlement savings which include a freeze on doctor and hospital Medicare fees, elimination of lump sum, and assorted savings already outlined in the budget summit. There would be no cost-of-living cuts. Agriculture subsidy cuts would be limited to $1 billion. Total entitlement savings, $6 billion.

On the revenue side, I propose we accept a cut in the capital gains rate in exchange for the elimination of the tax bubble. I would also accept the tax increases approved by the summit, including tobacco, alcohol, and luxury taxes, corporate underpayment interest limitation, itemized deductions, payroll tax deposit, enhanced IRS enforcement, and other summit savings. Total revenue, $16 billion.

With $2 billion in interest savings, the truth-in-budgeting freeze totals $50 billion in real savings in fiscal year 1991, nearly $10 billion more than the summit. Additionally, this plan, if adopted over the next 5 years, would mean well over $500 billion in total savings.

Mr. President, this freeze proposal is simple, direct, honest, and real. It simply takes last year's budget for this year's. No one's budget is cut. No one's budget is increased. We simply continue through 1991 with the very same budget that was approved last year by both Houses of Congress along with the President of the United States. This truth-in-budgeting freeze will break the deadlock that now paralyzes us. At the same time, it will take us a long way toward the balanced budget our country so desperately needs.

Mr. SARBANES. Mr. President, I want to take just a couple of minutes to talk about what is at stake in passing this budget resolution, the problem that we are trying to address. There are, in fact, three deficits that we have to face up to in this country. One is the budget deficit, another is the trade deficit, and the third is an investment deficit, which the Senator from West Virginia has spoken about eloquently on a number of occasions.

What is really at issue is getting our own budget in order, our own fiscal house in order in order to enhance our ability as a nation to compete internationally in the global economy in which we now find ourselves.

I hope the Senate will indulge me for just a moment or two. I have a few charts. I want to run through them very quickly because I know the hour is late and the time is limited. We are going to vote here in about an hour.

This is the Federal budget deficit. As one can see, in the 1980's, it just shot up. This is what we have been contending with.

The question is, then, why did this happen? Well, a number of my colleagues have alluded to it earlier in the evening. Essentially for two reasons. We had a large increase in defense spending. But expenditures on defense are spending just like any other spending. In fact, what happened in the 1980's is we had this runup in military expenditure, with a restraint and a leveling off in civilian expenditures. At the same time that we had this upsurge in defense spending, we also had an erosion of the revenue base because by the sweeping tax cuts that were made at the beginning of the 1980's.

Obviously, if we are going to increase spending and restrain or lower revenues, we are going to widen our deficit. And the consequence was, that is exactly what we did.

All of this comes in the context of trying to address a major trade deficit, in part affected by this budget situation. Not entirely, but in part.

This chart shows the deterioration in the American trade balance. This is back in the 1960's, but we could take it back even further. We have had an incredible erosion in our trade balance. We are importing far more than we are exporting. It has improved a bit in the last couple of years but we are still running a large negative trade balance. In other words, we are taking in more than we are sending out and the consequence of that is we have had a marked deterioration in our net asset position.

The United States has gone from being a creditor nation, internationally, to being a debtor nation. This chart shows that deterioration in our net asset position. This starting line is 1970. This one is the mid-1980's, when these accumulated trade deficits mounted up and drove us into a debtor position.

The United States was a creditor nation ever since World War I. We could run that chart back to World War I. We should show a positive net asset position. Now it has deteriorated. We are now a debtor country. We owe more to others than they owe to us. We are paying out every year in order to service that debt.

Just to dramatize that, I want to make this point about our position compared with that of Japan and Germany.

This is 1980. We see all three countries here with a positive net asset position: The United States, Japan, and Germany. Beginning in 1983 onward, the United States moves into a debtor position; Japan and Germany move even stronger into a creditor position. And the projections, unless we can change this, show a continued growth in that with the United States moving further into a debtor position and Japan and Germany moving further into a creditor position.

One of the things we are trying to do tonight with this budget resolution is to change these trends. We have to come to grips. I want to commend the very able and distinguished chairman of the Budget Committee, the Senator from Tennessee, for the really extraordinary contribution which I think he has made to this process, along with the chairman of the Appropriations Committee. They have worked together throughout all of this.

Could I have just 1 more minute?

Mr. SASSER. Mr. President, in view of the Senator's remarks, I will be pleased to yield 2 minutes.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Let me say, as we are approaching reconciliation, it matters how we do it. We want to achieve deficit reduction but how we achieve it is also an important question. First of all, we have to do it in a way, in my opinion at least, that we address some of this investment deficit. If we do not invest in our infrastructure, our transportation, communication network, in education and training, in research and development, we are not going to enhance our ability to compete with the other nations internationally, particularly Japan and Germany which are the very strong economies.

Look at this. This is nondefense research and development as a percentage of GNP. In 1971, the three countries were all roughly about the same place. The United States has stayed down here at this level; Japan and West Germany have risen. They are putting more money into nondefense research and development, and it is reflected in the economic gains which they are making.

So we need a budget resolution which is now going to be crafted by the committee which addresses some of these investment deficits so we can have a first-class transportation network, so we can educate our people for the competitive challenge they are going to face in the 21st century, and so we can be on the cutting edge of technology in terms of research and development.

The President finally conceded we cannot come to grips with this budget deficit problem without addressing revenues as well as the expenditure

side. We have to address both sides. We have to have restraint on the expenditure side and address the revenue side.

But we need on the revenue side to make sure that it reflects a sense of fairness and justice and equity amongst our people. That has been one of the struggles we have been going through here. It is essentially, from this Senator's perspective, whether those who are at the very top of the income scale are going to make a reasonable contribution toward meeting the Nation's problems, which I have set out here.

We have to pass this budget resolution tonight. We have to start coming to grips with this problem. We then need to go on and fashion a reconciliation measure that takes into account the necessity of a fiscal policy which will address the problems of the next century and put America back on track again so we can start to compete, so we can marshal our strengths, and so we can move into the international environment of the future in which a nation's economic strength may be more important to its international position than its military strength. That is the challenge we face tonight.

I urge my colleagues to vote for the resolution.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I yield 5 minutes to the distinguished junior Senator from Pennsylvania.

Mr. SPECTER. I thank my colleague from New Mexico.

Mr. President, I support the budget resolution because I think it is imperative that we move forward in the process of providing a budget and some cooperative responsibility for this country.

We have heard on the Senate floor in the course of the past year, really, lamentations on all sides. After months of negotiation, we have seen a budget proposal crafted by the leadership of this body and the other body and the administration. It is a budget proposal which failed in the House of Representatives because there were many faults in it.

Mr. President, I suggest the real issue is not how many faults there were but what was the alternative. During the course of the past 3 days we have seen Americans grow more and more disgusted with the Congress for our failure to act. Ten days ago, Mr. President, I said if we had a sequestration and had the automatic cuts, did not come to a budget compromise, there would be 537 of us in Washington out of work: 100 from the Senate and 435 from the House and the President and the Vice President; that the people of this country would toss us all out because we simply were not doing our jobs.

In the course of the past 3 days we have been in a stalemate and, as a result, many aspects of the Government have stopped their functions. However, because it was the weekend, there were those who could afford to play the delaying process. As we approach midnight, 1 hour and 2 minutes from now, that time is up. We simply have to act.

Mr. President, it seems to me that we really have to come to grips with the basic proposition that politics is the art of the possible and we have to compromise. Beyond compromise, which may be described as making concessions to come to an agreement, we really need the sense of accommodation and we need the sense of generosity which this body and the other body and America seem not to possess today.

We really are out for every last drop of every last issue on every matter which we face. During the 10 years that I have served in the Senate, the process of the U.S. Senate has been characterized by our budget. Last year, we came to terms at 3 a.m., on December 22, and if we could have postponed Christmas we would have on that occasion. I made that comment on last Saturday afternoon to an empty Chamber and I was surprised to hear some response from the galleries.

The galleries were full on that occasion. The reason they were full was pointed out by my distinguished colleague from Kentucky, Senator Ford, who followed after I spoke.

He said, the galleries are full because the other zoo in town is closed; people could not get into the other zoo, which Senator Ford spoke about, and I say that with some trepidation because the distinguished chairman of the Appropriations Committee may cite that as an inappropriate comment on the Senate floor. I think that it had a lot of merit and that the operation of Government has become pretty much like a zoo.

This budget resolution we are considering tonight is not perfect. I do not think it is possible to devise one which is perfect. Speaker after speaker tonight has lamented about what is going to happen with this budget resolution.

On the side, it is going to help our problems in international trade and, on the other side, it is going to be destructive. On the one side, it is going to help drive interest rates down and, on the other side, it is going to be destructive of interest rates.

In the Appropriations Committee, we had economists testify with many opinions. In the Senate, we hear 100 Senators argue and we hear 1,000 opinions because they are opinions stated 10 times over in every Senator's speech.

Mr. President, I conclude where I began, and that is with my deep conviction that it is necessary to move ahead with the process. I am very much concerned that we may not resolve it in the course of the time span between now and October 19. We have a great deal of work to do. It is going to have to be done in good faith and it is going to have to be done in the sense of accommodation.

I think of what my father told me about a partnership. He said, "Arlen, if you are in a partnership with a person, give 60 percent, because it will look like 50 percent to the other person. If you give 50 percent, it will look like 40 percent. So try to act with just a little bit of generosity and give a little more than you might think you have to."

I think this country is great, Mr. President, because of the sense of generosity which somehow seems to elude us. We have the greatest productive power on Earth. We have the power to solve all the problems in this country, every last one of them, in terms of the homeless, in terms of housing, in terms of aging and health care. Somehow we cannot seem to take the next step forward. We have gridlock.

Americans cannot stand it and Americans will not stand it. I think we have to move forward. Since my time has expired—I have a great deal more to say—I will conclude to stay in the parameters of trying to move this process forward. I thank the Chair and yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. Lieberman). The Senator from Tennessee.

Mr. SASSER. Mr. President, I yield 4 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio [Mr. Metzenbaum] is recognized.

Mr. BURNS. Will the Senator yield just so I can insert a statement?

Mr. METZENBAUM. Not on my time.

Mr. BURNS. On our time or anybody's time?

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, I yield 4 minutes to the Senator from Ohio, and I ask the Senator to withhold until Senator Domenici is here.

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. METZENBAUM. Mr. President, I think we are all here this evening to try to objectively move forward with respect to the budget process to keep the Government running. I think there are three parts to this whole package. I think the American people understand it. One has to do with the amount of money we spend on domestic concerns, one has to do with the amount of money we spend on defense, and one has to do with the amount of income this Government has through its tax procedure.

I just heard the distinguished Senator—and he is a distinguished Senator, and there is probably no more respected Senator in this body than the senior Senator from Georgia—address himself to the subject of defense spending.

Let us not kid ourselves. Defense spending is protected in this budget agreement. The Senator from Georgia talks about the amount of savings that will be affected, the cuts that defense is taking. But the fact is that the House Armed Services Committee said that they could save over $250 billion over 5 years in defense spending. This budget agreement has a figure of $170 billion in savings of 5 years, an $80 billion spread.

The fact is that American people do not understand it. The American people do not understand why when the Soviets are moving their troops out of Europe, when the West Germans are paying for the Soviet troops in Eastern Germany, while we have 310,000 troops stationed in Europe.

I respect the Senator from Georgia when he says we do not save anything just by bringing them home. We certainly would save on the balance of payments and certainly we would save much more if we had a reduction in force.

The American people cannot understand why we are spending so much money on this exotic weaponry and planning new exotic weaponry until we recognize and appreciate the fact that years ago, not too many years ago, you could go to the American people and say we want more spending for defense and the crowd applauded and they cheered. That is not so any more. Today they understand we ought to be cutting back on defense spending.

Even though the Senator from Georgia says that the vote was 79 to 16, that only tells part of the story. Most Members of this body do not like to vote against a defense spending bill, defense authorization bill. But the reality is that the Senator from Georgia is the one man in this entire body who is in a position to provide leadership to produce some effective cuts in the defense budget, and this budget does not produce that kind of effective cut.

This is the same amount as was in the authorization bill. But we had other authorization bills for domestic spending, and they will be cut by reason of this budget. Defense is a sort of a protected enclave. We cannot touch it. We cannot move in on it. We cannot eliminate any. We cannot cut back.

We can pay for all the troops defending Korea and all of the troops that we have in Korea and all the troops defending Japan. And we can pay for the troops in Europe. But we cannot cut back on defense spending. Why? The American people want an answer, and they are not getting an answer in this budget.

There is only one way they are going to get an answer because I am frank to say that I cannot offer an amendment here and cause it to be agreed to because there will be a coalition of some Members on this side and all of the Members on that side who would probably not vote for it, and I understand that.

But the one man who is in a position to provide that leadership who has the respect and the ability to, who knows what it is all about, is the distinguished Senator from Georgia. And so I say to him plaintively——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. METZENBAUM. And I say to him respectfully, you are the only one who can provide the leadership to help us do something about the defense spending in this country. I really hope you will.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I believe we reserved 10 minutes for Senator McClure.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho.

Mr. McCLURE. I thank the Chair and I thank my colleague from New Mexico. I will try to use less than that time. The hour is late, and I know people are trying to get to a vote, and, indeed, it is important for the country that we do that.

My purpose is not to debate the composition of the resolution that we are about to agree on. My purpose is not even to try to outline the distaste that I feel for how we arrived at the point we are. In my judgment, we should have been fighting this budget resolution over a period of weeks, much earlier in the year, as provided by the budget law. We are violating the law in having failed to do so much earlier in the year.

But I am not going to complain about that because I am concerned about how we get from the point we already find ourselves to the point of resolution. I have listened to some of my friends over the last weeks and months and, indeed, in the last few minutes talking about their own view about how we ought to be treating this problem. I intended earlier and thought seriously about saying what is the real fact, what is really behind this, and state it in terms of what everybody in this body knows. But I am constrained to withhold that this evening and say instead what I know, what I believe, and not ascribe it to anybody else's motives or to their knowledge or to their purposes because if there is any one thing that is abundantly clear, there are differences of opinion between us that must somehow be resolved. The American public may well want more defense, not less. There are those who say they want less defense, not more. There are differences of opinion within this body as to what it is they wish. That is the way this body ought to function in terms of differences of opinion between people on both sides of the aisle, between both political parties, between the Congress and the administration, each stating what it is we believe and contending for our viewpoint.

But the one thing the American public does not understand and cannot stand and should not have to stand is the continued disagreement over a solution. Classically, if there is a difference of opinion that cannot be reconciled, parties on both sides get together and make some kind of an agreement that compromises the viewpoints. That is what this budget resolution is about. But let me sketch just behind that what is not understood by the American public, in my view, because we have not told them.

What is the essential political economic debate about over the last 10 years? Well, every generalization is false and so is this, and it is inaccurate at the edges, but in the main I believe it to be true. I believe it is fair to say that the Democratic Party and their Representatives in this body want more Government, more Government services, more governmental activities, and they are willing to raise more taxes in order to get it. But Republicans have been beating them up over taxes, and the American public does not want taxes. So the Democrats are afraid to admit that they want more taxes.

On the other hand, Republicans believe that we are not in trouble because we tax too little; we are in trouble because we spend too much, and we want to restrain the growth of Government and restrain the cost of Government and by doing so eliminate the necessity for raising taxes. But because we are afraid that the American public wants those services and will object if we curtail the growth of those services, that somebody will object about what we are doing, therefore we are busily trying to cover up the fact that we want to restrain the growth of services and the growth of Government.

So you have the Democrats on one side trying to cover up their agenda and its cost, and the Republicans are busy trying to cover up their agenda and its cost, and the American public says what in the world is going on?

I do not blame them, because we are not telling the truth, as I see it. It seems to me that it is time for us, in this budget resolution, to cut that out.

The American public is saying, for heaven's sake, you are grown men, and why can you not resolve your problems? We could, if we were honest. We could, if we were willing to lay those facts out on the table and say, OK, you, in general, on that side of the aisle want more Government but want to raise taxes. The President did not ask for more taxes. He did not agree to more taxes because he wants them. He agreed to more taxes because he understood that in order to get a compromise, he was going to have to give people on the other side of the aisle that much in a compromise.

Now, why do we not admit on this side of the aisle that we want to curtail the growth of Government? That may impinge upon somebody who likes something they are getting from Government, and the people on the other side of the aisle are right in telling us, come on, level with the American public: You are trying to cut back on the growth of Government.

We are. I am proud of that. I am not ashamed of that. I am willing to talk about the Republican agenda. But let us, for heaven's sake, at least tell the American public what the argument is about and then get about compromising, as indeed the President of the United States said some weeks ago he was willing to do.

Yes, indeed, some taxes may have to be increased. I am totally opposed to that. I do not think it is necessary. But some on that side of the aisle believe it is necessary. All right, I will meet them halfway. I will meet them in the middle of the aisle. I will meet them on this proposition and say OK, we will increase some taxes if at the same time we get some restraint on the growth of Government.

That is what the debate is about, and that is why we are having difficulty getting there, because neither political party wants to admit what their agenda is, and neither political party is proud enough of their agenda and confident enough of its appeal to the American public to state it clearly.

That is my view about what the dilemma is. I think every Senator will have to examine in his or her own heart whether they believe that is the heart of the dilemma that we face. But if it is, there is only one solution, and that solution lies in each side giving a little bit.

I do not know that this resolution will produce that kind of real compromise. I thought the last summit agreement gave too much, from my point of view, toward your point of view or toward somebody else's point of view. But it was a reasonable attempt, and I was prepared to accept and support it if my vote was necessary to pass it, because if there is one thing the American public and the world understands, it is that we cannot continue to go on spending more money than we have. We cannot keep on burdening the future of this country the way we have with a national debt that now has an interest rate that is the fastest growing part of the entire budget, that is going to crowd out discretionary spending if we do not find some way to eliminate it.

Certainly the growth of the entitlements programs is another part of that problem, and we have to find both the political will and the courage and the means to curb the growth of entitlements programs and their spending so that we can have room for the discretionary spending and levels of taxation, which I do not agree with but which will be the result of a compromise.

That is exactly what I think our dilemma is. I will not try to ascribe motives or even put in the mouths of anyone else what it is they think about where we are. But that is the way the Senator from Idaho believes we have to address this question, and I believe this budget resolution gives us the chance to do that.

Will it do that? I think the budget summit—and I give great credibility and a lot of compliments to the people who tried to put that together over a period of weeks and months. Perhaps it was predictable that, indeed, the first one out had to be defeated, because none of us like it. I do not think even the people who put it together really like it. They knew it was the best they could do.

So until we get to the point of being mature enough to understand that other people who have a different point of view are entitled to their point of view, and they are not necessarily wrong, although we believe they are wrong, that they are entitled to their point of view and they may be right, and they have a right to expect to be partially met on their point of view, the American public says to the Congress of the United States: Get on with the business of the country. Quit this posturing. Quit paralyzing Government.

In my view, the American public is exactly right. It is time for us to quit posturing. It is time for us to put aside our partisan differences and our philosophical differences and find a reasonable compromise between opposing points of view. This budget resolution can do that.

The reconciliation that must be produced will have to meet certain guidelines. I am absolutely confident that the President of the United States will veto a reconciliation bill that does not come pretty close to the budget summit guidelines. I am confident that if it departs very much in one way or the other, it will fail.

The PRESIDING OFFICER. The time allocated to the Senator from Idaho has expired.

Mr. McCLURE. I hope we do our job in the time that is constrained by the CR and in the way that is outlined in the budget resolution.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, I yield the Senator from Nebraska 2 minutes.

The PRESIDING OFFICER. The Senator from Nebraska [Mr. Exon] is recognized.

Mr. EXON. I thank my friend from Tennessee. I want to congratulate all the very hard work that has been done by the leadership of the U.S. Senate. We are here tonight, I guess, to begin to do something.

The good news, Mr. President, I suggest, is that maybe the exercise, as painful as it is, and the painful exercise that we go through between now and 19th day of this month—maybe we will bring home to the American people what this Senator and others have been telling the Senate for a long, long time with a whole series of measures that we tried to get through years and years ago. That is the good news.

I simply want to say that this is another grand compromise, and I hope it works. I will be looking and having a part in figuring out how this plays out, and the changes that had to be made after the rejection of the original proposal by the President. I am afraid that this grand compromise, as well-intentioned as it is, will fall far short of covering the real problem as addressed very ably by the Senator from Georgia.

May we have order in the Senate, Mr. President?

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order. The Senator from Nebraska has the floor.

Mr. EXON. I intended to use many of the same statistics that the able Senator from Georgia used. I ask Senators to reference those very closely.

This is a very, very serious problem. This is a tiny step forward and not a leap forward in solving the problem. Maybe it is worthwhile, but I have some grave concerns about it, including let me say, that I could not disagree more with the remarks made by the Senator from Ohio. Indeed, the very able Senator from Georgia is the one that is leading us very ably to making the reductions in defense spending that are obviously necessary.

I do not have time to go into that any further at this time, but I for one am very pleased that we have Sam Nunn where he is to do the job that has to be done to keep the defense solid but still cut the cost. I reserve the reminder of my time.

Mr. President, I ask unanimous consent to have printed in the Record an article from the Washington Post of October 7.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE BIG LIE THAT CAUSED THE BUDGET CATASTROPHE

(By Lester Thurow, dean of MIT's Alfred P. Sloan School of Management)

In 1980 the American electorate embarked on a grand experiment—supply-side economics. Ten years later, that experiment continues to warp the political process. Its enduring influence explains why Congress and President Bush found it so difficult to reach any budget agreement at all; why the failed agreement was so peculiarly shaped; and why the public nourished on a decade of false promises, seems unwilling to make even modest sacrifices to assure the nation's economic future.

In the current economic climate almost any solid deficit-education package would be welcome. Still it is remarkable that the initial deal struck last week would aggravate the very features of the current tax system that seemed most generally objectionable to tax experts and the public: Its "small business growth incentives" would offer new tax dodges to the wealthy—who had supposedly traded away their shelters for the much lower tax rates provided by the 1986 tax reform; its tax-deduction limit would worsen, rather than eliminate, the disreputable "bubble" feature which grants the very, very rich lower marginal income tax rates, and hence lower capital-gains tax rates than those faced by the merely well-to-do taxpayers; and it would increase the relative tax burden borne by the low- and moderate-income taxpayers. All this in a package endorsed by Democratic leaders who claimed to have tax fairness as their top concern.

What explains the persistence of supply-side mythology? From where comes its power to so constrain American politics?

When America first jumped on the supply-side bandwagon, people felt, rightly, that the economic performance of the 1970s was unacceptable. The political and military affronts in Tehran were compounded by the vision of a chained economic giant wilting in the face of Japanese and German competition.

A GNP growth rate of 2.8 percent was unacceptable when compared with the 4.1 percent growth rate of the 1960s. That dismal record was compounded by an even more important measure of economic performance, productivity growth—the rate at which a nation is becoming more efficient and hence more affluent. The 1960s growth rate of 2.9 percent has fallen to only 1.4 percent in the 1970s. Such a decline meant that instead of doubling every 24 years, America's standard of living would take 50 years to double—each generation could no longer expect to have a standard of living twice that of its parents. Facing these facts Americans were willing to try something new and different.

Supply-side economics, as enunciated by President Reagan and later embraced by Bush, promised that lower taxes on upper income groups would stimulate savings and hence permit more investment—the argument used by Bush to advance his capital-gains tax cut proposals in the recent budget summit. Higher investment would lead to higher growth. In addition to restoring economic vigor and rebuilding international competitiveness, higher growth would accomplish two other important objectives—without asking for painful sacrifice from anybody.

First, with a larger economy, government tax revenue could go up even though tax rates had been reduced. In 1981 Reagan promised that the federal budget would be balanced in 1985 without having to make significant spending reductions. Second, although most of the tax cuts would go to high-income individuals (it was they who had the capacity to save more), higher growth would lead to better paying jobs for middle- and low-income Americans. In the short run their total tax rates would go up—for 80 percent of the population the extra payroll taxes they would be asked to pay to fund Social Security would be larger than the income tax cuts they would get. But with higher earnings they would in the end benefit. All gain, no pain.

Politically supply-side economics delivered the goods—three presidential elections have been won using it—but economically it has not delivered on any of its promises.

Where higher GNP growth was promised, lower growth was delivered—2.6 percent over the decade of the 1980s. In 1990 the economy is stalled on the lip of a recession, just where it was in 1980. Because of the debt and banking problems built up during the 1980s, any recession in the 1990s will produce levels of bankruptcy not seen since the Great Depression. Even without a recession, middle-income wealth is melting away as housing prices fall in much of the nation in reaction to the debt excesses of the 1980s.

Instead of growing faster, productivity slowed down—1.2 percent during the 1980s. In 1989 productivity actually declined. There is only darkness visible at the end of the productivity tunnel.

Savings rates plunged. In the last four years of the 1970s. American families saved 7 percent of their disposable income; in the last four years of the 1980s, they saved only 4 percent. The rich saved nothing from their tax cuts. In contrast, the Japanese saved 15.7 percent of their income in the past 12 months.

If total national savings (a measure that includes corporate savings and government dissavings) is examined, savings fell from 17.4 percent of GNP in the last four years of the 1970s to 11.3 percent of GNP in the last four years of the 1980s. As a result, in 1989 Japanese investments in plant and equipment per worker were three times as large as those in the United States.

At the beginning of the decade the United States had a small surplus in its trading accounts ($1.5 billion in 1980 and $8.2 billion in 1981). At the end of the decade it recorded a current-account deficit of $129 billion in 1988 and $110 billion in 1989. What was a competitive problem at the beginning of the decade was a competitive disaster at the end of the decade.

In 1981 the United States was the world's largest creditor nation with net assets totaling $141 billion. Every year the rest of the world paid interest, dividends, and profits to Americans. By 1989 the United States had become the world's largest net debtor nation with debts totaling $620 billion. Where Americans used to get, they now give.

The federal deficit did not, of course, vanish in 1985. In the year ahead, the deficit is estimated to be $254 billion and rising if last week's deficit reduction proposals are passed by Congress ($294 if they are not) and over $300 billion if the Social Security surpluses are excluded from the totals, as they ought to be. A budget summit that reduces the deficit by $40 billion is essentially the equivalent of Nero fiddling while Rome burns. The difference is that Nero wanted to burn Rome so that he could rebuild it—the Roman Colosseum was his. Unfortunately there is no evidence that the current fiddlers have any real rebuilding in mind.

President Bush is fond of saying that "we have more will than wallet." He has it exactly backwards. Our GNP after correcting for inflation is four times as large as it was in 1947 when we were paying to rebuild the world after World War II. Our per capita GNP is 2.3 times as large. We can afford to do what must be done abroad; we can afford to do what must be done at home.

America is not an over-taxed country. In 1989, Americans paid fewer taxes as a percentage of GNP (about 30 percent) than the citizens in any other industrial country. Taxpayers in 22 industrial countries, including Japanese and the Germans, paid more. Moreover, there are places where the budget can be cut without harm. Based on the performance of other countries (far lower spending levels; far better performances when it comes to health and longevity), substantially less could be spent on health care if the system were fundamentally reorganized. The events in Eastern Europe mean that big defense cuts can occur while still maintaining our ability to fight wars in the Third World. America has more than 2 million troops; fewer than 200,000 are in the Middle East.

The American problem is will—not wallet. In a democracy, will depends upon leadership and in the United States that means presidential leadership. It isn't leadership to spend months arguing that a capital-gains tax cut is the most important issue facing the American economy.

Whatever one believes about the growth-enhancing aspects of a capital-gains tax cut—or other "tax incentives"—everyone agrees that they leave more after-tax income in the hands of the wealthiest. In the last decade America had already had a heavy dose of that kind of "sacrifice."

Recently the U.S. Census Bureau confirmed that inequality in the distribution of income had increased substantially in the last decade. Every statistic points in the same direction. In the decade of the 1980s, the average real income of the top 5 percent of the population rose from $120,253 to $148,438. At the same time the average real income of the poorest 20 percent fell from $9,990 to $9,431. After-tax measures of income would report an even wider gap. As the income share of the top 20 percent rose in the 1980s, the income share of each of the bottom four quintiles was falling—the lower the quintile the bigger the decline. Despite a 21-percent rise in the real per capita GNP, the average real hourly wages of rank-and-file workers fell 5 percent. Those promised good jobs for middle- and low-income Americans did not appear.

If the income share of the rich is rising at the expense of the rest of the population (it is), if government is directly altering its policies to augment the income share of the rich (it has), if the campaign contributions of special interests increasingly dominate the political process (they do), if fewer and fewer middle- and lower-income individuals vote (it's happening), America is, under the cover of supplyside economics, rapidly moving towards becoming (dare we say it openly?) a plutocracy.

Unfortunately history tells us that as a social and governmental system, plutocracy does not for long work.

Mr. KERREY. Mr. President, the budget debate this year has been different than last.

It began the same as last year: The President addressed the joint session of Congress telling us the deficit was under control. This relaxed attitude—the year before he told us deficit reduction would be easy with the $80 billion of new revenue being generated by a healthy economy—encouraged all of us to roll out our own proposals for new spending.

However, as he did in 1989 with his Savings and Loan Program, we in Congress were outdone by the President who wins first place again in 1990 in the most expensive spending proposal of the year category. This year's award goes for his suggestion that we invest $500 billion to send a handful of Americans to the planet Mars.

When the year ended in October 1989, President Bush, who would prefer to address international rather than domestic problems anyway, agreed to go along when we told the American people the deficit for fiscal year 1990 would be $110 billion. This year, with the economy on the edge of recession, with our lenders—Japan and West Germany—indicating they may be less interested in funding our debt, and with the Savings and Loan Program costs growing by leaps and bounds, and with enough time having elapsed that the President felt it would be OK to break his pledge not to raise taxes, and with our own budget committee unable to resolve the bitter conflicts of increased need and decreased revenue this year with all these and more bearing down upon us, the leadership of Congress agreed to sit down with the President to fashion a bipartisan agreement.

One additional thing happened on the way to the disasterous scene last week when a President with approval ratings in the 70-percent-plus range could not convince the Nation or 80 Republican House Members to support a very modest proposal to reduce our deficit over 5 years. It is modest because in the end—it will still require us to borrow an additional $1.2 trillion over the next 5 years and will in the first year merely reduce the size of the deficit increase.

The additional happening was the tremor set off by Senator MOYNIHAN when his longstanding attempt to expose the borrowing from the Social Security trust fund finally took hold. All of us returned to Washington last year with Senator MOYNIHAN's battle cry ringing in our ears: "By what right and for how long are we going to make deficit reduction the singular burden of Americans who get paid by the hour".

Mr. President, Americans who get paid by the hour have begun to figure out what all this talk about the need for tax incentives and increased opportunity means. It means they will pay more and they will get less from a Government which would be technically insolvent without their contributions. Their protest, more than any other, has scuttled the proposal offered by the budget summitteers.

Some here hope this agreement, which we will pass tonight with my support, will calm the rising protest from the voters. Let me make a prediction: The small tail we have pulled at for 5 months does not belong to a small cat; it belongs to a lion—the American people—who will devour us all unless we go further.

We must go further with spending reductions particularly those which affect the size of the Federal bureaucracy here in Washington, DC. Americans will not be pleased when they learn we have reduced their program payments and increased their taxes while the payroll in the Nation's Capital continues to grow.

We must go further than the $725 reduction in take-home pay which will occur for Members of Congress with the proposed increase in the Medicare ceiling. If the full-time equivalents for Federal employees grows, while we are reducing the resources available to local government, we are going to struggle to explain what and why we have done this.

Mr. President, I received a letter from Nebraska this week from a small businessman who has been abused by the SBA, OSHA, and the Department of Transportation. He is not alone in describing the world thus:

> I find that my own Government is my biggest problem. I can work around the weather, I can improve our beautiful forest while providing income to many people, I can handle environmental concerns, I can find markets for our local resources, but my Government has me whipped.
>
> There is no way Congress or the administration will ever, ever balance the budget with these agencies so out of control that they choke off any incentive that Americans have, while building their outfits into more powerful organizations each year at the working man's expense. If I act completely irresponsible some agency will bail me out. If I strive to be responsible for my own actions other agencies will consider me fair game.

Mr. President, it is not just small businesses who are struggling with the institutions we have created to help them. The list includes teachers, welfare recipients, Medicare patients and providers, builders, environmental activists, and farmers.

All of these people heard the candidate, Ronald Reagan, say that Government is the problem and then watched him preside over one of the most spectacular increases in Federal power in the history of the United States of America. Alexander Hamilton would be proud of the fine work of President Reagan.

As one who believes America is hungry for a progressive domestic agenda, we must remember the intense distrust which rightfully exists in the heart of the citizen toward their Federal Government. For those of us who see the need for an aggressive domestic agenda to address the desperate need of America's children, to restructure our health care system, to tackle the declining performance of our schools, to address the growing shortage of affordable housing, and to rebuild the deteriorating infrastructure of our country, we dare not propose solutions which continue the centralizing trends of the past 10 years.

Rather, I believe we should accept this budget resolution and should resolutely push beyond for further real decreases in spending. Until we do the taxpayers of this country will not trust us with further proposals to make their lives better.

I do not view this deficit-reduction effort as an exercise in mathematics. Nor do I view it as a passive political move designed to avoid our responsibilities.

Mr. President, allow me to predict what we will face when our work ends this fall. We will pass a budget the President can sign which will reduce the deficit by $34 billion in the year beginning October 1, 1990. Regrettable, the American economy will continue to weaken through the first quarter of our fiscal year and the deficit, rather than being reduced from $294 billion to $260 billion, will grow beyond $300 billion.

The pressure from rising energy costs will at least in the short term mean higher inflation and higher long-term interest rates. This is likely because the cost of borrowing money is more dependent upon inflation expectations than it is upon the size of the Federal fiscal deficit.

As the cuts in some of the entitlements take effect—most notably in agriculture—the consumers of America, who are responsible for two-thirds of our economy, will consume less. This will put further downward pressure on our economy.

Unemployment and the pressure on food stamps, AFDC, and Medicaid will grow. Although it is still possible for us to avoid a severe recession, it is unlikely we will avoid a mild one.

The Savings and Loan Program, already estimated to cost $122 billion in this next fiscal year, will cost us more as real estate values decline and the damage spreads to the commercial banking and insurance sectors of our banking system. The additional $100 billion in energy costs—paid by consumers and businesses alike—will make matters worse for the most expensive domestic program in America's history.

Mr. President, the desire to restore growth to our economy will become stronger as the year goes on. Those who believe the answer to the question of how to increase our productivity and growth lies with additional tax incentives will argue that we need to make further changes in our Internal Revenue Code.

While not disregarding the incentives and disincentives of our tax policies, I believe we should also analyze the impact of our spending policies. I believe we should pay attention to supporting and getting our money's worth for those spending programs which will add value to human beings—child care, nutrition, training, education, housing, and infrastructure—to lead America toward higher productivity and growth.

Most importantly of all, Mr. President, in the fire storm which has surrounded this budget proposal and which will hopefully not subside with its passage, we need to pay attention to some intangibles. No government program—Federal, State, or local—can substitute for personal attitudes of responsibility, honesty, and selflessness.

A few weeks ago in the Omaha World Herald we learned from a writer, James A. Flannery, about the growth in the numbers of children in Nebraska born out of wedlock. In 1970 the number was 6 percent; in 1990 the number was a startling 20 percent. In Omaha the number was one out of three. For African Americans in Omaha 78 percent of all children were born out of wedlock.

I believe much of this change is due to the increased difficulty of supporting a family on an hourly wage. Much of the change is due to our failure to respond to the rapidly increasing requirements of the competitive workplace. High real interest rates, rising costs of health care, transportation, and education have squeezed the disposable income of working families. It is also undeniable that our own welfare system has contributed to some of the increase.

However, the greatest contributor I believe is a change of attitude that has encouraged people to be irresponsible and to care only about what is in it for them right now. If we are to make this deficit reduction package work, we are going to have to work to set new examples for our people to follow. Rather than idolizing and rewarding the greed and avarice and unashamed, conspicuously excessive consumption of that small percentage who love to take us to dinner, we must idolize and reward those who save and sweat to produce one small item of quality.

This deficit reduction package—if we follow it with further action—could be a great first step in turning this county in a direction which will enable us to do better and feel prouder of our accomplishments not just as politicians, but as human beings.

Mr. KASTEN. Mr. President, I will oppose the new House-passed budget plan for many of the same reasons I opposed the original budget summit agreement: It imposes the largest first-year tax increase in history, and it fails to provide real progrowth incentives—like a capital gains tax cut—to stave off recession.

Second, many of the savings are based on unrealistic economic assumptions. For example, who in their right mind believes that GNP growth will double by 1992 in the face of the largest tax increase in history? Does anyone really believe that the price of oil will fall to $24 per barrel next year? How on earth are long-term interest rates going to fall when the Federal Reserve is supposed to ease money which in turn raises the inflation premium in long-term interest rates?

Third, the proposed tax increases would discriminate against my State of Wisconsin. A gas tax would single out large and less densely populated States like Wisconsin. The doubling of the beer excise tax will cost 2,300 jobs in the Wisconsin beer industry, a major employer in my State. And the proposed tax on home heating oil would unfairly hit the families of cold weather States like Wisconsin.

This budget resolution is even worse than the original bipartisan budget summit agreement. It envisions $10 billion more in new taxes and $10 billion less in domestic savings. It raises the net tax increase on the economy by $29.1 billion over 5 years for a grand total of $162.9 billion.

Mr. President, there is no economic theory that I know of—keynesian, supply-side, or monetarism—that argues for higher taxes when the economy is sliding into recession. There is no tax increase that has ever been designed to that would cause people to work harder, to save more, or to invest more in America's competitive future.

There is now talk of raising income tax rates in exchange for a capital gains tax cut. I would vehemently oppose such a tradeoff. In my view, you have to earn income first before you can invest it. If you raise tax rates on earned income, you reduce the amount of earned income—and therefore the resources available for investment.

An increase in income tax rates would increase the political pressure to restore tax loopholes that were eliminated in the 1986 Tax Reform Act.

More importantly, any increase in tax rates is the camel's nose under the tent. It's the first step down the road to a punitive and progressive tax system. It establishes the legitimacy of soak the rich tax policy that will end up killing our economy.

Mr. President, instead of increasing tax rates, we ought to be cutting tax rates to spur economic growth.

Let me quote a former President who believed in supply-side incentives to fight the deficit:

> Our true choice is not between tax reduction, on the one hand, and avoidance of large Federal deficits on the other. It is increasingly clear that no matter what party is in power, so long as our national security needs keep rising, an economy hampered by restrictive tax rates will never produce enough revenue to balance the budget—just as it will never produce enough jobs or enough profit.

This is not Ronald Reagan or George Bush, but President John F. Kennedy.

JFK didn't prescribe progressive tax increases to solve the budget and economic problems of the early 1960's. Instead, he sought tax cuts every bit as favorable to the rich as anything Ronald Reagan or George Bush has ever proposed.

What happened? By encouraging productive activity, the rich paid more taxes. The budget deficit declined. And the Nation entered a period of unprecedented growth.

Mr. President, today we need the same kind of tax cut policies to get America moving again. We ought to cut the tax burden on labor—by cutting payroll taxes—and on capital—by reducing and indexing capital gains taxes. Freeing up both labor and capital would increase the productive capacity of our economy.

History proves that progressive tax theories don't work. Raising income tax rates in the name of fairness ends up reducing opportunities for all.

This budget plan simply perpetuates the same old tax-and-spend practices that got us into this mess in the first place. Furthermore, the desire on the part of some to impose the largest first-year tax increase in U.S. history simply is not justified by the facts.

The case for new taxes goes like this: Under the Reagan administration, tax cuts for all Americans have impoverished the U.S. Treasury—and Federal spending has been mercilessly slashed to the bone.

Under this theory, I think most folks would conclude that higher taxes are needed. The only problem with this theory is that it simply is not justified by the facts:

Since 1981, tax revenues have doubled. Tax revenue growth averaged 7.4 percent a year. The tax burden is at a near record high of 19.4 percent of GNP.

Since 1981, Federal spending has skyrocketed from $678 billion to over $1.2 trillion. Annual spending growth averaged about 8.0 percent a year. Federal spending consumes between 22 and 23 percent of GNP.

Given these facts, I think most people would conclude that the deficit is caused by too much Government spending, not too little taxes.

Mr. President, aside from the substantive objections I have with this plan, I think the way by which the budget summit was developed raises some very troubling questions about the future of our democratic process.

For the last 6 months, important decisions that affect the lives of every American citizen were made in secret by a small group of legislators and the White House staff. No public hearings were held to permit democratic participation. Most Members of Congress had little or no influence on the tax and spending policies that affect their constituents.

The Congress was told to swallow this plan—hook, line, and sinker. The Congress was told to rush through the largest first-year tax increase in U.S. history without hearings and without substantial debate.

The summit process had, in effect, short circuited the democratic process. Last week's vote in the House sent a signal to Congress that the American people want—and deserve—far more input.

I know the house is late. It's much too late to go all the way back to the drawing board. But if we reject this package now, I think we can make some adjustments to this package. We could reduce the level of tax increases, we could inject some realism to the assumptions, and we could limit the growth of nondefense spending.

In this way, I think we can make some progress on the deficit without hurting the economy.

Finally, Mr. President, an argument has been made on the floor that a vote for this budget resolution is a vote to keep the process moving.

This argument is simply wrong. This budget resolution represents a blueprint for the country. It is not an internal congressional document. It's a statement about what our priorities are as a nation—how much of our national resources we will spend and how much we will tax.

It represents a vote for principles as well as process. This Senator will not sacrifice principles for process.

TAX INCREASES: UNWISE AND UNNECESSARY

Mr. HELMS. Mr. President, we have heard repeated declarations that this latest budget agreement—like the one that was overwhelmingly rejected last week—includes tax increases; plus spending cuts; both of which will solve the Federal budget problems; and thereby help the Nation's economy.

All of which is pure hokum, because, at best, it is exactly one-fourth correct. It contains the largest tax increase—or maybe the second largest, depending on whose figures you believe—in history. But that's about all that even borders on being accurate.

Now as several Senators have demonstrated tonight, Federal revenues have more than doubled since the level in 1980—from $517 billion to $1.044 trillion. No one can convince me that our budget problems are the result of a lack of revenues. Yet this resolution calls for more than $134 billion in tax increases over the next 5 years.

In fact, Mr. President, the only difference I can discern in this resolution and the one that was rejected last week, is that it calls for even more tax increases and less spending cuts. At least with the first resolution, we knew what taxes were encompassed; in this one, nobody yet knows what taxes are encompassed.

Mr. President, most economists agree that our economy is either on the verge of a recession, or already in a mild recession. Now you can ask a dozen first-year economics students what is the worst thing Congress can do when the economy is entering a recession. You will likely get the same answer from all 12: raise taxes.

A huge tax increase, as required by this resolution, will harm our economy and lower the standard of living for all Americans.

Some of the tax increases that have been discussed are particularly bad. The 12-cent increase in the gasoline tax will add to the hardship that Saddam Hussein has already inflicted on American consumers.

Excise taxes on cigarettes, alcoholic beverages, and the like are always easy targets. But excise taxes always fall the hardest on the lowest income people in the economy.

The so-called luxury tax is another easy target. Few, if any, of my constituents are likely to buy a $30,000 car, or a $100,000 yacht, or a $5,000 fur coat. But I predict that if this so-called luxury tax is enacted, it will adversely affect each and every person in this country.

Why? Because it is the first step toward a national Federal sales tax. Mark my words. Once a tax is created, it takes on eternal life—it never goes away. It always gets broadened and increased.

The telephone tax is a perfect example. It has been scheduled to expire a number of times. Yet it is always extended.

Now what about the spending cuts encompassed in this resolution? As has been pointed out, it will be left up to the various committees. But if the so-called cuts encompassed in the previous resolution are any guide—and I have every reason to believe that they will be—we will see cuts like: First, increasing the premiums for Medicare; second, imposing a host of user fees to generate additional income; and/or third, requiring the Postal Service to pay billions to the Treasury.

Mr. President, without arguing whether any or all of those are wise policies, they just are not what most people would consider spending cuts. Yet that is how they will be advertised.

I have to admit, there will be some real, significant spending cuts—in defense. In fact, defense is the only program for which we would actually be spending less in 3 years than we are spending now.

Washington is the only place you can ask your boss for a $10 raise, get a $5 raise instead, and go home and say you got a $5 pay cut. That is exactly how our budget operates. That is how Congress has managed to spend more money on programs throughout this decade and tell the American people that there have been massive cuts.

Some are saying that at least it is better than a sequester. That is debatable. If a sequester took effect, the President could manage it in a way to keep, on the job, meat inspectors, FAA personnel, and other essential Federal employees.

Do I want to see a sequester? Of course not. It would be tremendously difficult and unfair to a lot of people, but it would not be the economic disaster that is being predicted for the purpose of scaring people into supporting this proposal.

Is there a solution? I think so.

Senator Burns and I, and a few other Senators, have introduced a plan to force Congress to follow a simple, commonsense budget like every family in America must follow. It calls for no new taxes. It merely limits the amount that Congress can increase total Federal spending each year to 4 percent.

Under our plan, Congress could still increase spending by $45 to $50 billion each year—enough to cover Medicare, Social Security, Federal and military retirees, and other essential programs. Spending can even be increased in other programs—provided they are offset by savings in other areas.

The General Accounting Office and the Grace Commission have identified hundreds of billions of dollars in Federal waste. We could start making serious efforts to attack that waste and use the money saved to either increase some programs where necessary, or reduce the deficit even faster.

I said that our proposal is simple; but I am not saying that it will be easy. It is a drastic measure. It will require Congress to make difficult choices. No one will have to go hungry, or lose their home, or the retirement security they have earned, but Congress will be forced to cut waste, and to eliminate unnecessary spending.

Some people will not like it; the liberals who control Congress will hate it. But in the long run, our children, our grandchildren, and the country will be better off.

Mr. President, we are in the eighth year of the longest peacetime economic expansion in our history. Now we must decide whether we shall pursue the path of economic growth or whether we will revert to the policies that brought us to the brink of national ruin.

Mr. President, I cannot in good faith support this latest budget agreement. With all due respect, the people will regard it for what it is—a turkey, flapping around Congress more than 5 weeks before Thanksgiving. I am obliged to vote against it because it is more of the same bad medicine that has made the economy shaky in the first place.

Mr. BOREN. Mr. President, our democracy has to be rebuilt by each succeeding generation. Each generation of Americans must care enough about our country to breathe new vitality into the institutions of Government formed by our Constitution and entrusted to our care. We who now occupy these seats in the Senate are the trustees of a great heritage passed on to us by the sacrifice and dedication of those who have come before us.

This is one of those moments which tests whether we are worthy to sit in the Senate and act as trustees for these great institutions. We are surrounded by desks once occupied by Webster and Clay and Calhoun, LaFollette and Taft, Truman and Vandenberg, Humphrey and Goldwater. Will we prove worthy of the high standards of political courage which they have set? Will we have the strength to look past the polling results and look to the history books?

We all know that the state of our economy is very fragile. If we demonstrate that we lack the will to truly deal with the budget deficit even when asked by the President and congressional leaders of both parties, we run the grave risk that the final vestiges of confidence in our economy will be destroyed. Such a loss of confidence could well do serious damage to our economy for decades to come and endanger the future for the next generation.

This budget resolution is not perfect, but the alternative could well be economic chaos for our country. The risk of defeating it is too great. We cannot in conscience play Russian roulette with America's future. Tonight we must act as trustees worthy of our great system. We must not fail the American people.

Mr. SANFORD. Mr. President, last year I said here on this Senate floor that I would not vote for another budget that did not have an honest deficit that more fairly reflects the annual increase in the national debt.

More than $1 trillion have been added to the debt under Gramm-Rudman. Almost half of that debt buildup was not included, never mentioned in the Gramm-Rudman deficit numbers. Our deficits have become moving targets and in large part hidden from the public, and this practice must stop.

Our $3.2 trillion debt will climb to $5 trillion under this 5-year budget package. And just as under Gramm-Rudman, the coverup will continue. If we indeed achieve $500 billion real deficit reduction, we will still add $1.4 trillion more to the national debt.

During fiscal year 1990 we paid in excess of $260 billion just in interest to pay for our massive debt. That interest that is not subject to sequestration, that must be paid, will soon exceed the total amount we pay for defense.

This budget resolution is the largest deficit reduction package we have attempted to achieve. But it fails to properly define the problem.

The problem is debt. It is not deficits we need to reduce, as such. It is the piling up of debt—secret debt—that we must stop and then reduce. The only way to do this is to reveal to the public the full debt increases each year, the true deficits. Debt increase is the deficit; let us call it that.

This budget resolution falls far short of this. Using the debt and deficit numbers included in this resolution, figures which are not realistic at all, there is a large difference in what the debt is estimated to increase each year and deficit numbers used. Using the figures in this resolution, using figures on the same page, we see that the cover up will continue. Our problem, our need, is a call for simple honesty in budgeting.

Mr. President, I think the estimates in this resolution are far too optimistic, and the deficits are very misleading. We can never achieve a balanced budget until we require an honest accounting of the Federal budget. Until we do this we will continue to coverup annual debt buildup that we cannot now afford. I cannot support the continuation of this practice.

Mr. KOHL. Mr. President, I rise tonight in support of the budget resolution. As I understand it, this package does one thing, and one thing only: It commits this Congress to writing solid deficit reduction proposals to achieve $40 billion in savings for this fiscal year and $500 billion over the next 5 years. That is a goal we all can and should support.

But I would like to make clear that my support for this goal will not extend to the reconciliation bill that implements the budget resolution if that bill does not do two basic things. First, and most importantly, it must add to, not subtract from, the progressivity of the Tax Code. Second, that bill must not ask for unreasonable sacrifice from the most vulnerable members of our society: the poor, the elderly, the ill, and the children. In other words, to keep my support, the reconciliation bill has got to be fair. Deficit reduction involves cutting benefits, stopping programs, and raising taxes; there is no way to make those actions painless. But there are ways to make them fair. In the days ahead, I will be doing everything I can to make sure that we do deficit reduction, and that we do it in a fair and progressive way.

I would also like to address the issue of the continuing resolution that we have passed tonight. There are three related issues which created the need for this stopgap funding measure: First, the House rejected the President's budget proposal so, second, the President decided to take revenge by refusing to fund the government in the hope that, third, we will be under pressure to accept the same kind of plan we rejected. Let me comment briefly on each of those points.

First, if the Senate had voted on the so-called bipartisan summit agreement on the budget, I would have voted "no." With all due respect to the people involved—with full recognition of the hard work they did, the good intentions they had—I simply did not think the plan was fair to middle-income Americans. But it should be clear to the President and to the American people that those negotiations were conducted in good faith. The Democratic and Republican congressional leadership worked hard to sell the agreement. So did the President. There was no doublecross, there was no political gamesmanship. They did what they promised to do. And the Congress did what it was obligated to do: It listened to the American people and exercised its independent judgment and rejected the agreement.

Second, while we rejected the budget agreement, we need not have rejected government; we did not need to close the enterprise down to make some rhetorical or political point. Some people say that by sustaining the veto we "kept the feet of Congress to the fire" and "generated the pressure needed to get an agreement." What nonsense, Mr. President. There is pressure on us now, and there is a giant fire ranging across the country. We don't need artificial, painful, and expensive posturing. The President's decision to veto our first CR simply forced us to spend a day in debate instead of negotiations, and it allowed us to spend a day in partisan bickering instead of cooperative efforts. Rejection of today's CR would have had the same counterproductive effects. So I'm glad that we have at least passed the continuing resolution and can get on with the real business before us.

Third, and finally, what is most depressing about all this is that we should have gotten a reasonable budget agreement some time ago. The budget resolution we are working on tonight is a step in the right direction. It will allow us to put together a package that increases taxes on upper income people, reduces the Medicare cuts, eliminates the 2-cents-a-gallon tax on home heating oil, helps the unemployed, and brings defense down to at least the House level. And, if political reality demands it, there is even room to give the President some sort of capital gains cut, not because the economy needs it, but because it may be necessary to get a deal. It does not take a brain surgeon to figure out what we need to do. The kind of plan we need equalizes the burden of real deficit reduction, it would deserve the support of the people, and it can command the support of this Senator and 50 other Members of this body.

The President has characterized the continuing resolution we passed earlier this week, and perhaps the one we will pass tonight, as business as usual. Mr. President, it is anything but that.

Business as usual would have been to accept the budget summit package even though many of us had serious problems with its provisions and its overall progressivity. Business as usual would have been to blame the leadership and the President for forcing the package down our throats. Business as usual would have been to say this year that the summit package is the answer to all our deficit problems, and to say next year "Sorry, we're back for more." Business as usual would have been to pass the summit package by voice vote, and then to spend the rest of our lives giving speeches on how strongly we opposed it.

Today is not business as usual. The budget resolution before us allows us to put together a deficit reduction package that takes into account the hundreds of thousands of calls and letters our offices have received. We are on new ground; we are starting to put together a real deficit reduction package. We are trying to do so in a way that is fair. We're trying to do so in a way that puts the interests of the Nation before the interests of politics. That is not business as usual.

I believe strongly that we are moving in the right direction. And I believe that this body and our leaders are capable of putting together a package without the pain and waste of government shutdown or sequester. Those actions are kind of political games that demean this institution and the Presidency. We have serious work on the budget to do. We don't have time for the kind of political brinkmanship that truly represents business as usual. I urge my colleagues to support the budget resolution and support movement toward a serious and fair deficit reduction package.

"PAY-AS-YOU-GO" FOR ENTITLEMENTS

Mr. RIEGLE. Mr. President I would like to engage the distinguished chairman of the Budget Committee, Mr. SASSER, in a colloquy on new program funding in this 5-year budget resolution. As you know, I participate in a bicommittee, bipartisan Senate working group that is working on legislation to expand access to health care for all Americans and to control rising health care costs. The working group intends to develop a self-funded program to accomplish this. It is a national tragedy that millions of our citizens have no health care coverage. At the same time, health care costs are skyrocketing. This type of effort is absolutely critical for this country. I would like to inquire of the chairman as to whether the budget agreement will allow for this type of initiative.

Mr. SASSER. I thank the Senator from Michigan for his comments, and I want to say that I certainly agree with him that the lack of access to affordable health care for millions of American citizens is a critical national problem.

In answer to the question, I would say that the budget agreement does allow for new program funding on a pay-as-you-go basis. In other words, if there is to be a new entitlement program, that can be done as long as these new expenditures are paid for and do not increase the deficit.

Mr. RIEGLE. I thank the distinguished chairman. I would further inquire as to whether there is any requirement about the origin of the funding. For example, would it be possible to fund this or any program through savings in unrelated programs, or through new revenues or user fees?

Mr. SASSER. Let me respond to the Senator, that, yes, as we envision it, the new pay-as-you-go mechanism would allow for new mandatory spending initiatives if they were paid for by either reductions in other entitlement programs or revenue increases.

Mr. RIEGLE. Mr. President, I want to thank the chairman once again. His comments are appreciated. I would also like to commend him for his efforts to develop a budget package. He has served the Senate admirably under very difficult circumstances. I know there are many members of Congress in both bodies and on both sides of the aisle who believe that action must be taken to address this critical issue.

Mr. LAUTENBERG. Mr. President, I am going to support this conference report, though I do it with great reluctance.

I am opposed to the budget summit agreement that the President and congressional leaders developed last week. If this conference report simply adopted the proposals in that agreement, I would vote against it.

As I explained in my statement to the Senate on Friday, I was opposed to the budget summit agreement for four primary reasons: It was unfair to New Jersey, to working, middle-class Americans, to the elderly, and to the future of this country. It was unfair to New Jersey because the taxes it would have imposed would fall disproportionately on our State. It was unfair to the middle class because it proposes taxes that would have fallen disproportionately on them. It was unfair to the elderly because of its deep cuts in Medicare. And it was unfair to the future because it would have overspent on the Pentagon and underinvested in education, infrastructure, and other key domestic areas.

Today, though, we are not voting on the budget summit agreement, nor are we voting on the particular policies included in it. Today we are voting on a budget resolution. And a budget resolution is not a vehicle for changes in the law, or the enactment of specific policies. A budget resolution simply sets general outlines of a fiscal policy.

It specifies how much we will spend, but it does not say how we will spend it. It specifies how much we will have in revenues, but it does not say how those revenues are to be raised, or who will pay. It specifies how much we will save through changes in existing law. But it does not say which changes are to be made. In other words, Mr. President, there is much that this budget resolution does not do. But it does do several important things. First, it moves the congessional budget process forward. It sets out targets for overall deficit reduction goals, and it assigns committees particular goals for contributing to these overall goals. These are important steps.

But more importantly in the current context, I am hopeful that the conference report will prevent the Government from remaining closed down. As my colleagues know, the President has made adoption of a budget resolution a prerequisite to his signature of the continuing resolution. Although I find that position unnecessary and unwise, it is reality that we cannot ignore. It also would be wrong to ignore the problems that would be created by continued Government closure for all citizens and for our Nation's Federal employees, who are charged with administering essential programs.

Finally, Mr. President, adoption of the conference report offers the hope of real progress on our Nation's serious deficit problem. The general framework of this conference report is roughly similar to the earlier version defeated in the House, in that it would produce about $40 billion in deficit reduction in the first year, and $500 billion over 5 years. However, it is a very different document. Let me explain how.

The House resolution included assumptions of specific policies that committees were expected to approve in the reconciliation process. The Finance Committee was to produce $60 billion in Medicare cuts, several increases in excise taxes, and a handful of new tax loopholes.

But this conference report takes out those specific recommendations. It does not mandate particular Medicare cuts. It does not mandate excise tax increases. It opens no new tax loopholes.

This conference report simply tells the Finance Committee to go out and find a certain amount of deficit reduction. It tells the committee that you can shape the details as you see fit. You do not have to hit Medicare as deeply as we said earlier. If you want to tax the richest of the rich, rather than hitting the middle class, you can. So long as you meet your overall goals, you are free to act as you like. That, Mr. President, is the essential function of a budget resolution in our system. It is nothing unusual.

But having said all this, I want to emphasize that just because I will support the conference report, I will not support the reconciliation bill if it fails the fairness test for New Jersey and its citizens.

In fact, if that reconciliation bill looks much like the budget summit agreement, I will vote against it. If it treats my State of New Jersey unfairly, I will vote against it. If it treats working, middle class Americans unfairly, I will vote against it. If it treats elderly Americans unfairly, I will vote against it, too.

I am not going to prejudge the reconciliation bill, though, since neither I nor anyone else can know what will be in it. I'm going to give the committees in this body a chance to do the right thing. If they succeed, I will vote for the reconciliation bill. But if they do not, I will oppose them and rise to defend the interests of my State, poor and middle class families, and the elderly.

Mr. BAUCUS. Mr. President, I rise in opposition to the budget resolution.

We have heard a great deal over the last few days of the need to sacrifice.

We have heard that we all must be prepared to tighten our belts to control the budget deficit.

Mr. President, I agree with those statements.

And I would be willing to bite the bullet and vote for a package that included an across-the-board freeze or even some deep cuts in programs close to my heart.

But this budget cuts far too deeply into Medicare and imposes an inequitable tax burden on middle and lower income Americans.

In addition, I am very concerned about the impact of gasoline tax increases and the highway funding formula on rural States like Montana.

But because time is short I will tonight focus on an issue that has not gotten sufficient attention in the budget debate—the drastic cuts in the farm program.

In the debate on the budget we have heard so many numbers thrown around that it is easy to lose perspective.

Supporters of every program claim that their ox is being unfairly gored.

FARM PROGRAM CUTS

But the reality is that the fastest declining major Federal program is the farm program.

In 4 short years, annual spending on the farm program has shrunk from $24 billion to $10.6 billion.

In other words, the farm program has already absorbed a cut of more than 60 percent.

But now we are faced with a budget resolution that cuts an additional $13 billion from the farm program over 5 years. That amounts to a 20-percent cut by 1995.

If this budget resolution passes, farm program spending by 1995 would be less than 50 percent of today's level.

And this includes only the nominal cuts. If inflation is considered, the 1995 farm program could be as little as 10 percent of the 1986 farm program.

Already annual farm program spending represents less than 1 percent of the Federal budget—about 2 percent of the cost of the savings and loan bailout.

IMPACT UPON RURAL AMERICA

But those numbers seem cold and impersonal.

And we have all heard stories of rich farmers feeding at the Government trough. Surely, those rich farmers can absorb some cuts.

But, Mr. President, those cases are by far the exception and not the rule.

The average farmer in America makes a litte more than $13,000 per year—a few thousand dollars above the poverty level.

A recent CBO study predicted that if farm program spending stayed at current levels, 500,000 farmers would be forced off of the land in the next 5 years.

In other words, we would lose one in every four farmers in America.

I have not been able to obtain a CBO analysis of the additional cuts in the budget.

But if we project linear increases it means that we could lose 750,000 to 1,000,000 farmers by 1995. One out of every two or three would be forced out of farming.

Mr. President, that would be nothing short of a disaster for farm States like my own.

When the farmers go out of business, the rural communities built around them disapepar.

Within a few years, we will see more and more ghost towns in Montana, South Dakota, North Dakota, and Nebraska as a result of these budget cuts.

THE FARM PROGRAM AS AN INVESTMENT

Mr. President, we must stop thinking of the farm program as a program only for farmers.

The fact is that anyone that eats has an interest in the farm program.

We already spend less than one fourth of what the Japanese and the Europeans pay for their farm programs.

And on top of that, consumer food costs in the United States are the lowest in the developed world.

The farm program has provided us with a wholesome, stable supply of food since the Great Depression.

And if we are willing to make the investment, it will go on supplying us with food for decades to come.

With the multibillion cuts being considered it is easy to lose sight of the farm program. But isn't a stable supply of food worth 1 percent of our budget?

Isn't a stable farm program worth at least as much as the space program?

Isn't it worth one-thirtieth of the amount we spend on defense to secure a supply of food?

And isn't it worth a few billion dollars to keep rural America alive?

Mr. President, I believe it is.

And I plan to vote against this budget. I hope to work with my colleagues to devise a budget that is fairer to American agriculture.

Mr. LEVIN. Mr. President, the budget resolution before us tonight is silent on whose taxes are going to be raised and by how much. While this approach is not specifically unfair to middle-income Americans, it does not offer any assurance that middle-income Americans will not be asked to carry tons of deficit reduction while those making over $200,000 a year don't even work up a sweat. We risk, by passing this resolution in its current ambiguity, adding momentum to a legislative vehicle which could come roaring back at us in a couple of weeks loaded with many of the objectionable features of the budget summit agreement.

In addition, this budget resolution does not correct the flaw in the budget summit agreement relating to the baking in for 3 years of the numbers for defense and domestic discretionary spending. For instance, this budget resolution makes it virtually impossible for us for 3 years to shift resources from the relatively high defense budgets, to wit, $288.9 billion, $291.6 billion, and $291.8 billion in budget authority for fiscal years 1991, 1992, and 1993 respectively, to meet other growing challenges of interest to all Americans in areas such as education, the environment, and the war on drugs. I recognize that any credible deficit reduction plan must include restraint on spending. However, it is unnecessary and unwise for us to transform this vehicle

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for deficit reduction into a vehicle for establishing defense and nondefense priorities for the next 3 years when the world is changing so rapidly.

Mr. President, in voting against this budget resolution, I am not saying that I will not give a full review to the reconciliation legislation which will be reported out of committee pursuant to it. This Nation must have a real, credible reduction in the deficit. I am, however, saying that in order for me to consider supporting that legislation it must meet the test of achieving credible deficit reduction in a manner consistent with fundamental fairness to middle-income Americans and their long-term interests.

Mr. BRADLEY. Mr. President, I will vote for the budget resolution to avoid Government from shutting down and hurting a lot of innocent people. This is not a final vote on the budget or its components. Unlike the agreement from the budget summit, this is a vote only to move the process to the committees. I will base a final budget vote on what comes out of the committees. I will fight in the Finance Committee to make sure that middle-income taxpayers will not have their taxes increased while the wealthy get more tax breaks. This resolution raises no specific taxes. I will not hesitate to vote against a final bill that increases taxes on middle income taxpayers. I will also fight to protect senior citizens from dramatic increases in health care costs.

Finally, I still believe that the defense budget is too high and I will continue to push for deeper cuts in defense. We cannot ask senior citizens to reach ever deeper into their pockets for medical care while the Pentagon squanders scarce resources on obsolete missions and superfluous forces.

Mr. DURENBERGER. Mr. President, 4 nights ago, I said on this floor that the debate over this budget package had gotten very noisy and very complicated. In the aftermath of the vote of the House of Representatives, it has gotten noisier and more complex by several orders of magnitude. I hope the lessons of the last 5 days are not lost on all of us.

The budget summit was an unprecedented compromise among Democrats and Republicans, leaders of the House and Senate, and the President of the United States. And the rejection of that agreement by majorities in both parties in the House was likewise unprecedented. H.L. Mencken cynically observed that democracy is the art of running the zoo from the monkey cage. By abandoning our leadership, we have partially proved his observation. We should be thankful that we are close to restoring order tonight. The American people are understandably upset and frankly fed up with it. There is no need for further delay or posturing; let's do our duty tonight.

Mr. President, this all boils down to one simple, vital question. What is the most important obligation of this Government at this time? My answer is: reduce the fiscal deficit. Every other obligation, for once, has to take a back seat to that.

Our recent history, over the last dozen years, has been exactly the opposite. Everything, at one time or another has taken precedence to the deficit. Cutting taxes. The military buildup. Farm programs. AIDS. The drug wars. Foreign military aid. Child care. And so on. In the process, the American people have lost a war of attrition against Federal debt.

This package represents a day of reckoning for all of that. Finally, we have a chance to make a decision, as a united government, to be responsible. Having participated in 1985 in a failed attempt to do just that, and having seen the bitter consequence of inaction, I am praying the Congress will find the guts to do the right thing this week.

Mr. President, it is clear to me from the calls I have received this past week from my fellow Minnesotans that we have failed to convince people of the seriousness of the problem of the deficit. We have failed to communicate that a problem of this seriousness demands solutions of the magnitude contained in the budget summit agreement. We cannot ever seem to agree on the nature and impact of the deficit, that it is not just a creation of Congress, or Washington's problem.

I say to the thousands of Minnesotans who have taken the time to write or call that I am grateful to each one of them. Many more of them called to oppose the summit agreement than to support it. Many of them expressed fear, and most were angry. Some indicated their intention to withhold their vote from me or anyone who supported this agreement.

So my vote tonight will not satisfy many. Possibly, my actions in the Finance Committee over the rest of this process may be seen more positively. Most of the details of this package will be settled there.

The biggest area of concern for Minnesotans and for me is the Medicare part of this budget. There has been great concern over proposed increases in premiums. That is not a problem unique to Medicare. People of all ages have expressed fear over the sharp rise in the cost of health care. Medicare has been insulated to a large degree from some of the pain all insurance holders have felt, and it will continue to be. We will work for the soundest, fairest financing package we can.

We will also deal with the proposed tax on home heating oil which has an adverse and disproportionate impact on Minnesotans. It is my hope that we can defeat it.

Edmund Burke said that a Repr
sentative owes his constituents bo
his industry and his judgment. As I e
ercise my best judgment tonight, in
way that many of you will disagr
with, all I can say is I value your inp
but believe the greatest good is serv
in another way.

Mr. President, several years ago,
used to tell a joke that went like th
Question: Why were there so ma
heros at the Alamo? Answer: Becau
there was no back door. Since th
agreement was announced on Sunda
many of our colleagues have be
looking for a back door of some kin
My hope and my conclusion, M
President, is that there is none.

Mr. President, I was ready to vo
for the package the House defeat
last week. The package before us
only cosmetically different from wh
was defeated 4 days ago. It makes e
plicit what most of us must have a
sumed anyway: that some flexibili
was necessary in the Finance a
Ways and Means Committees to h
revenue and savings targets in the w
that made the most policy sense. As
member of the Finance Committee,
obviously welcome that flexibility. F
those colleagues who fear putting th
kind power in the committee's han
you need only look at the recent hist
ry of our committee and our record
producing moderate, consensus bil
For House Members of the minorit
who have not always seen such beha
ior from the Ways and Means Co
mittee, I can assure them that we ha
no intention of bowing to the House.

Mr. President, before we label this
"bad" agreement, as many have do
we must ask compared to what?

Is the sequester the right policy f
America?

Is it balanced? Is it fair? Of cour
not.

Gramm-Rudman-Hollings has do
its job. It has raised the cost of ina
tion to an intolerable level. To put
another way, it has cut through t
political fog to expose the true cost
inaction by providing a glimpse of t
fiscal chaos we will reap if we do
make changes.

Well what about the other altern
tives? It would probably be instructi
to have Members bring their own in
vidual plans to the floor here and p
them in a pile. It would be a kind
budgetary Tower of Babel. We do
lack for ideas. What we need are m
jorities to pass them and carry the
out.

The deficit is not an abstraction
an illusion. It is an obligation incurr
on behalf of American taxpaye
present and future. It jeopardizes o
economy and it compromises our so
ereignty as a nation. Our inability
say no got us into this, and saying y
to every interest group with a proble

with this package is not going to get us out of it.

Two of the finest speeches I have ever heard were made on the floor of the House last week just before the House vote. The first was by BILL ARCHER, ranking member of the Ways and Means Committee. He finished with these simple, eloquent words he described his days after he leaves the Congress: "I will not sit and tell my grandchildren that I failed to make the tough decision to lift this debt from their shoulders."

And my dear friend and colleague from Minnesota, BILL FRENZEL, who is one of the finest men to ever serve the Congress, said this:

> Our test is sterner than any we have faced since I have come to Congress. And for us "good news" people, who do not like to lay on taxes, and who hate to cut expenditures, it is going to be particularly difficult. But remember, we can begin down that path to fiscal sobriety. And for all of you that I have importuned over the years, that I have harangued and pleaded and begged to reduce spending, for me personally, there could not be any finer monument than the passage of this budget resolution.

Their high ideals will be fulfilled in this vote tonight. I ask unanimous consent that their full statements appear at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DURENBERGER. Mr. President, I have been around this city for 12 years now. I think the thing that disturbs me most about how we operate, and how I operate, is that we have the ability to do microscopic analysis of parts of a problem, and at the same time be totally blind to the whole.

Yes, there is unfairness in elements of this package. I concede that. But how important are those concerns up against the catastrophic and wanton unfairness of the deficit itself? This generation spending hundreds of billions of dollars it does not have, and passing the bill to our children. Can anything be more unfair or more in need of our attention than that?

Mr. President, we do not have a range of options to choose from. We cannot go back to the drawing board and remake the compromise to make it more to our liking. There are only two real alternatives: the sequester or the summit agreement. A vote against this agreement is a vote for the sequester, or a decision to do nothing at all.

The deficit is either the most important thing, or it is not. My vote says it is.

EXHIBIT 1

[From the Congressional Record, Oct. 4, 1990]

Mr. ARCHER. Mr. Speaker, when I first saw this budget agreement on Monday, all of the objectionable features reached out to me, and, to say the least, I was disappointed.

But I learned many years ago, that before you make a hasty decision, it is far better to count to a legislative 10, and I went home and I counseled with my wife, and I shared my concerns. And as the night wore on, I realized that I could not get hung up on individual pieces in this agreement, but that it was far more important to look at the whole and what impact it would have on our country and on generations to come. By morning, I realized that this was the best we could do.

I cannot stand here and tell you that if you fail to vote for this package there will be a recession, or that if you do vote for this package there will be a recession. No economist knows, but I can tell the Members this country is in desperate need of a fiscal fix.

If Churchill were here today, he might possibly say that this is the worst possible budget agreement, until you consider all of the other realistic alternatives. Sequestration clearly is not a realistic alternative, perhaps for a few days, but those who accept that, and seem to wish it, will come quickly back to this body in a short time, demanding that many parts of it be lifted.

The Congress itself has never before in its history been able to produce this type of package. Individual Members working together through committees, through the budget process have been unable to do so, and after months of deliberation this year, I am convinced this is the best that we can do.

Neither Democrats by themselves nor Republicans with the President, can pass a budget package. It can only be done by bipartisan effort.

In all of the years that I have been on the Committee on Ways and Means, I have only voted for one tax bill. That was in 1981, which was a tax reduction. That was easy.

And it is now time to pay the bills. We have run up consecutive deficits for the last 19 years, and I say to my Democrat friends, not just during the last decade. The last balanced budget was in 1971. We are leaving these massive deficits as a legacy to our children and to our grandchildren, and I do not serve in Congress to be a party in bestowing such a burdensome legacy.

Socrates 400 years before Christ, said that when the masses of the people find they can vote themselves prosperity from the public treasury, democracy is no longer possible.

This is a historic test for our republic, our democracy. Democracies easily handle the easy decisions, but stumble on the tough ones.

Today is that watershed moment in our country's history where we will look back and say we did the right thing, as tough as it was, and as objectionable as some of the features of this package are, because, yes, our children and their children deserve it.

Could I have devised a better budget? Certainly. Give me 217 votes. But would it pass without giving me 217 votes? And the answer is no.

I feel that many Members on both sides want an easy package. There is no such thing as deficit reduction of $500 billion that is a happy package for anyone.

When I first ran for Congress, Barry Goldwater came to my district, and I must confess he was one of my ideals in politics. There was a rumor that he would not run again, and I asked him, "Are you going to run again?" He looked at me and said, "Bill, I have thought about it, and I want to retire. I feel that I have earned it. I want my privacy and my private life, but I will not one day sit with my grandchildren on my knee and tell them that I did not do everything that I could to make a better future for them." He ran again.

And I will not sit and tell my grandchildren that I failed to make the tough decision when I had a chance to lift this debt from their shoulders.

Mr. FRENZEL. Mr. Speaker, tonight we have been treated to a rare display. I do not know if the forensics are better than that which we have enjoyed in the past, but certainly at least from the summiteers you have seen expressions of sincerity which I think are hard to match, at least in my career in the Congress.

We have heard the gentleman from California [Mr. PANETTA] and the gentleman from Illinois [Mr. ROSTENKOWSKI] and the gentleman from Illinois [Mr. MICHEL] and the gentleman from Missouri [Mr. GEPHARDT] tell you why they think this is what we need to do tonight.

Mr. Speaker, I want to stand here and agree with each of them, that they and we have done the best that we can do at this point, and what remains for the House is to push this matter through by passing this budget resolution, and letting the committees of jurisdiction begin work on reconciliation.

All of those speakers spoke a little bit about President Bush, too. I have heard many of you say it will be painful to vote for this bill. How painful was it for President Bush to accept the fact that there would be substantial new taxes? How painful was it for him to have come to ask each and every one of us personally if we could give him his vote? He, who has worked so hard and suffered so much for us. And I say this particularly to the Republicans, for we are the divided Government. We are the minority which can get rolled at any time by the majority, and our only defense is our President and our ability to sustain a veto every now and then.

Here is one time when he and we jointly are asking Members to stand up with us and give this country a chance to get its feet back on the path toward fiscal sobriety. Over the past two decades we, all of us, have managed to become the world's largest debtor nation. The U.S. Congress thankfully somehow has made us the world champs in one respect: We owe more money than anybody.

This may not be the best resolution in town, but I guarantee you, it is the only resolution in town.

And as BOB MICHEL correctly pointed out, each of us could do better. I think I could get maybe 80 votes for mine, which is much better than that. I doubt many of you could get that many.

This happens to be a good resolution because it saves $500 billion and places the country's feet on the path toward that desired fiscal sobriety.

It is enforceable. Will it all be enforced? No. Will we save all of the $500 billion? No. We will have some slippage. We always do. But with the enforcement in this package and the 5-year reconciliation, we have the best chance that we have ever had to actually make the savings that we claim we are going to have.

We can change all of this bad record tonight, or we can at least begin changing it. This package will take us to a unified budget surplus before fiscal year 1994. By fiscal year 1995 it will have taken our spending back to only 18¼ percent of GNP, our rough average for the past two decades, and

5 percent less than we expect to spend in fiscal year 1991, the fiscal year approaching.

That is a pretty good record, a monumental achievement, I believe. And Alan Greenspan says it passes the credit market test, and so does his predecessor, Paul Volcker, and so do Martin Feldstein, Ronald Reagan's CEA, and so does Jim Lynn, who was Jerry Ford's budget man, and Charles Schultz, who was Jimmy Carter's Director of the Budget, and Herb Stein, who was the Chairman of the Council of Economic Advisers for President Nixon. All these men say this fits the bill, that it passes the test.

Now the question is are we going to pass the test? Are we going to have the courage to stand back and to go against a few phone calls and a few letters we have got from people who want to keep getting the same benefits that they have been getting over the years?

I have often said to the Republicans that I see us all as a bunch of cake eaters. We are afraid to lay on new taxes. We think that is naughty. We do not want to cut any spending. We do not want to deny any of our constituents anything.

We will tonight pass what I call the cake eater test if we can pass this budget resolution. We will prove that we can eat a little bread and maybe some of us, certainly myself, will have to eat a little crow, because none of us is going to like this budget resolution. But as I said before, it's all we got.

Our test is sterner than any we have faced since I have come to Congress. And for us good news people who do not like to lay on taxes, and who hate to cut expenditures, it is going to be particularly difficult.

But remember, we can begin moving down that path to fiscal sobriety. And for all of those of you that I have importuned over the years, that I have harangued and pleaded and begged to reduce spending, for me personally there could not be any finer monument than the passage of this budget resolution.

Mr. PELL. Mr. President, I intend to vote against the budget resolution presented to the Senate today.

Five days ago, I announed that I opposed the budget summit agreement and would vote against the budget resolution needed to carry out that agreement. At that time, I said the budget agreement was unfair in placing the heaviest burden of deficit reduction on the elderly, and the heaviest burden of new taxes on middle and lower income families and individuals.

I objected strongly to taxing the necessities of life such as home heating oil, and to eliminating one of the few programs that help first-time home buyers of modest means to buy a home.

Fortunately that budget resolution was rejected—not only by me but by the American people and by the Congress.

We have now been presented with a revised budget resolution. And it is frankly an improvement over the original resolution. But the resolution still leaves open the possibility, and indeed the probability, that the final result will still be large cost increases for the elderly in the Medicare Program, and heavy increases in excise taxes that hit hardest at the middle and lower income families and individuals.

The resolution leaves open the possibility that a tax ultimately will be imposed on home heating oil.

In addition, the revised resolution contains inadequate reductions in defense spending, and actually requires smaller spending cuts in agricultural support programs than did the original budget resolution.

For all of these reasons I will vote against this budget resolution. I emphasize at the same time that I do not believe the Federal Government should be brought to a standstill while the Congress and the administration seek a better solution to the budget problems. I believe the President's veto on Saturday or the continuing resolution permitting the Government to continue its operations was an error and I regret that the House of Representatives failed by a narrow margin to override that veto.

Disruption of essential Government services contributes nothing to resolving budget disagreements. Such disruptions impose penalties on the American people for budget and political disagreements that are not their fault. Accordingly, I will vote in favor of a continuing resolution to permit continued operation of the government while the Congress and the administration work out a good budget agreement.

Mr. BIDEN. Mr. President, I will vote for the budget resolution because it moves the budget process forward. I did not support the previous plan, and I have reservations about this one, but it appears the negotiators moved much of the burden of deficit reduction off the elderly Medicare beneficiaries and on to those in very high income brackets.

This is not the final agreement—that will come in 2 weeks. But this vote will move the process forward. I will look for further improvement before voting for the final package.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I had intended to give my closing remarks and then Senator DOLE, but the distinguished Senator, Mr. THURMOND, wanted 2 minutes, so I will yield 2 minutes to him. The only remaining speakers on our side are Senator DOLE and myself.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the budget resolution. It is not what I want. It is probably not exactly what any person wants, but we must resolve this matter and bring the first step in the budget process to a close.

The American people are wondering what in the world is wrong with the Congress. We have been working on a budget for weeks and months. Now is the time for action. The America people want action. We must suppor this resolution.

Earlier, remarks were made abou the senior Senator from Georgia, th able chairman of the Armed Service Committee. I want to commend hir for the sound position he has take with regard to defense spending. Thi position will protect the security c this Nation. We have turmoil all ove the world. We cannot afford to cut de fense any more than he is advocatin In his behalf, I want to say I stan with him, and I hope the Senate wil

Mr. President, I hope we will stan together on this budget resolution, commend the able Republican leade the Senator from New Mexico, th able ranking member on the Budge Committee, the other Members wh have been involved, for their har work. I ask my colleagues to suppor this resolution.

The PRESIDING OFFICER. Wh yields time?

Mr. DOMENICI. I yield myself 1 minutes, and then our only remainin speaker is Senator DOLE.

Mr. President, I see my friend th distinguished senior Senator fro Georgia on the floor. He raised som issues about interest rates. I only hav 10 minutes, so let me say to my frien I will not use my time to explain how see the interest rates, but I believe th assumptions in the budget agreemen are rational. In due course I will hav printed in the RECORD why I believ they are not out of line with realit for a budget resolution.

Having said that, let me suggest tha I want to break my remarks up i three parts. First, I want to talk abou what we are doing and why we ar doing it, and, second, I want to discus what is going to happen if the commit tees who are supposed to put this to gether do not do their job.

Let me start by saying the issu before us is whether or not the U.S Senate and the U.S. House in the nex 15 or 20 days will have the courage t change programs of the Federal Gov ernment sufficient to make the sav ings that their respective committee have been directed to do in this budge resolution. That is hard work. I ca just say to the chairman and rankin member of Governmental Affair Committee, and to the chairman an ranking member of Finance, "You ha better get ready. You have about 4 o 5 days, not 40 or 50 days, about 4 or days to put in place in your committe the savings that are mandated in thi budget resolution." I am going to giv you a rule of thumb. If no one is com plaining and you are not hearing fro the American people and from lobby ists, you are not doing your job. Be cause what we have instructed in thi budget resolution cannot be don without pain.

I am not going to bother to talk about who and how, but I tell you, there are not very many ways to achieve the savings that are better than those that the summit arrived at. You may find some other savings proposals. But if you really are going to do the job, you are going to come out pretty close to what the summiteers arrived at after weeks and weeks of discussion and meetings.

So I hope you will have in front of you what was agreed to by the budget summit. There are many who are saying they are upset, and we should never have a budget summit again.

Well, if we do this right, we will not need to do it again. But I tell you, I do not apologize for the summit agreement because I guarantee you, for all the pious remarks about doing it another way and all the demands that we should wait for our committees, I guarantee you if you did not have that summit, you would not be here tonight with a package that recommends a $500 billion reduction. I bet my life on it. I mean, who would do it? If you did not have Gramm-Rudman, which everyone criticizes, you would not even have had the budget meetings, and you would not have had this kind of deficit reduction until the United States of America went broke. That is about the time you would have it.

So why do we not forget about the budget summit? We went out to Andrews Air Force base and learned a lot. I heard House Members who were supposed to know so much about Government saying, "I never knew it was so tough to cut the deficit of the United States." It is nice and easy and pious to say "freeze." But, what about Social Security? What about Medicare? These Senators that run around and say, "Everything is growing too much, claiming it is Senator Byrd's Appropriations Committee." The entitlements are going up 14 to 15 percent. Some are going up 17. How come? Senator Byrd cannot change those. We have to change them. And some of those have to be changed through a budget reconciliation bill. If not, we are not going any-where. So that is my first point.

My second point is we would not be doing this if we were not worried about our country. And it just stands to reason that sooner or later, you have to cut the deficit. You might have gone on another year, but how many more? Borrowing the kind of money we are borrowing from all over the world raises interest rates for those who want to buy houses, and for Americans who want to build a business. With interest rates outlandishly high, we cannot grow.

We are pursuing this deficit reduction package so that we can grow, so that we can leave something for our children, and so that working men and women can have some hope that the private sector of America has a chance to continue to grow. We did not do it because it is neat and because it is nice to be on the summit. We did it because the country demands it. I do not mean demands it in the sense that the country is standing out there ready to whip us. A great country demands the best of its leaders. Anyone that does not want to vote for this resolution may have all kinds of legitimate reasons.

Let me tell you, the most important thing is my third point. This resolution is meaningless if the committees of this Senate do not comply with the reconciliation directives. And tonight the Senator from New Mexico is going to vote for this budget and recommends anyone that wants to get the deficit down to vote for it. Those who do not, I hope we get a good enough reconciliation bill to get your vote for it.

Let me say that this budget resolution is meaningless if the committees of this U.S. Senate find ways to use smoke and mirrors to get out of their responsibility. As one summiteer, I am going to recommend to our leader that if they do that, we are going to bring an amendment here to the floor and fix it.

So, I guess I am saying, Mr. Chairman and ranking members the good times are gone. The times when you can fool around with all those numbers in your reconciliation bills, when you call on those smart guys and say, "Hey, did you used to work on the Budget Committee?" "Yes." "Do you know how to fix this so I do not have to do anything hard?" They say, "Sure do." Well, that is not going to work. At least I hope it is not going to work.

The last part is, we must change the budget process to enforce what we have committed to here tonight. For those who say defense has not been cut, all of the discretionary savings in this proposal are from defense—$180 billion. For those who say discretionary is coming down, yes, it is, all because of defense. If we did not happen to have defense coming down at this particular moment in history, we could not do this. Where would we get $180 billion? We got it solely from defense.

We do have caps on the discretionary accounts for 3 years, defense, domestic and foreign. We have a new enforcement process that we agreed upon that will enforce the caps, provide for an extension of Gramm-Rudman-Hollings, and do some other things that will help the appropriation process not bear the full burden of Gramm-Rudman-Hollings. Those are all written up.

I, for one, want to say to those who asked the Senator from New Mexico yesterday and the day before to support this budget, that I am supporting it. But I guarantee you that I am not going to support a reconciliation bill that does not produce the savings in the budget summit agreement. I am not going to support a reconciliation bill that does not have the reforms in the budget process to show the American people, who are going to take some pain, that the savings are real.

For those who say this is unbalanced, I want to give you three numbers. I think it is balanced. Listen to how balanced it is. Thirty-six percent of the savings in this package come from discretionary accounts. For those who said before you tax, cut spending, well, there is 36 percent. Another 22 percent comes from mandatory and entitlements. That is domestic spending, not military. It is not just appropriations; it includes mandatory and entitlement spending. If my arithmetic is right, 36 and 22 is 58. Fifty-eight percent is from reducing expenditures, if you pass the reforms that make it happen. And 30 percent taxes.

I think that is a pretty fair package. To repeat, 36 percent cuts in discretionary; 22 percent from entitlements; 30 percent from taxes. I say tonight, I have done my job, and I enjoyed it. I am not embarrassed or abashed about having been a summiteer. You would not be here but for the summit, and I was pleased to be part of it.

Now let us see if the members of the committees, all of whom want deficit reduction, many of them came to the floor and told us how to do it; let us see if they get it in the next 5 or 6 days.

Mr. President, I ask unanimous consent that reasonableness of interest rates in the budget agreement be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

INTEREST RATE ASSUMPTIONS IN THE BUDGET AGREEMENT

Real interest rates are what matter for financing the budget deficit.

The administration projects real interest rates to be approximately the same in 1991 as this year and slightly lower in 1992.

And real interest rates are projected to decline only modestly in later years, back to more normal historical levels.

These are modest improvements if we carry out real sustained deficit reduction.

Chairman Greenspan has confirmed that implementation of a budget agreement is a necessary condition for lower interest rates and continued economic growth.

Mr. DOMENICI. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I see the distinguished Senator from West Virginia on the floor. Does he wish some time?

Mr. BYRD. I do not wish time, except to thank the distinguished Senator from Tennessee [Mr. Sasser] for the excellent work that he has done throughout the long and difficult days at the so-called summit.

Let me, for one, say that I do not intend to ever attend another summit. I have had my belly full of summits. But I want to thank him. I attended the summit, and we summiteers have undergone and experienced a great deal of castigation, calumny, and opprobrium, but we did our best. I think we did a pretty good job.

I want to thank the Senator from Tennessee [Mr. Sasser]. I want to thank Mr. Domenici, the ranking member of the Budget Committee. I also wish to thank Mr. Bentsen, the chairman of the Finance Committee, and Mr. Rostenkowski, his counterpart in Ways and Means. I want to express my gratitude to Mr. Hatfield, my own counterpart on appropriations, and I also express appreciation to the majority leader and the minority leader for the work that they did at the summit.

Mr. Dole, I think, attended all of the sessions there, and whatever success may have been achieved can be attributed to the dedication of the Members of the Senate and House who attended. But I have had enough of summits, as far as I am concerned. I think this resolution is imperative. I did not intend to speak, because I think everybody has their minds made up as to how they are going to vote.

I think it is imperative, however, that we adopt this resolution. It takes us to the next phase in the budget process. We could not bring out a reconciliation measure unless this resolution is passed instructing the committees as to what they must do in regard to raising revenues and reducing outlays and so on.

It is a far more serious matter than the American people believe. This country is operating right now under a $1.434 trillion budget. If anyone is interested in knowing how much a trillion dollars is, at $1 per second, it would take 32,000 years to count a trillion dollars. The national debt is $3.189 trillion. How much time is left? I might take it.

The PRESIDING OFFICER. The Senator from Tennessee has 3 minutes 25 seconds.

Mr. BYRD. It takes me that long to get warmed up.

In 1981, domestic discretionary spending was $157 billion.

The budget at that time was $678 billion. Domestic discretionary spending constituted 23 percent of the total budget. Today, fiscal year 1991, we are looking at that budget; domestic discretionary spending is $171 billion. It has increased $14 billion since 1981, from $157 to $171 billion, while the total budget has increased from $678 billion in 1981 to $1.434 trillion. In other words, the budget has increased $756 billion over what it was in 1981. Now domestic discretionary spending constitutes 11.9 percent of the total budget; whereas 10 years ago it constituted twice that much, 23 percent.

We do have a third deficit, the investment deficit, the infrastructure deficit in this country. Our roads are falling in. The bridges are crumbling and falling down. We need waste water treatment facilities and water quality facilities. We need to improve our rivers, our harbors, our airways, our railways, and our mass transit. And we are not doing it.

That is why I am fighting to increase domestic discretionary spending, and we are doing it. That is what we agreed on at the summit.

To those who wish to further cut domestic discretionary spending, I say we have had enough and it is time we invested in our country. Any company that does not invest in its plant, equipment, and its people is going to fail. We have not been investing in our plants and equipment. I have just described how our domestic discretionary spending has been going down in relation to the entire budget and in relation to GNP.

A country that does not invest in its people, that does not train them, that does not educate them, that does not invest in its plant and equipment, its roads, its bridges, its railways, its waterways, is going to fail. It is not going to be able to compete with other countries.

Mr. President, I will not belabor the Senate further. I urge the Senate to approve this resolution so that we can go on to the next step and develop a reconciliation bill and get on with our efforts to deal with this terrible budget deficit, $3 trillion. It is a terrible debt, $3.189 trillion.

I thank the Senate and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr. President, I understand that many in this chamber will vote for this second budget resolution as did many of our colleagues in the House. They will vote for this measure in order to let the congressional process work, in the hope of a final Reconciliation Bill that will reduce the deficit in a manner that reflects their values and priorities. They will also vote for it in the hope that the President will agree to sign a short-term continuing resolution to keep the Government in business. I support a short-term continuing resolution because it would be absurd to shut the Government down: It would produce chaos and be unfair to American taxpayers.

However, while I understand the thinking of those who will vote for this second budget resolution, I do not share that thinking and will vote against this second budget resolution.

Why? Because this budget resolution establishes parameters for tax increases, entitlement reductions, and defense spending that are inconsistent with my values and priorities and those of the people I represent. Operating within these constraints, I find it very hard to imagine that the committees can produce a budget I can support. I hope I am wrong if this measure passes, and that fair package that reflects my priorities will come before the Senate. If it does not, I will try to change it and if that fails, oppose the reconciliation bill as well. I am also highly skeptical of the basic economic assumptions on which this budget resolution is based. With this budget resolution, as with the last one, the key assumptions behind the budget projections are wildly optimistic. This budget assumes, for example, that interest rates will drop below 5 percent in just a few years. As a result of assumptions like this, the massive reductions that are projected in the out years are phoney. With most of the $500 billion savings coming in the out years and driven by inflated assumptions, the package as a whole is seriously flawed.

Some say we have no option other than to pass this budget resolution. They maintain that as much as they disagree with it that it is the best that we can achieve and develop a reconciliation bill the President will sign. I reject that argument. I believe Congress should pass the budget that best reflects the majority of this body. If this is it, I reject it. If we can do better, let's do so. If we pass a better budget and reflect that in a better budget resolution, and the President vetoes it, then we, and more importantly, the American people, will know why we are forced to enact a bad budget deal.

So, Mr. President, I believe it would be wiser to pursue another option.

And that is to reject this budget resolution and pass a short-term continuing resolution. This would keep the Government operating for a few days, while we develop and consider a budget resolution that more fairly distributes the unfortunate but necessary pain of deficit reduction. If we pass this budget resolution I fear we have stacked the deck in favor of more taxes, and probably unfair ones; more cuts in programs people need; excessive spending on unnecessary weapons systems; and agribusiness subsidies and tax giveaways to oil and gas companies and the superrich.

Mr. President, the original summit agreement produced a budget resolution which was unacceptable to a majority in both parties in the House. It was rejected because it did not reflect the wishes of the American people. It was not fair to the middle class and to lower income Americans. It was not fair to the elderly with excessive cuts in Medicare. It was not fair to Massachusetts people and would not have been helpful to an economy already in recession in my state and teetering on the brink of recession nationwide.

Today we are considering a budget resolution that in some ways is an improvement on the earlier proposal. As I understand it, this second agreement would reduce the cut in Medicare, very slightly increase the cut in defense, possibly eliminate the 2-cent tax on heating oil, and probably modify the business tax incentive package. It would also leave the committees of Congress with a great deal more latitude in developing a bipartisan legislative package to implement the broad policies outlined in the second Budget Agreement.

However, I am still gravely concerned with the parameters within which the development of specific policies will occur. I am concerned that the budget resolution could result in a reconciliation bill that remains regressive and unfair to working people. I am concerned that the Reconciliation measure may force too great a deficit reduction on the elderly, our veterans, and society's most vulnerable people. I am concerned that the defense spending figure is too high, particularly with the exclusion of the costs of Desert Shield. And, I am concerned that the reconciliation bill may not be fair to Massachusetts or consistent with restoring economic growth. I can understand the possibility of producing a better reconciliation bill under this agreement than under its predecessor. And I hope that would be the case. But I see insufficient evidence that that would be the case. And I must vote on the evidence and not on some vague hope, even if that hope is widely shared.

Mr. President, I believe that it is also necessary that some Democratic Senators remain uncommitted to this budget agreement in order that we act as a counter weight to Republican opponents of the budget resolution. It is important that Democratic Senators send a message to the committees working out the details of the reconciliation package. It is critical that they recognize that a passable bill must be one that responds to Democratic as well as Republican concerns. I do not want the lopsided vote in the House to suggest to the committees that they must lean to the rich and the right during their deliberations. Passage of a reconciliation bill is essential. But we must not lose track of the fact that this reconciliation bill is more important than any we have passed before.

This reconciliation bill will lock in the fiscal priorities for this nation for the next five years. It is imperative that committee members understand that they must not only overcome Republican objections if it is to pass, but also concerns shared by many Democratic members, including many of those who will vote for this resolution.

As I said before, I am not convinced that the budget agreement reflects adequate attention to savings that I believe can be made in many areas, particularly in wasteful and unnecessary weapons systems, excessive subsidies to wealthy farmers, and in closing tax loopholes to the oil and gas industry and to the wealthiest of Americans.

I am willing to make the tough choices because they must finally be made. But I am not willing to make the wrong choices for the people of Massachusetts. And I am not afraid that the tax and spending configuration on this budget resolution will produce that result. I am unwilling to start down this slippery slope. For once we begin to descend, reversing ourselves will be difficult if not impossible.

Therefore, I intend to vote against the revised budget agreement: First, in the hope that a better agreement can quickly be reached; second, to remind committee members that some Democratic Senators are watching their work carefully and will oppose a final reconciliation bill that is unfair to working people if the second budget resolution is enacted.

Whether we pass this budget resolution or not, I supported the short-term continuing resolution that delays sequestration for the duration of the continuing resolution. It is absurd that we would continue to strangle the operation of the Federal Government until our people turn blue. We must keep the critical functions of Government operating, while we work to forge a better budget, a budget and ultimately a reconciliation bill, that truly reflects the values, priorities, and sense of fundamental fairness of the American people.

Mr. SASSER. Mr. President, how much time do we have remaining on our side?

The PRESIDING OFFICER. All time allocated to the Senator from Tennessee has expired.

Mr. DOMENICI. How much time remains on our side?

The PRESIDING OFFICER. The Senator from New Mexico has 3 minutes and 22 seconds.

Mr. DOMENICI. Mr. President, I have one speaker remaining, the Republican leader. I ask unanimous consent that he have 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senate Republican leader.

Mr. DOLE. Mr. President, first of all, I want to thank President Bush for starting this process several months ago. It has been a bipartisan process. We have had our ups and downs. We have had our problems, and we had the summit and we have been out at Andrews Air Force Base. A lot of us were frustrated, and some of us are still frustrated. Some of us want to reduce the deficit but do not touch Social Security, do not raise taxes, do not touch Medicare, do not touch agriculture, but $500 billion is not enough, the same speaker will say.

I have heard all those speeches and they are great. But they do not reduce the deficit. And those who say no new taxes that is fine; that is your position, stick with it. Some of us who would not take pledges on taxes remember certain things that happened.

I certainly urge my colleagues on this side of the aisle to support this budget resolution. The American people want leadership not speeches. They may disagree with us. They may vote against us. But they have children and they have grandchildren. And if we do not act now, when? If we are not capable, who is going to act?

I have said for the past several years the biggest problem we have in America is the deficit. Boy, we hear great speeches on the Senate floor. I do not question anyone's motives but sooner or later we have to make tough choices. This is only a budget resolution. It is important, do not misunderstand me.

I thank the chairman, Senator SASSER, and Senator DOMENICI. They did a lot of hard work. I thank the other members of our team, Senator GRAMM, Senator HATFIELD, and Senator PACKWOOD on this side, and all others who were summiteers. I do not apologize for anything, except we spent a lot of time in the last 30 days. We have been night and day on the budget, 2 o'clock in the morning, 3 o'clock, 4 o'clock in the morning, midnight, all weekends.

We made an agreement and I hope we can stick by that agreement that we would each furnish at least half the votes, Republicans half of their votes, Democrats half of their votes.

I cannot help what happened in the House. I may not agree with it. I think they let the President down. I think they let the country down when they rejected the budget summit agreement because, as the distinguished Senator from New Mexico says, you can take a look, you can try everything else, and sooner or later you are going to come back to just about where we were. It is not easy to save $500 billion in a balanced package.

But this is the U.S. Senate. And we have a bit more flexibility. We have 6-year terms for a specific purpose so we can make harder choices. So I do not quarrel with the House of Representatives. I was there for 8 years and I understand the frustration, particularly if you are a Republican in the minority and have never had to govern, never been in the majority.

It is frustrating. But I believe we are on the right track. I want a majority on this side so that I can go to Senator

MITCHELL and others on the other side and say, listen, we are players in this game, and if we do not follow the guidelines in the reconciliation process we will not deliver any votes if we can help it on this side of the aisle. That is what we all agreed to do.

Some of my friends say, oh, well, what about the gas tax? There is nothing about a gas tax in here. What about this—some who I heard argue before—there is no specificity in the budget resolution. If you put it in there, they argue take it out. I want my committee to make the judgments.

I remember when I was chairman of the Finance Committee I argued with the Budget Committee every year, "Do not tell me what to do with the budget deficit; we will tell you what to do." I learned that from ROBERT C. BYRD.

Mr. DOMENICI. The Republican leader did, too.

Mr. DOLE. He is a great teacher.

So in any event, we know pretty much what the agreement is going to be. It is going to be tough. It is going to be hard to vote for, and it is not going to pass the Senate unless Republicans and Democrats support it. So nobody is going to engage in fun and games and try to fool anybody. If so it is not going to pass. If it should pass on a party line vote, it will be vetoed. I understand when the President signs a CR he may issue certain guidelines on what he expects in the reconciliation.

They have a $13 billion cut for agriculture in this, if you look at the budget summit agreement. It is in here but I have an inkling, it is probably going to be somewhere. And I am from a farm State. It is an entitlement program. Thirteen billion dollars is a lot of money for agriculture, but so is paying additional interest for farmers, and so is inflation for farmers. You add up what 1 percent interest rate means to farmers, more than 3 percent in target price or 1 percent inflation. My farmers want to be part of the solution not part of the problem.

Gas tax—oh, that is a bad idea, but that is only why we are over in the Persian Gulf, or in the gulf; the gulf crisis is all about oil. So we do not want any good policy. Do not have a gas tax because people do not like a gas tax. They are for cigarette tax, business taxes, liquor taxes, beer taxes, and wine taxes, unless they smoke or drink.

But a lot of people drive. And you take a poll and say, do you want to contribute to the gulf crisis and help our boys over there? Oh, yes, 89 percent. Do you want to pay 1 penny more in gas tax? No, 73 percent.

I do not know what the answer is unless we have leadership. I have a feeling the American people are about 6 months or a year ahead of us and have been and continue to be and they are fed up with this whole process, because they do not understand it.

We were out at Andrews Air Force Base so long we could have been called up or retired. I went over to the Officer's Club one night and there were some civilians over there, retired officers. They said, "What are you guys still doing here? You have been here all week." That was only the 5th day. They were still eating over there on the 10th day. They like it there. The rates are good. And we were still there the 10th day. They did not understand it. They are only normal human beings.

And we were running this up and down the tree, the capital gains and the bubble. They had not heard of the bubble in the Officer's Club. The buddly they heard of, but not the bubble. [Laughter.]

So we have an opportunity tonight to take a step forward to keep the process moving.

We had a rather raucous caucus this morning on our side. I apologize to anybody I may have offended, probably everybody who was there. But we want to move the process forward. The President of the United States wants to move the process forward. One of my responsibilities is to represent the President of the United States. And I am proud to do that. We want a majority vote on this side. In fact, we want more than a majority vote on this side to demonstrate our commitment to deficit reduction.

I think a lot of people forgot what this is all about. It is about deficit reduction. It is not about the gas tax or the cigarette tax or Medicare. In the long run, it is about deficit reduction, and our children and our grandchildren.

So the easy vote is no. Just vote no. It is too much this or it did not do enough of this or I will not vote for this. And that is fine, as long as we have a majority.

And keep in mind the tough vote is coming—reconciliation. That is the law. The President does not sign the budget resolution. He stayed out of this process. He does not sign the budget resolution. But he is going to sign the reconciliation or he is going to veto the reconciliation. He is going to sign it if it is fair and if it meets his requirements and our requirements in the Congress and sort of lives up to the budget agreement. If not, he is going to veto it.

Finally, I thank the majority leader and all of our colleagues on each side of the aisle. This has been a long, tough, tough process. Whatever happens, whatever the vote is, we thank you for your patience and your tolerance, because this has not been an easy job.

And the distinguished Senators from New Mexico and Texas and the two Senators from Oregon who have been
on the firing line day after day in th
process, I particularly thank them
and also the members of our staff wh
have gone through this for the pa
several months.

I think we have done a pretty goo
job, not perfect. We could all do
better job. I think at one time we ha
at least, 46 plans on this side and w
only have 45 members; DOMENICI ha
2. [Laughter]. And that is the way
goes. But this is what we have. This
it.

I urge my colleagues to vote "aye
for the United States, vote "aye" fo
the senior citizens, the farmers, th
business people, the workingmen, th
workingwomen, the children, th
grandchildren who want to have
future, too.

The PRESIDING OFFICER. A
time has expired.

Mr. MITCHELL. Mr. President,
ask unanimous consent that I be pe
mitted to address the Senate for
minutes.

The PRESIDING OFFICER. With
out objection, it is so ordered.

Mr. MITCHELL. Mr. Presiden
Members of the Senate, midnight
not ordinarily harvest time, but it
tonight. Tonight, we reap the bitte
harvest of a decade of national indu
gence. For 10 years, the America
people have been told they can have
all—more for defense, more for Med
care, less in taxes. Way down deep, i
our national heart of hearts, we a
knew it was not true. But it was eas
to believe, easy to ignore the truth
easy for a nation to indulge itself. An
our Nation did.

That is why in the past few month
we, the elected representatives of th
American people, have been caught i
a crossfire. From one side, we hav
been hit with the insistent deman
that we reduce the deficit. The Amer
can people know and we know that w
cannot go on each year spending hu
dreds of billions of dollars more tha
we take in. But from the other sid
has come with equal insistence fier
resistance to higher taxes or lowe
spending.

Oh, of course, everyone is for les
spending in the abstract. Few are fo
it in the specific. That is why ther
have been many speeches in th
Senate calling for deep cuts in som
thing called entitlements. I have li
tened and I have yet to hear on
speech calling for deep cuts in Med
care or Social Security. But we a
know that Medicare and Social Secur
ty are entitlements and the larges
We all know the problem. We all kno
the solution. And it has to begin her
tonight.

This is not a perfect resolutio
Every Senator who wants to vot
against it, who wants to find a reaso
to justify a no vote, can say it does no
do this exactly the way I would like t

see it done. We have 100 Senators and we have 100 perfect plans for reducing the deficit, if only the other 99 knew as much as each one did.

Well, this does not do everything every Senator would like, but it is a beginning. Its is a real beginning. It is a serious beginning.

The single most important contribution that we can make to America's economic future is to bring the deficit down so interest rates can come down. High interest rates are the greatest barrier to the expansion of our economy. The need to provide jobs for our people, jobs in a free market economy, the best social program ever devised, the best solution to our economic problems, the best way to have productive families, living in decent homes with their children going to good schools; in short, to give American families a chance to achieve the American dream. That is what we can help contribute to if we vote for this budget resolution.

Those who vote no, I respect their sincerity. I disagree with them and theirs is not the answer. But we simply must pass this resolution and we have committed ourselves on both sides of the leadership to have a majority of votes, a majority of Democrats and a majority of Republicans.

I want to say to my Democratic colleagues, we simply must meet our commitment. The American people do not think we are serious about the deficit. They do not think we are serious about managing the economy in a responsible way. We have got to begin here and now with this vote to prove that we are.

I urge my colleagues: vote yes for this resolution so we can begin the process of writing into law a fair and responsible and meaningful plan to reduce the deficit.

The budget resolution is not a law. It does not go to the President for signature. It is an internal mechanism by the Congress which enables us to proceed to write the law we can all then vote on in a couple of weeks. So there is not any excuse here to say "I did not vote for this because it cut this program" or "It raised that tax." It does not do that. That is going to be up to the committees to recommend and to bring back to us in the reconciliation bill. If you do not like it then, then you can try to change it or vote no then. But that is not an excuse for voting against this resolution.

I urge my colleagues: vote yes. Let us be serious and let us begin to harvest what we have sowed over this past decade. Let us try to begin now, and make sure that one decade of national self indulgence is enough. This Nation cannot stand two decades of national self indulgence. A yes vote ends one and begins a new decade.

I thank my colleagues.

The PRESIDING OFFICER. (Mr. Pryor). All time has expired.

The Senator from Tennessee.

Mr. SASSER. I was just going to inquire of the Chair if all time had been yielded back?

The PRESIDING OFFICER. All time has expired.

The Chair will advise the managers that the yeas and nays have not been ordered.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. Wilson] is necessarily absent.

The PRESIDING OFFICER. Before the vote is announced, the Senate rules prohibit expressions of approval or disapproval from those in the gallery.

The result was announced, yeas 66, nays 33, as follows:

[Rollcall Vote No. 261 Leg.]

YEAS—66

Adams
Akaka
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bryan
Bumpers
Burdick
Byrd
Chafee
Cochran
Cohen
Conrad
Cranston
Danforth
Daschle
Dixon
Dodd
Dole
Domenici
Durenberger
Ford
Fowler
Garn
Glenn
Gore
Graham
Hatch
Heinz
Inouye
Jeffords
Kassebaum
Kennedy
Kerrey
Kohl
Lautenberg
Leahy
Lieberman
Lugar
McClure
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pryor
Reid
Riegle
Robb
Rockefeller
Rudman
Sarbanes
Sasser
Simpson
Specter
Stevens
Thurmond
Warner
Wirth

NAYS—33

Armstrong
Baucus
Burns
Coats
D'Amato
DeConcini
Exon
Gorton
Gramm
Grassley
Harkin
Hatfield
Heflin
Helms
Hollings
Humphrey
Johnston
Kasten
Kerry
Levin
Lott
Mack
McCain
McConnell
Nickles
Pell
Pressler
Roth
Sanford
Shelby
Simon
Symms
Wallop

NOT VOTING—1

Wilson

So, the conference report was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I thank my colleagues for their patience and effort on this matter. Many persons contributed much effort to this result. I thank all of them.

I especially want to thank my friend and colleague, the distinguished Republican leader, without whose efforts this result would not have been possible. I am very grateful for his continued cooperation and support, as we both recognize the difficult task lies ahead with respect to the reconciliation bill. I think this is a good beginning toward that objective.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO MS. BLANCHE BLAUVELT

Mr. LEAHY. Mr. President, I come before the Senate today to recognize the achievements of Ms. Blanche Blauvelt of Stowe, VT.

For 25 years Blanche Blauvelt has volunteered her time at Copley Hospital in Morrisville, VT. She was also instrumental in the establishment of the Copley Auxiliary Second Chance Store.

During those 25 years, Copley has seen many volunteers come and go and served thousands of patients. The one constant throughout these years has been Ms. Blauvelt's service to Copley Hospital and the people of Vermont.

Copley now has over 100 volunteers, but this has not always been the case. When she first began, Ms. Blauvelt recalls how she and a handful of others were called upon to do whatever needed to be done at that particular instant. She thinks fondly of those earlier years, but is glad to see so many giving their time today and the expanded efforts and greater organization that this has brought about.

Copley Hospital is one of the fine rural hospitals Vermonters rely upon for their health care needs. I have spent the day with the people at Copley and seen firsthand the warmth of volunteers such as Blanche Blauvelt. The patients benefit from their care and the staff has come to depend on the support of Blanche Blauvelt and the rest of the volunteers at Copley.

For the record, I would like to submit an article from the Times Argus of Barre, VT, dated August 9, 1990, that acknowledges the dedication and commitment of Ms. Blauvelt to Copley Hospital. I join in their praise and extend my thanks and the thanks of her fellow Vermonters for all of her work.

I wish her continued success with the hospital and hope she fulfills her dreams of helping out at Copley until the youthful age of 90 or 100 years old.

There being no objection, the article was ordered to be printed in the Record, as follows:

[The Times Argus, Aug. 9, 1990]

Stowe Woman Marks 25 Years as a Copley Hospital Volunteer

Blanche Blauvelt of Stowe has been serving as a volunteer at Copley Hospital in Morrisville for 25 years—and she still loves every minute of it. "Back when I started there was no volunteer director or anything—just a group of us who came to do whatever we could. We helped nurses change beds, put away office files and did everything in general. Now everything is wonderfully organized. We have schedules, know exactly what to do each day—and I think this way we really are better able to be of help," she added.

During Blauvelt's years with Copley she has seen many changes and feels the hospital has evolved into an outstanding rural health care facility. She especially enjoys working "up on the second floor" where volunteers deliver patients' mail, offer cheerful assistance to patients and visitors alike, and often run assorted errands.

"On the floor you meet more people and really stay in touch with the hospital," she noted.

Blauvelt was one of the original organizers of the Copley Auxiliary Second Chance Store but, once that was well established, she returned to spend more time in the hospital.

There are nearly 100 men and women who give of their time and talent to Copley Hospital and their efforts are of benefit to us all. Through their work, the hospital saves time and money executing a variety of tasks. Through the volunteers' concern for the community, patients and their families get a helping hand and a cheerful smile—part of the general TLC that has become a tradition at Copley.

"This place is great! I love being able to volunteer here. It is very rewarding working with such a fine team. As long as my health allows it, I plan to continue—perhaps until I'm 90. Who knows? Maybe I'll still be helping here when I'm 100," Blauvelt commented with a gleam in her twinkling eyes. The folks at Copley certainly hope so.

MESSAGES FROM THE HOUSE

At 2:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the United States Government for the fiscal years 1991, 1992, 1993, 1994, and 1995.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 666. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes.

ENROLLED BILLS SIGNED

At 7:47 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 247. An act to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such Act, and for other purposes;

S. 830. An act to amend Public Law 99-647, establishing the Blackstone River Valley National Heritage Corridor Commission, to authorize the Commission to take immediate action in furtherance of its purposes and to increase the authorization of appropriations for the Commission;

S. 2437. An act to authorize the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park, and for other purposes; and

H.R. 4758. An act to provide for the construction, operation, and maintenance of an extension of the American Canal at El Paso, Texas.

The enrolled bills were subsequently signed by the President pro tempore [Mr. Byrd].

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2297. A bill to reauthorize certain provisions relating to Indian alcohol and substance abuse prevention and treatment programs (Rept. No. 101-510).

S. 2695. A bill to provide for the renegotiation of certain leases of the Seneca Nation, and for other purposes (Rept. No. 101-511).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BAUCUS (for himself, Mr. Boren, Mr. Daschle, Mr. Exon, Mr. Conrad, and Mr. Kerry):

S. 3170. A bill entitled the "Commodity Credit Corporation Relief Act of 1990"; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HATFIELD:

S. 3171. A bill to authorize the Secretary of the Interior to survey sites associated with the relocation and internment of Japanese and Japanese-Americans during World War II, to provide for suitable identification, preservation, and interpretation of such sites, and for other purposes; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAUCUS (for himself, Mr. Boren, Mr. Daschle, Mr. Exon, Mr. Conrad, and M Kerry):

S. 3170. A bill entitled the "Commodity Credit Corporation Relief Ac of 1990"; to the Committee on Agricu ture, Nutrition, and Forestry.

COMMODITY CREDIT CORPORATION RELIEF ACT

● Mr. BAUCUS. Mr. President, I ris to introduce legislation to provid emergency repayment of Iraqi debt guaranteed by the Commodity Credi Corporation by liquidating Iraqi asset in the United States.

Since Iraq's invasion of Kuwait th United States has imposed a numbe of economic sanctions against Iraq.

On August 3, 1990, the President imposed an embargo on Iraq and froz substantial Iraqi assets in the Unite States. Precise estimates of the valu of the Iraqi assets frozen are not avai able, but they appear to be worth several hundred million dollars.

In retaliation, Iraq took a number o steps, including suspending payment on debts to creditors in the Unite States.

On September 19, Iraq took the additional step of seizing all assets of nations supporting the U.N. embargo o Iraq.

This included an as yet unspecifie amount of U.S. assets.

Iraq now owes creditors in th United States about $2.6 billion.

This includes about $1.9 billion i loans to Iraq guaranteed by the U.S Department of Agriculture for loan to purchase U.S. agricultural exports.

If Iraq defaults on these debts USDA's Commodity Credit Corporation would be forced to pay off th loans.

These debts would cost the CCC approximately $900 million in fiscal yea 1991 alone.

That would be a tremendous drai on CCC assets that are already draw thin to support the farm program.

My legislation would direct th President to liquidate a portion o Iraqi assets sufficient to repay thei debts to United States creditors—particularly the Department of Agriculture.

The point of this legislation i simple.

American farmers are already suffering because of the Middle East crisis i many ways.

Farmers are paying drasticall higher fuel prices because of th threat to the flow of oil.

Farmers also stand to lose hundred of millions in sales to Iraq because o the embargo.

But if we do not take action, farmer will also be effectively forced to pay off Iraqi debts out of the farm program.

This is simply unacceptable.

Iraq has seized United States assets. It is now time for us to follow suit.

This legislation is cosponsored by Senators Boren, Daschle, Exon, Conrad, and Kerry.

We must move to pass this critical legislation quickly.

I ask unanimous consent that the text of the legislation appear directly following my statement.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(A) Findings

(1) The Commodity Credit Corporation of the U.S. Department of Agriculture is now guaranteeing loans to the Government of Iraq valued at $1.9 billion;

(2) Default on these loans by Iraq force the Commodity Credit Corporation to pay $900 million in loan guarantees in the next fiscal year;

(3) Paying these loan guarantees could cause the Commodity Credit Corporation and the farmers that depend upon it in substantial financial distress.

(B) Notwithstanding any other provision of law the President is directed to—

(1) to vest title in a portion of the property in which transactions have been blocked pursuant to Executive Order 12722 of August 3, 1990, which portion shall be equal to the total amount of obligations owed to the United States Government and the United States nationals for which Iraq has suspended repayment; and

(2) to liquidate such property and pay the United States creditors the amount of the obligation referred to under paragraph (1).

(C) In the event that property liquidated under subsection (B)(2) is less than the total amount of obligations described in subsection (B)(1), then obligations the repayment of which is guaranteed by the Commodity Credit Corporation shall be given priority in the payment of creditors.

(D) The President is authorized to waive action under the section if he determines that such action would not be in the national interest.●

ADDITIONAL COSPONSORS

S. 2319

At the request of Mr. Garn, the name of the Senator from Missouri [Mr. Bond] was added as a cosponsor of S. 2319, a bill to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to protect the deposit insurance funds, to limit the depository institutions, credit unions, and other mortgage lenders acquiring real property through foreclosure or similar means, or in a fiduciary capacity, and for other purposes.

S. 2605

At the request of Mr. Pryor, the name of the Senator from Massachusetts [Mr. Kerry] was added as a cosponsor of S. 2605, a bill to amend title XIX of the Social Security Act to provide mechanisms to control Medicaid drug prices while assuring that beneficiaries receive quality medical care, physicians' prerogative to prescribe is protected and the role of pharmacists is enhanced.

S. 2956

At the request of Mr. Graham, the name of the Senator from Florida [Mr. Mack] was added as a cosponsor of S. 2956, a bill for the relief of Benjamin H. Fonorow.

S. 3029

At the request of Mr. Pryor, the name of the Senator from Massachusetts [Mr. Kerry] was added as a cosponsor of S. 3029, a bill to amend title XIX of the Social Security Act to provide mechanisms to control Medicaid drug prices, to assure that medicaid beneficiaries receive quality medical care, and to protect the physician's right to prescribe.

AMENDMENTS SUBMITTED

CONTINUING APPROPRIATIONS, FISCAL YEAR 1991

BYRD (AND McCLURE) AMENDMENT NO. 2939

Mr. BYRD (for himself, and Mr. McClure) proposed an amendment to the joint resolution (H.J. Res. 666) making further continuing appropriations for the fiscal year 1991, and for other purposes; as follows:

In subsection 101(b), after "the Senate as of October 1, 1990," insert "or at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990,".

In section 103, strike the sum "$262,969,000,000" and insert in lieu thereof: "$265,369,000,000".

In subsection 108(c), strike "October 20, 1990," and insert in lieu thereof: "October 19, 1990,".

In section 114, strike "October 20, 1990" and insert in lieu thereof: "October 19, 1990".

BYRD AMENDMENT NO. 2940

Mr. BYRD proposed an amendment to the joint resolution (H.J. Res. 666), supra; as follows:

At the end of the joint resolution add the following:

"It is the sense of Congress that the date by which committees should report their reconciliation language to their respective Budget Committees should be October 12; that the Budget Committee should report the reconciliation bills no later than close of business October 3; that it is the sense of the Senate that the Senate should begin consideration of the reconciliation bill on the first day of session following its report by the Budget Committee.".

AUTHORIZATION FOR SENATOR BRYAN TO SIGN ENROLLMENT ON HOUSE JOINT RESOLUTION 666

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator Bryan be authorized to sign the enrollment on House Joint Resolution 666.

The PRESIDING OFFICER. Without objection, it is so ordered.

MILDRED AND CLAUDE PEPPER SCHOLARSHIP PROGRAM

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2666.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 2666) entitled "An act to establish a Mildred and Claude Pepper Scholarship Program," and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Hawkins, Mr. Ford of Michigan, Mr. Williams, Mr. Goodling, and Mr. Coleman of Missouri be the managers of the conference on the part of the House.

Mr. MITCHELL. Mr. President, I move that the Senate insist on its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses and that the chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer appointed Mr. Kenndy, Mr. Pell, Mr. Metzenbaum, Mr. Hatch and Mrs. Kassebaum conferees on the part of the Senate.

NATIONAL AND COMMUNITY SERVICE ENHANCEMENT ACT

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1430

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendments to the bill (S. 1430) entitled "An act to enhance national and community service, and for other purposes," and ask a conference with the Senate on the disagereeing votes of the two Houses thereon.

Ordered, That the following Members be the managers of the conference on the part of the House:

From the Committee on Education and Labor, for consideration of the Senate bill (except sections 222, 501, 502, 507, and 508), and the House amendment (except sections 132(e), 191-195, and 199), and modifications committed to conference: Mr. Hawkins, Mr. Ford of Michigan, Mr. Gaydos, Mr. Miller of California, Mr. Kildee, Mr. Williams, Mr. Martinez, Mr. Owens of New York, Mr. Sawyer, Mrs. Lowey of New York, Mrs. Unsoeld, Mr. Goodling, Mr. Gunderson, Mr. Coleman of Missouri, Mr. Petri, Mr. Tauke, Mrs. Roukema, and Mr. Fawell.

From the Committee on the Judiciary, for consideration of section 132(e) of the House amendment, and modifications committed to conference: Mr. Brooks, Mr. Edwards of

California, Mr. Staggers, Mr. Fish, and Mr. Dannemayer.

From the Committee on Energy and Commerce, for consideration of section 222, 501, and 502 of the Senate bill, and modifications committed to conference: Mr. Dingell, Mr. Thomas A. Luken, Mr. Waxman, Mr. Lent, and Mr. Whittaker: Except that, for consideration of sections 501 and 502, Mr. Madigan is appointed in lieu of Mr. Whittaker.

From the Committee on Foreign Affairs, for consideration of sections 507 and 508 of the Senate bill, and sections 191-199 of the House amendment, and modifications committed to conference: Mr. Fascell, Mr. Berman, Mr. Levine of California, Mr. Broomfield, and Mr. Gilman.

From the Committee on Interior and Insular Affairs, for consideration of subtitle C of title I of the Senate bill and title II of the House amendment, and modifications committed to conference; Mr. Udall, Mr. Vento, Mr. Lewis of Georgia, Mr. Young of Alaska, and Mr. Lagomarsino.

Mr. MITCHELL. Mr. President, I move that the Senate disagree to the House amendment and agree to the request for a conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer appointed Mr. Kennedy, Mr. Pell, Mr. Dodd, Ms. Mikulski, Mr. Hatch, Mr. Jeffords, and Mr. Durenberger conferees on the part of the Senate.

PERMANENT ENDOWMENT FOR THE EISENHOWER FELLOWSHIP PROGRAM

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2017.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2017) entitled "An Act to provide a permanent endowment for the Eisenhower Exchange Fellowship Program," do pass with the following amendment:

Page 8, after line 8, insert:

SEC. 9. FASCELL FELLOWSHIP PROGRAM.

(a) Short Title.—This section may be cited as the "Fascell Fellowship Amendments Act of 1990".

(b) Service of Fascell Fellows.—

(1) Establishment.—Section 1002(a) of the Fascell Fellowship Act (22 U.S.C. 4901(a); hereinafter in this section referred to as "the Act") is amended—

(A) by striking out "formerly" and inserting in lieu thereof "which would otherwise be"; and

(B) by striking out "in the Soviet Union or Eastern European countries" and inserting in lieu thereof "abroad".

(2) Purpose of the Fellowships.—Section 1002(c) of the Act (22 U.S.C. 4901(c)) is amended—

(A) by striking out "in the Soviet Union or an Eastern European country" and inserting in lieu thereof "abroad"; and

(B) by striking out "Soviet or Eastern European" and inserting in lieu thereof "that country's".

(3) Individual who may receive a fellowship.—Section 1002(d) of the Act (22 U.S.C. 4901(d)) is amended by striking out "Soviet or Eastern European area studies or languages" and inserting in lieu thereof "international affairs, foreign languages, or career and professional experience or interest in international affairs,".

(c) Fellowship Board.—

(1) Membership.—Section 1003(b) of the Act (22 U.S.C. 4902(b)) is amended in paragraph (4) by striking out "Soviet or Eastern European area studies or languages" and inserting in lieu thereof "international affairs or foreign languages,".

(2) Transition.—The amendment made by paragraph (1) shall apply only to appointments to the Fascell Fellowship Board after the date of the enactment of this section and shall not affect the service of members of such board on the date of the enactment of this section.

(d) Posting of Fellows.—Section 1005(a) of the Act (22 U.S.C. 4904(a)) is amended by striking out "in the Soviet Union or Eastern Europe" and inserting in lieu therof "abroad".

Mr. MITCHELL. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration, en bloc, of Calendar Nos. 896 and 897; that the bills be read a third time and passed; that the motion to reconsider the passage of these bills be laid upon the table.

I further ask unanimous consent that any statements relating to these calendar items appear at the appropriate place in the Record, and that the consideration of these items appear individually in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONNECTICUT COASTAL PROTECTION ACT

The bill (H.R. 3468) to amend th act entitled "An Act to extend th Wetlands Loan Act," to provide fo the expansion of the Stewart McKinney National Wildlife Refug was considered, ordered to a thir reading, read the third time, an passed.

CHEHALIS RIVER BASIN FISH ERY RESOURCES STUDY AN RESTORATION ACT

The bill (H.R. 3787) to authorize joint Federal, State, and tribal stud for the restoration of the fishery resources of the Chehalis River Basin Washington, and for other purpose was considered, ordered to a thir reading, read the third time, an passed.

ORDERS FOR TUESDAY, OCTOBER 9, 1990

Mr. MITCHELL. Mr. President, ask unanimous consent that when th Senate completes its business today, stand in recess until 10 a.m. on Tuesday, October 9; that following th prayer, the Journal of the proceeding be deemed approved to date; that th time for the two leaders be reserve for their use later in the day; and tha upon reservation of leaders' time, th Senate proceed to the consideration o Calendar No. 946, S. 3167, the Socia Security pay-as-you-go proposal; an that the Senate stand in recess from 12:30 to 2:15 p.m. in order to accommodate the party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, suggest the absence of a quorum.

The PRESIDING OFFICER. Th clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M.

Mr. MITCHELL. Mr. President, ask unanimous consent that the Senate stand in recess, as under the previous order, until 10 a.m. this morning.

There being no objection, the Senate, at 1:19 a.m., recessed until Tuesday, October 9, 1990, at 10 a.m.

EXTENSIONS OF REMARKS

THE BIG BUDGET LIE

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 7, 1990

Mr. KANJORSKI. Mr. Speaker, the noted economist Lester Thurow, dean of MIT's Alfred P. Sloan School of Management, has written an incisive analysis of our current budget crisis. His critique, which appeared in this morning's Washington Post traces the origin of the crisis as well as offering a prescription for change. I commend it to all my colleagues in the House.

[From the Washington Post, October 7, 1990]

THE BIG LIE THAT CAUSED THE BUDGET CATASTROPHE

(By Lester C. Thurow)

(Dean, Alfred P. Sloan School of Management, Massachusetts Institute of Technology)

In 1980 the American electorate embarked on a grand experiment—supply-side economics. Ten years later, that experiment continues to warp the political process. Its enduring influence explains why Congress and President Bush found it so difficult to reach any budget agreement at all; why the failed agreement was so peculiarly shaped; and why the public, nourished on a decade of false promises, seems unwilling to make even modest sacrifices to assure the nation's economic future.

In the current economic climate almost any solid deficit-reduction package would be welcome. Still it is remarkable that the initial deal struck last week would aggravate the very features of the current tax system that seemed most generally objectionable to tax experts and the public: Its "small business growth incentives" would offer new tax dodges to the wealthy—who had supposedly traded away their shelters for the much lower tax rates provided by the 1986 tax reform; its tax-deduction limit would worsen, rather than eliminate, the disreputable "bubble" feature which grants the very, very rich lower marginal income tax rates, and hence lower capital-gains tax rates than those faced by the merely well-to-do taxpayers; and it would increase the relative tax burden borne by low- and moderate-income taxpayers. All this is a package endorsed by Democratic leaders who claimed to have tax fairness as their top concern.

What explains the persistence of supply-side mythology? From where comes its power to so constrain American politics?

When America first jumped on the supply-side bandwagon, people felt, rightly, that the economic performance of the 1970s was unacceptable. The political and military affronts in Tehran were compounded by the vision of a chained economic giant wilting in the face of Japanese and German competition.

A GNP growth rate of 2.8 percent was unacceptable when compared with the 4.1 percent growth rate of the 1960s. That dismal record was compounded by an even more important measure of economic performance, productivity growth—the rate at which a nation is becoming more efficient and hence more affluent. The 1960s' growth rate of 2.9 percent had fallen to only 1.4 percent in the 1970s. Such a decline meant that instead of doubling every 24 years, America's standard of living would take 50 years to double—each generation could no longer expect to have a standard of living twice that of its parents. Facing these facts Americans were willing to try something new and different.

Supply-size economics, as enunciated by President Reagan and later embraced by Bush, promised that lower taxes on upper income groups would stimulate savings and hence permit more investment—the argument used by Bush to advance his capital-gains tax cut proposals in the recent budget summit. Higher investment would lead to higher growth. In addition to restoring economic vigor and rebuilding international competitiveness, higher growth would accomplish two other important objectives—without asking for painful sacrifice from anybody.

First, with a larger economy, government tax revenue could go up even though tax rates had been reduced. In 1981 Reagan promised that the federal budget would be balanced in 1985 without having to make significant spending reductions. Second, although most of the tax cuts would go to high-income individuals (it was they who had the capacity to save more), higher growth would lead to better paying jobs for middle- and low-income Americans. In the short run their total tax rates would go up—for 80 percent of the population the extra payroll taxes they would be asked to pay to fund Social Security would be larger than the income tax cuts they would get. But with higher earnings they would in the end benefit. All gain, no pain.

Politically supply-side economics delivered the goods—three presidential elections have been won using it—but economically it has not delivered on any of its promises.

Where higher GNP growth was promised, lower growth was delivered—2.6 percent over the decade of the 1980s. In 1990 the economy is stalled on the lip of a recession, just where it was in 1980. Because of the debt and banking problems built up during the 1980s, any recession in the 1990s will produce levels of bankruptcy not seen since the Great Depression. Even without a recession, middle-class wealth is melting away as housing prices fall in much of the nation in reaction to the debt excesses of the 1980s.

Instead of growing faster, productivity slowed down—1.2 percent during the 1980s. In 1989 productivity actually declined. There is only darkness visible at the end of the productivity tunnel.

Savings rates plunged. In the last four years of the 1970s, American families saved 7 percent of their disposable income; in the last four years of the 1980s, they saved only 4 percent. The rich saved nothing from their tax cuts. In contrast, the Japanese saved 15.7 percent of their income in the past 12 months.

If total national savings (a measure that includes corporate savings and government dissavings) is examined, savings fell from 17.4 percent of GNP in the last four years of the 1970s to 11.3 percent of GNP in the last four years of the 1980s. As a result, in 1989 Japanese investments in plant and equipment per worker were three times as large as those in the United States.

At the beginning of the decade the United States had a small surplus in its trading accounts ($1.5 billion in 1980 and $8.2 billion in 1981). At the end of the decade it recorded a current-account deficit of $129 billion in 1988 and $110 billion in 1989. What was a competitive problem at the beginning of the decade was a competitive disaster at the end of the decade.

In 1981 the United States was the world's largest creditor nation with net assets totaling $141 billion. Every year the rest of the world paid interest, dividends, and profits to Americans. By 1989 the United States had become the world's largest net debtor nation with debts totaling $620 billion. Where Americans used to get, they now give.

The federal deficit did not, of course, vanish in 1985. In the year ahead, the deficit is estimated to be $254 billion and rising if last week's deficit reduction proposals are passed by Congress ($294 billion if they are not) and over $300 billion if the Social Security surpluses are excluded from the totals, as they ought to be. A budget summit that reduces the deficit by $40 billion is essentially the equivalent of Nero fiddling while Rome burns. The difference is that Nero wanted to burn Rome so that he could rebuild it—the Roman Colosseum was his. Unfortunately there is no evidence that the current fiddlers have any real rebuilding in mind.

President Bush is fond of saying that "we have more will than wallet." He has it exactly backwards. Our GNP after correcting for inflation is four times as large as it was in 1947 when we were paying to rebuild the world after World War II. Our per capita GNP is 2.3 times as large. We can afford to do what must be done abroad; we can afford to do what must be done at home.

America is not an over-taxed country. In 1989, Americans paid fewer taxes as a percentage of GNP (about 30 percent) than the citizens in any other industrial country. Taxpayers in 22 industrial countries, including the Japanese and the Germans, paid more. Moreover, there are places where the budget can be cut without harm. Based on the performance of other countries * * * performances when it comes to health and longevity, substantially less could be spent on health care if the system were fundamentally reorganized. The events in Eastern Europe mean that big defense cuts can occur while still maintaining our ability to fight wars in the Third World. America has more than 2 million troops; fewer than 200,000 are in the Middle East.

The American problem is will—not wallet. In a democracy, will depends upon leadership and in the United States that means presidential leadership. It isn't leadership to spend months arguing that a capital-gains

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

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tax cut is the most important issue facing the American economy.

Whatever one believes about the growth-enhancing aspects of a capital-gains tax cut—or other "tax incentives"—everyone agrees that they leave more after-tax income in the hands of the wealthiest. In the last decade America has already had a heavy dose of that kind of "sacrifice."

Recently the U.S. Census Bureau confirmed that inequality in the distribution of income had increased substantially in the last decade. Every statistic points in the same direction. In the decade of the 1980s, the average real income of the top 5 percent of the population rose from $120,253 to $148,438. At the same time the average real income of the poorest 20 percent fell from $9,990 to $9,431. After-tax measures of income would report an even wider gap. As the income share of the top 20 percent rose in the 1980s, the income share of each of the bottom four quintiles was falling—the lower the quintile the bigger the decline. Despite a 21-percent rise in the real per capita GNP, the average real hourly wages of rank-and-file workers fell 5 percent. Those promised good jobs for middle- and low-income Americans did not appear.

If the income share of the rich is rising at the expense of the rest of the population (it is), if government is directly altering its policies to augment the income share of the rich (it has), if the campaign contributions of special interests increasingly dominate the political process (they do), if fewer and fewer middle- and lower-income individuals vote (it's happening), America is, under the cover of supply-side economics, rapidly moving towards becoming (dare we say it openly?) a plutocracy.

Unfortunately history tells us that as a social and governmental system, plutocracy does not for long work.

MS. VIVIAN FREEMAN

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 8, 1990

Mr. DYMALLY. Mr. Speaker, a woman who was like a mother to me, and for whom I had great love and respect, passed away on October 4, 1990.

Vivian Freeman was the grandmother to my two children—Mark and Lynn, and great grandmother to my only grandchild, Miya Dymally. Among the many kind acts she showered on me, I remember her sewing shirts for me while I attended college in the day, and worked at night.

On Monday, October 8, her family and friends paid their last respects to her at the Angelus Crenshaw Chapel in Los Angeles.

Her family and friends will surely miss her, and I continue to have fond memories of this beautiful woman whom I called mother.

OBITUARY

VIVIAN FREEMAN was born in Harrellsville, North Carolina, May 6, 1913. After graduating from Tarboro N.C. High School, she moved north to Harlem, New York. She had a great love for the jazz/swing music of the times and was quite proficient in the Lindy Hop and so she landed a job at the famed Savoy Ballroom, first as a dance hostess and later as a hat checker.

During World War II, she worked as a seamstress, making and repairing flyer's jackets and parachutes. In 1944, she came out to California with her daughter and sister. She always used to say, "When I stepped out of the Union Station downtown—I KNEW I WAS HOME!"

She continued to work as a seamstress after the war and became very active in the labor movement. A staunch member of the International Ladies Garment Workers Union, she served first as Chairlady for the shop where she was employed. As time progressed she was Chairperson of The Dress and Sportswear Joint Board, ILGWU, and later served as Chairperson of the Los Angeles Joint Board of ILGWU. She was a Delegate to the County Federation of Labor, a member of COPE and was appointed to the County Democratic Central Committee. She was known for her scrappy, no nonsense personality in politics and civil rights causes. Vivian Freeman was a dedicated Democrat and a fighter!

Her bouts with diabetes and heart trouble forced her retirement in the very early seventies. She beat the odds with two double by-pass surgeries, several heart attacks and vascular surgery. Vivian had a fantastic will to live and she fought off all her physical ailments with a stamina that was remarkable to family and friends.

Although ailing, she was an active member with Crenshaw Christian Center's Seniors and loved to work with the Food Committee at Baldwin Villa Plaza, the Senior Citizens complex where she resided until a stroke in May facilitated her recuperation at a skilled nursing center. She died of multiple complications at Daniel Freeman Memorial Hospital, October 4, 1990.

Twice widowed, she is survived by her only child, Amentha Dymally; two grandchildren, Mark Dymally and Lynn Dymally-Lee and husband, Bill Lee; one great granddaughter, Miya Dymally; son-in-law, Congressman Mervyn M. Dymally; the sisters, Mrs. Maude Porter of Tarboro, N.C., Mrs. Ethel Wallace and husband, Rev. Joseph Wallace and Mrs. Ella Mable Wildon of Norfolk, VA; former husband Charles W. Wilkes of Harlem, New York; nephews, Kim Wallace and Milton Newton (wife, Sheila) and niece, Candace Wallace Brown of Washington, D.C. She was beloved by a host of in-laws and grand nieces and nephews.

May God bless her.

TRIBUTE TO THE SESQUICENTENNIAL OF ST. JOSEPH'S ACADEMY IN ST. LOUIS, MO

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 8, 1990

Mr. BUECHNER. Mr. Speaker, there are those who believe that our society has lost the priority it once assigned to education; that the days of caring teachers, interested students, and concerned parents are over; and that schools are now mostly administrative entities. However, I would suggest to such people that they merely observe the St. Louis area Catholic schools. Thus, it is with great pleasure that I rise in tribute to the sesquicentennial of St. Joseph's Academy, a school which epitomizes all that ever was right about American education.

St. Joe's, as it is known in the area, enjo
a long and rich history. The school was f
conceptualized by Bishop Joseph Rosati
1843, as the bishop recognized the need fo
school that could educate girls in spirit as w
as mind. At the request of the bishop, six s
ters of St. Joseph of Carondelet laid the fou
dation for a school which today has becor
synonymous with excellence in education
the people of the St. Louis area.

The school has come a long way from t
little cabin founded in the mid-1800's. Toc
the campus sits on a 37-acre lot which
cludes a large academic building, a chapel
convent and a gymnasium. It has a substant
endowment, a strong alumnae organizati
and a record of academic and athle
achievement which is unsurpassed among
Louis area girls' schools.

And yet, Mr. Speaker, I would still sub
that the St. Joseph's Academy has nev
strayed far from the principles that shap
that first little school that Bishop Rosati er
sioned. The Sisters of St. Joseph continue
emphasize the importance of spiritual grov
among the students, and the religious side
education has never wavered at St. Joe's.

Mr. Speaker, if I had to describe the philo
ophy of Catholic education in one phrase
would say that education must be a beginni
a means, and an end in itself. I am fortuna
enough to have come from such a bac
ground, and it is with great pride that I ta
this occasion to salute an excellent examp
of this philosophy. Accordingly, Mr. Speake
ask this assembly to join me in saluting St. J
seph's Academy upon the occasion of its se
quicentennial anniversary.

HOUSE CONCURRENT RESOLUTION 310

HON. JOHN G. ROWLAND

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 8, 1990

Mr. ROWLAND. Mr. Speaker, during t
early hours of Friday, October 5, 1990,
along with 253 of my colleagues, voted
reject House Concurrent Resolution 31
which contained the blueprint for impleme
ing the budget summit agreement. I vot
against the resolution because it contain
severe Medicare premium and deductible
creases, economically devastating gasoli
and other excise tax increases targeted
working class America, a home heating oil t
increase that can only be labeled a callo
disregard for human life in the Northeast, a
two provisions which would have had crippli
effects on the life insurance industry in r
home State of Connecticut.

To make an already dismal package wors
the spending reductions in the agreeme
made Alice in Wonderland read like a more
formed dissertation on budget control, pro
ess, and reform. How many years in a ro
now have there been bills introduced in t
House and Senate to remove the Social S
curity and Aviation and Highway trust fun
from the unified budget so that they could n
be counted against the budget deficit?
least every year since I arrived in Washingt

in 1985. But in this budget agreement, the Federal Government is going to have a balanced budget by 1994 if, and only if, the trust fund surpluses were included. The trust fund surpluses have been used in the past to hide increased Government spending and the budget agreement spelled business as usual.

I was excoriated by the editorial board of Connecticut's largest newspaper for my vote, but I remain proud of it. My job is to represent my constituents, to protect their welfare and to ensure that their livelihood is not casually discounted for a phony budget agreement that has little in it for the national public good, but a lot in it that will only guarantee continued Federal budget deficits for years to come.

Mr. Speaker, I did what I was elected to do on October 5. I did so again on October 8 when I voted to reject the reworked and equally dismal budget resolution. The new budget resolution contains the same hit on working class America, the elderly, the economy, thousands of Connecticut residents who work in the insurance industry, and still does not contain any fundamental control on Government spending.

The leadership in the House and Senate, as well as the White House may say that there is no alternative to the budget summit agreement, and that a "no" vote is a vote against the Government and its operations. This strong arm rhetoric completely ignores the many alternatives that have been put forward every year since Congress approved the Budget and Impoundment Control Act of 1974. The most obvious alternatives, and which I have supported since coming to Congress in 1985, are to place freezes on spending. Whether it is a freeze at the previous year's level of spending, or at the baseline, that is, the previous year's spending level plus inflation, or some level in between, the fact is that spending freezes provide absolute and unavoidable spending reductions. The Congress has tried every other way to reduce the deficit, but has rarely used spending freezes as fully as they should have.

Mr. Speaker, spending freezes will reap benefits far beyond simple deficit reduction. The financial markets recognize spending freezes as the truest form of deficit reduction. Thus spending freezes will bolster the financial markets. The Federal Reserve—as Chairman Greenspan has reminded us so often—will also view spending freezes as the most effective deficit reduction plan possible and will consequently lower interest rates. Lower interest rates will mean more investment, more jobs and the ability to grow out of the recession the Nation now faces. Most importantly, however, a freeze on spending will mean no new or increased taxes on working class America would be needed. In the Northeast, where the economic recession is all but total, no new taxes is the only hope the region has to shorten the duration of the recession.

Mr. Speaker, I was also fulfilling my congressional responsibilities when I voted to override the president's veto of the continuing resolution on Saturday. ! believed that the Members of the House and the Senate ought to have the chance to make substantial changes in the budget summit agreement. I went against my President and the majority of my party to do this. Not an easy decision to make, but, again, a decision based upon my responsibility to my constituents and their welfare. Perhaps it was because the President's veto was sustained that the House found placed before it on October 8 the rehashed, rebaked, reused, and ridiculous budget resolution I again voted against. That is why I also voted again in favor of the new continuing resolution, in order to provide the Members of the House and Senate yet another chance to make the needed changes to the budget agreement.

The opportunity exists to forge a deficit cutting budget agreement that does not target the elderly, that does not polarize regions of the country, that does not ruin the economy, and that does not cripple individual industries. Everyone talks about how everyone must sacrifice in order to reduce the deficit. A freeze in current spending will guarantee that everyone does their share in the most equitable manner possible.

Let me close by asking one question of you, Mr. Speaker, and all of my colleagues; if spending is our problem, how can taxing be our answer? Because let me make it very clear, if taxes are raised and spending is not frozen—even if taxes on the rich were raised by 50 percent—the Congress will be right back here next year voting on another worthless budget resolution and trying to convince an American public of how serious we are about reducing the deficit. All I can say, is if that is the game plan, I am glad I have chosen to take up a new sport.

DR. WALTER R. TUCKER

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 8, 1990

Mr. DYMALLY. Mr. Speaker, the city of Compton, CA, experienced a great loss recently with the passing of its mayor, Dr. Walter R. Tucker.

Mayor Tucker had two great loves—his family and the people of Compton.

On Saturday, October 6, 1990, family and friends from all over California bid him farewell at a memorial service held at Double Rock Missionary Baptist Church, Compton, CA.

I join with the people of the city of Compton in expressing our deep sympathy to his family.

HIS LIFE REMEMBERED

" A GOOD name is rather to be chosen than great riches, and loving favor rather than silver and gold." Proverbs 22:1

Walter R. Tucker—a Doctor of Dentistry, the Mayor of the City of Compton, and a clergyman. Walter R. Tucker, a name that bore many titles, but also one synonymous with words like honesty, humility, integrity, temperance, and sensitivity. A name that defines such terms as "devoted husband," "loving father," "a man of high moral character," "a friend of the down-trodden," "a model citizen," and like David, "a man after God's own heart." Walter R. Tucker, a good man—A Good Name.

Walter Rayford Tucker was born on August 27, 1924 in Taft, Oklahoma to the union of Carrie Matilda Watson Tucker and Nye James Tucker. The seventh of eight children, and a twin, he graduated from Washington High School in Haskell, Oklahoma. Prior to completing his higher education, he served in the United States Army achieving the rank of Sergeant and receiving an honorable discharge. Dr. Tucker's tours of duty during World War II (1942-1946) included the Philippines and occupied France. He received his Bachelor of Arts Degree from California State University in Los Angeles. Dr. Tucker also attended graduate school at the University of Southern California-Los Angeles, and Meharry Medical College, School of Dentistry whence he received his Doctor of Dental Surgery Degree in 1955.

While in medical school, Dr. Tucker met and fell in love with Martha Ann Hinton, and on June 6, 1955 they were united in marriage. To this blessed union four children were born: Keta Gale, Walter Rayford III, Kenneth Nye and Camille Elizabeth. In 1957 Dr. Tucker and his wife Martha, moved to Compton, California, where they raised their children and have resided since that time.

Dr. Tucker's political career spans some 23 years. In 1967 Dr. Tucker was elected to the Compton Union High School Board of Trustees, and then the Compton Unified School District Board of Trustees. In 1973 he was elected to the Compton City Council, representing the third district. Finally in 1981 Dr. Tucker was elected as Mayor of Compton. Serving three consecutive terms, he was the only Black Mayor ever to be reelected to office in the City of Compton.

As the Mayor of Compton, a dentist, minister and family man, Dr. Tucker maintained a full schedule. His charisma and concern for others led him to be well respected not only in his community but also throughout the state and across the nation. His expertise in city government, his talent and proficiency in the dental profession and his Christian deportment were in his trademarks.

He recognized the importance of Compton's participation in issues that reached beyond the city's borders. He wanted to see the City prosper and grow, and worked diligently toward that end. Mayor Tucker was involved in on-going negotiations and lobbying efforts to gain a higher ranking for the City of Compton in many federal and state programs, bringing much-needed funds to support City projects. Mayor Tucker was instrumental in and supported the building of the first major hotel in the City of Compton. Among his priorities was the desire to see gun control laws established. Also at the top of his list of priorities was the annexation of those properties within the sphere of influence of the City of Compton.

He was a member of the Board of Directors of the National Conference of Black Mayors (NCBM), the World Conference of Mayors (WCM), and the California Council of Criminal Justice Planning. Mayor Tucker was the City's representative, and attended meetings regularly for the following organizations: The Local Agency Formation Commission, Los Angeles County Sanitation District, Southeast Mayors and Council Members Group, Independent Cities Association of Los Angeles County, League of California Cities, Southern California Association of Governments, California Contract Cities, and many other organizations.

Despite the demands made on him as mayor, Dr. Tucker—for many years—maintained a successful dental practice in the City of Compton, many times providing free dental assistance to those who could not afford to pay.

Rev. Tucker's strong faith and compassion attested to the spiritual influence of his Christian parentage. While his mother and father stressed respect for others, discipline, education and knowledge, they always encouraged him to put God first, and he did. Having received Christ at an early age, Rev. Tucker responded to God's call to the ministry in 1986. He was ordained at Zion Baptist Church in Compton by Rev. C. Albert Henson. There he served faithfully until his health began to fail.

Few invitations to participate in community events were even refused, especially those involving children. "Education," he said, "is what will save our children . . . that, and a firm belief in the Almighty." Dr. Tucker took every opportunity to be among residents of the community, not only as their Mayor but also as their family dentist, their neighbor and their friend.

Dr. Tucker was loved and revered by the young and the old, the rich and the poor—many were the times he would reach into his pocket to give to a person in need. He labored tirelessly to educate, inspire and improve the quality of life for those around him. But on October 1, 1990 at 1:00 p.m., the Lord looked down on the work Walter had done and said, "Well done thou good and faithful servant . . . enter thou into the joy of the Lord."

Dr. Tucker leaves to rejoince in his homegoing his devoted wife, Martha Tucker. Two sons: Walter Rayford Tucker, III and Kenneth Nye Tucker. Two daughers: Keta Gale Tucker-Collins and Camille Elizabeth Tucker. One daughter-in-law: Robin Marie Tucker. Two grandchildren: Walter Rayford Tucker, IV an Autumn Monet Tucker, all of Compton, California. Four brothers: Nye James Tucker, Jr., of Los Angeles, Calif.; Dr. Booker T. Tucker of Compton, Calif.; Wallace Tucker of Inglewood Calif.; and Dr. Sebron Edward Tucker of Rancho Palos Verdes, Calif. Three sisters: Mrs. Mercia McCollum of Los Angeles, Calif.; Mrs. Mary Jane Scott of Pasadena, Calif.; and Mrs. Clara Lyons of Los Angeles, Calif.; and a host of nieces, nephews, other relatives, inlaws, friends, and brothers and sisters in Christ.

May he rest in peace.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, October 9, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 10

9:00 a.m.
Labor and Human Resources
Business meeting, to mark up the proposed Civilian Ex-Prisoners of War Health Benefits Act, to consider budget reconciliation pursuant to the provisions of H. Con. Res. 310, and to consider the nominations of Perry L. Adkisson, of Texas, to be a Member of the National Science Board, National Science Foundation, Richard C. Hackett, of Tennessee, to be a Member of the Board of Trustees, Harry S Truman Scholarship Foundation, J. Michael Farrell, of the District of Columbia, to be a Member, National Commission on Libraries and Information Science, and Mary Louise Smith, of Iowa, to be a Member of the Board of Directors, United States Institute of Peace.
SD-430

9:15 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Sharon P. Rockefeller, of West Virginia, to be a Member of the Board of Directors of the Corporation for Public Broadcasting.
SR-253

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to review the sale of Semi-Gas Company, focusing on antitrust issues and the Committee on Foreign Investment's views.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
To hold hearings to review the recent Environmental Protection Agency Science Advisory Board report, "Reducing Risk: Setting Priorities and Strategies for Environmental Protection."
SD-406

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine alleged fraud, waste and abuse in Federal student loan programs.
SD-342

10:00 a.m.
Judiciary
To hold hearings on the crisis in the Persian Gulf, focusing on the role of an international criminal tribunal.
SD-226

10:30 a.m.
Select on Intelligence
Closed business meeting, to consider pending calendar business.
SH-219

OCTOBER 11

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of Paul K. Dayton, of California, to be a Member of the Marine Mammal Commission, and Sylvia A. Earle, of California, to be Chief Scientist of the National Oceanic and Atmospheric Administration, Department of Commerce.
SR-253

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction wit the National Ocean Policy Study t examine the bleaching of Atlanti tropical coral caused by the coral re leasing algae and the resulting deterio ration of the species.
SR-25

Governmental Affairs
To continue hearings on the Office o Management and Budget's response t the Federal government's manage ment failures.
SD-34

10:00 a.m.
Foreign Relations
Business meeting, to consider pendin calendar business.
SD-41

Judiciary
Business meeting, to consider pendin calendar business.
SD-22

2:00 p.m.
Commerce, Science, and Transportation
To hold hearings on S. 1734, to regulat interstate commerce with respect t parimutuel wagering on greyhoun racing, and to maintain the stability o the greyhound racing industry.
SR-25

OCTOBER 12

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the nomination o Mary S. Brunette, of Virginia, to be a Assistant Secretary of Housing an Urban Development.
SD-538

Finance
Social Security and Family Policy Subcommittee
To hold hearings to examine the problem of Fetal Alcohol Syndrome, focusing on the impact of alcohol abuse on babies on Indian reservations and babies born in public service hospitals.
SD-215

FEBRUARY 26

9:30 a.m.
Veterans Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of the Disabled American Veterans.
345 Cannon Building

FEBRUARY 28

9:30 a.m.
Veterans Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Paralyzed Veterans of America, Blinded Veterans Association, Vietnam Veterans of America, Military Order of the Purple Heart, and Non-Commissioned Officers Association.
345 Cannon Building

APRIL 17

9:00 a.m.
Veterans Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of AMVETS, Ex-Prisoners of War, Jewish War Veterans, and World War I Veterans.
345 Cannon Building

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SECOND SESSION

VOLUME 136—PART 20

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United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 101st CONGRESS, SECOND SESSION

SENATE—*October 9, 1990*

(Legislative day of Tuesday, October 2, 1990)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable HERBERT KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

As I begin this morning, let us remember Mr. Koutsoumpas, in the hospital with a serious problem in his lungs.

And we know that all things work together for good to them that love God, to them who are the called according to his purpose.—Romans 8:28.

Gracious God, our Father in Heaven, we thank Thee for the blessed assurance which the Bible constantly gives us, even when circumstances seem bad, and we are discouraged. We thank You, Father, for the progress that was made over the weekend, for the hard work and sleepless nights on the part of the Senators and staff who produced it. We know that even more difficult negotiations lie ahead, and we ask for Thy wisdom and strength for those who bear the burdens of this prospect. We commend especially to Thy grace the leadership of the Senate, and we pray that as the 101st Congress comes to a close, despite all the troubles, Your servants will enjoy the sense of a job well done.

Thank You, Lord, for Your grace and Your sufficiency. Deliver us from the kind of pride that denies it and grant us the sense of Your provision and peace.

We ask this in the name of the Prince of Peace. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 9, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERBERT KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

REMOVING SOCIAL SECURITY FROM THE BUDGET

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 3167, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3167) to cut Social Security contribution rates and return Social Security to pay-as-you-go financing, and for other purposes.

The Senate proceeded to consider the bill.

Mr. MOYNIHAN. Mr. President, I rise as chairman of the Subcommittee on Social Security to offer this freestanding bill which has been contemplated in the body for the whole of this second session of the 101st Congress and, indeed, prior to that in the setting of a series of studies and commissioned reports which have come to us on the State of the Social Security trust funds.

The essence of the question, Mr. President, is that we now have a situation where the Social Security trust funds—OASDI, for old-age survivors disability insurance—and HI, the health insurance trust fund, both come out of payroll taxes levied on employees and employers but they are kept separately in the Social Security Administration. The fact is that the OASDI funds are now running, and have for a number of years been running, a very large surplus, and they will continue to run such a surplus for the next 30 years.

The background for this can be explained, should be explained, and will be explained. But the fact in the foreground is that in an absolutely unprecedented pattern not known to any modern State of which I am aware and certainly never known to the Social Security System which is now in its second half century—we go back to 1935 for its enactment and back just exactly 50 years to the first check paid under the retirement system—the U.S. Government has begun to use a surplus in the fund as if it were general revenue.

This is not just a small stream of general revenue which could be thought of as incidental for maintenance of a large system. To the contrary, it is one of the primary sources of revenue of the Federal Government.

The trust funds are now rising at approximately $1.5 billion a week, and will shortly be rising at $2 billion, soon $3 billion, then $4 billion a week. They will, in sum, accumulate a surplus of some $3 trillion in the next 30 years.

Three trillion dollars is a sizable sum. The stocks of all the companies listed on the New York Stock Exchange would sell for about $3 trillion.

This money is coming in. It is the largest revenue stream in the history of public finance. One of the extraordinary facts is that it has come upon us almost unawares, and we have yet to make a decision about how to treat these moneys. Today we can begin that decision process. It is, I would like to suggest, Mr. President, a fateful decision, because the integrity of our revenue system is at stake.

About a year ago, the Rochester Democrat Chronicle used a rather striking term to describe what was

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

going on. It said that the word for what has happened to these trust funds is "thievery." It happened that some months later—in early January of this year—I was on the "Today Show" on NBC, with my colleague and friend on the Finance Committee, Senator **Heinz** and the moderator asked Senator **Heinz** if he agreed with the characterization of what was going on as "thievery." With great candor he said, "Certainly not. It is not thievery. It is embezzlement." This is a distinction of some consequence, and it suggests the enormity of what is happening. The Social Security surplus was then $1 billion a week. It is now verging on $1.5 billion.

The point about these moneys, Mr. President, is that we refer to them as taxes, as payroll taxes, and yet they are not taxes. They are payments, payments into an insurance fund.

The Social Security System, which was enacted in 1935, is the most successful piece of domestic social legislation in the history of our country. We sometimes have difficulty visualizing the sweep of the legislation. And there are very few things that are accidental about the Social Security System.

The Social Security System covers unemployment compensation and retirement benefits. Aid to Families with Dependent Children [AFDC] which began as a program to pay West Virginia coal miners' widows benefits was added in 1940, so that mothers received benefits, too.

Today, almost one-quarter of American children will receive AFDC before they turn 18. So it starts in the cradle. Under President Eisenhower, Social Security expanded to include disability insurance so that persons who became disabled were no longer simply the lame and the halt and the blind. A number of bridge programs, including old age assistance, and aid to the permanent and totally disabled, operated until the Social Security insurance programs came into effect. Under President Johnson, we developed Medicare and Medicaid. Now there is an enormous panoply of public services financed by Social Security contributions.

We know a lot about the early days of Social Security because many of the people who founded this system stayed on to run it. I served in the subcabinet with Presidents Kennedy and Johnson, with a number of people who had actually been involved in the 1934-35 legislation, and worked on the staff of a great Professor Witte from Wisconsin, responsible for the details of Social Security. Frances Perkins, who handled the Social Security legislation, was alive and very much accessible in these matters. The people who were there at the beginning stayed with the program right almost into our time.

We know one thing in particular: President Roosevelt was absolutely determined that the payments made into this system would be credited to the individual who had paid them. Each individual would have an account recording every nickle he and his employer put in, and a passbook in the form of a Social Security card with his or her name on it.

In 1941, Luther Gulick, a very distinguished professor at Columbia University, and one of the founders of the profession of public administration in our country, was working temporarily in Washington.

He went in to see President Roosevelt, who was not then surrounded by staff. People could get to see him. A commission 2 years earlier had suggested that the President should have some assistants, up to five, but if a man like Luther wanted to see the old Governor of New York, he would be welcome. Indeed he was.

Professor Gulick suggested that perhaps the time had come to stop levying payroll taxes separately from income taxes.

Gulick said that it is all really one set of finances. Should we not just have one rate and collect it at one time? It would be efficient. Why have two sets of books, two sets of rates of contribution, when one would do?

Gulick went back and wrote a memorandum of the conversation. The President replied. He said:

> I guess you are right on the economics, but those taxes were never a problem of economics. We put those payroll contributions in so as to give the contributors a legal, moral, and political right to collect their pension and their unemployment benefits with those taxes in there. No damned politician can ever scrap my Social Security Program.

Roosevelt wanted that money to be identified with the individuals who had contributed it. And that system worked very well indeed.

It was just 50 years ago in January that the first Social Security payment was made. It was probably not entirely accidental that the lady involved was a Vermont widow named Ida Mae Fuller. She had contributed a total of $24.75 in her years, and lived until 1975, collecting $20,000 altogether in benefits.

There was almost an annual check presentation ceremony between the Social Security Administration and Ida Mae Fuller. There is no doubt that this was the largest return on contributions, but to this day persons retiring will get back more in an actuarial sense than they paid in. This is the normal process, a maturing of an insurance system. It takes a long time—about 75 years. We are still a quarter century away from that point.

I want to emphasize a point. For the person retiring today, about two-thirds of his or her benefits represent the actuarial value of the contribution of the employee and the employer. The rest is an intergenerational transfer. We keep the levels up and we see to it that we have a system in which retirement benefits are adequate to their purpose.

Next year, Mr. President, I will have been 30 years in Washington, on and off. I came here with President Kennedy's administration, and was much involved with the problems of the forming of the Office of Economic Opportunity and our so-called war on poverty.

In 1960, the largest single problem of poverty in our country was the elderly. They had very small pensions. And Social Security was just beginning to kick in with sizable benefit amounts. They had no medical insurance particularly the rural poor, the widowed poor, and the isolated poor. This was the conspicuous social problem of our country. It is all but gone, 30 years later. The system has matured. Health insurance has kicked in. There is poverty among the aged, but it is fractional. It is almost incidental.

The fact is, we have done something. Others have done it before us, but one of the great achievements of industrialization is that individuals live well throughout their lives. And this has all come about through the Social Security System.

In the meantime, we have other problems. Social Security benefits for children, an important group in our population, have not been maintained. Since 1970, we have seen children's benefits under AFDC cut by one-third.

We have moved far toward this goal of establishing a nationwide self-financing insurance system. Great administrators like Wilbur Cohen, Robert Ball, and Bob Myers, the chief actuary, have produced a system that is the envy of the private commercial world. Mind you, they do not advertise. But for a penny on the dollar, Social Security sends out about 34 million checks a month. Social Security takes contributions from 132 million people. In 50 years, never a day late or a dollar short.

But, as our system was maturing, we came upon a surprise—the baby boom. Suddenly, there was an enormous increase in the cohort. It has been the biggest single cause of social turbulance and political change in the last 40 years. To get a sense of the size of that cohort, Mr. President, consider the people between the ages of 14 and 24. From 1890 to 1960, the size of that cohort grew by 10.6 million. In one decade—the sixties—it grew by 11.5 million. Then in the seventies, it grew by an additional 1.1 million. In the 1980's the cohort declined. That is called the baby bust. The baby boom was followed by the baby bust. The cohort of the sixties disrupted every institution it came in contact with, from maternity wards to the job market. Such was its size.

But the extraordinary fact about its size was that it was a one-time event. There was this one particular bulge. We had to start thinking about what to do with the baby boomers.

A very small group of greatly gifted public servants, who had been with the Social Security program from the first, understood it, and were known and trusted, in the Senate, the House, and the executive branch began in the 1970's to warn that given the baby boom, followed by the baby bust, we were going to be in trouble. We were going to have a ratio of active workers to retired persons, which is too low to handle easily.

If anybody had ever thought we would get down to a ratio of three workers to one retiree as exists today, we might have thought that old folks would have starved. But industrialization produces a lot more wealth than anybody thinks. And forward planning was always the idea of Social Security.

The idea of social insurance was coming of age when Franklin D. Roosevelt decided to start Social Security.

On the Senate floor, Huey Long was talking about social insurance; in California, Dr. Townsend was talking about it. Witte for years had been planning the American Association on Social Insurance. In Europe, Bismarck was establishing a system of retirement benefits, and the British were creating unemployment insurance. Winston Churchill, in 1911 introduced unemployment benefits to the world.

And these are not all dry as dust matters, Mr. President. Bismarck carefully picked the age of 65 for retirement, because he calculated that by then, everybody in Prussia was dead. It was something to live for anyway. That was a very late age, 65, when this began. Churchill was told in the House of Commons, "Why, if you give these people unemployment benefits, they will just spend it on drink." Without blinking, he stood up on the treasury benches, as they are called, and said, "If they do, it is their money; they are freeborn Englishmen, and they can spend it as they wish."

That system has been in place ever since. We copied that system, and we knew what we were doing. But then, suddenly, we came into a situation here that was different. We had never had a "baby boom" situation before. So we began to think, in the 1970's, what to do, how to anticipate the event. We decided to go from a pay-as-you-go basis to a partially funded system. When Social Security was enacted in the middle of the 1930's, it was agreed that lots of money should not be taken out of the economy for the purpose of setting it aside for future payment benefits. In a system as large as Social Security, a pay-as-you-go system is the most logical. If Social insurance operated in the way that, say, Metropolitan Life Insurance does, investing its premiums and paying out benefits from the return on its investments, then the U.S. Government would have to own everything. That is how big the Social Security System would be.

On the other hand, theoretically, the pay-as-you-go system could present problems in the second quarter of the 21st century. We have always planned Social Security on a 75-year basis. You get a sense, Mr. President, of how distinctive Social Security is, knowing that it plans for 75 years ahead. The Senate can barely plan for the day. We left here at 12:45 this morning, just having finally guaranteed that the doors would open on our Federal buildings at 8 o'clock this morning. We are 1 week ahead, 2 weeks ahead. Two years is the constitutional time limit of our perspective in this country, but Federal Social Security lives on a 75-year basis. Every year the actuaries must certify that the system is in close actuarial balance for 75 years.

So in the seventies, the idea of moving to a partially funded system began. It was apparent that the retirement of the baby boom, which would begin in the second decade of the 21st century but really kick in, in the third decade, would be followed by that dramatic lower birth rate, the baby bust, and would push the Social Security fund into serious actuarial imbalance over 75 years. And it seemed that some preparation should be made, that we should start collecting more money than we needed to pay out and save the surplus.

Saving is the crux of the matter.

We began planning for partial funding of the Social Security System in the early 1970's and, in the Social Security Amendments of 1977, put the system in place. I can say to you, Mr. President, that almost nobody noticed. Nothing was concealed, but nobody noticed. It was a new idea. We actually put in place tax increases that would start in 1977 and terminate in 1990, 14 years later.

That is a new pattern of time horizon perspective. But we did it. I was a member of the Finance Committee then. I was a member of the committee of conference and signed the conference reports. I would not want to be on oath as to just how fully it had sunk in on me that we had changed the whole basis of Social Security, but we had.

The fact that we had, further was obscured by a very short-term crisis that followed almost immediately, when the funds ran down before the new rates schedules kicked in and increased the trust fund reserve. The funds ran down because of specific events—which is not to say that these events might not reoccur.

You know earthquakes only happen once, but they may happen again.

The events occurred in the lat 1970's, after the oil shock, when, for period of time, prices ran ahead o wages. As far as we know, prices neve ran ahead of wages before in our history, and certainly never in our statistical history.

So, in 1972 we indexed benefits. Benefits started rising faster than the contributions to pay for them under th pay-as-you-go financing, and we ha not yet kicked into the long run partially funded financing.

So the funds went down. They go down to two digits, about 15 percent They got down to where we had abou 15 percent reserve, about 1-month reserve. It was not a crisis of the system

David Stockman—ill-advised in m view—used to say that the world' largest bankruptcy was about to tak place. It was not a bankruptcy. It wa not a firm, which was unable to pay it bills and had to close down. The wors that could have happened, is that th checks may have come out a day or late for a while. But the idea of crisi came. And on this floor, in response t that crisis, the administration suddenly sent to us in 1981 to cut benefits b 40 percent the following January. came on the floor and said no, but los by one vote.

The distinguished Republican chairman of the Finance Committee, no Republican leader, came on and pu on somewhat less heated resolution together and it passed 99 to 0. And w said no, you cannot do that. What wi you do?

In any event, a commission on Socia Security reform was established i 1982 and in 1983, again Senator Dol being very active. I was a member o the commission. We put together th Social Security amendments of tha year. We proposed them; they wer enacted almost without change, ver brief.

I would say to our summiteers wh are just back from how many weeks i Andrews Air Force Base, we did this i 6 days in the basement of Mr. Jame Baker's house out in northwest Washington, and then in Blair House tha was closed for repairs. It was not tha hard to do.

We did not change anything. W just accelerated a few of the rate increases already in place. We did som things that needed doing just for appearances' sake. For example, unde the Social Security Act as first enacted, members of the armed service would have had their employee an employer Social Security contributio paid for by the Defense Departme or the Navy. But none of those payments were ever made to the Soci Security fund. So we wrote a check o behalf of the members of the arme services, for about $10 billion, as recall, to Social Security trust fund, so the trust fund would look a little better. But other than that, for all of the attention, all we did was accelerate rate increases already in place.

Then, Mr. President, we began to notice the surplus. When did we notice the surplus? Well, I do not know that I can say for certain. I think that by 1988 it was getting to be pretty clear, that not only was there a surplus, but also an opportunity.

On August 8, 1988, I asked the General Accounting Office for a study of the subject. I might say that prior to that, in the spring, in May 1988, so that some people will understand we are not coming here with some sudden proposition that nobody has heard about, we held hearings in the Subcommittee on Social Security and Family Policy.

Right from that first hearing, we got two opinions, reflecting the optimistic and the pessimistic views of human nature, which show up throughout literature and theology. You can find Presbyterians, and you can find Franciscans, as you like.

Barry Bosworth of the Brookings Institution, for example, said, "this is wonderful". "You have a surplus." Now save the money, then the savings rates will go up and contributions and investment and interest will go down and the stock market will rise.

The unstated premise of his proposal was that we would have an operating budget that was, in fact, balanced so that the surplus would buy down the privately held debt, there being plenty of it by this time. Dr. Bosworth said get rid of that operating deficit. Save this money, buy back your debt. Get free of the Japanese and the Germans and you will be better off.

On the other hand, sir, in that same hearing, Robert J. Myers, a man of great distinction, who was chief actuary of the Social Security system, and National Commission on Social Security Reform in 1982—came before us a sad, but truthful man. He said, "Gentlemen, go back to pay-as-you-go financing. Because, gentlemen, you are never going to save the surplus.

The old Presbyterian belief, you might say, that temptation is never overcome. The flesh is weak, the spirit notwithstanding. Give it back before it becomes a habit you cannot break.

Well, Mr. President, I have evolved from one who believed in the innate goodness of human nature or the political system, to one who believes in the fallibility of all things human. I began believing that we should keep the surplus and save it. I come to you on this floor and say we are not saving. Elemental justice requires us to give the money back.

We have talked about the extraordinary action we are going to take. We are going to save $500 billion over the next 5 years. The Social Security, surplus over the next 5 years is $496 billion. We are not saving anything, save for that surplus. And that is not general revenue. It is pension contributions.

Well, on August 8, 1988, I asked the General Accounting Office if they would look into this system for us. They produced a quite extraordinary study, as the GAO increasingly does under Comptroller General Mr. Bowsher. It was called Social Security the Trust Fund Reserve Accumulation, the Economy and the Federal Budget.

The report said everything in one sentence. It said:

> If the Congress and the President are unable to agree upon and implement the strategy for restoring fiscal balance in the non-Social Security part of the budget, we believe that the Congress should reconsider the pattern of payroll tax increases that is producing the current and projected Social Security surpluses. To implement this option, it would be appropriate to return the Social Security program to a pay-as-you-go financing basis once the Social Security reserves have reached a desirable contingency level of about 100 to 150 percent annual outlays.

This was given to us in January of 1989 at the outset of this Congress. The report said, if a current operating balance cannot be maintained and reserves cannot be saved in a meaningful way, then go back to pay-as-you-go once reserve levels reach about 100 to 150 percent of annual outlays.

Under the legislation that is before us today, we would maintain those reserve levels. I can give you the exact numbers, Mr. President,

I ask unanimous consent, if I may do that, that it be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SIX-YEAR TRANSITION TO PAY-AS-YOU-GO

	1991	1992	1993	1994	1995	1996
Tax rate (percent)	6.06	5.9	5.7	5.5	5.3	5.1
Cost [1]	$3.9	$11.0	$20.4	$31.4	$43.9	$60.0
Fund ratio [2] (percent)	93	110	125	137	146	152
Taxable Max.						
Current	54,300	57,300	60,300	63,600	66,900	70,500
Proposed	55,500	60,000	65,400	71,400	78,000	85,500

[1] For fiscal years, in billions.

[2] Reserve at start of calendar year as percent of year's outlays.

Mr. MOYNIHAN. With the Social Security tax cut that we propose for fiscal 1991, we will end the year with a fund ratio of 93 percent. The following year it would be 110, then 125, 137, 146, and 152 at the end of fiscal year 1996.

So we will have done exactly what the GAO said to do almost 2 years ago. It said do one of two things: You can balance the current operating budget so that money is saved, or return to pay as you go. That is the advice to the Congress of the Comptroller General.

Mr. President, I do not want to speak if other Senators wish to speak. I know Senator REID is coming to the floor, so I will continue then for just another moment.

In the beginning of 1989, the National Economic Commission made its report to the newly inaugurated President George Bush. This was a bipartisan commission, established by statute. Two immensely experienced, able men, Drew Lewis and Robert Strauss, cochaired the bipartisan group. I was a member. Very able men were members: the Honorable William Gray, Lee Iacocca, Lane Kirkland, Dean Kleckner, Paul Laxalt, Felix Rohatyn, Donald Rumsfeld, and Caspar Weinberger; and David Mathiasen, from the Bureau of the Budget, was our executive director.

Mr. President, I do not want to make an issue of it, but we are told that the budget deficit for the fiscal year 1991 is $292 billion and next year it will be $294 billion. Well, on page 36 of the National Economic Commission Report, it estimated that for this year the deficit will be $289 billion, and for next year it will be $293 billion.

We told the President the deficit would be $300 billion as far as the eye could see. We were right. But then we said something else, Mr. President. With respect to the central issue, which was what we would do with the Social Security surplus, we said balance the operating budget, use the surplus to buy down the privately held Treasury debt.

If you do not balance the operating budget do not think you can use the money for general revenues. We said that with great clarity. I made it clear in the report. Shall I read it? I will take the liberty of reading it.

> Let no one suppose Congress will much longer allow a payroll tax to be used to service a $2 to $3 trillion debt, owed in vastly disproportionate amounts by wealthy individuals and institutions. It already requires nearly one-half the revenues of the income tax to pay the interest. This surely is the largest transfer of wealth from labor to capital in the history of our political arithmetic.

That is a term of Alexander Hamilton, "political arithmetic."

> But at least this is a graduated tax. By 1992 the trust fund reserves will have reached 100 percent of annual outlays. By 1994 the proportion will reach 150%.
>
> If in the next 5 years no arrangements are made to save the future course of the funds, Congress, you may depend on it, will return to pay-as-you-go financing. This is not a threat.

This is addressed to the President of Congress:

> This is not a threat. It is a political reality and, indeed, an ethical imperative. The Nation struggled for a generation to ratify the 15th amendment—

Which is the graduated income tax—

> We are not about to see it effectively repealed by a reform in the financing of Social Security.

That is the reform, about which I began these remarks, that took place in 1977. Mr. President, it is all in there. Everybody has been on notice, from the hearings in May of 1988, the GAO report of January 1989, and the National Economic Commission report of March 1, 1989. Then last December, on the last day of December, I went into the Press Gallery. I did not come to the floor. We were out of session. I said, "Very well, a year has gone by. Nothing has happened. We have not shown any indication whatever that we would like to go to a balanced current operating budget. We are beginning to use these surpluses as if they were general revenues, which they are not. Therefore, I will introduce legislation at the beginning of the next session to return to pay-as-you-go."

I did just that. I have waited 9 months to bring it to the floor and here we are today. I think that is a fairly orderly sequence of events. There is no surprise. There is every reason to think we might have done better had we taken a different course, but we have not. Indeed, the budget summit agreement announced in the Rose Garden on Sunday, a week or so ago, just counted Social Security trust funds as part of the revenue structure of the Federal Government. That is why people do not trust us.

I have been with this subject now a long time. Employees and employers see what we are doing here with the surpluses. That is why the AFL–CIO supports going back to pay-as-you-go. But none say it with greater vigor than the U.S. Chamber of Commerce. Employers are involved in this as much as employees.

Out in the nongovernmental world, what we are doing is seen as what it would be were it taking place in the nongovernmental world. You cannot take pension funds and use them for other purposes. You would go to jail. Is it any wonder we are not trusted?

The General Accounting Office are our auditors. They are there to speak of matters of propriety, not just efficiency.

There is another reason why we must return to pay-as-you-go. It is an important reason that involves the whole experience of the American workingman and workingwoman in the last 30 years: We are the first generation in American history for which there has been no real growth in income. It is hard to believe.

When I put it this way, I wonder how many people really will believe it. Median family income in the United States today is now back to the level of 1973. But even more striking, average weekly earnings are lower today than they were in the last year Dwight D. Eisenhower was President of the United States.

If I can say just by way of explanation and perhaps even apology, I was Assistant Secretary of Labor under Presidents Kennedy and Johnson and my responsibility was policy planning. The Bureau of Labor Statistics was there to help. So I followed labor statistics. It is just something I have done.

Average weekly earnings is one of those basic figures that we developed to see how factory workers were doing at the end of the week. The other figure we used was average hourly earnings.

This is from a recent report, this chart here, by the General Accounting Office, of average hourly earnings. I said that average weekly earnings are now lower than they were in the last year of the Eisenhower administration. In 1959, gross earnings were $163.78 and the Social Security was $4.09, so you had a $159.69 average weekly earning.

Thirty years go by and the average weekly earning is $154.01, $4 and change less, the difference being that Social Security has tripled.

In 1985 I gave a series of lectures on this, which Mr. Kevin Phillips in his very well received book, "The Politics of the Rich and Poor," cites. I said:

> As for the economy, the great divide that began to open in the early 1970's separating the postwar generation from its successor continued to widen. In 1985, median family income was about what it had been in 1970, down from 1973. This would be the longest stretch of flat income in the history of the European settlement of North America.

Here are average weekly earnings, Mr. President, from the GAO. If we go back, we find that average weekly earnings today are just what they were in the second year of President Kennedy's administration. At that time, wives went to work and people took extra jobs, so family income continued to rise for a few more years. Then in 1973, everything broke down. We still do not have the median family income of 1973. Mr. President, we would get back there if we would just vote for this bill today and start this process.

At least, do not withhold Social Security taxes from wages which have not increased in a generation, simply to pay interest to bond holders in Europe and Asia on the money we borrowed in the 1980's.

If we enact the Social Security tax cut proposal then one two-earner family can, by fiscal year 1996, add $1,500 to their income.

Starting January 1, 1991, just weeks away, we could add $150 annually to the income of the two-earner family. It is not a lot; but it is instant, recognizable, and available cash. That Mr. President, is what this issue is about. That is the decision we are going to make today.

I thank the Chair for his great courtesy and attention. My friend, the Senator from Nevada, is coming to the floor and will shortly be asking to speak.

What I wanted to continue with is this plight of Americans whose earnings have not risen in the last generation. We do not have a word for this Mr. President. It is not like unemployment, which we have a name for; or recession, which we have a name for. We do not have a name for a generation with no improvement in living standards.

The economists have many explanations, and it is not hard to know wha some of them are. Our productivity slowed from 1.2 percent during the 1980's. What this meant was that living standards would double every 50 years instead of 25, which had been our previous experience for the very longest time. But these are wholly new experiences to us. Indeed, now 74 percent of Americans pay more Social Security contributions than income tax.

As Kevin Phillips remarks, at the end of the last decade, people in the bottom 80 percent of income levels los ground. They did not just keep up and hang on; they lost ground. They know it. It happened to them. They wonde if we know it. Do we know that they know we are spending their Social Security benefits as if they were genera revenue?

I will say one last time; Averag weekly earnings in the United State are lower today than they were unde President Eisenhower. We have no experience of this. We cannot cope wit it. We reject it because it has not happened to law school graduates and has not happened to the liberal art sorts.

There has been a very clear movement in the highest reaches. Whe Kevin Phillips writes about the pol tics of the rich and poor, he is talkin about them. And these people ar Americans, too, and there are more them, thank God, as Lincoln said.

It is bad enough that real incom has grown by $3 a generation, $3 week, but we grabbed it back in Soci Security contributions, so we are actually $4 and change lower.

That is the makings of turbulence i society. Do not be surprised at some the turbulence coming out of th American electorate today. These ar men and women who see their chi dren are not as well off as they are.

Bob Michael at John Hopkins ha done studies of people growing fro youth to middle age. He crunched a lo of numbers and asked what happene to the average male who was 25 to 3 in the 1950's, 1960's, and 1970' Indeed, what did happen? For th male in the 1950's, income went up 1 percent; in the 1960's, 112 percent; in the 1970's, 17 percent. Nothing happened.

I can speak from my own experience after World War II. At age 25, I had subway fare; age 35, I had a stationwagon, a beautiful wife, and three kids. I did not own the car exactly, but I drove it. I knew something happened to me. It was clear. I was a different person.

Today, Americans three-quarters of whom pay more in Social Security tax contributions than in Federal income tax, have not experienced an increase in real wages. We worsen their burden by levying the most regressive of all taxes on their wages, and using the revenues as general revenue.

I see my distinguished friend is on the floor. I will just then wrap up by saying two things. I say again, Mr. President, in January of 1989, the beginning of this Congress, the General Accounting Office recommended either going back to a current balanced budget and saving this money, or returning to pay as you go.

The National Economic Commission report on March 1, 1989, made to newly elected President said exactly the same thing: Get a balanced current operating budget, or go back to pay as you go. We are nowhere near a balanced current operating budget. Indeed. the deficit is $292, $294 billion. By returning to pay-as-you-go financing, we are only doing what we were told we should do under the circumstances.

I see my very distinguished and able friend has arisen. I am happy, Mr. President, to yield the floor.

The PRESIDING OFFICER (Mr. Robb). The Senator from Nevada.

Mr. REID. Mr. President, I have listened to the discussion of the senior Senator from New York today on a subject that deserves attention. As a result of his activity in these past many months, we are not focusing on a subject we should have focused on a while ago. I appreciate the work done by the Senator from New York on this legislation.

I would like to talk about the Social Security trust fund in a number of other difficult perspectives for a few minutes this morning.

The Senator from New York has done an outstanding job talking about his legislation and the overall history of Social Security.

I practiced law before coming to the Senate. Like most attorneys who have an office practice where they deal with clients who have problems, I had a trust fund set up for my clients. If there were ever a time where money came into my office that was my clients' money, that money had to go into a trust fund.

Mr. President, before that money was distributed out of that trust fund, we had to make sure that money went to the client. That money could not be used to make car payments for me, house payments for me, or buy a present for one of my children. That money could only be used for the purpose for which it was placed in that trust fund.

The same basic rule should apply to the Social Security trust fund. Those moneys should be used only for the purpose for which the money is collected. If, when I practiced law, I violated that trust, I could be subject to disbarment. I could be subject to administrative procedures being taken against me by the Bar Association. In fact, I could be criminally prosecuted by the district attorney.

In the instance of the Social Security trust fund, those moneys are used for purposes other than for Social Security recipients, and that is wrong. But here in Congress, we have become pretty careless and callous in what we do with trust fund moneys.

We do the same thing with the highway trust fund moneys. Five cents from every gallon of gas that we buy goes toward a trust fund for roads, highways, and bridges, but in fact we do not use that money for those purposes. We have violated that highway trust fund and used those moneys for other purposes; namely, to make the debt look smaller, just like we use the Social Security trust fund moneys. That is wrong. We should not do that.

That is what this discussion is all about. The discussion is are we as a country violating a trust by spending Social Security trust fund moneys for some purpose other than for which they were intended. The obvious answer is yes.

The President, who is a party in this violation of trust, along with Members of Congress, is not being brought before a Bar Association for purposes of disbarment or some type of administrative remedy. There is no prosecuting authority saying, Mr. President, what you have done is illegal. But the fact is it is wrong; what has taken place is wrong.

Mr. President, I also want to talk about some other part of this legislation that is I think a problem as it relates to seniors. There is not a town hall meeting that any of us hold anyplace in the United States, there is not a gathering that takes place where there is a single senior citizen present, that the words, "notch babies" does not arise.

Claude Pepper was the congressional advocate for changing this problem. But since his passing, there really has not been a lot of discussion in these Chambers about the notch inequity.

I recently introduced a bill to address a problem separate and apart from what the Senator from New York has spoken of and separate and apart perhaps from the problem that I discussed about the violating of the trust funds. It is a problem that is in keeping with how Social Security moneys have been handled. This is the so-called notch inequity.

Mr. President, like many of you and your constituents, I have been frustrated that Congress has failed to act year after year to address this glaring inequity in Social Security benefits of those born between 1917 and 1926. I introduced my legislation with the intent of bringing the notch issue before the Senate for a vote.

I am pleased that there are a number of other Senators who share my sentiments and will at an appropriate time offer an amendment to solve this notch inequity. I believe the amendment that will be offered, modeled after a bill that Senator Sanford originally offered, S. 1212, offers a reasonable and a responsible solution to the notch issue.

When the notch babies worked and paid into Social Security, they were promised, like everyone who paid into the trust funds, they would be treated equitably. Yet, these 7 million Americans born between 1917 and 1921 are not being treated fairly and certainly not equally.

No one, I believe, Mr. President, in their right mind can justify radically different benefit checks for two people who have identical earning histories yet happened to have been born a day apart, one in 1916 and one in 1917. In some cases people received hundreds of dollars less than someone a day or a week older for no other reason than having the wrong birth date in the wrong year.

This is not equal treatment under the law. It is outrageous and I really believe un-American. The 1972 Social Security amendments changed the way Social Security benefits were calculated. The intention of Congress, I believe, was good, to see that benefit levels compensated for inflation. However, the changes were too drastic and would have resulted in people earning more in Social Security than they did before they retired. This problem would have driven Social Security into bankruptcy.

Five years later, in 1977, Congress again tried to fix the Social Security benefit formulas. Again, the measures taken were too extreme. But remember, in 1977, this was at a period of time when people were beginning to think that the Social Security trust fund was going to go broke. It was not until 1983 that President Reagan, Claude Pepper, Senator Moynihan, and others got together and fixed Social Security.

In 1977, Congress again tried to fix the Social Security benefit formulas, but, I repeat, the measures taken were too extreme. The intention at that time was to reduce benefit levels by 6 to 10 percent for those born after

1916. A gradual 5-year transition was created. The first group affected by the change were those born between 1917 and 1921—people retiring between 1979 and 1983. That was the cut—1917 to 1921, and these are the people we call "notch babies." In fact, those born after 1921 suffer as well.

But what went wrong in 1977? Again, faulty benefit formulas. The reductions were severe—not the 6 to 10 percent that was the goal. Many retirees suffered reductions up to 20 percent.

When someone is living on a fixed income, a 10- to 20-percent pension cut can really be a disaster. It is the difference, literally, between being able to buy groceries for every meal that month and not having money for a meal every day that month. It is not having enough money to pay, for example, a heating bill on time. It is not being able to take a bath when you want one because you are afraid the water bill and the heating bill to heat that water will be too high. You cannot pay the water bill sometimes.

In short, it is the difference between living with dignity and suffering in silence because nobody cares and Social Security does not make up the difference. That is what affected Social Security beneficiaries say at our town hall meetings.

So I rise today to advise the Senate that legislation is necessary to reverse this discrimination, and that legislation will be forthcoming. This legislation would return benefit levels to where they were intended to be. It would eliminate those severe reductions of 10 to 20 percent and bring them in line with what Congress intended—a mere 6- to 10-percent reduction.

I wish that we could replace all the missed Social Security earnings of the past 11 years, but there are people who say, and rightfully so, the system does not have the money to pay 13 years' worth of earnings to all retirees.

Keep in mind, if the moneys that are pouring into the Social Security trust fund were kept in the trust fund and not used for other purposes, there would be money for that.

The legislation would offer, however, a one-time payment of up to $1,000 per family to help cover the losses incurred under the current faulty benefit formula. The trust funds certainly can bear this limited reimbursement. The solution that will be offered by this legislation is simple, it is reasonable, and it will not bankrupt the system.

Remember, moneys are pouring into the Social Security System, as the Senator from New York has indicated. The legislation that we will offer subsequently will provide an alternative transition formula that more equitably returns benefit rates to a stable level. Many Social Security beneficiaries born in the years 1917 to 1926 will receive a bigger monthly Social Security check, and rightfully so.

In every instance this increase will not be very much, but not much can still mean a lot to those on fixed incomes. The increases are not much to those of us who have good steady incomes, but to that senior on a fixed income, as I indicated, it could be money for food, prescription drugs, medical bills, and may other necessities.

The cost of this proposal can be borne by the Social Security surpluses. By 1992, as has been indicated today, unless the current system is changed, the surpluses are expected to reach $350 billion at least. The notch legislation that will be offered will cost approximately $50 billion. Remember, it is no new tax. This would be over a 10-year period. Surely, we can see fit to use a small amount of the trust funds' tremendous resources to address this inequity.

The trust funds resources are there for the well-being of those who have paid into the Social Security System. We should use those resources to see that Social Security recipients are treated well but also treated fairly and treated equitably.

It is time for Congress, I think, to take its hands—and I add the President in on that—off the Social Security surpluses. Stop hiding the horrible truth of the fiscal irresponsibility that we have talked about here the past 2 weeks. It is time to return those dollars to the hands of those who earned them—the Social Security beneficiaries and future beneficiaries.

I follow closely the legislative activities generated by the Senator from New York. This is a debate that has been long overdue. But for his forceful advocacy of changing business as usual, we hear about business as usual.

I heard the President of the United States Saturday morning talk about how we do not want business as usual. Well, I say to you, Mr. President, through you to the President of the United States, we do not want business as usual with the Social Security trust funds. And that is why we are here. That is why we are here to talk about some of the inequities that have taken place in this country by using Social Security trust fund moneys for purposes other than for which they were intended.

I go back to when I practiced law. As I have indicated here already, had I used those trust fund moneys in my law business for purposes other than for which they were intended; namely, my clients, I could be subject to criminal prosecution, administrative proceedings taken against me by the Bar Association, and maybe even disciplinary action.

Mr. MOYNIHAN. If the Senator will yield, would it be something like that?

Mr. REID. I think that is a very good illustration of what I was talking about, embezzlement, thievery. Because that, Mr. President, is what we are talking about here. But for the dialog started by the Senator from New York, we would not be here today. And I publicly commend and applaud the vigorous activity generated by the Senator from New York because on that chart in emblazened red letters is what has been taking place here, embezzlement. During the period of growth we have had during the past 10 years, the growth has been from two sources: One, a large credit card with no limits on it, and, two, we have been stealing money from the Social Security recipients of this country.

I yield the floor.

Mr. MOYNIHAN. Mr. President, I express my great appreciation to my colleague and friend from Nevada. He has a quiet, effective way of putting things. I can see why he was so successful an advocate. We are dealing with such elemental issues of trust and the relationship of people to their government. If they cannot trust that then what can they trust?

We have just had passed out for us the Democratic Policy Committee legislative bulletin. I have to say I am appalled. I really am appalled. I knew our party was in trouble, but I did no know how much trouble. It asks wha the effect of this bill will be. It says i will diminish fund reserves by almos $4 billion in fiscal year 1991 and it wil diminish fund reserves by more tha $170 billion over the next 6 years.

There are no reserves. They have al been embezzled. They have bee spent.

Mr. REID. Will the Senator yield?

Mr. MOYNIHAN. Yes.

Mr. REID. Maybe what we shoul do in conjunction with the Presiden to really carry this conspiracy to it appropriate end, is rather than havin it called the Social Security trust fun why do we not change it and call it th "Social Security slush fund?"

Mr. MOYNIHAN. Our policy staf honestly, somehow believe there a reserves. What there are in IOU from the Treasury. This money h been spent as general revenue, as th Senator from South Carolina says. prayed for them with the Democrat Party and I hope the Republica pray for us as well.

I thank the Senator very much.

Mr. HOLLINGS addressed th Chair.

The PRESIDING OFFICER. T Chair recognizes the Senator fro South Carolina [Mr. Hollings].

Mr. HOLLINGS. Mr. President, want to join with the distinguish Senator from New York to put a st to the embezzlement of Social Secu ty funds. I thank, also, our disti guished colleague from Nevada for h observations. As Senator MOYNIHAN says, if you cannot trust us, whom can you trust?

I am reminded some years back of my fellow Governor, the Governor of Mississippi, Ross Barnett. He is the one who initiated 30-some years ago this so-called government in the sunshine.

On a Wednesday afternoon in Jackson, MS, he would take the door off of the front of the Capitol Building and set up shop in the foyer with his table. people would come in off the street in a line, and he had "government in the sunshine." You could go up and make your complaint or make your suggestion.

On one occasion, a trustee named Phillips, who had been employed cleaning the Capitol, got in the line. As he came forward, the Governor looked at him and he said, "Phillips, what is the matter with you?" He said, "My aunt died, and I really ought to be there. I did not have a mama or a daddy, and my aunt raised me." Governor Barnett says, "Where is that?" He said, "Down in Florida." "When is the funeral?" He said, "Tomorrow," the next day, I guess, Friday. He said, "I just have to get to that funeral." Govenor Barnett said, "Go on, you go to the funeral, but you be back here by Monday, all right?" Phillips, said "Sure."

Well, Monday came and Phillips never reappeared. A month passed and Phillips was still gone; and 2 months passed. Finally the media—you know how they latch onto stories—figured they would raise a fuss with the Governor about letting this trustee go. So they did. They got together, and at the Wednesday press conference with the open door and all, lights, going, cameras rolling, asked, "Now, Governor, what do you have to say about this trustee that you allowed to go?" Old Ross turned and he said, "Heavens above, if you cannot trust a trustee, who can you trust?"

Well, you sure cannot trust the summiteers. I can tell you that categorically. I realized that the distinguished chairman of the Social Security Subcommittee was coming to the floor at 10 o'clock, and I planned to join him. I have been trying to find the treatment of Social Security in the budget resolution documents of last evening. They have been as coy and clever as all get out. And you have no option on this one.

We passed a budget which means nothing, but means everything. We were told last night that it means nothing, that it is just a procedural document. I wanted to see how last night's budget resolution treated the Social Security surpluses. I knew the document given us last evening was a reaffirmation of the provisions set forth in the bipartisan summit agreement. It preserved the overall summit agreement structure.

There is one speculation that the trust fund's status would be dealt with in the reconciliation instructions to the Budget Committee. Purportedly that is the way it would go, because it would be a change in the budget process. It would be a change in the budget process, and everybody has been talking about the process, the process, the process.

But then others said, no, it is probably not going to be there. Social Security could well be in the Finance Committee jurisdiction.

Well, if the Finance Committee gets this issue, then they could report it out. And I was told by staff on the Finance Committee, "Senator, that is what they are trying to avoid because you could raise a point of order that the matter did not go to the Budget Committee." I said, "I do not know necessarily that I would raise such a point of order." They said, "We really expect that there is going to be a leadership amendment that will include all of these provisions," and, of course, they will have to get unanimous consent to not have a point of order there. Otherwise, we will again face the "Perils of Pauline," as at midnight of last evening—with ultimatums of do or die, a deal is a deal, you voted the budget, or the President is going to veto it. So we would all be obliged to agree to the categories and caps, the treatment of Social Security, FSLIC off budget, and so on.

This morning, the Senator asked where is the trust. Finding that trust is more challenging than an Easter egg hunt. Let the tourists come in and search around under the desks and in the committee rooms and find it.

Let me commend the distinguished Senator from New York. He has fought the valiant fight since last December. Last December I was called by a national reporter, and he said, "Your friend, Senator MOYNIHAN, is introducing a bill to not just take Social Security off budget in the calculations, but to cancel the increase in the Social Security tax that was to take effect in January. He proposed to put Social Security on a pay-as-you-go basis." And, thereby, ipso facto, bam bam, stop the embezzlement.

Of course, the professor is also a realist and a practical politician. He has had to retreat to a fallback position of what might be called "embezzlement on the installment plan" for the next 6 years, but in diminishing amounts. I understand this retreat. Government is the art of the possible. I am joining him because he fought all year long.

You say, whom can you trust or where can you find the truth, especially given the media's propensity to take things at face value. I saw President Bush on national TV saying he believed that the increase last January 1 should go into effect. I have never seen the statement in black and white that President Bush, in January, favored the increase in taxes. But he did. He favored it all year long. And so do the summiteers, which is exactly what the Senator from New York is trying to stop at this moment.

There was no need to increase Social Security taxes. What's more, as every junior economists knows Social Security payroll taxes are the most regressive of all taxes. It is the middle-income people who pay the bills. But those FICA taxes are not, as has been described, for trust, not to be kept for their retirement, as has been explained to them. The FICA tax increases, indeed all of the surplus Social Security revenues are designed to take care of the operating expenses of the Government, be they defense or foreign aid, food stamps, welfare, whatever I can imagine, space program or otherwise, just rob the Social Security trust fund.

So the Senator from New York is right on target. I hope we can pass his bill. I hope it will pass the House.

I have had several calls with respect to the exchange that took place when we had the temporary debt limit passed just last Friday, which was vetoed by the President. I was told by the majority leader that I could present my Social Security off-budget plan as an amendment. I would prefer, Mr. President, if you please, to just bring it to the floor in its own outstanding right. There has been no resistance other than from the leadership, the summiteers. That is the only resistance I have found to it. Every Senator I talked to, every Congressman I talked to supports Senator MOYNIHAN's plan to just stop the embezzlement, stop the thievery.

I might say that that initiative commenced nearly a year ago, February of last year, in S. 401., At that particular time, I said let us take Social Security off budget. I had a dual purpose in mind, exactly what the distinguished Senator from New York has in mind. Stop using these funds. Stop absconding and breaching trust. But at the same time, I wanted to expose and unmask what the real spending deficit was. That task has been nigh on impossible.

I have heard the deficit level quoted earlier at $292 billion deficit. I can tell you they have agreed to $169 billion. That is the joint CBO-OMB estimate not including S&L bailout costs which Mr. Seidman said will be $100 billion for fiscal year 1991. So that puts the deficit at $269 billion. And then stealing from the trust funds, Social Security and otherwise, to the tune of $135 billion. The total comes to well over $400 billion. So it is over the $292 billion, I say to the Senator.

And very interesting, earlier last evening when we had the temporary debt limit extension, they extended it by an additional $1.9 trillion over the next 5 years. So we now have a debt ceiling $3.123 trillion. You add $1.9 trillion, and we are over $5 trillion.

But more than anything else if you want to know what they intend to spend and what they foresee, and I think they are right, it comes to some $380 billion in deficit spending each year for the next 5 years. That is why the debt limit has gone up. So we need to get back to truth in budgeting, which was the intent of Gramm-Rudman-Hollings. Everybody was tired of the smoke and mirrors back in 1983 and 1984. So by 1985, we wore each other out on both sides of the aisle and said, all right, the cardinal principle of GRH is to have truth in budgeting and everything would be on top of the table.

But the bipartisan leadership has undermined that objective. We had to stop them back here in May. They had agreed on both sides of the aisle on the dire emergency supplemental appropriations bill to slip in language that would have put the S&L bailout off budget, swept under the rug, out of sight, out of mind. That is exactly what they achieved as of last night.

It is downright unethical to engage in these shenanigans over and over and over again. Nothing in the debate of course, was mentioned about FSLIC, about how we intend to fund the S&L bailout off budget.

I tried to look into budget resolution documents. They say, well, that the treatment of Social Security could be part of the leadership amendment. It could come from the Banking Committee, or it could be agreed to somewhere else. But you better watch out, it is there somewhere. So I am now trying to track down where it is being taken care of.

On television, the President said the budget deal "doesn't mess with Social Security." Look at the agreement. In fact, it messes with Social Security in two ways, one, it requires now-exempt State and local employees to start paying FICA payroll taxes to the tune of $2 billion, and every dime of that new revenue will go into general operating revenues, not into the Social Security trust fund. Second, the agreement continues the current practice of raiding the Social Security trust fund to reduce the Gramm-Rudman-Hollings deficit and to fund the day-to-day operating expenses of the Federal Government. The agreement explicitly acknowledges that $21 billion will be quote-unquote borrowed from the Social Security trust fund in 1991, and a total of $169 will be quote-unquote borrowed over the 5 years of the agreement. So concerning the Social Security trust fund, this agreement ensures that there will continue to be no trust and no fund. Read my lips, the budget deal does indeed mess with Social Security. It includes Social Security in the consolidated budget but removes Social Security operating surplus from GRH baselines so as to prevent technical or economic changes in Social Security estimates from causing a sequester on discretionary accounts.

Now I know anyone listening to that particular sentence wants to know what that means. That means we are going to spend $169 billion from the Social Security trust fund. We are going to mess with Social Security. We are going to try to get around that Hollings initiative that started in February last year as S. 401, later resolved, if you please, into S. 1795, with the majority leader leading the 25 cosponsors. I wanted his participation so as to make sure there would be no misunderstanding, to have it called up properly. In a joint press conference with the Speaker of the House, the gentleman from Washington, [Mr. FOLEY], we were all in behind it.

But now I cannot find it in the budget deal. My bill was reported out. It is on the calendar now as Mr. SASSER's, another one of the summiteers, S. 2999, a bill to exclude the Social Security trust funds from the deficit calculation, which the Budget Committee voted out by a vote to 20 to 1. It was also reported out by the Committee on Governmental Affairs.

So we have observed all the proper legislative formalities with respect to the budget process of taking Social Security off budget. But we took it to the summit, and that is where it flunked the course. You cannot find it in the summiteers' agreement. Whom can you trust if you cannot trust the trustees, said Ross.

I watched the Senator for about an hour before coming to the floor. The Senator does make the Senate the most deliberative body because he has a sense of history and perspective that none of the other Members have on these issues that he deals with. It is a tremendous asset for him to share with us this background going back to FDR.

Mr. President, this so-called reconciliation bill coming up does not do the job. Charles Bowsher, the Comptroller General, says balancing the budget is a trillion dollar task. Nobody would bicker, as they say, over $10, $20, even $30 billion in a trillion dollar task. Estimates would vary that much.

But let us not solve half of the deficit by ignoring half of it. That is exactly what they did in the original instance. If we do everything they say, you and I will be here next October. I can guarantee we will be back and we will have even larger deficits. They said last night on the Senate floor they expect to spend $380 billion in 1991. Just look at how they have extended the debt by $1.9 trillion over 5 years.

They know now what they are doing and they do not want to hear from me anymore. They did not tackle the job And, not hearing from me anymore they said let us get rid of Gramm-Rudman-Hollings. That is also very clever language.

"Discretionary appropriations held completely harmless for technical and economic adjustments." They agree for 1991 to use real figures, but then for fiscal year 1992 they get an interest rate of 5.8 percent from 1992 and a 3.8 percent in growth. We are at less than 1 percent GNP growth right this minute. I do not know where all this magnificent growth is going to come from.

By 1995, 4.2-percent interest rates? I last saw rates that low when I got out of the war and bought my first house. I got a loan, I paid 4 percent interest.

Mr. MOYNIHAN. Yes, the GI loan.

Mr. HOLLINGS. The deal says that for discretionary appropriations in 1991 and 1992, we are going to hold them harmless from technical and economic adjustments. So you do no solve the problem. You waive Gramm-Rudman-Hollings, you mess around with Social Security, you hide the S&L bailout off budget and you change the entire focus of the deficit reduction effort.

Nowhere in the media have I seen reported perhaps the most profound difference in this latest incarnation of Gramm-Rudman-Hollings. Heretofore Gramm-Rudman-Hollings has been premised on specific deficit targets aimed at achieving a balanced budget. That is now gone. In its place, this budget agreement talks only about targets for proposed savings. In other words, in 1991 we only have to reach the proposed savings of $40 billion and no one is supposed to notice or care that the deficit skyrockets to $25 billion. By 1995, the last year of the agreement, even the wildly optimistic OMB projection foresees a $63 billion deficit—even after raiding the trust funds, factoring in rosy economic assumptions, and excluding S&L bailout costs. A more accurate deficit projection for 1995 would be closer to $20 billion. In other words, the deficit can continue to grow unchecked in each and every year of this agreement but as long as we reach our target for proposed savings, then we get to claim that we did our job. Perhaps nothing more clearly illustrates the inadequacy and sham of this agreement.

Forty billion dollars sounds like gracious plenty until we consider the problem we are trying to solve. The agreement calls for $9.8 billion off defense, that is cut out of current policy, which is easily done. However Desert Shield could bring it all back in. The agreement calls for $12 billio off of entitlements. Concerning new revenues, of course, they are back to the $16 billion figure. But they refuse to specify which revenues, thus leaving the door open to a cheap, short-term trick like cutting capital gains in order to generate $5 billion capital gains in 1991.

And they bray about "tough decisions, hard decisions." Tough decisions? The hardest part is to take that crowd seriously. They ought to be ashamed of themselves. That is why the people are perplexed. It is not just that we come up here and wait until midnight to act. They use the midnight hour and the pressure of the closedown of the Government. Gramm-Rudman-Hollings never contemplated a $100 billion sequester. Under Gramm-Rudman-Hollings, for the year 1991, we planned a balanced budget; then we wouldn't have to worry about embezzling Social Security. There was to be a balanced budget so you would not have to spend any trust fund, highway, Medicare, Federal finance banks, airports—any of it. But now we are.

And then they put in, of course the three-way veto. They do not have to worry. If they are talking about a political document, they do not have to worry on the other side of the aisle whether they can pick up *x* number of seats here on November 6. They picked up all they need last night. They got minority control via the spending caps plus the 60-vote point of order. I am told by the distinguished chairman of Appropriations Committee that there is more money in this agreement, $1.8 billion more for this year and $14 billion more over the period of 3 years. But, of course, that is not oven enough to take care of the Space Program alone. It is $2.3 billion just to keep us current with the Shuttle Program and not even proceed with the space station. What about the super collider, the magnetic levitation train, all these particular initiatives, plus education, research, drug enforcement, new U.S. attorneys, new FBI agents to go after the S&L scoundrels and what have you? I am told privitely, wait a minute, Senator, those figures the chairman told you do not appear in print because the summiteers did not want them in the documents. They are afraid they would lose some votes.

What is clear is that they capped spending. We are trying to get the country moving again and competitive, not just with Japan now, but particularly the European Economic Community. We need a mini-Marshall plan for East Europe and Central America and a maxi-Marshall plan for ourselves. If I want money to fund these initiatives, I would have to go to Senator Dole and say, please, I have to get 60 votes. My colleague knows, how Senator Baker used to sit on the table when he would face the doorway. That was a party position and they would all vote that way. We have seen it under this particular leadership, where they changed them on the FSX, they changed them on the Hatch Act, on China sanctions, and so on.

They call down from the White House and they vote as a block. I have to go to the minority block to get the Government moving. So that is the first veto, the Dole veto, the need for 60 votes to waive a point of order.

Then they have the Darman veto because, under this so-called document, you have to get a certificate from OMB that spending is within the cap, according to his economic and technical assumptions. So we have the Dole veto. We have the Darman veto. And then of course, the Sununu veto. I know President Bush did not review the veto on textiles that he handed down day before yesterday. The White House said the bill is unconstitutional. We had an explosion here by the Senator from New Hampshire [Mr. Rudman] and many others. Article II, section 8 says the Congress, not the President, "the Congress shall regulate commerce."

The Commerce Committee used to be called the Foreign Commerce Committee. Then it was the Foreign and Interstate Commerce Committee. The Constitution speaks very clearly on this matter, but children over in the Attorney General's Office and Mr. Sununu write that nonsense and President Bush put his name to it.

So we have the Dole veto, the Darman veto, the Sununu veto. I have to go through three hurdles to get the Government moving again. I think we have really committed a terrible travesty against representative government and the Congress itself, the legislative branch.

Having said that, and seeing other colleagues wishing to support our distinguished colleague, let me commend the Senator from New York. He led the way. One way or the other, we will also get a vote on Social Security off budget.

The majority leader pledged a vote in the early part of the year. Now we are into October, and you will get an up and down vote—it is on the calendar, and I hope we can fulfill that commitment and have a vote up and down on that particular measure. Beyond that, however, I am strongly in support of the Senator from New York on his measure today to put Social Security on a pay-as-you-go basis and stop the thievery.

The PRESIDING OFFICER. The Senator from New York [Mr. Moynihan].

Mr. MOYNIHAN. I thank the distinguished chairman of the Committee on Commerce. He knows I completely agree with him on the matter of the budgetary arrangements for Social Security. I sponsored his legislation; I think he sponsored ours. I do not know whether we will get to that triple veto or not, but we will not give up, and we may be here when some of them are gone. Sometimes that is the only way to manage these transitions.

I see that my able, distinguished, former Governor and good friend from North Carolina is on the floor, and I welcome him.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. SANFORD. Mr. President, I am delighted to be here on the floor with the Senator from South Carolina and the Senator from New York because we have shared, since I have been here, a common concern about the misuse of Social Security funds. There are two or three ways that we have gone about trying to do something about this.

Certainly the first way was simply to take Social Security off budget, to build a protective wall that would prevent Social Security from being used as if it were general revenue. I introduced legislation to do this several years ago.

Then I incorporated this concept in a broader bill, S. 101, that would require a separable accounting of all retirement funds. And now, the distinguished Senator from New York has come up with the idea that we ought to take a new approach and return the program back to pay-as-you-go.

It was hard for me to understand why it is difficult to sell other Senators on this concept and why it was virtually impossible to get the administration to support the thought that we might be doing something wrong in the way we handle Social Security funds. They fundamentally disagree with my concepts and, I think, the concepts historically of what Social Security is.

The administration talks about how much we have increased taxes over the last 10 years—how tax income has grown. They claim that we have plenty of taxes and taxes are increasing. Obviously, they are not talking about taxes for general purposes; they are counting Social Security taxes as if they were general revenue. So the whole mindset is wrong—the mindset that the Social Security payroll tax is just another source of general revenue tax income for another entitlement program.

By the strict technical definition of entitlements in that somebody is entitled to something, it is indeed an entitlement. But using the word as it is generally used in budget matters and politically, it means something we are providing as a grant from the Government. Food stamps, for example, is an entitlement based on need.

Social Security is not based on need. It was not conceived as a program handout and the payroll tax was not conceived as just another tax for general purposes. The notion is wrong that we can hold it back, hold it up, cut off COLA's, because this is just another Federal grant program; not so.

The distinguished Senator from New York does not really go back quite as far as I do. I campaigned for Franklin Roosevelt. I remember very well the creation of Social Security. I remember the despair that people had prior to Social Security as they looked to old age, dependent as they would be on children or dependent on charity or dependent on what we then called the county home where people without any income and without family were sent. All over my State were old county homes. They have long since been converted into art centers or child care centers or into television stations or something useful. But they existed before the enactment of Social Security.

We got away from all that despair with Social Security. I remember the hope, the promise that older people would no longer be living in the kind of poverty that we saw in the 1920's and 1930's, before Social Security.

As we look at the sweep of history and the tremendous advances of new deal legislation, Social Security may very well be the most remarkable piece of legislation to come out of Franklin Roosevelt's remarkable administration.

So this is not a charity program funded by a general revenue tax. The payroll tax is, by all definition, a premium paid for retirement benefits, and the benefits received are not handouts. Social Security is just as sound a policy for retirement as a one you might have bought from the Metropolitan Insurance Co. It is a retirement policy.

So we need to change this concept that this is just another Federal program; that we can take Social Security funds and spend it the way we want to spend it; we can do what we want to with the benefits of Social Security.

This is a retirement program and it has to be treated as a retirement program. We can no longer misuse Social Security trust funds just for our own convenience. We have deceived the public with budget trickery long enough. Fundamentally, what we have to drive home with this legislation and other legislation is that it is time to be honest in Government in the way we treat our funds and our budget accounting.

Using the trust funds of Social Security to mask the true size of our deficit is bad enough, Mr. President, but we do not stop at that. We carry the deceit even further. We spend the money, all of the reserves building up in the Social Security trust funds intended to help pay for the baby boomers' retirement, we use all of that for general revenue purposes. Taxes paid into Social Security trust funds by hard-working people throughout the country, taxes they believe are being held in trust for their retirement, are actually being spent for general revenue purposes, just as if they were general purposes taxes.

To add insult to injury, we do not pay that money back to the trust funds. Instead, we leave IOU's that will have to be paid in the future when the amount of benefits being paid exceeds the FICA tax being collected.

Under this scheme, many of our young workers are paying for their Social Security retirement today, more than they need to pay, money they could be using for other purposes, as a hedge against an uncertain future. They are paying in today and they will pay again later in order to put that money back so they can draw their benefits.

This is a pay-now/pay-again-later policy. This is the policy that the administration is trying to protect in opposing this legislation.

The Federal Government, as hardly need be said, is running a deficit, running a debt. That debt is now climbing to $4 trillion. We do not have any money in the till to pay back the Social Security reserves that we have spent and continue to spend.

Is this thievery? It is close to it. Some take issue with the use of the word thievery and with the word embezzlement when describing our use of Social Security reserves.

It is. If a private corporation used its retirement pension funds to pay operating costs and substituted IOU's, it would bring down the wrath of the SEC and the employees concerned would go to prison, and ought to.

We make the laws. We allow this type of accounting. We allow this type of embezzlement, if you will, in the Federal Government. We have not yet declared it illegal. I think we should, and I think we will with the legislation.

The time has come to account properly for all Federal expenditures and receipts. We are not handling any of the Federal retirement trust funds in an honest manner. Honesty is a very simple proposition. Every person in America ought to understand honesty. We are not being honest. We are being deceitful in simply not telling the truth. We are piling up IOU's all of the time, IOU's in all Federal retirement programs now totaling more than $650 billion. Money we owe, but we do not have the money to pay back.

I have also wondered, if I might put in a parenthetical, not only should we take retirement funds off budget, not only should we build a protective wall to keep greedy hands from reaching into this reserve funds, not only should we make Social Security a pay-as-you-go proposition, but I do not think we ought to leave much of this money in Government bonds. Other countries have taken other approaches.

I cite an example of my own experience. A university with its endowment funds would not think of putting all of its funds in any one kind of security, let alone Government bonds. They spread out the risk. It is a peculiar thing that people probably do not stop to think about, how secure Government bonds have been and probably still are. But there is nothing behind a U.S. Government bond except the right to tax.

State bonds, municipal bonds, I suppose corporate bonds have collateral behind them. We do not have that in the Federal Government. We simply have the right to levy additional taxes.

So I would hope we could look down the road at a broader, sounder, more rewarding, investment policy for Social Security trust funds, that we will hold in trust for the beneficiaries. I think that is a good idea down the road. But first, ought to get rid of all of our damaging, deceptive accounting gimmicks and stop the improper use of these funds and be fair to employees and employers who pay the Social Security payroll tax.

We should enact Senator Moynihan's bill. We need only a safety net, a cushion of reserves of 18 months, to make certain that the program is secure. We cannot properly account for and protect Social Security surpluses; we cannot do it. We are spending it improperly with no way to pay it back. Therefore, it only makes sense it is only fair play, to cut off the excess and to make Social Security a pay-as-you-go plan.

Mr. President, Social Security as we know it today, as I said earlier, is a pay now, pay again later retirement plan We would be far better served with a pay-as-you-go retirement plan. No one should be comfortable in continuing to pretend that we are saving for the future. We are not. This is the point Senator Moynihan is making with his proposal to cut the Social Security payroll tax. If we are not going to save it for the beneficiaries, if we are going to continue spending it for general revenue purposes, we should roll back the payroll tax, lift the tax burden from the young working men and women and for the companies for which they work.

It is for this reason, Mr. President that I am delighted to be a cosponsor and supporter of Senator Moynihan's proposal. I certainly hope that we will all understand that the time for action is now.

I thank the Chair. I yield the floor

Mr. MOYNIHAN. Mr. President, would like to state what I think the

Senator from North Carolina knows, which is that I never feel so secure in this Chamber as I am when any view I may have is supported by the Senator from North Carolina, or when I can support his view. I do not know that two could be close in performance in their voting patterns than he and I.

The Senator has been so many things in our Nation: a great Governor who made history in North Carolina, a head of a great university. He has handled pension issues before—State pension funds, university pension funds. He says explicitly that our current system is a pay now and pay again later arrangement. We will be reviled for it. We will not be understood.

I would like to make the point—I see Senator from Nebraska is on the floor—that in 1981, the then Secretary of Health and Human Services, our former colleague Richard Schweiker, came before our subcommittee and said that, first of all, we need not raise the reserve level above 50 percent.

He said:

> As a matter of prudence, I personally believe that a level of at least 50 percent is reasonable, and that once the financial integrity of the system is restored, a fund ratio of at least 50 percent should be maintained as nearly as possible.

The reserve level is at 100 percent today. It will rise, under the proposed arrangement, to 150. That is three times what Mr. Schweiker thinks is adequate. Then, just for the RECORD, Mr. Schweiker said that once you have that level, you should begin returning to pay as you go, which was the historic basis.

He said, and I quote, Mr. President:

> It will be possible, even under pessimistic economic assumptions, to have a somewhat smaller Social Security tax rate increase in 1985 than is now scheduled. Then in 1990 the Social Security rates can be decreased below the current level.

What Mr. Schweiker proposed in 1981, is similar to what we are proposing to do now.

Three-quarters of the population pay more in social security tax than in income tax, and we as an institution, a very silent institution in some parts of this Chamber, say nothing.

I see the Senator from Nebraska is here, but I would like to speak for just a moment about the immediate economic stimulative effect of reducing this tax on labor. The Social Security tax is elementally a tax on labor. It hits labor-intensive small industries hardest. If you want to increase the supply of a certain product, you reduce the levies on it.

Michael Boskin, now chairman of the Council of Economic Advisers; Gary Hufbauer; and a whole series of economists have testified that if the social security tax were reduced, employment would increase, and consequently payroll tax revenues would increase. Gary Hufbauer at Georgetown has estimated that returning to pay-as-you-go financing would create a million jobs—1 million jobs—in 4 years' time. We will see. What do you say we do it and find out?

I thank the Chair. I yield the floor.

The PRESIDING OFFICER (Mr. KERRY). The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, it gives me a great deal of pleasure to cosponsor the initiative and the bold proposal of the Senator from New York to rollback the January 1, 1990, Social Security tax increase.

I am very pleased to join with my colleague from New York and my colleague from North Carolina and others who have served on the Budget Committee together and have a basic understanding of what we are doing. If nothing else, this proposal, hopefully, will alert America to what is going on. I notice the embezzlement chart that is placed right next to the prime sponsor of this measure. Embezzlement is a word that is very, very true in this case. The difference is that if you have embezzlement in the private sector, people go to jail. But if you have embezzlement at the Federal level, it is accepted as a necessary evil.

Having served with Senator MOYNIHAN and my friend and colleague from North Carolina on the Senate Budget Committee for a number of years, I can safely say there is no Member of Congress with more expertise on the Social Security System and its intricacies than the distinguished Senator from New York.

I strongly support the Moynihan proposal to gradually—I emphasis "gradually"—roll back the Social Security collections for several, but one important, reason: The thievery from the Social Security trust fund must stop, and it must stop now. The American people are just now learning that there is very little trust and very little fund in the Social Security trust fund.

In reality the trust fund is merely a bookkeeping creation to collect more money in one door and immediately spend it out another door. When the grand old generation goes to the Social Security trust fund cash register and opens the drawer, they will find no money as they had presumed, only a very large and ever-increasing stack of IOU's from the Federal Government.

Mr. President, I say it is better to leave Social Security payments in the pockets of working Americans than it is to permit the present larceny to continue for even one additional day. Yes, you will hear opponents of this proposition say it will add to the deficit. What they are really saying is that the trust funds should pay for the day-to-day operations of the Federal Government. What they should say, what they should recognize, and what all should recognize is that this is a ruse.

We have significantly increased the taxes on the working people of America, not to make Social Security solvent in future years, but to fool them into the belief that they are paying into a trust fund when in actuality it is just another very regressive form of taxation that is not being employed for the purpose for which it was assessed.

Mr. President, the American people must understand that there is no surplus in the Social Security trust fund; just a pile of IOU's. The so-called surplus in reality is a deficit. It is a deficit which working men and women will be asked to repay with interest 10, 20, and 30 years from now. When the Social Security trust fund was created, it was designed to operate on a pay-as-you-go basis. That is the way it should be run today. If it were operated as intended, current and future retirees would not be adversely affected. They are very critically being adversely affected under the present system. In fact, their interests would be strengthened because the ability to spend the trust funds on the day-to-day operations of the Government would be limited.

In like manner, workers will benefit because the 1990 tax increase can be rolled back and future increases will be made unnecessary until at least the turn of the century. The ability to meet the long-term future obligations of the Social Security trust fund depends entirely on the future prosperity of this Nation. Borrowing from the trust fund today only guarantees general tax increases in the future to pay for the long-term interest-bearing bonds created by the current practice.

The Moynihan tax rollback plan will not only strengthen the system, but it will also end the game of hide the deficit. Much has been made this week of the record $300 billion deficit that the Nation faces in this fiscal year. Mr. President, over and over and over again, the American people are being told a lie as to what the real deficit is.

You will remember just in January of this year the President came forth with his budget proposal to the joint session of Congress. He had a plan that would get us down somewhere around a $64 billion deficit by the end of the fiscal year. Then shortly thereafter, when a degree—I emphasize "a degree"—of responsibility and honesty set it, well, maybe it would only be $100 billion. Then it crept up to $180 billion. Just a few weeks ago it was raised to $300 billion, which is a common phrase that we hear today. Indeed, the President, in his most recent address to the Congress, set it at $232 billion. That was a matter of 40, 50 days ago. It has gone from $232 billion now up to $300 billion.

But, Mr. President, none of these figures could be further from the truth. It is another reason that at least we should not fool the people by proceeding with this proposition that somehow, through tomfoolery and embezzlement, they are being unfairly taxed, told that it would save the Social Security system in the future, when actually the money is being realistically treated just as any other receipt of the Federal Government. It would be more honest and straightforward to have adjustments made in the Tax Code, if that be necessary, rather than to continue with this tomfoolery and dishonest practice.

Approving the Moynihan proposal is the first step toward fairness for the working people and security for the seniors, a strengthening of the trust fund and at long, long last fiscal honesty in budget and financial policies of the United States of America.

I thank the Chair and I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. There is no one in this Chamber who better understands, represents, and embodies the qualities of integrity, openness and firmness as the Senator from Nebraska. I so much appreciate what he has said. Can I ask the Senator if he is aware of the strong support this measure has from the National Federation of Independent Businesses? Some 500,000 businesses have sent out postcards calling this a key small business vote, because self-employed businessmen and small store operations must pay tax on their labor whether or not they are doing well. A return to pay-as-you-go financing will impact positively on the success of the small business sector, and they see it. This is not just a matter of working people. It is employers, as well.

I believe the time has come to stand in recess for the weekly party caucuses. I simply want to express my gratitude to Senator EXON.

Mr. EXON. If I might respond, to answer the question, I was aware of that. And I am aware of the fact that many other very large interest groups that are interested in fair taxation are interested in moving this country forward, and recognize the basic fairness and honesty of the Moynihan proposal.

Let me ask this question, it may be that the Senator from New York has touched on it. I believe, though, that we have accurate information that indicates the dishonesty of this whole practice, and the regressiveness of the present system by the fact that a very, very high percentage of the people in the United States today pay more in withholding taxes than they do in income taxes. That is directly opposite to the intent of Social Security.

Social Security, when it started, was a rather miniscule part of the total obligations, whatever they were, that people had to the Federal Government. Is it not true today, I ask my friend from New York, that a very high percentage of people, working people in the United States, pay more in Social Security taxes or alleged Social Security taxes than they do in income taxes?

Mr. MOYNIHAN. The Senator is exactly correct. The proportion is 74 percent. Three quarters of the American people pay more Social Security contributions than income tax, but their Social Security contributions are used as if they were general tax revenues.

Mr. EXON. Would the Senator happen to have at his disposal—I am not sure he can get it for us—just exactly what that percentage was when the Social Security system started?

Mr. MOYNIHAN. Yes, sir. We will have that at the end of the recess.

Mr. EXON. I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, at 12:33 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

REMOVING SOCIAL SECURITY FROM THE BUDGET

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, we have had a good morning's discussion of the legislation before us, S. 3167, a bill to return the Social Security Program to a pay-as-you-go basis.

I do not see any other Senator seeking recognition, although I have spoken with the Republican leader and he indicates that there will be an amendment offered, possibly several. We will await that event, not knowing at all what the amendment might be.

But while we have one moment, and knowing the Presiding Officer's great fondness for the political history and perhaps especially the history of the 1930's, we have had some discussion of how we are using the payments into a pension fund and how they are being used as general revenues as if they were taxes.

And purely as a footnote to our history, but not an unimportant one, the Senate might like to hear again how it came about that these measures were handled from the Finance Committee in the Senate and the Ways and Means Committee on the House side. It is well-known the original bills were drawn up by Frances Perkins, Secretary of Labor. They were offered here in the Senate and in the House by my great predecessor, Robert F. Wagner, a Senator from New York, and comparable members on the House side from the Labor Committees.

Well, this was a perilous thing to do in 1935. Even though Huey Long stood out here and thundered about sharing the wealth, this kind of legislation never got anywhere, for the very simple reason it could not get past the Supreme Court, which was not yet across the street. It was still just right down the corridor.

And Frances Perkins, in her wonderful book, "The Roosevelt I knew", tells of one of those little details.

> It is difficult now to understand fully the doubts and confusions in which we were planning this great enterprise in 1934. The problems of constitutional law seemed almost insuperable. I drew courage from a bit of advice I got accidentally from Supreme Court Justice Stone. I had said to him in the course of a social occasion a few months earlier that I had great hope of developing a social insurance system for the country, and that I was deeply uncertain of the methods, as, I said, laughingly, your Court tells us what the Constitution permits.

And the Presiding Officer will remember, the Court was always saying, "No, you cannot do that."

Stone had whispered—you can just see this moment out in Georgetown: That elderly, courtly gentleman whispering to Frances Perkins, who had a great talent for seeming a very innocent young woman in need of help from big, stronger men.

She developed that in Albany, in the days of Al Smith. Stone had whispered, "The taxing power of the Federal Government, my dear; the taxing power is sufficient for everything you want and need."

So, in fact, the legislation that became the Social Security Act was introduced in the House by the chairman of the Committee on Ways and Means, a gentleman little known to history. It came over here and passed here. That was to get around the constitutional question. The Court would say we cannot find anything in this Constitution about a Social Security System. But the Court did, I believe in 1938, say you are quite free to impose a "tax."

But this was never meant to be a tax in the general revenue sense. It was always a pension contribution. And to see it change and, as the distinguished Presiding Officer said, to see us move to a situation where you pay now and you pay again later—that is the only reason I can think I am glad that Frances Perkins is not still here in Washington among us.

Mr. President, I see no Senator seeking recognition, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I will use this somewhat idle moment to suggest that the sponsors of this legislation are ready for a vote. We do not want to detain the Senate in the last 2 weeks of this Congress, and we will be happy to vote whenever the Republican leader and the majority leader are ready.

We have not heard today any address made here in opposition. I found myself in that situation some months ago and, in a mood of greater levity, said, "I can make the arguments against this amendment if you would like." I am not going to make any arguments against this legislation. There has been no argument made in opposition. I think that is important.

There will be those telling us that we cannot afford this; we have just made an agreement to produce the 5-year budget program, and this will make us look like a laughingstock. Would my colleague rather look like a laughingstock or look like someone breaking a public trust? If you have to risk looking like a laughingstock to defend the integrity of the Social Security pension system, then I am prepared to do that. There is an issue of integrity here.

We have used that signboard back there. Quoting a New York editorial I said what is going on is thievery. On television, Senator HEINZ was asked: "Do you agree with the term 'thievery'?"

He said, "Certainly not. It is embezzlement."

These are not minor terms. To say it will make it more difficult for us to do what we are now agreed to do is correct, but not surpassingly more difficult, to find $3.9 billion. That is not a great deal. It is only difficult if you do not want to do it, if you want to go on using pension fund contributions as general revenue; not small amounts, huge amounts. We are talking about $500 billion in deficit reduction in the next 5 years. That $500 billion is matched by $496 billion in Social Security trust funds. That is the ghost at the banquet. No one ever wants to see that reality.

We ask, why do the American people seem not to trust this process? I say, what is so trustworthy about it?

I know Senators all over this Chamber, good friends, are just petrified by what this will mean. They could ask themselves, what if it meant honesty? What if it meant recognizing that for a generation, American wages have been flat? As I said several times this morning, average weekly earnings in the United States today are lower than they were when Dwight D. Eisenhower was President. They are lower because the Social Security payments have tripled, or quadrupled, I guess. Otherwise, it would be a few dollars ahead. It would not be flat. Effectively flat, but they are lower. And we do not even want to give back. In 1981, Secretary Schwelker testified for the Reagan administration and said we should start cutting these rates in 1985 and clearly go down. It is not new.

We have been here patiently for a full year. We held hearings in the spring of 1988; we received a GAO study in January 1989. That is almost 2 years ago now. It said go to currently operated balanced budget and save the surplus, or go back to pay-as-you-go. We have the National Economic Commission report March 1, 1989, which said the same thing.

As the majority leader has remarked several times, on two previous occasions in this Congress, I have asked to put this matter on the debt ceiling extension. I had been asked not to do so. I said, fine, but I will eventually do so.

Then that eventuality came to pass Friday evening, and I said, no, I will not do that, but may I not have a free-standing vote? And here we are today under that agreement.

Is it that there has been no notice? I have not rushed into this, nor has the Presiding Officer with his very sensible proposal.

What is the deficit? The deficit is what you borrow from the public and borrow from the trust fund, and stop all this cascade of definitions, obfuscations. Trying to conceal the deficit is not hard. Deficit is what you borrow from the public, from the trust funds.

I believe that legislation was ready a year ago. I remember discussing it. We have not intruded on these procedures. Here I stand in an empty Chamber. There is not a single Member of the Senate on the floor. There has not been, Mr. President, the entire day. From the time the prayer was concluded this morning, there has not been one Member present on the opposite side of the aisle that I have seen. There may have been and I did not see them. Certainly no one spoke; no one sought recognition. No one does now. I say nothing; there may be a caucus going on. But there is no one there and there is no one here, and we are ready to vote.

What are we afraid of as an institution? I have to tell my colleagues that I think we are afraid of having to record ourselves in this matter, and we should not be. Just vote. Vote the way Frances Perkins would have wanted you to vote. Vote the way Robert Wagner would have wanted. Vote the way the people who enacted this legislation in 1935, in times that were really in trouble, had the courage to do. Vote the way they would do it.

They would say, oh, no, you cannot use that money as general revenue, that is a pension contribution. We put a name on everybody. Everybody received a number and a name; that goes into your account under your name. It is your pension. It is an institution that has lost perspective if it feels it ought not to face up to that and get rid of that issue quickly. There is no incentive better that the Presiding Officer's.

Four Members of the body have come on the floor, but there is still not a body seen on the opposite side of the aisle. I am not meaning to make an issue of it. I just find it difficult.

Mr. President, in order to make the point that I do not mean to prolong the matter, does the Senator from Florida have in mind to speak? Or is he simply moving around?

Mr. President, I could speak, obviously, but I will not, because I want to make a point that I am here to listen as well and respond, if need be. So I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I rise merely to observe that once again there is no Member on the floor. The Senator from Connecticut came in, made a brief and very persuasive statement about a bill he is introducing, which we will take up on the Finance Committee next year, I suppose, at that point, but since we have come in this afternoon no Senator has addressed the Chamber on the subject of the returning Social Security to a pay-as-you-go basis ending the use of contributions as if they were general revenue.

I do not suppose you call Hamlet the great Dane, do you, but how does that line go? The rest is silence.

I look about me in the Chamber. It is silent. The Chamber is almost as empty of staff, who usually provide a certain cheerful assemblage behind the rails over there in the respective corners.

Why do we not want to discuss this matter, Mr. President? Has it become so bad that we do not even want to talk about it?

The Presiding Officer was here talking about it and listened while our colleague from South Carolina spoke. Is there something on our conscience? Is there something on our conscience? Have we a bad conscience? I cannot easily explain this pattern of silence, of avoidance, of absence. I do it without any sense of accusation. I tried to explain this morning how this subject

slowly came upon us. We went with a partially funded system in 1977. Almost nobody noticed.

I was a member of the Committee on Finance and of the committee of conference that agreed to the final legislation. I do not think I quite noticed. We went through the turbulence of the early eighties and forgot, in the distractions, of the slide down toward a very narrow range of reserves that came about because of the only time in our recorded history in which prices ran ahead of wages for a period there, and that would bring a system like this down very quickly. Whereas, in a recession it shows but does not show much.

In the early eighties, Mr. SCHWEIKER, the first Secretary of Health and Human Services for President Reagan, said the number of rate increases we have in place are too high. We will go to 1985 but no further, probably go down and knock off the last few, probably ease down from 1985. He thought a 50 percent reserve would be more than adequate. We have 100 percent today. This bill says go to 150—half a trillion dollars in reserve and says start out this last budget calculation with an honest budget, that we will not take from working people's pockets pension contributions and spend them on interest payments to bondholders. Already, all the income tax collected west of the Mississippi is required to pay the interest on the debt.

Kevin Phillips, a man of impeccable and conservative credentials, who wrote "Politics of the Rich and Poor," said that is what has been going on. He said the rich have been getting richer and the poor getting poorer.

I tell you what I will do, Mr. President. No one else is here. Let us look at the income distribution of the last 8 years, the last decade. We have a chart here. It is not easy to see so I will not over much insist on the visual aid if you like, but this is from Mr. Phillips' book, "Income Gains and Loss, 1977-88," 11 years. These are constant dollars, average family income. The first 10 percent, the first income "decile" is the phrase—decile for decimal, decade—the first bottom 10 percent lost 15 percent of their income in that period. The second lost 8 percent. The third lost 6 percent. The fourth lost 7 percent. The fifth lost 6 percent. The sixth lost 5 percent. The seventh lost 4 percent. Now it is the eighth lost 1 percent. The ninth gained a tiny 1 percent. The top 10th gained 17 percent.

That is the sort of thing that turbulence is made out of. The top 5 percent gained 23 percent, and the top 1 percent gained 49.8 percent—49.8 percent for the whole 11-year period. For the whole 11-year period, all families, the income again was 2.2 percent. The top 1 percent, it was 25 times as much, 50 percent.

All of this is part of a pattern of using payroll contributions as general revenue taxes. Three-quarters of the people in these 10 deciles pay more Social Security contributions than they pay income tax. It is not surprising they do not pay much income tax. The bottom first goes down 15 percent, and the top one goes up 50 percent.

Sir, that is not the kind of country we have been or thought we were becoming, or were. And there are many things that have contributed to that. But the regressive Social Security levies have contributed a very considerable part. I do not say the largest part, but I say it is the one part we can do something about here today.

Sir, still no one comes to the floor. What do we not want to talk about—how the top 1 percent of the income distribution has its income increased by half in a decade when the lowest 10 percent lost 15 percent? Every income group until you get to number eight, at the 80-percent level, lost.

I started out this morning pointing to a General Accounting Office study of the average hourly pay. The Bureau of Labor Statistics has been collecting that for about 70 years now. It is about exactly 70. It is a good index of how people were starting to get paid by the hour in the factories, making good money as you looked and if you worked a little more, but it looked like good money. They started paying you by the hour as opposed to the month or year as farm hands would do.

Here is your average hourly earnings.

I am sorry about the visuals, Mr. President. But what you can see is that the average hourly earnings today, in 1988, the last numbers we have, are no more than they were in John F. Kennedy's second year in the Presidency. If you go back almost 30 years, the working people have not had a nickel extra. Out of those average weekly earnings we are taking three times as much Social Security contributions.

Mr. President, I see my distinguished friend and cosponsor is on the floor, the Senator from Wisconsin.

I yield the floor.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I want to join Senator MOYNIHAN in urging the Senate to reduce the Social Security payroll tax, and to do it today.

This measure that is before us would reverse the accumulated Federal tax bias against families, leaving them with more of their own income to invest in their children. Payroll tax cuts would spark economic growth and, importantly, would encourage job creation. I want to concentrate on the job creation part of this issue if I can.

Under this Moynihan plan, which phases in the payroll tax cut over 6 years, two-earner couples would receive up to $1,500 in their pay collection by 1996. It would leave a healthy cushion, and it is important, in the trust fund, to ensure benefits. And, according to the U.S. Chamber of Commerce, lower taxes on business and workers would increase GNP—gross national product growth by 0.3 percent a year and create 500,000 new jobs.

Payroll tax cuts would not hinder Congress' efforts to balance a budget. In fact, the budget resolution passed last night envisions deficit reduction without the mask of Social Security cash surpluses. By removing the mask of the tax surplus, we will bring honesty to the Federal budget and preserve the integrity of the Social Security system.

But perhaps more importantly, I say most importantly, we can give American families some much-needed tax relief. From 1955 to 1988 the Federal tax burden on middle-income families grew twice as fast as their income. In 1955, the median income family of four paid Federal taxes at an average rate of 9 percent per year. In 1970, it paid 16 percent. In 1988, it paid 24 percent. Let me repeat that. In 1955 the median family, the average rate, 9 percent, in 1955; 1970 it went to 16 percent; 1988, 24 percent.

The increase in the overall tax burden borne by lower- and middle-income families in the 1980's is due to the payroll taxes, not Federal income taxes. In fact, the Reagan income tax cuts have been offset by payroll tax increases in the 1980's. Moreover, if it were not for the tax reforms that were passed in the middle 1980's, which removed poor families from the income tax rolls, the poor would be shouldering an even heavier tax burden today than they are.

Today, and I heard it said this morning—I want to repeat it—74 percent of taxpayers pay more in combined payroll taxes than they do in income taxes.

Mr. President, encouraging small businesses growth is another important reason for cutting the payroll tax. In June we held a hearing in the Small Business Committee on the impact of payroll taxes, and we discovered the following in that hearing.

The payroll tax burden discourages many individuals from starting a new small business. For those small businesses in trouble, the payroll tax burden is often the last straw before a small business is forced to close down.

It hurts self-employed businesses who must pay both portions of the payroll tax. These people have seen their payroll tax burden double over the last decade from $4,000 to $8,000.

We also discovered in the series of Small Business Committee hearings that rising payroll taxes are forcing some small businesses to cancel employer-provided benefits.

Mr. President, I would like to submit for the RECORD, and I ask unanimous consent to have printed in the RECORD, a letter by the NFIB and the U.S. Chamber of Commerce in support of the Moynihan tax proposal.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUPPORT ROLLBACK OF THE FICA TAX

DEAR SENATOR: On behalf of the over 500,000 members of the National Federation of Independent Business, I urge you to support Sen. Moynihan's amendment to reduce FICA taxes. The amendment would roll back the FICA tax rate over a five-year period, returning the Social Security system to pay-as-you-go financing.

The majority of small business owners pay more in FICA taxes than they do in income taxes. And these taxes must be paid whether or not the business is making any profit.

Self-employed business owners must pay the entire 15.3 percent FICA levy themselves—a significant disincentive to starting your own business.

Help America's small business owners, help America's workers, help America's economy. Vote for the Moynihan amendment to cut FICA taxes. This will be a Key Small Business Vote for the 101st Congress.

Sincerely,

JOHN J. MOTLEY III,
VICE PRESIDENT,
Federal Government Relations.

U.S. CHAMBER OF COMMERCE,
LEGISLATIVE AND PUBLIC AFFAIRS,
Washington, DC, October 5, 1990.

Members of the United States Senate:

Senator Daniel Patrick Moynihan has announced his intention to offer an amendment to the debt ceiling/continuing resolution bill to cut Social Security (FICA) taxes and return Social Security financing to its traditional pay-as-you-go basis. The tax reduction proposed would occur gradually over five years.

The U.S. Chamber of Commerce supports a FICA tax reduction. This tax on employment, which has risen steadily for years, has had an adverse impact on employees and employers alike. The burden falls especially heavily on small businesses, which generally are more labor-intense than larger firms. Unlike income taxes, FICA taxes are an immediate and inescapable cost, payable whether the business is flourishing or floundering. High payroll taxes constrain not only employment but overall financial capacity and competitiveness in the global marketplace.

It is by now widely understood that the excess FICA taxes being collected today are not being saved to finance the next generation's retirement. Instead, they are used, through the purchase of special-issue Treasury bonds, to finance current government spending.

The Moynihan proposal returns these excess taxes to the workers and employers who have earned them, without threatening the benefit security of current or future Social Security recipients. The Chamber urges you to endorse this honest and equitable idea by voting for the Moynihan amendment.

Sincerely,

DONALD J. KROES,
Vice President.

Mr. KASTEN. Mr. President, I want to make a special appeal to my Republican colleagues. I believe I might be, if not the only, one of the only Republicans who has stood on the floor today with the Senator from New York.

Recent polls show that the American people believe that the Republican Party favors the rich over the little guy. This is simply untrue. I think the American people are being misled by the press and by members of the other party.

Our policies created almost 20 million new jobs, sparked by a resurgence in family income growth, and reduced income taxes by 134 percent for families earning $10,000 a year.

Unfortunately, I think votes against this tax cut for working families may have the effect of further perpetuating this myth. In summary, this vote, the vote for the Moynihan FICA tax reduction, is a vote for the American family. It is a vote for small business growth; it is a vote for jobs; it is a vote for honesty in budgeting; and it is a vote that can help our overall economy, as we are seeing now the beginnings of a recession in many parts of our country.

This is an important vote for both Republicans and Democrats, because this vote shows that we are concerned not only about truth in budgeting, but that we support continued economic growth. We can be successful, and this particular bill, this particular vote is very, very important.

I hope that all of our colleagues on both sides of the aisle will join Senator MOYNIHAN, me, and others in voting in favor of this proposal so that we can ensure economic growth and new jobs creation.

Mr. President, I ask unanimous consent that three articles that I have written on this subject be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 15, 1990]

(By Robert W. Kasten, Jr.)

WASHINGTON.—I became a Republican in large part because the G.O.P. offered a responsible alternative to Big Government. And by standing with the American high taxes and government encroachment—the G.O.P won three consecutive national landslides.

That's way I can't understand my party's reluctance to support Senator Daniel Patrick Moynihan in his effort to roll back Social Security taxes. The issue for Republicans is simple: Are we going to go forward or are we going to turn back?

Two years ago, then-Representative Jack Kemp, Republican of New York, and I went forward by proposing a payroll tax cut as part of an omnibus jobs and economic growth bill. It was as clear then as it is now that the payroll tax is an outrageous burden on the middle-income families.

Since 1955 the basic payroll tax has risen nearly 400 percent. Today, 74 percent of taxpayers pay more in combined payroll taxes than they do in income taxes.

The impact on family budgets has been devastating: from 1955 to 1988, the Federal tax burden on middle-income Americans rose twice as fast as their income. In 1955 a median-income family of four paid Federal taxes at an average rate of 9 percent a year. In 1970 it paid 16 percent, and by 1988, 24 percent.

While we've cut income taxes during the 1980's most of those savings have been eroded by the 22 percent payroll tax increase. The maximum payroll tax for a one-earner family is now a whopping $6,360 a year.

Moreover, payroll taxes have hurt businesses and workers by increasing labor costs and the prices of goods—which hurts competitiveness—and reducing take-home pay. The high payroll tax has been especially burdensome to the self-employed, who have to pay both portions of the tax. Welfare recipients have been discouraged from taking entry-level jobs by the high tax on their first dollar of earnings.

So, I agree in principle with Senator Moynihan's proposal. However, I believe a more modest tax-cut plan has a better chance of passage. Therefore I recently introduced legislation that would cut the payroll tax for both employers and employees from the current 6.2 percent to 5.3, compared with 5.1 percent under the Moynihan plan. This would save families up to $519 per worker, by 1992, while leaving a healthy reserve.

Allowing Americans to keep more money would boost the economy and raise private savings and investment. The Institute for Research on the Economics of Taxation estimates that by the year 2000 this tax cut would add between 450,000 and 920,000 new jobs, raise the gross national product by almost $300 billion and increase investment capital by $180 billion.

We all cheered when President Bush told us not to "mess" with Social Security. He's right. Social Security is a compact between generations. We must not imperil the benefits that our current and future retirees are counting on—and we will not. But that compact does not provide for tax increases in the name of Social Security that only serve to mask the Federal deficit.

So I appeal to President Bush: Join us in enacting this pro-growth tax cut. Millions of Americans want to believe that the Administration is on their side. We can't let them down.

[From the American Spectator, August 1990]

MOYNIHAN AND THE CONSERVATIVES

(By Robert W. Kasten, Jr.)

Sen. Daniel P. Moynihan (D-NY) has unwittingly proposed one of the most pro-family legislative initiatives in recent years—a cut in the Social Security tax. The measure would reverse the accumulated federal tax bias against families, leaving them with more of their own income to invest in their children. Payroll tax cuts would spark economic growth. So why haven't conservatives grabbed this ball and run with it?

I have recently been joined by the Heritage Foundation and Citizens for a Sound Economy in the crusade for a payroll tax cut. Most conservatives, however, are divided over how to respond to Moynihan's initiative. Fearful of a backlash from senior citizens, most conservative politicians—including my friend Newt Gingrich and Vin Weber—support the status quo. Free marketeers see the Moynihan opening as a rare chance for fundamental reform of Social Security.

From a political standpoint, conservatives are in danger of surrendering the field of pro-family, pro-growth economics to the liberal Democrats. While Democrats in Washington have kept the Moynihan plan at arm's length, those on the grassroots level have responded with a rising wave of enthusiasm. Last May, the Democratic National Committee and the centrist Democratic Leadership Council endorsed the Moynihan plan.

Ironically, the Moynihan plan stems from a conservative Republican initiative. Two years ago, Jack Kemp and I saw the threat that the looming Social Security tax surplus was posing to the economy, and we proposed legislation to cut the payroll tax. A GOP plan to cut taxes didn't break any new political ground. Perhaps more importantly, the Social Security surplus was small, and few people fully comprehended its role in subsidizing the rest of the federal budget.

Skeptics claim that Senator Moynihan's real motive is to force President Bush to break his "no new taxes" pledge. Whether or not that's true, I believe we should take advantage of every opportunity to cut taxes. And now more than ever, the American family needs a tax cut: From 1955 to 1988, the federal tax burden on middle-income families rose twice as fast as their income. In 1955, a median-income family of four paid federal taxes at an average rate of 9 percent a year. In 1970, it paid 16 percent and, by 1988, 24 percent.

The chief culprit has been the payroll tax, which has risen 400 percent since 1955. Today, 74 percent of taxpayers pay more in combined payroll taxes than they do in income taxes. To be sure, rising income taxes and the erosion of the personal exemption have contributed to this rising family tax burden. But the 1981 and 1986 Reagan tax reforms addressed these problems; tax rates were reduced and the personal exemption was doubled. The next logical step in pro-family tax reform is to cut the payroll tax.

American families have less and less take-home pay at a time when the costs of child-raising—child-care, health, housing, and college education—have outpaced inflation. Congress has responded by creating more federal programs for middle-income families, like Head Start and the Act for Better Child Care. Over time, these programs develop entrenched bureaucracies and special-interest constituencies who work to expand them further, requiring even higher taxes on families.

This high tax burden has changed family life in America—for the worse. Parents must spend more time working to pay the tax bills, and less time raising their children. Many mothers are now forced to enter the work force because one paycheck can't cover the combined costs of the monthly mortgage, the electric bill, and little Johnny's babysitter. And many young couples just cannot afford to have children.

We have to bring the tax burden down and leave families with more of their own income to invest in America's children. Cutting the Social Security tax is a good first step, which would save young families up to $600 per worker per year. Conservative activist Jeff Bell put it succinctly: "A lower payroll tax makes it easier to afford children, which is a different kind of real wealth."

Moreover, a payroll tax cut would actually strengthen the Social Security system. We are often reminded about Social Security's declining ratio of workers to beneficiaries and how the ultimate health of the Social Security system itself depends on the productivity of tomorrow's workers. What could be more foolish than to keep boosting an already heavy tax burden, thus discouraging families from bringing up these bright and productive future workers?

Some pro-family advocates argue that instead of cutting payroll taxes, we should double the personal exemption again. To be sure, this measure would help the family. But from an economic standpoint, a payroll tax cut is clearly superior: it reduces a burdensome excise tax on both labor and capital, and it increases work incentives. Furthermore, payroll tax cuts have the political support of a broad-based coalition of senior citizens, small business, and labor groups.

One proposed conservative response to the Moynihan plan—privatization of Social Security—is highly inappropriate. First of all, the American people strongly support Social Security. The fact that most politicians from both parties are wary of even supporting a payroll tax cut is a testament to Social Security's public support.

I can appreciate some of the economic arguments for a private-sector retirement system. But I am convinced that privatization would undermine the traditional family.

Privatization would strip away the Social Security spousal retirement benefit, thus eliminating one of the few federal subsidies for traditional families. Social Security provides additional benefits equal to 50 percent of the principal wage-earner's benefits for mothers who have decided to work at home to raise their children. Therefore, workers in traditional families receive a greater rate of return on their payroll tax contributions. Not everyone would experience higher rates of return on private retirement accounts than they would under Social Security.

Libertarians might argue that the federal government has no role to play in the way people organize their lives. But I think most conservatives would agree that the traditional family is the basic building block of a prosperous and morally strong America. That's why conservatives support pro-family tax breaks and programs that help keep two-parent families intact. Privatizing Social Security would eliminate an important subsidy for motherhood.

Furthermore, proposals to replace Social Security with a private sector retirement system face practical problems. Economist John Mueller points out that the last generation opting out of Social Security would have to pay for retirement twice—once for its parents under the current system, and once for itself under the new private system. This would lead to a multi-billion dollar tax increase that would reduce economic growth and throw millions of people out of work.

The Social Security system works, and should remain the bedrock of America's retirement system. But that doesn't mean we should not encourage private savings to supplement Social Security. We should encourage people to deposit their payroll tax cut savings into tax-deferred vehicles like President Bush's Family Savings Plan. In fact, the combination of pro-growth tax cuts, private savings incentives, and increased immigration could reduce the expected need to raise payroll taxes to fund the baby boom's retirement three decades from now.

We have a huge Social Security surplus today because we based the 1983 reforms on projections of slow economic growth for the rest of the decade. In the future, artificially high taxes will make the low-growth prophecies a reality. We should not try to project economic policy that far into the future, setting in stone tax increases that are unnecessary.

We should improve on the Moynihan proposal by leaving a larger reserve in the fund. By using some of the savings to eliminate the Social Security earnings limit and the onerous taxation of Social Security benefits, we can give the elderly more freedom to work, save, and invest.

What about the budget deficit? If we simply spend the same amount of money next year that we spent this year, we would more than offset the $40 billion revenue loss from this tax cut. And as long as President Bush sticks to his "no new taxes" pledge, the Gramm-Rudman budget-cutting process can take care of the rest. If the President agrees to a tax increase as part of a budget deal with Congress, then the new revenue should be used to finance a payroll tax cut. Alternatively, the Gramm-Rudman deficit targets could be adjusted to reflect the lower level of tax revenue.

Unless conservatives unite to cut payroll taxes today, the $3.2 trillion tax increase—that's how much the excess payroll tax will take from workers over the next three decades—will result in lower productivity, fewer jobs, and economic stagnation. We can't let that happen—so let's seize this opportunity to return some freedom and autonomy to America's families.

[From the Christian Science Monitor, Sept. 24, 1990]

GOP'S SOCIAL SECURITY TAX CUT PHOBIA

(By Bob Kasten)

With economic growth declining and inflation rising, new tax cuts are the most effective way to prevent a return to the "stagflation" of the 1970s.

House GOP whip Newt Gingrich has proposed a bold program of pro-growth tax cuts—including a capital gains tax cut to 15 percent—designed to jump start the economy. Conspicuous for its absence is Sen. Daniel P. Moynihan's plan to cut the Social Security payroll tax.

I've joined with Senator Moynihan (D) of New York in his initiative to return the $60-plus billion Social Security tax surplus to workers and businesses. (In fact, former congressman Jack Kemp, (R) of New York, and I were the first to propose cutting payroll taxes back in 1988.) This measure is pro-family, pro-growth, and pro-jobs.

Most Republicans, however, have kept the payroll tax cut issue at arms length. I can understand their caution. In the past, every time Republicans have tried to improve the Social Security program's efficiency—to achieve some modest deficit savings—Democrats have incited near panic among America's seniors and used it to their advantage in the elections.

However, today the political dynamics have changed. Senator Moynihan, "Mr. Social Security," has created a unique opportunity to cut this regressive tax. Now more than ever, middle-income workers and businesses in this country need tax relief:

Since 1955, the federal tax burden on middle-income families has risen twice as fast as their income. The chief culprit has been the 400 percent increase in the payroll tax since 1955. Today 74 percent of taxpayers pay more in payroll taxes than they do in income taxes.

Payroll taxes now comprise over 50 percent of all the taxes paid by small businesses. It punished self-employed individuals who must pay both the employee and employer portions of the tax. Furthermore, the tax isn't based on profitability: New and marginal businesses pay the same rate as established firms. Rising payroll taxes have increased labor costs for small employers, contributing to the recent rise in unemployment.

Under the new Moynihan plan to phase-in the payroll tax cut over five years, couples earning $54,300 would save $1,878 by 1995. It would leave a healthy cushion in the fund to ensure benefits. And according to US Chamber of Commerce, lower taxes on businesses and workers would increase GNP growth by 0.3 percent a year and create 500,000 new jobs by 1995.

Payroll tax cuts would not hinder Congress's efforts to balance the budget. There is wide consensus in Congress to exclude the surplus form the Gramm-Rudman calculation, and reduce the real budget deficit without the mask of the surplus.

Moreover, unless the surplus is returned to the taxpayers, Congress will have a multi-billion-dollar petty cash drawer—free of normal budgetary constraints—that it could use to spend on new programs.

Many GOP lawmakers are pushing a new income tax credit to offset the burden of the payroll tax. While this measure helps working families, a payroll tax cut packs a bigger economic punch. Politically, a cut in the payroll tax is supported by a broad-based coalition including the National Federation of Independent Business, the AFL-CIO, and the National Committee to Preserve Social Security and Medicare.

While the leaders of the Democratic Party in Washington have yet to embrace the Moynihan plan, it has sparked a rising wave of enthusiasm on the grass-roots level. Last May, the Democratic National Committee and the centrist Democratic Leadership Council endorsed the Moynihan plan.

By stimulating investment, a capital gains tax cut is the most important thing that we can do to get the economy moving again. But advocating tax cuts for investors while opposing tax cuts for working families is terrible politics. If Republicans don't back some reduction in the Social Security payroll tax, we will be in danger of giving "Reagan Democrats" back to the Democrats—and worse yet, we will deserve to.

Mr. MOYNIHAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered.

Mr. MOYNIHAN. I very much want to thank my friend and associate in this enterprise, the Senator from Wisconsin. He and I have talked about this on and off for 3 years, as the issue has begun to emerge.

The first time these surpluses came in sight, and as the issue arose as to just how much, whether we were going to face up to the fact that this was not general revenue, but rather a pension contribution that had to be treated as such. There is a statement recently by Richard Ron, who is the vice president and chief economist of the U.S. Chamber of Commerce, in which he says:

> Congress should also reduce the tax on labor by cutting the Social Security payroll tax, as Senators Moynihan and Kasten have proposed. The reduction in the Social Security payroll tax would leave more earnings in workers' pockets and spur consumer spending.

I think the Senator from Wisconsin will probably share this information, and I speak with some tentativeness here. Most economists have judged that the payroll contributions by employers are seen by them to be a cost of employment, and that if that cost is reduced, part of it will go as higher wages. They are seen as a wage cost.

So the return to employees, not just the benefits of the wage not taken, but also of wage increases that are at least in prospect, and I think that has been for about 40 years the state of the art on the subject.

I simply say that we have from Gary Hufbauer at Georgetown University, a former Treasury official, an estimate that pay-as-you-go financing would create a million new jobs in the next 4 years. What is wrong with a million new jobs over the next 4 years?

I thank the Senator. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ADAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ADAMS. Mr. President, I rise in support of S. 3167 as introduced by Senator Moynihan.

Senator Moynihan's "pay-as-you-go" proposal is both fair and financially sound and should be supported by this body. Throughout debate on this bill, certain very strong words—necessarily strong words—stand out. Words like embezzlement and slush fund. While I would like to think that these words are grossly overstated, they are closer to the truth than I would like to think. It is time for Congress to correct this problem.

Why are people using accusatory words like "embezzlement" and "slush fund?" I'll tell you why. Because we are using the Social Security trust fund to our advantage to create the impression that we are making some headway with the Federal deficit. We are masking the Federal deficit with Social Security. And, in the eyes of the American public, whom we represent, this is criminal.

I know the Presiding Officer and others have worked long and hard on this issue. It is not proper public policy that we should be collecting funds in an unfair manner from the people who can least afford it.

Our use of the Social Security surplus is unfair to American workers and American families—and people are beginning to understand this. People are beginning to ask why they must bear an uneven share of the deficit burden through their Social Security taxes. Of course everyone must help out in some way with the deficit problem, but using Social Security to do so has a much greater and very unfair impact on those who can least afford it.

For some the amount taken out of their pay checks for Social Security isn't a hardship, but for others it is literally a bread and butter matter—food on their tables. These are the people we need to help and who would be given a needed boost by Senator Moynihan's proposal.

Social Security is a tax on employment, a tax on people, as has been well pointed out by Senator Moynihan, and, therefore, we want to ensure that it cannot be used in future years to unnecessarily build huge surpluses and mask the true deficit.

But, more important than that, the most important thing to me, and why I am supporting Senator Moynihan, is that we have many people paying more in this tax than they pay in Federal income tax.

Senator Moynihan's proposal is financially sound. It is not a budget buster. Far from it. This proposal does not threaten the future of Social Security. But it would give significant and necessary help to those American workers and families who struggle daily to get by. Consider the case of the self-employed individuals, and my son happens to be one of them. On several occassions he has indicated to me, "Dad, I pay a 15-percent rate on FICA." In other words, he pays a higher rate on FICA than he does in Federal income tax. For self-employed individuals, this can take them to—and beyond—the breaking point. It is simply unfair that those who earn considerable sums of money don't share the burden anywhere near equitably.

Also Social Security makes it more expensive for the Boeing Airplane Co. in our part of the country to hire a new worker and pay these kinds of taxes, than it is to simply work the present work force overtime. In fact, it got so bad that people who were working for the company—and this is almost unheard of today—wanted a limitation on the amount of overtime that they had to work every month because they were working many, many hours of overtime. They wanted the overtime, but they did not want it to be a regular employment practice.

We want to be certain that the Social Security trust fund is safe. I am

pleased with what Senator Moynihan has done. We should go to a pay-as-you-go basis, but still build a reserve fund. That is very important. We do not want to happen to this fund what happened in 1983, which we corrected under the leadership of Senator Moynihan and others, to see that our children and our children's children will have adequate Social Security. But they should not have to pay twice. They will pay now and then they will pay again later as they start to pay off that massive debt. So they pay in now for their security, and they will pay in later to pay off the debt that we have accumulated because we have hidden it with the Social Security tax. This is what we must ensure does not happen.

I am glad that Senator Moynihan has brought this before us. I do not know whether or not we will be successful in making these corrections at this time.

As a final point, I would like to make a suggestion, and mind you this is a very rough suggestion.

If we are generating excess revenues that could be used to help out anything, it should be used to help Medicare to remain solvent, and to help ensure against any great increases in the Medicare deductibles, as has been suggested previously during budget negotiations. The Medicare trust fund is so heavily burdened that its insolvency is predicted for the near future. We must not underestimate the financial burden felt by beneficiaries, as well.

Our retirement policy is wrapped—it is out of balance. We have two very important and related programs, both designed to ensure security in our retirement years, both written into Federal law under the Social Security Act, yet one is healthy and the other is very, very sick. I certainly see the relevance and the legitimacy of using excess revenues to provide badly needed help for Medicare. I do not see, however, any legitimacy in using the Social Security trust fund to lull us into the false sense that we are improving our Federal deficit problems.

I put this out only as a suggestion. If we have a revenue source that is being used for other purposes, as is being done with Social Security, and then we attack the weakest in our society, the sick and the poor, and make them pay more, that just does not seem to be quite fair to me, Mr. President, I think that is the problem that we are trying to address here, and I hope we will continue to address it during the next 2 weeks, and that we will be able to produce a fairer system.

So that is why I am here today, for both the narrow purpose of Social Security and making certain that the Social Security trust fund is safe for our people that are paying now, that they do not have to pay twice, but also that it is part of a fairer system.

I thank the Chair for this time. I am very pleased that Senator Moynihan introduced this bill. This is our opportunity to give maybe a little boost to the economy, too; maybe not a big one, but a few extra dollars in the hands of the working people at this time when they are being asked to carry more of a burden by the bills that we are passing in the reconciliation package coming up and under the budget agreement. This offset however slight, is an issue of fairness to our people, and it is something we could be.

So with that, I hope that we will move forward with this bill. I hope it will become part of the total package of the taxes of the United States. I am going to be in support of Senator Moynihan in his efforts and his committee as he moves ahead.

I yield the floor.

(Mr. WIRTH assumed the chair.)

Mr. MOYNIHAN. Mr. President, I thank my very dear friend from Washington for his remarks. I say two things. He spoke of his son, who is a self-employed person, who starts out with a higher rate of Social Security contributions than income tax, 15.3. May I make the point that that is true of every farmer in the Nation, every farmer in the State of Washington, and you have some great ones. They come in under this right away.

The other thing is to say that the Senator is absolutely right that the Medicare trust fund, the health HI trust funds need attention. We now see by the year 2003 reserves may be gone. So in the next 5 years, at a minimum, we have to attend to just the problem the Senator is talking about. And we could do it in this context, sure. But I began this morning saying Social Security is an annual art around here. It is the art of thinking in terms of what is going to happen in the next 30 years, and 40 to 60 days seems our time around here most of the time.

I will say no more than that. I see the distinguished Senator from Minnesota is on the floor. I am happy to yield the floor.

AMENDMENT NO. 2941

(Purpose: To amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age)

Mr. BOSCHWITZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. Boschwitz] for himself, Mr. McCain, Mr. Gorton, Mr. Lott, Mr. Mack, Mr. McConnell, Mr. Coats, Mr. McClure, Mr. Kasten, Mr. Burns, Mr. Pressler, Mr. Hatch, Mr. Wilson, Mr. D'Amato, Mr. Cochran, Mr. Gramm, Mr. Helms, Mr. Jeffords, Mr. Nickles, Mr. Shelby, Mr. Simpson, Mr. Symms, Mr. Thurmond, Mr. Warner, Mr. Heflin, Mr. Grassley, Mr. Durenberger, and Mr. Roth, proposes an amendment numbered 2941.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

TITLE —SOCIAL SECURITY EARNINGS TEST ELIMINATED

SEC. . SHORT TITLE.

This title may be cited as the "Older Americans' Freedom to Work Act of 1990".

SEC. . ELIMINATION OF EARNINGS TEST FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

Section 203 of the Social Security Act is amended—

(1) in paragraph (1) of subsection (c) and paragraphs (1)(A) and (2) of subsection (d), by striking "the age of seventy" and inserting "retirement age (as defined in section 216(1))";

(2) in subsection (f)(1)(B), by striking "was age seventy or over" and inserting "was at or above retirement age (as defined in section 216(1)";

(3) in in subsection (f)(3), by striking "33⅓ percent" and all that follows through "any other individual," and inserting "50 percent of such individual's earnings for such year in excess of the product of the exempt amount as determined under paragraph (8)," and by striking "age 70" and inserting "retirement age (as defined in section 216(1))";

(4) in subsection (h)(1)(A), by striking "age 70" each place it appears and inserting "retirement age (as defined in section 216(1))"; and

(5) in subsection (j), by striking "Age Seventy" in the heading and inserting "Retirement Age", and by striking "seventy years of age" and inserting "having attained retirement age (as defined in section 216(1))".

SEC. . CONFORMING AMENDMENTS ELIMINATING THE SPECIAL EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

(a) Uniform Exempt Amount.—Section 203(f)(8)(A) of the Social Security Act is amended by striking "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable" and inserting "a new exempt amount which shall be applicable".

(b) Conforming Amendments.—Section 203(f)(8)(B) of such Act is amended—

(1) in the matter preceding clause (i), by striking "Except" and all that follows through "whichever" and inserting "The exempt amount which is applicable for each month of a particular taxable year shall be whichever";

(2) in clause (i), by striking "corresponding"; and

(3) in the last sentence, by striking "an exempt amount" and inserting "the exempt amount".

(c) Repeal of Basis for Computation of Special Exempt Amount.—Section 203(f)(8)(D) of such Act is repealed.

SEC. . ADDITIONAL CONFORMING AMENDMENTS.

(a) Elimination of Redundant References to Retirement Age.—Section 203 of the Social Security Act is amended—

(1) in the last sentence of subsection (c), by striking "nor shall any deduction" and all that follows and inserting "nor shall any deduction be made under this subsection

from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60."; and

(2) in subsection (f)(1), by striking clause (D) and inserting the following: "(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60, or".

(b) Conforming Amendment to Provisions for Determining Amount of Increase on Account of Delayed Retirement.—Section 202(w)(2)(B)(ii) of such Act is amended

(1) by striking "either"; and

(2) by striking "or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit".

(c) Continued Application of Rule Governing Entitlement of Blind Beneficiaries.—The second sentence of section 223(d)(4) of such Act is amended by inserting after "subparagraph (D) thereof" where it first appears the following: "(or would be applicable to such individuals but for the amendments made by the Older Americans' Freedom to Work Act of 1990)".

SEC. . EFFECTIVE DATE.

The amendments made by this title shall apply only with respect to taxable years beginning on or after January 1, 1992.

Mr. BOSCHWITZ. Mr. President, this amendment does what my friend from the State of Washington just talked about—puts a few extra dollars in the hands of the working people and those who are over 65. This amendment is cosponsored by the following Senators: Senators McCain, Gorton, Lott, Mack, McConnell, Coats, McClure, Kasten, Burns, Pressler, Hatch, Wilson, D'Amato, Cochran, Gramm, Helms, Jeffords, Nickles, Shelby, Simpson, Symms, Thurmond, Warner, Heflin, Grassley, Durenberger, and Roth.

This is an amendment, Mr. President, that would offer some freedom and opportunity and fairness for the millions of Americans who are on Social Security by fully repealing the so-called Social Security earnings limit for Americans over 65. The law presently says that for every $3 a retiree earns in excess of $9,360, they lose $1 of Social Security. So that a person who makes $1,000 over $9,360 would lose $333 of his or her Social Security. After the age of 70, there is a total repeal of this; that is, for the elderly who work after the age of 70, for some reason, there is no limitation. But for those who are 65 to 70, there is such a limitation.

So what we are seeking to do is to move the age, really, from 70 down to 65. The effect of earning more than $9,360 a year is that you pay $1 worth of tax for every $3 you earn. So the effective rate of tax, because of the law, of Social Security is already 33 percent. Let us say that you have a large income, that you have done well in life and your wife has done well in life and you have been prudent and laid aside some money and you now earn some income, perhaps it is rental income because you have invested in some real estate, perhaps it is income from stock or bonds. That income does not count. You can make as much from that kind of income and have no penalty assessed against you. The test does not apply to so-called unearned income. It applies only to earned income. In the event you have earned income in excess of $9,360, for every $3 that you earn over that amount, you lose 1 dollar's worth of Social Security. The effect of that is a 33-percent tax.

Let us say that you are in the 28-percent tax bracket or even in the so-called bubble, the 33-percent tax bracket, for that short timeframe. You are now effectively in a 61- or 66-percent tax bracket.

I just heard my friend from Washington and also Senator Moynihan talk about the fact that, if you are self-employed, you have to pay a 15-percent Social Security tax. So add that in. Now you are in the 81-percent tax bracket. And in Minnesota, where State taxes rise to 9 or 10 percent, you find yourself in a tax bracket close to 90 percent. Indeed, the average State income tax around the country is supposed to be about 6 percent. So it would not be unusual to find yourself in a bracket in the middle or high 80's.

I see the distinguished Senator from New York is on his feet.

Mr. MOYNIHAN. Will the Senator yield for a comment?

Mr. BOSCHWITZ. Yes.

Mr. MOYNIHAN. I simply say that the Senator, I am sure, knows, first of all, his facts are correct and that what we are dealing with here is a holdover from the origins of the Social Security legislation which begin in 1934 at the depths of the Depression.

It was a measure brought on by all manner of social distress. The one thing no one wanted to do was to encourage anybody to remain in the labor market. The unemployment rate was probably 25 percent when the bill was enacted. The first benefits did not take place until 1940 so they would have had a lesser condition.

But there is almost universal agreement among people who study this subject that what we are dealing with here is an obsolete provision that originates in the Great Depression of the 1930's. The sooner we are rid of it the better.

I know the chairman of the Finance Committee wants to make the next step. If I may say, in 1983 we lowered this penalty. Senator Bentsen would like to lower it still further. My colleague would like to eliminate it. I agree with everyone.

There may be one last stage before we get to the Boschwitz stage, but the Boschwitz stage is where we ought to be heading. And, for my part, I will support this amendment.

Mr. LOTT. Will the Senator yield?

Mr. BOSCHWITZ. I yield to my friend.

Mr. LOTT. Since my colleague stopped at this particular point, I want to commend him for offering this amendment. It speaks to the question of basic fairness for our elderly working people who would like to continue to be active and be productive and provide for themselves. The fact that they are penalized by taxation of their earnings is an example of one of the worst inequities against the elderly in our country.

We are going to need our older Americans. As we move into the latter part of this decade and the next century, we are going to find the youth pool is declining. We are going to need more workers. Our older Americans are mature, experienced, worthwhile people who would like to make a contribution. They will be needed and will be very productive.

But as the Social Security Act is currently designed, the Government continues to give little thought to older Americans' ability to contribute in the work force.

The taxes imposed on America's working seniors are an outrage. These workers are subject to the Federal Insurance Contributions Act [FICA], even in situations where they are receiving Social Security benefits. They are subject to Federal, State, and local taxes. They are subject to taxes on tax exempt income. And they are subject to a tax on the Social Security benefits they receive.

That brings me to the biggest outrage: The Social Security retirement earnings limit. Beginning January 1, 1990, this limit reduced benefits to persons between the ages of 65 and 70 who earn more than $9,360 per year. These reductions amount to $1 in reduced benefits for every $3 in earnings above the $9,360 limit.

Because of that limit, senior workers earning $12,000 annually, who should be in the lowest tax bracket, end up keeping only 36.85 cents of every dollar earned, while a young worker making the same wage takes home 77.35 cents from every dollar he earns.

This tax rate is unheard of in Western democracies. I cannot think of a single reason why our working elderly should be taxed as if they were Swedish millionaires.

But as I have already stated, the Social Security retirement earnings limit is an outrage not just because it is unfair. It also poses a serious threat to the labor work force.

Demographers tell us that between the years 2000 and 2010 the baby boom generation will be in their retirement years. With fewer babies being born to replace them, this Nation is looking at a severe labor shortage.

Can we really afford the economic consequences of putting out to pasture Madison Avenue's "Pepsi Generation."

Almost a year ago, the Senate overwhelmingly agreed to an amendment, attached to the Minimum Wage Restoration Act, which would begin to phase out the Social Security earnings limit. It called for raising the monthly limit $80 and allowing older workers to earn an extra $1,000 in 1990 before they must forfeit part of their Social Security benefits.

This one action would have relieved over 1 million working older Americans of excessive tax rates in the upcoming year. But, it was dropped from the final version of the minimum wage bill.

This was yet another outrage because it seemed only fair that while the Congress was granting a so-called rise to the working poor of this country, it should have provided some needed financial relief to working older Americans as well.

An earnings limit for Social Security beneficiaries is an ill-conceived idea which is an administrative nightmare for the Social Security Administration. The Social Security Administration spends more than $200 million and devotes a full 8 percent of its employees to police the income levels of its retirees.

For beneficiaries the income limit is a frustrating experience of estimating and reporting income levels to the Social Security Administration.

I am cosponsoring legislation to phase out the retirement earnings limit and am pleased to be a cosponsor of this amendment. It begins the process of providing employment opportunities for older Americans without punishing them for their efforts.

In the 1930's when the earned income limit as devised, encouraging the elderly to leave the workplace was seen as a positive act, designed to increase job opportunities for younger workers.

Today, with our shrinking labor force, such a policy is absured. We need the skills, wisdom, and experience of our older workers. Repealing the earnings limit will encourage them to remain in the labor force.

I support this amendment actively and commend the Senator for his very fine efforts in offering it this afternoon.

Mr. BOSCHWITZ. I thank my friend from Mississippi. He is quite right. He anticipated some of my argument. The youth pool is shrinking. As a matter of fact, we, ourselves, I think, have left that pool. We are most definitively now out of that pool. It is shrinking. The birth rate is such, in an expanding economy, that we have to utilize those we can.

Mr. MOYNIHAN. Will the Senator yield for one final comment?

Mr. BOSCHWITZ. Certainly.

Mr. MOYNIHAN. Simply to say, in the context of the statement of the Senator from Mississippi, it is precisely the fact that a baby bust followed by the baby boom that led us, in 1977, to put in place a partially funded system, because there would be fewer people following the large cohorts of the 1940's and 1950's. That is precisely why we will need all the workers we can get in the 1990's. That is demography. All those things happened.

M. BOSCHWITZ. Mr. President, I ask unanimous consent that Senator Stevens be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOSCHWITZ. That makes a total of 27 Members of the Senate who have cosponsored this concept who agree with many of the arguments I have made in these remarks, that have been made by my friend from Mississippi, and also have been made by the distinguished Senator from New York. But let me make the case more fully by reviewing some aspects of this issue.

No American should be discouraged from working. Unfortunately there is one group in our society which is singled out and blatantly discriminated against for attempting to be productive members of the work force and that group is the Nation's elderly.

The Government has placed an effective cap on the amount of income a Social Security recipient is able to earn. This flaw is discouraging older Americans who want to work by taxing away their benefits. This is no ordinary tax, as I have described the scope of the tax.

Let me also point out in the chart I have here, the rising tide of the elderly in this country. The chart begins, I might say, at 15 million and then goes to 35 million, so the scope of the rise is a little larger in this chart than in actuality. It is here at 16 or 17—and this was 1960 that there were 15 or 16 million people 65 years and older—but by the year 2000 that figure will have doubled and will be about 35 million.

We simply cannot leave that large a group out of the pool. We recognized the necessity of having people of that age in the working pool by raising the age at which Social Security will be offered. It is after the turn of the century, I believe it starts in the year 2006, when the age advances 1 month in each year until it hits 67. So the Congress has recognized the fact that people are still very capable of working, and that they want to work. It is important not only to their financial needs but very often for their physical and their mental needs as well.

Most older Americans tell me Social Security retirement earnings is much more than a tax, and they are right. The earnings test is a Government-sponsored program which takes seniors out of the work force and into the rocking chair. It has done so—and the Senator from New York has given the history of that—because the whole program of Social Security was formulated at a time of a devastated economy in this country, when unemployment was very high and it was thought to be wise to reduce the pool of people who were seeking work.

Now, of course, our attitude is different. The economy is different. Or our attitude might be the same if we had had a bit of repetition of the thirties. It is not healthy for those seniors and the economy to deny them the ability to work. We have joined here in the Senate with over 200 Members in the House led by Representative Denny Hastert to fight for older Americans and to end this unfair economic tax and, really, this economic folly. America will be watching this amendment. Certainly the elderly have expressed a great deal of interest in it. This is not a typical inside-the-Beltway type of issue. This vote will be fundamental, and it will be most appealing to the grassroots.

Currently, over 1 million seniors and over 200,000 spouses and dependents are directly affected by this unfair tax. This amendment is strongly supported by at least five of our Nation's largest senior organizations: the National Committee to Preserve Social Security and Medicare; the National Association for Retired Federal Employees; the Retired Officers Association; the Senior Coalition; and the National Alliance of Senior Citizens.

This issue is one of their highest legislative priorities.

I have in my hand their letters of strong endorsement. I ask unanimous consent that they be printed in the Record at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BOSCHWITZ. Mr. President, the Social Security earnings test is an antiquated provision and penalizes our seniors from being productive. For every $3 earned by retirees over the $9,360 earning limit, they lose a dollar of Social Security benefits. That is a 33-percent effective tax. Together with Federal taxes, State taxes, and FICA taxes, it amounts to a marginal rate of tax sometimes approaching 90 percent, often over 80 percent, always virtually at the 70-percent limit. Those kinds of taxes are discouraging. Those kinds of taxes are not productive. Those kinds of taxes do not contribute to our economic society.

In some States, the effective marginal tax rates can be over 90 percent. This policy is estimated that when you get a city tax on top of a State tax, this policy is estimated to keep at least 700,000 retirees out of the labor market. We cannot not afford to let this go on—700,000 people not working. That is a lot of economic activity that does not take place; that is a lot of taxes that the Federal Government does not collect; that is a lot of taxes that the Social Security System does not collect because there is no argument in this amendment about Social Security taxes. When these folks go out and work, they are going to continue to pay into the Social Security System. This amendment in no way affects that. What this amendment says is that Social Security payments will not be curbed because of their working.

The Congress has pondered the earnings test long enough. It is not fair; it is outdated; it really has to go. The earnings limit is not in the spirit of what this country stands for. It is blatant age discrimination and must be repealed.

The earnings limit is not only unfair, Mr. President, but it also significantly impacts the quality of life enjoyed by our Nation's seniors. The Government should not dictate how much money seniors can earn or subject them to effective tax rates higher than any other age groups. Seniors who do not earn a particularly large income, because income in excess of $9,360 certainly is not a large income, yet at that level, they find themselves to be the highest taxed of all Americans—well over twice the tax rate of some of our most wealthy citizens.

The fact that person reaches 65 years of age does not mean that he or she has lost their desire or ability to be productive. They have not lost their ability to be active members of society. They should not be retired and need not be retired. They do not want to be retired and should not be penalized for being retired. The Government should not deprive them of the fruits of their labor.

Mr. President, my dad retired when he was almost 89. I think he should have retired a couple of years before that because he was beginning to lose his zip when he was 87, 88, but he was still going strong. My father was 52 when I came along. So most of my recollection of him is when he was far beyond 65, and he lived until he was 96. Most of my recollection of him is after the age of 65. He worked until almost his 89th birthday. Some of his best years, as a matter of fact, were when he was in his seventies and early eighties. He was very productive during that period of time. There is no question about the fact that if he had stayed home and vegetated that he, indeed, would not have been a very happy person. He might well not have gone on to the age of nearly 96.

This is a man who never played a round of golf in his life. His son has never played a round of golf either. We do not know exactly what to do in retirement. My dad, to the best of my knowledge, never went fishing. I am not much of a fisherman either. We do not know what to do. We just work. We want to continue to produce. It is a healthy thing to do. It sure was for my dad, and I hope it will be for me as well.

The Social Security earnings limit is particularly harsh on that portion of the senior population that is most in need of help; low-income seniors. Dividend and interest from savings accounts do not count against the earnings limit, as I said before. It is only earned income, not unearned income. But seniors with no private investment income in their working years may need to work just to meet basic expenses, such as shelter and food, not to mention health care costs, which are rising at astronomical rates.

When individuals get over that $9,360, if they are making $5 an hour, once the limit is reached, the spending power of that wage is about $1. That is not a way to encourage people to work. That is a penalty, and it is that penalty that we are trying to remove.

As a businessman, I recognize that elderly Americans are really an underutilized resource in this country. There are more than 40 million Americans over 60, and we are putting them out to pasture. I will soon join that group, Mr. President. I am not ready to be put out to pasture.

Mr. President, three out of five seniors have no disability that would preclude them from working. With the Department of Labor warning us about the impending future labor shortages, as my friend, the distinguished Senator from Mississippi [Mr. Lott] pointed out, that it seems hard to justify a Government policy which discourages an entire segment of our population from participating.

According to the Social Security Administration, 60 percent of all overpayments of Social Security and 45 percent of all benefit underpayments are attributable to the earnings test. The red tape of the reporting procedures and bureaucratic paperwork maze is confusing and frightening for many Americans and they simply do not know how to cope with it. That is to say, Mr. President, the errors that are made in Social Security payments are largely from this source, largely because people are working and people are having their Social Security payments withheld; that is where the errors begin. Much of the churning and effort by the Social Security Administration is because of this earnings test limit. We would be able to shrink that bureaucracy in the event that this earnings test limit was removed.

Even though he does not earn up to the limit of $9,360, there is a man who has written me letters about the earnings limit test and has written others in the Congress as well. He is a World War II veteran who fought in the Pacific from 1943 to 1946 and he really is outraged and bewildered by a law that he points out correctly discourages productivity of this Nation's elderly. He does not want to defraud his Government 1 cent and he said the earnings test encourages work to be paid under the table and that is a bad thing. Mr. President, when our laws encourage or bring about the result of making people skirt Government rules and become outside of the course of honorable human events. Laws should not encourge that to occur.

If seniors are retiring, it should be by their choice. However, if Government policy is effectively forcing seniors into complete retirement, which I believe is the case, then the policy is wrong and should be overturned. Seniors should have the same opportunity as others to enjoy work, to work in our society, and to enjoy the benefits of employment.

Of course, if you do not like the idea, even a good idea, you can always find obstacles to put in the path of that idea, and in the case of the earnings test repeal, the first point raised is the issue of cost. Mr. President, I will not go into all of that because we believe that those who are estimating the costs think the economy is static, and my colleagues and I have adequately responded on the floor those kinds of arguments that have been made before.

At this point I will conclude my remarks.

EXHIBIT 1

National Committee to Preserve
Social Security and Medicare,
Washington, DC, April 18, 1990.

Hon. Rudy Boschwitz,
U.S. Senate, 506 Hart Senate Office Building, Washington, DC.

Dear Senator Boschwitz: The National Committee to Preserve Social Security and Medicare supports your bill, S. 2159, which eliminates the Social Security earnings test for those 65 and older.

There are compelling arguments for eliminating the earnings test. Of most importance to the National Committee is simple fairness. Americans between the ags of 65 and 69 who have earned income over $9,360 are subject to a 33 percent effective tax rate. When this is added to their other tax burden, the marginal tax rate for these individuals can be 70 percent. Such a tax penalty is clearly unfair and should be eliminated.

As our population ages, good public policy demands that we encourage older Americans to stay in the work force. Current policy identifies a group of people strictly by age and penalize them for working. The National Committee believes the penalty should be eliminated and supports your efforts to do so.

Sincerely,

Martha A. McSteen,
President.

The Retired Officers Association,
Alexandria, VA, April 19, 1990.

Senator Rudy Boschwitz,
U.S. Senate, Washington, DC.

Dear Senator Boschwitz: On behalf of the 365,000 members of the Retired Officers Association, allow me to congratulate you on your introduction of S. 2159, the Social Security Earnings Test bill.

For many years, The Association has been urging members of Congress to "wake up amd smell the roses". There are multitudes of so-called "senior citizens" out there who want very much to be employed—not necessarily for the money, although that is important—but because they want to feel that they are contributing. And how they can contribute. I need not tell you of the vast storehouse of experience that is laying untapped across our great land because of the inane prohibitions in the Social Security Law.

This antiquated law, which penalizes those eligible to receive Social Security benefits, if they should dare earn more than $9,360 per year, needs to be amended and amended promptly. Our deficit is growing and our economy is slowing down, in large measure due to a lack of skilled workers. The very people who could fill this void are prevented from doing so because they know that for every dollar they make over the limit they will pay about 56 cents on taxes.

Senator, we at The Retired Officers Association, applaud your initiative and stand ready to help in the passage of this bill in any way we can. If this letter will help in your efforts—use it. In the interim, I intend to get the message out to our constituents to write their respective members, on both sides of the Hill, to support your bill.

Just as Medicare catastrophic was the equity issue of 1989, the Social Security Earnings Test will be the equity issue of 1990.

Again, thank you for your initiative and leadership in this vital matter.

Sincerely,

Paul W. Arcari,
Colonel, USAF, Retired,
Director Legislative Affairs.

National Association of
Retired Federal Employees,
Washington, DC, April 19, 1990.

Hon. Rudy Boschwitz,
506 Hart Senate Office Building, U.S. Senate, Washington, DC.

Dear Senator Boschwitz: The National Assocaition of Retired Federal Employees (NARFE) welcomes your attempt to have the social security earnings test eliminated for persons over age 65. We believe that one of the original intents of the earnings test—the Depression era need to remove older workers from the job market to make way for younger workers—is no longer valid, yet many senior citizens who are able and desire to work at post-retirement jobs find the earnings test penalizes them for doing so.

While some argue that it is only the "wealthy" older American who would benefit from repeal of the post-65 earnings test, we disagree. Since the earnings test applies only to wages and not to investment income, the truly wealthy already benefit. We believe that it is the middle-income tax-paying retiree who very often needs a post-retirement salary to meet unanticipated expenses caused by family illness or other economic pressures who needs this help and would most benefit. At the same these older workers will continue to contribute to the nation's economy with their continuing income and social security taxes.

NARFE appreciates your recognition of the need for change in the earnings test, and supports repeal of the earnings limit for those over age 65.

Sincerely,

H.T. Steve Morrissey,
President.

The Seniors Coalition,
McLean, VA, April 30, 1990.

Hon. Rudy Boschwitz,
U.S. Senate, Hart Senate Office Building, Washington, DC.

Dear Senator Boschwitz: Every now and then a piece of legislation is introduced that makes one realize there actually is a sense of fairness and justice in Congress. Such is the case with your bill, S. 2159, "The Older Americans' Freedom to Work Act" which would remove the earnings test on Social Security benefits for those 65 and older.

There are dozens of reasons why The Seniors Coalition feels compelled to support this legislation, but chief among them is that it makes good sense—not just for America's senior citizens, but for America.

We stand ready to do anything we can to help you in this battle. Please do not hesitate to call on us.

Sincerely,

Jake Hansen,
Executive Director.

U.S. Chamber of Commerce,
Washington, DC, June 27, 1990.

Hon. Rudy Boschwitz,
U.S. Senate, Washington, DC.

Dear Senator Boschwitz: The Social Security "earnings test," which limits the wages a retiree can earn without forfeiting benefits, traditionally has been perceived as an issue for older workers. It has become an issue for employers as well. Retaining experienced older workers already is a priority in labor-intensive industries, and will become even more critical as we approach the year 2000.

Reflecting this, the Board of Directors of the U.S. Chamber of Commerce voted unanimously on June 13 to support elimination of the earnings test, as you have proposed in S. 2159. The Chamber would like to work with you to secure passage of the bill. To this end, Lisa Sprague, the Chamber's manager of employee benefits policy, already has been in touch with Kent Knutson of your staff.

The Chamber would like to thank you for highlighting this issue and for seeking the solution to a problem faced by many of its members.

Sincerely,

Donald J. Kroes.

American Association of
Retired Persons,
Streator, IL, May 31, 1989.

Representative Dennis Hastert,
Reddick Mansion, 100 W. Lafayette Street, Ottawa, IL.

Dear Representative Hastert, I wish to refer to the H.R. 2460 which would repeal the so-called Social Security "Earnings Test".

I have discussed this issue of repealing the Earning Test to the Board of Directors of the local chapter of the A.A.R.P. The members of the Board of Directors were in favor of the repeal of H.R. —

Members expressed a concern that the older American were being discriminated against since they had to lose part of their social security earnings due to the maximum amount that one could earn without jeopardizing their social security earnings.

I will discuss this "Earnings Test" with our full membership on Tuesday, June 6, 1989. We will have approximately 150 members at this meeting.

We will appreciate your support of the repeal of this issue.

Sincerely,

W. Walter Lochbaum,
Chairman, Legislative Committee.

National Alliance of
Senior Citizens, Inc.,
Arlington, VA, May 4, 1990.

Hon. Rudy Boschwitz, U.S.S.,
506 Hart Senate Office Building,
Washington, DC.

Dear Senator Boschwitz: The National Alliance of Senior Citizens, Inc. (NASC) strongly supports S. 2159, The Older Americans Freedom to Work Act, which would repeal the Social Security earnings limit.

The Social Security system, as it was established in 1935, was designed to provide supplemental income for our nation's seniors. We have always felt that the earnings limit forces senior citizens to choose between either receiving Social Security benefits or a few dollars of outside work. People who have paid into Social Security all their working careers deserve to receive an equitable amount from the system. They should not be cut off because they have been successful or have saved enough to survive without Social Security.

NASC opposition to the Social Security earnings limit dates as far back as 1974, when the organization was created. It was then that we adopted the repeal of the earnings limit as one of our first projects. We vigorously supported the 1980 Laxalt legislation (S. 1287 and S. 2208) for the elimination of the so-called "retirement test." Such legislation would have encouraged continued productivity and lower inflation rates by keeping people in the work force longer.

Our opposition to the earnings limit led to several disagreements with the Reagan Administration. After having endorsed Ronald Reagan for president in 1980 as the only candidate to pledge repeal of the earnings limit, we fully expected him to do so sometime in 1981. The NASC was disappointed when elements inside his Administration and in Congress prevented this from occurring.

The NASC repudiated many of the assertions of the 1982 Social Security Commission. The Commission stated erroneously that elimination of the earnings limit would be "extremely costly to the system." The simple truth is that by eliminating the earnings limit many people would continue working and paying into the Social Security and other funds as well. This greatly offsets the projected "losses" to the Social Security system, and should easily overcome any losses paid to those who would have worked anyway. Sadly, the Commission did not consider that.

In 1984, the NASC strongly disagreed with then-Secretary of Treasury Donald T. Regan's statement that Social Security should not be paid out to those who have enough money to survive without it. We feel that Social Security must not be a total welfare program, and such redistributionist thinking is, in our opinion, unwise.

The Social Security earnings limit places an unfair burden squarely on the backs of our older citizens who can least afford it.

The earnings test imposes a de facto 50 percent marginal tax rate on senior citizens with limited resources. It forces many people into retirement, people who would otherwise remain active in the work force for the benefit of their emotional, mental, and physical health. Most significantly, the earnings test frustrates those who need the additional income for expenses that fixed incomes cannot support.

The Social Security earnings test is, in addition, a bureaucratic nightmare, costing American taxpayers $200 million per year and expending 8 per cent of Social Security Administration employees to examine the income levels of beneficiaries.

We believe the earnings limit forces people off of work roles and onto retirement roles at age 65. The fact is many elderly citizens, while ready to reduce their workload at 65, do not want to withdraw completely from the labor force. They should be permitted to receive their hard-earned Social Security benefits and encouraged to remain productive in our economy. The earnings limit prevents this, and the NASC favors its immediate repeal.

Thank you for considering our views on this most important matter.

Yours most sincerely,

D. Lawrence Bivins,
Executive Director.

Mr. HATCH. Mr. President, I rise to urge my colleagues to carefully consider the looming disincentive many of our working senior citizens are facing in the form of the Social Security retirement earnings limitation. It is past time that we eliminated this restrictive policy. This limitation, which reduces the Social Security benefits of retirees under age 70, in effect sends a negative message to working recipients of Social Security. This message is that the Federal Government does not value their continued contribution to the work force. The reality of the situation, Mr. President, is that we need those contributions in the workplace now more than ever.

Many in our senior work force not only want to keep working after age 65, but because of their economic situations, these people may need to keep working. Do we want to discourage them?

The current system, which punishes seniors for working, was developed in the Great Depression years when jobs were scarce. It is foolish for our Government to now have such a restrictive policy, which results in effective marginal tax rates of 56 percent and higher. This is for a low-income retired worker, supposedly in the lowest tax bracket. This means that, should this worker exceed the earnings limitation, he or she keeps only 44 cents of each dollar earned. Subtract from this 44 cents the State tax on those earnings, and you can see the tremendous disincentive these retired workers face. After a lifetime of believing that hard work pays off, it is extremely frustrating to face an economic situation where more work leads to so little additional pay.

Many of our workers turning 65 are faced with a difficult dilemma. Either they must continue working full time and give up all or part of their well-earned Social Security benefits, or they must retire and accept a lower standard of living. Either choice leads to the feeling that one is being cheated.

It is ironic and unfair that those retirees with large amounts of unearned income from interest, dividends, and pensions do not face a reduction of Social Security benefits, no matter how much of this income they enjoy. Those retirees who struggle to get by on their Social Security, and would like to supplement their income by continuing to work, however, are discouraged from doing so. This is poor public policy and goes against American ideals.

Mr. President, our Nation is beginning to face shortages of skilled workers. While these shortages are presently more visible in some regions of the Nation than others, the lack of experienced labor will prove to be one of our biggest challenges as we enter the new century. One solution to this problem lies with our senior citizens. In many ways, this group represents the best America has to offer. They have the skills; they have the experience; they have the work ethic. We cannot afford to discourage members of this group who wish to continue working.

The amendment now before us represents a turn in the right direction, a signal that we believe our work force between the ages of 62 and 70 are a much needed and integral part of our economy. These individuals have much to contribute. We need their experience, and we need their wisdom. Let's not discourage them from making this contribution by taxing away most of their earnings.

I urge my colleagues to support this amendment.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER (Mr. Gore). The Senator from New York.

Mr. MOYNIHAN. Let me just follow up on the Senator's remarks on cost. The short-term cost is not small, but in the long run this cost works out in terms of the trust funds because under the delayed retirement credit benefits are increased by 3 percent a year for each year that retirement is delayed past age 65 up until age 70, when there is none.

The 1983 amendments provided for gradually increasing the delayed retirement from 3 percent to 8 percent over the period 1990, starting now, to the year 2009. These are tedious things I know, but the simple fact is we have already anticipated that this event would take place, and that although you give up on the front end a certain amount of benefits that are paid that otherwise would not be paid, very quickly you begin to be paying lesser benefits to persons who, working past 70, would get 3 percent a year for up to 5 years and as much as 40 percent a year by the year 2009.

May I say the former chief actuary very much supports this measure.

Mr. President, I know the Senator has an engagement and I am prepared to accept this measure. But if the Senator is just trying to run the clock, tell me, because I will know what the Senator is doing.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, as I was saying, if you look at this matter from the very near term, I think you will find a cost of $39 billion over 5 years. That is a very large cost. But let us say that we have been steadily moving in this direction. The legislation does not take into effect until 1992, so there is no immediate cost. But there is a simple fact that in the 1983 amendments we provided for a gradual increase in the retirement test benefit, if you put it that way, from 3 percent to 8 percent over the 20 years that began running in this year, 1990.

The whole art of Social Security adjustment is to make it slowly, over time.

The Senator is quite correct that starting in the year 2002 we increase the retirement date by 1 month a year for the next 24 years until we get to age 67. Take your time; nothing jolting. The way it goes now is that for every year you work after 65 and do not draw benefits, your benefits, when you do draw them, go up 3 percent. They are now scheduled to go up as much as 40 percent.

If we eliminate the retirement test right now, we eliminate the cost over the next 20 years of the retirement credit—nonretirement credit, I think it might properly be called—which evens out. It is actuarially balanced within the actual system. In 20 years' time you would note no difference whether we do this or not.

As I say, many people think we should do this.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that an article by Senator McCain, a letter from Dr. L.H. Stahn, M.D., of Sauk Rapids, MN, and a letter from James B. Gergen, of Lake Elmo, MN, who has written to me and also put into his letter some of the figures and statistics that I have mentioned in my earlier remarks, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Repeal of the Earnings Test Is Indeed Possible

(By Senator John McCain)

No American should be discouraged from working. Yet, by penalizing our nation's seniors severely for attempting to be productive members of our work force, that is exactly what we are doing.

Congress has capped the amount of income a Social Security beneficiary is able to earn. This law—the Social Security earnings test-discourages seniors who want, or need, to work by taking away their benefits. It is an incredible and blatant form of age discrimination, and indicates to seniors that their continued contributions to the work force are not valued once they retire.

Two recent issues of this publication carried guest editorials about the Social Security earnings test. I read both with interest, as I am a strong proponent of eliminating the earning test. I was hard-pressed, however, to agree with the most recent editorial entitled "Repeal the Earnings Test, But in a Bi-partisan Fashion."

Currently, a Social Security beneficiary who makes more than $9,360 is subject to an effective marginal tax rate close to 70 percent—one-third higher than the rate paid by our wealthiest citizens. In short, for every $3 they earn, they lose a dollar of their Social Security benefits.

The thesis to the most recent editorial seemed to be that Republicans—led by Sen. Rudy Boschwitz of Minnesota—are somehow trying to make the Social Security earnings test a partisan issue. This is nonsense.

First, elimination of the Social Security earnings test was proposed as early as 1964 by my predecessor, Barry Goldwater. Since then, politicians from all ends of the political spectrum, including such strong, liberal advocates of seniors' issues as the late Rep. Claude Pepper, D-Fla., have strongly advocated an immediate and full repeal of the earnings test.

Second, the Older Americans' Freedom to Work Act, S. 2159, which was criticized in the most recent editorial, enjoys the cosponsorship of some 28 senators—both Democrats and Republicans. Hardly a partisan ploy.

And third, organizations working hard to defend and promote the interests of our nation's seniors, such as the National Committee to Preserve Social Security and Medicare, have endorsed a full repeal of the earings test, and thus support the Older Americans' Freedom to Work Act.

Indeed, there are differences between S. 2159 and S. 1995, the legislation proposed by the author of the previous editorial.

First, as I stated earlier, S. 2159 is sponsored by 28 senators—both Democrats and Republicans. On the other hand, S. 1995, the phase-out of the earnings test, is sponsored by one senator.

And, second, while S. 2159 immediately repeals the earnings test, S. 1995 phases out the earnings test over five years. If the earnings test is a bad principle that should be eliminated, why phase it out and perpetuate the injustice longer than we need to?

I am proud to be a co-sponsor and strong supporter of the Older Americans' Freedom to Work Act. I believe we must not allow this unfair and onerous burden on our nation's seniors to continue. The earnings test is not only unfair, but significantly impacts the quality of life enjoyed by our nation's seniors.

It is fine if seniors are retiring by choice. However, if a government policy is effectively forcing seniors into complete retirement, then the policy is wrong and should be overturned. Seniors should have the same opportunity as others in society to work and enjoy the benefits of their employment.

There is no compelling justification for denying economic opportunity to a person just because he or she becomes 65. We need to end the policy that reduces the spending power of a low-income worker's wages.

The earnings penalty reduces buying power for someone with a $5 hourly to a mere $2.20, while one with an hourly wage of $10 sees the buying power of his or her wage reduced to $5.

We need to stop oppressing older Americans who work, by choice or necessity, with a marginal tax rate of 70 percent.

And we need to enhance our nation's ability to compete in an increasingly competitive global marketplace by allowing seniors to contribute their skills to the work force.

In short, the Older Americans' Freedom to Work Act is not a partisan proposal—it is a proposal based on a concept that has been around for nearly 30 years, and has strong support. After all, there is no valid excuse for continuing to penalize America's seniors for wanting to work if they choose—not even for a year.

Lake Elmo, MN,
April 19, 1990.

Senator Rudy Boschwitz,
Hart Senate Office Bldg., Washington, DC.

Dear Senator Boschwitz: It seems to me incredible that there continues to be an Earnings Limitation on Social Security participants. Even more incredible is that the Limitations are so low as to discourage any senior citizen from continuing to contribute professional skills in our supposed entrepreneurial country. To add insult to injury, if the spouse of the working participant depends upon the worker's record for social security, the spouse's payment is also denied. To be specific, for those over 65 $1 is given up for every $3 earned from the worker's payment AND about $0.50 is also given up by the spouse, a family total of $1.50 for every $3 earned!!! To add further insult to injury, the workers/spouses so treated have in most cases contributed the maximum amount for more than 30 years !!!

Every day I see articles describing the urgent need for more experienced reliable people in our work force. How can we be so willing to discourage one of the best pools of human resources available???

The Earnings Limitation policy doesn't even make economic sense. Senior working earners will contribute dollars from their working deductions out of proportion to any increase they may receive in future monthly payment rates. You ought to be encouraging them to work more not only because of their skills but because you need their taxes from earnings and deduction contributions to the Social Security fund!!!

Please spend some of your energy and direction to a correction of the antiquated policy of Social Security Earnings Limitation. It may have been needed in the 1930's but has now become detrimental to the national economic interests and utilization of needed human resource skills.

Sincerely,

James B. Gergen.

Sauk Rapids, MN,
September 12, 1990.

Senator Rudy Boschwitz,
U.S. Senate, Washington, DC.

Dear Rudy: This letter is written to encourage you to proceed with elimination of the ceiling on earnings of Social Security retirees over age 65. The restriction is clearly a negative approach to economic management as well as individual rights!

Yours truly,

L.H. Stahn, M.D.

Mr. BOSCHWITZ. I say to my distinguished colleague from New York that I am prepared to vote at this time on the amendment.

Mr. MOYNIHAN. I thank the Senator from Minnesota. Let me just say, to round out the Record, the Committee on Finance has already voted out under the sponsorship of our chairman, Senator Bentsen, a further liberalization of the retirement test, and this has been included as part of the child care legislation which is in conference at this time. So we are all in good order here. We are all moving in the same direction, Senators on this side of the aisle moving a little more quickly, but in exactly the same direction and to exactly the same point.

I am awaiting some information whether there are other Senators who wish to offer amendments. In that case and in the circumstances I will suggest the absence of a quorum.

Mr. BOSCHWITZ. Mr. President, before the quorum call is entered, I say to my friend from New York that a large number of us are going to go down to the White House quite shortly and if the quorum call extends too far we would have to put off this vote until after.

Mr. MOYNIHAN. Right. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I would like to pose a question, if I might, to my friend and colleague from the State of Minnesota regarding his amendment so I can fully understand it.

As I take it from what I have heard, the amendment the Senator is offering in the second degree to the Moynihan amendment——

Mr. BOSCHWITZ. I say to my friend, my amendment is an amendment to the Moynihan bill.

Mr. EXON. It is a second-degree amendment.

Mr. BOSCHWITZ. No; it is an amendment in the first degree.

Mr. EXON. The basic proposal that the Senator is offering to the Senate wouild be to eliminate what Senator ARMSTRONG and this Senator have proposed previously on the floor of the Senate, which would simply not penalize people who are retired as they go out and work.

Is that the essence of the amendment?

Mr. BOSCHWITZ. That is correct.

Mr. EXON. Is the Senator familiar with the two or three efforts that were made by Senator ARMSTRONG and the Senator in this regard?

Mr. BOSCHWITZ. I am indeed, and I know a good cause, I say to the Senator from Nebraska, when I see one. I have taken up this cause, and as we know Senator ARMSTRONG is leaving the Senate. So it is not likely that we are going to have complete action on this this year. We certainly are in the process of making the record.

Mr. EXON. I thank my friend from Minnesota. I am pleased that he has offered the amendment. We are going to have a vote, as I understand it.

Mr. BOSCHWITZ. We will vote right now.

Mr. EXON. All right. With that, I think my friend and I yield the floor.

I suggest the absence of a quorum.

Mr. BOSCHWITZ. Before the Senator from Nebraska suggests the absence of a quorum, perhaps we can go to a vote.

The **PRESIDING OFFICER.** Does the Senator from Nebraska withhold?

Mr. EXON. As I understand it, we are not prepared to vote at this moment.

I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KASTEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. KASTEN. Mr. President, at a time when America is locked in a life-or-death competitive struggle with foreign economic rivals, we cannot afford to handicap ourselves with anticompetitive Federal regulations and tax laws. But through the Government's unwise Social Security earnings cap, the most experienced workers in America are being deprived of a chance to contribute to our economy.

I therefore rise in support of this amendment. This earnings limit which the Boschwitz amendment would eliminate discourges seniors from remaining active and penalizes them for being productive citizens. Citizens ages 65 to 69 are allowed to earn only $9,360 a year. Above that limit, they lose $1 in benefits for every $3 that they earn.

This unwise earnings limit causes real live hardship for seniors. For example, if a senior citizen has a job which pays $5 an hour, and has already earned the $9,360 in that year, the next hour of work after taxes and the earnings limit accounted for will effectively pay him not $5 but $2.20 cents, a clear example of age discrimination.

This amendment would repeal once and for all these unfair restrictions on senior citizens. The Older Americans Freedom to Work Act to eliminate the earnings cap outlined helps regenerate seniors into full participation in the economic lives of our country. There is an ever-present danger of labor shortages in America's economy. We cannot afford to discourage senior citizens who want to work from doing so.

Mr. President, I believe this amendment must pass, and I am hopeful that we will have the support to adopt this amendment at this time.

Mr. McCAIN addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Arizona.

Mr. McCAIN. Mr. President, I rise in support of this amendment. I think it it is a very important one. I think it is very topical. I think that great credit goes to my friend from Minnesota, who has worked on this issue for a long period of time.

Mr. President, this amendment would correct what is perhaps the most blatant form of age discrimination and fully—I emphasis fully—repeal the Social Security earnings cap for older Americans between ages 65 and 69.

Some may wonder why we are amending the so-called Older Workers Benefit Protection Act with this amendment. It is actually very simple. The legislation, the amendment before us, seek to provide our Nation's older workers with protection from discrimination in the workplace.

In our view, the Social Security earnings test represents perhaps the ultimate form of age discrimination. This law discourages older Americans from staying in the work force and indeed penalizes them if they do work. No American should be discouraged or penalized from working. But that is exactly what we are doing with respect to our Nation's seniors.

Mr. President, this is an economic issue. It is a quality of life issue, and more than that, it is a human issue. Seniors who need to work to put food on the table or to pay for medical bills are being penalized for having to do so. To place our Nation's seniors in this position, to put it simply, is unconscionable.

If a Social Security beneficiary earns more than $9,360 a year—I repeat, if a Social Security beneficiary earns more than $9,360 a year—they are subject to a 33-percent effective tax, above and beyond the normal tax rate. Mr. President, the last I heard we were talking about a tax penalty for the very rich, somewhere around 31 or 32 percent, for the richest in our society. Yet, we are subjecting a senior citizen who makes $9,360 a year to a 33 percent effective tax rate. This means that seniors who either need or want to work are saddled with an effective marginal tax rate of close to 56 percent. For some, this rate comes close to 90 percent.

Just because an American happens to turn 65 does not mean that their ability to be productive members of society and contribute to the economy ceases. In fact, I argue that a case can be made, and I have seen it time after time in my own State, that in many cases it increases. One segment of the senior population is particularly hard hit by this policy—low-income seniors. For example, a senior with no private pension income or liquid investments from his or her working years may need to work just to meet basic expenses, such as shelter, food, and housing, not to mention health care costs which are rising at an astronomical rate, as we all know. If such an individual were to have a job providing merely $5 an hour, once he or she reached the cap, their spending power for an hour's wage would drop dramatically to just $2.20 per hour.

Mr. President, we passed that as a minimum wage a long, long time ago. We need to cease this policy that is penalizing individuals who need to work either to pay medical bills, put food on the table, or provide shelter for their families. We need to empower the Nation's seniors to map out their own lives, limited only by their ambitions to work and save.

We need to cease the policy that reduces the spending power of a low-income elderly worker with a wage of $5 an hour to $2.20 an hour. We need to cease the policy that saddles older Americans who, by choice or necessity, work with a marginal tax rate of 70 percent. We need to cease the policy which is going to impair, rather than enhance, our Nation's ability to compete in a global marketplace that is becoming more and more competitive.

At this very time that we are considering legislation to end discrimination against older workers, we need to take the step that would really benefit older workers: quit penalizing them for working. It is about time we eliminate the Social Security earnings limit.

Mr. President, I come from a State that has very large numbers of senior citizens. Those senior citizens are an enormously beneficial part of our State and our society. There are many, many of those senior citizens who have an enormous amount to contribute to my State and this Nation. We have discincentives in place today for senior citizens to work and help us compete in this ever more competitive world. It is a very serious and tragic discrimination that we have inflicted on America's seniors. It is time we have repealed it and, Mr. President, today is the day when we can do it.

Mr. President, the eyes of senior citizens all over this country are upon us as we debate this amendment, those seniors, whose only desire is to become and remain productive members of our society, who can exercise the option to work, if they want to or not. And if they do exercise that option, they should not face the most severe penalty of any member of America's society today.

Mr. President, I want to congratulate, again, my friend from Minnesota in bringing this issue to our attention again, and I hope we will be able to put this, one of the last vestiges of discrimination in America, behind us as rapidly as possible. I strongly urge adoption of the amendment.

Mr. President, I yield the floor.

The **PRESIDING OFFICER.** Who yields time?

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I say to my friend from Minnesota that I will make that request, if it becomes possible in further consultation on this side. The Republican Members are asked to be in the White House from 4:15 to about 5:15. Therefore, we can expect not to hear a great deal of activity from that side of the aisle. But we are here on this side of the aisle, and the Senator who had held this lonely post—not so lonely recently—since 10 o'clock this morning, continues to be at your service. In the meantime, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, I rise in support of S. 3167, and I understand, given the amount of debate on it thus far and given what I have heard off the floor, there are an awful lot of people who would say, yes, this is just, right, and fair, but the timing is just altogether bad. We just put together a budget resolution. We have finally argued this thing out and got an agreement, and it looks like maybe even something that the President will sign, if we do our work over the next couple of weeks. Therefore, the timing of the reduction in the FICA contribution is bad.

Unfortunately, Mr. President, it seems to me that that is what the Senator from New York has been told, not only all this year, but in previous years as well. I just find it rather odd, and I would like to ask the Senator from New York a few questions.

First of all, does it bother him personally that there has been a considerable amount of enthusiasm on the part of many people to come here and say there is a great urgency to reduce the tax on the gain of capital, but are not willing to reduce the tax on labor. In particular, as the chief sponsor and engine behind the Family Support Act of 1988, which I thought was a marvelous piece of legislation, and I hope we fund that and pay attention to the status of families in America and what we can do to help them as their wage earners attempt to increase their capacity to produce in our economy. With 0.3 percent increase in the productivity rate in the 1980's, it seems to me there is a compelling need to address this particular problem.

I would like to know if the distinguished Senator from New York is troubled, as well, when he sees the great enthusiasm—if this were a proposal to reduce the tax on capital, this Chamber would be full of advocates saying that there is an urgency to do that, "We do not care what the impact is upon the deficit. We do not care what happens if we have reduced the tax on capital; it is such an economic imperative to provide an incentive that we have to do it regardless of the consequences." When the call is out to reduce the tax on labor, it is a disincentive. As I am sure the distinguished Senator from New York knows from the fine work he did on the Family Support Act, the Chamber is absent of advocates saying that the urgency is overwhelming, that the case is so urgent to give $110 million to people who get paid by the hour over the next 5 years, so they can make purchases and investments, as well to stimulate the growth of our economy. Since two-thirds of our economy depends on consumers anyway, it seems to be a natural for conservatives and liberals alike. I am alarmed, per se, and I am curious whether the Senator from New York is, as well, of the absence of advocates for the reduction of tax on labor.

Mr. MOYNIHAN. Mr. President, I am impressed. I say to my friend from Nebraska that it is baffling. It may be the people in this Chamber do not know what is going on out there in American life. Or, it may be that what is going on is so extraordinary that we do not have words for it, still just do not have words for it. I think the latter.

I think you can say it and say it and say it and realize over a decade of saying it that nobody has heard you. I know the Senator has, and we talked about this, Average weekly earnings is that basic sort of factory pay, office pay that we developed in the series of statistics in the Bureau of Labor Statistics 70 years ago. Average weekly earnings today, in 1990, are lower than they were in Dwight D. Eisenhower's next-to-last year in the Presidency. They were $163 and change then; they are $166 and change now. So there has been a $3 increase over 30 years. But because the contributions to Social Security has tripled, you are actually down $4.

Never in the history of the European settlement of North America has there been such a period where a generation came by and nothing happened to them. Wives went to work, so incomes continued to grow until 1973. But in 1989 now we are still not back to median family income of 1973. Returning Social Security to pay-as-you-go at least would do that. But that is why three-quarters of Americans pay more in Social Security contributions than in income tax and yet it does not sink in.

If the Senator could explain that to me, I do not know what those fellows who came back from Vietnam with him think or what they came back to. I was briefly in the Navy in the Second World War. I spent my 3 years. I went into the Navy as a kid, came out not much more than a kid. But, boy, in 10 years' time was I doing all right. I will tell you. I mean, I had a wife and I had a station wagon and I had three kids and a dog. I knew something had happened to me. I had to be acting grown up too. I also realized that.

What if you came back from Vietnam and 10 years later nothing had happened to you, except they were taking more of your Social Security and had commenced to spend it as if it was general revenue, which it is not? That money, as you know, has your name on it. It goes to your account. It does not go to the Treasury of the United States. I do not understand it. I do not know where we lost touch with that reality.

Mr. KERREY. I appreciate the answer. I also would ask the distinguished Senator from New York—and I fully support S. 3167. I think it is an economic imperative. I believe it will stimulate the economy. I believe it is a rule change that will encourage people who get paid by the hour to go to work, many of whom are constantly on the edge, separating themselves between welfare and work, constantly trying to fight back into the workplace, facing obstacles of health care, facing obstacles of housing, facing real obstacles out there.

It seems to me this is a change in our rules, a fundamental change in our rules that provide an easy incentive to understand. But perhaps it is difficult here in the U.S. Senate, where we are earning $100,000 a year. I must say one of the encouraging things in the new proposal that we enacted last night is it increases the ceiling on Medicare. Everybody in Congress now will have an additional $50,000 of income taxed at 1½ percent or 1.45 percent, so we are going to have $725 less disposable income.

It is not a very good comparison. It would be far better for us perhaps to have our health care come from Medicare, far better for us to get a sense of what it is like to earn $15,000 to $18,000 a year today in America.

I will tell you in 1970 a person in Nebraska could go out and get an hourly job, hourly wage right out of high school, and he could support a family. They could buy a house. They could buy health care. They could purchase a car and set a little money aside. But not in the 1990's.

What happens as a consequence, Mr. President—I know the Senator from New York understands this—we have 20 percent of the children in Nebraska born out of wedlock. This is not some inner-city problem. This is a rural State, 20 percent. In 1970 it was 6 percent. One out of three children in Omaha, NE, born out of wedlock.

I understand it is one part attitude; I understand we need to change our welfare system. There are all sorts of problems there. But one of the biggest contributors is you cannot support a family today on an hourly wage.

We were baffled that the American people wonder, the American people are outraged by this deficit reduction package we just put together. The reason I think they are outraged—I am curious if the Senator from New York agrees—they do not have a sense that our actions are connected with their lives. The problems they face are much different than the problems we face. I believe it is a growing number of Americans who just wonder whether or not we understand what it is like to work and live in America today and face the questions of housing, interest rates, health care, and the growing difficulty of being able to afford to send your children to school.

It seems to me this says to Americans that we understand, and they are willing then to deal with the problem. Yes, there is a mechanical problem trying to figure out where we are going to get $120 billion. I do not see people say, woe is me, we cannot do that with capital gains. They do it immediately. I do not see people say, oh, we cannot reduce the tax on capital gains because that is going to cost us money. They find an offset in a heartbeat, in a heartbeat to take care of those people. Working Americans need our help. I think there is urgency for us to deal with this issue.

Mr. MOYNIHAN. Can I say to my intense and intensely correct friend, here are average weekly earnings, hourly earnings, hourly earnings since 1947. In Nebraska, in New York average hourly earnings today are what they were in the second year of the administration of John F. Kennedy.

I was an Assistant Secretary of Labor in those days. I had a nominal responsibility with the Bureau of Labor Statistics.

Once a month, the BLS Commissioner of Labor Statistics would bring me the figures on hourly, weekly. I would thank him. Say, "Thank you, Clay." He was a wonderful old Scotsman.

But I really was not very interested because they had gone up every month without exception since the end of World War II. They always were up; every so often a tiny dip. But we never went 3 years without breaking an annual income level. And you see that line up, up, up, and it continued up to 1973 and it has gone down. That is the life of people back here. You could raise a family; you could get married and have children on a job that paid you by the hour. You cannot anymore. You cannot anymore because we have changed all the rules. First of all, we have trebled the amount of Federal tax we take in the form of payroll taxes.

But then look at this. If I could just ask my friend to be patient for 1 minute, let me show you. This is from Kevin Phillips, "The Politics of Rich and Poor." Between 1977 and 1988, what happened. The people in the lowest tenth of the income structure lost 15 percent of their income. People in the top 1 percent grew by 49.8 percent; grew by half for the richest and dropped by one-seventh for the poorest. Every income down here, until you get to No. 8, everyone lost. In the very poor levels, it does not hurt because the circumstances have not changed by the virtue of the FICA tax because the earned income tax offsets that. So it is people who are really trying to raise a family, earning $20,000 to $30,000, $30,000 to $40,000 they are the ones that have been hit.

Mr. KERREY. I hear people immediately talk about taxes. They are talking about the sluggish growth in the economy today at less than a half percent of GNP increase a year. There is a significant expectation that the producer price index that is going to be reported Friday will show inflation in double digits again in the United States. There is recession in many parts of the country today. Our financial institutions are in serious trouble. The banking industry now has 40 percent of their assets in real estate. We have real problems there.

It just seems to me every time there is a need to get the economy going, people immediately go to taxes. Immediately. In fact, in order to get the first agreement, the President was unable to get 80 Republicans on the House side to go along, and, moreover, fell short in persuading the American people this was a very good package.

In order to get the agreement the President signed, we got this little $10 billion small business incentive that everybody is running from now.

The point I am trying to make, they did not say, well, where are we going to get the money to pay for that? That is going to come afterward. Write a check for $10 billion. Make it out to Lord knows who. We started out that people might get a little squeamish that some of this money might go to the heavily leveraged corporations, like the leverage buyouts in the 1980's enriched the people who put the deals together.

But I find it remarkable that there is a quickness to provide individual tax incentives to people. But in this particular case, I mean where is the audience? Where are the people who are constantly going out and saying we are concerned about American families? I hear it all the time, the value issue in political campaigns, American values and American families.

So when American families are asking for a little bit of help, we are saying but the reality is we cannot do it. There is $154 billion worth of tax increases in the proposal the President is apparently sort of indicating he is going to agree to. And $34 billion or $35 billion of that will be paid out in order for us to net $119 billion whatever it is going to be. We just do not seem to have any difficultly, it seems to me, when the opportunity is there to give a tax incentive to a corporate interest or give a tax incentive to somebody that makes a million dollars a year, saying I need a little more incentive in order to invest my money. But when it comes time to providing incentives for people who get paid by the hour, the floor is empty. Well, we cannot do that. It is irresponsible, I hear people saying.

Mr. MOYNIHAN. May I make one further point to the Senator? In the end, as much as anything else, it comes down to what are we doing with these workers' pensions? There are pension funds. They are not trust funds.

There is one word for what we are doing and that word was used by the Senator from Pennsylvania last January when asked did he agree with the characterization of what was going on as "theft." He said, "It is not theft; it is embezzlement."

What kind of a Republic are we? Can my colleague imagine, if Francis Perkins was still around; if sitting down here, Robert F. Wagner sponsored this legislation and found we were taking those contributions, numbered accounts, and using them as if they were tax revenues? It would have been said there had been a great betrayal of trust and a leakage of integrity; that the system, once it gets used to that, does not cure itself very easily. Or such is my view.

Mr. KERREY. I continue to press the argument. I heard it made off the floor. I have seen smart and wise editorial page writers saying, Senator MOYNIHAN's proposal is a good one but, of course, with the deficit where it is we cannot put the proposal in just yet. But when it comes time to providing an incentive for capital, when it comes time to providing incentive for other corporate interests, we hit the mark and we are ready to go. Put your track shoes on. We cannot get there fast enough; come to the floor to debate it to say there is an urgent need to do it.

Mr. President, I am concerned about the legitimate sincerity of many of my friends who say they are concerned about working families in America. Given there is a rather small crowd here, I might transgress on the subject.

Mr. MOYNIHAN. If the Senator will allow me, there are twice as many people on the floor today as there have been most of the time on the floor; and that is two. There are very conspicuous empty spaces.

Mr. KERREY. I believe somewhere in the first week of October, perhaps October 5, the Senator from new York talked about the Family Support Act of 1988. I personally think there is a connection between the Family Support Act and this particular proposal. Just to enlighten our colleagues who wonder whether or not there is a connection, will the Senator from New York talk for awhile on what I am sure he sees as a connection between the two.

Mr. MOYNIHAN. I certainly will, sir; if I may, Mr. President?

The Family Support Act starts out with something new in our Nation, like these numbers are new. That is, almost one-quarter of our children are supported by welfare before they are age 18. That is the Aid to Families With Dependent Children, the title of the Social Security Act. That title began as a widow's pension. It no longer involves widows at all. It involves young, mostly unmarried women with children whose fathers have left them.

The act says a number of things. First of all it says there is a set of obligations that go back and forth between individuals and society. Mothers have to learn to become independent and self-supporting, and they deserve help in getting there. Children are entitled to the support of ther fathers and family support is owed. Only about 15 percent of child support is paid in this country. The argument goes that these are low-income people. All right, they are low-income people, but if you have a child, you have to support it for 18 years.

It helps the mother and helps the Government. The mother gets the first $50, the Government gets the refund for the rest.

If we keep wages going down and down, do not, as a practical matter, expect we can get family support going up and up. If we take out of that first hour's pay more than you need for payments of Social Security, take the extra to buy battleships—what do we spend money on—pay interest to the Japanese who hold the bonds, well, we have made it harder to get work because we put a tax on labor, and harder to pay family support because we have taken away more than was required, more than was warranted, and used it for purposes that were never ever envisioned.

Mr. KERREY. Let me follow with another question, because I am very interested. I always find myself learning when the distinguished Senator from New York discusses issues like this.

I am aware at one point in his career he had the opportunity to advise a good Republican President on domestic policy and to provide the President with advice about what our domestic policy ought to be. I understand that advice sometimes got my colleague in trouble with Democrats because of the things he was saying, many of which happened to come true.

Mr. MOYNIHAN. Yes.

Mr. KERREY. I am curious, and particularly I am thinking now on the spending side. If my colleague were advising the President and had gotten a $1.2 trillion budget and the desire was to put into place programs that would benefit American families, particularly those who are entering the work force and getting paid by the hour, as was said, struggling with housing, health care, all sorts of other things, education—I know from conversations I have had and listening to the distinguished Senator from New York before that there are many programs we see in education and health and human services that frankly are not much more than employment opportunities for people who work in the Federal departments. They do not really connect at all with people's lives.

One of the reasons I, as President, would assert that today is it gives permission for us to reduce the size of the Federal deficit and we are not taking that permission. People are angry because we are not taking the opportunities to make reductions in those parts of the Federal bureaucracy that do not have much role in increasing the growth of the American economy and increasing the real disposable income of American families.

I was curious, again, if the distinguished Senator would not mind shedding some light on what he would advise President Bush if he came to my colleague and said, "Senator, how can I direct the resources of Government so as to be able to improve the lives of American families?"

Mr. MOYNIHAN. I cannot think of any more important thing than to see real incomes rising again. If we wonder why so many people are anxious, why the social space seems to have narrowed, why there seems less disposition to think about others, it is because you have been through 30 years of this and you have a right to think about yourself; you had better, because you get the impression nobody else is.

The great contrast between the 1960's and the 1990's is in the 1960's Americans had a continued experience of things getting better for themselves, and they were very open to the idea they ought to get better for everybody. That seemed perfectly plain. Why not? And it could happen. Why should it not? It happened to us; it can happen to everyone.

Thirty years later that experience is not there and neither is that attitude. One of the reasons is we have so skewed our tax structure and we have so abused our trust in Social Security.

I think we have to have something of a jump start, something right now that really happens—not just enrich the curriculum and your grandchildren will be smarter than you are—something that happens to you the day you pass the bill. This bill would mean in January people all over the Senator's State, all over mine, who work by the hour, work by the week, would look at their paycheck and know it was larger. I think that is a little good news that would bring help right now.

Fifty years of struggle with totalitarian regimes is over. We do not seem to see it is over. On this side of the aisle, the Senator from Texas, who spoke about the people we have been talking about, said these are the people who paid for the cold war; it is about time they got something back.

I think a little of that will go a long way. We are not talking about a lot the first year. We are talking about a big principle and a small startup cost. The money is there. Revenue comes in. Surpluses are running at $2 billion a week almost, right now. We can find this.

But to go on. We tried it from the top side. A 50-percent increase in the family income of the top 1 percent in 11 years, while everybody else below

80 percent lost out. That is how you pull a country apart. I would not want to see that happening again.

I remember the tail end of the 1930's in New York City. I do not want to see those days ever again in this country. And we could.

Mr. **KERREY**. The thing I was pressing a bit on was my sense that we are being given an opportunity by the American people to make some programmatic reductions; I mean, to make some changes in the structure of the Federal bureaucracy. I read in this morning's Washington Post the comments of the distinguished Senator from New York about bureaucracies that collect statistics. A 30-percent reduction in the work force will almost automatically improve their capacity, in reference to the intelligence community. That may have been a misquote. But certainly the distinguished Senator is on record as believing that we can find real savings today in the intelligence budget; that the reported figure in the Washington Post this morning could be reduced substantially. There are opportunities for savings there.

I have seen some awfully good people today: the U.S. Department of Agriculture, environmental protection, agriculture—we have a big and growing bureaucracy. One of the things I am troubled about in all of this is the size of the bureaucracy is going to grow in this proposal.

Mr. **MOYNIHAN**. It has done. I can say, from the 1960's, I remember sitting in the gallery of the House; some legislation was coming up that would involve the Department of Labor; a Member of the House stood up and offered an amendment that said the employees of the Department of Agriculture should never exceed the number of farmers. They sort of handled that as best they could.

The 15th largest school district in the United States is located in West Germany. Does my colleague not think it is time we came home?

We have been on the Rhine for half a century. We have 700,000 people there. If we do not come home, we are going to be sent home. I am very much worried about that. Not entirely—but that is out of proportion. And it costs us.

As we go all over this Government we find the accretion of 50 years of cold war, some of which people do not know about because it is secret. But it could be squeezed down. Not a penny of that resource is available for the things we have been talking about out of the last summit, and certainly not out of the President's budget.

Mr. **KERREY**. I close, Mr. President, my remarks. Again I applaud the perseverance of the distinguished Senator from New York on this issue as should, I think, every person in America who gets paid by the hour, who goes home and detaches the stub from his or her paycheck and wonders where it all went, who had a half-percent increase on the first of January to almost no objection from Washington, DC. The people who are the strongest opponents of tax increases hardly lifted a voice of protest when that tax increase occurred. Of course, on self-employed people it is a full 1 percent.

Mr. **MOYNIHAN**. Farmers.

Mr. **KERREY**. Farmers; for double wage earners, which is an increasing part of our work force landscape, as well as double tax on them.

What the distinguished Senator from New York is proposing makes good economic sense. It makes good sense from a humanitarian perspective. It is consistent with what is said by almost every politician I have ever heard. And that there is a need to help America's families, to put money in their pockets.

This is an effort that will require no new employees coming aboard. We do not have to create a new program in Health and Human Services or the Department of Education. There is no need to send out requests for applications. There is no need to send out any other thing. We do not have to create State offices to organize this thing. We do not have to have a special task force to do an analysis.

This does not require us to do anything other than simply say that working people need a break.

If they are given a break, if their rules are changed, if a little more money is put in their pockets, maybe their lives will be better. Maybe they will enjoy work more. Maybe they will be able to do some things that we take for granted, frankly, here in the glorious world where we earn in the top 1 percent of the Nation.

I genuinely and sincerely thank the distinguished Senator from New York for pressing this issue. I think the battle cry of the 1990's, if this proposal fails, is going to be the one the Senator offered long ago, I believe around the first of the year, when he first caught the Nation's attention with this proposal, which was by what right and for how long are we going to make deficit reduction the peculiar burden of people in America who get paid by the hour.

I believe it will be the battle cry of the 1990's. They are angry about it. They are distressed about having to do that and increasingly, thanks to Kevin Phillips and others who brought it to their attention, where the regulatory policies, the spending policies, and tax policies of the eighties has not only caused a shift of wealth away from them, but a shift of income away as well.

These are constant rule changes put into place by good and well-meaning people in Washington, DC, who wanted to provide incentives for another category of Americans. I think working people in America are tired of it. They want someone who will be an advocate for them, and I appreciate the Senator's leadership, I say to my friend, the distinguished Senator from New York. Were it not for him pressing this for long, tireless times when perhaps he was the only one on the floor, coming down over and over and over, reminding, and finally the hook set. Finally Americans are aware of this outrage, and I think they are asking us to make this change. Unfortunately, it may not happen. I sincerely hope it does.

Mr. **MOYNIHAN**. Mr. President, I can sincerely contain my appreciation for the Senator's remarks. They mean a very great deal.

Mr. **MACK** addressed the Chair.

The **PRESIDING OFFICER** (Mr. Shelby). The Senator from Florida.

Mr. **MACK**. Parliamentary inquiry, Mr. President. Is the amendment that is up for discussion now the amendment of the Senator from Minnesota [Mr. Boschwitz]?

The **PRESIDING OFFICER**. The Senator from Florida is correct.

Mr. **MACK**. I thank the Chair. It is my intention to speak to that amendment.

The **PRESIDING OFFICER**. The Senator from Florida is recognized.

Mr. **MACK**. Mr. President, the amendment that is offered by the Senator from Minnesota is designed to change or to eliminate the earnings cap with respect to Social Security rates. It is not a surprise, being a Senator representing the State of Florida, that I would come down to speak on behalf of this amendment.

I want to first begin by making some comments with respect to a letter that I received from one of my constituents, Mrs. Alice K. Mullen, a 68-year-old resident of Bonita Springs, FL. She wrote me recently to say that since she began collecting Social Security benefits, she has been limited to working only part time in a retail sales job. Her employer would like her to work additional hours.

She writes to say she needs to supplement her income to care for her husband, who is physically unable to work. But she is constricted from doing so because her Social Security benefits would be reduced.

Again, those who have been listening to the debate, I think, understand that once you go above $9,360 a year, for every $3 in earnings that you have, you lose $1 in Social Security benefits. And very quickly one can determine that this is a 33-percent additional tax on top of what other taxes the working senior might be paying. This additional tax is a rather drastic disincentive to work.

In her letter Mrs. Mullen said, "I am healthy and capable of working longer. I feel it is unfair and discriminatory to limit our age group's supplemental income."

I thankfully just add, this age group includes those from 65 to 69. There is no earnings limit on those 70 years and older.

The irony is tragic. Mrs. Mullen worked hard all her life to better America, and now the system she trusted to be there for her in her senior years is double-crossing her. The Federal Government is telling her: If you want to work, we will penalize you. That is not the American way, and that is wrong.

I had the occasion earlier this year to visit the Safety Harbor, FL, location of Johnson & Johnson Medical. I went there because that firm makes it a practice to try to reach out and hire retirees. They have found that seniors are among one of the most productive groups of individuals they can hire, male and female, 65 and above. I talked to one person working there who was in his eighties.

I remember asking the managers of the firm whether they thought there would be a negative impact on the firm by doing away with this earnings cap. Would there be some impact on their financial well-being or an impact financially? The conclusion was yes, it would have some financial impact but, frankly, they said we are in favor of whatever is in the best interest of our employees.

They then gave me the opportunity to meet with a number of their employees. I would guess that group was probably 15 or 20 in size, again age 65 or older. That is where I met the fellow who was in his eighties. They expressed their feelings to me about why they thought that this law, which says that those people who are ages 65 to 69 are the ones who are going to have to give up $1 in Social Security benefits for every $3 they earn, is so unfair. There was no way they could understand that.

Frankly, there was no way I could possibly defend it, other than saying to them that at the time the Social Security Act was passed there was a concern about a labor force that was too large. One of the ideas about forcing retirement at the age of 65 was let us get folks out of the work force so we could encourage and find opportunities and jobs for younger generations who were coming along. Maybe at that time it made a great deal of sense. But clearly, today, it makes no sense at all.

According to many reports and to many other indicators, we are a nation which is desperately looking to find skilled, productive employees. I would say one of the greatest resources that we have are individuals who, for one reason or another, decided to retire but need or want to keep working to supplement their income.

When I was meeting with this group at Johnson & Johnson Medical in Safety Harbor, I could not help but be struck with a feeling that I was, in essence, talking to my mother or dad, or it could have been the Presiding Officer's mother or dad.

There were many different reasons why these people were working. Some of them said: I just want to have some reason to get out of the house for a period of time and do something that makes my life feel productive. Others indicated to me that, very frankly, as Mrs. Mullen indicated in her letter, they needed to work to provide the benefits or the health care necessary for their spouse. Still others stated they needed to work to maintain a certain standard of living.

Again, I made reference to the fact that it could have been my mother or dad. I am very fortunate; my parents are both in their seventies now—75 and 77. Dad spends probably half of every day of the week doing volunteer work at one of the hospitals in our hometown. Dad has said to me, "Connie, if I did not have this opportunity to spend this time doing something that is productive and doing something that is helping others, I don't know how I could value my life today."

So what I am saying is that there are many, many reasons one can understand and conclude that we ought to take away any impediment to an individual's need to work, to an individual's desire to work, and an individual's right to work.

I also remember another comment that was made by another employee of Johnson & Johnson. As we concluded our discussion, which was a give and take dialog about this proposed change in the cap, this fellow came up to me and said, "Senator, we live in a throwaway society. Don't let them throw us away." What this fellow was really saying is that the message the cap sends is that society no longer needs you; you are of no value; there really is no longer any purpose for you.

I think we must remove the cap. We need to take away the stigma that has been created, that negative, that disincentive to work. I think it is important we put that behind us and give people an opportunity to participate and feel they are playing an important role in their communities and in our country.

I close with this thought: Many people will recognize my grandfather, Connie Mack, who spent 66 years in major league baseball. That is an interesting number, 66 years. It means he was considerably older than that when he retired. Many people will remember, especially the retirees around the country, that in 1929 he managed the Philadelphia Athletics against the Chicago Cubs and won the World Series, producing what many people believe was the best, the greatest baseball team ever put together. That is up for challenge, but I would share that thought.

My point is, in 1929, he would have been approximately 65 or 66 years of age. Suppose he had succumbed to the idea that at that age there really is not any purpose for pursuing one's ideas, one's dreams in life. Suppose he had been told by a nation that you really are not of value anymore. He would not have had the opportunity at the age of 65 or 66 to produce that great team.

My conclusion is that why should we, as a Nation, have a policy which says to the people all over our Nation involved in all kinds of work, for whatever reasons, your input, your dreams are no longer of value.

The time has come to repeal this very restrictive, discriminatory piece of legislation.

Let me say to the Senator from New York, I have been reviewing the legislation he has proposed. I am inclined to support it. I think he has done a great service to our country to bring this issue forward. As he knows, I spoke with him earlier this year about that legislation. I look at it in the broad context.

As the Senator knows, I have been a champion of lowering the capital gains rate in this country because I happen to believe it would help make America more productive. I believe it would free up capital; it would create larger pools of venture capital; it would encourage the formation of new businesses and the creation of new jobs. But I believe equally as important, if we are going to reduce the cost of capital, we ought to reduce the cost of labor. So I congratulate the Senator from New York in his initiative.

I yield the floor.

Mr. **MOYNIHAN**. Mr. President, I thank the Senator from Florida. Let me first of all say that I am getting to be a senior citizen myself, and I remember Connie Mack. Those are a little after the days of John McGraw and Lou Gehrig up in Yankee Stadium and Connie Mack was still down in Philadelphia.

What the Senator says is so entirely right. Why do we have an age 65? Because Bismarck was confidently advised when he put in his old age insurance that by age 65 everybody in Mecklenberg was dead, or nobody lived past that point. It is an artificial number. The particular provision about the penalty is purely a legacy of the 1930's when this went into effect, when there was an effect to keep people out of the work force. The very same reason for which the baby bust that followed the baby boom led us in 1977 to put Social Security on a partially funded basis, means that we will face a labor shortage in the two decades ahead of us—three.

These are events that in most part have already happened. They are not speculative events. So the more people who can work, who want to work, should work. As a matter of actuarial effect on the trust funds, we pay a bonus in benefits after age 70 to people who worked betweeen 65 and 70. That bonus this year under our 1983 reform amendments, rises from 3 percent to 8 percent over 20 years. This would in effect wipe that out. And so actuarially it is a wash, if you can think 30 years ahead, which you have to do if you are going to be involved in Social Security. So I am happy to support this measure.

I thank the Senator from his very thoughtful remarks.

Mr. MACK. I thank the Senator.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Kerrey). Without objection, it is so ordered.

OLDER AMERICANS' FREEDOM TO WORK ACT

Mr. HELMS. Mr. President, I am glad to be a cosponsor of the amendment offered by the distinguished Senator from Minnesota [Mr. Boschwitz] to repeal the Social Security retirement earnings test. As he has said, it is an idea whose time has come. In fact, it is long overdue.

Mr. President, if there is one concept that should be beyond dispute in this great country, it is that people should be encouraged to work. The Social Security retirement earnings test goes in precisely the opposite direction—it punishes older Americans for remainig in the work force after they reach 65.

I recognize that when the country's labor pool exceeded the demand for workers, it perhaps made sense to offer incentives for older workers to make room for younger workers. However, in light of the shrinking labor force in the years to come, it is ludicrous to continue policies that ignore the expertise and experience and increased productivity that can be gained from older workers who want to continue working.

Mr. President, we hear every day about the increased health care costs, the higher insurance costs, and the many other financial burdens facing older Americans. Doesn't it make sense to give them as much encouragement as possible to remain in the work force? It makes sense to me, and Senator Boschwitz' amendment accomplishes that.

As Senator Boschwitz has pointed out, senior citizens face exorbitant tax burdens. In fact, in some cases, senior citizens who earn as little as $10,00 a year may face effective marginal tax rates in excess of 70 percent. There is neither logic nor fairness in saddling our working older Americans with a tax burden more than twice that imposed upon millionaires. These seniors are singled out and blatantly discriminated against for wanting to be productive members of our work force.

Mr. President, again, I commend the Senator from Minnesota for his leadership on this very important issue, and I am pleased to join him in repealing the outdated Social Security retirement earnings test.

AMENDMENT NO. 2942 TO AMENDMENT NO. 2941

(Purpose: To amend title II of the Social Security Act to provide for a more gradual period of transition (and a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such workers' benefits accordingly, and for other purposes)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. Harkin], for himself, Mr. Sanford, Mr. Reid, Mr. Exon, Mr. Bryan, Mr. Metzenbaum, Mr. DeConcini, Mr. Pell, Mr. Heflin, Mr. Shelby, Mr. Grassley, Mr. Lugar, Mr. Kasten, and Mr. Pressler, proposes an amendment numbered 2942.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following new section:

SEC. . SOCIAL SECURITY NOTCH ADJUSTMENT.

(a) Expansion of Period of Transition.—Section 215(a)(4)(B)(i) of the Social Security Act (42 U.S.C. 415(a)(4)(B)(i)) is amended by striking "1984" and inserting "1989".

(b) Establishment of New Transitional Formula.—Section 215(a) of such Act (42 U.S.C. 415(a)) is amended by adding at the end thereof the following new paragraph:

"(8)(A) Paragraphs (1) (except for subparagraph (C)(i) thereof) and (4) do not apply to the computation or recomputation of a primary insurance amount for an individual who had wages or self-employment income credited for one or more years prior to 1979, and who was not eligible for an old-age or disability insurance benefit, and did not die, prior to January 1979, if in the year for which the computation or recomputation would be made the individual's primary insurance amount would be greater if computed or recomputed under subparagraph (B).

"(B) The primary insurance amount computed or recomputed under this subparagraph is equal to—

"(i) the excess of—

"(I) the amount computed or recomputed under this subsection as in effect in December 1978 (for purposes of old-age insurance benefits in the case of an individual who becomes eligible for such benefits prior to 1989) or under subsection (d) (in the case of an individual to whom such subsection applies), over

"(II) the amount computed under this subsection as in effect on October 1, 1991, multiplied by

"(ii) 40 percent, reduced by the sum of—

"(I) 4.0 percent times the number of years between 1979 and the year of first eligibility, plus

"(II) ⅓ of 1 percent for each month beginning before the month in which the individual attains the age of 65 and with respect to which the individual is entitled to old-age insurance benefits.".

(c) Applicability of Old Provisions.—Section 215(a)(5) of such Act (42 U.S.C. 415(a)(5)) is amended—

(1) by inserting "(A)" after "(5)";

(2) by striking "For" and inserting "Except as provided in subparagraph (B), for";

(3) by striking "effect," and all that follows through "after 1978" and inserting "effect"; and

(4) by adding at the end thereof the following new subparagraph:

"(B) In applying this section as in effect December 1978 as provided in subparagraph (A)—

"(i) effective for January 1979, the dollar amount specified in paragraph (3) of subsection (a) shall be increased to $11.50;

"(ii) the table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be revised as provided by subsection (i) for each year after 1978; and

"(iii) in the case of an individual to whom paragraph (1) does not apply by reason of paragraph (8)—

"(I) subsection (b)(2)(C) shall be deemed to provide that an individual's 'computation base years' may include only calendar years in the period after 1950 (or 1936 if applicable) and ending with the calendar year in which such individual attains age 65; and

"(II) the 'contribution and benefit base' (under section 230) with respect to remuneration paid in (and taxable years beginning in) any calendar year after 1981 shall be deemed to be $29,700.".

(d) Conforming Amendment.—Section 215(a)(3)(A) of such Act (42 U.S.C. 415(a)(3)(A)) is amended in the matter following clause (iii) by striking "(4)" and inserting "(4) or (8)".

(e) Effective Date.—The amendments made by this section shall be effective as if included in the amendments made by section 201 of the Social Security Amendments of 1977, with respect to payments made on or after October 1, 1991.

(f) Short Title.—This section may be cited as the "Social Security Notch Adjustment Act".

Mr. HARKIN. Mr. President, I offer this amendment in behalf of myself and a number of other Senators whom I will name shortly.

Mr. President, for the benefit of those Senators present and watching, this is the notch amendment. This is the amendment for which approximately 10 million Americans have been waiting 13 long years for Congress to address; that is, the issue of the Social Security notch, as it has been called. Let us review a little history of how we got to this position with this notch, the fairness of it, the equality of it, and what this amendment seeks to do.

As a result of the 1977 amendments to the Social Security Act, individuals born between 1917 and about 1926 received substantially lower benefits than individuals born in earlier years. Retirees in this age group are receiving from 10 to as much as 20 percent less, or up to as much as $1,800 a year less than those born earlier. They are getting substantially smaller Social Security checks simply because of their age—their year of birth.

This benefit inequity, which has caused hardship and very strong and ill feelings among many older Americans, violates the basic tenent of our Social Security System. That is, that benefits are tied to the amount you paid in during your working years, not arbitrarily based on what year you happened to have been born.

Let me give just a few examples from around the country of how the notch inequity really hurts people. Lucy and Joanna Tucci provide perhaps one of the most compelling examples of the notch. Lucy was born May 29, 1917. Her sister, Joanna, was born on April 24, 1915. Lucy, born in 1917, retired at age 66. Joanna, born in 1915, retired at age 67. Since Lucy had 17.5 percent more earnings over her lifetime, she paid about 17.5 percent more Social Security taxes than her sister. Even so Lucy's monthly benefits of around $500 are 15 percent less than her sister's because, under the transition benefit formula, Lucy's earnings after age 61 could not be used in figuring her benefits.

These stories are repeated countless times across the country. Mr. President, I have a series of different examples like the one I just gave using real people in real situations from around the country and how they are affected unfairly and inequitably by this notch. I ask unanimous consent, rather than reading them all, that they be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

NOTCH CASE HISTORIES OF MEMBERS OF THE NATIONAL COMMITTEE

Lucy and Joanna Tucci of Roselle Park, New Jersey:

Lucy born May 29, 1917; her sister Joanna on April 24, 1915. Lucy retired at age 66, Joanna at age 67, but since Lucy had 17.5 percent more earnings over her lifetime she paid about 17.5 percent more Social Security taxes than her sister.

Even so, Lucy's 1988 monthly benefits of $495 are 15.4 percent ($90 a month) less than Joanna's $585 because, under the transition benefit formula, Lucy's earnings after age 61 could not be used in figuring her benefits.

Ruby Ford of Chillicothe, Texas

Mrs. Ruby Ford, born February 11, 1917, is a classic example of the effect of the flawed transition on benefits to Notch babies.

Had she been born six weeks earlier, her monthly Social Security check in 1988 would be $678. She, too, worked until age 65, but since she was born in 1917, her earnings after age 61 could not be counted. Her monthly check is only $546, a 24 percent loss.

This year it will cost her $1,584 for having been born 42 days late!

Mrs. Hazel Kale of Charlotte, North Carolina

Mrs. Kale was born just nine days late. She will lose $1,296 in 1988 because she was born January 9, 1917, rather than December 31, 1916.

Mrs. Kale worked for modest wages in physically demanding jobs for over thirty years. Although she could have retired at age 62 in 1979, she continued working and paying Social Security taxes until she retired at age 65 in 1982. Since her earnings after age 61 were not used to determine her monthly Social Security benefits, she receives 21.7 percent less than she would have received if she had been born in 1916.

Her monthly check is $501—$108 a month less than the $609 she would be receiving if she had been born just those few days earlier.

Agnes Page of Goose Creek, South Carolina

Mrs. Agnes Page was born March 27, 1917. She, too, could have retired at age 62. Instead, she remained on the job paying Social Security taxes until after her 65th birthday. But those last three years of earnings could not be taken into consideration under the transition formula used to compute her Social Security benefits.

So Mrs. Page's 1988 Social Security benefit check is $549 each month—a 22.6 percent loss from the $674 she would be receiving had she been born in 1916.

If Mrs. Page had been born in 1916, she could have retired at age 62, taken a 20 percent reduction, and would receive only $10 less than she currently gets after retiring at age 65.

Alfred Carlson of Evansville, Indiana

Being born on October 19, 1917, instead of ten months earlier costs Alfred Carlson $224 a month in lost Social Security benefits—a 22.7 percent reduction from what he would be receiving if he had been born in 1916.

In spite of health problems, Mr. Carlson chose not to retire at age 62, but continued in the work force until age 65. But those additional years of earnings had no effect whatsoever on his benefits. Instead of receiving $859 a month in 1988—as he would be eligible to receive if he had reached age 65 a year earlier—Alfred Carlson receives $635 a month.

So the Notch will cost Mr. Carlson $2,688 in 1988.

Mr. HARKIN. Mr. President, in my State of Iowa alone there were about 170,000 people whose Social Security collections are lower because of the notch. This is an issue that I have been working on for over 6 years.

Since my years as a Member of the House, a notch correction has been a priority of mine for all these years. Since 1984, I have supported and cosponsored legislation, held hearings, and presented testimony trying to provide relief to those individuals in a fiscally responsible manner.

So today, on behalf of myself, my distinguished colleague from North Carolina, Senator Sanford, as well as Senators Reid, Exon, Bryan, Metzenbaum, DeConcini, Pell, Heflin, Shelby, Grassley, Lugar, Kasten, and Pressler, I am offering an amendment which is designed to finally bring some relief to all of these Americans affected by the notch.

The amendment we are offering is a slightly modified version of S. 1212, legislation authorized by my good friend from North Carolina, Senator Sanford, and cosponsored by myself and a bipartisan coalition of 20 of our colleagues.

Mr. President, before I continue, I want to commend my colleague from North Carolina for his great leadership on this issue. He has been a tireless and fairminded spokesman for the millions of Americans caught in the Social Security notch. We all owe Senator Sanford a great debt of thanks for his skillful and highly principled efforts on behalf of these people.

Our amendment achieves the goal of notch correction in a manner which is equitable and much less costly than previous proposals. Effective next fiscal year, a gradual phase-in of a stable level of Social Security benefits for individuals born between 1917 and 1926 will begin. This compromise would significantly reduce the vast discrepancy in benefits between notch babies and those born before 1917.

Mr. HARKIN. This amendment is designed to restore equity by providing higher benefit increases to those persons who lose the most under the current law. The amendment does not provide for the modest one-time adjustment of up to $1,000 per family for past losses due to the notch, a provision which was a part of S. 1212.

I must add, Mr. President, that this change was made with great reluctance, but it was made in an effort to meet the concerns of some and to show just how willing those pushing for notch correction are to compromise, in order to have this issue finally resolved. It has been approved by the National Notch Correction Task Force and the National Committee to Preserve Social Security and Medicare.

As I said, our proposal addresses the notch at substantially less cost than previous notch correction plans. Its cost is less than one-quarter that of measures offered in previous years. The bill's costs peak at $4.5 billion per year during the mid-1990's and begin declining in 1997. Our legislation in no way challenges the financial security of the trust funds. Because of the decreased costs of this compromise measure, the additional benefit payments it requires amount to a small, ever-decreasing percentage of mounting surpluses in the Social Security trust funds.

So while, until recently, there were legitimate concerns about the impact of notch correction on the status of the trust funds, those concerns are no longer real.

Mr. President, there are strong feelings on both sides of this issue. All are, I am sure, held with conviction. Many people disagree with us about the need for adjustment or what form the adjustment should take. I am also certain, though, that those who disagree share the belief that, in America, everyone deserves a chance to be heard. And these people born during these years, these so-called notch babies, deserve that chance, and they deserve to finally have a vote on their concerns.

I believe that finding a solution to the notch is in the best interest of Congress, the best interest of the Social Security System and in the best interest of fairness and equity in our country. I urge my colleagues to support this effort to redress the grievances of millions of persons who have been unfairly penalized by the notch. Doing so will bring long awaited justice to these beneficaries and, I think, restore confidence in the Social Security system.

In closing, I want to offer my special thanks to Daryl Cooper and Joe Rodecap in Iowa and to all the activists in Iowa and across America who have kept correcting the notch in the forefront of political debate in our country.

Mr. President, I remember when this notch came through, I was in the other body in 1977. We were told we had to correct the Social Security System, or it was going to go bankrupt. I think that any person who was there at that time and looked at what was happening, thought that was true. We were told by the Social Security Administration at that time that the manner in which we were fixing the ever-increasing replacement rates on Social Security—we were told that the adjustment that we were making would amount to no more than a 5-percent reduction in any person's Social Security who was born after 1917, compared to those who were born before.

Well, I consulted with a lot of senior citizens groups, and they said, well, if that is what it takes to fix the Social Security System, less than 5 percent, that is not a heavy burden; we can bear it. So it passed overwhelmingly, this so-called correction. People on both sides of the aisle, Democrats and Republicans, supported it.

Well, it was not until just a few years after that that I received a letter, followed by a phone call, from an individual who lived in Council Bluffs, IA, talking about how she had received less Social Security than her sister because she was born in February, if I remember right, of 1917, and her sister was born just about 3 or 4 months before that, in 1916. They had both worked the same number of years, both had paid in about the same amount in Social Security. Yet, one person was receiving over 20 percent less in Social Security than the person who was born in 1916.

Well, my first reaction was that that cannot be true. We were told by the Social Security Administration it would not be any more than 5 percent. I began to look into it. I got their Social Security checks and looked at them. And my staff and I figured this out, and we found that it was true, that some individuals who had worked the same number of years and paid in about the same amount, were receiving upwards of 25 percent—I think the biggest amount I saw was almost 27 percent—less in their Social Security benefits, just because they happened to have been born after January 1917.

As you can imagine, this created a lot of hard feelings among a lot of people around this country. I must say it created hard feelings in this Senator, who was a Member of the other body at that time. I felt we had been given the wrong information by the Social Security Administration, and we had. We have been trying for a long time to make some changes.

As I said, bills have been introduced. I have held hearings, and I have cosponsored and sponsored legislation. The bill Senator Sanford has introduced this year, S. 1212, takes us in the right direction. There are twenty cosponsors coming from both sides of the aisle. The one frustrating thing I keep hearing from my senior citizens, and the one thing that frustrates me more than anything else, is that we have not been able to get a vote on this, to express the will of this body or the other body as to how we should correct, if indeed we should correct, this notch inequity. So I have been waiting a long time for this opportunity to finally have a vote, to have a debate, and to see where the sentiments lie on correcting this notch problem.

As I said, our amendment is slightly different than S. 1212. We did away with the one-time lump sum payment. I can argue equitably that it ought to be in there, but I understand the fiscal constraints we are operating under. It takes an ever decreasing amount of the Social Security trust fund in the future, and so that is not a problem.

Finally, let me speak to one other thing that came up in the debate I heard earlier today. For the most part, the increased payments under this amendment will go to those individuals who right now are in their upper sixties, early seventies, the vast majority of whom are people of very modest means. Basically, they are living on their Social Security and precious little else.

Well, we know what is going to happen to the fuel bills this winter with the price of oil up and gasoline prices up. We know what the elderly are going to pay for those heating bills this winter, not to mention the other increased prices of everything else that the elderly have to pay for—rent, food, medical care, clothing, everything else to sustain life.

I believe that this amendment will provide to those elderly Americans who just happen to have been born between 1917 and 1926, who today live mainly on their Social Security and their individual incomes of very modest means, with some necessary resources they are going to need to make it through this winter.

Mr. President, let me make one other point. I have heard this time and time again about the people who fall in this notch group. The vast majority of the men who fall in this notch group are also World War II veterans and they are getting doubly hit. They are seeing their veterans' benefits being taken away, their medicine taken away, their travel so they can go to the veterans hospitals and be taken care of taken away. They now have a means test.

They were told after World War II that they were going to have health care available to them when they retired and now it has been yanked away from them. Then, to add insult to indignity or insult to injury, as the case may be, now they fall in the notch group and they are told they have to get less than someone who was born before them. Someone who may not have served in World War II.

I think if Senators will talk to those people, the men especially who fall in that notch, you will find these are veterans of World War II, by and large. As I said, they are people of modest means that thought they could rely on the health care from the VA. That has been taken away. Now on top of that, they are faced with the increased price of everything else, heat and everything else.

This is really an injustice that cries out for a modest correction. If I had it my way I would probably do even more than that.

I think we should go back and make up for some of that lost revenue. But being in a spirit of compromise and being judicious and understanding the fiscal restraint we are operating under, we do not have that one lump sum payment.

I wanted to make those remarks because I feel very strongly that the elderly who are asking for this would need to have those points made.

Mr. HARKIN. Mr. President, I also ask unanimous consent to add as a cosponsor of this amendment the present President of the Senate, the distinguished Senator from Nebraska [Mr. Kerrey].

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DeCONCINI. Mr. President, I rise in support of the amendment proposed by the Senator from Iowa. I have been a longtime supporter of legislation to correct the glaring inequity in our Social Security System known as the notch problem. In previous Congresses, I cosponsored legislation to address this notch disparity. I am a cosponsor of this legislation when it was originally introduced earlier in this Congress and I am pleased to cosponsor this amendment at this time. I commend Senator Harkin for his leadership on this important issue.

In 1972, Congress changed the formula for determining Social Security benefits. Social Security payroll contributions and benefits are based upon wages earned. However, because of inflation, increases in benefits are needed to maintain an adequate standard of living for retirees. The Congress sought to ensure in 1977 that these increases would occur automatically in response to rising prices, rather than being dependent upon a mandate from Congress, which might reflect partisan politics. With this intention, Congress changed the formula used to calculate increases so that it would be based on prices, rather than wages. Economic theory suggested that wages tend to rise nearly twice as fast as prices. So if increases were based on prices, benefit levels would keep pace with inflation, but the contributions being paid into the trust funds would increase faster, keeping pace with wage levels. This would ensure the solvency of the trust funds.

Unfortunately, that wage-price economic theory failed. Wages were rising only slightly faster than prices and the Social Security pension fund began to pay out more than it had available and was in danger of bankruptcy. Congress soon realized its mistake and in 1977 it again adjusted the formula for calculating benefits to prevent the Social Security trust funds from going broke.

However, since the 1977 formula provides a lower benefit than the benefit provided by the 1972 formula, and since activating that change immediately would have caused a reduction in benefits for people already receiving Social Security, Congress provided for a period of transition to allow time for people to alter their retirement plans and make decisions based on knowledge of what their Social Security benefits would be.

To its credit, the 1977 law did present the Social Security trust funds from becoming insolvent. However, the current debate regarding the notch issue is over how much notice must be given to individuals before the new benefit levels are activated. I have maintained that the original transition period, 6 to 10 years, was far too short to give adequate notice to the people who had or were in the process of making retirement decisions. This short timeframe has worked to the detriment of those retirees who fall in the notch category and receive the middle benefit, but who at age 56 to 60 were too close to retirement to change decisions they had made based on their expected Social Security benefits.

Mr. President, the notch benefit level as it exists today is simply not fair. It is not fair to honest, hard working Americans who responsibly planned for their retirement, anticipating certain income levels from their Social Security benefits. We say over and over again that Americans must plan and save and invest for their future. We should not penalize them by turning the tables on them and changing the rules at what is essentially the last minute.

The amendment before us today corrects its grossly unfair situation by enhancing benefit levels during the transition years and extending the transition period to also protect anyone born between 1922 and 1929. It is a fair compromise and it is high time we face up to our mistakes and pass this important legislation.

Again, I thank Senator Harkin for his leadership on this issue. His efforts are commendable, and I am pleased to support his amendment.

Mr. KASTEN. Mr. President, today I am pleased to join with several of my distinguished colleagues in introducing an amendment to correct the Social Security notch inequity. This amendment seeks to restore fairness to the Social Security benefit levels paid to millions of senior citizens born between the years of 1917 and 1926.

For years, these seniors have been discriminated against just because they were born during this time period. I think that this is extremely unfair, and it is time for us to correct this injustice.

In 1977 Congress acted to preserve the solvency of the Social Security System by changing the benefit formula. This action had, in my opinion, unintended consequences. Because of high inflation, and a short 5-year phase-in period, several million retirees received lower benefit levels than their peers who were born just a few years before or after them. These victims are often referred to as notch babies.

It is now up to Congress to correct this mistake that was made 13 years ago. This legislation will gradually phase-in benefits for those seniors who were born between 1917 and 1926. Benefits for individuals retiring at age 65 will be increased by an average of $550 per year. Additionally, this legislation provides for a lump sum payment of up to $1,000 per family in order to compensate for unfair benefit levels in the past.

These provisions would be financed from the surplus in the Social Security trust fund—at a cost that will not do damage to the fund. The Social Security trust fund is running at an al time high. At no other time since this discrimination began, have we had such surplus with which we could correct this injustice. Even after the enactment of Senator Moynihan's plan to cut the payroll tax, the trust fund would have more than enough resources to cure the notch problem.

Mr. President, I believe that this is balanced piece of legislation which uses our Social Security trust fund for its intended purpose—Social Security benefits. Legislation to correct the notch has been delayed for years. I believe that we owe it to our notch seniors to finally take action on this matter and resolve it. For that reason I am pleased to join with my colleagues in bringing this important amendment to the floor. Fundamental fairness requires us to give the notch babies their fair share, and I ask my friends on both sides of the aisle to give this legislation their support.

Mr. HARKIN. Mr. President, I see my distinguished friend and colleague from North Carolina here. Again, want to publicly express my thanks and the thanks of millions of Americans from all over this country for the leadership that Senator Sanford has given to this issue. Tirelessly, he has worked on this issue to bring it to the forefront. I am privileged to be able to offer this amendment today with him as a cosponsor.

But I want the Record to clearly show that we worked side by side on this issue. We feel very strongly about it. I want to thank him again for all of his leadership in bringing this inequity, this injustice, to the public light and for his efforts ever since he first came to the Senate to make sure we reach this point—I hope we finally have—where we can get a vote on it.

I certainly urge all of my fellow Senators to support this modest amendment. It is not much. But, believe me, the effect it will have on those older Americans who fall in those notches the effect it will have on them in terms of their pocketbooks and being able to help them out a little bit will be tremendous. And it will have the impact of bringing our elderly back together again so we do not have this split between those born after 191 and those born before. It will bring them back together again as they should be.

So, Mr. President, I urge all Members and all Senators to help and ask their support for this amendment, and I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. SANFORD. Mr. President, today I rise to discuss legislation that I introduced last year. Senator HARKIN's amendment, similar to S. 1212, is designed to establish Social Security benefit equity for individuals born between 1917 and 1926. The issue here is fairness—fairness for these 8 million retirees, called notch babies, who have been subject to a burdensome gap in benefits.

There has been difficulty in getting a committee hearing and I commend Senator HARKIN for taking this initiative.

This gap is not due to any fault or shortcoming on the part of the beneficiary. It is not because these individuals paid any less to Social Security. It is simply the result of a difference in their date of birth.

The injustice, more specifically, is that these notch babies were stripped by Congress of their inflation adjustment—an adjustment that is received by those who are simply 1 year older than they are. This twist means that they receive as much as $150 less per month in Social Security benefits then if they had been born between 1910 and 1916.

Let me give you one example of the many unjust effects of the notch in Social Security payments. Audrey and Edith, two sisters living in Bell Gardens, CA, receive substantially different amounts in Social Security benefits. The sisters worked identical jobs in the same printing company in their hometown. Further, they started on the same day in 1957 and retired on the same day in 1982. Audrey, who was born in 1916, receives $735 per month, while Edith, born in 1917, receives only $583. No amount of persuasion or justification can convince us that it is equitable for one sister to receive $152 more a month in benefits.

This proposal will achieve benefit equity, and—perhaps more importantly now as we decide how to tackle the deficit—it does so at substantially less cost than other proposals. It also increases average benefits for those retiring at age 65 by $550 per year and by $144 annually for individuals retiring at age 62.

The provision would cost about $4.5 billion a year over 10 years and would be implemented at costs considerably less than most other notch proposals. It is as reasonably priced as we can make it, while still being fair to beneficiaries.

We can no longer ignore the injustice of the Social Security notch. The fact is that when my next door neighbor receives $700 a month and I receive only $500, and we worked the same number of years and retired at the same time, something is definitely wrong. We can do better than that. Many senior citizens have lost faith in the Social Security System because of this inequitable treatment. I urge you to join Senator HARKIN and all the cosponsors of his amendment in correcting this injustice in this most fair and inexpensive way.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I see the Senator from Alabama on the floor. I wonder if the Senator from Alabama seeks recognition.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. MOYNIHAN. Mr. President, I see the Senator from Alabama has risen.

Mr. HEFLIN. Mr. President, I rise in support of Senator HARKIN's amendment to eliminate the injustice of the Social Security notch years babies, as they have been referred to, pertaining to our senior citizens. We know that back when the Social Security crisis was upon us, there was an effort made at that time to correct some provisions in the Social Security payment formula. But I think that the notch year situation arose without knowledge that a flaw would occur, that the graph line would have run from 1917 on through 1922 without having that notch in the graph.

But today we see people who are 73 years of age down to 68 years of age who are drawing on an average of about $100 less per recipient in regard to Social Security monthly payments. This is an injustice. It is really a discrimination and it ought to be corrected.

I have traveled over my State and in other States, and those people who have been affected by this notch problem all feel that the Government has been unfair to them, and I agree. I feel as though we ought to correct it. I have been a cosponsor of many resolutions and have introduced a resolution of my own in an effort to correct the inequity in the Social Security payment formulas.

We had problems for awhile there without having the support of some of the organizations representing senior citizens. The American Association of Retired Persons now, I understand, supports a remedy to the notch year problem. I think that this is an advancement and it gives us more support in our efforts to try to do something about it. I think that this is an injustice that should be cured.

I congratulate Senator SANFORD, who introduced a bill earlier this year in an effort to try to correct the Social Security notch. It got tied up in committee and was never reported for a vote in the Senate. Now Senator HARKIN has come along and is bringing this to our attention by an amendment on this bill. I fully endorse it and support it.

Thank you, Mr. President.

Mr. MOYNIHAN. Seeing no Senator seeking recognition, may I ask if the Senator from Iowa would wish the yeas and nays?

Mr. HARKIN. I thank the Senator from New York.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. Mr. President, I do not see any further Senator seeking recognition. We now have before us, in the reverse order, which we will attend to them, the bill, the amendment by the Senator from Minnesota, and the amendment by the Senator from Iowa. That is an amendment in the second degree, is it not?

Mr. HARKIN. Yes.

Mr. MOYNIHAN. So that would seem to be the business before us. But the Republican leader may not yet have returned to the Capitol, nor do I see the Democratic leader on the floor. It is clearly within the range that we would, in a very short order, proceed to conclude the day's legislative business. That being the case, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, the distinguished chairman of the Committee on Foreign Relations is on the floor. I look forward to hearing from him.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I rise today in support of the amendment of the Senator from Iowa [Mr. HARKIN]. I am pleased to be a cosponsor of the Senator's amendment, and commend him for his leadership and commitment on this issue. I must also comment the Senator from North Carolina [Mr. SANFORD], for his hard work and leadership in introducing S. 1212, legislation upon which this amendment is based.

Mr. President, I have spoken before on the plight of a group we have come to know as the notch babies. By now, we all know why they have been nicknamed notch babies. They are senior citizens who receive lower Social Security benefits than some beneficiaries born before them. This was the result of a 1977 legislative correction of a 1972 formula error. What this boils down to is that the benefit level for some seniors depends more on the year thay were born than on their earnings history. This has undermined

the confidence of many seniors in the Social Security System, and has been a source of great anxiety and controversy.

While we all agree that the overpayment of benefits to those born in the years 1912-16 had to be corrected to protect the Social Security System from bankruptcy, we could not have anticipated how much our Nation's seniors would come to rely on these benefits.

As we all know, from a political viewpoint, it is very hard to take away benefits once accord.

Between 1977, when Congress corrected the formula, and now, we have had the 1980's—the years of Reagan conservatism—when the rich got richer, and the poor poorer.

Because of the concern of so many Rhode Island seniors, I joined with Senator SANFORD in introducing S. 1212, to provide additional benefits to those affected by the notch. I have also joined with Senators HARKIN and SANFORD in proposing today's amendment, which Senator HARKIN has already described in some detail.

In my view, Mr. President, this amendment reaches a fair compromise between those who favor and those who oppose correcting the notch. We need to pass this amendment for two reasons: to restore the confidence of America's seniors in the fairness of the Social Security System and to assist the many seniors affected by the notch who need additional help at this difficult time.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, it appears today's debate is drawing to a close. There is no Senator at this point seeking recognition. Shortly, the Republican leader and majority leader will be on the floor to announce the judgment, whether we should vote tonight or vote at some stated time tomorrow.

Might I then just use a moment to thank colleagues who have come from both sides of the aisle to discuss these large issues. We are talking about 132 million people who pay Social Security taxes; some 34 million who receive retirement benefits. We have 160 million people right there. With their relations, we are talking about the Nation. We have been talking about the Nation today.

Might I observe that no Senator has risen in opposition to the proposal to return Social Security to pay as you go. The elemental case of fairness in the tax system, and of the integrity of the trust funds, has been before us for the whole of the year from the very first day of this session to this closing month. No Senator has opposed the measure. I hope we might all support it. We will work it out.

The able, inspiring address of the Senator from Nebraska earlier pointed out that, when it comes to other measures, it was always assumed we will find the ways and means. When it comes to this measure, we ought to know, first of all, that the moneys we are talking about do not belong in the Treasury. They are trust funds. They are meant for benefits, retirements, and disability, and survivors. So the case for the integrity, the elemental integrity of what we do is so powerful.

If we start out this 2-week period with this action, we will end up with a much more equitable set for final resolutions on the reconciliation bill than we would ever do otherwise. If we start out with a note of equity, and of fairness, and respect for our institutions, that is not the worst basis from which to start an intensive 2-week quest for solutions not beyond our capacities. They have only, up to date, been beyond our will, possibly our imagination, certainly not our capacities.

So in this closing hour I say to those watching, we have heard the case made and have heard no contrary case made, Mr. President, because the contrary is not there. No one could defend what we are doing, and no one wants to see it institutionalized.

I began this morning, hours ago, describing how we made our way by a series of somewhat imperceptible steps to the point where we are now having to deal with the surplus in the terms we are doing; how the surplus, which was meant to be part of a retirement benefit system, has gradually become a source of general revenues, exacerbating the worst decade in American history with respect to the distribution of incomes.

We have seen those staggering numbers, and here is a chance to reverse them. It is small, but not inconsequential, and the principle is of enormous importance. Here is our chance. Do this and many more things will follow; all of them, I think, to the benefit of the body, the institution, and to the Nation.

I see no one rising. Those in support have spoken. If there are those in opposition, they have chosen not to speak. So, in the circumstances, as the hour of 6 p.m. approaches, we have had almost 8 hours of debate interrupted by the party caucuses; a good debate, all I would ask after 9 months of having mounted forces, and I accordingly suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, i order to record a matter of interest t all of us, but particularly to the junio Senator and former Governor o North Carolina, the person who introduced the Social Security Act of 193 that passed, in response to the suggestion of Justice Stone to Frances Perkins, was indeed Robert L. (Bob Doughton, Democrat of North Carolina. I do not think this day would b complete without that record bein made. I thank the Chair, and I agai suggest the absence of a quorum.

The PRESIDING OFFICER. Th clerk will call the roll.

The legislative clerk proceeded t call the roll.

Mr. SHELBY. Mr. President, I as unanimous consent that the order fo the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, what i the pending business?

The PRESIDING OFFICER. Th pending business is the second-degre amendment by the Senator from Iowa

Mr. SHELBY. Does that deal wit the notch year?

The PRESIDING OFFICER. Yes.

Mr. SHELBY. Mr. President, sinc my election to the U.S. Senate, I hav visited and held town meetings in each county in my home State of Alabam at least once a year. As I have travele throughout my State of Alabama, an visited with thousands of constitutent during that 4 years, certainly I a confronted, like all of us, with a multitude of concerns and pleas that Congress address and act on certain issue before us.

Among the many requests, Mr President, and concerns voiced by m constituents, no issue has been consistently on the mind of older America throughout Alabama and this countr any more than the Social Securit notch issue. I, too, am concerne about the Social Security notch issue

Mr. President, I am concerned tha of two individuals who may hav worked side by side on a job, receive the same salary, paid into the Socia Security System throughout thei working lives, one of these person must receive a smaller benefit becaus he or she was born a year, perhaps few months, or even a few weeks apar from his or her coworker.

Mr. President, I am concerned because the Government, I believe, ha an obligation to Social Security recipients that must be honored, tha should be honored. Most recipient have paid into the system throughou their working lives with justifiable expections of a reasonable and equitabl return from that investment durin their retirement years.

Granted, the 1977 changes in th benefit computation rules that resulted in the notch inequity were neede

In 1972, Congress made a benefit computation which provided for automatic adjustments for inflation. Future benefits were actually double indexed for inflation. Due to the high inflation following 1972 in this country, many beneficiaries received well over the intended amount set by Congress. Had this trend continued, the Social Security trust fund would have been threatened. Thus, Congress decided in 1977 to make a readjustment in the formula. However, those persons reaching 62 years of age before 1979 continued to have their benefits calculated by the old formula, thereby receiving more than Congress intended, I believe.

I also believe that it was not the intent of the Congress that some 10 million older Americans born between the years 1917 and 1926 be penalized and workers born before 1917 and after 1926 receive a windfall.

Since Congress acted in 1977, 52 bills have been introduced in the Congress to correct this notch inequity. None of these bills have been acted upon on the Senate floor.

My distinguished colleagues, Senator HARKIN and Senator TERRY SANFORD, have taken leadership roles in adjusting the notch situation. I am proud to have cosponsored legislation in the past designed to correct the notch inequity and support this notch amendment today.

This amendment calls for a gradual phasing in of benefits more comparable to the benefits paid to beneficiaries born before 1917 and after 1926. The average benefit increase for those retiring at age 65 will be about $550 per year. Those retiring at age 62 would receive an annual increase of $144.

In the past, Mr. President, there has been some concern over the impact of corrective notch legislation on the security of the Social Security trust fund. However, over the past 7 years the Social Security System has been accumulating a substantial reserve to protect future beneficiaries. With the passage of this amendment, the Social Security reserves are still projected to be in excess of $2 trillion by the year 2000.

This amendment before the Senate today is compromise legislation that is more cost effective than any of the prior notch proposals. As Senator HARKIN has pointed out, the additional benefit payments required amount to a small and ever decreasing percentage of mounting surpluses in the Social Security trust fund and do not jeopardize the future well-being of the Social Security System.

The time has come for us to address this issue once and for all. We can no longer afford to evade our responsibility in this matter. We must act now to restore the confidence in Government of a generation of Americans who believe that Congress would see to it that the commitment to Social Security recipients be honored fairly and not in a manner that leaves one group less well off than another simply because of when they were born.

Mr. President, I yield the floor.

Mr. MITCHELL. Mr. President, following consultation with the distinguished Republican leader, I have determined that there will be no rollcall votes this evening. We have had several extremely long days in the Senate. These are important matters. Therefore, while the Senate will remain in session now while we organize to prepare for the schedule tomorrow—and I am very grateful to the distinguished Senator from New York who has presented his legislation very persuasively and effectively today—to accommodate the interests of many Senators there will be no rollcall votes this evening, and I will shortly announce the schedule for tomorrow.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I have long supported repeal of the Social Security earnings limitation and am pleased to be a cosponsor of this amendment to accomplish that.

Many elderly citizens cannot afford to withdraw from the work force, or simply wish to remain actively employed. Some need additional earnings to meet living and health care expenses at a time when their principle sources of income are fixed. Approximately 30,000 South Dakotans could benefit from the enactment of this amendment to repeal the earnings limitation. That is a lot of people. It would help them maintain a better standard of living.

Why should our senior citizen population be penalized for their economic productivity and their desire to make worthwhile contributions to society? The earnings test subjects senior citizens who earn as little as $10,000 to effective marginal tax rates of anywhere from 56 to 90 percent. Those older Americans who want or need to work should be able to do so without losing Social Security benefits and paying burdensome levels of taxes. The earnings test simply encourages dependence and is bad public policy.

Repeal of the earnings test also would benefit the economy by creating higher tax revenues and substantially increasing the output of goods and services. According to an estimate by former Treasury economists Gary and Aldona Robbins, repeal of the limitation would result in a net increase of $140 million in Federal revenues. Thus, by repealing this limitation we could actually increase Federal revenues.

The Labor Department has warned us of shortages in our country's work force and of the need for America to remain competitive in the world marketplace. Senior citizens could help meet this need but they are discouraged from doing so by the high taxation of their earnings under the earnings limitation provision.

The issue of prime concern to me is the welfare of our senior citizen population. The earnings limit is an example of blatant discrimination against the elderly. It is extremely important that we repeal the earnings test. This action would indicate to senior citizens that their role as experienced and dependable workers in our labor force is valuable to all of us.

Mr. President, I have been fighting since 1975 for the removal of the Social Security earnings limitation. I urge my colleagues to join me in this effort to repeal the earnings limitation and recognize the important role of senior citizens in our economy and our society.

Mr. President, this earnings limitation is something that is very important to our senior citizens. They should have a right to work if they want to work. We need them as workers.

We now have a situation in our society where there are many jobs that we need to have filled by senior citizens. Senior citizens are good workers. They are skilled. They are experienced. They are compassionate. For example, in caring for children at a day care center, senior citizens services are very useful because of the experience and compassion that they have. As teachers and teachers aides, they are very useful because of the experience they have.

When you stop and think about it, a worker can impart a lot of knowledge to younger workers. As a teacher, what better worker could we have than a senior citizen? Yet our law effectively deters them from working.

Our economy would flourish with more competition—with more workers available to carry out the tasks. Indeed, in some areas in my State of South Dakota, economic growth has been such that people are encouraged to move to certain cities to fill jobs. That is not true in all parts of the country. But as our economy changes it has been true in some parts of the country.

Also let me touch briefly on the notch amendment that has been offered to this bill. My mother is a notch baby. Every time I go home she says. "Why do you not do something about the notch baby problem?" The notch

babies are those born between 1917 and 1921 and they are in a situation in which they receive less Social Security than people born before them because of a mistake in the benefits calculation formula.

Why is it that we cannot take care of the notch babies? We keep talking about taking care of the notch babies. We keep talking about repealing the earnings limitation. Indeed, as I have mentioned, we have talked about repealing the earnings limitation since 1975 when I first started working on it. We have not done it.

Senior citizens are getting very disgusted with Congress about these issues. Indeed, I am one of those who believe we should be able to address issues in Congress better than we are able to. I am not satisfied with the way Congress has functioned on this budget. But I also think these issues are two additional examples of where Congress has not functioned well.

By the way, notch babies are not babies. They are senior citizens who were babies during that particular period of time. We are faced with two positive amendments here which would address very important problems. We should take action now. The notch issue has been bottled up in the Finance Committee for far too long.

The Social Security trust fund has a surplus. We could use part of that surplus to address the needs of these senior citizens. But the repeal of the earnings limitation would not cost anything. It would bring revenue into our Treasury. It would provide jobs for our senior citizens. It would provide productivity for our country. It would provide greater experience in our work force.

Mr. President, I am firmly for the repeal of the earnings limitation and have worked for it ever since I entered Congress in 1975. I hope that we will finally take a step toward solving that problem.

Once again we are in a situation at the end of the session where we are dealing with legislation that is in danger of not becoming law. I hope that is not the case. It is not fair to our senior citizens to have Members of Congress go home and say that they are for repealing the earnings limitation and that they are for fixing the notch, and then take no action. Congress is so ineffective that nothing ever happens.

We have to start being responsive to the people of the country. For instance, everybody is wondering what is the matter with the current budget deal. Why can't Congress reach a decision by October 1? Then we go on to October 9. Now last night we extended it to October 20.

I would predict—I hope it is not the case—that on October 20 there is going to be another continuing resolution prolonging this for a couple of months and taking us into a lame duck session. Everybody is optimistic now. But we cannot seem to get things done around here. The people of this country are restless and they want action. They want to see a Congress that can act and that can produce.

Mr. President, this is a classic example. Can we repeal the earnings limitation and really get it done because the people of this country want it? Can we fix the notch problem?

Most Members of Congress out on the stump are committed to doing something about it but nothing happens here. What is going to happen? How can we move this body? This week is a test. I hope there is a big vote on both of these amendments. They are vitally important.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that at 11 a.m. on Wednesday, October 10, the Senate resume consideration of S. 3167; that there be 1 hour for debate on amendment No. 2942 offered by Senator HARKIN; that the amendment be considered a first-degree amendment; and that no amendment to that amendment be in order; that time on the amendment be equally divided and controlled in the usual form; that no motion to commit be in order; and that when all time is used or yielded back, the Senate will vote on the Harkin amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

MORNING BUSINESS

(During the course of the session today, the following Morning Business was transacted by unanimous consent:)

THE 1990 12-DAY PRE-GENERAL REPORTS

The filing date of the 12-Day Pre-General Report required by the Federal Election Campaign Act, as amended, is Thursday, October 25, 1990. The mailing date for the aforementioned report is Monday, October 22, 1990, if postmarked by registered or certified mail. If this report is transmitted in any other manner it must be received by the filing date. All principal campaign committees supporting Senate candidates in the 1990 races must file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510-7116. You may wish to advise your campaign committee personnel of this requirement.

The Public Records office will be open from 8 a.m. until 9 p.m. on Thursday, October 25, to receive these filings. In general, reports will be available 24 hours after receipt. For further information, please do not hesitate to contact the Office of Public Records on (202) 224-0322.

WORLD HEALTH ORGANIZATION REFUGEE REPORT

Mr. HATFIELD. Mr. President, recently, the World Health Organization [WHO] conducted a study of the mental health and psychosocial problems of the Khmer displaced persons living in camps along the Thai-Cambodia border. Because of the importance of this issue, my colleague from Minnesota, Senator BOSCHWITZ, and I commend this study to our colleagues.

The WHO report documents the tremendous mental and psychosocial strain this population is under. Many Khmer have been living in these camps for a decade. Because of the increasing militarization of the border camps, along with the crowded and unsanitary conditions, the lack of security, and the dearth of education and employment opportunities, a sense of hopelessness among the civilians pervades the camps.

Cases of suicide attempts, domestic violence, sexual and physical abuse apathy, hopelessness, and depression are common. And, as world leaders focus their attention on the plight of the world's children, it is important that we not forget the 100,000 children living in these camps. Because of camp conditions, the development and education of these children is severely impaired. Many are at the mercy of the various military factions and face forced conscription and physical and sexual abuse by the military.

We are all hopeful that peace will return to Cambodia in the near future and that the Khmer can return home Until this happens, however, it is essential that we do what we can to address the needs of the Khmer on the Thai-Cambodia border and the need of other refugee and displaced person populations around the world.

Following our remarks will be a summary of the WHO report. We reques that our colleagues review it carefully

Mr. BOSCHWITZ. Mr. President, a the only refugee serving in the U.S Senate, I have deep concerns abou the 15 million refugees throughou the world. My distinguished colleagu from Oregon, Senator HATFIEL shares those concerns and has been real leader here in the Senate on refugee issues.

Southeast Asia in particular is a continuing problem. Some in this region do not meet the legal definition of a refugee; they are termed displaced persons and therefore are not eligible for refugee resettlement to third countries like the United States. Sadly, their fate is unknown. Many of those in the region have been living in camps for more than a decade—thousands of children know a camp as their only home.

A fellow Minnesotan, Dr. Carolyn Williams, participated in a World Health Organization [WHO] mission to Thailand to evaluate the mental health and psychosocial problems of the Khmer displaced persons. The only American on the team, Dr. Williams focused primarily on the concerns and needs of the women and children residing in the camps.

The team's report contains some disturbing information. The conditions within the camps could certainly stand some improvement. Indeed, the WHO mission team sets forth several important and imperative public health recommendations.

I ask unanimous consent that a summary of the report be printed in the RECORD. We urge our colleagues to review this important report about the mental health of the Khmer living in camps along the Thai-Cambodia border.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE WORLD HEALTH ORGANIZATION ASSESSMENT OF THE MENTAL HEALTH OF THE KHMER LIVING IN CAMPS ALONG THE THAI-CAMBODIAN BORDER

BACKGROUND OF WORLD HEALTH ORGANIZATION MISSION TO KHMER BORDER CAMPS

Approximately 300,000 Khmer are confined in a number of border camps receiving humanitarian assistance from the United Nations Border Relief Operation (UNBRO), partially supported by the United States for almost a decade. In recent years UNBRO headquarters, UNBRO field staff, and voluntary agency personnel observed a substantial increase in the extent of mental health and psychosocial problems in the camps. For example, cases of suicide attempts (often among women victims of sexual assaults), domestic violence, apathy, hopelessness, and depression were either observed in the population or recorded at treatment facilities. Field staff also reported an increase in antisocial behavior (i.e., thefts and robberies) and the emergence of increasing problems among the large number of adolescents living in the camps.

These problems led UNBRO to request the World Health Organization (WHO) to organize a mission to Thailand and evaluate the mental health and the psychosocial problems of the Khmer displaced persons. An initial visit was conducted in September, 1988 by Dr. R. F. W. Diekstra, at the time Senior Scientist in the Division of Mental Health, WHO, Geneva. Dr. Diekstra led a subsequent international team of experts for a more intensive evaluation of the camps. These experts included Dr. Diekstra, now professor and chairman of the Department of Clinical and Health Psychology, University of Leiden, the Netherlands; Dr. G. de Girolamo, Associate Professional Officer, Division of Mental Health, WHO, Geneva; Dr. Stein Bastiansen, Psychiatrist, Intergovernmental Committee for Migration, Bangkok; Dr. Denis Top, a Khmer physician living in Bangkok; and Dr. Carolyn L. Williams, Associate Professor and Clinical Psychologist, Division of Epidemiology, School of Public Health, University of Minnesota. Dr. Williams, the only American on the team, was asked to focus on the concerns and needs of the women and children living in the camps. The Mission lasted from the 27th of February until the 13th of March, 1989. A report was prepared at the end of 1989 and sent to UNBRO.

DUAL NATURE OF THE CAMPS: MIXING HUMANITARIAN AND MILITARY GOALS

The WHO report documented a number of major problems experienced by the civilian population, predominately women and children, that were linked to the political reality in the camps. There was consensus among the WHO team members that their dual nature (i.e., humanitarian asylums for displaced civilian populations and bases and support sites for resistance fighters) contributed to their severe problems. Because they are used by resistance fighters, the camps frequently are the target of military action, resulting in substantial civilian deaths and injuries. Increased shelling and fighting caused relocation of part of one of the camps during the Mission, resulting in Site 2 closing to voluntary agency personnel, and their supplies of water, and food, and medical services. Events like this are likely contributors to the strong feelings of hopelessness of many Khmer, expressed by one as "no war, no peace" and another as "I am Khmer. I have no power. Only the barang (foreigner) can change."

All the UNBRO border camps share many similarities, but also have remarkable differences. First, they are different in terms of population size: Site 2, with an approximate population of 176,000 displaced people constitutes the second largest Khmer city in the world after Phnom Penh. Site B has a population around 53,168, and Site 8 a population around 33,365. Site 2 is located in a barren, desolate area with no electricity and no natural source of water. Overcrowding is a more serious problem in Site 2 than in Sites 8 or B. Other basic distinctions among the camps have to do with the political, administrative, and military situations existing in them. A more intense situation of political pressure and propaganda existed in Site 8, the Khmer Rouge camp. The WHO team could not visit the other more remote Khmer Rouge camps receiving UNBRO humanitarian assistance.

SEXUAL AND PHYSICAL ASSAULT

Women revealed considerable mental and physical problems because of lack of security, most noticeably a problem at Site 2, but not irrelevant at Site B or Site 8. Many women reported living in constant fear of physical or sexual abuse. Their abusers often times sought shelter in the various military units in Cambodia after serious transgressions.

INEQUITIES IN SOCIAL CONTROL

At the time of the visit no formal legal or law enforcement system existed in any of the camps. Mission team members received complaints that crimes committed by soldiers were dealt with in ways very different than those committed by civilians, leading to feelings of injustice and lack of safety. Women reported that they were often jailed for behaviors, such as adultery, that were "forgiven" when exhibited by men. Police and jailers were almost exclusively men, a situation that created a risk of abuse for women inmates.

Many displaced people indicated that they were not members of any of the resistance armies located in the camps, and were fearful of becoming victims of forced conscription to fight in Cambodia. In Site B individuals indicated that they would be jailed for revealing such information to outsiders. Interestingly, the Site B administrators denied the existence of a jail in the camp to one of the team members who wished to visit it.

HARM TO CHILDREN

Approximately 100,000 school-aged childrens' development and education are severely impaired by the breakdown of family ties, harshness of daily life, lack of adequate educational facilities, and shelling. Orphans are among the most exploited. For example, military factions within the camps used orphanages as recruiting centers and/or barracks for soldiers returning after 5:00 p.m. when the relief workers were required to leave. This was observed at Sites 2 and B. Children in these orphanages are at greater risk for military retaliation, sexual and physical abuse, and forced conscription to participate in the fighting. Because of the substantial unemployment in the camps, with the exception of resistance fighters, children grow up without role models of occupations other than resistance fighters.

DIFFICULTY IN KHMER SELF-MANAGEMENT

Problems in implementing the goal of Khmer self-management of the camps may be due, in part, to the current procedures of forcing Khmer with limited English language skills to communicate solely in English in meetings, rather than using technically skilled interpreters. This results in a strong sense of distrust and frequent misunderstandings among the Khmer and the UNBRO and voluntary agency personnel there to serve their needs.

NEED FOR POLITICAL SOLUTIONS

Members of Congress must be aware of the importance of finding political solutions to the problems affecting the lives of civilians in these humanitarian camps:

(a) The unclear perspective for the political settlement of the Cambodian crisis, including specific plans for repatriation.

(b) The unresolved problem of the official status of the Khmer living on the border, who are still unrecognized as refugees and therefore do not have the rights which are dependent upon official refugee status.

PUBLIC HEALTH RECOMMENDATIONS

The WHO mission team members also stressed the public health significance of:

(1) Informing the international community, donor countries, and the Royal Thai government of the tremendous psychological, social, and family problems arising in camps of asylum for the vast majority of their inhabitants.

(2) Finding a solution which will allow civilians who seek refugee status to be moved from camps in the war zone along the border and given the protection linked to refugee status. In view of the serious mental health and psychosocial problems resulting from the current unclear situation, a UN review of the present status of Khmer is urgent because it is a first step towards instituting procedures for determining who in these camps are refugees, entitled as such to

certain rights and protection, and who are resistance fighters.

(3) Creating as safe an environment as possible for the civilians in the camps. Until most vulnerable groups (e.g., children, women, the physically disabled, elderly) are removed from the active war zone, 24-hour supervision by UNBRO security in all border camps, including those controlled by the Khmer Rouge, seems essential, as does the development of adequate police protection and a fair judicial process. The elimination of inequity in laws which put women in prisons (with no women guards) for crimes that are not crimes for men (e.g., adultery), and the provision of sufficient emergency shelters for battered women and children in all the camps, are of great importance.

(4) Planning in a manner which will ensure a good balance between activities and proposals which fit with the current situation and activities and proposals which are also feasible for the future situation of these displaced populations.

(5) Improving basic physical aspects of life: lack of nutrition, water, space, and security. Problems in these areas can affect the mental health of displaced people by causing mental and neurological impairment and related disabilities, by inducing a general dissatisfaction and hopelessness among displaced people, or by acting as a major source or stress. Improvements in these areas likely would result in the prevention of a number of mental health and psychosocial problems.

(6) Setting specific and clear targets for employment.

(7) Improvement of educational programs for young people through plans which place more emphasis on the acquisition of skills which could help the displaced people find a significant role after their return to Cambodia.

The WHO team members made a number of more specific clinically-orientated recommendations including the establishment of a position of mental health coordinator to oversee the development and implementation of a system of mental health services. The WHO report lists another 15 specific recommendations for alleviating the mental health and psychosocial crisis of the Khmer living on the border. The full report can be obtained from Dr. Norman Sartorius, Division of Mental Health, WHO, Geneva.

MEDICARE HANDBOOK FOR CHILDREN OF AGING PARENTS

Mr. HEINZ. Mr. President, Medicare is very much on the mind of this Congress and this Nation right now. For the past several days we have been deliberating a budget summit proposal that would ask our senior citizens to pay more out of their own pockets for physician visits and other outpatient services covered under part B of the program.

I personally have some very real concerns about this method of deficit reduction, concerns that center on aged Americans who even now hover at the poverty line. What may be a modest and manageable monthly expense for a middle-income couple, can be a financially devastating additional slice out of an already meager budget of those less fortunate. We must not sign off on any budget agreement that commits this most vulnerable segment of our Medicare population to yet a deeper rung in the purgatory of poverty. I want to go on record as one Senator who will fight to prevent this outcome.

There is another segment of Americans who also need help when it comes to Medicare, Mr. President. And that is the adult children of beneficiaries who are increasingly called upon to provide financial, physical, and emotional support for their aging parents.

I do not know how many of my colleagues have ever tried to articulate the differences in parts A and B of the program, much less traverse the intricacies of benefit periods, copayments, and deductibles. Believe me, it is not easy. As chairman and now ranking member of the Special Committee on Aging, I consistently receive requests for an "English language" explanation of how the program works.

Today, I would like to share with my colleagues a booklet that is just that: A simply written, straightforward, and comprehensive guide to our Nation's health insurance program for seniors.

"Understanding Medicare: A Guide for Children of Aging Parents," was prepared by the Republican staff of the Aging Committee with the assistance of experts in the field. I ask unanimous consent that the complete text be printed in the RECORD immediately following my remarks, Mr. President. Unfortunately, the limitations on printing enforced by the Government Printing Office allowed the committee to produce only about 3,200 copies of this booklet for public distribution. My hope is that by putting it in the RECORD, other Senators will be able to reprint it for distribution in their States.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

UNDERSTANDING MEDICARE: A GUIDE FOR CHILDREN OF AGING PARENTS

FOREWORD

Medicare is the single largest health insurance program in the United States. Although it provides direct health insurance coverage to cover over 30 million elderly beneficiaries, Medicare touches more than just the lives of older America. Medicare affects, in one way or another, nearly one-half of our population, many the adult children of aging parents.

This brochure is for those adult children who are increasingly called upon to provide financial, physical, and emotional care and support for their aging parents. With health care costs increasing, many elderly Americans are confused by what Medicare will and will not pay for. This brochure will help you, the children of aging parents, and your parents better understand how Medicare works and how to make the program work best for them.

This brochure was prepared by the Republican Staff of the U.S. Senate Special Committee on Aging. I want to thank Jeffrey Lewis, Staff Director, and Isabelle Claxton, Director of Communications an Public Policy, and, in particular, Davi Barnhart, a Congressional Fellow on detai from the Social Security Administration This project would not have been possibl without Mr. Barnhart's expertise, research and writing.

I would also like to recognize and than those people who assisted my Committe staff in preparing this brochure: Celind Franco of the Congressional Research Service (CRS); Richard Getrost, John Thoma Winona Hocutt, and Bill Ullman of th Health Care Financing Administratio (HCFA); and Michael Diebert of the Pennsylvania Department of Aging. And, I woul especially like to thank Louise Fradkin o Children of Aging Parents (CAPS) in Pennsylvania and Kristin Lund and Mar McKeown of the Dakota Area Resource and Transportation for Seniors (DARTS) i Minnesota.

JOHN HEINZ,
U.S. Senator.

MEDICARE—AN INTRODUCTION

If your parents are 65 or older and eligibl for Social Security benefits, they are ent tled to Medicare.

Medicare has two types of insurance:

Part A, Hospital Insurance

Part B, Supplemental Medical Insurance

When your parents are enrolled in Med care, they are covered by Part A and Part While your parents have the option to dro Part B, most people don't because Part currently pays a large portion of physicia and outpatient medical services.

Medicare Part A pays a portion of th medical services provided a patient during hospital stay, including a semi-private roon meals, and routine nursing care. Medicar Part A also pays a portion of the cost f skilled nursing facility care, home healt care, and hospice care.

Part B pays a large portion of a doctor bill wherever those services are provided, i cluding surgical fees and hospital and offic visits. Part B also pays a hospital or by me ical providers outside the hospital and portion of the costs for durable medic equipment.

MEDICARE—WHO TO CALL IN PENNSYLVANI

If you have a question about Medicar benefits and coverage or other elder health care issues, don't hesitate calling o of the following agencies and organizatio in Pennsylvania:

For questions about Medicare Part A, th hospital insurance covering inpatient hosp tal care, you can contract Pennsylvania Keystone Peer Review Organization, In (KEPRO), at 1-800-322-1914.

For questions about Medicare Part B, th supplemental insurance which covers phys cian and other outpatient services, you ca contact Pennsylvania Blue Shield at 1-80 382-1274.

For questions about doctors, laboratorie and medical suppliers who accept Medica assignment, you can contact also Pennsylv nia Blue Shield at 1-800-382-1274.

For questions bout Medigap insuranc you can contact Pennsylvania's Departme of Insurance, Accident and Health Rat Bureau in Harrisburg at 1-717-783-210 The Department also has regional offices i

Pennsylvania at 1-215-560-2630;
Erie at 1-814-871-4466; and
Pittsburgh at 1-412-565-5020.

For complaints about Medigap insuranc you can contact the Department's Bure of Consumer Affairs in Harrisburg at 1-71

787-2317 or one of the regional telephone numbers listed above.

For information on your community's Area Agency on Aging or other local senior services, you can contact the Pennsylvania Department of Aging at 1-717-783-3126.

For questions about home health care in your area, you can contact the Pennsylvania Department of Health at 1-800-692-7254.

For questions about how your parents are being treated in a nursing facility or home, you can contact Pennsylvania's Nursing Home Ombudsman under the Department of Aging's Bureau of Advocacy at 1-717-783-7247.

Contact Children of Aging Parents (CAPS) at 1-215-945-6900 for information on membership in their organization and services they provide on eldercare. If they do not answer, leave a message with your telephone number and area code, if long distance, CAPS will return your call, paying the cost of the call if it is long distance.

To receive a Medicare application and find out information on Medicare, you can call the Social Security Administration's toll-free number 1-800-2345-SSA. The best times to call are between 7:00 a.m.-9:00 a.m. and 4:00 p.m.-7:00 p.m.

DEFINITIONS

Let's define some words frequently used in any type of health insurance program, including Medicare.

PREMIUM

Premiums are a fee you pay to maintain your health insurance.

Premiums for Medicare's Part A, the hospital insurance, were paid through payroll taxes during a person's working years if that person also paid Social Security taxes. Therefore, under Part A, there are NO premiums to be paid by Medicare recipients.

Medicare Part B, the supplemental medical insurance, however, has a premium. In 1990, the monthly premium is $28.60 per person. If both your parents are living and insured under Medicare, their combined monthly premium for Part B is $57.20 (2 × $28.60). *If your parents are receiving Social Security, the premium for Part B is automatically taken out of their check.*

DEDUCTIBLE

A deductible is what you pay out-of-pocket for hospital, doctor, and other medical services before Medicare begins to pay. Once the deductible is paid or "met," Medicare will pay the Government's share of expenses. But keep in mind, Medicare has different deductibles for Part A and Part B. These are discussed in greater depth later in this pamphlet.

COPAYMENT

Also called coinsurance, a copayment (or copay) is what remains for you to pay after any health insurance has paid its share of your medical expenses. As with other health insurance programs, your parents share responsibility with Medicare for paying medical expenses. Your parent's share of the expenses is his copayment.

BENEFIT PERIOD

Medicare Part A pays benefits based on the number of days spent in a particular health care setting during a benefit period. Benefit periods apply to inpatient care at a hospital and skilled nursing facility, and outpatient and respite care from a hospice.

For *inpatient hospital care*, the benefit period begins when the patient enters the hospital and ends after the patient has been out of the hospital for at least 60 days in a row.

For *skilled nursing facility care*, the benefit period begins when the patient enters the hospital from which he then was transferred. The patient's benefit period ends 60 days after he stops receiving *daily skilled care* in the nursing facility.

For *hospice care* there is a one-time benefit period of 210 days.

There are no benefit periods for Home Health Care under Part A and physician health provider care under Part B.

MEDICARE APPROVED CHARGES

Medicare has established standard payment limits for all physician and medical service charges and for medical supplies and durable equipment costs. Medicare's approved charges are based primarily on the "usual and customary" charges for services or supplies in your community. Under Part B, Supplemental Medical Insurance, Medicare will pay 80 percent of the "approved charges" for medical services and supplies. The remainder of the charges are considered the Medicare patient's copayment.

ACCEPTING ASSIGNMENT

This means that a doctor, laboratory, or medical supplier has agreed to accept what Medicare pays for services they have provided and *WILL NOT* charge your parent more than 20 percent of Medicare's "approved charge" for that service.

Accepting assignment does not restrict the doctor from charging more than Medicare's approved charge. Rather, accepting assignment limits the doctor to only charging your parent *20 percent* of Medicare's approved charge. Regardless of the cost, if the doctor accepts assignment for a billed service, your parent only has to pay *20 percent* of Medicare's approved charge for that service, nothing else. Any charge above Medicare's limit must be absorbed by the doctor.

The following example will clarify this point:

As Medicare's insurance carrier in the State, Pennsylvania Blue Shield is billed $125 by a doctor who *accepts Medicare assignment* for your parent's office visit. Medicare's approved charge for this visit, however, is $100. Pennsylvania Blue Shield will pay the doctor $80—80 percent of Medicare's approved charge. Although $45 remains, *the doctor can only bill your parent $20—the other 20 percent of Medicare's approved charge.* The remaining $25 *must* be absorbed by the doctor; it *cannot* be added to your parent's bill.

Your parents can obtain a list of doctors and other medical providers who accept assignment from Pennsylvania Blue Shield at 1-800-382-1274.

MEDICARE BENEFICIARY

Also known as "insured," a Medicare Beneficiary is a person who is enrolled in Medicare and receives benefits from the program.

MEDICARE PART A: HOSPITAL INSURANCE

Part A is the Hospital Insurance portion of Medicare. Part A pays for a portion of the health care provided in several kinds of institutional and outpatient settings: inpatient hospital and skilled nursing facility care, home health care and hospice care.

INPATIENT HOSPITAL CARE

When your parent enters a hospital, Medicare's Part A pays for most of the cost of care received. Remember, however, that your parent must first pay a hospital deductible at the beginning of a benefit period before Medicare will start paying for anything. Although Medicare Part A pays a portion of inpatient hospital care, it only pays benefits up to the time your parent no longer needs to stay in the hospital.

Part A of Medicare doesn't pay for doctor services or visits in the hospital. These services are covered by Part B.

Medicare *will pay* the approved charges for the following hospital medical services:

A semiprivate room.

All meals, including special diets.

Regular nursing services.

Drugs furnished by the hospital during the hospital stay.

Cost of special care units such as intensive care.

Lab tests.

X-rays and radiation therapy supplied in the hospital.

Medical supplies provided during the hospital stay.

Operation and recovery room costs.

Rehabilitation services such as physical, occupational, or speech therapy.

Certain medical equipment used by the patient in the hospital such as wheelchairs and walkers.

Medicare will *not pay* for the following hospital services:

The first three pints of blood (although your parent will not be charged if he belongs to a blood transfusion program or he makes arrangements to replace the three pints of blood).

Private nurses and the extra charges for a private room unless medically necessary.

Personal comfort items such as a television and telephone.

Drugs not deemed "safe and effective" by the U.S. Food and Drug Administration. Your parent should ask his doctor if the drugs he has prescribed meet this requirement.

BENEFIT PERIODS

Most adult children and their aging parents are introduced to Medicare Part A's complicated coverage during or after hospital visits. Much of the confusion centers around the benefit period, deductible, and copayment. Let's look at benefit periods first.

Benefit period begins

A benefit period begins when a person has not been in a hospital or received skilled care services in a skilled nursing facility for at least 60 days in a row.

"Your father is admitted to the hospital. He hasn't been in a hospital for over 10 years and has never been in a skilled nursing facility. With this admission, *your father is beginning a benefit perid.*"

Benefit period continues

If a person is admitted to the hospital within 60 days of a prior hospitalization, he is in the same benefit period as the previous hospital stay. Although a benefit period can last indefinitely, Medicare will only pay for 90 days of hospital care during the same benefit period. And, these don't have to be 90 consecutive days. Medicare will not pay any benefits in the same benefit period after 90 days. And, a new benefit period will not begin until your parent has been out of the hospital for at least 60 days in a row.

"Your father is admitted to the hospital. He just left the hospital 20 days ago. In this case, *no new benefit period begins.* He is still under a previous benefit period because he hasn't been out of the hospital for at least 60 days in a row before this current admission."

Benefit period ends

A benefit period ends when your parent has not been in a hospital or received skilled

care services in a skilled nursing facility for at least 60 days in a row.

"Your father is admitted to the hospital. He was previously discharged from the hospital 3 months ago. In this case, *your father is beginning a new benefit period* because he's been out of the hospital for over 60 consecutive days."

DEDUCTIBLE AND COPAYMENTS

When your parent enters a hospital at the beginning of a new benefit period, she must pay a Medicare Part A deductible. This means that in 1990 your parent must pay for the first $592 of her hospital bill, the Part A deductible, before Medicare pays hospital benefits. *There is only one deductible per benefit period*—there is no deductible for other hospital stays in the same benefit period.

After your parent pays the deductible, Medicare will pay for approved inpatient medical services through the *60th day* of hospital care. These do not have to be 60 consecutive days.

"Your mother hasn't been in a hospital for at least 60 days when she's admitted for surgery. Your mother's stay is short, she's discharged from the hospital after 10 days. Because this is the beginning of a benefit period, your mother will have to pay a deductible before Medicare begins to pay the remaining approved inpatient charges. In most cases, after your mother "meets" her deductible, she will pay nothing else for this hospital stay except for comfort items such as a television. If your mother doesn't reenter the hospital for any medical reasons for at least 60 days after her discharge, the benefit period will end. Any future hospital stay will result in a new benefit period and another deductible."

With the *61st day* of hospital care in a benefit period, your parent *will have to pay* a copayment, a portion of the cost for his hospital care. In 1990, your parent's copayment is $148 per day; Medicare Part A pays the remainder of the daily hospital costs.

"Your father hasn't been in a hospital for at least 60 days when he's admitted for surgery. He is in the hospital for 10 days. Your father is responsible for the $592 deductible before Part A begins to pay. As in the first example, your parent will probably pay nothing else during this 10-day stay except for personal comfort items.

"Your father is discharged from the hospital but returns in 4 weeks for more surgery. This second visit lasts 20 days. Because your father's second hospital visit is within 60 days of his first visit, your father is not required to pay another deductible—he is still under his original benefit period.

"After being discharged from his second hospital stay, your father returns for a third hospital visit 10 days after the second visit ended. The third visit lasts 40 days. There is no deductible for the third visit because it is still within the original benefit period. *But an important change occurs.*

"Your father will begin paying a copayment of $148 per day after his 60th cumulative day of hospital care within this benefit period. In this example, your father will exceed the 60-day limit three-quarters of the way through his third hospital stay. Your father will have to pay a copayment charge for the 10 remaining days. At $148 per day, your parent's copayment is $1,480 (10 × $148). Medicare will pay any of the remaining approved hospital charges for these 10 days after the copayment is deducted."

After 90 days of inpatient hospital care, Medicare generally stops paying its portion of hospital care until a new benefit period begins. However, if needed, a Medicare beneficiary has 60 days of lifetime reserve available.

60 days—Lifetime reserve

Each Medicare beneficiary has 60 days of lifetime reserve for inpatient hospital care; these reserve days do not apply to skilled nursing facility or hospice care. These reserve days are available if your parent's inpatient hospital care extends beyond 90 days in a benefit period. Lifetime reserve days are used on a *one-time only* basis. Once a reserve day is used, it is never available for use again, *ever.* Therefore, your parent's lifetime reserve should be used only when absolutely necessary: When extended hospital care is your parent's only health care option; when such a stay is not covered by any other health insurance; and when your parent does not have the private resources to pay for his extended stay.

Your parent also has an out-of-pocket copayment charge for each lifetime reserve day used. This copayment is equal to one-half of the Medicare Part A deductible for a particular year. In 1990, your parent's copayment would be $296 a day if he used any of his lifetime reserve days ($592 × ½).

"Your mother needed to stay, off and on, in the hospital for 110 days in one benefit period. Medicare would normally stop paying any hospital benefits after 90 days. Your mother, however, decides to use 20 of her lifetime reserve days. She has been told that once these 20 reserve days are used, her supply of lifetime reserve days will drop to 40 days (60 less 20). She will never have these 20 reserve days available again for inpatient hospital care. Your mother also knows that she will have an out-of-pocket copyament of $5,920 for these 20 reserve days ($296 × 20)."

SKILLED NURSING FACILITY CARE

Medicare does not pay for what we traditionally think of as long-term, custodial care in a nursing home. Rather, Medicare limits reimbursement to skilled care services provided by a skilled nursing facility. These services include both skilled nursing care and skilled physical and speech therapy.

Skilled services:

Require the skills of qualified technical or professional health personnel such as registered nurses, licensed practical nurses, physical or occupational therapists, and speech pathologists; and

Must be provided directly by or under the supervision of the facility's skilled nursing or skilled rehabilitation staff.

To qualify for Medicare benefits, your parent's skilled nursing and/or skilled therapy must be provided either separately or in combination on a *daily basis.*

"Your father has broken his hip. After a stay in the hospital, your father is ready to be released. Your father's doctor determines that your father needs skilled nursing care on a *daily basis* and physical therapy for 3 days a week to recover from the hip injury. Your father is admitted to a Medicare-certified skilled nursing facility. If he qualifies, he will receive Medicare Part A benefits for his stay as long as he receives skilled care 7 days a week. Medicare will stop paying benefits when your father no longer receives either skilled nursing care or physical therapy every day."

Medicare Part A will pay for up to 100 days of skilled nursing facility care in addition to the 90 days of hospital care in the same benefit period (However, in most cases, Medicare coverage ends well before the 100 days. Medicare paid for only an average of *26 days per person* of skilled nursing facility care in 1988.) There is no deductible for skilled nursing facility care during a benefit period.

For Medicare to pay for services in a skilled nursing facility, the following requirements must be met:

Your parent must be in the hospital for at least 3 consecutive days prior to entering a skilled nursing facility. These 3 days do not include the day your parent is released from the hospital.

Although your parent does not have to enter the skilled nursing facility immediately upon release from the hospital, he must be admitted within 30 days of his release from the hospital.

Your parent must enter the skilled nursing facility to treat the condition for which he was originally admitted to the hospital.

Your parent's doctor and the skilled nursing facility must certify that your parent's medical condition can be improved by the nursing facility's rehabilitation services and that the rehabilitation is "reasonable and necessary".

The skilled nursing facility must be Medicare certified. That is, the skilled nursing facility must comply with certain standards of care set by the Federal Government.

Skilled nursing facility services covered by Medicare include:

Semiprivate room and meals, including special diets.

Skilled nursing care, medical social services, and rehabilitation services by licensed nurses, therapists, and nursing facility staff.

Prescription drugs, medical supplies, and durable medical equipment ordinarily used for patient care and treatment in a skilled nursing facility.

Other services that are routinely provided by the skilled nursing facility for the health and well-being of the patients, including but not limited to:

Intravenous, intramuscular, or subcutaneous injections; application of dressings involving prescription medications; and insertion, sterile irrigation, and replacement of catheters.

Skilled nursing facility services not covered by Medicare include:

Intermediate or custodial care *when your parent IS NOT receiving daily skilled nursing facility or skilled therapy.* Custodial care typically includes help in walking, getting in and out of bed, eating, dressing, bathing, using the toilet, and taking medicine. Custodial care essentially is personal care that *does not* require the continuing attention of trained medical or paramedical personnel.

Private room charges (unless medically necessary) and personal comfort items such as televisions.

Doctor services (which are covered under Medicare Part B).

A stay in a skilled nursing facilit is covered by the same benefit period that covers your parent's stay in the hospital from which he was transferred. A benefit period ends when your parent is either:

Out of a *hospital* for at least 60 days in a row; or

Not receiving *daily* skilled nursing or rehabilitative therapy in a *skilled nursing facility* for at least 60 days in a row.

"In March 1989, your mother was admitted to a skilled nursing facility directly from the hospital. She had entered the hospital in late February for a broken hip. This was her first and only, hospital and skilled nursing facility stay in 1989.

"After 1 week in the skilled nursing facility, she no longer required skilled care on a daily basis—her condition had improved to where she only needed physical therapy *3 days a week*. Your mother stayed another 5 weeks, receiving this part-time physical therapy. Your mother was in the skilled nursing facility for a total of 6 weeks. She did not return to a hospital or a skilled nursing facility for the rest of 1989.

"In our example, your mother's benefit period for Medicare's Part A began when she entered the hospital in February. This benefit period included her stay in the skilled nursing facility. *Your mother's benefit period ended 60 days after the daily skilled care ended in the skilled nursing facility, not 60 days after she left the skilled nursing facility.* This means the benefit period ended 60 days after the first week rather than after the sixth week of skilled nursing facility care.

"Your mother's Medicare benefits also ended after her first week in the skilled nursing facility because she no longer required *daily* skilled nursing care or skilled rehabilitative therapy. She only needed part-time skilled therapy for the remaining 5 weeks."

You must remember that once her need for *daily* skilled care ends, Medicare will no longer pay for your parent's stay in a skilled nursing facility.

Of the various levels of nursing home care, skilled nursing care is the most expensive and medically intensive. Although your parent's rehabilitation and recovery is the main goal of any care, you may want to investigate other options, including home health care, which may be less expensive and allow your parent to recover at home. Medicare pays for various approved home health care services, including part-time and intermittent skilled nursing care and physical, speech, and occupational therapy. These benefits will be discussed in detail in the next section.

If your parent's physician or discharging hospital believe that a skilled nursing facility is the best recovery site, your parent can be referred to a skilled nursing facility. Your parent's physician or the hospital discharge plan must certify that your parent's condition will be improved by a level of care available only from a skilled nursing facility. Although finding bedspace may be difficult, *your parent must insist upon being admitted to a Medicare-certified skilled nursing facility ONLY.* If a parent is unable to act on his own behalf, adult children should act as their parent's health advocate, making sure the parent is admitted to a Medicare-certified skilled nursing facility.

Medicare will never pay for daily skilled care from a skilled nursing facility that is not approved by Medicare. Medicare certification, however, does not guarantee that Medicare will pay for your parent's stay at a skilled nursing facility. Your parent must also require daily skilled care to qualify for Medicare benefits.

If Medicare approves the claim for your parent's stay, Medicare will reimburse 100 percent of approved services during the first *20 days* of the skilled nursing facility care.

Beginning with the *21st day*, the patient pays out-of-pocket a copayment of $74 per day. Medicare pays the remaining approved daily medical expenses.

"Your father is hospitalized for a serious accident. After 2 weeks in the hospital, he's discharged. To help your father recover from his accident, his physician prescribes physical rehabilitation at a local skilled nursing facility that is Medicare certified. The facility's director agrees with the physician that the institution's rehabilitation services can improve your father's condition.

"Your father enters the skilled nursing facility the day after he leaves the hospital. He stays in the facility for 30 days. Medicare approves the claim for your father's stay in the skilled nursing facility and pays for 100 percent of his approved expenses for the first 20 days of this skilled care. Beginning with the 21st day of skilled care, your father starts to pay a copayment.

"In 1990, your father's copayment for skilled nursing facility care would be $74 a day. In our example, his out-of-pocket expenses for these 10 days would be $740 (10 × $74)."

After *100 days* of skilled nursing facility care in a benefit period, Medicare coverage ends. These do not have to be 100 consecutive days.

Medicare will also stop paying benefits for skilled nursing facility care if your parent's rehabilitation program is determined to be no longer improving his condition; he has reached a plateau where no more improvement can be expected.

HOME HEALTH CARE

Medicare Part A pays for some of the cost of home health care for homebound Medicare patients. Home health care coverage, however, is limited to short-term, intermittent or part-time care for a parent whose condition is expected to improve or change. Medicare home health care benefits pay for patient recovery from an *acute* illness or injury. Medicare generally *does not* pay home health benefits for *chronic* conditions. In most cases, when a person's condition stabilizes, the treating doctor will no longer will no longer recommend home health care. At this point, Medicare's coverage, and most Medigap insurance's coverage, will cease paying home health care benefits. Under Medicare, home health care must not be viewed as long-term, in-home care for a chronic condition. On average, homebound patients only receive 23 home health visits under Medicare's coverage.

"Homebound" does not mean "bedbound'

To be considered homebound, your parent must have a physical or mental condition that severely restricts his ability to leave the house. Your parent's condition must be such that leaving the home requires considerable and taxing effort, or his condition requires special equipment to leave the home: wheelchairs, crutches, or walkers; special transportation; or the aid of another person when in a wheelchair or using a walker.

Homebound does not mean your parent cannot leave his home. He can leave, but only for a short periods of time on an infrequent basis. If your parent, however, can leave his house on a daily basis, he will not qualify for Medicare's home health care benefits. *This requirement does not apply to leaving the home for prescribed medical treatment.*

To see if your parent can receive Medicare's home health care coverage, ask his physician to refer your parent to a Medicare-certified Home Health Agency. The Home Health Agency will schedule a free home visit to assess your parent's health care needs and determine if he qualifies for Medicare's home health care benefits. *Home Health Agencies must provide this home assessment for free to maintain their Medicare certification.*

Home health care benefits are almost always provided under Medicare Part A. However, home health care benefits can be provided under Medicare Part B if your parent does not have Medicare's Part A coverage.

To qualify for Medicare's home health care benefits:

Your parent must be homebound.

Your parent must be under a plan of care prepared by a doctor who must then periodically review your parent's plan of care to see if the home health care is still necessary.

Medicare's home health care benefits only covered skilled nursing care or physical or speech therapy when these services are expected to improve your parent's condition over a limited or predictable period of time. Medicare does not generally reimburse for home health care over an open-ended period of time when there is literally "no end in sight" for the need of such care.

The Home Health provider must be Medicare-certified and provide these services at a reasonable cost. To find a Medicare-certified Home Health Agency, contact the Pennsylvania Department of Health at 1-800-692-7254.

Your parent needs intermittent skilled nursing care *or* physical or speech therapy.

Intermittent is defined as needing skilled nursing care for 4 days, or less, per week. And, this intermittent nursing care cannot exceed 35 hours per week. (If your parent needs skilled nursing care for more than 4 days per week *and* does not require physical or speech therapy, (he *will not* qualify for Medicare's home health care benefits.)

There are no restrictions on the number of days or hours per week of physical or speech therapy. The physical or speech therapy must be provided, however, on a "necessary and reasonable" basis.

There is *no deductible* for Medicare's home health care benefits. Your parent is not required to have a hospital stay before home health services are covered by Medicare. There are no benefit periods or limits on the number of days within a calendar year for Medicare's home health care benefits.

If your parent qualifies for Medicare coverage of home health care benefits, Medicare Part A *will pay* for:

The intermittent or part-time services of a skilled nurse and home health care aide. There are limitations on the visits by skilled nurses and home health care aides:

Intermittent or Part-time limits the visits by a skilled nurse to 4 days, or less, per week; and

Intermittent or Part-time limits the visits by a skilled nurse *and* home health care aide (combined) to 35 hours per week with no visits exceeding 8 hours a day.

Medical social services.

Medical supplies and a portion of the cost of durable medical equipment.

A physical and speech therapist when prescribed by your doctor and provided by a Medicare-certified home health care agency.

Medicare will only pay for occupational therapy when it is part of a physical or speech therapy program. If approved, however, Medicare will continue paying occupational therapy benefits even after physical or speech therapy ends.

Medicare Part A home health care benefits will NOT pay for:

Full-time nursing care.

Self-administered prescription drugs.

Meals delivered to your parent's home.

Transportation.

Homemaker services that primarily assist your parent in personal care or housekeeping.

Doctor bills, these are covered under Medicare Part B.

HOSPICE CARE

A hospice is an organization that provides a program of inpatient, outpatient, and home care for teminally ill patients. Hospice care includes medical and social services for patient and family counseling, symptom control, and pain reduction. These services include physician and nursing care, medical appliances and supplies, outpatient drugs for managing symptoms and pain, short-term in-patient respite care, counseling, therapy, and home health care aide and homemaker services.

Medicare will pay for hospice care from a Medicare-approved hospice. Medicare beneficiaries certified as terminally ill may elect hospice care benefits under Part A in place of regular Medicare. When your parent chooses hospice care, his other Medicare benefits which cover the terminal illness stop except for doctor services. If your parent does need medical care for reasons unrelated to the terminal illness, regular Medicare benefits are available to pay for these services.

Part A can pay for two 90-day benefit periods and one 30-day benefit period for a total of 210 days of hospice care. Hospice care benefits are not available beyond the 210-day limit.

To receive Medicare hospice care benefits, the following conditions must be met:

Your parent's doctor and the hospice medical director must certify that your parent is terminally ill.

Your parent must state, *in writing*, that he wants Medicare hospice benefits in the place of regular Medicare benefits.

A plan of care must be prescribed before your parent begins hospice care.

The hospice must be Medicare-approved.

Part A has no deductible for approved hospice care, only a small copayment for prescription drugs and respite care. A beneficiary pays 5 percent of the cost for outpatient, prescription drugs to manage symptoms and pain with a copayment limit of $5 for each prescription. A beneficiary also pays 5 percent of the cost of inpatient respite care with a copayment limit of $592 for each benefit period. Medicare covers up to 5 days at a time of respite care in an approved facility. Respite care allows the patient's caregivers time to rest while the patient receives care elsewhere.

MEDICARE PART B: SUPPLEMENTAL MEDICAL INSURANCE

Medicare Part B has an annual deductible of $75 per person. Once this deductible is met, Part B pays 80 percent of Medicare's approved "reasonable" charge, a payment limit, for approved physician and medical services. The Medicare patient pays the remaining 20 percent copayment and any medical costs above Medicare's approved charge.

Physicians, laboratories, and medical suppliers who accept Medicare assignment agree to accept Mediare's payment limit as payment for their services. "Participating Physicians" have agreed to accept assignment for all their services. Other physicians may accept assignment on a case-by-case basis.

"A doctor, who accepts assignment, charges your mother $100 for an approved office visit, the Medicare payment limit. Medicare will pay $80 (80 percent) of the doctor's charge. Your mother will pay the other $20 (20 percent). If your mother has other health insurance, such as a Medigap policy, which pays Part B copayment charges, the health insurer will pay the $20."

A physician who accepts assignment can charge more than Medicare's limit, but can only collect Medicare's payment limit.

"A doctor, who accepts assignment, charges your mother $125 for an office visit. However, Medicare's approved limit for this visit is $100. Medicare will pay $80 of the doctor's charge, 80 percent of the Medicare approved limit. Athough that leaves $45, your mother will not have to pay for any charge which exceeds Medicare's payment limit when the medical service is provided by a doctor who accepts Medicare assignment for that service."

Physicians who do not accept assignment may charge more than Medicare's payment limit. Congress, however, limits the amount a physician can collect to 15 percent above Medicare's approved limit.

"Your mother's doctor accept assignment. Your mother is billed $135 for her recent office visit. Medicare's payment limit for this visit is $100. The doctor's charge is 35 percent above Medicare's approved limit for this service. The physician, however, is limited to colllecting only 15 percent above Medicare's payment limit. Although the doctor has charged $135, the doctor can only collect $115 from Medicare and your parent. In this case, the additional $15 is 15 percent of the Medicare's payment limit.

"Medicare will pay $80 (80 percent) of their limit. Your mother will have to pay the $35 copayment: the remaining 20 percent of Medicare's limit plus the doctor's additional $15 charge. If your mother has health insurance which supplements Medicare coverage, the insurer may pay part or all of the copayment charges. Medicare, however, will only pay 80 percent of their payment limit regardless of whether or not your mother's physician accepts assignment."

Medicare Part B covers part of the costs of physician services, laboratory services, outpatient care, and durable medical equipment. (Medicare will not pay for medical services, diagnostic tests, or durable medical equipment from laboratories or suppliers who are not Medicare-approved.)

After your parents have "met" their $75 deductible for the year, Medicare Part B will pay part of the charges for:

Doctor services in the hospital, doctor's office, or at home. Medicare Part B covers medical supplies furnished as a part of the doctor's service, including surgical dressings, splints, casts, and similar medical supplies ordered by a doctor.

Physical or occupational therapy and speech pathology services in a doctor's office, as an outpatient, or in the home.

A portion of the rental, lease, or purchase cost of durable medical equipment used in the home from Medicare-approved suppliers, including oxygen tanks, hospital beds, and wheelchairs.

Currently, Medicare pays 80 percent of these charges for new durable medical equipment. On the other hand, Medicare will pay 100 percent of the cost of approved equipment which is used rather than new.

Eye care, other than eye examinations and eyeglass fittings, from licensed doctors of optometry. Medicare only covers the eye care for which the optometrist is licensed by the state to perform.

Diagnostic, X-ray, laboratory and other tests. Medicare will pay for laboratory tests conducted by independent, Medicare-approved laboratories which accept assignment. Tests conducted by a doctor, rather than a laboratory, are covered by Medicare *only when the doctor accepts assignment for these tests.*

Artificial replacements for all or part of an internal body organ, including heart pacemakers, colostomy bags and supplies, and artificial limbs and eyes; and, braces for limbs, backs, or neck.

Drugs that cannot be self-administered, blood-clotting factors for hemophilia, and immunosuppressive drugs used during the first year after an organ transplant.

X-ray, radium, and radioactive-isotope therapy (including technician services).

Ambulance services (excluding service between a patient's home and his doctor's office).

Medicare Part B will NOT pay for the following medical services:

Health care and services Medicare doesn't consider medically "reasonable or necessary."

Physician charges above Medicare's approved amount.

Regularly scheduled physical examinations.

Teeth cleaning and dentures.

Foot care, unless prescribed by a doctor because of a medical condition, such as diabetes, which affects the legs and feet.

Eye and hearing examinations, and examinations to prescribe or fit eyeglasses and hearing aids.

Most outpatient, self-administered prescription drugs and immunizations, unless needed to prevent infection.

Cosmetic surgery, unless needed because of an injury or to improve the function of a malformed body part.

The first three pints of blood (though your parent will not be charged if he belongs to a blood transfusion program or makes arrangements to replace the three pints of blood).

Acupuncture.

Medical care outside of the United States except under limited circumstances in Canada and Mexico.

Medicare Part B is optional. Your parents can decide to drop Part B at anytime. If your parents do drop Part B and want to re-enroll later, they have to wait until the annual enrollment period, January 1 through Mach 31. If your parents re-enroll, they will be subject to higher premiums. In addition to their monthly premium, your parents will pay an extra 10 percent of their monthly premium for each 12-month period they're not covered by Part B. And, this *re-enrollment charge is permanent.*

Your parents have not been enrolled in Medicare Part B for 2 years. If your parents enroll in Part B during the enrollment period in 1990, they will pay the monthly premium plus an additional 10 percent of that premium for each 12-month period they weren't enrolled. Because your parents weren't covered by Part B for two 12-month periods, they will pay the monthly premium plus a 20 percent re-enroillment charge.

For 1990, the monthly premium is $28.60 for each Medicare beneficiary, $57.20 for a couple. When you add a 20 percent re-enrollment charge of $5.72 per person, a parent's 1990 monthly premium will increase to $34.32. For both parents, the monthly premium for 1990 will increase to $68.64. Although monthly premiums may increase in the future, the re-enrollment charge will always remain the same amount. That is, regardless of premium increases, the $5.72 per person re-enrollment charge will *never* increase.

Filing Medicare Benefit Claims

To receive reimbursement from Medicare, a claim must be filed for the health care provided. Claims are filed by a hospital or skilled nursing facility, a physician, other health care providers, or by the Medicare beneficiaries themselves.

Part A claims are processed by a Medicare *intermediary;* Part B claims are processed by a Medicare *carrier*. After a claim has been processed, the Medicare beneficiary will receive a letter or form which explains what health care was covered by Medicare and the amount Medicare paid for the approved care.

Your parents should keep a record of all health insurance claims in case they need to inquire about their claim or to appeal a claim decision.

MEDICARE PART A

Under Part A, Medicare makes payments to hospitals based on the average cost for treating a particular illness or injury. A patient's condition is categorized under a group of related illnesses or injuries called a "diagnosis related group," or DRG. Based on a patient's DRG, the hospital receives a predetermined payment from Medicare for the beneficiary's illness or injury.

Participating hospitals, skilled nursing facilities, home health care agencies, and hospices submit Part A claims directly to one of three Medicare intermediaries in Pennsylvania.

MEDICARE PART B

Doctors, laboratories, and medical suppliers who accept assignment submit their claims directly to Pennsylvania Blue Shield, the State's Medicare carrier for Part B payments.

If the doctor or medical supplier doesn't accept assignment, the Medicare beneficiary must submit his own Part B claims to the Pennsylvania Blue Shield until September 1990.

Beginning September 1, 1990, Federal law will require all doctors to file Part B claims with their State's Medicare carrier, whether the doctor accepts assignment or not. After September 1, your parents will no longer have to file their own Medicare Part B claim with Pennsylvania Blue Shield for any doctor's services.

However, until September 1, if your parents must submit their own Part B claims, they should use a *Patient's Request for Medicare Payment* form. Most doctors' offices, all Social Security offices, and Pennsylvania Blue Shield have copies of this form. When submitting, any insurance claim, your parents must include the itemized bills for all medical services for which they are claiming payment.

Disputing Medicare Benefit Claims

Your parents have the right to dispute the denial of any Medicare benefit. Part A disputes generally concern the denial of admission to a hospital or skilled nursing facility, or denial of continued stays at a hospital or skilled nursing facility. Part B disputes generally concern medically "necessary and reasonable" physician, home health care, laboratory, and other health care provider services and durable medical equipment costs.

If your parent is denied Medicare benefits, he will receive a letter or form which tells him why the benefits are denied. If your parent disagrees with the denial, he can request a reconsideration of the decision. This request can be filed on a HFCA Form 2649 which is available from any Social Security office, the State's Medicare intermediary or carrier, or the State's Peer Review Organization. Your parent has 60 days to request a reconsideration. Your parent's request should focus on the nature of the denial and the "*medical necessity*" for the institutional, physician, or outpatient care.

If your parent's reconsideration is denied, he has the right to request a hearing before an Administrative Law Judge. Although your parent can appeal any denial claim, for an appeal to go beyond the reconsideration stage to the Administrative Law Judge level, the disputed amount must be:

At least $200 in the case of Peer Review Organization (PRO) denials of hospital services;

At least $200 in the case of denials made by a hospital's Utilization Review Committee;

At least $100 in the case of skilled nursing facilities and home health care agencies; or

At least $500 for physician services under Part B. Beneficiaries may lump together several disputed claims to reach the $500 minimum.

Medicare Supplement Insurance

(Better Known as Medigap)

Although we cannot recommend one Medigap policy over another, there are some things your parents should look for when reviewing an insurance policy to supplement their Medicare health insurance.

Your parents should look for a Medigap policy that:

Covers their Medicare Part A and Part B deductibles and copayment charges.

Covers prescription drugs since, in most cases, Medicare doesn't.

Automatically covers increases in their Medicare copayment and deductibles.

Requires that they pay by a check made out to the insurance company, not the insurance agent.

Your parents should avoid a Medigap policy that:

Duplicates any supplemental health insurance that they may already have.

Is nonrenewable or has very restrictive renewal clauses.

Limits their total annual payment and sets a lifetime limit under $500,000.

Doesn't cover services for a condition that has preexisted for over 6 months (a pre-existing condition).

Your parents should ask the insurance agent:

What the average policyholder pays in out-of-pocket medical expenses annually including deductibles, premiums, copayments, and noncovered service charges.

To clearly identify what benefits they are getting and what medical expenses they will be responsible for.

Finally, your parents need to be sure:

The insurance benefits meet their needs;

They can afford the premiums; and

They understand and accept the policy's limitations and exclusions.

Your parents should read any sales brochures carefully before buying Medigap insurance. And, if they purchase any Medigap insurance, they should read their policy carefully after they receive it. The provisions written in the Medigap policy determine the supplemental coverage, nothing else.

If your parents have any questions concerning duplicate coverage, they can contact their local Area Agency on Aging or the Pennsylvania Department of Insurance to find out about organizations which can compare their current health insurance coverage with Medigap policies that they are considering.

(Remember, Medicare Supplement Insurance (Medigap) does not cover long-term, custodial care in a nursing home. If your parent's are interested in long-term care insurance, there are insurance programs specifically designed to cover long-term care.)

Things To Remember

Your parents should participate in *all* decisions regarding their medical services and treatment. To learn more about their health situation, your parents should ask questions. When their doctor recommends a medical or surgical procedure, your parents should ask:

Is the procedure necessary? Can I live a relatively healthy life without it?

Is there another procedure that's equally effective yet less expensive?

What health benefits can I expect from this procedure, and what are the potential side effects?

If your parents are not comfortable asking these questions or they are unable to due to a physical or mental condition, you should make an effort to ask these questions of your parent's doctor.

If your parents have any doubt about the need for a proposed procedure, they should seek a second opinion. Although Medicare pays a large share of most medical bills, your parents will have to pay a part of almost any medical care and service they receive. So your parents need to be sure they are paying for something that is really needed.

Though your parents may already have a doctor, they should ask if the doctor accepts Medicare assignment. If the doctor doesn't, your parents may want to either negotiate or shop around. Medicare/Pennsylvania Blue Shield has a list of doctors who accept assignment.

If your parents want to remain with a doctor who doesn't accept Medicare assignment, they should first ask the doctor if he would begin accepting assignment. If the doctor won't, your parents should then ask that the doctor's charges be kept within Medicare's assigned limits. (If your parents and Medicare pay more than $1,000 a year to the same doctor, your parents are an important customer for that doctor.)

If they decide to look for a doctor who accepts assignment, your parents should look for one who promotes good nutrition, physical exercise, and other types of wellness activities. The doctor should be a good listener; discuss medical problems openly; and spend enough time with your parents to develop a comfortable one-on-one relationship with them. Your parents should be partners with the doctor in their medical care, not merely observers.

Before your parents have an illness or an accident, locate Medicare approved home health care, outpatient hospital services, and other medical and social services available to senior citizens in the community. These services include senior centers, Meals on Wheels, group homes, church volunteer groups, companion services, and congregate meal services.

You can get information on the availability of these services by calling the local Area Agency on Aging or contacting the Pennsylvania Department of Aging at 1-717-783-3126.

You can get a list of Medicare approved skilled nursing facilities and hospices from Pennsylvania Blue Shield at 1-800-382-1274

or Pennsylvania Department of Aging at 1-717-783-3126.

You can get a list of approved medical and social services, laboratories, and medical suppliers from Pennsylvania Blue Shield at 1-800-322-1914.

Becoming familiar with these services in advance will prevent unnecessary aggravation during a time when your parents may be ill and you have more important things to concentrate on.

Remember, Medicare generally provides for short-term, acute care hospitalization only. Your parents and you must realize that approved hospital care will only be for a limited time. Your parents long-term medical care will be provided outside the hospital by doctors, skilled nursing facilities, home health care specialists or through other medical or social service organizations.

Finally, your parents should be their own health care advocate, with some help from you.

In most instances, your parents can manage their own health care situation easily. However, there may be times when your parents are unable to cope with, understand, or control their health care circumstances. They may then need your assistance during hospital and outpatient care.

You can also help your parents understand the Medicare program better: What medical services and costs Medicare does cover and what medical services and costs Medicare doesn't cover; what copayments your parents will be responsible for; and what your parent's rights are under the Medicare program.

THE END OF THE SUPPLY-SIDE LIE

Mr. HOLLINGS. Mr. President, with the budget resolution passed by Congress yesterday, the bell tolls for the grand, reckless, indulgent spree called supply-side economics. Yes, President Bush now appears likely to win some form of capital gains tax reduction, but this looks to be one final swig from a now empty and discredited bottle. With the real deficit—including the S&L bailout costs and excluding the trust funds—soaring past $400 billion in the current fiscal year, we are forced to confront the utter bankruptcy and destructiveness of this Government's supply-side hoax.

In 1980 and 1981, our former President, Mr. Reagan, did a marvelous sales job for his tax-cutting elixir. He assured us that citizens would save more and invest more. He guaranteed us that productivity and GNP growth rates would take off. He promised us a balanced budget by 1984.

Well, the President got his radical tax cuts. The result was that savings and investment plummeted, productivity slowed to a crawl, and budget deficits soared to record levels. GNP growth did indeed continue, but this was the predictable effect not of supply-side magic, but of a classic Keyenesian goosing of the economy. With some $2 trillion in deficit spending injected into the economy during the 1980's, we experienced a paper prosperity that was as predictable as it was unsustainable.

Mr. President, this past Sunday's Washington Post included a brilliant autopsy of the supply-side corpse by Lester Thurow, the distinguished dean of the MIT's Sloan School of Management. Professor Thurow is a cold shower and a stiff cup of coffee—just what this Government needs if it is going to sober up. I urge my colleagues to read his Post piece, and to that end I request that it be reprinted in the Record in its entirety.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Oct. 7, 1990]

The Big Lie That Caused the Budget Catastrophe

(By Lester C. Thurow)

In 1980 the American electorate embarked on a grand experiment—supply-side economics. Ten years later, that experiment continues to warp the political process. Its enduring influence explains why Congress and President Bush found it so difficult to reach any budget agreement at all; why the failed agreement was so peculiarly shaped; and why the public, nourished on a decade of false promises, seems unwilling to make even modest sacrifices to assure the nation's economic future.

In the current economic climate almost any solid deficit-reduction package would be welcome. Still it is remarkable that the initial deal struck last week would aggravate the very features of the current tax system that seemed most generally objectionable to tax experts and the public: Its "small business growth incentives" would offer new tax dodges to the wealthy—who had supposedly traded away their shelters for the much lower tax rates provided by the 1986 tax reform; its tax-deduction limit would worsen, rather than eliminate, the disreputable "bubble" feature which grants the very, very rich lower marginal income tax rates, and hence lower capital-gains tax rates than those faced by the merely well-to-do taxpayers; and it would increase the relative tax burden borne by low- and moderate-income taxpayers. All this in a package endorsed by Democratic leaders who claimed to have tax fairness as their top concern.

What explains the persistence of supply-side mythology? From where comes its power to so constrain American politics?

When America first jumped on the supply-side bandwagon, people felt, rightly, that the economic performance of the 1970s was unacceptable. The political and military affronts in Tehran were compounded by the vision of a chained economic giant wilting in the face of Japanese and German competition.

A GNP growth rate of 2.8 percent was unacceptable when compared with the 4.1 percent growth rate of the 1960s. That dismal record was compounded by an even more important measure of economic performance, productivity growth—the rate at which a nation is becoming more efficient and hence more affluent. The 1960s' growth rate of 2.9 percent had fallen to only 1.4 percent in the 1970s. Such a decline meant that instead of doubling every 24 years, American's standard of living would take 50 years to double—each generation could no longer expect to have a standard of living twice that of its parents. Facing these facts Americans were willing to try something new and different.

Supply-side economics, as enunciated by President Reagan and later embraced by Bush, promised that lower taxes on upper income groups would stimulate savings and hence permit more investment—the argument used by Bush to advance his capital-gains tax cut proposals in the recent budget summit. Higher investment would lead to higher growth. In addition to restoring economic vigor and rebuilding international competitiveness, higher growth would accomplish two other important objectives—without asking for painful sacrifice from anybody.

First, with a larger economy, government tax revenue could go up even though tax rates had been reduced. In 1981 Reagan promised that the federal budget would be balanced in 1985 without having to make significant spending reductions. Second, although most of the tax cuts would go to high-income individuals (it was they who had the capacity to save more), higher growth would lead to better paying jobs for middle- and low-income Americans. In the short run their total tax rates would go up—for 80 percent of the population the extra payroll taxes they would be asked to pay to fund Social Security would be larger than the income tax cuts they would get. But with higher earnings they would in the end benefit. All gain, no pain.

Politically supply-side economics delivered the goods—three presidential elections have been won using it—but economically it has not delivered on any of its promises.

Where higher GNP growth was promised, lower growth was delivered—2.6 percent over the decade of the 1980s. In 1990 the economy is stalled on the lip of a recession, just where it was in 1980. Because of the debt and banking problems built up during the 1980s, any recession in the 1990s will produce levels of bankruptcy not seen since the Great Depression. Even without a recession, middle-class wealth is melting away as housing prices fall in much of the nation in reaction to the debt excesses of the 1980s.

Instead of growing faster, productivity slowed down—1.2 percent during the 1980s. In 1989 productivity actually declined. There is only darkness visible at the end of the productivity tunnel.

Savings rates plunged. In the last four years of the 1970s, American families saved 7 percent of their disposal income; in the last four years of the 1980s, they saved only 4 percent. The rich saved nothing from their tax cuts. In contrast, the Japanese saved 15.7 percent of their income in the past 12 months.

If total national savings (a measure that includes corporate savings and government dissavings) is examined, savings fell from 17.4 percent of the GNP in the last four years of the 1970s to 11.3 percent of GNP in the last four years of the 1980s. As a result, in 1989 Japanese investments in plant and equipment per worker were three times as large as those in the United States.

At the beginning of the decade the United States had a small surplus in its trading accounts ($1.5 billion in 1980 and $8.2 billion in 1981). At the end of the decade it recorded a current-account deficit of $129 billion in 1988 and $110 billion in 1989. What was a competitive problem at the beginning of the decade was a competitive disaster at the end of the decade.

In 1981 the United States was the world's largest creditor nation with net assets totaling $141 billion. Every year the rest of the world paid interest, dividends, and profits to Americans. By 1989 the United States had become the world's largest net debtor nation with debts totaling $620 billion. Where Americans used to get, they now give.

The federal deficit did not, of course, vanish in 1985. In the year ahead, the deficit is estimated to be $254 billion and rising if last week's deficit reduction proposals are passed by Congress ($294 if they are not) and over $300 billion if the Social Security surpluses are excluded from the totals, as they ought to be. A budget summit that reduces the deficit by $40 billion is essentially the equivalent of Nero fiddling while Rome burns. The difference is that Nero wanted to burn Rome so that he could rebuild it—the Roman Colosseum was his. Unfortunately there is no evidence that the current fiddlers have any real rebuilding in mind.

President Bush is fond of saying that "we have more will than wallet." He has it exactly backwards. Our GNP after correcting for inflation is four times as large as it was in 1947 when we were paying to rebuild the world after World War II. Our per capita GNP is 2.3 times as large. We can afford to do what must be done abroad; we can afford to do what must be done at home.

America is not an over-taxed country. In 1989, Americans paid fewer taxes as a percentage of GNP (about 30 percent) than the citizens in any other industrial country. Taxpayers in 22 industrial countries, including the Japanese and the Germans, paid more. Morever, there are places where the budget can be cut without harm. Based on the performance of other countries (far lower spending levels; far better performances when it comes to health and longevity), substantially less could be spent on health care if the system were fundamentally reorganized. The events in Eastern Europe mean that big defense cuts can occur while still maintaining our ability to fight wars in the Third World. America has more than 2 million troops; fewer than 200,000 are in the Middle East.

The American problem is will—not wallet. In a democracy, will depends upon leadership and in the United States that means presidential leadership. It isn't leadership to spend months arguing that a capital-gains tax cut is the most important issue facing the American economy.

Whatever one believes about the growth-enhancing aspects of a capital-gains tax cut—or other "tax incentives"—everyone agrees that they leave more after-tax income in the hands of the wealthiest. In the last decade America has already had a heavy dose of that kind of "sacrifice."

Recently the U.S. Census Bureau confirmed that inequality in the distribution of income had increased substantially in the last decade. Every statistic points in the same direction. In the decade of the 1980s, the average real income of the top 5 percent of the population rose from $120,253 to $148,438. At the same time the average real income of the poorest 20 percent fell from $9,990 to $9,431. After-tax measures of income would report an even wider gap. As the income share of the top 20 percent rose in the 1980s, the income share of each of the bottom four quintiles was falling—the lower the quintile the bigger the decline. Despite a 21-percent rise in the real per capita GNP, the average real hourly wages of rank-and-file workers fell 5 percent. Those promised good jobs for middle- and low-income Americans did not appear.

If the income share of the rich is rising at the expense of the rest of the population (it is), if government is directly altering its policies to augment the income share of the rich (it has), if the campaign contributions of special interests increasingly dominate the political process (they do), if fewer and fewer middle- and lower-income individuals vote (it's happening), America is, under the cover of supplyside economics, rapidly moving towards becoming (dare we say it openly?) a plutocracy.

Unfortunately history tells us that as a social and governmental system, plutocracy does not for long work.

COLLECTION OF BACK TAXES

Mr. LIEBERMAN. Mr. President, I thank the Senator from New York for allowing me to proceed in this way.

I rise to indicate to my colleagues that I have introduced legislation that, I am proud to say, is consponsored at this point by Senators GLENN, LEVIN, AKAKA, KOHL, and DODD, that would extend the Internal Revenue Service statute of limitations on collecting assessed taxes.

That sounds like a pretty dry, arcane, and technical subject, Mr. President, but the intent of the bill, which is Senate bill 3165, is to enable the Internal Revenue Service to collect literally hundreds of millions of dollars in taxes that are owed to the Government but have not been paid. These are not taxes that are part of the so-called underground or hidden economy. These are taxes that the taxpayer knows he or she owes and the Government knows he or she owes, but simply have not been collected. In fairness to all of the honest taxpaying citizens of this country, we must not let our rights to collect these overdue taxes slip through our fingers because of a technical legal detail.

Mr. President, the events of the last days and weeks have demonstrated the importance of this change in the law. We are obviously in a budget crisis so grave that we are taking the drastic step of increasing Federal taxes to help make ends meet. In these circumstances, I think few things could be more important than our ability to collect the taxes that are admittedly owed to the Federal Government but are not being paid.

Mr. President, these are not really taxes owed to the IRS. These are taxes that are owed to the American people, because when somone's taxes go uncollected, honest taxpayers inevitably end up paying for it and that is not right.

In August, the Governmental Affairs Committee of this Senate, under Senator GLENN's chairmanship, examined the growing backlog of IRS accounts receivable; that is, the backlog of uncollected taxes. These accounts receivable have grown from $26 billion in fiscal year 1983 to over $60 billion in fiscal year 1989.

I realize that some of these accounts are mistakenly included, but it is clear that we are simply not collecting tens of billions of dollars in taxes that are indisputably owed the Government, and the amount is growing.

When accrued interest and penalties are included, current IRS accounts receivables are over $95 billion. That is more than twice the amount of new revenue that we are attempting to raise in this coming fiscal year. They are expected to go over $100 billion by the end of 1991.

One of the most disturbing consequences of this growth in accounts receivable is that more and more delinquent taxes become uncollectable each year as the applicable statute of limitations expires. Under current law, once an assessment of taxes is made, the Government has 6 years to initiate collection proceedings or it can lose its right to collect. In 1989, which is the last year for which numbers are available, more than $2 billion in accounts receivable became uncollectible because that statute of limitations had expired.

According to GAO, when interest and penalties are included, the amount lost in 1989 was almost $6 billion because the statute had runout. While those conducting the budget negotiations struggled desperately to find ways to raise $1 or $2 billion, over $5 billion is owed to the Government and is simply out of our reach because of the expiration of this statute of limitations. How can we ask honest, hardworking, taxpaying Americans to pay their taxes when every year the Government is losing its right to collect billions of dollars owed by people who have not paid their taxes?

Mr. President, the bill I am introducing has a very simple purpose. It would extend the statute of limitations for collection of assessed taxes from 6 years to 10 years. That would help the IRS stop the hemorrhaging of expiring accounts. The IRS itself has unofficially estimated that extending the statute of limitations by these 4 additional years would enable collection of $532 million in the coming 5 years, which is the period of the budget agreement—one-half billion dollars additional could be raised as a result of this simple legal change in the statute of limitations. In fact, the GAO thinks that the IRS figures are underestimated. They assume a growth number that is more significant. They estimate that over $600 million in additional revenues could be collected by fiscal year 1995.

Mr. President, this bill is fair. Extending these limitations as they run out would not hurt any taxpaying citizen.

I hope my colleagues will support this legislation. It has been referred to the Committee on Finance. I hope the

committee might incorporate it into its reconciliation package. The bill would enable the Government once again to collect over $500 million in overdue taxes in the next 5 years that otherwise would be out of our Government's reach.

Mr. President, I ask unanimous consent that the text of the bill and related tables be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. 10-YEAR PERIOD OF LIMITATION ON COLLECTION AFTER ASSESSMENT.

(a) IN GENERAL.—Subsection (a) of section 6502 of the Internal Revenue Code of 1986 (relating to collection after assessment) is amended—

(1) by striking "6 years" in paragraph (1) and inserting "10 years", and

(2) by striking "6 year period" in paragraph (2) and inserting "10 year period".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to levies made, proceedings begun, or agreements made after the date of the enactment of this Act, with respect to assessments made after such date or assessments pending on such date (determined without regard to the amendments made by this section).

Revenue Effect of Provision to Extend the Statute Expiration Date to 10 Years for Collection of Assessments.

Revenue effect

Fiscal year:	*Million*
1991	43
1992	79
1993	114
1994	145
1995	152

Methodology: Using the ARDI amount written off for 1989 due to statute expiration—$1.77 billion, the estimated portion of tax which could be recovered is based upon percentages derived from a study of amounts in deferred status, currently not collectible, TDA and other. The attached table illustrates how amounts in these categories might be recovered in FY90 through FY93.

Using the above mentioned table, we calculated the potential recovery of amounts which would have been written off in FY91-FY95, assuming a 5 percent per year increase in the amount which would have otherwise been written off.

					Total
Fiscal year:					
1991	$42.8				$42.8
1992	35.5	$44.9			79.4
1993	29.3	37.3	$47.1		113.7
1994	25.1	30.8	39.2	$49.4	144.5
1995		26.4	32.3	41.2	151.8

PROJECTION OF ADDITIONAL COLLECTIONS IF STATUTE EXTENDED TO 10 YRS BASED ON DIFFERENT ASSUMPTIONS OF INCREASES IN STATUTE EXPIRATION

[In millions of dollars]

	IRS estimates with 5-percent increases	Percent— 10	15	20	25
Year:					
1991	43	43	43	43	43
1992	79	83	85	87	89
1993	114	120	127	134	141
1994	145	157	171	185	201
1995	152	173	197	222	251
1996	159	190	226	267	314

KUWAIT AND ISRAEL

Mr. GRASSLEY. Mr. President, on August 2, 1990, Saddam Hussein attacked and invaded the sovereign nation of Kuwait. Saddam Hussein's actions violated all standards of international law and civilized behavior.

In 1967, the State of Israel was attacked on all sides by Arab armies. In defending its very existence, Israel repelled the invading troops and captured territories including the West Bank, Gaza, and East Jerusalem.

I rise today because I am compelled—in the midst of efforts to link the Iraqi occupation of Kuwait and the Palestinian issue—to state that I believe those who link the two issues are wholly lacking in historical perspective. To do so fuels the propaganda and rhetoric of Saddam Hussein and terrorists.

In fact, if any comparisons are to be drawn, they should be drawn between Kuwait and Israel; both of these countries were the innocent victims of attack. Of course the difference between them is that in 1967, Israel was able to defend itself. Yes, we must address the Palestinian issue. Yes, we must continue our efforts in the peace process. But we must do so with a complete perspective on the problems. And the problems are much broader than finding a solution to the Palestinian issue. Any complete solution must also address the heart of the problem raging in the region as far as Israel is concerned: Israel's neighbors' refusal to recognize her right to exist.

For we know that long before 1967, even before Israel captured the territories in defense in the 1967 war, the Syrians were taking pot-shots at Kibbutzim from the Golan Heights, terrorist gangs roamed the Egyptian Gaza Strip, holy sites were desecrated and there was no freedom of religion reigning in Jordanian-controlled East Jerusalem, and the Jordanian-controlled West Bank saw no Palestinian autonomy.

There were wars in 1948 and 1956, long before the West Bank, Gaza, and East Jerusalem were an issue. Prior to 1967, there was no peace. Lest we forget that the war of 1967 was launched to destroy Israel.

In fact, in 1967, Israel assured the King of Jordan that it would not attack Jordan if Jordan stayed out of the war. But despite Israeli assurances and appeals, Jordan joined the war. Two days later, Jordan lost control over East Jerusalem and the West Bank.

So to suggest that the current crisis raging in the Persian Gulf has any analogy, let alone correlation to the Palestinian issue, is to disregard history and give credence to the propaganda that is being used by Saddam Hussein and others to detract from the cause of the Persian Gulf crisis.

Indeed, the Persian Gulf crisis has everything to do with Saddam Hussein—who thinks nothing of murdering his own people, supporting terrorism, threatening to burn other nations, and overrunning his neighbors.

Saddam Hussein is no stranger to brutality. He has executed thousands of Iraqis; gassed the Kurdish people; and amassed an arsenal of chemical and biological weapons, long before his invasion of Kuwait and continued threats to Saudi Arabia.

As a way out of this self-inflicted cataclysm, Saddam Hussein has seized upon the idea of linking the withdrawal of Iraqi troops from Kuwait with the withdrawal of Israel from the West Bank, Gaza, and East Jerusalem. It would be a clever propaganda coup, indeed. What a way for Saddam to reunite much of the Arab world—fractured by his destruction of Kuwait—around the one issue they never seem to disagree on: Israel.

Our official policy is not to reward terrorists for their atrocities. Terrorists cannot be rewarded in any way for his crimes against his fellow Arabs. The United States has not sent over 100,000 troops to Saudi Arabia and has not put American lives at risk, in order to make a hero of the butcher of Baghdad.

I therefore, applaud President Bush's statement that we will not tolerate any link to be drawn between the issues. I call upon the leaders of the United States and leaders around the world to condemn any attempts to make a liberator out of Saddam Hussein by legitimizing his actions. The American troops and troops from around the world, risking their lives in the Persian Gulf, deserve no less.

There is only one solution to the crisis: complete withdrawal of Iraqi troops from Kuwait. That is the only moral solution and the only response Saddam should be hearing from the world.

TRIBUTE TO PAUL R. FROMER

Mr. D'AMATO. Mr. President, I rise today to recognize the accomplishments of Mr. Paul R. Fromer, who is retiring from the Valley Stream Union

Free School District 13 Board of Education after 36 years of service.

Mr. Fromer's record of service to the children and the community of Valley Stream is outstanding. Over the last three decades, he has led the board of education into a new tradition of community involvement and interaction. Mr. Fromer instituted open board meetings, and made the minutes of these meetings available to the public. He has been active in raising funds for education, improving registration and voting procedures, and promoting many other educational programs.

The education of our Nation's children is one of the most vital issues of our time. Paul Fromer's efforts on behalf of this cause are both commendable and inspiring. His dedication and commitment to the students and community of Valley Stream serve as a shining example of the role of school board members as representatives of the community and guardians of the welfare and education of our Nation's youth.

BUDGET AGREEMENT

Mr. ADAMS. Mr. President, the American people have a right to know why the Congress of the United States is in session on a national holiday, more than a week after the beginning of the new fiscal year, with headlines in every local newspaper in the country proclaiming that the Government has had to shutdown because we are out of money. After months of negotiations with the White House, our bipartisan leadership brought back a budget package that sufficiently angered the public to cause its rejection in the House of Representatives last week.

Events last week made clear why the notion of a budget summit is an exercise in misspent energy. There can be little doubt why last week's budget agreement was rejected. The outcry from our senior citizens, our farmers, and from the middle-class, wage earners of this land reached a deafening roar, and rightly so. In a democracy, you cannot achieve a majority consensus behind closed doors.

I was not in Government in the 1980's but during those years, Ronald Reagan led this Nation on a wild spending spree, buying every piece of military hardware that had ever been invented—and some that hadn't even been thought of yet. And how did Mr. Reagan pay the bills? By cutting the Federal budget receipts nearly $200 billion per year, and mortgaging the future of a generation of Americans not yet born. Borrow and spend instead of tax and spend.

I did not have the opportunity to vote against the budget agreement rejected by the House last week, but I would have, because what was missing from that package was the critical element of basic fairness and equity our constituents have a right to demand.

After a decade of watching the rich get richer, the poor getting poorer, and the middle-class carrying an ever increasing share of the cost of Government, we saw and heard democracy in action. And as we now pickup the pieces of that shattered agreement, we must build a fair deficit reduction package. The American people want a fair deal from Congress.

This new effort at a budget agreement paves the way for Congress to develop a budget that does not contain those objectionable features that the American people rejected last week.

As a former Budget Committee chairman, before Stockman and Reagan destroyed the original process in the 1980's, I know we can do better. We do not need to punish our elderly by doubling their Medicare deductions and increasing their monthly payments: An additional $100 per month to that bill is too much to ask. We shouldn't provide the wealthiest Americans additional unproductive tax breaks, while we are cutting the social programs poor children depend on. And no, we do not need to strike children with multiple disabilities from the Social Security rolls in the name of budget responsibility.

This budget agreement is an outline which moves the process foward and allows us to stop the devastation of a Gramm-Rudman-Hollings sequester. While the locked gates and closed doors of our Federal parks, monuments and museums were annoying and inconvenient this past weekend that inconvenience is nothing compared to the havoc a more than 30 percent sequester would cause throughout our Nation. For example, without this agreement—unless the process is allowed to move forward—Federal employees will be furloughed; prison guards and Federal prosecutors would be layed off; Head Start, school lunches, anti-drug efforts, and school aid for disadvantaged and handicapped children would be cut. Recession would turn into depression.

I voted for the new agreement in the Senate because I want to see the U.S. Congress do what it was elected to do: Develop a fair and honest budget that recognizes the serious condition produced by the deficits, but also recognizes that the rich people who feasted at the banquet table during the last 10 years should pickup their fair share of the bill. Likewise, I reserve the right to vote against any final package which abdicates those responsibilities.

TECHNICAL CORRECTIONS TO CUSTOMS AND TRADE ACT OF 1990

Mr. BENTSEN. Mr. President, on Friday, October 5, 1990, I introduced S. 3163, a bill to make technical corrections to the Customs and Trade Act of 1990 (Public Law 101-382). The text of the bill was inadvertently omitted from the Record at the time of introduction. I therefore ask unanimous consent that the text of S. 3163 be printed in the Record.

There being no objection, the order to be printed in the Record, as follows:

S. 3163

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL AMENDMENTS TO THE HARMONIZED TARIFF SCHEDULE.

(a) Redesignations.—Each subheading of the Harmonized Tariff Schedule of the United States that is listed in column A is redesignated as the subheading listed in column B opposite such column A subheading:

Column A	Column B
5111.20.60	5111.20.90
5111.30.60	5111.30.90
5111.90.70	5111.90.90
5112.19.10	5112.19.20
5112.19.60	5112.19.90
5112.90.60	5112.90.90
6116.10.50	6116.10.40
6116.93.20	6116.93.30
6116.99.60	6116.99.90
6216.00.23	6216.00.25
6216.00.29	6216.00.30
6216.00.47	6216.00.45
6702.90.40	6702.90.35
6702.90.60	6702.90.65
8712.00.10	8712.00.15
8712.00.20	8712.00.25
8712.00.30	8712.00.35
8714.94.20	8714.94.15
8714.94.50	8714.94.60
9022.90.80	9022.90.90
9603.10.20	9603.10.25
9603.10.70	9603.10.90

(b) Miscellaneous Amendments.—The Harmonized Tariff Schedule of the United States is further amended as follows:

(1) The article descriptions of subheadings 6116.10.10, 6116.92.10, 6116.93.10, 6116.99.30, 6216.00.10, 6216.00.34, and 6216.00.44 are each amended to read as follows: "Other gloves, mittens, and mitts, principally designed for sports use, including ski and snowmobile gloves, mittens, and mitts".

(2) The superior heading to subheadings 8712.00.25 and 8712.00.35 (as redesignated by subsection (a)) is amended by striking out "65" and inserting "63.5".

(3) Heading 9902.30.07 is amended by striking out "2929.90.10" and inserting "2929.10.40".

(4) Heading 9902.30.08 is amended by striking out "2907.29.30" and inserting "2907.19.50".

(5) Heading 9902.30.42 is amended by striking out "19532-03-07" and inserting "19532-03-7".

(6) The article description for heading 9902.30.56 is amended by striking out "hydroxethyl" and inserting "hydroxyethyl".

(7) Heading 9902.30.83 (as enacted by section 338 of the Customs and Trade Act of 1990) is redesignated as heading 9902.31.11 and, as so redesignated, is amended by striking out "piperadinyl" and inserting "piperidinyl".

(8) Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.70.20	Fiberglass tire cord fabric woven from electrically nonconductive continuous fiberglass filaments 9 microns in diameter or 10 microns in diameter and impregnated with resorcinol formaldehyde latex treatment for adhesion to polymeric compounds (provided for in subheading 7019.20.10, 7019.20.20, or 7019.20.50) ...	Free	No change	No change	On or before 12/31/92".

(9) Heading 9902.84.83 is amended by striking out "(A,C,E,IL)" and inserting "(A,C,CA,E,IL)".

(10) Heading 9902.87.14 is amended by striking out "brakes," the first place it appears.

(c) Effective Date.—

(1) Subject to paragraphs (2) and (3), the amendments made by subsections (a) and (b) apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after October 1, 1990.

(2) Any amendment made by subsection (a) or (b) to a provision of the Harmonized Tariff Schedule of the United States that was the subject of an amendment made by title III of the Customs and Trade Act of 1990 shall—

(A) be treated as applying to that provision as established or amended by such title III; and

(B) if the amendment made by such title III has retroactive application under section 485(b) of such Act, be treated as applying with respect to entries made after the relevant applicable date (as defined in paragraph (2)(A) of such section 485(b)).

(3) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer before April 1, 1991, any entry—

(A) which was made after December 31, 1988, and before October 1, 1990; and

(B) with respect to which there would have been a lesser duty if any amendment made by subsection (b)(1) applied to such entry;

shall be liquidated or reliquidated as though such amendment applied to such entry.

SEC. 2. TECHNICAL AMENDMENTS TO CERTAIN CUSTOMS LAWS.

(a) Customs Forfeiture Fund.—

(1) Paragraph (5) of section 121 of the Customs and Trade Act of 1990 is repealed and subsection (f) of section 613A of the Tariff Act of 1930 shall be applied as if the amendment made by such paragraph (5) had not been enacted.

(2) Paragraph (2) of such section 613A(f) (as in effect after the application of paragraph (1)) is amended to read as follows:

"(2)(A) Subject to subparagraph (B), there are authorized to be appropriated from the Fund not to exceed $20,000,000 for each fiscal year to carry out the purposes set forth in subsections (a)(3) and (b) for such fiscal year.

"(B) Of the amount authorized to be appropriated under subparagraph (A), not to exceed the following shall be available to carry out the purposes set forth in subsection (a)(3):

"(i) $14,855,000 for fiscal year 1991.

"(ii) $15,598,000 for fiscal year 1992.".

(b) Certain Entries.—Section 484 of the Customs and Trade Act of 1990 (Public Law 101-382) is amended by striking out "1801-000027" and inserting "1801-7-000027".

(c) Effective Date.—The provisions of this section take effect August 21, 1990.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,033d day that Terry Anderson has been held captive in Beirut.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on October 9, 1990, during the recess of the Senate, received a message from the House of Representatives announcing that the House agrees to the amendments of the Senate to the joint resolution (H.J. Res. 666) making further continuing appropriations for the fiscal year 1991, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 4522. An act to improve the information available to emergency response personnel on the field; and for other purposes;

H.R. 4593. An act to transfer to the Secretary of the Interior the administration of the surface rights in certain lands presently within the boundaries of the San Carlos Indian Reservation, Arizona, and managed by the Forest Services as part of the Coronado National Forest, and for other purposes;

H.R. 4985. An act to designate the Federal building located at 51 Southwest 1st Avenue in Miami, Florida, as the "Claude Pepper Federal Building"; and

H.J. Res. 666. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes.

Under the authority of the order of the Senate of October 9, 1990, the enrolled joint resolution was subsequently signed by Mr. Bryan.

The enrolled bills, H.R. 4522, H.R. 4593, and H.R. 4985 were subsequently signed by the Acting President pro tempore [Mr. Kohl].

MEASURES PLACED ON THE CALENDAR

The Committee on the Judiciary was discharged from the further consideration of the following concurrent resolution; which was placed on the calendar:

H. Con. Res. 172. Concurrent resolution expressing the sense of the Congress that, for purposes of determining child custody, credible evidence of physical abuse of one's spouse should create a statutory presumption that it is detrimental to the child to be placed on the custody of the abusive spouse.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 9, 1990, he had presented to the President of the United States the following enrolled bills:

S. 247. An act to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such act, and for other purposes;

S. 830. An act to amend Public Law 99-647, establishing the Blackstone River Valley National Heritage Corridor Commission, to authorize the Commission to take immediate action in furtherance of its purposes and to increase the authorization of appropriations for the Commission; and

S. 2437. An act to authorize the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3676. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, certification that the amounts appropriated for the Board for International Broadcasting for grants to Radio Free Europe/Radio Liberty are less than needed to maintain the budgeted level of operation because of exchange rate losses in July and August; to the Committee on Appropriations.

EC-3677. A communication from the Director of the Defense Security Assistance Agency transmitting, pursuant to law, a report on the Department of the Air Force's proposed letter of offer to Turkey for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-3678. A communication from the Secretary of the Treasury, the Chairman of the Securities and Exchange Commission, and the Chairperson of the Board of Governors of the Federal Reserve System, transmitting jointly, pursuant to law, a report entitled "Study of the Effectiveness of the Implementation of the Government Securities Act of 1986"; to the Committee on Banking, Housing, and Urban Affairs.

EC-3679. A communication from the Administrator of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, a report of progress on developing and certifying the Traffic Alert and Collision Avoidance System; to the Committee on Commerce, Science, and Transportation.

EC-3680. A communication from the Chairman of the National Transportation Safety Board transmitting, pursuant to law, the budget request of the Board for fiscal year 1992; to the Committee on Commerce, Science, and Transportation.

EC-3681. A communication from the Secretary of the Interior transmitting, pursuant to law, the 1989 Report on National Natural Landmarks that have been damaged or to which damage is anticipated; to the Committee on Energy and Natural Resources.

EC-3682. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, the report for the second quarter of 1990 on U.S. coal imports; to the Committee on Energy and Natural Resources.

EC-3683. A communication from the Assistant Secretary of Energy (Conservation and renewable Energy) transmitting, pursuant to law, notice of a delay in the submission of a report on Federal Energy Management and Conservation Programs; to the Committee on Energy and Natural Resources.

EC-3684. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3685. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3686. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3687. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3688. A communication from the Administrator of General Services transmitting, pursuant to law, a report of building project survey which evaluates the Federal space situation in Elberton, Georgia; to the Committee on Environment and Public Works.

EC-3689. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, the Department's annual report on Medicare for fiscal year 1987; to the Committee on Finance.

EC-3690. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report entitled "Medicare Therapeutic Shoe Demonstration"; to the Committee on Finance.

EC-3691. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a final report entitled "Disenrollment Experience in the Medicare HMO and CMP Risk Program: 1985-1988"; to the Committee on Finance.

EC-3692. A communication from the Acting Chairman of the United States International Trade Commission transmitting, pursuant to law, the report on the operation of the United States trade agreements program for calendar year 1989; to the Committee on Finance.

EC-3693. A communication from the Acting Chairman of the United States International Trade Commission transmitting, pursuant to law, the fifth annual report on the impact of the Caribbean Basin Economic Recovery Act on U.S. industries and consumers; to the Committee on Finance.

EC-3694. A communication from the Under Secretary of the Treasury transmitting, pursuant to law, notification that the temporary debt limit will expire at midnight on October 6, 1990; to the Committee on Finance.

EC-3695. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, the second annual report on Indian Sanitation Facility Deficiencies dated May 1990; to the Select Committee on Indian Affairs.

EC-3696. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report entitled the "The Public Health Implications of Medical Waste"; to the Committee on Labor and Human Resources.

EC-3697. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report on the expenditures of amounts appropriated for the preceding fiscal year with respect to AIDS; to the Committee on Labor and Human Resources.

EC-3698. A communication from the Secretary of Labor transmitting, pursuant to law, a report on the labor market situation for veterans; to the Committee on Veterans' Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

PCM-591. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services.

"Assembly Joint Resolution No. 93

"Whereas, the Cold War is over—brought to a dramatic end by prodemocracy movements throughout the Soviet Union and Eastern Europe; and

"Whereas, the situation in Europe offers Americans the best opportunity in 50 years to build a peace-based economy to provide peace, prosperity, and justice; and

"Whereas, the cost of waging the Cold War has devastated our country: at present, more than 37,000,000 Americans are without health insurance, 60,000,000 Americans are illiterate or semi-literate, and more than 1,000,000 Americans are homeless; furthermore, the impact of the drug abuse problem costs American communities billions of dollars each year while more of our neighborhoods are unsafe; and

"Whereas, roads, sewers and water treatment facilities, dams, levees, and water delivery systems are in need of rehabilitation, replacement, or reconstruction; and

"Whereas, the test scores of America's children rank at the bottom of major industrial countries in mathematics and science, and vocational training has lagged behind the needs of American industry while college costs have skyrocketed, becoming unaffordable to many; and

"Whereas, the key obstacle to addressing these issues by making the shift from a Cold War economy to a peace-based economy is fear on the part of the American people that such a shift will mean the loss of jobs; and

"Whereas, in fiscal year 1987, approximately $37,800,000,000 of federal tax funds were expended in California for military purposes, and Californians therefore have much at stake during this transition period; and

"Whereas, enactment of a Dollar for Dollar Act would mean that, for each base closing or weapons contract canceled, the dollars originally allocated to those projects would remain in the same county to retrain and place affected workers and to rebuild the community; and

"Whereas, a Dollar for Dollar Act would be thus designed to protect those communities that would bear the immediate brunt of military spending reductions and to assuage local residents' fear of economic dislocation; and

"Whereas, a Dollar for Dollar Act would contain the following provisions:

"(1) For 10 years from the time that any federal funds are cut from military spending in a country, a percentage of those funds equivalent to the percentage of total funds cut from the military budget that are not being applied directly to the reduction of the federal budget deficit would be shifted, dollar for dollar, into an Economic Security Fund for that county.

"(2) The Economic Security Fund would be controlled within each county and would be spent to meet the costs of education, job training and placement, health care, housing, environmental health, infrastructure, technology transfer, and public works projects.

"(3) These spending shifts would be intended to include adjustment assistance to military-related workers, including support services, retraining, and relocation during the transition from a military-based economy to a peace-based economy.

"(4) For the purposes of a Dollar for Dollar Act, 'military spending cuts' would mean funding cuts either from cutbacks or closures of local military installations or from cancellations of military contracts held by local enterprises.

"(5) Funds originally allocated to overseas projects that are not applied directly to the reduction of the federal budget deficit would be shifted, dollar for dollar, into a National Economic Security Fund for national initiatives relating to job training and placement, health care, housing, environmental health, infrastructure, technology transfer, and public works projects; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the

Legislature of the State of California hereby memorializes the Congress and President of the United States to enact, as set forth in this resolution, a Dollar for Dollar Act, which would enable communities to shift from a military-based economy to a peace-based economy that meets urgent domestic security needs; and be it further

"Resolved, That the California legislative advocate is hereby directed to work on behalf of the concept of a Dollar for Dollar Act; and be it further

"Resolved, That the Chief Clerk of the Assembly shall transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives of the United States, and to each Senator and Representative from California in the Congress of the United States."

POM-592. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"Assembly Joint Resolution No. 65

"Whereas, on October 17, 1989, broadcasters did not provide open captions or visual display during television broadcasts of the earthquake disaster to California's 1,837,645 deaf and severely hard of hearing residents; and

"Whereas, deaf and hard of hearing persons in the community had no idea what was happening during the earthquake disaster, and they were not provided with any instructions to follow for their own safety and the safety of others; and

"Whereas, hearing impaired residents were in need of access to vital emergency information concerning where to go for food and shelter, Red Cross services, and medical or hospital services; information on fire warnings, transportation and the freeway collapse, gas leakage areas, contaminated water supplies and the necessity to boil water; and how to report missing persons; and

"Whereas, because many hearing impaired individuals do not understand sign language, visual communication, especially open captions which are an accurate written description of a dialogue that is electronically transmitted by a television broadcaster, and which is seen on a television screen without the aid of a decoder device, would serve not only the deaf, but also the hearing impaired, including many elderly persons; and

"Whereas, organizations and individuals representing deaf and hearing impaired persons should be involved with the planning for emergencies and disasters at the national level; and

"Whereas, the Legislature finds and declares that current rules of the Federal Communications Commission require that emergency information must be broadcast visually and that this resolution in no way intends to change the mandatory nature of that requirement; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature memorializes Congress and the President of the United States to require the Federal Communications Commission to develop voluntary guidelines for commercial television broadcasters which clarify the steps that can be taken to provide vital information to deaf and hearing impaired persons during emergencies and disasters; and be it further

"Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Chairperson of the Federal Communications Commission to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-593. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"Assembly Joint Resolution No. 100

"Whereas, a California Department of Transportation (Caltrans) document entitled "California's Recommendations for a Post-Interstate National Surface Transportation Program" was not approved or reviewed by the Legislature prior to publication and is in conflict with a number of longstanding transportation policy objectives of this state; and

"Whereas, California voters on June 5, 1990, approved a number of ballot measures which emphasize expanded rail transit, congestion management, and better urban and suburban land-use planning as solutions to traffic gridlock, in accordance with intelligently planned improvements to the highway system, in order to build a functioning multimodal transportation system rather than increasing dependency solely on the highway mode; and

"Whereas, the Legislature, by the passage of this resolution, intends to convey to the Congress an analysis of the inconsistencies between the Caltrans document and California policy as adopted by the Legislature and approved by the people; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to consider the following transportation policies in developing new multiyear transportation reauthorization legislation:

"(1) Urban mass transportation and intercity rail transportation: Continue existing funding levels both for capital outlay and operations, provide new sources of funding which can be matched by the states in order to accelerate development of a balanced multimodal transportation system, and provide funding for intermodal rail connections directly serving major airports and for the acquisition of available existing rail corridors which otherwise may be lost to nontransportation-related development.

"(2) Flexible funding: Provide the states with as much flexibility as is possible, consistent with the goals of Congress, in order to allow federal transportation funds to be used for highway, transit, or local road improvements; establish more uniform policies with respect to required nonfederal matching shares, to avoid distortions in decision-making on modal choice; continue a major, proactive federal role in transportation funding in rural and urban settings.

"(3) Alternative fuels: Continue and expand favorable tax treatment for alternative fuels to encourage their use as an alternative to more polluting conventional fuels.

"(4) Air quality: An aggressive strategy to combat deteriorating air quality is essential. Transportation strategies should focus on more efficient movement of people, rather than vehicles, and highway expansion in urban areas needs to be consistent with air quality goals and should emphasize high-occupancy vehicle lanes.

"(5) Revenue equity: In establishing revised revenue structures, ensure that large trucks pay their fair share of highway cost responsibility.

"(6) State control over vehicle size: Continue to maintain the maximum federal highway vehicle weight limit of 80,000 pounds and continue to authorize the states to make decisions on the size, weight, and length of commercial vehicles, since populous urban states such as California cannot safely accommodate the large vehicle combinations which operate in some rural western states; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the chairperson of every congressional committee having jurisdiction over transportation and interstate commerce, and to the Director of Transportation and the Chairperson of the California Transportation Commission."

POM-594. A resolution adopted by the Puerto Rico Manufacturers Association calling for information on the status formulas for Puerto Rico before a vote is held; to the Committee on Energy and Natural Resources.

POM-595. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations.

"Assembly Joint Resolution No. 109

"Whereas, The sovereign nation of Kuwait has been ruthlessly invaded by the armed forces of Iraq for purposes of annexation and seizure of its assets, without justification, provocation, or warning; and

"Whereas, The United Nations has quickly and unanimously moved to adopt measures to restore the sovereignty of Kuwait, and there is overwhelming international condemnation of the senseless loss of the innocent lives and continuing reports of atrocities by the Iraqi invaders against the Kuwaiti people; and

"Whereas, United States President George Bush has acted quickly to protect the people of Middle Eastern countries against further aggression by the armed forces of Iraq, and has formed a multilateral international armed force to stop the unprovoked aggression of Iraqi forces and induce President Saddam Hussein of Iraq to withdraw and negotiate a peaceful settlement to this confrontation; and

"Whereas, American armed forces have been sent to the Middle East to support international military forces and protect Middle Eastern, American, and European civilians who live and work in Kuwait, Iraq, and neighboring countries; and

"Whereas, President Bush has demanded the immediate protection and release of all American and other hostages held by Iraqi forces in Kuwait and Iraq, since many of those hostages have been relocated to serve as a "shield" for Iraq's strategic and military targets; and

"Whereas, The California Legislature supports all of the initiatives by the United States to find a peaceful resolution to this confrontation, and prays for the safety of all American and other hostages held by Iraq, the people of the Middle East, and all American and international military forces deployed to the Middle East; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California supports the actions of the President and the Congress of the United States in deploying the armed forces of the United States to the Middle East in an effort to resolve the crisis caused by the invasion and annexation of Kuwait by Iraq and to restore peace to the region; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-596. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on the Judiciary:

"House Concurrent Resolution No. 862

"Whereas, On April 18, 1990, the United States Supreme Court in *Missouri* v. *Jenkins* ruled that a United States District Court Judge had the power to order local officials in Missouri to raise taxes to finance several specific improvements in schools in Kansas City. In effect, the United States Supreme Court has opened up the possibility of federal courts taking on authority in policy matters and taxation that has always been the concern of the legislative branch of government; and

"Whereas, As has been cited by many critics of the ruling, permitting courts jurisdiction in matters of taxation represents a serious threat to the delicate balance of powers that is among the most important elements of our system of self-rule. In his dissenting opinion, Justice Anthony M. Kennedy expressed his concern that taxation imposed by unelected, life-tenured federal judges ". . . begins a process that over time could threaten fundamental alteration of the form of government our Constitution embodies . . ."; and

"Whereas, With federal judges making policy decisions, especially in the area of taxation, the citizens are, in effect, disenfranchised. Without the ability to express themselves at the ballot box by voting for or against officials on the basis of their actions, citizens can hold no one accountable; and

"Whereas, In response to this genuine threat to the concept of separation of powers and a representative democracy, legislation is presently before the Congress of the United States proposing an amendment to the *United States Constitution.* These measures, which include SJR 295 and HJR 560, would prohibit judicially imposed taxation. The proposed amendment reads as follows: 'Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a State or political subdivision thereof, or an official of such State or political subdivision, to lay or increase taxes.'; now, therefore, be it

"*Resolved by the House of Representatives (the Senate concurring),* That we hereby memorialize the United States Congress to adopt a proposed amendment to the *United States Constitution* to prohibit judicially imposed taxation; and be it further

"*Resolved,* That copies of this resolution be transmitted to the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Michigan congressional delegation."

POM-597. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources:

"Assembly Joint Resolution No. 108

"Whereas, The National Collegiate Athletic Association (NCAA) is a national unincorporated association consisting of public and private colleges and universities, and it is a private monopolist that controls intercollegiate athletics throughout the United States; and

"Whereas, The NCAA adopts rules governing member institutions' admissions, academic eligibility, and financial aid standards for collegiate athletes; and

"Whereas, An NCAA member institution must agree contractually to administer its athletic program in accordance with NCAA legislation; and

"Whereas, NCAA rules provide that association enforcement procedures are an essential part of the intercollegiate athletic program of each member institution; and

"Whereas, The NCAA exercises great power over member institutions by virtue of its monopolistic control of intercollegiate athletics and its power to prevent a nonconforming institution from competing in intercollegiate athletic events or contests; and

"Whereas, Substantial monetary loss, serious disruption of athletic programs, and significant damage to reputation may result from the imposition of penalties on a college or university by the NCAA for what the association determines to be a violation of its rules; and

"Whereas, Because of such potentially serious and far-reaching consequences, all proceedings which may result in the imposition of any penalty by the NCAA should be subject to the requirements of due process of law; and

"Whereas, Without due process, it is inevitable that the enforcement mechanism used by the NCAA will result in unjust punishment; and

"Whereas, The handling of the case of University of Nevada at Las Vegas and its basketball coach, Jerry Tarkanian, who is one of the finest basketball coaches in the nation and who led the Running Rebels to a national championship in 1990, is one example of where the absence of due process has resulted in an unfair result; and

"Whereas, Legislation has been introduced in the Congress of the United States by Senator Harry M. Reid and Representative James H. Bilbray of Nevada which would require the NCAA to adopt procedures to provide due process of law in dealing with athletic teams, coaches, and students; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully requests the President and the Congress of the United States to pass legislation which would require the National Collegiate Athletic Association to adopt procedures to guarantee due process to member schools and their students and coaches; and be it further

Resolved, That the Chief Clerk of the Assembly shall transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the National Collegiate Athletic Association."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2602. A bill to amend the Public Health Service Act to provide assistance for biomedical and health services research, treatment programs and for other purposes relating to Alzheimer's disease and related disorders (Rept. No. 101-512).

S. 3006. A bill to amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of medical devices, and for other purposes (Rept. No. 101-513).

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

H.R. 3134. A bill for the relief of Mrs. Joan R. Daronco.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 682. A bill to amend chapter 33 of title 18, United States Code, to prohibit the unauthorized use of the names "Visiting Nurse Association", "Visiting Nurse Service", "VNA", "VNS", or "VNAA", or the unauthorized use of the name or insignia of the Visiting Nurse Association of America.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 99-14. Bilateral Investment Treaty With Panama (Exec. Rept. No. 101-34).

Treaty Doc. 101-18. Business and Economic Relations Treaty With Poland (Exec. Rept. No. 101-34).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as incidicated:

By Mr. HEFLIN:

S. 3172. A bill to authorize a certificate of documentation for the vessel CAPTAIN DARYL; to the Committee on Commerce, Science, and Transportation.

By Mr. HATFIELD:

S. 3173. A bill to amend the Internal Revenue Code of 1986 to provide a preferential capital gains rate for domestically proceessed timber; to the Committee on Finance.

By Mr. BENTSEN (for himself, Mr. Moynihan, Mr. Riegle, and Mr. Chafee):

S. 3174. A bill to amend title IV of the Social Security Act to establish a program to fund innovative child welfare and family support services, and for other purposes; to the Committee on Finance.

By Mr. PRYOR: (for himself, Mr. Adams, Mr. Riegle, Mr. Graham, and Mr. Burdick):

S. 3175. A bill to amend titles XVIII and XIX of the Social Security Act to provide for certain nursing home reform provisions; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENTSEN (for himself, Mr. Moynihan, Mr. Riegle, and Mr. Chafee):

S. 3174. A bill to amend title IV of the Social Security Act to establish a program to fund innovative child wefare and family support services; to the Committee on Finance.

IMPROVEMENTS TO CHILD WELFARE AND FOSTER CARE PROGRAMS

● Mr. BENTSEN. Mr. President, over the last 2 years, the Finance Committee and other committees of Congress have studied the Nation's child welfare system and how it can be strengthened. The bill I am introducing today reflects many of the insights that have been gained through hearings, site visits, and consultation with child welfare experts and advocates who are knowledgeable about the problems of families and children.

When we look closely at what is happening to America's children today, we see a picture that is deeply disturbing. As families disintegrate, and the use of drugs becomes ever more pervasive, more and more children are coming under the care of our child welfare and foster care systems. Regrettably, these systems are ill-equipped to handle the burden that has been thrust upon them.

The child welfare system has been described as a system under seige. Last year, there were more than 2.4 million reports of abuse and neglect—and increase of 118 percent since 1980. According to unofficial estimates, at the end of 1989 there were 360,000 children living in foster care, 80,000 more than in 1986.

Individual States are experiencing even more alarming increases. New York's foster care caseload increased by 80 percent betweeen 1983 and 1989. California's caseload nearly doubled over the last 5 years, growing from 37,000 children in 1985 to more than 67,000 in 1989. History tells us that soon other States across the Nation may be sharing the foster care explosion that these two bellwether States are already enduring.

The children entering the child welfare system today are not only more numerous, they are more troubled and more seriously abused than a decade or even 5 years ago. They are the victims of serious drug abuse, sex abuse, deprivation, and neglect. Many suffer from physical and mental disabilities as well.

According to the American Public Welfare Association, children from families with drug and alcohol problems and babies and infants with drug-addicted mothers pose the most serious problem facing child welfare agencies today. Because of lack of resources, and lack of qualified staff, these agencies are incapable of providing the comprehensive services and more specialized skills that are needed.

A study by the GAO done earlier this year at my request found that the phenomenon of "boarder babies"—babies exposed to drugs during pregnancy and left in hospitals by parents unwilling or unable to care for them—is having a profound impact on the child welfare system. Thirty percent of the infants identified by the GAO as drug exposed were placed in foster care.

And those infants who go home from the hospital with their drug-abusing parents are at risk of future abuse and neglect. New York estimates that 57 percent of foster care children come from families that are abusing drugs. In Illinois, the number of substance affected infants involved in child abuse and neglect reports increased by more than 400 percent between 1986 and 1988. In California, the number of children with parental alcohol or drug dependency involved in child protective services cases increased from 67,000 in 1986 to 122,000 in 1988, an 83 percent increase in 3 years.

Statistics such as these demonstrate the enormous strain that State child welfare programs are facing today. Unfortunately, they face the strain at a time when resources are also seriously deficient.

Federal appropriations for the child welfare services program increased from $164 million in 1981 to $253 million in 1990, a growth in inflation-adjusted dollars over this 9-year period of only 6 percent. At the same time, the social services block grant, which States have traditionally depended on for a signficant part of their funding for child welfare services, has declined in real terms by 47 percent. And although Federal matching for foster care placement and administrative costs grew signficantly from $30 million in 1981 to $353 million in 1988, States have been using these new 50 percent matching funds to implement the requirements imposed by the 1980 child welfare reform legislation, a process that is still incomplete. These requirements are both stringent and comprehensive. They include periodic case reviews by State agencies or by courts of all children in foster care to make sure that they are not "lost" in the system, but receive the services needed to return them to their homes or find other permanent placement. In addition, child welfare agencies must make reasonable efforts to prevent a child's removal from the home, and to make it possible for the child to return home.

Today, the child welfare, foster care, and adoption assistance programs are funded mostly by dollars from State and local government. According to data developed by the American Public Welfare Association, the Federal Government's contribution to child welfare services this year will be about 40 percent.

While additional funding is a critical need for most States, there is a growing consensus that reform of the system is needed as well.

As Charles Hayward, secretary of the Delaware Department of Services for Children, Youth, and Their Families, recently told the Committee on Finance:

Child welfare programs "have become little more than emergency rooms responding—as we will continue to do—to reports of child abuse and neglect. We are using our limited resources to provide the most expensive treatment and intervention approaches in acute family crisis. In short, we are doing too little too late. We need to do more. The future of America's families is at stake."

Across the country, State and local child welfare agencies have begun to develop and test new programs that try to help families before serious trouble occurs. The focus is not just on children, but on the family as a whole.

One example is Maryland's Family Support Centers, where young men and women who want help in becoming better parents may come to receive health and nutrition counseling, encouragement and assistance in completing their education, training in job skills, and guidance in child-rearing skills.

In Texas, Oregon, Iowa, Tennessee, New York, Missouri, Michigan, Pennsylvania, and a number of other States, child welfare agencies are trying out service programs that shift the emphasis from child rescue to preserving the family. When the agency receives a report about child neglect or abuse, it will immediately provide intensive services to the family to try to prevent the need for placement in foster care. These family preservation services may include practical concrete services, parent education and skills training, referral for other services, family therapy, and individual psychological support and counseling. Although further evaluations are still needed to determine which programs are most effective, there is growing consensus that family preservation programs can help to prevent family disruption, and can be less costly than removing children from their homes and placing them in foster care.

Mr. President, one of the major goals of the bill we are introducing today is to enable States to develop and implement these and other kinds of innovative programs to strengthen families, and prevent family disruption.

Over the next 5 years, our bill will provide $1.5 billion in additional Federal funding to enable States to plan, develop, and expand innovative services for families. The bill is written so as to give States broad flexibility in designing their services program. I anticipate that both the Secretary of Health and Human Services and the States will use the funds provided in the bill to rigorously evaluate these new programs, so that at the end of this 5-year period we will have the kind of evidence necessary to design even more effective strategies to protect families and children.

A second major goal of our bill is to improve coordination of services for families and children. The child welfare, AFDC, Medicaid, mental health, education, and juvenile justice systems all share responsibility for children. But too often they fail to talk to one another, and children fall through the cracks.

Programs often have different reporting and data collection requirements, eligibility rules, and administrative procedures, all of which can needlessly hinder effective and cost-efficient delivery of services. Some of these differences result from legislative requirements, but frequently the barriers are administrative in nature and could be overcome with strong executive leadership.

I hope the Governors, who played such an instrumental role in welfare reform, will now turn their attention to the child welfare and foster care systems, and, by their example, will show the way to reform of these systems as well.

As an incentive, our bill provides up to $3 million a year for up to 15 States to conduct pilot projects to improve the coordination of assistance for families and children. I ask the Governors, in submitting their applications for grants, to look toward integrating the child welfare, foster care, and adoption assistance programs with the many other programs that provide funding for services for children.

Many, if not most, families receiving child welfare services also receive welfare assistance through the Aid to Families With Dependent Children Program. The Family Support Act of 1988 made a wide variety of services available to these families, and I hope States will look for ways to link these systems. States should also look toward coordinating drug treatment, mental health, developmental disabilities, and other medical services with their child welfare systems. I believe much could be achieved by better integration of these and other services at the State and local level.

At the Federal level, the bill requires the Secretaries of HHS, Agriculture, and Education, and the Attorney General, to review departmental policies and to recommend to the Congress both legislative and nonlegislative changes that can be made to improve program coordination.

Back in 1986, I introduced an amendment to require the establishment of a national foster care and adoption information system. That amendment addressed a problem, not yet corrected, of an almost total lack of data that can be used in making decisions about national policy. Regulations to implement the amendment have been held up by OMB because of concerns about cost. The administration and the States have been arguing over how the system should be paid for.

In order to end the debate, and implement this essential information system as soon as possible, our bill provides 90 percent Federal matching on a time-limited basis for the costs of planning, designing, developing, and installing a data information system that meets the requirements of the 1986 legislation, and that can be used to administer the child welfare, foster care, and adoption assistance programs. The 90 percent matching rate is the same matching rate that States have received for their AFDC, child support, and Medicaid information systems.

This bill also makes significant improvements in the Independent Living Program, which is designed to help teach youths in foster care how to live on their own. The bill would allow States to continue independent living services for youths up to age 21, instead of putting them out into the world completely on their own at age 18, as is the case under present law.

It would allow youths who are participating in independent living programs to accumulate enough in savings to enable them to set up their own households without losing eligibility for foster care payments or Medicaid; and it would allow States to continue to provide foster care maintenance payments for youths up to age 21 who are participating in an independent living program and in a full-time education or training program.

Many of these young people are troubled, particularly those who have spent many years in foster care. A recent study by Westat, Inc., found that in their study group, two-thirds of 18-year-olds did not complete high school or a GED, and 61 percent had no job experience. In addition, 38 percent had been diagnosed as emotionally disturbed, and 17 percent had a drug abuse problem.

The group also lacked placement stability. During the time they were in foster care 58 percent experienced at least three living arrangements and approximately 30 percent of the youth had been in foster care for an average of 9 years.

Housing for these young people is a particularly serious problem. According to a 1985 study, an estimated 7,500 youth who were discharged from foster care were homeless in New York City.

Mr. President, I believe that the changes in the Independent Living Program contained in this bill will enable States to provide assistance to foster care youths in addressing these and other serious problems that they commonly encounter.

The bill also tightens up funding procedures for the foster care program. Under current law, States may claim reimbursement for foster care expenditures, including child placement and administrative costs, for a period of 2 years. Our bill would require States to submit all claims within 1 year of expenditure. Any claims submitted after the 1-year limit would not receive Federal matching.

In addition, the bill amends the statute to make clear that the Federal funds that States now draw down as matching for administrative costs also include child placement costs. This provision does not expand the scope of allowable Federal matching under the title IV-E Foster Care Program, but merely provides more accurate terminology for what the States may already claim under the rubric of administrative costs.

The Child Welfare Amendments of 1990 also include a number of other significant improvements. There are several provisions aimed at facilitating adoption, and current law provisions relating to funding child welfare training are strengthened. These and other changes are described more fully in the summary description of the bill, which I ask unanimous consent to have placed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

Bill to Improve Child Welfare/Foster Care Programs

SUMMARY DESCRIPTION

Innovative Services to Strengthen Families.—Federal matching funds will be provided under title IV-B of the Social Security Act to enable States to plan, develop, and expand innovative programs of services to strengthen families, thereby avoiding family disruption and placement in foster care. States will be entitled to their share of $150 million in FY91, $300 million in FY92, and $400 million in FY93, FY94, and FY95. Funds will be allotted on the same basis as under the current child welfare program (reflecting the size of the State's population under age 21 and per capita income). Matching will be at the Medicaid rate (varying from 50 to 83 percent, depending on State per capita income).

Funds may be used for the following services: intensive family preservation, reunification, and followup services designed to enable children to remain or be reunited with their families; services for families at risk because of substance abuse; respite care for families of children with special needs, including foster care families and families receiving adoption assistance; and family support services to strengthen family functioning, including services to help parents improve their parenting skills. Federal funds will also be provided to enable the

Secretary of Health and Human Services to evaluate the effectiveness of these new services.

Measures to Improve Coordination of Services.—Up to 15 States will be allowed to conduct 3-year pilot projects to improve the coordination of the delivery of services for families and children. Federal matching for each project cannot exceed $3 million a year. Applications for projects must be submitted by the Governor. States conducting projects must conduct an evaluation and report the results to the Secretary.

In addition, the Secretaries of HHS, Agriculture, and Education, and the Attorney General, will be required to review Departmental policies to determine what changes in regulations and procedures can be made without legislative changes to improve coordination of services at the Federal, State, and local levels. They must issue a joint report including recommendations for both legislative and nonlegislative changes by July 1, 1991.

Independent Living.—The independent living program, designed to assist foster care youth in making the transition from foster care to independent living, will be modified to: (1) allow States to continue independent living services for youths up to age 21 (rather than age 18 as in current law); (2) allow youths in independent living programs to accumulate assets sufficient to enable them to establish their own households; and (3) allow States to continue to provide foster care maintenance payments for certain youths up to age 21, provided they are actively participating in the independent living program and in a full-time education or training program.

Provisions to Facilitate Adoption.—The bill includes three provisions aimed at facilitating adoption:

(1) In conducting a periodic case review of a child who is legally free for adoption, a court (or administrative review) must determine and document for the child the specific steps being taken by the State child welfare agency to find an adoptive family for the child, or must make a finding that adoption placement would be inappropriate for the child.

(2) States will be allowed to claim Federal matching (title IV-E) in the case of a child who has previously been determined to be eligible for adoption assistance payments under title IV-E, but who has returned to foster care because the adoption has been set aside by the court. The child will be eligible for foster care maintenance payments, as well as for adoption assistance to facilitate adoption by a second family.

(3) States will be allowed to disregard adoption assistance payments in determining a family's eligibility for AFDC.

Data Collection and Information Retrieval System for the Foster Care and Child Welfare Programs.—States will be allowed to claim 90 percent Federal matching for the costs of planning, designing, developing, or installing a statewide data collection and information retrieval system for purposes of administering the title IV-B child welfare and title IV-E foster care and adoption assistance programs. The system must meet the specifications of amendments enacted in 1986 requiring States to implement a data collecting system, and must be approved by the Secretary as likely to provide more efficient, economical, and effective administration of the child welfare, foster care and adoption assistance programs. This enhanced matching will terminate September 30, 1993.

Limit Federal Matching for Foster Care Placement and Administrative Costs.—Beginning with fiscal year 1992, States will be required to submit all claims for Federal reimbursement for title IV-E foster care expenditures within one year of the expenditure, rather than within two years, as under current law.

In addition, the bill amends the statute to make clear that the Federal funds that States now draw down as matching for "administrative costs" also include child placement costs. This provision does not expand the scope of allowable Federal matching under the title IV-E foster care program, but merely provides more accurate terminology for what the States may already claim under the rubric of "administrative costs."

Study of "Reasonable Efforts."—The Secretary of HHS is required to establish an Advisory Committee to study the implementation of the current law requirement that States make "reasonable efforts" to prevent the need for removal of a child from his home, and to make it possible for the child to return home. A report with recommendations to improve the implementation of the requirement must be submitted to the Congress by April 1, 1992.

Require Placement in Least Restrictive, Most Appropriate Setting.—Language will be added to the statute to assure that a child who is placed in foster care is placed in a setting that is most appropriate for the child.

Strengthen Child Welfare Training Provisions.—Current law authority for Federal funding for child welfare training would be strengthened by (1) requiring students receiving stipends to participate in a related field placement and to commit to full-time post-graduation employment in a public or private non-profit child welfare agency; (2) requiring institutions receiving funds to have or develop curricula reflecting current knowledge about best practices in delivering child welfare services, to consult with child welfare agencies in developing such curricula, and to track students who receive training to determine how many secure and retain employment in the child welfare field; and (3) allowing those already working in the child welfare system to be eligible for stipends in order to complete degree requirements.

Other provisions.—Other provisions in the bill include: (1) allowing up to 6 States to conduct demonstration projects to test and evaluate whether family reunification can be facilitated by allowing a family to receive AFDC for the month prior to the month in which a child returns home from foster care; (2) allowing States to disregard foster care maintenance payments funded by States and localities in determining a family's AFDC benefits; and (3) a provision giving up to 10 States more flexible spending authority to establish and evaluate specified types of demonstration projects.●

By Mr. PRYOR (for himself, Mr. Adams, Mr. Riegle, Mr. Graham, and Mr. Burdick):

S. 3175. A bill to amend titles XVIII and XIX of the Social Security Act to provide for certain nursing home reform provisions; to the Committee on Finance

NURSING HOME REFORM IMPROVEMENTS ACT

● Mr. PRYOR. Mr. President, today I am pleased to be joined by Senators Adams, Riegle, Graham, and Burdick in introducing a package of technical corrections to the nursing home reform provisions contained within the Omnibus Budget Reconciliation Act of 1987 [OBRA 1987]. This package represents what I consider to be a fair balance of the interests and priorities of the various provider, consumer, and aging advocacy groups, and I want to commend them for their willingness to work with me to develop it.

OBRA 1987 created the legislative basis for the most comprehensive overhaul of nursing home care and government regulation since the enactment of the Medicare and Medicaid programs in 1965. These reforms represent the culmination of over 30 years of effort to improve the quality of care in our Nation's nursing homes. OBRA 1987 is a remarkable achievement in many ways, but primarily because it represents a legislative consensus of Congress, consumers, providers, State and Federal regulators, and others involved in the delivery of nursing home care.

I want to recognize my distinguished colleagues who were involved in the drafting and passage of this legislation—Senators Mitchell and Heinz, and Congressmen Waxman, Dingell, and Stark—for their foresight and attention to the intricacies of nursing home care. OBRA 87 is an incredibly ambitious piece of legislation, and they are to be commended for their success in tackling what are often very complex and contentious issues.

Implementation of OBRA 1987 presents an enormous challenge. Recognizing the complexity of the law and the difficulties States and providers face in converting to a new system of regulation and enforcement, Congress laid out a sequence of deadlines for the Department of Health and Human Services, the States, and providers to meet, staged in over a period of several years. Concerns have been raised about the Health Care Financing Administration's [HCFA] role in the implementation of OBRA. It has been the contention of many providers, States, and consumers that HCFA has been remiss in carrying out the law's mandates. To date, HCFA has missed every deadline imposed by OBRA—with the exception of one, which it exceeded by well over one year. Because OBRA requires States to carry out implementation even in the absence of guidance from the Federal Government, HCFA's actions have caused a great deal of confusion and frustration.

In addition, no law, no matter how conscientiously drafted, can anticipate every situation or circumstance. The nursing home provisions of OBRA 1987 are no exception to this. As a result, there are technical corrections and some fine-tuning that needs to be done to facilitate smooth implementation of OBRA 1987. I am introducing a package of technical corrections to OBRA 1987 that are largely noncontroversial in nature, and have little or no cost associated with them.

The Senate Special Committee on Aging has a long history of involvement with quality of care in nursing homes. In fact, what was to eventually become the Senate Aging Committee was established in the late 1950's to investigate problems in nursing homes. From 1963 to 1965, the Aging Committee, under the chairmanship of Senator Frank Moss, held a series of hearings on State nursing home standards and enforcement efforts. The committee held another series of hearings from 1969 to 1973 that resulted in 3,000 pages of testimony. My own involvement with these issues began in the late 1970's, when I, as a freshman Member of the House of Representatives, went undercover as an orderly in several nursing homes in my home State of Arkansas. My experience solidified my commitment to improving the quality of care in our Nation's nursing homes.

Over the next several years, as interest in increasing the Federal role in the oversight of nursing homes increased, the Congress and the various administrations took action to accomplish this, with varying degrees of success. In 1981, the Department of Health and Human Services initiated efforts to diminish regulatory oversight of the nursing home industry. In 1982, HHS published proposed revisions to the nursing home survey and certification regulations that would substantially weaken Federal involvement in nursing homes. The Senate Aging Committee held a hearing on the implications of this action in the summer of 1982.

In the summer of 1983, Congress reached a compromise with HHS whereby HHS agreed to postpone all regulatory changes involving nursing homes and contract with the Institute of Medicine of the National Academy of Sciences to conduct a study of Federal nursing home law. This report, entitled "Improving the Quality of Care in Nursing Homes," was released in 1986, and formed the basis for the provisions that would ultimately make their way into OBRA 1987. In May 1986, the committee held a hearing entitled "Nursing Home Care: The Unfinished Agenda" to examine the quality of care problems that continued to exist in nursing homes.

In many ways, OBRA 1987 marks the beginning, rather than the end, of our work with improving the quality of care—and the quality of life—for nursing home residents. I have submitted much of what is included in the legislation that I am introducing today to the Senate Finance Committee for possible inclusion in the 1991 budget reconciliation bill. I am working closely with Senator BENTSEN and his staff, who have been extremely helpful and receptive in this endeavor. I urge my colleagues to support his important legislation.●

ADDITIONAL COSPONSORS

S. 1860

At the request of Mr. BOREN, the names of the Senator from New York [Mr. D'AMATO], the Senator from Arizona [Mr. DECONCINI], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 1860, a bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war.

S. 2158

At the request of Mr. PRYOR, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 2158, a bill to direct the Secretary of Health and Human Services to promulgate regulations to require that an individual telephoning the Social Security Administration has the option of accessing a Social Security Administration representative in a field office in the geographical area of such individual, and for other purposes.

S. 2653

At the request of Mr. BURNS, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 2653, a bill to permit States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer.

S. 2754

At the request of Mr. BIDEN, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 2754, a bill to combat violence and crimes against women on the streets and in homes.

S. 2796

At the request of Mr. COHEN, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 2796, a bill to amend title IV of the Higher Education Act of 1965 to allow resident physicians to defer repayment of their title IV student loans while completing a resident training program accredited by the Accreditation Council for Graduate Medical Education or the Accreditation Council for Graduate Medical Education or the Accrediting Committee of the American Osteopathic Association.

S. 2809

At the request of Mr. SIMON, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 2809, a bill to amend the National Trails System Act to provide for the study and designation of the Underground Railroad Historic Trail.

S. 2819

At the request of Mr. MOYNIHAN, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 2819, a bill to amend title XVIII of the Social Security Act to provide coverage of services rendered by community mental health centers as partial hospitalization services, and for other purposes.

S. 2901

At the request of Mr. PRYOR, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2901, a bill to amend the Internal Revenue Code of 1986 to simplify the application of the tax laws with respect to employee benefit plans, and for other purposes.

S. 3042

At the request of Mr. COHEN, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 3042, a bill to establish a uniform minimum package and claim procedures for health benefits, provide tax incentives for health insurance purchases, encourage malpractice reform, improve health care in rural areas, establish state uninsurable pools, and for other purposes.

S. 3047

At the request of Mr. DECONCINI, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 3047, a bill to amend the antitrust laws in order to preserve and promote wholesale and retail competition in the retail gasoline market.

S. 3102

At the request of Mr. DOLE, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 3102, a bill to amend title XVI of the Social Security Act to permit disabled and elderly people to maximize their independence.

At the request of Mr. DOLE, the name of the Senator from Florida [Mr. GRAHAM] was withdrawn as a cosponsor of S. 3102, supra.

S. 3148

At the request of Mr. DIXON, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 3148, a bill to condition funding for coproduction with South Korea of the F/A-18 aircraft on receipt by Congress of the relevant memorandum of understanding [MOU] and to extend the 30-day congressional review period until the MOU is received.

S. 3165

At the request of Mr. LIEBERMAN, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 3165, a bill to amend the Internal Revenue Code of 1986 to extend to 10 years the period of limitation on collection after assessment.

S. 3168

At the request of Mr. BREAUX, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 3168, a bill to amend the Natural Gas Pipeline Safety Act; the Hazardous Liquid Pipeline Safety Act of 1979; and the Ports and Waterways Safety Act to establish permanent offshore pipeline inspection and burial requirements which will improve navigational safety in coastline waters.

SENATE JOINT RESOLUTION 263

At the request of Mr. HELMS, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of Senate Joint Resolution 263, a joint resolution to designate October 11, 1990, as "National Society of the Daughters of the American Revolution Centennial Day."

SENATE JOINT RESOLUTION 364

At the request of Mr. REID, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from Mississippi [Mr. LOTT], the Senator from California [Mr. CRANSTON], the Senator from Michigan [Mr. RIEGLE], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of Senate Joint Resolution 364, a joint resolution to designate the third week of February 1991, as "National Parents and Teachers Association Week."

SENATE JOINT RESOLUTION 375

At the request of Mr. BOSCHWITZ, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Indiana [Mr. COATS], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 375, a joint resolution to designate October 30, 1990, as "Refugee Day."

AMENDMENTS SUBMITTED

SOCIAL SECURITY PAY-AS-YOU-GO FINANCING

BOSCHWITZ (AND OTHERS) AMENDMENT NO. 2941

Mr. BOSCHWITZ (for himself, Mr. MCCAIN, Mr. GORTON, Mr. LOTT, Mr. MACK, Mr. MCCONNELL, Mr. COATS, Mr. MCCLURE, Mr. KASTEN, Mr. BURNS, Mr. PRESSLER, Mr. HATCH, Mr. WILSON, Mr. D'AMATO, Mr. COCHRAN, Mr. GRAMM, Mr. HELMS, Mr. JEFFORDS, Mr. NICKLES, Mr. SHELBY, Mr. SIMPSON, Mr. SYMMS, Mr. THURMOND, Mr. WARNER, Mr. HEFLIN, Mr. GRASSLEY, Mr. DURENBERGER, Mr. ROTH, Mr. STEVENS, and Mr. HATFIELD) proposed an amendment to the bill (S. 3167) to cut Social Security contribution rates and return Social Security to pay-as-you-go financing, and for other purposes, as follows:

TITLE —SOCIAL SECURITY EARNINGS TEST ELIMINATED

SEC. . SHORT TITLE.

This title may be cited as the "Older Americans' Freedom to Work Act of 1990".

SEC. . ELIMINATION OF EARNINGS TEST FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

Section 203 of the Social Security Act is amended—

(1) in paragraph (1) of subsection (c) and paragraphs (1)(A) and (2) of subsection (d), by striking "the age of seventy" and inserting "retirement age (as defined in section 216(l))";

(2) in subsection (f)(1)(B), by striking "was age seventy or over" and inserting "was at or above retirement age (as defined in section 216(1)";

(3) in in subsection (f)(3), by striking "33⅓ percent" and all that follows through "any other individual," and inserting "50 percent of such individual's earnings for such year in excess of the product of the exempt amount as determined under paragraph (8)," and by striking "age 70" and inserting "retirement age (as defined in section 216(1))";

(4) in subsection (h)(1)(A), by striking "age 70" each place it appears and inserting "retirement age (as defined in section 216(1))"; and

(5) in subsection (j), by striking "Age Seventy" in the heading and inserting "Retirement Age", and by striking "seventy years of age" and inserting "having attained retirement age (as defined in section 216(1))".

SEC. . CONFORMING AMENDMENTS ELIMINATING THE SPECIAL EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

(a) UNIFORM EXEMPT AMOUNT.—Section 203(f)(8)(A) of the Social Security Act is amended by striking "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable" and inserting "a new exempt amount which shall be applicable".

(b) CONFORMING AMENDMENTS.—Section 203(f)(8)(B) of such Act is amended—

(1) in the matter preceding clause (i), by striking "Except" and all that follows through "whichever" and inserting "The exempt amount which is applicable for each month of a particular taxable year shall be whichever";

(2) in clause (i), by striking "corresponding"; and

(3) in the last sentence, by striking "an exempt amount" and inserting "the exempt amount".

(c) REPEAL OF BASIS FOR COMPUTATION OF SPECIAL EXEMPT AMOUNT.—Section 203(f)(8)(D) of such Act is repealed.

SEC. . ADDITIONAL CONFORMING AMENDMENTS.

(a) ELIMINATION OF REDUNDANT REFERENCES TO RETIREMENT AGE.—Section 203 of the Social Security Act is amended—

(1) in the last sentence of subsection (c), by striking "nor shall any deduction" and all that follows and inserting "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60."; and

(2) in subsection (f)(1), by striking clause (D) and inserting the following: "(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60, or".

(b) CONFORMING AMENDMENT TO PROVISIONS FOR DETERMINING AMOUNT OF INCREASE ON ACCOUNT OF DELAYED RETIREMENT.—Section 202(w)(2)(B)(ii) of such Act is amended

(1) by striking "either"; and

(2) by striking "or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit".

(c) CONTINUED APPLICATION OF RULE GOVERNING ENTITLEMENT OF BLIND BENEFICIARIES.—The second sentence of section 223(d)(4) of such Act is amended by inserting after "subparagraph (D) thereof" where it first appears the following: "(or would be applicable to such individuals but for the amendments made by the Older Americans' Freedom to Work Act of 1990)".

SEC. . EFFECTIVE DATE.

The amendments made by this title shall apply only with respect to taxable years beginning on or after January 1, 1992.

HARKIN (AND OTHERS) AMENDMENT NO. 2942

Mr. HARKIN (for himself, Mr. SANFORD, Mr. REID, Mr. EXON, Mr. BRYAN, Mr. METZENBAUM, Mr. DECONCINI, Mr. PELL, Mr. HEFLIN, Mr. SHELBY, Mr. GRASSLEY, Mr. LUGAR, Mr. KASTEN, and Mr. PRESSLER) proposed an amendment to the bill S. 3167, supra, as follows:

At the end of the amendment add the following new section:

SEC. . SOCIAL SECURITY NOTCH ADJUSTMENT.

(a) EXPANSION OF PERIOD OF TRANSITION.—Section 215(a)(4)(B)(i) of the Social Security Act (42 U.S.C. 415(a)(4)(B)(i)) is amended by striking "1984" and inserting "1989".

(b) ESTABLISHMENT OF NEW TRANSITIONAL FORMULA.—Section 215(a) of such Act (42 U.S.C. 415(a)) is amended by adding at the end thereof the following new paragraph:

"(8)(A) Paragraphs (1) (except for subparagraph (C)(i) thereof) and (4) do not apply to the computation or recomputation of a primary insurance amount for an individual who had wages or self-employment income credited for one or more years prior to 1979, and who was not eligible for an old-age or disability insurance benefit, and did not die, prior to January 1979, if in the year for which the computation or recomputation would be made the individual's primary insurance amount would be greater if computed or recomputed under subparagraph (B).

"(B) The primary insurance amount computed or recomputed under this subparagraph is equal to—

"(i) the excess of—

"(I) the amount computed or recomputed under this subsection as in effect in December 1978 (for purposes of old-age insurance benefits in the case of an individual who becomes eligible for such benefits prior to 1989) or under subsection (d) (in the case of an individual to whom such subsection applies), over

"(II) the amount computed under this subsection as in effect on October 1, 1991, multiplied by

"(ii) 40 percent, reduced by the sum of—

"(I) 4.0 percent times the number of years between 1979 and the year of first eligibility, plus

"(II) ⅓ of 1 percent for each month beginning before the month in which the individual attains the age of 65 and with respect to which the individual is entitled to old-age insurance benefits.".

(c) Applicability of Old Provisions.—Section 215(a)(5) of such Act (42 U.S.C. 415(a)(5)) is amended—

(1) by inserting "(A) after "(5)";

(2) by striking "for" and inserting "Except as provided in subparagraph (B), for";

(3) by striking "effect," and all that follows through "after 1978" and inserting "effect"; and

(4) by adding at the end thereof the following new subparagraph:

"(B) In applying this section as in effect December 1978 as provided in subparagraph (A)—

"(i) effective for January 1979, the dollar amount specified in paragraph (3) of subsection (a) shall be increased to $11.50;

"(ii) the table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be revised as provided by subsection (i) for each year after 1978; and

"(iii) in the case of an individual to whom paragraph (1) does not apply by reason of paragraph (8)—

"(I) subsection (b)(2)(C) shall be deemed to provide that an individual's 'computation base years' may include only calendar years in the period after 1950 (or 1936 if applicable) and ending with the calendar year in which such individual attains age 65; and

"(II) the 'contribution and benefit base' (under section 230) with respect to remuneration paid in (and taxable years beginning in) any calendar year after 1981 shall be deemed to be $29,700.".

(d) Conforming Amendment.—Section 215(a)(3)(A) of such Act (42 U.S.C. 415(a)(3)(A)) is amended in the matter following clause (iii) by striking "(4)" and inserting "(4) or (8)".

(e) Effective Date.—The amendments made by this section shall be effective as if included in the amendments made by section 201 of the Social Security Amendments of 1977, with respect to payments made on or after October 1, 1991.

(f) Short Title.—This section may be cited as the "Social Security Notch Adjustment Act".

WESTERN WATER POLICY ACT

HATFIELD AMENDMENT NO. 2943

(Ordered referred to the Committee on Energy and Natural Resources.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to the bill (S. 1996) to provide for a comprehensive review by the Secretary of the Interior of western water resource problems and programs administered by the Geological Survey, the Bureau of Reclamation, and other operations of the Department of the Interior, and for other purposes, as follows:

Strike all and insert the following:

SHORT TITLE

Section 1. The Congress finds that—

(1) the Nation needs an adequate water supply for all States at a reasonable cost,

(2) the demands on the Nation's finite water supply are increasing,

(3) coordination of both the Federal level and the local level is needed to achieve water policy objectives,

(4) not less than fourteen agencies of the Federal Government are currently charged with functions relating to the oversight of water policy,

(5) the diverse authority over Federal water policy has resulted in unclear goals and an inefficient handling of the Nation's water policy, and

(6) there exists a need for a high-level executive agency to help coordinate and formulate Federal water resource programs and activities.

THE NATIONAL WATER COMMISSION

Sec. 2. (a) There is established the National Water Commission (hereafter in this Act referred to as the "Commission").

(b) The Commission shall be composed of eighteen members, as follows:

(i) The ranking majority and minority member from the Senate Committees on: Energy and Natural Resources, Environment and Public Works, and Appropriations.

(ii) The ranking majority and minority member from the House Committees on: Appropriations, Public Works and Transportation, and Interior and Insular Affairs.

(iii) Six persons who are not now, and for a period of one year immediately preceding their appointments, have not been, officers or employees of the United States; but, the foregoing or any other provision of law notwithstanding, there may be appointed under this paragraph, any person who is retained, designated, appointed, or employed by any instrumentality of the executive branch of the Government or by any independent agency of the United States to perform, with or without compensation, temporary duties on either a full-time or intermittent basis for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days; said persons shall be appointed by the President of the United States; and

(iv) Of the aforementioned Commission members, one shall be elected, by majority vote, to serve as Chairman of the Commission (hereafter in this Act referred to as the "Chairman").

(c) Any vacancy which may occur on the Commission shall not affect its powers or functions but shall be filled in the same manner in which the original appointment was made.

(d) The organization meeting of the commission shall be held at such time and place as may be specified in a call issued jointly by the ranking majority and minority members of the Commission of both the Senate and the House of Representatives.

(e) Ten members of the Commission shall constitute a quorum, but a smaller number, as determined by the Commission, may conduct hearings.

(f) Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(g) The members appointed by the President shall each receive a per diem in the amount equal to the daily rate of pay for a GS-18 position on the executive schedule when engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

DUTIES OF THE COMMISSION

Sec. 3. (a) The Commission shall—

(1) review present and anticipated national water resource problems, making such projections of water requirements as may be necessary and identifying alternative ways of meeting these requirements—giving consideration, among other things, to conservation and more efficient use of existing supplies, innovations to encourage the highest economic use of water and recent technological advances;

(2) examine the current Federal programs and recommend whether they should be continued and, if so, how they should be managed for the next twenty years, including the possible reorganization of the current water resources development and management agencies and the desirability of consolidating such agencies within a Department of Natural Resources within the executive branch;

(3) review the need for additional storage or other arrangements to augment existing water supplies;

(4) review the history, use, and effectiveness of various institutional arrangements to address problems of water allocation, water quality, planning, flood control and other aspects of water development and use, including interstate water compacts, Federal-State regional corporations, river basin commissions, the activities of the Water Resources Council, municipal and irrigation districts and other similar entities;

(5) review the legal regime governing the development and use of water and the respective roles of both the Federal Government and the States over the allocation and use of water, including an examination of riparian zones, appropriation and mixed systems, market transfers, administrative allocations, ground water management, interbasin transfers, recordation of rights, Federal-State relations including the various doctrines of Federal reserved water rights (including Indian water rights and the concept of a public trust doctrine);

(6) review the activities, authorities, and responsibilities of the various Federal agencies with direct water resources management responsibility, including the Bureau of Reclamation, the Army Corps of Engineers, the Tennessee Valley Authority, the Federal Energy Regulatory Commission, the Bonneville Power Administration and the other Federal power marketing administrations, the Department of Agriculture, and the Environmental Protection Agency.

(7) review the current Federal and State hydroelectric power policies and their relation to the development of water resources; and

(8) examine the authorization and appropriation process for Federal water projects, including projects for flood control, irrigation, municipal and industrial uses, and other purposes, including a review of policies affecting cost-sharing, repayment, provision of other elements such as recreation, fish and wildlife protection, mitigation of damage, fish and wildlife habitat enhancement, and hydroelectric potential.

(b) The Commission shall submit simultaneously to the President and to the Congress such interim and final reports as it deems appropriate. The President shall transmit the Commission's final report to the Congress, together with his comments and recommendations, including recommendations for legislation.

(c) The Commission shall terminate not later than 5 years from the date of enactment of this Act.

DEPARTMENTAL LIAISON OFFICERS

Sec. 4. The Chairman of the Commission shall request the head of each Federal department or independent agency which has an interest in or responsibility with respect to water management, allocation, conservation, flood control, pollution control and relevant technology, industrial and recreational uses of water resources, and other related areas which the Commissioner deems appropriate, to designate a liaison officer to serve on the Advisory Council established in section 5.

ADVISORY COUNCIL

Sec. 5. (a) There is hereby established an Advisory Council, which shall consist of the liaison officers appointed under section 4 of this Act, together with twenty-five additional members appointed by the Commission who shall be representative of the various major citizens' groups interested in relevant water issues.

(b) The Advisory Council shall advise and counsel the Commission concerning matters within the jurisdiction of the Commission.

(c) Members of the Advisory Council shall serve without compensation, but shall be entitled to reimbursement for actual travel and subsistence expenses incurred in attending meetings of the Council called or approved by the Chairman of the Commission or in carrying out duties assigned by the Chairman.

(d) The Chairman of the Commission shall call an organization meeting of the Advisory Council as soon as is practicable, a meeting of such council each six months thereafter, and a final meeting prior to approval of the final report by the Commission.

GOVERNOR'S REPRESENTATIVES

Sec. 6. The Chairman of the Commission shall invite the Governor of each State to designate a representative to work closely with the Commission and its staff and with the Advisory Council in matters pertaining to this Act.

POWERS OF THE COMMISSION

Sec. 7. (a) The Commission may—

(1) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it may deem advisable;

(2) acquire, furnish, and equip such office space as is necessary;

(3) use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States;

(4) without regard to the civil service laws and regulations and without regard to chapter 51 of title 5, United States Code, employ and fix the compensation of such personnel as may be necessary to carry out the functions of the Commission;

(5) procure services as authorized by section 3109 of title 5, United States Code, at rates not to exceed an amount equal to the daily rate of pay for a GS-18 position on the executive schedule;

(6) purchase, hire, operate, and maintain passenger motor vehicles;

(7) enter into contracts or agreements for studies and surveys with public and private organizations and transfer funds to Federal agencies to carry out such aspects of the Commission's functions as the Commission determines can best be carried out in that manner; and

(8) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this title.

(b) Any member of the Commission is authorized to administer oaths when it is determined by a majority of the Commission that testimony shall be taken or evidence received under oath.

POWERS AND DUTIES OF THE CHAIRMAN

Sec. 8. (a) Subject to general policies adopted by the Commission, the Chairman shall be the chief executive of the Commission and shall exercise its executive and administrative powers as set forth in paragraphs (2) through (8) of section 4(a).

(b) The Chairman may make such provision as he shall deem appropriate authorizing the performance of any of his executive and administrative functions by the Executive Director or other personnel of the Commission.

OTHER FEDERAL AGENCIES

Sec. 9. (a) The Commission may, to the extent practicable, utilize the services of the Federal water resource agencies.

(b) Upon request of the Commission, the head of any Federal department or agency is authorized—

(1) to furnish to the Commission, to the extent permitted by law and within the limits of available funds, including funds transferred for that purpose pursuant to section 4(a)(7) of this Act, such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency, and

(2) to detail to temporary duty with this Commission on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

(c) Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator of General Services, except that—

(1) the regulations of the General Services Administration for the collection of indebtedness of personnel resulting from erroneous payments (5 U.S.C. 5514) shall apply to the collection of erroneous payments made to or on behalf of a Commission employee, and regulations of such Administrator for the administrative control of funds (31 U.S.C. 665(g)) shall apply to appropriations of the Commission; and

(2) the Commission shall not be required to prescribe such regulations.

APPROPRIATIONS

Sec. 10. There are hereby authorized to be appropriated not to exceed $18,000,000 to carry out the purposes of this Act.

● Mr. HATFIELD. Mr. President, last November, I introduced S. 1996, the Western Water Policy Act. That bill provides for a comprehensive review by the Secretary of the Interior of Western water resource problems and programs administered by the Geological Survey, the Bureau of Reclamation, and other operations of the Department of the Interior. Today, I am introducing an amendment to that legislation that would expand its scope to deal with national water policy.

The promise on which S. 1996 is based is that there are too many cooks in the kitchen. There are 13 congressional committees which deal with water resource issues. In the executive branch, there are eight Cabinet level departments, six independent agencies, and two White House offices all charged with responsibilities relating to national water policy.

In all fairness, it is easy to see how this situation was allowed to evolve Because we all thought that our water supply was virtually limitless, a number of entities were independently formed to take care of a wide variety of different water-related problems Since they were making decisions affecting only a small part of a large resource, agencies believed they could operate in a vacuum—in effect assuming that there was plenty of water left to fulfill a multitude of other purposes. My friends, those days are over

Unfortunately, even though the various instream and consumptive uses of our water supply are increasing daily the myth of an unending supply lives on. Let me give you an example. Recently, a Los Angeles County Commissioner suggested that the 90 billion gallons of water dumped into the Pacific Ocean daily by the Columbia River was surplus and should be diverted to water the lawns and fill the swimming pools of southern California. Unfortunately, he seems to be blind to the instream uses of the Columbia which include power production, fish enhancement, recreation and others.

Prudent water policy balances all of these uses and more. Unfortunately the overlapping and competing jurisdictions that characterize our Federa water policy decisionmaking process do not result in this type of balance.

The lack of a coordinated and comprehensive water policy is of particular concern to the Western United States, a region whose history and future are tied inextricably to the availability of water. While S. 1996 deals only with Western water policy water policy coordination is ultimately a national problem. Accordingly, have drafted an alternate bill which expands the scope of S. 1996 to dea with the national dimension of the problem. It is that version that I am introducing today.

Given sufficient interest from congressional Members from the Eastern half of the country, I would very much like to pursue this nationa course rather than dealing with Western water policy only. It is my hope that other Members will look closely at the amendment that I am introducing today. While I hold no illusion about our ability to deal with this matter in the waning days of the 101s Congress, I am very interested in pursuing this matter next session.

It seems clear to me that with better coordination, we can have better efficiency. With better efficiency, we can avoid a water crisis that is looming a large as the energy crisis we faced in the 1970's—or the one we are facing now. Just like oil, we cannot create new water resources—we must better manage what we have. This starts with having a better decisionmaking structure.●

ROBERT McCLORY POST OFFICE

DECONCINI (AND LEAHY) AMENDMENT NO. 2944

Mr. MITCHELL (for Mr. DeConcini, for himself and Mr. Leahy) proposed an amendment to the bill (S. 3108) to designate the facility of the U.S. Postal Service located at 100 South John F. Kennedy Drive, Carpentersville, IL, as the "Robert McClory Post Office", as follows:

At the end of the bill, add the following:

Sec. . Section 3626 of title 39, United States Code, as amended by the General Provisions of Title II, is further amended by adding at the end the following:

"(k) In the administration of this section, the term 'advertising', as used in former section 4358(j)(2) of this title, does not include the publisher's own advertising in a publication published by the official highway or development agency of a State.".

DOLE (AND OTHERS) AMENDMENT NO. 2945

Mr. GRASSLEY (for Mr. Dole, for himself, Mr. Burns, Mr. Grassley, Mr. Symms, Mr. Burdick, Mr. Nickles, Mr. Boren, Mr. Pressler, Mr. Wallop, Mr. Baucus, Mr. Coats, Mr. Ford, Mr. Bond, Mr. Helms, Mr. Wirth, Mr. Kasten, Mr. Gramm, Mr. Simpson, Mr. Fowler, and Mr. Lugar) proposed an amendment to the bill S. 3108, supra, as follows:

At the appropriate place insert the following: "That in addition to the authority which the Department of Transportation granted to States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to farm vehicles contained in volume 53, pages 37313-37316, of the Federal Register (September 26, 1988), such States may extend such waivers to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer.".

NOTICES OF HEARINGS

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. BINGAMAN. Mr. President, Senator Ford and I would like to announce for the Senate and the public that a joint hearing has been scheduled before the Subcommittee on Mineral Resources Development and Production and the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony concerning our progress in developing and promoting the use of renewable and other alternative energy sources.

The hearing will take place on Thursday, November 1, 1990, at 9:30 a.m. in the auditorium at the BDM Corp., 2301 Buena Vista SE., Albuquerque, NM.

Those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, attn: Marilyn Pedretti.

For further information, please contact Marilyn Pedretti at (202) 224-7569.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the full Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 9, at 10 a.m. to conduct an ambassadorial nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 9, 1990, at 9:30 a.m. on the nomination of Roscoe Burton Starek III [IL] to be a Federal Trade Commissioner.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, October 9, 1990, at 9:30 a.m. to hold a hearing on the subject: Proliferation and Regional Security in the 1990's.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE ANTARCTIC PROTECTION ACT OF 1990

● Mr. KERRY. Mr. President, I rise in strong support of passage of S. 2575, the Antarctica Protection Act of 1990. It is critical that we pass this legislation which places a long term moratorium on mineral resource activities in the Antarctic and urges the Secretary of State to negotiate such a long term prohibition at the upcoming special consultative meeting opening in Santiago, Chile in November.

Mr. President the Antarctic plays an important and unique role in our global ecosystem; 90 percent of the Earth's ice and 70 percent of the Earth's fresh water are found there. It is an integral part of the Earth's climate system.

The Antarctic supports large populations of marine life from krill and plankton to whales, seals, and sea birds. It holds untold answers to the Earth's evolution and the world's future climate.

Today scientists have just begun to understand the vital role the continent of Antarctica plays in regulating the Earth's temperature. Antarctica provides science with an as yet unsullied vantage point from which to monitor our changing planet. Much of Antarctica remains today as it has for millions of years. Barren and bountiful, a massive ice cap encases all but 2 percent of the continent, while the surrounding oceans brim with life.

Development in the Antarctic is a new environmental concern. Many scientists believe that development is likely to cause ice caps to melt, which would not only cause sea levels to rise, but would also reduce the ocean's absorption capacity for carbon dioxide. Currently oceans take up one-third to one-half of the world's carbon dioxide emissions which we know to be one of the main greenhouse gases. This change could add significantly to global climate change.

In recent years, demand for access and use of resources in Antarctica has grown. As uses grow, so has the potential for environmental degradation. Oil spills and water pollution from toxic chemicals, raw sewage and solid wastes have already been reported in this environmentally sensitive area.

Currently the United States and other nations face major policy decisions surrounding the development of the Antarctic. Traditionally, Antarctica has remained peaceful because it has had few things to fight over. However, several countries are now interested in development. Development of oil and minerals, tourism, fisheries, increased research all which have led to the debate of environmental protection versus inappropriate development.

Oil and mineral development first became a concern in the early 1970's when we faced an oil crisis worldwide. Consequently member nations of the Antarctic Treaty, recognizing the need to address the question of future development came together to hammer out new rules governing oil and mineral exploration. This resulted in the Convention on the Regulation of Antarctic Mineral Resource Activities known as CRAMRA. CRAMRA was agreed upon by the 20 treaty nations in 1988. The purpose of the agreement was to protect Antarctica from the dangerous environmental effects of oil and mineral development. However, the international agreement instead of

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protecting the Antarctic from mineral resource development, established a framework under which mining and drilling could take place in the most unspoiled environment on Earth.

In my view, Mr. President, the agreement falls far short of its goal. Some have called the agreement a road map to development. France and Australia have already withdrawn their support from the agreement, and several other nations such as New Zealand and Italy are currently considering doing so soon. The U.S. Government would be wise to follow suit, particularly since the U.S. Senate recently passed a resolution introduced by Senator Gore which urged the President to put aside the existing CRAMRA and negotiate a new comprehensive protective agreement. Under the Antarctic Treaty system, all agreements must be unanimous.

The purpose of my legislation is to ensure that mineral resource activities do not occur in the Antarctic. Last month the Senate Foreign Relations Committee unanimously passed the bill I introduced which established a permanent prohibition on all mineral resource activities in Antarctica. Let me reiterate—unanimously passed the bill with a permanent ban. Mr. President, the House Foreign Affairs Committee took similar action a few weeks ago on a bill introduced by my colleague from Massachusetts, Representative Silvio Conte. And both committees took this action despite strong opposition from the Bush administration. The vote could not be more clear—the congressional committees responsbile for foreign policy issues unanimously voted for a permanent ban on mineral resources activities in Antarctica.

However, the State Department, speaking on behalf of the President, threatened a veto of the legislation which overwhelmingly passed the Senate Foreign Relations Committee—exhibiting what I consider to be an unfortunate view toward the fragility of Antarctica. Parenthetically, I might add the Foreign Relations Committee has the authority to approve all international treaties.

The State Department, working on behalf of the President, exhorted us not to tie their hands in Chile next month. We were told that the administration wanted to leave their options open for the future in Antarctica and for potential technological breakthroughs in oil and gas development. Well, Mr. President, I have witnessed why this administration enjoys leaving options open in the future when it comes to mineral resource activities. Let's look at the facts. The administration continues to exercise the option to open the Arctic National Wildlife Refuge in Alaska for oil development; and year after year the President has opted to recommend drilling for oil and gas on Georges Bank, Massachusetts' prime fishing grounds and whale watching area; and, in the most recent budget proposal, the President opted to offer tax incentives to the oil industry for new oil and gas exploration and development. It is fairly obvious what the administration means by keeping their options open when it comes to Antarctica.

My aim, Mr. President, has been to work for the most protective legislative initiative I could in order to set a tone of Antarctic protection at the upcoming meeting in Chile. Working for weeks, finally, we have developed legislation which, although it does not require a permanent ban, does insist upon a long term moratorium on mineral resource activities. Speaking as the framer of this new initiative, my message could not be more clear. America's negotiators must develop a comprehensive approach toward the protection of Antarctica and must lead the consultative treaty participants in establishing a minimal long term moratorium on mineral activities of at least 100 years.

The pressures of the situation in the Persian Gulf adds significantly to the quest to find more oil and gas worldwide. Shortsighted fixes such as opening up Antarctica for prospecting of mineral resources does not offer meaningful long term solutions. And this legislation is designed to prevent such myopic thinking.

This legislation will provide the needed protection for Antarctica. It provides an indefinite ban, expected to be at least 100 years or more, on all mineral exploration and development in Antarctica by U.S. entities, and it directs the Secretary of State to urge other nations to take the same position. It also recommends that the Secretary of State ask other nations to adopt an international accord which grants Antarctica special status as an international wilderness peak dedicated to science designed to provide wilderness protection through international cooperation and scientific research.

Mr. President, in April Senator Gore and I and other Senators hosted an interparliamentary conference on the environment. Over 150 parliamentarians representing 36 nations attended. I chaired the water resource committee in which we discussed the future of the Antarctic. Capt. Jacques Cousteau who has dedicated significant time and effort to preserving the Antarctic helped lead the discussion in our working group. We all agreed that in order to protect the Antarctic, we must first extend the current moratorium on exploration and exploitation of mineral and energy resources until we are able to negotiate an ongoing prohibition in mineral mining activities among the Antarctica Treaty nations. We also agreed that we must grant Antarctica special protective status as a land of science treaty reserve and international wilderness area.

In closing Mr. President I want to thank the Alliance for Antarctica which is made up of 13 groups interested in preserving and protecting Antarctica's future for generations to come. They have worked hard on this legislative initiative and others which will provide environmental protection for this unique area.

I urge my colleagues to support his legislation which will send the right message worldwide, that the Antarctic is a unique environmental resource of global significance and it must be protected from harmful development.●

CRIPPLED CHILDREN'S SOCIETY OF SANTA CLARA CELEBRATES 45TH ANNIVERSARY

● Mr. WILSON. Mr. President, October 10, 1990, will mark the 45th anniversary of the Crippled Children's Society of Santa Clara County. It is with great admiration for its noble cause and distinguished history that I salute the society in this Chamber of the U.S. Senate and call upon my Senate colleagues to join with me in commending its members, past and present, for their immeasurable contribution to the health and rehabilitation of disabled Americans.

The Crippled Children's Society was founded in 1945 by a small group of women personally concerned about the lack of services for physically disabled children, but who soon perceived the need to expand their services to include disabled adults as well.

Throughout its many years of service, the society has helped the disabled to meet the challenge of their disabilities and to achieve greater self-sufficiency and self-esteem, and in so doing, has earned the respect and gratitude of the people of Santa Clara County. Since its founding, the society has been remarkably successful in generating community-wide support and today, serves more than 6,000 disabled children and adults.

As a local, non-profit grassroots organization, the society funds and services a summer and year-round camp for children and adults, therapy for those with communications disorders, a first step preschool for children with developmental delays, a residential respite for families with disabled children, early intervention programs for infants diagnosed at birth with disabilities, day care services for disabled children, and learning disabilities rehabilitation programs for children and adults.

Hundreds of volunteers, guided by a local board of directors, and funded by corporate and private donations, give generously of their time and talent to sustain these critically needed rehabilitative services. I am proud to commend my fellow Californians associated with the society and to join with them in celebrating a distinguished legacy of civil and humanitarian activism begun 45 years ago.●

CHIEF COUNSEL FOR ADVOCACY, SMALL BUSINESS ADMINISTRATION

● Mr. BUMPERS. Mr. President, the Senate has been chastised by this President, and by previous Presidents, for not acting promptly on nominations to important Government posts. Today, I want to call attention to the fact that the job of chief counsel for advocacy at the Small Business Administration has now been vacant for almost a year and there is no nomination pending in the Senate.

The chief counsel for advocacy's duties include representing the interests of small business, independent of the administration's political agenda, before the committees of Congress and before the public. The staff of the Advocacy Office does research and writes reports on important problems and issues facing American small business. The post is seen as so important to small business that even when President Reagan proposed abolishing SBA, he proposed the retain the chief counsel for advocacy. It is one of only three SBA positions requiring Senate confirmation.

In April 1989, Frank Swain announced his resignation as chief counsel for advocacy. Mr. Swain, incidentally, has served through the entire Reagan administration and generally did a fine job. The record shows that the Senate Small Business Committee has acted promptly on nominations by Presidents of both parties. Last June, President Bush submitted a nominee for the committee's consideration. Although the White House was slow in submitting information on the nominee, the committee held a hearing on that nomination in November. While I will not belabor the unpleasant details, there were many serious questions raised in the committee's investigation of the nominee's background. When a second hearing was scheduled in February to address some of these issues, the nomination was withdrawn.

Since February, we have been waiting patiently for the President to submit another nominee. This situation is having a serious and adverse effect on the Small Business Administration in executing its responsibilities under the law, and it is devastating morale in the Office of Advocacy. Today, I understand there are 14 vacancies out of 80 staff positions in the Advocacy Office. A number of the most talented staff have left Advocacy for more secure jobs elsewhere. Employees are being told that their jobs can be extended for only 60 days at a time.

The chief counsel's post has been filled on an acting basis by at least three individuals in the last 6 months. The gentleman now serving as acting chief counsel is not an attorney. It speaks poorly of the administration's interest in small business that this post has been neglected for so long.

Mr. President, Congress will soon be adjourning for the year. The President could, under the Constitution, make a recess appointment to this post. I strongly recommend that that course not be taken. However, I do urge the President to submit a nomination for chief counsel for advocacy promptly when the 102d Congress convenes.●

REGARDING MEDIA BIAS

● Mr. HUMPHREY. Mr. President, those of us who advocate a prolife answer to the contentious abortion question have long maintained that our movement receives unfair coverage in the media. The evidence of proabortion bias in the major media is overwhelming, and reporters across the country are finally beginning to take note. In a four part series published in the July 1-4, 1990, editions of the Los Angeles Times, David Shaw presents a thorough examination of how the media repeatedly has slanted its coverage of events in order to present the proabortion perspective in the best possible light. Mr. Shaw chronicles numerous instances in which the media has, through distortion and selective reporting of the facts, sought to impose the proabortion viewpoint on its general audience. This well documented series is worthy of examination by every Member of Congress.

I ask that the entire series be printed in the RECORD.

The articles follow:

[From the Los Angeles Times, July 1, 1990]

BIAS SEEPS INTO NEWS ON ABORTION

(By David Shaw)

When reporter Susan Okie wrote on Page 1 of the Washington Post last year that advances in the treatment of premature babies could undermine support for the abortion-rights movement, she quickly heard from someone in the movement.

"Her message was clear," Okie recalled recently. "I felt that they were . . . [saying] 'You're hurting the cause' . . . that I was . . . being herded back into line."

Okie says she was "shocked" by the "disquieting" assumption implicit in the complaint—that reporters, especially women reporters, are expected to write only stories that support abortion rights.

But it's not surprising that some abortion-rights activists would see journalists as their natural allies. Most major newspapers support abortion rights on their editorial pages, and two major media studies have shown that 80% to 90% of U.S. journalists personally favor abortion rights. Moreover, some reporters participated in a big abortion rights march in Washington last year, and the American Newspaper Guild, the union that represents news and editorial employees at many major papers, has officially endorsed "freedom of choice in abortion decisions."

On an issue as emotional as abortion, some combatants on each side expect reporters to allow their personal beliefs to take precedence over their professional obligation to be fair and impartial.

Although reporters (and editors) insist they don't let that happen, abortion opponents are equally insistent that media bias manifests itself, in print and on the air, almost daily.

A comprehensive Times study of major newspapers, television and newsmagazine coverage over the last 18 months, including more than 100 interviews with journalists and with activists on both sides of the abortion debate, confirms that this bias often exists.

Responsible journalists do try to be fair, and many charges of bias in abortion coverage are not valid. But careful examination of stories published and broadcast reveals scores of examples, large and small, that can only be characterized as unfair to the opponents of abortion, either in content, tone, choice of language or prominence of play:

The news media consistently use language and images that frame the entire abortion debate in terms that implicitly favor abortion-rights advocates.

Abortion-rights advocates are often quoted more frequently and characterized more favorably than are abortion opponents.

Events and issues favorable to abortion opponents are sometimes ignored or given mimimal attention by the media.

Many news organizations have given more prominent play to stories on rallies and electoral and legislative victories by abortion-rights advocates than to stories on rallies and electoral and legislative victories by abortion rights opponents.

Columns of commentary favoring abortion rights outnumber those opposing abortion by a margin of more than 2 to 1 on the op-ed pages of most of the nation's major daily newspapers.

Newspaper editorial writers and columnists alike, long sensitive to violations of First Amendment rights and other civil liberties in cases involving minority and antiwar protests, have largely ignored these questions when Operation Rescue and other abortion opponents have raised them.

Television is probably more vulnerable to charges of bias on abortion than are newspapers and magazines. The time constraints and rating chase intrinsic to most television news programs often lead to the kind of superficiality and sensationalism that result in bias. In addition, says Douglas Johnson, legislative director for the National Right to Life Committee, the "insular culture that produces network newscasts" create an "implicit bias [that] is more pervasive . . . than in the print media."

But throughout the media, print and broadcast alike, coverage of abortion tends to be presented—perhaps subconsciously—from the abortion-rights perspective. When the U.S. Supreme Court ruled in the Webster case a year ago Tuesday that states could have more latitude in regulating abortion, for example, ABC News termed the decision "a major setback for abortion rights."

Couldn't it also have been called "a major victory for abortion opponents"?

Yes.

But most reporters don't identify with abortion opponents.

It's not that there's a conscious bias on abortion. Rather, "the culture in the newsrooms just assumes that abortion is right," contends John Buckley, longtime media spokesman for various conservative politicians and now a corporate consultant.

Abortion, Buckley says, is the first issue since the Vietnam War in which some journalists' intinctive "allegiance to their own social class and generational world view is stronger than their professional allegiance to objectivity."

Surveys consistently show that abortion is essentially a class issue in the United States; the more money and education a person has and the less religious a person is, the more likely the person is to favor abortion rights. Since most big city journalists tend to be better paid, better-educated and less religious than the general public, it's not surprising that they also tend to favor abortion rights by a large margin; in fact, a 1985 Los Angeles Times Poll of journalists on newspapers of all sizes showed 82% in favor of abortion rights.

Despite a growing evenhandedness in recent months, the personal preference of so many in the media for the abortion-rights position clearly "affects coverage very fundamentally," in the view of Ethan Bronner, legal affairs reporter for the Boston Globe, who covers the U.S. Supreme Court and spent much of last year writing about abortion.

"I think that when abortion opponents complain about a bias in newsrooms against their cause, they're absolutely right," Bronner says.

But James Naughton, deputy managing editor of the Philadelphia Inquirer, says abortion opponents feel so passionately about the issue that they would criticize the media, no matter what was published or broadcast.

"They're seeing a conspiracy that doesn't exist," Naughton says. "They complain . . . even when we've gone fairly deliberately out of our way to . . . be exquisitely fair . . . to avoid giving them any reason to accuse us of . . . being unfair."

Both Bronner and Naughton make valid points. Still, it's clear from examining coverage of abortion that the very language used to frame the abortion debate in much of the media implicitly favors the abortion-rights side of the argument.

As in any debate, "the language is every--thing," says Douglas Gould, former vice president for communications at Planned Parenthood of America, in the abortion debate, the media's language consistently embraces the rights of the woman (the primary focus of abortion-rights advocates), not the fetus (the primary focus of abortion opponents).

When the networks broadcast an abortion story, the backdrop has often been the large word "abortion"—with the first "O" in the word stylized into the biological symbol for female. The networks could just as easily stylize the "O" to represent a womb, with a drawing of a fetus inside. But they don't.

When Time magazine published a cover story on abortion last year, the cover was a drawing of a woman, when Newsweek published a cover story on abortion two months later, its cover featured a photo of a pregnant woman. Neither cover depicted a fetus. (Of course, newsmagazines choose their covers in part to maximize possible newsstand sales. Women buy newsmagazines; fetuses don't).Payroll No.: 78655 -Name: Rosey -Folios: X4-4--S to X4-5--S -Date: 10-9-90 -Subformat:

When the Washington Post wrote about proposed anti-abortion legislation in Louisiana last month, it spoke of the state House of Representatives' making a decision on "a woman's reproductive rights." As Douglas Johnson, legislative director for the National Right to Life Committee, pointed out, "In discussing abortion as a matter of 'a woman's reproductive rights,' the Post "adopts both the paradigm and the polemic of the abortion-rights lobby."

When the Los Angeles Times covered the same story, it referred to the proposed legislation as "the nation's harshest." That's the view of abortion-rights advocates; it's "harsh" toward women's rights. But abortion opponents regard the legislation as benevolent—toward the fetus.

The language used in coverage of the Louisiana legislation is not an anomaly. Virtually all the media refer to anti-abortion legislation as "restrictive." What is it "restricting"? The right of a woman to have an abortion. But abortion opponents would describe the legislation as "protective"—"protective" of the fetus.

Wouldn't the word "strict" be more value-neutral since the legislation would be "strict" both in its protection of the fetus and in its restriction of the woman?

The Los Angeles Times used "strictest" in a subsequent story on the Louisiana legislation, and Tom Bettag, executive producer of "The CBS Evening News," says that change is "worth thinking about."

Although the terminology used in abortion coverage is the primary responsibility of the reporters who actually put the words together, editors have the final say about what appears in a newspaper, so their views may often be even more important.

Ethan Bronner says that when he wrote a story for the Boston Globe last year on late-term abortions, a copy editor questioned his description of a surgical procedure "destroying" the fetus by "crushing forming skulls and bones." Bronner says the editor told him, "As far as I'm concerned, until that thing is born, it is really no different from a kidney; it is part of the woman's body." To talk about "destroying" it or about "forming bones," the editor said, "is really to distort the issue."

Bronner felt the language he used was essential to the points he was trying to make, so he appealed to a higher editor; his view largely prevailed in the resultant compromise.

Like Bronner, advocates on both sides of the abortion debate recognize the power of language to both define the debate and help determine its outcome.

John Willke, president of the National Right to Life Committee, devotes a chapter in his book "Abortion: Questions & Answers" to the terminology he thinks his followers should use to best advance their cause.

They should speak of themselves in positive terms, as "right to life" or "pro-life," not "anti-abortion," he says. They should talk about "abortion chambers," not "abortion clinics." They should "use the word 'kill' . . . repeatedly, directly and often" to describe the act of abortion.

But Willke and other abortion opponents have been much less successful than abortion-rights advocates at insinuating their chosen terminology into the daily media lexicon, especially since the U.S. Supreme Court's Webster decision.

With that decision, the long-dormant abortion-rights movement was suddenly energized anew. Membership and fund-raising skyrocketed. Political activism blossomed. Courtship of the media began in earnest.

Representatives of the major organizations supporting abortion rights—the National Organization for Women, the National Abortion Rights Action League, Planned Parenthood of America and the American Civil Liberties Union, among others—formed a media strategies group, determined to overcome their opponents' pre-Webster head start in shaping the public dialogue. Radio and television commercials, full-page newspaper and magazine advertisements and press releases by mail, telephone and fax soon began flooding the media.

The campaign found a generally receptive audience.

As Loretta Ucelli, director of communications for the National Abortion Rights Action League (NARAL), puts it, "There was a dramatic shift in the coverage of this whole issue post-Webster."

The energizing of the abortion-rights movement had "a lot to do with it," Ucelli says. "We've been able to communicate our message and at least see it coming through in what we would deem to be the fair and appropriate form."

Eleanor Smeal, president of the Fund for a Feminist Majority, is somewhat less sanguine. She thinks the media "overstates the strength" of the anti-abortion movement and often accepts its arguments uncritically, and she is particularly distressed by "the failure of the media to put abortion in a broader, international perspective . . . to go beyond who won and lost and who hired what public relations firm and who spent what money."

But the criticisms of Smeal and others abortion-rights activists have been relatively mild since Webster, especially when compared with criticisms by abortion opponents.

Is that because abortion opponents are more passionate and committed than abortion-rights advocates? Or is it because they're less reasonable? Or more hostile to the press?

Or has there just been much less for abortion-rights advocates to complain about?

After all, legislation regulating abortion is almost invariably referred to as "hurting" poor women the most by making them travel to states where abortion is legal-a principal argument of abortion-rights advocates. But the media never say such legislation would "help" the fetuses of poor women the most, by enabling them to develop into live babies-a principal argument of abortion opponents.

Why? Because the media have generally, if implicitly, accepted the abortion-rights view that there is no human life to be "helped" before birth. That's why the media use the term "fetus" (the preferred term of abortion-right advocates), rather than "baby" or "unborn child" or "pre-born child" (as abortion opponents prefer). Editors say "fetus" is medically correct, value-free and non-emotional. A "fetus" does not become a "baby" until it's born.

All true. But, Willke says, "fetus" sounds like a "non-human glob," so it's easy to understand why abortion opponents complain that the consistent use of that word robs them of their most powerful image and argument. Moreover, to their growing chagrin, the media sometimes use "baby" when speaking of a fetus in a story that does not involve abortion.

Semantics . . . are the weapons with which this civil war is being fought." Ellen

Goodman wrote in her syndicated column last month, and nowhere have the semantic weapons of the abortion-rights advocates been more effective than in the seemingly simple but extremely volatile issue of the labels the news media apply to each side.

Abortion-rights advocates made a shrewd tactical decision last year to try to shift the terms of he debate "from the question of whose rights will prevail, the woman's or the fetus,' to who will decide, women or the government." in the words of Frances Kissing, executive director of Catholics for a Free Choice.

Kate Michelman, executive director of the National Abortion Rights Action League, concedes that the battle cry "women have a right to control their bodies" didn't gain the movement "a lot of sympathy."

"It was not enough of a moral response," she says. "It didn't have the same . . . impact that 'murder' and when life begins' had."

A new slogan, "Who decides?" emerged from focus groups when abortion-rights advocates discovered the essential contradictions that public opinion surveys have consistently shown: Most Americans think some restrictions should be placed on abortion. Most Americans think abortion is immoral. Many even consider it murder—48%, according to a 1989 New York Times/CBS News Poll, 57% according to a 1989 Los Angeles Times Poll. But most Americans also think the choice of whether to have an abortion should be made by the individual woman.

Thus, abortion-rights advocates would like to be known as "pro-choice."

But because abortion opponents think the real issue in the abortion debate is the life of the fetus, they would like to be known as "pro-life."

Traditionally, the media have called individuals and organizations by their chosen designation, whether it was "Negroes" wanting to be called "blacks." homosexuals wanting to be called "gays." or Cassius Clay wanting to be called Muhammad Ali.

So why not use both "pro-life" and "pro-choice?" That would be a balanced use of clear, simple terms that everyone recognizes and understands.

For a long time, most in the media bought at least half that argument.

They used "pro-choice."

But not "pro-life."

The Associated Press, the largest news agency in the Free World, still follows that policy. So do many other news organizations, large and small, print and broadcast.

"In January, we issued a policy directive on how we'd label groups in the paper," says Ed Petykiewicz, editor of the Ann Arbor News. "We use 'pro-choice advocates' and 'anti-abortion advocates.' The staff was instructed to avoid the use of pro-life.' "

Why?

We decided the issue was one of choice, not when life began," Petykiewicz says. "That's an issue yet to be decided. Accepting 'pro-life' is accepting their side of the argument."

But isn't using "pro-choice" accepting the other side of the argument, letting abortion advocates decide what the issue is, what the agenda is?

Many in the media have come to think so.

"To use the preferred terminology of one side and not the other . . . seems manifestly . . . unfair," says Cynthia Gorney, who writes about abortion for the Washington Post.

"Pro-life" is widely perceived as an emotionally loaded term that stacks the deck by implicitly suggesting the other side is "anti-life"—or "pro-death." So most in the media have long used the terms "opponents of abortion" or "anti-abortion" instead.

But "pro-choice" is also an emotionally loaded term that stacks the deck, as was demonstrated anew in a poll conducted last December by the Boston Globe and Boston television station WBZ. In that poll, 53% of the people surveyed said they would favor a constitutional amendment that would "guarantee a woman's right to have an abortion." When the word "choice" was inserted in an identical question ("Would you favor or oppose a constitutional amendment which would guarantee a woman's right to make a choice to have an abortion?"), the number saying they would favor such an amendment jumped to 63%.

"Choice," like "life," is a powerful, positive word, and the use of "pro-choice" is especially unfair, critics charge, when the other side is referred to as "anti-abortion."

Karen Tumulty, a Los Angeles Times reporter who covered abortion for most of 1989, filed a memo with her editors last fall making precisely that point.

"In making one side 'pro' and the other 'anti,' we inevitably cast one in a positive light and the other in a negative," Tumulty said.

On March 22, eight years after The Times decided that "pro-life" was an unacceptable term, Managing Editor George Cotliar issued a memo to the staff, declaring that " 'pro-choice' . . . will no longer be acceptable."

In the interest of bringing "greater precision and fairness to our coverage of an emotionally charged debate," Cotliar said, The Times would henceforth use such terms as "abortion-rights advocates" and "supporters of legal abortion"—as it already used "opponents of abortion" and "anti-abortion"—formulations that most reasonable people on both sides agree are fair.

This policy is similar to those previously enacted at the New York Times, Washington Post, Boston Globe, Philadelphia Inquirer, Omaha World-Herald and Milwaukee Journal, among others. The Journal's policy change last summer came amid a revealing newsroom contretemps.

Like most newspapers, The Journal had long used "pro-choice," without any complaint from the staff that it was unfair. But when Sig Gissler, editor of the Journal, wrote in a column that the paper would also begin using "pro-life," more than 80 reporters and editors petitioned him in protest before the column was even published.

Gissler spoke with several reporters and received memos from others. He considered their objections and revised his column—and the paper's policy. Both "pro-life" and "pro-choice" were now out. Mostly. Henceforth, the paper would "mainly use descriptive phrases such as 'anti-abortion groups' and 'abortion-rights advocates,' " he wrote. Although "pro-choice" and "pro-life" should be part of the "journalistic vocabulary," he said, "they should be used sparingly and generally should not appear in headlines."

Headlines are a special problem in matters like these. Headlines are necessarily short summaries, capsules. Short phrases like "pro-choice" and "pro-life" fit much more easily than do longer formulations like "abortion-rights advocates" or "abortion opponents." That's one reason the media often adopt such labels.

But headlines are a kind of journalistic shorthand that, if not written carefully, can oversimplify and even distort a sensitive, complex issue. Many editors responding to criticisms from readers often find that the complaint is not so much about the story, about what it said or where it was displayed, but about the headline.

But "pro-life" is even shorter than "pro-choice," and most newspapers have long banned "pro-life" from their pages, headlines and all.

The Chicago Tribune may be the only major newspaper that regularly uses "pro-life" (and "pro-choice"), and editors there are discussing a change too. Network television is also changing its abortion labels.

A study by the Center for Media and Public Affairs in Washington showed that during the first none months of 1989, the networks used "pro-choice" in 74% of their references to abortion-rights advocates and used "pro-life" in only 6% of their references to abortion opponents. But the executive producers for both the ABC and CBS evening news shows say they've switched to "abortion rights" and "anti-abortion" or similar phrasing; Tom Brokaw, anchor for "The NBC Nightly News," says his program is "moving toward" that formulation as well, prompted by questions from a Times reporter in the course of interviews for this story.

Follow-up studies done for The Times this spring by the Center for Media and Public Affairs and by the Media Research Center in suburban Washington confirm what the news executives say: The CBS and ABC evening news shows have largely abandoned "pro-choice," and NBC used it "only" about 30% of the time.

"Pro-choice" sometimes slips into some newspaper and television stories, though, despite these policies; "pro-life" rarely shows up.

Some network news programs, local television stations and daily newspapers have no policy on abortion labels and continue to pair "pro-choice" and "anti-abortion" predominantly, if not exclusively.

Neither Time nor Newsweek has a policy on abortion terminology either, and a wide variety of terms appear in both publications. But it's not unusual to find only "pro-choice" and "anti-abortion" or "abortion foe" in Newsweek, too, as was the case in at least four stories this year.

" 'Pro-life'—I don't know really what that means," says Alexis Gelber, editor of the National Affairs section of Newsweek. "Most people, I think, are in favor of life in its most general aspect."

"But "pro-choice" is "a little more explicit," she says.

There was a time when the word "abortion" was thought too explicit to be used in the media. As recently as 1952. The Los Angeles Times gave major display to a story about the death of a "wealthy and attractive woman" whose body was found "in a downtown area-way between garages. Police said she was the victim of an illegal operation."

"Illegal operation" was the euphemism of the day for abortion, and—ironically—some abortion-rights advocates today worry that the movement's insistence of the euphemistic "pro-choice" label could ultimately make it easier for society to make abortion illegal again.

The National NOW Times, official newspaper of the National Organization for Women, has argued that abortion-rights advocates who avoid the word "abortion" in favor of "pro-choice" risk contributing to the impression that "abortion is somehow morally wrong."

"How long and how hard do we believe people will fight for something they believe is inherently bad?" the paper asked.

Discussion about what labels the media use for the two sides in the abortion debate has become so heated in some quarters that at least three mainstream news organizations—The Los Angeles Times, Washington Post and Cable News Network—have done stories on it. But these labels are only one example of the implicit bias in the media's abortion terminology.

Abortion opponents are often described as "conservatives"; abortion-rights supporters are rarely labeled as "liberals." Abortion opponents are sometimes identified as Catholics (or fundamentalist Christians), even when their religion is not demonstrably relevant to a given story; abortion-rights advocates are rarely identified by religion. Abortion opponents are often described as "militant" or "strident"; such characterizations are seldom used to describe abortion-rights advocates, many of whom can also be militant or strident—or both.

In a story on the 16th anniversary of the U.S. Supreme Court's Roe vs. Wade decision, which legalized abortion, the Louisville Courier Journal described an anti-abortion rally at which clergyman "ranted" against the decision, in the same story, abortion-rights advocates were said to have "hailed" the importance of the decision.

The Associated Press, Washington Post, Boston Globe and Time magazine, among others, have referred to those who oppose abortion "even in cases of rape and incest" (circumstances under which most people approve of abortion). But the media almost never refer to those who favor abortion rights "even in the final weeks of pregnancy" (circumstances under which most people oppose abortion).

United Press International reported last year on a poll that showed a minority of all Americans take absolutist positions on abortion. The story said "only" 18% believed abortion should always be illegal. But there was no "only" before the 27% who said abortion should always be legal.

Newsweek said last summer that under new abortion regulations, "Many women will be forced to seek out-of-state abortions—incurring travel expenses and losing time and income in the process." But abortion opponents argue that no one is "forced" to have an abortion and that Newsweek's statement is tantamount to saying that if guns were outlawed. "Many murderers would be "forced to use knives."

Some new organizations routinely say that polls show that "most" Americans favor abortion. But what the polls really show is that Americans are enormously ambivalent about abortion, their answers depending on precisely how the question is phrased. Indeed, as Charlotte Taft, director of a women's health clinic in Dallas, said last year. "Americans favor abortion only in the case of rape, incest and their own personal circumstances."

Abortion opponents say the media's mischaracterization of everything from scientific developments to Supreme Court decisions further undermines their cause.

Mary Ann Glendon, a Harvard law professor and abortion opponent who has written a book on abortion, says, for example, that the media's repeated mischaracterizations of the U.S. Supreme Court's 1973 Roe vs. Wade decision have helped undermine efforts to have the effects of Roe reversed.

When the Supreme Court issued Roe, initial news account emphasized the part of the ruling that said a women would be allowed to have an abortion without restriction during the first three months of pregnancy, when more than 90% of the country's 1.6 million annual abortions are done, according to the Alan Guttmacher Institute, a special affiliate of Planned Parent-hood that does research on abortion and family planning.

Even now, 17 years later, some in the media write about Roe in terms that suggest it legalized abortion only during that first trimester; the New York Times, Los Angeles Times, Milwaukee Journal and Louisville Courier-Journal, among others have all mischaracterized Roe that way within the last year (although they have also characterized the decision correctly at times).

But the Supreme Court actually said a woman would have an abortion even in the last three months of pregnancy if that were necessary for "the preservation of . . . [her] life or health." Although only one one-hundredth of 1% of all abortions (about 100 a year) are done after 24 weeks of pregnancy, one-half of 1% (about 8,000) are done after 21 weeks and almost 9% (142,000, or almost 400 a day) are done after 12 weeks, according to the Guttmacher Institute.

Although that's still a very small percentage of the total number of abortions done, abortion opponents think support for legal abortion would be diminished if people knew Roe made that many abortions possible. And they don't think it's pure coincidence that such mischaracterizations in the media almost invariably seem to favor advocates of abortion rights.

Even some abortion-rights advocates (and some journalists) agree.

"My sense is that the pro-choice side is . . . generally covered in a favorable way," says Frances Kissling of Catholics for a Free Choice.

Lisa Myers, who covers abortion for NBC, says some complaints of media bias by anti-abortion groups are "excessive," but "I do believe that some of the stories I have read or seen have almost seemed like cheerleading for the pro-choice side."

News media executives resent these charges.

"We're keenly conscious of how touchy this issue is," says Tom Bettag, executive producer of "The CBS Evening News." "I think we make a real effort to be evenhanded. . . ."

Many journalists say they've taken special care to be impartial in their abortion reporting precisely because they realize that abortion opponents think the media is biased against them.

"I have my guard up all the time. I realized how easy it was to write a story in a way that would be perceived as partisan . . . ." says Eileen McNamara, who spent most of 1989 writing about abortion for the Boston Globe.

Reasonable critics of the media generally concede that most journalists try to be evenhanded. Most reporters—and most editors and television anchors and news directors—are conscientious professionals who struggle diligently (and usually successfully) to prevent their personal views from unfairly influencing their coverage.

Some may "bend over so far backwards to avoid letting their personal views color what they write" that they risk being unfair to the side they personally favor, says Soma Golden, national editor of the New York Times.

A few editors have created abortion "beats" at their newspapers, assigning one reporter to write about the subject full-time, specifically so that they can get to know the issues and individuals involved and provide coverage that is broad, informed and fair.

Nancy Myers, director of communications for the National Right to Life Committee, says she doesn't expect reporters to be totally objective about abortion because "anyone who spends any amount of time on abortion and professes to be undecided or impartial is either stupid or intellectually dishonest."

What Myers does want—and what she and others in her movement say they too seldom see—are reporters who are fair, who "recognize the validity of both sides of the debate and . . convey the many facts and arguments to readers."

Editors insist that is exactly what their reporters do.

"We've made an awfully big effort to be balanced, and I just don't see a pro-choice bias," says Jack Fuller, editor of the Chicago Tribune.

Fuller says he's not "blinded by a pro-choice bias" himself, since he personally favors some restriction on abortion. But he says he doubts that abortion opponents would be satisfied with fairness.

They don't want fairness. Fuller says. "They want support."

Abortion opponents deny this. But they are clearly worried that what they see as media "support" for the other side could ultimately have an enormous impact on both individual belief and the political process.

In his book "The Press and Abortion, 1838-1988," Marvin Olasky argues that aggressive news coverage of "abortion mills," combined with crusading, anti-abortion editorials—especially in The New York Times—"probably contributed to the general tightening of abortion laws throughout the United States in the 1870s." Abortion opponents worry that media "support" of abortion rights now could prevent them from again tightening those laws.

Abortion opponents, like abortion-rights advocates and activists in other emotional causes, have their own agenda, of course, and they're not the most impartial judges of media performance.

"I'm not logical on this; I'm very biased," concedes Susan Carpenter-McMillan, media spokesperson for the Right to Life League of Southern California.

Indeed, a persuasive case can be made that abortion opponents received more favorable coverage than did abortion advocates, at least on television, from 1973, when the Supreme Court legalized abortion in Roe vs. Wade, until early 1989, shortly before the court was scheduled to hear the Webster case, which the government was using in an attempt to overturn Roe vs. Wade.

Because abortion was legal and under no imminent threat during those years, the abortion-rights movement was essentially dormant. But opponents of abortion aggressively sought political and legal redress of their grievances, and the media covered their efforts, especially in election campaigns.

Network news in particular "paid it more attention and, in so doing, took a decided tilt to their side," TV Guide concluded after an examination of evening news programs from January 1983 to 1985.

"Everything [during that period] was biased on our side," one outspoken opponent of abortion conceded at the time.

That was before the Webster decision.

Times have clearly changed since then.

[From the Los Angeles Times, July 2, 1990]

ABORTION FOES STEREOTYPED, SOME IN THE MEDIA BELIEVE

(By David Shaw)

When abortion opponents picketed Turner Broadcasting System last summer to protest the showing of a film promoting abortion rights, TBS Chairman Ted Turner called the demonstrators "bozos" and "idiots."

Many in the anti-abortion movement say Turner was simply giving public voice to what many in the media privately think of their movement.

Some reporters agree.

Journalists tend to regard opponents of abortion as "religious fanatics" and "bug-eyed zealots," says Ethan Bronner, legal affairs reporter for the Boston Globe, who spent much of last year writing about abortion.

"Opposing abortion, in the eyes of most journalists . . . is not a legitimate, civilized position in our society," Bronner says.

Many journalists vigorously deny having this view.

"There's a certain amount of newsroom debate about abortion," says Eugene Roberts, executive editor of the Philadelphia Inquirer, "and my general impression is that . . . there's a good deal of respect for both sides."

Tom Bettag, executive producer of "The CBS Evening News," says CBS has "a large number of people . . . who feel very strongly on both sides" of the abortion issue and "that helps us cover it fairly. If we slip, someone inside tells us, 'Hey that's loaded.' It's a very constructive, worthwhile debate, a very creative process of each side trying to check the other and report this in as open-minded a way as you can."

But several reporters who have written a lot about abortion agree with Bronner.

Cynthia Gorney, who covers abortion for the Washington Post, says she's troubled by the media's tendency to portray the anti-abortion movement as "dominated by religious crazies" and to "ignore what I think are the very understandable and reasoned arguments that are put forth by the pro-life side."

Susan Okie, medical reporter for the Post, says she herself "had a sort of mental image of the anti-abortion groups as all being extremists" before she began writing much about them.

But Bronner, Gorney and Okie have covered abortion extensively, and they've come to realize that there are intelligent, rational, sincere people on both sides of what is an extraordinarily complex issue. Few big-city reporters—or editors, television anchors or news directors—have the opportunity that these three have had, though. Abortion is but one of many subjects they deal with every day, and because most of their colleagues, associates and friends generally share their support for abortion rights, it may be inevitable that they have a skewed view of abortion opponents.

"Reporters often say to me, 'Gee, you're reasonable, as if all pro-life people are unreasonable," says Mirianne Rea-Luthin, president of the Value of Life Committee of Boston.

Reporters even try to perpetuate that sterotype, Rea-Luthin says, by asking her to "make sure you look angry" when she's being interviewed on television.

Abortion opponents say the media further stereotype them, not only as fanatics but as almost exclusively conservatives.

David Shribman of the Wall Street Journal, who has spent about 40% of his time writing about abortion over the past year, says the media is mistaken in perpetuating this stereotype. The anti-abortion movement is actually "one of the broadest political coalitions in American history," Shribman wrote on Page 1 of the Wall Street Journal last summer.

Shribman pointed out that the movement includes feminists, opponents of the death penalty and people opposed to U.S. military involvement in Central America—all positions customarily associated with liberals.

Journalists insist they try to be fair to both sides, no matter how they feel about the people they cover. Much of the time, they are fair. In recent months in particular, abortion coverage has often been more evenhanded. Some news organizations have even tried, on occasion, to provide explicit balance in their coverage by selecting one aspect of the abortion controversy and providing opposing viewpoints and experiences on a given day.

The Philadelphia Inquirer did that after the U.S. Supreme Court issued its Webster decision a year ago Tuesday, giving states more latitude in regulating abortion. The Inquirer published stories on Page 1 about activities at the offices of Minnesota Citizens Concerned for Life and at the National Abortion Rights Action League in Washington.

The Los Angeles Times has several times done something similar.

Twice last year, The Times published stories on women who had had abortions, and in each story, one woman told of deeply regretting her act while the other defended hers. The Times also published same-day stories on a women's health center where abortions are performed and on a crisis pregnancy center where women are encouraged to "deliver babies rather than seek abortions." On two other occasions, The Times has paired opposing abortion viewpoints on its opinion pages.

Attempts to provide balanced abortion coverage sometimes backfire, though.

Early this year, concerned that The Times might have paid more attention to abortion-rights advocates than to abortion opponents, editors assigned a profile of Susan Carpenter-McMillan, whom the resultant story described as the "rich, crisp, stylish, sometimes sarcastic and always emotional media representative for the Right to Life League of Southern California."

But in the course of his reporting on McMillan, reporter Paul Dean learned that she had had an abortion herself 20 years earlier, long before she began to oppose abortion. McMillan had kept the abortion secret from most of her family, friends and colleagues, and when Dean wrote about it, she was enraged.

Given McMillan's public stance on abortion, the information was clearly relevant to the story. But the controversy it engendered demonstrated anew what a minefield the abortion subject has become for the media.

Indeed, the earnest intentions of most journalists notwithstanding, an examination of media coverage of abortion over the past 18 months suggests there is often an implicit bias against abortion opponents, and some of that bias may stem from the media's stereo-typical view of those activists.

This may help explain, for example, why reporters looking for abortion opponents to interview, especially on television, sometimes choose people who take extreme positions, while quoting and interviewing abortion-rights advocates who invariably seem reasonable and reputable.

"The media [are] determined to get people who are inflammatory, who call their opponents 'baby-killers'," says Frederica Mathewes-Green, vice president of Feminists for Life.

But journalists say they interview the people they find the most relevant, articulate, available and outspoken on a given story, and at least one abortion opponent and media critic agrees with at least part of that explanation.

L. Brent Bozell III, chairman of the Media Research Center, a conservative media monitoring agency just outside Washington, says he doesn't think the media's choice of abortion opponents necessarily reflects the "pro-abortion bias" to which he thinks the media generally succumb.

"It has nothing to do with agenda," he says. "I think it has everything to do with . . . journalism. The raunchier the quote, the better it is; the more fire and brimstone, the better the story comes out."

Television news executives deny being either biased or sensationalistic.

"We . . . bend over backward . . . to make sure that we don't go for the crazy on any particular issue," says Paul Friedman, executive producer of ABC's "World News Tonight." "One of the problems we sometimes have on that side of the issue is avoiding the people who will do damage to their cause because they're so extreme and so almost incoherent on the subject."

John Willke, president of the National Right to Life Committee, the largest anti-abortion organization in the nation, is probably the most frequent spokesmen for abortion opponents, and he is no extremist. As the Washington Post Magazine said in a cover story on him in April, "he clearly takes some pleasure in the country doctor aura and assumes in conversation a sort of kindly formality. . . . He does not inspire people to passion, or to civil disobedience."

But, like activists for any cause, many other abortion opponents are belligerent, even fanatical, and Susan Smith, the committee's associate legislative director, says bias—intentional or not—is the only way to explain why some in the media interview them instead.

Judie Brown, president of the American Life League, who opposes contraception and who says, "I've been described as a religious fanatic . . . which I don't really mind," has often been chosen to represent the anti-abortion side, rather than someone from Willke's organization, which takes no position on contraception.

Randall Terry, a born-again Christian who likes to brandish a dead fetus in a tiny coffin and who founded Operation Rescue, which tries to blockade abortion clinics, is another frequent television guest.

But the abortion-rights position is often represented—and sometimes paired on television with either Terry or Brown—by Faye Wattleton, the calm, attractive president of Planned Parenthood of America. In fact, when abortion opponents complain about bias against them, they angrily point to the descriptions of Wattleton and Terry in the media.

Time Magazine headlined its profile of Wattleton last December "Nothing Less Than Perfect" and said she was "self-possessed, imperturbable, smoothly articulate," "imperially slim and sleekly dressed . . . a stunning refutation of the cliche of the dowdy feminist."

The New York Times Magazine put Wattleton on the cover last summer and described her as "relentlessly high-minded," "telegenic," immaculately tailored," "a striking six-footer with an aristocratic bearing," "a tough, shrewd operator" and said, "Calmly, rationally, every hair in place, she will lead the faithful into battle. . . ."

But Terry is almost always described as "a former used car salesman"; the Associated Press, New York Times, Los Angeles Times, Washington Post and Newsweek, among many others, have all referred to him that way.

The phrase suggests something "a little unscrupulous . . . not quite trustworthy," says Eileen McNamara, who spent virtually all of 1989 covering abortion for the Boston Globe.

McNamara, who admits having used the "used car dealer" phrase herself in one story, says most reporters "try to be fair," but most support abortion rights, and "I think we were delighted to find out that he sold used cars."

Critics say the media's bias against abortion opponents is evident not only in the stature and characterization of the people they choose to interview but in their failure to identify some sources as proponents of abortion rights, thus leaving readers and viewers with the mistaken impression that the sources are impartial.

The Alan Guttmacher Institute in New York is probably the single-most widely quoted source for studies and statistics on abortion, for example, but except for the Washington Post the media rarely point out that the institute is special affiliate of Planned Parenthood of America, a major leader in the battle for abortion rights.

Even in the matter of numbers of sources quoted, the media often favor the abortion-rights side.

Counting the number of people quoted in a given story—or the number of inches or the number of photos used, as abortion opponents often do—is not necessarily the best way to evaluate fairness, of course.

As Sig Gissler, editor of the Milwaukee Journal, says: "It's hard to be balanced, especially in a given story. There are a lot of subtle factors," including deadlines, the availability of sources and "what else is in the news that day." What a good news organization tries for, Gissler and others say, is "balance over time."

But over time—the first eight months of last year—the New York Times, Washington Post and three network evening news shows combined quoted abortion-rights activists 60 percent more often than activists opposed to abortion, according to a study by the Center for Media and Public Affairs in Washington.

Kate Michelman, head of the National Abortion Rights Action League, and Molly Yard, head of the National Organization for Women, were quoted 76 times during this study period. Willke and Terry, the two most frequently quoted anti-abortion activites, were quoted 26 times. (President Bush, who also opposes abortion, was quoted 22 times.)

Sometimes, the media don't quote anyone on the anti-abortion side.

When the U.S. Court of Appeals in Washington ruled in April that a pregnant woman may refuse medical treatment even if that jeopardizes the survival of her fetus, the Los Angeles Times and New York Times each quoted a source praising the decision but no one critical of it. When the Louisville Courier Journal published a story on a Kentucky law requiring minors to get their parents' consent for abortions, it quoted several sources critical of the "extremely burdensome" nature of the law but quoted no one who favored the law.

Abortion opponents insist that this failure to give them "fair representation" is typical of the "double standard" the media apply to the abortion debate.

The media is generally careful, for example, to include comments from abortion-rights advocates in stories about abortion protests, but coverage of abortion-rights activities sometimes fail to include balancing comments for abortion opponents.

Moreover, the media rarely illustrate stories on abortion with photographs of aborted fetuses—or even, generally, of developing fetuses—claiming that to do so would be in bad taste and might offend readers. But no such concern inhibits the media from showing photos of starving, tragically bloated children in Ethiopia.

Nowhere is the media's "double standard" more true, critics say, than in the treatment given Operation Rescue and other aggressive abortion protesters, on the news pages and the editorial pages alike.

Abortion opponents realize that newspapers have the right to express their opinions on their editorial page and that, in most newspapers, that opinion favors abortion rights. But they don't think most papers apply the same standard to them as they do to others involved in public controversies.

Abortion protesters say they have been the victims of police brutality, overzealous prosecution and the misapplication of a federal statute designed to fight organized crime, and the media have largely failed to defend or even question the civil liberties implications of these actions.

"These are the kinds of issues that the media would normally make a big stink out of," says Wendy Wright, communications director for Operation Rescue. "But they don't stand with us on abortion so they ignore what's being done to us."

Or, as Wright's boss, Randall Terry, likes to say: "Most of the secular media has become the lap dog, the ideological slave of the death industry. The fervor of their commitment to abortion makes them willingly blind to the abuses and injustice that we have faced."

When the federal government used the RICO act—officially, the Racketeer-Influenced and Corrupt Organizations Act—against white collar criminals on Wall Street, major editorial pages questioned whether this was an appropriate use of a statute originally designed to fight the Mafia and other "scurvy hoodlums," in the words of the New York Times. A Los Angeles Times editorial said flatly that the RICO act was "out of control and ought to be repealed."

But the RICO act is also being invoked in civil suits against Operation Rescue (and other abortion protesters), and while the Philadelphia Inquirer, Wall Street Journal and a half-dozen or so medium-sized newspapers have editorialized against this, most of the major papers—the New York Times, Los Angeles Times, Boston Globe, Chicago Tribune—have ignored it. (The Washington Post included a paragraph critical of this application of the RICO act near the bottom of an editorial praising court action against Operation Rescue in a non-RICO case).

Editorial page editors deny that bias against the anti-abortion movement has influenced their policies.

Jack Rosenthal, editor of the editorial page of the New York Times, says he didn't even know RICO was being used against abortion protesters until told of it in the course of an interview for this story. Thomas Plate, editor of the editorial page of the Los Angeles Times, said the absence of any RICO/abortion cases in Los Angeles was largely responsible for his paper not having commented on the issue. The Los Angeles Times did include a sentence in an editorial last year saying that charging Terry with conspiracy in a non-RICO, Los Angeles case was "an excessive restriction on free speech."

But the Los Angeles Times publishes many editorials on subjects with no immediate local connection, and newspapers in Phoenix, Lexington, Richmond, St. Louis and St. Paul—all far more locally oriented than The Times—have editorialized vigorously on the use of the RICO act against abortion protesters, focusing primarily on a case in Philadelphia.

While supporting conviction of the protesters for trespass and disorderly conduct these papers editorialized that using the RICO act against them was an inappropriate restriction of legitimate political protest—"unfair," "unreasonable," "outrageous," "an abomination."

Newspapers have generally covered the various court decisions involving RICO and Operation Rescue in their news pages, but there have been few examinations of the civil rights threat that some say this use of the statute poses. The Wall Street Journal published such a story in May, but most other RICO stories have emphasized its use in white-collar crime cases.

Similarly, there have been major media stories asking if the government, in its zeal to prosecute drug traffickers, is using "measures that may erode basic rights" of the accused, as a Page 1 story in the New York Times put it last October. But there have been few stories raising questions about the erosion of basic rights by the "police brutality" that Operation Rescue activists have alleged in dozens of cities, not even after Congress enacted a law last year banning the allocation of certain federal grants to cities that fail to prevent such "excessive force."

The Los Angeles Times has written two long stories this year—one on Page 1—about the special weapon (a nunchaku) and special "pain-compliance" techniques—the infliction of pain to force protesters to follow orders—the police have used in these cases and the Chicago Tribune published a similar story last year. But apart from an Op-Ed page column in the Wall Street Journal, the subject has been largely ignored by the national media.

Nor has there been a flood of outrage on the nation's editorial pages, as there was when civil rights activists here and anti-apartheid activists in South Africa accused police of brutality.

Most major editorial pages were equally silent when the U.S. Supreme Court earlier this year refused to grant a stay against an injunction prohibiting Operation Rescue from demonstrating at abortion clinics in Atlanta. Columnist James Kilpatrick, who praised another court decision unfavorable to Operation Rescue activities, criticized the Atlanta decision as an unconstitutional prior restraint on speech.

"Something is grossly wrong," Kilpatrick wrote, "when the courts tell freeborn Americans that they may not speak before they have spoken." A few other columnists—Na

Hentoff, Charles Krauthammer, Mark Shields, Fred Barnes—have criticized the treatment of abortion protesters, but most commentators and editorial writers have been largely silent on civil liberties issues involving abortion protesters.

It can be aruged, of course, that the intimidating tactics used by Operation Rescue "traduce any kind of civility and go beyond the limits of reasonable discourse," in the words of Jack Rosenthal of the New York Times.

Although Operation Rescue says police are responsible for the violence at their protests, the courts haven't necessarily agreed. But many Operation Resuce protests are not violent, and while they certainly could not be described as genteel, many civil rights and anti-war protests weren't genteel in the 1960s and 1970s, and the media covered these activities heavily and often defended the First Amendment rights of those involved.

Coverage of abortion protesters' problems has been so slight that both Rosenthal and Meg Greenfield, editor of the editorial page of the Washington Post, said they had never heard of the "pain-compliance" practices and resultant charges of police brutality by Operation Rescue.

Rosenthal and Greenfield said they try to give anti-abortion forces the same respect and attention they give abortion-rights advocates, but Greenfield conceded that, in general, "I can't say it would astonish me to learn there's a double standard in writing about them".

Abortion opponents say the media's First Amendment "double standard" goes beyond their treatment of Operation Rescue and others who try to blockade abortion clinics.

When Roman Catholic bishops individually spoke out on abortion or, collectively, hired a public relations firm to aid them in the battle against abortion, some in the media grumbled about the church's intrusion into the political arena. Similar media lamentations were forthcoming when bishops criticized (and raised the specter of excommunication for) public officials who refuse to oppose abortion. But no such criticism was levied at the bishops in earlier years, when they endorsed a nuclear freeze or opposed Reagan Administration economic policies. In fact, newspapers generally praised religious leaders who actively participated in the civil rights movement in the 1960s.

It can be argued that the bishops' decision to hire a public relations firm to help in the battle against abortion is a secular step beyond anything clergymen did in the 1960s, but that step alone seems insufficient to justify a media turnabout like that noted by columnist Mark Shields.

In 1962, Shields points out, a New York Times editorial expressed admiration for the "unwavering courage" of the archbishop of New Orleans when he excommunicated a Louisiana political boss and white supremacist who had "publicly opposed the archbishop's authority in desegregating diocesan schools." But in 1989, when Bishop Leo Maher publicly denied Communion to Lucy Killea for supporting abortion rights in her campaign for the California State Senate a New York Times editorial accused him of threatening "the truce of tolerance by which Americans maintain civilty and enlarge religious liberty."

Rosenthal insists the two situations are not analogous, but others disagree.

Media treatment of the bishops—and of police and RICO actions against abortion protesters—raise a "legitimate question," says reporter Barbara Brotman of the Chicago Tribune. Had organizations other than abortion opponents been involved, "I think there might have been more of an outcry," she says.

But abortion opponents say the media often ignores—or are very late in covering—many issues and events that would receive thorough coverage if abortion-rights advocates or other liberal activist were involved.

When the National Organization for Women had its annual convention in San Francisco last week, the Los Angeles Times sent a reporter to cover it and made it the lead story in today's View section. But when the National Right to Life Committee had its annual convention in Sacramento last month, not a word about it appeared in The Times.

Nor did The Times—or most of the other major media—pay much attention to the discovery by Bob Woodward of the Washington Post last year that two justices who had played a major role in the 1973 Roe v. Wade decision legalizing abortion had conceded, in private memos, that they knew they were "legislating policy and exceeding [the court's] authority as the interpreter, not the maker of law," as Woodward wrote.

Abortion opponents had long made this very criticism of the Roe decision, and they are convinced that if a reporter of Woodward's stature had discovered private memos showing, say, that justices knew they were "exceeding the court's authority" in last year's Webster decision, the media would have swarmed all over the story. But except for a brief mention in Newsweek three months later, no major national media seem to have picked up Woodward's story.

Why not?

"There are more people in the news media than not who agree with the [Roe] abortion decision and don't want to look at how the sausage was made," Woodward says.

[From the Los Angeles Times, July 3, 1990]

"Rally for Life" Coverage Sparks an Editor's Anger

(By David Shaw)

The Washington Post is "institutionally 'pro-choice,'" the Post's ombudsman, Richard Harwood, wrote in March. "Any reader of the paper's editorials and home-grown columnists is aware of that."

But "close textual analysis probably would reveal that, all things considered, our news coverage has favored the 'pro-choice' side," too, Harwood conceded.

Leonard Downie, managing editor of the Post, denies this. The Post, he says, has been "unusually conscious of trying to present both sides all the time" on abortion, and it has generally succeeded.

But a month after Harwood's column was published, the Post provided its many anti-abortion critics with a classic case study of just what Harwood was talking about—a case so striking that no "close textual analysis" was needed, a case that made Downie himself angrily question his staff and wonder aloud "if we have our antennae raised as high" for the anti-abortion side of the argument as for the abortion-rights side.

The event that triggered Downie's anger was the Post's coverage of a massive "Rally for Life" April 28 at the Washington Monument. The rally, sponsored by the National Right to Life Committee, was intended as both a demonstration of the strength of the anti-abortion movement and as a response to the enormously successful pro-abortion-rights rally in Washington in April, 1989.

Abortion protesters insisted that the Post (and other media) greatly understated the turnout for the rally, but such charges are common when the media cover virtually any political demonstration. Far more important, critics complained—and the Post conceded—the paper vastly underplayed the rally, "trivialized" it, as Harwood later wrote.

The rally was the lead story on the ABC, CBS and NBC evenings' news programs that day, and it was at the top of Page 1 in the New York Times, Los Angeles Times, Boston Globe and several other major papers. The New York Times publishd three separate stories on the rally.

But the Post consigned the rally to its Metro section and covered it with just one, relatively short story—less than half the length of the primary New York Times story.

Rally sponsors were outraged. They have long accused the Post of being biased against their cause, and they seized on this coverage as proof they were right. After all, when abortion-rights forces rallied in Washington a year earlier, the Post gave it extraordinary coverage, beginning with five stories in the five days leading up to the event, including a 6,550-word cover story in the paper's magazine on the abortion battle the day of the event. The Post even published a map, showing the march route, road closings, parking, subway, lost and found and first-aid information.

The day after the abortion-rights march, the Post published five more stories covering the march, including one—accompanied by three pictures—that dominated Page 1. The march stories that day alone totaled more than 7,000 words and filled the equivalent of three full pages, including most of the front page of the paper's Style section.

There is no question that the 1989 abortion-rights march was a more newsworthy event than the 1990 "Rally for Life." The abortion-rights march was the first sizable demonstration of that movement's strength after years of dormancy and, more important, it took place less than three weeks before the U.S. Supreme Court was scheduled to begin consideration of the landmark Webster case. The Bush Administration was using that case to try to overturn Roe vs. Wade, the 1973 case in which the court legalized abortion. Against that backdrop, it was no surprise that the Post (and other major media) gave the march extensive coverage. (The court ultimately, one year ago today, narrowed Roe by granting individual states more latitude in regulating abortion.)

But no one gave the abortion-rights march as much coverage as did the Post, and when the Post gave this year's "Rally for Life" only a tiny fraction of that coverage—and not even a map before hand—the fury of the anti-abortion movement was understandable.

At least one man at the Post shared the anti-abortionists' anger: Managing Editor Downie.

"I really took them [the paper's metropolitan editors] to the woodshed," he says.

Although political demonstrations in Washington are routinely covered in the Post's Metro section, the editors should have realized that an event this big deserved more prominent play, Downie said. When he saw the story on the Saturday rally in the Sunday paper, he says, he was so upset

he called the paper's Metro desk from home "to see what we could do to recoup."

Two reporters put together a story for the next day's paper on the political implications of the huge rally.

When Downie called in again, later that Sunday, and was told that story was not scheduled for Page 1 either, he insisted the page be redrawn to include it.

"We are embarrassed [by the first story] on Sunday," Downie says. "If some people see that [the second story] as a correction, so be it."

The next day, Monday, during a regularly scheduled meeting with 30 top editors at the paper, Downie inquired further about how the Post had erred in its original rally coverage.

"I said that when the abortion-rights people had their rally last April, we all got quite energized," he says. "We heard about it from our friends and colleagues."

But Post reporters and editors—like most journalists in other big-city news organizations—don't seem to have many friends or colleagues who oppose abortion. So they weren't aware of the magnitude of the "Rally for Life," even though various low-level people on the Metro desk had been alerted to it three times in the course of the week by Dan Balz, a national political reporter who spent about half his time in the past year writing about abortion and politics before transferring to the White House beat last month.

Downie says the event was never mentioned in any of three planning meetings that week, though, and Fred Barbash, deputy metropolitan editor in charge of coverage the day of the rally, says there were "a lot of other major local stories coming together . . . and I just didn't devote the appropriate amount of timt to the . . . [rally] story."

Downie "questioned the people on Metro," and says he's convinced that personal feelings about abortion didn't influence their decisions on rally coverage.

"They were just tired of demonstrations," he says.

But a week earlier, the Post had mustered sufficient energy and resources to provide prodigious coverage of another demonstration—"Earth Day 1990"—starting with a story and photo that filled more than a third of Page 1 and including four more stories, 11 more photos and an "Earth Day" concert review, all of which filled one full page and parts of five others, among them the top of the first page of the widely read Style section.

Six weeks later, the Post devoted 50% more space to an animal-rights march than it had to the "Rally for Life."

The Post's treatment of the "Rally for Life" was "embarrassing," the paper's ombudsman subsequently wrote, and Downie himself says, "I am concerned about whether we are paying enough atttention to the other side of the [abortion] argument."

Downie includes himself in that criticism.

"People as high as me should have been aware of what was happening," he says.

The Post wasn't the only publication to give substantially less prominence to the "Rally for Life" than it had given to the abortion-rights march a year earlier, however.

The Chicago Tribune, which covered the abortion-rights rally on Page 1 (and followed up with a lengthy, well-displayed feature story several days later), published only one short story, on Page 3, about the "Rally for Life."

"We made a mistake," says Jack Fuller, editor of the Tribune, "We underplayed the story."

Several smaller publications that gave prominent display to the 1989 abortion-rights march also played down the "Rally for Life."

Other newspaper, from Fresno to Bergen County, N.J. have demonstrated a comparable imbalance on other anti-abortion rallies in recent years, but editors at all these papers insist that it was not bias but inattention or poor news judgment under deadline pressure that explains their coverage.

When readers of the Bergen Record complained about inadequate coverage of an earlier "March for Life," Editor David Hall published an editor's note conceding. "Your complaints are justified." He went on to explain how the Record had determined its coverage of the event and insisted, "We strive for fairness and balance."

Editors say the same thing about their coverage of abortion and the political process, but abortion opponents have been even more critical of this coverage than of coverage of their demonstrations—and some journalists and abortion-rights supporters say their criticism is not without foundation.

"In a political context, the ground has shifted toward pro-choice," says Dan Balz of the Post, but both he and Hal Bruno, political director for ABC News, say that there is some justification for the complaint that the media have given more credit to abortion-rights victories at the polls than to anti-abortion victories.

Reporters try hard to be fair—and to keep their organization's overall coverage fair—Balz says, but, "There have been times when I have felt that pro-choice organizations have easier access, that their . . . spin gets somewhat greater credibility than the spin from the pro-life community and that it sometimes does affect the sensibilities of coverage."

Despite recent improvements in abortion coverage, Douglas Bailey says much the same thing.

"When pro-choice candidates win, it is perhaps more easily accepted than it should be that their pro-choice position was the reason, and when pro-life candidates win, perhaps it is more easily accepted [than it should be] that that was really irrelevant to the race," says Bailey, an abortion-rights supporter who publishes the nonpartisan "Abortion Report," a daily compendium of news on abortion and politics.

Bailey says it's probably easier for the pro-choice side to get * * * press attention to specific elections . . . where pro-choice candidates have won" than it is for anti-abortion candidates.

The greater sophistication of many pro-choice organizations in their dealings with the press may help explain that, Bailey says. But he and others suggest that a subconscious bias—an unwitting double standard—may also be at play.

When attempts to enact laws regulating abortion failed to get out of committee in the Florida Legislature last October, for example, the media covered the story heavily. ABC and NBC made it the lead story of their evening news programs. The New York Times made it the lead story on Page 1. The Los Angeles Times and Washington Post also put the story on Page 1. The Chicago Tribune put it on Page 2. Many of other newspapers and the networks' morning news programs also gave the story big play.

But two weeks later, when the Pennsylvania Legislature enacted the strictest abortion law in the country, media attention was considerably more muted.

Both the New York Times and Los Angeles Times put it on Page 1—albeit less prominently than the Florida story—but the Washington Post relegated it to Page 7 (with a story less than half as long as its Florida story), the Chicago Tribune put it on Page 12 (with a story less than half as long as its Florida story), and many other newspapers gave it even less attention.

But the Florida/Pennsylvania disparity was most noticeable on television. NBC didn't cover it at all until the next day, when it was mentioned in a single sentence during a story on the failure of the U.S. House of Representatives to override President Bush's veto of Medicaid funding for abortion.

Tom Brokaw, anchor for the "NBC Nightly News," says Florida received so much attention because it was the first state to try to enact abortion laws after the Webster decision. There was doubt about whether any laws would be passed, and the media—having played up that suspense—"had to deal with the outcome," Brokaw says.

In Pennsylvania, there was no doubt the law would pass, and the media said so in covering the story a week before the vote. That made the vote itself less newsworthy.

Still, Pennsylvania was a victory in a major urban state for opponents of abortion, and they think the disparity between the coverage they received and that given to their defeat in Florida was unfair. ABC's Bruno agrees.

Pennsylvania provided a second political battleground for abortion last month, and abortion opponents thought media coverage of that was unfair too.

Pennsylvania Gov. Robert Casey, who signed the state's new abortion law, won the Democratic nomination; state Auditor Barbara Hafer, an advocate of abortion rights, won the Republican nomination. Both ran against candidates who opposed their views—Casey against Philip Berg, Hafer against Margeurite (Peg) Lusek.

"Both Berg and Lusek were running underfunded, single-issue, protest campaigns," says Nancy Myers, director of communications for the National Right to Life Committee, "Berg, the pro-abortion candidate, got only 23% of the vote. Peg, the pro-life candidate got 46%. But most of the major media basically ignored Peg and how well we did."

Myers is right.

Casey, as the incumbent, was expected to win easily but not necessarily overwhelmingly. The Chicago Tribune said two days before the election that Casey's margin of victory "may be narrow," and the Philadelphia Inquirer said estimates that Berg would receive "only 25%" of the vote "may underestimate the number of Democrats who favor abortion rights."

But when Casey won his smashing victory, no major paper except the Inquirer, for which it was big local news, put the story on Page 1; it was on Page 14 of the Los Angeles Times and Page 25 of the New York Times. Only the Washington Post noted the "significant embarrassment." Hafer suffered and said abortion-rights advocates "lost badly" in the election.

Nor did the national press pay much attention to the victory of several abortion opponents in the state's legislative races, not even that of Stephen Freind, author of Pennsylvania's new abortion law and one of nine politicians in the nation specially targeted for defeat by the National Abortion Rights Action League (NARAL).

What infuriates abortion opponents about his coverage is that, since the Webster decision, the national media have covered heavily several elections in which candidates supporting abortion rights won, among them James J. Florio in the gubernatorial race in the New Jersey; Don Avenson in the Democratic gubernatorial primary in Iowa; Rosemary Mulligan in the House of Representatives in Illinois, and, in California, Lucy Killea in the state Senate and Tricia Hunger in the state Assembly.

All these candidates defeated anti-abortion opponents, and in all cases, the media said abortion played a major role, generally the dominant role in the race.

The media said much the same thing when L. Douglas Wilder won the governorship of Viginia in November, although abortion opponents, who backed loser J. Marshall Coleman, insist that if Coleman, a white, had beaten Wilder, a black, the victory would have been attributed to race, not abortion.

Many journalists scoff at this charge, but that's exactly what happened 10 weeks earlier in a congressional race in Florida between Republican Ileana Ros-Lehtinen, an opponent of abortion, and Democrat Gerald Richman, an abortion-rights supporter.

Nine days before the election, the Miami Herald said in an editorial that the single issue of abortion could "swing the election." The day before the election, Tom Fiedler, the Herald's political editor, said the race "provides one of the first tests of the so-called pro-choice electorate."

But when Ros-Lehtinen won and abortion opponents hailed her victory as proof of the political strength of their movement, Fiedler pronounced the claim "poppy-cock." Several other issues determined the race, he wrote, among them "ethnicity." Other media agreed. Ros-Lehtinen, a Cuban-American running in a district with a heavy Cuban and other Hispanic population, won because of "ethnic rivalry," not abortion, the Los Angeles Times said.

Abortion opponents say many other anti-abortion candidates have also defeated abortion-rights supporters, and the national media have either ignored or played down the stories or minimized the role of abortion in the race. Among these races were a gubernatorial race in Nebraska, congressional races in Florida, Kentucky, Mississippi, and Texas and legislative races in 10 states, including California.

Last month, the day after the primaries, the New York Times did publish a story, under the headline "Each Side Cites Primaries as Evidence of Strength on the Abortion Issue," that gave both sides an opportunity to proclaim victory. But it wasn't until three weeks later that the Los Angeles Times published a story-under the headline "Backing of Abortion Rights No Guarantee of Victory at Polls"—pointing out that anti-abortion candidates won seven of eight California state legislative races in which abortion was "a prominent issue." Most other media ignored that story altogether.

As the Christian Science Monitor noted in May, when abortion rights candidates won at the polls, their "positions on abortion were widely touted. But anti-abortion forces have scored several successes in smaller races where far less money was spent and where, perhaps, the abortion issue was not so widely covered."

But because there were complicating factors in many of the races, it's difficult to evaluate the validity of the charge by abortion opponents that media bias is solely responsible for their victories not having been "widely covered."

Ethnicity probably was the dominant factor in Florida, for example, and abortion rights candidates have generally won the high-profile races—governorships, rather than state legislative seats. Moreover, in several other races, neither candidate really made abortion a major issue, and in virtually every race, the losing side—abortion opponents and abortion-rights advocates alike—immediately announced they hadn't really campaigned much in that particular campaign, so abortion wasn't the crucial issue after all.

Even when abortion was a major issue—as in Killea's upset victory in San Diego—the candidate's support for abortion-rights itself may not have been the determining factor; when Roman Catholic Bishop Leo T. Maher barred Killea from receiving Communion three weeks before the election because of her pro-abortion-rights campaign stance, he made her a "national cause celebre" and created widespread voter "backlash," as the Los Angeles Times pointed out.

Nevertheless, there were several races in which the media minimized the success of candidates opposed to abortion. And there were races in which the media said an abortion-rights advocate's victory showed the political strength of that movement when, in fact, most of the votes in the race actually went to anti-abortion candidates.

That was the case in Republican Tricia Hunter's narrow victory in a special Assembly primary in San Diego last summer.

Hunter was an outspoken advocate of abortion rights, and the national media tried to make her race "a referendum on abortion," as the San Diego Union noted.

USA Today's headline on Hunter's victory was: "Californian's Win May Be Bellwether."

But Hunter actually received only 30% of the vote; the other 70% was divided among five anti-abortion candidates, one of whom finished fewer than 200 votes behind her, with only 20% of the registered voters going to the polls. The Washington Post was one of the few major news organizations to note all these mitigating factors.

Last month, when Hunter narrowly won renomination over an underfinanced opponent active in the anti-abortion movement, the national media largely ignored the story.

Moreover, in other races over the last year, the media often said candidates won because of their abortion-rights advocacy when, in fact, the losing candidates had waffled, temporized and flip-flopped so much on abortion that their losses may have been attributable more to their inconsistency than to their opposition to abortion.

In the New Jersey gubernatorial race, for example, it can be argued that Rep. Jim Courter lost to James J. Florio not because voters preferred Florio's abortion-rights position but because Courter backed off his own longstanding opposition to abortion (and because he was "out of touch with the voters on . . . basis state issues," in the words of David Hall, editor of the Bergen Record).

So many anti-abortion candidates changed or modified their position that the media began ridiculing them.

Newsweek labeled the syndrome "abortion contortions." The Chicago Tribune, in an editorial, said "Call it the 'Candidate's Copout.' Or the 'Strategic Straddle.' Or the 'Ambitions Ambiguity.' Or may be the 'Wimp Wriggle.'" Newsday columnist B.D. Colen said the "'oral' commitment of many politicians to the anti-abortion movement proved to be about as real as their 'moral' commitment to most issues. Nonexistent.'"

Candidates don't usually change positions on an issue like abortion unless they're afraid that if they don't, they'll lose. Given the high-profile electoral victories of many abortion-rights advocates and the defeat of proposed new abortion laws in the overwhelming majority of state legislatures, it's not surprising that fear of failure made abortion flip-flops the new national political sport. And the flip-flops all went one way—abortion opponents switching to abortion rights.

The question is whether the media artificially and unfairly stimulated the flip-flops.

"The abortion-rights movement has gained extraordinary political momentum recently," the Boston Globe said last October, and—until much more recently—the general impression given by the media has clearly been that candidates who oppose abortion are likely to lose on Election Day.

Can Women Reporters Write Objectively on Abortion Issue?

(By David Shaw)

For obvious reasons, abortion is an intensely personal issue for most women in a way that it is not for men. Indeed, the editors of 17 women's magazines met with leading abortion rights advocates last year to discuss what they could do to help "protect" legalized abortion.

But magazines thrive on the expression of personal viewpoints; newspapers and television news organizations want their reporters to keep personal feelings out of their stories.

Can women reporters do that when covering abortion?

"If you are a woman reporter under the age of about 50 . . . you are writing about something that could happen to you," says Cynthia Gorney, who covers abortion for the Washington Post. "You're going to have a view on it. . . . There's no way you can set that aside. The issue is whether you can, while holding that view, listen . . . seriously . . . to people of all stripes on this issue . . . and really do what reporters are supposed to do . . . shed light and make clear why people hold the positions that they do."

Most women reporters say they're able to do this. But many say they have to work harder to do so on abortion than on any other issue. Some fail.

A study by the Center for Media and Public Affairs in Washington last year found that women reporters for five major news organizations quoted supporters of abortion rights twice as often as they quoted abortion opponents in their stories. The gender gap was greatest—3 to 1—in stories by women reporters in the print media.

The study, which involved nine months of abortion coverage in the New York Times and Washington Post and the ABC, CBS and NBC evening news programs, found that in abortion stories reported by men, the use of sources from the two sides was "evenly balanced."

News executives at all these organizations deny any charges of bias. They say their reporters, men and women alike, are professional long accustomed to keeping their personal feelings from interfering with their

professional obligations to be fair. The reporters also deny any bias.

But one longtime network news executive, speaking on condition that he not be identified, disagreed vigorously.

"The problem [with abortion coverage], pure and simple, is the media's loaded with women who are strongly pro-choice," he said.

A few women reporters with strong feelings on abortion have asked not to write stories on the subject, precisely so they can avoid any possible or even apparent conflict of interest.

When Vicky Hendley, a reporter for the Vero Beach Press-Journal, made such a request last year, her editors agreed. But when controversy developed over her having mailed tiny coat hangers to every Florida state legislator to express her concern that new laws could prompt a return to dangerous, illegal abortions, she was fired.

What Hendley did "undermined the paper's credibility," says Richard Wagner, the managing editor.

Editors at the Los Angeles Times reacted differently when Patt Morrison approached them last year with her own dilemma.

Morrison, a longtime Times reporter, went to her editor after Operation Rescue announced plans to blockade abortion clinics in Southern California. She said she felt so strongly about the issue that she wanted to help escort pregnant women into the clinics, past the protesters. But she said she didn't want to put The Times in "an awkward position."

Morrison and Noel Greenwood, then deputy managing editor of the paper, discussed the issue and agreed that she shouldn't cover any abortion stories.

Could Morrison have covered them fairly?

"There were moments, probably in the wake of the demonstrations, when I was angry enough that I could not have written dispassionately about the matter," she says. At other times, Morrison says, she's sufficiently confident of her professionalism that she thinks she could have "set my feelings aside."

Did Greenwood consider forbidding her to participate in the clinic action on the grounds that her presence could undermine the paper's credibility?

"That was one of the options," Greenwood says, "but if she felt so strongly about it, I decided I should respect that. . . ."

The Los Angeles Times, like the New York Times and some other news organizations, has a policy prohibiting staffers from participating in any activity that involves an issue they cover. Some other news organizations—the Washington Post and Philadelphia Inquirer among them—have a more stringent rule: Staffers are prohibited from taking part in any activity that could compromise the paper's credibility, even if they're not covering the issue involved.

But a number of women reporters—and some male reporters—either forgot about, ignored or were unaware of these policies last year; they joined a huge abortion-rights march in Washington less than three weeks before the U.S. Supreme Court was scheduled to hear oral arguments in the Webster case, which the Bush Administration hoped to use to begin to make abortion illegal.

Among the marchers was Linda Greenhouse, who covers the Supreme Court for the New York Times.

"I was there in a totally personal, anonymous capacity with some college classmates," Greenhouse says. "My intent was not to make any kind of statement as a journalist.

"Most of my colleagues thought I was a jerk to be there," Greenhouse concedes, "and they let me know that, either politely or impolitely."

Eileen McNamara, who covered abortion for most of 1989 at the Boston Globe, says Greenhouse made "a terrible mistake" in marching—and the Times "made a bad mistake in allowing her to continue to cover the issue."

Abortion opponents seized on Greenhouse's participation—and that of other reporters from the New York Times, the Washington Post and other news organizations—as proof of the media's "bias" on abortion.

Several news organizations then quickly restated their policies prohibiting participation in demonstrations and similar activities. But no one who marched was fired or prohibited from writing about abortion in the future.

Does Greenhouse agree that she should have marched?.

"I'm glad I was there as a person," she says. "I accept my editors' judgment that as a New York Times employee, I should not have been there."

Greenhouse's reporting, before and after the march, is widely considered fair by both sides, and some journalists say that's all that matters. But the media has given more scrutiny in recent years to conflicts of interest, actually and potential, involving the people and institutions they cover, and this has led to greater efforts within the media to avoid any situations in which they could even appear to have a similar conflict.

That's why two editors at a small Iowa newspaper were fired in April when they refused to end their affiliation with an anti-abortion group they helped found; that's also why the Milwaukee Journal fired a part-time newsroom secretary last year for picketing abortion clinics..

Editors at both papers said they took action to preserve the credibility of their news-gathering operations. In fact, before firing the secretary Diane Dew, the Journal offered her a job in another non-news department, where that wouldn't a problem. She refused.

Dew then filed a complaint against the Journal with the Equal Rights Division of the State Department of Industry, Labor and Human Relations; the journal backed down and conceded that its application of the paper's ethics code to Dew was "overly broad" and constituted an infringement of her freedom of expression.

Although editors at the various publications whose employees have participated in abortion activities all insist they would have taken exactly the same action if their employees had been on the other side of the debate, abortion opponents refuse to believe that.

Firing a secretary who demonstrates against abortion but not even changing the assignment of a Supreme Court reporter who demonstrates for abortion rights seems to abortion opponents symbolic of the double standard they say permeates media coverage of abortion.

[From the Los Angeles Times, July 4, 1990]

"Abortion Hype" Afflicted Media After Webster Case

(By David Shaw)

Last summer, when the U.S. Supreme Court issued its controversial Webster abortion decision, the media responded with a barrage of apocalyptic stories predicting political and legislative revolution.

Even before the court ruling—which ultimately gave states greater latitude in regulating abortion—the Boston Globe said in a Page 1 story that "a majority of states" would be expected to "ban abortion in all but extreme circumstances" if the court made such a ruling.

"No more than five states would retain the liberal guidelines" existing before the Webster decision, the Globe said.

The Globe was not alone in what Colleen O'Connor, director of public education for the American Civil Liberties Union, calls the media "hysteria" that accompanied the Webster decision.

Newsweek listed 19 states that were "likely to restrict abortion." Columnist Charles Krauthammer said an "avalanche of state legislation will soon be coming" to the Supreme Court for review. Peter Jennings, on ABC's "World News Tonight," said, "There is no political campaign in the country this year in which abortion does not play a role."

Media coverage of the political impact of abortion was so massive in the immediate aftermath of Webster that a suburban Washington firm created "The Abortion Report," a daily, 10-page compendium of excerpts from news media reports on abortion and politics nationwide. Journalists and activists on both sides subscribed to the report.

Abortion has indeed been big news on the political front in the year since Webster. But the actual political impact of the decision has not been nearly as great as predicted.

Only one state—Pennsylvania—has enacted a new abortion law. One other—Louisiana—has passed an even stricter law, but the governor has threatened to veto it because it contains no exceptions for victims of rape or incest. Two other states have made far less sweeping modifications. Dozens of political campaigns have been conducted with abortion playing no role whatsoever.

"The media blew it." O'Conner says. Abortion-rights activists cried "wolf," and the media blew the house down.

Why?

Why was there a nationwide epidemic of what U.S. News & World Report has labeled "abortion hype" and "hyperbolic news coverage" after Webster?

One explanation is that most journalists support abortion rights, according to Times interviews and two major studies and they shared and parroted that movement's fears that a "cataclysmic" disaster was at hand, as O'Conner puts it.

But most journalists deny this, and U.S News had a different explanation: "Reporters and advocates . . . share a professional interest in spreading alarmist predic tions. . . . "

In other words, the threat of sudden, dras tic change on an emotionally volatile issue always makes a good story. It gets reportori al adrenaline flowing. It gets television rat ings. It sells newspapers and magazines.

That may help explain why abortio clinic blockades by Operation Rescue an shrill pronouncements by leaders on both sides are given heavier coverage than, say new medical developments.

"Operation Rescue is a live news story," says Martin Noland, editor of the editoria page of the Boston Globe. "It beats hell ou of what's going on in some laboratory."

But critics say the basic nature and limita tions of the media and their sometimes sen sational, often alarmist approach to abor tion coverage has made certain shortcomings in abortion coverage inevitable.

Despite recent improvements, abortion coverage has generally been "very shallow . . . superficial," says Frances Kissling, executive director of Catholics for a Free Choice. "There's been very little investigative reporting . . . very little looking behind some of the statements . . . of either side . . . no attempt to give people the kind of information they need to make intelligent decisions."

Karen Tumulty, who covered abortion for the Los Angeles Times for most of 1989, says the "real value that we have to add as the media is to give people the information they need to make up their own minds."

Have the media done that on abortion?

"No."

Perhaps the most obvious flow in the media's coverage of abortion has been the tendency to turn abortion into an almost exclusively political story, often to the virtual exclusion of its personal, moral, ethical, medical and even legal ramifications.

"We've gotten bogged down in reporting the political ups and downs of the sides, like we're covering sports, and we've gotten away from reporting the issues," says Barbara Brotman, who has written extensively about abortion for the Chicago Tribune.

"With rare exception.," Brotman says, "we haven't gone beyond the surface."

Before the Webster decision, news organizations used medical, science and lifestyle writers to cover the different aspects of abortion. The medical and science writers in particular generally provided "more factual, better, more substantive coverage" than the political writers who have written and broadcast most of the abortion stories since Webster, says Kathy Bonk, co-director of the Communications Consortium, a Washington company that helps abortion-rights advocates plan media strategies.

"Political reporters . . . by the large don't know how or don't do a good job covering issues," Bonk says, "They cover horse races . . . campaigns."

The horse race and sports analogies are valid. Covering politics is like covering sports in that there's always a final score, a winner and a loser, clear resolutions that are much easier to write about than such murky, unsettled questions as "When does life begin?" or "Whose right shall prevail—the woman's or the fetus's?"

Besides, political coverage has traditionally been a top priority for most news organizations—a subject that the men who still run most of these organizations are comfortable with and interested in.

In fact, at many news organizations, abortion was long regarded as a "soft story—a women's story," and male editors routinely assigned it to women reporters, especially before the Webster decision.

Several high-ranking male news executives said in interviews for this story that abortion is still not an issue that greatly interests them. Paul Friedman, executive producer of ABC's "World News Tonight," said he was "Stunned the way this intensely personal issue has taken over the public debate. . . .

"I'm profoundly tired of the story," Friedman said. "As a citizen, I just resent the fact that it is taking so much time and attention away from other issues that are so critical."

Friedman insists that this "entirely personal" attitude "doesn't affect how much we cover" abortion, though, and he says politics has dominated media coverage of abortion since Webster not because journalists are biased or sensationalist but because that's "the basic new part of the argument."

Many other media executives agree.

"The ethical debate, while intense, seems to me kind of frozen; most people have heard it," says Joseph Leiyveld, managing editor of the New York Times.

That's the unique challenge of covering abortion.

"It's a more frustrating story than many others because it's one to which it is very difficult to bring new ideas," says Henry Muller, managing editor of Time magazine.

Because the abortion debate consists largely of two polarized, constantly repeated points of views, "I don't find a whole lot in the media that's very enlightening on this issue," Muller says.

Time has tired to "find things that add to the discussion," Muller says, expecially in a story by Garry Wills last year on Operation Rescue. Newsweek has done two cover stories on abortion, and network television has also tried a few long-form treatments of the subject—"48 Hours" on CBS, several "Nighline" programs on ABC and a panel discussion after a movie based on the Roe vs. Wade case on NBC.

But space and time limitations intrinsic to those media have largely prevented them from doing thoughtful stories on abortion with any regularity. Television, in particular, "tends to be superficial because of time constraints," says Douglas Johnson, legislative director for the National Right to Life Committee.

TV reporters are essentially "quote-shopping" when they do a interview, Johnson says.

Newspapers have often been guilty of superficiality, sensationalism and bias, too, but a few major papers gave individual reporters primary responsibility for abortion coverage last year in an effort to explore the broader issues involved in the abortion controversy.

David Shribman of the Wall Street Journal has spent about 40% of his time as a political reporter doing abortion stories since the Webster decision, and he has managed to expand the relatively narrow confines of abortion and politics. He has written about the diversity within the anti-abortion movement; about grass-roots organizing efforts on both sides, and about the impact of the abortion controversy on the Catholic Church and the Republican and Democratic parties.

Shribman says it took him "at least a month and at least a hundred phone calls" to find the 17-year-old Massachusetts girl he used as the focal point for a story in November on parental consent.

"From a reporter's point of view, this [abortion] is a great issue to cover," he says. "Both sides are willing to talk endlessly . . . to be quoted . . . to help a reporter . . . to be open."

Covering abortion forces a political reporter to speak with "people who are not professional politicians . . . normal people, not like the kind of people that you sit beside on the Bush White House plane," Shribman says.

"In a way, it's very refreshing," he says, because it's easier to avoid the "pack mentality" than on a campaign, when reporters, politicians and consultants all "stay in the same hotel, eat the same food, breathe the same air and pretty soon, you contaminate each other."

In trying to provide such refreshing coverage, to broaden and deepen coverage beyond the political arena, several other newspapers have made abortion, temporarily, a full-time beat, much as some papers did with AIDS a few years ago.

At the Chicago Tribune, Barbara Brotman covered abortion from August, 1989, until mid-April this year, determined to write about "the fundamental differences between the two sides that go beyond whether they believe life begins at conception. I felt there were fundamental differences in how they looked at the world that had to do with how they saw woman's role in the world, how they saw the role of God in their lives."

Brotman wrote an overview of "abortion in America," and also wrote about a home for unwed mothers; about feminists opposed to abortion; about post-abortion trauma; about women who have multiple abortions, and about individual women who "wrestled privately with the philosophical questions that inform the public debate" before having an abortion.

At the Los Angeles Times, Karen Tumulty spent about half her time covering abortion during the first six months of 1989, then spent full-time on the issue for the rest of the year.

Tumulty wrote about abortions in the later stages of pregnancy, about the ambivalence most Americans feel toward abortion and about the shortage of doctors willing to work in abortion clinics; she also profiled both Randally Terry, the head of Operation Rescue, and Kate Michelman, executive director of the National Abortion Rights Action League.

Tumulty didn't write as many major abortion stories as did reporters on the abortion beat at other papers, but other Times staffers have also written a number of such stories, among them one on the impact that criminalizing abortion would have on the adoption system and another on women who later regretted their abortions.

At the Boston Globe, two reporters took on "Abortion: An American Divide" as a special project for all of 1989, starting even before the Webster decision. Ethan Bronner, who covers the Supreme Court for the Globe, wrote about the developing legal story, and Eileen McNamara wrote about the personal and moral side.

McNamara went to Michigan to write about a 15-year-old rape victim and to Vermont to write about a company that was barring fertile women from skilled jobs involving high lead exposure; she wrote about a longtime abortionist and an early abortion crusader, about a family active in the fight against abortion and about why opposition to abortion is so strong in Louisiana.

McNamara says she tried to do "non-obvious" stories and stories away from the fringes, where too much of the abortion debate is being waged.

Abortion opponents argue, for example, that the current law "permits baby-killing right up to the moment of birth." But only one one-hundredth of 1% of all abortions—about 100 of the 1.6 million abortions done annually in the United States—occur after 24 weeks of pregnancy, according to the Alan Guttmacher Institute, a special affiliate of Planned Parenthood that does research on abortion and family planning.

Similarly, much has been written and said about abortion advocates' charges that making abortion illegal again would mean a return to the time when "thousands" of women died every year from back-alley abortions. But the Centers for Disease Control says 39 women, not thousands, died from illegal abortions in 1972, the year

before the U.S. Supreme Court legalized abortion with its Roe vs. Wade decision.

Because abortion was illegal, many deaths surely went unreported. No one knows how many.

The media pay a great deal of attention to such charges made by various advocacy groups on both sides, but "Neither NOW (the National Organization for Women) nor Operation Rescue reflect the feelings of the American public about abortion, in my opinion," McNamara says.

Thus, when she wrote about Operation Rescue, she focused on an ordinary family in the organization, rather than on Randall Terry, its founder.

Like the Globe, the Washington Post has largely divided its abortion coverage between two reporters, both of whom spent about half their time on abortion over the last year.

Dan Balz, a longtime political writer at the Post, covered the political impact of abortion until shifting to the White House beat this month, and—along with the Wall Street Journal's Shribman—he was widely praised by activists on both sides for his work on the abortion/politics beat. Balz will continue to write on abortion occasionally.

Cynthia Gorney, whose beat at the Post is called "family and society," has a special interest in the history of abortion in the United States, something most of the media ignore. Gorney, who is working on a book about abortion, has written about clergymen who formed an underground network to help women get abortions when they were illegal; about a woman who developed a "menstrual extraction" abortion kit in 1971; about the origins of the Webster case and the key figures in it, and about the controversy surrounding parental consent.

Even abortion opponents, who generally complain that the media are biased against them and superficial in their abortion coverage, think most of the work done by the various abortion specialists on these papers has been fair and comprehensive.

Susan Carpenter-McMillan, media spokeswoman for the Right to Life League of Southern California, for example, calls Tumulty's Los Angeles Times Magazine story on abortions in the later stages of pregnancy "the most unbiased thing I've ever seen, the best thing the Los Angeles Times has ever done [on abortion].".

Nancy Myers, communications director for the National Right to Life Committee, offered similar, if somewhat less hyperbolic, praise for Gorney's Washington Post Magazine profile in April on John Wilke, president of the National Right to Life Committee.

Reporters who frequently cover abortion come to know more about the subtleties and complexities of the subject and the sincerity of the people involved, which means "fairer coverage," Myers says.

Making abortion a special beat doesn't guarantee "fairer coverage," of course. Nor does everyone agree on what constitutes "fair" coverage. Ramona Ripston, executive director of the American Civil Liberties Union of Southern California, did not think Tumulty's story was fair, for example, because relatively few abortions are actually done in the later stages of pregnancy (a point the story makes clear).

But abortion is so broad a topic that no one or two reporters can cover the whole field, and even the best papers, with the best of intentions, have been criticized for bias, superficiality and sensationalism—charges that most editors and reporters deny. But a few papers also win wide praise for specific stories, even without special beat assignments.

The Miami Herald published a Sunday magazine story last fall on substandard conditions at many of the state's abortion clinics; the story led to a statewide investigation and the closure, at least temporarily, of four clinics.

The Milwaukee Journal published the entire, 21-page type-written text of Archbishop Rembert Weakland's statement criticizing the tactics of many in the pro-life movement, then printed more than a half-page of letters on the statement; Editor Sig Gissler says some priests in Milwaukee publicly urged their parishioners to buy the Journal to read the archbishop's statement.

The Philadelphia Inquirer has given its readers some of the most aggressive and provocative abortion coverage in the country since the issue became a major controversy in Pennsylvania in the mid-1970's.

Abortion opponents in Pennsylvania have vigorously criticized the Inquirer, accusing it of bias, imbalance and "prejudicial" language. One anti-abortion activist—Ted Meehan, a member of the media committee for the Pennsylvania Pro-Life Coalition—sent the paper a 23-page critique of its coverage.

James Naughton, deputy managing editor of the paper, responded last week with a 15-page rebuttal. Half a dozen top editors previously met with anti-abortion representatives to discuss their charges.

Naughton concedes there is some validity to the criticism, "here and there," but both he and Executive Editor Eugene Roberts insist that the paper's coverage has been fair and balanced overall and that most of the criticism stems from the anti-abrtionists' own subjective views and from their failure to understand the news-gathering process.

As far back as 1981, the Inquirer published a powerful account of the "hundreds of times a year in the United States [when] an aborted fetus emerges from the womb kicking and alive." The Inquirer has also published major stories on late-term abortions; on a municipal judge who "helped operate a network of abortion clinics in three states;" on the beliefs and motivations of various abortion protesters; on teen-agers involved in both sides of the abortion campaign; on the economic pressures put on companies by activists in the abortion debate, and on a doctor who performs abortions and who invited angry protesters to come into his office to counsel women seeking abortions.

The New York Times has also provided interesting, insightfull abortion coverage at times, especially in recent months, without assigning a reporter to cover abortion full-time.

The New York Times has written major stories about doctors refusing to do abortions; about abortion protesters jailed in Vermont; about abortion and the Catholic Church; about abortion and politics in Iowa, Pennsylvania, Louisiana and Connecticut; about Operation Rescue, and about several abortion controversies in New York.

Twice in the past year, the New York Times has published Page 1 stories on centers established by abortion opponents to provide unwed mothers with baby clothes, career counseling, legal assistance and housing—"the pretty side of the right-to-life movement," as the director of one such center said in the paper's May 13 story.

Activists on both sides say media coverage has generally improved of late, but they still think critical issues go largely uncovered. Many reporters agree. The moral implications of the abortion debate, in particular, are generally ignored or treated superficially in newspapers.

Perhaps that's why the most thoughtful stories on the moral dilemma of abortion have generally been done by magazines, most notably by Jason DeParle last year in the Washington Monthly and by Mary Gordon last spring in The Atlantic.

Abortion opponents cite the possible eonomic impact of abortion as another area that the media—newspapers, magazines and television alike—have generally ignored. What would the state of the U.S. economy be today, they ask, if many of the more than 20 million fetuses aborted since the Supreme Court's 1973 Roe vs. Wade decision were now alive?

Michael Novak of the American Enterprise Institute in Washington says the media should write about the effect all these potential consumers and workers might ultimately have on the "looming labor shortage," the closure of some schools and the future of the Social Security system.

Because poor people have a disproportionately large number of abortions, one could also ask what the effect of legalization might be on the tax base, welfare rolls and various other social programs.

And what, for that matter, is the psychological effect of legalized abortion on our society? Because liberals often argue that capital punishment contributes to a climate of violence and a cheapening of human life, conservatives would like to see the media examine whether abortion has had the same effect. After all, the United States—which has one of the highest abortion rates in the Western world—also has one of the highest murder rates in the Western world. Is there a connection?

The analogy may not be valid, the connection non-existent, but few in the media have even raised the question.

Nor have the media written much about the ramifications of new medical developments related to abortion and contraception, say Janny Scott and Robert Steinbrook, medical writers at the Los Angeles Times.

Although some abortion opponents argue that greater availability of contraception leads to more sexual activity, more unintended pregnancies and more abortions, studies strongly suggest just the opposite—that more effective, more accessible means of contraception would mean fewer unintended pregnancies and fewer abortions. Either way, contraception is—or should be—part of the abortion story.

But Scott says the problems of reproduction and contraception are "felt far more profoundly by women than men," and she wonders if this explains why such issues may be "given short shrift in papers where . . . the editors are primarily men."

Scott and Steinbrook are especially critical of their own paper in this regard, and they cite several examples, among them coverage in February of a report issued by the National Research Council and the Institute of Medicine. That report said the United States now lags far behind many other countries in developing new methods of birth control, a lag resulting in many unwanted pregnancies and unnecessary abortions.

The New York Times and Washington Post put the story on Page 1. The Los Angeles Times put it on Page 24.

Times editors deny that gender bias or insensitivity influenced the placement of this (or any) story. Norman C. Miller, national editor of The Times, says the story wound up on Page 24, in part because there were "other strong stories that day" and in part because international news generally precedes national news on the inside pages of the paper. (After Page 5, where a story appears in the main news section of The Times generally has less to do with the story's importance than with the configuration of available space on the pages.)

But international news also precedes national news in the New York Times, and both the New York Times and the Washington Post had "other strong stories that day," and both still put the contraception story on Page 1.

The basic problems of abortion coverage in the media go beyond one issue or one story or one newspaper, though. Despite recent improvements and a conscientious effort by most journalists, critics say coverage often remains biased and superficial, as previous stories in this series have documented.

Television "rakes off the emotional energy" on abortion, providing "the passions . . . lots of demonstrations, people yelling, very colorful sound bites," and the print media provide the political and legal arguments on both sides, says Robert Lichter, co-director of the Center for Media and Public Affairs in Washington, but "no one gives your context."

Critics often say much the same thing about media coverage of other important issues, just as they often accuse the media of bias on other issues. But abortion is an especially sensitive, complex and volatile issue, and just as some journalists do seem to have more trouble keeping their personal feelings from unfairly influencing their stories on abortion than on other issues, so coverage of abortion does seem more superficial and lacking in perspective than does coverage of other issues.

Perhaps that's inevitable.

"At base, abortion isn't about politics, and it isn't about the law," says reporter Eileen McNamara of the Boston Globe. "It's about philososphy and it's about morality and it's about your world view, and newspapers are ill-equipped to deal with those issues."●

COMMENDING THE ANTI-DRUG EFFORT IN BOLIVIA

● Mr. HATCH. Mr. President, members of the Bolivian National Police Rural Mobile Patrols Units [UMOPAR] and prosecutors of the Ministry of Interior conducted a remarkably successful series of raids and arrests in several areas of Bolivia from September 24 to 28, 1990. For the first time in Bolivia, and perhaps in the region, a police operation disabled an entire cocaine processing and trafficking organization, that of Carmelo "Meco" Dominguez, one of Bolivia's most significant cocaine traffickers. During the operation, the police and prosecutors arrested Dominguez and his organization's senior leaders and also seized the group's documents and assets. This police effort dealt a severe blow to narcotics manufacturing and trafficking in Bolivia, which has become the world's second-largest producer of refined cocaine. It also brought to light the extent to which Bolivians themselves are now involved in this illicit business.

Assisting the Bolivian police during this operation were agents of the United States Drug Enforcement Administration [DEA] who have been engaged in joint antinarcotic operations with the Government of Bolivia. While participating in this latest operation, three members of the UMOPAR and DEA came under intense fire by a large number of drug traffickers during a stake-out at a landing strip in the Chapare. During the exchange, DEA Special Agent Hawthorne Hope was shot in the arm and leg. Despite these serious wounds, he continued to participate in the action. He remained with his Bolivian and American associates until the drug traffickers were forced to withdraw and until his colleagues were out of danger. Special Agent Hope showed great courage and leadership during this encounter and his actions are a testimony to the brave men and women in our law enforcement agencies who risk their lives on a daily basis to keep our schools, streets, and communities free from drugs.

The successful operation against the Dominguez organization demonstrates the close and effective collaboration between the Bolivian and American governments in their common fight against the production and export of cocaine from Bolivia. More important, this action shows the resolve of the Bolivian Government and her people to join in the global struggle against illegal narcotics. As Congress considers how the United States may further aid Bolivia in our common effort against the production and trafficking of illegal narcotics, it should keep this commitment in mind. We must also remember to commend the efforts of the thousands of courageous individuals like Special Agent Hope who are in the front lines in this important struggle.●

VISITING NURSES

● Mr. SIMON. Mr. President, today the Judiciary Committee unanimously reports to the full Senate S. 682, a bill to protect the use of the names Visiting Nurse Association and Visiting Nurse Service.

Visiting Nurse Associations [VNA's] and Visiting Nurse Services [VNS's] were established more than 100 years ago as community-based, volunteer-supported, nonprofit organizations that provided quality home health care to everyone, regardless of ability to pay. Over the years, consumers have learned to equate the names Visiting Nurse Association and Visiting Nurse Service with reliable, dependable, and, when necessary, charitable home health care.

With the advent of Medicare in 1965, VNA's and VNS's expanded their home care service to the elderly. Only community-based, independent nonprofit organizations like VAN's and VNS's were eligible for reimbursement. VAN's and VNS's were the only organizations providing such care, and therefore saw no need to protect their names. But when Congress expanded the criteria for Medicare reimbursement under the Budget Reconciliation Act of 1981, hundreds of private, for profit home health care agencies sprang up, many taking the name Visiting Nurse Association or Visiting Nurse Service, and thus capitalizing on the accumulated good will built up by traditional VAN's and VNS's.

Not only have patients been confused and misled, but doctors and hospitals also have prescribed care by a private company calling itself a Visiting Nurse Service, not discovering until a patient complains that the company is not a traditional VNA or VNS. These private companies generally end their services when a patient's Medicare coverage terminates and he or she cannot afford to pay out of pocket. Furthermore, traditional VAN's and VNS's provide an emphasis on long-term concerns in the patient's home environment that other agencies may not provide.

Not only are the reputations of traditional VAN's and VNS's damaged when patients and physicians perceive that VNA's are not providing the traditional high standard of care, but because the private companies often skim off only paying and reimbursable patients, the traditional VAN's and VNS's who often end up taking over the care of indigent patients are left with fewer resources to provide that care.

This legislation will protect the use of the names, Visiting Nurse Association and Visiting Nurse Service. Existing companies using these names will be allowed to continue to use them. The term, "home health agency" is not intended to coincide with the statutory definition under Medicare. Furthermore, the reference to the Visiting Nurse Associations of America, which is the national umbrella organization for traditional VAN's and VNS's, is not intended to preclude the development of state or regional VNA umbrella organizations.

I hope this legislation passes quickly to protect the good name of traditional VNA's.●

HOOSIER HEROES: CORYDON RECALLS HISTORIAN ARVILLE FUNK

● Mr. COATS. Mr. President, last week Arville Funk, the distinguished lawyer, historian, author, and Civil War lecturer died at age 60. Art left behind many fond memories among his friends and neighbors in his hometown of Corydon, IN.

Ron Simpson, Harrison County's prosecuting attorney, praised his law partner of 10 years as "a rare individual who touched and enriched many lives," and was widely respected for his high personal standards and professional ethics.

Lt. Gov. Frank O'Bannon echoed these sentiments. "In the culture of the community of Harrison County and Corydon," he was quoted as saying, "Art was a stable leader and adviser in many different activities and organizations. His sense of community was directed toward all of us who live and work there. He was trusted and well-liked in his contacts with people from all walks of life. His death is a great loss."

Art Funk earned his bachelor's degree at Indiana Central College in Indianapolis in 1955 and his master's degree in administration from Butler University in 1959. He began his professional career as a junior high social studies teacher in Southport, on the south side of Indianapolis. Soon he was named department chairman. At night he also studied law at the Indiana University School of Law. He was admitted to the Indiana bar in 1963. Two years later he and O'Bannon opened their law partnership in Corydon. During the 1970's Funk was Corydon's active town board attorney.

Art was a Civil War and Indiana history buff. Over the years he wrote and published 14 books dealing with Harrison County, Indiana, and Civil War history. He even formed his own company, called ALFCO, for the purpose of publishing historical tracts. In 1976 he wrote a history column for the Louisville Times, known as "The Hoosier Scrapbook." Funk also taught an extension course in Indiana history for Purdue University and often held his classes in the first State capitol.

Not surprisingly, Funk continued to be active in and gave generously of his time to events dealing with local history. While he taught school in Indianapolis, Funk helped organize the Indiana sesquicentennial celebration in Harrison County. For 10 years every Fourth of July, Funk read the Declaration of Independence at the Old Settlers Day celebration on the Corydon square. He organized the 125th anniversary reenactment of the Civil War Battle of Corydon as part of America's bicentennial celebration in 1988. He also was chairman of the Battle of Corydon Memorial Park Committee.

Funk was the oldest member of U.S. Senator LUGAR's Merit Selection Committee for the Military Academies of the United States. Himself a U.S. Army Reserve captain and a Korean war veteran, Funk visited South Korea recently on a goodwill tour arranged by that government for veterans of the Korean war.

Funk was active in many community organizations, including the bar association, the Harrison County Historical Society, the Civil War Round Table, the Blue River Developmental Services board, the Corydon Public Library, and the Corydon Rotary Club, of which he was past president.

Through the years Art Funk was much admired for his work in the Old Capitol United Methodist Church in Corydon. In addition to being a Sunday school teacher, he held many church offices. He chaired the administrative board and was active in the church's annual fund-raising drive.

At his funeral Rev. Michael Beck said that Funk would "probably be embarrassed at the things that have been said in his behalf * * *, but it is not stretching the truth to say that Art Funk was truly a great man." He will be missed by his family and friends and the residents of Corydon. His historical anecdotes and writings will be missed by many Hoosiers and non-Hoosiers alike.●

MEASURE PLACED ON CALENDAR—HOUSE CONCURRENT RESOLUTION 172

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Concurrent Resolution 172, and that the measure be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROBERT McCLORY POST OFFICE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar item 841, S. 3108, designating the Robert McClory Post Office in Illinois.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3108) to designate the facility of the United States Postal Service located at 100 South John F. Kennedy Drive, Carpentersville, Illinois, as the "Robert McClory Post Office".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2944

Mr. MITCHELL. On behalf of Senators DECONCINI and LEAHY, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. DECONCINI (for himself and Mr. LEAHY) proposes an amendment numbered 2944.

Mr. MITCHELL. Mr. President, I ask that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. . Section 3626 of title 39, United States Code, as amended by the general provisions of title II, is further amended by adding at the end the following:

"(k) In the administration of this section, the term 'advertising', as used in former section 4358(j)(2) of this title, does not include the publisher's own advertising in a publication published by the official highway or development agency of a State.".

Mr. DECONCINI. Mr. President, I rise today to offer an amendment on behalf of myself and Mr. LEAHY to restore second class mailing privileges to State-sponsored publications such as Arizona Highways, Vermont Highways, Oklahoma Today, and Texas Highways. These publications have been authorized to mail under the special nonprofit second-class mailing rates under section 424.14B of the Domestic Mail Manual which allows one publication of the official highway or development agency of the State to be eligible for preferred mailer status if the State publication contains no advertising. Recently, the postal rates and classification center notified each of the State-sponsored magazines that they no longer qualify under this statute, because their publications contain advertising; albeit, nonpaid advertising. As a result, the Postal Service has ordered these States to discontinue advertising or lose their second-class mailing status.

Mr. President, the advertising included in these State publications is not advertising for which a payment is received—the advertising used generates no profit for the magazines from outside for profit interests. Instead, it is in-house advertising which merely promotes house products, such as books and calendars, produced by the publication and whose proceeds go toward supporting the costs of publishing the magazines and covering the actual postal costs. Without this advertising, these State publications cannot afford to continue their services. Mr. President, I do not believe it was the intent of the original sponsors of the legislation which created the special class of preferred mail for the State highway or development agencies to prohibit advertising which promotes the sale of their own in-house products. The advertisement of these in-house products are clearly consistent with the purpose for which the special mail status was granted.

My amendment would amend section 3626 of title 39, United States

Code, modifying section 424.14B of the Domestic Mail Manual to read: "(k) in the administration of this section, the term 'advertising', as used in former section 4358(j)(2) of this title, does not include the publisher's own advertising in a publication published by the official highway or development agency of a State," so that these publications may advertise products for sale by the publishers. It will permit State publications like, Arizona Highways, to use the house advertising necessary to continue publishing its magazine, while still ensuring that the nonprofit second-class rates are not abused by advertisers seeking to turn a profit.

Mr. President, Arizona Highways has been the official State highway publication in Arizona for 65 years. It has been authorized under section 424.14B at nonprofit second-class rates since 1963. Arizona Highways has represented my home State with distinction and honor for over six decades. This highly regarded publication consistently contains articles and photographs ranging from insights into native American culture and the history of Arizona to information about the States modern cities and universities. It is both enjoyable and educational to Arizonans and non-Arizonans alike. This publication and other such State-sponsored publications, provide a great service to their States and it would be very harmful to their continuation if the present law, as interpreted by the U.S. Postal Service, was to be enforced.

Mr. President, I believe the intent of section 424.14B was to prohibit magazines authorized to mail under the second-class rates from carrying any paid advertising. At the time this section was originally added to the domestic mail manual, these State-sponsored publications did not produce any of their own products, therefore, all advertising was paid and there was no need to make the distinction between paid and in-house advertising. Allowing State-sponsored publications to advertise their own products does not violate the intent of 424.14B. In fiscal year 1989, house advertised products accounted for $3.5 million of the overall $9 million in revenue generated to the State's from these publications. Because of this product revenue, Arizona Highways does not have to depend on money from the State, collected from taxes, to fund its publication and operation.

Mr. President, this is not an unreasonable request. The Domestic Mail Manual already contains a provision, section 423.211, allowing certain types of publications to use house advertising. Section 432.211 states that "a publication which meets the basic requirements of 422 and contains only the publisher's own advertising and not, under any conditions, the adverstising of other persons or organizations is eligible for second-class mail privileges." The modification I am proposing would permit State-sponsored magazines to remain self-sustaining while ensuring that the advertising privilege is not abused. Additionally, none of the other three categories in section 424.14 covering requirements for specific types of publications eligible for second-class mailing privileges limit advertising in any way. Mr. President, it only seems to make sense for these publications to share that same eligibility, as well. The Postal Service has worked with me to develop this legislation to amend the United States Code and I urge its adoption.

Mr. President, I want to take this opportunity to extend my thanks and appreciation to the distinguished Senator from Arkansas and chairman of the Governmental Affairs Subcommittee on Civil Service, Post Office and Federal Services for his support of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2944) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT

(Purpose: To permit States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer)

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] (for Mr. DOLE), (for himself, Mr. BURNS, Mr. GRASSLEY, Mr. SYMMS, Mr. BURDICK, Mr. NICKLES, Mr. BOREN, Mr. PRESSLER, Mr. WALLOP, Mr. BAUCUS, Mr. COATS, Mr. FORD, Mr. BOND, Mr. HELMS, Mr. WIRTH, Mr. KASTEN, Mr. GRAMM, Mr. SIMPSON, Mr. FOWLER, and Mr. LUGAR) proposes an amendment numbered 2945.

Mr. GRASSLEY. Mr. President, I ask that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

That, in addition to the authority which the Department of Transportation granted to States to waive application of the Commercial Motor Vehicle Safety Act of '1986 with respect to farm vehicles contained in volume 53, pages 37313-37316, of the Federal Register (September 26, 1988), such States may extend such waivers to vehicles used to transport farm suppliers from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2945) was agreed to.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3108

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 100 South John F. Kennedy Drive, Carpentersville, Illinois, is designated as the "Robert McClory Post Office".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the facility referred to in section 1 is deemed to be a reference to the "Robert McClory Post Office".

SEC. 3. TERMS.

Section 3626 of title 39, United States Code, as amended by the general provisions of title II, is further amended by adding at the end of the following:

"(k) In the administration of this section, the term 'advertising', is used in former section 4358(j)(2) of this title, does not include the publisher's own advertising in a publication published by the official highway or development agency of a State."

SEC. 4. COMMERCIAL MOTOR VEHICLE SAFETY ACT WAIVER.

In addition to the authority which the Department of Transportation granted to States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to farm vehicles contained in volume 53, pages 37313-37316, of the Federal Register (September 26, 1988), such States may extend such waivers to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT—SENATE RESOLUTION 334

Mr. MITCHELL. Mr. President, I ask unanimous consent that at 2 p.m. on Wednesday, October 10, the Senate proceed to the immediate consideration of Calendar No. 935, Senate Resolution 334, regarding the Balkan States; that the resolution be agreed to; that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I further ask unanimous consent that following the action on Senate Resolution 334, the Senate proceed to consideration of Executive Calendar 23, under the following conditions:

UNANIMOUS-CONSENT AGREEMENT ON GERMAN UNIFICATION TREATY

Mr. MITCHELL. As if in executive session, I ask unanimous consent that when the Senate proceeds to consideration of Calendar 23, the Treaty on Final Settlement With Respect to Germany and a Related Agreed Minute, it be considered as having been advanced through the various parliamentary stages up to and including the presentation of the resolution of ratification.

Provided further that the resolution be considered under a time limitation of 2 hours of debate to be equally divided and controlled by the chairman and ranking member of the Committee on Foreign Relations, or their designees; that no amendments, reservations, understandings, declarations or conditions be in order, that no motions to recommit be in order, that following the using or yielding back of time, the Senate proceed to vote on the resolution of ratification; that the President be notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that it be in order at this time to ask for the yeas and nays on the resolution of ratification.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays on the resolution of ratification.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VETERANS COMPREHENSIVE COLA BILL

Mr. MITCHELL. Mr. President, an important legislative measure now on the calendar is Calendar item No. 702, S. 2100, the veterans comprehensive COLA bill. This is a matter that is very important to all members of our society and particularly to veterans. It is something that I hope very much the Senate will be able to consider and dispose of prior to the end of this legislative session.

Accordingly, I announce that as soon as possible, and hopefully sometime tomorrow, I intend to seek unanimous consent to proceed to that measure. If any Senator has objection to so proceeding, that Senator should be present tomorrow. I will indicate the appropriate time during the day so that any Senator who has an interest can be aware of that and be present at that time. But I am going to try to get to that bill tomorrow.

If there is objection made to the unanimous-consent request, then I hope as soon as possible to move to proceed to the bill, which I understand is a debatable motion, and then Senators can state their objection to proceeding if they so desire. So I take no action on it at this time, but merely provide fair notice to all concerned that I believe that to be an important bill, something that I hope the Senate will be able to consider and will attempt to do so sometime during the day tomorrow.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—HOUSE CONCURRENT RESOLUTION 310

Mr. MITCHELL. Mr. President, I send to the desk the estimated allocations—based on the budget in the conference report on House Concurrent Resolution 310—of the appropriate levels of total budget outlays, total new budget authority, and new credit authority among the committees of the Senate, pursuant to section 302(a)(2) of the Congressional Budget Act, and ask unanimous consent that they be considered as part of the joint statement of managers to accompany the concurrent resolution on the budget, House Concurrent Resolution 310.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10:30 A.M. TOMORROW

ORDER FOR MORNING BUSINESS

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate——

Mr. GRASSELY. There is no further business on this side.

Mr. MITCHELL. I ask unanimous consent that the Senate stand in recess until 10:30 a.m. tomorrow, Wednesday, October 10, and that following the time for the two leaders there be a period for morning business not to extend beyond 11 a.m. with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, under the previous order, the Senate, at 6:34 p.m., recessed until Wednesday, October 10, 1990, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 9, 1990:

DEPARTMENT OF STATE

JOSEPH R. BIDEN, OF DELAWARE, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FORTY-FIFTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

NATIONAL SCIENCE FOUNDATION

WALTER E. MASSEY, OF ILLINOIS, TO BE DIRECTOR OF THE NATIONAL SCIENCE FOUNDATION FOR A TERM OF 6 YEARS, VICE ERICH BLOCH, TERM EXPIRED.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. GEORGE A. JOULWAN, 093-33-3090, U.S. ARMY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GENERAL MAXWELL R. THURMAN, 237-43-0668, U.S. ARMY.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be admiral

ADM. HUNTINGTON HARDISTY, 243-33-5034, U.S. NAVY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be vice admiral

VICE ADM. DANIEL L. COOPER, 285-30-0826, U.S. NAVY.

SENATE—*Wednesday, October 10, 1990*

(Legislative day of Tuesday, October 2, 1990)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Let us have a moment of silence for the mother of Senator MIKULSKI, ill in the hospital.

Search me, O God, and know my heart: try me, and know my thoughts: And see if there be any wicked way in me, and lead me in the way everlasting.—Psalm 139:23, 24.

Almighty God, full of mercy and love, may this prayer of the psalmist be in the hearts of each of us as the Senators seek to resolve the budget crisis under the pressure of time and election. Help us to see ourselves as You see us, Lord. Make the Senators aware of their accountability to You as well as to the people. Help them listen to their conscience as well as to their constituents. Help them find the balance between representing the people and leading them.

Omnipresent God, You are universally present, everywhere at once. But because You are invisible, it is easy to deny or ignore Your presence. Somehow, mighty God, make Your presence, Your power, Your wisdom a reality in these troublesome days. Help us to realize You are here—that You are available—that You listen to us and want to guide us inerrantly.

In His name who promised never to leave us or forsake us. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER**. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, October 10, 1990.*
>
> *To the Senate:*
>
> Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii, to perform the duties of the Chair.
>
> ROBERT C. BYRD,
> *President pro tempore.*

Mr. AKAKA thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The **ACTING PRESIDENT** pro tempore. Under the standing order the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, today following the time for the two leaders, there will be a period for morning business not to extend beyond 11 a.m. At 11 this morning the Senate will resume consideration of S. 3167, the Social Security pay-as-you-go proposal with 1 hour debate on the Harkin amendment, No. 2942, with a vote to occur on that amendment at noon today.

The Senate will go into executive session at 2 p.m. to consider a treaty with respect to Germany. There will be 2 hours for debate on the treaty, with a vote on ratification to occur when all time is used or yielded back.

Yesterday I announced my intention to seek consent today to proceed to S. 2100, the veterans comprehensive COLA bill. That remains my intention. I hope during the day, after giving notice to all of my colleagues, to ask unanimous consent to proceed to the bill. Any Senator who intends to object should be on the floor to do so.

I now ask unanimous consent during the period of morning business for Senator LIEBERMAN be recognized for up to 10 minutes and Senator MCCAIN be recognized for up to 15 minutes.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I suggest the absence of a quorum.

The **ACTING PRESIDENT** pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE REPUBLICAN LEADER

The **ACTING PRESIDENT** pro tempore. Under the standing order the Republican leader is recognized.

BURSTING THE BUBBLE

Mr. DOLE. Mr. President, I know this is probably an impossible task, but I have never seen so much misinformation about the so-called bubble. Then to see the glaring headline—I thought maybe war had been declared this morning, but it was just some misstatement of fact in the Washington Post; not without precedent, I might add.

I want to speak about the bubble. There is a perception around here, if we do not sort of pop the bubble, we are protecting the rich. We have almost come full circle now, where some Democrats are trying to force us to take capital gains, in an effort to get more taxes by raising the tax rates so there will be enough money to take care of a lot of problems that some people have with the so-called summit package. So I will just take 1 minute.

I hope some of the people who report on the bubble would read what it is. I have a letter of May 15, 1990, from my good friend and colleague, Senator BRADLEY. It was written to all my colleagues; written to all of us.

> Now that President Bush seems to be putting taxes back on the table, there's likely to be renewed interest in eliminating the so-called "bubble." This is the 33% tax rate applied to single filers with taxable incomes between $44,900 and $93,130, and to joint returns with incomes between $74,850 and $155,320. This 33% rate is referred to as the "bubble" because it applies to a limited income range, after which the 28% rate is applied.

Next paragraph:

> Unfortunately, many people believe—incorrectly—

And certainly those who have been writing stories for the Washington Post and other papers certainly believe incorrectly—

> that taxpayers subject to the 33 percent rate are being treated unfairly compared to higher income taxpayers whose top marginal rate is 28 percent. In fact, as the attached articles explain, the "bubble" does not reward the rich.

This is not BOB DOLE speaking or President Bush, it is Senator BILL BRADLEY, our colleague. It is the Bradley bubble. He says:

> On the contrary, it enhances the tax system's progressivity.

That is what we have been quarreling about in all these meetings the past several weeks and several months.

> Because this issue is likely to be at the forefront of the debate over tax rates, I would encourage you to read Norman Ornstein's and Byrle Abbin's clear explanations of a complex and contentious subject.
>
> Sincerely,
>
> BILL BRADLEY.

I juat want to take a couple of sentences out of the article that appeared in the Wall Street Journal of that same week, May 15, by Byrle M. Abbin, managing director of Arthur Andersen's Office of Federal Tax Services in Washington, DC. I assume, being an expert on taxes, he understands the bubble as well as those who are writing about it, who probably are not tax experts, but are experts trying to inflame somebody and trying to distort the truth these days.

This is the third paragraph talking about the bubble:

> Ironically, the bubble exists because Congress wanted to introduce more progressivity into the 1986 tax reform. That reform set two marginal tax rates, 15 percent and 28 percent. In order not to treat upper income tax pairs too generously, however, Congress decided to deny taxpayers with the highest incomes.

With the highest incomes—

> the benefit of the 15 percent rate on their first increments of income.
>
> So, at certain levels of taxable income—between $44,900 and $93,130 for single filers and between $74,850 and $155,320 for joint filers—the benefits of the 15 percent rate are phased out. This is accomplished by applying a 5 percent surcharge on this band of income. A taxpayer whose income falls within the band must pay back some, but not all the benefit received from the 15 percent rate. A taxpayer whose taxable income is above this income band gets no benefit from the lower rate.
>
> In addition, that taxpayer's personal exemptions are also taken back by extending the surcharge to income above the band. Once the tax benefit ($560 per exemption) has been fully negated, the surcharge no longer exists and the 28 percent tax rate resumes. But all this refers only to marginal tax rates—the rate on each additional dollar. Nobody's average tax rate ever exceeds 28 cents on every taxable dollar of income, before personal exemptions.

Why does not somebody write the truth?

There is a chart in this which will be printed in the RECORD.

> So, three marginal rates exist, but as the chart shows, no taxpayer ever pays an effective or average rate of tax of more than 28 percent. Unfortunately, many people find it hard to grasp this concept:

And this is the classic quote, and it is precisely what is happening because of media misinformation and disinformation:

> The bubble may be the first major tax provision ever repealed simply because it was hard to explain why and how it works.

Because nobody has tried to explain how it works. All we hear is this argument about the Republicans are for the rich and the Democrats are for the poor and President Bush considers taxing the rich. I never saw a more unfair headline in my life. And the story was not much better. Why do they not hire some tax expert at the Washington Post just to write one story, or all the other papers that are handing out misinformation?

> Clearly, as the chart again shows, it is incorrect to suggest that those upper middle-income taxpayers subject to a 33 percent marginal tax rate on a portion of their income are being treated unfairly compared to higher-income taxpayers who pay a flat rate of 28 percent on all their income. The higher the income level the more "pain" there is from the additional tax.

Do not worry about explaining that in the newspaper. Just write a story, the Democrats want progressivity. That is what this is all about. We want progressivity. We want fairness in the Tax Code. That is what this is all about.

How can we get together on a budget summit with all this misinformation and disinformation on the nightly news, on radio, television, newspapers, day after day after day, and all it is, is all the Republicans are for the rich and the Democrats are for everybody else. That is not the fact.

This little article is "Don't Pop the Bubble." I did not write it.

This is another one by Norm Ornstein, and I will just refer to one sentence. I did write an article along with Senator PACKWOOD and Senator DOMENICI called "A Bubble of Hot Air." But all we are getting is the hot air. We are not getting any explanation.

The people who listen to the debates or watch the debates on television say, oh, it is pretty hard to understand, but that is why we have tax experts. But they are not writing the stories and they are not on the nightly news.

Norm Ornstein is a pretty well respected resident scholar at the American Enterprise Institute. I do not think he is particularly partisan. I do not think he is partisan at all. Here is what he says. I will read a portion of it:

> To keep the fair share of the tax burden on the highest-income groups in America they eliminated or reduced many of the loopholes the wealthy had been using in the old system. They went further, however. They moved to eliminate from wealthier taxpayers both the benefit of the personal exemption and the advantage of the 15 percent rate for the first $32,400 in income.

We went further in 1986, and that tax bill passed this body by, I do not know, 10 to 1, a big, big margin. It was the same in the House. Democrats controlled the House. At that time, we controlled the Senate. It was bipartisan. Everybody lauded the great progressive tax system.

Mr. Ornstein goes on to say:

> They could have done so without any rigmarole in rates—by having complicated tables to phrase out both the personal exemption and the lower rate, adding to the headaches of taxpayers and the bills of tax accountants. In the spirit of simplification, the reformers, perhaps naively, chose the bubble. The end result of the bubble is that the richest taxpayers have no personal exemptions and pay a flat 28 percent on all their taxable income, with no 15 percent rate at all. Although taxpayers with incomes between $75,000 and $200,000 do pay a higher marginal rate, they also retain some of the benefits of the personal exemption and the 15 percent rate, and thus have lower average tax rates than the rich. In other words, the bubble actually adds to the progressivity of the tax system.

Why all the disinformation? Why all the distortion? I must say as having been chairman of the Finance Committee and one who tried to be fair and tried to make certain we treated people the same—it is a little frightening, for example, to read what some in the press are advocating. They are advocating bursting the bubble. They do not know anything about it, but they are advocating it, and it is being advocated on the nightly news; it has been advocated in the newspapers, and advocated on the radio by people who do not know anything about it. That is why we are having trouble getting to some agreement.

Some of my colleagues on the other side want to force us to take capital gains so we can raise the rates and break the bubble. There is nothing wrong with the bubble if you understand it, unless you are against progressivity.

So I wish we would stop this rich-poor argument. I ask unanimous consent to print in the RECORD these two articles. I hope the press will read them.

Also I ask unanimous consent to print in the RECORD the letter from Senator BRADLEY and the op-ed piece in the Washington Post by the distinguished Senator from Oregon [Mr. PACKWOOD], the distinguished Senator from New Mexico [Mr. DOMENICI] and myself. We wrote it on taxpayers' incomes and we will find out nobody pays more than the average rate of 28 percent.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 29, 1990]

OVERSIZED TAXES FOR THE MIDDLE CLASS?

(By Norman Ornstein)

One of Washington's annual springtime rites is the required Congressional budget resolution. This year, the debate will encompass many things, but a centerpiece will be the proposal by many leading figures in Congress to raise tax rates for the rich, starting with the infamous "bubble." The bubble is, of course, the anomaly in the income tax code that has marginal tax rates rising to 33 percent for taxpayers at roughly the $75,000 level, then dropping back down to 28 percent for those with incomes over roughly $200,000.

On the surface, this seems like a perverse artifact of the Tax Reform Act of 1986, en-

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

acted simply to punish upper-middle-income taxpayers and reward their wealthier counterparts. Those calling for the bubble's abolishment say we should simply extend the 33 percent marginal rate to the upper income levels. But the fact is that the bubble was put in place for a very good reason—it does not reward the rich.

When reformers created the new, simplified system, their goal was to move from 14 separate marginal tax rates to two—15 percent for lower income, and 28 percent for upper income—while moving poor Americans off the tax rolls entirely. To keep the fair share of the tax burden on the highest-income groups in America, they eliminated or reduced many of the loopholes the wealthy had been using in the old system. They went further, however. They moved to eliminate from weathier taxpayers both the benefit of the personal exemption and the advantages of the 15 percent rate for the first $32,400 in income.

They could have done so without any rigmarole in rates—by having complicated tables to phase out both the personal exemption and the lower rate, adding to the headaches of taxpayers and the bills of tax accountants. In the spirit of simplification, the reformers, perhaps naively, chose the bubble. The end result of the bubble is that the richest taxpayers have no personal exemptions and pay a flat 28 percent on all their taxable income, with no 15 percent rate at all. Although taxpayers with incomes between $75,000 and $200,000 do pay a higher marginal tax rate, they also retain some of the benefits of the personal exemption and the 15 percent rate, and thus have lower average tax rates than the rich. In other words, the bubble actually adds to the progressiveness of the tax system.

Not realizing the widespread confusion that would result when the discussion turned to average tax rates versus marginal tax rates, reformers left themselves open to the attacks that have become so common. But the bubble does raise the tax bills of wealthy taxpayers and over time will add even more to their relative tax burden.

Congress and the President may well make the public policy decision to raise the taxes of the richest Americans. But if they decide to do so, it should be with a full understanding of why tax reform tried to create the most simplified rate structure it could, and why and how the so-called bubble fit in with its philosophy and spirit. That, so far, has not been a part of the debate.

[From the Wall Street Journal, May 15, 1990]

Don't Pop the Bubble

(By Byrle M. Abbin)

As White House officials and House and Senate negotiators begin their deficit cutting budget "summit" today, the federal tax system seems to be one of the targets in their cross-hairs. And at the center of the bull's-eye is the "bubble"—the 33% marginal tax rate on some middle-income taxpayers.

Democratic leaders are entering the summit claiming that they are determined to pop the bubble in the name of fairness and simplicity by extending a 33% tax rate that allegedly falls on middle-income taxpayers to "the rich." But intentional or not, this is a delusion. The Democratic leadership is using public confusion over the difference between average and marginal tax rates as a reason to impose a tax increase on the American economy and to undo the 1986 tax reform.

TWO RATES

Ironically, the bubble exists because Congress wanted to introduce more progressivity into the 1986 tax reform. That reform set two marginal tax rates, 15% and 28%. In order not to treat upper income taxpayers too generously, however, Congress decided to deny taxpayers with the highest incomes the benefit of the 15% rate on their first increments of income.

So, at certain levels of taxable income—between $44,900 and $93,130 for single filers and between $74,850 and $155,320 for joint filers—the benefits of the 15% rate are phased out. This is accomplished by applying a 5% surcharge to this band of income. A taxpayer whose income level falls within the band must pay back some, but not all the benefit received from the 15% rate. A taxpayer whose taxable income is above this income band gets no benefit from the lower rate.

In addition, that taxpayer's personal exemptions are also taken back by extending the surcharge to income above the band. Once the tax benefit ($550 per exemption) has been fully negated, the surcharge no longer exists and the 28% tax rate resumes. But all of this refers only to *marginal* tax rates—the rate on each additional dollar. Nobody's *average* tax rate ever exceeds 28 cents on every taxable dollar of income, before personal exemptions.

So, three marginal rates exist, but, as the chart shows, no taxpayer ever pays an effective or average rate of tax of more than 28%. Unfortunately, many people find it hard to grasp this concept. The bubble may be the first major tax provision ever repeated simply because it was hard to explain why and how it works.

Clearly, as the chart again shows, it is incorrect to suggest that those upper middle-income taxpayers subject to a 33% marginal tax rate on a portion of their income are being treated unfairly compared to higher-income taxpayers who pay a flat rate of 28% on all their income. The higher the income level the more "pain" there is from the additional tax.

There is no lower-bracket loophole for the "rich," as some have maintained; the "rich" in fact pay a higher effective tax than do the middle-income taxpayers subject to the bubble. In fact, the bubble actually augments the progressivity of the tax code.

The hue and cry over the bubble has failed, curiously, to direct attention to the rate structure that its detractors intend to replace it with. As one listens to Democractic leaders bemoan the decline of progressivity in the federal tax system during the 1980s, it becomes quite apparent that their true objective is not simply to eliminate the confusion created by the phaseouts and surtaxes of the 1986 tax reform.

Instead, it seems that the bubble poppers want to make 33% the effective rate for taxpayers with the highest incomes. If so, the bubble won't go away: It will just float upward to apply at a higher level of income. Applying the third rate of 3% to the current rate structure and retailing to current phaseouts would mean that taxpayers over a certain level of income would find every dollar, not just the marginal dollars, of their taxable income subject to a 33% tax rate. Meanwhile with the 5% surtax still in place, upper middle income taxpayers would find themselves facing yet another bubble—but this time of 38%, not 33%.

Efforts to eliminate the bubble have been brewing for some time, and though defeated, they remain on the tax legislative agenda. The idea lingers on partly because of widespread ignorance of the probable impact of the bubble's elimination. Any plan to pop the bubble would probably impose sizeable increases in tax rates on many taxpayers. One likely result of those higher rates would be increased political pressure to reverse the basic tradeoff of lower rates for a broader tax base that formed the foundation of the Tax Reform Act of 1986.

The plan the House of Representatives considered last September would create such pressures. The plan would have created three marginal rates, of 15%, 25% and 33%. It was defeated then, but some Democrats would like the White House to consider it again now. The effect of the adoption of this plan would be to increase the average tax rate above the 28% level, so that it would approach, though never actually hit, 33% for taxpayers with the highest incomes.

NOT A TAX

For a family of four, the tax increase would kick in at about $200,000 of taxable income. For those taxpayers, this simple "correction"—"in correcting that, we are not creating a new tax" said Speaker Thomas Foley in September—would be traumatic. The Joint Tax Committee staff estimates the proceeds of the "correction" at $4.2 billion in fiscal year 1991 and $44.3 billion over the next five years. That's no correction—that's a tax increase.

Fairness and clarity, if they are indeed the purposes of the bubble-poppers, don't require more revenue. Bubble popping does not have to be code for soaking the rich. Instead, current law could be replaced with three marginal rates, but the income levels at which the 28% and 33% marginal rates apply would be adjusted so that no more and no less revenue would be raised than is raised under current law. The fact that this option is not being taken seriously is a sure sign that the bubble poppers are interested in something other than fixing the technical quirks of the tax system.——

A "Bubble" of Hot Air

(By Bob Dole, Bob Packwood, and Pete Domenici)

In 1986, Congress completely overhauled our income tax system. Congress promised to lower tax rates and keep them there. Now that budget negotiations are well underway, there are some who would like to go back on that promise. They want to increase income tax rates while hiding behind what's become known as the "tax bubble."

At the heart of the 1986 tax reform is a vastly simplified tax rate structure. Our tax code has only two income tax rates now: 15 percent and 28 percent. For example, in 1990, a married couple will pay 15 percent tax on their first $32,450 of taxable income and 28 percent tax on everything more than that amount.

The tax bubble refers to a 5 percent add-on in the tax code that only applies at certain higher income levels. In 1990, a married couple with two children will pay the 5 percent add-on for income more than $78,400 but less than $208,690. Because this adds 5 percent to the 28 percent tax rate, it creates the perception of a 33 percent tax rate. Since this 33 percent perceived rate begins and ends at specified income levels, it is referred to as a 33 percent tax bubble.

The 5 percent add-on was designed in 1988 for two important purposes. First, it gradually takes away the benefit of the 15 percent tax rate. This causes upper-income individuals to pay tax at a flat 28 percent rate on all their income, rather than paying tax on some of their income at the 15 percent rate.

Second, the 15 percent add-on gradually takes away the $2,050 deduction for personal exemptions and dependents. Personal and dependency deductions reduce the taxes of families. The idea is that a family of four with $30,000 of income cannot afford to pay the same tax as a single person with $30,000 of income. However, higher-income individuals do not need this kind of a tax break, so personal and dependency deductions are taken away by the 5 percent add-on.

The bottom line is that the 5 percent add-on makes the federal income tax system more progressive because it phases out the benefit of the 15 percent rate bracket and personal and dependency deductions at upper-income levels. Once the phaseout of these benefits is accomplished, the 5 percent add-on is no longer needed, so it ends.

There is a common misconception that the 5 percent add-on is unfair because it taxes upper-middle income individuals at 33 percent and the wealthy only pay a 28 percent rate. Although the 5 percent add-on creates the perception of a 33 percent tax rate, it will never cause an individual's overall (average) tax rate to exceed 28 percent. In fact, the average tax of someone subject to the 5 percent add-on will never be as high as the average rate of wealthier individuals.

Let's look at some examples. Bill and Sally are married with taxable income of $50,000. Their federal income tax would be roughly $10,000 in 1990—15 percent on the first $32,450 and 28 percent on the balance. Their average tax rate is about 20 percent ($10,000 divided by $50,000).

Another married couple, Rick and Kim, have taxable income of $100,000 and would pay roughly $25,000 of tax, including the 5 percent add-on. Their average tax rate is about 25 percent.

Last, consider Ed and Kathy, who have taxable income of $200,000, which exceeds the income levels for the bubble. In 1990, they would pay roughly $58,000 of tax, including the 5 percent add-on. Their average tax rate is about 28 percent.

During the budget negotiations, we anticipate that some Democrats will advocate "bursting the bubble." This is just a euphemism for increasing income tax rates. The proposal would add a new 33 percent rate to the tax code and eliminate the 5 percent add-on, raising more than $44 billion during five years. The revenue is raised from increasing the income tax rate, not from "fixing the bubble." It would produce a chorus of "I told you sos" from all the skeptics who said tax reform would not last. American taxpayers' worst fears would be realized—they gave up many of their deductions with the promise of lower tax rates, but now they would be faced with higher tax rates and fewer deductions.

There has also been talk of a "compromise rate," one that adds a new 31 percent tax rate and eliminates the bubble on a revenue-neutral basis. Yet this is just another way to renege on the promise of tax reform.

Another way to approach the bubble would be to redesign the phaseout of the 15 percent rate and personal and dependency deductions to eliminate the perception of a 33 percent rate. This is likely to add more complexity to the tax code, but certainly it is possible.

But why do anything? When you "burst the bubble" all you get is a torrent of hot air. It is premised on the misconception that the bubble imposes higher taxes on middle-income individuals. In fact, the bubble makes the tax code more progressive. In fact, upper-middle-income individuals subject to the bubble do not pay higher overall tax rates than the wealthy.

Those who want to raise revenue by increasing income tax rates should not try to hide behind the bubble. Americans need to understand that raising tax rates is not necessary to "fix" the bubble. The debate should focus on exactly what it is—breaking the promise of tax reform and raising income taxes.

U.S. Senate,
Washington, DC, May 15, 1990

Dear Colleague: Now that President Bush seems to be putting taxes back on the table, there's likely to be renewed interest in eliminating the so-called "bubble." This is the 33% tax rate applied to single filers with taxable incomes between $44,900 and $93,130, and to joint returns with incomes between $74,850 and $155,320. This 33% rate is referred to as the "bubble" because it applies to a limited income range, after which the 28% rate is applied.

Unfortunately, many people believe—incorrectly—that taxpayers subject to the 33% rate are being treated unfairly compared to higher income taxpayers whose top marginal rate is 28%. In fact, as the attached articles explain, the "bubble" does not reward the rich. On the contrary, it enhances the tax system's progressivity.

Because this issue is likely to be at the forefront of the debate over tax rates, I would encourage you to read Norman Ornstein's and Byrle Abbin's clear explanations of a complex and contentious subject.

Sincerely,

Bill Bradley.

Mr. DOLE. Mr. President, I agree with one of the writers, Mr. Abbin, that this may be the first provision repealed in the 1986 Tax Code because it is too hard to explain. Are we going to do what is right, or are we going to do what is expedient?

I happen to believe the American people want us to do what is right. There will be a few swayed by the headlines. But I hope that some of my colleagues on the other side—some who invented the bubble because of progressivity, because they wanted fairness, they wanted progressivity, I think they would say the same thing—I hope they come to the floor to say the same thing. Let us get away from this argument of rich-poor. We all want fairness in the Tax Code. President Bush wants fairness in the Tax Code. That is what he told us yesterday.

I might add he did not make any decision yesterday, even though that was reported. He listened to us. He did not announce his position at all. He did not acquiesce in what we said. Somebody asked me my view. I said I was the counter. I just counted the hands as they went up because I am satisfied if the President is satisfied.

If I were the President, I would be a little frustrated. If I were those who were peddling this misinformation, I would be ashamed. Why did the media not choose a panel of tax experts to explain the bubble and then put it on their front page? Or maybe we can buy an ad and put it on the editorial page of all the major newspapers who do not seem to understand or will not print it.

If we want to get a budget agreement—and we better get a budget agreement—we have to make tough votes. We want to cast those votes based on factual information. I would hope over the next few days there would be a better appreciation of what the bubble is all about, what progressivity is all about.

Now we are told the House side is going to raise tax rates and break the bubble. They are not breaking the bubble because of fairness, but that will be reported in all the liberal papers. They are breaking the bubble because they want more walking around money, they want more spending money. If they go to 33 percent, they will have $50 billion more to spend. They are not changing the fairness one bit.

They take care of a lot of hot buttons in the package. Our goal is not to take care of the hot buttons. Our goal is to reduce the deficit. So I would hope this bubble of hot air will be eliminated not the bubble in the Tax Code.

All this talk about the bubble is not fair, not fair to upper income people, or middle income; we ought to tax the rich. That is not the fact. People who write the stories ought to know it is not the fact. It is a perception.

As my friend and colleague from Ohio, Senator **Glenn**, said one night on a different debate, perception becomes reality around here if nobody ever corrects it. Nobody is going to report what we say because we know what we are talking about in this case—not very often but in this case. I did not quote myself. I quoted somebody else, and they know what they are talking about.

But I defy anybody in the Washington Post or any other paper that is printing this misinformation to go to any tax expert and get an opinion on whether or not the bubble had progressivity. They are going to tell you yes.

We ought to be reporting the truth. If we start reporting the truth and stop all the misinformation, and all the ugly headlines, we are going to get the budget work done. Otherwise, we are going to be locked up here for weeks.

Mr. President, I reserve the remainder of my time.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The time under the standing order has expired.

Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m. with Senators permitted to speak therein.

The Chair recognizes the Senator from Arizona.

Mr. McCAIN. Mr. President, is it correct under unanimous consent that I am recognized for 15 minutes?

The ACTING PRESIDENT pro tempore. The Senator is recognized for 15 minutes.

Mr. McCAIN. I thank the Chair.

A NEW RELATIONSHIP WITH VIETNAM

Mr. McCAIN. Mr. President, as we know, next week for the first time in history, the Foreign Minister of the Socialist Republic of Vietnam, known to many of us as North Vietnam, will be visiting Washington, DC, at the invitation of the Secretary of State and our Government. I would like to address this subject which is of great concern to me and I think to most Americans.

In the history of our great Republic, there are few experiences that have more deeply troubled the American people than our lost war in Vietnam. The legacy of our experience there continues to influence us profoundly. Our losses there—the loss of so many fine young men and the temporary weakening of our national sense of purpose—stung us so sharply that the memory of our pain will long outlast the security and political consequences of our defeat.

In building a new relationship with Vietnam, those memories enjoin us to bind the wounds that 15 years have yet to heal. As we consider better relations, our focus must be on the resolution of humanitarian issues that have been aggravated and not diminished by the passing of so much time. For what we seek by improving relations is nothing less than the conclusion of the final chapter of the war in Vietnam.

Secretary Baker recently met with Vietnamese Foreign Minister Nguyen Co Thach and subsequently invited Mr. Thach to Washington. Mr. President, I believe that these actions should complete for the time being the administration's series of symbolic gestures toward Vietnam. They were intended to reward Vietnam for their recent cooperation in the search for a comprehensive settlement of the Cambodian conflict. That cooperation may need to be sustained over a period of years. American favors will have to be dispensed prudently if they are to encourage lasting cooperation.

Mr. President, I am not opposed to better relations with Vietnam. On the contrary, I have publicly expressed my willingness to advocate such progress. But before we move beyond symbolism and proceed toward much improved relations with Vietnam we should consider the lessons learned from our long, difficult relationship with our former adversary.

In 1988, I proposed that the United States and Vietnam establish interest sections in each other's capital. That experience reaffirmed lessons I had learned long ago about dealing with Hanoi. They are lessons that I believe most of the country learned in the years between American withdrawal from Vietnam and the fall of Saigon. Briefly stated, Hanoi views its commitments to the United States as transitory expedients to be abandoned when they conflict with other political purposes.

Vietnamese cooperation on any subject, be it regional security concerns or bilateral humanitarian issues, must be extracted from Hanoi repeatedly, day after day. What consessions they grant today may be summarily withdrawn tomorrow. They do not undertake commitments because they have been persuaded that our demands are just. Our values do not inform their policies. Their promises of cooperation are offered only to earn some advantage from us. And when they have secured their advantages, Hanoi's cooperation becomes much more elusive.

The trick for American policymakers, then, is to ensure that the pace and scope of our developing relations will never exceed Vietnam's desire for even greater progress. If we proceed carefully in developing this new relationship, we may not only improve the prospects for peace in Cambodia, and resolve outstanding humanitarian issues, we may even contribute to the political reformation of the Socialist Republic of Vietnam.

Accordingly, the full benefits of American friendship should be withheld until there is such evidence of progress toward real political reform in Vietnam. For only democratization can provide Hanoi with credibility as a nation that will honor its international obligations and participate responsibly in world affairs.

Clearly, Vietnamese cooperation has been critical to the recent progress toward a comprehensive settlement of the Cambodian conflict. I am satisfied that Vietnam has prevailed upon Hun Sen to participate in the peace plan issued by the five permanent members of the U.N. Security Council. Hanoi is to be congratulated for encouraging the regime that it forced upon Cambodians to participate in these first steps of a process that should conclude in the democratization of Cambodia.

Nevertheless, to even casual observers of the Cambodian tragedy, the peace process appears fragile. Pressure must be applied constantly on the Cambodian factions to stay engaged in the process as they navigatge the long road to a cease-fire, U.N. administration, and ultimately free and fair elections.

No doubt, there will be endless controversy throughout this process, innumerable opportunities for one or the other party to disengage from the process and throw Cambodia into even deeper turmoil. As China must do with the Khmer Rouge, so must Vietnam persistently persuade Hun Sen that his interests lie in lasting cooperation with the perm five plan. We must persistently persuade Vietnam that it is in their interests to do so as well.

High level contacts between Vietnamese and United States officials have adequately expressed our appreciation of the constructive role that Hanoi is presently playing in the Cambodian settlement.

Of course, undertaking formal diplomatic relations, in any form, must await far greater progress toward free elections in Cambodia. I would hope we are all agreed on that point, Mr. President. Vietnam's record of cooperation in a Cambodian settlement is a short one. Its probably duration is presently unknown.

Neither should even limited trade relations be established with Vietnam before Cambodians are assured of self-determination. We must keep maximum pressure applied on all parties if this tenuous peace process is to survive the tendencies to violence and power politics that pervade Indochina.

Continued contact with Hanoi at lower than ministerial levels is advisable for the foreseeable future providing that such contacts are limited to specific topics.

In addition to Cambodia, those topics should include the outstanding humanitarian issues that still govern American perceptions of Vietnam. The United States should take every opportunity to make clear to Hanoi that the resolution of these humanitarian issues is, and will remain, the paramount concern of the United States as it contemplates improved relations. Vietnam's great need for Western assistance will never exceed America's need to resolve all the human tragedies that have attended our troubled association with that country.

The complete resolution of humanitarian issues could occur well before elections are held in Cambodia, because nothing else is needed for their resolution other than a directive from Hanoi. Like the Cambodian peace settlement, these issues should be resolved before any formal upgrade in relations takes place. Until they are resolved, neither diplomatic representation nor limited trade should be offered Vietnam.

The humanitarian question that concerns Americans most, of course, is the 2,300 Americans who remain missing in action in Indochina. In its eagerness for better relations, Hanoi has recently been more forthcomng in turning over the remains of missing American servicemen. As many as 20 servicemen may soon be accounted for as a result of remains returned to the United States in August.

Of course, this progress only confirms the suspicion that Hanoi could return most of the remains that are recoverable whenever it wants to. We must convince Hanoi that it is in their best interests to do so immediately. Any improvement in relations must be conditioned on the fullest possible accounting of Americans missing in action. No serious public official in this country will ever tell 2,300 American families that we intend to proceed with the improvement of relations with Vietnam absent complete Vietnamese cooperation in determining the fates of their fathers, husbands, sons, and brothers.

Neither should we open diplomatic and trade relations before we conclude another troubling human rights question. Lingering in so called Vietnamese reeducation camps are 100 or more former South Vietnamese Government and military officials and opponents of Hanoi. They have been there since the fall of Saigon. What possible purpose is served by keeping these poor men in miserable conditions, isolated from their families and countrymen? Would Vietnam seriously be threatened by the activities of these old men once they were at large? Of course not.

Therefore, let the United States make clear to the Government of Vietnam, that neither trade nor diplomatic relations will be even partly restored until these men are freed and permitted to emigrate, if they so choose.

Mr. President, there are a great many other bilateral humanitarian issues—Amerasian children, for instance—that I hope are quickly resolved. Moreover, improvements in human rights guarantees for all Vietnamese will remain the proper focus for American policy toward Vietnam. Nevertheless, should Vietnam finally resolve the POW/MIA issue and reeducation camp internees questions, after the United Nations has assumed the administration of the Cambodian Government and free elections are well in prospect, the United States should open diplomatic and trade relations with Vietnam.

Initially, those relations will need to be significantly limited and developed carefully over time. An exchange of interest sections could serve as an adequate opening along with limited trade in nonstrategic goods. American humanitarian and medical assistance could also be greatly expanded.

Over time the United States could help Vietnam secure loans from the World Bank, the International Monetary Fund and the Asian Development Bank, providing our assistance was linked to an improved human rights situation and substantial political reforms.

Approval of a government's political orientation is not a prerequisite for establishing an interest section or an embassy in a country, even in a country whose policies we abhor. After all, we have an interest section in Havana, and we had an Embassy in Ceausescu's Romania.

Should Vietnam take the actions I have mentioned—sustained cooperation in a comprehensive settlement of the Cambodia conflict, fullest possible accounting of American POW/MIA, and release of those remaining reeducation camp internees—I would join a growing number of Americans advocating diplomatic and trade openings.

However, Mr. President, fully normalized economic relations must be linked to progress toward another, more elusive end. It is the purpose for which over 58,000 Amerians gave their lives: Vietnamese freedom.

The democratization of Vietnam may prove more difficult to secure than the accelerated political changes in Eastern Europe and elsewhere. Inevitably, such change will be wrought in Vietnam. But, like Beijing, Hanoi will try to sustain Vietnamese society by liberalizing economically and forestalling political reform for as long as it can. Indeed, despite rapid progress toward a free market economy, Vietnam has very recently reversed its limited progress toward a less Stalinist political climate, expelling reformist minded party members from positions of influence and clapping dissidents into prison.

Nevertheless, Mr. President, the democratization of Vietnam must be our ultimate purpose. Our sacrifices have been too great to permit our abandonment of that dream. We must keep faith with all those who died in Vietnam in service to human liberty. We must use our resources and influence wisely to encourage a reluctant Communist leadership to grant to the Vietnamese those freedoms which America lost so much to secure.

Before we allow private American investment in Vietnam and undertake a broad trading relationship with that country, before we even contemplate developmental assistance to Vietnam, the promises of national reconciliation, of a free, sovereign Vietnam, promised by Hanoi and its supporters during the war, should be much closer to realization. Mr. President, I would like to live to see the free elections that Hanoi and its wartime lobby in the West assured us would follow the unification of North and South Vietnam.

The democratization process is measured in many stages. Respecting the right of dissent is the first stage. The Vietnamese Communist Party should begin to follow the Soviet model and abandon its monopoly on power, respect the rights of opposition parties, and separate the party from the Government. Progress on these reforms would indicate to the United States that the cornerstones of democracy were in place in Vietnam.

When we are satisfied that democracy is in prospect for the people of Vietnam, it would be the honor of the United States to offer Vietnam our full friendship. Private American investment would pour into a country whose people are as hard working and enterprising as the Vietnamese. Broad open trade between the United States and Vietnam will contribute significantly to the prosperity of both countries. Americans would respond favorably to appeals from a democratic Vietnam to help it secure developmental assistance, so that Vietnam could eventually enjoy the prosperity of a modern Asian nation. But, Mr. President, as we did with Eastern Europe, the United States must insist on democratization before we help with economic development.

In his farewell address, George Washington advised his country to "cultivate peace and harmony" with all nations. "The nation which indulges toward another an habitual hatred or an habitual fondness is in some degree a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interests."

We would be wise to recall Washington's advice as we measure our grievances with Vietnam against our interests in a new relationship. But our duty has always been clear.

Until real political reform is undertaken in Vietnam, our two peoples will be denied the fruits of real friendship. I hope the Government of Vietnam understands how seriously committed Americans are to bilateral relations that serve American values. This is the age of democracy, and Americans intend to remain the leading advocate of freedom. Few dreams could be more dear to America than Vietnamese freedom.

It is in service to that dream that I have made these remarks. It is in my desire for friendship with Vietnam that I will remain an ardent advocate for the progress I have described. And it is in my eagerness to welcome Vietnam into the community of free nations that I will always advocate nothing less than complete freedom for a people who have fought, suffered and died in such great numbers to have earned freedom for a hundred nations.

Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Connecticut [Mr. LIEBERMAN]. Under the previous order, the Senator is recognized for up to 10 minutes.

Mr. LIEBERMAN. Mr. President, I yield at this time to my colleague and friend from Montana, Senator BAUCUS.

USDA'S WHEAT TRADE POLICY

Mr. BAUCUS. Mr. President, I rise today to call attention to a near disaster in the Farm Belt.

Wheat prices are in a free fall.

In June 1989, the price of wheat stood at $3.84 per bushel.

But this September the price of wheat had plunged to $2.48 per bushel.

In other words, the price of wheat has dropped about 35 percent in just 15 months.

And this may not be the bottom of the market.

The United States and the rest of the world had a bumper harvest of wheat this year.

The U.S. harvest for 1990-91 will be about 75 million metric tons. That is up from only 50 million metric tons 2 years ago.

The world wheat harvest this year is projected to hit about 587 million metric tons, a new record.

The United States is likely to carry over 26 million metric tons of wheat this year, up from 14.5 million metric tons just 2 years ago.

World stocks are likely to hit 140 million metric tons.

In short, we once again are facing a global oversupply of wheat.

As some producers have pointed out, it is entirely possible that we could see wheat prices fall below $2 per bushel. That would be the lowest price—in real terms—since the Great Depression.

At the same time, farmers are facing skyrocketing fuel costs and facing sharp cuts in the farm program.

The combination of low prices, higher fuel costs, and lower farm program benefits could drive hundreds of Montana farmers off of the land.

In short, we are facing a real crisis in the Farm Belt.

But what is USDA doing to solve this problem?

USDA ACTION

Unfortunately, the answer is very little. USDA seems content to fiddle while Rome burns.

As is usually the case, when the world markets face an oversupply USDA is stepping in to bear the burden of building stocks and taking land out of production.

Those steps may ultimately help prop up the world wheat price. But only at great cost to our farmers.

In the meantime, our competitors in the world wheat market—Australia, Canada, and Argentina—will benefit from the higher price without taking any steps to support the price.

We would be much better off if we would take a page from our competitors play book and work to export wheat instead of building stocks and raising set-asides.

In order for wheat farmers to survive, the United States must export wheat. Each year, we export well over half of our wheat crop.

USDA is simply refusing to use export programs.

The Export Enhancement Program and the credit guarantee programs provide USDA with invaluable tools to stimulate export sales.

In fact, the EEP helped take the U.S. share of world wheat exports from 25 to 50 percent in a few short years.

But last year, USDA used only 40 percent of the funds that Congress allocated to boost wheat exports. This year, USDA will probably only use about 50 percent.

USDA's reluctance to use its export tools to promote wheat sales is costing American farmers millions of dollars in lost export sales.

For example, over the last 3 years, the United States had steadily lost market share in the Philippine wheat market because USDA was hesitant to extend EEP to the Philippines.

This year USDA extended the EEP to the Philippines only after intense congressional pressure. In the meantime, our competitors moved in and filled the void capturing an increased share of the Philippine market.

At the same time, USDA is dragging its feet on extending loans to the Soviet Union to support increased wheat imports.

A few weeks ago, a Soviet delegation made it clear to USDA that the Soviet Union could not purchase substantial quantities of wheat without GSM export loan guarantees.

When the loan guarantees were not forthcoming, the Soviet Union turned to our competitors who were more than happy to accommodate.

The Soviet Union has now reportedly concluded an agreement to purchase 5 million metric tons of wheat from Canada.

What is USDA's response?

The Undersecretary of Agriculture reportedly told a group of farmers that the problem was not EEP; the problem was that the wheat price was still too high.

Other USDA officials have lectured farmers that USDA is not in the business of selling wheat.

I am amazed by these statements.

How can anyone—let alone a USDA official—argue that the price of wheat is too high when wheat prices are near Great Depression levels. Already, farmers barely make enough to keep their combines running.

To say that USDA is not in the business of selling wheat is an understatement, at least in the last 2 years.

But it certainly should be.

The Australian Wheat Board, the Canadian Wheat Board, and the EC Commission are clearly in the business of selling wheat. If USDA is unwilling to compete, our farmers will be the loser.

Congress developed export programs, like EEP, TEA, and export credit guarantees, to make USDA an active promoter of wheat exports. But now USDA seems content to sit on its hands and lecture farmers on the virtues of the free market.

I am pleased to see that USDA finally seems to have come around a bit in recent days. The EEP is being used a little more vigorously. But much more remains to be done.

I would like to suggest three additional steps that should be taken.

THE BAUCUS PLAN

First, USDA should make much more aggressive use of the EEP.

Hundreds of millions of dollars in funds allocated to the EEP have not been used over the last 3 years even though OMB scores the EEP as having no net cost to the Government.

USDA refuses to spend the additional funds because it argues that it should not be used against nonsubsidizing nations, like Canada and Australia.

But none of these nations have clean hands.

They may not subsidize wheat exports as heavily as the European Community, but they subsidize sales with Government export monopolies.

In addition, as I pointed out, neither of these nations have lifted a finger to control the world supply of wheat. They are willing to leave that to the United States.

Every nation subsidizes wheat exports.

The only way for the U.S. farmer to survive is to "fight fire with fire" and use the EEP very aggressively.

Second, the United States must extend GSM loan guarantees to the Soviet Union.

In most years, the Soviet Union is the world's largest export market for wheat.

Often sales to the Soviet Union are the difference between a good year and a bad year for wheat farmers.

Yet, USDA refuses to extend export loan guarantees to the Soviet Union unless and until the Soviet Union changes its emigration laws. They make this demand even though the Soviet Union has allowed a virtual human tidal wave of emigration over the last 2 years.

The time to extend GSM loan guarantees is now, not next year after we lose millions of dollars in export sales.

I urge the administration to immediately begin work with the Congress and the Soviet Union to extend export credits this year.

Finally, the USDA must take steps to replace the Iraqi market.

In an average year, about 3 percent of United States wheat export sales go to Iraq. This year the embargo will stop all sales.

Farmers support the embargo. But we must take steps to soften the impact of the embargo on farmers.

First, we must aggressively use EEP and GSM to find replacement markets for U.S. wheat.

I know that the USDA has already taken some steps in this direction.

But much remains to be done. USDA should set a goal of completely replacing sales lost because of the embargo.

Second, the United States must liquidate frozen Iraqi assets in the United States to repay GSM guaranteed loans.

Iraq now holds $1.9 billion in loans guaranteed by the Commodity Credit Corporation. If, as expected, Iraq fails to repay these loans, CCC could be forced to pick up a whopping $900 million tab this year alone.

If USDA repays this loan it will diminish the CCC funds needed to support the farm program and export programs.

If Iraq does refuse to perform on its obligations, USDA should liquidate Iraqi assets to pay these debts. Otherwise, USDA and farmers will be left to pick up the tab.

We face a wheat crisis in Montana, North Dakota, South Dakota, Kansas, Oklahoma, and other wheat growing States.

The low wheat prices could drive hundreds of farmers out of business and create ghost towns in rural America. USDA has a choice. Either it can be part of the problem or it can be part of the solution. So far, USDA has been part of the problem.

Statements that wheat prices are still too high only make the problem worse. Further, USDA is sitting on its hands when it has the tools to alleviate some of the problems wheat farmers face.

If USDA was willing to get busy and take the suggestions I have outlined, it could make a real difference in wheat prices. Farmers could be kept on the land.

USDA must get off the dime and become part of the solution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut retains the floor. He has 6 minutes 30 seconds.

Mr. LIEBERMAN. Mr. President, yesterday the price of crude oil on the oil futures market swung wildly over $40 a barrel, which is a record high. That is compared to just $16 a barrel only 4 months ago.

At the retail level, the prices of gasoline and heating oil have risen sharply and steadily higher. Gasoline is now selling at an average price of $1.37 a gallon for regular unleaded, a near record level. That is 30 cents higher than the pump price on August 1, before the Persian Gulf crisis began. And home heating oil shot up to $1.30 a gallon in my State of Connecticut. That's an astounding 44 percent increase in just 2 months.

The economy has naturally begun to reel in response. The cost of education is escalating, because local schools must provide heat for students this winter, and must suddenly pay far more for gasoline to run their school buses. Air travel is more expensive, as is transportation of goods by truck. This all comes at a time when our economy is already slumping. It points toward one result: recession.

In reaction to all this bad economic news, the stock market has dropped precipitously. The value of American companies has fallen by more than $500 billion according to the Wilshire index. The rise in oil prices has acted like the steady pressure of brakes on a slow-moving economy. The oil industry has levied a huge tax on the American people—a tax far larger than any contemplated this week by those putting together a budget package. In fact, our understandable focus on reducing the Federal budget deficit may be blinding us to a far more immediate assault on our economic security.

Certainly we must address the deficit. But the economic crisis provoked by oil prices is more devastating right now, and there is precious little we are doing about it. In fact, all our efforts to cut the deficit, lower interest rates, and encourage economic growth could be frustrated by the oil price shock.

I have spoken before about ways to combat rising oil prices: pushing for a full Justice Department investigation of the oil industry; introducing an antiprice gouging bill to make profiteering a crime; advocating a larger drawdown of the strategic petroleum reserve; and adding more money to the budget for low income energy assistance. But those necessary steps are taken in reaction to the results of oil price increases. What are the root causes of those increases, and what can we do about them?

One contributor to the oil price explosion may be a speculative fever in expiring oil future, a fever caused to some degree by uncertainty over the outcome of the Persian Gulf crisis. But we have the right to ask, is speculative fever being fueled by legitimate concern about availability of future supplies, or a desire for quick, huge profits? Are speculators taking advantage of the mechanics of the futures market to exploit the Persian Gulf crisis to their advantage?

The price of oil on the futures market is not simply a matter of academic concern, or concern about how that price will affect us months from now. When it comes to oil pricing, the future is now. That is because the price of oil bought and sold by oil companies today is set according to the price of oil on the futures market. Oil industry representatives acknowledged this just weeks ago in testimony before Congress. I met with a major oil company executive recently, and he explained to me that when he buys a cargo of Saudi oil on a tanker sailing to the United States, he often doesn't know what he will pay until he actually takes delivery on the day it arrives, and that price depends on the price of crude oil on the New York Mercantile Exchange that day.

In other words, the price of oil isn't being set simply by supply and demand. We know full well that there has been an ample supply of oil on the world market. There has been up to now no real shortage; in the heating oil market, in fact, we have far greater supplies than we did last year. Deputy Energy Secretary Henson Moore recently stated, "We haven't seen anyone who disagrees with our calculations that there is no true supply-demand increase" in the price of oil.

There is a middle man, an intermediary process in which traders, speculators and hedgers are players, that affects the price we pay to fuel our cars and heat our homes. It is the futures market that accounts for the discrepancy between what the price should be, given the current supply and demand picture, and what the price really is.

To make the situation worse for consumers, speculators on the futures market may be bidding up prices on the basis of hysteria, not rational projections of future economic factors. It's a massive and, for us, tragic game of "what if?" Rumors fly at the speed of sound, and prices rise or fall in quick consequence. It makes little difference whether those rumors are true or false. In one recent day of trading, according to a news report, the price of oil was affected by rumors that President Bush had issued an ultimatum to Saddam Hussein; that Saddam had issued a 48-hour ultimatum to President Bush; that an aircraft had been shot down in the Middle East; and that a coup was underway in the Soviet Union. None of those rumors were true, but we end up paying the price for their falsity. One expert said to me that it's likely some speculators start rumors on their own, because they can reap the benefit of the uncertainty such rumors fuel.

If there is unwarranted speculation going on in the commodity pits of the Mercantile Exchange, one would expect to see an increase in the volume of futures contracts being traded there. Sure enough, the average volume of oil futures contracts traded has increased from an average of 81,000 per day for 1989 to 119,000 per day as of the end of September. That's a 50-increase. These numbers suggest that there has been a feeding frenzy in oil futures.

One of the factors that encourages speculation in the futures market is the enormous leverage available to traders because of where the Mercantile Exchange sets its margin requirements. Those margin requirements are, some experts say, far too low. For comparison, investors in the stock market must deposit up front 50 cents for each dollar of stock they want to buy. But, at the beginning of August, the margin on the Merc was set at only 5 cents on the dollar. That's a speculator's paradise: for a nickle he can trade a dollar's worth of oil. For $150,000, he can leverage $1,000,000. In a rapidly rising market, a low margin requirement gives a futures player huge leverage at very low cost, a small risk, and a big payoff.

The Merc is aware that low margins encourage speculation, because it has begun to raise its margin requirements. Now they are between 20 and 25 percent of the value of the oil contract being traded. But that still is far below the 50-percent margin requirement on the stock market, and it still leaves ample room for substantial leveraging and speculating.

It should be noted that futures markets can perform important functions for our economy. They create the assurance of long-term availability of the product traded in the market. They enable the risk of future price changes to be shared and transferred. Speculators can help, especially beyond the spot month, to keep the marketplace liquid, and to provide depth in the market by assuring more buyers and sellers. But in my view, we begin to run into problems—especially in spot month trading—when speculation, not legitimate commercial needs, comes to dominate trading. The markets become too volatile. And that is driving a deep wound into our economy.

Some in the administration and in foreign governments have been discussing whether the Merc should be simply closed to cool off prices. But I am concerned that closing the Merc could have the opposite effect at this stage: some heating oil contractors would be precluded from honoring their contracts with customers, some smaller firms could fail, and while the volume of trading in oil futures might drop, volatility could increase, thereby raising prices.

What can we do about this situation? Today, I call on the Commodity Futures Trading Commission and the Secretary of the Treasury to examine key trading practices on the Merc in order to dampen speculation.

I suggest that the CFTC consider substantially raising margins on expiring oil futures contracts. Raising margins on expiring contracts could move speculators out and make sure the market is reserved primarily for commercial transactions that seek security for their future oil needs, not short-term profits at the expense of the Persian Gulf crisis. With a fewer speculators, volatilty can be reduced.

I also urge the Mercantile Exchange to review its so-called position limits. Put simply, these are the numbers of oil contracts on the futures market that a trader can acquire and hold. Because of the great profits that can be made, I am concerned that some traders may be exceeding their business capacity. Firms that in normal market conditions engage in legitimate hedging may now be shifting to profit speculation. A review and revision of position limits by the Merc could further reduce speculation and preserve the markets for legitimate commercial dealing. The Merc should take a closer look at its traders to see if they are biting off more in the way of oil contracts than they can chew.

Because the market is so delicate and volatile, new margin rules on expiring contracts and modification of position limits cannot be jammed down the market's throat without warning. Markets don't like shocks, as we know too well, and we don't want the reforms I am suggesting to cause more harm than good. Tougher margin requirements could be phased in, applied in graduated steps starting 1 month from contract expiration. To ensure the market's liquidity, the Federal Reserve could coordinate with banks to preserve credit provided to market participants, a role similar to the one it played in the October 1987 stock market. The United States cannot act alone; oil is a global commodity, and there is substantial oil futures trading going on elsewhere, particularly in London and Singapore. Coordinated antispeculation reforms need to be developed in these key markets as well to avoid simply shifting speculation abroad.

I make these suggestions to the Treasury Secretary, the CFTC and the Merc with a sense of humility, for I am not an economist, nor an expert on futures markets. But I make them out of profound concern about the effect of speculative oil fever on our economy. It has precipitated an economic crisis as serious as ones we faced in the 1970's. We have reacted to the military crisis in the Persian Gulf with speed and unprecedented force. We have reacted to the military crisis in the Persian Gulf with speed and unprecedented force. We have reacted to the resulting economic crisis with timidity and a palpable sense of resignation. After the October 1987 stock market crash, we reacted with a series of trading practice reforms. We have not even considered this approach for the oil markets. Meanwhile, speculators continue to derive profit by trading up the price of oil, and oil companies derive profit from those higher prices. Those of us at the very end just get handed the bill. It's time to question how that bill was added up. And it's time to act to cut it down to size.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent I may proceed for 2 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I simply wish, Mr. President, to say to the Senator from Connecticut that that was a remarkably lucid and cogent exposition.

The fact that petroleum products are traded on a separate exchange in New York from the two major stock exchanges is not generally known. Nor is it well known that the margin requirements for trading petroleum products can be radically different from margin requirements on other products. There is a national interest in monitoring margins because they can be quite volatile and drive prices in the way that the old law of supply would not suggest. Still, there is no shortage of oil in the world and oil prices have doubled in 2 months. Vast amounts of money are made in this, mostly, I suppose, by Saudi Arabia, but not just. It is just not in the interest of the economy or of the traders that there should be an enormous speculative rise that could be followed by a crash and the general disruption associated. I simply would like to say that my understanding of the situation is never large, but it is at least larger in considerable measure thanks to the Senator from Connecticut. I acknowledge that.

Mr. LIEBERMAN. Mr. President, I thank my colleague from New York. He is a man of eminent perspicacity at this time himself. For him to say kind words about what I said means a lot to me. I thank him.

THE PUERTO RICO REFERENDUM ACT

Mr. JOHNSTON. Mr. President, in February of last year I established the ambitious objective of enacting legislation to provide the people of Puerto Rico with an opportunity to vote on the future political status of the island.

With probably only 10 days remaining in this Congress and absent a lameduck session, it has become clear that enactment of a Puerto Rico referendum bill is not possible. Although the Committee on Energy and Natural Resources and the Committee on Finance have reported legislation, the Committee on Agriculture still has not scheduled a markup on the measure. Moreover, while the House of Representatives expects to pass a companion measure this week, there are substantial differences between the House and Senate approaches to this issue—differences which cannot be resolved within the very limited amount of time remaining in this Congress.

It is my intention to meet with the leaders of Puerto Rico next month to consider where we go from here on this issue. If there is a determination to continue this effort, then I expect to resume consideration of the Senate legislation where we have left off, and complete Senate action early next year, which would still allow for a referendum in 1991, or early 1992—well before the scheduled fall 1992 local elections.

I know that many people will be disappointed by these words. However, there is no arguing with the reality of time and an extremely busy congressional schedule for the next 10 days.

All parties involved in the development of this legislation have made great contributions. We have gone a long way toward giving the people of Puerto Rico an opportunity to vote on their future and to make a meaningful, informed choice. I look forward to maintaining our momentum and building on this year's achievements early next year.

PUERTO RICAN STATEHOOD

Mr. JOHNSTON. Mr. President, the House passed, or soon will pass, a bill with respect to Puerto Rican status. The Senate will not have time to deal with that subject matter, assuming that we go out of session next week.

What the House bill does is to provide for a referendum in Puerto Rico whereby the people of Puerto Rico would be able to make a choice between statehood, enhanced commonwealth, and independence. But that choice would be under a one-word definition or, in the case of, I think they call it improved commonwealth, a two-word definition.

Mr. President, it is true that the House report contains some language upon which the people of Puerto Rico would be able to rely in making their choice. That is to say, the people in choosing any of the three would, according to the report of the House bill, be able to look to that report for definition.

Those definitions, first of all, in our judgment, are imprecise, being stated only in general terms, and second, constitute nothing more than a wish list of the three different parties as to the status which they would propose.

The report itself says in effect that they are not wish lists, that they are to be taken seriously, and that while they are not to be treated as an absolute plan from which no deviation can be made, they say nevertheless the Congress, its committees, and the President are bound by the spirit of that and that those descriptions are to be used as the framework for future negotiation.

Mr. President, those definitions, in my judgment, could not be used in their present form and in fact would tend to be misleading to the people of Puerto Rico. No one is more committed to self-determination for Puerto Rico than the senior Senator from Louisiana. We have worked hard on that. We worked for several months, and we reported out a bill, not this summer but last summer.

So it is not from a lack of dedication to the idea of self-determination that I say we do not have time to deal with this bill. It is because the clock ticks in almost its final hour of this session right now. We are supposed to be out of session by literally next Friday, October 19, I believe it is, Mr. President. If that bill does not make it over here today, then it would be impossible, considering the time limits, to take it up on the Senate floor, even if we were willing to accept it without modification of any kind. The Senate is never willing to accept a bill of that importance without modification and without debate. It is, in fact, the 11th hour.

What I propose in lieu of taking up the bill at this time is to build early next year on the work of this year of the Senate committees, that is, the Senate Committee on Energy and Natural Resources, which has the principal jurisdiction over status, the Finance Committee, which of course has principal jurisdiction over section 936 and other entitlement programs which constitute so many of the important economic programs, as well as the Agriculture and Judiciary Committees, which have jurisdiction over other parts of the status proposal. I would propose to build on the strengths and on the work of this past year or two and begin early next year on a proposal to be submitted leading to a referendum of the people of Puerto Rico.

I think we could act with even more dispatch next year than we have this year. The House, in fact, has passed legislation, so the House ought to be able to deal with more dispatch as well.

I hope that next year we could begin our work early and that we could report legislation early. I hope that the House could do the same and that we could then go to a conference committee with the House.

Mr. President, a conference committee is absolutely essential in this process because there are always, on any important piece of legislation, great differences between the House and the Senate. I am quite sure we would have differences on this piece of legislation and in the conference committee we would be able to reconcile those differences and come out early next year with a piece of legislation.

I believe there is time to complete that legislative circuit and finish the legislation by mid year of next year. That would mean that we could target a referendum in Puerto Rico for either the latter part of next year or perhaps as late as March 1992, which would be far enough in advance of the Governor's race so as to allow that issue finally to have been digested by the people and fully appreciated by them in advance of the Governor's race. The referendum would be late enough in the process, so as to allow a full debate and a full election cycle for the people of Puerto Rico.

So when I say we do not have time to deal with that legislation this year, it is not that we lack the interest to deal with it. To the contrary, no one has more interest than the senior Senator from Louisiana. No one is more dedicated to it. No committee has a staff as willing to work around the clock and, indeed, they have done so. They have shown their total dedication to this purpose. But there simply is not time. Even if we were willing to accept it without changing a jot or a tittle, there is not time on the floor to even consider or debate the measure, much less go to a conference committee.

So it is only by way of explanation of what the reality of the clock is that I say we cannot take it up this year. But it is in a spirit of continuing to be one of the champions of self-determination for Puerto Rico that I say with some degree of optimism and some degree of confidence I believe we can complete this process next year, certainly in the Senate. And if the House is willing to go at it in the same spirit as the Senate, we can also finish it in the House and complete legislation leading to a referendum in Puerto Rico either late next year or early in the spring of 1992.

I thank my colleagues for allowing me to speak on this important matter.

TRIBUTE TO BARBARA SIGMUND

Mr. LAUTENBERG. Mr. President, the State of New Jersey has lost one of our most beloved public servants, Barbara Sigmund, the mayor of Princeton. Today, along with thousands of other New Jerseyans, I express my deep sorrow at our loss.

Everyone who knew Barbara Sigmund was enriched by their association with her. She was a unique individual who had an abundance of wit, knowledge, charm, and character. At the same time, Barbara never lost her perspective on what her mission and responsibilities were as a public servant. She cared deeply about everyone and it was obvious to all who spent time with her.

Mr. President, over the years I saw Barbara in contact with hard working people who were searching for a word of encouragement. They always left her feeling someone was listening and would try to help. I saw her in conference with business leaders convinced that Mayor Sigmund or Freeholder Sigmund would do her best to help them expand jobs and investment in the community. I saw her with politicians who envied her ability to capture a crowd with a message of substance and vision without pandering.

Mr. President, I also knew Barbara Sigmund as a competitor. In 1982, she was one of my most formidable primary opponents in the campaign for the U.S. Senate Democratic nomination. She had the most gentle touch as she delivered telling blows to her opposition. It was then that she took ill and had to stop campaigning. But it was obvious to all six candidates in the race for the nomination that Barbara Sigmund would wind up at the finish line with the best of us.

I grew to know Barbara Sigmund, respect her and admire her over the years that followed. It was always a lift to see Barbara. She was so positive, so effervescent, so accomplished that even the shortest encounter left me feeling better about life and the need to work harder for our people.

Barbara's courage and fortitude prevailed until her last days. A visit I had with her a few short weeks ago left me saddened, but inspired. Barbara gave me her book of poems about a "life unfinished" as a last testament of her deep appreciation for the wonderful experiences she had during her days. But it is also a poignant reminder for those she left behind that we have an extra measure of responsibility to try to fulfill her lofty goals as a human being and as a servant of the public.

I will miss her on my trips to Princeton, or during other events in New Jersey when all of us would look forward to her smile and the burst of sunshine that she always brought.

Barbara came from a distinguished and talented family that had a long record of service to the public, her parents—Congressman Hale Boggs and Congresswoman Lindy Boggs—her brother, Tom Boggs, her sister, Cokie Roberts, her husband, Prof. Paul Sigmund, and her sons, David, Stephen, and Paul. To all of them, we express our deepest sympathy and hope they will derive some comfort from knowing that our world is a better place for having had Barbara Sigmund in it, even though the years were too few.

TRIBUTE TO BARBARA BOGGS SIGMUND

Mr. BRADLEY. Mr. President, last night, we lost a person who showed us how to confront adversity with grace and courage. Barbara Boggs Sigmund made an indelible impression on all of us who were fortunate enough to know her. I join her family and friends in mourning her death, and in honoring her extraordinary life.

Barbara Sigmund was a powerful, sensitive, and eloquent woman. She was dedicated to the service of others and worked with a seriousness of purpose and a sense of humor. Whether as mayor or freeholder, or a candidate for Governor or Senate, she always strove for excellence and gave the public her best effort. I will miss her.

It was natural that Barbara would choose a life of public service; her family has our Nation's longest unbroken lineage of political service, beginning in 1621. Her mother is Congresswoman Lindy Boggs of Louisiana. Her father was House Majority Leader Hale Boggs, who had he not disappeared in an airplane tragedy in 1973, would undoubtedly be the Speaker of the House today.

Some might have described Barbara as the quintessential Southern Belle, even though she grew up in Washington and went to college in New York. Luckily for the people of New Jersey, she lived most of her adult life in Princeton, where her husband is a professor at Princeton University. She immersed herself in politics and community service, most recently serving as mayor of the borough of Princeton. Although her resume is five pages long, she pointed to her greatest achievement as reflected in the simple line "married, three children."

Over the years, I had come to expect a lot from Barbara. I had seen her courage and dedication in New Jersey politics, as well as commitment to her family and friends. But it was her courage in fighting cancer that most impressed me. Others might have given in to despair. But instead, Barbara approached her illness with strength, style and even humor. Despite exhausting and experimental chemotherapy, she focused on her family and on her job as mayor, not her disease. She kept the borough of Princeton going, even from her hospital bed. And she kept her family and friends going by showing us, as she quoted from an ancient proverb, that "you can fight the gods, and still have a good time."

She also did a lot to help complete strangers to come to terms with their own illnesses. In New Jersey, she worked with the Emmanuel Cancer Foundation to help children and their parents to fight cancer. She was an example to those children, showing them not that cancer can be ignored or shrugged off, but that it cannot consume a life. Barbara taught us style in the face of adversity.

It is hard to explain a life, or to try to do justice to someone like Barbara Sigmund. For those who didn't know her, the best place to try to understand her unique contribution is in her recently published book of poetry, entitled "An Unfinished Life." Her poems are a lasting gift to us all. They show us a full and rich life that is ripped by cancer. And they show us the courage and the clear-sighted determination with which she fought cancer. In a poem about her grandmother, Barbara wrote "She never let go of a single life she touched." The same can be surely be said of Barbara Sigmund.

Barbara Sigmund's death is a tragedy. Her life was a triumph—a triumph of caring, commitment and courage that is an inspiration to her children and to all of us who knew her. Her loss leaves an empty space in our lives.

ALLOCATIONS UNDER THE BUDGET RESOLUTION

Mr. SASSER. Mr. President, I send to the desk the estimated allocations—based on the budget in the conference report on House Concurrent Resolution 310—of the appropriate levels of total budget outlays, total new budget authority, and new credit authority among the committees of the Senate, pursuant to section 302(a)(2) of the Congressional Budget Act of 1974. Yesterday, the Senate agreed by unanimous consent that they be considered as part of the joint statement of managers to accompany the concurrent resolution on the budget, House Concurrent Resolution 310. That consent appears at page S14828 of yesterday's Record. Mr. President, for the information of Senators, I ask unanimous consent that those allocations be printed in the Record at the conclusion of my remarks.

There being no objection, the allocations were ordered to be printed in the Record, as follows:

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS FOR 1991 PURSUANT TO SEC. 302 OF THE CONGRESSIONAL BUDGET ACT

[In millions of dollars]

Committees	Direct spending jurisdiction		Entitlements funded in annual appropriations	
	Budget authority	Outlays	Budget authority	Outlays
Appropriations	685,616	696,649		
Agriculture, Nutrition, and Forestry	9,840	11,550	28,131	21,732
Armed Services	47,954	34,512		
Banking, Housing, and Urban Affairs	79,275	75,410		
Commerce, Science, and Transportation	2,028	43	427	426
Energy and Natural Resources	1,372	1,080	72	73
Environment and Public Works	14,782	417		
Finance	810,016	697,875	80,884	80,523
Foreign Relations	9,015	9,082		
Governmental Affairs	65,976	42,501	500	500
Judiciary	2,295	2,190	135	133
Labor and Human Resources	3,698	2,886	5,986	6,022
Rules and Administration	37	29		
Veterans' Affairs	1,468	1,323	16,161	16,194
Select Indian Affairs	479	475		
Not allocated to committees	(248,251)	(339,123)		
Total	1,485,600	1,236,900	132,296	125,602

ALLOCATION OF CREDIT RESPONSIBILITY TO SENATE COMMITTEES PURSUANT TO SEC. 302(a) OF THE CONGRESSIONAL BUDGET ACT, FISCAL YEAR 1991

[In millions of dollars]

Committees	Direct loans	Loan guarantees
Appropriations	8,701	71,969
Agriculture, Nutrition, and Forestry	8,019	6,100
Armed Services	0	0
Banking, Housing, and Urban Affairs	3,250	1
Commerce, Science, and Transportation	0	104
Energy and Natural Resources	0	0
Environment and Public Works	299	0
Finance	2	0
Foreign Relations	0	0
Government Affairs	0	0
Judiciary	0	0
Labor and Human Resources	0	12,786
Rules and Administration	0	0
Small Business	0	0
Veterans' Affairs	675	15,650
Select Indian Affairs	0	0
Subtotal	12,245	34,640
Total	20,948	106,609
Unassigned	54	191
Grand total	21,000	106,800

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business is now closed.

REMOVING SOCIAL SECURITY FROM THE BUDGET

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 3167, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3167) to cut Social Security contribution rates and return Social Security to pay-as-you-go financing, and for other purposes.

The Senate resumed the consideration of the bill.

Pending:

Boschwitz amendment No. 2941, to eliminate the earnings test for individuals who have attained retirement age.

Harkin/Sanford amendment No. 2942 (to amendment No. 2941), to provide for a more gradual period of transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such workers' benefits accordingly.

The PRESIDING OFFICER. Under the previous order there will now be 1 hour of debate on amendment No. 2942, to be equally divided and controlled.

The Chair recognizes the Senator from New York.

Mr. MOYNIHAN. Mr. President, we now return to S. 3167. We will have 1 hour's debate on the amendment in the first degree by the Senator from Iowa, Mr. Harkin, to attend to the problem that has been described as the notch.

Might I say in anticipation of the Senator's arrival, that the notch is one of those issues associated with Social Security that arose during that very special period in the 1970's when, for the first time in the recorded statistics of the United States, probably for the first time ever, prices ran ahead of wages. There could not have been a worse time for the Social Security System, because in 1972 benefits were indexed to prices. We had gone through a long, random period when, every other year, someone would stand on the floor of the Senate or the House—mostly the Senate, our rules being such—and propose to increase Social Security benefits. Those proposals typically succeeded, but with no systematic attention to what reserves were, what prices were, and so forth.

So, a very sensible decision was made to apply a cost-of-living adjustment, or COLA, to Social Security benefits. Since then we have not had to debate the issue of the levels, for they have been maintained. Then in 1972 or 1973, we experienced the oil shock, from which we have never really recovered, and prices rose.

Suddenly we found that the Social Security benefit levels, indexed to inflation were rising very rapidly, such that the system's long-term replacement rate became very volatile. We tried to provide benefits which would replace 41 percent of wages. But, we found that for certain groups reaching retirement age, the replacement rate rose to 50 percent and up toward 60 percent. That had to be corrected, and it was in the same 1977 legislation that changed our pay-as-you-go system to a partially funded one.

The result was that replacement levels came down for a successor cohort, producing a strongly felt perception of injustice. We heard it on the floor yesterday, and we will hear more of it today. I simply wanted to identify the time period in which it took place and to say that, again, at that time prices ran ahead of wages. That period followed an oil shock, and we may be in for another. Heaven help us.

I see that the distinguished deputy Republican leader is on the floor. I know he wants to speak on the general subject, and I know I shall listen with great interest and profit. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I thank my colleague from New York. It is always a tremendous pleasure to work with the Senator from New York. I came onto the Environment and Public Works Committee when I first came here, and he was there to receive me. And as I began to learn the ropes there, we worked on public buildings and we worked on Government contracts and we did things with regard to leasing and purchasing, and I remember that so distinctly, and we had some good results. I am glad to ride along with it.

Of course, we attained the power of the majority. Heady times they were. And I worked with him in that capacity, too. He was always most helpful in dealing with tough things in his State, nuclear, and ghastly things, everything from environment to the arts. We worked on those things together.

So I have been listening with great interest and I know the passion that is presented by the Senator from New York on this issue of Social Security. It has plenty of passion out in the land too, that is why we do not do anything with it. We are unable to do anything with it. And someday—and it is not an unknown day, it is either between the year 2018 or 2030—the program will begin to swallow itself and our children and grandchildren will just be stunned as to what we have been unable to do because we did not have the political courage to do it. That comes later.

I can address some of those things as we get back on the general bill itself. My purpose is not in any sense to filibuster. I will have some remarks to make at that time. But this is with regard to the notch baby issue. Here is truly, truly an emotion driven thing which is so far, probably the most skewed of anything I know in the way of emotional perspective.

Some retirees born between 1917 and 1921 feel they are being cheated out of Social Security benefits. These individuals who call themselves notch babies, are concerned because the benefits paid to them differ slightly from those paid to people born in other years.

But the fact is that no one is being dealt with unfairly under this most generous system of ours. To quote former Secretary of Health, Education and Welfare Wilbur Cohen—and I think he is one of the Nation's foremost Social Security advocates—he said, "Just because someone else gets more than you do does not mean you're getting less than you should." I would heed those words very carefully.

The problem is that many of those retiring in the late 1970's and early 1980's, those born in 1915 and 1916, receive higher benefits than were ever intended. The notch babies receive an actuarially correct amount. Now that is the way that is.

So what happened?

Well, I am sure the Senator from New York has covered that one. In 1972, Congress made a very expensive mistake in setting the formulas for computing Social Security's first cost-of-living adjustment. And although congressional action to grant Social Security recipients an automatic cost-of-living increase was well intended, the formula developed to calculate the annual increases was terribly flawed. That has caused our anguish.

This problem formula, coupled with the high inflation rate of the mid-1970's, produced benefits that quickly outpaced the inflation rates and threatened to exceed many recipients' preretirement incomes. That is where it was headed. Most important, these increased benefits endangered the solvency of the Social Security trust fund. They would have bankrupted the system.

So, in 1977, Congress decided to fix its mistake. We did not want to lower the benefits of workers who had already retired, but neither did we want to bankrupt Social Security by continuing to pay mistakenly high benefits levels. Instead, we devised a plan to gradually lower the wage replacement rate, and that wage replacement rate is critical. It is usually about 40, 42 percent. So, we devised a plan to gradually lower that over the 5 years for those retiring in the future.

The correction resulted in new benefit levels and new replacement levels that are comparable to the benefit levels established prior to the 1972 error. There was a 5-year transition period to cushion the impact of the new retirement benefit formula for those approaching retirement, those born between 1917 and 1921. And those years are the infamous notch years.

Well, a more appropriate way to view the notch might be to consider that all the people born during the years 1910 through 1916 received an unintended bonus in their monthly Social Security checks due first to Congress' overindexing of the benefit formula during the years in which those people retired, and, second—and here is the one anyone can see this one—Congress' unwillingness to take away from those retirees that which it had thereby so generously, but erroneously, given to them. "Bestowed," would be a good word; that is what was given to them.

And so in this kind of situation in this place, instead of taking away what they should not have received and calling them windfall babies, we then took this measure and call them notch babies. They would have, if this had persisted, broken the system.

However, now people born after 1916 are resentful because they did not share this good fortune and they want in.

I believe what got the national consciousness was a letter to "Dear Abby" or a "Dear Ann" letter that said what is happening to these poor people? And so it was spread then upon the pages. I believe it was a "Dear Abby" instead of "Dear Ann." And both of them are very dear. I know them both; lovely ladies. And so she published this. You know, it just suddenly caught hold and it was out of control. And so, it was that letter, which she later said, "I wish I had never published that letter, it was very unfortunate that I did that"; because now it boggles the mind that we should even be considering such a thing at this time. After all we have heard in these last 2 days about protecting the Social Security trust funds, and that is the sole purpose of the efforts of the Senator from New York here; that is his vision of this. This amendment is the very last notion one should entertain; the very last.

When Social Security was established, the intended replacement rate for an individual who earned an average wage for the large part of his or her career was approximately 40 percent, 43, 42. That percentage remains the goal for the average earner today. However, in 1972, as I say, the erroneous benefit formula had already raised replacement rates to 55 percent. They had gone clear past the 40 percent, clear past 43, they were at 50, and they were headed for 100. They were headed for 100 percent.

What that means is that individuals retiring under the 1972 law would have received Social Security benefits in excess of their earnings. Now that is what was happening.

If I understand this legislation correctly, the Senator is proposing an extension of the 1972 benefit computation rules for individuals born several years after the notch.

What kind of rational policy is that for those born after the notch?

The 1977 amendments restored the actuarial balance of the system by bringing replacement rates down to their historical levels. And unless you keep them at historical levels the system will perish. There is no way that Social Security could have survived that drawdown and it cannot survive it now. That is the real issue.

Now unless—and my colleague from Iowa is here on this floor—unless we were to raid the Social Security surplus reserves not to pay for the creation of a new generation of notch babies—that is what you are doing here; you cannot miss doing that here—I do not know the reasoning for that. Proposals such as this one to fix the notch would simply serve to extend a very, very costly mistake and this is said by people in the AARP, it is said by people even in the National Society for the Preservation of Social Security, with whom I never agree because they are never right.

[Laughter.]

I would admonish the gallery not to respond, Mr. President. That is not appropriate.

The PRESIDING OFFICER. The Chair would remind the gallery that any response is inappropriate. The Senator from Wyoming has the floor.

Mr. SIMPSON. So, this is where we are.

They are saying this notch baby issue, if corrected, can only come from one source. It comes from the Social Security System. It does not come from somewhere out there. Thoughtful people, Democrats and Republicans, corrected this very serious mistake and here we are now wanting to continue an unwarranted windfall to certain Social Security beneficiaries. This fix would drain precious dollars from the Social Security trust funds putting the system at great economic risk and threatening its ability to provide benefits to future retirees.

Another Senator who is a cosponsor of this measure, who is on the floor at the present time and a man I greatly respect, just as much as I respect the Senator from Iowa, and I have worked with them both—he is a cosponsor and gave a most moving and stirring comment the other day about the budget of the United States. The Senator from North Carolina gave a powerful resume, with tinges of partisanship, on the issue of the budget. Yet the sanctity of the Social Security System will simply be sucked away, if we go back to this. This would break the bank.

I do not believe the two Senators genuinely intend any raid on the trust funds. That would be absurd. I could not believe that. That may be the result of the plan and that is what will happen, but I do not think that is their primary purpose. But this is an election year. It is a political year. And these people have been beating the brains out of people now for years.

They come to the town meetings and after I explain to them what the notch issue is and how it is going to affect their brothers and sisters who were born a year before or a year after and what they got and would they like to give back what they got, unintended, that seems to settle them down a little. But nobody says that. They just say, "I will get your money." They do

not tell them it is going to cost $40 billion, or $30 billion, or $80 billion. Some even said $400 billion. They do not tell them that.

So we sometimes do things a month before election for reasons that have little to do with good government, and little to do with the worth of the Social Security System. That is what we do here and we are very good at it, and so am I.

We get in a tough race and we promise our constituents things, and so here this is. The reason it does not come up is because we all know in our hearts we could not correct it without just draining away the system. But here now, a month before the election, is the notch baby issue. I understand that. That is a tough row to hoe. But that is beside the point. We come in and say we are going to "fix the notch." We do not say where the money is coming from.

I urge my colleagues to take clear stock of what this amendment would mean for future Social Security retirees. It would mean the system will not be there for their retirement. I urge my colleagues not to lightly cast votes that would threaten the Social Security solvency. That, as we know, presents deep problems, especially in an election year.

We have watched already what happened as we talked about Medicare on this floor while thoughtful Democrats and Republicans put together a summit package. We would have thought we had sent everyone out into the world in abject poverty.

What did we do? What did we try to do? What did Speaker Foley, and Majority Leader Gephardt, and our fine majority leader and our marvelous minority leader—what did they do? They added $3.90 a month to a voluntary program in Social Security called part B, which is solely for physicians and lab work and so on.

The reason people are in it voluntarily is because it is the best deal in the house. You could not get a program like that anywhere else. So they decided to get it there and it is $27.50 a month. It was originally supposed to be paid 50 percent by the beneficiary and 50 percent by the Government and now it is paid 25 percent by the beneficiary and 75 percent by the Government and we were going to raise that to 30 percent: $3.90. But do not forget it would have gone up $3 a month if we had done nothing. It is already in the law it was going to go up $3 a month and now it is going to $3.90, and the mailroom broke down. The guys just ran for the rat holes. And that is where we are with Social Security.

A voluntary program, the best deal in America, going up $3.90 a month and it would have gone up $3 a month even if we had done nothing. So I know how tough it is.

Then we would have done another thing, to take them from $75 a year deductible to $150 a year deductible. There is not a thoughtful corporate entity or State entity that has not raised its deductibles to $150, or $250, or even $300 in any kind of sensible way.

So that is where we are. I hope we will defeat the amendment. I am fully aware we will not. But everybody knows it will die. It will pass here with great foofaraw and great attention and just rot somewhere between here and there in the last days of the session. That is what will happen to it because it has not done anything for 6 years. Why would it suddenly rise from the ashes now, to have something that will cost the Social Security system, by the very finest of estimates, $31 billion from 1991 to 1997; $4 billion per year rising to $5 billion per year then declining after 1997. Others say it is much more than that. One figure, as I say, was $400 billion over the life of trying to correct it.

So I do not think we should cast votes that make bad policy, simply because a small group of people who got more than they ever should have received now feel cheated out of the full and equal participation in an actuarial mistake. Congress did everything it could to ensure that all Social Security beneficiaries were treated fairly under the benefit transition rules, right down to giving those caught in the transition the choice. They gave them a choice. Nobody has ever had this choice of which benefit calculation method they would be covered under.

The worker born between 1917 and 1921 receives whichever benefit is higher. And in most cases those born in the notch years are receiving benefits higher than those received by comparable individuals retiring, born after 1921. That is the way it is.

There is always the final argument, and I have heard it in town meetings. The hand goes up and says, "I have been in it from the beginning there, buster, and I want it all back." I say, OK, you have been in it from the beginning? Well then from 1937 to 1946 you never paid in over $30 a year. And then, from 1946 to 1964 you never paid in over $174 per year in that whole 18 years. And guess who was more the beneficiary of those kinds of minimum premiums than anyone else? The notch babies, that is who.

So it is a reality of political life that now we are dealing with this 30 days before the election while it has been languishing for 6 years. The pressure groups are ginned up.

Certainly, in the midst of the next 2 weeks while I am around here I would love to debate anyone from any of these special interest groups at any time we could mutually do it, to show what a ripoff, an absolute ripoff is the solution to the notch baby issue when the tragic thing is that this Congress did not have the courage to go back and take away what they never should have received, as they threw the whole system out of balance. If it had gone on they would have received back more than they paid in.

That is where we are with Social Security in an election year. It is tough enough in a nonelection year. But in an election year, impossible. So that is Social Security and it will be a sad day. I will not be around, one way or the other. After my present discussion it may be shorter, because this is what happens to a person when they speak about Social Security.

But I did not hire on to lie and josh my constituents around.

I tell them, in the year 2030 the system will be in dramatic drawdown and you are not doing anything to assure that will not happen.

I think that is a real cheap shot. I think that is a rotten thing to do to your grandchildren and your children. That is what we are doing with Social Security. While the engines whine and drive us from these special interest groups when they really do sit down at their dinner table and say, "You know, mom, we really ought to be paying attention to our grandchildren and we're not."

This is the most extraordinary departure in an election year and in a budget year when we are trying desperately to get things under control, and we are going to tap the system in an extraordinary way by seeing that people receive money who are so-called notch babies who were some of the most fortunate people before we corrected the system than we had seen in the system.

In the last analysis, Mr. President, the existing benefits calculation formula is quite fair. It was put together by thoughtful Democrats and Republicans to avoid an issue which was just impossible. I urge my colleages to reject the amendment, and I figure there might be one or two who might be willing to do that.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from Iowa [Mr. Harkin].

Mr. HARKIN. Mr. President, do we have half an hour?

The PRESIDING OFFICER. The Senator controls 25 minutes, 34 seconds remaining.

Mr. HARKIN. What happened to the other 5 minutes, if I may inquire?

The PRESIDING OFFICER. The Senator from New York used that time.

Mr. HARKIN. Mr. President, I hardly know where to begin to respond to the soliloquy of the distinguished Senator from Wyoming. There are a lot of insinuations and think a lot of misinterpretations of the Social Security System. I think the biggest misinterpretation my friend from Wyoming made was in calling the elderly who are fighting for this a special interest group.

Do we want to take a look at special interest groups? How about the super rich in this country who will not pay their fair share of taxes? When they waded in here, as David Stockman really said, the hogs were really feeding at the trough back then, when the big tax cuts were made in the early eighties, that reduced the burden on the upper income. Talk about special interest, when people making over $200,000 a year or more are not pulling their fair share, when an additional dollar made by someone making over $200,000 or $300,000 a year and they are paying 28 cents marginal income tax and yet a working person, husband and wife both working, have a couple of kids making about $80,000 a year, if they have an additional income, they are paying as high as 48 percent marginal taxes.

Talk about special interest groups; those are the special interest groups who are trying to run this place, not the elderly. All we are trying to do is to make up for an injustice that occurred.

I have more I want to say on this, but I think the distinguished Senator from Pennsylvania wanted to make some comments, and I will return to my comments after him.

I yield 2 minutes to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for up to 2 minutes.

Mr. SPECTER. Mr. President, I thank my colleague for yielding to me at this time. I have other commitments and cannot stay.

I support the amendment which has been offered. I have introduced legislation in the 99th Congress, 100th Congress, and 101st Congress with a similar effect. I joined with Senator Sanford on legislation to this effect because my study convinces me there is an inequity to the senior citizens from the modifications to the Social Security benefit formula approved by Congress in 1977. There is no question about the expense involved here. But, as I have reviewed the facts, those who were born between 1917 and 1921 have received substantially less than what is their due. It is something which is owed and ought to be paid.

Mr. President, in 1977, Congress approved a plan designed to eliminate a perceived over-adjustment for inflation contained in the Social Security benefit formula. This provided a new benefit formula for workers born after 1916. To protect people from an abrupt change in benefits, a transition formula was included in the new plan. This transition formula would have provided for a smooth changeover by dividing Social Security beneficiaries into three categories: Those born before 1917, those born between 1917 and 1921—the so-called notch years—and those born after 1921.

The transition formula failed. Supporters of the plan knew benefits under the new plan would be lower—which was the intent—but they grossly underestimated the disparity they would be creating for the notch babies. Under the formula, benefits were expected to be 5 to 7 percent less than those projected under the 1972 law. Instead, workers with the same earnings record, retiring at the age of 65, and born only a few days apart, one in 1916 and one in 1917, experienced a difference in Social Security benefits of up to $1,300 each year.

The Social Security Administration reports that of the approximately 24 million retired American workers currently receiving benefits, approximately 6.6 million are and will be affected by the notch disparity.

The failure of the transition guarantee to protect those born in the notch years is primarily due to two provisions of the formula. First, post-age 62 earnings of people born after 1916 are excluded when calculating the benefits for these workers. Second, benefit increases occurring before the year a worker reached age 62 are not factored into his or her initial benefits, as they would have been under the former rules.

I am aware of the budget constraints facing us this year, but legislation to address the unfair treatment of those retired workers affected by the notch disparity must be passed.

I long have been working to seek a solution to this problem. As early as 1983 and again in 1985, I cosponsored legislation directing the Secretary of Health and Human Services and the Commissioner of Social Security to study the notch benefit disparity and report to Congress on how this problem could be corrected.

On September 30, 1986, I introduced legislation, S. 2892, to amend title II of the Social Security Act to restore benefits to notch babies. That bill was reintroduced as S. 1119 on May 1, 1987, and as S. 37 on January 25, 1989. I also joined Senator Sanford in the 100th Congress in introducing S. 1830, the Social Security Notch Adjustment Act.

Senior citizens across the country, in addition, to the many senior citizen organizations, have mobilized to protect and preserve their benefits from the budget ax. Senior citizens also wish to recoup those Social Security benefits lost due to the gross error in the automatic benefit increase provision in 1972.

On May 1, 1990, thousands of senior citizens, many from my home State of Pennsylvania, are scheduled to assemble at the Capitol to voice their opposition to the Social Security benefit inequity. They will ask Congress to vote on this notch issue, once and for all, in all fairness to them. They also urge Congress to separate the Social Security trust fund from the budget so that they and the future baby boomers will get their fair share of Social Security benefits. One important group in this effort is the Notch Babies Organization of Pennsylvania.

The time has arrived for us to send a strong message to senior citizens that this body will preserve and protect all benefits which our elderly so richly deserve. Accodingly, I urge my colleagues to join in supporting legislation to restore Social Security benefit equity.

Mr. President, I ask that a reference be made to a statement I made in 1989. I will not ask that it be printed in the Congressional Record because it will take more space and more money, but I refer readers to the expansive statement I made on January 25, 1989, which appears at page S121 of the Congressional Record.

I thank Senator Harkin.

Mr. HARKIN. Mr. President, I yield whatever time Senator from North Carolina needs.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. SANFORD. Mr. President, I would like to have 5 minutes and would like to be notified when that time expires.

I must say, Mr. President, that there is no more likable colleague than our colleague from Wyoming. I always enjoy hearing him talk, even when he talks contrary to what I think is sound logic.

I think the distinguished Senator from Wyoming has not really looked at the more recent cost calculations of correcting this problem since Dear Abby got her first letter. One of the reasons that this notch concept, the correction of the notch, has received a bad name is because the initial reaction at that time was to rush in and restore start the past increases in benefits, start the benefit increases running up again the way it had been running when the original legislation that created the notch was enacted.

We have not arrived here just on the eve of election. I introduced legislation to correct this problem in the spring of the first year that I served in the Senate. I have been working on legislation, improving it, and have it now where it is fair, where it is not expensive, where it would hardly have any effect on the trust funds. I have a chart that shows benefits prior to 1917 were indeed, running out of control and Congress enacted a 5-year correction. Had they phased in a 10-year correction, I do not think we would have had a notch in the first place. That is about what we attempt to do with this

amendment, to make it essentially a 10-year correction. And all of this amounts to, about 1 percent of the benefit expenditures. One percent is not going to break a trust funds. Our correction never increases benefits over what people born in the thirties have been receiving under the present formula. It just fills in the pot hole. We have come back now, today, to fill that pot hole in, not to fill it in at the top level, but to fill it in just to ease the disparity that now exists.

So it is not costly; it is fair. It has not been brought up now because it is close to election eve. This is as soon as we have been able to get it to the floor, despite the fact we have attempted for 4 or 5 years to do so.

I want to take up one other point that the distinguished Senator from Wyoming alluded to, that we have been struggling with the budget deficit. Yes, we have been struggling but not very hard and not very honestly. We have been covering up our real deficits, what we add to the debt each year. We have kept the public from knowing that we have hidden deficits. How did we cover it up? With Social Security funds. What did we do with the Social Security funds? We gave the trust funds IOU's and took the money to spend on the general operation of the Government. We simply took, I think quite improperly, Social Security funds and used them for general operations. As I have said before we have a Social Security System that is a pay now, pay again later program. We are taking that money and spending it as general revenue.

So in all fairness, if we look at Social Security funds for what they are, a trust set-aside to be protected for retirees and not used to cover up the true deficit, then correcting the notch or support Senator Moynihan's bill does not have anything to do with the budget deficit.

It is a fraud—there is no better word—to use Social Security funds as general revenues. So this is not only an irrelevant argument against doing something about Social Security, but it reveals the real flaw, that we have been improperly using Social Security funds to pretend to balance the budget. Now we do not want anybody monkeying with these trust funds because it will look like we are increasing the deficit. It has nothing to do with the real deficit.

This amendment does not take effect until fiscal year 1992.

Mr. President, I want to quote something from GAO. It is absolutely true. GAO reports that:

> No amount of technical discussion and sophisticated analysis is sufficient to convince an individual that it is equitable for him to receive a benefit that is $100 less per month than his nearly identical neighbor.

They say, of course, that it makes them feel that the system is not fair.

Mr. President, there is a wonderful lady in Charlotte, NC, Hazel Kale, born January 9, 1917, just 9 days after December 31, 1916, placed into the notch by 9 days. Had she been born in 1916, she would have been entitled to 21.7 percent more than she is due under the notch formula.

The amendment is not going to bring her all the way back, to the level of those born before 1917, but it is going to bring her about halfway there. The notch is costing Mrs. Kale about $1,200 a year in lost benefits, over $100 a month.

She worked in a physically demanding job in a hosiery mill for over 20 years. For the last 10 years of her work life she worked in a processing plant which constructed air filters. Although she could have retired at age 62, she continued working and paying Social Security taxes on her salary until she retired at the age of 65.

She was not entitled to any benefit adjustments for those years she worked after age 61. That is what the notch legislation did to her. That is what we would correct. Mrs. Kale is entitled to received benefits based on those years that she worked after age 61. We propose to correct this problem at a price that is affordable.

I am satisfied that if the Senator from Wyoming studied this legislation, he would agree that it is not too costly and certainly by no stretch of the imagination could it jeopardize the soundness of the Social Security trust fund. It is long overdue, Mr. President. Maybe it will not go any further this year, even if we pass it today, but we at least we will have said we are ready to be fair. If we pass this today, even if it does not become law this year, we will get another shot at it soon next year.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa [Mr. Harkin].

Mr. HARKIN. Mr. President, how much time do I have remaining.

The PRESIDING OFFICER. The Senator controls 12 minutes and 50 seconds.

Mr. HARKIN. I yield myself such time as I may consume.

Mr. President, again I want to thank my distinguished colleague from North carolina for his leadership in this area and for making the points he just made. They are right on the mark.

In response to the earlier comments of the Senator from Wyoming, first of all, I want to assure the Senator from Wyoming that this Senator wishes he was not here today and that he was back in his home State of Iowa, so this is not legislation that is brought up just because elections are coming.

I want the Senator from Wyoming to know that this Senator has been trying to get a vote on this for at least 4 or 5 years and for one reason or another we have never been able to get it up for a vote—points of order, bills cannot be moved. And thanks to the action by the Senator from New York in bringing up this bill, we are now allowed the opportunity to have an up-or-down vote on correcting this situation for the first time. So it is not being done because of the election. It is the first time we have had a chance to bring it up.

This is a strong bipartisan amendment, with Senators on both sides of the aisle supporting it.

I also want to agree with the distinguished Senator from North Carolina that in no way is this going to bust Social Security, as the Senator from Wyoming said a few minutes ago. I have a chart here put out by the Social Security Administration showing that we are going to have over $1 trillion in Social Security by the end of the decade, and we are talking about $4.4 or $4.5 billion a year. Through 1997, we are talking about $27.7 billion out of $1 trillion.

As the Senator from North Carolina said, that is about 1 percent. We are not going to bust the Social Security System because of using just 1 percent.

But again I want to make this point very clearly, Mr. President. What we are seeking to do is to basically return to the original intent of the legislation passed in 1977. The intent of that legislation was to correct, as the Senator from Wyoming correctly said, the huge increase in replacement costs that would have bankrupted the Social Security system.

But Social Security told us in 1977 that if we voted for that legislation no Social Security retiree would have more than a 5 percent difference in what they received than what someone born before 1917 received. I can tell you that almost every senior citizen I have talked to said 5 percent, we are willing to give that up to make sure that we save the Social Security system.

As I said yesterday, a couple years after that I found constituents of mine who had as high as a 27-percent difference in their retirement income as compared to someone who was born just literally weeks or months before, even though they both had paid in the same amount.

So this amendment returns it to that original intent to the make sure that no Social Security recipient has more than a 5-percent cut out of the retirement earnings.

The notch babies, as they are called, will still get less than those born in 1910 through 1917, but they will not receive 27 percent less or 20 percent less. It will be 5 percent less.

So as the distinguished Senator from North Carolina said, we are just kind of filling in the pothole, evening it out, making sure no one group gets hit extremely hard, as they have been hit now if they were born between the years 1917 and 1926. So for just 1 percent we get back to basic fairness. We say also to these retirees that we recognize their contribution to our country.

Again, as to the notch babies, the men who fall into those years are by and large the men who fought for this country in World War II. They are people of modest means. They were told they would have veterans' benefits available to them when they retired and now they have had those yanked away from them.

Go out and talk to your senior citizens, the men who fought in World War II, who had their veterans' benefits taken away and now they are hit again by the notch.

It is unfair, and I think it is just basic decency and fairness, basic justice to say, yes, out of that $1 trillion Social Security trust fund we are going to take 1 percent, 1 percent, and make sure that these people get at least some basic compensation, not up to the amount that the 1916 and 1917 retirees receive; at least no more than about a 5-percent cut. I think that is fair and equitable.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON. Mr. President, I yield to the Senator from New York 3 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for up to 3 minutes.

Mr. MOYNIHAN. Mr. President, I rise with that sense of distress that one always feel on the floor when one cannot support a measure advocated by dear friends with whom one has been associated for many years, and with whom one means to continue associating.

But I must report that the Subcommittee on Social Security and Family Policy held a hearing on this subject on January 23, 1989. The particular occasion was the publication of a study by the National Academy of Social Insurance entitled "The Social Security Benefit Notch," which had been requested jointly by myself and by the Republican leader, Mr. Dole.

The study was conducted by a group chaired by Robert J. Myers, the former chief actuary of the Social Security System. The group reported most emphatically that there had been an overcalculation of benefits for Social Security recipients born prior to the notch years. They recommended that no action be taken; the American Association of Retired Persons agreed with that view as did the National Council of Senior Citizens. We, on the Subcommittee on Social Security and Family Policy, also agreed that no action be taken.

By contrast, the National Committee to Preserve Social Security and Medicare advocated taking actions similar to those proposed by the Senator from Iowa and the Senator from North Carolina.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator controls 4 minutes 44 seconds.

Mr. SIMPSON. How much on the other side?

The PRESIDING OFFICER. For the proponents, 7 minutes 5 seconds remains.

Mr. SIMPSON. I thank the Senator from New York. It is difficult to resist an amendment by a friend and a colleague. And he is that, and he is mine, too. So it is not directed at an issue of personality. It is directed at the issue of the issue. It is a very nasty issue to play with because it will not break Social Security, but it will sure do a number on it. I think people can appreciate that idea. It is about 31 billion bucks' worth of number.

You cannot avoid it. It is the foot in the door. Tapping of the reserves will soon become an art form in this chamber, because it is 100 billion bucks now, and it is headed to—hold your hats—$3 or $12 trillion, one group said. It is $226 billion now, my friend from New York informed me, building at a tremendous rate to—I believe that I have seen a figure—it might well be in the year 2025, 2027, $12 trillion. I have seen that figure bandied about. But in the year 2030, it is headed into dramatic drawdown, and it cannot miss going into dramatic drawdown.

So I just want to keep the point where we are. We are not talking about pay as you go. That is the Senator's principal part of the bill. We are not talking about that. We are not talking about arms and armament and Ronald Reagan, and all of that business, which is, you know, the way it is for some. It is Congress that passes the budget, ladies and gentlemen. The President does not even ever get a vote. I know that is heartbreaking, but it is true. That is why we are in this gum right now.

The hearing record of January 23, 1989, I commend to you. The Senator from New York shared it. The study I commend, too.

Let me just say this, in conclusion. It is easy to talk about this, but then when you get to the facts, then it is not appropriate to go to these other issues: you know, veterans.

Let me tell you, I have chaired the Veterans Affairs Committee. If there is a group of people in America who get treated more fairly than anyone you might know, it is the veterans of the United States of America. I am a veteran, and very proud of that. I am a member of the Veterans of Foreign Wars, American Legion, and Amvets.

There are 27.5 million veterans, and we give them $31.5 billion. Than please consider that of those 27½ million veterans, that perhaps 3 or 4 million of them were ever involved in a combat experience. Some served for less than 6 months. Some served 18 months. Some never left the United States. We are the only country on Earth that gives those people the same benefits that we give to a combat veteran.

I have always said, and I will say it one more time as clearly as I can. You show me the combat veteran, the training, the combat theater, and I say give him or her anything they require. But not the same benefit for people who never left the United States, served for 6 months, and were not involved in any way. That is where we are.

So let us keep the veterans out of this. And boy, did we keep the veterans out of it. Nothing hits the veterans. If there is a sequester, they do not get a hit on their pension or their compensation or their disability. But if there were a 32-percent sequester, the veterans would not get hit more than 2 percent on direct health care, period. They will not even be hit on the rest, and then never over 1 percent. Even if the sequester on the rest of the budget is 32 percent, the veterans would never be hit over 1 percent.

That is a fallacy. It is not worth dragging it into the debate except for emotion and to charge it up a bit.

So seniors are not a homogenous group; they are a very diverse group. For everyone we hear about, and I believe about that wretched situation, the lady in North Carolina, but also please believe that there are people who are notch babies who are very well-off and who have received 20 and 30 times what they contributed into Social Security. May we talk about them too? Not to demean the other people, just to stay real. It is a diverse group. We have to give an appropriate response based on age, income, retirement; all of those things must be taken into measure if we are to get a handle on the situation, which is so volatile for us we will not touch it with a stick.

The PRESIDING OFFICER (Mr. Adams). The Senator from Iowa has 7 minutes remaining.

Mr. HARKIN. Mr. President, I do not intend to take too much more time. A lot has been said on this.

Again, I want to turn to the facts. In 1977, when this correction was made, and I have admitted it had to be made to stay solvent in the Social Security System, the House had a transition period of 10 years, and the Senate had a transition period of 5 years.

The Social Security Administration at that time said that, using the Senate's 5 years, no one would take more than a 5-percent reduction, no retiree. So the conferees agreed upon the Senate provision for 5 years; thus, the notch.

Well, we found, as I said before, it was more than 5 percent; in some cases, as high as a 27-percent difference in payment to people just because they were born in 1917 rather than 1916.

This amendment basically goes back to what the House had passed in 1977, and makes a 10-year transition. That is all we are doing. We are sort of spreading the pain out a little bit, if you will, spreading it out so that no one person gets hit a lot, but for that 10-year period when people do get hit a little bit.

I think that is the fair way to go, and again, I say that was the House position, to do it over 10 years. In hindsight, they were right. Had we gone with that 10-year transition, we would not be discussing the notch problem today. We went to a 5-year transition and, thus, here we are.

Again, I just say that we can talk all we want about the technical aspects and everything. This is a modest amount of money we are talking about. It is going to a group of elderly Americans who are of modest means. As I said before, many are World War II veterans who have had their benefits taken away from them. I think, again, it brings to our elderly population a sense of fairness and justice.

We have two groups, those in the notch and all the others, and there is sort of a contentiousness there. By doing this, I believe we bring them all back together again, as they should be, and will reduce that feeling of inequity, that sense of injustice that prevails out there, a sense that is based upon the real facts, and that is that many of these people born in those years, for no other reason than chance of birth, have taken a big cut in their Social Security payments. So I am hopeful that we can move on to this.

I have been led to believe that there may be a point of order raised, not on the amendment but on the bill. I certainly hope that is not true, but I personally say that a vote against waiving the Budget Act on this bill would be a vote against correcting the notch, because, if the bill falls, the notch falls, also. So I hope no point of order is raised. If it is, I hope it will be waived. I support the Senator from New York in waiving the Budget Act and thus correcting this notch. If it goes down, that is probably it for this year. I have been trying for 5 years to get a vote on this notch, and we have not been able to do it. I hope we can get it done today. I yield the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mrs. KASSEBAUM. Mr. President, like every Member of this body, I have heard from thousands of my older constituents strongly urging that I support efforts to fix or correct the alleged injustice of the Social Security notch.

The amendment offered by the Senator from Iowa is an attempt to do just this, and I respect his attention to the concerns of the so-called notch babies. I cannot, however, support his proposal.

In my view, the notch problem has much more to do with misperception and bad information than it does with any actual inequity in benefit payments. In fact, a hard look at the history of this issue clearly shows that benefits for persons born in the notch between 1917 and 1921 are, in reality, both fair and equitable.

For the benefit of my colleagues, as well as for any seniors who may be watching this debate today, let me take a moment to briefly review the development of this issue:

Mr. President, in 1972, Congress created a Social Security benefit formula which contained a serious error. This mistake, which involved the factoring of inflation rates, resulted in the payment of Social Security benefits far higher than Congress had ever intended, or than the country could afford. In fact, had this old formula been allowed to continue, many beneficiaries would have received Social Security benefits totaling more than all of the wages they earned during their entire careers.

Seeking to correct its mistake, Congress in 1977 enacted legislation establishing a new benefit formula designed to bring benefit levels back into line with levels that had existed prior to the 1972 change. The new law provided that:

First, persons already receiving benefits were allowed to continue receiving the unusually high benefits calculated under the old 1972 formula.

Second, benefits for individuals reaching the age of 62 after 1983 were to be calculated under the new benefit formula.

Third, a special transition period was established for individuals reaching the age of 62 between 1979 and 1983. This transition group, which has come to be known as the Social Security notch, corresponds roughly to those individuals born between 1917 and 1921.

Mr. President, this 5-year transition group was created to help ease the impact of the benefit correction on individuals who were approaching retirement age at the time the correction was made. Rather than an immediate switchover to the corrected rate, the transition system provides for a gradual reduction of Social Security wage replacement rates for persons born between 1917 and 1921. The term "replacement rate" refers to the ratio of a worker's preretirement income which is replaced by Social Security benefits.

It is true that benefits for persons in this transition, or notch, group are somewhat lower than benefits received by persons born just before 1917. This is not because the notch babies are receiving less than they deserve, but rather that the group born just before them is continuing to receive the abnormally high benefits calculated under the old formula. As I have mentioned, this is due to the fact that Congress decided that it was only fair to allow persons who had already retired at the time the law was changed to continue receiving the benefit levels to which they had become accustomed, unusually high though they may be.

It is a simply not true that the notch babies have been singled out for unfair treatment under Social Security. In fact, they are much better off then they would have been had Congress simply corrected the benefit formula without providing for a transition period. It is also worth noting that many of the so-called notch babies are actually receiving slightly higher average replacement rates than persons born after 1921.

As I have explained, the benefit adjustments made in 1977 were both necessary and fair. I believe it would be highly inappropriate for Congress to correct for an injustice that has not, in fact, occurred.

Another concern we must consider is that Senator Hatch's notch amendment would be very costly to the Social Security System. As the Senator from Iowa has outlined, this amendment would raise benefits for most notch babies by an average of $550 a year. It would also provide benefit increases for beneficiaries with birthdates as late as 1926, which is well beyond the scope of the basic notch transition group of 1917–21. Altogether, this proposal would tap into Social Security reserves to the tune of $17.8 billion over 5 years, beginning in fiscal year 1992.

Frankly, I find it difficult to accept the idea of spending nearly $18 billion on added notch benefits over 5 years even as we are contemplating very real cutbacks in the Medicare program of between $40 and $60 billion. If we want to spend an added $18 billion on our senior citizens, I, for one, can think of several areas where this money would be much better spent. One of the most important being long term health care.

Mr. President, I would like to conclude by noting that I am certainly not alone in my view that notch correction legislation would be inappropriate. Importantly, even the American Association of Retired Persons [AARP] adamantly opposes any adjustment in notch benefits. Also just last year, the congressionally commissioned National Academy of Social Insurance concluded that "those born after 1916 are equitable treated, consistent with the intent of Congress, and receive proper benefits." The General Accounting Office has reached similar conclusions, as have other experts.

I appeal to my colleagues to respond to reason rather than politics on this issue and to oppose the amendment. The appropriate way to deal with the notch issue is not to throw money at it, but rather to carefully explain to our constituents why the benefit levels are as they are.

I thank the Chair.

Mr. LUGAR. Mr. President, I rise today to express my support for this amendment. I have been a long-time supporter of attempts to correct this inequity.

In 1972, Congress began the double indexing of benefits for inflation. This error would have eventually bankrupted the Social Security trust fund. Congress acted again in 1977 to fix this mistake, but did not take back the overindexed benefits from those who had already retired and begun relying on this higher income.

Congress gradually realigned the benefits paid to ease the transition. However, the transition formula did not change the fact that a person born in 1916 retiring in 1981 receives $762 a month while someone born a year later and retiring in 1982 receives $607 a month—$155 less.

This amendment evens out the notch by making the necessary adjustment gradually, so as not to upset the stability of the trust fund. It calls for a phasein of a stable level of Social Security benefits for individuals born between 1917 and 1926, thus targeting benefits to those who need them most. In addition, it provides a modest payment per family for past losses caused by the notch.

The measure does carry some cost—specifically $4.5 billion annually over the next 10 years from the Social Security trust fund. However, I believe this proposal is both fair and affordable. I am pleased to join in the effort to correct the notch inequity, and I will continue to work to ensure that the Social Security System remains strong and reliable.

Mr. BENTSEN. Mr. President, I am aware that the sponsors of this amendment feel strongly that their cause is just. There is, of course, another side to the story. The Finance Committee has not ignored this problem. It sought a study from the General Accounting Office—a study which ultimately was done under a later request from another committee. The chairman and ranking member of the Subcommittee on Social Security and Family Policy, Senators Moynihan and Dole, requested another study of the matter by the National Academy of Social Insurance. And, at the start of this Congress, that subcommittee held a full hearing on the issue. The results of those studies, and that hearing, did not indicate that further action on this legislation was appropriate.

Whatever the merits or demerits of this case may be, however, I find myself constrained to oppose it in this context where it is offered without any offsetting provision to pay for its costs. It is my understanding that this version of the proposal has a cost of approximately $4 billion per year for each of the next several years. We have just—with much difficulty—achieved congressional approval of a budget to deal with the excessive deficits which plague our economy. We now face the even more difficult task of enacting the legislation to make that budget a reality. In putting together the budget agreement, it was clear that a fundamental prerequisite to obtaining that agreement was a firm commitment to dealing with future spending legislation on a pay-as-you-go basis. This amendment does not pass that test. As such, it would clearly undermine the budget agreement. Whatever its merits may otherwise be, I find it necessary on that account alone to vote against it.

Mr. GRASSLEY. Mr. President, I rise in support of this notch correction amendment.

I have long been a supporter of notch correction legislation. In fact, in an earlier Congress I introduced legislation of my own to correct the notch problem. Since that time, I have been a cosponsor of Senator Sanford's notch correction legislation.

I have sponsored and cosponsored such legislation, because it has seemed to me, abused that the 1977 amendments to the Social Security Act could have created a situation in which there are age-specific disparties in Social Security benefits even though the earnings history of the individuals involved are the same.

Mr. President, as I have said before, these age-specific disparities are a major issue in my State. In Iowa we have perhaps as many as 170,000 people, out of a population of 2.8 million, who are part of the notch cohort.

And the feelings of these notch babies are very intense on this issue, Mr. President. I have probably received as much or more mail on the notch issue in my years in the Senate as I have received on any other issue.

As every Senator knows from the mail on this issue, and from their town meetings with constituents when they go home, the notch babies feel very, very strongly that they have been denied Social Security benefits to which they are entitled.

One of the reason the notch babies feel very strongly on this issue is that Congress has not really responded to their concerns.

It is true that much legislation has been introduced to correct the notch.

It is true that the Committee on Finance has held hearings on this issue, although the hearing featured testimony by figures well known to oppose correction of the notch.

However, the committee has not had any votes on notch legislation; nor have their been any votes in the Senate on notch legislation.

It is time to stop ignoring the notch babies and get on the record on this question. If a majority of the Senate believes that the notch babies have not made their case, the amendment will be voted down. If so, so be it. But the Senate will at least have responded to their concerns.

Mr. RIEGLE. Mr. President, I would like to commend my distinguished colleague from New York, Senator Moynihan, for taking this important step to focus the debate on the appropriate use of the Social Security trust funds. I strongly agree with him that Social Security funds should not be used to finance current Federal spending or to mask the true size of the Federal budget deficit.

As my colleagues are all aware, Social Security faced a funding shortage in the early 1980's. In 1983 Congress enacted a law, designed to put the system on a sound financial footing, that increased the payroll contribution for Social Security. The law also provided for reserves to build up in trust funds to make sure funds would be available to pay benefits to all current and future retirees who earned them. The purpose of building up reserves was to create real savings.

However, these reserves are now being borrowed by the Treasury Department to finance current spending on other Federal programs, so no real savings is occurring.

As the Federal deficit increased dramatically during the 1980's, I and many of my colleagues, were concerned that some might try to cut Social Security benefits to reduce the deficit, even though those benefits are financed through a dedicated payroll contribution. I worked with several of my colleagues, including Senator Moynihan, at that time to take Social Security out of the Federal budget so that there would be no temptation to cut benefits to balance the budget, or to use those funds for any other purpose.

Although we succeeded in taking Social Security out of the Federal budget in 1985, this change has been virtually ignored as a result of Gramm-Rudman. This law creates a major loophole which allows the Government to continue to count Social Security when determining the size of the Federal budget deficit. This means that the large reserves—$65 billion this year—which are now accumulating in the Social Security trust funds are used to make the deficit appear smaller than it actually is.

A consensus seems to be developing in the Congress to remove Social Security from the deficit calculations and we hear from the budget negotiators that their plan would take this step. But they only remove the operating surpluses. They continue to count the interest payments—$24 billion in fiscal year 1991—to Social Security when determining the deficit. Now, this figure is actually an intragovernmental transfer and it has no real impact on the deficit. So the effect of keeping the interest payments in the calculations is to continue to use a portion of these funds to offset the true size of the deficit.

The problem is that unless this money is set aside, and not used to fund current programs, new taxes will be needed in the future to repay the money that Treasury borrows from the trust funds today. This means that workers will have to pay twice for their benefits. I think this is wrong.

There is a long history of efforts to try to raid Social Security for other purposes. I have joined Senator Moynihan in many battles to keep the Treasury Department from disinvesting the Social Security trust funds in order to evade the statutory limit on the debt. In 1985, we had to force the Treasury to restore funds to Social Security as a result of this practice.

Clearly, there is good reason to be concerned about the administration's motives for keeping Social Security in the deficit calculations. We tried to address that during the debate on Gramm-Rudman-Hollings deficit reduction bill in 1985. I had developed language to prohibit changes in Social Security in reconciliation bills to make it more difficult to use the budget process to make unjustified cuts in benefit. This language was subsequently adopted, and has helped deter unwarranted attacks on the program.

Senator Moynihan's plan would provide a contingency reserve to make sure that benefits would not have to be cut. This reserve would reach 150 percent of the annual cost of the program by 1996, which most experts on Social Security agree is the minimum level required to protect the integrity of the trust funds. This cushion is essential for protecting the trust funds against any economic downswings which may occur over the next few decades. The Moynihan proposal would make no changes in Social Security benefits. And by building up the reserve, it would make sure that the trust funds will be able to provide those benefits now and into the future.

I will continue to do all that I can to make sure that the Social Security program is strong and sound, and that benefits are protected for all who have earned them.

Mr. COATS. Mr. President, so often, not only in Congress but across the Nation, we use rhetoric to describe our senior citizens that is far different from the reality in which our seniors find themselves. We often talk of their wisdom and how important that wisdom is to pass on to other generations, but we frequently lock them out of our busy lifestyles as obtrusive burdens. We praise their experience, and then we hasten their exit from the workplace with impatient finality. I am in support of legislation before the U.S. Senate, amendment No. 2941, which I believe will help us bridge this gap.

Under existing law, senior citizens between 65 and 70 who receive Social Security benefits and who would also like to continue working are faced with a difficult dilemma: Either restrict earned income to $9,360 per year, or lose $1 of Social Security for every $3 earned over this amount. Social Security beneficiaries under age 65 are penalized even more, with only the first $6,840 being exempt before the loss of $1 in benefits for every $3 in earned income.

I remember 20 years ago when my father retired as a salesman for a drug company and he wanted to return to his original profession, pharmacology, on a part-time basis. There was a shortage of registered pharmacists at that time in our town, so he was a welcome addition to the very limited local pharmacy staff and received several job offers.

He started working part time in January of that year, and I remember visiting him in May and him saying, "Well, this is my last week at the pharmacy." I said, "What do you mean your last week at the pharmacy? I thought you enjoyed the work."

My father responded, "I am now at the point where I hit the earnings limitation, and so for every $2 I earn at the pharmacy I have to give $1 back of my Social Security benefits, and I didn't work all these years to save my Social Security benefits to hand them back. I feel good. I am productive. I want to work, but the law is such that I am not going to work, and I informed the owner of the pharmacy that I will see him next January."

We send signals to our younger generation and say, "Look, don't count on Social Security for all of your retirement earnings: That is a supplement, that is what it was intended for." We send them that message, and then when they retire, we automatically put them in a category and send another message: Do not supplement your income over a certain level or we will take away your Social Security benefits.

Those two warnings are directly contradictory to one another. It just makes no sense.

There are at least three other basic contradictions in the current law which mandate that these changes be made. First, the earnings test unfairly discriminates against the elderly. An example would be a 65-year-old woman who needs to supplement her Social Security by working as a secretary or say a bank teller. If her earnings exceed the $9,360 limit, the Federal Government hits her with tax after tax—the 33-percent earnings test, a 15-percent income tax, 7.5-percent FICA tax, and a 7.5-percent tax on Social Security benefits. That adds up to a 63-percent marginal tax rate on this particular senior worker.

A younger worker with the same income would only be taxed at less than 23 percent—a 15-percent income tax plus a 7.5-percent FICA. That is a 40-percent difference.

Second, the current earnings limits is very bad labor policy. A 33-percent Social Security cut for senior citizens who work drives most of them out of the labor force, and who can blame them? We are enforcing this disincentive at the very time that experts are coming before us and saying we are going to have a labor shortage in this country. Many businesses are having problems today hiring experienced and qualified workers. Demographers tell us the situation is simply going to get worse with each passing year.

Finally, the present law discriminates against those elderly with earned income in favor of those elderly with unearned income. The earnings limit does not consider money from pensions, stock dividends, or bond interest. So it is really only those who need to work, those without the stocks and bonds who end up losing their Social Security benefits. It is a burden we place not only on the elderly but on the elderly who can least afford it.

The solution to this odd system of disincentives and unfair discrimination against senior citizens who work is a total repeal of the Social Security earnings limit. Nothing less would do our elderly workers justice.

Mr. McCAIN. Mr. President, I rise today to express my strong concern about S. 3167, which is before us for consideration today. This legislation would return the Social Security System to pay-as-you-go status.

Mr. President, it seems that sometimes we have difficulty remembering our past experiences around here, much less learning from them.

One of the very first votes I ever took on the issue of Social Security as a Member of Congress was in favor of the 1983 Social Security rescue plan. As my colleagues will remember, with the Social Security System on the verge of bankruptcy, losing over a million dollars an hour, Congress and the administration fashioned a bipartisan proposal to rescue the system and place it on firm financial footing. This bipartisan proposal specified that the Social Security trust funds build up a reserve in preparation for the increased demand on the Social Security System that will occur with the retirement of the baby boomers. This was to be accomplished, in part, by the increase in the payroll tax rate, a component of the 1983 package. In January, the last portion of this bipartisan compromise went into effect with an increase in the payroll tax rate of 0.14 percent—from 6.06 to 6.2 percent.

S. 3167 would undo the 1983 Social Security rescue plan.

Mr. President, adoption of S. 3167 will almost certainly result in Social Security being compromised once again. Not only does it threaten the benefits of both current and future retirees, it will almost certainly result in having to go back to the pockets of workers and retirees for higher taxes because it will threaten the fiscal health of the trust funds.

I agree with President Bush: "We must stop messing around with Social Security." That's exactly what this proposal amounts to. It is an idea a number of Democrats believe has short-term political appeal and can enable them to try to shed their "tax and spend" political reputation by advocating a short-term tax cut. The senior citizens of this Nation and future retirees deserve better than this kind of gamesmanship.

To the extent that the proponents of this legislation are critical of using the Social Security reserves to offset the Federal budget deficit, I am in full agreement. This practice ought to be stopped.

S. 3167, however, goes far beyond this to require that revenues flowing into the Social Security payroll tax rate be cut. At first blush, such a proposal might sound very attractive; it is a tax cut. However, analysis demonstrates otherwise.

The proponents of this legislation suggest that this is justified due to the unexpected growth which has occurred in trust fund reserves over the past several years. They argue that the reserve negates the need for the payroll tax increase. But, there are a couple of things that they ignore.

First, while it is true that since 1983 the trust fund reserves have grown at a faster rate than expected, the rate of growth is largely attributed to the unprecedented performance of our Nation's economy and the absence of a recession. A stagnation in economic growth, or an economic downturn, would not only reverse the trend of continued growth in the trust funds, but would actually result in a depletion of the reserves.

Second, for many of our Nation's seniors, Social Security is their principal means of retirement income. For them, living on a fixed income—which is meager at best—there is understandably great fear when Congress begins tampering with the system. And this is tampering. In 1983 Congress rescued Social Security, pulling it from the brink of financial collapse. Social Security is now on firm financial footing, and it is foolish to intentionally place it at financial risk.

Third, for many of today's workers, there seems to be a frequently held view that Social Security will not be around for them at retirement. This fear is expressed to me often as I travel across Arizona. S. 3167 would virtually assure a validation of their fears. What we ought to be doing is taking every step we can to make sure that the Social Security System remains fiscally sound for future as well as present retirees, not taking steps to make sure that it is not.

This proposal will only serve to undermine any shred of faith the Nation's current workers have that Social Security will be around for them at retirment. With the aging of our population, unless we prepare for the obligations of the future, as we are currently, there is no way that our grandchildren will be able to support the provision of benefits to our children. The tax burden will be catastrophic.

While this proposal would reduce the payroll tax rate, it would have to be followed by a later increase in the tax rate or a cut in benefits in order to again rescue the system from financial disaster.

As I stated in the beginning, we need to cease the practice of using the Social Security trust fund reserves to offset or disguise the budget deficit. But, in my view, the absolutely wrong thing to do is to mess around with the Social Security System—threatening the health of the trust funds for both current and future retirees.

Mr. LEVIN. Mr. President, I will vote to waive the Budget Act to allow for the consideration of the proposal by Senator MOYNIHAN to put the Social Security System on a pay-as-you-go basis, as well as consideration on the amendment by Senator BOSCHWITZ to remove the earnings cap on Social Security benefits and on the amendment by Senator HARKIN dealing with the notch.

I have in the past supported legislation to remove the earnings cap on Social Security benefits. I believe that removal of that cap is an important step that we can take in allowing seniors to supplement their Social Security earnings without being subjected to discriminatory taxation.

I also believe that in light of the importance of the issue of how to fund the Social Security System and how to address different levels of payment to Social Security recipients in the notch, it is only proper that those questions be addressed on their merits and not be turned aside on a process issue. A waiver of the budget act to allow consideration of this bill would permit the full and fair debate that these issues deserve.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I happen to be one of those born in this notch period, and I am reluctant to make this motion, but I am going to make the motion. We are in a period of great concern about compliance with the Budget Act, and I do not feel that we should jeopardize the Social Security System by adopting an amendment, even though it might be of benefit to me and all those born and raised about the same time I was, by violating the Budget Act.

In order to protect the system itself and to require a thorough study of what this means, not only to those of us who are affected by the notch, but also to the whole Social Security System, by the Finance Committee, I raise a point of order that this bill, Senate bill 3167, violates section 311(a) of the Budget Act.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I move to waive the relevant provisions of the Budget Act in order to permit consideration of this bill.

The PRESIDING OFFICER. The question is on the motion.

Mr. MOYNIHAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. STEVENS. Mr. President, a parliamentary inquiry.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

Mr. STEVENS. Is this a matter for debate?

The PRESIDING OFFICER. The matter is not debatable. The time has expired on the underlying question.

Mr. STEVENS. Mr. President, I ask unanimous consent that there be a period for debate on this motion of 20 minutes, 10 minutes on a side.

Mr. HARKIN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator can make such a request. Is there objection?

Mr. HARKIN. Reserving the right to object.

Mr. STEVENS. I suggest there be a period of 20 minutes on this motion, 10 minutes on a side.

Mr. MOYNIHAN. Mr. President, I have no objection whatsoever to that, but I should say to the Senator from Alaska that, with a sense of comity, I asked who was going to raise the point of order and got no reply. Your decision to raise a point of order was kept from us as if it were some mystery. Twenty minutes divided equally, I am happy to do.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Mr. President, reserving the right to object, a parliamentary inquiry. A motion to waive the Budget Act is nondebatable; is that correct?

The PRESIDING OFFICER. The time on the underlying question has expired, so it is nondebatable, unless a unanimous-consent request is granted.

Mr. HARKIN. Further parliamentary inquiry. Has the time on the bill expired?

The PRESIDING OFFICER. The time on the amendment has expired.

Mr. HARKIN. If I am not mistaken, the point of order was raised on the underlying bill, not my amendment.

The PRESIDING OFFICER. The Senator is correct.

There was a time limit established on the underlying amendment, and that puts us in a nondebatable position, the time having expired, until the question on the underlying amendment is decided. Therefore, since a point of order has been raised against the entire bill, the time limit on the amendment applies. Since that time has expired, then there must be unanimous consent in order to have time to debate the motion to waive that has been made by the Senator from New York.

Mr. HARKIN. Mr. President, further parliamentary inquiry. If in fact that were not the situation, where the time had expired on the amendment and a motion to waive the Budget Act was made, how much time is allotted under the rules for debate on a motion to waive the Budget Act?

The PRESIDING OFFICER. A motion to waive the Budget Act would not have been in order until all time had expired.

Mr. STEVENS. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Sentor from Alaska.

Mr. STEVENS. It is my understanding that the manager of the bill asked for the yeas and nays on his motion to waive the Budget Act. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. There was not a sufficient second.

The PRESIDING OFFICER. I had not ruled upon that yet.

Mr. STEVENS. I thank the Chair. I would be perfectly willing to help the managers of the bill to obtain the consent for the yeas and nays on the motion of the Senator from New York, but I would like to know, has there been a ruling to my unanimous-consent request for the 20 minutes?

The PRESIDING OFFICER. There has not been a ruling. I was asking if there was further objection. The Senator from Iowa reserved the right to object but has not.

I put the question, is there any objection to a 20-minute time limit by unanimous consent on the motion to waive, as made by the Senator from New York?

Mr. HARKIN. Mr. President, reserving the right to object. I do not mind the 20 minutes. I am wondering who controls that time on the 20 minutes.

The PRESIDING OFFICER. The time would be controlled by those in favor and opposed. In this case, it would be the Senator from Alaska or his designee, since he has raised the point of order, and the motion to waive has been made. So the time will be controlled by those two, unless there is some futher request under the unanimous consent.

There being no futher objection, the unanimous consent request is agreed to, and the time will be divided between the Senator from New York, who has 10 minutes, and the Senator from Alaska or his designee who has 10 minutes on the motion to waive the Budget Act.

The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, we now have a predictable response, although a lamentable one, to the issue we have raised. We brought this proposal to the floor, after giving 9 months notice, after heeding repeated requests to put the matter off because of a critical situation of one kind or another. We asked very openly if we could have a vote on returning Social Security to a pay-as-you-go basis. We asked that the Senate be given the opportunity to work its will. We warned that Social Security contributions were being used as general revenue, something never contemplated by the creators of the Social Security system nor those people who have sustained the system over the years.

I have more than once used the term of my distinguished Republican friend JOHN HEINZ, a member of the Finance Committee who, when asked what he thought of what was going on, said that it was not thievery but embezzlement.

We have pointed out that workers' average weekly earnings in the United States are lower today than they were under President Dwight Eisenhower, whose birthday centennial is today.

Our average earnings would be slightly above those of the Eisenhower era were it not for the fact that Social Security contributions are so much higher now than they were then.

Our Social Security system is in good shape. My proposal to return Social Security to pay-as-you-go financing will not weaken the system. My proposal will cost $3.9 billion in the coming fiscal year. As the Senator from Iowa said yesterday, we can always find money for capital gains, but not for the worker from whose pocket the money was taken.

Well, sir, all right. We will have to have it out on this round. A vote to waive the Budget Act is a vote on whether to have a final vote on returning to pay-as-you-go. It is no more, no less. It does not commit a Senator one way or the other; it means only that the Senate can work its will.

I have waited patiently for 9 months. I think the time has come. I would hope that the motion to waive will be approved.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 5 minutes.

Mr. STEVENS. Mr. President, I support the President's determination to preserve Social Security. I have always supported Social Security. I do not think the Senate ought to be messing around with Social Security in this way. We have the budget compliance before us now. We have had a massive agreement now, a budget summit agreement. This bill before us will upset that agreement. It knocks out, just by its passage, at least $150 billion of revenues that are currently considered. It will lead to the destruction of the Social Security System itself in that 5-year period if it passes.

As I said, I happen to be one of the notch babies and all my friends are, and they call me all the time and want to know when are we going to do something about it. We cannot do something about the notch all alone, we cannot do something about the situation all alone.

It is the budget process we must support. This bill is contrary to the Budget Act. It would not be subject to this point of order if it were consistent with the Budget Act. The proponents of this measure have not told us where that money is going to come from. They say they are reducing taxes but they will have to turn right around and increase income taxes and they will collect more in time. This is just another way to have another excuse to tax, tax, tax and spend, spend, spend.

I believe we ought to support the summit budget agreement brought here by our leaders. I am going to be surprised if anyone supports this concept of at the last minute bringing out a bill that sends a signal we are going to reduce revenues by $150 billion in terms of the theory of the Budget Act. Mind you, it will not, because along will come another tax to take its place. It has to change. Under the Budget Act someone will have to come up with $150 billion in new revenues to replace this bill, if it passes.

I frankly think that it is time to sit back. We ought to have another commission, and I would support putting the Senator from New York on it, to find out what to do with Social Security revenues in connection with the budget process, in connection with the overall deficit of the United States. The main thing is I believe this thing sends a wrong message to the retired people in this country. It means Congress is going to stop collecting those taxes that support Social Security out in the future, but they are telling you do not worry, we are not going to touch your Social Security.

They are smarter than that, Mr. President. My generation is a lot smarter than that. If $150 billion go out of the revenues of the Federal Government that are currently designed to support Social Security, something else has to come in to fill in that gap.

I disagree very seldom with the Senator from New York. But on this one I disagree. This is tinkering with Social Security. It is messing around with one of the basic systems of this country and it should not take place. In the final hours of this Congress, it reminds me of the seatbelt law. We passed that magnificant law requiring interlocks. Everybody had to lock up at the very last minute. You know what we did the next year? We came back, we repealed it, Mr. President; we repealed it because no one thought it through.

This one has not the time to be thought through. The Senator is waiting 9 months to have it thought through. Where is the Finance Committee report? Why does this bill not come out of the Finance Committee and Budget Committee, out of the committees that are concerned with the basic laws it would affect?

I object to its consideration in this manner, although I am committed to support Social Security and I am committed eventually to find some way to adjust this notch problem where the people are really affected by or denied full participation in the Social Security System.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. STEVENS. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Alaska has 6 minutes, and the Senator from New York has 6 minutes and 37 seconds.

Mr. STEVENS. I yield to the Senator from New Mexico 3 minutes.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 3 minutes.

Mr. DOMENICI. Mr. President, the country is indebted to the Senator from Alaska for making this point of order. I rise not in objection to the provision on the notch babies. I rise because, as a matter of fact, just within the last 36 hours the U.S. Senate has heard some of the most eloquent speeches in the history of the Senate regarding reducing the deficit. And then we turn right around and—maybe someone thinks we are playing games, but let me suggest to you that indeed we are playing real games—over $150 billion of the deficit reduction that we struggled so mightly to achieve is gone, diappears from the scene when this amendment of this bill is adopted.

This is precisely what the Budget Act was intended to do. There are some who want to vote on the notch babies. There are some who want to vote on Senator BOSCHWITZ' amendment. A vote in favor of Senator STEVENS is a vote against the underlying amendment, the Moynihan amendment——

Mr. MOYNIHAN. Bill.

Mr. DOMENICI. Bill, which in and of itself cost $111 billion to the Treasury.

If ever there was something subject to a point of order, it is this.

Mr. President, let me conclude by saying to the Social Security recipients of our country, I believe there was one thing our President said within the last 3 or 4 months that applies to ths bill. He said do not mess with Social Security. The summiteers went off and they did not mess with Social Security. They took it off the budget like the distinguished Senator from New York wants, even for Gramm-Rudman accounting, so it will not even be there for the next 6 years and they did not mess with Social Security.

Mr. President, can you convince the Social Security recipients of this country that they are more apt to get their checks on time with COLA's which have not been touched if you take away $111 billion of the revenues that go to their trust fund, to go to them? I do not believe so.

I believe the Senator from Alaska has done us a favor. We do not have to vote on any of these measures if indeed it is subject to a point of order. They ought to be voted on, all of them, under normal practices in normal processes where they have cleared the subcommittee or where an amendment is offered that is in order. I thank the Senator from Alaska for doing this.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. I yield 1 minute to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, the country is not indebted to the distinguished Senator from Alaska for making this point of order, but the super-rich are; those who are making over $200,000 a year right now who pay 28 cents on each additional dollar they earn, while someone who makes less than $80,000 a year pays up to 48 cents on every additional dollar they earn.

The Senator from Alaska said it best. He said if you reduce this, income taxes have to be raised. You know whose taxes we are talking about? We are talking about the superrich, that is who we are talking about. We are talking about busting the bubble, raising the rates from 28 to 33 percent. That is what we are talking about. The Senator from Alaska said he said it.

What the Senator from New York has been pointing out is that because of those tax breaks to the superrich, it is the working people of this country that had to bear the brunt of the taxes in this country. That is what this issue is all about right in front of us here this morning.

I would also point out one other thing, Mr. President. My amendment on the notch does not violate the Budget Act. The Senator from Alaska could have allowed a vote on the notch if he is so concerned about it. He could have allowed a vote on the notch. No, he made his point of order now so that this body will be precluded from voting on whether or not to correct the notch situation. That point of order could have been made later.

Mr. President, a vote to sustain the point of order is a vote against correcting the notch situation. Pure and simple. That is why this point of order was made right now. It could have been made later. Because my amendment does not violate the Budget Act, No. 1. So a vote to sustain the point of order by the Senator from Alaska is a vote against correcting the notch. And a vote, furthermore, to sustain the point of order is to keep the super-rich from paying their share of taxes in this country.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STEVENS. I yield 2 minutes to our leader.

Mr. DOLE. Mr. President, I had not intended to speak on this issue because I have some sympathy with the notch babies. In fact, I met every one of them in Iowa here a couple years ago. I think there are 130,000-some. I promised them at a time that we would take a look at it. I think there are some inequities. I remember the candidate on our side who promised them everything got 3 percent of the vote.

But what concerned me about the statement of the Senator from Iowa was the so-called super-rich and the bubble; the so-called Bradley bubble, the Senator from New Jersey, the Bradley bubble.

I was here on the floor to try to explain that. Some people will not take time to listen. All this talk about breaking the bubble and raising tax rates, as I said earlier, is a myth. Nobody pays a higher than 28-percent average tax rate. The Democrats, some Democrats, say the Republicans are for the rich and they are for everybody else, and of course the liberal media prints it.

Every time somebody makes that statement, I am gong to go out and make the point that if you study what happened in 1986 in tax reform and progressivity to make certain everybody paid their fair share, then the Senator from Iowa would understand that his statement is totally false and totally inaccurate.

Again, I ask unanimous consent to have printed in the RECORD at this point a letter from my distinguished colleague from New Jersey, Senator BRADLEY, who talks about the bubble and about progressivity.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, May 15, 1990.

DEAR COLLEAGUE: Now that President Bush seems to be putting taxes back on the table, there's likely to be renewed interest in eliminating the so-called "bubble." This is the 33% tax rate applied to single filers with taxable incomes between $44,900 and $93,130, and to joint returns with incomes between $74,850 and $155,320. This 33% rate is referred to as the "bubble" because it applies to a limited income range, after which the 28% rate is applied.

Unfortunately, many people believe—incorrectly—that taxpayers subject to the 33% rate are being treated unfairly compared to higher income taxpayers whose top marginal rate is 28%. In fact, as the attached articles explain, the "bubble" does not reward the rich. On the contrary, it enhances the tax system's progressivity.

Because this issue is likely to be at the forefront of the debate over tax rates, I would encourage you to read Norman Ornstein's and Byrle Abbin's clear explanations of a complex and contentious subject.

Sincerely,

BILL BRADLEY.

[From the Wall Street Journal, May 15, 1990]

DON'T POP THE BUBBLE

(By Byrle M. Abbin)

As White House officials and House and Senate negotiators begin their deficit cutting budget "summit" today, the federal tax system seems to be one of the targets in their cross-hairs. And at the center of the bull's-eye is the "bubble"—the 33% marginal tax rate on some middle-income taxpayers.

Democratic leaders are entering the summit claiming that they are determined to pop the bubble in the name of fairness and simplicity by extending a 33% tax rate that allegedly falls on middle-income taxpayers to "the rich." But intentional or not, this is a delusion. The Democratic leadership is using public confusion over the difference between average and marginal tax rates as a reason to impose a tax increase on the American economy and to undo the 1986 tax reform.

TWO RATES

Ironically, the bubble exists because Congress wanted to introduce more progressivity into the 1986 tax reform. That reform set two marginal rates, 15% and 28%. In order not to treat upper income taxpayers too generously, however, Congress decided to deny taxpayers with the highest incomes the benefit of the 15% rate on their first increments of income.

So, at certain levels of taxable income—between $44,900 and $93,130 for single filers and between $74,850 and $155,320 for joint filers—the benefits of the 15% rate are phased out. This is accomplished by applying a 5% surcharge to this band of income. A taxpayer whose income level falls within the band must pay back some, but not all the benefit received from the 15% rate. A taxpayer whose taxable income is above this income band gets no benefit from the lower rate.

In addition, that taxpayer's personal exemptions are also taken back by extending the surcharge to income above the band. Once the tax benefit ($560 per exemption) has been fully negated, the surcharge no longer exists and the 28% tax rate resumes. But all of this refers only to marginal tax rates—the rate on each additional dollar. Nobody's average tax rate ever exceeds 28 cents on every taxable dollar of income, before personal exemptions.

So, three marginal rates exist, but, as the chart shows, no taxpayer ever pays an effective or average rate of tax of more than 28%. Unfortunately, many people find it hard to grasp this concept; The bubble may be the first major tax provision ever repealed simply because it was hard to explain why and how it works.

Clearly, as the chart again shows, it is incorrect to suggest that those upper middle-income taxpayers subject to a 33% marginal tax rate on a portion of their income are being treated unfairly compared to higher-income taxpayers who pay a flat rate of 28% on all their income. The higher the income level the more "pain" there is from the additional tax.

There is no lower-bracket loophole for the "rich," as some have maintained; the "rich" in fact pay a higher effective tax than do the middle-income taxpayers subject to the bubble. In fact, the bubble actually augments the progressivity of the tax code.

The hue and cry over the bubble has failed, curiously, to direct attention to the rate structure that its detractors intend to replace it with. As one listens to Democratic leaders bemoan the decline of progressivity in the federal tax system during the 1980s, it becomes quite apparent that their true objective is not simply to eliminate the confusion created by the phaseouts and surtaxes of the 1986 tax reform.

Instead, it seems that the bubble poppers want to make 33% the effective rate for taxpayers with the highest incomes. If so, the bubble won't go away: It will just float upward to apply at a higher level of income. Applying a third rate of 33% to the current rate structure and retaining the current phaseouts would mean that taxpayers over a certain level of income would find every dollar, not just the marginal dollars, of their taxable income subject to a 33% tax rate. Meanwhile with the $5 surtax still in place, upper middle income taxpayers would find themselves facing yet another bubble—but this time of 36%, not 33%.

Efforts to eliminate the bubble have been brewing for some time, and though defeated, they remain on the tax legislative agenda. The idea lingers on partly because of widespread ignorance of the probable impact of the bubble's elimination. Any plan to pop the bubble would probably impose sizable increases in tax rates on many taxpayers. One likely result of those higher rates would be increased political pressure to reverse the basic tradeoff of lower rates for a broader tax base that formed the foundation of the Tax Reform Act of 1986.

The plan the House of Representatives considered last September would create such pressures. The plan would have created three marginal rates, of 15%, 28% and 33%. It was defeated then, but some Democrats would like the White House to consider it again now. The effect of the adoption of this plan would be to increase the average tax rate above the 28% level, so that it would approach, though never actually hit, 33% for taxpayers with the highest incomes.

"NOT A TAX"

For a family of four, the tax increase would kick in at about $200,000 of taxable income. For those taxpayers, this simple "correction"—"in correcting that, we are not creating a new tax" said Speaker Thomas Foley in September—would be traumatic. The Joint Tax Committee staff estimates the proceeds of the "correction" at $4.2 billion in fiscal 1991 and $44.3 billion over the next five years. That's no correction—that's a tax increase.

Fairness and clarity, if they are indeed the purposes of the bubble-poppers, don't require more revenue. Bubble popping does not have to be code for soaking the rich. Instead, current law could be replaced with three marginal rates, but the income levels at which the 28% and 33% marginal rates apply would be adjusted so that no more and no less revenue would be raised than is raised under current law. The fact that this option is not being taken seriously is a sure sign that the bubble poppers are interested in something other than fixing the technical quirks of the tax system.

[From the New York Times, Apr. 29, 1990]

OVERSIZED TAXES FOR THE MIDDLE CLASS?

(By Norman Ornstein)

One of Washington's annual springtime rites is the required Congressional budget resolution. This year, the debate will encompass many things, but a centerpiece will be the proposal by many leading figures in Congress to raise tax rates for the rich, starting with the infamous "bubble ." The bubble is, of course, the anomaly in the income tax code that has marginal tax rates rising to 33 percent for taxpayers at roughly the $75,000 level, then dropping back down to 28 percent for those with incomes over roughly $200,000.

On the surface, this seems like a perverse artifact of the Tax Reform Act of 1986, enacted simply to punish upper-middle-income taxpayers and reward their wealthier counterparts. Those calling for the bubble's abolishment say we should simply extend the 33 percent margin rate to the upper income levels. But the fact is that the bubble was put in place for a very good reason—it does not reward the rich.

When reformers created the new, simplified system, their goal was to move from 14 separate marginal tax rates to two—15 percent for lower income and 28 percent for upper income—while moving poor Americans off the tax rolls entirely. To keep the fair share of the tax burden on the highest-income groups in America, they eliminated or reduced many of the loopholes the wealthy had been using in the old system. They went further, however. They moved to eliminate from wealthier taxpayers both the benefit of the personal exemption and the advantages of the 15 percent rate for the first $32,400 in income.

They would have done so without any rigmarole in rates—by having complicated tables to phase out both the personal exemption and the lower rate, adding to the headaches of taxpayers and the bills of tax accountants. In the spirit of simplification, the reformers, perhaps naively, chose the bubble. The end result of the bubble is that the richest taxpayers have no personal exemptions and pay a flat 28 percent on all their taxable income, with no 15 percent rate at all. Although taxpayers with incomes between $75,000 and $200,000 do pay a higher marginal tax rate, they also retain some of the benefits of the personal exemption and the 15 percent rate, and thus have lower average tax rates than the rich. In other words, the bubble actually adds to the progressiveness of the tax system.

Not realizing the widespread confusion that would result when the discussion turned to average tax rates versus marginal tax rates, reformers left themselves open to the attacks that have become so common. But the bubble does raise the tax bills of wealthy taxpayers and over time will add even more to their relative tax burden.

Congress and the President may well make the public policy decision to raise the taxes of the richest Americans. But if they decide to do so, it should be with a full understanding of why tax reform tried to create the most simplified rate structure it could, and why and how the simplified bubble fit in with its philosophy and spirit. That, so far, has not been a part of the debate.

Mr. DOLE. Mr. President, I yield back any time I have remaining to the Senator from Alaska.

Mr. STEVENS. How much time is there remaining?

The PRESIDING OFFICER. The Senator from Alaska has 1 minute 12 seconds and the Senator from New York has 4 minutes 20 seconds remaining.

Who yields time?

Mr. MOYNIHAN. Mr. President, I yield myself 2 minutes to make two points.

First, we had a long debate yesterday on this measure to put a little money back in the pockets and pocketbooks of people who work for wages in this country. Not one person came to the floor to oppose that measure. Not one word was said against it.

What instead comes today is a technical, procedural, complicated Budget Act motion to prevent further debate.

And who is for this proposal? A whole series of distinguished Senators from both parties, as well as many organizations. The American Academy of Actuaries endorses this bill. The U.S. Chamber of Commerce, the National Federation of Independent Businesses, and the National Committee to Preserve Social Security and Medicare are for this bill. The National Alliance of Senior Citizens, composed of—senior citizens who recognize that the people now paying into the Social Security system are paying too much, is for this bill. The AFL-CIO is for this bill.

I thank the Chair.

The PRESIDING OFFICER. The 2 minutes the Senator yielded to himself have expired.

Mr. CONRAD. Mr. President I ask unanimous consent to proceed for 5 minutes on this bill.

The PRESIDING OFFICER. Time is controlled at the present by the Senator from New York.

Mr. HARKIN. But he asked unanimous consent.

The PRESIDING OFFICER. I know.

The Senator from New York has yielded the floor.

Mr. MOYNIHAN. I have yielded the floor.

The PRESIDING OFFICER. Senator Conrad, did you make a request?

Mr. CONRAD. I did. I asked for 5 minutes.

The PRESIDING OFFICER. You asked unanimous consent to proceed for 5 minutes?

Mr. CONRAD. That is correct.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object. I will not object as long as it is divided.

Mr. CONRAD. I ask for an additional 10 minutes and I would give 2 minutes on this side to Senator Harkin of Iowa who requested 2 minutes and I would take 3.

The PRESIDING OFFICER. The unanimous-consent request is there be 5 additional minutes divided.

Mr. CONRAD. Ten minutes equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object. I modify that by requesting the time for the voter on this motion be set at 1 p.m., and that the time be divided in the normal form, half on each side.

Mr. MOYNIHAN. Reserving the right to object, Mr. President, and I do not object.

The PRESIDING OFFICER. Does the Senator from North Dakota revise his unanimous-consent request in light of the statement of the Senator from Alaska?

Mr. CONRAD. I would so revise my request to reflect the suggestion of the Senator from Alaska.

The PRESIDING OFFICER. The Senator from New York reserves a right to object.

Mr. MOYNIHAN. If I may be allowed to use my remaining 2½ minutes.

The PRESIDING OFFICER. The Senator will have 2½ minutes, and the remaining time will be divided equally between the Senator from Alaska and the Senator from North Dakota and the vote will occur at 1 p.m.

Mr. STEVENS. Mr. President, I had a minute left. We had 13 minutes and it should be divided equally between the two sides.

The PRESIDING OFFICER. Is there objection to having the remainder of the time divided equally between the two sides? Hearing no objection, it is so ordered. The time is divided equally, 13 minutes, between the two sides.

Mr. CONRAD. Mr. President, I was in my office watching the proceedings on the floor when I heard the distinguished Senator from New Mexico say we should not mess with Social Security. Mr. President, we are messing with Social Security. Every day we are messing with Social Security. We are looting the Social Security trust fund to pay for the ongoing operations of Government.

It reminds me a little of the evangelist Jim Bakker. Remember Jim and Tammy? Jim Bakker is now in a Federal facility serving time for a violation of Federal law. What did he do? What is he guilty of? He is guilty of raising money for one purpose and using it for another purpose.

That is precisely what we are doing with Social Security today. We are raising money for one purpose, to provide for the retirement incomes of people who participate in the Social Security System-and we are using it for another purpose, to fund the ongoing operations of Government.

Frequently I am asked, so what? So what? Well, what matters is simply this. Because we are looting the Social Security trust fund and using it to fund the ongoing operations of Government, we are asking the wage earners, the workers of this country, to pay for more than they reasonably should of the ongoing operations of Government

It is unfair. That is the basic reason we are here today. It is unfair. It is unfair to the working men and women of this country to take their money that is supposed to be for their retirement and use it to fund all the other operations of Government.

Let us be straight about what is involved in this debate. The Senator

from New York has provided a distinguished public service because he has had the guts to stand up and say it is time to stop the fraud. We ought not to have working men and women using their retirement moneys to fund the ongoing operations of Government, and that is what we are doing.

Let us stand up and be honest with the American people. That is what this debate is about.

I am on the Budget Committee and we ought to waive the Budget Act and get to this issue. It is a fundamental question of fairness in this society.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. I yield to the Senator.

Mr. HARKIN. How much time has the Senator?

The PRESIDING OFFICER. The Senator from North Dakota has 3 minutes and 6 seconds, 2 minutes of which belong to the Senator from New York. He has a little over 1 minute. The Senator from Alaska has 6 minutes and 30 seconds.

Who yields time?

Mr. STEVENS. Mr. President, I will be happy to use part of my time now so the Senator might understand where I am coming from. I am committed to the Budget Act. We have just had a long, long, drawn out negotiation. It was 8 months our leaders negotiated, both sides with the President, and we finally came up with a budget summit agreement.

If this is so good, if this is candy ice cream for seniors, why was it not in the budget summit agreement. We have agreed to reduce expenditures by $500 billion in terms of total reduction of our deficit in 5 years; $500 billion. This is another $150 billion over the same 5-year period.

It skews that budget agreement by $150 billion. Why did it not come through the normal process? Why did it not come through your Budget Committee? What is it doing here? It did not come out of the Finance Committee. It is not in accordance with existing law.

The real problem with this is it is a way to mess around with Social Security. There are some charges flying around here on the floor which are extremely interesting. Tell that to Joe six pack when he pays more money for his beer in taxes. We would have to double again every other tax that is in this, every other revenue in the 5-year agreement, in order to offset this.

There is a way to settle this, and it is to look to the whole question. Social Security money today comes into the Treasury and it is loaned to the Government. It is not used for other programs. It is repayable. As a matter of fact, by law it cannot be invested in other than in Government bonds. So every dime that is collected on Social Security is used by the Government. It cannot be invested anywhere else.

The demagoguery of saying to senior citizens that somehow we are going to improve your Social Security System by charging less taxes now and increasing taxes in the future, is just that, Mr. President. It is demagoguery. That system was made sound by a commission that the Senator from New York was on. I supported that commission.

I have not seen another commission come back here and tell me we do not need this $150 billion. What has happened is somehow or other there is a desire to shift this burden around now, under the agreement we have. The summit agreement was supported by both Houses, the leadership of both Houses, by the leadership of both of the Budget Committees and by the President and his staff, the Secretary of the Treasury, and others. Why was this not brought into that summit agreement? Why do we now have people come along to say we want to take out $150 billion of revenue that is coming into the Treasury? It is invested in Government securities. We cannot invest it in anything else as long as it continues to come in under the Social Security Act. But to say it is being used for other programs is wrong. It is in the Treasury, reserved for Social Security and cannot as such, be spent for anything else. It can only be loaned to the Federal Government.

I think, Mr. President, it is time for us to think about the Budget Act. It is the Budget Act we are trying to preserve here. It is the Budget Act that is going to bring us out of this problem right now and get us an agreement. It is an historic agreement. We will reduce the deficit this year and at the end of 5 years we will have $500 billion less deficit.

Do not tell the senior citizens—and I happen to be one—that taking $150 billion right now is going to mean that we still have a $500 billion less deficit 5 years from now. It is not true unless you raise someone else's taxes. And I am not talking about the rich.

I do not see too many taxes in this budget agreement really hit the rich, and they have been agreed to on both sides on a bipartisan basis. If you want to point the finger at Republicans, point the finger at yourselves. That agreement was agreed to on a bipartisan basis and if this made any sense, it should have been part of the package. It is not part of the package, and I object to voting on it unless it is consistent with the Budget Act.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. Mr. President, to suggest that it is demagoguery to stand on this floor and accurately describe what is being done to the American people, I believe is a disservice. The fact is we are using Social Security revenue to fund the ongoing operations of other parts of the Government. What that does is require the wage earners of this country, men and women, to pay more than they would otherwise pay so we take the tax burden off of someone else.

And guess who the someone else is. It is the rich folks in this society. They are the ones who have experienced the greatest tax reduction. How have we been able to keep Government going by giving them a giant tax reduction, even though we have enormous deficits? We have done it by taking the Social Security trust fund money. That is the fact.

It is time to have this debate, about what is the essential fairness of the distribution of the burden in this country.

The PRESIDING OFFICER. The time of the Senator from North Dakota has expired.

The Senator from New York has 2 minutes remaining.

Mr. MOYNIHAN. Mr. President, I would like to bring the temper of this debate back down to the level we had yesterday, when we heard from serious Senators discussing a serious question. The word "demagoguery" was never used, sir. Voices were never raised. It is only when the Senator from North Dakota asks who has been getting what, that suddenly we hear the word "demagoguery."

Demagoguery? In the next 5 years, the current Social Security System will take $495 billion out of payroll contributions and use them as general revenue. Half a trillion dollars. To point that out is, all of a sudden, demagoguery?

That was not a good moment in this Chamber. If we can waive the Budget Act in accordance with the normal processes—it happens all the time—we can continue our debate, finish it today, and vote on the proposal of Senator Harkin; the proposal of Sentor Boschwitz; and, finally, the underlying bill. But I plead with this body that we have a fiduciary responsibility here. Only we can protect these moneys. We have undertaken, now, to spend a half trillion dollars on purposes for which those moneys were not collected. We must let the Senate work its will on this issue.

I thank the Chair for his thoughtful and careful attention, timekeeping and goodwill throughout.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. STEVENS. I yield to the Senator from Rhode Island 1 minute.

Mr. CHAFEE. Mr. President, first, I want to say I have long supported the changes in the notch amendment. Originally they were presented by Senator Sanford of North Carolina. We have had hearings on them in the

Finance Committee and I have supported them.

I have been concerned about those affected by the notch for many years. Congress made changes to the Social Security System in 1977 to ensure the long-term stability of the Social Security trust funds. While these changes were necessary to provide some guarantees to those who rely on Social Security benefits, the transition to the new formula was not a smooth one.

Congress' intention was not to affect adversely Social Security recipients born between 1917 and 1921, the so-called notch years. Yet, despite our good intentions, the transition formula resulted in disparate benefits being paid to individuals with similar work histories but born a year apart. Almost 10 million individuals born between 1921 and 1926 are receiving lower benefits than those born prior to 1921.

Mr. President, this is not fair. Congress made this mistake, thus I believe it is our responsibility to correct it.

However, the issue before us today is not the changes in the notch act. The issue before us today is the Moynihan bill.

While I support Senator HARKIN's amendment, I am opposed to this underlying bill offered by Senator MOYNIHAN. The Moynihan bill proposes to cut FICA taxes and to make Social Security a pay-as-you-go system. According to the Congressional Budget Office, in the first 2 years alone, we would lose $23.2 billion in income from this tax. This proposal would have a devastating impact on the economy, but even worse, it would create a situation that will economically cripple our children.

The current Social Security portion of the FICA tax rate for both employees and employers is 6.2 percent. Under the Moynihan proposal, this would be reduced over 5 years to 5.3 percent and eventually would be as low as 5.1 percent. However, in 20 years, the tax will increase to 6.8 percent and eventually to 8.1 percent. Because we will be paying less now, our children will be forced to pay higher taxes later in order to pay for our benefits. The plan is designed so that we can indulge ourselves today at the cost of burdening our children in the future. This is a bad policy.

So, Mr. President, while I support the corrections to the notch issue contained in Senator HARKIN's amendment, the underlying bill would cause irreparable damage to the economy and place an untenable burden on future generations. For this reason, I will vote in favor of sustaining the point of order against thew Moynihan proposal. I am sorry that this means the notch amendment will not offered, but I am hopeful we will have an opportunity to address this important issue on its own before the end of this session of Congress.

The PRESIDING OFFICER. The time of the Senator has expired. There are 46 seconds remaining.

Mr. STEVENS. I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, I want to make sure everyone understands. It is my judgment that if the motion to waive is carried, we must raise another $150 billion in the budget summit agreement to accomplish the stated agreed objective between the Congress of the United States and the Presidency. We cannot get around that. So let us not tell anybody that we are just doing something, that does not mean anything. This means that money that is currently scheduled to come into the Treasury will not come and be reserved for the Social Security fund. What it does mean is we will have to raise $150 billion more.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion to waive section 301(a) of the Budget Act. The yeas and nays have been ordered.

The clerk will call the roll.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 262 Leg.]

YEAS—54

Adams
Akaka
Baucus
Biden
Boren
Breaux
Bryan
Bumpers
Burdick
Cohen
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Gore
Graham
Grassley
Harkin
Heflin
Helms
Hollings
Inouye
Kasten
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
Lott
Mack
McConnell
Metzenbaum
Mikulski
Moynihan
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Sanford
Sarbanes
Shelby
Simon
Specter

NAYS—44

Armstrong
Bentsen
Bingaman
Bond
Boschwitz
Bradley
Burns
Byrd
Chafee
Coats
Cochran
Danforth
Dole
Domenici
Durenberger
Garn
Glenn
Gorton
Gramm
Hatch
Heinz
Humphrey
Jeffords
Johnston
Kassebaum
Kennedy
Kohl
Lugar
McCain
McClure
Mitchell
Murkowski
Robb
Rockefeller
Roth
Rudman
Sasser
Simpson
Stevens
Symms
Thurmond
Wallop
Warner
Wirth

NOT VOTING—2

Hatfield
Wilson

The PRESIDING OFFICER (Mr. SHELBY). On this vote, the yeas are 54, and the nays 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The enactment of S. 3167 would reduce revenues in fiscal year 1991 by $3.9 billion, which would cause the maximum deficit amount for fiscal year 1991 to be exceeded. The point of order is sustained.

The point of order having been sustained against the bill under section 311(a) of the Congressional Budget Act of 1974, as amended, the bill which had been placed directly on the calendar will, therefore, be returned to the calendar.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, at 2 p.m., the Senate is schedule to move to the treaties regarding the war power rights of Germany.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I now ask unanimous consent that there be a period for morning business until 2 p.m. with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. The Senator from New York is correct. Senators will take their seats and clear the aisle.

SOCIAL SECURITY TRUST FUNDS

Mr. MOYNIHAN. Mr. President, I rise simply to claim a victory of sorts for an issue that has been with us for the whole of this year.

As we come to the conclusion, a majority of Senators have voted in a way that indicates that they think it is improper to use Social Security trust funds as general revenue. I think it is fair to say that was the minimum statement. Many others who have been very eloquent—the Senator from Florida, the Senator from Iowa—have said that it is wrong to finance a $3 trillion debt with nickels and dimes taken out of the wages of waitresses, mechanics, miners, and millworkers. There are people left in this country, you know, who work by the hour and they make about the same today that they made in the first year of John F. Kennedy's administration. There are people who get paid by the week. We do not seem to know many of them around here, but there are people who get paid by the week. Imagine that. And their pay is less today than when Dwight D. Eisenhower was President.

But why should the Democratic Party care about people like that? They are not out in the lobby, you know. They do not have PAC's, or newsletters, or resorts. If those people know anything about the Democratic Party, it is, I fear, that we do not know about them.

At the beginning of the year, in January, when I first said that we should return the Social Security surplus to its rightful owners, a number of columnists, "Well, you know, this could be a very powerful idea if the Democrats would do something about it."

I recall reading an interview with Mr. Ed Rollins, in the Washington Post. He said that when this idea first came up panic struck on the Republican side. My lord, this was an obvious issue for the Democratic Party. The Government was taking the pension contributions of working people to pay the interest on million dollar Treasury bonds. There was panic. But then the Republicans felt better about it all. As Mr. Rollins said, suddenly we remembered these were Democrats.

Yet, today, the day has only begun. Next year, we will be here, and the year after that. Every year I am here—and I am here for another 4—we are going to vote on this measure, not once, but more than once, not a few times, but many times.

I want to thank those who were with us. I want to say to those who were not that I understand, as one does understand in this body, but I am not sure how much longer the American working people are are going to understand. We will see.

Mr. President, I yield the floor.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. I rise to congratulate the distinguished Senator from New York on his excellent initiative to reduce the Social Security payroll tax.

Mr. President, for those of us who have followed the distinguished Senator's career with admiration over many years, we have discerned a pattern, and that pattern is that the Senator from New York, either in private life as a leading academician, writer, and scholar in this country, or as an influential Member of the U.S. Senate, has had the ability to perceive the trends that are developing in American society and the culture of this country. He has had the ability to discern what is good and what is bad, and to predict to a certain extent what should be done to influence the future of this country in a wholesome way.

The points that the Senator has raised on the floor today are very real, and there will be another day.

There are a number of Senators today who, because of various reasons, were unable to support the distinguished Senator's initiative. However, this issue will come back again and again.

I am very hopeful that the issue of tax fairness will emerge when the reconciliation bill comes to the floor of the U.S. Senate. The distinguished Senator from New York was one of the first in this body, indeed one of the first in this country, to raise the issue of tax fairness, and to indicate to the American people what had been happening to them over the past 13 years. During the period from 1977 to 1990, the effective tax rate of the lowest fifth of the population increased by 2.6 percent. The tax rates for the middle two-fifths of the great middle class, which Senator MOYNIHAN and members of our party have tried to represent over the years, increased by 6.6 percent and 3.6 percent, respectively, and during that same period, the tax rate on the top one percent has fallen by 23.2 percent.

Clearly, the fairest and most expeditious way to give the middle class working people of this country some measure of tax equity would be a reduction in the Social Security payroll tax. That is precisely the issue that the distinguished Senator from New York has brought to this body with great eloquence, both yesterday and today.

I feel constrained to say that at another time, in another way, I do believe that an overwhelming majority of the Senators on this side of the aisle—and I believe, perhaps, an overwhelming majority of the Senators in this body—will join with Senator MOYNIHAN in seeing that the Moynihan proposal—as it has come to be known in the popular press, and in this body, and across the country, since he first broached it in January of this year—will become a reality. It is an idea whose time has come.

I say to my friend from New York that at the present time, as he knows, all revenue measures must originate in the House of Representatives. As the distinguished Senator knows, we are in a posture now where we are trying to push through a very tough reconciliation bill. We are very concerned about the budget deficit.

But having said that, the Senator from New York has done this country, and this body and the working people of this country, a great service in surfacing this issue and focusing our attention on it.

I look forward at some point in the not too distant future, to joining with my distinguished friend in support of his measure, and I commend him and congratulate him for bringing it to us today. I might say that I am extremely gratified that he convinced over a majority of Senators to vote for his measure today, even in the face of the fact that we would have to go into the teeth of the upcoming budget reconciliation process to do it.

I yield the floor.

Mr. MOYNIHAN. Mr. President, may I express my heartfelt thanks to the Senator from Tennessee. I know how he has felt about this subject. This is not the first time he has spoken to me about it.

It mattered a very great deal that he found the time to say what he did. And we will be back. This issue will not go away. If the Democratic Party is at all true to itself, we will resolve this issue ourselves, and take it to the Nation before many more years have passed. When we do, the Senator from Tennessee will be one of the more conspicuous and gallant of the leaders.

It was very good of him to stay on the floor when others have departed. I thank the Senator very much.

Mr. GRAHAM. Mr. President, I would like to add words of commendation to the Senator from New York for the great educator that he is. He has served in many roles throughout his lifetime, none so ably as a teacher, and he has taught us all. And part of that teaching is to make us more sensitive, more aware of issues, than we have been before his eloquent elevation of this issue.

I voted with the Senator from New York, to waive the Budget Act. I did so fundamentally, because to do otherwise is to accept the fact that it is legitimate that the Social Security trust fund should be commingled with the rest of the Federal budget.

My bedrock principle is that Social Security should be thought of as a contract between the American people and their Federal Government, and that that contract carries with it certain solemn obligations for the Federal Government. The obligation is to treat it as a discrete trust fund, which we are obligated to assure is funded at a level that will be able to meet our obligations to the American people. This is not a welfare program. Frankly Roosevelt was very explicity when this was established in the 1930's, that Social Security should be an insurance program and should be bound by the basic standards of an insurance contract.

The vote to say that this should continue to be part of the consolidated budget is in my judgment a vote against the basic principles upon which Social Security was founded.

At that point, however, I raise a different issue or maybe take a different track from the premise of the Senator from New York. The Senator from New York has said that if we cannot maintain the Social Security fund as an inviolate, scared trust, then we should eliminate the tax base which was created the surplus and go back to the pre-1983 pattern as a pay-as-you-go program.

That premise, I believe, is the valid point from which to begin the discussion. I, for one, am not prepared to say that we cannot, in fact, achieve the objectives of the 1983 Social Security reform, that is, to create an independent trust fund with a surplus adequate to meet future obligations and to maintain that as a protected fiscal fund.

Why did we go to the surplus in 1983? We did it because we recognized the fact that we are in a mountain and valley of demographics in this country. If I could use my own family experience to illustrate.

I was born in 1936. There were not very many people born in 1936. It was a low year birth rate because it was toward the bottom of the Depression. My first child was born in 1963. That was a year in which many other children were born, it was toward the end of the boom of the post-World War II war babies. My daughter who was born in 1963 is herself about to have a baby in November of this year. Her child will again be born in a year in which there will be large numbers of births because of the large population that had been born 25 or so years earlier. So we have a demographic circumstance in this country which vacillates from high to low based on economic and other circumstances.

The theory of the 1983 act was that we would try to level off those mountains and valleys by creating a surplus within the Social Security fund and that surplus would be sufficient to cover the mountains, to cover, for instance, in the period beginning about the year 2015 when large numbers of post-World War II babies reach retirement age and that surplus will be created during the valley periods such as we are now experiencing. That is why we have this surplus to create some greater degree of predictability, consistency, and reliability in the Social Security fund. I believe that concept of 1983 made sense from that date and continues to be valid today.

The basic objection of the Senator from New York is that we have not been treating the surplus as a protected trust fund. As he has pointed out so eloquently, what we have in a fact been doing is we have been lending it to the central Treasury, the Social Security fund has been getting back a piece of paper, nontransferable, nonsalable to any other entity or individual, essentially an IOU, and so when my child begins to look toward her Social Security retirement, she will not have a credible source of invested funds that will be the basis upon which she can confidently expect future Social Security payments.

What will she have? She will have her share of a large drawer full of IOU's. What is the implication of that? The implication is that this concept of a surplus fund in Social Security to level off the demographic mountains and valleys is very vulnerable. It is vulnerable from two direct ways. We had an instance within the last 10 years in which the Treasury being short on money, Congress having failed to raise the debt limit, just reached over into the Social Security fund and took $20 billion or $30 billion and used it for a few days, did not pay the Social Security fund any interest for that, could have taken more. That just happened to be all they needed until they were given some renewed borrowing authority. So it is vulnerable to political raiding.

But I think the even greater vulnerability is the choice that those who will stand in our position in about the year 2015, 2020 and going to face. We are not going to be talking about adding billions of surplus to Social Security in that year. The tables will have turned. The Social Security fund will be flowing money out at substantially greater rate than it is flowing in. We will be paying those enormous numbers of checks to the wave of new retirees who will become eligible in the early part of the 21st century.

Congress is going to have several choices:

One, it could meet fully its obligations to those retirees and raise enormous amounts of taxes to pay for them.

Or, second, it can meet those obligations to that generation of retirees and cut spending everyplace else in order to divert money to pay for it.

Or, third—and what I suspect is the most likely alternative—is that Congress will cut benefits, instead of saying you are going to get 42 percent of your average salary as the base of capitalization, let us make it 35 percent, thereby substantially reducing the taxes or the spending cuts necessary in order to meet those obligations.

The real vulnerability of this issue of the surplus is not for the next 10 or 20 years. The real vulnerability is to those who are going to retire in the early years of the 21st century and the form of that vulnerability is that their benefits are going to be cut in order to reduce the pain of raising the taxes to pay for those benefits since the surplus has been frittered away year by year to pay our annual budget deficit.

The question then comes, Mr. President, is all of this inevitable? Is this a train wreck that is sure to occur, or is there anything we can do about it?

The interesting thing about this subject, among others, is that the United States is not unique. We are not the only country in the world that is facing exactly these same problems. Every other industrial country has something analogous to our Social Security. Virtually every one of those countries has a demographic curve very similar to ours—they had a depression in the thirties, not very many people were born, they went through World War II, they had a post-World War II bottom of births like we did.

We can look at other countries similar to the United States both economically and demographically and with a social policy of providing financial protection, a social security safety net for its elderly citizens. What have they done?

Let me just point to one country which I think is very analogous to the United States, and that is Canada. Canada has a Social Security System which has many of the same features that we have, including building up a surplus, to be ready to meet its demands after the year 2000. One big difference, however, is that the Canadians have also inserted the concept of diversification in their investment portfolio. They do not invest all of the Social Security money in the central Government of Canada. They do not get back these nontransferable, nonmarketable IOU's from their Central Treasury.

What do they do? They put a significant amount of their surplus into their people. They do so by loaning money from the social security surplus to the 10 Provinces of Canada which Provinces pay the market rate to the Central Government, to the social security trust fund, and they use the money to build schools, to build highways, to build all the things that will not only make a better life for Canadians today but are probably the most fundamental investments that can be made in the long-term economic well-being of Canada.

Canadians also understand that if they are going to meet their future obligations, whatever the accounting or legal structure, fundamentally it depends upon an economically strong Canada, and that it is an investment in a good education system and a good transportation system. That is the best assurance that there will be an economically strong Canada.

So, Mr. President, when we have this debate again, I hope that we will be considering the question of is it possible for the United States to have a Social Security System that is independent, that is treated as a trust fund, that is in a financial position to

meet its future contractual obligations, that can look over a multigeneration time period recognizing demographic rises and falls, and can achieve some of the benefits of diversification by having our Social Security fund insist that we get from the Central Government a security that is marketable, that we do not treat the Social Security trust fund as a second-class citizen in terms of borrowing from the Central Government, and that we allow the Social Security fund to begin to diversify as the Canadians have.

So that, through States and local communities that meet acceptable rating levels and are prepared to pay a market level of interest back to the House of Representatives trust fund, we could make available to them this new pool to finance our education and transportation and other important public needs. Because it is only in having strong American institutions that we are going to have a strong economic America.

Mr. President, this has been a very constructive debate that we have had over the last day and a half on this subject. As the Senator from New York has said, this is not going to be the last day we will discuss this. The fact that a majority of the Senate voted today to waive the Budget Act is a statement that the majority of the Senate accepts the principle that Social Security should not be commingled with the rest of the Federal budget; that a majority of the Senate accepts the principle that we should stop the fraud, the embezzlement, of using the Social Security surplus in order to pay off a portion, an increased portion, of the Federal budget deficit; and that a majority of the Senate is prepared to vote for the proposition that we should not be using the Social Security surplus as a mask to disguise the true extent of our Federal budget deficit.

Those are important principles. I am proud that the Senate today, a majority of the Senate, voted to accept those principles.

Mr. President, I ask unanimous consent to have printed in the Record several editorial and newspaper comments relative to the approach that says we can maintain a sound contract of Social Security and we can use those funds to help build a strong America.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Miami Herald, July 22, 1990]

An Innovative Proposal

The way it works now, the Government is embezzling billions of Social Security dollars every year. Florida Democratic Sen. Bob Graham has a creative way to stop that drain.

In the cash box that is supposed to be the Social Security trust fund, the Treasury leaves simple IOU slips. They're not real Government bonds, which can be sold to banks and other investors. They're a special "bond" that is "sold' only to the Social Security Trust and cannot be transferred. It is an IOU that everyone hopes Congress will honor in the next century.

That is not how the Social Security reform of 1983 was supposed to work. The prestigious bipartisan panel that examined the Federal retirement system seven years ago expected the money collected now actually to be saved to pay for the pensions of today's working Baby Boomers, who will start retiring around 2015. It did not expect to have the build-up in retirement funds counted as general Government revenue so as to mask the massive Federal deficit. Of course, in 1983, then-President Reagan was promising to balance the Federal budget in 1984 . . .

Sen. Daniel Patrick Moynihan of New York, who was a member of the 1983 panel, is furious about the tip-off of using the Social Security surplus to fool voters about the size of the deficit. To stop the charade, he proposes cutting Social Security payroll taxes back to their 1983 level, thus putting the system back on a pay-as-you-go basis. Mr. Moynihan is right—as far as he goes.

Senator Graham would go further. He would fulfill the promise of 1983 by making the pension fund into a real trust fund. In addition, he would end the Treasury's monopoly on those funds by allowing up to 25 percent to be invested in state and local infrastructure bonds. Thus the Graham proposal, co-sponsored by Rep. Robert Matsui, a California Democrat, would:

Force honest accounting. The funds are scheduled to come "off budget" anyway in 1992. But the Graham-Matsui proposal specifies that the funds also come out of the Gramm-Rudman accounting procedures that are supposed to discipline Federal spending. This will force Congress and the Administration toward a balanced budget.

Let state and local governments share in the pool of investment capital that the trust fund represents. This issue has become more important since the Federal income-tax reform of 1986 undermined the attractiveness of tax-free bonds to wealthy investors. Money for sewers, schools, and roads has become much harder to attract.

Create a nonpartisan, independent board of trustees to supervise the investment of Social Security funds. Currently, this money—now up to $61 billion and climbing fast—is available for political manipulation on Capitol Hill.

Floridians have a heavy stake in both security for retirees and the availability of capital for infrastructure needs. Thus Floridians should be pleased with their senior senator's inventive proposal.

[From the Sun-Sentinel]

Graham's Goal Wise: End "Tricks," Take Social Security Off-Budget

Social Security trust funds should not be treated as slush funds. Their purpose is to provide retirement, medical and disability benefits for millions of Americans, most of whom have been contributing to Social Security their entire working lives through payroll deductions.

The Social Security surplus, however, has been victimized by both Congress and the executive branch. Neither has been able to resist the temptation of using the money to make the budget deficit look smaller—about $65 billion smaller. By infusing the Social Security surplus into the Gramm-Rudman calculations, the deficit comes out looking like an enormous $141 billion instead of the belt-busting, potentially fatal $206 billion it really is.

If this overly expensive magic trick is allowed to continue, the result could be a cash-empty cupboard full of federal IOUs when the Baby Boomers begin retiring early in the next century and asking for their benefit checks.

Recently, Florida Sen. Bob Graham introduced an excellent piece of legislation that would return Social Security to its proper function: tending to the security of Americans. The bill would take the Social Security trust funds off-budget and out of the Gramm-Rudman deficit targets effective Oct. 1 1991. It also would allow approximately 20 percent of the Social Security surplus to be invested into state and local bonds. These funds could be used to improve roads, bridges or to build schools.

The bill is a bold and necessary move that should be included in the ongoing budget summit negotiations. It may not be feasible to take Social Security off-budget as early as 1991, but it should be done as soon as possible.

If passed, Graham's bill would force the federal government to face up to the deficit's mammoth size and deal with it in an honest fashion. It would also restore confidence among those who had planned on receiving retirement benefits, but now aren't sure whether there will be any money available. How do you tell someone their government "borrowed" their retirement money without asking and doesn't know when the debt can be repaid? That's not the best way to convince Americans their government is looking out for them.

It's time to stop the magic tricks and take an honest approach to solving our country's deficit crisis. Sen. Graham's bill is an excellent first step.

[From the St. Petersburg Times, July 20, 1990]

Graham's Plan Deserves Support

Most people don't realize that the U.S. Social Security Trust Fund contains mostly IOUs that are worthless. When the Treasury Department borrows dollars out of the trust fund to lessen the budget deficit, it gives the fund Nontransferrable Federal Notes. Only the trust fund gets these notes, which cannot be sold or borrowed against.

The major effect for now of this device—it's really a trick—is to mask the size of the government's deficit. The Treasury is borrowing about $60-billion this year from the trust fund, so the deficit appears $60-billion smaller than it really is.

But around the year 2015, things get serious. Since the Social Security tax increases agreed to in 1983, the system has been taking in more dollars than are paid out to prepare for future needs. In about 2015 when the Baby Boomers begin retiring, the fund will be paying out more than it takes in. It will need its surplus, the money represented by those IOUs, which Congress can redeem only by raising taxes. That will be crunch time, which worries many supporters of a sound Social Security system.

Florida's Sen. Bob Graham this week introduced a bill with an innovative partial remedy. He would take the trust fund off budget and out of the Gramm-Rudman deficit targets in 1991 (under present law it comes off budget in 1992). This would force the president and Congress to deal with the reality of the full deficit. Another provision would allow a new trust fund investment committee appointed by the president to invest up to 25 percent of the fund into high-grade state and local tax-exempt bonds.

Most supporters of Social Security get nervous when there's talk of investing the trust fund elsewhere, and usually rightly so. A spokesman for the American Association of Retired Persons dismissed Graham's idea, saying, "We do not support the use of the Social Security Trust Fund for any purpose than Social Security."

Which would AARP rather have in 2015, a trust fund made up 100 percent of IOUs redeemable only if Congress and the president raise taxes, or a trust fund made up 75 percent of such IOUs and 25 percent of insured bonds with a real value on the open market? Clearly a fund so diversified would be better. (Graham also would require the federal government to insure the bonds).

Sen. Daniel P. Moynihan's remedy for the worthless IOUs goes in another direction. He would abandon the 1983 plan which builds a surplus by cutting wage taxes to cover only current expenditures. That would be great for today's workers. Graham's idea is better because it looks toward the need in 2015, and it provides some real money to spend then.

If there could be an ideal solution, the government would put the same kinds of bonds and treasury bills in the trust fund that it sells to the public, and the trust fund would be financed with progressive taxes rather than a flat-rate payroll tax. Until those reforms gain support, Graham's a proposal deserves serious consideration by Congress.

[From the Eustis (FL) Citizen, Aug. 4, 1990]

Senator Graham: Protect Social Security; Separate From Budget

Sen. Bob Graham has introduced legislation to remove Social Security from the rest of the federal budget and allow surplus retirement funds to build America's infrastructure.

"Our goal is a stronger Social Security system," Graham said.

In the House, similar legislation was filed by U.S. Rep. Robert T. Matsui (D-Calif.).

The Graham legislation, filed July 18, would take Social Security "off budget," separating it from the federal operating budget. Graham said off-budget financing offers these advantages:

Honest bookkeeping.

The current Social Security system is collecting more money than it needs to pay beneficiaries today. The surplus, currently about $61 billion, masks the size of the federal deficit.

Better fiscal policy.

Today's surplus is used to operate the debt-ridden federal government. Extra Social Security funds are invested in Treasury notes.

Protection from tinkering.

If Social Security is removed from the rest of the budget, it would protect the system from political raids.

"The Social Security system should become what most people think it is, but which it is not: a real Trust Fund, with real money, and a real savings pool for the American economy," said Felix G. Rohatyn, partner with Lazard Freres & Co. in New York.

The Graham reform would allow the Social Security trust fund to be invested in high-grade state and local bonds to improve schools, transportation and water-treatment facilities.

"Let's put the surplus to work to re-build America," said Graham.

State and local high-grade bonds have an excellent pay-back record. Therefore, investments in these bonds are safe, and would diversify the portfolio of the Social Security system.

The Graham/Matsui concept is supported by the National Association of Counties and the National League of Cities.

[From the Ft. Myers New-Press, July 20, 1990]

Social Security Bill on Target

Sen. Bob Graham's proposal to quit using Social Security funds as general revenue is not new. Sen. Daniel Patrick Moynihan has a bill to do the same thing.

But Florida's senior senator's legislation is more versatile.

In addition to putting the Social Security money out of the reach of greedy politicians, Graham's bill would create a true trust fund and let it earn money by investing part of it in high-grade state and local bonds to improve schools, transportation and water-treatment facilities.

This is the most sensible suggestion for dealing with Social Security funds since Congress in 1983 raised the tax rate and created a growing surplus to cover the Baby Boom retirees beginning around 2015.

The Social Security surplus has been a boon to the spend-happy politicians. It has helped them keep the national debt from looking worse than it does. They use our retirement money as if it were for the day-to-day expenses of running the government.

This is nothing more than embezzlement. Have the politicians asked present and future retirees if they want their pension funds used to build an armory in some congressman's home town? Or to encourage welfare mothers to have more children? Or to build highways and bridges?

Congress has deliberately misappropriated the Social Security trust fund. According to Moynihan, at one point $28 billion in trust fund securities were secretly "disinvested" to obtain cash for the rest of the government.

Social Security funds belong to the contributors. Congress has no business spending it.

Graham's bill takes it out of the politicians' hands and lets it start earning additional money. It gives local governments more of a market for their bonds, presumably at a cheaper rate, allowing them to build the roads, utility plants and schools that are needed.

U.S. Rep. Robert T. Matsui of California has introduced similar legislation in the House. Present and future retirees ought to let them and other members of Congress know how important this is.

[From the Daytona Beach News Journal, Sept. 10, 1990]

Graham's Plan Would Protect the Social Security System

The latest plan to protect the integrity of the Social Security Trust Fund comes from Bob Graham, Florida's senior U.S. senator.

Graham's proposal is in keeping with legislation enacted in 1983 to ensure that trust funds will be available down the road to pay benefits.

Unless Congress acts, there is no guarantee the Social Security Trust Fund will grow to meet future needs.

A summary from the senator's office explains how Graham's plan would work. It says the proposed legislation would:

Take the Social Security Trust Funds off-budget and out of the Gramm-Rudman deficit targets effective Oct. 1, 1991.

Allow the investment of Social Security Trust Funds in certain eligible state and local government obligations. (Eligible state or local obligations means state or local bonds as defined in Section 103(c)(1) of the Internal Revenue Code.)

The bonds that would be backed by trust funds are the lowest risk obligations available. However, Graham's plan calls for allowing only a small part of the Social Security surplus—up to 20 percent—to be pledged to back state and local high-grade bonds.

Currently, the Social Security system has a $61 billion surplus. This amount hides the actual size of the federal deficit.

And because the trust fund is part of the budget, Congress continues to raid it to help cover budget needs without adding further to the budget deficits. Therefore, the surplus that is supposed to keep rising to pay retirement benefits after the turn of the century will be depleted unless the raiding is stopped.

Graham's plan would help taxpayers, as well as future retirees.

Allowing some of the surplus in the trust fund to be used to back state and local government bonds would make much needed revenue available for a backlog of infrastructure projects.

State and local governments in Florida need at least $50 billion to pay for such projects—roads, bridges, schools, water-treatment facilities, and other infrastructure priorities.

The National Association of Counties, which supports Graham's plan, has adopted a resolution which said: "Investments of Social Security monies in local bonds gives an increased priority to the rebuilding and expansion of public capital stock at a time when other domestic federal financial sources have been eliminated or are declining."

Bob Bolen, president of the National League of Cities, also backing the proposal, says the legislation "could go far in improving our economy through increased public capital investment in our crumbling public infrastructure."

Graham's plan, sponsored in the House by U.S. Rep. Robert T. Matsui, a California Democrat, should be given a chance to see how it would work.

The trial period would have the immediate effect of forcing Congress to deal with actual budget deficits while protecting the integrity of the Social Security system.

[From the Palm Beach Post, July 29, 1990]

Saving Social Security

To keep the Bush administration from using Social Security surpluses to hide the federal deficit, Sen. Bob Graham, D-Fla., and Rep. Robert Matsui, D-Calif., have proposed using the surpluses to finance state and local public works projects. It's not such a bad idea, because it would safeguard these surpluses, which eventually will be needed unless benefit levels are going to be slashed.

In more cynical fashion, earlier this year Sen. Daniel Patrick Moynihan, D-New York, proposed eliminating the surplus by reducing the payroll tax that finances Social Security. While this would have forced the White House to be honest about the real size of the deficit, it would have left Social Security in a terrible fix when the Baby

Boom generation starts retiring in the next century.

The Graham-Matsui proposal calls for removing Social Security from the budget—and therefore from calculations involving the Gramm-Rudman deficit reduction law—next year. The Social Security trust fund would be invested in high-grade state and local bonds to improve schools, transportation and water-treatment facilities. "Let's put the surplus to work to rebuild America," Sen. Graham says.

The proposal has some drawbacks. For one thing, the Social Security surplus would produce less money under this plan than it would if the surplus were invested in U.S. Treasury securities, as it is supposed to be, because state and local bonds are tax-exempt and carry a lower interest rate. The proposal calls for the shortage be made up from general appropriations—which is not likely to happen.

Although the Graham-Matsui plan has little chance of passing it—like Sen. Moynihan's proposal—is performing an important function: calling attention to the fact that the government is using smoke and mirrors to mask the size of the federal deficit, as it has been for the past decade. If the Baby Boomers aren't to be short-changed in benefits, the government eventually is going to have to use taxes to pay the Social Security trust fund back with interest, or raise the Social Security payroll tax still higher.

It's good that proposals are being floated that would put the "Security" back in Social Security. Congress and the White House have been irresponsible, and the Social Security system must be protected from political raids.

[From the Tampa Tribune, July 25, 1990]

Get the Books Off the Burner

Florida Sen. Bob Graham has a plan to make the federal government quit cooking the books and at the same time help state and local governments with their burden of capital outlays for infrastructure.

Democrat Graham would take the Social Security trust fund out of the budget and out of Gramm-Rudman deficit calculations, and permit the fund's surplus to be invested in high-grade state and municipal bonds.

In recent years, federal deficits ranging from $100 billion a year upward have been manipulated downward by counting annual Social Security and other trust fund surpluses as federal revenues. Lyndon Johnson began the practice in order to make it appear the nation could have "both guns and butter" during the Vietnam war. LBJ's opportunities for juggling accounts were small, however, compared to those made possible by 1977 and 1983 Social Security "rescue" legislation increasing both payroll tax rates and maximum taxable wages.

The Social Security trust fund surplus, which this year will be about $60 billion, is invested in federal Treasury bonds. Thus, funds theoretically held in trust for future benefits actually are in IOUs from the government. The trust fund surplus has always been handled this way, but a decade of deficits that tripled the national debt has directed more attention to the process. With the debt so great, millions of workers have lost confidence that they will ever realize any retirement benefits from the payroll taxes they and their employers have paid. The Graham bill, sponsored in the House by Representative Robert T. Matsui, a California Democrat, would go far to restore that confidence as well as force the President and Congress to deal with the deficit more realistically.

One consequence of paring federal spending to keep the deficit down has been withdrawal by Washington of most of the money formerly provided state and local governments for expanding or renewing infrastructure. As they assume a greater share of the burden for building schools, highways, airports, and water, solid waste, and sewage treatment facilities, these governments increasingly have turned to the bond market. The Graham proposal would permit use of the Social Security surplus to buy high-rated tax-exempt state and local bonds, under the guidance of a nonpolitical State and Local Obligation Investment Committee.

Says Senator Graham: "Let's put the surplus to work to rebuild America."

Because such bonds are tax free, they yield less interest than federal obligations, but the Social Security Trust Fund would be protected under the bill by a requirement that Congress make up the difference in an annual appropriation.

The National Association of Counties and the National League of Cities support Graham's measure. So do many governors. It deserves as well the support of every citizen, especially millions concerned about future Social Security benefits—and even more all those who think it's high time that Washington quit cooking the books.

[From the Orlando Sentinel, July 27, 1990]

Graham Plan Deserves Try

Sen. Bob Graham has jumped into the debate over what ought to be done with the annual surpluses in the Social Security trust fund.

He wants the government to stop using the money for general expenses. He suggests lending some of it to state and local governments for construction projects.

The plan has its strengths and weaknesses. Unfortunately, what Mr. Graham perceives as one of its strengths could be in practical terms, its greatest drawback.

The Treasury is using each year's Social Security surplus to help reduce the federal deficit. That's wrong, the senator contends, because this practice masks the deficit's true size.

Indeed, the practice does worse: It actually devours the surpluses, leaving the Social Security Administration with a big stack of government IOUs in place of cash.

Even so, if the Treasury lost this source of dollars, the already horrendous deficits would rise sharply. The government would just have to borrow this money elsewhere.

What's wrong with that?

Such borrowing would reduce the capital available to businesses and other private borrowers. It also would increase the wasteful amount of money the government pays as interest on the national debt.

Sure, the government also pays interest on what it borrows from Social Security. But it covers that cost with more IOUs. It has to use cash for the interest on what it borrows from the financial markets.

These objections will no longer apply if Congress gets around to balancing the budget. There would no longer be a deficit for the surplus to help offset. But balanced budgets are an idle hope at the moment.

A strength of Mr. Graham's plan is that money lent to state and local governments. for roads, bridges, schools and other projects would be repaid, with interest, in actual dollars—not government IOUs.

The senator has a point when he complains that Congress is ignoring the purpose of Social Security reform in 1983. That purpose was to build a cash reserve for early in the 21st century, when the system will start paying out more than it takes in

Theoretically, the total surplus will keep rising until it peaks at about $9.23 trillion—$2.3 trillion in today's dollars—in 2025. But remember, the money won't actually be there—only the mountain of IOUs.

So that's the dilemma. There's a need to build a real Social Security reserve for the future, but there's an equal need not to worsen the federal deficit.

Mr. Graham addresses the dilemma to some extent by suggesting a slow start for his plan. Only 15 to 20 percent of the surplus would be available for lending to state and local governments.

That would have the healthy effect of giving the Graham plan a trial run. It would also increase pressure on Congress and the administration to reduce the deficit by cutting federal programs and increasing tax revenues.

Mr. Graham has introduced legislation to put his plan into effect. It deserves the most serious consideration.

[From the Fort Meade Leader, July 20, 1990]

Time To Strip the Camouflage

Sen. **Bob Graham** (D.-Fla.) is taking the lead in a long-overdue fight to make the U.S. Senate face facts about the future of Social Security and its hidden role in the scandal of the nation's humongous national debt.

America's elder citizens who are receiving monthly Social Security payments are comfortably certain that the checks will continue to arrive throughout their Golden Years, as SS taxes today outstrip the benefits being paid, and the surplus is being loaned—at interest—to the general federal budget. This sounds reasonable enough. Today's surplus is being built to meet the huge demands on the system when the Baby Boomers reach retirement age a quarter century hence.

The fallacy of the U.S. Government lending itself money by transferring funds from Pocket A to Pocket B is that the figures are being used to camouflage about $70 billion of the actual deficit. A bill introduced by Graham on Wednesday would take the Social Security system out of the federal budget and invest the money in state and local bonds. An almost identical bill was introduced in the House of Representatives by Rep. Robert Matsui (D.-Cal.).

The Graham-Matsui program would accomplish two objectives: paint an accurate picture of the deficit, and ensure that when the big bulge in retirees arrives, cash—not simply Uncle Sam's IOUs—will be available. All members of Congress are committed to the second objective. Getting a majority to agree to the first will require a lot of persuasion.

Without the Social Security cushion in the general fund, the Gramm-Rudman deficit reduction act will require deeper cuts in spending and greater increases in taxes than the Congress and the White House have been willing to face. There's no change that the Graham-Matsui bill can be adopted this year, although Graham says the bill has the support of key members of Congress who handle financial matters.

The big push for approval of the bill will come in the next fiscal year. Given the record of Congress since the Days of Franklin Roosevelt's New Deal, it is virtually certain that there will be, at best, extensive foot-dragging and, at worst, open opposition in considering a program which will force not only federal lawmakers but their constituents to face the truth about what needs to be done to start bringing the nation's run-away debt under control.

Senator Graham and Representative Matsui deserve applause for their willingness to tackle this enormous problem. Indeed, they deserve more than applause. They deserve the vigorous support of the public.

[From the Sebring (FL) Sunday News-Sun, Aug. 26, 1990]

Social Security Needs Cure

(By Waldo Proffitt)

There is a surplus of about $61 billion in the Social Security trust funds, and growing every day. Early in the next century, there will be a surplus of several hundred billion dollars, and that will be fortunate because that's when significant numbers of the Baby Boom generation will reach retirement age.

So, Social Security will start to draw on its trust funds, and suddenly we will discover this "little problem." Actually, we know about the problem now. It's just that we don't seem capable of facing up to it.

Nobody, at least so far, is running off with the funds. Quite the contrary. They are in the safest investment possible—U.S. Treasury securities. When the time comes to "cash them in" and start using the surplus to make payments to the Baby Boomers, the government will have to sell a lot of bonds and notes in a hurry or raise taxes sharply.

It's just one more example of how those of upper-middle age and beyond are riding off into the sunset on the backs of our children. We call the tune. They pay the piper.

We lived exuberantly in the 80s by trebling the national debt. Some are beginning to worry about the consequences of living beyond our income, but few are worried enough to suggest inconvenient change.

We continue on our merry way, with the Social Security billions paid by working Americans and their employers piling up, with the surplus going into the Treasury and helping to keep the federal deficit from looking as bad as it really is. That's why we keep Social Security "on budget." It's one of the ways we "cook the books."

Florida's Sen. Bob Graham has proposed that we return to honest bookkeeping, separating Social Security from the federal operating budget and make it into a real trust fund with access to real money.

A bill introduced in the Senate by Graham would do it as of Oct. 1, 1991, the start of fiscal year 1992, by which time the trust funds will have reached $80 billion.

Graham also proposes investing the Social Security funds in topgrade state and local bonds as well as Treasury securities. This concept has the whole-hearted approval of the National League of Cities and the National Association of Counties, and may not be a bad idea.

But it would take a certain portion of the Social Security funds out of the Treasury and put them into securities which could be turned into cash without just transferring IOUs from one federal pocket to another. And it would enable the mounting Social Security surplus to be put to good use in building schools, roads, waste-treatment facilities and other essential elements.

One has to be concerned about allowing the managers of the Social Security funds to invest in anything except U.S. Treasury securities. But high-grade state and local bonds are safe investments.

Given the recent track record of financial regulatory agencies, you have to have some concern about who would decide how much to invest in what securities. Graham's bill would establish a three-person State and Local Government Obligation Investment Committee to be appointed by the president and confirmed by the Senate.

The Graham bill, along with a House bill introduced by Rep. Robert Matsui of California, ought not to be debated in a vacuum. Something needs to be done to get the Social Security funds off-budget and to assure that when the time comes to tap the surplus we will not find just a shoe box full of Treasury IOUs.

The Graham proposal may be the way to go. But there are other considerations. One is the fact that Social Security is not an insurance policy. It is not actuarially sound. Most of us do not come close to paying in enough during our working years to equal what will be paid to us in retirement.

Social Security is a pay-as-you-go proposition. Those of us now working, and our employers, are sending a healthy chunk of our earning each month to the Social Security Administration which is sending that money out to recipients.

Fine. Sensible way to do it, and the way it is done, I believe, in most industrialized nations. But we have been siphoning a lot more money from workers and employers than is necessary to meet current needs.

Reputable economists say that if we cut back on Social Security deductions to what is actually needed, and if we raised the age at which workers can start receiving Social Security, we could both energize the economy and improve the mental and physical health of most Americans by letting them stay useful longer.

There are other economists who say that the present arrangement for financing Social Security is egregiously regressive, that it bears heaviest on those with the lowest incomes. No question it does. Many, perhaps most of us, pay more each year in Social Security taxes than we do in income taxes.

Inasmuch as Social Security is a pay-as-you-go system for maintaining a safety net under our older citizens, a societal responsibility, why not fund it through the graduated income tax?

And, on that thought, I will take my leave.

[From the Washington Times, Sept. 12, 1990]

Social Security Safeguard

(By Bob Graham and Robert Matsui)

Budget negotiators from Congress and the administration face two important challenges—one of which has been widely discussed, the other of which has been virtually ignored.

For the last decade, practically every conversation about the American economy has included an opinion on how the government should reduce the federal deficit—now estimated to be $168.8 billion for the 1991 fiscal year (beginning Oct. 1), not including the funds needed for the savings-and-loan bailout, which would bring the total to an astounding $231.4 billion. What has gotten overlooked in these discussions is that the federal government must reduce the deficit without doing further damage to the long-term financial health of the Social Security System.

The threat comes from the federal government's growing dependence upon Social Security Trust Fund surpluses to finance the budget deficit. This was not the purpose of the 1983 Social Security reforms. Rather, the farsighted goal of those reforms was to build up Trust Fund surpluses so that aging baby boomers would be assured full benefits when they began to retire in the early 21st century. Already, the Trust Fund reserves are growing at the pace of a billion dollars a week.

But these billions won't be available to the next generations of America's retirees. As quickly as the surpluses amass, they are being siphoned off to help finance the deficit. Bluntly put, the federal government is spending more than $1 billion a week of the Social Security surplus as though it were general revenues. All that the Trust Funds get for these expenditures are chits from the U.S. Treasury.

To restore integrity to the Social Security system and safeguard the benefits of present and future recipients, the nation has three choices. We can use the Trust Fund reserves to retire the national debt. This will produce real savings, but is possible only if the federal government's operating budget is in true balance so that the Trust Fund's surpluses are true savings. the vagaries of recent policies amply highlight the risks in this option.

A second choice proposed earlier this year by Sen. Pat Moynihan, New York Democrat, is to reduce the collection of Social Security contributions to the point that we return to the pay-as-you-go system used for decades before the 1983 reforms. The pay-as-you-go approach worked in the past largely because the American economy expanded rapidly in the aftermath of World War II, and because there was a high ratio of workers per retirees during that period. In recent decades, though, our economy has slowed, and the number of workers per retiree has been falling precipitously. It is not inappropriate to wonder whether, in 20 years, a shrinking base of American workers will want to pay even higher Social Security taxes to provide retirement benefits to an expanding pool of retirees.

We cannot be certain that they will. The purdent course for today's workers is to stay the path recommended by the National Commission on Social Security Reform in 1983—that is, build up Trust Fund reserves to pay for future retirement benefits. But if those monies are really to be there, if when we retire we are going to be left with anything more than a vault full of Treasury Department IOWs, integrity must be restored to the use of the Trust Fund surpluses.

Fortunately, there is a third choice: We can invest surplus Trust Funds in top-quality bonds offered by state and local governments and use these monies to rebuild America. We propose that the proceeds of such bonds be limited to finance infrastructure improvements like roads, bridges, schools, mass transportation systems, ports and water-treatment facilities—public capital investments badly needed to build a strong economic base for America's future. To protect the Trust Fund itself, the bonds would be guaranteed by the federal government.

Our proposal offers a number of significant advantages. It would put a halt to the federal government's use of Social Security savings to pay for current federal consumption. It would unmask the true size of the

federal budget deficit, which exceeds $800 billion, and force a reluctant Congress and administration to come to grips with a budget crisis that is quickly destroying the nation's future. It would provide the nation with a major source of investment funds needed to rebuild the basic underpinnings of the American economy, the ultimate source of security for all of us—workers and retirees alike.

Most important, it would guarantee this generation of Americans and the next that the Trust Fund surpluses are really and truly invested for their future, and not used to finance the federal government's current consumption.

For all these reasons, we have introduced legislation to protect the long-term vitality of the Social Security System by redirecting that Trust Fund surpluses be used for investment rather than general revenues.

Mr. GRAHAM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Bryan). Without objection, it is so ordered.

The Senator from Alabama [Mr. Shelby] is recognized.

Mr. SHELBY. Mr. President, I ask unanimous consent to speak as in morning business for a period not to exceed 6 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. I thank the Chair.

(The remarks of Mr. Shelby pertaining to the introduction of S. 3179 are located in today's Record under "Statements on Introduced Bills and Joint Resolutions.")

U.S. POLICY REGARDING THE INDEPENDENCE OF THE BALTIC STATES

The PRESIDING OFFICER. Pursuant to the previous order, the Senate shall proceed to the immediate consideration of Senate Resolution 334, which the clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 334) reaffirming United States policy regarding the independence of the Baltic States.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Under the previous order, the resolution is adopted, and the motion to reconsider is laid upon the table.

So, the resolution (S. Res. 334) was agreed to, as follows:

S. Res. 334

Resolved,

(a) The Senate finds as follows:

(1) the President and Secretary of State have made repeated statements emphasizing long-standing United States policy to reject, and not recognize, the incorporation of the Baltic States by the Union of Soviet Socialist Republics; and

(2) the President and his representatives have also stressed that this policy is in no way altered or compromised by the provisions of the Treaty on the Final Settlement with Respect to Germany.

(b) It is the sense of the Senate that the President should take all appropriate steps to ensure that the act of United States ratification of the Treaty on the Final Settlement with Respect to Germany, and the affirmation of the definitive nature of the borders of a unified Germany which the Treaty entails, are not construed by any government to imply any diminution or compromise of United States determination not to recognize the forceful incorporation of the Baltic States by the Union of Soviet Socialist Republics.

EXECUTIVE SESSION

TREATY ON THE FINAL SETTLEMENT WITH RESPECT TO GERMANY

The PRESIDING OFFICER. Pursuant to the previous order, the Senate will now proceed to executive session to consider Executive Calendar Item No. 23, the Treaty on Final Settlement With Respect to Germany, which the clerk will now report.

The bill clerk read as follows:

Treaty Document 101-20, a Treaty on the Final Settlement With Respect to Germany and a Related Agreed Minute.

The PRESIDING OFFICER. Under the previous order, there is 1 hour of debate on each side.

Mr. HELMS. Mr. President, in a moment, I am going to propose that both sides hot line Senators to ascertain whether any of them wish to speak on these treaties. Otherwise, Senator Pell and I may consider yielding back the time and going to a vote on it.

Mr. PELL. Mr. President, it is one of the distinct pleasures of my service on the Senate Foreign Relations Committee to bring before the Senate today—and to urge that the Senate approve—a treaty that constitutes a landmark in international diplomacy.

History in our century has been dominated by two overarching events—successive world wars in the first half and, throughout the second half, a great geopolitical rift which has threatened civilization on our planet. The treaty before us today marks an end to both of these major events of the 20th century.

The devastating wars between 1914 and 1945 were related, one leading inexorably to the next. Each involved the question of Germany, and neither war resolved it. The treaty before us today, embraced by the German people and by their neighbors, should at long last provide a stable solution to the German question. Its ratification will thereby, in a very real sense, mark a culmination of the First and Second Word Wars.

The treaty also marks the final chapter of the second predominant event of our century: the geopolitical rift known as the cold war, which has shaped all world politics since 1945. Throughout that period, Germany's division into two occupied, heavily armed, and ideologically opposed sectors has symbolized the confrontation between East and West. The treaty before us today provides not only for German unification but also for crucial steps needed to bridge the East-West divide.

For American foreign policy, too, the treaty is a landmark—the crowning achievement of the policy of containment pursued by nine consecutive Presidents. The essence of that policy was to provide a defensive shield behind which free-market democracy in Europe could take firm root, then to maintain that shield until such time as the Soviet Union was prepared to enter the community of democratic nations. This policy has been a magnificent success, of which Americans can be justly and permanently proud.

The German people as well can be proud, for in the period since the horrors of Hitler the successor German generation has built a successful and prosperous democracy firmly attached to Western values and fully at peace with its neighbors.

I must say that 6 months ago, as the prospect of German unification began to loom large, I grew concerned that a unified Germany might revive territorial ambitions long held in check by superpower occupation. This concern was intensified by the seeming slowness of West German leaders to make unambiguous statements regarding a united Germany's borders. Therefore, along with other committee members, I ascribe great importance to the fact that this treaty expresses—in paragraph 1 of article 1—a solemn confirmation and commitment that the borders of the united Germany shall be confined to the territory of the two German states and that "the definitive nature of the borders of the united Germany is an essential element of the peaceful order in Europe."

Finally, as a longtime advocate of arms control, I would note that this treaty, though its text is comparatively brief, may be the most constructive arms control agreement in history. In exchange for a German commitment to maintain a relatively modest military force purely for purposes of defense, the treaty requires a total withdrawal, by 1994, of the major Soviet occupation force in Eastern Europe. The implementation of these terms will transform the face of Europe.

Other specific provisions of the treaty, Mr. President, are described and analyzed in the committee report; and I will not take the Senate's time with that analysis, which has been available to my colleagues.

Let it suffice to say that the Foreign Relations Committee judged, as I do, that this treaty fulfills the major objectives of postwar American foreign policy with respect to Germany: A free and united Germany, linked to the West through social and political systems reflecting common values.

In acting upon the treaty, Mr. President, the Foreign Relations Committee was, as I have pointed out, pleased to note the very firm commitment of a united Germany to accept its present borders as final and definitive. At the same time, however, the Committee wished to ensure that no incorrect inference could be drawn from this treaty with regard to other borders which the United States does not accept: Specifically, borders claimed by the Soviet Union in connection with its forceful incorporation of the Baltic States.

Accordingly, the committee felt it prudent to report to the Senate, as a companion measure to the resolution of advise and consent to the treaty, a measure affirming longstanding United States policy with regard to the Baltic States. The operative phrase of that companion resolution reads as follows:

> It is the sense of the Senate that the President should take all appropriate steps to ensure that the act of United States ratification of the Treaty on the Final Settlement With Respect to Germany, and the affirmation of the definitive nature of the borders of a unified Germany which the treaty entails, are not construed by any government to imply any diminution or compromise of United States determination not to recognize the forceful incorporation of the Baltic States.

It was the committee's recommendation that the Senate deal with both measures in tandem, and thus it was that our action today began with unanimous adoption of Senate Resolution 334, reaffirming longstanding United States policy with respect to the Baltic States.

Mr. PELL. I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina [Mr. HELMS] is recognized.

Mr. HELMS. Mr. President, the Treaty on the Final Settlement With Respect to Germany should really be called the Reagan treaty. Let me quickly say that this Senator realizes this treaty was negotiated by Secretary of State Jim Baker under policy laid down by President Bush. I do not intend in any way to detract from the achievements of Secretary Baker or President Bush. Indeed, I salute them. I also salute the perceptive and understanding service of our distinguished Ambassador to the Federal Republic of Germany, Vernon E. Walters, who has done an outstanding job during this time of astonishing change. Nevertheless, we should recognize that this treaty would not have been possible in any way without the policies initiated by Ronald Reagan.

For 30 years, the West labored under the delusion that the policy of containment of the Soviet Union was a real policy. The argument was that by containing the aggressive designs of the Soviet Union, while at the same time holding out the carrot of financial support and trade and international acceptance in diplomatic forums, communism would somehow moderate and collapse internally.

Unfortunately, this "containment" was not in fact a policy at all. Instead, it was a negative posture that allowed communism to become strong, aggressive, destructive, and oppressive. It never challenged the basic underlying principle of communism; namely, that man is a purely material being to be manipulated by the State.

The fruit of the "containment" policy was unprecedented Communist expansion abroad, support for Communist guerrilla actions all over the world, the fall of China, the terrible wars in Korea and Vietnam. And inside the Soviet Union the fruit of containment was the gulag, the slave-labor camps, the torture chambers, the police state, the suppression of religion, the destruction of nationalities, and the unprecedented expansion of the most aggressive military machine known to history.

So I think President Reagan is entitled to his due because it was he who rightly termed the Soviet Union as "the evil empire." But this policy of his was more than rhetoric. His perception of the essential nature of communism was backed up with deeds. The policy of "containment" had resulted in the dulling of American perceptions of Soviet intentions. Our military strength had fallen so much that it tempted the Soviets to move into Afghanistan; by the end of the Carter administration, the United States was spending only 22.6 percent of Federal spending on national defense. Our programs were in disarray, and our morale was broken.

President Reagan's defense program was prudent. It was also effective. There are those today who try to assert that the modest military buildup was extravagant and that it took money away from social programs.

But nothing could be further from the truth. President Reagan restored our military capability. He reversed its decline. And the reverse alone was enough to send a message to the Soviets that we were not a declining power in the United States of America. And then President Reagan proposed the strategic defense initiative. The program became the number one fear of the Soviet Union.

Mr. President, the Reagan defense program was modest. In the 1960's, defense spending accounted for one half of the U.S. budget. By 1988, it accounted for only one-quarter of the U.S. budget. Welfare spending in the same period of time went in the opposite direction. Social programs went from one-quarter of the U.S. budget to one-half of the U.S. budget.

So whatever anybody wants to say about Ronald Reagan, the fact is that he was able to improve our defense posture while spending less in real terms on national defense. In the last 3 years of the Reagan administration, the defense budget declined in real terms by almost 10.2 percent. The U.S. economy was able to handle the Reagan defense restoration with ease, but the opposite was the case with the Soviet Union. Let us look at that a little more carefully lest we forget.

Despite Mr. Gorbachev's reputation as a man of peace, his administration has been characterized by phenomenal preparations for war. This is overlooked in the major media of this country. As a matter of fact, it is seldom mentioned. So when Mr. Gorbachev saw that President Reagan had, indeed, in fact reversed the decline in U.S. defense capability, Mr. Gorbachev called for massive military spending. Since he came to power in 1985, the Soviet was production machine has continued to run full blast.

On July 5 of this year, at the London NATO summit, British Prime Minister Margaret Thatcher gave an impassioned plea for caution in Western defense budgeting. Mrs. Thatcher stated that the Soviets were still producing 4 strategic missiles and 100 tactical air-to-surface missiles every week along with 6 tanks and 2 combat aircraft every day and a new submarine every 6 weeks. This was the work of that man of peace, as the major news media in this country characterize Mr. Gorbachev.

The United States Department of Defense has stated that since 1985, the Soviet Union has produced more tanks, more artillery, and more armored personnel carriers than the combined armies of Britain, France, and West Germany.

Indeed, since Mr. Gorbachev came into power, he has introduced 15 completely new nuclear strategic systems, including the most powerful and most destructive intercontinental ballistic missile known to man.

And even in the recent months, the Soviet President, the Soviet Prime Minister and the Soviet Foreign Minister have made public statistics on military spending which, when adjusted to Western economic concepts, show that our experts on containment had uniformly underestimated their assessments of Soviet military spending.

So it is now clear in fact that Soviet military spending comprises 26 percent of its GNP, or 60 percent of its annual budget. Moreover, the 12th 5-year plan instituted by President Gorbachev foresaw a growth rate in the civilian sector of 23 percent and a growth rate in the military sector of 45 percent. In other words, President Gorbachev's plan clearly was to increase military spending at a rate twice that of the spending for the civilian sector in the Soviet Union. This is precisely the opposite of what we had been led to believe by our own intelligence community.

This is why President Gorbachev, the so-called man of peace and perestroika, was able to introduce those 15 new strategic nuclear weapons systems. This is why he was able to outproduce the West in every significant category of conventional weapons. This is why he is still to this day introducing new classes of submarines and a new aircraft carrier—reportedly the first of 15 aircraft carriers.

Of course, along with the Soviet massive agriculture failures, it also explains why the Soviet economy went bankrupt. It is impossible, you see, to divert 60 percent of the budget, or 26 percent of the GNP to military purposes without destroying the national economy as whole.

Mr. Gorbachev found that out the hard way, and we all know the result.

The destruction of the Soviet economy, therefore, was not brought about by the policy of containment. It was brought about by the willingness of President Ronald Reagan to characterize the Soviet Union for what it was, an evil empire, and to take steps to oppose its expansion rather than merely try to contain it.

On the other hand, Mr. Gorbachev, seeing the collapse of the Soviet economy rushing down upon him, as well as the collapse of the economies of Eastern Europe in general, had to take steps to jettison nonessential burdens. He saw that it was no longer necessary—in fact, it was increasingly difficult—to control tightly the Eastern European countries. There is no question now that Mr. Gorbachev initiated the policies to cut loose the former Soviet satellites—not only in Poland, Hungary, Czechoslovakia, Romania, and Bulgaria, but in the crown jewel of communism East Germany itself.

Undoubtedly, Mr. Gorbachev had hoped to maintain indirect control of the sort he still has in Romania and Bulgaria, but he also hoped to be able to penetrate West Germany and other Western European countries with closer ties to the Soviet economy and materialistic philosophy. But then what happened? The Berlin Wall came down, and that was because Mr. Gorbachev willed that to happen. It did not collapse because of containment. It collapsed because Mikhail Gorbachev was forced, as a result of his aggressive military spending, to reach out to Western economic resources.

The collapse of the Berlin Wall had other repercussions, as well—the stirring in the Soviet Union of the nations held captive by communism. The policy of containment denied the basic humanity and the basic spiritual needs of the peoples held enthralled by the Soviet Union and the Communist Party. Containment built the real wall that held them captive. The Soviets merely put up the barbed wire.

So it is significant, I think, that the first whiff of freedom brought the demands for national traditions, national languages, national cultural, and the religious freedom that lies at the core of human existence.

Even democracy came second, and with it came the stirrings of the Baltics, of the Ukraine, of the Asian republics, and even of the Republic of Russia itself.

Mr. President, the treaty before us today does leave some loose ends. I would be less than honest if I did not say that. Here is what I mean.

The Soviets have 350,000, up to 400,000 troops in the eastern part of the new German state. These troops are destined to remain there until as late as 1994 under an agreement between German Chancellor Kohl and Soviet President Gorbachev. The Germans reportedly have agreed to pay the Soviets the equivalent of about $8 billion in order to subsidize this continued 4-year Soviet troop deployment in Germany. That, in itself, is troubling.

Moreover, the Soviets have just deployed their top-of-the-line SAM–10 air defense missiles with their forces in eastern Germany. Many of these surface missiles are still there. When will the rest go back?

The German Air Force has just inherited about 40 top-of-the-line Soviet Mig-29 fighter bombers from the former East German Air Force. The German Army has also just inherited 24 SS–23 missiles that were banned, incidentally, by the INF Treaty from the East German Army.

Meanwhile, there are press reports that United States intelligence just this last month discovered the presence of SS–12 missiles at a Soviet military base in eastern Germany. All of these SS–12 missiles were supposed to have been destroyed by now under the terms of the INF Treaty. The SS–12 missiles, like the East German SS–23's, were never declared under the treaty, as they should have been.

I will not say now or later, Mr. President, that I told you so, but there were some warnings about that during consideration of the INF Treaty by the U.S. Senate.

In short, Mr. President, these are demonstrations that the millennium has not yet come. There are still a number of such problems that have to be taken care of despite this treaty, and I propose we get about it.

Mr. President, a final problem remains with the question of the status of the Baltic countries. Whatever the status of former German territory now part of the RSFSR, there is legitimate concern that this treaty might be seen as confirming Soviet incorporation of the three Baltic States: Lithuania, Latvia, and Estonia.

Referring to the September 13 Soviet-German Treaty on Good-Neighborliness, Partnership, and Cooperation—the relevant provision of which is quoted in the section on Poland—representatives of the three Baltic parliaments wrote to members of the United States Senate on September 28, stating in part:

> * * * Article 2 of the Soviet-German Treaty of September 13, 1990, contains principles that may be considered as acknowledging the conquest of the Baltic States by the Soviet Union towards the end of World War II.
>
> The Baltic States draw attention to dangers inherent in the unconditional ratification of the Two-plus-Four Treaty [i.e., the current Treaty], which should settle the problems and borders of Germany, but should not be allowed to freeze the USSR western borders in further bilateral treaties, thus perpetuating a dangerous precedent.

Similar concerns were expressed in a September 26 letter to President Bush from six U.S. Senators, asking for an "assurance prior to Senate action that ratification of the Two-plus-Four Treaty is fully consistent" with the half-century-old U.S. policy of nonrecognition of the U.S.S.R.'s forcible and illegal incorporation of the Baltic States. State Department Counselor Zoellick confirmed in his Foreign Relations Committee testimony that the U.S. nonrecognition policy on the Baltics would remain unchanged.

However, the Foreign Relations Committee, preferring a "clean" Resolution of Ratification, declined to add language on the Baltics to the resolution text itself. Instead, with administration support, the committee intends to introduce "a simultaneous, separate Senate resolution considered in conjunction with the Treaty." The draft Baltic resolution cites long-standing policy pronouncements on Baltic nonrecognition and administration assertions that this policy "is in no way altered or compromised" by the treaty. This is followed by a sense of the Senate resolution stating that:

> * * * the President should take all appropriate steps to ensure that the act of United States ratification of [the Treaty, and its affirmation of Germany's borders] are not construed by any government to imply any diminution or compromise of United States determination not to recognize the forceful incorporation of the Baltic States by the Union of Soviet Socialist Republics.

By this wording—separate from the actual Senate resolution of advice and consent to ratification of the current treaty—the Senate would thus be leaving it to the administration to "ensure" that United States ratification is not "construed" by the Soviet

Union in a manner inconsistent with our nonrecognition policy. In light of the Soviet view, noted below, this may be inadequate.

For its part, the Soviets have been pursuing a policy that has easily lent itself to misinterpretation. On December 24, 1989, the Congress of Peoples Deputies—the newly constituted semi-elected legislature of the U.S.S.R. from which the all-Union Supreme Soviet is drawn—approved a resolution declaring that the secret protocols of the 1939 Molotov-Ribbentrop Pact were "legally invalid and null and void from the moment of their signing." Adopted by a vote of 1,492 in favor and 252 against with 234 abstaining, and signed by "M. Gorbachev, chairman of the USSR Supreme Soviet," the resolution further states that:

> The protocols did not create a new legal basis for the Soviet Union's relations with third countries, but were used by Stalin and his entourage to issue ultimatums and impose pressure on other states in violation of legal commitments made to them.

The "legal commitments" made to "other states" would specifically include, in the case of Lithuania, the Soviet-Lithuanian treaty of July 12, 1920, whereby the U.S.S.R. renounced any claims to Lithuanian territory and recognized Lithuania's independence and sovereignty. Accordingly, in March 1990, Lithuania's Parliament voted to resume its exercise of the independent status it had enjoyed from 1918 to 1940. The Soviet Government—led by Mikhail Gorbachev, whose name appeared on the resolution nullifying the illegal 1939 Pact, by which Lithuania was awarded to the Soviet Union in the first place—responded with coercive measures to force the Lithuanians to suspend their resumption of independence.

The key to understanding the Soviet position is that while the December 24, 1989, Congress of Peoples Deputies resolution declared the 1939 secret protocols "legally invalid and null and void," it nowhere declared any of the events proceeding from that pact to have been invalidated. Coerced though they were, these included subsequent agreements whereby the Soviets first occupied the Baltic States and the resolutions of puppet, Soviet-organized "parliaments" to petition for annexation as Union Republics of the U.S.S.R.—to which the Soviets graciously assented in 1940. In short, while the Soviet Government may consider the Molotov-Ribbentrop Pact itself, with its secret protocols legally invalid, the U.S.S.R.'s gains from its erstwhile alliance with Nazi Germany are still intact. There is nothing in the treaty or the proposed resolution of ratification that conflicts with the Soviet position.

Therefore, it is essential that the Senate go on record at the time we are about to ratify the treaty that the United States does not in any way recognize the inclusion of the Baltic States behind the present border claimed by the Soviet Union.

Mr. President, I support passage of the legislative resolution which accompanies the Senate agreement to ratification of the treaty.

Mr. President, earlier today I met with the Foreign Minister of Estonia, Lennart Meri. Foreign Minister Meri is a leader in his country, helping to move the Estonian people from Soviet domination to the rebirth of national independence.

Mr. Meri has personally suffered, as have all Estonians, under Soviet domination. He and his family were deported to Siberia. Upon his return to Estonia, he became a popular ethnographer and writer. He has never been a member of the Communist Party, and therefore enjoys strong support from the people of Estonia.

It was very painful, therefore, when Mr. Robert Zoellick, Assistant Secretary of State, in testimony before the Senate Foreign Relations Committee, implied that Mr. Meri had endorsed the German treaty as it stands. These remarks were interpreted by some newspapers in Estonia that Mr. Meri had no objection to the references in article 2 of the treaty which the Soviets could take as a guarantee of present Soviet borders. Those borders, of course, include the illegal incorporation of the Baltics, including Estonia, into the Soviet Union.

Mr. President, as one who has already suffered much under communism, there is no way that Mr. Meri could endorse, even indirectly, the illegal incorporation of Estonia into the Soviet Union. Although Estonia has no objection to the purposes of the treaty, Estonia wants to make it clear that other consequences of World War II have not been addressed.

Mr. President, I ask unanimous consent that a letter from Foreign Minister Meri to Assistant Secretary Zoellick be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MINISTRY OF FOREIGN AFFAIRS,
REPUBLIC OF ESTONIA,
October 7, 1990.

Mr. ROBERT ZOELLICK,
Assistant Secretary, Department of State, Washington, DC.

DEAR MR. ZOELLICK: In view of the imminent ratification of the "Two Plus Four" Treaty by the U.S. Senate and the current proceedings connected with it, I would like to bring to your notice the following.

While the conclusion of the "Two Plus Four" Treaty made it possible for the German people to be reunited, it overlooks the outstanding business of World War II—the restoration of independence to the Baltic republics of Estonia, Latvia and Lithuania.

Furthermore, the signing of the "Two Plus Four" Treaty itself has now served as the foundation for the conclusion of the Soviet-German Treaty on Good Neighborliness, Partnership and Cooperation, Article 2 of which, in our view, could in the future be referred to by the Soviet Union as pretext for its claims to the legality of its current borders with respect to the Baltic states.

In view of the above, and considering the fact that these thoughts were expressed with abundant clarity in my letter of September 20, 1990 to Secretary of State James Baker and the other signatories to the "Two Plus Four" Treaty, it was with some surprise that I learned about remarks attributed to you both at and following the recent hearings before the U.S. Senate Committee on Foreign Relations on September 28, 1990. These remarks, if as reported in the Estonian press by the reporter who claimed to have been present during the session and to have questioned you following your testimony, would appear totally to misrepresent the position of the Estonian government's position on the "Two Plus Four" Treaty as presented in my letter to Secretary Baker, dated September 20, 1990.

What amazed me even more was that your answers at the said hearing were reported to have been based on a Finnish-language newspaper account of the Estonian government's position on the matter. Newspaper accounts have their limits, and are inadequate sources and poor substitutes for descriptions of governmental positions, particularly where official positions are readily available as in my note to Secretary Baker, dated, September 20, 1990.

If the account of the hearings on September 28th reported in the Estonian press are accurate, this leads me to believe that at the time of your testimony you were unaware of the contents of the above-mentioned letter from me to Secretary Baker. I would like to hope that it will be possible for you to familiarize yourself with its contents so that you could fully understand our views on these crucial issues.

Sincerely yours,
LENNART MERI,
Minister of Foreign Affairs.

I thank you very much, Mr. President.

I yield the floor.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I yield 3 minutes to the Senator from Illinois [Mr. SIMON].

The PRESIDING OFFICER. The Senator from Illinois [Mr. SIMON] is recognized for 3 minutes.

Mr. SIMON. Mr. President, I rise in support of the treaty.

At one point, I had an amendment that would make clear that the treaty does not imply recognition of the incorporation of Estonia, Latvia, and Lithuania into the Soviet Union. And the State Department indicated that my amendment would cause some problems in terms of the treaty with the other nations.

Secretary of State James Baker has written me a letter that I ask unanimous consent to have printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, October 5, 1990.

Hon. PAUL SIMON,
U.S. Senate.

DEAR PAUL: In the context of your consideration of the Treaty on the Final Settlement with Respect to Germany, I understand that questions have arisen concerning the relationship between German unification and self-determination for Estonia, Latvia, and Lithuania and concerning the steadfastness of our policy of refusing to recognize the forceful incorporation of these states by the Union of Soviet Socialist Republics.

I would like to reaffirm personally what I said in Moscow when I signed this treaty and what Counselor Zoellick said in his testimony before the Committee on September 28:

"The position of the United States, of course, is different [from the Soviet position], and that is no secret between us. The United States does not recognize the incorporation of the Baltic states into the Soviet Union, and in fact, we still fly the Baltic flags in the auditorium of our State Department. With respect to the question insofar as it pertains to this treaty, this treaty of course deals only with Germany and does not pretend to deal with anything else."

In this connection I also want to call your attention to the following statement by President Bush in his German-American Day Proclamation, made on October 3, the day of German unity:

"The achievement of German unity will also give hope to others, particularly the Baltic peoples, that a peaceful but determined struggle for national self-determination can succeed even over seemingly insurmountable obstacles. The United States remains true to its policy of nonrecognition of the annexation of the Baltic states, just as we never wavered in our support for German unity even through the darkest hours of the Cold War."

I hope this information is of assistance to you in your consideration of this Treaty.

With warm personal regards,
Sincerely,
JAMES A. BAKER III.

Mr. SIMON. Let me just read to you two pertinent passages from the letter.

> I would like to reaffirm personally what I said in Moscow when I signed this treaty and what Counselor Zoellick said in his testimony before the Committee on September 28:
>
> "The position of the United States, of course, is different [from the Soviet position], and that is no secret between us. The United States does not recognize the incorporation of the Baltic states into the Soviet Union, and in fact, we still fly the Baltic flags in the auditorium of our State Department. With respect to the question insofar as it pertains to this treaty, this treaty of course deals only with Germany and does not pretend to deal with anything else."

In the letter later, he also quotes from President Bush in a German-American Day proclamation, made on October 3, just a few days ago.

President Bush said:

> The achievement of German unity will also give hope to others, particularly the Baltic peoples, that a peaceful but determined struggle for national self-determination can succeed even over seemingly insurmountable obstacles. The United States remains true to its policy of nonrecognition of the annexation of the Baltic states, just as we never wavered in our support for German unity even through the darkest hours of the Cold War.

Clearly, this treaty is a step forward for the community of nations. It is no secret that there are concerns about Germany and the leaders of Germany understand that. But we have to make it very, very clear that we are not suggesting by implication any kind of approval of the annexation of Estonia, Latvia, and Lithuania into the Soviet Union.

I yield the remainder of my time to the Senator from Rhode Island.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I am very sympathetic to the Baltic States. I used to be for many years the Baltic desk officer, and remember talking to their chiefs of mission here in Washington as to the agonies the countries suffered and the importance of keeping their independence. And what a proud day it is that after all of these years we find their independence returning to them, as it should.

Mr. LUGAR addressed the chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, how much time remains on this side of the aisle?

The PRESIDING OFFICER. Forty-three minutes, 21 seconds.

Mr. LUGAR. Mr. President, in the absence of the distinguished ranking member, I yield myself 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. We come today to a very important moment in the life of our country, and in our relationship with Germany. I simply want to say, Mr. President, that in December of last year, the distinguished chairman of the Foreign Relations Committee, Senator PELL, and others in this body were in West Germany at the Berlin Wall and in conference, in due course, with Helmut Kohl, the distinguished Chancellor of that country. Chancellor Kohl had just enunciated, a few days before, 10 points that might be the basis for unification of his country, he anticipated, as he told us in conversation, sometime within this decade. He had been roundly criticized in many circles around the Earth for having the temerity to make those suggestions, even guidelines, for unity.

We meet today to ratify a treaty which commends the relationship we have with Germany, but also ends certain parts of that relationship in a formal way, simply as a monument to our times as to how rapidly things have changed, but likewise how well things have changed.

The ratification ceremony today, that I suspect we will proceed to shortly, is a testimony to success of American foreign policy, in addition to the success of the unification efforts of the Germans. It is our success because throughout this entire period of change in Germany, we have affirmed that unity for Germany was a goal that we shared. We were never halted or spared in that regard. We gave every encouragement to the process. But we added an important footnote to that, Mr. President, and that was, we saw unity in freedom and within NATO, and those are two very important objectives that seemed to many in the world, to be unattainable even 12 months ago, perhaps even 6 months ago, but in fact, they are achieved in this treaty. It is a free Germany, having free elections this year, with freedom of speech, and the press, and religion for all Germans, a beacon of hope for all the countries that surround it, a remarkable engine of economic efficiency and growth. It is a free economy, a free market economics of West Germany that prevailed, not the other side.

I think it is important to affirm that our ideas and the best ideas in Germany that were coincident with our own ideas, have prevailed, and furthermore, they have prevailed within the Western community, within the European Community economically, within NATO militarily securitywise, not within a Warsaw Pact, not in a disattached neutral form, but within NATO through the North Atlantic Alliance, and that is tremendously important to celebrate today.

I fear, Mr. President, that in the aftermath of our own budget disputes, all of the importance for our Nation and the world in the Middle East, a whole lot of other events which are extremely important to all of us, and stretch our attention span, a monumental happening has almost been overlooked. But history will not overlook it. And even if we are not observant as we ought to be at the moment, we will look back on this and see that the allies who conquered the tyranny in 1945 and then the generosity of spirit that brought about NATO and the Marshall Plan, enormous foreign policy initiatives of the United States of America, the tremendous thrust of our free market economics and our passion for democracy and finally our affirmation, and the pragmatic facts of the last few months, that unity was in fact, the proper prescription.

We ought to offer support to Germany and German leaders who wanted to do that. These are the ideas that have triumphed, and they are embodied in this remarkable treaty.

So, Mr. President, we celebrate together with all the people of Germany in freedom, freedom of discussion of this treaty, freedom of economics, freedom of the religious side of things, which are so important to the uprisings in East Germany, that led to unity and freedom now to pursue a foreign policy with Germany that we are confident will be constructive to the future, because fundamental to the view that President Bush had about Germany, was that the United States relationship with Germany, that bilateral relationship, was central to the success and peace of the world, successful for peace and prosperity in this country, and our President, in a very modest, but a very straightforward way, has achieved, in my judgment, a remarkable triumph today which I hope the Senate will ratify with a very strong vote.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. PELL. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Lieberman). Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I would like to speak on this treaty on the final settlement with respect to Germany. I commend the chairman of the Foreign Relations Committee and the ranking member and their staffs for the work they have done in bringing this speedily to the floor.

In looking at the background of this treaty, I think that this is a very historic moment in the U.S. Senate and a historic day for the United States. The Republican Policy Committee staff have prepared an excellent paper on this subject. In my remarks, I will be quoting extensively from that policy paper.

It was on October 3, just a few days ago, that the German Democratic Republic, also known as East Germany, ceased to exist and was absorbed into the Federal Republic of Germany as five new states, called Lander in German: Mecklenburg-West Pomerania, Brandenburg, Saxony-Anhalt, Thuringia, and Saxony, plus Berlin, now the capital of united Germany. With this reunification, Germany becomes the wealthiest and most populous country in democratic Europe, and is expected to become the linchpin of the integrated Europe set for 1992.

I point that out because I think we are seeing history in the making. Germany will be one of the most significant countries in the world in many ways.

With this reunification, the four victorious powers of World War II—Britain, France, the United States, and the Soviet Union—end a relationship with Germany that existed since 1945. Ratification of the Treaty on the Final Settlement With Respect to Germany will close the international aspects related to the German defeat in 1945 and inaugurate a new era in European politics and in the American relationship with Europe.

Mr. President, I shall not dwell on the historical background presented in the Policy Committee paper, except to say that Germany has not existed long as a unified national state. The kingdom of Prussia, under Kaiser Wilhelm I and his Chancellor—equivalent to Prime Minister—Otto von Bismarck, succeeded in bringing the various German kingdoms and principalities under its rule, declaring the creation of the German Empire—Reich—in 1871 after defeating France in the Franco-Prussian War.

Defeated in World War I, Kaiser Wilhelm II abdicated in 1918, and Germany became a Republic. Under the Versailles Treaty of 1919, Germany lost territory to France and to the newly reconstituted states of Poland and Lithuania; the formerly German city of Danzig—now Gdansk, Poland—became a free city under Polish administration. East Prussia remained German but was separated from the rest of Germany by a strip of Polish territory called the Polish Corridor, extending to the Baltic Sea.

This situation existed until the coming of the National Socialist German Workers Party and the rebuilding of German military might, the coming of Adolf Hitler, and so forth.

Then after World War II, in May 1945, Germany surrendered and was divided into the four occupation zones we have known.

The treaty we will vote on today recognizes our Government's role in adjusting to the new unified Germany. We will face many challenges in the trade area with a united Germany. This new state is much larger than the already economically successful West Germany.

As ranking member of the European Subcommittee, I have watched the transformation of East Germany very closely, having visited both East and West Germany on different types of missions. Recently, I was honored to attend the ceremony at the White House at which President Bush congratulated the newly reunited Germany. I joined in President Bush's words and his spirit at that moment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. BOSCHWITZ. Mr. President, I rise to speak about the resolution of ratification of German reunification. I am sure that that treaty will pass in the Senate. I intend to vote for it. But yet a few words should be said about Germany and about reunification, about the things that go through my mind as I will vote for this treaty—not only my mind but the minds of millions of other people throughout the entire world, particularly, I suppose, in Europe, particularly among Germany's neighbors and particularly among Jews in every corner of the world.

On January 30, 1933, Adolf Hitler came to power. My father came home and told my mother—we lived in Berlin at that time—that we would leave Germany. I was 2 years old. I do not have any recollection of Germany or the conversation, of course. But he spoke of that day often throughout his life, and it was perhaps the most momentous decision he ever made.

Fifty years after that date, on January 30, 1983, or perhaps a day or two after—as I recall January 30, 1983, was a weekend—I went to see President Reagan. I took my eldest son. I talked to him about my father and my father's decision that had been made 50 years previous and what that had meant to our family and what it had meant to our very survival.

I left some relatives behind in Germany. One survived, just one out of a rather large family—a very nice grandmother by the name of Flora Pfeiffer. She lives in Montreal. She alone, among our family, on both sides—on my mother's and my father's side—survived the Holocaust. So a unified Germany is something that I look at with some concern, to be very frank, Mr. President.

A unified Germany does not have what one would consider a sparkling history. Unification really took place under Bismarck in 1870, and as he fought the French immediately upon unification, or in the process of unification, the Franco-Prussian war took place. Then, early in this century, the First World War was caused by the Germans, and then, of course, the Second World War, from 1939 to 1945.

So for 75 years, Germany was a unified country, and in that 75 years about 75 million people died in the wars that were created by a unified Germany.

That is not a history that should engender great pride on the part of the Germans, and I am sure their intention is not to see a repeat of that. But as they unify, they should know that the sentiment of this and other Senators I know is that hopefully a better and a more positive history lies ahead for the German nation and for Europe and the world than they have contributed to as a unified nation before.

These thoughts, as I say, Mr. President, go through my mind and must be going through the minds of millions these days.

Hopefully it goes through the minds of millions of Germans as well, that they pledge themselves not to see a repeat of that history, that they

pledge themselves rather to be part not only of the unified Germany but of the more unified Europe, that leads toward the more peaceful existence in the world rather than turmoil that they have created before.

So I intend to vote for this resolution, Mr. President. Nothing is going to stand in its way. Nothing should stand in its way. But a sense of the history of Central Europe and the sense of history of the world during the 75 years of German unification should be stated here on the Senate floor so that all will remember, that the unified Germany will remember, that we be on our guard, that we be watchful, and the Senator from Minnesota certainly will be. I know that others will be.

I commend good fortune, peace, and progress to the German people in the years ahead, and hopefully it will be so.

I yield the floor.

Mr. PELL. Mr. President, I am glad to commend the words of the Senator from Minnesota. I speak here as in a personal way I guess because my father was United States representative in the United Nations Crimes Commission, and experienced, saw—and so many of us since the war was aware of the horrors committed by a unified Germany in the days before, the days of World War II and prior. We hope that they are certainly inoculated and that no furhter developments along those same lines will come.

But I think of George Santayana, who wrote once that those who forget the lessons of history are condemned to repeat them. I think the Senator's idea of keeping an eye on how things progress is a good one. I think we all agree that the German of today is freedom loving, of free spirit, and peace loving, and a very different one from one of 50 years ago. We just hope very much indeed that that transition will never reoccur.

Mr. BOSCHWITZ. If the distinguished chairman will yield for a moment, as he knows in committee I remarked that his family has a wonderful history in all of this, that the father of the distinguished senior Senator from Rhode Island, Herbert Pell, was in the State Department and trying to raise a warning, trying to raise the hue and cry about what was going on in Europe, what was happening to the Jews in Central Europe, and no one would listen. He persisted, and when one reads the book entitled "The Abandonment of the Jews," there you will see the name of Herbert Pell, the father of the distinguished chairman of the Foreign Relations Committee. That will always be in my mind, I say to the Sentaor from Rhode Island.

Mr. PELL. I thank the Senator very much indeed. I appreciate his thoughts. And he is quite right. My father was fired from the State Department for carrying out his thoughts. I yield the floor.

Mr. BOSCHWITZ. If I may continue, he tried to continue his work with his own funds and was rebuffed.

Mr. PELL. That is correct. But it was decided bureaucratically that he should not be allowed to spend his money for carrying on the mission.

Mr. SPECTER. Mr. President, I ask the status of the floor as to whether time is available for the Senator to make a brief presentation?

The PRESIDING OFFICER. The Senator from North Carolina has 1 minute and 36 seconds; the Senator from Iowa has 26 minutes and 46 seconds.

Mr. SPECTER. I ask the distinguished Senator from Rhode Island if he will yield 5 minutes to this Senator.

Mr. PELL. Certainly. I yield 5 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank my friend from Rhode Island.

I have been in the Appropriations Commitee and, therefore, could not come earlier. I came in at the concluding comments by the distinguished Senator from Minnesota [Mr. Boschwitz] and was very much moved by what I heard him say about his concern for the future of a united Germany, and his expression of hope that there would be a new day in Germany and not a repetition of what happened earlier this century.

I know from many conversations with my friend, Senator Boschwitz, about his own personal experiences and the difficulties that he encountered in his youth. I know all too well what happened to millions of others under similar circumstances, Jews and non-Jews, during World War II.

It would be my hope, Mr. President, echoing to some extent what Senator Boschwitz has said, that we will see a new and different united Germany from the Germany which we have seen cause two major wars in this century.

I speak about World War I, having heard about it from my father. He came to this country from foreign shores, from Russia in 1911 before there was a Soviet Union. He was a buck private in World War I, a doughboy, who went to France to make the world safe for democracy. There, he was wounded in action, sustaining shrapnel in both of his legs which he carried until his dying day. Yet, he was enormously proud of the contribution which he made as an American soldier during World War I, a terrible war that ultimately was started by Germany and Germany's allies.

Then we had a repeat of that in World War II with German aggression against Poland and Czechoslovakia. My brother and brother-in-law served in World War II, as did many other of my relatives and friends.

The world has seen two very disastrous wars occasioned by German aggression. With reunification nearly completed, it is all of our hope that there will be a new spirit in Germany, one which will never see repeats of the acts of aggression which sparked two world wars.

At this point, then, I wish to express concern about the status of East Germany. Today there are indicators that there is a lack of awareness in East Germany regarding German aggression, German antisemitism, and the treachery of the Holocaust.

I am concerned that there is a substantial body of false history which the East Germans have been taught about the lack of East German responsibility for the horrors of World War II.

Such a lack of awareness causes great consternation when we consider that, with reunification, numerous East Germans will be coming into positions of power in a united Germany. It is necessary, therefore, that all East Germans have an awareness as to what the historical facts are, in terms of the responsibility all of Germany must bear, including East Germany, for acts committed during World War II.

So as this body moves toward a treaty, which in our practice will doubtlessly be ratified unanimously—we do not customarily in the 10 years I have been here have heated debates and narrow votes on what happens on ratification of treaties—I think it is important to listen carefully to the words of Senator Boschwitz. It is the hope and expectation of the United States Senate, the United States Government, the people of the United States, and the people of the world, that we soon will see a Germany with a new spirit, with a new attitude to be a constructive creative partner on the world scene. Let us not have a repetition of what we saw during the two world wars of this century.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I suggest the absence of a quorum, the time to be counted equally to both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. I yield 2 minutes, Mr. President, to the Senator from Georgia [Mr. Nunn].

Mr. NUNN. Mr. President, first let me thank my friend from Rhode Island, the chairman of the committee for his diligent and very fine effort.

Mr. President, I rise in support of the Treaty on the Final Settlement With Respect to Germany. This historic treaty was signed by the foreign ministers of the United States, Great Britain, France, the Soviet Union, and the two Germanies on September 12 and submitted by the President to the Senate for its advice and consent on September 26. At a meeting in New York on October 2, the four victorious World War II powers announced the suspension of their rights and responsibilities in Berlin and the whole of Germany. At 12 o'clock that night, the two Germanies became a single democratic nation, thereby fulfilling one of the paramount objectives of the Western democracies in the post-War era.

I am sure I speak for the Armed Services Committee when I say that we were deeply gratified to see the television footage last week of the midnight celebrations in Berlin. The committee also pays tribute to the steadfastness of the American servicemen and servicewomen and the military personnel of our allies, and the willingness over the years of American taxpayers to bear the costs of these commitments, without which this historic event would not have been possible.

On October 4, the Armed Services Committee conducted a hearing during which we began to examine the implications of the treaty for NATO strategy and the future U.S. military presence in Europe and explored several ambiguities concerning the meaning of various provisions in the agreement. The panel of authoritative administration representatives included: The Honorable Steven J. Hadley, Assistant Secretary of Defense for International Security Policy; Maj. Gen. John Sewall, Vice Director for Strategic Plans and Policy [J-5], Joint Chiefs of Staff; and James Dobbins, principal Deputy Assistant Secretary of State for European and Canadian Affairs.

During the hearing, I pointed out that the committee's interest in the implications of the treaty for the U.S. military role in Europe is not academic. The conference on the fiscal year 1991 defense authorization act began on October 2. As we debate this treaty this afternoon, conference panels are continuing to address issues related to burdensharing provisions, U.S. troop levels in Europe for fiscal year 1991, and active duty end strength for fiscal year 1991 and fiscal year 1995.

In establishing these manpower ceilings, it is critically important that the Congress know what plans the Defense Department is making for our future security posture in Europe. The administration has insisted that the United States must maintain a corps-strength force and associated air wings requiring a minimum of 195,000 troops in Western Europe for the indefinite future. But what would be the mission of this force? Against what threat would it defend? Where will it be deployed? And under what strategy would it operate?

During our hearing, General Sewall stated that NATO strategy "will seek to transition from 'forward defense' toward forward presence." This is an enormously important statement. As far as I know, it represents the first official acknowledgment by a senior U.S. defense official that NATO intends to replace its long-held strategy of forward defense with something new. On January 29, Secretary of Defense Cheney had stated that this was "the worst possible time to contemplate changes in defense strategy." And, as recently as the London NATO summit in July, defense officials were saying that while NATO's strategy would have to be revised to reflect the changes in the threat, forward defense and flexible response would remain as central pillars of the new strategy.

The implications of moving away from forward defense are profound, although much depends on how forward presence is defined. Does forward presence mean that NATO no longer envisions maintaining the current layer cake posture in Germany, under which corps from allied nations are assigned forward sectors of defense responsibility with general defense positions stacked along a north/south axis?

During our hearing, General Sewall answered in the affirmative, stating:

> Clearly, we are moving more with reduced force levels and parity and with extended warning times to a much thinner deployment of stationed forces. As has been mentioned, we are looking at the concept of multinational corps. Now those corps would be maneuver elements designed primarily to attack any penetrations or respond to any incursions of whatever forces, more in a sort of counter-concentration type approach as opposed to a very robust linear defense.

If NATO shifts, in General Sewall's words, from a "very robust linear defense" to a "counter-concentration type approach"—that is, one in which thin screening forces well forward serve as advance defense elements for large maneuver units held in reserve—what will be the U.S. role in such a new strategy? Would the U.S. contribution to such a defensive posture require 195,000 troops? Or, as the Armed Services Committee declared in its report on the fiscal year 1991 defense authorization act, should the United States, in concert with NATO, implement a new reinforcement strategy that would require a significantly lower level of U.S. forces in Europe: for example, on the order of 75,000–100,000 troops within 5 years?

The treaty that is now before the Senate bears directly on these questions. The treaty recognizes the right of the united Germany to belong to NATO, with all the rights and responsibilities arising therefrom. That is certainly a triumph for western diplomacy. However, the treaty also sanctions the presence through 1994 of hundreds of thousands of Soviet troops on German soil. Thus the treaty has the paradoxical effect of allowing the deployment of Soviet Armed Forces in great numbers within NATO territory. Assuming that NATO's security commitment extends now to all of Germany, how does NATO defend all its territory against what remains of the Soviet threat when Soviet forces are garrisoned well behind the eastern-most border of its territory?

After 1994, when the Soviet forces will have withdrawn from the united Germany, the treaty prohibits the stationing or deployment of non-German NATO forces and all nuclear weapons and nuclear weapons carriers in the eastern part of Germany. How does NATO plan to defend all its member nation's territory if non-German NATO units cannot be stationed or deployed in part of that territory? Can allied forces conduct training exercises or maneuvers in this area?

The answer to that question would appear to depend on the meaning of the word "deployed" as it is addressed in article 5 of the treaty and in the treaty's agreed minute. This is a critical definitional issue which our hearing revealed is ultimately being left to future German governments to decide, although the Senate has been assured that the negotiating record would not substantiate a future Soviet claim that no non-German NATO activities whatsoever are permitted in this area.

Article 5, paragraph 3, of the treaty deals with prohibitions on German and NATO forces in the eastern part of a united Germany after the Soviets complete their withdrawal in 1994. The last sentence of that paragraph reads as follows: "Foreign armed forces and nuclear weapons or their carriers will not be stationed in that part of Germany or deployed there." An agreed minute to the treaty, apparently negotiated in the middle of the night before the treaty was signed, states that "Any questions with respect to the application of the word 'deployed' * * * will be decided by the Government of the united Germany in a reasonable and responsible way taking into account the security interests of each Contracting Party as set forth in the preamble."

In his testimony before the Armed Services Committee, Deputy Assistant Secretary Dobbins stated that the administration's interpretation of the meaning of the word "deployed" in article 5, paragraph 3, is that "large scale" maneuvers by non-German NATO forces in the former GDR territory are banned, but "smaller-scale" activities "may take place at the discretion of the German Government." By "large scale," he testified that the negotiating record indicates a "general understanding" that a dividing line was drawn between maneuvers or exercises below the 13,000-man ceiling that had been established in the Stockholm agreement of 1986 and maneuvers or exercises involving manpower above that number.

Mr. Dobbins also stated:

> While the Germans may not wish certain types of smaller-scale activities to take place at certain times, our view is that freedom of decision is preserved in this regard.

Mr. Dobbins confirmed that his reference to "freedom of decision" meant that the German Government will have the final say on any non-German NATO activities in the eastern part of the united Germany. Quoting him:

> As the treaty makes clear, the question of how to define the term "deployed" is a decision for a sovereign German government.

Mr. President, the Armed Services Committee hearing did not answer all questions about the implications of the treaty for NATO's military strategy and the future role of U.S. forces in Europe. I recognize that it could not have done so, given the far-reaching nature of these questions. However, the hearing did underscore that the United States and its NATO allies have only begun thinking through these issues, and they have a long way to go.

As Assistant Secretary Hadley testified:

> There has been a good deal of wrangling, speaking candidly, within NATO over the last four or five months as to just how this strategy review would be conducted within NATO headquarters * * * it has been a five-month struggle just to get on track the process within the NATO bureaucracy.

However, Mr. Hadley did state that NATO has now set a target date of early next spring for reaching some decisions on these profound strategy decisions. The Armed Services Committee looks forward to contributing constructively to that process.

Mr. President, I urge adoption of the resolution of ratification reported by the Foreign Relations Committee.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I join my distinguished chairman, the Senator from Georgia, in expressing appreciation for the fine work done by our committee in conjunction with the work done by the Foreign Relations Committee.

I add my praises indeed to our distinguished colleague from Rhode Island as well as our distinguished colleague from Indiana, both of whom took in major rolls in seeing that this matter is handled swiftly and appropriately by the U.S. Senate.

The record should also reflect that the Armed Services Committee conducted hearings both in open session and in executive session. We felt it was necessary to satisfy ourselves with respect to certain of the future deployments of our security forces in that area, and we were satisfied.

Mr. President, with the ratification of this treaty by the four powers which have played a role in a divided Germany since the end of World War II, we will symbolically be marking the end of the postwar division of Europe and, indeed, the end of the cold war.

The Treaty on the Final Settlement With Respect to Germany addresses the external issues regarding German unification and terminates all remaining four power rights concerning Germany and Berlin. This agreement establishes the framework for the future security situation in the united Germany by providing for the withdrawal of all Soviet troops from the territory of the former German Democratic Republic; by establishing restrictions on the presence of non-German armed forces in the eastern part of Germany; and by allowing the united Germany to join the NATO alliance.

Since this treaty basically restructures the security framework for central Europe, the Senate Armed Services Committee held a hearing last week on the implications of this treaty for NATO strategy and the future U.S. military presence in Europe. Officials from the Departments of State and Defense, as well as the Joint Chiefs of Staff, provided the committee with testimony regarding the administration's interpretation of the key provisions of this treaty.

During the committee hearing, I was particularly interested in receiving clarification from the administration on the commitment undertaken by the Soviet Union to withdraw its troops from the former German Democratic Republic [GDR], as well as on the provision which restricts the deployment of non-German armed forces to the eastern part of Germany following the withdrawal of Soviet forces.

According to the administration witnesses, the Soviet agreement in article 4 of the treaty to withdraw its troops from the former GDR by the end of 1994 is a legally binding commitment which is not conditioned on reductions in German force levels or the conclusion of a CFE agreement. In my opinion, this was the most critical clarification which we received from the administration during last week's hearing. All of the new united Germany's NATO allies can rest assured that, under the terms of this treaty, the Soviets are bound to remove all of their troops from Germany within 4 years.

A second key area of interest from a defense perspective is the prohibition in article 5 of the stationing or deployment of foreign armed forces in the former GDR after Soviet troops withdraw from that territory in 1994. According to the agreed minute, the united Germany will define what the word deployed means in this context.

The committee raised legitimate questions about how such restrictions on military activities on the territory of a NATO ally might impact on NATO training exercises and defense planning. The committee was assured that, although it is unclear how the united Germany will interpret this restriction, the administration was confident that at least small-scale NATO exercises would be permitted by Germany, and that other arrangements would be worked out with our German allies after 1994.

Addressing the various restrictions in this treaty, Gen. John Sewall, USA, told the committee that "The Joint Chiefs of Staff do not believe that these conditions, these restrictions in any way adversely impact the ability of United States forces to achieve their military objectives."

Based on the assurances the Armed Services Committee received from the administration during last week's hearing, I will support the resolution of ratification concerning the Treaty on the Final Settlement With Respect to Germany. I am pleased that the postwar division of Germany has finally come to an end, and I wish our new, united German ally the very best.

I think we would all like to conclude that there was a job well done in the Federal Republic of Germany by Ambassador Juergen Ruhfus, who has worked with the Senate for many years now and has the confidence and respect of this body unlike anything I have seen accorded to men in a comparable position.

Mr. NUNN. Mr. President, I also want to add my compliments to the Ambassador. He has represented his united nation well, and he represented, before that, his country well. He is an extraordinary diplomat who has vast experience. I do not think the country of Germany could have been better represented, during these crucial periods here in the country, than it was by the Ambassador. He also has a very charming wife, who is a great complement to his team. We congratulate him, and we are excited about the future of that country, a wonderful ally, and a strong pillar of strength in the Western World.

Mr. WARNER. Mr. President, there were times during the course of consideration, not only of this body, but of the United States, of this momentous treaty when the road map was not as clear as it appears today, here in the final hour. There were some tough times, and it required the leadership of, not only this outstanding Ambassador, but also Chancellor Kohl, with whom we have all had very warm and cordial relations through these many years, to make it possible for us to be acting in the manner we are today.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, this is indeed a historic moment. Little did we know, even a year ago, that the boundary between East and West Germany would melt and the two countries would become one. A year ago the wall dividing Berlin was still standing, was still being patrolled by grim East German border police. A year ago, there were Germans, but two Germanies. Yet, on October 3, the two Germanies became one.

The extraordinary changes over the last year are due not only to the great courage and determination of the German people, but also to the strong leadership of the United States. George Bush and Helmut Kohl stood as one on the issue of German reunification. That is why on October 3, Germany became one nation once again, and that is why this treaty is before us today.

I commend the administration, the distinguished majority leader and the Foreign Relations Committee for their swift action on this historic treaty.

In my view, this treaty is important not only in what it does, but in what it does not do. The treaty will end the artificial division of Germany and Berlin. And, over the next 4 years, the treaty will provide for the full withdrawal of Soviet forces—let us not forget that there are over 300,000 Soviet Forces in what was East Germany. In addition, the treaty does terminate all remaining four power rights and responsibilities for Berlin, and for Germany as a whole.

Also of significance, the treaty codifies the current borders of the Federal Republic of Germany and German Democratic Republic as the final and definitive borders of a United Germany. And, last, but not least, the treaty also specifies the right of a united Germany to hold membership in any alliance of its choice.

What the treaty does not do is cripple the sovereignty of the united Germany from belonging to NATO.

Germany has been a strong ally in NATO and it will continue to be.

The bottom line, in my view, is that the treaty does not exact the price of German sovereignty for German unification. The United States goals in the negotiations have been achieved in this treaty. And clearly, the German hope and goal of a united Germany has also been achieved. Divided Germany, long a symbol of the cold war has been overcome.

Today, I think of former President Reagan who, with great vision, called for the Berlin wall to come down.

Mr. President, the wall has come down, the German people have won, and thus all freedom-loving people in the world have won.

The PRESIDING OFFICER (Mr. METZENBAUM). The Senator from Maine, the majority leader, is recognized.

Mr. MITCHELL. Mr. President, the Senate will vote today on consenting to the ratification of the Treaty on the Final Settlement With Respect to Germany. The treaty ends the division of Germany into two states, makes permanent the borders of the united Germany, and brings to an end the special rights exercised in Germany and in Berlin by the four Allied Powers.

On September 18, in a statement urging the President to submit this treaty to the Senate during the current session of Congress, I said that I was confident the Senate would fulfill its constitutional responsibilities and act on this treaty prior to the October adjournment. I am, therefore, especially pleased that the Senate is considering this measure today and will I hope overwhelmingly if not unanimously shortly approve it. We are voting only 2 weeks after receiving the President's message transmitting the treaty to the Senate.

That we are doing so is a tribute to the Committee on Foreign Relations and its outstanding chairman, Senator PELL, who has as usual performed in an exemplary fashion in handling this matter with expertise and efficiency.

Senator PELL has demonstrated again his leadership in dealing with this most important matter in a prompt and effective way.

I commend the Foreign Relations Committee as well for reporting the resolution on the policy of the United States toward the Baltic Republics, adopted by the Senate prior to our consideration of this treaty. That resolution reaffirmed longstanding support by the Senate for the self-determination of the Baltic peoples, an important principle in no way altered by the treaty with respect to Germany.

The treaty we are considering today is of historic importance. Many have used that word today. I also do so and not casually. The treaty with respect to the final settlement with Germany marks the end of an era. It puts behind us nearly a century of conflict or potential conflict at the center of Europe, a century that witnessed the ravages of two world wars and, for 45 years, the potential for the outbreak of a third. The treaty also establishes the basis for the united Germany to take its rightful place at the center of a uniting Europe, a Europe no longer divided into the East and West of the cold war.

During the past year, we have witnessed enormous changes in the political geography of Europe. In that brief span of time Communist governments have been replaced throughout Eastern Europe, German unity has been achieved, and tremendous progress on reducing conventional armaments in Europe has been made. Most important, all of these events have occurred peacefully. The unification of Germany could not have happened as rapidly and as peacefully as it has were it not for the democratic transition taking place throughout Eastern Europe.

German unification also could not have happened in this manner were it not for the fact that the leadership of the Soviet Union recognized that continued efforts to control Eastern Europe could not be sustained, and for that President Gorbachev of the Soviet Union deserves credit and gratitude.

He recognized that an empire imposed and sustained by force must give way to the voluntary association of free peoples. The democratic impulse cannot be indefinitely suppressed. All of those who have struggled for freedom throughout Eastern Europe share credit for bringing about this transformation.

We should also acknowledge and applaud the efforts of the German people, those in West Germany who have built a vibrant and flourishing democracy, now expanded to encompass their countrymen from the East, and those in the East, who took brave and potentially enormous risks less than 1 year ago to accelerate the fall of the Communist regime there.

German unification could also not have happened were it not for the steadfastness of the United States and of the Western allies. Through numerous crises and challenges, beginning with the blocade of Berlin in 1948, American determination to support a free Berlin and a free Germany was repeatedly tested. More than once, American resolve was challenged, our ability to stay for the long haul doubted.

Throughout this period the American people never wavered in their commitment to freedom and democracy in Europe and to a free united Germany. That commitment has not been rewarded, as a united Germany takes its place in the community of democratic nations. In this treaty, the united Germany renounces territorial claims on its neighbors. The border between Germany and Poland is recognized as permanent. Germany forswears the possession or manufacture of nuclear, chemical, or biological weapons. The treaty also establishes the framework for the withdrawal of Soviet forces from the former East German territory, permitting Allied forces to stay in Berlin until that withdrawal is complete.

These are important elements of the treaty, and they are worth emphasizing. Americans have twice in this century sent their military forces to wars in Europe, wars which began through conflicts between Germany and her neighbors. The solemn pledge in this treaty that only peace will emanate from German soil is the vindication for those efforts and those of our allies. It is testimony to the close relations we now enjoy with Germany and the strength and stability of democratic institutions in the German nation now.

While this treaty thus marks the passing of one historic era, it also marks the beginning of a new one. We must now focus our attention and our energies on the challenges of the future, not the legacies of the past.

With the successful conclusion of the treaty reducing conventional forces in Europe later this year, the stage will be set for dramatic reductions in the military force stationed in Europe. Over the next few years, the numbers of Americans stationed in Europe will decline dramatically. I believe that security and stability in Europe—a stability that is in our national interest and that we have fought long and hard to attain—will benefit from a continued miltiary presence by the United States, but that presence will be far smaller than it is today. In the future, we must focus less on the security threats in Europe itself and more on the challenges to global security emerging worldwide. the current united action in opposing the invasion of Kuwait by Iraq is one example of the types of situations we are likely to face in the future.

The relationship of the United States to the new and uniting Europe will undergo further changes in the coming years. This should be a transformation toward an even closer relationship, one founded not only on shared political interests and security concerns, but also on shared visions of the future, shared commitments to shaping the new Europe and a new century of peace on the European continent.

The cooperation of the United States and Europe—all of Europe—must include more than working to consolidate the democratic victories in Europe itself. We must also work to expand our cooperation across the broad spectrum of global problems urgently needing our attention and solutions. As the poorest nations of the world continue to struggle against poverty, as environmental degradation threatens the health of the planet itself, and as weapons of mass destruction threaten to proliferate, the need for the industrial powers—the United States, Europe, and Japan—to seek global solutions to these global problems increases daily. Resources formerly devoted to preparing for war must now be devoted to preserving the peace and improving the quality of life for all the world's citizens.

Through cooperation and partnership, the United States, with Germany and the other nations of Europe, can shape the next century into one of stark contrast to the century now ending, creating a century not of conflict and bloodshed on the European continent, as this century has been, but of progress, cooperation, and development worldwide. We should be confident that, having overcome the Berlin Wall and the division of Europe, our joint efforts in the future will produce a world of freedom, human dignity, progress, and peace for all mankind everywhere.

Mr. President, let me conclude on a personal note. As a very young man, 21 years old, I traveled to Europe and spent 2 years in the German capital of Berlin. I came to admire and respect the German people and have been heartened and gratified by the developments of recent years, and particularly of the past year.

This is a truly historic time. The unification of Germany—a democratic, peaceful Germany, committed to progress and development in cooperation with its neighbors—is an event of historic significance. For that, the American people deserve great credit for their steadfastness over the past four decades.

But most of the credit must go to the German people themselves, who now have set down deep in German soil the roots of democracy which flourish there in a peaceful, productive way. They deserve enormous credit for this transition, and they deserve our support and our continued cooperation as we develop relations between our Nations in the coming years.

I join other Senators in paying tribute to German Ambassador to the United States, Juergen Ruhfus, who has so ably advocated the interests of his nation in this country and recognized that a strong, united, democratic, peaceful Germany, in cooperation with the United States and other allies, is essential to progress in the world.

Mr. President, I yield to the distinguished chairman.

I understand we are ready for a vote.

Mr. BRADLEY. Mr. President, the Senate is considering ratification of the Treaty on the Final Settlement With Respect to Germany, commonly known as the 2+4 Treaty. This treaty is the embodiment of a year of astonishing changes in Europe: The Berlin Wall, in ruins, no longer divides Germany; democratic capitalism is sprouting in Eastern Europe and in the Soviet Union; the Soviet Union is working with the United States to resolve a crisis in the Middle East. After 40 years, the brutal division of Europe that followed World War II is on the verge of being healed. This treaty marks the most notable step in that healing process.

But just as this treaty brings one era to a close, it also sets the stage for the future. One element of this future that I, and all of my colleagues, are very concerned about is the freedom of the Baltic Republic from the domination of the Soviet Union. Like the Berlin Wall and the totalitarian regimes of Central Europe, the forcible incorporation of the Baltic Republics by the Soviet Union is one of the tragic legacies of the Second World War. The United States has never accepted the legitimacy of this act, or recognized the suppression of the Baltics' right to self-determination. Every document we signed, every map we published and every message we sent to the Soviet Union and the world included the simple notice of our position: The United States does not recognize the incorporation of the Baltic Republics by the Soviet Union.

Along with many of my colleagues, I was concerned that leaving this statement out of the 2+4 Treaty would be interpreted by the people of the Baltic Republics, by other nations, and especially by the Soviet Union to mean that the United States now accepts incorporation as a normal and tolerable state of affairs. The Baltic people have struggled for 40 years to avoid just such a state of normalcy, and are on the verge of achieving their long held goal of self-determination. I believe that now more than ever, we must affirm our policy of nonrecognition. To risk any ambiguity about our position on incorporation would have been a gross oversight of our international responsibilities.

I am proud that we have adopted this resolution clarifying that no government construe ratification of this treaty as tacit acceptance of the forceful incorporation of the Baltic States by the Soviet Union. By adopting this statement we have ensured that the 2+4 Treaty will not only close one era of history in Central Europe, but help bring self-determination to the nations that must become free as these momentous changes continue.

Mr. BIDEN. Mr. President, today, through my vote on this treaty, I will celebrate the freedom that came last week to the citizens of East Germany and I welcome them to the Western community of nations.

I celebrate also the joy that came to all Germans now able to see their families, their friends and their very land that was so long denied them.

But Mr. President, I cannot cast this vote and I do not believe the Senate can approve this treaty without recognizing other issues associated with German unification, issues that have been too easily and too long ignored when unification is discussed. I find it highly ironic that we will approve this tremendous document today with so little attention devoted to it. How ironic that this Nation, which served as the model to help create a new and peaceful Germany following World War II, has not discussed very openly and thoroughly every aspect of unification.

Mr. President, the Federal Republic became a stalwart ally and a strong partner for the United States. We could ask for none better. I commend the many wise and savvy leaders of that nation for leading it so clearly and resolutely down this path.

The new German leaders face a particular challenge because the citizens of the former East Germany have been living in a historical make-believe created by the Communist regime. It is the responsibility of Germany to now ensure that all of its people are pulled out of that make-believe and realize fully the horrible facts of the German past.

To this end, I hope and expect the German Government will ensure that the full, straighforward facts of the Holocaust are taught in German schools, that textbooks do not mince their words one iota in explaining Germany's role in World War II and Hitler's plans for extermination of the Jewish people. I hope and expect the German Government will continue to pay appropriate reparations to all victims of the Holocaust and to maintain strong and open ties with the State of Israel. Quite frankly, Mr. President, it will be through measures such as these that worldwide concerns about a unified Germany will be diminished.

Another aspect of German unification deserves mention. I was somewhat concerned recently when it appeared that the German Government was so focused on German unification that it was slow to react to the crisis we face in the Persian Gulf—a crisis in which Germany and the United States have the same stake. I must confess that I am troubled by the limited nature of the German contribution. I hope and expect that as the unification process continues, it does not distract Germany's leaders from their responsibilities as a major economic and political player on the world stage.

Mr. President, if I may, I would like to turn to the substance of the treaty before us. For our votes today are not merely in favor of German unification, but what may be one of the most important arms control agreements in years.

This treaty recognizes the German commitment to reduce its armed forces to 370,000 within 3 to 4 years and, more importantly, commits the Soviet Union to settle with Germany the specific provisions for the withdrawal of all Soviet occupation troops from former East German territory. Mr. President, in reality we vote today to help remove Soviet forces from the place where they most threatened NATO forces and world stability.

I note, however, that articles 3 and 4 of the treaty leave too ambiguous the connection between the German force cut and the Soviet troop withdrawal. Article 4 can be read to imply that the withdrawal of Soviet troops from East Germany is contingent on Germany's reducing its armed forces, which will be done in the context of a CFE accord.

During questioning of State Department councselor Zoellick, one of the negotiators of this treaty, I learned that the administration considers the removal of Soviet troops by the end of 1994 a "clearly binding legal commitment" without regard to the conclusion of a CFE Treaty. Apparently the same is not true of the German reduction in forces; it is a political commitment on the part of Germany.

Mr. President, I certainly hope and pray that there will be no change in world circumstances that would lead the Soviet Union to keep its troops in Germany. However, if the last year has taught us anything, it is that few, if any, among us can predict events in Europe and the Soviet Union.

Hence, Mr. President, I would like to note for the record that it is my understanding from the September 28 Foreign Relations Committee hearing that the present administration considers the Soviet Union legally bound to remove its armed forces from Germany. By implication, I therefore conclude that the administration or a future one would take appropriate action if the Soviet Union failed to live up to this commitment. But I consider this extremely unlikely, however, because if the withdrawal of Soviet troops is tied to the reduction in German forces, it will ultimately lie in the hands of the Germans to ensure that Soviet troops are removed.

Also during my questioning of Counselor Zoellick at the September 28 hearing, I elicited an explanation of how the administration interprets the word "deployed" in article 5, paragraph 3 of the treaty. A sentence there reads: "Foreign armed forces and nuclear weapons or their carriers will not be stationed in that [eastern] part of Germany or deployed there."

Under questioning, Mr. Zoellick stated that signatories to the treaty understand the word "deployed" precludes large-scale foreign troop exercises as defined by the 1986 Stockholm confidence-building agreement. This means that smaller exercises by foreign troops could occur on former East German territory.

Mr. Zoellick noted that the German Government would ultimately decide what activities could occur on former East German soil. I would again like to note for the record, however, that the administration believes treaty signatories take the provision to mean large-scale exercises as described by the 1986 Stockholm agreement will not be permitted by foreign troops on former East German soil.

Mr. President, I would like to conclude by expressing my pleasure once again with the fact that millions of Germans can now live freely on their land and my hope that our Nation and the German nation will be sure that we never allow foreign domination there again.

Mr. PELL. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the resolution of the ratification to Executive Calendar No. 23, the Treaty on Final Settlement With Respect to Germany.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

The PRESIDING OFFICER (Mr. KOHL). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 98, nays 0, as follows:

[Rollcall Vote No. 263 Ex.]

YEAS—98

Adams
Akaka
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McClure
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wirth

NAYS—0

NOT VOTING—2

Hatfield
Wilson

The PRESIDING OFFICER. Two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification agreed to is as follows:

Treaty on the Final Settlement With Respect to Germany and a Related Agreed Minute

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty on the Final Settlement With Respect to Germany and its Related Agreed Minute, signed by the United States of America, the Federal Republic of Germany, the German Democratic Republic, the French Republic, the Union of Soviet Socialist Republics, and the United Kingdom of Great Britain and Northern Ireland in Moscow on September 12, 1990.

Mr. GRAHAM. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the President will be notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I ask unanimous consent that I might proceed for 2 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

GERMAN TREATY

Mr. HEINZ. Mr. President, with this treaty, which we have just ratified by a vote of 98 to zero, we put an end to the unnatural division of the German nation and welcome the German people as a whole back in to the fraternity of civilized, democratic nations. More importantly, we join our Allies and the Soviet Union in erasing the most dangerous line in modern history, the line of division between East and West that was marked by the Berlin Wall.

That wall, Mr. President, was a scar on the face of the world, a constant reminder of the war that had been fought and the more terrible war that was yet to be fought. That war has been averted, and in its place we have ratified a treaty that I and many others thought we might not see in our lifetimes.

We must never forget, Mr. President, that it was through the efforts of the United States and the western alliance that war was averted and the collapse of communism was hastened. The unification of Germany is a victory for all democratic peoples everywhere, and it is especially important now, when some in this country doubt the rectitude of American leadership in the past four decades and in the future, that we remember and honor the special role played by the American people in the recreation of a new Europe and, we hope, a new world.

Finally, Mr. President, I would remind those who would defy the demands of the international community in the Middle East today, that this treaty represents the indomitable endurance of those values held dear by us and our Allies. We were dedicated to returning justice and peace to Europe, even if it took 45 years. We will accept no less anywhere else in the world.

Mr. President, I yield the floor.

VETERANS BENEFITS AND HEALTH CARE AMENDMENTS—MOTION TO PROCEED

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now proceed to Calendar No. 702, S. 2100, a bill to increase the rates of compensation for veterans with service-connected disabilities, and for other reasons.

The PRESIDING OFFICER. Is there objection?

Mr. SIMPSON. Mr. President, reserving the right to object, and a very brief comment. No one could be opposed to the proper cost of living adjustments for veterans. I am not. But there is some extraneous material on this measure which have little to do with COLA's or compensation or disability or pension and, therefore, I object and do so at this time.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL. Mr. President, I move to proceed to Calendar Order No. 702, S. 2100, a bill to increase the rates of compensation for veterans with service-connected disabilities, and for other reasons.

The PRESIDING OFFICER. The motion is debatable.

The Chair recognizes the Senator from California.

Mr. CRANSTON, Mr. President, the Senate is now debating a motion to proceed to the consideration of S. 2100, the proposed Veterans Benefits and Health Care Amendments of 1990 as reported by the Committee on Veterans' Affairs on July 19. This is an omnibus veterans bill which would provide a cost-of-living adjustment in the rates of disability compensation paid to 2.2 million veterans with service-connected disabilities and in the rates of dependency and indemnity compensation for 911,000 survivors of those who died from service-connected disabilities. The bill also contains more than 80 other substantive provisions making improvements in veterans compensation, pension, housing, education, employment, rehabilitation, and insurance programs and in VA health-care services.

Mr. President, today is a low point in the history of the Senate's handling of veterans issues. I cannot recall an occasion on which we have had to deal with a motion to proceed to a veterans' bill. The reason we have reached this unfortunate juncture is that, on the other side of the aisle, there is determined opposition to the Senate's orderly consideration of this bill.

Mr. President, it is an unusual event for the Senate to find it so difficult to take up a veterans measure and to consider it and any amendments to it on their merits and to pass the best legislation we can fashion.

That has been our customary procedure. That is what we should be doing now. Regrettably, we cannot.

Mr. President, our colleagues and the public deserve to know why we cannot proceed. The committee's markup of this legislation was completed on July 12 and the report was filed on July 19. So there has been abundant opportunity for all Senators to be aware of and to study this measure.

Since the time of the filing of the reported bill, I have been seeking to arrange a reasonable time agreement to make prompt consideration of the bill possible. Unfortunately, the other side has been slow to respond. In fact, it was not until September 25 that I was advised that the earlier, incomplete agreements we had worked on were not actually steps toward a complete reasonable time agreement. On that late date, I was first advised that the minority would not enter into any time agreement because the Senator from Wyoming, a member of the committee, would not agree to one.

The Senator from Wyoming, for whom I have great respect, has persisted in his refusal.

Then, last Thursday, October 4, we learned that the minority would not give consent to proceeding to the consideration of this measure.

So that brings us to the current situation, with one or more members of the minority seeking to block consideration of this bill, which is of such great importance to the nation's veterans.

This tactic obviously is aimed at gaining concessions in the form of the deletion from the bill of provisions that a majority of the committee supports, that would be of great benefit to our Nation's veterans, and that, I am sure, the overwhelming majority of Senators would support.

Thus, Mr. President, we are faced with the effort of a small minority which is not just opposed to certain provisions but are opposed to allowing the Senate to decide whether the provisions are good national policy and worthy of enactment. A minority of Senators are now saying that they know better than the majority—most likely the great majority of Senators—what is good for the country and what is good for veterans.

Mr. President, we must now ask ourselves what are the provisions of this bill that have prompted this unusual opposition to a veterans bill.

I am quite sure, Mr. President, that the objection is not to the cost-of-living adjustment in the rates of disability compensation for veterans and dependency and indemnity compensation for the survivors of service-disabled veterans. This cola, a top priority of the committee and a must-pass provision, has no opposition, but its timely enactment is now in jeopardy. It is a shame this provision to protect the real value of benefits for this very special category of veterans and survivors is being delayed and jeopardized in this fashion.

So what are the provisions of the pending measure that have brought forth such determined opposition? Frankly, Mr. President, I believe my colleagues must be incredulous, as I am, that the provisions at issue have evoked such strenuous objections.

These are the provisions in the bill as reported to which opposition has been expressed:

First is section 112, which provides for reasonable updates to a 1988 law that provides benefits for certain veterans who were exposed to radiation from nuclear blasts and later developed certain cancers. The updating that would be made by section 112 of the committee bill is necessary to ensure that the law reflects current scientific knowledge about the biological effects of ionizing radiation.

The 1988 law relied heavily on the National Academy of Sciences' BEER-3 report. The provisions in the committee bill arise directly from the National Academy's recent BEER-5 report, which contains new and important analyses of the effects of radiation.

The BEER-5 report estimates that the lifetime excess cancer risk following low-level radiation exposure is three to four times greater than previously thought. This must heighten our concern about the health effects of exposure to low-level ionizing radiation during military service. It also supports the approach to compensation Congress adopted in Public Law 100-321 and on which the committee bill would expand by adding two cancers—cancer of the salivary glands and cancer of the urinary tract—and eliminating latency-period limitations.

BEER-5 found a dose-dependent increase in atomic bomb survivors in Japan that indicated relatively high susceptibility of salivary glands to radiation-induced cancer. The report also includes data that demonstrate notable associations between bladder and kidney cancer and radiation exposure. The data show an especially strong, dose-dependent connection between radiation and bladder cancer.

In addition, previous studies, discussed in BEER-5, have indicated that cancers of other organs in the urinary system are associated with radiation exposure.

BEER-5 also shows that the latency-period limitations in current law, 30 years for leukemia and 40 years for the other cancers, are no longer supportable.

Mr. President, I know that my friend from Wyoming believes that common sense calls for some cutoff point for the time between exposure and the appearance of disease. His views on this have an intuitive appeal. But the committee's provision is based on science—not intuition—and the best-available science, in BEER-5, which is based on the experience of the survivors of Hiroshima and Nagasaki, does not support a cutoff. It shows that the increased risk is a continuing one.

Mr. President, with respect to the new cancers proposed in the committee bill, I note that, during the committee's May 18 hearing, the administration testified in support of the legislation to establish presumptions of service connection for cancer of the salivary gland and cancers of the kidney or bladder, the two major organs of the urinary tract.

At the same hearing, Deputy Secretary Principi also agreed that the latency-period limitations in the 1988 law no longer reflect state-of-the-art scientific knowledge. In fact, VA itself proposed increasing the period for leukemia from 30 years to 40 years. He also testified that VA does not object to eliminating each of the time limits except the one for leukemia, which VA would prefer only to increase to 40 years.

So, section 112 of the committee bill is very much in step with the administration's views.

Is this the kind of provision that warrants the obstruction this bill faces today, Mr. President? Clearly it is not.

A second provision at issue is section 113 of the committee bill. Section 113 was derived from section 3 of S. 2556, which the administration opposed, arguing that it would be administratively infeasible. Based on these concerns, which the ranking minority member, Senator MURKOWSKI, shared and ably represented, the committee made fundamental changes in this provision.

Section 113 of the committee bill would establish a mechanism to require VA to look into military activities that involved potential exposure to ionizing radiation but that does not qualify as "radiation-risk" activities under current law. This is essential at this time, Mr. President. Although Congress has dealt with the issues relating to the health effects of exposure to radiation for veterans who participated in the nuclear-weapons test program or the occupation of Hiroshima or Nagasaki, we have not addressed these issues in the context of other activities that may have involved exposure to ionizing radiation.

Reputable scientists, including some of those involved in the BEER-5 report, recently have raised questions about many types of activities not covered by current law that could have exposed servicemembers to an increased risk of certain diseases, primarily cancer.

For example, an article in the March 1, 1990, New York Times reported that independent measurements of radiation received by flight crews on commercial—and thus, presumably, military—aircraft exceed some Federal radiation standards. The data confirmed an estimate by the Federal Aviation Administration last year that some pilots absorb dangerous levels of ionizing radiation.

The committee also has received expressions of concern from veterans who might have been exposed to radiation during their service aboard U.S. Navy ships that took part in the disposal of radioactive waste and from veterans who served aboard nuclear submarines.

Mr. President, we clearly owe it to our Nation's veterans at least to investigate these significant possibilities or exposure. We cannot leave this burden of investigation and review on veterans' shoulders. The Government must take the lead, and this provision would assure that it does so.

Mr. President, once a radiation-exposure activity is identified, section 113 would provide for VA to consider the activity under the mechanism that Senator SIMPSON and I coauthored in the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, which Congress enacted in 1984. This is a major improvement over the provision as introduced. The mechanism that Senator SIMPSON and I developed in the 1984 law provides for VA decisions on service connection to be "based on sound scientific and medical evidence." Any service connection under that law—and this provision—must be based on that standard.

Again, is this the kind of provision that should provoke the obstruction of this bill, Mr. President? It clearly is not; it is a reasonable provision of importance to veterans. It is a reason to move ahead with—not to hold up—this bill.

The next issues to which Senator SIMPSON objects relate to agent orange and Vietnam service—title I-C of the bill as reported.

Mr. President, all that the major provisions in title I-C would do is, first, to codify in title 38, United States Code, presumptions of service-connection for non-Hodgkins's lymphoma and soft tissue sarcoma that the Secretary of Veterans Affairs is already creating by regulation, and, second, establish a truly independent, comprehensive review of scientific knowledge on the health effects of agent orange and similar herbicides used in Vietnam and require full VA consideration of the review. The funds for such a study are earmarked in the VA's fiscal year 1991 Appropriations Act as passed by the Senate.

The Secretary's decision to grant compensation for non-Hodgkin's lymphoma was based on a Center for Disease Control study which found that veterans who served in Vietnam are 50 percent more likely to incur this cancer than similarly aged male nonveterans and veterans who did not go to Vietnam.

The Secretary's decision to compensate veterans for soft tissue sarcoma [STS] was the product of the deliberative process I mentioned earlier that Senator SIMPSON and I coauthored in 1984. Thus, on May 18 VA's advisory committee on environmental hazards, which we established, concluded, and the Secretary agreed, that available scientific evidence demonstrated it is "at least as likely as not" that exposure to agent orange can cause STS and recommended that VA grant service-connected disability compensation for STS.

Mr. President, Senate action stripping these provisions undoubtedly would be seen by Vietnam veterans as a repudiation of the Secretary's actions. It would also repudiate the very process that Senator SIMPSON and I worked together to establish in 1984. That would be an absurd result and would be a major, justifiable disappointment to many Vietnam veterans.

As to the other agent orange provisions in this bill, Mr. President, the full Senate already has approved these provisions and has done so twice: First, S. 1153, which passed the Senate on August 3 of last year after a tabling motion failed by a vote of 8-92; and second, in title 8 of S. 13, which passed the Senate on October 3 as a substitute amendment to H.R. 901.

The agent orange provisions in the committee bill are truly modest efforts to deal fairly and in a straightforward way with the agent orange issue. It is extremely difficult to see how anyone could rationally view them as a reason to hold up this bill.

Mr. President, I am certain my colleagues will be equally shocked and disappointed to learn that another provision of the committee bill to which there is opposition is section 201, which would require VA to provide care on a priority basis for veterans with post-traumatic stress disorder related to their service. As we debate this legislation, over 800,000 veterans of Vietnam are suffering from psychological pain related to their service. I believe we owe these veterans access to care for their war-related injuries, and there is no provision in the pending legislation about which I feel more strongly and which I feel is more badly needed. In my opinion, because of the strong relationship between combat and post-traumatic stress disorder—known as PTSD—it is essential for VA to assume a much greater leadership role in the diagnosis and treatment of this disorder. Although VA has made some strides over the years, largely as a result of congressional prodding, it is clear that much more must be done.

As my colleagues on the Veterans' Affairs Committee know well, the national Vietnam veterans readjustment study conducted pursuant to public law 98-160 found that 479,000 Vietnam-era veterans—almost a half million—suffer from full-blown cases of PTSD. Additionally, another 350,000 suffer from some degree of PTSD symptoms. The study found that approximately 40 percent of these veterans had never been seen by a mental-health professional and that, within the 12 months preceding the study, only 20 percent of the veterans with PTSD had utilized any mental-health services. Of those 20 percent, it is unclear how many underwent a full course of treatment.

In response to this massive need, VA currently has only 19 specialized inpatient PTSD units. All but one of these units have waiting lists, ranging from several weeks to 1 year, for admission to the treatment program. In addition, most of these units have waiting lists for admission even for screening programs, in which veterans are admitted for a few days, assessed, discharged, and, if in need of care, then put on a waiting list for admission. The average length of time a veteran must wait for screening is 10 weeks, and at the American Lake VA Medical Center in Tacoma, veterans wait 6 to 8 months just to be assessed. On average, veterans with this highly troubling mental disorder must wait 6 months for treatment for acute conditions. These waiting lists represent a tremendous inadequacy in the system's ability to meet its top-priority responsibility, the provision of quality care in a timely way to veterans suffering from service-related disabilities.

In short, this provision would facilitate access to the VA health care system for these veterans who need treatment and for whom it has not been available for far too long. The Senate passed this legislation last year in S. 13, and passed a similar provision in the last Congress in S. 2011, and I am hopeful that, with persistence, we can achieve enactment of meaningful legislation this year.

Mr. President, the idea that this provision could be viewed as a reason to obstruct this bill is incomprehensible to me.

Wounds of the mind are less obvious to us than those of the body, but they are certainly no less painful to the veteran and no less needful or deserving of rehabilitation and care. The idea of leaving a wounded comrade on the battlefield is totally unacceptable to any American. I believe strongly that we must attend to those still bearing the psychological wounds of combat with the same kind of concern and comparison we show to the warrior fallen in battle.

That is all that this provision attempts to do.

How could we possibly agree to strip it from the committee bill?

Mr. President, the next committee bill provision to which opposition has been voiced is section 202, which would authorize the Secretary of Veterans Affairs to expand eligibility for readjustment counseling to include veterans of service in threaters of combat operations during any periods of war prior to Vietnam and veterans of service at other times in areas in which U.S. personnel were subjected to danger from armed conflict comparable to that occurring in battle during war.

Under current law, section 612a(a) of title 38, entitlement for readjustment counseling services is limited to Vietnam-era veterans. In recent years, the committee has considered various proposals to expand access to such services—both for those veterans who have served since the end of the Vietnam era in combat or similarly dangerous situations and for veterans of earlier wars.

With regard to veterans who have served in our armed forces since the Vietnam era, the committee recognizes that military personnel are at times exposed to hostile situations short of declared war, such as existed in Beirut, or Grenada, or in connection with our actions against Libya, or in Panama. These kinds of situations involve violent and serious injuries of one's comrades or the necessity to kill soldiers on the other side. These terrible conditions of armed conflict produce the need among some of our soldiers, sailors, airmen, and marines for readjustment counseling or treatment to help deal with the psychological aftermath of their combat-related experiences. The expanded eligibility proposed in the committee bill is particularly important in light of the current understanding—as noted in VA's testimony at our committee's July 14, 1988, hearing—that early intervention can ameliorate the severity and persistence of PTSD symptoms in an individual following exposure to a traumatic event. I can see no basis for denying veterans of these operations the specific expertise of vet center staff who deal with combat veterans on a daily basis and possess tremendous insight into the psychological problems which at times result from exposure to combat. Mental health professionals at vet centers provide—and provide cost-effectively—exactly the kinds of treatment that many combat veterans need.

Mr. President, as to the eligibility for veterans of prior wars, it is important to note that several studies have found PTSD in older veterans. Simply stated, PTSD and other psychological problems resulting from exposure to combat do affect veterans of all wars.

The need of veterans of wars prior to Vietnam for vet center services is not a hypothetical concept. At our committee's June 16, 1988, hearing, Dr. Arthur Blank, Director of the VA's readjustment counseling service, testified that vet centers nationwide were seeing as new clients approximately 375 World War II and 400 Korean-conflict veterans per month. Whether we in this Chamber choose to acknowledge it or not, veterans from earlier wars do suffer—often times many, many years later—from psychological readjustment problems directly related to their experiences in combat. And having psychiatric care available in conventional hospital settings is well and good, but it is not enough. There are many that we can reach only through community-based treatment and outreach programs such as vet centers. Mr. President, our Nation's military personnel did not abandon their fallen comrades on the beaches of Normandy, Iwo Jima, or Inchon, or at the Battle of the Bulge, or at Okinawa or Pork Chop Hill. There are veterans of battles like these who are in psychological pain today, and we ought to be doing all we can to meet their needs. Our government has no more fundamental obligation.

I also note that VA deputy secretary Anthony Principi, during his confirmation hearing on March 16, 1989, indicated that he would favor making readjustment counseling available to veterans of periods of war other than the Vietnam era and also to veterans of armed hostilities such as Lebanon or Grenada.

Mr. President, denying that older veterans or post-Vietnam veterans may need readjustment counseling directly contradicts everything we have learned over the years about wars and the psychological affects on those who fight them.

This again is a provision that the Senate should hasten to enact. It is not a reasonable basis for opposing action on this bill. That is not even a close question in my mind.

Finally, Mr. President, there is opposition to section 706 of the committee bill, which would make VA's medical care account exempt from sequestration under the Gramm-Rudman-Hollings law.

Mr. President, although medical care account funds that are used for direct medical-care services are subject to a maximum sequestration of 2 percent, funds in the account needed for administrative costs are subject to the full, across-the-board cut. According to OMB calculations in its Mid-Session Review of the Budget, released on July 16, 1990, $911 million of the medical care account would be considered administrative expenses, subject to the full 38.4-percent cut, a $350 million reduction. The direct-care portion of the account, $11 billion, is subject to the 2-percent cap and would be cut by $220 million.

This would mean a total reduction of $570 million in the VA medical care account. Any reduction even approaching this amount inevitably would force VA to cut back sharply on it health-care services—eliminating care for hundreds of thousands of veterans—and would imperil the quality of care at VA medical centers.

OMB itself has described, on page 35 of the Mid-Session Review, the impact that this magnitude of a sequestration would have:

> A sequester * * * would * * * require significant reductions in purchases of medical and other supplies and equipment, prevent the opening of new facilities; cancel 1991 initiatives (E.G., increases for drug abuse treatment, quality assurance, physician and nurses pay), reduce medical care staff years by 15,600 or eight percent; and reduce the number of incidents of care provided to veterans by 2.0 million.* * *

The proposed exemption for the VA medical care account has ample precedent. Many accounts and programs are exempt from or otherwise receive special treatment under sequestration. Several VA programs for veterans with service-connected disabilities or their survivors are fully exempt from the reductions. A 1988 compilation prepared by the Senate Budget Committee lists a total of 103 Federal programs or accounts that are fully exempt. Veterans medical care belongs among the more than 100 exempt programs.

Mr. President, these appear to be the provisions that have led to the current effort to prevent Senate consideration of this vitally important veterans bill. Each of these provisions is supported by veterans and each would improve the programs by which the Nation seeks to fulfill its obligations to those whose service and sacrifices have kept our Nation free and strong throughout this century.

Mr. President, we will doubtlessly hear some very strongly-worded rhetoric suggesting that these are irresponsible, dangerous provisions that would undermine veterans programs and break the bank. That just is not so. I have explained these provisions one by one. Each is valuable and fully justified.

Mr. President, I hope that we will soon be able to consider this bill and any amendments to it on their merits. That's how we should be conducting this important business. That is what veterans expect of us and that is what they deserve.

Mr. President, I am delighted that Senator AKAKA from Hawaii is on the floor, and that he will carry on and also debate the provisions in the bill that are questioned at the present time.

These provisions are important carefully crafted provisions. They deserve favorably consideration, not obstruction.

I thank my colleague from Hawaii very much for taking over at this point.

Mr. AKAKA. I thank the chairman for yielding to me.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, this bill—S. 2100, the proposed veterans benefits and health care amendments of 1990 as reported by the Committee on Veterans' Affairs on July 19—is a major veterans bill. It contains more than 80 substantive provisions which make improvements in veterans compensation, pension, housing, education, employment, rehabilitation, and insurance programs and in VA health-care services.

I cannot understand why the Senate cannot take up a veterans measure supported by a majority of our committee and consider it in the normal fashion.

I understand that that has been the Senate's customary procedure. That is what we should be doing now. I regret that we cannot.

Mr. President, the most important part of the bill would provide a cost-of-living adjustment in the rates of disability compensation paid to 2.2 million veterans with service-connected disabilities and in the rates of dependency and indemnity compensation for 911,000 survivors of those who died from service-connected disabilities. This COLA, a top priority of our committee is a must-pass provision. As far as I know, it has no opposition—but its timely enactment is now in jeopardy. It is a shame this provision to protect the real value of benefits for this very special category of veterans and survivors is being delayed and jeopardized in this fashion.

Mr. President, the Senate is faced with the effort of a small minority which is not just opposed to certain provisions but are opposed to allowing the Senate to decide whether the provisions are good national policy and worthy of enactment. This is not right. This should not be allowed to continue.

Mr. President, a number of provisions in the bill—ones that I understand are being objected to—affect Vietnam veterans. I would like to mention just two of them.

First, I understand that one of these issues relates to agent orange and Vietnam service.

Mr. President, I cannot understand this opposition. These provisions in the bill would do two things: First, codify in law presumptions of service-connection for non-Hodgkin's lymphoma and soft-tissue sarcoma. Secretary of Veterans Affairs Derwinski has already created these presumptions by regulation. Second, the bill would establish a truly independent, comprehensive review of scientific knowledge on the health effects of agent orange and similar herbicides used in Vietnam, and require full VA consideration of the review.

Mr. President, if the Senate were to strip these provisions—as those opposed to these provisions apparently want—it undoubtedly would be seen by Vietnam veterans as a repudiation of the Secretary's actions. That would be a major, justifiable disappointment to many Vietnam veterans.

Mr. President, another provision of the committee bill to which there is opposition would require VA to provide care on a priority basis for veterans with post-traumatic stress disorder related to their service.

We owe veterans access to care for their war-related injuries. VA must assume a much greater leadership role in the diagnosis and treatment of PTSD. Although VA has made some strides over the years, largely as a result of congressional prodding, it is clear that much more must be done.

VA's specialized inpatient PTSD units have waiting lists, ranging from several weeks to 1 year, for admission to the treatment program. In addition, most of these units have waiting lists for admission even for screening programs, in which veterans are admitted for a few days, assessed, discharged, and, if in need of care, then put on a waiting list for admission. These waiting lists represent a tremendous inadequacy in VA's ability to provide quality care in a timely way to veterans suffering from service-related disabilities. I know that the waiting lists present real problems for veterans in Hawaii who are seeking care and treatment for PTSD.

Mr. President, there are many other important and vital provisions in this bill. I hope that we will soon be able to consider this bill and any amendments to it on their merits. That is how we should be conducting this important business. That is what veterans expect of us and that is what they deserve.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, first of all, let me recognize my colleague and friend the junior Senator from Hawaii. I think we would both agree that we can never repay the debt we owe to our veterans, those that have given so much. Nevertheless, we have an obligation to work with what we have, ultimately, as provided by the Budget Committee and appropriated by the responsible committee and to do a better job. This obviously necessitates a continuance of going through the priorities, because the veteran services are many, and they change with the age of America's veterans.

One of the more challenging responsibilities we have today is to provide for the elderly veteran, because his needs are generally not associated with the extraordinary hospital-care system that we have in this country. The ability to meet these obligations for domicaliary and nursing home care and so forth is certainly challenging. It nevertheless does not relieve us of our responsibility.

So I want to make it clear, Mr. President, that in joining with the distinguished assistant Republican leader in objecting to the motion to proceed to the consideration of this bill, the omnibus veterans bill, I do not take this position without a good deal of thought and real reflection. I hope when I am through with my statement that the President will have a better understanding of the rationale associated with that decision.

I think it is clear to all of us that events of the past several weeks, relating to the Federal budget deficit, concern us all. The massive Federal deficit continues to grow. We have just this week approved a budget plan which is designed to reduce the Federal deficit by $500 billion over the next 5 years. Thus far, this has been—needless to say, and it is an understatement—a difficult and troubling process for us all. But this budget plan will also impact on veterns' programs.

The Committee on Veterans' Affairs, of which I am the ranking member, was given instructions under the budget agreement to save some $620 million this year. This includes some $500 million in unspecified savings and $120 million in user fees. Well, Mr. President, what does that relate to?

Well, after examining the increase in user fees of about $120 million, one is faced with the reality that one proposal is to increase VA home mortgage origination fees. That in itself sounds harmless enough. The VA program was designed, obviously, to recognize the sacrifices of our veterans by providing special benefits, which would be available to veterans only in relationship to the necessity of transcending back from the military lifestyle to a civilian lifestyle.

What has happened to that program, Mr. President? Like many programs, there has been a failure of the Congress to recognize how it has departed from the original intention of a self-funding program with adequate reserves to meet the associated foreclosures. There was also a mortgage fee that was assessed that was supposed to meet that degree of exposure, Mr. President. Currently, we are adding $500 million a year under appropriations bills to provide for the shortfall in that program.

We are expected to come up with $120 million in user fees to meet the budget agreement directed to the Veterans' Affairs Committee. Well, if you have a problem that for the last several years you had an average appropriations of $500 million, one wonders where the smoke and mirrors are in the process.

This, I think is an example of some of the things that are so inconsistent about our budget process. Here we have a program designed to help America's veterans, but, realistically, the program is no longer self-funding. The veterans' mortgage fee that they pay at the time that they conclude the mortgage documentation is not adequate to meet the exposure of the program. So we appropriate $500 million, because no one would dare suggest that we revamp this progam and have the veterans paying the contribution necessary to fund this program to meet the loss ratios, some of which are due to economic downturns in the economy in the Southwest, or what have you. Furthermore, Mr. President, we have a program that was designed to work within the private sector, to work adequately. But there is a new twist to the program, because there is a loan guarantee. But as the President is well aware, much of the housing exceeds the loan guarantee amount. So other financial institutions that propose to make these loans are subject to a VA option.

As a former banker for some 24 years, I can tell you that option is not very attractive to the private sector because it suggests that the VA, at their option, will either pick up the amount of the guarantee; or if they wish, at their option, VA can pick up the full amount that the financial institution is exposed. There is no guarantee, obviously, for the financial institution as to what that option will be, so the financial institutions of this country for the most part are saying, "We are not handling VA mortgages any more."

The alternative to that is to tighten up the underwriting, so if you are going to make a VA mortgage, you are going to tighten up your underwriting on that portion that is not guaranteed. So we have a program that was designed to help America's veterans that in itself is certainly worthy of our debt to America's veterans, but it has gotten out of whack because we have not been honest with the program. We have not recongized that we are mandating appropriations each year of $500 million to pick up that shortfall.

This is just one item, Mr. President, but I think it indicates the symptom. Members of the Veterans' Committee are working to come up now with a plan to meet the mandated obligation, and that is the $620 million savings. There is a scheduled committee meeting to be held this Friday to consider our budget reconciliation legislation.

Now in the midst of all this, we have before us a move to bring up the veterans authorization bill.

So here we have, Mr. President, on one hand, a mandate under the budget agreement to save $620 million, and simultaneously, in the authorization bill—we are adding $618 million to new programs. I would add VA's overall budget is over $31 billion annually.

So what do we save? It is zeroed out. There is no real savings. We are mandated under the budget agreement to save $620 million, today even before we meet as a committee to work those savings, we are considering a bill that costs $618 million.

Mr. President, given the fiscal realities we face, the fact that we are required to make changes in the law to save money, I simply cannot in good conscience agree to consider this veterans bill at this time.

I think my colleagus would agree that there is certainly justification. It simply does not make sense on the one hand to mandate savings of $620 and there is no consensus on where that is going to come from, other than the reality that it is going to come from veterans programs and benefits. And if you save $120 million as a consequence of increasing user fees you have to find it in veterans benefits.

So here we are, $820 million taken away, and over here in taking up the authorization bill, we are adding $618 million. That is why this is not the time to consider the veterans bill.

I do not take the position that I oppose the bill itself. There are may good and worthy provisions in S. 2100, some of which I support without reservation. For example, we must authorize the COLA. There is absolutely no question, no difference of opinion about that.

However, there are objectionable provisions, provisions that will cost the taxpayers a good deal of money. In fact, excluding the compensation COLA for service-connected veterans, this bill will have first year costs of over $200 million.

Service-connected veterans will get their cost-of-living adjustment, and there is no disagreement on this point, as I stated. The COLA provision can go as a stand-alone bill or as an amendment to another bill.

It is simply wrong and, in fact, I think extremely inconsistent and irresponsible, to consider any bill which we cannot pay for. Why should we be any different than an individual when you contemplate whether or not you can purchase something or provide a service? You address the primary question, Can you pay for it?

Mr. President, it seems to me that we cannot have it both ways; that is how we have built this huge Federal deficit, by having it both ways. It is, after all, situations such as this that have built this deficit.

As I have stated on many occasions, the most generous system of veterans benefits and services will have no real value if the economy which supports them is crippled internally by Federal debt.

Mr. President, let us not talk about deficit reduction. Let us, in fact, take a stand. Let us be fiscally responsible and delay consideration of this bill until the budget process is complete.

Mr. President, I think to do other than that is unfair to our American veterans and unfair to the American people.

Mr. President, I have met time and time again with the various veterans organizations. They have indicated an overwhelming willingness to take their fair share of whatever has to be done to keep the economic vitality of this country viable. The only caveat is that all other recipients of the entitlement programs share in that responsibility.

We know by our own experience the difficulties, the nuances, the delicacies often addressing such sacrosanct things such as Social Security. But the veterans come right out and say, "Hey, we will take the hit. But let us make it uniform." I think that is the kind of willing sacrifice that has been so evident by America's veterans, not only in defense of our country, but in defense of the economic system that provides the benefits and lifestyles that we all enjoy.

Mr. President, I think it is fair to enter into the RECORD at this time a position of the Secretary of Veterans Affairs, the Honorable Ed Derwinski, from a letter of October 10, that I will read.

Mr. President, the letter reads as follows:

> DEAR SENATOR MURKOWSKI: I am writing to you to express the VA's strong concerns about S. 2100 in its current form. The bill contains several provisions which we strongly oppose.
>
> Of particular concern to the administration is the proposal that would exempt VA's medical care account from sequestration. Total exemption of medical care is unnecessary. Most of VA medical care, like other Federal health programs, is protectd by a 2 percent cap on sequestration. The nature of the 2 percent cap would permit the Department to continue to provide a full complement of health care professionals and there would be no furloughs of those employees who are engaged in providing direct patient care should a sequester occur.
>
> The real value of the Gramm-Rudman-Hollings sequestration provision is that it imposes a discipline to which Congress is clearly reacting. In view of the fiscal measures that Congress is presently facing we believe that total exemption from sequestration would further complicate the budget proceedings.
>
> The physician pay section is also a special concern since it adds $32.8 million above the VA proposal, further straining our resources. We believe our bill, S. 2732, would provide a reasonable pay increase that we could absorb in our current budget. S. 2100 would require that we implement a pay scale for all physicians and dentists that is in excess of our real needs.
>
> Earlier we had provided you with information regarding our objections to other provisions contained in S. 2100. The sections pertaining to agent orange, ionizing radiation, flight training, PTSD, and the transitional residence program are still objectionable, and we oppose them in their current form.
>
> The House and Senate Veterans Affairs Committee have been asked to come up with $620 million in savings during fiscal year 1991 as part of the VA's share of the reconciliation package. Since it is not known where these specific cuts will occur, I believe the Senate should proceed cautiously before enacting legislation authorizing additional programs with resulting costs. It is unfair to our veterans to have them believe that new programs and services are forthcoming, when we must decide which programs will be reduced. Therefore, I hope I can count on your support to correct these major deficiencies of S. 2100.
>
> Sincerely yours,
>
> EDWARD J. DERWINSKI.

Mr. President, I hope that you noted in the letter the reference to the Secretary's statement that we implement a pay scale for all VA physicians and dentists that is in excess of our real need. In other words, the Secretary is saying that this bill implements a pay scale for the physicians and dentists and it is more than needed. It is a question of micromanagement.

We have a member of the Cabinet, Secretary of Veterans Affairs, a new Cabinet position. The President has the utmost confidence, obviously, in Mr. Derwinski and his staff. The significance of the elevation of the veterans affairs to a Cabinet level position, I think, speaks for the President's recognition and the Congress' recognition of the debt that we owe to our veterans.

But here we have confirmed the appointment of Mr. Derwinski. Do we

not hold him responsible for managing the functions of the VA, meeting the health care needs and certainly determining the pay scale for the physicians and dentists? He says, in this letter that the mandate by a majority of the Veterans' Committee—not the Speaker, the junior Senator from Alaska, but others—that we micromanage by setting a pay scale more than he needs to pay or more than he sees fit to pay. We can always justify paying people certainly a wage for their professional training, but you have to hold somebody accountable for setting that. If we are going to start setting wages around here, there is absolutely no end to it.

The Secretary says he objects, that we do not have to set that high a scale, that it is in excess of our real needs. That is certainly enough for the Senator from Alaska because I am going to hold Mr. Derwinski responsible for the quality of medical care, the professional capability of the physicians and dentists, and I expect him to work out with them what is an adequate pay scale. Now that the committee is micromanaging, and the Secretary says he does not need it, I think we should reflect a little bit on that, because I think it is part of what is wrong. We want to jump into everything, manage everything.

He also says that in the bill we are adding an agent orange section, ionizing radiation, flight training, PTSD, and the transitional residence program that he opposes in the current form. It is nice to have flight training. It is obviously an option; it is not necessary to make a living. It is a form of retraining. Vet Center eligibility for World War II veterans, the application of that—I see my colleague from Wyoming here who may speak at some length on that subject.

But the point is here we have the Secretary who is saying there are things in this bill that he does not need to carry out his mission. Yet the committee, in effect, is mandating them, and, Mr. President, the logic of that escapes the Senator from Alaska.

In conclusion, Mr. President, I remind my colleagues that we have a great inconsistency here in the sense that on one hand we are mandated to make budget cuts of $620 million and, at the same time, by this proceeding today, we are proposing to add $618 million to an authorization process. If you figure out the difference, it is approximately zero.

So what is the point of taking this matter up now? This matter appropriately should be taken care of after we meet the budget reconciliation targets which have been directed to the committee. The question of COLA's obviously is one that everyone is supportive of and, of course, can be passed at the appropriate time as a freestanding bill, if necessary.

Mr. President, that concludes the first portion of my extended comments.

I thank the Chair.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from Wyoming is recognized.

Mr. SIMPSON. I thank the Chair.

The remarks of the Senator from Alaska, I would certainly subscribe to. There are some though duties around this place, but one of the toughest ones is dealing with the Committee on Veterans Affairs. The chairmanship has been held very capably over the years by Senator AL CRANSTON, my friend from California, and he is indeed that, a very fine chairman. He was chairman when I was the ranking member, and then I was chairman of the Committee on Veterans Affairs. I enjoyed that thoroughly. And now my great friend from Alaska does it so creditably and adroitly. It is tough, really a tough committee to be on because any time you come out of the committee with something with the word "veteran" on it, there is often a great outpouring of justifiable affection and regard and loyalty, and no one argues with that.

But over the years, because of the word "veteran" and the emotion attached to that and the language on the Veterans' Administration Building, "For those who bore the battle, their widows and orphans" we keep passing these bills with little debate. And we keep coming far, far from that motto carried on the VA headquarters.

Now we come to a point where we have less resources. The whole anguish of these last days has been that there are not the resources in this country to do these things that we did, and especially so with veterans.

And it is very vexing to me, it always has been, that oftentimes those who press the hardest for veterans' legislation in this place are not veterans. They are either doing that out of some collective guilt, or an exhibition of their regret that they did not serve, or for reasons that I do not always understand. All I know is I am a veteran myself. Very proud to be a veteran, a lifetime member of Veterans of Foreign Wars, a member of the American Legion, and Amvets. I am very proud of that.

I served for 2 years. I was over in Germany at the end of the Army of Occupation. I served in the 2d Armored Division, Hell on Wheels, with an armored personnel carrier platoon and then an 81-millimeter mortar platoon. I never did learn all about mortars, except when a shell landed in front of you and one in back of you, you wanted to get out of there quick. I remember how that worked. We did do that very well. I was never in combat. I spent a lot of time on maneuvers, in sleeping bags all over Germany in Baumholder, Hoehenphels and some of those places.

The point being that I served because I thought it was my duty. I received the GI bill and I went to school at the University of Wyoming. I went to law school at the University of Wyoming on the GI bill. I have a good life insurance policy, 10,000 bucks. I thought that was big stuff when I went in. It is less valuable than I thought now. When I get it at the age of 60, 1 year from now, 10,000 bucks is what I will get if I decide to cash it in.

So, I remember borrowing on it once, too, at 5 percent interest. That is a little difficult to understand, how a person who was working as a lawyer, was taking a policy at 5-percent—or a loan at 5-percent interest on his GI life insurance policy. That is an advantage that other people do not have. And the taxpayers make up the difference.

I get some flak for it, but I say: You show me the combat-era veteran, the veteran who had served in a combat theater, a veteran with a training accident or service-connected disability, and I say just write the ticket for those people. But when it comes to this situation, especially in this benefit world, what you must begin to pay attention to are entitlements. Entitlements are just as draining fiscally with regard to veterans' activities as they are with the general budget.

So we have a situation now in America where people have served a minimal amount of time, never left the continental United States, never been involved in any kind of combat activity or discipline within the armed services, and they draw every single benefit that a combat veteran draws—every single one. I think that has to be adjusted.

I also think there should be means testing. I also think, indeed, service-connected disabilities should be reviewed in the noncombat aspect.

Those are not popular things to talk about. I do not like to bring them up, especially in an election year. But nevertheless, that is how we got to this point; I posed an objection to the motion to proceed to S. 2100. Let me make it absolutely clear—I do not think I have to with any thoughtful veteran, and especially with the veterans' organizations in this city and their executive directors and the national commanders, because I have stood here on this floor and fought for COLA's, and I have fought for compensation and disability and pensions right here and done a lot of heavy lifting for veterans, and I will do a lot more—so let no one misread that I am doing this because I oppose the cost-of-living allowance or the adjustment contained in the bill for veterans' compensation and payment programs. Far, far from it. Nor do I oppose some sort of pay package for VA health care professionals—they are a remarkable group—although the one contained in the committee substitute is certainly not the one I supported. I would prefer the more sensible approach of the bill proposed by the VA.

Those are important things to keep in context in my remarks. I do strongly oppose proceeding to the consideration of this bill at this time, Mr. President, because it is not a COLA bill. It contains numerous burdensome, unwise, and potentially costly provisions. I object because this bill provides a perfect example of how we get ourselves into just ghastly muddles, as we currently are with the Nation's budget. Here it is. We could not find a better scenario.

Here we have a relatively simple bill and we all know what we are trying to achieve, a cost-of-living allowance. And we all know we are going to grant it, and I am going to help. Remember though, too, there is a reason why the veterans organizations chose to separate themselves and their COLA from the regular COLA legislation with regard to Social Security and other benefits in this country. The reason for it is because the Congress will be more generous to the veterans on a COLA than they will if it were tied to Social Security or other types of benefit schedule. I have no problem with that. They made that decision and it has been a good one for veterans.

Most of the time it works. Sometimes it does not. I remember one or two times when it did not.

So here we have a simple bill. We have a veterans' cost-of-living allowance bill. There is not a soul in this Chamber who is going to vote against it as far as I know. I am certainly not. I worked like a dog to get it passed and I have for years before. But, to this has been added now in part and in whole, nearly every other bill affecting veterans which has been introduced this year; or sometimes previous years. There is some stuff hanging on here that has been around the Chamber over there for 6, 7, 8, 10 years, because it is a hook-on device, because they know we are in a time crunch and nobody is going to get up—and nobody is—to object to a pure COLA bill.

So we have a massive bill here, the text of which was only made available to committee members a couple of days before it was marked up. I know the staff of the Veterans' Affairs Committee. They are superb on both sides of the aisle. Of course the principal staff director and senior member of the staff has gone, now, into the Court of Veterans Appeals. That is Jon Steinberg, who was with Senator CRANSTON for many, many years.

He has been replaced by Ed Scott, who is just as able, just as bright and alert. Al Ptak on our side of the aisle—I know this staff. I know the ones who have gone on and they are not here. They are all well-employed in the community. And they are very able.

I know the staff knows the exacting detail which was in this bill and all of its implications before markup. But I very much doubt that others did. And I know I and my staff—and I have a very capable lady who assists me in veterans' activities, Jo Sherman. She is a very splendid and bright lady who probes these issues. What we have discovered are these points of grave concern. They do not have anything to do at all with being antiveteran or anti-COLA or anything of that nature—nothing.

Time is short. We have much work to do in this budget. This bill would deeply affect this budget, creating, as it does, new entitlements. New entitlements, that is the one I cannot believe. This is the new mode in the Veterans' Affairs Committee, start up a new entitlements program and you know we do not have the money to pay for it. I have said, as has FRANK MURKOWSKI, our ranking member, who is going to pay for that? How will that be paid? And the answer is, oh, it will be taken care of.

So we have actually started some new entitlements programs in this past year. This bill obviously affects the budget. It creates new entitlements to treatment, new presumptions of service connection, and new programs and new studies, all here.

Furthermore, it would totally exempt VA medical care from any effects of sequester under Gramm-Rudman-Hollings. There is a stunning little part of the package. We already provided for that—I was here on the night we did it with Senator CRANSTON right in that aisle—when we saw what was happening with Gramm-Rudman-Hollings. We said we have to protect the veterans' benefits and we said we will, and we did. So we said, if there was a sequester in the United States that the veterans would receive no hit. There would be no hit on their compensation, no hit on their pension, disability—nothing. Not a single cent, even if the rest of the budget of the United States was in sequester at 32 or 34 percent, we said no; period; nothing. That is the law right now.

We did go on and say because the veterans' organizations, all of them—the responsible ones, and most of them are very responsible—said we cannot just sit out a sequester. We helped fight for this country. We helped maintain it. So we will agree to something coming from us, coming from veterans in sequester. So we did something. We said they would have to pay not more than 2 percent of the direct health care account.

What we have, if we had a sequester of 30.1 or 32.3 percent, the veterans would not have a single thing imposed upon them in compensation, pension, and disability. But there would be a 1-percent sequester on the direct health care in the veterans' budget in the first year.

Then, in the next year or any later year of sequester, not more than 2 percent.

That is what we do for the veterans of the United States. I was right there doing it and getting it put together.

So these other programs are totally exempt and now we are going to exempt direct medical care from sequester. I think that is terribly wrong. That was never the bargain made by the veterans' organizations, but it is the kind of thing that slips into legislation like this.

Here we are struggling to come up with a workable and realistic budget and is this the time to be insulating still more programs from the effects of Gramm-Rudman-Hollings? That is what everybody is trying to go do, insulate themselves from the jackhammer of Gramm-Rudman-Hollings, and there will be plenty more here in these next days to do it.

So the Committee on Veterans' Affairs must soon decide which recommendations to make regarding budgetary savings to be achieved under the budget resolution which we have just passed. Here we are in this bill, aside from the essence and the worth of the bill, the COLA's, here we are creating new programs and new entitlements.

The bill is gravely flawed, in my mind, and I do object to proceeding to it at this time. We must put our house in order, and that includes all of us, and we must exercise some discipline. We say, but we do not want to. The people of America say why do you not exercise self-discipline and willpower, and then in the next breath they ask for theirs. So the people of America have learned very quickly how to come to our offices and say, "You are going to get this deficit under control, aren't you? We are counting for you to do that. We are all for you. We know it is going to be painful, too. Thank you." Before they leave, they invariably ask for their share, and they want that share, and they will tell you that this is the most important thing in the national budget, and they are counting on you to save it. That is the way this works.

Somewhere along the line, the only way we are ever going to get it done, and our fine majority leader said it so appropriately the other night, when we are talking about setting aside the entitlements of the United States, where they are exempt from what we do, I say to my colleagues, the entitlements are Social Security and Medicare. So if you cannot touch Social Security, and you cannot touch Medicare, and you do not touch veterans—we have put that aside—what do we touch? The only thing left to touch is

about 20 percent of the national budget. That is what you touch.

Then you let a draconian slice like 30 percent fall on 26 or maybe 30 percent of the national budget while the rest of it is all exempt. That was our leader saying that. I have great respect for Majority Leader MITCHELL.

We heard the remarks of our fine leader, BOB DOLE, as he spoke as we proceeded to vote for the budget resolution. These are real things, I say to my colleagues.

It is so easy at 12 o'clock at night to come in and talk about that, but it is terribly difficult at a quarter to 6, when you are looking at a veterans' bill, to talk about those things; that is not right; we should not be doing that; we should just pass this thing and get it out, even though it has new entitlements in it.

By all means, let us enact a cost-of-living adjustment for VA compensation, pension, dependency and indemnity compensation programs. I am ready to do that. But let us look most carefully with what we are doing with the rest of the provisions of this bill. Most of the provisions in this bill could stand a little rest. They need to be matured. They need to have a long wait before we take them up again. They deserve the careful attention of Members and not a hasty, half-attentive effort when that comes at the end of a session as it is tacked on to a must-pass piece of legislation.

Let me just highlight for my colleagues a few of the provisions of this bill to which I would think they, too, would want to give some serious attention and thoughtful comment and debate. In addition to the issues of exemption from Gramm-Rudman-Hollings and the costly physician pay provisions, which I will support in some version, the bill provides that VA and DOD are to identify "at least 12 radiation exposure activities."

Here is an old theme, a real old theme. "To identify radiation exposure activities" over a 4-year period with a detailed and extremely burdensome reporting requirement designed to lead to eventual expansion of the list of presumptive diseases for those who engage in such activities. That provision entirely overlooks the fact that service personnel, who may engage in activities which may expose them to radiation are carefully monitored and the dosages to which they are exposed are kept within Federal guidelines. That is the way it is done right now.

We may want to consider the wide-ranging implications of our defense and civilian nuclear programs if we were to enact such a provision. It would cripple.

We saw the same thing arise when we dealt with the Clean Air Act. Suddenly, we were talking about radionuclides. So we did an amendment which rammed it to those who are involved in nuclear medicine and radionuclide distribution. Finally, we had to go back and redo that provision because it would have shut down all of the domestic hospitals in the United States and military hospitals because they could not practice nuclear medicine.

So when we get to the word radioactive or radionuclide, or anything of that nature, it is immediately a huge signal of radiation exposure activities.

We just passed out of the House and Senate a radiation issue with regard to uranium miners. That was a good piece of legislation. We worked on it over here, and the House accepted every word of it. So we do our share in a thoughtful way when we get to these, but we did not allow a finding that everyone who is in the United States was a victim of fallout or exposure as downwinders. We corrected that. We try to do these things in a realistic way. It is very difficult, because people really use hype and emotion and simply drum it up.

Presumptive diseases, I hope we begin to look into those completely, but that is the subject of another item. To have a disease come upon you with a latency period that does not even match medical science and have the same disease that affects a majority of the American public and to say then that disease was caused by the fact you were in the service 30 years ago, or 20, reaches a point of absurdity, especially if we look at the list of presumptive diseases: Hemorrhoids, ulcers, gastric problems—the same things that happen to other human beings, wretched things but nevertheless things that happen.

So on the list of presumptive diseases we undoubtedly will not be having a hearing on that soon because it will be one of the most disruptive and extraordinary hearings we could possibly imagine. I would not want my chairman to go through that. We talked about it once, and he decided we would not, anyway. But it was a good idea, I thought. It is time to look at those things.

So this provision that I speak of entirely overlooks the fact that service personnel who engage in these activities already are cleared and monitored, and they would be included. I think we want to consider the implications of that.

The bill also contains provisions related to agent orange. Here is a real rerun: agent orange. The very mention of it keys all sorts of emotions and it creates in this bill not just the presumptions of service-connection for certain diseases if a veteran was exposed to dioxin, but it creates even a presumption of exposure. If you were in the service, you were exposed to it. That is reaching a point of absurdity.

We have dealt with agent orange on the floor, the Senator from California Senator CRANSTON, and I put together a measure several years ago on agent orange, and it passed this body by a vote of 95 to 0. It was a good piece of legislation because we said we are not going to allow this thing to be driven on the wings of emotion. It is going to be driven by sound medical and scientific evidence.

So we put together a package, and it said that as we go into dioxin and agent orange, we will determine what has occurred based upon sound medical and scientific evidence. But see, no compensation was paid. After all these years and the lawsuits in the civil courts and in the military, the whole works, nothing has ever really been proven about agent orange.

I am not trying to bait anyone. That is the fact. The one study that was so remarkable is the one they tried so desperately to refute. It was called the "Ranch Hand Study." A cohort of 2,400 people, something like that, if I recall. These were not just people who were out under the trees in Vietnam or were infantry or off the coast. These were people who distributed dioxin from the helicopters. They were Air Force people. They opened the drums. The product was spread by the use of the suction from the helicopter and then thrown out over the jungle, and those people were standing in it. Every day they stood in it and they dumped agent orange. It had a big orange rim around the barrel, and they opened the drums in the helicopter and they distributed it. It was all over them, every night. They went through and found those people, and they found not one single evidence of any more exposure of any kind of disease, especially the presumptive diseases which do go with that type of exposure. I was perfectly willing to put those in the statute.

Nothing. No birth defects in their children, no additional illness in this area. That is what they found. And those were the people who were not just exposed; they were drenched. But they have challenged that now. Now we are challenging the CDC, the Centers for Disease Control. Here we go again. What drives this? Frustrated people drive it, frustrated special interest groups drive it. They are irritated, hostile, ringy, nasty and they cannot get compensated. There is a reason for it. They cannot prove up. I wish they could if that were the case. A lawyer would want to see people compensated if they could prove what was up. But since they cannot, then we are to do it here in the form of a presumption. Presumptions come from frustration. They are not a function of a thoughtful legislature.

That is a very disturbing thing. How many years will we deal with agent orange and dioxin? I do not know. But if we are going to go into some more studies, it is a waste of time. The court case never would have been settled if there had been any possibility at all to get into the deep pocket of the manufacturer, but that failed, too. They finally made a settlement, set aside a pot of money and said that is it. Do you think that the lawyers would have stopped if they thought they had a better chance to prove up? They would not have stopped. They would have kept right on plowing. So that was the result of the civil case. The pot of money was set aside and distribution of that is either going on or nearly completed. And that much for agent orange.

In addition, this bill would further mandate duplicative scientific literature reviews, if you can believe this, in spite of the VA's extensive, absolutely extensive and ongoing literature reviews. We have had tons of those. There are bookcases filled with these things. And then tissue archiving is part of this bill—costly and most probably useless; record retrieval and redundant studies of "the feasibility of conducting additional scientific research." Here we go again. Where is the energy behind this after years of tumbling around in it?

This bill would also create new entitlements to readjustment counseling for veterans of all wars. Now, hear that. That is an extraordinary situation.

I had an amendment, and I will have an amendment, which would strike the provisions of the bill that set entirely new precedents for the provisions of VA medical and psychiatric care. One section would entitle veterans to priority medical treatment for posttraumatic stress disorder. We find that that was very real in the Vietnam war. I am one who helped create the ability to deal with that, helped to create the vet centers to help people who have PTSD, posttraumatic stress disorder, and so this is going to set up a whole new medical treatment without requiring that this condition be service connected. It will not even be service connected.

I heartily approve of the stipulation that would limit application of this provision to those who served this country in a theater of operations during combat. But I also feel that the establishment of this one special priority is very unwise. If a veteran has a condition that is service connected, then he or she is entitled to priority medical care for that condition. There is a procedure for determining that service connection. If there is a valid rationale for extending priority for medical treatment to veterans with conditions that have not been adjudicated service connected, then perhaps that rationale extends across the board. But that rationale has not been demonstrated.

This measure for the first time ever establishes a priority for medical care not on the basis of how the condition arose, but on the basis of what the condition is. Posttraumatic stress syndrome is a recognized disorder, a recognized condition. If a veteran who is diagnosed as having the disorder is also adjudicated to have the condition as a result of stresses he or she endured during military service, in other words, to have a service-connected condition, then that veteran would be entitled to priority medical treatment for that disorder on the basis of its service connection. No question asked. Any veteran is entitled to priority medical treatment for any condition that is service connected.

So what that section of the bill does is to say that a determination of service connection is now irrelevant. If a veteran has PTSD, that veteran gets priority over others regardless of whether the PTSD is service connected. It can even arise out in civilian life. And much of the attention focused on this disorder tends to link it very closely in our minds with combat experience but it may in fact be brought about by any number of stresses that the ordinary human being faces and to which each of us might be exposed. In other words, the condition is not service connected simply by virtue of the fact that it is suffered by a veteran, even a veteran of combat. If we start down this road, watch out for future developments. We will be legislating priorities for all kinds of medical conditions. We will have Congress telling VA doctors and hospitals which diseases they must treat and with what priority. The VA medical system must already deal with the budget problems facing the entire Federal Government. We have made a judgment in Congress that veterans with service-connected conditions must be the first to receive medical care for those conditions, a top priority. The veteran with service-connected posttraumatic stress syndrome already qualifies for the top priority treatment—no questions asked. So let us not turn the whole system on its ear by establishing one exception entitling a veteran to priority care on the basis of a condition rather than where that condition arose. Then we see readjustment counseling provisions for Korean and World War II veterans.

Now, please hear this. Section 202 of this bill would expand eligibility for services at vet centers which were set up solely for the Vietman veteran so they could receive readjustment counseling at such centers. I have worked for those. I helped fund those. In the early beginning I questioned the worth of it and after one hearing or two was totally convinced of the need for vet centers and supported them to the end, and have.

The vet centers were originally established as a temporary program, a temporary program, mind you—go look at the original statute—to assist Vietnam veterans who were having problems returning to civilian life. They were established as separate entities from the VA medical centers because the Vietnam veterans were perceived to be alienated from the VA system and to be very distrustful of it.

The VA of course does offer comprehensive psychiatric and counseling services through its medical centers—excellent service.

Section 202 would provide for readjustment counseling eligibility for veterans who served on active duty and combat theater during World War I and World War II, the Korean conflict and any other period of hostility. This is the most major mission change of anything in the GI world that one can imagine. PTSD was not even identified in World War I. In World War II they called it shellshock, and in every war there has been some hideous, traumatic situation and it will always be so—God willing, not be so. But taking PTSD back to World War I and World War II someone will just have to explain. What in Lord's name does that have to do with posttraumatic stress syndrome? Those people of World War II have been cared for magnificently by the VA health care system, and so it is typical of what comes out and especially in a last minute exercise like this. It would be most ill-advised. There is already an entitlement program for readjustment counseling for Vietnam-era veterans. It is another step in perpetuating what was originally conceived as a temporary program to assist Vietnam-era veterans in adjusting to civilian life and now you are going to take the resources away from them because you know, every one of us knows there is going to be less money and if some of it is going to World War I and World War II veterans for an ailment or discussion of a disability which was not even known, then there will be less resources for the Vietnam veteran.

It boggles the mind to me that veterans of World War II, the hideous war that ended 45 years ago, are still having trouble readjusting to civilian life after military service. And if there are truly any of those, they are being cared for under the health care system.

I see my colleague from South Dakota is on the floor. He has been very patient. As he knows, I have objected to moving forward but I certainly respect his right. I know he may wish to address the issue, and I do not want to transgress. He has been patient. I would certainly let him go forward without asking for a quorum call, but I have more to say in trying to educate my colleagues to come to a sensible decision, and that is let us pass a COLA bill. That is why we are here. And then let us leave off this laundry list of stuff, some of which has been lurking around for years, never got anywhere and the reason it is out here today is because, hey, it is worth a try.

I think it is not worth a try so I think we should go back and get serious. Let us do a COLA for our veterans and let us not deal with the readjustment for World War II veterans under description of an ailment that was not even in existence at the time. The fact is that every single World War II veteran who has not adjusted has the full range of benefits from the health care system of the VA.

So here we are again doing an entitlement program for which we cannot pay.

Senator MURKOWSKI is absolutely right. All you are doing is adding 600-some million bucks and then in reconciliation we will have to go get another $600 million in reconciliation. And you are leaving us with this? That is a poor way to do business, to pass this, add 660 million bucks—you do not have a nickel to pay for it—and we have to go back into some heavy, heavy, heavy stuff and get $621 million out. So now you are going to, instead of helping us in what we all voted for, a majority on both sides of the aisle, the other night, and that is a budget resolution to do our duty—and we are ready to do it—now you are going to give us this and double our work just for some purpose of which I do not know. What is it for? The old home consumption? I know what it is for. It is a political year.

Everything you are looking at here from now on in, on one side of the aisle or the other, will be destined to get a vote on something in a political year. This is not the place to do it in veterans' programs—to take resources from the Vietnam veteran, and give to veterans of other wars and conflicts that were never intended to be part of this, and then leave us holding the sack to go back to our Chambers to try to rack up $600 million more in money when you dump this bill in the mix. It ain't fair, gentlemen and ladies, and it will not work.

Mr. AKAKA. Mr. President, I know that my two friends, the Senator from Alaska, and the Senator from Wyoming, are not opposed to the bill. They have grave concerns about some of the parts of the bill, and also the opposition to section 706 of the bill.

I know that everyone in this Chamber is greatly aware of the importance of reducing the deficit, as has been expressed by the two Senators. But as U.S. Senators it is also our privilege and responsibility to ensure that deficit reduction is distributed equitably across all sectors of the population.

This question of fairness lay at the heart of the painful budget standoff that nearly resulted in a catastrophic shutdown of the Government a few days ago. It is precisely this question of fairness that informs the committee provision to exempt veterans medical care from possible sequestration.

My colleagues should understand that, if this provision is not enacted, and if somehow the budget negotiations break down and we are forced into a sequester situation, veterans medical care would take a near fatal hit. At first glance, a medical care sequester would not seem to be so serious: Under current guidelines, cuts in direct patient care under the veterans medical care account would amount only to 2 percent. Unfortunately, this does not include medical administrative costs, which would be reduced by the full one-third required by the Gramm-Rudman-Hollings Act. According to VA, this devastating cut would result in a medical staff reduction of nearly 14,000 and eliminate care for over 83,000 inpatient and 1.7 million outpatient visits. Furthermore, the purchase of much needed equipment—already hopelessly backlogged—that was about 2½ years ago—by the previous administration's practice of robbing the equipment account to fund other programs. This much needed equipment again would be delayed.

Mr. President, I can think of few other services that are as critical as providing health care for our Nation's veterans. These are the men and women who responded to the call of duty during the Nation's time of need. Can the Nation in good conscience ignore their call for help during their time of need? Should we kick them out of hospital beds or turn them away from outpatient services? No. Certainly not. Absolutely not.

I understand, Mr. President, that VA opposes the sequestration exemption for medical care.

The Senator from Alaska sought to strike that provision at markup, and the Senator failed. I think the Senator should be able to offer it again, but the Senate must be allowed to debate that bill. I note that the sequestration exemption has no net impact on the Federal budget. So clearly the objection to that provision is not based on the budget.

Mr. President, in reference to comments made about physician pay, the committee bill sets ranges of wages for physicians and dentists that are higher than that proposed by the administration. But a majority of the committee, by a vote of 6 to 3, did not find the administration proposal adequate. Why not let the Senate vote on the matter?

Mr. President, on behalf of those who put their lives on the line for their country, I urge my colleagues to move forward on this bill.

Mr. President, I yield at this time to my friend from South Dakota, Senator DASCHLE, to make his remarks, particularly on agent orange aspects.

Mr. DASCHLE. Mr. President, I thank the distinguished Senator from Hawaii. I appreciate his remarks. He certainly has contributed to this debate in a very significant way. I appreciate the leadership he has demonstrated this afternoon.

Let me also commend our chairman of the Veterans' Affairs Committee, who could not be on the floor at this moment, but spoke earlier. Certainly, it is because of his leadership and the tremendous work done by the staff on both sides that we have come this far with a very, very important piece of legislation.

The staff on both sides has worked diligently on S. 2100. This legislation is the product of a tremendous amount of effort, and I applaud the committee for that work. These bills are never easy. They are always extraordinarily complex in many respects, and S. 2100 is no exception. I have listened to the debate with great interest, and I rise to talk about both procedural, and substantive, concerns tonight.

The bill, as I said, is the product of a lot of work. As I understand it, the bill passed unanimously out of committee. There was not one vote against this particular bill as it passed out of committee.

As the Senator from Hawaii mentioned, there were certainly debates about specific provisions of the bill. Those debates were very helpful, and there was a substantial record established with regard to the discussion and consideration of many of these issues, within the committee. The committee voted, and as a result of those votes, the bill was then reported out without an objection, as I understand it.

I also understand—and I may stand corrected on this—that there has never been an objection to a motion to proceed on a veterans bill before—never. That is understandable. In most cases, when veterans legislation comes to the floor, it is done on a bipartisan basis.

So this is a very unusual set of circumstances that we find ourselves in tonight. It may be unprecedented. We would have to go back to many Congresses and a lot of history to determine whether or not it is totally unprecedented, but it is unusual. No one would deny that; it is extremely unusual that we find an objection to a motion to proceed on a veterans' bill of this consequence.

I suppose the most significant concern I have, from a procedural point o view, is that if there are objections t some of the provisions in this bill then let us have a debate on those provisions. Let us have a discussion and debate, and let us have a vote up o down on any one of the provisions in question.

I must say that I think our distinguished colleague from Wyoming, and certainly the Senator from Alaska, are two of the most dedicated people, when it comes to veterans issues, that we have in the U.S. Senate. I say that as a Democrat, because I honestly believe it. I even think they do a real service, as vehemently as I may disagree with some of their conclusions, in bringing these issues up. I think it helps us to flesh out these questions.

If somebody with their credibility has an objection, as they do, they have every right to come to the floor and raise those objections and have them considered on the Senate floor. I believe that every Senator has that right. Even in this case, as much as I oppose their position, I applaud them, or at least I commend them—I am not sure I am willing to go as far as applause—for raising these issues.

If this is the most deliberative body, let us have it out and debate these issues, and let us have a vote. But we are denied that opportunity by this objection to the motion to proceed. We are denied the right to debate any one of the issues that has been raised tonight.

That is really the question. It is not whether or not we are for or against these issues at this moment. It is whether or not we are for or against the opportunity to debate these issues. So we really ought to put this in proper perspective.

I hope tonight, if anyone is still listening at 6:15, that everyone understands what the question is here. It is not, do you favor or oppose these issues, because we ought to have a good debate about those; it is whether or not we ought to have the debate in the first place.

I know we are running out of time, and I know that having elongated debates is not what everybody is up for, given the experiences of the last few days. I am sure that most of the people who want to see this legislation pass could come to an agreement on time limits. Let us have a half-hour or 1-hour time limit on any one of these issues. At least we would have a debate, to the satisfaction of anybody who really wants to raise objections to these questions. That is really what we are talking about here.

References were made to the fact that we should not pass these things too quickly. Some of these things—certainly people here in the Senate understand this—have been voted on time and time and time again. On some of these issues, the Senate is on record four or five times.

We can have yet another vote. We probably should, if it helps in some way to establish the Senate's record on that given issue. But for heaven's sake, let us have those votes and the debate. I think any chairman of any committee, at this point in the process, deserves at least that much.

Let me talk a little bit about the substance. It is late, and I know a lot of people want to leave. Still, I think it is important to raise some of the issues that have been discussed already.

S. 2100 was reported by the committee on July 19, over 2 months ago. It has more than 80 substantive provisions, making improvements in compensation, pensions, housing, education, employment, rehabilitation, insurance programs, VA health care services, and the cost-of-living adjustment in the rates of disability compensation paid to 2.2 million veterans with service-connected disabilities and in the rates of dependency and indemnity compensation for 911,000 survivors of those who died from service-connected disabilities.

I cite all of these different pieces only because, if we do not pass them in this bill, the fact is, they will not get passed. They will languish in committee—I guarantee it—for another 12 months.

How many more months, how many more years, in some cases, do some of these veterans who have petitioned the Congress, who have made their case, and, in some cases, who have even had their successful votes here in the Senate, how many more months or years do they have to wait.

This COLA, a top priority for the committee and a must-pass provision has no opposition, but the very fact that there is an objection to this motion to proceed or a time agreement now means that its timely enactment is in jeopardy. I hope we do not have to jeopardize the COLA for the sake of these other very important provisions.

So we are faced with an effect to decide whether or not the provisions are good national policy and whether they are worthy of enactment. Some Senators are now saying that they oppose the majority, most likely an overwhelming majority, of Senators about what is the right thing to do under these circumstances.

I do not think this should be allowed to continue. If they oppose some of these provisions, the bottom line is, let us have a vote on them, let us let the Senate work its will. That is really what we are talking about tonight.

I do not think the opposition makes a lot of sense. All that the major provisions in title I-C would do is, first, at no cost, codify in law presumptions of service connection for non-Hodgkin's lymphoma and soft tissue sarcoma—compensation that has already been proposed by the administration.

Secretary of Veterans Affairs Derwinski has already created these presumption by regulation, and we are codifying that policy. The second major element would establish the first truly independent, comprehensive review of scientific knowledge on the health effects of agent orange and other herbicides used in Vietnam and require full VA consideration of the review. I think that is only appropriate. As has been said already, there are objections to whether or not we ought to continue with this. There are all kinds of opinions as to whether or not sufficient scientific data exists.

Then let us give a genuinely independent scientific review panel an opportunity to be heard on all the relevant evidence, including the VA's. The full Senate already has approved these provisions and has done so twice: First, S. 1153, which passed the Senate on August 3 of last year after a tabling motion failed by a vote of 8 to 92; and second, in title 8 of S. 13, which passed the Senate on October 3 as a substitute amendment to H.R. 901. The funds for such a study are earmarked in the VA's fiscal year 1991 Appropriations Act as passed by the Senate.

The Secretary's decision to grant compensation for non-Hodgkin's lymphoma was based on a centers for disease control study which found that veterans who served in Vietnam are 50 percent more likely to incur this cancer than similarly aged male nonveterans and veterans who did not go to Vietnam. Numerous other studies also point to such a link.

The Secretary's decision to compensate veterans for soft tissue sarcoma [STS] was based on a decision of the VA's advisory committee on environmental hazards that the available scientific evidence demonstrates it is at least as likely as not that exposure to agent orange can cause STS and recommended that the VA grant service-connected disability compensation for STS.

Even the VA's own panel which has never been known for any radical pro-compensation views, came to the conclusion that it is at least as likely as not that there is a statistically significant association between veterans' exposure to agent orange and soft tissue sarcoma. So the question is, who do we give the benefit of the doubt to? To some of the chemical companies or somebody else who may benefit from the fact that we do not acknowledge the need to provide compensation, or to the veterans who have been exposed and now have the disease? Who do we give the benefit of the doubt to when the legislative history on standards for presumptive compensation is very clear? The legislative history says, if you are not sure, but here is reasonable doubt, you give the benefit of the doubt to the veteran. If you do not know, then you give the benefit of the doubt to the person who was exposed. That is all we are saying here.

If the Senate were to strip these provisions, as the opponents apparently want, it undoubtedly would be seen as a repudiation of the Secretary's wise actions. It would have to be seen as that.

I am disappointed that another provision of the committee bill to which there is opposition is section 201, which would require the VA to provide care on a priority basis for veterans with service-connected post-traumatic stress disorder.

The national Vietnam veterans readjustment study—the largest single study of war-related mental health problems—found that almost a half million Vietnam-era veterans suffer from full-blown cases of PTSD. Additionally, another 350,000 suffer from some degree of PTSD symptoms. The study found that approximately 40 percent of these veterans had never been seen by a mental-health professional and that, within the 12 months preceding the study, only 20 percent of the veterans with PTSD had utilized any mental-health services. Of those 20 percent, it is unclear how many underwent a full course of treatment.

We owe these veterans access to care for their war-related injuries. The VA must assume a much greater leadership role in the diagnosis and treatment of the disorder. Although the VA has made some strides over the years, largely as a result of congressional prodding, it is clear that much more must be done.

The VA currrently has only 19 specialized inpatient PTSD units. All but one of these units have waiting lists, ranging from several weeks to 1 year, for admission to the treatment program. In addition, most of these units have waiting lists for admission even for screening programs, in which veterans are admitted for a few days, assessed, discharged, and, if in need of care, then put on a waiting list for admission. These waiting lists represent a tremendous inadequacy in the system's ability to meet its top priority responsibility—the provision of quality care in a timely way to veterans suffering from service-related disabilities.

This provision would facilitate access to the VA health care system for these veterans who need treatment and for whom it has not been available for far too long.

Wounds of the mind are less obvious to us than those of the body, but they are certainly no less painful to the veteran and no less needful or deserving of rehabilitation and care. The idea of leaving a wounded comrade on the battlefield is totally unacceptable to any American. I believe strongly that we must attend to those still bearing the psychological wounds of combat with the same kind of concern and compassion we show to the warrior fallen in battle.

Much has been made about the determination of service-connected disabilities. The problem is that the whole mental health area is difficult to understand, and is way behind the physical health area in terms of definitive information. If we are going to address mental health issues with the same kind of dedication and determination we have committed to physical health—and we should—we have to be willing to afford it a high priority, a much higher priority than we have in the past, and that is all we would do in S. 2100.

I must say that again, in this area, legislation has been before the Senate and on at least two occasions it has passed the Senate. We should do so again.

Mr. President, opposition has also been voiced to section 202, which would authorize the Secretary of Veterans Affairs to expand eligibility for readjustment counseling to include veterans of service in theaters of combat operations during any periods of war prior to Vietnam and veterans of service at other times in areas in which U.S. personnel were subjected to danger from armed conflict comparable to that occurring in battle during war.

Under current law, entitlement for readjustment counseling services is limited to Vietnam-era veterans. In recent years, the Veterans' Affairs Committee has considered various proposals to expand access to such services—both for those veterans who have served since the end of the Vietnam era in combat or similarly dangerous situations and for veterans of earlier wars.

With regard to veterans who have served in our Armed Forces since the Vietnam era, military personnel are at times exposed to hostile situations short of declared war—such as existed in Beirut or Grenada or in connection with our actions against Libya, or in Panama. I hope we will not have to add the situation in the Persian Gulf to that list. These kinds of situations involve violent and serious injuries of one's comrades or the necessity to kill soldiers on the other side. These terrible conditions of armed conflict produce the need among some of our soldiers, sailors, airmen, and marines for readjustment counseling or treatment to help deal with the psychological aftermath of their combat-related experiences. The expanded eligibility is particularly important in light of the current understanding that early intervention can ameliorate the severity and persistence of PTSD symptoms in an individual following exposure to a traumatic event.

All we are saying in S. 2100 is, let us treat all veterans the same. Some reference has been made to World War I veterans. I guarantee that there will not be a World War I veteran who will come in for PTSD treatment. But why begin in that period right after World War I? If we are going to say let us just treat all veterans the same except World War I veterans, except World War II, except Beirut, except Berlin, except for the Persian Gulf, where do we begin to draw the line? All we are saying is let us treat all veterans alike. That is what this provision says.

Veterans from earlier wars do suffer—often times many, many years later—from psychological readjustment problems directly related to their experiences in combat. And having psychiatric care available in conventional hospital settings is well and good—but it is not enough. There are many that we can reach only through community-based treatment and outreach programs such as vet centers. Mr. President, our Nation's military personnel did not abandon their fallen comrades on the beaches of Normandy, Iwo Jima, or Inchon, or at the Battle of the Bulge, or at Okinawa or Pork Chop Hill. There are veterans of battles like these who are in psychological pain today, and we ought to be doing all we can to meet their needs.

Mr. President, I hope that we will soon be able to consider this bill and amendments to it on their merits. That is how we should be conducting this important business. It is what veterans expect of us and certainly what they deserve.

Let me just end the way I began. There is every reason to bring the concerns expressed tonight up in every form, as amendments, as colloquies, so let us do that. Let us talk about these things. Let us have some votes. Let the Senate be heard. That is what we do in committees. That is what we do every day here on the floor. It is what we ought to do on this bill, and it is all the more important given the end of this session that is fast approaching.

So, clearly, we have an opportunity here. A whole lot of work has gone into this bill. I think it is important that proponents and opponents to the provisions within this very significant piece of legislation have the opportunity to debate and finally dispose of this bill in time for it to be passed and signed into law.

I yield the floor.

Mr. MURKOWSKI. Mr. President, I thank my colleague from South Dakota for his kind remarks concerning the intentions of the minority members of the committee and myself as ranking member.

I would be the first to concede the point that we can never do enough for our Nation's veterans. The merits of this particular authorization bill do deserve consideration. The Senator from Alaska has made the point, I think quite succinctly, that, on the one hand, we are mandated to save $620 million and, on the other, we are proposing in this authorization to add

$618 million. That just relates to the reality of the situation and does not relate to the priorities associated with what that $618 million consists off.

The Senator from Alaska has conceded, of course, that we must get on with the COLA's. There is no question about that. That was also asserted to by the minority whip.

But we have a greater problem here, Mr. President, and it is a problem that we are not meeting our obligation in this body, nor is the House of Representatives meeting it. I refer to the reality, Mr. President, that the total debt of this Nation is $3,189,970,000,000. That is what we are facing as we micromanage down to the veterans budget. Can we justify these additions at a time when we are mandated to take away from the veterans, because of the budget plan.

Mr. President, when I came to this body, in 1981 the accumulated debt of this Nation was $575 billion. That was a lot of money. And responsibly, each one of us in that 9-year period have addressed issues of merit. We have increased that debt. And in our prudent and committed manner, overseeing the authorization and appropriation process, we are faced with a total debt of $3.189 trillion.

Now it is not a question, Mr. President, of when it is going to happen; it is how. We are going to have an economic collapse at some point in time unless we turn this around. There is absolutely no question this cannot go on.

And there are signs of that occurring already. Foreign nations come in and finance our deficit. They buy our Treasury bills. When they lose confidence, they are going to pull out. The stock market is down, we are failing to meet our budget responsibilities as a body. Interest rates are obviously much higher than they should be. So the question is not if it is going to happen, but when it is going to happen.

We have this obligation to address it. Unless we make the hard decision to make cuts and simply say no, we cannot do it anymore in spite of the fact that we have this grave obligation to our veterans. We are meeting the need as associated with meeting the COLA's. Nevertheless, we simply cannot continue this process because we can justify it with our veterans, we can justify it with our elderly, we can justify it through Medicare. But the question is when does the system collapse, and then what is the ultimate outcome associated with that collapse?

The veterans suffer, the elderly suffer, those on Medicaid, the whole program collapses; and we are expected to have the foresight to ensure that this inevitability does not happen.

Well I suggest, Mr. President, that the time has come to recognize the handwriting is on the wall. And when you consider the reality of $3,189,970,000,000 total debt—and, Mr. President, there are some who suggest that somehow in this wonderful budget agreement we are supposed to conclude, that while we have to make these cuts over a 5-year period, at the end of the 5 years that accumulated debt of the Nation will be in the area of $5 trillion.

One of these days somebody is going to wake up and find we are spending 60 or 70 percent of our funding for interest on the debt. I can tell you something about interest. It is like owning a horse that eats while you sleep. It does not employ anybody, but you have to pay it. If you do not pay it, the system collapses.

So the point the Senator from Alaska wants to make to my colleagues who have argued, I think, so well on the justification of benefits, additional benefits, is the reality that our system is in grave danger. As we justify additional benefits for veterans, we can do it, and we do do it in all areas of entitlements. At some point in time the burden is no longer going to be able to be carried by the system. There will be an economic collapse perpetrated by some lack of confidence in our ability to address our fiscal responsibilities.

And then, Mr. President, we are going to blame each other; we are going to blame the system; we are going to blame the lack of confidence on the stock market. But the responsibility, Mr. President, is here.

The PRESIDING OFFICER. The Senator from Hawaii [Mr. AKAKA] is recognized.

Mr. AKAKA. Mr. President, the Senator from Wyoming questioned the advisability of the committee provision to expand eligibility for veterans' center services to older veterans. My friend from South Dakota responded to those concerns very eloquently and I want to associate myself with his remarks and want to add a thought or two.

First, Mr. President, the needs of veterans of wars prior to Vietnam for vet center services is not a hypothetical concept. At the committee's June 16, 1988, hearing, Dr. Authur Blank, Director of VA's Readjustment Counseling Service, testified that vet centers nationwide were seeing as new clients approximately 375 World War II and 400 Korean war veterans per month. Whether we in this Chamber choose to acknowledge it or not, veterans from earlier wars do suffer, oftentimes many years later, from psychological readjustment problems directly related to their experiences in combat.

I also note that VA Deputy Secretary Anthony Principi, during his confirmation hearing on March 16, 1989, indicated that he would favor making readjustment counseling available to veterans of armed hostilities, such as Lebanon or Grenada.

Mr. President, denying that older veterans other than or post-Vietnam veterans may need counseling, directly contradicts everything we have learned over the years about war and its psychological effects on those who fight them. The Senate has been a leader in the longstanding efforts to provide needed mental health services for our veterans, and we should continue to provide this leadership.

I also want to stress, Mr. President, that it is not just the counseling expertise of the vet centers that is so valuable for combat veterans suffering from the psychological aftershocks of battle. Vet centers serve as a very successful form of outreach. They are located in the community, are not as intimidating as hospitals, and have earned a well-established reputation among veterans for help without hassles.

Many thousands of veterans with serious psychological difficulties requiring psychiatric attention have initially presented themselves at vet centers, where the staff has won their confidence and successfully referred them to a VA medical center for needed treatment. Good psychiatric care is of no value at all to the veteran who, for whatever reason, is unable on his own to seek it at a hospital.

Mr. President, our veterans have served our country, sacrificing themselves, and we as Senators here should do all we can and as soon as we can to help those veterans who are out there crying for the help they can get from our veterans' hospitals and centers.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. KERRY. Mr. President, it is difficult to understand why a few Senators are preventing the Senate from taking up S. 2100, the proposed Veterans and Health Care Amendments of 1990. I believe this is extremely important legislation.

This bill, S. 2100, is an omnibus veterans bill which contains more than 80 substantive provisions making improvements in veterans compensation, pension, housing, education, employment, rehabilitation, and insurance programs and in VA health care services. Most importantly, the bill would provide a cost-of-living adjustment in the rates of disability compensation paid to 2.2 million veterans with service-connected disabilities and in the rates of dependency and indemnity compensation for 911,000 survivors of those who died from service-connected disabilities.

This COLA, a top priority, must-pass provision, has no opposition, but its timely enactment is now in jeopardy. It is a shame this provision to protect the real value of benefits for this very special category of veterans and survivors is being jeopardized by a few Senators.

This bill also contains several provisions designed to improve and expand the services provided to homeless veterans. I originally introduced S. 2128. One provision would extend for 3 years VA's authority to sell acquired property to public or nonprofit entities to assist homeless veterans and their families in acquiring shelter.

The VA also would be required to establish a 3-year pilot program providing domiciliary care at 15 sites for homeless veterans. Other provisions are designed to improve access to existing benefits and services for homeless veterans.

Finally, these provisions would extend VA's Homeless Chronically Mentally Ill Veterans Program through fiscal year 1993 and increase the levels of authorized appropriations for VA's HCMI and Domiciliary Care for Homeless Veterans Programs.

This legislation would promote a comprehensive system through coordination among VA and other Federal, State, and private programs which offer assistance to homeless persons and homeless veterans.

In light of the extent of homelessness among the veteran population, the cost-effective nature of this legislation, and the clear indication from the VA that such a comprehensive approach to the problem is needed, I strongly support these provisions in the committee bill and urge my colleagues to do the same.

Mr. President, I understand that one of the issues to which objection is made relates to agent orange and Vietnam service—title I–C of the bill as reported.

This opposition makes no sense.

The major provisions in title I–C codify in law presumptions of service connection for non-Hodgkin's lymphoma and soft-tissue sarcoma. Secretary of Veterans Affairs Derwinski has already created these presumptions by regulation. The second major element would establish a truly independent, comprehensive review of scientific knowledge on the health effects of agent orange and similar herbicides used in Vietnam and require full VA consideration of the review. The full Senate already has approved these provisions and has done so twice.

The Secretary's decision to grant compensation for non-Hodgkin's lymphoma was based on a Centers for Disease Control study which found that veterans who served in Vietnam are 50 percent more likely to incur this cancer than similarly aged male nonveterans and veterans who did not go to Vietnam.

The Secretary's decision to compensate veterans for soft tissue sarcoma [STS] was based on a decision of VA's Advisory Committee on Environmental Hazards that available scientific evidence demonstrated it is "at least as likely as not" that exposure to agent orange can cause STS and recommended that VA grant service-connected disability compensation for STS.

If the Senate were to strip these provisions, it undoubtedly would be seen by Vietnam veterans as a repudiation of the Secretary's actions. That would be an absurd result and a major disappointment to many Vietnam veterans.

Mr. President, I am equally shocked and disappointed that another provision of the committee bill to which there is opposition is section 201, which would required VA to provide care on a priority basis for veterans with posttraumatic stress disorder related to their service.

The "National Vietnam Veterans Readjustment Study," the largest single study of war-related mental health problems, found that almost a half million Vietnam-era veterans suffer from full-blown cases of PTSD. Additionally, another 350,000 suffer from some degree of PTSD symptoms. The study found that approximately 40 percent of these veterans had never been seen by a mental health professional, and that within the 12 months preceeding the study, only 20 percent of the veterans with PTSD had utilized any mental health services. Of those 20 percent, it is unclear how many underwent a full course of treatment.

Wounds of the mind are less obvious to us than those of the body, but they are certainly no less painful to the veteran and no less needful or deserving of rehabilitation and care. The idea of leaving a wounded comrade on the battlefield is totally unacceptable to any American. I believe strongly that we must attend to those still bearing the psychological wounds of combat with the same kind of concern and compassion we show to the warrior fallen in battle.

We owe these veterans access to care for their war-related injuries VA must assume a much greater leadership role in the diagnosis and treatment of this disorder. Although VA has made some strides over the years, largely as a result of congressional prodding, it is clear that much more must be done.

This provision would facilitate access to the VA health care system for these veterans who need treatment and for whom it has not been available for far too long.

The Senate has passed this legislation twice. We should do so again.

Mr. President, we are faced with the effort of a small minority which is not just opposed to certain provisions but are opposed to allowing the Senate to decide whether the provisions are good national policy and worthy of enactment. A minority of Senators are now saying that they know better than the majority—most likely the great majority of Senators—what is good for the country and what is good for veterans. This is not right. This should not be allowed to continued.

I hope that we will soon be able to consider this bill and any amendments to it on their merits. That's how we should be conducting this important business. That is what veterans expect of us, and that is what they deserve.

Mr. MURKOWSKI. Mr. President, it is the intention of the Senator from Alaska to suggest the absence of a quorum.

Prior to doing so, I ask unanimous consent that a statement from the Office of Management and Budget dated October 10, 1990, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

OFFICE OF MANAGEMENT
AND BUDGET,
Washington, DC, October 10, 1990.

STATEMENT OF ADMINISTRATION POLICY

(S. 2100—Veterans Benefits and Health Care Amendments of 1990—Cranston, CA, and 16 others)

The Administration strongly opposes the enactment of S. 2100 because it would exempt the Department of Veterans Affairs (VA) Medical Care appropriation from sequestration under Gramm-Rudman-Hollings (GRH). The importance of health care for veterans, and the need to cushion the effect of a sequester, is already recognized under current law. The VA Medical Care program, Medicare, and other health care programs are protected by a two percent cap on sequestration of certain activities. Exemption of the VA Medical Care appropriation from sequester is ill-advised and could encourage program-by-program exemptions that circumvent the discipline of sequestration.

Unless S. 2100 is amended to delete the exemption from sequestration, the Secretary of Veterans Affairs and the President's other senior advisers will recommend that the bill be vetoed.

S. 2100 also contains other objectionable provisions, which the Administration will seek to correct during House consideration of the bill. The most seriously objectionable provisions would:

Extend the presumption of service-connection for radiation-exposure to veterans who participated in certain military activities. The Administration believes that compensation benefits should only be awarded after considering documented radiation dose and be based on scientific and medical evidence. Section 113 could have disastrous consequences on future military projects and harm our national securitiy.

Create statutory presumptions of service-connection for Agent Orange among Vietnam veterans who suffer non-Hodgkin's lymphoma or soft-tissue sarcomas. VA has already utilized its authority to decide cases involving these diseases. Presumptions, without scientific evidence, as contained in Section 122, undermine the principle that there exists a relationship between service and disability.

Direct VA to furnish priority medical care to any veteran of a war who seeks treatment for post-traumatic stress disorder (PTSD). Section 201 bypasses VA's adjudication process and treats the veteran with PTSD as service-connected even though service-connection had not been granted. In addition, it would, for the first time, give certain veterans a priority for care based on a particular diagnosis without regard to those veterans' actual need.

The Administration supports the bill's provisions providing an annual increase in the rates of compensation for service-disabled veterans and the survivors of veterans who die as a result of service.

Mr. **MURKOWSKI**. The letter states that the administration will, if Senate bill 2100 contains the provisions to totally and permanently exempt the VA medical care account from Gramm-Rudman—that OMB will recommend a veto.

It is the hope of the Senator from Alaska that my colleagues consider this administration statement during consideration of this provision recommending a Gramm-Rudman exemption. In any event, the bottom line of the letter is that they will recommend a veto to the President.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **AKAKA**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **AKAKA**. Mr. President, I want to make a short statement. I appreciate all the remarks of my friends from Alaska and Wyoming. They both have complained they oppose proceeding with this bill because its estimated total costs are about $600 million.

Of course, they must recognize that nearly $400 million of that amount is for the compensation COLA, which they both, and all of us, support. They also say we should not proceed with this bill because our committee has to achieve $620 million in savings in reconciliation. Our committee will do that and they are working on it right now. We will meet our reconciliation requirements. But that does not mean we must stop trying to meet important combat-related and other service-related needs, as this bill would.

Again, I urge all Members to allow us to proceed on this bill.

The Senator from Alaska earlier read a letter from Secretary Derwinski about this bill. I respect the Secretary, who is also a friend of mine. I respect his point of view, although I do not agree with it. I want to note this in closing. He wrote: "I hope I can count on your support to correct these major deficiencies of S. 2100."

Clearly, Secretary Derwinski anticipated action on this bill; not inaction. Let us test the support for the Secretary's position. Let us proceed to the bill.

Mr. President, my colleague from Alaska has raised issues relating to the budget. I can assure the Senator our committee is planning to, and will comply with our reconciliation instructions. We will also comply with all other budget requirements.

Mr. President, I ask the Senator from Alaska whether he is now prepared to proceed with the consideration of this bill? I yield to the Senator from Alaska.

Mr. **MURKOWSKI**. I ask the Chair for clarification. Do I understand the Senator from Hawaii proposed proceeding with the bill? I was temporarily distracted. I apologize.

The **PRESIDING OFFICER**. The Chair informs the Senator from Alaska that the pending matter before us is on the motion to proceed itself. The Chair is not aware of a request for a unanimous-consent agreement.

Mr. **MURKOWSKI**. I thank the Chair. I feel my inquiry has been responded to sufficiently. I am sorry I was distracted. I apologize to my colleague from Hawaii.

I yield the floor.

The **PRESIDING OFFICER**. Who seeks recognition?

Mr. **MITCHELL**. Mr. President, just so we understand, I previously asked consent to proceed to this bill to which objection was made by the assistant Republican leader.

Mr. **MURKOWSKI**. The majority leader is correct.

Mr. **MITCHELL**. I then moved to proceed to it, which is a debatable motion to proceed. It is our desire—and the debate is continuing—to proceed to the bill. We want the bill brought up, debated, and voted upon but are being prevented from doing so by objection on the Republican side which is, of course, perfectly within their rights. I understand the Senator from Alaska is merely reaffirming that objection at this time.

Mr. **MURKOWSKI**. The majority leader is correct.

Mr. **MITCHELL**. So we cannot bring the bill up because we cannot get consent from our Republican colleagues to bring the bill up.

Mr. President, there has been lengthy discussion on the subject this afternoon. I believe Members on both sides of the aisle have been able to express their view on whether or not we should be permitted to proceed to the bill.

So at this time, I understand that all of the Senators who wish to address the subject have done so, and it would be my suggestion that we discontinue the discussion for the evening, unless there is some Senator who wants further to address this subject.

I now inquire whether there is any other Senator who wishes to address the subject of the motion to proceed to the veterans' compensation COLA bill.

There being no response, it is my understanding, Mr. President, we still are not able to bring the bill up and we will have to return to this measure as best we can tomorrow and in future days. I hope we can work something out.

Does the Senator from Rhode Island wish to address the Senate on this subject?

Mr. **CHAFEE**. No. I say to the leader, Mr. President, that at the conclusion, I would like about 6 minutes in morning business, if I could. But proceed with the wrapup, and I will be perfectly prepared to close up.

Mr. **MITCHELL**. That is fine. We will be pleased to do that.

MORNING BUSINESS

Mr. **MITCHELL**. Mr. President, I ask unanimous consent that there be a period for morning business.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

TERRY ANDERSON

Mr. **MOYNIHAN**. Mr. President, I rise to inform my colleagues that today marks the 2,034th day that Terry Anderson has been held captive in Beirut.

All week we have read reports on the possible release of the British hostages in Lebanon. If today's message in the Lebanese newsletter, Akhbar al-Yom, is accurate, the hostages will be free next week. Indeed, this is welcome news. I rise today that in this time of great hope for the British captives, we keep all of the hostages held in Lebanon and their families in our thoughts and prayers.

I ask unanimous consent that an Associated Press article containing portions of the Akhbar al-Yom report be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Waite, Other Britons To Be Released

(By Mohammed Salam)

Beirut, Lebanon.—Anglican Church envoy Terry Waite and other Britons missing in Lebanon are to be released "before the end of next week," a newsletter with ties to Shiite authorities reported Wednesday.

The report in Akhbar al-Yom, or Today's News, could not be confirmed. It follows several Lebanese newspaper reports predicting the release of British captives.

"The final arrangements for the release of the British hostages held in Lebanon, topped by. . . . Terry Waite, are under way behind the scenes," Akhbar al-Yom reported, quoting two unidentified sources.

The Britons were "expected to be released before the end of next week," it said. The newsletter gave no other details.

The newsletter is published by a private news agency that is close to the highest Shiite Moslem religious authority in Lebanon, the Higher Shiite Islamic Council.

It seldom reports on the hostage issue, but has been fairly accurate when it does.

Most of the 13 Westerners missing in Lebanon are believed held by Shiite fundamentalists affiliated with the pro-Iranian Hezbollah, or Party of God.

The reports began to surface after the Sept. 30 restoration of diplomatic relations between Iran and Britain after a 19-month break.

Waite, 51, disappeared in Moslem west Beirut Jan. 20, 1987, after leaving his hotel for a meeting with representatives of Islamic Jihad, or Islamic Holy War..

The Shiite faction was at that time holding several Americans whose freedom Waite was seeking to negotiate. The group currently is known to hold journalist Terry Anderson and educator Thomas Sutherland.

Anderson, chief Middle East correspondent of The Associated Press, is the longest-held foreign capitive in Lebanon. He was kidnapped in west Beirut March 16, 1985.

No group has claimed to have kidnapped Waite. But Irishman Brain Keenan said when he was freed in August that he had been held with Waite for a while. Keenan's abduction also was unclaimed, but a shadowy group called the Organization of the Islamic Dawn announced his release in August.

The other missing Britons are journalist John McCarthy, World War II flying ace Jack Mann and Alec Collett, a New York-based writer.

A group calling itself the Revolutionary Organization of Socialist Moslems, believed linked to Palestinian terrorist mastermind Abu Nidal, claimed in April 1986 that it hanged Collett in retaliation for British support for U.S. air raids on Libya earlier that month. No body has been produced but British officials believe Collett is dead.

Four other Americans are hostages along with Anderson and Sutherland. Two Germans and an Italian are also being held.

A TRIBUTE—ROBERT J. HANNUM

Mr. **SPECTER**. Mr. President, on November 2, 1990, Robert J. Hannum, former chairman of the Cheltenham Township, Montgomery County, PA, Regular Republican Organization will be honored at the group's annual dinner. Bob Hannum well deserves this award. He has been an outstanding Republican leader.

But Bob Hannum has never allowed partisan politics to interfere with good government. As chairman of the county's board of commissioners, he has done an excellent job in serving all of the township's constituents. He is admired and respected by all for his unswerving commitment to this principle

It is the Bob Hannums of our political world who breathe life and vigor into our two-party system with their hard work, dedication, talents, and great competitive spirit. Without men and women like Bob Hannum, no Member of this body or its companion, the U.S. House of Representatives, could be successful. They are the military commanders in our battles to win elections.

But more important than winning any election for any single candidate, they work to keep our wonderful political system vibrant and in good health. They remind the individual voter of his obligation to try to put the best candidates in office. Sometimes their candidates win and sometimes they lose, but their efforts are never in vain. Our two-party political system always wins because of their endeavors.

Bob Hannum's whole life has been politics and serving the public through elected office. Still, he has found time to take wounded veterans from the Philadelphia Naval Hospital on fishing trips off the New Jersey shores.

As Bob Hannum is honored by his party in Montgomery County, PA, I call on the Members of this body and all Americans to remember the importance of his efforts and those of all political workers in keeping America's two-party system strong.

REDRESS PAYMENTS

Mr. **AKAKA**. Mr. President, nearly 45 years ago, America's last relocation camps closed their guarded gates for good. Yesterday, we closed a dark chapter in American history. Sixty thousand surviving Americans of Japanese ancestry are finally receiving token monetary compensation for their lost years of freedom and internment behind barbed wire during the Second World War.

I had the great honor yesterday to witness a most moving ceremony. Checks for redress payments were presented yesterday at the Department of Justice to six of our oldest surviving internees—all loyal Americans of Japanese ancestry. An additional 25,000 checks will be sent out after October 15. This symbolic act of redress has been long overdue.

During the darkest years of World War II, some 120,000 Americans lost their homes, their businesses, and their freedom—all because of their ancestry. They were sent to numerous relocation camps across the country.

But, our democracy is strong. We have recognized our mistakes. The Civil Liberties Act of 1988 reaffirmed our commitment to the Bill of Rights. In addition to compensating those interned the act extended a formal apology from the United States Government for the grave injustices and gross violations of civil liberties suffered by United States citizens and resident aliens of Japanese ancestry during the war. The denial of all civil rights and the degradation and humiliation suffered by Japanese-Americans were wholly unjustified.

Mr. President, not a single documented act of treason was committed by Japanese-Americans. In fact, one of our Nation's most highly decorated and honored military unit was the 442d Regimental Combat Team. Two Senators from Hawaii, Daniel K. Inouye and our late colleague Spark Matsunaga, were members of the "Go for Broke" team. This unit of Japanese-American soldiers suffered some of the heaviest casualties in Europe in the defense of our Nation. Yet, they watched as their family and friends were herded into detention camps ringed with barbed wire and sentry towers.

Mr. President, I am proud to have joined our late colleague and my dear friend, Senator Spark Matsunaga, in securing the redress entitlements for these many loyal and patient Americans. We close a dark chapter in our history on a bright note: Our democracy may not be perfect, but it is strong enough to recognize its mistakes and to right its wrongs. And for that, our Nation is a better country today.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. **BURDICK**, from the Committee on Environment and Public Works:

Report to accompany the bill (H.R. 2015) to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965 (Rept. No. 101-514).

By Mr. **HOLLINGS**, from the Committee on Appropriations, with amendments:

H.R. 5021. A bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes (Rept. No. 101-515).

By Mr. **HARKIN**, from the Committee on Appropriations, with amendments:

H.R. 5257. A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1991, and for other purposes (Rept. No. 101-516).

By Mr. **BYRD**, from the Committee on Appropriations:

Special report entitled "Allocation to Subcommittees of Budget Totals From the Concurrent Resolution for Fiscal Year 1991" (Rept. No. 101-517).

By Mr. **SASSER**, from the Committee on the Budget, without amendment:

S. 3181. A bill entitled the "Legislative Line Item Veto Separate Enrollment Authority Act" (Rept. No. 101-518).

By Mr. **LEAHY**, from the Committee on Appropriations, with amendments:

H.R. 5114. A bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes (Rept. No. 101-519).

By Mr. **KENNEDY**, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2054. A bill to amend the Public Health Service Act to authorize grants and contracts for projects providing primary pediatric care to disadvantaged children, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. **JOHNSTON**, from the Committee on Energy and Natural Resources:

Branko Terzic, of Wisconsin, to be a Member of the Federal Energy Regulatory

Commission for the remainder of the term expiring October 20, 1991.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominees commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BOREN, from the Select Committee on Intelligence:

Frederick Porter Hitz, of Virginia, to be Inspector General, Central Intelligence Agency.

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Sharon Percy Rockefeller, of West Virginia, to be a member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 26, 1992; and

Roscoe Burton Starek III, of Illinois, to be a Federal Trade Commissioner for the term of 7 years from September 26, 1990.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committees of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BURDICK:

S. 3176. A bill to promote environmental education, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BOSCHWITZ:

S. 3177. A bill to amend title 18, United States Code, relating to common carriers being operated by individuals under the influence of alcohol or drugs; to the Committee on the Judiciary.

By Mr. PRYOR (for himself and Mr. Heinz):

S. 3178. A bill to amend title XVIII of the Social Security Act to clarify coverage of eyeglasses provided with intraocular lenses following cataract surgery; to the Committee on Finance.

By Mr. SHELBY:

S. 3179. A bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States; to the Committee on Governmental Affairs.

By Mr. THURMOND (for himself, Mr. Biden, and Mr. Kennedy):

S. 3180. A bill to amend provisions of title 18, United States Code, relating to terms of imprisonment and supervised release following revocation of a term of supervised release; to the Committee on the Judiciary.

By Mr. SASSER:

S. 3181. A bill entitled the "Legislative Line Item Veto Separate enrollment Authority Act; from the Committee on the Budget; to the Committee on Governmental Affairs, pursuant to the order of August 4, 1977 for a period not to exceed 30 days.

By Mr. LAUTENBERG (for himself, Mr. Durenberger, Mr. Burdick, and Mr. Chafee):

S. 3182. A bill to address environmental issues; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KENNEDY:

S. Res. 335. A resolution to establish the Senate Bipartisan Consultative Group to encourage and facilitate consultation by the President with the Senate regarding Operation Desert Shield and the Persian Gulf crisis; to the Committee on Foreign Relations.

By Mr. DODD (for himself and Mr. Lugar):

S. Res. 336. A resolution commending the Government of Argentina for its contributions to international efforts to restore peace in the Persian Gulf; to the Committee on Foreign Relations.

By Mr. MURKOWSKI (for Mr. Boschwitz) for himself, Mr. Warner, Mr. Gorton, Mr. Murkowski, Mr. Heinz, Mr. Conrad, Mr. Heflin, and Mr. Cohen):

S. Res. 337. A resolution to express the sense of the Senate to encourage the purchase of recycled paper and paper products to the greatest extent practicable; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mr. BOSCHWITZ:

S. 3177. A bill to amend title 18, United States Code, relating to common carriers being operated by individuals under the influence of alcohol or drugs; to the Committee on the Judiciary.

OPERATION OF A COMMON CARRIER UNDER THE INFLUENCE OF ALCOHOL OR DRUGS

● Mr. BOSCHWITZ. Mr. President, I rise today to introduce the Common Carrier Impairment Prevention Act of 1990.

Mr. President, as I'm sure many of my colleagues are aware, recently three airline pilots were arrested in my State and charged with flying their aircraft while under the influence of alcohol. On board with the pilots were 93 passengers. The incident attracted national attention in the media. And in August, the pilots were convicted in Federal district court.

Although I am pleased with the outcome of the prosecution in this case, I am concerned that the statute under which the pilots were prosecuted is needlessly complicated, indeed may even violate a defendant's constitutional rights, and applies an inadequate standard for measuring impairment.

Current law assumes a pilot is under the influence of alcohol whenever that person has a blood alcohol content of at least .10 percent. Using this presumption, the Government then must establish the defendant's guilt under another section of the code.

In the case I just referred to, the prosecuting attorney did not attempt to use the presumption section of the code for two reasons. First, it raised the question of constitutionality. According to the Supreme Court decision in Francis versus Franklin, such a presumption may unconstitutionally shift the burden of proof to the defendant and away from the Government.

Second, the prosecution was concerned that the jury would take the .10 blood alcohol content level as a limit and find that any of the three defendants with a blood alcohol content below .10 was not guilty.

In thise case the prosecution was left with the more difficult task of proving "under the influence" and relying on the testimony of expert witnesses to prove the case.

Mr. President, my proposal will amend current law—United States Code, chapter 18—by creating separate Federal offenses for which a pilot could be prosecuted in place of the two-step process now in effect. My bill would make it unlawful for an individual with a blood alcohol content above .02 percent to operate or direct the operation of a common carrier. This would change current law in several ways. It would abolish the presumption language thereby avoiding constitutional flaws. Further, it would make it clear that blood alcohol content above a defined level, .02 percent, would by itself constitute a violation of Federal law.

In addition, my measure will make it unlawful for a person whose perception, mental processes, or motor functions are impaired due to the influence of drugs or alcohol to direct or operate a common carrier. This preserves the ability of Federal prosecutors to seek an indictment in the case where a pilot has a blood alcohol level below .02 percent, but who, nonetheless, is impaired through the consumption of alcohol or drugs.

With today's airways more congested and the aircraft more complex, we must do all that we can to ensure that the pilots who control the aircraft are capable of handling the job. The Federal aviation administration requires that airline captains undergo rigid physicals every 6 months, and the airlines spend hundreds of millions in continuous training to ensure that the pilots are able to perform at peak efficiency. To do its part, Congress must establish laws that act to deter any actions that would impair a pilot's ability to operate at their peak capability.

Mr. President, I believe that my Common Carrier Impairment Prevention Act of 1990 will help deter actions that would impair a pilot's ability to perform their duties. I ask my colleagues to join me in supporting this legislation.

Mr. President, I ask unanimous consent that the text of my bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3177

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT.

Section 342 of title 18, United States Code is amended to read as follows:

"§ 342. Operation of a common carrier under the influence of alcohol or drugs

"Whoever operates or directs the operation of a common carrier while—

"(1) having a blood alcohol content of .02 percent or more;

"(2) having in his or her system, a quantity of alcohol sufficient to impair the perception, mental processes, or motor functions of the average individual;

"(3) having in his or her system, a quantity of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802) sufficient to impair the perception, mental processes, or motor functions of the average individual; or

"(4) under the influence of alcohol or any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)),

shall be imprisoned not more than 15 years, or fined under this title, or both.".

SEC. 2. REPEAL.

Subject to section 3 of this Act, section 343 of title 18, United States Code, is repealed.

SEC. 3. MISCELLANEOUS.

Notwithstanding the amendment and repeal made by this Act, the provisions of sections 342 and 343 of title 18, United States Code, as in effect immediately prior to the date of the enactment of this Act, shall continue to apply to violations occurring prior to such date of enactment in the same manner and to the same extent as if this Act has not been enacted into law.●

By Mr. PRYOR (for himself and Mr. Heinz):

S. 3178. A bill to amend title XVIII of the Social Security Act to clarify coverage of eyeglasses provided with intraocular lenses following cataract surgery; to the Committee on Finance.

CLARIFYING COVERAGE OF CERTAIN EYEGLASSES

● Mr. PRYOR. Mr. President, as chairman of the Senate Special Committee on Aging, I am pleased to be joined by Senator Heinz in introducing today legislation that would preserve Medicare coverage for eyeglasses for the 1 million older Americans who undergo cataract surgery every year. This bill will not add to the budget deficit, but it prevents a cost shift of more than $98 million in additional out-of-pocket costs to the elderly.

Cataracts are a leading cause of vision impairment among older adults. However, with advanced eye care, sight can usually be improved when the clouded natural lens of the eye is surgically replaced with an artificial intraocular lens. To fully restore the vision lost to cataracts, eyeglasses must be prescribed to refine the gross correction achieved with the artificial lens. Since its enactment in 1966, the Medicare Program has paid for cataract eyeglasses as prosthetic devices since they replace the function of the missing natural lens of the eye.

Evidently, the administration plans to withdraw Medicare coverage for cataract eyeglasses. The legislation being introduced today will clarify the definition of prosthetic devices under Medicare to include the eyeglasses necessary after modern cataract surgery and will require the current policy covering both intraocular lenses and eyeglasses to be continued. To protect this benefit from the administration's budget cutting, we must clarify the Medicare law regarding coverage for corrective eyeglasses after cataract implant surgery.

Mr. President, the Leadership Council of Aging Organizations, representing advocacy and professional organizations for gerontologists, older Americans, and health care professionals in the field of aging, opposes withdrawing coverage for eyeglasses. Many of the council's member organizations endorse the legislation being introduced today, including the Families USA: Gray Panthers; the National Association of Area Agencies on Aging; the National Association of State Units on Aging; the National Caucus and Center on Black Aged, Inc.; the National Council of Senior Citizens; the National Council on the Aging; the National Hispanic Council on Aging; and the Older Women's League.

This legislation will protect a Medicare benefit that beneficiaries have had for nearly 25 years. I urge the rest of our colleagues to join us as cosponsors and in ensuring that this modest proposal is enacted into law.

Mr. President, I request unanimous consent that the text of the bill be inserted in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3178

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION. 1. CLARIFYING COVERAGE OF EYEGLASSES PROVIDED WITH INTRAOCCULAR LENSES FOLLOWING CATARACT SURGERY.

(a) Coverage as a Prosthetic Device.—Section 1861(s)(8) of the Social Security Act (42 U.S.C. 1395x(s)(8)) is amended by inserting before the semicolon at the end the following: "and including corrective eyeglasses provided with intraoccular lenses following cataract surgery".

(b) Clarification of Exclusion.—Section 1862(a)(7) of such Act (42 U.S.C. 1395y(a)(7)) is amended by inserting "(other than eyeglasses described in section 1861(s)(8))" after "eyeglasses" the first place it appears.

(c) Effective Date.—The amendments made by this section shall apply to items and services furnished before, on, or after the date of the enactment of this Act.●

By Mr. SHELBY:

S. 3179. A bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States; to the Committee on Governmental Affairs.

LANGUAGE OF GOVERNMENT ACT

Mr. SHELBY. Mr. President, the freedoms we enjoy in the United States are the envy of the world. For more than 200 years, people of every nationality, race and religious belief have come here to share in the riches of our land. How is it, that the United States has built such a strong society out of this melting pot of nationalities, races, and ethnic groups? It is a common language that has made communication, and more importantly, democracy possible.

The United States has debated for years whether its citizens should have an official language. This is not a new or radical concept. In June of this year, Alabama became the 18th State—joining Arizona, Arkansas, California, Colorado, Florida, Georgia, Hawaii, Illinois, Indiana, Kentucky, Mississippi, Nebraska, North Carolina, North Dakota, South Carolina, Tennessee, and Virginia in declaring english the official language of State government.

About half the nations of the world have official languages. In South America, Spanish is the official language of Ecuador, Honduras, Venezuela, and Paraguay. French is the official language of Haiti, Senegal, the Ivory Coast and Monaco. Other languages are used in these countries, but they have designated a language in which their governments function. That is what official language means: language of government.

The time has come for the United States to formulate a clear language policy. We need to make a commitment to English as our official language and to begin putting more resources into public and private institutions specifically for teaching English, by establishing a clear language policy we will be saying to all who come here and all who live here: to take full advantage of the economic, political and social life in our country, you should learn English.

There are those who maintain that by designating an official language, we will be saying that English is better than any other language. This is not the meaning of an official language and it is not the point of this bill. The issue is not about cultural identity. People of ethnic groups from all over the world have come to the United States, learned English and maintained their cultural ties to their country of origin. They have also assumed active roles in our society.

By approving English as the State's official language, the people of Alabama were reaffirming their belief in our common language. They were acknowledging the role English has played in forging this great Nation. Through our shared language, we communicate, we debate our differences and reach compromises, and we express the beliefs in freedom and individual rights that make us uniquely American.

The issue of official language is common sense. It is communication. It is whether Americans will continue to bridge the differences that could easily divide us. It is having one common element, amid our rich diversity, that gives us the essential tool for working within our communities and economy. A shared language provides a cultural guidepost that we must maintain for the sake of our unity, prosperity and democracy.

I am privileged to introduce legislation to designate English the official language of our government. The Language of Government Act affects only the language of public business, not private conversation. It does not affect the home, the church, or the community. It does not affect the home, the church, or the community. It will not affect emergency health services or translators in court cases. But it does affect the future of our Nation.

By Mr. THURMOND (for himself, Mr. Biden, and Mr. Kennedy):

S. 3180. A bill to amend provisions of title 18, United States Code, relating to terms of imprisonment and supervised release following revocation of a term of supervised release; to the Committee on the Juduciary.

IMPLEMENTING AND CLARIFYING CERTAIN RECOMMENDATIONS OF THE U.S. SENTENCING COMMISSION

● Mr. THURMOND. Mr. President, today I rise to introduce legislation which will implement various technical and clarifying proposals related to the revocation of supervised release and probation. This important measure is cosponsored by Senator Biden and Senator Kennedy. These proposals were suggested to me by the U.S. Sentencing Commission with the desire that they might be promptly enacted so that the supervised release component of sentences will function as Congress intended.

Regarding the history of the U.S. Sentencing Commission, in 1984, I worked with Senator Biden, Senator Kennedy, and other colleagues on the Judiciary Committee and in the Senate to formulate the Sentencing Reform Act which was enacted into law as part of the Comprehensive Crime Control Act of 1984. The Sentencing Reform Act focused on two major problems in the Federal criminal justice system: First, the disparity in sentences imposed on individuals convicted of similar crimes; and second, the actual time served by those convicted of crimes which was often much less than the sentence imposed. In an effort to address these problems, the Sentencing Reform Act created the U.S. Sentencing Commission. Its purpose is to formulate guidelines to be used by judges in the sentencing process. As a result of the Commissions efforts, people now convicted of similar crimes will serve similar sentences and the sentences imposed will reflect the actual time that must be served.

Despite the success of the Sentencing Commission and its guidelines, steps must be taken to ensure that it is free to carry out its duties and responsibilities. The legislation I am introducing today will enhance the Commission's ability to carry out its mandate.

Briefly, this legislation would make the following changes to current law. First, it would clarify that Federal courts retain the flexibility to order an additional period of supervised release following the imposition of a term of imprisonment for a violation of a condition of supervised release. This measure would also grant the Sentencing Commission greater flexibility in drafting sentencing guidelines for the sanctioning of offenders who, while on supervised release, are found in possession of a controlled substance. This greater flexibility will enable the Commission to draft guidelines and policy statements that best achieve the goals of consistency and proportionality that the sentencing reform act was intended to cover.

Finally, this bill provides that decisions to revoke supervised release should be based upon sentencing guidelines and policy statements issued by the Commission specifically for that purpose. The effect of this change would be to settle a split among the Federal courts on the issue of whether the guidelines applicable to initial sentencing of defendants also apply to probation revocation decisions.

In closing, the technical changes embodied in this legislation are consistent with original congressional intent under the Sentencing Reform Act. I believe this legislation will further the goals of the Sentencing Reform Act to provide uniformity in sentencing as well as assure that sentences will be served in their entirety.

For these reasons, I strongly urge my colleagues to closely review this legislation.

Mr. President, I ask unanimous consent that two letters I received from Judge William Wilkins, Chairman of the U.S. Sentencing Commission, detailing these technical amendments be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

U.S. Sentencing Commission,
Washington, DC, July 26, 1990.

Senator Strom Thurmond,
Ranking Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

Dear Senator Thurmond: I am pleased to transmit to you two legislative proposals that the Sentencing Commission approved for submission to Congress at its July 24, 1990, meeting. Although the proposals are primarily technical in nature, the Commission believes they would make a useful policy contribution to the proper, congressionally intended role of supervised release within the federal criminal justice system.

In brief, the Commission recommends the following changes:

(1) Ensure the Availability of Supervised Release Following Revocation (and Other Related Changes)—The Commission recommends that 18 U.S.C. § 3583(e)(3) be amended to clarify that courts retain flexibility to order an additional period of supervised release following the imposition of a term of imprisonment for a violation of a condition of supervised release. While current law can be read to allow this kind of flexibility already, a decision by the Ninth Circuit has recently rejected such a construction—although the court acknowledged as a policy matter that its decision appeared to run counter to the purposes of the supervised release statute. The proposed amendment would help ensure the more flexible reading the court favored for policy reasons and the Commission also believes would better reflect congressional intent in this area. Other subsections of the proposed amendment are designed to complement the central feature just described or to effect a purely technical change.

(2) Provide Flexibility as to the Amount of Prison to be Served Upon Revocation for Drug Possession—The Commission also recommends that 18 U.S.C. § 3583(g) be amended to allow greater flexbility in sanctioning offenders on supervised release who are found to be in possession of a controlled substance. In this case, the greater flexibility would enable the Commission to draft guidelines and policy statements that best achieve the goals of consistency and proportionality that the Sentencing Reform Act was intended to foster. This proposal parallels and complements a similar provision is the Crime Control bill recently passed by the Senate pertaining to revocation of probation for drug possession.

A fuller explanation of these two amendments in included with the Commission's proposed amendment language enclosed with this letter. Because the recent court decision may lead to undesirable applications of the supervised release statute, the Commission recommends congressional action, especially on the first of these proposals, at the earliest opportunity. In addition, because the Commission expects to issue policy statement governing supervised release revocation this fall, timely passage of both of these proposals would also help enhance the effectiveness of the newly issued policy statements in achieving their intended objectives.

The Commission appreciates your assistance on this matter.

Sincerely,
William W. Wilkins, Jr.,
Chairman.

Proposals

PROPOSAL ONE: TO ENSURE THE AVAILIABILITY OF SUPERVISED RELEASE FOLLOWING REVOCATION (AND OTHER RELATED CHANGES)

Sec. 1. (a) Subsection (e)(3) of section 3583 of title 18, United States Code, is amended to read as follows:

"(3) revoke a term of supervised release, and require the person to serve in prison all or part of the term of supervised release authorized by statute for the offense of which the defendant was convicted without credit for time previously served on postrelease supervision, if it finds by a preponderance of the evidence that the person violated a condition of supervised release, pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation and to the provisions of applicable policy statements issued by the Sentencing Commission, except that a person whose term is revoked under this paragraph may not be required to serve more than 3 years in prison if the offense for which the person was convicted was a Class B felony or more than 2 years in prison if the offense was a Class C or D felony.".

(b) Subsection (e)(5) of section 3583 of title 18, United States Code, is redesignated as subsection (e)(4).

(c) Section 3583 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(h) Where a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3) of this section, the court may include the requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such term of supervised release shall not exceed the term of supervised release authorized by statute for the offense of which the defendant was convicted, less any term of imprisonment that was imposed upon revocation of supervised release.".

PROPOSAL TWO: TO PROVIDE FLEXIBILITY AS TO THE AMOUNT OF PRISON TO BE SERVED UPON REVOCATION FOR DRUG POSSESSION

Sec. 1. Subsection (g) of section 3583 of title 18 United States Code, is amended to read as follows:

"(g) Possession of controlled substances. If the defendant is found by the court to be in the unlawful possession of a controlled substance, the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3) of this section."

Explanation Of Amendments to Ensure Availability of Supervised Release Following Revocation

PROPOSED SUBSECTION 1(a)

This subsection amends 18 U.S.C. § 3583(e)(3) to authorize a court to order a defendant, upon revocation of his or her term of supervised release, to serve a period of imprisonment not exceeding the maximum period of supervised release that initially could have been imposed under the statute. In contrast to the proposed amendment, the maximum period of imprisonment that may be ordered upon revocation of supervised release under current law generally may not exceed the term of supervised release actually imposed at the original sentencing.[1] The proposed amendment retains the present limitation in § 3583(e)(3) that the maximum period of imprisonment ordered upon revocation may not exceed three years if the defendant was originally sentenced for a Class B felony, or two years if the defendant was sentenced for a Class C or D felony.

The provision is designed to complement a proposed new subsection 3583(h) that expressly authorizes a court to order further supervision after the defendant completes a prison term that has been imposed for violating a condition of supervised release. The amendment also would permit courts greater flexibility to impose imprisonment sanctions for serious violations of the conditions of supervised release, without being limited by the maximum of the original term of supervised release imposed. The modification avoids anomalies that otherwise may result under the current statute. For example, Defendant X, convicted of a B felony and given a one-year (below-guideline) term of supervised release, commits a serious violation of his supervised release term; upon revocation, he could be ordered to serve no more than one year in prison (unless the court first extended the term to three years or more, a bifurcated procedure that is to say the least, more cumbersome). Defendant Y, also convicted of a B felony and given a three-year term of supervised release, violates an equally serious condition of supervised release; under current law, he could be ordered to serve up to three years in prison. Under the proposed amendment, a court would have equal flexibility to order a three-year period of imprisonment for each defendant.

The proposed also maintains a proper relationship between alternative sanctions, ensuring that extending the term of supervision would be used as a less punitive sanction than revocation, whereas the converse may be true under current law. Without this change, a defendant subject to a short period of supervised release who commits a serious violation warranting revocation would potentially face less imprisonment time than another defendant who committed a less serious violation but whose term of supervised release had previously been extended for minor violations.

While the proposal may on the surface appear to increase widely the potential prison exposure for defendants, in actual practice this effect would be quite limited due to the fact that current sentencing guidelines require minimum supervised release terms equal or greater to the maximum imprisonment sanction authorized under the statute (unaffected by this proposal) for all offenses except Class A felonies. Thus, the only types of cases potentially affected by this change will be defendants who have been sentenced for Class A felonies who are given supervised release terms less than the statutory maximum and those who are given a period of supervised release less than required by the guidelines.

PROPOSED SUBSECTION 1(b)

In order to correct a technical error in the existing statute, subsection (e)(5) is redesignated as subsection (e)(4).

PROPOSED SUBSECTION 1(c)

This subsection provides clear authority for a court, in appropriate cases, to order a further period of supervision upon release from imprisonment when supervised release is revoked. While an argument can be made that the present statute already permits a court, at a minimum, to order a defendant to recommence the unexpired portion of a term of supervised release, the Ninth Circuit of Appeals has recently held to a contrary. See *United States* v. *Behnezhad*, No. 89-10529 (9th Cir. July 3, 1990). The court recognized that the policy result of its holding was undesirable, stating:

"Since there would be great virtue and much benefit to all concerned if courts were given more flexibility in this area, we embrace this result with velleity. Nevertheless, embrace it we must for Congress has spoken."

The authority to impose further supervision following revocation would appear to best serve the purposes of the supervised release scheme. Absent such flexibility, courts may be reluctant to revoke supervised release, even in the face of serious breaches of supervision conditions, because doing so could lead to an early expiration of criminal justice control; once the prison term imposed upon revocation were served, the defendant would be unsupervised even though his conduct could well demonstrate to the court an even greater need for supervision than at the defendant's original sentencing. Thus, an offender serving a lengthy supervised release term—for example, 10 years (as is possible for some controlled substance offense)—who violated a condition requiring a short period of re-imprisonment—for example, 90 days—would have virtually the entire 10-year supervised release term extinguished if he committed the violation early in the term. Indeed, this possibility arguably may encourage violations of supervised release conditions. Alternatively, this result may compel some courts to impose a longer period of imprisonment than otherwise would be needed to punish the violation, in order to maintain criminal justice control since post-release supervision would not be available.

The proposed change seeks to avoid presenting the court with the choice between doing too little and doing more than necessary by permitting the court to order a further term of supervised release following an imprisonment sanction. The length of this additional term of supervision could not exceed the maximum term of supervised release originally imposable under amended subsection (e)(3), as reduced by any period of imprisonment the defendant served upon revocation. Furthermore, a defendant could only be ordered to resume supervised release if he had served less time in prison upon revocation than the maximum allowed under subsection (e)(3) (i.e., less than three years for a B felony, less than two years for a C or D felony, less than one year for a Class A misdemeanor). This ensures that revocation will be a statutorily available sanction at all times that a defendant is serving a period of supervised release.

Among conceivable policy choices, this proposal strikes a middle ground. At one extreme of the policy options, a court could be empowered to impose an entirely new term of supervised release undiminished by any period of imprisonment served as a revocation sanction. This option could result, however, in a defendant remaining on supervised release indefinitely. At the other extreme, a defendant could be given credit for both time on supervision plus time in prison following revocation. This option, perhaps available under existing law (reading the statute differently from the Ninth Circuit construction), provides less flexibility for the court and would undermine the objective of providing a period of post-imprisonment supervision for defendants.

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[1] An exception to this rule would occur if, pursuant to § 3583(e)(2), the court had extended the term of supervised release beyond the original term imposed. In this case, current law would allow a court to order that an offender serve in prison all or part of the extended term upon revocation.

Under this middle-ground proposal a defendant will fullfill his supervised release requirement by either satisfactorily serving the period of supervision (as it may be extended, or imposed following imprisonment upon revocation) or upon revocation(s), by serving in prison the maximum period allowed by law. The proposal, therefore, embodies a "declining balance" approach to the satisfaction of a supervised release obligation under which both the maximum prison sanction available upon revocation and the maximum period of additional supervision that may be mandated following imprisonment are progressively reduced by any period of additional imprisonment the defendant is ordered to serve upon revocation.

EXPLANATION OF AMENDMENT ON REVOCATION FOR DRUG POSSESSION

The Commission also recommends an additional, unrealated amendment to 8 U.S.C. § 3583(g), pertaining to mandatory revocation for a defendant found by the court to have possessed a controlled substance. The proposal would retain the mandatory revocation requirement but would eliminate the requirement that the defendant be ordered to serve in prison at least one-third of the term of supervised release.

The existing "one-third" requirement arbitrarily bases the sanction on the length of the term of supervised release to which the defendant is subject, rather than on the seriousness of the violation and is unnecessary in a system in which court revocation decisions are structured by sentencing guidelines. In determining the length of an imprisonment sanction to be imposed upon revocation on a defendant found in unlawful possession of a controlled substance, the court is required to consider any applicable guidelines or policy statements issued by the Sentencing Commission. These Commission pronouncements, in order to be consistent with the statute, necessarily must require revocation of supervised release for illegal drug possession and can better ensure consistency and proportionality of punishment for such violations.

Additionally, the new language substitutes the term "revoke" for the existing term "terminate" and inserts the word "unlawful" before "possession" in order to clarify the intent of the provision.

U.S. SENTENCING COMMISSION,
Washington, DC, August 24, 1990.

Senator STROM THURMOND,
Ranking Member, Committee on the Judiciary, Washington, DC.

DEAR SENATOR THURMOND: On July 26, 1990, I transmitted to you two technical and clarifying legislative proposals relating to the revocation of supervised release that the Sentencing Commission recommends for prompt enactment so that the supervised release component of sentences will function as Congress intended. Subsequent events have led the Commission to supplement those proposals with the attached proposed clarification of the statute on revocation of probation to ensure this sanction also will be applied consistent with Congressional intent.

Specifically, the Commission recommends minor modifications to 18 U.S.C. § 3565, pertaining to revocation of probation, and to 18 U.S.C. § 3553, pertaining to factors to be considered by courts in the imposition of sentence. The clarifying language will provide that revocation decisions are to be based upon sentencing guidelines and policy statements issued by the Commission specifically for that purpose, thereby negating any implication in current statutory language that the guidelines applicable to the initial sentencing of defendants also apply to probation revocation decisions.

Since the Commission is instructed under 28 U.S.C. § 994(a)(3) to issue guidelines or policy statements for the revocation of probation and supervised release, we believe Congress clearly intended that these guidelines or policy statements, rather than those applicable to initial sentencing, be used by courts when sanctioning probation (or supervised release) violators. However, on July 31, 1990, the U.S. Court of Appeals for the Eleventh Circuit, without any discussion of this express directive to the Commission, held in *United States* v. *Smith*, No. 89-8226, that the guideline range applicable to the initial sentencing decision also constrains the court when it revokes probation. In particular, the court held that the provision of 18 U.S.C. § 3565(a)(2) authorizing a court upon revocation of probation to "impose any other sentence that was available . . . at the time of the initial sentencing" does not encompass any other sentence authorized by statute but, rather, encompasses only a sentence authorized by statute that is within the guideline range applicable at the defendant's initial sentencing decision. Moreover, the court interpreted the statute to preclude a court from considering the probation violation itself as a basis for sentencing above the original guideline range applicable at the defendant's initial sentencing.

As a result of the court's holding, courts in the Eleventh Circuit will be constrained by a guideline range that, in our view, will be inadequate to sanction probation violations appropriately in many cases. Additionally, in some cases (for example, those in which the defendant was sentenced to probation with a condition of jail confinement for a period of time) a defendant will be subject to little or no imprisonment sanction even where there was a serious breach of probation conditions. Nevertheless, while we believe the Eleventh Circuit decision is plainly contrary to sound policy and congressional intent, we cannot say it is an implausible reading of the statute or that other courts may not come to a similar conclusion.

Furthermore, to the extent this view of the law is sustained, it will impede Commission plans to implement a system of policy statements for revocation decisions, preparatory to issuing guidelines for revocation at a future date. Toward this end, the Commission has just approved a set of policy statements to guide courts in making decisions regarding the revocation of probation and supervised release and plans to distribute them in the next several weeks. The Eleventh Circuit decision in *Smith* would appear, however, effectively to block courts in that circuit from using these policy statements for probation revocation decisions.

The attached proposed legislative change modifies the statutory language upon which the Eleventh Circuit rested its decision to promote an interpretation that is consistent with Congressional intent under the Sentencing Reform Act. It specifically references the guidelines or policy statements issued by the Commission under 18 U.S.C. § 994(a)(3) to remove any doubt that these pronouncements—not those applicable to initial sentencing decisions—are the appropriate reference for revocation purposes.

The Commission recommends congressional enactment of this probation revocation proposal, as well as the proposals on supervised release revocation previously transmitted, at the earliest opportunity.

If I can provide any additional information with respect to any of these proposals, please do not hesitate to contact me, or have your staff contact John Steer, the Commission's General Counsel at 626-8500.

Sincerely,

WILLIAM W. WILKINS, Jr.,
Chairman.

PROBATION REVOCATION PROPOSAL

Sec. 1. (a) Subsection (a)(2) of section 3565 of title 18, United States Code, is amended by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting in lieu thereof "resentence the defendant under the provisions of subchapter A of this chapter".

(b) Subsection (a)(4) of section 3553 of title 18, United States Code, is amended by inserting "(A)" after "established for" and by inserting at the end prior to the semicolon ", or (B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(3)".

2. Note: Conforming changes also to be made in 18 U.S.C. § 3565 (a) and (b), taking into account pending crime bill provisions.

§ 3565. Revocation and probation

(a) Continuation or revocation.—If the defendant violates a condition of probation at any time prior to the expiration or termination of the term of probation, the court may, after a hearing pursuant to Rule 32.1 of the Federal Rules of Criminal Procedure, and after considering the factors set forth in section 3553(a) to the extend that they are applicable—

(1) continue him on probation, with or without extending the term of [1] modifying or enlarging the conditions; or

Notwithstanding any other provision of this section, if a defendant is found by the court to be in possession of a controlled substance, thereby violating the condition imposed by section 3565(a)(3), the court shall revoke the sentence of probation and sentence the defendant to not less than one-third of the original sentence.

§ 3553. Imposition of a sentence

(a) FACTORS TO BE CONSIDERED IN IMPOSING A SENTENCE.—The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection. The court in determining the particular sentence to be imposed shall consider—

(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

(2) the need for the sentence imposed—

(A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;

(B) to afford adequate deterrence to criminal conduct;

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[1] So in original. Probably should be "or".

(C) to protect the public from further crimes of the defendant; and

(D) to provide the defendant with needed educational or vocational training, medical care, to other correctional treatment in the most effective manner;

(3) the kinds of sentences available;

(4) the kinds of sentence and the sentencing range established for (A) the applicable category of offense committed by the applicable category of defendant, as set forth in the guidelines that are issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1) and that are in effect on the date the defendant is sentenced, or (B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(3);

(5) any pertinent policy statement issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(2) that is in effect on the date the defendant is sentenced;

(6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and

(7) the need to provide restitution to any victims of the offense.

EXPLANATION OF PROBATION REVOCATION PROPOSAL

Subsection (a) amends 18 U.S.C. § 3565(a)(2) by deleting language instructing a court upon revocation of probation to "impose any other sentence that was available under subchapter A at the time of the initial sentencing." In lieu of this language, the court would be authorized to "resentence the defendant under the provisions of subchapter A of this chapter." The phrase "available under subchapter A at the time of the initial sentencing" recently was erroneously construed by the Court of Appeals for the Eleventh Circuit in *United States* v. *Smith*, No. 89-8226 (July 31, 1990) to mean a sentence in accordance with the sentencing guidelines applicable at initial sentencing of the defendant. In contrast, the substitute language would permit courts to resentence a defendant whose probation sentence is revoked to another statutorily authorized sentence—i.e., a sentence authorized under sections 3551-3559 of title 18.

Although the substitute language deletes the phrase "at the time of the initial sentencing," the ex post facto clause of the Constitution nevertheless would prevent a defendant whose probation is revoked from facing a greater statutory penalty than authorized under statutes in effect when the original offense was committed. The term "resentence" in the substitute proposal is appropriate because, under the Sentencing Reform Act, probation is a sentence; therefore, when a probation sentence is revoked, the defendant must be "resentenced."

Subsection (b) of the proposal amends 18 U.S.C. § 3553(a)(4)—factors to be considered in imposing sentence—to provide a direct reference to Sentencing Commission guidelines or policy statements applicable to revocation decisions. The proposed amendment makes it clear that it is the guidelines or policy statements issued specifically to guide revocation decisions, and not the guidelines and policy statements applicable at initial sentencing, that govern court decisions when considering violations of probation or supervised release. Current statutory language in section 3553 contains no reference to guidelines or policy statements issued by the Commission pursuant to 28 U.S.C. § 994(a)(3), the paragraph authorizing and directing the Commission to promulgate guidelines or policy statements for the revocation of probation and supervised release.[1] Thus, under current law, although the Commission is directed to issue such pronouncements, there is no analogous directive in section 3553 requiring court consideration of these particular guidelines or policy statements. The proposed amendment corrects this omission and incorporates court consideration of Commission guidelines or policy statements for revocation decisions into the sentencing scheme of this chapter of the Sentencing Reform Act.

Concurrent with the above proposed amendments, conforming changes should be made in the last sentence of 18 U.S.C. § 3565(a) and in 18 U.S.C. § 3565(b). These conforming changes will need to be coordinated with pending amendments to these subsections contained in Senate and House versions of the Comprehensive Crime Control Act of 1990.

UNITED STATES OF AMERICA, PLAINTIFF-APPELLEE, v. PHILBERT RAY SMITH, DEFENDANT-APPELLANT

[No. 89-8226 Non-Argument Calendar]

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

1990 U.S. App. LEXIS 12850

JULY 31, 1990.

PRIOR HISTORY: [*1]

Appeal from the United States District Court or the Southern District of Georgia. No. CR488-76; Vining, Judge.

Counsel: W. Douglas Adams, Brunswick, Georgia, for Defendant-Appellant. Kathryn M. Aldridge, AUSA, Savannah, Georgia, for Plaintiff-Appellee.

Judges: Tjoflat, Chief Judge, Clark, Circuit Judge, and Henderson, Senior Circuit Judge.

OPINION BY: TJOFLAT

Opinion: Philbert Ray Smith appeals from an order of the district court revoking his probation and sentencing him to a term of incarceration. We vacate Smith's sentence and remand the case to the district court of resentencing.

I.

On August 15, 1988, Smith pled guilty to an information charging him with possession of counterfeit United States currency in violation of 18 U.S.C. § 472 (198, for which the maximum statutory term of imprisonment is fifteen years. Because the offense occurred after November 1, 1987, Smith's sentence was governed by The Sentencing Reform Act of 1984, Pub.L. No. 98-473, 98 Stat. 1987 (codified, as amended, in scattered sections of 18 and 18 U.S.C.), and the sentencing guidelines promulgated thereunder, see United States Sentencing Commission, Guidelines Manual (West Nov. 1989) (hereinafter Sentencing Guidelines). Under the guidelines, [*2] the base offense level for offenses involving counterfeit currency is 9. See id. § 2B5.1(a). In his presentence investigation report, to which neither party objected, the probation officer adjusted the offense level upward by two levels based on defendant's role as an organizer of the two-person scheme to pass counterfeit bills, see id. § 3B1.1(c), and downward by two levels based on his acceptance of responsibility, see id. § 3E1.1(a), for a total offense level of 9. The probation officer placed Smith in Criminal History Category I. The applicable sentencing range, therefore, was from four to ten months of imprisonment, see id. ch. 5, pt. A sentencing tbl. & commentary. Because the minimum term of imprisonment specified by the sentencing table was between one and six months, Smith was eligible for probation provided he served a term of community confinement. See id. § 5B1.1, 5C2.1(c)(2), 5C2.1(e)(2). On November 21, 1988, the district court implicitly adopted the probation officer's guideline application and imposed a sentence of three years' probation, with four [1] months to be spent at a community treatment center, on the condition that, inter alia, Smith [*3] remain drug-free.

Smith entered the Chatham County Communty Treatment Center in December 1988. Two drug tests administered while Smith was at the Center revealed the presence of drugs in his urine. Smith was expelled from the Center after the second test, and his probation officer petitioned the court for revocation of Smiths probation. The probation officer appended to the petition a report on Smith's conduct while on probation and recommended a new sentence of eighteen months' imprisonment followed by a two-year term [*4] of supervised release. The recommended sentence was calculated by applying the sentencing guidelines as follows:

Total offense level for the offense of conviction: 9.

Base offense level for the conduct that violated probation: [2] +4.

Adjustments: +/−0.
Total: 13.
Criminal History Category: 1.
Applicable Guideline.
Range: 12-18 months.
Sentence Recommendation: 18 months.

On March 6, 1989, the district court held a hearing and revoked Smith's probation. The court correctly noted that the guidelines do not specify how a court is to proceed after revoking a guideline sentence of probation, see id. ch. 7, then stated: "[T]here being no [*5] guidelines [on resentencing after probation revocation], the Court then reverts to the statutory maximum for the underlying offense, in this case possession of counterfeit bills. The maximum punishment prescribed by statute for that is fifteen years." The court then implicitly adopted the probation officer's recommendation and imposed a prison term of eighteen months followed by a period of supervised release not to exceed three years.

II.

In this case of first impression for the courts of appeals, Smith argues that the district court erred (1) in holding that the guidelines do not apply to probation revocation proceedings and (2) in imposing a prison sentence (eighteen months) that exceeds the one originally available under the guidelines at the time of initial sentencing (four to ten months). We agree.

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[1] Paragraph (4) of section 3553(a) requires courts to consider guidelines for initial sentencing decisions issued by the Commission under 28 U.S.C. § 994(a)(1). Paragraph (5) of section 3553(a) requires courts to consider policy statements issued by the Commission under § 994(a)(2).

[1] Under the Comprehensive Crime Control Act of 1984, probation is a type of sentence in and of itself. See 18 U.S.C. § 3581 (1988); S. Rep. No. 225, 98th Cong., 2d Sess. 88, reprinted in 1984 U.S. Code Cong. & Admin. News 3182, 3271. Under prior law, the court would either (1) suspend the imposition of sentence and put the defendant on probation, or 92) impose a prison sentence, suspend its execution, and put the defendant on probation. See 18 U.S.C. § 3651 (1982) (repealed 1986).

[2] See Sentencing Guidelines § 2D2.1(a)(3) (base offense level of 4 for possession of controlled substances not covered specifically by other subsection).

The statute governing probation revocation provides in relevant part:.

(a) Continuation or Revocation.—If the defendant violates a condition of probation at any time prior to the expiration or termination of the term of probation, the court may, after a hearing pursuant to Rule 32.1 of the Federal Rules of Criminal Procedure, and after considerating the factors set forth in [*6] [18 U.S.C.] section 3553(a) to the extent that they are applicable—.

(1) continue him on probation, with or without extending the term [or] modifying or enlarging the conditions; or

(2) revoke the sentence of probation and impose any other sentence that was available under subchapter A [18 U.S.C. § 3551-3559] at the time of the initial sentencing.

18 U.S.C. § 3565 (1988) (emphasis added).[3]

At the time of Smith's initial sentencing, the district court was required to apply the guidelines. Thus, the guidelines, as well as the statutory maximum for the offense of conviction, determined what sentences were "available" at that time. [*7] Before the district court could impose a proper sentence under the guidelines, it has to make findings of fact concerning Smith's total offense level and criminal history category, which it did by adopting the findings in the probation officer's original report without objection from either party. Naturally, the facts established at the time of inital sentencing could include only conduct that had already occurred. Because the conduct that constituted a probation violation had not yet occurred, no upward adjustment in Smith's total offense level could have been based on that conduct, and the longer sentence of imprisonment resulting from such an adjustment was therefore not "available." Thus, pursuant to section 3565, the guidelines control the imposition of a new sentence after probation revocation in the sense that the original determinations of total offense level and criminal history category, based upon relevant facts established at the time of sentencing, delimit the sentences that were then available. The probation officer's use of the guidelines—adding the base offense level for the post-sentencing conduct that violated probation to the total offense level for the offense [*8] of conviction—was clearly incorrect in light of section 3565.

The relevant facts before the court at the time of initial sentencing also determine whether and to what extent the district court may depart from the guidelines after probation revocation. If at that time the court had before it information that would have justified a departure, the court may revisit those facts and, based upon them, may choose to depart when imposing the new sentence. In such a case, the sentence departing from the guidelines was available at the time of initial sentencing, although the court did not at that time choose to depart or event to identify the information that supported a possible departure. The proper extent of the departure (subject to the statutorily prescribed sentencing range) depends, of course, upon the relevant sentencing facts originally before the court rather than on the conduct that constituted the probation violation.

This is not to say that post-sentencing conduct is irrelevant to probation revocation proceedings. Where revocation is not mandatory, the district court[4] may certainly consider such conduct when deciding whether to revoke probation or to continue it, either [*9] on the same or different terms, see id. § 3563(c), 3565(a)(1). Furthermore, after revoking probation, the district court has discretion to impose a new sentence within the applicable range prescribed by law, i.e., statute and guidelines, at the time of initial sentencing—in this case, within a range of four to ten months. Common sense suggests that the court ought to be able to consider the conduct giving rise to revocation (i.e., post-sentencing conduct) in deciding what sentence to select within the guideline range or even whether to depart from the guidelines, provided the conduct justifying departure (i.e., pre-sentencing conduct upon which departure could have originally been based) was brought to the court's attention at the initial sentencing hearing. Similarly, where a term of supervised releae is discretionary, see Sentencing Guidelines § 5D1.1(b), the court ought to be able to consider the probation violation in deciding whether to impose such a term. And whether supervised release is discretionary or mandatory, see id. § 5D1.1(a), the court should be able to consider the violation in determining the conditions, and within the range prescribed [*10] by law, the duration of the term, see id. § 5D1.2

In the case at hand, the district court's imposition of a three-year term of supervised release fell within the applicable sentencing range for a Class C felony. See id. § 5D1.2(b)(2) (offense is Class C felony if statutory term is from ten to twenty-five years). Supervised release is mandatory, however, only if a prison sentence of more than one year is imposed, see id. § 5D1.1(a); in such cases as the one at hand, where the applicable prison sentence is less than one year, the court has discretion with respect to supervised release, see id. § 5D1.1(b). In view of the court's erroneous imposition of a sentence exceeding one year, we cannot know whether the court would have imposed a term of supervised release had it exercised its discretion in the matter. Therefore, on remand, district court should decide not only where to sentence Smith within the four-to ten-month range but also whether [*11] to impose a term of supervised release, and, if the court so decides, its duration. For these purposes, the court may consider Smith's conduct on probation.

III.

For the foregoing reasons, we vacate Smith's sentence and remand the case to the district court for resentencing consistent with this opinion.

Vacated and remanded.●

ADDITIONAL COSPONSORS

S. 2044

At the request of Mr. BIDEN, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 2044, a bill to require tuna products to be labeled respecting the method used to catch the tuna, and for other purposes.

S. 2111

At the request of Mr. SIMON, the names of the Senator from Indiana [Mr. COATS], the Senator from Montana [Mr. BURNS], the Senator from Colorado [Mr. ARMSTRONG], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of S. 2111, a bill designating the month of May as "Asian/Pacific American Heritage Month."

S. 2637

At the request of Mr. REID, the names of the Senator from Pennsylvania [Mr. HEINZ] and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 2637, a bill to amend the Toxic Substances Act to reduce the levels of lead in the environment, and for other purposes.

S. 2729

At the request of Mr. CHAFEE, the names of the Senator from California [Mr. CRANSTON], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 2729, a bill to amend the Coastal Barrier Resources Act, and for other purposes.

S. 2754

At the request of Mr. BIDEN, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 2754, a bill to combat violence and crimes against women on the streets and in homes.

S. 2796

At the request of Mr. COHEN, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 2796, a bill to amend title IV of the Higher Education Act of 1965 to allow resident physicians to defer repayment of their title IV student loans while completing a resident training program accredited by the Accreditation Council for Graduate Medical Education or the Accrediting Committee of the American Osteopathic Association.

S. 2813

At the request of Mr. GRAHAM, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 2813, a bill to authorize the minting of commemorative coins to support the training of American athletes participating in the 1992 Olympic Games.

S. 2954

At the request of Mr. DODD, the names of the Senator from Delaware [Mr. BIDEN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Nebraska [Mr. KERREY], the Senator from Nevada [Mr. BRYAN], the Senator from Maryland [Ms. MIKULSKI], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 2954, a bill to place restrictions on United States assistance to El Salvador.

S. 3015

At the request of Mr. HOLLINGS, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 3015, a bill to amend title XVIII of the Social Security Act to improve the limitation on actual physicians' charges for unassigned claims.

S. 3025

At the request of Mr. GLENN, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 3025, a bill to amend titles 10 and 37, United States Code, to make members of the Armed Forces involved in Operation Desert Shield or similar operations eligible for certain benefits and to make members of the reserve components of the Armed Forces and retired members of the Armed Forces eligible for certain benefits when ordered to active duty in connection with a mobilization, and for other purposes.

S. 3032

At the request of Mr. AKAKA, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 3032, a bill to designate the planned Department of Veterans Affairs Medical Center in Honolulu, HI, as the "Spark M. Matsunaga Department of Veterans Affairs Medical Center."

S. 3095

At the request of Mr. BINGAMAN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 3095, a bill to authorize the creation of a national education report card to be published annually to measure educational achievement of both students and schools and to establish a National Council on Educational Goals.

S. 3148

At the request of Mr. DIXON, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 3148, a bill to condition funding for coproduction with South Korea of the F/A-18 aircraft on receipt by Congress of the relevant memorandum of understanding [MOU] and to extend the 30-day congressional review period until the MOU is received.

SENATE JOINT RESOLUTION 314

At the request of Mr. HEINZ, the names of the Senator from Nebraska [Mr. EXON], the Senator from Washington [Mr. ADAMS], the Senator from South Carolina [Mr. THURMOND], the Senator from Nevada [Mr. BRYAN], and the Senator from Montana [Mr. BURNS] were added as cosponsors of Senate Joint Resolution 314, a joint resolution to commemorate the 50th anniversary of the National Federation of the Blind.

SENATE JOINT RESOLUTION 350

At the request of Mr. BYRD, the names of the Senator from Kansas [Mr. DOLE], the Senator from Virginia [Mr. ROBB], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 350, a joint resolution to designate October 18, 1990, as "National Hardwood Day."

SENATE JOINT RESOLUTION 356

At the request of Mr. DOLE, the names of the Senator from Utah [Mr. GARN], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Arkansas [Mr. PRYOR], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Kansas [Mr. KASSEBAUM], the Senator from Michigan [Mr. RIEGLE], the Senator from Virginia [Mr. ROBB], the Senator from Wyoming [Mr. SIMPSON], the Senator from Washington [Mr. ADAMS], the Senator from Texas [Mr. BENTSEN], the Senator from Missouri [Mr. DANFORTH], the Senator from Arizona [Mr. DECONCINI], the Senator from Connecticut [Mr. DODD], the Senator from West Virginia [Mr. BYRD], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of Senate Joint Resolution 356, a joint resolution designating November 4, through 11, 1990, as "National Key Club Week."

SENATE RESOLUTION 296

At the request of Mr. ROTH, the names of the Senator from Kansas [Mr. DOLE], the Senator from Oklahoma [Mr. BOREN], the Senator from Rhode Island [Mr. PELL], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Resolution 296, a resolution to express the sense of the Senate the support of Taiwan's membership in the General Agreement on Tariffs and Trade.

SENATE RESOLUTION 335—RELATIVE TO OPERATION DESERT SHIELD AND THE PERSIAN GULF CRISIS

Mr. KENNEDY submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 335

Resolved, There is established within the Senate the Senate Bipartisan Consultative Group which shall be comprised as follows:

(a) the majority and minority leaders of the Senate, who shall serve as cochairmen;

(b) the chairman and ranking members of the Committee of Appropriations, the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate; and

(c) such other Members as the majority leader or the minority leader may designate from their respective parties.

SEC. 2. PURPOSE.—(a) The purposes of the Senate Bipartisan Consultative Group and to facilitate deliberations by the Senate and Executive-Legislative consultations on any decision regarding Operation Desert Shield and the Persian Gulf crisis, particulary any decision to initiate the use of armed force against Iraq or Iraq-controlled Kuwait, and to be available at all times to participate in such consultation.

(d) It is the sense of the Senate that the President should, not less than once each week, meet with the Senate Bipartisan Consultative Group regarding—

(1) the status of United States Armed Forces deployed in or around the Arabian Peninsula; and

(2) the development of United States policy and the achievement of United States objectives in bringing to an end the crisis in the Persian Gulf.

SEC. 3. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. KENNEDY. Mr. President, I share the growing concern of many Members of Congress that the administration is moving toward war in the Persian Gulf, before the possibilities for a peaceful settlement have been given the realistic chance they deserve.

The signs of war are ominous, and Congress cannot ignore them. The Bush administration has made two points increasingly clear in recent days—it intends to preserve the option of launching a military offensive against Iraq, and it has no intention of premitting Congress to participate in that decision, even though it may cost the lives of tens of thousands of Americans.

The Persian Gulf crisis is in danger of becoming a constitutional crisis, too. President Bush and his arrogant advisers seem to believe that they have the right to wage war without first obtaining a declaration of war from Congress, as the Constitution requires.

In effect, Congress and the President are like two ships passing in the night. Congress is heading home for the elections, and the President is heading for war—perhaps next week, perhaps next month, but almost certainly by the end of the year.

The drafters of the Constitution clearly intended that the use of the Nation's Armed Forces would be a shared power between the legislative and executive branches. Article I, section 8 gives Congress the power to declare war. Article II, section 2 makes the President the Commander in Chief of the Armed Forces. In the critical situation we are now facing in the Persian Gulf, it is especially important for Congress and the administration to respect and preserve this delicate constitutional balance.

Clearly, the President, as Commander in Chief, has the power to defend American forces against an Iraqi attack. But, equally clearly, an unprovoked offensive against Iraqi forces would be an act of war, pure and simple, requiring congressional approval in advance.

The Persian Gulf crisis is not a Vietnam-type situation. The administration gradually escalated our role in that war over a period of several years, while Congress acquiesced in each escalation. Even in the Vietnam war, however, President Johnson came to Congress and obtained the Gulf of Tonkin resolution that laid the basis for further escalation.

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[3] Section 3565, as amended in 1988, requires revocation when a defendant on probatios is found to be in possession of a controlled substance. See 18 U.S.C. § 3565(a). The terms of the amendment apply only to persons whose probations began after December 31, 1988, however, and therefore do not apply to this case. See Pub. L. 100-690, title VII, § 7303(d), 102 Stat. 4181, 4464.

[4] See, e.g., supra note 3; Sentencing Guidelines § 7A1.2(a).

In the current crisis in the Persian Gulf, massive armies are facing each other across a thin strip of desert. Both sides are on hair-trigger alert. If President Bush is looking for a pretext to launch an invasion, he can easily find one. But he cannot take that course and still be in compliance with the Constitution.

In recent weeks, many of us have raised these serious constitutional issues. But we have yet to receive adequate assurances that the administration will not go to war without first seeking the approval of Congress.

Virtually all of us in the Senate and the House of Representatives support the measures the President has taken so far. His prompt actions last August after Iraq invaded Kuwait may well have prevented Saddam Hussein from attacking Saudi Arabia. Since then, President Bush's skillful diplomacy has marshalled virtually unanimous support by the United Nations and the international community against Iraq's aggression.

But the administration has not been as forthcoming in its dealings with Congress. When the Senate and the House leadership suggested the formal establishment of a consultative group to involve Members of Congress in discussions on the crisis, the administration rejected the idea.

Following press reports that President Bush had consulted with Congress, many Senators took to the floor to refute the notion that they had been consulted. The chairman of the Senate Foreign Relations Committee, the chairman of the Subcommitte on the Near Eastern and South Asian Affairs, and members of the Armed Services and Intelligence Committees—all said they had not been consulted.

True, the administration has informed Congress of its decisions. But notification is not consultation. Often, we have learned more from the press than from the administration's briefings.

Secretary of Defense Richard Cheney, who ought to know better, has said that while it is important "that Congress be on board and supportive," a decision on the use of force is "best made by" the President. He even went so far as to say that "it was an advantage that Congress was out of town" when the initial troop deployments took place. As a result, Secretary Cheney said, the administration could do "what had to be done, rather than explaining it."

Last Wednesday, at a hearing in the Senate Judiciary Committee, I had the opportunity to ask the Deputy Secretary of State, Lawrence Eagleburger, about the administration's views on the need to seek approval from Congress, prior to any military action against Iraq. Despite repeated questioning, Mr. Eagleburger gave no assurance that such approval would be sought.

Many of us in Congress feel that it is premature and would be reckless to resort to force at this time in the Middle East. Strong international economic sanctions have been carefully set in place, and they should be given time to work.

To encourage the administration to respect the Constitution and seek the advance approval of Congress before taking the country into war, I am introducing a Senate resolution setting up a consultative group of Senators who will be available at all times to meet with the President in the remaining days of the session and while Congress is in adjournment. The group will be appointed by the majority and minority leaders; it will be bipartisan; it will be broadly representative of all viewpoints in the Senate; and it will hold regular weekly meetings during the adjournment of Congress.

We cannot force the President to consult with the Congress. But we can put a mechanism in place to enable him to do so—and I hope he will take advantage of it.

We may not be able to write legislation anticipating all the contingencies that may develop in the Persian Gulf. Clearly, the President does not need the prior approval of Congress to defend American forces against a surprise Iraqi attack. But surely we can send a strong message to the President that he does need such approval before he launches an invasion of Kuwait or Iraq.

The Constitution does not adjourn when Congress adjourns. Establishing this formal Senate group ensures that Congress will be available on short notice for consultations with the President on issues affecting war or peace in the Persian Gulf.

Establishing this group is the best insurance against an administration inclined to go it alone. It makes it more likely that Congress will be consulted before an irreversible decision is made, and not simply informed of a military action already underway, as has too often been the case in the past.

The President has no right to arrogate the war-making power to himself. It will be a gross abdication by Congress of our own responsibility if we fail to insist that President Bush must abide by the Constitution at this critical turning point in the life of the Nation, the Middle East, and the world.

This is not Panama or Grenada. We do not want to wake up one morning soon and find America at war in the desert because Congress put its head in the sand.

Mr. LUGAR. Mr. President, let me respond for a moment to a second debate that is occurring here. The distinguished Senator from Massachusetts has suggested that the President of the United States is pushing toward war in the Middle East without concurrence of the Congress. Each one of us, of course, has our own perceptions of the world and the current events. My own perception is that the President of the United States has been very thoughtful about looking to the United Nations for support of a new world order, of looking to the United Nations and conferring with our colleagues on the Security Council for very specific instructions that are made up in sanctioned resolutions passed by the United Nations. Those sanctioned resolutions, in some cases, imply that military force might be used if the mandates of the United Nations and the world order are not met; namely, withdrawal of Iraq from Kuwait.

Nevertheless, I think it is only fair to say that the President of the United States has sought resolutions of support from the U.S. Senate. For many days it was our preference not to act. In due course, the Senate did act and gave a degree of approval of the President's actions to date, as well as certain approval of what he could do in the future. We debated that issue, and I think the record will show it was not meant to be an open-ended mandate. The Senate fully expects to advise on these issues, and the President has been very thoughtful, in my judgment, in seeking that advice and counsel from many individual Members, as well as from institutional leaders in the body.

I point out, Mr. President, that the President has also been clear that Americans, wherever they are, are very important as individuals to him and to their country. The President has stated that an American, whether he be a soldier in uniform in Saudi Arabia, an American being utilized as a human shield, as a hostage in Iraq, or an American walking through the Washington National Airport who might be a victim of terrorism, an American everywhere is important to the President of the United States and to each other American.

It is important for Saddam Hussein and the leadership of Iraq to know that aggression against Americans will be met. That should not be ambiguous. Therefore, I have stated clearly, Mr. President, my understanding, at least of the current situation.

SENATE RESOLUTION 336—COMMENDING THE GOVERNMENT OF ARGENTINA FOR ITS EFFORTS TO RESTORE PEACE IN THE PERSIAN GULF

Mr. DODD (for himself and Mr. LUGAR) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 336

Whereas the Government of the Argentine Republic announced on September 18, 1990, its support for the resolutions of the United Nations Security Council imposing economic sanctions against the Government of Iraq and permitting the use of armed force, if necessary, to enforce the economic sanctions against Iraq;

Whereas the Government of the Argentine Republic also announced its decision to send military personnel—a "peace force"—composed of units from the Argentine Army, Navy, and Air Force to the region of the Persian Gulf to assist the international military force being assembled for the purpose of halting Iraqi aggression and enforcing the economic sanctions;

Whereas the Government of the Argentine Republic dispatched two Argentine warships on September 25, 1990, with a complement of 600 men to the gulf region to participate in the international peace force; and

Whereas the Government of the Argentine Republic is the only government in Latin America that has taken such concrete steps of support for this historic international effort;

Resolved, That it is the sense of the Senate that—

(1) The Government of the Argentine Republic should be congratulated for making such an important, if not historic, contribution to the international effort to halt Iraqi aggression, to enforce the economic sanctions and to restore peace to the region of the Persian Gulf;

(2) President Carlos Saul Menem of Argentina should be commended for his courage and leadership in taking the initiative to demonstrate concrete support inside Latin America for—and to send military forces from the armed services of Argentina to participate in—the international military task force being assembled in the Middle East for the purpose of halting Iraqi aggression, enforcing the economic sanctions, and restoring peace to the region of the Persian Gulf; and

(3) On behalf of the people of the United States, Secretary of State Baker should send a copy of this resolution—and should himself formally communicate these same sentiments—to the Foreign Minister of the Government of the Argentine Republic.

Mr. DODD. Mr. President, today on behalf of Senator LUGAR and myself I am submitting a Senate resolution commending the contributions of the Government of Argentina in international efforts to restore peace to the Persian Gulf following the reckless and dangerous aggression by Iraqi President Saddam Hussein.

On September 18, the Government of Argentina publicly endorsed the United Nations Security Council resolutions that called for the imposition of international economic sanctions against the Government of Iraq, and authorized the use of armed force if necessary to fully implement those sanctions. But that is not all. In addition, in an action which is virtually unprecedented among latin governments, the President of Argentina, Carlos Menem, announced that he would send Argentine military forces to the gulf to support international peace efforts. Following that announcement, President Menem quickly made good on that commitment by dispatching two Argentine warships with 600 military personnel to the Persian Gulf.

Mr. President, this was truly a courageous step on the part of the Government of Argentina and of President Menem. I believe that the Menem government deserves our recognition and commendation for it's political leadership in the region at this most critical moment. That is what the resolution that Senator LUGAR and I have just submitted today is intended to do. I believe it deserves the support of the full Senate.

SENATE RESOLUTION 337—ENCOURAGING THE PURCHASE AND USE OF RECYCLED PAPER AND PAPER PRODUCTS

Mr. MURKOWSKI (for Mr. BOSCHWITZ) (for himself, Mr. WARNER, Mr. GORTON, Mr. MURKOWSKI, Mr. HEINZ, Mr. CONRAD, Mr. HEFLIN, and Mr. COHEN) submitted the following resolution; which was placed on the calendar by unanimous consent:

S. RES. 337

Resolved, That it is the sense of the Senate that (a) the Secretary of the Senate and the Architect of the Capitol shall take such action as may be necessary to assure that recycled paper and paper products are used to the greatest extent practicable in the operations of the Senate. Any decision not to use recycled paper or paper products shall be based on a determination that such items (A) are not available, (B) are available only at an unreasonable price, or (C) fail to meet end-use performance requirements.

(b) In carrying out the provisions of subsection (a), the Secretary of the Senate and the Architect of the Capitol shall take such action as may be necessary to assure that recycled paper or paper products are purchased under each contract, or subcontract under a contract, for the procurement of 10,000 pounds or more of paper or paper products.

(c) The Joint Committee on Printing should examine the role of the Public Printer and urge the Public Printer to take such action as may be necessary to assure that, in providing printing and other services to the Senate, the Government Printing Office uses recycled paper or paper products to the greatest extent practicable.

(d) For purposes of this resolution, an unreasonable price is one which exceeds by more than 10 percent the price of nonrecycled paper or paper products.

(e) For purposes of this resolution:

(1) The term "paper and paper products" includes nonpermanent printing and writing paper, corrugated boxes, napkins, tissue paper, and such other paper and paper products as may be considered necessary or appropriate to be included in such term by the Secretary of the Senate, the Architect of the Capitol, or the Public Printer in implementing this resolution.

2) The term "recycled paper or paper products" means paper and paper products that contain the level of recovered material recommended by the Administrator of the Environmental Protection Agency in guidelines for Federal procurement of paper and paper products containing recovered materials, prepared pursuant to section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962).

SEC. 2. The Secretary of the Senate, in consultation with the Architect of the Capitol and the Public Printer, should publish a report on the implementation of this resolution in the Senate. Such report shall include information on the progress and problems associated with such implementation, and findings and recommendations with respect to such implementation.

SEC. 3. Nothing in this resolution shall be construed as modifying or otherwise affecting the policy of the Senate with respect to the use by the Senate of acid fee permanent paper for documents of enduring value.

Mr. BOSCHWITZ. Mr. President, I rise today to a sense of the Senate resolution encouraging the Congress to buy recycled paper and paper products whenever possible.

According to the Environmental Protection Agency, Americans generate 160 million tons of trash every year, 50 percent of the world's total. Only 10 percent of this trash is recycled—most of the rest is disposed of in landfills. The EPA expects that 75 percent of our existing landfills will be closed within 15 years, and they do not anticipate many new ones being opened.

For this reason, it is imperative that we encourage the American people to recycle more and use more recycled products. And the best way to encourage this is to lead by example. Congress currently produces 20,000 tons of trash every year. Last year, we passed a resolution that I sponsored to set up a Senate recycled program. Now, offices in the 5th and 6th floors of the Hart Building, including my office, are participating in a pilot program that I hope will be expanded to the entire Congress by the end of the year.

However, we need to do more. In addition to sorting our garbage for recyling, we need to use as many recycled products as we can here in Congress. The House Clerk and Senate Secretary already provide our offices with many recycled paper products. The letterhead stationary that we all use is made of 50 percent recycled fibers, and the Senate Secretary is currently studying the use of recycled copier paper in Senate offices.

But we must ensure that we use recycled paper whenever possible in order to set an example for the rest of the Nation to follow. The resolution I am introducing would encourage the Clerk of the House of Representatives and the Secretary of the Senate to buy recycled paper and paper products whenever possible, assuming that the cost of such products is not excessive.

We in Congress can do our part to solve the impending garbage crisis by using recycled products. Efforts to promote recycling are being undertaken across the Nation, and it is important that we not only participate in these efforts, but lead the way.

AMENDMENTS SUBMITTED

CREDITING OF CERTAIN NATIONAL GUARD SERVICE TO CIVIL SERVICE RETIREMENT

THURMOND AMENDMENT NO. 2946

Mr. MURKOWSKI (for Mr. THURMOND) proposed an amendment to the bill (S. 1890) to amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. ELIMINATION OF POST-1968 SERVICE AS A PREREQUISITE TO RETIREMENT CREDIT.

Section 8332(b) of title 5, United States Code, relating to creditable service, is amended by striking out "Service referred to in paragraph (6) is allowable only in the case of persons performing service under section 709 of title 32 after December 31, 1968."

SEC. 2. ELIMINATION OF POST-1968 SERVICE AS A PREREQUISITE TO RECEIVING CREDIT FOR PURPOSES OF CERTAIN OTHER BENEFITS.

Section 3(c) of the National Guard Technicians Act of 1968 (82 Stat. 757; 32 U.S.C. 709 note) is amended by striking out the last sentence.

SEC. 3. APPLICABILITY.

(a) RULE FOR SECTION 1.—

(1) GENERAL RULE.—

(A) ELIGIBILITY.—Except as provided in paragraph (2), the amendment made by section 1 applies only with respect to individuals who—

(i) separate from employment with the Government on or after the date of enactment of this Act; and

(ii) make an appropriate deposit, in accordance with section 8334(c) or 8411(f) of title 5, United States Code (as appropriate), for additional service that is creditable under such amendment.

(B) DEPOSIT.—Any such deposit—

(i) shall include interest, which shall be computed under section 8334(e) of such title (except that the rate of interest shall be 3 percent a year) from the midpoint of the period of additional service to the date deposit is made; and

(ii) shall be made before date of retirement.

(2) EXCEPTION.—

(A) RULE FOR INDIVIDUALS SEPARATING AFTER DECEMBER 31, 1968, AND BEFORE THE ENACTMENT OF THIS ACT.—In the case of any individual who—

(i) was employed under section 709 of title 32, United States Code, relating to National Guard technicians, or any prior corresponding provision of law, before January 1, 1969, and

(ii) was separated from employment with the Government on or after January 1, 1969, and before the date of enactment of this Act,

any annuity under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, based on such individuals's service (as defined in section 8331(12) or 8401(26) of such title, as applicable) shall be determined or redetermined to take into account the amendment made by section 1, if application therefor is received by the Office of Personnel Management within 1 year after the date of enactment of this Act, and an appropriate deposit is made for any additional service that is creditable under such amendment. Any such deposit shall be computed, and must be paid, either in a lump sum at the time of application or in installments over the 2-year period which begins in the date of application, or such shorter period as the Office may by regulation prescribe.

(b) EARLIER PAYMENTS NOT AFFECTED BY RECOMPUTATION.—Any change in an annuity resulting from a redetermination under subparagraph (A) shall apply only with respect to monthly payments accruing after the date the deposit required under subparagraph (A) is made (or, if payments are to be made in installments, after an agreement has been entered into regarding the manner in which such payments will be made).

(3) PAYMENT BY SURVIVORS.—For the purpose of survivor annuities, any deposit or installment payment required by paragraph (1) or (2) relating to service of an individual may also be made by a survivor of such individual.

(b) RULE FOR SECTION 2.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendment made by section 2 applies only with respect to an individual performing service as an officer or employee of the Government on or after the date of enactment of this Act and only to determine—

(A) any annual leave accruing under section 8303 of title 5, United States Code, to the individual on or after such date: and

(B) the individual's length of service for the purposes of entitlement to Federal employee death and disability compensation, group life insurance and health benefits, severance pay, tenure, and status.

(2) EXCEPTION.—

(A) RULE FOR INDIVIDUALS SEPARATING AFTER DECEMBER 31, 1968, AND BEFORE THE ENACTMENT OF THIS ACT.—The amendment made by section 2 of this Act applies with respect to any individual who separated from Government employment after December 31, 1968, and before the date of the enactment of this Act, for the purpose of determining whether such individual satisfies the length of service requirement under section 8901(3)(A) of title 5, United States Code (relating to the definition of the term "annuitant", as in effect at the time of such individual's separation) for the purposes of chapter 89 of such title.

(B) CONDITIONS FOR ENROLLING IN A HEALTH BENEFITS PLAN.—Any individual who satisfies the length of service requirement referred to in subparagraph (A) as a result of the application of the amendment made by section 2 shall be enrolled in a health benefits plan (described in section 8903 of such title) of such individual's choice, if—

(i) application for enrollment is received by the Office of Personnel Management within one year afer the date of the enactment of this Act; and

(ii) such individual would have qualified under section 8905(b)(1) of such title at the time of such individual's separation.

SEC. 4. REGULATIONS.

The Office of Personnel Management shall prescribe any regulations necessary for the implementation of this Act.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on the nominations of Billy Ross Brown and John C. Datt to be members to the Farm Credit Administration Board, and Keith Bjerke to be a member of the Board of Directors of the Commodity Credit Corporation. Senator CONRAD will chair the hearing. The hearing will be held on Monday, October 15, 1990, at 10 a.m. in SR 332. For further information, please contact Ken Ackerman of the committee staff at 224-2035.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 10, 1990, at 5 p.m. to consider pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 10, 1990, at 9:30 a.m. on the administration policy regarding semigas systems, sematech, and the U.S. technology base.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 10, 1990, at 9:15 a.m. on the nomination of Sharon Percy Rockefeller of West Virginia to the Board of Directors of the Corporation for Public Broadcasting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, October 10, 1990, at 10:30 a.m. to hold a closed business meeting on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PERMANENT INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Permanent Investigations, Committee on Governmental Affairs, be authorized to meet on Wedneday, October 10, 1990, at 9:30 a.m. to hold a hearing on the subject, student loan abuse.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence, be authorized to meet during the session of the Senate on Wednesday, October 10, 1990, at 8:30 a.m. to hold a closed meeting on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, October 10, 1990, to hold hearings on abuses in Federal student aid programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE SPOTTED OWL

● Mr. WIRTH. Mr. President, I want to put into the RECORD, an article I recently read regarding the spotted owl and the administration's inquiries into how to balance protection of that endangered species with economic concerns.

The article describes the endorsement of the so-called Jack Ward Thomas Report by independent experts asked to review that report by the administration. The Jack Ward Thomas Report was a report on how to balance economic concerns with the protection of the endangered owl, put together by a panel of scientists from the affected Federal agencies. Jack Ward Thomas is the U.S. Forest Service biologist who headed up that effort.

Last May, I participated in an oversight hearing held by the Senate Energy Committee, which has important implications for the management of Federal timberlands in Washington, Oregon, and California. Mr. Thomas was a witness at that hearing, along with Forest Service Chief Dale Robertson and other Federal officials.

At that hearing, I was greatly impressed with Mr. Thomas, and impressed by the conclusions his group had reached. The plan his group laid out was impressive in that it did not advise procrastination. It did not avoid the very tough, controversial issues put before it. And it did not take a one-sided approach to this highly polarized issue.

Instead, it laid out a plan that called for the conservation of as few spotted owls as possible while still providing some assurance that they could continue to exist as a species; and it called for reduction of timber harvests which could have serious economic consequences for this region.

Government has always been, at essence, about making tough choices, and about balancing competing interests. I think Jack Ward Thomas and his colleagues did an excellent job of doing just that, and they have done an excellent job of sticking to their conclusions under heavy fire from both sides. The reason they have been able to stand up is that they based their report on the science and the facts of the situation.

Some of us may question the advisability of allowing 40 percent of the existing population of an endangered species disappear. I, for one, find this to be most troubling. But I cannot deny the importance of the economic impacts of more complete protection to the people of the Pacific Northwest, or to their able Representatives in this body.

The Jack Ward Thomas Report seems to me to be exactly the kind of work we hope to get out of our Federal agencies and their professional employees. I want to take this opportunity to thank them again for their efforts, and ask my colleagues to read the article on the independent review of their work, and I ask that the article be printed in the RECORD.

The article follows:

[From the Seattle Times, Aug. 29, 1990]

SCIENTISTS FAVORED OWL PLAN BUSH ADMINISTRATION RESISTS

(By Scott Sonner)

WASHINGTON.—Independent scientists who were called secretly before a Bush administration task force on the northern spotted owl said yesterday they fully endorsed an owl protection plan the administration has resisted.

Three of the scientists said the plan authored by U.S. Forest Service biologist Jack Ward Thomas and other government experts in April is one of the best ever issued on a threatened or endangered species.

"They asked us our opinion of the Jack Ward Thomas report, whether we thought it was a sound piece of work, and we said it had our unequivocal support," said Malcolm Hunter, a University of Maine biologist and author of a book on forestry.

John Teer, a former Texas A&M biologist who heads the Welder Wildlife Federation, said to further compromise the Thomas committee's recommendations "would be a travesty."

"It is one of the best reports on an environmental issue that has ever been issued—much better than the average environmental-impact statement required by the Environmental Protection Agency," he said.

Agriculture Secretary Clayton Yeutter and Interior Secretary Manuel Lujan Jr. appointed the Interagency Task Force on the Spotted Owl in June after the U.S. Fish and Wildlife Service declared the owl a threatened species throughout Washington, Oregon and northern California.

They asked the panel to examine options to the Thomas plan, which they fear would ban logging on millions of acres of old-growth forests and cost thousands of Northwest timber jobs by the end of the decade. The task force is to give its recommendations to the White House Saturday.

Critics of the Thomas plan argue the owl can be saved from extinction by setting aside smaller tracts of land and placing further apart the clumps of owl habitat conservation areas Thomas proposed.

Lujan said Sunday the task force recommendations likely will not affect as much land or as many jobs as had been thought.

The task force has not held any public meetings and not disclosed any information it has received in private meetings with government and timber industry officials, environmentalists and scientists. Agriculture Department officials have said there would be no comment until the recommendations are given to the administration.

However, Hunter, Teer and Richard Lancia, North Carolina State forestry professor, said they told the task force in closed meetings three weeks ago that the Thomas recommendations are the minimum necessary to protect the rare owl.

The fourth scientist who appeared before the task force, Jim Carr of Virginia Polytechnic Institute, could not be reached for comment yesterday. But the other three said he agreed with them.

"This is a precedent-setting report in that the Thomas committee has, in effect, been able, or been willing, to sacrifice about half of the habitat to preserve the other half," said Teer, past president of the Wildlife Society, a 9,000-member association of professional biologists.

"No endangered species plan has ever gone that far in a compromise. To go any further than that would be a travesty," he said.

Environmental leaders said the scientists' account of the private meetings will increase pressure on the task force to adopt Thomas' recommendations for protecting the owl on lands owned by the Forest Service.

"They had called in these independent scientists to try to shoot holes in the Thomas report," said Mike Francis, director of national forests for The Wilderness Society.

"Now the administration has been left with a little egg on their face because they couldn't find any scientists who would say that Thomas is all wet. . . . Having independent scientists support the work of government scientists would not leave the administration many options other than to accept their own government scientists' work," he said.

Teer said he was "not aware of it" if the purpose of his invitation to appear before the task force was to find weaknesses in the Thomas report.

"If that was the purpose, they absolutely were foiled by this group because we endorsed the report, praised it very highly and recommended no further compromise be made in owl numbers," Teer said.

Hunter added, "We didn't go through it with a fine tooth comb looking for loopholes because we basically said there were none."

The scientists said they met Aug. 9 and 10 with task force members, including the chairman, Assistant Agriculture Secretary Jim Moseley.

Moseley failed to return telephone calls yesterday. His staff has said during repeated calls in the past week that he will have no comment until the task force makes its recommendations.●

HEALTH CARE FOOD SERVICE WEEK

● Mr. **BRADLEY**. Mr. President, this week is "Health Care Food Service Week." I ask my colleagues to join me in acknowledging health care food workers for the great service they perform every day in our Nation's hospitals.

It is hard to imagine how many services are needed to run a hospital today. Three times a day, every day, food service workers in hospitals meet the individualized needs of people with very different nutritional requirements.

In New Jersey, the health care food service workers of Memorial Hospital of Burlington County are an example of the dedicated members of the food service profession. All members of the hospital depend on their services and value the high quality of their work.

Too often, we take it for granted that certain services will be provided. This week, we should all take the opportunity to acknowledge the contributions of health care food service workers in providing care in our Nation's hospitals.●

REACHING BREAK-EVEN IN FUSION

● Mr. **BOSCHWITZ**. Mr. President, I rise today to recognize an important step forward in the development of nuclear fusion technology.

At a time when we are becoming more concerned about our dependence on foreign oil, it is necessary that we explore all of the options that could provide us with greater energy security. Over the years, I have expressed concern about the safety of traditional fission reactors. Unlike the atom-splitting fission reactors currently used in nuclear plants, however, fusion is a safer process that combines rather than splitting nuclei.

Although the commercial technology is still many years away, physicists at Princeton University recently reported a breakthrough in the development of fusion technology. Last week, the Tokamak fusion test reactor reached the point where it can produce as much energy as it consumes. While this may not seem like much, reaching this point was the main goal of scientists only a decade ago.

By 1993, the Princeton researchers hope to boost energy output 300 times. I wish them luck in meeting this new goal and hope they will be able to develop commercial fusion technologies that will provide us with a safe source of power for years to come.●

TRUMBULL, CT'S TASHUA SCHOOL HONORED

● Mr. **LIEBERMAN**. Mr. President, it is with great pleasure that I bring to the attention of the Senate a very special school in my home State of Connecticut. The Tashua School in Trumbull, CT, has recently been recognized by the U.S. Department of Education as one of many public and private schools with a most extensive and exemplary academic program.

The Department of Education's 1989-90 Elementary School Recognition Program was extremely competitive this year. Despite this intense competition, the Tashua School was able to achieve this honor against a highly qualified field of competitors.

The Tashua School exhibits great foresight in organizing the curriculum, strengthening student-teacher relationships, and maintaining community support. To celebrate this national honor, representatives of the school, including Jacqueline Norcel, principal; Jane Knapp, fifth grade teacher; Deane Strever, library-media consultant and Judy Piflio, reading consultant, were presented a personalized plaque and a Flag of Excellence by the President in the Rose Garden last month to commemorate the occasion.

This award will set the mark for continued academic challenges and successes. The faculty's commitment to the highest levels of education for all students is sure to be an inspiration to other elementary schools, both in Connecticut and around the world. I am confident that the leadership and dedication of the faculty will promote continued academic excellence for the school community.

Mr. President, I hope that my colleagues will join me in rising to pay tribute to this great educational institution and to express our hope for its continued development and success.●

CELEBRATING MUNICIPAL POWER WEEK

● Mr. **BOSCHWITZ**. Mr. President, I rise today to celebrate Municipal Public Power Week, October 7 through 13. Nearly 2,000 communities across the United States have chosen to provide their own electricity through nonprofit municipally owned utilities. In my State of Minnesota there are more than 120 municipal public utilities, some of which have served their local communities for almost 100 years.

When municipal power utilities were established 100 years ago, municipal power was the people's choice as the best electricity provider. In 1990, municipal power is still the people's choice in many communities.

Municipal utilities represent our Nation's great tradition of local democracy. Through public meetings and the ballot, consumers have a say in policies that affect the daily operation of their utilities as well as the environment and local economic development.

For the first time in more than a decade, the United States is closely examining its energy problems and working to develop future energy priorities. As this issue is addressed, municipal public power systems will play an important role in formulating and implementing any national energy strategy.

I would like to congratulate the municipal public utilities in Minnesota and across the Nation for the services they provide their consumers, and I hope this great American institution stays strong for years to come.●

DEAF AWARENESS WEEK

● Mr. **SIMON**. Mr. President, last week's celebration of Deaf Awareness Week once again serves to remind all of us of the contributions of the deaf community to our Nation. The passage of the Americans With Disabilities Act, of which I was proud to be a cosponsor, is a major breakthrough and will serve to make these contributions more numerous and valuable. I am delighted by the progress and I am encouraged about the future for deaf Americans.

Earlier this year, CBS aired a segment on "60 Minutes" featuring Dr. I. King Jordan, the first deaf president of Gallaudet University, the only fully accredited liberal arts university for the deaf in the world. He eloquently articulated his vision of the future for the university and for the deaf community and its contribution to our Nation.

I have a deaf person on my staff, Ms. Carrie Tamashiro. I am very proud of her. I am also proud of my staff who have taken the time and effort to learn sign language to easily and freely communicate with her. This has been a positive learning experience and her presence has heightened our awareness of deaf people and deaf culture.

I am also very proud of and grateful to another deaf employee of the Senate—and a native Illinoisan—Mr. Mike O'Donnell of the Congressional Office of Special Services. He was and continues to be very effective in teaching my staff sign language, about deafness and deaf culture. He has been most helpful to us, and to me, personally.

And I am glad that we finally have a full-time in-house Senate staff sign language interpreter. I am proud that my office has taken the lead in demonstrating the need for these vital services for our deaf staff and constituents.

The following is a statement I found in the DCARA News:

> Deaf people have the ability, the right and the ethical responsibility to control the services directed at them; to learn to use, and teach their own language; to have equal access to jobs, housing, education, and information; to protect and have pride in their culture; and to be invited freely into all aspects of information, careers, education and public life.

Mr. President, I couldn't agree more.

Deaf Awareness Week reminds all of us of Dr. Jordan's accurate, but all too often ignored, description of the deaf when he said, "I can do anything you can do—except hear."●

VIOLENCE IN JERUSALEM

● Mr. **BOND**. Mr. President, the death of 19 Palestinians at the Temple Mount this week was a tragic incident, distressful to all who value human life.

We all want to see an end to the violence that has gone on for so long in the Middle East, just as we all want to see a peaceful resolution of the conflict in Iraq. And we all would have preferred to see an end to the conflict in Jerusalem which did not result in such a large loss of life. I am concerned, however, that we in the West are falling into the trap that has been laid for us by Saddam Hussein and his good friend Yassar Arafat.

For the past 2 days, the newspapers and the airwaves have been filled with reports of the killings of the rock throwers by Israeli troops. Though there is no question that this is a story deserving wide coverage, there is, is amost no mention of the rest of the story. That is, that the attack appears to have been preplanned by Saddam and his friends in the PLO to provoke violence in Israel—and unfortunately it worked.

It is clear the incident was intended out to draw attention away from Saddam Hussein's crimes in Kuwait, to draw Israel into the gulf conflict, and to drive a wedge between the United States and its Arab allies. As the Wall Street Journal put it in its editorial this morning, "Score One for Saddam."

Over the past few weeks, Saddam has made clear his intention to draw Israel into the gulf crisis, and this incident shows that he will take any step—even sacrificing the lives of Palestinians—to achieve that goal. It would be a grave error to allow Saddam to link these issues, and I urge my colleagues and the President not to allow him to use this tragedy to fulfill his goal.

I ask that the Wall Street Journal editorial "Score One for Saddam" be printed in the RECORD following my remarks.

The editorial follows:

[From the Wall Street Journal, Oct. 10, 1990]

SCORE ONE FOR SADDAM

The latest deadly violence in Jerusalem is part of the mounting cost of U.S. indecision in the Persian Gulf. Yasser Arafat, a close ally of Saddam Hussein, has been doing what he can to shift world attention from Saddam to Israel. Israel's bloody retaliation for a Palestinian attack on its holiest shrine fitted his scenario perfectly.

The deaths of a score of Arabs was, from his and Saddam's point of view, a small price for cutting support in the Arab world for U.S. efforts to bring down Saddam. From the first days of the Iraqi conflict, there has been a consensus that one of Saddam's few hopes lay in dragging Israel into the conflict.

In the event, the incident has managed to drive a wedge deeper between the U.S. and its one reliable ally in the region. Both President Bush and Secretary of State Baker chastised the Israelis, with Mr. Baker asking for "restraint in handling disturbances of this nature." Piling on, the U.S. then voted in the U.N. yesterday to condemn Israel.

On the matter of "disturbances" and preparation, Israel just this past weekend began distributing gas masks to its 4.5 million residents, in light of Saddam Hussein's constant threats to "burn" Israel with a chemical weapons attack. On Saturday, Defense Secretary Cheney had warned of an Iraqi attempt to "lash out at Israel." And now yesterday, Saddam Hussein announced that Iraq has a missile capable of hitting Israel. He calls it the Stone, in honor of the Palestinians just shot in Israel while stoning Jewish worshippers.

Meanwhile, the Israelis are among themselves indulging in the same recriminations that are being aimed at their country from abroad. Teddy Kollek, the mayor of Jerusalem, accused Prime Minister Yitzhak Shamir of provoking the Arabs with a speech promising a Jewish settlement near Moslem shrines on the Mount of Olives. Mr. Shamir replied that there was no connection between the speech and riot; however ill-timed Mr. Shamir's speech, he may be right in thinking that nothing would have happened differently had the speech not been given.

There can be little doubt that the assault was an escalation of the "intifada" campaign Mr. Arafat's PLO has been employing against Israel for many months. It was timed perfectly, on the eve of a Jewish holy day, to provoke a strong Israeli response. In observance of the holy day, Jews bring blessings to the holiest site in Judaism—the Western Wall, or Wailing Wall.

As thousands of men, women and children prayed at the Wall, a torrent of rocks and bottles suddenly began to rain down on them. As always, the PLO cadres had enlisted Arab youths barely in their teens to set off the melee. Amid the ensuing screaming and hysteria. 19 Palestinians died.

The news photos and TV footage of these dead and wounded naturally shock the Western conscience. But dead youths do not shock Saddam Hussein or Yasser Arafat. Killing and sacrificing children is an Iraqi policy instrument, and those inclined to doubt this possibility are directed to a succession of published torture reports on Iraq and to a starting report to be released next month, "Human Rights in Iraq," by Middle East Watch (Yale University Press). Saddam Hussein would make a fitting subject for the organizers of the U.N.'s Year of the Child.

President Bush said yesterday that Saddam should not be allowed to link the Kuwaiti and Israeli issues. He has already done so. If this awful incident diverts a significant degree of Arab and world obloquy toward Israel, we expect there will be more of the same.●

RETIREMENT OF JAY ROCHLIN

● Mr. **SIMON**. Mr. President, occasionally among the many people who come and go in this town there is one who, in a short period of time, makes permanent changes for the better. At the end of this month, Jay Rochlin will leave the position of Executive Director of the President's Committee on Employment of People With Disabilities. He is one of those rare people who will have changed us for the better, and he will be greatly missed.

I want to quote from a letter I received from Justin Dart, Chairman of the Committee, announcing Jay Rochlin's retirement:

> During his five years with the Committee Jay Rochlin has made truly outstanding contributions. He has led the President's Committee from the brink of extinction to be one of the nation's most credible disability-related agencies. He has opened productive communication between the Committee and major leaders of government, the disability community, business and labor. He has employed numerous qualified persons with disabilities, including several nationally recognized leaders of the disability rights movement. Two thirds of the Committee's 37 member staff are now persons with disabilities. He has helped to ensure the stability of the Job Accommodations Network to employ persons with disabilities in industry.
>
> He has, as an individual, been deeply involved with the disability rights movement. He has cooperated closely with the Task Force on the Rights and Empowerment of Americans with Disabilities, and his magnificent wife Gwyneth has been the mainstay of the Task Force's volunteer staff. He was one of the first two federal officials to publicly endorse civil rights legislation for people with disabilities, in 1987. He marched with us for equality in San Francisco that year. He marched with us for ADA to the White House last year. He marched with us for ADA to the Capitol this year. He has spoken out for ADA, empowerment and employment on hundreds of occasions in more than half of the states.

As a knowledgeable manager from the private sector, and in the best traditions of a public servant, Jay Rochlin has used the mechanisms of Government effectively—to reform, to educate, and to put us on a better path for the future.

I ask my colleagues to join me in giving recognition to Jay Rocklin for his service and irreplaceable contributions. He and his family carry our respect and gratitude as they begin their next set of challenges, in the mountains of the Pacific Northwest. We wish them the very best.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the nomination of Calendar No. 1044, Richard A. Claytor, to be an Assistant Secretary of Energy.

I further ask unanimous consent that the nominee be confirmed; that any statements appear in the RECORD as if read; that the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF ENERGY

Richard A. Claytor, of California, to be an Assistant Secretary of Energy (Defense Programs).

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

CIVIL SERVICE RETIREMENT BENEFITS OF CERTAIN NATIONAL GUARD TECHNICIANS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of S. 1890 regarding civil service retirement benefits of certain National Guard technicians and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 1890) to amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2946

(Purpose: To amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes)

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk on behalf of Senator THURMOND and ask for its immediate consideration.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI], for Mr. THURMOND, proposes amendment numbered 2946.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. ELIMINATION OF POST-1968 SERVICE AS A PREREQUISITE TO RETIREMENT CREDIT.

Section 8332(b) of title 5, United States Code, relating to creditable service, is amended by striking out "Service referred to in paragraph (6) is allowable only in the case of persons performing service under section 709 of title 32 after December 31, 1968."

SEC. 2. ELIMINATION OF POST-1968 SERVICE AS A PREREQUISITE TO RECEIVING CREDIT FOR PURPOSES OF CERTAIN OTHER BENEFITS.

Section 3(c) of the National Guard Technicians Act of 1968 (82 Stat. 757; 32 U.S.C. 709 note) is amended by striking out the last sentence.

SEC. 3. APPLICABILITY.

(a) RULE FOR SECTION 1.—

(1) GENERAL RULE.—

(A) ELIGIBILITY.—Except as provided in paragraph (2), the amendment made by section 1 applies only with respect to individuals who—

(i) separate from employment with the Government on or after the date of enactment of this Act; and

(ii) make an appropriate deposit, in accordance with section 8334(c) or 8411(f) of title 5, United States Code (as appropriate), for additional service that is creditable under such amendment.

(B) DEPOSIT.—Any such deposit—

(i) shall include interest, which shall be computed under section 8334(e) of such title (except that the rate of interest shall be 3 percent a year) from the midpoint of the period of additional service to the date deposit is made; and

(ii) shall be made before date of retirement.

(2) EXCEPTION.—

(A) RULE FOR INDIVIDUALS SEPARATING AFTER DECEMBER 31, 1968, AND BEFORE THE ENACTMENT OF THIS ACT.—In the case of any individual who—

(i) was employed under section 709 of title 32, United States Code, relating to National Guard technicians, or any prior corresponding provision of law, before January 1, 1969, and

(ii) was separated from employment with the Government on or after January 1, 1969, and before the date of enactment of this Act,

any annuity under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, based on such individual's service (as defined in section 8331(12) or 8401(26) of such title, as applicable) shall be determined or redetermined to take into account the amendment made by section 1, if application therefor is received by the Office of Personnel Management within 1 year after the date of enactment of this Act, and an appropriate deposit is made for any additional service that is creditable under such amendment. Any such deposit shall be computed, and must be paid, either in a lump sum at the time of application or in installments over the 2-year period which begins on the date of application, or such shorter period as the Office may by regulation prescribe.

(b) EARLIER PAYMENTS NOT AFFECTED BY RECOMPUTATION.—Any change in an annuity resulting from a redetermination under subparagraph (A) shall apply only with respect to monthly payments accruing after the date the deposit required under subparagraph (A) is made (or, if payments are to be made in installments, after an agreement has been entered into regarding the manner in which such payments will be made).

(3) PAYMENT BY SURVIVORS.—For the purpose of survivor annuities, any deposit or installment payment required by paragraph (1) or (2) relating to service of an individual may also be made by a survivor of such individual.

(b) RULE FOR SECTION 2.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendment made by section 2 applies only with respect to an individual performing service as an officer or employee of the Government on or after the date of enactment of this Act and only to determine—

(A) any annual leave accruing under section 6303 of title 5, United States Code, to the individual on or after such date; and

(B) the individual's length of service for the purposes of entitlement to Federal employee death and disability compensation, group life insurance and health benefits, severance pay, tenure, and status.

(2) EXCEPTION.—

(A) RULE FOR INDIVIDUALS SEPARATING AFTER DECEMBER 31, 1968, AND BEFORE THE ENACTMENT OF THIS ACT.—The amendment made by section 2 of this Act applies with respect to any individual who separated from Government employment after December 31, 1968, and before the date of the enactment of this Act, for the purpose of determining whether such individual satisfies the length of service requirement under section 8901(3)(A) of title 5, United States Code (relating to the definition of the term "annuitant", as in effect at the time of such individual's separation) for the purposes of chapter 89 of such title.

(B) CONDITIONS FOR ENROLLING IN A HEALTH BENEFITS PLAN.—Any individual who satisfies the length of service requirement referred to in subparagraph (A) as a result of the application of the amendment made by section 2 shall be enrolled in a health benefits plan (described in section 8903 of such title) of such individual's choice, if—

(i) application for enrollment is received by the Office of Personnel Management within one year after the date of the enactment of this Act; and

(ii) such individual would have qualified under section 8905(b)(1) of such title at the time of such individual's separation.

SEC. 4. REGULATIONS.

The Office of Personnel Management shall prescribe any regulations necessary for the implementation of this Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2946) was agreed to.

Mr. THURMOND. Mr. President, I rise today in strong support of S. 1890, which allows credit for civil service retirement and other benefits for certain individuals who performed National Guard technician service before January 1, 1969. Currently, this legislation, which I sponsored on November 16, 1989, has 80 cosponsors.

In order to fully understand the need for this legislation, it is important to briefly review the history of the inclusion of National Guard technicians as Federal employees. In 1968, legislation was enacted which included National Guard technicians as Federal employees subject to the following two conditions: First, for service performed prior to January 1, 1969, technicians would only receive 55 percent credit for annuity compensation purposes; and second, only those technicians who served as technicians on or after January 1, 1969, would receive credit for service prior to 1969.

Subsequently, in 1975, the law was changed to allow full civil service credit for pre-1969 service for technicians who were serving as technicians on or after January 1, 1969.

However, those technicians who served in the National Guard and separated before January 1, 1969, but continued to work as Federal employees still could not receive credit for their pre-1969 service. To remedy this inequity, I introduced S. 2313 in the 98th Congress to allow all National Guard technicians who separated from the Guard but continued to work as Federal employees to receive credit for their pre-1969 service. No action was taken during that Congress.

In the 99th Congress, I introduced S. 1259 which was identical to the bill introduced in the previous Congress. A provision identical to S. 1259 was included in the Department of Defense authorization. However, in conference, this provision was changed to allow National Guard technicians who separated from the Guard prior to January 1, 1969, and who continued to work as Federal employees after that date to receive credit for pre-1969 service. This provision was limited to only those persons who were still working for the Federal Government on the date of enactment, November 14, 1986, and gave them 1 year from that time to apply for this service credit. I was pleased that coverage was extended to these deserving men and women. However, those National Guard technicians who separated before January 1, 1969, and continued working for the Federal Government, but retired before the legislation was effective in 1986 are still not covered. It should also be noted that surviving spouses did not qualify under the 1986 law because their spouses were not living when the provision became effective.

In the 100th Congress, I introduced S. 2907 to close the current gap and cover the remaining technicians and surviving spouses. This bill was referred to the Committee on Governmental Affairs; however, no further action was taken.

Mr. President, the amendment in the nature of a substitute that we are considering today includes changes suggested by the Office of Personnel Management, OPM, that are supported by both the majority and the minority. Except for one change concerning deposits, the changes are technical in nature. With regard to deposits, any person applying for credit under the provisions of this bill would be required to pay a deposit covering the previous service. This payment could be made in either a lump sum or in installments over a 2-year period beginning on the date of application for redetermination of benefits. As introduced, a person could make the deposit or take a reduction in their annuity. This compromise provisions will help to ensure that payment of the required deposit will not impose a hardship on those applying for the credit, many of whom are currently retired and living on fixed incomes. The bill also includes a provision which gives OPM the authority to shorten the installment period for paying the deposit. This provision was included to give OPM the flexibility to allow for a shorter installment period for those persons who would like to have such a payment schedule. It is not intended, however, that this provision may be used to defeat the intent of this legislation which is to allow for a 2-year period for payment of deposits in most cases.

This bill is identical to H.R. 1400 which was approved by the House Committee on Post Office and Civil Service on September 27, 1990.

If enacted, this bill would apply to only 105 persons: 91 retirees and 14 surviving spouses. However, the benefit to this relatively small group would be great indeed.

When I introduced this legislation, it was endorsed by the Reserve Officers Association of the United States and the National Guard Association of the United States. More recently, on August 22, 1990, the Veterans of Foreign Wars adopted a resolution at their national convention supporting this legislation. I ask unanimous consent that a copy of the resolution be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. Mr. President, I am pleased that the Committee on Governmental Affairs agreed to discharge this bill so that the full Senate has the opportunity to consider it today. I ask my colleagues to support this most important legislation that will assist those men and women who have so ably served this great Nation.

EXHIBIT 1

RESOLUTION NO. 659—FEDERAL CIVIL SERVICE CREDIT

Whereas, the National Guard Technicians Act of 1968, (Public Law 90-486; 82 Stat. 755), did not follow the general policy of granting full credit for prior service, and denied such credit to certain pre-1969 full time employees of the National Guard; and

Whereas, amendments to the act have now granted credit for pre-1969 employment as a National Guard Technician to all but those who have retired, or passed away prior to November 14, 1986; and

Whereas, the Veterans of Foreign Wars of the United States believes that these former National Guard employees should not be denied Federal Civil Service credit for service that they performed in the same manner as those employees who received Federal Civil Service credit; and

Whereas, S.R. 1890 and H.R. 1400 have been introduced in the 101st Congress of the United States, and are designed to correct this inequity; now, therefore *Be it resolved*, That the Veterans of Foreign Wars of the United States, request the 101st Congress to enact the provisions of these bills into law, thereby ensuring the equitable granting of Federal Civil Service credit to all former full time employees of the National Guard.

The PRESIDING OFFICER. If there be no further amendment, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as amended, as follows:

S. 1890

Be it enacted by the Senate and House of Representatives of the Untied States of America in Congress assembled,

SECTION 1. ELIMINATION OF POST-1968 SERVICES AS A PREREQUISITE TO RETIREMENT CREDIT

Section 8332(b) of title 5, United States Code, relating to creditable service, is amended by striking out "Service referred to in paragraph (6) is allowable only in the case of persons performing service under section 709 of title 32 after December 31, 1968."

SEC. 2. ELIMINATION OF POST-1968 SERVICE AS A PREREQUISITE TO RECEIVING CREDIT FOR PURPOSES OF CERTAIN OTHER BENEFITS.

Section 3(c) of the National Guard Technicians Act of 1968 (82 Stat. 757; 32 U.S.C. 709 note) is amended by striking out the last sentence.

SEC. 3. APPLICABILITY.

(a) RULE FOR SECTION 1.—

(1) GENERAL RULE.—

(A) ELIGIBILITY.—Except as provided in paragraph (2), the amendment made by section 1 applies only with respect to individuals who—

(i) separate from employment with the Government on or after the date of enactment of this Act; and

(ii) make an appropriate deposit, in accordance with section 8334(c) or 8411(f) of title 5, United States Code (as appropriate), for additional service that is creditable under such amendment.

(B) DEPOSIT.—Any such deposit—

(i) shall include interest, which shall be computed under section 8334(e) of such title (except that the rate of interest shall be 3 percent a year) from the midpoint of the period of additional service to the date deposit is made; and

(ii) shall be made before date of retirement.

(2) EXCEPTION.—

(A) RULE FOR INDIVIDUALS SEPARATING AFTER DECEMBER 31, 1968, AND BEFORE THE ENACTMENT OF THIS ACT.—In the case of any individual who—

(i) was employed under section 709 of title 32, United States Code, relating to National Guard technicians, or any prior corresponding provision of law, before January 1, 1969, and

(ii) was separated from employment with the Government on or after January 1, 1969, and before the date of enactment of this Act,

any annuity under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, based on such individual's service (as defined in section 8331(12) or 8401(26) of such title, as applicable) shall be determined or redetermined to take into account the amendment made by section 1, if application therefor is received by the Office of Personnel Management within 1 year after the date of enactment of this Act, and an appropriate deposit is made for any additional service that is creditable under such amendment. Any such deposit shall be computed, and must be paid, either in a lump sum at the time of application or in installments over the 2-year period which begins on the date of application, or such shorter period as the Office may by regulation prescribe.

(B) EARLIER PAYMENTS NOT AFFECTED BY RECOMPUTATION.—Any change in an annuity resulting from a redetermination under subparagraph (A) shall apply only with respect to monthly payments accruing after the date the deposit required under subparagraph (A) is made (or, if payments are to be made in installments, after an agreement has been entered into regarding the manner in which such payments will be made).

(3) PAYMENT BY SURVIVORS.—For the purpose of survivor annuities, any deposit or installment payment required by paragraph (1) or (2) relating to service of an individual may also be made by a survivor of such individual.

(b) RULE FOR SECTION 2.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendment made by section 2 applies only with respect to an individual performing service as an officer or employee of the Government on or after the date of enactment of this Act and only to determine—

(A) any annual leave accruing under section 6303 of title 5, United States Code, to the individual on or after such date; and

(B) the individual's length of service for the purposes of entitlement to Federal employee death and disability compensation, group life insurance and health benefits, severance pay, tenure, and status.

(2) EXCEPTION.—

(A) RULE FOR INDIVIDUALS SEPARATING AFTER DECEMBER 31, 1968, AND BEFORE THE ENACTMENT OF THIS ACT.—The amendment made by section 2 of this Act applies with respect to any individual who separated from Government employment after December 31, 1968, and before the date of the enactment of this Act, for the purpose of determining whether such individual satisfies the length of service requirement under section 8901(3)(A) of title 5, United States Code (relating to the definition of the term "annuitant", as in effect at the time of such individual's separation) for the purposes of chapter 89 of such title.

(B) CONDITIONS FOR ENROLLING IN A HEALTH BENEFITS PLAN.—Any individual who satisfies the length of service requirement referred to in subparagraph (A) as a result of the application of the amendment made by section 2 shall be enrolled in a health benefits plan (described in section 8903 of such title) of such individual's choice, if—

(i) application for enrollment is received by the Office of Personnel Management within one year after the date of the enactment of this Act; and

(ii) such individual would have qualified under section 8905(b)(1) of such title at the time of such individual's separation.

SEC. 4. REGULATIONS.

The Office of Personnel Management shall prescribe any regulations necessary for the implementation of this Act.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill, as amended was passed.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 364, a joint resolution to designate the third week of February, 1991, as "National Parents and Teachers Association Week" and House Joint Resolution 602, to designate October, 1990, as "National Domestic Violence Awareness Month," and that the Senate proceed to their consideration en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL PARENTS AND TEACHERS ASSOCIATION WEEK

The joint resolution (S.J. Res. 364) designating the third week of February 1991 as "National Parents and Teachers Association Week" was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution and its preamble are as follows:

S.J. RES. 364

Whereas the PTA is the oldest and largest parent-teacher association in the Nation;

Whereas studies have proven that parent involvement leads to better education of children;

Whereas the PTA provides the most effective means of participating in children's education;

Whereas the PTA is an organization for all people dedicated to the well-being of children;

Whereas the PTA can teach parents and teachers how to make a difference in the lives of their own, and all, children;

Whereas PTA Founder's Day is celebrated every February 17: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the third week of February 1991 is designated as "National Parents and Teachers Association Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

The joint resolution (H.J. Res. 602) designating October 1990 as "National Domestic Violence Awareness Month" was considered, ordered to a third reading, read the third time, and passed.

Mr. MURKOWSKI. Mr. President, I move to reconsider the votes.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURE PLACED ON CALENDAR—SENATE RESOLUTION 337

Mr. MURKOWSKI. Mr. President, I send a resolution to the desk on behalf of Senator BOSCHWITZ and ask that it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

CASH MANAGEMENT IMPROVEMENT ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 852, H.R. 4279, the Cash Management Improvement Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4279) to amend title 31, United States Code, to improve cash management of funds transferred between the Federal Government and the States, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SASSER. Mr. President, I am pleased that the Senate today considers the Cash Mangement Improvement Act of 1990. Senator ROTH and I originally introduced S. 926 on May 4, 1989, and it passed the Senate on

August 4 of last year. Today's action on a companion House measure, H.R. 4279, caps over 8 years of diligent effort among Federal and State officials to put transfers of Federal program funds on a fair and timely basis.

Senator ROTH and I introduced a bill similar to S. 926—S. 1381—in the 100th Congress. It was passed unanimously by the Senate, and was the subject of a House committee hearing, However, the 100th Congress adjourned before the House could take action on S. 1381.

Our purpose in S. 926 remained the same: to improve the efficiency with which billions of dollars of Federal funds are transferred to States to enable them to carry out Federal programs. Our goal is to insure that neither a State, nor the Federal Government, is out-of-pocket an undue length of time as a result of these transfers.

Thus, the bill would prevent State governments from drawing down Federal funds too far ahead of schedule. By the same token, it would keep States from losing interest when they advance their own funds and then experience delays in Federal reimbursement.

This will be accomplished by the reciprocal calculation of interest on Federal or State cash advances. For instance, if a State requires Federal funds on hand before it can lawfully issue checks, it will be able to have them. The State will simply be accountable for interest while the Federal funds are on deposit in the State's banks, until the time when those funds are paid to program recipients. On the other hand, when the State has advanced its own funds for Federal program purposes, the Federal Government will be liable for interest from when the State is out-of-pocket, until Federal reimbursement is forthcoming. The interest obligation provides a mutual incentive for State and Federal agencies to see that the transfer of Federal funds coincides as closely as possible with actual payments to program recipients.

The present cash management bill was developed by a joint Federal/State cash management reform task force, which was formed in 1983. The interest calculation-and-setoff formula was successfully pilot-tested by four States, Virginia, Indiana, Wisconsin, and California. I would like also to acknowledge the debt which I and my staff owe to the National Association of State Auditors, Comptrollers, and Treasurers, and to the Financial Management Service of the Department of the Treasury, for their advice and support during congressional consideration.

Following the referral of S. 926 to the House of Representatives last year, the House Committee on Government Operations, Subcommittee on Legislation and National Security, held a hearing on the cash management legislation. Earlier this year, the chairman and ranking member of that subcommittee introduced their companion bill, H.R. 4279. As a result of close cooperation with the staff of the Senate Committee on Governmental Affairs, and its Subcommittee on General Services, Federalism, and the District of Columbia, H.R. 4279, as passed by the House last month, contains language which is mutually acceptable to Senate and House sponsors of the legislation.

H.R. 4279 specifies in greater detail how and when each State is to negotiate an agreement with the Secretary of the Treasury regarding that State's cash management procedures, as was intended under S. 926. H.R. 4279 also clarifies that States may be entitled to an offset against any interest they owe, equal to their direct expenses in calculating interest under the bill's provisions.

Therefore, Mr. President, it is accurate to say that H.R. 4279 incorporates faithfully the essence of the draft legislation put together by the Federal/State task force and contained in S. 926 and its predecessors. I urge its prompt passage by the Senate, and I thank the distinguished majority and minority leaders for their cooperation to that end.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 4279) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. I move to reconsider the vote by which the bill was passed.

Mr. MURKOWSKI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EDUCATION LEGISLATION

Mr. MITCHELL. Mr. President, I want to call the attention of the Senate to a situation that exists with respect to education legislation, and will, following a brief statement, make a unanimous-consent request. I want to alert my colleagues to that before I do so.

In February of this year, by a vote of 92 to 8, the Senate passed the educational excellence package proposed initially by the President.

Also in February of this year, the Senate passed by a vote of 99 to 0 the Comprehensive Illiteracy Elimination Act. In June, the Senate Labor and Human Resources Committee reported favorably to the Senate by a vote of 15 to 1 the National Teacher Act.

Those three measures, the Educational Excellence Act, the Comprehensive Illiteracy Elimination Act, and the National Teacher Act, comprise a significant and positive effort to improve the quality of education in our society.

Since July, we have been trying to obtain consent to combine these three into a single package to go to conference with the House of Representatives on the legislation with respect to education that they have passed so that this Congress can have achieved what I believe to be significant improvements in our system of education.

Unfortunately, we have not been able to obtain consent from our Republican colleagues to move forward in this fashion. That is why, Mr. President, I have indicated previous to this evening that I will seek unanimous consent to permit the Senate to do that which I have just described, for which we have not been able to get consent.

I hope that we can get consent to do this. These are important education bills, one of them proposed by the President, and yet we have been prevented from proceeding because our colleagues on the Republican side of the aisle have not permitted us to obtain that consent to proceed, as suggested.

Accordingly, Mr. President, I now ask unanimous consent that the Senate proceed to the House message on S. 695, the President's educational excellence bill; that the Senate concur in the House amendment with a substitute amendment proposed by Senator KENNEDY and others; that the Senate insist on its amendment and request a conference with the House on the disagreeing votes of the two Houses; and that the Chair be authorized to appoint conferees.

Mr. MURKOWSKI. Mr. President, on behalf of a number of my colleagues, I am going to object. The majority leader makes a very compelling case for the statistics in support. However, there is a good deal of concern on our side over the makeup of the National Teachers Board, and the application accreditation is something that we simply have to evaluate further. Obviously, the Republicans join with our Democratic colleagues in the commitment to education, and certainly this legislation, excellence in education, is something that we support and have strived to accomplish. But there is, on our side, a legitimate concern over the makeup of the accreditation associated with the National Teachers Board. That is our concern. On behalf of our side, I object at this time.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL. I thank my colleague. I simply note, with respect to the assertion that more time is needed to evaluate it, that the National Board was included in S. 695, which I remind my colleague was approved by the Senate on February 7 by a vote of 92 to 8. There are less than 2 weeks to go in the session. I do not know what it means to say we need more time to evaluate it. It sounds like an evaluation to death, but I accept the Senator's assertion.

It is my understanding that the committee has addressed the concerns that have been raised by clarifying that the standards are voluntary and that there cannot be separate standards established for high school and private school teachers compared to public school teachers. I think that, particularly since the principal bill was proposed by the President, there should be interest from our Republican colleagues in trying to get these education bills passed, rather than trying to prevent them from being passed. I hope that between now and before we leave this session the evaluation which has been suggested will be completed and we can, hopefully, proceed to final action on it.

Mr. MURKOWSKI. Mr. President, I certainly appreciate the obligation of our majority leader to move the train along and, in spite of certain dates that have been thrown out there, at some point of time we shall, hopefully, conclude. Unfortunately, the Republican leader is not here to address in detail the concerns of the minority on excellence in education. I do not want to imply that to delay matters is our only concern. I think it is fair to say that, hopefully, we can reach a resolve on that. But for the time being, at least, there must be objections raised from this side.

Mr. MITCHELL. I thank my colleague.

APPOINTMENT OF CONFEREES—H.R. 1396

Mr. MITCHELL. Mr. President, I understand that the Chair has an announcement of an appointment of conferees on H.R. 1396.

The PRESIDING OFFICER. Pursuant to the previous order of October 4, 1990, the Chair appoints Mr. RIEGLE, Mr. DODD, and Mr. HEINZ conferees on the part of the Senate.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator CHAFEE be recognized to address the Senate, and that at the conclusion of his remarks the Senate stand in recess until 9:30 a.m. on Thursday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Rhode Island [Mr. CHAFEE] is recognized.

TIME TO PUT ASIDE PARTISAN AND POLITICAL EXPEDIENCY

Mr. CHAFEE. Mr. President, I have been a Member of the U.S. Senate for 14 years. Never have I felt so pessimistic about our ability as a Congress to keep this Nation strong and thriving. Partisan politics, ironclad ideologies, demagoguery and cynicism seem to be the order of the day.

Frankly, I am appalled at what has happened in the Congress during the past week. When the summit agreement was brought to us 10 days ago, every Member of Congress knew that it was flexible—that those pieces of the agreement that were untenable could be changed. Yet, in a fit of the most inappropriate showmanship I have seen in the Congress since arriving here, many chose instead to play upon all of the fears and emotions of a confused American public by putting on airs of outrage. Not only have we wasted 10 days, but we have held Federal employees hostage, disrupted essential services for the public, sent mixed signals to the financial markets, unfairly discredited the hard work of the leadership in both parties, and most importantly, greatly reduced the confidence of the American public, and world leaders, in our ability to do the job we were sent here to do.

When the budget agreement came out, I examined it carefully. I saw some problems, but felt that for the good of the Nation we had an obligation to move forward with it, and attempt to address our concerns with necessary changes. We could reject it or we could revise it. That would be done during the appropriate committee markups that would take place.

As our leaders on both sides of the aisle have said: Every one of the 535 Members of Congress has a plan to reduce the deficit, but not one of those plans can pass. The only way we can help the Nation is to compromise. That is the essence of democracy. It is only through compromise that change is wrought.

This is not a game we are playing. The future of our country, the future of our children, is at stake. The economy is in trouble. I think we ought to call it what it is. There is a recession in our land. People cannot sell their homes. American businesses are losing ground in international markets. Too many of our children are dropping out of high school, they have few skills and face a lifetime of deadend jobs. Our infant mortality rate is higher than that of any other industrialized nation. We cannot hope to make significant inroads in these or any of the myriad of other problems facing us unless we reduce the deficit.

Members of Congress know this. Some of the American public knows this. Yet, the temptation of grandstanding on popular issues is so great that we are willing to risk the future for some short-term political gain. Mr. President, that is wrong.

We are in the midst of a national crisis. In such times, leadership, sacrifice, and courage are called for. Yet the response has been shameful. The temptation to play games and find good 30 second sound bites has proven too much for too many. Once again, the best politics appear to be to avoid any difficult decisions. Once again, it will be our children who lose.

I do hope we can put aside partisanship and political expediency long enough to ensure the future of our Nation and our future generations.

Passing the budget resolution was only the first step in this process—the easiest step. We have now embarked on the hardest task, to meet the savings and revenue targets. There will be difficult votes. The test of political courage, real leadership, and honest governing is upon us. We have two deficits before us: That of the country and that of our own credibility. It is time to get on with doing our job. That is what we were elected to do.

Mr. MITCHELL. Mr. President, this is not a request. I merely wanted to note, and I hope all the Senators' offices who are listening will communicate this to their Senators, I regularly received dozens of requests from Senators about the schedule for the coming days.

THE SCHEDULE

Mr. MITCHELL. Mr. President, the Appropriations Committee filed reports this afternoon to accompany the Labor-HHS and foreign operations appropriations bills. I have been seeking consent to proceed to these bills on Thursday and Friday of this week. I have been unable to obtain clearance to this request on the Republican side of the aisle. I understand that there is concern because Senators wanted to review the reports.

I merely wanted to alert my colleagues that if these bills are not taken up and disposed of on Thursday and Friday, we will have to take them and dispose of them on Saturday. We will be in session on Saturday with votes if we are unable to gain clearance to proceed to take these bills up and pass them prior to then.

So that Senators understand, each Senator has a right to object, to require the 2-day period for the reports to be available. But that means the reports will be available in time for the bills to ripen for proceeding on Saturday. We are trying to move that up to accommodate Senators so we can complete action on these measures on Thursday and Friday.

Mr. MURKOWSKI. Mr. President, if I may ask the majority leader if action is completed on Thursday and Friday, is it the majority leader's

intent then to still consider a Saturday session?

Mr. MITCHELL. No. purpose is to get them done. There are four appropriations bills we hope the committee will report out this week. Three have been reported. One we are taking up tomorrow. We have two more here and one more that they may report tomorrow.

If we can complete action on those four bills, then we will go out over the weekend. That is my intention. I do not propose a weekend session merely for the purpose of being here over the weekend. My objective is to complete action on the appropriations bills. That is the most that we could hope for.

So what I am suggesting is that we recognize that each Senator is within his or her right to object, but the consequence of that objection is that we have to wait until Saturday to take those bills up that I have hoped would be taken up on Thursday and Friday.

I regret the inconvenience that will cause Senators. I merely want all Senators to be aware of that as they consider their schedules for this weekend. We are going to try again tomorrow to get consent to go to these items so that we can move to them as soon as we finish on the State, Commerce, Justice appropriations bill that we will be taking up at 11 o'clock tomorrow.

Mr. MURKOWSKI. If I may ask the majority leader, does he intend to complete the four bills?

Mr. MITCHELL. If we can do that, yes.

Mr. MURKOWSKI. If we can do it by Friday with no Saturday session. If not there will be a Saturday session with votes?

Mr. MITCHELL. That is what we have to do to finish them. I am not certain when the committee will report out the fourth one tomorrow and whether or not we would be able to finish that, but certainly at the minimum three, and hopefully the fourth. That is my objective.

Mr. MURKOWSKI. If we do not finish by Friday, I would certainly join the majority leader in encouraging a Saturday vote, because obviously there are times when we threaten to have a vote and some of us come a long distance and there is not a vote. So at least on this side there are those who are suggesting if you say there is going to be a vote, we do everything we can to ensure there is a vote.

I thank the majority leader.

Mr. MITCHELL. I appreciate that. I merely wanted to make a point that we can obviate even a question of a Saturday session by consenting to permitting the Senate to take up these bills on Thursday and Friday. We do not have to wait until Saturday, and it makes a lot more sense to do them on Thursday and Friday if we can get consent to do so.

I thank my colleagues.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:30 a.m. Thursday, October 11; that, following the time for the two leaders, there be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each; and that, at 10 a.m., there be a period for morning business for 1 hour with the time under the control of Senator CRANSTON or his designee.

I further ask unanimous consent that, at 11 a.m., the Senate proceed to the consideration of Calendar No. 955, H.R. 5021, the State-Justice-Commerce appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 9:30 a.m., Thursday, October 11.

Thereupon, the Senate, at 7:17 p.m., recessed until Thursday, October 11, 1990, at 9:30 a.m.

CONFIRMATIONS

Exective nomination confirmed by the Senate October 10, 1990:

DEPARTMENT OF ENERGY

RICHARD A. CLAYTOR, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (DEFENSE PROGRAMS).

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Wednesday, October 10, 1990*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Protect us, O God, from all that would harm; comfort us, O God, when we feel alone or perplexed; forgive us, O God, when we act only in our own interests; strengthen us, O God, when we try to stand for the common good; sustain us, O God, when we act as the people You would have us be and do those good deeds that honor You and help people everywhere. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from Oregon [Mr. DeFazio] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. DeFAZIO led the Pledge of Allegiance as follows:

> I pledge allegience to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 3468. An act to amend the Act entitled "An Act to extend the Wetlands Loan Act", to provide for the expansion of the Stewart B. McKinney National Wildlife Refuge; and

H.R. 3787. An act to authorize a joint Federal, State, and Tribal study for the restoration of the fishery resources of the Chehalis River Basin, Washington, and for other purposes.

The message also announced that the Senate agree to the amendment of the House to the bill (S. 2017) entitled "An act to provide a permanent endowment for the Eisenhower Exchange Fellowship Program."

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1430) entitled "An act to enhance national and community service, and for other purposes," and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Kennedy, Mr. Pell, Mr. Dodd, Ms. Mikulski, Mr. Hatch, Mr. Jeffords, and Mr. Durenberger to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 486) entitled "An act to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon.

The message also announced, that the Senate insists upon its amendment to the bill (H.R. 2666) "An act to establish a Mildred and Claude Pepper Scholarship Program" disagreed to by the House, and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Kennedy, Mr. Pell, Mr. Metzenbaum, Mr. Hatch, and Mrs. Kassebaum to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5158) "An act making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Ms. Mikulski, Mr. Leahy, Mr. Johnston, Mr. Lautenberg, Mr. Fowler, Mr. Kerrey, Mr. Byrd, Mr. Garn, Mr. D'Amato, Mr. Grassley, Mr. Nickles, Mr. Gramm, and Mr. Hatfield to be the conferees on the part of the Senate.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 486. An act to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes;

H.R. 4757. An act to provide permanent authority for the U.S. Supreme Court Police; and

H.R. 5158. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes.

The message also announced that the Senate had passed bills and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 2806. An act to redesignate The National Systems of Interstate and Defense Highways as The Dwight D. Eisenhower System of Interstate and Defense Highways;

S. 3043. An act for the relief of Nebraska Aluminum Castings, Inc.;

S. 3108. An act to designate the facility of the U.S. Postal Service located at 100 South John F. Kennedy Drive, Carpentersville, IL, as the "Robert McClory Post Office";

S. 3118. An act entitled the "Medicaid Drug Dependency Treatment Coverage Act of 1990";

S.J. Res. 305. Joint resolution to designate the month of October 1990, as "National Awareness Month of Children with Cancer"; and

S.J. Res. 328. Joint resolution designating October 1990 as "National Domestic Violence Awareness Month."

LET US PULL TOGETHER TO SOLVE THE NATION'S PROBLEMS

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, in today's Washington Post there is an op-ed piece by Bill Raspberry, which I think is something that we all should read and meditate on. Mr. Raspberry suggests that, as he watched television over the weekend about the problem that we had in this body and the other body in pulling together a budget resolution, he saw a fracturing or a balkanization or a disintegration of our society and country.

I do not know that that is exactly a correct analysis, but I think it does suggest that there is a danger that we are pulling apart rather than pulling together. So as our committees take on the very difficult task in the next couple of weeks of implementing the instructions of the budget resolution, I do hope that all of us can be working together, because only in that way can we really solve our Nation's financial problems and keep our Nation looking toward the year 2000.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ELECTION AS MEMBERS OF COMMITTEE ON EDUCATION AND LABOR AND COMMITTEE ON GOVERNMENT OPERATIONS

Mr. HOYER. Mr. Speaker, I offer a privileged resolution (H. Res. 499) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 499

Resolved, That the following Member be, and is hereby elected to the following standing committees of the House of Representatives:

Committee on Education and Labor, Patsy T. Mink, Hawaii, to rank after José E. Serrano, New York;

Committee on Government Operations, Patsy T. Mink, Hawaii.

The resolution was agreed to.

A motion to reconsider was laid on the table.

A FAIR TAX CODE? CAN I GET BACK TO YOU ON THAT?

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, our President has now taken more positions on taxes than Nadia Comenici assumed during her stardom at the Olympics.

Read his lips: "No new taxes; tax revenue increases. Higher rates for the wealthy? Not on the table. Let me make one thing perfectly clear. Hey, what do the Senators think?"

Mr. Speaker, how will the American people know when George Bush has truly decided when the rich will pay their fair share? Why does he not add one of the following phrases to the tax debate currently raging in his own mind: "This time I really mean it. No fooling around, I have made up my mind for sure. I am serious. What I meant to say was, my last absolutely final position on this is."

Mr. Speaker, the success of the budget process hinges on the President's ability to decide whether the super rich in this country are going to begin paying their fair share. Mr. Speaker, when he makes up his mind on this key issue, the President ought to give us a call.

USE THE GAS TAX FOR TRANSPORTATION

(Mr. ANDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON. Mr. Speaker, the House will be trying to reduce the deficit in the wrong way this week when we begin the process of raising the gas tax for deficit reduction.

Studies by respected economists show that when used for deficit reduction the gas tax is:

First, regressive because it falls harder on the lower and middle classes, many of whom drive long distances out of necessity, not choice;

Second, recessionary because it drives up business costs and will result in the loss of thousands of jobs within months after being raised; and,

Third, counterproductive because it will inhibit us from raising the funds that are needed for the Nation's growing infrastructure crisis.

We should be increasing infrastructure investment at a time when $80 to $100 billion is required to meet future highway transportation needs and when more than 41 percent of our bridges must be improved.

A gas tax increase will only be acceptable if it is coupled with increased spending for transportation. The gas tax should be used for infrastructure to produce economic growth and increased productivity.

VICTORS OF WAR ON POVERTY CAN PAY THEIR FAIR SHARE

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, for 5 minutes, just 5 minutes, our President acted like a leader. He said he would be willing to consider raising tax rates for the wealthiest Americans, but then the Republican instinct took over. "No," he said, "no higher rates for the wealthy."

Imagine, those earning over $490,000 a year have seen their incomes rise by more than 90 percent under Presidents Reagan and Bush. Do not the Members think that these victors of the war on poverty can pay their fair share?

President Bush has so far shown far more sympathy with the rich and famous, far more sympathy for them than for the average American, and it is time that he understood that he is the leader of all of the people, not the protector of the very rich.

PATRONS OF THE PRIVILEGED PREVAILED

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, yesterday for one brief shining moment, President Bush talked sense on the budget issue. He finally conceded that the wealthy should pay their fair share of taxes to solve our deficit crisis. But then, despite this momentary lapse, the Republican Senators and Representatives who are dedicated to protecting the rich and moneyed interests launched an all-out attack on their President. When the dust had settled, the patrons of the privileged had prevailed. The President caved in and announced that raising taxes on the super-rich is not an option this year.

Mr. Bush, if the deficit is truly a cancer on our Nation, as you have said, why do you insist on a therapy which kills healthy cells and spares the malignant?

The President should not spare the country club set so that he can raise taxes on American workers.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. Mazzoli). The Chair would once again advise Members that, under the rules of the House, the President and Members of the other body should be addressed indirectly through the Chair.

WE ARE AT A FORK IN THE BUDGET ROAD

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, more and more the President seems like a man with each leg firmly planted on a separate stool while the stools are moving rapidly apart.

It is obvious to one and all that unless the President makes up his mind, he is headed for a fall. The President has truly come to a fork in the budget road.

He can be lowered by the siren song of those on his party's right and take the dangerous path of the 1980's and tell the American people they can have all the services they want while he cuts taxes on the rich. It sounds alluring, but there is one problem.

It is wrong. It will lead to a deep recession, and possibly the President's demise. The President can choose the other path, not of posturing, but of governing.

Democrats will meet him halfway and craft a package that spreads burdens fairly and reduces the deficit significantly while setting the country's economy right.

☐ 1210

If the President is willing to stymie a budget deal and shut down the Government so that the rich are coddled, he should say so. If he is willing to work with the Congress, he should say that. Either way, the American people should be allowed to judge.

However, he cannot have both, Mr. Speaker, because having it both ways means having it no way at all. No compromise, no budget, no government. A failure of leadership, a failure of the Presidency.

SPARING THE RICH AGAIN?

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, this is a picture in this morning's paper that ought to scare the taxes out of the middle class. It is a picture of the President of the United States sitting around with Members of the U.S. Senate, the majority of which are millionaires, deciding that they are going to make the courageous decision that the wealthy in the country will not have to pay to reduce the deficit. They have decided to surround the wagons around the Senate Chamber, around the Senate Budget Committee, and not let a single wealthy American pay more to help Members reduce the deficit. They have decided, as did the President in the summit, that the deficit should have to be reduced by the elderly paying more for health care, by middle income paying more taxes, more gas taxes, more cigarette taxes. They have decided that that is where the battle of the deficit will be fought. They have decided to spare the rich, to spare those who saw their income go up 93 percent in the last decade, their taxes go down 23 percent. They will not have to contribute. However, the rest of Americans will.

Remember this picture. It is a frightening, frightening picture for America.

PALESTINIAN CHILDREN ARE GOD'S CHILDREN TOO

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, this past Monday, Israeli troops killed 30 Palestinians and wounded 300 more. In total, 800 Palestinians have now been killed, over 250 of them have been children under the age of 11 years.

It is true, Mr. Speaker, that many of these children were using rocks and stones. However, I say to you today on the House of Representatives, the Palestinian children wielding slipshots and rocks and stones is no match for Israeli cannon.

Mr. Speaker, this is an excessive use of force. Israel, without question, her borders must be secure. America is right by protecting Israel's interest. However, the Palestinian people also deserve a homeland.

It is incumbent upon this Congress to make sure that there is a balance before these actions perpetrate a major problem in the Persian Gulf. The Palestinian children are also God's children.

RETURN FAIRNESS TO TAX SYSTEM

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, yesterday, 12 fearless Senators rushed to the White House in full crisis mode. What was the issue? The crisis in the Persian Gulf? No. The savings and loans and the $500 billion we will have to pay for bailing them out? No. The crisis in Medicare, where we are asking seniors to pay more and more for less and less? No, that was not the issue. Was it the growing recession that is affecting every working American?

No, they rushed to the White House in full crisis mode because they were petrified that the rich might be asked to pay a fair share of the burden of running the Government of the United States of America. "Bush Wavers on Taxing Rich as Senators Protest." Twelve millionaire Senators down there bending the President's ear to prevent the one thing that should come out of this whole budget crisis, restoring fairness and progressivity to the tax system of the United States of America, bursting the last bubble of Reaganomics, letting the richest of the rich pay a tax rate at least equivalent to the rate of tax paid by middle-income Americans.

It is only fair. It is only just. Mr. President, throw the bums out and give Members an honest response. Join Members, join Members and let Members restore fairness to the American tax system.

NO REVENUE PRODUCER WITH REGRESSIVITY

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, I, too, wish to rise this morning in response to the President's flip-flopping on the question of whether the wealth should pay their fair share of deficit reduction.

I want to advise to the Speaker, to the President and to our own Committee on Ways and Means, and the Committee on Finance in the Senate that I want them to know that there are those Members here in the House who do not plan to vote for any revenue-producing measure that has regressivity in it. We are not going to vote to impose a tax burden on our low-income and middle-income people, and at the same time let the wealthy escape.

That is not going to happen. If we decide to go down that road like we did last week, rest assured, we will be closing the Government down on October 19.

COMMITTEE ON APPROPRIATIONS STALLED BY FAILURE OF BUDGET RESOLUTION

(Mr. WHITTEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHITTEN. Mr. Speaker, on rollcall 439, on my motion to concur with the Senate amendments to my resolution (H.J. Res. 666), the continuing resolution, my vote was inadvertently not recorded. My vote was "yes" in support of my motion.

Mr. Speaker, my continuing resolution (H.J. Res. 666) passed the House of Representatives by a vote of 305 to 105 on Monday at 3:40 a.m. Then, Mr. Speaker, at 3:30 a.m., Tuesday morning, we concurred in the Senate amendments to this continuing resolution in order to prevent the Government from closing down at 7 a.m. that same day.

Mr. Speaker, that does not mean I agreed or that the sense of Congress and Senate statements in these amendments were binding. Senate amendment No. 5 demands the Ways and Means and Finance Committees to come up in 4 days with what they had been unable to do in 4 months. They called that the sense of Congress.

And by the 13th of October, the Budget Committees are to report the reconciliation bills with Senate consideration of the bill to begin on the first day of the session following. Thank goodness such provisions are not binding.

That is what we had to concur in to save the Government from closing down at 7 o'clock the same day.

Mr. Speaker, as I have pointed out numerous times, it has not been our committee which has held up congressional approval, but we have been held up by the failure to agree on a budget resolution.

Mr. Speaker, we will continue to do our best, but at this late date, in view of the work involved and Senate rules, it is not likely that action can be completed in time—despite our best efforts.

The House has passed 10 bills and the Senate has passed only 7 bills. This means we must complete action on three bills in the House, have conference, and complete conference action on all 13 and have all bills signed.

Again, we will do our best. However, at this time, I want to repeat facts which I have earlier called to the attention of the House.

Mr. Speaker, our committee has one of the heaviest workloads in the House, working through 13 subcommittees, conducting 280 days of hearings with nearly 4,900 witnesses who bring to our attention hundreds of thousands of items. This is documented in 90 printed hearing volumes of over 97,000 pages.

Mr. Speaker, I call attention to the fact since 1945, we have held the appropriations bills to $173 billion below the Presidents budget requests, so our financial plight is not the fault of our Committee on Appropriations.

May I say that our Committee on Appropriations does have its hands full this year particularly because we have been delayed repeatedly, for one reason or another, and we have cooperated in connection with it. The continuing resolution that we first reported went for 20 days, and we were asked to drop back to 5. The second one went until October 20 and we were asked to go to the 12th. This resolution went to the 20th, and now the amendment House Joint Resolution 660 to change it to the 19th instead of the 20th. These are examples of some of the recent actions of the Congress, beyond our control, which may once again bring us to a point where a continuing resolution for the rest of the year may be the only way to complete our work in a timely manner—which none of us desire.

NOTICE OF INTENTION TO FILE MOTION TO INSTRUCT CONFEREES

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, pursuant to rule XXVIII, I hereby give notice that I will be filing a motion today for consideration tomorrow to instruct the conferees on the House amendment to the bill, S. 2830, known as the farm bill.

This motion will be filed by myself and on behalf of the gentleman from Washington [Mr. CHANDLER] to instruct the conferees to insist upon the provisions of section 1399 of the House amendment, and will be filed with the information in detail for Members to consider in the CONGRESSIONAL RECORD today.

SUGGESTIONS ON WRITING THE BUDGET RECONCILIATION

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, today the Ways and Means Committee is meeting to start writing the budget reconciliation bill. And I have got a suggestion for them.

Tax those who can afford it. Better yet, tax those who have not earned their money. You know who I mean: the big oil companies. Oil experts have said that there is not an oil supply problem. It has also been shown that a $7 per barrel rise means $21 billion in unearned profits for the oil barons. That is over $5 billion for big oil just yesterday when the price of oil rose over $40 per barrel.

If we really want to slim down the Federal budget deficit, and protect the American consumer from getting high prices shoved down their throats, we can put big oil on a diet. Mr. Speaker, a windfall profits tax will do the job. Stop the price gougers from getting fat at our constituents' expense.

☐ 1220

CONGRESS MUST FACE FISCAL RESPONSIBILITY

(Mr. CLEMENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLEMENT. Mr. Speaker, in 1776, signing the Declaration of Independence, Benjamin Franklin said, "We must all hang together, or most assuredly we shall all hang separately." We began to fall into a budgetary black hole after the administration did not allow its budget to be voted on earlier this year.

It is now incumbent on Congress to take the initiative by voting expediently on all 13 appropriations bills and meeting the deadline of October 19 to ensure that Government continues to function without interruption.

The President must clarify the intent of the administration by putting all of the cards on the table. We either burst the bubble and adopt a lower capital gains rate, and treat all taxpayers fairly, or we move forward in another direction which will put a disproportionate share of the burden on middle-income wage earners which I oppose.

If approval of a 5-year deficit reduction plan is unrealistic considering the timeframe under which we must operate, then we must adopt a 1-year deficit reduction package.

TIME TO LIMIT TERMS OF CONGRESSMEN

(Mr. McCOLLUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCOLLUM. Mr. Speaker, during the last week of debate, it seems to me that we have gotten caught up on this budget deficit issue without talking about the critical thing that was wrong with the whole debate, and that was the fact that in all the proposals discussed out there, there was no real reduction in domestic spending. The American people overwhelmingly want to see us reducing domestic spending. They want to see us cutting and not just freezing spending. They want to see us cutting spending, eliminate programs, doing things like that. Where is that discussion?

The majority in this Congress for too long has not recognized that fact. That is a fundamental flaw in our institution.

I happen to think that the President's comments in the last day or so about going in the direction of supporting a term limitation on the Members of Congress is a good idea. Some of us, like this Member, have long felt that limiting the terms of Congressmen was the fundamental reform needed to change the way we do business around here, to stop the concerns of worrying so much about getting reelected and to get back to the basics of governing this country the way it ought to be. The way it ought to be is by reducing spending, and I hope that there will be greater support for limiting the terms of Congressmen. It is a good idea whose time has come.

BUDGET PRIORITIES

(Mr. JOHNSON of South Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of South Dakota. Mr. Speaker, yesterday the President in a roomful of millionaire Republican Senators announced that increasing the tax burden on the super-rich would not be a component of deficit reduction, as dire as that need is in America today. They announced that deficit reduction would once again fall on taxes on the middle class, cuts to the elderly, cuts to rural America.

Well, Mr. Speaker, if we are going to move progressively forward on being serious about deficit reduction, that deficit reduction needs to be equitable. It needs to involve a surcharge or a bracket rate increase on the super wealthy in America. The tax bracket for these most fortunate Americans has plummeted from 70 to 28 percent in the past decade, while taxes on middle-class Americans have been going ever upward. It is not asking too much for greater equity from these people to make a greater contribution toward the national debt.

That budget plan also ought to include significant spending reductions on our military presence abroad.

It ought to include reductions in foreign aid and international debt forgiveness.

It ought to include an equitable spread of budget cuts, and ought to refrain from including still more tax shelters and other revenue losing provisions in the Tax Code.

CONDEMNING ATTACK ON WAILING WALL WORSHIPPERS

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **SCHEUER**. Mr. Speaker, this weekend, we bore witness to a brutal and premeditated attack on peaceful religious worshippers and tourists. Worshippers, who for thousands of years have flocked to the most holy place in the Jewish religion, the Wailing Wall in Jerusalem. They were there to celebrate the harvest festival of Succoth, when they were suddenly assaulted by a deadly avalanche of rocks, bottles, and metal.

And the most offensive part of this event was the world reaction. Frankly, the free world was cynically baited and fell for it. They were taken in.

The Palestinians made a calculated, desperate move to revive the flagging Intifada, to divert attention from the atrocities of Saddam Hussein. They made a well planned, murderous, and suicidal attack on the thousands of worshippers at the sacred Wailling Wall, and what does the world do but condemn the Israelis for using force to repulse this attack? That is absurd and preposterous.

Mr. Speaker, I am not saying the Israeli reaction was without fault. However, in light of the circumstances, a mob of 3,000 stone-hurling Palestinians attacking thousands of peaceful worshippers and 45 policemen, the loss of life was inevitable and it was planned and clearly anticipated by the Palestinian leadership and by Saddam.

Mr. Speaker, the Palestinians set a psychological and propaganda trap for us and the world. We got caught, hook, line, and sinker. Next time we should think a little harder.

In Kuwait, we are bearing witness to a mass transfer of people, to torture and murder on a massive scale, to the rape of a country, to thousands of Westerners held hostage as human shields. We must not let Saddam Hussein and the PLO divert us with their deadly and cynical games.

TAX EQUITY

(Mr. **GEJDENSON** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **GEJDENSON**. Mr. Speaker, the President addressed the country saying that it was necessary to take the tough step of laying off Federal employees because there was no price too great to pay to resolve our budget crisis. Lay off Federal employees, abandon young children who need the WIC Program, cut back on Medicare, raise the taxes on the poorest of the poor in this country, but we know what is sacrosanct at this White House. It is that the wealthiest in America should be asked to contribute a small portion to reducing this deficit.

The old joke used to be that America was a country with socialism for the wealthy. This has now gone to an extreme that the old jokes cannot even read.

The last proposal had a 3-percent increase on people who made $20,000 to $30,000 and a three-tenths of a percent tax increase on those who made over $300,000.

Let us stop asking Federal workers to take all the brunt of the pain. Let us not pass it on simply to children and poor people, but let us make up for the decades of Ronald Reagan's supply-side economics and the $4 trillion debt that he has given us. Let us have those who benefited the most in the last decade pay for a small portion of making it right.

A decade ago this was the largest creditor Nation in the world. Today we are the largest debtor Nation in the world, and you cannot turn it around on the backs of the poor.

PRESIDENT OF THE PRIVILEGED

(Ms. **PELOSI** asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. **PELOSI**. Mr. Speaker, this is the first day I can remember seeing so few of our Republican colleagues here during the 1 minutes. I can understand why they are not here. They must be very embarrassed by the news that the Republican Senators have demanded that the wealthy not bear their fair share, and the President has agreed with those wealthy Senators about protecting the wealthy.

Mr. Speaker, during his campaign, the President said he wanted to be the environmental President and he wanted to be the education President.

Mr. Speaker, when it comes to the environment and when it comes to education, President Bush is a "want-to-be-President," but when it comes to protecting the wealthy, he is the President of the privileged.

THE PRESIDENT AND THE SENATORS

(Mr. **ALEXANDER** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **ALEXANDER**. Mr. Speaker, the other night after the rancorous debate in the House of Representatives on the question of the budget, I received a number of telephone calls from my constituents in Arkansas asking me, "BILL, what's going on up there in Washington?"

To which I replied, "What does it look like is going on in Congress?"

They responded, "It looks like there is a lack of cooperation between the Congress and the President."

Admittedly, there is confusion, but it was somewhat cleared up yesterday when the President took the cloak off the Republican plan and revealed the truth to the American people.

In a meeting with a number of Republican Senators, the President agreed that he did not want to open the tax rate structure in the budget debate.

What he said, in effect, was that he wanted to protect the rich and did not want to open the budget debate to include the issue of tax reform and tax fairness.

So, what is going on is that the President is trying to place a heavier burden on the middle class in making the pay back for 10 years of supply-side economics, policies put in place by the previous President, Ronald Reagan.

Now, the cost of Reaganomics, the excesses of the 1980's, must be paid for in some form, but the President should not expect the middle class to write the entire check.

☐ 1230

HUMAN RIGHTS ABUSES IN KUWAIT

(Mr. **MACHTLEY** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **MACHTLEY**. Mr. Speaker, fellow Members and fellow citizens, I just came from a hearing at the Congressional Caucus of Human Rights.

We had approximately 2½ hours of personal testimony of both American citizens and Kuwaits who have left and who have seen firsthand the enormous atrocities that are occurring in Kuwait as a result of the invasion by Saddam Hussein.

Some 50 years ago there were people in this country who refused to believe that Adolph Hitler was committing atrocities in Europe. Unfortunately, I am afraid, as we work on the budget and we fight over partisan politics, that we forget there are human beings in this world who are losing dignity and rights which we all cherish in this country.

We must shout from the mountaintops and from our roofs that we will not permit human rights to be so flagrantly violated by Saddam Hussein, and we will, in fact ensure that he withdraws from Kuwait and human rights are protected around the world.

That is the legacy which we must leave for our children as American citizens.

TAIWAN'S 79TH NATIONAL DAY

(Mr. **PAYNE** of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **PAYNE** of New Jersey. Mr. Speaker, today is National Day for the 20 million people on Taiwan. Taiwan, our ally and fifth largest trading partner, has much to be proud of. In recent years, Taiwan's economy has grown at a spectacular rate, making it one of the wealthiest countries in the world.

I am sure my colleagues join me in wishing President Lee Teng-hui, Vice President Li Yuan-Zu, and Foreign Minister Fredrick Chien the best of luck and continued success. The relationship between the people of Taiwan and the people of the United States is a special one. One that is ongoing and remains strong under the stewardship of Dr. Ding Mou-shih, Taiwan's top representative in Washington.

We hope the Chinese people's genius for hard work will enable them to prosper even more in the 1990's. Congratulations to the Republic of China on Taiwan on its 79th National Day.

"TAXOCRAT" DEMOCRATS

(Mr. **RITTER** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **RITTER**. Mr. Speaker, we are hearing a great deal of demagoguery on the floor of the House today. The Democrats' use of this rich-versus-poor debate is sheer demagoguery.

The Democrats believe that anybody who is not on welfare or who is not working-poor is somehow rich, and that is why they have lost three straight national elections because the middle class know that the taxocrat Democrats are after them. And when they talk taxes, you Americans know that the bulk of the tax revenue comes from the middle class. There are not enough upper class there to make the great, great big difference the taxocrat Democrats talk about.

Now, all the data show that the top 1 percent, the top 5 percent, the top 10 percent and the top 20 percent all paid higher taxes after the Reagan tax cuts, both in absolute terms and in relative terms, in terms of the burden on them, the share of total tax taken by the Federal Government.

The Reagan tax cuts worked to get the economy moving. We were in near depression. A little less demagoguery and more attention to the facts will help, I think, the taxocrat Democrats understand what is going on in this country.

PROGRESSIVITY VERSUS REGRESSIVITY

(Mr. **APPLEGATE** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **APPLEGATE**. Mr. Speaker, in answer to my friend from Pennsylvania, we in fact are in a recession, and I do not know of anything that the Reagan and Bush tax cuts of 1981 did anything but cause regressivity in this country.

What I would like to know right now is: Would the real President of the United States please stand up? I would like to know who he is. I cannot figure out which side of anything that George Bush is on.

Yesterday he wanted to propose a very equitable tax package. Then his friends from the Senate, the wealthy ones, I presume, took him to the woodshed and changed his mind.

Back to screw-the-little-guy again.

Is this progressivity or regressivity? It reminds me of the guy that got up one morning, put his shoes on backwards, and walked forward into the past.

I hope he comes to his senses sometime, wakes up to the realization of what is going on and does what he says that he wants to do, and that is deficit reduction, and not to increase the deficit.

HOW THE DEMOCRATS DEFINE THE ISSUE OF RICH VERSUS POOR

(Mr. **WALKER** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **WALKER**. Mr. Speaker, it is always interesting to hear our friends from the other side speak on this issue of the economy. There is no doubt that there are issues that divide the two parties on this issue of rich versus poor. But what constantly amazes me is how they define the issue, because it has become increasingly clear that they are the party that wish to make you poorer, we are the party that wish to make you richer.

They are the party that consistently wants to take money out of your pocketbooks in taxes and make you poorer; we are the people who want to allow you to keep the money in your pocketbook and make you richer.

They are the people who want to regress the economy, bring it down so that less people have jobs and so more of the country is poor and then they can give you welfare benefits.

We are the people who want to give you jobs instead of welfare.

So that it really is a question of how you want the economy treated. And the Democrats have made it very clear here in the past few days that their prescription for the economy of the future is more government, more taxes, and more spending.

Our solution for the economy is more jobs, less spending, and less taxes.

ELIMINATING INEQUITIES IN THE TAX RATE STRUCTURE

(Mr. **SOLOMON** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **SOLOMON**. Mr. Speaker, you have seen a parade of speakers representing the Democratic Party of Florio, Dukakis, and Cuomo, the premier taxers in the country, talking about raising the tax rates on working Americans from 28 to 33 percent.

Well, this Republican has a deal you cannot refuse on your side of the aisle. We want to cut taxes. We want to take that Bradley-Gephardt-created bubble and, instead of raising it to 33, we want to bring it down to 28 so that no working American pays more than 28 percent. And then this Republican wants to put 10-percent surtax on personal income over $300,000.

That means those entrepreneurs who can earn $500,000 or $1 million can afford to pay that kind of a surtax. If we did that and then set a capital gains rate at 22 percent so that surviving spouses and senior citizens can sell their assets and lead a decent life for the remainder of their lives, we could then, listen to your side of the aisle. We could eliminate the Medicare tax altogether, we could eliminate the home heating fuel tax altogether, we could eliminate the gas tax totally.

I dare you to come over here and support this Republican bill; it is a good one. And it gets rid of the Bradley-Gephardt bubble that the Democratic Members have been so vehemently complaining about.

ANNOUNCEMENTS BY THE SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore (Mr. MAZZOLI). Now that the 1-minutes are over, the Chair would once again remind our Members that the President of the United States and other persons are not to be addressed directly, but they are to be addressed through the Chair. Also, Members of the other body are not to be referred to in the course of statements.

Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause of rule XV. Such rollcall votes, if postponed, will be taken today at 5 p.m.

SAFE MEDICAL DEVICES ACT OF 1990

Mr. **WAXMAN**. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3095) to amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of medical devices, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3095

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND REFERENCE TO ACT.

(a) Short Title.—This Act may be cited as the "Safe Medical Devices Act of 1990".

(b) Reference.—Whenever in this Act (other than in section 12) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

SEC. 2. USER REPORTS.

(a) Requirement.—Section 519 (21 U.S.C. 360i) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following:

"User Reports

"(b)(1)(A) Whenever a medical device user facility receives or otherwise becomes aware of information that reasonably suggests that a medical device has or may have caused or contributed to the death of a patient of the facility, the facility shall promptly report the information to the Secretary and, if the identity of the manufacturer is known, to the manufacturer of the device.

"(B) Whenever a medical device user facility receives or otherwise becomes aware of information that reasonably suggests that a medical device has or may have caused or contributed to the serious illness of, or serious injury to, a patient of the facility, the facility shall promptly report the information to the manufacturer of the device or to the Secretary if the identity of the manufacturer is not known.

"(C) Each medical device user facility shall submit to the Secretary on a quarterly basis a summary of the reports made under subparagraphs (A) and (B) within 30 days of the end of the quarter. Such a summary shall be in such form and contain such information from such reports as the Secretary may require and shall include—

"(i) sufficient information to identify the facility which made the reports for which the summary is submitted,

"(ii) in the case of any product which was the subject of a report, the product name, serial number, and model number,

"(iii) the name and the address of the manufacturer of such device, and

"(iv) a brief description of the event reported to the manufacturer.

"(D) For purposes of subparagraphs (A), (B), and (C), a facility shall be treated as having received or otherwise become aware of information with respect to a medical device of that facility when an individual who is employed by or otherwise formally affiliated with the facility receives or otherwise becomes aware of information with respect to that device in the course of the individual's duties.

"(2) The Secretary may not disclose the identity of a facility which makes a report under paragraph (1) except in connection with—

"(A) an action brought to enforce section 301(q),

"(B) a communication to a manufacturer of a device which is the subject of a report under paragraph (1), or

"(C) a disclosure required under subsection (a).

This paragraph does not prohibit the Secretary from disclosing the identity of a facility making a report under paragraph (1) or any information in such a report to employees of the Department of Health and Human Services, to the Department of Justice, or to the duly authorized committees and subcommittees of the Congress.

"(3) No report made under paragraph (1) by—

"(A) a medical device user facility,

"(B) an individual who is employed by or otherwise formally affiliated with such a facility, or

"(C) a physician who is not required to make such a report,

shall be admissible into evidence or otherwise used in any civil action involving private parties unless the facility, individual, or physician who made the report had knowledge of the falsity of the information contained in the report.

"(4) No medical device user facility may—

"(A) discharge or take any other adverse personnel action with respect to any employee because the employee made a report to an officer or employee of the facility respecting a device, or

"(B) limit the practice of, or take any other adverse action with respect to, any practitioner because the practitioner made a report to an officer or employee of the facility respecting a device.

Nothing in this paragraph shall prevent a medical device user facility from taking adverse personnel action against an employee for the employee's failure to adequately perform the employee's duties or for other good cause or from taking adverse action against a practitioner for the practitioner's failure to adequately perform the practitioner's duties or for other good cause.

"(5) A report made under paragraph (1) respecting a device does not affect any obligation of the manufacturer of the device who receives the report to file a report as required under subsection (a) respecting the device.

"(6) For purposes of this subsection, the term 'medical device user facility' means a hospital, ambulatory surgical facility, outpatient diagnostic or treatment facility which is not a physician's office, or a nursing home.".

(b) Sanction.—Section 302 (21 U.S.C. 332) is amended—

(1) in subsection (a) by inserting "(1)" before "to restrain", and

(2) by inserting before the period at the end of subsection (a) the following: ", and (2) of civil actions brought by any individual against a medical device user facility for damages for actions taken against the individual in violation of section 519(b)(4)".

(c) Regulations.—

(1) Not later than 9 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate proposed regulations to implement section 519(b) of the Federal Food, Drug, and Cosmetic Act as added by subsection (a) of this section. Such regulations shall include deadlines for submitting reports under subparagraphs (A) and (B) of section 519(b)(1) of such Act.

(2) Not later than 18 months after the date of the enactment of this Act, the Secretary shall issue final regulations to implement such section. If the Secretary does not promulgate such final regulations upon the expiration of such 18 months, the proposed regulations issued under paragraph (1) shall be considered as final regulations as of the expiration of such 18 months. There shall be promptly published in the Federal Register notice of the new status of the proposed regulations.

(d) Effective Date.—Section 519(b) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall take effect—

(1) upon the effective date of regulations promulgated under subsection (c), or

(2) upon the expiration of 18 months from the date of the enactment of this Act,

whichever occurs first.

(e) Education and Information.—During the 18-month period beginning on the date of the enactment of this Act, the Secretary shall inform medical device user facilities (as defined in section 519(b)(6) of the Federal Food, Drug, and Cosmetic Act) and manufacturers and distributors of medical devices respecting the requirements of section 519(b) of such Act.

(f) Study.—Three years after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study of—

(1) the compliance by medical device user facilities (as defined in section 519(b)(6) of the Federal Food, Drug, and Cosmetic Act) with the requirements of section 519(b) of such Act,

(2) the actions taken by the manufacturers of devices in response to reports made to them under such section,

(3) the cost effectiveness of such requirements and their implementation, and

(4) any recommendations for improvements to such requirements.

The Comptroller General shall complete the study and submit a report on the study not later than 45 months from the date of the enactment of this Act. The report shall be submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate and to the Secretary of Health and Human Services.

SEC. 3. REPORTS.

(a) Distributor Reports.—Section 519(a)(3) (21 U.S.C. 360i(a)(3)) is amended by inserting before the semicolon the following: "and shall require distributors who submit such reports to submit copies of the reports to the manufacturer of the device for which the report was made".

(b) Certification, User Tracking.—

(1) Section 519 (21 U.S.C. 360i), as amended by section 2, is amended by adding at the end the following:

"Certification

"(d) Each manufacturer, importer, and distributor required to make reports under subsection (a) shall submit to the Secretary annually a statement certifying that—

"(1) the manufacturer, importer, or distributor did file a certain number of such reports, or

"(2) the manufacturer, importer, or distributor did not file any report under subsection (a).

"User Tracking

"(e) Every person who registers under section 510 and is engaged in the manufacture of—

"(1) a device the failure of which would be reasonably likely to have serious adverse health consequences and which is (A) a permanently implantable devices, or (B) life sustaining or life supporting devices used outside a medical device user facility, or

"(2) such other devices as the Secretary may determine as is appropriate to protect the public health,

shall adopt a method of user tracking according to regulations issued by the Secretary.".

(2) Section 520(j) (21 U.S.C. 360j(j)) is amended by striking out "No" and inserting in lieu thereof "Except as provided in section 519(e), no".

(3) Section 519(e), as added by paragraph (1), shall take effect upon the effective date of final regulations under subsection (c).

(c) Regulations.—

(1)(A) Not later than 9 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue proposed regulations—

(i) to require distributors of medical devices to establish and maintain records and make reports under section 519 of the Federal Food, Drug, and Cosmetic Act, and

(ii) to implement section 519(e) of such Act.

(B) Regulations under subparagraph (A) shall—

(i) require appropriate methods for maintenance of records to ensure that patients who receive devices can be provided the notification required by such Act,

(ii) require that manufacturers adopt effective methods of tracking medical devices,

(iii) take into account the position of distributors in the medical device distribution process, and

(iv) include such other requirements as the Secretary deems necessary for the adoption of an effective user tracking program under section 519(e) of such Act.

(2) Not later than 18 months after the date of the enactment of this Act, the Secretary shall issue final regulations to require such records and reports. If the Secretary does not promulgate such final regulations upon the expiration of such 18 months, the proposed regulations issued under paragraph (1) shall be considered as final regulations as of the expiration of such 18 months. There shall be promptly published in the Federal Register notice of the new status of the proposed regulations.

SEC. 4. PREMARKET APPROVAL.

(a) Substantial Equivalence.—

(1) Section 513 (21 U.S.C. 360j) is amended by adding at the end the following:

"Substantial Equivalence

"(i)(1) For purposes of section 520 and this section, a device may be considered to be substantially equivalent to another device only if the Secretary by order finds that—

"(A)(i) the device has the same intended use and the same technological characteristics as such other device, or

"(ii) the device has the same intended use as such other device but has different technological characteristics and (I) the information submitted that the device is substantially equivalent to such other device, including clinical data if required by the Secretary, demonstrates that the device is as safe and effective as such other device which is currently being sold in interstate commerce, and (II) the device does not have characteristics that raise new questions with respect to safety and effectiveness that justify a denial of an order of substantial equivalence, and

"(B) the applicant has either submitted an adequate summary of any information respecting safety and effectiveness or has stated that such information will be made available upon request by any person.

"(2) For purposes of paragraph (1)—

"(A) technological characteristics of a device shall be considered to be different from those of the device to which it is being compared if there is a significant change in the materials, design, energy source, or other features from those of the device to which it is being compared, and

"(B) a summary submitted under paragraph (1)(B) with respect to a device shall contain detailed information regarding data concerning any adverse health effects and shall be made available to the public by the Secretary within 30 days of the issuance of a determination that the device is substantially equivalent to another device.".

(2)(A) Not later than 9 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate proposed regulations to establish requirements for the submission of summaries under section 513(i)(1)(B) of the Federal Food, Drug, and Cosmetic Act, as added by paragraph (1).

(B) Not later than 18 months after the date of the enactment of this Act, the Secretary shall issue final regulations to establish such requirements. If the Secretary does not promulgate such final regulations upon the expiration of such 18 months, the proposed regulations issued under paragraph (1) shall be considered as final regulations as of the expiration of such 18 months. There shall be promptly published in the Federal Register notice of the new status of the proposed regulations.

(3) Section 513(f) (21 U.S.C. 360c(f)) is amended by adding at the end the following:

"(3) If a manufacturer reports to the Secretary under section 510(k) that a device is substantially equivalent to another device—

"(i) which the Secretary has classified as a class III device under subsection (b),

"(ii) which was introduced or delivered for introduction into interstate commerce for commercial distribution before May 28, 1976, and

"(iii) for which no final regulation requiring premarket approval has been promulgated under section 515(b),

the manufacturer shall certify to the Secretary that the manufacturer has conducted a reasonable search of all information known to the manufacturer and of all published information respecting such other device and has included in the report under section 510(k) a description of and a citation to all adverse safety and effectiveness data respecting such other device and respecting the device for which the 510(k) report is being made and which has not been submitted to the Secretary under section 519. The Secretary may require the manufacturer to submit the adverse safety and effectiveness data described in the report.".

(b) Revision of Classification.—

(1) Section 515 (21 U.S.C. 360e) is amended by adding at the end the following:

"Revision

"(i)(1) Before the expiration of 5 years after the date of the enactment of this subsection, the Secretary shall by order require manufacturers of devices, which are subject to revision of classification under paragraph (2), to submit to the Secretary a description of and citation to any adverse safety or effectiveness information known to the manufacturers respecting the devices which has not been submitted under section 519, including any data supporting such information that the Secretary may require the manufacturer to submit.

"(2) After the issuance of an order under paragraph (1) but before the expiration of 5 years after the date of the enactment of this subsection, the Secretary shall publish a regulation in the Federal Register for each device—

"(A) which the Secretary has classified as a class III device,

"(B) which was introduced or delivered for introduction into interstate commerce for commercial distribution before May 28, 1976, and

"(C) for which no final regulation has been promulgated under section 515(b),

revising the classification of the device so that the device is classified into class I unless the regulation requires the device to remain in class III or revises the classification of the device so that the device is classified into class II. In determining whether to revise the classification of a device or to require a device to remain in class III, the Secretary shall apply the criteria set forth in section 513(a). Before the publication of a regulation requiring a device to remain in class III or revising its classification, the Secretary shall publish a proposed regulation respecting the classification of a device under this paragraph and provide reasonable opportunity for the submission of comments on any such regulation. No regulation requiring a device to remain in class III or revising its classification may take effect before the expiration of 90 days from the date of its publication in the Federal Register as a proposed regulation.

"(3) Within 12 months after the effective date of the regulation requiring a device to remain in class III, the Secretary shall establish a schedule for the promulgation, as promptly as is reasonably achievable, of a section 515(b) regulation for each device which is subject to the regulation requiring the device to remain in class III.".

(2) Section 520(l) (21 U.S.C. 360j(l)) is amended by adding at the end the following:

"(5)(A) Before the expiration of 1 year after the date of the enactment of this paragraph, the Secretary shall by order require manufacturers of devices, which are subject to revision of classification under subparagraph (B), to submit to the Secretary a description of and citation to any adverse safety or effectiveness information known to the manufacturers respecting the devices which has not been submitted under section 519. The Secretary may require a manufacturer to submit the adverse safety and effectiveness data for which a description and citation was submitted to the Secretary.

"(B) Except as provided in subparagraph (C), after the issuance of an order under subparagraph (A) but before the expiration of 2 years after the date of the enactment of this paragraph, the Secretary shall publish a regulation in the Federal Register for each device which is classified in class III under paragraph (1) revising the classification of the device so that the device is classified into class I unless the regulation requires the device to remain in class III or revises the classification of the device so that the device is classified into class II. In determining whether to revise the classification of a device or to require a device to remain in class III, the Secretary shall apply the criteria set forth in section 513(a). Before the publication of a regulation requiring a device to remain in class III or revising its classification, the Secretary shall publish a proposed regulation respecting the classification of a device under this subparagraph and provide an opportunity for the submission of comments on any such regulation. No regulation under this subparagraph requiring a device to remain in class III or revising its classification may take effect before the expiration of 90 days from the date of its publication in the Federal Register as a proposed regulation. Any person adversely affected by a final regulation under this subparagraph revising the classification of a device may challenge the revision of the classification of such device only by filing a petition under section 513(e) for a classification change.

"(C) The Secretary may by notice published in the Federal Register extend the 2-year period prescribed by subparagraph (B) for a device for an additional period not to exceed 1 year.".

(c) JUDICIAL REVIEW.—Section 517(a) (21 U.S.C. 360g(a))) is amended by striking out "or" at the end of paragraph (6), by inserting "or" at the end of paragraph (7), and by adding after paragraph (7) the following:

"(8) a regulation under section 515(i)(2),".

(d) RESTRICTION ON USE OF PREMARKET APPROVAL DATA.—

(1) Section 520(h) (21 U.S.C. 360j(h)) is amended by adding at the end the following:

"(4)(A) Any information contained in an application for premarket approval filed with the Secretary pursuant to section 515(c), including clinical and preclinical tests or studies but not including descriptions of methods of manufacture and product composition, that demonstrates the safety and effectiveness of a device shall be available for use by the Secretary, in approving devices, determining whether a product development protocol has been completed under section 515, and reclassifying devices under section 513(e), 513(f)(2), and 520(l)(2), one year after the fourth device of a kind has been approved under section 515 by the Secretary. The Secretary shall deem a device that incorporates the same technologies, has the same principles of operation, and is intended for the same use to be within a kind of device.

"(B) The Secretary, upon approving the fourth device of a kind, shall publish a notice in the Federal Register identifying the four devices of a kind that have been approved under section 515 and the date on which the data contained in the premarket approval applications for devices will be available to the Secretary as described in subparagraph (A).

"(C) The detailed summaries of information respecting the safety and effectiveness of devices required by paragraph (1)(A) shall be available as the evidentiary basis for the approval of a device under section 515, the determination of whether a product development protocol has been completed under section 515, the establishment of a performance standard under section 514, or the reclassification of a device under section 513(e), 513(f)(2), or 520(l)(2).

"(D) For purposes of this paragraph, the approval date of a device shall be the date of the Secretary's letter to the applicant approving a device under section 515 and permitting the applicant to commercially distribute the device.".

(2) Section 520(h)(3) (21 U.S.C. 360j(h)(3)) is amended by striking out "Any" and inserting in lieu thereof "Except as provided in paragraph (4), any".

(e) CONFORMING AMENDMENTS.—

(1) Section 301(q)(1) (21 U.S.C. 331(q)(1)) is amended by striking out "519 or 520(g)" and inserting in lieu thereof "513(f)(3), 515(i)(1), 519, 520(g), or 520(l)(5)(A)".

(2) Section 520(c) (21 U.S.C. 360j(c)) is amended by striking out "and may not be used" and inserting in lieu thereof "and, except as provided in section 520(h)(4), may not be used".

(f) EFFECTIVE DATE.—The amendments made by subsection (d) shall take effect—

(1) for devices approved before January 1, 1987, on the date of the enactment of this Act, and

(2) for all other devices, one year after such date of enactment.

SEC. 5. CLASSIFICATION AND RECLASSIFICATION OF DEVICES.

(a) STANDARDS.—

(1) Section 513(a)(1)(A)(ii) (21 U.S.C. 360c(a)(1)(A)(ii)) is amended by striking out "or to establish a performance standard" and inserting in lieu thereof "or to apply special controls".

(2) Section 513(a)(1)(B) (21 U.S.C. 360c(a)(1)(B)) is amended to read as follows:

"(B) CLASS II, SPECIAL CONTROLS.—A device which cannot be classified as a class I device because the controls authorized by or under sections 501, 502, 510, 516, 518, 519, and 520 by themselves are insufficient to provide reasonable assurance of the safety and effectiveness of the device, and for which there is sufficient information about a device such that the Secretary shall apply special controls, including the promulgation of performance standards, postmarket surveillance, patient registries, development and dissemination of guidelines, recommendations, and other appropriate actions as the Secretary deems necessary to provide such assurance.".

(3) Clause (i) of section 513(a)(1)(C) (21 U.S.C. 360c(a)(1)(C)) is amended to read as follows:

"(i) it (I) cannot be classified as a class I device because insufficient information exists to determine that the controls authorized by or under sections 501, 502, 510, 516, 518, 519, and 520 are sufficient to provide reasonable assurance of the safety and effectiveness of the device, and (II) cannot be classified as a class II device because insufficient information exists to determine that the application of special controls described in subsection (b) would provide reasonable assurance of its safety and effectiveness, and".

(b) EVIDENCE.—Section 513(e) (21 U.S.C. 360c(e)) is amended by redesignating clauses (1) and (2) as clauses (A) and (B), respectively, and by inserting "(1)" after "(e)" and by adding at the end the following:

"(2) By regulation promulgated under paragraph (1), the Secretary may change the classification of a device from class III—

"(A) to class II if the Secretary determines that special controls would provide reasonable assurance of the safety and effectiveness of the device and that general controls would not provide reasonable assurance of the safety and effectiveness of the device, or

"(B) to class I if the Secretary determines that general controls for the device would provide reasonable assurance of the safety and effectiveness of the device.".

(c) F.D.A. AUTHORITY TO INITIATE RECLASSIFICATION.—

(1) Section 513(f)(2)(A) (21 U.S.C. 360c(f)(2)(A)) is amended by striking out "The manufacturer" and inserting in lieu thereof "The Secretary may initiate the reclassification of a device classified into class III under paragraph (1) of this subsection or the manufacturer".

(2) Section 520(l)(2) (21 U.S.C. 360j(l)(2)) is amended by striking out "The manufacturer" and inserting in lieu thereof "The Secretary may initiate the reclassification of a device classified into class III under paragraph (1) of this subsection or the manufacturer".

(3) The heading for section 513(f) (21 U.S.C. 360c(f)) is amended by inserting "and Reclassification" before "of".

SEC. 6. ESTABLISHMENT OF PERFORMANCE STANDARDS.

(a) PROCEDURE.—

(1) Section 514(a)(1) (21 U.S.C. 360d(a)(1)) is amended by adding at the end the following: "If there is not sufficient information to establish a performance standard for a device to provide reasonable assurance of its safety and effectiveness, the Secretary may conduct such activities as may be necessary to develop or obtain such information.".

(2) Subsections (b) through (f) of section 514 (21 U.S.C. 360d) are repealed.

(3) Subsection (g) of such section is redesignated as subsection (b).

(4) Subsection (b) (as so redesignated) of such section is amended by striking out paragraphs (1) and (2), by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively, and by inserting before paragraph (2) the following:

"(1) A notice of proposed rulemaking for the establishment of a performance standard for a device shall—

"(A) set forth a finding by the Secretary that the performance standard is both appropriate and necessary for the device,

"(B) set forth proposed findings with respect to the degree of the risk of illness or injury designed to be eliminated or reduced by the proposed performance standard and the benefit to the public from the device,

"(C) provide an opportunity to submit to the Secretary a request (within 30 days of the date of the publication of the notice) for a change in the classification of the device pursuant to section 513 based on new information relevant to its classification, and

"(D) invite the submission of an existing performance standard as a proposed performance standard for the device.".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of subsection (b) (as so redesignated) of such section is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (1)".

(2) Paragraph (3)(A) of such subsection (as so redesignated) is amended by striking out "paragraphs (2) and (3)(B)" and inserting in lieu thereof "paragraphs (1) and (2)(B)".

SEC. 7. NOTIFICATION AND OTHER REMEDIES.

(a) REPORTS.—

(1) Section 519 (21 U.S.C. 360i), as amended by sections 2 and 3, is amended by adding at the end the following:

"Reports of Removals and Corrections

"(f)(1) Except as provided in paragraph (2), the Secretary shall by regulation require a manufacturer, importer, or distributor of a device to report promptly to the Secretary any removal or correction of a device undertaken by the manufacturer, importer, or distributor of a device if the removal or correction was undertaken—

"(A) to reduce a risk to health posed by the device, or

"(B) to remedy a violation of this Act caused by the device.

A manufacturer, importer, or distributor of a device who undertakes a correction or removal of a device which is not required to be reported under this paragraph shall keep a record of such correction or removal.

"(2) No report of the correction or removal of a device may be required under paragraph (1) if a report of the correction or removal is required, and has been submitted, under subsection (a).

"(3) For purposes of paragraphs (1) and (2), the terms 'correction' and 'removal' do not include routine servicing.".

(2)(A) Not later than 9 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate proposed regulations to establish deadlines for reports under section 519(f) of the Federal Food, Drug, and Cosmetic Act as added by paragraph (1).

(B) Not later than 18 months after the date of the enactment of this Act, the Secretary shall issue final regulations to establish such deadlines. If the Secretary does not promulgate such final regulations upon the expiration of such 18 months, the proposed regulations issued under paragraph (1) shall be considered as final regulations as of the expiration of such 18 months. There shall be promptly published in the Federal Register notice of the new status of the proposed regulations.

(b) RECALL.—

(1) Section 518 (21 U.S.C. 360h) is amended by adding at the end the following:

"Recall

"(e)(1) If, after providing notice and an opportunity for a hearing, the Secretary determines that there is a reasonable probability that a device intended for human use will cause serious, adverse health consequences or death, the Secretary shall issue an order requiring the appropriate parties, including the manufacturers, importers, distributors, or retailers of such device, immediately to cease any distribution of the device and to recall the device from commercial distribution and use. The type and length of hearing shall be determined by the Secretary as appropriate in the circumstances at issue. Such order shall specify a timetable in which the device recall shall occur and shall require periodic reports to the Secretary describing the progress of the recall.

"(2) An order issued under paragraph (1) shall also require notice to individuals subject to the risks associated with the use of the device. Such notice may be provided through the individual's physician. If a significant number of such individuals cannot be identified, the order shall notify such individuals pursuant to section 705(b).

"(3) Within 20 days of the initiation of the withdrawal of a device pursuant to an order issued under paragraph (1), the Secretary shall provide the party to whom the order is directed an informal hearing to determine whether grounds exist for such order.".

(2) REGULATIONS.—

(A) Not later than 9 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate proposed regulations to require manufacturers and importers of devices to adopt methods by which devices may be traced in connection with a recall ordered under section 520(e) of the Federal Food, Drug, and Cosmetic Act as added by paragraph (1).

(B) Not later than 18 months after the date of the enactment of this Act, the Secretary shall issue final regulations to establish such requirements. If the Secretary does not promulgate such final regulations upon the expiration of such 18 months, the proposed regulations issued under paragraph (1) shall be considered as final regulations as of the expiration of such 18 months. There shall be promptly published in the Federal Register notice of the new status of the proposed regulations.

SEC. 8. CIVIL PENALTIES.

(a) AMENDMENT.—Section 303 (21 U.S.C. 333) is amended by adding at the end the following:

"(f)(1) Any person who violates a requirement of subchapter A of chapter 5 which relates to medical devices shall be liable to the United States for a civil penalty in an amount—

"(A) not to exceed $1,000 for each device in class I which is in violation of a requirement of such subchapter and not to exceed $100,000 for all devices involved in such violation,

"(B) not to exceed $5,000 for each device in class II which is in violation of a requirement of such subchapter and not to exceed $500,000 for all devices involved in such violation,

"(C) not to exceed $20,000 for each device in class III which is in violation of a requirement of such subchapter and not to exceed $1,000,000 for all devices involved in such violation,

"(D) not to exceed $50,000 for one or more violations of section 520(f) found in a single inspection,

"(E) not to exceed $20,000 for each violation of section 519(a), 519(e), or 519(f), and

"(F) not to exceed $20,000 for any violation not referred to in subparagraphs (A) through (E).

"(2)(A) A civil penalty under paragraph (1) shall be assessed by the Secretary by an order made on the record after opportunity for a hearing provided in accordance with this subparagraph and section 554 of title 5, United States Code. Before issuing such an order, the Secretary shall give written notice to the person to be assessed a civil penalty under such order of the Secretary's proposal to issue such order and provide such person an opportunity for a hearing on the order. In the course of any investigation, the Secretary may issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence that relates to the matter under investigation.

"(B) In determining the amount of a civil penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

"(C) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which may be assessed under paragraph (1). The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

"(3) Any person who requested, in accordance with paragraph (2)(A), a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 60-day period beginning on the date the order making such assessment was issued.

"(4) If any person fails to pay an assessment of a civil penalty—

"(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (3), or

"(B) after a court in an action brought under paragraph (3) has entered a final judgment in favor of the Secretary,

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 60-day period referred to in paragraph (3) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

"(5)(A) Paragraphs (1)(D), and (1)(E) shall not apply to any person who commits minor violations of section 519(a), 519(e), or 519(f) (only with respect to corrections reports), or 520(f) if such person demonstrates substantial compliance with such section.

"(B) Paragraphs (1)(A), (1)(B), and (1)(C) shall not apply to violations of section 501(a)(2)(A) or 501(h).".

(b) EFFECTIVE DATE OF APPLICATION TO MEDICAL DEVICE USER FACILITIES.—

(1) The Secretary of Health and Human Services shall conduct a study to determine whether there has been substantial compliance with the requirements of section 519(b) of the Federal Food, Drug, and Cosmetic Act by medical device user facilities (as defined in section 519(b)(6) of such Act). The Secretary shall report the results of the study to the Congress after the expiration of 45 months after the date of the enactment of this Act.

(2)(A) If upon the expiration of 48 months after the date of the enactment of this Act the Secretary has not made the report required by paragraph (1), section 303(f) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall take effect with respect to medical device user facilities (as defined in section 519(b)(6) of the Federal Food, Drug, and Cosmetic Act).

(B) If in the report under paragraph (1) the Secretary reports that there has been substantial compliance with the requirements of such section 519(b) by a type of medical device user facility and if the Secretary does not make a determination under subparagraph (C) with respect to such type of facility, such section 303(f) shall not take effect with respect to such type of facility.

(C) If the Secretary determines in the report under paragraph (1) that there is not substantial compliance with the requirements of such section 519(b) by a type of medical device user facility or if the Secretary makes such a determination after making the report under paragraph (1), such section 303(f) shall take effect with respect to such type of facility upon the effective date of the report.

SEC. 9. TEMPORARY SUSPENSION OF APPROVAL OF APPLICATION.

Section 515(e) (21 U.S.C. 360e(e)) is amended—

(1) by adding at the end the following:

"(3) If, after providing notice and an opportunity for a hearing, the Secretary determines that the continuation of distribution of a device under an approved application will cause serious, adverse health consequences or death, the Secretary shall by order temporarily suspend the approval of the application approved under this section. The type and length of hearing shall be determined by the Secretary as appropriate in the circumstances of the application at issue. If the Secretary issues such an order, the Secretary shall proceed expeditiously under paragraph (1) to withdraw such application.", and

(2) in the subsection heading, by inserting "and Temporary Suspension" after "Withdrawal".

SEC. 10. POSTMARKET SURVEILLANCE.

(a) AMENDMENT.—Subchapter A of chapter 5 is amended by inserting after section 521 (21 U.S.C. 360k) the following new section:

"SEC. 522. POSTMARKET SURVEILLANCE.

"(a) IN GENERAL.—The Secretary shall require a manufacturer to conduct postmarket surveillance for any device that is approved *after January 1, 1991, that presents potential for serious risk to human health, and that—*

"(1) is a permanent implant; or

"(2) is intended for a use in supporting or sustaining human life.

The Secretary may require a manufacturer to conduct postmarket surveillance for any device that is a device with respect to which the Secretary determines that postmarket surveillance of the device is necessary to protect the public health or to evaluate the safety or effectiveness of the device.

"(b) SURVEILLANCE PERIOD.—The Secretary shall determine the period and type of surveillance required in order to complete the collection of useful data or other information necessary to protect the public health and to evaluate the safety or effectiveness of the device. The surveillance shall be conducted by one or more qualified medical centers approved by the Secretary.".

(b) REGULATIONS.—

(1) Not later than 9 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate proposed regulations to implement section 522 of the Federal Food, Drug, and Cosmetic Act as added by subsection (a) of this section. Such regulations shall establish qualifications for medical centers which will conduct surveillances under such section 522.

(2) Not later than 18 months after the date of the enactment of this Act, the Secretary shall issue final regulations to implement such section. If the Secretary does not promulgate such final regulations upon the expiration of such 18 months, the proposed regulations issued under paragraph (1) shall be considered as final regulations as of the expiration of such 18 months. There shall be promptly published in the Federal Register notice of the new status of the proposed regulations.

SEC. 11. MISCELLANEOUS.

(a) SECTION 513(f).—Section 513(f)(2) (21 U.S.C. 360c(f)(2)) is amended in subparagraph (B)(i), by striking out "the Secretary shall" and inserting in lieu thereof "the Secretary may for good cause shown".

(b) SECTION 514.—Section 514(b) (21 U.S.C. 360d(b)(4)(B)) (as so redesignated) is amended—

(1) in paragraph (3)(B) (as so redesignated), by striking out ", after affording all interested persons an opportunity for an informal hearing,", and

(2) in clause (ii) of paragraph (4)(A) (as so redesignated), by striking out "unless" and all that follows in that clause and inserting in lieu thereof the following: "which demonstrates good cause for referral and which is made before the expiration of the period for submission of comments on such proposed regulation refer such proposed regulation,".

(c) SECTION 515.—Section 515(c)(2) (21 U.S.C. 360e(c)(2)) is amended by striking out "paragraph (1), the Secretary shall refer such application" and inserting in lieu thereof "paragraph (1), the Secretary—

"(A) may on the Secretary's own initiative refer such application, or

"(B) shall, upon the request of an applicant unless the Secretary finds that the information in the application which would be reviewed by a panel substantially duplicates information which has previously been reviewed by a panel appointed under section 513,

refer such application".

(d) SECTION 516.—Section 516(a) (21 U.S.C. 360f(a)) is amended (1) by striking out "and after consultation with the appropriate panel or panels under section 513", and (2) by striking out the last sentence.

(e) SECTION 520(f).—Section 520(f)(1)(A) (21 U.S.C. 360j(f)(1)(A)) is amended by inserting "design validation," after "manufacture,".

(f) SECTION 520(l).—Section 520(l)(2) (21 U.S.C. 360j(l)(2)) is amended by striking out "and after affording the petitioner an opportunity for an informal hearing".

SEC. 12. ELECTRONIC PRODUCTS.

(a) IN GENERAL.—

(1) Subpart 3 of part F of title III of the Public Health Service Act is transferred to chapter V of the Federal Food, Drug, and Cosmetic Act, is placed after section 528, and sections 354 through 360F of such subpart are redesignated as sections 530 through 542 of the Federal Food, Drug, and Cosmetic Act, respectively.

(2) Such subpart 3 is amended as follows:

(A) The heading for the subpart is amended to read as follows:

"SUBCHAPTER C—ELECTRONIC PRODUCT RADIATION CONTROL".

(B) The subpart is amended by striking out "subpart" each place it occurs and inserting in lieu thereof "subchapter".

(3)(A) Section 356 of such Act is amended—

(i) by striking out "358" each place it occurs and inserting in lieu thereof "534", and

(ii) by striking out "sections 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529, 41 U.S.C. 5)" and inserting in lieu thereof "section 3324 of title 31, United States Code, and section 3709 of the Revised Statutes of the United States (41 U.S.C. 5)".

(B) Section 358(a)(1)(E) of such Act is amended by striking out "355" and inserting in lieu thereof "531".

(C) Section 359 of such Act is amended—

(i) by striking out "358" each place it occurs and inserting in lieu thereof "534", and

(ii) by striking out "360A" each place it occurs and inserting in lieu thereof "537".

(D) Section 360 of such Act is amended by striking out "358" each place it occurs and inserting in lieu thereof "534".

(E) Section 360A of such Act is amended—

(i) by striking out "358" and inserting in lieu thereof "534", and

(ii) by striking out "359" each place it occurs and inserting in lieu thereof "535".

(F) Section 360B of such Act is amended—

(i) by striking out "358" each place it occurs and inserting in lieu thereof "534",

(ii) by striking out "359" each place it occurs and inserting in lieu thereof "535", and

(iii) by striking out "360A" each place it occurs and inserting in lieu thereof "537".

(G) Section 360C of such Act is amended—

(i) by striking out "358" and inserting in lieu thereof "534",

(ii) by striking out "360B" each place it occurs and inserting in lieu thereof "538", and

(iii) by striking out "360F" and inserting in lieu thereof "542".

(H) Section 360F of such Act is amended by striking out "358" and inserting in lieu thereof "534".

(4) Section 354 of such Act is repealed and sections 355 through 360F of such Act are redesignated as sections 531 through 542, respectively.

(b) CONFORMING AMENDMENT.—The heading for part F of title III of the Public Health Service Act is amended by striking out "AND CONTROL OF RADIATION".

(c) CONSTRUCTION.—The transfer of subpart 3 of part F of title III of the Public Health Service Act to the Federal Food, Drug, and Cosmetic Act does not change the application of the requirements of such subpart and such Act to electronic products which were in effect on the date of the enactment of this Act.

SEC. 13. APPLICATION.

Medical devices used to deliver electroconvulsive therapy shall be subject to sections 513 through 521 of the Federal Food, Drug, and Cosmetic Act as in effect on the day before the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. Waxman] will be recognized for 20 minutes, and the gentleman from Florida [Mr. Bilirakis] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Waxman].

□ 1240

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3095, the bill now under consideration.

The SPEAKER pro tempore (Mr. Mazzoli). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, the Safe Medical Devices Act represents the first reform of medical device law since 1976, when Congress adopted the first law to assure the safety and effectiveness of medical devices.

During the 14 years since enactment of the medical device amendments, the Food and Drug Administration has refused to implement the act as Congress intended. Since early in the 1980's, the Committee on Energy and Commerce has identified serious deficiencies in the approval of new devices, in the monitoring of devices in use, and in the agency's ability to remove unsafe devices from the market expeditiously.

The need for reform has been the subject of extensive studies by the General Accounting Office and Inspector General of the Department of Health and Human Services. The GAO has issued eight reports on the medical device regulatory process. The reports identified serious shortcomings in both premarket review and postmarket surveillance.

In testimony last year before our subcommittee, Comptroller General Charles Bowsher stated:

> In brief, our work reveals several shortcomings in both the premarket review and postmarket surveillance systems for medical devices and raises serious questions about

> the ability of these systems and related regulations to protect the American people from unsafe and ineffective medical devices.

The Comptroller General concluded his testimony by finding:

> The evidence is that the nation does not presently have a fully functioning process for ensuring the safety and effectiveness of medical devices.

Mr. Speaker, the overwhelming majority of medical devices now being allowed on the market have not been shown to be safe and effective. In fact, of the small number of devices FDA has granted premarket approval to since 1976, nearly one in seven has been recalled. Almost half of the recalls involved problems in device design.

Clearly the law has not worked as intended and reform is urgently needed. H.R. 3095 will modify current law to give the American people greater protection against dangerous medical devices.

The most significant provisions of the legislation include:

Improved reporting of deaths and injuries from medical devices. For the first time, hospitals, nursing homes and other major medical device user facilities would be required to report deaths and other serious problems with medical devices to manufacturers or the FDA.

Providing a statutory basis for examining safety and effectiveness when a device is permitted on the market because it is substantially equivalent to a device already on the market.

Providing an orderly timetable under which FDA either will review old and new devices for safety and effectiveness or will reclassify them so that they no longer require the submission of a premarket approval application.

Providing FDA authority to recall products that may pose an unreasonable risk of harm to the public health.

Providing FDA authority to seek administrative civil penalties as a means of enforcing the medical device law.

Authorizing FDA to temporary suspend device marketing applications if the device will cause serious, adverse health consequences or death.

Authorizing FDA to require postmarket surveillance of devices when such surveillance is necessary to protect public health.

Finally, repeal of cumbersome procedural requirements for the promulgation of performance standards and other unnecessary aspects of the 1976 law.

Mr. Speaker, the legislation represents the product of a carefully crafted compromise. We are pleased to report that the legislation enjoys broad bipartisan support and that was reported by the Committee on Energy and Commerce without dissent. It represents the culmination of 6 years of study by our subcommittee and the Subcommittee on Oversight and Investigation. It is the product of extensive consultations with the FDA, consumer groups, and the medical device industry.

At this time, I want to commend the chairman of the committee and principal cosponsor of this legislation, Mr. Dingell, for the many years he has labored to strengthen the medical device law. Early hearings before his Oversight and Investigation Subcommittee exposed critical deficiencies in FDA procedures and statutory requirements that are being addressed in this legislation.

I also want to single out the invaluable contributions of the ranking minority member of the subcommittee, Mr. Madigan, for his interest in and support of this legislation. His efforts were critical to passage of similar legislation during the 100th Congress. His contributions have greatly enhanced the prospect for enactment of this most necessary public health and safety measure.

Finally I want to commend the house legislative counsel, Mr. David Meade, for his tireless and talented drafting which put into statutory language the often difficult compromises represented by this legislation.

Mr. Speaker, last but not least, let me commend the efforts of our majority staff, Lesley Russell of the full committee, Ripley Forbes and Bill Schultz of the subcommittee, and staff of the minority, Mary McGrave and Howard Cohen, all of whom have labored to get this bill in the form in which it is at the present time. We can proudly say that we are about to pass legislation which will live up to the promise made in the early medical device legislation, that the public will know that medical devices are being reviewed and regulated so that the health and safety of the American people are protected.

Mr. Speaker, I urge support for this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

Medical devices run the gamut from the very simple to the extremely complex, from common household items, such as thermometers and bandages, to implanted heart valves and kidney dialysis machines. Medical devices are currently regulated under the 1976 Amendments to the Federal Food, Drug and Cosmetic Act. The legislation has not been addressed since, and over the years certain problems have developed with the implementation of several of the primary sections of the original legislation. Specifically a number of requirements of the legislation have not been implemented by the FDA. Additionally, the FDA lacks some needed authorities which wil codify many of their current practices

This legislation represents a compromise worked out between the majorit and minority of the Energy and Commerce Committee. The legislatio before us will codify FDA's curren practice in approving devices throug the 510(k) process, and give th Agency additional authority to requir evidence of comparable safety and ef ficacy to devices currently on th market. It also provides the agenc with streamlined procedures to carr out the reclassification of devices an the development of performanc standards. Finally it strengthens reporting requirements by requiring hospitals to report all deaths associate with medical devices to the FDA.

Mr. Speaker, I urge my colleagues t support this legislation. I would als note that the administration has n objection to this legislation.

Mr. DINGELL. Mr. Speaker, I rise today i support of H.R. 3095, the Safe Medical Devices Act of 1990. This bill will revise and improve the basic law under which the Food an Drug Administration [FDA] regulates the safet and effectiveness of medical devices.

I am pleased to have worked with my co leagues Chairman Waxman and Congressma Madigan to bring this important and necessary legislation to the floor.

Over the years the Oversight and Investigations Subcommittee and the Health and Env ronment Subcommittee of the Energy an Commerce Committee have compiled a som story of the FDA's inability to implement th 1976 medical device amendments as Congress intended, and the agency's lack of e fective enforcement tools to use against defective devices and uncooperative manufacturers. As a result, the health of the America public has been jeopardized. Indeed, man people—babies, the elderly, even men an women in the prime of life—have died because unsafe medical devices have been a lowed onto the market without adequate scrutiny.

This legislation modifies the underlying la to improve FDA's performance in increasin protection of the public health and equalizin the marketplace for manufacturers. The legislation: improves mechanisms to ensure that a devices entering the market are safe and e fective; increases reporting requirements t enable the FDA to learn quickly about seriou problems with devices already on the marke adds enforcement tools to enable the FDA t get defective devices off the market; an streamlines procedures to help the FDA mak better use of its resources.

I urge my colleagues to join with me in su port of this bill.

Mr. WAXMAN. Mr. Speaker, I hav no requests for time, and I yield bac the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, have no requests for time, and I yiel back the balance of my time.

The SPEAKER pro tempore. Th question is on the motion offered b the gentleman from California [M

WAXMAN] that the House suspend the rules and pass the bill, H.R. 3095, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will take a moment to make an announcement to the Members in the Chamber and those not in the Chamber concerning the program for the balance of the day.

Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on the Suspension Calendar and any votes called under that calendar for not earlier than 4 p.m. The Chair had earlier announced, not earlier than 5 p.m. It is now not earlier than 4 p.m. that votes on the Suspension Calendar will be called. But the House may return to other business on the Suspension Calendar at the completion of other legislative business.

DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT OF 1990

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5679) to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act, as amended.

The Clerk read as follows:

H.R. 5679

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act of 1990".

SEC. 2. REFERENCE.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act.

SEC. 3. FINDINGS AND PURPOSES.

Section 101 of the Act is amended—

(1) in subsection (a)—

(A) by striking "there are more than two" in paragraph (1) and inserting "in 1990 there are more than three";

(B) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(C) by inserting after paragraph (6) the following new paragraph:

"(7) a substantial portion of persons with developmental disabilities remain unserved or underserved; "; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (2);

(B) by redesignating paragraph (3) as paragraph (8); and

(C) by inserting after paragraph (2) the following new paragraphs:

"(3) to provide interdisciplinary training and technical assistance to professionals, paraprofessionals, family members, and individuals with developmental disabilities;

"(4) to advocate for public policy change and community acceptance of all people with developmental disabilities and their families so that such persons receive the services, supports and other assistance and opportunities necessary to enable such persons to achieve their maximum potential through increased independence, productivity and integration into the community;

"(5) to promote the inclusion of all persons with developmental disabilities, including persons with the most severe disabilities, in community life;

"(6) to promote the interdependent activity of all persons with developmental disabilities, including persons with the most severe disabilities;

"(7) to recognize the contribution of all persons with developmental disabilities as such persons share their talents at home, school, and work, and in recreation and leisure time; and".

SEC. 4. DEFINITIONS.

Section 102 of the Act is amended—

(1) in paragraph (5)—

(A) by inserting "5 years of age or older" after "of a person";

(B) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(C) by adding after and below subparagraph (E) the following:

"except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.";

(2) in paragraph (8), by striking "nondisabled citizens" each place such term appears and inserting "citizens without disabilities";

(3) in subparagraph (A) of paragraph (8)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and integrated employment," after "activities" in clause (ii); and

(C) by inserting before the matter at the end of subparagraph (A) the following new clauses:

"(iii) use of the same community resources by persons with developmental disabilities living, learning, working, and enjoying life in regular contact with citizens without disabilities, and

"(iv) development of friendships and relationships with persons without disabilities,";

(4) in subparagraph (B) of paragraph (8), by striking "or in home-like settings";

(5) in paragraph (9), by striking "specialized services or special adaptation of generic services" each place such term appears and inserting "special adaptation of generic services or specialized services";

(6) in clause (iv) of paragraph (9)(B)—

(A) by striking "models" and inserting "approaches, strategies"; and

(B) by inserting "Federal, State and local" before "policymakers";

(7) in paragraph (10), by striking "case management" and inserting "system coordination and community education";

(8) in paragraph (12), by striking "and family support services" and inserting ", individual, family and community supports";

(9) in subparagraph (B) of paragraph (17), by inserting "and their families" after "disabilities" each place such appears;

(10) by striking paragraph (21) and inserting the following new paragraph:

"(21) The term 'protection and advocacy system' means a protection and advocacy system established in accordance with section 142.";

(11) in paragraph (22), by inserting at the end thereof the following new sentence: "Such term includes assistive technology devices and assistive technology service."; and

(12) by inserting at the end thereof the following new paragraphs:

"(24) The term 'family support service' means services, supports, and other assistance provided to families with members with developmental disabilities, that are designed to—

"(A) strengthen the family's role as primary caregiver,

"(B) prevent inappropriate out of the home placement and maintain family unity, and

"(C) reunite families with members who have been placed out of the home.

Such term includes respite care, assistive technology, personal assistance, parent training and counseling, support for elderly parents, vehicular and home modifications, and assistance with extraordinary expenses associated with the needs of the person with a developmental disability.

"(25) The term 'individual supports' means services, supports, and other assistance that enable persons with developmental disabilities to be independent, productive, and integrated into their communities, and that are designed to—

"(A) enable the person to control his or her environment, permitting the most independent life possible,

"(B) prevent placement into a more restrictive living arrangement than is necessary, and

"(C) enable the person to live, learn, work, and enjoy life in the community.

Such term includes personal assistance services, assistive technology, vehicular and home modifications, support at work, and transportation.

"(26) The term 'community supports' means providing activities, services, supports, and other assistance to persons with developmental disabilities, and the families and communities of such persons, that are designed to—

"(A) assist neighborhoods and communities to be more responsive to the needs of persons with developmental disabilities and their families,

"(B) develop local networks which can provide informal support, and

"(C) make communities accessible and enable communities to offer their resources and opportunities to persons with developmental disabilities and their families.

Such term includes community education, personal assistance services, vehicular and home modifications, support at work, and transportation.

"(27) The term 'system coordination and community education activities' means activities that—

"(A) eliminate barriers to access and eligibility for services, supports, and other assistance,

"(B) enhance systems design and integration including the encouragement of the creation of local case management and information and referral statewide systems, and

"(C) enhance individual, family and citizen participation and involvement.

"(28) The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of a person with a developmental disability.

"(29) The term 'assistive technology service' means any service that directly assists a person with a developmental disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of a person with a developmental disability, including a functional evaluation of the person in the person's customary environment;

"(B) purchasing, leasing or otherwise providing for the acquisition of assistive technology devices by a person with a developmental disability;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as therapies, interventions or services associated with existing education and rehabilitation plans and programs;

"(E) training or technical assistance for a person with developmental disabilities, or, where appropriate, the family of a person with a developmental disability; and

"(F) training or technical assistance for professionals (including persons providing education and rehabilitation services), employers, or other persons who provide services to, employ, or are otherwise substantially involved in the major life functions of a person with developmental disability.

"(30) The term 'prevention' means activities which address the causes of developmental disabilities and the exacerbation of functional limitations, such as activities which—

"(A) eliminate or reduce the factors which cause or predispose persons to developmental disabilities or which increase the prevalence of developmental disabilities;

"(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations; and

"(C) mitigate against the effects of developmental disabilities throughout the person's lifespan.".

SEC. 5. FEDERAL SHARE.

Section 103 of the Act is amended—

(1) in subsection (a), by striking "located" and inserting "whose activities or products target people who live";

(2) in subsection (b) by striking "is located" and inserting "activities or products target people who live"; and

(3) in subsection (c) by inserting "part B of" before "this".

SEC. 6. REPORTS.

Section 107 of the Act is amended—

(1) in subsection (a)—

(A) by striking "each annual survey" and all that follows through the semicolon in paragraph (4) and inserting "any intermediate care facility for the mentally retarded in such State, and with respect to each annual survey report prepared pursuant to section 1902(a)(31)(C) of the Social Security Act and each correction or reduction plan prepared pursuant to section 1922 of such Act;"; and

(B) in paragraph (5)—

(i) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of and with";

(ii) by inserting "particularly unserved and underserved groups," after "impairments,"; and

(iii) by striking "that the State Planning Council may identify under sections 122(b)(3) and 122(f)" and inserting ", and a summary of actions taken to improve access to and services for unserved and underserved groups that the State Planning Council may have identified";

(2) in subsection (c)(1)—

(A) by striking "April" and inserting "July"; and

(B) by striking "the Handicapped" and inserting "Disability"; and

(3) in subsection (c)(1)(C)—

(A) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of,";

(B) by inserting "particularly unserved or underserved groups," after "impairments,";

(C) by striking "may identify" and inserting "has identified"; and

(D) by inserting ", and a summary of actions taken to improve access to services for such groups" before the semicolon.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY.

Section 108(b) of the Act is amended—

(1) by inserting after "Developmental Disabilities" the second place such term appears the following: "the Administration on Children, Youth and Families, the Administration on Aging, and the Health Resources and Services Administration,"; and

(2) by inserting at the end thereof the following: "Each meeting of the interagency committee (except for any meetings of any subcommittees of the committee) shall be open to the public. Notice of each meeting, and a statement of the agenda for the meeting, shall be published in the Federal Register not later than 14 days before the date on which the meeting is to occur.".

SEC. 8. EMPLOYMENT.

Section 109 of the Act is amended by striking "1973".

SEC. 9. RIGHTS OF PERSONS WITH DEVELOPMENTAL DISABILITIES.

Section 110(4)(A) of the Act is amended by striking "January 17, 1974 (39 Fed. Reg. pt. II)" and inserting "June 3, 1988".

SEC. 10. PURPOSE.

Section 121 of the Act is amended by inserting "and their families" before "through the conduct of".

SEC. 11. STATE PLAN.

Section 122 of the Act is amended—

(1) in paragraph (1)(B) of subsection (b), by amending the first sentence to read as follows: "The plan must designate the State agency (hereafter in this part referred to as the 'designated State agency') which, on behalf of the State, shall receive, account for, and disburse funds under this part based on the State plan required in section 122, and shall provide required assurances and other administrative support services.";

(2) in paragraph (2)(C) of subsection (b)—

(A) by inserting ", supports and other assistance" after "scope of services";

(B) by inserting ", or policies affecting," before "federally";

(C) by inserting "or may be" before "eligible to";

(D) by inserting "child welfare," after "social services,";

(E) by inserting "transportation, technology," after "housing,";

(F) by striking "other plans" and inserting "other programs"; and

(G) by striking "and (ii)" and inserting "(ii) the extent to which such federally assisted State programs develop and pursue interagency initiatives aimed at improving and enhancing services, supports and other assistance, which result in increased independence, productivity, and integration into the community for persons with developmental disabilities, and (iii)";

(3) in paragraph (2) of subsection (b)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(B) by inserting "and their families" after "disabilities" in subparagraph (C)(iii) (as so redesignated); and

(C) by inserting after subparagraph (C) the following new subparagraph:

"(D) assess, and if appropriate, update the findings of the report conducted pursuant to subsection (f), and report on any progress achieved concerning issues identified in the report conducted pursuant to such subsection in the previous fiscal year;";

(4) in paragraph (5)(B) of subsection (b)—

(A) by redesignating clauses (iii) through (vi) as clauses (v) through (viii), respectively; and

(B) by inserting after clause (ii) the following new clauses:

"(iii) an analysis of the special and common needs of all subpopulations of persons with developmental disabilities;

"(iv) consideration of the report conducted pursuant to subsection (f);";

(5) in paragraph (5)(D)(i) of subsection (b)—

(A) by striking "and the implementation" and inserting "the implementation"; and

(B) by striking the period at the end and inserting in lieu thereof the following: ", and activities which address the implementation of recommendations made in the report described in subsection (f), including recommendations which address unserved and underserved populations.";

(6) in paragraph (1) of subsection (d)—

(A) by striking "administration of the State Plan approved under this section" and inserting "exercise of the functions of the State designated agency";

(B) by striking "all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration of the State plan" and inserting "the State agency designated under subsection (b)(1)(B)"; and

(C) by inserting at the end thereof the following new sentence: "State contributions pursuant to this paragraph may be counted as part of such State's non-Federal share of allotments under this part.";

(7) by adding at the end of subsection (e) the following new paragraph:

"(5) After October 1, 1990, the Planning Council may issue a request for a review of the designation of the designated State agency by the Governor.";.and

(8) by striking paragraphs (4) and (5) of subsection (f) and inserting the following new paragraph:

"(4) Each State Planning Council shall utilize the information developed pursuant to paragraphs (1), (2), and (3) in developing the State plan.".

SEC. 12. STATE PLANNING COUNCILS.

Section 124 of the Act is amended—

(1) in subsection (a)—

(A) by striking "which will" and inserting "to"; and

(B) by striking the period at the end thereof the inserting "by carrying out priority area activities.";

(2) in paragraph (1) of subsection (c)—

(A) by striking "may" and inserting "shall"; and

(B) by striking "hire" and inserting "fund all activities under this part (except administrative costs described in section 122(d)(1)) and to hire";

(3) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) Each State Planning Council shall, consistent with State law, hire a Director of the State Planning Council who shall be supervised and evaluated by the State Planning Council and who shall hire and supervise the staff of the State Planning Council."; and

(4) in paragraph (1) of subsection (d) by striking "jointly with" and inserting "and submit after consultation with".

SEC. 13. STATE ALLOTMENTS.

Paragraphs 3, 4, 5 and 6 of subsection (a) of section 125 of the Act are amended to read as follows:

"(3)(A) Except as provided in paragraph (4), for any fiscal year the allotment under paragraph (1)—

"(i) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $200,000; and

"(ii) to any other State may not be less than the greater of $350,000 or the amount of the allotment (determined without regard to subsection (d)) received by the State for the fiscal year ending September 30, 1990.

"(B) Notwithstanding subparagraph (A), if the aggregate of the amounts to be allotted to each State pursuant to subparagraph (A) in any fiscal year exceeds the total amount appropriated under section 130 for such fiscal year, the amount to be allotted to a State for such fiscal year shall be an amount which bears the same ratio to the amount which is to be allotted to the State pursuant to such subparagraph as the total amount appropriated under section 130 for such fiscal year bears to the total of the amount required to be appropriated under such section for allotments to provide each State with the allotment required by such subparagraph.

"(4) In any case in which amounts appropriated under section 130 for a fiscal year exceeds $65,000,000, the allotment under paragraph (1) for such fiscal year—

"(A) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $210,000; and

"(B) to each of the several States, Puerto Rico or the District of Columbia may not be less than $400,000.

"(5) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 122(b)(2)(C), in the State plan of the State.

"(6) In any case in which the total amount appropriated under section 130 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary shall increase each of the minimum allotments under paragraphs (3) and (4) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 130 for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated under section 130 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 130 for such preceding fiscal year.".

SEC. 14. PART B AUTHORIZATION OF APPROPRIATIONS.

Section 130 of the Act is amended by striking "$62,200,000" and all that follows through the period at the end thereof and inserting "$77,400,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.".

SEC. 15. SYSTEM REQUIRED.

Section 142 of the Act is amended—

(1) in subsection (a)—

(A) by striking subparagraph (C) of paragraph (2) and inserting the following new subparagraph:

"(C) on an annual basis, develop a statement of objectives and priorities, and provide to the public, including persons with disabilities and their representatives, as appropriate, the developmental disability council and the university affiliated program (if applicable within a State), an opportunity to comment on the objectives and priorities established by, and activities of, the system, including—

"(i) the objectives and priorities for the system's activities for each year, and the rationale for the establishment of such objectives; and

"(ii) the coordination with the advocacy programs set out in the Rehabilitation Act of 1973, the Older Americans Act of 1965, and the Protection and Advocacy for the Mentally Ill Act.";

(B) by striking "and" at the end of clause (i) of paragraph (2)(G);

(C) by inserting "as a result of monitoring or other activities" before "there is" in subclause (III) of paragraph (2)(G)(ii) by—

(D) by inserting "and" at the end of paragraph (2)(G)(ii)(III);

(E) by inserting after clause (ii) of paragraph (2)(G) the following new clause:

"(iii) any person with a developmental disability who has a legal guardian, conservator, or other legal representative with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe the health or safety of the individual is in serious and immediate jeopardy whenever—

"(I) such representatives have been contacted by such system upon receipt of the name and address of such representatives;

"(II) such system has offered assistance to such representatives to resolve the situation; and

"(III) such representatives have failed or refused to act on behalf of the person;"; and

(F) in paragraph (5), by striking "unless notice has been given of the intention to make redesignation to persons with developmental disabilities or their representatives" and inserting "unless—

"(A) notice has been given of the intention to make such redesignation to the agency that is serving as the system including the good cause for such redesignation and the agency has been given an opportunity to respond to the assertion that good cause has been shown;

"(B) timely notice and opportunity for public comment in an accessible format has been given to persons with developmental disabilities or their representatives; and

"(C) the system has the opportunity to appeal to the Secretary that the redesignation was not for good cause"; and

(2) in subsection (b)(2), by striking "the Secretary may" and inserting "the Secretary shall"; and

(3) by adding at the end thereof the following new subsections:

"(d) In States in which the system is organized as a private nonprofit entity with a multimember governing board, or a public system with a multimember governing board, such governing board shall be selected according to the policies and procedures of the system, except that—

"(1) the governing board shall be composed of members who broadly represent or are knowledgeable about the needs of the individuals served by the system;

"(2) not more than ⅓ of the membership of the governing board may be appointed by the chief executive officer of the State involved, in the case of any State in which such officer has the authority to appoint the membership of the board; and

"(3) any vacancy in the board shall be filled not later than 60 days after the date on which the vacancy occurs.

"(e) As used in this section the term 'records' includes reports prepared or received by any staff of a facility rendering care or treatment, or reports prepared by an agency or staff person charged with investigating reports of incidents of abuse or neglect, injury or death occurring at such facility that describes incidents of abuse, neglect, injury or death occurring at such facility and the steps taken to investigate such incidents, and discharge planning records.

"(f) If the laws of a State prohibit a system from obtaining access to records of persons with developmental disabilities the provisions of subparagraph (A) of paragraph (2) of subsection (a) shall not apply to such system before—

"(1) the date such system is no longer subject to such prohibition; or

"(2) the expiration of the 1-year period beginning on the date of enactment of this Act, whichever occurs first.

"(g)(1) Nothing in this Act shall preclude the systems described under this section from bringing a suit on behalf of persons with developmental disabilities against a State, or agencies or instrumentalities of a State.

"(2) Amounts received pursuant to paragraph (1) through court judgments and used by the system are limited to furthering the purpose of this part and shall not be used to augment payments to legal contractors or to award personal bonuses.

"(h) Notwithstanding any other provision of law, the Secretary shall pay directly to any system which complies with the provisions of this section the amount of such system's allotment under this section, unless the system delegates otherwise.".

SEC. 16. PART C AUTHORIZATION OF APPROPRIATIONS.

Section 143 of the Act is amended by striking "$20,000,000" and all that follows through the period at the end thereof and inserting "$24,200,000 for fiscal year 1991, and

such sums as may be necessary for each of the fiscal years 1992 and 1993.".

SEC. 17. GRANT AUTHORITY.

Section 152 of the Act is amended—

(1) in subsection (b)(1)—

(A) by striking "sufficient size and scope" in subparagraph (A);

(B) by striking "and community-based" in subparagraph (A) and inserting "community-based"; and

(C) by striking the period at the end of subparagraph (A) and inserting the following: ", positive behavior management programs (as described in paragraph (5)), assistive technology programs (as described in paragraph (6)) and programs in other areas of national significance as determined by the university affiliated program, in consultation with the State Planning Council (as described in paragraph (7)).";

(D) by striking subparagraph (B);

(E) by redesignating subparagraph (C) as subparagraph (F);

(F) by inserting after subparagraph (A) the following new subparagraphs:

"(B)(i) Grants awarded under this subsection shall be in the amount of $90,000.

"(ii) The Secretary may waive the provisions of clause (i) and award grants under this subsection in an amount which does not exceed $150,000, if the Secretary determines that such grants are of such sufficient scope and quality so as to address issues of national significance as identified in the report conducted pursuant to section 122(f).

"(iii) If an appropriately convened peer review panel determines that applications submitted by university affiliated programs for training programs under this part in any fiscal year insufficiently address quality criteria established under subparagraph (D), the Secretary shall, pursuant to regulations issued under this Act, award any amounts available for carrying out the purposes of this section to other university affiliated programs which the Secretary determines will use the funds in accordance with subsection (b)(1)(B)(ii). The Secretary may make such awards for a period not to exceed 3 years to applicants whose applications are determined to be of minimal quality by peer review, notwithstanding the provisions of (b)(1)(B)(i).

"(C) Grants under this section shall be awarded on a competitive basis. Grants awarded under this section shall be awarded for a period of 3 years.

"(D) The Secretary shall require appropriate technical and qualitative peer review of applications for assistance under this subsection by peer review groups as established under section 153(e)(4) using the following criteria:

"(i) The university affiliated program shall present evidence that core training assisted by funds awarded under this section is—

"(I) competency and value based;

"(II) designed to facilitate independence, productivity and integration for persons with developmental disabilities; and

"(III) evaluated utilizing state of the art evaluation techniques in the programmatic areas selected.

"(ii) Core training shall—

"(I) represent state-of-the-art techniques in areas of critical shortage of personnel which are identified through consultation with the citizens advisory group designated pursuant to subsection (f) and the State Planning Council;

"(II) be conducted in consultation with the citizens advisory group designated under subsection (f) and the State developmental disabilities planning council;

"(III) be integrated into the appropriate university affiliated program and university curriculum;

"(IV) be integrated with relevant State agencies in order to achieve an impact on statewide personnel and service needs;

"(V) to the extent practicable, be conducted in environments where services are actually delivered; and

"(VI) to the extent possible, be interdisciplinary in nature.

"(E)(i) Grants awarded under this subsection shall not be used for administrative expenses.

"(ii) Grants awarded under this subsection shall not be used to carry out the provisions of subsection (a).";

(2) in subsection (b), by adding at the end thereof the following new paragraphs:

"(5) Grants awarded under this subsection for training projects with respect to positive behavior management intervention programs shall be for the purpose of assisting university affiliated programs in providing training to families, foster parents, paraprofessionals, other appropriate community-based staff, and institutional staff, including health care staff and behavioral specialists, who provide or will provide, positive behavior management interventions for persons with developmental disabilities. Such training interventions shall include—

"(A) ethical principles and standards;

"(B) appropriate assessment of the origin of behavior problems including antecedent behaviors, the environment, medical problems (including seizure disorders), other neurological problems, or medication side effects;

"(C) the development of a positive behavior management plan;

"(D) the use of positive reinforcements appropriate to the developmental level of the person;

"(E) the use of emergency procedures; and

"(F) the administration of appropriate psychotropic drugs including drugs which the person may be taking for other conditions such as seizure disorders.

"(6) Grants under this subsection for training projects with respect to assistive technology programs shall be for the purpose of assisting university affiliated programs in providing training to allied health personnel and other personnel who provide or will provide, assistive technology services to persons with developmental disabilities. Such projects may provide training and technical assistance to improve the quality of service delivery in community-based, nonprofit consumer and provider service programs for persons with developmental disabilities and may include stipends and tuition assistance from such organizations. Such projects shall be coordinated with State technology coordinating councils wherever such councils exist.

"(7) Grants under this subsection for training projects with respect to programs in other areas of national significance shall be for the purpose of training personnel in an area of special concern to the university affiliated program, and shall be developed in consultation with the State Planning Council."; and

(3) by adding at the end thereof the following new subsections:

"(f) The Secretary shall only make grants under this section to university affiliated programs which establish a consumer advisory committee comprised of consumers, family members, representatives of State protection and advocacy systems, developmental disabilities councils (including State service agency directors), local agencies, and private nonprofit groups concerned with providing services for persons with developmental disabilities.

"(g) A university affiliated program shall not be eligible to receive funds for training projects pursuant to this section unless—

"(1) such program has operated for at least 1 year; or

"(2) the Secretary determines that such project has demonstrated the capacity to develop an effective training program during the first year such program is operated.".

SEC. 18. APPLICATIONS.

Section 153 of the Act is amended—

(1) in subsection (d)(3)—

(A) by striking "1988, 1989, and 1990" in subparagraph (A) and inserting "1991, 1992, and 1993";

(B) by adding at the end of subparagraph (A) the following new sentence: "The Secretary shall solicit and may approve applications pursuant to this paragraph which encompass multiple universities within the same State university system or two or more universities which are otherwise unrelated.";

(C) by striking "1987" and inserting "1990" in subparagraph (B); and

(D) by adding at the end of subparagraph (B) the following: "If an insufficient number of quality applications, as determined by a peer review process, from such unserved States have not been received in any fiscal year, the Secretary may consider applications for such fiscal year from States that are served by a university affiliated program or satellite center which is not able to serve particular geographic regions of the State, only if such applications demonstrate a need for additional training within the State and an exemplary service capacity to serve individuals within the State.";

(2) in subsection (e)(1)—

(A) by striking "by regulation"; and

(B) by striking the period at the end thereof and inserting the following: ", including on-site visits or inspections as necessary. Such peer review shall be coordinated, as appropriate, with the peer review described in section 152(b)(1)(D).".

SEC. 19. PART D AUTHORIZATION OF APPROPRIATIONS.

Section 154 of the Act is amended to read as follows:

"SEC. 154. AUTHORIZATION OF APPROPRIATIONS.

"(a) For the purpose of grants under subsections (a), (d), and (e) of section 152, there are authorized to be appropriated $11,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(b) For the purpose of grants under section 152(b) and 152(c), there are authorized to be appropriated $5,500,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(c) The Secretary may use funds appropriated under subsection (a) for the purposes described in subsection (b).".

SEC. 20. PURPOSE.

Section 161 of the Act is amended by striking the period at the end thereof and inserting the following: ", and to support the development of national and State policy which enhances the independence, productivity, and integration of persons with developmental disabilities through data collection and analysis, technical assistance to program components, technical assistance for the development of information and referral systems, educating policymakers, Federal interagency initiatives, and the en-

hancement of minority participation in public and private sector initiatives in developmental disabilities.".

SEC. 21. GRANT AUTHORITY.

Section 162(a) of the Act is amended—

(1) in paragraph (1) by inserting "improve supportive living and quality of life opportunities which enhance recreation, leisure and fitness," after "referral system,"; and

(2) in paragraph (2) to read as follows:

"(2) technical assistance and demonstration projects (including research, training, and evaluation in connection with such projects) which expand or improve the functions of the State Planning Council, the functions performed by university affiliated programs and satellite centers under part D, and protection and advocacy system described in section 142.".

SEC. 22. PART E AUTHORIZATION OF APPROPRIATIONS.

Section 163 of the Act is amended to read as follows:

"SEC. 163. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—To carry out this part, there are authorized to be appropriated $3,650,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(b) LIMITATION.—At least 8 percent, but not less than $300,000, of the funds appropriated pursuant to the authority of subsection (a) shall be used to carry out the provisions of section 162(a)(2).".

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from Florida [Mr. BILIRAKIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5679, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5679 represents an agreement worked out between Democrats and Republicans for the reauthorization of the Developmental Disabilities Program for 3 more years. I'd like to recognize Mr. MADIGAN at this time for introducing this legislation, and for his longstanding dedication to the program.

Of the 43 million Americans with disabilities, 3 million have developmental disabilities. Occurring early in life, they include mental retardation, cerebral palsy, epilepsy, and other conditions. By definition, they are severe enough to require a lifetime of special assistance.

For a person with a disability, life is a constant challenge, not just because they are disabled, but because they and their families face a complex web of services and systems. While many different agencies provide direct services to people with disabilities, the programs under the Developmental Disabilities Act provide the information, referral, and advocacy services that glue everything together.

Since its inception, the Developmental Disabilities Program has been of tremendous importance in helping those with such disabilities live independent and productive lives. The legislation before us today will strengthen this program, and I ask my colleagues to join me in supporting it.

Mr. Speaker, I reserve the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

The Developmental Disabilities Assistance and Bill of Rights Act is composed of four programs: State councils, protection and advocacy systems, the university-affiliated programs, and projects of national significance. These programs ensure that people with developmental disabilities receive the services and other assistance needed to achieve independence, productivity, and integration into the community.

I am very pleased that an agreement could be reached among not only the House majority and minority but with the other body.

The last reauthorization required the States to prepare a report analyzing the current status of services and the areas where improvement is still needed. The 1990 reports helped shape the legislation before us today. This legislation primarily makes clarifying changes to further the goals of the act, and to reaffirm Congress' commitment to independence and inclusion in society for those with developmental disabilities.

Mr. WAXMAN. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 5679, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1250

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the Senate bill (S. 2753) to reauthorize the Developmental Disabilities Assistance and Bill of Rights Act, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. (Mr. MAZZOLI]. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2753

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act of 1990".

SEC. 2. REFERENCE.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act.

SEC. 3. FINDINGS AND PURPOSES.

Section 101 of the Act is amended—

(1) in subsection (a)—

(A) by striking "there are more than two" in paragraph (1) and inserting "in 1990 there are more than three";

(B) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(C) by inserting after paragraph (6) the following new paragraph:

"(7) a substantial portion of persons with developmental disabilities remain unserved or underserved;"; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (2);

(B) by redesignating paragraph (3) as paragraph (8); and

(C) by inserting after paragraph (2) the following new paragraphs:

"(3) to provide interdisciplinary training and technical assistance to professionals, paraprofessionals, family members, and individuals with developmental disabilities;

"(4) to advocate for public policy change and community acceptance of all people with developmental disabilities and their families so that such persons receive the services, supports and other assistance and opportunities necessary to enable such persons to achieve their maximum potential through increased independence, productivity and integration into the community;

"(5) to promote the inclusion of all persons with developmental disabilities, including persons with the most severe disabilities, in community life;

"(6) to promote the interdependent activity of all persons with developmental disabilities, including persons with the most severe disabilities;

"(7) to recognize the contribution of all persons with developmental disabilities as such persons share their talents at home, school, and work, and in recreation and leisure time; and".

SEC. 4. DEFINITIONS.

Section 102 of the Act is amended—

(1) in paragraph (5)—

(A) by inserting "5 years of age or older" after "of a person"; and

(B) by striking the period at the end thereof and inserting a semicolon and the following:

"except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.";

(2) in paragraph (8), by striking "nondisabled citizens" each place that such appears and inserting "citizens without disabilities";

(3) in subparagraph (A) of paragraph (8)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and integrated employment," after "activities" in clause (ii); and

(C) by inserting before the matter at the end of subparagraph (A) the following new clauses:

"(iii) use of the same community resources by persons with developmental disabilities living, learning, working, and enjoying life in regular contact with citizens without disabilities, and

"(iv) development of friendships and relationships with persons without disabilities,";

(4) in subparagraph (B) of paragraph (8), by striking "or in home-like settings";

(5) in paragraph (9), by striking "specialized services or special adaptation of generic services" each place such appears and inserting "special adaptation of generic services or specialized services";

(6) in clause (iv) of paragraph (9)(B)—

(A) by striking "models" and inserting "approaches, strategies"; and

(B) by inserting "Federal, State and local" before "policymakers";

(7) in paragraph (10), by striking "case management" and inserting "system coordination and community education";

(8) in paragraph (12), by striking "and family support services" and inserting ", individual, family and community supports";

(9) in subparagraph (B) of paragraph (17), by inserting "and their families" after "disabilities" each place such appears;

(10) by striking paragraph (21) and inserting the following new paragraph:

"(21) The term 'protection and advocacy system' means a protection and advocacy system established in accordance with section 142.";

(11) in paragraph (22), by inserting at the end thereof the following new sentence: "Such term includes assistive technology devices and assistive technology service."; and

(12) by inserting at the end thereof the following new paragraphs:

"(24) The term 'family support service' means services, supports, and other assistance provided to families with members with developmental disabilities, that are designed to—

"(A) strengthen the family's role as primary caregiver,

"(B) prevent inappropriate out of the home placement and maintain family unity, and

"(C) reunite families with members who have been placed out of the home.

Such term includes respite care, assistive technology, personal assistance, parent training and counseling, support for elderly parents, vehicular and home modifications, and assistance with extraordinary expenses associated with the needs of the person with a developmental disability.

"(25) The term 'individual supports' means services, supports, and other assistance that enable persons with developmental disabilities to be independent, productive, and integrated into their communities, and that are designed to—

"(A) enable the person to control his or her environment, permitting the most independent life possible,

"(B) prevent placement into a more restrictive living arrangement than is necessary, and

"(C) enable the person to live, learn, work, and enjoy life in the community.

Such term includes personal assistance services, assistive technology, vehicular and home modifications, support at work, and transportation.

"(26) The term 'community supports' means providing activities, services, supports, and other assistance to persons with developmental disabilities, and the families and communities of such persons, that are designed to—

"(A) assist neighborhoods and communities to be more responsive to the needs of persons with developmental disabilities and their families,

"(B) develop local networks which can provide informal support, and

"(C) make communities accessible and enable communities to offer their resources and opportunities to persons with developmental disabilities and their families.

Such term includes community education, personal assistance services, vehicular and home modifications, support at work, and transportation.

"(27) The term 'system coordination and community education activities' means activities that—

"(A) eliminate barriers to access and eligibility for services, supports, and other assistance,

"(B) enhance systems design and integration including the encouragement of the creation of local case management and information and referral statewide systems, and

"(C) enhance individual, family and citizen participation and involvement.

"(28) The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of a person with a developmental disability.

"(29) The term 'assistive technology service' means any service that directly assists a person with a developmental disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of a person with a developmental disability, including a functional evaluation of the person in the person's customary environment;

"(B) purchasing, leasing or otherwise providing for the acquisition of assistive technology devices by a person with a developmental disability;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as therapies, interventions or services associated with existing education and rehabilitation plans and programs;

"(E) training or technical assistance for a person with developmental disabilities, or, where appropriate, the family of a person with a developmental disability; and

"(F) training or technical assistance for professionals (including persons providing education and rehabilitation services), employers, or other persons who provide services to, employ, or are otherwise substantially involved in the major life functions of a person with developmental disability.

"(30) The term 'prevention' means activities which address the causes of developmental disabilities and the exacerbation of functional limitations, such as activities which—

"(A) eliminate or reduce the factors which cause or predispose persons to developmental disabilities or which increase the prevalence of developmental disabilities;

"(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations; and

"(C) mitigate against the effects of developmental disabilities throughout the person's lifespan.".

SEC. 5. FEDERAL SHARE.

Section 103 of the Act is amended—

(1) in subsection (a), by striking "located" and inserting "whose activities or products target people who live";

(2) in subsection (b) by striking "is located" and inserting "activities or products target people who live"; and

(3) in subsection (c) by inserting "part B of" before "this".

SEC. 6. REPORTS.

Section 107 of the Act is amended—

(1) in subsection (a)—

(A) by striking "each annual survey" and all that follows through the semicolon in paragraph (4) and inserting "any intermediate care facility for the mentally retarded in such State, and with respect to each annual survey report prepared pursuant to section 1902(a)(31)(C) of the Social Security Act and each correction or reduction plan prepared pursuant to section 1922 of such Act;"; and

(B) in paragraph (5)—

(i) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of and with";

(ii) by inserting "particularly unserved and underserved groups," after "impairments,"; and

(iii) by striking "that the State Planning Council may identify under sections 122(b)(3) and 122(f)" and inserting ", and a summary of actions taken to improve access to and services for unserved and underserved groups that the State Planning Council may have identified";

(2) in subsection (c)(1)—

(A) by striking "April" and inserting "July"; and

(B) by striking "the Handicapped" and inserting "Disability"; and

(3) in subsection (c)(1)(C)—

(A) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of,";

(B) by inserting "particularly unserved or underserved groups," after "impairments,";

(C) by striking "may identify" and inserting "has identified"; and

(D) by inserting ", and a summary of actions taken to improve access to services for such groups" before the semicolon.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY.

Section 108(b) of the Act is amended—

(1) by inserting ", the Administration on Children, Youth and Families, the Administration on Aging, and the Health Resources and Services Administration" after "Developmental Disabilities"; and

(2) by inserting at the end thereof the following: "Such interagency committee shall provide to Congress within 90 days of the implementation of the Developmental Disabilities Assistance and Bill of Rights Act of

1990 and annually thereafter an agenda and description of activities for addressing issues and topics of national concern, based on findings from the report conducted pursuant to section 122(f). The agenda shall designate the issues to be addressed for the coming year and the action plan shall specify the role, activities, timeliness and evaluation criteria of each participating agency regarding each issue. All interagency committee meeting dates and agendas shall be made available to the public in a timely manner.".

SEC. 8. EMPLOYMENT.

Section 109 of the Act is amended by striking "1972" and "1973".

SEC. 9. RIGHTS OF PERSONS WITH DEVELOPMENTAL DISABILITIES.

Section 110(4)(A) of the Act is amended by striking "January 17, 1974 (30 Fed. Reg. pt. II)" and inserting "June 3, 1988".

SEC. 10. PURPOSE.

Section 121 of the Act is amended by inserting "and their families" before "through the conduct of".

SEC. 11. STATE PLAN.

Section 122 of the Act is amended—

(1) in subparagraph (B) of subsection (b)(1), by inserting after the first sentence the following new sentence: "Such designated State agency shall, on behalf of the State receive and account for funds, and at the direction of the State Planning Council, disburse funds pursuant to part B, and shall provide administrative support services to the State Planning Council.";

(2) in subparagraph (C) subsection (b)(2)—

(A) by inserting ", supports and other assistance" after "scope of services";

(B) by inserting ", or policies affecting," before "federally";

(C) by inserting "or may be" before "eligible to";

(D) by inserting "child welfare," after "social services";

(E) by inserting "transportation, technology," after "housing,";

(F) by striking "other plans" and inserting "other programs"; and

(G) by striking "and (ii)" and inserting "(ii) the extent to which such federally assisted State programs develop and pursue interagency initiatives aimed at improving and enhancing services, supports and other assistance, which result in increased independence, productivity, and integration into the community for persons with developmental disabilities, and (iii)";

(3) in paragraph (2) of subsection (b)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(B) by inserting "and their families" after "disabilities" in subparagraph (C)(iii) (as so redesignated); and

(C) by inserting after subparagraph (C) the following new subparagraph:

"(D) assess, and if appropriate, update the findings of the report conducted pursuant to subsection (f), and report on any progress achieved concerning issues identified in the report conducted pursuant to such subsection in the previous fiscal year;";

(4) in subparagraph (B) subsection (b)(5)—

(A) by redesignating clauses (iii) through (vi) as clauses (v) through (viii), respectively; and

(B) by inserting after clause (ii) the following new clauses:

"(iii) an analysis of the special and common needs of all subpopulations of persons with developmental disabilities;

"(iv) consideration of the report conducted pursuant to subsection (f);";

(5) in clause (i) of subsection (b)(5)(D)—

(A) by striking "and the implementation" and inserting "the implementation"; and

(B) by striking the period at the end and inserting in lieu thereof the following: ", and activities which address the implementation of recommendations made in the report described in subsection (f), including recommendations which address unserved and underserved populations.";

(6) in paragraph (1) of subsection (d)—

(A) by striking "administration of the State Plan approved under this section" and inserting "exercise of the functions of the State designated agency";

(B) by striking "all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration of the State plan" and inserting "the State agency designated under subsection (b)(1)(B)"; and

(C) by inserting at the end thereof the following new sentence: "State contributions pursuant to this paragraph may be counted as part of such State's non-Federal share of allotments under this part.";

(7) by adding at the end of subsection (e) the following new paragraph:

"(5) After October 1, 1990, the Planning Council may issue a request for a review of the designation of the designated State agency by the Governor."; and

(8) by striking paragraphs (4) and (5) of subsection (f) and inserting the following new paragraph:

"(4) Each State Planning Council shall utilize the information developed pursuant to paragraphs (1), (2), and (3) in developing the State plan.".

SEC. 12. STATE PLANNING COUNCILS.

Section 124 of the Act is amended—

(1) in subsection (a)—

(A) by striking "which will" and inserting "to"; and

(B) by striking the period at the end thereof the inserting "by carrying out priority area activities.";

(2) in paragraph (1) of subsection (c)—

(A) by striking "may" and inserting "shall"; and

(B) by striking "hire" and inserting "fund all activities under this part (except administrative costs described in section 122(d)(1)) and to hire";

(3) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) Each State Planning Council shall, consistent with State law, hire a Director of the State Planning Council who shall be supervised and evaluated by the State Planning Council and who shall hire and supervise the staff of the State Planning Council."; and

(4) in paragraph (1) of subsection (d) by striking "jointly with" and inserting "and submit after consultation with".

SEC. 13. STATE ALLOTMENTS.

Paragraphs 3, 4, 5 and 6 of subsection (a) of section 125 of the Act are amended to read as follows:

"(3)(A) Except as provided in paragraph (4), for any fiscal year the allotment under paragraph (1)—

"(i) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $200,000; and

"(ii) to any other State may not be less than the greater of $350,000 or the amount of the allotment (determined without regard to subsection (d)) received by the State for the fiscal year ending September 30, 1990.

"(B) Notwithstanding subparagraph (A), if the aggregate of the amounts to be allotted to each State pursuant to subparagraph (A) in any fiscal year exceeds the total amount appropriated under section 130 for such fiscal year, the amount to be allotted to a State for such fiscal year shall be an amount which bears the same ratio to the amount which is to be allotted to the State pursuant to such subparagraph as the total amount appropriated under section 130 for such fiscal year bears to the total of the amount required to be appropriated under such section for allotments to provide each State with the allotment required by such subparagraph.

"(4) In any case in which amounts appropriated under section 130 for a fiscal year exceeds $65,000,000, the allotment under paragraph (1) for such fiscal year—

"(A) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $210,000; and

"(B) to each of the several States, Puerto Rico or the District of Columbia may not be less than $400,000.

"(5) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 122(b)(2)(C), in the State plan of the State.

"(6) In any case in which the total amount appropriated under section 130 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary shall increase each of the minimum allotments under paragraphs (3) and (4) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 130 for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated under section 130 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 130 for such preceding fiscal year.".

SEC. 14. PART B AUTHORIZATION OF APPROPRIATIONS.

Section 130 of the Act is amended by striking "$62,200,000" and all that follows through the period at the end thereof and inserting "$81,270,000 for fiscal year 1991, $85,335,000 for fiscal year 1992, $89,600,175 for fiscal year 1993, and $94,080,190 for fiscal year 1994.".

SEC. 15. SYSTEM REQUIRED.

Section 142 of the Act is amended—

(1) in subsection (a)—

(A) by striking subparagraph (C) of paragraph (2) and inserting the following new subparagraph:

"(C) on an annual basis, develop a statement of objectives and priorities, and provide to the public, including persons with disabilities and their representatives, as appropriate, the developmental disability council and the university affiliated program (if applicable within a State), an opportunity to comment on the objectives and priorities established by, and activities of, the system, including—

"(i) the objectives and priorities for the system's activities for each year, and the rationale for the establishment of such objectives; and

"(ii) the coordination with the advocacy programs set out in the Rehabilitation Act of 1973, the Older Americans Act of 1965, and the Protection and Advocacy for the Mentally Ill Act.";

(B) by striking "and" at the end of clause (i) of paragraph (2)(G);

(C) by inserting "as a result of monitoring or other activities" before "there is" in subclause (III) of paragraph (2)(G)(ii) by—

(D) by inserting "and" at the end of paragraph (2)(G)(iii)(III);

(E) by inserting after clause (ii) of paragraph (2)(G) the following new clause:

"(iii) any person with a developmental disability who has a legal guardian, conservator, or other legal representative with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe the health or safety of the individual is in serious and immediate jeopardy whenever—

"(I) such representatives have been contacted by such system upon receipt of the name and address of such representatives;

"(II) such system has offered assistance to such representatives to resolve the situation; and

"(III) such representatives have failed or refused to act on behalf of the person;"; and

(F) in paragraph (5), by striking "unless notice has been given of the intention to make redesignation to persons with developmental disabilities or their representatives" and inserting "unless—

"(A) notice has been given of the intention to make such redesignation to the agency that is serving as the system including the good cause for such redesignation and the agency has been given an opportunity to respond to the assertion that good cause has been shown;

"(B) timely notice and opportunity for public comment in an accessible format has been given to persons with developmental disabilities or their representatives; and

"(C) the system has the opportunity to appeal to the Secretary that the redesignation was not for good cause"; and

(2) in subsection (b)(2), by striking "the Secretary may" and inserting "the Secretary shall"; and

(3) by adding at the end thereof the following new subsections:

"(d) In States in which the system is organized as a private nonprofit entity with a multimember governing board, or a public system with a multimember governing board, such governing board shall be selected according to the policies and procedures of the system. Such governing board shall be composed of—

"(1) members (to be selected not later than 60 days following a vacancy) who broadly represent or are knowledgeable about the needs of the individuals served by the system; and

"(2) in the case of a governing authority organized as a private nonprofit entity, members who broadly represent, or are knowledgeable about, the needs of the individuals served by the system.

"(e) As used in this section the term 'records' includes reports prepared or received by any staff of a facility rendering care or treatment, or reports prepared by an agency or staff person charged with investigating reports of incidents of abuse or neglect, injury or death occurring at such facility that describes incidents of abuse, neglect, injury or death occurring at such facility and the steps taken to investigate such incidents, and discharge planning records.

"(f) If the laws of a State prohibit a system from obtaining access to records of persons with developmental disabilities the provisions of subparagraph (A) of paragraph (2) of subsection (a) shall not apply to such system before—

"(1) the date such system is no longer subject to such prohibition; or

"(2) the expiration of the 1-year period beginning on the date of enactment of this Act, whichever occurs first.

"(g)(1) Nothing in this Act shall preclude the systems described under this section from bringing a suit on behalf of persons with developmental disabilities against a State, or agencies or instrumentalities of a State.

"(2) Amounts received pursuant to paragraph (1) through court judgments and used by the system are limited to furthering the purpose of this part and shall not be used to augment payments to legal contractors or to award personal bonuses.

"(h) Notwithstanding any other provision of law, the Secretary shall pay directly to any system which complies with the provisions of this section the amount of such system's allotment under this section, unless the system delegates otherwise.".

SEC. 16. PART C AUTHORIZATION OF APPROPRIATIONS.

Section 143 of the Act is amended by striking "$20,000,000" and all that follows through the period at the end thereof and inserting "$27,000,000 for fiscal year 1991, $28,350,000 for fiscal year 1992, $29,770,000 for fiscal year 1993, and $31,258,500 for fiscal year 1994.".

SEC. 17. GRANT AUTHORITY.

Section 152 of the Act is amended—

(1) in subsection (b)(1)—

(A) by striking "sufficient size and scope" in subparagraph (A);

(B) by striking "and community-based" in subparagraph (A) and inserting "community-based"; and

(C) by striking the period at the end of subparagraph (A) and inserting the following: ", positive behavior management programs (as described in paragraph (5)), assistive technology programs (as described in paragraph (6)) and programs in other areas of national significance as determined by the university affiliated program, in consultation with the State Planning Council (as described in paragraph (7)).";

(D) by striking subparagraph (B);

(E) by redesignating subparagraph (C) as subparagraph (F);

(F) by inserting after subparagraph (A) the following new subparagraphs:

"(B)(i) Grants awarded under this subsection shall be in the amount of $90,000.

"(ii) The Secretary may waive the provisions of clause (i) and award grants under this subsection in an amount which does not exceed $150,000, if the Secretary determines that such grants are of such sufficient scope and quality so as to address issues of national significance as identified in the report conducted pursuant to section 122(f).

"(iii) If an appropriately convened peer review panel determines that applications submitted by university affiliated programs for training programs under this part in any fiscal year insufficiently address quality criteria established under subparagraph (D), the Secretary shall, pursuant to regulations issued under this Act, award any amounts available for carrying out the purposes of this section to other university affiliated programs which the Secretary determines will use the funds in accordance with subsection (b)(1)(B)(ii). The Secretary may make such awards for a period not to exceed 3 years to applicants whose applications are determined to be of minimal quality by peer review, notwithstanding the provisions of (b)(1)(B)(i).

"(C) Grants under this section shall be awarded on a competitive basis. Grants awarded under this section shall be awarded for a period of 3 years.

"(D) The Secretary shall require appropriate technical and qualitative peer review of applications for assistance under this subsection by peer review groups as established under section 153(e)(4) using the following criteria:

"(i) The university affiliated program shall present evidence that core training assisted by funds awarded under this section is—

"(I) competency and value based;

"(II) designed to facilitate independence, productivity and integration for persons with developmental disabilities; and

"(III) evaluated utilizing state of the art evaluation techniques in the programmatic areas selected.

"(ii) Core training shall—

"(I) represent state-of-the-art techniques in areas of critical shortage of personnel which are identified through consultation with the citizens advisory group designated pursuant to subsection (f) and the State Planning Council;

"(II) be conducted in consultation with the citizens advisory group designated under subsection (f) and the State developmental disabilities planning council;

"(III) be integrated into the appropriate university affiliated program and university curriculum;

"(IV) be integrated with relevant State agencies in order to achieve an impact on statewide personnel and service needs;

"(V) to the extent practicable, be conducted in environments where services are actually delivered; and

"(VI) to the extent possible, be interdisciplinary in nature.

"(E)(i) Grants awarded under this subsection shall not be used for administrative expenses.

"(ii) Grants awarded under this subsection shall not be used to carry out the provisions of subsection (a).";

(2) in subsection (b), by adding at the end thereof the following new paragraphs:

"(5) Grants awarded under this subsection for training projects with respect to positive behavior management intervention programs shall be for the purpose of assisting university affiliated programs in providing training to families, foster parents, paraprofessionals, other appropriate community-based staff, and institutional staff, including health care staff and behavioral specialists, who provide or will provide, positive behavior management interventions for persons with developmental disabilities. Such training interventions shall include—

"(A) ethical principles and standards;

"(B) appropriate assessment of the origin of behavior problems including antecedent behaviors, the environment, medical problems (including seizure disorders), other neurological problems, or medication side effects;

"(C) the development of a positive behavior management plan;

"(D) the use of positive reinforcements appropriate to the developmental level of the person;

"(E) the use of emergency procedures; and

"(F) the administration of appropriate psychotropic drugs including drugs which the person may be taking for other conditions such as seizure disorders.

"(6) Grants under this subsection for training projects with respect to assistive technology programs shall be for the purpose of assisting university affiliated programs in providing training to allied health personnel and other personnel who provide or will provide, assistive technology services to persons with developmental disabilities. Such projects may provide training and technical assistance to improve the quality of service delivery in community-based, nonprofit consumer and provider service programs for persons with developmental disabilities and may include stipends and tuition assistance from such organizations. Such projects shall be coordinated with State technology coordinating councils wherever such councils exist.

"(7) Grants under this subsection for training projects with respect to programs in other areas of national significance shall be for the purpose of training personnel in an area of special concern to the university affiliated program, and shall be developed in consultation with the State Planning Council."; and

(3) by adding at the end thereof the following new subsections:

"(f) The Secretary shall only make grants under this section to university affiliated programs which establish a consumer advisory committee comprised of consumers, family members, representatives of State protection and advocacy systems, developmental disabilities councils (including State service agency directors), local agencies, and private nonprofit groups concerned with providing services for persons with developmental disabilities.

"(g) A university affiliated program shall not be eligible to receive funds for training projects pursuant to this section unless—

"(1) such program has operated for at least 1 year; or

"(2) the Secretary determines that such project has demonstrated the capacity to develop an effective training program during the first year such program is operated.".

SEC. 18. APPLICATIONS.

Section 153 of the Act is amended—

(1) in subsection (d)(3)—

(A) by striking "1988, 1989, and 1990" in subparagraph (A) and inserting "1991, 1992, and 1993";

(B) by adding at the end of subparagraph (A) the following new sentence: "The Secretary shall solicit and may approve applications pursuant to this paragraph which encompass multiple universities within the same State university system or two or more universities which are otherwise unrelated.";

(C) by striking "1987" and inserting "1990" in subparagraph (B); and

(D) by adding at the end of subparagraph (B) the following: "If an insufficient number of quality applications, as determined by a peer review process, from such unserved States have not been received in any fiscal year, the Secretary may consider applications for such fiscal year from States that are served by a university affiliated program or satellite center which is not able to serve particular geographic regions of the State, only if such applications demonstrate a need for additional training within the State and an exemplary service capacity to serve individuals within the State.";

(2) in subsection (e)(1)—

(A) by striking "by regulation"; and

(B) by striking the period at the end thereof and inserting the following: ", including on-site visits or inspections as necessary. Such peer review shall be coordinated, as appropriate, with the peer review described in section 152(b)(1)(D).".

SEC. 19. PART D AUTHORIZATION OF APPROPRIATIONS.

Section 154 of the Act is amended to read as follows:

"SEC. 154. AUTHORIZATION OF APPROPRIATIONS.

"(a) For the purpose of grants under subsections (a), (d), and (e) of section 152, there are authorized to be appropriated $11,400,000 for fiscal year 1991, $12,390,000 for fiscal year 1992, $13,430,000 for fiscal year 1993 and $14,310,000 for fiscal year 1994. Amounts appropriated under this section for a fiscal year shall remain available for obligation and expenditure until the end of the succeeding fiscal year.

"(b) For the purpose of grants under section 152(b) and 152(c), there are authorized to be appropriated $7,000,000 for fiscal year 1991, $8,652,000 for fiscal year 1992, $10,386,000 for fiscal year 1993, and $12,050,000 for fiscal year 1994.

"(c) The Secretary may use funds appropriated under subsection (a) for the purposes described in subsection (b).".

SEC. 20. PURPOSE.

Section 161 of the Act is amended by striking the period at the end thereof and inserting the following: ", and to support the development of national and State policy which enhances the independence, productivity, and integration of persons with developmental disabilities through data collection and analysis, technical assistance to program components, technical assistance for the development of information and referral systems, educating policymakers, Federal interagency initiatives, and the enhancement of minority participation in public and private sector initiatives in developmental disabilities.".

SEC. 21. GRANT AUTHORITY.

Section 162(a) of the Act is amended—

(1) in paragraph (1) by inserting "improve supportive living and quality of life opportunities which enhance recreation, leisure and fitness," after "referral system,"; and

(2) in paragraph (2) to read as follows:

"(2) technical assistance and demonstration projects (including research, training, and evaluation in connection with such projects) which expand or improve the functions of the State Planning Council, the functions performed by university affiliated programs and satellite centers under part D, and protection and advocacy system described in section 142.".

SEC. 22. PART E AUTHORIZATION OF APPROPRIATIONS.

Section 163 of the Act is amended to read as follows:

"SEC. 163. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.—To carry out this part, there are authorized to be appropriated $3,900,000 for fiscal year 1991, $4,095,525 for fiscal year 1992, $4,299,750 for fiscal year 1993, and $4,514,800 for fiscal year 1994.

"(b) Limitation.—At least 8 percent, but not less than $300,000, of the funds appropriated pursuant to the authority of subsection (a) shall be used to carry out the provisions of section 162(a)(2).".

MOTION OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Waxman moves to strike all after the enacting clause of the Senate bill, S. 2753, and to insert in lieu thereof the text of H.R. 5679 as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act."

A motion to reconsider was laid on the table.

A similar House bill (H. 5679) was laid on the table.

DISADVANTAGED MINORITY HEALTH IMPROVEMENT ACT OF 1990

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5702) to amend the Public Health Service Act to provide for an improvement in the health of members of minority groups, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5702

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND FINDINGS.

(a) Short Title.—This Act may be cited as the "Disadvantaged Minority Health Improvement Act of 1990".

(b) Findings.—The Congress finds that—

(1) racial and ethnic minorities are disproportionately represented among individuals from disadvantaged backgrounds;

(2) the health status of individuals from disadvantaged backgrounds, including racial and ethnic minorities, in the United States is significantly lower than the health status of the general population of the United States;

(3) minorities suffer disproportionately high rates of cancer, stroke, heart diseases; diabetes, substance abuse, acquired immune deficiency syndrome, and other diseases and disorders;

(4) the incidence of infant mortality among minorities is almost double that for the general population;

(5) Blacks, Hispanics, and Native Americans constitute approximately 12 percent, 7.9 percent, and 0.01 percent, respectively, of the population of the United States;

(6) Blacks, Hispanics, and Native Americans in the United States constitute approximately 3 percent, 4 percent, and less than 0.01 percent, respectively, of physicians, 2.7 percent, 1.7 percent, and less than 0.01 percent, respectively, of dentists, and 4.5 percent, 1.6 percent, and less than 0.01 percent, respectively, of nurses;

(7) the number of individuals who are from disadvantaged backgrounds in health professions should be increased for the purpose of improving the access of other such individuals to health services;

(8) minority health professionals have historically tended to practice in low-income areas and to serve minorities;

(9) minority health professionals have historically tended to engage in the general practice of medicine and specialties providing primary care;

(10) reports published in leading medical journals indicate that access to health care among minorities can be substantially improved by increasing the number of minority health professionals;

(11) increasing the number of minorities serving on the faculties of health professions schools can be an important factor in attracting minorities to pursue a career in the health professions;

(12) diversity in the faculty and student body of health professions schools enhances the quality of education for all students attending the schools;

(13) the Report of the Secretary's Task Force on Black and Minority Health (prepared for the Secretary of Health and Human Services and issued in 1985) described the health status problems of minorities, and made recommendations concerning measures that should be implemented by the Secretary with respect to improving the health status of minorities through programs for providing health information and education; and

(14) the Office of Minority Health, created in 1985 by the Secretary of Health and Human Services, should be authorized pursuant to statute and should receive increased funding to support efforts to improve the health of individuals from disadvantaged backgrounds, including minorities, including the implementation of the recommendations made by the Secretary's Task Force on Black and Minority Health.

SEC. 2. ESTABLISHMENT OF OFFICE OF MINORITY HEALTH.

Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.) is amended by adding at the end the following new section:

"ESTABLISHMENT OF OFFICE OF MINORITY HEALTH

"Sec. 1707. (a) In General.—There is established an Office of Minority Health within the Office of the Assistant Secretary for Health. There shall be in the Department of Health and Human Services a Deputy Assistant Secretary for Minority Health, who shall be the head of the Office of Minority Health. The Secretary, acting through such Deputy Assistant Secretary, shall carry out this section.

"(b) Duties.—The Secretary shall, with respect to the health concerns of individuals from disadvantaged backgrounds, including racial and ethnic minorities—

"(1) establish short-range and long-range goals and objectives and coordinate all other activities within the Department of Health and Human Services that relate to disease prevention, health promotion, service delivery, and research concerning such individuals;

"(2) enter into interagency agreements with other agencies of the Service to increase the participation of such individuals in health service and promotion programs;

"(3) establish a national minority health resource center to facilitate the exchange of information regarding matters relating to health information and health promotion, preventive health services, and education in the appropriate use of health care, to facilitate access to such information, to assist in the analysis of issues and problems relating to such matters, and to provide technical assistance with respect to the exchange of such information (including facilitating the development of materials for such technical assistance);

"(4) support research, demonstrations and evaluations to test new and innovative models, to increase knowledge and understanding of health risk factors, and to develop mechanisms that support better information dissemination, education, prevention, and service delivery to individuals from disadvantaged backgrounds, including racial and ethnic minorities;

"(5) coordinate efforts to promote minority health programs and policies in the voluntary and corporate sectors;

"(6) develop health information and health promotion materials and teaching programs, including—

"(A) models for the training of health professionals;

"(B) model curriculums to be used in primary and secondary schools and institutions of higher learning;

"(C) materials and programs for the continuing education of health professionals;

"(D) materials for public service use by the print and broadcast media; and

"(E) materials and programs to assist health care professionals in providing health education to their patients; and

"(7) assist providers of primary health care and preventive health services in obtaining, with respect to the provision of such care and services, the assistance of bilingual health professionals and other bilingual individuals (including such assistance in the provision of services regarding maternal and child health, nutrition, mental health, and substance abuse).

"(c) Certain Requirements Regarding Duties.—

"(1) Equitable allocation of services.—In carrying out subsection (b), the Secretary shall ensure that services provided under such subsection are equitably allocated among all groups served under this section by the Secretary.

"(2) Appropriate context of services.—In carrying out subsection (b), the Secretary shall ensure that information and services provided under such subsection are provided in the language and cultural context that is most appropriate for the individuals for whom the information and services are intended.

"(3) Bilingual assistance regarding health care.—In carrying out subsection (b)(7), the Secretary shall give special consideration to the unique linguistic needs of health care providers serving Asians, and American Samoans and other Pacific Islanders, including such needs regarding particular subpopulations of such groups.

"(d) Grants and Contracts Regarding Duties.—

"(1) Authority.—In carrying out subsection (b), the Secretary may make grants to, and enter into cooperative agreements and contracts with, public and nonprofit private entities.

"(2) Evaluation and dissemination.—

"(A) The Secretary shall, directly or through contracts with public and private entities, provide for evaluations of projects carried out with financial assistance provided under paragraph (1) and for the dissemination of information developed as result of such projects.

"(B) Not later than January 20 of fiscal year 1993 and of each second year thereafter, the Secretary shall prepare a report summarizing evaluations carried out under subparagraph (A) during the preceding 2 fiscal years. The report shall be included in the report required in subsection (e) for the fiscal year involved.

"(e) Reports.—Not later than January 31 of fiscal year 1993 and of each second year thereafter, the Secretary shall submit to the Congress a report describing the activities carried out under this section during the preceding 2 fiscal years.

"(f) Funding.—

"(1) Authorization of appropriations.—For the purpose of carrying out this section, there is authorized to be appropriated $25,000,000 for each of the fiscal year 1991 through 1993.

"(2) Allocation of funds by secretary.—Of the amounts appropriated under paragraph (1) in excess of $15,000,000, the Secretary shall make available not less than $3,000,000 to carry out subsection (b)(7).".

SEC. 3. HEALTH SERVICES FOR RESIDENTS OF PUBLIC HOUSING.

Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following new subpart:

"Subpart VI—Health Services for Residents of Public Housing

"HEALTH SERVICES FOR RESIDENTS OF PUBLIC HOUSING

"Sec. 340A. (a) Establishment.—

"(1) The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall make grants for the purpose of enabling grantees, directly or through contracts, to provide to residents of public housing, subject to subsections (e) and (f)—

"(A) primary health services, including health screenings; and

"(B) health counseling and education services.

"(2) The Secretary may not make a grant under paragraph (1) unless the applicant for the grant agrees to expend the grant to carry out each of subparagraphs (A) and (B) of such paragraph.

"(3) In carrying out the program established in paragraph (1), the Administrator shall consult with the Director of the Centers for Disease Control.

"(b) Minimum Qualifications of Grantees.—

"(1) Subject to paragraph (2), the Secretary may not make a grant under subsection (a) to an applicant unless—

"(A) the applicant is a public or nonprofit private entity;

"(B) the applicant has the capacity to effectively administer a grant under subsection (a); and

"(C) in the case of any service under this section that is available pursuant to the State plan approved under title XIX of the Social Security Act for the State in which the service will be provided—

"(i) the applicant for the grant will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(ii) the applicant for the grant will enter into an agreement with a public or nonprofit private organization under which the organization will provide the service, and the organization has entered into such a par-

ticipation agreement and is qualified to receive such payments.

"(2)(A) In the case of an organization making an agreement pursuant to paragraph (1)(C)(ii) regarding the provision of services under subsection (a), the requirement established in such paragraph regarding a participation agreement shall be waived by the Secretary if the organization does not, in providing services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

"(B) A determination by the Secretary of whether an organization referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the organization accepts voluntary donations regarding the provision of services to the public.

"(c) Preferences in Making Grants.—The Secretary shall, in making grants under subsection (a), give preference to qualified applicants that—

"(1) are resident management corporations under section 20 of the United States Housing Act of 1937; or

"(2) are receiving funds under section 330 or 340.

"(d) Requirement of Matching Funds From Public Grantees.—

"(1) In the case of a public entity applying for a grant under subsection (a), the Secretary may not make such a grant unless the public entity agrees that, with respect to the costs to be incurred by such entity in carrying out the purpose described in such subsection, the entity will make available non-Federal contributions in cash toward such costs in an amount equal to not less than $1 for each $1 of Federal funds provided in the grant.

"(2) In determining the amount of non-Federal contributions in cash that a public entity has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the public entity by the Federal Government.

"(e) Requirements Regarding Services.—The Secretary may not make a grant under subsection (a) to an applicant unless the applicant agrees that the applicant will, directly or through contract—

"(1) provide services under this section on the premises of public housing projects or at other locations immediately accessible to residents of public housing;

"(2) refer such residents, as appropriate, to qualified facilities and practitioners for necessary follow-up services;

"(3) provide outreach services to inform such residents of the availability of such services; and

"(4) aid such residents in establishing eligibility for assistance, and in obtaining services, under Federal, State, and local programs providing health services, mental health services, or social services.

"(f) Optional Provision of Certain Services.—

"(1) A grantee under subsection (a) may expend the grant—

"(A) to train residents of public housing to provide health screenings and to provide educational services; and

"(B) to provide health services to individuals who are not residents of public housing.

"(2) The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that if, pursuant to paragraph (1)(B), the applicant provides health services to individuals who are not residents of public housing, the health services will be provided to such individuals under the same terms and conditions as such services are provided to residents of public housing (including all terms and conditions in effect pursuant to this section).

"(g) Consultation With Residents.—The Secretary may not make a grant under subsection (a) unless, with respect to the residents of the public housing involved, the applicant for the grant—

"(1) has consulted with the residents in the preparation of the application for the grant; and

"(2) agrees to provide for ongoing consultation with the residents regarding the planning and administration of the program carried out with the grant.

"(h) Restrictions on Use of Grant Funds.—

"(1) The Secretary may not, except as provided in paragraph (2), make a grant under subsection (a) to an applicant unless the applicant agrees that amounts received pursuant to such subsection will not, directly or through contract, be expended—

"(A) for any purpose other than the purposes authorized in this section;

"(B) to provide inpatient services;

"(C) to make cash payments to intended recipients of services under this section; or

"(D) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment or motor vehicles.

"(2) If the Secretary finds that the purpose described in subsection (a) cannot otherwise be carried out, the Secretary may, with respect to an otherwise qualified applicant, waive the restriction established in paragraph (1)(D).

"(i) Limitation on Charges for Services.—The Secretary may not make a grant under subsection (a) to an applicant unless the applicant agrees that, whether the services are provided directly or through contract—

"(1) services under the grant will be provided without regard to ability to pay for the services; and

"(2) if a charge is imposed for the delivery of the services, such charge—

"(A) will be made according to a schedule of charges that is made available to the public;

"(B) will not be imposed on any resident of public housing with an income less than the official poverty level; and

"(C) will be adjusted to reflect the income and resources of the resident of public housing involved.

"(j) Requirements Regarding Administration.—The Secretary may not make a grant under subsection (a) to an applicant unless the applicant—

"(1) agrees to establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant;

"(2) agrees to establish an ongoing program of quality assurance with respect to the services provided under the grant;

"(3) agrees to ensure the confidentiality of records maintained on residents of public housing that are receiving such services;

"(4) with respect to providing services to any population of such residents a substantial portion of which has a limited ability to speak the English language—

"(A) has developed and has the ability to carry out a reasonable plan to provide services under the grant through individuals who are able to communicate with the population involved in the language and cultural context that is most appropriate; and

"(B) has designated at least one individual, fluent in both English and the appropriate language, to assist in carrying out the plan; and

"(5) agrees to submit to the Secretary an annual report that describes the utilization and costs of services provided under the grant and that provides such other information as the Secretary determines to be appropriate.

"(k) Limitation on Administrative Expenses of Grantee.—The Secretary may not make a grant under subsection (a) to an applicant unless the applicant agrees that the applicant will not expend more than 10 percent of amounts received pursuant to such subsection for the purpose of administering the grant.

"(l) Requirement of Application.—The Secretary may not provide financial assistance under subsection (a) unless—

"(1) an application for the assistance is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the assistance is to be provided, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(m) Technical Assistance.—

"(1) The Secretary may provide technical assistance to applicants and grantees under subsection (a) regarding the planning, development, and operation of programs to carry out the purpose described in such subsection. The Secretary may provide such technical assistance directly, through contracts, or through grants.

"(2) Any technical assistance provided by the Secretary under paragraph (1) shall be provided without charge to applicants and grantees under subsection (a).

"(3) Of the amounts appropriated pursuant to subsection (p)(1) for a fiscal year, the Secretary may expend not more than $2,000,000 for the purpose of carrying out paragraph (1).

"(n) Annual Reports by Secretary.—Not later than January 10 of each year, the Secretary shall submit to the Congress a report describing the utilization and costs of services provided under this section during the immediately preceding fiscal year.

"(o) Definitions.—For purposes of this section:

"(1) The term 'official poverty level' means the nonfarm income official poverty line defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"(2) The term 'organization' includes individuals, corporations, partnerships, companies, and associations.

"(3) The term 'primary health services' has the meaning given such term in section 330(b)(1).

"(4) The term 'public housing' has the meaning given such term in section 3(b)(1) of the United States Housing Act of 1937.

"(p) Funding.—

"(1) For the purpose of carrying out this section, there are authorized to be appropriated $35,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(2) Amounts received by a grantee pursuant to subsection (a) remaining unobligated at the end of the fiscal year in which the amounts were received shall remain available to the grantee during the succeeding fiscal year for the purpose described in such subsection.".

SEC. 4. REVISIONS IN PROGRAM FOR CENTERS OF EXCELLENCE IN HEALTH PROFESSIONS EDUCATION.

(a) In General.—Section 782 of the Public Health Service Act (42 U.S.C. 295g-2) is amended to read as follows:

"PROGRAMS OF EXCELLENCE IN HEALTH PROFESSIONS EDUCATION FOR MINORITIES

"Sec. 782. (a) In General.—The Secretary shall make grants to health profession schools described in subsection (c) for the purpose of assisting the schools in supporting programs of excellence in health professions education for minority individuals.

"(b) Required Use of Funds.—The Secretary may not make a grant under subsection (a) unless the health professions school involved agrees to expend the grant—

"(1) to establish, strengthen, or expand programs to enhance the academic performance of minority students attending the school;

"(2) to establish, strengthen, or expand programs to increase the number and quality of minority applicants to the school;

"(3) to improve the capacity of such school to train, recruit, and retain minority faculty;

"(4) with respect to minority health issues, to carry out activities to improve the information resources and curricula of the school and clinical education at the school; and

"(5) to facilitate faculty and student research on health issues particularly affecting minority groups.

"(c) Centers of Excellence.—

"(1) In general.—

"(A) The health professions schools referred to in subsection (a) are such schools that meet each of the conditions specified in subparagraph (B), and that—

"(i) meet each of the conditions specified in paragraph (2)(A);

"(ii) meet each of the conditions specified in paragraph (3);

"(iii) meet each of the conditions specified in paragraph (4); or

"(iv) meet each of the conditions specified in paragraph (5).

"(B) The conditions specified in this subparagraph are that a health professions school—

"(i) has a significant number of minority individuals enrolled in the school, including individuals accepted for enrollment in the school;

"(ii) has been effective in assisting minority students of the school to complete the program of education and receive the degree involved;

"(iii) has been effective in recruiting minority individuals to attend the school, including providing scholarships and other financial assistance to such individuals and encouraging minority students of secondary educational institutions to attend the health professions school; and

"(iv) has made significant recruitment efforts to increase the number of minority individuals serving in faculty or administrative positions at the school.

"(C) In the case of any criteria established by the Secretary for purposes of determining whether schools meet the conditions described in subparagraph (B), this section may not, with respect to racial and ethnic minorities, be construed to authorize, require, or prohibit the use of such criteria in any program other than the program established in this section.

"(2) Centers of excellence at certain historically black colleges and universities.—

"(A) The conditions specified in this subparagraph are that a health professions school—

"(i) is a school described in section 701(4); and

"(ii) received a contract under section 788B for fiscal year 1987, as such section was in effect for such fiscal year.

"(B) In addition to the purposes described in subsection (b), a grant under subsection (a) to a health professions school meeting the conditions described in subparagraph (A) may be expended—

"(i) to develop a plan to achieve institutional improvements, including financial independence, to enable the school to support programs of excellence in health professions education for minority individuals; and

"(ii) to provide improved access to the library and informational resources of the school.

"(3) Hispanic centers of excellence.—The conditions specified in this subparagraph are that—

"(A) with respect to Hispanic individuals, each of clauses (i) through (iv) of paragraph (1)(B) apply to the health professions school involved; and

"(B) the health professions school agree, as a condition of receiving a grant under subsection (a), that the school will, in carrying out the duties described in subsection (b), give priority to carrying out the duties with respect to Hispanic individuals.

"(4) Native american centers of excellence.—The conditions specified in this paragraph are that—

"(A) with respect to Native Americans, each of clauses (i) through (iv) of paragraph (1)(B) apply to the health professions school involved;

"(B) the health professions school agree, as a condition of receiving a grant under subsection (a), that the school will, in carrying out the duties described in subsection (b), give priority to carrying out the duties with respect to Native Americans; and

"(C) the health professions school agree, as a condition of receiving a grant under subsection (a), that—

"(i) the school will establish an arrangement with 1 or more public or nonprofit private institutions of higher education whose enrollment of students has traditionally included a significant number of Native Americans, the purpose of which arrangement will be to carry out a program—

"(I) to identify Native American students of the institution who are interested in a career in the health profession or professions involved; and

"(II) to facilitate the educational preparation of such students to enter the health professions school; and

"(ii) the health professions school will make efforts to recruit Native American students, including students who have participated in the undergraduate program carried out under arrangements established by the school pursuant to subparagraph (A), and will assist Native American students regarding the completion of the educational requirements for a degree from the health professions school.

"(5) Other centers of excellence.—The conditions specified in this paragraph are that a health professions school has an enrollment of underrepresented minorities above the national average for such enrollments of health professions schools.

"(d) Designation as Center of Excellence.—

"(1) In general.—Any health professions school receiving a grant under subsection (a) and meeting the conditions described in paragraph (2) or (5) of subsection (c) shall, for purposes of this section, be designated by the Secretary as a Center of Excellence in Minority Health Professions Education.

"(2) Hispanic centers of excellence.—Any health professions school receiving a grant under subsection (a) and meeting the conditions described in subsection (c)(3) shall, for purposes of this section, be designated by the Secretary as a Hispanic Center of Excellence in Health Professions Education.

"(3) Native american centers of excellence.—Any health professions school receiving a grant under subsection (a) and meeting the conditions described in subsection (c)(4) shall, for purposes of this section, be designated by the Secretary as a Native American Center of Excellence in Health Professions Education.

"(e) Duration of Grant.—The period during which payments are made under a grant under subsection (a) may not exceed 3 years. Such payments shall be subject to annual approval by the Secretary and to the availability of appropriations for the fiscal year involved to make the payments.

"(f) Maintenance of Effort.—

"(1) Non-federal funds of public schools.—With respect to activities for which a grant under subsection (a) is authorized to be expended, the Secretary may not, in the case of a public health professions school, make such a grant to the school for any fiscal year unless the school agrees to maintain expenditures of non-Federal amounts for such activities at a level equal to not less than the level of such expenditures maintained by the school for the fiscal year preceding the first fiscal year for which the school applies after fiscal year 1990 to receive such a grant.

"(2) Non-federal funds of private schools.—

"(A) With respect to any non-Federal amounts received by a nonprofit private health professions school and available for carrying out activities for which a grant under subsection (a) is authorized to be expended, the Secretary may not make such a grant to the school for any fiscal year unless, subject to subparagraph (B), the school agrees to maintain expenditures of such non-Federal amounts for such activities at a level equal to not less than the level of such expenditures maintained by the school for the fiscal year preceding the first fiscal year for which the school applies after fiscal year 1990 to receive such a grant.

"(B) The Secretary may require a nonprofit private health professions school to comply with an agreement made under subparagraph (A) by the school only to the extent of the level of non-Federal amounts available to the school for the activities to which the agreement applies.

"(3) Use of federal funds.—With respect to any Federal amounts received by a health professions school and available for carrying out activities for which a grant under subsection (a) is authorized to be expended, the Secretary may not make such a grant to the school for any fiscal year unless the school agrees that the school will, before expending the grant, expend the Federal amounts obtained from sources other than the grant.

"(g) Definitions.—For purposes of this section:

"(1)(A) The term 'health professions school' means, except as provided in subparagraph (B), a school of medicine, a school of dentistry, or a school of pharmacy.

"(B) The definition established in subparagraph (A) shall not apply to the use of the term 'health professions school' for purposes of subsection (c)(2).

"(2) The term 'program of excellence' means any program carried out by a health professions school with a grant made under subsection (a), if the program is for purposes for which the school involved is authorized in subsection (b) or (c) to expend the grant.

"(3) The term 'Native Americans' means American Indians, Alaskan Natives, Aleuts, and Native Hawaiians.

"(h) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under subsection (a), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1993.

"(2) ALLOCATIONS BY SECRETARY.—

"(A) Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available the first $12,000,000 for grants under subsection (a) to health professions schools meeting the conditions specified in paragraph (2)(A) of subsection (c) (in addition to the conditions specified in paragraph (1)(B) of such subsection); and

"(B) Of the amounts appropriated under paragraph (1) for a fiscal year in excess of $12,000,000, the Secretary shall make available the first $2,500,000 for grants under subsection (a) to health professions schools meeting the conditions specified in paragraph (3) or (4) of subsection (c) (in addition to the conditions specified in paragraph (1)(B) of such subsection).

"(3) ADDITIONAL PRIORITIES.—In making grants under subsection (a) for a fiscal year from such amounts as are available for the grants after compliance with paragraph (2), the Secretary shall give priority to making grants to health professions schools meeting the conditions specified in any of paragraphs (3) through (5) of subsection (c) (in addition to the conditions specified in paragraph (1)(B) of such subsection).".

SEC. 5. FEDERAL CAPITAL CONTRIBUTIONS TO CERTAIN STUDENT LOAN FUNDS FOR PURPOSES REGARDING DISADVANTAGED INDIVIDUALS.

(a) IN GENERAL.—Section 740 of the Public Health Service Act (42 U.S.C. 294m) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) With respect to amounts appropriated under subsection (c)(1) of section 742, each agreement entered into under this section with a school shall provide (in addition to the provisions required in subsection (b)) that—

"(A) any Federal capital contribution made to the student loan fund of the school from such amounts, together with the school contribution appropriate under subsection (b)(2)(B) to the amount of the Federal capital contribution, will be utilized only for the purpose of—

"(i) making loans to individuals who are individuals from disadvantaged backgrounds; and

"(ii) the costs of the collection of the loans and interest on the loans; and

"(B) collections of principal and interest on loans made pursuant to subparagraph (A), and any other earnings of the student loan fund attributable to amounts that are in the fund pursuant to such subparagraph, will be utilized only for the purpose described in such paragraph.

"(2) The Secretary may not make a Federal capital contribution for purposes of paragraph (1) for a fiscal year unless the health professions school involved—

"(A) is carrying out a program for recruiting and retaining students from disadvantaged backgrounds, including racial and ethnic minorities; and

"(B) is carrying out a program for recruiting and retaining minority faculty.

"(3) The Secretary may not make a Federal capital contribution for purposes of paragraph (1) for a fiscal year unless the health professions school involved agrees—

"(A) to ensure that adequate instruction regarding minority health issues is provided for in the curricula of the school;

"(B) with respect to health clinics providing services to a significant number of individuals who are from disadvantaged backgrounds, including members of minority groups, to enter into arrangements with 1 or more such clinics for the purpose of providing students of the school with experience in providing clinical services to such individuals;

"(C) with respect to public or nonprofit private secondary educational institutions and undergraduate institutions of higher education, to enter into arrangements with 1 or more such institutions for the purpose of carrying out programs regarding the educational preparation of disadvantaged students, including minority students, to enter the health professions and regarding the recruitment of such individuals into the health professions;

"(D) to establish a mentor program for assisting disadvantaged students, including minority students, regarding the completion of the educational requirements for degrees from the school;

"(E) to be carrying out each of the activities specified in any of subparagraphs (A) through (D) by not later than 1 year after the date on which the first Federal capital contribution is made to the school for purposes of paragraph (1); and

"(F) to continue carrying out such activities, and the activities specified in subparagraphs (A) and (B) of paragraph (2), throughout the period during which the student loan fund established pursuant to subsection (b) is in operation.

"(4) With respect to amounts appropriated under subsection (a) of section 742, Federal capital contributions made pursuant to an agreement under subsection (b) of this subsection to the student loan fund of a school from such amounts, together with the school contributions appropriate under subsection (b)(2)(B) to the amount of the Federal capital contributions, may be utilized for the purpose of making loans to individuals from disadvantaged backgrounds.".

(b) DEFINITION WITH RESPECT TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.—Section 740 of the Public Health Service Act, as amended by subsection (a) of this section, is amended by adding at the end the following new subsection:

"(e) For purposes of this section, the term 'disadvantaged', with respect to an individual, shall be defined by the Secretary.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 742 of the Public Health Service Act (42 U.S.C. 294o) is amended by adding at the end the following new subsection:

"(c)(1) With respect to making Federal capital contributions to student loan funds for purposes of section 740(c), there is authorized to be appropriated for such contributions $15,000,000 for each of the fiscal years 1991 through 1993.

"(2) In making Federal capital contributions to student loan funds for purposes of section 740(c), the Secretary shall give special consideration to health professions schools that have enrollments of underrepresented minorities above the national average for health professions schools.".

SEC. 6. ASSISTANCE PROGRAMS FOR HEALTH PROFESSIONS STUDENTS FROM DISADVANTAGED BACKGROUNDS.

Part C of title VII of the Public Health Service Act (42 U.S.C. 294 et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart VI—Assistance for Students From Disadvantaged Backgrounds

"SEC. 760. GRANTS FOR SCHOLARSHIPS AND OTHER PURPOSES.

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—The Secretary may make grants to health professions schools for the purpose of assisting such schools, subject to subsection (e), in providing scholarships to individuals who—

"(A) are individuals from disadvantaged backgrounds; and

"(B) are enrolled (or accepted for enrollment) as full-time students in such schools.

"(2) HEALTH PROFESSIONS SCHOOLS.—For purposes of this section, the term 'health professions schools' means schools of medicine, nursing (as schools of nursing are defined in section 853), osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, veterinary medicine, public health, or allied health, or schools offering graduate programs in clinical psychology.

"(b) MINIMUM QUALFICATIONS OF GRANTEES.—The Secretary may not make a grant under subsection (a) unless the health professions school—

"(1) is carrying out a program for recruiting and retaining students from disadvantaged backgrounds, including racial and ethnic minorities; and

"(B) is carrying out a program for recruiting and retaining minority faculty.

"(c) PREFERENCES IN PROVIDING SCHOLARSHIPS.—The Secretary may not make a grant under subsection (a) unless the health professions school involved agrees that, in providing scholarships pursuant to the grant, the school will give preference to students—

"(1) who are from disadvantaged backgrounds; or

"(2) for whom the costs of attending the school would constitute a severe financial hardship.

"(d) USE OF SCHOLARSHIP.—A scholarship provided pursuant to subsection (a) for attendance at a health professions school—

"(1) may be expended only for tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in such attendance; and

"(2) may not, for any year of such attendance for which the scholarship is provided, provide an amount exceeding the total amount required for the year for the expenses specified in paragraph (1).

"(e) PROVISIONS REGARDING PURPOSES OTHER THAN SCHOLARSHIPS.—

"(1) AUTHORITY REGARDING ASSISTANCE FOR UNDERGRADUATES.—With respect to undergraduates who have demonstrated a commitment to pursuing a career in the health professions, a health professions school may expend not more than 25 percent of a grant under subsection (a) for the purpose of providing financial assistance to such undergraduates in order to facilitate the completion of the educational requirements for such careers.

"(2) REQUIRED ACTIVITIES OF SCHOOL.—The Secretary may not make a grant under subsection (a) unless the health professions school involved agrees—

"(A) to ensure that adequate instruction regarding minority health issues is provided for in the curricula of the school;

"(B) with respect to health clinics providing services to a significant number of individuals who are from disadvantaged backgrounds, including members of minority groups, to enter into arrangements with 1 or more such clinics for the purpose of providing students of the school with experience in providing clinical services to such individuals;

"(C) with respect to public or nonprofit secondary educational institutions and undergraduate institutions of higher education, to enter into arrangements with 1 or more such institutions for the purpose of carrying out programs regarding the educational preparation of disadvantaged students, including minority students, to enter the health professions and regarding the recruitment of such students into the health professions;

"(D) to establish a mentor program for assisting disadvantaged students, including minority students, regarding the completion of the educational requirements for degrees from the school;

"(E) to be carrying out the activities specified in subparagraphs (A) through (D) by not later than 1 year after the date on which a grant under subsection (a) is first made to the school; and

"(F) to continue carrying out such activities, and the activities specified in paragraphs (1) and (2) of subsection (b), throughout the period during which the school is receiving a grant under subsection (a).

"(3) RESTRICTIONS ON USE OF GRANT.—The Secretary may not make a grant under subsection (a) for a fiscal year unless the health professions school involved agrees that the grant will not be expended to carry out the activities specified in paragraph (1) or (2) of subsection (b), or in any of subparagraphs (A) through (D) of paragraph (2) of this subsection.

"(f) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(g) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—To carry out subsection (a), there are authorized to be appropriated $17,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(2) ALLOCATIONS BY SECRETARY.—In making grants under subsection (a), the Secretary—

"(A) shall make available 30 percent for grants under subsection (a) to health professions schools agreeing to expend the grants only for scholarships under such subsection for nurses; and

"(B) shall give special consideration to health professions schools that have enrollments of underrepresented minorities above the national average for health professions schools.

"SEC. 761. LOAN REPAYMENT PROGRAM REGARDING SERVICE ON FACULTIES OF CERTAIN HEALTH PROFESSIONS SCHOOLS.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program of entering into contracts with individuals described in subsection (b) under which the individuals agree to serve as members of the faculties of schools described in subsection (c) in consideration of the Federal Government agreeing to pay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of such individuals.

"(b) ELIGIBLE INDIVIDUALS.—The individuals referred to in subsection (a) are individuals from disadvantaged backgrounds who—

"(1) have a degree in medicine, osteopathic medicine, dentistry, or another health profession;

"(2) are enrolled in an approved graduate training program in medicine, osteopathic medicine, dentistry, or other health profession; or

"(3) are enrolled as a full-time student—

"(A) in an accredited (as determined by the Secretary) school described in subsection (c); and

"(B) in the final year of a course of a study or program, offered by such institution and approved by the Secretary, leading to a degree from such a school.

"(c) ELIGIBLE HEALTH PROFESSIONS SCHOOL.—The schools described in this subsection are schools of medicine, nursing (as schools of nursing are defined in section 853), osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, veterinary medicine, or public health, or schools offering graduate programs in clinical psychology.

"(d) ADDITIONAL LIMITATION ON AMOUNT OF REPAYMENTS.—Payments made by the Secretary under subsection (a) regarding the educational loans of an individual may not, for any year for which the payments are made, exceed an amount equal to 50 percent of the principal and interest due on such loans for such year.

"(e) REQUIREMENTS REGARDING FACULTY POSITIONS.—The Secretary may not enter into a contract under subsection (a) unless—

"(1) the individual involved has entered into a contract with a school described in subsection (c) to serve as a member of the faculty of the school for not less than 2 years; and

"(2) the contract referred to in paragraph (1) provides that—

"(A) the school will, for each year for which the individual will serve as a member of the faculty under the contract with the school, make payments of the principal and interest due on the educational loans of the individual for such year in an amount equal to the amount of such payments made by the Secretary for the year; and

"(B) the payments made by the school pursuant to subparagraph (A) on behalf of the individual will be in addition to the pay that the individual would otherwise receive for serving as a member of such faculty.

"(f) WAIVER REGARDING SCHOOL CONTRIBUTIONS.—The Secretary may waive the requirement established in subsection (e)(2) if the Secretary determines that the requirement will impose an undue financial hardship on the school involved. If the Secretary grants such a waiver, subsection (d) shall not apply with respect to the individual involved.

"(g) APPLICABILITY OF CERTAIN PROVISIONS.—The provisions of sections 338B, 338C, and 338E shall apply to the program established in subsection (a) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, including the applicability of provisions regarding reimbursements for increased tax liability and regarding bankruptcy.

"(h) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $4,000,000 for each of the fiscal years 1991 through 1993.".

SEC. 7. REVISION AND EXTENSION OF PROGRAM FOR NATIONAL CENTER FOR HEALTH STATISTICS.

(a) ANNUAL COLLECTION OF DATA.—

(1) DATA FROM RECORDS OF BIRTHS, DEATHS, ET CETERA, AMONG CERTAIN POPULATIONS.—Section 306(h) of the Public Health Service Act (42 U.S.C. 242k(h)) is amended by inserting after the second sentence the following new sentence: "The Secretary shall encourage States and registration areas to obtain detailed data on ethnic and racial populations, including subpopulations of Hispanics, Asian Americans, and Pacific Islanders with significant representation in the State or registration area.".

(2) DATA FROM SAMPLE REGARDING HEALTH, ILLNESS, AND DISABILITY STATUS.—Section 306(h) of the Public Health Service Act (42 U.S.C. 242k(h)), as amended by paragraph (1), is amended—

(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end the following new paragraph:

"(2) There shall be an annual collection of data from a statistically valid sample concerning the general health, illness, and disability status of the civilian noninstitutionalized population. Specific topics to be addressed under this paragraph, on an annual or periodic basis, shall include the incidence of illness and accidental injuries, prevalence of chronic diseases and impairments, disability, physician visits, hospitalizations, and the relationship between demographic and socioeconomic characteristics and health characteristics.".

(b) COLLECTION OF DATA SPECIFIC TO PARTICULAR POPULATIONS.—

(1) IN GENERAL.—Section 306 of the Public Health Service Act (42 U.S.C. 242k) is amended—

(A) by redesignating subsection (m) as subsection (o); and

(B) by inserting after subsection (l) the following new subsections:

"(m) In carrying out this section, the Secretary, acting through the Center, shall collect and analyze adequate health data that is specific to particular ethnic and racial populations, including data collected under national health surveys. Activities carried out under this subsection shall be in addition to any activities carried out under subsection (n).

"(n)(1) The Secretary, acting through the Center, may make grants to public and nonprofit private entities for—

"(A) the conduct of special surveys or studies on the health of ethnic and racial populations or subpopulations;

"(B) analysis of data on ethnic and racial populations and subpopulations; and

"(C) research on improving methods for developing statistics on ethnic and racial populations and subpopulations.

"(2) The Secretary, acting through the Center, may provide technical assistance, standards, and methodologies to grantees supported by this subsection in order to maximize the data quality and comparability with other studies.

"(3) Provisions of section 308(d) do not apply to surveys or studies conducted by grantees under this subsection unless the Secretary, in accordance with regulations the Secretary may issue, determines that such provisions are necessary for the conduct of the survey or study and receives adequate assurance that the grantee will enforce such provisions.".

(2) APPLICATION AND PEER REVIEW.—Section 308(b)(2) of the Public Health Service Act (42 U.S.C. 242m(b)(2)) is amended—

(A) in subparagraph (A), in the first sentence, by inserting after "demonstration project," the following: ", or for a grant under section 306(n),"; and

(B) in subparagraph (C), by inserting before the period at the end the following: ", except that peer review groups regarding grants under section 306(n) may include appropriately qualified such officers and employees".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 306(o), as redesignated by subsection (b) of this section, is amended to read as follows:

"(o)(1) For health statistical and epidemiological activities undertaken or supported under subsections (a) through (m), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1993.

"(2) For activities authorized in subsection (n), there are authorized to be appropriated $5,000,000 for fiscal year 1991, $7,500,000 for fiscal year 1992, and $10,000,000 for fiscal year 1993. Of such amounts, the Secretary shall use not more than 10 percent for administration and for activities described in subsection (n)(2).".

(d) REPEAL OF CERTAIN RESTRICTION ON FUNDING.—Section 308(b)(3) of the Public Health Service Act (42 U.S.C. 242m(3)) is repealed.

SEC. 8. DEMONSTRATION GRANTS TO STATES FOR COMMUNITY SCHOLARSHIP PROGRAMS.

Subpart III of part D of title III of the Public Health Service Act (42 U.S.C 241 et seq.) is amended by inserting before subpart IV of such part the following new section:

"SEC. 338L. DEMONSTRATION GRANTS TO STATES FOR COMMUNITY SCHOLARSHIP PROGRAMS.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of carrying out demonstration programs to increase the availability of primary health care in urban and rural health manpower shortage areas through assisting community organizations of such areas in educating individuals to serve as health professionals in such areas.

"(b) CERTAIN REQUIREMENTS FOR STATES.—

"(1) MINIMUM QUALIFICATIONS.—The Secretary may not make a grant under subsection (a) unless the State involved will, under any provision of this Act other than subsection (a), receive 1 or more grants, cooperative agreements, or contracts for the fiscal year for which the State is applying pursuant to subsection (h) to receive a grant under subsection (a).

"(2) ADMINISTRATION OF PROGRAM.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that the program carried out by the State with the grant will be administered directly by a single State agency.

"(c) GRANTS BY STATES TO COMMUNITY ORGANIZATIONS FOR PROVISION OF SCHOLARSHIP CONTRACTS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees, subject to subsections (d) and (e), to carry out the purpose described in subsection (a) only through operating a program in which the State makes grants to community organizations located in health manpower shortage areas in order to assist the organizations with the costs of entering into contracts under which—

"(1) the community organizations agree to provide scholarships to individuals for attendance at health professions schools; and

"(2) the individuals agree to provide, in the health manpower shortage areas in which the community organizations are located, primary health care for—

"(A) a number of years equal to the number of years for which the scholarships are provided, or for a period of 2 years, whichever period is greater; or

"(B) such greater period of time as the individuals and the community organizations may agree.

"(d) REQUIREMENT OF STATE AND LOCAL MATCHING FUNDS.—

"(1) IN GENERAL.—With respect to the costs of providing any scholarship pursuant to subsection (c), the Secretary may not make a grant under subsection (a) unless the State involved agrees that—

"(A) 40 percent of the costs of the scholarship will be paid from the grant made under subsection (a) to the State; and

"(B) 60 percent of such costs will be paid from non-Federal contributions made in cash by both the State and the community organization through which the scholarship is provided, subject to—

"(i) the State making available through such contributions not less than 15 percent, nor more than 25 percent, of such costs; and

"(ii) the community organization making available through such contributions not less than 35 percent, nor more than 45 percent, of such costs.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTIONS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that, in determining the amount of non-Federal contributions that have been provided in cash for purposes of paragraph (1), the State will not include any amounts provided by the Federal Government to the State or community organization involved, or to any other entity.

"(3) USE OF DONATIONS.—Non-Federal contributions required in paragraph (1) may be provided directly by the State and community organization involved, and may be provided through donations from public and private entities.

"(e) SPECIFICATIONS REGARDING SCHOLARSHIP CONTRACT.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that the State will make a grant to a community organization for a contract described in subsection (c) only if—

"(1) the individual who is to receive the scholarship under the contract is a resident of the health manpower shortage area in which the community organization is located;

"(2) the individual is enrolled or accepted for enrollment as a full-time student in a health professions school that is approved by the Secretary for purposes of this section;

"(3) the individual agrees to maintain an acceptable level of academic standing at the school (as determined by the school in accordance with regulations issued by the Secretary for purposes of section 338A(f)(1)(B)(iii));

"(4) the individual and the community organization agree that the scholarship provided pursuant to the contract—

"(A) will be expended only for—

"(i) tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attendance at the school; and

"(ii) payment to the individual of a monthly stipend of not more than the amount authorized for purposes of section 338A(g)(1)(B); and

"(B) will not, for any year of such attendance for which the scholarship is provided, be in an amount exceeding the total amount required for the year for the purposes authorized in subparagraph (A);

"(5) the individual agrees to meet the educational and licensure requirements necessary to be a physician, certified nurse practitioner, certified nurse midwife, or physician assistant; and

"(6) the individual agrees that, in providing primary health care pursuant to the scholarship, the individual—

"(A) will not, in the case of an individual seeking such care, discriminate against the individual on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be made pursuant to the program established in title XVIII of the Social Security Act or pursuant to the program established in title XIX of such Act; and

"(B) will accept assignment under section 1842(b)(3)(B)(ii) of the Social Security Act for all services for which payment may be made under part B of title XVIII of such Act, and will enter into an appropriate agreement with the State agency that administers the State plan for medical assistance under title XIX of such Act to provide service to individuals entitled to medical assistance under the plan.

"(f) REPORTS TO SECRETARY.—The Secretary may not make a grant under subsection (a) unless the State involved agrees—

"(1) for each fiscal year for which such a grant is received by the State, to submit to the Secretary a report—

"(A) identifying the community organizations providing scholarships pursuant to subsection (c) and the health manpower shortage areas in which the organizations are located; and

"(B) providing the names of individuals receiving the scholarships, the health professions in which the individuals will engage pursuant to the scholarships, the number of years of service the individuals are obligated to provide pursuant to the scholarships, and the extent of compliance with the contracts under subsection (c) on the part of the individuals and the community organizations; and

"(C) providing such information as the Secretary may determine to be necessary for carrying out this section; and

"(2) to submit each such report not later than January 10 of the fiscal year immediately following the fiscal year for which the report is prepared.

"(g) ESTIMATES REGARDING ALLOCATIONS BETWEEN URBAN AND RURAL AREAS.—The Secretary may not make a grant under subsection (a) unless the State involved submits to the Secretary, as part of the application required in subsection (h), an estimate of the amount of the grant that will be expended regarding the provision of primary health care in urban health manpower shortage areas of the State, and an estimate of the amount of the grant that will be expended regarding the provision of such care in rural

health manpower shortage areas of the State.

"(h) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(i) NONCOMPLIANCE.—

"(1) IN GENERAL.—The Secretary may not make payments under subsection (a) to a State for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the State has complied with each of the agreements made by the State under this section.

"(2) REDUCTION IN GRANT RELATIVE TO NUMBER OF BREACHED CONTRACTS.—

"(A) Before making a grant under subsection (a) to a State for a fiscal year, the Secretary shall determine the number of contracts provided under subsection (c) with respect to which there has been an initial breach by the community organizations or individuals involved during the fiscal year preceding the fiscal year for which the State is applying to receive the grant.

"(B) In the case of a State with 1 or more initial breaches for purposes of subparagraph (A), the Secretary shall reduce the amount of a grant under subsection (a) to the State for the fiscal year involved by an amount equal to the sum of—

"(i) an amount equal to the expenditures of Federal funds made regarding the contracts involved; and

"(ii) an amount representing interest on the amount of such expenditures, determined with respect to each contract on the basis of the maximum legal rate prevailing for loans made during the time amounts were paid under the contract, as determined by the Treasurer of the United States.

"(C) If a State is not receiving a grant under subsection (a) for a fiscal year for which a reduction under subparagraph (B) would have been made in the event that the State had received such a grant, the Secretary shall reduce the amount of payments due to the State under other grants, cooperative agreements, or contracts under this Act by the amount specified in such subparagraph.

"(D) With respect to contracts provided under subsection (c), the Secretary may carry out this paragraph on the basis of information submitted by the States involved, or on the basis of information collected through such other means as the Secretary determines to be appropriate.

"(j) REPORTS TO CONGRESS.—

"(1) IN GENERAL.—Each fiscal year the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report summarizing information received by the Secretary under subsection (f) for the preceding fiscal year.

"(2) DATE FOR SUBMISSION.—With respect to a fiscal year, the report required in paragraph (1) shall be submitted for purposes of such paragraph by not later than the date on which the report required in section 338A(i) is required to be submitted for purposes of such section.

"(k) DEFINITIONS.—For purposes of this section:

"(1) COMMUNITY ORGANIZATION.—The term 'community organization' means a public or nonprofit private entity.

"(2) PRIMARY HEALTH CARE.—The term 'primary health care' means health services regarding family medicine, internal medicine, pediatrics, or obstetrics and gynecology, that are provided by physicians, certified nurse practitioners, certified nurse midwives, or physician assistants.

"(3) STATE.—The term 'State' means each of the several States and the District of Columbia.

"(l) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under subsection (a), there are authorized to be appropriated $5,000,000 for fiscal year 1991, $10,000,000 for fiscal year 1992, and such sums as may be necessary for fiscal year 1993.

"(2) AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available until expended.

"(3) ALLOCATIONS FOR RURAL AREAS.—

"(A) In carrying out subsection (a), the Secretary shall, to the extent practicable, ensure that not less than 50 percent of the amounts appropriated under paragraph (1) are, in the aggregate, expended for making grants pursuant to subsection (c) to community organizations that are located in rural health manpower shortage areas.

"(B) Subparagraph (A) may not be construed to prohibit the Secretary from making grants under subsection (a) to States in which no rural health manpower shortage areas are located.

"(C) With respect to any fiscal year for which the Secretary is unable to comply with subparagraph (A), the Secretary shall, not later than April 1 of the subsequent fiscal year, submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report stating the fact of such noncompliance and an explanation of the reasons underlying such noncompliance.".

SEC. 9. COMMUNITY AND MIGRANT HEALTH CENTERS.

(a) COMMUNITY HEALTH CENTERS.—

(1) PARALLEL STATUS WITH MIGRANT HEALTH CENTERS REGARDING CERTAIN SERVICES.—Section 330 of the Public Health Service Act (42 U.S.C. 254c) is amended—

(A) in subsection (a)(5), by amending such section to read as follows:

"(5) information on the availability and proper use of health services and services which promote and facilitate optimal use of health services, including, if a substantial number of the individuals in the population served by a center are of limited English-speaking ability, the services of appropriate personnel fluent in the language spoken by a predominant number of such individuals, and"; and

(B) in subsection (b)(2)—

(i) in subparagraph (L), by adding "and" after the semicolon at the end; and

(ii) by striking subparagraph (M) and redesignating subparagraph (N) as subparagraph (M).

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 330(g) of the Public Health Service Act (42 U.S.C. 254c(g)) is amended—

(1) in paragraph (1)(A)—

(A) by striking "1989 and" and inserting "1989,"; and

(B) by inserting before the period the following: ", and such sums as may be necessary for each of the fiscal years 1992 through 1994"; and

(2) in paragraph (2)(A)—

(A) by striking "and" after "1990,"; and

(B) by inserting before the period the following: ", and such sums as may be necessary for each of the fiscal years 1992 through 1994".

(b) AUTHORIZATION OF APPROPRIATIONS FOR MIGRANT HEALTH CENTERS.—Section 329(h) of the Public Health Service Act (42 U.S.C. 254b(h)) is amended—

(1) in paragraph (1)(A)—

(A) by striking "1989 and" and inserting "1989,"; and

(B) by inserting before the period the following: ", and such sums as may be necessary for each of the fiscal years 1992 through 1994"; and

(2) in paragraph (2)(A)—

(A) by striking "and" after "1990,"; and

(B) by inserting before the period the following: ", and such sums as may be necessary for each of the fiscal years 1992 through 1994".

SEC. 10. GRANTS FOR HEALTH SERVICES FOR PACIFIC ISLANDERS.

(a) GRANTS.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall provide grants to, or enter into contracts with, public or private nonprofit agencies that have demonstrated experience in serving the health needs of Pacific Islanders living in the Territory of American Samoa, the Commonwealth of Northern Mariana Islands, the Territory of Guam, the Republic of the Marshall Islands, the Republic of Palau, and the Federated States of Micronesia.

(b) USE OF GRANTS OR CONTRACTS.—Grants or contracts made or entered into under subsection (a) shall be used, among other items—

(1) to continue, as a priority, the medical officer training program in Pohnpei, Federated States of Micronesia;

(2) to improve the quality and availability of health and mental health services and systems, with an emphasis therein on preventive health services and health promotion programs and projects, including improved health data systems;

(3) to improve the quality and availability of health manpower, including programs and projects to train new and upgrade the skills of existing health professionals by—

(A) establishing dental officer, dental assistant, nurse practitioner, or nurse clinical specialist training programs;

(B) providing technical training of new auxiliary health workers;

(C) upgrading the training of currently employed health personnel in special areas of need;

(D) developing long-term plans for meeting health profession needs;

(E) developing or improving programs for faculty enhancement or post-doctoral training; and

(F) providing innovative health professions training initiatives (including scholarships) targeted toward ensuring that residents of the Pacific Basin attend and graduate from recognized health professional programs;

(4) to improve the quality of health services, including laboratory, x-ray, and pharmacy, provided in ambulatory and inpatient settings through quality assurance, standard setting, and other culturally appropriate means;

(5) to improve facility and equipment repair and maintenance systems;

(6) to improve alcohol, drug abuse, and mental health prevention and treatment services and systems;

(7) to improve local and regional health planning systems; and

(8) to improve basic local public health systems, with particular attention to primary care and services to those most in need.

No funds under subsection (b) shall be used for capital construction.

(c) Advisory Council.—The Secretary of Health and Human Services shall establish a "Pacific Health Advisory Council" which shall consist of 12 members and shall include—

(1) the Directors of the Health Departments for the entities identified in subsection (a); and

(2) 6 members, including a representative of the Rehabilitation Hospital of the Pacific, representing organizations in the State of Hawaii actively involved in the provision of health services or technical assistance to the entities identified in subsection (a). The Secretary shall solicit the advice of the Governor of the State of Hawaii in appointing the 5 Council members in addition to the representative of the Rehabilitation Hospital of the Pacific from the State of Hawaii.

The Secretary shall be responsible for providing sufficient staff support to the Council.

(d) Advisory Council Functions.—The Council shall meet at least annually to—

(1) recommend priority areas of need for funding by the Public Health Service under this section; and

(2) review progress in addressing priority areas and make recommendations to the Secretary for needed program modifications.

(e) Report.—The Secretary, in consultation with the Council, shall annually prepare and submit to the appropriate committees of Congress a report describing the expenditure of the funds authorized to be appropriated under this section and any recommendations that the Secretary may have.

(f) Authorization of Appropriation.—There is authorized to be appropriated to carry out this section $10,000,000 for each of the fiscal years 1991 through 1993.

SEC. 11. MISCELLANEOUS PROVISIONS.

Section 639 of Public Law 100–607 (42 U.S.C. 292h note) is repealed.

SEC. 12. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect October 1, 1990, or upon the date of the enactment of this Act, whichever occurs later.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. Waxman] will be recognized for 20 minutes, and the gentleman from Florida [Mr. Bilirakis] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Waxman].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5702, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, over the years, Congress has heard over and over that Americans who are members of minority groups suffer disproportionate amounts of death and disease from infant mortality, cancer, diabetes, heart disease, and other chronic diseases. For years we have listened to these reports, but done little to tackle this problem head on.

This year, we have developed legislation that will ensure a greater portion of our substantial Federal health resources are dedicated to addressing the needs of disadvantaged minority groups.

It is important to recognize the administration's focus on minority health issues in this year's budget. Secretary Sullivan earlier had requested $117 million for programs to improve access to health care and the representation of minorities in the health professions.

This legislation represents many long hours of negotiation and compromise between Democrats, Republicans, and the administration. It contains elements of legislation previously introduced by Congressmen Stokes, Richardson, and Mineta, as well as programs proposed by Secretary Sullivan in his minority health initiative. I'd like to thank these gentlemen for their dedicated efforts to develop this legislation, and I ask my colleagues to join with us today in supporting these important programs.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the health status of the disadvantaged lags behind that of the Nation as a whole. One of the most significant factors which adversely impinges on the health of individuals from disadvantaged backgrounds relates to inadequate access to quality health care.

In an attempt to remove some of the barriers to receiving health care, the legislation authorizes the Secretary to make grants to provide residents of public housing with primary health services. And to increase the number of minorities in the health professions, the legislation provides for student loans and scholarships.

The administration outlined a minority health initiative in the President's 1990 budget. A number of the components of the administration's initiative are incorporated in this bill. At full committee the ranking Republican, Mr. Madigan, offered an amendment which is a key component of the Secretary's initiative and a key component of this bill. Let me just briefly explain the concept of that amendment. Communities that have a shortage of health care providers recruit local individuals to attend a health professions school. In return for financial assistance the individuals agree to return and serve as a health care provider within their communities. Grants would be made to the States who would select, based on applications, several local communities to receive funds. The program requires a State match and a local community match. In addition, the Secretary is directed to ensure that rural and urban communities are treated equitably in the process. This amendment will empower States and communities to take responsibility for their health care needs.

This legislation is a step to address the disparity in health status faced by so many individuals from disadvantaged backgrounds. I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from New Mexico [Mr. Richardson], a distinguished member of our subcommittee, who played a key role in the development of this legislation.

Mr. RICHARDSON. Mr. Speaker, I would like to thank the gentleman from California [Mr. Waxman] and the minority for their very important role, in addition to Secretary Sullivan, in the development of this legislation. I have to acknowledge the role of the gentleman from Ohio [Mr. Stokes], who has been the father of this legislation for many, many years. He has been in the vineyards on ensuring that minorities get adequate health training. He has been a leader in this area. What we are doing here today incorporates a lot of the initiatives that the gentleman has sought for a number of years.

Mr. Speaker, in addition I would like to commend the gentleman from California [Mr. Panetta], who on behalf of the Asian-American community has played a key role in this, in addition to the gentleman from New York [Mr. Towns].

Mr. Speaker, I am greatly pleased we are acting on the Minority Health Improvement Act today which provides an equitable and balanced response to the critical health needs of minorities. I am also pleased that the legislation contains provisions which are similar to legislation I introduced—the Hispanic Health Parity Act—with my colleague Edward Roybal.

HISPANIC HEALTH STATISTICS

Hispanics will be both the largest and the youngest minority group in this country by the year 2000. Despite their growing population, poverty and a continuing lack of access to basic human resources remain a persistent fact of life for millions of Hispanics. One in four Hispanics, 21.7 percent, has no health insurance of any sort—a rate that is almost three times that of non-Hispanic whites, 7.7 percent.

Compounding the lack of parity in access to health care is the lack of population parity in the health professions. While Hispanics represent 9.1 percent of the total population, they represent only 4 percent of physicians and 2 percent of registered nurses. Provisions in today's legislation will address these problems of access and parity for Hispanics.

HISPANIC CENTERS OF EXCELLENCE IN THE HEALTH PROFESSIONS

Specifically, the legislation before us will establish Hispanic Centers of Excellence in the Health Professions. Modeled after the Historically Black Colleges and Universities [HBCU's] which have been tremendously successful in training black students to excel and move into the health professions, Hispanic Centers of Excellence will provide the Hispanic community with the infrastructure it so critically needs.

Historically black colleges and universities have been at the forefront of both research, and training models which take into account the cultural and differential needs of black Americans. In so doing, these institutions have become essential and important resources for the black community while the professionals they train have become important role models for young black Americans.

In developing Hispanic Centers of Excellence in the Health Professions, we hope to emulate and replicate the success the HBCU's have achieved in our own Hispanic community by providing this growing community with an infrastructure designed for achievement.

NATIVE AMERICAN CENTERS OF EXCELLENCE IN THE HEALTH PROFESSIONS

As the Representative of one of the largest native American constituencies in the House, I am also pleased that the legislation contains native American centers of excellence. The death rate for native Americans aged 25 to 34 is almost two times as great as the general population. The death rate for native American children age 1 to 4 is 1.7 times greater than the general population. Per capita, there are even fewer native American health professionals than Hispanic health professionals. These centers will strengthen the existing native American infrastructure by establishing consortia with Tribal Community Colleges training Native Americans today.

LOANS AND SCHOLARSHIPS FOR MINORITIES

The bill also provides up to $45 million for loans and scholarships for competitive grants to health professions schools with a demonstrated commitment to enrolling and serving minorities. A primary deterrent to achieving Hispanic health professions parity is one of finances. The cost of medical school is one of the most significant obstacles Hispanics encounter going into the medical field. Over 47 percent of minority medical students who interrupted their studies reported financial difficulties as playing a role in their delsion.

PREHEALTH PROFESSIONS SCHOLARSHIP

I am also pleased the bill contains another important component from the Hispanic Health Parity Act—a provision allowing up to 25 percent of funds to be used for prehealth professions scholarships for students. Many minority undergraduates must work 20 to 40 hours per week resulting in a lowered grade point average and lowering their chance of admission to health professional schools. By providing assistance to undergraduates with an interest in health, many promising minorities may finally have the opportunity to consider a health professions career.

AUTHORIZES OFFICE OF MINORITY HEALTH

I am also pleased the legislation authorizes and expands the Office of Minority Health [OMH]. The Office of Minority Health is an important advocate for minorities and should be strengthened so it can better coordinate and develop health policy to meet the health needs of minorities. Also included is an important provision providing health care institutions with bilingual health professionals or translators. This will clearly address an important health access problem for Hispanics.

ADDRESSES HISPANIC HEALTH DATA COLLECTION CONCERNS

Finally, I am pleased the Minority Health Improvement Act contains provisions improving the data collected by the National Center for Health Statistics for racial and ethnic populations. This has long been a concern of mine. Currently, basic health information such as national mortality rates, rates of cancer, and other major diseases are not enumerated or collected through our health data collection system. Collection of this data will enable us to plan and deliver adequate and appropriate health care to Hispanic communities.

In closing, I am pleased that all Members and advocates representing minority concerns were able to work together to protect the gains and achievements of minorities to date while addressing the vast disparities in access to health care that minorities continue to face.

I would also like to commend COSSMHO [the National Coalition of Hispanic Health and Human Services Organization], the only national Hispanic health organization serving the health needs of the Hispanic community. COSSMHO was instrumental in seeking balanced legislation that addressed the needs of the growing Hispanic community as well as other minorities. It is my hope that the Secretary of Health and Human Services will closely consult with COSSMHO and other interested groups as this legislation is implemented.

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Mr. WAXMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. Stokes].

Mr. STOKES. Mr. Speaker, I thank the distinguished chairman of subcommittee, Mr. Waxman, for yielding to me and rise in support of H.R. 5702. I want to also express my appreciation to the distinguished chairman for having expeditiously provided hearings on this legislation and for the deep concern he has demonstrated for the health care problems affecting minorities. I also want to thank the distinguished gentleman from Illinois [Mr. Madigan] for his cooperation and participation in bringing this legislation to the floor today. I want to also express my appreciation to Mr. Richardson for his hard work on this legislation. He is a real champion on minority causes. Also, both the majority and minority staffs have expended a great deal of time working with my staff on this legislation, and I appreciate that.

Mr. Speaker, the shocking disparities between the health of minority Americans and the health of white Americans is at catastrophic proportions. In the 1985 report of the Secretary's Task Force on Black and Minority Health, it was found that blacks and other minorities suffer 60,000 excess deaths each year. This is not an exaggerated statistic but documentable evidence of the great gap which exists in the health status of blacks and other minorities in the United States. This report goes on to further say that despite all of our efforts—and that of others—minorities in this country have not benefited fully or equitably from the fruits of medical progress.

Unfortunately, the Federal response to this health crisis has been negligible. One thing is clearly apparent: the minority-white health gap is too complex for a simple solution. The health problems and the data supporting these problems underscore the need for strong leadership from the top in our fight to improve the health of our minority citizens.

For that reason, Mr. Speaker, I was pleased to join initially with my colleague in the Senate, Senator Ted Kennedy, in introducing the original measure that led to this historic legislation before us. H.R. 5702, the Minrity Health Improvement Act of 1990, represents the effort of many concerned individuals who have worked for years to improve the health status of minority Americans. Most of the provisions in my initial proposal are incorporated in this legislation.

Mr. Speaker, this momentous legislation is by no means a totally comprehensive solution to the enormous health problems of minorities. The Minority Health Improvement Act is, however, a first step from Congress to raise the level of national commitment to improving health care for the minroity community, and all Americans. One thing is clear: We cannot afford to neglect the development and expansion of unified strategies to meet this health crisis.

Again, I commend the distinguished chairman, Mr. Waxman and his committee for taking this meaningful step to better the life for minority Americans. I urge my colleagues to join with us to meet this challenge and enact this legislation.

Mr. WAXMAN. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. Mintea].

Mr. MINETA. Mr. Speaker, I thank the gentleman for yielding time, and for his outstanding leadership in crafting this legislation. The fact that we are considering this bill today is a testament to the skill and dedication of Mr. Waxman and his staff.

Mr. Speaker, I rise today in strong support of the Minority Health Improvement Act of 1990.

H.R. 5702 represents a comprehensive effort to address the most pressing health needs of our Nation's disadvantaged minority populations.

It draws on legislation introduced by outstanding leaders in the area of minority health issues, especially my good friends, the gentleman from Ohio, [Mr. Stokes], and the gentleman from New Mexico [Mr. Richardson].

The Minority Health Improvement Act will authorize funds to assist the residents of public housing in gaining access to the health care services they need.

Through scholarships and student loans, and by reauthorizing the Centers for Excellence in Minority Health Education Program, it will assist increasing numbers of disadvantaged minority students in entering the health professions.

It will provide assistance to States, allowing them to offer scholarships to health professions students who agree to practice in medically underserved areas.

H.R. 5702 also incorporates the goals of legislation I introduced earlier this year to address two of the most pressing health care concerns of this Nation's Asian and Pacific Islander communities: Access to bilingual health care services and collection of more detailed health data on Asian and Pacific Islander Americans.

Over the past 20 years, Mr. Speaker, the number of Asian Pacific Americans has more than quadrupled, from 1.5 million people in 1970 to more than 6.5 million today. Of that increase, over 4 million were new immigrants.

In the past, it has been standard practice to treat Asian and Pacific Islander Americans as a single, homogenous group. Nothing could be further from the truth.

The Asian Pacific community is composed of over 30 ethnic groups, each with its own unique linguistic and cultural heritage. These differences of language and culture have enormous implications for social and economic status, which in turn have a tremendous impact on health.

For example, poverty rates in the Asian Pacific community vary widely. Among Japanese-Americans, the poverty rate is only 6 percent. Yet among Laotian-Americans it is 66 percent.

The States of California and Hawaii have begun to recognize the tremendous differences among Asian Pacific ethnic groups, and have changed their vital statistics collection process to study the implications this diversity has on the health of Asian Pacific Americans.

The initial results have been dramatic.

In California, the percentage of women receiving late, or no, prenatal care ranges from a high of 59.4 percent of Samoan-Americans, to a low of 14.6 percent of Japanese-Americans. For those same groups, infant mortality varies from a high of 13.1 per 1,000 births to a low of 5.1 per 1,000.

Additional data collected in California show similar differentials in the incidence of diabetes, heart disease, cancer, stroke, congenital abnormalities, liver disease, suicide, genetic diseases and AIDS.

There is no way to predict what conditions will strike which subgroup, or with what level of severity.

Unfortunately, when this data is reported to the National Center for Health Statistics [NCHS], the primary health data collection arm of the Federal Government, data on Asian Pacific Americans are rolled together, statistically burying many of these problems.

The Minority Health Improvement Act would, for the first time, recognized the diversity of the Asian Pacific community and the implication that diversity has for health care.

It would direct the Secretary of Health and Human Services to encourage States with significant Asian Pacific populations to begin collecting vital statistics data broken down by ethnic group. We have reached agreement with NCHS to begin analyzing and reporting this data as it becomes available.

H.R. 5702 would also direct NCHS to begin developing the base of data and the survey techniques needed to adequately cover the Asian Pacific population.

It is clear that until community organizations and public health agencies have this detailed data, their planning efforts will continue to suffer. They desperately need to know what the health problems of the Asian Pacific community are, and where to target their limited resources to address them.

The Asian Pacific Americans with the greatest need for health services and education are the recent immigrants; always a difficult group to reach.

Efforts to educate them about basic health care are vital, and it is clear that these educational campaigns need to be linguistically and culturally appropriate.

In order to provide health care services or design and execute health education campaigns, community and public health agencies need the services of translators and bilingual health professionals.

The best health care services in the world will accomplish nothing if patients can't find health care workers who speak their languages or understand their cultures.

By making grants available to hire those health care workers, H.R. 5702 will have a tremendous and positive impact on the ability of community health organizations to serve their clients.

Mr. Speaker, our entire society ultimately pays for the health care problems addressed in this legislation. We pay for them with overcrowded emergency rooms, with strained hospital budgets, with skyrocketing insurance premiums, and tragically, with premature deaths.

In closing, Mr. Speaker, I would like to again thank Chairman Waxman, Mr. Stokes, Mr. Richardson, Mr. Towns and the ranking member of the subcommittee, Mr. Madigan for their outstanding leadership on this vital issue.

This legislation, the result of months of hard work and negotiation, represents a great step forward in the effort to address the unique health care concerns of our Nation's disadvantaged minority populations.

I urge my colleagues to join me in supporting its passage.

Mr. BILIRAKIS. Mr. Speaker, I yield 4 minutes to the gentleman from Tenessee [Mr. Clement].

Mr. CLEMENT. Mr. Speaker, I am proud to rise in strong support of H.R. 5702, the Minority Health Improvement Act of 1990.

I would like first to congratulate and thank the gentleman from California, Mr. Waxman, the ranking Republican, Mr. Madigan, our friend from New Mexico, Mr. Richardson, and all of the members of the committee for bringing this important measure to the floor of the House.

Mr. Speaker, I am proud to represent here in the Congress the Meharry Schools of Medicine and Dentistry,

which for the past 115 years have carried out the mission of providing quality health education and care to the underserved of Tennessee and the Nation. In fact, the schools' president, Dr. David Satcher, testified before the subcommittee in support of the minority health initiative. I want to publicly thank Dr. Satcher for his contribution to this measure and for his leadership in addressing the health needs of blacks and other minorities.

Mr. Speaker, the fact that blacks and other disadvantaged minorities do not enjoy the same health status as other Americans has never been a secret. Unfortunately, these problems have not been well documented.

A breakthrough occurred in 1985 with the publication of the HHS Secretary's task force report on black and minority health. That task force report was among the first comprehensive documentations that there indeed was a significant health status disparity among blacks and other minorities as compared to the general populations of our country.

Among the sobering facts revealed were:

That the life expectancy of blacks is nearly 6 years less than that of whites;

Among blacks, infant mortality occurs at a rate of 20 per 1,000 births, twice that of whites;

Blacks suffer disproportionately higher rates of cancer, cardiovascular disease, and stroke, chemical dependency, diabetes, homicide and accidents, and infant mortality; and

That each year almost 60,000 excess deaths occur among blacks as compared to whites.

These sober statistics parallel a similarly striking disparity in the number of black health professionals. In 1983, under the leadership of then-Morehouse School of Medicine President Dr. Louis Sullivan, the Association of Minority Health Professions Schools commissioned a study which demonstrated the severe shortage of blacks in the health profession.

Among the findings of this important report are:

That while blacks represent approximately 12 percent of the U.S. population, only 2 to 3 percent of physicians, dentists, pharmacists, and veterinarians are black;

That only a few health profession schools have more than 12 percent black enrollment;

That black professionals are almost twice as likely to serve in medically underserved areas as their white counterparts;

That only a handful of schools have trained 40 percent of the Nation's black physicians, 40 percent of the Nation's black dentists, 50 percent of the Nation's black pharmacists, and 75 percent of the Nation's black veterinarians; and

That without the contribution of these schools, the severe shortage would be much worse and the gap between white and black would be ever wider.

The legislation before the House today helps correct this disparity and, more importantly, it recognizes the important role of the eight historically black health professions schools. It does this by acknowledging some of the unresolved financial problems facing these schools. Because these schools assume a disproportionate share of responsibility for providing health care to the poor, the underinsured, and the uninsured, these institutions fare less well than other academic health centers. This bill helps address this concern.

And because a majority of these schools' students are disadvantaged and minority, the schools are limited in their ability to recover costs through tuition increases, and the students are burdened with larger than average debts. This bill, again, begins to address this problem. It does so by reauthorizing and expanding the Centers of Excellence in Minority Health Education, a program which my predecessor, Bill Boner, helped author.

As I have mentioned, the health professions schools at historically black colleges and universities have served as a beacon for blacks seeking to enter the health professions. These schools have been leaders in expanding the knowledge about the delivery of health care services to disadvantaged communities. In recognition of this fact, Congress enacted in 1987 the Centers of Excellence Program.

The bill before us expands that program to meet the needs of other minority populations, specifically the unique health concerns that affect Hispanics and native Americans. I know my colleague from New Mexico has been a leader in drafting these much-needed changes.

While expanding that program, I and several of my colleagues raised a concern that existing Centers of Excellence not have their programs reduced. Thus, I want to thank the committee members for their sensitivity to this concern and for including a provision in the bill that ensures the four existing Centers of Excellence will receive the first $12 million available and for apportioning the balance of the annual appropriations to the other centers established under the legislation.

Mr. Speaker, the bill before us strengthens the Federal Government's efforts to improve the health of minorities in the United States. I urge adoption of the bill.

The Centers of Excellence Program at Meharry Medical College, Schools of Medicine and Dentistry

Meharry Medical College has for the past 115 years carried out the mission of providing quality health education and care to the nation's underserved. Our students often come from educationally and economically disadvantaged backgrounds as do the patients we serve and train them to serve. Throughout our history, we have been acknowledged as having the expertise to maintain this empathy for the disadvantaged; however, this mission has endured with great financial struggle. The record, however, of educating nearly half of the black physicians and dentists practicing today and sending them in overwhelming numbers to the nation's underserved inner-city and rural communities speaks to Meharry's commitment to this mission. Therefore, the Centers of Excellence Program is critical to providing the support which the College and our mission deserve.

At a pivotal time in the history of Meharry Medical College, the Centers for Excellence funding has greatly helped to enable the institution to make progress in several areas where strength is critical to Meharry's being a Center for Excellence in Health Education and Care. The impact on faculty retention, curriculum expansions, student performance, information resources, and equipment and library acquisitions is noteworthy. Also, the resulting added strength for the College has improved its operating position and prepare it not only for increased efforts to secure other financial resources but also for the acquisition of an increased clinical teaching base while providing service to the city and county through consolidation of publicly funded indigent-care programs under the roof of George W. Hubbard Hospital and quality care for the thousands of indigent patients through Meharry's proposed affiliation with Interfaith Medical Center in Brooklyn, New York.

FACULTY RETENTION

Using CFE funding, we have provided support for 20 FTE faculty positions, 9 teaching assistants, 17 technicians, and 47 administrative support positions. We have also provided needed salary increases for 85 faculty members, and brought 4 visiting faculty members to the Meharry campus. The resulting strength in Meharry's academic resources has in turn undergirded curriculum expansion and student performance, enabling Meharry to raise even further the level of excellence in minority health education for which Meharry's Schools of Dentistry and Medicine have been recognized.

STUDENT PERFORMANCE

Student performance has improved markedly during the years of CFE funding, particularly on the National Board examinations, of which every health professions student must pass Part II before graduating. This year fully 90% of our dental students who took, part I for the first time, and 95% of our medical students who took Part II, passed—a figure that is above the national average for first-time passage. It is important to note that many of these students entered Meharry with academic deficiencies which would have prevented their acceptance at many medical schools.

This record shows that with the proper attention to academic support on the part of the institution, students can overcome academic deficiencies and become skilled professionals who compare favorably with their colleagues across the nation.

EQUIPMENT AND LIBRARY ACQUISITIONS

Centers for Excellence funding has increased the collections of Meharry's library (including books, journals, and audiovisual materials), thus laying an even firmer foundation for teaching and research at Meharry Medical College. It has also provided important audiovisual equipment for the library's Media Services Department, which will enable library staff to produce effective supporting materials for teaching, presentation, and publication. New computing equipment for the Microcomputer Lab is developing the computing skills of Meharry's students, equipping them to function effectively in today's high-tech health-care environment. Computerized bibliographic searching equipment and software have reduced the cost of library research and greatly expanded its power, including the ability to apply the most up-to-date medical research results to patient care situations at a moments notice.

INFORMATION RESOURCES

Information management capabilities for all purposes—research, teaching, and administrative—have been greatly enhanced during the two years of CFE funding, in line with Meharry's Information Systems Plan. The mainframe has been upgraded to current standards, administrative software has been given increased capability, and the campus-wide network has been expanded to enable more offices to take advantage of the increased computing power.

Support for hardware and software has enhanced Meharry's ability to become a Center for Excellence in Health Professional Education and Care by providing a central computing system with enough processing speed, memory, and disk space to accommodate the existing academic, research and administrative applications as well as to allow for further expansion in all of these application areas in the future without the need for additional large expenditures for central system equipment.

CURRICULUM EXPANSION AND NEW INITIATIVES

Support for faculty and other institutional components has enabled Meharry to implement mandatory and elective courses in nutrition—a subject that has taken its place at the leading edge of medical research—in the curriculum of the School of Medicine. This exposure also affords students knowledge of a subject that has a tremendous impact upon the health status of minority populations. Meharry's Area Health Education Center (AHEC) allows our students to serve in inner-city and rural areas in Tennessee under faculty preceptors. Meharry students are also now required to complete a one-month rotation in a community based program in an underserved area.

Students are also gaining valuable exposure to community outreach programs as exemplified by Meharry's "I Have A Future" teenage pregnancy prevention program. This program, largely funded by the Carnegie Corporation, is a national model which addresses the problem of teen pregnancy by providing alternatives to early childbearing—future options. Meharry's medical students rotate through this program which has its locale in four Nashville housing projects—another experience in caring for the poor and underserved. The promise of this program in Nashville, and requests to look at a site in Memphis have led us to plan to initiate this program as a part of our proposed affiliation with Interfaith Medical Center. Clearly, these experiences and others being developed at Meharry will provide our students, and those from other institutions who rotate through these programs, an experience unparalleled in this nation in preparing future physicians to serve underserved populations throughout this nation.

CURRENT PLANS AND DEVELOPMENTS

In order to serve as a model for excellence in education and care, Meharry must develop an adequate clinical teaching base. Meharry's Hubbard Hospital, in its present state, does not have a sufficient patient load to support students and residents; therefore, it has become necessary for the College to develop alternative sources for patients. Funds are needed to further develop and implement them.

The alternatives in our plan represent opportunities for our medical and dental students, as well as other students nationally to be trained in an environment in which empathy for disadvantaged populations is an essential ingredient.

One of these sources is the development of a quality educational program at another site—Interfaith Medical Center in Brooklyn, New York. This affiliation, which is scheduled for implementation by July 1, 1991, will combine Meharry's rich history and expertise in educating physicians with an abundance of patients who require quality care. This "marriage" is even more suitable because the patient load at 600-bed, Interfaith Medical Center includes a majority of indigent patients—the same type of patient population which the majority of Meharry graduates have served throughout the 115-year history of the College. In fact, the patients at Interfaith are 82% black, 9.1% white, and 8.9% others, primarily Hispanic.

In this affiliation, Interfaith will be known as a clinical campus of Meharry Medical College. In this relationship, Meharry will be responsible for developing, implementing and administering an educational program for our students and residents which will provide a wealth of clinical experiences, both in the medical facility and in this underserved Brooklyn community. Funding will be required to increase the faculty for program development and to provide the support necessary for an educational program, i.e., library acquisitions and staff. Eventually, we foresee that this program of clinial education will be the model for providing the needed exposure to care for inner-city minority populations. This is critical as we attack the gap between the health status of blacks and other minorities and their white counterparts.

A second source of a clinical teaching base for Meharry is through consolidation—currently being proposed—between Meharry/Hubbard Hospital and the city owned Metropolitan General Hospital. It will have a major finanical and educational impact as Meharry assumes leadership for indigent care in Nashville. This consolidation proposal is also a unique and bold venture in health care for the poor, the underserved, and the underinsured. The Metropolitan Government of Nashville and Davidson County is now laying the groundwork for this consolidation of its publicly funded indigent-care programs and their relocation to Meharry/Hubbard. A major funding need for this plan will be for faculty development.

In summary, the Centers for Excellence funding has exerted a tremendous impact upon Meharry's capabilities to enhance its educational programs. It is crucial that continued and increased funding be available to enable the College to continue to develop and implement programs which are critical to the health care of minorities throughout this nation.

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Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Mississippi [Mr. ESPY] was unable to be here today, but I want to take a moment to respond to an issue he has raised concerning this legislation.

I want to assure him and the House that it is an eligible use of funds under this legislation to fund the creation of perinatal centers that would help address the persistent infant mortality problem affecting so many minority groups in this country.

Mr. ROYBAL. Mr. Speaker, I rise today to support legislation that launches a consensus effort to acknowledge and act upon the health needs of minority and disadvantaged populations. That legislation is the Minority Health improvement Act of 1990—H.R. 5702.

Earlier this year with my very distinguished colleague from New Mexico—Congressman RICHARDSON, we introduced the Hispanic Health Parity Act—H.R. 4980. This bill would establish programs with respect to the health of Hispanic individuals and other individuals who are members of minority and disadvantaged groups. Congressman RICHARDSON and I subsequently worked together with Congressman WAXMAN and others to develop a consensus bill—H.R. 5702—the Minority Health Improvement Act of 1990. This bill begins to address the needs of all minorities and all disadvantaged Americans. It is time that Congress moves forward to address the health disparity of its disadvantaged citizens.

In particular, I would like to share with you a profile on one such population—the Hispanic population. Between the years 1990 and 2080 Hispanic and non-Hispanic populations will be developing in opposite directions. Specifically, the Census Bureau reports that the Hispanic population is expected to grow by 39.7 million persons while the non-Hispanic white population is projected to decrease by 16 million. There will come a time when Hispanics will be the largest minority racial or ethnic group in this country. In fact, Hispanics will comprise one in five working-age persons at the turn of the century.

With these statistics as a background let me talk about health care access issues of this population. A 1986 survey of access to health care in the United States—Robert Wood Johnson Foundation—found that Hispanics are least likely to have access to a regular source of health care. The survey found that 30.1 percent of Hispanics lack access to health care compared to 20.1 percent of blacks and 16.3 percent of whites. The survey also found that compared to previous surveys the percentage of Hispanics without a regular source of health care had declined, threatening a significant deterioration in the health status of Hispanics.

With the upcoming population expansion of the Hispanics there is an urgent need for qualified health professionals who are both culturally sensitive and bilingual to serve this population. One method of achieving this needed supply of health care workers within the Hispanic community is to establish population parity in the Hispanic health care work

force. While some would argue that achieving population parity is unnecessary since health care professionals generally treat patients regardless of ethnicity, I would argue the reverse. Studies have shown that the lack of culturally and linguistically appropriate health care has had and is having a negative impact on the Hispanic community's access to health care. Despite the need for population parity in the Hispanic health professions, there continues to be a decreased supply of Hispanic health care professionals serving the health care needs of the Hispanic community.

This is why I am joining my colleagues in supporting the Minority Health Improvement Act of 1990, to address the population parity dilemma which confronts prospective Hispanic health care professionals as well as other disadvantaged populations and minorities. H.R. 5702 creates a number of new programs, and expands other programs, in order to improve the access of disadvantaged individuals and minorities to health care services and to health professions education. One program expansion reauthorizes the Centers of Excellence for the Minority Health Education Program through fiscal year 1993, and expands the program to include not only health professions schools serving black students but also health profession schools serving Hispanic, Native American and other minority students.

The bill's provisions include other programs which do the following:

Establishes in statute the Office of Minority Health and stipulates a number of actions the Office must carry out, including establishing a national minority health resource center, supporting research, demonstrations, and evaluations of minority health activities, and awarding grants for minority health promotion activities;

Authorizes grants to provide residents of public housing with various health services;

Authorizes loan and scholarship programs for health professions students from disadvantaged backgrounds;

Authorizes demonstration grants to States for community scholarship programs for health professions students;

Authorizes grants to public and nonprofit entities for special studies on the health of ethnic and racial populations, and for research on improving methods for developing statistics on such groups;

Extends the authorization of community and migrant health centers through fiscal year 1994; and,

Authorizes grants for health services for Pacific Islanders.

Mr. Speaker, we have an historic opportunity here to make a difference. This is the time to clearly declare that minorities and the disadvantaged desperately need the special type of help engendered in H.R. 5702—the Minority Health Improvement Act of 1990. This is the time to join forces behind this single consensus bill targeted at minorities and the disadvantaged that will take another critical step on the journey to better health for all Americans.

Mr. ESPY. Mr. Speaker, I rise in favor of H.R. 5702—the Minority Health Improvement Act of 1990.

Nineteen other countries do a better job than we do of keeping children alive.

Japan does better than us. Spain does better than us. Sweden does better than us. Canada does better than us. France does better than us. And on and on.

In my own Second District of Mississippi—in Humphreys County—29 babies out of every 1,000 die before their first birthday.

And Mr. Speaker—in our own country—more than 200,000 babies a year are hospitalized because of dehydration and another 500 die each year because of dehydration. Those are not figures from some Third World country—but statistics that describe the poor job we are doing to keep our children alive.

Now is the time—now is far past the time—to work hard at keeping our children alive. How can we do this? How can we ensure that our children can live to blow the candle off their first birthday cake?

Well, we can begin by passing H.R. 5702.

This bill will help us attack some of our health problems that need the most attention. For example—if you look at Humphreys County—where the infant mortality rate is 29 percent—you will find that the population is 70 percent minority. That combination—poor health and a high minority population—repeats itself all across this country. If we can improve the health of our minority population—we will be taking great strides to improve the health of the United States overall.

Why do we need to focus on the minority population? There is indeed a minority health disparity.

A 1984 study called the Heckler Report summarized that minorities in general—and blacks in particular are sicker, get medical attention later and die sooner than whites, often from preventable conditions.

The major killers include heart disease, cancer, stroke, infant mortality and low birthweight, diabetes, AIDS, and substance abuse.

Further the Heckler Report introduced the concept of "excess deaths—those that would not happen if a given minority had a health status equal to that of whites. The report noted that 40 percent of minority deaths—including Hispanic, Native Americans and black—are considered excess.

I could continue to explain the problem, Mr. Speaker, but now it's time to focus on one of the solutions. And one of the solutions would be H.R. 7072.

The bill would help us build perinatal centers, educate more minority health professionals, and bring health care into public housing.

I urge passage of this bill and congratulate Mr. WAXMAN and Mr. STOKES and all others for their hard work to put this bill together.

Mr. TOWNS. Mr. Speaker, I want to lend my support to H.R. 5702 the Minority Health Improvement Act of 1990. This legislation will go a long way toward increasing the number of minority health care professionals in this Nation as well as improving the quality of health care received by minority Americans.

I am particularly pleased at the excellent job we were able to do at the subcommittee level to ensure a balanced approach in meeting the needs of all minority communities. The administration should also be commended for its initiatives to improve health care in public housing and to provide scholarship opportunities directly to communities so that they can train one of their own as a health provider. The reauthorization of the community and migrant health centers will bolster the public housing initiative and the new centers of excellence program will continue support for institutions that have traditionally trained minority health professionals.

This legislation demonstrates that the Congress and the administration can work together to develop health care policy which has a real impact on the quality of life for our citizens. Certainly, no group can benefit more from these kinds of initiatives than minority Americans.

Mr. ORTIZ. Mr. Speaker, I rise in support of the bill H.R. 5702, Minority Health Improvement Act. This bill creates a number of new programs to improve minority's access to health professions education.

This is a strong bill which establishes by statute the Office of Minority Health and establishes a National Minority Health Resource Center. This center will support research, provide demonstration grants, evaluate minority health activities, and awards grants for minority health promotion projects.

It is vitally important that young people, particularly those young people who are disadvantaged minorities, have the opportunity to obtain an education in medicine. Past experiences have taught us that poor minority children who are given the opportunity to obtain a medical education will ultimately return to their communities to give back what they have learned.

I would like to commend Chairman DINGELL, as well as Subcommittee Chairman WAXMAN, for their hard work to insure that special projects were either extended or begun within the confines of this bill. The scholarship programs for health professions students from disavantaged backgrounds, as well as health profession schools to serve Hispanic and other minority students will make the playing field more level for talented young men and women to utilize their abilities and realize their dreams.

H.R. 5702 also addresses the serious lack of qualified health professionals, as well as clinics, in areas of the country such as the Rio Grande Valley. I am happy to give my full support to this important piece of legislation.

Mr. FALEOMAVAEGA. Mr. Speaker, I want to take this opportunity to express my sincere appreciation to Chairman WAXMAN for bringing H.R. 5702, the Disadvantaged Minority Health Improvement Act of 1990 to the floor. I also want to express my appreciation for the work of Congressman STOKES who introduced the original bill, and the assistance and support of Congressman MINETA and Congressman RICHARDSON for their effort on behalf of this important legislation.

The plummeting health status of our Nation's disadvantaged minority citizens is indeed a most serious concern. H.R. 5702 addresses that concern. The legislation provides for new authority, programs and oversight responsibility under title XVII of the Public Health Service Act which, if enacted, would relieve some of the stress for disadvantaged and minority citizens.

Mr. Speaker, H.R. 5702 provides for an office of minority health with duties to develop short-range and long-range goals, enter into interagency agreements, establish a national minority health center to increase knowledge and understanding of health risk factors, and in general improve the quality and availability of health services to the minorities and disadvantaged.

As originally introduced, subtitle B of H.R. 3240, contained provisions to address the needs of one of the smallest minority populations, the American Samoans residing in the United States. The services under this subtitle were to be educational and outreach in nature and focus on specific problems of the Samoan communities.

I find myself in an unusual position, Mr. Speaker, of being an advocate for constitutents in more than one jurisdiction, with large numbers of American Samoans living in the United States. I am especially concerned about the conditions in the large Samoan communities located in Hawaii, California, and Washington State.

As an example of the specific problems encountered by Samoans living in the United States, it was my unfortunate position to learn early last year that the Samoan communities in Los Angeles and Orange Counties, CA, encountered a serious outbreak of measles. The outbreak claimed the lives of 7 children while hospitalizing 30 other infants and children. The death toll was not only extraordinarily high for the size of the Samoan population, but it was also a rarity in that it involved a disease that was purportedly under control through existing immunization programs.

That such an outbreak could occur in such a populated area as southern California and yet be limited to a small ethnic minority is an indication that the public immunization program, and perhaps other programs, need attention.

Mr. Speaker, the original bill introduced by Congressman STOKES had a section specifically addressing the problems faced by American Samoans. Elimination of this section disturbs me, not to the extent that I oppose the legislation, for I do in fact strongly support it. But I am concerned that one of America's smallest minority groups may once again be overlooked in the shadows of the larger minority communities. I hope that the equity provisions of H.R. 5702 will be adequate to protect the interests of this small group.

Mr. Speaker, a second provision of this bill which I wish to address is section 10, grants for health services for Pacific Islanders. Section 10 provides for grants for the improvement of Pacific Basin health services, supports the need for the development of health services and health professions, and establishes a Pacific health advisory council which will provide a forum through which the Pacific Basin health directors may exchange information to better prioritize the expenditure of public health funds within the Pacific Basin. I support this provision because it brings together the appropriate expertise and resources to address health issues and programs peculiar to the Pacific Basin.

Finally, Mr. Speaker, I would like to take this opportunity to urge my colleagues to vote in support of H.R. 5702.

Mr. ROYBAL. Mr. Speaker, I rise today to support legislation that launches a consensus effort to acknowledge and act upon the health needs of minority and disadvantaged populations. That legislation is the Minority Health Improvement Act of 1990—H.R. 5702.

Earlier this year with my very distinguished colleague from New Mexico, Congressman RICHARDSON, we introduced the Hispanic Health Parity Act—H.R. 4980. This bill would establish programs with respect to the health of Hispanic individuals and other individuals who are members of minority and disadvantaged groups. Congressman RICHARDSON and I subsequently worked together with Congressman WAXMAN and others to develop a consensus bill—H.R. 5702—the Minority Health Improvement Act of 1990. This bill begins to address the needs of all minorities and all disadvantaged Americans. It is time that Congress moves forward to address the health disparity of its disadvantaged citizens.

In particular, I would like to share with you a profile on one such population—the Hispanic population. Between the years 1990 and 2080 Hispanic and non-Hispanic populations will be developing opposite directions. Specifically, the Census Bureau reports that the Hispanic population is expected to grow by 39.7 million persons while the non-Hispanic white population is projected to decrease by 16 million. There will come a time when Hispanics will be the largest minority racial or ethnic group in this country. In fact, Hispanics will comprise one in five working-age persons at the turn of the century.

With these statistics as a background let me talk about health care access issues of this population. A 1986 survey of access to health care in the United States—Robert Wood Johnson Foundation—found that Hispanics are least likely to have access to a regular source of health care. The survey found that 30.1 percent of Hispanics lack access to health care compared to 20.1 percent of blacks and 16.3 percent of whites. The survey also found that compared to previous surveys the percentage of Hispanics without a regular source of health care had declined, threatening a significant deterioration in the health status of Hispanics.

With the uncoming population expansion of the Hispanics there is an urgent need for qualified health professionals who are both culturally sensitive and bilingual to serve this population. One method of achieving this needed supply of health care workers within the Hispanic community is to establish population parity in the Hispanic health care work force. While some would argue that achieving population parity is unnecessary since health care professionals generally treat patients regardless of ethnicity, I would argue the reverse. Studies have shown that the lack of culturally and linguistically appropriate health care has had and is having a negative impact on the Hispanic community's access to health care. Despite the need for population parity in the Hispanic health professions, there continues to be a decreased supply of Hispanic health care professionals serving the health care needs of the Hispanic community.

This is why I am joining my colleagues in supporting the Minority Health Improvment Act of 1990, to address the population parity dilemma which confronts prospective Hispanic health care professionals as well as other disadvantaged populations and minorities. H.R. 5702 creates a number of new programs, and expands other programs, in order to improve the access of disadvantaged individuals and minorities to health care services and to health professions education. One program expansion reauthorizes the Centers of Excellence for the Minority Health Education Program through fiscal year 1993, and expands the program to include not only health professions schools serving black students but also health profession schools serving Hispanic, native Americans, and other minority students.

The bill's provisions include other programs which do the following:

Establishes in statute the Office of Minority Health and stipulates a number of actions the Office must carry out, including establishing a national minority health resource, center, supporting research, demonstrations, and evaluations of minority health activities, and awarding grants for minority health promotion activities;

Authorizes grants to provide residents of public housing with various health services;

Authorizes loan and scholarship programs for health professions students from disadvantaged backgrounds;

Authorizes demonstration grants to States for community scholarship programs for health professions students;

Authorizes grants to public and nonprofit entities for special studies on the health of ethnic and racial populations, and for research on improving methods for developing statistics on such groups;

Extends the authorization of community and migrant health centers through fiscal year 1994; and,

Authorizes grants for health services for Pacific Islanders.

Mr. Speaker, we have an historic opportunity here to make a difference. This is the time to clearly declare that minorities and the disadvantaged desperately need the special type of help engendered in H.R. 5702—the Minority Health Improvement Act of 1990. This is the time to join forces behind this single consensus bill targeted at minorities end the disadvantaged that will take another critical step on the journey to better health for all Americans.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 5702, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "a bill to amend the Public Health Service Act to improve the health of individuals who are members of minority groups and who are from disadvantaged backgrounds, and for other purposes.".

A motion to reconsider was laid on the table.

AUGUSTUS F. HAWKINS HUMAN SERVICES REAUTHORIZATION ACT OF 1990

Mr. KILDEE. Mr. Speaker, I move to suspend the rules and agree to the conference report on the bill (H.R. 4151) to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Fellow Through Act, and the Community Services Block Grant Act; and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER pro tempore (Mr. MAZZOLI). Without objection, a second will be considered as ordered.

There was no objection.

(For conference report and statement, see proceedings of the House of October 5, 1990.)

The SPEAKER pro tempore. The gentleman from Michigan [Mr. KILDEE] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report before us is truely a bicameral, bipartisan agreement.

For the first time, we are charting a course for full funding of Head Start for all eligible 3 and 4 years and for 30 percent of the 5-year-olds.

The conference agreement also identifies specific funds to maintain and improve the quality of Head Start, and to expand the availability of services to children under the age of 3.

These are the greatest advances in Head Start since the program began 25 years ago.

Together, they will make Head Start even more effective in responding to expanding needs of the children and families who participate in the program.

In addition to Head Start, the conference report also incorporates provisions of H.R. 5654, the Claude Pepper Younger Americans Act of 1990.

H.R. 5654 was introduced in the House by Representative JOSEPH KENNEDY who took up the cause of working for a national youth policy upon the death of Claude Pepper.

The conference report expands the Follow Through Program and increases its emphasis on comprehensive services.

It also extends the Low Income Home Energy Assistance Program [LIHEAP] and lays the groundwork for the forward funding of this important program which is critical to ensuring that low income persons are not faced with the difficult choice between heating or eating.

The conference report extends the State Dependent Care Development Grants Act and makes child development associate scholarship assistance available to more people.

It also contains a number of amendments designed to strengthen the community services block grant, and a new initiative targeted at minority males in the demonstration partnership program.

Finally, the agreement makes a number of changes in the Community Food and Nutrition Program recognizing that hunger is a national problem which needs a national solution.

I would like to thank all the Members of the House and Senate and the staff including Susan Wilhelm, Jeff McFarland, Thomas Kelley, Damian Thorman, Margaret Kajeckas, Carole Stringer, Lisa Morin, and Lynn Selmser, who have worked so diligently to craft the agreement before us today and I urge its approval.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I my consume.

Mr. Speaker, I have extensive remarks that I will put in the RECORD, but since we are honoring with this legislation, an outstanding chairman, whose picture is being unveiled at the present time, and I am supposed to be speaking there, let me just say that this is a wonderful piece of legislation that has many improvements.

I testified before the committee dealing with Head Start, and I want to congratulate the gentleman from Michigan [Mr. KILDEE] and the gentleman from Iowa [Mr. TAUKE] for the work they did on the bill.

Basically, what I said in the Head Start Program, was that we have to stop this business of saying how all of these programs are so outstanding and so wonderful if all we do is just give us a little bit more money, somehow or other everything is going to be all right. That is not true. There are a lot of changes that have to be made, and we are making them. Basically what we are saying is, we want excellence, and we will demand excellence, and that we want preparation for the staff, and we want better pay for the staff, so that we can attract better people. We want to tie it more closely with early childhood education with the school systems.

All of these things are part of this new legislation, and I commend it to all, and again thank the gentleman from Michigan [Mr. KILDEE] and the gentleman from Iowa [Mr. TAUKE] for their outstanding work.

Mr. Speaker, I rise in support of the conference agreement to H.R. 4151, the Human Services Reauthorization Act of 1990. This is an important piece of legislation, reauthorizing several key programs which assist our low-income citizens.

We have made great strides in the Head Start Program during this reauthorization. I testified before my own committee during a Head Start hearing this past March. While this is certainly an unusual occurrence, I did this because Head Start is a program of too great importance to view with rose colored glasses.

During that testimony, I spoke to the need to show tangible appreciation to the many Head Start employees who have devoted themselves so unselfishly to this program. This year we have target funds specifically for quality improvements, namely salaries and training opportunities.

I cautioned about the emphasis of serving every eligible child to the neglect of program evaluation and strengthening. I am pleased that the Members saw fit to incorporate my proposal for a long-term longitudinal study and comprehensive report on Head Start to provide much needed information as we move Head Start into the 21st century.

My testimony on that day stressed the need for an increased family focus in an age of growing numbers of dysfunctional families. We must empower families to develop better parenting skills as well as educational abilities so they can help their children learn. The parental involvement component of this legislation has been significantly strengthened.

The legislation before us today also addresses, in a real way, the need for greater coordination between Head Start and the elementary school and more intensive followup services through the revival of the Follow Through Program.

I would also like to point out that we have reauthorized the Community Services Block Grant Program [CSBG]. In my congressional district, funds from this program are utilized by the community progress council to provide vital services to the community. For instance, the community progress council has worked with local schools to develop programs to keep at risk children in school. Just recently this joint effort led to the establishment of a school-based day care center. Young mothers who may otherwise have dropped out of school in order to care for their children will now have an opportunity to stay in school and complete their education. This is an extension of a program already in operation at the community progress council.

We have also made several important changes in the Low-Income Energy Assistance Program [LIHEAP]. We have, for instance, included a provision which permits States, under certain conditions, to use up t 25 percent of their LIHEAP dollars for weatherization. In addition, those States which only provide outreach and intake services fo LIHEAP through their welfare offices will now have to utilize organizations such as area agencies on aging and community actio agency to do additional outreach. We include this provision to help ensure that we reach as many eligible individuals and families as possible. However, since we recognize that States such as Pennsylvania, may have difficulties i restructuring their current programs to mee the requirements of this new law, we have included report language requesting the Secretary of Health and Human Services to provide assistance to States which must undergo this transition.

Mr. Speaker, I urge my colleagues to join me in approving the conference report to H.R. 4151.

Mr. Speaker, I ask unanimous consent that the remainder of my time be controlled by the gentlewoman from New Jersey [Mrs. Roukema].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. KILDEE. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. Kennedy], the author of H.R. 5654, the Claude Pepper Younger Americans Act of 1990, which has been incorporated into this bill.

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Mr. KENNEDY. Mr. Speaker, I rise in strong support of H.R. 4151, the Head Start and human resources conference report. Passage of this bill will mark a long-awaited victory for children and their advocates across the country, for it will mean passage of the Claude Pepper Young Americans Act. I introduced this legislation early last month in honor of a man who, up until his time of death, fought to improve the lives of not just older Americans but younger Americans as well. The Claude Pepper Young Americans will first establish, a long-awaited national youth policy—we're one of the few industrialized nations who has no plan underway to meet the needs of our children. This national youth policy will set out goals to ensure that all children have access to sound health, safe shelter, quality education, meaningful employment and participation in decisions concerning the planning and managing of their lives. These goals will be reached by improved coordination of existing children programs at the Federal, State, and local levels, and by funding 30 million dollar's worth of model local programs. This bill also calls for a White House Conference on Children, Youth, and Families. We envision the Young Americans Act to grow to improve the lives of our Nation's children just as the Older Americans Act has helped to enrich the lives of our elderly. I want to thank the gentleman from Michigan, Dale Kildee, for his leadership on this issue and urge my colleagues to support the conference report.

Mr. KILDEE. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. Scheuer], chairman of the Subcommittee on Education of the Joint Economic Committee, a Member who played a major role in crafting this legislation.

Mr. SCHEUER. Mr. Speaker, I want to congratulate the gentleman from Michigan [Mr. Kildee] for his truly splendid leadership in bringing the full funding concept of Head Start to the floor.

He has worked indefatigably with me in encouraging this fine consensus, and I congratulate the gentleman for his outstanding leadership.

I also want to express my equal thanks to the gentleman from Pennsylvania [Mr. Goodling] who has been so supportive.

Twenty-five years ago it was my proud privilege to serve on the Committee on Education and Labor in the House and to participate in the drafting of the Elementary and Secondary Education Act, of which the Head Start Program was the star, the star in the diadem of the poverty program. I am equally proud today, 25 years later, to be playing an active role under the leadership of the gentleman from Michigan [Mr. Kildee] in bringing that magnificent program to full funding at long last.

Mr. Speaker, over the last quarter of a century 10 million young people in our society have benefited from the Head Start Program. For many of them, from disadvantaged homes, it was their only last fair hope of making it in the school system and becoming productive citizens. The cost-benefit calculation for the Head Start Program is enormous, anywhere from $7 to $12 returned to the Federal Treasury for every $1 spent, or rather invested, in our kids. Head Start graduates are almost twice as likely to get through high school, almost twice as likely to go to college as their non-Head Start counterparts, and they are less than half as likely to end up in the criminal justice system, almost half as likely to end up as clients of the welfare system as their counterparts. We urgently need this program, Mr. Speaker.

I held 9 days of hearings on the Head Start Program and corporate executives, including a number of Fortune 500 CEO's, from all over the country testified as to how urgent it was to save these kids and make them productive members of a competitive American work force.

Mr. Speaker, these CEO's and other witnesses are all concerned about the future of America. They recognize that we need a tough, skilled lean and mean work force in order to remain globally competitive. They also recognize that Head Start is a critically important way to get there for kids from deprived, low-income homes. Head Start children who end up in college are a better bet for success in later life than their non-Head Start counterparts.

And Head Start students who do not go to college are still a much better bet for success later in life than their non-Head Start counterparts. Not only are they significantly less likely to go on welfare or commit a crime, they are also less likely to have unplanned pregnancies, and much more likely to have productive jobs. They are far more likely to be taxpayers; than their non-Head Start counterparts are far more likely to be tax eaters.

Head Start is a spectacularly cost-effective investment in this Nation's future. Studies indicate that for every $1 invested in Head Start, we realize about $6 in increased economic output. This does not even include the additional benefits from a smaller welfare base, a decreased prison population, and less unemployment compensation.

This bill is a tremendous shot in the arm for Head Start, one of the best conceived social programs in American history.

Studies of the program have revealed other remarkable results. Among Head Start graduates, there have been dramatic drops in the need for remedial training, in truancy, in teenage pregnancy, and teenage criminal activity. At the same time, significant gains have been documented in enrollment in Gifted and Talented Programs, scholastic achievement in general, and all-around success in later life.

Head Start is a family program as well as an eduational one. It stresses parental involvement and provides a comprehensive range of services which address not only educational needs and growth but also social, nutritional, and health needs as well. Head Start students everywhere have developed an astonishing advantage over their non-Head Start counterparts.

Mr. Speaker, we are the wealthiest Nation in the world. Yet, up until now, we have refused to make an adequate investment in our country's greatest asset: our children. How can we be so contemptuous of our own futures?

The financial impact of unprepared students entering the job market is staggering. Business coffers are being emptied into remedial training and education for people who were never taught reading, writing, and counting skills as children.

Can we continue to condemn so many disadvantaged youth to futures without hope? The administration proposes a funding level that would provide Head Start to about 20 percent of the young people that need it. Are we to consign the other 80 percent to failure? But it is not too late for them. My colleagues have an unusual opportunity today. By voting for this measure, and fully funding Head Start, we will be investing not only in our children, but in our economy, in a healthy society.

Mr. Speaker, Head Start is the ultimate "bang for the buck" educational program. But it goes further than that. We not only see an economic benefit, but we have a moral imperative to provide a quality education to our youth, and this includes Head Start.

Let us go to the children living on the edge of educational disaster and fund all young people in need of Head Start training.

Mr. Speaker, millions of success stories don't lie. Full funding of Head Start is a necessity we can't afford to pass up. Otherwise, we will end up with a society divided into two structured groups, the haves and have-nots, with have-nots doomed the life of poverty that come with no education and without the benefits and productivity that quality education brings.

I do not think we want that kind of a society, Mr. Speaker, either in terms of failing to

produce the work force for a productive economy, or moving rapidly toward a two-tiered society of haves and have-nots.

I urge all my colleagues to give their full support to this landmark legislation.

Mr. KILDEE. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. Miller].

Mr. MILLER of California. Mr. Speaker, I rise in support of this legislation. It has been a long time coming. It is welcome. I think it will provide a very, very substantial improvement of the Head Start Act, and I want to commend our committee, the Committee on Education and Labor, and all the staff for the incredible amount of work they put into this program, and the quality of work that they have provided.

Again, Congress can be very proud of this program. We do not engage in a lot of success, but this is clearly one that has dramatically changed the lives of not only the children who participate but, as we see time and again, of their parents and of the community, as they take pride and participate and get the benefit and the children get the benefits of the Head Start Program.

I want to thank the gentleman from Michigan [Mr. Kildee] for all of his effort in shepherding this legislation through our process.

Mr. KILDEE. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. Walgren].

Mr. WALGREN. Mr. Speaker, I want to express appreciation for the work that has gone into this bill on behalf of the gentleman from Indiana [Mr. Sharp], chairman of the Energy Subcommittee of the Committee on Energy and Commerce, and for the Committee on Commerce, generally, both the chairman, the gentleman from Michigan [Mr. Dingell] and the ranking minority member, of the subcommittee, Mr. Moorhead.

I rise is strong support of this legislation. It is an excellent bill that provides important help for families and children, with full funding for proven successful programs like Head Start and a range of new programs as well.

I particularly would like to say a few words about the reauthorization of the Low-Income Energy Assistance Program known as LIHEAP.

The Committee on Energy and Commerce shares jurisdiction with the Committee on Education and Labor for the LIHEAP Program, and we serve as conferees on this portion of the bill.

We would provide $2.15 billion in authorization for the LIHEAP Program next year, about the same level of appropriations for this program as was provided before 1985 when severe budget reduced funding to as little as $1.4 billion. While energy prices are troubling to all, their impact upon poor and elderly with fixed income, we all know, is devastating. The people who work with States to administer these programs will have a tougher test this winter than ever before.

While full funding is probably the single most important improvement that could be made in the LIHEAP Program, the bill also makes a number of other improvements. Switching the funding to a July-to-June cycle will help States to plan their programs with more certainty. States are also given added flexibility, in certain situations, to use funds for weatherization.

I particularly want to underscore a new program, which I strongly support, that will allow States to leverage non-public funds, as well as public funds. Many States, utilities, and other energy vendors have excellent programs to provide additional assistance to the same families eligible for LIHEAP.

The conferees worked to modify the definition of leveraged funds to ensure that many of these programs will qualify under the provision by making it clear that the leveraged resources also include benefits made directly to LIHEAP-eligible households, as long as they are in conjuction with the LIHEAP Program. Thus, many vendor resources, such as utility sponsored low-income weatherization and assistance programs that benefit LIHEAP eligible households, will be included, if in conjuction with the State LIHEAP Program.

In my own State of Pennsylvania, we have the Dollar Energy Fund, essentially charitable contributions to aid in paying heating bills for those who otherwise could not provide for themselves. This program has grown from $400,000 in 1983 to $1.7 million last year.

Most of the funds raised under this program come from customers of Peoples Natural Gas, Equitable Gas, Progressive Light, and other Pennsylvania utilities. The Allegheny County commissioners have donated funds from their Community Development Block Grant funds. All such funds are used for low-income grants. None of the public funds are used for administration expenses.

Contributions like these will now be clearly eligible to leverage further Federal support under this bill. The ability to leverage funds like these will go a long way in expanding the help that this LIHEAP Program has given to so many people who need it.

In closing, I want to commend the subcommittee chairman Mr. Kildee. He is one of the most tireless supporters of the LIHEAP Program. He deserves real credit for advancing this bill to the floor and deserves to take real satisfaction from the good that will be done under this program.

Mrs. ROUKEMA. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. Solomon].

Mr. SOLOMON. Mr. Speaker, first of all let me commend the chairman of the subcommittee, my good friend, the gentleman from Michigan [Mr. Kildee] for bringing this legislation to the floor, particularly the reauthorization of Head Start.

It represents a large, 8,000-square-mile rural area of upstate New York, where Head Start is the best Federal program in the country today, bar none. It is so valuable to the people, and it means so much to areas like ours and to people who really need this kind of help.

Again, I want to commend the gentleman from Iowa [Mr. Tauke], who is not here today, but I commend him for his great work with the subcommittee chairman, the gentleman from Michigan [Mr. Kildee]. They do a great job, and we all appreciate this in upstate New York.

Mr. TAUKE. Mr. Speaker, I would like to take this opportunity to thank all involved in crafting this bipartisan agreement, particularly Mr. Goodling for his concern about strengthening the parental involvement component of Head Start. A special thanks also to Chairman Kildee and his staff for their willingness to work in a bipartisan manner to carve out this agreement expeditiously.

While the impact of budgetary constraints make appropriation outcomes uncertain, we have established a framework whereby human resource programs may achieve significant increases while at the same time, issues of quality and accessibility have been addressed

The strength of this package lies in the fac that our authorizations are accompanied by reforms in the programs, which will clearly have a positive impact on their ability to mee their stated objectives. Specifically, I'd like to point out reforms in two programs: First Follow Through, which in the past has been plagued with problems because it wasn' being implemented in a way that could have a significant impact on the children it aimed to serve, or on the school environment in which it found itself. The establishment of closer ties with chapter 1, the introduction of fresh educational approaches, as well as the increased authorization should go a long way in aiding children in maintaining the gains achieved in Head Start. It should also become a usefu tool in overall school reform.

And second, LIHEAP. Under this conference agreement, States, which are meeting their responsibilities in providing crisis energ assistance, will be able to receive a waive permitting them to use up to 25 percent of their LIHEAP allocation for energy-related home repairs. This long-term planning wi reduce the need for crisis intervention.

We have also included a provision which will provide additional LIHEAP dollars to States that leverage additional non-Federal resources to meet the heating and cooling needs of many more households.

In CSBG we have included protections in the law which will ensure the participation of low-income individuals in policy development and will secure rights of programs to appeal arbitrary funding reductions.

We have before us, a good bipartisan package, that deserves strong support from the Congress and the administration.

Mr. VENTO. Mr. Speaker, I rise in strong support of this needed legislation which will benefit millions of needy Americans.

I want to thank the distinguished chairman of the Human Resources Subcommittee, Mr. KILDEE, for bringing this important bill to the floor today. The gentleman from Michigan has once again demonstrated his sincere compassion and enduring concern for low- and middle-income Americans.

I will not dwell on all of the worthy programs which are being expanded and extended by this bill. Certainly the funding increase and program changes in Head Start are an outstanding contribution to the heatlh and development of America's youth. The Head Start Program gives disadvantaged children a chance to reach their full potential. The expansion of this program to full funding is a fitting tribute to the success the Head Start Program has achieved in the last 25 years and which is vital in today's world.

This bill reauthorizes other critical programs and creates new programs which offer great promise to disadvantaged Americans. As a strong supporter of the Low Income Home Energy Assistance Program, I am glad that this program which is so critical to low-income families in my State has been reauthorized for 4 more years. This assistance is even more important in light of increased energy prices since Iraq's invasion of Kuwait. I am also pleased we are extending the Community Services Block Grant Program, which funds activities to increase self-sufficiency among the poor. While these programs have now passed the hurdle of reauthorization, we must be diligent to ensure that the annual appropriations for these programs follow suit.

I am pleased with the final outcome of provisions I and other members of the Minnesota delegation worked on regarding the transfer provisions of LIHEAP. Currently 28 States transfer LIHEAP funds to other human service programs, such as energy conservation programs to reduce the cost of utility or oil bills. This was intended by Congress in the 1981 reauthorization measure. In many of these States, the transferred funds are a significant proportion of the Energy Conservation Program resources. The bill before us continues the 10-percent transfer for 3 years and then eliminates it completely. The 3-year phaseout will give social service agencies adequate time to find replacement funds for such worthwhile programs. This provision is extremely important for States such as Minnesota, which utilize the transfer to fund self-sufficiency programs which help thousands of low-income residents of my State. I'd like to thank the gentlewoman from Washington [Mrs. UNSOELD] for her diligent efforts to work out a compromise on the transfer issue in the subcommittee and the conference. I'd also like to thank Rita Hagen and Denise Devaan of the Minnesota Community Action Association who have worked hard to bring this matter to the attention of Congress and reach a satisfactory compromise.

Mr. Speaker, I urge my colleagues to support this important legislation today.

Mrs. UNSOELD. Mr. Speaker, on behalf of the Washington delegation, I want to thank my House and Senate colleagues on the Conference Committee and especially Chairmen HAWKINS and KILDEE for allowing an extension of the LIHEAP transfer. In Washington State the Low Income Heating Energy Assistance Program [LIHEAP] transfer constitutes a critical 40 percent of our State's community services block grant funding. An immediate elimination of the transfer would have severely limited the ability of our community action agencies to help low-income families.

We are facing tough times in the Pacific Northwest. Over 20,000 jobs could be lost over the next several years. As the timber situation worsens, community action agency services such as, food, housing, budget counseling, employment and child care will become even more critical.

While I believe the CSBG Program is one of the most effective, Government programs, I also recognize the great pressures to eliminate the LIHEAP transfer. There is no doubt in anyone's mind that soaring energy prices will be felt this winter. So I pledge to work with Washington's CAP's to find alternative sources of funding and thank you for giving us time to adjust. We are going to need their unique services more than ever.

Mr. Speaker, I urge my colleagues to vote for the important programs in this bill. They are programs that truly make an investment in families by helping them regain their self-sufficiency and self-respect. This package includes some of the finest jewels the government has to offer: LIHEAP, Community Food and Nutrition, and CSBG—the hidden jewels; and full funding for Head Start—education's jewel in the crown.

Mr. PAYNE of New Jersey. Mr. Speaker, as a member of the House Education and Labor Committee and a long time supporter of the Head Start Program, I am proud to rise in support of the conference report on H.R. 4151, Head Start and human services reauthorization.

The funding levels contained in this legislation are sufficient to enable all eligible preschool children to participate in the Head Start Program by fiscal year 1994. I think this is a very important and positive step.

A history-making world summit on children was recently held at the United Nations to seek solutions to the problems many children face because they lack access to sound health care, housing, and educational opportunities. In conjunction with the summit, I held an open town meeting on children in my district. The meeting was attended by many parents and community activists who came out to voice their concerns and share their ideas about how to improve the plight of children whose needs are going unmet.

The legislation we are considering today will translate our concern for our children into action. Head Start has been shown to be one of the most successful, cost-effective programs ever enacted. It has been estimated that there is a $6 return on every $1 invested.

Head Start is an example of outstanding cooperation between parents, teachers, and community groups. In my home State of New Jersey, we have over 9,000 children being served by about 1,900 paid staff and over 12,000 volunteers.

I have had the opportunity to visit several Head Start sites in the 10th Congressional District, and I have always been impressed with the dedication of the teachers and volunteers. The fine job they are doing is reflected in the enthusiasm for learning displayed by the children enrolled in Head Start.

Mr. Speaker, I urge passage of the Head Start reauthorization conference report so that we can give our children the early attention they need and deserve and in doing so, build a better future for our Nation.

Mrs. KENNELLY. Mr. Speaker, I am very pleased to support this conference report. It not only expands the very effective head start program, but it also reauthorizes the Low-Income Energy Assistance Program at levels significantly above last year's levels.

This could not be more timely. Last year we experienced an unusually cold December which sent home heating oil prices soaring in the Northeast. Only a mild January and February prevented it from becoming a very bitter winter for the 78,000 Connecticut households served by the LIHEAP program. And that was with $14 per barrel oil. At that level, the State of Connecticut still overspends its $39 million budget by $5 million.

This year we may be talking about $40 per barrel oil. This is an emergency for all families who depend on energy assistance to make it through the winter.

Now, the good news is that so far the spot market price for heating oil has only doubled in the last 10 weeks. And the supply of heating oil at the end of September was about 10 percent above last year's levels, according to Energy Information Administration statistics released today.

But, nevertheless, this only mitigates slightly a potentially disastrous situation. We cannot know what the price of oil will be next month. We cannot know how cold the winter will be this year. We can take only precautions. And so, I very much appreciate the authorization provided by the chairman of the subcommittee, Mr. KILDEE, and the full committee chairman, Mr. Hawkins. I strongly urge the Appropriations Committee to fully fund this program.

Mr. Speaker, I urge my colleagues to support this conference report.

Mr. CONTE. Mr. Speaker, I rise in strong support of the conference report for the Augustus Hawkins Human Services Reauthorization Act of 1990. It is fitting that this bill is named after such a distinguished Congressman. I have known GUS HAWKINS throughout his tenure here, and let me say that I know of no finer, more dedicated individual who cares about the future of our children, the quality of our livelihoods and the strength of our families.

As he itches to get back to the sunny climes of California, GUS HAWKINS has shared with us a parting gift. The conference report he has presented before us is one of the most important pieces of legislation to pass this Congress. It reauthorizes and revitalizes Head Start, the community services block grant low-income energy assistance, grants for State programs for children, youth and families and

several others. Each of these programs is part of a larger family, each distinct yet each contributing their own special talent for the good of the whole.

I also want to thank my good friends DALE KILDEE and BILL GOODLING from the subcommittee for crafting this masterpiece. They worked long and hard to see this through. The entire country owes them a great deal of appreciation for what they have done.

There are so many good things in this bill that I could take up the whole day singing praises. But time is precious and you've all heard my poetic abilities the other night, so I'll keep it brief.

This year, Head Start is 25 years old. A silver anniversary for a gold program. Head Start alumni have graduated from the finest colleges in the country. Many are in productive careers and are raising their families. Perhaps a few will end up here—writing legislation for the next generation. Head Start has made the difference for thousands of lives.

When the President called for a $500 million increase, I immediately put in a bill authorizing that boost. This bill goes the distance in providing for that much needed increase. And then some. We will be able to enroll over 180,000 additional 4 year olds into the system. We will be able to improve quality and expand access.

Let me say a few things about one of my favorites—low income energy assistance. I've been fighting tooth and nail for years now to protect low income families from the whimsy of the oil markets and the greed of the big oil companies. We on appropriations and the authorizing committees have worked together, as a team, to insure that the poor does not get thrown out into the cold because of high energy prices.

This bill authorizes $2.15 billion for LIHEAP in fiscal year 1991 and $2.23 billion in fiscal year 1992. That gives us room to do something before the Old Man Winter walks in. When the Labor-HHS appropriations bill goes to conference, I'll be working to see if we can help out some more.

The timing of this bill could not be better. With the Mideast crisis roiling our oil markets, with a barrel of crude hitting $40 and up, the low income families will be facing the big squeeze this winter. Fuel oil prices are already at $1.30 a gallon or more.

Saddam Hussein has taken one hostage too many. I'm not going to let him kick any more American families out of their homes over the price of crude. If he tries, all I have to say is what my pal Clint Eastwood growled as he faced that robber in the movies: "Go Ahead—Make My Day!"

Well, what you've done for LIHEAP, Head Start, CSBG, and all the rest has certainly made my year. This bill truly improves the lives of hundreds of thousands of Americans. I urge the speedy passage of the conference report so that we may get it to the President as soon as possible.

Mr. HAWKINS. Mr. Speaker, I rise in strong support of the conference report on H.R. 4151, the Human Services Reauthorization Act of 1990.

I wish to commend the subcommittee chairman, Mr. KILDEE, for his fine work in developing this conference agreement which reauthorizes many successful education and social services programs. Adoption of this conference report will demonstrate Congress' continued commitment to ameliorate poverty and its effects on underprivileged children and families.

As Head Start completed its 25th year, its strong supporters including the Congress, the Governors, the business community, and the early childhood development advocates have urged that the program be funded at sufficient levels to serve every eligible 3, 4, and 5 year old in the Nation. I am pleased that the conference agreement authorizes full funding for the Head Start Program by 1994. It is also important to note that this expansion includes a set-aside of funds for quality improvements in the program. The conference agreement also expands the parent child centers authorized under Head Start which provide early childhood intervention programs to enhance the development of children from birth to age 3.

Another important aspect of this legislation is the continuation of the Follow Through Program, another investment in early intervention for young children. Building upon the developmental gains children make in Head Start, Follow Through services will enable these children to maintain and strengthen these gains during their transition into the early elementary grades.

The Community Services Block Grant [CSBG] is another exemplary program which provides a broad array of social services to the low-income individuals. Without CSBG assistance, unmet needs could turn into disaster for many individuals and communities.

The conference report also includes a 4-year reauthorization of the Low-Income Home Energy Assistance Program [LIHEAP]. Access to LIHEAP services would be made more readily available to the needy through aging agencies and other community based organizations.

Finally, the conference agreement reauthorizes the State Dependent Care Program and the Child Development Associate Scholarship Program.

I urge my colleagues to approve the conference report on H.R. 4151, the Human Services Reauthorization Act of 1990.

Mr. KILDEE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. ROUKEMA. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Michigan [Mr. KILDEE] that the House suspend the rules and agree to the conference report on the bill, H.R. 4151.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

A motion to reconsider was laid on the table.

☐ 1330

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the conference report on H.R. 4151, just agreed to.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Michigan?

There was no objection.

CORRECTING ENROLLMENT OF H.R. 4151, AUGUSTUS F. HAWKINS HUMAN SERVICES REAUTHORIZATION ACT OF 1990

Mr. KILDEE. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 381) to correct the enrollment of the bill (H.R. 4151) to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, and the Community Services Block Grant Act; and for other purposes.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mrs. ROUKEMA. Reserving the right to object, Mr. Speaker, and I shall not object, I yield to the chairman of the subcommittee for an explanation of what I understand is a purely technical amendment.

Mr. KILDEE. Mr. Speaker, this is a purely technical amendment to pu aside a set-aside for the Follow Through Program; we all agreed on both sides in both Houses, but we did not put in the amount for the set-aside, and this will clarify tha amount.

Mrs. ROUKEMA. Mr. Speaker, withdraw my reservation of objection

The SPEAKER pro tempore. I there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 381

Resolved by the House of Representative (the Senate concurring), That, in the enrollment of the bill (H.R. 4151), the Clerk of the House of Representatives shall strik paragraph (2) of section 664C(c) of the Follow Through Act, as added by section 204(a) of the bill, and insert the following:

"(2) From amounts appropriated for each fiscal year to carry out this part, the Secretary shall expend—

"(A) not less than $100,000 to pay for the costs incurred by such recipients to disseminate information relating to programs an activities funded under this part; and

"(B) not less than $300,000 to carry ou subsection (a).".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

STEWART B. McKINNEY HOMELESS ASSISTANCE AMENDMENTS ACT OF 1990

Mr. GONZALEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3789) to amend the Steward B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3789

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Stewart B. McKinney Homeless Assistance Amendments Act of 1990".

(b) Table of Contents.—

Sec. 1. Short title and table of contents.

TITLE I—INTERAGENCY COUNCIL ON THE HOMELESS

Sec. 101. Technical amendment.
Sec. 102. Authorization of appropriations.
Sec. 103. Extension of Interagency Council.

TITLE II—FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM

Sec. 201. Authorization of appropriations.
Sec. 202. Indian members of local boards.

TITLE III—HOUSING ASSISTANCE

Subtitle A—Homeless Shelter Programs

Sec. 301. Comprehensive homeless assistance plan.
Sec. 302. Emergency shelter grants program.
Sec. 303. Supportive housing demonstration program.
Sec. 304. Supplemental assistance for facilities to assist the homeless.
Sec. 305. Section 8 assistance for single room occupancy dwellings.
Sec. 306. Shelter plus care program.

Subtitle B—Grants for Security Deposit Loan Fund Demonstration Projects

Sec. 311. Establishment of grant program.
Sec. 312. Requirements of demonstration projects.
Sec. 313. Application and selection of grant recipients.
Sec. 314. Technical assistance by Secretary of Housing and Urban Development.
Sec. 315. Reports.
Sec. 316. Definitions.
Sec. 317. Regulations.
Sec. 318. Authorization of appropriations.

TITLE IV—HEALTH CARE FOR THE HOMELESS

Subtitle A—Categorical Grants for Primary Health Services and Substance Abuse Services

Sec. 401. Waiver for certain organizations of requirement of status as Medicaid provider.
Sec. 402. Authorization of appropriations.

Subtitle B—Block Grant for Community Mental Health Services

Sec. 411. Funding.

Subtitle C—Authorization of Appropriations for Community Demonstration Projects

Sec. 421. Mental health services for homeless individuals with chronic mental illness.
Sec. 422. Alcohol and drug abuse treatment of homeless individuals.

TITLE V—EDUCATION, TRAINING, AND COMMUNITY SERVICES PROGRAMS

Sec. 501. Adult education for the homeless.
Sec. 502. Education for homeless children and youth.
Sec. 503. Eligibility of Indian tribes for grants for education for homeless children and youth.
Sec. 504. Job training for the homeless.
Sec. 505. Emergency community services homeless grant program.
Sec. 506. Job Training Partnership Act.

TITLE VI—VETERANS PROGRAMS

Sec. 601. Medical programs.

TITLE I—INTERAGENCY COUNCIL ON THE HOMELESS

SEC. 101. TECHNICAL AMENDMENT.

Section 202(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11312(a)) is amended—

(1) by striking paragraph (15);

(2) by redesignating paragraphs (11), (12), (13), and (14) as paragraphs (12), (13), (14), and (15), respectively; and

(3) by inserting after paragraph (10) the following new paragraph:

"(11) The Secretary of Veterans Affairs, or the designee of the Secretary.".

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

Section 208 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11318) is amended to read as follows:

"SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $1,200,000 for fiscal year 1991 and $1,300,000 for fiscal year 1992.".

SEC. 103. EXTENSION OF INTERAGENCY COUNCIL.

Section 209 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11319) is amended by striking "October 1, 1990" and inserting "October 1, 1992".

TITLE II—FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Section 322 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11352) is amended to read as follows:

"SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $150,000,000 for each of fiscal years 1991 and 1992.".

SEC. 202. INDIAN MEMBERS OF LOCAL BOARDS.

(a) Requirement for American Indian Member.—The second sentence of section 302(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11332(a)) is amended by striking the period at the end and inserting the following: ", and except that each local board administering program funds for a locality within which is located a reservation (as such term is defined in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or a portion thereof, shall include a board member who is a member of an Indian tribe (as such term is defined in section 102(a)(17) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(17)).".

(b) Implementation.—Each local board under the Emergency Food and Shelter Program whose membership shall include a member of an Indian tribe by reason of the amendment made by subsection (a) shall comply with the requirement made by such amendment not later than the expiration of the 30-day period beginning on the date of the enactment of this Act.

TITLE III—HOUSING ASSISTANCE

Subtitle A—Homeless Shelter Programs

SEC. 301. COMPREHENSIVE HOMELESS ASSISTANCE PLAN.

(a) Inclusion of Child Care Strategy.—Section 401(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361(b)) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting a semicolon; and

(3) by adding at the end the following new paragraph:

"(8) a strategy provided by metropolitan cities, urban counties, Indian tribes, or otherwise on a local basis, for providing child care services within the area, which strategy shall be submitted (by the entity submitting the comprehensive plan) to any service providers under programs for which such entity receives assistance under this title; and".

(b) Inclusion of Indian Tribes.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended—

(1) in subsection (a), by adding at the end the following new sentence: "Assistance authorized by this title may be provided to any Indian tribe that is eligible to receive a grant under the emergency shelter grants program in any fiscal year, but only if the tribe submits biennially to the Secretary of Housing and Urban Development a comprehensive homeless assistance plan under this section.";

(2) in subsection (b)(5), by inserting "Indian tribe," after "State,";

(3) in subsection (c)(1), by inserting "Indian tribe," after "State," each place it appears;

(4) in subsection (d), by inserting "Indian tribe," after "State," each place it appears; and

(5) in subsection (g)—

(A) by inserting "(or tribal agency or contact)" after "State contact person";

(B) by inserting "(or tribe)" before the comma; and

(C) by inserting "(or tribal agency or contact person)" after "or contact person".

(c) Modification of Development and Timing, Content, and Review Standards.—

(1) Public participation process for development of plans and annual reports.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended by adding at the end the following new subsection:

"(h) Consultation.—

"(1) Requirement.—Each State, Indian tribe, metropolitan city, and urban county described in subsection (a) shall consult with, and consider the comments of, citizens, public and private homeless shelter and service providers, and local governments concerning the contents of the comprehensive plan and the annual progress report required under subsection (d), prior to their submission to the Secretary.

"(2) Modification.—Each State, Indian tribe, metropolitan city, and urban county described in subsection (a) may, if it considers it appropriate, modify the comprehensive plan and annual report to reflect the comments of citizens, public and private homeless shelter and service providers, and local governments.

"(3) Availability.—Each State, Indian tribe, metropolitan city, and urban county shall make the comprehensive plan and annual report available to the public.

"(4) Certification.—Each State, Indian tribe, metropolitan city, and urban county described in subsection (a) shall certify to the Secretary that citizens, public and private homeless shelter and service providers, and local governments were consulted concerning the contents of the comprehensive plan and the annual report, and that their views were considered prior to the submission of these documents to the Secretary, and that the comprehensive plan and annual report were available to the public.".

(2) Modification of timing, content, and review standards.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended—

(A) in subsection (a)(1), by striking "annually" and inserting "biennially";

(B) in subsection (b)(2), by striking "and services" and inserting ", services, and programs";

(C) in subsection (b)(3)—

(i) by striking "and services" and inserting ", services, and programs";

(ii) by striking "and" before "(B)"; and

(iii) by inserting before the semicolon at the end the following: ", (C) responding to the emergency and long-term housing and service needs of the homeless population, (D) providing housing and supportive services for various homeless populations to facilitate their transition to more independent living, (E) providing housing and supportive services to the portions of the homeless population that are not capable of achieving total independence, and (F) preventing and reducing homelessness through (i) interventions focused upon individuals and families who are in danger of becoming homeless, and (ii) addressing systemic factors contributing to homelessness".

SEC. 302. EMERGENCY SHELTER GRANTS PROGRAM.

(a) Authorization of Appropriations.—The first sentence of section 417 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11377) is amended to read as follows: "There are authorized to be appropriated to carry out this subtitle $131,000,000 for fiscal year 1991 and $138,000,000 for fiscal year 1992.".

(b) Use of Grants for Administrative Costs.—

(1) In general.—Subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11371 et seq.) is amended by adding at the end the following new section:

"SEC. 418. ADMINISTRATIVE COSTS.

"A recipient may use up to 5 percent of any annual grant received under this subtitle for administrative purposes. A recipient State shall share the amount available for administrative purposes pursuant to the preceding sentence with local governments funded by the State.".

(2) Conforming amendment.—The table of contents for subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act is amended by inserting after the item relating to section 417 the following new item:

"Sec. 418. Administrative costs.".

(c) Increase in Amount Available for Services.—Section 414(a)(2)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(2)(B)) is amended by striking "20 percent" and inserting "30 percent".

(d) Treatment of Homelessness Prevention Activities.—Section 414(a)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(4)) is amended by striking the last sentence and inserting the following new sentence: "Not more than 30 percent of the aggregate amount of all assistance to a State, local government, or Indian tribe under this subtitle may be used for activities under this paragraph.".

(e) Reduction of Required Matching Amounts and Confidentiality.—

(1) Reduction.—Section 415(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(a)) is amended—

(A) in paragraph (1), by striking "Each" the first place it appears and inserting "Except as provided in paragraph (2), each";

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph:

"(2) Each recipient under this subtitle that is a State shall be required to supplement the assistance provided under this subtitle with an amount of funds from sources other than this subtitle equal to the difference between the amount received under this subtitle and $100,000. If the amount received by the State is $100,000 or less, the State may not be required to supplement the assistance provided under this subtitle.".

(2) Use of benefit and confidentiality.—Section 415(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(c)) is amended—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; and"; and

(C) by adding at the end the following new paragraphs:

"(4) in the case of a recipient that is a State, obtain any matching amounts required under subsection (a) in a manner so that local governments, Indian tribes, agencies, and local nonprofit organizations receiving assistance from the grant that are least capable of providing the recipient State with such matching amounts receive the benefit of the $100,000 subtrahend under subsection (a)(2); and

"(5) develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this subtitle and that the address or location of any family violence shelter project assisted under this subtitle will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public.".

(3) Comprehensive homeless assistance plan.—Section 401(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361(b)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

"(8) with respect to a comprehensive plan submitted by a State applying for a grant under the emergency shelter grants program under subtitle B, a strategy for obtaining any matching amounts required under section 415(a) in a manner so that local governments, Indian tribes, agencies, and local nonprofit organizations receiving assistance from the grant that are least capable of providing the recipient State with such matching amounts receive the benefit of the $100,000 subtrahend under paragraph (2) of such section.".

(f) Indian Tribe Eligibility for Grants.—

(1) Definition of indian tribes.—Section 411 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11371) is amended by adding at the end the following new paragraph:

"(10) The term 'Indian tribe' has the meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974.".

(2) Grant assistance.—Section 412 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11372) is amended by striking "States and local governments" and inserting "States and local governments, and for Indian tribes,".

(3) Allocation and distribution of assistance.—Section 413(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(a)) is amended—

(A) by inserting ", and to Indian tribes," after "States)"; and

(B) by inserting ", or for Indian tribes" after "urban county" each place it appears.

(4) Distribution to nonprofit organizations.—The first sentence of section 413(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(c)) is amended by inserting "or Indian tribe" after "local government".

(5) Reallocation of funds.—Section 413(d)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(d)(3)) is amended—

(A) by inserting "or Indian tribe" after "State" each place it appears; and

(B) by inserting ", or other Indian tribes, as applicable," after "counties".

(6) Essential services cap.—Section 414(a)(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(2)) is amended—

(A) in subparagraph (A), by inserting "or Indian tribe" after "local government"; and

(B) in subparagraph (B), by striking "or local government" and inserting ", local government, or Indian tribe".

(7) Initial allocation of assistance.—Section 416(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11376(b)) is amended by inserting "Indian tribe ," after "State,".

SEC. 303. SUPPORTIVE HOUSING DEMONSTRATION PROGRAM.

(a) Authorization of Appropriations.—Section 428(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11388(a)) is amended to read as follows:

"(a) Authorization of Appropriations.—There are authorized to be appropriated to carry out this subtitle $150,000,000 for each of fiscal years 1991 and 1992.".

(b) Maximum Number of Handicapped Residents in Permanent Housing for Handicapped.—Section 422(12)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382(12)(B)) is amended by inserting after "handicapped homeless persons" the second place it appears the following: "(or 16 such persons, but only if not more than 20 percent of the units in a project are designated for such persons)".

(c) Conversion of Advances to Grants.—

(1) In general.—Section 423(a)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)(1)) is amended—

(A) by striking "An advance" and inserting "A grant"; and

(B) by striking "an advance" and inserting "a grant".

(2) Conversion of advance.—Section 423(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(b)) is amended—

(A) by striking "(b) Repayment of Advance.—" and inserting the following:

"(b) Repayment or Conversion of Advance.—

"(1) Repayment.—"; and

(B) by adding at the end the following new paragraph:

"(2) Conversion.—At such times as the Secretary may determine, and in accordance with such terms and conditions, and accounting and other procedures, as the Secretary may prescribe, the Secretary may convert an advance made under subsection (a)(1) to a grant.".

(d) Operating Cost Payments.—Section 423(a)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)(3)) is amended to read as follows:

"(3) Annual payments for operating costs of transitional housing (without regard to whether the housing is an existing structure), not to exceed 75 percent of the annual operating costs of such housing, and any recipient may reapply for such assistance or for the renewal of such assistance for use during the 10-year period under section 424(a)(2)(D) (unless such assistance is no longer necessary, in the determination of the Secretary), and for operating costs for permanent housing for handicapped homeless persons, not to exceed 75 percent of the annual operating costs of such housing in any year during the 10-year period under section 424(a)(2)(D), and any recipient may reapply for such assistance or for renewal of such assistance for use during such period (unless such assistance is no longer necessary, in the determination of the Secretary).".

(e) Eligibility of New Construction.—Section 423(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)), as amended by the preceding provisions of this section, is further amended—

(1) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively;

(2) by inserting after paragraph (2) the following new paragraph:

"(3) A grant, in an amount not to exceed $400,000, for the new construction of a structure for use in the provision of supportive housing."; and

(3) in the last sentence, by striking "paragraphs (1) and (2)" and inserting "paragraphs (1), (2), and (3)".

(f) Site Control Requirement.—Section 424(a)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(a)(3)) is amended—

(1) by striking "(3) The Secretary" and inserting the following "(3)(A) Except as provided in subparagraph (B), the Secretary"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary may waive the requirement under subparagraph (A) for any proposed project for which the Secretary determines such requirement is inapplicable because, under the application, the families and individuals served own or control, or will eventually own or control, the site.".

(g) Elimination of Site Control and Employment Assistance Programs as Selection Criteria.—Section 424(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(b)) is amended—

(1) in paragraph (6), by inserting "and" after the semicolon at the end;

(2) by striking paragraphs (7) and (8); and

(3) by redesignating paragraph (9) as paragraph (7).

(h) Confidentiality Requirement for Domestic Violence Shelters.—Section 424(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(c)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(6) to develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this subtitle and that the address or location of any family violence shelter project assisted under this subtitle will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public.".

(i) Short-Term Leases.—

(1) 10-year requirement.—Section 424(a)(2)(D) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(a)(2)(D)) is amended by inserting before the semicolon at the end the following: ", except that in the case of projects not receiving an advance or grant under paragraph (1), (2), or (3) of section 423(a), assurances under this subparagraph shall be made annually that the project will be operated for the purpose specified in the application for such year".

(2) Renewed funding for short-term lease projects.—Section 424 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384) is amended by adding at the end the following new subsection:

"(f) Renewed Funding for Short-Term Lease Projects.—The Secretary may not provide assistance under paragraph (4), (5), or (6) of section 423(a) to any project not receiving assistance under paragraph (1), (2), or (3) of such section unless assurances have been made under subsection (a)(2)(D) of this section that the project will be operated for the purpose specified in the application for the year for which such assistance is provided.".

(k) Indian Tribe Eligibility.—

(1) Definitions.—Section 422 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382) is amended—

(A) in paragraph (1), by inserting "Indian tribe," after "State,"; and

(B) by redesignating paragraphs (4) through (14) as paragraphs (5) through (15), respectively; and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) The term 'Indian tribe' has the meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974.".

(2) Program requirements.—Section 424 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384) is amended by inserting "or Indian tribe" after "State" each place it appears.

(3) Matching funds.—Section 425 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11385) is amended—

(1) in subsection (a), by inserting "or Indian tribe" after "State"; and

(2) in subsection (b), by striking "State or local" and inserting "State, tribal, or local".

SEC. 304. SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS.

(a) Authorization of Appropriations.—The first sentence of section 434 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11394) is amended to read as follows: "There are authorized to be appropriated to carry out this subtitle $30,000,000 for each of fiscal years 1991 and 1992.".

(b) Short-Term Leases.—

(1) 10-year requirement.—Section 432(d)(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(d)(2)) is amended—

(A) by striking "leased,"; and

(B) by inserting before the semicolon at the end the following: ", except that in the case of any leased property receiving assistance under this subtitle other than for lease of the property, assurances under this paragraph shall be made annually that the project will be operated to assist homeless individuals for such year".

(2) Renewed funding for short-term lease projects.—Section 432 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392) is amended by adding at the end the following new subsection:

"(h) Renewed Funding for Short-Term Lease Projects.—The Secretary may not provide assistance under this subtitle for any leased property for any year unless assurances under subsection (d)(2) of this section have been made that the project will be operated to assist homeless individuals for the year for which such assistance is provided.".

(c) Confidentiality Requirement for Domestic Violence Shelters.—Section 432(d) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(d)) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) has furnished assurances satisfactory to the Secretary that the applicant will develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this subtitle and that the address or location of any family violence shelter project assisted under this subtitle will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public; and".

(d) Site Control Requirement.—Section 432(e) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(e)) is amended—

(1) by striking "(e) Site Control.—The Secretary" and inserting the following:

"(e) Site Control.—

"(1) In general.—Except as provided in paragraph (2), the Secretary"; and

(2) by adding at the end the following new paragraph:

"(2) Exception.—The Secretary may waive the requirement under paragraph (1) for any proposed project for which the Secretary determines such requirement is inapplicable because, under the application, the families and individuals served own or control, or will eventually own or control, the site.".

SEC. 305. SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS.

(a) Increase in Budget Authority.—Section 441(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(a)) is amended to read as follows:

"(a) Increase in Budget Authority.—The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of

such Act is authorized to be increased by $80,000,000 on or after October 1, 1990, and by $80,000,000 on or after October 1, 1991.".

(b) Applicability to Indian Housing Authorities.—Section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401) is amended by adding at the end the following new subsection:

"(g) Applicability to Indian Housing Authorities.—Amounts made available for assistance under this section shall be available through contracts between the Secretary and Indian housing authorities, and the provisions of this section regarding public housing authorities shall include and apply to Indian housing authorities.".

SEC. 306. SHELTER PLUS CARE PROGRAM.

(a) In General.—Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.), as amended by this Act, is further amended—

(1) by redesignating subtitle E as subtitle F;

(2) by redesignating sections 441, 442, and 443 as sections 471, 472, and 473, respectively; and

(3) by inserting after subtitle D the following new subtitle:

"Subtitle E—Shelter Plus Care Programs

"PART 1—GENERAL REQUIREMENTS

"SEC. 441. PURPOSE.

"The purpose of the program authorized under this subtitle is to provide rental housing assistance, in connection with supportive services funded from sources other than this subtitle, to homeless individuals (and the families of such individuals) who are seriously mentally ill or have chronic problems with alcohol, other drugs, or both.

"SEC. 442. RENTAL HOUSING ASSISTANCE.

"The Secretary is authorized, in accordance with the provisions of this subtitle, to provide rental housing assistance under parts 2 and 3.

"SEC. 443. SUPPORTIVE SERVICE REQUIREMENTS AND MATCHING FUNDING.

"(a) Matching Funding.—

"(1) In general.—Each recipient shall be required to supplement the assistance provided under this subtitle with an equal amount of funds for supportive services from sources other than this subtitle. Each recipient shall certify to the Secretary its compliance with this paragraph, and shall include with the certification a description of the sources and amounts of such supplemental funds.

"(2) Determination of matching amounts.—In calculating the amount of supplemental funds provided under this subtitle, a recipient may include the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary.

"(b) Supportive Services.—Each recipient shall assure that supportive services appropriate to the needs of eligible individuals to be served under its program are provided for the full term of the rental housing assistance under parts 2 and 3, as appropriate. Expenditures for supportive services need not be made in equal amounts for each year, but may vary depending on the needs of the individuals assisted under the program.

"(c) Recapture.—If the supportive services and funding for the supportive services required by this subsection are not provided, the Secretary may recapture any unexpended housing assistance.

"SEC. 444. APPLICATIONS.

"(a) Submission.—An application for rental housing assistance under this subtitle shall be submitted by an applicant in such forms and in accordance with such procedures as the Secretary shall establish.

"(b) Contents.—The Secretary shall require that an application contain, at a minimum—

"(1) a request for housing assistance under part 2 or 3, or both, specifying the number of units requested and the amount of necessary budget authority;

"(2) a description of the size and characteristics of the population of eligible individuals;

"(3) an identification of the need for the program in the community to be served;

"(4) the identity of the proposed service provider or providers (which may be, or include, the applicant) and a statement of the qualifications of the provider or providers;

"(5) a description of the supportive services that the applicant proposes to assure will be available for eligible individuals;

"(6) a description of the resources that are expected to be made available to provide the supportive services required by section 443;

"(7) a description of the mechanisms for developing a housing and supportive services plan for each individual and for monitoring each individual's progress in meeting that plan;

"(8) assurances satisfactory to the Secretary that the supportive services will be provided for the full term of the housing assistance under part 2 or 3, or both, and a certification from the applicant that it will fund the supportive services itself if the planned resources do not become available for any reason;

"(9) a plan for—

"(A) in the case of rental housing assistance under part 2, providing housing assistance;

"(B) identifying and selecting eligible individuals to participate;

"(C) coordinating the provision of housing assistance and supportive services;

"(D) ensuring that the service providers are providing supportive services adequate to meet the needs of the individuals served; and

"(E) obtaining participation of eligible individuals who have previously not been assisted under programs designed to assist the homeless or have been considered not capable of participation in these programs; this plan shall specifically address how homeless individuals (and the families of such individuals), as defined in section 103(a)(2)(C), will be brought into the program; and

"(10) in the case of housing assistance under part 3, identification of the nonprofit entity that will be the owner or lessor of the property, and identification of the specific structures in which the nonprofit entity proposes to house eligible individuals.

"SEC. 445. SELECTION.

"(a) Criteria.—The Secretary shall establish selection criteria for a national competition for assistance under this subtitle, which shall include—

"(1) the ability of the applicant to develop and operate the proposed assisted housing and supportive services program, taking into account the quality of any ongoing program of the applicant;

"(2) geographic diversity among the projects to be assisted;

"(3) the need for a program providing housing assistance and supportive services for eligible individuals in the area to be served;

"(4) the quality of the proposed program for providing supportive services and housing assistance;

"(5) the extent to which the proposed funding for the supportive services is or will be available;

"(6) the extent to which the project would meet the needs of the homeless individuals proposed to be served by the program;

"(7) the extent to which the program integrates program recipients into the community served by the program; and

"(8) such other factors as the Secretary specifies in regulations to be appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(b) Funding Limitations.—No more than 10 percent of the assistance made available under this subtitle for any fiscal year may be used for programs located within any one unit of general local government. To the maximum extent practicable, the Secretary shall reserve not less than 50 percent of all funds provided under this subtitle for homeless individuals who are seriously mentally ill or have chronic problems with alcohol, drugs, or both.

"SEC. 446. REQUIRED AGREEMENTS.

"The Secretary may not approve assistance under this subtitle unless the applicant agrees—

"(1) to operate the proposed program in accordance with the provisions of this subtitle;

"(2) to conduct an ongoing assessment of the housing assistance and supportive services required by the participants in the program;

"(3) to assure the adequate provision of supportive services to the participants in the program; and

"(4) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program.

"SEC. 447. TERMINATION OF ASSISTANCE.

"(a) Authority.—If an eligible individual who receives assistance under this subtitle violates program requirements, the recipient may terminate assistance in accordance with the process established pursuant to subsection (b).

"(b) Procedure.—In terminating assistance under this section, the recipient shall provide a formal process that recognizes the rights of individuals receiving such assistance to due process of law.

"SEC. 448. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'applicant' means a State, unit of general local government, or Indian tribe.

"(2) The term 'eligible individual' means a homeless individual (and the family of such individual) who is seriously mentally ill or has chronic problems with alcohol, other drugs, or both.

"(3) The term 'Indian tribe' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"(4) The term 'nonprofit organization' means a secular or religious organization described in section 501(c) of the Internal Revenue Code of 1986 that is exempt from taxation under subtitle A of such Code, has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance.

"(5) The term 'public housing agency' has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

"(6) The term 'recipient' means an applicant approved for participation in the program authorized under this subtitle.

"(7) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(8) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"(9) The term 'supportive services' means assistance that the Secretary determines (A) addresses the special needs of eligible individuals; and (B) provides appropriate services or assists such individuals in obtaining appropriate services, including health care, mental health services, substance and alcohol abuse services, child care services, case management services, counseling, supervision, education, job training, and other services essential for achieving and maintaining independent living. In-patient acute hospital care shall not qualify as a supportive service.

"(10) The term 'unit of general local government' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 449. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subtitle such sums as may be necessary for fiscal year 1991.

"PART 2—HOMELESS RENTAL HOUSING ASSISTANCE

"SEC. 451. PURPOSE.

"The Secretary is authorized to use amounts made available under section 449 to provide rental housing assistance in accordance with the requirements of this part.

"SEC. 452. HOUSING ASSISTANCE.

"Where necessary to assure that the provision of supportive services to individuals is feasible, a recipient may require that an individual participating in the program live (a) in a particular structure or unit for up to the first year of participation, and (b) within a particular geographic area for the full period of participation or the period remaining after the period referred to in subsection (a).

"SEC. 453. AMOUNT OF ASSISTANCE.

"The contract with a recipient for assistance under this part shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. At the option of the recipient and subject to the availability of such amounts, the recipient may receive in any year (1) up to 20 percent of such amounts or (2) such higher percentage as the Secretary may approve upon a demonstration satisfactory to the Secretary that the recipient has entered into firm financial commitments to ensure that the housing assistance described in the application will be provided for the full term of the contract. Any amounts not needed for a year may be used to increase the amount available in subsequent years. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

"SEC. 454. HOUSING STANDARDS AND RENT REASONABLENESS.

"The Secretary shall require that before any assistance may be provided to or on behalf of the individual, each unit shall be inspected by the applicant directly or by another entity, including the local public housing agency (or if no such agency exists in the applicable area, an entity selected by the Secretary), to determine that the unit meets the housing quality standards under section 8 of the United States Housing Act of 1937 and that the occupancy charge for the dwelling unit is reasonable.

"SEC. 455. TENANT RENT.

"Each tenant shall pay as rent an amount determined in accordance with the provisions of section 3(a)(1) of the United States Housing Act of 1937.

"SEC. 456. ADMINISTRATIVE FEES.

"The Secretary shall make amounts available to pay the entity carrying out the provisions of section 454 an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.

"PART 3—SECTION 202 RENTAL ASSISTANCE

"SEC. 461. PURPOSE.

"The Secretary is authorized to use amounts made available under section 449 of this subtitle in connection with the provision of rental housing assistance under section 202(h) of the Housing Act of 1959 for very low-income eligible individuals. The contract between the Secretary and the recipient shall require the recipient to enter into contracts with owners or lessors of housing meeting the requirements of section 202 for the purpose of providing such rental housing assistance.

"SEC. 462. AMOUNT OF ASSISTANCE.

"The contract with a recipient of assistance under this part shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

"SEC. 463. HOUSING STANDARDS AND RENT REASONABLENESS.

"The Secretary shall require that (a) the recipient inspect each unit before any assistance may be provided to or on behalf of the individual to determine that the occupancy charge for the housing being or to be provided is reasonable and that each unit meets housing standards established by the Secretary for the purpose of this part, and (b) the recipient make at least annual inspections of each unit during the contract term. No assistance may be provided for a dwelling unit (a) for which the occupancy charge is not reasonable, or (b) which fails to meet the housing standards, unless the owner or lessor, as the case may be, promptly corrects the deficiency and the recipient verifies the correction.

"SEC. 464. ADMINISTRATIVE FEES.

"The Secretary shall make amounts available to pay the nonprofit entity that is the owner or lessor of the housing assisted under this part an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.".

(b) IMPLEMENTATION.—Not later than 120 days after the date funds authorized under section 449 of the Stewart B. McKinney Homeless Assistance Act, as amended by this Act, first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of subtitle E of title IV of the Stewart B. McKinney Homeless Assistance Act. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period following the date of the notice. In developing program guidelines and regulations to implement such subtitle, the Secretary of Housing and Urban Development may consult with the Secretary of Health and Human Services with respect to supportive services aspects of the subtitle.

(c) TABLE OF CONTENTS.—The table of contents of the Stewart B. McKinney Homeless Assistance Act is amended by striking the items relating to subtitle E of title IV and inserting the following:

"Subtitle E—Shelter Plus Care Program

"Part 1—General Requirements

"Sec. 441. Purpose.
"Sec. 442. Rental housing assistance.
"Sec. 443. Supportive services requirements; matching funding.
"Sec. 444. Applications.
"Sec. 445. Selection.
"Sec. 446. Required agreements.
"Sec. 447. Termination of assistance.
"Sec. 448. Definitions.
"Sec. 449. Authorization of appropriations.

"Part 2—Homeless Rental Housing Assistance

"Sec. 451. Purpose.
"Sec. 452. Housing assistance.
"Sec. 453. Amount of assistance.
"Sec. 454. Housing standards and rent reasonableness.
"Sec. 455. Tenant rent.
"Sec. 456. Administrative fees.

"Part 3—Section 202 Rental Assistance

"Sec. 461. Purpose.
"Sec. 462. Amount of assistance.
"Sec. 463. Housing standards and rent reasonableness.
"Sec. 464. Administrative fees.
"Subtitle F—Miscellaneous Provisions
"Sec. 471. Section 8 assistance for single room occupancy dwellings.
"Sec. 472. Community development block grant amendment.
"Sec. 473. Administrative provisions.".

Subtitle B—Grants for Security Deposit Loan Fund Demonstration Projects

SEC. 311. ESTABLISHMENT OF GRANT PROGRAM.

The Secretary of Housing and Urban Development may make grants to eligible housing agencies to establish demonstration projects to assist low-income families in paying security deposits for rental housing or purchasing shares in a limited equity cooperative.

SEC. 312. REQUIREMENTS OF DEMONSTRATION PROJECTS.

Each housing agency that receives a grant under this subtitle shall carry out a demonstration project to make loans to families to provide security deposits for rental housing for the families. The demonstration project shall be designed as follows:

(1) SECURITY DEPOSIT LOAN FUND.—The housing agency shall establish a revolving loan fund for the purpose of making loans for security deposits and, to the extent that

administrative costs do not exceed 25 percent of the amount of the cost of the demonstration project, for administrative costs for the project. The loan fund shall be credited with any grant amounts received under this subtitle and with any funds collected for repayment of security deposit loans under paragraph (4).

(2) ELIGIBLE BORROWERS.—The housing agency shall provide that a security deposit loan may be made only to a low-income family that—

(A) demonstrates a regular income sufficient to indicate that the family is likely to repay the loan;

(B) demonstrates that the loan will be used to secure a particular housing unit the cost of which will be affordable in relation to the regular income of the family; and

(C) agrees to pay not less than 20 percent of—

(i) the security deposit required on the housing unit; and

(ii) any security deposits required for utilities.

(3) FINANCIAL COUNSELING.—The housing agency shall provide counselling regarding household finances and budgeting to any family that receives a security deposit loan.

(4) COLLECTION OF FUNDS.—The housing agency shall provide for collecting repayments of security deposit loans.

(5) DURATION.—The housing agency shall carry out the demonstration project over the 3-year period beginning on the date that the agency receives a grant under this subtitle.

(6) EVALUATION AND ANNUAL REPORTS.—The housing agency shall conduct an annual evaluation of the demonstration projects administered by the agency and shall submit to the Secretary, not less than annually, a report which shall include—

(A) information describing and summarizing the operation of the demonstration project during the preceding year;

(B) statistics of the number of loans provided during the preceding year, and the amounts, collection rate, and interest rates of the loans; and

(C) an accounting of the administrative expenses of the demonstration project during the preceding year.

(7) FINAL REPORT.—The housing agency shall submit a final report to the Secretary, not later than 90 days after the expiration of the 3-year period under paragraph (5), which shall include, with respect to the 3-year period, the information required under paragraph (6) and any other information that the Secretary may require.

SEC. 313. APPLICATION AND SELECTION OF GRANT RECIPIENTS.

(a) APPLICATION.—To receive a grant under this subtitle, a housing agency shall submit an application as the Secretary may require, which shall include the following:

(1) CERTIFICATION OF FULFILLMENT OF REQUIREMENTS OF DEMONSTRATION PROJECT.—Certification that the housing agency will fulfill the requirements of section 312.

(2) DESCRIPTION OF PROJECT.—A description of the demonstration project to be carried out with the grant amounts received under this subtitle.

(b) SELECTION.—

(1) IN GENERAL.—The Secretary shall select, from housing agencies that have applied under subsection (a), agencies to receive grants under this subtitle. The Secretary shall make the selections according to the criteria established under paragraph (2).

(2) CRITERIA FOR SELECTION.—The Secretary shall establish criteria for selection of housing agencies to receive grants under this subtitle, which shall include—

(A) criteria to ensure that grants are distributed among agencies throughout the United States and in urban and rural areas;

(B) a preference for agencies that have established programs to assist homeless families; and

(C) criteria that encourage innovative and differing designs and operation of demonstration projects.

(c) TIMING AND PUBLICATION OF NOTICE.—

(1) APPLICATIONS.—The Secretary shall establish a deadline for receiving applications under subsection (a) and shall publish in the Federal Register, not less than 90 days before the deadline, notice of the deadline and the required contents of the applications.

(2) SELECTION.—The Secretary shall select recipients for and award grants under this subtitle not later than 120 days after the deadline for applications established under paragraph (1).

SEC. 314. TECHNICAL ASSISTANCE BY SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

The Secretary shall provide informational and technical assistance to units of general local government and housing agencies in organizing and developing demonstration projects. Assistance under this section shall include maintaining and making available to units of general local government and housing agencies an archive of models and plans for demonstration projects and assistance in accumulating information necessary to submit an application under section 313(a).

SEC. 315. REPORTS.

(a) ANNUAL REPORT.—The Secretary shall submit to the Congress, not less than annually, a report regarding the operation of the demonstration projects and the grant program carried out under this subtitle.

(b) FINAL REPORT.—The Secretary shall submit to the Congress, not later than 4 years after the Secretary selects recipients of grants under section 313(b), a report containing comparative information, with respect to the various demonstration projects, regarding the costs of the projects (including administrative costs), the number of households receiving security deposit loans, the interest rates and collection and default rates for the loans, and factors associated with the relatively more effective and successful projects and an analysis of the efficacy of security deposit loan programs in comparison with providing grant assistance for security deposits.

SEC. 316. DEFINITIONS.

For purposes of this subtitle:

(1) DEMONSTRATION PROJECT.—The term "demonstration project" means a project to provide security deposit loans carried out by a housing agency that receives a grant under this subtitle.

(2) HOUSING AGENCY.—The term "housing agency" means any nonprofit organization or State or local agency that—

(A) is involved in programs or projects to provide temporary or permanent housing for homeless families or individuals; or

(B) receives assistance from grant funds for community development authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

(3) LOW-INCOME FAMILIES.—The term "low-income families" means families and individuals whose incomes do not exceed 80 percent of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families.

(4) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(5) SECURITY DEPOSIT.—The term "security deposit" means any deposit required of a lessee of a residential housing unit by the lessor of the unit that is refundable upon the termination of the occupancy of the unit by the lessee.

(6) SECURITY DEPOSIT LOAN.—The term "security deposit loan" means any loan to provide assistance with a security deposit made under a demonstration program under this subtitle.

SEC. 317. REGULATIONS.

The Secretary may issue any regulations necessary to carry out this subtitle.

SEC. 318. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for fiscal years 1991 and 1992 to carry out this subtitle.

TITLE IV—HEALTH CARE FOR THE HOMELESS

Subtitle A—Categorical Grants for Primary Health Services and Substance Abuse Services

SEC. 401. WAIVER FOR CERTAIN ORGANIZATIONS OF REQUIREMENT OF STATUS AS MEDICAID PROVIDER.

Section 340(b) of the Public Health Service Act (42 U.S.C. 256(b)) is amended to read as follows:

"(b) MINIMUM QUALIFICATIONS OF GRANTEES.—(1) Subject to paragraph (2), the Secretary may not make a grant under subsection (a) to an applicant unless—

"(A) the applicant is a public or nonprofit private entity;

"(B) the applicant has the capacity to effectively administer a grant under subsection (a); and

"(C) in the case of any health service that is covered in the State plan approved under title XIX of the Social Security Act for the State involved—

"(i) the applicant for the grant will provide the health service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(ii) the applicant for the grant will enter into an agreement with an organization under which the organization will provide the health service, and the organization has entered into such a participation agreement and is qualified to receive such payments.

"(2)(A) In the case of an organization making an agreement under paragraph (1)(C)(ii) regarding the provision of health services under subsection (a), the requirement established in such paragraph regarding a participation agreement shall be waived by the Secretary if the organization does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

"(B) A determination by the Secretary of whether an organization referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the organization accepts voluntary donations regarding the provision of services to the public.".

SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

Section 340(q)(1) of the Public Health Service Act (42 U.S.C. 256(q)(1)) is amended by striking "$61,200,000" and all that follows and inserting the following:

"$70,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994.".

Subtitle B—Block Grant for Community Mental Health Services

SEC. 411. FUNDING.

(a) Authorization of Appropriations.—Section 535(a) of the Public Health Service Act (42 U.S.C. 290cc-35(a)) is amended—

(1) by striking "$35,000,000" and all that follows through "1990 and"; and

(2) by inserting before the period at the end the following: ", and $33,000,000 for fiscal year 1992".

(b) Conforming Amendment.—Section 521(a) of the Public Health Service Act (42 U.S.C. 290cc-21(a)) is amended by striking "1991" and inserting "1992".

Subtitle C—Authorization of Appropriations for Community Demonstration Projects

SEC. 421. MENTAL HEALTH SERVICES FOR HOMELESS INDIVIDUALS WITH CHRONIC MENTAL ILLNESS.

(a) In General.—The first sentence of section 612(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 290aa-3 note) is amended by striking "$11,000,000" and all that follows through "1991," and inserting the following: "such sums as may be necessary for each of the fiscal years 1991 and 1992,".

(b) Technical Correction.—Section 612(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 290aa-3 note) is amended by striking "section 504(f)" and inserting "section 520 of the Public Health Service Act".

SEC. 422. ALCOHOL AND DRUG ABUSE TREATMENT OF HOMELESS INDIVIDUALS.

Section 513(b) of the Public Health Service Act (42 U.S.C. 290bb-2(b)) is amended by striking "$14,000,000" and all that follows and inserting the following: "such sums as may be necessary for each of the fiscal years 1991 and 1992.".

TITLE V—EDUCATION, TRAINING, AND COMMUNITY SERVICES PROGRAMS

SEC. 501. ADULT EDUCATION FOR THE HOMELESS.

Section 702(c)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421(c)(1)) is amended to read as follows:

"(1) There are authorized to be appropriated $12,500,000 for each of fiscal years 1991 and 1992 and such sums as may be necessary for fiscal year 1993 for the adult literacy and basic skills remediation programs authorized by this section.".

SEC. 502. EDUCATION FOR HOMELESS CHILDREN AND YOUTH.

(a) Statement of Policy.—Section 721 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11431) is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2)—

(A) by inserting after "attendance laws" the following: "or other laws, regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of homeless children and homeless youth";

(B) by inserting ", regulations, practices, or policies" after "such laws"; and

(C) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) homelessness alone should not be sufficient reason to separate students from the mainstream school environment.".

(b) Grants for State Activities for the Education of Homeless Children and Youth.—Section 722 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11432) is amended—

(1) in subsection (c)—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A), (C), and (D), respectively;

(B) by inserting "(1)" after "Activities.—";

(C) by inserting after subparagraph (A) (as so redesignated by subparagraph (A) of this paragraph) the following:

"(B) to provide activities for and services to homeless children and homeless youths that enable such children and youths to enroll in, attend, and achieve success in school;";

(D) in subparagraph (C) (as so redesignated by subparagraph (A) of this paragraph), by striking "and" at the end; and

(E) by adding at the end the following:

"(2) Amounts appropriated or otherwise made available for activities and services under paragraph (1)(B) may be used only for the additional costs necessary to ensure that homeless children benefit from educational programs and services and may not be used to supplant the basic costs of educational programs and services that are provided to all students.";

(2) in subsection (d)—

(A) in paragraph (1)—

(i) by striking "annually" and inserting "once every 2 years,";

(ii) by inserting after "shall include" the following: "the number of homeless children and homeless youths enrolled in schools in the State, determined through random sampling or other statistical methods that ensure that such children and youths are not overtly identified as being homeless,";

(iii) by striking "and the difficulties" and inserting "the difficulties"; and

(iv) by inserting before the semicolon the following: ", and any progress made by the State educational agency and local educational agencies within the State in addressing such problems and difficulties";

(B) by striking "and" at the end of paragraph (2);

(C) in paragraph (3)—

(i) by striking "of each year" and inserting ", 1991, and on December 31 of every second year thereafter"; and

(ii) by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:

"(4) develop relationships and coordinate with other relevant education, child development, or preschool programs and providers of services to homeless children, homeless families, and runaway and homeless youths (including domestic violence agencies, shelter operators, transitional housing facilities, runaway and homeless youth centers, and transitional living programs for homeless youths) in order to improve the provision of comprehensive services to homeless children and homeless youths and the families of such children and youths;

"(5) develop and implement a plan to educate school personnel (including principals, attendance officers, teachers, and enrollment personnel), parents, shelter operators, and service providers about the rights and needs of homeless children and homeless youths in schools;

"(6) develop and implement a plan to ensure that homeless children and homeless youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local before- and after-school care programs; and

"(7) develop and implement a plan to ensure that homeless children and homeless youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local food programs.".

(3) in subsection (e)—

(A) in paragraph (1)—

(i) by striking "and" at the end of subparagraph (A);

(ii) in subparagraph (B)—

(I) by inserting "prompt" before "resolution"; and

(II) by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

"(C) address problems set forth in the report provided to the Secretary under subsection (d)(3);

"(D) address problems with respect to the education of homeless children and homeless youths, including problems caused by—

"(i) transportation issues; and

"(ii) enrollment delays caused by—

"(I) immunization requirements;

"(II) residency requirements;

"(III) lack of birth certificates, school records, or other documentation; or

"(IV) guardianship issues;

"(E) demonstrate that the State and local educational agencies in the State have developed and will implement and enforce policies to remove barriers to the enrollment and retention of homeless children and homeless youths in schools of the State; and

"(F) ensure that the State educational agency and local educational agencies within the State will adopt policies and practices to ensure that homeless children and homeless youths are not isolated or stigmatized.";

(B) by amending paragraph (3) to read as follows:

"(3) The local educational agency of each homeless child and each homeless youth shall either—

"(A) continue the child's or youth's education in the school of origin—

"(i) for the remainder of the academic year; or

"(ii) in any case in which a family becomes homeless between academic years, for the following academic year; or

"(B) enroll the child or youth in any school that nonhomeless students who live in the attendance area in which the child or youth is actually living are eligible to attend;

whichever is in the child's best interest or the youth's best interest.";

(C) in paragraph (5), by inserting after "including" the following: "transportation services;"; and

(D) in paragraph (6), by striking "The schools records" and inserting the following: "Any record ordinarily kept by the school, including immunization records, academic records, birth certificates, guardianship records, and evaluations for special services or programs,"; and

(4) in paragraph (1) of subsection (g)—

(A) by striking "and" and inserting a comma; and

(B) by inserting before the period the following: ", and $6,000,000 for the fiscal year 1991, $7,500,000 for the fiscal year 1992, and such sums as may be necessary for the fiscal year 1993".

(c) Exemplary Grants.—Section 723 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11433) is amended—

(1) in paragraph (1) of subsection (a), by striking "elementary and" and inserting "preschools, elementary schools, and"; and

(2) in subsection (f)—

(A) by striking "and" and inserting a comma; and

(B) by inserting before the period the following: ", $4,000,000 for the fiscal year 1991, $5,000,000 for the fiscal year 1992, and such sums as may be necessary for the fiscal year 1993".

(d) Demonstration Grants for Educational Success.—

(1) General authority.—Subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11431 et seq.) is amended—

(A) by redesignating sections 724 and 725 as sections 726 and 727, respectively; and

(B) by inserting after section 723 the following:

"SEC. 724. DEMONSTRATION GRANTS FOR EDUCATIONAL SUCCESS.

"(a) General Authority.—

"(1) The Secretary of Education shall, from amounts appropriated pursuant to subsection (e), make grants to State and local educational agencies for the purpose of providing support services to homeless children and homeless youths in order to ensure their successful education in preschools, elementary schools, and secondary schools under the jurisdictions of such State and local educational agencies.

"(2) Grants under this section shall be used to provide services intended to assist homeless children and homeless youths to enroll in, attend, and succeed in school. Unless otherwise specified in this section, such services may be provided on school grounds or at the shelter or other temporary housing facility where such children or youths are housed. Where services are provided on school grounds, such services may also be made available to children or youths who are determined by the local educational agency to be at risk of failing in or dropping out of school, except that priority for such services shall be given to homeless children and homeless youths. To the extent practicable, services provided to homeless students with assistance under this section shall be provided in an environment with nonhomeless students.

"(b) Authorized Activities.—

"(1) Primary activities.—Not less than 50 percent of amounts provided under a grant under this section shall be used to provide tutoring, remedial education services, or other education services to homeless children or homeless youths.

"(2) Related activities.—Up to 50 percent, but not less than 35 percent, of amounts provided under a grant under this section may be used for activities which may include—

"(A) provision of expedited evaluation of the strengths and needs of homeless children and homeless youths, including needs and eligibility for programs and services (including gifted and talented programs, special education programs, programs for students with limited English proficiency, and remedial services);

"(B) provision of clothes and school supplies to homeless children or homeless youths;

"(C) professional development for educators and other school personnel that is designed to develop awareness and sensitivity to the special educational and developmental needs of homeless children and homeless youths and the rights of such children and youths under this Act;

"(D) provision of referral services to homeless children and homeless youths for medical, dental, mental, and other health services;

"(E) provision of the excess cost of transporting students within or beyond the jurisdiction of the local educational agency when transportation would not otherwise be provided from State or local funds;

"(F) development and provision of preschool programs for homeless children, in coordination with other preschool programs under the jurisdiction of the agency;

"(G) provision of before- and after-school and summer programs for homeless children or homeless youths in which a teacher or other qualified individual provides tutoring, homework assistance, and supervision of educational activities;

"(H) where necessary, payment of the fees applicable to obtaining or transferring records necessary to enroll homeless children or homeless youths in school, including birth certificates, immunization records, academic records, guardianship records, and evaluations for special programs or services;

"(I) provision of parent education and training to the parents of homeless children and homeless youths about the rights of and resources available to such children and youths;

"(J) development of coordination between schools and agencies providing services to homeless children and homeless youths;

"(K) provision of counseling and psychological services to homeless children and homeless youths;

"(L) development of tracking systems or computer linkage to ensure the efficient transfer of the school and health records of homeless children and homeless youths;

"(M) employment of an ombudsman to ensure that homeless families, homeless children, and homeless youths receive all appropriate services, including education-related programs, referrals to health care services, dental services, mental health services, and other services for homeless children and homeless youths;

"(N) activities to address the particular needs of homeless children and homeless youths that may arise from domestic violence;

"(O) activities to address the special educational needs of runaway and homeless youths; and

"(P) provision of such other emergency assistance as the Secretary considers necessary to enable homeless children or homeless youths to attend school.

"(c) Eligibility.—No State or local educational agency may receive a grant under this section unless the State in which the agency is located has submitted a State plan as required by section 722(e).

"(d) Application.—Any State or local educational agency that desires to receive a grant under this section shall submit an application to the Secretary of Education at such time, in such manner, and containing or accompanied by such information and assurances as the Secretary may reasonably require. Each such application shall include—

"(1) a description of the problems experienced by homeless children and homeless youths in enrolling in and succeeding in school, as identified by the agency;

"(2) a description of the services and programs to be assisted under the grant and a description of how such services and programs will address the problems described in paragraph (1);

"(3) in the case of an application submitted by a local educational agency, an assurance that the agency either—

"(A) is in compliance with paragraphs (3) through (6) of section 722(e); or

"(B) will use assistance provided under the grant to comply with such paragraphs;

"(4) an assurance that assistance under the grant will supplement and not supplant funds used before the award of the grant for purposes of providing services to homeless children and homeless youths;

"(5) a description of policies and procedures that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and homeless youths; and

"(6) in the case of an application submitted by a local educational agency, information necessary for the Coordinator of Education of Homeless Children and Youth to rank the application according to the provisions of subsection (e).

"(e) Review of Applications by State Coordinator of Education of Homeless Children and Youth.—Each local educational agency that submits an application to the Secretary under subsection (d) shall at the same time submit such application to the Coordinator of Education of Homeless Children and Youth of the State in which the local educational agency is located for review, ranking, and comment. Such ranking shall be based upon the extent to which—

"(1) the use of funds proposed in the application would facilitate the enrollment, retention, and educational success of homeless children and youth;

"(2) the application reflects coordination with other State and local agencies that serve homeless children and homeless youths and with the State plan required by section 722(e); and

"(3) the local educational agency exhibits, in the application and in practice, a commitment to educate all homeless children and homeless youths living in the jurisdiction of the local educational agency in the schools of such agency.

"(f) Award of Grants.—

"(1) The Secretary shall award 1-year and 2-year grants under this section based on the need of each applicant. In determining such need, the Secretary shall consider—

"(A) the identified needs of homeless children and homeless youths under the jurisdiction of the State or local educational agency, as appropriate;

"(B) the ability of the State or local educational agency to fulfill the needs described in subparagraph (A);

"(C) in the case of a local educational agency, the ranking, review, and comments submitted under subsection (e) by the Coordinator of Education of Homeless Children and Youth of the State in which the local educational agency is located, except that failure of the Coordinator to rank, review, or comment with respect to any application may not prejudice the application; and

"(D) any other criteria the Secretary considers appropriate.

"(2) The Secretary shall award grants under this section to eligible applicants before the expiration of the 60-day period beginning on the date established by the Secretary as the last date on which applications may be submitted under subsection (d).

"(g) Reports.—Each State or local educational agency that receives a grant under this section for any fiscal year shall submit a report to the Secretary that includes—

"(1) the number of homeless children and homeless youths served with assistance provided under the grant; and

"(2) a description of the success of the program in allowing homeless children and homeless youths to enroll in, attend, and succeed in school.

"(h) Authorization of Appropriations.—There are authorized to be appropriated to carry out the provisions of this section $25,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 and 1993.".

(2) Clerical amendment.—The table of sections contained in section 101(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 note) is amended by striking the items relating to sections 724 and 725 and inserting the following:

"Sec. 724. Demonstration grants for educational success.
"Sec. 726. National responsibilities.
"Sec. 727. Definitions.".

(e) National Responsibilities.—Subsection (b) of section 726 of the Stewart B. McKinney Homeless Assistance Act (as so redesignated by subsection (d)(1) of this section) (42 U.S.C. 11434) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (5) and (6), respectively;

(2) by inserting after paragraph (1) the following:

"(2) The Secretary shall provide such support and technical assistance to the State educational agencies as is required by such agencies to carry out their responsibilities under this subtitle.

"(3) In reviewing the State plans submitted by State educational agencies as required by section 722(e), the Secretary shall determine whether the State laws, regulations, policies, and practices described in such plan adequately address the problems of homeless children and homeless youths relating to access to education and placement as described in such plan.

"(4) The Secretary shall require applications for grants under this subtitle to be submitted to the Secretary not later than the expiration of the 60-day period beginning on the date that funds are appropriated for purposes of making such grants and shall make such grants not later than the expiration of the 120-day period beginning on such date."; and

(3) in paragraph (6) (as so redesignated by paragraph (1) of this subsection)—

(A) by striking "The" and inserting "Every two years, the"; and

(B) by adding at the end the following: "Such report shall include a determination by the Secretary, based on the information received from the States and information gathered by the Secretary under paragraph (1), of the extent to which State and local educational agencies are ensuring that each homeless child and homeless youth has access to a free appropriate public education as described in section 721(1).".

(f) Amendment to Comprehensive Homeless Assistance Plan.—Subsection (b) of section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361), as amended by the preceding provisions of this Act, is further amended—

(1) in subparagraph (B) of paragraph (3), by striking "and veterans" and inserting "veterans, and homeless school-aged children and youths";

(2) by redesignating paragraphs (4), (5), (6), (7), and (8) (as amended and added by the preceding provisions of this Act) as paragraphs (5), (6), (7), (8), and (9), respectively;

(3) by inserting after paragraph (3) the following:

"(4) an assurance that welfare authorities and other agencies responsible for placing homeless families in shelters, hotels, or other temporary accommodations will, in placing such families, consider the need to minimize disruption of the education of children or youths in such families;".

SEC. 503. ELIGIBILITY OF INDIAN TRIBES FOR GRANTS FOR EDUCATION FOR HOMELESS CHILDREN AND YOUTH.

(a) Grants to States.—Subsection (b) of section 722 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11432) is amended by striking "and the Commonwealth of the Northern Mariana Islands" and inserting the following: ", the Commonwealth of the Northern Mariana Islands, and the Secretary of the Interior for purposes of making payments under section 725".

(b) Agreement for Education of Homeless Indian Children and Youths.—

(1) General requirement.—Subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11431 et seq.), as amended by the preceding provisions of this Act, is further amended by inserting after section 724 the following:

"SEC. 725. AGREEMENT FOR EDUCATION OF HOMELESS INDIAN CHILDREN AND YOUTHS.

"(a) In General.—Any payment to the Secretary of the Interior under this subtitle shall be made pursuant to an agreement between the Secretary of Education and the Secretary of the Interior containing such assurances and terms as the Secretary of Education determines will best achieve the purposes of this subtitle. Such agreement shall—

"(1) contain an assurance that payments made under this subtitle will be used solely for programs and projects approved by the Department of Interior which meet the applicable requirements of this subtitle, and that the Department of the Interior will comply in all other respects with the requirements of this subtitle;

"(2) consider a tribal organization operating a school under the Indian Self-Determination and Education Assistance Act or the Tribally Controlled Schools Act of 1987 as a local educational agency, and shall consider the Secretary of the Interior as a State or State educational agency for all purposes defining the authority of States or State educational agencies relative to local educational agencies; and

"(3) provide for sharing of information concerning services provided to Indian children in order to avoid duplication of payments under this subtitle.

"(b) Regulations.—If, in the capacity of a State educational agency, the Secretary of the Interior promulgates regulations applicable to such tribal organizations, the Secretary of the Interior shall comply with section 553 of title 5, United States Code, and such regulations must be consistent with subsections (d) and (e) of section 1121, section 1130, and section 1133 of the Education Amendments of 1978.

"(c) Use of Funds.—The Secretary of the Interior shall use any payments for activities agreed to by the Secretary of Education and the Secretary of the Interior which are consistent with this Act.".

(2) Clerical amendments.—The table of contents in section 1(b) of the Stewart B. McKinney Homeless Assistance Act, as amended by the preceding provisions of this Act, is further amended by inserting after the item relating to section 724 the following:

"Sec. 725. Agreement for education of homeless Indian children and youths.".

(c) Definitions.—Section 727 of the Stewart B. McKinney Homeless Assistance Act (as so redesignated by section 502(d)(1)(A) of this Act) is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (3) and (4), respectively; and

(2) by inserting before paragraph (3) (as so redesignated by paragraph (1) of this subsection) the following:

"(1) the term 'Indian' means any individual who is a member of an Indian tribe;

"(2) the term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;".

SEC. 504. JOB TRAINING FOR THE HOMELESS.

(a) Authorization of Appropriations.—Section 739(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11449(a)) is amended to read as follows:

"(a) Authorization of Appropriations.—There are authorized to be appropriated to carry out this subtitle the following amounts:

"(1) $13,000,000 for fiscal year 1991, of which $2,200,000 shall be available only to carry out section 738.

"(2) $14,000,000 for fiscal year 1992, of which $2,200,000 shall be available only to carry out section 738.

"(3) $16,000,000 for fiscal year 1993, of which $2,200,000 shall be available only to carry out section 738.".

(b) Termination.—Section 741 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11450) is amended by striking "October 1, 1990" and inserting "October 1, 1992".

SEC. 505. EMERGENCY COMMUNITY SERVICES HOMELESS GRANT PROGRAM.

(a) Use of Funds for Administrative Costs.—Section 753(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11463(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "all" and inserting "not less than 95 percent"; and

(ii) by striking "(1)(A)" and inserting "(1)";

(B) by striking subparagraph (B); and

(C) by redesignating clauses (i) through (iii) as subparagraphs (A) through (C), respectively; and

(2) in paragraph (3) by striking "no amount" and inserting "not more than 5 percent of the amounts".

(b) Eligible Use of Funds.—Section 753(c)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11463(c)(1)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following:

"(B) Renovation of buildings to be used to provide such services, except that not more than 50 percent of such amounts may be used for such purpose.".

(c) Effective Date.—The amendments made by this subsections (a) and (b) of this section shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

(d) Authorization of Appropriations.—Section 754 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11464) is amended to read as follows:

"SEC. 754. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subtitle $50,000,000 for each of fiscal years 1991, 1992, and 1993.".

SEC. 506. JOB TRAINING PARTNERSHIP ACT.

Part B of title IV of the Job Training Partnership Act (29 U.S.C. 1691 et seq.) is amended by inserting after section 433 the following new section:

"JOB CORPS CENTERS FOR HOMELESS FAMILIES

"Sec. 433A. (a) Subject to the availability of appropriations therefor, the Secretary shall, in accordance with section 427, provide services and facilities in accordance with this section to eligible homeless individuals and their families at Job Corps centers. Job Corps centers serving homeless individuals and their families shall—

"(1) be residential;

"(2) be operated under a project agreement with one or more State or local agencies that complies with subsection (b) of this section;

"(3) provide room and board for enrollees and their dependents and daycare for dependent children of enrollees; and

"(4) provide enrollees—

"(A) program activities that include both activities to sustain the operation of the center and regular Job Corps activities required under section 428; and

"(B) the benefits and services given to any other enrollee under this part.

"(b) Each Job Corps center providing services and facilities to homeless individuals under this section shall provide such services and facilities under a project agreement with one or more State or local agencies that—

"(1) requires such State and local agencies to provide, in the aggregate, not less than 50 percent of the cost of such services and facilities;

"(2) contains provisions to ensure that enrollees and their families are effectively assisted in obtaining all necessary health, education, and social services provided by existing Federal, State, and local programs in such State or locality;

"(3) require such State and local agencies to provide such transitional assistance, including housing, necessary to effect successful job placements for enrollees; and

"(4) contains or is accompanied by such other information and assurances as the Secretary may require.

"(c) To become an enrollee in the Job Corps at a center established providing services and facilities to homeless individuals under this section, an individual—

"(1) shall qualify as a homeless individual under section 103 of the Stewart B. McKinney Homeless Assistance Act;

"(2) may be over the maximum age permitted by section 423(1), but shall have not attained the age of 25 at the time of enrollment; and

"(3) shall meet the requirements of paragraphs (2) through (5) of section 423.

"(d) The Secretary shall prescribe special screening standards under sections 424 and 425 to identify and select enrollees for purposes of this section.

"(e) The Secretary shall, pursuant to section 454, conduct evaluations of the centers providing services and facilities to homeless individuals under this section. The Secretary shall submit to the Congress a report on the results of such evaluations, together with the Secretary's recommendations concerning such centers, not later than 3 years after the date of enactment of this section.".

TITLE VI—VETERANS PROGRAMS

SEC. 601. MEDICAL PROGRAMS.

Section 801(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628; 102 Stat. 3257) is amended to read as follows:

"(a) Authorization of Appropriations.—There are authorized to be appropriated to the Department of Veterans Affairs $31,500,000 for fiscal year 1991 and $33,075,000 for fiscal year 1992 for the medical care of veterans by the Department. Any amount appropriated under this subsection shall be in addition to any funds appropriated pursuant to any other authorization (whether definite or indefinite) of appropriations for fiscal years 1991 and 1992.".

The SPEAKER pro tempore. Is a second demanded?

Mrs. ROUKEMA. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. Gonzalez] will be recognized for 20 minutes, and the gentlewoman from New Jersey [Mrs. Roukema] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. Gonzalez].

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 3789, the McKinney reauthorization bill, which provides a comprehensive approach to dealing with our Nation's homeless. While the bill authorizes emergency assistance, it is greatly needed because of the millions of homeless persons on our streets who are in dire need of shelter, food, and health care.

This is the second reauthorization of the McKinney homeless programs which represents the Banking Committee's, as well as the other committees of jurisdiction, efforts to provide the bare necessities to our Nation's homeless. The bill authorizes a total of $786.5 million for fiscal year 1991 and $788.4 million for fiscal year 1992, to provide emergency assistance to the homeless.

The bill represents the legislative efforts of 4 committees of jurisdiction—Banking, Energy and Commerce, Education and Labor, and Veterans Affairs. Attached are the short summary and the section-by-section summary of the bill which provide more indepth review of the provisions of the bill.

This bill also represents Congress' long-standing commitment to addressing the need of assistance to the homeless. In December 1982, the Banking Committee held the first major congressional hearing which brought national attention to the issue of homelessness in America. Since that time, we have continued our efforts to assist the homeless, principally through the reauthorization of the Stewart B. McKinney Homeless Assistance Act. Clearly, this bill is not a panacea, however, it does provide a modicum of assistance to our Nation's most needy citizens.

This bill is a bipartisan effort. Of particular note, I would like to recognize the outstanding contributions of my colleagues Bruce Vento and the ranking minority member of the Banking Committee, Chalmers Wylie, and the ranking minority member of the Housing Subcommittee, Marge Roukema, each of whom have greatly added to this bill.

The bill is truly an example of coordination and commitment from the various committees of jurisdiction. The bill was reported out of the Banking Committee by voice vote on July 10, 1990. The Banking Committee's report also contains the McKinney provisions from the Education and Labor Committee. The Energy and Commerce Committee reported out its provisions on July 30, 1990, and the provisions under suspension today represents a compromise between the committee's majority and minority on budget levels. The bill also contains the reauthorization of the Veteran's Affairs Committee's medical care program.

Given the urgent need to assist the homeless, I ask that the House fully support this bill.

Summary of H.R. 3789—Stewart B. McKinney Homeless Assistance Amendments Act of 1990

H.R. 3789 reauthorizes the McKinney Homeless Act programs and provides for program changes in these programs. Title I adds the Secretary of Veterans Affairs to the Interagency Council on the Homeless, extends the Council through FY 1992 and authorizes $1.2 million for FY 1991 and $1.3 million for FY 1992.

Title II authorizes $150 million for FYs 1991 and 1992 for the FEMA emergency food and shelter program and requires Indian membership to FEMA local program Boards, when applicable.

Title III requires the inclusion of child care services in comprehensive assistance plans; makes Indian tribes eligible for McKinney programs; authorizes $131 million for FY 1991 and $138 million for FY 1992 for the emergency shelter grants program, $150 million for FYs 1991 and 1992 for the supportive housing demonstration program; $30 million in FYs 1991 and 1992 for supplemental assistance for facilities to assist the homeless; authorizes increases in Section 8 budget authority of $80 million for FYs 1991 and 1992 for single room occupancy dwellings; and provides for program changes in these programs. Title III also authorizes a Shelter Plus Care program to provide rental housing assistance, in connection with supportive services, to homeless individuals who are seriously mentally ill or have chronic problems with alcohol or other drugs. Title III also authorizes HUD to make grants for demonstration projects for assisting low-income families in paying security deposits for rental housing.

Title IV reauthorizes the health care for the homeless programs. The categorical grant program for primary care and substance abuse services is authorized at $70 million in FY 1991 and such sums as necessary in each of FY 1992 through 1994. In addition, the requirement that providers participate in Medicaid is waived for free clinics that do not charge for their services. The block grant program for community mental health services is authorized at $33 million in FY 1992. The community demonstration projects for mental health services are authorized at such sums as may be necessary for each of FY 1991 and FY 1992, and those for alcohol and drug abuse treatment are authorized at such sums as may be necessary for each of FY 1991 and FY 1992.

Title V authorizes $12.5 million for each FY 1991 and 1992 and such sums for FY 1993 for adult education for the homeless; authorizes $6 million for FY 1991, $7.5 million for FY 1992 and such sums for FY 1993 to coordinate the education of homeless children and youth; authorizes $25 million for FY 1991 and such sums as may be necessary for FYs 1992 and 1993, respectively, for education for homeless children and youth; $4 million for FY 1991 and $5 million for FY 1992 and such sums as may be necessary for FY 1993 for exemplary grants for education; authorizes $13 million for FY 1991, $14 million for FY 1992 and $16 million for FY 1993 for the job training for the homeless program; and authorizes $50 million for each fiscal years 1991, 1992, and 1993 for the emergency community services homeless grant program.

Title VI authorizes $31.5 million for FY 1991 and $33,075,000 for FY 1992 for the medical care of veterans.

H.R. 3789, The Stewart B. McKinney Homeless Assistance Amendments Act of 1990 Section-By-Section Analyses

TITLE I—INTERAGENCY COUNCIL ON THE HOMELESS

Sec. 101: Adds the Secretary of Veterans Affairs to the Interagency Council on the Homeless.

Sec. 102: Authorizes $1.2 million for FY 1991 and $1.3 million for FY 1992.

Sec. 103: Extends the Interagency Council through FY 1992.

TITLE II—FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM

Sec. 201: Authorizes $150 million for the Emergency Food and Shelter Grant Program for each FY 1991 and 1992.

Sec. 202: Requires local program boards within 30 days of enactment to include within their Board a member of an Indian Tribe when it administers program funding in a locality or a portion of the locality, which is located on an Indian Reservation.

TITLE III—HOUSING ASSISTANCE

Subtitle A—Homeless shelter programs

Sec. 301: Requires a local strategy for providing child care services which is to be given to homeless service providers and requires Indian tribes to submit CHAPs to HUD every 2 years. Expands public participation in the development of CHAPs and in the annual progress report. Makes modifications to the CHAP requirements on timing, contents and review standards.

Sec. 302: Authorizes $131 million and $138 million respectively for FYs 1991 and 1992 for the Emergency Shelter Grant (ESG) Program. Allows ESG program recipients to use up to 5% of their grants for administrative purposes. Raises the cap on essentials services from 20% to 30% and creates a separate cap of 30% on the use of program funds for homeless prevention activities. Eliminates the match requirements for the first $100,000 of grant funds to each State. Requires confidentiality of records for domestic violence victims. Makes Indian Tribes eligible to receive ESG program funds.

Sec. 303: Authorizes $150 million for the Supportive Housing Demonstration Program, which includes the transitional and permanent housing for handicapped homeless programs, for each FY 1991 and 1992. Provides a confidentiality requirement for domestic violence shelters. Converts program assistance from advances to grants. Removes the 2 year limitation on operating costs for the Permanent Housing for the Handicapped Homeless Program. Makes new construction an eligible activity under the Supportive Housing Demonstration Program. Eliminates the site control and employment assistance as selection criteria. Makes Indian Tribes eligible to receive program assistance. Relaxes lease requirements to one year for Supportive Housing projects receiving only operation costs or essential services with further federal funding contingent on maintaining lease in following years. Exempts turnkey and other programs providing transitional services in permanent housing from site control requirements. Additionally, allows program recipients to apply to renew operating cost assistance. Authorizes an increase in the bed limitation from 8 to 16 beds in permanent handicapped homeless projects but requires 20% of the beds to be designated for handicapped persons.

Sec. 304: Authorizes $30 million for the Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) program for each FY 1991 and 1992. Relaxes lease requirements and site control requirements consistent with Sec. 923 and provides confidentiality requirements for domestic violence shelters.

Sec. 305: Increases budget authority for Section 8 SRO Dwellings to $80 million for each FY 1991 and 1992 and makes Indian Housing Agencies eligible to receive program assistance.

Sec. 306: Amends the Stewart B. McKinney Homeless Assistance Act to include a new Title E, the Shelter Plus Care Programs.

Part 1—General Requirements

Authorizes HUD to provide rental housing assistance to homeless individuals and their families who are seriously mentally ill or who have chronic problems with alcohol or other drugs. Requires recipients to supplement the amount of rental housing assistance with an equal amount of funds for supportive services from other sources. Allows recipients to meet the match requirements to include the value of the lease on the building, salary to staff carrying out the program, and value of volunteer time and services.

Requires that appropriate supportive services must be provided for the full term of the rental housing assistance. Permits HUD to recapture any unexpended housing assistance that is not matched with supportive services and funding for supportive services.

Requires an application for rental housing assistance to contain: (1) the number of units requested and the necessary budget authority; (2) a description of the population of eligible individuals; (3) an identification of program need in the community; (4) the identity and qualifications of proposed service provider(s); (5) a description of their supportive services and resources; (6) a description of the monitoring for each program participant; and (7) a certification from applicants that they will provide the supportive services if the planned resources do not become available. Also requires the application to include a plan: (1) for identifying and selecting participants, (2) for coordination of housing assistance and supportive services, (3) for ensuring adequate services are being provided, and (4) for obtaining participation of homeless and other participants not previously served. Requires a plan, in the case of rental housing assistance, to also include a plan for providing housing assistance and in the case of Section 202 housing assistance, to provide the non-profit entity and to identify the structures in which they propose to house participants.

Provides program selection criteria for a national competition for assistance to include (1) qualifications; (2) geographic diversity; (3) program need; (4) quality of the proposed program; (5) funding availability for supportive services; (6) the extent to which the project meets the needs of the homeless individuals to be served; (7) the extent to which the program integrates recipients into the community; and (8) other factors as the Secretary deems appropriate.

Requires that no more than 10 percent of the program funds in a given fiscal year may be used for programs within any one unit of local government. Requires that not less than 50 percent of program funds shall be used for homeless individuals who are seriously ill or have chronic problems with drugs, alcohol or both.

Requires applicants, as a condition of receiving program assistance, to: (1) agree to operate their projects in accordance with the provisions of this Title; (2) conduct an ongoing assessment of assistance and services required by participants; (3) assure adequate provision of services; and (4) comply with other terms and conditions as the Secretary may establish.

Allows program recipients to terminate assistance through a formal process which recognizes the rights of tenants if tenants violate program requirements.

Provides program definitions and authorizes such sums as may be necessary for FY 1991 for the Shelter Plus Care program.

Part 2—Homeless Rental Housing Assistance

Authorizes the Secretary to establish homeless rental housing assistance and permits a recipient to require a program tenant to live in a specific structure or geographic area as necessary in order to provide supportive services.

Authorizes a 5-year contract term for homeless rental housing assistance. Requires housing assistance to be provided for the full term of the contract at specified rates.

Requires, that before assistance is provided, the applicant or local public housing authority must: 1) inspect the housing unit for compliance with housing standards and with rent reasonability; and 2) determine the rent that each tenant is required to pay. Requires HUD to provide administrative fees to carry out housing assistance.

Part 3—Section 202 Rental Assistance

Authorizes HUD to establish contracts to provide rental assistance under the Sec. 202 handicapped program. Requires that the contract with a program recipient have a 5-year term. Requires rental assistance to be provided for the full term of the contract at specified rates.

Requires that before assistance is provided, the recipient must inspect each housing

unit for compliance with housing standards and with rent reasonability and requires annual inspections. Prohibits assistance from being provided if units are not in compliance and provides administrative fees to carry out housing assistance.

Requires HUD to issue notice of regulations within 120 days after funds are authorized.

Subtitle B—Grants for security deposit loan fund demonstration projects.

Sec. 311: Authorizes HUD to make grants for demonstration projects for assisting low-income families in paying security deposits for rental housing or purchasing shares in a limited cooperative.

Sec. 312: Requires each housing agency that receives a grant to carry out a demonstration project to make loans to families for security deposits. Requires the housing agency to establish a revolving loan fund for making loans for security deposits and for administrative costs (provided those administrative costs do not exceed 25% of the cost of the demonstration project).

An eligible borrower is a low-income family must demonstrate a regular income sufficient to indicate that the family is likely to repay the loan, that the loan will be used to secure a particular housing unit, that the cost of which will be affordable to the regular income of the family, and that the borrower agrees to pay not less than 20% of the security deposit required on the housing unit and any security deposits required for utilities.

The housing agency must provide household finance and budgeting counseling to any family that receives a security deposit loan and for the collection of repayments of security deposit loans. A demonstration project must last for three years.

The housing agency must conduct an annual evaluation of the demonstration projects and submit to the HUD Secretary on an annual basis a report which includes information describing and summarizing the operation of the demonstration project during the prior year, statistics on the number of loans provided during the preceding year and the amounts, collection rate and interest rates of the loans and an accounting of the administrative expenses of the demonstration project during the preceding year. Requires the housing agency to submit a final report to the Secretary, within 30 days after the end of the demonstration project, which contains information required for the evaluation and annual reports with respect to the above-mentioned three-year period.

Sec. 313: Requires a housing agency to submit an application in order to receive a grant. The application shall include a certification that the housing agency will fulfill the demonstration project requirements and a description of the demonstration project to be carried out with the amounts received under this demonstration projects program. The Secretary shall select grant recipients on the basis of criteria established by the Secretary. This criteria shall provide for the selection of housing agencies to ensure these grants are distributed among agencies thoughout the country in urban and rural areas and that a preference is given to agencies that have established programs to assist homeless families and to encourage innovation and differing designs and operation of demonstration projects. Requires the Secretary to publish in the Federal Register not less than 90 days before the deadline notice of the application deadline and any required contents. The Secretary shall select recipients for grants not later than 120 days after the application deadline.

Sec. 314: Requires the Secretary to provide informational and technical assistance to local governments and housing agencies in organizing and developing demonstration projects. This assistance includes archives of models and plans for demonstration projects.

Sec. 315: Requires the Secretary to submit to Congress, at least on an annual basis, a report about the operation of the demonstration projects and the grant program. Requires the Secretary to submit within four years after selection of grant recipients a report containing comparative information about the costs of the projects (including administrative costs), the number of households receiving security loans and factors associated with the relatively more effective projects and an analysis of the efficacy of security deposit loan programs compared with providing grant assistance for security deposits.

Sec. 316: Defines "demonstration project" as a project providing security deposit loans carried out by a housing agency that receives a grant under this demonstration project.

Defines "housing agency" as any nonprofit, State or local agency that is involved in programs or projects to provide temporary permanent housing for homeless families or individuals or any such organization or agency that receives CDBG funds.

Defines "low-income families" as those families and individuals whose incomes do not exceed 80% of the median income for the area involved.

Defines "Secretary" as the HUD Secretary.

Defines "security deposit" as any deposit required of a lessee of a residential housing unit by the lessor of the unit that is refundable upon temination of the unit's occupancy by the lessee.

Defines "security deposit loan" as any loan providing assistance with a security deposit made under a demonstration program.

Sec. 317: Authorizes the Secretary to issue regulations necessary to carry out this subtitle.

Sec. 318: Authorizes to be appropriated such sums as may be necessary for Fiscal Years 1991 and 1992.

TITLE IV—HEALTH CARE FOR THE HOMELESS

Subtitle A—Categorical grants for primary health and substance abuse services

Sec. 401: With respect to categorical grantees providing primary health services and substance abuse services, waives the requirement that providers participate in Medicaid in cases where the provider is a free clinic that does not charge for services.

Sec. 402: Authorizes $70 million for Fiscal Year 1991 and such sums as may be necessary for each Fiscal Year 1992 through 1994 for categorical grants for primary health services and substance abuse services.

Subtitle B—Block grant for community mental health services

Sec. 411: Authorizes $33 million for FY 1992 for the Community Mental Health Services Block Grant program.

Subtitle C—Authorization of appropriations for community demonstration projects

Sec. 421: Authorizes such sums as may be necessary for each Fiscal Year 1991 and 1992 for mental health services for homeless individuals with chronic mental illness.

Sec. 422: Authorizes such sums as may be necessary for each Fiscal Year 1991 and 1992 for alcohol and drug abuse treatment of homeless individuals.

TITLE V—EDUCATION, TRAINING, AND COMMUNITY SERVICES PROGRAMS

Sec. 501: Authorizes $12.5 million for each FY 1991 and 1992, and such sums as may be necessary for FY 1993 for the Adult Education for the Homeless.

Sec. 502: Authorizes $6 million for FY 1991, $7.5 million for FY 1992, and such sums as may be necessary for FY 1993 to the Secretary of Education to make grants to States for the functions of the Office of the Coordinator of the Education of Homeless Children and Youth. Creates new responsibilities for State Coordinators, including the coordination and facilitiation of comprehensive services to homeless children and youth; the development and implementation of plans to educate school personnel, parents and service providers about the rights and needs of homeless children and youth; and the development and implementation of plan to ensure that homeless children and youth who meet relevant eligibility criteria receive appropriate services, including Federal, State or local nutrition and before-and after-school care program. State Coordinators will gather data on the number and location of homeless children and youth once every two years instead of annually.

Authorizes $4 million, $5 million and such sums as may be necessary for FYs 1991, 1992 and 1993, respectively, to the Secretary of Education to make grants to State and local education agencies that have demonstrated excellence or shown exemplary efforts to removing barriers that prevent the enrollment and retention of homeless children and youth in schools.

Authorizes $25 million in FY 1991 and such sums as may be necessary for FYs 1991 and 1992 to the Secretary of Education to make grants to State and local educational agencies for the purposes of providing services necessary to insure the education of homeless children and youth. At least 50% of the funds are to be used to provide tutoring, remedial education services or other educational services to homeless children or youth. At least 35%, but not more than 50% of the funds, can be used to provide other necessary support services to homeless children and youth, including funds for transportation costs, referrals to health care services, payment of fees necessary to transfer records and the provision of before-and after-school care and summer programs for homeless children and youth.

The Secretary of Education is also required to provide support and technical assistance to the States, promptly review applications and release funds under this title, and to compile and submit a report to Congress every two years.

Sec. 503: Amends the Stewart B. McKinney Homeless Assistance Act to provide funds to the Secretary of the Interior for educational services for homeless Indian children and youth.

Currently, State education agencies are eligible applicants; homeless Indian children who attend public schools on Indian reservations can receive services. However, homeless Indian children who attend BIA-assisted schools cannot receive services under current law.

This change treats the Secretary of the Interior as a State education agency, and treats tribal organizations operating schools under the Indian Self-Determination and Education Assistance Act or the Tribally-

Controlled Schools Act as local education agencies.

Sec. 504: Authorizes $13 million for FY 1991, $14 million for FY 1992, and $16 million for FY 1993 for the Job Training for the Homeless program.

Sec. 505: Authorizes $50 million for each Fiscal Year 1991, 1992 and 1993 for the Emergency Community Services Homeless Grant program. Authorizes States to use up to 5% of their collection under this section for administration. Authorizes States to use up to 50% of their allocation under this section for the renovation of existing buildings to be used to provide emergency services to homeless individuals.

Sec. 506: Amends Part B of title IV of the Job Training Partnership Act (29 USC 1691, et seq.) by inserting a new section 433A entitled "Job Corps for Homeless Families." This amendment allows services at residential Job Corps centers to be provided to eligible homeless individuals and their families who have not attained the age of 25 at the time of enrollment..

These services and facilities shall be provided under a project agreement with one or more State or local agencies that: 1) requires such State and local agencies to provide not less than 50% of the costs; 2) contains provisions to ensure that enrollees and their families are effectively assisted in obtaining all necessary health, education and social services provided by existing Federal, State and local programs; and 3) requires State and local agencies to provide transitional assistance, including housing, necessary to effect successful job placements for enrollees.

TITLE VI—VETERANS PROGRAMS

Sec. 601: Authorizes $31.5 million for FY 1991 and $33,075,000 for FY 1992 for medical care of veterans by the Veterans Department.

[In millions of dollars]

Authorizations	1991	1992	1993	1994	1995
Bill total:					
Authorization level	688.0	827.6	195.9	78.9	0
Outlays	249.2	509.0	435.8	273.6	117.9
Interagency Council on the Homeless:					
Authorization level	1.2	1.3	0	0	0
Outlays	1.1	1.3	.1	0	0
Federal Emergency Management Food and Shelter Program:					
Authorization level	150.0	150.0	0	0	0
Outlays	150.0	150.0	0	0	0
Emergency shelter grants:					
Authorization level	131.0	138.0	0	0	0
Outlays	19.6	99.3	115.6	34.5	0
Supportive housing demonstration programs:					
Authorization level	150.0	150.0	0	0	0
Outlays	0	42.0	69.0	54.0	54.0
Supplemental assistance for facilities:					
Authorization level	30.0	30.0	0	0	0
Outlays	6.0	18.0	24.0	12.0	0
Section 8 single-room occupancy:					
Authorization level	80.0	80.0	0	0	0
Outlays	1.0	4.0	11.0	15.0	16.0
Health care of the homeless:					
Authorization level	3.8	72.9	75.8	78.9	0
Outlays	2.1	41.3	66.2	77.1	35.1
Community mental health services block grant:					
Authorization level	0	33.0	0	0	0
Outlays	0	11.6	18.2	3.3	0
Homeless mental health services demonstration:					
Authorization level	0	6.5	0	0	0
Outlays	0	2.3	3.6	0.7	0
Homeless alcohol and drug abuse demonstration:					
Authorization level	0	17.8	0	0	0
Outlays	0	6.2	9.8	1.8	0
Adult education for the homeless:					
Authorization level	12.5	12.5	13.0	0	0
Outlays	1.1	10.0	12.3	11.3	2.6
Education for homeless children and youth:					
Authorization level	6.0	7.5	7.8	0	0
Outlays	.7	5.0	7.1	6.8	1.6
Exemplary grants:					
Authorization level	4.0	5.0	5.2	0	0
Outlays	.5	3.3	4.7	4.5	1.0
Demonstration grants for educational success:					
Authorization level	25.0	26.0	28.1	0	0
Outlays	3.0	20.1	25.6	24.3	5.6
Job training for the homeless:					
Authorization level	13.0	14.0	16.0	0	0
Outlays	3.0	12.0	14.0	12.0	2.0
Emergency Community Support Homeless Program:					
Authorization level	50.0	50.0	50.0	0	0
Outlays	34.0	50.0	50.0	16.0	0
Veterans' medical programs:					
Authorization level	31.1	33.1	0	0	0
Outlays	27.1	32.6	4.6	.3	0

Note.—This table does not include estimated costs for the "Shelter Plus Care" program or the Security Deposit Loan Fund program. The appropriation of such sums as may be necessary would be authorized for 1991 for the shelter program. Appropriations of such sums as necessary would be authorized for security deposit loans in 1991 and 1992.

Mrs. ROUKEMA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3789, reauthorizing the vitally needed homeless programs contained in the Stewart B. McKinney Homeless Assistance Act.

Just by way of history, it was the House Banking Committee which held the first congressional hearings on the plight of the homeless in December 1982. Recognition of the reality and the problems faced by the homeless as presented through those hearings set the stage for consideration and passage of the first comprehensive law to provide Federal funding for services and shelter directly targeted to the homeless. I was an original cosponsor of the McKinney Act and continue to support its objectives.

I recognize the leadership of the committee chairman and ranking Republican, and I want to congratulate the gentleman from Minnesota [Mr. Vento] for his diligence and dedication in ensuring that this program continues to serve those individuals who so desparately need our assistance.

The objective of the McKinney Act was not to become the ultimate solution to the problem of homelessness, but to act as the first step down the path of preventing homelessness through affordable housing and necessary human services.

Unfortunately, today, 8 years after the initiation of our efforts, the Congress, the States and the local communities, despite the influx of Federal funding and the incredible work done in the field by organizations and individuals, must continue to address the growing number of homeless persons in this country.

As we are all aware, homelessness is no longer the exclusive domain of the very poor, the indigent or those suffering from mental illness. Homelessness reaches every aspect of our society. Recent statistics brought to the Housing Committee are very enlightening; 45 percent of the homeless are single men, 25 percent are veterans, 14 percent are single women, 36 percent are families with children, and particularly, single mothers. And, this number is growing at an alarming rate.

Most alarming is the fact that 24 percent of our homeless are employed in full or part-time work.

Of particularly shocking news, and to show how pervasive this problem is, is the recent emergency assistance analysis of the Bergen County New Jersey Board of Social Services.

According to this group which is located in my own district, the fair market rent for a three bedroom apartment in Bergen County is $917 a month. If this figure is considered 30 percent of a monthly income, the annual household income needed to rent a three bedroom apartment is $36,680. It is no wonder that last year there were over 7,000 new filings in the tenancy court for eviction in Bergen County.

The point here again, is that when we talk of homelessness, we are not just talking about the super poor or the indigent.

Also of concern is the fact that an average of 44 percent of our homeless are substance abusers and upward of 30 percent are severely mentally ill.

As my colleagues are aware, I have always taken issue with the fact that too many of our citizens are either prematurely "deinstitutionalized" or are not in an appropriate institution.

I have always felt that throughout the sixties and seventies, the States, in what was considered a social and medical experiment released thousands of patients from State institutions. While this process was done with the best of intentions, many States failed in their responsibilities to develop community-based treatment facilities to help the mentally ill. This abdication of responsibility was an outrage and is what forced the Federal Government into the position of providing funds through several programs including the McKinney Act for the treatment and care of the mentally ill and substance abusers. I continue to believe that the States must be held accountable for this problem and should be required to provide more funding for care and treatment of the mentally ill before they are forced into the streets and onto the rolls of the homeless.

Because of this growing problem, the housing bill under consideration and this version of the McKinney Act, contain a new initiative called the Shelter Plus Care Program. The Shelter Plus Care Program would provide rental assistance to homeless individuals, and their families, who are seriously mentally-ill or have chronic problems with alcohol and drugs.

Under the program, rental assistance is linked to supportive services in order to assist program participants to live independently. This program has strong support from both the House and Senate.

HOMELESS PREVENTION

Finally, I wanted to address homeless prevention programs.

For several years now the Congress has seen a disturbing increase in the number of homeless people in our country.

As has been established by many reports and by testimony before the Housing Subcommittee, the causes are several and complex but in many cases simply involve economic disruption.

While most of HUD's homeless programs assist in building or rehabilitating shelters for use by providers to help people who are already homeless, there are some funds available in McKinney for essential services and prevention. However, there has traditionally been a 20-percent limit on the amount which States and local governments can use to help prevent homelessness.

While prevention is hard to sell because it is difficult to prove exactly how successful this type of program can be, a recent GAO report concluded that prevention activities are a necessary component of the effort to combat homelessness. However, not enough funds are available.

In New Jersey, we have pioneered the prevention concept and have become the model for similar prevention programs in Virginia, Maryland, Michigan, Pennsylvania, New York, and Connecticut which all offer some variation of prevention programs.

But even here, the need is greater than the resources. Last year, New Jersey spent approximately $4.8 million to assist some 246 households. State officials have indicated that intervention before a family becomes homeless is three times cheaper than putting the family in an emergency shelter and 30 times cheaper than a welfare hotel.

One of the beneficiaries of this kind of renewed emphasis on prevention are single mothers who continue to represent the fastest growing component of the Nation's homeless population.

As a result of these facts, we were successful in offering two amendments to the McKinney Act which raised the existing cap on essential services within the Emergency Shelter Grant Program and raised from 20 percent to 30 percent the amount of funds which could be used for prevention activities.

In addition, the Congress also created the security deposit loan fund demonstration program as part of McKinney. This program is similar to aspects of New Jersey's HOPE Program in that it would provide funds to allow local community agencies to allow homeless or low-income people to borrow the money necessary to pay security deposits on rental property or deposits to utility companies. We can be proud of this program.

In conclusion, I want to again restate my strong commitment to assisting the homeless in a fair and meaningful way. The McKinney Act does this and I urge my colleagues to support this legislation.

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Mr. Speaker, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota [Mr. Vento].

Mr. VENTO. Mr. Speaker, I rise in strong support of this measure, H.R. 3789, which I sponsored and had the support of 112 Members of this House.

I want to first of all start by thanking the chairman, the gentleman from Texas [Mr. Gonzalez] for his support not just in 1990 but in 1982 when I came to him with this idea and he immediately responded and supported that and has to this day permitted and offered as much support as he possibly could.

I think it goes to the core of what Chairman Gonzalez is about in terms of people and trying to meet those needs with housing programs at the national level.

I similarly want to thank and compliment the ranking minority member, the gentleman from Ohio [Mr. Wylie], today who then responded in 1982, joined with me and sponsored that first Vento bill on homelessness housing and shelter.

Of course, while he is not here today, Mr. Wylie's support has been the key to providing and maintaining the bipartisanship which has characterized House action on homeless programs under the McKinney Act.

I want to thank Marge Roukema, who really is following in the footsteps of the namesake of this act, Stewart McKinney. She is serving as ranking member on the Housing Subcommittee and has been a good ally in advocating these programs.

You know, the 1980's was not an easy time to start a new program. Certainly there was not a receptive audience at the other end of Pennsylvania Avenue, the White House, with regard to providing homeless assistance. But because of our bipartisan support and the quality of that support, the persistence and loyalty to the homeless, Congress was able to start this program then, and thank goodness we have the program today and White House support in 1990.

I would just say that this program is a continuation of something that is very much necessary. It provides over $1.6 billion worth of authority over the next 2 years.

I think, Mr. Speaker, that the core of this program, of course, deals with providing shelter, providing housing, preventing the loss of housing, preventing people from becoming homeless. But it goes much further than that because it recognizes in a holistic manner that homelessness is not just a loss of shelter, it has a social impact on the person.

That homeless person or family very likely needs counseling; they may need education and training; they may need health care when one finds himself or the family finds itself, homeless, with such an impact in terms of being shunned in society, in a sense, and losing their identity and self esteem.

I think what we all have to recognize today is there is no single factor that has resulted in homelessness in the 1980's.

Frequently there are strong indications as to the cause; for instance, because the national Government did not authorize more housing in the 1980's, this phenomenon occurred. The lack of housing authorization is a factor. The lack of affordable housing is a factor, but it is not the only factor. It is not only deinstitutionalization. I think we have to recognize a society that today the numbers of homeless continue to grow, the changes in our economy, the increasing numbers of individuals and families that live below the poverty level means that homelessness continues to be a problem that is touching way too many families in this Nation. Homelessness exists at the local level, but the national Government has to play a role. We have a partnership role, a responsibility, in terms of addressing the homeless needs in this Nation.

More and more I see in the policies that we work on, the convergence of issues; the education issue, health issue, housing issues, they all come together. Of course, this act works with the other committees, works with all of these needs, trying to provide a holistic answer to homeless millions in our Nation.

We are trying to get our act together at the national level, in terms of providing a role, filling the vacuum that exists, but we also are relying on the local and State governments and, very importantly, nonprofit organizations. This bill is one of the first Housing bills that was passed that required matching dollars, a 1-to-1 match. As the national Government puts its commitment dollar down, that means local governments, nonprofits, have to put in the other dollar.

Sometimes they do that by providing assistance with workers and volunteers, sometimes they do it with hard dollars.

I know, for instance, my own home State of Minnesota is spending considerable numbers of dollars trying to deal with the homeless problem, and all the ramifications of it.

I am sure my counterparts from Texas, New Jersey, certainly from New York with Governor Cuomo, former Mayor Koch and now Mayor Dinkins, led a Herculean effort to provide and meet the needs of the homeless. In fact, such budgets tends to show a far greater commitment than the national Government, and we should and must improve our overall commitment to people, homeless people in need.

I want to thank my colleagues again and urge strong support for this McKinney program reauthorization, and also for a good housing bill, and all the other aspects that are contributing to the phenomenon of homelessness in 1990.

Mr. Speaker, H.R. 3789, the Stewart B. McKinney Homeless Assistance Amendments Act of 1990, a measure which I authored, would reauthorize the comprehensive McKinney Act for fiscal years 1991 and 1992. H.R. 3789 has broad regional and bipartisan support from across this institution. The 112 cosponsors speak to that from the various committees of jurisdiction and from around the country.

H.R. 3789 will authorize 17 different programs for a total of $1.65 billion in the next 2 years. These are vital programs serving the homeless, including emergency shelter, transitional housing, job training, adult and youth education, health care and substance abuse treatment, and programs targeted to homeless veterans. I remain hopeful that additional reforms to the Federal surplus property provisions will be considered, perhaps during the conference on H.R. 3789. Significantly, this bill, with or without surplus property changes, is on relative par with the President's budget request for homeless programs that would translate to $1.47 billion over 2 years.

While this bill doesn't change the implementation of three of the housing programs from categorical to a block grant, an agreement has been reached during the conference on the housing bill—S. 566—which will order a study of a possible allocation formula and the feasibility of a block grant for emergency shelter grants, supportive housing and supplemental assistance for the homeless [SAFAH]. Should the Department of Housing and Urban Development [HUD] determine a feasible formula and should Congress approve such a formula, these three programs could begin to be allocated by formula—block granted—beginning in fiscal year 1993. It is my understanding that such an agreement would be carried over to the conference on H.R. 3789.

Although I continue to have strong reservations regarding the applicability, effectiveness, and fairness of a block grant of these programs at the current appropriations level of just over $210 million, I believe the agreement reached in the housing conference committee, is a reasonable compromise to a debate which has directed our energy away from solving the problems of the homeless to the somewhat more esoteric matter of allocation. At the very least, this will provide the time to let the programs function under the current categorical system while HUD and others evaluate the effectiveness of a block grant and the validity of tools like the 1990 census. I have my doubts about the accuracy of the census and am hopeful that over the course of the next 2 years that the administration and Congress will take a careful look at this whole matter.

As my colleagues are painfully aware, homelessness remains a stark reminder of the empty prosperity promises of the 1980's. As is consistently documented by groups across the country, the ultimate human tragedy of homelessness has continued to grow. The last report of the U.S. Conference of Mayors found that emergency shelter requests increased overall last year by an average of 25 percent in the 27 survey cities while an average of 22 percent of those requests for shelter went unmet; 36 percent of the homeless were families with children, 26 percent veterans, and 24 percent are employed either full time or part time. These alarming facts cannot be ignored.

The array of homeless programs to serve these disenfranchised Americans is certainly needed. The coordination to accomplish enactment of this comprehensive measure, evolving from several committees in the House and Senate, is unusual. What paves the way, however, is the tested and proven success of the McKinney law beyond the beltway. The McKinney homeless programs speak for themselves in terms of maintaining the comprehensive McKinney programs and policy initiatives intact. Some 30 groups, from ACORN to the National Coalition for the Homeless, from the Children's Defense Fund to the United Way, support bringing this bill to the floor now. Finally, and most importantly, serving the homeless remains extremely important, because of the severe shortfall of affordable housing in our Nation.

Congress again has before it the responsibility and the opportunity to address the pressing needs of millions of homeless men, women, and children by reauthorizing the McKinney law in 1990. Our full support here, today, will facilitate McKinney's reenactment.

The refreshing turnabout in the perspective of the administration has been heartening. We cannot dismiss the important fact that, while we don't argee on everything, positive changes at the Interagency Council and HUD's new ideas for the homeless, such as the Shelter Plus Program included in this bill, suggest not only the administration's recognition of the homeless crisis, but the will to address homelessness.

The McKinney Act responds to a crisis of people and of families without shelter. We must continue to respond and meet the reality of such problems where they are encountered. But we must also begin anew in 1990 to prevent tomorrow's children from becoming homeless, with solid housing and income programs today.

I believe we all agree that the 1990's should be the decade when the phenomenon of homelessness is eradicated; when families no longer struggle to barely keep a roof over their heads; and when those individuals, who need real assistance, won't be forced to the streets in a desperate search for help. But until that time, we cannot take the McKinney Act—nor the courageous work of States, local governments, and the private sector, for granted. We must open our minds and extend compassion, focus our political will to resolve this problem, and assist America's vulnerable citizens, the homeless.

MCKINNEY REAUTHORIZATION FIGURES FOR 1991 AND 1992

[In millions of dollars]

Program	Fiscal year— 1991	Fiscal year— 1992
Interagency Council	1.2	1.3
FEMA emergency food and shelter	150.0	150.0
Emergency shelter grants	131.0	138.0
Transitional housing	150.0	150.0
SAFAH	30.0	30.0
Section 8 SRO	80.0	80.0
Primary health care	61.2	81.6
Mental health care	35.0	33.0
Mental health demo	11.0	6.5
Alc. and drug demo	14.0	6.2
Adult education	12.5	12.5
Child educaton	6.0	7.5
Exemplary grants	4.0	5.0
New child ed. demo	25.0	25.0
Job training	13.0	14.0
Comm. service block grant	50.0	50.0
Veterans provision	31.0	33.0
Total	804.9	823.6

[1] Equals $1.65 billion.

Note.—H.R. 3789 includes Shelter Plus Care and Security Deposit Demonstration that are authorized at such sums as necessary. Some programs under Energy and Commerce and Ed and Labor jurisdiction are authorized in H.R. 3789 for longer than 2 fiscal years.

NATIONAL COALITION FOR THE HOMELESS—STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT

[In millions of dollars]

	Fiscal year— 1990 Auth.	Fiscal year— 1990 Appr.	Fiscal year— Advance 1991 Appr.	Fiscal year— 1991 Auth.	President's request
HHS:					
Primary health care	63.6	32.4	11.9	66.2	33.652
Mental health demonstration	11.5	6.03		11.96	6
Mental health block grant	35.0	27.7	6.9	36.4	33.7
Alcohol and drug abuse demo	17.0	16.3	.5	17.68	9.5
Community services block grant	42.0	21.9	8.0	50	42
AFDC demonstration	20.0	20.0			(¹)
Department of Labor:					
Job training	13.0	9.40	1.5	11.34	10.8
Veterans reintegration projects		1.90		2.31	2.2
JEDI	7.2				
Department of Education:					
Education for homeless children	5.0	4.93		5.25	5
Adult literacy	10.0	7.40	2.5	10.5	10
Exemplary education grants	2.5	2.25	.3	2.626	2.4
Subtotal	226.8	150.20	31.5	214.27	155.25
HUD:					
Emergency shelter	125.0	73.16		131.25	71.187
Transitional and supportive hsg.	105.0	126.82		110.25	143.399
Supplemental assis. (SAFAH)	11.0	10.83		11.55	0
Section 8, SRO	50.0	73.19		52.5	49.6
Rental housing assistance					160.782
FEMA: Emergency food and shelter prog.	134.0	130.10		140.7	124.991
Department of Veterans:					
Mentally Ill Program	15.0	15.00		15.75	15
Domiciliary Care Program	15.0	15.00		15.75	15
Interagency Council	1.2	1.08		1.26	1.24
Subtotal	456.2	445.2		479.0	581.2
Total	683.0	595.4		693.3	736.5

[1] To HUD.

National Coalition
for the Homeless,
Washington, DC, September 20, 1990.
Hon. Thomas S. Foley,
Speaker, House of Representatives, Washington, DC.

Dear Mr. Speaker: Recognizing your longstanding commitment to help homeless people, the National Coalition for the Homeless and the undersigned groups ask for your leadership in reauthorizing and amending the Stewart B. McKinney Homeless Assistance Act.

On September 30, most of the McKinney Act programs will expire. Thus it is imperative that the Stewart B. McKinney Homeless Assistance Amendments Act of 1990, H.R. 3789, be moved to the House floor immediately. The Act reauthorizes these programs and makes the necessary improvements that would allow them to work more efficiently.

We thank you for your prompt attention to this urgent matter.

Sincerely,

ACORN, American Nurses Association, American Planning Association, American Psychological Association, Center on Budget and Policy Priorities, Children's Defense Fund, Coalition on Human Needs, Committee for Children, Conserve, Homelessness Information Exchange, McAuley Institute, Mental Health Law Project, National Alliance to End Homelessness, National American Indian Housing Council, National Association of Community Health Centers, National Association of State Mental Health Program Directors, National Coalition Against Domestic Violence, National Coalition for the Homeless, National Community Action Foundation, National Corporation for Housing Partnerships, National Health Care for the Homeless Council, National Jobs with Peace, National Law Center on Homelessness and Poverty, National Low Income Housing Coalition, National Mental Health Association, National Neighborhood Coalition, National PTA, National Rural Housing Coalition, United Way of America, and U.S. Conference of Mayors.

Mr. GONZALEZ. Mr. Speaker, I yield 5 minutes to the gentlewoman from New York [Ms. Slaughter].

Mr. Speaker, allow me to say that the gentlewoman is a member of the Committee on Education and Labor and therefore would be representing that committee at this point.

Ms. SLAUGHTER of New York. I thank the chairman for yielding to me.

Mr. Speaker, I want to thank the chairman and members of his committee, and the members of the Committee on Education and Labor for including in this enormously important piece of legislation to provide for the education of homeless children.

I certainly want to thank Marge Roukema because she has been so supportive, ever since I have known her, of family issues.

Let me tell you a little bit about this bill and what we are doing.

The figures vary on how many homeless children there are in America today, but the average is 750,000. These are American children who live in cars, warehouses, shelters, wherever; families that used to work and for various reasons the parents are dysfunctional, have lost their jobs, and these children get up every day in a strange place, wondering where they can find breakfast that day.

□ 1350

Oftentimes one of the most difficult things to do is to get them to school. But there are stories of children in America who have gone through the most appalling conditions to do that. There are children who live in the subways in New York City who go to school every day. There are children who follow the school bus route, circuitous as it may be, because that is the only way they know to get from point A to point B to be at school. There are children who get up 2 hours early every morning in a shelter to go back to where they used to live to try to get to school. Had it not been for understanding teachers and school districts, some of these children would never have gotten in.

But the statistics are that only one out of four can go on a regular basis. The reasons are that they do not always meet the requirements for a birth certificate, the shot requirements, and the district residence requirements that they might need to go to school.

This bill does away with that. It takes down all those artificial barriers that keep young people from getting an education. It is a modest appropriation. It allows some innovative money for States to come up with programs to help these children get an education.

It gives them a quiet place to study. I ask Members to try to imagine what it is like if you had to carry everything you own with you every day and try to still get a chance to sit down and study your lessons every day. They will be able to study before and after school, to get a breakfast, to get a tutor, and to get pencils, papers, books, and things that most American children take for granted. And indeed, if you were to ask any American, they would say that these are things every American child is entitled to have, because we have always believed that education is the foundation of the economy in this country, and it follows that if we allow 750,000 to million children to grow up untrained, uneducated, and unhealthy, then we have no right to expect that those million children will be productive members of this society, paying taxes, paying social security, but will instead be a drain on society.

This bill also allows and encourages the gifted and talented children among that pool to receive the encouragement they need and the help they need. There is one story of a young girl in New York City who lived in a shelter, who graduated as valedictorian of her high school class. When we realize what that child had to go through to achieve that, we wonder what she could be with some encouragement and some help. We hope now that she will have an opportunity to go on to college, but we do not know that she will.

These children are unmarked, oftimes uncounted, and unregarded. That is a disgrace in this country, and no American wants that to happen.

I am pleased now that Congress is beginning to address this as part of the McKinney Act. I think it is something Mr. McKinney would have been pleased with. It is important for all of us if we hope to compete in the world markets the way we should. If we want to have our children to be able to take their place along with children from all the other countries, it is important that we not allow a portion of them to go homeless, unfed, and uncared for.

Mr. Speaker, this is a subject that many people can perhaps dismiss as something that is sort of a bleeding-hearts, women's kind of work. I hope not. I see it as an economic program. I do see it as a human decency program, but I am also seeing it as an opportunity for all of us to give a hand out to children who need the support from stable families and parents and teachers who can give that hope to them. We must, as we begin to attack the problem of homelessness, deal with the interim problem of education.

I am delighted to have been able to introduce this measure. I am so pleased that the committees have accepted it. I thank my cosponsors, the gentleman from California [Mr. Miller] and the gentleman from New York [Mr. Schumer] for their support, and I also thank all of the agencies in this country that worked so hard to alleviate the heart-breaking burden of homeless children and who helped us to get this far. My hope is the next year at this time we will be able to look back, after seeing a report on this bill, and know that we have made a difference.

Mr. GONZALEZ. Mr. Speaker, I wish to yield time to our distinguished colleague, the gentleman from California [Mr. Miller], but before I do allocate that time, I want the Record to show that the chairman of the Committee on Education and Labor, the gentleman from California [Mr. Hawkins], has been absolutely indispensible in this work since we had that committee involved.

Mr. Speaker, it is a pleasure to yield 5 minutes to the gentleman from California [Mr. Miller].

Mr. MILLER of California. Mr. Speaker, I thank the chairman of the committee for yielding this time to me, and I also thank him for all his hard work in bringing us this bill today, an act honoring our former colleague, Stewart McKinney, who fought tirelessly to help the homeless and to help the victims of poverty.

It is with a great deal of pride that I rise today in support of this legislation. I wish to thank the members of the Committee on Education and Labor, the gentlewoman from New Jersey [Mrs. ROUKEMA], and others on the committee, the chairman of the committee, the gentleman from California [Mr. HAWKINS], who is being honored today with the unveiling of his portrait and who unfortunately is not able to be on the floor right now. I want to thank them for all their work, and certainly I thank the members of the Committee on Banking, Finance and Urban Affairs that is chaired by the gentleman from Texas [Mr. GONZALEZ]. I extend my thanks also to our colleagues, the gentleman from New York [Mr. SCHUMER] and the gentlewoman from New York [Ms. SLAUGHTER], who was just in the well. I thank them all for their help.

Directing resources of this act toward the education of homeless children is one of the most important things we can do as a Congress. We talk so very often about changing the cycle of poverty, trying to make sure that one generation does not follow another into poverty, into public assistance, and into dependency on the Federal Government. Those Members of Congress who have spent time with children who are homeless, children who essentially through no fault of their own ended up homeless, who have spent time, as I have and as members of our select committee have, in welfare hotels, in temporary shelters, in women's shelters, in men's shelters, and long-term shelters, and talked to these people, realize how very often they are a victim of circumstances. They did not choose to be homeless, they did not choose to live in one of these hotels that is dangerous to themselves and dangerous to their children. You listen to their frightened stories of trying to get up, as the gentlewoman from New York [Ms. SLAUGHTER] just pointed out, a couple of hours early to try to instruct their children on what buses to take to go to their school, and you realize so very quickly the dignity and courage of these people who find themselves in these circumstances.

We have listened to mothers and fathers, to steelworkers who were thrown out of work, to farmers who lost their jobs on somebody else's farm. We have heard them talk about trying to find a quiet place in a shelter where their child could study, because they said, "When we had a home, we had rules, and our rules were that our children studied every night, and they went to bed by 9 o'clock." But in a shelter, the lights are still on, there is chaos, and they are unable to find a place to study. But they want their children to do well, and they used to have a home. Now they do not. They do not have a home because the jobs that they had disappeared from underneath them, and now they find themselves trapped in this cycle. But what they clearly tell us as Members of Congress is that they want their children to continue to get an education.

I have followed some of these children from the times they testified in front of our committee. Some of them are doing amazingly well. Some of them have found permanent homes with their families. Others continue in the chaotic cycle of homelessness, and they have been unable to function, to go to school, to participate with their peers, to stay at grade level, and like some 40 to 50 percent of these children, they simply are not enrolled in school on a regular basis.

Through the hard work of the Committee on Education and Labor and the Committee on Banking, Housing, and Urban Affairs, we have been able to insert in the McKinney Act this provision to try to see if we could reduce the barriers. They are really artificial barriers that were very good for the bureaucrats but very bad for children that wanted an education. We have tried to get rid of those barriers and to see that we have an opportunity to give those children a chance, a place to study, a chance to stay in school and to participate. We wanted to see whether or not we could get them to schools that are close to the shelters and to see that they were not moved out of a school every time they moved to a different shelter.

□ 1400

I know America's image of the homeless is different. They say that America is tired of the homeless, they are tired of being panhandled on the street, they are tired of seeing people on the grates. But let me tell Members, vast majorities of these people did not choose to be there and do not want to remain there. If I could describe, if we had more time, the cycle of bureaucratic redtape, of neglect, that caused them to spin around in this chaos, it is just a tragic situation.

Mr. Speaker, I want to thank the chairman and his committee for all of their work, the gentlewoman from New Jersey [Mrs. ROUKEMA] for her efforts on behalf of this program, and the gentlewoman from New York [Ms. SLAUGHTER], who was just absolutely tenacious in making sure that this bill, when we reauthorized it, addressed the plight of homeless children who desire and need an education.

Mr. DREIER of California. I rise in reluctant support of H.R. 3789, the McKinney Homeless Act, because we need to continue with some response to fighting this national tragedy. However, I am concerned that H.R. 3789 is an inadequate response that merely continues our unsuccessful efforts to mitigate homelessness. Specifically, I have four concerns with H.R. 3789.

First, by authorizing the McKinney programs for more than 1 year, we are passing up an opportunity to reevaluate the extent of the homeless problem and the effectiveness of the programs contained in the legislation. The Census Bureau recently concluded a homeless population count that will provide more accurate information on the homeless. Not only will we know how many homeless persons there are on any given night, we will also know their socioeconomic characteristics.

Second, H.R. 3789 fails to adequately define the word homeless. This factor may be responsible for the differing estimates and explanations of homelessness.

Third, H.R. 3789 does not provide enough flexibility to local governments so that they can tailor the assistance to the specific needs of their community without cumbersome Federal regulations. Local governments are better able to identify needs and provide assistance and other important social services than the Federal Government.

Finally, H.R. 3789 does not acknowledge local factors that contribute to the homeless problem. States and localities can help by waiving or reducing real estate taxes for low-income housing projects; reducing regulatory constraints on the construction and rehabilitation of low-income housing; changing zoning laws to encourage the establishment of group homes; establishing cost-effective eviction assistance programs; and improving the coordination of benefit and service delivery to the homeless.

Although many of the programs in H.R. 3789 will be authorized through fiscal year 1994, I hope that the various committees of jurisdiction over the McKinney Act will keep an open mind about reevaluating these programs, particularly in light of new information that will be forthcoming from the Census Bureau.

Mr. WAXMAN. Mr. Speaker, I rise in strong support of H.R. 3789. I want to direct my remarks to title IV of the bill, which would reauthorize each of the four McKinney health care for the homeless programs.

These programs are: A categorical grant program for primary health and substance abuse treatment services; a block grant for community mental health services; a demonstration program for mental health services; and a demonstration program of alcohol and drug abuse treatment services.

These programs were first enacted in 1987 at the urging of our late colleague, Mickey Leland. I think he would have been especially heartened to learn of the success that the categorical grant program has had in making primary health and substance abuse services available to the homeless. Last year, 109 grantees operating in 43 States delivered services to nearly 365,000 homeless. Most if not all of these individuals would not have access to these primary and substance abuse services if the McKinney programs were not operating; instead, they would eventually find their way to hospital emergency rooms, at much greater expense.

What this program needs now is legislative stability. The bill before us today would reauthorize the program for the fiscal years 1992, 1993, and 1994 at such sums as may be necessary. The bill would also waive the general requirement that grantees and their providers participate in Medicaid with respect to entities like the Los Angeles Free Clinic that do not charge any patients for their services. Finally, the bill would raise the fiscal year 1991 authorization level from the current $66.2 million to $70 million.

The bill would also reauthorize the mental health block grant for services to the chronically mentally ill homeless at $33 million in fiscal year 1992. The two community demonstration authorities, one for mental health services, and one for alcohol and drug abuse treatment, would be reauthorized for fiscal year 1992 at such sums as are necessary.

These authorization levels differ from the levels reported by the Committee on Energy and Commerce on July 30. They were developed in consultation with the ranking minority member on the subcommittee, Mr. MADIGAN and have his support.

I urge my colleagues to suspend the rules and pass H.R. 3789.

Mr. SHAYS. Mr. Speaker, I would like to take this opportunity to commend the Members from both sides of the aisle for moving forward on H.R. 3789, the McKinney Homeless Assistance Amendments Act of 1990. The programs authorized under the McKinney Act are needed.

The Stewart B. McKinney Homeless Assistance Act of 1987 was the first comprehensive Federal law ever to deal with homelessness. In the 3 years since it passed, the McKinney Act has enhanced existing homeless programs and spurred a number of innovative new assistance programs nationwide.

H.R. 3789 authorizes a total of $391 million in fiscal year 1991. The bill includes money for housing, health care, community service and education programs for those who have nowhere to live. The bill also provides resources to care for the Nation's homeless veterans.

Homelessness can no longer be described as a plight experienced only by the mentally ill or those who face a difficult time integrating into society. As study after study has shown, this problem affects every sector of our society. If homelessness in this country is to be eliminated, however, Federal assistance must continue to be supplemented by traditional resoures such as churches, charity groups and local governments.

Stewart McKinney, my predecessor in the House of Representatives, cared deeply about the plight of the Nation's poor. I believe he would be grateful to know his work to alleviate homelessness continues in Congress.

Mr. WYLIE. Mr. Speaker, I rise in support of H.R. 3789, to reauthorize the Stewart B. McKinney Homeless Assistance Act of 1990.

Mr. Speaker, the chairman of our subcommittee, Mr. GONZALEZ, again deserves special recognition for his leadership on this legislation. Also, Mrs. ROUKEMA, the distinguished ranking member of the subcommittee deserves our admiration for the bipartisan cooperation in producing this bill. Finally, I want to recognize and congratulate the gentleman from Minnesota [Mr. VENTO] for his continued efforts on behalf of the McKinney Act. It clearly required a cooperative teamwork effort in order to develop an effective, legislative response in attacking homelessness.

H.R. 3789 provides that all McKinney Act homeless programs under the Banking Committee's jurisdiction would be reauthorized through fiscal year 1992. Funding for the section 8 moderate rehabilitation single room occupancy [SRO] program would be increased to $80 million. Supplemental assistance for facilities to assist the homeless would be authorized at $30 million. Supportive housing would be expanded to $150 million. The Emergency Shelter Grant Program would be authorized at $131 million. And the essential service cap, under which homeless prevention activities falls, would be increased from 20 percent to 30 percent. This provision will provide our local communities much needed flexibility to target the emergency shelter grant funds for necessary services to prevent homelessness.

Finally, the legislation creates a new initiative proposed by the administration. The legislation establishes a Shelter Plus Care Program. Shelter Plus Care authorizes HUD to provide rental assistance coupled with supportive services for those homeless individuals who suffer from chronic alcoholism or drug abuse or who are mentally ill. This is truly an innovative concept which addresses two special need areas which have not been served under the existing McKinney programs.

Mr. Speaker, for programs under the Banking Committee's jurisdiction, aggregate funding is well within the President's budget request. Our Banking Committee program total is $542 million, while the President's budget requested $551 million.

Mr. Speaker, I urge adoption of this legislation.

Mr. GOODLING. Mr. Speaker, I rise in support of these amendments. Although the Committee on Education and Labor did not hold formal proceedings on these provisions, we worked in a bipartisan fashion to formulate these amendments. The House Committee accepted our efforts as a package of amendments to programs under committee's jurisdiction and included them in the overall McKinney Act amendments. That committee's cooperation is appreciated.

The Education and Labor Committee focus has always been on access to quality programs. One group of children that consistently faces barriers to getting an education is the homeless. Homeless children deserve to have access to a free public educaiton as do the other children in this country.

One significant barrier to attendance is the imposition of a residency requirement in order to attend a local public school. By virtue of the fact that these children are homeless, they cannot comply with the residency requirement, yet of 20 States recently surveyed, a full 60 percent continue to require proof of residency. Other factors also serve as barriers to access for homeless children such as lack of transportation and inadequacy of record transfer.

What makes the outreach to homeless children even more difficult is our inability to accurately estimate the number of homeless children in the United States. As we work with this legislation, I hope that we can find a way to obtain more accurate information regarding the number and status of homeless children in this country. To rely on well-intentioned education professionals to secure this data, may not be the most efficient means. The Department of Education estimates that there are 274,000 homeless schoolage children, 28 percent of whom do not attend school regularly. The homeless advocates believe that there are almost twice as many—500,000—with half not attending school on a regular basis. Regardless of the number, these statistics are cause for concern and demonstrate our need for better information.

As a nation, we can ill afford to allow a whole segment of our young children to go uneducated. As our demographics point out, we need every available individual, well equipped to enter the workplace over the next few decades, if we expect to remain competitive in the world market. These children face multiple challenges—poverty, poor health, and lack of medical attention, hunger, lack of parental support—in addition to their homelessness. If we can provide these children with access to public education, they may also gain access to services that will enable them to attack these additional barriers.

These amendments to the McKinney Act are an attempt to address the problems we see in the current law and further focus the resources available to providing our homeless children a chance to receive the education they deserve. These children are among our most needy.

In addition, these amendments contain provisions that address some concerns in the Community Services Block Grant Program and the programs operated under the Job Training Partnership Act, including the Job Corps. I support these efforts as well. One concern I do have though, was raised by one of my colleagues on the Education and Labor Committee. The amendments to the Job Corps allowing centers to serve homeless individuals and their families contained in this bill, are also contained in amendments that the committee considered to the Job Training Partnership Act. At that time the issue of what constituted a "family" was discussed. Language was included in the committee report which clarified the intent of the amendments with respect to that term. Unfortunately similar language does not accompany this bill. I am hopeful that before we send a bill to the President, we are able to resolve this problem so that there is no question as to our intent.

Again, I support these amendments, and encourage my colleagues to do the same.

Mr. RANGEL. Mr. Speaker, I rise in strong support of H.R. 3789, Stewart B. McKinney Homeless Assistance Amendments Act of 1990. As the report of the House Committee on Energy and Commerce on the bill makes clear: "Homeless men are sicker than domiciled men, homeless women are sicker than domiciled women, homeless children sicker than domiciled children. Among the many good reasons to do something about the problem of homelessness is that homelessness makes people ill."

H.R. 3789 was considered by the House Committees on Banking, Finance and Urban

Affairs and the Committee on Energy and Commerce. The bill was also within the jurisdiction of the Committee on Education and Labor and the Committee on Veterans' Affairs. The version of H.R. 3789 we consider today on the suspension calendar is a compromise among the four committees of jurisdiction. As the chairman of the Select Committee on Narcotics, I am particularly supportive of these programs designed to help homeless persons with substance abuse problems.

The bill authorizes a total of $391 million in fiscal year 1991 and $398 million in fiscal year 1992 for housing assistance programs for the homeless. Title III of the bill authorizes such sums as necessary in fiscal years 1991 and 1992 for a Shelter Plus Care Program to provide rental housing assistance, in connection with supportive services, to homeless individuals who are seriously mentally ill or have chronic problems with alcohol or other drugs.

Title IV of H.R. 3789 authorizes $70 million in fiscal year 1991 and such sums as may be necessary in fiscal years 1992 through 1994, for grants to community-based health care entities for providing the homeless with outpatient health care, outpatient health care, outpatient mental health services, outpatient drug and alcohol abuse services and case management services. The bill authorizes such sums as may be necessary in fiscal years 1991 and 1992 for demonstration projects to test innovative approaches for delivering alcohol and drug abuse treatment services to homeless individuals. The bill provides $33 million in fiscal year 1992 for mental health block grants.

Another important provision of the bill authorizes $13 million for fiscal year 1991, $14 million for fiscal year 1992, and $16 million for fiscal year 1993, for job training for homeless individuals. The nexus between unemployment and homelessness is so obvious that it scarcely needs comment. Any steps we can take to help people become and remain gainfully employed are well worth whatever their cost.

Mr. Speaker, the compassion of our late colleague Stewart Mckinney for the downtrodden was well known. He was also a valued member of the Select Committee on Narcotics Abuse and Control. Economic times right now are tough, but it would be a sad day for our society if, because of these difficulties, we failed to fund programs to help the homeless.

Mrs. ROUKEMA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Mazzoli). The question is on the motion offered by the gentleman from Texas [Mr. Gonzalez] that the House suspend the rules and pass the bill, H.R. 3789, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 3789, as amended, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

KOREAN WAR VETERANS MEMORIAL 38TH ANNIVERSARY COMMEMORATIVE COIN ACT

Mr. LEHMAN of California. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2737) to require the Secretary of the Treasury to mint a silver dollar coin in commemoration of the 38 anniversary of the ending of the Korean war and in honor of those who served, as amended.

The Clerk read as follows:

S. 2737

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Korean War Veterans Memorial Thirty-Eighth Anniversary Commemorative Coin Act".

SEC. 2. FINDINGS AND SENSE OF THE CONGRESS.

(a) Findings.—The Congress finds that—

(1) on June 25, 1950, the Republic of Korea was invaded by the North Korean Army,

(2) United States forces in a United Nations action defended South Korea and repelled the attackers,

(3) further aggression by the Chinese Communists was also repelled,

(4) an armistice was signed on July 27, 1953,

(5) American combat deaths totaled 33,629, and more than 8,000 remains are still unaccounted for,

(6) an additional several thousand nonbattle deaths occurred on or around the Korean peninsula,

(7) 103,284 Americans were wounded, with many disabled and handicapped,

(8) this war, waged under the United Nations aegis, halted communist aggression in Northeast Asia, preserved the human rights of 40 million people, and restored the territorial integrity of the Rpublic of Korea,

(9) the desire to memorialize American gratitude to the courageous men and women who served has led to the Korean War Veterans Memorial authorization,

(10) this memorial must be built by private donations, and

(11) the moneys must be raised by the thirty-eighth anniversary of the ending of the war.

(b) Sense of the Congress.—It is the sense of the Congress—

(1) that the thirty-eighth anniversary of the ending of the Korean War should not go unrecognized,

(2) that the United States should recognize this anniversary and the veterans of the Korean War by minting and issuing a silver dollar coin; and

(3) that issuance of this coin will enable the Korean War Veterans Memorial to be built in the Nation's capital on schedule, with all donations to be deposited in the United States Treasury Memorial Fund.

SEC. 3. KOREAN WAR VETERANS COMMEMORATIVE COIN.

(a) Authorization.—Subject to subsection (b), the Secretary of the Treasury (hereinafter referred to as the "Secretary") shall mint and issue not more than 1,000,000 one-dollar silver coins to commemorate the thirty-eighth anniversary of the ending of the Korean War.

(b) Specifications.—Each silver coin minted under this Act shall—

(1) have a diameter of 1.500 inches; and

(2) be composed of 90 percent silver and 10 percent copper.

(c) Design.—The design of the coins minted in accordance with this section shall be symbolic of the Korea War Veterans' heroic service. Each coin shall bear a designation of the value of the coin, an inscription of the year "1953-1991", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum". The design for the coins authorized by this Act shall be selected by the Secretary after consultation with the Korean War Veterans Memorial Advisory Board and the American Battle Monuments Commission (hereinafter referred to as the "Advisory Board" and the "Commission", respectively).

(d) Numismatic Items.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this Act shall be cMonuments Commission (hereinafter referred to as the "Advisory Board" and the "Commission", respectively).

(d) Numismatic Items.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

(e) Legal Tender.—The coins referred to in subsection (a) shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 4. SOURCES OF BULLION.

The Secretary shall obtain silonsidered to be numismatic items.

(e) Legal Tender.—The coins referred to in subsection (a) shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 4. SOURCES OF BULLION.

The Secretary shall obtain silver for minting coins under this Act only from stockpiles establishes under the Strategic and Critical Materials Stock Piling Act.

SEC. 5. MINTING AND ISSUANCE OF COINS.

(a) Uncirculated and Proof Qualities of Coins.—Coins minted under this Act may be issued in uncirculated and proof qualities, except that only one facility of the United States Mint may be used to strike each quality of coins.

(b) Commencement of Issuance.—The Secretary may issue the coins minted under this Act beginning on January 1, 1991.

(c) Termination of Authority.—Coins may not be minted under this Act after December 31, 1991.

SEC. 6. SALE OF COINS.

(a) In General.—The Secretary shall sell the coins minted under this Act at a price equal to the face value, plus the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) Surcharges.—Sales of coins minted under this Act shall include a surcharge of $7 for each one-dollar coin.

(c) Bulk Sales.—The Secretary shall make any bulk sales of the coins minted under this Act at a reasonable discount to reflect the lower costs of such sales.

(d) Prepaid Orders.—The Secretary shall accept prepaid orders for the coins minted under this Act prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount to reflect the benefit of payment.

SEC. 7. FINANCIAL ASSURANCES.

(a) No Net Cost to Government.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the Federal Government.

(b) Payment for Coins.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; and

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, or the Resolution Trust Corporation.

SEC. 8. USE OF SURCHARGES.

(a) Disposition of Surcharges.—Surcharges received from the sale of coins minted under this Act shall be deposited in the Korean War Veterans Memorial Fund in the United States Treasury.

(b) Use of Surcharges.—

(1) Construction.—All surcharges collected shall be available to the Commission—

(A) to establish and erect the Korean War Veterans Memorial in the Nation's capital to honor those who served;

(B) to make the donation required by section 8(b) of Public Law 99-652; and

(C) to make the deposit described in section 3(c) of Public Law 99-572.

Any surcharges in excess of the amounts needed for the purposes of this paragraph shall be used as provided in paragraphs (2) and (3).

(2) Maintenance and perpetual care.—Excess funds above the funds required for paragraph (1) shall be available to provide maintenance and perpetual care for the memorial. Any additional excess funds shall be used to establish interpretive centers and to disseminate information.

(3) National park service funds.—Any remaining excess funds shall be donated to the National Park Service for maintenance of memorials under its jurisdiction and authorized by Congress during the 20th century relating to the commemoration of military conflicts in which the United States was involved.

(c) Audit.—The Comptroller General of the United States shall have the right to examine the books, records, documents, and other data of the Commission relating to the expenditure of amounts paid under subsection (b).

SEC. 9. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) In General.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) Equal Employment Opportunity.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 10. COINAGE PROFIT FUND.

(a) Deposits.—All amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund.

(b) Payments.—The Secretary shall pay the amounts authorized under section 8 from the coinage profit fund.

(c) Expenditures.—The Secretary shall charge the coinage profit fund with all expenditures under this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. HILER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. Lehman] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. Hiler] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Lehman].

Mr. LEHMAN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill, S. 2737, which was passed by the Senate on July 27, 1990, authorizes the minting of a silver coin to commemorate the 38th anniversary of the Korean war and those who served in that war. A few essential changes have been made to the Senate passed version of S. 2737 to correct a number of drafting errors, as well as to make the bill conform to other recent commemorative coinage legislation. Surcharges raised from the sale of coins authorized by this act would go into the Korean War Memorial fund which will be used to finance the completion of the Korean War Memorial.

Fundraising for the Korean War Memorial, which was authorized in 1986, has yielded half the amount required to begin construction. The 5-year authorization period for funding the memorial ends in 1991. Sponsors of this legislation hope that sales of this coin will supply the rest of the funds needed to begin construction of this important memorial.

On a cautionary note I feel I must remind the House that two other commemorative coin programs for 1991 have already been approved by the Congress. One program will celebrate the 50th anniversary of Mount Rushmore and the other will celebrate the 50th anniversary of the USO. In hearings before the Consumer Affairs and Coinage Subcommittee earlier in this Congress both the mint and the coin collecting community testified that the commemorative coin market can support only one commemorative coin program per year. The limited success of recent commemorative programs lends credence to this view.

Commemorative programs have up to this point been limited to one per year. Even with this limitation, recent commemorative programs with such seemingly broad appeal as the bicentennial of the Constitution, the bicentennial of Congress, the 1988 Olympics, and the centennial of the birth of Dwight D. Eisenhower, have not met expectations in terms of sales.

With the passage of S. 2737, for the first time in recent history there would be not just one but three commemorative coin programs for a single year. I have expressed my fear that we could endanger the issuance of commemorative coins by conducting programs which would not operate at a profit and would be produced at the taxpayer's expense.

I note that the Korean War Memorial will be a great and appropriate tribute to those who served in Korea. And with 280 cosponsors of the House companion, it seems clearly the will of the House that this bill become law. However, if we continue to rely on congressionally approved coinage programs to fund the foundations, memorials, and institutions that we are increasingly being requested to support, I fear we will do so at the taxpayers expense.

That is why for this issue and from the USO coin we are authorized 1 coin in a quantity of 1 million. This unified nature of the issue should alleviate fears of oversupplying the market.

Mr. Hiler and I have introduced a bill, H.R. 5408, which would, among other things, provide a more uniform method for selecting commemorative coin programs. This bill, approved by the subcommittee, and now before the full Banking Committee, would go a long way toward helping the subcommittee and Congress handle the onslaught of commemorative legislation that we face. In addition it would go further to guarantee that these programs not operate at any cost to the taxpayer.

This bill is supported by the Amerian Legion, the VFW, the DAV and other Veterans organizations.

Mr. Speaker, I reserve the balance of my time.

Mr. HILER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 5053, the Korean War Veterans Memorial Commemorative Coin Act. I would like to commend the bill's chief author, Congressman Parris, for the fine work he has done on this legislation and his efforts to comply with the subcommittee rules for commemorative coin legislation. I would like to also commend subcommittee Chairman Lehman and full committee Chairman Gonzalez for their work in bringing this legislation to the House floor, despite certain reservations.

This legislation will require the minting of a limited edition silver coin in order to complete the funding of the Korean War Veterans Memorial.

Under its congressional authorization, the Korean War Memorial must be fully funded by the end of calendar year 1991. The commemorative coin issue we authorize in this legislation will provide the final $7 million in funds required to begin construction of the Korean Memorial and appropriately honor our heroic Korean war veterans.

Today, we are calling up H.R. 5053 and then substituting the provisions of the Senate passed bill, S. 2737 with minor technical amendments. I would like to briefly outline some of the key provisions of the legislation. Section 3 of the bill authorizes the U.S. Mint to issue not more than 1 million silver coins. The designs on these coins shall be symbolic of the heroic service of Korean war veterans.

Section 5 of the bill authorizes the coins to be minted during the 1991 calendar year.

Section 6 of the bill places a $7 surcharge on each of the coins.

Section 7 requires that the coins be minted at no net cost to the Government.

Section 8 provide that the proceeds from surcharges be deposited in the Korean War Veterans Memorial Fund in the U.S. Treasury.

In addition, I would like to briefly address the concerns of the Mint regarding this legislation. The Mint is concerned that during calendar year 1991 there will be several competing coin programs. The Korean coin, like the USO coin we authorized earlier this year is somewhat of a test case to determine the marketability of limited edition coin issues. I am hopeful that due to the limited availability of the Korean coin that it will be a very popular coin and sell out relatively quickly. In examining the statistics of the coin programs we have authorized during the last several years, virtually all of them sold at least 1 million silver coins. It appears that the silver coin is generally the most popular coin in our commemorative issue due to the fact that it is a relatively low cost precious metal. Therefore, I am highly optimistic concerning the success of the Korean War Memorial silver coins.

Finally, I would be remiss if I did not point out the heroic deeds of our colleague, Congressman Stan Parris, the chief sponsor of this legislation. Stan Parris was a decorated fighter pilot during the Korean conflict. Stan was awarded the Distinguished Flying Cross with cluster and United States and Korean Presidential citations for valor. He was also awarded a Purple Heart. I believe that this legislation could have no better sponsor and the actions of Congressman Parris in defense of our country signify why we should be moving to expeditiously build a Korean War Memorial.

In closing, I want to urge my colleagues to join me in supporting H.R. 5053, the Korean War Memorial Commemorative Coin Act. H.R. 5053 will permit the beginning of construction of the Korean War Memorial to honor the courageous veterans of that war. I call upon the House to suspend the rules and promptly pass this important legislation.

Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. Parris].

☐ 1410

Mr. PARRIS. Mr. Speaker, I thank the gentleman very much for yielding time and for his most generous remarks.

Mr. Speaker, 5 years ago, in May 1985, I, along with others of my colleagues, introduced legislation to authorize the construction of a memorial in our Nation's Capital to the 5.7 million American servicemen and servicewomen and their families who sacrificed so much during that brutal 38-month conflict known in history as the Korean war. In that conflict, 54,000 Americans gave their lives. These sacrifices were made in defense of the principles which form the very foundation upon which this great Nation is built—freedom and self-determination. The bill, which more than 200 of our colleagues cosponsored, was enacted in 1986.

Since that time, a great deal has occurred. The American Battle Monuments Commission, the Federal agency charged with the responsibility of building the memorial, has collected in excess of $6 million from veterans' groups, private corporations, and individuals for the design and construction of the memorial. The President's Korean War Memorial Advisory Board has selected Ash Grove, adjacent to the Lincoln Memorial, as the site for the memorial, and has determined the actual design of the memorial as well.

Unfortunately, we are still $5 million short of the funds required to pay for design, construction, and perpetual maintenance. The key point here is that our authorization to build the memorial will expire in July of next year unless that $5 million is obtained by then.

That is why I, along with Charlie Rangel, Sonny Montgomery, Helen Delich Bentley, and John Paul Hammerschmidt, introduced H.R. 5053, the Korean War Veterans Memorial 38th Anniversary Commemorative Coin Act. Senate bill S. 2737 has been substituted for that bill for technical reasons. The bill would authorize the minting of 1 million silver-dollar commemorative coins at no cost to the Federal Government. Given the interest in this project demonstrated by the veterans' community in general and the Korean war veterans' community in particular, creation of the coin is all but guaranteed to raise $7 million for the memorial by July of 1991—enough to allow construction to go forward, to return to the U.S. Treasury $1 million appropriated for the memorial, and to pay for the perpetual maintenance of the memorial.

The number of the House version of this bill, which was introduced on Flag Day 1990, denotes the beginning and ending years of the Korean war, 1950-53, and has been cosponsored by more than 280 of our colleagues—including the chairman and ranking member, as well as 28 other members of the Banking Committee. We all know how difficult it is to get a large number of cosponsors around here; but to get more than 250 within only the first 3 working weeks after introduction is quite simply unheard of.

I believe that the strong expression of support which this concept has received on Capitol Hill is a clear indication of the potential for success of the coin itself.

The House should also take note of the fact that this legislation was cosponsored by 61 Members of the Senate and passed that body unanimously.

Mr. Speaker, I would like to take just a moment to express my sincere gratitude to Chairman Gonzalez and our ranking member, Mr. Wylie for their assistance in bringing this bill to the floor. And to thank the chairman of the subcommittee, Mr. Lehman, and the vice chairman, Mr. Hiler, for their thoughtful consideration and cooperation in this matter.

This is a great day of recognition for all Korean war veterans, and a very important event in the effort to ensure the completion of the Korean War Veterans Memorial.

Mr. HILER. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. Solomon].

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, today I rise in support of H.R. 5053, the Korean War Veterans Memorial 38th Anniversary Commemorative Coin Act. I would say to both gentlemen that this is certainly not a frivolous act supported by Members.

The money expected from this project will go to one of the worthiest causes I've ever seen in 12 years of Congress—establishment of a memorial to those who served, fought, and died in our forgotten war in Korea.

I say forgotten war, because the Korean war has always seemed lost between the popular Second World War and the unpopular Vietnam war.

It is not that the World War and the Vietnam war aren't worthy of our attention, because they are.

But the veterans who returned from the hedgerows and bombed out cities of Europe and the beaches and jungles of the Pacific came home to the ticker-tape parades of heroes.

Our Vietnam vets were first ignored, but more recently we've been giving overdue recognition to our Vietnam vets and more resources to their unique problems.

We even built an impressive memorial to them near the Washington Monument, a memorial costing millions of dollars and visited by millions of tourists every year.

And that's the way it should be.

But there's nothing like that for our Korean war veterans.

If you toured the monuments of Washington, if you checked out the statues and memorials in town squares and village squares across this country, you'd hardly know there was a Korean war at all.

You'd hardly know that as many Americans died in 3 years in Korea as died in more than 10 years in Vietnam.

Mr. Speaker, I was in the Marine Corps during that period.

And many of us who came of age in the late forties and early fifties remember that 40 years ago, on June 25, 1950, North Korean troops crossed the 38th parallel and attacked their neighbor to the south.

Mr. Speaker, it was a cynical, flagrant act of aggression, and my hero, President Harry Truman, whose picture was the first I hung on my office wall when I entered Congress responded by committing U.S. troops.

Those American troops were unprepared, but they did their job.

And because of them, South Korea is free today.

And so is the rest of the world, my colleagues.

Because in Korea, for the first time, Communism was stopped dead in its tracks.

Communism's aura of invincibility was shattered and despite some inroads of aggression here and there, Communism never really recovered.

My colleagues, Communism is being swept into the dustbin of history because the Communist empire began to crumble in Korea.

And Mr. Speaker, it is about time we erect a memorial to the American heros who made it possible.

And if you'll allow me a personal note, one of the worst side-effects of this body's budget mess is that I had to pass up an invitation from the "Chosin Few," survivors of the withdrawal from the Chosin Reservoir.

That action ranks with Saratoga, Gettysburg, Argonne Forest, Normandy, Iwo Jima, and other glorious chapters in the military history of this country.

Mr. Speaker, four years ago, President Reagan signed Public Law 99-572, authorizing the Korean War Veterans Memorial and creating a Presidential advisory board to recommend a site and design, and to monitor the funding.

So far, over 120 thousand Americans have contributed over $6 million.

Most of that has come from veterans and from grass roots organizations and from generous business contributions.

That's over half the amount needed to construct and maintain this memorial.

When President Bush signs this bill into law, it will help to raise, along with continual contributions from the private sections, enough funds to make the Korean War Memorial a reality.

The U.S. Treasury and U.S. Mint will issue 1 million silver commemorative dollars. At no cost to the taxpayer.

And any amount raised in excess will go to repay the U.S. Treasury for funds appropriated in 1986, to disseminate information at the site, and to establish a perpetual maintenance fund for the memorial.

Mr. Speaker, I want to commend Stan Parris, a great Korean war hero, for his leadership role on this bill, as well as Mr. Lehman of California and Mr. Hiler, and I urge the support of all members.

This costs the taxpayers nothing.

This bill will allow us to say "forgotten no longer" to our Korean war veterans, and to the families of that war's 55,000 dead, who gave the ultimate sacrifice for their country.

I urge unanimous support for the bill.

Mr. HILER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LEHMAN of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Mazzoli). The question is on the motion offered by the gentleman from California [Mr. Lehman] that the House suspend the rules and pass the Senate bill, S. 2737, as amended.

The question was taken.

Mr. HILER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. pursuant to clause 5 of rule I, and the Chair's earlier announcement, further proceedings on this motion will be postponed.

☐ 1420

GENERAL LEAVE

Mr. LEHMAN of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2737, the Senate bill just considered.

The SPEAKER pro tempore (Mr. Mazzoli). Is there objection to the request of the gentleman from California?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

Office of the Clerk,
House of Representatives,
Washington, DC, October 9, 1990.

Hon. Thomas S. Foley,
The Speaker, House of Representatives,
Washington, DC.

Dear Mr. Speaker: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received at 12:22 p.m. on Tuesday, October 9, 1990 the following message from the Secretary of the Senate: That the Senate agreed to the Conference Report on H. Con. Res. 310.

With great respect, I am
Sincerely yours,
Donnald K. Anderson,
Clerk, House of Representatives.

PUERTO RICO SELF-DETERMINATION ACT

Mr. de LUGO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4765) to enable the people of Puerto Rico to exercise self-determination, as amended.

The Clerk read as follows:

H.R. 4765

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Puerto Rico Self-Determination Act".

SEC. 2. REFERENDUM ON STATUS OPTIONS.

(a) There are hereby authorized to be appropriated $13,500,000 to the Executive Office of the President for grants to the State Elections Commission of Puerto Rico for a referendum which is to be held on September 16, 1991, or on a later date in 1991 agreed to by a majority of the members of the Dialogue Committee on the Status of Puerto Rico (hereafter in this Act referred to as the "Dialogue Committee"), as established by executive order of the Governor of Puerto Rico on June 29, 1989, on the following question:

Which political status do you favor for the Commonwealth of Puerto Rico on terms to be consented to by the people of Puerto Rico and the Congress of the United States?

independence;
statehood;
a new commonwealth relationship; or
none of the above statuses.

(b)(1) Of the amount authorized to be appropriated by subsection (a), the State Elections Commission is authorized to—

(A) expend $7,500,000 for costs of conducting the referendum, including $1,500,000 to facilitate the participation of Puerto Ricans not resident in Puerto Rico in the referendum as authorized pursuant to section 3(c); and

(B) disburse $6,000,000 to the Dialogue Committee to be expended for the purpose of informing the people of Puerto Rico regarding the three status options, such amount to be equally divided among Puerto Rico's principal parties.

(2) Funds appropriated under paragraph (1) shall be made available for the necessary

expenses, including the travel and transportation of persons, services as authorized by section 3109 of title 5, United States Code, communications, utilities, printing and reproduction, supplies and materials and other related services, and administrative costs.

(3) To be eligible to receive payments under paragraph (1)(B), a recipient shall—

(A) agree not to incur expenses related to the referendum in excess of amounts established by the electoral laws of Puerto Rico for expenditures by the parties in general elections as of September 19, 1990;

(B) agree to keep complete records as to receipts and expenditures related to informing the people of Puerto Rico regarding the status question and furnish to the State Elections Commission such information as it may request; and

(C) agree to financial audits and examinations of such funds by the Comptroller General of the United States.

(4) Under such regulations as the Comptroller General of the United States shall prescribe, the Comptroller General shall audit and examine transactions made with funds made available under this subsection.

(c) The referendum shall be conducted pursuant to the laws of Puerto Rico.

(d) Those Federal laws that apply to the election of the Resident Commissioner of Puerto Rico shall, if appropriate, also apply to the referendum. Any reference in such Federal laws to elections shall be considered, where appropriate, to be a reference to the referendum, and any reference in such laws to candidates for office shall be considered, where appropriate, to be a reference to the political status options under the referendum.

SEC. 3. NONRESIDENT PUERTO RICANS.

(a) The Congress finds that—

(1) a substantial number of the Puerto Rican people reside outside of Puerto Rico; and

(2) the Government of Puerto Rico has the authority to enable some Puerto Ricans who are United States citizens residing in places other than Puerto Rico to vote in the referendum.

(b) The Congress hereby authorizes the government of Puerto Rico, subject to the plan referred to in subsection (c), to enable Puerto Ricans not resident in Puerto Rico to register and vote in the referendum without being present in Puerto Rico. Such persons may include those born in Puerto Rico or those who have at least one parent who was born in Puerto Rico.

(c) The Dialogue Committee is authorized to submit to the Legislative Assembly of Puerto Rico for its ratification a plan agreed to by a majority of the members of such committee to accomplish the purposes authorized by subsection (b). Once so ratified, such plan shall have the force of law.

(d) In the event that any provision of this Act is held invalid, or the Dialogue Committee does not submit a plan, or the Legislative Assembly of Puerto Rico fails to ratify such plan not later than one hundred and twenty days before the referendum, it is the intent of Congress that the remaining provisions of this Act shall continue in full force and effect.

SEC. 4. DEVELOPMENT OF LEGISLATION.

(a) If the referendum results in a majority for one of the three status options, Members of the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in full consultation with representatives of each of Puerto Rico's principal parties, the President of the United States, and other interested persons as may be appropriate, shall draft legislation to implement the selected status addressing the aspects of that status set forth in the report which accompanies the bill, H.R. 4765 (H. Rept. 101-790, Part 1). In drafting the legislation provided for in this section, the governing principles of each status option shall be treated equally, consistent with the constitutional authority of the United States Congress.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the conduct of the consultations.

SEC. 5. CONSIDERATION OF LEGISLATION.

(a) Not later than March 6, 1992, the Chairman of the Committee on Energy and Natural Resources shall introduce the legislation provided for in section 4(a) in the United States Senate and the Chairman of the Committee on Interior and Insular Affairs shall introduce such legislation in the United States House of Representatives.

(b) At any time after the close of the one hundred and eightieth-calendar day beginning after the date of introduction of such legislation, it shall be in order for any Member of the United States House of Representatives or the United States Senate to move to discharge any committee of that House from further consideration of the legislation. A motion to discharge shall be highly privileged, and debate thereon shall be limited to not more than two hours, to be divided equally between those supporting and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(c) At any time after the close of the fourteenth legislative day beginning after the last committee has reported or been discharged from further consideration of such legislation, it shall be in order for any Member of the United States House of Representatives or the United States Senate to move to proceed to the immediate consideration of the legislation (such motion not being debatable), and such motion is hereby made of high privilege. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(d) Enactment of this section constitutes a commitment that the United States Congress will vote on legislation establishing appropriate mechanisms and procedures to implement the political status selected by the people of Puerto Rico.

SEC. 6. RATIFYING VOTE ON LEGISLATION.

(a) If enacted, the legislation drafted pursuant to section 4(a) as approved by the Congress shall be submitted to the people of Puerto Rico for ratification according to the laws of Puerto Rico not later than sixty days after enactment. The legislation shall take effect in accordance with its terms upon approval by the people of Puerto Rico in the ratification vote.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the conduct of the ratification vote provided for by this section.

SEC. 7. RECOMMENDATIONS, IF NECESSARY.

If the referendum provided for by section 2 does not result in a majority for one of the three status options or if the legislation drafted pursuant to this Act does not come into effect, Members of the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in full consultation with representatives of each of the principal parties of Puerto Rico, the President of the United States, and other interested persons as may be appropriate, shall make such recommendations as may be appropriate at that time to facilitate the exercise of self-determination by the people of Puerto Rico.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from the Virgin Islands [Mr. de Lugo] will be recognized for 20 minutes, and the gentleman from California [Mr. Lagomarsino] will be recognized for 20 minutes.

The Chair recognizes the gentleman from the Virgin Islands [Mr. de Lugo].

GENERAL LEAVE

Mr. DE LUGO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on H.R. 4765, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from the Virgin Islands?

There was no objection.

Mr. DE LUGO. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, the intense debate in Puerto Rico on its future political status has effectively prevented action on many very serious problems facing our fellow Americans there for many years.

The leader of Puerto Rico's status-based political parties reached an historic agreement last year to end this debate. It asks for the Congress to commit to act on a status selected in a referendum.

As chairman of the Insular and International Affairs Subcommittee, I supported the request. So did President Bush who endorsed it before a joint session.

A bill acted upon by Senate committees is, however, far different from what had been anticipated. S. 712 proposes to automatically implement the status that wins a referendum. Our bill does not.

In supporting our bill, H.R. 4765, the Washington Post said that S. 712 was so skewed that it would be better to enact no bill at all.

That would be a tragedy for the United States as well as Puerto Rico.

Speaker Foley and other Members expressed serious concerns about S. 712.

When it became clear that S. 712 was in serious trouble, Puerto Rico's leaders agreed with us on alternative legislation that would more accurately reflect their request for the Congress to act on a status selected in the referendum.

It became the bill before the House today, H.R. 4765. I introduced it with Insular and International Affairs Subcommittee ranking Republican Bob Lagomarsino; Interior and Insular Affairs Committee Chairman Mo Udall and ranking Republican Don Young; Rules Committee Chairman Joe Moakley; and ranking Republican Jimmy Quillen; Resident Commissioner Jaime Fuster; and other Members and with the expressed support of Speaker Foley and minority leader Michel.

H.R. 4765 would authorize a referendum on Puerto Rico's future relationship with the United States and commit to development and consideration of legislation on the results.

The substitute before the House was worked out in months of negotiations with the White House and Puerto Rico's parties.

As I have indicated, the purpose of the bill is to provide a process for the development or change of Puerto Rico's political status. The objectives are to enable the Puerto Rican people to determine the political status that they want for Puerto Rico's future; to commit the Congress to respond to their decision; and to provide for further mutual consideration of this matter if the process provided for by the bill does not result in the development or change of Puerto Rico's current status.

The bill would: Authorize $13.5 million for a referendum in Puerto Rico in 1991 to determine whether the Puerto Rican people want to enter into a new commonwealth relationship with the United States, statehood, independence, or none of these status options; establish a process for the development of legislation to implement a status option selected in this referendum and for the expedited consideration of that legislation in 1992; provide that the implementing legislation would take effect if it is both enacted into law and approved in a referendum in Puerto Rico; and require the development of further recommendations to enable the Puerto Rican people to exercise self-determination if there is no majority in the first referendum or if the implementing legislation is not approved by the Congress or the Puerto Rican people.

Let me explain the background and the need for this legislation.

CURRENT SITUATION

The Commonwealth of Puerto Rico is a United States insular (island) area in the Caribbean. It consists of the main island of Puerto Rico and the few small islands surrounding that island. It has a population of some 3.6 million people.

Puerto Rico exercises self-governing authority similar to that of a State. Its people are U.S. citizens who are represented before the Federal Government by a Resident Commissioner—who has all the powers and privileges of a Member of the House—including voting in committees—other than a vote on the floor of the House. The people of Puerto Rico do not vote in presidential elections—although many participate in the nominating process of the two national political parties.

Puerto Rico's economy is closely linked with the United States' economy. In 1989, 87 percent of Puerto Rico's $16.4 billion in exports were shipped to the United States market and 67 percent of Puerto Rico's $14 billion in imports were from the United States.

Approximately 60 percent of the population still lives below the Federal poverty level. The islands' economy has, however, grown dramatically since World War II as it has shifted from an agrarian base to one based on manufacturing; trade; finance, insurance, and real estate; government; and tourism.

While per capital income has increased at a faster pace during this period than that of the Nation as a whole, it is still only about a third of the national average although it is high for the Caribbean Basin region. Unemployment, which is currently around 15 percent and has been higher in prior years, is over twice the national average.

Puerto Rico's Spanish heritage is important to its people who have assimilated native Indian as well as African influences into what has become a distinct culture. While the 1980 census indicates that 42 percent of the population can speak some English with varying degrees of proficiency, Spanish is the vernacular.

Health care has significantly improved in Puerto Rico in recent decades. Life expectancy is one of the highest in the world even though infant mortality rates are high compared to the United States.

There has also been noteworthy progress in education. This is especially true in the areas of higher education and the literacy rate. The high school graduation rate is lower than the national average, however.

Many Puerto Ricans have migrated to the States particularly because of the relative lack of opportunity in Puerto Rico. There are now some 2.5 million Puerto Ricans and their descendants living in places other than Puerto Rico. Currently, migration takes place in the two directions as Puerto Ricans move back and forth between Puerto Rico and the States.

Many Puerto Ricans have distinguished themselves in service to the Federal Government, including the Armed Forces.

The fundamental rights provided by the United States Constitution apply to Puerto Rico; but other provisions are not applicable. Most Federal laws, including program laws, apply in the same way that they apply to the States. There are, though, significant differences in the way Puerto Rico is treated under revenue and social program laws from the way that the States are treated.

TAX AND TRADE RELATIONSHIP

Federal income taxes are not collected on local-source income in Puerto Rico. Local individual income tax rates, however, are at rates even higher, in some cases, than Federal income tax rates. Aggregate income tax collections in Puerto Rico are, however, less as a percentage of income or gross product than aggregate income tax collections in the United States.

Additionally, the income of United States companies operating in Puerto Rico that meets certain criteria is effectively exempted from Federal tax liability by a credit intended to encourage investment. Much of the industrialization, financial development, and the relative prosperity of Puerto Rico is a result of this Federal investment incentive and a companion insular exemption from most local income taxes.

Federal excise taxes are imposed on insular products shipped to the States. Most of the excise tax collections along with Federal customs duties are rebated to the treasury of Puerto Rico. There is authority under current law for this rebate to apply to other Federal levies that might be applied to Puerto Rico.

Although Puerto Rico is within the customs territory of the United States, it has the authority under Federal law to impose special tariffs on coffee imports.

FEDERAL PROGRAMS

Puerto Rico participates in the Aid to Families With Dependent Children Program [AFDC]; but a cap limits the amount of assistance available to needy families. This cap also covers assistance to the aged, blind, and disabled, since the Supplemental Security Income [SSI] Program has not been extended to Puerto Rico. As a consequence, the needy aged, blind, and disabled in Puerto Rico receive approximately one-eleventh of the amount that they would receive if Puerto Rico were treated like a State in the SSI Program.

Another cap limits Medicaid payments to Puerto Rico. It, too, limits the amount of assistance available to the needy. Medicaid recipients in Puerto Rico receive approximately one-tenth of the amount of Federal assistance received by the medically needy in the States.

In one respect, Puerto Rico is also treated differently than a State under the Medicare Program. Medicare's prospective payment rate is primarily based on local—rather than national—hospitalization costs.

Puerto Rico was initially included in the Food Stamps Program; but it was taken out of that program by the Budget Reconciliation Act of 1981. It now receives a nutrition block grant funded at about three-fifths the amount that food stamps would provide.

There are also some differences in the application of education programs to Puerto Rico. The most significant effectively limits Elementary and Secondary Education Act grants to Puerto Rico to about three-fifths the amount that it would receive if it were threated like the States.

Significant Federal activities in Puerto Rico include the operation of a large naval station at Roosevelt Roads and maintenance of a large forest and a major historic site.

INITIAL U.S. POLICY

United States responsibilities in Puerto Rico began with an invasion during the Spanish-American War. The treaty that settled the war ceded Puerto Rico to the United States in 1898 and provided that Puerto Rico's future political status and the civil rights of its people would be determined by the Congress.

This assignment was consistent with the territorial clause of the Constitution which assigns the Congress the responsibility to make all needful rules and regulations regarding the Nation's territory.

The invasion was welcomed by many Puerto Ricans—who had a very low standard of living. They were initially encouraged by the commanding general's explanation that the United States had come to bestow the immunities and blessings of the liberal institutions of our Government.

The initial military administration of Puerto Rico that followed did not bestow these blessings. It was replaced with a civil government under an organic law enacted on April 12, 1900. Known as the Foraker Act, the law provided limited local participation in government, principally through the popular election of members of the lower house of a legislature.

The act also provided that Puerto Rico was to be represented in the United States by an elected Resident Commissioner. It established a Federal district court and extended Federal laws not locally inapplicable.

Among laws not extended to Puerto Rico were internal revenue laws. Federal levies on foreign articles imported into Puerto Rico and temporary levies on merchandise shipped between Puerto Rico and the United States were imposed, however, although the act provided that these collections were to be transferred to the local treasury.

POLITICAL STATUS DEFINED

The temporary duties on goods shipped between Puerto Rico and the States resulted in litigation which helped to clarify Puerto Rico's political status. A 1901 decision by the Supreme Court defined Puerto Rico to be an unincorporated territory.

The Court found that the uniformity clause of the Constitution did not prohibit the contested duties because Puerto Rico had not been incorporated into the United States by the 1898 treaty. It based this decision on a new doctrine that the full Constitution did not apply to a territory which was a possession—rather than a part—of the United States. The ruling held that the Congress' authority in such territories was limited by only the fundamental parts of the Constitution.

The opinion, in what is known as one of the Insular Cases, addressed what had by that time become a national controversy about the political status of the insular areas acquired around the turn of the century.

Predictably, Puerto Ricans were dissatisfied with the Foraker Act. Its provisions compared unfavorably with provisions of a charter of autonomy decreed by Spain for the governing of Puerto Rico in 1897 and with what was initially understood as the promise of American democracy.

These Federal policies rekindled a status debate that had its origins in the Spanish colonial era with movements for statehood and independence as well as insular autonomy.

ORGANIC ACT REVISED

The dissatisfaction with the Foraker Act led to the enactment of a new organic act on March 2, 1917. Known as the Jones Act, the law included a bill of rights, provided for a fully-elective legislative assembly, and granted U.S. citizenship; but it left executive and judicial power in the hands of Federal appointees.

The grant of citizenship persuaded some that the law had effectively incorporated Puerto Rico into the United States implicitly extending full constitutional rights. The Supreme Court held in 1922, however, that it had not.

In ruling that the sixth amendment rights to a jury trial did not apply to Puerto Rico, the Court expanded upon the incorporation doctrine first set forth in the earlier Insular Cases. The decision asserted that incorporation was an important step toward statehood and that the Congress clearly indicated when intending to take it. The opinion noted, however, that the Congress had not indicated this intent in the case of Puerto Rico.

Amendments to the Jones Act were made in succeeding years. The most notable came in 1947 when Puerto Ricans were authorized to elect their Governor.

EARLY STATUS INITIATIVES

The movements for statehood and independence continued to develop after the organic act was revised. They led to various proposals being made locally—as well as in Washington—for resolving Puerto Rico's ultimate political status. Popular dissatisfaction in Puerto Rico was also related to a Federal policy of Americanization as well as to the way that Puerto Rico was governed.

The elective governor amendment was a modest Federal response to these status initiatives supported by the island's Popular Democratic Party, which by then had come to dominate the legislative assembly. The party's leader, Luis Munoz Marin, became Puerto Rico's first elected Governor in 1948, campaigning on a platform that included seeking authorization for Puerto Rico to adopt its own constitution.

Munoz's proposal for a constitution was part of a larger plan for a status that he conceived of as a middle-ground between statehood and independence. It was promoted as a new type of state that would be bound to the Union by a mutual consent arrangement.

CONSTITUTION APPROVED

A law enacted on July 3, 1950, authorized a convention in Puerto Rico to draft a constitution for adoption in a referendum and approval by the Congress. "Adopted in the nature of a compact," the law's effectiveness was conditioned on its first being accepted by the people of Puerto Rico.

The constitution was to supersede those provisions of the organic act which organized the insular government—as opposed to those which defined the Federal-insular relationship. These later provisions were essentially to be continued as the Puerto Rican Federal Relations Act.

The 1950 law was overwhelmingly approved by the people of Puerto Rico in a 1951 referendum with the support of advocates of both an autonomous relationship with the United States and statehood. A constitution was then drafted by a convention in which independence supporters declined to participate. The constitution was adopted in a second referendum approved by the Congress with amendments in a law enacted on July 3, 1952.

The constitution established a government which was given the Spanish name of Estado Libre Asociado and the English name of Commonwealth. It took effect July 25, 1952, after the congressional amendments were accepted by the constitutional convention.

The phrase "Estado Libre Asociado" had been translated by the convention into English as "Commonwealth" so that it would not be literally translated as "Free Associated State." The purpose was to avoid any suggestion to the Congress that Puerto Rico intended to be a State of the Union. A literal translation of the name could also now, however, cause confusion because

it would suggest that Puerto Rico's status is one of free association.

STATUS IMPLICATIONS

The legislative histories of the 1950 and 1952 laws indicate that they were intended to grant full local self-government; but not, to, in the words of the reports on the 1950 law, change Puerto Rico's fundamental political, social, and economic relationship to the United States or in any way preclude a future determination by the Congress of Puerto Rico's ultimate political status.

The intent, therefore, was not to relinquish congressional authority to enact Federal policies for Puerto Rico nor to suggest that constitutional government was a step toward statehood or independence. Still, the constitutional development was represented in Puerto Rico as having established a new status since it was based on the consent of the people of Puerto Rico.

These representatives caused serious concern among independence and statehood supporters. Nevertheless, the Congress declared that the authorization for the constitution was a compact in approving the constitution and President Harry S. Truman asserted that the relationship was "based on mutual consent" in signing the 1952 law.

Puerto Rico was taken off the United Nations' list of non-self-governing territories in 1953 based on United States representatives that Puerto Rico was now self-governing under a compact that could only be amended by common consent. A general assembly resolution recognized that the people of Puerto Rico had effectively exercised their right of self-determination and had been invested with the attributes of political sovereignty which clearly identify the status of self-government attained as that of an autonomous political entity.

Years later, however, the United Nation's decolonization committee recognized the continuing right of the people of Puerto Rico to self-determination and called for the United States to transfer governing powers to them. The most recent decolonization committee resolution also generally took cognizance of the bill before us today by expressing support for the enactment by the United States of self-determination legislation for Puerto Rico.

The executive branch recognized the development of Puerto Rico's status that the constitution represented by replacing Department of Interior responsibility for the handling of Puerto Rico matters with executive Office of the President responsibility. This change in responsibility, however, did not clearly indicate the nature of the development in Puerto Rico's status.

Over the years, courts have made ambiguous and conflicting statements about the status implications of the constitution with some expressing a clearer view than others and some according it very different significance than others. These statements, in turn, have been given vastly different interpretations by advocates of the different statuses in Puerto Rico.

Any attempt to summarize these decisions is susceptible to oversimplification. Generally, however, among the wide range of opinions are many statements that Puerto Rico's independence from Federal control parallels that of the States and statements that Puerto Rico is no longer a territory in the constitutional sense. There are also, however, other statements suggesting that the constitution did not really change Puerto Rico's status and that commonwealth is a different kind of territory.

The Supreme Court has not, however, directly considered Puerto Rico's status since the constitution was adopted. It has, though, stated in various cases: that Puerto Rico's relationship to the United States is unique; that it is autonomous and sovereign over matters not ruled by the constitution in the way that a State is; and that the Congress retains its territorial clause power to treat Puerto Rico differently from the States, so long as it has a rational basis for doing so.

A fuller discussion of judicial branch conclusions as to the political status significance of the establishment of the commonwealth is found in a November 30, 1989, joint report to the Subcommittee on Insular and International Affairs by the General Accounting Office and the Congressional Research Service entitled "Puerto Rico: Information for Status Deliberations."

POST-CONSTITUTION INITIATIVES

Supporters of statehood and independence have consistently claimed that commonwealth did not end Puerto Rico's territorial and colonial status when they have had opportunities to do so. Independence supporters, for example, were reportedly denied the opportunity to protest the United Nations' action in 1953. Commonwealth advocates, for their part, have made repeated, unsuccessful attempts since 1952 to develop and clarify the relationship, as had been initially contemplated.

Legislation in 1959 sought to replace the Federal Relations Act with "Articles of Permanent Association" to clarify the concept of compact and transfer Federal powers to the Commonwealth. The Congress did not approve the legislation.

Legislation in 1963, based upon a strategy Gov. Munoz Marin worked out with President John F. Kennedy, would have established a commission to draft a compact of permanent union. The compact was to be submitted to a referendum in Puerto Rico along with proposals for statehood and independence.

The Congress did not accept this approach. Instead, it enacted Public Law 88-271, which established a joint Federal-commonwealth commission to simply study the United States-Puerto Rico relationship.

In its report, the Commission on the Status of Puerto Rico found that commonwealth, statehood, and independence were all equally valid and dignified status options. It held, though, that a change to either statehood or independence would require long-term transition measures to prevent serious dislocations in the economy.

The Commission also recommended that any change in Puerto Rico's status be undertaken consistent with the principles of mutual consent and self-determination and only after being initiated by the people of Puerto Rico. It said that a vote on status would be helpful and that joint advisory groups should be designated after such a vote to recommend appropriate implementation or transition measures.

In 1966, 10 bills providing for statehood were introduced with the bipartisan sponsorship in the House. Bills relating to statehood were also introduced in 1960 and 1982. None of these bills were acted upon.

THE 1967 REFERENDUM

The government of Puerto Rico called a status referendum in July 1967, as suggested by the Commission. The law calling for it required a simple majority vote to be conclusive.

Most independence advocates boycotted the vote. They cited reasons that included the referendum not being preceded by a transfer of powers from the United States; the Federal Government's control of and continued presence in Puerto Rico; and their perception that the insular government would manipulate the referendum in favor of commonwealth.

The statehood party also urged nonparticipation. One of its primary objections was that the referendum was based on the premise that commonwealth could be a permanent status which would suggest that it was not territorial in nature. They also complained about the fairness of the ballot.

A nonpartisan group led by Luis A. Ferre carried the statehood banner into the referendum. Former Governor Munoz led the campaign for perfecting commonwealth.

The result was a vote of slightly over 60 percent for commonwealth; 39 percent for statehood; and just less than 1 percent for independence.

Ferre became the first statehood advocate to be elected Governor the next year as candidate of the New Progressive Party after a split in the Popular Democratic Party. Along with President Richard M. Nixon, he later appointed an advisory group, as had been recommended by the Status Commission.

This group recommend that the presidential vote be extended to Puerto Rico if Puerto Ricans supported the proposal in a referendum. Commonwealth supporters in the legislative assembly, however, blocked it and the referendum was never held.

A commonwealth advocate, Rafael Hernandez Colon, was then elected Governor in 1972. He also joined President Nixon in appointing an advisory group. This group cochaired by Munoz, was assigned to develop the maximum self-government under commonwealth.

The group recommended a compact of permanent union that would have established an association between the United States and Puerto Rico that neither could have amended unilaterally.

Under the proposal, the people of Puerto Rico would have retained their U.S. citizenship and had one representative in each House of the Congress. The proposed free associated state would have been able: To require the Congress and Federal agencies to specifically act to apply Federal laws or rules to it; to control labor and environmental matters; to exercise certain tariff authority; to enter into international agreements with the approval of the President; and to participate in setting immigration quotas.

An amended version of the compact legislation was favorably reported by the Subcommittee on Territorial and Insular Affairs in 1976.

Efforts to develop commonwealth were halted by the election of statehood advocate Carlos Romero Barcelo as Governor that year and President Gerald Ford's submission of a statehood bill to the Congress.

RECENT INITIATIVES

The Congress, in a 1979 resolution, pledged to support whatever status might be chosen by the people of Puerto Rico, a policy advocated by President Jimmy Carter. President Ronald Reagan pledged his personal support of statehood if statehood was desired by the majority of the people of Puerto Rico.

Governor Romero hoped that a status referendum would be held in 1981. Although reelected in 1980, the lack of a majority vote—as well as lack of control of the legislative assembly—convinced him to postpone the idea.

Hernandez Colon succeeded Romero as Governor in 1985 after a split in the New Progressive Party and after making a pledge to concentrate on economic and other matters and not status.

The Committee on Interior and Insular Affairs held hearings later that year on Puerto Rico's economic problems. The hearings did not focus on political status; but many witnesses asserted that the solutions to Puerto Rico's economic and social problems lay in status development.

Members generally reacted to these assertions by saying that consideration of status change would only occur after a petition was submitted from the people of Puerto Rico. This reaction stimulated statehood advocates to submit an estimated 350,000 petitions for statehood to the Congress.

The petitions prompted the distinguished ranking minority member of the Subcommittee on Insular and International Affairs, our colleague, Robert J. Lagomarsino, and other Members to propose legislation in 1987 for a referendum on and implementation of statehood if it won majority support in the referendum.

I later drafted amendments to the Lagomarsino bill to broaden the status choice to include other options as well as statehood. The initiative was put on hold because of the 1988 election.

Senator Robert Dole also introduced legislation for a referendum on statehood in 1987. The distinguished gentleman from California, Ronald V. Dellums, introduced legislation calling for a transfer of powers to a constitutional convention in Puerto Rico that year, as he had in previous years. None of these bills were enacted.

DIVISIVE AND DISTRACTING DEBATE

Puerto Rico has sufficient authority to call a referendum on status on its own; but the experience of the Congress not acting on the results of the locally authorized 1967 referendum has convinced commonwealth supporters, in particular, that a referendum should only be conducted if it is preceded by a Federal commitment to respect the results.

Puerto Rican politics have historically revolved around intensive status debates. This debate has often been so divisive and distracting that it has effectively prevented action in both the insular capital of San Jaun and here in the Nation's Capital on many of the very serious problems that Puerto Rico faces. Virtually every public policy proposal is debated in Puerto Rico on its status ramifications, not to mention its political implications, in addition to its merits.

Support for commonwealth appears to have eroded and support for statehood has clearly grown during the past two decades. A number of factors are responsible for this change in public opinion.

A major factor has been that the Federal Government has not agreed to any of the improvements in the commonwealth relationship that have been proposed or proposed any alternatives to these suggested improvements.

Another factor has been that some Federal actions have contradicted commonwealth commitments, such as the failure to provide for the $2 per gallon increase in the Federal excise tax on rum produced in Puerto Rico enacted in 1984 to be transferred to the insular treasury along with other locally originated Federal excise taxes and customs duties.

A third factor has been that the Federal Government has limited the amounts provided for the needy in Puerto rico in the development of Federal social programs and efforts to reduce budget deficits such as caps on AFDC and Medicaid, the nonextension of SSI to Puerto Rico, and the removal of Puerto Rico from the Food Stamps Program in budget reconciliation legislation.

Yet another factor has been that certain Federal policies designed for the circumstances of the States have been applied to Puerto Rico although these policies have not always provided the intended benefits in insular situations.

These factors have suggested to some a lack of power and potential in commonwealth and the contrasting need for the power and benefits of statehood. They have combined with other factors to intensify interest in status development in recent decades.

Some of the other factors involved are: Puerto Rico's increased standard of living; its increased dependence on Federal programs; its economic problems; its increased social ties to the United States; and its migration to and from the United States.

CURRENT INITIATIVE

Even before being reelected in 1988, Governor Hernandez Colon explored the possibility of reviving the amendments that I had prepared regarding the legislation introduced in the last Congress by our colleague from California, Mr. Lagomarsino.

After consulting with me, with the distinguished chairman of the committee of jurisdiction in the other body, the Honorable J. Bennett Johnston, and with Andrew Card of the White House staff the Governor proposed a referendum among the status options of enhancing the commonwealth relationship, statehood, and independence and a Federal commitment to respond to the referendum in his 1989 inaugural address.

Let me include what he said in the Record at this point:

> In this period in which we are ready to scale a new peak it is necessary to meet face to face the continuous debate over our relationship with the United States of America. This is a debate which the Puerto Ricans wish to settle.
>
> The vast majority of Puerto Ricans wish to express their view on our political status. The people wish to be consulted.
>
> I share this desire. I believe that the time has come for the people to again express their choice between the three status alternatives and I believe that it is equally essential for the government of the United States of America to express its position . . .
>
> Therefore, we shall promptly start conversations with the government of the United States and with those leaders in Puerto Rico representing the other status alternatives regarding the manner in which this referendum shall be done, so that the three political status proposals are ensured an equal participation in the referendum.

Gov. Hernandez Colon was joined shortly afterward in his capacity as president of the Popular Democratic Party by the presidents of the other two principal political parties of Puerto Rico, the New Progressive Party, then headed by Baltasar Corrada del Rio, and the Puerto Rican Independence Party, headed by Ruben Berrios Martinez, in proposing that the Federal Government commit to act on implementing a status that receives majority support in the referendum.

Their agreement was viewed as historic because the three parties had long disagreed on the proper approach to resolving the status issue. I include it in the Record at this point:

> January 17, 1989.
>
> Hon. Morris Udall,
> *Chairman, House of Interior and Insular Affairs Committee, Washington, DC.*
>
> Dear Mr. Chairman: In the past election held on November 8, 1988, all three political parties, which represent the three alternatives for the ultimate political status of the People of Puerto Rico, included the need for the resolution of the status issue in the platforms they presented to the electorate.
>
> In accordance with the platform of the Popular Democratic Party, the Governor of Puerto Rico announced in his Inauguration the intenion of the Government of Puerto Rico to pursue the resolution of the status question with the Government of the United States of America and convened a meeting of the leadership of the three political parties that represent the three formulas.
>
> As a result of this meeting we, the Presidents—of the Popular Democratic Party, representing Commonwealth, the New Progressive Party, representing Statehood, and the Independence Party, representing Independence—have agreed to express to the President and to the Congress of the United States of America, that the People of Puerto Rico wish to be consulted as to their preference with regards to their ultimate political status and the consultation should have the guarantee that the will of the People once expressed shall be implemented through an act of Congress which would establish the appropriate mechanisms and procedures to that effect.
>
> Towards the formulation of such an act of Congress and related policies, we request to meet with you at your earliest convenience.
>
> Conscious that since Puerto Rico came under the sovereignty of the United States of America through the Treaty of Paris in 1898, the People of Puerto Rico have not been formally consulted by the United States of America as to their choice of their ultimate political status, and in the understanding that we are taking a momentous decision in Puerto Rico history and confident of the commitment of the United States of America and of the People of Puerto Rico to the principles of self-determination and government by the consent of the governed, we remain,
>
> Cordially yours,
> Baltasar Corrada Del Rio,
> *President,*
> *New Progressive Party.*
> Rafael Hernandez Colon,
> *President,*
> *Popular Democratic Party.*
> Ruben Berrios Martinez,
> *President,*
> *Puerto Rican Independence Party.*

The following month, President George Bush proposed to a joint session that the Congress allow the people of Puerto Rico to decide their future status in a referendum, while expressing his own strong personal support of statehood. He said the following:

> There's another issue that I've decided to mention here tonight. I've long believed that the people of Puerto Rico should have the right to determine their own political future. Personally, I strongly favor statehood. But I urge the Congress to take the necessary steps to allow the people to decide in a referendum.

Chairman Johnston reacted to the proposal by introducing three bills. Two of these bills were cosponsored by the distinguished ranking minority member of the Energy and Natural Resources Committee, James A. McClure, and Senator Paul Simon and one was cosponsored by Senator McClure alone.

These bills proposed different approaches to this matter. Based upon discussions with Chairman Johnston, though, I anticipated a Senate bill consistent with the party presidents' proposal. I also agreed to his schedule for congressional consideration of the party's proposal. It called for Senate action last year to be followed by House action this year.

S. 712

The Senate Committee on Energy and Natural Resources narrowly approved a bill last year different from what I had anticipated, however. S. 712 would grant Federal approval of statehood, independence, and an enhanced commonwealth relationship and it would unilaterally determine implementation measures for each status option. It would then automatically begin next fall to implement the measures related to the status option that wins majority popular support in a referedum in Puerto Rico next summer.

Poll results indicate that S. 712, as reported by the Energy and Natural Resources Committee, encouraged support for statehood in Puerto Rico to surge past commonwealth.

One reason that the bill encouraged support for statehood was that it would provide that statehood could be obtained immediately simply by a majority vote in Puerto Rico. This counteracted a popular perception that statehood would be difficult to achieve.

Another reason that the bill encouraged support for statehood was that it would apply most Federal social program benefits immediately to Puert Rico under statehood, while phasing in Federal tax responsibilities ove time. This combination proved to b very attractive to Puerto Rico's low income population.

Yet another reason for the apparen growth of public support for statehoo was that the bill would provide fe meaningful enhancements for commonwealth.

THIS BILL

Speaker Thomas S. Foley; the di tinguished chairman of the Committe on Interior and Insular Affairs, th Honorable Morris K. Udall; an other Members expressed serious concerns about S. 712's approach to th issue last year. The unprecedented approach of the Congress preapprovin status changes for Puerto Rico—a well as all of the terms of these poss ble changes—before the Puerto Ric people had decided on a future statu was responsible for many of the concerns.

Such a process would inevitably b unfair to the Puerto Rican people because it would have the Congres alone make hypothetical final dec sions on specific terms before there any mandate from the people most affected. In such a circumstance, th Federal Government would lack th incentive that a local mandate woul provide to propose the most reason ble terms for transition to or impl mentation of a status change or deve opment.

I include in the Record at this poi a transcript of what Speaker Fol said in response to a question abo this matter at the National Press Clu on July 24, 1989, as well as a lett that Chairman Udall sent last year Chairman Johnston about the approach proposed by S. 712.

> *Question.* "What's your view on legis tion pending in the Senate to provide fo referendum on the status of Puerto Rico 1991?"
>
> Answer. Well I favor the idea of a refere dum and a choice between statehood, co tinued commonwealth status and indepen ence.
>
> I have some concern about whether can do that in a prospective act, which mo or less guarantees statehood if there is majority, even a slight majority, in favor it, rather than as a two-stage process whe we hear the results of the Puerto Ric plebiscite and then commit ourselves think in a moral sense we would do so—reflecting those wishes in legislation.
>
> There's no question I think that United States Congress is going to respo to the interest and concern and will of people of Puerto Rico as far as their sta is concerned. If they vote in a majority statehood, I believe the path of stateho will be very wide and statehood will occur
>
> If they, on the other hand, vote to continue commonwealth status, that will result.
>
> And if they should wish independence think that's unlikely—but if they sho wish independence, this country will alw respect the decision of any part of our

tional community that wishes to be independent as long as you're not a state. (Laughter.)

To tell you the truth, I have joked a little bit that some advantages that exist in commonwealth are important advantages, such as the rebate of taxes and the keeping of all taxes at home and so on. Some people have suggested that if they had their choice, New York might want to be a commonwealth. It would be a Garden of Eden if it were possible for them to keep all their tax benefits.

But whatever the choice, whatever the decision, there would have to be a transition period, but we would honor the result.

Committee on Interior
and Insular Affairs,
Washington, DC, November 6, 1989.

Hon. J. Bennett Johnston,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Dear Mr. Chairman: This is in response to your letter requesting consideration of your legislation to authorize a referendum in Puerto Rico between amending the current commonwealth relationship with the United States and granting statehood or independence and implementation of the preferred political status.

I agree that this is a matter of the highest importance and I appreciate your hard work on it.

The Subcommittee on Insular and International Affairs is currently conducting oversight on this matter and Chairman de Lugo has planned for briefings this year and hearings next year. This remains the schedule in this Committee.

I have given your request the most serious consideration and want you to understnad why I decided not to sponsor legislation based on S. 712.

Perhaps most importantly, there was not consensus among the leaders of Puerto Rico's three major political parties that introducing that proposal in the House was the best approach to this matter. I know that you will agree that consensus on the process of consideration of this matter may be essential for it to meaningfully continue.

Additionally, the self-implementing nature of S. 712 may excessively encumber consideration of this matter. I and others share the reservations expressed by the Speaker about this procedure. It complicates the issues involved and may add less-related factors, such as the petition of the District of Columbia for statehood, to consideration of Puerto Rico's status.

In closing, I want to reiterate my commitment to helping the people of Puerto Rico realize their goals of self-determination. In this connection, I want to assure you of my interest in seeing the enactment of legislation next year that responds to the requests of Puerto Rico's leaders for the authorization of a referendum on the island's political status in 1991 and implementation of the preferred status option. I look forward to working with you, Chairman de Lugo, and Resident Commissioner Fuster, to this end as well as with others concerned.

Sincerely,

Morris K. Udall
Chairman.

When it was clear that S. 712's problems would prevent it from being approved, Chairman Udall and the ranking Democrat George Miller joined me in inviting the presidents of three parties to agree on alternative legislation.

The party presidents—Hernandez Colon, Berrios, and Romero, who had succeeded Corrada as head of the statehood party shortly after the three parties proposed legislation on this matter—did not do so immediately because of the quick implementation promise of S. 712.

Later, however, it became obvious to the party presidents that holding out for the automatic implementation approach might result in the Congress not approving their request for a Federal commitment to act on the results of a status referendum. So, these leaders decided a few months ago to support legislation that I suggested along with Representative Lagomarsino, in consultation with the distinguished Resident Commissioner from Puerto Rico, Jaime B. Fuster. This legislation would more accurately reflect the parties' proposal for the Federal Government to commit to act after the people of Puerto Rico had expressed their status preference.

The draft legislation was in part based on S. 711, another one of the bills on this matter sponsored by Chairman Johnston along with Senator James A. McClure and Senator Paul Simon. It became this bill, H.R. 4765. I include in the Record at this point statements of support for this bill made on the date of introduction by Speaker Foley and Minority Leader Michel.

Question. Mr. Speaker, if I can take you off the continent for a comment on a different subject, the House bill that refers to Puerto Cico is supposed to be introduced and it is a different approach from the Senate. Can you comment on that?

The Speaker. Well, as I understand it, the bill is being introduced by Mr. de Lugo and co-sponsored by Mr. Young. Mr. Lagomarsino, and perhaps Mr. Michel—I am not sure about that—which provides for an opportunity for a referendum on Puerto Rico or status preference for Puerto Rico, which would then be reported to Congress, and Congress would have an opportunity to consider the wishes of the people of Puerto Rico so expressed, and there would be a response made then by the Congress which would be sent back to Puerto Rico for approval.

That is as I understand it, the gist of it. I think that is a sound approach. I am personally very anxious to see legislation passed that would implement the expressed opportunity of the people of Puerto Rico and to express their views on the future status of the Commonwealth, and I think that the approach taken by Mr. de Lugo is a very sound one.

Question. As opposed to the self-executing approach of the Senate?

The Speaker. Yes. My own preference is for the approach taken by Mr. de Lugo. I cannot cosponsor the legislation. That is not something that traditionally Speakers do, but I think that if I were a sitting Member and not the Speaker, I would cosponsor his bill.

Statement of the House Republican Leader Robert H. Michel, May 9, 1990

I am pleased to support the initiative calling for a referendum for self determination for the Commonwealth of Puerto Rico. I am happy to join with Speaker Foley, and Reps. de Lugo, Young, and Lagomarsino in supporting legislation that will make this referendum in order.

In the spirit of democracy and self-determination that is sweeping all the other quarters in our world, I am hoping that this referendum can go forward soon so that the options of statehood, commonwealth status, and independence can be considered by the residents of Puerto Rico.

The substitute approved by the Interior and Insular Affairs and Rules Committees was developed through inordinately intensive and extraordinarily extensive negotiations with representatives of the three parties and the White House as well as the bipartisan leadership of the House and the committees concerned. These negotiations focused on both the process proposed by this legislation for developing or changing Puerto Rico's status and the nature of the prospective development or changes in Puerto Rico's status.

I include in the Record at this point a joint statement issued on June 5, 1990, by the presidents of the three parties in this regard.

Today's meeting of the presidents of the three principal parties of Puerto Rico with the leadership of the U.S. House Insular Affairs Subcommittee is a decisive step toward success in holding a plebiscite in Puerto Rico in 1991.

The Presidents were able to verify the existence of broad bipartisan support in the House for the attainment of this common objective.

It is especially significant that the three parties, although they do not endorse the content of the proposed definitions that each other party has prepared, have agreed that their differences in that respect will not serve to obstruct the approval of the bill in this session.

The presidents of the parties in addition express their satisfaction that the leadership of the subcommittee has accepted, at this moment, with slight modifications of form, the proposed definitions of each party. The definitions, however, remain subject to clarifications and amendments by the Congress.

The Subcommittee has committed itself to exploring, in addition, possible procedural amendments—in consultation with the parties—that will strengthen the effectiveness of the plebiscite process and guarantee the prompt approval of the bill. To this end, and to put the finishing touches on the respective proposed definitions, the Dialogue Committee will meet tomorrow with the Subcommittee advisors.

Finally, although the House bill does not provide for automatic execution and will require a process of implementation in the Congress after the plebiscite, as well as an eventual ratification by the people, it certainly makes it feasible for the people of Puerto Rico to be able to express themselves on clearly defined alternatives with respect to which the Congress has previously made clear its political commitment.

We now have a bill that is broadly supported by President Bush and the presidents of the three parties. A letter that I have just received from the President indicates the administration support for this bill and I insert it in the Record at this point:

The White House,
Washington, DC, October 5, 1990.

Hon. Ron de Lugo,
House of Representatives,
Washington, DC.

Dear Ron: I applaud everything you have done to give the people of Puerto Rico the chance to declare what they want their political future to be. Your subcommittee performed truly historic labor, and now your bill is about to come to the House floor.

As you know from my first address to Congress, this issue is important to me, and not just because of my long-standing interest in Puerto Rico. As President in a time of democratic growth and vibrancy throughout the world, I strongly believe it is past time that we guarantee the residents of the Island a voice in resolving the political status of Puerto Rico, American territory for 92 years. We owe this to them, and we owe it to a world that watches to see whether the United States of America believes as much in the consent of the governed now as it did in 1776.

I would urge the entire Congress to act affirmatively and rapidly on whatever responsible measure comes before them to call for a referendum on Puerto Rico's political status. And I stand ready to sign such legislation when it reaches my desk.

Sincerely,

George Bush.

S. 712 AMENDMENTS

The Senate Committee on Finance has since approved amendments to S. 712—although it has not favorably reported the overall bill.

The amendments would delay the implementation of statehood—which would be immediate in the Energy and Natural Resources Committee version—for 5 years—although that implementation would still be automatic. Federal program benefits and taxes would be phased-in during the delay—although in some cases program benefits would be provided to a State of Puerto Rico at a lower level than would apply to existing States.

The amendments would further provide significantly increased program benefits under enhanced commonwealth—although these benefits would still be at levels less than the levels which apply to the States. The increases in benefits under commonwealth would be financed by revenues now transferred to Puerto Rico and new revenues generated by restrictions on the Federal tax credit that encourages investment in Puerto Rico.

Problems with S. 712, as it would be amended by the Senate committees, include: the process it proposes for defining the status options and the automatic implementation procedures; limitations on both commonwealth and independence contained in the Energy and Natural Resources Committee version; the terms of the financing of the improved treatment in Federal social programs under enhanced commonwealth in the Finance version; the excessive delay of statehood—since the selected status is to be automatically implemented—and the discrimination in the levels of Federal program benefits under statehood in the Finance version.

COMMITTEE APPROACH

The approach used in this House in developing this legislation followed guidelines I set forth at a March 2, 1990 hearing on this issue. What I said then was as follows:

I want to make it clear that I have no favorites among the statuses * * * or the parties.

The options are all legitimate * * * and the parties all have able leaders.

Only the people of Puerto Rico should decide which is best.

I am dedicated to trying to make each of the options as good as it can be so that the people of Puerto Rico will be able to live as well as they can under whatever choice they make.

I will accord each of the parties equal participation in the process of developing this choice.

It is important to note that our approach to this issue recognizes that there cannot be a level playing field among the status options. The inherent differences among the options are so great that they cannot present the Puerto Rican people with equivalent choices and any effort to construct a level playing field will result in artificial and unreasonable terms.

Our approach also recognizes that the status options cannot fairly be implemented in a budget-neutral way. There are different costs and advantages for both the United States and Puerto Rico associated with each option; but no cost is so great that it should prevent the Puerto Rican people from obtaining a status to which they aspire.

I include in the Record at this point an editorial that the Washington Post published on the contrasting approaches between H.R. 4765 and S. 712.

[From the Washington Post, July 13, 1990]

Taking Puerto Rico Seriously

The Senate and House are fitfully considering bills to change the political status of Puerto Rico, but with an important difference. Both chambers would authorize a referendum in which Puerto Rican voters (whether those in the United States as well as on the island is a question) would choose among independence, statehood or some continuing version of the present mixed commonwealth status.

But under the Senate bill, the referendum would be self-executing, which is to say that the result would supposedly take effect automatically without further legislation. Under the House bill, by contrast, Puerto Rican voters would express their preference, Congress would then pass implementing legislation, and the voters would have the choice of ratifying that.

The House approach is better. Any change in status for several million citizens as contemplated in these bills is going to be enormously complicated. The House procedure leaves needed time to think these complications through and work them out. The status issue is important in its own right. Puerto Ricans are U.S. citizens but have neither all the rights nor all the obligations o citizenship. The threshold question fo them as for the U.S. public and Congress i whether that incomplete status is fair. Th highly charged status issue often also becomes a part of, and an impediment to solving, the serious economic and other mor tangible problems on the island. If by Caribbean standards Puerto Ricans are relativel well-of, by U.S. standards they are lef behind.

The problem is that, up to now, almost n one in Congress has really focused on th Puerto Rican question. The island politicians, including the reigning commonwealthers who now regret it, all calculate that it was to their advantage to urge a referedum. The limited progress of the legislation has been a source of great excitemen on the island. But here it has barely been legislative footnote.

That is why the Senate bill is premature It would lock in place an answer before mos Americans—and most members—were aler to the question. If the island became a state would Congress really want (and would it b bound?) to phase out the special tax break on which the economy is based? Wha would be the effect on the island economy—wages and prices, for example—of suddenl paying full U.S. benefits there? What woul happen to the Spanish language? None o the issues is insuperable, but all need to b addressed. The House bill contains the mor orderly process. It's not clear that Congress in its manifest disinterest, has left time fo passage even of that. What better proof o the need to proceed with greater care?

NONRESIDENT PARTICIPATION IN THE REFERENDUM

The distinguished gentleman from New York, José E. Serrano, propose that this bill be amended to enable al persons who were either born i Puerto Rico or who had one paren born in Puerto Rico to vote in the referendum. This proposal was supporte by two of our other colleagues from New York: Charles B. Rangel an Bill Green.

Their proposal was based on positions that: Much of the migration o Puerto Ricans to the States has bee involuntary, due to economic necessit in part related to Federal policies; high percentage of residents of Puert Rico spend part of their lives in th States and many Puerto Ricans in th States intend to eventually return t Puerto Rico; the referendum may lea to a permanent decision on the destin of the Puerto Rican people (as opposed to a decision on electing temporary officials); and there is some international precedent for nonresiden participation in status referenda.

United States precedent for nonresident voting in status referenda is limited to referenda in the Pacific Island Territory that the United States ha administered in trust for the Unite Nations. The nonresident voting contemplated by the Serrano amendmen has no precedent in Puerto Rico o other United States.

The presidents of Puerto Rico' three parties objected to the Congress—directly or indirectly—mandat ing participation in the referendum by nonresidents. In doing so, however, Gov. Hernandez Colon asked that this legislation authorize Puerto Rico to extend the franchise to nonresidents for the purpose of the referedum.

I include in the Record at this point letters from the three party presidents on this matter.

August 1, 1990.

Hon. Ron de Lugo,
Chairman, Subcommittee on Insular and International Affairs, House Interior Committee, Washington, DC.

Dear Chairman de Lugo: You have inquired as to the position of the Government of the Commonwealth of Puerto Rico regarding the inclusion of a provision to facilitate the voting by non-resident Puerto Ricans in the proposed status referendum legislation, H.R. 4765.

The Government of the Commonwealth of Puerto Rico favors, and indeed finds imperative, the incorporation in the referendum bill of the provisions necessary to facilitate and authorize extending the vote to Puerto Ricans residing outside Puerto Rico. Without such authorization, it will not be possible to enfranchise Puerto Ricans residing outside Puerto Rico.

Given that authorization, the Legislative Assembly of Puerto Rico will then exert its own authority over the Commonwealth's electoral proceedings in order to make this possible.

We do not favor incorporating into the legislation provisions that would mandate participation since we have consistently maintained that the referendum must be governed under Puerto Rican law.

I hope that this information clarifies our position regarding this issue.

Cordially,

Rafael Hernadez-Colón.

August 1, 1990.

Hon. Ron de Lugo,
Chairman, Subcommittee on Insular and International Affairs, Washington, DC.

Dear Sir: On behalf of the Puerto Rican Independence Party I would like to reaffirm the position assumed before your subcommittee in the public hearing of June 28th by our party president, Mr. Ruben Berrios, relating to the vote of non-resident Puerto Ricans in the plebiscite envisioned by H.R. 4765.

We therefore oppose the inclusion of any language in this bill which would impose upon the Legislature of Puerto Rico the obligation to enlarge the electorate in Puerto Rico to include non-resident Puerto Ricans. We have, as you know, favored a separate vote for those Puerto Ricans which would take into account both the fact that they are members of the Puerto Rican nation, and the fact that residents and non-residents will be affected in very different ways by any status change. We proposed to your subcommittee that Congress make such a separate vote possible in the different states independently of the plebiscite vote in Puerto Rico and independently of the electoral laws of Puerto Rico.

Any decision to enlarge the absentee vote in Puerto Rico however, must be up to the political parties in Puerto Rico, by consensus, to make.

Sincerely,

Senator Fernando Martin,
Vice-President, Puerto Rican Independence Party.

August 1, 1990.

Hon. Ron de Lugo,
House of Representatives, Washington, DC.

Dear Ron: We have discussed the interest of Puerto Ricans who reside in the several States of the Union to vote in the forthcoming status referendum. The many legal and practical difficulties which have been underscored by the persons who understand the electoral laws and our electoral system in Puerto Rico have neither been answered nor overcome. If there is a way to overcome the difficulties, it must be found and agreed to unanimously by all three parties which represent the three status options.

Therefore, we vigorously object to having Congress mandate that Puerto Ricans residing in the fifty States of the Union be allowed to vote in the referendum. We would nevertheless endorse a statement by Congress to the effect that it authorizes Puerto Rico's Legislature to allow Puerto Ricans who reside in the fifty States of the Union to vote in the referendum; provided that the three political parties represented in the Legislature of Puerto Rico endorse such participation unanimously.

In other words, if the traditional and historical requirements now in effect to vote in Puerto Rico are to be changed, they should be changed only if all three political parties representing the three status options agree.

To impose or mandate a change of rules at this point, without the uninimous consent of the interested political parties, would delay and postpone the referendum and subject whatever law passed to multiple legal challenges.

Puerto Rico is the oldest colony in the world. We have been a colony since 1493. We have been disenfranchised U.S. citizens since 1917. Never has such a large group (3,300,000) of citizens been disenfranchised for as long as the U.S. citizens of Puerto Rico.

We have worked too long and too hard to get an opportunity to exercise out right to free determination. It would be a great frustration for our people to have this opportunity derailed.

We appreciate your interest and support in our endeavors.

Sincerely,

Carlos Romero Barcelo.

The ranking minority member of the Insular and International Affairs Subcommittee, Mr. Lagomarsino, and I along with Representatives Serrano, Rangel, and Green and in consultation with the Bush administration and the three parties, agreed on a modification of the Serrano amendment. It would authorize Puerto Rico to the extent that at least two of the three parties agree, to enable nonresidents to vote in the referendum. This compromise is contained in section 3 of the substitute.

Mr. Speaker, I now want to expand upon my explanation of the bill at point in my capacity as primary sponsor and manager of this bill. This analysis is provided to clarify the intent of this legislation.

Section 1. Would designate the bill the Puerto Rico Self-Determination Act.

Section 2(a) would authorize the appropriation of $13.5 million for a referendum in Puerto Rico among the political status options of independence, statehood, and a modification of the current commonwealth relationship with the United States—on terms to be agreed to by the Puerto Rican people and the Congress—or none of these status options. The referendum would be held on September 16, 1991, or a later date in 1991 agreed to by at least two of Puerto Rico's three political parties in the Dialog Committee on the Status of Puerto Rico.

The Dialog Committee is composed of the presidents of Puerto Rico's three parties, each of which is the primary advocate of one of the three status options. This committee was established on June 29, 1989 by executive order of Governor Hernandez Colon after an agreement with the other two party presidents. The party presidents are generally represented on committee matters by delegates provided for in the order. I include in the Record at this point the official English translation of the text of the order.

Administrative Bulletin No. 5397A—Executive Order

Whereas: The platforms of the three principal political parties presented to the people for the 1988 elections included diverse proposals intended to lead to a consultation with the people about their political status—the New Progressive Party (PNP) proposed a referendum on Statehood, the Puerto Rican Independence Party (PIP) the convocation of a National Assembly of the people to discuss the political status and, the Popular Democratic Party (PPD) the consultation of the people about the political status.

Whereas: In his January 2nd, 1989, Inaugural Message, the Governor of Puerto Rico announced that it was the intention of the Government of Puerto Rico to ensure the participation of the Government of the United States of America in the process of consultation about the political status.

Whereas: There exists a consensus between the principal political parties and the people in general over the desirability of consulting the people of Puerto Rico about its political status.

Whereas: Senators J. Bennett Johnston and James McClure, President of the Committee on Energy and Natural Resources of the United States Senate and minority leader of the Committee respectively, have introduced legislation in Congress directed at making feasible a consultation about the political status, and said process requires that the representatives of each of the three formulas of political status explore possible areas of consensus.

Whereas: The Presidents of the three principal political parties agree on the convenience of having the Governor of Puerto Rico issue an executive order to establish a Committee for Dialogue on the Political Status, constituted by the Presidents of the already mentioned political parties.

Whereas: It is desirable to establish a mechanism of dialogue which would permit representatives from the three principal political parties to take action in consensus with respect to any initiatives and transactions having to do with the political status.

Whereas: It is convenient to institutionalise the dialogue process in order to make feasible the congressional transactions and

the whole plebiscitary process, and, supplement, or equal conditions, the resources provided by the federal government for each of the principal political parties in such a way that the particular actions and dealings such formula may count with adequate resources.

Therefore: I, Rafael Hernández Colón, Governor of the Commonwealth of Puerto Rico, by virtue of the power vested in me by Law No. 104 of June 28th, 1958, presently dispose:

First: To create the Committee for Dialogue and Consultation on the Political Status, to be composed of the Governor of Puerto Rico and the President of the Popular Democratic Party Rafael Hernándes Colón, Esq., the President of the New Progressive Party, Mr. Carlos Romero Barceló Esq, the President of the Independence party Rubán Barrioa Marties, Esq. Each Party President will have the right to name a Presidential Delegate who will be able to represent him before the committee and before the Secretariat.

Second: To constitute the Secretariat of the Committee for Dialogue on the Political Status (hereafter denominated as "the Secretariat") assigned for administrative purpose to the Office of Management and Budget, with equal autonomy for budget and proceedings granted to the political parties.

Third: The Secretariat will be managed by three representatives of the three political formulas, denominated as Presidential Delegates, named by the Governor upon recommendation from the three principal political parties.

Fourth: The Presidential Delegates, as well as any other functionaries that may be appointed, will receive the compensation that the Presidents or the Presidential Delegates establish, in the same way for the three main political parties, and will have the following functions, duties and responsibilities:

—Assist and advise the members of the Dialogue Committee on the Political Status they may be representing;

—Work as a group with the other Presidential Delegates to search for consensus area between the three parties regarding the consultation to the people on their political status preference and the carrying out of that preference of the people through a law of the Congress of the United States which establishes the adequate mechanisms and proceedings to be followed.

—Assist and advise the members of the Committee which they represent in their conversations with functionaries of the Federal Government.

—Coordinate the legal and constitutional studies and the research needed to carry out their duties.

Fifth: The Presidential Delegates will have the power to appoint one Administrative Delegate of the Secretariat who will work as a trusted employee of the Committee's Presidential Delegates in order to facilitate their duties, and to exercise any other duty that the Delegates might vest on him.

As he carried out his duties, the Administrative Delegate will have the power to recruit and hire personnel, receive interagency loans from the public sector, and hire or acquire physical facilities, goods and services, and will be able to manage those resources that are assigned to him by the Legislative Assembly for these purposes; granted that all is consistent with the principle of equality of conditions and resources.

Sixth: The Department of State will provide the Secretariat with the physical facilities and equipment needed to the carry out its duties.

References in this bill to the dialog committee are intended to ensure that the current equivalent political balance in the committee be maintained for the purposes of this legislation so that no one party dominates or makes final decisions for the panel. We expect that the dialog committee will be maintained presented structured and with adequate funding.

Puerto Rico's three parties had agreed in 1989 on June 4, 1991, as the date for the referendum. The commonwealth party later proposed, however, that the date be pushed back to October or November to allow adequate time to prepare for the referendum, particularly if needed to enable nonresident Puerto Ricans to vote in it under the provisions of subsections (b) and (c) of section 3.

The other two parties objected to this delay; but we agreed to delay the referendum until September 16, 1991. We believe that a later date for the referendum is impractical if there is to be adequate time for the development and consideration of the legislation provided for in section 4(a) in the 102d Congress under the process set forth in sections 4 and 5. This subsection would, however, authorize a later date for the referendum in 1991 if at least two of the three parties reach agreement on such a date.

This subsection would also require appropriations for the referendum to be made to the Executive Office of the President. These funds would be required to be subsequently granted to the State Elections Commission of Puerto Rico—with audit and other requirements set forth in the following subsection.

Subsection (b) would authorize the elections commission to spend $7.5 million of these grants for administrative and related costs of conducting the referendum; $1.5 million of this amount could only be spent for the purpose of facilitating the participation of Puerto Ricans who do not reside in Puerto Rico as would be authorized by subsections (b) and (c) of section 3. It could not be expended if their participation is not authorized under those subsections.

The elections commission would also be required to provide $6 million to the dialog committee for public education about the status options. The dialog committee would be required to distribute the education funds equally among Puerto Rico's principal political parties.

We recognize that the $7.5 million which would be authorized for costs of an administrative nature would only fund a portion of these costs. We understand, for example, that the insular government expended some $17 million on the 1988 general elections and that the elections commission is estimating the cost of a separate referendum on another issue in 1991 at from $11 to $12 million. These votes would only involve voters domiciled in Puerto Rico. The participation of nonresidents in the referendum could impose greater costs. The additional fund necessary for the referendum contemplated by this bill would be provided by the government of Puerto Rico.

The $6 million in education funding would be provided to help ensure tha the Puerto Rican people can make an informed choice regarding their statu aspirations and that each statu option can be fully and fairly presented to the voters. The dialog committee has agreed that the government o Puerto Rico should also provide funding equally distributed among the three principal political parties fo this purpose.

Party eligibility for this funding would be contingent on adherence to absolute limits on spending related to the referendum. These limits are the limits imposed on the parties for general election campaigns by curren Puerto Rican election law. We understand these limits to include $1.5 million to purchase broadcast and othe advertising and $5 million for othe expenses.

The purpose of applying spendin limits to referendum campaigns is to ensure that a status option is no chosen because the party advocating i is able to unduly influence the outcome of the referendum by virtue o using an unfairly excessive amount o resources. Representatives of th three parties have agreed that the proposed limits for the referendum ar reasonable in light of anticipate costs.

The limits, though, are high enough to allow public support for a statu option to be somewhat reflecte through private contributions which could make up the gap between fund provided by government and th spending cap. We expect, however that there will be no effort to circumvent these caps by persons associate with the parties or other interests.

Party eligibility for funding woul also be contingent on an agreement t have strict recordkeeping and audit requirements. The General Accountin Office would be required to audit th use of all funds provided under thi legislation.

It is intended that these examinations be conducted on an ongoing bas while the funds are being spent an that the parties would be unable t use the funds that they are provide for any purposes other than referendum-related purposes. Funds woul not be able to be spent for norma party operational expenses or promotion for the election of candidates.

It is further intended that the share of the funds of any party which declines to accept this Federal funding would be divided between the parties accepting the funding and that the caps on spending would be commensurately increased for those parties.

At a minimum, the State elections commission should require that each political party report all receipts of cash or services, expenditures, and contracts in excess of $500 within 15 days of their occurrence. This would permit the timely detection and resolution by the elections commission of any irregularities.

The actual disbursement of Federal funds by the dialog committee should be on a time-phased basis. That is, each political party should receive an equal monthly allocation, starting on January 1, 1991, and on the first of each month thereafter until the referendum.

Subsection (c) would apply Puerto Rican election laws to the referendum.

The laws which would apply by virtue of this provision would include, but not be limited to, a law that Puerto Rico would have to enact to conduct the referendum, since there is no provision in Puerto Rico's law now for the referendum that this bill contemplates. We understand that Puerto Rico's legislative assembly intends to consider legislation for this purpose next year.

We also understand that Puerto Rico has a tradition of trying to amend its election laws pursuant to a consensus of the three parties and we hope that this approach will be followed in the enactment of an insular law on the referendum.

Subsection (d) would also apply appropriate Federal election laws to the referendum.

The Federal laws which are intended to apply are some of those which apply to the election of Federal elected officials, including Puerto Rico's Resident Commissioner. The purpose of applying these laws is to provide the utmost integrity for the referendum process with the fullest possible protection for the rights of voters. The laws that would apply would facilitate voting, provide for various substantive and procedural voter rights, define a variety of wrongful activities, and establish penalties for the commission of any of those activities.

They are: laws which are listed in the "U.S. House of Representatives Election Law Guidebook, 1988" (H. Doc. 100-208); the Voting Rights Act of 1965, as amended (42 U.S.C. 1973); the Civil Rights Act of 1968, as amended (18 U.S.C. 245(b)(1)(A)); mail and wire fraud statutes (18 U.S.C. 1341, 1343, 1346); and the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee). Laws which would not apply are: the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 431 to 456, except for 41b) and the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff).

The Uniformed and Overseas Citizens Absentee Voting Act is not intended to apply because we understand that Puerto Rico's election laws already include some provisions for absentee voting by Armed Forces personnel and because the government of Puerto Rico would be granted broad authority under subsections (b) and (c) of section 3 to enable Puerto Ricans abroad to vote in the referendum.

We expect that the law that the government of Puerto Rico would have to enact to conduct the referendum would facilitate voting by members of the military and their dependents to the greatest possible degree. Whatever opportunities it may provide for nonresident Puerto Ricans to vote under subsections (b) and (c) of section 3, if any, should be provided without regard to where a nonresident lives.

References in the Federal laws that would apply to elections of any kind would be deemed to include the referendum, and references to candidates for office would be deemed, where practical, to be references to the status options.

This section is not intended to make inapplicable any Federal laws that might apply of their own force to the referendum.

Section 3(a) would recognize that many people of Puerto Rican descent now live outside of Puerto Rico. It would also recognize that the government of Puerto Rico has some legislative authority under current law to expand the current electorate of Puerto Rico to include some individuals who do not now reside in Puerto Rico.

The recognition of the insular government's authority is not intended to grant any authority which does not exist under current law nor is it intended to validate any specific claims of authority.

We simply understand that the current electoral laws of Puerto Rico regarding absentee voting are very limited in comparison to absentee ballot laws in many States. We also do not intend to supersede any authority Puerto Rico's government may already have to act on this matter.

Subsection (b) would authorize the government of Puerto Rico to amend its laws to enable Puerto Ricans who do not reside in Puerto Rico to register and vote in the referendum and to do so without being physically present in Puerto Rico.

This authorization would be contingent upon approval by the government of Puerto Rico of the plan referred to in subsection (c). It would authorize the government to extend the franchise to only those nonresident Puerto Ricans determined to be eligible under the plan.

Language is included to clarify that the authorization can be effectuated by the plan to apply to all persons either born in Puerto Rico or who have one parent who was born in Puerto Rico. It could also apply to subsets of these classes of individuals.

This subsection is not intended to by itself grant any rights to vote in the referendum. Nor is it intended to circumscribe any and/or all powers that the government of Puerto Rico may have to extend the franchise to persons currently not eligible to vote under Puerto Rican law nor to convey or confirm such powers or claims thereof.

Subsection (c) would authorize the Dialogue Committee to submit a plan to enable nonresident Puerto Ricans to vote in the referendum, if approved by two of its three party members, to the Puerto Rico Legislative Assembly. It also would provide that the plan will become law in Puerto Rico if ratified by the legislative assembly and signed by the Governor.

The Legislative Assembly would be able to accept or reject the plan; but not to amend it. Any authorization for nonresident voting contained in an act of the assembly not based upon agreement of at least two of the three parties would only be able to be effective based on authority which may exist outside of the scope of this legislation.

As I noted earlier, we understand that Puerto Rico has a tradition of generally changing election laws by multiparty agreement which we hope will be maintained in this matter. We expect that the parties will make a sincere effort to develop a plan to expand the electorate as authorized in subsections (b) and (c) of this section.

Subsection (d) would provide that a finding by a court that any provision of this legislation is constitutionally infirm will not invalidate any other provision, so that the other provisions can continue in effect. It is also intended to provide that a failure of the dialog committee to submit a plan for non-resident voting or of the legislative assembly to approve such a plan 120 days before the referendum would not prevent other provisions of this act from continuing in effect, preventing, for example, the referendum from being conducted. This provision is included in recognition of the controversial and complex nature of proposals for nonresident Puerto Ricans to vote in the referendum and of the likelihood of litigation on this and other matters.

Section 4(a) would require the House Committee on Interior and Insular Affairs and the Senate Energy and Natural Resources Committee to draft legislation to implement a status that receives a majority of votes cast in the referendum addressing the matters listed below. The bills would be required to be drafted in consultation with Puerto Rico's political parties, the President, and any other appropriate persons or groups.

This subsection would also express the intent that the Congress consider the basic elements of whatever status is selected in the referendum as it would have considered the elements of any of the other statuses.

It is intended that the committees would try to work out the provisions of the legislation with representatives of the party advocating the status that received a 50-percent-plus-one majority in the referendum. In doing so, the committees would be expected to receive opinions on the issues involved from the parties which advocated other status options, the executive branch, or any other appropriate groups or persons.

The purpose of consulting with the parties which did not advocate the selected status would not be to frustrate implementation of the majority will in Puerto Rico. Instead, it would be to ensure that all views in Puerto Rico on specific aspects of the selected status—rather than the status as a whole—are considered.

Examples of other groups or persons that it might be appropriate to hear from would include recognized organizations in Puerto Rico, representatives of Puerto Ricans who do not reside in Puerto Rico, and others with an important connection to Puerto Rico.

The President would be represented in the consultation process by staff from the Executive Office of the President as well as by officials from various agencies.

The requirement to consult with representatives of the parties is intended to facilitate consultation with leaders in Puerto Rico and would not limit contact with public or party officials in the drafting process solely to the principal representatives of the parties. It is included in recognition of the leading role that the parties play in the debate on the future political status of Puerto Rico.

The matters which the committees would be required to address in drafting the legislation are described by status option as follows:

(1) INDEPENDENCE.—(A) Puerto Rico would establish a republican form of government through a constitution that would guarantee the full protection of human rights. The United States would act on providing a reasonable and fair transition of at least ten years for the economy of Puerto Rico under independence. Measures would involve such matters as—

(i) annual block grants based on the present total amount of Federal spending in the Commonwealth;

(ii) continued preferential entry of Puerto Rican products into the United States market;

(iii) incentives for United States investment in the private and public sectors of Puerto Rico and the market for loans originating in Puerto Rico that would make available incentives similar to those presently provided by law; and

(iv) the continued use in Puerto Rico of United States currency. The eventual demilitarization of Puerto Rico would also be considered.

(B) The grant of independence would not impair the rights of individuals in Puerto Rico to benefits acquired by virtue of services rendered or contributions made to the United States nor impair the United States citizenship of persons born before the date of independence.

(C) The President of the United States would be authorized to negotiate a treaty and other bilateral agreements with the government of the republic that would further detail the relationship between the two countries.

(2) STATEHOOD.—(A) The Commonwealth of Puerto Rico would be admitted into the Union permanently as a sovereign State on an equal footing with the other States. The current constitution and the laws of Puerto Rico would be accepted as the constitution and laws of the New State, and the Constitution and laws of the United States would be extended in full to Puerto Rico.

(B) The United States citizenship of persons born in Puerto Rico would be constitutionally guaranteed and equal in all respects to the citizenship of persons born in the other States. Citizens of the new State would be entitled to vote for the President and Vice President of the United States and would elect the apportioned number of Members of the House of Representatives and two Members of the Senate of the United States.

(C) Residents of the new State would be treated equally with residents of the other States in all Federal programs and would assume all obligations of residents of the States of the Union. The Congress would act on providing a reasonable and fair transition for the economy of Puerto Rico under statehood.

(3) A NEW COMMONWEALTH RELATIONSHIP.—(A) The new Commonwealth of Puerto Rico would be joined in a union with the United States that would be permanent and the relationship could only be altered by mutual consent. Under a compact, the Commonwealth would be an autonomous body politic with its own character and culture, not incorporated into the United States, and sovereign over matters governed by the Constitution of Puerto Rico, consistent with the Constitution of the United States.

(B) The United States citizenship of persons born in Puerto Rico would be guaranteed and secured as provided by the Fifth Amendment of the Constitution of the United States and equal to that of citizens born in the several States. The individual rights, privileges, and immunities provided for by the Constitution of the United States would apply to residents of Puerto Rico. Residents of Puerto Rico would be entitled to receive benefits under Federal social programs equally with residents of the several States contingent on equitable contributions from Puerto Rico as provided by law.

(C) To enable Puerto Rico to govern matters necessary to its economic, social, and cultural development under its constitution, the Commonwealth would be authorized to submit proposals for the entry of Puerto Rico into international agreements or the exemption of Puerto Rico from specific Federal laws or provisions thereof to the United States. The President and the Congress, as appropriate, would consider whether such proposals would be consistent with the vital national interests of the United States on an expedited basis through special procedures to be provided by law. The Commonwealth would assume any expenses related to increased responsibilities resulting from the approval of these proposals.

The matters that I have just described are modified versions of proposals submitted by the presidents of Puerto Rico's three principal political parties to a Subcommittee on Insular and International Affairs hearing on June 28. Modifications were made for reasons of form and policy; but are consistent with our understanding of the intent of the proposals.

The incorporation into this legislation of these descriptions is intended to commit the Congress to consider in good faith those matters contained in the description of the status selected in the referendum.

The differences between the descriptions contained in the report language incorporated into this bill and what the party presidents initially proposed indicate how seriously these descriptions have already been considered. They were, as I have explained, developed through and agreed to after exhaustive negotiations with the parties in Puerto Rico, representatives of the President and on a bipartisan basis in the Interior and Insular Affairs Committee.

Thus, the enactment of this legislation would impose moral obligations on the executive branch as well as the Congress for a serious response to the proposals related to the status selected in the referendum. These descriptions cannot, therefore, be fairly termed wish lists.

They would not, however, predetermine the precise content of the implementing legislation as the committees would retain their institutional flexibility in responding to elements of the description related to the selected status as advocated by adherents of that status.

Instead, this section would obligate the committees to seriously and fully review and respond to the proposals. The enactment of this section would, therefore, provide a conceptual framework from which to undertake the process of developing legislation to implement the status selected in the referendum.

It is intended that the Committee on Interior and Insular Affairs would also work out provisions of the implementing legislation with any other committees of jurisdiction in the House. For the purposes of what would essentially be negotiations, the Committee on Interior and Insular Affairs would presumably be represented by the Subcommittee on Insular and International Affairs—or its equivalent—and staff.

Subsection (b) would authorize the appropriation of funds to enable the consultations to be conducted and the implementing legislation to be drafted.

Section (5)(a) would require the chairman of this House's Committee on Interior and Insular Affairs and the chairman of the Energy and Natural Resources Committee of the Senate to introduce the legislation provided for in section 4(a) by March 6, 1992.

Subsection (b) would authorize any Member of the House or Senate to move that the legislation be discharged from a committee 181 or more calendar days after the legislation was introduced. It would make such motions in order at any time. Such motions would be debatable for a maximum of 2 hours; but would not be subject to amendment or to motions to reconsider.

Subsection (c) would authorize any Member to move that the full House or Senate consider the legislation 15 or more legislative days after the legislation is reported or discharged from all committees to which it was referred. It would make such motions in order at any time and provide that they would not be debatable, amendable, or subject to reconsider.

Subsection (d) would state the Congress' commitment to vote on legislation which would set forth the process for implementing the status selected by the Puerto Rican people in the referendum.

The various provisions of this section are a joint product of the committees on Interior and Insular Affairs and Rules with the active involvement of the bipartisan leadership of the House and I want to note the work on them of Chairman Moakley of the Rules Committee as well as Speaker Foley and Minority Leader Michel.

The provisions of this section are intended to provide assurance that the implementing legislation will be developed and considered and that both-Houses will act on it. Subsection (a) would require the legislation to be introduced. Subsection (b) would provide for a 180 calendar day time limit on committee consideration. Subsection (c) would provide for consideration by the full House—or Senate—after 14 legislative days after the end of committee consideration. Subsection (d) would state the Congress' intent to vote on the legislation.

In sum, the expedited procedures contained in this section would obligate committees to act on the legislation and commit both Houses to act on it. They would not, however, prevent either House from amending the legislation; commit either House to approve it; or commit that the legislation will be enacted into law.

These commitments represent moral—rather than legal—obligations since one Congress cannot constitutionally bind its successors in matters of this nature. They would, however, constitute solemn political obligations. Their not being honored is inconceivable to us.

We believe that the assurances that this section would provide the people of Puerto Rico that the Federal Government will respond to their status decision are an essential part of this legislation's approach to the status issue. Puerto Ricans have been disappointed in the past by the Federal Government's failure to act on their status preference—even after encouraging such a determination. Their leaders could not support the approach to the status problem proposed by this bill—as opposed to the automatic implementation approach of the Senate bill—without such assurances.

We also note that it is unlikely that the expedited procedures provided for in this section will ever be used. We fully expect that legislation to implement the selected status will be expeditiously acted upon by committees and both Houses. We have no doubt that enactment of this legislation will represent a sincere commitment to Puerto Rican self-determination that the next Congress and the President will honor.

Section 6(a) would require that legislation drafted pursuant to section 4(a) that is enacted into law be submitted to the people of Puerto Rico in a second referendum. This referendum would be required to be held not more than 60 calendar days after the law is enacted. This subsection would also provide that the legislation will not take effect unless approved in that referendum. Finally, it would provide that the law will become effective on the date and subject to such other terms as that legislation might include.

Subsection (b) would authorize appropriations for the second referendum, including funds for public education and the actual conduct of the vote.

Section 7 would require the Committee on Interior and Insular Affairs and the Senate Energy and Natural Resources Committee to make further recommendations on Puerto Rico's political status development if none of the three statuses receives a majority in the first referendum; if the implementing legislation is not enacted into law; or if the implementing law is not approved in the second referendum.

The recommendations would be required to be developed in consultation with representatives of Puerto Rico's principal political parties, the President, and other appropriate groups or persons. This would be a consultation requirement similar to that contained in section 4(a).

The contemplated recommendations could be either of a procedural or substantive nature.

Mr. Speaker, I introduced H.R. 4765 on May 9 along with the ranking minority member of the Subcommittee on Insular and International Affairs, Robert J. Lagomarsino; Chairman Morris K. Udall and ranking minority member Don Young of the Committee on Interior and Insular Affairs; Chairman John Joseph Moakley and ranking minority member James H. (Jimmy) Quillen of the Committee on Rules; Resident Commissioner Jaime B. Fuster of Puerto Rico; and our colleagues James McClure Clarke, John Lewis, George (Buddy) Darden, Eni F.H. Faleomavaega, and Ben Garrido Blaz, who are all members of the Subcommittee on Insular and International Affairs.

As I indicated the bill was introduced with the expressed support of the Speaker Thomas S. Foley and the minority leader, Robert H. Michel. It was subsequently sponsored by our colleagues Edward J. Markey, Wayne Owens, Stephen J. Solarz, E. Thomas Coleman, Robert K. Dornan, Peter H. Kostmayer, John Miller, Jon L. Kyl, and Ben Jones.

Hearings were held by the Subcommittee on Insular and International Affairs preceding the bill's introduction on March 2 in Washington, DC, and March 9, 10, and 12 in San Juan, Ponce, and Mayaguez, PR, respectively. Hearings were held after the bill's introduction on June 25 in New York, NY., and June 28 in Washington, DC. The subcommittee also conducted a formal briefing on this matter January 30.

The bill was favorably reported with an amendment in the nature of a substitute that I sponsored along with Congresmen Lagomarsino, Udall, and Fuster by the Subcommittee on Insular and International Affairs on August 3 by a recorded vote of 10 yeas and 0 nays. It was favorably reported with an amendment in the nature of a substitute sponsored by Congressmen de Lugo, Lagomarsino, Udall, Don Young, George Miller, and Fuster by the Committee on Interior and Insular Affairs September 19 by a recorded vote of 37 yeas and 1 nay.

An identical substitute was also favorably reported by the Subcommittee on Rules of the House on September 27 and the Committee on Rules on October 2 by voice votes.

It is our hope that this legislation will make it possible for the debate on Puerto Rico's ultimate political status to be concluded.

H.R. 4765 is a bill that is consistent with the longstanding Federal policy that holds that the ultimate political status of Puerto Rico is a matter for the people of Puerto Rico to decide and that all status options are open to the people of Puerto Rico, although the debate of a future relationship with the United States is a matter that has to be mutually determined.

This carefully crafted compromise would provide the fullest possible response to the request of Puerto Rico's people for the Federal Government to authorize a referendum among the status options and commit to respond to a status that receives majority support. It contains the strongest commitment to respond to their will possible and incorporates the clearest and descriptions of the statuses on which this House can reach agreement.

Like many compromises it may not be the bill any individual Member of Congress would have drafted as their own idea of the perfect process for Puerto Rican self-determination. It is, though a bill supported by both sides in this House, the President and, very importantly, all sides in Puerto Rico and it proposes a process that all agree is fair.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. Moakley], chairman of the Committee on Rules.

Mr. MOAKLEY. Mr. Speaker, I congratulate the gentleman from the Virgin Islands [Mr. de Lugo], the gentleman from California [Mr. Lagomarsino] and the gentleman from Puerto Rico [Mr. Fuster] for their leadership in bringing this historic bill before the House.

Mr. Speaker, I was pleased to be an original cosponsor of H.R. 4765, along with our ranking minority member, Mr. Quillen. This bill was jointly referred to the Committees on Interior and Insular Affairs, and Rules. It was approved by both the Subcommittee on Rules of the House and the full Rules Committee, by voice vote without opposition.

The Committee on Rules has original jurisdiction over this bill because it contains various procedural provisions affecting the rules of the House. Several sections of H.R. 4765 as introduced and as amended by the Interior Committee mandate certain actions by Congress and its committees in the consideration of legislation in the 102d Congress to implement the results of the Puerto Rican referendum.

H.R. 4765 contains expedited procedures to implement the status option—a new commonwealth relationship, statehood or independence—freely selected by the people of Puerto Rico.

While the Rules Committee is not enamored of expedited procedures or other procedures which function outside the normal rules of the House, in this case their inclusion in the bill will serve to reassure the people of Puerto Rico that Congress will indeed act if Puerto Rico votes by a majority for one of the status options.

Mr. Speaker, I strongly urge the House to give overwhelming approval to this historic legislation.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Puerto Rico Self-Determination Act, H.R. 4765, is a significant measure which will advance the fulfillment of Congressional obligations under the Constitution and the Treaty of Paris. The legislation provides a two-stage process for the resolution of the political status of Puerto Rico. The first stage authorizes a referendum in Puerto Rico next year in which the people will vote for either an Independence, Statehood or Commonwealth relationship. If a majority of the people vote for one of the options, it will be up to the Congress to draft the terms of that particular status.

The origins of this legislation began over nine decades ago. The current relationship between the United States and Puerto Rico began in 1898 with the Spanish-American War.

The United States entered into a fierce war with Spain to defend the self-determination of the people of Cuba. Cuba was at that time a colony of Spain and was seeking to become a fully self-governing sovereign state. On April 20, 1898, the United States recognized the people's aspirations with the enactment of Joint Resolution No. 24 entitled:

> Joint Resolution For the recognition of the independence of the people of Cuba, demanding that the Government of Spain relinquish its authority and government in the Island of Cuba, and to withdraw its land and naval forces from Cuba and Cuban waters, and directing the President of the United States to carry these resolutions into effect. Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, First. That the people of the Island of Cuba are, and of right ought to be, free and independent. Second. That it is the duty of the United States to demand, and the Government of the United States does hereby demand, that the Government of Spain at once relinquish its authority and government in the Island of Cuba and withdraw its land and naval forces from Cuba and Cuban waters. Third. That the President of the United States be, and he hereby is, directed and empowered to use the entire land and naval forces of the United States, and to call into the actual service of the United States the militia of the several States, to such extent as may be necessary to carry these resolutions into effect. Fourth. That the United States hereby disclaims any disposition or intention to exercise sovereignty, jurisdiction, or control over said Island except for the pacification thereof, and asserts its determination, when that is accomplished, to leave the government and control of the Island to its people.

Five days later the Congress declared war on Spain. The United States put human and economic resources at risk to champion and protect the principles of democracy that we cherish. The outcome, of course, is history. The United States won the war and achieved its objective with Cuba's emergence as an independent state. As part of the Treaty of Paris with Spain, the United States became the sovereign power over the vast Philippine archipelago, Guam, and Puerto Rico and its adjacent islands. Article IX of the treaty specifically charged Congress with responsibility for the lives of the territorial residents:

> The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress.

This was consistent with the Constitution's territorial clause which provides Congress with the exclusive authority and direct responsibility over territories and possessions.

The Congress has acted on the self-determination aspirations of a number of our territories. The Philippine people decided that their political status destiny was as a separate sovereign nation. The Congress acted in 1934 to provide for the eventual transfer of power to the Philippines. Part of that process was the establishment of the Commonwealth of the Philippines with two resident commissioners, and the very explicit acknowledgment by the Congress that the Philippines would become an independent sovereign nation with its own citizenship in 10 years. Sovereignty was indeed transferred to the Philippines after World War II, and the territorial clause ceased to apply.

Before the start of the 1960's, the people of the territory of Alaska and the territory of Hawaii, voted to become full members of the United States as States of the Union. Alaska and Hawaii's attainment of a full measure of self-government was formally acknowledged in United Nations resolutions as they had met the United Nation's recognized principles for achieving full self-government. They had achieved the right to govern themselves as sovereign States of the Union under the 10th amendment of the Constitution, and were no longer subject to the territorial clause of the Constitution.

Once again, the Congress is faced with a question regarding the future relationship of a people under its responsibility. President Bush raised Puerto Rico self-determination in his first address to a Joint Session of Congress on February 9, 1989. Although his message was billed as a budget address, the President felt compelled to bring this burning issue regarding Puerto Rico before the Congress and the people. The President expressed his strong personal support for Puerto Rico statehood and yet asked the Congress to take the necessary steps to let the people of Puerto Rico decide in a referendum. The legislation before us today fulfills the President's request. The Puerto Rico Self-Determination Act authorizes a referendum in Puerto Rico on September 16, 1991 to let the people express their desire as to which of the three status options they prefer, or none, if none of the statuses are what they wish. When I joined Congressman de Lugo and others in introducing H.R. 4765 in May, I stated that one of my objectives with regard to this legislation was to provide the people of Puerto Rico with an opportunity to vote, and to vote with the knowledge of what each status means.

The different definitions for the three status options have been developed to address and accommodate the many aspirations of the different parties while attempting to keep within constitutional constraints. There are certain things under some of the status options that the Congress cannot grant. I certainly hope the legislation and report language will not be intentionally misrepresented to the people of Puerto Rico. Some of the most important factors defining a status relationship is sovereignty, applicability of the U.S. Constitution, nature of U.S. citizenship, political representation, voting enfranchisement, and economic benefits and responsibilities.

Sovereignty varies under the three different statuses. An independent Puerto Rico would be a separate sovereign nation. Under Statehood, the United States would be the sovereign power and Puerto Rico would be a sovereign State of the Union according to the 10th Amendment of the Constitution. Under a commonwealth relationship, Puerto Rico would be locally self-governing under the Constitution of Puerto Rico consistent with article IV, section 3, clause 2 of the U.S. Constitution, also known as the territorial clause, and the United States would remain as the sovereign power.

While the U.S. Constitution would cease to apply under Independence, the Constitution would be extended in full to Puerto Rico as a State, but only in part under a commonwealth relationship.

Supreme Court decisions regarding the applicability of the U.S. Constitution to U.S. territories, called the Insular cases, affirm a different degree of protection for Puerto Ricans than for other U.S. citizens residing in the 50 States. This apparent anomaly in our democratic society is due to the constitutional prerogative of the Congress under the territorial clause, to make all needful rules and regulations respecting the territory and possessions of the United States. The Supreme Court has upheld congressional action of selectively extending the Constitution to territories and in varying degrees. The Constitution was extended in full to the territories of Alaska and Hawaii many decades before their admission into the Union. In Puerto Rico's case, Congress has not fully extended the Constitution. The Insular cases asserted that the guarantees of certain fundamental personal rights declared in the Constitution did protect the residents of unincorporated territories, including Puerto Rico; however, some provisions of the Constitution did not apply.

Thus, the Supreme Court and other courts have held applicable and applied in the case of residents of Puerto Rico first, the first amendment speech and press and religion clauses, including the "right of association" protections afforded political activity; second, the fourth amendment protections against unreasonable searches and seizures; and third, the fifth amendment. While the Supreme Court has remained silent on the applicability of other amendments and parts of the Constitution not specifically extended by statute to Puerto Rico, the only such rights of individuals against the States that have been held not to be applicable in Puerto Rico were the sixth amendment right to a jury trial in criminal cases and the seventh amendment right to a jury trial in civil cases.

It appears, therefore, that all those provisions of the Bill of Rights that have been incorporated against the States as fundamental under the 14th amendment, as well as such protections as those against ex post facto laws, bills of attainder and takings without just compensation, do apply to Puerto Ricans. Puerto Ricans then, with the possible exception of the criminal jury trial guarantee, have all the fundamental personal rights that citizens residing in the 50 States and the District of Columbia have.

Under an independent Puerto Rico, U.S. citizenship would be retained, most likely, only by those who held U.S. citizenship in, or were born in Puerto Rico prior to the date of independence. U.S. citizenship under statehood would be guaranteed and constitutionally irrevocable under the 14th amendment of the Constitution. Under a commonwealth relationship, U.S. citizenship would be protected by the fifth amendment of the Constitution.

This last point regarding the difference in citizenship needs further clarification, as there has been extensive debate during the development of H.R. 4765 as to the source and nature of the citizenship one possesses under statehood versus what one possesses under a commonwealth relationship.

It is clear that the nature and source of the citizenship of persons within the several States and of persons residing in Puerto Rico is different, and to some, the difference with respect to the irrevocability of citizenship is understandably extremely important. The citizenship of persons residing within the 50 States has been acquired by birth in or naturalization in the United States, as provided in the first sentence of section 1 of the 14th amendment which states: "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States wherein they reside." Congress may not take away the citizenship of any 14th amendment citizen.

The citizenship, on the other hand, of persons residing in Puerto Rico was conferred by statute, beginning with the 1917 Organic Act and culminating in the 1940 Nationality Act and the 1952 Immigration and Nationality Act. Because of the decisions of the Supreme Court in the Insular cases, it seems most likely that persons born in Puerto Rico or naturalized there by statute were not "born or naturalized in the United States" for purposes of inclusion in the first sentence of section 1 of the 14th amendment.

Congress is not forbidden by the 14th amendment from revoking the citizenship of Puerto Ricans while the island remains in a commonwealth relationship status. However, Congress is not entirely free to revoke such citizenship.

There are possible future scenarios which could provide a rational basis for Congress revoking the citizenship of Puerto Ricans in a commonwealth relationship. However, the due process clause of the fifth amendment would remain a factor in any wholesale revocation of U.S. citizenship. The law granting blanket U.S. citizenship to the residents of the former Spanish colony of Puerto Rico provided an exception for individuals not wanting to become U.S. citizens by completing a sworn statement. Undoubtedly, Congress would protect U.S. citizens by providing fifth amendment due process in any action affecting U.S. citizenship of residents of areas not incorporated into the United States.

Political representation of the people of an independent Puerto Rico in Washington would be through an ambassador, according to the Vienna Convention on Diplomatic Relations, and without representation in Congress. As a State of the Union, the people of Puerto Rico would be represented in the Congress by two Senators and six or more voting Members in the House of Representatives. Under a commonwealth relationship, Puerto Rico would continue to be represented in the House by a nonvoting resident commissioner.

Only under statehood would the people of Puerto Rico be enfranchised to vote for the President and Vice President of the United States. They would exercise this right of franchise as is done by all States of the Union through a number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress.

Economically, there would be an orderly transition under all three options. However, the level of benefits

and the obligations would vary among statutes. Financial obligations by the people of Puerto Rico to the Federal Government under independence would be limited. Federal programs, assistance, and benefits would be reduced over time, although earned benefits would continue. U.S. citizens under statehood would be required to share the same responsibilities as their fellow citizens in the other States of the Union but with equal benefits, grants, assistance and opportunities. Any increased benefits under commonwealth would be contingent upon equitable contributions from Puerto Rico. Those contributions could be in the form of decreased Federal rebates, lower Federal credits, or other direct payments of taxes.

The referendum is to be conducted in an open and fair manner according to the electoral laws of Puerto Rico. If one of the three status options, independence, statehood or a commonwealth relationship, receives a simple majority of 50 percent plus 1, of the votes cast by registered voters, then Congress will act to draft the terms of that option. Congress will endeavor to draft the legislation in consultation with all interested parties both in and outside of Puerto Rico. The House will develop the terms within the parameters of the definitions in the House report regarding Puerto Rico. However, no one should expect the enabling legislation to necessarily encompass all of the provisions and in the manner described therein of the definition of the prevailing status. The enactment of H.R. 4765 represents a moral commitment by the Congress to provide the people of Puerto Rico with enabling legislation.

The Puerto Rican born, and U.S. educated physician, Dr. Jose Celso Barbosa, began the current quest for equality in Puerto Rico with the establishment of a statehood movement in 1899. He traveled to the States to petition for equality for the people of Puerto Rico through statehood.

His efforts contributed to the establishment of the position of Resident Commissioner of Puerto Rico in Washington and the bestowal of U.S. citizenship in 1917. Dr. Barbosa believed the grant of citizenship also meant a promise of statehood. However, he died before the U.S. Supreme Court declared in 1922 that the Congress had neither extended the Constitution in full to Puerto Rico nor promised statehood.

Over 60 years later, another Puerto Rican medical doctor traveled to Washington to seek equality for the people of Puerto Rico. In 1985, Dr. Miriam Ramirez de Ferrer, president of a nonprofit, nonpartisan civic group, Puerto Ricans in Civic Action, delivered the first batch of over 350,000 first amendment petitions to Congress. The individually signed petitions were so voluminous, carts had to be used to transport the neatly bundled petitions.

This plea of U.S. citizens for equal participation in our Government so moved me, as well as other Members of Congress, that I began considering legislation to provide a referendum in Puerto Rico on statehood. After consultations with then San Juan mayor, and former colleague of 8 years, Baltasar Corrada del Rio, former Governors Luis A. Ferre and Carlos Romero Barcelo, and after discussing the subject with then Vice President George Bush, I introduced H.R. 2849, "To provide for referenda and the development of enabling legislation regarding incorporation of the Commonwealth of Puerto Rico into the Union as a State." Joining me in a bipartisan effort as sponsors were Austin Murphy, E. Thomas Coleman, and Ike Skelton.

I was later approached by Ron de Lugo of the Virgin Islands, Chairman of the Subcommittee on Insular and International Affairs, regarding possible revisions to H.R. 2849. Changes considered included expanding the status options from statehood to include free association, a commonwealth relationship, and independence. Due to the 1988 elections, no legislation advanced through the Congress.

In 1989, I introduced the Johnston-McClure-Simon bill in the House, H.R. 3536, "To provide for a referendum on the political status of Puerto Rico." I want to thank all of the cosponsors who joined me in the bipartisan initiative: Austin J. Murphy, E. Thomas Coleman, Ike Skelton, Bill Green, Albert G. Bustamante, Benjamin A. Gilman, Joel Hefley and Jon L. Kyl.

The House Republican Research Committee has been extremely supportive of matters affecting Puerto Rico. Research Committee Chairman Duncan Hunter responded positively and quickly in early 1989 to the need to address Puerto Rico issues with the formation of a Puerto Rico Task Force. It has been my pleasure to Chair the Puerto Rico Task Force with: Ben Blaz, E. Thomas Coleman, Jim Courter, Robert K. Dornan, Benjamin A. Gilman, Bill Green, Frank Horton, Jim Lightfoot, Lynn Martin, Bill McCollum, Ileana Ros-Lehtinen and Lamar S. Smith. I want to thank my colleagues for their support and involvement regarding matters affecting Puerto Rico.

I want to commend Speaker Foley and House Republican Leader Michel for their support of this legislation. The Republican leader designated Mr. Walter Kennedy to represent his office regarding the development of Puerto Rico legislation. I want to commend Walter for his intense and devoted participation and many contributions to the legislative process.

The chairman of the Committee on Interior and Insular Affairs, Morris Udall, and the vice chairman, Don Young, have been most supportive. Don has a special insight to this particular self-determination issue, as he is one of the few Members of Congress who experienced first-hand the trials of territorial evolution and self-government. Don's home State of Alaska changed from territory to State just over three decades ago.

I want to thank my colleagues who participated in the congressional hearings in Puerto Rico or New York: Resident Commissioner Fuster, Delegates Blaz, de Lugo and Faleomavaega and Representatives Clarke, Green of New York, Lehman, Rangel, Rhodes, Richardson and Serrano. Their presence and efforts sent a strong message to the people of Puerto Rico of the interest in Congress regarding the future relationship with Puerto Rico, in spite of busy and conflicting schedules.

President Bush has designated two of his top assistants, Andrew Card and Chase Untermeyer, to handle all matters referred to the Executive Office of the President related to Puerto Rico. Both of these individuals have spent an inordinate amount of time on matters related to Puerto Rico. I want to commend Mr. Card and Mr. Untermeyer for their consistent cooperation on legislation providing a referendum in Puerto Rico. Their efforts were augmented by Mark Pestal of the Department of Justice and Frances Norris, White House Liaison.

There are many individuals who have contributed substantially to the development of this legislation. In particular, I want to acknowledge the statesmanship shown by the Presidents of the three parties, Rafael Hernandez-Colon of the Popular Democratic Party, Reuben Berrios-Martinez of the Independence Party, and Carlos Romero-Barcelo of the New Progressive Party, as well as former Governor Luis A. Ferre. He is one of the few whose life has spanned nearly the entire time since the United States flag has flown over Puerto Rico. His efforts and perseverance will enable the people to voice whether they are ready to share his vision of equality. This is truly an historic event which I hope will result in the final resolution of Puerto Rico's quest for self-determination, regardless of whether that is independence, statehood, or commonwealth.

With the enactment of H.R. 4765, the Federal Government will authorize a referendum on status in Puerto Rico for the first time since the United States flag was raised in 1898. The enabling of the people of Puerto Rico to exercise self-determination is one of the most important actions of the 101st Congress. It will be as monumental an event as any act of self-determination which has occurred in the past 2 years in Eastern Europe. However, this act of self-determination will be on this side of the Atlantic and will involve fellow U.S. citizens. Therefore, our enthusiasm and support for the expression of the will of the people of Puerto Rico should be strong and broad. The enactment of the Puerto Rico Self-Determination Act will allow the people to vote and will demonstrate our active commitment to democratic principles within our society.

The Committee on Interior and Insular Affairs has been fortunate to have been assisted by a capable cadre of staff. Rick Agnew, Chris Kennedy, Cherie Girard, and Cathy Wilson all assisted Republican members in the conduct of hearings either in Puerto Rico or in New York. Special thanks to Roy Stapleton Jones and Jeffrey Farrow for their work on the majority side.

I believe it is appropriate to acknowledge the contributions of the Republican adviser on Insular and International Affairs, Mr. T.E. Manase Mansur, to the development of Puerto Rico status legislation. For over 5 years, Mr. Mansur has devoted immeasurable time to the problems confronting Puerto Rico and recommending various solutions. He has conducted extensive research both in Puerto Rico and Washington to determine what Congress should do to resolve the many challenges facing the people of Puerto Rico. His advice has been sound and most helpful in providing a basis for legislative action.

Last week, I received a letter from President Bush urging the Congress to act quickly on legislation providing a referendum on Puerto Rico's political status. The President's words reflect his genuine and stalwart support of the right of the people of Puerto Rico to choose their preferred relationship with the United States:

The White House,
Washington, October 5, 1990.

Dear Bob: I applaud everything you have done to give the people of Puerto Rico the chance to declare what they want their political future to be. Your subcommittee performed truly historic labor, and now your bill is about to come to the House floor.

As you know from my first address to Congress, this issue is important to me, and not just because of my long-standing interest in Puerto Rico. As President in a time of democratic growth and vibrancy throughout the world, I strongly believe it is past time that we guarantee the residents of the Island a voice in resolving the political status of Puerto Rico, American territory for 92 years. We owe this to them, and we owe it to a world that watches to see whether the United States of America believes as much in the consent of the governed now as it did in 1776.

I would urge the entire Congress to act affirmatively and rapidly on whatever responsible measure comes before them to call for a referendum on Puerto Rico's political status. And I stand ready to sign such legislation when it reaches my desk.

Sincerely,

George Bush.

I urge my colleagues to support legislation providing the 3.6 million U.S. citizens of Puerto Rico with the opportunity to decide their future relationship with the United States. The enactment of such measure will be a testament to the democratic principles upon which this Nation was founded. "We the People," including the U.S. citizens of Puerto Rico, have a right to participate in the governance of the country in which they reside.

☐ 1430

Mr. de LUGO. Mr. Speaker, it is my great pleasure to yield 5 minutes to the Resident Commissioner of Puerto Rico, Mr. Fuster, the distinguished gentleman who has played such a key role in shaping this package.

Mr. FUSTER. Mr. Speaker, today you are being asked to vote on a historic piece of legislation. The bill you are about to consider, summons my constituents to a further exercise of their most fundamental right as a people—their right to self-determination. It calls upon them to ponder and declare what kind of ties they ultimately want to have with the United States. It sets in motion a process, whose final results no one can surely predict, except to say, that it will deeply affect fundamental aspects of life of my constituents, and in time transform the relationship between the United States and Puerto Rico.

During the markup of this bill, in both the Insular Affairs Subcommittee and the full Interior Committee, I pointed out that it had serious shortcomings. Its terms certainly fall short of what it purports to be. The options through which the people of Puerto Rico are asked to decide their collective future, are not defined as broadly as their advocates wanted them defined; these options are not presented to the people as prominently as they could have been; the need to preserve and protect the Spanish language and Puerto Rican culture under the statehood option, has not been addressed at all; the commitment of Congress to honor the results of the referendum is not as compelling as it should be; and the whole nation of Puerto Rico is not decidedly enfranchised for this referendum. It is clearly an imperfect bill, and it is so, not only because traditional paternalistic and conservative attitudes about insular self-determination still prevail in some circles of the Washington power structure, but also because H.R. 4765 is the result of an intense and complex process of negotiations that have tried to reconcile and accommodate dramatically different notions on how self-determination for Puerto Rico should be structured. The White House and part of the Republican leadership in this body would like Puerto Rico to become a State of the Union and they have marshalled their strong views about how the self-determination process should develop. The government of Puerto Rico and the main party in the island, prefer a new Commonwealth relationship, and we have insisted on our own vision of self-determination. The leadership in the House is reportedly neutral as to the three choices to be presented to the people of Puerto Rico, but they have pressed their ideas about self-determination, ideas that do not fully coincide with the ones I have already alluded to. And then we have the statehood and independence parties of Puerto Rico, whose own conflicting views have also been strongly asserted in the process. Out of these very disparate perspectives a difficult compromise has been contrived, and the result unavoidably, is a very imperfect bill.

These realities notwithstanding, Mr. Speaker, I do support this bill and I do ask my colleagues in the House to approve it. Imperfect as it is, the bill has the potential to open up a path, that in time, will bring to an indisputable end the United States' imputed colonialistic rule of Puerto Rico. It has the potential to put to rest the seemingly endless, agonizing and debilitating political debate that has consumed so much of the peace of mind and of the creative energies of my constituents for almost a century now.

H.R. 4765 will allow the residents of Puerto Rico to express their choice among three options, as they have been defined by Congress in the report of the bill. These definitions appearing in the report are an essential part of the Congressional plan for the referendum. They encompass precisely the matters to be presented to my constituents for them to vote on. They were the central object of the long and complex deliberations and negotiations that led to the approval of this bill at the subcommittee and committee levels. They are meant to appear on the ballots so that the people of Puerto Rico can make the free and informed choice without which the referendum would not be legitimate. So through this process, Congress does offer Puerto Ricans a true choice among three clearly defined alternatives. This bill also commits Congress to a good faith effort to enact the broad principles of the winning option into law. Congress is duty bound to seek to incorporate all the essential elements of the definition of the winning option into the implementing legislation. In these new times, when the right to self-determination prevails as never before throughout the world, the history, content and intent of the bill permits us to be fairly confident that Congress and the leaders of a nation which was founded upon the

principles of self-determination and government by consent will honor the results of the referendum; that the will of the people of Puerto Rico, as expressed in the referendum will be respected; that legislation will be finally enacted that faithfully incorporates the principles of the winning option, as they appeared in the ballots. Because I believe this to be true, I support this bill. Because I believe you share these views, I ask that you approve it.

Mr. Speaker, 92 years ago, the commander of the American Army that landed in Puerto Rico to occupy the island told the people there that the military forces led by him had come:

> * * * bearing the banner of freedom * * * They bring you the fostering arm of a nation of free people whose greatest power is in justice and humanity to all those living within its fold * * *

After almost 100 years of tears and toil, of strife and struggle, of persevering in our quest for self-determination, even in the face of great frustrations, the promise of General Miles seems close to being decidedly fulfilled even if only through the means of an imperfect bill. Let us accept it, because it is the only one we have been able to agree upon through a fragile consensus between the leadership of Puerto Rico's political parties, Congress, and the White House; let us accept it because it will spark the people of Puerto Rico into a new liberating experience, and their resolute will, once it is formed, shall eventually prevail.

Mr. LAGOMARSINO. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. Solomon], a member of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, as the ranking Republican on the Committee on Rules' subcommittee that has dual jurisdiction on this legislation, I am pleased to join with my friend, the gentleman from Massachusetts [Mr. Moakley], the gentleman from the Virgin Islands [Mr. de Lugo] and other Members, including the gentleman from California [Mr. Lagomarsino] in urging support for this legislation.

Mr. Speaker, H.R. 4765 represents the next logical step in the ongoing development of the relationship between the United States and the Commonwealth of Puerto Rico.

H.R. 4765 will provide an important opportunity for the citizens of Puerto Rico to decide the future political status of their island. I am convinced that the continued economic development of Puerto Rico, including the maintenance of a favorable climate for private investment, is critically dependent on a clarification of the island's political status.

But there is something which is even more important at stake here: Namely, the right of Puerto Rico's people—who, let Members not forget, are American citizens—to determine their own future. This bill will permit them to do that. I personally have no preference among the three alternatives which will be listed on the ballot. So long as the process is fair, and each of the alternatives competes on a level playing field, Congress will be satisfied with the results. H.R. 4765 will, I believe, provide that free, fair, level playing field.

American foreign policy supports self-determination for all countries, and human rights for all people. In recent years, the foreign policy backed by the American people has resulted in democracy and self-determination spreading throughout all of Europe and throughout the world.

Mr. Speaker, freedom is spreading throughout the world, and that is the reason why we and our American troops are in Saudi Arabia promoting self-determination for all people.

The right of the people of Puerto Rico to exercise their free choice of self-determination must be respected. And I look forward to working with the Members here on the necessary implementing legislation which will follow whatever the referendum brings out.

☐ 1440

Mr. de LUGO. Mr. Speaker, it is my great pleasure to yield 2 minutes to my friend, the gentleman from New York [Mr. Rangel], who has represented his constituents so aggressively and well in this matter.

Mr. RANGEL. Mr. Speaker, first let me thank the gentleman on behalf of the citizens of Puerto Rico, and more particularly the citizens in New York and in my congressional district for the historic event that is taking place today and the expertise with which the gentleman from California [Mr. Lagomarsino] and the chairman of the committee, the gentleman from the Virgin Islands [Mr. de Lugo] were able to steer this piece of legislation through the controversial waters of the questions of the politics of Puerto Rico as it relates to three parties that certainly have different views, the politics of the White House and, yes, at times the politics of the city of New York, to bring people together who have different views to make certain that even though they are not in complete accord, that they support this piece of legislation.

The question of who should vote and can vote, expanded franchises, very controversial issues, but certainly everyone believes that this committee has done an outstanding job in making certain that a piece of legislation is passable and acceptable to both parties and the Senate.

I am really pleased that this issue is going to be resolved once and for all. The question of the rights of Puerto Ricans was never in doubt when there were times for us to call on them to serve our country, in times of crisis and times of combat; but let the question come up as to economic development and entitlements and assistance, then some of the Members want to know who is the Ambassador to Puerto Rico, what is the exchange rate in Puerto Rico, and just what is the politics of Puerto Rico.

I think that we, too, will never be embarrassed again by questions being raised in the United Nations about our dedicated citizens there, that the question of what their status is once and for all will be decided by the people, our citizens, in Puerto Rico.

So often when this controversial question has been raised to us, we have always said let the people in Puerto Rico decide, as though this question would never, never come up.

Well, Mr. Speaker, my colleagues and my friends, the question is here and I think the House should be honored that we have been a partner in playing a role to make certain this question is finally resolved.

Mr. LAGOMARSINO. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. Green], who has been very helpful in the development of this legislation.

Mr. GREEN. Mr. Speaker, I thank the gentleman from California for yielding this time to me.

Mr. Speaker, I rise in strong support of H.R. 4765, the Puerto Rico Self-Determination Act, and commend the gentleman from California and the gentleman from the Virgin Islands for bringing it to us.

I have long advocated legislation to address the issue of self-determination for Puerto Rico. I have been close to the Puerto Rican situation for much of my career in public service. When I was Housing and Urban Development Regional Adminstrator from 1970 to 1977, I worked closely with successive Governors of Puerto Rico and many of the mayors there.

Ever since I was elected to Congress, I have represented a significant number of Puerto Rican Americans.

Although I support this legislation, like the gentleman from Puerto Rico I might have written it somewhat differently. For one thing, many of my constituents are concerned that there is some ambiguity as to whether or not they will be permitted to participate in the plebiscite process. Like many other Americans, those of Puerto Rican origin are highly mobile. Many who live in New York and elsewhere on the mainland expect—or at least want to keep open—the option to return to Puerto Rico. Many have close relatives in Puerto Rico or have economic ties of one sort or another to Puerto Rico.

The plebiscite legislation and the outcome of the plebiscite could affect them in many ways, such as taxation limitations on immigration, difficult choices as to citizenship, and the like, depending on the outcome of the referendum and whether they remain on the mainland or return to Puerto Rico.

The Interior Committee, faced with a difficult problem, in essence created an ad hoc political mechanism to be exercised in Puerto Rico to try to deal with this issue. I understand the problems the committee faced, and I respect the compromise that it struck.

Similarly, on the question of implementation of the outcome of the plebiscite, I should have preferred to see the legislation provide for self-execution. That however, would have required spelling out in this legislation in great detail what the consequences of each of the three choices would be, and, frankly, I think the distinguished chairman and ranking minority member reached the right conclusion, that it was simply not going to be possible to do that before this session of the Congress reached its end, whenever that is going to be. At the very least, in view of the important tax issues involved, it would certainly have required consideration by the Ways and Means Committee; and we are all aware that the chairman and the ranking minority member of the Ways and Means Committee have been deeply involved on other issues, notably the budget summit, and there is certainly not much opportunity for the Ways and Means Committee to consider this issue in the days that lie ahead.

I think the Interior Committee and the Rules Committee have crafted an alternative which does offer significant assurance to the people of Puerto Rico that their wishes will be accepted. That is the expedited procedure that the Rules Committee has agreed to, if there is a majority for any one of the three choices in the plebiscite.

I think we can safely say today to the people of Puerto Rico that that expedited procedure will mean that their wishes on this matter will be respected.

I can think of nothing more disastrous than to put the people of Puerto Rico through this process if the Congress is not prepared to abide by the outcome. It is going to be a very heated and emotional process in Puerto Rico, and if we put them through that and then do not respect their choices, I see that as an absolute disaster, not only for the people of Puerto Rico, but also for the United States in the conduct of its international affairs.

So I think we all ought to understand as we vote on this legislation today that, while it may not be self-executing, nonetheless we are making a real commitment and one that we must live up to when the people of Puerto Rico express their choice.

In conclusion, Mr. Speaker, I think that the subcommittee and the full committee and the Rules Committee have done an excellent job of dealing with a difficult piece of legislation. I think the fact that no one is speaking against it today when it involves such emotional issues proves what a fine job they have done. I commend them on it, and I urge all my colleagues to vote for the bill.

Mr. LAGOMARSINO. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. Horton].

Mr. HORTON. Mr. Speaker, I rise in support of H.R. 4765.

As chairman of the New York State congressional delegation, I would like to offer my strong support of H.R. 4765, the Puerto Rican Self-Determination Act of 1990.

As you will recall, during last year's State of the Union Address President Bush urged the Congress to pass legislation allowing for Puerto Rican self-determination. As I sat on the House floor during that speech I was greatly pleased by the President's remarks and pledged to assist with passage of this measure in any way possible.

Since 1952, Puerto Rico has been under the status of "commonwealth in free association." To this day, Puerto Ricans have been denied the ability to vote in Presidential elections. Their Delegate in Congress is permitted to vote in committee, but Puerto Ricans are not represented on the floor of the House of Representatives. As many of my colleagues will attest, this is an important aspect of the legislative process.

H.R. 4765 calls for expedited procedures whereby the Congress can consider legislation to implement the decision made in the Puerto Rican referendum. I applaud this effort to speed up the referendum process and at last resolve the status of Puerto Rico. I call upon the House and Senate conferees to quickly work out differences between their respective versions of the Puerto Rican Self-Determination Act of 1990 and allow the President to sign the legislation into law. Mr. Speaker, the citizens of Puerto Rico have waited long enough for the opportunity to decide their fate, let us not make them wait any longer.

Mr. de LUGO. Mr. Speaker, I yield such sime as he may consume to the gentleman from California [Mr. Torres].

Mr. TORRES. Mr. Speaker, this bill is about self-determination for people who have been citizens of this country since 1917.

The 14th amendment:

> The right of citizens of the United States to vote shall not be denied or abridged on account of race, color, or previous condition of servitude.

Today, in this country we still have American citizens whose right to vote must be approved by this body.

It is quite interesting that in 1916 Woodrow Wilson, stated that "Every people has a right to choose the sovereignty under which they shall live."

The people of Puerto Rico, through the referendum, simply want that opportunity to choose their own destiny.

President Wilson stated so eloquently before this body in February 1918 that "Self-determination is not a mere phrase. It is an imperative principle of action, which statesmen will henceforth ignore at their peril."

Therefore, I urge my colleagues to take action and support the citizens of Puerto Rico in their quest to determine their destiny; vote for H.R. 4765.

Mr. de LUGO. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. Kildee].

Mr. KILDEE. Mr. Speaker, I rise in strong support of the Puerto Rican Self-Determination act. I want to commend the chairman of the subcommittee, Mr. de Lugo, for his commitment to bringing this important legislation to the floor.

Mr. Speaker, for 10 years now, I have been a member of the House Committee on Interior and Insular Affairs. Throughout my tenure on the committee, I have always been an unwavering supporter of the Puerto Rican people, and I have always supported the right of self-determination of the Puerto Rican People.

Mr. Speaker, H.R. 4765 is an important piece of legislation for the people of Puerto Rico and the United States. For several years now, the status of Puerto Rico has consumed the commonwealth and its 3.6 million inhabitants. While there are strong differences of opinion on what the outcome of the referendum should be, one thing is clear—all sides agree that the referendum should take place.

Mr. Speaker, I believe that the U.S. Congress should abide by the wishes of the Puerto Rican people and pass this important piece of legislation. I urge my colleagues to support this bill.

Mr. de LUGO. Mr. Speaker, it is a pleasure to yield 2 minutes to the other gentleman from New York [Mr. Serrano] who played a key role in molding this legislation. He is a new Member of this House, and believe me, he had his baptism of fire and he has conducted himself with distinction.

Mr. LAGOMARSINO. Mr. Speaker, I yield an additional 2 minutes to the gentleman from New York [Mr. Serrano].

The SPEAKER pro tempore. The gentleman from New York is recognized for a total of 4 minutes.

Mr. SERRANO. Mr. Speaker, I would like to thank the chairman and the ranking member for yielding me this time.

Mr. Speaker, this is a very historic moment for me as a new Member of Congress, as a Puerto Rican, and as an American citizen to bring to the floor today, as these gentlemen have done, this bill which has the unanimous support of all three parties in Puerto Rico. No one should take too lightly that statement, to have the three parties in Puerto Rico who very strongly oppose each other on their views of where the island should be heading in

the future, to support this legislation is quite an accomplishment, and it is to the credit of the committee in this House that we have that kind of agreement here today.

As has been said, since 1898 Puerto Rico has been a part of the United States, and during that time the Puerto Rican people, in my opinion, have waited patiently for an opportunity to fully express themselves as to this issue.

☐ 1450

In the past there have been a couple of occasions when that expression has been put forth. But in the opinion of many, and certainly in my opinion, that expression was never formulated in the way it is formulated in H.R. 4765.

As an American citizen and as a Member of this body, this legislation is of special interest to me because I realize the importance it places on how the world looks at us.

After all, we were involved in Nicargua, for better or worse; we were involved in Panama, for better or worse; we told the Soviet Union how to behave; we were part of bringing down the Berlin Wall through our foreign policy and our statements overseas. Yet, for 92 years we have had a relationship which at best is not equal. Even the governing party, which supports the present status, supports enhancing that present status. Therefore, as it is it cannot remain.

This legislation would then allow us certainly on the international level to say to the rest of the world "what we preach is what we practice, what we have said to you to do we are doing ourselves."

And so it is important today that we put forth this bill. It is important that we lobby in every way we can with the Senate to make sure that they approve legislation in the remaining days and remaining hours of this legislative session so that the people in Puerto Rico will have an opportunity to determine their future.

Let me cover another point: In this bill there is a part that I have been working on very strongly with Congressman Green of New York and Congressman Rangel and other Members, which would allow the dialog committee in Puerto Rico and the legislature in Puerto Rico, through its approval, to allow people like myself, those who were born on the island but are no longer residing on the island, the opportunity to vote in this plebiscite.

This is important because it is the strong belief of many, including myself, that we came to this country which we love, we came to this country which we honor, we came to this country which we participate in, but we came through Federal policies and situations which forced a lot of people out of Puerto Rico in the 1940's, 1950's, and early 1960's.

Therefore, it is our belief that when this final decision is made, those of us who are indeed children of the Commonwealth, children of the territory, if you will, should participate fully.

But with or without participation, the plebiscite should go forth. The plebiscite should take place next year. The Senate and this House should make sure that it is signed into law this year, and then we can truly stand up as American citizens, we can truly stand up as a body with pride and say that we have allowed all of our citizens throughout the land the self-determination right, the right to establish what it is that they want for their future.

Mr. Speaker, I thank the chairman of the committee again for this opportunity to speak.

I can tell you that today will go down in my life as an extremely important day because on March 20 I never realized that only 6 months after coming to this body that my homeland would be discussed on this floor in a way which will allow all of my brothers and sisters on the island and, hopefully, myself the right to the self-determination and to allow the country that I reside in, the country where my children have been born, the right to say to the world we are indeed a democracy and we allow all our children to express themselves.

Mr. LAGOMARSINO. Mr. Speaker, I reserve the balance of my time.

Mr. de LUGO. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. Towns].

Mr. TOWNS. Mr. Speaker, I rise in support of the bill.

Mr. Speaker, I rise today to encourage my colleagues to give their immediate approval to H.R. 4765, the legislation authorizing a 1991 plebescite on the future status of the island of Puerto Rico. Puerto Ricans, both on the island and here in the 50 States, have waited months while this legislation moved through the committee and languished during negotiations over the bill's language. Any delay in House passage of this bill means that we delay the right of millions of Puerto Ricans to decide their future and the fate of Puerto Rico.

Congressional approval is long overdue. My constituents do not understand why, after years of discussion, the referendum on Puerto Rico's status might be pushed back, perhaps into 1992, because of congressional haggling. Many Puerto Ricans have waited years for the opportunity to reaffirm their familial, cultural, and economic ties with the island, and to be heard on the issue of the island's future status.

After long negotiations, the Committee on Interior and Insular Affairs passed language that ensures that all Puerto Ricans, whether they reside on the island or within the 50 States, will also have a voice in Puerto Rico's future. Among my own constituents, I can attest to the strong desire of mainland Puerto Ricans to help decide the fate of the island. This legislation affords them the opportunity they deserve to acknowledge their heritage and to shape the future of their native Puerto Rico.

It is crucial that Congress enact referendum legislation before the close of this session, so that Puerto Rican electoral officials have adequate time to prepare for the plebescite, which is scheduled to be held in September 1991. The longer we delay in enabling Puerto Rico to determine, once and for all, its future status, the longer Puerto Ricans must wait to address the serious social and economic issues affecting the island of Puerto Rico.

Mr. de LUGO. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. Miller], one of the senior members of the Committee on Interior and Insular Affairs, a gentleman whose support was critical in this matter. I am glad to count him as both a friend and one who supported this bill.

Mr. MILLER of California. Mr. Speaker, I rise in support of H.R. 4765, a bill to enable the people of Puerto Rico to conduct a plebiscite on their future political status. The bill also sets out a course of action for the Congress to develop and consider legislation implementing the decisions of the people of Puerto Rico.

This is truly an historic moment in the House of Representatives and for the people of Puerto Rico. It is my hope that the Senate will act quickly to approve this legislation so that the election—which so many people in Puerto Rico have wanted for so many years—will actually occur next year.

People around the world have been expressing their desire and their right to determine their own form of government. The very least the Congress can do is affirm the right of the people of Puerto Rico to determine their own political future—and to make a commitment to take steps to make that decision a reality.

I don't know which option the Puerto Rico will choose—statehood, commonwealth, or independence. I have no strong bias about which option Puerto Rice should choose. That is a decision for them to make.

I do have strong feelings, however, that the Puerto Rican people should have the option of making that choice. Puerto Rico should have the right of self-determination.

This bill is a straightforward bill. It is a bill which does not favor one outcome of the election over another. It establishes a process for the election and for subsequent congressional action. It is a bill the three political parties in Puerto Rico will accept, and it is a bill which I urge you to support.

I would like to commend Chairman Ron de Lugo for his leadership and hard work in developing this bill. It was a long and difficult process, but

Chairman de Lugo persevered. Lengthy hearings were held here, in Puerto Rico, and in New York City. Hundreds of witnesses were heard. All views were carefully weighed and considered. And, in the end, this bill reflects the hard work of the chairman. They deserve our thanks for taking on this difficult issue and for sending us a bill we should be proud to endorse and support.

Mr. de LUGO. Mr. Speaker, I yield 1 minute to my good friend who presided over one of the key hearings of the subcommittee and has been a supporter of this legislation from day one, the gentleman from the North Carolina [Mr. Clarke].

Mr. CLARKE. Mr. Speaker, I want to congratulate Ron de Lugo, chairman of the Insular and International Affairs Subcommittee, Bob Lagomarsino, the ranking minority member, and Mr. Fuster, the Resident Commissioner for their hard and effective work on this bill.

H.R. 4765 gives the Puerto Rican people a chance to decide their future. Their feelings run very deep on this matter. When we were in Ponce for a hearing this spring 150,000 people marched beside the building we were in.

The bill schedules the referendum for September 1991. If one of the three status options receives a majority, Congress must vote on a bill to implement that status. If Congress approves it, the bill will be effective provided the Puerto Rican people ratify it within 60 days.

The decision in the referendum won't be easy. Most industries in Puerto Rico are exempt from Federal income tax. Statehood would eventually deprive them of this benefit. On the other hand under present Commonwealth status thousands of Puerto Ricans face low caps on AFDC and Medicaid, have no SSI and get less nutrition assistance than other Americans who receive food stamps. Puerto Ricans are simply not full U.S. citizens.

H.R. 4765 will give them a chance to decide. It deserves our strong support.

Mr. de LUGO. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. Lehman], a member of the full committee, who traveled with us to Puerto Rico and participated in three historic hearings that we had.

Mr. LEHMAN of California. Mr. Speaker, I commend the gentleman from the U.S. Virgin Islands [Mr. de Lugo] and congratulate Mr. Fuster and recognize the hard work and effort by the gentleman from California [Mr. Lagomarsino] to make this moment a reality.

Mr. Speaker, if I learned anything during my stay in Puerto Rico, it is that the status issue absolutely dominates life on the island and the Puerto Ricans are eminently capable of making an intelligent and informed and rational decision.

Mr. Speaker, it is time we once and for all resolve Puerto Rico's permanent status.

This legislation would allow Puerto Ricans to choose whether Puerto Rico becomes a State, a new Commonwealth, or an independent nation.

Each of those options has been supported by a major political party in Puerto Rico. In fact, the island's relationship with this country has dominated elections in Puerto Rico for many years.

Whatever option is chosen, it is going to have serious ramifications on Puerto Rico's economy. The outcome is hard to predict with confidence. But the provisions of this bill, carefully crafted, will provide for an orderly transition to whatever status is chosen.

I certainly agree with the comments of the gentleman from New York [Mr. Green] a few moments ago that we should accept the choice made in Puerto Rico. The worst thing we can do is dangle the carrot of statehood or independence or of commonwealth status before the people there and then yank it back at the last moment when it might become a reality.

This is a good bill, well crafted, deserving of the support of everyone in this House

Mr. de LUGO. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. Lewis], a valued member of the subcommittee and of the full committee, who actively participated in this effort was a great help.

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Mr. LEWIS of Georgia. Mr. Speaker, I rise to urge my colleagues to support H.R. 4765, the Puerto Rico Self-Determination Act.

This measure has received wide bipartisan support from members of the Interior Committee. It has been endorsed by Speaker Foley and minority Leader Michel.

But most of all, it deserved the support of this body because it is the right thing to do.

We have seen the winds of change blowing over Eastern Europe. We have heard the voices of self-determination even in South Africa. Surely, we can support our brothers and sisters in Puerto Rico and ask only that they have an opportunity to vote on their future.

The days of colonial powers have ended. The future lies in equal partnerships, equal opportunity, and equal justice.

Three million three hundred thousand natural born citizens of the United States are being denied the basic right of self-determination.

I urge my colleagues to support this important measure.

In closing, I want to thank my good friends, Congressman Fuster, Chairman Lagomarsino for their tireless efforts on behalf of the people of Puerto Rico.

Mr. de LUGO. Mr. Speaker, I yield 1 minute to another gentleman from Georgia [Mr. Darden]. We have a lot of help from Georgia on our committee, and this gentleman from Georgia is a member of my subcommittee by special request, he has played a very crucial role in this legislation.

Mr. DARDEN. Mr. Speaker, as a member of the Subcommittee on Insular and International Affairs, I want to commend our chairman, the gentleman from the Virgin Islands [Mr. de Lugo], for his strong leadership in bringing this matter to the floor. I also want to say quite frankly that, had it not been for the work and dedication of the gentleman from Puerto Rico [Mr. Fuster], I would not be here today in support of this legislation. He is the one who won me over to support his point of view because, quite frankly, I think statehood is a bad idea, but this is not a statehood bill.

Personally, Mr. Speaker, I look forward to the day in 1996 when the Olympics come to Atlanta. If there is statehood in Puerto Rico, there will not be a separate team, so Puerto Rico loses its identity.

Second, under section 936 of the Internal Revenue Code Puerto Rico has a good deal, because of very liberal tax incentives, designed to attract industry to Puerto Rico.

The people of Puerto Rico, by the way, do not have to pay tax to the U.S. Government, even though they pay comparable tax rates to the Commonwealth. I might add that, if they think that Hurricane Hugo was rough and devastating, wait until they have the IRS on their back if they become a State.

Finally I would like to state, Mr. Speaker, in the case of statehood that it was determined about 125 years ago that statehood is forever, so I say to the people of Puerto Rico, "If you become a State, you'll never get out. If you don't believe it, ask the people of Georgia." We certainly do not want to leave, but we lived it once and the results were disasterous.

Mr. Speaker, I am honored to be able to participate in this historic vote.

Today we have crafted legislation which speaks to the issue of self-determination by providing for a clear choice for Puerto Ricans among statehood, independence, and commonwealth status. The bill enunciates clear distinctions between the parties, and provides for a complete understanding of the consequences of this decision for Puerto Ricans now and in the future. Steps were taken to assure Puerto Ricans that this vote will be more than symbolic; this plebiscite will result in congressional action. However, for those

unwilling to commit to a future status without further consideration, the bill provides for a two-tiered process. Should statehood prevail, we retain the right to further inquiry.

Most importantly, the bill we consider today is not weighted toward one result; it is not a statehood bill. In fact, if I were choosing today, I would not support statehood. Puerto Rico has made great strides on the basis of their commonwealth status. The tax incentives provided under section 936 of the Internal Revenue Code to large corporations for investing in Puerto Rico would not be possible if Puerto Rico were but 1 state of 51. As a commonwealth, Puerto Rico can continue to tailor economic policies to their unqiue needs.

Additionally, the costs of statehood could become prohibitive for our Government. The average per capita annual income in Puerto Rico is about half that of Mississippi, our poorest State measured in these terms. Accordingly, statehood for Puerto Rico would mean access to all Federal assistance programs. Because these programs are administered on the basis of population, Puerto Rico would receive a far larger share of the Federal expenditures than would other States.

I have visited Puerto Rico, and was impressed by the Commonwealth's economic progress and touched by the people's desire to define their relationship with the mainland. Many intangibles will be instrumental in the final decision reached through this process. Cultural pride, Hispanic heritage, and official language requirements will all be considered.

Again, as an example of such an immeasurable yet influential concern, Atlanta has been selected as the site for the 1996 Summer Olympics. Puerto Rico has fielded their own Olympic team, and this effort has been the focus of great pride among Puerto Ricans. While we in Georgia welcome all who participate in the games, under statehood, Puerto Rico's team will be assimilated into that of the United States. Similarly, Puerto Rican culture would be sublimated to that of the United States.

In any event, the bill before us is important for the assurance of Puerto Rican rights, and for a final determination of our unique and mutually beneficial relationship. It is for the Puerto Ricans themselves to choose among statehood, independence, and commonwealth. I support the chairman and Mr. Fuster in their efforts to provide for a timely, fair and meaningful plebiscite, and I urge my colleagues to join us in extending this opportunity.

Mr. de LUGO. Mr. Speaker, I yield 1 minute to the gentleman from New Mexico [Mr. Richardson], who chaired a very important hearing regarding this bill in New York at the chairman's request.

Mr. RICHARDSON. Mr. Speaker, the Island of Puerto Rico stands ready to hold a plebiscite on the issue of its political status. This referendum will allow Puerto Ricans to engage in an activity which is at the core of American values—self-determination.

There is no issue of greater importance to the people of Puerto Rico. The committee hearings and consideration of this legislation was followed by every television station and newspaper on the island.

When members of the Interior Committee traveled to the island for field hearings they were met by tens of thousands of enthusiastic supporters of the three status-based political parties.

This enthusiasm was matched at the daylong field hearing I chaired in New York City this past June.

This legislation responds to a proposal from the presidents of Puerto Rico's three status-based parties.

The negotiations on several contentious issues have been hard fought but have yielded a strong bill.

The issue of whether to include franchise to Puerto Ricans not residing on the island was particularly difficult. The compromise reached will allow the parties and legislature of Puerto Rico to decide how to include their mainland brethren. Other compromises included the date of the plebiscite and definition of status.

Congress should not be the obstacle to the plebiscite, nor should Congress back any particular option. All three options are viable and meritorious. Congress should allow the Puerto Rican people to decide for themselves.

Diremos a la gente de Puerto Rico, su destino esta en sus manos y en sus votos. El Congresso debe honrar su decision. (Let us say to the people of Puerto Rico, your destiny is in your hands and in your votes. Congress intends to honor your decision.)

La gente de Puerto Rico an mostrado pasiencia, su liderasco flexibilidad y empeno. Deremos nuestro apoyo a este proceso critico y historico. (The people of Puerto Rico have demonstrated patience, its leadership flexibility and hard work. Let us give our support to this critical and historic process.)

Mr. LAGOMARSINO. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I think it is very appropriate that you are in the chair at this historic moment, and I want to commend you, not only for your help in moving this legislation along, but your courage in making some very difficult compromises that needed to be made to move this bill forward. You, and the gentleman from New York [Mr. Rangel] and the gentleman from New York [Mr. Green] are all in that category, and I cannot express how strongly I feel about the contributions of the gentleman from the Virgin Islands [Mr. de Lugo].

As my colleagues know, some who are watching this debate this afternoon might say, "Ho hum, big deal," because it does not look like it is very controversial. There in no one rising that this is a bad deal and that we should not vote for this.

However, Mr. Speaker, I can tell my colleagues that it took a lot of time, and a lot of work, and a lot of sweat and toil to get to this point, and the gentleman from the Virgin Islands [Mr. de Lugo] not only has worked very hard, but he did it under some very difficult circumstances. Twice he was in the hospital during critical periods in the development of this legislation. That did not stop him. He continued to move forward.

Mr. Speaker, this bill is not about statehood, and it is not about commonwealth, and it is not about independence. What it is about is self-determination for 3.6 million American citizens living on the Island of Puerto Rico.

I urge my colleagues to adopt it, and I yield back the balance of my time.

Mr. de LUGO. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I will not use the entire time remaining because we have worked so long, and we want to get to this moment. However, Mr. Speaker, I want to thank the gentleman from California [Mr. Lagomarsino] for his graciousness. I will be submitting a statement from the great gentleman from Arizona [Mr. Udall], the chairman of the full Committee on Interior and Insular Affairs.

Mr. Speaker, the United States took Puerto Rico 92 years ago and with it responsibility for its status.

Our Nation has been committed to further self-determination for Puerto Rico ever since the current Commonwealth was established 38 years ago. However, until today we have failed to explain how such a decision can be made and put into effect.

This history has frustrated those who believe in commonwealth, convinced others that statehood is the answer, and strengthened the convictions of still others who want independence.

H.R. 4765 would establish the necessary process at a time when the process of self-determination is accelerating throughout the world.

This substitute is the product of compromises that balance conflicting interests and have made the broad support for this legislation possible. It proposes the strongest commitment possible and incorporates the most precise descriptions of the status options on which agreement can be reached. Any changes could cause a fragile consensus to break apart and prevent any bill on this issue from becoming law.

I thank Speaker Foley and the gentlemen from California and Puerto Rico respectively, Bob Lagomarsino and Jaime Fuster, for their cooperation and I now urge the House to approve this historic bill.

I cannot say too much about what these gentlemen have done to make this legislation possible. History should record that the leadership, judgment, and dedication to the cause of resolving the status debate in Puerto Rico of these three men has been essential to the development of a bill that has a realistic chance of becoming law.

A number of other Members should also be recognized for their contributions to further self-determination for the people of Puerto Rico.

Outstanding contributions were made by the chairmen of the Committees on Interior and Insular Affairs and Rules, our colleagues Mo Udall and Joe Moakley.

Important contributions were also made by other leaders on the other side of the aisle: the minority leader, Bob Michel; the ranking minority members of the Committees on Interior and Insular Affairs and Rules, Don Young and Jimmy Quillen; and the ranking minority member of the Subcommittee on Rules of the House, Gerry Solomon.

I want to further note the help of members of the Subcommittee on Insular and International Affairs on this matter. The work of the gentleman from North Carolina, Jamie Clarke, is particularly noteworthy in this regard. The active involvement of the gentlemen from Georgia, Buddy Darden and John Lewis; and the gentleman from American Samoa, Eni Faleomavaega, must also be mentioned. The cooperation of the gentlemen from Guam, Ben Blaz, and from California, Elton Gallegly, also cannot be overlooked.

I also must single out several members of the full Committee on Interior and Insular Affairs for their work on this legislation. They include the gentleman from California, George Miller, and the gentleman from New Mexico, Bill Richardson. The involvement of other members of the committee, including the gentleman from California, Rick Lehman, and the gentleman from Arizona, Jay Rhodes, was also helpful.

Still other members of the Committee on Interior and Insular Affairs who should be mentioned are the gentleman from Massachusetts, Ed Markey; the gentleman from Utah, Wayne Owens; the gentleman from Pennsylvania, Peter Kostmayer; the gentleman from Minnesota, Bruce Vento; the gentleman from Pennsylvania, Austin Murphy; and the gentleman from West Virginia, Nick Rahall.

Among other Members of this House who should be mentioned are the gentleman from New York, Steve Solarz; the gentleman from Missouri, Tom Coleman; the gentleman from Washington, John Miller; the gentleman from Arizona, Jon Kyl; the gentleman from Georgia, Ben Jones; and the gentleman from California, Bob Dornan.

I have not yet recognized the substantial contributions to this legislation of three other distinguished Members of this House from New York and I want to thank them at this time for all that they have done. They are Charlie Rangel, Jose Serrano, and Bill Green and they are the last of the Members who have helped make this legislation possible that I will note although their contributions to it are certainly not the least in importance.

While this legislation would not be possible without the support and cooperation of my colleagues, there are many people who have worked day and night behind the scenes to make this bill a reality. Although it is not possible to name all those individuals who deserve recognition, I do want to acknowledge some of them.

In particular, I want to commend the staff of the Subcommittee on Insular and International Affairs who have dedicated themselves to this legislation in this Congress.

First and foremost, I wish to single out my subcommittee's able staff director, Jeff Farrow. His knowledge of the insular areas is, in my judgment, unmatched on this Hill or for that matter in our Government today. Jeff's tireless and total commitment to the success of this legislation has been indispensable.

And in concert with Jeff's efforts, Gail Mukaihata, and our newest staff member, Virginia Sablan, Daisy Minter and Pat Krause have demonstrated their dedication and commitment to making it possible for the people of Puerto Rico to end the divisive status debate and exercise self-determination through endless hours of work. Each and every one has done a superb job and deserves the thanks of all concerned here and in Puerto Rico.

While the work of these five individuals have been essential to the process, if we did not have the cooperation and similar dedication of the subcommittee's minority staff of Manase Mansur and another new staffer, Cherie Girard, we would not be here today considering this bill.

Both the majority and minority subcommittee staff have worked on a daily basis with the delegates of Puerto Rico's party presidents to the dialog committee on the status of Puerto Rico and other representatives of the parties. These patriotic individuals have represented and served their parties and the interests of the people of Puerto Rico well and have done so with keen intellect and admirable ability and with a sense of the greater good. They include dialog committee delegates Senator Fernando Martin Garcia of the Puerto Rican Independence Party, Benny Frankie Cerezo of the New Progressive Party, and Jose Berrocal of the Popular Democratic Party, as well as Manuel Rodriquez-Orellana, the alternate delegate of the Puerto Rican Independence Party and others who have assisted them.

All of these individuals have worked tirelessly with the presidents of the parties who have put aside personal priorities time and time again to reach agreement on this matter. History should record their patriotic dedication to Puerto Rican self-determination, as well as their forceful and effective advocacy of their own vision of Puerto Rico's future status. They are, again, former Senator Ruben Berrios Martinez of the Puerto Rican Independence Party, former Gov. Carlos Romero Barcelo of the New Progressive Party, and Gov. Rafael Hernandez Colon of the Popular Democratic Party. One other statesman in Puerto Rico deserves equal recognition with these gentleman. He is someone all of us involved with this legislation have come to respect and appreciate and someone who has dedicated his life to improving Puerto Rico's status: Former Gov. Luis A. Ferre.

I also want to thank both the majority and minority staff of the Committee on Interior and Insular Affairs for the support they have given the subcommittee that I am privileged to chair. It is because of them that we were able to have productive hearings not only in Washington, DC, but Puerto Rico and New York City. Their cooperation was also reflected in the 37 to 1 vote that we witnessed in full committee. In particular, I would like to thank Stanley Scoville, the staff director; Roy Jones, the associate staff director; Lee McElvain, general counsel; as well as Dan Beard, for their wise counsel. I would also like to thank Charlene Dougherty, Ken Burton, Marie Howard, Joan Jaseph, Linda Stevens, Miriam Waddell, Ed Hartzog, Tobey Peterson, Elizabeth McMillan and former staff member Richard McKee for their hard work.

From the minority side, I also received valuable advice from Richard Agnew, chief minority counsel; and Dan Kish, natural resources director; as well as tremendous work from Chris Kennedy, Cathy Wilson, and Deborah Callis.

As I have indicated, the involvement of the leadership of the House on this legislation has been crucial to its development. The Speaker has been well represented in this regard by press secretary, Jeff Biggs, and the minority leader by minority Sergeant at Arms, Walter Kennedy. Both have been key players in helping to put this legislation together and win agreement on it. Their advice and efforts are very much appreciated.

In addition, the Committee on Rules staff has proven to be invaluable in their constructive comments and willingness to move the bill in an expeditious manner. They helped draft it with my subcommittee staff and staff of the bipartisan leadership and our full committee. I want to thank Rules full committee staff director, Jack Dooling; Subcommittee on Rules of

the House staff director, Matt Pinkus, in particular and also John Daniel and Mitchell Bennett.

In addition, there are a number of other congressional staff that have been most helpful, including my own able administrative assistant, Sheila Ross; my soon-to-be-missed press secretary, Jonathan Glass; Wade Ballou of the Legislative Counsel Office; deputy doorkeeper, Bob O'Malley; Matt James, the administrative assistant to Mo Udall; administrative assistant, Carmen Votaw, and Nelson Colberg of Jaime Fuster's staff; Emile Milne, Miriam Lopez, and Juanita Alago of Charlie Rangel's staff; Idalia Marty of José Serrano's staff; two of my former staffers, Bill Geddes and Wendy Cohen; and Bill Waters of John Kyl's staff.

I also want to thank some of the people in congressional and other governmental agencies who have been helpful. We have been ably assisted by the staff of both the Congressional Research Service and the General Accounting Office. A special thanks goes to John Killian and Dan Zafren for their advice to us. I also want to thank Thomas Durbin, Kenneth Thomas, David Brumbaugh, Bette Alberts, Clay Wellborn, Carolyn Merck, Vladimir Pregelj, Paige Whitaker, and Deanna Hammond of CRS; and Linda Morra, John Kamensky, Bob Crystal, Truman Hackett, Mary Reich, Bill Peterson of GAO, and Brian Le Pore for their work. Additionally, I want to thank Jorge del Tinal of the Bureau of the Census who was helpful in obtaining census figures.

Also, I must recognize Jack Russ, the Sergeant at Arms of the U.S. House of Representatives and the U.S. Capitol Police who coordinated the assistance of the Puerto Rico and New York City police department that helped to assure the success of our field hearings. In particular, I want to tip my hat to Inspector Jack Daniels, Capt. Steven Bahrns, Capt. Rickey Stevens, and the men and women who serve with them.

Last but not least, I want to thank the people of Puerto Rico. Without their enthusiasm, commitment, and patriotic spirit this whole referendum process would not be possible. They have demonstrated that they understand and appreciate what it means to live in a democratic society by their active participation in our congressional hearings, by making their views known through letters, resolutions, petitions and phone calls, and by demanding the best from their elected and political party officials. I salute the people of Puerto Rico and it is because of them that we all have been working so hard to make this referendum happen in 1991 and for Congress to act on their status aspirations in 1992.

Finally, I want to thank my wife Sheila for her indispensable moral support that means so much to all of us when we are handling particularly difficult legislation. Throughout this process she has always been there offering encouragement to me. She was there for the memorable three hearings in Puerto Rico, and she was there when we reported H.R. 4765 out of both the Interior Subcommittee and full committee. She was there for the Committee on Rules and she is here today in the House gallery to witness and share in this special moment that means so much to the people of Puerto Rico and indeed to all of us.

I wish at this time to thank Speaker Foley and the gentleman from California [Mr. Lagomarsino]. I am one of the luckiest subcommittee chairmen in this Congress. Anyone who is a chairman and is lucky enough to have someone like the gentleman from California [Mr. Lagomarsino] to work with, a dedicated, great Member of this body and a man of great honor, well, that person is fortunate, and I am very fortunate. And if that person has, representing the district that is under consideration in the legislation a Representative such as the gentleman from Puerto Rico [Mr. Fuster] serving on his committee, as I have, he is doubly fortunate, and, if a problem arises with the legislation, as many problems arose with this bill, and he has to work with a new young Member as tenacious and with the ability of the gentleman in the chair, the gentleman from New York [Mr. Serrano], he is again fortunate.

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Mr. Speaker, on behalf of Chairman Udall and myself, I now want to mention several of the issues which we considered in developing this legislation. The discussion that follows is based on advice and analysis we have received from Johnny Killian, the most authoritative expert on the U.S. Constitution in the American Law Division of the Congressional Research Service of the Library of Congress and he has reviewed and helped prepare the text of what follows.

One relates to the characterization of the *source* and *nature* of the citizenship that one possesses under statehood versus the citizenship that one possesses under commonwealth.

The source of the citizenship of persons within the several States and of persons residing in Puerto Rico is arguably different and the nature of each citizenship is marginally different. However, we concluded that, with respect to the irrevocability of citizenship under statehood or commonwealth, citizenship under one status is substantially and fundamentally equal to the citizenship under the other.

The citizenship of persons residing within the 50 States is acquired by birth or naturalization, as the first sentence of Section 1 of the Fourteenth Amendment to the Constitution provides. Although one can certainly renounce one's citizenship, the Fourteenth Amendment precludes Congress from taking away such citizenship.

The U.S. citizenship, on the other hand, of persons residing in Puerto Rico was conferred by statute under the Jones Act (as added to by the 1940 Nationality Act and restated in the 1952 Immigration and Nationality Act). Under the 1940 Nationality Act, Puerto Ricans are considered natural born U.S. citizens. Consequently, it could be argued, but for the nationale of the *Insular Cases,* that Puerto Rico is "in" the United States for purposes of the first sentence of the Fourteenth Amendment.

We cannot imagine that Congress would ever attempt to revoke the citizenship of Puerto Ricans while the current commonwealth continues or in the event that the contemplated new commonwealth replaces it. Even if the Congress were to attempt such a thing, however, the Due Process Clause of the Fifth Amendment would remain as a shield against revocation of U.S. citizenship.

Fifth Amendment due process requires every action of Congress to have at least a *rational basis*, a legitimate or permissible purpose to which the action involved is reasonably related. We can foresee no basis whatsoever for revocation of the U.S. citizenship of Puerto Ricans within the current commonwealth relationship.

It may be true that Fourteenth Amendment protection of U.S. citizenship remains somewhat more difficult to assail than citizenship which has a statutory basis, as long as the Supreme Court adheres to its precedents. As a practical matter, though, the Fifth Amendment "due process" guarantee undergirding Congress' legislative powers is of such antiquity and durability that the protection accorded to the citizenship of U.S. citizens residing in Puerto Rico is not meaningfully less than the protection enjoyed by all other U.S. citizens.

Turning to the rights enjoyed by Puerto Ricans under the U.S. Constitution, we recognize that the *Insular Cases* affirm that the fundamental rights of the Constitution protect Puerto Ricans to the full extent as the U.S. citizens residing in the 50 States. With respect to non-fundamental rights, we must emphasize that they are few in number and similarly have not been extended against state deprivation.

While the *Insular Cases* held that some provisions of the Constitution (such as the Uniformity Clause in terms of taxation and the requirement of Article III courts to decide federal question issues) *did not apply* to unincorporated territories, those cases did hold that the guarantees of *fundamental* personal rights declared in the Bill of Rights and in certain other provisions in the Constitution *fully protect* the residents of Puerto Rico.

Therefore, the Supreme Court and other courts have held applicable and applied in the case of residents of Puerto Rico (1) the First Amendment speech, press, and religion clauses, including the "right of association" protections afforded political activity; (2) the Fourth Amendment protections against unreasonable searches and seizures; (3) the Fifth and Fourteenth Amendment guarantees of due process and equal protection, including personal privacy rights; (4) assurances against race, sex, and ethnic discrimination; and (5) such protections as those against *ex post facto* laws, bills of attainder, and takings without just compensation.

While the Supreme Court has remained silent on the applicability of other Amendments and parts of the Constitution not specifically extended by statute to Puerto Rico, the only rights of individuals against the States that have been held not to be applicable in Puerto Rico have been the Sixth Amendment right to a jury trial in criminal cases and the Seventh Amendment right to a jury trial in civil cases.

In the intervening years, the former right has been held to be "fundamental" and to be incorporated against the States. In the unlikely event the question would ever again be litigated (because the right to a jury trial in criminal cases *is protected* by the Puerto Rican Constitution and by federal statute), it is very probable that a court would hold that the Sixth Amendment jury trial guarantee does apply in Puerto Rico.

As for the Seventh Amendment, even residents of the several States are not protected against state deprivation of this right because the Supreme Court has not deemed it a "fundamental right."

All those provisions of the Bill of Rights that have been incorporated against the States as fundamental under the Fourteenth Amendment, as well as those protected in other parts of the Constitution, *do apply* to Puerto Ricans.

Puerto Ricans, then, with the possible and arguable exception of the criminal jury trial guarantee (which, as discussed previously, is protected by the Puerto Rico Constitution and federal statute, have all the federal *constitutional rights* that are enjoyed by citizens residing in the 50 States and the District of Columbia.

Citizens of Puerto Rico do lack some elements of the privileges and immunities that citizens in the 50 States enjoy regarding federal *voting rights*. As I have already explained, they do not participate in the election of the President and Vice President; they do not vote for nor are they represented by voting Members of the House or the Senate. These differences, however, turn *upon residence* outside a State rather upon citizenship.

A citizen of Puerto Rico who establishes residence in one of the States is automatically able to participate in the selection of State and local officers and in the selection of national officers. A U.S. citizen who comes from a State to Puerto Rico to reside would lose his or her ability to vote for these national offices. U.S. citizens residing in the District of Columbia do not elect voting members in the House of Representatives nor the Senate, and it was only with the ratification of a *constitutional amendment* in 1961 that they became able to participate in the election of the President and Vice President.

Just as important, the privilege of running for national office is one possessed by Puerto Ricans, subject only to the qualification, again, of residency in one of the several States. An example is provided by the Speaker Pro Tempore (Mr. Serrano), who was born in Puerto Rico, but now represents a district in the State of New York.

While many States have durational residency requirements of varying lengths to run for State or local office, the U.S. Constitution requires only that a person be an inhabitant of the State on the day of election to qualify for the House of Representatives or the Senate. Moreover, Puerto Ricans, because they are citizens of the United States at birth, are natural born citizens for purposes of qualifying for the Presidency.

Finally, I would like to note that the bill does not include language on one issue on which we have been working. It is whether a special procedure should be established for judicial consideration of cases relating to the referendum under this legislation. We had reached preliminary agreement with the parties, but need to do some further work with all concerned on this issue.

Representatives of commonwealth have proposed that there be such a procedure. We are trying to work one out with them, with representatives of the other two status options, and with the Judiciary Committee.

Mr. Speaker, there are many Members I would like to salute, and I thank them all for their help in this matter.

Mr. Speaker, I urge the Members to approve this historic measure.

Mr. BLAZ. Mr. Speaker, I rise in support of H.R. 4756, the Puerto Rico Self-Determination Act.

It is appropriate that we consider this legislation while celebrating Hispanic Heritage Month. I wish to remind my fellow Members of Congress that Guam, like Puerto Rico, shares in that heritage. While San Juan was serving for four centuries as a bastion in the Caribbean for Spain's West Indies trade, Guam was an important junction for the Manila galleons which plied the Pacific between Mexico and the Philippines. While the two colonies developed different ethnic mixes and languages on opposite sides of the world under the Spanish flag, we shared many of the same surnames, including mine, and cultural characteristics.

We also share the heritage of being prizes of war ceded to the United States by Spain in the 1898 treaty of Paris which brought to a close the Spanish-American war. As war booty, we have shared many of the same frustrations and indignations of being treated as inferior beings and second-class citizens by our fellow Americans throughout most of this century. During the first half of the century, we were told we were incapable of governing ourselves, largely because we look different and speak different languages than English, which made us less understood by our American masters.

Since the 1950's, when President Truman signed into law the first Organic Act for Guam, and Puerto Rico embarked on its experiment with commonwealth, we have succeeded separately in developing most of the political institutions which we need to govern ourselves. In both cases, we need further congressional action so that we can exercise self-government and develop into self-sufficient and equal partners with our fellow Americans.

It has been frustrating for us in the islands and for me in particular to watch as Americans welcomed with open arms immigrants from all over the world, integrating them into the economic and political systems of this Nation, while looking down on me and my people. It is equally frustrating to stand by while this Nation hails the fall of the Iron Curtain and rise of new democracies in Eastern Europe while my people and the people of Puerto Rico have had to wait for 92 years now without receiving equality and dignity within this political system.

These sister colonies have continued to petition Congress for a full measure of self-government and dignity. In Guam's case, we reached a consensus when 70 percent of our people voted in 1987 for commonwealth status. I fully expect to be here next year to reintroduce for the third time H.R. 98, the Guam commonwealth bill, which calls for a full measure of autonomy for our people to govern themselves as equals in the American political family.

In Puerto Rico's case, its political leaders have worked together to devise a system whereby its people can exercise a full measure of self-determination and arrive at a consensus on political status, whether it is enhanced commonwealth, statehood, independence, or the status quo. Gov. Rafael Hernandez Colon, who leads the party supporting enhanced commonwealth, and President George Bush, who supports statehood for the island, issued calls last year for a referendum in 1991 to settle the status question. The President asked Congress to provide legislation which would enable Puerto Ricans to exercise self-determination by guaranteeing the implementation of their choice.

As a member of the Subcommittee on Insular and International Affairs, I took part in the hearings here and in Puerto Rico which led to the drafting of H.R. 4765. I was marveled by the vigor and intelligence with which arguments for each of the status options were made. I also was impressed that advocates of the three status options are all good citizens who wish to do what they think is best for their people. They showed their willingness to work together toward this objective by working with the subcommittee through its chairman, RON DE LUGO, and ranking Republican, BOB LAGOMARSINO, on the legislation which you have before you.

Mr. Speaker, after 92 years of waiting, my brothers and sisters in Puerto Rico deserve the opportunity to choose their own destiny and to implement that choice. They have pulled themselves up by their bootstraps to develop a vibrant economic, social, and political system and survive adversity after adversity. It is now up to Congress to provide this opportunity to exercise their self-determination by enacting H.R. 4765. I implore you to live up to the democratic ideals of this Nation by enacting this bill now.

Mr. UDALL. Mr. Speaker, today, we bring before the House a most important and historic bill. This bill would provide the people of Puerto Rico that precious right to help determine the future of their island.

To say that finding a solution to the issues separating the parties requires the wisdom of Solomon is an understatement in this instance. This process has required great patience, ultimate fairness, ingenuity, and at times the all-important sense of humor.

We believe that the product that we bring before the House today is the very best that we can produce. My sincere thanks go to Senator JOHNSTON, my counterpart in the Senate Energy Committee, for his great work in getting the self-determination issue for Puerto Ricans on the agenda of this Nation.

We have taken one of the original bills Senator JOHNSTON drafted, made our modifications to it, and hope that it will be able to pass muster in the other body. As we all know, history is unkind to those who miss opportunities such as this one before us today.

I would like to particularly commend the enormous amount of work done by subcommittee Chairman RON DE LUGO, who has shown great courage, patience, and leadership in bringing us to this point today. In addition, the ranking Republican on the subcommittee, Representative BOB LAGOMARSINO, deserves great credit for his fairness and perserverance in helping to bring about a bill which has the bipartisan support it enjoys in this Chamber. Also, the Resident Commissioner of Puerto Rico, Delegate JAIME FUSTER, has contributed immeasureably in bringing the bill before the House.

To my colleagues who are concerned about the potential impact of this bill on other matters, I will say that this issue will be back before us once the people of Puerto Rico have expressed themselves in a referendum.

I urge the support of the House for this truly historic bill.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I rise in support of H.R. 4765, enabling the people of Puerto Rico to exercise self-determination.

As you know, the 3.6 million U.S. citizens of Puerto Rico currently exercise local self-government, according to a constitution approved by the Congress. But the people of Puerto Rico deserve the chance to determine whether they want independence, statehood, or a commonwealth.

The time has come for a commitment by the Congress to respond to whatever decision they freely choose to make.

Last year, President Bush asked Congress to take the steps necessary to allow the people of Puerto Rico to determine their own political fate. The passage of H.R. 4765, the Puerto Rico Self-determination Act, will be the first step in a process that eventually will see such a determination.

Mr. Speaker, we have been intensely interested in the political changes occuring in Eastern Europe and the Soviet Union. With all of the dramatic, revolutionary change going on in the world, it would be easy to neglect desires of the people of Puerto Rico to shape their own future.

But if we neglect to listen to the voice of the United States citizens of Puerto Rico, we turn our back not only on the people of that island, but on the principles of choice and self-determination we so strongly advocate in Europe and throughout the world.

After many months of consideration, the House Committee on Interior and Insular Affairs reported H.R. 4765 by a vote of 37–1. The Committee on Rules has favorably reported the bill. Now it is our turn to move the process forward.

I can think of no better example we can give the world than to pass this bill, thereby showing that the principle of self-determination is at the heart not only of our foreign policy, but at the heart of America itself.

Mr. KENNEDY. Mr. Speaker, I rise today in support of H.R. 4765, the Puerto Rico Self-Determination Act of 1991. The bill would authorize appropriations for two referendums on the future political status of the island of Puerto Rico. It is a bill that is consistent with our firm resolve to uphold democratic ideals, and it is a measure that enjoys bipartisan support.

H.R. 4765 essentially eliminates any remaining doubts about the self-governing nature of the Commonwealth of Puerto Rico. The bill would first allow a referendum on Puerto Rican independence, statehood, or commonwealth status. It would then establish an expedited process in which Congress would consider legislation that would implement the political status chosen by the people of Puerto Rico. And finally, the bill would allow Puerto Ricans to ratify their political future through a second referendum.

The bill is an effective solution to Puerto Rican political debate. By providing the Commonwealth of Puerto Rico with the right to decide its own fate, H.R. 4765 pays due respect to the island's distinctive cultural character and identity, while also preserving our deepest belief in the democratic values that has forged our great Nation.

Mr. Speaker, Congress has the opportunity to set into motion a process by which the people of Puerto Rico can once again exercise their right to self-determination. The last plebiscite for Puerto Rico was held in 1967, and the voters chose commonwealth status. Today, while the debate over Puerto Rico's political evolution will receive new life, it is clearly the measurable achievements of Gov. Hernandez Colon and the strength of the Puerto Rican citizens that has led the Commonwealth to this successful end.

In the pursuit of equity, I would urge my colleagues to provide the people of Puerto Rico the right they are due. Let them have a fair chance to decide their own fate. Vote in favor of H.R. 4765.

Mr. WEISS. Mr. Speaker, I rise today in strong support of H.R. 4765, the Puerto Rico Self-Determination Act. I would also like to commend the distinguished gentleman from the Virgin Islands, Chairman DE LUGO, and the members of the Interior and Insular Affairs Subcommittee on Insular and International Affairs. Their willingness to give all interested parties the opportunity to voice their opinions on this vital measure propelled them from Puerto Rico to New York and demanded countless hours of hearings. We all owe you a great debt.

Put quite simply, H.R. 4765 is about justice, about fairness, and about democracy. It represents a very thoughtful approach to ending the decades of stalemate on the future political status of Puerto Rico.

The measure authorizes $13.5 million for Puerto Rico to hold a referendum in 1991 on its political status. Voters would choose whether to seek statehood, become an independent nation, or enhance its present commonwealth status. The measure also requires Congress to enact further legislation implementing the decision of the referendum. This provision specifies expedited procedures for implementing the decision of the majority of the voters. In a subsequent referendum, the Puerto Rican people would have the opportunity to ratify this implementing legislation.

On the divisive issue of participation by the 2.5 million Puerto Ricans living in the mainland United States, the bill defers judgment to the island's three political parties and its legislature.

Finally, the bill states that enactment of this bill constitutes a commitment that the U.S. Congress will vote on the legislation establishing appropriate mechanisms and procedures to implement the political status selected by the people of Puerto Rico.

There has been much debate and discussion about the effects that a political status change would have on the people of Puerto Rico and on this country. Those debates are worthwhile, but the real issue before us is the willingness of this Congress to allow the Puerto Rican people, who are U.S. citizens, to decide their own political, social, and economic future.

Mr. Speaker, the Puerto Rican people have valiantly participated in our country's foreign wars. They have fought for America and died for America; they alone deserve the right to decide whether they want to be part of America. In the spirit of democracy that is now permeating the globe, I urge my colleagues to support H.R. 4765.

Mr. DELLUMS. Mr. Speaker, I congratulate Chairman de Lugo and his staff on their hard work on this important issue.

I will support H.R. 4765, though it is not the vehicle that I would fashion. I do so because I cannot deny the people of Puerto Rico this opportunity to make some choice about their political destiny.

I wish we were returning full sovereignty to the people of Pueto Rico to allow them by themselves to fashion both what will be decided and how it will be decided.

I wish that the situation of the status of Puerto Rico was better understood in the Congress and across the United States.

The people of Puerto Rico form a glorious nation. It is a Latin and Caribbean nation, a nation separate from the United States and rich in its own language and traditions.

Puerto Rico is one of the few territories of the world where the vestiges of colonialism still prevail. The people of Puerto Rico have not ever had full sovereignty. Our holding them in colonial status since our acquisition through the Treaty of Paris is as Justice Harlan said "wholly inconsistent with the spirit and genius, as well as the worlds of the Constitution."

Since the Treaty of Paris, the people of Puerto Rico have not been consulted as to their political status preference.

We must allow the people of Puerto Rico to exercise their inalienable right to self-determination. If a clear majority of the nation chose an option, the Congress of the United States must honor that decision. If no majority is formed, we must ensure that the process continues so that the people of Puerto Rico maintain the sovereign right to forge an answer through their own actions.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in strong support of H.R. 4765, the Puerto Rico Self-Determination Act.

I am pleased to be a Member of this Congress as the House is about to pass legislation which will permit the people of Puerto Rico to determine the next step in their political evolution. For too long the United States has been accused of maintaining colonies which do not wish to be colonized.

This bill, if enacted into law, will permit the people of Puerto Rico to choose their destiny. Whether that next step will be the status quo, continued commonwealth, independence or statehood, the people will have an opportunity to choose. Regardless of outcome, this is important to me because it will silence many critics of U.S. policy with regard to the issue of its territories.

Many countries of the world think Independence is the ultimate political status for every indigenous group in the world. It should go without saying that such is not the case. I believe the choice to be presented to the people of Puerto Rico will be a difficult one. Do they become independent and give up a part of their culture that has been a part of them for over 90 years? Do they become a state and give up a part of their culture that has been a part of them for hundreds of years? Or do they continue on as they are, enjoying the unique aspects of two cultures, yet not being a full part of either?

Mr. Speaker, between the action taken on this issue in the Senate and the House, many avenues have been explored. I am pleased that as I address the House today, all three political parties speak as one in support of this bill. There have been times when I thought this bill would never reach the floor of this House. That this bill is here today is a credit to Interior Committee Chairman UDALL and Rules Committee Chairman MOAKLEY whose guidance kept the long range goals in sight. Chairman DE LUGO and his staff on the Insular Affairs Subcommittee have performed an invaluable service working to draft this bill. Their tireless hours for many, many months are finally being brought to fruition.

As would be expected, Congressman FUSTER has been working with all interested persons and parties to craft a bill that meets their needs. His work and support must also be recognized as part of the final product.

Congressmen RANGEL and SERRANO have represented well their constituents of Puerto Rican descent. Through their efforts, the Legislature of Puerto Rico will have the authority to adopt laws which will permit Puerto Ricans presently living in the United States to vote in the plebiscite also.

Congressmen LAGOMARSINO, RICHARDSON, BLAZ, DARDEN, CLARKE, and LEWIS have also played important parts of which I am aware.

Mr. Speaker, work on S. 712, the Senate bill addressing this issue came to a standstill during this Congress. I hope work on that bill stopped because of the progress that was being made on our bill here in the House.

Mr. Speaker, I urge my colleagues here in the House and my friends in the Senate to support this legislation. The time has come for the people of Puerto Rico to choose the next step in their political evolution. Let's do our part to make that happen.

Mr. FUSTER. Mr. Speaker, today you are being asked to vote on a historic piece of legislation. The bill you are about to consider summons my constituents to a further exercise of their most fundamental right as a people—their right to self-determination. It calls upon them to ponder and declare what kind of ties they ultimately want to have with the United States. It sets in motion a process whose final results no one can surely predict except to say that it will deeply affect fundamental aspects of life of my constituents and in time transform the relationship between the United States and Puerto Rico.

During the markup of this bill in both the Insular Affairs Subcommittee and the full Interior Committee I pointed out that it had serious shortcomings. Its terms certainly fall short of what it purports to be. The options through which the people of Puerto Rico are asked to decide their collective future are not defined as broadly as their advocates wanted them defined; these options are not presented to the people as prominently as they could have been; the need to preserve and protect the Spanish language and Puerto Rican culture under the statehood option has not been addressed at all; the commitment of Congress to honor the results of the referendum is not as compelling as it should be; and the whole nation of Puerto Rico is not decidely enfranchised for this referendum. It is clearly an imperfect bill and it is so not only because traditional paternalistic and conservative attitudes about insular self-determination still prevail in some circles of the Washington power structure but also because H.R. 4765 is the result of an intense and complex process of negotiations that have tried to reconcile and accommodate dramatically different notions on how self-determination for Puerto Rico should be structured. The White House and part of the Republican leadership in this body would like Puerto Rico to become a State of the Union and they have marshalled their strong views about how the self-determination process should develop. The government of Puerto Rico and the main party in the island prefer a new Commonwealth relationship and we have insisted on our own vision of self-determination. The leadership in the House is reportedly neutral as to the three choices to be presented to the people of Puerto Rico but they have pressed their ideas about self-determination, ideas that do not fully coincide with the ones I have already alluded to. And then we have the statehood and independence parties of Puerto Rico whose own conflicting views have also been strongly asserted in the process. Out of these very disparate perspectives a difficult compromise has been contrived and the end result unavoidably is a very imperfect bill.

These realities notwithstanding, Mr. Speaker, I do support this bill and I do ask my colleagues in the House to approve it. Imperfect as it is, the bill has the potential to open up a path that in time will bring to an indisputable end the United States' imputed colonialistic rule of Puerto Rico. It has the potential to put to rest the seemingly endless, agonizing and debilitating political debate that has consumed so much of the peace of mind and of the creative energies of my constituents for almost a century now.

H.R. 4765 will allow the residents of Puerto Rico to express their choice among three options as they have been defined by Congress in the report of the bill. These definitions appearing in the report are an essential part of the congressional plan for the referendum. They encompass precisely the matters to be presented to my constituents for them to vote on. They were the central object of the long and complex deliberations and negotiations that led to the approval of this bill at the subcommittee and committee levels. They are meant to appear on the ballots so that the people of Puerto Rico can make the free and informed choice without which the referendum would not be legitimate. So through this process Congress does offer Puerto Ricans a true choice among three clearly defined alternatives. This bill also commits Congress to a good faith effort to enact the broad principles of the winning option into law. Congress is duty-bound to seek to incorporate all the essential elements of the definition of the winning option into the implementing legislation. In these new times, when the right to self-determination prevails as never before throughout the world, the history, content and intent of the bill permits us to be fairly confident that Congress and the leaders of a nation which was founded upon the principles of self-determination and government by consent will honor the results of the referendum; that the will of the people of Puerto Rico as expressed in the referendum will be respected; that legislation will be finally enacted that faithfully

incorporates the principles of the winning option as they appeared in the ballots. Because I believe this to be true, I support this bill. Because I believe you share these views, I ask that you approve it.

Mr. Speaker, 92 years ago, the commander of the American Army that landed in Puerto Rico to occupy the island told the people there that the military forces led by him had come

> * * * bearing the banner of freedom * * * They bring you the fostering arm of a nation of free people whose greatest power is in justice and humanity to all those living within its fold * * *.

After almost 100 years of tears and toil, of strife and struggle, of persevering in our quest for self-determination even in the face of great frustrations, the promise of General Miles seems close to being decidedly fulfilled even if only through the means of an imperfect bill. Let us accept it because it is the only one we have been able to agree upon through a fragile consensus between the leadership of Puerto Rico's political parties, Congress and the White House; let us accept it because it will spark the people of Puerto Rico into a new liberating experience, and their resolute will, once it is formed, shall eventually prevail.

Mr. Speaker, to conclude, I feel compelled to respond to some of the remarks about H.R. 4765 made by my colleague from California, Mr. ROBERT LAGOMARSINO. Once again, he has chosen quietly to put in writing as part of his revised remarks for the RECORD, petty partisan attacks that he did not venture to express openly before other Members and me on the floor of the House.

As he has done in the past, Mr. LAGOMARSINO seeks to meddle in the Puerto Rican debate about what status option is best for the island by echoing indiscriminately the demagogic attacks on Commonwealth status of those in the island who support either statehood or independence.

For example, Mr. LAGOMARSINO states that in enacting this bill, he believes that "Congress is faced with a question regarding the future relationship of a people under its responsibility." The paternalistic and colonial connotations of that statement fly in the face of the bilateral nature of the relationship between Puerto Rico and the United States since 1952. The unique Commonwealth relationship was entered into by both parties "in the nature of a compact." This compact was Public Law 600 of the 81st Congress, which was overwhelmingly accepted in a referendum by the people of Puerto Rico. Two peoples entered into an agreement on the same footing, not one being responsible over the other. The people of Puerto Rico are responsible for themselves and for their own destinies. H.R. 4765 so recognizes it by leaving the decision of the future relation between Puerto Rico and the United States in the hands of Puerto Rico.

Mr. LAGOMARSINO goes on to state that while "the three status options have been developed (by Congress) to address and accommodate the many aspirations of the different parties," there are "certain things under some of the status options that the Congress cannot grant." Mr. LAGOMARSINO is saying that once one of the status options obtains a majority of the votes in the Puerto Rican referendum, even though that option was defined and presented to the people by Congress itself, Congress nonetheless is not going to honor its promise to enact legislation in accordance with the definition of that winning option. This is simply unbelievable. The definitions in question were the object of long and tedious negotiations among the representatives of the three political parties of Puerto Rico, Mr. DE LUGO, Mr. LAGOMARSINO, the U.S. Justice Department, White House officials, and other interested parties. At the end of the process, all those involved agreed that the resulting definitions were solid ground on which to base future legislation to implement the winning option. They were presented that way for approval to the House Members at the subcommittee and full committee markups. If Mr. LAGOMARSINO thought that any of the principles spelled out in the definitions could not be converted into legislation later, he should not have supported such definitions and he should have voiced his concern before the definitions were approved, at the various stages that they were approved by Members of both parties before coming to the floor. Moreover, Mr. LAGOMARSINO should not have asked his colleagues during his remarks to approve a bill that is partially unlawful because it offers things Congress cannot grant.

If H.R. 4765 becomes law, the people of Puerto Rico will be summoned to exercise their right to self-determination in a referendum by choosing one of the options that appears in the ballot as Congress itself defined it. If, as Mr. LAGOMARSINO says, some "things" spelled out in the options' definitions cannot be granted by Congress in future legislation, the referendum will sadly be the staging of a monumental hoax. It would be inconceivable that, in this age when the right to self-determination is being successfully exercised throughout the world, the will of the people of Puerto Rico as expressed in the referendum would not be honored by Congress after Congress itself laid out the principles on which the different future relationships could be founded. Mr. LAGOMARSINO'S position is untenable and disgraceful because it allows U.S. enemies to claim that in this case the United States did not act in the furtherance of self-determination as it has demanded from the rest of the world community.

Mr. LAGOMARSINO also commented about the sovereignty implications of each status option, and stated that "under a commonwealth relationship, Puerto Rico would be locally self-governing under the Constitution of Puerto Rico consistent with article IV, section 3, clause 2 of the United States Constitution, also known as the territorial clause, and the United States would remain as the sovereign power." Mr. LAGOMARSINO misrepresents the nature of the current and, if chosen by a majority of Puerto Ricans, future Commonwealth relationship. In doing so, he clearly disregards authoritative legal pronouncements that have depicted the relationship in very different terms. I will let more objective authorities speak for themselves by quoting just a few of those pronouncements that clearly reject LAGOMARSINO'S bigoted views.

In 1953, when the United States Government requested the United Nations to remove Puerto Rico from the United Nations list of Non-Self Governing Territories, because Puerto Rico had achieved "Commonwealth" status, the United Nations General Assembly accepted the United States request, acknowledging that Commonwealth was:

> * * * a new constitutional status . . . invested with attributes of political sovereignty which clearly identify the status of self-government attained by the Puerto Rican people as that of an autonomous political entity."

Years later several prominent judges of the U.S. Court of Appeals reiterated and expanded said understanding of the Commonwealth status. Judge Levin Campbell in a 1981 case, *First Federal* v. *Ruíz* (644 F2d 910) declared unequivocably that:

> Puerto Rico's territorial status ended, of course, in 1952. Thereafter it has been a Commonwealth with a particular status as framed in the Puerto Rican Federal Relations Act."

In the same year, Judge Breyer, another distinguished judge of the U.S. Court of Appeals, in a different case, *Córdova* v. *Chase* (649 F2d 36), had this to say about Commonwealth status:

> The Federal Relations Act and the Puerto Rican Constitution were intended to mark a significant change in the relation between Puerto Rico and the rest of the United States * * *. Under the Treaty of Paris, which ceded Puerto Rico to the United States, the island lost its autonomy. It became a "territory" of the United States and subject to the command of Congress * * *. The Federal Relations Act was intended to end this subordinate status * * *. The theme that consistently runs throughout the legislative history of Puerto Rico's attainment of Commonwealth status is that Commonwealth represents the fulfillment of a process of increasing self-government over local affairs by the people of Puerto Rico * * *. In sum, Puerto Rico's status changed from that of a mere territory to the unique status of Commonwealth. And the federal government's relations with Puerto Rico changed from being bounded merely by the Territorial Clause-and the rights of the people of Puerto Rico as the United States citizens, to being bounded by the United States and Puerto Rico Constitutions, Public Law 600, Puerto Rican Federal Relations Act and the rights of the people of Puerto Rico as United States citizens.

In 1985 case, *United States* v. *Quiñones* (758 F2d 410), a fourth U.S. Court of Appeals judge, this time Judge Bownes, flatly stated in words that ought to be remembered by Mr. LAGOMARSINO that:

> Thus, in 1952, Puerto Rico ceased being a territory of the United States subject to the plenary powers of Congress as provided in the federal Constitution. The authority exercised by the federal government emanated thereafter from the compact itself. Under the compact between the people of Puerto Rico and the United States, Congress cannot amend the Puerto Rico Constitution unilaterally, and the government of Puerto Rico is no longer a federal government agency exercising delegated power.

These rulings from many different knowledgeable and authoritative U.S. Court of Appeals judges both reflect and complement statements made by the U.S. Supreme Court itself when, on different occasions, it has had the opportunity to characterize the existing Commonwealth relationship.

For example, in *Examining Board* v. *Flores*, 426 U.S. 572,594 (1976), the United States Supreme Court said "* * * the purpose of Congress in the 1950 and 1952 legislation was to accord to Puerto Rico the degree of autonomy and independence normally associated with a State of the Union * * *."

In *Rodriguez* v. *PPD*, 457 U.S. 1,8 (1982), the Court explained that under Commonwealth, "Puerto Rico, like a state, is an autonomous political entity, sovereign over matters not ruled by the United States Constitution * * *."

As I have pointed out before, Mr. LAGOMARSINO's comments about sovereignty are his way of conveying to the people of Puerto Rico his prejudiced view that Commonwealth status in any shape or form will always be a territorial, that is; colonial status. If an enhanced Commonwealth status is still "colonial" as LAGOMARSINO suggests, why did he not object to its being included as one of the options in H.R. 4765, which purports to be a bill to allow Puerto Ricans to exercise their right to self-determination and to end the alleged United States colonial regime in Puerto Rico. Can H.R. 4765, which LAGOMARSINO coauthored, be a legitimate vehicle for self-determination if it includes a "colonial" status as one of the three options presented by Congress to the people of Puerto Rico?

LAGOMARSINO's gratuitous comment will play in the press and the international arena the same way that avowed enemies of the United States, such as Fidel Castro, would like such remarks to play.

As such, it is interesting to note that President Bush, when he was the United States Ambassador to the United Nations in the 1970's, endorsed Puerto Rico's legitimacy under Commonwealth status. In a February 28, 1972, letter, responding to Cuban demands at the United Nations to review Puerto Rico's political situation vigorously by writing in part:

> This is an insult to the people of Puerto Rico, who have chosen to live in a democracy, under a Constitution of their own choosing, in free association with the United States. This choice of their form of government has been restated periodically, in free and open elections, and through referenda, between 1952 and the present time.

Finally, in his analysis of the implications of the different status options, Mr. LAGOMARSINO discussed the citizenship issue and declared that "there are possible future scenarios which could provide a national basis for Congress revoking the citizenship of Puerto Ricans in a Commonwealth relationship." I wish he would have elaborated on what could have been these "future scenarios". He probably did not because he really knows there are none.

Mr. LAGOMARSINO claims that the United States citizenship of persons born or naturalized in Puerto Rico is not protected by the 14th amendment, as is the citizenship of all those born or naturalized "in the United States" pursuant to that amendment. This assertion is an incorrect statement of law. Here again Mr. LAGOMARSINO ignores well established legal doctrines in making obviously biased political statements. Conceivably, the only possible bases for his mistaken notion is the Supreme Court decision of *Rogers* v. *Bellei*, 401 United States 815 (1971), where a decided Court drew a distinction between statutory naturalization that took place within the United States and that which took place abroad, based on a technical reading of the phrase "in the United States" in the 14th amendment. With respect to persons naturalized outside the United States, the Rogers majority reasoned that Congress may condition their retention of American citizenship so long as the conditions are "not unreasonable, arbitrary, or unlawful." 401 United States at 831.

That holding does not apply to Puerto Rico not only because the issues are essentially different but also because Puerto Rico, by Congress' own determination in the Immigration and Nationality Act, expressly included in the geographic definition of the "United States", for purposes of the Fourteenth Amendment 8 U.S.C. 1101(a)(8), a power Congress has exercised under the authority recognized in the Insular cases. Congress cannot retract that geographical definition any more than it could revoke a conferral of naturalized status within the United States under Rogers versus Bellei. For if Congress could affect the permanence of its grant of citizenship by subsequently altering the geographical rules in place at the time of naturalization, the guarantee of the 14th amendment, which was recognized in Rogers itself, would mean nothing.

In any event, regardless of the applicability of the 14th Amendment, it is beyond doubt that the Due Process Clause of the fifth amendment restrains Congress in the exercise of any power with respect to Puerto Rico, including the exercise of the naturalization power. *Examining Board* v. *Flores de Otero*, 426 United States 572, 600 (1976); *Calero-Toledo* v. *Pearson Yatch Leasing Company*, 416 United States 663, 668, N.5 (1974). Any congressional attempt to revoke the citizenship of Puerto Ricans would be a flagrant deprivation of liberty. The fifth amendment would not be a mere "factor", as Mr. LAGOMARSINO states, in a hypothetical congressional attempt to revoke the United States citizenship of Puerto Ricans. As recognized in the House Interior Committee Report's definition of the new Commonwealth relationship, the United States citizenship of persons born in Puerto Rico would be guaranteed and secured as provided by the fifth amendment of the Constitution of the United States and equal to that of citizens born in the several states." The Supreme Court has strictly limited Congress' power to revoke citizenship in the cases of *Schneider* v. *Bush*, 377 United States 163 (1964) and *Afroyim* v. *Bush*, 387 United States 253 (1967), and would do so in the highly unlikely event that Congress would attempt a wholesale revocation of the United States citizenship of the people of Puerto Rico.

Mr. LAGOMARSINO's statement goes directly against what he agreed to during the intense negotiations over this citizenship issue when H.R. 4765 was before the Insular Affairs Subcommittee. How could he have voted the report language cited above yet believe that the U.S. citizenship under the new Commonwealth will not be as permanent as that of the citizens born in the United States? It is quite unfortunate that at the very last minute Mr. LAGOMARSINO attempts to create an issue over the permanence of the United States citizenship were Puerto Ricans to choose the new Commonwealth relationship. Mr. LAGOMARSINO demeans himself and demeans the whole relationship of the United States with a people who have cherished and honored their American citizenship during all the 73 years they have had it by using scare tactics when dealing with such a sensitive issue. The transcendental decision Puerto Ricans will be making in the referendum is difficult enough on its true merits. It should not be made any more difficult by attempting to interject false issues and smokescreens that could confuse and mislead my constituents. The people deserve better.

Mr. SERRANO. Mr. Speaker, I rise today to speak in support of legislation that is important to me both as a Puerto Rican, and as a citizen of the United States. The Puerto Rico Self-Determination Act, H.R. 4765, provides to the Puerto Rican people a right that we as Americans cherish dearly and seek to share with peoples around the world—the fundamental right of self-determination.

I wish to express my appreciation to the chairman of the Insular and International Affairs Subcommittee, RON DE LUGO, for his leadership and support in moving so quickly with this legislation.

Ever since Puerto Rico became a part of the United States after the Spanish-American War in 1898, the Puerto Rican people have had a dual identity—they are an island nationality in the Caribbean, and a component of our American Nation. We have been in this relationship for 92 years and, for better or worse, the fact remains that Puerto Ricans did not choose to become part of the United States. The incorporation of Puerto Rico into the United States was unilaterally imposed.

Since 1898, the Puerto Rican people have had two opportunities to express their will as to what sort of relationship should exist between Puerto Rico and the United States.

In 1952, the people of Puerto Rico were invited either to enter into a commonwealth relationship with the United States or to retain their status as a territory. In this instance, the Puerto Rican people chose what was offered to them. Independence and statehood were not options. In 1967, a plebiscite was held in Puerto Rico on three political status alternatives: independence, statehood, and a continuation of commonwealth status. Unfortunately, the plebiscite legislation was considered unfair by a substantial percentage of the electorate. After a contentious plebiscite marred by a substantial boycott on the part of proponents of independence and statehood, the commonwealth option prevailed.

The Puerto Rican people have been waiting patiently these last 23 years for an opportunity freely, fairly, and collectively to determine the political status of their island. And it should be noted, Mr. Speaker, that there could not be a more appropriate time for such a democratic exercise in self-determination.

In the past year the entire world has been swept by a surging wave of democratic fervor.

Virtually every country in Eastern Europe has seen its unelected government replaced by a popular, democratic one. The constituent republics of the Soviet Union are proclaiming their independence and recognizing each other as independent countries. The wall dividing the Germanys has crumbled and the two countries have become one again. Even long-suffering South Africa shows encouraging signs of change.

The people of Puerto Rico are very much aware of these changes. It is highly significant that all three political parties of Puerto Rico—each favoring a different status option for the island's political future—have all endorsed the Puerto Rico Self-Determination Act. This unprecedented harmony among the rival parties bodes well for the ultimate success of the legislation.

Of special importance is a section of the bill which would allow nonresident Puerto Ricans to participate in the plebiscite provided that two of the three parties convened as a dialog committee reach agreement on the procedure and the commonwealth legislature then votes its approval.

Many Puerto Rican families have migrated here to the mainland because of the lack of economic opportunity at home, a situation caused in large measure by U.S. Federal policies. There are an estimated 2.5 million Puerto Ricans and their descendants living in different States. This is not a simple parochial election. It is a referendum of an entire people that may determine its political destiny for all time. To deny voting participation in this historic event to any Puerto Rican, wherever he may reside, would be to succumb to political expediency and add yet another unfortunate page to the history of the relationship between the United States and the island.

It saddens me to report that at present the Senate version of this legislation, S. 712, does not allow the Puerto Rican community at home to extend the vote to their nonresident brethren. It is my fervent hope that the proposed Senate legislation will be amended to conform with the Home legislation before it reaches the Senate floor. The inclusion of all Puerto Ricans can only strengthen the integrity of the referendum and the integrity and the fairness of the United States' role in it. The world is watching. Let us demonstrate real democracy in action.

Congress, in section 5, paragraph (d) of H.R. 4765 enunciates, and I quote, "a commitment that the United States Congress will vote on legislation establishing appropriate mechanisms and procedures to implement the political status selected by the people of Puerto Rico." I urge my colleagues to fully support this commitment when the time comes.

This commitment is good for the people of Puerto Rico and for the credibility of American democracy in this era of stunning democratic progress. As we in the United States strive to encourage and foster these developments around the world, it is essential that we hold true to our principles at home and provide the people of Puerto Rico the opportunity to decide the political status of our island.

The **SPEAKER** pro tempore (Mr. SERRANO). The question is on the motion offered by the gentleman from the Virgin Islands [Mr. DE LUGO] that the House suspend the rules and pass the bill, H.R. 4765, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ZUNI LAND CONSERVATION ACT OF 1990

Mr. RICHARDSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4143) to settle certain claims of the Zuni Indian Tribe, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4143

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Zuni Land Conservation Act of 1990".

ZUNI RESOURCE DEVELOPMENT PLAN

SEC. 2. (a) Before the first day of the third fiscal year beginning after the date of enactment of this Act, the Secretary of the Interior and the Zuni Indian Tribe shall jointly formulate a Zuni resource development plan for the Zuni Indian Reservation, which shall include (but not be limited to)—

(1) a methology for sustained development of renewable resources;

(2) a program of watershed rehabilitation;

(3) a computerized system of resource management and monitoring;

(4) programs for funding and training of Zuni Indians to fill professional positions that implement the overall plan;

(5) proposals for cooperative programs with the Bureau of Indian Affairs and other private or public agencies to provide technical assistance in carrying out the plan; and

(6) identification and acquisition of lands necessary to sustain Zuni resource development.

(b) The Resource Development Plan shall be implemented in a manner that protects resources owned and controlled by the Zuni Tribe and promotes sustained yield development.

TRUST FUND

SEC. 3. (a) There is hereby established within the Treasury of the United States the Zuni Indian Resource Development Trust Fund (hereafter in this Act referred to as the "Trust Fund"). The Trust Fund shall consist of amounts appropriated to the Trust Fund and all interest and investment income that accrues on such amounts.

(b)(1) The Secretary of the Interior shall be the trustee of the Trust Fund and shall invest the funds in the Trust Fund with a financial institution.

(2) The Secretary of the Interior shall not deduct any amount from the Trust Fund for administrative expenses or charge the Zuni Indian Tribe for expenses incurred by the Secretary in acting as trustee.

(c)(1) The funds appropriated to the Trust Fund under the authority of section 4 shall constitute the corpus of the Trust Fund and may be expended, subject to paragraph (2), only for the following purposes:

(A) payment of any loans, debts, or future expenses incurred by the Zuni Indian Tribe to any person for the purchase of land or obtaining or defending rights of access to the area described in Public Law 98-408;

(B) payment of up to $600,000 per year for two years for the formulation of the Zuni resource development plan described in section 2;

(C) payment of all costs, attorney's fees, and expenses incurred prior to September 30, 1990, by the Zuni Indian Tribe in the prosecution of docket numbers 327-81L and 224-84L of the United States Claims Court; and

(D) payment of all invoices submitted by any person to the Zuni Indian Tribe for which proper vouchers have been received prior to September 30, 1990, and subsequently approved by the Secretary of the Interior.

(2) The total amount of the corpus of the Trust Fund that may be expended under paragraph (1) shall not exceed $8,000,000.

(3) The interest and investment income that accrues on the corpus of the Trust Fund may be expended by the Secretary of the Interior pursuant to the Zuni resource development plan described in section 2.

(4) No funds appropriated under the authority of this Act may be used to make per capita payments to members of the Zuni Indian Tribe.

(5) All sums paid pursuant to this Act shall be offset against any judgment entered in favor of the Zuni Indian Tribe in docket numbers 327-81L and 224-84L, but not against any judgment entered in docket number 161-79L, of the United States Claims Court.

(6) Nothing in this Act shall be construed to affect in any way the trust status of Zuni Indian Reservation land or resources.

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. There are authorized to be appropriated to the Zuni Indian Resource Development Trust Fund $25,000,000. Such funds shall remain available without fiscal year limitation.

ADDITIONAL LANDS

SEC. 5. The first section of the Act entitled "An Act to convey certain lands to the Zuni Indian Tribe for religious purposes", approved August 28, 1984 (98 Stat. 1533), is amended by adding at the end thereof the following:

"Also, all of sections 13 and 23, township 14 north, range 26 east, Gila and Salt River Meridian, such lands to be acquired and held in accordance with sections 2 and 3 of this Act.".

The **SPEAKER** pro tempore (Mr. MAZZOLI). Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from New Mexico [Mr RICHARDSON] will be recognized for 2 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON].

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their re marks on H.R. 4143, the bill now under consideration.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. **RICHARDSON**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring before the House H.R. 4143, the Zuni Land Conservation Act of 1990.

The Zuni Indians and their ancestors have occupied what is now western New Mexico for thousands of years. The first Spaniards that encountered the Zuni were greatly impressed by the intricate irrigation systems of the tribe and their sophisticated cultivation of various crops. The Zuni were famous for their waffle gardens and their corn crops which supplied the U.S. Army for many years. These farming practices continued until the end of the 19th century.

However, resources on the 408,000 acre Zuni Reservation have been greatly depleted in the 20th century. Timber, coal, salt, and water resources have all diminished in the modern era.

Because of a tremendous soil erosion problem in the 20th century, 90 percent of the agricultural land on the Zuni Reservation is currently unproductive.

H.R. 4143 authorizes the Secretary of the Interior and the Zuni Pueblo to jointly develop a plan for renewable resources, watershed rehabilitation, a data system for resource management and monitoring, a professional training program for Zuni Indians in resource management, and a cooperative technical assistance program. The authorization of $25 million will assist the Zuni and the Interior Department in finding a long-term solution to the erosion problems in this semi-arid region of the American Southwest.

It must be remembered that the United States is the trustee for Indian lands and retains the duty to ensure that resources are conserved and the lands are productive. At the very least, the Federal Government has the obligation to ensure that the erosion problems do not worsen on this reservation. Testimony was presented to the Interior Committee which clearly showed that worsening of this problem is inevitable without this legislation.

This bill will help to revive and preserve an agrarian culture whose irrigation systems served to provide a bountiful food supply and prevent erosion long before the Europeans came to this continent.

Mr. Speaker, this version of the bill has bipartisan support and the support of the administration. I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. **LAGOMARSINO**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to make following points about H.R. 4143, the Zuni Claims Settlement Act of 1990. This bill originally contained several provisions that were unacceptable. It proposed to preempt litigation pending before the U.S. Claims Court; it proposed to overturn a 1989 U.S. Claims Court ruling; and it proposed to obligate the United States to compensate the Zuni Tribe for claims that were unsubstantiated. In addition, the administration strongly opposed the original bill and threatened a veto by the President if the legislation was not amended.

It has come to our attention that the administration's original objections to the bill have been resolved, and that the resolution of these issues has been incorporated in the legislative vehicle brought to the floor today. The administration does not oppose the bill that is currently before us. Accordingly, any objections we have had with the bill have largely been alleviated.

Mr. Speaker, I yield back the balance of my time.

Mr. **RICHARDSON**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in the passage of this legislation it is important to acknowledge the constructive role once again of the gentleman from California [Mr. LAGOMARSINO], who, because of this bill and the bill on Puerto Rico, must be considered not only an honorary member of the Hispanic caucus but of a native American Indian tribe. I might point out perhaps that the gentleman's very name might reflect that.

I would also add that this bill has been pushed in the other body by my colleagues from New Mexico, Senators DOMENICI and BINGAMAN, and credit should also go to them.

Most importantly, Mr. Speaker, I think it is clear that the Zuni Indians, a small tribe, are simply demanding simple justice. Again let me say that they have had a claim and a legal dispute over this land with the Justice Department which has been postponed, and now they will have an ability to proceed to the courts to try resolve the problem that deals with a number of suits they have with the U.S. Government. That issue has been put aside, and now we have legislation that deals with the most immediate problem, and that is the erosion problem of the Zunis that is very serious and that is decimating the land. The land and water of native Americans are their most precious commodity.

Mr. **RICHARDSON**. Mr. Speaker, I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] that the House suspend the rules and pass the bill, H.R. 4143, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to authorize appropriations of funds to the Zuni Indian Tribe for reservation land conservation, and for other purposes.".

A motion to reconsider was laid on the table.

Mr. **RICHARDSON**. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 2203) to settle certain claims of the Zuni Indian Tribe, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Zuni Claims Settlement Act of 1990".

FINDINGS

SEC. 2. The Congress finds that—

(1) it is the policy of the United States to promote tribal self-determination and economic self-sufficiency and to support the resolution of disputes over historical claims through settlement;

(2) extensive damages to the trust lands within the Zuni Indian Reservation have occurred, including severe land erosion, loss of timber and minerals, spoliation of archaeological sites, and loss of the use of water;

(3) these damages have occurred, in part, by reason of acts and omissions of the United States in breach of its trust responsibilities;

(4) corrective measures are needed immediately to prevent continued degradation of tribal resources;

(5) the Zuni Indian Tribe has sought compensation from the United States for these damages through civil actions;

(6) further Indian prosecution of these claims will cause unnecessary stress on the working relationship between the Zuni Indian Tribe and the United States Government and delay cooperative efforts to remedy continuing problems; and

(7) a legislative settlement of these civil actions is appropriate because, notwithstanding any determination of liability, the United States retains a trust responsibility to the Zuni Indian Tribe for the continued protection of tribal resources.

ZUNI RESOURCE DEVELOPMENT PLAN

SEC. 3. (a) Before the first day of the third fiscal year beginning after the date of enactment of this Act, the Secretary of the Interior and the Zuni Indian Tribe shall jointly formulate a Zuni resource development plan for the Zuni Indian Reservation, which shall include (but not be limited to)—

(1) a methodology for sustained development of renewable resources;

(2) a program of watershed rehabilitation;

(3) a computerized system of resource management and monitoring;

(4) programs for funding and training of Zuni Indians to fill professional positions that implement the overall plan;

(5) proposals for cooperative programs with the Bureau of Indian Affairs and other private or public agencies to provide technical assistance in carrying out the plan; and

(6) identification and acquisition of lands necessary to sustain Zuni resource development.

(b) The Resource Development Plan shall be implemented in a manner that protects resources owned and controlled by the Zuni Tribe and promotes sustained yield development.

TRUST FUND

SEC. 4. (a) There is hereby established within the Treasury of the United States the Zuni Indian Resource Development Trust Fund (hereafter in this Act referred to as the "Trust Fund"). The Trust Fund shall consist of amounts appropriated to the Trust Fund and all interest and investment income that accrues on such amounts.

(b)(1) The Secretary of the Interior shall be the trustee of the Trust Fund and shall invest the funds in the Trust Fund with a financial institution.

(2) The Secretary of the Interior shall not deduct any amount from the Trust Fund for administrative expenses or charge the Zuni Indian Tribe for expenses incurred by the Secretary in acting as trustee.

(c)(1) The funds appropriated to the Trust Fund under the authority of section 6 shall constitute the corpus of the Trust Fund and may be expended, subject to paragraph (2), only for the following purposes:

(A) payment of any loans, debts, or future expenses incurred by the Zuni Indian Tribe to any person for the purchase of land or obtaining or defending rights of access to the area described in Public Law 98-408;

(B) payment of up to $600,000 per year for two years for the formulation of the Zuni resource development plan described in section 3;

(C) payment of all costs, attorneys' fees, and expenses incurred by the Zuni Indian Tribe in the prosecution of docket numbers 327-81L and 224-84L of the United States Claims Court; and

(D) payment of all invoices submitted by any person to the Zuni Indian Tribe for which proper vouchers have been received prior to September 30, 1990, and subsequently approved by the Secretary of the Interior.

(2) The total amount of the corpus of the Trust Fund that may be expended under paragraph (1) shall not exceed $8,000,000.

(3) The interest and investment income that accrues on the corpus of the Trust Fund may be expended by the Secretary of the Interior pursuant to the Zuni resource development plan described in section 3.

(4) No funds appropriated under the authority of this Act may be used to make per capita payments to members of the Zuni Indian Tribe.

SETTLEMENT OF CLAIMS

SEC. 5. (a) Upon the deposit into the Zuni Indian Resource Development Trust Fund of all the funds authorized to be appropriated under section 6, all claims of the Zuni Indian Tribe against the United States that are raised in docket numbers 327-81L and 224-84L of the United States Claims Court shall be considered to be extinguished.

(b) This compromise settlement is made without a finding of liability on the part of the United States with respect to the claims raised in docket numbers 327-81L and 224-84L of the United States Claims Court.

(c) The United States shall continue to have a trust responsibility to protect the resources of the Zuni Indian Reservation.

(d) No sums paid or forgiven pursuant to this Act shall be offset against any award of judgment against the United States which may be rendered in favor of the Zuni Indian Tribe in docket number 161-79L of the United States Claims Court. Any sums paid pursuant to this Act shall be considered to be in the nature of a settlement of claims in law and equity against the United States and shall not be considered for any purpose to be payments to the Zuni Indian Tribe pursuant to a contract, grant, loan, cooperative agreement, judgment, or other kind of appropriation.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are authorized to be appropriated to the Zuni Indian Resource Development Trust Fund $25,000,000. Such funds shall remain available without fiscal year limitation.

ADDITIONAL LANDS

SEC. 7. The first section of the Act entitled "An Act to convey certain lands to the Zuni Indian Tribe for religious purposes", approved August 28, 1984 (98 Stat. 1533), is amended by adding at the end thereof the following:

"Also, all of sections 13 and 23, township 14 north, range 26 east, Gila and Salt River meridian, such lands to be acquired and held in accordance with sections 2 and 3 of this Act.".

RECOGNITION OF TITLE

SEC. 8. Title to lands of the Zuni Indian Tribe described in Finding No. 88 in the Decision of the United States Claims Court filed May 27, 1987 in Docket No. 161-79L is hereby recognized for the permanent use and occupation of the Zuni Indian Tribe effective July 4, 1848, for the limited purpose of providing just compensation to the Zuni Indian Tribe under the fifth amendment to the United States Constitution for the taking of said lands by acts or omissions of the United States.

MOTION OFFERED BY MR. RICHARDSON

Mr. **RICHARDSON**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. RICHARDSON moves to strike all after the enacting clause of the Senate bill, S. 2203, and to insert in lieu thereof the provisions of the bill, H.R. 4143, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read as third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to authorize appropriation of funds to the Zuni Indian Tribe for reservation land conservation, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4143) was laid on the table.

PONCA RESTORATION ACT

Mr. **CAMPBELL** of Colorado. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1747) to provide for the restoration of Federal recognition to the Ponca Tribe of Nebraska, and for other purposes, as amended.

The Clerk read as follows:

S. 1747

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Ponca Restoration Act".

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) The term "Tribe" means the Ponca Tribe of Nebraska.

(2) The term "Secretary" means the Secretary of the Interior or the designated representative of the Secretary of the Interior.

(3) The term "Interim Council" means the Board of Directors of the Northern Ponca Restoration Committee, Inc.

(4) The term "member" means a person who is enrolled on the membership roll of the Tribe of June 10, 1965, that was compiled by the Bureau of Indian Affairs or is entitled to be enrolled as a member of the Tribe under section 7.

(5) The term "State" means the State of Nebraska.

FEDERAL RECOGNITION

SEC. 3. Federal recognition is hereby extended to the Ponca Tribe of Nebraska. All Federal laws of general application to Indians and Indian tribes (including the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461, et seq.), popularly known as the Indian Reorganization Act) shall apply with respect to the Tribe and to the members.

RESTORATION OF RIGHTS

SEC. 4. (a) All rights and privileges of the Tribe which may have been abrogated or diminished before the date of enactment of this Act by reason of any provision of Public Law 87-629 are hereby restored and such law shall no longer apply with respect to the Tribe or the members.

(b) Nothing in this Act may be construed to diminish any rights or privileges of the Tribe, or of the members, that exist prior to the enactment of this Act.

(c) The Secretary shall accept not more than 1,500 acres of any real property located in Knox or Boyd Counties, Nebraska, that is transferred to the Secretary for the benefit of the Tribe. Such real property shall be accepted by the Secretary (subject to any rights, liens, or taxes that exist prior to the date of such transfer) in the name of the United States in trust for the benefit of the Tribe and shall be exempt from all taxes imposed by the Federal Government or any State or local government after such transfer. The Secretary may accept any additional acreage in Knox or Boyd Counties pursuant to his authority under the Act of June 18, 1934 (25 U.S.C. 461 et seq.).

(d) Except as otherwise specifically provided in any other provision of this Act, nothing in this Act may be construed as altering or affecting—

(1) any rights or obligations with respect to property,

(2) any rights or obligations under any contract,

(3) any hunting, fishing, trapping, gathering, or water rights of the Tribe or the members, or

(4) any obligation to pay a tax levied before the date of enactment of this Act.

(e) Reservation status shall not be granted any land acquired by or for the Tribe.

SERVICES

Sec. 5. Notwithstanding any other provision of law, the Tribe and its members shall be eligible, on or after the date of enactment of this Act, for all Federal services and benefits furnished to federally recognized tribes without regard to the existence of a reservation for the Tribe. In the case of Federal services available to members of federally recognized tribes residing on or near a reservation, members of the Tribe residing in Knox, Boyd, Madison, Douglas, or Lancaster Counties of Nebraska or Charles Mix County of South Dakota shall be deemed to be residing on or near a reservation.

INTERIM GOVERNMENT

Sec. 6. Until such time as a constitution for the Tribe is adopted in accordance with section 8(a) and tribal officials are elected under section 8(b), the Tribe shall be governed by the Interim Council.

MEMBERSHIP ROLL

Sec. 7. (a) Until a tribal constitution is adopted in accordance with section 8, the Interim Council shall take such measures as will insure the continuing accuracy of the membership roll of the Tribe.

(b)(1) Until a tribal constitution is adopted in accordance with section 8, an individual shall be eligible for membership in the Tribe, and the name of the individual shall be placed on the membership roll of the Tribe, if—

(A) the individual is living and is not an enrolled member of another Indian tribe that is recognized by the Federal Government, and

(B) the individual—

(i) was listed on the tribal membership roll of June 18, 1965, that was compiled by the Bureau of Indian Affairs,

(ii) notwithstanding the application or appeal deadline dates, was entitled to be listed on the membership roll of June 18, 1965, that was compiled by the Bureau of Indian Affairs, but was not listed, or

(iii) is a lineal descendant of an individual, living or deceased, who is described in clause (i) or (ii).

(2) Any individual who is excluded from the membership roll of the Tribe by the Interim Council may appeal to the Secretary for a determination of the eligibility of the individual for membership in the Tribe. Such determination by the Secretary shall be final. The Interim Council shall include on the membership roll any such individual that the Secretary determines in such an appeal to be eligible for membership in the Tribe.

(c) After adoption of a tribal constitution in accordance with section 8, the constitution of the Tribe shall govern membership in the Tribe.

TRIBAL CONSTITUTION

Sec. 8. (a) Upon the completion of the tribal membership roll and upon the written request of the Interim Council, the Secretary shall conduct, by secret ballot, an election to adopt a constitution for the Tribe. Such constitution shall be submitted by the Interim Council to the Secretary no later than 1 year following the date of enactment of this Act. Absentee balloting shall be permitted regardless of voter residence. In every other regard, the election shall be held according to section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended.

(b) Not later than 120 days after the Tribe adopts a tribal constitution, the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in the constitution. Said election shall be conducted according to the procedures stated in subsection (a) of this section except to the extent that said procedures conflict with the tribal constitution.

(c) Notwithstanding any other provision of law, the governing body of the Tribe established under the constitution of the Tribe that is adopted under subsection (a) shall be treated as an Indian tribal government for purposes of the Internal Revenue Code of 1986.

REGULATIONS

Sec. 9. The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this Act.

ECONOMIC DEVELOPMENT PLAN

Sec. 10. (a) The Secretary shall—

(1) enter into negotiations with the governing body of the Tribe to establish a plan for economic development for the Tribe;

(2) in accordance with this section, establish such a plan; and

(3) upon the approval of such plan by the governing body of the Tribe (and after consultation with the State and local officials pursuant to subsection (b)), shall submit such plan to the Congress by no later than the date that is 2 years after the date of enactment of this Act.

(b)(1) To ensure that legitimate State and local interests are not prejudiced by the economic development plan established under subsection (a), the Secretary shall notify and consult with the appropriate officials of the State and all appropriate local governmental officials in the State with respect to the proposed economic development plan. The Secretary shall provide complete information on the proposed economic development plan to such officials, including the restrictions imposed on such plan by subsection (c).

(2) During any consultation by the Secretary under this subsection, the Secretary shall provide such information as the Secretary may possess and shall request comments and additional information on the extent of any State or local service to the Tribe.

(c) Any economic development plan established by the Secretary under subsection (a) shall provide that—

(1) real property acquired by or for the Tribe located in Knox or Boyd Counties, Nebraska, shall be taken by the Secretary in the name of the United States in trust for the benefit of the Tribe;

(2) any real property taken in trust by the Secretary pursuant to such plan shall be subject to—

(A) all legal rights and interests in such land held by any person at the time of acquisition of such land by the Secretary, including any lien, mortgage, or previously levied and outstanding State or local tax, and

(B) foreclosure or sale in accordance with the laws of the State of Nebraska pursuant to the terms of any valid obligation in existence at the time of the acquisition of such land by the Secretary; and

(3) any real property transferred pursuant to such plan shall be exempt from Federal, State, and local taxation of any kind.

(d) The Secretary shall append to the economic development plan submitted to the Congress under subsection (a) a detailed statement—

(1) naming each individual consulted in accordance with subsection (b);

(2) summarizing the testimony received by the Secretary pursuant to any such consultation; and

(3) including any written comments or reports submitted to the Secretary by any individual named in paragraph (1).

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from Colorado [Mr. Campbell] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. Rhodes] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. Campbell].

GENERAL LEAVE

Mr. CAMPBELL of Colorado. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1747, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

☐ 1520

Mr. CAMPBELL of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of S. 1747 is to restore Federal recognition to the Ponca Indian Tribe of Nebraska which was terminated by Congress.

The Ponca of Nebraska have a compelling story. They were supposed to permanently occupy their aboriginal homelands in northern Nebraska under treaties with the United States in 1858 and 1865. However, in 1876 the Ponca were removed by the United States from their Nebraska homeland to the Indian Territory of Oklahoma. One-third of the tribe died on the journey.

The story of Chief Standing Bear's return to Nebraska in 1879 to bury his son on the Nebraska plain is well known. Congress recognized the right of the Ponca to the land in Nebraska and Standing Bear and his followers were allowed to resettle their aboriginal homeland. Standing Bear's group became the Northern Ponca of Nebraska. Those who stayed in Indian territory became the Southern Ponca of Oklahoma.

In the 1950's, Congress adopted the termination policy. The goal of this policy was to end Federal responsibility for tribes. Several tribes were terminated under the policy, including the Northern Ponca of Nebraska in 1962. The policy had a negative result on all the terminated tribes and the States in which they resided. Economic hardship for individual Indians, in-

creased responsibility for States, and the tragic loss of tribal culture, tradition and sovereignty contributed to the failure of the policy. The 100th Congress expressly repealed and repudiated the termination policy.

In the past several years, Congress has restored Federal recognition to virtually all of the tribes terminated during the time of this unfortunate experiment in Indian policy. The Northern Ponca were among the last of the tribes terminated and are now among the last of the tribes to be restored.

The Northern Ponca are ready for restoration and have done extensive historical, economic, and statistical research to comply with the Bureau of Indian Affairs' requirements with regard to the preparation of the membership rolls, an economic development plan and the establishment of a tribal government.

Mr. Speaker, this bill has bipartisan support and I urge the passage of this long overdue legislation.

Mr. RHODES. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. Bereuter].

Mr. BEREUTER. Mr. Speaker, I rise in support of S. 1747, a bill to provide for the restoration of the Ponca Tribe of Nebraska, and this Member, whose district is most affected, urges the House to support it as well.

In the middle decades of this century, the United States adopted a policy of terminating its trust relationship with certain small, federally recognized Indian tribes. It was hoped that they would eventually become more economically involved in the larger social order and that an improvement in their lives would soon follow. This policy in fact soon proved not to have the desired effect, and during the last several years, the Federal Government has overturned the termination of almost all of those small tribes.

Today, there are only two or three tribes that have yet to be restored to Federal status, and one of those is the Ponca Tribe of Nebraska, whose ancestral lands were in part located in the district this Member represents in Nebraska.

The Ponca were forcibly removed to Indian territory in Oklahoma, as the distinguished gentleman from Colorado [Mr. Campbell] just mentioned, where they remained, and over time they became known as the Southern Ponca.

However, in 1879, the great Chief Standing Bear, now recognized in Nebraska's Hall of Fame, led a small Ponca group back to Nebraska, to honor the wishes of his deceased son, who wanted to be buried in his homelands.

Might I mention also, that when they returned to their homeland in Nebraska, they were arrested on the Omaha Indian Reservation by General Crook, but civic and civil rights and human rights leaders of the day and newspaper leaders provided legal counsel for them. They requested a writ of habeas corpus for Standing Bear and his band of Indians. In a precedent-setting decision, the judge ruled in Standing Bear's case that an Indian is a person within the meaning of the laws of the United States, and therefore entitled to all the protections of any citizen of the United States under the 14th amendment. So indeed this was a very significant precedent for the rights of the American Indians.

Those Poncas never returned to Oklahoma, and it is the descendants of Standing Bear who began the effort to regain the tribe's Federal status. Today this Member hopes that by our action in this body the Poncas will realize their dream.

This process with the Ponca Tribe and its leadership has not been without difficulties. It is a tribute to the tribe, as well as to the members of the Committee on the Interior, however, that some extremely sensitive issues were negotiated, in part, to address the serious concerns this Member had about the possible reestablishment of a residential reservation.

Over the years, this Member has been troubled by and opposed proposals which have come before Congress from time to time, that call for the establishment of new reservations. While this Member has certainly initiated and energetically supported programs for Indians on existing reservations, I am opposed to the creation of new reservations. It is my perception that because of a continuing, severe lack of Federal resources Indian reservations in general contribute to the perpetuation of Indians' position at the bottom of America's socio-economic ladder. Given that fact and, unfortunate, expectation, it seems to this Member to be anachronistic to establish Indian reservations in the last decade of the 20th century.

But this Member recognizes that the Poncas only requested and sought an economic development plan, rather than a reservation, and during the process of the committee's hearings and markup, language was approved that specifically stated that reservation status should not be granted on any land acquired by or for the tribe.

On the other hand, the measure before us today, as amended in the Interior Committee, permits the tribe to acquire 1,500 acres of land for economic development, agricultural, and ceremonial and tribal purposes. Beyond that, the Secretary of the Interior will have the discretion, as he does currently for all other federally recognized tribes, to acquire additional lands to be designated as trust lands on behalf of the tribe.

It is this Members' hope that through the Ponca Tribe of Nebraska's renewal of its relationship with the Federal Government, good things can come about, both for tribal members still living in the beautiful Niobrara Valley, as well as for Poncas scattered throughout the region and Nation.

I hope that this restoration of the tribe to Federal status will also bring peace to the spirit of Standing Bear, and those Poncas, both living and deceased, who were displaced for so long.

In concluding, this Member wishes to express his great appreciation to the chairman and ranking minority member of the Committee on the Interior, and especially to the distinguished gentleman from Colorado [Mr. Campbell] and the distinguished gentleman from Arizona [Mr. Rhodes], for carefully accommodating this gentleman's concerns and request for amendment.

I thank the gentleman for considering the request for a restoration of Federal recognition for the Poncas, a great many of whom are residents of my district and State.

As a final point, this Member wants to recognize in somewhat unusual fashion that a woman on my staff, a legislative assistant, Mrs. Wrexie Agan, who has performed such excellent and Indian-sensitive work for me for 9 years will be leaving my employ and leaving Capitol Hill. She has been a tremendous invaluable aid to me on all of the great many significant Indian legislature in which this Member has been involved. Therefore, this Member takes this appropriate time to recognize the extraordinary fine work that she has done for me, for American Indians, and for the Congress.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Colorado [Mr. Campbell] and the gentleman from Nebraska [Mr. Bereuter] have given very detailed and excellent explanations of the history behind this situation and of the bill itself.

Mr. Speaker, I rise in support of S. 1747, a bill to restore Federal recognition to the Ponca Tribe of Nebraska, a tribe which was terminated by a 1962 act of Congress.

I believe this bill is justified for the following reasons. First, termination is no longer a part of Federal Indian policy. Congress expressly repudiated this policy in the last Congress through the enactment of Public Law 100-297.

Second, Congress has restored the Federal relationship with most of the previously terminated tribes. Third, there is no discernible distinction between the Poncas in Nebraska and the other tribes which were terminated and then later restored by Congress. Finally, the administration identified several criteria against which it measures a request for restoration of the Federal relationship. The hearing record on this bill is replete with historical and other data showing how the Poncas in Nebraska satisfy these criteria.

It is my understanding that the administration supports the restoration of the Ponca Tribe in Nebraska, as does the Nebraska congressional delegation. Accordingly, I urge the support passage of S. 1747 and urge my colleagues to do the same.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CAMPBELL of Colorado. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Mazzoli). The question is on the motion offered by the gentleman from Colorado [Mr. Campbell] that the House suspend the rules and pass the Senate bill, S. 1747, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

SENECA NATION SETTLEMENT ACT OF 1990

Mr. CAMPBELL of Colorado. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5367) to provide for the renegotiation of certain leases of the Seneca Nation, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5367

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Seneca Nation Settlement Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) City of Salamanca and Congressional Villages.—The Congress finds and declares that:

(1) Disputes concerning leases of tribal lands within the city of Salamanca and the congressional villages, New York, have strained relations between the Indian and non-Indian communities and have resulted in adverse economic impacts affecting both communities.

(2) Some of the significant historical events which have led to the present situation include—

(A) beginning in the mid-nineteenth century, several railroads obtained grants or leases of rights of way through the Allegany Reservation without Federal authorization or approval and on terms which did not adequately protect the interests of the Seneca Nation;

(B) after construction of these railroads, Allegany Reservation lands were leased to railroad employees, persons associated with the railroads, residents of the city and farmers without Federal authorization or approval and on terms which did not adequately protect the interests of the Seneca Nation;

(C) none of these leases had Federal authorization or approval and, after the courts ruled these leases invalid, Congress enacted the Act of February 19, 1875 (18 Stat. 330), confirming existing leases of Allegany Reservation lands, authorizing further leasing by the Seneca Nation, and making the confirmed leases renewable for a twelve year period;

(D) the Act of September 30, 1890 (26 Stat. 558), amended the 1875 Act by substituting a renewal term of "not exceeding ninety-nine years" for the original renewal term of twelve years;

(E) in 1952 the Seneca Nation filed a claim with the Indian Claims Commission against the United States for use of improper lease fees, and in 1977 a settlement was reached regarding such claim, providing for the payment of $600,000 to the Seneca Nation covering the period beginning in 1870 to the end of 1946.

(3) An analysis of historic land values indicates that the payments made under the original lease agreement and under the settlement described in paragraph (2)(E) were well below the actual lease value of the property.

(4) The approaching expiration of the Salamanca and congressional village leases on February 19, 1991, has created significant uncertainty and concern on the part of the city of Salamanca and Salamanca residents, and among the residents of the congressional villages, many of whose families have resided on leased lands for generations.

(5) The future economic success of the Seneca Nation, city, and congressional villages is tied to the securing of a future lease agreement.

(6) The Federal and State governments have agreed that there is a moral responsibility on the part of both governments to help secure a fair and equitable settlement for past inequities.

(b) Purpose.—It is the purpose of this Act—

(1) to effectuate and support the agreement between the city and the Seneca Nation, and facilitate the negotiation of new leases with lessees in the congressional villages;

(2) to assist in resolving the past inequities involving the 1890 leases and to secure fair and equitable compensation for the Seneca Nation based on the impact of these leases on the economy and culture of the Seneca Nation;

(3) to provide a productive environment between the Seneca Nation and lessees for negotiating the leases provided for under the Agreement;

(4) to provide stability and security to the city and the congressional villages, their residents, and businesses;

(5) to promote the economic growth of the city and the congressional villages;

(6) to promote economic self-sufficiency for the Seneca Nation and its members;

(7) to promote cooperative economic and community development efforts on the part of the Seneca Nation and the city; and

(8) to avoid the potential legal liability on the part of the United States that could be a direct consequence of not reaching a settlement.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "1890 lease" means a lease made by the Seneca Nation which is subject to—

(A) the Act entitled "An Act to authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegany reservations, and to confirm existing leases" approved February 19, 1875 (chap. 90, 18 Stat. 330); and

(B) the Act entitled "An Act to authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegany Reservations, and to confirm existing leases" approved September 30, 1890 (chap. 1132, 26 Stat. 558);

(2) the term "Agreement" means the document executed by the Seneca Nation and the city entitled "Agreement between the Seneca Nation of Indians and the City of Salamanca", including the appendix to the Agreement;

(3) the term "city" means the city of Salamanca, New York;

(4) the term "lessee" means the holder of an 1890 lease which either expires in 1991 or is one of the leases listed in document 1 of the Technical Documents, including any lessee who holds an 1890 lease by reason of assignment, inheritance, or other manner as provided by the Act referred to in paragraph (1)(A);

(5) the term "memorandum of understanding" means an agreement between the State and the Seneca Nation pertaining to the payment of the funds to be provided pursuant to this Act, which memorandum of understanding reflects an agreement between the Seneca Nation and the State concerning a mechanism and schedule of payments for the funds described in section 6(c);

(6) the term "Secretary" means the Secretary of the Interior;

(7) the term "Seneca Nation" means the Seneca Nation of Indians of the Allegany, Cattaraugus, and Oil Spring Reservations;

(8) the term "State" means the State of New York;

(9) the term "Technical Documents" means the documents which comprise the appendix to the Agreement; and

(10) the term "congressional villages" means the villages of Carrollton, Great Valley, and Vandalia in the State of New York.

SEC. 4. NEW LEASES AND EXTINGUISHMENT OF CLAIMS.

(a) New Leases.—If the Seneca Nation offers new leases in accordance with the Agreement, this Act shall apply with respect to the Seneca Nation. The Seneca Nation shall supply copies of such leases to the Secretary and shall certify in writing that it has supplied the Secretary with copies of written offers to all lessees entitled to an offer.

(b) Extinguishment of Claims.—The Seneca Nation shall execute appropriate documents relinquishing all claims against the United States, the State, the city, the congressional villages, and all prior lessees for payment of annual rents prior to February 20, 1991, with respect to all prior and existing leases.

(c) Effective Date of Leases and Relinquishments.—(1) The relinquishment of claims against the United States shall be effective upon payment by the United States to the Seneca Nation of the funds provided in section 6 of this Act.

(2) The offers, and any acceptances thereof, referred to in subsection (a), and the relinquishment of claims against the State, the city, the congressional villages, and all prior lessees for payment of annual rents referred to in subsection (b) shall not be binding on the Seneca Nation until after the later of the dates on which (1) Congress, or (2) the legislature of the State appropriates the amount of funds set forth in section 6 or the Seneca Nation and the State agree upon a schedule and mechanism for payments for

funds pursuant to section 6(c). Such agreement shall render the offers, acceptances and the relinquishment effective so long as the payments are made as agreed upon by the Seneca Nation and the State.

SEC. 5. RESPONSIBILITIES AND RESTRICTIONS.

(a) Seneca Nation.—The Congress finds that the Seneca Nation is solely responsible for negotiation of the leases under the Agreement in its own interest and approval of any such lease by the United States is not required.

(b) Lessees.—The Congress finds that—

(1) the lessees of leases with the Seneca Nation are responsible for representing their own interest in lease negotiations with the Seneca Nation; and

(2) nothing in this Act shall be construed to prevent the lessees from collectively negotiating with the Seneca Nation regarding such leases, whether through informal groups or as delegations formally sanctioned by either the State or local governments.

(c) United States.—(1) The United States shall not serve in a capacity to approve leases of the Seneca Nation; and

(2) Federal funds may not be obligated or expended, directly or indirectly, for annual payments under any such lease, except for funds that may be available under a conventional, nation-wide program.

(d) State.—(1) The State shall not serve in a capacity to approve leases of the Seneca Nation.

(2) State funds may not be obligated or expended, directly or indirectly, for annual payments under any such lease.

SEC. 6. SETTLEMENT FUNDS.

(a) In General.—In recognition of the findings and purposes specified in section 2, the settlement funds provided pursuant to this Act shall be provided by the United States and the State. The Secretary may not obligate or expend funds provided under subsection (b) until the Secretary determines that there is an agreed upon and signed memorandum of understanding.

(b) Funds Provided by United States.—

(1) Cash payment.—The Secretary shall pay to the Seneca Nation the amount of $30,000,000, which is the Federal share of the cash payment to be managed, invested, and used by the Nation to further specific objectives of the Nation and its members, all as determined by the Nation in accordance with the Constitution and laws of the Nation.

(2) Economic development.—(A) In addition to the amount provided under paragraph (1), the Secretary shall pay to the Seneca Nation the amount of $5,000,000 to be used for the economic and community development of the Seneca Nation, including the city of Salamanca, which is an integral part of the Seneca Nation's Allegany Reservation. Such amount shall be deposited by the Secretary, administered, and disbursed in accordance with subparagraph (B).

(B)(i) The sum of $2,000,000 shall be deposited in a separate interest bearing account of the Seneca Nation. The account shall be administered, and the principal and interest thereon disbursed, by the Seneca Nation in accordance with a plan approved by the Council of the Seneca Nation to promote the economic and community development of the Seneca Nation. Until the principal is expended pursuant to such plan, the income accruing from such sum shall be disbursed to the treasurer of the Seneca Nation on a quarterly basis to fund tribal government operations and to provide for the general welfare of the Seneca Nation and its members. The Seneca Nation may in its discretion add the accrued income to the principal.

(ii) The sum of $3,000,000 shall be deposited in an escrow account which shall be owned by the Seneca Nation. The escrow agent shall be selected by agreement of the Seneca Nation and the city. The escrow account shall remain in existence for a period of ten years from the date on which the principal is deposited or until all payments provided for under section V.D. of the Agreement have been made. The escrow account shall be held and disbursed for economic and community development as set forth in section V.D. of the Agreement. Upon the expiration of the ten-year period, the $3,000,000 principal shall be disbursed in accordance with a plan approved by the Council of the Seneca Nation to promote the economic and community development of the Seneca Nation.

(c) Funds To Be Provided by the State.—The State, in accordance with its laws and regulations, shall provide the sum of $16,000,000 in cash payments and $9,000,000 for economic or community development subject to the provisions of the memorandum of understanding.

(d) Time of Payments.—The payments required by this section on the part of the United States shall be made within 30 days of the Secretary's determination that the Seneca Nation has complied with section 4, or upon the availability of the amounts necessary to carry out this Act, if such determination has previously been made. If the Secretary determines that the Seneca Nation has not complied with section 4, he shall advise the Seneca Nation in writing of all steps it must take to comply.

SEC. 7. CONDITIONS PRECEDENT TO PAYMENT OF UNITED STATES AND STATE FUNDS.

Amounts may not be expended from—

(1) the $30,000,000 and the $5,000,000 provided by the United States under section 6(b), and

(2) the $16,000,000 and $9,000,000 provided by the State under section 6(c),

until after the authorized officials of the Seneca Nation execute new leases with all lessees who accept the Seneca Nation's offer of a new lease, as filed with the Secretary under section 4(a), and execute appropriate documents relinquishing all claims for payment of annual rents prior to February 20, 1991, with respect to such leases.

SEC. 8. MISCELLANEOUS PROVISIONS.

(a) Liens and Forfeitures, Etc.—Subject to subsection (b), the provisions of section 7 of the Indian Tribal Judgment Funds Use and Distribution Act (25 U.S.C. 1407) shall apply to any payment of funds authorized to be appropriated under this Act and made to individual members of the Seneca Nation. None of the payments, funds, or distributions authorized, established, or directed by this Act, and none of the income derived therefrom, which may be received under this Act by the Seneca Nation or individual members of the Seneca Nation, shall be subject to levy, execution, forfeiture, garnishment, lien, encumbrance, seizure, or State or local taxation.

(b) Eligibility for Government Programs.—None of the payments, funds or distributions authorized, established, or directed by this Act, and none of the income derived therefrom, shall affect the eligibility of the Seneca Nation or its members for, or be used as a basis for denying or reducing funds under, any Federal program.

(c) Land Acquisition.—Land within its aboriginal area in the State or situated within or near proximity to former reservation land may be acquired by the Seneca Nation with funds appropriated pursuant to this Act. State and local governments shall have a period of 30 days after notification by the Secretary or the Seneca Nation of acquisition of, or intent to acquire such lands to comment on the impact of the removal of such lands from real property tax rolls of state political subdivisions. Unless the Secretary determines within 30 days after the comment period that such lands should not be subject to the provisions of section 2116 of the Revised Statutes (25 U.S.C. 177), such lands shall be subject to the provisions of that Act and shall be held in restricted fee status by the Seneca Nation. Based on the proximity of the land acquired to the Seneca Nation's reservations, land acquired may become a part of and expand the boundaries of the Allegany Reservation, the Cattaraugus Reservation, or the Oil Spring Reservation in accordance with the procedures established by the Secretary for this purpose.

SEC. 9. LIMITATION OF ACTION.

Notwithstanding any other provision of law, any action to contest the constitutionality or validity under law of this Act shall be barred unless the action is filed on or before the date which is 180 days after the date of enactment of this Act. Exclusive jurisdiction over any such action is hereby vested in the United States District Court for the Western District of New York.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Colorado [Mr. Campbell] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. Rhodes] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. Campbell].

GENERAL LEAVE

Mr. CAMPBELL of Colorado. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5367, as amended.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. CAMPBELL of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the basic purpose of H.R. 5367 is to ratify and implement an agreement between the Seneca Indian Nation of New York and the city of Salamanca regarding the renegotiation of certain 99-year leases of the tribe's land and to provide Federal and State compensation to the tribe for the loss of revenue and income from those lands for the last 100 years.

The aboriginal territory of the Seneca were centered on what is now western New York State. By the mid-19th century, they had lost most of their lands through a series of treaties and agreements with the United States and the State. The current land base of the Seneca Nation is composed of three small reservations in western New York; the Allegany Reservation of 30,469 acres, the Cattaraugus Reservation of 21,680 acres, and the Oil Springs Reservation of 640 acres.

In the mid-1800's, the Seneca Nation and some of its members entered into leases with certain railroad companies and with individuals for its lands on the Allegany reservations. State courts later held that these leases were void as being in violation of Federal laws requiring the consent of the United States to leases of tribal lands.

Understandably, this decision caused great concern among the non-Indian lessees who exerted political pressure upon its congressional delegation to secure ratification by Congress of these leases. In fact, the existing city of Salamanca, NY, and certain small villages were largely founded upon these leases.

Under strong economic and political pressure and over the objection of the tribe, Congress passed a law which authorized and ratified the leases and made them renewable for a 12-year period. This was later amended in 1890 to authorize a renewal for 99 years, again over the strong objection and protests of tribal leaders. These 99-year leases were subsequently executed without Federal supervision, assistance or support at extremely low rental rates with no provision for escalation of the rents. Thus began a 100-year period during which the tribe was deprived of the use of nearly one-third of its Allegany Reservation with only a token return.

Mr. Speaker, these leases are due to expire next year. The tribe is insisting that, if the leases are renewed, they be renewed only for a moderate term and only for fair market value. The city of Salamanca and the surrounding region, already economically depressed, face increased economic pressure or the possibility of loss of their lands and improvements. To avoid this further attack on the local economy, the Nation and the city have reached an agreement on renegotiation of these leases. I believe that the proposed terms of the new leases are basically fair to the Nation.

However, Mr. Speaker, the Seneca Nation has lost millions of dollars of revenue and land value over the last 100 years solely because of the actions of the United States in authorizing and facilitating the lease of tribal lands at bargain basin prices. The bill recognizes this moral responsibility of the United States and the State of New York by requiring compensation to the tribe in the amount of $35,000,000 from the United States and $25,000,000 from the State. I urge the House to pass this bill which corrects an ancient wrong done to this tribe of Indians.

☐ 1530

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5367, the Seneca Nation Settlement Act of 1990. Certain historical events in the 19th century resulted in the circumstances that bring this matter to our attention in 1990. An understanding of these events helps one to appreciate why H.R. 5367 is both reasonable and necessary.

H.R. 5367 has as its foundation a settlement agreement between the nation and the city. The agreement establishes a process for renegotiation of the long-term leases, and establishes the annual rental value, including a formula for escalation of the rent over time. The original long-term leases were legislated by congress in the late 1800's, for a period of 99 years, with annual lease payments of $2 to $4 a year. The leases, which expire on February 19, 1991, where the result of railroad expansion west and the influx of white settlers on and around the Seneca Reservation in the late 1800's.

The city of Salamanca and the surrounding communities were built essentially on 99-year leases of tribal land, at below market rates, under a design approved by congress. It is clear that congressional action is necessary to clarify the status of the leases after February 19, 1991. And, it is evident that failure by Congress to act on this bill would result in economic and social chaos in and around Salamanca, NY.

The committee's consideration of this bill has brought to our attention several positive and noteworthy points. First, the Seneca Nation voluntarily agreed to the renegotiation of the long-term leases and thereby expressed its commitment to safeguarding the future of the city and the surrounding communities. Second, for the first time in 99 years, the Seneca Nation has been able to strike an Arm's length bargain with the non-Indian lessees. Third, the settlement agreement sets the stage for the Seneca Nation and the local communities to engage in joint ventures and projects that benefit the social well-being and economic health of the Indian and non-Indian communities.

Finally, this bill is the culmination of two decades of negotiation between the Seneca Nation and the City of Salamanca with regard to the expiration of the 99-year leases. This process has enhanced community relations between the Senecas and the non-Indians and has encouraged the parties to chart a course for the future based on respect and even friendship.

Based on these factors, I support approval of H.R. 5367 and urge my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Mr. CAMPBELL of Colorado. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. Miller], a friend of the American Indian people.

Mr. MILLER of California. Mr. Speaker, I rise in support of this legislation.

Mr. RHODES. Mr. Speaker, many people have been involved in putting this piece of legislation together. An awful lot of people in New York worked very, very hard on the negotiations, but the gentleman from New York [Mr. Houghton], who represents this district, has really extended himself in bringing us to this point. He is to be congratulated for all of the work he has accomplished in an area that started off not being too familiar to him in term of Indian rights settlements. I think he knows now more about it than he ever wanted to.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. Houghton]

Mr. HOUGHTON. Mr. Speaker, I thank the gentleman from Arizona [Mr. Rhodes] and the gentleman from Colorado [Mr. Campbell] for bringing this bill to the floor.

Mr. Speaker, I am really loath to stand up and talk because they have covered the territory so beautifully. But since I have been involved and so many people have been involved in this process, what I would like to do is just take a minute to describe some of the reasons for our standing up here and proposing H.R. 5367.

At the outset, let me just say that some people think of me as a sort of budget curmudgeon, not spending a dime or a nickel in order to get this deficit down, and that is what I have been trying to do over the years. However, every so often something comes up which is very important, and it costs money, and the Seneca Nation Settlement Act of 1990 is one of those issues.

Let me just describe as background a little bit from whence we come. There is a reservation in upstate New York called the Southern Tier, and it is owned by the Seneca Nation. In it is a city. That is very unusual. There is almost no other city which is right in the middle of a reservation in this country. There are also three villages. Every one has a lease, families, businesses, churches, even the U.S. Post

Office, and these leases all end in February 1991.

There are two parts to this issue. One is the future and the other is the past. The future really has been taken care of tentatively because of the extraordinary negotiations undergone with good faith and understanding and respect by the Members of the nation and by the members of the community up there in Salamanca and the three congressional villages.

The other part, of course, is the past, and these leases are all contingent upon the resolution of a past inequity as indicated by the gentleman from Colorado [Mr. Campbell] and the gentleman from Arizona [Mr. Rhodes]. The leases were imposed by Congress upon the nation and upon the citizens. What happened was when these leases were imposed it kept the nation in a near state of poverty, and also put a lock on any increasing increments in the rentals which could be received by the Nation.

So this bill in front of us today gives a one time $35 million payment to be matched by $25 million from the State. So this is what I respectfully ask of the Congress.

Many years ago people, corporations, rented lands from the Indians. These were the only people in the market. The Indians were forced to rent to people in the lumbering industry or people ultimately in the railroad industry, but as the years went on, this became burdensome and unfair. So in 1870 a State court said no deal, declared all the leases illegal, and really because it was a violation of the treaty between the Seneca Nation and the United States of America, which incidentally had been approved by George Washington, and it was a violation of Federal law.

The purpose of the treaty was to protect the nation's lands, which was really the only asset they had.

☐ 1540

In 1875, as has been mentioned earlier here, Congress broke that promise and validated the leases by the individuals and authorized new 99-year leases. The nation objected, the nation objected, the nation objected, and nothing happened. The Congress overruled the court, and in 1890, the individuals were given the right and then forced to extend the agreement for another 100 years despite the protest of the nation. There were some interesting issues here. Various Congressmen involved in this did things which today would be clearly illegal. One was the president of a bank in Salamanca. He represented people, and his suggestion to solve the Indian problem was, "a radical uprooting of the whole tribal system."

In any event, the upshot was a rental payment which gave some people for a plot of land literally as little as $1 a year. So even the most ardent budgeteer would look at this state of affairs and, I think, say that this is unfair. The Congressman, at this point, said something which is interesting, and this really indicated his hand, "I represent 8,000 people. We live upon these reservations who hold 99-year leases, and the Indians hold those leases, and we want to get title to those lands."

It is the sad thing, of course, during all of this period of time the Interior Department did absolutely nothing. So here we are, a century later, leases ending, the city and the nation ready to look ahead, and we face the stark reality of the restitution to a nation.

The question is: Is the Federal Government really responsible at all? And I say somewhat subjectively, I might add, that it is. The Federal Government is charged with the protection of Indian interests.

Congress and not the States extended those leases, and we swore originally to protect the nations, and we did not.

What is the extent of our responsibility? Do we have any dollar responsibility? I think we do have a dollar responsibility. As a matter of fact, it was a very extensive study done by a distinguished mathematician from the University of Stanford that indicated that if you took the market-value losses, the fair rental value, based on land only over the years, there was a restitution due for over $250 million. Now that clearly is not right, that in this day and age, that this cannot be, and furthermore, in 1946, all nations had somewhat partial restitution.

However, since 1946, $200 billion of additional unfair losses were piled up by the Indians.

So in keeping with other settlements, consistent with the policy Congress has set up in other land settlements, an agreed figure of $35 million, so in brief, Mr. Speaker, we are facing up to the reality. This nation was badly treated. Something ought to be done, and there is a consistent policy of the Congress set up by Congress that there will be settlements; there will be just settlements, and $35 million is in keeping with this.

I appreciate the time the Members have let me spend here.

The most important thing is we are now on the edge of moving forward. The attitude of the people in the community, the attitude of the nation is sensational, if I might say so. These people want to work together. Without a lease, they cannot. With a lease, they may, and I hope that Congress will help pass H.R. 5367.

Mr. CAMPBELL of Colorado. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. Richardson].

Mr. RICHARDSON. Mr. Speaker, I will not take the full 2 minutes. I thank the gentleman for his generous time.

Mr. Speaker, I am here to offer support as a westerner with a large Indian population to my colleague from New York with undoubtedly a smaller Indian population, but nonetheless he is doing simple justice to an issue that is very important to him.

I commend the gentleman from New York [Mr. Houghton] for his leadership and his work and his dignity and his friendship.

I think this is an important bill. The case is not dissimilar to many cases in my home State where native American tribes have been defrauded of land and water by acts and omissions of the U.S. Government.

With that, I urge support for this important legislation, commend my colleague and all of his colleagues from New York that I see here, the gentleman from New York [Mr. McHugh] and the gentleman from New York [Mr. LaFalce]. I urge passage of this legislation.

This legislation offers a farsighted solution to serious injustices experienced by the Seneca Nation of New York. Due to anachronistic lease agreements which were not consented to by the Seneca Nation, the tribe is estimated to have lost $250 million.

This case is not dissimilar to cases in my home State of New Mexico where native American tribes have been defrauded of lan or water by acts and omissions of the U.S Government.

The original lease agreement, still in effect was signed by President George Washington over 200 years ago. This treaty was ruled illegal by a New York State Court but that decision was overturned by an act of Congress As a result, a fraudulent agreement has bee the basis of leases on Seneca land.

Congress could decide not to act today an to allow the courts to pursue the issue. India claims cases are costly, lengthy, and ver often substantial damages are awarded to th claimant. The price tag could run as high a $250 million plus.

On the otherhand, Congress could choos today to redress a serious wrong. To settl this claim and allow the tribe to renegotiate it lease agreements next year. This will allo the relationship between the Seneca Natio and the State of New York and its citizens t move forward in a positive light.

Mr. Speaker, this settlement is worthy of ou support. I commend the gentleman from Ne York [Mr. Houghton] for having initiated thi important legislation and I ask my colleague to support it.

Mr. RHODES. Mr. Speaker, I yiel such time as she may consume to th gentlewoman from Nevada [Mrs Vucanovich].

Mrs. VUCANOVICH. Mr. Speaker, rise in support of H.R. 5367, th Seneca Nation Settlement Act of 199 not just as a cosponsor, but as an advocate for the right thing to do.

Mr. Speaker, in the later 1800's th Seneca Nation was coerced into leasin land they owned to immigrants and settlers looking for a new life in the area now known as Salamanca, NY. These leases, as my colleague from New York pointed out, were only a few dollars a year, with no provisions for an adjustment with time.

Because the Sencea Nation was locked into such leases for over a century, it has been estimated that they have lost somewhere in the neighborhood of $250 million. The Seneca request for $60 million, with a Federal share of $35 million, is more than fair; and an amount far less than the possible result of a long and costly legal battle.

Mr. Speaker, this bill represents more than just a cost efficient solution to right a longstanding wrong. This bill represents cooperation, hardwork, and foresight on the part of the Seneca Nation, as well as that of the community.

Mr. Speaker, I urge my colleagues' support for H.R. 5367, the Seneca Nation Settlement Act of 1990, a bill supported by the Seneca Nation and the community of Salamanca, NY.

Mr. RHODES. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. Horton], the dean of the New York delegation.

Mr. HORTON. Mr. Speaker, I am pleased to join with my colleagues today to urge prompt passage of the Seneca Nation Settlement Act of 1990 sponsored by the gentleman from New York [Mr. Houghton], whose district adjoins mine to the south. Mr. Houghton has worked hard at putting this legislation together.

When most people think of New York, they think of New York City. Others who think about upstate New York, think about Rochester, Syracuse, Niagara Falls, and the Finger Lakes. What surprises many people is the large number of native Americans who still call upstate New York home. What is even more surprising to some is that there are still land disputes after all of these years.

There are currently no less than five Indian land claims being pursued in the Empire State. Today we have a chance to settle one of these disputes in a peaceful, democratic manner.

The gentleman from New York [Mr. Haughton] has worked very hard at putting together a package acceptable to all parties. He has been aided in his efforts by New York's two Senators. The legislation was unanimously endorsed at the last meeting of the New York congressional delegation, which I chair.

In looking over the content of this agreement, I noticed its fairness to the Seneca Nation, to the citizens of Salamanca, NY, and to the rest of the taxpayers of our State and Nation. I understand that great pains were taken during the negotiations to ensure that all parties were treated with respect and dignity. The driving force of the negotiations was to find an agreement which was agreeable to all parties. This legislation does just that.

I hope we can pass this bill today for several reasons. On an immediate level, time is runing out. The current leases expire in a matter of months. This bill is needed to avert a great deal of hardship and frustration for the Senecas and the people of Salamanca.

Furthermore, I hope this legislation and the negotiations which produced it can serve as a model for the other outstanding land claims, two of which lie at least partially in my district. It has been my policy not to support any settlement unless the local governments sign off on the agreement. In the Seneca situation, that criterion has been met.

I commend the gentleman from New York [Mr. Houghton] for his persistence in resolving this matter. He has worked hard to ensure that this package is fair, which it is. I urge my colleagues to join with us in passing this worthy and needed legislation.

Mr. CAMPBELL of Colorado. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. LaFalce], the distinguished chairman of the Small Business Committee.

Mr. LaFALCE. Mr. Speaker, I would like to commend my colleague from New York, whose concerns and hard work have brought this legislation to the floor for our consideration. Were it not for his outstanding work, this bill would not be on the floor today. This bill is a model for resolving disputes and enlisting the cooperation of city, State, and Federal Governments.

Mr. Speaker, I am a strong supporter and cosponsor of H.R. 5367, the Seneca Nation Settlement Act of 1990. This bill provides a just and adequate compensation for the Seneca Nation and constitutes a very reasonable Federal obligation. The funds in this bill will foster economic growth for the entire area—including the Seneca Nation lands and the city of Salamanca—and provide a positive solution to a longstanding dispute. It is a balanced bill that redresses the past and has the foresight to invest in the future.

This bill provides Federal sums to compensate the Seneca Nation for 3,000 leases that were obtained and perpetuated without the consent of the rightful owners—the Senecas. For nearly 99 years, the Senecas have been receiving minuscule payments averaging $1 to $3 per year per parcel of land. Clearly, the Senecas deserve appropriate compensation.

There have been claims that this legislation is inappropriate and unjustified: that the Federal Government does not bear financial responsibility for rectifying the problems that exist and that the overall level of spending is too high. But this bill is a legitimate and proper policy choice that is both compassionate and prudent.

First, the Federal Government does bear responsibility for the unjustifiably low rates of return given to the Seneca Nation for unjust leases. Although a New York State court rules that the original lease agreement was without the consent of the Senecas, and therefore illegal, Congress overruled the court and extended the agreement for 99 years. Furthermore, the Federal Government, not the States, is charged with the protection of Indian interests. Thus, this legislation is the proper jurisdiction of this body.

Second, the overall spending contained in the bill is not exorbitant and is, quite frankly, a prudent, cost-saving measure. The total Federal Government share—$35 million—is significantly less than the $250 million amount cited by a Stanford economist as the revenue lost by the Senecas as a result of congressional action. Furthermore, this bill is a one-time payment. By accepting this compromise, the Senecas relinquish their ability to further litigate these past wrongs. Thus, this compensation is modest, fair, and protects the Federal Government from hugely expensive legal battles.

Finally, this bill includes funds specifically designed to promote economic growth in the region. The Federal Government will contribute $5 million and New York will provide $9 million to this package. Money designated for economic incentives comes with a detailed plan for its distribution to insure it's proper and most productive use. I urge my colleagues to approve this measure.

Mr. RHODES. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. Martin].

Mr. MARTIN of New York. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I also thank the gentleman from Colorado for his leadership in the committee.

I rise not only as a New Yorker but as a former member of the Committee on the Interior and as an admirer of the Congressman who represents Salamanca, the gentleman from New York [Mr. Houghton], for all of his work on this particular issue.

Back some 12 years ago as a member of the New York State Assembly, there was a task force which met in Salamanca, and among the things we were considering was this very difficult problem with the 99-year leases and the tension that built up among the people of the community and the Seneca Nation as to what would happen when the leases expired.

Under the best circumstances, to have a solution to a problem like this,

it requires the efforts of a lot of people, and the negotiations between the Seneca Nation and the city of Salamanca, the county officials, the State officials, and the Federal officials have been something that I think we could all learn a lot from.

Involved in this process at every step and particularly when it comes to bringing a bill to the floor requires the leadership of the Member of Congress representing the district, and I think it is a tribute to the gentleman from New York [Mr. Houghton], a Member who is very highly respected in this Chamber, that we come to this result.

I think it should be pointed out that in the other body there is an identical piece of legislation that is awaiting consideration, and we would hope, after the speedy consideration of the legislation offered by the gentleman from New York [Mr. Houghton] in this body, that the Senate would bring their bill and we can bring this to a conclusion, and that conclusion should bring not only our thanks and our admiration but certainly the admiration and the thanks for all of those whose lives are so directly affected.

□ 1540

Mr. CAMPBELL of Colorado. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. McHugh].

Mr. McHUGH. Mr. Speaker, I rise in support of the Seneca Nation Settlement Act and urge my colleagues to support it. I congratulate the gentleman from New York [Mr. Houghton] for his fine efforts in bringing this settlement bill to the floor.

Today we have the opportunity to vote for a bill that resolves long standing grievances and disputes in a peaceful manner. It addresses the inequities of the past with regard to the Seneca Nation and restores the compact of trust we have with the Senecas. It allows the city of Salamanca, NY and its surrounding villages to look to the future in a spirit of cooperation with the Seneca Nation.

Mr. Speaker, I think we have a responsibility to go forward with this legislation. Nearly 100 years ago, these lands were taken from the Seneca Nation when the property was leased to the State of New York without the Nation's consent. Although the New York State courts invalidated the leases, Congress overrode the courts and extended the leases for 99 years. The original terms of the leases set unconscionably low rents and there are no provisions to update them to reflect fair rents. Consequently, the Seneca Nation has been deprived of an equitable return for use of its land.

These leases will now expire in 1991. Both the Seneca Nation and the city of Salamanca would like to sign new lease agreements. However, before this can be accomplished, the Seneca Nation has asked for a settlement due to the inequities of the past. This legislation is intended to implement that request.

Under the settlement, the Federal Government would provide a mix of economic development aid and cash totaling $35 million to the Seneca Nation. New York State would provide $25 million. This bill authorizes the Federal share of that $60 million settlement, which represents less than 25 percent of the amount that the Seneca Nation could have received if the rents had been set at fair market value.

Without this legislation, we cannot hope to negotiate the new leases for Salamanca and the surrounding communities. With this legislation, the people of the Salamanca area and the Seneca Nation can work toward building for the future.

Mr. Speaker, I urge my colleagues to support this bill. We have an obligation to the Seneca Nation which must be fulfilled. This is a fair way to do it.

Mr. CAMPBELL of Colorado. Mr. Speaker, I think it is clear that this bill does have a very great degree of bipartisan support. In the essence of time, I will not try to congratulate every person that worked so hard on it, but I would like to reiterate what my colleagues have said, that without the help of the gentleman from New York [Mr. Houghton] and his sensitivity and hard work, this bill would not be here on the floor today. I urge my colleagues to support it.

Mr. NOWAK. Mr. Speaker, I am most pleased to support H.R. 5367, a bill which will provide a long-awaited settlement with the Seneca Nation of Indians for past inequities, and resolve the uncertainties that have been afflicting the city of Salamanca, NY.

Representative HOUGHTON is to be commended for his untiring efforts to bring the parties together and to formulate the legislation to conclude the divisive issues. The settlement request is a fair one, and the Federal Government should meet its past due responsibilities to provide for the Indian interests.

Immense thought, negotiation effort, and give-and-take on all parts, have gone into reaching this agreement, and I hope the legislation will be promptly passed, with swift Senate action, and Presidential signature following.

The following editorial from the Buffalo News points up the need for action, and the justice of the proposed solution.

[From the Buffalo News, Sept. 20, 1990]

U.S. Turns Back on Salamanca

Is there some unwritten rule that wherever American Indian claims are concerned, the federal government has to be guilty of bad faith? In Salamanca, it is hurting both Indians and non-Indians by backing out on a deal to settle the city's lease problem with Seneca Nation.

Salamanca residents who live on Seneca land have been enjoying absurdly cheap rent for the past 99 years. Before signing any new leases after the old ones run out in February, the Senecas justifiably want assurance that they will receive compensation for a century of gross injustice. The current residents cannot be expected to shoulder this burden.

That is where the federal and state governments come in. Under an agreement that had seemed to be firm, Rep. Amory Houghton, R-Corning, introduced a measure to provide $35 million as the federal share of a $60 million payment to the Seneca Nation. This was designed to compensate the Senecas, in part, for rent payments that were as little as $1 a year.

When the Houghton measure came up for a House hearing, however, the Department of the Interior reversed its earlier decision and said the Bush administration now "strongly opposes" the legislation.

Without passage of the settlement, which had been backed by federal, state and Salamanca officials, the 2,200 individual leaseholders in Salamanca would be obliged to negotiate their own new leases with the Seneca Nation through arbitration. Without the expected lump-sum federal payment, the Indians could be expected to seek higher annual lease payments.

The uncertainty would have a chaotic effect on the city, where one in five households already live below the poverty line and property is already hard to sell.

The Bush administration's reversal has thrown up a major roadblock, but Houghton still hopes for early passage of the bill. Some support can be expected from his own Republican Party. The bill is also getting strong backing from powerful members of the Democratic majority in the Senate.

But it has not gotten the same commitment from Democrats who lead the House. It should. The Democrats, who advertise themselves as the party concerned about the rights of minorities and the poor, have no excuse for failing to back this agreement on the national level as they have on the state level.

Mr. CAMPBELL of Colorado. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RHODES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr Mazzoli). The question is on the motion offered by the gentleman from Colorado [Mr. Campbell] that the House suspend the rules and pass the bill, H.R. 5367, as amended.

The question was taken: and (two thirds having voted in favor thereof the rules were suspended and the bill as amended, was passed.

A motion to reconsider was laid on the table.

NATIONAL INDIAN FOREST RESOURCES MANAGEMENT ACT

Mr. WILLIAMS. Mr. Speaker, move to suspend the rules and pas the Senate bill (S. 1289) to improv the management of forests and woodlands and the production of forest resources on Indian lands, and for othe purposes, as amended.

The Clerk read as follows:

S. 1269

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—GENERAL PROVISIONS

SECTION 101. SHORT TITLE.

This Act may be cited as the "National Indian Forest Resources Management Act".

SEC. 102. FINDINGS.

The Congress finds and declares that—

(1) the forest lands of Indians are among their most valuable resources and Indian forest lands—

(A) encompass more than 15,990,000 acres, including more than 5,700,000 acres of commercial forest land and 8,700,000 acres of woodland,

(B) are a perpetually renewable and manageable resource,

(C) provide economic benefits, including income, employment, and subsistence, and

(D) provide natural benefits, including ecological, cultural, and esthetic values;

(2) the United States has a trust responsibility toward Indian forest lands;

(3) existing Federal laws do not sufficiently assure the adequate and necessary trust management of Indian forest lands;

(4) the Federal investment in, and the management of, Indian forest land is significantly below the level of investment in, and management of, National Forest Service forest land, Bureau of Land Management forest land, or private forest land;

(5) tribal governments make substantial contributions to the overall management of Indian forest land; and

(6) there is a serious threat to Indian forest lands arising from trespass and unauthorized harvesting of Indian forest land resources.

SEC. 103. PURPOSES.

The purposes of this Act are to—

(1) allow the Secretary of the Interior to take part in the management of Indian forest lands, with the participation of the lands' beneficial owners, in a manner consistent with the Secretary's trust responsibility and with the objectives of the beneficial owners;

(2) clarify the authority of the Secretary to make deductions from the proceeds of sale of Indian forest products, assure the use of such deductions on the reservation from which they are derived solely for use in forest land management activities, and assure that no other deductions shall be collected;

(3) increase the number of professional Indian foresters and related staff in forestry programs on Indian forest land; and

(4) provide for the authorization of necessary appropriations to carry out this Act for the protection, conservation, utilization, management, and enhancement of Indian forest lands.

SEC. 104. DEFINITIONS.

For the purposes of this Act, the term—

(1) "Alaska Native" means any person enrolled as a Native pursuant to section 5 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1604);

(2) "forest" means an ecosystem of at least one acre in size, including timberland and woodland, which—

(A) is characterized by a more or less dense and extensive tree cover,

(B) contains, or once contained, at least ten percent tree crown cover, and

(C) is not developed or planned for exclusive non-forest use;

(3) "Indian forest land" means Indian lands, including commercial and non-commercial timberland and woodland, that are considered chiefly valuable for the production of forest products or to maintain watershed or other land values enhanced by a forest cover, regardless whether a formal inspection and land classification action has been taken;

(4) "forest land management activities" means all activities performed in the management of Indian forest lands, including—

(A) all aspects of program administration and executive direction such as—

(i) development and implementation of policy and operational procedures, program oversight, and evaluation,

(ii) securing of legal assistance and handling of legal matters,

(iii) budget, finance, and personnel management, and

(iv) development and maintenance of necessary data bases and program reports;

(B) all aspects of the development, preparation and revision of forest inventory and management plans, including aerial photograhy, mapping, field management inventories and re-inventories, inventory analysis, growth studies, allowable annual cut calculations, environmental assessment, and forest history, consistent with and reflective of tribal integrated resource management plans;

(C) forest land development, including forestation, thinning, tree improvement activities, and the use of silvicultural treatments to restore or increase growth and yield to the full productive capacity of the forest environment;

(D) protection against losses from wildfire, including acquisition and maintenance of fire fighting equipment and fire detection systems, construction of firebreaks, hazard reduction, prescribed burning, and the development of cooperative wildfire management agreements;

(E) protection against insects and disease, including—

(i) all aspects of detection and evaluation,

(ii) preparation of project proposals containing project description, environmental assessments and statements, and cost-benefit analyses necessary to secure funding,

(iii) field suppression operations, and

(iv) reporting;

(F) assessment of damage caused by forest trespass, infestation or fire, including field examination and survey, damage appraisal, investigation assistance, and report, demand letter, and testimony preparation;

(G) all aspects of the preparation, administration, and supervision of timber sale contracts, paid and free use permits, and other Indian forest product harvest sale documents including—

(i) cruising, product marking, silvicultural prescription, appraisal and harvest supervision,

(ii) forest product marketing assistance, including evaluation of marketing and development opportunities related to Indian forest products and consultation and advice to tribes, tribal and Indian enterprises on maximization of return on forest products.

(iii) archeological, historical, environmental and other land management reviews, clearances and analyses,

(iv) advertising, executing, and supervising contracts,

(v) marking and scaling of timber, and

(vi) collecting, recording and distributing receipts from sales;

(H) provision of financial assistance for the education of Indians enrolled in accredited programs of postsecondary and postgraduate forestry and forestry-related field of study, including the provision of scholarships, internships, relocation assistance, and other forms of assistance to cover educational expenses;

(I) participation in the development and implementation of tribal integrated resource management plans, including activities to coordinate current and future multiple uses of Indian forest lands;

(J) improvement and maintenance of extended season primary and secondary Indian forest land road systems; and

(K) research activities to improve the basis for determining appropriate management measures to apply to Indian forest lands;

(5) "forest management plan" means the principal documents, approved by the Secretry, reflecting and consistent with a tribal integrated resource management plan, which provides for the regulation of the detailed, multiple-use operation of Indian forest land by methods assuring that such lands remain in a contiuously productive state while meeting the objectives of the tribe and which shall include—

(A) standards setting forth the funding and staffing requirements necessary to carry out each management plan, with a report of current forestry funding and staffing levels; and

(B) standards providing quantitative criteria to evaluate performance against the objectives set forth in the plan;

(6) "forest product" means—

(A) timber,

(B) a timber product, including lumber, lath, crafting, ties bolts, logs, pulpwood, fuelwood, posts, poles and split products,

(C) bark,

(D) Christmas trees, stays, branches, firewood, berries, mosses, pinyon nuts, roots, acorns, syrups, wild rice, and herbs.

(E) other marketable material, and

(F) gravel which is extracted from, and utilized on, Indian forest lands;

(7) "forest resources" means all the benefits derived from Indian forest lands, including forest products, soil productivity, water, fisheries, wildlife, recreation, and aesthetic or other traditional values of Indian forest lands;

(8) "forest trespass" means the act of illegally removing forest products from, or illegally damaging forest products on, forest lands;

(9) "Indian" means a member of an Indian tribe;

(10) "Indian land" means land title to which is held by—

(A) the United States in trust for an Indian, an individual of Indian or Alaska Native ancestry who is not a member of a federally-recognized Indian tribe, or an Indian tribe, or

(B) an Indian, an individual of Indian or Alaska Native ancestry who is not a member of a federally recognized tribe, or an Indian tribe subject to restriction by the United States against alienation;

(11) "Indian tribe" or "tribe" means any Indian tribe, band, nation, Pueblo or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians and shall mean, where appropriate, the recognized tribal government of such tribe's reservation;

(12) "reservation" includes Indian reservations established pursuan to treaties, Acts of Congress or Executive orders, public domain Indian allotments, and former Indian reservation in Oklahoma;

(13) "Secretary" means the Secretary of the Interior;

(14) "sustained yield" means the yield of forest products that a forest can produce continouusly at a given intensity of management; and

(15) "tribal integrated resource management plan" means a document, approved by an Indian tribe and the Secretary, which provides coorination for the comprehensive management of such tribe's natural resources.

TITLE—FOREST MANAGEMENT AND ADMINISTRATION

SEC. 201. MANAGEMENT OF INDIAN FOREST LAND.

(a) Management Activities.—The Secretary shall undertake forest land management activities on Indian forest land, either directly or through contracts, cooperative agreements, or grants under the Indian Self-Determination Act (25 U.S.C. 450 et seq.).

(b) Management Objectives.—Indian forest land management activities undertaken by the Secretary shall be designed to achieve the following objectives—

(1) the development, maintenance, and enhancement of Indian forest land in a perpetually productive state in accordance with the principles of sustained yield and with the standards and objectives set forth in forest management plans by providing effective management and protection through the application of sound silvicultural and economic principals to—

(A) the harvesting of forest products,

(B) forestation,

(C) timber stand improvement, and

(D) other forestry practices;

(2) the regulation of Indian forest lands through the development and implementation, with the full and active consultation and participation of the appropriate Indian tribe, of forest management plans which are supported by written tribal objectives and forest marketing programs;

(3) the regulation of Indian forest lands in a manner that will ensure the use of good method and order in harvesting so as to make possible, on a sustained yield basis, continuous productivity and a perpetual forest business;

(4) the development of Indian forest lands and associated value-added industries by Indians and Indian tribes to promote self-sustaining communities, so that Indians may receive from their Indian forest land not only stumpage value, but also the benefit of all the labor and profit that such Indian forest land is capable of yielding;

(5) the retention of Indian forest land in its natural state when an Indian tribe determines that the recreational, cultural, aesthetic, or traditional values of the Indian forest land represents the highest and best use of the land;

(6) the management and protection of forest resources to retain the beneficial effects to Indian forest lands of regulating water run-off and minimizing soil erosion; and

(7) the maintenance and improvement of timber productivity, grazing, wildlife, fisheries, recreation, aesthetic, cultural and other traditional values.

SEC. 202. FOREST MANAGEMENT DEDUCTION.

(a) Withholding of Deduction.—Pursuant to the authority of section 1 of the Act of February 14, 1920 (41 Stat. 415; 25 U.S.C. 413), the Secretary shall withhold a reasonable deduction from the gross proceeds of sales of forest products harvested from Indian forest land under a timber sale contract, permit, or other harvest sale document, which has been approved by the Secretary, to cover in whole or part the cost of managing and protecting such Indian forest land.

(b) Amount of Deduction.—Deductions made pursuant to subsection (a) shall not exceed the lesser amount of—

(1) 10 percent of gross proceeds, or

(2) the percentage of gross proceeds collected on the date of enactment of this Act as forest management deductions by the Secretary on such sales of Indian forest products,

unless the appropriate Indian tribe consents to an increase in the deductions.

(c) Use of Deduction.—The full amount of any deduction collected by the Secretary shall be expended according to an approved expenditure plan, approved by the Secretary and the ápproprìate Indian tribe, for the performance of forest land management activities on the reservation from which such deductions are collected and shall be made available to the tribe, upon its request, by contract or agreement for the performance of such activities.

(d) Limitations.—(1) Forest management deductions withheld pursuant to this section shall not be available to—

(A) cover the costs that are paid from funds appropriated specifically for fire suppression or pest control, or

(B) otherwise offset Federal appropriations for meeting the Federal trust responsibility for management of Indian forest lands.

(2) No other forest management deductions derived from Indian forest lands shall be collected to be covered into the general funds of the United States Treasury.

(e) Special Agency Account.—Notwithstanding any other law, the Secretary, upon the request of an Indian tribe, shall establish a special account to be maintained at the agency office of the Bureau of Indian Affairs serving such tribe and shall provide that a purchaser of the forest products from the Indian forest lands of the reservation of such tribe shall make prompt direct payments of forest management deductions into such account. Funds so deposited shall be available for expenditure in accordance with subsection (c).

SEC. 203 FOREST TRESPASS.

(a) Civil Penalties; Regulations.—Not later than 18 months from the date of enactment of this Act, the Secretary shall issue regulations that—

(1) establish civil penalties for the commission of forest trespass which provide for—

(1) establish civil penalties for the commission of forest trespass which provide for—

(A) collection of the value of the products illegally removed plus a penalty of double their value,

(B) collection of the costs associated with damage to the Indian forest land caused by the act of trespass, and

(C) collection of the costs associated with enforcement of the regulations, including field examination and survey, damage appraisal, investigation assistance and reports, witness expenses, demand letters, court costs, and attorney fees;

(2) designate responsibility with the Department of the Interior for the detection and investigation of forest trespass; and

(3) set forth responsibilities and procedures for the assessment and collection of civil penalties.

(b) Treatment of Proceeds.—The proceeds of civil penalties collected under this section shall be treated as proceeds from the sale of forest products from the Indian forest lands upon which such trespass occurred.

(c) Concurrent Jurisdiction.—Indian tribes which adopt the regulations promulgated by the Secretary pursuant to subsection (a) shall have concurrent civil jurisdiction to enforce the provisions of this section and the regulation promulgated thereunder. The Bureau of Indian Affairs and other agencies of the Federal government shall, at the request of the tribe, defer to tribal prosecutions of forest trespass cases. Tribal court judgments regarding forest trespass shall be entitled to full faith and credit in Federal and State courts to the same extent as a Federal court judgment obtained under this section.

SEC. 204. DIRECT PAYMENT OF FOREST PRODUCTS RECEIPTS.

(a) Regulations.—Notwithstanding any other law, the Secretary shall, within 1 year from the date of enactment of this Act, promulgate regulations providing for the payment of the receipts from the sale of Indian forest products as provided in this section.

(b) Payment into a Bank Depository.—Upon the request of an Indian tribe, the Secretary shall provide that the purchaser of the forest products of such tribe, which are harvested under a timber sale contract, permit or other harvest sale document which has been approved by the Secretary, shall make prompt direct payments of the gross proceeds of sales of such forest products, less any amounts segregated as forest management deductions pursuant to section 202, into a bank depository account designated by such Indian tribe.

SEC. 205. SECRETARIAL RECOGNITION OF TRIBAL LAWS.

Subject to the Secretary's responsibilities as reflected in section 102(2) and 104(3) and unless otherwise prohibited by Federal statutory law, the Secretary shall comply with tribal laws pertaining to Indian forest lands including laws regulating the environment or historic or cultural preservation, and shall cooperate with the enforcement of such laws on Indian forest lands. Such cooperation shall include—

(1) assistance in the enforcement of such laws;

(2) provision of notice of such laws to persons or entities undertaking activities on Indian forest lands; and

(3) Upon the request of an Indian tribe the appearance in tribal forums.

SEC. 206. INDIAN FOREST LAND ASSISTANCE ACCOUNT.

(a) Establishment.—At the request of any Indian tribe, the Secretary may establish a special Indian forest land assistance account to fund the Indian forest land management activities of such tribe.

(b) Deposits and Expenditures.—(1) The Secretary may deposit into the Indian fores land assistance account established pursuant to subsection (a) any funds received by the Secretary or in the Secretary's possession from—

(A) non-federal sources, if such funds ar related to activities on or for the Indian forest lands of such tribe's reservation,

(B) donations and contributions,

(C) unobligated annual forestry appropriations for such Indian tribe, and

(D) user fees or other funds transferre under Federal interagency agreements o where otherwise authorized by Federal law if such funds are related to activities on o for the Indian forest lands of such tribe's reservation.

Funds deposited in such account shall be for the purpose of conducting forest land management activities on Indian forest lands of such tribe.

(2) Funds in the Indian forest land assistance account and any interest or other income earned thereon shall remain available until expended and shall not be available to otherwise offset Federal appropriations for meeting the Federal responsibility for management of Indian forest lands.

(c) Audits.—At the request of any Indian tribe or upon the Secretary's own volition, the Secretary shall conduct audits of the Indian forest land assistance account and shall publish the results of such audit.

SEC. 207. TRIBAL FORESTRY PROGRAMS.

(a) Establishment.—The Secretary shall establish within the Bureau of Indian Affairs a program to provide financial support to forestry programs established by an Indian tribe.

(b) Support Allocation Formula; Criteria.—(1) The Secretary, with the participation of Indian tribes with Indian forest lands, shall establish, and promulgate by regulations, a formula—

(A) for the determination of Indian tribes eligible for such support,

(B) for the provision of levels of assistance for the forestry programs of such tribes, and

(C) the allocation of base support funds to such tribes under the program established pursuant to subsection (a).

(2) The formula established pursuant to this subsection shall provide funding necessary to support—

(A) one professional forester, including fringe benefits and support costs, for each eligible tribe, and

(B) one additional professional forester or forest technician, including fringe benefits and support costs, for each level of assistance for which an eligible Indian tribe qualifies.

(3) In any fiscal year that appropriations are not sufficient to fully fund tribal forestry programs at each level of assistance under the formula required to be established in this section, available funds for each level of assistance shall be evenly divided among the tribes qualifying for that level of assistance.

SEC. 208. ASSESSMENT OF INDIAN FOREST LAND AND MANAGEMENT PROGRAMS.

(a) Initial Assessment.—(1) Within 1 year after the date of enactment of this Act, the Secretary, in consultation with affected Indian tribes, shall enter into a contract with a non-Federal entity knowledgeable in forest management practices on Federal and private lands to conduct an independent assessment of Indian forest lands and Indian forest land management practices.

(2) Such assessment shall be national in scope and shall include—

(A) an in-depth analysis of management practices on, and the level of funding for, specific Indian forest land compared with similar Federal and private forest lands,

(B) a survey of the condition of Indian forest lands, including health and productivity levels,

(C) an evaluation of the staffing patterns of forestry organizations of the Bureau of Indian Affairs and of Indian tribes,

(D) an evaluation of procedures employed in timber sales administration, including preparation, field supervision, and accountability for proceeds,

(E) an analysis of the potential for reducing or eliminating relevant administrative procedures, rules and policies of the Bureau of Indian Affairs consistent with the Federal trust responsibility,

(F) a comprehensive review of the adequacy of Indian forest land management plans, including their compatibility with applicable tribal integrated resource management plans and their ability to meet tribal needs and priorities,

(G) an evaluation of the feasibility and desirability of establishing minimum standards against which the adequacy of the forestry programs of the Bureau of Indian affairs in fulfilling its trust responsibility to Indian tribes can be measured, and

(H) a recommendation of any reforms and increased funding levels necessary to bring Indian forest land management programs to a state-of-the-art condition.

(3) Such assessment shall include specific examples and comparisons from each of the regions of the United States where Indian forest lands are located.

(4) The initial assessment required by this subsection shall be completed no later than 36 months following the date of enactment of this Act. Upon completion, the assessment shall be submitted to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Select Committee on Indian Affairs of the United States Senate and shall be made available to Indian tribes.

(b) Periodic Assessments—On each 10-year anniversary of the date of enactment of this Act, the Secretary shall provide for an independent assessment of Indian forest lands and Indian forest land management practices under the criteria established in subsection (a) which shall include analyses measured against findings in previous assessments.

(c) Status Report to Congress—The Secretary shall submit, within 1 year of the first full fiscal year after the date of enactment of this Act and within 6 months of the end of each succeeding fiscal year, a report to Committee on Interior and Insular Affairs of the United States House of Representatives, the Select Committee on Indian Affairs of the United States Senate, and to the affected Indian tribes a report on the status of Indian forest lands with respect to standards, goals and objectives set forth in approved forest management plans for each Indian tribe with Indian forest lands. The report shall identify the amount of Indian forest land in need of forestation or other silviculture treatment and the quantity of timber available for sale, offered for sale, and sold for each Indian tribe.

(d) Assistance from Secretary of Agriculture.—The Secretary of Agriculture, through the Forest Servcie, is authorized to provide, upon the request of the Secretary of the Interior, on a nonreimbursable basis, technical assistance in the conduct of such research and evaluation activities as may be necessary for the completion of any reports or assessments required by this Act.

SEC. 209. ALASKA NATIVE TECHNICAL ASSISTANCE PROGRAM.

(a) Establishment.—The Secretary, in consultation with the village and regional corporations established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), shall establish a program of technical assistance for such corporations to promote the sustained yield management of their forest resources. Such technical assistance shall also be available to promote local processing and other value-added activities with such forest resources.

(b) Indian Self-Determination Act.—The technical assistance to be provided by the Secretary pursuant to subsection (a) shall be made available through contracts, grants or agreements entered into in accordance with, and made available to entities eligible for, such contracts, grants, or agreements under the Indian Self-Determination Act (25 U.S.C. 450 *et seq.*).

TITLE III—INDIAN AND ALASKA NATIVE FORESTRY EDUCATION ASSISTANCE PROGRAMS

SEC. 301. ESTABLISHMENT OF INDIAN AND ALASKA NATIVE FORESTRY EDUCATION ASSISTANCE.

(A) Forester Intern Program.—(1) Notwithstanding the provisions of title 5 of the United States Code governing appointments in the competitive service, the Secretary shall establish and maintain in the Bureau of Indian Affairs at least 20 forester intern positions for Indian and Alaska Native students.

(2) For purposes of this subsection, the term "forester intern" means an Indian or Alaska Native who—

(A) is acquiring necessary academic qualifications to become a forester or a professional trained in forestry-related field, and

(B) is appointed to one of the positions established under paragraph (1).

(3) The Secretary shall pay all costs for tuition, books, fees and living expenses incurred by a forester intern while attending an approved post-secondary or graduate school in a full-time forestry-related curriculum.

(4) A forester intern shall be required to enter into an obligated service agreement to serve as a professional forester or other forestry-related professional with the Bureau of Indian Affairs, an Indian tribe, or a tribal forest-related enterprise for 2 years for each year of education for which the Secretary pays the intern's educational costs under paragraph (3) of this subsection.

(5) A forester intern shall be required to report for service with the Bureau of Indian Affairs during any break in attendance at school of more than 3 weeks duration. Time spent in such service shall be counted toward satisfaction of the intern's obligated service agreement.

(b) Cooperative Education Program.—(1) The Secretary shall maintain, through the Bureau of Indian Affairs, a cooperative education program solely for the purpose of recruiting promising Indian and Alaska Native students who are enrolled in secondary schools, tribally-controlled community colleges, and other post-secondary or graduate schools for employment as a professional forester or other forestry-related professional with the Bureau of Indian Affairs, an Indian tribe, or a tribal forest-related enterprise.

(2) The cooperative educational program that is to be maintained under paragraph (1) shall be modeled on and shall have essentially the same features of the program operated on the date of enactment of this Act pursuant to chapter 308 of the Federal Personnel Manual of the Office of Personnel Management.

(3) Under the cooperative agreement program that is to be maintained under paragraph (1), the Secretary shall pay all costs for tuition, books, and fees of an Indian or Alaska Native student who—

(A) is enrolled in a course of study at an education institution with which the Secretary has entered into a cooperative agreement, and

(B) is interested in a career with the Bureau of Indian Affairs, an Indian tribe or a tribal enterprise in the mangaement of Indian forest land.

(4) Financial need shall not be a requirement to receive assistance under the cooperative agreement program that is to be maintained under this subsection.

(5) A recipient of assistance under the cooperative education program that is to be maintained under this subsection shall be required to enter into an obligated service agreement to serve as a professional forester or other forestry related professional with the Bureau of Indian Affairs, an Indian tribe, or a tribal forest-related enterprise for one year for each year for which the Secretary pays the recipient's educational costs pursuant to paragraph (3).

(c) Scholarship Program.—(1) The Secretary is authorized to grant forestry scholarships to Indians and Alaska natives enrolled in accredited programs for post-secondary and graduate forestry and forestry-related programs of study as full-time students.

(2) A recipient of a scholarship under paragraph (1) shall be required to enter into an obligated service agreement with the Secretary in which the recipient agrees to accept employment for one year for each year the recipient received a scholarship, following completion of the recipient's forestry or forestry-related course of study, with

(A) the Bureau of Indian Affairs;

(B) a forestry program conducted under a contract, grant, or cooperative agreement entered into under the Indian Self-Determination (25 U.S.C. 450 et seq.);

(C) an Indian enterprise engaged in a forestry or forestry-related business; or

(D) an Indian tribe's forestry-related program.

(3) The Secretary shall not deny scholarship assistance under this subsection solely on the basis of an applicant's scholastic achievement if the applicant has been admitted to and remains in good standing in an accredited postsecondary or graduate institution.

(d) Forestry Education Outreach.—The Secretary shall conduct, through the Bureau of Indian Affairs, and in consultation with other appropriate local, State and Federal agencies, and in consultation and coordination with Indian tribes, a forestry education outreach program for Indian and Alaska Native youth to explain and stimulate interest in all aspects of Indian forest land management and careers in forestry.

(e) Adequacy of Programs.—The Secretary shall administer the programs described in this section until a sufficient number of Indians and Alaska Natives are trained to ensure that there is an adequate number of qualified, professional Indian foresters to manage the Bureau of Indian Affairs forestry programs and forestry programs maintained by or for Indian tribes.

SEC. 302. POSTGRADUATION RECRUITMENT, EDUCATION AND TRAINING PROGRAMS.

(a) Postgraduation Recruitment.—The Secretary shall establish and maintain a program to attract Indian and Alaska Native professional foresters and forester technicians who have already graduated from their course of postsecondary or graduate education for employment in either the Bureau of Indian Affairs forestry programs, or, subject to the approval of the tribe, in tribal forestry programs. According to such regulations as the Secretary may prescribe, such program shall provide for the employment of Indian and Alaska Native professional foresters or forestry technicians in exchange for the Secretary's assumption of the employee's outstanding student loans. The period of employment shall be determined by the amount of the loan that is assumed.

(b) Postgraduate Intergovernmental Internships.—For the purposes of training, skill development and orientation of Indian, Alaska Native, and Federal forestry personnel, and the enhancement of tribal and Bureau of Indian Affairs forestry programs, the Secretary shall establish and actively conduct a program for the cooperative internship of Federal, Indian, and Alaska Native forestry personnel. Such program shall—

(1) for agencies within the Department of the Interior—

(A) provide for the internship of Bureau of Indian Affairs, Alaska Native, and Indian forestry employees in the forestry-related programs of other agencies of the Department of the Interior, and

(B) provide for the internship of forestry personnel from other Department of the Interior agencies within the Bureau of Indian Affairs, and, with the consent of the tribe, within tribal forestry programs;

(2) for agencies not within the Department of the Interior, provide, pursuant to an interagency agreement, internships within the Bureau of Indian Affairs and, with the consent of the tribe, within a tribal forestry program of other forestry personnel of such agencies who are above their sixth year of Federal service;

(3) provide for the continuation of salary and benefits for participating Federal employees by their originating agency;

(4) provide for salaries and benefits of participating Indian and Alaska Native forestry employees by the host agency; and

(5) provide for a bonus pay incentive at the conclusion of the internship for any participant.

(c) Continuing Education and Training.—The Secretary shall maintain a program within the Division of Forestry of the Bureau of Indian Affairs for the ongoing education and training of Bureau of Indian Affairs, Alaska Native, and Indian forestry personnel. Such program shall provide for—

(1) orientation training for Bureau of Indian Affairs forestry personnel in tribal-Federal relations and responsibilities;

(2) continuing technical forestry education for Bureau of Indian Affairs, Alaska Native, and Indian forestry personnel; and

(3) developmental training of Indian and Alaska Native personnel in forest land based enterprises and marketing.

SEC. 303. COOPERATIVE AGREEMENT BETWEEN THE DEPARTMENT OF THE INTERIOR AND INDIAN TRIBES.

(a) Cooperative Agreements.—(1) To facilitate the administration of the programs and activities of the Department of the Interior, the Secretary, is authorized to negotiate and enter into cooperative agreements with Indian tribes to—

(A) engage in cooperative manpower and job training and development programs,

(B) to develop and publish cooperative environmental education and natural resource planning materials, and

(C) to perform land and facility improvements, including forestry and other natural resources protection, fire protection, reforestation, timber stand improvement, debris removal, and other activities related to land and natural resource management.

The Secretary may enter into the such agreements when the Secretary determines the public interest will be benefited.

(2) In such cooperative agreements, the Secretary is authorized to advance or reimburse funds to contractors from any appropriated funds available for similar kinds of work or by furnishing or sharing materials, supplies, facilities or equipment without regard to the provisions of section 3324, title 31, United States Code, relating to the advance of public moneys.

(b) Supervision.—In any agreement authorized by this section, Indian tribes and their employees may perform cooperative work under the supervision of the Department of the Interior in emergencies or otherwise as mutually agreed to, but shall not be deemed to be Federal employees other than for purposes of section 2671 through 2680 of title 28, United States Code, and section 8101 through 8193 of title 5, United States Code.

(c) Savings Clause.—Nothing in this Act shall be construed to limit the authority of the Secretary to enter into cooperative agreements otherwise authorized by law.

SEC. 304. OBLIGATED SERVICE; BREACH OF CONTRACT.

(a) Obligated Service.—Where an individual enters into an agreement for obligated service in return for financial assistance under any provision of this title, the Secretary shall adopt such regulations as are necessary to provide for the offer of employment to the recipient of such assistance as required by such provision. Where an offer of employment is not reasonably made, the regulations shall provide that such service shall no longer be required.

(b) Breach of Contract; Repayment.—Where an individual fails to accept a reasonable offer of employment in fulfillment of such obligated service or unreasonably terminates or fails to perform the duties of such employment, the Secretary shall require a repayment of the financial assistance provided, prorated for the amount of time of obligated service performed, together with interest on such amount which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as detemined by the Treasurer of the United States.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

SEC. 401. AUTHORIZATIONS.

There are authorized to be appropriated such sums as may be necessary to carry ou the purposes of this Act.

TITLE V—MISCELLANEOUS

SEC. 501. REGULATIONS.

Except as otherwise provided by this Act the Secretary is directed to promulgate fina regulations for the implementation of th Act within eighteen months from the dat of its enactment. All regulations promulgated pursuant to this Act shall be developed by the Secretary with the participation o the affected Indian tribes.

SEC. 502. SEVERABILITY.

If any provision of this Act, or the application of any provision of this Act to an person or circumstance, is held invalid, th application of such provision or circumstance and the remainder of this Act shal not be affected thereby.

SEC. 503. TRUST RESPONSIBILITY.

Nothing in this Act shall be construed t diminish or expand the trust responsibilit of the United States toward Indian fores lands, or any legal obligation or remedy resulting therefrom.

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Montana [Mr. WILLIAMS] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring to the House for consideration S. 1289, the National Indian Forest Resource Management Act. This legislation was developed in cooperation with Indian tribes that have timber and forestry resources, and with officials of the Bureau of Indian Affairs to provide a firm statutory foundation for the forestry programs of the Bureau of Indian Affairs and to provide for the establishment of a comprehensive program for Indian forest management by the Bureau and by the tribes themselves.

In addition, Mr. Speaker, the bill clarifies the trust responsibility of the United States for the management, protection, and enhancement of the forestry resources of Indian tribes. While this trust responsibility was recognized by the Supreme Court in the 1981 case of United States versus Mitchell, it is very clear that the United States had not adopted policies and programs to carry out our duty.

The first attempt to address these inadequacies came in the Indian Reorganization Act of 1934 when Congress directed the Department of the Interior to manage Indian forests on the principle of sustained yield management. Congressman Howard, who managed that legislation, called the relationship between the United States and the tribes a sacred trust and stated that the failure of their governmental guardian to conserve the Indians' land and assets and the consequent loss of income and earning power has been the principal cause of the present plight of the average Indian.

While the 1934 act did bring about some improvement in BIA's forest management functions, a 1940 Interior Department report entitled "Forestry on Indian Lands," and a 1975 GAO study have revealed continuing problems in Indian forest land management by the Bureau. In the 1981 Mitchell case, the Supreme Court found that Congress had imposed a trust responsibility on the United States for the management of Indian forest resources and upheld the ruling of the court of claims that the United States was liable for money damages for breach of trust.

Mr. Speaker, the hearings on this legislation conducted by the House Interior and Insular Affairs Committee and the Senate Select Committee on Indian Affairs have revealed that the shortcomings of the United States in meeting its forestry management trust duties have not been resolved and continue to expose the United States to this liability. The testimony shows, among other things:

There has been a loss of $300,000,000 in revenues during the preceding decade of poor management;

There is a need for a comprehensive assessment of the condition of Indian forest resources;

A need exists for additional Federal and tribal personnel to ensure sustained yield management;

There is a need for Federal educational and employment incentives; and

We need to correct the vast disparity between expenditures for the management of Indian forest lands and other comparable Federal forest lands.

S. 1289 responds to these and other concerns by providing a comprehensive statutory basis for the state-of-art management of Indian forest resources by the tribes and the Bureau of Indian Affairs.

Mr. Speaker, as noted in the committee report, while the United States has a high fiduciary obligation to effectively manage the forest resources of Indian tribes and to ensure that they receive the highest return on this resource, we have not fairly fulfilled that obligation.

This legislation is offered to correct that unfulfilled obligation and to allow the tribes to properly manage their forests.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

I see no need to reiterate the factual statements that have been made by the gentleman from Montana [Mr. WILLIAMS] on behalf of this legislation. I simply want to note a couple of points very briefly.

One is that the bill as originally brought to the Committee on the Interior and Insular Affairs, raised some concerns in the Justice Department about perhaps this legislation expanding the trust responsibility, and therefore the breach of trust liability exposure of the United States. The committee amended the bill to specifically state that this legislation neither expands nor diminishes the existing trust responsibility of the United States.

This bill seeks to enhance a very valuable resource that is owned by Indians and Indian tribes, and to enhance their ability to maximize the economic benefit of that resource. I think that it is legislation worthy of our consideration, and I urge its passage.

Mr. Speaker, I rise in support of S. 1289, a bill to improve the management of forests on Indian lands. S. 1289 would put into statute specific management standards and objectives the Secretary needs to follow when managing Indian forest land. This bill would codify an existing forest management program operated by the Department of the Interior pursuant to very minimal statutory authority and regulations.

This bill is worthy of approval for the following reasons. First, the United States, on behalf of individual Indians and Indian tribes, owns and is responsible for over 14 million acres of forest and woodlands nationwide. Second, the U.S. Supreme Court has ruled that existing Federal statutes and regulations impose fiduciary duties upon the United States in its management of Indian forest lands, and that the United States is therefore liable for damages whenever it breaches its fiduciary duties. Third, Indian forest lands comprise one of the most valuable assets owned by Indians and tribes and is an asset that produces a revenue stream that enables Indians and tribes to be more self-sufficient.

During the committee's consideration of S. 1289, the administration raised several concerns about the bill. The committee attempted to address most of these concerns through amendments. First, the administration was concerned about the budget impact this bill would have. At the present time Congress appropriates about $35 million annually for Indian forest management program in the Bureau of Indian Affairs. The Bureau estimates that to manage these forest lands properly, approximately $75 million is needed. S. 1289 does not authorize a specific level of appropriations for this program.

Second, the administration was concerned that this bill would increase the potential liability of the United States for breach of trust suits with regard to management of these forest lands. The intent of S. 1289 is neither to expand nor to diminish the trust responsibility of the United States with regard to these lands, and the bill was amended to make this point clear.

Finally, S. 1289 reflects two very basic principles of Federal Indian policy. It acknowledges the importance of the Federal duty to protect a trust asset over which the United States has legal responsibility, and it embraces a statutory scheme which will promote long-term economic security for those Indian and tribal beneficiaries of the forests and woodlands.

For all of the reasons mentioned, I support approval of S. 1289 and urge my colleagues to do the same.

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman from Arizona [Mr. RHODES] for his leadership and cooperation on his side of the aisle in this legislation.

I have no further requests for time, and I yield back the balance of my time.

Mr. RHODES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Montana [Mr. WILLIAMS] that the House suspend the rules and pass the Senate bill, S. 1289, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

□1600

GENERAL LEAVE

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on S. 1289, the Senate bill just passed.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Montana?

There was no objection.

FORT HALL INDIAN WATER RIGHTS ACT OF 1990

Mr. CAMPBELL of Colorado. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5308) To approve the Fort Hall Indian water rights settlement, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5308

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fort Hall Indian Water Rights Act of 1990".

SEC. 2. DEFINITIONS.

For the purposes of this Act, and for no other purposes—

(1) The term "Agreement" means the "1990 Fort Hall Indian Water Rights Agreement" between the State of Idaho, the Shoshone-Bannock Tribes, the United States, and other participating parties.

(2) The term "Committee of Nine" means the advisory committee of water district 01, which is the instrumentality created by the Director of the Idaho Department of Water Resources pursuant to Idaho Code 42-604.

(3) The term "Final Decree" means the partial decree confirming the Tribal water rights described and quantified in Article 7 of the Agreement to be entered after the date of enactment of this Act and following submission of the Agreement as provided for in Article 10 of the Agreement in Civil Case No. 39576 filed in the Fifth Judicial District Court of the State of Idaho in and for Twin Falls County on June 17, 1987, entitled In Re the General Adjudication of Rights to the Use of Water from the Snake River Basin Water System.

(4) The term "Fort Hall Indian Irrigation Project" means the Federal project constructed to provide water for the irrigation of Reservation lands and certain ceded lands.

(5) The term "Idaho Water Resource Board" means the Idaho State Water Resource Agency constituted in accordance with Idaho Constitution article XV, section 7, or any successor agency.

(6) The term "Indian" means any person who is a member of a tribe recognized as eligible for special programs and services provided by the United States because of the person's status as an Indian; is recognized as an Indian under tribal law; or holds or is recognized by the Secretary as eligible to hold restricted trust property on the Reservation.

(7) The term "Indian lands" means (A) all lands within the exterior boundaries of the Reservation that are held in trust or owned for the Shoshone-Bannock Tribes or an Indian, and (B) those lands outside the exterior boundaries of the Reservation held in trust for or owned by the Shoshone-Bannock Tribes or held in trust for or owned subject to a restriction on alienation by a member of the Shoshone-Bannock Tribes.

(8) The term "Michaud Act" means the Act of August 31, 1954, chapter 1159, 68 Stat. 1026.

(9) The term "Michaud Contract" means that Memorandum Agreement of April 25, 1957, between the Bureau of Reclamation and the Bureau of Indian Affairs relating to the water supply for the Michaud Division.

(10) The term "Michaud Division" means that division of the Fort Hall Indian Irrigation Project authorized by the Act of August 31, 1954, chapter 1159, 68 Stat. 1026.

(11) The term "Party" or "Parties" means any entity or entities that are party to the Agreement.

(12) The term "Reservation" means the Fort Hall Indian Reservation.

(13) The term "Secretary" means the Secretary of the Interior.

(14) The term "Tribes" or "Tribal" means the Shoshone-Bannock Tribes, its members, and its allottees.

(15) The term "Upper Snake River Basin" means that portion of the Snake River Basin upstream from the Hells Canyon Dam, the lowest of the 3 dams authorized as FERC Project No. 1971.

SEC. 3. FINDINGS.

The purpose of the Fort Hall Indian Water Rights Settlement Act of 1990 is to achieve a fair, equitable, and final settlement of all claims of the Shoshone-Bannock Tribes, its members, and its allottees and the United States on behalf of the Shoshone-Bannock Tribes, its members, and its allottees to water rights in the Upper Snake River Basin.

SEC. 4. RATIFICATION OF AGREEMENT.

The Agreement is hereby approved, ratified, and confirmed. The Secretary is authorized and directed to implement the Agreement on behalf of the United States.

SEC. 5. PROTECTION OF EXISTING USES.

(a) CONTRACT FOR STORAGE SPACE.—The Secretary is authorized and directed to contract with the Idaho Water Resource Board or another appropriate contracting entity acceptable to the Committee of Nine for 18,900 acre feet of storage space in the Palisades Reservoir and the 80,500 acre feet of storage space in the Ririe Reservoir provided that the contracting entity makes application for the noncontracted storage space within 1 year of the date of this Act and the contracting party agrees to pay all operation and maintenance costs associated with the space. The repayment obligation associated with the construction costs for such noncontracted storage space is hereby deemed repaid by this Act. All exemptions that result from such a repayment shall be deemed to be applicable without further qualification on the part of such contracting entity, and with respect to subsequent users of this water, the Reclamation laws shall apply only to the extent such laws would have applied to such subsequent users prior to the date of this Act.

(b) LIMITATION ON SETTING ASIDE FINAL DECREE.—Neither the Committee of Nine nor the State shall have the right to set aside the Final Decree because either fails to make application for the storage space referred to in subsection (a) of this section within 1 year of the date of this Act.

SEC. 6. USE, TRANSFER, AND LEASE OF TRIBAL WATER RIGHTS.

(a) TRANSFER AND LEASE OF TRIBAL WATER RIGHTS WITHIN THE RESERVATION.—The Tribes shall have the right to transfer or lease within the Reservation all or any part of the Tribal water rights confirmed in the Final Decree on the terms and conditions set forth in article 7 of the Agreement.

(b) RENTAL OF THE TRIBES FEDERAL CONTRACT STORAGE WATER.—The Tribes shall have the right to rent, pursuant to Idaho Code 42-1761 through 42-1765 as specified in article 7 of the Agreement, the water accruing to Federal storage space held in trust for the Tribes under the Michaud Act.

(c) INSTREAM FLOWS.—The Tribes shall have the right to use any or all of the water accruing to Federal storage space held in trust for the Tribes under the Michaud Act for instream flows for river reaches on or adjacent to the Reservation and up to 15,000 acre feet per year of the storage water rights described in articles 7.1.19 and 7.1.20 of the Agreement for instream flows in reaches of the Blackfoot River on the terms and conditions set forth in article 7.4 of the Agreement.

(d) REQUISITE CONGRESSIONAL APPROVAL.—Ratification of the Agreement as provided for by section 4 of this Act shall constitute the congressional approval, to the extent it is required by Federal law, of the uses described in subsections (a), (b), and (c) of this section.

(e) AMENDMENT OF MICHAUD ACT AND CONTRACT.—The Michaud Act and the Michaud Contract are hereby amended to the extent necessary to authorize the uses described in subsections (a), (b), and (c) of the proprietary rights described in article 7 of the Agreement.

(f) NO ALIENATION OR TAXATION OF PROCEEDS.—The proceeds from leasing water pursuant to subsection (a) of this section or from renting all or any part of the water accruing to the Federal contract storage space pursuant to subsection (b) of this section shall not be subject to any form of taxation or alienation by the State.

(g) NO FORFEITURE, ABANDONMENT, LOSS, OR CONSTRAINTS ON INCOME.—The Tribes' exercise of the rights described in subsections (a), (b), and (c) of this section or nonuse of the Tribal water rights shall in no event be construed or interpreted as any forfeiture, abandonment, relinquishment, or other loss of all or any part of the Tribal water rights. Nor shall the exercise of the rights described in subsections (a) and (b) of this section be subject to any constraints on the amount of income or other compensation received by the Tribes.

(h) LIMITATION ON OFF-RESERVATION USE.—Except as authorized by this section, no Tribal water rights or water described in the Agreement may be sold, leased, rented, transferred, or otherwise used off the Fort Hall Indian Reservation.

SEC. 7. CONTRIBUTION TO SETTLEMENT.

(a) Tribal Development Fund.—There are hereby authorized to be appropriated to the Department of the Interior Bureau of Indian Affairs $4,000,000 in the first fiscal year, $3,000,000 in the second fiscal year, and $3,000,000 in the third fiscal year following the effectives date of this Act for payment to the Tribal Development Fund, which the Secretary is authorized and directed to establish for the Shoshone-Bannock Tribes. Within 60 days of appropriation of moneys for the Tribal Development Fund, the Secretary shall allocate and make payment to the Fund. Once the funds are deposited into the Tribal Development Fund, the Secretary shall disburse the funds to the Tribes upon request.

(b) Reservation Water Management System.—There is hereby authorized to be appropriated to the Department of the Interior Bureau of Indian Affairs the sum of $3,000,000 in the first fiscal year, $2,000,000 in the second fiscal year, and $2,000,000 in the third fiscal year following the effective date of this Act for use by the Tribes for development of a Reservation water management system. Within 60 days of appropriation of moneys for the Reservation water management system, the Secretary shall allocate and make payment to the Tribes for the purposes described in this section.

(c) Acquisition of Lands, Grazing Rights, and Improvements.—There are hereby authorized to be appropriated to the Department of the Interior Bureau of Indian Affairs $5,000,000 for the primary purposes of acquiring for the Fort Hall Indian Irrigation Project available lands and grazing rights adjacent to Grays Lake to enhance the operation and management of the project and of making related improvements as well as providing collateral benefits for the operation of the Fish and Wildlife Service Refuge at Grays Lake.

(d) Limitation on Per Capita Distributions.—Under no circumstances may any appropriated funds authorized by subsections (a), (b), and (c) of this section be distributed on a per capita basis to members of the Tribes.

(e) Limitation on Setting Aside Final Decree.—Neither the Tribes nor the United States shall have the right to set aside the Final Decree because Congress fails to appropriate the funds authorized by subsection (a), (b), or (c) of this section or because the United States fails to acquire the grazing allotments adjacent to Grays Lake.

(f) Trust Responsibility.—Nothing in this Act shall be construed or interpreted to alter the future trust responsibility of the United States to the Tribes nor to prohibit the Tribes from seeking additional authorization or appropriation of funds for Tribal programs or purposes.

SEC. 8. WAIVER OF CLAIMS.

(a) General Authority.—Upon the effective date of the Agreement, the Tribes and the United States shall be deemed to have waived and released any and all water rights or claims to water rights of the Tribes, its members and its allottees from any source within the Upper Snake River Basin other than those set forth in article 7 of the Agreement. This release shall not apply to water right claims under State law of Tribal members for lands not defined as Indian lands for purposes of this Act nor to any other Indian tribe or to any Federal agency other than the Bureau of Indian Affairs, Fort Hall Indian Agency.

(b) Waiver of Claims Against the United States.—In consideration of performance by the United States of all actions required by the Agreement and this Act, including the congressional authorization, appropriation, and payment of all funds authorized in section 7 of this Act, the Tribes shall be deemed to have executed in return a waiver and release of any and all existing claims against the United States arising in whole or in part from or concerning water rights finally settled by the Agreement and for lands or water that have been inundated by the past construction or enlargement of American Falls Reservoir.

(c) Waiver of Claims Against Non-Federal Persons.—Upon entry of the Final Decree confirming the Tribal water rights, the United States and the Tribes agree not to make any claims against, or seek compensation from, any non-Federal person for lands or water that have been inundated by the past construction or enlargement of American Falls Reservoir. In the event funds are not paid as set forth in Section 7, the Tribes are authorized to bring an action in the United States Claims Court for such funds plus applicable interest. The United States hereby waives any defense of sovereign immunity to such action.

SEC. 9. INDIVIDUAL MEMBERS AND ALLOTTEES OF THE TRIBES.

The water rights described in the Agreement and confirmed in the Final Decree are in full satisfaction of all water right claims of members of the Tribes and allottees for Indian lands in the Upper Snake River Basin. If any Tribal member or allottee is decreed a water right for Indian lands in Civil Case No. 39576 filed in the Fifth Judicial District Court of the State of Idaho in and for Twin Falls County on June 17, 1987, entitled "In Re the General Adjudication of Rights to the Use of Water from the Snake River Basin Water System", there shall be a corresponding reduction made in the Tribal water rights set forth in the Agreement and the Final Decree.

SEC. 10. EFFECTIVE DATE.

(a) Disbursement of Funds Upon Effective Date.—The moneys appropriated pursuant to the authorization in section 7 of this Act shall not be disbursed until such time as the Agreement becomes effective. If the Agreement does not become effective, the moneys shall be returned to the General Fund of the Treasury, and the Agreement may be voided by any party to the Agreement.

(b) Force and Effect.—No provision of this Act shall be of any force unless the Agreement becomes effective as provided by article 18 of the Agreement.

SEC. 11. DISCLAIMER.

(a) General Disclaimer.—Nothing in the Agreement or this Act shall be construed in any way to quantify or otherwise affect the water rights or water right claims of the city of Pocatello, Idaho, or of any Indian tribe, band, or community, other than the Shoshone-Bannock Tribes.

(b) Reservation of Tribal Claims.—Nothing in this Act shall be construed to waive any water rights or water right claims of the Tribe or the United States on behalf of the Tribes except as set forth in the Agreement. Nor shall anything in the Agreement or this Act affect the water rights or water right claims of any Federal agency, other than the Bureau of Indian Affairs, Fort Hall Indian Agency.

(c) Reservation of Rights.—The parties expressly reserve all rights not granted, recognized, or settled by the Agreement or this Act.

(d) Disclaimer Regarding Other Agreements.—Except as expressly provided in this Act, nothing herein shall be considered to amend, construe, supersede, or preempt any State law, Federal law, Tribal law, or interstate compact that pertains to the Snake River or its tributaries.

SEC. 12. PROTECTION OF TRIBAL WATER RIGHTS.

The Tribal water rights confirmed by the Final Decree shall bind and inure to the benefit of the Tribes and shall not be taken from them absent their consent and payment of just compensation.

The SPEAKER pro tempore. Is a second demanded?

Mr. CRAIG. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Colorado [Mr. Campbell] will be recognized for 20 minutes, and the gentleman from Idaho [Mr. Craig] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. Campbell].

Mr. CAMPBELL of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5308 provides congressional ratification of a water rights agreement which was executed by the Shoshone-Bannock Tribes of the Fort Hall Indian Reservations in the State of Idaho, the State of Idaho, the Federal Government and non-Indian irrigators affected by this agreement.

This settlement is the product of 5 years of negotiating among these competing interests. The settlement has been referred to as a model agreement and the Interior Department has remarked that its unique use of existing facilities, comparatively low cost, and high environmental priorities "ushers in a new era in Indian water rights settlements."

The agreement provides for cost sharing between Federal and non-Federal parties. The Federal contribution is approximately $22 million and some storage space for water.

There is one point I would like to make clear on this settlement. The proceeds which the tribes receive from leasing or renting water is not taxable. Under the existing law and the terms of the agreement, the State of Idaho may not impose a tax. And because this is a tribal trust resource, the United States may not tax either. It is the goal of the Federal Government to encourage tribal economic development and self-determination. This longstanding tax policy furthers these goals.

Mr. Speaker, H.R. 5308, which is sponsored by Mr. Stallings, Mr.

Craig, and myself is a fair and equitable resolution to water rights issues in the Snake River Basin. This bill is the product of remarkable cooperation, hard work, and patience by all of the parties involved.

As a cosponsor on this bill, I congratulate the tribes, the State, the irrigators, and the Federal agencies involved in developing this agreement and this bill. These parties have demonstrated diligence, decisiveness, and the ability to compromise for the good of all concerned.

Mr. Speaker, H.R. 5308 is indeed a model water settlement and I urge all of my colleagues to support it.

Mr. CRAIG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5308, a bill to approve the Fort Hall Indian water rights settlement. This legislation has the support of the Idaho delegation. H.R. 5308 ratifies the Fort Hall water rights settlement an agreement that represents the Federal Government's approval of negotiations that began in the State of Idaho in 1985. The agreement between the State of Idaho, the Idaho Water Resource Board, representatives of water users, The Shoshone-Bannock Indian Tribe and the Federal Government allows settlement of the Shoshone-Bannock Tribes' water rights claims without litigation and the turmoil that would result to all water users in the Upper Snake River Basin.

H.R. 5308 constitutes full and complete satisfaction of all previous, present and future water rights claims of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation, its members, and its allottees from the Snake River Basin. There is only one minor exception addressed in section 9 of the bill. The reaching of this agreement by all of the parties involved is a tribute to their negotiation skills and heralds a new approach to the resolution of water rights claims.

Within the water district affected by this legislation are an estimated 30,000 farms that provide the livelihood for over 150,000 farm family members. This agreement will help assure that the settlement of the tribes' water claims and that future Snake River water rights adjudication results in a minimum of disruptions in Idahoans lives and the economy of the Upper Snake River Valley.

H.R. 5308 addresses the claims of the Shoshone-Bannock Tribes in the Snake River Basin upstream from the Hells Canyon Dam. The Tribes have reserved the right to make in-stream flow claims in the lower Snake Basin. However, any such claim, if ultimately found to exist, shall not require the release of any water from Hells Canyon Dam or the Upper Snake River Basin. This bill does not address the claims, if any exist, of the Northwest Band of the Shoshone residing at Washakie, UT, but it does satisfy the claims of any of the Northwest Band of Shoshone residing on the Fort Hall Indian Reservation. Both of these issues were set aside in the agreement and the bill for future negotiation or litigation. Nothing in either document is intended to recognize or deny these claims.

The consideration of H.R. 5308 is an important step along a road that will lead to the ultimate settlement of the Shoshone-Bannock water claims. In July of this year, duly appointed and elected representatives of all affected parties signed the agreement that H.R. 5308 ratifies.

Many people have contributed to this agreement and legislation and deserve recognition for having worked on the bill that comes before the Congress today. I would like to thank the chairman of the Interior Committee, the floor manager, and the staff for the help and untiring efforts that have led to the consideration of this bill. Many Idahoans as well have participated in the negotiations. I will mention only a few of the participants: Clive Strong of the Idaho Attorney General's Office; John Rosholt, representing the Committee of Nine; Roger Ling and Kent Foster, representing the private water users; Howard Funke, representing the Shoshone-Bannock Tribes; David Shaw, chief of the Adjudication Bureau for the Idaho Water Resources Department; and Lonnie Schardt, Gene Gray, and David Barber.

Mr. Speaker, this agreement is a compromise. It is a compromise that will benefit all Idahoans by respecting historic water rights to the extent agreed to by the affected parties. The test of any good piece of legislation should be how well it meets the needs of those it effects. It is my opinion that this settlement passes this test by meeting those needs and thus deserves the support of the Congress.

I wish to point out that the ratification of this legislation by Congress is not the final step required to implement the agreement. Prior to the agreement becoming effective, it must be separately ratified by the Shoshone-Bannock Tribe and the State of Idaho legislature. Second, if a timely application is filed for the unallocated storage space in Ririe and Palisades Reservoirs, the United States must enter into a contract with the Idaho Water Resource Board or another entity acceptable to the Committee of Nine. Third, as required by State law, the Idaho Resource Board must approve tribal water bank rules. Finally, the Fifth Judicial District Court must decree the water rights and approve the administrative provisions of the agreement. Only after these steps are completed will this matter be finally settled.

Mr. Speaker, in a moment, I will yield to the manager of the bill for the purpose of a question pertaining to the Fort Hall Water Settlement Agreement.

As the gentleman from Colorado [Mr. Campbell] knows, as part of the Fort Hall Water Settlement Agreement the United States agreed to contribute the unallocated storage space in Ririe and Palisades reservoirs in order to mitigate impacts resulting from the agreement on non-Indian Snake River Water users. Is it the intention of the committee that all environmental costs associated with the execution of storage space contracts with the Idaho Water Resource Board or any other appropriate contracting entity are to be borne by the Federal Government, and the Bureau of Reclamation is to seek such funding?

Mr. CAMPBELL of Colorado. Mr. Speaker, if the gentleman will yield, the gentleman is correct.

Mr. CRAIG. Mr. Speaker, I appreciate my colleague's cooperation. This is the intent of the committee and the intent of the legislation in establishing this agreement and moving this process forward.

Mr. CAMPBELL of Colorado. Mr. Speaker, I yield such time as he may consume to the gentleman from Idaho [Mr. Stallings].

Mr. STALLINGS. Mr. Speaker, it is with great pride that I rise to speak in strong support of H.R. 5308, the Fort Hall Indian Water Rights Settlement, a bill which I introduced last July. I am pleased that two of my colleagues, Mr. Craig and Mr. Campbell of Colorado, are cosponsors of this important legislation.

Before I discuss the bill and its importance to the people of Idaho, I want to emphasize that this historic water rights agreement enjoys broad, bipartisan support. It is supported by the entire Idaho delegation and the State of Idaho.

The purpose of this legislation is to ratify and implement the settlement of water right claims of the Shoshone-Bannock Tribes as set forth in the 1990 Fort Hall Indian water rights agreement. It achieves a fair, equitable, and final settlement to all water right claims of the tribes in the Snake River Basin in Idaho.

In 1985, the Idaho Legislature directed the Idaho Department of Water Resources to initiate a general adjudication in the Snake River Basin to determine all water right claims.

At the same time, the legislature directed the Governor and the attorney general to attempt to resolve through negotiation the extent of the tribes water right claims.

After 5 years of negotiations, the Shoshone-Bannock Tribes, the State of Idaho, private water users, and the United States have reached agreement to resolve this complex water rights issue.

It will provide the Shoshone-Bannock Tribes, who reside on the Fort Hall Indian Reservation within my district, with a water supply from the Upper Snake River Basin. In addition, to ensuring a water supply for the Indians, the agreement also protects existing water users.

No one group bears the full cost of this agreement. Instead, each party will contribute to the settlement. The United States primary obligations under the agreement are to provide $22 million to the tribes over a 3-year period.

I want to emphasize, Mr. Speaker, that implementation of this water rights agreement is contingent upon positive action by the Idaho State Legislature and general tribal membership. If these two groups do not ratify the agreement, then this Federal legislation will not become effective.

The remarkable aspect of this agreement is that it was settled through negotiation rather than divisive and costly litigation, which so often is the case with the quantification of Federal reserved water right claims.

Further, the agreement was achieved in open public meetings with all affected interests seated at the table engaged in good-faith negotiations.

I believe it is truly a testament to the cooperative spirit that exists between the Shoshone-Bannock Tribes and the people of the State of Idaho.

The agreement and this legislation are the result of a dedicated effort from many Idahoans. As with any undertaking of this size, there are many people who deserve recognition and thanks. Although it is not possible to acknowledge everyone, the following State individuals made significant contributions.

Gene Gray, chairman of the Idaho Water Resource Board, and other board members; David Shaw, of the Idaho Department of Water Resources; Clive Strong and David Barber of the Idaho Attorney General's office.

Each devoted a great deal of time and effort working to resolve this matter.

The support and commitment from the private water users was essential to achieving a compromise. John Rosholt, Roger Ling, Kent Foster, Ron Carlson, and the Committee of Nine deserve special thanks for their cooperation and dedicated effort.

The Shoshone-Bannock Tribal Business Council, along with the tribal attorney Howard Funke, spent countless months working out the details of the final agreement and are to be congratulated for their successful effort.

I also want to express my appreciation and thanks to my distinguished colleague from Colorado, Mr. Campbell, for his strong support and leadership.

As a cosponsor of the bill and a member of the Interior Committee, Congressman Craig also played an important role in moving this legislation, and his efforts are appreciated.

It has been a pleasure working with both my colleagues on this legislation.

And, finally, I wish to thank Tadd Johnson and Frank Ducheneaux of the Indian Affairs Subcommittee for their help and assistance.

In conclusion, this agreement is in the public interest and will contribute to a sound management plan for the Snake River, which is truly the lifeblood of Idaho's economy and quality of life.

House approval today will complete an important chapter of a long and difficult struggle that has confronted Idaho the past 5 years. I can think of no issue of greater importance to the people of Idaho than the management of our water resources.

I urge my colleagues to support passage of this legislation.

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Mr. CRAIG. Mr. Speaker, I thank my colleague from the Second Congressional District for his work, for his effort and his support in this effort. Mr. Speaker, I would associate myself with his remarks and his recognition of the State/Federal officials involved along with the Committee of Nine and, of course, the Sho/Ban tribes.

Mr. Speaker, I would like to thank my colleague, the gentleman from Colorado [Mr. Campbell], for his effort and his cooperation with us as we moved this legislation through the Committee on Interior and Insular Affairs.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CAMPBELL of Colorado. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time, and urge my colleagues to support H.R. 5308.

The SPEAKER pro tempore (Mr. Mazzoli). The question is on the motion offered by the gentleman from Colorado [Mr. Campbell] that the House suspend the rules and pass the bill, H.R. 5308, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AROOSTOOK BAND OF MICMACS SETTLEMENT ACT

Mr. GEJDENSON. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1413) to settle all claims of the Aroostook Band of Micmacs resulting from the band's omission from the Maine Indian Claims Settlement Act of 1980, and for other purposes.

The Clerk read as follows:

S. 1413

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Aroostook Band of Micmacs Settlement Act".

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY.

(a) Findings and Policy.—Congress hereby finds and declares that:

(1) The Aroostook Band of Micmacs, as represented as of the time of passage of this Act by the Aroostook Micmac Council, is the sole successor in interest, as to lands within the United States, to the aboriginal entity generally known as the Micmac Nation which years ago claimed aboriginal title to certain lands in the State of Maine.

(2) The Band was not referred to in the Maine Indian Claims Settlement Act of 1980 because historical documentation of the Micmac presence in Maine was not available at that time.

(3) This documentation does establish the historical presence of Micmacs in Maine and the existence of aboriginal lands in Maine jointly used by the Micmacs and other tribes to which the Micmacs could have asserted aboriginal title but for the extinguishment of all such claims by the Maine Indian Claims Settlement Act of 1980.

(4) The Aroostook Band of Micmacs, in both its history and its presence in Maine, is similar to the Houlton Band of Maliseet Indians and would have received similar treatment under the Maine Indian Claims Settlement Act of 1980 if the information available today had been available to Congress and the parties at that time.

(5) It is now fair and just to afford the Aroostook Band of Micmacs the same settlement provided to the Houlton Band of Maliseet Indians for the settlement of that Band's claims, to the extent they would have benefited from inclusion in the Maine Indian Claims Settlement Act of 1980.

(6) Since 1820, the State of Maine has provided special services to the Indians residing within its borders, including the members of the Aroostook Band of Micmacs. During this same period, the United States provided few special services to the Band and repeatedly denied that it had jurisdiction over or responsibility for the Indian groups in Maine. In view of this provision of special services by the State of Maine, requiring substantial expenditures by the State of Maine and made by the State of Maine without being required to do so by Federal law, it is the intent of Congress that the State of Maine not be required further to contribute directly to this settlement.

(b) Purpose.—It is the purpose of this Act to—

(1) provide Federal recognition of the Band;

(2) provide to the members of the Band the services which the United States provides to Indians because of their status as Indians; and

(3) place $900,000 in a land acquisition fund and property tax fund for the future use of the Aroostook Band of Micmacs; and

(4) ratify the Micmac Settlement Act, which defines the relationship between the State of Maine and the Aroostook Band of Micmacs.

SEC. 3. DEFINITIONS.

For the purposes of this Act:

(1) The term "Band" means the Aroostook Band of Micmacs, the sole successor to the Micmac Nation as constituted in aboriginal times in what is now the State of Maine, and all its predecessors and successors in interest. The Aroostook Band of Micmacs is represented, as of the date of enactment of this Act, as to lands within the United States, by the Aroostook Micmac Council.

(2) The term "Band Tax Fund" means the fund established under section 4(b) of this Act.

(3) The term "Band Trust Land" means land or natural resources acquired by the Secretary of the Interior and held in trust by the United States for the benefit of the Band.

(4) The term "land or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resources, including (but not limited to) minerals and mineral rights, timber and timber rights, water and water rights, and hunting and fishing rights.

(5) The term "Land Acquisition Fund" means the fund established under section 4(a) of this Act.

(6) The term "laws of the State" means the constitution, and all statutes, regulations, and common laws of the State of Maine and its political subdivisions and all subsequent amendments thereto or judicial interpretations thereof.

(7) The term "Maine Implementing Act" means the Act entitled "Act to Implement the Maine Indian Claims Settlement" that was enacted by the State of Maine in chapter 732 of the Maine Public Laws of 1979, as amended by chapter 675 of the Maine Public Laws of 1981 and chapter 672 of the Maine Public Laws of 1985, and all subsequent amendments thereto.

(8) The term "Micmac Settlement Act" means the Act entitled "Act to implement the Aroostook Band of Micmacs Settlement Act" that was enacted by the State of Maine in chapter 148 of the Maine Public Laws of 1989, and all subsequent amendments thereto.

(9) The term "Secretary" means the Secretary of the Interior.

SEC. 4. AROOSTOOK BAND OF MICMACS LAND ACQUISITION AND PROPERTY TAX FUNDS.

(a) Land Acquisition Fund.—There is hereby established in the Treasury of the United States a fund to be known as the Aroostook Band of Micmacs Land Acquisition Fund, into which $900,000 shall be deposited by the Secretary following the appropriation of sums authorized by section 10.

(b) Band Tax Fund.—(1) There is hereby established in the Treasury of the United States a fund to be known as the Aroostook Band of Micmacs Tax Fund, into which shall be deposited $50,000 in accordance with the provisions of this Act.

(2) Income accrued on the Land Acquisition Fund shall be transferred to the Band Tax Fund until a total of $50,000 has been transferred to the Band Tax Fund under this paragraph. No transfer shall be made under this subsection if such transfer would diminish the Land Acquisition Fund to a balance of less than $900,000.

(3) Whenever funds are transferred to the Band Tax Fund under paragraph (2), the Secretary shall publish notice of such transfer in the Federal Register. Such notice shall specify when the total amount of $50,000 has been transferred to the Band Tax Fund.

(4) The Secretary shall manage the Band Tax Fund in accordance with section 1 of the Act of June 24, 1938 (52 Stat. 1037; 25 U.S.C. 162a), and shall utilize the principal and interest of the Band Tax Fund only as provided in paragraph (5) and section 5(d) and for no other purpose.

(5) Notwithstanding the provisions of title 31, United States Code, the Secretary shall pay out of the Band Tax Fund, all valid claims for taxes, payments in lieu of property taxes, and fees, together with any interest and penalties thereon—

(A) for which the Band is determined to be liable;

(B) which are final and not subject to further administrative or judicial review; and

(C) which have been certified by the Commissioner of Finance in the State of Maine as valid claims that meet the requirements of this paragraph.

(c) Source for Certain Payments.—Notwithstanding any other provision of law, if—

(1) the Band is liable to the State of Maine or any county, district, municipality, city, town, village, plantation, or any other political subdivision thereof for any tax, payment in lieu of property tax, or fees, together with any interest and penalties thereon, and

(2) there are insufficient funds in the Band Tax Fund to pay such tax, payment, or fee (together with any interest or penalties thereon) in full,

the deficiency shall be paid by the Band only from income-producing property owned by the Band which is not held in trust for the Band by the United States and the Band shall not be required to pay such tax, payment, or fee (or any interest or penalty thereon) from any other source.

(d) Procedure for Filing and Payment of Claims.—The Secretary shall, after consultation with the Commissioner of Finance of the State of Maine, and the Band, prescribe written procedures governing the filing and payment of claims under this section.

SEC. 5. AROOSTOOK BAND TRUST LANDS.

(a) In General.—Subject to the provisions of section 4, the Secretary is authorized and directed to expend, at the request of the Band, the principal of, and income accruing on, the Land Acquisition Fund for the purposes of acquiring land or natural resources for the Band and for no other purposes. Land or natural resources acquired within the State of Maine with funds expended under the authority of this subsection shall be held in trust by the United States for the benefit of the Band.

(b) Alienation.—(1) Land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of the Band may be alienated only by—

(A) takings for public use pursuant to the laws of the State of Maine as provided in subsection (c);

(B) takings for public use pursuant to the laws of the United States; or

(C) transfers made pursuant to an Act or joint resolution of Congress.

All other transfers of land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of such Band shall be void ab initio and without any validity in law or equity.

(2) The provisions of paragraph (1) shall not prohibit or limit transfers of individual use assignments of land or natural resources from one member of the Band to another member of such Band.

(3) Land or natural resources held in trust for the benefit of the Band may, at the request of the Band, be—

(A) leased in accordance with the Act of August 9, 1955 (25 U.S.C. 415 et seq.);

(B) leased in accordance with the Act of May 11, 1938 (25 U.S.C. 396a et seq.);

(C) sold in accordance with section 7 of the Act of June 25, 1910 (25 U.S.C. 407);

(D) subjected to rights-of-way in accordance with the Act of February 5, 1948 (25 U.S.C. 323 et seq.);

(E) exchanged for other land or natural resources of equal value, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary for deposit in the land acquisition fund for the benefit of the Band, as the circumstances require, so long as payment does not exceed 25 percent of the total value of the interests in land to be transferred by the Band; and

(F) sold, only if at the time of sale the Secretary has entered into an option agreement or contract of sale to purchase other lands of approximate equal value.

(c) Condemnation by State of Maine and Political Subdivisions Thereof.—(1) Land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of the Band may be condemned for public purposes by the State of Maine, or any political subdivision thereof, only upon such terms and conditions as shall be agreed upon in writing between the State and such Band after the date of enactment of this Act.

(2) The consent of the United States is hereby given to the State of Maine to further amend the Micmac Settlement Act for the purpose of embodying the agreement described in paragraph (1).

(d) Acquisition.—(1) Lands and natural resources may be acquired by the Secretary for the Band only if the Secretary has, at any time prior to such acquisition—

(A) transmitted a letter to the Secretary of State of the State of Maine stating that the Band Tax Fund contains $50,000; and

(B) provided the Secretary of State of the State of Maine with a copy of the procedures for filing and payment of claims prescribed under section 4(d).

(2)(A) No land or natural resources may be acquired by the Secretary for the Band until the Secretary files with the Secretary of State of the State of Maine a certified copy of the deed, contract, or other conveyance setting forth the location and boundaries of the land or natural resources to be acquired.

(B) For purposes of subparagraph (A), a filing with the Secretary of State of the State of Maine may be made by mail and, if such method of filing is used, shall be considered to be completed on the date on which the document is properly mailed to the Secretary of State of the State of Maine.

(3) Notwithstanding the provisions of the first section of the Act of August 1, 1888 (40 U.S.C. 257) and the first section of the Act of February 26, 1931 (40 U.S.C. 258a), the Secretary may acquire land or natural resources under this section from the ostensible owner of the land or natural resources only if the Secretary and the ostensible owner of the land or natural resources have agreed upon the identity of the land or natural resources to be sold and upon the purchase price and other terms of sale. Subject to the agreement required by the preceding

sentence, the Secretary may institute condemnation proceedings in order to perfect title, satisfactory to the Attorney General of the United States, in the United States and condemn interests adverse to the ostensible owner.

(4)(A) When trust or restricted land or natural resources of the Band are condemned pursuant to any law of the United States other than this Act, the proceeds paid in compensation for such condemnation shall be deposited into the Land Acquisition Fund and shall be reinvested in acreage within unorganized or unincorporated areas of the State of Maine. When the proceeds are reinvested in land whose acreage does not exceed that of the land taken, all the land shall be acquired in trust. When the proceeds are invested in land whose acreage exceeds the acreage of the land taken, the Band shall designate, with the approval of the United States, and within 30 days of such reinvestment, that portion of the land acquired by the reinvestment, not to exceed the area taken, which shall be acquired in trust. The land acquired from the proceeds that is not acquired in trust shall be held in fee by the Band. The Secretary shall certify, in writing, to the Secretary of State of the State of Maine the location, boundaries, and status of the land acquired from the proceeds.

(B) The State of Maine shall have initial jurisdiction over condemnation proceedings brought under this section. The United States shall be a necessary party to any such condemnation proceedings. After exhaustion of all State administrative remedies, the United States is authorized to seek judicial review of all relevant matters involved in such condemnation proceedings in the courts of the United States and shall have an absolute right of removal, at its discretion, over any action commenced in the courts of the State.

(5) Land or natural resources acquired by the Secretary in trust for the Band shall be managed and administered in accordance with terms established by the Band and agreed to by the Secretary in accordance with section 102 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f) or other applicable law.

SEC. 6. LAWS APPLICABLE.

(a) Federal Recognition.—Federal recognition is hereby extended to the Aroostook Band of Micmacs. The Band shall be eligible to receive all of the financial benefits which the United States provides to Indians and Indian tribes to the same extent, and subject to the same eligibility criteria, generally applicable to other federally recognized Indians and Indian tribes.

(b) Application of Federal Law.—For the purposes of application of Federal law, the Band and its lands shall have the same status as other tribes and their lands accorded Federal recognition under the terms of the Maine Indian Claims Settlement Act of 1980.

(c) Eligibility for Special Services.—Notwithstanding any other provision of law authorizing the provision of special programs and services by the United States to Indians because of their status as Indians, any member of the Band in Aroostook County, Maine, shall be eligible for such services without regard to the existence of a reservation or the residence of members of the Band on or near a reservation.

(d) Agreements With State Regarding Jurisdiction.—The State of Maine and the Band are authorized to execute agreements regarding the jurisdiction of the State of Maine over lands owned by, or held in trust for the benefit of, the Band or any member of the Band. The consent of the United States is hereby given to the State of Maine to amend the Micmac Settlement Act for this purpose: *Provided,* That such amendment is made with the agreement of the Aroostook Band of Micmacs.

SEC. 7. TRIBAL ORGANIZATION.

(a) In General.—The Band may organize for its common welfare and adopt an appropriate instrument in writing to govern the affairs of the Band when acting in its governmental capacity. Such instrument and any amendments thereto must be consistent with the terms of this Act. The Band shall file with the Secretary a copy of its organic governing document and any amendments thereto.

(b) Members.—For purposes of benefits provided by reason of this Act, only persons who are citizens of the United States may be considered members of the Band except persons who, as of the date of enactment of this Act, are enrolled members on the Band's existing membership roll, and direct lineal descendants of such members. Membership in the Band shall be subject to such further qualifications as may be provided by the Band in its organic governing document, or amendments thereto, subject to approval by the Secretary.

SEC. 8. IMPLEMENTATION OF THE INDIAN CHILD WELFARE ACT.

For the purposes of this section, the Band is an "Indian tribe" within the meaning of section 4(8) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(8)), except that nothing in this section shall alter or affect the jurisdiction of the State of Maine over child welfare matters as provided by the Maine Indian Claims Settlement Act of 1980.

SEC. 9. FEDERAL FINANCIAL AID PROGRAMS UNAFFECTED BY PAYMENTS UNDER THIS ACT.

(a) State of Maine.—No payments to be made for the benefit of the Band pursuant to this Act shall be considered by any agency or department of the United States in determining or computing the eligibility of the State of Maine for participation in any financial aid program of the United States.

(b) Band and Members of the Band.—(1) The eligibility for, or receipt of, payments from the State of Maine by the Band or any of its members shall not be considered by any department or agency of the United States in determining the eligibility of, or computing payments to, the Band or any of the members of the Band under any Federal financial aid program.

(2) To the extent that eligibility for the benefits of any Federal financial aid program is dependent upon a showing of need by the applicant, the administering agency shall not be barred by this subsection from considering the actual financial situation of the applicant.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $900,000 for the fiscal year 1990 for transfer to the Aroostook Band of Micmacs Land Acquisition Fund.

SEC. 11. INTERPRETATION.

In the event of a conflict of interpretation between the provisions of the Maine Implementing Act, the Micmac Settlement Act, or the Maine Indian Claims Settlement Act of 1980 and this Act, the provisions of this Act shall govern.

SEC. 12. LIMITATION OF ACTIONS.

No provision of this Act may be construed to confer jurisdiction to sue, or to grant implied consent to the Band to sue, the United States or any of its officers with respect to the claims extinguished by the Maine Indian Claims Settlement Act of 1980.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Connecticut [Mr. Gejdenson] will be recognized for 20 minutes, and the gentleman from Montana [Mr. Marlenee] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. Gejdenson].

GENERAL LEAVE

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1413, the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to present to the House S. 1413, the Aroostook Band of Micmacs Settlement Act. It is the final step in settling the claims of Indian tribes in the State of Maine.

The purpose of the bill is to settle all claims of the Aroostook Band of Micmac Indians resulting from the band's omission from the Maine Indian Settlement Act of 1980. The 1990 Act resolved the claims of the Passamaquoddy and Penobscot Tribes and Houlton Band of the Maliseet Indians. Because of several factors, especially because they had no legal counsel to represent their claims in 1980, the Micmac were not included in the settlement act in spite of the fact that they have lived in Maine for centuries. A tribe similar to the Micmac in many ways, the Houlton Band of Maliseet were included in the settlement act and were granted Federal recognition.

In the past 10 years, the Aroostook Band of Micmac with the assistance of several experts, have done extensive anthropological and historical research. They presented overwhelming evidence to the Interior Committee that they too had aborginial lands in Maine which were taken and for which the Micmac were never compensated.

S. 1413 extends to the Aroostook Band of Micmac Indians the same compensation, rights and benefits as were provided to the Houlton Band of Maliseet Indians. It authorizes the appropriation of $900,000 in settlement funds to be used for land acqusition or economic development purposes, and authorizes the Aroostook Band to organize on the same basis as the Houlton Band of Maliseet.

The entire Maine delegation supports this legislation. Also, the Maine State Legislature, the State Attoney General, the local surrounding communities and the three recognized tribes in Maine support this measure.

Mr. Speaker, this legislation provides a fair and equitable settlement for a small group of Indians that we have overlooked for far too long. I urge all of my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MARLENEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to the Senate bill, S. 1413, which would accomplish two things: It would legislatively extend Federal recognition to the Micmacs and it would settle any land claims the band might have in Maine by paying that tribe $900,000. I stand corrected. It is not a tribe, it is still a band of Indians.

This bill should be opposed for the following reasons: First, there is in existence an administrative process within the Department of the Interior designed for determining whether Federal recognition should be extended to any Indian group, any band. A band is not a tribe. We want to make a clear distinction here.

This process was formalized approximately 10 years ago by the Department with the support of Congress specifically, specifically to eliminate the need for ad hoc determinations.

Now, this committee had been asked numerous times prior to 10 years ago to come in and designate a band here and a band there as Indian tribes. That is why this process was formalized, and that is why there exists within the Department a method of determining which bands should be recognized as Indian tribes.

Now, this is in title XXV of the Code of Federal Regulations, if anyone wishes to look it up.

This process is both fair, is determined by the Committee on Interior and Insular Affairs and should be deferred to with regard to the request by the Micmacs for Federal recognition.

Second, the record on this bill calls into question the validity of the band's land claims.

All one has to do is go back and look at the record and examine the record and you will see that there are questions as to the validity of the claim. Legally there can be no colorable Indian land claim unless the claiming group shows that it is an Indian tribe. Until the threshold question is decided properly, it is premature for Congress to render a judgment on the merits of the band's land claims.

I would say, Mr. Speaker, in spite of all of the talks of the budget, all of the concerns about spending in the U.S. Congress, here we go again on the roller coaster spending in the U.S. Congress. One more time, with total disregard to the problems that we had this past week or 10 days, here we go again, on the roller coaster, here we come in this week. Today, as a matter of fact, we received a whip notice on the week of October 8 concerning 44 suspensions, 44 suspensions before this House of Congress. They are on the calendar. The Federal Government will be obligated to authorize new spending under the suspension process, where there could probably be no votes whatsoever on it, on new spending of $24,670 billion over the next 5 years. One more time we have one other piece of legislation, this Indian Micmac bill that is going to, without any real validity, extend $900,000 to the Micmac Indians.

Moreover, there are 15 bills that authorize "such as is necessary," with no accompanying costs estimates.

You know that these bills will increase even further Government spending. The bottom line is that these bills under suspension will increase Government spending over the next 5 years, and the bottom line is $24 billion.

I would urge this House of Representatives to turn down the request of the Micmac Indians and my colleagues here who are the sponsors of S. 1413 on the enactment of this legislation.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maine [Ms. Snowe].

Ms. SNOWE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I appreciate the gentleman's comments. I hope we have a chance to discuss some of the concerns he has raised in his own statement about the recognition of the Micmacs because I think this is an important issue.

In fact, the request came to me back in 1986 from the Micmacs, and I took several years, along with the rest of the Maine congressional delegation, to examine the issue, to make sure that their request was a legitimate one as well as feasible. I do, after several years of consideration and thorough study by all members of the congressional delegation, in fact by the Maine State Legislature, we decided this was a fair request of the Micmacs.

Mr. Speaker, I hope that the committee's deliberation does not interfere with the passage of this legislation because we think it is important to the Micmacs in Aroostook County in the State of Maine to get their deserved recognition.

I want to thank the gentleman from Connecticut for his support of this legislation because it is important on behalf of the Aroostook Band of Micmacs.

I want to extend my appreciation to the gentleman and to the rest of the committee for giving them the kind of recognition that they deserve.

Back in 1980, the 96th Congress considered the 1980 Maine Indian Land Claims Settlement Act. The intent of that bill was to settle all Indian land claims which had arisen in the State of Maine.

☐ 1620

I received a letter from the president of the Aroostook Micmac Council back in 1986 asking for my assistance, as I have already mentioned, and I told them that I want to think about this very carefully because I knew at that time, back in 1980, that we had extinguished all claims, all Indian claims, after the passage of that legislation. The Micmacs cited several reasons for their omission. First, they pointed to their lack of organization in finances. They also pointed to the fact that they believe that their membership in the Aroostook association of Indians, along with the Maliseets, would include their inclusion. The Maine delegation has worked collectively to reach an equitable solution to this problem, and that is why this legislation is before us today.

The Micmacs' efforts are supported by the Maine legislature. They passed legislation to implement this bill before us. They also received formal resolutions or letters of support from the State attorney general, numerous cities and towns throughout Aroostook County and the Passamoquoddy and Penobscot Indians, who were covered by the 1980 Maine Indian lands claim. The three tribes in Maine named in the settlement have done well. However, the enactment of that legislation, which I think is the key issue before us today, is that it meant the end of the fiscal assistance to the Micmacs.

It is interesting to note, because I know the gentleman from Montana [Mr. Marlenee] mentioned the Federal recognition process and that we should bypass the ad hoc process that was replaced by the Federal recognition process, but it is interesting to note that back in 1980 that the former Secretary of the Interior Cecil Andrus said that there would be exceptions to that process, and I would submit to my colleagues today that this is an exceptional case because in the Federal recognition process one of the seven criteria is the fact that you have to establish that the group or its members are not the subject of congressional legislation which has expressly terminated or forbidden the Federal relationship.

So, there is no way that the Micmacs could establish themselves through that process given the fact they did not meet one of the criteria that has already been set forth in that process.

Mr. GEJDENSON. Mr. Speaker, will the gentlewoman yield?

Ms. SNOWE. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Speaker, I think the gentlewoman from Maine [Ms. Snowe] brings up an excellent point, which is that the 1980 settlement, in which the taxpayers invested $54 million in rightly to settle the Maine claims, specifically prevented the normal route for this tribe. They could not go the normal route.

Additionally, since the standard process was put in place, we have had about a half dozen tribes that have come through the congressional process, through the elected Representatives of the country, not just in this instance, but about four or five other instances in the last decade wherein the case of a settlement recognition has been afforded to tribes.

So, we are not talking about one special deal for Maine. We are talking about a process that has been used at least on five or six other occasions in the last 10 years.

Mr. MARLENEE. Reclaiming my time, Mr. Speaker, I see what the process is then, is that we have paid. We have already paid $54 million to the State of Maine to settle the claims, but all of a sudden somebody says, "Whoops, I may have been left out. I think I have an opportunity to get another $900,000 out of the taxpayers of the United States by circumventing a process that was put into place and by the process the validity of the claims are questioned," and they are going to get $900,000 more?

Mr. Speaker, I yield to the gentlewoman from Maine [Ms. Snowe].

Ms. SNOWE. Mr. Speaker, I appreciate what the gentleman from Montana [Mr. Marlenee] is saying, but I do not think we should impose a hardship on the Micmacs because their claim was extinguished in the 1980 act, and I think that is what it is all about, is to provide them the $900,000 to purchase their land. The average income that a Micmac makes in the State of Maine is less than $10,000, and in many cases less than $5,000. They were not in the position in 1980 to organize and to bring their case at the time that we were addressing the 1980 land claim settlement, and the other three Indian tribes were recognized in that settlement, as my colleagues well know. The Micmacs were not, and yet, if my colleagues look at the location, they were in the maps, they were located on the maps that have been there. Their position in the State of Maine has been well documented, and they are able to substantiate that.

Mr. Speaker, I think that is what this is all about. They do have a valid claim. They have been there. They just were not organized to do what they needed to do back in 1980.

Mr. Speaker, I raised the same ques~~tions that the gentleman from Mon~~tana [Mr. Marlenee] raised with them: Where were you back in 1980? And they just were not in the position. They are a small group, and they are poor, and they were not able to bring their case at the time in 1980, but they are in the position today where the Maliseets were back in the 1980's in terms of documentation.

Mr. Speaker, they have now done what they should have done, and because their right to that claim has been extinguished, I think we have an obligation to go back and to recognize that claim.

Mr. MARLENEE. Reclaiming my time, Mr. Speaker, I understand the sincerity of the gentlewoman from Maine [Ms. Snowe] in pursuing some justice for this band of Indians. With regard to whether they were a valid band of Indians and whether they were there in 1980, 10 years ago when they looked at this, my understanding was that this was a roving band of Indians that spent their time in various provinces and in various States in the Northeast corner of the United States of America.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. MARLENEE. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Speaker, in the 1500's–1600's this was a roving band. It is no longer a roving band. But if we try to use the charge against Indian tribes that they are a roving band, we can take every claim away from every Indian tribe with the exception of the Hopis and the few others that were basically agricultural.

Mr. MARLENEE. Reclaiming my time, Mr. Speaker, I want to get back to the point I am trying to make, that, once we settle in the claims process, there are various small groups of Indians all over the United States of America who are ready to walk in and ask the taxpayers to be recognized as a tribe. They want some kind of a settlement claim, and somewhere, somewhere, this great beneficence of the Treasury has to end, and that is my point on the Suspension Calendar that we have. It is a bankrupting process that we have.

Mr. Speaker, let me read to my colleagues some of the bills that come up under suspension: Human Resources Reauthorization Act conference report under suspension, $24 billion; McKinney Homeless Act, $1.37 billion; establishing Glorieta National Battlefield in New Mexico; restructuring repayment of loans for the Wolf Trap Farm, Wolf Trap Farm Park; establishing the Newberry Volcanoes National Monument in Oregon. We can go on with some more of the 44: Regarding the Early Winters Resort. Somewhere we have got to get accountability, and it will not be under the suspension process we have where no one is held ~~accountable for spending Federal dol~~lars.

Ms. SNOWE. Mr. Speaker, will the gentleman yield?

Mr. MARLENEE. I yield to the gentlewoman from Maine.

Ms. SNOWE. Mr. Speaker, I appreciate the comments of the gentleman from Montana [Mr. Marlenee]. I think we are all concerned about the cost of any bills that come before this body, and obviously we have to look at that, but at the same time we have to go back to the people who are in question here, and that is obviously the Micmacs.

The gentleman from Montana [Mr. Marlenee] mentioned the fact that they were a roving band of Indians, but in fact the Maliseets, who were recognized in 1980, also were. If my colleagues look at the criteria in terms of documentation of off-reservation native American population, they fell into four categories from 1820 until 1965, and the first category was hunting, gaming and fishing laws, laws relating to migratory movement, tax exemptions and general assistance. So, I think it is important that we realize that the migratory life style of the Micmac Indians during the 19th and early 20th century is not unusual, not unique to the Micmacs. The Maliseets were recognized in 1980, and they also were migratory.

So, I think that they are a legitimate group. They have been documented. They were given local assistance by the State dating back to the 1920's. They have been documented in maps, as I mentioned earlier, and their presence in Maine has been there dating back to 1602.

Mr. MARLENEE. Mr. Speaker, reclaiming my time, can the gentlewoman from Maine [Ms. Snowe] tell me at the present time how many Indians are in the band?

Ms. SNOWE. Mr. Speaker, will the gentleman yield?

Mr. MARLENEE. I yield to the gentlewoman from Maine.

Ms. SNOWE. Approximately 600.

□ 1630

Six hundred in the band. We are going to extend to them $900,000. What is the criteria established? This may be an unfair question which I may refer to the committee staff for the answer to. What is the criteria established for recognition as a member of the tribe, or the band, whereat we arrived at the number of 600? What blood quantum qualifies them?

Mr. Speaker, I would say to the gentleman from Montana [Mr. Marlenee], I know this was another question raised in terms of what was the total membership, whether or not there were a number of Canadians in this band. But it is the same member~~ship, the total membership in terms of~~ Canadians is the same number that

were present in the Maliseets, who were recognized back in 1980.

Mr. MARLENEE. Mr. Speaker, reclaiming my time, when we talk about tribes of Indians and memberships in those tribes and bands of Indians and memberships in those bands, who is a member, who is not, we are talking many times of blood quantums that are one-eighth, one-fourth, who for all practical purposes, belong to that tribe for the benefits that they derive from being in that tribe. So we have seen diluted blood quantums, and we are not talking about full-blooded Indians.

I do not infer that the Micmacs are not full-blooded Indians. I do not know. But it is a question that we need to raise as to how many really belong to that tribe.

Mr. Speaker, I reserve the balance of my time.

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume.

I would just like to briefly close for my side and say several things. One is, several weeks ago the President of the United States proposed forgiving $7 billion of debt for Egypt. I grew up reading history books where we gave Indians in this country blankets with smallpox. We treated them shabbily through the 1880's and the early 1900's.

I thought as I came to Congress in 1980 that those battles were behind us, that we had taken this great country from the native American, and that in trying to rectify some of those claims, we would not see the kind of deals that occurred in the past.

Mr. Speaker, these are Indians. There are 482 of them. They are not a large number. But by every definition, these are Indians. They have decided that they have lived together now for several hundred years in one area. The congressional delegation on both sides, Republicans and Democrats, the gentleman from Maine [Mr. Brennan] and the gentlewoman from Maine [Ms. Snow], and the two Senators from Maine, are supportive of this agreement.

Mr. Speaker, this is $900,000 for people who had this country before most of us were here. In some ways it is an irony that we are here questioning what anthropologists have decided, what the State of Maine has decided, what by every definition has been decided.

I can feel for the concern of the gentleman from Montana [Mr. Marlenee] about all those other issues of the Consent Calendar, but we ought to deal with this one on its merits. For almost 200 years these people have lost out, have lost their homes, have lost their rights, and it is a small thing that we would do here today.

Mr. MARLENEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Connecticut [Mr. Gejdenson] says that we took these lands from the Indians and they have a valid claim. There are some of them we would like to give back, like Staten Island, but I am not sure they would take it.

Ms. SNOWE. Mr. Speaker, will the gentleman yield?

Mr. MARLENEE. I yield to the gentlewoman from Maine, Ms. Snowe.

Ms. SNOWE. Mr. Speaker, I appreciate the comments of the gentleman from Connecticut [Mr. Gejdenson]. I think he raised excellent points on behalf of the Micmacs. They have been established. Their documentation in terms of their presence dating back to 1602 has long been known. That obviously has been submitted to the committee.

In this case the request that they are making of the U.S. Congress is for their well-deserved, long overdue recognition as an Indian tribe. I hope that we will give them that request and honor it here today.

I realize, as the gentleman from Montana [Mr. Marlenee] mentioned, it does cost money. But this is an issue we either address now, or have to address later. I think we ought to do what I think we have an obligation to do, under these circumstances, because they were not in a position nor well-positioned to raise these issues and to defend themselves and bring their case before this body.

Mr. MARLENEE. Mr. Speaker, reclaiming my time, I intend to seek a vote on this particular issue. This is only one of 44 proposed suspensions, and I have the opportunity to call for a vote, so I intend to do that. I would point out to all Members in the House of Representatives that this represents what is going on, the drain out of the Treasury, and what is happening in the U.S. Congress with regard to unfettered, unconsidered spending. There is no bottom to the budget. So I will call for a vote. I hope that Members recognize that the dollar amount that we have available is limited.

Mr. Speaker, I commend the gentleman from Connecticut [Mr. Gejdenson] and the gentlewoman from Maine [Ms. Snowe] for their sincerity and concern about this tribe of Indians. I recognize that. I would have a concern about them, too.

Mr. Speaker, I would also point out that they have available to them all of the benefits that accrue to every other citizen of the United States of America that applies for food stamps or welfare or assistance or educational programs. They are available to this band of Indians. So I point that out to Members and say that I hope they vote against this legislation.

Mr. Speaker, I yield to the gentlewoman from Maine [Ms. Snowe].

Ms. SNOWE. Mr. Speaker, I would say to the gentleman from Montana [Mr. Marlenee], I do again want to express my regret that he is opposed to this legislation. I hope that we are not in the position of just saying that if they need assistance, whether their recognition is deserved or not, just seek welfare assistance. They cannot even get the services and assistance from the Bureau of Indian Affairs because they are not recognized. I think that is not justice in this instance.

Again, I hope Members would support this legislation. I thank the gentleman from Connecticut [Mr. Gejdenson] as well, and I thank the gentleman from Montana [Mr. Marlenee] for giving me this opportunity to speak on behalf of this legislation.

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume just to say that this is a debt; it is not another kind of obligation, but a debt that society owes. I hope we pay it.

Mr. BRENNAN. Mr. Speaker, over 10 years ago President Carter signed landmark legislation settling the tribal land claims of the Penobscot and Passamaquoddy tribes and the Houlton Band of Maliseet Indians. The Maine Indian Claims Settlement Act of 1980 received much attention both statewide and nationally. The settlement provided $81.5 million in compensation to the three named tribes, and extinguished all other tribal land claims of Maine Indians.

First as attorney general and later as Governor I was personnally involved in the negotiations which led to the 1980 settlement. I believed then, and continue to believe today, that the settlement was in the best interest of those concerned. The Maine Indian Claims Settlement Act is one of the most important and comprehensive settlements of its type ever passed by Congress.

Nevertheless, its passage began a period of great difficulty for the Aroostook Band of Micmacs. The Micmacs, a small tribal group in Aroostook County, ME, were left out of the 1980 settlement. Because they were excluded, they not only received no benefits from the settlement act, but actually lost privileges and rights with its passage.

Until 1980, both the Micmacs and the Maliseets in Maine were treated on a similar basis by the State and were represented as off-reservation tribes by the Association of Aroostook Indians. In 1979, limited funding for historical research became available, and the association began its work on the Maliseet presence in Maine. As the settlement negotiations drew to a close, only the Maliseet research was close to completion. It is my understanding that if the Micmacs had been able to document their historical presence in Maine at that time, they would have been included in the 1980 act, and would today enjoy the same settlement as the Maliseets.

The problems created by the exclusion of the Micmacs have only increased with time. Only now have we reached the point where a clear error be corrected through legislation to acknowledge the band's rightful claims.

S. 1413 would acknowledge the tribal status of the Micmacs, making them eligible for Federal services and programs, and would establish a land acquisition fund in the same amount awarded to the Maliseets in the 1980 act. In my view there is no question that passage of such legislation is imperative.

I would also like to note the overwhelming and unanimous support which this legislation has drawn over the past several years. The entire Maine delegation supports the bill, as does the State legislature, which passed an implementing act last year. All three tribes, the Passamaquoddy, Penobscot, and the Maliseet, as well as Aroostook County communities such as Caribou, Presque Isle, Fort Kent, Madawaska, and others strongly support it. Church and civic organizations throughout the State favor the bill also.

Indeed, there is overwhelming support for S. 1413—support which reaches far beyond the 482 Micmacs who would be affected by the bill's enactment. I strongly urge passage of this important legislation.

Mr. MARLENEE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GEJDENSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Mazzoli). The question is on the motion offered by the gentleman from Connecticut [Mr. Gejdenson] that the House suspend the rules and pass the Senate bill, S. 1413.

The question was taken.

Mr. MARLENEE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

CIVIL WAR SITES STUDY ACT OF 1990

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2582) to amend the Historic Sites, Buildings, and Antiquities Act, as amended.

The Clerk read as follows:

H.R. 2582

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—CIVIL WAR SITES STUDY

SEC. 101. SHORT TITLE.

This title may be cited as the "Civil War Sites Study Act of 1990".

SEC. 102. DEFINITIONS.

For the purposes of this title—

(1) the term "Commission" means the Civil War Sites Advisory Commission established in section 105;

(2) the term "Secretary" means the Secretary of the Interior; and

(3) the term "Shenandoah Valley Civil War sites" means those sites and structures situated in the Shenandoah Valley in the Commonwealth of Virginia and the State of West Virginia which are thematically tied with the nationally significant events that occurred in the region during the Civil War, including, but not limited to, General Thomas "Stonewall" Jackson's 1862 "Valley Campaign" and General Philip Sheridan's 1864 campaign culminating in the battle of Cedar Creek on October 19, 1864.

SEC. 103. FINDINGS.

The Congress finds that—

(1) many sites and structures associated with the Civil War which represent important means by which the Civil War may continue to be understood and interpreted by the public are located in regions which are undergoing rapid urban and suburban development; and

(2) it is important to obtain current information on the significance of such sites, threats to their integrity, and alternatives for their preservation and interpretation for the benefit of the Nation.

SEC. 104. SHENANDOAH VALLEY CIVIL WAR SITES STUDY.

(a) Study.—(1) The Secretary is authorized and directed to prepare a study of Shenandoah Valley Civil War sites. Such study shall identify the sites, determine the relative significance of such sites, assess short and long-term threats to their integrity, and provide alternatives for the preservation and interpretation of such sites by Federal, State, and local governments, or other public or private entities, as may be appropriate. Such alternatives may include, but shall not be limited to, designation as units of the National Park System or as affiliated areas. The study shall examine methods and make recommendations to continue current land use practices, such as agriculture, where feasible.

(2) The Secretary shall designate at least two nationally recognized Civil War historians to participate in the study required by paragraph (1).

(3) The study shall include the views and recommendations of the National Park System Advisory Board.

(b) Transmittal to Congress.—Not later than 1 year after the date that funds are made available for the study referred to in subsection (a), the Secretary shall transmit such study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

SEC. 105. ESTABLISHMENT OF CIVIL WAR SITES ADVISORY COMMISSION.

(a) In General.—There is hereby established the Civil War Sites Advisory Commission. The Commission shall consist of thirteen members appointed as follows:

(1) Two individuals who are nationally recognized as experts and authorities on the history of the Civil War, and three individuals who are nationally recognized as experts and authorities in historic preservation and land use planning, appointed by the Secretary.

(2) The Director of the National Park Service or his or her designee.

(3) The chair of the Advisory Council on Historic Preservation, or his or her designee.

(4) Three individuals appointed by the Speaker of the United States House of Representatives in consultation with the Chairman and Ranking Minority Member of the Committee on Interior and Insular Affairs.

(5) Three individuals appointed by the President Pro Tempore of the United States Senate in consultation with the Chairman and Ranking Minority Member of the Committee on Energy and Natural Resources.

(b) Chair.—The Commission shall elect a chair from among its members.

(c) Vacancies.—Vacancies occurring on the Commission shall not affect the authority of the remaining members of the Commission to carry out the functions of the Commission. Any vacancy in the Commission shall be promptly filled in the same manner in which the original appointment was made.

(d) Quorum.—A simple majority of Commission members shall constitute a quorum.

(e) Meetings.—The Commission shall meet at least quarterly or upon the call of the chair or a majority of the members of the Commission.

(f) Compensation.—Members of the Commission shall serve without compensation. Members of the Commission, when engaged in official Commission business, shall be entitled to travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in government service under section 5703 of title 5, United States Code.

(g) Termination.—The Commission established pursuant to this section shall terminate after the transmittal of the report to Congress as provided in section 8(c).

SEC. 106. STAFF OF THE COMMISSION.

(a) Executive Director.—The Director of the National Park Service, or his or her designee, shall serve as the Executive Director of the Commission.

(b) Staff.—The Director of the National Park Service shall, on a reimbursable basis, detail such staff as the Commission may require to carry out its duties.

(c) Staff of Other Agencies.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties.

(d) Experts and Consultants.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

SEC. 107. POWERS OF THE COMMISSION.

(a) In General.—The Commission may for the purpose of carrying out this title hold such hearings, sit and act at such time and places, take such testimony, and receive such evidence as the Commission may deem advisable.

(b) Bylaws.—The Commission may make such bylaws, rules and regulations, consistent with this title, as it considers necessary to carry out its functions under this title.

(c) Delegation.—When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(d) Mails.—The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

SEC. 108. DUTIES OF THE COMMISSION.

(a) Preparation of Study—The Commission shall prepare a study of historically significant sites and structures in the United States associated with the Civil War, other than Shenandoah Valley Civil War sites. Such study shall identify the sites, determine the relative significance of such sites, assess short and long-term threats to their integrity, and provide alternatives for the preservation and interpretation of such sites by Federal, State and local governments, or other public or private entities, as may be appropriate. The Commission shall research and propose innovative open space and land preservation techniques. Such alternatives

may include but shall not be limited to designation as units of the National Park System or as affiliated areas. The study may include existing units of the National Park System.

(b) Consultation.—During the preparation of the study referred to in subsection (a), the Commission shall consult with the Governors of affected States, affected units of local government, State and local historic preservation organizations, scholarly organizations, and such other interested parties as the Commission deems advisable.

(c) Transmittal to the Secretary and Congress.—Not later than 2 years after the date that funds are made available for the study referred to in subsection (a), the Commission shall transmit such study to the Secretary and the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

(d) Report.—Whenever the Commission submits a report of the study to the Secretary or the Office of Management and Budget, it shall concurrently transmit copies of that report to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

SEC. 109. REVISION OF THEMATIC FRAMEWORK.

In coordination with the major scholarly and professional organizations associated with the disciplines of history, archeology, architecture, and closely related fields, the Secretary shall undertake a complete revision of the National Park Service "Thematic Framework" to reflect current scholarship and research on (1) American history and culture, (2) historic and prehistoric archeology, and (3) architecture. The revision shall be transmitted to the United States House of Representatives Committee on Interior and Insular Affairs and the United States Senate Committee on Energy and Natural Resources not later than 18 months after the date of enactment of this Act. In making such revision, the Secretary shall ensure that the full diversity of American history and prehistory are represented in the revised "Thematic Framework".

SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums not to exceed $2,000,000 to carry out the purposes of this title.

TITLE II—REVIEW OF BOUNDARIES OF UNITS OF THE NATIONAL PARK SYSTEM

SEC. 201. FINDINGS.

The Congress finds that—

(1) park system boundaries are often established without complete data regarding the location and viability of essential natural, cultural, historic, scenic, and recreational resources and no consistent process or no guiding principles based on resource-oriented criteria have been applied to the establishment of those boundaries;

(2) certain activities on adjacent lands may threaten the natural, cultural, historic, scenic, and recreational values relevant to many natural and cultural parks, particularly historic battlefields in Eastern States;

(3) a substantial number of park system units are characterized by boundary lines which are difficult to identify and administer;

(4) the boundaries established for many units of the National Park System do not provide for the most efficient management, protection, preservation, and public enjoyment of the natural, ecological, cultural, historic, scenic, and recreational resources relevant to those units;

(5) agency data indicate that certain park boundaries exclude significant geologic and scenic features as well as pertinent cultural or historic resources; and

(6) an adjustment of the boundaries of many park system units (including additions, deletions, and exchanges of lands) is necessary to protect or include natural, ecological, cultural, historical, scenic, and recreational resources which are relevant to those units, and to improve management at such units.

SEC. 202. REVIEW OF PARK SYSTEM BOUNDARIES.

(a) Study and Review.—The Secretary of the Interior (hereinafter in this title referred to as the "Secretary"), acting through the Director of the National Park Service (hereinafter in this title referred to as the "Director") shall conduct systematic and comprehensive reviews of the boundaries of units of the National Park System. Initial and subsequent studies shall consider and address—

(1) the adequate protection and preservation of the natural, historic, cultural, scenic, and recreational resources relevant to the unit (as required pursuant to existing law including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4), the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C 461-467), and the Act of August 18, 1970 (16 U.S.C. 1a-1 through 1a-7)); and

(2) providing for the most efficient management of the unit.

(b) Study Procedures.—Such studies shall provide for—

(1) public input; and

(2) consultation and coordination with effected Federal, State, and local agencies.

Each such study shall include an analysis and evaluation of information available to the Director regarding the adequacy of such boundaries. Each such study shall also develop additional information and analysis as necessary regarding the adequacy of the unit's boundaries. Each such study shall be completed in compliance with the National Environmental Policy Act of 1969 and other applicable laws.

(c) Criteria.—For those boundary studies conducted after completion of the high priority studies referred to in subsection (d) the Director shall develop study criteria to fulfill the requirements of subsections (a) and (b). No later than 2½ years after the date of enactment of this title, the Director shall publish proposed study criteria for such subsequent studies in the Federal Register. After providing for public comment, but no later than 6 months after publication of the proposed criteria, the Director shall publish final criteria in the Federal Register for such subsequent studies. The Director shall also submit such criteria to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate (hereinafter referred to as the "Committees"). Any additions, deletions, or modifications to the study criteria shall not take effect until 60 days after notice of the proposed change has been submitted to the Committees.

(d) High Priority Studies.—Within 160 days after enactment of this title, the Director shall notify the Committees in writing of at least 25 units of the National Park System which, in the judgment of the Director, have the highest priority for review and study pursuant to this title. Such units shall be representative, to the extent practical, of the different park units and boundary issues to be addressed. Not later than 3 years after the enactment of this title, the Director shall submit a report to the Committees containing the results of the review and study in the case of such high priority units. The review and study of such units may be carried out before publication of the study criteria referred to in subsection (c).

(e) Contents of Studies and Reports.—Each report under this title shall contain specific recommendations regarding any necessary boundary adjustments and other methods which may be available to protect the natural, ecological, cultural, historic, scenic, and recreational resources which are relevant to those units, and to improve management at such units. In considering any boundary modifications and other alternatives, the Director shall examine the socioeconomic benefits and impacts and other direct costs, the potential for coordinated management by other Federal agencies and non-Federal entities which manage and control lands adjacent to park system units, the potential for using assistance to State and local governments under the Land and Water Conservation Fund Act of 1965 to establish priorities for purposes of protecting and preserving the resources concerned, and such other alternatives to boundary modifications as the Director finds to be feasible and appropriate for such purposes.

In preparing each report, the Director shall conduct a detailed analysis of the impacts of any proposed boundary modification on fish and wildlife management, including hunting, fishing, trapping, habitat enhancement and conservation. The Director shall consult and coordinate in the preparation of the analysis with the fish and wildlife agency of each state for which a boundary modification is proposed. Each affected state fish and wildlife agency shall have 6 months, after notification by the Director that such analysis is to be undertaken, within which to submit its concurrence or in lieu thereof the state agency's analysis of the fish and wildlife matters addressed by the report. Such state agency analysis, if done, shall be part of the final report.

(f) Future Studies.—Following presentation of the study and report required under subsection (d), the Director shall undertake an ongoing program of study of specific park unit boundaries on a timely, regular, and comprehensive basis. Such studies may be carried out in whole or in part in association with the preparation or revision of a general management plan, or separately from the general management plan process, as necessary to maintain the timely and regular development of such studies. Following completion of each study, the results shall be transmitted to the Committees.

(g) Prior Boundary Adjustment Studies.—Within 90 days after enactment of this title, the Director shall submit to the Committees a report on those park units for which boundary adjustments were previously developed as part of a general management plan pursuant to section 12(b) of the Act of August 18, 1970 (16 U.S.C.1a-1 through 1a-7) but for which no legislative proposal has previously been submitted to the Congress by the Secretary. Such report shall detail the recommendations made by each general management plan.

(h) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

TITLE III—NATIONAL PARK SYSTEM ADVISORY BOARD

SEC. 301. NATIONAL PARK SYSTEM ADVISORY BOARD.

Section 3 of the Act of August 21, 1935, entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes" (16 U.S.C. 461-467; 49 Stat. 666 et seq.) is amended—

(1) in the first sentence of subsection (a)—

(A) by striking "eleven" and inserting "sixteen";

(B) by striking "United States," and inserting "United States who have a demonstrated commitment to the National Park System,"; and

(C) by striking "and natural science," and inserting "anthropology, biology, geology, and related disciplines,";

(2) by adding at the end to subsection (a) the following: "Such board shall also provide recommendations on the designation of national historic landmarks and national natural landmarks. Such board is strongly encouraged to consult with the major scholarly and professional organizations in the appropriate disciplines in making such recommendations.";

(3) in the first sentence of subsection (b), by striking "1990" and inserting "1995"; and

(4) in the second sentence of subsection (b), by striking "In" and inserting "The provisions of section 14(b) of the Federal Advisory Committee Act (the Act of October 6, 1972; 86 Stat. 776) are hereby waived with respect to the Board, but in".

SEC. 302. NATIONAL PARK SYSTEM ADVISORY COUNCIL.

Section 3 of the Act of August 21, 1935, entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes" (16 U.S.C. 461-467; 49 Stat. 666 et seq.) is amended by adding at the end the following:

"(c) There is hereby established the National Park Service Advisory Council (hereafter in this section referred to as the "advisory council") which shall provide advice and counsel to the National Park System Advisory Board. Membership on the advisory council shall be limited to those individuals whose term on the advisory board has expired. Such individuals may serve as long as they remain active except that not more than 12 members may serve on the advisory council at any one time. Members of the advisory council shall not have a vote on the National Park System Advisory Board. Members of the advisory council shall receive no salary but may be paid expenses incidental to travel when engaged in discharging their duties as members. Initially, the Secretary shall choose 12 former members of the Advisory Board to constitute the advisory council. In so doing, the Secretary shall consider their professional expertise and demonstrated commitment to the National Park System and to the Advisory Board.".

The SPEAKER pro tempore. Is a second demanded?

Mr. MARLENEE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes, and the gentleman from Montana [Mr. Marlenee] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 2582, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, many of us spent part of last week watching Ken Burn's series on the Civil War. Many of the battlefields pictured during that excellent series were units of the National Park System. Still other battlefields are not protected. As you know, I care very much about protecting our Nation's heritage, both natural and historical. I want to do the right thing, and believe that in H.R. 2582 we have the opportunity to do just that. We can take actions here today that will help the entire Nation Park System as well as help protect this Nation's natural and cultural resources.

H.R. 2582 as amended joins together several bills long sought: The Civil War Sites Advisory Commission, the park boundary study and the National Park System Advisory Board.

Title I, the Civil War sites study, which includes the Shenandoah Valley Civil War sites study, will identify Civil War sites and make recommendations on their preservation. The Shenandoah Valley, both a key North-South route and a source of foodstuffs, saw fierce fighting in 1862 with Gen. Stonewall Jackson, and in 1864, with Gen. Philip Sheridan. Many sites in this area are currently threatened by development. This study will identify Shenandoah Civil War sites, study threats to them and provide alternatives for their preservation by Federal State and local governments as well as by other public or private entities. The Civil War Sites Advisory Commission, which has already passed the Senate, will bring together experts in order to identify key Civil War sites and preservation strategies for them. This will support Secretary of the Interior Lujan's Civil War battlefield initiative.

Title II, the park boundary study is a bipartisan initiative that directs the National Park Service to undertake an ongoing program of study of National Park System boundaries. Every Congress, we are presented with proposals to make adjustments to park system boundaries. Some of these proposals are noncontroversial. All should be noncontroversial. Others are made in the face of an imminent danger or threat to the purposes for which the part unit was established. There is an underlying bipartisan recognition that park boundary questions are an ongoing issue that should be addressed in a forthright manner rather than waiting until crises occur and confrontations arise. It only makes sense to have a program that will develop, with public participation and congressional review, comprehensive and timely information. This way, the Congress can better judge these matters, especially when we can identify and act on issues before controversies arise or damage occurs.

Title III reauthorizes the National Park System advisory board. This board, first created in 1935, has long provided the Secretary of the Interior with professional expertise and invaluable assistance for our country's parks. Past membership on the advisory board reads like a "who's who" of conservation and preservation. It has given the Secretary a thoughtful and eminent group of people dedicated to ensuring that this Nation's parks are the finest anywhere.

Next year, the National Park Service will be 75 years old. H.R. 2582 is a wonderful way to get ready for that celebration. It will put the National Park System on a carefully considered basis, one founded on thoughtful analysis of the resources and the issue they face. H.R. 2582 will help get the National Park System ready for the years ahead.

Mr. Speaker, I believe this is important legislation and urge its passage.

☐ 1640

Mr. Speaker, I reserve the balance of my time.

Mr. MARLENEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 2582. However, let me state at the outset, that my opposition is in no way a reflection of the fine work done by Mr. Slaughter and Mr. Olin on their Civil War site study bill.

Rather my opposition is oriented toward the content of title II, the section on park boundaries and the abuse of the suspension process we are using here today.

Just think of it, we have a bill before us today on the Suspension Calendar that is opposed by the 3.7 million-member American Farm Bureau Federation, the U.S. Chamber of Commerce, as well as numerous other well-respected groups that are concerned about converting private property and public lands managed for multiple use into national parks.

Let me give some of the legislative history of title II which originated as H.R. 3383.

That bill was marked up by the full Interior Committee over 5 months ago on a 29 to 11 vote.

At that markup I offered an amendment, supported by the National Rifle Association, and numerous hunting groups, to guarantee that State fish and wildlife agencies have meaningful input in any park boundary study sent to Congress.

It is the belief of many that because of the difficulties the sponsor of H.R. 3383 would have on the floor defeating such an amendment, the bill became dormant.

It took over 4 months for the committee report to even be filed.

In the meantime, the sponsor of the park B bill, H.R. 3383, saw a legislative vehicle in the Civil War study site bill that had a groundswell of support and was headed for passage. Since the park expansion study bill would have rough sailing on its own merits, why not make it title II of this more popular bill.

And while he was at it, why not use the title of another bill dealing with the National Park Service advisory council as a vehicle that no one could recognize.

In other words, Mr. Speaker we have before us a legislative Christmas Tree.

Although some suggest that the boundary studies mandated by title II are innocent studies, and will not result in a massive expansion of the national park system, I strongly disagree. This conclusion by title II supporters is only true if the studies are conducted by independent and impartial sources.

Unfortunately, this is not the case as these studies will be done almost exclusively by the National Park Service—an agency that has shown itself to be both aggressive and effective, as it has pursued expanding its own acreage, budgets and personnel.

Mr. Speaker, before we greatly expand our national parks, we should spend money to end the deplorable conditions present in existing parks.

The General Accounting Office has documented billions of dollars of deferred maintenance and rehabilitation within the National Park System.

Passage of title II only makes this situation worse by paving the way to increase park acreage, and thereby, increasing the demands for visitor services. As a result, it will actually reduce the quality of the visits to our parks.

And finally, let us get to the issue of hunting. For the most part, hunting is not allowed in national parks—and I accept that.

However, in some units of the National Park Service such as monuments and preserves it may be allowed, but there is an overzealous element within the National Park Service that uses bureaucratic regulation to stop or limit hunting.

The Big Cypress Preserve in Florida, where hunting was expressly permitted in its authorizing legislation, is now the scene of a virtual war over a general management plan where the Park Service is using severe access restrictions to stop hunting. As we speak, there is a heated battle pitting Cecil Andrus' own Idaho Fish and Game Department against the National Park Service, which is trying to stop hunting on part of the city of Rocks National Monument in southern Idaho.

I am pleased to announce that Chairman Vento will offer an amendment this afternoon—that he and I have worked out—which will guarantee that State fish and wildlife agencies have an opportunity to make a meaningful contribution in park boundary studies affecting their State.

Although I still believe that the park expansion that will result from the studies conducted in title II will be detrimental to hunting, Chairman Vento's amendment will make the bill's impact on hunting a little less painful.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. MARLENEE. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I would just point out that the motion I made incorporates the agreement that the gentleman and I had with regards to that amendment, so the amendment he spoke of is part of the motion to suspend the rules and pass the bill, and I thank the gentleman for yielding.

Mr. MARLENEE. Mr. Speaker, I thank the gentleman from Minnesota.

☐ 1650

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. Synar].

(By unanimous consent Mr. Synar was allowed to speak out of order.)

NOTICE OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON S. 2830, FOOD AND AGRICULTURAL RESOURCES ACT OF 1990

Mr. SYNAR. Mr. Speaker. I rise to inform my colleagues that tomorrow I intend to offer a motion to instruct the conferees on the 1990 Farm bill, S. 2830, with respect to title XIV, subtitle G—Pesticide Export Reform. I hereby enter the form of the motion into the Record.

Mr. Synar moves that managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the bill S. 2830—the 1990 farm bill—be instructed to insist upon, at a minimum, the provisions contained in subtitle G of title XIV of the House amendment, relating to pesticide export reform, and to accept the provisions contained in sections 1761 and 1762 of the Senate bill, relating to revocation of food tolerances for banned pesticides.

Mr. VENTO. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. Mrazek], a strong supporter of this bill and cosponsor of one of the titles.

Mr. MRAZEK. Mr. Speaker, I rise to express my deep appreciation to the chairman, the gentleman from Minnesota [Mr. Vento], for his leadership in a wide range of Interior-related issues and, in particular, two components of this legislation that I am particularly concerned about, one, the Civil War Site Study Act of 1990, which does establish a commission that would prepare a study of historically significant sites associated with the Civil War.

We have seen a tremendous amount of leadership from the Secretary of the Interior, and not the National Park Service, and through the Park Service this study would identify sites, assess short- and long-term threats to those sites, and provide options to Congress for their preservation.

In addition, I want to compliment my colleagues, the gentleman from Viriginia [Mr. Olin] and the gentleman from Virginia [Mr. Slaughter], who introduced the Shenandoah Valley Civil War Sites Study Act, and this would study over a dozen sites in the Shenandoah Valley of great importance that have never faced this kind of positive scrutiny in the past.

Development is rapidly encroaching on many of these sites, and it is important for us to remember the sacrifice that was made during the most divisive period in our Nation's history.

It would be my hope that this legislation, along with the park boundaries study proposed by the chairman, the gentleman from Minnesota [Mr. Vento], will be supported by more than two-thirds of our colleagues.

I would also indicate to our colleagues that we were successful last week in including within the Interior appropriations bill $150,000 which is the estimated cost for the legislation introduced by the gentleman from Virginia [Mr. Olin] for the study of the Shenandoah Valley sites that was subject to authorization, and this positive approval today will mean that study can go forward very quickly.

Mr. MARLENEE. Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from Virginia [Mr. Slaughter].

Mr. SLAUGHTER of Virginia. Mr. Speaker, I rise in support of H.R. 2582, a comprehensive bill to study existing lands in the National Park System, and provide review of historically significant sites for preservation by either the National Park Service or through innovative private efforts.

I am particularly pleased that provisions of the Shenandoah Valley Civil War Sites Study Act are included in

H.R. 2582. I joined Representative Olin in introducing the Shenandoah Civil War study bill nearly a year ago.

The Shenandoah Valley, which served as the breadbasket of both Union and Confederate Forces during the Civil War, has increasingly been subject to demands for growth and development. These pressures command attention to the protection of Civil War battlesites such as Cedar Creek, Fisher's Hill, Toms Brook, Third Winchester, and Kernstown just to name a few.

The Shenandoah Valley study required under H.R. 2582 would assess the feasibility of protecting certain sites with the National Park System, or make recommendations for alternative courses of action. I am referring to the role of public and private partnerships, and their necessary participation in future preservation efforts.

By establishing a comprehensive review of Shenandoah Valley sites, and other sites of historical significance in the United States, informed decisions can be made in the future regarding these lands. Local governments, landowners, and the taxpaying citizens of this country deserve and are insisting upon a coherent approach to preservation.

I urge my colleagues to join me in supporting this worthy proposal.

Mr. VENTO. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. Olin], the sponsor of one of the portions of the bill, the Shenandoah Valley Civil War sites study.

Mr. OLIN. Mr. Speaker, first, I want to thank my colleague, the gentleman from Minnesota and chairman of the Subcommittee on National Parks and Public Lands, for bringing this legislation to the floor. He worked very hard to move this legislation, and I appreciate his efforts, and those of his staff.

Several weeks ago, millions of Americans viewed public television's epic documentary on the Civil War. This series highlighted the crucial role the Civil War played in forming our Nation. I think it is especially appropriate that today we are considering legislation to protect the battlefields of that great conflict.

Title I of this bill, H.R. 2582, focuses on the battlefields in the Shenandoah Valley of Virginia. It instructs the Secretary of the Interior to conduct a study assessing the suitability and feasibility of protecting these sites as units administered by or affiliated with the National Park System. The study team would include at least two recognized Civil War historians, and would be required to report to Congress within 1 year of enactment.

The Shenandoah Valley witnessed a great deal of bloodshed during the Civil War. Early in the war, leaders on both sides learned that whoever controlled the valley controlled military operations of Virginia. The Valley also provided an avenue for Confederate attacks on the North and was a granary for the Confederate Army.

In 1862, Gen. Thomas J. "Stonewall" Jackson fought a series of engagements through the valley to drive out the Federal forces. During this fighting, Jackson established his reputation for fast-moving, secret marches and surprise attacks. By early June, Jackson, commanding a mere 16,000 men, had defeated a force of 64,000 Union troops.

Fighting returned to the valley in 1864, when Gen. Ulysses S. Grant sent Union forces to destroy the Confederate forces there, and lay waste to the region. This series of battles, taking place over more than a year, ended in total defeat for Confederate forces in the valley.

The importance of these campaigns led me to introduce the original Shenandoah study bill, with the close consultation of Congressman French Slaughter and Congressman Robert Mrazek. I represent the southern part of the valley and Congressman Slaughter represents the northern part.

We knew there were many battlefields in the valley. We soon learned that many were under pressure from various development interests, representing both housing and business. As a result we joined Senator Jeffords, who introduced companion legislation in the Senate, to institute a study of the area battlefields. Congressman Mrazek joined us because of his strong interest in the Civil War.

Brandy Station, in Congressman Slaughter's district, is an example of an important battlefield threatened by development. Recently, there has been a move to develop this site commercially. The development would be on the location of the largest cavalry engagement of the war.

While Brandy Station is not in the Shenandoah Valley, it is covered by H.R. 2582, because the bill has been expanded to support a recent proposal by Secretary of the Interior Manuel Lujan.

The Secretary proposed a broader plan to study and protect the Nation's Civil War sites. His plan has four basic parts: First, to use zoning, easements, and other means of protecting sites; second, to disseminate information on existing public and private protection projects; third, to use Federal funds to acquire some sites; and, fourth, to develop a long-range plan to protect battlefields.

In response, the Senate version of the bill was expanded to establish a Civil War Sites Advisory Commission to study the preservation of Civil War sites throughout the Nation. At first, I was concerned that such a broad proposal would interfere with passage of the Shenandoah Study Act. But the House Interior Committee has approved the broader study, and I think it is a good idea because it will help protect sites like Brandy Station.

There is a lot of interest from the localities, and from groups and individuals interested in the Civil War, to protect the battlefields. In some areas, these sites are in the hands of private individuals. Some property owners would like to see the sites preserved. Others have different views.

This is why H.R. 2582 is so important. This legislation will help us determine the best way to protect the sites, with the greatest benefit to the local economy. Also, we can consider methods of protecting the property with the least intrusion on property rights.

Last month's documentary underscored the importance of these battlefields. They are, in the words of one historian, hallowed ground. I urge my colleagues to join me in support of H.R. 2582, so that we can develop the best plan to protect the Civil War battlefields—this hallowed ground.

Mr. MARLENEE. Mr. Speaker, I yield 3 minutes to the gentlewoman from Nevada [Mrs. Vucanovich].

Mrs. VUCANOVICH. Mr. Speaker, I rise in strong opposition to H.R. 2582, a bill to amend the Historical Sites, Buildings, and Antiquities Act. If the bill before us were limited in its scope to what its short title suggests I would be able to support the measure. But, Mr. Speaker, once again it is the innocuous sounding—and for other purposes—for which we must be wary. Title II of this bill is none other than the infamous park boundaries bill of Chairman Vento of the National Parks and Public Lands Subcommittee. Rather than bring that measure to the floor, H.R. 3383 was reported out of Interior Committee in July, the majority has elected to wrap that extremely controversial issue into this bill which began life as a simple Civil War battlefields study bill. I can and do support the premise of the original bill, but as amended by our committee, I cannot.

Mr. Speaker, it is a blatant subversion of the proper procedures of this body to consider H.R. 2582 under suspension of the rules. The park boundaries study issue is very controversial, not the stuff of suspensions of the rules no matter how late in the year we are. It is my understanding that the amendment which the gentleman from Montana had wanted to offer has now been made a part of this request to suspend the rules. I am still concerned about the effect this bill will have on the amendment which would address the concerns of many people in my district—hunters, trappers, and managers of fish and game resources. I feel it has not received the consideration it deserves. Indeed, full Interior Committee consideration of

H.R. 2582, hurried by the race to finish business, was almost nonexistent. But that has been the rule rather than the exception in the last 2 or 3 weeks of markups we have had.

Perhaps it did not matter that consideration was so abbreviated on some of the bills reported out of the Interior Committee recently, bound for the suspension calendar. I assure my colleagues that such is not the case with H.R. 2582. Mr. Speaker, I urge my colleagues to defeat H.R. 2582 on principle alone. The following groups are still opposed to this bill: United States Chamber of Commerce, National Grange, National Innholders Association, Multiple-Use Land Alliance, American Mining Congress, National Cattlemen's Association, Public Lands Council, National Forest Products Association, American Forest Resources Alliance, Blue Ribbon Coalition, National Water Resources Association, and the American Farm Bureau Federation.

I support bringing this bill to the floor in the proper manner. I most definitely do not support its passage under suspension of the rules.

□ 1700

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. Darden], a member of the committee who obviously has a high interest in matters in this measure.

Mr. DARDEN. Mr. Speaker, I thank the gentleman for giving me an opportunity to express some of my feelings and sentiments about this very important legislation that we are considering today.

Mr. Speaker, this legislation is long overdue. I think we owe a special debt of gratitude to our former colleague on the Committee on Interior and Insular Affairs, Mr. Lujan, who now serves as Secretary of the Interior, for helping give Members this push to recognize what really needs to be done in order to preserve our very historic sites from the Civil War.

Mr. Speaker, the Seventh District of Georgia in northwest Georgia is the area I represent, and contains two of the most outstanding Civil War battlefields in the entire country. The first in Chickamauga National Military Park, located just outside of Chattanooga, TN, in northwest Georgia. It is the oldest and largest military part in the Nation. We recently had the 100th anniversary of the opening of this park in a very eloquent ceremony attended by Secretary Lujan and the Governors of the two States came together for this very historic observation. At the same time, it was very evident that encroachment had begun from all sides of the area, and that we need to continue to define those park boundaries and to be sure that encroachment by various businesses and various areas does not affect the total character of that park.

Even further south from Chickamauga is located the Kennesaw National Battlefield Park, just outside of Atlanta, which was the last battle before Atlanta was invaded by Sherman's troops. We will be celebrating the anniversary in the very near future of the battle of Kennesaw. However, in Kennesaw even more than in Chickamauga, the effects of encroachment are becoming even more critical because it is there, Mr. Speaker, that we are finding that the suburban growth of Atlanta continues to chip away at the park and continues to make uses there which are, I think, inconsistent with the best park practices. By the way, Kennesaw Mountains have been designated by the Secretary of Interior as one which needs study and one which will require action.

Therefore, I am pleased to say that this is a step in the right direction. It is only a study. This is not going to limit hunters' and trappers' rights, and it will not take away our God-given property rights in this country. In all deference to my very good friend, the gentlewoman from Nevada [Mrs. Vucanovich] and the gentleman from Montana [Mr. Marlenee], I really do not think that the dire consequences that they are predicting about this bill will take place. It is simply a study bill. We need this legislation to further define the parameters of what needs to be done with our Civil War battle sites.

I commend the gentleman from Minnesota [Mr. Vento] on bringing Members this piece of legislation.

Mr. MARLENEE. Mr. Speaker, I yield myself such time as I may consume, and would say to my colleague from Georgia that if he likes the way they burnt up Yellowstone National Park, and the way that they eliminated the grizzly bear, and some of the other species, the way that we have no visibility of black bears when we travel through the parks, that he probably would like giving the National Park Service additional authority, in a very biased manner, to study the expansion and the boundaries of the parks. That is the whole point in this argument.

We have an agency doing a study to see whether they will, in fact, expand the boundaries, their authority, and expend untold thousands of dollars in either acquiring or controlling future sheds, et cetera, et cetera. I would hope that the chairman of the committee would hold hearings very soon in Montana or elsewhere, perhaps here in the U.S. Capitol in a hearing room, because we have a lot of abuses by the Park Service out there, and the management, and particularly with regard to the wildlife that exists out there. Bison are leaving Yellowstone Park during hard winters and go onto private lands outside of the park. Most of Yellowstone National Park boundaries are wilderness area, 75 percent, but in the small area not a wilderness area we have private lands, and those buffalo are going outside of the park, spreading brucellosis to livestock, impacting the budget of the state tremendously. The Park Service is attempting to set back limits and open season for wildlife on non-Federal lands in Alaska. This is a clear violation of their authority and of State rights.

Overpopulation of deer at Gettysburg Battlefield and other eastern parks and monuments, elimination, as I said, of the grizzly bear in Yellowstone National Park, or the practical elimination to where they have to step in and declare the grizzly an endangered species, reintroduction of wolves into the Great Smokies and into Yellowstone National Park, these are all items regarding wildlife management that deserve a hearing by our committee. They are management problems that exist. As I said, the Park Service is not without fault. They probably would admit that.

However, I have been told by a high source that is involved in their management that they could have put out the fires in Yellowstone National Park, had they not been opposed by the National Park Service and the Department of Interior. They could have put the fires out. Instead, we burnt it up, and it has become a black hole.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume in response to the gentleman's concerns.

The Subcommittee on National Parks and Public Lands has held hearings on the reintroduction of the wolf in Yellowstone National Park in this term, and we had, in fact, an extended hearing on that topic. We also held hearings on the problems with the bison population with regard to Yellowstone National Park, and the migration and the problem with the hunting or the slaughter of those animals at the border, and the concerns, of course, that he alluded to with regard to the possible or the alleged suggestion that they spread disease.

We, of course, went on and we have also held hearings concerning the Yellowstone fire. We had briefings and hearings on it. I do not know that we will be able to ever reconstruct what the events were that caused that, but clearly it was a tremendous event that affected Yellowstone National Park, and there are various contentions about what could have been done.

Mr. MARLENEE. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Montana.

Mr. MARLENEE. The gentleman referred to the harvesting of buffalo in this instance as slaughter. Does that statement stand?

Mr. VENTO. Reclaiming my time, I referred to the fact that as the animals wandered outside the park, they are shot. Obviously it was not a case where they were hunted in the traditional sense that I think of as hunting.

□ 1710

I think the point was as they wandered across a line, they were shot down at that particular point. It does not fit my particular norm of what hunting is. I would explain it in that particular way, that there was no stalking of the bison. In other words, they were shot pointblank at the park boundary.

I do not know how we go about dealing with the harvesting of species in this particular circumstance. There is no easy answer. I understand that.

So I was concerned, and I think others were concerned. I explained it both as a hunt and a slaughter. I mean, you can choose your own words. I certainly do not mean to be argumentative about the point.

So the point is that I just want to suggest that we have had those hearings in the past. Certainly park resources, whether they be wildlife or other resources in the park, that is concerning the impact to the park resources, threats to the Park, will be the subject of hearings in the future. I want to assure the gentleman of that.

I would just summarize this by saying there is a lot of support for this. It deserves our support. Virtually all our Nation's conservation organizations support it, from the National Trust for Historic Preservation, the Parks and Conservation Association, the Wildlife Federation, the Civil War Round Table Associates, the Wilderness Society, the Council on Americans Military Past, the Preservation Act on American Rivers, the Sierra Club. I could go on, but they virtually all support this measure.

I think with the amendments we have made, we have certainly tried to respond to the concerns that have been raised by the gentleman from Montana and others.

We should all understand that in the end these are only studies. All of this must come back to the committee and to the Congress for further deliberation regarding the action to modify any boundary, to designate any site that is proposed or recognized by the Congress.

What we are really doing, of course, is trying to set the stage so that the committees of the Congress and this House has the information so we can make rational decisions.

All I have to do is harken back to the events that occurred late in the last Congress when we had the struggle and the debate over Manassas and the expansion of Manassas. Clearly that was a case of reacting in terms of a crisis.

What this measure tries to do in a broad way is to set the stage so that we can have the information available so that we can avert, hopefully largely avert those types of crises with regard to cultural preservation and natural preservation of resources, to set in place a rational means and a criteria to do the studies on park boundaries.

I think especially, of course, this becomes important with regard to some of our natural sites that we have in the Park System, in 356 units of the National Park System.

So I think the support of the conservation groups speaks for itself. We should respond, of course, by supporting the measure today and providing Congress with the proper information so that we can make decisions tomorrow.

Mr. MARLENEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am glad that the chairman of the Public Lands Subcommittee has brought up Gettysburg and the expansion of the Manassas Battlefield and the reaction to that parcel of land that the Park Service did not want when they created the park, that the Park Service did not want after they had reevaluated the park, the Park Service did not want at the time that the congressional committee and the Congress was involved a year ago or a little over a year ago in acquiring that additional land.

The supporters of that acquisition taking had told us it would be between $10 million and $12 million, and I understand right now that they are talking about a $100 million settlement. Incredible.

The taxpayers in this Nation must just shake their heads. A hundred million dollars for a parcel of land that the proponents of the taking had said would cost somewhere between $10 million and $12 million.

I am requesting the chairman of the Parks and Public Lands Subcommittee to hold hearings on the subversion of intent by the Park Service of legislation that we have that would allow hunting, allow the harvesting of game within certain park areas and monument areas that have been established, and that we hold hearings on that specific issue and that in conjunction with that we relook at some of the things that we have had a cursory hearing on, such as the harvesting of buffalo that get out of the park and impact the State of Montana.

So I would make that request.

Mr. KOSTMAYER. Mr. Speaker, will the gentleman yield to me?

Mr. MARLENEE. I am happy to yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Speaker, I am not a participant in this discussion and do not want to become one, but I did hear the gentleman say something about Manassas and only wanted to respond that not to have purchased Manassas, to allow a shopping center or a housing development to be built on this scene where so many Americans fell would, in this Member's view, be sacrilegious and absolutely obscene. If we were to do something like that and not preserve Manassas, not buy it, whatever it cost, the American people would be justified in throwing us all out of this place. The very notion that we would not preserve the Manassas Battlefield is outrageous.

Mr. MARLENEE. Regaining my time, Mr. Speaker, of course we can spend an unparalleled amount of money.

Mr. KOSTMAYER. And we ought to.

Mr. MARLENEE. We can take the money from those who need Medicare. We can violate contracts that we already have with people on retirement and on these things. We can come up with the money if we abort our obligations that we have both to balancing the budget and to providing Medicare and retirement. We can also confiscate and yield to Social Security if we are pressed for funds. We can spend lots of money. I mean, we can acquire all kinds of parks.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me suggest to the gentleman that certainly we want to look at threats to the park.

I think the gentleman's point with regard to the population problems of the wildlife species in the national parks is well taken, where we do not have the natural predatory-prey relationship. It is a topic, an issue that warrants evaluation and presents special problems. Even the wolf as a predator is not going to take care of the bison population problem in Yellowstone National Park. so we clearly have a problem here that we have to deal with, on public lands and other lands with wild horses and burros. It is a vexing problem, so the gentleman is rightly concerned about this issue.

There are other threats to parks and resources and management plans. We always try to provide some oversight.

I would just further say, and I do not want to take up too much time, and would be glad to yield to the gentleman from Montana if he feels compelled to speak, but many of the proposals on suspension that he referred to earlier in debate, come before the Parks and Public Lands Committee, we have differences of views, as is evident from this debate today concerning how we go about crafting public policy affecting land policy; but I think what is really important here is

that the Congress still is vitally involved in crafting public policy, and the gentleman from Montana, a very vigorous advocate for his constituents concerning some land use questions, the gentleman does not always agree with me nor I with him, but the fact of the matter is we have the right to come on this floor, debate these bills, deal with these policies, rather than handing it over to the administration or to a bureaucracy which is not elected.

I think that is one of the reasons that answers Members questions as to the number of bills, but because we do reserve to the Congress the right to make these particular decisions the number of issues and measures before us are necessary.

The gentleman from Montana and the gentleman from Minnesota and many others who participate in the Interior Committee responsibilities dealing with these important public lands and, of course, these vitally important national resources are very important that we designate as units of national parks.

Mr. Speaker, let me summarize what this measure accomplishes.

First, it establishes the Civil War sites advisory commission to identify key Civil War battlefields and how to save them. This supports Interior Secretary Lujan's battlefield initiative.

Second, it directs a study of Shenandoah Valley Civil War sites to protect key sites where Gen. Stonewall Jackson rode and fought.

Third, it establishes a comprehensive review of park boundaries so that decisions about them can be made thoughtfully and with public participation.

Fourth, it reauthorizes the National Park System Advisory Board that has provided expert assistance for the National Park System since 1935.

H.R. 2582 protects our heritage. It deserves our support.

H.R. 2582 is supported by virtually all our Nation's conservation organizations: National Trust for Historic Preservation, National Parks and Conservation Association, National Wildlife Federation, Civil War Round Table Associates, The Wilderness Society, Council on America's Military Past, Preservation Action, American Rivers Inc., National Recreation and Park Association, American Society of Landscape Architects, National Conference of State Historic Preservation Officers, Association for the Preservation of Civil War Sites, Wildlife Program Environmental Defense Fund, Friends of the Earth, Scenic America, American Hiking Society, Save the Battlefield Coalition, National Audubon Society, and Sierra Club.

Mr. Speaker, these endorsements speak for themselves and we should hopefully respond by supporting the measure today ourselves.

Mr. LIGHTFOOT. Mr. Speaker, I rise in support of H.R. 2582, legislation which would amend the Historic Sites, Buildings and Antiquities Act. As the House knows, this legislation would do several things. It provides for a study of Civil War sites and reauthorize the National Park Service Advisory Board. However, the section of the bill which has attracted the most attention is title II which would authorize a study of units of the National Park Service. I was an initial supporter and cosponsor of the park study bill when it was introduced as H.R. 3383 and passed the Interior Committee. I am aware a great deal of the attention focused on title II is due to concerns about the rights of hunters and how those rights might be affected once recommendations about park boundaries are issued following the study. I would like to take this opportunity to say that as a member of the National Rifle Association, I will do everything I can to see that the legitimate concerns of hunters are addressed and considered in doing this study of National Park units. It should be pointed out that the NRA is in no way trying to derail this bill, but only is concerned with the legitimate right to protect the concerns of sportsmen. Also, it is important to remember that title II calls for a study only. I would like to thank my colleagues, such as BOB LAGOMARSINO, who have worked so hard on this legislation to ensure that it strikes a proper balance. In addition, I would like to commend the subcommittee chairman, BRUCE VENTO, for being flexible and willing to listen to the justifiable concerns raised about this legislation. I believe this section of the bill along with the other provisions of the legislation will provide us with a comprehensive set of data from which we can make fully informed decisions about national park boundaries. I urge my colleagues to support the legislation and to work together to ensure the rights of hunters.

Ms. SNOWE. Mr. Speaker, I rise today to address an issue raised by provisions contained in H.R. 2582, the Historic Sites, Buildings, and Antiquities Act. While H.R. 2582 contains several worthy provisions for the protection of historic sites related to the Civil War and reauthorizes the National Park System Advisory Board; the bill also contains language requiring studies of all national part unit boundaries.

Acadia National Park, which is in my district, recently had its boundaries codified through legislation passed by the 99th Congress. Since H.R. 2582 sets no specific recommendations for what parks are to be studied nor does the bill provide any guidelines for the National Park Service's determination of parks with the highest priority for study, I am concerned that the boundaries of Acadia would again be open to change.

It took an extraordinary effort and over 40 years to settle the boundary disputes associated with Acadia National Park—I do not believe that the decision to reopen this issue should be left to the judgment of an individual at the Department of Interior. The Maine delegation and the Congress worked hard to establish boundaries for Acadia National Park through a thorough review process with the full participation of the National Park Service. Another study would jeopardize the carefully crafted solution we reached.

Mr. Speaker, it is my hope that any directive requiring the Department of Interior to study the boundaries of units of the National Park System will be carefully developed to ensure that carefully crafted boundaries, such as those at Acadia National Park, are not unnecessarily revisited.

Mr. MARLENEE. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2582, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the Historic Sites, Buildings, and Antiquities Act, and for other purposes."

A motion to reconsider was laid on the table.

DESIGNATING CERTAIN SEGMENTS OF THE MILLS RIVER IN NORTH CAROLINA FOR POTENTIAL ADDITION TO WILD AND SCENIC RIVERS SYSTEM

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5004) to amend the Wild and Scenic Rivers Act to designate certain segments of the Mills River in the State of North Carolina for potential addition to the Wild and Scenic Rivers System, as amended.

The Clerk read as follows:

H.R. 5004

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STUDY OF MILLS RIVER, NORTH CAROLINA.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287) is amended by adding the following new paragraph at the end thereof—

"( ) MILLS RIVER, NORTH CAROLINA.—The North Fork from the bottom of the spillway of the Hendersonville Reservoir downstream to its confluence with the South Fork; the South Fork from its confluence with the Pigeon Branch downstream to its confluence with the North Fork; and the main stem from the confluence of the North and South Forks downstream to a point 750 feet upstream from the centerline of North Carolina Highway 191/280.".

□ 1720

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5004, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5004, introduced by our committee colleague, Representative Jamie Clarke, provides for a study by the U.S. Forest Service of certain segments of the Mills River and its tributaries, located in the Pisgah National Forest of North Carolina, for potential addition to the National Wild and Scenic Rivers System.

In hearings before the Committee on Interior and Insular Affairs, the Forest Service and public witnesses from the area testified in favor of the legislation. Their testimony noted that these river segments contain some significant resource values that would benefit from the study that would be done pursuant to the Wild and Scenic Rivers Act. That coincides with the assessment that led to the Mills River being listed on the nationwide rivers inventory published in 1982.

Mr. Speaker, I want to take this opportunity to commend my friend and colleague, Jamie Clarke, for his work on this legislation. He has gathered significant support for his proposal from the administration, the local community, and conservation organizations, which has allowed us to proceed on the legislation in an expedited and noncontroversial manner. In addition to beautiful mountains and forests, the gentleman from North Carolina has in his district some significant riverine resources. The study provided by H.R. 5004 will provide us with an assessment of those resources so that we can determine the proper legislative policy for the preservation and use of these river segments.

Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. Clarke].

Mr. CLARKE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this bill designates more than 33 miles of the Mills River in western North Carolina for wild and scenic river study. The study by the U.S. Forest Service is already underway. H.R. 5004 will ensure that the river is protected until the study is completed, and until Congress has had ample opportunity to act on the study's recommendations.

Much of the Mills River is in Pisgah National Forest. The Mills River valley was the target of dam-builders as early as 1942, when the TVA proposed reservoirs in Henderson and Transylvania counties for flood control. Local opposition killed that proposal, as it did later plans between 1961 and 1972. Residents realized that would not be the end of it, though, and they have been working through the Forest Service planning process and with local officials to gain permanent protection of their river.

This spring the issue took on a new sense of urgency when the Mills River appeared on a list of possible sites for a reservoir for drinking water for neighboring Asheville and Buncombe County. The public outcry prompted Asheville and Buncombe County to come forward with new proposals which do not include impoundments, so the threat to the Mills River has once again receded.

But the residents want, and the Mills River deserves, permanent protection from impoundment. This bill, H.R. 5004, is an important step toward that protection.

H.R. 5004 allows the city of Hendersonville to relocate its existing water intake upstream of a highway bridge which is scheduled for early widening. This is a legitimate effort by the city to protect the quality of its drinking water and a move that is supported by the Mills River community.

I urge support for this measure.

Mr. VENTO. Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5004, a bill to study the Mills River system in North Carolina for inclusion in the Wild and Scenic River System.

Although there are a significant amount of private lands within the study area, an amendment made in committee by the gentleman from North Carolina [Mr. Clarke] removed approximately 4 miles of the lower Mills River from the study area to allow for the installation of a water intake for the town of Hendersonville.

Mr. Speaker, this is a noncontroversial bill that appears to have broad local community support. The Forest Service is in the process of studying this area for inclusion in the Wild and Scenic River System, and supports this bill.

I congratulate the gentleman from North Carolina for his work on this bill, and I urge my colleagues to support this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and pass the bill, H.R. 5004, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

DESIGNATING CERTAIN SEGMENTS OF ALLEGHENY RIVER IN PENNSYLVANIA AS COMPONENT OF NATIONAL WILD AND SCENIC RIVERS SYSTEM

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5402) to amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the State of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5402

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,"

SECTION 1. DESIGNATION OF ALLEGHENY RIVER.

In order to preserve and protect for present and future generations the outstanding scenic, natural, recreational, scientific, historic, and ecological values of the Allegheny River in the Commonwealth of Pennsylvania, and to assist in the protection, preservation, and enhancement of the fisheries resources associated with such river, section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"( ) Allegheny, Pennsylvania.—The segment from Kinzua Dam downstream approximately 7 miles to the United States Route 6 Bridge, and the segment from Buckaloons Recreation Area at Irvine, Pennsylvania downstream approximately 47 miles to the southern end of Alcorn Island at Oil City, to be administered by the Secretary of Agriculture as a recreational river through a cooperative agreement with the Commonwealth of Pennsylvania and the counties of Warren, Forest, and Venango, as provided under section 10(e) of this Act; and the segment from the sewage treatment plant at Franklin downstream approximately 31 miles to the refinery at Emlenton, Pennsylvania, to be administered by the Secretary of Agriculture as a recreational river through a cooperative agreement with the Commonwealth of Pennsylvania and Venango County, as provided under section 10(e) of this Act.".

SEC. 2. ADVISORY COUNCILS FOR THE ALLEGHENY NATIONAL RECREATIONAL RIVER.

(a) Establishment.—The Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") shall establish within 120 days after the enactment of this Act the following 2 advisory councils to advise him on the establishment of final boundaries and the management of the river segments designated by section 1 of this Act (hereinafter referred to as the "Allegheny National Recreational River"):

(1) The Northern Advisory Council, to provide advice for the management of the segments of the Allegheny National Recreational River between Kinzua Dam and Alcorn Island.

(2) The Southern Advisory Council, to provide advice for the management of the segment of the Allegheny National Recreational River between Franklin and Emlenton.

(b) Northern Advisory Council.—(1) The Northern Advisory Council shall be composed of 9 members appointed by the Secretary as follows:

(A) The Forest Supervisor of the Allegheny National Forest, or his designee, who shall serve as chair of the Council and be a nonvoting member.

(B) The Secretary of the Department of Environmental Resources of the Commonwealth of Pennsylvania, or his designee.

(C) 6 members, 2 from each county from recommendations submitted by the County Commissioners of Warren, Forest, and Venango Counties, of which no fewer than 2 such members shall be riparian property owners along the Allegheny National Recreational River.

(D) One member from a nonprofit conservation organization concerned with the protection of natural resources from recommendations submitted by the Governor of the Commonwealth of Pennsylvania.

(2) Members appointed under subparagraphs (C) and (D) of paragraph (1) shall be appointed for terms of 3 years. A vacancy in the Council shall be filled in the manner in which the original appointment was made.

(3) Members of the Northern Advisory Council shall serve without pay as such and members who are full-time officers or employees of the United States shall receive no additional pay by reason of their service on the Commission. Each member shall be entitled to reimbursement for expenses reasonably incurred in carrying out their responsibilities under this Act.

(4) The Northern Advisory Council shall cease to exist 10 years after the date on which the Secretary approves the management plan for the Allegheny National Recreational River.

(c) Southern Advisory Council.—(1) The Southern Advisory Council shall be composed of 7 members appointed by the Secretary as follows:

(A) The Forest Supervisor of the Allegheny National Forest, or his designee, who shall serve as a nonvoting member.

(B) The Secretary of the Department of Environmental Resources of the Commonwealth of Pennsylvania, or his designee, who shall serve as chairman.

(C) 4 members appointed from recommendations submitted by the County Commissioners of Venango County, of which at least one shall be a riparian property owner along the Allegheny National Recreational River.

(D) One member appointed from a nonprofit conservation organization concerned with the protection of natural resources, from recommendations submitted by the Governor of the Commonwealth of Pennsylvania.

(2) Members appointed under subparagraphs (C) and (D) of paragraph (1) shall be appointed for terms of 3 years. A vacancy of the county representatives on the Council shall be filled in the manner in which the original appointment was made.

(3) Members of the Southern Advisory Council shall serve without pay as such and members who are full-time officers or employees of the United States shall receive no additional pay by reason of their service on the Commission. Each member shall be entitled to reimbursement for expenses reasonably incurred in carrying out their responsibilities under this Act.

(4) The Southern Advisory Council shall cease to exist 10 years after the date on which the Secretary approves the management plan for the Allegheny National Recreational River.

SEC. 3. ADMINISTRATION OF ALLEGHENY NATIONAL RECREATIONAL RIVER.

(a) Boundaries.—After consultation with the Commonwealth of Pennsylvania, advisory councils, local governments, and the public, and within 18 months after the enactment of this Act, the Secretary shall take such action with respect to the river segments designated by section 1 of this Act as is required under section 3(b) of the Wild and Scenic Rivers Act.

(b) Interim Measures.—As soon as practicable after the enactment of this Act, the Secretary shall issue interim land and water use control measures for the Allegheny National Recreational River to be developed and implemented by the appropriate officials, until final guidelines are developed and approved by the Secretary for such river. The interim land use measures shall have the objective of protecting the outstandingly remarkable values, as defined by the Secretary, of the Allegheny National Recreational River by recommending development guidelines for new commercial or industrial uses.

(c) Administration of Certain Segments.—(1) Land and mineral rights acquired by the Secretary for the purpose of managing the Allegheny National Recreational River segments located between Kinzua Dam and Alcorn Island shall be added to and become part of the Allegheny National Forest.

(2) Land and mineral rights acquired by the Secretary for the purpose of managing the Allegheny National Recreational River segment located between Franklin and Emlenton may be managed under a cooperative agreement with the Commonwealth of Pennsylvania.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. Thomas] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5402, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5402, introduced by Representative Bill Clinger, along with the entire Pennsylvania delegation, provides for the designation of certain segments of the Allegheny River in Pennsylvania as a component of the National Wild and Scenic Rivers System.

In the hearing on this measure before the Committee on Interior and Insular Affairs, all of the witnesses testified as to the resource values of the Allegheny River and the opportunities that exist to establish a Federal-State-local partnership for the preservation and use of the resource values found here. The U.S. Forest Service has studied the Allegheny River pursuant to the Wild and Scenic Rivers Act and found the river to be eligible and suitable for designation as a component of the National Wild and Scenic Rivers System. That recommendation has formed the basis for the development of H.R. 5402.

H.R. 5402 was amended by the Interior Committee to make a number of minor and technical changes to the bill as introduced. The changes were in large part based on the testimony we received from the U.S. Forest Service. The bill as amended, clears up several potential ambiguities that the Forest Service identified and conforms the language of the bill to our policies and practices for wild and scenic designations.

Mr. Speaker, I want to take this opportunity to point out the work of our colleague, Representative Peter Kostmayer, on this legislation. He has been an advocate and major catalyst for the bill. It is always important to have broad-based support on these conservation initiatives and I appreciate the work that has gone into developing this proposal. The Allegheny River contains significant resource values that are not only an asset to Pennsylvania but to the Nation as well.

I support H.R. 5402, as amended, and recommend its adoption by the House.

Mr. Speaker, I want to pay the highest compliments to the gentleman from Pennsylvania, Mr. Peter Kostmayer, who along with Congressman Clinger was the inspiration and catalyst behind getting this bill moving this year. Mr. Speaker, it is late in the year, but I know the tenacity with which the gentleman approaches these problems and I expect to see this on the President's desk before we leave.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. Kostmayer], a very able and valued member of the subcommittee.

Mr. KOSTMAYER. Mr. Speaker, I thank the gentleman very much.

Mr. Speaker, when I came to the Congress in 1976, Phillip Burton chaired this Subcommittee on National Parks and Public Lands. Before that, it was chaired by Roy Taylor from North Carolina, whom I did not serve with and did not know. When Congressman Burton died, Congressman John Seiberling of Ohio chaired the subcommittee. Then when he left, voluntarily, Congressman Vento became chairman of the subcommittee.

I do not know how many units have been added to the Park Service under Chairman Vento, but it may well be more than any other chairman has added.

He has been an extraordinary chairman. The only criticism I would have is that not enough of the units have been in Pennsylvania, and specifically in the Eighth Congressional District of Pennsylvania.

But he has helped us to designate portions of the Delaware River as wild and scenic, he has helped us to create the Delaware and Lehigh Canal, which flows through my district, as a national heritage corridor. These are important accomplishments for Pennsylvania, and that is why I serve on the committee and always will I hope.

Mr. Speaker, this bill concerns the Allegheny River, which is in Congressman Clinger's district in western Pennsylvania. The bill would designate 85 miles of the Allegheny River as wild and scenic. I held a hearing in western Pennsylvania last year as chairman of the Subcommittee on Oversight and Investigations of the Committee on Interior and Insular Affairs, to review the management of the Allegheny National Forest, and in the context of that hearing spent some time considering the river.

So Congressman Clinger and I have sponsored this bill. We have convinced every member of the Pennsylvania delegation to serve as cosponsors. It is noncontroversial, and I am pleased to support it so strongly.

Mr. Speaker, I especially want to thank the gentleman from Pennsylvania, my very good friend, Mr. Clinger, for his help and cooperation on initiating this legislation.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5402. I think the sponsors have covered the bill sufficiently. I just want to say that I want to commend the gentleman from Pennsylvania [Mr. Clinger] for the remarkable consensus he has achieved on this bill. As was pointed out, every member of the Pennsylvania House delegation has cosponsored the legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. Clinger].

Mr. CLINGER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise today in support of H.R. 5402, which will designate 85 miles of the Allegheny River in northwestern Pennsylvania as recreational under the Federal Wild and Scenic Rivers System.

Many people deserve thanks for helping bring this bill to the floor today. Most importantly, I want to thank the entire Pennsylvania delegation for supporting my bill and ensuring that the process of protecting this river would be bipartisan. Every single House Member from Pennsylvania signed onto H.R. 5402 as original cosponsors because they understand that this river is valuable recreational resource for the Commonwealth of Pennsylvania and deserves protection for both present and future generations to enjoy. And Mr. Speaker, I would expecially like to thank my colleague, Congressman Peter Kostmayer. Mr. Kostmayer provided invaluable help with this legislation and in seeing the bill through the House Interior Committee.

The Allegheny River flows through some of the most beautiful forests in America. Its soft rolling hills and majestic trees make a trip along the river truly inspirational and bring to mind the grandeur that makes up so much of America's wilderness.

This bill will formalize and continue the long tradition of recreation on the Allegheny River. For generations, people have used this waterway for fishing, canoeing, camping, and other recreational activities. This designation would endure that that tradition continues.

Of the 85 miles that would be designated, 30 percent cuts through the Allegheny National Forest, with the rest flowing through States and private lands. The national recreation river designation will also add additional protection to the many islands of the Allegheny River, including those designated as wilderness in the 1984 Pennsylvania Wilderness Act.

Because some of the lands are private, this bill sets up two citizen advisory councils to ensure a high level of input from private citizens and local governments. In fact, the local residents will have a major voice in drafting the management plan that will be prepared by the U.S. Forest Service. This plan will determine final boundaries and allow local citizens a large role in managing the river in the future.

The Allegheny River is a beautiful natural resource and this legislation will ensure that it receives protection as soon as possible.

I strongly urge all of my House colleagues to join the Pennsylvania delegation in supporting this important environmental legislation. We've crafted a good bill and it deserves to be enacted into law.

Additionally, I am very hopeful that the companion legislation Senator Heinz has introduced will be moving soon in the other body.

□ 1730

Mr. THOMAS of Wyoming. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I, too, have no futher requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Mazzoli). The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and pass the bill, H.R. 5402, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes.".

A motion to reconsider was laid on the table.

PROVIDING FOR THE CONVEYANCE OF LANDS TO CERTAIN INDIVIDUALS IN STONE COUNTY, AR

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2680) to provide for the conveyance of lands to certain individuals in Stone County, AR.

The Clerk read as follows:

S. 2680

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDING AND PURPOSE.

(a) Findings.—The Congress finds and declares that—

(1) certain landowners in Stone County, Arkansas, who own property adjacent to the Ozark National Forest have been adversely affected by certain erroneous surveys;

(2) these landowners have occupied or improved their property in good faith and in reliance on erroneous surveys of their properties that they believed were accurate; and

(3) the 1975 Bureau of Land Management dependent resurvey of the Ozark National Forest correctly established accurate boundaries between such forest and private lands.

(b) Purpose.—It is the purpose of this Act to authorize and direct the Secretary of Agriculture to convey, without consideration, certain lands in Stone County, Arkansas, to persons claiming to have been deprived of title to such lands.

SEC. 2. DEFINITIONS.

For the purposes of this Act the term—

(a) "affected lands" means those Federal lands located in the Ozark National Forest in Stone County, Arkansas, in section 1, 2, 3, 9, 10, 11, and 12, township 15 north, range 12 west, Fifth Principal Meridian, as described by the dependent resurvey by the Bureau of Land Management conducted in 1975, and subsequent Forest Service land line location surveys, including all adjacent parcels where the property, line as identified by the 1975 BLM dependent resurvey and National Forest boundary lines before such dependent resurvey are not coincident;

(b) "claimant" means an owner of real property in Stone County, Arkansas, located adjacent to the Ozark National Forest lands described in subsection (a), who claims to have been deprived by the United States of title to property as a result of previous erroneous surveys; and

(c) "Secretary" means the Secretary of Agriculture.

SEC. 3. CONVEYANCE OF LANDS.

Notwithstanding any other provision of law, the Secretary is authorized and directed to convey, without consideration, all right, title, and interest of the United States in and to affected lands as described in section 2(a), to any claimant or claimants, upon proper application from such claimant or claimants, as provided in section 4.

SEC. 4. TERMS AND CONDITIONS OF CONVEYANCE.

(a) Notification.—Not later than two years after the date of enactment of this Act, claimants shall notify the Secretary, through the Forest Supervisor of the Ozark National Forest, in writing of their claim to affected lands. Such claim shall be accompanied by—

(1) a description of the affected lands claimed;

(2) information relating to the claim of ownership of such lands; and

(3) such other information as the Secretary may require.

(b) Issuance of Deed.—(1) Upon a determination by the Secretary that issuance of a deed for affected lands is consistent with the purpose and requirements of this Act, the Secretary shall issue a quitclaim deed to such claimant for the parcel to be conveyed.

(2) Prior to the issuance of any such deed as provided in paragraph (1), the Secretary shall ensure that—

(A) the parcel or parcels to be conveyed have been surveyed in accordance with the Memorandum of Understanding between the Forest Service and the Bureau of Land Management, dated November 11, 1989; and

(B) all new property lines established by such surveys have been monumented and marked.

(3) The Federal Government shall be responsible for all surveys and property line markings necessary to implement this subsection.

(c) Notification to BLM.—The Secretary shall submit to the Secretary of the Interior an authenticated copy of each deed issued pursuant to this Act no later than thirty days after the date such deed is issued.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes and the gentleman from Wyoming [Mr. Thomas] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a noncontroversial bill dealing with title problems affecting about 25 landowners in Stone County, AR. This measure is sponsored by Representative Bill Alexander and Senator Bumpers.

The problem relates to some 50 acres of land in that county that was first surveyed by the General Land Office in 1829. At that time, the property lines were marked with wooden posts.

Early in this century, adjoining lands were brought into the National Forest System. In 1935, the Forest Service carried out a survey in this area. Not surprisingly, they were unable to find the original markers, and so relied on private survey boundaries that had been recorded in the official county records. In 1973, however, the Bureau of Land Management, successor to the General Land Office, carried out a dependent resurvey of the boundary of the Ozark National Forest near the community of Fifty-Six AR. In the course of this activity BLM found evidence of the original markers, which they used in the resurvey.

In 1989, the Forest Service used the 1973 BLM survey as the basis for marking final national forest boundaries, and informed a number of local property owners that these boundaries indicated that they were encroaching on national forest lands.

In many cases, of course, these local residents had occupied the encroaching property for many years, relying on the Forest Service 1935 boundary lines as being accurate. They had used the lands for residential or agricultural purposes and had paid taxes on it, and all parties had considered it theirs and treated it accordingly.

Under existing law, Mr. Speaker, the Forest Service has the authority to remove the cloud on the occupants' title, by selling the lands to them. But under the circumstances involved here, it seems appropriate for the United States to resolve the problem without requiring payment for the land.

This bill would authorize and direct the Secretary of Agriculture to transfer the lands in question to persons who can demonstrate that they own the adjacent lands and that their title has clouds arising from the 1973 resurvey and the Forest Service boundaries based on it.

At our hearing, the Forest Service testified in supprt of this legislation, and I know of no opposition to it. I believe that it deserves approval, and I urge its passage.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2680 introduced by Senator Bumpers, which would right a wrong done by the Federal Government many years ago.

As has been explained, this legislation is needed to eliminate a cloud over the title of about 25 properties in Arkansas. This problem occurred because of a faulty survey done by the Federal Government in 1935. When this surveying error was identified last year, the Forest Service identified several encroachments on Federal lands, totaling 48 acres. Local landowners, and their predecessors had lived, farmed, made improvements and paid property taxes on these lands for over 70 years. Through no fault of their own, they woke up one day to find that part of their land was actually owned by the Forest Service.

The Forest Service recognizes these private persons as the rightful owners of this land and the administration supports the bill which would clear their title.

Mr. Speaker, I urge my colleagues to support S. 2680.

Mr. ALEXANDER. Mr. Speaker, I rise in strong support of S. 2680, which conveys certain Federal lands to the residents of Fifty-Six, AR, and I thank the members of the Committee on Interior and Insular Affairs for their prompt consideration of this bill.

Both S. 2680 and H.R. 5629, an identical piece of legislation which I introduced, would fairly and equitably resolve a property dispute between the Ozark National Forest, under the protection of the U.S. Forest Service, and about 25 landowners in Stone County, AR. The total amount of property involved is approximately 50 acres.

The origins of this problem go all the way back to 1829. At that time, the Government Land Office conducted its initial survey of Stone County and marked property lines with wooden posts.

In 1935, the Forest Service carried out a second survey, but could not locate the original wooden markers. As a substitute, they relied on the boundaries long recognized by local citizens.

About 40 years later, the Bureau of Land Management [BLM] completed a resurvey of the boundary between the Ozark National Forest and a portion of the community of Fifty-Six.

During the 1973 resurvey, the BLM found evidence of the old wooden markers and redrew the boundary lines of the forest. The new lines included small portions of local resident's property in the tract belonging to the Forest Service. At that point, approximately 25 property owners were told that because they had relied on the erroneous survey in 1935, they were now encroaching on public lands owned by the United States.

Under the Small Tracts Act of 1983, the Federal Government can convey this land to the residents of Fifty-Six—but only if they pay for its full value.

Mr. Speaker, many of these people have lived on this property and improved it for years, trusting the property lines set by the Forest Service in 1935. Now the Government is telling them they have to buy back property they always thought was theirs.

The Forest Service agrees that this is not fair to the people living in Fifty-Six. They believe the land should be transferred without consideration.

This legislation will give them the authority to convey property to claimants who own property adjacent to the Forest Service lands and who have been affected by the adoption of the new property lines.

The total value of the property is approximately $8,000. Compared to the sums we usually consider, it is a small amount. But to the people of Stone County, nothing else is more important right now.

I urge your favorable consideration of this legislation to provide fair treatment for Fifty-Six, AR.

Mr. THOMAS of Wyoming. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and pass the Senate bill, S. 2680.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

SUDBURY, ASSABET, AND CONCORD WILD AND SCENIC RIVER STUDY ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4227) to designate segments of the Sudbury, Assabet, and Concord Rivers as a study area for inclusion in the national wild and scenic rivers system, as amended.

The Clerk read as follows:

H.R. 4227

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sudbury, Assabet, and Concord Wild and Scenic River Study Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) The Sudbury, Assabet, and Concord Rivers in the Commonwealth of Massachusetts possess resource values of national significance, including outstanding wildlife and ecological values, historic sites, and a cultural past important to America's literary heritage.

(2) Portions of this study segment have been listed on the Nationwide Rivers Inventory by the National Park Service;

(3) There is strong support among State and local officials and area residents and river users for a cooperative wild and scenic river study of the area.

(4) In view of the longstanding Federal practice of assisting States and local governments in protecting, conserving, and enhancing rivers of national significance, the United States has an interest in assisting the Commonwealth of Massachusetts and the appropriate local governments in studying and developing a resource conservation and management plan for the river, consistent with the Wild and Scenic Rivers Act.

SEC. 3. WILD AND SCENIC RIVER STUDY.

(a) Listing for Study.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding the following new paragraph at the end thereof:

"( ) Sudbury, Assabet, and Concord, Massachusetts.—The segment of the Sudbury from the Danforth Street Bridge in the town of Framingham, to its confluence with the Assabet, the Assabet from 1,000 feet downstream of the Damon Mill Dam in Concord to its confluence with the Sudbury and the Concord from the confluence of the Sudbury and Assabet downstream to the Route 3 Bridge in the town of Billerica. The study of such river segments shall be completed and the report submitted thereon not later than at the end of the third fiscal year beginning after the date of enactment of this paragraph.".

SEC. 4. ADVISORY COMMITTEE.

(a) Appointment.—At the earliest practicable date following the enactment of this act, but not later than forty-five days after enactment, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall establish the Sudbury, Assabet, and Concord Rivers Study Committee (hereinafter referred to as the "Committee"). The Secretary shall consult with the Committee on a regular basis during the conduct of the study required by section 3 of this Act (hereafter "the study") and the preparation and submission, pursuant to section 4 of the Wild and Scenic Rivers Act, of a report with respect to the river segments covered by the study.

(b) Membership and Procedures.—

(1) Membership on the Committee shall consist of 13 members appointed by the Secretary as follows:

(A) One member shall be appointed by the Secretary from the Fish and Wildlife Service.

(B) Two members shall be appointed by the Secretary from a list of candidates supplied to the Secretary by the Governor of the Commonwealth of Massachusetts.

(C) One member shall be appointed by the Secretary from a list of candidates supplied to the Secretary by the Sudbury Valley Trustees.

(D) One member shall be appointed by the Secretary from a list of candidates supplied to the Secretary by the Organization for the Assabet River.

(E) One member each shall be appointed by the Secretary fom lists of candidates supplied to the Secretary by the Board of Selectmen or equivalent local governing body of each of the eight towns located within the area covered by the study.

(2) The members of the Committee shall elect a chairman, vice chairman, and recording secretary from the membership at the first official meeting of the Committee. Official minutes shall be kept of each regular and special meeting of the Committee and shall be open for public inspection.

(3) Any vacancy on the Committee shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Vacancies in the membership of the Committee shall not affect its power to function if there remain sufficient members to constitute a quorum under paragraph (4) of this subsection.

(4) A majority of the members of the Committee shall constitute a quorum for all meetings.

(5) The Committee shall advise the Secretary in conducting the study and concerning management alternatives should some or all of the river segments studied be included in the national wild and scenic rivers system.

(6) Members of the Committee shall serve without compensation but may be reimbursed by the Secretary for reasonable and necessary expenses incurred by them in the performance of their duties as members of the Committee.

(7) The Committee may accept and utilize the services of voluntary, uncompensated personnel.

(8) The Committee shall terminate upon the submission to the President, pursuant to section 4 of the Wild and Scenic Rivers Act, of the report with respect to the river segments covered by the study.

SEC. 5. AUTHORIZATION.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. Thomas] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4227.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4227, authored by the gentleman from Massachusetts [Mr. Atkins], would provide for study under the Wild and Scenic Rivers Act of segments of the Sudbury, Assabet, and Concord Rivers in that State, covering about 29 miles in all.

As was made clear at our hearing, these river segments possess very important natural, environmental, and other resources that deserve protection.

Also, because of their rich history, these rivers are among the most significant historical areas that could be studied for inclusion in the National Rivers System. In addition to Concord being the location of the "shot heard around the world," at the start of the American Revolution, these rivers

were frequented by Hawthorne and Thoreau and have played a role in the intellectual development of the Nation.

Mr. Speaker, some concerns were expressed about the bill as introduced, but our committee has made revisions that address these in a manner that I believe is appropriate and satisfactory to all parties. The result is a bill that would provide for a study involving consultation and cooperation with local officials, residents, and groups.

I believe this bill deserves the approval of the House, and I urge its passage.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Massachusetts [Mr. Atkins], the author of this measure.

Mr. ATKINS. Mr. Speaker, it is with great pleasure that I rise today in support of H.R. 4227, the Sudbury, Assabet and Concord Wild and Scenic River Study Act.

For close to 3 years now, I have been working with concerned citizens in eight Massachusetts towns to identify the best means for protecting and preserving the Sudbury, Assabet and Concord Rivers. During that time, my staff and I have held numerous meetings with representatives from the National Park Service, town officials, and concerned citizens to discuss the nature of the Wild and Scenic Rivers Program and the pros and cons of proceeding with a study bill. We eventually came to the unanimous conclusion that this beautiful and historic river basin merits the type of multi-interest and inter-town coordination that only a wild and scenic river study and its resultant river conservation plan can provide.

H.R. 4227 provides for a Park Service study of three river segments that form a 29-mile Y-shaped portion of the SuAsCo river basin. The natural, recreational and historical values possessed by these segments rivals those of any river basin in the world. For example, in 1775, "the shot heard 'round the world" was fired in the Concord River basin to launch the American Revolution. In addition, some of our greatest literary heroes, such as Henry David Thoreau, Nathaniel Hawthorne, and Ralph Waldo Emerson traversed these rivers and lent their pens to the effort to describe their beauty. This beauty, for the most part, has been preserved intact, as any canoeist who has paddled through the broad meadows of the Sudbury or observed the waterfowl in the Great Meadows National Wildlife Refuge along the Concord can attest.

Emerson wrote that when canoeing on these rivers, "with one stroke of the paddle I leave the village politics and personalities, yes and the world of villages and personalities behind." Today, 100 years later, these rivers provide the same means of escape for thousands of urban and suburban dwellers, but that may not be the case much longer. Serious water shortages are forecast for the greater Boston area in the next decade, and State planners have listed diversion of the Sudbury as a possible option for meeting the region's water needs. I believe that option makes absolutely no sense, as lowered flow on the Sudbury would affect wells along the river and destroy the marshes that are crucial to the wildlife that inhabits the Great Meadows Refuge. Perhaps even worse, diversion would destroy the floodplain vegetation where cattle first grazed in the 1630's.

Encroaching development poses another threat to the watershed's ecological health. Extensive construction along the banks would ravage the rivers' historical and scenic values and harm the rivers' ecosystem if the banks are altered or pollutants seep into the watershed. Public and private land protection efforts have succeeded in preserving the river corridors only in a scattered fashion to date, and it is clear that coordinated planning involving each of the communities through which these rivers flow is necessary to keep such development in check.

Because of the unique location of these rivers in a developed suburban setting, however, it is also essential for local residents to be involved in the study process and given the opportunity to have their views and concerns heard. As a result, H.R. 4227 sets up a 13-member advisory committee which would include a representative from each of the 8 towns involved. The National Park Service, which will conduct the study, is instructed by the committee report to work closely with this advisory committee during the course of the study.

I am also pleased to note that the committee report contains language to address two special concerns raised by the town of Concord and the town of Bedford. The first has to do with land acquisition, and it was prompted by some unfortunate experiences that some area residents have had with Federal condemnation related to Minuteman National Park. This issue is clearly addressed in the committee report, which states that "acquisition of land or interests in land by the Federal Government should not be necessary to protect the scenic rivers system" should they be designated as components of the wild and scenic rivers system. Based on the needs of the local communities and discussions I have had with local Park Service staff, this has been my belief all along.

The other important concern has to do with the effects of designation on the possible future use of these rivers to bolster water supplies or receive increased discharges from existing wastewater treatment facilities. This concern is also fully addressed by the committee report, which instructs the Park Service to provide an analysis of future uses of the rivers for the water supply or wastewater needs of the towns. This analysis will give the towns all the information they need on how designation might impact their water supply and wastewater options so that future planning to protect the rivers can proceed in a sensible fashion.

Mr. Speaker, I would like to extend my deep appreciation and congratulations to the numerous town officials and concerned citizens who have taken part in the planning and negotiations that have preceded consideration of this legislation on the floor today. I would also note with great sadness that the man who was instrumental in bringing this legislation from the idea stage to fruition is not with us to share this moment. Allen Morgan, who devoted his life to conservation as founder of the Sudbury Valley Trustees, passed away last May at the age of 64. Allen's tireless work and convincing arguments were perhaps the most crucial factor in developing the overwhelming consensus for this legislation that we have today. Passage of this legislation will be our lasting memorial to him.

In closing, let me reiterate that a Wild and Scenic Rivers study is necessary to generate the type of comprehensive planning that is crucial to the protection and preservation of this special river basin. The eight towns who would be affected by the bill have all expressed their official support, and the National Park Service has declared that these rivers merit a wild and scenic study. I hope that upon considering the historical, scenic, and ecological attributes of the Sudbury, Assabet, and Concord Rivers, my colleagues will feel likewise. I request your support for this legislation so that the effort to preserve these national treasures can begin in earnest.

□ 1740

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4227, to conduct a suitability study of the Sudbury, Assabet, and Concord Rivers for designation under the Wild and Scenic Rivers Act.

As introduced, this bill raised a number of questions which led to opposition of the measure by the administration. Specifically, it was not clear whether proponents of the original measure wanted consideration of these rivers under the Wild and Scenic Rivers Act or simply wanted technical assistance to develop local river management plans.

This version of the bill does resolve all of the concerns raised by the administration by following the normal river study procedures, although the extent to which the local persons have agreed to this approach is not clear. Since the U.S. Fish and Wildlife Service already manages 40 percent of the lands along these river corridors, it is important that they remain very actively involved in both the study process and in any recommendations for future management actions which are developed.

I encourage Members to join me in supporting this measure.

Mr. MARKEY. Mr. Speaker, the bill before us today, H.R. 4227, the Sudbury, Assabet and Concord River Study Act, represents an opportunity to protect one of the most historic watersheds in the United States of America. I would like to thank Chairman VENTO and Representative ATKINS for their tireless work on the legislation as well as their patience and persistence in considering and incorporating solutions to accommodate such concerns before moving forward with the bill in an effort to preserve these historic and scenic river segments.

Representative ATKINS and I represent the watershed areas affected by H.R. 4227, the Sudbury, Assabet and Concord Wild and Scenic River Study Act. We have worked for 2½ years on this legislation and waited for each of the eight towns affected by the bill—Framingham, Wayland, Sudbury, Lincoln, Concord, Bedford, Carlisle, and Billerica—to support the study in town meetings before actually introducing it.

Recently, we have witnessed the dawning of a new decade of environmental consciousness. Through the nationwide participation in the celebration of the anniversary of Earth Day to progress on the Clean Air Act in Congress, this transformation in awareness and attitude is more and more evident.

It was in a similar stage of environmental awareness that we passed the National Wild and Scenic River Act in 1968. Its primary purpose is to keep selected rivers in a free-flowing, undammed state. Six segments of the Sudbury, Assabet and Concord Rivers have been identified by the Park Service as having the attributes necessary for wild and scenic designation. In addition to their breathtaking beauty, these picturesque rivers should qualify because they have helped shape the flow of history and literature as well.

The unique characteristics of the Sudbury, Assabet and Concord Rivers have been documented in many of the works of our great early novelists and essayists including Emerson, Thoreau, and Hawthorne. Thoreau loved and devoted a great deal of time to studying the woods and rivers and ponds around Concord, MA, and in Thoreau there is practically every idea that later became gospel to the environmental movement. Hawthorne wrote of the Assabet, "A more lovely stream than this, for a mile above its junction with the Concord has never flowed on the Earth."

Emerson, too, documented the area in such a way that it would be forever placed and remembered in American history. Emerson wrote the following words about the Battles of Lexington and Concord, Cradles of Liberty, "By the Rude Bridge that arched the flood,/ their flag to April's breeze unfurled,/ here once the embattled farmers stood/ and fired the shot heard round the world." The rivers we are proposing now to protect flow under that Rude Bridge.

No Massachusetts River has ever won a wild and scenic designation. As a site which has become a symbol for our Nation's fight for freedom and independence, certainly this watershed deserves to remain free-flowing.

I am aware of some of the concerns which have been voiced regarding this legislation. I believe, however, that these problems have been ironed out and that the public interest has been met through this compromise. I urge my colleagues to support this bill.

Mr. THOMAS of Wyoming. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4277, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

WEIR FARM NATIONAL HISTORIC SITE ESTABLISHMENT ACT OF 1990

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2059) to establish the Weir Farm National Historic Site in the State of Connecticut, as amended.

The Clerk read as follows:

S. 2059

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Weir Farm National Historic Site Establishment Act of 1990".

SEC. 2. DEFINITIONS.

As used in this Act—

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "historic site" means the Weir Farm National Historic Site established in section 4.

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the Weir Farm in Connecticut is listed on the National Register of Historic Places as a historic site associated with major American artists and several artistic developments;

(2) the Weir Farm, acquired in 1882 by J. Alden Weir, a founder and principal exponent of American Impressionism, has been continuously occupied by working artists and their families who have maintained its significance and integrity as a historic site; and

(3) the Weir Farm, including the house, barns, studios, pond, field, and woods thereon, and the approximately 113 acres of adjacent natural areas owned by the Nature Conservancy and the Town of Ridgefield, Connecticut, provide opportunities for illustrating and interpreting cultural themes of our Nation's heritage and provide opportunities for public use and enjoyment.

(b) PURPOSES.—The purposes of this Act are—

(1) to preserve a significant site of the tradition of American Impressionism;

(2) to maintain the integrity of a setting that inspired artistic expression and encourages public enjoyment; and

(3) to offer opportunities for the inspirational benefit and education of the American people.

SEC. 4. ESTABLISHMENT OF WEIR FARM NATIONAL HISTORIC SITE.

(a) IN GENERAL.—There is established, as a unit of the National Park System, the Weir Farm National Historic Site in the State of Connecticut.

(b) DESCRIPTION.—The historic site shall consist of—

(1) the approximately 2-acre core parcel containing the Weir house, studio, and barn; and

(2) the approximately 60 acres and improvements thereon owned by the State of Connecticut;

both as generally depicted on a map entitled "Land Ownership Map, Weir Farm Historic Site", Figure 5, dated October 1989, as contained in the National Park Service Weir Farm Suitability/Feasibility Study, February, 1990. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

SEC. 5. ACQUISITION OF REAL AND PERSONAL PROPERTY AND SERVICES.

(a) REAL AND PERSONAL PROPERTY.—The Secretary is authorized to acquire by donation, exchange, or purchase with donated or appropriated funds, the lands and improvements within the boundaries of the historic site, except that any such lands and improvements owned by the State of Connecticut may be acquired only by donation. The Secretary may also acquire by the same methods personal property associated with, and appropriate for, the interpretation of the historic site: Provided, that the Secretary may acquire works of art associated with the Weir family, J. Alden Weir, and other artists who lived at or visited the site only by donation or purchase with donated funds.

(b) OTHER PROPERTY, FUNDS, AND SERVICES.—The Secretary is authorized to accept and use donated funds, property, and services to carry out this Act.

SEC. 6. ADMINISTRATION OF HISTORIC SITE.

(a) IN GENERAL.—The Secretary shall administer the historic site in accordance with this Act and the laws generally applicable to units of the National Park Systems, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.), and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national historic significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.), except that the Secretary shall take no action with respect to the 60 acres owned by the State of Connecticut within the boundaries of the historic site until such time as the State has transferred all right, title, and interests therein to the Secretary.

(b) COOPERATIVE AGREEMENTS.—(1) The Secretary may consult and enter into cooperative agreements with the Weir Farm Heritage Trust, the State of Connecticut, the American Academy of Arts and Letters, and other organizations and groups in the development, presentation and funding of art exhibits, resident artist programs, and other appropriate activities related to the preservation, development, and use of the historic site.

(2) The Secretary may consult and enter into cooperative agreements with the Nature Conservancy and the towns of Ridgefield and Wilton for the purpose of coordinating activities on the historic site with activities on the Nature Conservancy's Weir Preserve and lands adjoining the historic site owned by the towns.

(c) EXHIBITS.—The Secretary may display, and accept for the purpose of display, works of art associated with J. Alden Weir, the Weir Farm, and the American Impressionist movement, as may be necessary for the interpretation of the historic site.

(d) GENERAL MANAGEMENT PLAN.—Within 2 complete fiscal years after the date of the enactment of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a general management plan for the historic site. The plan shall be prepared in accordance with section 12(b) of the Act of August 18, 1970 (16 U.S.C. a-1 through 1a-7) and other applicable law.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as my be necessary to carry out the purposes of this Act, except that not more than $1,500,000 may be appropriated for the acquisition of real and personal property.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on S. 2059, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2059, which passed the Senate on June 14, 1990, establishes the J. Alden Weir farm in the State of Connecticut as a national historic site. The legislation is similar to H.R. 4112, which was introduced by our colleague, SAM GEJDENSON, with the cosponsorship of the entire Connecticut delegation.

The J. Alden Weir farm was the home and studio of a late 19th century artist prominent in American impressionism. At present, the Weir home, studio, and outbuildings are owned by the Trust for Public Lands, with the State of Connecticut owning the surrounding 60 acres.

In hearings before the Committee on Interior and Insular Affairs, we received testimony from several Members of Congress, the administration, and public witnesses concerning the resource values of the site and its potential for addition to the National Park System.

The one outstanding issue remaining from the committee's hearing was regarding the intentions of the State of Connecticut concerning the property it owns within the boundary of the proposed historic site. Concern had been expressed about some of the ambiguities in the bill regarding ownership and management of the State's lands. This matter was subsequently resolved and the legislation before the House today incorporates the necessary changes.

Our normal policy on State lands with a national park unit is to have the State involved donate its land. S. 2059, as amended, retains this policy with the proviso that no action regarding the management or interpretation of the State's lands can be taken by the Secretary of the Interior until such time as the State donates its lands. Obviously, this provision is intended to be an incentive to the State to make such a donation and, based on the discussions that have taken place on this matter, that will in all likelihood be its effect.

Mr. Speaker, I believe it is appropriate to proceed with the designation of the Weir farm as a national historic site. Our colleague SAM GEJDENSON and others have made a strong case for this legislation. I would point out though that I am concerned as I know others are, with the potential proliferation of other artist sites seeking such designation. In February 1989 I wrote the National Park Service requesting that the Service undertake a comprehensive assessment of the criteria and factors considered in reviewing properties associated with American artists for potential addition to the National Park System. The National Park Service has stated they will complete a theme study of American painters. The information gathered from such a study should prove useful in helping develop information by which we can review these particular sites in the future.

The need for additional study of other potential historic artist sites should not detract from the merits of S. 2059. The legislation, as amended, has my support and I recommend its adoption by the House.

Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, I would like to express my strong support for S. 2059, legislation to establish the Weir farm in the State of Connecticut as a national historic site. I would also like to express my thanks to Chairman VENTO and the staff of the Subcommittee on Parks and Public Lands for their hard work in getting this legislation through the committee and for working to find an excellent compromise that we can all support.

By establishing the J. Alden Weir farm in Wilton and Ridgefield, CT as a national historic site, we can preserve and protect one of the most important cultural and environmental sites in the State of Connecticut and the Nation.

As you may know, J. Alden Weir is considered to have been the leader of the American impressionist movement. As such, the Weir farm served as the home and studio to most of the great American impressionist painters of the late 19th and early 20th centuries John Twachtman, Albert Pinkham Ryder, Mahonri Young, grandson of Brigham Young, whose most famous work, "This is the Place" monument was cast at the Weir farm. Others came to the Weir farm to perfect their craft and interpret the beautiful New England landscapes for the world to enjoy. These great artists truly captured the beauty of the landscapes. By painting at Weir farm, these artists have helped us to realize a greater appreciation for the beauty of the environment in which we live. By approving this legislation, we have the opportunity to encourage others, both enthusiasts and those without an appreciation of art, to understand and to gain a greater appreciation of the American impressionist movement.

Mr. Speaker, earlier this year, I had the opportunity to visit the Weir farm and view some of the paintings that were done there. What struck me most, and what I hope others can envision when they visit this site, is how little it has changed since Weir and others painted there. Upon arriving onto the property, a visitor feels as if he is stepping back in time and can envision exactly what these artists were interpreting. One senses a greater appreciation and understanding of the works that were done there and what they were seeing and why they were expressing it through their art. By designating this site, we are sharing that experience with everyone, not just art enthusiasts but with people from all over the country and the world, who should be able to view this site in its historic character.

Designating the Weir farm as a national historic site would establish the first national park in the State of Connecticut. But while considering this bill, that fact, by itself, is not reason enough for us to approve this legislation. We must look further.

First, the National Park Service through its North Atlantic Regiona

Office, completed a feasibility study on the Weir farm. Though the study did not specifically recommend Federal designation as the only option, it did attest to the artistic and historical importance of the site, of Weir, and of those who painted there. In the study, they also compared the Weir farm site to the homes of other American artists and determined that the Weir farm is the only such site that meets all of the National Park Service's criteria for designation.

Second, as a testament to the artistic importance of the site, I have received letters from curators and art directors of many major museums of the Nation including the Metropolitan Museum of Art in New York, the National Gallery, the Phillips Collection, the Denver Museum of Art, the Indianapolis Museum of Art, and the Philadelphia Academy of Fine Arts, all testifying to the importance of both Weir and his home to the development of the American impressionist movement.

What we must also understand, Mr. Chairman, is that protection of the Weir farm is not just the whim of a few art lovers, nor was it conceived in a vacuum. Six years ago, the concerns of Sperry and Doris Andrews, the current artists in residence of the Weir farm and the descendants of Mr. Weir, initiated a local campaign to save Weir farm from development. Subsequently, the Trust for Public Land worked with the families and the local community to purchase as much of the original Weir farm as possible. At the same time, the Weir Farm Heritage Trust was formed by local residents, local town officials, State legislators, conservationists, and appreciators of art to raise money for the protection of the farm and to manage it until the National Park Service, with its technical assistance and experience, could become involved. In 1984, the Weir farm was listed on the National Register of Historic Places.

Mr. Speaker, this legislation does not call for a unilateral action by the National Park Service. Preservation of Weir farm is supported at every level of government and the private sector. This support is more than just rhetorical, it is financial as well. The State of Connecticut spent $4.25 million to purchase 60 acres of the original Weir farm, which is the single largest land acquisition for preservation approved by the State general assembly in history. The town of Ridgefield has actively supported preservation of this site and has purchased adjacent lands to the Weir farm on its own. The Trust for Public Lands, which currently owns the site, has made a commitment to work with the Park Service. The adjacent Weir preserve, owned by the Nature Conservancy, will be an important component of the Weir farm. And finally, the Weir Farm Heritage Trust has committed itself to raising money for the purchase of paintings and to working with the Park Service to develop educational and other programs to help visitors understand and interpret the sites. Altogether, between the different State and local government entities and the private conributions of land, the protected site at Weir farm covers close to 175 contiguous acres. For a small urban State like Connecticut, which has limited available lands and extremely high real estate prices, this cooperation, along with the 2 acres to be purchased by the Park Service, is a significant achievement.

During the course of the past year, Senator LIEBERMAN of Connecticut introduced this bill in the Senate and I, along with the rest of the Connecticut delegation, introduced a companion bill in the House. Hearings were held in the Energy and Natural Resources Committee of the Senate and in Interior and Insular Affairs Subcommittee on National Parks and Public Lands Subcommittee. During those hearings, we heard the objections of the Park Service and the concerns of some of our colleagues. As we went through the bill, we worked to address those concerns and compromised along the way. We attempted to clarify the State's role in ownership of the land by requiring the State of Connecticut, which owns 60 acres of the Weir farm, to donate that land for the entire site to become an operational national historic site. To address the concerns of some, that this legislation allows for unlimited spending for works of art and other real property, the legislation was amended to specifically limit the appropriations to no more than $1,500,000 for land acquisition and for the acquisition of real property, under the bill that we are considering today, appropriated funds cannot be used to purchase works of art.

To our western colleagues, with thousand-acre National Park units in their States, the Weir farm does not seem like much. This legislation calls for a 2-acre acquisition. But in a small urban State, like Connecticut, this legislation will assist the State, the local community, and others in protecting, managing, and interpreting a unique piece of our Nation's cultural history.

Mr. Speaker, with this legislation, we have the opportunity to put the crucial piece of the puzzle in place. We can join in a Federal, State, local, and private partnership with each making a significant contribution toward protecting this important natural and cultural resource. Acquisition of this small parcel of land will provide an opportunity to protect and preserve an important part of our Nation's cultural heritage.

Again, I, would like to take this opportunity to commend the chairman of the subcommittee, Mr. VENTO, Mr. LAGOMARSINO, and the subcommittee staff for working with me, others in the Connecticut delegation, and the State of Connecticut, to bring this bill to the floor. Through a bipartisan effort, we have put together an excellent bill that we can all support.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2059, a bill to establish the Weir Farm National Historic Site. At the outset, I must commend both Mr. VENTO and the authors of this legislation for developing a measure which in and of itself is realistic and workable. However, I would be remiss in not highlighting my concerns about this bill.

I share the concerns of National Park Service Director Ridenour on this bill which were outlined in the administration testimony and in a letter he sent to me dated May 10, 1990. In his letter, he stated that he believes an American artist theme study should precede designation of a site dedicated to a specific painter. This is logical, since we can only anticipate that a handful of sites associated with painters will ever be added to the park system. With this bill, we are surely opening the door to pressure from other Members who have sites in their districts associated with artists who are "more important than Weir." I suggest we even go a step further, and before investigating which artist residences should be included in the National Park System to ask, should we include artist residents in the National Park System at all? If so, what are the criteria for determining whether we should include those residences?

The bill before us makes many important changes to the introduced bill. It requires the State of Connecticut to donate its lands to the Federal Government in order to facilitate improved site management. It also makes it clear that the National Park Service should not get into the art gallery business. While I certainly support providing the National Park Service the opportunity to acquire art which is essential for the interpretation of the site, I remain opposed to directing the National Park Service to construct and operate an art gallery. This is an expensive and inappropriate role for the National Park Service and I am pleased that this bill makes that position clear.

Mr. Speaker, with these changes, I urge Members to join me in supporting this bill.

Mrs. KENNELLY. Mr. Speaker, I rise in strong support of S. 2059, a bill which would establish the Weir Farm National Historic Site in the State of Connecticut. Connecticut may be a small State, but it certainly has many great treasures. Today I wish to reaffirm my support for legislation which would make one of those treasures—the J. Alden Weir Farm of

Wilton and Ridgefield, CT—a national historic site.

Weir Farm is more than just a beautiful estate. Since its acquisition by artist J. Alden Weir in 1882, Weir Farm has served as both a retreat and inspiration for great American artists. With over 200 acres of meadows, woodlands and wetlands, the Farm's landscapes and pastoral setting have inspired many wonderful works, including those of its owner, J. Alden Weir, considered by many to be the leader of the American impressionist movement.

At Weir Farm, every rock, tree, field, barn and house on the land has been recorded and explored in paintings. They offer a glimpse of the beauty of the land at the turn of the century—and they remind us of the importance of preserving that land for the enjoyment of generations ahead.

Weir Farm has also become the gathering place for some of the best American artists of the era, including Childe Hassam, J.H. Twachtman, and Albert Pinkham Ryder. Following Weir's death in 1919, his son-in-law Mahonri Mackintosh Young—a grandson of Brigham Young and a gifted artist in his own right—sculpted many of his finest works at the farm, including monuments to the Mormon tradition now installed in Salt Lake City and throughout Utah. Many of Young's works have been left in the house at Weir Farm. Today, artists Sperry and Doris Andrews live and work at Weir Farm, making them third consecutive American artists to have occupied and cared for Weir Farm since Mr. Weir first acquired this property.

I commend those who have worked to preserve the farm thus far. Trust for Public Land, cooperating with the Andrews family and descendants of Mr. Weir and Mr. Young, bought back what they could of the original property. Simultaneously, the Weir Farm Heritage Trust was formed by local residents, selectmen, State legislators, conservationists, and art enthusiasts to raise money for the protection of the farm and to manage it until the Park Service could participate.

In 1984 Weir Farm was listed on the National Register of Historic Places. The Connecticut State Legislature voted just this past year to bond $4.25 million to purchase the 60 acres of the original Weir Farm. In addition, a coalition of 20 national conservation groups issued a feasibility study calling on Congress to fund land acquisition at Weir Farm. It is now time for the Federal Government to do its part, to ensure that Weir Farm is preserved for all to visit and enjoy.

As Connecticut's first national historic site paying tribute to an American painter, Weir Farm will enhance public awareness and appreciation of history, the arts and the environment.

Mr. SHAYS. Mr. Speaker, I strongly support legislation introduced by my colleagues from Connecticut, Senator JOSEPH LIEBERMAN and Congressman SAM GEDJENSON, to establish the first national park in Connecticut. The park will be dedicated to J. Alden Weir, one of the leading painters in the American impressionist movement.

With their dashes of paint and loose brushwork, Weir and other American impressionist painters beautifully captured the New England landscape. He and his contemporaries recorded Weir Farm through the various seasons. They painted their surroundings—rocks, trees, streams, Weir's house and barn during winter, spring, summer, and fall—with an intimacy that captured an almost transcendental appreciation for the landscape and wilderness.

This legislation will authorize up to $1.5 million to purchase a 2-acre parcel of land where Weir lived and painted. The acquisition will include his house, barn, and studios, with Weir's original furnishings intact. The State of Connecticut has already agreed to provide $4.25 million to purchase 60 acres of the original farm, which will preserve some precious open space in our State.

I urge my colleagues to support this legislation as a wonderful tribute to American impressionism. It will preserve for our children and our children's children a lovely New England landscape to be enjoyed both for its natural beauty and its artistic heritage.

Mr. ROWLAND of Connecticut. Mr. Speaker, I am pleased to offer my support today to S. 2059, a bill to designate the J. Alden Weir Farm in the State of Connecticut as a unit of the National Park System. As a strong proponent of this initiative, I am pleased to have joined the Members of Connecticut's congressional delegation in introducing this important measure.

The J. Alden Weir Farm—located in the Wilton and Ridgefield area of my district in Connecticut—has received tremendous support from conservationists and local residents to have this area included in the National Park Service system. J. Alden Weir was one of the founders of the American Impressionist movement in painting. The farm, which was originally obtained by Mr. Weir in a trade for a work of art, was the site on which hundreds of landscape and rural life scenes were painted. Located approximately 45 miles from New York City, the farm has been continuously occupied by working artists and their families since 1882. Barely altered since Weir's tenure, it is a landscape of rolling hills with fields buffered from the surrounding suburban area by a hardwood forest.

Last year, the State of Connecticut approved the purchase of 60 acres included in the original Weir Farm. With the adjacent Weir Preserve owned by the Nature Conservancy, a national land stewardship organization, and a sizable open space tract owned by the town of Ridgefield, close to 175 contiguous acres are now protected. In addition, the National Park Service's North Atlantic Region office has undertaken a favorable feasibility study assessing the suitability of including Weir Farm in the National Park System. This study included a site survey of all the other sites associated with the American Impressionist movement and found that Weir Farm is the only site that met all of the criteria necessary for inclusion in the Park Service.

In closing, I would like to reiterate my strong support for this measure. I believe that S. 2059 offers an excellent opportunity for Congress to ensure the preservation of an historic site that has received much support already on the State and local level. I urge my colleagues to join in supporting the inclusion of the Weir Farm in the National Park Service System by adopting this important legislation.

Mr. MORRISON of Connecticut. Mr. Speaker, I rise today in support of S. 2059, which creates the Weir Farm National Historic Site This bill, sponsored in the House by my frienc from Connecticut, SAM GEJDENSON, has grea significance to our home State. The Wei Farm National Historic Site would be the firs facility of its kind in Connecticut.

The Weir Farm is a prime example of the diverse natural beauty and heritage that make Connecticut unique. The farm's namesake, impressionist painter J. Alton Weir, was so inspired by this setting that he lived and paintec there for 38 years. Preserving this masterpiece of nature, under the management of the National Park Service, will ensure that al Americans have the opportunity to visit anc see for themselves what it was that moved J Alton Weir.

In addition to commending Mr. GEJDENSO for introducing his bill, I would like to than Mr. UDALL, chairman of the Interior Committee, and Mr. VENTO, chairman of the Interio Subcommittee on National Parks and Publi Lands, for their support in bringing this bill t the floor.

Mr. THOMAS of Wyoming. Mr Speaker, I have no further request for time, and I yield back the balanc of my time.

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Mr. VENTO. Mr. Speaker, I believ this is an important issue.

Mr. Speaker, I have no further requests for time, and I yield back th balance of my time.

The SPEAKER pro tempore (Mi MAZZOLI). The question is on th motion offered by the gentleman fron Minnesota [Mr. VENTO] that th House suspend the rules and pass th Senate bill, S. 2059, as amended.

The question was taken; and (twc thirds having voted in favor thereo the rules were suspended and th Senate bill, as amended, was passed.

A motion to reconsider was laid o the table.

BACA LOCATION NUMBER ONE ACT OF 1990

Mr. VENTO. Mr. Speaker, I move t suspend the rules and pass the bi (H.R. 4630) to exchange certain lanc in the State of New Mexico, and fc other purposes, as amended.

The Clerk read as follows:

H.R. 4630

Be it enacted by the Senate and House Representatives of the United States America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Baca Loc tion Number One Act of 1990".

SEC. 2. PURPOSES AND DEFINITIONS.

(a) PURPOSES.—The purposes of this A are—

(1) to authorize the Secretary to acqui by purchase, donation, or exchange certa lands in the State of New Mexico to added to the Santa Fe National Forest.

(2) to compensate Dunigan Enterprises for costs incurred as a result of Federal actions; and

(3) to provide for a study of the possible Federal protection of certain lands in New Mexico.

(b) DEFINITIONS.—For the purposes of this Act:

(1) The term "Dunigan Enterprises" means Dunigan Enterprises, Incorporated, a Texas corporation, and BL&C Co. and BL&C Co. No. 2, Texas partnerships.

(2) The term "Secretary" means the Secretary of Agriculture.

SEC. 3. LAND ACQUISITION.

(a) The Secretary is authorized to acquire through purchase, donation or exchange the lands described in subsection (b) which total approximately 36 acres. The lands shall become part of the Santa Fe National Forest and shall be administered by the Secretary pursuant to laws applicable to the Santa Fe National Forest. Such sums as may be necessary to acquire these lands are authorized to be appropriated.

(b) Description of Lands: New Mexico Principal Meridian, Sandoval County, Township 19 North, Range 3 East: The portions of the Spanish land grant surveyed and known as Baca Location No. 1 described as follows:

(1) Parcel 1.—Beginning at Mile Point No. 11 on the south boundary of Baca Location No. 1; thence westerly along the south boundary of Baca Location No. 1 to its intersection with the constructed centerline of Forest Development Road 133; thence on a continuation of the south boundary of Baca Location No. 1, 33 feet; thence on an approximate bearing of N. 26° E., about 720 feet as scaled from the Forest Service's topographic map of the area, to the south boundary of the easement for New Mexico State Highway No. 4; thence in an easterly direction along the State highway easement to its intersection with the south boundary of Baca Location No. 1; thence westerly along the south boundary of Baca Location No. 1 to the point of beginning, being Mile Point No. 11, containing about 27 acres, subject to confirmation by formal survey and acceptable plat required to provide an acceptable legal description and record acreage.

(2) Parcel 2.—Beginning at Mile Point No. 10 on the south boundary of Baca Location No. 1; thence in a westerly direction along the south boundary of Baca Location No. 1, 423 feet to a point on the west side of the east fork of the Rio Jemez; thence N. 38° E., 660 feet; thence N. 86° E., 170 feet; thence S. 70° E., 477 feet; thence S. 34° E., 364 feet to the south boundary of Baca Location No. 1; thence along the south boundary of Baca Location No. 1 to the point of beginning, being Mile Point No. 10, containing approximately 9 acres, subject to confirmation by formal survey and acceptable plat required to provide an acceptable legal description and record acreage.

SEC. 4. COMPENSATION.

There shall be paid to Dunigan Enterprises a direct payment by the Secretary of the Treasury of not more than $1,634,000 out of any money in the Treasury not otherwise appropriated to compensate the company for costs it incurred as a result of Federal action affecting the title to 2,456 acres of land it received from the United States in 1966 in a land exchange. This sum shall be paid to Dunigan Enterprises only if the Secretary through the Inspector General of the U.S. Department of Agriculture has verified that $1,623,527 accurately reflects the damages incurred by Dunigan Enterprises. In making this verification, the Secretary shall consider costs the company incurred as a result of the aforementioned actions for lost land; forgone proceeds on sales contracts; and expenses for travel, telephone calls and legal activities; and the miscellaneous costs. If the Secretary determines that the sum of the damages incurred is less than $1,633,527, Dunigan Enterprises shall be paid the lesser amount.

SEC. 5. LAND OWNERSHIP ADJUSTMENT STUDY.

(a) STUDY.—The Secretary shall conduct a study of Baca Location No. 1 to address—

(1) the scenic, geologic, recreational, timber, mineral, grazing, and other multiple use attributes of Baca Location No. 1; and

(2) options for acquisition of Baca Location No. 1 by the United States, in whole or part, by purchase, exchange, donation or otherwise, including the estimated cost of each option:

(b) COOPERATION.—(1) The study required by subsection (a) shall be conducted by the Secretary, in cooperation with the owners of Baca Location No. 1, the National Park Service, the United States Fish and Wildlife Service, native Americans, other interested parties, and the general public.

(2) This Act does not authorize entry upon Baca Location No. 1 by any person without the express permission of the landowner, and the Secretary shall make prior arrangements with the landowner for satisfactory access to the land for purposes of this section.

(c) REPORT.—The Secretary shall report the results of the study required by subsection (a) and any recommendations for legislation not later than 3 full fiscal years after the date of enactment of this Act to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the Senate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such funds as are necessary for the study required by subsection (a).

SEC. 6. TECHNICAL CORRECTION.

Section 110(a)(2) of the San Juan Basin Wilderness Protection Act of 1984, Public Law 98-603, 98 Stat. 3159, is amended to read as follows:

"(2) The real property referred to in paragraph (1) is located in Lake Summer State Park, in the State of New Mexico, and is more particularly described as follows: all portions of sections 28 and 33 in township 5 north, range 24 east, that are more than 4,280 feet above sea level. The acreage and legal description of such real property shall be determined by the Secretary after consulting with Summer Lake Corporation.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4630, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Baca Location Number One Act, was introduced by my colleague from New Mexico, Mr. RICHARDSON. This bill would compensate Dunigan Enterprises for losses it incurred by actions taken by the Federal Government which were not the result of any fault of the company. It would also mandate a land acquisition study of the highly scenic 100,000 are Baca location in New Mexico which has a high potential as an addition to the Santa Fe National Forest which surrounds it. This area contains outstanding wildlife, recreation, geologic and cultural resources and is also adjacent to the Bandelier National Monument. Furthermore, the bill authorizes the Forest Service to acquire through purchase, donation or exchange, 36 acres in the Baca location which are needed for recreational access to the National Forest lands.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON]. This is one of many proposals that the gentleman from New Mexico has advanced before the Committee on Interior and Insular Affairs. Coming from a State that has a significant amount of public lands, he has taken an active and positive role in crafting legislation that impacts the natural resources and cultural resources of his State, and I salute him for it.

Mr. RICHARDSON. Mr. Speaker, first my thanks to the chairman and the minority for their help in drafting this legislation, and to my colleagues in the other body, Senator BINGAMAN, and Senator DOMENICI, for their work on this legislation.

Mr. Speaker, again I want to thank the Chairman for his support and efforts to bring H.R. 4630, the Baca Location No. 1 Land Acquisition and Study Act, to the floor for final passage.

I introduced H.R. 4630 to rectify a situation dating back to 1966 in which Dunigan Enterprises exchanged a portion of their land with the Federal Government and received no compensation. In 1966 the United States received 969 acres of the Baca Location No. 1 from Dunigan Enterprises in exchange for 2,456 acres of National Forest land adjacent to the Santa Domingo Pueblo. Several years later, Dunigan Enterprises leased a portion of this property to Colony Materials, which fenced the boundary of the Pueblo. The Pueblo contested this action and laid claim to the land which the Department of the Interior defended.

After learning that the land title was being contested, Colony Materials filed suit against Dunigan Enterprises. As a result, Dunigan Enterprises was forced to file a quiet title action against the United States to clear the title. The quite title was dismissed because the suit was not filed within the statute of limitations and the pueblo's claim was never determined. Dunigan Enterprises was compelled to settle claims with the Pueblo and clear title. In a negotiated settlement the Pueblo received title to 557 acres of the original 2,456-acre parcel and dropped claims to the remaining 1,899 acres. Dunigan Enterprises, however, incurred losses in land, court costs and legal fees as a result of Federal actions.

H.R. 4630 seeks to redress this situation by providing fair compensation to Dunigan Enterprises for the longstanding wrong by the Federal Government. The bill consists of three major provisions. First, the bill authorizes the Forest Service to acquire 36 acres of Baca Location No. 1. Second, the bill provides for a cash payment to Dunigan Enterprises—$1.6 million—to compensate them for losses incurred as a result of Federal actions. A direct payment by the Secretary of the Treasury will be paid to Dunigan Enterprises only if the Secretary, through the Inspector General of the U.S. Department of Agriculture, has certified that the compensation figures accurately reflect the damages incurred by Dunigan Enterprises. While I do not question the figures compiled by Dunigan Enterprises, the amendment provides independent oversight and sets good policy. Third, the bill calls for a study of the lands of the Baca location No. 1 for possible Federal acquisition to be conducted by the Forest Service, the National Park Service, the U.S. Fish and Wildlife Service, and other interested parties.

The bill also contains a technical amendment to the San Juan Basin Wilderness Protection Act of 1984. In describing the tracts of land that will be made available for sale by the Government, the act lists land sections 28 through 34. Land section 34 is right in the middle of Summer Lake and obviously not for sale. The bill would simply change this to land sections 28 through 33. I urge my colleagues' support for this legislation.

Mr. Speaker, I would wish to ensure that full credit goes to my colleague, the gentleman from New Mexico, the Honorable STEVE SCHIFF, who is responsible for raising this issue with our committee, and again I thank my other colleagues for their help.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4630, introduced by Mr. RICHARDSON of New Mexico. I will briefly outline some of the major points of this bill.

H.R. 4630 would compensate a New Mexico company, Dunigan Enterprises, for lands it lost because of a land exchange with the Federal Government in 1966. After the exchange, a claim was made by the Pueblo Indians for some of the lands Dunigan Enterprises received from the Federal Government. This claim was sustained in court and because the statute of limitations has expired, legislation is the only way this problem can be resolved. It is my understanding that the Federal Government's payment to Dunigan Enterprises will be no more than $1.6 million.

Another provision of this legislation would authorize the Forest Service to conduct a study of 100,000 acres of land known as Baca Tract No. 1, which is owned by Dunigan Enterprises. This study will determine the feasibility of Federal acquisition of this tract. Baca track No. 1, which dates back to a Spanish land grant, is surrounded by the Santa Fe National Forest. It contains outstanding recreation, scenic and cultural values.

Mr. Speaker, it is my understanding that Mr. RICHARDSON and Senators BINGAMAN and DOMENICI have worked out the final details of this legislation with the Forest Service and the administration is supporting of H.R. 4630.

I urge my colleagues to support this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4630, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to acquire and study certain lands in the State of New Mexico, and for other purposes."

A motion to reconsider was laid on the table.

ILLINOIS WILDERNESS ACT OF 1990

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5428) to designate certain public lands in the State of Illinois as wilderness, and for other purposes.

The Clerk read as follows:

H.R. 5428

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Illinois Wilderness Act of 1990".

SEC. 2. FINDINGS.

In designating wilderness areas in the Shawnee National Forest pursuant to this Act, the Congress finds, as provided in the Wilderness Act, that such areas—

(1) generally appear to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable;

(2) have outstanding opportunities for solitude or a primitive and unconfined type of recreation; and

(3) contain ecological, geological, and other features of scientific, educational, and scenic value.

SEC. 3. DESIGNATION OF WILDERNESS AREAS.

In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the following lands in the Shawnee Nationa Forest in the State of Illinois are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System—

(1) certain lands comprising approximately 5,918 acres, as generally depicted on a map entitled "Bald Knob Wilderness—Proposed", dated July 1990, and which shall be known as the Bald Knob Wilderness;

(2) certain lands comprising approximately 2,866 acres, as generally depicted on a map entitled "Bay Creek Wilderness—Proposed", dated July 1990, and which shall be known as the Bay Creek Wilderness;

(3) certain lands comprising approximately 3,723 acres, as generally depicted on a map entitled "Burden Falls Wilderness—Proposed", dated July 1990, and which shal be known as the Burden Falls Wilderness;

(4) certain lands comprising approximately 4,730 acres, as generally depicted on a map entitled "Clear Springs Wilderness—Proposed", dated July 1990, and which shal be known as the Clear Springs Wilderness;

(5) certain lands comprising approximately 3,293 acres, as generally depicted on a map entitled "Garden of the Gods Wilderness—Proposed", dated July 1990, and which shall be known as the Garden of the Gods Wilderness;

(6) certain lands comprising approximately 4,796 acres, as generally depicted on map entitled "Lusk Creek Wilderness—Proposed", dated July 1990, and which shall be known as the Lusk Creek Wilderness; and

(7) certain lands comprising approximately 940 acres, as generally depicted on a ma entitled "Panther Den Wilderness—Proposed", dated July 1990, and which shall be known as Panther Den Wilderness.

SEC. 4. DESCRIPTION AND MAPS.

As soon as practicable after the enactmen of this act, the Secretary of Agricultur (hereafter in this Act referred to as th "Secretary") shall file maps and legal descriptions of each wilderness area designated by this Act with the Committee on Agriculture, Nutrition, and Forestry of th Senate, and the Committees on Agricultur and Interior and Insular Affairs of th House of Representatives. Each such ma and legal description shall have the sam force and effect as if included in this Ac except that correction of clerical and typographical errors in such legal descriptio and maps may be made. Each such map an legal description shall be on file and available for public inspection in the office o the Chief of the Forest Service, Departmen of Agriculture.

SEC. 5. ADMINISTRATION OF WILDERNESS AREAS.

Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary in accordance with the provisions of the Wilderness Act, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 6. ADJACENT AREAS.

Congress does not intend that designation of wilderness areas in the State of Illinois lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness areas.

SEC. 7. HUNTING, FISHING, AND TRAPPING.

As provided in section 4(d)(7) of the Wilderness Act, nothing in this Act shall be construed as affecting the juris diction or responsibilities of the State of Illinois with respect to wildlife and fish in the national forests in Illinois.

SEC. 8. FIRE, INSECTS, AND DISEASE CONTROL.

As provided in section 4(d)(1) of the Wilderness Act, the Secretary may take such measures as may be necessary to control fire, insects, and diseases within any area designated by this Act.

SEC. 9. CEMETERY ACCESS.

The Secretary shall permit relatives and descendants of those interred in cemeteries located within the wilderness areas designated by this Act, and those accompanying such relatives and descendants, to access and maintain such cemeteries. The Secretary shall regulate such appropriate access and maintenance to minimize any detrimental effects on the wilderness resource or any uses incompatible with the provisions of the Wilderness Act.

SEC. 10. DESIGNATION OF SPECIAL MANAGEMENT AREAS.

(a) AREA DESIGNATIONS.—(1) Mining and prospecting for fluorspar and associated minerals shall be permitted in the lands in the Shawnee National Forest described in paragraph (2) in accordance with this section and other applicable law. These lands shall also be managed, to the extent practicable, to preserve their potential for future inclusion in the National Wilderness Preservation System.

(2) The lands described in this paragraph are—

(A) certain lands comprising approximately 2,042 acres as generally depicted on a map entitled "East Fork Area—Proposed", dated July 1990, and which shall be known as the East Fork Area; and

(B) certain lands comprising approximately 722 acres as generally depicted on a map entitled "Eagle Creek Area—Proposed", dated July 1990, and which shall be known as the Eagle Creek Area.

(b) TIME LIMITATION.—Prospecting for fluorspar and associated minerals in the lands described in subsection (a)(2) may be allowed for a period of not more than 8 years beginning on the date of enactment of this Act. If significant deposits of fluorspar and associated minerals are found to exist in parts or all of such lands, then mining for those minerals may be allowed for a 20-year period beginning on the date of enactment of this Act.

(c) MINERAL RIGHTS.—Nothing in this section shall be construed to change in any way the process by which mining and prospecting permits and rights are granted on National Forest System lands.

(d) CESSATION OF CERTAIN USES.—Twenty years following the date of enactment of this Act (or 8 years following enactment if no prospecting for fluorspar and associated minerals has been done, as determined by the Secretary), such lands described in subsection (a)(2) shall be designate as wilderness and components of the National Wilderness Preservation System, in furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.).

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5428, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, currently, the State of Illinois has only one wilderness area, the 4,000-acre Crab Orchard Wilderness in the Crab Orchard National Wildlife Refuge. H.R. 5428, the Illinois Wilderness Act of 1990, introduced by our colleague from Illinois, Mr. POSHARD, would designate seven new wilderness areas totaling approximately 26,000 acres of the Shawnee National Forest in southern Illinois. The area contains many special natural features including native prairies and savannahs, old growth hardwood forests, deep ravines, limestone bluffs, waterfalls, colorful sandstone cliffs and shelter caves. Wildlife populations include deer, wild turkey, beaver, Mississippi kite, and the endangered bald eagle, gray bat, and Indiana bat.

Also in the area are flourspar mineral deposits. Flourspar is used in many products including steel, aluminum, jet aircraft, missile propellant, atomic energy, and toothpaste. Ninety percent of the domestic production of this mineral is located in southern Illinois. Although no flourspar mining would be allowed in any of the seven wilderness areas, the bill would establish two special management areas totaling approximately 2,764 acres that would allow limited flourspar development. These areas would become wilderness automatically 20 years after enactment and no more mining would be allowed.

I urge my colleagues to take advantage of this opportunity to protect wilderness in a State that is highly developed and has only a few wild places left.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5428 would add seven areas of the Shawnee National Forest totaling over 26,000 acres as wilderness. I note that all seven areas were recommended for wilderness study by the Forest Service's RARE II process and the current bill is supported by the administration. Currently, Illinois has about 4,000 acres of federally designated wilderness.

I understand these areas contain some outstanding natural features such as native prairies, waterfalls, deep ravines and hardwood forests. Moreover, they are home to healthy populations of deer, wild turkey and beaver.

I note that these areas all lie within the district of Mr. POSHARD who is the sponsor of H.R. 5428. The fact that Mr. POSHARD worked with his constituents to iron out any major conflicts is illustrated by a hearing before the Subcommittee on National Parks and Public Lands at which this bill received strong support from a wide range of user groups—unlike the conflicts which emerge at many of our hearings on wilderness.

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Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Illinois [Mr. POSHARD], the sponsor of the legislation, who has done an outstanding job with putting this measure together. We have worked over a period of 2 years, and I sincerely hope we can see it enacted in this session.

Mr. POSHARD. Mr. Speaker, as the original sponsor of H.R. 5428, I rise to support the bill in the strongest possible terms.

The bill designates 26,000 acres in seven of the most beautiful and precious areas of the Shawnee National Forest as wilderness. These areas include remnants of the Midwest's legendary prairies, waterfalls, deeply sculpted ravines, hardwood forests, caves, and magnificent sandstone cliffs. Panther Den, Garden of the Gods, Lusk Creek, Clear Springs, Burden Falls are all names very familiar to those of us who love the Shawnee National Forest, and I believe that all of these areas need and deserve maximum protection such as the wilderness designation provides.

The bill is supported by all 22 Members of the House from Illinois as well as Senators DIXON and SIMON. It is also endorsed by the State of Illinois, the Illinois Department of Conservation, the Bush administration, the U.S. Forest Service, the Sierra Club,

the Audubon Society, the Wilderness Society, the Nature Conservancy, plus other groups and individuals too numerous to name.

This consensus bill is the product of almost 20 years of work by some of my constituents. Since I came to Congress last year. I have worked to refine the bill to its present form, and we have held almost a dozen meetings on this bill in my district.

Here in Washington, the Committee on Agriculture and the Committee on Interior and Insular Affairs have both actively worked to improve this legislation.

The Subcommittee on National Parks and Public Lands, chaired by the gentleman from Minnesota [Mr. VENTO], and the minority spokesman for that committee, as well as the Subcommittee on Forests, Family Farms, and Energy, chaired by the gentleman from Missouri [Mr. VOLKMER], have also held hearings on this bill.

I would like to personally thank the chairman, the gentleman from Minnesota [Mr. VENTO], and the chairman, the gentleman from Missouri [Mr. VOLKMER], and the minority spokesmen, for their encouragement and assistance that they have given me throughout the process of getting this bill ready for today's action. I would also like to thank several staff members who have worked diligently on this bill including Jim Bradley with the Committee on Interior and Insular Affairs, and Tim De Coster with the Committee on Agriculture.

Mr. Speaker, H.R. 5428 is an excellent bill, and I urge each and every one of my colleagues to support its passage.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to thank the chairman of the Committee on Agriculture, the gentleman from Texas [Mr. DE LA GARZA] and the chairman of the subcommittee, the gentleman from Missouri [Mr. VOLKMER] for their cooperation and work on this measure with our subcommittee and full committee.

Mr. MICHEL. Mr. Speaker, I urge support for H.R. 5428, the Illinois Wilderness Act of 1990. I was pleased to have joined as a cosponsor of this bill.

The bill designates some 29,000 acres in the Shawnee National Forest as wilderness area. This will enable us to preserve for this generation and future generations some of the last remaining undisturbed landscape in Illinois.

It should be noted that Illinois currently has only 4,000 acres of wilderness area, among the lowest in the country. While clearly some parts of the Nation have more scenic attributes than others, all States have their own unique natural characteristics. It is important that we extend our recognition of these characteristics to those regions which have been skipped over in the past, so that all citizens can have relatively easy access to our Nation's natural heritage. This bill will help to do that in Illinois.

It should also be noted that the bill is a product of extensive discussions among many interested parties. It protects our natural areas while at the same time preserving the rights of existing landowners. It is a good compromise, which I think could serve as a standard for other wilderness proposals which have not always been effectively negotiated among the interested and affected parties.

In conclusion, this is a good bill for Illinois, and for the Nation, and I urge its adoption.

Mr. UDALL. Mr. Speaker, four bills on the agenda for House consideration today were jointly referred to the Committee on Agriculture.

Without the cooperation of the leadership of the Committee on Agriculture it would have been impossible to bring these matters before the House for consideration in a timely manner.

It is always a pleasure to work with the chairman of the Agriculture Committee, Mr. DE LA GARZA, and Subcommittee Chairman VOLKMER. At this point I include an exchange of letters between our committees which reinforces the jurisdictional interests we have in the subject matter involved.

COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS,
Washington, DC, October 1, 1990.

Hon. E DE LA GARZA,
Chairman, Committee on Agriculture,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your cooperation in expediting the consideration of H.R. 5428—a bill designating certain lands in Illinois as wilderness—and H.R. 4630—providing for the exchange of certain lands in New Mexico.

Naturally, we recognize the jurisdictional interests of the Committee on Agriculture in provisions in these measures and we do not regard your willingness to expedite this bill as any precedent waiving your Committee's jurisdiction.

As this Congress works its way toward adjournment, we appreciate your patience and assistance in moving these matters forward.

Sincerely,

MORRIS K. UDALL,
Chairman.

COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS,
Washington, DC, October 9, 1990.

Hon. E DE LA GARZA,
Chairman, Committee on Agriculture,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your cooperation in expediting the consideration of H.R. 5388—a bill designating certain lands in North Carolina as wilderness—and H.R. 3617—transferring certain lands in Utah to the Forest Service.

Naturally, we recognize that these bills were referred to the Committee on Agriculture and we do not regard your willingness to expedite this bill as any precedent waiving your Committee's jurisdiction.

Again, many thanks for your cooperation. We appreciate your patience and assistance in moving these matters forward.

Sincerely,

MORRIS K. UDALL,
Chairman.

COMMITTEE ON AGRICULTURE,
Washington, DC, October 1, 1990.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, Washington, DC.

DEAR MR. UDALL: Thank you for your letter regarding consideration of H.R. 5428, a bill to designate certain public lands in the State of Illinois as wilderness, and for other purposes, today by the House under suspension of the rules.

As you know, this bill was referred jointly to the Committees on Agriculture and Interior and Insular Affairs. The Subcommittee on Forests, Family Farms, and Energy of the Committee on Agriculture held hearings on this bill on September 27, 1990.

In the interests of expediting consideration of H.R. 5428, the Committee on Agriculture will defer further consideration of the bill. This action is taken without in any respect waiving the jurisdiction of the Committee on Agriculture over this matter.

I would appreciate it if our exchange of letters could be included in the record of the consideration of H.R. 5428 by the House.

With best wishes, I am

Sincerely,

E (KIKA) DE LA GARZA,
Chairman.

COMMITTEE ON AGRICULTURE,
Washington, DC, October 1, 1990.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, Washington, DC.

DEAR MR. UDALL: Thank you for your letter regarding consideration of H.R. 4630, a bill to exchange lands in the State of New Mexico, and for other purposes, today by the House under suspension of the rules.

As you know, both of these bills were referred jointly to the Committees on Agriculture and Interior and Insular Affairs.

In the interests of expediting consideration of H.R. 4630, the Committee on Agriculture will defer further consideration of the bill. This action is taken without in any respect waiving the jurisdiction of the Committee on Agriculture over this matter.

I would appreciate it if our exchange of letters could be included in the record of the consideration of H.R. 4630 by the House.

With best wishes, I am

Sincerely,

E (KIKA) DE LA GARZA,
Chairman.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, Washington, DC.

DEAR MR. UDALL: Thank you for your letter regarding consideration of H.R. 5388, a bill designating certain lands in the State of North Carolina as wilderness and H.R. 3617, a bill to transfer jurisdiction of certain public lands in the State of Utah to the Forest Service.

As you know, both of these bills were referred jointly to the Committees on Agriculture and Interior and Insular Affairs.

In the interests of expediting consideration of H.R. 5388 and H.R. 3617, the Committee on Agriculture will defer further consideration of the bill. This action is taken without in any respect waiving the jurisdiction of the Committee on Agriculture over this matter.

I would appreciate it if our exchange of letters could be included in the record of the consideration of the consideration of these matters by the House.

With best wishes, I am
Sincerely,
E (Kika) de la Garza,
Chairman.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Mazzoli). The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and pass the bill, H.R. 5428.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SALT LAKE CITY WATERSHED IMPROVEMENT ACT OF 1990

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 319), to effect an exchange of lands between the U.S. Forest Service and the Salt Lake City Corp. within the State of Utah, and for other purposes, as amended.

The Clerk read as follows:

S. 319

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Salt Lake City Watershed Improvement Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds that—

(1) current land ownership patterns in the Northern Canyons of the Wasatch Mountains east of Salt Lake City, Utah, unnecessarily impede efficient land and water resource management activities by the Forest Service and Salt Lake City on their respective lands;

(2) the Act of September 19, 1914, reserved Federal lands in these canyons from mineral entry and set them aside as a municipal water supply reserve for the use and benefit of Salt Lake City;

(3) the 1914 Act further provides for cooperation between the Forest Service and Salt Lake City in managing the lands for municipal water supply purposes; and

(4) a consolidation of National Forest lands and Salt Lake City lands in the canyon vicinities would be in the public interest and would enhance land management and water resource protection opportunities for both Salt Lake City and the Forest Service.

(b) Purposes.—The purposes of this Act are to authorize an exchange of National Forest and Salt Lake City lands and interests to consolidate ownership and facilitate management, to adjust boundaries of the Wasatch National Forest accordingly, and to protect valid existing rights appurtenant to lands and interests subject to conveyance under this Act.

SEC. 3. CONVEYANCE OF LANDS.

(a) In General.—The Secretary of Agriculture (hereinafter referred to as the "Secretary") is authorized and directed to convey certain Federal lands and interests managed by the Forest Service within the State of Utah, and generally as depicted on the map entitled "Salt Lake City—Wasatch National Forest Land Exchange" and dated November 1989, for certain lands and interests owned by the Salt Lake City Corporation (hereinafter referred to as the "City") as generally depicted on such map. Such map, along with a legal description of all lands and interests to be conveyed, shall be on file and available for public inspection in the office of the Forest Service, United States Department of Agriculture. The Secretary shall convey such Federal lands and interests to the City only upon the occurrence of all of the following:

(1) Publication by the Secretary in the Federal Register of a legal description of all Federal lands and interests to be conveyed to the City pursuant to this Act.

(2) Publication by the Secretary in the Federal Register of a legal description of all City lands and interests to be conveyed to the United States pursuant to this Act.

(3) Written notification by the City to the Secretary that the City accepts the provisions of this Act, including subsection (e)(2) and subsection (f).

(4) Delivery to the Secretary by the City of documents of conveyance of the lands and interests to be conveyed by the City.

(5) Delivery to the City and the Secretary of written approval by the Attorney General of the United States of the title to the lands and interests described in documents of conveyance submitted by the city within six months of their receipt by the Secretary.

(b) Conflicts.—Conveyance of Federal lands and interests under this Act shall be completed notwithstanding—

(1) the reservations of the Act of September 19, 1914;

(2) withdrawals of lands for the Fort Douglas Military Reservation under the Executive orders dated September 3, 1867, and June 8, 1896, and under the Pickett Act of June 25, 1910 (36 Stat. 847); and

(3) section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(c) Administration.—Lands and interests acquired by the United States pursuant to this Act shall be added to, and administered as part of, the National Forest System under principles of multiple use and sustained yield.

(d) Adjustment of Boundaries.—The boundaries of the Wasatch National Forest shall be adjusted as depicted on the map referred to in subsection (a) to reflect the conveyance and acquisition of lands pursuant to this Act.

(e) Interim Recognition of Existing Rights.—Valid existing rights appurtenant to lands and interests acquired by the Secretary or acquired by the City pursuant to this Act shall be recognized, protected, and managed by the acquiring government in accordance with the terms and authorities under which such rights were issued until new, similar rights can be issued by the acquiring government—

(1) in the case of lands and interests acquired by the Federal Government, the Secretary shall negotiate with holders of valid existing rights appurtenant to such lands and interests issued by the City and provide such holders of rights new, similar rights under the authority of the Federal Government; and

(2) in the case of lands and interests acquired by the City, the City will negotiate with holders of grazing permits, special use permits (to include easements and rights-of-ways), or other valid existing rights appurtenant to such lands and interests issued by the Federal Government and will provide such holders of rights with similar new rights under the authority of the City.

(f) Recognition of Mormon Trail.—The City will recognize the designation of the Mormon Pioneer National Historic Trail over lands which it acquires pursuant to this Act and will manage its lands in a manner consistent with such designation.

SEC. 4. RESTRICTIONS.

(a) Restrictions on Additional Transfer.—The lands and interests transferred to the City or the United States under this Act shall not be conveyed or otherwise transferred to any person or entity other than the United States.

(b) Restrictions on Exploration or Development.—The lands and interests transferred to the City or the United States under this Act shall not be subject to any form of mineral, energy, or geothermal exploration or development, and shall be used only for purposes consistent with and conforming to the reservations and purposes of the Act of September 19, 1914, and this Act, except for valid existing rights protected under section 3(e).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes and the gentleman from Wyoming [Mr. Thomas] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 319, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 319 would facilitate a land exchange between Salt Lake City and the Wasatch-Cache National Forest. Approximately 9,000 acres of National Forest land would be transferred to the city and approximately 9,000 acres of city lands would be transferred to the Forest Service. The lands being exchanged are currently managed to protect the watershed that provides Salt Lake City with its water supply and they would continue to be managed for this purpose after the exchange.

The purpose of the exchange is to block up a checkerboard land ownership pattern to enable both the city and the Forest Service to manage their lands more efficiently. Legislation is needed because the Forest Service does not have the authority to complete this particular exchange administratively. The lands that the

Forest Service would transfer to the city are encumbered by statutory withdrawals and some of the lands that the city would transfer to the Forest Service are outside the forest boundary. This bill will correct these problems and result in improved management for all the lands involved.

Mr. Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. Owens.]

Mr. OWENS of Utah. Mr. Speaker, Salt Lake City, like many other western cities, gets much of its water from the runoff from nearby mountains. Watershed protection is the paramount value in the mountains and canyons around the city, whether the land is managed by the city or the Wasatch-Cache National Forest. Although cooperation between the city and the Forest Service has been outstanding, the checkerboard configuration of ownership in the canyon bottoms above Salt Lake City has made joint management of the lands problematic.

The intent of this legislation is simply to consolidate ownership of the land in each of the canyon bottoms. Red Butte Canyon, for example, has been largely managed by the Forest Service as a research natural area, with limited public access. Adjacent Salt Lake City holdings frustrate the scope of that management. City Creek Canyon, on the other hand, largely managed by the city, is a city park and nature preserve, with scattered Forest Service holdings. The proposed exchange would give the city and the Forest Service more control over the management of the respective canyons—and it will also save the Federal Government an estimated $300,000 over the next 5 years.

This is a very simple bill which is, nevertheless, very important to Salt Lake City's future. It will be extremely helpful to both the city and the Forest Service in their management of these sensitive lands.

Mr. Speaker, I want to express my deep appreciation to the chairman, the gentleman from Minnesota [Mr. Vento], and to my colleagues on the Committee on Interior and Insular Affairs who have been so helpful in clearing this legislation for action tonight.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 319 which would authorize an exchange of about 9,000 acres between the city of Salt Lake and the U.S. Forest Service.

Because of the checkerboard land ownership patterns between the Forest Service and the city of Salt Lake in City Creek, Red Butte, Emigration and Parleys Canyons, it has become difficult to manage this area for watershed protection. Although both entities have good working relationships with one another management opportunities could clearly be improved with consolidated ownership. For this reason, the administration supports this bill.

Senator Jake Garn, who served both as Salt Lake City water manager and mayor before coming to the Senate, took the lead on this issue last year when he introduced S. 319 which would consolidate these land ownership patterns. Certainly Senator Garn's hands on experience was instrumental in getting the Congress to address this issue.

I should point out that the Forest Service expects the consolidation of these lands to save them about $300,000 over the next 5 years by reducing the number of property boundaries to be maintained.

Mr. Speaker, I urge my colleagues to support S. 319.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and pass the Senate bill, S. 319, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

TEXTILE, APPAREL, AND FOOTWEAR TRADE ACT OF 1990—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. Mazzoli). The unfinished business is the further consideration of the veto message of the President of the United States on the bill (H.R. 4328) to provide for orderly imports of textiles, apparel, and footwear.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The gentleman from Illinois [Mr. Rostenkowski] is recognized for 1 hour.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 30 minutes to the gentleman from Texas [Mr. Archer], I yield 15 minutes to the gentlewoman from Tennessee [Mrs. Lloyd], and I reserve 15 minutes for myself.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support for sustaining the President's veto of H.R. 4328, the Textile Apparel and Footwear Trade Act of 1990. The House has debated the subject of textile quotas many times during the past few years. The arguments for and against this legislation are well known to all of us. I will not repeat the usual arguments why this legislation should not become law. I do urge my colleagues, however, to consider carefully several factors which make today's vote of particular significance.

The United States stands at a critical crossroads in world history. The international political landscape has changed dramatically over just the past year. In every hemisphere, countries are opening their political and economic systems to embrace freedom of choice and freedom of competition. Many of these countries view the United States as their role model as they plan for the future of their peoples. Now, more than ever before, U.S. policy actions should be clear and unequivocal in demonstrating our commitment to freedom, equality of opportunity, and open markets.

Unfortunately, the textile legislation before us today sends exactly the wrong signal, and moves the United States in the opposite direction from that of the rest of the world.

Furthermore, recent events in the Persian Gulf have heightened the critical importance of international cooperation. Yet the textile and footwear quota bill before us today would violate 40 different trade agreements, and superimpose a unilateralist policy to protect two industries so critically important to the international trading system.

The United States also stands at a crossroads in terms of domestic economic policy. The enormous Federal budget deficit and the gross imbalance of our merchandise trade and current accounts are enormous drags on the future of the American economy and the prosperity of the next generation. The challenge we face in reducing our trade imbalance can only be met, in the long run, by increasing U.S. exports. In order to increase U.S. exports, we must have a world trading system that guarantees American workers and American products access to foreign markets. We have absolutely no chance of obtaining access to foreign markets, however, if we unilaterally close our own markets, as this legislation would do.

A recurrent theme of recent U.S. trade policy—from the 1988 Omnibus Trade Act, to the Uruguay round GATT negotiations, to Super 301—is the need to open markets and expand trade. However, this textile bill closes the U.S. market and restricts trade. It is clearly inconsistent with U.S. trade policy objectives in the current GATT negotiations and counterproductive to the overall national interests of the United States.

There are more reasons today than ever that Members of Congress should not support this bill. My colleagues should not be misled by claims that voting for this bill will send a message to the administration. This vote to override the President's veto of the textile-footwear quota bill is not about sending a message. This vote is about enacting protectionist legislation as the permanent law of the land. No one should dare think otherwise. Today's vote is critical to the national interest of the United States and our position in the international community of free and open trade.

Mr. Speaker, I strongly urge my colleagues to sustain the President's veto of this protectionist legislation.

□ 1810

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House is considering the veto by the President of H.R. 4328, legislation providing special, unduly restrictive quota protection for the textile and apparel industry. Two years ago, President Reagan successfully vetoed a nearly identical bill. Protectionist quota bills for textiles, apparel, and footwear are by no means a new phenomenon. They have been pushed in every Congress for the last 40 years.

H.R. 4328, the Textile, Apparel, and Footwear Trade Act of 1990, is the latest attempt by this industry to promote its own interests at the expense of other sectors of the U.S. economy. Congress, unable to withstand the intense special interest lobbying, passed the bill and sent it to the White House.

Now, President Bush has accepted the responsibility. He has weighed the cost of this legislation against a substantial subsidy that would benefit only a few. He has taken into account the Nation's broader economic interests, particularly the likely cost increase for low- and moderate-income consumers. After reviewing all these concerns, the President had little choice but to reject H.R. 4328.

The President also measured the effects on the standing of our country in the international community should we violate existing bilateral and multilateral trade agreements by adopting unilateral textile quotas. Current bilateral textile agreements cover more than 1,000 items imported from 38 developing countries. They would be breached. The result would be especially grave for those countries with fragile economies that have come under the threat of aggression in the Persian Gulf or are supporting attempts to reestablish peace in the region.

In addition, this bill will seriously undermine the Uruguay round of multilateral trade negotiations, due to conclude in December. A successful conclusion of the Uruguay round is the top trade policy objective of the United States. It holds promise for improved trade rules and expanded trade opportunities in a variety of areas such as agriculture, services, investment, intellectual property rights and, indeed, textiles. The possibility of achieving a good result in the Uruguay round, with all its potential benefits for the United States, will evaporate if this textile bill is enacted. Of course, the President had no choice but to veto H.R. 4328.

In my view, we have no choice but to support the President's veto. The far-reaching consequences of insisting that this legislation become public law should by now be clear to all. We cannot afford such irresponsible legislation.

I urge my colleagues to align themselves with our President, and vote "no" on the motion to pass H.R. 4328, over the President's veto.

Mrs. LLOYD. Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi [Mr. Whitten], chairman of the Committee on Appropriations.

Mr. WHITTEN. Mr. Speaker, certainly this is a case where we should override the veto and reestablish sound business. We hear about all of this free trade. The only thing about it that is free is that we let all the foreign companies have our trade, and now we try to get them to let the United States exports into their countries.

I have before me the figures from the budget recommendations from the President. Our imports since 1980 are $938 billion above our exports. May I say that I thoroughly believe that we need to override this veto so that we begin to get balance in this matter, and look after our own country. I think we face a real recession, if not a depression, because we are busy giving everybody else our domestic markets, while our Secretary of Agriculture and others go around the world trying to convince them to buy from the United States.

Not only is that true, but there are some other things involved in this thing. One of the things that has happened here, and I have been here a long time and dealt with appropriations, I guess, on agriculture since 1943 and have seen it happen. One of the real reasons for our serious situation in agriculture is we used to have agricultural commodities together where the producers helped each other and they worked together. Now we have separated them where they kick each other off in competing among themselves. I am for wheat, I am for all textiles, and all others, but unless we start pulling together all commodities, we are going to continue to go down the hill.

May I say again, the so-called free trade is after they give the foreign countries our own domestic markets, then we are for trade and they say no when we try to export. I hope they realize, especially in the agricultural sections, that we better pull together again and override this vote and get back to where we trade this for that.

We are being suckered, in my opinion, by letting them have our domestic markets while they refrain from letting the United States have equality. I hope we override this.

Mr. Speaker, for the past several months negotiations have been underway to balance the budget and to reduce the deficit. Mr. Speaker, those were efforts to balance our paper money, not to address the real problem. We need to identify those causes and eliminate them.

A key problem is the loss of markets—home and abroad—to foreign producers. Since 1980, our trade balances have increased $938,060 billion. We imported that much more than we exported.

We will not solve this problem until we return to practices of producing at home more than we consume, stop importing that which we produce ourselves, and recapture our normal share of foreign and domestic markets.

We must stop exporting our jobs and profits. We must take measures that require other countries to give us access to their markets that we give to their producers.

Mr. Speaker, I urge my colleagues to override the veto.

□ 1820

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. Emerson].

Mr. EMERSON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in strong support of American jobs and the American textile and footwear industry. The trade deficit for textiles and footwear continues to climb. American textile workers find their factories closing at an alarming rate. Never has the need for this legislation been more critical for a domestic industry that is being overrun by a continual flood of imports.

Because of what I have seen in my own district, I have been working virtually since the day I first came to Congress nearly 10 years ago to gain some measure of import relief for our domestic footwear industry. Since that day, I have been constantly frustrated by the administration's failure to act, the opposition we have met here in Congress, and most of all, by the resulting loss of American jobs, American factories, and the hopes and dreams of too many American families.

What the textile and footwear men and women of this Nation are asking is

not unreasonable. This bill will hold imports of textiles and footwear at their 1989 levels with 1-percent growth. It guarantees a portion of the domestic market for imports, but would give U.S. manufacturers an opportunity to compete for a fair share of consumer's textile and footwear dollars. It does not involve rollbacks in current trade levels and it allows for future import growth linked to the growth of domestic markets.

Unfortunately, many thousands of footwear jobs in Missouri are also at stake and these jobs must be saved. Our domestic shoe workers need relief from the onslaught of imports and this legislation will greatly assist in that goal. This measure represents jobs. Jobs that are critical to the economy of southern Missouri. Jobs that support the men, women and children of so many small towns and communities throughout the Eighth District of Missouri. Jobs that must remain here in the United States and not be exported overseas by allowing the flood of textile imports to remain unchecked.

Opponents of this measure say it is unfair in that it limits the growth of imported textiles. However, when we speak of unfair trade practices, there are few better examples than that of the American footwear industry. While U.S. markets have remained wide open to foreign-made shoes, virtually all other major shoe-producing nations in the world have closed their doors and placed high tariffs on imported footwear. The result is an unfair playing field on which our domestic textile workers are expected to compete. I strongly urge my colleagues to support the veto override and give a domestic industry that employs over 2 million Americans the ability to compete in the worldwide textile marketplace.

The SPEAKER pro tempore (Mr. Mazzoli). Without objection, the gentleman from Florida [Mr. Gibbons] will now control the time on behalf of the gentleman from Illinois [Mr. Rostenkowski].

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I am sure we will not voluntarily inflict upon our constituents something that in a few years would be just as bad, as far as economic impact on the country, as the savings and loan debacle; but the cost of this bill to the American people is about the same as the cost of the savings and loan situation is to the American consumer. That gives you some idea of the magnitude of this problem and of the seriousness of this problem.

This is a highly protectionist piece of legislation. Never in my legislative career do I recall there being a more protectionist piece of legislation here on the floor.

This industry does not need our protection. It would like to have it. It tries to make a case for having more protection, but the facts and figures just do not add up to the conclusion that they should have that additional protection. There has been much said about the facts and figures used in this debate, but the facts and figures that I use are the ones that the U.S. Department of Commerce publishes, our official collection agency for these figures.

So I would urge you to vote no. This will wreck our international negotiations. It will put one small segment of American industry in a highly advantaged position over the rest of American industry, and that is not fair.

As I said, it is not needed. I ask you to vote no because of its economic impact upon America, because of the unfairness in relation to all the rest of American industry, and because this industry can prosper on its own and will prosper.

There are always some losers and some winners in all industries, within the industry, and that is certainly what is happening here.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. Ballenger].

Mr. BALLENGER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I support the override.

Everyone talks about textiles being our most protected industry with laws already on the books, but the Reagan and the Bush administration refused to accept complaints about a nonmarket or slave labor economies like the Red Chinese. This means that there is no defense available from the largest exporter of textiles to the United States.

The Government says, "Trust me," and having lost 68,000 jobs in this industry this year, they then give away 20,000 more of our jobs to Turkey for participation in Operation Desert Shield. The European Community turned the Turks down on this issue.

Why is it that we have to give away our jobs for the purpose of strengthening our foreign policy? Is our recession to be compounded by buying allies with our jobs? Why not use money, I am sure we can borrow it as we have always done?

Watching the Geneva meetings, it now appears that other products may be chosen to join textiles in that select group who may be sacrificed to a foreign policy based on free trade that no other nation follows but us. May I welcome dairy, peanuts, cotton, sugar, and wheat to that sacrificial group.

Mrs. LLOYD. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. Hefner].

Mr. TALLON. Mr. Speaker, will the gentleman yield?

Mr. HEFNER. I yield to the gentleman from South Carolina.

Mr. TALLON. Mr. Speaker, I rise in strong support of the override.

Mr. Speaker, the President speaks a different language when he talks about competitiveness.

He is so bogged down by the terms of the trade debate that he has stopped looking at their meaning.

We face a domestic apparel market that will be over 72 percent imported by 1993. And yet we shrink from responding because some are afraid that we will be labeled protectionist.

If we are going to make the American people part of the competitiveness solution then they're going to want to get back to the basics—jobs.

In my State of South Carolina, we are seeing entire towns shut down in the face of the textile deficit, leaving families jobless and hopeless. My State's manufacturing base has been gutted through a loss of 30,000 textile jobs as 135 plants closed down. What does this say about our commitment to the American dream of opportunity?

Following the 1980's, the American public has had a belly full of rhetoric. They've listened to the President preach free trade while Japan, unafraid of the President's rhetoric, protected its workers and competitive edge.

The people know now that we must assume responsibility for our own economic well-being.

The people know it's time we looked after our own before we have to ask another nation do for us.

Mr. Speaker, I do not see how we can afford to ignore the opportunity that the textile bill presents to strengthen America. However, it has occurred to me that part of the problem is the way we have shaped the debate.

We all talk about competitiveness and protectionism versus free trade as is we discovered these issues. Well, we didn't and I think it's useful to put this debate in proper perspective.

This means taking a look back at our Nation's history, over two centuries, to correspond between the British economist David Ricardo and our colonial leader Alexander Hamilton.

Ricardo's argument was the same as that of the so-called free traders of today. The colonies, which were 96 percent agricultural, should depend on their nation's resources and hope that the comparative advantage would shift their way while the British mopped up.

Fortunately, Hamilton, the protectionist, believed that our industrial base needed developing. And, the very first measure passed by America's young Congress was a trade bill that placed a 50 percent tariff on over 70 different items.

On this foundation was built the strongest, most competitive economy the world had ever seen. An economy that went from agriculture to industrial base strong enough to defend the free world.

America today, like the America of 200 years ago, must compete in an international economy under the burden of growing international indebtedness. Yet, for the first time, it seems we are unwilling to control our own economic fate. This country's textile workers are the most productive in the world. But, our

Government is paralyzed from responding to foreign nations that dump textile and apparel products here and yet simply refuse to let our products through their gates.

So, we face a domestic apparel market that will be over 72 percent imported by 1993. And, we shrink from responding because we are afraid other governments will label us protectionist. Where would we be now if this had been Alexander Hamilton's response?

Our competitors are not afraid of labels. As a result, the mountain of global productivity has grown but we are sliding farther and farther from the pinnacle. Lacking a strategic response, we have watched whole American manufacturing sectors falter. Seventy percent of American manufactured goods are subject to foreign competition.

Prior to efforts to open foreign markets to American textile and apparel goods have failed. We can no longer sit idly by and watch other nations overtake American manufacturers at home and abroad.

The threat of a trade war is now a reality. Other nations have long started offensives against our manufacturing sector. The goal is simple: the elimination of U.S. competition.

The American textile and apparel industry is fighting for its life. This Congress is this great industry's last best hope.

In South Carolina, we are seeing entire towns shut down in the face of the textile deficit leaving families jobless and hopeless. My State's manufacturing base has been gutted through the loss of 23,600 jobs as 128 plants closed down in the last 10 years. What does this say about our country's commitment to opportunity, to hope, and to a future for America's workers?

Finally, we have the opportunity to begin to change all this. I believe the textile bill will position America to take full advantage of changes in the world economy and meet the trade challenges of tomorrow. It will help us to get this trade deficit down which runs in excess of $100 billion every year. It will help us build a sound future.

Mr. HEFNER. Mr. Speaker, I thank the gentleman for yielding me this time.

The U.S. Congress has passed similar legislation to curb the flood of textile imports on three different occasions, each by very substantial margins, with the latest vote in this body being 271 to 149.

I have always been under the impression that a democratic form of government means the majority rules, but the administration does not recognize that the majority of the Congress supports a proposal which does not shutoff imports but simply seeks to level the playing field so we can compete with foreign producers.

This veto comes at a time when we have in excess of 200,000 troops in the Persian Gulf. We are there for moral reasons but we are also there to secure the oil supply for countries throughout the world.

We are picking up the lion's share of the cost both in terms of dollars and manpower.

Much of the contributions our allies are making to assist in the effort is going to help the economies that are being so adversely affected by the cutoff of oil supply.

At the same time, our Government is forgiving a $7 billion debt that Egypt owes the United States

And also, our President is allowing Turkey, already a leading supplier to the United States, to double its access to the United States textile market to improve its economy following the shutdown of the oil pipeline with Iraq.

A young soldier serving in Saudi Arabia writes to us in support of this bill and takes pride in the superiority of American made goods. He questions why he is using foreign tools on U.S. military fighter jets.

And now information comes to our attention that the administration intends to propose major cuts in the U.S. farm program in the current Uruguay round negotiations. The Export Enhancement Program would be cut by 90 percent, and internal farm supports would be cut by 75 percent from current levels.

Wheat farmers will be severely impacted with such a proposal, and I suggest that Members from wheat and feed grain producing States better sit up and take notice. You may be needing the help of the textile boys down the road.

To assure energy to the rest of the world and trade away agriculture, this administration is willing to allow the continued flooding of our textile and apparel markets.

Equity demands that we establish a level playing field on textile imports.

You talk about increased cost to the consumer. Well the cost to the consumer is likely to be his job if we continue to let this administration sell the country to foreign production.

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would advise the Members that the rules of the House do not allow the President to be addressed directly. All statements should be made through the Chair.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentlewoman from Hawaii [Mrs. SAIKI].

Mrs. SAIKI. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I ask the House to support the President's veto of the textile bill.

The bill is bad for Hawaii and bad for our Nation because it will increase clothing costs, and will harm our efforts to open new markets for American industry and agriculture.

But my greatest concern is that this bill will not save jobs, it will trade them. It will trade the jobs of garment workers in my State of Hawaii, for the jobs of textile workers here on the mainland.

The garment industry in Hawaii depends on imported fabrics from our Pacific trading partners. This bill will cut back that trade and endanger the jobs of thousands of garment workers in Hawaii.

We need to open new markets for American textiles. This bill will not do that, and I urge the Congress to support the President and sustain the veto.

□1830

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I strongly oppose the vote override attempt on the textile bill, H.R. 4328. The President's veto should be sustained.

All of us have been subjected to lengthy debate on this bill, so I will not extend my remarks today. I just want to remind my colleagues of some of the reasons for opposing the bill:

First, passage could prevent the conclusion of a meaningful agreement at the Uruguay round of trade negotiations, risking everything we have worked toward for the past several years to expand coverage of the GATT.

Second, the cost to consumers is astronomical—$500 billion total consumer cost from 1990-2000. Consumer cost per job saved is $192,000.

Third, no new jobs are created—jobs will be transferred from the retail industry to the textile and apparel industries.

Fourth, FFACT says that 91 textile and apparel companies have either closed or experienced major layoffs. Dun's Marketing Services lists 629 new textile and apparel companies since March 1990.

Fifth, unemployment in the two most prominent textile States was 3.6 percent in North Carolina and 4.3 percent in South Carolina. National average is 5.2 percent. Your constituents may be subsidizing jobs in areas of less need.

Sixth, most of the closings or layoffs have occurred due to productivity improvements and plant modernization. This is often the price we have to pay for remaining competitive. The up-side for textiles and apparel is that many new jobs have been created which have offered better opportunities for those employees in other industries.

Seventh, employment in the textile industry has increased since 1986 and has stabilized in the apparel industry since 1987. Business declines this year are due more to a slump in retail market than by imports. There is no evidence that imports have surged to require a bill as drastic as this one.

Eighth, the industry is not suffering. Domestic shipments were up 6 out of 7 years. Exports were up 27 percent in 1989. Imports were down 6.5 percent in June 1990. The textile industry had a pre-tax profit the first quarter of 1990. Trade deficit declined 20 percent July 1990 versus 1989 on textiles and apparel.

Finally, the apparel industry does not support this bill, although much of the bill relates to them. They wisely see the benefit of working out a good textile agreement at the Uruguay round as a better alternative. Also, they worry about the rising costs of textiles should this bill pass, making it more difficult for them to compete.

The bill is very seriously flawed. It circumvents our own trade laws and invites retaliation by our allies, probably first in the agricultural area. Our Government has bent way over backward helping the textile and apparel industry for over 30 years. Most sensitive items are currently under quota. Our negotiators are committed to promoting a phase out of the MFA at the Uruguay round which protects the interests of the industry while restoring GATT disciplines.

There is no evidence that the industry needs this kind of additional protection over all it has now. I urge my colleagues to join with me in opposing the override of the President's veto.

Mr. GIBBONS. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, agricultural exports are one of the few bright spots for America in terms of its ability to market products overseas. It is an unfortunate coincidence that a good share of our agricultural exports go to the very nations who rely on us to import their textiles. Common sense tells you that that export market for agriculture is necessarily jeopardized if we act unilaterally to impose restrictions on textile imports.

This bill violates the basic principles of international trade. There is no bilateralism in this kind of legislation.

We are taking unilateral action to shut down foreign imports through quotas. We are not honoring the Multi-Fiber Agreement, we are in direct contravention of that agreement with this legislation, and we are not honoring the process under which the General Agreement on Tariffs and Trade will spell out for us trading arrangements among nations in this area and in other commodities.

This bill violates all of those basic trading principles and for that reason ought to be rejected.

Mr. Speaker, I support the President's veto.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. I thank the gentleman for yielding.

Mr. Speaker, textile employment is one of America's birthrights.

I recall the days when my mom worked as a seamer in a hosiery mill and later as a pocket-maker for a firm that at the time was the world's largest producer of overalls.

Today, 2 million American moms and dads are employed in the textile industry, but 400,000 in this industry have lost their jobs since 1980. But if this bill is enacted, it will create 150,000 new jobs, American jobs.

Let us not forget, Mr. Speaker, the military application of this bill. The Department of Defense ranks textiles second only to steel as the domestic supply most essential to national defense. Gloves, uniforms, combat boots, tents, parachutes, we cannot risk dependence on foreign supplies for these items.

Ask a United States foot soldier in Saudi Arabia for confirmation.

Mr. Speaker, I have high regard and high respect for President Bush. I too respect the Democratic and Republican leadership on the Committee on Ways and Means. But they are all wrong on this issue.

Mr. Speaker, each of us probably embraces free trade as an abstract concept, but we are not dealing with theoretical niceties today so much as we are responding to the needs of real people with real jobs.

We can no longer stand by while our industrial base and economic clout dissipate.

Finally, Mr. Speaker, it has been mentioned about the GATT problems, how if this bill is enacted, would frustrate our negotiations in Geneva. It seems to me this would add leverage to our negotiators.

Mr. Speaker, I urge override of the veto.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not want to take complete issue, but while the gentleman from North Carolina is still on the floor, I think he should know that all textiles and all garments for the military are, under law, and for as long as I can remember, required to be purchased here, of American products by American labor in this country. There is no doubt about that. That has been required under the Barry amendment since before I ever came to Congress.

Mrs. BENTLEY. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I would be glad to yield to the gentlewoman from Maryland.

Mrs. BENTLEY. I thank the gentleman for yielding.

Mr. Speaker, I have a boot factory in our district which has been closed down because the boots are being bought from Korea for the military.

Mr. GIBBONS. I said all textiles and garments.

Mrs. BENTLEY. Well, this also covers boots and shoes, and I can tell the gentleman that there are other garments that are being bought overseas by the military.

Mr. GIBBONS. Well, if they are, they are in violation of the law and the gentlewoman should call them on that.

Mrs. BENTLEY. We have been trying to do that with DOD, but they have not listened.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. BENTLEY].

Mr. HEFNER. Mr. Speaker, will the gentlewoman yield to me?

Mrs. BENTLEY. I yield to the gentleman from North Carolina.

Mr. HEFNER. I thank the gentlewoman for yielding.

I just want to clarify one thing: The Barry amendment, which I have been instrumental in keeping in the defense bill, over the last several years every year the administration wants to waive the Barry amendment to where you can admit other people to bring textiles and boots and everything else into this country in the military. I wanted to straighten that out.

Mrs. BENTLEY. I thank the gentleman. That is very true, and I am glad the gentleman pointed that out.

Mr. Speaker, I rise to support the vote to override the veto on the textile bill. For all of the trade theory and rhetoric about foreign interests affected by this bill, we should allow no bones to be made in this House today over what the real issue is.

American jobs, American industry. The people whom we have been elected to represent. Those who pay taxes to the U.S. Treasury to keep this Government going.

Right now foreign producers have 60 percent of our apparel market, 83 percent of our shoe market—and this bill will not cut into that market share at all. This bill allows for a 1 percent growth each year for the next 5 years. Our trading partners in the European Community with 50 million more people accept only 25 percent imports and the Japanese—half our size—accept only 6 percent.

Why are we always the sacrifical market on the altar of free trade? We have been told by the American people over the last 10 days that they are sick and tired of picking up the bill for every cause and every nation, including 20,000 textile jobs to Turkey because they are helping in Desert Shield.

And if we cede over 2 million more jobs and this healthy industry to countries without humanitarian employment laws and environmental restrictions for cheaper products, then I predict we are going to be called to a day of reckoning by our constituents. This is not free trade, it is exploitation and 1 day we will be held accountable for endorsing it.

□ 1840

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume while the gentlewoman from Maryland [Mrs. Bentley] is still on the floor. I want to correct her figures.

Mr. Speaker, these are Department of Commerce figures. She used something like 60 or 70 percent on textiles. The actual figure on import penetration for garmets in 1989 is 37.2 percent. The actual figure on household and industrial products made out of textiles is 14.4 percent. The woven and knit fabric market, that penetration is 11.4 percent, and on the yarn market it is 4.2 percent.

Mr. Speaker, her figures are not only wrong, they are more than a 100-percent wrong.

Mrs. LLOYD. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. Gray] the majority whip.

Mr. GRAY. Mr. Speaker, it was in 1789 that Sam Slater came to Rhode Island bringing the technology that started the American textile industry. Now, 200 years later, the industry that has brought prosperity and growth to this country is in danger of being snuffed out. Why? Because of unfair competition.

Mr. Speaker, I am for free trade when other countries allow our products access to their markets, when other countries do not subsidize their products, when other countries do not use child labor or pay 16 cents an hour. Then I am for free trade. But I am also for fair trade, and we have not seen too much of that. Our allies and friends talk about free trade, but do not practice it.

Some argue that imports are cheap for the consumer and that we ought to allow them to come into our country because it is a boon for the consumer. Mr. Speaker, those who argue that imports are a boon to the American consumer are pulling the wool over our eyes. That is their right, I suppose. I just want to make sure that the wool that they pull is American wool.

Hundreds of thousands of American workers want to keep their jobs for the future. Giving them a chance is our job. I call on my colleagues to support us in overriding the President's veto because that is what it is about. It is about jobs. It is about fair trade, not only free trade, and it is making sure that we are a strong and prosperous country.

Let us vote to override the President's veto.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Washington [Mr. Miller].
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Mr. MILLER of Washington. Mr. Speaker, I rise in strong opposition to H.R. 4328, the Textile, Apparel and Footwear Trade Act, or should I say the Textile, Apparel and Footwear Price Increase Act.

Sustaining the President's veto of this bill is crucial to the American public and here are the four main reasons why.

First, this bill is bad for American consumers. According to the U.S. Trade Representative, consumer costs could soar by $160 billion over the next 5 years, the total cost of textile protection for every family of four will end up being $2,600 per year. Those who can afford this special tax the least will be hit the hardest.

How will your constituents react when they learn that the cost of this bailout could exceed the savings and loan cleanup. And, Mr. Speaker, this tab will keep running long after the last mismanaged savings and loan has been closed down. It will go on and on and on. Costing our constituents more and more money for an industry which is not endangered.

Second, does the textile industry need this protection? No.

The textile and apparel industry do not need additional protection. While imports are increasing, they do not pose a threat to the industry. Employment in the industry has grown slightly over the past 5 years, in spite of no new protection and increased use of automation. Profits are solid. This bill is driven by greed not by our national interests.

Third, Mr. Speaker, we live in an international economy governed by treaties and agreements. If this veto is not sustained, we will violate the General Agreement on Tariffs and Trade—the GATT. The Textile, Apparel and Footwear Price Increase Act violates bilateral agreements with 38 countries. Agricultural exports valued at more than $30 billion could be lost because of our violating these agreements.

Let's also consider the message we are sending our trading partners. The bill caps new imports of apparel at 1 percent. Consider how well our farmers might react if their agricultural exports could grow only 1 percent in spite of demand. Or how well our computer sales would fair if they were restricted to 1 percent growth no matter how high demand was. Or, seafood, aircraft, or lumber or any other product. The principle would result in economic disaster for our exporters. We would lose international agreements and we would lose markets.

And finally, the more we look at this bill, the worse it looks. The past weekend we haggled about bringing the deficit under control. Yet, today, we again consider making this bill law. How, may I ask does the bill effect the budget deficit. According to the Congressional Budget Office, if we override the President's veto we will add another $1½ billion to the deficit over the coming 5 years through loss of custom duties. And this is how it would add up:

In fiscal year 1991 the bill earns $48 million;

But it's down hill from there:

In fiscal year 1992 the bill costs another $220 million;

In fiscal year 1993 this bill adds another $320 million to the deficit;

In fiscal year 1994 it will cost another $430 million; and

In fiscal year 1995, we top the half billion dollar mark.

Like those added costs to our constituents, these costs to the Federal Treasury will keep on growing year after year.

Mr. Speaker, we are talking about gasoline taxes, beer taxes, cigarette taxes, and increased medicare premiums. Help me explain why my constituents should bear an extra $2,600 in clothing costs. Help me explain to my exporters why we should close markets. The textile, apparel and footwear price increase act is a fiscal disaster. It is not needed. Our constituents cannot afford it. Our exporters will lose business and the Federal Treasury will be robbed.

Let's show the American public that we can make the right choice. Let's sustain the President's veto and end the threat to our economy posed by this bill.

Mrs. LLOYD. Mr. Speaker, I yield 1 minute to the distinguished gentleman from South Carolina [Mr. Derrick], our colleague who has worked so hard on the textile bill.

Mr. DERRICK. Mr. Speaker, let me just say that I resent the textile industry being compared with the savings and loan industry. The textile industry, millions of hardworking, dedicated men and women in this country who pay their taxes, go to work in the morning, take care of their families, make up the small communities of this country, and the very idea that someone would even mention the S&L industry scandal in this country in the same breath I feel is just reprehensible.

Mr. Speaker, let me say that we are arguing about figures and whether the military uses them or not. We do not even need to argue about that because, if we do not override this veto, we are not going to have a textile industry, and they are not going to be able to provide it regardless of what kind of statutes we have as far as our military suppliers are concerned.

The administration for the last 12 years has done the American consumer and the employee in the textile industry a tremendous disservice. What is going to happen in the textile industry is the same thing that has happened in the oil industry. We are not going to be able to have the textile goods that we need in this country to supply our defense needs, as well as supplying our domestic needs, and I implore and beg my colleagues on behalf of this country to vote to override the President's veto.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to our colleague, the gentleman from Pennsylvania [Mr. Ritter].

Mr. RITTER. Mr. Speaker, I rise in support of the veto override because of the importance of textiles and apparel to the overall manufacturing base of this country.

And let's not forget the lead role manufacturing has played in our export growth. And make no mistake about it, It is manufacturing which is at the heart of prosperity and wealth production in a modern technological society.

Just look at Japan's achievements because of manufacturing.

This vote is not just about making shirts. Textile and apparel manufacturing are part of our industrial and manufacturing food chain. So many U.S. industries and jobs depend on products from the textile and apparel industry. Textile and apparel products are as important to aerospace industries as they are to army boots. They are as prominent in products for family farms as they are in furnishings for family rooms.

Textiles and Apparel extend down to the advanced chemicals and chemical processing industries that remain among our most profitable export industries.

Technological improvements in these industries have been increasing at a rapid rate. High technology has significantly improved the manufacturing capability in textiles and apparel and those industries have served as a model for reform of other basic industries.

Computers and laser fabric printers, items that were not long ago, foreign to these factories, are now becoming the norm.

This very positive trend will only continue if we stand up to the managed trade policies of foreign nations that allows imports, into the United States, little by little, inexorably, to replace our domestic manufacturing in this industry.

And if we want to retain the high-technology sector of textiles and apparel, we cannot afford to lose the ability to manufacture the mass product textiles and apparel in this country. For they provide the broad base, the foundation upon which the higher value-added products are based. I alert my colleagues to the analogy of the demise of TV production in the U.S.A. and all that it meant for American's loss of the higher value added consumer electronics industry. You cannot have space-age textile and apparel manufacturing in this country without a mass market apparel and textile base to build on.

The U.S. economy and industrial base cannot afford to lose another key manufacturing industry.

H.R. 4328 is crucial. I urge my colleagues to vote to override.

□ 1850

Mr. CRANE. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Maine [Ms. Snowe].

Ms. SNOWE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of overriding the veto of the President of the Textile, Apparel and Footwear Trade Act.

Mr. Speaker, I was here in 1980 and 1981 when we began to fight imports against our own domestic industry in footwear and textiles. At that time, foreign imports represented 50 percent as far as the footwear is concerned. In the textile industry it ony represented 28 percent. Here we are today, talking about a textile industry that is threatened by 60 percent of a foreign import market. Yet in the message of the President, he declared that economic indicators show the textile, apparel and footwear industries are not threatened by imports.

Mr. Speaker, in my State of Maine that is not a reality. The supposed nonthreat has cost more than 7,000 footwear employees their jobs. This nonthreat has caused 4,400 textile employees their jobs. In the last 12 months, 66,000 texile and apparel jobs were lost nationwide.

Mr. Speaker, it was interesting to know that in the message of the President on the veto of this legislation he said we are working in the Uruguay round to negotiate a means for the textile and apparel industries to enhance their international competitiveness in the long term and to open foreign markets to our exports.

That is the problem. It does not matter how hard we work to make our industries competitive. If you cannot get other countries to open up their markets for our exports, it just is not going to work.

The President says our trade negotiators are seeking agreements that will ensure the future survival of our textile and apparel manufacturers.

I am highly skeptical of that claim. What trade policy can the administration point to that has served to benefit our textile, apparel, and footwear industries? None. So why should we believe that our trade negotiators have had a change of heart?

Mr. Speaker, where were our trade negotiators when the European Community limited apparel imports from the Third World to 25 percent and the Japanese limited them to 5 percent, when our level is 60 percent?

Mr. Speaker, let us face it: This is not a policy, it is a death sentence for these very important industries in our country.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while the gentlewoman from Maine [Ms. Snowe] is still on the floor, there is no place in any set of statistics collected by the U.S. Government, any of the textile trade figures, that she just gave. The highest import penetration we have had anywhere in the textile apparel sectors is in the garment industry, and that was 37.2 percent in 1989. It has never been higher than that prior to 1989, and there are no figures like the gentlewoman has given.

Mr. Speaker, I do not know who supplied the gentlewoman from Maine [Ms. Snowe] with these figures, but she had better check out where they came from.

Ms. SNOWE. Mr. Speaker, I would say to the gentleman from Florida [Mr. Gibbons] he ought to ask the companies and the employees who have lost their jobs as a result of that. We have seen that deterioration over this last decade. It is not getting any better. That is reality.

Mrs. LLOYD. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from South Carolina [Mrs. Patterson], who has worked so hard on textile legislation.

Mrs. PATTERSON. Mr. Speaker, I appreciate the gentlewoman yielding.

Mr. Speaker, I realize most Members have already made up their minds, but I had some things to share with you. We have heard a lot of statistics on both sides. As a student, I learned you can use statistics to make your case any way. Put the statistics aside. Look into the eyes of the men and women, the families out of work because textile plants are closing. Those are the true statistics.

Then let me tell Members, someone said special interest groups were supporting this bill. Yes, they are special interest groups. They are American workers, American men and women who have been put out of work. If those are special interest people, I am glad I represent those very special people.

In 1996 the Olympics will be held in Atlanta, GA. I want to know that at that time our athletes from the United States are wearing uniforms from their head to their toes made in the United States, because I want them to win the race for our country, and I want us to continue to win the race as the leading country of the world.

Please, please support textile, apparel, and footwear. Vote to override the President's veto.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while the gentlewoman is still on the floor, according to Dun & Bradstreet, 172 new textile establishments have been recorded in the

United States, and 457 new apparel establishments have been recorded in the United States, in the last 6 months alone. The States of Georgia, South Carolina, and North Carolina have had 70 new textile facilities opened, and these are figures from the State agencies, during the period 1988 to 1989, creating more than 5,500 new jobs.

Mr. CRANE. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. McMillan].

Mr. McMILLAN of North Carolina. Mr. Speaker, I rise in support of the bill. Congress recently passed this bill by a substantial margin, and here we are debating it again. There should be little question that this bill should be signed into law.

This bill commands popular support nationwide because the weakness in GATT negotiations pose a potential threat to what has been a workable solution under the Multi-Fiber Agreements. The Europeans support a substitute global quota system, as we do, with strong protection against subsidies, but the lesser developed countries are pushing for wider access to American and European markets on terms that hurt the American textile industry. So far, GATT offers no reasonable alternative.

The base of support for the legislation in Congress should serve as leverage to strengthen our negotiating position. If this support is not sustained by Congress, we will deprive our negotiators of a very useful tool in balancing the competing interests in textile negotiations.

Your vote to override the veto is critical to leveraging the GATT talks on textiles and agriculture.

Mr. Speaker, if I were a textile operator in one of the lesser developed nations, I would be concerned about this textile bill. I would be inclined to rethink my rigid position if this bill were staring me in the face across the negotiating table in Geneva.

Why? Because if I am not willing to cooperate with the United States and Europe in arriving at a satisfactory global quota system with discipline on subsidies, the U.S. Congress is likely to have the support to pass legislation as they did in the omnibus trade bill.

As a foreign textile producer, do I want legislation to set U.S. policy, or am I willing to cooperate in the GATT negotiations?

It seems to me that foreign textile producing countries would prefer negotiated quotas and subsidy discipline to unilateral U.S. action. If the negotiations in Geneva do not achieve solid results acceptable to the United States, that is what will happen.

This bill will provide the leverage for that to happen.

Mr. Speaker, the prospects for a level playing field for American textiles in the GATT negotiations appears grim. Our negotiators have recently testified before Congress that they cannot say the negotiation's are very satisfactory.

With the gloomy outlook for our textile industry in the Uruguay round, support of this bill is critical. If nothing else, this bill will get the attention of our trading partners who have turned their backs on allowing the U.S. textile producers a competitive position. In fact, this bill will improve, in a very broad sense, our negotiating posture on a wide range of issues—including agriculture, which is also at a stalemate.

Your vote to override the veto will serve to enhance our bargaining position in the GATT talks since textiles are so critical to the entire Uruguay round. If our competitors want to play hardball, let us play American style: vote for the bill.

I urge my colleagues to support this bill.

Mr. CRANE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. Hunter].

Mr. HUNTER. Mr. Speaker, I support the override. I think one issue that has been reoccurring in these trade debates is one that needs to come on this House floor, and that is the fact that today Washington, DC, represents predominantly, and I am talking about the thousands of lobbyists and bureaucrats and the number of Government policymakers, represents largely foreign interests and foreign corporations and foreign countries, and do not represent the United States.

Mr. Speaker, it bothers me to see this enormous mobilization only in areas where other countries and other corporations and other than Americans are trying to assert their interests, like in the FSX and the Toshiba situation.

I would assert that the American marketplace is an asset. We are giving away an asset and getting nothing in return. That is not smart trade, it is not fair trade, and it is not good trade. It is charity. It is something we can no longer afford to do.

Mr. Speaker, I have been asked am I a protectionist. I guess the answer is "yes." I believe American jobs are worth protecting. Support the override.

□ 1900

Mrs. LLOYD. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Alabama [Mr. Bevill], chairman of the Subcommittee on Energy and Water of the Appropriations Committee.

Mr. BEVILL. Mr. Speaker, I rise today to urge my colleagues to override the President's veto of the textile bill. We need this legislation in order to assure the survival of this very important manufacturing industry.

We have lost thousands of textile jobs in my district and in my state. We need this measure to save the remaining jobs in the American textile industry.

We talk about free trade. I am for free trade. That is like being for motherhood and apple pie. But, I am also for fair trade and that is what this legislation would accomplish.

This bill would not roll back textile imports. It would only control the growth of imports at a reasonable rate.

Imports would be allowed to grow at the same rate as the domestic market. They would retain the same share of our American market as they now have. They just do not increase their shares at the expense of American workers and producers like they have for the past 10 years.

We cannot afford to lose any more American jobs. And, even more importantly, we cannot afford to lose our ability to produce textiles. I urge my colleagues to override the President's veto. We need to save this industry before it's too late.

Mr. CRANE. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentleman from Tennessee [Mr. Quillen].

Mr. QUILLEN. Mr. Speaker, I stand in strong support of overriding the President's veto. If Members live in a district that has been adversely affected they know what I mean.

One of the largest industrial manufacturers of textiles in the Nation has closed two plants in my district. Literally thousands of people are out of work, all caused by imports.

I urge my colleagues to vote to override the Presidential veto because I know that we all should stand proud to support America and be proud to buy American products. Even a lot of our flags that we fly proudly are manufactured overseas. Can we stand for this? I say no.

Let us vote to override the Presidential veto.

Mr. CRANE. Mr. Speaker, I yield 1 minute and 30 seconds to our colleague, the gentleman from Texas [Mr. DeLay].

Mr. DeLAY. Mr. Speaker, if there is any issue that can serve alone as a gauge for how this institution of Congress has drifted from the mainstream of the American people it represents, it is this textile bill.

It has often been said that Congress is the whipping boy of the American political system. If we override this veto today we will deserve every bloody lash the American public gives us.

What brings us here today?

Our President has said no to a reckless, selfish scheme of protecting a mega industry behind the battered bodies of American consumers. Let the

American consumers absorb the blows of foreign competition rather than making our industry compete. Let the American family pay higher prices for the very clothes on their back rather than make the textile industry compete.

Is this fair?

In our heart of hearts is there a single Member in the Chamber that believes it is fair to stick the American consumer with the bill for a private industry's expanded market share? This bill will be paid disproportionately by poor families, by the least fortunate members in our society, and by those who already are stretching the boundaries of their disposable income to keep shoes on the feet of their children.

So what brings us here?

It is special interests, political PAC's union muscle, pork barrel concerns, industry lobbyists and political arm twisting—exactly the sort of things that our most cynical constituents, in their most bleak assessments, point to, when they blame failures in American society on us.

This bill wreaks of the smoke-filled rooms and the martini toasts and the sweaty back slapping that bore it. And make no mistake, if we override this veto today, if we will so easily flush the interests of American consumers, we can expect a flogging like we've never had before at the hands of the American people and we will deserve every lash.

Mrs. LLOYD. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. Neal].

Mr. NEAL of North Carolina. Mr. Speaker, when it comes to textile and apparel trade policy, the administration is living in a dream world. President Bush's veto message says the textile industry is thriving and the problems addressed by H.R. 4328 "do not exist."

Mr. Speaker, the President is tragically misinformed. These are hard days for the textile and clothing industries. In my State of North Carolina alone, we have lost about 2,000 jobs in recent months from plant closings and major layoffs. That's in addition to the 45,000 we lost during the 1980's.

Nationally, 91 major textile and apparel plants have closed or reduced operations this year. There are 68,000 fewer jobs in these industries than there were 12 months ago. That's in addition to the 400,000 textile-related jobs that disappeared during the 1980's.

Perhaps these workers and their families are not clearly visible from the lofty heights of the White House or the Special Trade Representative's office, where policy is based on noble, abstract economic theories. But most of us in this Chamber know that these are real people and that it hurts when your job is wiped out by unfair foreign competition.

Mr. Speaker, I'm for fair trade also. Free open trade is the best policy whenever it is possible, but textile and apparel trade is managed worldwide. It is not free. Virtually all governments protect these basic manufacturing jobs. But the administration wants us to have the world's only free market in these products. If we lose most of our 2 million jobs in textiles, clothing, and shoes, how will we replace them? Chances are that we won't any time soon.

Our own Office of Technology Assessment says the United States will lose most of its textile and apparel industry by the year 2000 if imports continue at the pace set in the 1980's. So today we are voting on nothing less than the survival of one of our major industries.

We are not surprised that the White House doesn't get the point. For more than a decade, the Reagan and Bush administrations have failed to enforce existing bilateral trade agreements to limit textile, apparel, and shoe imports to a fair share of the U.S. market. President Reagan vetoed two textile bills passed by this Congress, and now President Bush has vetoed one.

Mr. Speaker, it is time we stood up for 2 million American workers and for fairness in world trade. Let us override this veto.

Mrs. LLOYD. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina [Mr. Spratt].

Mr. SPRATT. Mr. Speaker, I rise in strong support of the veto override.

Mrs. LLOYD. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. Payne].

Mr. PAYNE of Virginia. Mr. Speaker, I rise in support of the textile bill. I spent 15 years building one of the most successful businesses in my State. I think this gives me some credibility when I say that I comprehend the arguments of those opposing this bill, because it is allegedly protectionism and retards the advance of free trade.

In an abstract, or textbook sense, these people have the better argument. My problem as a practical businessman with this argument is that real world evidence does not support it.

The present world of international competition for textile markets is a world of nationally coordinated targeting of U.S. market sectors. One of our many competitors—all of whom we have not the resources to monitor—will embark on a conscious plan to enter a U.S. sector, and, by subsidy, or subsidy-effect practices, eliminate domestic competition. Soon after the competition disappears, the price for goods in the sector rises to profitable levels. The Crompton failure in the velveteen market in Waynesboro is an example of this.

The European Economic Community has long recognized the true nature of the international textile market. Recognizing the virtual impossibility of policing fair practices, they have simply established a rational level of imports. The textile bill follows this general model by not reducing present import levels and by allowing imports to grow with the market in future years.

For those who share a world outlook of U.S. engagement and leadership, the question then becomes whether we base our trade policies on a textbook model, or on the world as we find it. I feel that we will more effectively lead the move toward greater global economic integration and prosperity if we demonstrate to the world that our Government understands international economic behaviors; and that we are prepared to negotiate rational markets from a position of strength.

Certainly those in the textile industry in our State understand the realities of the marketplace. The administration position on the textile bill has no connection with advancing a rational free-trade market in textiles from their perspective: the real perspective. Rather, it gives away the store without changing any of the international practices that threaten their existence on a constant basis.

I urge my colleagues to join me in overriding the President's veto of the textile bill.

Mrs. LLOYD. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. Visclosky].

(Mr. VISCLOSKY asked and was given permission to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, Congress has already demonstrated its overwhelming support for H.R. 4328, the Textile, Apparel, and Footwear Trade Act of 1990. On September 18, the House approved H.R. 4328 by a vote of 271–49. The Senate's July 17 vote of 68–32 is sufficient to override the President's veto of the legislation. It is, therefore, incumbent upon my colleagues in the House to unite in overriding President Bush's veto of this important measure.

When I spoke in support of H.R. 4328 during the House's consideration of the bill in September, I focused on the Jaymar Ruby Group, a major textile manufacturer in Indiana's First Congressional District, to illustrate why it is imperative to enact the textile bill. Today, in urging the House to override the President's veto of the textile bill, I would like to examine job loss in the American textile industry and show how enactment of H.R. 4328 would help to reverse this trend.

For all of the rosy free trade rhetoric espoused by the Bush administration, it is necessary to examine the harsh reality confronting workers in the American textile industry. First, current international trade in textiles is not free trade. For almost 30 years, it has been managed by the Multi-Fiber Arrangement [MFA], whose purpose is to liberalize Third World trade in textiles without unduly disrupting the markets and textile and apparel industries of industrialized countries.

Under the MFA, the U.S. market, with a population of 240 million, accounts for about 60 percent of textile and apparel exports from developing nations. As a result of these cheap imports, in the past decade, over 450,000 American workers in the textile, apparel, and fiber industries have lost their jobs. Two million workers are still employed in the textile and apparel sectors—about 1 out of every 11 manufacturing jobs in this country—but 72,000 Americans have lost their jobs within the past year.

H.R. 4328 does not roll back or prevent imports of textiles and apparel into the United States. Rather, the legislation would permit an annual 1-percent increase in imports of these products. A 1-percent annual growth rate was selected because it is the average growth rate in domestic consumption of these products over the past 15 years. H.R. 4328 would simply help to retain the minority share of our own market for American manufacturers and workers.

The Bush administration's real motivation in opposing and vetoing H.R. 4328, is to be able to use the American textile industry and its workers as bargaining chips to achieve other trade goals in the ongoing Uruguay Round of the GATT negotiations. I have seen similar tactics and arguments used by the Bush administration against the steel voluntary restraint agreement [VRA] program. I am opposed to concessions in either steel or textiles to achieve other trade objectives.

In closing, I urge my colleagues to join me in putting an end to the President's misleading rhetoric and vote to override his veto of H.R. 4328.

Mrs. LLOYD. Mr. Speaker, I yield 1 minute to the gentleman from Maine [Mr. Brennan].

Mr. BRENNAN. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, I strongly urge my colleagues to override the President's veto of the textile bill.

This bill will protect from unfair competition, the American textile industry and shoe industry which are composed of thousands of hardworking men and women, many in my home State of Maine whose families depend on paychecks from these industries.

Japan, Korea, Taiwan—all compete in the American market, while we are shut out, unable to compete in theirs, because these countries protect their workers and their industries.

This bill will give our American companies a chance to survive against unfair competition. It will mean thousands of American workers won't have to worry about where their next paycheck is coming from.

Enough is enough. A vote to override this veto is a vote for American jobs and American workers.

I urge my colleagues to stand up to the President and support this important bill and support American jobs.

Mr. CRANE. Mr. Speaker, I yield such time as he may consume to our colleague, the gentleman from California [Mr. Lagomarsino].

Mr. LAGOMARSINO. Mr. Speaker, I rise in strong support of the President's veto of H.R. 4326, the textile bill.

Mr. Speaker, many of the people in my district would be hurt by an override of this veto: those who work in facilities like Patagonia are dependent on imported textiles, those engaged in specialized agriculture, and those who work in agriculture.

Many of the latter are minority field workers.

Will this happen? You bet it will. There is absolutely no question that if this legislation becomes law, there will be retaliation.

What an inopportune time to take such action—just as we are negotiating the Uruguay round.

And, of course the best reason to sustain the President, is because of the enormous cost it would impose on the American consumer.

Mr. CRANE. Mr. Speaker, I yield 30 seconds to our colleague, the gentleman from California [Mr. Dreier].

Mr. DREIER of California. Mr. Speaker, I thank my colleague for yielding time.

Mr. Speaker, I would simply like to say I congratulate President Bush for vetoing this legislation. I am supporting it because I do not believe that I as a Member of Congress can say to the American consumer, "You cannot buy the best quality product at the lowest possible price without our imposing a penalty on you."

But I think it is important for us to recognize that this legislation protects one sector of jobs at the expense of another. I represent California, the gateway to the Pacific rim. We have many people who work in the shipyards taking things off of those boats. We do not want to see those jobs lost.

Also, the retaliation that would be created with passage of this legislation would be devastating to many other industries.

Mr. Speaker, I rise in support of the President's veto of the Textile and Apparel Trade Act of 1990. I do not want to get bogged down in a discussion of all the trade violations contained in this bill, nor do I want to list the startling figures on industry productivity and increased profits over the past 2 years. Many of my colleagues have made these arguments against this bill very succinctly, and I believe very convincingly.

The bottom line is that the domestic textile and apparel industries are experiencing a strong comeback. In addition, these industries have mounted a successful consumer awareness campaign which has American consumers paying more attention to the origin of the finished products they purchase. However, while enjoying the greatest level of protection afforded any industry, these manufacturers are asking for tougher sanctions against their foreign competitors.

Unfortunately, our trading partners—especially those in the developing world—will not be easily convinced that these American industries are still on the verge of collapse. We are in the process of renegotiating our bilateral trade agreements concerning these products with four of our major trading partners. Should this bill be enacted, these same countries would surely retaliate.

The major problem with this bill is that it provides protection for jobs in one industry at the expense of workers in other activities. For example, workers in agriculture, aerospace, high-technology electronics, chemicals, and pharmaceuticals would be the first to feel the retaliatory backlash. However, the damaging effects would soon be felt by every American in the form of lost jobs, higher prices, and shrinking economic growth.

While I am sympathetic to the situation of many workers who have lost their jobs in these industries, I feel the bill takes the exact opposite approach to furthering our trade objectives. For several years now we have stressed job creation, competitiveness, and negotiations to open markets in other countries for American goods. I am convinced that enactment of the bill will destroy jobs, inhibit innovations in these industries and close existing and potential export markets.

Although the House did pass this bill 2 weeks ago, it did not pass by a margin sufficient to ensure a veto override, and I would hope that my colleagues would realize the importance of defeating this override attempt.

Mr. CRANE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. Solomon].

Mr. SOLOMON. Mr. Speaker, free trade has to be fair trade. That is why I am supporting the override of the President's veto. I hope everybody joins me.

Mr. GIBBONS. Mr. Speaker, I assume I have the right to close debate?

The SPEAKER pro tempore (Mr. Mazzoli). The gentleman is correct.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. AuCoin].

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Mr. AuCOIN. Mr. Speaker, here we go again. For the third time in 5 years, we face the protectionist textile bill. This is like a sequel to a bad movie. It is even worse than the original.

I think it deserves the fate that the other bills in the past have met, and that is defeat here on the floor by sustaining the President's veto.

I have a major textile manufacturer in my State. It is a major employer, the Pendleton Woolen Mills, and I respect my friends from regions of the country who support this legislation, but I think there are at least three reasons to vote no, to vote to sustain the President's veto.

First, does a protected industry with its strongest profits in years and a doubling of exports need further protection? I think no.

Second, should we impose restrictions that will cost an average American family of four $2,600 over 5 years and cost 50,000 retail employees to lose their jobs? I say no.

Third, is it logical for us to hurt our own efforts to reduce foreign trade barriers against other American goods in foreign markets? I think no.

For every American job saved by this bill, my friends, it will cost many more American jobs in other sectors because of foreign retaliation, in agriculture, in high technology, and in an infinite variety of other sectors.

I know that there are among our colleagues some who would tell us not to worry about protectionism. I heard one of my colleagues say that earlier this evening.

There was another man who did that in this Chamber. He once represented my congressional district. His name was Willis Hawley, and he

brought us the Smoot-Hawley Act, and I think the rest is history.

This is not Smoot-Hawley, but is a dangerous venture down that same path, and it will invite the same damaging consequences.

Sustain this veto. Vote "no" on this bill.

Mr. CRANE. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, here we go again for the third time in a row. Frankly, I am fed up with the proponents of trade protection, and I assure you that I am not alone. The American people made their position on this issue quite clear in 1988 when they soundly defeated each and every Presidential hopeful with trade protection high on his agenda for the future. Today, I ask my colleagues to sustain the President's veto of the most protectionist piece of legislation before Congress since the voters sent their mandate to Washington.

I am puzzled as to why any of my colleagues who do not represent a textile state would lend support to this destructive legislation. I can only assume that they are still unclear as to how this bill will impact their constituents, their States, and their country. Let me put it as plainly as I know how. H.R. 4326 will raise the cost of clothing and footwear; terminate jobs in a number of industries; trigger retaliation by our trading partners; eliminate any chance of a successful multilateral trade agreement; and adversely impact Turkey and Egypt, important allies in the Persian Gulf conflict. Clearly, there is much more at stake here than the protection of an already healthy domestic industry.

Let me point out that as a result of years and years of congressional kowtowing to textile manufacturers, the industry now receives greater protection than any other industry in the Nation. Today, tariffs on textile, apparel and footwear products are on average nearly five times higher than for other manufactured products. In spite of this fact, industry owners continue to bang on the door of the Capitol demanding to see more protection.

The argument we hear most often in defense of more protection is that the U.S. textile industry cannot compete with countries that pay their workers low wages. This argument assumes that our manufacturing technology is on an even footing with our competitors, which is clearly not the case. In fact, I recently learned an interesting fact which I would like to share with you. According to the United States Trade Representative's Office, "The United States worker is the most productive in the world and on average produces 23 percent more than his German counterpart, 39 percent more than his Japanese counterpart, and 153 percent more than his Korean counterpart." Because of the superior technology available to manufacturers in the United States, it is absolutely ridiculous to compare wages in Third World countries to those here at home.

We have also heard the argument made that trade protection benefits lower and middle income families by securing jobs. This could not be further from the truth. Because protection raises prices in the protected industry, families with lower incomes are forced to spend a proportionately greater amount of their budget on necessities such as clothing and shoes. And while some jobs may be created as a result of this legislation, the President put the cost of these jobs in perspective in his veto message to Congress last week, "This legislation picks the pockets of U.S. consumers in order to subsidize the textile industry at a cost of $70,000 annually per job saved."

And that is not all these jobs will cost. Many people fail to realize that despite the fact that trade protection saves jobs in one industry it destroys jobs elsewhere. So while jobs will be protected in the five textile States where the unemployment rate is already lower than the national average, other jobs will be sacrificed throughout the rest of the country. In addition to the estimated 50,000 jobs this bill will eliminate in the retailing sector, it will also cause many hardworking individuals in the transportation and shipping industries to lose their jobs. Furthermore, this legislation will cripple what are now our Nation's most competitive industries internationally. Let there be no mistake, our trading partners will retaliate. And they will retaliate against our exports of agriculture, aerospace, high technology, and services, the industries which hold the most promise of future prosperity for ourselves and for our children.

In addition to destroying jobs, passage of the textile bill will ruin any hope we have of reaching a successful multilateral trade agreement. Our negotiators have been working with 96 other Nations for the past 4 years to come up with an agreement which will significantly liberalize world trade. The United States began the negotiations, passage of this bill will effectively end them.

There is one argument that the proponents of this bill are using which I find particularly offensive. I am talking about the claim that if we do not pass this legislation, our Nation's military will be without uniforms. Right now our troops in the Persian Gulf are worried about a lot more than their uniforms. They are worried about whether they will come home alive. Let there be no mistake, a vote to override the President's veto, is a vote to undermine our strategic alliance with Turkey and Egypt, two countries which rely in great part on their textile exports to the United States.

This is the third consecutive Congress in which the House of Representatives has taken up legislation designed to protect the textile industry. We were successful in defeating the past two atempts, and I know we will be successful in defeating this year's attempt. However, even though "three strikes and you're out" may be the rule in baseball, it is not necessarily the rule on Capitol Hill. Therefore, I urge my colleagues to sustain this veto by such a wide margin that we will not be forced to revisit this issue over and over again. Today let us show the American people that the Congress is serious about placing the interests of the Nation before the interests of a select few. Vote no on the override.

Mrs. LLOYD. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama [Mr. Harris].

Mr. HARRIS. Mr. Speaker, I rise in strong support of the textile industry and against the Smoot-Hawley Act. I urge my colleagues to override this ill-advised veto.

Mr. Speaker, in an industry as large as textiles it is normal for new mills to open as entrepreneurs, many of whom are foreign, seek to gain a share of our market.

The administration cites Dun & Bradstreet figures noting that 172 new textile establishments and 457 new apparel establishments entered the D&B file since March 1990. These are primarily tiny businesses including small family operations sewing customized draperies. They could also be jobbers, converters or even importers listed as manufacturers with D&B.

The administration did not mention that D&B also lists 1,800 textile and apparel businesses that failed in the past 5 years.

The administration claims that 5,500 new textile jobs were created in Georgia, South Carolina, and North Carolina in 1988 and 1989. What they did not say is that there were 5,900 fewer textile jobs in these States now than 2 years ago, and 15,900 fewer apparel jobs.

I urge my colleagues to override this ill-advised veto.

Mrs. LLOYD. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. Gaydos], a member of the steel caucus.

Mr. GAYDOS. Mr. Speaker, I ask my fellow colleagues in the steel caucus to rise in strong support and override this veto.

Mrs. LLOYD. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. Jacobs], a member of the Committee on Ways and Means.

Mr. JACOBS. Mr. Speaker, I rise in support of the override, because I believe that the dumping of foreign products on the market is eating away at the very fabric of our way of life.

Mrs. LLOYD. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. Mfume].

Mr. MFUME. Mr. Speaker, if it is not free trade but only a sense of it and no sense of fair trade, it will not be homemade. I think this is an ill-advised veto. I urge Members to override it.

Mrs. LLOYD. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. Applegate].

Mr. APPLEGATE. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I believe that the President of the United States is out of touch with reality, particularly when he vetoed this bill.

The Reagan-Bush trade policies of the 1980's crippled much of our American industry, especially in the textile industry where tens of thousands of jobs have been lost and communities have been hurt.

Yet, with all of this, Mr. Reagan in 1984 went to China, made an agreement with them, and gave them 6 percent of the United States market, and now Congress this week, is talking about voting on a bill to give China most-favored-nation status, and this is a country that employs slave labor.

People in my district have to go to work to sell this cheap slave labor produced foreign garments and apparel at minimum wage with no benefits, at less than 20 hours a week, and I think it is wrong.

I say stop this cheap illegal importation of wearing apparel and goods from coming in.

Override the veto.

Mrs. LLOYD. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. Traficant].

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Mr. TRAFICANT. Mr. Speaker, we do not have a Commerce Department, we have a Department of Surrender. Vote to override the President's veto.

Mrs. LLOYD. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. Valentine].

Mr. VALENTINE. Mr. Speaker, I do not have any statistical information here with me today, and if I did, I would be afraid to use it because of questions that might be posed by the gentleman from Florida. Suffice it to say that the textile industry in my district is dying. The textile industry in the State of North Carolina is dying.

We have been here on three occasions, I believe, at least, and the House has passed this legislation by a majority vote, but we have failed to override the President's veto. So we feel like a voice crying in the wilderness. This industry needs this legislation. I suggest to my colleagues that without it, the textile industry in the United States will disappear, and that will be an American tragedy.

Help Members by supporting this effort to override the President's veto.

Mrs. LLOYD. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. Lancaster].

Mr. LANCASTER. Mr. Speaker, I support the override.

Mrs. LLOYD. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. Torricelli].

Mr. TORRICELLI. Mr. Speaker, I rise in support of the attempt to override the interests of the industry and all those people who depend upon it.

Mrs. LLOYD. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, what we have before us today is no surprise to anyone. The President has carried out his threat of a veto for the textile bill. In the President's veto message read last Friday, he said that "the problems this bill is intended to address do not exist." Some of these problems which do not exist are the loss of hundreds of thousands of American jobs, the erosion of our domestic manufacturing base, and the slowing of our economy.

Personally, I take issue with the President's statement, and I imagine so do the textile and apparel workers who have lost their jobs due to the flood of textile imports over the past decade. You've all heard the numbers before—1,800 plants have closed their doors since 1980; over 500,000 men and women are out of work. In the last 12 months alone, over 68,000 jobs have been eliminated in the textile and apparel industries.

Most of these jobs belonged to women and minorities. These people don't care about economic indicators—they care about how they're going to put food on the table. And they care that their President has said that their problems don't exist.

This country was built upon a domestic manufacturing base that was second to none in the entire world. Our position, however, is eroding rapidly as that base is continually chipped away by the onslaught of foreign produced goods.

In April of this year, the Department of Defense reported that the domestic textile manufacturing base is not even strong enough to produce the products needed in an operation such as Desert Shield. This lack of ability to adequately supply necessary equipment could potentially cripple our military power during a full-scale military mobilization.

The President obviously doesn't see this as a problem. I, however, think it is a very grave problem that needs to be and can be dealt with immediately through implementation of the textile bill. With the textile bill, the textile and apparel industries would be given the chance to increase their capacity so that in a time of crisis they would be capable of carrying the load.

One further problem that doesn't exist is the huge U.S. merchandise trade deficit. In 1980, the deficit stood at $36.4 billion, of which 12 percent was attributable to textiles and apparel. In 1989, both the total deficit and the textile portion of it had skyrocketed—21 percent of $128.7 billion. So far in 1990, the textile portion has climbed to an abominable 27 percent.

Such an immense trade deficit reflects poorly on the American economy and is tremendously damaging to our competitiveness abroad. The textile bill can help slow down and possibly reverse this downward spiral by slowing down the rate of growth of imported textiles. There will be no rollback of trade, and absolutely no competition will be eliminated. By limiting the growth rate of imports to the growth rate of the domestic market, imported textiles will continue to command their current 60 percent of the market and continue the current level of intense competition.

All of these problems can be addressed through the Textile, Apparel, and Footwear Trade Act. This legislation is needed in order to reverse the trend of job loss, decline of the American manufacturing base, and erosion of the economy. These problems that the President does not seem to be aware of are too important to ignore. I hope that you, my colleagues, can see these problems and care enough to override the ill-advised veto of this vital legislation.

Mr. CRANE. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. Oxley].

Mr. OXLEY. Mr. Speaker, I rise in support of the President's veto.

Mr. Speaker, I rise in strong support of the President's veto of H.R. 4328, and I urge my colleagues to sustain this action.

This body has experienced a great deal of contentious debate in the past few days. We have heard fierce debate on how much cost taxpayers and consumers will have to bear to put our fiscal house in order. The cost to the taxpayers and consumers to solve our budget deficit undoubtedly will be high. But, should the President's veto of this textile quota bill be overridden, consumers and taxpayers would be hit again with enormous expenses. At least when we were debating the budget resolution, we were trying to solve a problem of national consequence. H.R. 4328 represents the ultimate in special interest legislation.

As I have said before, H.R. 4328 is a consumer rip-off of immense proportions. Current textile and apparel quotas and tariffs cost American consumers some $13.5 billion per year. And while few consumers realize it, existing textile and apparel protection costs each family $250 per year. If the President's veto of this bill is overturned, the direct costs to consumers for textile and apparel products would increase from an already onerous $2,100 to $2,600 for a family of four over the next 5 years. The textile quota bill would have an overall cost to consumers of $160 billion over the next 5 years.

Moreover, this bill is not needed. Have there been jobs lost in the textile industry in the past few years? You bet. But does this industry deserve massive protectionist trade legislation? No way. Like any other U.S. business, the textile industry must learn to compete in the new world marketplace. The textile industry is already protected more than any other, and if they cannot compete effectively, the consumers should not have to bail them out.

We all know what this bill would do to the ongoing Uruguay round of trade negotiations. It would destroy the round. We all know that H.R. 4328 would violate 38 bilateral trade agreements, and we all know that the bill would invite a costly and protectionist trade war. We all should know that this is a bad bill.

Mr. Speaker, the President was correct in his actions, and I urge my colleagues to sustain this veto.

Mr. VENTO. Mr. Speaker, I rise in support of the motion to override the President's veto of H.R. 4328, the Textile, Apparel, and Footwear Trade Act.

Mr. Speaker, the measure which the House previously passed on September 18 by a vote of 271 to 149 was a modest one which seeks to limit textile and apparel imports to only a 1-percent increase over last year's import levels. The bill would maintain shoe imports at the same level as last year's imports.

It has become increasingly clear in recent years that the Multi-Fiber Arrangement [MFA] under the General Agreement on Tariffs and Trade [GATT] has failed in controlling textile, apparel, and footwear imports into the United States. The result is that the jobs of over 2 million American workers in the textile, apparel, and footwear industries are at risk. These industries should be saved now, not later, while these workers' jobs can still be saved. During the past 10 years, over 400,000 textile workers have lost their jobs. Just during the past year, 66,000 jobs in this industry have been lost. Many textile and shoe manufacturing plants across the Nation have closed because of the ready availability of cheap foreign imports.

The Bush administration and the Reagan administration before have been content to ignore this disintegration to one of the vital and important sectors of the Nation's industrial economy. For decades now, U.S. bilateral quotas negotiated pursuant to the MFA have been blatantly circumvented. Foreign-made textiles, apparel, and footwear products have been subsidized and dumped into the U.S. market. Had these U.S. administrations done their job in advocating the interests of U.S. textile, apparel, and shoe manufacturers during previous negotiations of the MFA, and had they followed up by insisting on strict and fair enforcement of these agreements, the House would not have to consider such an action as we have before us today.

Contrary to the claims of the President, this measure will not tie the President's hands on the textile trade matters. Indeed, the bill provides flexibility for the President to reward purchasers of U.S. agricultural goods with higher textile quota allocations. The bill also provides a compensation mechanism for countries that may be adversely impacted by the new quotas contained in the bill. This legislation does not weaken our hand in international trade matters. Indeed, it strengthens the U.S. position in seeking trade agreements that are fair not only to exporting countries seeking markets in the United States for their products, but which are also fair to American manufacturers and American workers.

I urge my colleagues to join me in voting to override the President's veto of this legislation.

Mr. COBLE. Mr. Speaker, for the third time in as many terms, we will attempt to override a Presidential veto of major textile legislation. Let us hope the third time is a charm.

The bill itself is straightforward. H.R. 4328 establishes global quotas for each category of textiles and textile products from all sources, limiting import growth for each quota to 1 percent annually. Nonrubber footwear from all sources will also be limited to 1989 import levels. Israel and Canada, with which we have free trade agreements, are exempted. The bill accords special treatment to those countries which increase their purchases of U.S. agricultural products, and the President is authorized to negotiate reductions in U.S. textile and apparel tariffs as compensation to countries adversely affected by the bill's passage.

The reasons justifying our consideration of H.R. 4328 today are no different than those cited in the 99th and 100th Congress. The problem—foreign imports—has simply become more acute:

Since 1980, import penetration of U.S. textile and apparel markets has risen from 28 percent to 60 percent.

Footwear imports now claim 80 percent of U.S. markets.

Some 400,000 jobs have been lost in textiles and apparel since 1980—70,000 in the last year alone.

And more than one-quarter of the total U.S. trade deficit is attributable to textile and apparel imports.

I could continue to recite more Draconian figures, but the point is already made: We are steadily and surely giving away an important part of our Nation's manufacturing base, and it must stop now.

How has this happened? Critics claim the industry itself is to blame—but this just is not so. Over the past decade, the textile industry has invested $18 billion to modernize plant and equipment. Between 1975 and 1985, textile mill productivity surpassed that of every other manufacturing industry. Nor did such accomplishment come at the expense of the average mill worker: The National Safety Council has ranked the American textile industry No. 1 in safety 3 out of the last 4 years.

Instead, the problem is a direct function of the current system's failure to work properly. Under the Multifiber Arrangement, or FMA, an agency called CITA—Committee for the Implementation of Textile Agreements—monitors import growth. During periods of rapid growth, CITA issues requests for consultations, or calls, to foreign countries for the purpose of negotiating a mutually agreed quota. As would be expected, CITA steadily issued increased calls through the early and mid-1980's, commensurate with a rise in imports. Suddenly, calls dropped precipitously in 1987; this, when total imports were reaching all-time highs. The reason: Foreign exporters were simply using someone else's quota once theirs were filled. This proves the current system is more of a sieve than a control program, since it is too easily circumvented.

Given this present, inadequate level of protection, it is no wonder foreign imports of textile, apparel, and footwear goods pour into our country. Does anyone in this Chamber really believe the Third World exporters operate under the same constraints imposed on U.S. workers and businesses? Are their wages and hour restrictions, clean water and air requirements, tax laws, and other government mandates the same as ours? Absolutely not. In fact, reports brought to light this past January indicate that mainland China uses prison labor to perform in-house manufacturing of textile products. American textile workers, no matter how productive and efficient, should not and cannot be expected to compete on such terms.

The arguments against H.R. 4328 are well rehearsed and specious. Some maintain the bill will cost consumers billions extra in higher clothing prices. But the consumer derives no benefit from purchasing an imported garment—the retailer simply realizes a higher markup. Besides, one MIT economist estimates that the true costs of measures, such as those embodied in H.R. 4328, are less than three-fourths of 1 percent.

Others raise the specter of retaliation. This bill is no more restrictive than provisions imposed by the EEC on many textile imports for which little, if any, retaliation has occurred. Moreover, there is enough flexibility with a global quota system to allow the President to allocate more quotas to our most important allies.

As for the GATT and the MFA, we breach neither agreement.

The downside of the bill, then, is minimal. What about the upside? Clearly, our economy will benefit. Two million men and women employed in the textile and apparel industries can rest easy knowing they will not lose their jobs to present, unfair circumstances. In addition, one study found that the blueprint for H.R. 4328—last term's bill—could ultimately result in the creation of 150,000 new jobs. American consumers will continue to benefit from the competition offered by domestic producers.

And let us not forget the military application of this bill. The Department of Defense ranks textiles second—only to steel—as the domestic supplier most essential to national defense. Globes, uniforms, combat boots, tents, and parachutes—we cannot risk dependence on foreign suppliers for these items. Ask a United States foot soldier in Saudi Arabia for confirmation.

Mr. Speaker, each of us probably embraces free trade as an abstract concept. But we are not dealing with theoretical niceties today so much as we are responding to the needs of real people with real problems. We can no longer stand by while our industrial base and economic clout dissipate.

Please support H.R. 4328.

Mr. LANCASTER. Mr. Speaker, the threat of imports to our domestic textile market is too great to ignore. The textile industry is responsible for the livelihood and welfare of millions of U.S. citizens, especially North Carolinians. The influx of imported goods has overwhelmed the domestic textile trade.

Imported textiles and apparel represent an overwhelming 26 percent of our entire U.S. trade deficit, and currently imports control 60 percent of our domestic textile markets. While this translates into increased profits for many companies, it does so at the major expense of many American jobs. In March 1990, combined textile and apparel employment was off 66,000 from the level of one year earlier—the lowest in the 50 years that industry records have been kept. In 1989 in North Carolina alone, 6 plants were closed, causing job losses for over 1,000 people.

It is imperative that we enact a trade policy to stem the unabridged flow of imports so that we may prevent further U.S. jobs from being terminated. In my home State of North Carolina, textile mills form the backbone of many of our small communities, and closing these plants would be absolutely devastating to local economies as well as to families.

The textile bill will place a reasonable global quota on textile imports. While still permitting one percent annual growth for imports, this legislation would simply allow our domestic textile industry an equal opportunity in the marketplace, an opportunity which is rightly deserved.

An important innovation in this bill is designed to respond to the fear of retaliation against U.S. farm commodities by textile importing countries if we impose quotas. This legislation provides that the textile quota will be increased if they increase their purchases of our farm products. Thus, a mutually beneficial market process is established. Buy more farm products from us, and we'll buy more textiles from you.

Mr. Speaker, I strongly support this bill and urge my colleagues to vote yes and override the President's veto.

Mr. CRANE. Mr. Speaker, I yield the remainder of my time to the gentleman from Illinois [Mr. MICHEL], our distinguished minority leader.

Mr. MICHEL. Mr. Speaker, this is an issue that does not divide Members down this center aisle, for there are Members on both sides of the aisle that have differing views with respect to whether or not the President's veto should be overridden or sustained. I obviously take the position that the President's veto of the legislation ought to be sustained.

I cannot conceive of our violating 38 bilateral and 2 multilateral agreements, totally undermining our position in the current GATT talks which are reaching such a critical state, and of course which would be the case if the veto were overridden.

We can hardly ask with any credibility other nations to lower their barriers when we impose additional barriers of our own. In the GATT talks we are seeking to knock down foreign barriers which impede the export of many American products such as agricultural goods, manufactured products, and high-technology items and the like. The first two, of course, we have an abundance in my own district. We will get nowhere in this effort if we permit this protectionist bill to become the law of the land.

In fact, foreign negotiators are currently delaying any movement in our direction until we dispose of this textile bill. It is clear that if the bill is enacted, we will get very little of what we are seeking in those negotiations. In an effort to protect one industry, we will be socking it to our farmers, our industry workers, and many others who rely on exports for their livelihood.

The Farm Bureau and most other farm organizations oppose this bill. The phony provision in the bill that ties increase farm purchases to textile quotas is, according to the president of the Farm Bureau, Dean Kleckner, "a bone that was tossed to farmers that has no meat on it." He goes on to say:

> There is not even a remote possibility that foreign countries will be encouraged by the textile bill to buy more farm products from the United States.

No one here who represents any kind of an agricultural district should be voting to override this veto.

The textile industry already receives more protection than virtually any other American industry, as has been alluded to several times here this afternoon. There are currently some 38 bilateral agreements involving more than 1,000 import quotas for textile products. The tariffs on these products are already 5 times higher than other manufactured products. Furthermore, at a time when we are feeling inflationary pressures due to the Mideast crisis, this bill will simply add further fuel to the fire.

The textile industry had its highest level of sales in the year 1989, so it cannot be said that the industry as a whole is significantly hurting. There is certainly no basis for protectionist quotas.

For all those reasons, therefore, I certainly urge Members on both sides of the aisle that this veto be sustained.

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Mrs. LLOYD. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. RAY].

Mr. RAY. Mr. Speaker, I rise in support of the motion to override the President's veto of H.R. 4328, the textile bill.

We are now hearing the news from the GATT talks, and it is not good. Our negotiators appear ready to offer a proposal which will decimate our agricultural sector. This comes on the heels of a budget agreement which will greatly reduce spending on agriculture.

My colleagues, if you have farms in your district, do not depend on the administration to protect them. The free traders are prepared to sacrifice agriculture the same way they have sacrificed the textile industry. You can expect to lose agriculture jobs just like we have lost textile jobs, and make no mistake about it—jobs are being lost.

Two weeks ago, the Hanes Hosiery Co. announced it was closing a plant in LaGrange, GA, in my district. This action will put over 400 people out of work. As recently as 2 years ago, this plant employed over 1,000 people. This is not an isolated incident—it is happening all around the country.

Mr. Speaker, let us protect American jobs—not foreign jobs. Let us override this veto.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes and 45 seconds to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Speaker, many Members of this institution are under the false impression that their support for the textile bill is a free vote, because the President's veto couldn't possibly be overridden. If you are of this mindset. I would ask you to think again.

Sixty years ago, Congress passed the Smoot-Hawley tariff bill, which raised tariffs to extraordinary levels and helped cause a worldwide depression the likes of which I hope we never see again. Though Smoot-Hawley passed the House by 222-153, it passed the Senate by only 2 votes (44-42). Given the havoc that Smoot-Hawley wreaked, I'm sure that those Senators who were ambivalent about Smoot-Hawley but still supported it wished they could have changed their vote.

Let us not make the same mistake. Though most of my colleagues do not really believe that President Bush's veto could be overriden, I fear that the vote could be very, very close. If you are at all unsure about the textile bill, I urge you to vote to sustain the President's veto.

By overriding the President's veto of the textile bill—a bill which completely ignores our international trade agreements—Congress places the GATT Uruguay round talks in jeopardy. The textile quota bill would place new GATT-illegal restrictions on nearly $30 billion in imports. This would be the largest single departure from international obligations by any country in the history of the GATT and would almost surely lead to massive retaliation by our trade partners in sectors of enormous importance to the United States. In short, the GATT talks would break down, and we would risk a movement away from the international trading system that has served us so well, one anchored by the GATT.

My message is this: Do something good for the world economy; vote to

sustain the President's veto of the textile bill. Vote "no"

Mr. GIBBONS. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, this is the rest of America versus the textile industry. Most of the farmers in America who grow anything are opposed to this bill, and I will put it in the RECORD. Most of the manufacturers in America are opposed to this bill. They all ask you to vote no.

COALITION AGAINST ENACTMENT OF TEXTILE IMPORT QUOTA LEGISLATION,

October 9, 1990.

DEAR CONGRESSMAN: Our coalition wrote you on September 12 urging your opposition to House passage of H.R. 4328, the Textile, Apparel and Footwear Trade Act of 1990.

We are deeply appreciative of your vote against that bill, and we hope that you will vote to sustain the President's veto of this most dangerous legislation.

As we stated in our September 12 letter, if the textile bill becomes law, it will effectively terminate the Uruguay Round and delay for many years negotiations on intellectual property rights protection, services, trade-related investment, and agriculture as well as undercut efforts to enhance market access, improve GATT disciplines and establish effective multilateral dispute settlement procedures.

Enactment of the legislation will have economic consequences that could seriously undermine the international competitiveness of a wide range of U.S. companies and unfairly penalize U.S. consumers. The bill could provoke our trading partners to retaliate against U.S. exports of manufactured goods, services and agricultural products.

Once again, thanks for your earlier vote against H.R. 4328. We hope that you will vote to sustain the President's veto.

Sincerely,

Abbott Laboratories, ADAPSO: The Computer Software and Service Industry Association, Aerospace Industries Association, The Aluminum Association, Inc., American Association of Exporters and Importers, American Electronic Association,

American Express Company, American Farm Bureau, American Film Marketing Association (AFMA), American League for Exports and Security Assistance, American President Companies, Ltd., Associated Merchandising Corporation, Association of American Publishers, The Boeing Company, Business Software Alliance (BSA), Cargill, Inc., Caterpillar Inc., Citizens for a Sound Economy, Coalition of Service Industries, Coalition for Open Markets and Expanded Trade, Compaq Computer Corporation, Computer and Business Equipment Manufacturers Association, Computer & Communications Industry Association.

Construction Industry Manufacturers Association, Consumers for World Trade, Emergency Committee for American Trade, FMC Corporation, Hewlett-Packard Company, Honeywell, Inc., International Intellectual Property Alliance (IPA), Maersk Inc., Merck & Co., Inc., Millers' National Federation, Motion Picture Association of America, Inc., NMTBA—The Association for Manufacturing Technology, National Association of Stevedores, National Association of Wheat Growers, National Foreign Trade Council, National Grain Trade Council, National Grange, National Music Publishers Association, National Retail Federation, NCR Corporation, North American Export Grain Association, Pharmaceutical Manufacturers Association, Procter & Gamble, Retail Industry Trade Action Coalition, Recording Industry Association of America (RIAA), Sea-Land Corporation, U.S. Council on International Business, Volume Shoe Corporation, Wheat Export Trade Education Committee.

September 26, 1990.

Hon. SAM GIBBONS,
U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE GIBBONS: The undersigned agricultural groups support the President's veto of the textile import quota bill (H.R. 4328). If this legislation is enacted into law, U.S. agricultural export interests would be adversely affected by foreign retaliation and by the loss of any hope for a successful result in the Uruguay Round of multilateral trade negotiations.

We urge you to vote to sustain the President's veto of this legislation.

Sincerely,

American Farm Bureau Federation, American Meat Institute, American Soybean Association, Millers' National Federation, National Association of Wheat Growers, National Grain & Feed Association, National Grain Trade Council, National Grange, National Oilseed Processors Association, National Turkey Federation, North American Export Grain Association, Inc., Southeastern Poultry and Egg Association, United Fresh Fruit and Vegetable Association.

Mr. DERRICK. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from South Carolina.

AUTHORIZING THE SPEAKER TO REDUCE TIME FOR POSTPONED VOTES ON SUSPENSIONS FROM EARLIER TODAY

Mr. DERRICK. Mr. Speaker, I ask unanimous consent that notwithstanding the provisions of clause 5(b) of rule I, the Speaker be authorized today to reduce to a minimum of 5 minutes the period of time for the votes postponed earlier today on two motions to suspend the rules, which will occur immediately following the constitutionally required vote on overriding the President's veto of the bill, H.R. 4328.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding.

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 275, nays 152, not voting 6, as follows:

[Roll No. 440]

YEAS—275

Ackerman
Alexander
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
Baker
Ballenger
Barnard
Bates
Bennett
Bentley
Bevill
Bilbray
Bliley
Boehlert
Bonior
Borski
Bosco
Boucher
Brennan
Brooks
Browder
Brown (CA)
Bruce
Bryant
Burton
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coyne
Darden
Davis
de la Garza
Dellums
Derrick
Dickinson
Dingell
Dixon
Donnelly
Dornan (CA)
Douglas
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gekas
Gephardt
Gilman
Gingrich
Gonzalez
Goodling
Gordon
Grant
Gray
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Jacobs
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kildee
Kolter
Kostmayer
Lancaster
Lantos
Laughlin
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Manton
Markey
Martin (NY)
Martinez
Mavroules
McCloskey
McCrery
McDade
McGrath
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Miller (OH)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Pallone
Parker
Parris
Pashayan
Patterson
Payne (NJ)
Payne (VA)
Perkins
Pickett
Poshard
Price
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Ridge
Rinaldo
Ritter
Roe
Rogers
Rose
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Sarpalius
Savage
Schaefer
Scheuer
Schiff
Schneider
Schulze
Serrano
Sharp
Shays
Shuster
Sikorski
Sisisky
Skeen
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Snowe
Solomon
Spence
Spratt
Staggers
Stenholm
Stokes
Studds
Tallon
Tanner
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Washington
Watkins
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Yates
Yatron
Young (AK)

NAYS—152

Anderson
Archer
Armey
AuCoin
Bartlett
Barton
Bateman
Beilenson
Bereuter
Berman
Bilirakis
Boxer
Broomfield
Brown (CO)
Buechner
Bunning
Campbell (CA)
Chandler
Coughlin
Courter
Cox
Craig
Crane
Crockett
Dannemeyer
DeFazio
DeLay
DeWine
Dicks
Dorgan (ND)
Downey
Dreier
Edwards (OK)
English
Fawell
Fields
Frenzel
Gallegly
Gallo
Geren
Gibbons
Gillmor
Glickman
Goss
Gradison
Grandy
Green
Hamilton
Hancock
Hansen
Hastert
Hefley
Herger
Hiler
Hyde
Inhofe
Ireland
James
Johnson (CT)
Kasich
Kennelly
Kleczka
Kolbe
Kyl
LaFalce
Lagomarsino
Leach (IA)
Lent
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Madigan
Marlenee
Martin (IL)
Matsui
Mazzoli
McCandless
McCollum
McCurdy
McDermott
McEwen
McHugh
Meyers
Michel
Miller (CA)
Miller (WA)
Molinari
Moorhead
Morella
Morrison (WA)
Myers
Nelson
Nielson
Owens (UT)
Oxley
Packard
Panetta
Paxon
Pease
Pelosi
Penny
Petri
Pickle
Porter
Pursell
Rhodes
Roberts
Robinson
Rohrabacher
Ros-Lehtinen
Rostenkowski
Saiki
Sangmeister
Sawyer
Saxton
Schroeder
Schumer
Sensenbrenner
Shaw
Shumway
Skaggs
Slattery
Smith (IA)
Smith (NE)
Smith, Robert (OR)
Solarz
Stallings
Stangeland
Stark
Stearns
Stump
Sundquist
Swift
Synar
Tauke
Thomas (WY)
Udall
Unsoeld
Upton
Vander Jagt
Walker
Walsh
Waxman
Weber
Whittaker
Wolf
Wyden
Wylie
Young (FL)

NOT VOTING—6

Boggs
Henry
Neal (MA)
Owens (NY)
Rowland (CT)
Schuette

□ 1955

The Clerk announced the following pairs:

On this vote:

Mr. Neal of Massachusetts and Mr. Owens of New York for, with Mr. Rowland of Connecticut against.

So, two-thirds not having voted in favor thereof, the veto of the President was sustained and the bill was rejected.

The SPEAKER. The message and the bill are referred to the Committee on Ways and Means.

The Clerk will notify the Senate of the action of the House.

PERSONAL EXPLANATION

Mr. NEAL of Massachusetts. Mr. Speaker, on the override of the textile bill, H.R. 4328, I was unavoidably detained.

Had I been present I would have voted for the override.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed in the order in which the motion was entertained.

Votes will be taken in the following order: S. 2737, by the yeas and nays; and

S. 1413, by the yeas and nays.

KOREAN WAR VETERANS MEMORIAL THIRTY-EIGHTH ANNIVERSARY COMMEMORATIVE COIN ACT

The SPEAKER. The pending business is the question of suspending the rules and passing the Senate bill, S. 2737, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER. The question is on the motion offered by the gentleman from California [Mr. LEHMAN] that the House suspend the rules and pass the Senate bill, S. 2737, as amended, on which the yeas and nays are ordered.

Under a previous order of the House, this vote will be limited to 5 minutes.

The vote was taken by electronic device, and there were—yeas 421, nays 0, not voting 12, as follows:

[Roll No. 441]

YEAS—421

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Crane
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Frank
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—0

NOT VOTING—12

Boggs
Conyers
Crockett
Ford (MI)
Ford (TN)
Frenzel
Frost
Henry
Martinez
Owens (NY)
Rowland (CT)
Schuette

□ 2007

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AROOSTOOK BAND OF MICMACS SETTLEMENT ACT

The SPEAKER. The pending business is the question of suspending the rules and passing the Senate bill, S. 1413.

The Clerk read the title of the Senate bill.

The SPEAKER. The question is on the motion offered by the gentleman from Connecticut [Mr. GEJDENSON] that the House suspend the rules and pass the Senate bill, S. 1413, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 248, nays 172, not voting 13, as follows:

[Roll No. 442]

YEAS—248

Ackerman
Alexander
Anderson
Annunzio
Anthony
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bereuter
Berman
Bilbray
Boehlert
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Campbell (CA)
Campbell (CO)
Cardin
Clay
Clinger
Coleman (TX)
Collins
Condit
Conte
Cooper
Costello
Courter
Coyne
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Engel
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Frank
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Gonzalez
Goodling
Gordon
Gray
Gunderson
Hall (OH)
Hamilton
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hyde
Jacobs
James
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Manton
Markey
Martin (IL)
Martin (NY)
Matsui
Mavroules
Mazzoli
McCloskey
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Molinari
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Pallone
Panetta
Pashayan
Patterson
Payne (NJ)
Pease
Pelosi
Perkins
Price
Pursell
Quillen
Rangel
Ravenel
Ray
Richardson
Ridge
Roe
Ros-Lehtinen
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Skaggs
Skeen
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (VT)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tallon
Tauke
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Vento
Visclosky
Walgren
Walsh
Washington
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—172

Andrews
Applegate
Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bennett
Bentley
Bevill
Bilirakis
Bliley
Broomfield
Browder
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Carper
Carr
Chandler
Chapman
Clarke
Clement
Coble
Coleman (MO)
Combest
Coughlin
Cox
Craig
Crane
Dannemeyer
DeLay
DeWine
Dickinson
Dingell
Dornan (CA)
Douglas
Dreier
Duncan
Dyson
Edwards (OK)
Emerson
English
Erdreich
Fields
Flippo
Gallegly
Gallo
Gaydos
Gekas
Geren
Gillmor
Glickman
Goss
Gradison
Grandy
Grant
Green
Guarini
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hefley
Herger
Hiler
Holloway
Hopkins
Hunter
Hutto
Inhofe
Ireland
Jenkins
Kyl
Lagomarsino
Laughlin
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Madigan
Marlenee
McCandless
McCollum
McCrery
McCurdy
McDade
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Mollohan
Montgomery
Moorhead
Morrison (WA)
Myers
Nielson
Oxley
Packard
Parker
Parris
Paxon
Payne (VA)
Penny
Petri
Pickett
Pickle
Porter
Poshard
Rahall
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rogers
Rohrabacher
Roth
Roukema
Sangmeister
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skelton
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stangeland
Stearns
Stenholm
Stump
Sundquist
Tanner
Taylor
Thomas (CA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Wilson
Wolf
Wylie
Young (AK)
Young (FL)

NOT VOTING—13

Boggs
Conyers
Crockett
Ford (MI)
Ford (TN)
Frenzel
Frost
Henry
Horton
Martinez
Owens (NY)
Rowland (CT)
Schuette

□ 2015

Mr. WILSON and Mr. CLARK changed their vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on the remaining motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on tomorrow.

□ 2020

THE DWIGHT D. EISENHOWER SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2806) to redesignate the National System of Interstate and Defense Highways as the Dwight D. Eisenhower System of Interstate and Defense Highways, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from California?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, I shall not object, but I shall use this time to yield to the distinguished chairman of the committee for an explanation of his request.

Mr. ANDERSON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it is a privilege to support this legislation that designates the Nation's Interstate Highway System as the Dwight D. Eisenhower System of Interstate and Defense Highways.

This bill rightfully acknowledges the contribution of the Nation's 34th President in bringing about the enactment of the Federal-Aid Highway Act of 1956 that defined the purpose and extent of the Interstate System—the largest public works project ever undertaken in the United States. That act also dedicated user fees on motor fuels and automotive products to support construction of the system.

Mr. Speaker, in recognition of the 100th birthday of President Eisenhower, I urge adoption of this bill.

(Mr. HAMMERSCHMIDT asked and was given permission to revise and extend his remarks.)

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of this measure to redesignate the National System of Interstate and Defense Highways as the Dwight D. Eisenhower System of Interstate and Defense Highways.

It is fitting that the most ambitious public works project in this Nation's history be named for the great President who took the initiative to make it a reality. Certainly there could be no better time to take this action than now, as we approach President Eisenhower's 100th birthday.

In the early fifties, the Korean emergency and steadily increasing auto and truck registrations put a huge strain on the Nation's existing highway system. Freight carried on highways increased by as much as a third in a single year. At the same time, States were faced with a shortage of funds to improve their roads.

President Eisenhower responded to this crisis by going to the Congress and the Nation's Governors to ask for their cooperation in setting forth a grand plan. He drew a vision of an "articulated system to solve the problems of speedy, safe, transcontinental travel," including metropolitan area congestion, bottlenecks, access highways, and farm-to-market movement.

Today, as the Interstate System nears completion, we reap the benefits of President Eisenhower's vision. It is clear that the Interstate System will continue to be the bulwark of our Nation's highway network into the 21st century. I urge my colleagues to join with me in support of S. 2806, honoring President Eisenhower and his commitment to creating a truly national highway system.

Mr. Speaker, further reserving the right to object, I yield to the distinguished ranking member of the Subcommittee on Surface Transportation, the gentleman from Pennsylvania [Mr. Shuster].

Mr. SHUSTER. Mr. Speaker, 45 years ago Dwight Eisenhower and Congress together had the vision to create the Interstate Highway System and provide a trust fund to fund that system and our entire highway system such that we now have the best transportation system and the best highway system in the world.

It is my hope, as I vigorously support this legislation and look forward to its passage, that we in this Congress have the same vision as we wrestle with the budget issues before us, the same vision to preserve and protect that highway trust fund so that 45 years from now those who stand in this well might be able to look back and say that Congress had the same vision, the same foresight as the earlier Congress and President Eisenhower did, and they provided for preserving that trust fund that we were able in the 21st century to meet the awesome needs of continuing to provide the American people with the best highway system in the world.

Mr. MINETA. Mr. Speaker, I am pleased to support S. 2806, which renames the Nation's interstate highway system as the Dwight D. Eisenhower System of Interstate and Defense Highways.

By enactment of this legislation, we recognize the crucial role played by Dwight D. Eisenhower in assuring the construction of our 43,000-mile Interstate Highway System 34 years ago. President Eisenhower made the Interstate a reality by his support of user-fee funding, and creation of the Federal Highway Trust Fund in the Federal-Aid Highway Act of 1956.

Passage of this bill today is both a fitting and proper way to commemorate the 100th anniversary of President Eisenhower's birth. Therefore, I urge my colleagues to join me in supporting adoption of S. 2806.

Mr. HAMMERSCHMIDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2806

Be in enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(a) notwithstanding any other provision of law, The National System of Interstate and Defense Highways shall be redesignated as "The Dwight D. Eisenhower System of Interstate and Defense Highways"; and

(b) any reference before the date of enactment of this Act in any provision of law, regulation, map, sign, or otherwise to The National System of Interstate and Defense Highways shall be deemed to refer, on and after such date, to The Dwight D. Eisenhower System of Interstate and Defense Highways.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER DURING CONSIDERATION OF H.R. 5769, DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-846) on the resolution (H. Res. 500) waiving certain points of order during consideration of the bill (H.R. 5769) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes, which was referred to the House Calendar and ordered to be printed.

J. WILL ROBINSON FEDERAL BUILDING

Mr. ANDERSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5419) to designate the Federal Building at 88 West 100 North in Provo, Utah, as the "J. Will Robinson Federal Building," as amended.

The Clerk read as follows:

H.R. 5419

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 88 West 100 North in Provo, Utah, shall hereafter be known and designated as the "J. Will Robinson Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, regulation, map, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "J. Will Robinson Federal Building".

The SPEAKER pro tempore. Is a second demanded?

Mr. PETRI. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. Anderson] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. Petri] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Anderson].

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5419, as amended, would honor the late Congressman J. Will Robinson for his numerous contributions to the welfare of his home State of Utah, the West, and the Nation.

Congressman Robinson was born on January 19, 1878, in Coalville, Summit County, UT. He attended public schools but dropped out after fifth grade so he could help support his family. Subsequently, he was able to continue his education. He earned a college degree from Brigham Young Academy, later renamed Brigham Young University, and law degree from the University of Chicago in 1912.

Congressman Robinson had a diversified career. He was an educator as principal of Unita Academy and of Wasatch High School. He then pursued his legal career. He was county attorney of Utah County from 1918 to 1921. After this, he served as a member of the board of regents of the University of Utah from 1925 to 1935.

In 1932, Robinson was elected to Congress. He held his congressional seat for 14 years. He was chairman of the Committee on Public Lands for 4 years and chairman of the Committee on Roads also for 4 years. As chairman of these committees, Congressman Robinson fought for issues that were important to the West and he made a lasting impact on public land management and reclamation.

In 1946, Robinson was defeated for reelection. He chose to remain in Washington for 2 more years, serving as Director of Grazing, in the Office of Land Management, Interior Department. In 1949, he retired from Government service and returned to Utah. He died in 1964, at the age of 86.

Congressman Robinson's life of outstanding public service to Utah, and this Nation, make it highly appropriate to honor him by naming the Federal building at 88 West 100 North in Provo, UT, as the "J. Will Robinson Federal Building."

Mr. Speaker, I urge passage of this bill and reserve the balance of my time.

Mr. PETRI. Mr. Speaker, I yield such time as he may consume to the distinguished author of H.R. 5419, the gentleman from Utah [Mr. Nielson].

Mr. NIELSON of Utah. Mr. Speaker, let me begin by acknowledging the considerable assistance of Public Works Committee Chairman Glen Anderson and ranking member John Paul Hammerschmidt, as well that of Public Buildings Subcommittee Chairman Doug Bosco and ranking member Tom Petri. Their efforts, and that of their staffs, made it possible for this legislation to reach the floor in a very short time, and I truly appreciate their help and support.

J. Will Robinson was the true embodiment of a Western pioneer, both in spirit and in practice. Known as somewhat of a scrapper, he successfully overcame the seeming indifference of the West's harsh environs and relative poverty. Forced to drop out of the sixth grade to help support his family, he went on to graduate from college and law school, and to excel in the fields of law, education and business. In 1932, he was elected to the first of seven terms to Congress.

As Utah's longest serving Representative, Will Robinson was well known as an innovator and defender of issues important to the West. As chairman of the Committee on Public Lands, and later the Committee on Roads, he made his mark in the areas of public land management and reclamation. He considered the highlight of his career to be his role in helping pass legislation that created the National Highway System, which opened the West to the rest of the country and was the last critical step in realizing a true national identity.

J. Will Robinson honorably served his State and his country for 14 years. I believe it would be most appropriate to honor him in return by passing H.R. 5419, which would name the Government office building in Provo, UT. the "J. Will Robinson Federal Building."

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5419 would designate the Federal building in Provo, UT, in honor of former House Member J. Will Robinson, who served during the Depression and World War II.

Mr. Robinson, who died in 1964 at the age of 86, was a self-made man who dropped out of school in the 6th grade so that he could get a job and help support his family. But through hard work and determination, he completed his schooling, eventually earning a law degree.

Prior to being elected to Congress in 1932, Will Robinson was a lawyer, teacher, high school principal, served on the board of regents of the University of Utah, and was involved in several businesses.

During his seven terms in Congress, Congressman Robinson was involved in issues important to the West, including those of public lands and highways. He returned to Utah a few years after he left Congress. It is fitting that we recognize the spirit and contributions of J. Will Robinson by naming the Provo, UT, Federal building in his honor.

Mr. HAMMERSCHMIDT. Mr. Speaker, I want to express my support for this bill which would name a Federal building in Provo, UT, in honor of J. Will Robinson, who served in the House during the 1930's and 1940's and has been, to date, the longest serving Member from Utah.

Congressman Robinson grew up in very humble surroundings, having to leave grade school in order to help support his family. But through his perseverence, he eventually completed his public school education, attended college and earned a law degree from the University of Chicago.

Before being elected to Congress, Congressman Robinson was an educator, businessman, and set up his own private law practice. Upon being elected to the House in 1932, he became active in issues affecting the western part of the country. Congressman Robinson served as chairman of the Committee on Public Lands and the Committee on Roads, where he helped pass legislation that created our national highway system.

Mr. Robinson served in Congress for 14 years and then served at the Department of Interior for 2 years before returning to Utah. In recognition of his many years of service to Utah and the country, it is appropriate that the Federal Building in Provo, UT, be designated as the "J. Will Robinson Federal Building."

Let me conclude, Mr. Speaker, by commending the sponsor of this bill, Howard Nielson, for his many years of service in the House. Howard will be leaving Congress at the end of the session, and he has served his constituents well in the time he has been here.

I urge the House to pass H.R. 5419 today.

Mr. ANDERSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PETRI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Anderson] that the House suspend the rules and pass the bill, H.R. 5419, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ALEXANDER HAMILTON UNITED STATES CUSTOM HOUSE

Mr. ANDERSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5595) to redesignate the Federal building located at 1 Bowling Green in New York, NY, as the "Alexander Hamilton United States Custom House".

The Clerk read as follows:

H.R. 5595

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Federal building located at 1 Bowling Green in New York, New York, and known as the United States Custom House, shall be known and designated as the "Alexander Hamilton United States Custom House".

SEC. 2. REFERENCES.

Any reference in a law, map, regulations, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Alexander Hamilton United States Custom House".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. Anderson] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. Petri] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Anderson].

□ 2030

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with great pleasure that I bring before the House today H.R. 5595, a bill to name the Federal building located at 1 Bowling Green in New York City as the "Alexander Hamilton United States Custom House".

Alexander Hamilton played a very critical role in the founding of our Nation. After serving as an aide to

Gen. George Washington during the Revolutionary War, Mr. Hamilton served as a Member of the Continental Congress in 1782, 1783, and 1788; as a Member of the Annapolis Convention of 1786; and as a Member the Philadelphia Constitutional Convention in 1787 which adopted the Constitution of the United States.

As the first Secretary of the Treasury from 1789 to 1795, Alexander Hamilton had to face the most serious problem facing the new government: Paying the national debt incurred during the Revolutionary War. Hamilton estimated the foreign debt to be approximately $11.7 million, the domestic debt to be approximately $42 million and the State debt to be approximately $25 million. Secretary Hamilton was instrumental in establishing the first budget and treasury for the U.S. Government, and succeeded in establishing the credit of the Government.

Secretary Hamilton had his home and law office on the Bowling Green in lower Manhattan, close to the site of the present custom house. His office as Secretary of the Treasury was in nearby Fraunces Tavern.

In tribute to Alexander Hamilton's numerous contributions to the United States, it is fitting and appropriate to name the Federal building located at 1 Bowling Green in New York, NY, as the "Alexander Hamilton United States Custom House".

Accordingly, I urge support of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. PETRI. Mr. Speaker, I yield such time as he may consume to the author of this legislation, the gentleman from New York [Mr. GREEN]

Mr. GREEN. Mr. Speaker, I rise today in support of legislation that will designate the U.S. Custom House at 1 Bowling Green in New York City, NY as the Alexander Hamilton United States Custom House. This bill is both timely and appropriate.

This bill is timely because it honors a man who struggled with a monumental debt problem not unlike the one we now face. When Hamilton became the first Secretary of the Treasury in 1789, one of his first duties was to pay off debts accumulated during the Revolutionary War. His struggle to ensure that the proper funding of the national debt worked to the advantage of his country was no small accomplishment. Because he rapidly achieved this goal, and as a result of other sound fiscal policies he established, he is now recognized as the founding father of our American free market economic system.

Renaming the Custom House in memory of Alexander Hamilton is appropriate because Hamilton had his home and law office on the Bowling Green in lower Manhattan within a few yards of where the Custom House building now stands. It was there that Hamilton drilled his Hearts of Oak infantry company, preparing for active duty in the Revolution. Before the Federal income tax of 1913, customs duties were the main support of the Government and collection of customs duties and excise taxes was the responsibility of Hamilton's Treasury Department. The Custom House on the Bowling Green was the country's largest custom house, and Hamilton founded the Coast Guard in 1790 to protect the revenue against tax evasion by smugglers. His office as the first Secretary of the Treasury was in nearby Fraunces Tavern, and he and his wife Elizabeth are interred in nearby Trinity Churchyard at the head of Wall Street.

It was here in June 1790, that Hamilton, Robert Morris, and Thomas Jefferson held the private talks that led to the historic bargain by which Jefferson would arrange for one southern vote in the Senate and five in the House to be switched to support of Hamilton's controversial assumption, funding and sinking fund legislation, in exchange for Hamilton's arranging for enough northern votes to move the capital from New York to Philadelphia for 10 years, and then permanently to the District of Columbia. Each carried out his end of the bargain.

When Hamilton's program finally passed in August 1790, the national debt was crushing, inflation was out of control, and the currency was "not worth a continental." But soon, as a result of the historic bargain, Hamilton's system proved, as he said, that a national debt could be a national blessing, if properly funded. The U.S. dollar became one of the strongest currencies in the world. Interest rates on government debt fell to 4½ percent and 5 percent. No one did more to make New York City, though no longer the capital, the financial center of the country and eventually the financial focus of the world.

As 1990 is the Bicentennial of Hamilton's funding program and founding of the Coast Guard, and since the custom building is so suitably located to honor this great and historic figure, I think it is fitting that the custom house be renamed to honor Alexander Hamilton.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

It is indeed fitting that we name this building in honor of our first Secretary of the Treasury, particularly at this time when so many countries are struggling to reestablish their economies on the basis that he did, and we hope they will follow the example of Alexander Hamilton as he established our economy back at the beginning of this republic.

Mr. Speaker, it is truly appropriate that while Congress tries to solve our current budgetary problems, we consider H.R. 5595 which would designate the Custom House in lower Manhattan as the "Alexander Hamilton United States Custom House." As our country's first Secretary of the Treasury, Alexander Hamilton also faced an enormous national debt, found creative methods of dealing with the problem and laid the foundations of our national monetary and financial system.

New York's Bowling Green, where the current Custom House now stands, served as the drilling grounds for Hamilton's troops preparing for the Revolutionary War. His Treasury and law offices, as well as his home, were nearby. He and his wife are interred in a nearby church on Wall Street.

Beyond geographic considerations, it is also appropriate that a Custom House be named since, before the imposition of a national income tax, customs duties and tariffs were the main source of revenue for the country, and it was Hamilton's Treasury Department that was responsible for collecting them.

Mr. Speaker, it is truly appropriate that the Custom House at One Bowling Green in New York City carry the name of Alexander Hamilton, and I would urge approval of H.R. 5595.

Mr. HAMMERSCHMIDT. Mr. Speaker, I support H.R. 5595, legislation to name the custom house located at 1 Bowling Green in Manhattan, New York, as the "Alexander Hamilton United States Custom House."

It is truly fitting that we designate this building in honor of Alexander Hamilton, who served as our country's first Secretary of the Treasury. At that time, most of the country's revenues came through the collection of customs duties, with the largest custom house standing on New York's Bowling Green. In order to protect these revenues, Alexander Hamilton founded the Coast Guard in 1790. Hamilton lived and worked in the Bowling Green area of New York, where the current custom house now stands, and he and his wife are buried nearby.

Alexander Hamilton played an important role in the early years of our Nation's history and in establishing our free market economic system. In light of his many accomplishments, it is fitting to name the custom house that now stands on the Bowling Green in New York in honor of Alexander Hamilton, and I ask that the House approve H.R. 5595 today.

Mr. ANDERSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PETRI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from California [Mr. ANDERSON] that the House suspend the rules and pass the bill, H.R. 5595.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3046) to redesignate the Federal building located at 1 Bowling Green in New York, NY, as the "Alexander Hamilton United States Custom House," and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3046

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Federal building located at 1 Bowling Green in New York, New York, and known as the United States Custom House, shall be known and designated as the "Alexander Hamilton United States Custom House".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Alexander Hamilton United States Custom House".

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5595) was laid on the table.

REGARDING CONSTRUCTION OF THE EAST WING FOR THE SMITHSONIAN INSTITUTION

Mr. ANDERSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4463) to authorize the Board of Regents of the Smithsonian Institution to plan, design, construct, and equip space in the East Court of the National Museum of Natural History building, and for other purposes.

The Clerk read as follows:

H.R. 4463

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That the Board of Regents of the Smithsonian Institution is authorized to plan, design, construct, and equip approximately eighty thousand square feet of space in the East Court of the National Museum of Natural History building.

Sec. 2. Effective October 1, 1990, there is authorized to be appropriated to the Smithsonian Instituion not to exceed $30,000,000, to remain available until expended, to carry out the purposes of this Act.

The **SPEAKER** pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. ANDERSON] will be recognized for 20 minutes and the gentleman from Wisconsin [Mr. PETRI] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4463 was introduced by the distinguished Representative from Massachusetts, Mr. CONTE. The bill will authorize construction of a new facility in the east court of the Smithsonian Institution's National Museum of Natural History. The President's budget reflects its support for this project by authorizing funding for the project for fiscal year 1991.

The Smithsonian Institution has concluded that it is essential to extensively renovate the National Museum of Natural History Building. This building has not been renovated since the museum opened to the public 80 years ago. It is anticipated that the renovation will take 7 to 8 years.

H.R. 4463 will fulfill an important part of making this renovation successful by authorizing the design and construction of a facility in the east court of the National Museum of Natural History building at a cost of $30 million. The facility will relieve significant loss of space that the museum will otherwise experience during its renovation.

The Smithsonian Institution's Board of Regents explored alternate possibilities to cope with the loss of space that will occur as a result of the renovation of the museum. Off-site space for the museum's collections and staff was found to be too expensive. Using existing on-site space would result in closing down exhibition space in the museum to accommodate necessary relocations of staff and exhibits.

Consequently, the Regents turned to the solution of adding an extension to the museum by constructing a facility in the east court of the museum. During the renovation, the east court building will provide 80,000 net square feet of space for relocation of staff, laboratories and collections. This should minimize disruption.

After the renovation project is completed, this facility will become available to decrease the current overcrowding in the museum. The museum now houses more than 1,200 employees, more than 3,000 visiting scientists every year, and over 100 million specimens in 30 exhibition halls. With the new facility, there will be more space for laboratories, offices, storage and space for science education. Overall, after the renovation is complete, the east court building will provide valuable space to improve public program activities and research.

The east court building is a project that meets two significant needs of the Smithsonian Institution: Keeping to a minimum the dislocation of staff and programs during the 7 to 10 years comprehensive renovation of the museum; and after the renovation is completed, providing permanent new space to relieve extensive overcrowding of employees, research and public program activities.

I wish to thank the distinguished Representative from Massachusetts, Mr. CONTE for his work and help on this legislation.

I urge my colleagues to give their strong support for this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume. H.R. 4463 would authorize $30 million for the construction of a new facility in the east court of the National Museum of Natural History of the Smithsonian Institution. This project has been included in the long-range planning of the Smithsonian and endorsed by the Smithsonian's Board of Regents.

The need for this facility is driven by an upcoming major renovation on the building systems in this 80-year-old building which will require that personnel, exhibits, and laboratories be located in order to complete the work. Following the 10-year repair project, this 80,000 square feet of space will alleviate overcrowding already experienced at the museum.

Mr. Speaker, this project is of great importance to the Natural History Museum and has been planned and budgeted for by the Smithsonian. Therefore, I would urge passage of H.R. 4463 today.

Mr. ANDERSON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, as a cosponsor of H.R. 4463 and as a member of the Smithsonian Board of Regents, I am pleased that the House is considering this important measure today.

By approving this bill, we will greatly facilitate the renovation of the heating, air-condition and ventilation system of the Smithsonian's National Museum of Natural History by allowing these improvements to be staged in the museum while staff displaced by the work are moved into the east court. In addition, upon completion of the HVAC renovations, the National Museum of Natural History will be left with an additional 80,000 square feet of badly needed space for offices, labs, collections storage, and education areas.

I urge my colleagues to support H.R. 4463.

Mr. CONTE. Mr. Speaker, I rise in suppor of H.R. 4463, a bill to give the Board of Regents of the Smithsonian Institution the authorization to plan, design, construct, an equip space in the east court of the Natural History Building.

The Smithsonian's Board of Regents, on which I have the honor to serve, as does the distinguished gentleman from Mississippi [Mr. WHITTEN] and the distinguished gentleman from California [Mr. MINETA] is charged with many tasks in overseeing that great institution. Among these is the safety and soundness of the monumental buildings that line the Mall here in Washington and in which the national collections are housed, displayed, and used for research purposes.

The bill before us at this time provides authority for a key element in the long-term revitalization of the Natural History Building, the central portion of which was the first of the Smithsonian facilities built in this century. The flanking wings of the building—that are essentially hollow squares—were added to the east and west sides of the facility in the 1960's.

In 1976, the Regents authorized the use of non-Federal funds to fill in the west court in order to provide space for public services such as a cafeteria, museum shops, and other activities that generate non-Federal resources for the Institution.

In order to provide space for laboratories, offices, storage, and science education and to accommodate a complete renovation of the mechanical systems of this historic structure, the Regents have developed a 10 year plan for this facility. Full realization of that plan is contingent on completion of the building authorized in the pending legislation which will fill in the hollow square of the east court of the Natural History Building.

During the reconstruction period, it will be used as swing space to avoid closing museum areas to the public. And once construction is complete, it will fill the space needs of the museum for the purposes I have just described.

On October 1, the Committee on Appropriations approved the inclusion of $1.5 million in the Smithsonian's funds for fiscal year 1991 for initial planning and design of the east court structure, subject to authorization. H.R. 4463 provides that authorization, and I urge its approval.

Mr. HAMMERSCHMIDT. Mr. Speaker, H.R. 4463 would authorize the Board of Regents of the Smithsonian Institution to construct a new structure in the east court of the National Museum of Natural History. A total of $30 million would be authorized for this project.

The Natural History Museum Building, which was constructed over 80 years ago, is scheduled to undergo a major renovation of its heating, ventilating, air-conditioning, and electrical systems, as well as various other repairs. These repairs will exacerbate the space problems already experienced by the museum since large blocks of space will have to be vacated during the renovation.

In order to alleviate this problem, the Smithsonian has proposed to build a new structure of 80,000 square feet in the east court of the building. During the 10-year renovation project, this space will provide temporary staging space for laboratories, offices, and collections. After the renovation is completed, this space will provide needed expansion space for staff and collections areas.

Mr. Speaker, H.R. 4463 was introduced by Members of the House who serve on the Board of Regents, and Smithsonian officials have confirmed the high priority that they give to this project. I would urge the House to approve H.R. 4463 today.

Mr. ANDERSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PETRI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ANDERSON] that the House suspend the rules and pass the bill, H.R. 4463.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation and the Committee on House Administration be discharged from further consideration of the Senate bill (S. 2540) to authorize the Board of Regents of the Smithsonian Institution to plan, design, construct, and equip space on the east court of the National Museum of Natural History Building, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2540

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL SPACE IN NATIONAL MUSEUM OF NATURAL HISTORY.

The Board of Regents of the Smithsonian Institution is authorized to plan, design, construct, and equip approximately 80,000 square feet of space in the East Court of the National Museum of Natural History building.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Smithsonian Institution for fiscal year 1991, not to exceed $30,000,000 to carry out this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4463) was laid on the table.

REGARDING PURCHASE OF PROPERTY FOR THE LIBRARY OF CONGRESS

Mr. ANDERSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5708) to authorize the acquisition of certain real property for the Library of Congress, and for other purposes.

The Clerk read as follows:

H.R. 5708

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACQUISITION OF SPECIAL FACILITIES CENTERS.

The Architect of the Capitol may acquire on behalf of the United States Government by purchase, condemnation, transfer, or otherwise (A) all publicly or privately owned real property in lot 51 in square 869 in the District of Columbia, as that lot appears on the records in the office of the Surveyor of the District of Columbia on August 1, 1990, extending to the outer face of the curbs of the square in which it is located and including all alleys or parts of alleys and streets within the lot lines and curb lines surrounding such real property, and (B) improvements to such real property.

SEC. 2. REPAIR, ALTERATION, AND EXEMPTIONS.

(a) REPAIRS AND ALTERATIONS.—The first section of the Act of June 29, 1922 (42 Stat. 715; 2 U.S.C. 141), is amended by striking "the Library Building and on the grounds," and inserting "the Library of Congress buildings and grounds (as defined in section 11 of the Act of August 4, 1950 (2 U.S.C. 167(j))),".

(b) REPAIR AND ALTERATION STANDARDS.—The property and improvements acquired under section 1 shall be repaired and altered, to the maximum extent feasible as determined by the Architect of the Capitol, in compliance with one of the nationally recognized model building codes and with other applicable nationally recognized codes (including electrical codes, fire and life safety codes, plumbing codes, as determined appropriate by the Architect) using the latest edition of the nationally recognized codes referred to in this paragraph.

(c) LIBRARY BUILDINGS AND GROUNDS.—Section 11 of the Act entitled "An Act relating to the policy of the buildings of the Library of Congress", approved August 4, 1950 (64 Stat. 412; 2 U.S.C. 167j), is amended by adding at the end of the following new subsection:

"(c) For the purposes of this Act, the term 'Library of Congress buildings and grounds' shall include (1) all real property in lot 51 in square 869 in the District of Columbia, as that lot appears on the records in the office of the Surveyor of the District of Columbia on August 1, 1990, extending to the outer face of the curbs of the square in which it is located and including all alleys or parts of alleys and streets within the lot lines and curb lines surrounding such real property, and (2) improvements to such real property.".

(d) EFFECTIVE DATE.—Subsections (a) and (b) and the amendment made by subsection (c) shall take effect on the date the Architect of the Capitol acquires the property and improvements described in section 1.

SEC. 3. PENALTY.

Section 8 of the Act entitled "An Act relating to the policing of the building of the Library of Congress", approved August 4, 1950 (64 Stat. 412; 2 U.S.C. 167g), is amended—

(1) by striking "shall be fined not more than $100 or imprisoned not more than sixty days, or both," and inserting "commits a Class B misdemeanor,", and

(2) by striking "the period of imprisonment for the offense may be not more than five years." and inserting "the person commits a Class D felony.".

SEC. 4. AUTHORIZATION OF APPROPRIATION.

There is authorized to be appropriated to the Architect of the Capitol $5,000,000 for carrying out the purposes of this Act, to remain available until expended.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. ANDERSON] will be recognized for 20 minutes and the gentleman from Wisconsin [Mr. PETRI] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

□ 2040

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 5708 is to authorize the Architect of the Capitol to purchase a building at 6th and East Capitol Street SE., in Washington, DC, for the Library of Congress and to make necessary repairs and alterations to that property for the Library.

H.R. 5708 will not directly result in the expenditure of any funds. It simply gives the Architect of the Capitol the legal authority to purchase the building once an appropriation is made for that purpose.

The Library of Congress has testified before the committee concerning their need of space for a child care center, classroom space for training programs for Library and legislative branch employees, and an assembly hall for meetings and lectures. This building will meet these needs.

The Library of Congress employs approximately 4,700 individuals. However, the Library is the only major arm of the legislative branch that does not have a child care center. Adequate child care is greatly needed, given today's demands on families. Both the House and the Senate operate successful and self-sustaining child care facilities that have waiting lists for new children. The Library has been looking for space for such a center since 1970. The Library would like to operate a child care center for 65 to 75 children in this building.

This center, like those operated by the House and Senate, would be self-sustaining based on user fees. The Library has estimated that a monthly fee of $540 for each infant, and $500 for each toddler/preschooler, will support the facility. The administration of the facility would be through a parent's board of directors which will contract for the management and staffing of the child development center.

The Library has proposed to use the 10 classrooms in the building for staff development and training in a Center for Human Resources Development. The Library believes that in-house training programs will be more cost-effective than using external training programs. This space also would be used for the variety of seminars, training, and continuing legal education programs conducted by the Congressional Research Service for House and Senate members and staff.

The goal of the Center for Human Resources Development is to provide individual growth opportunities for Library staff through career learning and guidance programs. This includes technical training, supervisory and managerial development, and work/study programs, employment assessment, and guidance. Providing the Library the space to operate these types of programs will help the long-term growth and management of the Library.

I believe that the purchase of this building would be a wise decision. Facilities like this do not come on the market very often, and even fewer are within walking distance of the Capitol and the Library. It will provide for excellent space for a child care center, classrooms, and assembly hall for meetings and lectures for the Library of Congress. Therefore, I urge my colleagues to support the passage of H.R. 5708, and I reserve the balance of my time.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5708 would authorize the acquisition of property at 6th and East Capitol Streets here in Washington by the Architect of the Capitol for use by the Library of Congress.

A total of $5 million is authorized for the purchase and renovation of this former Catholic high school and convent. The Library currently plans to use the building for a child care center for children of Library and congressional staff. The classrooms will provide needed space for the Library's current seminars and training programs, as well as allow development of new training and learning programs so that Library staff can remain up to date on new information technologies. Finally, the Library intends to utilize the convent as housing for researchers using the collections of the Library for an extended period of time. Operation and maintenance of the temporary residences would be paid for by fees charged to the scholars.

Mr. Speaker, approval of H.R. 5708 will provide facilities for needed Library functions at a convenient, accessible location.

Mr. HAMMERSCHMIDT. Mr. Speaker, I want to express my support for H.R. 5708, a bill to authorize the purchase of a building at 6th and East Capitol Streets in Washington for the Library of Congress.

It is currently planned that the facility, a former Catholic high school and convent owned by the Archdiocese of Washington, would be used by the Library to house a child care center for up to 75 children. The center, which is to be self-sustaining, would serve children of Library employees and would be open to children of other legislative staffers if space is available.

The new building would provide classroom space for in-house training, learning programs and Congressional Research Service seminars. The assembly hall would also be available for larger meetings, seminars and lectures.

Finally, the former convent would be converted into temporary housing for visiting scholars who use the Library's collections during extended research. The facility has 18 small rooms, a kitchen, and common area. Visiting scholars would be charged a small fee to cover operation and maintenance expenses.

H.R. 5708 authorizes a total of $5 million for the purchase and renovation of the high school to make it fit for Library activities. The cost of the acquisition itself is $4.2 million, which is the appraised value of the property as determined by an independent appraiser.

Mr. Speaker, this facility is located in close proximity to current Library buildings and it may be a long time before another opportunity such as this presents itself in the future. Therefore, I would urge the House to approve H.R. 5708 today.

Mr. PETRI. Mr. Speaker, I yield back the balance of my time.

Mr. ANDERSON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from California [Mr. ANDERSON] that the House suspend the rules and pass the bill, H.R. 5708.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the several bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING ESTABLISHMENT OF THE GLORIETA NATIONAL BATTLEFIELD IN NEW MEXICO

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4090) to authorize the establishment of the Glorieta National Battlefield in the State of New Mexico, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4090

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pecos National Historical Park Expansion Act of 1990".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress makes the following findings:

(1) The Civil War battle of Glorieta Pass, New Mexico, fought on March 26-28, 1862, was a decisive battle of the Civil War in the Far West;

(2) the battle was significant because the Confederate defeat at Glorieta Pass resulted in the collapse of the Confederacy's plan to capture the riches and support of the West, thus largely ending the Civil War in the West; and

(3) the campsite and headquarters of the Union forces during the Battle of Glorieta are currently within the boundary of Pecos National Historical Park.

(b) PURPOSE.—The purpose of this Act is to preserve and interpret the Battle of Glorieta and to enhance visitor understanding of the Civil War and the Far West by establishing a new unit of Pecos National Historical Park.

SEC. 3. ESTABLISHMENT OF THE GLORIETA UNIT OF THE PECOS NATIONAL HISTORICAL PARK.

(a) ESTABLISHMENT.—In order to preserve and interpret the Battle of Glorieta for the benefit and enjoyment of present and future generations, there is hereby established the Glorieta Unit of the Pecos National Historical Park (hereafter in this Act referred to as the "Glorieta Unit"). The Glorieta Unit shall be comprised of approximately 682 acres as generally depicted on the maps entitled "Glorieta Unit—Pecos National Historical Park", numbered 430-80,031, and dated July 1990. The boundary of Pecos National Historical Park, established by title II of Public Law 101-313 (104 Stat. 278), is hereby modified to include the Glorieta Unit.

(b) ADMINISTRATION.—The Secretary shall administer the Glorieta Unit to preserve and interpret the Battle of Glorieta for the benefit and enjoyment of present and future generations, in accordance with the provisions of this act, applicable provisions of title II of Public Law 101-312, and provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4), and the Act of August 21, 1935 (49 U.S.C. 666; 16 U.S.C. 461-7).

(c) ACQUISITION.—The Secretary is authorized to acquire lands, waters, and interests therein the boundaries of the Glorieta Unit by donation, purchase with donated or appropriated funds, or exchange. Lands may not be acquired for purposes of the Glorieta Unit without the consent of the owner thereof unless the Secretary determines that, in his judgment, the property is subject to, or threatened with, uses which are having, or would have, an adverse impact on the Glorieta Unit or on the management of the Glorieta Unit.

(d) TRANSFER.—Lands identified on the maps referred to in subsection (a) as being within unit number 26 in the "Historic Zone" are hereby transferred from the administration of the Secretary of Agriculture to the administration of the Secretary of the Interior, to be managed in accordance with the provisions of this Act.

(e) MANAGEMENT PLAN.—The Secretary shall incorporate management direction for the Glorieta Unit into the general management plan for the Pecos National Historical Park, including the identification of routes of travel associated with the Battle of Glorieta.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The **SPEAKER** pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 4090, the bill now under consideration.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4090, introduced by our colleague on the subcommittee, the gentleman from New Mexico, [Mr. RICHARDSON,] adds Glorieta Battlefield to the Pecos National Historical Park. The Battle of Glorieta was fought between Confederate and Union Forces on March 26-28, 1862, some 40 miles northeast of Santa Fe, NM. At the time of the battle, the Confederates held both Santa Fe and Albuquerque. The Confederates hoped to take Fort Union on their way to Denver. The Battle of Glorieta stopped that Confederate advance and ended the Confederacy's efforts to gain control of the Southwest.

The committee adopted an amendment on land acquisition and which sets the unit's acreage at 682 acres. Mr. Speaker, I endorse this bill and urge its passage.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I thank the chairman for bringing H.R. 4090, legislation to establish the Glorieta Unit of the Pecos National Historical Park, to the floor for a vote.

In May of each year thousands of dedicated Civil War enthusiasts and a broad range of interested observers travel to Glorieta, NM, to witness a reenactment of the Battle of Glorieta, the decisive battle of the Civil War in the Far West.

The Battle of Glorieta, often called the Gettysburg of the West, occurred on March 28, 1862, at Glorieta Pass in northern New Mexico. Approximately 1,000 Texas Confederate troops engaged in a pitched battle against Union troops at Pigeon's Ranch on Glorieta Creek. The Confederates hoped to take Fort Union, a major Union supply point, and the last Union stronghold before Colorado. Although the Confederate Forces eventually won the battle, the Union Forces destroyed the Confederate supply train which was left 6 miles back at Johnson's Ranch. This forced the Confederates to retreat down the Rio Grande back to Texas. The Battle of Glorieta prevented the expansion of the Confederacy into the rich mining fields of Colorado and California. Except for fighting in eastern Kansas, the Civil War in the West ended at Glorieta Pass.

The significance of the Glorieta site was recently underscored by the discovery of a mass Confederate gravesite containing the remains of at least 34 Confederate soldiers and numerous Civil War artifacts. The director of the Museum of New Mexico described the gravesite as "extraordinarily significant and very, very important historically." This discovery will greatly increase our knowledge of this pivotal battle and facilitate a greater appreciation of the site by the general public. These remains, however, are scheduled to be turned over to the Santa Fe National Cemetery on December 31, 1990, unless Congress passes legislation protecting the battlefield site. It would be most appropriate and a valuable addition to the park if these remains were returned to the original gravesite.

Mr. Speaker, we have worked on this legislation since the 100th Congress in an attempt to protect the battlefield while respecting the rights of 22 private landowners in the area. This has not been an easy task. Earlier this year, however, legislation I sponsored was signed into law establishing the Pecos National Historical Park. These lands are in the same vicinity as the battlefield and contain Kozlowski's Ranch which served as the headquarters to Union Forces during the Battle of Glorieta. Thus, it makes perfect sense to expand the Pecos National Historical Park to include the core area of the battlefield and provide for interpretation of the three important Civil War sites—the Kozlowski's, Pigeon's, and Johnson's ranches.

The legislation before us today would establish the Glorieta Unit of the Pecos National Historical Park consisting of approximately 682 acres, including Pigeon's Ranch and Johnson's Ranch. Lands may be acquired

only with consent of the owner unless the Secretary determines that the property is subject to, or threatened with, uses having an adverse impact on the Glorieta Unit. Management of the Glorieta Unit would be incorporated into the general management plan for the Pecos National Historical Park.

Mr. Speaker, I want to thank the chairman for his help in developing legislation that protects the integrity of the battlefield and respects the rights of private landowners. This legislation will be a valuable contribution to the rich history of New Mexico and the Nation. I urge my colleagues to support this legislation.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in recognition of H.R. 4090, a bill to establish Glorieta National Battlefield as a unit of an expanded Pecos National Historical Park. Despite a recent reversal of the administration position on this bill, there are several outstanding concerns with it.

This bill would add the 30th unit to the National Park System dealing with the Civil War. That period of our country's history is already overrepresented in the National Park System. Coming at a time when Congress is currently considering separate legislation directing a $2 million study of all Civil War sites to determine how to best preserve them, this bill totally undercuts that study process. Even the National Parks and Conservation Association testified just 4 weeks ago that:

> The struggle for the Shenandoah Valley is the only major aspect of the story of the Civil War not currently represented in the National Park Service. Not only is the need for addition of this site to the National Park System questionable, but there are major resource integrity problems with a State highway which bisects the battlefield. This bill is silent on that issue, but it is surely one which would immediately confront the NPS. Addressing that road is paramount to providing for a quality visitor experience.

We have recently witnessed the cost for relocating these major road corridors at battlefields. At Manassas and Chickamauga/Chattanooga Battlefields we authorized $30 million at each site last Congress to address similar highway relocation problems. I anticipate that relocation of this road will add millions more to the currently estimated cost of $9.2 million for the first 5 years of operation of this area.

Mr. Speaker, I understand the administration had some real concerns with this. I understand they have reversed their earlier opposition, but I do want to point out there are a couple of concerns about the bill. One is there is a major resource integrity problem with the State highway which bisects the battlefield. Another is I guess the question of how many Civil War battlefields we are going to have, but I do not object to the passage of the bill.

Mr. VENTO. Mr. Speaker, I appreciate the cooperation of the gentleman from California [Mr. LAGOMARSINO] on this bill. The administration did testify in support of the bill at the subcommittee hearing in this Congress, so I strongly recommend the bill to my colleagues.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4090, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

WEST VIRGINIA LAND EXCHANGE

Mr. VOLKMER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5433) to direct the Secretary of Agriculture to release on behalf of the United States a condition in a deed conveying certain lands to the Conservation Commission of West Virginia, and for other purposes as amended.

The Clerk read as follows:

H.R. 5433

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELEASE OF CONDITION.

(a) RELEASE.—Notwithstanding section 32(c) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(c)), the Secretary of Agriculture is authorized and directed to release the condition that the lands to be exchanged by the State of West Virginia, as specified in subsection (b), be used for public purposes if the State agrees to attach the same condition to other State lands specified in subsection (c).

(b) LANDS DESCRIBED; RELEASE OF CONDITION.—The Secretary shall release the condition referred to in subsection (a) only with respect to that portion of the lands conveyed by the deed dated April 22, 1954, to the Conservation Commission of West Virginia (recorded in Webster County, West Virginia Deed Book 118, page 4) that is to be exchanged by the State of West Virginia for lands from the Sun Lumber Company for addition to Holy River State Park. The lands to be conveyed by the State are more particularly described in documents on file with the Chief of the Forest Service entitled "Description of 410.0± Acre Tract Being a Part of Tract Number 218"; "Description of 16.0+/− Acres"; and "Description of 208.4+/− Acres".

(c) ATTACHMENT OF CONDITION.—The State land to which the condition is to be attached under subsection (a) is the tract of land in Webster County, West Virginia more particularly described in documents on file with the Chief of the Forest Service entitled "Description of 18.7+/− Acres"; Description of 43.2+/− Acres"; Description o 133.3+/− Acres"; and "Description o 401.4+/− Acres".

SEC. 2 VENTANA LAND EXCHANGE.

(a) MAP.—The map entitled "New Lo Padres Project—Forest and Wildernes Boundary Adjustment—Los Padres Nationa Forest" dated September, 1989 (hereafter i this section referred to as the "map") shal describe the lands for which exchanges an other actions are authorized by this section The map shall be on file and available fo public inspection in the office of the Chief Forest Service, Washington, District of Columbia.

(b) BOUNDARIES.—Upon completion of th exchange, the boundaries of the Ventan Wilderness and Los Padres National Fores are hereby modified as necessary to accommodate the land exchange authorized b this section.

(c) GENERAL AUTHORITY.—Subject to vali existing rights, the Secretary of Agricultur is authorized and directed to offer for exchange to the California-American Wate Company the lands comprising Parcel A an to receive, in exchange for Parcel A, a right, title and interest in Parcel B, as generally depicted on the map. The title c Parcel B shall be in the California-America Water Company and the title conveyed i the exchange shall be by general warrant deed and shall be otherwise acceptable t the Secretary of Agriculture. Such exchange is deemed to be an equal value exchange. Nothing in this section shall preclude the Secretary from exchanging Parc A to the California-American Water Company in exchange for other lands utilizing existing exchange authorities in the even that the California-American Water Company does not acquire title to Parcel B.

(d) MANAGEMENT.—Upon acquisition by th United States, Parcel B shall be thereafte managed as National Forest Wilderness an shall be withdrawn from all forms of loc tion and entry under the mining and mine al leasing laws and from the geotherm leasing laws.

The **SPEAKER** pro tempore. Is second demanded?

Mr. MORRISON of Washingto Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be consi ered as ordered.

There was no objection.

The **SPEAKER** pro tempore. Th gentleman from Missouri [Mr. VOL MER] will be recognized for 20 minut and the gentleman from Washingt [Mr. MORRISON] will be recognized f 20 minutes.

The Chair recognizes the gentlema from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I yie myself such time as I may consume.

Mr. Speaker, I rise in support H.R. 5433, a bill to direct the Secr tary of Agriculture to release behalf of the United States a cond tion in a deed conveying certain lan to the conservation commission West Virginia.

The situation which this bill a dresses is not uncommon. The bill, amended, would direct the Secreta of Agriculture to release the State

West Virginia from a requirement that a certain piece of land conveyed by the United States to West Virginia must be used for public purposes, conditioned on the agreement by the State to transfer the requirement to similar lands.

The State lands that are the subject of this bill, approximately 634 acres, were conveyed as part of a larger tract by the United States to West Virginia in 1954 under the Bankhead-Jones Act. A restriction in the deed completing the conveyance requires that these lands be used for a public purpose. If the lands should cease to be used for a public purpose, the title would revert back to the United States. This land has since been designated as Holly River State Park.

The State would now like to exchange some of these lands for privately owned lands in and adjacent to the State park. However, the deed restriction prevents the State from transacting such an exchange. H.R. 5433, by directing the Secretary to remove this restriction would allow the exchange to go forward.

The interest of the United States is protected by a requirement in the bill that the State must agree to place a similar restriction on the property to be acquired in the exchange. This provision ensures that the original purpose of the 1954 conveyance continues to be met.

H.R. 5433 was introduced August 2, 1990, by the gentleman from West Virginai [Mr. STAGGERS], a member of the Agriculture Committee. The Subcommittee on Forests, Family Farms, and Energy conducted a public hearing on the measure on September 27, receiving testimony from Mr. STAGGERS and from Mr. Larry Henson, Associate Chief of the Forest Service, U.S. Department of Agriculture.

As introduced, H.R. 5433 directed the Secretary of Agriculture to simply release the public purpose restriction contained in the 1954 deed. It is the committee's longstanding policy to accept such releases only if the State agrees to place a similar interest on other suitable property. In past cases, this has been accomplished by directing that the State agree to transfer to the United States a similar interest in the property to be acquired by the State in exchange for the property to be released. As amended, H.R. 5433 conforms to the committee's guidelines for this type of legislation.

At subcommittee hearing, the Forest Service witness testified that the Department had concerns similar to those of the Committee on Agriculture, but that the Department has no objection to the enactment of H.R. 5433, if amended as suggested. The bill under consideration today, as amended, substantially adopts the Department's suggestion.

It appears unlikely that the committee, which is in the middle of consideration of the farm bill, would have the opportunity to take this bill up formally before the end of this session. Because there is no controversy associated with this bill, we have brought it directly to the floor for consideration.

Mr. Speaker, I urge Members to support passage of this bill.

□ 2050

Mr. MORRISON of Washington. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the chairman's comments have been both very accurate and complete, and I will not hold up the time of the House. This measure has met the requirements we have established in the committee for this sort of land exchange. This is actually a reversionary interest and requires equal value as reflecting the standards we have set in this Congress.

The measure also reflects the changing public needs within the State of West Virginia, and we are pleased the gentleman from West Virginia [Mr. STAGGERS], a member of our subcommittee, has brought this measure to us and that we are able to respond in this fashion.

So, I too, join our chairman in urging passage of the measure.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VOLKMER. Mr. Speaker, I yield such time as he may consume to the gentleman from West Virginina [Mr. STAGGERS], the sponsor of this legislation.

Mr. STAGGERS. Mr. Speaker, let me thank the Subcommittee on Forests, Family Farms and Energy and my colleagues Mr. HAROLD VOLKMER, chairman of the subcommittee and Mr. MORRISON, ranking member, for their assistance in getting this legislation to the floor for the consideration of the House.

H.R. 5433, my legislation would simply authorize a land swap between the State of West Virginia and the Sun Lumber Co. in an area of Webster that is home to the Holly River State Park.

In 1954, the Federal Government conveyed to the State of West Virginia 7,592 acres of land. The State has used that land to create a park and camping ground that has been used for recreational purposes ever since the original tranfer occurred nearly 40 years ago. The original transfer to the State was a good initial investment and with that tranfer West Virginia created Holly River State Park, a wonderful, rustic park with cabins, camping areas, and much natural beauty.

Unfortunately, when the 1954 transfer occurred, the land that the Federal Government transferred excluded several areas within the overall boundary of the park. Some of those interior holdings have been acquired from private landowners and a few still remain out of park ownership. Some of those lands are owned by the Sun Lumber Co. If H.R. 5433 is adopted, nearly all of the interior holding within the confines of the park will be owned by the State. This fact, according to the State of West Virginia, will help to substantially improve the marketing of the park and will help the State plan for greater utilization of the park's resources.

H.R. 5433 will improve the present Holly River State Park by allowing the park to be contained within one watershed. This will allow normal lumbering activities to occur outside the park without visual or watershed impacts to visitors or guests of Holly River State Park.

This exchange of lands will help to secure most of the interior holdings of Holly River State Park. In addition, it will allow the State to secure one of the most beautiful spots in West Virginia along the Holly River into the park's boundary. This area, known as "the chute," is an extremely beautiful area that has been widely photographed and visited. The chute has been so long photographed in connection with Holly River State Park that many people believed it belonged to the park. When H.R. 5433 is passed this scenic spot will be included in the park and will allow this spot to be seen in its undisturbed beauty by future generations.

I have reviewed this matter for several years. My office has conducted two public meetings in Webster County and more than 100 people have heard from representatives from the State of West Virginia and the Sun Lumber Co., regarding this proposal. Although there is always an attitude of skepticism whenever a land swap is being discussed, upon careful examination I find no reason to believe that this deal is anything less than a good deal for the State of West Virginia and her citizens.

Mr. Speaker, as this bill was drafted there was not a reverter clause on the Government's lands. It is my belief that that problem has been corrected in the legislation that is before us today and concerns about mineral rights and the Federal Government's reversionary interests have been protected.

The bill is supported by numerous officials in West Virginia, the legislation will have no adverse impact on local taxes, and if the park takes the transfer and further develops the land I am hopeful that a meaningful positive impact on the economy can be established.

I thank the Members for your interest in this small, yet important, bill. I

urge my colleagues to support this legislation.

Mr. VOLKMER. Mr. Speaker, before I yield back the balance of my time, I wish to insert the following extraneous material:

DESCRIPTION OF 410.0± ACRE TRACT BEING A PART OF TRACT NO. 218

A 410.0 acre tract of land situate on the waters of Rockcamp Fork and Birchpen Run in Hacker Valley District, Webster County, West Virginia being particularly bounded and described as follows:

Beginning at a point in the centerline of a Private Road being a boundary line between Tract No. 218 and another tract standing in the name of the State of West Virginia (Holly River State Park) and being the southeast corner of a 276.5 acre partition being apart of Tract No. 218 bearing S 22°01′W, 8.9 feet from a 15" sign post on the north side of the road;

Thence with said 276.5 acre tract the following seven (7) courses:

1. N 22°01′E for 1866.64 feet to a set steel post on the ridge;
2. N 41°23′E for 477.25 feet to a set steel post on the ridge;
3. N 11°33′W for 442.30 feet to a set steel post on the ridge;
4. N 26°14′E for 536.53 feet to a set steel post on the ridge;
5. N 45°06′E for 586.97 feet to a set steel post on the ridge;
6. N 00°41′E for 210.78 feet to a set steel post on the ridge;
7. N 34°30′E for 282.75 feet to a blazed 24" Red Oak lying on the north boundary line of the 686.5 acre tract and being the south boundary line of the Sun Lumber Co. 735.72 acre tract as of record in the Office of the Clerk of the County Commission of Webster County, West Virginia in Deed Book 60 at page 17.

Thence S 49°07′E for 4,866.32 feet with said Sun Lumber Co. tract and a painted line crossing Rockcamp Run to a Steel Post;

Thence S 53°03′E for 3084.06 feet to a Basswood;

Thence S 40°52′W for 520.79 feet to a Gum on the ridge;

Thence S 83°40′W for 212.97 feet to a 10" Birch on the ridge;

Thence N 42°37′W for 446.46 feet to an 8" Hickory on the ridge;

Thence N 78°20′W for 188.47 feet to an 8" Maple on the ridge;

Thence S 58°25′W for 252.36 feet to a 6" Maple on the ridge;

Thence S 63°22′W for 178.39 feet to a 7" Oak on the ridge;

Thence S 84°08′W for 354.66 feet to a 17" Gum on the ridge;

Thence N 70°51′W for 358.90 feet to an 11" Maple on the ridge;

Thence N 26°46′W for 190.52 feet to a 13" White Oak on the ridge;

Thence N 21°21′W for 274.87 feet to a 10" Chestnut Oak on the ridge;

Thence N 12°49′W for 147.21 feet to a 12" Red Oak on the ridge;

Thence N 18°21′W for 197.20 feet to a 5" Maple on the ridge;

Thence N 17°14′W for 232.86 feet to a 4" Maple on the ridge;

Thence N 22°53′W for 425.39 feet to a 15" Poplar on the ridge;

Thence N 15°18′W for 194.63 feet to a 10" Chestnut Oak on the ridge;

Thence N 14°24′W for 205.15 feet to a 7" Chestnut Oak on the ridge;

Thence N 36°22′W for 183.47 feet to a 12" Sassafras on the ridge;

Thence S 59°39′W for 169.01 feet to a 7" Chestnut Oak on the ridge;

Thence S 50°31′W for 217.23 feet to a 19" Red Oak on the ridge;

Thence S 68°38′W for 194.46 feet to a 7" Hickory on the ridge;

Thence S 84°11′W for 288.80 feet to an 18" Red Oak on the ridge;

Thence N 75°02′W for 123.38 feet to an 11" Sassafras on the ridge;

Thence N 86°56′W for 115.96 feet to a 14" Hickory on the ridge;

Thence S 19°02′W for 450.55 feet to a 8" Hickory on the ridge;

Thence S 49°43′W for 317.51 feet to a 10" Red on the ridge;

Thence S 14°33′W for 200.85 feet to a 12" Red Oak on the ridge;

Thence S 18°54′W for 177.15 feet to a 10" Red Oak on the ridge;

Thence S 26°31′W for 273.88 feet to a 9" Red Maple on the ridge;

Thence S 06°33′E for 161.09 feet to a 14" Chestnut Oak on the ridge;

Thence S 28°16′W for 368 feet to a 20" Chestnut Oak on the ridge;

Thence S 32°13′W for 115.49 feet to a 9" Red Oak on the ridge;

Thence S 71°23′W for 123.40 feet to a 10" Red Oak on the ridge;

Thence N 80°54′W for 253.20 feet to a 9" Red Oak on the ridge;

Thence S 43°38′W for 335.25 feet to a point in the centerline of said Private Road;

Thence with said Private Road centerline for 5,682.88 feet to the Point of beginning, containing 410.0 acres more or less.

Being a part of Tract No. 218.

Description taken from a survey by Ostrander Land Surveying, Inc. of the 276.5 acre tract and a survey by Upshur Agency, Inc. (Jeffrey W. Adams, LLS-791) of the 686.5 acre Tract No. 218.

DESCRIPTION OF 16.0 +/− ACRES

16.0 acres of land situate in Holly River State Park, Hackers Valley District, Webster County, West Virginia, being part of Holly River State Park Tract 496 D and further identified on the accompanying plat as surveyed by Jeffery W. Adams, LLS #791, and more particularly described as follows:

Beginning at an iron rod, corner to Sun Lumber Co. and lot 17 of the old Crislip Survey; thence with Sun Lumber Co. S48°46′ E, 1517.93′ to a steel pole, corner to A.B. Andrews; thence S 33°13′ W to a point in the centerline of West Virginia Secondary Route 10/4; thence with the centerline of said road the following 21 courses and distances as shown on that plat accompanying as surveyed by Jeffrey W. Adams, LLS #791, N 32°33′ W, 24.46 feet; N 30°50′ W, 92.43 feet; N 37°04′ W, 220.21 feet; N 19°18′ W, 89.01 feet; N 14°26′ W, 62.80 feet; N 27°58′ W, 188.84 feet; N 43°08′ W, 62.82 feet; N 60°32′ W, 49.92 feet; N 70°14′ W, 97.98 feet; N 75°42′ W, 99.20 feet; N 70°07′ W, 82.82 feet; N 79°08′ W, 44.01 feet; N 14°07′ W, 194.43 feet; N 33°52′ W, 31.44 feet; N 50°54′ W, 59.08 feet; N 70°28′ W, 37.74 feet; N 81°57′ W, 25.01 feet; S 84°38′ W, 52.59 feet; N 84°20′ W, 51.47 feet; N 60°36′ W, 63.62 feet; N 46°00′ W, 121.38 feet; thence leaving said road N 41°53′ E, 483.49 feet to the point of beginning containing 16.0 acres more or less.

DESCRIPTION OF 208.4 +/− ACRES

208.4 acres of land situate on the waters of the Little Kanawha River, Hacker Valley District, Webster County, West Virginia and further identified as Holly River State Park Tract 1-A-12 as shown on the accompanying plat as surveyed by Jeffrey W. Adams, LLS # 791, and more particularly bounded and described as follows:

Beginning at U.S. No. 32 Brass Marke (set in concrete); thence S 48° 47′ E, 4560 feet to a point in the line of Holly Rive State Park, thence roughly paralleling State Route 10, the following courses and distances, S 53° 58′ W, 186.68 feet to a 5" Red Oak; thence S 84° 57′ W, 559.54 feet to a 5" Birch; thence S 57° 35′ W, 570.22 feet to 16" Maple; thence S 59° 18′ W, 160.85 feet to a 6" Black Gum, thence leaving the paralle course of State Route 10 N 67° 41′ W 347.22 feet to a 11" Black Gum; thence N 60° 41′ W 267.25 feet to twin maples; thence S 53° 49 W, 263.61 feet to a 10" Maple; thence S 64 01′ W 345.45 feet to double Red Oaks thence S 52° 20′ W, 504.57 feet to a point i the Holly River State Park line; thence N 49° 21′ W, 2730.32 feet to a 19" Basswood thence N 44° 00′ E, 1207.32 feet crossing th Little Kanawha River to a 1¼" iron pipe thence N 54° 53′ W, 421.67 feet to a 1¼" iro pipe, thence N 43° 05′ E, 1389.47 feet to th beginning containing 208.4 acres, more o less.

DESCRIPTION OF 18.7 +/− ACRES

18.7 acres of land situate on the waters o Fall Run, and the Left Fork of Holly Rive Hacker Valley District, Webster County West Virginia, and more particularly described as follows:

Beginning at a fence, post corner to Su Lumber Co., Nature Conservancy and Berli Anderson; thence N 37° 03′ E 316.11 feet to fence post, thence N 87° 39′ E 271.44 fee crossing Secondary 3/9, the left fork o Holly and Fall Run to a beech; thence N 89 16′ E 90.12 feet to pointers; thence N 40° 30 E 162.95 feet to a point in the Park Line thence S 55° 30′ E 1169.66 feet to a Red Oak thence S 45° 28′ W 432.85 feet to a stee post; thence S 45° 01′ W 324.96 feet to point in the centerline of West Virginia Secondary Route 3/9; thence with said road th following courses and distances shown as through R on the accompanying plat and a surveyed by Jeffrey W. Adams, LLS # 791 N 37° 03′ W 75.27 feet; N 27° 35′ W 25.7 feet; N 16° 50′ W 89.30 feet; N 23° 35′ W 55.33 feet; N 22° 31′ W 29.19 feet; N 18° 14 W 58.99 feet; N 21° 41′ W 45.92 feet; N 33 10′ W 72.06 feet; N 72° 04′ W 82.91 feet; N 72° 11′ W 71.68 feet; N 54° 25′ W 21.09 feet thence leaving said Road N 82° 41′ W 179.4 feet to a point, thence N 45° 09′ W 124.2 feet to a point; thence N 63° 07′ W 514.7 feet to the place of beginning containin 18.7 acres, more or less.

DESCRIPTION OF 43.2 +/− ACRES

43.2 acres of land lying on the waters o the Right Fork of Laurel Fork, Hacke Valley District, Webster County and furthe identified as Sun Lumber Company Tract 2 as shown on the accompanying plat and a surveyed by Jeffrey W. Adams, LLS # 791 and as more particularly described as fo lows:

Beginning at a steel post corner to Holl River State Park and Sun Lumber Comp ny; thence S 36° 28′ W, 11, 342.25 feet cros ing West Virginia Secondary Route 10/2 t a 1¼" iron pipe; thence S 46° 07′ E, 1230.1 feet crossing the Right Fork of Laurel For to a stone pile; thence N 41° 04′ E, 1593.5 feet to an 8½" Maple; thence N 57° 15′ W 1350.19 feet crossing the Right Fork o Laurel Fork and West Virginia Secondar Route 10/2 to the beginning containing 43 acres, more or less.

DESCRIPTION OF 133.3 +/− ACRES

13.3 acres of land situate on the waters of the Right Fork of Holly River, Hacker Valley District, Webster County, West Virginia, and further identified as Sun Lumber Company Tracts 27, 27A, and 28 and further as shown on the plat accompanying as surveyed by Jeffrey W. Adams, LLS #791, and more particularly bounded and described as follows:

Beginning at a steel post on the east side of West Virginia Secondary Route 10/2, a corner to Balli and a corner to Thomas Bennett; thence S 39° 12' W, 394.15 feet to a 13½" Maple; thence N 52° 49' W, 1476.81 feet to a stone pile; thence S 39° 12' W, 891.59 feet to a point in the line of Holly River State Park; thence S 23° 50' E, 1643.53 feet crossing the Right Fork of Holly River to a stone pile; thence S. 31° 34' E, 1889.76 feet to a 13½" Birch; thence N 40° 45' E, 2,220.53 feet to a point, corner to Thomas Bennett; thence with his line N 35° 57' W, 1898.56 feet crossing Secondary Route 10/2 three times to the beginning containing 133.30 acres, more or less.

DESCRIPTION OF 401.4 +/− ACRES

401.4. acres of land situate on the waters of the Left Fork of Laurel Fork of Holly River, Hacker Valley District, Webster County, West Virginia and further identified as being part of Sun Lumber Company Tracts 22, 22A, 35, 36, and 152A as shown on the accompanying plat as surveyed by Jeffrey W. Adams, LLS # 791, and more particularly bounded and described as follows:

Beginning at a metal fence post corner to Sun Lumber Company and Holly River State Park, thence N 41° 53' E, 705.12 feet to a point in the centerline of West Virginia Route 10/4; thence with the center line of said road the following 59 courses and distances: N 46° 00' W, 3.52 feet; N 17° 08' W, 49.54 feet; N 03° 28' W, 67.46 feet; N 05° 53' E, 50.48 feet; N 20° 58' E, 41.37 feet; N 22° 54' E, 64.03 feet; N 05° 29' E, 53.69 feet; N 00° 28' W, 103.23 feet; N 03° 50' E, 123.68 feet; N 06° 12' 154.39 feet; N 00° 28' E, 73.15 feet; N 20° 49' W, 129.66 feet; N 43° 45' W, 42.79 feet; N 45° 08' W, 63,11 feet; N 36° 04' W, 104.60 feet; N 31° 32' W, 128.22 feet; N 25° 37' W, 51.59 feet; N 07° 48' W, 116.51 feet; N 29° 51' W, 48.29 feet; N 41° 11' W, 80.92 feet; N 47° 23' W, 95.56 feet; N 34° 49' W, 110.60 feet; N 46° 45' W, 79.96 feet; N 40° 19' W, 49.26 feet; N 56° 06' W, 81.39 feet; N 30° 22' W, 47.02 feet; N 31° 10' W, 45.77 feet; N 42° 40' W, 171.07 feet; N 26° 40' W, 84.87 feet; N 33° 14' W, 58.63 feet; N 47° 55' W, 106.32 feet; N 42° 32' W, 138.40 feet; N 66° 28' W, 108.27 feet; N 52° 32' W, 108.58 feet; N 71° 37' W, 48.87 feet; N 55° 12' W, 37.21 feet; N 29° 28' W, 31.62 feet; N 04° 03' E, 37.78 feet; N 25° 47' E, 169.81 feet; N 27° 18' E, 45.09 feet; N 06° 09' E, 69.40 feet; N 13° 40' E, 237.21 feet; N 28° 46' E, 37.54 feet; N 48° 05' E, 60.53 feet; N 57° 42' E, 243.77 feet; N 64° 02' E, 125.26 feet; N 50° 24' E, 47.37 feet; N 33° 36' E, 24.58 feet; N 27° 00' E, 153.71 feet; N 09° 32' E, 36.77 feet; N 05° 25' W, 25.79 feet; N 25° 11' W, 73.76 feet; N 41° 47' W, 119.19 feet; N 36° 17' W, 124.69 feet; N 47° 57' W, 31.33 feet; N 57° 13' W, 26.76 feet; N 66° 33' W, 29.73 feet; N 63° 48' W, 32.27 feet; N 42° 44' W, 28.29 feet; N 18° 01' W, 23.15 feet; thence leaving said road S 40° 57' W, 303.59 feet to a steel post; thence N 49° 03' W, 3395.48 feet to a Gum; thence N 49° 07' W, 228.32 feet crossing West Virginia Route 10 to a 17" Black Cherry; thence S. 38° 53' W, 608.77 feet to a 12" Red Oak; thence N 84° 08' W, 450.26 feet to a Maple on a rock; thence N 60° 24' W, 1144.83 feet to a 13½" Chestnut Oak; thence N 70° 53' W, 236.40 feet to a 16" Maple; thence S 27° 21' W, 344.17 feet crossing Route 10 to a Chestnut Oak; thence S 68° 15' W, 256,29 feet to a 6½" Maple; thence S 18° 38' W, 248.46 feet to a 6½ Poplar; thence S 89° 11' W, 295.54 feet crossing Route 10 to a double Red Oak; thence S 29° 27' W, 386.94 feet to a double Maple; thence S 49° 55' E, 1528.88 feet crossing Route 10 and the Left Fork of Laurel Fork to US Brass Marker Number 33 (set in concrete); thence S 46° 34' E, 1633.23 feet to 1¼" steel pipe number 162; thence S 48° 02' E, 5676.98 feet to the beginning containing 401.4 acres, more or less.

Mr. VOLKMER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Missouri [Mr. VOLKMER] that the House suspend the rules and pass the bill, H.R. 5433, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VOLKMER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on H.R. 5433, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

CALIFORNIA-NEVADA LAND EXCHANGE

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4914) to amend the National Parks and Recreation Act of 1978 to authorize the Secretary of the Interior to exchange city-owned lands in Los Angeles, CA, with public lands managed by the Bureau of Land Management in Nevada, as amended.

The Clerk read as follows:

H.R. 4914

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SANTA MONICA MOUNTAINS NATIONAL RECREATION AREA.

(a) LAND EXCHANGE.—Section 507(c)(2) of the National Parks and Recreation Act of 1978 (16 U.S.C. 460kk(c)(2)) is amended by—

(1) inserting "and suparagraph (D)" after "in subparagraph (B)" in the third sentence of subparagraph (A); and

(2) adding the following new subparagraphs at the end thereof:

"(D) The Secretary is authorized and directed to carry out an exchange with the city of Los Angeles (acting through its Department of Water and Power) of certain lands identified as follows—

"(i) those lands owned by the city of Los Angeles located in the vicinity of Upper Franklin Canyon not exchanged pursuant to subparagraph (B), described on the map entitled 'City of Los Angeles Lands in Upper Franklin Canyon, Los Angeles County, California, to be Exchanged', dated May 1990, and lands owned by the city of Los Angeles in the vicinity of Corral Canyon, described on the map entitled 'City of Los Angeles Lands in Corral Canyon, Los Angeles County, California, to be Exchanged', dated May 1990, to be acquired by the Secretary pursuant to such exchange and transferred to the administrative jurisdiction of the National Park Service for inclusion within the recreation area; and

"(ii) federally owned lands managed by the Bureau of Land Management in Steptoe Valley, White Pine County, Nevada, described on the map entitled 'Public Domain Lands in White Pine County, Nevada, to be Exchanged', dated May 1990; and in the vicinity of Henderson, Clark County, Nevada, described on the map entitled 'Public Domain Lands in the Vicinity of Henderson, Clark County, Nevada, to be Exchanged', dated May 1990, to be acquired by the city of Los Angeles pursuant to such exchange.

"(E) The values of the lands to be exchanged described in subparagraph (D) shall be appraised on the basis of highest and best use, including a power plant site, and in accordance with other established procedures used by the Bureau of Land Management. Such values shall be equal, or shall be equalized, in the same manner as provided in section 206 of the Federal Land Policy and Management Act of 1976 except that, upon completion of such appraisals—

"(i) if the lands acquired by the United States have a higher value than the lands acquired by the city of Los Angeles pursuant to such exchange, the United States shall not be required to equalize the values by the payment of money or any other consideration of the city of Los Angeles, and

"(ii) in the event the initial selection of Federal lands desired to be acquired by the city of Los Angeles are valued higher than the lands to be acquired by the United States pursuant to the exchange, the city of Los Angeles shall identify to the United States those Federal lands in Nevada which should be deleted from the exchange, in order for the values of the lands to be exchanged to be equal.

"(F)(i) Lands identified in subparagraph (D) to be transferred from the United States to the city of Los Angeles shall be subject to all valid existing rights, including but not limited to leases issued and rights-of-way granted by the United States.

"(ii) The Secretary shall not covey the lands described in subparagraph (D)(ii) located in Steptoe Valley unless and until the city of Los Angeles has entered into a binding agreement with the Secretary that no electric generating facilities constructed on such lands after the date of enactment of this Act will—

"(I) have a significant adverse effect on air quality, including visibility, in any area that has been designated as a nonattainment area under the Clean Air Act; or

"(II) cause concentrations of any air pollutant to exceed a national ambient air quality standard for that air pollutant in attainment areas.".

(b) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 507(r) of the National Parks and Recreation Act of 1978 (16 U.S.C. 460kk(r)) is amended to read as follows: "There are authorized to be appropriated such sums as may be necessary for acquisition of lands and interests therein within the boundaries of the recreation area

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established under this section, to remain available until expended.".

SEC. 2. PUBLIC LAND ORDER.

In order to complete the exchange described in the amendment made by section 1, the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") may revoke Public Land Order 3512 of December 7, 1964, with respect to those Federal lands in the vicinity of Henderson, Nevada, identified in such amendment which are to be acquired by the city of Los Angeles.

SEC. 3. LEGAL DESCRIPTION.

Within one year after the date of enactment of this Act, the Secretary shall file legal descriptions of the land depicted on the maps referenced in the amendment made by section 1 and of the right-of-way corridor established pursuant to section 5 with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Such legal description and maps shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal descriptions. The legal descriptions and maps shall be on file and available for public inspection in the Nevada and California State Offices of the Bureau of Land Management, Department of the Interior, and the appropriate regional office or offices of the National Park Service, Department of the Interior.

SEC. 4. SUNRISE MOUNTAIN STUDY AREA.

(a) RELEASE.—The Congress hereby finds and directs that the Sunrise Mountain (Natural Area) Inventory Unit NV-050-0420 has been adequately studied for wilderness designation pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), and is no longer subject to the requirement of section 5603(c) of that Act pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation of wilderness.

(b) ESTABLISHMENT.—In order to provide for a study of ways to conserve, protect, and enhance the areas contained in and adjacent to Sunrise Mountain (Natural Area) Inventory Unit NV-050-0420 and the wildlife, archeological, paleontological, scientific, cultural, recreational, educational, scenic, and other resources and values of such areas (including but not limited to big horn sheep, the geological and esthetic values of the areas east of Frenchman Mountain and the area known as Rainbow Gardens, the archeological values of Gypsum Cave, any endangered species and threatened plants, including the bear poppy), there is hereby established the Sunrise Mountain Study Area (hereinafter in this section referred to as the "study area"). The study area shall consist of public lands described in the map entitled "Sunrise Mountain Study Area", dated September 1990.

(c) MAP.—As soon as practicable after the date of enactment of this Act, a map and legal description of the study area shall be filed by the Secretary with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Such map shall have the same force and effect as if included in this section. Copies of such map shall be on file and available for public inspection in the Offices of the Directors of the Bureau of Land Management and National Park Service, Department of the Interior, and in appropriate offices of the Bureau of Land Management and National Park Service in Nevada.

(d) MANAGEMENT OF STUDY AREA.—(1) Until Congress determines otherwise, the Secretary shall manage the study area in a manner that conserves, protects, and enhances its resources and values (including the resources and values specified in subsection (b)), pursuant to the Federal Land Policy and Management Act of 1976 and other applicable law, including this Act.

(2) The Secretary shall allow only such uses of the study area as the Secretary finds will further the purposes for which the study area is established. Except where needed for administrative purposes or to respond to an emergency, use of motorized vehicles in the study area shall be permitted only on roads specifically designated for such use by the Secretary.

(3) The provisions of this subsection shall not apply to lands within the corridor reserved by section 5 of this Act. The Secretary shall manage such lands in accordance with such section 5 and other applicable law, including the Federal Land Policy and Management Act of 1976.

(e) WITHDRAWAL.—Subject to valid existing rights, all Federal lands within the study area and within the corridor reserved by section 5 are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing.

(f) STUDY AND REPORT.—(1) The Secretary shall carry out a study of the resources and values of the study area, including the resources and values identified in subsection (b) of this section, and of management alternatives that would promote the conservation, protection, and enhancement of such resources and values.

(2) No later than three years after the date of enactment of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report concerning the results of the study required by this subsection.

(3) The report required by paragraph (2) shall include, but not be limited to, an identification of which, if any, portions of the study area should be included within a unit of the National Park System and which, if any, portions of such area should be designated as a national conservation area to be managed by the Bureau of Land Management.

(4) In order to assist in the study and report required by this subsection, the Secretary may authorize appropriate research, including research concerning the environmental, biological, cultural, and other characteristics, resources, and values of the study area, pursuant to section 307(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1737(a)) or any other authority available to the Secretary.

(g) ACQUISITION.—(1) The Secretary is authorized to acquire non-Federal lands within or contiguous to the boundaries of the study area.

(2) No lands or interest therein owned by the State of Nevada or any political subdivision of such State shall be acquired pursuant to this subsection except through donation or exchange, and no lands or interests within the study area shall be acquired from any other party or entity except by donation, exchange, or purchase with the consent of the owner of such lands or interests. Any lands or interests so acquired shall be managed as part of the study area and shall be subject to the provisions of this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary to implement the provisions of this section.

SEC. 5. UTILITY CORRIDOR.

(a) ESTABLISHMENT.—There is hereby established a right-of-way corridor of approximately one mile in width within the inventory unit lands identified in section 4(a) This corridor shall be located and administered by the Secretary (acting through the Bureau of Land Management) pursuant t existing law, including sections 202 and 50 of the Federal Land Policy and Management Act of 1976. The center line of the corridor shall be the center line of the existin Navajo-McCullough five hundred kilovol transmission line on such lands. The exac location and width of the corridor shall b as established in the legal descriptions an maps to be filed by the Secretary pursuan to section 3.

(b) RIGHTS-OF-WAY.—The Secretary, pursuant to applicable law, may grant rights-of-way over, upon, under, or through the corridor for compatible systems and facilities, including, but not limited to, rights-of-way fo the construction, operation, and maintenance of pipelines and single or double-circuited electric transmission lines, but not t exceed six rights-of-way for such electri transmission lines without further congressional approval. The location of any right of-way within the corridor will be determined in a manner consistent with good engineering practices causing the least visua and physical impact to the environment, the corridor, the Rainbow Gardens, the Deser Wetland Park, the study area established b section 4, and Lake Mead National Recreation Area.

(c) LOCATION OF CERTAIN RIGHT-OF-WA SEGMENTS.—The segments of any right-of-way previously granted by the Secretary t construct, operate, and maintain electrica transmission lines through the study are established by section 4 shall be located i the right-of-way corridor established by thi section. The segments of electric transmission systems through such study area previously described and analyzed in any fina environmental impact statement and accompanying record of decision for power generating projects approved by the Bureau o Land Management shall be located in th right-of-way corridor established by this section.

SEC. 6. OTHER LAWS.

Nothing in this Act shall be construed amending the National Environment Policy Act of 1969 or the Endangered Sp cies Act of 1973, or as modifying the applic bility of those Acts or any other provision of law otherwise applicable with respect any activities occurring on or proposed f any of the lands affected by this Act.

The SPEAKER pro tempore. Is second demanded?

Mrs. VUCANOVICH. Mr. Speaker, demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. Th gentleman from Minnesota [M VENTO] will be recognized for 20 mi utes and the gentlewoman from Nevada [Mrs. Vucanovich] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the Record on H.R. 4914, the bill now before the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill would provide for an interstate land exchange between the city of Los Angeles, CA, and the United States, involving transfer from the city of lands within the Santa Monico Mountains National Recreation Area, in exchange for public lands in Nevada now managed by the Bureau of Land Management [BLM]. In addition, it would enhance a utility corridor across other BLM-managed lands in Nevada, revise the legislation establishing the Santa Monica Mountains National Recreation Area, and provide for a study of future management options for certian public lands near Las Vegas, NV.

Part of the Nevada lands that would be conveyed to the city of Los Angeles under the proposed exchange have been identified as the site of a proposed electric generating plant. Nothing in this bill would constitute approval of that proposed plant, or any of the environmental or other documentation concerning it. Approval of that project, and its operation if approved and constructed, will be governed by other applicable law. The bill does, however, include a requirement that, as a precondition to the transfer of these lands to the city of Los Angeles, the city must enter into a binding agreement with the Secretary of the Interior that no electrical generating facilities ever built on those lands will have a significant adverse effect on air quality or cause excessive concentrations of an air pollutant.

Mr. Speaker, the lands in the Santa Monica Mountains that would be transferred to the United States under the proposed exchange will be valuable additions to the Santa Monica Mountains National Recreation Area. I believe that this bill as reported from the Interior committee deserves the support of the House, and I urge its passage.

Mr. Speaker, I reserve the balance of my time.

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 4914, the California-Nevada Land Exchange Act of 1990, of which I am a cosponsor. I believe that the amendment in the nature of a substitute adopted in committee strengthens the legislation while maintaining the objectives of the original bill.

One of the primary goals is to provide for an interstate exchange of city of Los Angeles-owned land in the Santa Monica Mountains and public lands in White Pine County, NV, that will provide the site for building an electrical generation plant, most likely sometime after the end of this millennium. The creation of jobs that will ensue when the White Pine power project comes to fruition is important to the region's economy.

Mr. Speaker, this part of Nevada has suffered greatly since the closing of the copper mines at Ruth and the smelter at McGill. Precious metals exploration has helped to bring the county back from the brink of extinction, but gold and silver mining alone is still too risky an economic base. Diversification of the economy is a long sought-after goal that begins with the land exchange to be authorized by this bill.

Lest there be some confusion remaining in the minds of my colleagues, let me reiterate the discussions we had in committee regarding this exchange. This bill does not authorize construction of any powerplant, coal-burning or otherwise, it merely provides the city of Los Angeles with a site. There are many participants in the White Pine power project at this stage, and including Nevada entities of Boulder City, NV, Lincoln County Power District No. 1, Mount Wheeler Power, Nevada Power Co. Valley Electric Association, Wells Rural Electric Co., and the California cities of Anaheim, Burbank, Glendale, Pasadena, Riverside, and Los Angeles. And yes, Mr. Speaker, the Clean Air Act and whatever amendments may be adopted by Congress, and the National Environmental Policy Act, and the Threatened and Endangered Species Act will all continue to operate in White Pine County just as they have before this bill was introduced. It has never been the intent of its sponsors that the environmental laws of the Nation be waived for this proposed project. There have been no smoke and mirrors used by the sponsors of the bill to expedite its passage. I would suggest that in fact the detractors of this bill have been quite disingenuous about their real purpose, which is to fight against any development in Nevada while using the guise of protecting the American taxpayer. Surely this group can find more worthy legislative targets than this bill. There ought to be plenty of opportunity to protect the taxpayer from ripoffs when the relevant authorizing committees make their budget reconciliation recommendations at the end of this week.

Mr. Speaker, another need identified by the sponsors of H.R. 4914 was to create a utility corridor through the Sunrise Mountain Natural Area which has been managed by BLM as a wilderness study area since 1976. Five years ago the administration forwarded the recommendation that this area does not contain sufficient wilderness characteristics and should be dropped from further consideration. In large measure this is because of two existing transmission lines that traverse the area to wheel electric power from the north into Las Vegas and southern California. Furthermore, this WSA has a paved State highway within its borders, a paved access road to a mining processing facility, and several communication facilities. Yet, our committee has been unwilling to act on the recommendation to drop this area from further consideration for inclusion into the National Wilderness Preservation System until the other WSA's in Nevada have had recommendations forwarded to Congress.

Sunrise Mountain is a choke point for the north-south transmission of electricity in the western power grid. The long-standing wilderness study status has thwarted action by BLM on rights-of-way necessary to authorize new lines to bring additional electricity supplies to customers in Nevada and California. This bill will break that impasse; I am happy to say, with the blessing of the city of Henderson, NV, through which the transmission lines are expected to trend after exiting the Sunrise Mountain area. I understand that the city of Los Angeles and the resort, Lake Las Vegas, have also reached agreement on the siting of power lines that could impact on this new community.

Lastly, Mr. Speaker, I would like to remind my colleagues of the fiscal soundness of this land exchange, despite what they may have read from an uninformed source. All lands involved in this bill must be appraised for their highest and best use. The public lands in the Steptoe Valley of White Pine County, NV, and those in Clark County selected for the exchange more than likely will be determined to have less value than the city of Los Angeles-owned acreage in the Santa Monica Mountains to be acquired by the National Park Service. If such is the case, however, the United States is not required to equalize the value through payment of moneys or additional acreage. Thus, there is no risk that the Federal Treasury will be ripped off or take a hit in the name of the national interest, and I urge my colleagues to support its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

I do so, Mr. Speaker, because I just wanted to commend the gentleman from Utah [Mr. Owens] for his work on the air quality provisions of this bill. They are important to him and to many others.

I would also like to clarify that this bill has been before the Congress for almost 4 years and it has gone through a great deal of work on the part of Members and staff. I think we have addressed the questions as well as they can be addressed with regard to the land exchange that is proposed. I know it has been an important issue to the city of Los Angeles.

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It provides a positive increase, as I indicated earlier, in the Santa Monica Mountains National Recreation Area. The city of Los Angeles will be donating land there and receiving Federal lands there in Nevada, which of course will be used, or could be used, for this powerplant facility under applicable law, or course. But throughout this 3-year odyssey, or 4-year odyssey, trying to get this bill done, we have had, of course, the strong support of the members of the committee, and especially the gentleman from California [Mr. Levine].

However, Mr. Speaker, the sponsor of this measure has been the gentleman from California [Mr. Berman] who has worked very hard, and I commend him for it and for sticking with it. He has got a ways to go, but I think he can make this clear.

Also, Mr. Speaker, I think it should be recognized that this is not a last-minute issue. It comes up late in the session, but it has been something the gentleman from California [Mr. Berman] has been working on hard for years, and I commend him for it.

Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. Berman].

Mr. BERMAN. Mr. Speaker, I want to thank Chairman Vento and his staff, particularly the committee's counsel, Stan Sloss, for all of their expertise and assistance in helping shape the bill we are considering today. After working on this bill, and similar versions of it over the last 4 years, I am sure they will be glad to move on to other things.

I rise to urge my colleagues to adopt H.R. 4914. The chairman has described the bill, but let me focus on the provision of primary interest to me. The bill would facilitate the addition of approximately 392 acres to the Santa Monica National Recreation Area in Los Angeles County. This land, currently owned by the city of Los Angeles, would be exchanged for approximately 5,882 acres of Bureau of Land Management [BLM] land in Nevada.

The city, over the next 10 to 15 years, must find additional energy sources to meet its escalating demand for electricity. If alternative energy sources—like solar or geothermal—or conservation methods fall short of meeting this demand, they may need to use part of the land in Nevada to build a clean, state-of-the-art powerplant to meet its full energy needs.

Mr. Speaker, I support this bill for two important reasons. First, this bill furthers my 20-year effort in public office to protect and preserve pristine land in the Santa Monica Mountains from further development. Because of escalating land values in Los Angeles and budgetary pressures here in Washington, it has become increasingly difficult to rely solely on the appropriations process to acquire these valuable lands. This bill provides a vehicle to obtain Corral and Franklin Canyons in Los Angeles County—valuable lands the National Park Service considers important acquisitions.

Second, I support this bill because significant compromises were made in the Interior Committee that make it more environmentally responsible and ensure that the Federal Government gets the best possible value for the lands they exchange. The committee accepted an amendment by Congressman Wayne Owens that restricts the use of Federal lands acquired by the city of Los Angeles so that any powerplant that might be built on these lands must meet a clean air standard tougher than current law. And the committee accepted an amendment offered by Congressman George Miller that directs BLM, before the exchange can be completed, to appraise the land in Nevada on the basis of its best and highest use, a standard I strongly support to ensure that the Federal Government receives fair value for its land.

Mr. Speaker, my staff and I have worked with the environmental groups for months on this bill. They suggested a number of conditions should be met, particularly on the use of the energy corridor. These discussions are continuing, and I believe an agreement will be reached between the city of Los Angeles, other western utilities and the environmental defense fund regarding the use of the corridor. This agreement could result in any new or existing utility seeking to use the corridor having to comply with the visibility and acid rain provisions in the House clean air bill, which is currently in conference with the Senate.

This is an environmentally sound approach, and one that I strongly support. If the House provisions are finally accepted in conference, a significant breakthrough for establishing tough, but fair, clean air standards for the West and the country will have been achieved.

Mr. Speaker, I again thank the distinguished subcommittee chairman, Mr. Vento, for his diligent efforts on this bill. This is a good bill and I urge my colleagues to adopt it.

Mrs. VUCANOVICH. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Utah [Mr. Hansen].

Mr. HANSEN. Mr. Speaker, I rise in support of this bill. Contrary to what some may think, this legislation is not a patchwork piece of legislation being rushed through the legislative process. In fact, it is the result of 3 years of hard work by the gentleman from California [Mr. Berman] and the gentlewoman from Nevada [Mrs. Vucanovich] and others.

This bill is a rare compromise which satisfies the environmentalists, the Federal Government, the State of Nevada and the city of Los Angeles. I can assure you, Mr. Speaker, that was not accomplished overnight.

This legislation is cost neutral, something we need more of in Congress. Should the value of the lands being conveyed to the National Park Service be deemed to be more valuable than the Federal lands being exchanged, the Government is not required to pay the difference. Should the lands being conveyed to the National Park Service turn out to be worth less than the Federal lands conveyed, Los Angeles will pay the difference to the U.S. Treasury.

This legislation is significant for Utah in that a utility corridor established as a result of this legislation will allow a Utah utility, Deseret Generating & Transmission to wheel power to the energy hungry markets of southern California. By marketing their electricity to California, DG&T helps us forestall that time when additional powerplants must be built. More importantly, without this legislation without access to the California market, DG&T may very well be forced to shut down.

Mr. Speaker, this bill is a good bill for the Government, a good bill for the States of Utah, California, and Nevada, and a good bill for the environment. I urge my colleagues to support its passage.

Mr. VENTO. Mr. Speaker, the gentleman from Nevada [Mr. Bilbray] has been an active participant in the consideration of this. I know today he comes down with concerns about it but he has been very active, and in the end, hopefully, the issue will be resolved with his concurrence. But tonight I know that he speaks in opposition to it.

Nevertheless, Mr. Speaker, I yield 5 minutes to the gentleman from Nevada [Mr. Bilbray].

Mr. BILBRAY. Mr. Speaker, I appreciate the opportunity to speak on H.R. 4914, legislation introduced by the gentleman from California [Mr. Berman], and this is kind of an oddity me being against this gentleman on environmental issues, but this meas ure, if enacted, would authorize the exchange of certain public lands in California and Nevada. The measure would release wilderness use restrictions on the Sunrise Mountain Natural Area in Nevada and require that it be studied for inclusion in the National Park System or protected as a national conservation area, and it authorizes the establishment of a 1-mile-wide utility corridor through the Sunrise Mountain area.

During the last Congress, the gentleman from California [Mr. BERMAN] introduced a similar bill, H.R. 4496. This measure was discussed extensively with interested parties, but was not considered by the House. Today we consider a revised version.

I have discussed this issue with many interested parties in my State to determine the impact of the proposed legislation upon Nevada. After several exchanges, I must express my opposition to the legislation. Ever since negotiations began with representatives from California, I had hoped that the package agreed upon with those interested parties in southern Nevada would be the package we are considering today. It is not, but, if the bill passes this House, I feel confident the Senate will address the problems in detail and, hopefully, correct them before final passage.

I am further distressed that Nevada is again being considered as the wasteland for the needs of others. Besides this issue, Nevada and the Nation will not be well served with the siting of the nuclear waste dump at Yucca Mountain. That is the way they think about Nevada, a mile wide corridor swashing through the First Congressional District, or a nuclear dumpsite, or an atomic testing facility, or a range for bombing and strafing for the Dulles Air Force Base, or for extended areas to be used as a gunnery range. Most of the Nevadans feel that enough is enough, and that is the reason why, one of the reasons why, many of the groups have come out in favor of it.

Mr. Speaker, in addition to my opposition and opposition from interested parties in Nevada, there are two different groups, the Sierra Club nationally and the Sierra Club, Toiyabe Chapter of Nevada and eastern California.

I include for the RECORD letters indicating their opposition to this particular piece of legislation, and the letters are as follows:

SIERRA CLUB,
Washington, DC, September 18, 1990.

Hon. MORRIS K. UDALL,
Chairman, Interior and Insular Affairs Committee, House of Representatives, Washington, DC.

DEAR CHAIRMAN UDALL: On Wednesday the House Interior Committee will consider H.R. 4914, the California/Nevada Land Exchange Act. Since there seems to have been some confusion regarding the position of the Sierra Club with regard to this legislation, I would like to take this opportunity to clarify our position. The Sierra Club opposes the bill as reported out of Subcommittee.

While the bill provides for the acquisition of several important parcels for addition to the Santa Monica Mountains National Recreation Area, the Nevada portion of the land exchange is very troubling both in process and substance.

The enclosed Sierra Club testimony from the July 26 hearing before the Public Lands Subcommittee outlines four areas of concern: protection for the Sunrise Mountain Wilderness Study Area, the excessive width and number of power lines allowed in the proposed corridor, implications for air quality if the White Pine Power Plant were constructed on the exchanged lands under the existing outdated EIS, and the proposal to lift restrictions from lands granted under the Recreation and Public Purposes Act to the City of Henderson.

Our position was, and remains that these concerns would need to be satisfactorily addressed for us to withdraw our opposition to the bill. Unfortunately, the Subcommittee markup failed to resolve two of these issues to our satisfaction. The subcommittee draft still provides for a mile-wide corridor with up to six new utility lines through the Sunrise Mountain area. Moreover, the bill still fails to provide statutory assurance that any power plant built on this site would be subject to a new EIS and be required to meet class I standards.

Unless these two remaining issues can be reached, the Sierra Club opposes enactment of H.R. 4914.

Thank you for your consideration of our views.

Sincerely,

DEBBIE SEASE,
Washington Director,
Public Lands Program.

SIERRA CLUB,
TOIYABE CHAPTER,
Reno, NE, October 2, 1990.

Hon. JAMES BILBRAY,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN BILBRAY: On behalf of the over 3700 members of the Toiyabe Chapter of the Sierra Club and for The Wilderness Society, I am writing to confirm our opposition to H.R. 4914, the California/Nevada Land Exchange Act. For your information, I am enclosing copies of the Sierra Club and The Wilderness Society testimony of July 26, 1990, as well as a letter of September 18, 1990 to Chairman Udall which state the reasons we oppose the bill. We believe that many of these critical problems have not been resolved in the current legislation.

Basically, under the guise of a proposed land exchange, the bill actually provides for a mile wide utility corridor through the Sunrise Wilderness Study Area south of Las Vegas. This corridor will not only provide for transmission of power from the White Pine Power Project, but will also facilitate power transmission through the Southwest Intertie. We understand that powerplants will likely be built along this corridor in the future to supply the power needs of southern California. These powerplants will threaten the air quality of downwind areas in E. Nevada and in Utah. To our knowledge, there are no provisions in the bill to protect our air quality.

We strongly object to the plans to export southern California's air quality problems to Nevada. All of us have been trying to make the point to the nation that Nevada is not a wasteland in our struggle with the Federal Government over the siting of the nuclear waste dump at Yucca Mountain. We believe that if the Nevada delegation supports H.R. 4914, we would be sending a contradictory message to Congress—it's not okay to put our state at risk in storing nuclear wastes, but it would be okay to pollute our very high air quality to supply power to southern California.

We urge you to oppose H.R. 4914, as written. Please let us know your position on this proposed legislation.

Sincerely,

ROSE STRICKLAND.

Mr. Speaker, I do not intend today to call for a recorded vote on this matter. I hope that it is corrected in the Senate, but I can guarantee my colleagues that both Senators from Nevada are concerned about this legislation, and for success of this legislation to come out of the 102d Congress. Certainly, certain changes will have to be made because all of the Nevada delegation is concerned about it and, hopefully, by working with the gentleman from California [Mr. BERMAN], the gentlewoman from Nevada [Mrs. VUCANOVICH], and the chairman of the committee here, along with the appropriate committees in the Senate, we will be able to get a bill that I can support and the rest of the Democrats in the delegation can support.

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Mrs. VUCANOVICH. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Speaker, I rise in support of this bill. In spite of what the gentleman from Nevada just said, I think this is a win-win situation for the States of Nevada and California, and also for the State of Utah.

First of all, let me point out that Deseret Generation and Transmission will get a corridor to ship electricity to Los Angeles. Deseret G&T is the cleanest electrical plant in the entire country, 10 times as clean as what we will probably require in the clean air bill. That plant was built with the idea that we would have synthetic fuels development in the Uintah Basin area. That did not happen because we killed the Synthetics Fuel Corporation. But this bill will allow Deseret G&T to ship excess electricity to Los Angeles and perhaps build the second unit there to take care of other needs of Los Angeles.

Second, it helps Utah, because if a new electric generating plant does happen to be coal-fired, which is a possibility, it will use Utah's coal. Utah has the cleanest and best coal in the area—lowest ash, lowest sulfur, and highest Btu in the area, and is the nearest to the White Pines area.

Third, it helps Nevada, because it provides employment at the electrical power facility for many people.

Fourth, it helps California, because California needs the electricity which could be provided by Deseret G&T and by any new facility. Southern California is growing very fast. There are restrictions about electrical plants in that State, and Utah is more than willing to do its share to provide electricity there.

Mr. Speaker, I support this bill because it will help Utah and Nevada to provide badly needed electricity for California.

Mr. VENTO. Mr. Speaker, I yield 1 minute to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Speaker, I rise to join with Members from Utah in support of this legislation, which is, as the gentleman from Utah [Mr. NIELSON] just described it, a win-win bill, not only for California and Nevada, but also for Utah.

It contains an amendment about which the chairman of the subcommittee spoke earlier, which will protect the clean air of Utah, which we worked out with the greatest of cooperation with my friend, the gentleman from southern California [Mr. BERMAN], and for whom I commend very sincerely for this important piece of legislation.

Mrs. VUCANOVICH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4914, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EXPANSION OF SAGUARO NATIONAL MONUMENT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5675) to authorize expansion of the Saguaro National Monument, as amended.

The Clerk read as follows:

H.R. 5675

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPANSION OF BOUNDARY.

(a) BOUNDARY REVISION.—In order to protect, preserve, and interpret, for the education and benefit of the public, the area generally to the south of the Saguaro National Monument (hereafter in this Act referred to as the "national monument") which contains an exceptionally rich area of saguaro cactus-palo verde uplands Sonoran Desert habitat, an outstanding riparian corridor of large Arizona sycamores and cottonwoods, prime habitat supporting the desert tortoise, gila monster, javelina, and other species of reptiles, mammals, and birds, and important archaeological and cultural sites, the boundaries of the national monument are hereby revised to include the lands and interests in land as generally depicted on the map entitled "Saguaro National Monument Enhanced Boundary", numbered 151/91,001-D, and dated September 1990. Such map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(b) ACQUISITON OF LANDS.—The Secretary of the Interior may acquire land and interests in land within the boundaries of the national monument by donation, purchase with donated or appropriated funds, or exchange. Lands and interests in lands within the boundaries of the national monument which are owned by the State of Arizona, or any political subdivision thereof, may be acquired only by donation or exchange.

(c) ADMINISTRATION.—Lands and interests in lands acquired pursuant to this Act shall be administered as part of the national monument and shall be subject to all laws, rules and regulations applicable to the national monument.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5675, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5675, introduced by Representative KOLBE and cosponsored by the distinguished Interior Committee chairman, Representative MORRIS K. UDALL, authorizes an expansion of the boundaries of the Saguaro National Monument in Arizona.

Saguaro National Monument is comprised of two unconnected units located in the fast-growing Tucson area. Because of the monument's urban location, development has steadily expanded around its boundaries. What was, only a few decades ago, open space is now dotted with commercial and residential development. While these changes have altered large sections of land south of the east unit's boundary, significant saguaro stands still exist in this area, along with important desert wildlife habitat and undeveloped riparian corridors that are uncommon in this desert environment.

H.R. 5675 presents us with a rather unusual situation. Its genesis arises from negotiations between the major affected landowners, the local units of government, and a broad range of local and national groups concerned about the nationally significant resources located in this area. It is obvious that if these lands immediately south of the monument boundary are not protected, at least in part, by inclusion in the monument, they will be developed and the resource values which have a direct relationship to the monument will be lost. We cannot address all the development that will occur adjacent to the monument nor should this bill be construed in any way, shape or form as endorsing such development, but here, where we have the opportunity to preserve important resource habitat and ecological values, we cannot afford to pass it up and risk the consequences.

Mr. Speaker, I would note that this legislation has the endorsement of the Pima County Board of Supervisors and the Tucson City Council. If the Federal Government is to make this effort to preserve significant resource values in the area, I believe it is incumbent upon the local governments to do their part to address development around the monument boundary in a manner that recognizes the significant resource values found here. With the high public recognition and interest in these resources, we have the opportunity here to address resource issues on a cooperative basis before damages occur and confrontations arise. I believe H.R. 5675 can be a positive part of this process and I recommend its adoption by the House.

Mr. LAGOMARSINO. Mr. Speaker I yield myself such time as I may consume.

Mr. Speaker, I wish to be recognized on H.R. 5675, a bill to authorize the Secretary of the Interior to acquire approximately 3,500 acres of private lands, which would be added to Saguaro National Park in Arizona.

This bill has local support from the land owners, most of whom joined coalition of environmental and loca organizations to support this legislation. I commend the gentleman from Arizona [Mr. KOLBE] for his work with the diverse groups which have united to support this legislation.

This bill is opposed by the administration, who testified in hearing tha they had no information to substanti ate the significance of resource values of these lands, or compare this acquisition against other priorities. They are also concerned about the $10 to $30 million estimated cost of this bill.

The park has stated in their 1-year-old general management plan that expansion is unnecessary, and that they intend to work cooperatively with neighboring landowners and local government on zoning and development plans near park boundaries to protect park resources.

Mr. Speaker, I will not oppose this legislation. However, in this case we have a landowner and businessman who, I understand, worked very closely with the National Park Service and other groups to develop a resort and housing project on lands immediately adjacent to the southern park boundary. This environmentally sensitive development plan went a long way toward responding to the Park Service's and other's concerns about protection of riparian habitat and other critical resources.

Mr. Speaker, this was creative and cooperative management that would have allowed a win-win situation, at a cost significantly less than the cost of this legislation. However, as it has turned out, significant obstacles were placed in the path of the landowner by environmental and other groups, which has lead to this legislation.

Although I understand the gentleman from Arizona is striving toward working out a land exchange, a fee simple purchase of these lands is estimated at from $10 to $30 million. Further, although a coalition of environmental and other groups is behind this legislation, the landowner is still planning to develop a resort, which will now be near the new park boundary.

Will the same groups that opposed development near the old park boundary oppose it near the new boundary? Will we be here again in a subsequent Congress with a bill before us that expands the boundaries by another few thousand acres?

Mr. Speaker, at some point we must let the creative management of the agency and park superintendents work out these compromises to permit sensitive developments around park areas. We cannot continue to seek acquisition of private lands through legislation simply because of the threat of some real or imagined development.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. Kolbe], the author of this legislation.

Mr. KOLBE. Mr. Speaker, I rise in strong support of H.R. 5675, a bill to expand the boundary of the Saguaro National Monument. This legislation, introduced by Chairman Udall and me, is a win-win proposal—a fact which I find particularly welcome in these times.

The Saguaro National Monument is truly one of the Nation's treasures. It is located at the northern edge of the Sonoran Desert and is home to a diverse and spectacular lot of plant and animal life, including the towering, majestic saguaro plant stands for which the monument is famous.

The monument, however, is confronted with increasing community and land growth in its area; the inevitable outgrowth of significant population increases in Tucson since the monument's birth in 1933. As a result, a broad-based coalition of environmental groups approached developers and other interested and affected parties in order to explore possible additions to the monument. The working group reached consensus and then contacted members of the Arizona delegation with an outstanding boundary expansion proposal.

The additional land will include prime habitat for the desert tortoise, gila monster, javelina and other reptiles, birds and mammals. Spectacular scenic, ecological and archaeological lands, including one of the highest quality saguaro cactus stands in the region, will be added as well. This is especially important because of the significant decline, estimated at more than 50 percent, in the monument's saguaro cactus stand.

Clearly this is a win for all those concerned with preserving and enhancing a spectacular national treasure. The cost for this enhancement will be minimal. Although the bill allows the land to be acquired by the typical methods—purchase, donation, or exchange—it is intended that the land be acquired by exchange only. In addition, the proposed boundary area has been part of a major study by some of the foremost experts on the Saguaro National Monument-Rincon area, thereby obviating the need to use taxpayer dollars for a similar Federal study.

Mr. Speaker, I want to thank my colleagues on the National Parks and Public Lands Subcommittee and the Interior Committee, especially Chairman Udall, Subcommittee Chairman Vento, Bob Lagomarsino, and Jay Rhodes, for their valuable insight and assistance. I also want to commend all parties involved in the working group for bringing a proposal to Congress worthy of our strongest support. The proposal before you is proof that groups with varied and sometimes conflicting interests can come together for the good of all. While many bills before you this session represent a little gain and a lot of pain, this bill is pure gain and no pain. I urge your support.

□ 2110

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Mazzoli). The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and pass the bill, H.R. 5675, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

COLORADO RIVER WILD AND SCENIC RIVER ADDITION ACT OF 1990

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1719) to designate segments of the Colorado River in Utah within Westwater and Cataract Canyons as components of the Wild and Scenic Rivers System, and for other purposes, as amended.

The Clerk read as follows:

S. 1719

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Colorado River Wild and Scenic River Addition Act of 1990".

SEC. 2. SEGMENTS OF THE COLORADO RIVER TO BE ADDED AS COMPONENTS OF THE WILD AND SCENIC RIVERS SYSTEM.

Section 3(a) of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1274(a)), is further amended by adding the following new paragraph:

"( ) Colorado River, Utah.—(A) The segment within Westwater Canyon from the point where the river crosses the northern boundaries of sections 22 and 23 of township 20 south, range 25 east, to the point where the river crosses the western boundary of section 24 of township 21 south, range 24 east, as a wild river, to be administered by the Secretary of the Interior.

"(B) The segment within Cataract Canyon from the north boundary of Canyonlands National Park downstream to the southern park boundary, as a wild river, to be administered by the Secretary of the Interior.".

SEC. 3. CONSISTENT WITH SECTION 13(e) OF THE WILD AND SCENIC RIVERS ACT, NOTHING IN THIS ACT SHALL BE CONSTRUED TO ALTER, AMEND, REPEAL, INTERPRET, MODIFY OR CONFLICT WITH THE COLORADO RIVER COMPACT AND THE UPPER COLORADO RIVER COMPACT.

SEC. 4. TREATMENT OF MINERAL MATERIALS ON PUBLIC LANDS.

(a) Mineral Materials Disposal Clarification.—Section 4 of the Act of July 23, 1955 (30 U.S.C. 612) entitled "An Act to amend the Act of July 31, 1947 (61 Stat. 681) and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes", is amended as follows:

(1) In subsection (b) by inserting "and mineral material or other" after "vegetative".

(2) In subsection (c) by inserting "and mineral material" after "vegetative".

(b) Short Titles.—(1) The Act of July 23, 1955, entitled "An Act to amend the Act of July 31, 1947 (61 Stat. 681) and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes", is amended by inserting after section 7 the following new section:

"Sec. 8. This Act may be cited as the 'Surface Resources Act of 1955'.".

(2) The Act of July 31, 1947, entitled "An Act to provide for the disposal of materials on the public lands of the United States", is amended by inserting after section 4 of the following new section:

"Sec. 5. This Act may be cited as the 'Materials Act of 1947'.".

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes and the gentleman from California [Mr. Lagomarsino] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1719, which passed the Senate June 6, 1990, provides, in part, for the designation of certain segments of the Colorado River in the State of Utah as a component of the National Wild and Scenic Rivers System. The legislation is similar to two related House measures H.R. 3399 by Representative Nielson and H.R. 5183 by Representative Owens.

In hearings before the Committee on Interior and Insular Affairs both the administration and public witnesses testified as to the outstanding resource values that are found within the Westwater and Cataract Canyon segments of the Colorado River. The Westwater Canyon segment was studied pursuant to the Wild and Scenic Rivers Act and found eligible for designation. The Cataract Canyon segment, which is located entirely within the boundaries of Canyonlands National Park was included on the nationwide rivers inventory based on its outstandingly remarkable values in five of the categories identified.

S. 1719 also contains a mining law provision that is not related to wild and scenic designation but deals with an existing ambiguity regarding the authority of the Bureau of Land Management to dispose of mineral material from unpatented mining claims. The committee made a number of technical refinements to the mining provision. These changes were developed by my colleague and good friend Representative Nick Rahall, Chairman of the Mining and Natural Resources Subcommittee.

During committee consideration of S. 1719, it was also brought to our attention that there were concerns within the State of Colorado about the possible impact of wild and scenic designation for these segments of the Colorado River on the Colorado River compact. On this question, the Wild and Scenic Rivers Act is crystal clear. Section 13(e) of the act states and I quote "nothing in this act shall be construed to alter, amend, repeal, interpret, modify or be in conflict with any interstate compact made by any States which contain any portion of the National Wild and Scenic Rivers System." We have several existing wild and scenic designations that are located on rivers that are subject to interstate compacts and are therefore subject to the provisions of section 13(e). Nevertheless, there was a recognition that the Colorado River is the most litigated and legislatively regulated river in the country. Therefore, at the behest of Representative Campbell of Colorado, the committee adopted an amendment that restates the provisions of section 13(e) as they apply to the Colorado River. Obviously, this is redundant of current law and policy but this action was taken to allay any possible fears that would contribute to a misperception of the intent of designation of these Colorado River segments.

Mr. Speaker, S. 1719, as amended, is a good proposal and I recommend its adoption by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I rise in support of H.R. 1719 which would designate segments of the Colorado River in Utah within Westwater and Cataract Canyons as additions to the Wild and Scenic Rivers System.

Both of these segments of the Colorado River were found to be eligible for inclusion in the Wild and Scenic Rivers System according to studies done by the National Park Service in cooperation with the States of Utah and Colorado. It is my understanding that both these segments possess outstandingly remarkable characteristics and are quite popular with river rafters. In fact, I note that both Utah Members of the House Interior Committee have run these rivers.

I would like to congratulate Mr. Nielson who has devoted so much time to moving this legislation through the House. Moreover, in his typical role as a work horse rather than a show horse, he has allowed the Senate bill to be used as a vehicle rather than his House bill, which was introduced long ago. Both these river segments are in his district and without his strong leadership we would not be where we are today. I would also like to add that the entire Utah congressional delegation supports S. 1719. This is remarkable in itself in a year when we have had some wild and scenic river bills that have generated considerable controversy.

Mr. Speaker, I urge my colleagues to support S. 1719.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I particularly commend my colleague on the subcommittee, Mr. Owens of Utah, for his skillful management of this bill through the subcommittee and committee proceeds. The provision which corrects a misinterpretation of mining laws on public lands added by Senator Garn, required modification, which was secured by the gentleman from Utah with the cooperation of Chairman Rahall of the Mines and Mining Subcommittee. It is safe to say that without his skills and efforts on this legislation it would not have been reported out by the committee.

Mr. Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. Owens].

Mr. OWENS of Utah. Mr. Speaker, I rise in strong support of this legislation to provide wild and scenic river status for the portions of the Colorado River in Westwater and Cataract Canyons.

I want to particularly commend my colleague from Utah [Mr. Nielson] who originally introduced this legislation and in whose district it is found. I would also point out that tonight there will be three pieces of legislation pass the House which the gentleman from Utah [Mr. Nielson] is the original cosponsor of. If it were not too late, Mr. Speaker, I would have moved to have named this piece of legislation the Howard T. Nielson Memorial Wild and Scenic River Portion, because he has really worked very hard at it, and is deserving of credit, and I do not know of any other day when any other Member of this House has had three pieces of legislation passed on the same day.

This is Mr. Nielson's final few weeks in Congress, and it is a real tribute to his ability to work legislation through, and it was a pleasure to be involved with him in working this legislation through the Interior and Insular Affairs Committee.

I would also commend my colleague in the other body, Senator Garn, for his commitment in seeing this legislation implemented.

Mr. Speaker, the Colorado River is a resource of inestimable value to the States of the intermountain West, as our negotiations on the completion of the central Utah project have proven. But this value goes far beyond the water the Colorado provides. The recreational and aesthetic components of this, one of the world's great rivers, makes the Colorado the lifeblood of southern Utah's tourist economy. Hundreds of thousands of visitors from around the world travel to Utah each year for the recreational opportunities and beauty associated with the Colorado River. If ever a river corridor where truly deserving of wild and scenic designation, it is the Colorado River and its canyons.

Wild? The Colorado through Westwater and Cataract Canyons is the paradigm of a wild river. This was the last wilderness enclave in the lower 48, virtually unknown to Europeans until Powell's voyages of discovery in the mid-1800's. Sound management and the inherent inaccessibility of the canyon country have kept the Colorado wild and relatively unimpacted by man. The dark narrow canyon through Westwater provides no clues to the presence of dirt roads on the plateau above. Canyonlands National Park protects the broad vistas and sheer cliffs of Cataract Canyon from overdevelopment.

There is also a second kind of nonstatutory wild that makes these canyons unique—the towering swells of the Colorado River rapids that attract so many tourists each year. Westwater is a dark serpentine canyon, full of eddies and waves, where the entire Colorado is occasionally compressed into a space only 50 feet across. Funnel Falls, Skull Rapid, and Last Chance make this one of the great short river runs of the Western Hemisphere. Cataract Canyon in high water is broad and roaring, with some of the most intense whitewater in the world—the Big Drops, Little Niagara, Mile-Long.

Scenic? The swirling waters in Westwater's tight, dark, and primeval canyon are rivalled only by certain stretches of the inner gorge of the Grand Canyon. The Colorado's boiling rapids in Cataract Canyon carry a rafter past towering sedimentary walls and ancient Anasazi structures, through and by some of the most incredible landscapes on Earth—the Maze, the Needles, Island-in-the-Sky.

S. 1719 also includes a provision which will correct a misinterpretation of the mining laws on public lands. Currently, a distinction exists in the way the Forest Service and the Bureau of Land Management interpret sand and gravel operations on their lands. This provision will correct that. It has been redrafted and amended by the Mining Subcommittee and Chairman RAHALL and will narrowly address this inconsistency. Another amendment restated section 13(E) of the Wild and Scenic Rivers Act to clarify the water rights of our neighboring State of Colorado. I look forward to providing the Colorado River through these spectacular canyons the additional status and protection it so clearly deserves. Wild and scenic status will not only help in the preservation of this great resource, but will also give visitors one more incentive, among many, to travel to the magnificent canyon country of southern Utah.

Mr. LAGOMARSINO. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. HANSEN], a member of the committee.

Mr. HANSEN. Mr. Speaker, I do not know if people realize, and many of us are very parochial about our home States, and I am sure I am, and I know the beauty of all 50 States having been in most of them, I do not think people realize the tremendous diversity of that little State out there in the West called Utah. We have the beautiful Unita Mountains, the only range that runs from east to west, which is beautiful and high. We have Red Monolith, we have the Salt Flats, we have desert areas, we have more parks and monuments than probably any other State. We also have, as the gentleman from the Second Congressional District discussed, the beautiful rivers that people do not realize that that dry, dry State would actually have. This Westwater area and Cataract Canyon is one of the most awesome scenes anyone could ever go through.

□ 2130

I had the privilege a few years ago, with my colleague from the Third District, the gentleman from Utah [Mr. NIELSON], of running this canyon. What a great and beautiful experience.

I must also state that I have to have a parochial thing there. My son is a professional river runner, and having run the Colorado River, it is one of those things that will take your breath away, one of those things, like Senator GARN pointed out, he said that the two most exciting experiences he has ever had in his life were, first, going in the space shuttle and circling Earth, and the second one was to run the Colorado River.

As we see the very necessity of putting this into wild and scenic designation, I commend the gentleman from the Third District. I think this is a real tribute to the gentleman from the Third District, who worked so long on this piece of legislation.

Many years has he put in on these hearings, and he worked with county commissioners and legislators and others to get it to this particular point.

I join with the comments from the gentleman from the Second District in complimenting the gentleman from the Third District for the great work that he has done.

I would think that people should look at this particular piece of stretch of the river and realize that this is one of the great creations that God has given us.

I remember very clearly going out once with the past chairman of the Public Lands Committee, Mr. Seiberling, as he stood out there, and we helicoptered all over the State of Utah. His comment, in Moab, UT, as he was talking to a group of people, "Utah is so beautiful we should put it all in a national park." I guess maybe we do not want to do that. We do not want to move to Nevada or Wyoming, as much as we love those two States, but we would prefer that people could see the tourism in Utah, and the beautiful things we have to offer, and also I again commend the gentleman.

I urge my colleagues to vote for this particular piece of legislation.

Mr. LAGOMARSINO. Mr. Speaker, I yield 2 minutes to the author of the original legislation, the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I thank my colleagues, the gentleman from California [Mr. LAGOMARSINO], the gentleman from Utah [Mr. OWENS], and the gentleman from Utah [Mr. HANSON] for their praise. I appreciate that.

It is true that three of my bills are going through tonight, and I appreciate that as well. We have been fortunate to have other bills passed in this Congress, but three tonight is a new high.

I rise today in support of S. 1719, a bill to amend the National Wild and Scenic Rivers to include parts of the Colorado River in Utah.

The gentleman from Utah [Mr. HANSEN] does not take adequate credit. One half of the river in the Cataract Canyon is on his side. The river divides our districts in that portion of the bill, although I will take credit completely for the Westwater part of the bill.

As I say, and as both gentlemen have said, the area has become internationally known for its recreational opportunities, natural wonders, and in the past few years has become increasingly popular with tourists all over the world.

Local citizens, elected officials, BLM representatives, river guides and outfitters have all been looking for ways to promote and preserve the beauty and the unique experience of visiting this part of Utah.

A Department of Interior study has determined the Westwater River, the Westwater Canyon segment, of the Colorado River was eligible for inclusion in the system and recommended the wild designation in 1983. Since then support has grown throughout the State and the area. I have been pursuing this proposal for Westwater Canyon for several years. At the request of those people in Utah, after running the river myself, I became even more convinced of the merits of the wild designation.

Last year I approached my colleague from Utah, Senator GARN, who I also thank for his help in this regard, asking that he introduce a companion bill in the Senate. He agreed to do it provided it would be scenic designation rather than wild. I made a mistake in letting him designate it scenic, whereas it should have been wild all along, and the Senate, in their wisdom, changed it to wild as it is now, and that is the reason we are doing the Senate bill rather than the House bills.

I was very pleased with the change also to add Cataract Canyon which is also a beautiful part of the river.

There is widespread support for the legislation. We have received may calls and many letters, from Sherry Griffith and others who are on the National Land Board, recommending passage of such legislation. I commend the gentleman from Utah [Mr. OWENS] and the gentleman from Utah [Mr. HANSEN] for their support, and the gentleman from Colorado [Mr. CAMPBELL] for his support, Senator GARN and Senator HATCH from my State and also the gentleman from Minnesota [Mr. VENTO] and the gentleman from Arizona [Mr. UDALL], and the gentleman from California [Mr. LAGOMARSINO] for their help in this regard and also the gentleman from West Virginia [Mr. RAHALL] for straightening out a little problem we may have had in the Senate version.

We are anxiously awaiting our first designation as a wild and scenic river, and I rise in support and hope you will all support the bill.

Mr. RAHALL. Mr. Speaker, section 3 of S. 1719 contains a provision involving the disposal of mineral materials on Federal lands that is unrelated to the designation of wild and scenic rivers. Added in the other body by the distinguished Senator from Utah, the honorable JAKE GARN, this provision as amended by the Interior Committee seeks to address a matter that is in the public interest: the ability of the Bureau of Land Management to dispose of common varieties of mineral materials such as sand, stone, gravel and clay from unpatented mining claims. As the chairman of the Subcommittee on Mining and Natural Resources, I am pleased to have been of assistance in formulating this legislation and urge its adoption by the House.

By way of background, the Materials Act of 1947, as amended by the Surface Resources Act of 1955, removed common varieties of mineral materials such as sand, stone, gravel and clay found on Federal lands from location under the Mining Law of 1872. These mineral materials are, as such, primarily made available by sale on either a competitive or noncompetitive basis. However, qualified governmental entities are eligible to receive mineral materials at no charge for use in highway and other public projects.

Although the Forest Service regularly disposes common varieties of mineral materials from unpatented mining claims, in 1979 an Interior Department solicitor determined that the statutory authority found in the Surface Resources Act of 1955 for the government to manage resources on unpatented claims does not extend to the ability to dispose of a resource such as sand, stone, gravel or clay.

This has given rise to an incongruity among two Federal surface managing agencies in administering the Materials Act of 1947, as amended. For example, gravel found on an unpatented mining claim on National Forest System lands can be sold or made available to a governmental entity for a road project, but the same gravel situated on an unpatented mining claim on lands managed by the BLM could not be so disposed. This situation also constitutes revenue foregone as receipts from the sale of mineral materials are shared between State/country governments and the Federal Government.

The pending legislation should clear-up any doubt at the BLM that it can, in fact, dispose of mineral materials from unpatented mining claims in the same manner as does the Forest Service. In addition, on a technical note, the bill would finally officially provide short titles for the 1947 and 1955 laws relating to mineral materials: the Materials Act of 1947 and the Surface Resources Act of 1955.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 1719, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

NEWBERRY VOLCANOES NATIONAL MONUMENT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3840) to establish the Newberry Volcanoes National Monument in the State of Oregon, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3840

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT.

(a) IN GENERAL.—There is hereby established the Newberry National Volcanic Monument in the State of Oregon as a component of the National Forest System in order to preserve and protect for present and future generations its remarkable geologic landforms and for the purposes of providing for the conservation, protection, interpretation, and enhancement of its ecological, botanical, scientific, scenic, recreational, cultural, and fish and wildlife resources.

(b) AREA INCLUDED.—(1) The Monument shall comprise those lands generally depicted on the map entitled "Newberry National Volcanic Monument" and dated September 1990, which shall be on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture, Washington, District of Columbia.

(2) The Newberry Special Management Area, the Transferal Area, the Transferal Area Adjacent, and the Transferal Corridor shall comprise those lands generally depicted as such on the map referred to in paragraph (1).

(3) The Secretary may, by publication of a notice of availability of a revised map and after public comment, make corrections or minor changes to the boundary of the Monument or Special Management Area if such changes are—

(A) necessary to facilitate management of the Monument, Special Management Area and the immediately surrounding area,

(B) consistent with the purposes of this Act, and

(C) noncontroversial.

Any proposed boundary change shall be made pursuant to the National Environmental Policy Act of 1969.

SEC. 2. ADMINISTRATION.

(a) IN GENERAL.—Subject to valid existing rights, the Secretary shall administer the Monument and Special Management Area in accordance with the laws, rules, and regulations pertaining to the National Forest System and this Act as part of the Deschutes National Forest.

(b) TRANSFERAL AREA.—(1) Upon termination, cancellation, or relinquishment of all Federal geothermal leases (numbered OR-12008, OR-11612, and OR-11613), the lands and mineral rights encompassed by such leases, and other Federal land identified as the Transferal Area on the map referred to in section 1(b)(1), shall become part of the Monument and shall be administered under this Act.

(2) The Transferal Corridor is a part of the Transferal Area and shall be managed as such, except as otherwise provided in section 4.

(3) Prior to the termination, cancellation, or relinquishment of such geothermal leases, the Secretary of the Interior and the Secretary of Agriculture shall, to the extent practicable and consistent with the Geothermal Steam Act of 1970 and rights under such leases, manage the Transferal Area under the laws, rules, and regulations pertaining to the National Forest System in such a manner so as to preserve the natural values of the area which would qualify it for designation as a national monument.

(4) Upon discovery of commercial quantities of geothermal resources, paragraphs (1), (2), and (3) shall no longer apply.

(c) NEWBERRY SPECIAL MANAGEMENT AREA.—The area identified on the map referred to in section 1(b)(1) as the Newberry Special Management Area shall be managed as if it were part of the Monument, except as otherwise provided in section 4.

(d) Transferal Area Adjacent.—The area identified on the map referred to in section 1(b)(1) as the Transferal Area Adjacent is a part of the Special Management Area, except as otherwise provided in section 4.

(e) Management Requirements.—The Monument and Special Management Area shall be administered in accordance with the following management requirements:

(1) Land management activities shall allow natural ecological succession of vegetation to continue to the maximum extent practical, as determined by the Secretary. Timber removal shall be permitted only to the extent the Secretary determines necessary to achieve the purposes of this Act and to protect health and safety. Timber within the Monument and Special Management Area shall not be considered part of the allowable sale quantity for the Deschutes National Forest.

(2) Recreation uses and interpretive facilities shall be provided, including (but not limited to) trails, campgrounds, resorts, and visitor centers, as identified in the management plan.

(3) Roads shall be permitted in the Monument and Special Management Area consistent with the purposes of this Act and in accordance with the management plan.

(f) Scientific Research.—Scientific research shall be allowed consistent with the purposes for which the Monument was established.

(g) Disease, Insect Infestation, and Fire Hazard.—The Secretary is authorized to take action to the extent practicable to ensure that tree diseases, insect infestations, fire hazards and fires within the Monument and Special Management Area do not seriously threaten resources outside the Monument and Special Management Area boundaries.

SEC. 3. EXCHANGES OF GEOTHERMAL LEASE RIGHTS.

(a) In General.—Those holders of all Federal geothermal leases within the Monument as of the date of enactment of this Act and who are listed in subsection (c) of this section are authorized, without penalty, to relinquish all rights to such leases on the terms and conditions provided in this section and section 10 of the Geothermal Steam Act of 1970. Such leases are depicted on the map entitled "Geothermal Lease Compensation" which is a part of the Surface Resource Analysis of Newberry Volcano.

(b) Geothermal Lease Exchange.—Upon the acceptance by the Secretary of the Interior of a lease relinquished pursuant to subsection (a), the Secretary of the Interior shall immediately issue, in lieu thereof and in full compensation for such relinquishment, geothermal leases of like value as described in subsection (c). The leases issued in lieu of relinquished leases shall contain the terms and conditions prescribed in the Surface Resource Analysis of Newberry Volcano and the Land and Resource Management Plan for the Deschutes National Forest, dated August 1990. Consistent with such terms and conditions, such in-lieu leases shall be administered under the Geothermal Steam Act of 1970.

(c) Descriptions.—The parties (including their successors, or assignees), and lands referred to in subsection (a), are those specified on the map referred to in subsection (a).

(2) The leases to be issued pursuant to subsection (b) and the interests in lands subject to such leases are as follows:

(A) Within the Newberry Caldera Known Geothermal Resource Area, lease area 1, leases shall be issued with an undivided fractional interest distributed as follows:

(i) 62.37 percent to California Energy Co., Inc.

(ii) 35.09 percent to Christian F. Murer.

(iii) 2.54 percent to Delta Funds, Inc.

(B) Within the Newberry Caldera Known Geothermal Resource Area, lease area 2, leases shall be issued with an undivided fractional interest distributed as follows:

0.84 percent to L.H. Armour, Jr.

5.49 percent to Frances B. Bunn.

1.73 percent to Robert B. Bunn.

8.52 percent to Geo-Newberry Crater, Inc.

15.10 percent to Hawthorn Oil Co.

3.42 percent to Terry Allen Kramer.

64.90 percent to Georgia W. Waters.

(C) Outside the Newberry Caldera Known Geothermal Resource Area, leases shall be issued for the approximate acreage noted:

(i) Lease Area 3—Robert B. Bunn—1,280.00 acres.

(ii) Lease Area 4—Frances Bunn—1,240.00 acres.

(iii) Lease Area 5—Geo-Newberry Crater, Inc.—2,928 acres.

(d) Availability of Certain Lands for Geothermal Leasing Under the Geothermal Steam Act.—Following the expiration, relinquishment, or termination of any geothermal lease issued or lands identified in subsection (c), except for lands situated within the Special Management Area, such lands may be offered for lease under the Geothermal Steam Act of 1970.

(e) Availability of Certain Lands for Geothermal Leasing Under this Act.—Following expiration, relinquishment or termination of a geothermal lease on lands identified in subsection (c), within the Special Management Area, lands shall be offered for lease as provided in section 4(a)(5) of this Act.

(f) Nonapplicable Provisions.—The provisions of subsection (g) of section 6 of the Geothermal Steam Act of 1970 (30 U.S.C. 1005(c) and (g)) shall not apply to any geothermal lease within the Monument existing on the date of enactment of this Act.

SEC. 4 SUBSURFACE RIGHTS.

(a) Withdrawal.—

(1) Monument.—Subject to valid existing rights, Federal lands within the Monument are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, or patent under the mining laws, and from disposition under all mineral and geothermal leasing laws.

(2) Transferal area.—Subject to valid existing rights, Federal lands within the Transferal Area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, or patent under the mining laws, and from disposition under all mineral and geothermal leasing laws. Upon completion of a well capable of producing geothermal steam in commercial quantities, as defined in section 6(d) of the Geothermal Steam Act of 1970 (30 U.S.C. 1005(d)) on valid existing leases within the Transferal Area, as determined by the Secretary of the interior, the withdrawal made by this subsection shall be revoked, and such lands shall be restored to the operation of the public land laws, mining laws, and mineral or geothermal leasing laws.

(3) Transferal corridor.—Subject to valid existing rights, Federal lands within the transferal corridor are hereby withdrawn from all forms of entry, appropriation, of disposal under the public land laws, from location, entry or patent under the mining laws, and from disposition under all mineral and geothermal leasing laws.

(4) Transferal area adjacent.—Subject to valid existing rights, Federal lands within the Transferal Area are hereby withdrawn from all forms of entry, appropriation, or disposal under the pubic land laws, from location, entry, or patent under the mining laws, and from disposition under all mineral leasing laws except the Geothermal Steam Act of 1970. Upon completion of a well capable of producing geothermal steam in commercial quantities, as defined in section 6(d) of the Geothermal Steam Act of 1970 (30 U.S.C. 1005(d)) within the transferal area, as determined by the Secretary of the Interior, this area will be managed as part of the Special Management Area and be governed by provisions in section 4(a)(5). Geothermal leases issued in this area shall contain stipulations that prohibit surface occupancy and no plans of operation will be approved by the Secretary until commercial quantities of geothermal resources are found within the Transferal Area.

(5) Special management area.—Subject to valid existing rights, Federal lands within the Special Management Area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, or patent under the mining laws, and under all mineral leasing laws except the Geothermal Steam Act of 1970. Geothermal leases issued in this area shall contain stipulations that prohibit surface occupancy and shall require that the Special Management Area be entered only by directional drilling from outside the Special Management Area boundaries. In the event that no commercial quantities of geothermal resources are developed under leases within 30 years after the date of enactment of this Act, the Secretary of the Interior is authorized and directed to withdraw such areas in perpetuity from all further leasing under the Geothermal Steam Act of 1970. Upon such withdrawal, the Special Management Area designations shall terminate and such areas shall become part of the Monument. All or portions of the Special Management Area may be withdrawn from the Geothermal Steam Act of 1970 and made a part of the Monument earlier at the joint discretion of the Secretaries of Interior and Agriculture. This provision shall in no way restrict the Secretary's authority to acquire by purchase, donation or exchange any lease within the Special Management Area prior to the expiration of the term of years set forth in this paragraph.

(b) Geothermal Lease Sales.—(1) Within one year after the date of the enactment of this Act, pursuant to the Geothermal Steam Act of 1970, the Secretary of the Interior shall offer for lease by competitive bid the land depicted on the map entitled "Geothermal Lease Sale Parcels," which is part of the Surface Resource Analysis of Newberry Volcano, with stipulations as provided therein.

(2) Any of the lands described in paragraph (1) of this subsection which are not leased as a result of the first competitive bid offering, or any of the initial leases which are relinquished, terminated, or otherwise canceled, may be reoffered by the Secretary of the Interior for lease by competitive bid under the Geothermal Steam Act of 1970,

except that all lands within the Special Management Area shall be subject to the leasing provisions of subsection (a)(5) of this Act.

(c) Authority for Plans of Operation.—The Secretary of Agriculture shall regulate all surface disturbing activities conducted pursuant to any lease issued under this section and section 3 and shall determine reclamation and all other actions as required in the interest of conservation of these resources. No permit to drill on a geothermal lease for areas covered under this Act may be granted without the analysis and approval by the Secretary of Agriculture of a plan of operations covering proposed surface disturbing activities within the lease area. In making such determination, the Secretary shall consider the effects of the proposed operations on the values for which the Monument and Special Management Area were established.

SEC. 5. FISH AND WILDLIFE.

Nothing in this Act shall be construed to affect the jurisdiction or responsibilities of the State of Oregon with respect to fish and wildlife, including the regulation of hunting, fishing, and trapping, except that the Secretary may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the Department of Fish and Wildlife of the State of Oregon or its successor agency.

SEC. 6. MANAGEMENT PLAN.

(a) In General.—(1) Within three fiscal years beginning after the date of enactment of this Act, the Secretary shall develop a management plan which shall address the lands established in section 1. The management plan shall be developed in consultation with the Council (established by section 7), interested Federal, State, and local government agencies, and the public.

(2) The management plan shall be periodically updated, amended, or revised as necessary and, at the discretion of the Secretary, such updates, amendments, or revisions may be done separately or in conjunction with land management planning for other adjacent areas of the Deschutes National Forest.

(3) No actions taken under the authority of this Act shall require the reconsideration, amendment, or revision of the Deschutes National Forest Land and Resource Management Plan prepared pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604). The management plan required by paragraph (1) shall be incorporated into the Deschutes National Forest Land and Resource Management Plan upon the regular revision of the Deschutes National Forest Land and Resource Management Plan.

(b) Issues to Be Addressed by Management Plan.—Consistent with the purposes for which the Monument and Special Management Area were established, the management plan shall address at least the following management issues:

(1) Recreation, including consideration of a full range of existing and appropriate new facilities and programs for recreation during all seasons of the year.

(2) Vegetation, including consideration of a full range of management options, and a program to reestablish old growth ponderosa pine ecosystems.

(3) Roads and facilities, including—

(A) consideration of the general location, design, construction, and maintenance criteria;

(B) standards for motorized vehicle use;

(C) traffic management; and

(D) criteria for the closing and obliteration of roads.

(4) Fire and fuel management prescriptions, including consideration of a full range of management options for fuel hazard reduction and prescribed fire and fire control strategies to minimize the risk of catastrophic wildfire and to meet other resource objectives.

(5) Wildlife management, including general prescriptions for wildlife habitat improvements.

(6) Research, including identification and prioritization of research opportunities.

(7) Monitoring, including monitoring needs for air, water, wildlife, soil, and other resources. The Secretary, in cooperation with the Secretary of the Interior, shall maintain a research and monitoring program for geothermal resources for the purpose of identifying and assessing the impact that present and proposed geothermal development in the vicinity of the Monument and Special Management Area may have on the values for which such Monument and Special Management Area were established.

(8) Conflicts, including consideration of potential conflicts among uses and resources.

SEC. 7. ADVISORY COUNCIL.

(a) Establishment.—There is hereby established the Newberry National Volcanic Monument Advisory Council for the purpose of advising the Secretary on the preparation of the initial management plan required by section 6(a) and on other matters at the Secretary's request.

(b) Membership.—The Council shall be composed of 11 members appointed by the Secretary, as follows:

(1) One member who represents the scientific community.

(2) One member who represents organized recreational interests.

(3) One member who represents organized timber industry interests.

(4) One member who represents organized geothermal industry interests.

(5) One member who represents organized tourism interests.

(6) One member of the Deschutes County Board of Commissioners.

(7) One member who represents organized environmental interests.

(8) One member who represents organized wildlife and fish interests.

(9) One at-large member from nominations submitted to the Secretary by the Governor of Oregon.

(10) The Forest Supervisor, Deschutes National Forest, and the District Manager, Prineville District, Bureau of Land Management, who shall serve as nonvoting, ex officio members.

(c) Vacancy.—A vacancy on the Council shall be filled in the same manner as the original appointment.

(d) Quorum.—A quorum shall be 6 appointed members of the Council. The operations of the Council shall not be impaired by the fact that a member has not been appointed as long as a quorum has been attained.

(e) Chairperson and Procedures.—The Council shall elect a chairperson and establish such rules and procedures as it deems necessary or desirable.

(f) Consultation.—The Secretary shall consult with the Council on a periodic and regular basis with respect to the management plan.

(g) Pay.—Members of the Council who are not full-time officers or employees of the United States shall serve without pay. Members who are full-time officers or employees of the United States shall receive no additional pay by reason of their service on the Council.

(h) Scientific Advisory Subcommittee.—The Council may appoint a Scientific Advisory Subcommittee, to be chaired by the Council member who represents the scientific community, for the purposes of advising the Council on matters related to the management plan. Subcommittee members shall be appointed for their expertise and need not be members of the Council.

(i) Termination.—The Council and the Scientific Advisory Subcommittee, if any, shall cease to exist on the date upon which the management plan is officially adopted by the Secretary, or later at the discretion of the Secretary, except in no event shall the Council exist later than 5 years after the date of enactment of this Act.

SEC. 9. SAVINGS PROVISIONS.

(a) Management Outside Boundaries of Monument.—Nothing in this Act shall be construed as authorizing or directing the establishment of protective perimeters or buffer zones around the Monument or Special Management Area for the purpose of precluding activities outside the Monument and Special Management Area boundary which would otherwise be permitted under applicable law. Nothing in this Act shall be construed as limiting the existing authority of the Secretary to take actions on Federal lands adjacent to the Monument and Special Management Area necessary to protect public health and safety in emergencies. The fact that activities or uses outside the Monument and Special Management Area can be seen, heard, measured, or otherwise perceived within the Monument and Special Management Area shall not, of themselves, limit, restrict, or preclude such activities or uses up to the boundary of the Monument and the Special Management Area.

(b) Contracts.—Nothing in this Act shall limit, restrict, or preclude the implementation of valid timber sale contracts or other contracts or agreements executed by the Secretary or the Secretary of the Interior prior to the date of enactment of this Act.

(c) Administration of Geothermal Steam Act of 1970.—Except as specifically provided in section 3 and 4, nothing in this Act shall be construed to affect the authority of the Secretary of the Interior to administer the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

SEC. 10. DEFINITIONS.

As used in this Act:

(1) the term "allowable sale quantity" has the same meaning as such term has in section 13 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1611).

(2) The term "Council" means the Newberry National Volcanic Monument Advisory Council and established by section 7.

(3) The term "management plan" means the plan developed under section 6.

(4) The term "Monument" means the Newberry National Volcaniac Monument established by section 1.

(5) The term "Newberry Caldera Known Geothermal Resource Area" refers to the area established by the United States Geological Survey in 1974 and identified as the map referred to in section 3(a).

(6) The term "Special Management Area" means the Newberry Special Management Area established by section 1.

(7) The term "Secretary" means the Secretary of Agriculture.

(8) The term "Surface Resource Analysis of Newberry Volcano" means the document dated September 1990, prepared by the Forest Service and the Bureau of Land Management, and available for public inspection in the Office of the Chief, United State Forest Service, United States Department of Agriculture, Washington, District of Columbia .

(9) The term "Transferal Area", "Transferal Corridor"; and "Transferal Area Adjacent" mean the areas established by section 1.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes, and the gentleman from California [Mr. Lagomarsino] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3840, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3840, introduced by my colleague from Oregon, Mr. Smith, would designate the Newberry National Volcanic Monument in the Newberry Volcano Area of the Deschutes National Forest near Bend, OR.

Newberry Volcano is the largest ice age volcano in Oregon and encompasses 500 square miles. The monument would protect 56,000 acres, which includes the volcano's Crater. The crater is 5 miles in diameter and is known as Newberry Crater. (It contains two high elevation lakes, East Lake at 6,371 feet, and Paulina Lake at 6,331 feet, cinder cones and a unique obsidian flow. The lakes contain rainbow, brown and kokanee trout, some of trophy size.) In addition to fishing, other recreational opportunities in the crater include over 100 miles of hiking trails, two campgrounds, and two resorts.

Also protected by the monument would be an area immediately north of the crater known as the lava lands. The area includes a large cinder cone called Lava Butte and many unusual lava formations including Lava River Cave which is a mile long lava tube, and the lava cast forest which consists of casts of ancient trees formed from molten lava.

The committee has included provisions that ensure that this new monument will be managed in an environmentally sound manner consistent with other national monuments. (It has bipartisan support, and Mr. DeFazio, Mr. AuCoin, and Mr. Rahall have worked closely with myself and Mr. Smith, the bill's sponsor, to improve the bill.) I thank them for their efforts and urge my colleagues to join us in giving the Nation a new national monument.

Mr. Speaker, I reserve the balance of my time.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3840, which would create a 56,000-acre Newberry Volcanoes National Monument in Central Oregon's Deschutes National Forest.

As Chairman Vento has noted, this area represents some of the most outstanding and unique geologic features associated with volcanic activity within the United States. Virtually everyone agrees it is deserving of some sort of protection.

Mr. Speaker, I am most impressed with the process that has produced this legislation. This process began nearly 3 years ago when a grassroots committee in central Oregon composed of business leaders, local government officials, conservationists, geothermal, and timber interests started discussing plans for protecting the area around Newberry Volcanoes from potential geothermal development activities.

In the fall of 1988 this committee reached a consensus package on protecting the area which it presented to Congressman Bob Smith. Congressman Smith, who is an active member of the Subcommittee on National Parks and Public Lands, introduced this legislation last November which is based on the findings of the consensus committee.

Mr. Smith and his staff have worked tirelessly to make compromises in the original bill, yet keep the many diverse interests in support of the measure. Finally, they have a package before us today that addresses all the significant concerns which were raised. This bill passed the full Committee on Interior and Insular Affairs without a dissenting voice. It also is strongly supported by the administration.

Mr. Smith and Mr. Vento must be commended for developing this agreement that has been closely scrutinized by so many diverse interests. Staffers Paul Unger and Jim Bradley also deserve recognition for the many grueling hours they devoted to this legislation.

Mr. Speaker, I urge my colleagues to support H.R. 3840.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon [Mr. AuCoin].

Mr. AuCOIN. Mr. Speaker, if H.R. 3840 is enacted, the Newberry Volcano in Oregon—a national geologic treasure—will get the protection it deserves.

This bill, as amended, satisfies the major concerns I had with H.R. 3840 as introduced, and I applaud both the Interior Committee and the legislation's broad local coalition of supporters for tightening up the management standards for this national monument and for fairly resolving the geothermal leasing controversy in the area.

So I thank the leadership of the Interior Committee, the gentlemen from Minnesota [Mr. Vento] and West Virginia [Mr. Rahall] in particular. I also compliment my acquaintance, Mr. Bob Smith from Oregon, for introducing the bill, and I salute the gentleman from Oregon [Mr. DeFazio] for the countless hours he put into perfecting it.

With passage of this bill, Oregon takes another step forward as steward and protector of its treasured natural resources. I urge my colleagues to support the legislation.

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Mr. Speaker, I urge my colleagues to support this legislation.

Mr. ROBERT F. (BOB) SMITH. Mr. Speaker, I thank my friend, the chairman of the Subcommittee on National Parks and Public Lands for yielding time to me.

Mr. Speaker, I rise to urge my colleagues to support H.R. 3840, to establish a Newberry National Volcanic Monument.

As the chairman of the subcommittee has said, H.R. 3840 would establish a 56,000-acre National Volcanic Monument at Newberry Crater—the caldera of a dormant volcano—in the Deschutes National Forest, approximately 25 miles southeast of Bend, OR.

This marks a great moment for me. I'm understandably fond of Newberry Crater and central Oregon, and I appreciate the fine work of the House Interior Committee and those Members who have offered their advice and guidance in this process.

But Mr. Speaker, I am most proud of the local committee comprised of 30 central Oregonians, who gave 3 years, thousands of hours, and immeasurable amounts of patience to see this day.

The consensus committee was comprised of environmentalists, recreationists, hunters, anglers, geothermal energy interests, timber interests, representatives of the Forest Service, BLM, and many others.

The constraints of time prevent me from recognizing all the people who deserve recognition today, but a few standouts must be mentioned.

Dr. Stuart Garrett, of Bend, OR—who chaired the committee—deserves much of the credit for conceiving this project and propelling it to its conclusion in the House today.

In future years, Dr. Garrett will be remembered as the father of the Newberry National Volcanic Monument, and that is a substantial legacy. Dr. Garrett is a dedicated, selfless Oregonian, and I am proud to have him as a constituent, a neighbor, and a friend.

Sally Collins and the entire staff of the Deschutes National Forest provided invaluable assistance.

Sally and her staff took what we knew in our hearts we wanted to accomplish at Newberry Crater, and translated it into the technical language and maps required of such a project.

And Dave McLain and the folks at the California Energy Co., patiently negotiated a delicate exchange of geothermal leases within the monument boundaries—leases to which they were rightfully entitled—for leases outside of the monument boundaries.

Without Calenergy's cooperation, there would be no agreement, no consensus, and no monument.

And finally, I thank the gentleman from Minnesota, [Mr. Vento], chairman of the Subcommittee on National Parks and Public Lands. I appreciate the chairman's interest and dedication to this legislation, and for acting fairly and judiciously at all times.

Oregon and our Nation can be grateful to these people for their service to our State and our Nation—we are all a little richer for their sacrifices.

Mr. Speaker, throughout this process, I have insisted on only one thing:

That all Oregonians, and all Americans, who had an interest in this legislation be *included in the policy process.*

This legislation—and this process—can be a model, I believe, for how we must go about designating and managing our dwindling natural resources.

At a time when competition for our resources is increasing, we cannot and must not ignore the interests and contributions of Americans within their States.

We cannot manage our resources from behind closed doors, we cannot exclude anyone, and we cannot presume that one person's interests or one group's interests supersede another's.

If we are to manage our resources and manage them well, we must ensure that the process is open, respectful and fair.

The result is fact.

This tribute to Oregon and to America Newberry National Volcanic Monument.

This is the Newberry volcanoes process, and I am proud of it.

I urge my colleagues to support this bill.

Mr. VENTO. Mr. Speaker, I just want to commend the gentleman from Oregon [Mr. Robert F. (Bob) Smith] for his work on this. I think his statement was very generous in sharing with Members, but I think really that he deserves a goodly amount of the credit in terms of organizing things in his State and within his delegation, and sticking with this bill. We appreciate his patience, as we had questions that arose concerning it. They were sincere and good questions, and I think it will make it possible to act on this measure when it does become law. I think he can take justifiable pride in it.

Mr. RAHALL. Mr. Speaker, while the overt purpose of H.R. 3840 is to establish the Newberry Volcanoes National Monument, the legislation contains a number of provisions that have nothing to do with protecting and preserving what is noted in the bill as the remarkable geologic landforms of the area in question.

These provisions concern matters within the jurisdiction of the Subcommittee on Mining and Natural Resources. In particular, the legislation would authorize a geothermal lease exchange, and a new geothermal lease sale for certain identified tracts of land. In fact, the geothermal leasing provisions found in this bill are so extensive it appears to me that the establishment of the national monument is almost an aside.

Be that as it may, I directed my subcommittee staff to work with the staff of the Subcommittee on National Parks and Public Lands in order to remedy some of the rather questionable leasing-related elements of the bill as introduced, as well as the version of the bill presented by the Forest Service during the hearing. Through this process we managed to effect a number of rather major modifications as well as a few more minor changes that were necessary to conform the bill's provisions to the leasing laws.

I would, at this time, like to express my appreciation to the gentleman from Minnesota, Bruce Vento, as well as to the sponsor of the bill, our colleague, Bob Smith of Oregon, for their acceptance of the language I sought as chairman of the Mining Subcommittee.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER (Mr. Mazzoli). The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and pass the bill, H.R. 3840, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to establish the Newberry National Volcanic Monument in the State of Oregon, and for other purposes."

A motion to reconsider was laid on the table.

RESTRUCTURING REPAYMENT OF LOANS FOR THE WOLF TRAP FARM PARK

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1859) to restructure repayment terms and conditions for loans made by the Secretary of the Interior to the Wolf Trap Foundation for the Performing Arts for the reconstruction of the Filene Center in Wolf Trap Farm Park in Fairfax County, VA, and for other purposes, as amended.

The Clerk read as follows:

S. 1859

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPAYMENT OF LOANS MADE WITH RESPECT TO WOLF TRAP FARM PARK.

Section 4(b) of the Wolf Trap Farm Park Act (16 U.S.C. 284c(b)) is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by inserting at the end the following:

"(2)(A) The term of the loans made pursuant to paragraph (1) which are outstanding on the effective date of this paragraph may not exceed the 25-year period beginning on such date. The remaining obligation of such loans shall be paid in equal annual installments, commencing June 1, 1991, except that for the first 3 payments, the payment shall be $215,000 each year. In addition, such payments (including the first 3 payments) may be reduced in any year by a credit not to exceed $60,000 annually. Such credit shall equal 100 percent of the market value of public service tickets determined at prevailing Foundation box office prices. Such credit shall be allowed only for tickets contributed to entities holding a status referred to in section 501(c)(3) of the Internal Revenue Code of 1986.

"(B)(i) Unpaid interest on such amount which accrued before the effective date of this paragraph is hereby forgiven.

"(ii) Notwithstanding paragraph (1), there shall be no interest on the loan referred to in subparagraph (A) after the effective date of this paragraph if, within 120 days after such date, the Foundation modifies its agreement with the Secretary to implement this paragraph, paragraph (3) and section 5(c)(4). If such agreement is not modified within the 120-day period, interest shall accrue from the effective date of this paragraph in accordance with paragraph (1).

"(C) Notwithstanding any other provision of law, amounts paid to the Secretary pursuant to this paragraph may be retained until expended by the Secretary, in consultation with the Foundation, for the maintenance of structures, facilities, and equipment of the Park.

"(D) The Secretary shall, within 120 days after the effective date of this paragraph, submit a payment schedule to the Foundation specifying the amount of each annual payment to be made by the Foundation pursuant to this paragraph.

"(3) If the Foundation is in default on its obligations under this subsection for more than 60 consecutive days, the Secretary, acting in the public interest, shall terminate the cooperative agreement described in section 5. In the event of a major catastrophe or severe economic situation, the Secretary may submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a recommendation that this paragraph be temporarily suspended. In submitting such a request, the Secretary shall submit clear evidence of the financial status of the Foundation.".

SEC. 2. PROHIBITION ON COMMINGLING FOUNDATION FUNDS AND PARK FUNDS.

Section 5(c) of the Wolf Trap Farm Park Act (16 U.S.C. 284d(c)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding after paragraph (3) the following:

"(4) the Foundation will maintain accounts for Foundation activities outside of the Park separate from Foundation accounts for presentation of performing arts and related programs presented at the Center and other areas of the Park.".

SEC. 3. STUDY OF PARK FUTURE.

The Wolf Trap Farm Park Act (16 U.S.C. 284 et seq.) is amended by adding at the end the following:

"SEC. 13. STUDY.

"The Secretary, acting jointly with the Foundation, shall conduct a study and analysis of the operations and management practices which are being used to carry out the purposes of this Act. The study shall include analysis of the management relationship between the Foundation and the Park, a delineation of the operational responsibilities of the Foundation and the park, and an analysis of the financial condition of the Foundation. Not later than 2 years after the date of enactment of this section, the Secretary shall submit a report of such study and analysis to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.".

SEC. 4. EFFECTIVE DATES.

(a) The amendments made by sections 1 and 2 shall take effect on the date on which the Wolf Trap Foundation for the Performing Arts modifies its agreements entered into pursuant to the Wolf Trap Farm Park Act in a manner which is consistent with and takes into account the amendments made by this Act, as determined by the Secretary of the Interior.

(b) The amendment made by section 3 shall take effect on the date of enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes, and the gentleman from California [Mr. Lagomarsino] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 1859, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1859, restructures the loan made to the Wolf Trap Foundation in 1982 after a fire burned down the Filene Center. The foundation defaulted on the loan in 1988, and today owes approximately $17 million in principal and interest. S. 1859 seeks to ensure partial repayment of that loan. I want to acknowledge the effort various parties have expended in working out this situation, and to thank the General Accounting Office for their diligent efforts. This approach is intended to be equitable to the park, the foundation, and the American taxpayer.

The bill as amended forgives the accumulated $9 million interest on the loan, and directs that payments on the remaining $8.5 million will be made for 25 years beginning in June 1991. The bill gives a credit for tickets given to charitable organizations and provides that amounts paid back on the loan will be retained until expended on the maintenance of the structures, facilities, and equipment of the park—specifically on those elements directly associated with the performances. The foundation, having defaulted once already, may not do so again. If it does, the Secretary of the Interior, acting in the public interest, shall terminate the cooperative agreement between the Park Service and the foundation. The loan forgiveness and restructuring becomes effective only when the cooperative agreement between the National Park Service and the Wolf Trap Foundation is modified consistent with this legislation. Until then, the interest on the loan will continue to accumulate.

Mr. Speaker, I believe this is a fair approach to all parties, one crafted with the assistance of many people. I want to see the Wolf Trap Foundation fulfill its part of the cooperative agreement for many, many years to come, just as I want to see the park do its part. This approach should go a long ways to ensuring this outcome.

Mr. Speaker, I endorse this legislation and urge its passage.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to be recognized on S. 1859, a bill to forgive much of a debt owed the Federal Government by the Wolf Trap Foundation.

This bill, as amended in committee, will forgive $8 million interest that has occurred to date on a $9.5 million loan made to the foundation, and will forgive any future interest if the foundation modifies their cooperative agreement with the National Park Service to reflect this legislation within 120 days of enactment.

Mr. Speaker, I was opposed to the original bill that would have in effect forgiven all principal and interest on the loan. The Wolf Trap Foundation is financially sound and able to repay most of their debt. Also, I feel that the administration was wrong in not trying to solve this problem earlier in cooperation with the foundation before the interest nearly doubled the debt.

This bill we vote on today is a much better bill. It requires the foundation to repay most of the principal on the loan yet at the same time recognizes that, although financially healthy, they would not be able to make payments without some assistance. It also requires that within 2 years the Park Service and the foundation conduct a thorough study on the operations and management practices of the Wolf Trap Farm Park, and report back to this committee. This will allow us to have another opportunity to review the implementation of this legislation and help prevent any future problems.

Mr. VENTO. Mr. Speaker, I just want to take a moment to say that all Members recognize the unique nature of the Wolf Trap Park for the Performing Arts. We hope that this agreement will put them back in a positive relationship, working with the Park Service, one that has obviously been very tense concerning this particular matter, and resolving the issue of the payback and so forth. This is an equitable manner to do that and ensure benefit to the park.

Mr. PARRIS. Mr. Speaker, I rise today in support of S. 1859, restructuring repayment of loans for the Wolf Trap Farm Park.

Wolf Trap Farm Park, as the only unit in the National Park System dedicated to the performing arts, is a unique treasure. Situated on the outskirts of the Nation's Capital, it provides an opportunity for the millions of visitors who visit Washington, DC, as well as the metropolitan D.C. residents to experience the performing arts in a very pleasant outdoor environment at reasonable prices.

Established in 1966 by a private donation of approximately 100 acres of land, Wolf Trap's focus has been to present the arts with a local orientation, and its emphasis has been to promote and expand the arts at the local and national level.

Activities at the park are directed by the Wolf Trap Foundation, a private, tax-exempt corporation.

A ruinous fire in 1982 burned down the uninsured Filene Center, an outdoor amphitheater, and subsequent efforts to rebuild and replace the center have placed Wolf Trap in a financial crisis which threatens its cultural life.

S. 1859 provides an equitable and reasonable solution to Wolf Trap's financial crisis, allowing the park to remain in existence providing cultural events for its thousands of patrons and area disadvantaged children, many of whom are provided free access to park facilities and events. Moreover the bill calls for the foundation to repay its debt obligations in a reasonable but responsible manner and provides adequate safeguards that the foundation will pay back the moneys in a timely fashion.

I think this is a reasonable approach to a difficult situation, and I urge my colleagues to support it.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and pass the Senate bill, S. 1859, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

☐ 2150

DISCLAIMING FEDERAL TITLE TO CERTAIN PRIVATELY OWNED LANDS

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4429) to disclaim all right, title, and interest of the United States in and to certain private lands conditionally relinquished to the United States under the Act of June 4, 1897 (30 Stat. 11, 36), and for other purposes as amended.

The Clerk read as follows:

H.R. 4429

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSE.

(a) Findings.—Congress finds the following:

(1) Pursuant to the invitation and requirements contained in the 15th paragraph under the heading "Surveying the Public Lands" in the Act of June 4, 1897 (30 Stat. 11, 36), as amended or supplemented by the Acts of June 6, 1900 (31 Stat. 588, 614), March 4, 1901 (31 Stat. 1010, 1037), and September 22, 1922 (42 Stat. 1067), certain landowners or entrymen within forest reserves conditionally relinquished or conveyed their lands to the United States as the basis for an in lieu selection of other Federal lands (hereafter in this Act referred to as "lieu lands") in exchange for the conditionally relinquished or conveyed lands (hereafter in this Act referred to as "base lands").

(2) By the Act of March 3, 1905 (33 Stat. 1264), Congress repealed the in lieu selection provisions of the Act of June 4, 1897, as amended, and terminated the right to select lieu lands, but expressly preserved the rights of land owners who had valid pending applications for in lieu selections, most of which have subsequently been granted.

(3) Other persons affected by the Acts cited in paragraphs (1) and (2) who conditionally relinquished or conveyed base lands, or their successors in interest, have never obtained either (A) a patent to the lieu lands they selected or any other consideration for their relinquishment, or (B) a reconveyance of their base lands, notwithstanding relief legislation enacted in 1922, 1930, and 1960.

(4) By the Act of July 6, 1960 (74 Stat. 334), Congress established a procedure to compensate persons affected by the Acts cited in paragraphs (1) and (2) who had not received appropriate relief under prior legislation. However, no payments of such compensation were made under that Act.

(5) Section 4 of the Act of July 6, 1990, further provided that lands with respect to which compensation under that Act were or could have been made, and not previously disposed of by the United States, shall be a part of any national forest, national park, or other area withdrawn from the public domain wherein they are located.

(6) Absent further legislation, lengthy and expensive litigation will be required to resolve existing questions about the title to lands covered by section 4 of the 1960 Act.

(b) Purpose.—The purpose of this Act is to resolve the status of the title to base lands affected by the past legislation cited in subsection (a).

SEC. 2. IDENTIFICATION AND DISCLAIMER OF FEDERAL INTEREST IN BASE LANDS.

(a) Disclaimer.—Except as otherwise provided by this Act, and subject to valid existing rights, but notwithstanding any other provision of law, the United States hereby disclaims or relinquishes all right, title, and interest in and to the base lands described on a final list published pursuant to subsection (d)(2) of this section, effective on the date of publication of such list.

(b) Preparation of Initial Lists.—(1) Within 12 months after the date of enactment of this Act, the Secretary of the Interior, with respect to lands under such Secretary's jurisdiction and the Secretary of Agriculture with respect to National Forest System lands, shall each prepare an initial list of all parcels of base lands that were conditionally relinquished to the United States pursuant to the Act of June 4, 1897 (as amended), and for which selection or other rights under that Act or supplemental legislation, were not realized or exercised.

(2) The initial lists prepared under paragraph (1) shall be based on information submitted to Congress pursuant to the directive contained in Senate Report No. 98-578, issued for the Fiscal Year 1985 Interior and Related Agencies Appropriation, as revised and updated. The initial lists shall be published and distributed for public review in accordance with procedures adopted by the Secretary concerned.

(3) For a period of 180 days after publication of a list pursuant to paragraph (2), persons asserting that particular parcels omitted from such a list should have been included may request the Secretary concerned to add such parcels to the appropriate list. The Secretary concerned shall add to the list any such parcels which the Secretary determines meet the conditions specified in paragraph (1).

(c) Nationally Significant Lands.—(1) After preparation or revision of an initial list under subsection (b), the Secretary concerned shall identify those listed lands which are located wholly or partially within any conservation system unit and all other listed lands which Congress has designated for specific management or which the Secretary concerned finds should be retained in order to meet public, resource protection, or administrative needs. For purposes of this paragraph, the term "conservation system unit" means any unit of the National Park System, National Wildlife Refuge system, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, a national forest monument, or a national conservation area or any lands being studied for possible designation as part of such a unit.

(2) The provisions of section 2(a) of this Act shall not apply to any lands identified by the Secretary concerned pursuant to paragraph (1) of this subsection. The Secretary concerned shall not include any such lands on any list prepared pursuant to subsection (d). Subject to valid existing rights arising from factors other than a conditional relinquishment to the United States of the type described in section 2(b) of this Act, all right, title, and interest in and to such lands so identified is hereby vested and confirmed in the United States.

(3) Notwithstanding any statute of limitations or similar restriction otherwise applicable, any party claiming any right, title, or interest in and to any lands identified by the Secretary concerned pursuant to paragraph (1) of this subsection may file in the United States Claims Court a claim against the United States within one year after the date of publication of a final list pursuant to subsection (d)(2) of this section, seeking compensation based on the vesting of right, title, and interest in and to the United States made by paragraph (2) of this subsection, and the United States Claims Court shall have jurisdiction to consider and decide such claims, and to make awards thereon.

(d) Final Lists.—(1) As soon as possible after considering any requests made pursuant to subsection (b)(3) and the identification of lands pursuant to subsection (c), the Secretary of the Interior and the Secretary of Agriculture shall each prepare an interim final list, consisting of lands included on each Secretary's initial list not identified pursuant to paragraph (1) of subsection (c).

(2)(A) As soon as possible after preparation of an interim final list under paragraph (1), the Secretary concerned shall remove any land which the Secretary concerned believes should be excluded from operation of section 2(a) for one or more of the reasons specified in paragraph (3) of this subsection, and shall then publish a final list consisting of lands remaining on such interim final list after such removal.

(B) If the Secretary of Agriculture has reason to believe that any lands on the interim final list should be excluded from operation of section 2(a) for one or more of the reasons specified in paragraph (3), that Secretary shall so exclude such lands unless the Secretary of the Interior determines otherwise pursuant to such paragraph (3). The Secretary of the Interior shall afford the Secretary of Agriculture the right to fully participate in any hearing pursuant to such paragraph relating to any lands proposed for exclusion from the Secretary of Agriculture's final list. The Secretary of Agriculture shall reimburse the Secretary of the Interior for costs incurred by the Secretary of the Interior to implement this subparagraph.

(3) The provisions of section 2(a) shall not apply to any lands listed pursuant to subsection (b) where the Secretary of the Interior determines, after providing notice to the claimant and an opportunity to respond (including an adjudicatory hearing on the record where there are disputed factual issues), that—

(A) a claimant's asserted title to such lands was obtained by the claimant's fraud or that such lands were acquired by the claimant's predecessors in interest by fraud which would, under other applicable law, invalidate the claimant's or his predecessor's title; or

(B)(i) a claimant purchased such lands after July 6, 1960, for less than fair market value; and

(ii) such lands have not been improved, occupied, or otherwise reasonably used, nor taxes paid on them on a regular basis, unless a claimant demonstrates that lack of such action was the result of adverse Federal agency claims of ownership.

Any determination by the Secretary of the Interior under subparagraph (A) or (B), shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code. The claimant shall have 1 year from the date of such determination within which to initiate such legal action.

(4) If the Secretary of the Interior or a court makes a final decision that a parcel of land was wrongly excluded from operation of section 2(a), such parcel shall be deemed to have been included on a final list published pursuant to paragraph (2) of this subsection.

(e) Issuance of Instruments.—Except as provided in subsection (c), no later than 18 months after the date on which the Secretary concerned publishes a final list of lands pursuant to subsection (d), the Secretary concerned shall issue instruments, consistent with the provisions of this Act, disclaiming or relinquishing all right, title, and interest of the United States in and to the lands included on such final list, subject to valid existing rights arising from factors other than a conditional relinquishment of the type described in section 2(b) of this Act. Each such instrument shall be in a form suitable for recordation and, if not in form of a quit claim deed, shall have the same legal effect as a quit claim deed from the United States. Each such instrument shall be filed and recorded by the United States with the appropriate officials of the county within which the lands covered by such instrument are located so that the title to such lands may be determined in accordance with applicable State law.

(f) Waiver of Certain Claims Against the United States.—Any person or entity accepting the benefits of this Act or failing to act to seek such benefits within the time allotted by this Act with respect to any lands shall be deemed to have waived any claims against the United States, its agents or contractors, with respect to such lands, and any revenues received by the United States from such lands prior to the date of enactment of this Act. All non-Federal, third party rights granted by the United States with respect to base lands shall remain effective subject to the terms and conditions of the authorizing document. The United States may reserve any existing uses currently occupied or utilized for Government purposes, subject to payment of fair market value for such use rights.

(g) Applicability of Act of July 6, 1960.—Any lands included on a final list pursuant to subsection (d) shall be excluded from the Act of July 6, 1960 (74 Stat. 334).

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore (Mr. Mazzoli). Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes, and the gentleman from California [Mr. Lagomarsino] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous material, on H.R. 4429, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a bill by our colleague from California, Mr. Lagomarsino, and others that addresses a very long-standing matter involving people in several western States.

As a matter of fact, the history of this matter goes back to the last century, and the Forest Management Act of 1897. That act included a so-called forest lieu selection provision, allowing the owners of lands within forest reserves to relinquish those inholdings and convey them to the United States in exchange for other lands "in lieu" of the inholdings.

This became the subject of considerable abuse, so much so in fact that President Theodore Roosevelt prevailed upon congress to repeal this part of the law in 1905, so this particular provision only existed for 8 short years.

Meanwhile, however, some owners of inholdings had acted to convey those lands to the United States, without receiving anything in return. Three times, in 1922, 1930, and 1960, further legislation was enacted addressing these unconsummated exchanges.

The 1960 legislation was Public Law 86-596, sometimes referred to as the Sisk Act after former Representative Sisk of California. That act attempted to resolve the situation by affording persons claiming title to the lands involved in these unconsummated exchanges, for which no previous compensation had been provided by the national government, to file claims and receive a stipulated amount of money. In fact, however, very few such claims were filed and apparently no compensation was paid under that part of the law.

The Sisk Act also includes another section, section 4, stating that lands for which claims were or might have been paid, unless previously disposed of by the United States, were to be a part of any national forest, national park, or other area within which these lands are located.

The precise legal effect of that part of the Sisk Act is evidently subject to some dispute. The Forest Service's view is that the section has had the effect of vesting title in the United States. Others disagree, and no final, definitive answer seems to have been forthcoming from the courts.

In recent years, in response to directives included in appropriations acts, the Forest Service and the Bureau of Land Management have identified lands involved in these unconsummated exchanges for which no compensation had been paid under the various relief laws I have mentioned. In 1989, Mr. Lagomarsino and I wrote to the Chief of the Forest Service inquiring about the desirability of any further legislation that might finally resolve this matter. The response was that such legislation might indeed be useful and desirable.

After prolonged discussion among interested parties, including the administration, the Interior Committee has reported H.R. 4429 with extensive revisions that I believe appropriately address concerns that were raised about the bill as introduced.

These revisions are intended to avoid creation of land-management problems and to give the Secretary of the Interior and Secretary of Agriculture discretion to avoid creating administrative problems.

The process that would be established by the bill for resolving the status of the affected lands is somewhat complicated. It is explained in detail in our committee's report, so I will not take the time to explain it in detail now. I will merely state that I believe that it appropriately addresses the matter, while preventing the creation of inholdings in sensitive areas and otherwise protecting the public interest. I commend Mr. Lagomarsino and all others involved for their hard work and cooperation that has made it possible for us to bring this bill to the floor, and I urge its passage.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4429, a bill to disclaim title of the Federal Government to certain privately held lands in 11 Western States.

I first became aware of the problems arising from the 1897 In Lieu Selection and subsequent acts when I was approached by one of my constitutents about 6 years ago. She had recently received a letter from the Forest Service stating that title to 40 acres of land, which she had purchased some 37 years earlier, and subsequently improved and paid taxes on for all those years, actually belonged to the Forest Service under the 1960 Sisk Act. After researching this situation, I learned that: First, a private relief bill would be required to remedy the problem faced by my constitutent; and second, that hundreds of private landowners across 11 Western States face similar title problems.

These title problems arise directly from the 1897 In Lieu Selection Act under which the Forest Service was attempting to consolidate its holdings within newly created forest reserves. Under that act, the Forest Service encouraged private landowners to conditionally relinquish title to their lands in exchange for the opportunity to select other Federal lands in lieu thereof. Unlike the land exchange procedures in effect today, where titles to both parcels of land are exchanged simultaneously, these private persons were required to first vacate title to their original lands. For a variety of reasons, including the ultimate repeal of the 1897 act 8 years later, many of these exchanges were never consummated. Although the Federal Government attempted to vacate their claim of title to these original, base lands, and sporadically even issued disclaimers, a Federal cloud on many of these title remains.

Over the years, four different statutes have been enacted in an attempt to address this problem. Despite these efforts, it is currently estimated that there are as many as 2,300 owners claiming some 19,000 acres with outstanding title problems. Most of these lands are managed by the Forest Service and Bureau of Land Management. Both these agencies support the objectives of this bill and agree that certain parcels should be disclaimed. Recognizing that continuing to deal with these landowners on a case-by-case basis through private relief bills would create an undue burden on both landowners and Congress, I introduced this bill in an attempt to address this problem comprehensively.

The House Subcommittee on National Parks and Public Lands held a hearing on this measure on June 7, 1990. At that hearing, the administration expressed some concerns with the bill as introduced. Since that hearing, I have worked closely with all interested parties to resolve those concerns and am please to announce that they have been resolved. Major changes in this version of the bill include: Ensuring that nationally significant lands are retained by the Federal Government, providing clear criteria for the agencies to use in determining which party has equitable title, providing for appropriate administrative and judicial review procedures and clarifying the roles of the Interior and Agriculture departments.

Mr. Speaker, I would like to expess my appreciation to the gentleman from Minnesota [Mr. Vento], the chairman of the Subcommittee on National Parks and Public Lands, for his support and hard work on this measure, and also Stan Sloss on the majority staff and Steve Hoddapp on the minority staff.

Mr. Speaker, this is a good measure, as my chairman has pointed out, and I urge my colleagues to join me in supporting it.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and pass the bill, H.R. 4429, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read:

A bill to disclaim or relinquish all right, title, and interest of the United States in and to certain lands conditionally relinquished to the United States under the Act of June 4, 1897 (30 Stat. 11, 36), and for other purposes.

A motion to reconsider was laid on the table.

REGARDING THE EARLY WINTERS RESORT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5507) regarding the Early Winters Resort, as amended.

The Clerk read as follows:

H.R. 5507

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND EXCHANGE.

(a)(1) The Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") and the Secretary of the Interior shall, subject to subsection (b), take all actions necessary to effect the conveyance of certain Federal lands within the State of Washington as generally depicted on the map entitled "Location of Selected Okanogan National Forest Lands" and dated May 15, 1990, in exchange for certain lands as generally depicted on maps entitled "Glacier Peak Wilderness Parcels" and "Mathow Valley Parcels", both dated May 15, 1990. Such maps shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(2) Conveyance of national forest lands pursuant to paragraph (1) shall be by the Secretary of Agriculture. The Secretary of the Interior, upon request of the Secretary of Agriculture, shall convey such public lands as may be required in order to complete such exchange. The conveyances shall be subject to such easements, restrictions, and other conditions as each Secretary may impose in order to meet applicable requirements of law, to further the purposes for which adjacent Federal lands are managed, or to protect the public interest.

(b)(1) The exchange described in subsection (a) shall be analyzed by the Secretary of Agriculture pursuant to applicable law. The Secretary shall make every effort to complete such analysis and to issue a record of decision thereon by October 1, 1991, consistent with the requirements of such law.

(2) Analysis pursuant to paragraph (1) shall be of the exchange described in subsection (a), except to the extent the Secretary proposes to modify the size or number of parcels of Federal lands to be conveyed in order to equalize values (except as otherwise provided in this Act) or to meet other requirements of applicable law. Nothing in this Act shall be construed as requiring consideration of other lands as part of any alternative considered in such analysis.

(3) Appraisals of the Federal lands described in subsection (a) shall be completed by September 1, 1991, or as soon thereafter as possible, on the basis of highest and best use (including use as part of the proposed resort complex), and in accordance with procedures required by Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) (hereafter in this Act referred to as "FLPMA"). Such appraisals shall be of the values of the lands involved as of November 1, 1990. Any exchange of such lands shall be for lands of equal value, or if they are not equal, the values shall be equalized in either one of two ways:

(A) By the payment of money to or by the Secretary, (except that such payments shall not exceed 25 percent of the total value of the lands conveyed by the Secretary); or

(B) By adjusting the actual acreage conveyed and boundaries thereof so that lands of equal value are exchanged, except that no such adjustment shall be made to the lands identified as "Golf Course and Open Space Parcel" on the maps referred to in subsection (a)(1).

(4) The Secretary of the Interior and the Secretary of Agriculture shall make every effort to conclude by November 1, 1991, all steps necessary to complete an exchange involving the lands described in subsection (a)(1), but no Federal lands shall be conveyed as part of such an exchange unless and until—

(A) the Forest Service has issued a permit for use of Sandy Butte for ski facilities;

(B) Okanogan County, Washington, has approved the Early Winters Resort's land use application for lands associated with the resort development; and

(C) Early Winters Resort has obtained all water rights required for approval of the application referred to in subparagraph (B).

(5) Except as provided in this Act, conveyances of Federal lands under this section shall be completed notwithstanding any other provision of FLPMA or the Federal Land Exchange Facilitation Act of 1988. Lands acquired by the United States pursuant to this section shall be added to, and ad-

ministered as part of, the National Forest System and, with respect to those portions within wilderness, pursuant to the Wilderness Act.

SEC. 2. REVIEWS.

(a) With respect to actions pursuant to section 1 or section 4, any record of decision shall be issued by the Chief of the Forest Service and there shall be no further administrative consideration other than a period not to exceed 30 days during which the Chief shall consider and act on any requests to reconsider such record of decision.

(b) Judicial challenge to a Record of Decision or subsequent permit based thereon issued under subsection (a) shall be made in accordance with this subsection notwithstanding any other provision of law:

(1) Such judicial challenge must be filed within the later of either—

(A) 45 days of—

(i) such Record of Decision,

(ii) action by the Chief in response to a request for reconsideration, or

(iii) issuance of a subsequent permit based thereon, or

(B) 10 days after the end of any period of advance notice of intent to bring such challenge required by the specific statute under which such challenge is brought.

(2) Such judicial challenge must be filed in the United States Court for the District of Oregon.

(3) Any appeal from a final decision of the district court shall be filed within 45 days after such final decision in the United States Court of Appeals for the Ninth Circuit.

(c) The courts shall expeditiously render their final decision relative to any action or appeal, or any further judicial review of the actions of the Forest Service pursuant to this Act. The district court shall make every effort to render its final decision relative to any action within 60 days from the date such action is filed, and the court of appeals shall make every effort to render its final decision relative to any appeal within 90 days from the date such appeal is filed.

SEC. 3. OTHER LAWS.

Nothing in this Act shall be construed as amending the National Environmental Policy Act of 1969 or the Endangered Species Act of 1973 or as modifying the applicability of those Acts or any other provisions of law otherwise applicable with respect to any activities occurring on or proposed for any of the lands affected by this Act.

SEC. 4. ENVIRONMENTAL ANALYSIS.

The sum of $500,000 is hereby authorized to be appropriated under this Act for the Forest Service to prepare the Supplement to the Final Environmental Impact Statement (hereafter in this section referred to as "SEIS") for the proposed Early Winters Resort in the Methow Valley, Washington State. This sum may be used by the Forest Service to employ additional employees or consultants in the preparation of the SEIS. The SEIS shall be completed, and a final Record of Decision shall be issued by the Forest Service as soon as possible, consistent with applicable requirements of law.

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **LAGOMARSINO.** Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes, and the gentleman from California [Mr. Lagomarsino] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. **VENTO.** Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous material on H.R. 5507, the bill now under consideration.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. **VENTO.** Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a bill introduced by the gentlemen from Washington, Mr. Morrison and Mr. Dicks. It deals with plans for a resort complex proposed for the Methow Valley, in Washington, known as the Early Winters Resort.

This proposed resort would feature ski facilities on National Forest lands, and the Forest Service is now undertaking to prepare a supplement to an earlier environmental impact statement to address some of the issues connected with the proposal.

The developers of the resort are also interested in obtaining ownership of several parcels of National Forest lands at the base of the mountain, so that they can include these lands in their resort complex. Toward that end, they have proposed an exchange whereby the United States would receive about 485 acres of lands elsewhere in Washington, including an inholding within the existing Glacier Peak Wilderness, and would convey to the developers about 125 acres that they want for the resort.

The bill now before us would facilitate completion of the supplemental environmental impact statement and the exchange. Strictly speaking, legislation is not absolutely necessary, because the Forest Service has the authority it needs both to complete the supplemental EIS and to carry out the exchange. But the sponsors of the bill are desirous of expediting matters.

Toward that end, the bill would authorize appropriation of additional funding for the Forest Service to complete the supplemental EIS, and would direct that appraisals and other steps be undertaken toward consummation of the exchange. It would also establish some deadlines for anyone who might want to challenge decisions made by the Forest Service in connection with these matters.

Mr. Speaker, it is no secret that the bill as introduced was troubling to many of us. In addition, similar provisions were included in the fiscal 1991 appropriations bill for the Interior Department and related agencies when the Appropriations Committee was marking up that bill. I believe that was a clear violation of the rules of the House because it constituted legislating on an appropriations measure.

As revised by the Interior Committee, I believe that this bill is acceptable and should be approved. It will assist in the development of this proposed resort complex, in a way that does not run counter to the National Environmental Policy Act, the Endangered Species Act, or other important laws and policies that apply to the lands and activities involved. I support its passage by the House.

□ 2200

Mr. Speaker, I reserve the balance of my time.

Mr. **LAGOMARSINO.** Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5507, a bill to authorize a land exchange in the Okanogan [Ok-kah-naw-gun] National Forest in the State of Washington.

Under this legislation, approximately 125 acres of Federal lands would be transferred to the developers of the proposed early winters resort in exchange for equal value lands to be managed by the Forest Service.

This bill will assist with the final steps necessary for the Forest Service to make a final determination on whether or not to issue a special use permit to the developer in support of the planned ski resort, while continuing to respond fully with National Environmental Policy Act compliance.

Mr. Speaker, the issue of the early winters resort has been a controversial one in Washington State, with much support as well as significant opposition. Appeals and judicial challenges to the Forest Service environmental impact statement—begun in the late 1970's and issued in 1984—eventually involved a Supreme Court decision in favor of the Forest Service.

This has been over a 10-year process involving environmental compliance procedures, with more than adequate opportunity for all sides of the issue to be heard. With this legislation, the Forest Service will be able to complete a supplemental EIS dealing with issuance of the special use permit, and develop an environmental analysis on the land exchange itself. With the intent of this bill to assure timely consideration of any appeals or judicial challenge, the future of this project may finally be able to be determined.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. Morrison].

Mr. **MORRISON** of Washington. Mr. Speaker, I thank the gentleman for yielding this time.

Mr. Speaker, as Chairman Vento has indicated, this bill was started in controversy, thoroughly massaged by the Committee on Interior and Insular Affairs and coordinated with other committees of interest.

Mr. Speaker, I want to express special thanks to the chairman, the gentleman from Minnesota [Mr. Vento] and the ranking member, the gentleman from California [Mr. Lagomarsino], and particularly a number of staff people who spent a tremendous amount of time on this.

I thank them for their patience and helping us get this issue this far.

Mr. Speaker, this is important. The county, Okanogan, is as large as the State of Rhode Island, it has about 30,000 people, has been hard hit by unemployment, and now will again be hit by the spotted owl issue, which everyone has become aware of in the Northwest. It is important that we proceed with some form of economic development to take advantage of the natural beauty and recreational opportunities that are there.

This project fits precisely in this category, and we are pleased with the exchange that is included in this bill.

I thank everyone that is involved for the expedited procedure that is represented in H.R. 5507 and urge passage of this measure.

Mr. **LAGOMARSINO.** Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. **VENTO.** Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore (Mr. Mazzoli). The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and pass the bill, H.R. 5507, as amended.

The question was taken; and (two thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ADDITION OF LANDS TO FORT RALEIGH NATIONAL HISTORIC SITE AND ALLIGATOR RIVER NATIONAL WILDLIFE REFUGE

Mr. **VENTO.** Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5497) to authorize the Secretary of the Interior to acquire certain lands to be added to the Fort Raleigh National Historic Site and the Alligator River National Wildlife Refuge in North Carolina, as amended.

The Clerk read as follows:

H.R. 5497

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSE OF FORT RALEIGH NATIONAL HISTORIC SITE.

The purpose of Fort Raleigh National Historic Site (hereinafter in this Act referred to as the "historic site") shall be the preservation and interpretation of—

(1) the first English colony in the New World; and

(2) the history of the Native Americans, European Americans, and African Americans who lived on Roanoke Island, North Carolina.

SEC. 2. ADDITION OF LANDS TO FORT RALEIGH NATIONAL HISTORIC SITE.

(a) Authority for Acquisition.—The Secretary of the Interior may acquire through purchase, donation, or exchange all right, title, and interest in and to the lands described in subsection (b). Upon acquisition, the lands shall be added to and administered as part of the historic site.

(b) Description of Lands.—The lands referred to in subsection (a) are the approximately 335 acres depicted on the map entitled "Fort Raleigh National Historic Site Expansion", number 383/80,001A, dated October 1990, and on file with the Director of the National Park Service.

SEC. 3. RESEARCH.

The Secretary, in consultation with scholarly and other historic organizations, shall undertake research on the history and archaeology of the historic site, and the associated peoples and events.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **LAGOMARSINO.** Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes, and the gentleman from California [Mr. Lagomarsino] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. **VENTO.** Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5497, the bill presently under discussion.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. **VENTO.** Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5497 was introduced by Chairman Jones of the Committee on Merchant Marine and Fisheries. This measure authorizes the Secretary of the Interior to acquire certain lands to be added to the Fort Raleigh National Historic Site in his home State of North Carolina.

At our hearing, various witnesses testified to the diversity and richness of the resources located in these lands. More than 400 years of native American, European-American, and African-American history are located in less than 400 acres at this site.

Mr. Speaker, this area includes native American sites, the Confederate Fort Hugar, a freed man's village, early radio experiments, and possibly the site of the city of Raleigh, like in Sir Walter Raleigh.

As amended, eight tracts of land rather than six are included for a total of 335 acres. The bill now provides the purposes for the park and directs the National Park Service to research the history and archaeology of the historic site. Research on these resources would better help us understand our heritage.

Mr. Speaker, I endorse this legislation, urge its passage, and I want to strongly commend the sponsor, Chairman Walter Jones, for his bringing this bill forth.

I know that this is a very important issue for that park. I think it speaks to trying to protect the resource, trying to address the concerns of the park before they are lost.

Mr. Speaker, this is obviously urgent, and especially when you look at the type of development that is taking place in this region.

So I think his forceful entry and sponsorship of this will be very helpful to protect one of the more important units and aspects of our cultural heritage.

Mr. Speaker, I commend the gentleman for it.

Mr. Speaker, I reserve the balance of my time.

Mr. **LAGOMARSINO.** Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to be recognized on H.R. 5497, a bill that would authorize the Secretary of the Interior to acquire approximately 365 acres of private lands, which would be added to Fort Raleigh National Historic Site in North Carolina.

At the subcommittee hearing, there was good evidence given of significant local support for this bill. The main private land owner is in support. The other large land owner is prepared to develop his land, but would more than likely be a willing seller.

The administration, however, recommended in hearing that action be postponed on the bill because of lack of knowledge about the significance of the resources on the acquired lands. There are no observable resources on the lands to be acquired. Their archeological significance may someday turn out to be of public value, but there is little known about the resources at this time.

Mr. Speaker, I do not oppose this legislation. However, I would urge my colleagues to look closely in the future at the necessity of acquiring lands in fee simple as the only means of protection of resources. This acquisition will cost approximately $8 to $10 million. Perhaps we should be looking first at other cooperative and creative management options for resources protection before we seek fee-simple acquisition.

Mr. Speaker, I commend the gentleman from North Carolina for his efforts in working with the local community in support of this bill, and I urge my colleagues to support this legislation.

Mr. JONES of North Carolina. Mr. Speaker, I introduced H.R. 5497, to authorize the expansion of the Fort Raleigh National Historic Site—located in my congressional district in North Carolina.

I first want to express my great appreciation to my colleagues, Chairman Udall and Mr. Vento, chairman of the subcommittee, and Don Young, for their cooperation and assistance in bringing this bill to the floor. My goal is to protect an area of unique natural and historical value which is under increasing development pressure, before it is lost forever. Therefore, I greatly appreciate their timely and extensive efforts to protect our historical and natural heritage.

The Fort Raleigh National Historical Site is located on the northern end of Roanoke Island in North Carolina. It was established by Secretarial order in 1941 and expanded in 1961. Fort Raleigh and the area I have proposed for addition are of significant historical significance because of a number of important events which occurred on Roanoke Island spanning several centuries of our Nation's history.

Most significantly, Roanoke Island is the site of the first English attempt to establish a permanent colony in the New World. These efforts occurred in the 1580's. The most famous of them was Sir Walter Raleigh's Lost Colony. This was the birthplace of Virginia Dare, the first English baby born in the New World. Fort Raleigh currently encompasses only 157 acres, and may not yet include the actual site of the Lost Colony. The proposed expansion of Fort Raleigh would allow historians and archeologists to gather information about the lost site of Raleigh and perhaps determine the exact location of this important historic site.

The proposed Fort Raleigh expansion would also protect areas that were once occupied by the Algonkian Indians. Very little is known about the history of these Indians, although you may be familiar with the masterful paintings of them by the Englishman John White. Burial grounds and other artifacts have been discovered in this area, but many of these discoveries have been lost as the archeological finds are currently located outside the Fort Raleigh site boundaries and remain unprotected.

The area also includes the site of at least one Civil War fort—Fort Huger—which was built by the Confederacy. Later, after the North captured Roanoke Island, the area was the site of a refugee camp called Freedman's Village where about 3,000 freed slaves lived during the Civil War.

Finally, Reginald Fessenden, one of America's foremost pioneers in the field of radio communication, conducted important experiments from a radio tower located in the area proposed for inclusion.

The area which would be protected also contains high natural resource values. It is located on the forested north end of Roanoke Island, which is between the barrier islands and the mainland of coastal North Carolina. The area is biologically diverse and beautiful. Its addition would add yet another gem to the National Park System.

In recognition of the high value of this area, several important organizations and a number of individuals have been very active in the effort to expand Fort Raleigh, including the Roanoke Island Historical Society and the Friends of Roanoke Island. These groups recommend that the area authorized to be acquired should include 365 acres, rather than the 243 acres provided for in my original bill, and I testified in support of amending the bill to include the entire 365 acres. The Interior Committee adopted an amendment to H.R. 5497 offered by Mr. Vento to incorporate this suggestion in order to ensure that all the important historical and natural values are included in the expansion.

The original bill included a provision to authorize the acquisition of a site for a visitors center and headquarters building for the Alligator River National Wildlife Refuge, located near Roanoke Island. At my request, this provision has been deleted today. Members of the Dare County Board of Commissioners have stated a peference for this deletion.

Time is of the essence because there is a substantial risk this area of Roanoke Island could be developed before it can be preserved. The Dare County Planning Board is currently considering a proposed plan to allow for development on one tract which is included in the area I have proposed for Federal protection. It is my understanding that 36 of the 38 people who testified at the public hearing on the development proposal opposed amending the county land use plan to allow for development. This demonstrates that there is significant local support for protecting this area.

We call Dare County the land of beginnings. Roanoke Island is one of the most historic places in our Nation. My bill will enhance the protection of this special spot for future generations of Americans.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and pass the bill, H.R. 5497, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended was passed.

The title was amended so as to read: "A bill to authorize the Secretary of the Interior to acquire certain lands to be added to the Fort Raleigh National Historic Site in North Carolina."

A motion to reconsider was laid on the table.

DEADLINE FOR TRANSFER OF BIG SOUTH FORK NATIONAL RIVER AND RECREATION AREA TO THE SECRETARY OF THE INTERIOR

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5667) to amend the Water Resources Development Act of 1974 to establish a deadline for the transfer of jurisdiction of the Big South Fork National River and Recreation Area from the Secretary of the Army to the Secretary of the Interior, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5667

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BIG SOUTH FORK NATIONAL RIVER AND RECREATION AREA.

(a) Transfer of Jurisdiction.—(1) Section 108(b)(1) of the Water Resources Development Act of 1974 (88 Stat. 43) is amended by striking the 1st and 2nd sentences and inserting the following: "Effective upon the date of enactment of this sentence, responsibility for all planning, acquisition, and development, as well as administrative jurisdiction over all Federal lands, water, interests therein, and improvements thereon, within the National Area is hereby transferred to the Secretary of the Interior. The Secretary may complete all acquisition and development activities in progress on the date of enactment of this sentence, and the Secretary and the Secretary of the Interior may, by mutual agreement, provide for an orderly and phased assumption of responsibilities (including but not limited to land acquisition and the construction of necessary access roads, day-use facilities, campground facilities, lodges, and administrative buildings) and available funds by the Secretary of the Interior in furtherance of the purposes of this section. The Secretary of the Interior shall administer the National Area in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), as amended and supplemented. The authorities set forth in this section which were available to the Secretary immediately prior to the date of enactment of this sentence shall after such date be available to the Secretary of the Interior.".

(2) Section 108(b)(1) of such Act is further amended by striking the last sentence.

(3) Paragraph (2) of section 108(b) of such Act is repealed, and section 108(b) of such Act is further amended by striking "(1)" after "(b)".

(b) Exceptions to Gorge Area Restrictions.—Section 108(e)(2)(A) of such Act is amended by striking the 3rd and 4th sentences and inserting the following: "No structures shall be constructed within the gorge area except for structures associated with the improvement of historical sites specified in paragraphs (5), (8), and (8), except for day-use facilities and primitive campgrounds along the primary and secondary access routes specified herein and within 500 feet of such roads, and except for primitive campgrounds accessible only by water or on foot. No motorized transportation shall be allowed in the gorge area except on designated access routes, existing routes for administration of the National Area, existing routes for access to cemeteries; except that motorboat access into the gorge area shall be permitted up to a point one-tenth of a mile downstream from Devils' Jumps and except for the continued operation and maintenance of the rail line currently operated and known as the K & T Railroad. The Secretary of the Interior shall impose limitations on the use of existing routes for access to cemeteries.".

(c) Maintenance of Existing Roads Within Gorge Area.—Section 108(e)(2)(D) of such Act is amended by striking "nonvehicular" and inserting "nonmotorized".

(d) Construction Within Gorge Area.—Section 108(e) of such Act is amended by adding at the end the following new paragraph:

"(8) Improvement of Charit Creek Lodge and Historic Structures.—The Secretary of the Interior may make improvements to the Charit Creek Lodge and associated facilities and to historic structures determined to be eligible for listing in the National Register of Historic Places. Such improvements shall be made in a manner consistent with the historic scene and the limited ability of the National Area to accommodate additional use and development. Improvements to the Charit Creek Lodge and associated facilities shall be made within the approximately 30 acres of cleared land existing on the date of the enactment of this paragraph and within carrying capacity limitations determined by the National Park Service.".

(e) Funding.—Section 108(k) of such Act is amended by striking the last sentence and inserting the following: "Costs for the National Area shall be provided in the same manner as costs for national recreation areas administered by the Secretary of the Interior through the National Park Service.".

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes and the gentleman from California [Mr. Lagomarsino] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5667, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5667 transfers jurisdiction of the Big South Fork National River and Recreation Area from the Secretary of the Army to the Secretary of the Interior and provides that the area shall be managed in accordance with the act of August 25, 1916, as amended and supplemented. The Big South Fork was established in the Water Resources Development Act of 1974, for the purpose of providing recreation and regional economic development benefits. Initial acquisition and development of the recreation area has been done by the Corps of Engineers, and the National Park Service has been assuming management of the area as facilities have been completed. This bill provides only minor modification of the original authorization for the project and has been supported by the administration and many others.

Mr. Speaker, I want to acknowledge the efforts of Representatives Rogers and Cooper who have been instrumental in moving this legislation.

Mr. Speaker, I support this bill and urge its adoption by the House.

Mr. Speaker, I reserve the balance of my time.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5667, a bill to amend the legislation establishing the Big South Fork National Recreation Area. Although the main purpose for this measure was addressed last week, when the Secretary of the Army signed an agreement with the Secretary of the Interior, transferring jurisdiction of the area, this measure would still accomplish some important goals.

Most importantly, this bill would ensure that the normal appropriation authorities available to the National Park Service would be available for the continued operation and improvement of the Big South Fork National Recreation Area.

I would like to recognize the efforts of the subcommittee chairman, who has cooperated closely with the bill's sponsors to ensure passage of this measure in a timely fashion. I would also like to recognize the efforts of the gentleman from Kentucky [Mr. Rogers] and the gentleman from Tennessee [Mr. Cooper] who have worked very hard on this legislation. His efforts on this bill will be very helpful in ensuring the preservation of important resources at the Big South Fork Recreation Area.

I urge my colleagues to join me in supporting this bill.

Mr. ROGERS. Mr. Speaker, today I rise in support of H.R. 5667, and in doing so, I thank the gentleman from Tennessee [Mr. Cooper] who sponsored this bill along with myself. Let me also thank the gentleman from Minnesota, the chairman of the National Parks Subcommittee, and the gentleman from California, the ranking Republican member, for their extra efforts to approve this bill and bring it here to the floor.

Mr. Speaker, the Big South Fork National River and Recreation Area is a jewel within the Cumberland Plateau. Located along the Kentucky-Tennessee border, the area was created by the 1974 Water Resources Development Act, owing to the efforts of my good friends, Senator John Sherman Cooper, of Kentucky, and Senator Howard Baker, of Tennessee.

And preserved within its boundaries are gorges and valleys unparalleled in this Nation, with all of its natural and recreational offerings. Among them: miles of meandering trails and scenic vistas; the Blue Heron mining community, recently restored to give visitors a window into company towns days of decades past; and lastly, the Big South Fork of the Cumberland River, namesake to this area and home to some of the most challenging white water rafting anywhere.

The Big South Fork National River and Recreation Area was created to preserve the integrity of these natural gifts, to conserve their heritage and that of the people who once lived and worked there, and to help the economy for those who still live in the region that surrounds the area today.

Sixteen years have passed since the Senators established the Big South Fork, and their goals are fast approaching reality. It is in keeping with them that the gentleman from Tennessee and I have sought to pass this legislation.

H.R. 5667 has been introduced to improve and complete the Big South Fork National River and Recreation Area. The bill transfers the national area from the Army Corps of Engineers to the Department of Interior, as called for in the parent act. The bill also makes a number of minor changes to the act which are requested by the Park Service. These changes will allow the Park Service, under its new authority, to improve the area for public enjoyment, and better protect all of those features I have described.

Both the corps and the Department of the Interior support this transfer, and all interested public and private parties have been able to review and comment upon the bill. There is widespread support for its passage, and I urge its adoption.

Let me again thank the chairman and members of the Interior Committee and the Subcommittee on Parks and Public Lands for advancing and improving the bill we introduced. Let me also give thanks to the Committee on Public Works and Transportation, for its help and cooperation.

Mr. Speaker, this bill will move us toward completion of the Big South Fork, to the benefit of the national area, the economy of my Fifth District constituents, and visitors from across the Nation.

Mr. NOWAK. Mr. Speaker, I am pleased to rise in support of H.R. 5667. This bill will provide for the transfer to the Big South Fork National River and Recreation Area to the Department of Interior from the U.S. Army Corps of Engineers.

This project was originally authorized in the Water Resources Development Act of 1974. That legislation provided that after completion of the construction of necessary access roads, day use facilities, campground facilities, lodges, and administrative buildings, the Secretary of the Army would transfer the jurisdiction of the national river and recreation area to the Secretary of the Interior. I believe the time has now come for the transfer. The Subcommittee on Water Resources approved legislation similar to H.R. 5667 in its review of the Water Resources Development Act of 1990.

The national river and recreation area master plan provides for recreational devleopment of 123,000 acres located principally in McCreary County, KY, and Fentress and Scott Counties, TN. It emphasizes the preservation and full public enjoyment of the area's many outstanding scenic, geologic, ecologic, and cultural features. The developments recommended for the area include major day use centers, two lodges, campgrounds, overlooks, and trails for hiking and horseback riding. Although construction of the area as contemplated by the Water Resources Development Act of 1974 has not been completed, I believe it is highly appropriate to effectuate the transfer of this area to the Department of Interior at this time. Following enactment of this legislation, the National Park Service will be able to operate and maintain the area in a manner consistent with our other valuable national resources.

Mr. Speaker, I am pleased to support the legislation and urge my colleagues to join me with their support.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time after saying that this is an important measure.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and pass the bill, H.R. 5667, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend the Water Resource Development Act of 1974 to transfer jurisdiction of the Big South Fork National River and Recreation Area from the Secretary of the Army to the Secretary of the Interior, and for other purposes."

A motion to reconsider was laid on the table.

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WESTERN NORTH CAROLINA WILDERNESS PROTECTION ACT OF 1990

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5388) to designate certain lands in the State of North Carolina as wilderness, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5388

Be it enacted by the Senate and House of Representative of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Western North Carolina Wilderness Protection Act of 1990".

SEC. 2. DESIGNATION AND ADMINISTRATION.

(a) Designation.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of North Carolina are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System:

(1) Certain lands in the Pisgah National Forest, which comprise approximately 5,710 acres as generally depicted on a map entitled "Lost Cove Wilderness—Proposed" dated July 1990, which shall be known as the Lost Cove Wilderness.

(2) Certain lands in the Pisgah National Forest which comprise approximately 7,140 acres as generally depicted on a map entitled "Harper Creek Wilderness—Proposed" dated July 1990, which shall be known as the Harper Creek Wilderness.

(3) Certain lands in the Pisgah National Forest, which comprise approximately 2,380 acres as generally depicted on a map entitled "Craggy Mountain Wilderness—Proposed" and dated September, 1990, which shall be known as the Craggy Mountain Wilderness.

(b) Administration.—Subject to valid existing rights, the wilderness areas designated under this section shall be administered by the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be reference to the date of enactment of this Act.

(c) Map and Description.—As soon as practicable after enactment of this Act, the Secretary shall file a map and legal description of each wilderness area designated under this section with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the House of Representatives and with the Committee on Energy and Natural Resources of the Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, United States Department of Agriculture.

The SPEAKER pro tempore (Mr. Mazzoli). Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes, and the gentleman from California [Mr. Lagomarsino] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill designates three areas located in western North Carolina, Lost Cove, Harper Creek, and Craggy Mountain, as components of the National Wilderness System. These areas are located in the Pisgah National Forest and include a total of 15,230 acres. All three areas were evaluated in 1979 in the Forest Service's second roadless area review process—RARE II—and were recommended for further planning. The 1984 North Carolina Wilderness Act designated the areas as wilderness study areas and directed the Secretary of Agriculture to review them as to their suitability for preservation as wilderness during preparation of the land management plan for the forest. The areas have been recommended as suitable for wilderness designation as part of the Nantahela-Pisgah forest management plan and are supported by the administration.

Mr. Speaker, I want to acknowledge the efforts of Representatives Ballenger and Clarke who have been instrumental in moving this legislation.

Mr. Speaker, I support this bill and urge its adoption by the House.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5388, which would designate about 15,000 acres of the North Carolina's Pisgah National Forest as wilderness.

H.R. 5388 would designate the Lost Cove, Harper Creek, and Craggy Mountain areas in western North Carolina as wilderness. The Forest Service has extensively studied these areas and recommends them for wilderness designation.

Although I have not been in these areas myself, Mr. Clarke and Mr. Ballenger have visited them and assure me of their outstanding qualities. They are presently managed for wilderness by the Forest Service and are popular for hiking, backpacking, hunting, and fishing.

I am also pleased to report that unlike many Western wilderness bills that come before this body that are opposed by the Members from the area concerned, this bill was introduced by the two Members representing the area, Mr. Clarke and Mr. Ballenger. Hopefully, we can use this bill as a model during the next Congress when the wilderness debate begins again.

Mr. Speaker, I urge my colleagues to support H.R. 5388.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. Clarke], a valued member of the committee, who has struggled in moving this bill forward.

Mr. CLARKE. Mr. Speaker, this bill designates two extraordinarily beautiful areas in the district of the gentleman from North Carolina [Mr. Ballenger], Harper Creek and Lost Cove, as wilderness. They will be very important and very valuable additions to the wilderness system within the reach of many people who can enjoy them. I appreciate the willingness of the gentleman from North Carolina [Mr. Ballenger] to let me amend this bill in committee to include also the 2,300-acre Craggy Mountain wilderness study area in my district for full wilderness designation. The Craggy Mountain area joins the Blue Ridge Parkway north of the Craggy Mountain lookout. It is seen by thousands of travelers on the parkway each year and visited by many of them.

Mr. Speaker, the U.S. Forest Service recommends wilderness designation for all three of these areas which are part of Pisgah National Forest. H.R. 5388 is a good bill which deserves our support.

Mr. BALLENGER. Mr. Speaker, I am pleased to have the opportunity today to speak on behalf of legislation I introduced to designate certain areas in North Carolina as wilderness.

The Western North Carolina Wilderness Protection Act of 1990 would designate two areas in the Pisgah National Forest, Lost Cove and Harper Creek, and one area in the Nantahala National Forest, Craggy Mountain, as wilderness areas under the Wilderness Act of 1964.

I would like to give a brief history of the ares to be designated as wilderness. In 1984, the Congress approved the North Carolina Wilderness Act. This act established five wilderness study areas, two of these, Lost Cove and Harper Creek, being located in my district. Since 1984, the two areas have been managed as wilderness, prohibiting the use of motor vehicles and equipment or the use of the land for timber harvesting. In fact, the Harper Creek area has not been logged in over 15 years, and the Lost Cove area in over 80 years.

In 1987, the Forest Service completed its study, and recommended for wilderness designation three of the five areas, the Lost Cove and Harper Creek areas in my district, and the Craggy Mountain area located in the 11th district.

I am pleased that I have been able to work with my colleague from the 11th district, Mr. Clarke, in including the Craggy Mountain area in this legislation, and I would like to thank him for his support. I believe the legislation reported by the Interior Committee will truly benefit all of North Carolina, and especially western North Carolina.

In fact, over 550 of my constituents living in the area have contacted me with their support for this legislation. I also have the support of the local and regional chapters of the Wilderness Society, the Sierra Club, and the Governor of North Carolina. Finally, the bill has the support of almost every member of the North Carolina delegation. They, too, would like to see these areas preserved for future generations.

H.R. 5388 would establish approximately 15,000 acres of additional wilderness in the National Forest System. I recently visited Lost Cove and Harper Creek and concluded that it is essential these areas be protected. Within the area, there is an abundance of trout, and such wildlife as bear, turkey, and deer. Passage of this legislation would ensure these areas are preserved for all time. Finally, I believe the additional wilderness areas would relieve the Linville Gorge Wilderness Area that is approaching the point of overuse.

I often say that North Carolina is the best kept secret on the east coast. Our coastline and our mountains provide recreation and beauty to residents and tourist alike. Having been born and raised in western North Carolina, I find particular beauty in the mountains. I am glad that I have the opportunity as a U.S. Representative to make an effort to preserve part of this beautiful natural resource. I urge my colleagues to support this measure.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I urge support of the measure.

Mr. Speaker, I yield back the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and pass the bill, H.R. 5388, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FISHLAKE NATIONAL FOREST ENLARGEMENT ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3617) to transfer jurisdiction of certain public lands in the State of Utah to the Forest Service, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3617

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fishlake National Forest Enlargement Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Certain public lands presently managed by the Bureau of Land Management (hereafter in this Act referred to as the "BLM") are adjacent to the Fishlake National Forest and are logical extensions of the forest.

(2) Those public lands are isolated and disconnected from other BLM lands and have been identified through the land use planning process of the BLM as suitable for transfer to the Forest Service.

(3) The Forest Service currently manages much of the livestock grazing on those public lands by cooperative agreement with the BLM.

(4) Administration of those public lands as part of the Fishlake National Forest would allow for more efficient and economical management by both the Forest Service and the BLM.

SEC. 3. TRANSFER.

(a) In General.—Effective on the date of enactment of this Act, jurisdiction over public lands designated on the map referred to in subsection (b), comprising approximately 10,172.89 acres is hereby transferred to the Secretary of Agriculture. Such lands shall be added to and administered as part of the Fishlake National Forest.

(b) Map and Legal Description.—The lands subject to this Act are those lands identified on a map entitled "Fishlake National Forest Enlargement", dated
and filed, together with a legal description of such lands, in the Office of the Chief of the Forest Service, United States Department of Agriculture and the Director, Bureau of Land Management, Department of the Interior. Such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made by the Secretary of Agriculture in consultation with the Secretary of the Interior.

(c) Boundary.—(1) The boundary of the Fishlake National Forest is hereby modified as indicated on the map referred to in subsection (b).

(2) For the purpose of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundary of the Fishlake National Forest, as modified by this Act, shall be considered to be the boundary of that national forest as of January 1, 1965.

SEC. 4. RIGHTS AND PERMITS.

(a) Valid Existing Rights.—Nothing in this Act shall affect valid existing rights of any person under any authority of law.

(b) Authorization To Use Lands.—Authorizations to use lands transferred by this Act which were issued prior to the date of transfer shall remain subject to the laws and regulations under which they were issued. Such authorizations shall be administered by the Secretary of Agriculture. Any renewal or extension of such authorizations shall be subject to the laws and regulations pertaining to the Forest Service, Department of Agriculture. The change of administrative jurisdiction resulting from the enactment of this Act shall not in itself constitute a basis for denying or approving the renewal or reissuance of any such authorization.

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes, and the gentleman from California [Mr. Lagomarsino] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3617 will transfer management of approximately 10,000 acres located in the State of Utah from the Bureau of Land Management to the Forest Service. The land transferred will become part of the Fishlake National Forest. This proposal originated in the Bureau of Land Management's planning process and is recommended because the area is physically isolated from other BLM administered land.

During the hearing process the administration supported the bill while suggesting a technical amendment to it. The committee subsequently adopted the requested amendment which accomplishes a minor boundary modification of the Fishlake National Forest in addition to the transfer of jurisdiction.

Mr. Speaker, I want to thank and acknowledge the efforts of Representative Nielson who sponsored this measure.

Mr. Speaker, this bill makes good management sense and I am happy to support it. I fully recommend its passage to my colleagues.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3617 which was introduced by Mr. Nielson and is cosponsored by Mr. Hansen and Mr. Owens.

This is a straight forward and commonsense bill that would transfer about 10,000 acres of BLM lands in Utah to the Fishlake National Forest. This transfer has been recommended in the past by both the Forest Service and the BLM in their land planning process. As a result, it should come as no surprise that the administration supports H.R. 3617.

The BLM lands are in a narrow strip 1 to 1.5 miles wide bordered primarily by the Forest Service on the west and private lands on the east. This land is isolated from other BLM tracts yet is immediately accessible to the Fishlake National Forest.

Mr. Speaker, this legislation will ultimately save the taxpayers money because this consolidation of property will simplify management for the Federal Government.

I urge my colleagues to support H.R. 3617.

Mr. Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. Nielson], the main author of the legislation.

Mr. NIELSON of Utah. Mr. Speaker, I rise today in support of H.R. 3617, a bill to transfer the jurisdiction of certain public lands in Sevier County, UT.

The State of Utah has a large percentage of public lands and management of these lands is of great concern to all of us. There is a narrow strip of land isolated and disconnected from other public lands along the west side of the Sevier Valley in Utah. These 10,172.89 acres of land are adjacent to the Fishlake National Forest, with some portions accessible only through forest lands.

The 1986 Fishlake land and resource management plan and the BLM's 1976 Mountain Valley management framework plan both identified a need for an adjustment in the boundaries of these lands. Currently there are cooperative management agreements between the BLM and the forest. While these are helpful, there are limitations in them that create some problems and restrict possible solutions.

I, along with my colleagues from Utah, have introduced this legislation at the request of the local BLM district manager and forest supervisor in order to ensure more efficient management of these lands. We in Utah pride ourselves on what we feel is a pretty, great State. Allowing the transfer proposed in H.R. 3617 would provide the necessary changes to maintain the integrity of the lands in Sevier Valley.

I would like to thank Chairman Vento and Chairman Udall of the Interior Committee, and Chairman de la Garza and Chairman Volkmer of the Agriculture Committee for their efforts in moving this bill through the committees.

I would urge the best of my colleagues to support suspending the rules to pass this piece of good legislation.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and pass the bill, H.R. 3617, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FEDERAL OIL AND GAS LEASING AMENDMENTS ACT OF 1990

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1805) to authorize the Secretary of the Interior to reinstate oil and gas lease LA 033164, as amended.

The Clerk read as follows:

S. 1805

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Oil and Gas Leasing Amendments Act of 1990".

SEC. 2. TREATMENT OF SECTION 14 LEASES.

Section 14 of the Mineral Leasing Act (30 U.S.C. 223) is amended by inserting "(a)" before the first sentence and by adding the following new subsection at the end thereof:

"(b) Notwithstanding any other provision of law, any lease issued pursuant to subsection (a) shall, upon renewal on or after the date of enactment of the Federal Oil and Gas Leasing Amendments Act of 1990, include the terms and conditions of noncompetitive leases issued under section 17, and all requirements applicable to such noncompetitive leases shall apply in the same manner and to the same extent to any lease issued under subsection (a).".

SEC. 3. REINSTATEMENT; IN GENERAL

Section 31(g) of the Mineral Leasing Act (30 U.S.C. 188(g)) is amended by adding the following new paragraph:

"(3) Notwithstanding any other provision of law, any lease issued under section 14 shall be eligible for reinstatement under provisions of this section applicable to noncompetitive leases issued under section 17, except that upon reinstatement such lease shall include the terms and conditions of noncompetitive leases issued under section 17, and all requirements applicable to such noncompetitive leases shall apply in the same manner and to the same extent to any lease issued under section 14.".

SEC. 4. REINSTATEMENT OF CERTAIN LEASES.

(a) Notwithstanding any other provision of law, United States oil and gas leases CALA 033164, CAS 019746C, and CAS 021009B shall be eligible for reinstatement pursuant to section 31(g)(3) of the Mineral Leasing Act (30 U.S.C. 188(g)(3)).

(b) Within 30 days after the enactment of this Act, the Secretary of the Interior shall give written notice by registered mail to the last lessee of record for each of the leases listed in subsection (a) that said lessees may petition for reinstatement of such leases in accordance with this subsection and the

provisions of section 31 applicable to noncompetitive leases issued under section 17 of the Mineral Leasing Act (30 U.S.C. 188). The lessee shall have 60 days from the date of the Secretary's notice to file such petition. No lease may be reinstated if the lessee fails to file such a petition within 60 days from the date of the Secretary's notice. If a lessee files such a petition within 60 days from the date of the Secretary's notice, and upon a determination by the Secretary that any lease listed in subsection (a) qualifies for reinstatement in all respects except for compliance with the deadlines imposed by section 31(d) of the Mineral Leasing Act (30 U.S.C. 188(d)), the Secretary shall reinstate the lease.

SEC. 5. MINING PROJECTS.

(a) The Director of the Bureau of Mines is authorized and directed to enter into such arrangements as may be necessary with the Idaho Geological Survey to conduct a joint mining experimental project in the State of Idaho to demonstrate the efficacy of extracting and processing black sands from alluvial placer deposits for yttrium and rare earth elements. The project shall be completed prior to September 30, 1993. There is authorized to be appropriated $1,000,000 to carry out this subsection.

(b) The Director of the Bureau of Mines is authorized and directed to enter into such arrangements as may be necessary with the Mackay School of Mines' Center for Strategic Materials Research and Policy Study to conduct a joint mining experimental project in the State of Nevada to determine the genesis of platinum-group metals associated with hydrothermal ore deposits and their distribution in Nevada. The project shall be completed prior to September 30, 1993. There is authorized to be appropriated $1,200,000 to carry out this subsection.

(c) In furtherance of the goals and objectives of the Mining and Minerals Policy Act of 1970, the Secretary of Agriculture, acting through the Chief, National Forest Service, is authorized and directed to enter into such arrangements as may be necessary to undertake a titanium mining demonstration project in the Angeles National Forest, California, pursuant to the unsolicited proposal "Soledad Canyon Demonstration Project" dated March 5, 1988.

(d) Notwithstanding any other provision of law, in order to demonstrate the efficacy of utilizing effluents from abandoned coal mines for the purpose of establishing fishery resources the State of West Virginia may allocate up to $2,500,000 of the annual grants available to the State under section 402(g)(2) of the Surface Mining Control and Reclamation Act of 1977 for the purpose of establishing a fish hatchery in McDowell County, West Virginia.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from West Virginia [Mr. Rahall] will be recognized for 20 minutes, and the gentleman from California [Mr. Lagomarsino] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. Rahall].

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1805 deals with a class of Federal onshore oil and gas leases issued prior to 1935 under section 14 of the original 1920 version of the Mineral Leasing Act.

These leases are not subject to any diligent development requirements and can be renewed indefinitely. In fact, today, after at least 55 years, 108 of these section 14 leases are still not in production.

Under the bill, as amended by the Interior Committee, these leases would be subjected to a 10-year diligent development requirement. This would conform them to the same requirement governing the approximately 69,000 noncompetitive Federal onshore oil and gas leases issued under section 17 of the act.

Meanwhile, a provision of current law acts against the interests of a section 14 leaseholder. The Interior Secretary has the authority to administratively reinstate an oil and gas lease if the lessee inadvertently fails to pay the annual rental on time. Due to a glitch in the law, however, this authority does not apply to section 14 leases.

S. 1805 would extend the lease reinstatement authority to section 14 leases in general, and provide for the reinstatement of three previously terminated leases.

I urge my colleagues to support the legislation and reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1805 will rectify a misunderstanding in the Mineral Leasing Act as it relates to section 14 oil and gas leases and make these leases comport with section 17 oil and gas leases.

I have some concerns with the way leases are treated in S. 1805, as amended by the Mining and Natural Resources Subcommittee. This legislation clarifies and changes the terms of section 14 oil and gas leases as authorized by the Mineral Leasing Act. I am concerned that the legislation now before the House shortens the terms of section 14 leases without considering all of the ramifications of such action. I wish to point out that to shorten lease terms will do nothing to allow oil to be pumped from the ground. Only one thing allows oil to be pumped in our market based economy—that is the market itself. Let us not believe that our master planning will accomplish the objective of increasing domestic production. If we can learn anything from the upheaval that is taking place in the Eastern bloc it is—central planning does not work—markets work. We must assure legislation passed into law allows our markets to work.

Mr. Speaker, I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. Rahall] that the House suspend the rules and pass the Senate bill, S. 1805, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "A bill to amend sections 14 and 31 of the Mineral Leasing Act, and for other purposes."

A motion to reconsider was laid on the table.

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MINERAL LEASING ACT AMENDMENTS

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5579) to amend section 28(w) of the Mineral Leasing Act, and for other purposes.

The Clerk read as follows:

H.R. 5579

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF WAITING PERIOD.

(a) Section 28(w)(1) of the Mineral Leasing Act (30 U.S.C. 185(w)(1)) is amended by striking "House and Senate Committees on Interior and Insular Affairs" and inserting in lieu thereof "Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate".

(b) Section 28(w)(2) of the Mineral Leasing Act (30 U.S.C. 185(w)(2)) is amended to read as follows:

"(2) The Secretary or agency head shall promptly notify the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate upon receipt of an application for a right-of-way for a pipeline twenty-four inches or more in diameter, and no right-of-way for such a pipeline shall be granted until a notice of intention to grant the right-of-way, together with the Secretary's or agency head's detailed findings as to the terms and conditions he proposes to impose, has been submitted to such committees.".

The **SPEAKER** pro tempore (Mr. MAZZOLI). Pursuant to the rule, a second is not required on this motion.

The gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

GENERAL LEAVE

Mr. **RAHALL**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5579.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. **RAHALL**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5579 relates to a provision of the Mineral Leasing Act that requires the Secretary of the Interior or other surface managing agency head to notify the House Interior Committee and the Senate Energy Committee of the receipt of an application for a pipeline right-of-way across Federal lands.

Under this provision, the right-of-way cannot be granted until after a 60-day review period by the House and Senate Committees has expired, unless the committees by resolution waive this stipulation.

While maintaining the committee notification requirement, H.R. 5579 deletes the 60-day review period stipulation. Since the 60-day period does not include days when either the House or the Senate have adjourned for more than 3 days, a pipeline right-of-way that has been duly approved by the surface managing agency is often needlessly delayed.

I reserve the balance of my time.

Mr. **LAGOMARSINO**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5579, a bill to amend section 28(w) of the Mineral Leasing Act, and for other purposes. H.R. 5579 will allow the public land management agencies to deal with requests for pipeline rights-of-way in a more expedient fashion.

H.R. 5579 will delete an unneeded committee oversight timetable from the Mineral Leasing Act, but will not do away with the oversight responsibilities of the Committee on Interior and Insular Affairs. Surface management agencies will continue to report rights-of-way proposals for oil or gas pipelines 24 inches or larger to this committee. Environmental analysis will continue to be done by the agencies. Nothing will change that would circumvent public involvement. The only change as a result of H.R. 5579 is that the mandatory 60-day committee oversight period will be removed thus assuring the committee will not act as a road block due to adjournment or recesses of the Congress. This proposal is fully supportive of the President's medium-term energy measures that Admiral Watkins proposed to the Senate Energy Committee on September 12, 1990. One of the President's proposals was to "expedite processing of natural gas pipeline projects." H.R. 5579 will contribute to this goal.

Mr. **RAHALL**. Mr. Speaker, I thank the gentleman from California [Mr. LAGOMARSINO] for his comments, and I appreciate, as well the support of the ranking minority member, the gentleman from Idaho [Mr. CRAIG].

Mr. **LAGOMARSINO**. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. **RAHALL**. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 5579.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ON THE KILLING OF PALESTINIANS IN JERUSALEM

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. CROCKETT] is recognized for 5 minutes.

Mr. CROCKETT. Mr. Speaker, the senseless and violent repression of the Palestinian people by the Israeli Government took its bloodiest turn yet this weekend, when more than 20 Palestinians were murdered and more than 100 injured by the Israeli Army near the holiest spot in Moslem Jerusalem, Temple Mount. This brings to over 800 the number of Palestinians killed since the beginning of the intifada almost 3 years ago.

This latest incident, which has generated almost universal condemnation, has finally forced the United States Government to join the world community and vote with the United Nations to condemn the Israeli Government's action and to seek a probe into the incident by the United Nations.

I am encouraged by the Bush administration's position at the United Nations on this matter—but I am afraid it will be far too little, too late.

Contrast this response for instance, Mr. Speaker and my colleagues, with our reaction 2 months ago in the Persian Gulf, when Iraq invaded Kuwait. An estimated 200 Kuwaitis were killed during this invasion—only a quarter the number of Palestinians killed over the course of the Intifada.

The U.S. Government responded to that situation with a massive military and political campaign designed to undo the invasion and force Saddam Hussein to cease his illegal behavior. The Bush administration sent more than 200,000 U.S. troops, plus the most sophisticated and massive military equipment available, to the region. It sought and received the cooperation of most of the world community, including the Arab community—in many cases, putting the Arab governments in jeopardy from internal dissent. It mobilized its public relations machine, painting Saddam Hussein as nothing short of the devil incarnate.

Yet for almost 3 years, the Palestinian peoples in the occupied territories have seen their children shot; their homes and businesses bombed and bulldozed; their schools closed; and their basic human rights violated by the occupying Israeli forces. More than 800 Palestinian men, women, and children have been murdered. An entire generation of Palestinian children has grown up without the benefit of education. Palestinian leaders are harassed or deported. Thousands of young men and women have been jailed without charges, without trial, without human rights. In violation of United Nations and other international law, the Israeli Government has sought to annex the occupied territories, and has encouraged the building of huge new Israeli settlements in Arab territories and even, as we saw this past weekend, in the heart of Arab Jerusalem itself.

Yet the United States has stood by for the past 3 years, doing nothing, saying nothing. Our only response was to subsidize the Israeli Government in the amount of $3 billion a year—recently increased to $4 billion a year, in effect financing the Israeli terrorist actions.

Mr. Speaker, the Arab world has stood shoulder-to-shoulder with us in the Persian Gulf. They have indicated that, despite our Government's one-sided approach in the past, they are willing to trust that we will do the right thing now in pressuring Israel to negotiate with the Palestinian leadership for a just and lasting settlement of the legitimate claims of the Palestinian people.

The increasing violence and intransigence of the Israeli Government make it imperative that the United States bring the full weight of its diplomatic and economic pressure to bear on the Israelis to settle this issue, and to stop the killing.

TRIBUTE TO DIANNE TOMASEK

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. ECKART] is recognized for 5 minutes.

Mr. ECKART. Mr. Speaker, I rise today to pay tribute to Dianne Tomasek. Dianne is retiring from my employ today after 10 years of service and a total of 18 years to the Congress.

As my colleagues know, it is only with the hard work and dedication of our staff that we are able to serve our constituents ably. Dianne personifies the dedication that has made my tenure in Congress more enjoyable, more worthwhile and more productive.

Perhaps the greatest beneficiaries of Dianne's abilities have been the hundreds of constituents whom she has assisted during her 18 years. Not only will Dianne's departure be a loss for my office, but for the constituents of northeast Ohio as well.

Often times we forget to note the time and effort of our staff. Dianne has been tireless in her pursuit of aiding others and in helping to make government work for the people. For her years of dedication and service, I, along with my constituents, thank her and wish her well.

VACATION AND REINSTITUTION OF SPECIAL ORDER

Mr. **MAZZOLI**. Mr. Speaker, I ask unanimous consent to vacate my special order for 60 minutes, and to enter a special order for 5 minutes.

The **SPEAKER** pro tempore (Mr. TANNER). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

TRIBUTE TO CHARLES P. FARNSLEY

The **SPEAKER** pro tempore. Under previous order of the House, the gentleman from Kentucky [Mr. MAZZOLI] is recognized for 5 minutes.

Mr. **MAZZOLI**. Mr. Speaker, it had been my intention to take tonight a full special order to commemorate the activities and life as a public servant and as a civic leader of Charles P. Farnsley, who was the former mayor of Louisville, a former Member of this body for one term, and a former member of the Kentucky State Assembly.

Mayor Farnsley probably in his time, which was in the years after the war, as mayor of Louisville, was the most innovative and dynamic and imaginative force for good in the public service that we probably have ever had.

Mr. Speaker, as I said, it had been my intention tonight to take a full special order which would be engaged in by some of our friends who served with Charley when he was here in this body. Obviously, the hour, which is quite late, has prevented that from occurring, so I will at this point basically yield back the balance of my time, with the intention of taking a special order at a subsequent date.

So if it happens that any of these proceedings are being observed by the family of the former mayor and the former Member of Congress and the former State representative Charles Farnsley, I would advise the Members that we will have a later special order, during which I could do full justice to a man who in his brief stay in this body was really quite an effective Member, and whose lifetime of service in the public sector, State and nationally and locally, his work as a business person, his work as a local leader in the arts, a local leader in the creation of parks and recreational facilities, as a local leader in making sure that citizens were part of his government, to do full justice to this man takes more than the time we have tonight.

Mr. Speaker, with that, I will take a special order at a later time.

TRIBUTE TO EDWARD W. "NED" PATTISON

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York [Mr. MCNULTY] is recognized for 60 minutes.

Mr. **McNULTY**. Mr. Speaker, I rise this evening to pay special tribute to a very dear friend and a former Member of the House of Representatives, Ned Pattison. I will proceed, Mr. Speaker, by giving a brief biography of Ned's life, so those who are not quite as familiar with Ned will know of his extraordinary accomplishments. Then I would like to add some personal remembrances, and to share some time with my colleagues.

Edward W. "Ned" Pattison, former Congressman, Troy lawyer, and civic leader died recently at his home in West Sand Lake. He was 58.

Mr. Pattison is survived by his wife, Eleanor Copley Pattison, his son, Mark Paine Pattison of Troy, daughters, Lynn Pattison Pollart of Colorado Springs, CO, Laura Ball Pattison of South Deerfield, MA, Wendy Ashton Pattison of Troy, his mother Elisabeth Royce Pattison of Troy, his brother John Royce Pattison of Troy, sisters Nina Pattison of Troy and Olivia Pattison Garfield of Lower Waterford, VT, son-in-law Jeffrey Pollart of Colorado Springs, CO, daughter-in-law Laura Amos of Troy, and 12 nieces and nephews.

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Ned served in the U.S. House of Representatives during the 94th and 95th Congress, 1975–77. As Congressman he was an early leader and president of the 75 freshman Democrats of the "Class of 75" who together with other reform groups were successful in toppling the blind seniority structure and other rules which prevailed in Congress previously. Mr. Pattison also was a key architect and manager of the comprehensive modernization and reform of Federal copyright law enacted in 1976.

Ned was a founder and served until his death as chairman of the board of the Congressional Institute on the Future.

Ned graduated from the Albany Academy and received his undergraduate and law degrees from Cornell University. Later Ned was a fellow at the John F. Kennedy School of Government at Harvard University and taught public policy courses at Rensselaer Polytechnic Institute and Antioch/New England Graduate School.

Ned was a partner in the Troy law firm of Pattison, Sampson, Ginsberg & Griffin, P.C. The firm traces its Pattison roots back to the mid-1800's. Mr. Pattison served as president of the Rensselaer County Bar Association in 1974. Earlier this year Mr. Pattison received the Root Stimson Award from the New York State Bar Association. This prestigious award is presented annually to a lawyer for service to his or her community.

Throughout his career, Ned was a political commentator and columnist, most recently with the Daily Gazette—Schenectady, WNYT-TV in Albany, and WQBK in Rensselaer.

Ned was elected Rensselaer county treasurer in 1969 and 1972 and served until his election to Congress in 1974. In 1973, he was the first Democratic candidate for Rensselaer county executive.

Ned Pattison was an active member of or served on the boards of numerous community organizations including the Howard and Bush Foundation, the Mohawk-Hudson Community Foundation, the Rensselaer County Association for Retarded Children, the Eddy, the Rensselaer County Council for the Arts, the Troy Rehabilitation and Improvement Program, the Hoosac School, WMHT-TV, the Legal Aid Society, the Rensselaer County Bar Association, and others.

That is the formal background on Ned Pattison.

Before I yield to my very good friend and colleague who is probably the closest friend that Ned Pattison had in the House of Representatives, let me just say a couple of more words.

I first came to know Ned in 1969. That was the year that each of us was first elected to public office. On the very same day he was elected Rensselaer county treasurer I was elected town supervisor of Green Island, and our friendship grew over the period of more than 20 years.

After Ned's service in Congress he did not stop serving his community, and he certainly did not stop helping his many friends. As a matter of fact, through the 20 years that I knew Ned I was one of those who continually sought his advice and counsel. During my early years as a town supervisor, and then when I decided I might want to run for mayor, Ned was one of the people I talked to about that. When I made the really big step in my life beyond the confines of my home town of Green Island, population 2,500, I went to Ned for advice on running for a newly created district in the New York State Assembly, and he helped me tremendously in preparing for that great challenge. Fortunately I was successful and served for 6 years in the State assembly before running for

Congress. And, of course, when I was making the determination to try to run for Congress in succeeding Sam Stratton, again I sought Ned's advice.

I was one of many people who was among that steady stream of friends of Ned Pattison who entered those law offices at 22 First Street in Troy, NY, to get help from Ned Pattison. And every time I sought that help, it was there.

A little bit later I am going to be making some other remarks on behalf of the family, but at this particular time, just for a moment, I would like to yield to my friend and colleague, the gentleman from Kentucky [Mr. Mazzoli].

Mr. MAZZOLI. I thank my friend from New York for yielding for just a brief moment.

I have a very vivid recollection of Ned Pattison. I was fortunate really to serve with him on the Judiciary Committee during the years that Ned was with us in this body, and furthermore served with him on that subcommittee that my friend from New York mentioned was so important to Ned in which he dealt with copyright and trademark legislation.

I have one particular recollection of Ned that I think was maybe characteristic of his service, and that is that he was really a kind of no-nonsense person. He really wanted to get to the heart of the problem. He did not waste a lot of time with the amenities, if you want to call them that, because they sometimes delayed getting to the issues, and Ned was at heart an issue man. He loved the law and he understood the law.

He was an excellent debater. When we had our debates in the Judiciary Committee, he always marshalled his facts, and he put his information together, and the words came, and he was a very effective debater.

Again, probably if I have one premier recollection of Ned, it is that he was always getting to the heart of the facts, right there, insistent that certain things be done in a certain way in order for a good work product to emerge from the other end of the pipeline.

So I was shocked because Ned and I are the same exact age, and therefore when I read in the paper and heard of his demise, of his death, of course it hit me hard, because as a former colleague that always hurts. And then a man of my own age, realizing that he left at a much earlier time than he normally would have or should have.

But I take heart, as I am sure my friend from New York does, as well as his family must, that in his relatively young life he was extremely effective and left his mark in the practice of law. He left his mark in this body and on this Hill. He left his mark back home in the State of New York.

So I want to thank my friend from New York who, if I might say sort of parenthetically, is carrying on excellently. The gentleman has had an excellent beginning to his career here.

But I would also say it is nice to have him remember Ned, and it is nice to give us, his colleagues, an opportunity to remember him along with the gentleman. So I want to thank my friend from New York, as well as my other friends from New York, Mr. Downey, Mr. Gilman, and other New Yorkers who will mark this evening with giving us a chance to remember a very good man and an excellent Representative from New York and from the country.

Mr. McNULTY. I thank the gentleman from Kentucky for his remarks. Certainly he is correct when he said that Ned had a way of getting to the heart of the matter. As a matter of fact, when Ned was diagnosed with cancer, which was just early this year, and it became apparent that his illness was very, very serious, Ned ended up consoling everyone else by his famous statement that no one gets out of this world alive. And he indeed was a great comfort to those of us who were very, very concerned about him.

When the gentleman talks about the leadership of Ned, and Tom Downey, you will relate to this, because Toby Moffett was able to get to the memorial service, and when he was speaking at the memorial service he remarked what a leader Ned was in your class, and we all know how when we vote in this Chamber we all have people that we look to as leaders. Some of the people across America might wonder once in a while when the cameras are scanning the Chamber during the course of votes why people are looking up in the air. They are looking up at the vote board which shows how people voted, and Toby told the story of how when he would come into vote, Tom, he always looked up to the board to see how Ned voted. One day he came in, and it was getting a little bit tight on time, and he put his card in and he voted yes because he thought it was a piece of consumer legislation and was a positive consumer vote.

☐ 2240

Only after he had put his card in he had looked up at the board and he saw that Ned voted "no." He went over to Ned and said, "What is going on here?" And Ned explained to him in detail why it was exactly the opposite; the consumer vote was a "no" vote and, of course, Toby did not have time to change his vote in the machine, but went down to the front and picked up a card and changed his vote so he would vote with Ned.

So that was the impact Ned had on his colleagues, particularly the colleagues in that class.

I thank the gentleman from Kentucky.

Mr. Speaker, I yield to my colleague, the gentleman from New York [Mr. Gilman].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it is with sadness that I join with my colleagues in rising to pay tribute to an outstanding public servant and a true gentleman, our late colleague, the gentleman from New York, Mr. Edward W. Pattison.

"Ned" was only 58 years young when he left us on August 22. Yet, in his all too brief life, he accomplished much that contributed to the betterment of our Nation and our State of New York.

When Ned first came to Congress in 1974, I was impressed with his vitality, his eagerness, and his determination. As a graduate of Cornell University and of Cornell Law School, his love of the law was readily apparent to us all. He was convinced that the law was our friend, and existed only to help the people.

As one of the 75 freshmen who entered Congress in 1974, Ned was concerned with internal reform of the House of Representatives. He was a major force in his freshman class, which pushed through the new House rules which make committee assignments more relative to the areas of expertise of the Members of Congress, as well as to the interests and desires of their constituents. We in Congress have much to thank Ned Pattison for, considering his major role in bringing about these reforms.

Ned Pattison served with distinction on the House Judiciary Committee. He was a major cosponsor and floor manager of the revision of our Nation's copyright laws which were approved in these Chambers in 1976 and subsequently signed into law. This legislation was the first major copyright revision in over 60 years, and was greatly appreciated by our Nation's songwriters, our novelists, our historians, and other artists in the field of humanities. Thanks, in great part, to Ned Pattison's efforts, we no longer are treated to the spectacle of our creative artists outliving their own copyrights, and seeing their hard labors being capitalized by others.

After leaving the House in 1978, Ned Pattison returned to his hometown of Troy, NY, where he continued to work in a lucrative law practice and taught classes in government at Rensselaer Polytechnic Institute and at the Antioch-New England Graduate School. He also became a fellow at the John F. Kennedy School of Government at Harvard, and was a founder of the Congressional Institute on the Future. In fact, Ned was serving as chairman of that group at the time of his untimely death.

The passing of Ned Pattison was far too premature. He had much to offer, and it is indeed a tragedy that our Nation will not benefit in the future from his insight and his vigor.

Mr. Speaker, I join with our colleagues in this Chamber in expressing our sincerest condolences to Ned's widow, Eleanor; to his daughters, Lynn, Laura, and Wendy; to his son, Mark; to his brother, John; and to his two sisters, Olivia and Nina. It is hoped that their grief may be assuaged somewhat by the knowledge that many of us share their loss.

Mr. Speaker, it is extremely unfortunate that we lost Ned Pattison just a few weeks before the loss of another former colleague, Samuel Stratton. Both of these outstanding legislators, who represented adjacent districts, did their best to serve the capital area of New York State.

Mr. Speaker, it is a privilege to salute Edward W. "Ned" Pattison, a devoted public servant who left us far too soon.

Mr. McNULTY. I thank the gentleman from New York [Mr. Gilman] for staying around at this very late hour to participate in this tribute to Ned, and it is a further indication that Ned had supporters and admirers on both sides of the aisle in the U.S. House of Representatives. I am very deeply grateful to my colleague from New York, and I say that on behalf of the Pattison family, for his participation in this special order tonight.

I now yield to my other colleague, the gentleman from New York [Mr. Downey], from Long Island, and before I do that, I cannot pass up the opportunity to say just a couple of words about Ned's relationship with this gentleman, because, with all due respect to my senior colleague from Long Island, by virtue of my many meetings with Ned, I got tired of hearing the name Tom Downey.

Ned talked about Tom Downey from the time he was elected to Congress, he talked about him after he left Congress, and as you will note from the comments you are about to hear, Tom Downey and Ned Pattison remained very close friends long after his service in Congress, right to the time of his death.

Tom is also a very close friend of Ned's wife, Ellie, who, as Tom knows, was the closest partner you could have in life, personally in their marriage relationship, and as parents and so on, but also in his political life.

I saw that first hand so many times. A lot of us oftentimes during the course of a campaign often say, "I wish I could be two places at the same time." The only one I know who ever accomplished that was Ned Pattison, because during the course of his campaigns in that sprawling district he had in upstate New York, when he had two places to be at the same time, he covered them because he had Ellie go to the other one, and I might say, Ned, in all respect to you, a lot of times the people were just as happy to see Ellie there, because she did such a terrific job. Tom knows of the closeness of that relationship and particularly after the time I got elected to Congress, then I hear, started hearing, this Downey stuff almost on a daily basis. He would say, "Watch Tom Downey. Tom Downey is one of the smartest guys in Congress. Tom Downey is going to do this, that, and the other thing." I found that everything he said about Tom Downey to be correct, and Ned treasured his relationship with Congressman Tom Downey.

At this time I am happy to yield to the gentleman from New York [Mr. Downey], my colleague from Long Island.

Mr. DOWNEY. I thank the gentleman for yielding.

First of all, I thank the gentleman from New York [Mr. Gilman]; thank you for coming and taking the time. You are a gentle and wonderful soul, and Ned was deeply fond of you, and I am deeply touched and I know Mike is and Ellie by virtue of the fact that you have taken the time at the end of the day to say these nice words on his behalf. I am deeply moved and thank you very much, and the gentleman from Kentucky [Mr. Mazzoli], one can only say thank you as well to Ron for taking the time.

Mike, Ned was very fond of you and made sure that in the conversations that we had that I took care of you. I hope to a certain extent, not that you need any taking care of, but you are doing remarkably well.

I would like to say that I only wish Ned were here to hear what we are about to say about him. I think he probably would disdain any effusive phrase we would have for him. He would say, "Oh, put it in the Record; revise and extend. Do not waste the public's time remembering me." But the public's time is not wasted remembering Ned.

First of all, he was a character. Do you remember, Ben, the suits that he would wear? First of all, they all looked like they were from Goodwill. He wore a leather vest. To this day, I have never seen anyone wear a leather vest with a regular suit jacket for goodness' sake. He would wear a leather vest every single day. In fact, I counted the number of days that he wore it in consecutive order—77 days. He wore this vest, and I suspect, first of all, I do not even know how you wash a leather vest. Do you wash it? Do you saddle soap it? Do you polish it?

I do not even know. I never found out. Maybe Ellie will tell me.

This was my first enduring memory of this man when I came to Congress in 1974, and the 1975 freshman Democrats were filled with vim and vinegar about how we were going to change the world, and this man, wearing khaki pants, a blue blazer and a leather vest and a tie that clearly he must have gotten from Tie City on sale. That is the way he dressed.

He could care less about his public appearance, because it was not the way he dressed that mattered. It was the content of his mind and of his character that made the difference, and he was infuriating, whenever we would meet as a class, there would be some political orthodoxy that we would cling to, I mean, a cloak that would protect us against the wind of change or new ideas, and he would be the first one to strip it away and say, "You know, take a look at what you are saying. Examine what you are thinking. It does not make any sense."

It was true. When the Wall Street Journal wrote a piece right after his death, or right prior to his death, about the fact that he was until the end an iconoclast, prepared to challenge the conventional order, to think differently about events and to draw conclusions that more often than not were right.

He was honest. My goodness, all of us think of ourselves as honest, but he was honest probably to a fault.

☐ 1050

In the campaign of 1978, he admitted that he had smoked marijuana, publicly. He figured, "What the heck, I will tell the truth when asked." Naturally, people went around calling him Ned the Head in that campaign and it hurt him. It hurt him politically. He came from a Republican district, and he was unrepentant, if one can use that phrase, in terms of his views.

If something was politically popular but in his view wrong, well, be damned with the popularity. He would take the tough path and take the time to try and explain his position.

Both gentleman have talked about his one legislative mark. Lametably he was not here long enough to make others because he certainly would have made them. It was in the area of copyright. Arcane, but a tremendously important area of the law. What did he do? He sunk his teeth into copyright as deeply as any individual could. He learned the ins and the outs of it, probably knew before he even came to the Congress more about copyright than most Members will ever know and was the resident expert when that reform bill came in 1976. He made a very big difference as the result of his involvement.

However, I think his enduring legacy was to confront Members as individuals, and to challenge Members. Tha manifested itself in the work that he did in the Congressional Futures area

Now, the Congressional Futures Group started out as just a number of Members, thirsty for something exciting and different than committee hearings and the meetings we had. Ned was part of the small group of people that said, "Let's use this incredible place we have in Washington to listen more about the world and ourselves." We had people who came in and talked about extrasensory perception, and the history of the Presidency. Not necessarily on the same night, but they were there, and they routinely came to the Congress and the Congressional Futures Foundation was set up. "What's Next," a publication that had a great deal to do with it, was published and presented to Members of Congress so that they could step out of their traditional role as Members of Congress and think differently about the world. If he were remembered for nothing else but the fact that he stimulated thought and ideas, that would be a wonderful legacy.

However, as both Members have pointed out, he had a wonderful relationship with his wife Ellie, who is an extraordinarily powerful and courageous woman in her own right, and deeply committed to the cause of mental health and involved statewide in activities to help the underprivileged. Ned and Ellie met at Cornell University, got married, and had an extraordinary family of people who are closely knit and warm and giving individuals. Every aspect, whether it was as a legislator or as a husband, or as a father, he was a remarkable man. However, I remember and want to say about Ned that he was also a gentle soul in an era which we see here of enormous partisanship, of enormous anger toward one another. He had the capacity to sit back and say, "It is not that important. There are other things that need to be understood about their point of view that maybe you are not considering and that you need to consider." These people, as we both know, come in, are missed very infrequently. In the great sweep of history, we will probably meet one or two gentle, thoughtful souls like Ned Pattison and the fact that we got to know him, that he was able to influence our lives and the lives of others is indeed his lasting legacy.

I think that in the years that he left the Congress he was, as mentioned, just as active as though he were here. He enjoyed the public commentary on events which he engaged in frequently. I was at his house once, and he picked up the phone and was on the radio talking about one or other political event at the time. He, of course, handled his illness as only Ned could. It was pointed out, beautifully, about this extraordinary letter which was consoling to the people who are grieving more than anything else. A remarkable document, and we should put it in at some point in the RECORD so that we can share it with the public. Right up until the end he was courageous and thoughtful about the illness, and he was concerned about the fact that the historic and acceptable forms of treating his form of cancer may not necessarily be the right ones. That Western medicine had no corner on the market in terms of curing this illness, and he wanted to explore Eastern medicine remedies, dietary forms of remedies, and all of the options, not in a desperate and hauntingly clinging to life sort of way, but just to test it, just to see if they were right, just to see if the conventional wisdom was somehow wrong.

I saw him last in June at the end of June before his death, and we both knew that he did not have long for this world. That meeting, like all the others, was basically one where we talked about the issues of the day, and he said, "The Democrats have been in charge of the House of Representatives far too long," something I think the gentleman from New York [Mr. GILMAN] can agree with. "It would probably do you a lot of good to get in the minority for a while. It would shake you up." Only Ned can challenge your deepest held thought. How could I possibly give up all my power and authority? Ned was there to tell you why it was a good idea, better than anyone else.

I will miss him terribly. I know all Members will. However, in a way, the things that he stood for, the Futures Group, the fact that the gentleman from New York [Mr. McNULTY] is here, will be his lasting legacy to all Members. So we can honor Ned best by being unconventional, being outlandish and being honest with ourselves.

Mr. McNULTY. Mr. Speaker, I certainly thank my colleague from New York [Mr. DOWNEY], and I do not think anyone could have spoken as eloquently about a personal relationship with Ned Pattison as the gentleman from New York [Mr. DOWNEY] just now. The gentleman's analysis of how Ned would react to all of this, I think, is exactly correct because when in the latter stages of his illness when it was quite obvious to everyone that he was not going to get better, a lot of people did start telling him what a great guy he was, and starting giving him all these awards, and some of them he would not show up for, he said many times:

> The things that I did in my lifetime that people are thanking me for, I did not do out of any special sense of public service or anything else. I did them because they made me feel good. They are the things I wanted to do. They fulfilled me. I was selfish in doing them.

That is the way he characterized that.

Although that would be Ned's reaction, his family, of course, I think is very, very grateful for what the gentleman from New York [Mr. DOWNEY] meant to Ned through the many years. I know they are very grateful for it.

As far as that vest is concerned, that vest is legendary down here, legendary up in the district, and I think I will have to ask Ellie about that vest. It is famous indeed.

The part about Ned being direct and honest to a fault and so on, that certainly describes Ned very accurately. The people who, like me, streamed into 21 First Street to get advice and counsel, after a while we were very much aware of the fact that we were not going to go in there and get a pat on the back, and stay, "Everything you are doing is right." We went in there to get the straight scoop. If we had an idea, we talked to Ned about it, and Ned on many occasions told me I was off my rocker, going in the wrong direction on something. But that is why I went to ask Ned. I went to see if he though I was going in the right direction on something.

Many times after we had our little meetings we still disagreed. Sometimes I changed my position, sometimes I did not, but I was really happy that I talked to Ned and got his advice and counsel about different things. When a person did get a pat on the back from Ned, it was meaningful.

□ 2300

I can only remember one time that that happened to me in all the 20 years that I knew him. There was a very, very controversial vote that was taking place in the New York State Assembly, my first term in office. You know the way things are up there. Some of the leadership structure is a little more strict up there. A lot of times on an issue that is of importance to the leadership, you have to get a so-called pass or whatever to get off from voting the party line sometimes. This was very important to the leadership. It was a very controversial vote and so on.

I felt very strongly about it, and I voted the other way. I stood up and voted the other way. There was some talk about that afterward. It was not a popular vote publicly, either.

Ned called me up after that vote and said to me at that time, "If I ever had any doubt about your political courage, that vote put it to rest."

If anybody else had said that to me, it would be just somebody else patting me on the back, but Ned Pattison did not go around patting people on the back. When he called you and told you that you did the right thing, you did the courageous thing, he meant it. He was an extraordinary man.

I would like to close with a couple remarks from the family. I am going to insert a number of things in the RECORD, but a couple things I would like to mention during this proceeding. One is part of the eulogy that was given by his son, Mark.

EULOGY FOR NED PATTISON, AUGUST 30, 1990

(By Mark P. Pattison)

Let me begin by reciting what I think was one of Ned's favorite poems. It is a Steven Bennet poem [my Aunt Bibi said this is Edna Millay—not Bennett, I'm sure she is right].

I burn my candle at both ends, It shall not
    last the night;
But ahh! my friends
and ohh! my foes,
It casts a lovely light.

We are here to celebrate Ned's life and the impact he had on all of us.

There have been seven generations of Pattisons baptized in this church. If possession is nine-tenths of the law, longevity is eight-tenths, so we will take some liberties.

When I drove Ned back from the hospital in Boston, he talked to me at length about his illness. He gave me his best Ebby/Ned pitch; that he'd had a full life, that nobody gets out of this alive, that he had accomplished important things and that he would be feted. That it would be like having a rolling wake that he would be able to attend. He said that he wasn't afraid, and that he was looking forward to the next great adventure.

He also spoke of the things he needed to do, who should take over the family genealogy, who should get what furniture. It was like a computer downloading information to me.

Words of wisdom; but I finally had to tell him that I'd had enough. It was times like that that Ned could be such a pain in the . . ., well he could drive you crazy.

We will grieve this loss. I told him, and I am still grateful for the Ellie in me, that allows me to be in touch with my emotional side. Sometimes Ned could neglect that part of him and he admitted that it had always been hard for him to express his emotions. One of the best parts of this past few months was the opportunity for Ned to do that with many of us.

Still, words of wisdom. Ned's words and his beliefs can bring us comfort. Ned's life set an example for us that helps us today, and in the future. William James described it as being for the . . . rootlets and capillaries . . . that overtime would rend the hardest monuments of human pride. Abbey Hofman: the revolution is you. Joseph Campbell, follow your bliss. Ned would have said . . . Well it would have taken Ned 30-40 minutes to say it. Wisdom does not always equate with brevity. I think one of the hardest things Ned ever had to do was complete a thought in the 30 seconds that Channel 13 allotted him.

Perhaps Wendell Barry captured it best when he said in part;

"Beware of the justice of Nature.

"Make a home. Help to make a community. Be loyal to what you have made.

"Put the interest of the community first.

"Love your neighbors—not the ones you pick out, but the ones that you have.

"Find work, if you can, that does no damage. Enjoy your work. Work well."

Most of my life I have searched for heros, but I never found one other than Ned. But the lesson Ned taught me, and I hope that he has taught you, is the myth of the hero. That the hero's journey begins and ends within each of us. We do the things that we do by choice and out of our own self interest. Ned after all was just a man, and he would not want to be remembered as anything other than that.

Ned, as you know, loved to garden. As a gardener he understood that it is when a flower blooms and dies, that it sets out it's seeds.

The seeds have been sown. They are in all of us. We can best remember Ned by the way we live our lives. The burden is now on our shoulders. I think we are up to it.

That would be a fitting memorial indeed!

Then a brief letter which was sent by the Pattison family to other family members and to friends after Ned had passed away.

THE PATTISON FAMILY,
West Sand Lake, NY, September, 1990.

DEAR FRIENDS AND FAMILY: Ned is gone. We are reminded of when Ebbie (his father) died. Marmie (his mother) had marked her calendar the day Ebbie came home from the hospital—"Ebbie home."

The day he died, she marked it again—"Ebbie gone". As simple as that.

There has been a lot of grieving going on here the past few months, and a lot of sharing, comfort and love.

We would like to be able to say that by the time Ned died, we had it all together and in perspective; but there is more grieving to come. Your love and attention was helpful then, and it will be even more important in the days to come.

We will all miss him, and we know that you all are grieving as well. We can grieve, however, in the context of what Ned believed, in the way he lived his life and in the way he would want us to.

As Ned has said, "nobody gets out of life alive". We must live our lives and make the most of them while we can.

Ned lived a full life, more than most of us. He accomplished much, and was able to look back with much pride, and few regrets. He died in his own bed, the same one that Ebbie died in. He was able to walk to it, mostly under his own steam. There wasn't a lot left to his body, but the spark that was Ned was there to the very end, and we believe continues to exist within all of us.

We thank you for the way you have shared in Ned's life, and in ours. To be honest, we never expected anything less.

We will see you soon.

With love,

NED'S FAMILY.

On behalf of the gentleman from New York [Mr. DOWNEY], the gentleman from New York [Mr. GILMAN], the gentleman from Kentucky [Mr. MAZZOLI], and the others who will be submitting statements for the RECORD, I would like to offer not only our condolences, but our gratitude to the members of the Pattison family for sharing Ned Pattison with us for so many years; his extraordinary wife, Ellie; his son, Mark; his daughters, Lynn, Laura, and Wendy; his remarkable mother, Elizabeth; his brother, John; his sister, Nina and Olivia, and all his family.

MEMORANDUM

To: Coworkers at Pattison, Sampson; Friends; and of course Family.
From: Ned Pattison.
Date: February 23, 1990.

This won't be particularly easy reading. Let me tell you first how I am and to a small extent how I've been. Anybody who has had abdominal surgery knows that its no picnic. The doctor made a horizontal cut about 13 inches right about the bottom of my rib cage on the 15th of February. The staples—believe it or not that's what they use today for stitches—they are just about the same as the ones you have in your staple gun at your house, are going to come out today. Over the last couple of days all of the other tubes that they had in me have been taken out. I am back to normal food and I am actually feeling quite good. I walk around the hospital a lot and my energy level is a whole lot higher than I would have expected.

The bad news is that the tumor that was blocking my bile duct could not be removed by the surgical procedure, and it is malignant. Once the doctor determined that i couldn't be removed and that it had invaded some percentage of the liver, performed what is known as a stent which essentially means that he put a stainless steel tube through the blockage so that the tumor n longer blocks the bile duct. The good new about that is that since everything will b draining normally as before, once I get ove the effects of the wound, I'm essentiall back to normal. That means I will still be a better doubles player than either Gerry o Paul and so they better not plan to take advantage. There are a whole bunch of uncertainties. The malignancy has been there fo some period of time—no one knows how long. It's been slowly growing until finall at some point it just suddenly blocked th bile duct about January 1. It may well hav been growing very slowly and may well continue to grow very slowly. These tumor sometimes go into remission for long period of time and don't grow at all. Sometime they grow rapidly. Essentially, the phys cians back home will be watching it, to th extent that they are able to, for the immed ate future. I will be exploring all of the var ous options for treatment. It's possible tha chemotherapy can be helpful. There ar also a variety of non-traditional treatment that are being tried in various places in th world which may also be helpful. Yo should know that my spirits are very hig and that I have a very positive attitude. Th state of my spirits and attitude to a grea extent results from the support that I hav gotten from all of you with your letter cards and expressions of concern. If this di ease could be cured by cards, flowers an love, we'd have it licked. Anyways, thank for all of that. Be assured that the love tha I have heard from you is returned.

So, how do we all deal with this? To th extent that there is any answer to that think it is simply by being honest and abov board with each other. If I broke my le skiing and came into the office with a ca you wouldn't somehow pretend it wasn there by not looking at it. You'd probabl kid a little bit about it. Can you kid abou cancer? The answer is that among friends least, you can kid about anything and if yo can't then you are really in trouble. When first come back to the office in about week, I expect that I'll do a lot of huggin and being hugged and it may be there wi be a few tears shed by all of us and that ok. You probably all know that there is a process that goes on with these things and that to be allowed to proceed and it's good for everybody as long as you don't get maudlin about it. Everybody needs to grieve—but you can't spend the rest of your life doing it.

The best guess that I can make right now is that I probably have some years left during which I will be physically normal both inwardly and outwardly. Barring some anticipated complete cure or remission, eventually it will get me. But as you all know, no one gets out alive and the measure isn't how long you hang around on this earth, but what you've done and how well you've done it, and by that measure if I only had a year, I'd give my life a 9.5 on a scale of 1 to 10. Those of you who knew Ebbie and knew about his attitudes towards both life and death don't have to be instructed as to what my attitudes are. Many of you might remember Ebbie's remark that I have quoted to others frequently when he said within several weeks of dying that he was "looking forward to the next great adventure". I don't know if there's a next great adventure or not, and I suspect that Ebbie didn't know either—even though Ebbie knew almost everything—but it's about as good a way of looking at things that I've ever discovered, which of course is why Ebbie was Ebbie.

Put January 15, 1991, on your calendar. It will be the "1st Annual Ned Survived Cancer" party.

By the way, you should know that I know that one's mental attitude towards disease is probably as important in fighting that disease as the quality of the medicine. My intention is to live—I do not accent any sentences handed down by statistics. That may seem romantic or mystical to some of you. If so, you should open your eyes because I consider it reality. On the other hand, I come from a family which seriously claims as an ancestor a witch who turned herself into a dragon, so mysticism is nothing new in my life. (If you are doubtful about this, I'll be glad to show you the story about my ancestor that is in the 19th Edition of the Encyclopedia Britannica.)

Once again, thanks for all your support and love. I have a remarkably fine collection of family, friends and coworkers which makes me a wealthy man. Far more so than any of you can really know.

NED.

Mr. HORTON. Mr. Speaker, I rise today in remembering our former colleague, Representative Edward W. Pattison, who at the age of 58, passed away on August 23. Ned, as he was known, was a fellow member of the New York congressional delegation, a friend, and an exceptional colleague who served in this body with distinction from 1974 to 1978.

In 1974, Ned became the first Democrat elected from the Troy area since the time of Abraham Lincoln. Arriving in Congress Ned was immediately recognized as a leader when he was elected president of the 75 freshman Democrats elected that year.

Having begun his political career as a local campaign organizer for the Kennedy-Johnson ticket in 1960, Ned did not abandon his liberal roots during his two terms in Congress. As a member of the Committee on House Administration, Ned served as a leader in passing the landmark reforms of the rules governing the operation of the House. Perhaps most significantly, Ned worked to reform the committee system so an increased number of Members could play a more substantial role in the legislative process. This reform gave dozens of additional Members the ability to push legislation of their own.

Following his two terms in the House, Ned served as a fellow at the Institute of Politics at Harvard University's Kennedy School of Government. And later, he returned home to practice law and teach public affairs at Rensselaer Polytechnic Institute and Antioch College.

More recently, Ned became an advocate of reducing the size of the Federal bureaucracy, which he thought had exceeded a "human scale." To make Government more effective, Ned believed that federalism should become a living practice once again.

My wife Nancy and I would like to express our condolences to Ned's wife Eleanor and their four children. Our heartfelt thoughts and prayers are with all of you.

Because Ned was inspired to enter politics by John F. Kennedy, it is fitting to close with a quotation found in Kennedy's "Profiles in Courage" which also applies to Edward Pattison. "One man can make a difference and every man should try." Ned Pattison certainly tried and did make a difference to his family, to his colleagues in the House, and to his students in the classroom.

Mr. SCHEUER. Mr. Speaker, I rise today in remembrance of my good friend and former colleague, Representative Ned Pattison, who passed away this past August.

I served with Ned during the 94th and 95th Congress. Ned was quite an individual, and this individuality was his trademark as part of the "Watergate Class" of Members elected in 1974, an election whose impact is felt still today in the changes it brought to this body.

Ned Pattison was a man of tremendous integrity, dedication, and vigor and he represented his district through a turbulent time in our history with a great degree of competence as well.

Ned was a patriot, and a good and decent man. He will be missed and I thank you, Mr. Speaker, for allowing me this time to recall our former colleague in this way.

Mr. HUGHES. Mr. Speaker, I rise today to pay tribute to our former colleague and good friend Ned Pattison, who recently passed away after a struggle with cancer.

Ned and I were first elected to Congress in 1974. I knew him well. He was a very decent person and good legislator. A lawyer from Troy, NY, Ned served as treasurer of Rensselaer County from 1970 to 1974 before his election to Congress. He was dedicated to public service and he served the public extremely well during his tenure in Congress and continued to do so after he lost his reelection bid in 1978. While in Congress, he founded the Congressional Clearinghouse for the Future—an organization which promotes awareness of emerging issues, and of the big picture. He remained committed to this effort, and after leaving Congress, he served as chairman of the Clearinghouse's private counterpart, the Congressional Institute for the Future. Earlier this year, Ned received the Elihu Root-Henry Stimson Award from the New York Bar Association for community service.

We will miss him as will his community. I would like to extend my condolences to his wife, Eleanor, and his children, Mark, Lynn, Laura, and Wendy.

Mr. WEISS. Mr. Speaker, I rise today in tribute to Edward W. "Ned" Pattison, who recently passed away at this home in West Sand Lake, NY, and to offer my deepest condolences to his wife, Eleanor, and their four children.

Ned, a fellow member of the New York delegation, served with distinction in the U.S. House of Representatives during the 94th and 95th Congresses. He was well known as a reformer, a straight shooter, an excellent debater and a devoted public servant. He was certainly all of these but what I remember most about Ned was his ability to lead and to provide wise counsel. In these respects, Ned had no equal.

During his short tenure, Ned immediately made his mark as a reformer by outspokenly advocating reforms in the procedures of the House of Representatives. In his role as president of the 75 freshman Democrats of the class of 1975, Ned was instrumental in changing House rules governing Members' committee assignments. These changes opened the committee system to allow more Members to participate fully in the legislative process.

Ned was a pivotal leader during congressional consideration of legislation to revise our copyright laws. The legislation, passed by the House in 1976, was subsequently signed into law. This measure, representing the first significant copyright revision in over 60 years, particularly benefited the many creative artist who reside in my district.

Ned also founded and, until his premature death, chaired the board of the Congressional Institute on the Future. Through this forum, he stimulated other Members to look beyond the day to day committee and legislative work and to audaciously peek into issues of the future.

After leaving the House, Ned channeled his endless energy and drive into a broad array of public and community activities. He was selected as fellow of the John F. Kennedy School of Government at Harvard University and taught political science at Rensselaer Polytechnic Institute and the Antioch-New England Graduate School. His extensive involvement with the Rensselaer County Bar Association earned him the distinguished Root Stimson Award from the New York State Bar Association. Ned also served on the boards of numerous community organizations and never tired in his work on behalf of the people of New York State.

Mr. Speaker, I join my colleagues in paying tribute to the distinguished public service and varied accomplishments of this remarkable individual.

Mr. PANETTA. Mr. Speaker, I want to join my colleagues in paying tribute to our former and late colleague, Ned Pattison.

I has the privilege of serving with Ned during my first and his last term in the House. His period of service, from 1975 to 1979, was a unique period when huge turnover gave young Members an unusual ability to help shape the future of this institution. Ned was one of the leaders of that effort, and those who remained in the institution and those who have since entered it have benefited from his creativity, his wisdom, and his hard work.

I believe the American people have benefited as well, as the men and women they have chosen to serve have come to a more democratic and dynamic House of Representatives than the one Ned found when he was first elected.

Ned was a good friend as well, never afraid to speak his mind—to speak the truth as he saw it. He has been missed by his colleagues, and now we share the grief of his family and all his friends.

Mr. Speaker, Ned Pattison was a special Member of this institution who served during a special time. I thank my colleagues for conducting this well-deserved tribute.

Mr. MINETA. Mr. Speaker, I would like to begin by thanking our fine colleague from New York, Mr. McNULTY, for leading this special order in remembrance of our good friend and former colleague, Ned Pattison.

Mr. Speaker, Ned Pattison served in this Chamber for only 4 years, but his legacy will last for generations.

Ned was 1 of 75 Democrats elected to the House after the Watergate scandal tore into the roots of our republic.

Ned was elected to this Chamber to help restore the accessibility of the American Government to the American people. This he did, and did with great distinction.

I was privileged to serve as president of the new members caucus here in the House in 1975. I was especially fortunate to have served in that role with individuals like Ned Pattison who were committed to reshaping the rules governing how the House works, and why.

What we were able to achieve for all members was greater accountability within our committee system, and I take great pride in the knowledge that the ideals we pursued those 15 years ago are now themselves part of this great institution.

A good share of our debt is owed to Ned Pattison.

Ned's success as a legislator was by no means confined to the inner workings of the House, however. For example, as one of the key legislative managers for passage of the 1976 Copyright Act, Ned was largely responsible for the first thorough revision of our copyright law in 67 years.

Ned left this Chamber in 1978, but his public service continued unabated.

He became a fellow at the Institute of Politics at Harvard University's Kennedy School of Government, and served for many years as chairman of the Congressional Clearinghouse on the Future.

The future of America was of deep interest to Ned. It was his greatest hope that he could help make it better and brighter for all of us.

His hope for the future was reflected in his teachings at Renssalaer Polytechnic Institute and Antioch College.

His eye for the future also echoed in his commentaries on television and in newspapers in the same communities which had sent him to Congress.

Mr. Speaker, when Ned died from liver cancer on August 22, 1990, more than just a man was lost.

Ned's compassion and vision were inspirations to all who knew him here in this Chamber and throughout New York.

He exemplified the best of the American spirit which does not ask but demands that Government serve the people, and not itself.

Mr. Speaker, Ned will be dearly missed by all who knew him, and those present and future generations who will have benefited from his service in this House.

I ask that all our colleagues join me in extending our deepest condolences to Ned's family, and that we continue to serve the principles for which he stood so tall.

GENERAL LEAVE

Mr. McNULTY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the subject of this special order on Ned Pattison.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTION 302(a) OF THE CONGRESSIONAL BUDGET ACT—FISCAL YEAR 1991

[In millions of dollars]

	Budget authority	Outlays	Entitlement authority
APPROPRIATIONS COMMITTEE			
Current level (enacted law):			
National defense	165	165	0
International affairs	765	784	0
Energy	250	250	0
Natural resources and environment	1,433	1,865	0
Agriculture	12,509	623	0
Commerce and housing credit	3,024	4,438	0
Transportation	479	477	0
Community and regional development	1,667	1	0
Education, training, employment, and social services	11,133	10,877	0
Health	49,507	49,910	0
Medicare	35,350	35,350	0
Income security	36,319	36,853	0
Social security	47	47	0
Veterans benefits and services	16,763	16,645	0
Administration of justice	241	246	0
General government	6,231	6,232	0
Subtotal	175,883	164,754	0
Discretionary appropriations action (assumed legislation):			
National defense	288,918	297,660	0
International affairs	20,100	18,600	0
General Science, space, and technology	15,090	15,063	0
Energy	6,222	5,562	0
Natural resources and environment	19,485	19,148	0
Agriculture	2,640	2,649	0
Commerce and housing credit	4,435	4,422	0
Transportation	14,323	30,240	0
Community and regional development	7,412	7,626	0
Education, training, employment, and social services	29,896	30,152	0
Health	16,790	16.224	0
Medicare	0	2,304	0
Income security	17,742	25,280	0
Social security	0	2,317	0
Veterans benefits and services	13,989	14,109	0
Administration of justice	12,975	11,914	0
General government	10,184	10,142	0
Undistributed offsetting receipts	11,517	948	0
Subtotal	491,719	514,360	0
Discretionary action by other committees (assumed entitlement legislation):			
Income security	17,774	17,338	0
Veterans benefits and services	435	393	0
Undistributed offsetting receipts	−195	−195	0
Subtotal	18,015	17,535	0
Committee total	685,616	696,649	0
AGRICULTURE COMMITTEE			
Current level (enacted law):			
Energy	1,068	10	0
Natural resources and environment	440	435	0
Agriculture	9,004	10,965	8,813
Transportion	46	46	0
Community and regional development	56	850	0
General government	339	344	339
Subtotal	10,952	12,649	9,152
Dicretionary action (assumed legislation):			
Income Security	0	0	974
Undistributed offsetting	−1,000	−1,000	−921
Subtotal	−1,000	−1,000	53
Committee total	9,952	11,649	9,205
ARMED SERVICES COMMITTEE			
Current level (enacted law):			
National defense	11,301	11,259	
Education training, employment, and social services	3	2	
Income security	36,414	23,043	23,04
Subtotal	47,935	34,506	23,24
Committee total	47,935	34,506	23,24
BANKING, FINANCE, AND URBAN AFFAIRS COMMITTEE			
Current level (enacted law):			
International affairs	0	−1,279	
Commerce and housing credit	77,833	77,907	
Community and regional development	12	−5	
Income security	200	281	
General government	5	5	
Net interest	22	22	
Subtotal	78,072	76,931	
Discretionary action (assumed legislation): Undistributed offsetting receipts	−197	−1,507	
Subtotal	−197	−1,507	
Committee total	77,875	75,424	
DISTRICT OF COLUMBIA COMMITTEE			
Current level (enacted law): administration of justice	18	18	1
Subtotal	18	18	1
Committee total	18	18	1
EDUCATION AND LABOR COMMITTEE			
Current level (enacted law):			
Education, training, employment, and social services	24	13	5,3
Income security	92	89	7,5
Subtotal	116	102	12,8
Discretionary action (assumed legislation): Undistributed offsetting receipts	0	−120	−1
Subtotal	0	−120	−1
Committee total	116	−18	12,7
ENERGY AND COMMERCE COMMITTEE			
Current level (enacted law):			
Commerce and housing credit	54	53	
Health	36	27	45,9
Income security	13,672	12,865	10,1
General government	7	7	
Subtotal	13,769	12,952	56,1
Discretionary action (assumed legislation): Undistributed offsetting receipts	−336	−336	3
Subtotal	−336	−336	3
Committee total	13,433	12,616	56,4

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTION 302(a) OF THE CONGRESSIONAL BUDGET ACT—FISCAL YEAR 1991—Continued

[In millions of dollars]

	Budget authority	Outlays	Entitlement authority
FOREIGN AFFAIRS COMMITTEE			
Current level (enacted law):			
International affairs	8,176	8,714	0
Income security	835	368	368
General Government	5	5	0
Subtotal	9,016	9,087	368
Committee total	9,016	9,087	368
GOVERNMENT OPERATIONS COMMITTEE			
Current level (enacted law): General government	20	19	0
Subtotal	20	19	0
Committee total	20	19	0
HOUSE ADMINISTRATION COMMITTEE			
Current level (enacted law):			
Education, training, employment, and social services	8	9	0
General government	29	21	93
Subtotal	37	29	93
Committee total	37	29	93
INTERIOR AND INSULAR AFFAIRS COMMITTEE			
Current level (enacted law):			
Energy	170	−102	0
Natural resources and environment	189	167	10
Community and regional development	475	471	404
Health	3	3	0
General government	800	797	830
Subtotal	1,637	1,335	1,244
Discretionary action (assumed legislation: undistributed offsetting receipts	−72	−56	0
Subtotal	−72	−56	0
Committee total	1,565	1,279	1,244
JUDICIARY COMMITTEE			
Current level (enacted law):			
Commerce and housing credit	217	226	0
Education, training, employment, and social services	910	805	0
Health	1	1	0
Income security	24	10	5
Administration of justice	653	658	135
General government	581	581	500
Subtotal	2,386	2,281	640
Distretionary action (assumed legislation): Undistributed offsetting receipts	−91	−91	0
Subtotal	−91	−91	0
Committee total	2,295	2,190	640
MERCHANT MARINE AND FISHERIES COMMITTEE			
Current level (enacted law):			
Natural resources and environment	427	431	0
Commerce and housing credit	67	65	0
Transportation	6	0	427
Income security	13	6	0
General government	6	6	0
Subtotal	519	508	427
Discretionary action (assumed legislation):	−200	−200	0
Subtotal	−200	−200	0
Committee total	319	308	427
POST OFFICE AND CIVIL SERVICE COMMITTEE			
Current level (enacted law):			
Health	0	−636	2,873
Income security	54,623	33,067	33,067
General government	12,199	12,199	0
Subtotal	66,822	44,629	35,940
Discretionary action (assumed legislation): Undistributed offsetting receipts	−885	−2,165	−1,230
Subtotal	−885	−2,165	−1,230
Committee total	65,937	42,464	34,710
PUBLIC WORKS AND TRANSPORTATION COMMITTEE			
Current level (enacted law):			
Energy	433	101	0
Natural resources and environment	159	178	0
Transportation	17,497	0	0
Community and regional development	5	5	0
General government	1	54	0
Subtotal	18,095	338	0
Committee total	18,095	338	0
SCIENCE, SPACE AND TECHNOLOGY COMMITTEE			
Current level (enacted law):			
General science, space, and technology	135	134	0
Energy	19	23	0
Education, training, employment, and social services	1	1	0
Subtotal	155	158	0
Discretionary action (assumed legislation): undistributed offsetting receipts	−5	−5	0
Subtotal	−5	−5	0
Committee total	150	153	0
VETERANS' AFFAIRS COMMITTEE			
Current level (enacted law): Veterans benefits and services	1,588	1,429	18,144
Subtotal	1,588	1,429	18,144
Discretionary action (assumed legislation):			
Veterans benefits and services	0	0	435
Undistributed offsetting receipts	−120	−120	−500
Subtotal	−120	−120	−65
Committee total	1,468	1,309	18,079
WAYS AND MEANS COMMITTEE			
Current level (enacted law):			
Education, training, employment, and social services	1,142	0	5,503
Medicare	134,026	114,263	114,267
Income security	28,940	21,137	49,276
Social Security	345,303	269,829	265,050
Administration of justice	164	165	0
General government	500	505	406
Net interest	286,302	286,302	286,302
Subtotals	796,378	692,201	720,804
WAYS AND MEANS COMMITTEE			
Discretionary action (assumed legislation): Undistributed offsetting receipts	3,626	−4,200	−4,200
Subtotal	3,626	−4,200	−4200
Committee total	800,004	688,001	716,604
UNASSIGNED TO COMMITTEES			
Current level (enacted law):			
National defense	−12,083	−12,083	0
International affairs	−9,841	−9,419	0
General science, space, and technology	−25	2	0
Energy	−1,762	−1,844	0
Natural resources and environment	−3,333	−3,324	0
Agriculture	−6,154	−137	0
Commerce and housing credit	−129	−112	0
Transportation	−52	−63	0
Community and regional development	−426	−349	0
Education, training, employment, and social services	−117	−59	0
Health	−37	−29	0
Medicare	−46,976	−47,017	0
Income security	−9,849	−9,836	0
Social Security	−5,850	−5,893	0
Veterans benefits and services	−1,092	−1,077	0
Administration of justice	−751	−690	−5
General government	−19,208	−19,216	0
Net interest	−91,924	−91,925	−72,029
Allowances	0	−96,600	0
Undistributed offsetting receipts	−38,642	−38,853	0
Subtotal	−248,251	−338,523	−72,034
Discretionary action (assumed legislation): Undistributed offsetting receipts	0	−600	0
Subtotal	0	−600	0
Committee total	−248,251	−339,123	−72,034
Total—current level	975,147	715,405	807,014
Total—discretionary action	510,453	521,495	−5,257
Grand totals	1,485,600	1,236,900	801,757

CONFERENCE REPORT FISCAL YEAR 1991 ALLOCATION OF CREDIT RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTION 302(a) OF THE CONGRESSIONAL BUDGET ACT

[In milions of dollars]

House Committee	Direct loans	Primary guarantees
Current level (enacted law):		
Agriculture	8,019	6,100
Banking, Finance and Urban Affairs	3,250	1
Education and Labor	0	12,810
Energy and Commerce	0	290
Merchant Marine and Fisheries	0	104
Public Works and Transportation	299	0
Veterans Affairs	675	15,650
Ways and Means	2	0
Unassigned	54	191
Subtotal	12,299	35,145
Discretionary action (assumed legislation):		
Appropriations	8,701	71,969
Education and Labor	0	(314)
Grand total	21,000	106,800

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LAGOMARSINO) to revise and extend their remarks and include extraneous material:)

Mr. LEWIS of California, for 60 minutes, on October 17.

Mr. BURTON of Indiana, for 60 minutes each day, on October 15, 16, 17, 18, 19, 22, 23, 24, and 25.

(The following Members (at the request of Mr. McNULTY) to revise and extend their remarks and include extraneous material:)

Mr. PANETTA, for 5 minutes, today.

Mr. CROCKETT, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ECKART, for 5 minutes, today.

Mr. MAZZOLI, for 60 minutes, today.

Mr. POSHARD, for 60 minutes, today.

Mr. OWENS of Utah, for 30 minutes, on October 11.

Mr. NCNULTY, for 60 minutes each day, on October 16 and 17.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LAGOMARSINO) and to include extraneous matter:)

Mr. COURTER.

Mr. SCHUETTE in two instances.

Mr. YOUNG of Alaska in two instances.

Ms. ROS-LEHTINEN.

Mr. WALSH.

Mr. GEKAS in two instances.

Mr. ARCHER.

Mr. MACHTLEY in four instances.

Mr. LOWERY of California.

Mr. WELDON.

Mr. ROGERS.

Mr. CRANE.

Mr. LAGOMARSINO in two instances.

Mr. DAVIS.

Mr. LIGHTFOOT.

Mr. GILMAN in two instances.

Mr. PARRIS.

(The following Members (at the request of Mr. McNULTY) and to include extraneous matter:)

Mr. KANJORSKI.

Mr. MATSUI.

Mr. TRAFICANT.

Mr. STARK in three instances.

Mr. CLEMENT.

Mr. LAFALCE.

Mr. STOKES in two instances.

Mr. PALLONE.

Mr. SMITH of Florida.

Mr. ROE.

Mr. MRAZEK.

Mr. CROCKETT.

Mr. LANTOS.

Mr. ACKERMAN.

Mr. McMILLEN of Maryland.

Mr. PAYNE of New Jersey.

Mr. SOLARZ in two instances.

Mr. DINGELL.

Mr. CLAY.

Mr. ECKART.

Mr. SKELTON.

Mr. SABO.

SENATE BILLS AND JOINT RESOLUTIONS REFERRED

Bills and joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 3043. An act for the relief of Nebraska Aluminum Castings, Inc.; to the Committee on the Judiciary.

S. 3118. An act entitled the "Medcaid Drug Dependency Treatment Coverage Act of 1990"; to the Committee on Energy and Commerce.

S.J. Res. 305. Joint resolution to designate the month of October 1990, as "National Awareness Month of Children with Cancer"; to the Committee on Post Office and Civil Service.

S.J. Res. 328. Joint resolution designating October 1990 as "National Domestic Violence Awareness Month"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1608. An act to strengthen national nutrition monitoring by requiring the Secretary of Agriculture and the Secretary of Health and Human Services to prepare and implement a ten-year plan to assess the dietary and nutritional status of the United States population, to support research on, and development of, nutrition monitoring, to foster national nutrition education, to establish dietary guidelines, and for other purposes;

H.R. 3468. An act to amend the Act entitled "An Act to extend the Wetlands Loan Act," to provide for the expansion of the Stewart B. McKinney National Wildlife Refuge; and

H.R. 5070. An act to amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration, and other services necessary for the John F. Kennedy Center for the Performing Arts, and for other purposes.

BILL AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, a bill and joint resolution of the House of the following titles.

On October 9, 1990:

H.J. Res. 666. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes; and

H.R. 4758. An act to provide for the construction, operation, and maintenance of the American Canal at El Paso, Texas.

ADJOURNMENT

Mr. McNULTYT1. MR. SPEAKER, I MOVE THAT THE HOUSE DO NOW ADJOURN.

The motion was agreed to; accordingly (at 11 o'clock and 6 minutes p.m.), the House adjourned until tomorrow, Thursday, October 11, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4020. A letter from the Director, Arms Control and Disarmament Agency, transmitting a copy of a report entitled, "Defense Industry Conversion", pursuant to Public Law 101-216, section 107 (103 Stat. 1854); to the Committee on Foreign Affairs.

4021. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army dated March 2, 1989, submitting a report together with accompanying papers and illustrations (H. Doc. No. 101-248); to the Committee on Public Works and Transportation and ordered to be printed.

4022. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend the Soldiers' and Sailors' Civil Relief Act of 1940; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4888. A bill to improve navigation safety and to reduce the hazards to navigation resulting from vessel collisions with pipelines in the marine environment, and for other purposes; with an amendment (Rept. 101-814, Pt. 2). Ordered to be printed.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4888. A bill to improve navigation safety and to reduce the hazards to navigation resulting from vessel collisions with pipelines in the marine environment, and for other purposes; with an amendment (Rept. 101-814, Pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURTHA: Committee on Appropriations. H.R. 5803. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes (Rept. 101-822). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5520. A bill to amend the Petroleum Marketing Practices Act to require certification and posting for all liquid automotive fuels, to provide the States more authority to enforce automotive fuel posting requirements, and for other purposes; with amendments (Rept. 101-823). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on Government Operations. Report on the Peace Corps entering its fourth decade of service (Rept. 101-824). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on Government Operations. Report on Department of Justice Debt Collection: So Many Intentions, So Little Money (Rept. 101-825). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Science, Space and Technology. H.R. 5155. A bill to authorize a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors; with an amendment (Rept. 101-826, Pt. 1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3840. A bill to establish the Newberry Volcanoes National Monument in the State of Oregon, and for other purposes; with amendments (Rept. 101-827). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4090. A bill to establish of the Glorieta National Battlefield in the State of New Mexico, and for other purposes; with an amendment (Rept. 101-828). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4429. A bill to disclaim all right, title, and interest of the United States in and to certain private lands conditionally relinquished to the United States under the Act of June 4, 1897 (30 Stat. 11, 36), and for other purposes; with amendments (Rept. 101-829). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4914. A bill to amend the National Parks and Recreation Act of 1978 to authorize the Secretary of Interior to exchange city-owned lands in Los Angeles, California with public lands managed by the Bureau of Land Management in Nevada; with an amendment (Rept. 101-830). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5308. A bill to approve the Fort Hall Indian Water Rights Settlement, and for other purposes; with amendments (Rept. 101-831). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5367. A bill to provide for the renegotiation of certain leases of the Seneca Nation, and for other purposes; with amendments (Rept. 101-832). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5579. A bill to amend section 28(w) of the Mineral Leasing Act, and for other purposes (Rept. 101-833). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. 5675. A bill to authorize expansion on the Saguaro National Monument; with an amendment (Rept. 101-834). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1289. A act to improve the management of forests and woodlands and the production of forest resources on Indian lands, and for other purposes; with an amendment (Rept. 101-835). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1413. An act to settle all claims of the Aroostook Band of Micmacs resulting from the Band's omission from the Maine Indian Claims Settlement Act of 1980, and for other purposes (Rept. 101-836). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1805. An act to authorize the Secretary of the Interior to reinstate oil and gas lease LA 033164; with amendments (Rept. 101-837). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1859. An act to restructure repayment terms and conditions for loans made by the Secretary of the Interior to the Wolf Trap Foundation for the Performing Arts for the reconstruction of the Filine Center in Wolf Trap Farm Park in Fairfax County, Virginia, and for other purposes; with an amendment (Rept. 101-838). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5388. A bill to designate certain lands in the State of North Carolina as wilderness, and for other purposes; with an amendment (Rept. 101-839, Pt. 1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5497. A bill to authorize the Secretary of the Interior to acquire certain lands to be added to the Fort Raleigh National Historic Site and the Alligator River National Wildlife Refuge in North Carolina, with an amendment (Rept. 101-840, Pt. 1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5667. A bill to amend the Water Resources Development Act of 1974 to establish a deadline for the transfer of jurisdiction of the Big South Fork National River and Recreation Area from the Secretary of the Army to the Secretary of the Interior, and for other purposes; with amendments (Rept. 101-841, Pt. 1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1719. An act to designate segments of the Colorado River in Utah within Westwater and Cataract Canyons as components of the Wild and Scenic Rivers System, and for other purposes; with amendments (Rept. 101-842). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4333. A bill to establish the Clean Coastal Beaches Council to develop a program for monitoring coastal zone recreation waters; with amendments (Rept. 101-844, Pt. 1). Ordered to be printed.

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 5200. A bill to promote and strengthen aviation security, and for other purposes; with an amendment (Rept. 101-845, Pt. 1). Ordered to be printed.

Mr. GORDON: Committee on Rules. House Resolution 500. Resolution waiving certain points of order during consideration of H.R. 5769, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes (Rept. 101-846). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5507. A bill regarding the Early Winters Resort; with an amendment; referred to the Committee on Merchant Marine and Fisheries for a period ending not later than October 10, 1990, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(n), rule X (Rept. 101-843, Pt. 1). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 5687. The Committee on Post Office and Civil Service is discharged from further consideration of H.R. 5687; H.R. 5687 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BILIRAKIS:

H.R. 5804. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to employers who employ members of the Ready Reserve or of the National Guard; to the Committee on Ways and Means.

By Mr. DURBIN (for himself, Mr. Rangel, Mr. Shuster, Mr. Dellums, Mr. Spence, Mr. McGrath, Mr. Mrazek, Mr. Beilenson, Mr. Coleman of Texas, Ms. Pelosi, Mr. Serrano, Mr. Stokes, Mr. Hyde, and Mr. Geren):

H.R. 5805. A bill to require the Secretary of the Treasury to include organ donation information with individual income tax refund payments, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. HAWKINS (for himself, Mr. Towns, Mr. Solarz, Mr. Schumer, Mr. Lehman of Florida, Mr. Horton, Mr. Roybal, Mr. Moody, Mr. Owens of New York, Mr. Coyne, Ms. Pelosi, Mr. Manton, Mr. Clay, Mr. Wyden, Mr. Crockett, Mrs. Lloyd, Mr. Scheuer, Mr. Hayes of Illinois, Mr. Martinez, Mr. Serrano, Mr. Conyers, Mr. Nowak, Mr. Foglietta, Mr. Ford of Tennessee, Mr. Dymally, Mr. Weiss, Mr. Payne of New Jersey, Mr. Dixon, Mr. Smith of Florida, Mr. Ackerman, Mr. Mfume, Mr. Engel, Mr. Rangel, Mr. Pickett, Mr. Bates, Mr. Washington, and Mr. AuCoin):

H.R. 5806. A bill to provide financial assistance to eligible local educational agencies to improve urban education, and for other purposes; to the Committee on Education and Labor.

By Mr. JONTZ:

H.R. 5807. A bill to establish a National Commission on Choices in Health Care Reform; jointly, to the Committees on Energy and Commerce; and Ways and Means.

By Mr. MORRISON of Washington (for himself and Mr. Swift):

H.R. 5808. A bill to provide equity in the Pacific Northwest in the event of the loss of a regional electric generating resource through a State initiative; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

By Mr. DENNY SMITH:

H.R. 5809. A bill to amend the act incorporating the American Legion so as to redefine eligibility for membership therein; to the Committee on the Judiciary.

By Mr. STARK (for himself, Mr. Rangel, Mr. Cardin, and Mr. Guarini):

H.R. 5810. A bill to amend the Internal Revenue Code of 1986 to apply the firearms excise taxes to certain assault weapons; to the Committee on Ways and Means.

By Mrs. UNSOELD (for herself, Mr. Swift, Mr. Dicks, Mr. McDermott, Mr. DeFazio, Mr. AuCoin, and Mr. Owens of Utah):

H.R. 5811. A bill to prohibit a State from imposing an income tax on the pension income of individuals who are not residents or domiciliaries of that State; to the Committee on the Judiciary.

By Mr. WOLPE:

H.R. 5812. A bill entitled the "Educational Exchanges Enhancement Act of 1990"; to the Committee on Foreign Affairs.

By Mr. YOUNG of Alaska:

H.R. 5813. A bill entitled the "Northwest Indiana Ancient National Forest Act"; to the Committee on Agriculture.

By Mr. KANJORSKI:

H.J. Res. 667. Joint resolution to designate November 16, 1990, as "National Federation of the Blind Day"; to the Committee on Post Office and Civil Service.

By Mr. KILDEE:

H. Con. Res. 381. Concurrent resolution to correct the enrollment of the bill (H.R. 4151); considered and agreed to.

By Mr. SCHUMER (for himself and Mr. Levine of California):

H. Con. Res. 382. Concurrent resolution expressing the sense of the Congress that the crisis created by Iraq's invasion and occupation of Kuwait must be addressed and resolved on its own terms separately from other conflicts in the region; to the Committee on Foreign Affairs.

By Mr. HOYER:

H. Res. 499. Resolution electing Representative Mink to the Committee on Education and Labor and the Committee on Government Operations; considered and agreed to.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 220: Mr. Kennedy.

H.R. 446: Mr. Traficant and Mr. Kasich.

H.R. 1095: Mr. Ackerman, Mr. Campbell of California, Mr. LaFalce, and Mr. Sikorski.

H.R. 1676: Mr. Engel, Mr. McDermott, and Mr. Jontz.

H.R. 2116: Mr. Petri, Mr. McCrery, and Mr. Huckaby.

H.R. 2121: Mr. Henry, and Mr. Coleman of Texas.

H.R. 2531: Mr. Ortiz, Mr. Clarke, and Mr. Jones of North Carolina.

H.R. 2707: Mr. Dickinson.

H.R. 3512: Mr. Tallon.

H.R. 4224: Mr. Flake and Mr. Rose.

H.R. 4475: Mr. Laughlin, Mr. Smith of Texas, Mr. Traxler, Mr. Green of New York, Mr. Bateman, Mr. Skaggs, Mr. Weber, Mr. Hertel, Mr. Gilman, Mr. Flake, Mr. Hamilton, Mr. Williams, and Mr. Costello.

H.R. 4486: Mr. Owens of Utah.

H.R. 4652: Mr. Roybal.

H.R. 4864: Mr. Dyson.

H.R. 4865: Mr. Dyson.

H.R. 5193: Mr. Brown of Colorado.

H.R. 5306: Mr. Moody.

H.R. 5326: Mr. Machtley.

H.R. 5351: Mr. Rogers.

H.R. 5379: Mr. Hunter.

H.R. 5423: Mr. Sundquist, Mr. Jones of North Carolina, Mr. Boehlert, Mr. Weiss, Mr. Neal of North Carolina, Mr. Cardin, Mr. Rhodes, Mr. Vander Jagt, Mrs. Kennelly, Mr. Ballenger, Mr. Wilson, and Mr. McEwen.

H.R. 5468: Mr. Lipinski, Mr. Roe, Ms. Oakar, Mr. Watkins, Mrs. Martin of Illinois, Mr. Payne of Virginia, Mr. Traficant, and Mr. Conyers.

H.R. 5475: Mr. Sisisky and Mr. Bilirakis.

H.R. 5480: Mr. Coleman of Texas and Mr. Torres.

H.R. 5531: Ms. Schneider.

H.R. 5585: Mr. Buechner.

H.R. 5596: Mr. Jacobs and Mr. DeWine.

H.R. 5598: Mrs. Collins.

H.R. 5601: Mr. Emerson.

H.R. 5621: Mr. Grant and Mr. Miller of Washington.

H.R. 5622: Mr. DeFazio, Mr. Pallone, Mr. Mrazek, and Mr. Hochbrueckner.

H.R. 5652: Mr. Wylie, Mr. Ackerman, Mr. Kastenmeier, Mr. Dickinson, Mr. Traficant, Ms. Snowe, Mr. Hatcher, and Mr. Myers of Indiana.

H.R. 5697: Mr. Mazzoli.

H.R. 5724: Mr. Hochbrueckner, Mr. Owens of New York, Mr. Stallings, Mr. Hertel, and Mr. Yates.

H.R. 5750: Mr. Stark, Mr. Yates, Ms. Pelosi, Mr. Crockett, Mrs. Collins, and Mr. McDermott.

H.R. 5764: Mrs. Collins.

H.R. 5781: Mrs. Martin of Illinois.

H.J. Res. 214: Mrs. Martin of Illinois and Mr. Hubbard.

H.J. Res. 248: Mr. Durbin and Mr. Rose.

H.J. Res. 512: Mr. de la Garza, Mr. Mrazek, Mr. Myers of Indiana, Mr. Leach of Iowa, Mr. Conte, Mr. McDade, Mr.
Horton, Mrs. Martin of Illinois, Mr. Bili
rakis, Mr. Roybal, Mr. Coughlin, Mr. Lent
Mr. Studds, Mr. Tanner, Mr. Torricelli
Mr. Vento, Mr. Miller of California, M
Sabo, Mrs. Lowey of New York, Mr. Kost
mayer, Mr. Edwards of Oklahoma, M
Goodling, Mr. Martin of New York, M
Broomfield, Mr. Frenzel, Mr. Vander Jagt
Mr. Pursell, Ms. Snowe, Mr. Roberts, M
Gilman, Mr. Davis, Mr. Ortiz, and M
Whitten.

H.J. Res. 513: Mr. Roybal, Mr. Paxon, M
Walgren, Mr. Hertel, Mr. McNulty, M
Bevill, Mr. Bennett, Mr. Nowak, M
Schaefer, Mr. Foglietta, Mr. McDermott
Mr. Alexander, Mr. Rangel, Mr. Shays, M
Kolbe, Mr. Hutto, Mr. Evans, Mr. McClos
key, Mr. Tauke, Mr. Hopkins, Mr. Mav
roules, Mr. Davis, Mr. Espy, Mr. Udall, M
Lent, Mr. Jones of North Carolina, M
Traficant, Mr. Engel, and Mr. Sawyer.

H.J. Res. 525: Mr. Vander Jagt.

H.J. Res. 543: Mrs. Boggs.

H.J. Res. 583: Mr. Ackerman, Mr. Bou
cher, Mr. Browder, Mr. Brown of Colora
do, Mr. Bustamante, Mr. Flake, Mr. Gere
of Texas, Mr. Hertel, Mr. Hiler, M
McHugh, Mr. Nelson of Florida, M
Rahall, Mr. Taylor, Mr. Towns, Mr. Traf
cant, Mrs. Unsoeld, Mr. Visclosky, M
Volkmer, Mr. Waxman, Mr. Chandler, M
Donnelly, Mrs. Lowey of New York, M
Stallings, Mr. Engel, Mrs. Boggs, M
Kostmayer, Mr. Rose, Ms. Slaughter o
New York, Mr. Serrano, and Mr. Moakley

H.J. Res. 639: Mr. Rangel, Mr. Levine o
California, Mr. Crockett, and Mr. Boeh
lert.

H.J. Res. 642: Mr. Porter and Mr. Good
ling.

H.J. Res. 644: Mr. Frank, Mr. Hefner, M
Flippo, Mr. Mazzoli, Mr. Fascell, Mr. Der
rick, and Mr. Walsh.

H. Con. Res. 288: Mr. Bustamante.

H. Con. Res. 315: Mr. Cox, Mr. Lewis o
Georgia, and Mr. Goodling.

H. Res. 467: Mr. Frost, Mrs. Mink, Mr
Morella, Mr. Udall, Mr. Levine of Califor
nia, Mrs. Byron, Mr. Oberstar, Mr. Rich
ardson, Mrs. Boggs, and Mr. Roe.

H. Res. 476: Mrs. Boxer, Mr. Lehman o
Florida, Mrs. Lloyd, Mr. Towns, Mr. Frank
Mr. AuCoin, Mr. Moody, Mrs. Mink, M
Fuster, Mr. McNulty, Mrs. Morella, Mr
Martin of Illinois, Mr. Levine of Californi
and Mr. Udall.

EXTENSIONS OF REMARKS

KARAMU, AT 75, STILL IN NEED OF FUNDING

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. STOKES. Mr. Speaker, for many years, the black theater has played a significant role in presenting through its work the legacy of the African-American experience and contributions to our Nation. This year marks the 75th anniversary of Karamu House, America's oldest black theater. Karamu House, which is located in my congressional district, has for the past 75 years been committed to presenting the African-American experience in its entirety, to fostering interracial cooperation, and training generations of black artists.

The theater, which was founded by Russell and Rowena Jelliffe, has been the home to some of our Nation's most outstanding black artists. The gifted poet Langston Hughes; painter Hughie Lee Smith; composer Hale Smith; director Gilbert Moses; and actors Robert Guillaume, Bill Cobbs, and Ron O'Neal are just a few of the talented black artists for whom Karamu became their training ground. Thousands of other Karamu alumni have become professionals—from onstage and backstage to directors, dancers, teachers, and actors—all committed to the cultural life of America in theaters and art centers across the country. Karamu is world renown for the artistic talent it has fostered.

Mr. Speaker, unfortunately Karamu has not benefited financially from its efforts. As it begins its 75th year, this unique institution does so without the funds necessary to ensure its financial stability and future progress. While the theater is hailed throughout the country, community support has been lacking to provide the financial resources necessary to make Karamu a truly great arts center.

I am submitting for the RECORD a recent article from the Cleveland Plain Dealer which explores the reasons behind the funding problems which have plagued Karamu. The article is interesting and thought-provoking and I am pleased to share it with my colleagues.

[From the Cleveland Plain Dealer, Sept. 10, 1990]

KARAMU, AT 75, STILL IN NEED OF FUNDING

(By Marianne Evett)

About a month ago, Ameritrust announced a $125,000 gift to the Cleveland Play House for the opening production of its 75th-anniversary season. Earlier in the summer, the law firm of Baker & Hostetler announced a grant of $250,000 to the Play House to help underwrite the entire season.

This year also marks the 75th anniversary of Karamu House. There have not been any announcements about large corporate donations to help underwrite the coming season at America's oldest black theater—although Jerry Jarrett, Ameritrust's president when the Play House grant was announced, was also the president of Karamu's board. (He has since resigned from both positions.)

The staff of Karamu, led by the intelligent and imaginative Margaret Ford-Taylor, plans an interesting anniversary season, with an ambitious first production of "In Dahomey," funded by local foundations and the Ohio Arts Council.

Written by Will Marion Cook and Paul Laurence Dunbar in 1903, it was the first black musical to reach Broadway. A team of New York professionals will direct and design it, and producer Woodie King, Jr. sees it as a workshop for possible transfer to New York.

Although Karamu has pulled out of the massive deficits Ford-Taylor inherited in 1987 and its theater productions have been steadily improving, its financial situation is extremely fragile. Were it not for the intense loyalties of a small staff and volunteers, the institution would have closed.

In order to balance the budget, Ford-Taylor had to make cutbacks that threaten Karamu's viability as an arts organization. No funds were available this year for a season brochure, for instance, until a board member found someone willing to design and print one free.

At this writing, with the 75th anniversary about to begin, no fund drive has been announced to provide financial stability for this unique Cleveland institution—much less help it progress artistically.

Since Karamu is a United Way agency, it cannot seek funds during the United Way campaign this month; but that would not have prevented board members from soliciting donations last summer or from laying the groundwork for future fund raising. United Way cannot begin to provide Karamu's annual budget of about $950,000 (which includes all activities—the day-care center, the dance and art classes, the children's theater, the theater). Nor can foundations continue to be its only other major source of support.

Jarrett's abrupt resignation has left the Karamu board without a leader, someone from corporate Cleveland who understands Karamu and can raise money—which is a board's primary job. The Rev. Dr. Marvin McMickle, board vice president, has become acting president. "Since we've lost our chairman, we'll have to wait until we bring a new person on before we commit to a final plan (for the 75th anniversary)," he said.

In doing some research for forthcoming articles on the founding of both the Play House and Karamu, I discovered that in 1923, Karamu (then called the Playhouse Settlement and located at E. 38th St. and Central Ave.) desperately needed money for a new building; the theater group had to perform in school auditoriums. It planned a modern facility, organized a board and launched a fund drive with a goal of $250,000.

The drive netted only about $64,000 (including only $54,000 of an original pledge of $100,000 from the Second Presbyterian Church). The organization managed to buy nearby property (a former saloon) and volunteers fixed it up, opening its first theater in 1927.

That same year, the Cleveland Play House opened a new building at E. 86th St. and Euclid Ave. Its two theaters, the Drury and the Brooks, are still in use. The board had raised $225,000 to pay for it, and Francis Drury had given them the land.

I don't want to imply that the Play House should not have received such largesse, either in the 1920s or 1990. It went to a good cause—to make more high-quality theater—and Cleveland is much richer for it.

The Play House's success only indicates that funds are there, if the Cleveland business community can be enlisted. But the corporate mentality seems to have trouble valuing Karamu. In the 1920s, Karamu alienated some people, both blacks and whites, because it was integrated.

Its productions of plays that explored the African-American experience drove off some whites and aroused the anger of some blacks, who only wanted positive images depicted onstage, not the realities of poverty and exploitation. Variations of these problems, unfortunately, still exist. Study Karamu's history, and you can learn about racial attitudes in Cleveland.

Karamu is one of 21 members of the Cleveland Arts Consortium—and the only non-professional organization listed in its "Bravo" calendar. One suspects it is there partly as a token black group, but it is silly to tout it as among Cleveland's top arts organizations and then undermine its artistic product by starving it financially.

It is not only the responsibility of mostly white corporate administrations to look at Karamu's needs. The black community needs to put its money where its mouth is. In all the current discussions about racism in Cleveland, nobody has mentioned that Karamu has existed as a beacon for 75 years, during which it has attempted to present the African-American experience in its entirety, has fostered true interracial cooperation, and has trained generations of black artists.

Some have become famous, from Langston Hughes to painter Hughie Lee Smith, composer Hale Smith, director Gilbert Moses, actors Robert Guillaume, Bill Cobbs, Minnie Gentry and Ron O'Neal. But thousands of others have become professionals—onstage, backstage, directing, dancing, teaching, performing—enriching the cultural life of America in theaters and arts centers across the country. And even more thousands have had their lives changed by Karamu.

I dropped in at Karamu one afternoon during the course of my research into its past, and met a man who had come by to visit. He is Larry Barclay, former dean of Tougaloo College in Mississippi. Now 62, he started at Karamu when he was 9 years old and lived on 39th St. near Central Ave.

"All the kids came to the Playhouse, as we called it then," he said. "I grew up in the theater. Wednesday night was neighborhood night and you could see the plays free. Karamu gave me a sense of black history. Langston Hughes was there. Paul Robeson and Marian Anderson visited. It was the only place in the country of its sort, so anybody who visited Cleveland came to see it. They'd call us kids in and introduce us."

Rowena Jelliffe, who co-founded Karamu with her husband Russell, encouraged Barclay to go to college. He attended John Carroll University, then did graduate work at Ohio State and Harvard universities and taught at Princeton.

"You could find stories similar to mine from any time," he said. "It was all because of Karamu."

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

HONORING MILTON KOPELMAN

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, 10, 1990

Mr. ENGEL. Mr. Speaker, this year, Mr. Milton Kopelman retired as principal of the Bronx High School of Science, an excellent educational center located in my district. As a teacher, chairman of the biology department and principal, Milton Kopelman personified the school's motto, "Commitment to Excellence."

As a teacher, Milt Kopelman was respected and revered by his students, many of whom chose biology and its related fields for their life work. He was an inspiring teacher who constantly brought out the best in each student. As principal, he made certain that a wide variety of courses were available to students in the liberal arts as well as the sciences.

Under the leadership of Mr. Kopelman, Bronx Science became a model for numerous high schools specializing in the study of science, mathematics and technology. Mr. Kopelman has been host to thousands of educators from all over the world interested in the school's teaching methods.

The Bronx High School of Science, in fact, is one of the few high schools in the United States to have been twice selected as a High School of Excellence by the United States Office of Education. His friends, colleagues and students know that this commitment to excellence is a product of Milton Kopelman's dedication. We all thank him for his tireless efforts and wish him a happy, healthy and well-deserved retirement.

DESTRUCTION IN EL SALVADOR

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to inform my colleagues of troubling events occuring in El Salvador which were recently brought to my attention. The list of military actions that follows, if accurate, is brief yet disturbing. It is my understanding that:

On September 9, the town of El Barielo, the sister-city of Baltimore City, was occupied by Salvadoran Army troops who machine-gunned houses and destroyed fields of crops.

On September 12, Salvadoran Army soldiers swept the village of Los Prados, grenading the house of a locally prominent man and killing his 1-year-old child and 23-month-old child. The shrapnel wounded his wife and his 12-year-old son.

On September 23, two helicopters and two planes strafed the town of Los Zueltes, while Salvadoran Army troops lobbed mortars. Sixteen houses were destroyed as well as crops. The number of fatalities is not yet known.

Mr. Speaker, President Alfredo Cristiani arrives in Washington and the Salvadoran military takes the opportunity to destroy villages. A resolution to the war and a civil society will not emerge from the existing balance of power between the elected officials of the Salvadoran Government and the military. We must urge our colleagues in the Senate to follow the lead of the House and impose the type of disincentives to violence that are necessary to install a measure of accountability in El Salvador's military.

The United Nations and the Organization of American States have been called upon to monitor a cease-fire, but they cannot even begin until both the Salvadoran military and the FMLN agree to stop shooting. The Salvadoran military should be brought under civilian control. This move will pave the way for a cease-fire and the arrival of the United Nations. In the light of the events noted above, civilian control does not seem too much to ask for.

HONORING HACKETTSTOWN NATIONAL GUARD, WARREN COUNTY, NJ

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. COURTER. Mr. Speaker, It is on this day, that I have the honor of thanking the National Guard of Hackettstown, NJ, for their many years of continued service. With over 25 years of serving in the National Guard, this Federal and State unit has been assigned a "72 Hour Alert Task" to protect and help the State or Nation as ordered. The responsibilities and duties that are assigned to these armored tank men and women vary from civil disturbances to national emergencies. The significance of the National Guard is that these distinguished people have put in tireless hours to serve the public voluntarily in an effort to contribute to fellow citizens in need of help and support during dificult times.

Originally this unit was Company B, 5th Battalion, 102d Armor 50th, and had approximately 83 members. Currently this unit is changing over to D2–102 Armor-New Jersey National Guard. The valor which encompasses these National Guard members will be carried out for years to come and continue without reservation to serve this beautiful country of ours.

I wish to acknowledge the following for their outstanding leadership to the Hackettstown National Guard and the United States of America: Comdr. Thomas W. Supplee, Col. Howard C. Housel (Retired), Lt. Col. William J. Marshall III, Capt. Com. John Manfre, 1st Sgt. Joseph J. Bognar, Sgt. Constantine Topczij, and a special thanks to James G. Smith, chairman of employer support of the Guards and Reserves of Warren County.

A TRIBUTE TO VISTA VOLUNTEER BROOKE CONVERSE

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. SCHUETTE. Mr. Speaker, I rise today to pay tribute to Ms. Brooke Converse, an outstanding citizen of Michigan. Brooke is a VISTA [Volunteers in Service to America] volunteer in West Branch, MI. A luncheon will be held in her honor on October 9, 1990.

As a VISTA volunteer, Brooke works with the Ogemaw County Probate Court, with juveniles who have not broken the law, but who need assistance to stay out of trouble. Often probate cases are referred to Brooke when a juvenile is completing probation and needs encouragement to stay on the right track.

In addition to her work at the probate court, Brooke currently runs three teen support groups in the community. In local schools and throughout the community where Brooke talks with and listens to teens, she is well respected by parents, teachers, school officials and the young people with whom she works.

Brooke has been described as an incredible asset to the probate court because she provides the court with an additional staff member that can offer teens the support they need when difficulties arise in their lives. She is also responsible for contributing to the reduction of juvenile criminal delinquency in her community.

Brooke is known for her dedication to her work. In one instance, her friendship with and support of one young man through a support group led to a friendship with his mother and brother. Now both young men attend her support group. One arrives one-half hour early to do his homework before the meeting.

Brooke is deeply concerned about the youth of today. Though Brooke's work can be trying, she finds that if she can get through to one young person, her hard work all seems worthwhile. She is a counselor, big sister, mother—filling in wherever a substitute is needed in the life of each individual young person. Always available to listen and provide guidance, most importantly Brooke offers herself as a friend to each of the teens with whom she works.

In addition to her work at the probate court, Brooke is also involved with many community projects. She is married to Chuck Converse, and they have two children, one in high school and one in college.

Mr. Speaker, and my colleagues in the House, join me today in honoring Ms. Brooke Converse for her dedication to the youth of her community, and for providing them with an example of encouragement and friendship, so they can mature into responsible, caring adults.

OUTREACH PROMOTES BEAUTIFUL BABIES RIGHT FROM THE START

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. DURBIN. Mr. Speaker, for 18 months in 1988 and 1989, the University of Chicago Hospitals and WBBM–TV sponsored a broad-based program to reduce infant mortality in the Chicago area. A recent evaluation of this program indicates that the program was a success.

The "Beautiful Babies * * * Right From the Start Campaign" presented a continual message of the importance of prenatal care in a variety of media. Pregnant women and women with infants less than 1 year old were urged to call a toll-free number and receive a free book that contained health facts on prenatal care and fetal and infant development. The books contained coupons for free and discounted goods and services related to pregnancy and infants, which could only be used as the participants obtained early and regular prenatal care and well-child care. The coupons were validated by participating physicians at the participants' regular appointments.

Approximately 6,000 obstetricians, pediatricians, and family practitioners participated in the program. WBBM–TV regularly played public service announcements about the program and incorporated a variety of segments about infant mortality reduction and teen pregnancy into its regular programming. A number of special programs drew further attention to the special needs of pregnant women and children. Other media providers joined in the effort to spread the word.

As a result of this campaign, the order rate for the ccupon book reach 2,300 orders per week at its peak. More than 24,000 books were distributed in the first 4 months; more than 83,000 during the program's 18-month period; and books continue to be delivered in large quantities even though the program's formal media period has ended. Some 72 percent of the books went into areas where the risk of Infant mortality is high.

Mr. Speaker, I have introduced legislation that would work exceedingly well with a campaign like this. It encourages States to conduct outreach efforts to enroll eligible pregnant women and children in Medicaid. Combining education about prenatal care with efforts to ensure that pregnant women have access to the health services they need is a good prescription for a healthy pregnancy. I commend those who made the Beautiful Babies Program possible, and I urge my colleagues to join me in the ongoing fight to reduce infant mortality.

100th ANNIVERSARY OF ST. ANN'S CHURCH

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. MACHTLEY. Mr. Speaker, it is with great pleasure that I rise today to celebrate the 100th anniversary of St. Ann's Church in Woonsocket, RI.

Founded on October 10, 1890, by Friar Napoleon Leclerc in the social district of Woonsocket, St. Ann's parish has grown from its French-Canadien roots to embrace and serve all of Woonsocket. Built on a strong foundation of faith and service to others, St. Ann's offers many needed services for its community. Among St. Ann's parish works are its food baskets for the homeless and needy and the sunshine community, a group that visits elderly nursing homes. St. Ann's also sponsors fundraisers for battered children and unwed mothers and welcomes newcomers and immigrants to this country.

I would like to congratulate St. Ann's Church on its 100th anniversary. Today, under the guidance of its pastor, Friar Roger Houle, St. Ann's celebrates its first century of faith and service. I wish St. Ann's Church and all its members the very best for continued success and growth in the future.

GREEN CAPITALIST THUMBS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. LAGOMARSINO. Mr. Speaker, I would like to call to the attention of my colleagues an article by Mr. William Reilly, Director of the Environmental Protection Agency, in the October 9 edition of the Washington Times. In his article titled "Green Capitalist Thumbs," Mr. Reilly compares the economic and environmental devastation of communist Eastern Europe with the West's prosperity and environmental achievements. The connection he draws between economic well being and environmental protection is something we should all consider:

GREEN CAPITALIST THUMBS

(By William Reilly)

The lifting of the Iron Curtain has revealed an important truth: Authoritarian, centrally planned societies pose much greater threats to the environment than do free-market democracies. During the past two decades, while the United States and other Western nations made a start on cleaning up their serious environmental problems, Czechoslovakia, East Germany, Hungary, Poland, Romania, and the Soviet Union were undergoing an environmental catastrophe that will take many years and hundreds of billions of dollars to correct.

In Eastern Europe, whole cities are blackened by thick dust. Chemicals make up a substantial percentage of river flows. Nearly two-thirds of the length of the Vistula, Poland's largest river, is so corrosive that it is even unfit for industrial use. The Oder River, which forms most of Poland's border with East Germany, is useless over 80 percent of its length. Parts of Poland, East Germany and Romania are literally uninhabitable; zones of ecological disaster cover more than a quarter of Poland's land area. Millions of Soviets live in cities with dangerously polluted air. Military gas masks were issued in 1988 to thousands of Ukrainians to protect them from toxic emissions from a meat-processing plant.

The Soviet Union and its former satellites are plagued by premature deaths, high infant mortality rates, chronic lung disorders and other disabling illnesses, and worker absenteeism. The economic drain from these environmental burdens, in terms of disability benefits, health care and lost productivity, is enormous—15 percent of gross national product, according to one East European minister with whom I spoke.

The same communist policies that ravaged the environment wrecked the economy, and vice versa. Many environmental principles were undefendable in the absence of private property. Both the factory and the nearby farmland contaminated by its pollution were the property of the state; and the state, without elections, was not subject to popular restraints or reform. In short, decisions to forgo environmental controls altogether, in order to foster all-out, no-holds-barred economic development, did nothing for economic growth.

By contrast, in the United States economic prosperity has contributed to substantial progress in environmental quality during the past two decades. In most major categories of air pollution, emissions on a national basis have either leveled off or declined since 1970. And the improvements are even more impressive when compared with where we would be without the controls established in the early 1970s.

Air emissions of particulates went down by 63 percent between 1970 and 1988; the Environmental Protection Agency estimates that without controls particulate emissions would be 70 percent higher than current levels. Sulfur dioxide emissions are down 27 percent; without controls, they would be 42 percent higher than they are now. Nitrogen oxide, which is up about 7 percent from 1970 levels, would have increased by 28 percent without controls. Volatile organic chemicals are down 26 percent; without controls, they would be 42 percent higher than today's levels. Carbon monoxide is down 40 percent; without controls, it would be 57 percent higher than current levels. And without controls on lead, particularly the phase-in of unleaded gasoline, lead emissions to the air would be fully 97 percent higher than they are today. Instead, atmospheric lead is down 96 percent from 1970 levels.

Similar though more localized gains can be cited with respect to water pollution. In the Great Lakes, thanks to municipal sewage treatment programs, fecal coliform is down, nutrients are down, algae are down, biological oxygen demand is down. Twenty years ago pollution in Lake Erie decimated commercial fishing; now Lake Erie is the largest commercial fishery in the Great Lakes. The Potomac River was so polluted that people who came into contact with it were advised to get an inoculation for tetanus. Now on a warm day the Potomac belongs to the windsurfers.

It cost the American taxpayers and consumers as well as American businesses a great deal of money to realize these gains. The direct cost of compliance with federal environmental regulations is now estimated

at more than $100 billion a year—about 1.7 percent of GNP, the highest level among Western industrial nations for which data are available. Yet the United States achieved its remarkable environmental progress during a period when real GNP increased by more than 70 percent.

We can learn two important lessons from the U.S. experience of the past two decades. First, our environmental commitments were compatible with economic advancement; the United States is now growing in a qualitatively better, healthier way because we made those commitments. And second, it was not just good fortune that substantial environmental progress occurred during a period of economic prosperity. Our healthy economy paid for our environmental gains; economic expansion created the capital to finance superior environmental performance.

IN HONOR OF OHEL

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. SOLARZ. Mr. Speaker, I take pleasure in rising today to pay tribute to Ohel Children's Home and Family Services on the opening of its new community residence for emotionally disturbed women.

Ohel, which means tent or shelter in Hebrew, is a nonprofit social service agency, under Torah auspices, that provides exemplary care to those who cannot help themselves. Located in the Boro Park section of my district, Ohel offers a broad range of clinical and residential services to the community's dependent and disabled children and young adults.

The idea for Ohel was conceived in 1966 by a small group of lay and rabbinical leaders who recognized the need for a family service agency that would be acutely sensitive to the needs and suffering of Jewish children and families. Three years later, Ohel was born as it opened the doors of its first home to a handful of orphaned boys.

During the 1970's Ohel's family began to grow. Their foster care division began offering services to children and their families, and adoption services were added soon after. The preventive care/crisis intervention counseling division was initiated to provide out-patient counseling to children with unmanageable behavior problems and their families. A group home for teenage boys and the critical care residence for severely retarded children opened.

In 1978, as a result of the Willowbrook consent decree which mandated the deinstitutionalization of the developmentally disabled, Ohel opened its first Bais Ezra residence for severely retarded women.

And Ohel did not stop there. In the 1980's five new Bais Ezra residences and three more community residences for moderately and severely mentally disabled adults opened.

Vocational training programs were offered to teach employment and social skills trainees would need to qualify for regular jobs in the community. The Foster Care Program was expanded, home health care and social services were made available to the multidisabled who were living at home, and Ohel expanded their services to meet the needs of New York's Nassau and Suffolk County residents.

And in 1990, the New Ohel Clinical and Professional Care Center opened to meet the challenges of the future.

The wide-ranging services offered by Ohel are vital to the community and I am proud of their fervent commitment to help the less fortunate among us.

As the call to provide quality care to meet the needs of developmentally and emotionally disabled persons grows louder, Ohel has been facing the challenge head on by continuing to expand their services and to provide the highest caliber of humane and professional care.

On the occasion of the opening of its newest residence, I would like to wish Ohel ongoing success as it continues the excellent services it presently provides and prepares to meet the critical challenges which lie ahead.

PAKISTAN AND NUCLEAR WEAPONS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. STARK. Mr. Speaker, Friday I said we should cut off aid to Pakistan because of their possession of nuclear weapons. This morning I was pleased to read the Washington Post's lead editorial "Pakistan's Bomb," which made much the same argument.

For 10 years we sent more than $5 billion to Islamabad, all the while knowing they had a program to build nuclear bombs. When Pakistan's actions went too far, we rewrote the law to keep the money flowing. Some stand against nuclear proliferation.

We face a world today with at least nine countries with nuclear weapons. The United States, Soviet Union, United Kingdom, France, China, India, Pakistan, South Africa, and Israel all have in their possession these weapons of mass destruction. Who's next? Brazil, Argentina, North Korea, and Iraq are all only a few years away, and Iran, Syria, and Libya could be following after that.

Mr. Speaker, we must make nonproliferation a national security priority. We did little or nothing to stop Pakistan's program. Now we also have to worry about their assisting other countries' efforts to build nuclear weapons.

Its time to take a stand against nuclear proliferation. As I said yesterday, please, this time, no more excuses.

The following is the Washington Post's lead editorial today:

[From the Washington Post, Oct. 5, 1990]

PAKISTAN'S BOMB

Every year there is a great gnashing of teeth as the executive branch and Congress struggle to keep aid flowing to Pakistan even though, under American nonproliferation law, its nuclear program disqualifies it from receiving aid. This year there should be no problem. Pakistan's bomb program is a fact. Further evasions of its own law by the American government are demeaning. The United States should end the aid, cleanly and with minimal regret.

In conditioning aid on nuclear abstinence, the United States was offering countries like Pakistan an attractive alternative—in aid and in the political and strategic patronage that goes with it. Pakistanis, however, were determined to arm against their mortal rival, India, which itself went nuclear in 1974. They took the aid, and they also took out insurance by working on their own bomb. Eager for Pakistan's cooperation in the Afghan war, the United States let Islamabad have it both ways.

Now Pakistan has the bomb, or something close enough to it to make it feel it has a deterrent in any showdown with India. The strategic equation in the South Asian subcontinent now turns not on the reliability of the United States as a guarantor but on mutual Indian-Pakistani deterrence. It is the only place in the Third World where such a formula obtains.

Given the importance of Afghanistan, was the United States right to downgrade its nonproliferation goals in Pakistan? As the aid ends, let there be no illusions. The United States got service from Pakistan in Afghanistan. Pakistan got from the United States the extended patronage that allowed it to build its bomb without Indian interference. It built its bomb precisely to stand alone in case the American umbrella some day was folded.

In the 1980s nonproliferation plainly could not compete with the American national interest in containing aggressive Soviet power. In the 1990s Americans are in a better position to move nonproliferation up their list of priorities. Responding to proliferators—in the first instance to Pakistan—as law and sound policy dictate is not a sufficient step to show that the United States is serious, but it is a necessary step. From there the country must go on to work with others to restrict nuclear supplies and promote other ways of ensuring security.

DEFENSELESS AGAINST MISSILE TERROR

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. LAGOMARSINO. Mr. Speaker, during the recent debate in the House on the fiscal year 1991 defense authorization bill, I raised the issue of ballistic missile proliferation, particularly among aggressive, Third World contries like Iraq and Iran. I noted that the SDI would be just as effective against these very real ballistic missile threats as it would be against the lessening Soviet threat. The fact is, today we have absolutely no defense against ballistic missiles. We have no effective defense for our forces in Saudi Arabia against Saddam Hussein's very real missile threat. Saddam already has chemical weapons and he is working on developing nuclear ones. We must be prepared before it is too late. I strongly support the SDI because it would correct this illogical and dangerous situation.

In the October edition of Reader's Digest is an excellent article that further focuses on the weapons of mass destruction being acquired by Third World tyrants against which we have no defense. The article shows that such a defense is available if Congress will act, that means support the SDI. I urge my colleagues who have questioned the need for the SDI, along with those that support this worthy program, to carefully review this article and take the actions needed to protect our national security interests:

Defenseless Against Missile Terror

(By Ralph Kinney Bennett)

(There was no warning, just a cracking sound or wisp of white smoke as a warhead separated from its rocket high over the city. Seconds later, a block in the business district or a row of apartment houses would erupt with a roar, and the street would be filled with rubble and bodies. Many fled the city. Others stayed, gambling that the next missiles would strike away from their neighborhood. Meanwhile, the toll of dead and wounded mounted steadily.)

This is no glimpse into a future war. It is a description of daily life in Teheran just two years ago. While Americans were focusing on a Presidential campaign, Iran and Iraq were hurling missiles at each other in the final spasms of an eight-year conflict.

Iraq had longer-range missiles and more of them. Iraqi President Saddam Hussein used them ruthlessly to bring the conflict to an end—and began a new chapter of Middle East instability and global anxiety.

The Soviet Union—bolstering its missiles as it grows more unstable—remains the greatest threat to the West. But Secretary of Defense Richard Cheney warns that soon even "second-class powers will become first-class threats. At least 15 countries will produce their own ballistic missiles by the year 2000."

Nations building or buying ballistic missiles include Syria, Libya, Iran and North Korea, all of which have aided or committed terrorist acts against U.S. citizens and property. They include countries with growing stocks of chemical weapons and ambitions to build nuclear weapons. They include a rogues' gallery of leaders, from Iraq's Hussein—whose greater than Iraq's. Saddam Hussein, ambitious to be the leader of the Arab world, has hired European technical help and spent hundreds of millions of dollars on missile production. Using Scuds as a technology base, Iraq has produced missiles with ranges up to 560 miles. Hussein's forces fired almost 200 of them into Iranian cities.

Last December, Iraq stunned the West by testing part of a three-stage rocket that could eventually evolve into an intercontinental-range ballistic missile (ICBM). Iraq also announced development of a new long-range missile, the Tammuz-1.

It is unlikely Hussein would arm such weapons only with conventional warheads. Iraq turns out hundreds of tons of nerve and mustard gas a year. Hussein's forces used poison gas against Iran and against Iraq's rebellious Kurdish minority.

Hussein appears intent on joining the nuclear club. Israel thwarted him in 1981 when it bombed his Osirak nuclear reactor, but a revitalized nuclear-research program is now under way. Last spring Iraqi agents were caught smuggling capacitors, devices that can be used to detonate nuclear warheads, out of the United States.

CASE FOR DEFENSE

Some countries friendly to the United States, such as South Korea and Israel, have been developing their own missiles. Israel has pursued its program to deter hostile neighbors but is also developing a defense against incoming missiles. "Israel understands that active defense could be the best deterrence," says William Schneider, Jr., chairman of the President's General Advisory Committee on Arms Control and Disarmament and an expert on strategic issues. "In some countries there is a 'terrorist ethic' that is not deterred merely by fear of retaliation."

That "ethic," wedded not to a suitcase bomb but to a missile warhead, throws the deterrence doctrine of the superpowers—"mutual assured destruction," based solely on the threat of retaliation—into serious doubt. The fact that some developing countries do not yet have intercontinental-range missiles is scant consolation. Our allies and many overseas bases are already within reach and under threat.

"Who is willing to bet that a missile will never be used against us?" asks Secretary Cheney. "That threshold has already been crossed," he adds, noting that in 1986 Libya fired two Scuds at a U.S. Coast Guard base on an island off Italy. The missiles fell short, but all the deterrent power of the United States did not prevent their launch. Had they reached their target, there would have been no defense against them.

"The case for missile defense is more compelling today than at any time," says Sen. John Warner (R., Va.), a member of the Senate Armed Services Committee. Gregory Canavan of the Los Alamos National Labortory in New Mexico, who has worked on the technology and strategy behind ballistic missiles for 27 years, adds that today's turmoil inside the U.S.S.R. makes its huge missile arsenal an even more unpredictable threat: "We simply don't know whose finger will be on their launch button next month or next year."

The bottom line for our national security is this: whether it is an accidental or unauthorized launch from the Soviet Union or the terrorist act of another country, we are defenseless against ballistic missiles. But this need not be so.

ORBITING DAVID

Ever since President Reagan announced the Strategic Defense Initiative (SDI) in 1983, an extraordinary array of ideas has focused on the problem of destroying ballistic missiles in flight. Work in more exotic areas—laser and particle-beam weapons—has shown great potential for long-term future defenses. But the possibility of a highly effective defense in this decade only emerged four years ago with the development of an ungainly looking device called the Brilliant Pebble.[1] The brainchild of Lowell Wood, a physicist at the Lawrence Livermore National Laboratory in California, the pebble exploits such advancing technologies penchant for reckless aggression has been amply demonstrated—to Libya's Col. Muammar Qaddafi and North Korea's Kim Il Sung.

RAGE FOR ROCKETS

The progenitor of most Third World missile programs has been the Soviet Union. A Soviet mobile ballistic missile, the Scud-B, has swelled the arsenals of developing nations. (The United States stopped exporting ballistic missiles or components in the mid-1970s.) Afghanistan, Yemen, Libya and North Korea all have them. Some Scuds have had their 175-mile range increased. Syria is now manufacturing poison-gas warheads to fit its Scuds, which could reach Israel in two minutes.

The availability of Scud components makes it easy for small nations to acquire "starter kits," which can be enhanced with equipment purchased in Japan, West Germany, the United States, Hong Kong and other high-tech centers.

An agreement among Western nations to prevent the export of items critical to the manufacture of ballistic missiles has been largely ineffective. CIA director William Webster says too much hardware is already circulating, and interested countries are "sharing technology and pooling resources."

No nation's rage for rockets is as miniaturized electronics, light-weight high-strength materials and ever faster computers. It gained its name by providing itself dramatically superior to "smart rocks," small missiles able to intercept and destroy ICBMs.

The pebble is very unweaponlike in appearance: it looks like something assembled from a torn-apart TV set and other odds and ends. Roughly the size of a golf bag, the Brilliant Pebble is a vaguely cylindrical agglomeration of electronic eyes and ears wired to a small super computer that can make over 60 million calculations per second. Unlike smart rocks, which needed help from costly and vulnerable space hardware, it can find and destroy an ICBM on its own.

The major portion of the pebble's 100-pound weight is the fuel for its extraordinarily precise, fast-reacting rocket motors. No science-fiction writer could have foreseen that this homely machine placed in Earth orbit would be the David to a 203-ton ballistic-missile Goliath. The secret lies in the pebble's own advantages and in the ICBM's heretofore unexploited weaknesses.

Because the pebble adapts readily available technology, it is a bargain. The Soviets must shell out some $200 million to manufacture and maintain one SS-18 ICBM. Although costs have risen as its technical repertoire has expanded, experts believe the pebble can be deployed for about $1.4 million a copy. The low price tag means pebbles can be orbited in numbers great enough to handle any ICBM attack and make enemy counter-measures uneconomical.

ICBMs are not only expensive, but also fragile. The awesome SS-18, for example, is a thin-skinned cylinder—about 31 tons of framework and outer sheathing stuffed with 170 tons of rocket fuel and three tons of sensitive nuclear warheads (usually ten). As it accelerates to 17,000 m.p.h., its speed becomes its weakness. A baseball-size object can destroy it utterly. For the Brilliant Pebble, the SS-18 is a fat, vulnerable target.

As envisioned by Wood, Brilliant Pebbles could roam the orbital streets 250 miles above Earth, looking for trouble in the form of the distinctive heat plume or other signatures of a missile launch. Their exhaustively programmed brains could tell if the rocket is a harmless scientific launch or a hell-bent ICBM. If it's the latter, one or more pebbles would fire their engines and dart at close to eight miles per second to intercept the missile. Then the physics of collision take over. The combined speeds of missile and pebble (as much as 12 miles per second) will reduce both to cosmic mincemeat.

During the past year, the Brilliant Pebble has been subjected to the most intense scrutiny of any projected weapons system in U.S. history by scientists, engineers and independent analysts. Taken aloft on rocket launches and Space Shuttle missions, the pebble's sensors, cameras, communications gear and other instruments have been rigidly tested. Soon pebbles will undergo their greatest challenge, pitted against simulated ICBMs.

The pebble's versatility has convinced experts that, by adjusting its orbit, it could defend not only against intercontinental missiles, but against short-range rockets such as might be fired in a third-nation terrorist attack. Indeed, some pebbles could be mounted on Earth-based interceptors. Until now ground-launched missile killers have depended on huge amounts of data transmitted from a complex of radars to help them find incoming warheads. But once launched, a "pebble-on-a-stick" could search out and destroy warheads virtually on its own.

UP TO CONGRESS

SDI officials estimate that an initial-phase missile defense could be in place by the end of the decade at a cost of around $45 billion—far less than earlier estimates, because Brilliant Pebbles eliminate the need for much costly hardware. But Congress cut $1 billion out of SDI funding last year and is expected to make more cuts this year.

Sen. Malcolm Wallop (R., Wyo.) believes that, absent public pressure, Congress will use thawing relations with the Soviets as an excuse to avoid any decision on deployment, condemning SDI and Brilliant Pebbles to the limbo of "continued research." Wallop believes deployment should move ahead, in large part because of continuing uncertainty regarding the future of the Soviet Union.

The other barrier to Brilliant Pebbles is the U.S.-Soviet anti-ballistic missile (ABM) treaty of 1972, which prohibits space-based defense against ICBMs. This treaty was a boon to the technologically retarded Soviets because it effectively stalled U.S. progress on missile defense and was used to thwart or delay parts of the SDI program. Meanwhile, the Soviets spent billions, with limited success, to secretly perfect their own missile defense. Whether or not the Kremlin ever truly embraced the concept of mutual assured destruction, upon which the ABM treaty was built, it is now clear that, as missiles proliferate around the world, the Soviets, too, are having second thoughts about the constraints of the pact.

At the Washington summit meeting last June, the Soviets agreed for the first time to explore the "relationship between strategic offensive and defensive arms" and consider the "development of new technologies." such technologies, cost-effective and reliable, are now within our grasp. As Defense Secretary Cheney says, "We can move ahead with strategic defense or continue relying solely on offense. A balanced mixture would make a better world. The choice should be clear. The question is whether Congress will make it."

CONGRATULATIONS TO GWEN LOCKHART: WE HATE TO SEE HER GO

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. YOUNG of Alaska. Mr. Speaker, today the Committee on Merchant Marine and Fisheries is paying tribute to Ms. Gwen Lockhart, who recently retired as chief minority clerk for the committee after 25 years in the Congress.

When I was elected to the House in 1973, Gwen had already spent 7 years working for our former colleague William Mailliard and as assistant minority clerk for our committee. Let me tell you that—as a freshman Member—I could not have survived without her help. I am sure the same is true for Members on both sides of the aisle. Gwen served under six different ranking minority members of our committee, which says a lot for her popularity, her ability to work hard, and her ability to get the job done under a variety of circumstances. She provided stability and continuity to our committee, and could be counted on to know the right answer to any conceivable question we might ask.

Unfortunately, all good things must come to an end. After many years of helping and guiding our Members, Gwen has decided to devote her time to her family and her personal interests. While none of us blame her for making this decision—and, in fact, many of us envy her—we all know that things would not be the same. We still have an excellent staff on our committee, and we have found another wonderful person to serve as chief minority clerk, but we do not have Gwen Lockhart.

Gwen, we are going to miss you more than you know. You have our committee's everlasting thanks, best wishes, and hope for good luck, good times and happiness, wherever the road of life takes you.

TRIBUTE TO WILLIE ZENGA

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. PALLONE. Mr. Speaker, it is my distinct honor and privilege to pay tribute before this House to a great American and a distinguished leader in the labor movement: Mr. William F. Zenga, business manager and national vice president of the International Union of Operating Engineers, local 25, marine division. On October 27, 1990, Mr. Zenga will celebrate his 50th anniversary as a member of the union.

Mr. Zenga—Willie, as he is affectionately known—is the chief executive officer of the organization representing more than 2,100 dredgemen, drillers and boat operators throughout a 35-State jurisdictional area from Maine to Florida, from the Great Lakes to the Gulf of Mexico. He is also the chairman of the board of trustees for the local 25 welfare, pension and vacation plans.

Mr. Zenga has been a member of that proud brotherhood of dredgemen since his graduation from Dickerson High School in Jersey City, NJ, in 1939, and an operating engineer since 1940. In this capacity, Willie followed in the footsteps of his late father, Vincent Zenga, a former dredgeman and one of the first members of local 25 to receive a pension. Except for his military service as a Navy SeaBee during World War II, where he attained the rank of chief petty officer, Willie Zenga has always been an active member of the Operating Engineers. Before his unanimous election in 1986 as business manager, Mr. Zenga served as business agent and executive board member since its inception in 1959. In 1971, he was elected as financial secretary and became local 25's business agent in the Port of Philadelphia. He has also served as the vice president of the Maritime Port Council of the Delaware Valley and Vicinity which honored him as their 1983 "Man of the Year." In 1987 he was elected vice president of the National Maritime Trades Department of the AFL-CIO, and in 1990, he was elected as a trustee of the Maritime Post Council of Greater New York.

Mr. Zenga is actively involved in numerous committees and associations promoting the maritime and dredging industries. He serves as a board member of the State of New Jersey Maritime Advisory Council and the New York State Coastal Zone Management Advisory Committee. He is also a member of the New Jersey Alliance for Action. In addition to his many and varied professional obligations, Mr. Zenga has served as a member of the local planning board in his home community of Woodbridge, NJ, and was a director of the Perth Amboy, NJ, YMCA for over 25 years.

Willie and his wife, Caroline, have three sons: Jim, an attorney, Bill, Jr., an oral surgeon, and Jack, a CPA and a partner with a nationally prominent accounting firm. Caroline and Willie are also the proud grandparents of three grandsons and a granddaughter.

Mr. Speaker, Willie Zenga's record of accomplishment and service speaks for itself. It is men like Willie Zenga who have dedicated their lives to safeguarding the rights of the American workers on whose labors the economic progress of our Nation depends.

IMMIGRATION, A VIEW FROM THE PAST

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to address an issue of paramount importance to this great Nation. Many of my colleagues, as well as myself, have been inundated with mail from constituents on the subject of immigration. One thing is certain, it is not easy to address the issue if one does not know the history behind it. Please allow me to share with my colleagues some of this history.

Up until the end of the 19th century, immigration did not carry many of the negative perceptions that it does today. Instead, it was considered mutually beneficial to both the immigrants and the United States. The immigrants, some of whom are in this chamber, came to the United States for religious and political reasons, as well as for a new start in life. The United States benefited from the immigrants by fulfilling their needs for new citizens who would participate in national, economic, and political growth, as well as a humanitarian desire to provide a refuge for the oppressed of other lands.

As the Nation developed, and its reputation as the "Promised Land" increased, so did immigration. In the first decade of the 20th century, immigration reached 8,795,386, the highest number to date. The second highest number was 5,735,811 in 1911–20. More than 1 million people entered the country in the years 1905, 1906, 1907, 1910, 1913, and 1914. It was at this time that the basic immigrant population began to change from Northern and Western Europeans to Southern and

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[1] See "Brilliant Pebbles: Amazing New Missile Killer," Reader's Digest, September 1989.

Eastern Europeans. This increase in immigration, coupled with the Nation's growing economic strains, began to generate domestic political opposition to unrestricted immigration. Following World War I, the opposition led to restrictive legislation based on the ethnic origins of the immigrants, and also on the size of immigrant flow. By the 1930's, this legislation, along with the economic disadvantage of the Great Depression, had resulted in a large reduction in the number of immigrants.

During the post World War I period, the pattern of immigration consisted of refugees and both temporary and undocumented workers. Primarily, refugees were coming to escape the ravages of World War I. In addition, agricultural workers, both legally and illegally, were also coming from countries such as Mexico. These workers draw parallels to today's rampant and also unpopular undocumented aliens. As a result, a national origin quota system, restricting the number of immigrants that the United States could accept from a particular country, was developed. However, immigrants continued to come. This system was extended with few revisions in 1952, and was in effect until 1965.

To more fully understand the issue of immigration, we must first define its categories. Primarily, there are three different groups of people who come to different countries. The first are refugees who flee, usually in large groups, from political or religious persecution. Many immigrants on the otherhand, come voluntarily, generally as individuals and in an orderly fashion. Illegal or undocumented aliens generally come for economic reasons. They come outside of the law.

Since the 1940's, when humanitarian concerns were of the utmost importance, the focus and the goals of immigration have changed. Today's immigrants mainly come for economic gain.

In the 1960's the national origins quota system was repealed. During the 1960's and 1970's, the flow of refugees from other nations required special legislation to be put into effect. The equal treatment of all nations and family reunification emerged as the primary goals of our policy for admitting immigrants. The flow of illegal or undocumented aliens resulted in political pressure for a better way to restrict illegal immigration. During the 1980's, we were very busy trying to come up with a workable approach with both our past tradition of asylum, as well as the economic and political realities of the present. Legislation with flexibility for refugees within the framework of the basic immigration law was enacted in 1980.

In 1986, legislation aimed at controlling illegal immigration was enacted. We focused our attention on legal immigration, mainly on numerical limits on permanent immigration. This concept first originated in 1965, with some amendments following. Most recently, concern has arisen over the growing number of immigrants admitted on the basis of family reunification. This type of immigration has greatly outpaced the number of independent nonfamily immigrants, and the limited number of visas available under the preference system to certain countries. There is also concern about the backlogs under the existing preference system and, by some, the admission of immediate relatives of U.S. citizens outside the numerical limits. These concerns are real and must be addressed.

My reason for highlighting this issue on the floor is with just cause. Hopefully, my brief recap of America's immigration history will remind us where we've been, and show us where we still have to go. Whether you feel that we should open the borders to everyone, or close them completely, you must agree that we need some type of immigration reform. I urge my colleagues to consider this matter in an effort to facilitate a solution to this problem. It is time that the topic of immigration reform be removed from the back burner, and dealt with in an intelligent and thoughtful manner. Together we can craft a solution. Those who wish to come to America must be reassured that this is still the "land of the free" and "the home of the brave" and the beacon to those who would work toward the future.

UPON INTRODUCTION OF THE INDIANA NATIONAL FOREST BILL

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. YOUNG of Alaska. Mr. Speaker, I am introducing legislation today to create a new national forest in the northwestern corner of Indiana. I believe this is the first necessary step toward reclaiming some of America's great wild lands, which some say, were decimated by the settlement of non-natives in the lower 48 States.

Few today know that northwestern Indiana used to be a land of ancient forests and rolling prairies, with a diversity of wildlife habitat. Due to settlement, these lands were cleared for human habitation, and agriculture followed the slashing and burning of ancient forests.

It is time to reverse this trend.

The time has come to turn these lands over to the kinder, more gentle heirs of the strong men and women who opened this great Nation. The urban recreationists who predominate our Nation's city streets deserve the use of these lands. Away from the therapeutic values of working with one's hands for a living, these folks yearn for a get-away for the weekends. This is clearly demonstrated by their support for land set-asides in the western and northwestern part of the United States. It is time to give them some of their own closer to home.

Further, the people who reside in this area have been hamstrung by a declining industrial and agriculture base, which is clearly out of step with the progressive times of today, if we are to follow the logic which representatives of this region apply to other, less developed parts of the country. Instead of selling a finished product, with all of its added value to this economy on the market abroad, they have chosen to harvest raw materials for export. Think of the jobs to be created if we limited the export of grain to finished products, rather than in the raw. Why should we destroy our environment with industrial agriculture, only to ship raw materials to Japanese bakers to add value? Everyone knows that the farmer gets very little of the value from his crop—the bankers, the shipper, the distributor, the processor, and the retailer get the lion's share. By reducing the amount of acreage available in this region, it would encourage the development of a stable, environmentally-sustainable food processing industry with many jobs producing added value for resale in our global markets. We could sell Wonder Bread instead of just raw grain. These are just some of the experiments which might prove helpful to the beleaguered economy of northwest Indiana.

This is balanced legislation. It would allow the local people to get intimately involved in the establishment of their national forest by holding a vote to name the new unit of the National Forest System. I believe this is a first for local participation in the National Forest System, and hope this type of deference to local interests catches on. I hope other Members, especially from areas of the country with their own national forests, will join me in cosponsoring this overdue legislation.

ALAMEDA, CA, CELEBRATES PUBLIC POWER WEEK

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. STARK. Mr. Speaker, October 7–13, 1990, has been proclaimed "Public Power Week" and the City of Alameda, CA, in California's Ninth Congressional District has once again, chosen to honor their publicly owned power company, the Alameda Bureau of Electricity. I would also like to take this opportunity to congratulate the Alameda Bureau of Electricity for a job well done.

The Alameda Bureau of Electricity, owned by the city of Alameda, is the oldest municipal utility in California, and, one of the oldest in the United States. They have been providing efficient, reliable, and cost-effective services to the citizens of Alameda for 103 years.

I am proud of the citizens of Alameda who have chosen to operate a community owned, not-for-profit electric utility. All citizens benefit through this relationship—customer-owners are provided with reliable, efficient electricity at low rates and have a direct say in utility operations and policies. The well-being of the community is enhanced through energy efficiency, customer service, environmental protection, and economic development. Since 1914, the Bureau of Electricity has returned over $43 million to the city's general fund and annual dividends currently exceed $2 million due to the utility's sound management and business practices.

Mr. Speaker, I would like to congratulate the Alameda Bureau of Electricity for providing 103 years of reliable, efficient, and cost-effective electricity to its customers. I would also like to commend the Bureau, it's employees, and, the consumers-owners who continue to work together to provide the best possible service to the city of Alameda.

TRIBUTE TO VISTA VOLUNTEER PAM SMITH LESLIE

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. SCHUETTE. Mr. Speaker, it is my privilege today to pay tribute, to Ms. Pam Smith Leslie, an outstanding citizen of Michigan, on the occasion of her receiving well-deserved recognition for her voluntarism at the Ogemaw County Probate Court after 6 months of service. Pam is a member of VISTA [Volunteers in Service to America] volunteers in West Branch, MI. A luncheon will be held in her honor on October 9, 1990.

As a VISTA volunteer Pam worked with the Ogemaw County Probate Court assisting teens who needed encouragement and support to avoid problems with the law. She also provided counseling and advice to teens completing probation. Pam ran support groups for teens throughout the community. The teens are not under court order to attend and the numbers of teens participating in this program continues to grow.

While working with a young man through one of these support groups, the young man's entire family became endeared to Pam. Not only was she a source of encouragement to the young man, but she also befriended his younger siblings and his parents. As a result, she was frequently invited to share Sunday dinners with this family.

Mr. Speaker, and my colleagues in the House, Ms. Pam Smith Leslie worked tirelessly to provide support and encouragement to the young people of her community. Join me today in commending her willingness to give of herself, to offer her friendship, her encouragement, and her time to those who could benefit from it most. Her spirit of voluntarism, of dedication to the young people in her community, should be held up as an example for all to follow.

ENCOURAGE ORGAN DONATION TO SAVE LIVES

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. DURBIN. Mr. Speaker, today I am introducing legislation along with a number of my colleagues that will encourage organ donation through a highly cost-effective one-time campaign of public education.

Organ transplantation is an American medical success story. What was once a futuristic, daring approach to life-threatening diseases is now an accepted part of the practice of medicine. Thousands of people gain a new lease on life every year because of a successful organ transplant.

The most common tragedy in organ transplantation is not the patient who receives a transplant and dies, but the patient who has to wait too long and dies before a suitable organ can be found. It is a tragic fact that the demand for organs greatly exceeds the supply. One-third of the Americans on waiting lists for a new heart or a new liver die before an organ donor can be found. More than 16,000 people must have kidney dialysis while they wait for a kidney to become available.

The American public needs a greater understanding of organ donation so that those who are waiting can receive a transplant before they die waiting. Many opportunities to utilize organs are lost due to lack of knowledge or the hesitance of the public to authorize organ donation either for themselves or for family members who die.

The legislation I am introducing would direct the Treasury Department to enclose with each income tax refund check mailed in 1992 an insert card that encourage organ donation. The insert would include a detachable organ donor card and a message encouraging people to talk to their families about their willingness to be an organ donor if the occasion should arise.

Inserting this appeal with IRS refund checks poses no logistical problem for the Treasury Department, because such inserts are not a new idea. For example, this year's refund checks were accompanied by an appeal to buy a special commemorative coin. There is no reason why the mailing of 1992 refund checks shouldn't include a life-giving message about organ donator.

If an insert card is provided with every income tax refund check, approximately 80 million households will be reached. According to the Financial Management Service of the Treasury Department, designing, printing, and including the cards with income tax refund checks would not cost approximately $500,000.

The population that would receive these cards is a very appropriate target population for an appeal regarding organ donation. For many types of organs, the best organ donors are adults who are relatively young. The people who receive income tax refunds checks tend to be adults rather than children, and younger than retirement age rather than senior citizens. They tend either to be in the prime ages for organ donation themselves or to be parents of pepole who are in the prime ages for organ donation. Therefore, this appeal will reach a very appropriate group in a highly cost-effective manner.

This legislation is a small effort that could have a big payoff in increased organ donation. I urge my colleagues to cosponsor this measure and encourage all Americans to give the gift of life.

SALUTING THE 125TH ANNIVERSARY OF ST. VINCENT CHARITY HOSPITAL

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. STOKES. Mr. Speaker, I am proud to rise today to pay tribute to St. Vincent Charity Hospital and Health Center. Today marks the 125th anniversary of this great institution which is located in my Congressional District of Cleveland, OH.

St. Vincent Charity Hospital has served Cleveland's needs since it first treated the sick and wounded returning from the Civil War—a history of service longer than any other hospital in Cleveland. During its 125 year history, although medicine has undergone many changes, the hospital's mission has remained constant—providing care to all who seek it, regardless of race, religion or the ability to pay. On the occasion of its 125th anniversary, I am pleased to share with my colleagues some historical highlights of St. Vincent Charity Hospital.

St. Vincent Charity Hospital and Health Center opened its doors in 1865. It was the city's first private hospital, with an 80-bed capacity. The first patients were the sick and wounded brought back from the Civil War army hospitals. The operations and staffing of the hospital were entrusted to the Sisters of Charity of St. Augustine. In the early days, St. Vincent was heated by coal stoves and illuminated by candles, with no modern plumbing. Surgical operations were often performed in the same room where the patients slept.

The conversion to modern medicine evolved at Charity as it did at other hospitals. As new medicines and techniques were invented, they were tested and put into service. It is important to note that St. Vincent's was the site of many health care firsts in Cleveland. In 1872 the hospital constructed Cleveland's first amphitheater for medical teaching. In 1894 the outdoor or outpatient department opened to serve those who did not need hospital beds, but who needed advice and treatment. This was the predecessor for today's ambulatory care unit.

The first school of nursing in Cleveland was founded in St. Vincent in 1898. Specialized work in heart disease began at St. Vincent in 1950 with the opening of the Cardiovascular laboratory, the first such facility established in the Midwest. In January 1956 a revolutionary type of open heart surgery was successfully performed at Charity, using the Cleveland-developed heart-lung machine. This operation was the first of its kind performed in Cleveland, and only the third in the world. Recently, the hospital began using the latest laser technology in peripheral vascular surgery; and in 1989, the radiology department began using a new form of cancer treatment called high dose rate [HDR] remote afterloading brachytherapy. St. Vincent is the first northeast Ohio hospital to offer this treatment to patients.

Mr. Speaker, today St. Vincent Charity Hospital is especially renowned for its centers of excellence: The heart center, which allow doctors at St. Vincent to perform the second most open heart surgeries in the area; the level I trauma center, permitting the hospital to provide the most sophisticated emergency services for the critically injured, 24 hours per day, 7 days per week; Rosary Hall, the first alcohol and drug treatment center in Cleveland; Woodruff Pavilion, designed to meet the psychiatric needs of adults and adolescents; and Excelle, the hospital's health promotion program, which offers a wide variety of wellness opportunities, including weight management, cardiac renewal, culinary arts, pulmonary rehabilitation, smoking cessation, sports excellence and stress management. Under the direction of its president and chief executive officer, M. Luke Miller, the hospital provides the best of medical care and has become a beacon of light for those in need of its services.

Mr. Speaker, I am honored to salute Mr. Miller and his staff at St. Vincent Charity Hospital and Heatlh Center on this 125th anniversary. It is an outstanding Institution in which our community and the nation can take great pride. I ask that my colleagues join me in paying tribute to St. Vincent Charity Hospital and heatlh center on this special occasion.

TRIBUTE TO NEIL A. CORKERY

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. MACHTLEY. Mr. Speaker, it is with great pleasure that I rise today to honor a member of my community for his outstanding and ceaseless efforts on behalf of his fellow citizens in treatment of alcohol and substance abuse.

Mr. Neil A. Corkery, of Warwick, RI, is being recognized this year by the Talbot Treatment Centers as the ninth annual recipient of their Service Award. Neil is receiving this award for his longtime personal and professional dedication to the drug and alcohol treatment.

Elected to the Rhode Island State Legislature in 1984, Neil has constantly provided strong leadership and support toward solving the problems caused by alcohol and substance abuse as well as helping those affected by these problems. Throughout his legislative career, Neil has been a strong voice against alcohol and substance abuse. He has supported legislation that would mandate third party reimbursement for treatment of drug dependency, fund children's mental health services, and create an adolescent substance abuse treatment facility. He was elected as chairman of the Special Legislative Commission to Study the Establishment of a State Department of Alcohol and Substance Abuse. In addition, Neil is the chairman of Rhode Island's Long Term Care Coordinating Council. Clearly, Neil is genuinely concerned and dedicated to solving the problems of alcohol and substance abuse.

I would like to thank Neil Corkery for his outstanding efforts in the field of alcohol and substance abuse prevention. His unselfish commitment to this problem and his fellow citizens is admirable and serves as a model for others throughout Rhode Island. I wish Neil, his wife Maureen, and their family, all the best for continued success in the future.

NATIONAL CHILDREN'S DAY

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. SMITH of Florida. Mr. Speaker, I would like to remind my colleagues that October 14 is National Children's Day. It is a day that this body has set aside to recognize the contributions, as well as the concerns, of our young people who will lead us into the 21st century. With the problems of crime and disease reaching epidemic proportions in America, the fears and aspirations of our children should be the concerns and hopes of us all.

The National Parent Teacher Association, in association with the National Education Association, the American Federation of Teachers, and numerous nonprofit children's organizations, have organized a massive local and national effort to insure the success and emphasize the importance of National Children's Day. Children from Hollywood, FL, to Hollywood, CA, will be participating in events such as "Governor for a Day," and will be testifying before this body on issues that concern them. As the voices of children ring out, it is our duty as parents, teachers, and guardians, and collectively as a nation, to stop for a moment and listen.

I urge my colleagues to pay tribute to the schools in your congressional districts, to the organizations that support "National Children's Day," and especially to the children who have worked so hard to make this day one that will be remembered for years to come. I salute the schools in my 16th District of Florida:

Academy Senior High School in Davie, Florida.

American Heritage School in Plantation, Florida.

American High School in Miami, Florida.

Apollo Middle School in Hollywood, Florida.

Attucks Middle School in Hollywood, Florida.

Banyan Elementary School in Miami, Florida.

Mary M. Bethune Elementary School in Hollywood, Florida.

Blair Middle School in Sunrise, Florida.

Boulevard Heights Elementary School in Hollywood, Florida.

Colbert Elementary School in Hollywood, Florida.

Collins Elementary School in Dania, Florida.

Cooper City Elementary School in Cooper City, Florida.

Cooper City High School in Cooper City, Florida.

Coral Terrace Elementary School in Miami, Florida.

Dania Elementary School in Dania, Florida.

Ruben Dario Middle School in Miami, Florida.

Davie Elementary School in Davie, Florida.

Marjorie S. Douglas Elementary School in Miami, Florida.

Driftwood Elementary School in Hollywood, Florida.

Driftwood Middle School in Hollywood, Florida.

Eisenhower Elementary School in Davie, Florida.

Emerson Elementary School in Miami, Florida.

Everglades Elementary School in Miami, Florida.

Fairway Elementary School in Miramar, Florida.

Flagami Elementary School in Miami, Florida.

Flamingo Elementary School in Davie, Florida.

Joella Good Elementary School in Hialeah, Florida.

Greenglade Elementary School in Miami, Florida.

Griffin Elementary School in Cooper City, Florida.

Charles R. Hadley Elementary School in Miami, Florida.

Joe Hall Elementary School in Miami, Florida.

Hallandale Elementary School in Hallandale, Florida.

Hallandale High School in Hallandale, Florida.

Hollywood Central Elementary School in Hollywood, Florida.

Hollywood Hills Elementary School in Hollywood, Florida.

Hollywood Hills High School in Hollywood, Florida.

Hollywood Park Elementary School in Hollywood, Florida.

Horizon Elementary School in Sunrise, Florida.

Lake Forest Elementary School in Hollywood, Florida.

Lake Stevens Elementary School in Miami, Florida.

Lake Stevens Junior High School in Miami, Florida.

McArthur High School in Hollywood, Florida.

McNicol Middle School in Hollywood, Florida.

Coral Park Elementary School in Miami, Florida.

Miami Coral Park High School in Miami, Florida.

Miramar Elementary School in Miramar, Florida.

Miramar High School in Miramar, Florida.

North Glade Elementary School in Miami, Florida.

Nova Blanche Forman Elementary School in Ft. Lauderdale, Florida.

Nova High School in Davie, Florida.

Nova Middle School in Davie, Florida.

Oakridge Elementary School in Hollywood, Florida.

Olsen Middle School in Dania, Florida.

Olympia Heights Elementary School in Miami, Florida.

Orange-Brook Elementary School in Hollywood, Florida.

Palm Springs North Elementary in Miami, Florida.

Pasadena Lakes Elementary School in Pembroke Pines, Florida.

Pembroke Lakes Elementary School in Pembroke Pines, Florida.

Pembroke Pines Elementary School in Pembroke Pines, Florida.

Anabel C. Perry Elementary School in Miramar, Florida.

Henry D. Perry Middle School in Miramar, Florida.

Peters Elementary School in Plantation, Florida.

Pines Lakes Elementary School in Pembroke Pines, Florida.

Pines Middle School in Pembroke Pines, Florida.

Pioneer Middle School in Cooper City, Florida.

Plantation High School in Plantation, Florida.

Rockway Elementary School in Miami, Florida.

Rockway Junior High School in Miami, Florida.

Sea Castle Elementary School in Miramar, Florida.

Seminole Middle School in Plantation, Florida.

Sheridan Hills Elementary School in Hollywood, Florida.

Sheridan Park Elementary School in Hollywood, Florida.

Silver Ridge Elementary School in Davie, Florida.

South Broward High School in Hollywood, Florida.

South Plantation High School in Plantation, Florida.

Southwest Miami High School in Miami, Florida.

Stirling Elementary School in Hollywood, Florida.

Stirrup Elementary School in Miami, Florida.

Sunshine Elementary School in Miramar, Florida.

W.R. Thomas Junior High School in Miami, Florida.

Tropical Elementary School in Plantation, Florida.

University School of Nova University in Ft. Lauderdale, Florida.

Village Green Elementary School in Miami, Florida.

Watkins Elementary School in Hollywood, Florida.

West Hollywood Elementary School in Hollywood, Florida.

West Miami Junior High School in Miami, Florida.

Western High School in Ft. Lauderdale, Florida.

Walter C. Young Resource Center in Pembroke Pines, Florida.

THE ROAD TO RESTORING AMERICAN PRODUCTIVITY

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. PALLONE. Mr. Speaker, as a member of the Public Works and Transportation Committee, the deteriorating state of our Nation's infrastructure is of particular concern to me. I am troubled to think that we may have forgotten that a viable and efficient transportation network is vital to our economic well-being. The direct relationship between public investment in transportation and economic growth is dramatically illustrated by the fact that Japan invests more than three times as much of its GNP into public works as we do—and has a productivity growth rate four times that of the United States. Since unfavorable comparisons with the Japanese have become so commonplace and cliche-ridden, perhaps it would be more instructive to look at our own recent history. During the years when American productivity was he envy of the world, our infrastructure investment constituted a far greater percentage of our GNP than it does today. A decreasing Federal commitment to infrastructure investment and declining productivity are not unrelated developments.

I believe our colleagues will find the following article extremely timely. The piece was written by Fred Armstrong, director of government services for Portland Cement Association, Skokie, IL, and was originally published in the September issue of "Public Works" magazine. Mr. Armstrong's article sounds a cautionary vote we cannot afford not to heed.

[From Public Works for September, 1990]

THE ROAD TO RESTORING AMERICAN PRODUCTIVITY

The debate over America's declining competitiveness has revolved around technology, labor, and trade issues. Yet competitiveness means more than robotics, Japanese management methods, and tariffs. Basic to any economy is the capability of moving goods efficiently, and in the United States this capability is endangered by a decaying and outmoded highway system.

Our highways are crumbling faster then we can fix them—a fact well established by any number of recent studies and by anyone who drives. What may be less apparent is that our economic well-being is rooted in the condition of our roads. Productivity—a measure of how efficiently we turn raw materials into products and services—is directly related to our investment in infrastructure.

And we have not been investing wisely. Today, public works spending is only 1.7 percent of our Gross National Product. In the late 1960s it was 3 percent of GNP. David Aschauer, an economist with the Federal Reserve Bank of Chicago, traces our lagging productivity to a decline in infrastructure spending. U.S. productivity growth has fallen with infrastructure investment—from 1.8 percent in the 1960s to 0.7 percent today. "I have studied economic trends dating back 40 years," says Aschauer, "and find a robust link between the level of infrastructure investment and the nation's ability to increase its level of productivity."

Compare our record with Japan, the world's high-water mark of efficiency. The Japanese invest about 5 percent in public works and boast productivity growth of 3.1 percent per year—more than four times that of the United States.

With three-fourths of all our freight shipped by truck, it is easy to see how the effects of bad roads rumble through our economy. Late shipments and higher transportation costs are passed along to the consumer. According to the Federal highway Administration, trucking costs rise by six cents per mile when road conditions drop from good to fair. It is money out of our pocket. The Road Information Program, a Washington-based study group, estimates that bad roads add $20 billion per year to the cost of driving, more than $121 for each licensed driver. By 1995, according to the U.S. Department of Transportation, unchecked highway decay will reduce our disposable income by 5.9 percent and lower manufacturing productivity by 2.7 percent.

Clearly, we have not kept pace. Federal investment in highways has declined since the 1960s while traffic volume has increased fivefold. Bringing our highway system up to speed will come at a staggering price. The American Association of State Highway and Transportation Officials (AASHTO) sets the cost at $80 billion per year. Keeping up with the expected doubling of surface travel by the year 2020 will require an annual investment of $100 billion per year.

There is no lack of opinion on how to fund these needs. Highway interests in Washington offers a variety of plans. Recognizing that $80 billion a year for highways is unrealistic, AASHTO recommends increasing spending levels to $17.6 billion through 1992 and to $26 billion by 1995. The Highway Users Federation is calling for a $21 billion annual program through 1995 using existing gas tax revenues. The American Road and Transportation Builders Association seeks a $40-billion annual investment funded by a 12- to 15-cent hike in the federal gas tax.

Congress is now considering reauthorization of the federal-aid highway program which, through the Highway Trust Fund, is the prime mover for highway construction. The highway program will expire in 1991, and Congress must drop it, continue it, or increase it.

There is more at stake than potholes or pork-barrel for the home state. Congress faces a transportation system in trouble. And in dealing with this problem, it will be forced to rethink our commitment to infrastructure and its effect on economic growth, the deficit, taxes, and federal versus state involvement.

While most lawmakers accept the need for a renewed federal commitment for highways, there is no consensus on how to raise the money. States have already taken on much of the financial burden. A massive federal program to rebuild conflicts with deficit-reduction goals.

The real question is, can we tackle our deficit problems in ways which will not damage our potential for economic growth? The problem of deteriorating highways and their economic backlash will only worsen. If we fail to address it now, the solutions will only become more costly.

HONORING THE MEMORY OF MSGR. JOHN C. McCARTHY

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. ENGEL. Mr. Speaker, when Msgr. John C. McCarthy, the pastor emeritus of Saint Brendan's parish in the Bronx, died in July 1989, the community lost a true friend and a gifted civic leader. In his honor, the street in front of his beloved St. Brendan's Church is being named in his memory. It is a memory full of inspiration.

In his 10 years as pastor of St. Brendan's and after his retirement Msgr. McCarthy worked hard for the rights of all members of the community. He was a founding member of the Northwest Bronx Community and Clergy Coalition, which has led the fight for affordable housing and the rehabilitation of buildings in the neighborhood. He was a friend to many children and a comfort to our senior citizens.

Monsignor McCarthy was also dedicated to providing quality education to the students of St. Brendan's School. In addition to the highest educational standards, he stressed strong moral teachings and a commitment to family and community. That is why it is most fitting that all the students who pass through the door of St. Brendan's School for generations to come will see the name of Msgr. John C. McCarthy on the street sign above them. His legacy lives on each day in the parish, and his memory will always be cherished by his friends, relatives and former students.

A PERSPECTIVE FOR THE 1990'S

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. NEAL of North Carolina. Mr. Speaker, one of this Nation's most outstanding executives is John G. Medlin, Jr., the chief executive office of First Wachovia Corp. Under Mr. Medlin's leadership, First Wachovia, headquartered in Winston-Salem, has become one of the Southeast's leading financial services organization.

John Medlin is also one of the most thoughtful and perceptive people in our business community. He recently made a speech to the Charlotte Chamber of Commerce concerning the economic outlook for the 1990's. I think that our colleagues would find Mr. Medlin's remarks sensible and timely, and I ask unanimous consent that they are included in the RECORD.

As John points out in his speech, "Much of the prosperity of the past two decades was borrowed from the future, and the time for repayment has begun."

Many of us in the Congress have pointed out often that the economic policies this country followed in the 1980's were shortsighted and dangerous. They tripled the national debt, created big trade deficits, caused an explosion of public and private debt, and made the U.S. economy increasingly dependent on foreign investment.

The American system is still the world's best, but it has one major flaw: All the incentives are for the short term. We simply must find a way to implement long-term policies. I'm optimistic about the future. I believe we can overcome our problems and keep America No. 1—but only if we have the discipline to pursue long-term policies. We need to eliminate our budget deficits. And we must have the Federal Reserve pursue a zero inflation policy, as provided in my legislation, House Joint Resolution 409.

John Medlin's speech accurately describes the problem this nation faces in the 1990's and the options available to us. I urge my colleagues to read it. The speech follows:

REMARKS BY JOHN G. MEDLIN, JR.

It is a pleasure to address the Economic Outlook Conference of the Charlotte Chamber of Commerce. I always feel a sense of optimism and enthusiasm when visiting in this progressive and vibrant city. The Chamber plays a vital role in nurturing and promoting economic development in the area.

The First Wachovia organization is proud to have a major presence in this great community for over half a century since acquiring the Charlotte National Bank in 1939. It now serves as headquarters for Wachovia Bank's Southern Region and is the location of our largest remittance processing center. You can count on us to continue being good bankers and good citizens who help finance and advance economic and social progress.

My assignment this morning is to provide a perspective for the nineties. That is much easier than the task given Don Ratajczak to forecast the economy for 1991. I will give a general overview of basic forces and trends which appear likely to be most influential during this decade and gladly leave to him the more detailed business outlook for next year.

First, it is important to note that there is under way throughout the nation and world a period of fundamental adjustment of historic dimensions which will not pass quickly or quietly. It has similarities to watershed times in the past when unusual disruption and change occurred. A longer perspective may be useful in assessing the possibilities for the nineties.

A review of history reveals a pattern of major economic, political, and social upheaval every forty to sixty years. These periods of adjustment generally followed peaks of inflation reached in the latter phase of long expansion cycles. The more painful conditions tended to occur around the trough of inflation, which typically came a decade or two after price increases peaked.

For example, inflation peaks in the United States around 1815, 1865, 1920, and 1980 signaled the beginning of adjustment periods. While the disinflation trend which followed caused more immediate problems in vulnerable areas like natural resources, commodities, agriculture, and finance, other sectors continued to expand for some time. Such developments in the roaring twenties earlier this century tended to breed a false sense of complacency. The similarities between the 1920's and 1980's are disquieting.

More general problems did not come until later as troughs of inflation were reached during the 1940's, the 1890's, and the 1930's. The decade of the thirties brought a period of pervasive and severe economic pain and financial rupture known as the Great Depression. It created social disorder, political instability, and a fertile ground for the rise of Hitler and the emergence of war. Are the nineties destined to be like the thirties?

There are many theories about the causes of financial panics and depressions following long expansion cycles and inflation peaks. Some even blame sunspots, volcanoes, or the weather. All such episodes have many differences as well as similarities, so it is difficult to draw confident conclusions. My guess is that they result more than anything else from a clash between irrepressible economic principles and excessive human behavior.

The experience of the 1930's inspired an array of safety nets to cushion and prevent the painful effects of such brutal economic episodes. They included deposit insurance, social security, and deficit spending to stimulate a weak economy. They were the beginning of growing initiatives to replace human incentives and disciplines with government programs and management.

In many respects, the efforts to reconcile the conflict between economic principles and human nature appear to have worked well. Over the past fifty years our nation has enjoyed the most extraordinary advance in standard of living in the history of mankind. It has been capped since 1982 by the longest short-term expansion in peacetime. This might lead some to conclude that the secret has been found to prevent recessions and depressions.

While making great progress, America also has accumulated serious problems. The federal budget is out of control. The thrift system is broke. Financial markets are volatile. Leadership is lacking. Education is deficient. The infrastructure is deteriorating. Drug abuse is epidemic. We are hooked on foreign oil. The trade deficit is large. The ranks of the poor are growing. And, a murder is committed every twenty-four minutes on average. The quality of life has not kept pace with the quantity of growth.

The first twenty years after World War II brought good economic growth driven mainly by natural forces with little fiscal or monetary stimulation and nominal price inflation. However, the last balanced federal budget was in 1969. Since then, U.S. Treasury debt has mushroomed from $380 billion to $3.2 trillion with $2.2 trillion of the rise in the past ten years. Monetary policy generally was expansive from the late sixties to the late seventies. Price controls on domestic oil stimulated consumption and discouraged exploration and eventually raised foreign dependences and escalated costs.

Consequently, price inflation spiraled during the seventies and reached a peak of 14 percent in 1980. At that rate, prices double, or the purchasing power of a dollar is cut in half, every five years. Short-term interest rates exceeded 20 percent early in the eighties after the Federal Reserve stopped printing excessive new money. Disinflation followed, along with a painful recession and problems for basic industries and the financial system.

For most of the eighties, Americans spend much more than they earned and consumed much more than they produced. This created big trade deficits and was financed by an explosion of government, business, and consumer debt. In 1985, the United States became a net debtor nation for the first time since 1914. Foreigners are using their trade surpluses to buy our businesses and real estate. Much of the prosperity of the past two decades was borrowed from the future, and the time for repayment has begun.

Government excesses primarily are to blame for America's problems and for the growing ranks of the disenfranchised who have lost their jobs or never been employed. Yet, the excesses could not have occurred without the consent of the people who, by action or apathy, sanctioned the election of the politicians responsible for them. The majority of eligible citizens don't bother to vote in most elections. The blame lies more on economic illiteracy and the fact that so many lead narrow lives and pursue only self-interests.

The clear evidence of economic history shows that liberal money creation and habitual government deficits will cause problems which hurt worst the very people social spending is intended to help most. Inflation is the cruelest of all taxes and falls hardest on the lower end of the income spectrum. It tends to concentrate wealth and widen the gap between higher and lower income groups. This is evident in statistics for the past two decades.

The United States has accumulated a heavy burden of financial commitments which it cannot possibly meet in the years ahead. They include an array of expensive social promises, a huge thrift bailout bill, large uncollectible debts in federal credit programs, and the cost of defense against aggression across the world. The early nineties may be the last chance for America to get control of its financial affairs before reaching a point of deep crisis.

The motto of our nation is "e pluribus unum," or unity from diversity. Unfortunately, there is more pluribus than unum. In our political democracy dominated by competing special interests, the people aren't much inclined to voluntarily lower their standard of living and make the sacrifices required to balance the budget. This usually comes through necessity bred of crisis—and there is not a sufficient crisis yet. Powerful forces at work across the international landscape could help create a more serious one.

The dramatic development abroad in recent times suggest the prospect of the greatest change since the upheaval of the 1930's and World War II. The increasing automation and globalization of life is inspiring the reform and restructuring of political and economic systems. Neither government, business, nor labor can repel the powerful worldwide forces of change.

Technology is an especially powerful instrument of change. Today the computer is leveraging the mind like the machine leveraged the body during the Industrial Revolution. Advances in communications and transportation are making national borders and interests less meaningful. Money, documents, and letters now more routinely across the earth by electronic impulse at the speed of light. People can travel on aircraft faster than sound.

Capital flows quickly and easily with little regard for governmental policy to wherever it obtains the best deal. News is transmitted around the clock throughout the world by satellite on Ted Turner's network, even to people in romote areas. Those in economically disadvantaged countries have become aware of the higher living standards enjoyed elsewhere.

There is a growing realization that communism and socialism have failed to fulfill their promise of a better life. More typically, they have produced bankrupt economies and low living standards. As a result, many repressive political and economic regimes are being replaced. The outlook promises a mixture of opportunities and risks for the United States as the nineties process.

The efforts of Communist Bloc nations to raise living standards can benefit other countries which have the courage and capacity to provide development capital and trade credit. However, a major a risk is the questionable prospect of their having sufficient foreign exchange earnings in the foreseeable future to service debt and reward investment adequately.

There also is the risk of economic upheavel and social revolt as these nations try to move toward political democracy and private enterprise. The principal danger is in the people getting impatient with the degree and speed of progress toward a better life. Freeing an economy from government bondage necessarily involved shortages of goods, bursts of inflation, and jumps in unemployment which are difficult even for strong authoritarian leaders to survive.

In Eastern Europe and the Soviet Union, the opportunity for self-determination will allow imbedded tribal instincts and ethnic divisions to reassert themselves. That region is likely to return in due course to its historical pattern of being a hotbed of instability and conflict. Some may long for the times when the Russian bear kept peace if not prosperity in the area.

Other economic opportunities and risks abound in impoverished and volatile regions like Africa, Latin America, and the Middle East. They are potential markets for more exports and vital sources of critical materials such as oil. However, many of their countries are economic, social, and political powder kegs with unserviceable debt. The prospects do not look good for most Third World nations getting the substantial capital investment needed to develop viable economies, raise living standards, and achieve stability.

The recent developments in the Persian Gulf are an example of the instability which has plagued that region since it was decolonized by the British after World War II. Borders were drawn and political entities were established which cut across natural and traditional boundaries. Even after the current conflict is resolved, diplomatically or militarily, a powerful peace-keeping force will be required for the indefinite future to maintain order and assure a steady flow of oil to the rest of the world.

On another front, Western Europeans are trying to forge a more inwardly cooperative economic community. They also are watching developments in Eastern Europe with a mixture of political anxiety and economic ambition. The effort to further unify the nations of the European Economic Community may be overly optimistic, given their cultural differences and historical conflict. The raising of the Iron Curtain and the reunification of Germany are likely over time to rekindle enmities and breed instability.

Japan and Germany will remain our chief economic rivals, and attempts will be made in the Far East, like Europe, to forge a stronger regional union. The Far East could be an even tougher competitor if the masses of cheap and hard-working labor in the Orient are mobilized cooperatively. Such possibilities suggest the United States should work more closely with its neighbors to the north and south in building a regional coalition.

Thus, there is a fermenting mixture of opportunities and risks across the earth. Differences in rates of economic growth and price inflation, along with trade imbalances and unstable currencies, contribute to the uncertainties and tension. Old alliances and friendships are likely to be tested and strained by steadily shifting and increasingly divergent national interests. America will find it difficult to be an island of tranquility in a sea of instability.

Our country has been the main economic engine and peacemaker of the world for the past fifty years. The ability to play that role is weakening at a time when the spread of political democracy will breed more instability. America must get its own house in better order to continue as a leader in nurturing personal freedom and promoting economic progress. Otherwise, some of the hard-earned gains in these areas could be lost as the future unfolds.

Meantime, the powerful forces of fundamental adjustment will proceed to reshape the world as the nineties unfold. Mature industrialized nations like the United States will continue losing labor-intensive manufacturing jobs to other countries with lower wages and better productivity. International market disciplines will punish those who are less efficient, who spend more than they earn, and who consume more than they produce.

In fact, a major force during the decade of the nineties will be the further punishment by market discipline of misdeeds from the past—whether by nations, businesses, financial institutions, or individuals. Irrepressible economic principles eventually will overcome excessive human behavior. As the flip side of the old saying goes, "Time wounds all heels." Without undue interference, the adjustment process already under way can lead ultimately to the promised land of sustained prosperity and financial stability.

Government safety nets can moderate, spread, and defer economic pain, but with eventual social as well as financial costs. They can help accomplish adjustment from problems in more orderly and compassionate ways, but they also can be seductive, addictive, and counterproductive. As the people of Eastern Europe and the Soviet Union can attest, domination and management by government do not work as well as market incentives and disciplines.

For example, the deposit insurance scheme has prevented financial panic and pain, but it also has permitted uneconomic and unsound institutions to develop at great cost to taxpayers. The system must be reformed to replace government protection and subsidy with more private capital and management discipline. Financial institutions should be managed as if there were no safety net. It should serve only as a safeguard against economic extremes.

Another influential force of the nineties will be less expansive government and economic policies. By necessity and design, there will not be as much fiscal stimulation. The debate will not be focused on where to spend, but what to cut. The budget deficit may still look large, but it should decline gradually as a percentage of Gross National Product.

Also, monetary policy is not likely to be very stimulative in the foreseeable future. It must follow a narrow path between keeping interest rates as low as possible to maintain moderate growth but high enough to restrain price inflation and attract the foreign funds needed to finance our trade and payments deficits. The Federal Reserve has little maneuverability.

Demographics will be a less positive economic force. This is the result of a sharp drop in the number of births in the U.S. from 3.7 million in 1970 to 3.1 million in 1975, a decline of 16 percent. It pre-ordains a significant reduction in the number of new adult workers, income earners, and consumers during the first half of the nineties. A big jump in middle-age population "baby boomers" should boost productivity, income, and savings.

The use of credit will be a less buoyant factor in the years ahead. Both borrowers and lenders are becoming more cautious and prudent. The bloated debt burden of government, business, and consumers accumulated during the eighties is slowing credit expansion. This will help incomes catch up with debt service and improve credit quality.

Another factor both moderating and sustaining growth is the ongoing restructuring and downsizing of corporate America. Belt-tightening and layoffs are disruptive and painful, but they are necessary to improve efficiency and compete effectively in the evolving global marketplace. Human compassion and sensitivity must be exercised in the process to minimize the social backlash which usually accompanies periods of adjustment.

A major uncertainty is the availability and cost of energy. Despite the oil price surge after the invasion of Kuwait, I believe the tilt of inflation will be more downward than upward during the nineties. A solution to the Persian Gulf crisis which does not cause an interruption of crude shipments should reduce prices sharply. Excess supply could emerge as the Soviets increase production from enormous reserves to finance perestroika.

Interest rates will continue to be erratic as long as the financial markets are unstable. In real terms, they are likely to remain stubbornly high, especially in the longer end of the yield curve, due to nagging concerns about inflation expectations and credit quality. In past adjustment periods, interest rates haven't reached bottom until well after inflation has troughed.

Thus, there is a mixture of hope and concern in looking at the nineties in perspective. I believe there is a reasonable chance of avoiding the deep economic pain which in the past usually has come within a decade or two following the peak of inflation accompanying a long expansion cycle. Some regions of the country and sectors of the economy already have had depression-like experiences. This period of adjustment seems likely to be more of a rolling and extended nature than hitting everywhere at once.

At best, the average rate of real economic growth during the first half of the nineties appears destined to be considerably less than during the last five years of the eighties. Perhaps by the middle of the decade a faster, healthier, and more sustainable advance can be resumed.

Such a possibility is achievable only if excessive reliance on government management and programs is avoided and private enterprise incentives and disciplines are allowed to work their magic. It also will require leaders and citizens alike to display more concern, vision, courage, consensus, and patience in addressing and resolving the nation's problems.

URBAN SCHOOLS BILL (USA)

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. HAWKINS. Mr. Speaker, today I am introducing, as a courtesy to the Council for the Great City Schools, a bill, the Urban Schools of America (USA) of 1990, which will improve the condition of education in our Nation's public schools.

I urge my colleagues to lend support to this vital legislation. During the last decade, the condition of our Nation's public schools has been an issue for widespread debate at the national, State, and local levels.

I am convinced that it is in our national interest to support urban schools. It is clear that if we are to meet the global competition in high technology and the productive economies of Japan and West Germany, we have to educate all of our children to their fullest potential. Improving the education of all Americans is universally accepted as a prerequisite to advancing the country's economic well being.

As one education expert noted, "focusing priority attention on the problems of schools with the most disadvantaged children is the key that unlocks school improvement for the rest of the nation."

William S. Woodside, chairman, board of directors of the Institute for Educational Leadership, summed it up well when he said:

> For the past several years, there has been a great outpouring of words and concern at all levels of government and in the private sector about the status of public education in this country. The concern has been genuine, and it reflects a general sense that our system of public education either is not what it once was, or is not what we would like it to be.

In speaking for five major American corporations engaged in manufacturing, banking, communications, financial services, and specialty retailing that involve business interests spread throughout the entire country, Mr. Woodside continued:

> Despite the diversity of our businesses and our regional locations, we are agreed that the quality of public schooling we provide to all our children including disadvantaged children, will play a major role in the ability of the United States to develop a competitive economy and a strong society.

I believe that critical to this economic well being is the condition of our Nation's urban schools. Data show that students in urban public schools continue to have lower achievement rates when compared to other school systems, higher dropout rates, more difficulty recruiting teachers, less access to early childhood development programs, older school buildings, greater health needs and a higher concentration of children in need.

This legislation addresses these issues through several critical components:

First the USA bill would authorize formula grants to the largest urban local education agencies [LEA's] in every State, and other hardpressed city school systems to conduct programs that would help them to meet the national education goals.

The second component would make possible more Federal research on urban education and provide city schools with additional resources to strengthen their own research activities.

Third, States would be called upon to amplify their efforts to improve inner-city schools, and provide for a review of regulations whose simplification might enhance learning.

Fourth, the USA bill would also support the renovation and repair of aging facilities. According to a report soon to be released by the Council of the Great City Schools, one-third of inner-city schools are over 50 years old, with a cumulative backlog of repairs standing at $5 billion.

Action needs to be taken. It is now time for Congress to address the Nation's educational challenges where it can be the most beneficial for all of us.

I urge my colleagues to support this vital legislation.

THE 24TH ANNUAL COUNTRY MUSIC AWARDS

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. CLEMENT. Mr. Speaker, Congress has declared October to be Country Music Month. And, on Monday night, as part of the month's celebrations, the country music industry paid tribute to its outstanding performers, songwriters, musicians and music of 1990.

In televised ceremonies at the Grand Ole Opry House in "Music City, U.S.A."—Nashville, the Country Music Association showcased the brightest and most talented artists of today's country music scene. Among those receiving awards were Garth Brooks, the newest country star on the horizon, Clint Black and Kathy Mattea, the male and female vocalists of the year, and, for the second year in a row, George Strait, who was named the Entertainer of the Year. One of the greatest moments of the evening was the announcement that Tennessee Ernie Ford had been elected to the Country Music Hall of Fame.

I would like to congratulate all of the winners. And I would like to congratulate the Country Music Association and its executive director, Jo-Walker Meador, and show hosts Randy Travis and Reba McEntire, for an exciting television production. Indeed, it was quite a night to behold as the stars came out to honor those who make country one of the most loved forms of music anywhere.

Mr. Speaker, I include a list of the Country Music Award winners:

WINNERS OF THE 24th ANNUAL COUNTRY MUSIC ASSOCIATION AWARDS ANNOUNCED MONDAY NIGHT

Entertainer of the Year: George Strait.

Male Vocalist of the Year: Clint Black.

Female Vocalist of the Year: Kathy Mattea.

Single of the Year: "When I Call Your Name" by Vince Gill.

Album of the Year: "Pickin' on Nashville" by the Kentucky HeadHunters.

Vocal Duo of the Year: The Judds.

Vocal Group of the Year: The Kentucky HeadHunters.

Vocal Event of the Year (performers who do not normally sing together): Keith Whitley and Lorrie Morgan.

Song of the Year (songwriter's award): "Where've You Been" by Jon Vezner and Don Henry.

Horizon Award (career development): Garth Brooks.

Music Video of the Year: "The Dance" by Garth Brooks.

Musician of the Year: Johnny Gimble.

A CONGRESSIONAL SALUTE TO LOUISE M. DUVALL

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to honor Louise M. DuVall, the retiring president of the Long Beach Board of Harbor Commissioners. On October 11, 1990, the Board of Harbor Commissioners and the Port of Long Beach staff will host a reception in Long Beach in her honor. This occasion allows me to salute her for her many years of dedication to the harbor community.

Louise DuVall was the first woman appointed to the prestigious Long Beach Board of Harbor Commissioners, and now is that board's talented president. A resident of Long Beach for 27 years, she is a graduate of the Southwestern University School of Law in Los Angeles, a law school she put herself through while working full time to support herself. The determination exemplified by that feat is evident in the string of accomplishments Louise has realized to date.

Ms. DuVall entered the legal field in 1963, when law was known as a man's world. Louise has always been able to complement her gentle appearance with her superior ability. From the golf course to the courtroom, in boardrooms both here and abroad, Ms. DuVall

has consistently impressed those around her by her ability to get things done. As such, Louise was the first woman president of the Long Beach Chamber of Commerce and the first woman president of the Long Beach Bar Association. I guess her appointment as the first woman member of the Long Beach Board of Harbor Commissioners was not terribly surprising. On top of all this, she is also active on the Board of Trustees of St. Mary's Medical Center while maintaining a private law practice.

Ms. DuVall is a known leader with a take-charge attitude, and is a tireless advocate of the port. Her capacity to listen, learn, and then lead means our great port, so vital to the economic strength of our community and so dear to my heart, is in good hands for the future. For her leadership and her lifelong demonstration that any conceptions of a man's world are stale and outdated, I salute Louise DuVall. My wife, Lee, joins me in wishing her all the best in the years to come.

BILL McCLEAN RETIRES

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. GEKAS. Mr. Speaker, I would like to draw the attention of my colleagues to a constituent who gives much to his community and this Nation.

William M. McClean, of Montoursville, is retiring as vice president of the LLV Division of Grumman Allied Industries, where he has worked since 1943. He had only a 1-year leave of absence to serve in the Navy Seabees in the Pacific.

In his decades of service at Grumman, Bill was involved in the prototype and production of all new aircraft. Some of these planes include the F-11 Tiger Cat, the A6A Intruder, the AF-2, and of course, the F-14 Tomcat. These are just a few of the important contributions Grumman has made to America's defense, and Bill was a part of them all.

In addition to serving this Nation, Bill has been actively involved in the community. He serves on the board of directors for the Williamsport Chamber of Commerce and the West Branch Manufacturers' Association. Concerned about the quality of education, Bill also serves on the board of trustees at Williamsport Area Community College.

I am certain that Bill McClean's retirement will not mean his contributions end. He has devoted his career to a strong America and a strong community—retirement simply means a new opportunity to continue that tradition.

Mr. Speaker, I thank Bill for his work and his dedication to others.

DR. ANNE E. PRICE

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. CLAY. Mr. Speaker, one of my constituents, Dr. Anne E. Price has retired from the St. Louis Public Schools. A retirement luncheon honoring her will be held on October 20, 1990. Her contributions have illuminated the educational scene in our city for many years. Other cities have benefited from her creative contributions as well. I offer these comments in celebration of her leadership.

A CELEBRATION OF LEADERSHIP

Dr. Anne E. Price, assistant superintendent for elementary schools, has retired after more than four decades of outstanding leadership with the St. Louis Public Schools. Her impact on curriculum and programs has been profound as she has applied her intelligence, creative talents, and problem solving skills in a variety of administrative positions within the St. Louis Public Schools. Prior to her appointment as assistant superintendent for elementary schools, Dr. Price has served as area superintendent of all magnet and special schools; executive director of the division of curriculum services; reading and language arts consultant; principal of Banneker Elementary School; and director of Banneker Reading Clinic.

The contributions of Dr. Price to the field of education have not been limited to the St. Louis Public Schools and the local geographic area. She is a nationally recognized advocate for early childhood education who coauthored the "Home-School Partnership Model" for Follow Through—U.S. Department of Education—and served as director of progams located in Metro School District, Nashville, TN, and Brooklyn, NY. In addition, she served as reading consultant at the College of the Virgin Islands, St. Thomas, and at the State Departments of Tennessee and Georgia.

Forming the cornerstone of Dr. Price's success in all of her administrative roles is the high level of excellence she consistently demonstrated as a student and as a teacher of children and adults. Her pride in the education she received in the elementary and secondary public schools of St. Louis has been thoroughly justified by the scholarship she exhibited as she earned college degrees: Bachelor of arts from Stowe Teachers College—St. Louis, MO; master of arts in education from University of Chicago—Chicago, IL—and doctor of philosophy from St. Louis University—St. Louis, MO. Her expertise as a teacher of reading is well documented. For 13 years she was the television instructor of "P.S. 4," a literacy program for adults which was broadcast on CBS affiliate KMOV-TV. She taught techniques for reading instruction to undergraduate students and classroom teachers at Stowe Teachers College and at Harris Teachers College. She is also remembered throughout the community as an extraordinary elementary teacher, summer playground director, and YWCA camp counselor.

Publication credits for Dr. Price include Spelling Adventures, a grade 3 spelling text which she authored for a major publishing company. She also coauthored the Curriculum Guide in Language Arts for Kindergarten for St. Louis Public Schools.

Professional organizations have benefited from Dr. Price's active participation and support. She is a charter member and first president of the St. Louis Chapter of International Reading Association; she served two 4-year terms as State representative—from MASCD—to the National Board of Directors of Association for Supervision and Curriculum Development [ASCD]. In 1987 she was elected by the general membership to serve a 4-year term as a member of the ASCD National Board of Directors. She holds life memberships in Phi Delta Kappa, University of Chicago Alumni Association, Pi Lambda Theta, Missouri State Teacher Association, and National Association of Elementary Principals.

The accomplishments of Dr. Price have been recognized by many organizations which have honored her with awards. Some of these awards include:

St. Louis Sentinel "Yes I Can" Award; Harris-Stowe State College Distinguished Alumni Award; YWCA Special Leadership Award in Education; Mathews-Dickey Boys Club Pearl S. White Memorial Award; and Top Ladies of Distinction, St. Louis Chapter Humanities Award.

Although Dr. Price has now retired, she will continue to be a staunch supporter of life long education as well as an active advocate for children. In addition, her retirement will enable her to participate more fully in many of her other interests. She enjoys travel, is an avid reader as well as a skillful writer, and is a loyal patron of the arts. We congratulate her for her contributions and we celebrate with her for the leisure she has earned the right to enjoy. Most of all, we thank her for the standard of excellence which she has so successfully demonstrated through her career and which will remain a bench mark in the St. Louis Public Schools for many years to come.

INTRODUCTION OF THE ASSAULT WEAPON REVENUE ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. STARK. Mr. Speaker, today, my colleagues Representatives RANGEL, CARDIN, GUARINI, and I, are introducing the Assault Weapon Revenue Act of 1990.

The measure is straightforward: a $200 tax shall be imposed on the future manufacture of, first, any firearm having threading, lugs, or other characteristics which are designed to facilitate the direct attachment of a silencer, bayonet, or grenade launcher to the firearm, second, any part or combination of parts designed to facilitate the attachment of a bayonet, silencer, or grenade launcher to a firearm, and third, a shotgun with a fixed magazine which is capable of holding seven or more rounds of ammunition. This $200 tax is the same amount placed on manufacture of fully automatic machineguns, a statute which has been Federal law since 1934.

I have no doubt that there will be those who, for whatever reason, oppose this effort. If some seek to defend unfettered access and continued manufacture of firearms specifically designed to facilitate the direct attachment of silencers, bayonets, or grenade launchers, then so be it. If some choose to defend the continued manufacture and over-the-counter sale of the 12-round riot shotgun affectionately known as the "Street Sweeper," then so be it.

Still, I have yet to meet anyone, repeat anyone, who feels that silencers, bayonets, or grenade launchers are a constitutionally protected right. Who needs a "Street Sweeper" for hunting, sport, or even home protection?

I have confidence that the American people, the Congress, and the administration will support this reasonable effort to restrict the availability of firearms specifically designed to accept silencers, bayonets, and grenade launchers and restrict the availability to 12-round riot shotguns like the Street Sweeper. The Street Sweeper is the American-made version of the South African riot shotgun banned for importation by the Reagan administration in 1986.

If implemented, this measure would raise more than $20 million—funds which would go a long way to pay for new prison construction or for assisting hospitals that treat cocaine-addicted babies. In 1989, the Bush administration reports that over 34,000 firearms were manufactured domestically to facilitate a silencer; over 31,000 firearms were manufactured to facilitate a bayonet; over 30,000 Street Sweepers have been manufactured annually.

Imagine that: Over 100,000 firearms sold last year here in the United States—about 2 percent of the total firearms sold annually—that are designed to accept a silencer, a bayonet, a grenade launcher, or are a shotgun with a fixed magazine of more than seven rounds of ammunition. Is this a rationale policy to have in 1990?

My colleagues, Representatives RANGEL and CARDIN, deserve recognition for their courage and foresight in sponsoring this measure. Their willingness to stand up for the interests and public safety of law enforcement and the general public is commendable.

Please support and cosponsor the Assault Weapon Revenue Act.

HIALEAH-MIAMI SPRINGS NORTHWEST DADE CHAMBER OF COMMERCE CELEBRATES ITS 40TH ANNIVERSARY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, it is my great pleasure to bring to your attention the Hialeah-Miami Springs Northwest Dade Chamber of Commerce's 40th anniversary celebration. The auspicious occasion of this anniversary called for the chamber's 40th annual installation banquet, held this past month.

On this occasion of the 40th anniversary, the chamber recognized the efforts of their countless volunteers—considered the true gems of the chamber—and installed the incoming officers and directors. Present at the event were Hialeah Mayor Julio Martinez and Florida Gov. Bob Martinez, both of whom applauded the efforts of the chamber and the many volunteers, as well as reminding all those present of the patriotic men and women serving our country in the Persian Gulf.

The chamber of commerce was organized by a committee of area businessmen from all areas of business in the community, who met to discuss the need, cost and purpose of organizing a chamber of commerce back in March of 1951. It was later that same year, April 10, 1951, which saw the opening of a temporary office with Edward E. Ehmke as executive secretary at that time. The first election of officers and directors was soon to follow. The first charter was signed on July 12, 1951, and the first volunteer president was R.F. "Ben" Shepard of Florida Power & Light Co.

The chamber was created for the purpose of advancing the commercial, agricultural, industrial and civic interests of the city of Hialeah's community. It sought to promote the city's integrity. Today, the chamber has accomplished just that, making Hialeah one of the most prosperous of communities in south Florida.

I extend my sincere hope for the chamber's continued success, and special thanks to newly elected Chairman Steven Greene, whose theme for the coming year is "Growth Through Involvement."

I would also like to take this opportunity to thank the following individuals: Officers A. David Jimenez, chairman-elect; Jorge Villacampa, second vice chairman; Debbie Kemp-Vera, treasurer; Jon Duquette, secretary; William J. "Bill" Miranda, past chairman; Directors David G. Cheney, Jr.; Lt. Lowell Coffin; Aurelio Fernandez; Joyce Flanagan; Gary Horsley; Soneet Kapila; Gus Macias; Joseph Machado; Teresa Magrath; Terri Manley; Richard S. Marcus; and the many volunteers who have contributed their time and energy to the Hialeah-Miami Springs Northwest Dade Chamber of Commerce.

THE 90TH BIRTHDAY OF HELEN HAYES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. GILMAN. Mr. Speaker, today, October 10, 1990, is the 90th birthday of my most distinguished constituent, Helen Hayes. A long-time resident of Nyack, NY, Helen Hayes has graced the world's stages for the better part of this century, becoming a household name and gaining international acclaim as one of the great actresses of all time. Playing such famous roles as Margaret in "Penrod," Cleopatra, and Queen Victoria in 1932's "Victoria Regina," Helen Hayes was the recipient of numerous medals and awards, including Oscars in 1931 and 1971. In 1986, Helen Hayes was awarded the Medal of Freedom by President Reagan.

Yet her life has not been all awards and fanfare; along with the stardom which acting brought her, Helen has had to deal with personal tragedy as well. Having survived the death of daughter and aspiring actress, Mary MacArthur, in 1949, Helen's beloved husband, playwright Charles MacArthur, passed away in 1956. Yet Helen has borne her personal tragedies with a perseverance and dignity that serves as an example to us all, remaining steadfast in her commitment to charity and to the public good.

A long-time contributor to the National Foundation for Infantile Paralysis and to the Actors fund, in her later years Helen has been an articulate and effective spokeswoman for "The Old." My district in particular has benefited from Helen Hayes' humanitarian contributions, for the Helen Hayes State Rehabilitation Hospital in Haverstraw, NY, and the Mary MacArthur Memorial Garden at Nyack Hospital, named in honor of her late daughter, bearing testimony to this commitment.

Mr. Speaker, I invite my colleagues to join in saluting Helen Hayes on her birthday, as an outstanding American. We wish her many more years of happiness, good health, and continued good works.

HERRICKS COMMUNITY CENTER CELEBRATES ITS 10TH ANNIVERSARY

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. MRAZEK. Mr. Speaker, I rise to pay tribute to the Herricks Community Center of New Hyde Park, Long Island, as it celebrates its 10th anniversary.

The Herricks Community Center provides a wide range of educational and recreational services to the residents of the New Hyde Park area. Each day, more than 2,000 citizens, ranging in age from 6 months to 98 years, take part in programs offered at this unique community-based center.

The community center offers a broad spectrum of educational programs, ranging, from the esthetics of art history to the whimsy of UFOlogy. In addition, many organizations call the Herricks Community Center home, including the Math Museum, the American Dance Machine, the Eglevsky Ballet Company, the Nassau Citizens Budget Committee, the New York Advocacy Center, and the New York Society for the Deaf.

Mr. Speaker, the Herricks Community Center is the cultural and social center of the New Hyde Park community. The community clearly recognizes the hard work of the many creative people who founded the center and continue to make it function. Dr. Ira Singer of the Herricks School District deserves special recognition for his efforts in establishing the center in 1979. Today, the community center is ably directed by Ms. Barbara Keller.

On October 20, the Herricks Community Center will celebrate this milestone in its existence with day-long festivities at the center. I am honored to bring the attention of my colleagues to this special occasion and wish everyone involved with the center the best for the future.

THE MOLDAVIAN POPULAR FRONT

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. TRAFICANT. Mr. Speaker, a couple weeks ago I met with Iurie Rosca, vice president of the Moldavian Popular Front of Soviet Socialist Republic of Moldavia. The Moldavian Popular Front is the largest pro-reform political movement in the republic. The Front has moved from mass street demonstrations to its current status as majority party in the Moldavian Parliament.

This party has accomplished much in the last 2 years. Earlier this year, the Front launched a campaign to elect a local reform-oriented economist, Mircea Druc, as Prime Minister of the Republic. Druc won the election against a Moscow-picked candidate. In addition, by articulating the cultural and political aspirations of the Romanian-speaking majority of Moldavia—64 percent, the Front has compelled the Soviet authorities to: First, acknowledge that the true nationality of a majority of the local population in Moldavia is Romanian; second, restore Romanian as the official language; third, restore the Latin alphabet to the language; fourth, change the Republic's name to the Romanian spelling of Moldava; fifth, adopt the Romanian flag; sixth, restore the Romanian cultural rights lost after Stalin seized the land; and seventh, denounce the Ribbentrop-Molotov Pact which allowed Moscow in June 1940 to annex Moldavia, even though the area was a part of neighboring Romania.

The Front is patterned on Baltic equivalents, particularly the Lithuanian model. Its most important goals are to: First, fully introduce a democratic political system in the Republic; second, transform the economy into a free-market system; third, control all the Republic's resources and to engage directly in foreign trade; fourth, reintegrate the Moldavian lands that were arbitrarily divided by Stalin; fifth, declare the Republic independent; sixth, prepare for union with Romania and for future integration with Europe; and seventh, act as a special link between the United States, Eastern Europe, and the U.S.S.R.

The purpose of Mr. Rosca's visit was to urge American support for pro-democratic, market-oriented forces in Moldavia. He wants the American Government and media to display more understanding toward his forgotten land. Moldavia is almost never mentioned along with the other Baltic Republics. I urge my colleagues take Mr. Rosca's views to heart.

PROMOTE FIRE SAFETY IN OUR SCHOOLS

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. WELDON. Mr. Speaker, as we continue to observe Fire Prevention Week, I want to make our colleagues aware of the fact that children under the age of 13 comprise the largest segment of our population that are killed or seriously injured by fire.

As the chairman of the congressional fire services caucus, I can attest to the fact that fire prevention begins with education. For that reason, I am pleased to rise to recognize the work of the State Farm Insurance Co. in the development of the Smoke Detectives Program. State Farm is making these educational kits available to the more than 65,000 elementary schools in the country.

Designed for year-round use in kindergarten through sixth grade classrooms, the program is a fun way for students to learn fire safety tips that will protect them and others.

On behalf of the 385 members of the congressional fire services caucus, I wish to congratulate the National Association of Elementary School Principals and the International Association of Firefighters for their efforts in the development of this program.

Young students, deputized smoke detectives, are already on the case in schools and homes throughout America. As their numbers grow, I hope that we see a dramatic decline in fire deaths and injuries.

Mr. Speaker, I wish to commend State Farm and all the national fire service groups for their work to bring greater knowledge to the American public on the ways to prevent the ravages caused by fire.

IN TRIBUTE TO ANN BURTON

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. ROGERS. Mr. Speaker, we come into this world with nothing, and we leave it with nothing. So while we walk this Earth, we would do well to follow the example of Ann Burton, of Lincoln County, KY, who sacrifices much of what she has for the people who really need it.

You see, Ann Burton * * * who is a "house mother" at a home for the mentally disabled * * * and not a rich woman * * * gives away cars.

A black 1948 Dodge to a family whose father was out of work. A blue 1974 Gremlin to a struggling, single working mother. And most recently, a 1968 Oldsmobile to a couple who had a sick child and a broken-down car.

She has given away at least 25 cars, in 20 years. And she will give more away because there is always someone who needs her gift.

Because, in her words, "A car is a lifeline for people."

Mr. Speaker, Ann Burton's generosity reminds us of a truth of the ages * * * that we shall be judged, bye-and-bye, not by what we have, but by what we have given away.

Though the people who have received a gift of a car from Ann Burton have thanked her a thousand times over, I add my thanks as well, for she has given all of us in this House the gift of her example, which we should never forget.

FATHER THOMAS L. BURNS HONORED FOR 25 YEARS IN THE PRIESTHOOD

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. KANJORSKI. Mr. Speaker, today I rise to honor Father Thomas L. Burns for his 25 years of service in the priesthood. His devotion to his vocation has been an inspiration to all those whose lives he has touched.

A native of Wilkes-Barre, PA, Father Tom began his studies for the priesthood right after high school, in 1956. He entered Dehon Seminary of the Sacred Heart for 1 year and later went to the Sacred Heart Novitate for his special year of training for the religious vows he pronounced on September 8, 1958.

He attended college at the Kilroe Seminary of the Sacred Heart in Honesdale, PA, and studied theology at the Sacred Heart School of Theology in Wisconsin. On December 28, 1965, Father Tom was ordained to the priesthood. He returned to Wilkes-Barre on January 2, 1966 to celebrate his first Mass.

Education was always important to Father Tom. His first assignment was to the faculty of the Immaculate Heart of Mary Seminary in Lenox, MA, and after furthering his own education and obtaining his principal certification, he was named principal of the North Adams State High School Seminary in 1969, and served in that position until June 1979.

After a 2-year update in spirituality and post Vatican II theology, Father Tom joined the faculty of Notre Dame High School in California. In 1983, he was appointed associate pastor of St. Matthew's Parish in Houston, TX, and in 1986, Father Tom was named pastor of Queen of Peace Parish in Olive Branch, MS where he still serves today.

Father Tom has displayed tireless dedication and service to his students and congregations over the years and his community-minded spirit is an example we should all follow. It is because of these qualities and the many others that we salute Father Thomas Burns for his 25 years of faith and devotion.

HOUSE JOINT RESOLUTION 666, CONTINUING APPROPRIATIONS

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. RAY. Mr. Speaker, on Tuesday morning, October 9, 1990, at approximately 1:15 a.m. the House voted on concurring in the Senate amendments to House Joint Resolution 666, the continuing appropriations resolution. Due to a miscommunication with the Cloakroom, I missed this vote which was rollcall vote No. 439. Had I been present, I would have voted "Yes."

My absence was due to the fact that my home is too far from the Hill for the automatic pager to work, and even though I spoke with the Cloakroom during the evening as late as

10 p.m. and asked to be called on the phone if a vote was taken, the Cloakroom failed to notify me.

THE PENSION TAX EQUITY ACT

HON. JOLENE UNSOELD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mrs. UNSOELD. Mr. Speaker, I am today introducing the Pension Tax Equity Act which will end a modern-day abuse within our tax system—States taxing nonresidents on their pension incomes. This tax is called a source tax and it is taxation without representation.

Many retirees are shocked to learn that their former home States are taxing their pensions wherever they live—on the grounds that the income should be taxed where it was earned. My bill will prohibit state's from imposing income taxes on pension incomes of individuals who are no longer residents of that State.

Mr. Speaker, if you worked in Oregon, California, Idaho, Utah, Kansas, Iowa, Arkansas, New York, Vermont, or Massachusetts and you are now retired, living in another State, you are expected to pay income tax to the source State, even though you are a nonresident. Failure to pay puts your income and personal property at risk.

Many retirees who relocate at retirement have no idea they will be pursued for income tax payments from their former State, especially if they move to a State without income taxes. Because there may be considerable lag time before they receive notification of taxes due, they may accrue a large tax bill with penalties and interest. Some States are even hiring collection agencies to place liens on the homes of retirees.

Thousands of retirees in my State of Washington are being slapped with these unfair source taxes. Over the last 5 years, nearly 12,000 persons over the age of 60 moved from California alone to retire in Washington State. Nearly 37,000 lifelong residents of Clark County, WA, who work in Oregon, will owe Oregon State income tax on their pensions when they retire. These retirees are taxed for the rest of their life with no rights.

It is not only unfair, it is wrong to tax citizens who do not receive the benefit of those taxes. It is wrong to tax citizens who do not have a vote. It is wrong to tax citizens who do not have access to governmental protections and services. Washington retirees are feeling the brunt of taxation without representation but they are also being hit with double taxation. Because there is no income tax in Washington, retirees are required to pay the source tax as well as a variety of other levies imposed by the state in lieu of income taxes.

In fact, Washington retirees are being triple taxed. As nonresidents they are paying for tax breaks, such as a renter's tax credit, that only residents in the source State have the opportunity to enjoy.

Mr. Speaker, if the source tax is not restricted, the hardship and financial impact on our senior citizens with fixed incomes will be devastating. I urge my colleagues to put an end to a tax practice that unfairly targets our senior citizens.

THE ILLINOIS WILDERNESS ACT OF 1990

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. PORTER. Mr. Speaker, I urge my colleagues to join me in supporting the Illinois Wilderness Act of 1990.

Mr. Speaker, the entire Illinois delegation stands in support of this bill. The Illinois Department of Conservation, and individuals throughout Illinois deserve credit for working together with their Representatives so that we can make this vital commitment to protect the Shawnee National Forest as wilderness.

Wilderness designation of this land would protect it from development, while allowing hunters, hikers, and landowners to continue their use of the area.

A vote for this bill is not only an important commitment to the future of Illinois, but yet another opportunity to express our concern for the protection and maintenance of wilderness areas around the country.

I thank my colleague Mr. POSHARD for introducing this bill and look forward to its adoption.

"MISSOURI DAY" COMES AS A SURPRISE TO MANY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. SKELTON. Mr. Speaker, a State holiday is coming up that most Missourians aren't aware of—Missouri Day. Most likely there will be no parades, banners or bands playing, classes will resume as usual and school auditoriums will be empty and silent.

For nearly 75 years Missourians have been asked to set aside a Wednesday in October to honor Missouri history; "to devote some part of the day to the methodical consideration of the products of the mines, fields, and forests of the State and to the consideration of the achievements of the sons and daughters of Missouri in commerce, literature, statesmanship, science and art, and in other departments of activity in which the State has rendered service to mankind." This is a quote from the Missouri statute.

Even though Missouri Day is listed with the State flower and the State song in the front of the Missouri manual, it passes by like most any other day of the year.

A holiday with a sketchy past, Missouri Day was first signed into law in 1915 at the request of a Trenton, MO woman. It wasn't until 8 years later that the Governor of Missouri proclaimed the third Wednesday of each October as Missouri Day.

This Wednesday, October 17, we should remember our fellow Missourians who have done a great deal for our country through the years.

TRIBUTE TO EDWARD D. JONES

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. BUECHNER. Mr. Speaker, I rise today on the sad occasion of the death of a personal friend, Mr. Edward D. Jones. Ted, as he liked to be called, was with us for 64 years, before succumbing October 3 to an illness he battled for most of the last two decades. In passing, he leaves behind his wife, Patsy, and two sisters, Martha Jones and Ann Keys. As a businessman and a conservationist he earned the respect and admiration of his community, and the gratitutde of the people of Missouri and our Nation.

I suppose that some would say that Ted's death was a tragedy, or that he was somehow cheated of his full measure of time on this Earth. I don't think that Ted would agree. The life of an individual is measured in many ways, but by anyone's standard, Ted's life was well-lived.

A successful businessman, he began a life-long career in investment marketing as a page on the floor of the New York Stock Exchange. While learning the investment business from the grass-roots level he worked for a variety of different firms before joining his father's business, the Edward D. Jones & Co. in 1948. Eventually assuming the leadership of the firm, he vastly expanded its outreach to what is today a national organization with more than 1,500 offices and over a million individual investors, bringing, as the company so proudly proclaims, "Wall Street to Main Street."

However, I am certain that Ted would say his real legacy is the realization of his dream to establish a biking/hiking trail system in Missouri similar to those he had enjoyed in other areas of the country. His life-long devotion to nature and conservation, along with his generous financial support, helped this dream to be realized. The 200-mile-long Katy Trail, shortly before his death. It is doubtful that the Katy Trail would have ever become a reality except for Ted's commitment and hard work. Because of it, Americans, and especially Missourians, for generations to come will owe him a large measure of gratitude.

Mr. Speaker, there was no funeral for Ted, even in the end he shared as his request was that his body should go to science so that his passing could help to improve other lives. I ask each of my colleagues to join with me in honoring the passing of Edward D. "Ted" Jones, Jr. and praying for God's mercy that the sorrows of those he has left behind are tempered by the rememberance of the joy with which he lived.

A TRIBUTE TO CHIEF JUDGE ROBINSON O. EVERETT

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. PRICE. Mr. Speaker, I rise to honor a distinguished public servant from North Carolina, a man of almost incredible energy and versatility, Chief Judge Robinson O. Everett of the U.S. Court of Military Appeals.

On September 30, Judge Everett retired as chief judge, a position in which he has served brilliantly for the past decade. Under his direction, the U.S. Court of Military Appeals has become one of the most respected and efficient courts in the land.

Judge Everett formally began his legal career when he graduated magna cum laude from the Harvard Law School, and took a position as an assistant professor at the Duke Law School. He then was called to active duty during the Korean War, winning promotion through the years to colonel in the Air Force Reserve.

Upon returning to the United States after the war, Judge Everett went into private practice in North Carolina and rejoined the Duke University Law School, where he has been a highly respected faculty member ever since. From 1955 to 1980, he practiced law in both North Carolina and in the District of Columbia.

Judge Everett still found time to serve on numerous boards, provide counsel for nonprofit organizations, conduct educational seminars, and publish various books and articles. He served as a counsel to the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary, and played an active part in the enactment of the Military Justice Act of 1968. He has chaired many sections and committees of the Federal Bar Association, and was president of the Bar Association of Durham, NC, from 1978 to 1983. For his dedication and service to the bar association, he received the Earl W. Kintner Award in 1987.

President Carter certainly could not have picked a more qualified individual when he nominated Judge Everett in 1980 to the U.S. Court of Military Appeals. When Judge Everett took office April 18, 1980, he began serving as chief judge.

During his first year on the court, Chief Judge Everett implemented a computerized docketing system which drastically improved productivity. And throughout his term, he devised innovative ways of improving the skills of lawyers and judges and heightening public understanding of the judicial system—videotaping conferences and televising them on C–SPAN, producing judicial documentaries, requiring judges on the Military Court of Appeals to meet the public by attending hearings outside of their courthouse, and even televising actual hearings of the court on C–SPAN.

Because of Chief Judge Everett's strong desire to make the court more accessible to the public and to increase the public's general knowledge of the judicial system, he has made the U.S. Court of Military Appeals one of the most useful and productive courts in the country. His energy, dedication, and intellect will be greatly missed, yet his accomplishments will have a lasting impact on the court.

I wish to extend my thanks, congratulations, and best wishes to Chief Judge Robinson Everett.

THE MYTH OF CLASSLESSNESS

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. CROCKETT. Mr. Speaker, and my colleagues, an excellent op-ed piece in this morning's New York Times brings what I believe is a most relevant and insightful focus on the current budget crisis in our Federal Government.

The article, written by Prof. Benjamin DeMott, of Amherst College, very effectively outlines the real issues and problems behind our current fiscal problems: the persistent and pervasive distinctions between the haves and have-nots in our society.

I heartily recommend Professor DeMott's article to the attention of my colleagues, and would ask permission to include it in the CONGRESSIONAL RECORD at this point:

[From the New York Times, Oct. 10, 1990]

THE MYTH OF CLASSLESSNESS

(By Benjamin DeMott)

AMHERST, MASS.—This country is in shackles, its thought, character and public policy locked in distortion and lies. The deceit stands at the root of Federal and state budgetary chaos and corrodes every aspect of national life. It causes the chief executive to expatiate on the defense of "our life style"—our life style—as though the way of life of the privileged were universal. And that obliviousness is but a minor symptom of a vast, country-wide self-deception.

Several hallowed concepts—independence, individualism, choice—are woven into the web of illusion and self-deception. But presiding over the whole is the icon of classlessness.

George Bush asserts that class is "for European democracies or something else—it isn't for the United States of America. We are not going to be divided by class." The forces behind this icon of classlessness range from the media to the national experience of public education.

The myth of classlessness has a history, of course. Caught up in that history, the Framers of the Constitution refused to impose land and property qualifications for Federal office; and 8 out of 10 Americans, in the Depression, claimed to be middle class. In our time, the myth not only lives deep in people's nerves, but exerts an ever more destructive influence on public policy.

The myth is in tens of thousands of hours of sitcoms watched by tens of millions, young and old. On "The Cosby Show," black Princeton grads win admission to the law and medical schools of their choice—then chuck it all, preferring to start at the bottom as busboys and waitresses.

On "Designing Women," elegant, expensively coiffed Southern businesswomen talk for a second or two with striking curtain factory employees and at once become partisans of the strike: "We are all labor!" the ladies cry. In the Harvard alumni magazine, a recent graduate genially avers that "we're all working class."

And the myth directly affects the distribution of privileges, bounties and hazards in every sector of life.

Every year, a Federal housing donation of close to $40 billion is awarded to millions earning more than $50,000 annually. The donation takes the form of tax abatements, such as the mortgage interest and property tax exemptions, and the capital gains deferral on housing sales.

The handout to these $50,000-plus neediest comes at a time when the fair market price of rental housing in all 50 states exceeds the means of families in which two wage-earners work full time for the minimum wage, and when New York City alone has 170,000 families on the waiting list for public housing. Only the faith that America is a classless society prevents this charity to the propertied from being recognized for what it is: an indefensible class ripoff.

And the myth of classlessness figures in corporate decisions that strip the workforce of its dignity and skills by killing off one industry after another, from steel to semiconductors. The assumption is that workers aren't shaped by their skills; when quality jobs disappear, workers can just do—and by—something else.

Classlessness functions as the ultimate unspoken excuse for a range of inequities stretching from regressive Social Security taxes to pauperization requirements for care for the disabled, from Attorney General Dick Thornburgh's rejection of guidelines mandating prison terms for white collar criminals to the denial of proper medical care to heart disease patients lacking private insurance and wholly dependent on Medicare.

The Vietnam "draft," the upper income "bubble," tracking in the public schools, "vocational" education—all these episodes of state-administered injustice reflect the influence of the myth of classlessness.

And always that influence is masked, obscured, downplayed. Work-related accidents and illnesses kill 70,000 a year—but those people are nearly invisible. "Most occupational risks are blue collar," says Peter Sandman, director of the Environmental Communication Research Program at Rutgers, "If most risks were professional level they'd get more [media] coverage."

Gov. James Florio dared to present a fresh, pertinent vision of New Jersey—a vision of a state prepared to acknowledge the realities of our class system and committed to broadening educational opportunity and narrowing the gulf separating rich and poor. The protest against his program is strongest in the richest suburbs, but it has significant working class backing. How could it be otherwise, given the huge resources that have been poured into the campaign to persuade us that we're all one, that each has access to all, that serious inequities simply don't exist?

An immense weight of subsidized opinion has gathered on the side of social untruth, and the means available to those who try to contend against the untruth are fragile. Social wrong is accepted because substantive, as opposed to sitcom, knowledge about class has been habitually suppressed, and the key mode of suppression remains the promotion of the idea of classlessness.

We shall not shake the monster in our midst until we take serious account of the idea of difference—differences between, for one more example, youngsters for whom opportunity means college and youngsters for whom opportunity can only mean the Army. The task is nothing less than that of laying bare the links between the perpetuation of the myth of social sameness and the perpetuation of social wrong. We have all too little time in which to get on with it.

COAST GUARD COMMANDER BRUCE MELNICK AND THE SPACE SHUTTLE DISCOVERY

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. JONES of North Carolina, Mr. Speaker, I rise today to honor Coast Guard Comdr. Bruce Melnick, a man who proves that no dream is impossible. Every little boy dreams of adventure, whether it be as a cowboy, a pilot, or a policeman. For Bruce Melnick, that dream was to become an astronaut. On Saturday, October 6, Commander Melnick realized his lifelong dream when he blasted off into space aboard the space shuttle *Discovery*.

Commander Melnick's dream, however, did not always appear as if it would come true. After high school graduation, Bruce Melnick applied to all of the appropriate military academies and was accepted into the Coast Guard Academy. After a brief stint aboard a Coast Guard cutter, he earned his wings at the Navy flight school in Pensacola in 1974. Commander Melnick distinguished himself as a Coast Guard pilot, logging nearly 4,000 hours of flight time. He received two Distinguished Flying Crosses, one during the fire aboard the cruise ship *Prinsendam,* in which he pulled 115 people to safety. He then went to work as a test pilot on the Coast Guard's H–65 Program. While in this position, Melnick applied to NASA through the Coast Guard. After several applications, Commander Melnick became 1 of 15 pilots chosen from a pool of 1,962 candidates to participate in NASA's training program. He was one of the first pilots from his class to actually be chosen to participate in a shuttle mission.

The purpose of the *Discovery* shuttle mission is to launch a probe that will explore the Sun's inner heliosphere. Ironically, this probe is named "Ulysses" after the famous mythical mariner. Commander Melnick will assist another crewmember, also from a maritime background, in launching the "Ulysses" probe. The mission will also be used to test new space-age communications devices that could be useful for future missions. Commander Melnick's responsibilities on this trip range from machine repair to back up medical duties.

While this is a significant milestone in Commander Melnick's career, it also signifies a new era for the Coast Guard. The role of the Coast Guard has changed drastically during its 200 year history. It started as a fleet of 10 "revenue cutters" used to enforce America's new tariff laws. Coast Guard responsibilities later included lifesaving, promoting maritime safety, and most recently, the difficult task of maritime drug enforcement. On October 6, the Coast Guard added a new role and, along with Commander Melnick, moved into a new frontier—space. I commend Coast Guard Comdr. Bruce Melnick for his courage and dedication and conclude by saluting a man who proves that dreams really do come true.

TRIBUTE TO GWENDOLYN H. LOCKHART

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. DAVIS. Mr. Speaker, I rise today to extend my sincere thanks and best wishes to Gwendolyn Harrison Lockhart who recently retired as chief minority clerk of the Committee on Merchant Marine and Fisheries. For over 20 years, Gwen was a dedicated congressional employee and member of the staff of our committee. During that time she made significant contributions ot the efficiency and effectiveness of our operation. Gwen provided our committee with sound judgment based on historical knowledge and common sense that will be sorely missed.

Gwen's early years prepared her well to be a member of the Merchant Marine and Fisheries staff. It began with her birth in Hutchinson, KS, the heartland of America, where she grew up. Throughout her early years she held many positions dealing with not only practical matters such as bookkeeping, but also dealing with the public as a journalist working for the media in her home State. Not surprisingly, she studied journalism at the University of Missouri School of Journalism. This led to a position with a publishing company in California. Not long thereafter she took her first congressional job with Representative William S. Mailliard of California, working in both his San Francisco and Washington offices. In that capacity she shared administrative responsibilities in supervising the staff and in responding to the needs, requests, and views of constituents. She also served as a caseworker with specific expertise in immigration, Social Security, the Vietnam war, housing, and contracting problems.

In 1972, she became the assistant minority clerk for the Committee on Merchant Marine and Fisheries where, in addition to her office and clerical duties, she did a substantial amount of legislative research. Four years later, in 1976, and until her recent retirement, she served as the chief minority clerk for that committee. In that capacity she maintained all minority legislative records, including bill status, office files, and voting records. She was the clerical supervisor for the minority office staff and was the chief financial bookkeeper for the minority which deeply involved her in the annual budget preparation for the committee. She was what we would call from the old school, going about her many duties with the greatest of efficiency before computers, laser printers, and fax machines. Yet she was always at the cutting edge of innovation, pushing for the introduction of all of our modern office technology.

Finally, Gwen also had the unenviable task of making sure all of us Members and the counsels and professional staff carried out our official duties. In this capacity, she was the font of knowledge on the procedure as well as substance in all areas of the committee's responsibilities, including the merchant marine, fisheries and wildlife conservation, the environment, the Coast Guard, oceanography, the Great Lakes, the Outer Continental Shelf, and the Panama Canal.

In her private life Gwen enjoys painting, travel, flying, boating, fishing, and the out-of-doors generally. In 1972, she was married to Eugene Lockhart and currently lives in Virginia.

Today the Merchant Marine and Fisheries Committee will gather in the Longworth Office Building hearing room where Gwen spent a good deal of her tenure to pay tribute to her. We are deeply grateful to her for her many years of service. We wish her good health, good luck, and great happiness in her well-deserved retirement.

On a more personal note, I would like her to know that she will be missed by all, including myself, who have had the good fortune to work with her.

TRIBUTE TO CELIA BODDINGTON

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. LANTOS. Mr. Speaker, today I rise to extend congratulations to Ms. Celia Boddington on the occasion of her being sworn in as a citizen of the United States. At 10 a.m. yesterday at the U.S. District Courthouse here in Washington, DC, she took the oath of allegiance—the final step in her becoming a citizen of our great Nation.

Celia Boddington will be an outstanding addition to our citizenry, Mr. Speaker. She comes from distinguished British stock. Celia was named for the daughter of her great-great grand uncle who was one of Napoleon's British guards when he was in exile on the island of St. Helena. Celia was born in Birmingham, England, and received her M.A. in history with honors from St. Andrews University in Scotland.

Her father, a noted chocolateer, came to the San Francisco Peninsula to superintend production at the Guittard Chocolate Factory. Not long afterward, Celia joined him in San Mateo, CA. She arrived on October 23, 1982, and within a month she began to work as an intern in my district congressional office.

Not long afterward, she became a full-time member of my staff, and soon thereafter joined my Washington office. During the time she was a member of my personal staff, she had a range of responsibilities, including environmental issues, animal welfare matters, education, and social services.

Three years ago, Celia became a member of the professional staff of the Subcommittee on Employment and Housing, which I chair. She assumed primary responsibility for housing issues, and her timing was excellent—the subcommittee investigation of waste, fraud, and abuse at the Department of Housing and Urban Development began not long after Celia's arrival at the subcommittee. She did an excellent job of pursuing this incredibly complex and difficult investigation.

Celia has adjusted well to the United States. There are already indications of a favorable shift in her point of view. When she was examined for her citizenship by an INS examiner, she apologized for the British Army's burning of the Library of Congress during the War of 1812.

Now when she returns to visit her family in Britain, English friends accuse her of having acquired an American accent. Celia has worked for me now for 8 years, however, and I can vouch for the fact that she clearly has not lost her British accent. When she gets excited or is under pressure, I have occasionally been asked to assist with translation.

The key event, Mr. Speaker, that convinced me beyond any doubt that Celia was indeed fully prepared to become an American citizen occurred last year. Celia watched her first American baseball game in 1983—the Baltimore Orioles versus the Oakland A's—but it was not until 1989 that she finally referred to a baseball contest as a baseball "game" instead of a baseball "match."

Mr. Speaker, I congratulate Celia on becoming a U.S. citizen. It has been my pleasure to know her and work with her during most of the time that she has lived here. Her fine work on Capitol Hill is a credit to her dedication, her quick mind, and her excellent understanding of our democratic form of government. She will be an outstanding citizen of our Nation, and I invite my colleagues to join me in welcoming her as an American citizen.

SYRACUSE BOASTS TWO OF THE LARGEST LITERACY VOLUNTEER ORGANIZATIONS IN THE WORLD

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. WALSH. Mr. Speaker, I would like to take this opportunity to congratulate the people of my district for their commitment to improving literacy in the United States. It is no secret that the headquarter offices of Literacy Volunteers of America and Laubach Literacy International are located in Syracuse, NY. These are two of the largest literacy volunteer organizations in the world. I can think of no greater cause for which a community can be known than the opening of minds and new horizons through the gift literacy.

Coming up on the 12th of October, the city of Syracuse in a joint effort with Syracuse University will present a historical literacy documents exhibition called Teaching the World to Read. The documents that will be on display in this exhibit are from the archives of Literacy Volunteers of America and Laubach Literacy International. This exhibit will give a detailed history of literacy and the volunteer movement in the United States. We in Syracuse are proud of these two organizations and their founders.

I commend Frank Laubach and Ruth Colvin for their dedication and commitment to helping resolve the problem of illiteracy.

THE 79TH ANNIVERSARY OF THE REPUBLIC OF CHINA, OCTOBER 10, 1990

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. ACKERMAN. Mr. Speaker, I would like to commemorate from the floor of the United States House of Representatives, the 79th anniversary of the founding of the Republic of China, and I would like to take this opportunity to express my congratulations to President Lee and to the people of the Republic of China and the Coordinating Council for North America.

The history of the Republic of China is one which bears a striking resemblance to the changes we have witnessed throughout the world over the past year. To escape a takeover by Communist forces, Chiang Kai-shek and members of the KMT party fled the People's Republic of China in 1949, to establish a viable democracy on the island of Taiwan. The Republic of China is today a thriving commercial, industrial economy and a major international trading power.

Over the past three decades, Taiwan has changed from an agricultural to an industrialized economy. Taiwan successfully adopted an economic stabilization program, saw the gross domestic product rise at an incredibly high rate, and invested heavily in major infrastructure programs to help its citizens reach foreign markets with their goods. The Republic of China has successfully initiated infrastructure programs to build up the island. Their ventures have included municipal solid waste disposal programs; the reconstruction and improvement of hospitals; the construction of a highway linking the north and south of the island; and establishing grassroots development projects to improve rural living conditions, among many other initiatives.

Mr. Speaker, I've had the opportunity to visit Taiwan, and among the many wondrous things I saw, I was most impressed by the trading center in downtown Taipai. It was there that I fully began to understand and appreciate all that the people of Taiwan have accomplished in 40 years. Rarely before have I seen such a successful government-supported venture to promote and bring about the opportunities for private, indigenous industries to explore and expand into foreign markets. After visiting the trade center, I began to fully appreciate why Taiwan is our fifth largest trading partner.

Despite our questionable policy of 1979, made doubly questionable since Tianenmen Square, United States' commercial ties with Taiwan have expanded. Taiwan continues to enjoy Export-Import Bank financing, Overseas Private Investment Corporation [OPIC] guarantees, most-favored-nation status and ready access to United States markets. A vibrant export-oriented economy has pushed Taiwan into the ranks of the 13th largest international trading unit on planet Earth.

And all of this Mr. Speaker, with one diplomatic hand tied behind their back. Imagine where they would be if there were a level playing field.

Mr. Speaker, I would like to congratulate President Lee, Ambassador Wu, and the people of the Republic of China on their 79th anniversary and look forward to many more years of economic, political, and social successes forged between our two nations.

RETHINKING THE PRESIDENT'S PERSIAN GULF POLICY

HON. SAM GEJDENSEN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. GEJDENSON. Mr. Speaker, it has now been more than 60 days since the President first began to deploy U.S. troops in Saudi Arabia. As developments in this region continue to unfold, I wish to call to the attention of my colleague an article by Roger Hilsman which appeared in Newsday on August 16, 1990. Mr. Hilsman is a professor of international politics at Columbia University and was formerly the Assistant Secretary of State under President Kennedy.

BUSH'S BLUNDERS IN THE DESERT WON'T TOPPLE HUSSEIN—CALL IT WILD OPTIMISM OR NAIVETE, BUT THE PRESIDENT'S PERSIAN GULF POLICY WILL PROVE A COSTLY MISTAKE.

(By Roger Hilsman)

President George Bush's decision to send troops to Saudi Arabia and to launch an economic boycott of Iraq is both naive and wildly optimistic.

Bush demands that Saddam Hussein withdraw from Kuwait. For Hussein to turn back on the "eternal merger" that he has proclaimed is not like Bush going back on a campaign slogan like "Read my lips—no new taxes." For Hussein to bow to pressure from the United States—the superpower that arouses more Arab suspicion and fear than any other—would be so humiliating that it would likely mean the end of his reign.

Would a line drawn in the sand of Saudi Arabia and an economic boycott of Iraq bring that much pressure? Hardly.

First, economic boycotts have never been as effective as wartime blockades. And Bush's allies are split because they think a blockade is in fact a military move. But boycotts leak. There are too many countries that will be tempted by Iraq's offer of bargain-basement oil and too many circuitous routes for it to leave and other goods to enter. The Iraqi people will have to tighten their belts, but it will be easier for Hussein to convince them to do that as long as the country cracking the whip is the hated United States.

Second, the Arab world is far from united in its outrage at the Iraqi invasion of Kuwait. In many Arab eyes, the Kuwaitis were the spoiled rich kids of the Middle East. Bush may get some Arab support in the short run, but this is no short-run crisis. As the confrontation drags on and on, more and more Arabs will come to resent the American presence in the land of Mecca more than they do the Iraqi annexation. The rulers of a number of Arab states are feudal lords who will find holding on to power while they're allied with the United States a slippery business.

So the best that Bush can expect from his policy is a confrontation stretching into years—a confrontation fraught with the possibility that at any moment it could escalate into an all-out war. And as time goes on, Bush's support in the Arab world, among the other Western powers, and in America will steadily erode.

But this is the most optimistic scenario. Saddam Hussein commands an army of a million men. The United States fielded half a million men in Vietnam; to appease domestic sentiment, the Pentagon had to implement a policy of rotating troops home at the end of 12 months, just as they were beginning to be seasoned soldiers. The same sentiment will no doubt be felt this time around.

If Hussein does attack Saudi Arabia, the United States would have to follow President Lyndon Johnson's example when he bombed North Vietnam—use its superior airpower against the Iraqi homeland. Bombing Iraq would probably be no more effective in ending the war on U.S. terms than bombing North Vietnam was.

But Hussein has a countermeasure that the Vietnamese did not have. He has a huge stockpile of chemical weapons—enough to lay down a no-man's-land 50 miles wide across Saudi Arabia that soldiers could enter only in full protective gear. Fighting in such gear in the desert heat is next to impossible, but the only troops in the world who have had some experience in doing so are the Iraqis.

The problem is perspective. Hitler conquered Western Europe and posed a threat to the entire world. Hussein's aggression is a regional threat. The only way that it could become a threat to the world is if Bush makes it so.

What could Bush have done that would be in keeping with the realities of today's world? Not much to restore the independence of Kuwait, but a great deal to put the United States in a position in which future presidents would not have to face crises rooted in energy.

First, Bush should have said that any superpower's intervention in the Middle East was just as unacceptable as Hussein's threat to Saudi Arabia.

The problem is an Arab problem and will have to be dealt with by Arabs. The United States could give both military and economic aid to those Arab countries threatened by Iraq, but it would not send troops.

Second, the United States should not be the architect of a boycott of Iraq, but it could say it would join such a boycott if the Arab states chose to organize one.

Third, and most important, Bush should have coupled these policy statements with a far-reaching program to make the United States less dependent on Middle Eastern oil. Much could be done to replace oil with other fossil fuels. Solar energy would help. A Manhattan Project could be launched to perfect fusion power, which is infinitely safer than fission. The technology already exists to run automobiles on a form of hydrogen fuel that is safer than gasoline, and with the additional bonus that the by-product is not the pollution that plagues the cities of America, but simple H_2O.

The rise of nationalism in the Third World convinced most leaders in the West that the days of Western military intervention in Asia, Africa, Latin America, and the Middle East were gone. It took a defeat by Vietnamese peasants clad in black pajamas to make Lyndon Baines Johnson understand this elemental fact. What will it take to convince George Herbert Walker Bush?

JOE LENTOL: THE PRIDE OF BROOKLYN

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. SOLARZ. Mr. Speaker, I rise today with extreme pleasure to honor my good friend and associate, Joseph R. Lentol, for the past 18 years. Joe has been a member of the New York State Assembly representing the good citizens of Greenpoint and Williamsburg in my congressional district in Brooklyn.

This tribute to Joe could have been made for any number of reasons on any number of occasions over the past many years. It is being made at this time because he is being honored on October 25, 1990, by the Greenpoint YMCA.

For the past 8 years, Joe and I have joined hands repeatedly to work for the people of Greenpoint, Williamsburg, and Fort Greene, and by so doing, I have come to know firsthand how fortunate these people are to have Joe representing them in Albany.

And, as it turns out, Joe is my favorite landlord. He has been kind enough to let me share space with his district office in Greenpoint to make it easier for me to meet with my Greenpoint and Williamsburg constituents. And the price is right.

Joe Lentol has a lot to be proud of, not the least of which is the association of the name of Lentol with the New York State Legislature, where I also served before being elected to Congress. In the long history of the New York State Legislature, Joe is the only person to be the third generation to serve in Albany. His father, the late Hon. Edward S. Lentol, served from the same assembly district from 1948 until he was elected to the State Senate, remaining there until he was elected to the Supreme Court in 1972. Joe's grandfather served in the assembly in the 1919–1920 session.

Mr. Lentol's legislative accomplishments include passage of pension supplementation for New York state and local public employees; strengthening of the crime victims compensation law; strengthening of the open meetings law; and passage of safety standards for the handling and storage of natural gas. As the first chairman of the Administrative Regulations Review Commission in 1977–78, he laid the groundwork for the publication of the State Register, a weekly compilation of proposed rules and regulations.

As chairman of the committee on governmental employees from 1979 to the present, he has guided the committee to focus on improvement of local and State retirement systems, and the rights of public employees, including safe working conditions.

Mr. Lentol is a member of the Seneca Democratic Club; the John Smolenski Democratic Club; the Consolidated Democratic Club; the Greenpoint Civic Council; the 94th Precinct Community Council; the Green Oaks Citizen's Club; the Knights of Columbus, Fidelity Council; the Sons of Italy, Williamsburg Lodge; the Concerned Citizens of Withorn Street; the Concerned Citizens of Williamsburg; the People's Firehouse; the 90th Precinct Community Council; the 94th Precinct Federation of Block Associations, and board of directors of the Greenpoint YMCA.

He is also an honorary member of the New York City Police Department Honor Legion; the Transit Police Honor Legion; the Detective's Endowment Association; the New York State Police Conference; the Federal Criminal Investigations Association, and is a former president and current member of the Italian-American Legislature. He is a lieutenent colonel in the New York State Guard.

Born in 1943, Joe has been a lifelong resident of the Williamsburg-Greenpoint section of Brooklyn. He was educated in Most Holy Trinity High School, the University of Dayton, St. John's University Law School, and the Baltimore School of Law.

After graduation from law school, Joe served 2 years, 1971–72, as Kings County assistant district attorney and earlier worked in both Presidential campaigns of Adlai Stevenson.

He was first elected to the State assembly in 1972, and I know no other person who exemplifies what is right and honorable about the term "public service," than the right and honorable Joe Lentol.

THE SPACE PROGRAM OFFERS PROMISE IN UNDERSTANDING OSTEOPOROSIS AND OTHER BONE DISORDERS

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. ROE. Mr. Speaker, as a cosponsor I lend my support to H.R. 4864, the Osteoporosis and Related Bone Disorders Research, Education, and Health Services Act of 1990, and I want to commend Representative OLYMPIA SNOWE for her dedication in developing this legislation.

With an estimated 27 million Americans suffering from osteoporosis and related metabolic bone disorders, these health problems exact a heavy toll on our population. The financial cost to the Nation is also enormous: $10 billion in 1988 from 1.3 million osteoporosis-caused fractures.

H.R. 4864 provides funding to support vital research on bone disorders, and also sets up mechanisms for the coordination of that research.

Our Nation's space program has been a continuous contributor to the research base on bone infirmity by increasing our understanding of bone function and dysfunction.

When astronauts are confined in a zero-gravity environment for extended periods, as happens on space shuttle flights, their bodies undergo several changes. Among the most serious of these physical changes is a progressive and continuous loss of bone mass and calcium, coupled with a decrease in bone strength. Routine exercise regimens on board the spacecraft have not been able to reverse the losses, and the cause of the phenomenon is not yet well understood.

The National Aeronautics and Space Administration [NASA] has devoted considerable

attention to understanding the behavior of bones under weightless conditions. Without adequate countermeasures, extended spaceflight, such as a lengthy trip to Mars, could bring about bone changes that would seriously jeopardize both the crew's health and the mission's success. As a result, NASA's Life Sciences division is sponsoring research into the fundamental mechanisms which cause bone loss in space, and into developing countermeasures to prevent the associated complications. When operational, the Space Station *Freedom* will greatly extend the timeframe that humans can work on orbit. This, in turn, will greatly expand the database on skeletal system behavior. The research done to date has already significantly increased our understanding of bone phenomena. This understanding has aided researchers in their studies of bone disorders and will no doubt help speed the day when a cure for osteoporosis is found.

Mr. Speaker, over the last three decades, biomedical research has experienced a revolution. Our space exploration and development initiatives have made a unique contribution to these spectacular medical advances. Once again, I want to commend my colleague OLYMPIA SNOWE for her work in authoring this legislation to combat bone disorders.

THE 79TH NATIONAL DAY OF THE REPUBLIC OF CHINA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. CRANE. Mr. Speaker, this is a very special day for our friends in the Republic of China, for it was 79 years ago today that Dr. Sun Yat-sen founded their great nation.

The Republic of China Government clearly deserves to be recognized by the House of Representatives on this very important occasion. Under the leadership of President Lee Teng-hui and his predecessors, freedom and democracy have flourished, and the economy has enjoyed spectacular growth. As our fifth largest trading partner, Taiwan has taken substantive steps in opening its markets to American products and, in 1989, adopted a detailed action plan to strengthen trade ties with the United States.

I would like to submit for the RECORD a congratulatory letter which was sent by myself and 39 of my colleagues to President Lee on the occasion of the Republic of China's 79th National Day.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 5, 1990.

President LEE TENG-HUI,
Republic of China, Taipei, Taiwan.

DEAR MR. PRESIDENT: We are writing to offer you our warmest congratulations on the occasion of the 79th National Day of the Republic of China.

Under your leadership, and the leadership of your predecessors, freedom and democracy have flourished and your economy has experienced spectacular growth. The Republic of China has become a towering example of the unlimited advantages of a free enterprise system. There will surely come a day when the government on the mainland will no longer be able to deny its people the same freedoms which the Taiwanese currently enjoy.

We wish to pledge to you our support and to assure you of our continuing interest in the welfare of your country. Your vision of a free and strong Republic of China under the principle of "free economics, democracy and free elections" is one that is warmly endorsed by freedom-loving people everywhere.

Mr. President, please accept our best wishes and congratulations.

With warm regards,

Philip M. Crane, Larry E. Craig, George W. Gekas, Michael DeWine, Tim Valentine, Robert K. Dornan, John S. Tanner, Thomas Manton, Dan Burton, Jim Courter, Don Ritter, Frank Horton, Jim Bunning, Rod Chandler, Jack Buechner, Joe Kolter, Richard K. Armey, Earl Hutto, —— ——, Christopher C. Cox, Tom DeLay, Norman F. Lent, Bob Stump, G.V. Montgomery, Ben Gilman, Bill Dickinson, Henry J. Hyde, John Miller, Buz Lukens, John Paul Hammerschmidt, Tom Bliley, Herbert H. Bateman, Jim Saxton, Jon Kyl, French D. Slaughter, Cass Ballenger, Dennis J. Hastert, Bill Dannemeyer, Bob Lagomarsino,
Members of Congress.

HUMAN RIGHTS ABUSES IN HAITI

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. SABO. Mr. Speaker, the Minnesota Lawyers International Human Rights Committee recently released a report highlighting a form of human rights abuse, unique to Haiti, known as restavek. The report, "Restavek: Child Domestic Labor in Haiti" describes the conditions facing young children who are sold or given away by their parents to serve as unpaid domestic laborers.

Restavek children, who perform the bulk of the household labor in many homes, often are deprived of the most basic economic and civil rights. They are cut off from their families, receive inadequate education, food, shelter and health care, and many of the girls are sexually abused.

The Lawyers Committee has recommended a specific series of steps that could be taken to eliminate the practice of restavek. At this point, I would like to insert the report's summary and recommendations.

SUMMARY

During its 1988 mission to Haiti, the Minnesota Lawyers Committee learned of a common practice of domestic child labor in Haiti, known in Creole as "restavek" (derived from the French words "rester avec"—"to stay with"). The restavek child is given by his or her (usually rural) parents to an urban family, to perform household labor. While in some instances the placement is an informal adoption that allows the rural child to be brought up in a higher socio-economic setting than would otherwise be possible, in its more typical form the child is totally cut off from his or her natural family and viewed as a source of labor, not as a child, by the "employing" family.[1] Indeed, various Haitians have characterized the practice of restavek as a vestigial form of slavery.

After further discussion about restavek with Haitians living in the United States, the Minnesota Lawyers Committee decided to focus its second mission to Haiti on restavek children. The Committee made this decision for several reasons. First, it regards the practice of restavek as a serious human rights issue that violates a number of international legal conventions, including several to which Haiti is a party. By failing to enforce existing legislation or enact appropriate safeguards against restavek, the Haitian government violates both national and international legal obligations to prohibit forced labor and slave-like practices, and to uphold the rights of children. Second, there has been virtually no discussion of restavek outside of Haiti, and only limited attention to this issue within Haiti. The information obtained about the plight of many restavek children suggested the need for Haitian and international scrutiny and concern. Third, restavek is a particular manifestation of the condition of the majority of children in Haiti. Most Haitian children lack basic economic and civil rights, victims not only of their country's turbulent political history but of its crushing poverty as well.[2] By focusing on the restavek child, one can appreciate more concretely the effect of past Haitian governments' inability, or unwillingness, to provide for the most basic needs of the most vulnerable component of its population—its children.

The three authors of this report visited Port-au-Prince, the capital of Haiti, in December, 1989. The delegation interviewed present and former restavek children, governmental officials, Haitian experts on restavek, human rights workers, staff from non-governmental international organizations interested in children's issues, and church workers. The delegation also obtained what is believed to be the only written study of restavek, a report issued after a 1984 conference on "Child Domesticity" which assembled Haitian government officials, sociologists, psychologists, educators, lawyers and clergy to address the subject of restavek.[3]

Substantial evidence exists showing that restavek is a prevalent feature of Haitian life. Large numbers of children, some at very young ages, are given by impoverished parents to more affluent families who use them as domestic servants. In many instances the restavek child has no further contact with her[4] real family after the initial placement.

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[1] The term "employing" family is used in this report to designate the family to whom the restavek child is given. It is not an entirely satisfactory term, as it implies, for example, a salary, when in fact the restavek child receives none. It does, however, accurately reflect that the typical restavek child is obtained by a family as a source of labor, not as a child to be raised and nurtured.

[2] For a general survey of human rights issues affecting Haitian children, *see* Minnesota Lawyers International Human Rights Committee, *Children's Rights in Haiti*, February 1989.

[3] The reports or statements of the various contributors to this government and UNICEF supported conference were published as *Colloque SurL'Enfance en Domesticite*, subsequently referenced as "1984 Conference Report."

[4] The use of the feminine throughout the report includes the masculine; the Committee selected feminine forms because the majority of restaveks are girls.

Restavek children usually perform the bulk of the household labor, without pay. Working as a servant is the primary function of the restavek; typically she is not treated like a family member. She is therefore unlikely to attend school, even if the family's children attend school; to eat with the family; or to eat the same quality diet as the family. The evidence suggests that most restaveks are beaten, and girls may be sexually abused.

Many of the children presently living in the streets of Port-au-Prince have fled restavek situations. Children who flee, or are dismissed from, restavek situations often have no means to contact or return to their original homes.

Restavek children do not remain the "property" of the restavek families forever. When they become teenagers or reach adulthood, they may work for the same family or other families as cooks, drivers, maids, or similar positions, for pay. In most cases, the adult who grew up as a restavek has extremely limited opportunities to change the circumstances of her life as she grows older because of the limitations on education and development inherent in restavek situations. Similarly, there is a social and class stigma attached to being a restavek child.

The Minnesota Lawyers Committee believes that the Haitian practice of restavek should be abolished. The Committee appreciates that complex economic, cultural and historical forces in Haiti have contributed to the existence of restavek; that because it exists in a variety of forms it is not uniformly abusive and exploitative; and that it is difficult to analyze from a strictly legal viewpoint. In its typical form, however, restavek deprives a child of the most basic economic and civil rights: rights to family, education, health care, childhood and leisure, and in many cases, adequate shelter and nutrition.

The practice of restavek violates international prohibitions against practices similar to slavery, forced labor and the exploitation of children. These prohibitions are enumerated in the Universal Declaration of Human Rights, as well as the following treaties to which Haiti is a party: the American Convention on Human Rights; the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; and International Labour Organization (ILO) Convention No. 29 on Forced Labour.

The Haitian government's attempts to regulate restavek have failed and, even if enforced, are not adequate to satisfy Haiti's legal obligations or to end the exploitation inherent in restavek placements. Therefore, Haiti should within the shortest possible period take all necessary steps to bring about the complete abolition of restavek. The government should ensure that present and former restavek children are returned to their own families or, if that is impossible, placed in an environment in which the children's interests are paramount. International organizations and non-governmental organizations should take appropriate measures to ensure Haiti's compliance with international law and to aid Haiti in its efforts to address the roots and consequences of restavek.

RECOMMENDATIONS

The practice of restavek violates international prohibitions against practices similar to slavery, forced labor, and the exploitation of children. In order to eradicate the practice of restavek, the Minnesota Lawyers International Human Rights Committee recommends the following:

The Haitian government within the shortest possible period should take all steps necessary to bring about the complete abolition of the practice.

The government of Haiti should adopt legislation making it illegal to use children as domestic servants. Removal of children from their own families should only be permitted in legitimate cases of adoption, keeping the interests of the children paramount, or upon a determination by a court of law or agency of the Haitian government that the interests of a child would be better served if the child is placed in foster care or under the care of a social service agency.

To ensure that such legislation is obeyed, the government should implement an education campaign, denouncing the practice of restavek to both its rural and urban populations. The government should provide the Institute of Welfare and Social Research with adequate funding and support to remove present restavek children from employing families and return them to their own families. If it cannot locate a particular child's own family, all necessary steps should be taken to place the child into an environment in which the child's interests are paramount.

The Haitian government should also devote special attention to street children, many of whom are former restaveks. Haiti needs more orphanages to care for these and other dislocated children, as well as a system to attempt to reunify children with their families.

While the Committee recognizes the limited resources available to the Haitian government, the government should adopt programs that address two of the primary causes of restavek: rural poverty and underdevelopment. Programs that lead to greater self-sufficiency in food production reduce the pressure on poorer, rural families to give their children away. Similarly, more educational opportunities in the rural areas will reduce the likelihood a family will put a child into a restavek setting out of the hope—usually false—that the employing family will educate the child.

The government should act on former promises to adhere to international human rights treaties. In particular, having signed the Convention on the Rights of the Child, the Haitian government should complete the process by ratifying the Convention. Additionally, the President of Haiti should sign, and the National Assembly ratify, the International Convention on Civil and Political Rights and the International Convention on Economic, Social and Cultural Rights.

The International Labour Organization, the Organization of American States, and the United Nations Working Group on Contemporary Forms of Slavery are the international organizations that implement conventions forbidding the practice of restavek. They should take appropriate measures to ensure compliance with international law through abolition of restavek.

Donors of foreign aid to Haiti should monitor Haiti's progress in abolishing restavek and should make programs and funding targeted at children a high priority. In particular, the international community should support Haitian and international programs that will increase the delivery of social services to children, provide greater educational opportunities to children, and promote rural development in a way that does not undermine Haitian agricultural self-sufficiency.

TIME TO OFFER SADDAM A WAY OUT

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Ms. KAPTUR. Mr. Speaker, with the continuing build up of U.S. troops in the Middle East and the threat of armed conflict more likely, it is advisable to pursue a parallel strategy of peace talks involving our United Nations Security Council permanent members. This article which appeared in the Toledo Blade on Sunday, September 30, 1990, entitled, "Time To Offer Saddam a Way Out" was written by Mr. Hyland, editor of Foreign Affairs magazine, sets the tone for such an effort.

The time has come for America to spell out its terms for settling the Gulf crisis. At this stage, the crisis should be easing, and diplomacy moving forward. Both sides had to make certain moves before a settlement could even be contemplated. But that phase ended with the Helsinki summit; a breach between the superpowers was Saddam Hussein's last real hope. Rather than easing, however, the crisis is becoming more explosive, and war seems more and more likely.

War may well be the only solution. If Saddam is truly like Hitler, he lusts for war. Even so, before going to war, we must try to offer him a way out. Simply insisting that Iraq withdraw from Kuwait is no longer enough. Any peace plan has to deal not only with the liberation of Kuwait but with the containment of Iraq and the establishment of new security arrangements for the gulf, and perhaps the entire Middle East as well.

The outlook for negations is quite gloomy, but a peace plan might work if all five permanent members of the Security Council—Britain, France, the United States, China, and the Soviet Union—put it forward. Even Saddam Hussein could not simply brush it aside. To hint at a negotiation at this stage could be a sign of weakness and encourage Saddam to hold on. Any five-power offer therefore would have to have the character of an ultimatum—perhaps not a strict time limit but close to it.

The starting point, of course, would be the withdrawal of Iraqi troops from all of Kuwait, and the insertion of a U.N. force. The restoration of the status quo ante would not be enough. The Kuwaiti government would have to pledge to validate its legitimacy through elections to a parliament.

Iraq would be guaranteed the opportunity to present its economic and territorial grievances against Kuwait to the World Court, and both governments would be bound by the outcome. With Iraq's withdrawal completed, one-half of its assets would be unfrozen, and the embargo against foodstuffs and nonlethal imports would be lifted.

This might just barely save Saddam's face, but it would still leave the region at his mercy. This threat would be dealt with, first, by a five power guarantee to the effect that an unprovoked attack against any of the Gulf States by any power would be an attack against the five powers. This guarantee would be extended to all Gulf states, whether they requested it or not.

A five-power guarantee is a powerful political instrument, but it would not be enough. American and other troops would remain in Saudi Arabia and the Gulf area until the question of Iraqi armaments had been dealt

with. Iraq would have to agree to submit its various nuclear-related facilities to inspection as provided for by the non-proliferation treaty. Moreover, its rockets and missiles would have to be assembled in a designated area and subject to continuing inspection, and preferably destroyed. Any chemical-weapon would be deactivated and also made subject to inspection. Destruction of the chemical weapons stocks would be desirable, but may be impossible to verify.

At this point all non-Arab foreign ground troops would withdraw, but some U.S. and European air and naval units would remain. Iraq's remaining assets would be unfrozen and the embargo entirely lifted.

These arrangements should contain the threat from Iraq. Why would Iraq, ever agree to this? It would be close to a surrender, but it ought to be preferable to a war, which could only end with Iraq's destruction. The plan's principal disadvantages are that Saddam Hussein would remain in power with a huge army, and that deterring him would depend heavily on the continuing agreement among the five powers.

The chances for settling the crisis would be improved by including some provisions for a broader regional settlement. A realignment of forces in the Arab world is obviously underway. The Soviet role in the area is also changing significantly. The five powers should include in their plan an offer to expand their efforts to explore a regional security system.

They could not be expected to underwrite the status quo, but they could stand ready to be honest brokers and guarantee an Arab-Israeli settlement. It would be ironic if this crisis ended with security guarantees for the Arab sheiks, while leaving Israel exposed.

The five powers could agree to convene a conference on the Middle East—an old, shop-worn idea, but worth reconsidering in light of the new situation. Such a conference might not yield anything; and when it collapsed another crisis might be provoked by Iraq. Baghdad would certainly then try to form a new Arab front.

The current strategy of relying on the build-up of military power and the tightening of the embargo is too dependent on the calculation that Saddam will become desperate enough to capitulate or will be overthrown. He might, however, agree to get out of Kuwait, but nothing more. A settlement that goes beyond the liberation of Kuwait and contains post-crisis Iraq is surely in the American interest. Moreover, a settlement that preserves some balance of power between Iraq and Iran is also in the American interest.

A TRIBUTE TO PETER J. RYBKA

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. LAFALCE. Mr. Speaker, I rise today to offer my congratulations and praise to Peter J. Rybka: first generation American, family man, labor organizer, councilman, community leader, volunteer, octogenarian, and concerned citizen. Mr. Rybka's lifetime accomplishments have been of great and enduring value to the community. Whether it was helping Polish immigant workers by speaking to them in their native tongue, working to provide Grain Millers Union members adequate wages and benefits, or working for retirees in a variety of positions, Peter Rybka has always placed others first. Indeed, when he was the Democratic majority leader of the Buffalo City Council, and considered a possible candidate for mayor, Rybka put aside his own political ascendancy and did not run for re-election. He declined another term because he believed that Council responsibilities took too much time away from his work on behalf of union members.

Buffalo area residents will be honoring Peter with a testimonial dinner on October 18th for his many years of achievement and service. The following article, which appeared in the Buffalo News of September 29, 1990, highlights Rybka's many accomplishments.

[From the Buffalo News, Sept. 29, 1990]

FATHER OF THE GRAIN MILLERS STILL ACTIVE AT 80

(By Joseph P. Ritz)

It was in the middle of the Great Depression of the 1930s, the Wagner Act has just given labor its charter to bring the nation's beggared workers into unions and Peter J. Rybka was barely old enough to vote.

Seated behind the desk in his fifth floor office in the Ellicott Square, the 80-year-old labor leader this week recalled talking in Polish to immigrant workers in area grain mills where he organized what are now Locals 36 and 110 of the American Federation of Grain Millers.

"Some people say I work, eat and sleep labor and politics. They're not far from wrong," Rybka said.

His involvement with labor goes back to 1933 when he was earning 40 cents an hour as a packer in the Allied Mills plant in Buffalo and preaching the values of collective bargaining to his fellow workers, nearly all of whom were older than he was.

Fifty-seven years as a labor leader and still active in that role full time is an achievement of remarkable durability in a field where it's easy to acquire enemies and challengers.

As acknowledgment for his accomplishments in those years, Rybka will be honored Oct. 18. Area labor leaders, politicians, friends and Rybka's family, including his wife to whom he has been married 60 years, plan a testimonial dinner in the Hearthstone Manor.

Around the walls of Rybka's office are photographs, framed news clippings and plaques, testaments to more than half a century as a labor and political activist. A framed document certifies his election as Buffalo councilman-at large in 1947, thanks to the 111,000 residents who voted for him.

Rybka rose to become the council's Democratic majority leader the last two years of his term, and at one time was considered as a candidate for mayor, but he never ran for re-election. He says it took too much time from his work for the union.

A photograph attests to Rybka's membership on the area War Manpower Commissison during World War II. A plaque describes him as the Am-Pol Eagle's 1976 Citizen of the Year. Other plaques honoring him include those from the Catholic Diocese of Buffalo, Local 110 of the Grain Millers Union, the Buffalo Port Council of the AFL–CIO's Maritime Trades Department, and the Western New York Chapter of the Industrial Labor Relations Research Association, which picked him as its citizen of the year in 1988.

Rybka today looks not too different from many of the photographs on his office walls showing a much younger, determined man. He is a little heavier and his sandy hair is thinning, showing white mostly around the ears like a wind-flattened field of dead grass after a light snow. His handshake is strong and his voice vigorous.

Rybka was six when his father and mother, immigrants from Poland, brought him, his three sisters and a brother to Buffalo from Dupont, Pa., where his father had worked in the coal mines.

The main reason for the move, according to Rybka, was that his father wanted to get into a safer line of work. Ironically, two years later his father was killed while working in Bethlehem Steel's Lackawanna plant when he was hit by a railroad car.

When he was 14, Rybka dropped out of high school to support what was left of the family—his three sisters died of scarlet fever while young. After working at a series of jobs—delivery boy for AM&A's, assembly worker for the now-defunct Kurtzman Piano Co.—he went to work at 18 for Allied Milling.

After the success in organizing the workers, Rybka rose rapidly in the union ranks—steward, local trustee, recording secretary, business representative. He helped form the American Federation of Grain Millers.

After 20 years as business representative for Local 110, Rybka was elected international vice president of the Grain Millers in 1958 and later moved up to executive vice president. Under the union's constitution, he was to be forceably retired at age 70. However, Rybka was allowed to remain in office until his term ended in 1983, when he was 73.

Mandatory retirement, for Rybka, only meant that he wouldn't be paid for his union activities. As an unpaid "consultant," he has retained the duties and the office of a union business agent, but not the title or the pay. He continues to work full time negotiating contracts and handling grievances and arbitrations involving Local 110 and the 15 companies, including Rich Products, with which the union has contracts.

And, he has taken on the concerns of those who *have* retired as organizer and president of Chapter I of the American Federation of Grain Millers Retirees, president of the Erie-Niagara County Retirees Council and vice president of the New York State Senior Citizens Council.

Rybka was asked if he is thinking of retirement for himself. "I'm going to keep busy as long as I can," he answered firmly

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SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4 agreed to by the Senate on February 4, 1977, calls for establishment of system for a computerized schedule o all meetings and hearings of Senat committees, subcommittees, joint committees, and committees of conference This title requires all such committee to notify the Office of the Senat Daily Digest—designated by the Rule Committee—of the time, place, an purpose of the meetings, when scheduled, and any cancellations or change in the meetings as they occur.

As an additional procedure alon with the computerization of this information, the Office of the Senate Dail

Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 11, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 12

9:30 a.m.

Labor and Human Resources

Business meeting, to mark up S.J. Res. 374, to declare it to be the policy of the U.S. that there should be a renewed and sustained commitment to Federal aid to elementary and secondary education, the proposed Civilian Ex-Prisoners of War Health Benefits Act, recommendations which it will make to the Committee on the Budget with respect to spending reductions and revenue increases to meet reconciliation expenditures as imposed by H. Con. Res. 310, setting forth the congressional budget for the U.S. Government, and to consider pending nominations.

SD-430

Veterans' Affairs

Business meeting, to consider recommendations which it will make to the Committee on the Budget with respect to spending reductions and revenue increases to meet reconciliation expenditures as imposed by H. Con. Res. 310, setting forth the congressional budget for the U.S. Government.

SR-418

10:00 a.m.

Banking, Housing, and Urban Affairs

Business meeting, to consider recommendations which it will make to the Committee on the Budget with respect to spending reductions and revenue increases to meet reconciliation expenditures as imposed by H. Con. Res. 310, setting forth the congressional budget for the U.S. Government.

SD-538

Environment and Public Works

Business meeting, to consider recommendations which it will make to the Committee on the Budget with respect to spending reductions and revenue increases to meet reconciliation expenditures as imposed H. Con. Res. 310, setting forth the congressional budget for the U.S. Government.

SD-406

Finance

Social Security and Family Policy Subcommittee

To hold hearings to examine the problem of Fetal Alcohol Syndrome, focusing on the impact of alcohol abuse on babies on Indian reservations and babies born in public service hospitals.

SD-215

11:00 a.m.

Conferees

On H.R. 5311, making appropriations for fiscal year 1991 for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District.

H-301, Capitol

FEBRUARY 26

9:30 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of the Disabled American Veterans.

345 Cannon Building

FEBRUARY 28

9:30 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Paralyzed Veterans of America, Blinded Veterans Association, Vietnam Veterans of America, Military Order of the Purple Heart, and Non-Commissioned Officers Association.

345 Cannon Building

APRIL 17

9:00 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of AMVETS, Ex-Prisoners of War, Jewish War Veterans, and World War I Veterans.

345 Cannon Building

POSTPONEMENTS

OCTOBER 12

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on the nomination of Mary S. Brunette, of Virginia, to be an Assistant Secretary of Housing and Urban Development.

SD-538

SENATE—*Thursday, October 11, 1990*

(Legislative day of Tuesday, October 2, 1990)

The Senate met at 9:32 a.m., on the expiration of the recess, and was called to order by the Honorable GEORGE J. MITCHELL, a Senator from the State of Maine.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Let us, in a moment of silence, remember Senator MIKULSKI's mother, who is ill, praying for her rapid recovery; and Congresswoman LINDY BOGGS, who lost her daughter by death yesterday.

*Husbands, love your wives, even as Christ also loved the church, and gave himself for it. * * * And, ye fathers, provoke not your children to wrath: but bring them up in the nurture and admonition of the Lord.*—Ephesians 5:25, 6:4.

Loving Father in Heaven, we pray for our families, sometimes hostage to the business of the Senate. As the Senate works early morning to late at night, sometimes all night long, in committee or conference or on the floor, when they must squeeze in quick trips to their States between votes, their families inevitably suffer. Often they are victim to Senate schedules, and their plans are changed or postponed or canceled. We pray for our families, for wives and children, and ask Thee, Father, to help us, despite the great pressure of responsibility to do our best to be the husbands and fathers our marriage vows commit us.

Where there is alienation in our families, enable there to be loving reconciliation. Where there is disappointment or discouragement, let there be hope. Gracious Father, bless our homes, our families, and give us grace to conform to the biblical model of marriage.

We pray in the name of Him who is love incarnate and the Prince of Peace. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER.** The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 11, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHARLES S. ROBB, a Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ROBB thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning, following the time for the two leaders, there will be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes.

At 10 a.m. there will be 1 hour for morning business under the control of Senator CRANSTON or his designee. When morning business closes at 11 this morning the Senate will proceed to the consideration of H.R. 5021, the State, Justice, Commerce appropriations bill. As I indicated last evening, it is my intention to complete action this week on available appropriations bills. As of now that includes the Foreign Operations appropriations bill, and the Labor, Health and Human Services appropriations bill.

I hope we will be able to gain consent to proceed to these measures today or tomorrow. If not, the Senate will have to be in session on Saturday to complete action on those bills as we must move quickly if we are to meet the target deadline of next Friday, October 19.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and I reserve all of the leader time of the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m. Senators are permitted to speak therein for not to exceed 5 minutes each.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LINE-ITEM VETO—BAD IDEA

Mr. SANFORD. Mr. President President Bush was in North Carolina yesterday on a political mission making a political speech, but in the course of his speech, he explained to the people of North Carolina that i we give him authority to have a line item veto, that he would have had al this budget problem solved by now.

Mr. President, the line-item veto i unique. It is at once one of the mos appealing and one of the worst idea floating in Washington today. It ha been discussed and proposed in thi Chamber since it was first adopted b the Confederacy in 1861. It did no make any sense then, and it makes les sense today. We have heard many Senators call for the line-item veto as the way to reduce the Federal deficit. I will hardly make a dent. We have heard from the U.S. Chamber of Commerce that this is the prime answer to the budget deficits. That assertion i pure hogwash. Whatever might be said in behalf of the line-item veto, i cannot be said that it is an answer to or would have much effect on, the rising deficits and debt. Our job o fiscal responsibility requires tougher action.

To suggest that the line-item veto i an appropriate budgeting tool is farce. The President makes up the initial budget. The White House does no want the public to remember that They spend great energy trying to convince the public that Congres

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

makes the budget. The President makes the budget. So 95 percent of the lines in the budget were put there in the first place by the President. He does not need a line-item veto to take out his own lines. He can simply do what neither he nor President Reagan have ever done—send Congress a balanced budget.

When asked what we are to do about our massive national debt, and these deficits caused by the interest we are paying at the rate of a quarter of a trillion dollars a year, the White House budget director, the U.S. Chamber of Commerce officials, and the people they have sold a bill of goods chirp, "Give the President the line-item veto." That is called changing the subject. It is an irrelevant answer. The line-item veto can have no real effect on the budget, on the deficit, on the debt, or on the interest on the debt. When you do not want to give an honest answer, change the subject.

On April 19, my able colleague from Mississippi, Mr. LOTT, made a forceful speech in promotion of the line-item veto. He cited the Nation's Federal deficit as its main justification. The esteemed junior Senator from Mississippi listed a number of projects he believes to be targets for line-item veto, and the salvation of our budget problem. It was an impressive argument until I added up the figures. They totaled $38.9 million—approximately one seventy-fifth of 1 percent of the 1991 deficit. If he found 10 times this many, or 75 times as many, that would not do the job.

Clearly, a budget cut of $38.9, or $389 million, or $3.8 billion, if justified, is helpful, but it is not going to reduce substantially the 1991 deficit of $300 billion. And to assume that even this amount could be saved is to assume that all congressional initiatives are bad, and all Presidential ones are good.

I am not the one to judge whether the congressional budget additions by Congress are worthy projects, but even less in a position to judge is the President. The President can stand in Congress and laugh at grants for pea and lentils, peach, and catfish research, and he may be right—but maybe he is not—and who is the best one to sense what is helpful for neglected regions and small communities—the local Congressman, the Senator, or some White House budget staffer who writes a memo to go into the President's line-item veto message? I will stick with the people's elected Representatives.

The truth is that most of those congressional items should not be cut. Who knows better than a Member of Congress how crucial project funding may be to a local area? To allow the administration, with relatively little contact with small constituencies, to decide what is allowed and not allowed for local communities across the United States would be a gross misrepresentation of the vast, diverse American public.

The telling point is, even if something good can be said about the line-item veto, it will not begin to get the deficits under control. It is a sham and a smokescreen and a dodge promoted by two administrations that have not wanted to face and do something about our rapidly rising national debt, have not had the political courage to clean up their fiscal irresponsibility, and have not had the honesty to tell the truth about our deficits and debt.

I suppose my main—of many—objections to the line-item veto is that it is just not an honest answer. Somehow, I keep coming back to the same theme, that we cannot handle the debt and the deficits if we are not first going to be honest with the American public.

The President has in his power several means of controlling the budgetary process which he seems reluctant to use. Instead of calling for a line-item veto under the pretense of reducing the deficit, perhaps the administration should show its commitment to deficit reduction by submitting balanced budgets to Congress. I challenge the President to submit to Congress one balanced budget. Congress would keep it balanced. That is the one sure way to control the deficits and debt.

In addition, if the President is serious about controlling the budget deficit by attacking the spending bills, he already has the authority. He may use his general veto authority and power of rescission. Although these two methods require much more interaction with Congress, which is good, they are avenues that do exist and could be useful if the President were to utilize them. Presidents Ford, Carter, and Nixon used rescission successfully. Two-thirds of the dollar amount that Carter rescinded was accepted by Congress.

Proponents of the Presidential line-item veto argue that most Governors have the line-item veto, so it must be a sound policy. In the first place, I am not in favor of their having that power, and my research indicates this power was perhaps more or less an accident of history.

I suppose I should, as a son of the Old South, support the line-item veto, for this bad idea was introduced to America by the framers of the Constitution of the Confederate States of America.

The Revolutionary War was fought, in part, because of the highhandedness of the crown's royal governors—none worse than Gov. William Tryon of North Carolina—and the King of England himself, in vetoing acts of the legislative bodies, the King's abuse being cited in our Declaration of Independence.

The inclusion of the line-item veto by the Confederates was somewhat of a sop for England, and it was never used by President Jefferson Davis.

Immediately after the Civil War many constitutions were being rewritten, by the scalywags and carpetbaggers in the South, and the frontier governments in the West, and the line-item veto became somewhat of a fad, copied by successive drafters of new constitutions. As stated in a committee print (1980) of the House Committee on Rules. "Constitution writing, now as in the past, remains a pastime principally of lawyers and professors who are motivated to 'reform' government." And the report noted elsewhere, the line-item veto "contained the seeds of numerous surprises, snags and paradoxes after being placed in operation."

In any event, there is a distinct difference between a line-item veto exercised by a Governor and such a power exercised by the President. The Governor is far closer to the loci. He or she is likely to be more aware of merits, and consequently his or her action is likely to be based less on politics. The President has no way of making a personally informed judgment. Consequently, he is more likely to make his judgment on the basis of the congressional sponsor than on the merits of the program.

My last, but most important, objection to the line-item veto is that it would upset radially the balance of power between the President and Congress. I suppose very few hard-working people, struggling with their own problems, care much about a power dispute between Congress and the President. But the balance of power—with no one branch too strong—was essential to the Founding Fathers, and it is important today to the best interests of citizens. It cannot be disputed that if the line-item veto were instituted, the President would use it to exert extraneous pressure on Members of Congress, for example, to hold local waste treatment projects hostage in order to get support of his veto of child care legislation. Most local citizens and all local and State governments will be badly served by giving the President line-item veto authority over local projects. This practice would take from the citizens of the United States the power and influence of their personal representation, would muffle the public's vote, and would put a very long distance between the American people and Federal spending choices.

Let me quote a thoughtful commentator, David S. Broder, who wrote in 1985 under a headline, "When Reagan Is No Conservative":

> Should President Reagan be given the power he is seeking to veto individual items in spending bills passed by Congress? Today, he must veto, or threaten to veto, an entire appropriation bill to get at specific provisions he finds objectionable. Would an item veto give him a more effective weapon to reduce the deficit?
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> The Senate opponents of the measure include two southern Democrats, Howell Heflin of Alabama and John Stennis of Mississippi, who served as judges in their states and are as consistent in their conservative interpretations of the Constitution as any two men in Congress. When Stennis says, as he did in debate last week, that giving this power to the president would gradually destroy the legislative branch of this government, it is not prudent to disregard the argument.
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> The same thing is true about one of the most vocal opponents of the companion House measure, Rep. Mickey Edwards (R-Okla.). Edwards, a former law professor, has headed the American Conservative Union and is a longtime supporter of Reagan's.
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> In Edwards' view, that shifts the president's power from the level of persuasion to the level of blackmail.
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> Mathias [Charles McC. Mathias of Maryland] provided an example in debate of what the shift might mean in his case. 'For example' he said, 'if President Reagan does not like my position on the issue of school prayer, and if he acquires the power to kill funds for the program that I have long supported to save the Chesapeake Bay * * * then the president * * * has a hostage. He can hold the Chesapeake for the ransom of my support * * * for state-sponsored prayer in school or any other subject that he might want my support on. * * * In my opinion it would destroy the balance that exists between * * * the executive and legislative branches.'
>
> On balance, I think it best that he be forced to negotiate those decisions with Congress—and Congress with him—as the makers of the Constitution intended. On this issue, I think the conservatives are right, and Reagan is not voicing the conservative position.

No President—Roosevelt, Truman, Nixon, or Reagan or any President of any party—can be trusted with that kind of centralized power.

I hope the public will see through this clever dodge. I urge my good friend from Mississippi, and all other colleagues, to look again at the line-item veto proposals. We should quit dealing with the unreal and quit pulling out a straw man while a real giant is hidden in the shadows. Our problem is irresponsibility, the refusal to deal with the hidden deficits and the massive rising debt. If we want to eliminate our Federal deficit, we cannot do so with line-item vetoes. Congress can begin by removing the accounting devices we use to cover up our deficits, and the President should begin by submitting honest and balanced budgets—and quit changing the subject.

The **ACTING PRESIDENT** pro tempore. The Senator's time has expired.

The Chair recognizes the Senator from New York [Mr. D'AMATO].

EMBARKING ON AN INJUSTICE

Mr. D'AMATO. Mr. President, I believe that the United States is about to embark on an injustice, an injustice that has come about as a result of the tragic loss of life this past Monday. An injustice because we are about to act before we have all the facts. I think we are making a grave error. Yes, it was a terrible tragedy in the loss of life, 19 Palestinians killed, 150 wounded, 20 Israelis wounded, but I think we have to understand, No. 1, that people do have the right to defend themselves. The question is: How did this attack take place? How was it that 20,000 worshipers found themselves under attack with bricks and bottles? How is it that a militant Arab mob just so happened to come at this time during the high holidays, during the Festival of the Tabernacles. Now, Israel is being condemned for using exessive force during this attack. Question: When you have a situation life threatening, when you have a huge mob, 40 or so policemen, how does one measure excessive force?

Reports indicate that the police first used rubber bullets and then tear gas. Only when the crowd refused to disperse, and they became concerned for their own safety, was live ammunition used. Regrettable, terrible, a tragedy—yes.

Should the situation be clarified: certainly. The Israeli Government has ordered a commission to review and to make the facts known. I think before we leap to judge—before we do what may be politically expedient—we should attempt to endeavor what the facts are.

The question again: Why this incident and why now? Mr. President, I believe that this was a vicious premeditated act orchestrated by the leadership of the PLO and by the Muslim radicals in order to deflect attention from the ruthless aggression being waged against the international community. To revive the Intifada and to reestablish the PLO's legitimacy.

I think, would be a terrible mistake for the United States. That's what it portends—not only to undermine Israel—but to ultimately tie the Palestinian issue to the Iraqi invasion of Kuwait. That is why this took place.

You did not have a mob of thousands of Muslims who came and decided to attack those worshipers because they were afraid that there was going to be a new temple built. It was, rather, to bolster militarism and extremism among nations and people—and even more sinister—to drive a wedge between the United States and Israel.

The only fair course of action is to determine the facts, and then to apportion the blame.

Our Government, in an effort to keep together its coalition facing Iraq, I believe, may be moving precipitously and may be prejudicing this matter in finding guilt without having the facts and assessing them. Not in the World Court where sensational charges can be made, but factually, calmly.

I think it would be counterproductive if we pursue a course to simply condemn Israel because of this tragedy. I do not think we should allow Saddam Hussein or his surrogates to drive a wedge between the United States and Israel.

Mr. President, I yield the floor.

DEATH OF BARBARA BOGGS SIGMUND

Ms. MIKULSKI. Mr. President, I rise today in sadness to call the Senate's attention to the death of Barbara Boggs Sigmund.

Many of us here in the Senate knew Mrs. Sigmund as the mayor of Princeton, NJ. We also knew her as the daughter of Representative LINDY BOGGS and the late Representative Hale Boggs.

Mrs. Sigmund was a person of rare energy, wit, and dedication. She fought her cancer for more than years, and in the process she repeatedly earned our admiration and respect.

Fiercely active in the social and political life of her community, Mrs. Sigmund was the mayor of Princeton. A mayor she fought for affordable housing, quality schools, and the protection of families and children unde stress. The people of Princeton, and all of us in Congress have lost a good friend.

One of her last goals was to see book of her poetry and essays published. This book, "An Unfinished Life," has indeed just been released. We can pay no more fitting tribute to Mrs. Sigmund that to reprint two of her poems in the CONGRESSIONA RECORD.

The first is a tribute to her lat father, Hale Boggs, who died in plane crash in Alaska while campaigning for a House colleague. The second is a family poem about her three children.

There being no objection, the poems were ordered to be printed in the RECORD, as follows:

MOUNT BOGGS: ELEGY FOR AN UNBURIED FATHER

They made my father
Into a mountain in Alaska.
With appropriate law and ceremony
They changed his substance:
Ancient rite in modern form.

In October of another year,
He disappeared.
His plane was swallowed up,
So *Newsweek* said.
The gaunt land gulped him down
And nothing has been found.
(For a long time I used to wonder which on
I would have to learn to hate—mountains or the sea—he loved them both

I no longer laugh
In simple-minded sophistication
At burial customs.
The laying-out, the viewing,

The elaborate preparations
Are all signposts of a Reality
New, shocking, irrefutable.
(We had a catafalque for his funeral. It was so skimpy; he was so big.)
For a burial
A body is essential.

He left, work-weary, to give a gift,
A practiced gift, an easy gift for him.
We can never know a gift's true price,
Nor cost-effect out our graciousness.
He simply did what he had said that he would do.
He always tried to do that.
It was at the heart of what was best in him.
Life-giver, how did your life end?
Now you are a mountain in Alaska,
And a new dream rises
To mingle with the old horror.

(Written on the day of the dedication of Mt. Boggs in Anchorage, Alaska October 9, 1977.)

MARKING TIME

For Christmas
I gave two calendars each
To the three young men
Who claim to be my children.
They must make their own time now,
So I gave them easy access to their days and weeks and months:
One calendar for their pockets,
Another for their walls.

Once, of course, their time and mine were one,
And they needed no numbers and little squares
To tumble through their days.
But they have entered the realm of Expectations,
And expectations exact their due
Of planning and deadlines and dates.
They must create their own worlds
Out of those endless numbered empty squares
Of hopes and fears and years.
Stiffening myself
Not to look longingly backwards,
(But by what alchemy do three little boys in blue keep flickering beside my eye?)
I gave my sons two calendars this year.

(On the highway between Washington and Princeton December 29, 1987.)

BURMA'S FIGHT FOR FREEDOM

Mr. **KENNEDY**. Mr. President, I would like to call to the attention of my colleagues an insightful article by Thant Myint-U, a leading advocate with respect to human and civil rights in Burma. The article highlights the Government of Burma's systematic refusal to honor the human and civil rights of Burmese citizens advocating a return to democracy.

Open signs of unrest by the Burmese people began 2 years ago when millions of citizens marched in Rangoon, Mandalay, and other Burmese cities demanding an end to the 26-year military dictatorship of General Ne Win. The Government responded by massacring 10,000 unarmed citizens. Since the crackdown, tens of thousands of additional people have been arrested, executed, or disappeared.

Last May, in response to domestic and international pressure, the military arrested opposition leaders and then held free and fair elections. The military lost, winning only 10 of 492 legislative seats. Since that time, the Government has invalidated the elections and stepped up its repression of advocates of democracy.

Mr. Thant is the grandson of Thant U, Secretary General of the United Nations from 1962 to 1971. Mr. Thant has dedicated his life to the struggle for democracy in Burma and is currently Secretary of the Burma fund and a senior fellow at the International Center for Development Policy.

I ask unanimous consent that Mr. Thant's article may be placed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 9, 1990]

THANT MYINT-U—BURMA'S FIGHT FOR FREEDOM

Nowhere else in the world is the human rights situation as bad as in Burma. Nowhere else have people fought so hard for their freedom and yet still suffer under the threat of terror and repression. And nowhere else will the rest of the world care less, unless it becomes too late.

On the same day that President Bush delivered his address to Congress on the new international order, a crowd of Burmese students demonstrated in Mandalay for democracy and human rights. Eleven people were killed. Hundreds have been arrested in the past two weeks alone, including the leadership of the National League for Democracy, the country's largest political party. More demonstrations are expected these next few weeks, and every day Burma moves closer and closer to civil war.

The unrest began two years ago when millions of people marched in Rangoon, Mandalay and other Burmese cities demanding an end to the 26-year military dictatorship of Gen. Ne Win, which has impoverished what was once the richest nation in Southeast Asia. Gen. Ne Win responded by gunning down as many as 10,000 unarmed civilians, many secondary school students as young as 12 or 13.

Since the crackdown in September 1988, tens of thousands of people have been arrested, executed or have disappeared. Military tribunals have replaced civil courts, gatherings of more than four people are forbidden, and schools and universities have remained closed. Young men live in constant fear of being taken away for porter service in the remote jungles, where they are used as human minesweepers and made to carry army supplies until they die. Torture is both severe and widespread, and imprisoned students are subject to beatings, and electric shocks and kept in solitary confinement.

And yet the people of Burma carry in their fight for democracy and believe that the world—especially the United States—is on their side. Last May, the military, thinking that it had jailed and intimidated enough opposition activists, held "free and fair elections." The military lost, winning only 10 of 492 seats. Since May, the military has moved step by step to invalidate those elections, and the resulting anger has brought Burma back to the point of another violent explosion.

Though Burma's government has followed an isolationist foreign policy, Burma is not isolated, and the international community and the United Nations can do a lot to prevent further bloodshed. First, multinational companies, including many American companies, can stop funding the regime through their investments in the military's projects. Many of these foreign companies are engaged in timber and mineral extraction, and the resulting environmental damage (Burma could lose all its rainforests in five years) threatens the whole region.

Second, the United States can take a harder line on the military's suspected involvement in the heroin trade, involvement which may be providing Gen. Ne Win with much-needed cash. Certainly the United States should end all talk of resuming antinarcotics assistance to the military regime, as suggested by the DEA and others in Washington.

Third, the United Nations as a whole can speak out on human rights, end bilateral and multilateral assistance and perhaps move toward comprehensive sanctions. The military has shown time and again how sensitive it is to foreign criticism, and pulling away outside support for the regime could make all the difference in ensuring peaceful democratic change.

In early August, China began providing Burma with more than $1 billion worth of arms. Burma is fighting ethnic insurgencies that have already spilled into Thailand and India. A bloody and sustained confrontation between the military and the people could eventually have serious international repercussions. Better to act before the situation reaches crisis proportions. The United States and the rest of the world can do more to help.

TERRY ANDERSON

Mr. **MOYNIHAN**. Mr. President, I rise to inform my colleagues that today marks the 2,035th day that Terry Anderson had been held captive in Beirut.

MORNING BUSINESS

The **PRESIDING OFFICER** (Mr. REID). Under the previous order, there will now be a period for the transaction of morning business not to exceed 1 hour under the control of the senior Senator from California [Mr. CRANSTON] or his designee.

ARMS SALE TO SAUDI ARABIA

Mr. **CRANSTON**. Mr. President, last month the administration floated a report that it would propose a gigantic $21 billion arms sale to Saudi Arabia.

When this was greeted by widespread cries of congressional concern, the administration backed off and submitted a smaller, so-called compromise sale of $7.5 billion.

Or so they said.

But at a Foreign Relations Committee hearing last week, the truth came out. The alleged smaller package turned out to be a fake. The proposed $7.5 billion sale is not to be a substitute for the big package. It is only a teaser, a forerunner of what would be the largest arms transfer in U.S. history.

The administration still intends to go ahead—if it can—with the rest of the $21 billion deal next January.

I have major problems with that idea. In fact I have major problems even with that $7.5 billion first installment.

It includes some of America's latest, highly sophisticated weapons systems.

The idea of this weapons sale is to send the Saudis what they need and must have right now to defend themselves and to deter further Iraqi aggression.

And we must, of course, send them what they need and must have right now to be an effective force to fight side by side with our troops should active combat break out.

But why in the world, I ask, does the administration include in this "rush" order 150 M1A2 tanks, which have not even been built—and will not be delivered until 1993? Or 200 Bradley fighting vehicles, which would not arrive in Saudi Arabia for another 2 years?

And there is another question confronting us.

The proliferation of U.S. arms in the gulf raises concerns about the possibility of arms falling into hostile hands during some future crisis and being used against our own fighting forces or our allies. My concern is not hypothetical, Mr. President.

Considerable weaponry now in the hands of Saddam Hussein, ready to be used against our American soldiers and sailors and marines and airmen, was made in the United States. We sold it to the Shah of Iran. The Ayatollah Khomeini acquired it and Saddam Hussein captured it during the Iraq-Iran war. It included armored vehicles, self-propelled howitzers, and armored personnel carriers, along with all the front-line equipment that accompanies these items.

When he invaded Kuwait, Saddam Hussein captured still more U.S. weapons, including howitzers and Hawk antiaircraft missiles.

The recently dismissed Air Force Chief of Staff, Michael J. Dugan, may have committed still another indiscretion when he recently said of those American-made Hawks now in Iraq's hands, "We typically do not have any protection against Hawk missiles."

Imagine. We sold these weapons to a country that lost them to Iraq and now our American forces face an Iraq Army equipped with American-made missiles for which we have no real defense.

I am very conncerned about our spewing out weapons all around the world, never knowing in whose hands they might eventually land, and finding more than once that they land in the hands of those who are prepared to use them against us, against American military personnel.

There is another question. What use will the Saudis themselves make of these weapons—and the rest of the $21 billion package—after the Iraqi threat is over?

Saddam Hussein is the bad boy on the block right for the moment, as far as they are concerned.

But what happens after he is gone?

What will the Saudis ultimately do with all the Patriot missiles we send them? Or our multiple launch rocket systems? Or U.S. Apache helicopters and Hellfire missiles?

We may, as momentary brothers-in-arms, forget who the Saudis consider to be their real, longtime, irreconcilable enemies—who they and fellow Arab nations are sworn to destroy.

But the Saudis have not forgotten.

Less than a month ago, on September 20, one of the royal family's top leaders—Prince Sultan—declared before the Tabuk headquarters of the Saudi northwestern command: "We must return our Jerusalem to our hands from the hands of Israel the usurper."

The day before, Prince Sultan declared that Iraq and Saudi Arabia "should be conserving our forces for a different purpose, for a more honorable conflict * * * the foremost problem of the Arab and Islamic world, which is the problem of Palestine."

Just 10 days ago, on October 2, the Saudi, Foreign Minister—Prince Saud Al-Faisal—told the United Nations General Assembly:

> We say to them [the Palestinians], "Support legitimacy, for it is the basis of your cause, the cause of all Arabs, and the base that guarantees your legitimate rights in liberating the land and establishing the state."

And less than 2 months ago Crown Prince Abdallah—who is next in line to be king of Saudi Arabia—told his troops:

> On my way to you, I wished the purpose of my visit was * * * to see you—along with your brothers and comrades in arms in the valiant Iraqi Army and in all the Arab Armies—proceeding to restore the usurped and legitimate rights in Palestine.

Regretably, he pointed out, Saudi Arabia's current fight is against Iraq, not Israel.

"However," he added, "hope continues, and it will not die in our souls, God willing."

There you have it. There you have the true, self-revealed picture of the Saudi soul—implacable enmity toward Israel. And the Saudis, we are told, are the moderates among the Arabs.

Mr. President, we dare not close our eyes to reality in the Middle East.

We dare not continue to pour billions and billions of dollars worth of advanced weapons into the area irresponsibly, without a thought to the future.

We must stop Saddam Hussein. We must proceed now to supply arms to our temporary Arab allies that can help protect the lives of American fighting men and women in Saudi Arabia; we must do that.

But we must proceed cautiously, prudently, with our eyes open. That means we must change this arms sale package in two ways: One, we must send only what is absolutely essential to meet the current Iraqi threat, and no more; and two, we must attach whatever strings and safeguards are feasible.

Mr. President, we have a buy-back arrangement with arms we have sold to Bahrain. We had lend-lease in World War II. I understand that we are exploring a lend-lease or buy-back arrangement with Israel now in connection with an arms sale. Why not a similar buy-back arrangement with Saudi Arabia so we can reclaim our weapons once the Iraqi invasion ends? That would make more sense than losing all control over the weapons with an outright sale.

We are told that the Saudis, or any nation that misuses these weapons, will not be resupplied with U.S. spare parts. But little consolation that would be to the thousands of Israelis who could be killed in a first strike. You need spare parts to follow up an attack, not to launch it.

Mr. President, we must not leave American weapons at the easy disposal of uncertain future Arab rulers. We must not become the unwitting arms supplier for a new Arab war of annihilation against Israel.

Mr. President, I see my friend and colleague from Oregon on the floor. I would be delighted to yield to him, if he wishes.

Mr. **PACKWOOD**. Will my good friend yield me 5 minutes?

Mr. **CRANSTON**. Of course.

The **PRESIDING OFFICER**. The Senator from Oregon is recognized for 5 minutes.

Mr. **PACKWOOD**. Mr. President, America is a wonderful, humane, exciting country that has, on occasion, a very short view of history. We are a new nation, by any kind of measure—with 200 years of history as a nation and barely 400 years of settlement. And when you look at the Middle East, with a minimum of 4 millenniums of history, you realize how countries in that area can look at things over a longer period than we do.

We have a wonderful desire to finish things by Thanksgiving, or by the Fourth of July. We wonder why the rest of the world cannot operate on our timetable? We are inclined to look at things as an engineer does—I do not mean that critically—and assume that the rest of the world is willing to march to our tune. But they are not.

We are now involved in the Middle East, and I support the President in the Middle East. He made a wise decision, I think, in going into the Middle East. However, all of a sudden, we want to pour arms into Saudi Arabia way beyond anything that the Saudis can conceivably use for their own military; weapons that we can never be sure will remain in Saudi hands. And I am not here saying anything derogatory of the present Saudi Government, but the Middle East is obviously an unstable area.

We provided weapons to the Shah, and they ended up in Khomeini's hands. Europeans provided weapons to Iraq, and they now face us. In some cases, weapons that Iraq has captured from Iran are our weapons, now facing us. So before we rush pell-mell into approving an immense transfer of arms to Saudi Arabia, I wish we could step back, reflect, view history, and look at our long-range interests in the Middle East. We should stop for the moment and not go forward with this arms sale.

While I am talking on the subject of the Middle East, let me also say that I wish the United States would be more cautious in proposing, in the United Nations, an effort to censure Israel for what happened at the Wailing Wall on Monday of this week. We do not know the facts. And no harm will come, if we wait 2 days or 2 weeks, to find out exactly what happened.

I remember in 1981 when the United Nations very rapidly condemned Israel for the bombing raid they carried out to destroy the reactor Iraq was building. And they were going to use that plant to build atomic bombs. This was not a plant to generate electricity, or an academic research reactor. This was an atomic bomb plant.

There was immediate denunciation on the day after the raid, in a resolution passed in the United Nations. I would say that today there is not a country in the world that at least is not silently saying thanks to Israel for having taken out that atomic bomb plant. And, therefore, I hope we will pause and reflect, think, and gather the facts, not only before we rush pell-mell to condemn Israel in the United Nations, but before we go forward with an arms sale or transfer, whatever it may be, that I think, in the long-range, will not be in the interests of the United States.

I thank the Chair, and I thank my friend from California.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California controls the time.

Mr. CRANSTON. I thank my friend for his comments and for the leadership he has displayed over the years on the issues we are now debating.

I will yield 4 minutes to the distinguished Senator from Illinois, Senator SIMON.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. I thank my colleague for his leadership on this.

Mr. President, I just want to join in expressing some words of caution in this whole field. First of all, in the arms race, generally, wherever it is in the world, we ought to be using greater restraint. The pressure is on because of the profit by those who make arms; they want to push for more arms sales. There ought to be a restraining force, and that restraining force, too often, is not here. As you provide more weapons to Saudi Arabia, you make Israel less secure and, clearly, we have to help Israel, and we escalate the arms race in the Middle East. I do not think that is in anyone's best interests.

Second of all, very candidly, I think we would be much better off simply saying to the countries of the Middle East, unless you join in the peace process, you are not going to get weapons, period. We would enjoy a much better relationship, I think, with all the nations, because we would not be going through these embarrassing negotiations that get turned down by the Senate or the House as we go through this whole process.

Our interests ought to be, No. 1, the security of Israel; No. 2, the security of the Arab nations; No. 3, and all three are tied in, we want some stability in that area of the world.

I am pleased when we meet informally with leaders of some of the Middle Eastern Arab countries now who say: When this immediate crisis is over, then let us sit down and let us get an overall settlement worked out in the Middle East. I think that is possible. Frankly I am optimistic, if we can get this thing worked out, that that will happen.

The immediate goal, obviously, is to get the Iraqi troops out of Kuwait and take away from Iraq the ability to manufacture chemical weapons and nuclear weapons.

But in the meantime, I think it is imperative that our Government use restraint.

I hope the Defense Department, the State Department, and the White House will look very, very carefully at this huge package, what portions of this package are not essential for the immediate operation that is going on in the Middle East. Those parts of this package that are not essential should be eliminated. I recognize political reality that if this came up for a vote right now, it would be approved. Frankly, it would be approved without my vote.

But I think it is important that restraint be used. Then the signal ought to be very clear to the Arab countries, "We are willing to work with you, economically, in terms of your defense and anything else if you join in the peace process." That is not an unreasonable requirement on our part. I hope that is the direction in which we move and move more decisively.

I yield back the remainder of my time to the Senator from California.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, are we under controlled time?

The PRESIDING OFFICER. The Senator from California controls the time.

Mr. CRANSTON. What time does the Senator need?

Mr. METZENBAUM. Ten minutes.

Mr. CRANSTON. I am delighted to yield 10 minutes to the distinguished Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 10 minutes.

Mr. METZENBAUM. Mr. President, I thank my colleague from California.

I rise to address myself to an aspect of the Saudi matter that is a little bit different than those addressed by my colleagues. I share the concern of some who have already spoken about the influx of arms to Saudi Arabia. I share their concern that the United States is fueling a Mideast arms race. But I also recognize the need for Saudi Arabia to have certain arms to defend itself. I find no fault with that, so long as Saudi purchases are reasonable.

The proposed package is not reasonable. I am concerned about this overwhelming Saudi desire for more and more and more, a $21.3 billion package which has now been cut back into two separate packages. The Saudis want the shiniest, newest military toys they can get. I think that the need of Saudi Arabia to have defensive weapons does make sense.

Mr. President, I might point out that I am concerned about some statements that have been made by the Saudi leadership within recent days indicating that they intend only to defend Saudi Arabia and that they are not prepared to share any additional burden. I have to just point out to those in Saudi Arabia who provide the leadership that it is very difficult to fight a solely defensive war. There is an enormous international force currently in Saudi Arabia. But the Saudi Government says it will not permit this force to do anything other than defensive activity. This is wonderful for Saudi Arabia. But it isn't so wonderful for the people of Kuwait, and the Western nations committed to Kuwait's freedom. The Saudis must become better team players. There is an international team now in the Persian Gulf area, and the Saudis should take their role on this team more seriously. After all, the team is the only thing separating the Saudis from Saddam's guns.

Mr. President, my concern today is not primarily about the size of the Saudi Arabian arms sale, but rather to

discuss another aspect of our relation with Saudi Arabia. I heard my colleague from California address himself to some comments that have already been made by leaders of Saudi Arabia concerning their desire, their wish, that they would be standing with their Iraqi brothers against the common enemy, Israel, rather than on the battlefield against Iraq. Total absurdity and unbelievable was my initial reaction, after all it is these leaders we are defending. And yet the statements have been confirmed over and over again.

What concerns me most as I stand here this morning is that the Saudis revel in their magnanimity, providing $6 billion in order to help the United States defray the cost of Operation Desert Shield. The Saudis trumpet their generosity, yet it is the Saudis who are actually becoming unbelievably enriched by the crisis at the expense of the world economy and particularly the American economy.

Here is a story from USA Today, October 5, 1990: "Saudis Reap Oil Windfall From Crisis," I quote:

> Since Iraq invaded Kuwait on August 2, Saudi Arabia's monthly oil revenue has jumped 183 percent to $6.5 billion from $2.3 billion.

It goes on to say:

> The kingdom is clearly the world's biggest financial beneficiary of rising prices, which are up about 70 percent.

And we here in this country who were paying something like $16 or $18 a barrel before the Kuwaiti invasion by Saddam Hussein, we are the ones, the American people, who are suffering the burden of this Saudi windfall. Saudi Arabia is living high off the hog at the expense of the American people and the world economy even as they make pretenses at funding Desert Shield.

That impact upon the American economy is equally dangerous as the threat which Saddam Hussein poses. I am not equating the current Saudi Government with the current Iraqi Government. There is a big difference. The fact is that the Saudis are in a position to do something about the harm they are causing the United States. Iraq, obviously is in no such position. When oil prices have gone as high as they have, when the Saudis are pumping 7.3 million barrels of oil a day—and I understand the extra oil is being pumped to make up for the loss of the Iraqi and Kuwaiti supply—the fact is it provides an incredible windfall to the Saudis—an extra $4.2 billion per month. A $4.2 billion monthly oil windfall certainly puts the $6 billion Saudi contribution to Desert Shield in perspective.

Saudi Arabia, as the world's largest producer of oil, is in a position to make a greater effort. If Saudi Arabia provided the leadership, the Saudis could moderate world oil prices. And I say here on the floor today that before the end of this week a majority of Members of the U.S. Senate will have joined me in sending a letter to the President of the United States asking him to call upon King Fahd to bring down the oil prices, to bring them down to the point where they were when this entire matter developed. If Saudi Arabia provided that leadership, if they said they were going to unilaterally drop prices there is just no question that it would have a tremendous impact in stabilizing and lowering oil prices.

I believe the Saudis owe this to the American people. I believe we are paying with our people in the desert now, with our young men and women there protecting them, and I believe that the Saudis have an obligation to be concerned about what impact all of this has had upon the American economy.

But, instead, what do we get? We get statements from the Saudis saying they are more concerned about the whole question of legitimate rights of the Palestinians. The fact is—and I now come back to a different aspect of this question—the fact is that Saddam Hussein knows that Israel's military position in the Middle East does indeed bolster and improve Saudi Arabia's security. But all that the Saudi Arabians talk about, is (a) antipathy against Israel, (b) their concerns about restoring what they consider to be Palestinian rights, and (c) no talk at all about joining together to find a peaceful solution to the problems of the Middle East. The Saudi's are not playing the role they should be on the Desert Shield team.

Let me read you what the Saudi Ambassador to Indonesia was quoted as saying on September 24, "Saddam Hussein is an Isreali agent," said he, "who was planted in the (Iraqi) Ba'ath Party in order to stab the Arab world in the back."

Such an unbelievable statement it is hard for me to fatham, yet it has been published worldwide. Are these the words of friends? Is this what the United States receives in return for exchange for the privilege of risking 200,000 men and women in the defense of Saudi Arabia? I believe the United States is entitled to more sensitivity from the Saudis. We should not have to watch our economy go bust from high oil prices while defending Riyadh's oil windfall and listening to diatribes against our closest Mideast ally.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I appreciate the presence of the Senator from Florida. I would like to ask how much time he needs.

Mr. GRAHAM. Five minutes.

Mr. CRANSTON. I am glad to yield 5 minutes to him.

The PRESIDING OFFICER. The Senator from Florida is recognized for 5 minutes.

Mr. GRAHAM. Mr. President, I wish to commend our colleague from California for his leadership in organizing this opportunity for several of us, concerned about events in the Middle East, concerned about the decisions that we are going to be called upon to make, to submit some comments.

Mr. President, we are soon going to be asked to vote on significant change in United States policy relative to the Middle East, the sale of over $21 billion of armaments to Saudi Arabia This is not only a staggering inventory of new armaments, but it also, in many ways, represents a change in direction. Our previous policy, Mr. President, has been essentially a defensive policy, that is, that we would assist the states who we felt to be out allies in the region to defend their territory Now we are about to provide weapons which by any definition would be available for offensive use, and, of course, all of this is happening in a time of great tension in the gulf area

Mr. President, I believe that as we prepare for the specific debate on the proposal of arm sales to Saudi Arabia we need to ask the administration and ask our colleagues, to engage in a debate on what is our strategic vision in this region of the world, what is it that the United States in this last decade of the 20th century seeks to accomplish by our combination of diplomatic, military, economic, political and other initiatives.

Clearly, this is a region of the world that is in great turmoil. It is not just the massing of hundreds of thousands of troops on both sides of the Kuwait border that demonstrates that turmoil. It is also underscored by such factors as the retreat of the Soviet Union as a significant force in this part of the world.

As the Soviet Union begins to refocus its attention more on domestic issues—a development that we all believe has been long delayed and will contribute to a new and a more peaceful relationship with the Soviet Union—it has had the collateral effect of reducing whatever discipline the Soviet Union was able to exercise over some of its client states in this region. There also has been an escalation of armaments in this region, armaments which have poured in from all over the world.

I believe what we need to have as part of our strategic vision, Mr. President, includes the concept that is going to require an international, not just a regional, approach to the stability of the Middle East; that the goal of that international effort should be peace in the fundamental way, which is based upon dignity and respect for nationhood and national borders, and the protection of human rights; that in order to achieve this, what the President has described as the new era in international geopolitics, we are going to have to work out some thorny problems.

It is not going to be acceptable over the long period, Mr. President, for the United States to be seen as the new hessians of the world, as the people who will send their troops in to defend other peoples' borders. We are going to have to have, Mr. President, as we did with NATO, a previously arrived at agreement that determines what is the responsibility of the various nations who would be participating in those efforts to assure peace in this volatile region of the world and what contributions they would make, both in terms of personnel and financing. Those, Mr. President, I believe are some of the ingredients to a strategic U.S. policy in this region of the world.

In that context, I am very concerned that the proposal for the $21 billion arms sale to Saudi Arabia runs in the opposite direction; that it tends to increase the potential for violence in the region; that it could be very destabilizing; that it represents a direct threat to the stable ally with common shared values in this region, the State of Israel; and that it moves away from a recognition of a long-term international, as distinct from regional, obligation for the stability of this part of the world which is so important in so many regards to the well-being of the rest of the world.

Mr. President, again, I commend the Senator from California for giving us this opportunity to elevate the discussion into the broader question of long-term U.S. interests in this critical region. I look forward to joining with the Senator from California and our other colleagues when we reach the point of debating the specifics of the proposal that the administration will soon be submitting to us relative to arms sales to Saudi Arabia.

Mr. CRANSTON. Mr. President, I thank the Senator from Florida. I would like to ask him one question while he is on the floor, which I will address to others as they appear.

I have discussed with Senator PACKWOOD the introduction of a resolution of disapproval, not of the whole package but of those items that do not need to go now, that cannot go until later, giving us more time to consider the wisdom of sending them. I have also discussed with him the advisability of introducing a separate piece of legislation suggesting that instead of an outright sale of certain of the weapons, that we would just as soon not have floating around endlessly in the Middle East, that instead of selling, we provide for either a leasing arrangement or buy-back arrangement, so that we can control the weapons and get them back if need be when the crisis is over, so they will not be there possibly to fall into the hands of somebody else and be used or aimed against us, as our weapons are now that we sold originally to the Shah of Iran and to Kuwait.

Another approach could be a buy-back provision. There are precedents for all of this. We had lend-lease in World War II. We sold some Stingers to Bahrain under a buy-back arrangement, and we sold or are discussing now providing some weaponry to Israel with a buy back or leasing arrangement, so they may not stay there forever.

I simply would like to ask the Senator if he would be interested in considering joining in both of those efforts? We will seek to introduce the resolution of disapproval today, and the bill regarding leasing or buy back as soon as possible.

Mr. GRAHAM. I say to the Senator, the answer is yes. I believe that the principles that he has just outlined are the types of issues that ought to be seriously considered; specifically, the proposal of shifting from sale to some form of lend-lease, that carries with it the implicit recognition that our interest in this region is a long-term one; that we are not just in for a short-term crisis and that we are going to leave and depend upon the states within the region to maintain a peaceful countervailing series of forces.

Whether this Congress and this administration will be prepared to face that strategic reality, I think will be one of the tests of our vision and will, as we conclude this century.

If I could share with the Senator a historical event that occurred in this Chamber almost exactly 50 years ago. The man who held the seat that I am now privileged to hold, Senator Claude Pepper, in 1940, introduced the first proposal for the United States to enter into a lend-lease agreement with Great Britain. He did that at a time when England was under the severest siege of the Battle of Britain. That first proposal, when considered before the Senate Foreign Relations Committee, was defeated by a vote of approximately 19 to 1, a statement of the unwillingness of this body and of the American people to accept a long-term position in the world in 1940. We clearly paid a very serious price for our timidity at that point.

I believe that, undergirding the recommendations that you made, we not be so timid in terms of recognizing the necessity of a sustained American commitment to this region of the world, not alone, but but as a leader of other nations who share our values and, particularly, in defense of the one nation in the region which is our strongest ally, and which is the rock upon which values of democracy and human rights are based, the State of Israel.

Mr. CRANSTON. Mr. President, I would like to add a footnote to the one point the Senator from Florida made. When Claude Pepper, his predecessor, was standing in the Senate making impassioned speeches for lend-lease to aid the allies in the early days of World War II, I was seated up there in the gallery listening to him. Then I moved over there, so I could see him because he was standing a little bit behind where the Senator from Florida is now standing, I think in the back row. He made eloquent and impassioned statements of the urgency of that program.

I am delighted now to be down on the Senate floor, out of the gallery, working with the Senator from Florida. I will be talking with him momentarily about the terms of the resolution that we will be, I hope, introducing very soon.

Mr. GRAHAM. I thank the Senator.

Mr. CRANSTON. I now yield 5 minutes to the distinguished Senator from Washington [Mr. ADAMS].

The PRESIDING OFFICER. The Senator from Washington is recognized for 5 minutes.

Mr. ADAMS. Mr. President, I appreciate very much the Senator from California yielding to me. I particularly appreciate the manner in which the discussion was conducted between the Senator from Florida and the Senator from California, regarding alternatives to a buildup of weapons in the Middle East.

It seems to me that before we commit ourselves to yet another massive sale of sophisticated military equipment into the most dangerously unstable region of the world, the Congress needs to be assured that the administration has carefully thought through the consequences of such an action.

Previous sales, intended to contribute to stability and balance in the region, have frequently done just the opposite. With the fall of the Shah of Iran, a massive arsenal of American-made weapons fell into the hands of political and religious fanatics who continue to look upon our country as the "Great Satan."

Our support for Saddam Hussein in his 10-year war against Iran, when measured against the current crisis, proves the danger of seeking out and assisting governments that frequently display a national agenda that sometimes appear to parallel our own interests, yet prove capable of careening wildly off course after receiving our assistance.

How useful were our past sales of military assistance to the Government of Kuwait, a nation that frequently voted against us when issues were raised in the United Nations before

being invaded by Iraq? Now that Kuwait has been invaded, and is under the control of Saddam Hussein, some of those very weapons are pointed at the more than 150,000 American troops positioned in the Saudi Arabian desert. Who could have predicted that bitterly ironic turn of events when those sales were being contemplated. Let us keep those sales in mind as we consider this sale proposal.

Mr. President, I hope the current crisis in the Persian Gulf ends peacefully, and our troops return home without being fired upon with American made weapons. But considering the lessons of recent history, I believe we should be cautious and prudent in deciding how many additional weapons we intend to leave behind after Operation Desert Shield is completed.

Countries with a demonstrated inability to defend their own sovereignty, pose significant risks to our own national interests when left with advanced American military technology. The mere presence of these weapons increases the possibility of an across-the-board arming of countries throughout the Middle East. I firmly believe that the peace that has proven so elusive in this region, will not be found through continued massive buildups of our most sophisticated weaponry. We must proceed with caution.

I yield to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. I yield 10 minutes to the Senator from Pennsylvania [Mr. SPECTER].

The PRESIDING OFFICER. Senator SPECTER is recognized for 10 minutes.

Mr. SPECTER. I support armed sales to the Saudis which will aid current United States efforts in the Persian Gulf to help relieve United States fighting men and women from the responsibility to stay in the region to defend Saudi Arabia. I oppose arms sales to Saudi Arabia which are projected for future use.

I believe the Senator from California has drawn the valid distinction in articulating a difference between selling arms to the Saudis which are for current purposes to relieve the United States burden there, contrasted with sales for the future. There have been consultations between Members of the Senate, including this Senator, and the administration on this proposed arms sale.

I have advised ranking Department of Defense and National Security Council officials of my opposition to any sales which are directed to the future because I believe we need a new policy, if, as, and when, we solve the problem of Iraq's invasion of Kuwait and solve the problem of the threat of Iraq in the region.

We have to adopt a policy which will stop the influx of arms into the Mideast. This is the position that this Senator has contended repeatedly on this floor, back to 1981 on the AWACS sales, the heated debate on this floor about Maverick missiles to Kuwait, which was finally approved by the Congress. The only thing which saves us from having those weapons of potential force, the Maverick missiles, from now being in the hands of Iraq, is that we had not gotten around to delivering them to Kuwait. We had already committed to the sale.

It seems to me what we need to do is to change our policy and stop the reiteration that if the United States does not sell the weapons then the British or the French will, or somebody else will. The United States ought to take the leadership role, with the bitter experience of Iraq's invasion of Kuwait, and see to it next time "the next Iraq" is not supported with weapons from the French or somewhere else, and that Iraq does not get its chemicals from Western Europe; and that the United Nations, with the help of the Soviets which have already proposed an international registry of arms, take the leadership to stop the proliferation of weapons into the Mideast.

The time to stop them is now, if it relates to the future and anything other than the immediate needs to help relieve the United States from the responsibilities which we have undertaken there.

There is a real problem in putting more weapons in the hands of the Saudis just like there was a problem in putting weapons in the hands of Kuwait, because of the inability of the Saudis, like Kuwait, to defend themselves and to keep the weapons out of the hands of others like the Iraqis.

There is also a real problem—and we have to face this bluntly—as to where the Saudis are going to be a few years from now. Their top officials have repeatedly articulated the proposition that the Saudis will line up with the other Arab nations against Israel. Their top officials make no bones about that.

I ask unanimous consent to have printed in the RECORD at the conclusion of these remarks, the specifics on the Saudi's statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. But the Saudis may use these weapons in future counter to the interests of the United States and counter to our interests in the region. At the moment, according to the front page of the New York Times, Saudi Arabia with other Arab countries, "seem to support the PLO-backed resolution in the United Nations." Contrary to the resolution which the United States is urging.

It is a matter of amazement to this Senator, Mr. President, that the lead on the international dateline of the report on what is happening in the United Nations starts with, "The Palestine Liberation Organization and its supporters were seeking tonight to get the U.N. Security Council approval of an anti-Israel resolution that is harsher than the one proposed on Tuesday by the United States."

What standing does the PLO have in the United Nations to take this kind of a leadership role? It is not even a member of the United Nations. It is only an observer.

The PLO are coconspirators and accessories after the fact with Iraq. Yet, in the councils of the United Nations they appear to be taking a leadership role, counter to what the United States is proposing.

With respect to the resolution proposed by the United States—and this all ties together when we are considering United States action on the proposed arm sales to Saudi Arabia—that resolution proposed by the United States should not be enacted on this state of the record.

It is a very strange situation where the United States is asking the United Nations to send an investigative team to Israel to find out what are the facts and, at the same time, the United States is asking for a conclusion on a matter where the facts have not even yet been determined.

Mr. President, this Senator has had some considerable experience on investigating the issue of police violence and the issue of excessive force in response to what may have happened by way of mob violence. It is a complex picture as to what happens in a given situation as to what is the provocation, what is the justification for a response, and what is a reasonable response under all of the circumstances.

Mr. President, I have information from those at the scene of this incident in Jerusalem showing that the problem started with stones being thrown on the heads of the thousands of people who were gathered at the Western Wall for holiday Jewish prayers. The normal police contingent of 40 or so policemen was in no way equipped to deal with the thousands in the mob. There had been fear on the Arab side about a march from a fringe group called the Temple Faithful who wanted to oust the Arabs from their holy place. That small band in the past had tried to demonstrate and had threatened to march on the Mount again this year. But a court order had prevented that group from approaching the site.

When the stones started hailing down, that group, the Temple Faithful, were not even in the city. I am informed that anyone who understands Arabic could hear clearly the incite-ments of the Muazin who were urging Arabs to come to the Temple Mount and kill the Jews. And these calls were broadcast on the Arab radio. Those are the facts as represented to me.

What the actual facts are requires an investigation and a determination because, in a situation like that, it is hard to read reports, hard to hear hearsay evidence, and come to a conclusion without an official investigation.

When the U.S. Government has called for an investigation which today's news reports tell us about, I think the U.S. Government is on the right track.

Mr. SPECTER. Mr. President, the report which I have just recited shows justification for the kinds of resistance on the use of force which the Israeli authorities acted on under this circumstance. But I am not in a position to stand here and take an oaths as to what the actual facts were. That remains to be determined by a thorough investigation.

When we have called upon the United Nations to conduct an investigation, that is the right course. But it is the wrong course to draw a conclusion to rush to judgment and blame the Israeli authorities for excessive force before that investigation has been completed and before the facts are known.

Today's Washington Post recites that the "United States insists on a resolution that is balanced in apportioning blame."

Mr. President, that is not the way we proceed with an investigation and that is not the way we proceed with a determination as to what happened and a conclusion as to what ought to be the result.

What happened at the scene is not a matter for a political judgment, and for something that apportions blame. What is called for is a determination of what the facts are and who is to blame.

From what I have seen in investigations in the city of Philadelphia, which have been very problemsome and resulting in deaths, it requires a very detailed inquiry to find out what happened, what the provocation was, what the response of force was, and then a determination as to whether there was proportionate and reasonable force.

It is also worth noting that there has been a probe established, again as reported in today's Post, by Prime Minister Shamir, and we know from the incidents in 1982 in Sabra and Shatila that the Israeli Government conducted a thorough investigation and was very tough and very harsh in its evaluation of Israel's own acts there.

Mr. President, in essence, we are facing a very complex situation in the Mideast today. We have a resolution which is now pending on the floor of the United Nations which ought to await decision until the facts are in. We have the Saudis siding with the PLO and the PLO is siding with the Iraqis. The United States has put 175,000 fighting men and women into the Persian Gulf with materiel, tanks, planes and ships to protect the Saudis, and yet the Saudis side with the PLO, the coconspirators and accessories after the fact with the Iraqis.

In this context and in this state of the record, Mr. President, I think it is most unwise for the United States to put any additional arms in the hands of the Saudis except what is directly related at this time to current United States interests. Beyond that, we ought to fashion a policy which will diffuse the situation in the Mideast and not make more arms available to counter United States interests and to fall into the hands of those likely Iraqis.

I thank my friend from California.

EXHIBIT 1

SAUDI STATEMENTS AGAINST ISRAEL

"It is for Palestine that Iraq should withdraw from Kuwait and adhere to international legitimacy so that we can mobilize international legality to realize for the people of Palestine what will be realized for the people of Kuwait. We say to them [the Palestinians], Support legitimacy, for it is the basis of your cause, the cause of all Arabs, and the base that guarantees your legitimate rights in liberating the land and establishing the state."—Saudi Foreign Minister Prince Saud al-Faisal, address to the U.N. General Assembly, 10/2/90.

"There is a danger to our two nations and two armies inherent in the Iraqi-Saudi conflict. We both should be conserving our forces for a different purpose, and for a more honorable conflict . . . Saddam Hussein has dealt a holocaust blow to the foremost problem of the Arab and Islamic world, which is the problem, of Palestine."—Saudi Defense Minister Price Sultan, according to the Radio Riyadh, 9/19/90. The Prince was speaking at the King Khalid Center in Riyadh.

"We must return our Jerusalem to our hands from the hands of Israel the usurper."—Saudi Defense Minister Prince Sultan, at the Tabuk headquarters of the Saudi Northwestern Command, 9/20/90, according to the Saudi News Agency.

"I had hoped, on my way here, that my visit with you and your brothers would be a farewell visit, hoping to see you, together with your brothers and comrades, soldiers of the fearless Iraqi army, and all the Arab armies, preparing to restore the legitimate rights in Palestine, but unfortunately this is God's will, the hope exists and will continue to live in our hearts."—Saudi Crown Prince speaking before Saudi soldiers, shown on Saudi TV, 8/22/90.

"The Saudi ambassador to Indonesia stated in an Indonesian newspaper interview that "Saddam Hussein is an Israeli agent who was planted in the (Iraqi) Ba'ath Party in order to stab the Arab world in the back." The Saudi diplomat also said that "Saddam's actions divert attention from the Palestinian problem and allow Israel the opportunity to settle Soviet immigrants in the territories."—Israeli Radio News, 9/24/90.

The PRESIDING OFFICER. Under the previous order, the Senator from New Jersey is now recognized.

Mr. LAUTENBERG. I thank the Chair.

Mr. President, I thank our distinguished colleague and friend, Senator CRANSTON, for his leadership in this decision to try to express concerns about the proposed sale of 6.7 billion dollars' worth of arms to Saudi Arabia and the additional arms sales planned for January.

Mr. President, the administration has justified this package on the grounds that the Saudis urgently need these weapons for their own defense. If that is so, then as others have noted. Why does the package include weapons that will not be delivered for years. How will those weapons help in the current crisis?

For instance, the package contains 150 M-1A2 tanks, the most advanced in the U.S. arsenal, which the manufacturer says will not be available until mid-1993. It contains 200 Bradley fighting vehicles that will not be delivered until 1992. It includes a new naval command control and communications system that will not be completed before 1995.

Further, Mr. President, it is not clear that mere weapons can really provide the Saudis with true security. Developing a true Saudi defense capability will take decades and perhaps a generation. The Saudi Arabians must expand their current ground force of roughly 50,000 and train a credible army.

The fact is, despite the considerable arsenal now in Saudi possession, they were not able to deter Iraqi aggression. They needed to rely on American troops.

And I think it is important, Mr. President, that we remind the American public, especially those with sons and brothers and fathers and sisters over there, that our mission is not solely to defend Saudi Arabia. We have much larger interests at stake. Those interests are to remain leaders of the free world, to guarantee the energy supply that permits this world as we know it to function, to help us grow the food and transport it and market it, and to prevent Saddam Hussein from gaining a stranglehold over the energy required to fuel the world.

So, Mr. President, I believe that the administration is inappropriately pushing the sale of many weapons that have no military use in the current crisis but that the Saudis simply want to buy in the misguided hopes of strengthening their defense capabilities.

Mr. President, although American soldiers are prepared to fight shoulder to shoulder with Saudi Arabians, I am alarmed at some of the comments we hear from the Saudi Arabian Government.

We heard high Saudi officials proclaim that they wished that their arms were pointed at Israel. They referred to the Iraqi soldiers as brothers, and said that they wished the Saudi troops were going to join their Arab brothers in recovering their plundered rights in Palestine.

We cannot ignore these comments directed at a steadfast ally of America. We dare not turn our backs, not even turn our cheek, as we seem to be ready to do right now. We certainly should not sell weapons that may one day be used against Israel as these Saudi statements suggest.

Providing weapons to be delivered a few years cannot help the Saudis in the current crisis. There is no need to rush them through a Congress that, at the end of a session, cannot truly give this sale the close scrutiny it deserves. If you believe, as I do, that many of these weapons will not help them defend themselves in the future without the development of a larger, well-trained Saudi army, I am at a loss to know why they are being provided.

In the administration's zeal to give the Saudis whatever they want, Congress cannot overlook the possibility that arms provided to the Saudis today could fall into the hands of our enemies tomorrow to be used against us, for the death and destruction or the injury of our own troops, or those of our allies. It has happened before in the Middle East and could easily happen again.

There are many examples in the current crisis. Even as we discuss this issue, weapons that we provided to the Shah of Iran, believing that we would be helping a friend—armored vehicles, self-propelled howitzers, armored personnel carriers—are now in the hands of the Iraqi soldiers that we may face in combat. They captured these weapons during the Iran-Iraq war. They captured more United States weapons when they invaded Kuwait, weapons like the Hawk missiles against which, according to the former chief of staff for the Air Force, Gen. Michael F. Dugan, we have no defense.

French soldiers and sailors now face the possibility that their ships may be fired upon by the very Exocet missiles they blithely sold to the Iraqis. The Saudis themselves face Iraqi jets and tanks they helped Iraq to buy for use against Iran.

So it is clear, Mr. President, that we must exercise care in selling weapons into an unstable part of the world where alliances shift just as easily as the desert sands.

Just remember the Kuwaitis spent $20 billion of their own money to bankroll the very soldiers who now occupy and destroy their country. In the Middle East, today's friends can easily become tomorrow's enemies. And although the United States and Saudi interests currently intersect, let us not forget that tomorrow this could change. The administration should not use the gulf crisis as an excuse—yes, even a pretext—for sending to the Saudi Arabians whatever weapons are on their wish list.

I yield the floor, Mr. President.

Mr. KOHL. Mr. President, I appreciate the opportunity to join with my colleagues in expressing my concern about the prospect of selling several billion dollars of advanced military equipment to Saudi Arabia.

I approach this issue with a great deal of skepticism. In general, I am simply not convinced that the best way to defend our national interests is to provide nations with more arms to fight more wars. The balance in our foreign aid program between economic development and military aid is totally tilted toward weapons and war. And that just doesn't make a lot of sense to me.

I do recognize, however, that some special circumstances are operating in Saudi Arabia. They obviously face a hostile and dangerous neighbor in the form of Iraq. They have obviously taken some real risks in responding as they have to Iraq's invasion of Kuwait. And they do deserve some additional assistance. I am not, however, convinced that they deserve or need or can use the massive level of assistance proposed by the administration.

To begin with, what has happened to the billions we have already given the Saudis? We had a major struggle over the sale of AWACS to them in the early 1980's. We finally sold them those planes—yet we had to send our Secretary of Defense, armed with our satellite photos, to convince them that Iraqi forces were massing on their borders. They could not figure it for themselves? We have sold them tanks and planes and guns—and then we had to send them 200,000 American men and women to defend against a possible Iraqi attack. With all the equipment they have, why did we need to send so many people? And now that our people are there, we are beginning to discover that the equipment we have—and that the Saudis want—may not be all that well adapted to desert conditions. So why sell more?

And it is not just a question of the amount we are selling to the Saudis. They are—and I want to emphasize this point—a nation which needs and deserves help. But we sold Kuwait arms; and they were not used to slow the Iraqi advance. In fact the planes we had sent over there were used to help the rich and the powerful escape rather than to attack Iraqi tanks and armies.

Weapons are not going to deter a nation like Iraq. They have demonstrated time and time again that they are willing to fight no matter what kind of weapons their opponents have. Deterrence works when nations behave rationally—and the Middle East is not noted for rationality when it comes to territorial disputes. All the weapons do is make those disputes more bloody, more destructive, and more capable of expanding into the kind of regional conflict that can engulf the entire world.

Beyond that, Mr. President, I am afraid that the decision to make such a massive sale of arms is symbolic of the way we make decisions about Middle Eastern policy. The sale is clearly a response to the new threat created by Iraq. But I see no evidence of it being consistent with our overall policy in the region. Obviously we may sell the arms to help the Saudis defend our mutual enemies; but they can be used by the Saudis to attack our allies.

Those of us who believe that a strong and secure Israel is an asset to America have some clear concerns about this sale. I am not in a position to make a judgment about what really happened at the Temple Mount, but I am in a position to make some judgments about the reaction to it. The PLO and Iraq are trying to manipulate that tragedy to advance their own desire to destroy Israel. They are trying to use that incident as a wedge, to put pressure on other Arab States to forget about the aggression in Kuwait and start some aggression against Israel. We ought not, in any way, advance that plan. Refusing to sell arms the Saudis might help the PLO by allowing them to claim that we will never help any Arab State; selling too many arms to the Saudis might help the PLO by giving them a stronger ally in the war they still hope to wage. We need some balance—and this proposal is not balanced.

We do face a crisis in the gulf and we do need to take some actions to deal with it. But we need not move so quickly that we make some basic mistakes. A sale of the size originally proposed by the administration would be a basic mistake. The Congress needs to exercise its obligations to review and revise the proposal. I hope that this series of speeches will help achieve that goal.

Mr. CONRAD. Mr. President, I rise today to share my concerns over the proposed $7 billion arms package to Saudi Arabia. Because we face a very real crisis in the Middle East, we may be tempted to approve the sale too quickly. I want to urge my colleagues to reflect on the long-term consequences of pumping such an infusion of arms into a volatile region.

The Saudis certainly need to know we are with them as they confront an aggressive Iraq, but surely our deployment of over 100,000 troops and tons of materiel is eloquent testimony to our commitment to defend Saudi Arabia. We have responded fully and quickly to the immediate security crisis facing the Saudis. We have put the lives of our own people on the line in the desert and have organized our allies to respond as well. There can be no question of where the United States stands.

I certainly appreciate the need to provide some hardware to meet the immediate security needs of the Saudis, but a $7 billion package that contains some of our most lethal and sophisticated weapons, with an even larger multibillion-dollar package to come, is a very different matter. What is the sense in agreeing now to the sale of weapons which will not even be off the production line for several years?

Before we approve a package that would allow the Saudis to make first-time purchases of our Patriot missiles, Apache helicopters, and MLRS systems, we ought to give serious thought to the facts of life in the Middle East.

Alliances shift quickly and dramatically in that region, often to the real detriment of the United States. We poured arms into Iran to prop up the Shah, only to see that regime collapse and all our military hardware fall into the hands of a hostile government. Iran and Iraq fought a devastating, bloody war for almost a decade, but now we see the beginnings of rapprochement between these old enemies. The Kuwaitis stood by Iraq, indeed provided significant financial support to that country during its war with Iran, and how were they thanked? The Iraqis have shown their appreciation by toppling the Kuwaiti Government, killing its people and destroying that beautiful country. Any weapons we've sold the Kuwaitis over the years are now in Iraqi hands and could be used against our own people.

In a region where today's friend is tomorrow's foe, is it really prudent to send billions of dollars' worth of sophisticated hardware to a Saudi monarchy that many experts feel is under strain from within and without? Our experience in Iran should tell us that the answer to a regime's internal problems is not United States arms sales. We need to reflect too on who would control all those weapons should the monarchy fall. How would they be used?

And what about external pressures on the Saudi monarchy? Who knows what impact the rise of Islamic fundamentalism will have on the region? What kind of pressures will the more radical states in the region continue to exert on the Saudis? Will the Saudis have to make pacts with more radical states just to buy some breathing room?

No one has a crystal ball, but these are the questions we must think through before we approve an arms package that could dramatically alter the military balance in the Middle East. It would be a real tragedy if, in a rush to respond to the current crisis, we only created a much greater problem for ourselves down the road. Who wants to come to the Senate floor a few years from now, when the Arab map may have changed once again and say, "If we only knew in 1990 what we know now?"

In the coming months, we will have to develop a longer term strategy for meeting the security needs of our friends in the gulf. And it is in that context of an overall strategy that we should address the serious questions of large arms sales to the Middle East.

Mr. BRYAN. Mr. President, I rise today to express my concern with the administration's proposed sale of sophisticated weapons systems to Saudi Arabia.

The need to bolster Saudi Arabia's defenses is undeniable. Recognizing our strong interests there, this body has supported the President's deployment of American forces in the Persian Gulf, particularly in Saudi Arabia. However, we must exercise care. While we plan in the short term to defend Saudi Arabia against Iraqi aggression, it would be unwise to ignore the long term implications of this sale.

American policy must, over the long term, strive to create stability in the Middle East. The history of American arms sales to the Middle East is not a good one. Our weapons have often fallen into the hand of those who oppose stability in the region, and America interests around the world. The fall of the Shah of Iran resulted in large numbers of sophisticated American weapons falling into the hands of Islamic radicials, and fueled the long and devastating Iran-Iraq war. Ironically, our soldiers in Saudi Arabia are facing American weapons, captured by the Iraq's from the American-supplied Kuwaiti Armed Forces.

The administration has approved this sale in order to enable the Saudis to better defend themselves against Saddam Hussein. This is a reasonable goal. We should use the goal to define the size and scope of arms sales to the Saudis. I question the administration's inclusion of weapon systems which would not become available until long after this crisis is likely to have passed. Some would enhance Saudi Arabia's offensive military capabilities long after Saddam Hussein is no longer a threat.

It is important to remember as we consider this sale, that the alliances in the Middle East can shift as easily as the desert sands. During the Iran-Iraq war, Kuwait and Saudi Arabia spent billions of dollars to support the same Iraqi army which now occupies the Emir's palace and threatens Riyadh. Saudi Arabia, while our ally against Iraqi aggesssion, remains a declared enemy of another important American ally, Israel. The experience of the last 40 years show Israeli concerns about the ultimate use of these weapons to be well founded. This sale would not make it possible for Saudi Arabia to defend itself alone against Iraqi aggression. However, it could allow the Saudi's to share sophisticated American weapons with other Arab nations intent on Israel's destruction.

For these reasons, I believe that we must be cautious in considering the administration's request. We must look to the long-term stability of the Middle East, and approve no weapon transfer which does not serve long term American interests in the region. I thank the Chair.

The PRESIDING OFFICER (Mr. Kerrey). The Senator from Idaho.

Mr. SYMMS. Might I inquire of the parliamentary situation.

The PRESIDING OFFICER. The Senator from California controls the time until 11:10.

Mr. CRANSTON. I yield back all time.

The PRESIDING OFFICER. Regular order would be to go to the appropriations bill.

Mr. SYMMS. Mr. President, I ask unanimous consent that I might proceed as though in morning business for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. I thank the Chair.

NO NEW TAXES

Mr. SYMMS. Mr. President, I take the floor this morning to reemphasize what I think is becoming very apparent to the American people but somehow it is not becoming very apparent to the tax and spenders in both parties in Washington, DC. There still seems to be some sort of a mad rush here in Washington to raise taxes so we have more money to spend for all the favored Government programs, and an unwillingness on the part of Congress to take it on and attack this budget with a no new tax start, with no new taxes as the pledge.

Mr. President, when I was elected to the House back in the 1970's and in the Senate at the turn of the 1980's, I was running on a platform of no new taxes.

Let us allow people the opportunity to be free and to run their own business without an excessive Government. What is happening is the Government is growing, it is getting bigger. But the American people have the message, Mr. President. All one has to do is go to Idaho or go to New Hampshire or go to New York City where in New York City the distinguished Presiding Officer just pointed out to me that the liberal Democratic mayor of New York City is cutting city employees because they are short of

revenues. I do not see any suggestions of that around here.

One thing we could do here in this Congress—and I offered an amendment earlier this year—is reduce the staff in the legislative appropriations bill to set an example for the rest of the country and then go about our legislation.

The American people elected George Bush, Mr. President, on a platform of no new taxes. He said, "No new taxes; read my lips."

I personally believe that this President still does not want new taxes. He is a diplomat. He has been able to negotiate with everyone in the world; from the Soviet Union to everybody else in the world the President has demonstrated his abilities to negotiate. There are only two groups of people he has not been able to negotiate with. One is Saddam Hussein and his henchmen, and the other group is the tax and spenders in the Congress of the United States.

I think it is high time, and it is not too late, for the President to turn this around. I appeal to him as an American to go back on the warpath and go out on the campaign trail and tell the American people. Let us pass a continuing resolution similar to the one we now have in effect that will get some savings for the Government, a modified sequester, extend it through to the first of next year, to the middle of February or some such time, and then tell the American people, send me a Congress. If the issue is do we want new taxes, then I will sign their tax bill. If you elect them to come in here and raise your taxes, I will sign the bill next year and you can have more taxes. if you elect them to reduce the spending of the Federal Government, I will work with them to do it and work out a fair budget proposal.

Mr. President, the President of the United States then goes on TV and says to those of us in the Republican Party, "Blame me, blame me. Do not blame them; blame me."

I do not blame the President. I do not blame George Bush for the mess this has evolved into. I blame the leadership of the Congress that wants to tax and spend.

The country is in a tailspin economically. All you have to do is get outside the beltway where people are actually out working in the private sector and find out we are in a recession. This country is in a recession, Mr. President, and the worst possible thing we can do would be to raise taxes at this point in time. We are heading downward in a tailspin.

Our President is a former Naval aviator, so I think he knows what to do when the plane is in a tailspin: Level it out, gradually pull the airplane back to straight and level flight. That is what we need to do now. It is not too late.

In 1 month the American people go to the polls. The referendum should be based on whether they want new taxes. If they want new taxes, the American voters can do whatever they want to do and I will respect their opinion. I have great faith in the basic intelligence of the American people to send people to Washington who would like to balance the budget without raising taxes, but they have never really heard what the issue is.

Mr. President, people say well, what would you do. To give you an example, Mr. President, we ran some numbers yesterday. I talked to a person from OMB who is a budget expert, people from the Senate Budget Committee, and my own staff. It is not that difficult to achieve $500 billion in savings over the next 5 years without raising taxes. You can take Sam Nunn's numbers on defense. You freeze appropriated accounts for the 1990 levels and then only give them a CPI increase for the next 4 years.

You have to probably bite the bullet and suspend tax indexing, which I do not like because that is actually a tax increase. But I think in fairness we can suspend that for 1 year, suspend all COLA's for everyone that receives COLA's in the Government, both inside the Government and on Government pensions for a year, excluding a full COLA for those below the poverty line, and then only give people a modified COLA who get it for the next 4 years.

This is an emergency to do this, to save our economy: Reduce farm deficiency payments, include State and local OASDI and HI inclusion, Medicare reform, as the bipartisan group has come up with, which saves $50 billion, interest savings of $60 billion. And as I tick those off, the total adds up to $179 billion on defense, $82 billion on appropriated accounts, $50 billion on the tax indexing, $60 billion on the COLA's, $10–$12 billion on the farm deficiency payments, $16–$17 billion on the OASDI, $52 billion on Medicare, and $65 billion on interest. And you have $523 billion.

I am not married to this plan. I just throw it out to demonstrate, to tell the American people that they do not need to have a tax increase to solve this problem. Somehow here in Washington, people believe they have to have a tax increase, and the worst part of it is the working men and women of America pay taxes to pay for more Government. Then they have to pay lawyers to defend themselves, to run their businesses, against the regulators. So they lose on both ends.

So I appeal to the President. I do not care whether these people are Republicans or Democrats. If they will pledge to come to Washington and balance the budget by reducing spending and not by raising taxes, I hope the American people could have a choice of how to vote on the issue.

As I said, Mr. President, to start off with, I think we can do a good job here in the Congress by setting an example for the rest of the country by passing the bill to reduce the size of the staffs on Capitol Hill by 10 percent, appropriated accounts, and it will not even make a dent. It will not make a dent in what happens around here. We could probably cut it by 25 or even 50 percent. We might even get along better here in the Congress.

Mr. President, I urge President Bush—it is never too late—to turn this situation around, to take this issue to the American people, to call for a balanced budget plan with no new taxes. It is entirely doable. The American people would support it. As long as they feel it is fair and treats all parts of the economy fairly, they would support it.

And if people say that they will not support it. I disagree. I totally disagree with that.

Mr. President, I call the attention of my colleagues to the Washington Times editorial page this morning, an article by Mr. Warren Brookes entitled "Why the Tax Revolt Lives." Mr. Brookes starts out this way:

> When President Bush discovered what a turkey his budget advisers had cooked up for him, he should have sent it back to the kitchen. Instead, he went on national television to invite taxpayers to dine with him and call their Congressmen.

I urge the President to go on television now and take this to the people. I believe that this President does not want new taxes, and he has only been trying to negotiate with the Congress that wants new taxes.

As soon as he makes it clear that he is opposed to new taxes, I believe he would have the support of his party in both the House and Senate, and he would have a lot of the support from the other party here in the House and Senate. He could be victorious, and he could take that issue to the American people. Make a referendum, Mr. President, on whether we want to raise taxes and continue the growth and the bureaucratic welfare state, or whether we want to stop raising taxes and live within our means.

We have over $1 trillion. I do not know what they think in Nebraska, but I well imagine the farmers in Nebraska think that a trillion plus a couple hundred billion dollars is a lot of money. They think that is enough to run this Government. I know they think that in my State.

I might just say to my colleagues that in the last 2 weeks, while the Senate Republican candidate in the State who, was clearly identified with no new taxes, continues to go up in the polls, the other political leaders in the State that are more in favor of taxes continue to go down in the polls, including the President.

I think that the American people—and the Members of the Congress, the House and the Senate, and the White House would be willing to listen to the American people—if they want more taxes, then next year there will be plenty of time and plenty of opportunity to give them more taxes and solve the problem.

But for now, it is high time we have a referendum on whether or not they want more taxes. I am on the side of no more new taxes.

I yield the floor.

COMMERCE, JUSTICE, STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1991

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 5021, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5021) making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

H.R. 5021

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes, namely:

TITLE I—DEPARTMENT OF COMMERCE

General Administration

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce provided for by law, **[$29,854,000]** *including not to exceed $2,000 for official entertainment, $29,337,000.*

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1-11 as amended by Public Law 100-504), **[$14,600,000]** *$14,208,000.*

Bureau of the Census

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, **[$112,863,000]** *$113,654,000.*

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, **[$310,904,000]** *$269,774,000 to remain available until expended.*

Economic and Statistical Analysis

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, **[$38,456,000]** *$39,948,000.*

Economic Development Administration

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants under the Trade Adjustment Assistance Program, as authorized by 19 U.S.C. 2024, **[$14,400,000]** *and for economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $204,430,000: Provided, That during fiscal year 1991 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: Provided further, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: Provided further, That each university center that received funding from the Economic Development Administration during fiscal year 1990 shall receive not less than the same level of funding during fiscal year 1991 notwithstanding any regulation of the Economic Development Administration or the Department of Commerce.*

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, **[$27,018,000]** *$27,605,000: Provided, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1991, and such positions shall be maintained in the various States within the approved organizational structure in place on December 1, 1987, and where possible, with those employees who filled those positions on that date.*

International Trade Administration

OPERATIONS AND ADMINISTRATION

For necessary expenses for **[import administration]** *international trade* activities of the Department of Commerce provided for by law, **[$24,421,000]** *and engaging in trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $330,000 for official representation expenses abroad; and purchase of passenger motor vehicles for official use abroad not to exceed $30,000 per vehicle; obtain insurance on official motor vehicles, rent tie lines and teletype equipment; $183,620,000, to remain available until expended, of which $7,175,000 is for the Office of Textiles and Apparels, including $3,315,000 for a grant to the Tailored Clothing Technology Corporation: Provided, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities; and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment for assessments for services provided as part of these activities. Notwithstanding any other provision of law, upon the request of the Secretary of Commerce, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Officer assigned to any United States mission abroad: Provided further, That the number of Commercial Service officers accorded such diplomatic title at any time shall not exceed twelve.*

Export Administration

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $25,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $43,599,000, to remain available until expended: Provided, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities.

Minority Business Development Agency

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $42,549,000, of which $26,873,000 shall remain available until expended: Provided, That not to exceed $15,676,000 shall be available for program management for fiscal year 1991.

United States Travel and Tourism Administration

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to 44 U.S.C. 3702 and 3703; and including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $15,000 for representation expenses abroad; $19,596,000, to remain available until expended.

National Oceanic and Atmospheric Administration

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; 439 commissioned officers on the active list; as authorized by 31 U.S.C. 1343 and 1344; construction of facilities, including initial equipment as authorized by 33 U.S.C. 883i; and alteration, modernization, and relocation of facilities as authorized by 33 U.S.C. 883i; **[$1,037,465,000]** *$1,369,730,000 to remain available until expended, of which $2,200,000 shall be available for construction and renovation of facilities at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas, and to acquire equipment and furnishings necessary for such facility which are consistent with the original plan for the facility, and of which $550,000 shall be available for operational expenses at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas; and in addition, $34,521,000 shall be derived from the Airport and Airways Trust Fund as authorized by 49 U.S.C. 2205(d); and in addition, $60,900,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; and in addition, $7,000,000 shall be derived by transfer from the Coastal Energy Impact Fund: Provided, That grants to States pursuant to section 306 and 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $450,000: Provided further, That in addition to the sums appropriated elsewhere in this paragraph, not to exceed $500,000 shall be available from the receipts deposited in the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries" for grant management and related activities: Provided further, That not less than $8,400,000 shall be obligated not more than 30 days following the enactment of this Act, notwithstanding any other provision of law, for the operation, maintenance, and related activities of anadromous fish hatcheries in the Columbia River Basin in the States of Oregon, Washington, and Idaho as authorized under the Mitchell Act (16 U.S.C. 755-756): Provided further, That notwithstanding any other provision of law, $400,000 shall be available to the South Carolina Coastal Council without financial matching requirement for the Charleston Harbor Estuary Special Area Management Plan.*

DAMAGE ASSESSMENT AND RESTORATION REVOLVING FUND

For contingency planning, response and natural resource damage assessment and restoration activities, pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended, the Federal Water Pollution Control Act, as amended, the Marine Protection, Research and Sanctuaries Act, as amended, and the Oil Pollution Act of 1990, $4,500,000 to remain available until expended: Provided, That notwithstanding any other provision of law, in fiscal year 1991 and thereafter, sums provided by any party or governmental entity for natural resource damage assessment, response or restoration activities conducted or to be conducted by the National Oceanic and Atmospheric Administration as a result of any injury to the marine environment and/or resources for which the National Oceanic and Atmospheric Administration acts as trustee of said marine environment and/or resources, shall be deposited in the Damage Assessment and Restoration Revolving Fund and said funds so deposited shall remain available until expended: Provided further, That for purposes of obligation and expenditure in fiscal year 1991 and thereafter, sums available in the Damage Assessment and Restoration Revolving Fund may be transferred, upon the approval of the Secretary of Commerce or his delegate, to the Operations, Research, and Facilities appropriation of the National Oceanic and Atmospheric Administration.

FISHERIES PROMOTIONAL FUND

Of the funds deposited in the Fisheries Promotional Fund pursuant to section 209 of the Fish and Seafood Promotion Act of 1986, as amended, $2,000,000, to remain available until expended, shall be made available as authorized by said Act.

FISHING VESSEL AND GEAR DAMAGE FUND

For carrying out the provisions of section 3 of Public Law 95-376, not to exceed $1,202,000, to be derived from receipts collected pursuant to 22 U.S.C. 1980(b) and (f), *to remain available until expended.*

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95-372, not to exceed $1,000,000, to be derived from receipts collected pursuant to that Act, *to remain available until expended.*

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96-339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 94-265), and the American Fisheries Promotion Act (Public Law 96-561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $1,997,000, *to remain available until expended.*

Patent and Trademark Office

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office provided for by law, **[$109,807,000 and, in addition,]** *including defense of suits instituted against the Commissioner of Patents and Trademarks;* such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, *to remain available until expended.*

Technology Administration

SALARIES AND EXPENSES

For necessary expenses of the Technology Administration, $4,433,000.

INFORMATION PRODUCTS AND SERVICES

Notwithstanding sections 212 (a)(1)(B) and (a)(3) of Public Law 100-519, there may be credited to this account not to exceed $500,000 for modernization, including operating expenses.

National Institute of Standards and Technology

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, $172,228,000, to remain available until expended, of which not to exceed $9,772,000 may be transferred to the "Working Capital Fund"; and of which not to exceed $10,095,000 shall be available for construction of research facilities.

INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Regional Centers for the Transfer of Manufacturing Technology, and the Advanced Technology and State Extension Services programs of the National Institute of Standards and Technology, $52,100,000, to remain available until expended.

National Telecommunications and Information Administration

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, $14,882,000, to remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, **[$20,833,000]** *$21,833,000,* to remain available until expended as authorized by section 391 of said Act, as amended: *Provided,* That not to exceed $1,500,000 shall be available for program administration as authorized by section 391 of the Communications Act of 1934, as amended: *Provided further, That notwithstanding the provisions of section 391 of the Communications Act of 1934 as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year: Provided further, That notwithstanding sections 391 and 392 of the Communications Act, as amended, not to exceed $1,000,000 appropriated in this paragraph shall be available for the Pan-Pacific Educational and Cultural Experiments by Satellite program (PEACESAT).*

General Provisions—Department of Commerce

SEC. 101. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act, *and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.*

SEC. 102. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 103. None of the funds made available by this Act may be used to support the hurricane reconnaissance aircraft and activities that were under the control of the United States Air Force or the United States Air Force Reserve as of June 1, 1990.

SEC. 104. None of the funds provided in this or any previous Act shall be available to reimburse the Unemployment Trust Fund or any other fund or account of the Treasury to pay for any expenses authorized by section 8501 of title 5, United States Code, for services performed after April 20, 1990, by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population.

SEC. 105. (a) Funds appropriated by this Act to the National Institute of Standards and Technology of the Department of Commerce for the Advanced Technology Program shall be available for award to foreign companies or to joint ventures including foreign companies under the terms and conditions set forth in subsection (b) of this section, in addition to any terms and conditions established by the Secretary of Commerce.

(b)(1) No joint venture which contains a foreign company or a subsidiary thereof shall be eligible to receive financial assistance from the Secretary of Commerce, and no foreign company shall participate in any joint venture which has received financial assistance from the Secretary of Commerce, unless—

(A) the foreign company is prepared to make material contributions to the joint venture and the Secretary of Commerce, after such consultations with the North American companies belonging to the joint venture or proposed joint venture as the Secretary of Commerce considers appropriate, certifies that the foreign company's contributions and its participation in the joint venture would be in the interests of the United States;

(B) the foreign company has already made and agrees to make a substantial commitment to the United States market, as evidenced by investments in the United States in long-term research, development, and manufacturing (including the domestic manufacture of major components and subassemblies); significant contributions to employment in the United States; and agreement with respect to any technology arising from the joint venture to manufacture within the United States products resulting from that technology, to procure parts and materials from competitive North American suppliers, and to support a North American supplier infrastructure;

(C) the foreign company's home market affords reciprocal treatment to United States companies comparable to that afforded the foreign company in the United States, as evidenced by affording comparable opportunities for United States companies to participate in any joint ventures similar to those provided through the Advanced Technology Program of the National Institute of Standards and Technology; encouraging local investment opportunities for United States companies that are comparable to investment opportunities for foreign companies in the United States; and affording adequate and effective protection for the intellectual property rights of United States companies; and

(D) the parent and affiliate organizations of the foreign company have not been identified on two or more occasions within the previous five years as a foreign manufacturer, producer, or exporter within the meaning of section 771(9)(A) of the Tariff Act of 1930 (19 U.S.C. 1677(9)(A)) in proceedings that have resulted in or involved a final dumping or countervailing duty determination.

(2) In the event the Secretary of Commerce certifies a foreign company under subsection (b)(1)(A) of this section and certifies that the foreign company meets the requirements set forth under subsection (b)(1)(B) through (D) of this section, the Secretary of Commerce shall waive the prohibition on the foreign company's participation and allow the foreign company to participate in the joint venture, subject to such terms and conditions as the Secretary of Commerce may specify.

(3) The Secretary of Commerce shall monitor the participation of any foreign company allowed into a joint venture assisted by the Secretary, shall periodically report to Congress on the participation of such foreign company and any other foreign companies participating in federally assisted joint ventures, and shall suspend the foreign company and its employees from continued participation in the joint venture if the Secretary of Commerce determines that the foreign company or its home market has failed to satisfy any of the criteria set forth in subsection (b)(1) of this section or any of the terms and conditions the Secretary of Commerce may set under subsection (b)(2) of this section.

(c) The Secretary of Commerce shall prescribe such rules and collect such information as may be necessary to monitor and enforce any requirements set forth in subsection (b) of this section.

(d) As used in this section, the term—

(1) "foreign company" means a company or other business entity in which majority ownership or control is held by individuals who are not citizens of the United States or Canada; and

(2) "North American company" means a company or other business entity in which majority ownership or control is held by individuals who are citizens of the United States, or citizens of Canada, or a combination of United States and Canadian citizens, except that such term includes a company owned or controlled by Canadian citizens only if, in the judgment of the Secretary of Commerce, the company is not acting, with respect to the joint venture concerned, as an agent or intermediary for a third-country company or foreign government.

(e) The provisions of this section shall terminate upon enactment into law of an Act authorizing appropriations for the National Institute of Standards and Technology for fiscal year 1991, if such Act includes provisions limiting the participation of foreign companies in the Advanced Technology Program.

SEC. 106. (a) The Secretary of Commerce shall provide a report to the appropriate committees of the Congress on the procurement of the weather satellites GOES I, J, K, L, and M which—

(1) describes the procedures associated with this procurement, including a discussion of the respective roles of NOAA and NASA, an analysis of prior and existing agreements between NOAA and NASA regarding spacecraft research and development responsibilities, and an identification of individual officials responsible for procurement decisions, including contract modifications;

(2) provides the original cost estimates and schedule for the spacecraft procurement, outlines the performance capabilities for the spacecraft and instruments specified in the contract including a description of anticipated improvements in operational weather warning and forecast systems which would result from the new GOES system design, and provides information on all changes to these original estimates and performance specifications, including the reason for each change and the implication of each change for cost, schedule, and weather service warning and forecast system performance;

(3) provides the most recent estimate of spacecraft and launch costs and schedules for this spacecraft series, including a description of potential contract modifications and their impacts on cost, schedule, and weather service warning and forecast system performance; and

(4) sets out a contingency plan for a potential gap in GOES service, including (A) a description of past decisions regarding options for avoiding a gap in GOES service, (B) a detailed description of current contingency plan elements, costs, and schedules, (C) options for (i) obtaining a "gap-filler" spacecraft and (ii) instrument redesign, (D) a description of the procedures for implementing the contingency plan, and (E) an analysis of the impact of the loss of GOES service on weather service warning and forecast system performance if the contingency plan were implemented.

(b) The report required by subsection (a) of this section shall be transmitted to the Congress no later than February 1, 1991.

This title may be cited as the "Department of Commerce Appropriations Act, 1991".

TITLE II—DEPARTMENT OF JUSTICE

[FINANCIAL INSTITUTION INVESTIGATIONS, PROSECUTIONS AND CIVIL PROCEEDINGS

[SALARIES AND EXPENSES

[For necessary expenses of the Department of Justice, $65,000,000 for investigations and prosecutions involving financial institutions, as authorized by section 966(a)(1) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Public Law 101-73), and $10,000,000 for civil proceedings involving financial institutions, as authorized by section 966(a)(2) of said Act.]

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $100,968,000, of which $970,000 shall remain available until expended: Provided, That not to exceed 11 permanent positions, 12 full-time equivalent workyears, and $1,400,000 shall be expended for the Office of Public Affairs and 18 permanent positions, 21 full-time equivalent workyears, and $2,100,000 shall be expended for the Office of Legislative Affairs: Provided further, That the two aforementioned Offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or nonreimbursable basis, or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $22,140,000; including not to exceed $10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; and for the acquisition, lease, maintenance and operation of motor vehicles without regard to the general purchase price limitation.

WORKING CAPITAL FUND

For expenses necessary to convert the Department of Justice payroll/personnel system to the Department of Agriculture's National Finance Center payroll/personnel system, not to exceed $3,000,000, to remain available until expended, to be derived from current operating income.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission, as authorized by law, $9,869,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; $352,103,000, of which not to exceed $5,639,000 shall be available for the operation of the United States National Central Bureau, INTERPOL; and of which not to exceed $6,000,000 for litigation support contracts shall remain available until September 30, 1992: Provided, That of the funds available in this appropriation, not to exceed $17,000,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through "Salaries and expenses", General Administration.

For expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed [$1,500,000] *$1,000,000* to be appropriated from the Vaccine Injury Compensation Trust Fund, as authorized by section 6601 of the Omnibus Budget Reconciliation Act of 1989.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $53,730,000 of which an estimated $20,000,000 shall be derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) so as to result in a final fiscal year 1991 appropriation of $33,730,000: Provided, That $53,730,000 shall be apportioned and shall be construed as being available for obligation without regard to 31 U.S.C. 1341: Provided further, That fees made available to the Antitrust Division shall remain available until expended but that any fees received in excess of $20,000,000 shall not be available for obligation in fiscal year 1991.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Office of the United States Attorneys, $674,095,000, of which not to exceed $5,000,000 shall be available until September 30, 1992, for the purposes of (1) providing training of personnel of the Department of Justice in debt collection, (2) providing services related to locating debtors and their property, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations, and (3) paying the costs of sales of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs: Provided, That of the total amount appropriated, not to exceed $8,000 shall be available for official reception and representation expenses.

UNITED STATES TRUSTEE SYSTEM FUND

For the necessary expenses of the United States Trustee Program, $64,703,000, to remain available until expended and to be derived from the Fund, for activities authorized by section 115 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554): Provided, That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, $640,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including acquisition, lease, maintenance, and operation of vehicles and aircraft; $288,529,000, including purchase of passenger motor vehicles for police-type use without regard to the general purchase price limitation for the current fiscal year; as authorized in Public Law 100-690 (102 Stat. 4513); *of which not to exceed $12,653,000 for the renovation and construction of Marshals Service prisoner holding facilities shall be available until expended; and of which not to exceed $6,000 shall be available for official reception and representation expenses.*

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in [non-Federal institutions, $193,034,000 as authorized in 18 U.S.C. 4013] *the custody of the United States Marshals Service and as authorized in 18 U.S.C. 4013, but not including expenses otherwise provided for in appropriations available to the Attorney General, $193,034,000, to remain available until expended; of which not to exceed $15,000,000 shall be available under the Cooperative Agreement Program.*

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances, $70,628,000, to remain available until expended, of which not to exceed $2,000,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $28,172,000, of which not to exceed $20,214,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1809) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: Provided, That notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (C), (F), and (G), as amended, $100,000,000 to be derived from the Department of Justice Assets Forfeiture Fund.

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, $330,000,000: Provided, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 3,136 passenger motor vehicles of which 2,125 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,690,962,000, of which not to exceed $25,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1992; of which not to exceed $8,000,000 for research and development related to investigative activities shall remain available until expended; and of which not to exceed $500,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism and drug investigations: Provided, That for fiscal year 1991 and hereafter the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records and name checks for non-criminal justice, non-law enforcement employment and licensing purposes and for certain employees of private sector contractors with classified Government contracts, and notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services, and that the Director of the Federal Bureau of Investigation may establish such fees at a level to include an additional amount to establish a fund to remain available until expended to defray expenses for the automation of fingerprint identification services and associated costs: Provided further, That not to exceed $45,000 shall be available for official reception and representation expenses: Provided further, That not to exceed $7,500,000 for a language transla-

tion system shall remain available until expended: Provided further, That $10,000,000 previously provided for the relocation of the FBI's Washington Metropolitan Field Office be made available for activities funded by this appropriation.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; expenses for conducting drug education programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase not to exceed 1,293 passenger motor vehicles of which 775 are for replacement only for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $696,900,000, of which not to exceed $1,800,000 for research shall remain available until expended; and of which not to exceed $4,000,000 for purchase of evidence and payments for information, not to exceed $4,000,000 for contracting for ADP and telecommunications equipment, not to exceed $2,000,000 for technical and laboratory equipment and not to exceed $20,550,000 for the purchase of aircraft and equipment, shall remain available until September 30, 1992; and, of which not to exceed $10,000,000 shall remain available until expended for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for a new aviation facility: Provided, That not to exceed $45,000 shall be available for official reception and representation expenses.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed 504, for replacement only) without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $883,501,000, of which not to exceed $400,000 for research and $17,188,000 for construction shall remain available until expended: Provided, That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: Provided further, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: Provided further, That not to exceed $5,000 shall be available for official reception and representation expenses.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 330 of which 90 are for replacement only) and hire of law enforcement and passenger motor vehicles; $1,359,843,000: Provided, That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: Provided further, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: Provided further, That not to exceed $3,000 shall be available for official reception and representation expenses.

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351–4353 of title 18, United States Code, which established a National Institute of Corrections, $10,007,000, to remain available until expended.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase, leasing the Oklahoma City Airport Trust Facility, and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $374,358,000, to remain available until expended: Provided, That labor of United States prisoners may be used for work performed under this appropriation: Provided further, That not to exceed 10 per centum of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and expenses", Federal Prison System upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 606 of this Act.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $3,167,000 of the funds of the corporation shall be available for its administrative expenses for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and such amount shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

ADMINISTRATIVE PROVISION

(a) Federal Prison Industries, Incorporated is directed to make contracts to carry out an independent market study at a cost not to exceed $250,000, that identifies new areas of business growth which will have a minimal impact on the private sector. The study shall be conducted by experts not affiliated with the Federal Prison Industries or the Bureau of Prisons.

(b) The market study shall identify products and services that will not have an adverse impact on highly import-sensitive industries, that permit employment of the greatest number of inmates who are eligible to work as is reasonably possible, and shall provide data which allows Federal Prison Industries to employ inmates and conduct operations in accordance with section 4122(b)(1) of title 18, United States Code. Implementation of the study will not occur prior to design approval by the Board of Directors.

(c) Federal Prison Industries is directed to report the results of this study to Congress not later than six (6) months from the enactment (or effective date) of this Act. Federal Prison Industries shall maintain a public record of all comments concerning the results of the study which have been submitted to the Chief Operating Officer, Federal Prison Industries within thirty (30) days after the results of the study have been presented to Congress.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Missing Children's Assistance Act, as amended by the Anti-Drug Abuse Act of 1988, including salaries and expenses in connection therewith, [$92,321,000] *$91,467,000,* to remain available until expended as authorized by section 6093 of Public Law 100–690 (102 Stat. 4339–4340).

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by parts D and E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, including salaries and expenses in connection therewith, [$400,000,000] *$490,000,000,* to remain available until expended as authorized by section 6093 of Public Law 100–690 (102 Stat. 4339–4340)*: Provided, That $17,000,000, to remain available until expended, from amounts appropriated for Part E, Subpart 2—Discretionary Grants, shall be available only for the National Crime Information Center 2000 project, to be expended under the direction of the Director of the Federal Bureau of Investigation: Provided further, That notwithstanding any other provisions of law, the grant limitation established in 42 U.S.C. 3754(f) is hereby waived for fiscal year 1991.*

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith, [$78,000,000] *$72,601,000,* to remain available until expended as authorized by section 261(a), part D, of said Act (42 U.S.C. 5671(a)), of which [$5,000,000] *$2,000,000* is for expenses authorized by part D of title II of said Act.

[In addition, $5,000,000 for the purpose of reimbursement to States for costs of incarcerating illegal aliens and certain Cuban Nationals as authorized by section 501 of the Immigration Reform and Control Act of 1986 (Public Law 99-603).]

In addition, $4,963,000 for the purpose of making grants to States for their expenses by reason of Mariel Cubans having to be incarcerated in state facilities for terms requiring incarceration for the full period October 1, 1990, through September 30, 1991, following their conviction of a felony committed after having been paroled into the United States by the Attorney General: Provided, That within thirty days of enactment of this Act the Attorney General shall announce in the Federal Register that this appropriation will be made available to the States whose Governors certify by February 1, 1991, a listing of names of such Mariel Cubans incarcerated in their respective facilities: Provided further, That the Attorney General, not later than April 1, 1991, will complete his review of the certified listings of such incarcerated Mariel Cubans, and make grants to the States on the basis that the certified number of such incarcerated persons in a State bears to the total certified number of such incarcerated persons: Provided further, That the amount of reimbursements per prisoner per annum shall not exceed $12,000.

PUBLIC SAFETY OFFICERS BENEFITS

For payments authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), as amended, [$26,075,000,] *such sums as are necessary* to remain available until expended as authorized by section 6093 of Public Law 100–690 (102 Stat. 4339–4340).

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 201. A total of not to exceed $30,000 from funds appropriated to the Department of Justice in this title shall be available only for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 202. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96-132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) During fiscal year 1991 and thereafter with respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading of "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Service Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(B) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration for fiscal year 1991, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the United States Code and section 3302 of title 31 of the United States Code, and

(D) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code,

only, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, with respect to Federal Bureau of Investigation undercover operations, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counterintelligence, the cerification that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.

(2) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(3) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administrator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(4)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1991 and each fiscal year thereafter—

(i) submit the results of such audit in writing to the Attorney General, and

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

(5) For purposes of paragraph (4)—

(A) the term "closed" refers to the earliest point in time at which—

(i) all criminal proceedings (other than appeals) are concluded, or

(ii) covert activities are concluded, whichever occurs later.

(B) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code of the Federal Bureau of Investigation, and

(C) the terms "undercover investigative operations" and "undercover operation" mean any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed $50,000, or

(II) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

SEC. 203. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term or in the case of rape: Provided, That should this prohibition be declared un-

constitutional by a court of competent jurisdiction, this section shall be null and void.

Sec. 204. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

Sec. 205. Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: Provided, That nothing in this section in any way diminishes the effect of section 204 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

Sec. 206. Pursuant to the provisions of law set forth in 18 U.S.C. 3071-3077, not to exceed $100,000 of the funds appropriated to the Department of Justice in this title shall be available for rewards to individuals who furnish information regarding acts of terrorism against a United States person or property.

Sec. 207. Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 6091 of the Anti-Drug Abuse Act of 1988, and as amended by section 211 of the Department of Justice Appropriations Act, 1990, is amended by striking "1990" and inserting in lieu thereof "1991".

Sec. 208. Deposits transferred from the Assets Forfeiture Fund to the Buildings and Facilities account of the Federal Prison System in 1989 may be used for the construction of correctional institutions, and the construction and renovation of Immigration and Naturalization Service and United States Marshals Service detention facilities, and for the authorized purposes of the Support of United States Prisoners' Cooperative Agreement Program.

Sec. 209. None of the funds transferred from the Assets Forfeiture Fund of the Department of Justice and deposited in the Special Forfeiture Fund of the Office of National Drug Control Policy, and none of the funds made available by this Act, shall be available for personnel expenses, construction, acquisition of equipment or real property, or any related expenses for a National Drug Intelligence Center.

Sec. 210. (a) Section 286 of the Immigration and Nationality Act of 1952 (8 U.S.C. 1356), as amended, is further amended—

(1) by inserting in subsection (e)(1), after the word "passenger" the phrase ", other than aircraft passengers,".

(2) by inserting ", except the fourth quarter payment for fees collected from airline passengers shall be made on the date that is ten days before the end of the fiscal year, and the first quarter payment shall include any collections made in the preceding quarter that were not remitted with the previous payment" after the words "in which fees are collected" in subsection (f)(3);

(3) by inserting ", within forty-five minutes of their presentation for inspection," after the word "provided" and before the words "when needed" in subsection (g);

(4) by striking the first two sentences of subsection (h)(1)(A) and inserting "There is established in the general fund of the Treasury a separate account which shall be known as the 'Immigration User Fee Account.' Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the Immigration User Fee Account all fees collected under subsection (d) of this section, to remain available until expended" before the words "At the end of each 2-year period".

(5) by replacing the previously repealed subsection (1) with the following new subsection—

"(1)(A) Report to Congress.—In addition to the reporting requirements established pursuant to subsection (h) the Attorney General shall prepare and submit annually to Congress, not later than March 31st of each year, a statement of the financial condition of the 'Immigration User Fee Account' including beginning account balance, revenues, withdrawals and their purpose, ending balance, projections for the ensuing fiscal year, and a full and complete workload analysis showing on a port by port basis the current and projected need for inspectors. In addition to the provisions of paragraph (A) the statement shall indicate the success rate of the Immigration and Naturalization Service in meeting the forty-five minute inspection standard and shall provide detailed statistics regarding the number of passengers inspected within the standard, progress that is being made to expand the utilization of United States citizen by-pass, the number of passengers for whom the standard is not met .and the length of their delay, locational breakdown of these statistics and the steps being taken to correct any non-conformity.".

(b) The amendment made by this Act shall take effect on the date of enactment.

(c) Pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, the amendments made by this section which transfer receipts from one fiscal year to the next are a necessary (but secondary) result of a significant policy change.

Sec. 211. None of the funds appropriated in this Act shall be available for use by the Attorney General in connection with any litigation or other action involving the requiring of Aspen-Pitkin County Airport, Colorado, to adjust its curfew to a single time for all types of aircraft using such airport, during the 180 day period following the date of enactment of this Act.

Sec. 212. None of the funds appropriated in this or any prior Act to the Department of Justice may be used to contract out or privatize any social science grant management or program management functions or activities presently performed by Federal employees of the Office of Justice Programs.

This title may be cited as the "Department of Justice Appropriations Act, 1991".

TITLE III—DEPARTMENT OF STATE

Administration of Foreign Affairs

SALARIES AND EXPENSES

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, *international agreements and binational contracts* and expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and section 2 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669); representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674, [$1,872,279,000] *$1,861,866,000,* [and in addition] *of which not to exceed $2,000,000 shall be available for rewards, and to publicize the availability of rewards, as authorized by section 36 of the State Department Basic Authorities Act, as amended (22 U.S.C. 2708), and of which* not to exceed [$250,000] *$500,000* in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 45 of the State Department Basic Authorities Act of 1956 (section 118 of Public Law 101-246), and [in addition] *of which* not to exceed [$500,000 in] *$1,013,000 shall be derived from* fees from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90-553) (as amended by section 120 of Public Law 101-246), *and of which not to exceed $15,000 shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (section 119 of Public Law 101-246): Provided, That no funds shall be available for obligation for procurement of the Department of State Telecommunications Network (DOSTN) prior to February 15, 1991: Provided further, That the obligation of funds for DOSTN shall be subject to the reprogramming provisions of section 606 of this Act: Provided further, That the Secretary of State shall submit a report to the appropriate committees of the Congress at least 15 days prior to February 15, 1991, which justifies the requirement for the Department of State Telecommunications Network (DOSTN).*

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1-11 as amended by Public Law 100-504), $21,840,000.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), $4,600,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314), and to provide for the protection of foreign missions in accordance with the provisions of 3 U.S.C. 208, $9,100,000.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-300), and the Diplomatic Security Construction Program as authorized by title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851), [$227,656,000] *$227,656,000,* to remain available until expended as authorized by 22 U.S.C. 2696(c): *Provided,* That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $4,888,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96-8 (93 Stat. 14), $11,752,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $108,576,000.

International Organizations and Conferences

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, *conventions* or specific Acts of Congress, [$787,605,000] *$787,605,000: Provided,* That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces, as authorized by law, $115,000,000.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, contributions for the United States share of general expenses of international organizations and representation to such organizations as provided for by 22 U.S.C. 2656 and 2672 and personal services without regard to civil service and classification laws as authorized by 5 U.S.C. 5102, $7,300,000, to remain available until expended as authorized by 22 U.S.C. 2696(c), of which not to exceed $200,000 may be expended for representation as authorized by 22 U.S.C. 4085.

International Commissions

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, *including not to exceed $6,000 for representation;* as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, $10,500,000.

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, $10,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, *including not to exceed $9,000 for representation expenses incurred by the International Joint Commission,* $4,400,000; for the International Joint Commission and the International Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, [$11,440,000] *$12,147,000, to be available notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, as amended: Provided, That the United States share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 3324.*

Other

UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

For necessary expenses, not otherwise provided, for Bilateral Science and Technology Agreements, as authorized by section 403 of Public Law 101-179 and section 105 of Public Law 101-246, [$5,000,000] *$4,000,000,* to remain available until expended as authorized by 22 U.S.C. 2696(c).

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, as authorized by section 501 of Public Law 101-246, $13,978,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

For expenses, not otherwise provided for, to enable the Secretary of State to carry out the provisions of title VIII of Public Law 98-164, [$4,784,000] *$4,600,000.*

FISHERMEN'S GUARANTY FUND

For expenses necessary to carry out the provisions of section 7 of the Fishermen's Protective Act of 1967, as amended, $900,000 of which $450,000 shall be derived from the receipts collected pursuant to that Act, to remain available until expended.

FISHERMEN'S PROTECTIVE FUND

For expenses necessary to carry out the provisions of the Fishermen's Protective Act of 1967, as amended, $500,000.

General Provisions—Department of State

Sec. 301. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C 1343(b).

Sec. 302. Not to exceed .5 per centum of the appropriation Administration of Foreign Affairs, "Salaries and expenses" may be transferred to Administration of Foreign Affairs, "Emergencies in the Diplomatic and Consular Service" or International Organizations and Conferences, "International Conferences and Contingencies" but no such appropriation shall be increased by more than 25 per centum by any such transfer: Provided, That the Department shall follow the normal reprogramming procedures of the Senate and House Appropriations Committees before obligating or expending any funds so transferred.

Sec. 303. None of the funds provided by this Act shall be available to the Department of State to produce the semiannual report as required under section 5 of Public Law 94-304.

Sec. 304. (a) Section 303 of the Department of State Appropriations Act, 1988 (as contained in section 101(a) of Public Law 100-202 (as amended by section 303(a) of Public Law 100-459)) is amended in the first sentence—

(1) by striking out "$340,000" and inserting in lieu thereof "$390,000"; and

(2) by striking out "section 109(c) of the Department of State Authorization Act, Fiscal Years 1984 and 1985" and inserting in lieu thereof: "section 109 (b) and (c) of the Department of State Authorization Act, Fiscal Years 1984 and 1985".

(b) Section 109(b) of the Department of State Authorization Act, Fiscal Years 1984 and 1985, is amended—

(1) by striking out "Of the amount" through "Spring 1984" and inserting in lieu thereof: "There are authorized to be appropriated each fiscal year $50,000, to be equally divided between delegations of the Senate and the House of Representatives, to assist in";

(2) by inserting after "meeting" the following: "the expenses of the United States Group";

(3) by striking out "which" through "United States"; and

(4) by inserting the following sentence at the end thereof: "Amounts appropriated under this section are authorized to remain available until expended.".

This title may be cited as the "Department of State Appropriations Act, 1991".

TITLE IV—THE JUDICIARY

Supreme Court of the United States

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance and operation of an automobile for the Chief Justice, not to exceed $10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344[,-$18,807,000] *; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; $19,029,000.*

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a-13b), $3,453,000, *of which $1,106,000 shall remain available until expended.*

United States Court of Appeals for the Federal Circuit

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, [$9,590,000] *$9,304,000.*

United States Court of International Trade

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges, salaries of the officers and employees of the court, services as authorized by 5 U.S.C. 3109, and necessary expenses of the court, as authorized by law, $8,721,000.

Courts of Appeals, District Courts, and Other Judicial Services

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the Claims Court, bankruptcy judges, magistrates, and all other officers and employees of the Federal

Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, [$1,575,320,000] *$1,598,623,000 (including the purchase of firearms and ammunition); of which not to exceed $61,045,000 shall remain available until expended for space alteration projects; and of which $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions*; and for expenses of the Claims Court associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $1,500,000 to be appropriated from the Vaccine Injury Compensation Trust Fund, as authorized by section 6601 of the Omnibus Budget Reconciliation Act of 1989.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)), *the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel* the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d), [$137,569,000] *$135,269,000 and the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences,* to remain available until expended as authorized by 18 U.S.C. 3006A(i).

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)); $57,997,000, *to remain available until expended: Provided, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.*

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100-702); [$71,261,000] *$72,261,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.*

Administrative Office of the United States Courts

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), [$37,712,000] *advertising and rent in the District of Columbia and elsewhere, $37,178,000, of which not to exceed $5,000 is authorized for official reception and representation expenses.*

Federal Judicial Center

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, $13,918,000.

Judicial Retirement Funds

PAYMENT TO JUDICIAL OFFICERS' RETIREMENT AND JUDICIAL SURVIVORS' ANNUITY FUNDS

For payment to the Judicial Officers' Retirement Fund as authorized by Public Law 100-659, and to the Judicial Survivors Annuity Fund, as authorized by Public Law 99-336, $5,000,000.

United States Sentencing Commission

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $8,422,000.

General Provisions—The Judiciary

SEC. 401. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 402. Appropriations made in this title shall be available for salaries and expenses of the Temporary Emergency Court of Appeals authorized by Public Law 92-210 and the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93-236.

SEC. 403. Appropriations made in this title which are available for salaries and expenses shall be available, notwithstanding the limitations in 31 U.S.C. section 1345, for the Judicial Conference of the United States to sponsor and host the Fifth International Appellate Judges Conference in the United States: Provided, That an amount shall be available only if the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of any obligation or expenditure. The Judicial Conference may supplement such appropriations with other funds made available by any department or agency for the purposes of technical foreign aid, educational and cultural programs with the people of foreign countries, or commemorating the bicentennial anniversary of the United States Constitution and the Bill of Rights, provided that any supplementation shall be only for the expenses of the Fifth International Appellate Judges Conference. The Director of the Administrative Office may also accept and utilize gifts of funds, to be deposited as a special deposit account in the Treasury, for the expenses of the Fifth International Appellate Judges Conference for reimbursement of appropriations or direct expenditure, provided that any unexpended balance of the special deposit account shall be returned to the donor or donors. For the purpose of the conference, the Director is authorized to pay for local travel and incidental expenses of foreign participants and dependent members of their immediate household, to pay for per diem to such persons in lieu of subsistence at rates prescribed by the Director, and to conduct and pay for the activities set forth in subsections (1), (2), (9), (15), and (18) of section 804 of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. section 1474). Appropriations for commemorating the bicentennial or for salaries and expenses of the Judiciary shall not be made available by this section for the travel and incidental expenses of dependents. Nothing in this section precludes payment for the travel and other expenses of foreign participants and their dependents by any other department or agency, or by the Director on their behalf, as authorized by law.

SEC. 404. (a) The Judicial Conference shall prescribe reasonable fees, pursuant to sections 1913, 1914, 1926, and 1930 of title 28, United States Code, for collection by the courts under those sections for access to information available through automatic data processing equipment. These fees may distinguish between classes of persons, and shall provide for exempting persons or classes of persons from the fees, in order to avoid unreasonable burdens and to promote public access to such information. The Director, under the direction of the Judicial Conference of the United States, shall prescribe a schedule of reasonable fees for electronic access to information which the Director is required to maintain and make available to the public.

(b) The Judicial Conference and the Director shall transmit each schedule of fees prescribed under paragraph (a) to the Congress at least 30 days before the schedule becomes effective. All fees hereafter collected by the Judiciary under paragraph (a) as a charge for services rendered shall be deposited as offsetting collections to the Judiciary Automation Fund pursuant to 28 U.S.C. 612(c)(1)(A) to reimburse expenses incurred in providing these services.

This title may be cited as "The Judiciary Appropriations Act, 1991".

TITLE V—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

Maritime Administration

OPERATING-DIFFERENTIAL SUBSIDIES

(LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $261,200,000, to remain available until expended.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $69,685,000, to remain available until expended, and in addition $1,100,000 shall be derived from unobligated balances of "Ship Construction": Provided, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated: Provided further, That the unexpended balances of the appropriation "Research and Development" shall be transferred to and merged with this appropriation.

READY RESERVE FORCE

For necessary expenses to acquire and maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and related programs, $225,000,000, to remain available until expended: Provided, That reimbursement may be made to the Operations and Training appropriation for expenses related to this program.

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefor shall be credited to the appropriation charged with the cost thereof: Provided, That rental payments under any such lease, contact, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriation Act, and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

Advisory Commission on Conferences in Ocean Shipping

SALARIES AND EXPENSES

For necessary expenses of the Advisory Commission on Conferences in Ocean Shipping, including services as authorized by section 18(d) of Public Law 98-237, [$200,000] *$500,000.*

Arms Control and Disarmament Agency

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided for, for arms control and disarmament activities, including not to exceed [$55,000] *$100,000* for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), [$30,000,000] *$36,040,000.*

Board for International Broadcasting

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to Radio Free Europe/Radio Liberty, Incorporated as authorized by the Board for International Broadcasting Act of 1973, as amended (22 U.S.C. 2871-2883), [$192,586,000] *$201,258,000* of which not to exceed $52,000 may be made available for official reception and representation expenses as authorized by section 304(a)(8) of the Board for International Broadcasting Act of 1973, as amended.

Christopher Columbus Quincentenary Jubilee Commission

SALARIES AND EXPENSES

For the necessary expenses of the Christopher Columbus Quincentenary Jubilee Commission as authorized by Public Law 98-375, $214,000, to remain available until December 31, 1993 as authorized by section 11(b) of said Act, as amended by section 8 of Public Law 100-94.

Commission on Agricultural Workers

SALARIES AND EXPENSES

For necessary expenses of the Commission on Agricultural Workers as authorized by section 304 of Public Law 99-603 (100 Stat. 3431-3434), $1,457,000, *to remain available until expended.*

Commission on the Bicentennial of the United States Constitution

SALARIES AND EXPENSES

For necessary expenses of the Commission on the Bicentennial of the United States Constitution as authorized by Public Law 98-101 (97 Stat. 719-723), $14,973,000, [of which] *to remain available until expended: Provided, That in carrying out the purposes of this Act, the Commission is authorized to enter into contracts, grants, or cooperative agreements as directed by the Federal Grant and Cooperative Agreement Act of 1977 (92 Stat. 3; 31 U.S.C. 6301): Provided further, That of the amount appropriated,* $4,699,000 is for carrying out the provisions of Public Law 99-194, including $3,299,000 for implementation of the National Bicentennial Competition on the Constitution and the Bill of Rights and $1,400,000 for educational programs about the Constitution and the Bill of Rights below the university level as authorized by such Act.

Commission on Civil Rights

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, [$6,075,000] *$7,825,000,* of which $2,000,000 is for regional offices and $700,000 is for civil rights monitoring activities authorized by section 5 of Public Law 98-183: *Provided,* That not to exceed $20,000 may be used to employ consultants: *Provided further,* That none of the funds appropriated in this paragraph shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner: *Provided further,* That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairman who is permitted 125 billable days.

Commission for the Preservation of America's Heritage Abroad

SALARIES AND EXPENSES

For expenses for the Commission for the Preservation of America's Heritage Abroad, $200,000 as authorized by Public Law 99-83, section 1303.

Commission on Security and Cooperation in Europe

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $991,000, to remain available until expended as authorized by section 3 of Public Law 99-7.

Competitiveness Policy Council

SALARIES AND EXPENSES

For necessary expenses of the Competitiveness Policy Council as authorized by Sec. 5209 of the Omnibus Trade and Competitiveness Act of 1988, $750,000, to remain available until expended.

Equal Employment Opportunity Commission

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621-634), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); not to exceed [$20,000,000] *$25,000,000* for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended, and sections 6 and 14 of the Age Discrimination in Employment Act; [$194,500,000] *$200,700,000: Provided, That the final rule regarding unsupervised waivers under the Age Discrimination in Employment Act, issued by the Commission on August 27, 1987 (29 CFR section 1627.16(c)(1)-(3)), shall not have effect during fiscal year 1991: Provided further, That none of the funds may be obligated or expended by the Commission to give effect to any policy or practice pertaining to unsupervised waivers under the Age Discrimination in Employment Act, except that this proviso shall not preclude the Commission from investigating or processing claims of age discrimination, and pursuing appropriate relief in Federal court, regardless of whether an unsupervised waiver of rights has been sought or signed.*

Federal Communications Commission

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901-02); not to exceed $300,000 for land and structures; not to exceed $300,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses; purchase (not to exceed fourteen) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $117,794,000, of which not to exceed $300,000 of the forgoing amount shall remain available until September 30, 1992, for research and policy studies: Provided, That none of the funds appropriated by this Act shall be used to repeal, to retroactively apply changes in, or to continue a reexamination of, the policies of the Federal Communications Commission with respect to comparative licensing, distress sales and tax certificates granted under 26 U.S.C. 1071, to expand minority and women ownership of broadcasting licenses, including those established in the Statement of Policy on Minority Ownership of Broadcasting Facilities, 68 F.C.C. 2d 979 and 69 F.C.C. 2d 1591, as amended 52 R.R. 2d 1313 (1982) and Mid-Florida Television Corp., 69 F.C.C. 2d 607 (Rev. Bd. 1978), which were effective prior to September 12, 1986, other than to close MM Docket No. 86-484 with a reinstatement of prior policy and a lifting of suspension of any sales, licenses, applications, or proceedings, which were suspended pending the conclusion of the inquiry: Provided further, That none of the funds appropriated to the Federal Communications Commission by this Act may be used to diminish the number of VHF channel assignments reserved for noncommercial educational television stations in the Television Table of Assignments (section 73.606 of title 47, Code of Federal Regulations): Provided further, That none of the funds appropriated by this Act may be used to repeal, to retroactively apply changes in, or to begin or continue a reexamination of the rules and the policies established to administer such rules of the Federal Communications Commission as set forth at section 73.3555(c) of title 47 of the Code of Federal Regulations.

Federal Maritime Commission

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act of 1936, as amended (46 U.S.C. App. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-02; $15,894,000*: Provided, That not to exceed $2,000 shall be available for official reception and representation expenses.*

Federal Trade Commission

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; $76,095,000 of which an estimated $20,000,000 shall be derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) so as to result in a final fiscal year 1991 appropriation of $56,095,000: Provided, That $76,095,000 shall be apportioned and shall be construed as being available for obligation without regard to 31 U.S.C. 1341: Provided further, That fees made available to the Federal Trade Commission shall remain available until expended but that any fees received in excess of $20,000,000 shall not be available for obligation in fiscal year 1991: Provided further, That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374).

International Trade Commission

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $40,671,000.

Japan-United States Friendship Commission

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,250,000; and an amount of Japanese currency not to exceed the equivalent of $1,544,000 based on exchange rates at the time of payment of such amounts as authorized by Public Law 94-118.

Legal Services Corporation

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $329,186,000 of which $282,080,000 is for basic field programs, $7,490,000 is for the Native American programs, $10,345,000 is for migrant programs, $1,173,000 is for the law school clinics, $1,067,000 is for supplemental field programs, $666,000 is for regional training centers, $7,710,000 is for national support, $8,366,000 is for State support, $923,000 is for the Clearinghouse, $545,000 is for computer assisted legal research regional centers, and $8,821,000 is for Corporation management and administration.

Marine Mammal Commission

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, [$1,003,000] *$1,153,000.*

Martin Luther King, Jr. Federal Holiday Commission

SALARIES AND EXPENSES

For necessary expenses of the Martin Luther King, Jr. Federal Holiday Commission, as authorized by Public Law 98-399, as amended, [$300,000] *$338,000.*

Office of the United States Trade Representative

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $18,936,000, of which $2,500,000 shall remain available until expended: Provided, That not to exceed $89,000 shall be available for official reception and representation expenses.

Securities and Exchange Commission

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission including services as authorized by 5 U.S.C. 3109, and not to exceed $3,000 for official reception and representation expenses, $192,385,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions and, for 1991 only, not to exceed $100,000 shall be available to host a conference of the International Organization of Securities Commissions, such sum to cover related translation, printing, facility and other necessary logistic and administrative expenses: Provided, That immediately upon enactment of this Act, the rate of fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) shall increase from one-fiftieth of 1 per centum to one-fortieth of 1 per centum and such increase shall be deposited as an offsetting receipt to the general fund of the Treasury.

Small Business Administration

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 100-590, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, [$248,500,000] *and not to exceed $3,500 for official reception and representation expenses, $250,619,000, of which $1,000,000 shall be made available for a grant to St. Norbert College in De Pere, Wisconsin, for a regional center for rural economic development, of which $100,000 shall be made available for a grant to the School of Forestry of the University of Montana for a planning study for locating a Value-Added Wood Products Development, Marketing and Small-Business Assistance Research Laboratory at the University of Montana, and of which $250,000 shall be made available for a grant to Central Arkansas University to establish a national communications and data center for the Small Business Institute program,* and of which [$56,000,000] *$49,338,000* is for grants for *performance in fiscal year 1991 or fiscal year 1992 for* Small Business Development Centers as authorized by section 21 of the Small Business Act, as amended: *Provided*, That not more than $350,000 of this amount shall be available to pay the expenses of the National Small Business Development Center Advisory Board and to reimburse centers for participating in evaluations as provided in section 20(a) of such Act, and to maintain a clearinghouse as provided in section 21(g)(2) of such Act: *Provided further*, That none of the funds appropriated or made available by this Act to the Small Business Administration shall be used to adopt, implement, or enforce any rule or regulation with respect to the Small Business Development Center program authorized by section 21 of the Small Business Act, as amended (15 U.S.C. 648), nor may any of such funds be used to impose any restrictions, conditions or limitations on such program whether by standard operating procedure, audit guidelines or otherwise, unless such restrictions, conditions or limitations were in effect on October 1, 1987: *Provided further*, That none of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased loan guaranty fee or debenture guaranty fee: *Provided further*, That none of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased user fee or management assistance fee. In addition, [$107,160,000] *such sums as may be necessary* for disaster loan-making activities, including loan servicing, shall be transferred to this appropriation from the "Disaster Loan Fund" as authorized by Public Law 100-590.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1-11 as amended by Public Law 100-504), $9,000,000.

BUSINESS LOAN AND INVESTMENT FUND

For additional capital for the "Business Loan and Investment Fund", $86,000,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note; and for additional capital for new direct loan obligations to be incurred by the "Business Loan and Investment Fund", $71,000,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note: *Provided*, That no funds appropriated under this Act may be used to sell direct loans which are held by the Small Business Administration or any loan guaranty or debenture guaranty made by the Small Business Administration under the authority contained in the Small Business Investment Act of 1958, and which was held by the Federal Financing Bank on September 30, 1987.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $10,200,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING FUND

For additional capital for the "Pollution control equipment contract guarantee revolving fund" authorized by the Small Business Investment Act, as amended, $13,000,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

State Justice Institute

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by The State Justice Institute Authorization Act of 1988 (Public Law 100-690 (102 Stat. 4466-4467)), [$14,000,000] *$12,360,000, to remain available until expended.*

United States Information Agency

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.) and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $700,000, of this appropriation), as authorized by 22 U.S.C. 1471, expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928, and entertainment, including official receptions, within the United States, not to exceed [$20,000] *$25,000* as authorized by 22 U.S.C. 1474(3); [$648,188,000] *$653,700,000*: *Provided*, That not to exceed $1,210,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085: *Provided further*, That not to exceed $15,377,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2455(a)), shall remain available until expended: *Provided further*, That not to exceed $500,000 shall remain available until expended as authorized by 22 U.S.C. 1477b(a), for expenses (including those authorized by the Foreign Service Act of 1980) and equipment necessary for maintenance and operation of data processing and administrative services as authorized by 31 U.S.C. 1535-1536: *Provided further*, That not to exceed $6,000,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion pictures, television, and publication programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended.

OFFICE OF THE INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1-11 as amended by Public Law 100-504), [$4,123,000] *$3,923,000.*

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of Fulbright, International Visitor, Humphrey Fellowship, Private Sector, and Congress-Bundestag Exchange Programs, as authorized by the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), [$167,000,000] *$159,708,000, of which up to $200,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation, and of which $500,000 shall be available only for a grant to the North Pacific Studies Center in Portland, Oregon.*

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, [$98,557,000] *$107,237,000*, to remain available until expended as authorized by 22 U.S.C. 1477b(a).

BROADCASTING TO CUBA

For expenses necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act, *as amended (22 U.S.C. 1465 et seq.)* (providing for the Radio Marti Program or Cuba Service of the Voice of America), *and the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.)* including the purchase, rent, construction, and improvement of facilities for radio *and television* transmission and reception and purchase and installation of necessary equipment for radio *and television* transmission and reception as authorized by 22 U.S.C. 1471, [and for expenses necessary to enable the United States Information Agency to carry out activities as authorized by the Television Broadcasting to Cuba Act (part D, title II of Public Law 101-246), $29,208,000] *$33,169,000*, to remain available until expended as authorized by 22 U.S.C. 1477b(a)*: Provided, That such funds for television broadcasting to Cuba may be used to purchase or lease, maintain, and operate such aircraft (including aerostats) as may be required to house and operate necessary television broadcasting equipment.*

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054-2057), by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, [$20,000,000] *$23,000,000*: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the rate authorized for GS-18 of the Classification Act of 1949, as amended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $25,000,000.

ADMINISTRATIVE PROVISION

The United States Information Agency shall continue to implement the Au Pair programs designatd by the Director of the United States Information Agency as of the date of enactment of this Act, until such Au Pair programs are authorized and implemented by another agency of the United States Government.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 606. (a) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 607. Funds appropriated to the Legal Services Corporation and distributed to each grantee funded in fiscal year 1991 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1991 at not less than $9.28 per poor person within the geographical area of each grantee or contractor under the 1980 census or 6 cents per poor person more than the annual per-poor-person level at which funding was appropriated prior to the sequestration order issued pursuant to section 11002 of Public Law 101-239 for each grantee and contractor in fiscal year 1990, whichever is greater; and

(2) each such grantee shall be increased by an equal percentage of the amount by which such grantee's funding, including the increase under (1) above, falls below $17.68 per poor person within its geographical area under the 1980 census:

Provided, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used to bring a class action suit against the Federal Government or any State or local government unless—

(1) the project director of a recipient has expressly approved the filing of such an action in accordance with policies estab-

lished by the governing body of such recipient;

(2) the class relief which is the subject of such an action is sought for the primary benefit of individuals who are eligible for legal assistance; and

(3) that prior to filing such an action, the recipient project director has determined that the government entity is not likely to change the policy or practice in question, that the policy or practice will continue to adversely affect eligible clients, that the recipient has given notice of its intention to seek class relief and that responsible efforts to resolve without litigation the adverse effects of the policy or practice have not been successful or would be adverse to the interest of the clients:

except that this proviso may be superseded by regulations governing the bringing of class action suits promulgated by a majority of the Board of Directors of the Corporation who have been confirmed in accordance with section 1004(a) of the Legal Services Corporation Act: Provided further, That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used—

(1) to pay for any publicity or propaganda intended or designed to support or defeat legislation pending before Congress or State or local legislative bodies or intended or designed to influence any decision by a Federal, State, or local agency;

(2) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device intended or designed to influence any decision by a Federal, State, or local agency, except when legal assistance is provided by an employee of a recipient to an eligible client on a particular application, claim, or case, which directly involves the client's legal rights or responsibilities;

(3) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official—

(A) to favor or oppose any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council or any similar governing body acting in a legislative capacity,

(B) to favor or oppose an authorization or appropriation directly affecting the authority, function, or funding of the recipient or the Corporation, or

(C) to influence the conduct of oversight proceedings of the recipient or the Corporation;

(4) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official to favor or oppose any Act, bill, resolution, or similar legislation, except that this proviso shall not preclude funds from being used to provide communication directly to a Federal, State, or local elected official on a specific and distinct matter where the purpose of such communication is to bring the matter to the official's attention if—

(A) the project director of a recipient has expressly approved in writing the undertaking of such communication to be made on behalf of a client or class of clients in accordance with policy established by the governing body of the recipient; and

(B) the project director of a recipient has determined prior to the undertaking of such communication, that—

(i) the client and each client is in need of relief which can be provided by the legislative body involved;

(ii) appropriate judicial and administrative relief have been exhausted; and

(iii) documentation has been secured from each eligible client that includes a statement of the specific legal interests of the client, except that such communication may not be the result of participation in a coordinated effort to provide such communications under this proviso; and

(C) the project director of a recipient maintains documentation of the expenses and time spent under this proviso as part of the records of the recipient; or

(D) the project director of a recipient has approved the submission of a communication to a legislator requesting introduction of a private relief bill:

except that nothing in this proviso shall prohibit communications made in response to a request from a Federal, State, or local official: Provided further, That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used to pay for any administrative or related costs associated with an activity prohibited in clause (1), (2), (3), or (4) of the previous proviso: Provided further, That none of the funds appropriated under this Act for the Legal Services Corporation will be expended to provide legal assistance for or on behalf of any alien unless the alien is present in the United States and is—

(1) an alien lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

(2) an alien who is either married to a United States citizen or is a parent or an unmarried child under the age of twenty-one years of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act, and such application has not been rejected;

(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157, relating to refugee admissions) or who has been granted asylum by the Attorney General under such Act; or

(4) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)):

Provided further, That an alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of the previous proviso, to be an alien described in clause (3) of the previous proviso: Provided further, That none of the funds appropriated for the Legal Services Corporation may be used to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, including the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients or to advise any eligible client as to the nature of the legislative process or inform any eligible client of his rights under statute, order, or regulation: Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to insure that financial assistance under this Act shall not be terminated, and a suspension of financial assistance shall not be continued for more than thirty days, unless the grantee, contractor, or person or entity receiving financial assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing and, when requested, such hearing shall be conducted by an independent hearing examiner, subject to the following conditions—

(1) such request for a hearing shall be made to the Corporation within thirty days after receipt of notice to terminate financial assistance, deny an application for refunding, or suspend financial assistance and such hearing shall be conducted within thirty days of receipt of such request for a hearing;

(2) the Corporation shall make such final decision within thirty days after completion of such hearing; and

(3) hearing examiners shall be appointed by the Corporation in accordance with procedures established in regulations promulgated by the Corporation:

Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to ensure that an application for refunding shall not be denied unless the grantee, contractor, or person or entity receiving assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing to show cause why such action should not be taken and subject to all other conditions of the previous proviso: Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts for legal assistance unless the Corporation insures that the recipient is either (1) a private attorney or attorneys (for the sole purpose of furnishing legal assistance to eligible clients) or (2) a qualified nonprofit organization chartered under the laws of one of the States, a purpose of which is furnishing legal assistance to eligible clients, the majority of the board of directors or other governing body of which organization is comprised of attorneys who are admitted to practice in one of the States and who are appointed to terms of office on such board or body by the governing bodies of State, county, or municipal bar associations the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance, or, with regard to national support centers, the locality where the organization maintains its principal headquarters: Provided further, That none of the funds appropriated in this Act for the Corporation shall be used, directly or indirectly, by the Corporation to promulgate new regulations or to enforce, implement, or operate

in accordance with regulations effective after April 27, 1984, unless the Appropriations Committees of both Houses of Congress have been notified fifteen days prior to such use of funds as provided for in section 606 of this Act: Provided further, That none of the funds appropriated to the Legal Services Corporation for fiscal years prior to fiscal year 1986 and carried over into fiscal year 1991, either by the Corporation itself or by any recipient of such funds, may be expended, unless such funds are expended in accordance with the preceding restrictions and provisos, except that such funds may be expended for the continued representation of aliens prohibited by said provisos where such representation commenced prior to January 1, 1983, or as approved by the Corporation: Provided further, That if a Presidential order pursuant to Public Law 100-119, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, is issued for fiscal year 1991, funds provided to each grantee of the Legal Services Corporation shall be reduced by the percentage specified in the Presidential order: Provided further, That if funds become available to the Legal Services Corporation because a national support center has been defunded or denied refunding pursuant to section 1011(2) of the Legal Services Corporation Act, as amended by this Act, such funds may be transferred to basic field programs to be distributed in the manner specified by this Act: Provided further, That none of the funds appropriated by this Act or prior Acts or any other funds available to the Corporation or a recipient may be used by an officer, board member, employee or consultant of the Corporation or by any recipient to implement or enforce the 1984 and 1986 regulations on legislative and administrative advocacy (part 1612) or to implement, enforce or keep in effect provisions in the regulation regarding legislative and administrative advocacy and training (part 1612, 52 FR 28434 (July 29, 1987)) which impose restrictions on private funds except to the extent that such restrictions are explicitly set forth in sections 1007 (a)(5), (b)(6), (b)(7), and 1010(c) of the Legal Services Corporation Act, as amended: Provided further, That the Corporation shall not impose requirements on governing bodies of the recipients that are additional to, or more restrictive than, the provisions of this Act and section 1007(c) of the Legal Services Corporation Act, as amended, including, but not limited to (1) the procedures of appointment, including the political affiliation and the length of terms of board members, (2) the size, quorum requirements and committee operations of such governing bodies, and (3) any requirements on appointment of board members of national support centers that would preclude the bar associations in the States in which the center's principal offices are located from making all appointments required to be made by bar associations: Provided further, That none of the funds appropriated under this Act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion: Provided further, That the Corporation shall utilize the same formula for distribution of fiscal year 1991 migrant funds as was used in fiscal year 1990: Provided further, That after October 1, 1991, (but not before) the Board of Directors of the Legal Services Corporation shall develop and implement a system for the competitive award of all grants and contracts, including support centers, except that nothing herein shall prohibit the Corporation Board, members, or staff from engaging in in-house reviews of or holding hearings on proposals for a system for the competitive award of all grants and contracts, including support centers, and that nothing herein shall apply to any competitive awards program currently in existence: Provided further, That the Corporation shall insure that all grants and contracts made for calendar year 1991 to all grantees receiving funds under sections 1006(a) (1)(A) and (3) of the Legal Services Corporation Act as of September 30, 1990, with funds appropriated by this Act or prior appropriations Acts, shall be made for a period of at least twelve months beginning on January 1, 1991, so as to insure that the total annual funding for each current grantee or contractor is no less than the amount provided pursuant to this Act: Provided further, That such grants or contracts shall not be subject to any amendments to regulations relating to fee-generating cases (45 CFR part 1609) or the use of private funds (45 CFR parts 1610 and 1611) not in operational effect on October 1, 1988: Provided further, That any changes in procedures in operational effect as of September 1, 1989, that would have the effect of imposing timekeeping requirements on recipients must be adopted as rules or regulations in accordance with section 1008(e) of the Legal Services Corporation Act and all of the requirements of this Act: Provided further, That any new rules or regulations, or revisions to existing rules or regulations adopted by the Board of the Legal Services Corporation after October 1, 1990, shall not become effective until after October 1, 1991.

Sec. 608. (a) This section may be cited as the "National Commission to Support Law Enforcement Act".

(b) The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review twenty-five years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decrease funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

(c) There is established a national commission to be known as the "National Commission to Support Law Enforcement" (referred to in this section as the "Commission").

(d) The Commission shall study and recommend changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) The sufficiency of funding, including a review of grant programs at the Federal level.

(2) The conditions of law enforcement employment.

(3) The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) The status of law enforcement research and education and training.

(5) The adequacy of equipment, physical resources, and human resources.

(6) The cooperation among Federal, State, and local law enforcement agencies.

(7) The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(e) The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

(f) The Commission shall be composed of 19 members as follows:

(1) Five individuals from national law enforcement organizations representing law enforcement officers and management, appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate.

(2) Five individuals from national law enforcement organizations representing law enforcement officers and management, appointed jointly by the minority leader of the House of Representatives and the minority leader of the Senate.

(3) Two individuals with academic expertise regarding law enforcement issues, appointed by the President.

(4) Two Members of the House of Representatives, appointed jointly by the Speaker and the minority leader of the House of Representatives.

(5) Two Members of the Senate, appointed jointly by the majority leader and the minority leader of the Senate.

(6) One individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

(7) One individual from the Department of Justice, appointed by the President.

(8) The Comptroller General of the United States, who shall serve as the chairperson of the Commission.

(g)(1) Members of the Commission shall receive no additional pay, allowance, or benefit by reason of service on the Commission.

(2) Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(h) The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(i) Upon request of the Commission, the head of any Federal agency is authorized to detail, on non-reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this section.

(j) The Administrator of General Services shall provide to the Commission administrative support services as the Commission may request.

(k) The Commission may, for purposes of this section, hold hearings, sit and act at the times and places, take testimony, and re-

ceive evidence, as the Commission considers appropriate.

(l) Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(m) The Commission may secure directly from any Federal agency information necessary to enable it to carry out this section. Upon request of the chairperson of the Commission, the head of an agency shall furnish the information to the Commission to the extent permitted by law.

(n) The Commission may accept, use, and dispose of gifts or donations of services or property.

(o) The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(p) Not later than the expiration of the eighteen-month period beginning on the date of the enactment of this Act, the Commission shall submit to the Congress a report containing the findings of the Commission and specific proposals for legislation and administrative actions that the Commission has determined to be appropriate.

(q) The Commission shall cease to exist upon the expiration of the sixty-day period beginning on the date on which the Commission submits its report under subsection (p).

SEC. 609. Section 207(f) of title 18, United States Code, as amended by section 101 of the Ethics Reform Act of 1989 (103 Stat. 1722), is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting immediately after paragraph (1) the following new paragraph:

"(2) SPECIAL RULE FOR TRADE REPRESENTATIVE.—With respect to a person who is the United States Trade Representative, the restrictions described in paragraph (1) shall apply to representing, aiding, or advising foreign entities within 5 years after the termination of that person's service as the United States Trade Representative.".

SEC. 610. (a) None of the funds in this or any other act may be used to approve the licensing for export of any supercomputer or associated technology to any country that (1) is assisting, officially or unofficially, or (2) whose nationals are assisting Iraq to improve its rocket technology or chemical, biological, or nuclear weapons capability.

(b) The Secretary of State is directed to begin immediately negotiations with those governments, including the United Kingdom, Brazil, and Japan, with whom the United States has bilateral supercomputer agreements, on conditions restricting the transfer of supercomputer or associated technology to countries falling within the definition of section (a).

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991".

Mr. RUDMAN. Mr. President, I see the chairman of the subcommittee, Senator HOLLINGS, is on the floor. We are going to proceed to this in a moment. Just for one moment, I will suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, what is the pending question now?

The PRESIDING OFFICER. The pending business is H.R. 5021.

Mr. HOLLINGS. I thank the distinguished Chair.

Let me first, before I start, ask unanimous consent during the consideration of H.R. 5021 that Matthew Mallet be allowed privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, yesterday the Committee on Appropriations, by a unanimous vote of 29 to nothing, approved the Departments of Commerce, Justice, and State, and the Judiciary and Related Agencies Appropriations Act, 1991, H.R. 5021.

The committee approved the recommendations that Senator RUDMAN and I jointly presented that provides $19,307,228,000 in budget authority for the Department of Commerce, Justice, State, and the Judiciary and 27 related agencies assigned our subcommittee.

Prior to taking action on the bill, the committee approved a new 302(b) allocation for the 13 Appropriations subcommittees. The new 302(b) allocation for the discretionary accounts in this bill is $18,485,000,000 in budget authority, and $18,816,000,000 in outlays.

Mr. President, this compares to the administration's request of $19.2 billion, which the CBO estimated would outlay at $19.3 billion.

The point I make here is that the outlay allocation in this bill is some $500 million less than the President's request. Last evening, after we released the bill to the printer, we were advised by the CBO that our international affairs account was over allocation by $1.516 million. The bill was ordered reported by the committee, subject to its being within the allocation, and the distinguished Senator from New Hampshire and I will offer a modification to the committee amendment on the State Department salaries and expenses account to eliminate that overage.

In this bill, we have provided full funding to fight crime, enhance drug enforcement, and for the United Nations and the Ready Reserve Force that has been so heavily involved in the Persian Gulf crisis. We have provided the budget increase for crime and drugs requested by the President, an increase of $577 million. We have provided the increased authorization in the crime bill for the savings and loan investigations and prosecutions, some $109,500,000. We have increased the President's budget for the courts of appeals, district courts, and other judicial services. We have increased the U.S. assessments to the United Nations and other international organizations some $187,605,000.

This will take care of the present allocation, plus 20 percent of the U.S. arrearages of those organizations, as well as the full $115 million authorized for the U.N. peacekeeping activities. So that is a total, alone, of $787,605,000 just for the U.N. international organizations, and with the $115 million for the peacekeeping operation, a total of $902,605,000. We have given the full $225 million requested for the Ready Reserve Force. That is very important. Forty vessels right now are deployed in Operation Desert Shield. We have increased the President's request of September 10 for a 24-hour-a-day broadcast in Arabic and English in the Persian Gulf. We have increased that some $14,249,000.

So, for the Department of Commerce, it should be emphasized that Secretary Mosbacher's top priority of the full increase of the United States and foreign commercial service is taken care of to the tune of $10 million. We have also the requested increases to improve Commerce's statistical programs and a good portion of the increase for minority business development. We could not take care of all the global climate change requests. We only took care of half of that in NOAA and, of course, and half of the President's ocean research initiative.

We gave nearly everything they wanted there to modernize the Western Service. For Justice, we provided the increases requested to support the hiring, first, of 408 new DEA agents, 224 new FBI agents to investigate those S&L fraud cases, 164 new FBI agents to fight the war on drugs. We provided the moneys to activate one new prison and expand the capacity of 13 existing penal institutions. We have covered the increase in prison population that goes, for the interest of Senators, from 56,400 to 62,450, an increase of some 6,050 inmates. We have covered that increase, and we have provided for 20,400 U.S. prisoners taken care of in the State and local detention facilities. We have also provided an additional $45 million for a total of $490 million for the State and local drug grants and maintain that split of 75 Federal, 25 local. Also, the National Crime Information Center is funded at $17 million.

So, Mr. President, if you take into account the nonrecurring costs associated with prison construction money provided last year, the recommendations for the Justice Department reflects a $1.4 billion increase or a 19.4-percent increase above the amounts provided in fiscal year 1990. Similarly, the Judiciary Committee recommendations are $265 million, or 15.5 percent above the 1990 level.

We want to move the bill along, Mr. President, so I will just highlight a couple of the others here, also. We could only provide the ongoing level

for the Department of State. So we got 1990 base level funding, plus inflation, for the Department of State. For the related agencies, we funded the full budget of the Securities and Exchange Commission on the SBA, we have taken care of that new building and a computer, as well as the high priorities of our Small Business Committee. The State and local EEOC programs, for the first time, we were able to increase some $5 million above the request. We have also provided an additional $4 million for the FCC workload; USIA's Public Diplomacy Program; and the National Endowment for the Democracy, NED, is no longer dead. With the fall of the wall they have come into life and have been doing an outstanding job in helping the various Marxist governments come into free democracies and are providing all kinds of valuable services for free elections and the education of the various countries there in East Europe to the democratic ways. So we have increased that from $16.7 million to $25 million, an increase of $8.3 million.

Let me thank our distinguished colleague from New Hampshire, Senator RUDMAN. He is always a tremendous help in developing the bill, even though he has been mostly involved in Supreme Court Justices this day and time. He has also given his time here to iron this bill out and to provide for the needs in a bipartisan fashion. So let me thank him and his staff and our staff profusely for this good work. I think it is proved out on that 29-to-0 vote of our own full Appropriations Committee.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, first let me, as always, thank the chairman for the committee, Senator HOLLINGS, for his cooperation on this bill. This bill has always moved rather rapidly through the Senate. That is attribute to his leadership in getting most of these issues straightened out.

Mr. President, the appropriations bill before the Senate today is the product of months of work to provide adequate appropriations for the programs and agencies of the Commerce-Justice-State Subcommittee while staying within the budget constraints imposed by the first budget resolution, and now by the budget summit agreement. As a result, we have been unable to meet many of the requests of the administration and our colleagues.

This bill is $716.4 million below the President's budget and $550.4 million below last year's level. In a sense, the Appropriations Committee did not hold a markup yesterday, we held a markdown.

However, Senator HOLLINGS and I agreed our first priority would be to meet the President's requests for programmatic increases for law enforcement agencies. If the nonrecurring costs associated with last year's prison construction budget are discounted, our Justice Department recommendations are almost $1.4 billion, or 19.4 percent, above the appropriations for fiscal year 1990. Similarly, the Judiciary recommendations are $265 million, or 15.5 percent, above the 1990 level. Given the budget summit agreement, we will probably not see increases of this magnitude again; however, these levels provide a good base for the next 5 years.

We also recommend an additional $109 million for savings and loan and financial fraud investigations. This mirrors the authorization bill that passed the Senate earlier this year.

In the area of foreign affairs, the bill accepts a Presidential commitment to fully meet our responsibilities to the United Nations and other international organizations; to meet our peacekeeping responsibilities around the world; and to pay 20 percent of our arrearage to these international organizations.

We also recognize the need to respond to the outbreak of democracy throughout Eastern Europe and the rest of the world with the maintenance of our public diplomacy efforts through the U.S. Information Agency, the Board for International Broadcasting, and the National Endowment for Democracy.

In addition, as the events in the Persian Gulf have made clear, the need to expand our sealift capacity is met through an appropriation of $225 million for the Ready Reserve Force of the Maritime Administration.

In terms of balancing the priorities of the administration and the Congress within our allocation, this has been one of the most difficult years I can remember in my 10 years as a member of Commerce-Justice-State Subcommittee. It is a credit to Senator HOLLINGS that we have been able to fashion a bill that maintains important, on-going programs while providing for selected program increases. I commend the chairman for a job well done under extremely difficult circumstances.

Mr. President, I want to make a couple of observations. So our colleagues will be aware, it is my understanding, if I could have the chairman's attention for one moment, that there are a series of meetings going on today regarding the budget at the White House, and that it will be probably difficult, if not impossible, to have votes after 12:30 for a period of an hour or two. That is my understanding. It would appear that we do not have that many amendments that we know of to be offered here, but we might possibly have one rollcall before then. I understand that Senator GORTON is going to seek recognition to offer an amendment here.

I do not know of too many other amendments, Mr. President, that the chairman and I cannot accept. So I would expect this to move rather rapidly. I am afraid we are not going to be able to conclude as early as we thought because of this problem we have at 12:30. So I yield to the chairman, if he has any comments about that at all.

Mr. HOLLINGS. Mr. President, we are just hearing as is usually the case so we are not dismayed in any fashion about the proposed amendments. Until now we had none. Now I am hearing of three or four others and we are trying in an orderly fashion to clear some of them. If we are going to take a legislative measure, then we are not going to take it in parts, I can guarantee you that.

Mr. RUDMAN. I agree with the chairman on that.

Mr. HOLLINGS. If they can iron out differences, fine business, and we will try to be helpful in this particular measure. Otherwise, with respect to those things within the jurisdiction of the Foreign Relations Committee, we want to make sure they are authorized and they are not accepted unless they have been cleared with Senator PELL and his particular committee.

So that being the case, we are ready to move right along and find out what these amendments are and try to be helpful.

MODIFICATION OF COMMITTEE AMENDMENT

Mr. HOLLINGS. Mr. President, as I explained in the opening statement there was an oversight at the Congressional Budget Office in the scoring of the appropriation recommended for contributions to international organizations. I am advised that the higher scoring rate for the arrearages portions was not taken into account in the scoring we had before the committee met. The scoring has been increased by $4,715,000, which puts us over our 150 outlay allocation by $1,516,000.

This bill was ordered reported subject to its being within its 302(b) allocation and that is what we intended in every respect. The contributions to international organizations amount is the highest foreign affairs priority of Secretary Baker in this bill as well as myself. Therefore, I ask unanimous consent to modify the committee amendment beginning on page 50 line 17, dealing with the salaries and expenses of the Department of State by deleting $1,861,866,000 and inserting $1,860,017,000. This $1,849,000 reduction at that account's 82 percent spendout rate will produce the $1,516,000 outlay reduction necessary to bring the bill into conformance with the committee's order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I thank the distinguished Senator.

The PRESIDING OFFICER. Will the Senator send the modification to the desk?

Mr. HOLLINGS. Yes.

The modification is as follows:

MODIFICATION OF COMMITTEE AMENDMENT

Modify the committee amendment beginning on page 50 line 17, dealing with the salaries and expenses of the Department of State by deleting $1,861,866,000 and inserting $1,860,017,000.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the committee amendments, as modified, be consioered and agreed to en bloc; that the bill as amended be considered as original text for the purpose of further amendment with the understanding that no points of order shall be waived by reason thereof.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ addressed the Chair.

Mr. RUDMAN. Mr. President, if the Senator will yield a moment, I want to say one other thing at the outset of this bill.

The chairman and I would like to pay special note and thanks to Mr. Warren Kane, who is on the floor with us. Mr. Kane has announced his retirement from Federal service after 34 years; 16 years I believe with this committee, and as a matter of fact he worked for a fine Senator from New Hampshire, the late Senator Norris Cotton in this committee during the 1970's.

This is the end of a very long and distinguished career for this committee. This committee has operated in a bipartisan manner with our staffs working together. Mr. Kane has been of great assistance to the majority and minority, irrespective of who was in the majority or minority in any particular time.

I thank Mr. Kane and recognize his outstanding contribution to this committee.

Mr. HOLLINGS. Mr. President, the distinguished Senator from New Hampshire is ahead of me. I had that in mind, because Warren Kane has worked with me on the legislative appropriations when Senator Cotton and I had it 20 some years ago.

We had really an expert in Warren Kane. He has worked in the other governmental agencies, and everything else, more or less a certified public accountant, but a certified public dedication.

There is no question in my mind that things hit him as being right or wrong and not being Democratic or Republican. He adheres to a discipline of trying to keep us all fully informed, and where tricks are trying to be played and otherwise, that the public interest overall is being cared for and that we are within bounds in our appropriations here and doing a good job that every one would commend.

I do not know of anyone in my almost 25 years next month who has more impressed this particular Senator at the staff level doing this work, in every regard, in moving also with respect to the various local things that would come up from time to time that would involve us in South Carolina.

So, he has been the premier of all staffers as far as I am concerned, and we are deeply indebted to him. His dedication, of course, pursues and ensues in that he is off now and he is a reemployed annuitant, and we appreciate him sticking with us.

He became a grandfather again last night and he is doing well. If we can give birth to this one equally successfully, we will all be happy.

I thank the chair and I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, today we are considering H.R. 5021, the Commerce, Justice, State, the judiciary, and related agencies appropriation bill for fiscal year 1991. This measure provides necessary funding for the three departments, the judiciary, and 27 related agencies, including the U.S. Information Agency, the Arms Control and Disarmament Agency, the Board for Internal Broadcasting, and the Small Business Administration.

The bill as recommended by the Committee on Appropriations provides $19,307,228,000 for fiscal year 1991. The bill is $716,409,000 below the President's request. Enactment of this measure will assure necessary funding for law enforcement and Federal correctional activities, the conduct of foreign policy and international peacekeeping activities, as well as such longstanding congressional priorities as: Economic development assistance; small business; legal services; and juvenile justice and delinquency prevention programs.

With respect to the subcommittee's 302(b) allocation, the bill as recommended is within the budget authority ceiling. The manager intends to offer an amendment to conform the bill to the outlay ceiling, which has been breached by approximately $1 million. Information on this technical violation was received by the committee after the bill had been sent to the printer.

I wish to commend Senator Hollings, chairman of the subcommittee, and Senator Rudman, the ranking minority member, for their excellent work in accommodating the priorities of the Senate within the difficult constraints of the budget. Their work was greatly assisted by the cooperation of their colleagues on the Subcommittee and on the full Committee on Appropriations.

I also commend the staff of the subcommittee—John Shank, Dorothy Seder, Elizabeth Blevins, and Judee Klepec. These professionals have worked tirelessly to get this measure before us today. And has already been noted here, I make special note of the contribution of Warren Kane, clerk of the subcommittee, for his outstanding service to the committee. Warren Kane has been a member of the committee staff since 1973 and has done excellent work on our appropriations bills. He is always most courteous, cooperative, congenial, helpful and although he is retiring we will miss him, and I wish him well during his retirement.

Again, I thank Mr. Hollings and Mr. Rudman for their excellent work throughout the hearings and the markup and the presentation of this measure on the floor.

Mr. HOLLINGS. I thank our distinguished chairman, Mr. President.

Mr. RUDMAN. I join the Senator in thanking the chairman.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 2947

(Purpose: To amend the Foreign Agents Registration Act of 1938 to strengthen the registration and enforcement requirements of that Act)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennslyvania [Mr. Heinz] proposes an amendment numbered 2947.

Mr. HEINZ. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . STRENGTHENING THE FOREIGN AGENTS REGISTRATION ACT.

(a) Definition of Agent of a Foreign Principal.—Section 1(c) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(c)) is amended by adding at the end thereof the following new sentence: "For purposes of clause (1), a foreign principal shall be considered to control a person in major part if the foreign principal holds more than 50 percent equitable ownership in such person or, subject to rebuttal evidence, if the foreign principal holds at least 20 percent but not more than 50 percent equitable ownership in such person.".

(b) Definition of Serving Predominantly a Foreign Interest.—Section 1(q) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(q)) is amended—

(1) by striking out "and" at the end of clause (ii) of the proviso; and

(2) by inserting before the period at the end thereof the following: ", and (iv) such activities do not involve the representation of the interests of the foreign principal before any agency or official of the Government of the United States other than providing information in response to requests by such agency or official or as a necessary part of a formal judicial or administrative proceeding, including the initiation of such a proceeding.".

(c) Supplemental Registration.—Section 2(b) of such Act (22 U.S.C. 612(b)) is amended in the first sentence by striking out ", within thirty days" and all that follows through "proceeding six months' period" and inserting in lieu thereof "on January 31 and July 31 of each year file with the Attorney General a supplement thereto under oath, on a form prescribed by the Attorney General, which shall set forth regarding the six-month periods ending the previous December 31, and June 30, respectively, or, if a lesser period, the period since the initial filing,".

(d) Limiting Exemption for Legal Representation.—Section 3(g) of such Act (22 U.S.C. 613(g)) is amended by striking out "or any agency of the Government of the United States" and all that follows through "informal" and inserting in lieu thereof "or before the Patent and Trademark Office, including any written submission to that Office".

(e) Civil Penalties and Enforcement Provisions.—Section 8 of such Act (22 U.S.C. 618) is amended by adding at the end thereof the following:

"(l)(1) Any person who is determined, after notice and opportunity for an administrative hearing—

"(A) to have failed to file a registration statement under section 2(a) or a supplement thereto under section 2(b),

"(B) to have omitted a material fact required to be stated therein, or

"(C) to have made a false statement with respect to such a material fact,

shall be required to pay a civil penalty in an amount not less than $2,000 nor more than $5,000 for each violation committed. In determining the amount of the penalty, the Attorney General shall give due consideration to the nature and duration of the violation.

"(2)(A) In conducting investigations and hearings under paragraph (1), administrative law judges may, if necessary, compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing.

"(B) In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and, upon application by the Attorney General, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as contempt thereof.".

Mr. HEINZ. Mr. President, this amendment is very similar to legislation I introduced at the beginning of this Congress, S. 176, which would amend the Foreign Agents Registration Act.

The original legislation, from which this departs modestly but in some important respects, has been cosponsored by a number of Senators on both sides of the aisle, including the distinguished chairman of the subcommittee, Senator Hollings, Senator Garn, Senator Riegle, Senator Mikulski, Senator D'Amato, Senator Kerry of Massachusetts, Senator Bentsen, and Senator Helms, Senator Lott, Senator Thurmond, Senator Hatch, and Senator Wirth.

The purpose of the legislation is very straightforward, very simple. The old Foreign Agents Registration Act is out of date. A lot of loopholes have been discovered or have evolved and, therefore, the sum and substance of this amendment is to increase the disclosure of foreign lobbying and propaganda activity and to improve our ability to achieve that objective through better enforcement.

As some may recollect, Mr. President, the Foreign Agents Registration Act was originally enacted in 1938, some 52 years ago, to counteract the effort of Hitler's Nazi propaganda agents by making public who was working for the Nazis and how much financial support they were receiving. The act then, interestingly, as now was not intended to suppress even the Nazi agents' freedom of speech or any other rights. It was intended simply as a disclosure and information-gathering device and to put that information before the public.

Now 50 years later we live in a much different world. Nazi propaganda is clearly no longer a threat. Our main threats today are economic rather than military, which has led, I might add, to growing concerns about the role that foreign companies play, business entities play, in American political and economic life.

Our open market and our open investement policy, as well as our continuing trade deficit of well over $100 billion, have produced a giant increase in the foreign stake in our economy in the form of sales and profits dependent on imports into the United States and in the form of inward investment. The trade policy actions our Government takes are of critical importance to foreign interests, and they maintain an active presence here, as we all know, to monitor and of course to influence these actions.

Pat Choate, formerly of TRW, in his just published book, Agents of Influence, provides numerous examples of deliberate Japanese efforts to penetrate our economy—sometimes by illegal means and sometimes not—and then, of course, to influence our politicians to do nothing about it. An article based on his book was recently published in the Harvard Business Review. And let me say it deserves careful reading by every single one of our colleagues. It has been published in the Congressional Record previously. I will not put it in again. It is lengthy, but it is not so lengthly that it could not be read in about 10 or 15 serious minutes.

But I do want to quote several particularly compelling paragraphs from Pat Choate's conclusion in this article. He says:

> Japan's campaign for the United States is completely legal. It plays the American economic game by American rules. It uses the campaign tactics and methods of American politics. It hires Americans to lobby, educate, and influence other Americans. It is the highest stakes political-economic game in the world today, affecting whole industries, billions of dollars, millions of jobs, and, ultimately, the wealth and power of nations.
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> It is also deeply corrosive of the U.S. political and economic system. The revolving door of Washington, D.C. breeds cynicism and mistrust. It ultimately represents a form of political corruption—completely legal, completely unethical. The problem, of course, is not in Tokyo, but in Washington, D.C. Americans have all but lost sight of some of the most basic lessons of civics—chief among them the guiding concept of civil virtue. The value of national service—for an individual to be of service to the country and to work on behalf of the country's interests—has been cheapened by a more mundane coin of the realm: personal advancement, self-interest, big money. As a consequence, the United States is not only selling corporate assets and real estate to foreign bidders; also for sale is U.S. integrity and national honor.

Strong words, Mr. President, but I fear they are very, very much on the mark. Choate goes on to recommend greater public disclosures of the type provided in the amendment before the Senate now. He says:

> In a democracy, the best disinfectant for corruption is sunshine. All foreign agents—those who represent foreign clients, whether lobbyists, journalists, academics, public relations advisers, political strategists, lawyers, or foundations—should provide full disclosure to the Justice Department. No exceptions.

Mr. President, I think while Mr. Choate's recommendations focus properly on how to restore the concepts of integrity and public service in Washington, we should not conclude that all foreign activity in this country, because it is usually legal, must therefore be benign. Some efforts do not lead to consequences that are in our interests.

One anecdote told by James Fallows in his article in Atlantic suggests the worst of this:

> The student was an American fluent in Japanese. He had spent the previous three years working at a Japanese-owned electronics plant in Japan. While he was there, the U.S. government accused the plant of dumping its chips, at prices below those permitted under the U.S. anti-dumping law. At that point the company hired two Americans who had just resigned from the Commerce Department. Weeks earlier they had helped draft the anti-dumping agreements that the company was now accused of violating.
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> "I never felt so humiliated in all my life," the student told my friend. "These guys came in and showed the company how to conceal all the damaging information. They knew exactly how to do it, because they knew where the U.S. inspectors would look. I saw the United States get bamboozled by a Japanese company that was willing to pay a lot of money"—and by Americans willing to do the bamboozling.

Mr. President, this problem can be more directly addressed through revolving-door legislation, which is not the subject of my amendment. It is one, of course, that Pat Choate also favors. But I cite this example because it makes the point that the Federal Government does have a big impact on foreign companies and they are often willing, ready, and able to pay large sums of money precisely to avoid the consequences of our actions.

A noteworthy example relevent to the bill and to this amendment—indeed, one which aroused my interest in this subject several years ago and still holds it—is Toshiba Corp., and most explicity, to Toshiba Corp.'s efforts to aviod sanctions in the wake of their subsidiary, Toshiba Machine's sale to the Soviet Union of precision milling equipment used in the production of super-quiet submarine propellers. As we all know, and as we discussed here on the floor at some length several years ago, this sale has had a serious impact on the balance of naval power. Of course, not only do the Soviets have the largest submarine force in the world, these nuclear-carrying ships, nuclear missile-carrying ships will now become significantly quieter and thus more difficult to detect. The estimates of the cost of the United States to compensate for the effects of that sale ranged then from a low of $8 billion to over $100 billion.

Now, the good news is that the amount that Toshiba spent on representation did not approach those sums of $8 to $100 billion. The bad news is that they did spend a ton of money. For example, from 1987 to 1989, one firm, just one firm, the law firm of Mudge, Rose, Guthrie, Alexander and Ferdon reported receiving nearly $11 million from Toshiba to act on its behalf, and they are just one of at least three law firms hired by Toshiba during the year we were considering sanctions, 1987, for help on this issue.

What further clouds the issue is the fact that only the Toshiba Corp. itself is represented in these numbers. They only tell part of the story. When Senator GARN and I originally proposed sanctions, it is fair to say we did not fully appreciate what you might call the diversity and complexity of Toshiba's corporate organization. We since found out that the company possesses a vast number of holdings around the word, including over 600 subsidiaries and affiliates, a number of which also lobbied on behalf of their parent's interests.

One subsidiary, the Tokyo Electric Co., paid one Washington law firm Kelly, Drye, and Warren over $213,000 in this same period, 1987 to 1989, to lobby, again, on the Toshiba matter.

This law firm, Kelly, Drye, and Warren was required to file because Tokyo Electric to clearly a foreign entity, although it subsidiary relationship to Toshiba is less well known to the American public, and it would not immediately be obvious that its efforts were on behalf of the same cause.

Frankly, Mr. President, we have no idea how many other Toshiba subsidiaries of this 600 from around the world have actually, in fact, been actively lobbying on behalf of the parent corporation.

What we do know is that Toshiba branches and subsidiaries located in the country are not generally required to file under the Foreign Agent Registration Act—a giant loophole. So we see only the tip of what may be a very large iceberg.

One indication of the size and that iceberg is my calculation that from 1987 to 1989, the total spent by all registered agents 'for Japanese entities was over $120 million. That is more than Republicans and Senators running against each other in the elections spend on those elections. Perhaps more significant is the fact that the reported amount has increased in each of those years—and this is just the reported amount—from $36 million in 1987 to $43 million in 1989. And, in Pat Choate's book, his estimate of the total spent by Japan annually to influence American opinion—a broader category than that which I have been discussing, which is on lobbying activities—is some $400 million a year, a staggering sum.

Mr. President, I ask an illustrative list of Japanese agents for Japanese entities be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HEINZ. As a further illustration of the limitations of this law, I would refer Senators to an article that appeared in the March 29, 1990, Wall Street Journal. It tells the story of a consulting firm that was hired by the Department of Energy to analyze the environmental hazards of permitting air shipment of plutonium over Alaska, and to make that analysis at the same time as it had a contract with a Japanese utility and their executives whose companies used that nuclear fuel. This is a relationship which our colleague from Arkansas, Senator DAVID PRYOR, has called, quite appropriately, "a brazen conflict" and, to quote him, "a classic example of working both sides of the street."

The head of the firm indicated that it had not registered either as a foreign agent or as a lobbyist despite the obvious lobbying activities detailed in the article I referred to. Without knowing more about the ownership control of this firm, it is impossible for me to say whether it should have registered under the current law, the Foreign Agents Registration Act. Frankly, I cannot even say without knowing more whether it would be required to do so under my bill.

Having said that, it is nonetheless a dramatic and clear example of a case where the shortcomings of our disclosure laws had a direct impact on policy, in this case, to permit a flight over Alaska, of plutonium, a very deadly and dangerous byproduct of our nuclear age.

My reading of the law, however, is that it requires registration in a case like this. Apparently the Government did not think so, which is by itself dramatic evidence of the need for Congress to provide clear guidance on registration and disclosure.

I have on one other occasion previously placed in the RECORD a list of American firms which have been identified as representing Japanese companies but which have not filed under FARA, the Foreign Agents Registration Act.

I ask unanimous consent that list be printed again—it is brief—at the conclusion of my remarks today.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HEINZ. Let me say this list is compiled on the basis of the best information available. That means it should not be considered authoritative, particularly since client relationships change frequently. And, in addition, since registration is not presently required for most subsidiaries or for clients where the agents did not engage in a reportable activity, appearance on this list does not indicate any violation of FARA has occurred. This list, however, does suggest how much we do not know about foreign lobbying activity in Washington, DC.

Correcting this deficiency in filing is the cornerstone, and, by the way, the first key provision of my bill and this amendment. Right now, the Justice Department determines foreign control through an ad hoc approach that focuses on whether the U.S. subsidiary has an actual operational presence here or is just a "shell." That approach results in the conclusion that many U.S. companies are not foreign entities, even if they are owned and controlled, even outright, by a foreign party. This amendment would broaden that approach through the use of a control test. Entities that are more than 50 percent foreign owned are presumed under foreign control. Between 20 and 50 percent foreign ownership would also be considered foreign control, subject to the presentation of rebuttal evidence. Foreign ownership of less than 20 percent would be presumptively not controlling.

The effect of these provisions, of course, would be to require the disclosure of activities on behalf of many more U.S. subsidiaries of foreign entities.

The second proposal in my original bill repealed the so-called lawyers' exemption in FARA. Currently lawyers are exempt from registration and disclosure for activities they undertake in the context of administrative or judicial proceedings. While that may have made sense 50 years ago, these days, practically all trade policy decisions take place in the context of administrative proceedings, like antidumping or countervailing duty cases or section 201 or section 301 petitions. The petitions that are filed are all subject to administrative proceedings. Exempting otherwise disclosable activities on behalf of clients in these situations clearly and obviously opens up an enormous loophole.

This provision, I do want to point out, elicited some concern from elements of the trade bar, particularly those in intellectual property practice, who pointed out that patent filings in the United States under current law are secret. Therefore, if a lawyer, nonetheless had to report under FARA the fact that he had filed an application on behalf of a foreign company, the purpose of our patent law would be defeated.

So, for that and other reasons, in the pending amendment, the one at the desk, I have modified the language of my original bill in two important ways: First, to maintain the exemption with respect to lawyers' involvements in judicial proceedings; and, second, to maintain the exemption with respect to lawyers' involvements in the filing of patent applications.

The bill's third proposal modifies the reporting timeframe. Currently, agents register initially with the Justice Department containing the provisons of their contracts when they begin their representation and then file updates every 6 months thereafter. Unfortunately, this results in extremely inconsistent reporting dates and that leads to confusion. The Justice Department is unable, as a result, to effectively monitor incoming reports or the lack thereof, and no one can effectively conduct any research whatsoever. No matter when one reviews the files, there are always reports due in the next few weeks, and unless the information desired is at least 8 months old it is difficult to track.

As a result, my amendment proposes maintaining the initial registration requirement as it is but modifies the procedure so that subsequent filings would be made regularly, specifically on January 30 and June 30 of each year. This will ensure greater uniformity of data, it will help us track real trends, and it will also help the Justice Department to identify missing filings. The amendment is unchanged from the bill that I introduced at the beginning of this Congress.

The fourth provision concerns penalties and enforcement. While the act contains criminal penalties for willful violations, they are rarely imposed because of the difficulty in proving intent and because of their severity. Adding a schedule of civil fines provides a more reasonable option that should encourage compliance. It would also help compliance to give the Justice Department authority to summon individuals to appear to testify, to produce records—common authority, in other words, for agencies enforcing laws that have a public disclosure component.

Both these changes were proposed in a 1980 GAO report that is over 10 years old, and again by the same agency in a report issued last month. Obviously, no action was taken. We believe it should be.

Mr. President, I ask unanimous consent that the text of the GAO report be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. HEINZ. Mr. President, the final provision of the amendment at the desk is new language. It was not contained in S. 176. It clarifies the so-called commercial exemption in order to close a loophole that would otherwise permit U.S. subsidiaries of foreign companies to escape registration.

Current law excepts from disclosure agents engaged in bona fide trade and commerce, a term that remains essentially undefined. Without clarification, U.S. subsidiaries whose agents would be captured by the first provision of my amendment could avoid that simply by switching to the commerce exemption. In order to limit the possibility, this new provision in my amendment excludes from the commerce exemption any contact with Government officials other than the initiation of a formal judicial or administrative proceeding or the response to Government request for information as a part of such proceeding.

To sum up, Mr. President, the Foreign Agents Registration Act has been and is an important and useful public policy tool. I believe it is in the national interest to maintain a public report of foreign efforts to influence Government policy.

We simply cannot assume that because a foreign company has a domestic presence, as many do, that it is automatically and without question pursuing objectives that are consistent with American policy and national security.

This amendment will make the act more effective. Both it and the original act were not designed to punish individuals for their beliefs or representations. They are designed, quite simply, to bring the sunshine of public disclosure on to the activities that have heretofore occurred in the dark

Like a lot of things that exist in the dark, sunlight may cause them to shrivel and die which, in my judgment would be a good thing. If not, the amendment would at least provide the public greater knowledge of lobbying activities in Washington and how policymakers are being influenced and, by doing so, will help keep such activities in proper perspective.

EXHIBIT 1.—SELECTED AGENTS OF JAPANESE ENTITIES

	1987	1988	1989	Total 1987–89
Akin, Gump, Strauss, Hauer & Feld	$1,028,120.28	$984,400.86	$1,583,481.21	$3,596,002.3
Anderson, Hibey, Nauheim & Blair	901,427.61	756,118.20	662,702.12	2,280,247.9
Arnold and Porter	30,236.74	15,000.00	22,028.69	67,265.4
Charles E. Butler	112,929.22	125,421.00	59,042.00	297,392.2
First Associates, Inc	32,271.02	22,769.07	31,820.25	86,860.3
Graham and James	0.00	0.00	45,000.00	45,000.0
Global U.S.A	1,286,284.77	1,626,331.16	1,571,410.12	4,484,026.0
H. William Tanaka	266,358.11	310,590.71	352,305.95	929,254.7
Hill & Knowlton	1,245,888.33	1,064,506.42	2,906,701.16	5,217,095.9
Hogan & Hartson	103.298.75	79,962.81	83,785.65	267,047.2
Japan Auto Manufacturers	823,360.00	986,350.00	959,760.00	2,769,470.0
Japan Center of Information and Cultural Affairs	3,883,691.00	0.00	0.00	3,883,691.0
Japanese Economic Institute of America	826,445.00	926,950.00	879,804.00	2,633,199.0
Japan Iron and Steel Exporters Association	204,261.93	191,500.00	213,376.99	609,138.9
Japan National Tourist Organization	1,935,948.17	2,043,252.20	2,259,999.68	6,239,200.0
Japan External Trade Organization (JETRO)	11,300,033.32	10,480,127.54	15,152,435.44	36,932,596.3
Japan Tobacco	955,000.00	840,000.00	833,000.00	2,628,000.0
Kelly, Drye, and Warren	57,104.31	137,738.31	337,171.67	532,014.2
Manatt, Phelps, & Rothenberg	25,000.00	173,753.82	172,868.03	371,621.
Mudge, Rose, Guthrie, Alexander & Ferdon	1,457,392.00	5,940,029.52	3,517,501.11	10,914,922.0
Patton, Boggs, and Blow	334,826.38	334,826.38	247,462.31	917,115.0
Paul, Hastings, Janofsky, & Walker	66,479.02	0.00	286,082.16	352,561.1
Paul, Weiss, Rifkind, Wharton, & Garrison	917,891.22	102,707.81	956,339.60	1,976,938.0
Pettit and Martin	30,000.00	144,567.75	13,257.49	187,825.
Sedam and Shearer	400.00	39.560.00	29,443.48	69,403.

EXHIBIT 1.—SELECTED AGENTS OF JAPANESE ENTITIES—Continued

	1987	1988	1989	Total 1987–89
Stafford, Burke	90,000.00	60,000.00	60,000.00	210,000.00
Steptoe & Johnson	0.00	0.00	56,841.75	56,841.75
Wald, Harkrader and Ross	32,632.15	0.00	0.00	32,632.15
Weil, Gotshal, and Manges	190,548.15	152,404.60	199.00	343,151.75
Williams & Jensen	43,218.05	46,099.74	45,080.29	134,398.08
Subtotal	27,226,045.53	26,744,967.90	32,505,900.15	86,436,913.58
All others	9,586,891.65	13,096,262.61	10,910,259.89	33,633,414.15
Total for all companies reporting receipts from Japan	36,812,937.18	39,841,230.51	43,416,160.04	120,070,327.73

EXHIBIT TWO—UNITED STATES COMPANIES INDENTIFIED AS HAVING JAPANESE CLIENTS WHICH HAVE NOT BEEN REGISTERED UNDER FARA

U.S. company	Japanese company
Mike Masaoka Associates	Towa Optical; Ajinomoto USA; American Japanese Trade Commission; Takata Corps.; Suntory Intl.; Sumitomo Corp.; Nisei Lobby; Bank of Tokyo Trust Co.; Japan Railway Technology Corp.
Daniel J. Edelman, Inc.	All Nippon Airways Co.
SMC International	All Nippon Airways Co.
Zuckert, Scoutt, & Rasenberger	All Nippon Airways Co.; Nippon Cargo Airlines.
Schmeltzer, Aptaker & Sheppard	American Honda Motor Co.
Wilmer, Cutler & Pickering	American Honda Motor Co.; OKA Electric.
Barnes, Richardson & Colburn	Asahi Chemical Industry Co.; Mitsubishi Corp.; Mitsui and Co.
Tanaka, Ritger & Middleton	Brother Int'l, Ic.; Minebea Co.
Lerch and Co, Inc.	Marubeni America, Inc.
Saunders and Co.	Electronic Industries Association of Japan; Florida Council on Asian Affairs; The Japan Times; OKI Electric.
Shaw, Pittman, Potts and Trowbridge	Electronic Industries Association of Japan.
Patton, Boggs & Blow	Fuji USA; Matushita Electric Corp. of America; TEAC Corp.; Sanyo Electronic Co., Ltd.; Sharp Electronics Corp.; Sony Corp.
Tighe, Curhan & Piliero	Fuji USA; Fujinon, Inc.; Sharp Electronics Corp.;
Marks, Murase & White	Fujinon, Inc.; Sharp Electronics Corp.
McDermott, Will and Emergy	Hitachi America Ltd.
Graham & James	Hitachi Metals Ltd.; Izumi Seimitsu Kogyo Habushiki Kaisha, Ltd.; Shigehiro Uchida; Komatsu Forklift Ltd.; Nissan Chemical Industries.
Bishop, Cook, Purcell & Reynolds	Japan Bearing Industrial Assn.
Kaye, Scholer, Fierman, Hays & Handler.	Japan Center for Information and Cultural Affairs.
International Business & Economic Corp.	Japan Chemical Fibers Assn.; Japan Lumber Importers Assn.; Textiles Exporters Assn.
Rogen, Tremaine, Kreiger, Schmeer & Neill.	Embassy of Japan.
Sutherland, Asbill & Brennan	Embassy of Japan.
Verner, Liipfert, Bernhard, McPherson & Hand.	Embassy of Japan; JETRO.
Eileen Marie Doherty	Japan Economic Institute of America.
Barbara Warner	Japan Economic Institute of America.
Ginsburg, Feldman & Bresse	Japan Fisheries Assn.; Konishoruku Photo.
Warren & Associates	Yamashita Shinnibon Steamship Co.; Trans-Pacific Freight Conference of Japan/Korea; Japan/Korea Atlantic and Gulf Freight Conference; Nippon Yusan Kaisha Line; Japan Pottery Exporters Assn.; Mitsui O.S.K. Lines Ltd.; Shows Line Ltd.
Eddie Mahe, Jr. & Assoc.	Japan Ministry of Foreign Affairs.
Wellford, Wegman & Hoff	Japan Ministry of Int'l Trade and Industry.
Robert N. Meiser, P.C.	Kintetsu World Express; Sumitronics, Inc.
Arnold & Porter	Komatsu Ltd.; Nissan Industrial Equipment Co.
Jones, Day, Reavis & Pogue	Konishoruku Photo USA; Toyota Motor Corp.
Bell, Boyd & Lloyd	Makita Electric Corp. of America.
Winston & Strawn	Mitsubishi Corp.; Nippon Telephone and Telegraph Corp.
Baker & McKenzie	Mitsubishi Electric Corp.
Government Research Corp.	Mitsui & Co.
Coudert Brothers	NEC Corp; Nippon Electric Co.
Dorsey and Whitney	NEC Electronics; Nissan Motor Corp.
Akin, Gump, Strauss, Hauer & Feld	Nippon Benkan Kogyo Co., Ltd.
Lord, Day and Lord	Nippon Cargo Airlines.
Willkie, Farr & Gallagher	Nippon Kokan K.K.
Sharrets, Paley, Carter & Blauvelt	Sambo Copper Co.
Pettit & Martin	Suzuki Mtoors Co., Ltd.
Garvey, Schubert & Barer	Taiyo Fishery Co.
Arent, Fox, Kintner, Plotkin & Kahn	Toshiba America Inc.
O'Melveny & Myers	Toyo Umpanki Co., Ltd.
Miller & Chevalier	Toyota Motor Corp.
Wald, Harkrader & Ross	Yamaha Motor Corp.
Browning and Muldoon	Yamaichi Int'l.
Finnegan, Henderson, Farabow, Garrett and Duner.	Yamazaki Machinery Works Ltd.
Hoppel, Mayer & Coleman	Shows Line Ltd.

EXHIBIT 3

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,
Washington, DC, July 30, 1990.

Hon. CARL LEVIN,
Chairman, Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, U.S. Senate,

DEAR MR. CHAIRMAN: In response to your request, we have updated our 1980 report [1] on the Department of Justice's administration of foreign agent [2] registration. Our objectives were to determine whether (1) the recommendations made in our 1980 report have been implemented and (2) foreign agents are complying with the law by registering with the Department of Justice, by fully disclosing their activities, and by filing required reports on time. We also reviewed the adequacy of the Justice Department's disclosure criteria and guidance.

In our 1980 report, we recommended that the Attorney General seek legislative authority to (1) require written notification to the Justice Department of all exemption claims prior to any agent activity and (2) give the Justice Department additional enforcement measures (such as administrative subpoena powers, a schedule of civil fines for minor violations, and increases in existing fines).

RESULTS IN BRIEF

The Department of Justice has not implemented the recommendations we made in our 1980 report. As a result, the Department has no information on exemptions and still has limited enforcement authority.

The administration of foreign agent registration has remained a problem. The Justice Department currently maintains files on approximately 775 foreign agents. Our review of Justice's files on a random sample of 46 of these agents indicated that one-half of them had not fully disclosed their activities; over one-half registered initial forms late; and over one-half filed their required semiannual reports late.

We also found that the Justice Department's disclosure criteria is unclear. Both foreign agents and the Justice Department officials who review the agents registration forms lack specific written guidance on what should be reported. The questions on the semiannual supplemental statements are general and do not spcificially require the information necessary to satisfy the act's disclosure requirements.

BACKGROUND

The Foreign Agents Registration Act of 1938 was enacted to identify agents engaged in political activities, including the spreading of foreign propaganda on behalf of foreign principals,[3] and to require them to publicly report their activities and finances. Amendments to the act, passed in 1966, were designed to place emphasis on protecting the integrity of the U.S. government's decision-making process and to disclose the activities of foreign agents, including their contacts with executive branch officials.

The 1938 act, as amended, requires foreign agents to disclose their connections with foreign governments, foreign political parties, and other foreign principals, as well as the activities they perform on behalf of such principals in the United States. Justice's regulations implementing the act are found at 28 Code of Federal Regulations, Part 5.

The regulations require that foreign agents file an initial statement with detailed information and exhibits and file a supplemental statement every 6 months for the duration of the foreign principal-agent relationship. According to the regulations, a statement is "detailed" within the meaning of the act when it has that degree of specificity necessary to permit meaningful public evaluation of each of the significant steps taken by a registrant to achieve the purposes of the foreign principal-agent relationship.

The act also provides certain exemptions to registration, such as for diplomatic, humanitarian, commercial, and legal activities. However, foreign agents are not required to notify the Justice Department when they claim such an exemption.

The Department of Justice's Registration Unit, composed of nine professional and four administrative staff, is responsible for administering and

Prior GAO Reports

In 1974, we reported that many agents' statements to the Justice Department were not filed on a timely basis or lacked sufficient detail to adequately describe the registered agents' activities on behalf of their foreign principals.[4] The 1974 report also stated that the Justice Department was not making full use of its authority to enforce the act and related regulations.

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[1] Improvements Needed in the Administration of Foreign Agent Registration (ID–80–51, July 31, 1980).

[2] The term foreign agent means any person who acts or engages or agrees to act as a public relations counsel, publicity agent, or as agent servant, representative, or attorney for a foreign principal or for any domestic organization subsidized directly or indirectly, in whole or in part, by a foreign principal.

[3] The term foreign principal means the government of a foreign country, a political party of a foreign country, a person who lives abroad, or any foreign business, partnership, association, corporation, or political organization.

In a 1980 follow-up report, we noted that despite Justice's efforts to improve the administration of the act, people were acting as foreign agents without registering, registered agents were not fully disclosing their activities, and officials in the executive branch were often unaware of the act's requirements. Thus, the act's goal of providing the public with sufficient information on foreign agents and their activities was not being completely fulfilled.

FOREIGN AGENTS MAY NOT BE REGISTERING

The Registration Unit identifies unregistered agents by reviewing newspapers, magazines, and the Congressional Quarterly;[5] inspecting registered agent's records; and acting on tips provided from various sources such as government agencies and material filed by registered agents. The unit does not make scheduled reviews of executive agency records or periodic inquiries of agency officials about agent activities because, according to the Chief of the unit, additional staff would be needed for this purpose.

During its review of the Congressional Quarterly for the period October 1988 through October 1989, the Registration Unit identified 70 individuals or firms acting as lobbyists for foreign interests, 13 of which it believed may be obligated to register as foreign agents. Subsequently, the Registration Unit sent these 13 individuals or firms letters requesting that they provide (1) a complete statement of who owns and controls the foreign principal, (2) a description of the nature of the activities for or in the interest of the foreign principal, and (3) a copy of the written contract with the principal or a full description of the terms and conditions of each existing or proposed oral agreement. As of June 1990, the Registration Unit had received the requested information but had not completed its analysis to determine whether these individuals or firms had to register under the act. However, according to the Chief of the Registration Unit, preliminary indications are that at least some of them should have registered as foreign agents.

We found that the Registration Unit did not collect information on the number of foreign agents who were claiming an exemption for registering because, according to the Chief of the Unit, the Justice Department still has not taken steps to have the act amended to require written notification of all exemption claims, as we recommended in our 1980 report. Moreover, Justice officials do not believe that the additional information on unregistered foreign agents that might result from an exemption notification requirement would justify the associated costs in increased manpower needs and paperwork. However, Justice has not performed a cost analysis to support this position. We do not believe that the administrative costs of implementing the exemption notification requirement would be exorbitant, and we think it could improve program administration.

INADEQUATE DISCLOSURE IN REPORTING

Each agent is required to file a semiannual supplemental statement within 30 days after the expiration of each period of 6 months succeeding the original filing of a registration statement. In our 1980 report, we noted that 146 (49 percent) of the 299 supplemental statements that we reviewed had not provided adequate disclosure. Such omissions continue to be a problem.

According to the act, each supplemental statement must contain information on (1) the nature and status of the registrant's business, (2) foreign principals represented, (3) activities performed for foreign principals, (4) related financial data, (5) dissemination of political propaganda, and (6) the filing of certain required exhibits and short-form registration statements. The unit's caseworkers review these statements for adequate disclosure and request additional information from the agents, as necessary.

Our review of 25 foreign agent files and the supplemental statements that should have been filed between June 1, 1987, and April 1, 1990, showed that about half of the statements did not adequately report the agents' activities, based on criteria previously mentioned. Among the deficiencies we identified were insufficient description of activities; conflicting responses to questions; no listing of contacts, and/or finances; missing supplemental forms; no statement of purpose or position; and lateness in reporting activities.

According to the Unit Chief, inadequate disclosures typically occur when (1) agents are not specific in reporting information, (2) questions on the supplemental statement forms are not specific, and (3) caseworkers lack effective methods to obtain additional information. Unit officials stated that they are taking steps to improve the administration of disclosure reporting by writing or calling individuals to request additional information. They are also conducting more inspections of agents' books and records to assure that registered agents are reporting all their activities and finances.

In our analysis of the supplemental statements, we noted that the questions on the forms were general and did not specifically require information necessary to satisfy the act's disclosure requirements. We also found Justice's regulations implementing the act do not provide adequate information to understand disclosure requirements. The Unit Chief agreed with our analysis. He stated that, if requested the caseworkers will give advice to an agent. However, he also stated that the caseworkers reviewing the statements do not have standardized written guidance on specifically how and what a foreign agent should report. Consequently, there is potential for inconsistent reviews from one caseworker to another.

TIMELINESS OF AGENT REGISTRATION AND REPORTING REMAINS A PROBLEM

Our review of registration statements showed that over one-half of a sample of 28 initial registration statements were not filed by the required dates, and over one-half of a sample of 204 supplemental statements were not filed before the deadlines.

The act requires that people file initial registration forms within 10 days of becoming agents. In 1980, we reported that 61 (77 percent) of the 79 registration forms filed by foreign agents, that we reviewed, did not meet this requirement. The level of registration compliance has continued to be low. Of 28 foreign agent's initial registration statements we reviewed for this report, 19 (68 percent) were not registered on time. Of these 28 statements, 17 (61 percent) missed the due date by more than 30 days. Furthermore, we could not determine whether seven (25 percent) of the initial statements met the requirement because the material in the files did not show when they began activities for the foreign principal. In summary, 26 (93 percent) of the 28 forms were either not filed on time or did not contain sufficient information to determine their filing status.

Similar problems exist in the filing of supplemental statements. The act requires agents to file supplemental reports within 30 days of the end of each 6-month period. In our 1980 report, we noted that 179 (60 percent) of the 29 supplemental statements reviewed were not filed by the deadline. For the period from June 1, 1987, through April 1, 1990, we reviewed 46 foreign agents' files and found 21 (59 percent) of the correspondent 204 semiannual supplemental statements that were supposed to be filed, were filed late. About 27 (13 percent) of these 204 statements missed the due date by more than 30 days. We could not find the supplemental statements for 23 (11 percent) of the 204 statements due because they were either missing from the files and Justices officials could not find them (3 percent of the statements), or the Justice Department said it had never received them (8 percent of the statements).

Unit officials said that agents frequently register and report late because they lack awareness of or ignore the act's requirements.

FOLLOW-UP PROCEDURES

The Registration Unit's follow-up procedures include sending reminder letters, making a phone call, and then mailing a form notice to each delinquent filer. In addition, a copy of the delinquency notice is sent to the agent's foreign principal.

Registration Unit staff stated that they had not assessed administrative fines against late filers or used subpoena powers because the Justice Department lacks authority to take such administrative actions. According to the Unit's Chief, the authority to levy fines against late filers and summon individuals to appear, testify, or produce records at administrative hearings could improve registration and reporting compliance under the act. We recommended both of these actions in our 1980 report, but the Justice Department did not pursue them.

RECOMMENDATIONS

In addition to reaffirming our 1980 recommendations, we further recommend that the Attorney General direct the Registration Unit to take the following actions:

Develop standard disclosure criteria for reporting under the act; provide specific guidance to agents and agency personnel on the criteria and how information should be reported; and enforce compliance with the criteria.

Revise the supplemental statement to better reflect the requirements of the act as well as the standard criteria.

MATTERS FOR CONGRESSIONAL CONSIDERATION

The Department of Justice uses the lack of authority as a reason for not taking action to enforce the law but has not sought the needed legislative authority. Therefore, the Congress may wish to consider amending the Foreign Agents Registration Act of 1938, as amended, to give the Department of Justice the authority to:

Subpoena foreign agents to appear, testify, or produce records at administrative hearings.

Impose administrative fines for minor violations against those who after being directly informed of their obligation to report, still fail to do so.

Appendix I provides details on the scope and methodology of our review.

As requested, we did not obtain formal agency comments on this report; however, we discussed our findings with appropriate Department of Justice officials and incorporated their comments where appropriate.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 40 days from the date it is issued. At that time, we will send copies to the Attorney General and appropriate congressional committees and make copies available to other interested parties upon request.

This report was prepared under the direction of Allan I Mendelowitz, Director, Trade, Energy, and Finance Issues. He can be reached on (202) 275-4812 if you have any questions about this report. Other major contributors are listed in appendix II.

Sincerely yours,

Frank C. Conahan,
Assistant Comptroller General.

APPENDIX I—SCOPE AND METHODOLOGY

In developing information for this report, we reviewed the act, the legislative history, and the Justice Department's rules and regulations that address the responsibilities of foreign agents and managers of the registration process.

We also interviewed Department of Justice officials regarding the efforts to improve the administration of foreign agent registration. We reviewed the procedures used by the Registration Unit to identify unregistered agents.

We obtained Justice's listing of 819 foreign agents registered under separate registration numbers as of December 31, 1989. Because some foreign agents registered their suboffices under separate registration numbers, we adjusted the number of registered agents by counting those agents with more than one registration number as one agent. This adjustment resulted in a population size of 778 foreign agents.

To get some indication of whether the registration problems identified in our prior reports still exist, we drew a random sample of 46 of the registered foreign agent files. This size sample was sufficiently large to statistically validate the continued existence of the problems identified in our earlier reports.

We examined reports indicating when foreign agent reports were received by the Registration Unit and then comparing that date to report due dates prescribed in the regulations. In assessing the timeliness of agent initial registration, we reviewed 28 initial registration forms filed after 1980. To assess the timeliness of foreign agents' semiannual supplemental forms, we reviewed 46 agent files and the corresponding statements that were supposed to have been filed between June 1, 1987, and April 1, 1990. We limited our review of supplemental statements to those filed after June 1987 to determine whether this is a current problem.

To assess adequacy of disclosure, we reviewed 25 agent files and the agents' required semiannual supplemental statements for the period June 1987 through April 1990.

Our work was conducted from January through June 1990 in accordance with generally accepted government auditing standards.

APPENDIX II—MAJOR CONTRIBUTORS TO THIS REPORT

NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION, WASHINGTON, DC

Elliott C. Smith, Assistant Director; Anne M. Pond, Evaluator; Laura C. Filipescu, Evaluator; Arthur J. Kendall, Mathematical Statistician; James M. Fields, Social Science Analyst.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Adams). Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Heinz amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

DRUG AGENT IN SIOUX CITY

Mr. HARKIN. Mr. President, Sioux City in Iowa, South Sioux City in Nebraska, and the three counties adjacent to one another in the States of Iowa, Nebraska, and South Dakota face a growing problem of illegal drug traffic. Law enforcement officials are finding it difficult to coordinate their efforts with so many different jurisdictions involved.

Seventy percent of all crime in Woodbury County, which contains Sioux City, is either drug or alcohol related. In Dakota County, NE, the 1989 drug arrest equaled the total number of arrests for the previous 8 years combined. The Woodbury County attorney has testified that Sioux City has become a major distribution point for illicit drugs in the area.

The Sioux City metropolitan area is one of the very few metropolitan areas of its size in a tristate area which does not have either a DEA or FBI agent in the city or even within an hour's drive of the city.

My constituents face a unique problem because of the high level of drug activity in northwest Iowa and difficult jurisdictional problems. I appreciate the language that the committee placed in the committee report concerning this question urging the DEA to examine this question.

I was concerned with the printed date that the report was due, November 1, 1991. I believe that we had talked about an earlier date such as February 1, 1991, for the deadline for the DEA report concerning Sioux City.

Mr. HOLLINGS. I thank the Senator from Iowa. He has been a leader in the effort to increase funding for the war on drugs and has shown a special concern for the problems faced in rural areas and small and medium sized cities and a leader in efforts to assign a DEA agent to the Sioux City area. I appreciate his alerting my subcommittee to the special needs of Sioux City in controlling its drug problem. I am hopeful that the administration will decide to assign a drug agent in Sioux City. I expect the report can be completed by February 1, 1991, and I expect that the conference report will reflect that date.

EISENHOWER EXCHANGE FELLOWSHIP

Mr. DOLE. Mr. President, this Congress recently passed legislation to provide a permanent endowment for the Eisenhower Exchange Fellowship Program. Since this Sunday is the 100th anniversary of President Eisenhower's birth, I had hoped to offer an amendment to the Commerce, State, Justice appropriations bill to allocate $5 million for the fellowship program. Unfortunately, the severe budget constraints facing our Federal Government have prevented the subcommittee from finding an adequate offset.

Having sat through many months of budget negotiations, I can understand very well the difficulties the Senator from New Hampshire faces. However, as a tribute to President Eisenhower, I ask that the Senator from New Hampshire make funding the Eisenhower fellowship one of his highest priorities next year.

Mr. RUDMAN. I appreciate the willingness of the Republican leader to withhold his amendment. He has my assurances that I will make every effort to include funding for this program next year.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Heinz amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2948

(Purpose: To direct the Secretary of Education to reduce a penalty owed by the Dakota Wesleyan University, located in Mitchell, SD, in the amount of $159,260 plus accrued interest thereon to $16,113)

Mr. HOLLINGS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. Hollings], for Mr. Daschle, proposes an amendment numbered 2948:

At the end of the bill, insert the following new section:

SEC. . DAKOTA WESLEYAN UNIVERSITY.

Notwithstanding the provisions of section 487(c)(2)(B) of the Higher Education Act of 1965, the Secretary of Education shall reduce a penalty owed by the Dakota Wesleyan University, located in Mitchell, South

Dakota, in the amount of $159,260, plus any accrued interest thereon to $16,113.

Mr. HOLLINGS. I urge adoption of the amendment.

Mr. DASCHLE. Mr. President, the amendment I am offering to H.R. 5021 would simply implement an agreement that was worked out between Dakota Wesleyan University, located in Mitchell, SD, and the Department of Education, resolving a 2-year dispute over the amount of funds Dakota Wesleyan University owes the Department for errors it made in administering the Financial Aid Program.

After lengthy negotiations, the Department, acknowledging that Dakota Wesleyan University had made every good faith effort to redress this problem, agreed on September 7 to reduce Dakota Wesleyan University's liability from $159,260 to $16,113. Because of regulatory technicalities, Department officials said the agreement could not be implemented without legislation.

The Department is aware of this amendment to H.R. 5021 and supports the amendment. The amendment will have no budgetary impact.

Finally, Mr. President, I want to thank the floor managers, the Senator from South Carolina [Mr. Hollings], the Senator from New Hampshire [Mr. Rudman], and the Senator from Massachusetts [Mr. Kennedy], and their staffs, for all their help in finally resolving this matter.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment (No. 2948) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Chair will state for the Senator that the pending business is the Heinz amendment.

Mr. KERREY. I thank the Chair. Mr. President, I just ask unanimous consent to set the pending business aside and be permitted to speak as if in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska is recognized.

Mr. KERREY. I thank the Chair.

(The remarks of Mr. Kerrey pertaining to the introduction of S. 3185 are located in today's Record under "Statements on Introduced Bills and Joint Resolution.")

Mr. HOLLINGS. Mr. President, we are checking with respect to the Heinz amendment, and he is coming to the floor with respect to its content. Otherwise, we are ironing out, I hope, the consideration of the Magnuson Act.

There is a Levin amendment that I understand will be accepted on both sides right now. And then, thereafter, I think we can move.

We are putting out the notice to anybody with amendments to come forward at this particular time, and we are awaiting those.

I thank the Senator from Washington [Mr. Gorton] who has been here since the beginning, to bring up elements of that particular Magnuson Act. He, Senator Stevens and I hope we can bring that bill up under a time agreement. Let us keep checking.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that we set aside temporarily the Heinz amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, on behalf of the distinguished Senator from Michigan [Mr. Levin] I send an amendment to the desk and ask the clerk to report.

AMENDMENT NO. 2947

Mr. HEINZ. Will the Senator withhold? The Senator from Rhode Island and I are prepared to have a colloquy.

Mr. HOLLINGS. I withhold.

Mr. HEINZ. I thank the chairman.

Mr. President, I note that the distinguished chairman of the Foreign Relations Committee is here on the floor. I would like to enter into a discussion with him on the substance of the amendment that is at the desk. That amendment, of course, is legislation that has been referred to the Foreign Relations Committee.

The chairman of the Foreign Relations Committee earlier this year scheduled a day of hearings on the legislation. A considerable amount of testimony was taken and excellent information was received. And, of course, much of that information was the basis for the modifications in my bill, S. 137, that has resulted in the amendment, which changes are from that bill I described earlier in my opening remarks.

Since this legislation is in the jurisdiction of the Foreign Relations Committee—and I understand that the chairman properly would like to preserve the jurisdictional prerogatives of his committee—I would like to discuss with him any ideas he may have on how we can advance this legislation other than by this means which is an attempt to legislate on an appropriations bill.

Mr. PELL. First, I wish to say I think the legislation is excellent legislation. The new version of it, as I understand it, is even a further improvement on the already good legislation on which it was based. We are waiting now for comments from the Justice Department and the State Department.

My own view is that we should pass it as soon as we can. However, as chairman of the authorizing committee, I obviously would not want to acquiesce to going around the committee. I think that would make us an irrelevant committee.

For that reason, I would ask the Senator to withhold if he could at this time. I will do my best to get it out as soon as we can. I will try to do it this session but, in all honesty, since we may only have one more meeting and that may be today, we may not succeed. I can assure him that when we get back in January, as far as I am concerned, there is no obstacle to the earliest possible consideration and approval of it.

Mr. HEINZ. Mr. President, Chairman Pell makes a very persuasive set of propositions. Frankly, I am very delighted and grateful. He is always very accommodating.

What he said—and he will correct me if I am wrong; I do not intend to misstate him—is that he will make every effort to move the legislation this year. He cannot guarantee that he will move it this year. If he has a markup today, it would be perhaps very difficult for him to do. He would like to get comments from Commerce and the Justice Department.

But my understanding is if they simply delay and do not provide the comments on a timely basis, he is not going to allow that to stall the process. He will proceed. If they are late, it is their problem and not our problem.

Third, if he is unable to move the legislation this year, he clearly intends in the next session to make it a high priority. I gather he might even be willing to be a cosponsor of the legislation. He did not say that but I would be delighted, of course, to have him as a cosponsor of the revised bill. I would even ask if he wanted to be a cosponsor of the revised bill in the form of the amendment at the desk, and if he would agree to that, I would be very pleased to withdraw the amendment and work with him to bring the legislation to the floor in an appropriate manner.

Mr. PELL. I would be glad to be a cosponsor.

I ask unanimous consent that my name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. I can assure the Senator that if we have not heard from State and Justice when we come back in the new Congress, we will go ahead without them, as far as I am concerned. There may be some more adjustments we can make in the legislation, but we would go ahead.

Mr. HEINZ. Mr. President, I thank my distinguished friend and colleague from Rhode Island. His word is his bond. We all know that. His procedure is eminently reasonable. I could not under any circumstances take exception to that kind of an offer. I thank him for that consideration. I do accept his offer.

I withdraw the amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw the amendment. The amendment is withdrawn.

The amendment (No. 2947) was withdrawn.

Mr. HOLLINGS. Mr. President, I thank the distinguished Senator from Pennsylvania and the distinguished chairman of our Foreign Relations Committee for ironing out that particular matter. I am a cosponsor of it, and I join in their particular agreement.

Momentarily, I have an amendment here, but I also want to protect the Senator from Washington [Mr. Gorton]. As I understand it, we have clearances except for the distinguished Senator from Maine [Mr. Cohen] and the distinguished Senator from North Carolina [Mr. Helms]. I heard earlier there were no holds on the other side. I hope we can check those, and I will hold up for Senator Gorton to protect his right.

AMENDMENT NO. 2949

(Purpose: To provide that some of the moneys provided for zebra mussel research shall be used for the translation of scientific materials published in the Soviet Union and elsewhere)

Mr. HOLLINGS. Mr. President, on behalf of the distinguished Senator from Michigan [Mr. Levin], I send an amendment to the desk and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. Hollings] for Mr. Levin, proposes an amendment numbered 2949.

At the end of the title I insert:

Sec. 107. The Secretary of Commerce shall direct that $100,000 of the funds available for research on zebra mussels provided in this Act be used for the translation into English of scientific materials published in Russian and in other languages that will aid in the control and eradication of zebra mussels in the Great Lakes and the United States.

Mr. LEVIN. Mr. President, I am pleased to offer this amendment to direct that some of the funds that will be available for research into methods for the control and eradication of the zebra mussel be used for the translation of scientific materials into English from other languages, especially Russian.

Eastern Europe and the Soviet Union have been trying to deal with the zebra mussel for over 100 years. They have conducted some very extensive research on its life history, its impact on the ecosystem, and many other facets of its biology which could prove to be extremely useful to U.S. researchers as they try to develop ways to stop this invader's spread. Over 2,000 articles in Russian alone have been published. Unfortunately, the language barrier prevents their easy interpretation and use. Directing this money for translation in this amendment will allow us, by avoiding duplication of effort, to make more effective use of the resources available for research and actual implementation of control methods.

We in the Great Lakes are locked in a battle with the zebra mussel. We are the Nation's first line of defense, because if we fail to stop it, it will spread swiftly and silently throughout the entire fresh water system in the United States. My perfecting amendment to a bill that already recognizes the importance of zebra mussel control and some of the research needs will serve to add another weapon to our arsenal.

I appreciate the willingness of the Senators from South Carolina and New Hampshire to accept this amendment.

Mr. HOLLINGS. Mr. President, this is merely an allocation. It has no effect with respect to our 302(b).

Mr. STEVENS. Mr. President, the Levin amendment has been reviewed by Senator Rudman's staff. We are prepared to accept this amendment.

The PRESIDING OFFICER. There being no further debate on the amendment, the question is on agreeing to the amendment.

The amendment (No. 2949) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, we are holding up for consent with respect to the Magnuson Act and the amendment of the distinguished Senator from Washington [Mr. Gorton]. If we can get clearances on those, then we are prepared to move to third reading of the bill.

I suggest the absense of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANFORD. Mr. President, I would like to engage the distinguished manager of the bill, Senator Hollings, on matters of great importance to this country's marine research community and all of us who are affected by the health of our coastal environments.

Mr. HOLLINGS. I would be happy to discuss the matter with the Senator from North Carolina.

Mr. SANFORD. The National Undersea Research Center [NURC], administered by the University of North Carolina at Wilmington, is one of the best equipped facilities in the Nation for conducting detailed underwater research. This program employs some of the best equipment and some of the top minds available.

The National Oceanic and Atmospheric Administration [NOAA] has indicated that its undersea research station, Aquarius, should be moved from its present location on St. Croix, the U.S. Virgin Islands, to the Florida Keys. NOAA has also indicated that UNC-W will be best suited to manage the station in its new location through the Undersea Research Center.

I am hopeful that this project will be a funding priority for NOAA and that NURC might begin to carry out much-needed research in the dying coral reefs of the Florida Keys.

I am also concerned that NURC be allowed to utilize their unique capabilities in the investigation of the environmental impact of offshore drilling in the site proposed for such exploration off the coast of North Carolina. The Center has been conducting such deepwater research for some time now and is in full cooperation with the national, State, and private entities concerned. Congressman Jones and I have both sponsored bills that require more information before any drilling is allowed; much of this information can best be obtained by NURC at UNC-W.

Finally, consideration should be given to the Center's important research coordination efforts in the Gulf of Mexico for the study of the influence of oil and gas seepage on unique ecosystems in these waters.

Mr. HOLLINGS. I am pleased to hear of the work that the Center at the University of North Carolina at Wilmington has been doing and I hope that proper attention will be given to this facility in order that it might

carry out the challenges that you have set forth.

Mr. SANFORD. I thank the distinguished manager of the bill for his interest.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Dodd). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

Mr. President, as usual the Appropriations Committee has produced a workmanlike effort for the Departments of Commerce, Justice and State. The good efforts of the able chairman, the Senator from South Carolina [Mr. Hollings], and the ranking member, the Senator from New Hampshire [Mr. Rudman], and their professional staffs have resulted in the bill that will no doubt pass this Senate with ease.

Nevertheless, Mr. President, for reasons I shall shortly address, I feel obliged to vote against this measure. My vote is not in any way a criticism of the job done by the committee. Rather, it is a reflection of the lack of reforms within the State Department itself.

Mr. President, some real progress has been made. For example, the Appropriations Committee has crossed the Rubicon regarding the need to tear down completely and to rebuild completely a safe, secure, and new chancery building at the U.S. Embassy in Moscow.

Recalling my motion to strike language from the State Department authorization bill on the morning of July 21, of last year, with the bipartisan assistance of the Senator from the Intelligence, Appropriations and other committees, I believe that this is the best action to follow. Next year I believe it will be necessary to find funds to tear down and reconstruct the building.

Ideally, the Soviet regime should be required to pay for this since it was the Soviets who loaded the existing new structure with listening devices—that is to say, bugging devices—in the first place. If not, significant State Department reprogramming must find a large portion of the funds needed for this vital project from other places in the State Department budget. That is my view of it.

As this year's appropriations stand, however, I see no effort at this kind of belt tightening that all other agencies face. There seems to be an attitude at the State Department that foreign operations are somehow sacrosanct, even when military and domestic appropriations are not. I reject that.

As I examine the section of this bill relating to the State Department and related foreign affairs agencies, I note that in excess of $3 billion is appropriated. This just happens to be $213,985,000 more than the appropriations figure for the 1990 fiscal year or, to put it another way, a 6.6-percent increase, as a matter of fact.

Of the total appropriations at the State Department, 57.8 percent is devoted to salaries and expenses at that department.

Mr. President, some may take the position that this is only a 6.6-percent increase. I have even heard it said that this is in line with inflation, that it may be one of the smaller increases in the departmental appropriations for any department of Government. But in our current budgetary crisis this is not the time for any increases whatsoever. One of these days this Senate is going to understand that.

Moreover, I cannot help but speculate that the State Department might come reporting back in January or February for what is so often called around this place a dire emergency supplemental appropriations. That could greatly escalate the 6.6-percent increase over the amount contained in the bill which is pending before the Senate today. Obviously, I hope that will not happen, but I would not be at all surprised if that does happen again because it has happened so often in the past.

So I am constrained to vote against this appropriations bill because I have yet to see any serious efforts at cost cutting at the U.S. Department of State.

I am further convinced that I should vote against this appropriations bill because of the huge increase in funds targeted to the U.N. system and other international conferences.

Mr. President, $787,600,000 is appropriated for U.N. assessments against the United States including almost $93 million for so-called arrearages for the United Nations and another $115 million is appropriated for U.N. peacekeeping, including $24.340 million for so-called peacekeeping arrears.

This happens to be, Mr. President, a total of $117 million for what we call around this place arrearages, or 13 percent of the entire amount for the international organization account. Even those who believe that the United States owes the United Nations these funds, and I am not one of them, should realize that if—and I say "if"—the Senate believes that we are in a financial crunch, it may be time not to pay these arrearages or to take the funds from existing State Department accounts.

One of the most capable Assistant Secretaries of State is John Bolton, who supervises the Bureau of International Organization Affairs. All of us have known John a long time, and I respect him. He is one of the most convincing gentlemen in this town. But even John has yet to convince me that all of the sins and blemishes of the United Nation's past have been swept away in the present euphoria which seeks to bend America's bilateral foreign relations to the yoke of multilateral constraints on U.S. sovereignty.

In addition, Mr. President, the American people must be alert to a direct potential threat to our national sovereignty as a result of the heavy reliance this administration has placed in resolutions of the U.N. Security Council regarding Iraq's aggression Until now, the U.N.'s Military Staff Committee has been dormant. In accordance with Security Council Resolution 661, the Soviet Union now hopes that the military staff committee will be activated after all of these years.

If the Military Staff Committee were to be activated, the four other permanent members of the U.N. Security Council, the Soviet Union, Communist China, Great Britain, France and perhaps other countries, would be able to make command and control decisions on Operation Desert Shield in the sands and deserts of the Middle East.

There, soldiers, sailors, marines, and Coast Guard contingents from North Carolina and every other State, are the main force blocking Saddam Hussein's war machine. This Senator certainly does not want to see the time when United States troops get their orders from a U.N. committee staffed by the Soviet Union. In a recent hearing, I asked America's Permanent Representative to the United Nations Tom Pickering, whom we all know, i he believed the United States would o should have to ask the United Nation permission to defend the United States or take possible military action in the present crisis. He and I agreed that the answer is no.

So Ambassador Pickering's position certainly reflects that of President Bush. And having just spent part o yesterday going to and from North Carolina with the President, I am convinced that his strong support for ou troops in the Middle East would no allow him, under any circumstances to approve the activation of the Military Staff Committee.

In the specific case of the Military Staff Committee's possible activation I must add that once activated, given the nature of the galloping bureaucracy syndrome, which the United Nations certainly is, it would never be deactivated and could become a real nightmare for the U.S. military planners.

The Senate must keep watch on developments at the United Nations. We have been told over and over again that it has reformed itself, that it is shiny new penny. While not from Missouri, this Senator says, "show me." I am willing to be convinced, although I admit that I am a hard sell.

In the meantime, Mr. President, I am delighted that the junior Senator from Florida, CONNIE MACK, is a member of the U.S. delegation to the U.N. General Assembly. I know he shares many of my concerns about the United Nations, and that he would not hesitate to alert the Senate to any shenanigans in New York.

Mr. President, I will simply enumerate several other situations to watch regarding U.S. funding to the United Nations. First, it is essential that we continue to deny funding to a variety of "observers" such as the African National Congress or even SWAPO, if that organization still qualifies for funds after forming the Government of Namibia. Of course, the Palestine Liberation Organization still desires to be treated like a government or even a state.

At this moment, Mr. President, Secretary of State Baker and Assistant Secretary Bolton have gone to the United Nations to supplement the talents of Ambassador Pickering and his staff during debate on a resolution before the Security Council that responds to recent deaths in Israel. Saddam Hussein, his allies and agents, and the PLO see these deaths as their opening to link Hussein's land hungry aggression, chemical weapons, and missiles with condemnation of Israel. I believe those gentlemen, on behalf of the President, will take the prudent course of gathering the facts before rushing headlong into flat condemnation of Israel.

Second, Mr. President, continuing American pressure must be placed on the United Nations to spend our money wisely. After all, the United States is assessed 25 percent for basic U.N. functions, and 30 percent or more for peacekeeping. Our country also gives generously over and above assessments and, as the Senator from Alaska [Mr. MURKOWSKI] has remarked, the United States gives millions in in-kind services. Every organization should have regular, tough, independent audits, especially those involved in vital humanitarian work. For example, UNICEF, the U.N. Children's Fund and other such groups need to publish these audits.

Mr. President, Soviet secondment to the U.N. Secretariat continues to be a serious concern. There are those who now advocate treating the Soviets as an ally. From time to time our two countries may have mutual interests—but there is absolutely no good reason to relax American vigilance.

Finally, Mr. President, discussion has taken place here in recent days about some sort of a special bipartisan consultation group on U.S. military challenges in the Middle East. I believe present mechanisms are sufficient to include the chairman and ranking members of appropriate committees in any consultation that might be needed. Here, Mr. President, I am eager to see that the prerogatives of myself and the Senator from Rhode Island, Chairman PELL, are protected. We or our designees are proper participants in any consultations.

In conclusion, Mr. President, I want to thank the distinguished chairman and the ranking minority member for the fine cooperation we have received from the staffs on both sides of the Commerce, Justice, State Appropriations Committee.

Much of the credit for that cooperation goes to a departing senior staff member of the Senator from South Carolina [Mr. HOLLINGS]. Mr. Warren Kane represents so many of the best qualities of staff professionalism that it must be specifically acknowledged. Mr. Kane's long, productive career has served the Senate and the country extraordinarily well. May God richly bless him in his future endeavors.

Mr. President, I yield the floor.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota is recognized.

CUTS IN AGRICULTURE SPENDING

Mr. CONRAD. Mr. President, in examining the newspaper clippings over the last several days, I was drawn to an article entitled "Bush Defends Deal's Agriculture Cuts."

What the President was talking about in this article were the cuts in agriculture spending from the summit agreement. Those are cuts that are now included in the budget resolution that has passed both Houses of the Congress. In reading the article, I thought it was important to draw the attention of my colleagues to statements that are made there that I think are very misleading. So I take the floor today to seek to correct the record and make clear what it is that agriculture confronts with the proposals from the budget summit and also make clear that the cuts of some $13 billion in that agreement were the bottom end, that the President and his people were pushing for much greater cuts. But let us look at what the cuts that have been agreed to would mean.

Let us look at the President's justification. The President said this: "So I'd ask the farmers: look at what we are trying to do; look at the success of the market-oriented approach we took to agriculture, look at how * * * the per capita income to farmers stands, and help us preserve the kind of markets that guarantee continued prosperity to the farmer."

Mr. President, if the President of the United States is interested in prosperity for America's farmers then he ought to be very concerned about what he has pushed in terms of the budget resolution and the budget summit agreement. Mr. President, I brought with me these charts that show the trend in agriculture spending.

Before I turn to that, let me also read the quote from Mr. Darman, the head of the Office of Management and Budget. Mr. Darman told reporters that suggested farm cuts were written into the budget deal "because historically, the farm committees have been among the most inventive in finding ways to actually present programs that pretend to save money, and then somehow or other, not actually produce real savings."

Mr. President, I ask unanimous consent to have printed in the RECORD the article to which I have referred.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Dickinson Press, Oct. 4, 1990]

BUSH DEFENDS DEAL'S AGRICULTURE CUTS

WASHINGTON.—President Bush defended agriculture cuts in his $500 billion budget deal Wednesday as budget director Richard Darman complained that farm state lawmakers can't be trusted to make cuts themselves.

The five-year budget deal agreed to last weekend by White House negotiators and congressional leaders would cut $13 billion from agriculture programs over five years as part of a massive effort to cut the federal deficit.

The budget package, which suggests cuts in target prices and reductions in the base acres eligible for farm programs, is to go before the House and Senate today.

"I don't think it's burdensome, and I think people ought to look carefully at the details," Bush told reporters from this newspaper's Washington bureau and other Washington reporters at a White House briefing.

Bush, Darman and Treasury Secretary Nicholas Brady met with reporters as part of a frenetic White House effort to sell the painful budget package to the public and recalcitrant Republican lawmakers who have said they will not support it.

Bush and his staff conceded the package would have a difficult time passing Congress, and they beseeched lawmakers, farmers and other Americans to put aside individual interests and support the deal as something that is in the national interest.

"Any time a subsidy or a support program is cut, I can understand people being critical," the president told members of the Regional Reporters Association. "But I think they also know that an economy that is in recession, for example, would wipe out instantly—or offset instantly—the individual amounts one gets from program A, B, C.

"So I'd ask the farmers: Look at what we're trying to do; look at the success of the market-oriented approach we took to agriculture, look at how . . . the per capita income to farmers stands, and help us preserve the kind of markets that guarantee continued prosperity to the farmer," Bush added.

In an earlier session, Darman told reporters that suggested farm cuts were written into the budget deal "because historically, the farm committees , , , have been among the most inventive in finding ways to actually present programs that pretend to save money, and then somehow or other, not actually produce real savings."

"We were very concerned that these particular committees, when asked to do $13 billion, might produce $13 billion on paper that was zero in fact," said the director of the president's Office of Management and Budget. "So we had a long debate about how specific we should be, in giving guidance."

Darman said that, at first, specific cuts were listed, and so was a list of cuts that budget negotiators would not accept because of their questionable value in saving money.

Darman said the specific list was considered "offensive politically . . . so that was excised."

Mr. CONRAD. Mr. President, let us just check those statements against the historical record. This chart shows the actual trend in agriculture spending before and after the budget agreement. It goes back to 1986, and continues through 1990, the fiscal year that we have just concluded, and then looks at it in its each succeeding year what the budget summit says we are to do.

You can see the trend, I think, quite clearly. Mr. Darman talks about how inventive we in the Agriculture Committee have been at avoiding reductions in spending.

Mr. President, this chart tells the story. There have been deep reductions in spending in agriculture. From 1986 to now, we have had a 60-percent reduction, and now the President and his people say take another 24 percent, take another 24 percent cut.

Mr. President, that does not tell the whole story. That does not tell the whole story because the agriculture baseline, the spending that would occur absent any further action, is different for agriculture than any other part of the Federal budget. The difference is simply this: Every other baseline has inflation included in it but not agriculture. In agriculture, target prices have already been frozen for the next 5 years. There is no inflationary increase so when you come along and cut another 24 percent after the 60 percent we have already had cut in the last 5 years the cumulative effect is a 40-percent reduction for agriculture—a 40-percent reduction.

Now, if we do not understand what has happened to farm income, and what will happen to farm income, it is hard to make a judgment on these figures. This chart shows projected net farm income in the 1990's if these proposed cuts go forward absent a policy change. And one can see that we will see very steep reductions in farm income through the nineties if we do not change the underlying policy. In fact, Mr. President, we will see a decline from $35.3 billion in net farm income in 1990 to $26.6 billion in 1995.

No other sector of the economy is being asked to take this kind of sacrifice, to take this kind of hit, but agriculture is.

Some would say, well, agriculture has been doing very well, very well the last few years.

Mr. President, I brought another chart to put in perspective as well because it is true that agriculture has done well in the last 4 years, at least in many parts of the country, certainly not in mine, for we have suffered from 3 years of drought. But if one looks at the larger picture, what one finds is quite a different picture. What one finds is that agriculture in the decade of the eighties, when you take out inflation, has experienced the lowest 10-year period for farm income in our history, the lowest farm income since we started keeping records in 1910.

This chart shows net farm income average for decade expressed in 1982 dollars, and what we see is that we have gone from the decade of the 1910's we had $51.2 billion of net farm income expressed in 1982 dollars. They hey day was in 1940's in agriculture, $65.8 billion. But look at the decade of the 1980's, $28.8 billion expressed in 1982 dollars, the lowest 10-year period for farm income in the history of this country since they started keeping records.

Now, Mr. President, as I said before, absent a policy change, if we just put in place these cuts that have come from the budget summit, we will see farm income in a steep decline.

What does that mean? The analysts tell us that that means a new wave of farm forclosures and farm failures. The analysts tell us that it means a whole new round of bankruptcy and hurt in the heartland of this country.

Mr. President, there has already been hurt enough in the heartland of this country. I wish my colleagues could come with me as I go to community forum after community forum in my State, from small town to small town, and see the main streets, see the stores being boarded up, see the implement dealers closing, see the schools being consolidated, see the hospitals being shut up, seeing people at the brink of tears when they come to meetings and talk about their own family situations.

I can remember so well the last set of community forums this fall in North Dakota, in a small town, and the people who were embarrassed to speak up in front of others stopped me after the meeting with tears in their eyes and told me they were about to lose the farm that had been in their family through generations and they told me, you know, our father's father started this farm. Our father farmed it for 40 years. Now we have farmed it for 30 years, and it is about to be lost.

Is it being lost because these people were not good managers? Is it being lost because these people bought fancy machinery as we hear talked about so much? Is it being lost because these people built a big, fancy new house? Is it being lost because they took trips that were extravagant?

No, Mr. President. I happen to know this family. It is being lost because of a set of economic policies out of Washington that have doomed those people to failure and now we are saying absent a policy change that we are going to doom thousands more to economic failure.

Mr. President, the Congressional Budget Office says it all. Their report to the Congress says if there are no cuts in agriculture, no cuts, in the next 5 years we will see a 21-percent reduction in net farm income. It is not my estimate. That is the estimate of the Congressional Budget Office. That is with no cuts. And we are talking about a cut of 24 percent and when one factors in inflation a cut of 41 percent, and we are talking about potentially driving 500,000 farmers off the land in this country, one in four that is currently there.

Mr. President, I indicated that will be our fate absent a policy change. Some may say to me, "Well, Senator, you voted for the budget resolution. Why did you do that knowing what you know?"

Very simply, Mr. President, if we did not get a budget, we were faced with budget sequester. In that case we would have faced a 40-percent cut now, this year. That would have been a $4 billion cut for agriculture this year. That would have been intolerable in the circumstances that we face.

Mr. President, I also voted for that budget resolution because there is an opportunity here to change policy. There is an opportunity here to avoid forcing more farm families off the land.

I sent a letter to the chairman of the Agriculture Committee today in which I outlined a policy that would avoid the kind of farm failures we will see unless there is a policy change.

I ask unanimous consent that my letter to the chairman of the Agriculture Committee be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, October 11, 1990.
Hon. PATRICK LEAHY,
Chairman, Committee on Agriculture, Nutrition, and Forestry, Russell Senate Building, Washington, DC.

DEAR MR. CHAIRMAN: The cut in the budget for agricultural commodity programs by $13 billion will impose a serious hardship on family farmers producing milk, grains, cotton, and rice. These cuts come on top of reductions of 20 to 25%, in real terms, legislated by both the House and Senate in the farm bills now in conference. In total, family farmers are being asked to take a 40 to 50% real cut in their supports at a time when only 49% of them have a "favorable" financial status according to USDA.

While farm income has risen to more normal levels in the past two years, the Congressional Budget Office forecast of farm income for 1990 through 1995 shows a sharp decline under frozen support levels. Since that forecast, energy costs have risen sharply and the agricultural budget for 1991 through 1995 will be reduced by 24%. The additional energy costs plus the proposed farm program cuts will reduce real net farm income by one-fourth to one-third by 1995.

In short, the rise in production costs and sharp reduction in support will put the farm economy into a serious recession by 1995. Only careful action on your part can prevent a return to the 1980s farm recession.

I urge you to do all that is possible to minimize the impact of the $13 billion in reductions on farm income. One way to do so for wheat producing states is to enact a modified triple-base (MTB).

A modified triple-base would provide more farm income stabilization and support that a pure triple-base while still retaining the strong market orientation and budget savings aspects of a pure triple-base program.

Enclosed are two attachments, one describing the modified triple-base program and the second graphically summarizing a CBO analysis of the program for the 1988 through 1992 crop years.

It is absolutely critical that the Conference Committee do all that is possible to minimize the effects on family farmers of the massive reductions imposed on agriculture. In my state, wheat producers face a 25 to 50% reduction in net income. Like farmers in Kansas, Oklahoma, and other plains states, alternatives to wheat are sharply limited unless vast new markets emerge for safflower, flax, canola, and other dry land crops.

Thank you for your cooperation.

Sincerely,

KENT CONRAD,
U.S. Senate.

Enclosures.

[Chart not reproducible in the RECORD.]

MODIFIED TRIPLE-BASE PROGRAM

Goals: The Modified Triple-Base program was designed to meet the following goals in the face of highly subsidized overproduction by the European Community.

Raise and stabilize farm income.

Reduce federal budget outlays.

Make farmers more responsive to the market and allow them more flexibility.

Increase export earnings.

Reduce and keep stocks low.

Based on a CBO analysis in 1987, the program clearly meets all of these goals. An analysis by FAPRI gave similar results.

Market Orientation: One-third of each producers wheat base in terms of yield and acreage is unpaid. Farmers are free to grow wheat or any other crop for the prevailing price.

Income Stability: Approximately one-third of domestic wheat production is used for food. Producers are allocated a number of bushels to deliver to an agent of CCC for resale to food processors and millers at a fixed price ($4.90 per bushel). Canada, Australia, and some other nations employ such a device to stabilize internal prices at a fair level for producers.

An additional one-third of wheat production is allocated to producers for coverage under an export marketing loan set at approximately $4.25 per bushel.

The producer delivers his grain to an agent of CCC for export much as Canadian farmers deliver wheat to an agent of the Canadian Wheat Board for an export pool. CCC makes up the difference between the world price and the marketing loan level.

Limited Budget Exposure: The only cost to the program is the support for the marketing loan on about 750 million bushels. Given current price expectations under such a program, wheat program costs would not exceed $1 billion, about half of the costs currently projected by CBO. This program, if adopted, would save $1 to $1.5 billion per year ($5 to $7.5 billion over five years) in wheat program costs.

Consumer Impact: The farmers' share of the consumer food dollar in wheat and cereal products is below 10% and has fallen sharply in the 1980s. This program would restore a small portion of that at little cost to the consumer—about one penny on a loaf of bread or pound of pasta.

Trade: Currently, Canada prohibits all U.S. exports of wheat to that country under a domestic wheat program similar to that suggested here. We have the authority under Section 22 to limit Canadian imports even under the U.S.-Canadian Free-Trade Agreement. This program would have less impact on trade than the current program because, at the margin, farmers face the world price for wheat.

Administration: Over the past decade, USDA and the CCC has taken an increasingly central role in the grain trade—storing and transporting massive amounts of grain, holding various types of grain auctions, subsidizing exports, deciding when and how much grain should be released to the market—and, in effect, acting like a grain board with no farmer control as in Canada and Australia. None of the administrative tasks required by this program would be out of the ordinary for CCC and USDA.

Mr. CONRAD. Mr. President, we face a critical time in agriculture. These charts make clear the financial pressures that are out there now, and the deepening crisis we will confront unless we are wise enough to chart a different course.

I hope my colleagues will pay attention. I hope they will understand how serious this threat is. And I hope they will understand that it just is not the farm families who are at stake; it is the whole structure of American agriculture.

We will rue the day in this country if we allow, what has been an American success story, to flounder.

Tomorrow I am going to speak on the question of the GATT negotiations and the administration's proposal in the GATT negotiations, the General Agreement on Tariffs and Trade, with respect to agriculture, and how that fits into a whole question of agriculture policy in this country, and what is at stake for American agriculture and, beyond that, what is at stake for every consumer in this country. Because the fact is that American agriculture has been an incredible success story: the lowest cost of food in world history, the most plentiful and stable supplies of food anywhere in the world.

Mr. President, all of that is at risk if we fail to make wise policy choices now. That is the test, and that will be a test that we must pass for me to cast my vote in favor of budget reconciliation. I will not be alone in that. Other members of the farm community who understand full well what is at stake will also have their votes at stake. What is critically important, is for people to understand that agriculture is about to face the most serious financial threat that we have faced in decades. Now is the time to make very wise choices.

With that, Mr. President, I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that I be permitted to proceed as if in morning business for a period not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. JEFFORDS pertaining to the introduction of S. 3186 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. JEFFORDS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 2950

Mr. HOLLINGS. Mr. President, on behalf of the Senator from Tennessee [Mr. GORE] I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. GORE, proposes an amendment numbered 2950.

On page 51 before the colon on line 11 insert ", and of which $350,000 may be available for the purpose of preparations for the

1992 United Nations Conference on Environment and Development".

Mr. HOLLINGS. Mr. President, this does not have any 302(b) budgetary impact. It has been cleared on both sides. I urge the adoption of the amendment.

The ACTING PRESIDENT pro tempore. Is there further debate? There being no further debate, the question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (No. 2950) was agreed to.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I ask unanimous consent to proceed for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maryland is recognized.

Ms. MIKULSKI. I thank the Chair.

(The remarks of Ms. MIKULSKI pertaining to the introduction of Senate Joint Resolution 379 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GORE. Mr. President, I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I would like to congratulate Senators HOLLINGS and RUDMAN for their splendid work in producing this appropriations bill. The bill provides critical funding for the Department of State, the U.S. Information Agency, and the Board for International Broadcasting. Most important, it provides full funding for our assessed contributions to the United Nations and makes a significant down payment toward paying back our past arrearages. At last we are on the road to ending our deadbeat status. I also commend President Bush and Secretary Baker for their personal commitment and strongly stated arguments in favor of paying our U.N. dues and arrearages.

Further, I would note that the committee report contains language that some might construe as urging the destruction and rebuilding of our new embassy building in Moscow. The Foreign Relations Committee on a 16-0 vote has directed that the new office building be completed and used for unclassified purposes. The administration obviously cannot proceed with any option until the Congress has provided the necessary legislative authority. Such legislative authority has not been provided and will only be provided with the passage of specific authorization legislation disposing of the Moscow Embassy issue. We have been assured by Under Secretary Ivan Selin that no action on the Moscow Embassy will be taken without the expressed approval of both Appropriations Committees and both authorization committees. Thus, any report language in support of tearing down the Moscow Embassy cannot result in any action.

Finally, I would note that passage of this bill marks the end of Warren Kane's 20-year service with the U.S. Senate. Warren has always been professional, helpful, and unfailingly courteous. Both I and the staff of the Foreign Relations Committee will miss him and wish him well.

COMPLETING THE MOSCOW EMBASSY

Mr. MOYNIHAN. Mr. President, some 4 months ago the Department of State approached the Committee on Foreign Relations with a proposal and a request. The Department proposed tearing down the existing new bug-ridden embassy building in Moscow, replacing it and building additional space at the staggering cost of $270 million. The request, quite properly, was for a statutory authorization for this plan. At the administration's request Chairman PELL included the $270 million in the chairman's mark and brought the request to the committee. In testimony before the committee on May 23, Under Secretary of State Ivan Selin explained that the State Department felt that it was absolutely essential to obtain an authorization for this program from the Committee on Foreign Relations:

> [W]e are seeking an authorization of $270 million so that we can seek the appropriation to let us begin construction properly. * * * [W]e are trying to use the authorization process the way it is intended. It is not an annual amount of money that is coming up. We are supposed to identify programs and when we have the data come up to the Senate and the House, discuss them fully, have them vetted, have them agreed, and go ahead. * * * [B]ut we were not going to ask for authorization until we had all our ducks in order.

That, is I said, was very much the proper way to proceed.

The problem was that the Committee on Foreign Relations disagreed with the Department's plan. Disagreed overwhelmingly. By a vote of 16 to 0, the committee rejected the request in its entirety and voted instead for an alternative offered by this Senator to authorize $50 to complete the existing building and build additional secure space. To repeat, the State Department could not find a single supporting voice on the Committee on Foreign Relations. The rejection of the request was completely bipartisan. And devastatingly complete.

It is, therefore, somewhat of a surprise to learn that the Appropriations Committee has extended an invitation to the Department to use $10 million of already appropriated funds to begin the process of tearing down the Moscow Embassy. That invitation does not appear anywhere in the bill before the Senate. It is contained solely in committee report language, which states:

> MOSCOW EMBASSY OFFICE BUILDING
>
> The Committee carefully considered the administration request for $270,000,000 to complete the new office building project in Moscow. It continues to believe that it is vital for this project to proceed expeditiously, and that the administration's decision to dismantle the existing unsecure shell to the ground level and rebuild on the same site is the most prudent and most timely alternative. Unfortunately, given the extremely tight fiscal year 1991 funding situation, no new funds are available for this purpose. The Committee has, however, made available up to $10,000,000 to cover initial costs associated with the dismantle/reconstruct approach. We urge the administration to continue to pursue resolution of this important matter; they and the Congress must work together so that the issue can be settled once and for all and a coherent funding plan adopted in conjunction with the fiscal year 1992 budget.

The committee report does not mention the fact that the administration's request had already been overwhelmingly rejected by the authorizing committee. I note, however, and heartily agree with the statement that the administration and the Congress "must work together so that the issue can be settled once and for all * * *." In so stating, the Appropriations Committee clearly recognizes that this issue is still unresolved. The Congress has not endorsed any plan to tear down the new embassy building.

Indeed, it should be absolutely clear to the Department of State that the Committee on Foreign Relations has no intention of authorizing a completely new building on the foundations of the existing structure. Therefore, this $10 million would be wasted if devoted to implementing such a plan.

The basis for the Committee on Foreign Relations' decision was obvious from Secretary Selin's testimony. He told the committee, quoting from the printed transcript of the hearings.

> We could in fact salvage the existing building. * * * [A]s flawed as this building is, it has several advantages. It has a foundation that is perfectly adequate. It has utilities that are perfectly adequate. * * * (p. 4)
>
> It bothers me at least as much as it bothers you, Mr. Chairman, to tear down a building—it is not a terrific building, but it is an adequate building. * * * (p. 5)

> I am probably twice as dismayed as you are at the thought of tearing down a reasonably good building. * * * (p. 23)
>
> There is a strong intuitive feeling that it is wasteful to tear down the perfectly good structure. (p. 26)

Thus, we can say that the Department of State wants to tear down a building which the Department itself describes as:

> "not * * * terrific, but * * * adequate";
> "a reasonably good building"; and,
> a "perfectly good structure".

Secretary Selin also conceded that the United States was going to have a tremendous need for space for unclassified activities in Moscow in the coming years:

> [W]e do not expect [the need for secure space] to grow in very large degree over the next few years, whereas the unclassified space needs will continue to grow over the next decade.

Therefore, it is difficult to understand why this building could not be completed and used for unclassified purposes.

He also told that committee that he could not guarantee—even if the Department of State received all of the money it had requested—that the foundation of a new embassy would be secure:

> We cannot protect the foundation. We cannot protect this one. If we build a new building, we cannot protect the new foundation. * * * It is too easy to tunnel into it.

He maintained that the Department could deal with this problem, but Senator MURKOWSKI—a member of the Select Committee on Intelligence—sharply questioned this assertion during the committee markup and cited this problem as his basis for rejecting the administration's request for a new building. In short, why tear down the existing structure if the Department cannot be sure that the new building will be any better from a security point of view.

Even at the time of the hearing, the committee's disagreement was clear. The chairman stated:

> I personally believe that tearing down the nearly complete new office building would be a dreadful waste of money. It seems to me that the new office building could be finished and used as unclassified office space.

Senator SIMON stated:

> I share the Senator from North Carolina's unease on the Moscow building situation, and I think we ought to be exploring other options before we tear down a building and build something else. Dwayne Andreas of ADM has suggested using it as a trade center. * * * [I]t seems to me we have found an awfully expensive option in tearing down this whole thing and building another building.

Mr. President, I believe that the authorizing committee has spoken. The State Department asked for an authorization to build a new embassy; it did not receive one. I believe that the Department of State is not authorized to proceed with this project, notwithstanding any language in the report accompanying this bill.

I understand that the chairman of the Committee on Foreign Relations, the distinguished Senator from Rhode Island [Mr. PELL] has been assured by Undersecretary Selin that the Department of State will take no action to implement any plan concerning the Moscow Embassy without the approval of all for relevant congressional committees: the Senate Foreign Relations Committee, the House Foreign Affairs Committee and the two appropriations committees. Is that correct?

Mr. PELL. The Senator from New York is correct in that my staff was assured so this very morning.

Mr. MOYNIHAN. Mr. President, I also note that the actual language of the bill before the Senate—as opposed to the committee report—does not purport to provide the Department of State with any new funds for this purpose or, significantly, any new authorization to tear down the Moscow Embassy. I have been informed by representatives of the Department of State that in order for the Department to use any of the $10,000,000 mentioned in this appropriations bill for the purpose of implementing a plan to tear down the Embassy would require reprogramming of already authorized funds. That reprogramming would require the approval of the Committee on Foreign Relations. Is that the understanding of the chairman of the Committee on Foreign Relations?

Mr. PELL. That is indeed my understanding. I think that the Senator from New York has raised a most important point: the Department of State is not able to move forward to implement any decision on the Moscow Embassy without the consent of the Committee on Foreign Relations. It is my understanding that nothing in the bill before the Senate today changes that situation in any way.

Mr. MOYNIHAN. I thank the distinguished Senator, and I do urge the administration to continue to work with the Committee on Foreign Relations, as with the other relevant committees, to reach an acceptable solution to this problem. As yet, it is most definitely unresolved.

GROSS NATIONAL PRODUCT AND ENVIRONMENTAL ACCOUNTING

Mr. KASTEN. Mr. President, in last year's appropriations the conferees to this appropriations bill wisely added report language calling on the Secretary of Commerce to:

> * * * participate fully in international efforts to develop standardized techniques for calculating national income accounts that recognize the negative impact that degradation of natural resources can have on long term economic development * * * (and) seek to adopt the use of such standards and make an annual calculation of Gross Sustainable Productivity in the U.S. to be issued in conjunction with the release of annual Gross National Product figures.

This is a very important initiative and we want the Commerce Department to continue these efforts to prepare better measures of sustainable economic well-being. These new measures are very important because the typical calculation of gross national product does not take into account the serious consequences of rapid depletion of vital natural resources such as forests and soil. Yet the loss of such resources can undermine the economic future of countries around the world.

It is important for the United States to be a leader in this initiative. The Department still has a long way to go in preparing an annual calculation of gross sustainable productivity, but I believe that we should offer continued encouragement for progress to be made.

Mr. HOLLINGS. Mr. President, we have worked out this consent agreement on both sides. It has been hotlined.

UNANIMOUS-CONSENT AGREEMENT

Mr. HOLLINGS. Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 765, S. 1025, the Magnuson fisheries reauthorization bill, following third reading of H.R. 5021, the State, Justice, and Commerce appropriations bill, and that it be considered under the following time limitation:

That the only amendments in order, other than the committee reported substitute and title amendment be the following: 40 minutes on a Hollings-Stevens amendment, the time to be equally divided and controlled between Senators HOLLINGS and STEVENS or their designees; 20 minutes on a Biden tuna labeling amendment, the time to be equally controlled and divided between Senators BIDEN and BREAUX or their designees; that any time for debate on the bill come from the time on the Hollings-Stevens amendment; that when all time is used or yielded back, the Senate proceed to disposition of the amendments, and without any intervening action or debate to third reading, after third reading that the Commerce Committee be discharged from further consideration of H.R. 2061, the House companion, and that the Senate proceed to its immediate consideration; that all after the enacting clause be stricken, and the text of S. 1025, as amended, be inserted in lieu thereof, that H.R. 2061 be advanced to third reading and passage of H.R. 2061, followed by a vote on H.R. 5021.

Mr. President, I further ask unanimous consent that no motion to recommit be in order, that no points of

order be waived by this agreement; and that no further amendments be in order to H.R. 5021, the State, Justice, Commerce appropriations bill.

Mr. STEVENS. Mr. President, reserving the right to object, and I shall not object. All of us are grateful to the Senator from South Carolina for his usual patience in clearing a bill that really was not one that should be added to the State, Justice, Commerce appropriations bill; but through this procedure, we have now cleared another bill that comes from the Senator's Commerce Committee, a bill we all very much want to see enacted.

On our side, this matter has been cleared by Senator GORTON who raised the issue, along with Senators HELMS, LOTT, COHEN, ROTH, MURKOWSKI, DANFORTH, and myself and, as I stated, we are most grateful to the Senator from South Carolina for his patience. We have no objection.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request as stated by the Senator from South Carolina?

Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays on final passage of the State, Justice, Commerce bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays on final passage of S. 1025.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

COMMERCE, JUSTICE, STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1991

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

FISHERY CONSERVATION AMENDMENTS OF 1990

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 1025.

The clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 1025) to authorize appropriations to carry out the Magnuson Fishery Conservation and Management Act for fiscal years 1990, 1991, and 1992, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) SHORT TITLE.—The Act may be cited as the "Fishery Conservation Amendments of 1990".

(b) TABLE OF CONTENTS.—

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TITLE I—AMENDMENTS TO MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

FINDINGS, PURPOSES, AND POLICY

SEC. 101. (a) FINDINGS.—Section 2(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(a)) is amended by adding at the end the following new paragraph:

"(8) The collection of reliable data is essential to the effective conservation, management, and scientific understanding of the fishery resources of the United States.".

(b) PURPOSES.—(1) section 2(b)(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(b)(1)) is amended by striking "except highly migratory species".

(2) Section 2(b)(5) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(b)(5)) is amended by striking "prepare, monitor, and revise" and inserting in lieu thereof "exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of".

(c) POLICY.—Section 2(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(c)) is amended—

(1) in paragraph (3) by inserting "considers the effects of fishing on immature fish and encourages development of measures that avoid unnecessary waste of fish;" immediately after "and enforcement;"

(2) by striking "and" at the end of paragraph (4);

(3) by striking the period at the end of paragraph (5) and inserting in lieu thereof ", and to secure agreement on a permanent ban on the use of indiscriminate and destructive fishing practices by vessels or persons fishing beyond the exclusive economic zones of any nation; and"; and

(4) by adding at the end the following new paragraph:

"(6) to foster and maintain the diversity of fisheries in the United States, and to minimize disruptions and dislocations in those fisheries upon which coastal communities are substantially dependent to meet their social and economic needs.".

DEFINITIONS

SEC. 102. Section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802) is amended—

(1) by redesignating paragraphs (6) through (16) as paragraphs (7) through (17), respectively, by redesignating paragraph (17) as paragraph (19), by redesignating paragraphs (18) through (23) as paragraphs (21) through (26), respectively, and by redesignating paragraphs (24) through (27) as paragraphs (28) through (31), respectively;

(2) by inserting immediately after paragraph (5) the following new paragraph:

"(6) The term "driftnet fishing" means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of one and one-half miles or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.";

(3) in paragraph (8), as so redesignated, by striking ", birds, and highly migratory spe-

cies" and inserting in lieu thereof "and birds";

(4) by amending paragraph (15), as so redesignated, to read as follows:

"(15) The term 'highly migratory species' means tuna species, marlin (Tetrapturus spp. and Makaira spp.), oceanic sharks, sailfishes (Istiophorus spp.), and swordfish (Xiphias gladius).";

(5) by inserting immediately after paragraph (17), as so redesignated, the following new paragraph:

"(18) The term 'migratory range' means the maximum area at a given time of the year within which fish of an anadromous species or stock thereof can be expected to be found, as determined on the basis of scale pattern analysis, tagging studies, or other reliable scientific information, except that the term does not include any part of such area which is in the waters of a foreign nation.";

(6) by inserting immediately after paragraph (19), as so redesignated, the following new paragraph:

"(20) The term 'observer' means any person required or authorized to be carried on a vessel for conservation and managment purposes by regulations or permits under this Act.";

(7) by inserting immediately after paragraph (26), as so redesignated, the following new paragraph:

"(27) The term 'tuna species' means the following:

"Albacore Tuna—Thunnus alalunga;

"Bigeye Tuna—Thunnus obesus;

"Bluefin Tuna—Thunnus thynnus;

"Skipjack Tuna—Katsuwonus pelamis; and

"Yellowfin Tuna—Thunnus albacares."; and

(8) by adding at the end the following new paragraph:

"(32) The term 'waters of a foreign nation' means any part of the territorial sea or exclusive economic zone (or the equivalent) of a foreign nation, to the extent such territorial sea or exclusive economic zone is recognized by the United States.".

(b) CONFORMING AMENDMENT.—Section 101(b)(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1811(b)(1) is amended by striking "any foreign nation's" and all that follows and inserting in lieu thereof "any waters of a foreign nation.".

AUTHORITY WITH RESPECT TO HIGHLY MIGRATORY SPECIES

SEC. 103. (a) GENERAL.—Section 102 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1812) is amended to read as follows:

"SEC. 102. HIGHLY MIGRATORY SPECIES.

"The United States shall cooperate directly or through appropriate international organizations with those nations involved in fisheries for highly migratory species with a view to ensuring conservation and promoting the objective of optimum utilization of such species throughout their range, both within and beyond the exclusive economic zone.".

(b) CONFORMING AMENDMENT.—The entry for section 102 of the Magnuson Fishery Conservation and Management Act is amended to read as follows:

"Sec. 102. Highly migratory species.".

FOREIGN FISHING

SEC. 104. Subsection (d) of section 201 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1821) is amended to read as follows:

"(d) TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING.—The total allowable level of foreign fishing, if any, with respect to any fishery subject to the exclusive fishery management authority of the United States, shall be that portion of the optimum yield of such fishery which will not be harvested by vessels of the United States, as determined in accordance with this Act.".

EXISTING INTERNATIONAL FISHERY AGREEMENTS

SEC. 105. Section 202 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1822) is amended by redesignating subsection (e) as subsection (f) and by inserting immediately after subsection (d) the following new subsection:

"(e) HIGHLY MIGRATORY SPECIES AGREEMENTS.—

"(1) EVALUATION.—The Secretary of State, in cooperation with the Secretary, shall evaluate the effectiveness of each existing international fishery agreement which pertains to fishing for highly migratory species. Such evaluation shall consider whether the agreement provides for—

"(A) the collection and analysis of necessary information for effectively managing the fishery, including but not limited to information about the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the catch and bycatch levels in the fishery, and the present and probable future condition of any stock of fish involved;

"(B) the establishment of measures applicable to the fishery which are necessary and appropriate for the conservation and management of the fishery resource involved;

"(C) equitable arrangements which provide fishing vessels of the United States with (i) access to the highly migratory species that are the subject of the agreement and (ii) a portion of the allowable catch that reflects the traditional participation by such vessels in the fishery;

"(D) effective enforcement of conservation and management measures and access arrangements throughout the area of jurisdiction; and

"(E) sufficient and dependable funding to implement the provisions of the agreement, based on reasonable assessments of the benefits derived by participating nations.

"(2) REPORT.—The Secretary of State shall, within 12 months after the date of enactment of this subsection, report to the Congress on the results of the evaluation required under paragraph (1), together with recommendations for addressing any inadequacies identified.

"(3) NEGOTIATION.—The Secretary of State, in consultation with the Secretary, shall undertake such negotiations with respect to international fishery agreements on highly migratory species as are necessary to correct inadequacies identified as a result of the evaluation conducted under paragraph (1).".

PERMITS FOR FOREIGN FISHING

SEC. 106. (a) FEES.—Section 204(b)(10) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(10)) is amended to read as follows:

"(10) FEES.—

"(A) Fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit has been issued pursuant to this section. The Secretary, in consultation with the Secretary of State, shall establish a schedule of reasonable fees that shall apply nondiscriminatorily to each foreign nation.

"(B) Amounts collected by the Secretary under this paragraph shall be deposited in the general fund of the Treasury.".

(b) SANCTIONS.—Section 204(b)(12) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(12)) is repealed.

DRIFTNET FISHING

SEC. 107. (a) GENERAL.—Section 206 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1826) is amended to read as follows:

"SEC. 206. DRIFTNET FISHING.

"(a) SHORT TITLE.—This section incorporates and expands upon provisions of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 and may be cited as the 'Driftnet Act Amendments of 1990'.

"(b) FINDINGS.—The Congress finds that—

"(1) the continued widespread use of long driftnets beyond the exclusive economic zone of any nation is an indiscriminate and wasteful fishing method that poses a threat to living marine resources of the world's oceans and in particular the South and North Pacific, including the Bering Sea;

"(2) there is a pressing need for detailed and reliable information on the number of seabirds, sea turtles, nontarget fish, and marine mammals that become entangled and die in actively fished driftnets and in driftnets that are lost, abandoned, or discarded;

"(3) increased efforts, including reliable observer data and enforcement mechanisms, are needed to monitor, assess, control, and reduce the adverse impact of driftnet fishing on living marine resources;

"(4) the nations of the world have agreed in the United Nations, through General Assembly Resolution Numbered 44-225, approved December 22, 1989, by the General Assembly, that a moratorium should be imposed by June 30, 1992, on the use of driftnets beyond the exclusive economic zone of any nation;

"(5) the nations of the South Pacific have agreed to a moratorium on the use of long driftnets in the South Pacific through the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, which was agreed to in Wellington, New Zealand, on November 29, 1989; and

"(6) increasing population pressures and new knowledge of the importance of living marine resources to the health of the global ecosystem demand that greater responsibility be exercised by persons fishing beyond the exclusive economic zone of any nation.

"(c) POLICY.—It is declared to be the policy of the Congress in this section that the United States should—

"(1) implement the moratorium called for by the United Nations General Assembly in Resolution Numbered 44-225;

"(2) support the Wellington Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific; and

"(3) secure a permanent ban on the use of indiscriminate and wasteful fishing practices, such as driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

"(d) DEFINITION.—As used in this section, the term 'living marine resources' includes fish, marine mammals, sea turtles, and seabirds and other waterfowl.

"(e) MONITORING AND ENFORCEMENT AGREEMENTS.—The Secretary, through the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall seek to secure international agreements to implement the findings, policy, and provisions of this section. The Secretary, through the Secretary of State, shall include, in any agreement which addresses the taking of living marine resources of the United States, provisions to ensure that—

"(1) each driftnet fishing vessel of a foreign nation that is party to the agreement, which operates beyond the exclusive economic zone of any nation, is equipped with satellite transmitters which provide real-time position information accessible to the United States;

"(2) statistically reliable monitoring by the United States is carried out, through the use of on-board observers or through dedicated platforms provided by foreign nations that are parties to the agreement, of all target and nontarget fish species, marine mammals, sea turtles, and sea birds entangled or killed by driftnets used by fishing vessels of foreign nations that are parties to the agreement;

"(3) officials of the United States have the right to board and inspect for violations of the agreement any driftnet fishing vessels operating under the flag of a foreign nation that is party to the agreement at any time while such vessel is operating in designated areas beyond the exclusive economic zone of any nation;

"(4) all catch landed or transshipped at sea by driftnet fishing vessels of a foreign nation that is a party to the agreement, and which are operated beyond the exclusive economic zone of any nation, is reliably monitored and documented;

"(5) time and area restrictions are imposed on the use of driftnets in order to prevent interception of anadromous species;

"(6) all driftnets used are constructed, insofar as feasible, with biodegradable materials which break into segments that do not represent a threat to living marine resources;

"(7) all driftnets are marked at appropriate intervals in a manner that conclusively identifies the vessel and flag nation responsible for each such driftnet;

"(8) the taking of nontarget fish species, marine mammals, sea turtles, seabirds, and endangered species or other species protected by international agreements to which the United States is a party is minimized and does not pose a threat to existing fisheries or the long-term health of living marine resources; and

"(9) definitive steps are agreed upon to ensure that parties to the agreement comply with the spirit of other international agreements and resolutions concerning the use of driftnets beyond the exclusive economic zone of any nation.

"(f) REPORT.—Not later than January 1, 1991, and every year thereafter until the purposes of this section are met, the Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report—

"(1) describing the steps taken to carry out the purposes of this section, and in particular subsection (b) of this section;

"(2) evaluating the progress of those efforts, the impacts on living marine resources, including available observer data, and specifying plans for further action;

"(3) identifying and evaluating the effectiveness of unilateral measures and multilateral measures, including sanctions, that are available to encourage nations to agree to and comply with this section, and recommendations for legislation to authorize any additional measures that are needed if those are considered ineffective;

"(4) identifying, evaluating, and making any recommendations considered necessary to improve the effectiveness of the law, policy, and procedures governing enforcement of the exclusive management authority of the United States over anadromous species against fishing vessels engaged in fishing beyond the exclusive economic zone of any nation; and

"(5) a list of the nations that conduct, or authorize their nationals to conduct, driftnet fishing beyond the exclusive economic zone of any nation in a manner that diminishes the effectiveness of or is inconsistent with any international agreement governing driftnet fishing to which the United States is a party or otherwise subscribes.

"(g) CERTIFICATION.—If at any time the Secretary, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, identifies any nation that warrants inclusion in the list described under subsection (f)(5), the Secretary shall certify that fact to the President. Such certification shall be deemed to be a certification for the purposes of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)).

"(h) EFFECT ON SOVEREIGN RIGHTS.—This section shall not serve or be construed to expand or diminish the sovereign rights of the United States, as stated by Presidential Proclamation Numbered 5030, dated March 10, 1983, and reflected in this Act or other existing law.".

"(b) CONFORMING AMENDMENT.—The entry for section 206 of the Magnuson Fishery Conservation and Management Act is amended to read as follows:

"Sec. 206. Driftnet fishing.".

REGIONAL COUNCILS

SEC. 108. (a) AUTHORITY OVER CERTAIN FISHERIES.—Section 302(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(a)) is amended by inserting "(except as provided in section 304(f)(3))" immediately before the period at the end of the first sentence in each of paragraphs (1) through (5).

(b) MEMBERS' QUALIFICATIONS.—Paragraph (2) of section 302(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)) is amended to read as follows:

"(2)(A) The members of each Council required to be appointed by the Secretary must be individuals who, by reason of their occupational or other experience, scientific expertise, or training, are knowledgeable regarding the conservation and management, or the commercial or recreational harvest, of the fishery resources of the geographical area concerned. Within nine months after the date of enactment of the Fishery Conservation Amendments of 1990, the Secretary shall, by regulation, prescribe criteria for determining whether an individual satisfies the requirements of this subparagraph.

"(B) The Secretary, in making appointments under this section, shall, to the extent practicable, ensure a fair and balanced apportionment, on a rotating or other basis, of the active participants (or their representatives) in the commercial and recreational fisheries under the jurisdiction of the Council. On January 31, 1991, and each year thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on the actions taken by the Secretary to ensure that such fair and balanced apportionment is achieved. The report shall—

"(i) list the fisheries under the jurisdiction of each Council, outlining for each fishery the type and quantity of fish harvested, fishing and processing methods employed, the number of participants, the duration and range of the fishery, and other distinguishing characteristics;

"(ii) assess the membership of each Council in terms of the apportionment of the active participants in each such fishery; and

"(iii) state the Secretary's plans and schedule for actions to achieve a fair and balanced apportionment on the Council for the active participants in any such fishery.

"(C) The Secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State. A Governor may not submit the names of individuals to the Secretary for appointment unless the Governor has determined that each such individual is qualified under the requirements of subparagraph (A) and unless the Governor has, to the extent practicable, first consulted with representatives of the commercial and recreational fishing interests of the State regarding those individuals. Each such list shall include the names and pertinent biographical data of not less than three individuals for each applicable vacancy and shall be accompanied by a statement by the Governor explaining how each such individual meets the requirements of subparagraph (A). The Secretary shall review each list submitted by a Governor to ascertain if the individuals on the list are qualified for the vacancy on the basis of such requirements. If the Secretary determines that any individual is not qualified, the Secretary shall notify the appropriate Governor of that determination. The Governor shall then submit a revised list or resubmit the original list with an additional explanation of the qualifications of the individual in question. An individual is not eligible for appointment by the Secretary until that individual complies with the applicable financial disclosure requirements under subsection (k).

"(D) Whenever the Secretary makes an appointment to a Council, the Secretary shall make a public announcement of such appointment not less than 45 days before the first day on which the individual is to take office as a member of the Council.".

(c) LIMITATION ON TERMS OF VOTING MEMBERS.—Section 302(b)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)(3)) is amended by adding at the end the following new sentence: "After January 1, 1988, no member may serve more than three consecutive terms. Any term completed prior to January 1, 1988, shall not be counted in determining the number of consecutive terms served by any Council member.".

(d) STAFF MEMBER REIMBURSEMENT.—Section 302(d) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(d)) is amended by inserting "and Council staff members" immediately after "other nonvoting members".

(e) TRANSACTION OF BUSINESS.—(1) Section 302(e)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(e)(3)) is amended by striking "in the geographical area concerned" and inserting in lieu thereof "at appropriate times and places in any of the constituent States of the Council".

(2) Section 302(e)(4) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(e)(4)) is amended by adding at the end the following new sentence: "The

regional director of the National Marine Fisheries Service serving on the Council, or the regional director's designee, shall submit such a statement, which shall be made available to the public upon request, if the regional director disagrees with any such matter.".

(f) Committees and Panels.—Section 302(g) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(g)) is amended by adding at the end the following new paragraph:

"(3) Decisions and recommendations made by committees and panels established under subsection shall be considered to be advisory in nature.".

(g) Council Functions.—Paragraphs (1) and (5) of section 302(h) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(h)) are each amended by inserting "(except as provided in section 304(f)(3))" immediately before "within its geographical".

(h) Fishery Habitat Concerns.—Section 302(i) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(i)) is amended to read as follows:

"(i) Fishing Habitat Concerns.—Each Council—

"(A) may comment on and make recommendations concerning any activity undertaken, or proposed to be undertaken, by any State or Federal agency that, in the view of the Council, may affect the habitat of a fishery resource under its jurisdiction; and

"(B) shall comment on and make recommendations concerning any such activity that, in the view of the Council, is likely to substantially affect the habitat of an anadromous fishery resource under its jurisdiction.

"(2) Within 45 days after receiving a comment or recommendation under paragraph (1) from a Council, a Federal agency shall provide a detailed response, in writing, to the Council regarding the matter. In the case of a comment or recommendation under paragraph (1)(B), the response shall include a description of measures being considered by the agency for mitigating or offsetting the impact of the activity on such habitat.".

(i) Closed Meetings.—Section 302(j)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(j)(3)) is amended—

(1) in subparagraph (A)—

(A) by striking the semicolon at the end of clause (ii) and all that follows through "time and place of the meeting." and inserting in lieu thereof a period; and

(B) by inserting "of paragraph (2)" immediately after "(D) and (F)"; and

(2) by adding at the end the following new subparagraph:

"(B) If any meeting or portion is closed, the Council concerned shall notify local newspapers in the major fishing ports within its region (and in other major, affected fishing ports), including in that notification the time and place of the meeting. This subpararaph does not require notification regarding any brief closure of a portion of a meeting in order to discuss employment or other internal administrative matters.".

(j) Consideration of New Information.—Section 302(j) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(j)) is amended by adding at the end the following new paragraph:

"(6) At any time when a Council determines it appropriate to consider new information from a State or Federal agency or from a Council advisory body, the Council shall give comparable consideration to new information offered at that time by interested members of the public. Interested parties shall have a reasonable opportunity to respond to new data or information before the Council takes final action on conservation and management measures.".

(k) Presentation of False Information.—Section 302 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852) is amended by adding at the end the following new subsection:

"(l) Presentation of False Information.—(1) Members of the Councils and all other persons who present oral or written statements to any Council regarding any matters before such Council for decision shall be subject to the provisions of section 1001 of title 18, United States Code.

"(2) The Secretary is authorized and directed to administer, to members of each Council and to other persons presenting oral statements to meetings of such Council, an oath that such members and other persons will testify, declare, depose, or certificate truly. All persons presenting such oral statements shall be subject to the provisions and penalties of section 1621 of title 18, United States Code.".

(l) Interim Management of Highly Migratory Species Fisheries.—Notwithstanding the amendments made by subsections (a) and (g), any fishery management plan or amendment which—

(1) addresses a highly migratory species fishery to which section 304(f)(3) of the Magnuson Fishery Conservation and Management Act (as amended by this Act) applies,

(2) was prepared by one or more Regional Fishery Management Councils, and

(3) was in force and effect on January 1, 1990,

shall remain in force and effect until superseded by a fishery management plan prepared by the Secretary, and regulations implementing that plan.

CONTENTS OF FISHERY MANAGEMENT PLANS

Sec. 109. (a) Required Data Collection and Gear.—Section 303(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(a)) is amended—

(1) in paragraph (1)(A) by inserting "to prevent overfishing, and to protect, restore, and promote the long-term health and stability of the fishery" immediately before the semicolon at the end;

(2) in paragraph (1)(C) by inserting "regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits)," immediately after "this Act,";

(3) by amending paragraph (6) to read as follows:

"(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;";

(4) by striking the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(5) by adding at the end the following new paragraphs:

"(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan; and

"(9) include a fishery impact statement, which shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on the participants in the fisheries affected by the plan or any amendment to the plan, if the plan or amendment is submitted to, or prepared by, the Secretary after the date of enactment of the Fishery Conservation Amendments of 1990.".

(b) Discretionary Provisions.—(1) Paragraph (1) of section 303(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(b)) is amended to read as follows:

"(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to—

"(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone or for anadromous species or Continental Shelf fishery resources beyond such zone;

"(B) the operator of any such vessel; or

"(C) any United States fish processor who first receives fish that are subject to the plan;".

(2) Section 303(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(b)) is amended by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively, and by inserting immediately after paragraph (6) the following new paragraphs:

"(7) require fish processors who first receive fish that are subject to the plan to submit data (other than economic data) which are necessary for the conservation and management of the fishery;

"(8) require that observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;".

(c) Confidentiality of Statistics.—Section 303(d) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(d)) is amended—

(1) in the matter preceding paragraph (1) by striking "subsection (a)(5)" and inserting in lieu thereof "subsections (a) and (b)";

(2) by striking "or" at the end of paragraph (1);

(3) by redesignating paragraph (2) as paragraph (3);

(4) by inserting immediately after paragraph (1) the following new paragraph;

"(2) to State employees pursuant to an agreement with the Secretary that prevents public disclosure of the identify or business of any person; or"; and

(5) by adding at the end the following new sentence: "Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Council or the Secretary of any statistic submitted in compliance with a requirement under subsection (a) or (b).".

ACTION BY SECRETARY OF FISHERY MANAGEMENT PLANS

Sec. 110. (a) Subsection (e) of section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) is amended to read as follows:

"(e) Fisheries Research.—(1) Within one year after the date of enactment of the Fishery Conservation Amendments of 1990, and at least every three years thereafter, the Secretary shall develop and publish in the Federal Register a strategic plan for fisheries research for the five years immediately following such publication. The plan shall—

"(A) identify and describe a comprehensive program with a limited number of priority objectives for research in each of the areas specified in paragraph (2); and

"(B) indicate the goals and timetables for the program described in subparagraph (A).

"(2) Areas of Research.—The areas of research referred to in paragraph (1) are as follows:

"(A) Research to support fishery conservation and management, including research on the economics of fisheries and biological research concerning the interdependence of fisheries or stocks of fish, the impact of pollution on fish populations, the impact of wetland and estuarine degradation, and other matters bearing upon the abundance and availability of fish.

"(B) Conservation engineering research, including the study of fish behavior and the development and testing of new gear technology and fishing techniques to minimize the harvest of nontarget species and promote efficient harvest of target species.

"(C) Information management research, including the development of a fishery information base and an information management system that will permit the full use of data in the support of effective fishery conservation and management.

"(3) In developing the plan required under paragraph (1), the Secretary shall consult with relevant Federal agencies, scientific and technical experts, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan. Upon final publication in the Federal Register, the plan shall be submitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.".

(b) Management of Highly Migratory Species Fisheries.—Section 304(f) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(f)) is amended—

(1) by striking "MISCELLANEOUS DUTIES" and inserting in lieu thereof "FISHERIES UNDER AUTHORITY OF MORE THAN ONE COUNCIL";

(2) in paragraph (1) by striking "If" and inserting in lieu thereof "Except as provided in paragraph (3), if"; and

(3) by adding at the end the following new paragraph:

"(3)(A) For the purposes of this paragraph, the term 'fishing for highly migratory species' means fishing for any highly migratory species that occurs in the exclusive economic zone and beyond and is the subject of a significant fishery within the exclusive economic zone.

"(B) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: the New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.

"(C) In accordance with the provisions of this Act and any other applicable law, the Secretary shall—

"(i) identify research and information priorities, including observer requirements and necessary data collection and analysis for the conservation and management of highly migratory species;

"(ii) prepare and amend fishery management plans with respect to highly migratory species fisheries to which this paragraph applies; and

"(iii) work with international entities, such as the International Commission for the Conservation of Atlantic Tunas, for the purpose of encouraging international fishery management measures with respect to fishing for highly migratory species.

"(D) Conservation and management measures included within any fishery management plan or amendment prepared under this paragraph shall—

"(i) be consistent with any applicable treaty or international agreement to which the United States is a party;

"(ii) not have the effect of increasing or decreasing any allocation or quota of fish provided to the United States under such treaty or agreement; and

"(iii) takes into account traditional fishing patterns of fishing vessels of the United States.

"(E) In implementing the provisions of this paragraph, the Secretary shall consult with—

"(i) the Secretary of State;

"(ii) commissioners and advisory and working groups appointed under Acts implementing relevant international agreements pertaining to fishing for highly migratory species; and

"(iii) appropriate Councils.".

(c) Temporary Moratorium.—Section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) is amended by adding at the end the following new subsection:

"(g) Temporary Moratorium.—(1) If the Secretary determines that overfishing in a fishery is likely to occur as a result of fishing by vessels in addition to those that have participated substantially in the fishery during the three-year period immediately preceding such determination, the Secretary may establish a moratorium that prohibits, as of the date of such determination, participation in the fishery by vessels that have not participated substantially in the fishery during such three-year period.

"(2) A moratorium established under paragraph (1) shall be in force and effect for 18 months and, if necessary, may be renewed for no longer than one additional 18-month period. The Secretary may cancel the moratorium prior to its expiration if a fishery management plan or amendment has been approved and implemented which includes conservation and management measures that the Secretary determines will prevent overfishing.

"(3) The Secretary shall, not later than 12 months after the date of enactment of this subsection, prescribe by regulation criteria for making a determination and establishing a moratorium under paragraph (1).".

IMPLEMENTATION OF FISHERY MANAGEMENT PLANS

Sec. 111. (a) Technical and Conforming Amendments.—(1) Section 305 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855) is amended—

(A) by redesignating subsections (c), (d), and (e) as subsections (a), (b), and (c), respectively; and

(B) by redesignating subsections (g) and (h) as subsections (d) and (e), respectively.

(2) Section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) is amended—

(A) in subsection (b)(1) by striking "305(c)" in the first sentence and inserting in lieu thereof "305(a)";

(B) in subsection (b)(3)(D) by striking "305(c)" and inserting in lieu thereof "305(a)"; and

(C) in subsection (c)(2)(B) by striking "305(c)" and inserting in lieu thereof "305(a)".

(b) Judicial Review of Certain Implementing Actions.—Section 305(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855(b)), as redesignated by subsection (a)(1)(A), is amended to read as follows:

"(b) Judicial Review.—(1) Regulations promulgated by the Secretary under this Act and actions described in paragraph (2) shall be subject to judicial review to the extent authorized by, and in accordance with, chapter 7 of title 5, United States Code, if a petition for such review is filed within 30 days after the date on which the regulations are promulgated or the action is published in the Federal Register, as applicable; except that—

"(A) section 705 of such title is not applicable, and

"(B) the appropriate court shall only set aside any such regulation or action on a ground specified in section 706(2)(A), (B), (C), or (D) of such title.

"(2) The actions referred to in paragraph (1) are actions that are taken by the Secretary under regulations which implement a fishery management plan, including but not limited to actions that establish the date of closure of a fishery to commercial or recreational fishing.

"(3)(A) Notwithstanding any other provision of law, the Secretary shall file a response to any petition filed in accordance with paragraph (1), not later than 30 days after the date the Secretary is served with that petition, except that the appropriate court may extend the period for filing such a response upon a showing by the Secretary of good cause for that extension.

"(B) A response of the Secretary under this paragraph shall include a copy of the administrative record for the regulations that are the subject of the petition.

"(4) Upon a motion by the person who files a petition under this subsection, the appropriate court shall assign the matter for hearing at the earliest possible date and shall expedite the matter in every possible way.".

STATE JURISDICTION

Sec. 112. Section 306(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1856(c)) is amended—

(1) in paragraph (1)(B) by inserting "and the application specifies the species to be processed" before the period at the end; and

(2) by striking paragraph (2) and inserting in lieu thereof the following:

"(2) The Governor of a State may not grant permission for a foreign fishing vessel to engage in fish processing under paragraph (1)—

"(A) for a fishery which occurs in the waters of more than one State or in the exclusive economic zone, except after—

"(i) consulting with the appropriate Council and Marine Fisheries Commission, and "(ii) considering any comments received from the Governor of any other State where the fishery occurs; and

"(B) if the Governor determines that fish processors within the State have adequate capacity, and will utilize such capacity, to process all of the United States harvested fish from the fishery concerned that are landed in the State.".

PROHIBITION OF CERTAIN ACTS

SEC. 113. (a) PROHIBITIONS WITH RESPECT TO THEFT, ASSAULT, AND DRIFTNET FISHING.—Section 307(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857(1)) is amended—

(1) by striking "or" at the end of subparagraph (I);

(2) by striking the period at the end of subparagraph (J) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(K) to knowingly steal, remove, damage, or tamper with—

"(i) fishing gear owned by another person, which is not lost or abandoned and is located in the exclusive economic zone, or

"(ii) fish contained in such fishing gear,

or to attempt to do so;

"(L) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any observer on a vessel under this Act;

"(M) to engage in driftnet fishing that is subject to the jurisdiction of the United States, including use of a fishing vessel of the United States to engage in such fishing beyond the exclusive economic zone of any nation; or

"(N) to strip pollock of its roe and discard the flesh of the pollock;".

(b) VIOLATION OF INTERNATIONAL FISHERY AGREEMENT.—Section 307 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857) is amended—

(1) in paragraph (3) by striking "; and" and inserting in lieu thereof a semicolon;

(2) in paragraph (4) by striking the period at the end and inserting in lieu thereof "; and;" and

(3) by adding at the end the following new paragraph:

"(5) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to engage in fishing in the waters of a foreign nation in a manner that violates an international fishery agreement between that nation and the United States that has been subject to Congressional oversight in the manner described in section 203, or any regulations issued to implement such an agreement; except that the binding provisions of such agreement and implementing regulations shall have been published in the Federal Register prior to such violation.".

CIVIL PENALTIES AND PERMIT SANCTIONS

SEC. 114. (a) INCREASED PENALTY; PERMIT SANCTIONS.—Section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858) is amended—

(1) in the section heading by inserting "AND PERMIT SANCTIONS" immediately after "CIVIL PENALTIES";

(2) in subsection (a) by striking "$25,000" in the second sentence and inserting in lieu thereof "$100,000"; and

(3) by adding at the end the following:

"(g) PERMIT SANCTIONS.—(1) In any case in which (A) a vessel has been used in the commission of an act prohibited under section 307, (B) the owner or operator of a vessel or any other person who has been issued or has applied for a permit under this Act has acted in violation of section 307, or (C) any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any fishery resource law statute enforced by the Secretary has not been paid and is overdue, the Secretary may—

"(i) revoke any permit issued with respect to such vessel or person, with or without prejudice to the issuance of subsequent permits;

"(ii) suspend such permit for a period of time considered by the Secretary to be appropriate;

"(iii) deny such permit; or

"(iv) impose additional conditions and restrictions on any permit issued to or applied for by such vessel or person under this Act and, with respect to foreign fishing vessels, on the approved application of the foreign nation involved and on any permit issued under that application.

"(2) In imposing a sanction under this subsection, the Secretary shall take into account—

"(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanctions is imposed; and

"(B) with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

"(3) Transfer of ownership of a vessel, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the time of transfer of ownership.

"(4) In the case of any permit that is suspended under this subsection for nonpayment of a civil penalty or criminal fine, the Secretary shall reinstate the permit upon payment of the penalty or fine and interest thereon at the prevailing rate.

"(5) No sanctions shall be imposed under this subsection unless there has been a prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this section or otherwise.".

(b) CONFORMING AMENDMENT.—The entry for section 308 of the Magnuson Fishery Conservation and Management Act is amended to read as follows:

"Sec. 308. Civil penalties and permit sanctions.".

CRIMINAL OFFENSES AND PENALTIES

SEC. 115. (a) OFFENSES.—Paragraph (1) of section 309(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1859(a)) is amended to read as follows:

"(1) section 307(1) (D), (E), (F), (H), (I), or (L); or".

(b) PUNISHMENT.—Section 309(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1859(b)) is amended—

(1) by striking "$50,000" and inserting in lieu thereof "$100,000";

(2) by striking "$100,000" each place it appears and inserting in lieu thereof "$200,000";

(3) by inserting "any observer described in section 307(1)(L) or" immediately after "injury to"; and

(4) by inserting "observer or" immediately before "officer in fear".

CIVIL FORFEITURES

SEC. 116. Section 310(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1860(e)) is amended—

(1) by inserting "(1)" immediately before "For purposes"; and

(2) by adding at the end the following:

"(2) For purposes of this Act, it shall be a rebuttable presumption that any fish of a species which spawns in fresh or estuarine waters and migrates to ocean waters that is found on board a vessel is of the United States origin if the vessel is within the migratory range of the species during that part of the year to which the migratory range applies.".

ENFORCEMENT

SEC. 117. Section 311(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(e)) is amended to read as follows:

"(e) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—(1) Notwithstanding any other provision of law, the Secretary or the Secretary of the Treasury may pay from sums received as fines, penalties, and forfeitures of property for violations of any provisions of this Act or of any other fishery resource law enforced by the Secretary, including the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.)—

"(A) the reasonable and necessary costs incurred in providing temporary storage, care, and maintenance of seized fish or other property pending disposition of any civil or criminal proceeding alleging a violation of any provision of this Act or any other fishery resource law enforced by the Secretary with respect to that fish or other property;

"(B) a reward to any person who furnishes information which leads to an arrest, conviction, civil penalty assessment, or forfeiture of property for any violation of any provision of this Act or any other fishery resource law enforced by the Secretary;

"(C) any expenses directly related to investigations and civil or criminal enforcement proceedings, including any necessary expenses for equipment, training, travel, witnesses, and contracting services directly related to such investigations or proceedings;

"(D) any valid liens or mortgages against any property that has been forfeited;

"(E) claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)) or under other provisions of the customs laws, as made applicable by section 310(c) of this Act to seizures made by the Secretary under this Act, in amounts determined by the Secretary to be applicable to such claims at the time of seizure; and

"(F) reimbursement to any Federal or State agency, including the Coast Guard, for services performed, or personnel, equipment, or facilities utilized, under any agreement with the Secretary entered into pursuant to subsection (a), or any similar agreement authorized by law.

"(2) Any person assessed a civil penalty for, or convicted of, any violation of this Act shall be liable for the cost incurred in storage, care, and maintenance of any fish or other property seized in connection with the violation.".

NORTH PACIFIC FISHERIES RESEARCH PLAN

SEC. 118. Title III of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) is amended by adding at the end the following new section:

"SEC. 313. NORTH PACIFIC FISHERIES RESEARCH PLAN.

"(a) IN GENERAL.—The North Pacific Fishery Management Council may prepare, in consultation with the Secretary, a fisheries research plan for all fisheries under the Council's jurisdiction except salmon fisheries which—

"(1) requires that observers be stationed on fishing vessels engaged in the catching,

taking, or harvesting of fish and on United States fish processors fishing for or processing species under the jurisdiction of the Council, including the Northern Pacific halibut fishery, for the purpose of collecting data necessary for the conservation, management, and scientific understanding of any fisheries under the Council's jurisdiction; and

"(2) establishes a system of fees to pay for the costs of implementing the plan.

"(b) STANDARDS.—(1) Any plan of plan amendment prepared under this section shall be reasonably calculated to—

"(A) gather reliable data, by stationing observers on all or a statistically reliable sample of the fishing vessels and United States fish processors included in the plan, necessary for the conservation, management, and scientific understanding of the fisheries covered by the plan;

"(B) be fair and equitable to all vessels and processors;

"(C) be consistent with applicable provisions of law; and

"(D) take into consideration the operating requirements of the fisheries and the safety of observers and fishermen.

"(2) Any system of fees established under this section shall—

"(A) provide that the total amount of fees collected under this section not exceed the combined cost of (i) stationing observers on board fishing vessels and United States fish processors, (ii) the actual cost of inputting collected data, and (iii) assessments necessary for a risk-sharing pool inplemented under subsection (e) of this section, less any amount received for such purpose from another source or from an existing surplus in the North Pacific Fishery Observer Fund established in subsection (d) of this section;

"(B) be fair and equitable to all participants in the fisheries under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

"(C) provide that fees collected not be used to pay any costs of administrative overhead or other costs not directly incurred in carrying out the plan;

"(D) not be used to offset amounts authorized under other provisions of law;

"(E) be expressed as a percentage, not to exceed one percentum, of the value of fish and shellfish harvested under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

"(F) be assessed against all fishing vessels and United States fish processors, including those not required to carry an observer under the plan, participating in fisheries under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

"(G) provide that fees collected will be deposited in the North Pacific Fishery Observer Fund established under subsection (d) of this section;

"(H) provide that fees collected will only be used for implementing the plan established under this section; and

"(I) meet the requirements of section 9701(b) of title 31, United States Code.

"(c) ACTION BY SECRETARY.—(1) Within 60 days after receiving a plan or plan amendment from the North Pacific Council under this section, the Secretary shall review such plan or plan amendment and either (A) remand such plan or plan amendment to the Council with comments if it does not meet the requirements of this section, or (B) publish in the Federal Register proposed regulations for implementing such plan or plan amendment.

"(2) During the 60 day public comment period, the Secretary shall conduct a public hearing in each State represented on the Council for the purpose of receiving public comments on the proposed regulations.

"(3) Within 45 days of the close of the public comment period, the Secretary, in consultation with the Council, shall analyze the public comment received and publish final regulations for implementing such plan.

"(4) If the Secretary remands a plan or plan amendment to the Council for failure to meet the requirements of this section, the Council may resubmit such plan or plan amendment at any time after taking action the Council believes will address the defects identified by the Secretary. Any plan or plan amendment resubmitted to the Secretary will be treated as an original plan submitted to the Secretary under paragraph (1) of this subsection.

"(d) FISHERY OBSERVER FUND.—There is established in the Treasury a North Pacific Fishery Observer Fund. The Fund shall be available, without appropriation or fiscal year limitation, only to the Secretary for the purpose of carrying out the provisions of this section, subject to the restrictions in subsection (b)(2) of this section. The Fund shall consist of all monies deposited into it in accordance with this section. Sums in the Fund that are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(e) SPECIAL PROVISIONS REGARDING OBSERVERS.—(1) The Secretary shall review—

"(A) the feasibility of establishing a risk sharing pool through a reasonable fee, subject to the limitations of subsection (b)(2)(E) of this section, to provide coverage for vessels and owners against liability from civil suits by observers, and

"(B) the availability of comprehensive commercial insurance for vessel and owner liability against civil suits by observers.

"(2) If the Secretary determines that a risk sharing pool is feasible, the Secretary shall establish such a pool, subject to the provisions of subsection (b)(2) of this section, unless the Secretary determines that—

"(A) comprehensive commercial insurance is available for all fishing vessels and United States fish processors required to have observers under the provisions of this section, and

"(B) such comprehensive commercial insurance will provide a greater measure of coverage at a lower cost to each participant.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 119. Section 406 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1882) is amended by adding at the end the following new paragraphs:

"(16) $77,200,000 for the fiscal year ending September 30, 1990.

"(17) $94,000,000 for the fiscal year ending September 30, 1991, of which $6,500,000 shall be used for enforcement and $5,000,000 shall be used to increase research and assessment efforts.

"(18) $98,000,000 for the fiscal year ending September 30, 1992.

"(19) $102,000,000 for the fiscal year ending September 30, 1993.

"(20) $107,000,000 for the fiscal year ending September 30, 1994.

"(21) $111,000,000 for the fiscal year ending September 30, 1995.".

MISCELLANEOUS TECHNICAL AMENDMENTS

SEC. 120. (a) INTERNATIONAL FISHERY AGREEMENTS.—Section 202(f) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1822(f)), as so redesignated by section 105 of this Act, is amended by striking "a exclusive economic zone" and inserting in lieu thereof "an exclusive economic zone".

(b) FOREIGN FISHING PERMITS.—Section 204(b)(4)(C) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(4)(C)) is amended by striking "council" and inserting in lieu thereof "Council".

(c) COUNCIL PROCEDURAL MATTERS.—Section 302(j)(4) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(j)(4)) is amended by striking "council employee" and inserting in lieu thereof "Council employee".

(d) ACTION BY SECRETARY.—Section 304(c)(2)(B) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(c)(2)(B)) is amended by striking "appropriate council" and inserting in lieu thereof "appropriate Council".

GOVERNING INTERNATIONAL FISHERY AGREEMENT

SEC. 121. Notwithstanding section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823), the governing international fishery agreement between the Government of the United States and the Government of the German Democratic Republic concerning fisheries off the coast of the United States, as contained in the message to the Congress from the President of the United States, dated April 23, 1990—

(1) is approved by the Congress as a governing international fishery agreement for the purposes of such Act; and

(2) shall enter into force and effect with respect to the United States on the date of enactment of this Act.

TITLE II—ATLANTIC TUNAS CONVENTION ACT OF 1975

LIMITATIONS ON APPOINTMENTS OF COMMISSIONERS

SEC. 201. (a) IN GENERAL.—Section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)) is amended—

(1) by inserting "(1)" immediately after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2) Of the Commissioners appointed under paragraph (1) who are not governmental employees—

"(A) one shall be appointed from among individuals with knowledge and experience regarding commercial fishing in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea; and

"(B) one shall be appointed from among individuals with knowledge and experience regarding recreational fishing in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea.

"(3)(A) The term of a Commissioner shall be three years.

"(B) An individual appointed in accordance with paragraph (2) shall not be eligible to serve more than two consecutive terms as a Commissioner.".

(b) APPLICATION TO CURRENT COMMISSIONERS.—(1) Paragraph (2) of section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)), as added by this section, shall not apply to reappointment of an individual as a United States Commissioner of the International Commission for the Conservation of Atlantic Tunas (hereinafter in this title referred to as a "Commissioner") if that individual is serving in that position on the date of enactment of this Act.

(2) An individual serving a term as a Commissioner on the date of enactment of this Act shall not, by reason of that term of service, be ineligible under paragraph (3)(B)

of section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)), as added by this section, for reappointment as a Commissioner.

TERMINATION OF CURRENT TERMS AND COMPLETION OF PENDING APPOINTMENTS

Sec. 202. The term as Commissioner of each individual serving in that position on the date of enactment of this Act shall terminate June 30, 1991. Not later than that date, the President shall complete appointment (or reappointment) of individuals to serve as Commissioners on and after that date.

TRAVEL EXPENSES OF COMMISSIONERS

Sec. 203. Section 3 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a) is amended by adding at the end the following new subsection:

"(d)(1) The Secretary of State shall pay the necessary travel expenses of United States Commissioners, Alternate United States Commissioners, and authorized advisors in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

"(2) The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this subsection.".

TRAVEL EXPENSES OF ADVISORY COMMITTEE

Sec. 204. Section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) is amended by striking "On approval" and all that follows and inserting in lieu thereof the following: "The Secretary and the Secretary of State may pay the necessary travel expenses of members of the advisory committee in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.".

SPECIES WORKING GROUPS

Sec. 205. The Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.) is amended by inserting immediately after section 4 the following new section:

"SPECIES WORKING GROUPS

"Sec. 4A. The United States Commissioners may establish species working groups for the purpose of providing advice and recommendations to the Commissioners and the advisory committee on matters relating to the conservation and management of any highly migratory species covered by the Convention. Any species working group shall consist of no more than seven members of the advisory committee and no more than four scientific or technical personnel, as considered necessary by the Commissioner.".

REGULATIONS TO CARRY OUT COMMISSION RECOMMENDATIONS

Sec. 206. (a) Section 6(c)(1) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)(1)) is amended by redesignating the existing text as subparagraph (A) and by adding at the end the following new subparagraphs:

"(B) Not later than January 1, 1991, the Secretary shall promulgate any additional regulations necessary to ensure that the United States is in full compliance with all recommendations made by the Commission that have been accepted by the United States and with other agreements under the Convention between the United States and any nation which is a party to the Convention.

"(C) Regulations promulgated under this paragraph shall, to the extent practicable, be consistent with fishery management plans prepared and implemented under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).".

(b) Section 6(c)(3) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)(3)) is amended—

(1) in subparagraph (H) by striking "; and" and inserting in lieu thereof a semicolon; and

(2) by striking subparagraph (I) and inserting in lieu thereof the following:

"(I) require any commercial or recreational fisherman to obtain a permit from the Secretary and report the quantity of the catch of a regulated species;

"(J) require that observers be carried aboard fishing vessels for the purpose of providing statistically reliable scientific data; and

"(K) impose such other requirements and provide for such other measures as the Secretary may determine necessary to implement any recommendation of the Convention or to obtain scientific data necessary to accomplish the purpose of the Convention;

except that no regulation promulgated under this section may have the effect of increasing or decreasing any allocation or quota of fish to the United States agreed to pursuant to a recommendation of the Commission.".

AUTHORIZATION OF APPROPRIATIONS

Sec. 207. Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 10. There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in article X of the Convention, not more than $1,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995.".

TITLE III—FISHERMEN'S PROTECTIVE ACT OF 1967

VESSEL SEIZURE REIMBURSEMENT AUTHORITY

Sec. 301. Section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking "October 1, 1989" and inserting in lieu thereof "October 1, 1993".

TITLE IV—ANADROMOUS FISH CONSERVATION ACT

AUTHORIZATION OF APPROPRIATIONS

Sec. 401. Section 4(a) of the Anadromous Fish Conservation Act (16 U.S.C. 757d(a)) is amended—

(1) by striking paragraphs (1), (2), (3), (4), (5), and (6);

(2) by redesignating paragraph (7) as paragraph (1); and

(3) by adding at the end the following new paragraph:

"(2) $8,000,000 for each of the fiscal years 1990, 1991, 1992, 1993, 1994, and 1995.".

TITLE V—INTERJURISDICTIONAL FISHERIES ACT OF 1986

CLARIFICATION OF APPORTIONMENT LIMITATION

Sec. 501. Section 304(c)(3)(B) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4103(c)(3)(B)) is amended by inserting "which are managed under an interstate fishery management plan" immediately after "fishery resources".

FEDERAL SHARE OF ACTIVITIES CARRIED OUT WITH ADDITIONAL APPROPRIATIONS

Sec. 502. Section 308(b) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(b)) is amended—

(1) in paragraph (1) by striking "and" at the end;

(2) in paragraph (2) by striking the period at the end and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (2) the following new paragraph:

"(3) the Federal share of the cost of any activity carried out with an amount appropriated under the authority of this subsection shall be 75 percent of the cost of that activity.".

AUTHORIZATION OF APPROPRIATIONS

Sec. 503. Section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended—

(1) in subsection (a) by striking "fiscal years 1987, 1988, and 1989" and inserting in lieu thereof "the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995";

(2) in subsection (b) by striking "fiscal years 1988 and 1989" and inserting in lieu thereof "the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995"; and

(3) in subsection (c) by striking "fiscal years 1988 and 1989" and inserting in lieu thereof "the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995".

TITLE VI—CENTRAL, WESTERN, AND SOUTH PACIFIC FISHERIES DEVELOPMENT ACT

AUTHORIZATION OF APPROPRIATIONS

Sec. 601. Section 7 of the Central, Western, and South Pacific Fisheries Development Act (16 U.S.C. 758e-5) is amended by striking "and 1988" and inserting in lieu thereof "1988, 1989, 1990, 1991, 1992, 1993, 1994, and 1995".

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. On behalf of the majority leader, I ask unanimous consent that Mr. Robert June, a National Sea Grant Fellow in the office of Senator MITCHELL, be granted floor privileges during the consideration of S. 1025.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, it is my understanding that under the agreement there will now be 40 minutes on the amendment to be offered by the distinguished chairman of our Commerce Committee and myself.

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 2951

(Purpose: To make various amendments)

Mr. HOLLINGS. Mr. President, on behalf of Senator STEVENS and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself and Mr. STEVENS, proposes an amendment numbered 2951.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 10, insert "practical" immediately before "measures".

On page 9, line 2, insert "(a) GENERAL.—" immediately after "Sec. 102.".

On page 12, immediately after line 6, insert the following:

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1992.

On page 12, line 18, through page 14, line 19, strike all and insert in lieu thereof the following:

INTERNATIONAL FISHERY AGREEMENTS

Sec. 105. (a) HIGHLY MIGRATORY SPECIES AGREEMENTS.—Section 202 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1822) is amended by redesignating subsection (e) as subsection (f) and by inserting immediately after subsection (d) the following new subsection:

"(e) HIGHLY MIGRATORY SPECIES AGREEMENTS.—

"(1) EVALUATION.—The Secretary of State, in cooperation with the Secretary, shall evaluate the effectiveness of each existing international fishery agreement which pertains to fishing for highly migratory species. Such evaluation shall consider whether the agreement provides for—

"(A) the collection and analysis of necessary infomation for effectively managing the fishery, including but not limited to information about the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the catch and bycatch levels in the fishery, and the present and probable future condition of any stock of fish involved;

"(B) the establishment of measures applicable to the fishery which are necessary and appropriate for the conservation and management of the fishery resource involved;

"(C) equitable arrangements which provide fishing vessels of the United States with (i) access to the highly migratory species that are the subject of the agreement and (ii) a portion of the allowable catch that reflects the traditional participation by such vessels in the fishery;

"(D) effective enforcement of conservation and management measures and access arrangements throughout the area of jurisdiction; and

"(E) sufficient and dependable funding to implement the provisions of the agreement, based on reasonable assessments of the benefits derived by participating nations.

"(2) ACCESS NEGOTIATIONS.—The Secretary of State, in cooperation wtih the Secretary, shall initiate negotiations with respect to obtaining access for vessels of the United States fishing for tuna species within the exclusive economic zones of other nations on reasonable terms and conditions.

"(3) REPORTS.—The Secretary of State shall report to the Congress—

"(A) within 12 months after the date of enactment of this subsection, on the results of the evaluation required under paragraph (1), together with recommendations for addressing any inadequacies identified; and

"(B) within six months after such date of enactment, on the results of the access negotiations required under paragraph (2).

"(4) NEGOTIATION.—The Secretary of State, in consultation with the Secretary, shall undertake such negotiations with respect to international fishery agreements on highly migratory species as are necessary to correct inadequacies identified as a result of the evaluation conducted under paragraph (1).

"(5) SOUTH PACIFIC TUNA TREATY.—It is the sense of the Congress that the United States Government shall, at the earliest opportunity, begin negotiations for the purpose of extending the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, signed at Port Moresby, Papua New Guinea, April 2, 1987, and it Annexes, Schedules, and implementing agreements for an additional term of 10 years on terms and conditions at least as favorable to vessels of the United States and the United States Government.".

(b) DETERMINATIONS OF SECRETARY OF STATE.—(1) Section 205(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1825(a)) is amended—

(1) in paragraph (1) by striking "traditional" and inserting "including fisheries for tuna species," immediately after "authority,"; and

(2) in paragraph (2) by striking "highly migratory" and inserting in lieu thereof "tuna".

(2) The amendments made by this subsection shall take effect on January 1, 1992.

On page 16, lines 1 through 2, strike all after "oceans" and insert in lieu thereof ", including but not limited to the North and South Pacific Ocean and the Bering Sea;".

On page 16, immediately after line 2, insert the following:

"(2) the use of long driftnets is expanding into new regions of the world's oceans, including the Atlantic Ocean and Carribbean Sea;

On page 16, lines 3 through 24, redesignate paragraphs (2) through (6) as paragraphs (3) through (7), respectively.

On page 17, line 2 insert "or developing new fisheries" immediately after "fishing".

On page 18, immediately after line 2, insert the following:

"(1) each driftnet fishing vessel of a foreign nation that is party to the agreement, including vessels that may operate independently to develop new fishing areas, which operate beyond the exclusive economic zone of any nation, is included in such agreement;

On page 18, line 3, through page 19, line 19, redesignate paragraphs (1) through (9) as paragraphs (2) through (10), respectively.

On page 21, on line 2 strike "and", on line 3 strike "(5)" and insert in lieu thereof "(6) containing", and between lines 2 and 3 insert the following:

"(5) containing a list and description of any new fisheries developed by nations that conduct, or authorize their nationals to conduct, driftnet fishing beyond the exclusive economic zone of any nation; and

On page 31, strike lines 15 through 22 and insert in lieu thereof the following:

"(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on—

"(A) participants in the fisheries affected by the plan or amendment; and

"(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants.".

On page 34, line 4, insert "FISHERIES RESEARCH.—" immediately after "(a)"; and on page 34, line 20, strike "AREAS OF RESEARCH.—".

On page 34, line 17, strike "and".

On page 34, line 19, strike the period at the end and insert in lieu thereof "; and".

On page 34, immediately after line 19, insert the following:

"(C) provide a role for affected commercial fishermen in such research, including involvement in field testing.

On page 35, line 18, insert immediately before "Upon" the following: "The Secretary shall ensure that affected commercial fishermen are actively involved in the development of the portion of the plan pertaining to conservation engineering research.".

On page 35, line 24, insert "(1)" immediately after "FISHERIES.—"; on page 36, strike "(1)" on line 3 and insert "(A)", strike "(2)" on line 6 and insert "(B)", and strike "(3)" on line 9 and insert "(C)".

On page 36, line 11, through page 38, line 5, strike all and insert in lieu thereof the following:

"(3)(A) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.

"(B) In accordance with the provisions of this Act and any other applicable law, the Secretary shall—

"(i) identify research and information priorities, including observer requirements and necessary data collection and analysis for the conservation and management of highly migratory species;

"(ii) prepare and amend fishery management plans with respect to highly migratory species fisheries to which this paragraph applies; and

"(iii) diligently pursue, through international entities (such as the International Commission for the Conservation of Atlantic Tunas), international fishery management measures with respect to fishing for highly migratory species.

"(C) In preparing or amending any fishery management plan under this paragraph, the Secretary shall—

"(i) conduct public hearings, at appropriate times and in appropriate locations in the geographical areas concerned, so as to allow interested persons an opportunity to be heard in the preparation and amendment of the plan;

"(ii) consult with and consider the comments and views of commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species;

"(iii) consult with and consider the comments and views of affected Councils;

"(iv) evaluate the likely effects, if any, of conservation and management measures on participants in the fisheries affected by the plan and minimize, to the extent practicable, any disadvantage to United States fishermen in relation to foreign competitors; and

"(v) reveiw, on a continuing basis (and promptly whenever a recommendation pertaining to fishing for highly migratory species has been made under a relevant international fishery agreement), and revise as appropriate, the conservation and management measures included in the plan.

"(D) Conservation and management measures contained in any fishery management plan under this paragraph shall—

"(i) take into consideration traditional fishing patterns of fishing vessels of the United States and the operating requirements of the fisheries;

"(ii) be fair and equitable in allocating fishing privileges among United States fishermen and not have economic allocation as the sole purpose; and

"(iii) promote international conservation.

"(E) With respect to a highly migratory species for which the United States is authorized to harvest an allocation or quota under a relevant international fishery agreement, the Secretary shall provide fishing vessels of the United States with a reasonable opportunity to harvest such allocation or quota.

"(F) In implementing the provisions of this paragraph, the Secretary shall consult with—

"(i) the Secretary of State;

"(ii) commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species; and

"(iii) appropriate Councils.".

(2) Section 305(a)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855(a)(3)), as redesignated by section 111(a)(1) of this Act, is amended by inserting "or (f)(3)" immediately after "304(c)".

On page 38, line 6 through page 39, line 6, strike all.

On page 39, immediately after line 6, insert the following:

(c) Incidental Harvest Research—Section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) is further amended by adding at the end the following new subsection.

"(g) Incidental Harvest Research.—(1) Within 9 months after the date of enactment of the Fishery Conservation Amendments of 1990, the Secretary shall, after consultation with the Gulf of Mexico Fishery Management Council and South Atlantic Fishery Management Council, establish by regulation a 3-year program to assess the impact on fishery resources of incidental harvest by the shrimp trawl fishery within the exclusive economic zone.

"(2) The program established pursuant to paragraph (1) shall provide for the identification of stocks of fish which are subject to significant incidental harvest in the course of normal shrimp trawl fishing activity.

"(3) For stocks of fish identified pursuant to paragraph (2), with priority given to stocks which (based upon the best available scientific information) are considered to be overfished, the Secretary shall conduct—

"(A) a program to collect and evaluate data on the nature and extent (including the spatial and temporal distribution) of incidental mortality of such stocks as a direct result of shrimp trawl fishing activities;

"(B) an assessment of the status and condition of such stocks, including collection of information which would allow the estimation of life history parameters with sufficient accuracy and precision to support sound scientific evaluation of the effects of various management alternatives on the status of such stocks; and

"(C) a program of data collection and evaluation for such stocks on the magnitude and distribution of fishing mortality and fishing effort by sources of fishing mortality other than shrimp trawl fishing activity.

"(4) The Secretary shall, in cooperation with affected interests, commence a program to design, and evaluate the efficacy of, technological devices and other changes in fishing technology for the reduction of incidental mortality of nontarget fishery resources in the course of shrimp trawl fishing activity. Such program shall take into account local conditions and include evaluation of any reduction in incidental mortality, as well as any reduction or increase in the retention of shrimp in the course of normal fishing activity.

"(5) The Secretary shall, upon completion of the programs required by this subsection, submit a detailed report on the results of such programs to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

"(6)(A) Except as provided in this paragraph, the Secretary may not implement any measures under this Act to reduce incidental mortality of nontarget fishery resources in the course of shrimp trawl fishing which would restrict the period during which shrimp are harvested or would require the use of any technical device or other change in fishing technology.

"(B) The prohibition contained in subparagraph (A) shall cease on January 1, 1993, with respect to fisheries under the authority of the South Atlantic Fishery Management Council, and with respect to fisheries under the authority of the Gulf of Mexico Fishery Management Council, shall cease—

"(i) upon the publication of final regulations implementing an amendment to either the Reef Fish Fishery of the Gulf of Mexico Fishery Management Plan (50 C.F.R. 641) or the Shrimp Fishery of the Gulf of Mexico Fishery Management Plan (50 C.F.R. 658) which is intended to reduce the bycatch of nontarget fishery resources to approximately 50 percent of the level of bycatch occurring under the prohibition in subparagraph (A), or

"(ii) on January 1, 1993,

whichever is later.

"(C) This paragraph does not apply to any law or regulation in effect on the date of enactment of this paragraph, nor does it limit in any way the Secretary's authority to take action, including any limitation on entry permitted by this Act, for the conservation and management of the shrimp fishery resource.".

(d) Atlantic Sea Scallop Fishery Management Plan.—(1) The New England Fishery Management Council may submit to the Secretary of Commerce an amendment to the Atlantic Sea Scallop Fishery Management Plan. Any amendment submitted under this section shall—

(A) contain measures providing for the conservation and management of Atlantic sea scallops, that are not based on the scallop meat count but which may include controls on scallop harvesting effort; and

(B) consider the views of fishermen and fish processors involved in the Atlantic sea scallop fishery.

(2) If no amendment is submitted under paragraph (1) before one year after the date of enactment of this Act, the Secretary of Commerce shall prepare the amendment described in paragraph (1) under section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854).

(3) Any amendment prepared by the Secretary under paragraph (2) is not a system for limiting access, for purposes of section 303(b)(6) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(b)(6)).

(e)(1) Moratorium.—Section 304(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(c)) is amended—

(A) in paragraph (1), by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively, and by inserting immediately before subparagraph (B), as so redesignated, the following new subparagraph:

"(A) the Secretary determines that overfishing in a fishery is likely to occur as a result of fishing by vessels in addition to those that have operated in the fishery during the three-year period immediately preceding such determination; or";

(B) in paragraph (3) by striking "paragraph (1)" and inserting in lieu thereof "paragraph (1)(B) and (C)"; and

(C) by adding at the end the following new paragraph:

"(4) Under paragraph (1), and notwithstanding paragraph (3), the Secretary may establish, through a fishery management plan or plan amendment for any fishery, a moratorium that prohibits, as of the date of a determination under paragraph (1)(A), particiaption in the fishery by vessels that have not operated in the fishery during the three-year period immediately preceding such determination. Such moratorium shall be in force and effect for 18 months and, if necessary, may be renewed for no longer than one additional 18-month period. The Secretary shall cancel the moratorium prior to its expiration if a fishery management plan or amendment has been approved and implemented which includes conservation and management measures that the Secretary determines will prevent overfishing.".

(2) The Secretary of Commerce shall, not later than 12 months after the date of enactment of this Act, prescribe by regulation criteria for making a determination of overfishing and establishing a moratorium under section 304(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(c)), as amended by this subsection.

On page 49, one 24, insert "(a)" immediately after "Sec. 118." and on page 54, immediately after line 24, insert the following new subsection:

(b) Conforming Amendment.—The table of contents in the first section of the Magnuson Fishery Conservation and Management Act is amended by inserting immediately after the entry for section 312 the following new entry:

"Sec. 313. North Pacific fisheries research plan.".

On page 50, line 17, strike "of" and insert in lieu thereof "or".

On page 55, strike all on lines 15 through 18, and add a period and closing quotation marks at the end of line 14.

Strike all on page 56, line 15, through page 57, line 2; and on page 6, line 8, strike the item relating to section 121 in the table of contents.

Add at the end the following new titles:

TITLE VII—NATIONAL FISH AND SEAFOOD PROMOTIONAL COUNCIL

EXTENSION OF TERMINATION DATE

Sec. 701. Section 206(g) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(g)) is amended by striking "October 1, 1990" and inserting in lieu thereof "December 31, 1991".

AUTHORIZATION OF APPROPRIATIONS

Sec. 702. Section 209(d) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4008(d)) is amended by striking "1990" and inserting in lieu thereof "1991".

TRANSFER OF SALTONSTALL-KENNEDY FUNDS

Sec. 703. Section 2(b)(2) of the Act of August 11, 1939 (commonly known as the Saltonstall-Kennedy Act; 15 U.S.C. 713c-3(b)(2)), is amended by striking "fiscal year 1990" and inserting in lieu thereof "each of fiscal years 1990 and 1991".

CONTINUITY OF NATIONAL COUNCIL MEMBERSHIP

Sec. 704. (A) Uninterrupted Service.—Individuals serving on September 30, 1990, as members of the National Fish and Seafood Production Council shall be deemed to continue as members in uninterrupted service since the date of their initial appointment.

(b) Filling of Vacancies.—Notwithstanding section 206(e) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(e)), any vacancy on the the National Fish and Seafood Promotion Act not filled as of September 30, 1990, shall be filled within 60 days after the date of enactment of this Act.

(c) Technical Amendment.—Section 207(a)(5) of the the National Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4006(a)(5)) is amended by inserting "initial" immediately before "appointments".

TITLE VIII—MISCELLANEOUS

CERTIFICATE OF LEGAL ORIGIN FOR ANADROMOUS FISH PRODUCTS

Sec. 801. (a) Negotiations.—Within 60 days after the date of enactment of this Act, the Secretary of State shall commence negotiations with nations which import or export anadromous fish or anadromous fish products for the purpose of securing general agreement among such nations to implement effective measures to prohibit international trade in anadromous fish or anadromous fish products unless such fish or fish products are accompanied by a valid certificate of legal origin attesting that the fish or fish product was lawfully harvested—

(1) within the jurisdiction of a nation having naturally occurring or artificially established anadromous fish populations of the same species as the imported or exported product; or

(2) on the high seas according to an international agreement among nations with jurisdiction over more than 1 percent of the stocks of anadromous fish being so harvested.

(b) Issuance of Certificates.—For the purposes of subsection (a), a valid certificate of legal origin may be issued only by a nation which—

(1) is the nation having jurisdiction over the vessel or other means by which the fish or fish product was harvested; and

(2) maintains regular harvests of anadromous fish in a manner consistent with the criteria for lawful harvests set out in subsection (a).

(c) Bilateral or Multilateral Agreements.—Efforts undertaken by the Secretary of State pursuant to subsection (a) may, at the discretion of the Secretary, be directed toward achieving either bilateral or multilateral agreements, including trade agreements, whichever the Secretary determines to be most likely to result in the earliest possible date or dates of agreement by those nations which individually have in excess of $1,000,0000, or the equivalent, in import or export trade in anadromous fish and anadromous fish products.

(d) Regulations.—The Secretary of Commerce shall, within 180 days after the date of enactment of this Act, promulgate regulations providing for—

(1) the issuance of certificates of legal origin pursuant to agreements under subsection (a) for anadromous fish and anadromous fish products legally harvested by vessels of the United States;

(2) the delegation of the authority to issue certificates of legal origin to States, territories, or possessions of the United States which the Secretary of Commerce determines to have implemented a program which is sufficient to accomplish the purposes of subsection (a); and

(3) an orderly transition to such regulations, sufficient to ensure that United States commerce in anadromous fish and anadromous fish products is not unduly disrupted.

(e) Report Required.—The Secretary of Commerce, after consultation with the Secretary of the Treasury, shall, within 180 days after the date of enactment of this Act, submit to the Congress a report—

(1) making recommendations as to the need for the adoption of United States import and export restrictions on anadromous fish and adadromous fish products consistent with subsection (a); and

(2) identifying, evaluting, and making recommendations regarding any specific statutory or regulatory changes that may be necessary for the adoption of such restrictions.

(f) Certification.—If, at any time following the promulgation of the regulations required by subsection (d), the Secretary of Commerce finds that any nation is engaging in trade in unlawfully taken anadromous fish or anadromous fish products, the Secretary shall certify that fact to the President, which certification shall be deemed to be a certification for the purposes of section 8(a)(1) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)(1)).

On page 6, line 8, at the end of the table of contents, add the following new items:

TITLE VII—NATIONAL FISH AND SEAFOOD PROMOTIONAL COUNCIL

Sec. 701. Extension of termination date.
Sec. 702. Authorization of appropriations.
Sec. 703. Transfer of Saltonstall-Kennedy funds.

TITLE VIII—MISCELLANEOUS

Sec. 801. Certificate of legal origin for anadromous fish products.

Mr. **HOLLINGS**. Mr. President, during a visit to South Carolina, Charles Kuralt of CBS News remarked that, in all his years talking with his countrymen and observing the American scene, what he finds most striking about the United States in recent years is that, for the first time in our history, Americans are not consciously building and sacrificing to improve the lot of the next generation. Certainly, there is plenty of evidence to back up that assertion, the most obvious example being the shameful Federal budget deficits and the huge runup in our national debt. However, I also can cite a number of legislative initiatives that belie Kuralt's gloomy assessment. One good example of positive, future-oriented government action is the Magnuson Fishery Conservation and Management Act.

To appreciate the achievements of the Magnuson Act, one must recall the dire threat posed to our coastal fisheries in the sixties and early seventies. The oceans which surround the United States contain some of the most bountiful fishing grounds found anywhere in the world. However, a virtual invasion of foreign fishing fleets off our coasts plundered vast schools of fish and threatened the livelihood of American fishermen. The Magnuson Act, enacted in 1976, put a stop to this indiscriminate rape and depletion of our precious fishery resources. Specifically, the act provided two important management tools. It staked out a U.S. claim to jurisdiction over the waters within 200 miles of the coast, and it set up a network of regional management councils tasked with managing intelligently the harvest of fish stocks. Despite the inevitable trial and error along the way, the Magnuson system has achieved some notable successes since its enactment in 1976.

For starters, the Magnuson Act once again has Americanized our coastal fisheries, ensuring to U.S. commercial and recreational fishermen their rightful lion's share of the annual harvest. Also over the years, the act has shaped and fostered the development of the U.S. industry. By and large, I think it has done that job well. Directly and indirectly, the fishing industry now contributes nearly $50 billion annually to the U.S. economy.

Second, the Magnuson Act has given us the means to address new threats posed to our fishery resources by Americans themselves: extensive coastal development, rapid coastal population growth—in my own State of South Carolina the Grand Strand experienced a 1,500-percent increase in population between 1945 and 1980—the pressure of increased fishing and, most devastating of all, the pollution of our ocean and coastal waters.

We now realize that the oceans are not a limitless natural resources that we can exploit—and abuse—as we wish. At the same time, we are making some progress toward understanding, conserving, and managing those resources for the social and economic good of the Nation. With foreigners and Americans, commercial fishermen and recreational anglers all eyeing our fisheries, we must confront a basic fact of life—there are not enough fish to go around. We must make choices and establish priorities. This is precisely the purpose of the Magnuson Act and its system of regional fishery management councils.

The bill before us today, S. 1025, reauthorizes the Magnuson Act programs and recognizes that the act must change as the fisheries evolve and change. It reflects our growing need to provide effective stewardship of our Nation's marine resources through the management councils. Webster's dictionary defines a steward as "one who acts as a supervisor or administrator, as of finances and property, for another or others." In accepting this responsibility, council members must manage or administer fisheries for all others who rely upon the resource. In addition, they must balance our current competing needs with the responsibility to maintain the resource for generations to come. The councils' charge is certainly a difficult challenge, but not, I am convinced, an impossible one.

In recognizing the changing fisheries world, we must move away from the current insistence by some interest groups to lay claim to the conservationist label. Conservation lies at the heart of fishery management and must be a goal that is shared by all those involved—whether they are commercial fishermen, environmentalists, saltwater anglers, or government bureaucrats. All those who participate in the fishery must accept equally their responsibility for maintaining and using our fishery resources wisely.

We must work to ensure that fishery management decisions have a good scientific basis. Over the past 2 years, this committee has held five hearings to address fishery problems. From Alaska to South Carolina and from Massachusetts to Louisiana, we heard that we just do not have the information we need to do a good job in managing our Nation's fisheries. In large part, our scientific uncertainties stem from inadequate attention and funding at the Department of Commerce. The National Marine Fisheries Service and its parent, the National Oceanic and Atmospheric Administration, have suffered greatly from the budgetary shortsightedness of the Reagan era. In addition, we in the Congress have not always been able to provide the funding support that we could have justified. We must now begin to recognize that the long-term benefits we receive from our fisheries and the long-term threat of basing management decisions on inadequate information far outweigh the cost of developing a rational scientific basis for our fishery policies.

We still have much to learn about fishery management and about balancing the competing interests of various types of fishermen. However, the Magnuson Act has stood the test of time. It is a good example of constructive government action designed to preserve a vital natural resource—our coastal fisheries—for generations to come.

Over the past 2 years, the Commerce Committee has invested substantial time and effort in evaluating legislative proposals for improving marine fishery management. In particular, I commend my colleague and national ocean policy study vice chairman, Senator Kerry, for his leadership in developing this legislation.

The bill reported by the committee, the Fishery Conservation Amendments of 1990, contains a number of important provisions. The bill would reauthorize several major fishery statutes including the Magnuson Act, the Atlantic Tunas Convention Act, the Anadromous Fish Conservation Act, the Interjurisdictional Fisheries Act, and the Central, Western, and South Pacific Fisheries Development Act. In addition to extending the authorization of appropriations, the bill includes several amendments to the Magnuson Act.

With respect to the management of tuna, the legislation would: FIrst, change the juridical position to allow the United States to exercise sovereign rights over tuna in the exclusive economic zone [EEZ]; second, call for strengthened international management of tuna species; and third, establish a system for managing domestic fishing for all highly migratory species—tuna, swordfish, billfish, and sharks. On the east coast where these fisheries extend over five Council regions, the new system would give the Secretary primary authority for fishery management decisions. The Western Pacific Council would retain management authority for highly migratory species in that region.

On the issue of drift nets, S. 1025 would ban the use of drift nets longer than 1.5 miles in Federal waters and by U.S. vessels beyond the EEZ. The bill calls upon the Secretary of Commerce, through the Secretary of State, to negotiate agreements to restrict and monitor the use of drift nets and to pursue an international ban on the use of drift net technologies on the high seas. Failure by a foreign nation to comply with international agreement governing drift net fishing would be treated as a certification under the Pelly amendment, triggering the President's discretionary authority to embargo fish products from that country.

The bill also contains several changes regarding selection of Council members. The Secretary of Commerce would be required to develop criteria for determining whether an individual is qualified to serve on the Council. The Governors then would be expected to use those criteria in selecting nominees to fill Council positions. Service on a Council would be limited to three consecutive terms.

Finally, the bill provides the Secretary with discretionary authority to establish a temporary moratorium on new entrants to a fishery, if the Secretary determines that overfishing is occurring or is likely to occur. The moratorium could be extended for up to 36 months until conservation and management measures are in place to prevent overfishing.

In summary, the Fishery Conservation Amendments of 1990 will provide us with a number of new tools for dealing with the challenges which face us in managing our Nation's fishery resources. I urge passage of the legislation by the Senate.

Mr. President, let me at this particular time thank the Senators who have worked on this measure. Under the leadership of Senator Kerry of Massachusetts and Senator Gorton of Washington, we have been working on this Magnuson Act with Senator Stevens, and the bill was reported unanimously from our Committee on Commerce, Science, and Transportation.

We have had various maneuvers now all day long, but the time has not been wasted. I think we can momentarily, with the understandings had with all the various interests, and Senators involved in those interests be cared for under that unanimous-consent agreement, move promptly to the final enactment of the Magnuson Act over to the House side and get a conference, and then save this particularly important measure.

With thanks to the distinguished Senator from Alaska, I yield the floor.

The PRESIDING OFFICER (Mr. Conrad). The Senator from Alaska.

Mr. STEVENS. Mr. President, on Tuesday, Greenpeace brought to Washington, on that beautiful day we had Tuesday, one of the drift nets that its people had intercepted in the Pacific, and stretched it out down on the Mall. I do not know how many Members of Congress saw it. It was a dramatic demonstration of one of the major subjects that is covered in this bill, and that is the drift net provision that is in this bill.

The changes that are made here will help us, as a Nation, to move closer toward the goal articulated in the U.N. resolution of December 1989, which seeks to assure that there will be a complete cessation of the use of drift nets by 1992.

I wish that could happen right now, but at least from the point of view of our Government and our Government's activities in relationship to drift nets, this bill makes it very clear that we are on our way to doing everything we can to achieve that worldwide goal of eliminating drift nets.

The young man that brought the net in, Ben Deeble, for Greenpeace, has a most envitable task. He was taking the Greenpeace vessel through the Pacific, trying to study the total impact of drift nets on marine life, and I only wish I had some of the exhibits here that he had with him that day. It was a most meaningful thing to me to see the work that these young people have done in dedicating their lives to try and protect the creatures of the seas from these terrible instruments that we call curtains of death.

They are nets that are let loose daily. They drift, some of them, up to 40 miles from one vessel. They are vertical nets that hang 40 feet down into the water. They are made of monofilament line of different colors, as Ben Deeble demonstrated with the one that he brought in, so that they will not be seen by marine life.

They endanger not only marine life, birds as well. Large portions of these nets are cut loose by vessels that are caught fishing in places where they should not be fishing. Or, lost in storms, they drift up on the shore and entangle all sorts of birds and the small creatures on the beaches.

And then they drift back out to sea after those creatures have died, and in effect they become bait that traps more fish and more sea mammals. They had pictures of dolphins and pictures of whales and pictures of all sorts of marine mammals caught in these nets. I really cannot tell the Senate how much it affected me when I first saw one of those drift nets, and we have been trying to eliminate them now for almost 15 years. This bill takes us as far as we can go now, and I hope that we will take the final steps in the future.

Let me thank all of those who have worked on this bill again, and tell the Senate that I think this bill now is a bill that merits our unanimous approval, and I hope it does have that unanimous approval. We did not think for a while there would be a recorded vote on it, but I am happy that there will be because I think it will show our determination to move forward once again in this issue of trying to use all of our powers to regulate the use of drift nets within the jurisdiction of the United States.

THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Mr. INOUYE. Mr. President, as managers of S. 1025, the Magnuson Fishery Conservation and Management Act, I appreciate the Senator's willingness to engage in a discussion with me regarding the impact of the Magnuson Act upon the covenant which established the political union between the United States and the Commonwealth of the Northern Mariana Islands. Since the U.S.-flag territories in the Pacific are without voting representation in the U.S. Congress, I believe that I have an obligation to look after their interests, and assist them to the greatest extent possible.

Accordingly, allow me to very briefly set forth the history of the relationship between the United States and the Northern Marianas. On March 24, 1976, a joint resolution to establish a Commonwealth of the Northern Mariana Islands in political union with the United States was approved. Pursuant to the covenant, the United States is obligated to protect the Commonwealth's resources, including resources found within 200 miles of their coast against unlawful exploitation by nationals or residents of other nations. In addition, the covenant required the President to appoint a Commission on Federal Laws to survey U.S. laws and make recommendations to the Congress as to the laws that should be applicable to the Northern Marianas and those that should be inapplicable, based on the provisions and purposes of the covenant, local conditions and the policies embodied in the specific laws.

The Commission submitted its recommendations to the Congress in August of 1985. Among others, it recommended that: First, the Northern Marianas be excluded from the definition of "state," thereby rendering the Magnuson Conservation and Management Act inapplicable to the Commonwealth; second the Secretary of State, upon the request of, and consultation with the Governor of the Northern Marianas, shall negotiate and conclude international fisheries agreements for the conservation and management of tuna in waters adjacent to the Northern Marianas; and third any benefits accrued from such international agreements be paid to the Commonwealth. To effectuate these recommendations, which the Commission on Federal Laws deemed to be in accord with the terms of the covenant and local customs of the Northern Marianas, I introduced S. 2735 in the 99th Congress. Unfortunately, the measure was not enacted into law.

Mr. KERRY. The Senator from Hawaii has provided an accurate report on the history of the covenant that binds the United States and the Northern Marianas. As I understand it, although the Commonwealth is alloted a seat on the Western Pacific Management Council, it has opted to abstain from voting participation due to a concern that such participation may be deemed to be acceptance of the jurisdiction of the Magnuson Act. Rather, the Commonwealth sends a nonvoting observer, which was also recommended by the Commission on Federal Laws.

Mr. INOUYE. That is correct. The decision not to participate in the setting of the Western Pacific Management Council's policy was not an easy one. However, the Commonwealth strongly believes that to do otherwise would jeopardize any future action that Congress may take to amend the covenant in accordance with the Commission's recommendations.

Mr. STEVENS. I wish to add that the Commonwealth is engaged in discussions with Mr. Timothy Clidden, Special Representative to President Bush as a followup to the Commission's recommendations that the Senator from Hawaii mentioned. Among the issues discussed is the Northern Marianas' authority over the conservation and management of tuna fisheries in the exclusive economic zone adjacent to those islands. In fact, on April 12, 1990, a jointly signed letter was sent to the President, wherein both parties recommended that the Commonwealth of the Northern Marianas be included and allowed to participate in all further international negotiations related to tuna conservation and management in the Pacific region. Additionally, the representatives recommended that the United States assist the Commonwealth in managing its tuna resources for the benefit of the people of the Northern Marianas.

Mr. INOUYE. The Senator from Alaska is correct. In fact, I believe that the latter recommendation will be accomplished through the inclusion of tuna under U.S. jurisdication. There are ongoing discussions between the representatives of the United States and the Northern Marianas to refine and further detail the April recommendations that Senator Stevens has just outlined. I am hopeful that once the final recommendations and agrreements between both parties are complete, they will be codified as an amendment to the covenant. Marine resources, including tuna, are the predominant source of livelihood for the people of the Northern Mariana Islands. For this reason, they are extremely concerned about conserving and managing those critical resources.

I look foward to working with you and the Committee on Energy and Natural Resources which has jurisdication over the U.S. territories, to uphold our agreements with and obligations to the Commonwealth, while continuing to ensure a cohesive U.S. fishery policy. I thank the Senator from Massachusetts and the Senator from Alaska for engaging in this discussion with me.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, for my colleague from Washington, this bill contains a number of very important provisions.

First, it reauthorizes several major fishery statutes, including the Magnuson Act, the Atlantic Tunas Convention Act, the Anadromous Fish Conservation Act, the Interjurisdictional Fisheries Act, and the Central, Western, and South Pacific Fisheries Development Act. In addition to extending the authorization of appropriations, the bill includes several amendments to the Magnuson Act.

With respect to the management of tuna, the legislation would: First, change the juridical position to allow the United States to exercise sovereign rights over tuna in the exclusive economic zone [EEZ]; second, for strengthened international management of tuna species; and third, establish a system for managing domestic fishing for all highly migratory species—tuna, swordfish, billfish, and sharks. On the east coast where these fisheries extend over five council regions, the new system would give the Secretary primary authority for fishery management decisions. The Western Pacific Council would retain management authority for highly migratory species in that region.

On the issue of driftnets, S. 1025 would ban the use of driftnets longer than 1.5 miles in Federal waters and by U.S. vessels beyond the EEZ. The bill calls upon the Secretary of Commerce, through the Secretary of State, to negotiate agreements to restrict and monitor the use of driftnets and to pursue an international ban on the use of driftnet technologies on the high seas. Failure by a foreign nation to comply with international agreements governing driftnet fishing would be treated as a certification under the Pelly Amendment, triggering the President's discretionary authority to embargo fish products from that country.

The bill also contains several changes regarding selection of council members. The Secretary of Commerce would be required to develop criteria for determining whether an individual is qualified to serve on the council. The Governors then would be expected to use those criteria in selecting nominees to fill council positions. Service on a council would be limited to three consecutive terms.

Finally, the bill provides the Secretary with discretionary authority to establish a temporary moratorium on new entrants to a fishery, if the Secretary determines that overfishing is occurring or is likely to occur. The moratorium could be extended for up to 36 months until conservation and management measures are in place to prevent overfishing.

In summary, the Fishery Conservation Amendments of 1990 will provide us with a number of new tools for dealing with the challenges which face us in managing our Nation's fishery resources.

Mr. STEVENS. Mr. President, will the Senator yield momentarily?

Mr. HOLLINGS. I will yield.

Mr. STEVENS. Mr. President, I am delighted to be here with my good friend as we once again improve and extend the Magnuson Act, which was named after our former chairman of the Commerce Committee that the Senator from South Carolina and I served with for so long.

Mr. President, the two of us have beeen called to come down to make a quorum in the Appropriations Committee.

I designate Senator Gorton to manage the remainder of the time on this on my behalf.

Mr. HOLLINGS. And I designate the distinguished Senator from Massachusetts, Senator John Kerry, on my behalf.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Chair.

I thank the distinguished chairman of the Commerce Committee, Senator Hollings, and I thank the Senator from Alaska, Senator Stevens, for their leadership and for their cooperation over a long period of the time in trying to bring this important piece of legislation to a successful conclusion.

I have worked particularly closely with the Senator from Alaska and have been personally very gratified by the relationship which we have established and also by the significance of the legislation which follows.

Mr. President, the Fishery Conservation Amendments of 1990 has been a long effort and an important one by the Commerce Committee. It has really been a 2-year effort with countless meetings with commercial and recreational fishermen around the country and with conservation groups in an effort to try to balance some very, very complicated relationships and aspirations of each of those groups.

I am personally very pleased with the outcome and not only want to thank the distinguished chairman of the committee and Senator Stevens, but Senator Gorton who has also had a very long interest in this matter and has been instrumental in helping to bring this bill to the point at which it has arrived.

I would like to share very quickly with my colleagues why this is important and what it does. It reauthorizes the Magnuson Fishery Conservation and Management Act, and it makes important new strides in our effort to try to manage the precious fishery resources of our Nation. It bans fishing with large-scale driftnets which we know kill marine mammals and sea birds and deplete the fish stocks. It, for the first time, provides for management of our Nation's tuna fisheries. It enhances conservation efforts by allowing temporary moratoriums to be placed on new vessels that would enter a fishery when overfishing is known to be taking place. And it improves the regional fisheries management councils by increasing the qualification requirements of council members, requiring status reports on management efforts, and assuring that fair and balanced representation is provided. This has always been a very key part of the whole concept of the Magnuson Act. We have divided the Nation into these councils, and the councils have really been a democratic form of self-management and self-restraint.

There have been some problems and different kinds of problems in different parts of the country. This legislation, we think, fairly balances the experiences of the last years in trying to reconcile some of those difficulties and create a workable process.

Obviously, Mr. President, fishery resources are really vital, more vital than they have ever been before to the Nation, and I might say particularly to a State like Massachusetts. They obviously provide a healthy food source for American consumers, but they also provide a very high quality export product that helps our balance of trade. They provide a livelihood for many fishermen and for coastal communities all around our Nation, and they provide a source of recreation for the Nation's sports people.

U.S. commercial fishermen brought a record 8.5 billion pounds of fish into U.S. ports last year, which is a 25-percent increase over the previous year. There were an additional 460 million pounds of fish that were taken by 17 million sport fishermen. U.S. consumption of seafood rose 25 percent between 1982 and 1987, and it reached an all-time high last year of 15.9 pounds per person.

These statistics paint a very rosy picture of the Nation's fisheries. But balanced against that are the very reasons that we need the Magnuson Act. Other figures are not as promising as the catch is. In New England, for example, ground-fish stocks plummeted during the 1980's. Haddock catches on the Georges Bank, which is one of the world's richest fishing grounds, fell 83 percent from 1980 to 1988. Cod catches are down by 60 percent, and yellowtail is down by 70 percent. Declining stocks have cost 1,000 Massachusetts fishermen their jobs. And this state of affairs is not limited to New England or to ground fish.

U.S. fisheries are really at a turning point. When the Magnuson Act was originally passed in 1976, it came about in response to overfishing by foreign fleets in U.S. waters. Since that point in time, we have successfully Americanized the process and developed our own marine fisheries and that has created jobs and it has generated income. But the growth creates a whole new set of challenges for fishery managers. We have to now balance the development and the conservation, and we have to promote something known as "substainable use."

I might comment parenthetically that I believe scientists have declared that the oceans are capable of supporting approximately 100 million tons a year of fish products. We are currently, as a world, taking out approximately 90 million tons. And all predictions say the demand for fish products is going to double in the next 10 years. That means we have the potential of trying to take out 200 million tons of fish products from an ocean that scientists tell us will only support 100 million tons on an annualized basis. And that is without knowing the impact of reports that we saw today in the newspapers about the potential of global warming now changing our shelves of coral around the world and about major changes that are taking place in the ecosystem itself.

Fishery management is not an easy task. The livelihoods of an awful lot of people are at stake. The data on which decisions are made is not always as good as we would like it to be. Proper management and proper conservation

is the only way to ensure that there will be fish there next year and the year after and 20 years from now.

The provision for highly migratory species in the Atlantic, which includes tuna, swordfish, billfish, and sharks, was really one of the most difficult provisions of this legislation to develop. A great deal of time was spent negotiating a fair and adequate system for conserving these stocks without asking U.S. fishermen to bear the brunt of that effort.

The committee concluded that the Secretary of Commerce ought to be given the management authority because the Secretary is in a position to be able to coordinate the domestic with the international management effort.

International efforts to manage highly migratory species are absolutely imperative. U.S. fishermen should not have to endure severe restrictions while other nations continue to harvest the very same stock of fish. These are international stocks and all nations must bear responsibility for conservation. We are trying to avoid a situation in which, once again, a U.S. industry is asked to adhere to greater standards than our competitors abroad, a consequence of which U.S. workers, fishermen and others who work as a result of the fishing industry, wind up out of jobs or being hurt in their income. That is obviously not fair, and it is important that we fight for those rights.

The domestic management, we feel, ought to work within the framework of and be complementary to international efforts. The United States ought to take the lead to establish strong international quotas that will promote recovery and conservation of stocks. Once agreement is reached by the international community, U.S. fishermen ought to be allowed a reasonable opportunity to fish for the quota that is provided for in this agreement.

Mr. President, I am particularly pleased with the driftnet provisions in this legislation. This bill bans large-scale driftnets in U.S. waters by all fishermen as well as by U.S. fishermen in international waters.

I want to just say a word about driftnets. Every single night in the Northwest Pacific, some 30,000 miles of monofilament driftnets are set out behind Japanese, Taiwanese, and Korean boats. These 30 miles of driftnet literally strip-mine the ocean. They catch not only the squid that they are trying to catch, but they catch marine mammals, seabirds, migratory species, and salmon that are trying to get back to the Northwest in order to spawn again. They wreak devastation in the ocean. And the course of that devastation sees almost one-third of the entire catch of those driftnets thrown away, nonusable for commercial purposes. This bill instructs the Secretary of State to continue the strong U.S. efforts to negotiate an international ban on driftnet fishing on the high seas.

High seas driftnets are simply not a form of fishing that the world can support any longer.

I might add, many of these nets break off and they become what are known as ghost nets and they sink to the bottom with the carcasses of the marine mammals or fish they trap. Once those fish have decomposed the net rises again to the surface and it continues to fish with no, obviously, commercial purpose whatsoever except the devastation, again, of the catching capacity of future generations.

Last year the United States joined New Zealand and several other coastal nations to introduce a U.N. resolution calling for a total ban on these walls of death. I am deeply concerned that we continue that effort.

I am also concerned about declining fish stocks which cost income to fishermen. One way to address the overfishing that is depleting many of our fishing resources will be to limit new vessels which will be allowed to enter a fishery. In fact many fishermen from New England including our scallop fishery, and lobster fishery, and our regional council, are currently considering this option. This bill would give the Secretary the discretionary authority to impose such a limited entry program if other efforts to control overfishing have not been successfully implemented.

It is not mandatory, it is discretionary. It tries to urge the councils and the regions to come together rapidly to work out the problems that they have.

The moratorium could last up to 36 months. That would allow enough time for other measures to be developed and implemented.

A criticism that has been raised about the councils is that they lack the standards for council membership. Almost anyone who likes to fish is eligible for a seat. This bill would direct the Secretary to develop qualification standards for council membership. In addition, the Secretary would be required to evaluate all councils to assure that the memberships fairly represent the participants in the major fisheries that are under jurisdiction of a council.

These are only a few of the important provisions that are included in this bill. I am obviously not going to go through it in full detail. We have worked out an agreement and we are proceeding forward on that basis. But I am convinced, as I think are my colleagues who have joined in this effort, that these are provisions which will enhance our ability to effectively manage our fisheries, to help bring back declining stocks and to protect stable stocks from being overfished.

I am very pleased to bring before the Senate this bill which is essential for the protection of the Nation's very precious and very important fishery resources.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, it is just 14 short years since the Magnuson Fishery and Conservation Management Act was originally passed. Few laws passed by this Congress were a more instant success, or have had a greater positive impact on an important portion of our Nation's economy. The Americanization of the fisheries of the United States of America has succeeded almost beyond anyone's dreams.

But sometimes advancing technology and prosperity can create controversies which are even more heated, and more difficult, to resolve than is the case with a less sophisticated technology and relative poverty. That to a certain extent, has been the case with the fisheries. It is for that reason that this reauthorization of the Magnuson act is so important.

During the course of our more than year-long deliberation over the reauthorization of the Magnuson Act, I have had the opportunity to meet with many of my constituents involved in the fisheries. I have tried to incorporate many of their suggestions into the bill before us today.

Mr. President, the House passed a somewhat different reauthorization act, I believe, more than a year ago, and it seems quite likely that the differences between the two bills can be resolved and that we can end this session with a success, and a reauthorization act passed and signed by the President of the United States.

The original Magnuson Act includes many important provisions. While it has given a tremendous degree of impetus to the prosperity of the State of Wisconsin and its fisheries, and the State of Alaska and its fisheries, and perhaps, has brought those two States even closer together than they were before, it is obvious from the remarks of the distinguished Senator from Massachusetts that it has also had a positive impact on the Atlantic as it has on the Gulf of Mexico and in other parts of our Pacific Coast.

The two provisions of this new act, which are most significant to the Pacific Northwest, are those dealing with observers and those with driftnets. This bill takes us as far as we can go with respect to the control of that greater destructive capacity on the open oceans which is presented by huge driftnets, which are not only deadly when they are actually attached to vessels, but which often float free and carry death to fish, marine mammals and marine birds, long after they have ceased to be used for any commercial purpose whatsoever. Their vast destructive size and power makes them a massive threat to the health of every living marine resource.

It is perhaps interesting to note for those of us who spend our lives on land, how modest a definition this bill has on driftnets. A driftnet is defined only as a net which is a mile and a half or more in length. Many of them are far, far longer than that, sometimes up to an almost inconceivable length of 30 miles. But the bill includes not only the accession of the United States to a U.N. moratorium which would ban driftnets by June 30, 1992, it also includes enforcement authority for our own administration and our Department of Commerce, which will allow them to invoke the Pelly amendment against nations which violate these driftnet provisions, up to and including the barring of their export of their fisheries products to the United States. Furthermore, the bill sets strict standards for conservation-oriented objectives in agreements with foreign nations entered into between now and when the moratorium is in place. These provisions include satellite transmitters, onboard observers, inspection provisions, transshipment monitoring, time and area restrictions on driftnets to prevent salmon interception, and new standards requiring lost driftnets to break apart into smaller segments. I would like to thank the organization Greenpeace for its invaluable advice which helped us write this section of the bill.

Advancing technology, Mr. President, also has given us in the course of the last 14 years, a fishing industry which at sea looks very different. It is composed, not only of many traditional catcher boats, but also of much larger factory vessels, which do their freezing and processing on board. This has led to some controversy and the requirement that we be assured our conservation measures can actually be met.

So this bill includes language for observers on board factory trawlers and other ships and provides a fair and equitable way of paying for those observers which will be shared by all who participate in the fisheries.

I have also included langauge in the bill which will allow the council to meet in any of the States represented on the council. Currently, the North Pacific Council which consists of representatives from the States of Washington, Oregon, and Alaska only meets in Alaska. This provision will allow council meetings to be held in a location more convenient for Washington State fishermen.

This is a bill which, I suspect, will be supported when we come to a rollcall, unanimously or certainly with near unanimity by all of the Members of the Senate of the United States. It represents literally months and months of work on the part of many Senators who are Members of the Commerce Committee of the U.S. Senate. The distinguished Senator from Massachusetts has spent more hours on this proposal than he could possibly count up or even remember. There were many controversial issues in connection with the bill in those Commerce Committee deliberations.

Yet, up to a few days ago, even after its unanimous recommendation by the committee, we greatly feared we might not be able to get to it and debate it during the course of this year.

This morning in desperation, when the appropriations bill for the Departments of State, Justice, and Commerce came up, I proposed a modest amendment. It included only the three principal provisions which I have already described here of particular interest to the Northwest, which simply in desperation I proposed to add as an amendment to that Commerce Committee appropriations bill.

The two managers of the bill, quite properly, did not want extraneous authorizing legislation added as such an amendment, which might well have been dropped in the House even if it had passed here. But that triggered a sudden move to deal with all of the other Members who had concern about this bill. And I am delighted to say in the period of a relatively few hours, those concerns have been met some of those concerns have resulted in amendments and are a part of the Hollings-Stevens amendment to this bill. One other Biden amendment will be debated separately within a few moments.

I believe that our deep gratitude is due to the Senator from South Carolina, the chairman of the Commerce Committee, to Senator Stevens, to Senator Kerry, and to others who, when this opportunity presented itself, utilized it and utilized the leverage which it gave to bring this bill before the Senate. So I am delighted, Mr. President, to join with my colleagues in recommending the passage of the bill.

Mr. PACKWOOD. Mr. President, this bill has been a long time coming. The Members of the Commerce Committee have worked for 2 years putting this bill together. Getting the bill through committee was a formidable task. Getting what we thought was a consensus bill before the full Senate has been a real challenge. I am pleased that our efforts have been worthwhile.

The Magnuson Act was originally enacted in 1976 in response to the threat of overfishing by foreign vessels off our coasts. It established eight regional management councils to oversee and regulate the fisheries of the United States. The council process has not been without controversy. The increasing competition among U.S. fishermen has brought a myriad of difficult and contentious issues before the councils and the Secretary of Commerce.

This reauthorization bill attempts to address some of the controversies which seem to have developed in the council process. I am not sure it goes far enough. However, this is the most we could get in a consensus bill. I would like the Commerce Committee to explore additional actions in the future which might alleviate some of the problems that have developed.

This bill contains a couple of very important provisions for the North Pacific, where several of my constituents fish:

First, it strengthens the current law on driftnets; and

Second, it sets up a procedure for the establishment of an observer program in the North Pacific.

Japan, Korea, and Taiwan continue to use driftnets in their fishing operations. These driftnets are often 30 to 40 miles in length. They catch not only the fish which the fishermen are trying to catch, but also U.S.-origin salmon which U.S. fishermen are denied access to when caught in these driftnets. In addition, these driftnets are responsible for the death and injury of thousands of seabirds, turtles, and marine mammals.

This bill strengthens the standards the Secretary of State uses in trying to reach agreements with driftnetting countries. It ensures we go forward in future negotiations. In addition, the bill ensures that any attempts by drift- netting boats to move into new areas, such as the Atlantic Ocean, will meet with the same opposition from the United States.

Mr. President, we should be working toward an ultimate ban on the use of driftnet fishing. This bill is a step toward that goal.

Another important provision in this bill sets up a process for the establishment of an observer program in the North Pacific. The purpose of an observer program is to collect data that will help the North Pacific council make good conservation and management decisions.

The bill establishes criteria for a program which ensures it is fair to everyone who fishes in the North Pacific. In order to achieve this goal, we require all fishing vessels and processors operating in fisheries under the council's jurisdiction to be covered by the observer program. This does not mean that every vessel will have to carry an observer at all times. It does mean that all vessels and processors are subject to carrying an observer at some time.

The bill also establishes a fee system to pay for the observer program. It requires the fee system to be fair and equitable to all participants in the fisheries under the council's jurisdiction. This means that no single group can be required to pay a disproportionate amount of the cost of the program. The fees collected can be used only to pay for the observer program.

The fishermen in the North Pacific, many of whom are my constituents, think an observer program is a critical component of this Magnuson reauthorization bill. We have worked long and hard to develop a provision which meets the needs of all interested parties. I think this bill goes a long way toward accomplishing this goal.

I want to thank all members of the Senate for their hard work in bringing this bill to this point, and I urge its prompt passage.

Mr. GORTON. Mr. President, I want to give an opportunity, with my few remaining moments, to the distinguished Senator from Alaska to speak on the bill.

Before I do, I ask unanimous consent that this Senator and Senators Hollings, Stevens, Packwood, Breaux, Hatfield, Adams, and Inouye be added as cosponsors to the bill. I ask the distinguished Senator from Alaska whether he would like his name added to that as well.

Mr. MURKOWSKI. I will be pleased to be added to the bill and I ask unanimous consent to do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Six-and-a-half minutes.

Mr. GORTON. Mr. President, I yield such portion of my remaining time as he may desire to Senator Murkowski.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, let me thank my colleague, the senior Senator from Washington, and also commend the junior Senator from Massachusetts for his statement on the significance of what is taking place here today. The junior Senator from Alaska could not be more pleased that the Senate has finally taken up the reauthorization of the Magnuson Act. This legislation, as has been pointed out, is extremely important to the Nation's fishing industry and certainly to our State of Alaska.

There are a number of important provisions included, not the least of which is language establishing a comprehensive domestic observer program for North Pacific fisheries, and addressing the critical problem of foreign drift net fishing on the high seas. The difficulty we have had, Mr. President, is to make judgments based on sound scientific evidence. Unless we have observers and other measures in place, we do not have the facts, and, as a consequence, we cannot make the judgments.

The amendment now before us also incorporates an important step in controlling the international black market in salmon caught by outlaw drift net fisheries and fishing vessels on the high seas. This is no mirage, Mr. President. In fact, there is black marketing occurring. It is very similar to the process of laundering drugs.

What happens is, on the high seas, drift net or alleged squid vessels from Japan, South Korea, and Taiwan move into the northern waters in the summertime. There, they begin intercepting salmon. The salmon, however, are not brought ashore with the rest of their catch because Korea, Japan, and Taiwan all prohibit harvesting salmon from squid vessels. But some of these vessels, nevertheless, retain the salmon they catch, and move the fish over the side to various tramp vessels which take the catch into more open ports such as Hong Kong and Singapore.

The Senator from Alaska has traveled in that part of the world. I visited a Thailand cannery that we know to have been actually canning salmon. Now I want to note that there are no anadromous salmon within 2,000 or 3,000 miles of Thailand. In Singapore, the Senator from Alaska actually obtained a sample of illegally harvested salmon that had been processed in a cold storage there. That fish had come in from tramp vessels that purchased the fish at sea, loaded them over the side, and brought them in to be processed in Singapore or sent to Thailand for canning. From both Singapore and Thailand, and in some cases, Hong Kong, such fish is sent to the markets in Europe; a very, very profitable venture.

As my friends and colleagues know, high seas drift net fishing is, as it is currently practiced, a dangerously efficient method of fishing. That has already been outlined by my colleagues. In the North Pacific alone, squid fishers lay out over 30,000 miles of net almost every day. The targets are squid alone, yet a multitude of other marine life forms are also entangled and killed in those nets, including many marine mammals.

These unintended deaths can only be fully eradicated by preventing this method of fishing. In support of this view, the U.N. General Assembly and Senator Stevens worked hard last year adopting a resolution of support for a moratorium on drift net fishing starting in 1992. I commend my senior Senator. I strongly favor this and am gratified that additional supporting language is being included in this bill.

Today, however, I want to focus my remarks on another provision—one targeting a different facet of high seas drift netting. In recent years, a deliberately outlaw salmon fishery has developed behind the facade of the legal squid fisheries. This fishery was and is established for one purpose and one purpose only, profiting from the sale of salmon taken illegally. The resulting loss to United States, Canadian, Soviet, and Japanese fishermen, is incalculable.

The existence of such a fishery has been demonstrated over and over again. In fact, several Taiwanese citizens have been convicted in United States court of felony charges brought about as a result of their involvement in the sale of illegally taken fish.

In the last few years, we have made significant strides in reducing the opportunities for such illegal harvests through bilateral agreements with fishing nations and better U.S. enforcement, but we are still far from solving the problem. As long as there is a profit to be made, there will be some individuals who want to make it. High-seas fishermen whose activities have been restricted by their country's agreement with the United States can simply change their base of operation, sail under the flag of another country, and continue their illegal actions.

We cannot address these moves by having our negotiators follow the outlaw fishermen around from country to country. We must attack the problem from another direction. Specifically, we have to address the markets for illegally taken fish, as well as the illegal taking itself.

The amendment offered today by the distinguished chairman of the Commerce Committee, Senator Hollings, and by the senior Senator from Alaska, Senator Stevens, and others includes a provision which the Senator from Alaska introduced as a separate bill back in March of this year along with Senator Mark Hatfield.

That provision calls on the Secretary of State to negotiate agreements with countries that import salmon to require that imported salmon be accompanied by a certificate of legal origin. This document would validate the fish in question as having been legally harvested. To ensure accuracy, valid certificates could only be issued by nations with jurisdiction over the harvesting vessels involved, and which conduct regular, controlled legal harvests of the various species.

Second, Mr. President, it requires the Secretary of Commerce to establish a system for issuing U.S. certificates of legal origin so that the exports of U.S. fish are not interrupted or delayed.

Third, it requires the Secretary of Commerce, after consulting with the Secretary of Treasury, to advise Congress as to whether any additional restrictions or changes are needed. The main question here is whether the United States should also require certificate of origin for salmon imports. Because there have been cases where illegally harvested fish have been imported with the intention of reexporting it as a product of the United States—we have caught several of these frauds—I think we ought to adopt such a restriction. I acknowledge, however, that some U.S. traders could be impacted if their normal sources do not provide certificates of legal origin. Therefore, I also believe it is appropriate to ask the Secretary to explore this subject and report back to us before any restrictions are imposed.

Finally, Mr. President, the amendment provides access to the Pelly amendment certification and sanction process found in the Fishermen's Protective Act of 1967, in cases where any country continues to deal in illegally taken salmon.

This amendment is a simple, straightforward effort to bring our attention to bear on a black market that is seriously harming U.S. citizens and U.S. commerce, and I thank my colleagues for their support of this important measure.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I ask unanimous consent that the yeas and nays ordered on S. 1025 be transferred to H.R. 2061.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ADAMS. Mr. President, I want to speak briefly about an impending crisis developing in the North Pacific fishery, a crisis I feel is inadequately addressed by this bill.

I participated in the development of the original Magnuson Fisheries Management and Conservation Act back in 1976. At that time, the abundant fish resources off this Nation's coasts were largely exploited by foreign fishing fleets. A major purpose of the act was to encourage growth of an American fishing industry.

Well, the act has been an enormous success. The North Pacific is now fished by a 100-percent American fleet. A large portion of this fleet is from Washington State, and is a major contributor to my State's economy.

Unfortunately, we may soon kill the goose that has laid this golden egg. Entry into the North Pacific fishery is at such a high rate that we may soon reach, if we haven't already, a point where there are more fishermen than fish; and more impact from fisheries on the Bering Sea's delicate ecosystem than that region can stand.

Already, we may have reached a point in the North Pacific where there will be an economic crash. My fear, however, is that we could be courting a biological crash. The scientists tell us that the stocks are still healthy, and that existing catch limits are at an appropriate level. I am concerned, however, that as economic pressures increase, there will be enormous pressures to raise catch limits. If that happens, we could wipe out one of the most productive fisheries left in the world.

This would be an unthinkable tragedy. But it is one that becomes more likely each year that we have unlimited entry into the North Pacific fishery.

That is why, in my position as an ex officio member of the National Ocean Policy Study Committee, I tried to have language imposing a moratorium on entry into the North Pacific fishery inserted into this reauthorization bill.

I was partially successful. The committee did accept broad language of national application that will apply to areas where a biological crash, or overfishing has occurred.

Unfortunately, this language will not do much right away for the North Pacific. I sought language that would be of immediate application, but it was too controversial. The prevailing opinion appears to be that moratoriums are OK as long as nobody's business plans are hurt. That attitude makes it difficult to deal with this problem in any meaningful way.

We must remember that this is a common resource. The fish belong to all of us—not just the people who harvest them. It would be a crime to let this resource be destroyed.

Second, I am very pleased that through passage of this legislation, we are passing some important driftnet provisions. These provisions declare that it is the official U.S. policy to work toward a total worldwide ban on driftnets; and set tough standards for enforcement and monitoring agreements entered into in the interim.

Driftnets are a situation where our technical ability to exploit a resource imperils that resource's ability to survive. Initial reports, inadequate as they may be, from our observers monitoring the driftnet fleets in the North Pacific illustrate a grim picture of carnage at sea. Driftnetting is so destructive that it cannot be managed or controlled. It must simply be banned.

That is why I do have some minor reservations about the Senate driftnet language.

In my opinion, this language could be interpreted to contemplate that some driftnet fishing will occur after 1992, regardless of the outcome of the U.N. resolution process. I feel this Nation should be pushing for a total ban on driftnet fishing by 1992, and that this legislation should be consistent with that policy. I hope this issue will be resolved in conference with the House. I thank the Chair.

Mr. INOUYE. Mr. President, I rise to offer my steadfast support for the reauthorization of the Magnuson Fishery Conservation and Management Act. I would also like to thank my distinguished colleagues for their support of my amendment to include tuna under U.S. jurisdiction.

The purpose of the Magnuson Fishery Conservation and Management Act is to improve conservation and management of U.S. marine fishery resources. Initially enacted in 1976, this act was mandated to halt the devastation of U.S. fishery resources by foreign fishermen. In the decade preceding enactment, catches by foreign vessels off the coastline of the United States more than doubled and led to the overfishing of numerous fish stocks.

Although great strides have been made over the past 15 years to better manage fisheries and to reestablish fish stocks that were devastated, the initial intent of the Magnuson Fishery Conservation and Management Act is as critical today as it was in 1976. For this reason, inclusion of tuna within U.S. jurisdiction is essential. Several marine fish species, including tuna, swordfish, marlins, sailfishes and pegalic sharks, migrate through broad oceanic expanses and traverse the coastal waters of many nations. Of these highly migratory species, tuna stocks in particular support major fisheries and are among the most highly valued of marine resources.

Over two-thirds of the world's catch of tuna comes from the Pacific Ocean. Foreign fishing along the exclusive economic zones of Hawaii, American Samoa, Guam, and the Northern Marianas have seen significant increases in the past decades. As a result of this increased fishing by foreign fleets, Pacific Island peoples, who are dependent on tuna and other pelagic fish for sustenance and livelihood, have suffered greatly. It is for these reasons that I support reauthorization of the Magnuson Fishery Conservation and Management Act which includes tuna within U.S. management authority.

I ask unanimous consent to print in the RECORD a resolution from the Pacific Basin Development Council signed by the Governors of the U.S. Pacific Territories and Hawaii in support of the Magnuson Conservation and Management Act.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

TUNA INCLUSION RESOLUTION

Whereas, the Board of Directors of the Pacific Basin Development Council (PBDC) seeks to insure for its island members the maximum social and economic benefit from the harvest of tuna and other associated pelagic species surrounding our islands; and

Whereas, the Board seeks to encourage the rational management and development of tuna and other associated pelagic fisheries for the long-term benefit of all Pacific Island peoples; and,

Whereas, tuna and other associated pelagic fish are top carnivores within an extremely complex, and as yet poorly understood, Pacific Ocean Pelagic Ecosystem, and,

Whereas, tuna and other associated pelagic fish are resources shared among and valued by all Pacific island peoples; and,

Whereas, the Pacific Ocean Pelagic Ecosystem has in the past and continues to provide a major source of pure wholesome food upon which many island people depend for their daily sustenance; and,

Whereas, the American Flag Pacific Islands (AFPI) (American Samoa, Guam, Hawaii and the Northern Marianas) have an international reputation as a mecca for big-game sports fishing, and this reputation contributes to island economic development and self sufficiency through enhancement of the visitor industry; and,

Whereas, commercial landings of tuna and other associated pelagic species contribute significantly to the domestic commerce and export revenue of the American Flag Pacific Islands; and,

Whereas, tuna and other associated pelagic resources are the target of growing commercial, recreational, and subsistence fishing pressure, domestic as well as foreign; and,

Whereas, most of the currently used methods of commercial fishing for tuna are unable to target a single pelagic species without resulting in a significant incidental catch of other associated non-target species; and,

Whereas, gear specific catch and effort data on tuna and other associated pelagic species in the Pacific are either fragmented, incomplete, or unavailable for scientific analysis; and,

Whereas, there is considerable scientific uncertainty with respect to the potential size of long-term sustainable yields for many tuna and other associated pelagic species; and,

Whereas, existing U.S. law does not provide satisfactorily for the collection of data, monitoring, management, or scientific investigation of commercial tuna and other associated pelagic species harvested within the Western, Central and Southern Pacific Region; and,

Whereas, a growing number of industrialized nations including the Soviet Union (with seven purse seiners reported operating in 1986) are now engaged in the large scale commercial harvest of tuna and other associated pelagic species in the Region; and,

Whereas, both the independent and American Flag Pacific Island governments have in the past looked to the United States as a source of regional stability, leadership, and assistance; and,

Whereas, there is a high level of expectation on the part of Pacific Island governments that the United States will set a mature and responsible example on all regional issues including fishery development and management; and,

Whereas, it is the belief of this Board that timely implementation of this Resolution will, for the first time, make possible the collection of reliable, scientifically useful data and foster a level of cooperative international scientific investigation which is needed to protect the tuna and associated pelagic resources for the welfare of future generations of Pacific Island peoples; and,

Whereas, it is the belief of this Board that timely implementation of this Resolution will extend to the American Flag Pacific Islands a similar degree of consideration, respect and control over fisheries resources as that which has already been accorded by the United States to other Pacific islanders under recently signed international fishery agreements; and,

Whereas, it is the belief of this Board that timely implementation of this Resolution will contribute greatly to the prestige, influence, and respect accorded the United States by all governments within the Pacific Region: Now, therefore, be it

Resolved, That:

A. The Board of Directors of the Pacific Basin Development Council support the inclusion of tuna under the jurisdiction and authority of the Magnuson Fishery Conservation and Management Act so as to make it possible for the Western Pacific Regional Fishery Management Council to ensure responsible data collection, scientific investigation, and planning on an ecologically sound basis for the entire group of pelagic fish resources within our Region; and,

B. Further, the Governors of the Pacific Basin Development Council support amendment of the Magnuson Fishery Conservation and Management Act so as to ensure that proceeds generated from foreign fishing fees within their respective exclusive economic zones accrue directly to the treasuries of American Flag Pacific Islands rather than the general fund of the United States; and,

C. Finally, the Board of Directors of the Pacific Basin Development Council, both individually and collectively, support the sense of this resolution and direct PBDC staff to advise the appropriate members of both the Congress and Administration as deliberations are undertaken for the reauthorization and amendment of the Magnuson Fishery Conservation and Management Act.

Mr. INOUYE. Mr. President, as a compromise, there is to be a 1-year delay in the implementation of the change in U.S. tuna policy. I believe that this period will allow the industry and tuna fleet sufficient time to adjust to the change in U.S. authority of tuna in our domestic waters.

Mr. President, I urge my colleagues to support the reauthorization of the Magnuson Act.

Mr. KERRY. Mr. President, as the chairman and other committee members know, I have worked hard to get this bill to the floor and to accommodate all the relevant interests. It is often difficult, but part of the legislative process. I have worked particularly closely with Senator BENTSEN on a concern he has about the amendment just offered to the bill. After working with him, I realized that the problem was more one of misunderstanding about our purpose rather than substantive objections.

Mr. BENTSEN. Will the Senator yield on that point?

Mr. KERRY. I will be happy to yield to my colleague from Texas.

Mr. BENTSEN. I want to clarify the intent of the amendment for the record. As the Senator knows, it is something I have taken a very close interest in, and I want our colleagues to have a full appreciation of its significance. Would my colleague agree that one of the underlying purposes of the Magnuson Act is to advance sound conservation and management practices for U.S. fishery resources.

Mr. KERRY. I certainly would.

Mr. BENTSEN. I thank the Senator.
The committee-passed bill included a
provision added at the markup. The
so-called subsection D. After studying
that language, I could not agree to
move forward on this bill until and
unless that language was dropped. I
thought it was at odds with the con-
servation and management thrust of
the Magnuson Act and took away all
secretarial discretion to take steps to
preserve and protect highly migratory
species.

Mr. KERRY. Yes, the Senator was
quite vigorous in pressing this point
with both Chairman HOLLINGS and me

Mr. BENTSEN. Subsection D has
been revised to dispel all doubt, and
largely replaced by the language in
subsection E. My original thinking was
that even this language was too ambig
uous regarding the extent of the Sec
retary's obligation to offer fishermen
an opportunity to harvest a quota
under an international agreement. Bu
I am persuaded that subsection E con
tinues to provide the Secretary the
needed flexibility to take appropriat
action to protect highly migratory spe
cies when the best available scientifi
evidence shows that it is needed. Both
the chairman and the Senator have as
sured me that implicit in subsection E
and the Magnuson Act itself, is
strong presumption of conservatio
and balance, and that we are not tyin
the Secretary's hands by limiting an
appropriate action he or she migh
deem necessary to meet conservatio
goals. Might I inquire of the Senato
and the chairman if that is their un
derstanding?

Mr. KERRY. Yes, it is. As the Sena
tor knows from our conversation
about this, none of us is interested i
blocking appropriate action to pr
serve a species when the evidenc
shows that it is threatened or in nee
of management. My concern, like th
Senator's, has been the need for ba
ance in approach. I think subsection
strikes that balance. That is why I d
not believe it requires further amen
ment.

Mr. HOLLINGS. It is certainly min
I support the conservation goals of th
Magnuson Act, including the Secr
tary's authority to take necessar
action to meet them, and would no
want to endorse a provison that unde
mined these goals.

Mr. BENTSEN. I thank both Sen
tors for their hard work on this bill.
am pleased we were able to clarify th
point.

Mr. ROTH. Mr. President, I also ris
in support of the S. 1025, the Fisher
Conservation Amendments Act
1990, and would like to concur wit
the statements, just made between th
Senator from Texas [Mr. BENTSEN
and the Senator from Massachuset
[Mr. KERRY]. I also voice my suppor
because earlier this year, I introduce

legislation to bring direct Federal management of tuna caught in U.S. waters from 3 miles of the coast to 200 miles off. I commend the committee for their efforts on this legislation, and in particular, the Senator from South Carolina [Mr. Hollings], the Senator fom Hawaii [Mr. Inouye], and the Senator from Massachusetts [Mr. Kerry], and the Senator from Alaska [Mr. Stevens].

However, I would like a clarification of a provision in the bill, and would appreciate it if the Senator from Massachusetts [Mr. Kerry] would be so kind as to answer my concerns.

Mr. KERRY. Mr. President, I would be glad to do so.

Mr. ROTH. Currently, the language in this bill allows a reasonable opportunity to all domestic fishermen to harvest allocations or quotas of highly migratory species negotiated under relevant international treaties. However, I feel that we must have a consistency between the Magnuson Act and our international treaty obligations. Therefore, I want to make sure and understand correctly that subsection E of the section on the management of highly migratory species is intended to balance the conservation needs of the affected species? Is my understanding correct, I say to the Senator from Massachusetts?

Mr. KERRY. Mr. President, the Senator from Delaware is entirely correct. The purpose of this language is to have consistent management of our highly migratory species and a balanced approach to this fishery, and ensures that the Secretary of Commerce has the authority to do so.

Mr. ROTH. Can this language be used to change the way the United States now manages billfish?

Mr. KERRY. This language is not intended to be used to disrupt the present management of billfish in the United States.

Mr. ROTH. I thank the Senator from Massachusetts for his cooperation, and I have no further questions.

Mr. KERRY. Finally, Mr. President, in the couple of remaining moments I have, I wish to thank the Senator from Washington particularly. There are critical moments in legislation where an opportunity arrives and a logjam can be broken. I think it is fair to say the Senator from Washington provided that today. We are grateful for him having helped us to move in these final moments. Given the energy and work that has gone into it, I am grateful for that.

As usual, nothing would happen without staff. That is never more so true in this effort. We are blessed in the Commerce Committee with an outstanding staff that has worked an extraordinary number of hours to try to piece together the complicated nuances of this legislation. I particularly thank publicly, from the Commerce Committee staff, Penny Dalton, Mike Nussman, Earl Comstock, and John Moran, and from my personal staff Marlene Broutman and Sally Yozell who have done an outstanding job.

Mr. President, I yield back whatever time I have remaining.

The PRESIDING OFFICER. The question is on agreeing to the amendment submitted by the Senator from South Carolina.

The amendment (No. 2951) was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2952

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. Biden], for himself, Mr. Kerry, and Mr. Graham, proposes an amendment numbered 2952.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end, add the following new section:

Sec. 802. (a) Short title.—This section may be cited as the "Dolphin Protection Consumer Information Act".

(b) Findings.—The Congress finds that—

(1) dolphins and other marine mammals are frequently killed in the course of tuna fishing operations in the eastern tropical Pacific Ocean and high seas driftnet fishing in other parts of the world;

(2) it is the policy of the United States to support a worldwide ban on high seas driftnet fishing, in part because of the harmful effects that these driftnets have on marine mammals, including dolphins;

(3) the largest processors of tuna products for the American market have recently adopted a policy of not purchasing tuna harvested with high seas driftnets or with purse seine nets intentionallay deployed to encircle dolphins; and

(4) consumers should have the right to know whether the tuna they purchased was accurately labeled as to the effect of the harvesting of the tuna on dolphins.

(c) Definitions.—For the purposes of this section—

(1) the terms "driftnet" and "driftnet fishing" have the meanings given those terms in section 4003 of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (16 U.S.C. 1822 note);

(2) the term "eastern tropical Pacific Ocean" means the area of the Pacific Ocean bounded by 40 degrees north latitude, 40 degrees south latitude, 160 degrees west longitude, and the western coastlines of North, Central, and South America;

(3) the term "label" means a display of written, printed, or graphic matter on or affixed to the immediate container of any article;

(4) the term "Secretary" means the Secretary of Commerce; and

(5) the term "tuna product" means a food item which contains tuna and which has been processed for retail sale, except perishable sandwiches, salads, or other products with a shelf life of less than 3 days.

(d) Labeling Requirement.—(1) The label of any tuna product which is exported from or offered for sale in the United States, and which—

(A) contains tuna that is harvested in the eastern tropical Pacific Ocean and is not harvested with purse seine nets intentionally deployed to encircle dolphins or by a vessel using a driftnet, or

(B) is dolphin safe under paragraph (2); may include the following statement: "DOLPHIN SAFE" and may not include any other representation respecting the effect of the harvesting of the tuna on dolphins.

(2) For purposes of paragraph (1)(B), a tuna product which contains tuna harvested in the eastern tropical Pacific Ocean by a fishing vessel using purse seine nets is dolphin safe if—

(A) the vessel is of a type and size that the Secretary has determined is not capable of deploying its nets on or to encircle dolphin; or

(B)(i) the product is accompanied by a written statement executed by the captain of the vessel certifying that no tuna were caught on that trip using a purse seine net intentionally deployed on or to encircle dolphin;

(ii) the product is accompanied by a written statement executed by the Secretary or his or her designees, or by a representative of the Inter-American Tropical Tuna Commission, which states that there was an approved observer on board the vessel during the entire trip and that purse seine nets were not intentionally deployed during the trip on or to encircle dolphin; and

(iii) the statements are endorsed in writing by each exporter, importer, and processor of the product.

(e) Enforcement.—(1) Whoever produces a tuna product that—

(A) includes on its label the statement "DOLPHIN SAFE" when the product is not dolphin safe as determined under subsection (d), or

(B) makes any other representation respecting the effect of the harvesting of the tuna product on dolphins,

shall be considered to have violated section 5 of the Federal Trade Commission Act.

(2) Whoever knowingly and willfully makes a statement or endorsement described in subsection (d)(2)(B)(i) or (ii) that is false is liable for a civil penalty of not more than $100,000.

(f) Regulations.—The Secretary, in consultation with the Secretary of the Treasury, shall issue regulations to implement this section not later than 6 months after the date of the enactment of this Act, including regulations establishing procedures and requirements for ensuring that tuna products are labeled in accordance with this Section.

(g) Citizens Suits.—(1) Except as provided in paragraph (2), any person may commence a civil suit on his or her own behalf against any person, including the United States and any other governmental instrumentality or agency, who is alleged to be in violation of a requirement of Subsection (d).

(2) No action may be commenced under Paragraph (1)—

(A) before 60 days after the plaintiff has given written notice of the violation to the Secretary and to the alleged violator, or

(B) if the Federal Trade Commission has commenced and is diligently prosecuting a complaint under section 5 of the Federal Trade Commission Act to require compliance with the requirement that is the subject of the action.

(3)(A) The district courts of the United States shall have jurisdiction, without regard to the amount of controversy or the citizenship of the parties, over any action under paragraph (1).

(B) A suit under paragraph (1) may be brought in the judicial district in which a violation occurs.

(4) In any suit under paragraph (1) in which the United States is not a party, the Attorney General, at the request of the Secretary, may intervene on behalf of the United States as a matter of right.

(5) The court, in issuing any final order in a suit under paragraph (1), may award costs of litigation (including reasonable attorney and expert witness fees) to a prevailing party if the court determines the award of those costs is appropriate.

(6) The injunctive relief provided by this section shall not be construed to restrict any right a person (or a class of persons) may have under any statute or common law to seek enforcement of any requirement of Subsection (d).

(h) Treatment of Fish Caught With Driftnets.—Section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)) is amended—

(1) in subparagraph (C) by striking "and" after the semicolon at the end;

(2) in subparagraph (D) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(E) in the case of fish or fish products harvested by a nation whose fishing vessels engage in high seas driftnet fishing, shall require that the government of the exporting nation provide documentary evidence that the fish or fish product was not harvested with a driftnet in the South Pacific Ocean after July 1, 1991, or in any other waters of the high seas after July 1, 1992;".

(i) Negotiations.—The Secretary of State shall immediately seek, through negotiations and discussions with appropriate foreign governments, to reduce and, as soon as possible, eliminate the practice of harvesting tuna through the use of purse seine nets intentionally deployed to encircle dolphins.

(j) Report.—Two years after the date of the enactment of this Act, the Secretary shall report to the Committee on Merchant Marine and Fisheries of the House of Representatives on the cost to consumers and United States tuna fishermen of carrying out this section.

(k) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary to carry out this section not to exceed $4,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995.

(l) Effective Date.—Subsections (d) and (e) shall take effect—

(1) 6 months after the date of the enactment of this Act; or

(2) on such later date, within 1 year after the date of the enactment of this Act, as may be specified by the Secretary for good cause in regulations issued in accordance with Subsection (f).

Mr. BIDEN. Mr. President, I ask unanimous consent that my colleague and friend from Massachusetts [Mr. Kerry] be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I will be very brief. I begin by thanking John Breaux for agreeing to crompromise with me on this amendment. This is not all that I hoped, but it is more than we have.

The intent of this amendment, Mr. President, is to save the lives of thousands of dolphins that are unnecessarily slaughtered on a yearly basis under the terms of the Marine Mammal Protection Act, because of purse seine nets.

Mr. President, you have seen it. The pages have seen it. People in the gallery have seen it. These purse seine nets gather up everything in sight, and when they are brought up, the dolphins are caught in the nets and they literally drown. Thousands of dolphins are killed each year.

It is a very rare situation, Mr. President, when industry and the environmental community join together to support legislation, but there is very strong support in this country from the grassroots, from schoolchildren to mothers and fathers who make their lunches and will not use tuna fish because that tuna, as they say, "caught on dolphin" ends up causing the death of dolphins.

The type of support that we received for this kind of legislation from the grassroots constituency out there actually convinced Starkist, the largest tuna company in the world, on April 12 to make a truly remarkable announcement, and that is they would no longer buy any tuna fish caught in association with dolphin. Other major companies quickly followed suit. But the legislation now is more important than ever because we need a shared definition of what it means when you see on a tuna can "dolphin safe." Starkist said we will not buy tuna caught on dolphin any longer and on our cans we are going to say "dolphin safe."

But, Mr. President, very quickly this standard began to be abused and weakened, not by Starkist but by others. That is why we need a standard for what "dolphin safe" means and an enforcement mechanism so consumers can be sure that when they look on the marketing shelf and a tuna can says "dolphin safe," in fact that is true. That is why I am offering the amendment today.

I might add, in the original amendment I offered, sponsored by Congresswoman Boxer from California on the House side, cans would have to say, when you did catch tuna on dolphin and dolphin were killed in the process, "Caught with methods known to kill dolphins."

The compromise here today, Mr. President, is that I agreed to drop the label saying "Caught with methods known to kill dolphins" and only have the affirmative requirement of saying if it is dolphin safe, there is a method to prove it is dolphin safe and enforce that.

Senator Breaux agreed to compromise. He said if I would drop the negative requirement, he would go along with the positive. But he understands—and I want to make it clear to my colleagues—I plan on coming back next year to attempt to get the more tightly structured label on those cans that are not "dolphin safe."

My amendment provides a standard defintion for "dolphin safe" tuna, a prohibition on other claims on the labels related to marine mammals; for example, you cannot put on the can "dolphin happy," "dolphin glad," and so on, which implies that it was not caught on dolphin, and a certification process so consumers can be sure that there is no cheating or false claim and also penalties for those who cheat

If I could have had my way, as said, I would like to pass stronger legislation, but I think it is more important that as "dolphin safe" tuna enters the market we provide consumers with the strongest assurance possible that their good intentions in selecting "dolphin safe" tuna are not being taken advantage of.

As I said, Senator Breaux has agreed that we can return to this issue next year and see if further legislative action is necessary, as I believe it is.

When Starkist made its announcement in April, some saw it as a way to take advantage of the upcoming Earth Day celebration, but is that not exactly what Earth Day is supposed to be about—progressive action by industry to protect the environment. Not only breakthrough for the tuna industry but also a breakthrough for individual choice has occurred.

The passage of this will have the clearest indication yet of how individuals can make a difference in the global environment.

Mr. President, I yield back my time and unless there is anyone who wishes to speak to this, I am prepared to voice vote the amendment.

Mr. KERRY. Mr. President, there no opposition to the amendment. I am delighted the Senator from Delaware has proposed it.

Mr. GORTON. Mr. President, there is no opposition to the amendment on this side.

Mr. BIDEN. I thank my colleague.

Mr. CHAFEE. Mr. President, intend to vote in favor of S. 1025, the Magnuson Act reauthorization bill. I do so despite the fact that I have some misgivings about the bill. I know my colleagues on the Commerce Committee worked hard on this bill, and I do not doubt their good intentions. But in all honesty, I am not entirely pleased with the resulting legislation.

First, there is the language dealing with the issue of highly migratory sp cies—particularly tuna. This issue has certainly been one of the most controversial issues in this bill. The committee members did what they felt to be best: They gave the Secretary of Commerce the primary authority for such fishery management decisions.

Clearly, highly migratory species are difficult to manage. As has been pointed out, the east coast has migratory fisheries that extend over five council regions, and therefore five jurisdictions. But I do not like the idea of leaving management authority solely with the Secretary, rather than with the regional councils, or perhaps with the International Convention for the Conservation of Atlantic Tuna [ICCAT].

Second, we all recognize the fact that the fishing industry is facing tough times. In great part this has to do with fishery stock depletion. Fisheries depletion is a serious problem, and it helps no one—not commercial fishermen, not recreational fishermen, and least of all not the marine habitat.

Again, however, I am troubled by the fact that under this bill, it is the Secretary who has the authority to call a temporary moratorium on new entrants to a fishery. It seems to me that that is a job for the regional councils. That's why they are there. I understand that the managers have agreed to accept some compromise language on this point, and I thank them for it.

There are, however, some good things in this bill. The one that comes to mind is the ban on the use of driftnets—the terrible ghostfishers of the sea—in the 200-mile zone. I also applaud the provision calling on the Secretary to negotiate an international ban on the practice of driftnet fishing.

Mr. President, it is all too clear to me that this measure has strong support, and that it will be approved overwhelmingly. In the face of such support, it is also clear that little, if any, other changes to the bill can be made right now.

I, therefore, have recognized that while I have concerns about the two issues I mentioned, there is little more to be done at this point. So I will vote for the bill; and as I said, the driftnet provisions are important and deserve passage. But I intend to pursue the first two issues with my colleagues.

The **PRESIDING OFFICER**. All time is yielded back.

The question is on agreeing to the amendment.

The amendment (No. 2952) was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SANFORD. Mr. President, I rise in strong support of S. 1025, which will reauthorize and amend the Magnuson Fishery Conservation and Management Act. This is an extremely important bill. It provides for a comprehensive system of managing American marine fishery resources through the efforts of the regional councils and the Department of Commerce, in consultation with the participants in the various fisheries. So it is a conservation bill with respect to fishery stocks; a consumer bill with respect to the seafood that goes onto the table of the American family; and an economic bill that provides for the long-term health of the commercial and recreational fishing industries.

I want to take a moment to thank all those who have put a great deal of time and labor into crafting this legislation. In particular, I would like to commend the distinguished Senator from Massachusetts, Senator KERRY, who has been a real leader on this matter as with so many other important issues. His work is greatly appreciated. Of course, my good friend from South Carolina, Chairman HOLLINGS, and our distinguished colleague from Alaska, Senator STEVENS, also deserve much credit for their contributions to the measure we have before us.

Mr. President, this bill contains many important provisions, including measures to address the critical problem of high seas drift net fisheries and other matters such as highly migratory species. It provides direction and resources to our fishery management system. The drift net problem has been a matter of concern to many of us on the Foreign Relations Committee as well as those who serve on the Commerce Committee. The bill before us contains language that clearly and firmly puts the Congress on the side of conservation through support for a permanent ban on wasteful and destructive drift net fishing.

I will leave a more complete description of the bill to the Senator from Massachusetts and other members of the Commerce Committee. However, Mr. President, I would like to take a few moments to describe some provisions that will be of particular interest in my State of North Carolina.

The commercial fisherman in North Carolina, to put it simply, is having a very tough time right now. His livelihood is threatened from many directions. Pollution and habitat loss are causing serious damage to the resources on which he depends. The availability of reasonably-priced insurance is a problem. The red tide of 1987, the king mackerel controversy in 1988, and Hurricane Hugo last year have been serious blows. Access to the ocean through Oregon Inlet—the only way from our ports to offshore fisheries for almost half our coastline—is becoming more and more limited. There are new safety regulations; new TED requirements; and a whole host of management conflicts that seemingly affect virtually every major fishery in some portion of either State or Federal waters. In short, things are getting harder on the fisherman than they have ever been, and his work has never been easy.

Mr. President, our fishermen do not ask for much. They are the last of the true independents. They do not want handouts, and they do not want the Government to solve their problems. They simply want to be heard, and to get a fair chance to make a living. They sometimes feel like no one is out there listening.

These are decent, hardworking people. The fishing community in North Carolina includes some of the finest men and women I have ever met. Many have ancestors who were fishing our coastal waters long before there was a United States. They represent not an industry but a way of life, and it is a way of life that ought to be preserved.

I have received many positive suggestions regarding management issues from this community since my election to the Senate. Some of these items have been addressed in the legislation before us. Among the issues that have been discussed with the authors of this bill are the assurance of balanced representation among various groups on the councils; assuring that the councils take into account the impacts of decisions on participants in adjacent States that may be under the jurisdiction of another council; judicial review; the active involvement of fishermen in research and development of conservation gear and techniques; the adequacy of data that is available for making management decisions; and problems associated with scallop management.

I am very pleased that the committee has adopted language designed to address a number of these matters. First, there has been concern on the part of commercial fishermen regarding the degree to which they are represented on certain councils. It was clearly the intent of Congress that all participant groups be fairly represented on the councils, and the original Magnuson Act contains language stressing that a fair balance be maintained. Nonetheless, councils such as that for the Mid-Atlantic currently appear to include few members from the commercial fishing community.

To address this matter, S. 1025 requires that council nominees be qualified by virtue of occupational or other experience or scientific expertise or training, and requires the Secretary of Commerce to prescribe specific criteria by which nominees must be considered. The Secretary, as at present, will receive three names as nominations from the Governor of a State where a council vacancy exists. However, S.

1025 requires that the Secretary reject any nominees who do not meet the criteria, and must select one nominee in a manner that ensures that a fair and balanced apportionment exists between participant groups. Council members are to be limited to three consecutive terms. The Secretary must publicly announce his selection not less than 45 days before the selected individual is to take office. Finally, the Secretary must report to Congress annually on the steps he has taken or will take to ensure that balance is achieved.

Second, S. 1025 will correct a potential catch-22 situation that has existed with respect to judicial review. This is not an option that will be frequently used for North Carolina fishermen, but it is an option that must be available in circumstances such as the king mackerel decision of 1988. Under current law, an action can only be challenged in court within 30 days after publication in the Federal Register. However, in many instances, fishermen must show that they have been harmed by an action in order to have their case heard.

This creates a catch-22 when actions are published more than 30 days before they are implemented—fishermen cannot file suit within 30 days because they have not yet been harmed, but they cannot sue when they have been harmed because more than 30 days have elapsed. This is clearly not the type of requirement that will generate a great deal of confidence in the Government on the fisherman's part. S. 1025 will correct this problem by providing for judicial review within 30 days of either publication or implementation, and providing for expedited consideration of a petition for review.

Third, the bill adds a finding that collection of reliable data is essential to effective conservation and management of fishery resources. This is a very difficult issue for the councils, because when data is incomplete—and there is always uncertainty—a council may face a choice between serious damage to the resource through inaction and serious damage to the fishermen through inappropriate action. Such a choice was involved in the 1988 king mackerel decision, where the best available evidence indicated that the resource was stressed, but estimates of the number of mackerel varied by a factor of ten.

To address this crucial problem, the bill provides for better data collection and management, including information management components within a strategic fisheries research plan. The bill also authorizes much-needed additional funding for data collection and management activities.

Fourth, the bill adds a new policy of explicitly seeking to minimize disruptions and dislocations in coastal communities dependent on fisheries, and requires that fishery management plans include a fishery impact statement that assesses and describes the impact of management decisions on fishery participants. While I believe that Congress has always intended that such impacts be carefully considered as part of the management process, this language should help make certain that these impacts are both given due weight in the decisionmaking process and openly explained to those who may depend on a given fishery.

These are all matters in which I have taken an active interest, together with Chairman Walter Jones and other members of the North Carolina delegation, and I want to thank the committee for their fine work.

The sponsors of the bill have also graciously consented to the inclusion of four amendments I had proposed as part of the committee package. The first of these will require that the fishery impact statements discussed earlier include an assessment of the impacts, if any, of management decisions on fishery participants in adjacent areas which may be under the control of another council. This is a matter of some interest in North Carolina, where we are at the northern end of the range of some southern stocks, but the southern end of the range of some northern stocks. Therefore, our fishermen may have a keen interest in some of the matters before the mid-Atlantic council as well as the South Atlantic council.

North Carolina is not represented on the mid-Atlantic council. I am not proposing such representation at this time. However, it seems only fair that councils should fully consider the impacts of management decisions on both stocks and participants in adjacent areas for species that migrate between or occur in areas under the jurisdiction of different councils. The language I have proposed is intended to help ensure that such consideration occurs and that impacts are explained to participants in fisheries for these species, whether they participate in areas within the jurisdiction of the relevant council or in adjacent areas.

It is expected that such statements will be prepared after consultation with the council governing the adjacent areas and representatives of participants in those adjacent areas. An additional source of information which may be helpful in preparing such statements may be any hearings which have been conducted outside a council's area of jurisdiction in accordance with current law.

A second amendment, which is similar to language proposed by Congressman JONES and adoped by the House, is intended to address the current controversy over Atlantic scallop management. While this is a matter for the
New England council, it is also of con
cern to many fishermen in North
Carolina and other States. The
present management system is base
on a meat count technique which ha
been the subject of much criticism
This technique is cumbersome for th
fishermen; difficult to enforce; an
may not be achieving conservatio
goals as intended.

While there does not appear to b
consensus yet on management tech
niques that would improve on the cur
rent system, there does seem to b
considerable consensus regarding th
shortcomings of using the meat count
The amendment provides that th
New England council may submit a
amendment to the Secretary of Com
merce which would do away with th
meat count system. Such an amend
ment could include, if necessary afte
review of the best available data an
consideration of the views of fishe
men and processors, controls on ha
vesting effort. If such an amendmen
has not been submitted within 1 yea
the Secretary is directed to prepar
such an amendment in accordanc
with section 304 of the Act.

The third suggestion that the com
mittee has agreed to accept woul
simply clarify that the national fish
ery conservation and management pr
gram should encourage developme
of practical measures that avoid u
necessary waste of fish. I strongl
agree that we should seek to avoid u
necessary waste of fish, for both ec
logical and economic reasons. Howe
er, we should address this matter in
way that both preserves the resour
and is practical for our fishermen
There is much controversy about b
catch issues in a North Carolina co
text, although I recognize that the
are other areas that have entirely di
ferent problems with respect to unne
essary waste of fishery resources.
would simply submit that we ought
choose among effective ways of dea
ing with such problems, where appr
priate, so that the technique selecte
is workable for the fisherman.

Finally, I want to commend Senat
KERRY and the committee for their i
clusion of language directing the Se
retary to prepare a 5-year strategic r
search plan to help further the goa
of the act. One component of the r
search plan, that regarding develo
ment and testing of new gear techno
ogy and fishing techniques to promot
efficient harvest, is of particular inte
est to me.

We have a number of fishermen
North Carolina who are taking
proactive view of potential resour
issues and are proposing ideas for ne
gear and techniques which might
useful in addressing such issues. Ho
ever, few fishermen can afford
spend much time or money in develo
ing and testing such ideas, and fishe

men may find it difficult to bring their ideas to the attention of the research community. I am sure that similar situations exist elsewhere.

It is my thought that we ought to make every effort to involve interested fishermen in research efforts, especially those efforts designed to develop and test new gear or fishing techniques. First, we are bound to get some very good ideas if we do so. After all, the commercial fisherman is out on the water daily, if anyone knows what will work and what will not, it is he. Second, we are bound to get valuable feedback and assistance in refining gear and techniques if the fisherman is involved in testing them. Finally, any new gear or technique proposed for adoption is bound to find much broader acceptance and use if it has been thoroughly tested and refined by those who will actually have to use it.

So I am very pleased that the sponsors of the bill have included, at my request, language that will stress that fishermen should be involved both in the development of the research plan and in actually carrying it out with respect to gear and fishing technique development and testing.

I would note that, while the research authorized by this bill is important, there are other research programs such as the Saltonstall-Kennedy Program that also have a large impact upon fishery conservation and management. If I may, I would like to ask a question of the distinguished manager of the bill, the Senator from Massachusetts.

Mr. KERRY. I would be happy to respond to the Senator from North Carolina.

Mr. SANFORD. I thank my colleague. As I have stated there would appear to be good cause to attempt to involve interested fishermen in research programs such as conservation engineering to the greatest extent possible. Would my friend from Massachusetts agree that it may be appropriate to review the extent to which such involvement is currently occurring, and to examine means by which such involvement may be strengthened, in the context of programs such as Saltonstall-Kennedy?

Mr. KERRY. I think the Senator has an excellent suggestion. I would agree that this is an appropriate matter for the Commerce Committee to consider, and would note that the committee plans to conduct a comprehensive review of the Saltonstall-Kennedy Program during the next Congress.

Mr. SANFORD. I appreciate the response of my good friend, and look forward to working with him on this matter. The Senator has done an outstanding job on this bill, and I want to thank him for his assistance.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 1025) was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Commerce Committee is discharged from consideration of H.R. 2061. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 2061) to authorize appropriations to carry out the Magnuson Fishery Conservation and Management Act through fiscal year 1993, and for other purposes.

The PRESIDING OFFICER. All after the enacting clause is stricken and the text of S. 1025 substituted therefor.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. Hatfield] and the Senator from California [Mr. Wilson] are necessarily absent.

I further announce that if present and voting, the Senator from Oregon [Mr. Hatfield] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 264 Leg.]

YEAS—98

Adams
Akaka
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McClure
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wirth

NAYS—0

NOT VOTING—2

Hatfield
Wilson

So the bill (H.R. 2061), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 2061) entitled "An Act to authorize appropriations to carry out the Magnuson Fishery Conservation and Management Act through fiscal year 1993, and for other purposes" do pass with the following amendment:

Strike out all after the enacting clause and insert:

SHORT TITLE; TABLE OF CONTENTS

Section 1. (a) Short Title.—The Act may be cited as the "Fishery Conservation Amendments of 1990".

(b) Table of Contents.—

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

Sec. 101. Findings, purposes, and policy.
Sec. 102. Definitions.
Sec. 103. Authority with respect to highly migratory species.
Sec. 104. Foreign fishing.
Sec. 105. International fishery agreements.
Sec. 106. Permits for foreign fishing.
Sec. 107. Driftnet fishing.
Sec. 108. Regional Councils.
Sec. 109. Contents of fishery management plans.
Sec. 110. Action by Secretary of fishery management plans.
Sec. 111. Implementation of fishery management plans.
Sec. 112. State jurisdiction.
Sec. 113. Prohibition of certain acts.
Sec. 114. Civil penalties and permit sanctions.
Sec. 115. Criminal offenses and penalties.
Sec. 116. Civil forfeitures.
Sec. 117. Enforcement.
Sec. 118. North Pacific fisheries research plan.
Sec. 119. Authorization of appropriations.
Sec. 120. Miscellaneous technical amendments.

TITLE II—ATLANTIC TUNAS CONVENTION ACT OF 1975

Sec. 201. Limitations on appointments of Commissioners.
Sec. 202. Termination of current terms and completion of pending appointments.
Sec. 203. Travel expenses of Commissioners.
Sec. 204. Travel expenses of advisory committee.
Sec. 205. Species working groups.
Sec. 206. Regulations to carry out Commission recommendations.
Sec. 207. Authorization of appropriations.

TITLE III—FISHERMEN'S PROTECTIVE ACT OF 1967

Sec. 301. Vessel seizure reimbursement authority.

TITLE IV—ANADROMOUS FISH CONSERVATION ACT

Sec. 401. Authorization of appropriations.

TITLE V—INTERJURISDICTIONAL FISHERIES ACT OF 1986

Sec. 501. Clarification of appointment limitation.
Sec. 502. Federal share of activities carried out with additional appropriations.
Sec. 503. Authorization of appropriations.

TITLE VI—CENTRAL, WESTERN, AND SOUTH PACIFIC FISHERIES DEVELOPMENT ACT

Sec. 601. Authorization of appropriations.

TITLE VII—NATIONAL FISH AND SEAFOOD PROMOTIONAL COUNCIL

Sec. 701. Extension of termination date.
Sec. 702. Authorization of appropriations.
Sec. 703. Transfer of Saltonstall-Kennedy funds.

TITLE VIII—MISCELLANEOUS

Sec. 801. Certificate of legal origin for anadromous fish products.

TITLE IX—DOLPHIN PROTECTION CONSUMER INFORMATION

Sec. 901. Dolphin protection.

TITLE I—AMENDMENTS TO MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

FINDINGS, PURPOSES, AND POLICY

Sec. 101. (a) Findings.—Section 2(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(a)) is amended by adding at the end the following new paragraph:

"(8) The collection of reliable data is essential to the effective conservation, management, and scientific understanding of the fishery resources of the United States.".

(b) Purposes.—(1) Section 2(b)(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(b)(1) is amended by striking "except highly migratory species".

(2) Section 2(b)(5) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(b)(5)) is amended by striking "prepare, monitor, and revise" and inserting in lieu thereof "exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of".

(c) Policy.—Section 2(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(c)) is amended—

(1) in paragraph (3) by inserting "considers the effects of fishing on immature fish and encourages development of practical measures that avoid unnecessary waste of fish;" immediately after "and enforcement;"

(2) by striking "and" at the end of paragraph (4);

(3) by striking the period at the end of paragraph (5) and inserting in lieu thereof ", and to secure agreement on a permanent ban on the use of indiscriminate and destructive fishing practices by vessels or persons fishing beyond the exclusive economic zones of any nation; and"; and

(4) by adding at the end the following new paragraph:

"(6) to foster and maintain the diversity of fisheries in the United States, and to minimize disruptions and dislocations in those fisheries upon which coastal communities are substantially dependent to meet their social and economic needs.".

DEFINITIONS

Sec. 102. (a) General.—Section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802) is amended—

(1) by redesignating paragraphs (6) through (16) as paragraphs (7) through (17), respectively, by redesignating paragraph (17) as paragraph (19), by redesignating paragraphs (18) through (23) as paragraphs (21) through (26), respectively, and by redesignating paragraphs (24) through (27) as paragraphs (28) through (31), respectively;

(2) by inserting immediately after paragraph (5) the following new paragraph:

"(6) The term "driftnet fishing" means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of one and one-half miles or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.";

(3) in paragraph (8), as so redesignated, by striking ", birds, and highly migratory species" and inserting in lieu thereof "and birds";

(4) by amending paragraph (15), as so redesignated, to read as follows:

"(15) The term 'highly migratory species' means tuna species, marlin (Tetrapturus spp. and Makaira spp.), oceanic sharks, sailfishes (Istiophorus spp.), and swordfish (Xiphias gladius).";

(5) by inserting immediately after paragraph (17), as so redesignated, the following new paragraph:

"(18) The term 'migratory range' means the maximum area at a given time of the year within which fish of an anadromous species or stock thereof can be expected to be found, as determined on the basis of scale pattern analysis, tagging studies, or other reliable scientific information, except that the term does not include any part of such area which is in the waters of a foreign nation.";

(6) inserting immediately after paragraph (19), as so redesignated, the following new paragraph:

"(20) The term 'observer' means any person required or authorized to be carried on a vessel for conservation and management purposes by regulations or permits under this Act.";

(7) by inserting immediately after paragraph (26), as so redesignated, the following new paragraph:

"(27) The term 'tuna species' means the following:

"Albacore Tuna—Thunnus alalunga;

"Bigeye Tuna—Thunnus obesus;

"Bluefish Tuna—Thunnus thynnus;

"Skipjack Tuna—Thunnus pelamis; and

"Yellowfin Tuna—Thunnus albacares."; and

(8) by adding at the end the following new paragraph:

"(32) The term 'waters of a foreign nation' means any part of the territorial sea or exclusive economic zone (or the equivalent) of a foreign nation, to the exent such territorial sea or exclusive economic zone is recognized by the United States.".

(b) Conforming Amendment.—Section 101(b)(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1811(b)(1) is amended by striking "any foreign nation's" and all that follows and inserting in lieu thereof "any waters of a foreign nation.".

AUTHORITY WITH RESPECT TO HIGHLY MIGRATORY SPECIES

Sec. 103. (a) General.—Section 102 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1812) is amended to read as follows:

"SEC. 102. HIGHLY MIGRATORY SPECIES.

"The United States shall cooperate directly or through appropriate international organizations with those nations involved in fisheries for highly migratory species with a view to ensuring conservation and promoting the objective of optimum utilization of such species throughout their range, both within and beyond the exclusive economic zone.".

(b) Conforming Amendment.—The entry for section 102 of the Magnuson Fishery Conservation and Management Act is amended to read as follows:

"Sec. 102. Highly migratory species.".

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 1992.

FOREIGN FISHING

Sec. 104. Subsection (d) of section 201 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1821) is amended to read as follows:

"(d) Total Allowable Level of Foreign Fishing.—The total allowable level of foreign fishing, if any, with respect to any fishery subject to the exclusive fishery management authority of the United States, shall be that portion of the optimum yield of such fishery which will not be harvested by vessels of the United States, as determined in accordance with this Act.".

INTERNATIONAL FISHERY AGREEMENTS

Sec. 105. (a) Highly Migratory Species Agreements.—Section 202 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1822) is amended by redesignating subsection (e) as subsection (f) and by inserting immediately after subsection (d) the following new subsection:

"(e) Highly Migratory Species Agreements.—

"(1) Evaluation.—The Secretary of State in cooperation with the Secretary, shal evaluate the effectiveness of each existin international fishery agreement which pertains to fishing for highly migratory species Such evaluation shall consider whether th agreement provides for—

"(A) the collection and analysis of necessary information for effectively managin the fishery, including but not limited to information about the number of vessels involved, the type and quantity of fishing gea used, the species of fish involved and thei location, the catch and bycatch levels in th fishery, and the present and probabl future condition of any stock of fish involved;

"(B) the establishment of measures applicable to the fishery which are necessary an appropriate for the conservation and management of the fishery resource involved;

"(C) equitable arrangements which provide fishing vessels of the United State with (i) access to the highly migratory species that are the subject of the agreemen and (ii) a portion of the allowable catc that reflects the traditional participation b such vessels in the fishery;

"(D) effective enforcement of conservation and management measures and acces arrangements throughout the area of jurisdiction; and

"(E) sufficient and dependable funding t implement the provisions of the agreemen based on reasonable assessments of the benefits derived by participating nations.

"(2) Access negotiations.—The Secretar of State, in cooperation with the Secretary shall initiate negotiations with respect t obtaining access for vessels of the Unite States fishing for tuna species within th exclusive economic zones of other natior on reasonable terms and conditions.

"(3) Reports.—The Secretary of State shall report to the Congress—

"(A) within 12 months after the date of enactment of this subsection, on the results of the evaluation required under paragraph (1), together with recommendations for addressing any inadequacies identified; and

"(B) within six months after such date of enactment, on the results of the access negotiations required under paragraph (2).

"(4) Negotiation.—The Secretary of State, in consultation with the Secretary, shall undertake such negotiations with respect to international fishery agreements on highly migratory species as are necessary to correct inadequacies identified as a result of the evaluation conducted under paragraph (1).

"(5) South pacific tuna treaty.—It is the sense of the Congress that the United States Government shall, at the earliest opportunity, begin negotiations for the purpose of extending the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, signed at Port Moresby, Papua New Guinea, April 2, 1987, and it Annexes, Schedules, and implementing agreements for an additional term of 10 years on terms and conditions at least as favorable to vessels of the United States and the United States Government.".

(b) Determinations of Secretary of State.—(1) Section 205(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1825(a)) is amended—

(1) in paragraph (1) by striking "traditional" and by inserting "including fisheries for tuna species," immediately after "authority,"; and

(2) in paragraph (2) by striking "highly migratory" and inserting in lieu thereof "tuna".

(2) The amendments made by this subsection shall take effect on January 1, 1992.

PERMITS FOR FOREIGN FISHING

Sec. 106.—(a) Fees.—Section 204(b)(10) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(10)) is amended to read as follows:

"(10) Fees.—

"(A) Fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit has been issued pursuant to this section. The Secretary, in consultation with the Secretary of State, shall establish a schedule of reasonable fees that shall apply nondiscriminatorily to each foreign nation.

"(B) Amounts collected by the Secretary under this paragraph shall be desposited in the general fund of the Treasury.".

(b) Sanctions.—Section 204(b)(12) of the Magnuson Fishery Conservation and Mangement Act (16 U.S.C. 1824(b)(12)) is repealed.

DRIFTNET FISHING

Sec. 107. (a) General.—Section 206 of the Magunson Fishery Conservation and Management Act (16 U.S.C 1826) is amended to read as follows:

"Sec. 206 DRIFTNET FISHING.

"(a) Short Title.—This section incorporates and expands upon provisions of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 and may be cited as the 'Driftnet Act Amendments of 1990'.

"(b) Findings.—The Congress finds that—

"(1) the continued widespread use of long driftnets beyond the exclusive economic zone of any nation is an indiscriminate and wasteful fishing method that poses a threat to living marine resources of the world's, including but no limited to the North And South Pacific Ocean and the Bering Sea;

"(2) the use of long dirftnets is expanding into new regions of the world's oceans, including the Atlantic Ocean and Caribbean Sea;

"(3) there is a pressing need for detailed and reliable information on the number of seabirds, sea turtles, nontarget fish, and marine mammals that become entangled and die in actively fished driftnets and in driftnets that are lost, abandoned, or discarded;

"(4) increased efforts, including reliable observer data and enforcement mechanisms, are needed to monitor, assess, control, and reduce the adverse impact of driftnet fishing on living marine resources.

"(5) the nations of the world have agreed in the United Nations, through General Assembly Resolution Numbered 44-225, approved December 22, 1989, by the General Assembly, that a moratorium should be imposed by June 30, 1992, on the use of driftnets beyond the exclusive economic zone of any nation;

"(6) the nations of the South Pacific have agreed to a moratorium on the use of long driftnets in the South Pacific through the Convention for the prohibition of Fishing with Long Driftnets in the South Pacific, which was agreed to in Wellington, New Zealand on November 29, 1989; and

"(7) increasing population pressures and new knowledge of the importance of living marine resources to the health of the global ecosystem demand that greater responsbility be exercised by persons fishing or developing new fisheries beyond the exclusive economic zone of any nation.

"(c) Policy.—It is declared to be the policy of the Congress in this section that the United States should—

"(1) implemented the moratorium called for by the United Nations General Assembly in Resolution Numbered 44-225;

"(2) support the Wellington Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific; and

"(3) secure a permanent ban on the use of indiscriminate and wasteful fishing practices, such as driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

"(d) Definition.—As used in this section, the term 'living marine resources' includes fish, marine mammals, sea turtles, and seabirds and other waterfowl.

"(e) Monitoring and Enforcement Agreements.—The Secretary through the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall seek to secure international agreements to implement the findings, policy, and provisions of this section. The Secretary, through the Secretary of State, shall include, in any agreement which addresses the taking of living marine resources of the United States, provisions to ensure that—

"(1) each driftnet fishing vessel of a foreign nation that is party to the agreement, including vessels that may operate independently to develop new fishing areas, which operate beyond the exclusive economic zone of any nation, is included in such agreement;

"(2) each driftnet fishing vessel for a foreign nation that is party to the agreement, which operates beyond the exclusive economic zone of any nation, is equipped with satellite transmitters which provide real-time position information accessible to the United States;

"(3) statistically reliable monitoring by the United States is carried out, through the use of onboard observers or through dedicated platforms provided by foreign nations that are parties to the agreement, of all target and nontarget fish species, marine mammals, sea turtles, and sea birds entangled or killed by driftnets used by fishing vessels of foreign nations that are parties to the agreement;

"(4) officials of the United States have the right to board and inspect for violations of the agreement any driftnet fishing vessels operating under the flag of a foreign nation that is party to the agreement at any time while such vessel is operating in designated areas beyond the exclusive economic zone of any nation;

"(5) all catch landed or transshipped at sea by driftnet fishing vessels of a foreign nation that is a party to the agreement, and which are operated beyond the exclusive economic zone of any nation, is reliably monitored and documented;

"(6) time and area restrictions are imposed on the use of diftnets in order to prevent interception of anadromous species;

"(7) all diftnets used are constructed, insofar as feasible, with biodegradable materials which break into segments that do not represent a threat to living marine resources;

"(8) all driftnets are market at appropriate intervals in a manner that conclusively identifies the vessel and flag nation responsible for each such driftnet;

"(9) the taking of nontarget fish species, marine mammals, sea turtles, seabirds, and endangered species or other species protected by international agreements to which the United States is a party is minimized and does not pose a threat to existing fisheries or the long-term health of living marine resources; and

"(10) definitive steps are agreed upon to ensure that parties to the agreement comply with the spirit of other international agreements and resolutions concerning the use of diftnets beyond the exclusive economic zone of any nation.

"(f) Report.—Not later than January 1, 1991, and every year thereafter until the purposes of this section are met, the Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report—

"(1) describing the steps taken to carry out the purposes of this section, and in particular subsection (b) of this section;

"(2) evaluating the progress of those efforts, the impacts on living marine resources, including available observer data, and specifying plans for further action;

"(3) identifying and evaluating the effectiveness of unilateral measures and multilateral measures, including sanctions, that are available to encourage nations to agree to and comply with this section, and recommendations for legislation to authorize any additional measures that are needed if those are considered ineffective;

"(4) identifying, evaluating, and making any recommendations considered necessary to improve the effectiveness of the law, policy, and procedures governing enforcement of the exclusive management authority of the United States over anadromous species against fishing vessels engaged in fishing beyond the exclusive economic zone of any nation;

"(5) containing a list and description of any new fisheries developed by nations that conduct, or authorize their nationals to conduct, driftnet fishing beyond the exclusive economic zone of any nation; and

"(6) containing a list of the nations that conduct, or authorize their nationals to conduct, driftnet fishing beyond the exclusive economic zone of any nation in a manner that diminishes the effectiveness of or is inconsistent with any international agreement governing driftnet fishing to which the United States is a party or otherwise subscribes.

"(g) Certification.—If at any time the Secretary, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, identifies any nation that warrants inclusion in the list described under subsection (f)(5), the Secretary shall certify that fact to the President. Such certification shall be deemed to be a certification for the purposes of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)).

"(h) Effect on Sovereign Rights.—This section shall not serve or be construed to expand or diminish the sovereign rights of the United States, as stated by Presidential Proclamation Numbered 5030, dated March 10, 1983, and reflected in this Act or other existing law.".

"(b) Conforming Amendment.—The entry for section 206 of the Magnuson Fishery Conservation and Management Act is amended to read as follows:

"Sec. 206. Driftnet fishing.".

REGIONAL COUNCILS

Sec. 108. (a) Authority Over Certain Fisheries.—Section 302(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(a)) is amended by inserting "(except as provided in section 304(f)(3))" immediately before the period at the end of the first sentence in each of paragraphs (1) through (5).

(b) Members' Qualifications.—Paragraph (2) of section 302(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)) is amended to read as follows:

"(2)(A) The members of each Council required to be appointed by the Secretary must be individuals who, by reason of their occupational or other experience, scientific expertise, or training, are knowledgeable regarding the conservation and management, or the commercial or recreational harvest, of the fishery resources of the geographical area concerned. Within nine months after the date of enactment of the Fishery Conservation Amendments of 1990, the Secretary shall, by regulation, prescribe criteria for determining whether an individual satisfies the requirements of this subparagraph.

"(B) The Secretary, in making appointments under this section, shall, to the extent practicable, ensure a fair and balanced apportionment, on a rotating or other basis, of the active participants (or their representatives) in the commercial and recreational fisheries under the jurisdiction of the Council. On January 31, 1991, and each year thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on the actions taken by the Secretary to ensure that such fair and balanced apportionment is achieved. The report shall—

"(i) list the fisheries under the jurisdiction of each Council, outlining for each fishery the type and quantity of fish harvested, fishing and processing methods employed, the number of participants, the duration and range of the fishery, and other distinguishing characteristics;

"(ii) assess the membership of each Council in terms of the apportionment of the active participants in each such fishery; and

"(iii) state the Secretary's plans and schedules for actions to achieve a fair and balanced apportionment on the Council for the active participants in any such fishery.

"(C) The Secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State. A Governor may not submit the names of individuals to the Secretary for appointment unless the Governor has determined that each such individual is qualified under the requirements of subparagraph (A) and unless the Governor has, to the extent practicable, first consulted with representatives of the commercial and recreational fishing interests of the State regarding those individuals. Each such list shall include the names and pertinent biographical data of not less than three individuals for each applicable vacancy and shall be accompanied by a statement by the Governor explaining how each such individual meets the requirements of subparagraph (A). The Secretary shall review each list submitted by a Governor to ascertain if the individuals on the list are qualified for the vacancy on the basis of such requirements. If the Secretary determines that any individual is not qualified, the Secretary shall notify the appropriate Governor of that determination. The Governor shall then submit a revised list or resubmit the original list with an additional explanation of the qualifications of the individual in question. An individual is not eligible for appointment by the Secretary until that individual complies with the applicable financial disclosure requirements under subsection (k).

"(D) Whenever the Secretary makes an appointment to a Council, the Secretary shall make a public announcement of such appointment not less than 45 days before the first day on which the individual is to take office as a member of the Council.".

(c) Limitation on terms of Voting Members.—Section 302(b)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)(3)) is amended by adding at the end the following new sentence: "After January 1, 1988, no member may serve more than three consecutive terms. Any term completed prior to January 1, 1988, shall not be counted in determining the number of consecutive terms served by any Council member.".

(d) Staff Member Reimbursement.—Section 302(d) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(d)) is amended by inserting "and Council staff members" immediately after "other nonvoting members".

(e) Transaction of Business.—(1) Section 302(e)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(e)(3)) is amended by striking "in the geographical area concerned" and inserting in lieu thereof "at appropriate times and places in any of the constituent States of the Council".

(2) Section 302(e)(4) of the Magnuson Fishery Conservation and Management Act (16 U.S.C.1852(e)(4)) is amended by adding at the end the following new sentence: "The regional director of the National Marine Fisheries Service serving on the Council, or the regional director's designee, shall submit such a statement, which shall be made available to the public upon request, if the regional director disagrees with any such matter.".

(f) Committees and Panels.—Section 302(g) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(g)) is amended by adding at the end the following new paragraph:

"(3) Decisions and recommendations made by committees and panels established under subsection shall be considered to be advisory in nature.".

(g) Council Functions.—Paragraphs (1) and (5) of section 302(h) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(h)) are each amended by inserting "(except as provided in section 304(f)(3))" immediately before "within its geographical".

(h) Fishery Habitat Concerns.—Section 302(i) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(i)) is amended to read as follows:

"(i) Fishing Habitat Concerns.—Each Council—

"(A) many comment on and make recommendations concerning any activity undertaken, or proposed to be undertaken, by any State or Federal agency that, in the view of the Council, may affect the habitat of a fishery resource under its jurisdiction; and

"(B) shall comment on and make recommendations concerning any such activity that, in the view of the Council, is likely to substantially affect the habitat of an anadromous fishery resource under its jurisdiction.

"(2) Within 45 days after receiving a comment or recommendation under paragraph (1) from a Council, a Federal agency shall provide a detailed response, in writing, to the Council regarding the matter. In the case of a comment or recommendation under paragraph (1)(B), the response shall include a description of measures being considered by the agency for mitigating or offsetting the impact of the activity on such habitat.".

(i) Closed Meetings.—Section 302(j)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(j)(3)) is amended—

(1) in subparagraph (A)—

(A) by striking the semicolon at the end of clause (ii) and all that follows through "time and place of the meeting." and inserting in lieu thereof a period; and

(B) by inserting "of paragraph (2)" immediately after "(DF) and (F)"; and

(2) by adding at the end the following new subparagraph:

"(B) If any meeting or portion is closed, the Council concerned shall notify local newspapers in the major fishing ports within its region (and in other major, affected fishing ports), including in that notification the time and place of the meeting. This subparagraph does not require notification regarding any brief closure of a portion of a meeting in order to discuss employment or other internal administrative matters.".

(j) Consideration of New Information.—Section 302(j) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(j)) is amended by adding at the end the following new paragraph:

"(6) At any time when a Council determines it appropriate to consider new information from a State or Federal agency or from a council advisory body, the Council shall give comparable consideration to new information offered at that time by interested members of the public. Interested parties shall have a reasonable opportunity to respond to new data or information before the Council takes final action on conservation and management measures.".

(k) Presentation of False Information.—Section 302 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852) is amended by adding at the end the following new subsection:

"(l) Presentation of False Information.—(1) Members of the Councils and all other persons who present oral or written statements to any Council regarding any matters before such Council for decision shall be subject to the provisions of section 1001 of title 18, United States Code.

"(2) The Secretary is authorized and directed to administer, to members of each Council and to other persons presenting oral statements to meetings of such Council, an oath that such members and other persons will testify, declare, depose, or certificate truly. All persons presenting such oral statements shall be subject to the provisions and penalties of section 1621 of title 18, United States Code.".

(l) Interim Management of Highly Migratory Species Fisheries.—Notwithstanding the amendments made by subsections (a) and (g), any fishery management plan or amendment which—

(1) addresses a highly migratory species fishery to which section 304(f)(3) of the Magnuson Fishery Conservation and Management Act (as amended by this Act) applies,

(2) was prepared by one or more Regional Fishery Management Councils, and

(3) was in force and effect on January 1, 1990,

shall remain in force and effect until superseded by a fishery management plan prepared by the Secretary, and regulations implementing that plan.

CONTENTS OF FISHERY MANAGEMENT PLANS

Sec. 109. (a) Required Data Collection and Gear.—Section 303(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(a)) is amended—

(1) in paragraph (1)(A) by inserting "to prevent overfishing, and to protect, restore, and promote the long-term health and stability of the fishery" immediately before the semicolon at the end;

(2) in paragraph (1)(C) by inserting "regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits)," immediately after "this Act,";

(3) by amending paragraph (6) to read as follows:

"(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;";

(4) by striking the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(5) by adding at the end the following new paragraphs:

"(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan; and

"(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on—

"(A) participants in the fisheries affected by the plan or amendment; and

"(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants.".

(b) Discretionary Provisions.—(1) Paragraph (1) of section 303(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(b)) is amended to read as follows:

"(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to—

"(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone or for anadromous species or Continental Shelf fishery resources beyond such zone;

"(B) the operator of any such vessel; or

"(C) any United States fish processor who first receives fish that are subject to the plan;".

(2) Section 303(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(b)) is amended by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively, and by inserting immediately after paragraph (6) the following new paragraphs:

"(7) require fish processors who first receive fish that are subject to the plan to submit data (other than economic data) which are necessary for the conservation and management of the fishery;

"(8) require that observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;".

(c) Confidentiality of Statistics.—Section 303(d) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(d)) is amended—

(1) in the matter preceding paragraph (1) by striking "subsection (a)(5)" and inserting in lieu thereof "subsections (a) and (b)";

(2) by striking "or" at the end of paragraph (1);

(3) by redesignating paragraph (2) as paragraph (3);

(4) by inserting immediately after paragraph (1) the following new paragraph;

"(2) to State employees pursuant to an agreement with the Secretary that prevents public disclosure of the identify or business of any person; or"; and

(5) by adding at the end the following new sentence: "Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Council or the Secretary of any statistic submitted in compliance with a requirement under subsection (a) or (b).".

ACTION BY SECRETARY OF FISHERY MANAGEMENT PLANS

Sec. 110. (a) Fisheries Research.—Subsection (e) of section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) is amended to read as follows:

"(e) Fisheries Research.—(1) Within one year after the date of enactment of the Fishery Conservation Amendments of 1990, and at least every three years thereafter, the Secretary shall develop and publish in the Federal Register a strategic plan for fisheries research for the five years immediately following such publication. The plan shall—

"(A) identify and describe a comprehensive program with a limited number of priority objectives for research in each of the areas specified in paragraph (2);

"(B) indicate the goals and timetables for the program described in subparagraph (A); and

"(C) provide a role for affected commercial fishermen in such research, including involvement in field testing.

"(2) The areas of research referred to in paragraph (1) are as follows:

"(A) Research to support fishery conservation and management, including research on the economics of fisheries and biological research concerning the interdependence of fisheries or stocks of fish, the impact of pollution on fish populations, the impact of wetland and estuarine degradation, and other matters bearing upon the abundance and availability of fish.

"(B) Conservation engineering research, including the study of fish behavior and the development and testing of new gear technology and fishing techniques to minimize the harvest of nontarget species and promote efficient harvest of target species.

"(C) Information management research, including the development of a fishery information base and an information management system that will permit the full use of data in the support of effective fishery conservation and management.

"(3) In developing the plan required under paragraph (1), the Secretary shall consult with relevant Federal agencies, scientific and technical experts, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan. The Secretary shall ensure that affected commercial fishermen are actively involved in the development of the portion of the plan pertaining to conservation engineering research. Upon final publication in the Federal Register, the plan shall be submitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.".

(b) Management of Highly Migratory Species Fisheries.—Section 304(f) of the Magnuson Fishery Conservation and Management Act (18 U.S.C. 1854(f) is amended—

(A) by striking "MISCELLANEOUS DUTIES" and inserting in lieu thereof "FISHERIES UNDER AUTHORITY OF MORE THAN ONE COUNCIL";

(B) in paragraph (1) by striking "If" and inserting in lieu thereof "Except as provided in paragraph (3), if"; and

(C) by adding at the end the following new paragraph:

"(3)(A) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of

authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.

"(B) In accordance with the provisions of this Act and any other applicable law, the Secretary shall—

"(i) identify research and information priorities, including observer requirements and necessary data collection and analysis for the conservation and management of highly migratory species;

"(ii) prepare and amend fishery management plans with respect to highly migratory species fisheries to which this paragraph applies; and

"(iii) diligently pursue, through international entities (such as the International Commission for the Conservation of Atlantic Tunas), international fishery management measures with respect to fishing for highly migratory species.

"(C) In preparing or amending any fishery management plan under this paragraph, the Secretary shall—

"(i) conduct public hearings, at appropriate times and in appropriate locations in the geographical areas concerned, so as to allow interested persons an opportunity to be heard in the preparation and amendment of the plan;

"(ii) consult with and consider the comments and views of commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migatory species;

"(iii) consult with and consider the comments and views of affected Councils;

"(iv) evaluate the likely effects, if any, of conservation and management measures on participants in the fisheries affected by the plan and minimize, to the extent practicable, any disadvantage to United States fishermen in relation to foreign competitors; and

"(v) review, on a continuing basis (and promptly whenever a recommendation pertaining to fishing for highly migratory species has been made under a relevant international fishery agreement), and revise as appropriate, the conservation and management measures included in the plan.

"(D) Conservation and management measures contained in any fishery management plan under this paragraph shall—

"(i) take into consideration traditional fishing patterns of fishing vessels of the United States and the operating requirements of the fisheries;

"(ii) be fair and equitable in allocating fishing privileges among United States fishermen and not have economic allocation as the sole purpose; and

"(iii) promote international conservation.

"(E) With respect to a highly migratory species for which the United States is authorized to harvest an allocation or quota under a relevant international fishery agreement, the Secretary shall provide fishing vessels of the United States with a reasonable opportunity to harvest such allocation or quota.

"(F) In implementing the provisions of this paragraph, the Secretary shall consult with—

"(i) the Secretary of State;

"(ii) commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species; and

"(iii) appropriate Councils.".

(2) Section 305(a)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855(a)(3)), as redesignated by section 111(a)(1) of this Act, is amended by inserting "or (f)(3)" immediately after "304(c)".

(c) Incidental Harvest Research—Section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) is further amended by adding at the end the following new subsection:

"(g) Incidental Harvest Research.—(1) Within 9 months after the date of enactment of the Fishery Conservation Amendments of 1990, the Secretary shall, after consultation with the Gulf of Mexico Fishery Management Council and South Atlantic Fishery Management Council, establish by regulation a 3-year program to assess the impact on fishery resources of incidental harvest by the shrimp trawl fishery within the exclusive economic zone.

"(2) The program established pursuant to paragraph (1) shall provide for the identification of stocks of fish which are subject to significant incidental harvest in the course of normal shrimp trawl fishing activity.

"(3) For stocks of fish identified pursuant to paragraph (2), with priority given to stocks which (based upon the best available scientific information) are considered to be overfished, the Secretary shall conduct—

"(A) a program to collect and evaluate data on the nature and extent (including the spatial and temporal distribution) of incidental mortality of such stocks as a direct result of shrimp trawl fishing activities;

"(B) an assessment of the status and condition of such stocks, including collection of information which would allow the estimation of life history parameters with sufficient accuracy and precision to support sound scientific evaluation of the effects of various management alternatives on the status of such stocks; and

"(C) a program of data collection and evaluation for such stocks on the magnitude and distribution of fishing mortality and fishing effort by sources of fishing mortality other than shrimp trawl fishing activity.

"(4) The Secretary shall, in cooperation with affected interests, commence a program to design, and evaluate the efficacy of, technological devices and other changes in fishing technology for the reduction of incidental mortality of nontarget fishery resources in the course of shrimp trawl fishing activity. Such program shall taken into account local conditions and include evaluation of any reduction in incidental mortality, as well as any reduction or increase in the retention of shrimp in the course of normal fishing activity.

"(5) The Secretary shall, upon completion of the programs required by this subsection, submit a detailed report on the results of such programs to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

"(6)(A) Except as provided in this paragraph, the Secretary may not implement any measures under this Act to reduce incidental mortality of nontarget fishery resources in the course of shrimp trawl fishing which would restrict the period during which shrimp are harvested or would require the use of any technological device or other change in fishing technology.

"(B) The prohibition contained in subparagraph (A) shall cease on January 1, 1993, with respect to fisheries under the authority of the South Atlantic Fishery Management Council, and with respect to Fisheries under the authority of the Gulf of Mexico Fishery Management Council, shall cease—

"(i) upon the publication of final regulations implementing an amendment to either the Reef Fish Fishery of the Gulf of Mexico Fishery Management Plan (50 C.F.R. 641) of the Shrimp Fishery of the Gulf of Mexico Fishery Management Plan (50 C.F.R. 658) which is intended to reduce the bycatch of nontarget fishery resources to approximately 50 percent of the level of bycatch occurring under the prohibition in subparagraph (A), or

"(ii) on January 1, 1993,

whichever is later.

"(C) This paragraph does not apply to any law or regulation in effect on the date of enactment of this paragraph, nor does it limit in any way the Secretary's authority to take action, including any limitation on entry permitted by this Act, for the conservation and management of the shrimp fishery resource.".

(d) Atlantic Sea Scallop Fishery Management Plan.—(1) The New England Fishery Management Council may submit to the Secretary of Commerce an amendment to the Atlantic Sea Scallop Fishery Management Plan. Any amendment submitted under this section shall—

"(A) contain measures providing for the conservation and management of Atlantic sea scallops, that are not based on the scallop meat count but which may include controls on scallop harvesting effort; and

"(B) consider the views of fishermen and fish processors involved in the Atlantic sea scallop fishery.

(2) If no amendment is submitted under paragraph (1) before one year after the date of enactment of this Act, the Secretary of Commerce shall prepare the amendment described in paragraph (1) under section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854).

(3) Any amendment prepared by the Secretary under paragraph (2) is not a system for limiting access, for purposes of section 303(b)(6) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(b)(6)).

(e) Moratorium.—(1) Section 304(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(c)) is amended—

(A) in paragraph (1), by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively, and by inserting immediately before subparagraph (B), as so redesignated, the following new subparagraph:

"(A) the Secretary determines that overfishing in a fishery is likely to occur as a result of fishing by vessels in addition to those that have operated in the fishery during the three-year period immediately preceding such determination; or";

(B) in paragraph (3) by striking "paragraph (1)" and inserting in lieu thereof "paragraph (1) (B) and (C)"; and

(C) by adding at the end the following new paragraph:

"(4) Under paragraph (1), and notwithstanding paragraph (3), the Secretary may establish, through a fishery management plan or plan amendment for any fishery, a moratorium that prohibits, as of the date of a determination under paragraph (1)(A), participation in the fishery by vessels that have not operated in the fishery during the three-year period immediately preceding such determination. Such moratorium shall be in force and effect for 18 months and, if necessary, may be renewed for no longer than one additional 18-month period. The Secretary shall cancel the moratorium prior to its expiration if a fishery management plan or amendment had been approved and implemented which includes conservation and management measures that the Secretary determines will prevent overfishing.".

(2) The Secretary of Commerce shall, not later than 12 months after the date of enactment of this Act, prescribe by regulation criteria for making a determination of overfishing and establishing a moratorium under section 304(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(c)), as amended by this subsection.

IMPLEMENTATION OF FISHERY MANAGEMENT PLANS

SEC. 111 (a) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 305 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855) is amended—

(A) by redesignating subsections (c), (d), and (e) as subsections (a), (b), and (c), respectively; and

(B) by redesignating subsections (g) and (h) as subsections (d) and (e), respectively.

(2) Section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) is amended—

(A) in subsection (b)(1) by striking "305(c)" in the first sentence and inserting in lieu thereof "305(a)";

(B) in subsection (b)(3)(D) by striking "305(c)" and inserting in lieu thereof "305(a)"; and

(C) in subsection (c)(2)(B) by striking "305(c)" and inserting in lieu thereof "305(a)".

(b) JUDICIAL REVIEW OF CERTAIN IMPLEMENTING ACTIONS.—Section 305(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855(b)), as redesignated by subsection (a)(1)(A), is amended to read as follows:

"(b) JUDICIAL REVIEW.—(1) Regulations promulgated by the Secretary under this Act and actions described in paragraph (2) shall be subject to judicial review to the extent authorized by, and in accordance with, chapter 7 of title 5, United States Code, if a petition for such review is filed within 30 days after the date on which the regulations are promulgated or the action is published in the Federal Register, as applicable; except that—

"(A) section 705 of such title is not applicable, and

"(B) the appropriate court shall only set aside any such regulation or action on a ground specified in section 706(2) (A), (B), (C), or (D) of such title.

"(2) The actions referred to in paragraph (1) are actions that are taken by the Secretary under regulations which implement a fishery management plan, including but not limited to actions that establish the date of closure of a fishery to commercial or recreational fishing.

"(3)(A) Notwithstanding any other provision of law, the Secretary shall file a response to any petition filed in accordance with paragraph (1), not later than 30 days after the date the Secretary is served with that petition, except that the appropriate court may extend the period for filing such a response upon a showing by the Secretary of good cause for that extension.

"(B) A response of the Secretary under this paragraph shall include a copy of the administrative record for the regulations that are the subject of the petition.

"(4) Upon a motion by the person who files a petition under this subsection, the appropriate court shall assign the matter for hearing at the earliest possible date and shall expedite the matter in every possible way.".

STATE JURISDICTION

SEC. 112. Section 306(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1856(c)) is amended—

(1) in paragraph (1)(B) by inserting "and the application specifies the species to be processed" before the period at the end; and

(2) by striking paragraph (2) and inserting in lieu thereof the following:

"(2) The Governor of a State may not grant permission for a foreign fishing vessel to engage in fish processing under paragraph (1)—

"(A) for a fishery which occurs in the waters of more than one State or in the exclusive economic zone, except after—

"(i) consulting with the appropriate Council and Marine Fisheries Commission, and

"(ii) considering any comments received from the Governor of any other State where the fishery occurs; and

"(B) if the Governor determines that fish processors within the State have adequate capacity, and will utilize such capacity, to process all of the United States harvested fish from the fishery concerned that are landed in the State.".

PROHIBTION OF CERTAIN ACTS

SEC. 113 (a) PROHIBITIONS WITH RESPECT TO THEFT, ASSAULT, AND DRIFTNET FISHING.—Section 307(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857(1)) is amended—

(1) by striking "or" at the end of subparagraph (I);

(2) by striking the period at the end of subparagraph (J) and inserting in lieu theref a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(K) to knowingly steal, remove, damage, or tamper with—

"(i) fishing gear owned by another person, which is not lost or abandoned and is located in the exclusive economic zone, or

"(ii) fish contained in such fishing gear, or to attempt to do so;

"(L) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any observer on a vessel under this Act;

"(M) to engage in driftnet fishing that is subject to the jurisdiction of the United States, including use of a fishing vessel of the United States to engage in such fishing beyond the exclusive economic zone of any nation; or

"(N) to strip pollock of its roe and discard the flesh of the pollock;".

(b) VIOLATION OF INTERNATIONAL FISHERY AGREEMENT.—Section 307 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857) is amended—

(1) in paragraph (3) by striking "; and" and inserting in lieu thereof a semicolon;

(2) in paragraph (40 by striking the period at the end and inserting in lieu thereof "; and;" and

(3) by adding at the end the following new paragraph:

"(5) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to engage in fishing in the waters of a foreign nation in a manner that violates an international fishery agreement between that nation and the United States that has been subject to Congressional oversight in the manner described in section 203, or any regulations issued to implement such an agreement; except that the binding provisions of such agreement and implementing regulations shall have been published in the Federal Register prior to such violation.".

CIVIL PENALTIES AND PERMIT SANCTIONS

SEC. 114. (a) INCREASED PENALTY; PERMIT SANCTIONS.—Section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858) is amended—

(1) in the section heading by inserting "AND PERMIT SANCTIONS" immediately after "CIVIL PENALTIES";

(2) in subsection (a) by striking "$25,000" in the second sentence and inserting in lieu thereof "$100,000"; and

(3) by adding at the end the following:

"(g) PERMIT SANCTIONS.—(1) in any case in which (A) a vessel has been used in the commission of an act prohibited under section 307, (B) the owner or operator of a vessel or any other person who has been issued or has applied for a permit under this Act has acted in violation of section 307, or (C) any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any fishery resource law statute enforced by the Secretary has not been paid and is overdue, the Secretary may—

"(i) revoke any permit issued with respect to such vessel or person, with or without prejudice to the issuance of subsequent permits;

"(ii) suspend such permit for a period of time considered by the Secretary to be appropriate;

"(iii) deny such permit; or

"(iv) impose additional conditions and restrictions on any permit issued to or applied for by such vessel or person under this Act and, with respect to foreign fishing vessels, on the approved application of the foreign nation involved and on any permit issued under that application.

"(2) In imposing a sanction under this subsection, the Secretary shall take into account—

"(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanctions is imposed; and

"(B) with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

"(3) Transfer of ownership of a vessel, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is spending at the time of transfer of ownership.

"(4) In the case of any permit that is suspended under this subsection for nonpayment of a civil penalty or criminal fine, the Secretary shall reinstate the permit upon payment of the penalty or fine and interest thereon at the prevailing rate.

"(5) No sanctions shall be imposed under this subsection unless there has been a prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this section or otherwise.".

(b) CONFORMING AMENDMENT.—The entry for section 308 of the Magnuson Fishery Conservation and Management Act is amended to read as follows:

"Sec. 308. Civil penalties and permit sanctions."

CRIMINAL OFFENSES AND PENALTIES

SEC. 115. (a) OFFENSES.—Paragraph (1) of section 309(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1859(a)) is amended to read as follows:

"(1) section 307(1) (D), (E), (F), (H), (I), or (L); or".

(b) PUNISHMENT.—Section 309(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1859(b)) is amended—

(1) by striking "$50,000" and inserting in lieu thereof "$100,000";

(2) by striking "$100,000" each place it appears and inserting in lieu thereof "$200,000";

(3) by inserting "any observer described in section 307(1)(L) or" immediately after "injury to"; and

(4) by inserting "observer or" immediately before "officer in fear".

CIVIL FORFEITURES

SEC. 116. Section 310(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1860(e)) is amended—

(1) by inserting "(1)" immediately before "For purposes"; and

(2) by adding at the end the following:

"(2) For purposes of this Act, it shall be a rebuttable presumption that any fish of a species which spawns in fresh or estuarine waters and migrates to ocean waters that is found on board a vessel is of the United States origin if the vessel is within the migratory range of the species during that part of the year to which the migratory range applies.".

ENFORCEMENT

SEC. 117. Section 311(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(e)) is amended to read as follows:

"(e) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—(1) Notwithstanding any other provision of law, the Secretary or the Secretary of the Treasury may pay from sums received as fines, penalties, and forfeitures of property for violations of any provisions of this Act or of any other fishery resource law enforced by the Secretary, including the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.)—

"(A) the reasonable and necessary costs incurred in providing temporary storage, care, and maintenance of seized fish or other property pending disposition of any civil or criminal proceeding alleging a violation of any provision of this Act or any other fishery resource law enforced by the Secretary with respect to that fish or other property;

"(B) a reward to any person who furnishes information which leads to an arrest, conviction, civil penalty assessment, or forfeiture of property for any violation of any provision of this Act or any other fishery resource law enforced by the Secretary;

"(C) any expenses directly related to investigations and civil or criminal enforcement proceedings, including any necessary expenses for equipment, training, travel, witnesses, and contracting services directly related to such investigations or proceedings;

"(D) any valid liens or mortgages against any property that has been forfeited;

"(E) claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)) or under other provisions of the customs laws as made applicable by section 310(c) of this Act to seizures made by the Secretary under this Act, in amounts determined by the Secretary to be applicable to such claims at the time of seizure; and

"(F) reimbursement to any Federal or State agency, including the Coast Guard, for services performed, or personnel, equipment, or facilities utilized, under any agreement with the Secretary entered into pursuant to subsection (a), or any similar agreement authorized by law.

"(2) Any person assessed a civil penalty for, or convicted of, any violation of this Act shall be liable for the cost incurred in storage, care, and maintenance of any fish or other property seized in connection with the violation.".

NORTH PACIFIC FISHERIES RESEARCH PLAN

SEC. 118. (a) Title III of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) is amended by adding at the end the following new section:

"SEC. 313. NORTH PACIFIC FISHERIES RESEARCH PLAN.

"(a) IN GENERAL.—The North Pacific Fishery Management Council may prepare, in consultation with the Secretary, a fisheries research plan for all fisheries under the Council's jurisdiction except salmon fisheries which—

"(1) requires that observers be stationed on fishing vessels engaged in the catching, taking, or harvesting of fish and on United States fish processors fishing for or processing species under the jurisdiction of the Council, including the Northern Pacific halibut fishery, for the purpose of collecting data necessary for the conservation, management, and scientific understanding of any fisheries under the Council's jurisdiction; and

"(2) establishes a system of fees to pay for the costs of implementing the plan.

"(b) STANDARDS.—(1) Any plan or plan amendment prepared under this section shall be reasonably calculated to—

"(A) gather reliable data, by stationing observers on all or a statistically reliable sample of the fishing vessels and United States fish processors included in the plan, necessary for the conservation, management, and scientific understanding of the fisheries covered by the plan;

"(B) be fair and equitable to all vessels and processors;

"(C) be consistent with applicable provisions of law; and

"(D) take into consideration the operating requirements of the fisheries and the safety of observers and fishermen.

"(2) Any system of fees established under this section shall—

"(A) provide that the total amount of fees collected under this section not exceed the combined cost of (i) stationing observers on board fishing vessels and United States fish processors, (ii) the actual cost of inputting collected data, and (iii) assessments necessary for a risk-sharing pool implemented under subsection (e) of this section, less any amount received for such purpose from another source or from an existing surplus in the North Pacific Fishery Observer Fund established in subsection (d) of this section;

"(B) be fair and equitable to all participants in the fisheries under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

"(C) provide that fees collected not be used to pay any cost of administrative overhead or other costs not directly incurred in carrying out the plan;

"(D) not be used to offset amounts authorized under other provisions of law;

"(E) be expressed as a percentage, not to exceed one percentum, of the value of fish and shellfish harvested under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

"(F) be assessed against all fishing vessels and United States fish processors, including those not required to carry an observer under the plan, participating in fisheries under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

"(G) provide that fees collected will be deposited in the North Pacific Fishery Observer Fund established under subsection (d) of this section;

"(H) provide that fees collected will only be used for implementing the plan established under this section; and

"(I) meet the requirements of section 9701(b) of title 31, United States Code.

"(c) ACTION BY SECRETARY.—(1) Within 60 days after receiving a plan or plan amendment from the North Pacific Council under this section, the Secretary shall review such plan or plan amendment and either (A) remand such plan or plan amendment to the Council with comments if it does not meet the requirements of this section, or (B) publish in the Federal Register proposed regulations for implementing such plan or plan amendment.

"(2) During the 60 day public comment period, the Secretary shall conduct a public hearing in each State represented on the Council for the purpose of receiving public comments on the proposed regulations.

"(3) Within 45 days of the close of the public comment period, the Secretary, in consultation with the Council, shall analyze the public comment received and publish final regulations for implementing such plan.

"(4) If the Secretary remands a plan or plan amendment to the Council for failure to meet the requirements of this section, the Council may resubmit such plan or plan amendment at any time after taking action the Council believes will address the defects identified by the Secretary. Any plan or plan amendment resubmitted to the Secretary will be treated as an original plan submitted to the Secretary under paragraph (1) of this subsection.

"(d) FISHERY OBSERVER FUND.—There is established in the Treasury a North Pacific Fishery Observer Fund. The Fund shall be available, without appropriation or fiscal year limitation, only to the Secretary for the purpose of carrying out the provisions of this section, subject to the restrictions in subsection (b)(2) of this section. The Fund shall consist of all monies deposited into it in accordance with this section. Sums in the Fund that are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(e) SPECIAL PROVISIONS REGARDING OBSERVERS.—(1) The Secretary shall review—

"(A) the feasibility of establishing a risk sharing pool through a reasonable fee, subject to the limitations of subsection (b)(2)(E) of this section, to provide coverage for vessels and owners against liability from civil suits by observers, and

"(B) the availability of comprehensive commercial insurance for vessel and owner liability against civil suits by observers.

"(2) If the Secretary determines that a risk sharing pool is feasible, the Secretary shall establish such a pool, subject to the provisions of subsection (b)(2) of this section, unless the Secretary determines that—

"(A) comprehensive commercial insurance is available for all fishing vessels and United States fish processors required to have observers under the provisions of this section, and

"(B) such comprehensive commercial insurance will provide a greater measure of coverage at a lower cost to each participant.".

(b) Conforming Amendment.—The table of contents in the first section of the Magnuson Fishery Conservation and Management Act is amended by inserting immediately after the entry for section 312 the following new entry:

"Sec. 313. North Pacific fisheries research plan.".

AUTHORIZATION OF APPROPRIATIONS

Sec. 119. Section 406 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1882) is amended by adding at the end the following new paragraphs:

"(16) $77,200,000 for the fiscal year ending September 30, 1990.

"(17) $94,000,000 for the fiscal year ending September 30, 1991, of which $6,500,000 shall be used for enforcement and $5,000,000 shall be used to increase research and assessment efforts.

"(18) $98,000,000 for the fiscal year ending September 30, 1992.

"(19) $102,000,000 for the fiscal year ending September 30, 1993.

MISCELLANEOUS TECHNICAL AMENDMENTS

Sec. 120. (a) International Fishery Agreement.—Section 202(f) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1822(f)), as so redesignated by section 105 of this Act, is amended by striking "an exclusive economic zone" and inserting in lieu thereof "an exclusive economic zone".

(b) Foreign Fishing Permits.—Section 204(b)(4)(C) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(4)(C)) is amended by striking "council" and inserting in lieu thereof "Council".

(c) Council Procedural Matters.—Section 302(j)(4) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(j)(4)) is amended by striking "council employee" and inserting in lieu thereof "Council employee".

(d) Action by Secretary.—Section 304(c)(2)(B) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(c)(2)(B)) is amended by striking "appropriate council" and inserting in lieu thereof "appropriate Council".

TITLE II—ATLANTIC TUNAS CONVENTION ACT OF 1975

LIMITATIONS ON APPOINTMENTS OF COMMISSIONERS

Sec. 201. (a) In General.—Section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)) is amended—

(1) by inserting "(1)" immediately after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2) Of the Commissioners appointed under paragraph (1) who are not governmental employees—

"(A) one shall be appointed from among individuals with knowledge and experience regarding commercial fishing in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea; and

"(B) one shall be appointed from among individuals with knowledge and experience regarding recreational fishing in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea.

"(3)(A) The term of a Commissioner shall be three years.

"(B) An individual appointed in accordance with paragraph (2) shall not be eligible to serve more than two consecutive terms as a Commissioner.".

(b) Application to Current Commissioners.—(1) Paragraph (2) of section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)), as added by this section, shall not apply to reappointment of an individual as a United States Commissioner of the International Commission for the Conservation of Atlantic Tunas (hereinafter in this title referred to as a "Commissioner") if that individual is serving in that position on the date of enactment of this Act.

(2) An individual serving a term as a Commissioner on the date of enactment of this Act shall not, by reason of that term of service, be ineligible under paragraph (3)(B) of section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)), as added by this section, for reappointment as a Commissioner.

TERMINATION OF CURRENT TERMS AND COMPLETION OF PENDING AMENDMENTS

Sec. 202. The term as Commissioner of each individual serving in that position on the date of enactment of this Act shall terminate June 30, 1991. Not later than that date, the President shall complete appointment (or reappointment) of individuals to serve as Commissioners on and after that date.

TRAVEL EXPENSES OF COMMISSIONERS

Sec. 203. Section 3 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a) is amended by adding at the end the following new subsection:

"(d)(1) The Secretary of State shall pay the necessary travel expenses of United States Commissioners, Alternate United States Commissioners, and authorized advisors in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

"(2) The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this subsection.".

TRAVEL EXPENSES OF ADVISORY COMMITTEE

Sec. 204. Section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) is amended by striking "On approval" and all that follows and inserting in lieu thereof the following: "The Secretary and the Secretary of State may pay the necessary travel expenses of members of the advisory committee in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.".

SPECIES WORKING GROUPS

Sec. 205. The Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.) is amended by inserting immediately after section 4 the following new section:

"SPECIES WORKING GROUPS

"Sec. 4A. The United States Commissioners may establish species working groups for the purpose of providing advice and recommendations to the Commissioners and the advisory committee on matters relating to the conservation and management of any highly migratory species covered by the Convention. Any species working group shall consist of no more than seven members of the advisory committee and no more than four scientific or technical personnel, as considered necessary by the Commissioner.".

REGULATIONS TO CARRY OUT COMMISSION RECOMMENDATIONS

Sec. 206.(a) Section 6(c)(1) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)(1)) is amended by redesignating the existing text as subparagraph (A) and by adding at the end the following new subparagraphs:

"(B) Not later than January 1, 1991, the Secretary shall promulgate any additional regulations necessary to ensure that the United States is in full compliance with all recommendations made by the Commission that have been accepted by the United States and with other agreements under the Convention between the United States and any nation which is a party to the Convention.

"(C) Regulations promulgated under this paragraph shall, to the extent practicable, be consistent with fishery management plans prepared and implemented under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).".

(b) Section 6(c)(3) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)(3)) is amended—

(1) in subparagraph (H) by striking "; and" and inserting in lieu thereof a semicolon; and

(2) by striking subparagraph (I) and inserting in lieu thereof the following:

"(I) require any commercial or recreational fisherman to obtain a permit from the Secretary and report the quantity of the catch of a regulated species;

"(J) require that observers be carried aboard fishing vessels for the purpose of providing statistically reliable scientific data; and

"(K) impose such other requirements and provide for such other measures as the Secretary may determine necessary to implement any recommendation of the Convention or to obtain scientific data necessary to accomplish the purpose of the Convention;

except that no regulation promulgated under this section may have the effect of increasing or decreasing any allocation or quota of fish to the United States agreed to pursuant to a recommendation of the Commission.".

AUTHORIZATION OF APPROPRIATIONS

Sec. 207. Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 10. There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in article X of the Convention, not more than $1,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995.".

TITLE III—FISHERMEN'S PROTECTIVE ACT OF 1967

VESSEL SEIZURE REIMBURSEMENT AUTHORITY

Sec. 301. Section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking "October 1, 1989" and inserting in lieu thereof "October 1, 1993".

TITLE IV—ANADROMOUS FISH CONSERVATION ACT

AUTHORIZATION OF APPROPRIATIONS

Sec. 401. Section 4(a) of the Anadromous Fish Conservation Act (16 U.S.C. 757d(a)) is amended—

(1) by striking paragraphs (1), (2), (3), (4), (5), and (6);

(2) by redesignating paragraph (7) as paragraph (1); and

(3) by adding at the end the following new paragraph:

"(2) $8,000,000 for each of the fiscal years 1990, 1991, 1992, 1993, 1994, and 1995.".

TITLE V—INTERJURISDICTIONAL FISHERIES ACT OF 1986

CLARIFICATION OF APPORTIONMENT LIMITATION

Sec. 501. Section 304(c)(3)(B) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4103(c)(3)(B)) is amended by inserting "which are managed under an interstate fishery management plan" immediately after "fishery resources".

FEDERAL SHARE OF ACTIVITIES CARRIED OUT WITH ADDITIONAL APPROPRIATIONS

Sec. 502. Section 308(b) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(b)) is amended—

(1) in paragraph (1) by striking "and" at the end;

(2) in paragraph (2) by striking the period at the end and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (2) the following new paragraph:

"(3) the Federal share of the cost of any activity carried out with an amount appropriated under the authority of this subsection shall be 75 percent of the cost of that activity.".

AUTHORIZATION OF APPROPRIATIONS

Sec. 503. Section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended—

(1) in subsection (a) by striking "fiscal years 1987, 1988, and 1989" and inserting in lieu thereof "the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995";

(2) in subsection (b) by striking "fiscal years 1988 and 1989" and inserting in lieu thereof "the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995"; and

(3) in subsection (c) by striking "fiscal years 1988 and 1989" and inserting in lieu thereof "the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995".

TITLE VI—CENTRAL, WESTERN, AND SOUTH PACIFIC FISHERIES DEVELOPMENT ACT

AUTHORIZATION OF APPROPRIATIONS

Sec. 601. Section 7 of the Central, Western, and South Pacific Fisheries Development Act (16 U.S.C. 758e-5) is amended by striking "and 1988" and inserting in lieu thereof "1988, 1989, 1990, 1991, 1992, 1993, 1994, and 1995".

TITLE VII—NATIONAL FISH AND SEAFOOD PROMOTIONAL COUNCIL

EXTENSION OF TERMINATION DATE

Sec. 701. Section 206(g) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005)(g)) is amended by striking "October 1, 1990" and inserting in lieu thereof "December 31, 1991".

AUTHORIZATION OF APPROPRIATIONS

Sec. 702. Section 209(d) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4008)(d)) is amended by striking "1990" and inserting in lieu thereof "1991".

TRANSFER OF SALTSONSTALL-KENNEDY FUNDS

Sec. 703. Section 2(b)(2) of the Act of August 11, 1939 (commonly known as the Saltonstall-Kennedy Act; 15 U.S.C. 713-3(b)(2)), is amended by striking "fiscal year 1990" and inserting in lieu thereof "each of fiscal year 1990 and 1991".

CONTINUITY OF NATIONAL COUNCIL MEMBERSHIP

Sec. 704.(a) Uninterrupted Service.—Individuals serving on September 30, 1990, as members of the National Fish and Seafood Promotion Council shall be deemed to continue as members in uninterrupted service since the date of their initial appointment.

(b) Filling of Vacancies.—Notwithstanding section 206(e) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(e)), any vacancy on the National Fish and Seafood Promotion Act not filled as of September 30, 1990, shall be filled within 60 days after the date of enactment of this Act.

(c) Technical Amendment.—Section 207(a)(5) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4006(a)(5)) is amended by inserting "initial" immediately before "appointments".

TITLE VIII—MISCELLANEOUS

CERTIFICATE OF LEGAL ORIGIN FOR ANADROMOUS FISH PRODUCTS

Sec. 801.(a) Negotiations.—Within 60 days after the date of enactment of this Act, the Secretary of State shall commence negotiations with nations which import or export anadromous fish or anadromous fish products for the purpose of securing general agreement among such nations to implement effective measures to prohibit international trade in anadromous fish or anadromous fish products unless such fish or fish products are accompanied by a valid certificate of legal origin attesting that the fish or fish product was lawfully harvested—

(1) within the jurisdiction of a nation having naturally occurring or artificially established anadromous fish populations of the same species as the imported or exported product; or

(2) on the high seas according to an international agreement among nations with jurisdiction over more than 1 percent of the stocks of anadromous fish being so harvested.

(b) Issuance of Certificates.—For the purposes of subsection (a), a valid certificate of legal origin may be issued only by a nation which—

(1) is the nation having jurisdiction over the vessel or other means by which the fish or fish product was harvested; and

(2) maintains regular harvests of anadromous fish in a manner consistent with the criteria for lawful harvests set out in subsection (a).

(c) Bilateral or Multilateral Agreements.—Efforts undertaken by the Secretary of State pursuant to subsection (a) may, at the discretion of the Secretary, be directed toward achieving either bilateral or multilateral agreements, including trade agreements, whichever the Secretary determines to be most likely to result in the earliest possible date or dates of agreement by those nations which individually have in excess of $1,000,000, or the equivalent, in import or export trade in anadromous fish and anadromous fish products.

(d) Regulations.—The Secretary of Commerce shall, within 180 days after the date of enactment of this Act, promulgate regulations providing for—

(1) the issuance of certificates of legal origin pursuant to agreements under subsection (a) for anadromous fish and anadromous fish products legally harvested by vessels of the United States;

(2) the delegation of the authority to issue certificates of legal origin to States, territories, or possessions of the United States which the Secretary of Commerce determines to have implemented a program which is sufficient to accomplish the purposes of subsection (a); and

(3) an orderly transition to such regulations, sufficient to ensure that United States commerce in anadromous fish and anadromous fish products is not unduly disrupted.

(e) Report Required.—The Secretary of Commerce, after consultation with the Secretary of the Treasury, shall, within 180 days after the date of enactment of this Act, submit to the Congress a report—

(1) making recommendations as to the need for the adoption of United States import and export restrictions on anadromous fish and anadromous fish products consistent with subsection (a); and

(2) identifying, evaluating, and making recommendations regarding any specific statutory or regulatory changes that may be necessary for the adoption of such restrictions.

(f) Certification.—If, at any time following the promulgation of the regulations required by subsection (d), the Secretary of Commerce finds that any nation is engaging in trade in unlawfully taken anadromous fish or anadromous fish products, the Secretary shall certify that fact to the President, which certification shall be deemed to be a certification for the purposes of section 8(a)(1) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)(1)).

TITLE IX—DOLPHIN PROTECTION CONSUMER INFORMATION

DOLPHIN PROTECTION

Sec. 901. (a) Short Title.—This Section may be cited as the "Dolphin Protection Consumer Information Act".

(b) Findings.—The Congress finds that—

(1) dolphins and other marine mammals are frequently killed in the course of tuna fishing operations in the eastern tropical Pacific Ocean and high seas driftnet fishing in other parts of the world;

(2) it is the policy of the United States to support a worldwide ban on high seas driftnet fishing, in part because of the harmful effects that these driftnets have on marine mammals, including dolphins;

(3) the largest processors of tuna products for the American market have recently adopted a policy of not purchasing tuna harvested with high seas driftnets or with purse seine nets intentionally deployed to encircle dolphins; and

(4) consumers should have the right to know whether the tuna they purchased was accurately labeled as to the effect of the harvesting of the tuna on dolphins.

(c) Definitions.—For the purposes of this section—

(1) the terms "driftnet" and "driftnet fishing" have the meanings given those terms in section 4003 of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (16 U.S.C. 1822 note);

(2) the term "eastern tropical Pacific Ocean" means the area of the Pacific Ocean bounded by 40 degrees north latitude, 40 degrees south latitude, 160 degrees west longitude, and the western coastlines of North, Central, and South America;

(3) the term "label" means a display of written, printed, or graphic matter on or affixed to the immediate container of any article;

(4) the term "Secretary" means the Secretary of Commerce; and

(5) the term "tuna product" means a food item which contains tuna and which has been processed for retail sale, except perish-

able sandwiches, salads, or other products with a shelf life of less than 3 days.

(d) Labeling Requirement.—(1) The label of any tuna product which is exported from or offered for sale in the United States, and which—

(A) contains tuna that is not harvested in the eastern tropical Pacific Ocean and is not harvested with purse seine nets intentionally deployed to encircle dolphins or by a vessel using a driftnet, ot

(B) is dolphin safe under paragraph (2);

may include the following statement: "DOLPHIN SAFE" and may not include any other representation respecting the effect of the harvesting of the tuna on dolphins.

(2) For purposes of paragraph (1)(B), a tuna product which contains tuna harvested in the eastern tropical Pacific Ocean by a fishing vessel using purse seine nets is dolphin safe if—

(A) the vessel is of a type and size that the Secretary has determined is not capable of deploying its nets on or to encircle dolphin; or

(B)(i) the product is accompanied by a written statement executed by the captain of the vessel certifying that no tuna were caught on that trip using a purse seine net intentionally deployed on or to encircle dolphin;

(ii) the product is accompanied by a written statement executed by the Secretary or his or her designee, or by a representative of the Inter-American Tropical Tuna Commission, which states that there was an approved observer on board the vessel during the entire trip and that purse seine nets were not intentionally deployed during the trip on or to encircle dolphin; and

(iii) the statements are endorsed in writing by each exporter, importer, and processor of the product.

(e) Enforcement.—(1) Whoever produces a tuna product that—

(A) includes on its label the statement "DOLPHIN SAFE" when the product is not dolphin safe as determined under subsection (d), or

(B) makes any other representation respecting the effect of the harvesting of the tuna product on dolphins, shall be considered to have violated section 5 of the Federal Trade Commission Act.

(2) Whoever knowingly and willfully makes a statement or endorsement described in subsection (d)(2)(B) (i) of (ii) that is false is liable for a civil penalty of not more than $100,000.

(f) Regulations.—The Secretary, in consultation with the Secretary of the Treasury, shall issue regulations to implement this section not later than 6 months after the date of enactment of this Act, including regulations establishing procedures and requirements for ensuring that tuna products are labeled in accordance with this section.

(g) Citizens Suits.—(1) Except as provided in paragraph (2), any person may commence a civil suit on his or her own behalf against any person, including the United States and any other governmental instrumentality or agency, who is alleged to be in violation of a requirement of subsection (d).

(2) No action may be commenced under paragraph (1)—

(A) before 60 days after the plaintiff has given written notice of the violation to the Secretary and to the alleged violator, or

(B) if the Federal Trade Commission has commenced and is diligently prosecuting a complaint under section 5 of the Federal Trade Commission Act to require compliance with the requirement that is the subject of the action.

(3)(A)—The district courts of the United States shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, over any action under paragraph (1).

(B) A suit under paragraph (1) may be brought in the judicial district in which a violation occurs.

(4) In any suit under paragraph (1) in which the United States is not a party, the Attorney General, at the request of the Secretary, may intervene on behalf of the United States as a matter of right.

(5) The court, in issuing any final order in a suit under paragraph (1), may award costs of litigation (including reasonable attorney and expert witness fees) to a prevailing party if the court determines the award of those costs is appropriate.

(6) The injunctive relief provided by this section shall not be construed to restrict any right a person (or a class of persons) may have under any statute or common law to seek enforcement of any requirement of subsection (d).

(h) Treatment of Fish Caught with Driftnets.—Section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)) is amended—

(1) in subparagraph (C) by striking "and" after the semicolon at the end;

(2) in subparagraph (D) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(E) in the case of fish or fish products harvested by a nation whose fishing vessels engage in high seas driftnet fishing, shall require that the government of the exporting nation provide documentary evidence that the fish or fish product was not harvested with a driftnet in the South Pacific Ocean after July 1, 1991, or in any other waters of the high seas after July 1, 1991;".

(i) Negotiations.—The Secretary of State shall immediately seek, through negotiations and discussions with appropriate foreign governments, to reduce and, as soon as possible, eliminate the practice of harvesting tuna through the use of purse seine nets intentionally deployed to encircle dolphins.

(j) Report.—Two years after the date of the enactment of this Act, the Secretary shall report to the Committee on Merchant Marine and Fisheries of the House of Representatives on the cost to consumers and United States tuna fishermen of carrying out this section.

(k) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary to carry out this section not to exceed $4,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995.

(l) Effective Date.—Subsections (d) and (e) shall take effect—

(1) 6 months after the date of the enactment of this Act; or

(2) on such later date, within 1 year after the date of the enactment of this Act, as may be specified by the Secretary for good cause in regulations issued in accordance with subsection (f).

The title was amended so as to read: "A bill to authorize appropriations to carry out the Magnuson Fishery Conservation and Management Act for fiscal years 1990, 1991, 1992, 1993, 1994, and 1995, and for other purposes."

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMERCE, JUSTICE, STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1991

The Senate continued with the consideration of the bill.

PAYMENT OF UNEMPLOYMENT BENEFITS TO TEMPORARY EMPLOYEES OF THE U.S. BUREAU OF THE CENSUS

Mr. LEVIN. Mr. President, included in the Commerce, Justice, State, and Judiciary fiscal year 1991 appropriations bill currently being considered by the Senate is a provision which affects the funding of unemployment benefits for temporary employees of the Census Bureau. It bars the use of Census funds "to pay for any expenses authorized by section 8501 of title 5, United States Code, for services performed after April 20, 1990, by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial Census of populations." In real terms, this provision prohibits Census appropriations from being used to fund unemployment compensation for its employees.

What is more important, however, is what it does not do. It does not, and I repeat does not, affect the underlying eligibility of these individuals for unemployment compensation; temporary census workers retain their eligibility to receive unemployment benefits. This provision simply eliminates the Bureau of the Census as a source for the funding of such benefits. It does not eliminate the obligation of the United States to fund such benefits.

That obligation—to treat temporary census employees as other temporary Federal employees who are entitled to receive unemployment compensation—was reestablished earlier this year. On May 25, 1990, a dire supplemental appropriation was signed into law containing a surprising and at the time little-known provision which provided that work performed after April 20, 1990, by temporary employees of the Census Bureau would no longer be credited toward unemployment compensation. This has been slipped into the dire supplemental unexpectedly. As a result, census employees who had been eligible in past years for unemployment compensation and who rightfully expected these benefits for this Census suddenly found themselves denied these benefits. It was simply unfair and historically unjustified.

I introduced legislation to reinstate the eligibility of these workers. I also joined with other concerned Members in a letter asking Chairman Hollings to reprogram funds back to the Census Bureau to fund the unemployment benefits for these workers. I am pleased that a provision similar to mine was included in the Customs Trade Act of 1990 reinstating eligibility for these workers. That provision remains unaffected by the language in this bill.

Moreover, it is my understanding that, as a result of this language, the responsibility for Federal funding of these unemployment benefits has shifted to the Department of Labor. Those of us who have followed this issue closely are not objecting to this provision, because we expect the Department of Labor to fulfill its responsibility for the reimbursement of these funds to the States and therefore, ensure these valued workers get the benefits they rightfully expect.

Mr. LAUTENBERG. Mr. President, I rise in support of the fiscal year 1991 Commerce, Justice, State, the judiciary, and related agencies appropriations bill.

Mr. President, this bill contains funding for several important initiatives that I have supported. Perhaps most importantly, the legislation would fully fund the administration's requested increases for anticrime and antidrug programs. At a time of rising crime in my State of New Jersey, I believe it is absolutely essential to maintain the Federal commitment to law enforcement and anticrime initiatives.

I am also pleased that the bill would strengthen efforts to investigate and prosecute savings and loan fraud. The American people are justifiably outraged about the thrift crisis, and the deplorable fraud perpetrated by many in the industry. Before we ask taxpayers to foot the bill for this misconduct, I believe we must do everything we can to prosecute those involved, and recover as much as possible from their coffers. To do that, we have to increase the number of prosecutors and investigators in this area.

Another anticrime initiative that I have supported, and that is included in this bill, is the Eisenhower Foundation, which promotes community-based projects to help combat crime and juvenile delinquency. At my request, the subcommittee included $500,000 for this program, which promises to make a real difference in reducing youth crime in our inner cities.

I am also pleased that the Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee is supporting the Uniform Crime Report Program. This program, which provides data about the incidence of crime, is valuable to our law enforcement community. It should not be abandoned or undercut.

I also want to point out language in the committee report on this bill that directs the Commerce Department to comply with section 6 of Public Law 92-500 and issue annual reports on pollution control costs. That law requires the Secretary of Commerce to conduct a study and report to the Congress on: First, the impact of pollution abatement and control, or PAC, costs on production costs and market prices of goods; second, the probable extent to which PAC costs will affect production costs of foreign manufacturers; third, the probable competitive advantage which a foreign good would have in relation to an American good if the foreign country in which it is produced lacks PAC, requires less PAC than the United States, or reimburses or subsidizes PAC costs; fourth, ways of equalizing any competitive advantage to a foreign good derived from any factor described above; and fifth, the impact of an equalizing tariff on encouraging countries to adopt PAC.

Although the Secretary of Commerce is supposed to report to Congress annually under this law, the most recent report I have been able to obtain is dated 1975. I think it is time that the Commerce Department abide by this legal requirement and produce the mandated reports. The reports could play a very useful role in congressional consideration of environmental legislation. They also would help Congress better appreciate the issues raised by a bill I introduced, S. 2553, which links the grant of Generalized System of Preference and Caribbean Basin Initiative benefits to the adoption by other countries of effective environmental standards.

I also want to express my support for funding that has been included in the bill for the Landsat Program. I have had a long-standing interest in this program, which provides remote observations of the Earth and information for agriculture, energy exploration, and evaluation of environmental conditions, such as detecting ocean and river pollution. Foreign ahead with the Landsat Program is necessary for the United States to maintain an independent source of remote sensing data.

Another item of interest to me in this bill is the funding provided for TV Marti. The better informed the Cuban people, the better chance they have to overcome Castro's totalitarian regime. TV Marti promises to make a real contribution to that effort, and deserves our support.

In conclusion, Mr. President, I want to congratulate the distinguished chairman of the subcommittee, Senator Hollings, and the distinguished ranking member, Senator Rudman, for their excellent work on this bill. Theirs was not an easy task, but they have managed to put together a good piece of legislation that will support many important initiatives, while staying within the subcommittee's 302(b) allocation.

The PRESIDING OFFICER. The question is on the passage of H.R. 5021, as amended.

The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. Hatfield] and the Senator from California [Mr. Wilson] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. Hatfield] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 7, as follows:

[Rollcall Vote No. 265 Leg.]

YEAS—91

Adams
Akaka
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Cochran
Cohen
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Heflin
Heinz
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McClure
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Wallop
Warner
Wirth

NAYS—7

Coats
Conrad
Dixon
Helms
Humphrey
Roth
Symms

NOT VOTING—2

Hatfield
Wilson

So the bill (H.R. 5021), as amended, was passed.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. BURNS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Let me thank very genuinely, here, Warren Kane, Dorothy Sedar, Liz Blevins, Matthew Mattett of our particular staff, and the staff of our distinguished colleague from New Hampshire, John Shank, and Rachel Sotsky for their outstanding work on this particular bill.

Mr. President, I move the Senate insist on its amendments in H.R. 5021, request a conference with the House of Representatives, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. Hollings, Mr. Inouye, Mr. Bumpers, Mr. Lautenberg, Mr. Sasser, Mr. Adams, Mr. Byrd, Mr. Rudman, Mr. Stevens, Mr. Hatfield, Mr. Kasten, and Mr. Gramm conferees on the part of the Senate.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL RETURNED TO CALENDAR—S. 1025

Mr. MITCHELL. Mr. President, I ask unanimous consent that bill S. 1025 be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I am grateful to my colleagues for cooperation in disposing of the appropriations bill on which the Senate has just acted. During the day today, reports were received on two additional appropriations bills: The Foreign Operations appropriations bill, and Labor-HHS appropriations bill.

As I indicated both yesterday and earlier today, if we are to have any possibility of meeting our deadline of completing this session by October 19, it is imperative that we complete actions on available appropriations bills this week. Under the rules of the Senate, any Senator may object to consideration of an appropriations bill unless 48 hours have elapsed from the time the reports on the bills were received in the Senate. Therefore it takes consent of all Senators for us to proceed to consideration of these appropriations bills either tonight or tomorrow.

I hope we could get that consent. It is not an unusual request. It is not an unusual procedure.

If we cannot get consent, I repeat now what I have said before, something which I personally find very unpleasant but which would be essential, and that is we will have to take them up on Saturday. Forty-eight hours will have expired then. I personally do not see that any purpose would be served by the Senate not acting on a Friday and waiting until Saturday to act on these bills. I hope very much that is not the result. But there will be no alternative if consent is not granted to proceed to them.

I have been discussing the matter with the distinguished Republican leader and we are both trying very hard to pursue a schedule that is convenient for the largest number of Senators. I think it would be very inconvenient for us to come back on Saturday afternoon and do appropriations bills that we could have done on Friday.

So I now inquire of my friend and colleague, whether it is possible to get consent at this time to proceed to the Labor-HHS bill, at least begin on it this evening and then go as far as we can on that? It is not my intention to have a late evening tonight. Then to proceed to that and the Foreign Operations bill tomorrow.

Mr. DOLE. Mr. President, if the majority leader yields, I am not in a position to give consent to go to either Labor-HHS or Foreign Operations.

The Labor-HHS report was received at 3:50 this afternoon, and the Foreign Operations at 2:45. So I think the Senator on this side who had a concern, we delivered him a copy this morning at about 10 o'clock. I am hopeful that by tomorrow morning we can have this resolved.

They are very important bills. There are big, controversial areas in these particular appropriations bills, but I would also underscore what the majority leader said about Saturday. Many of our colleagues—as some may know this is an election year. It is getting close to election. Some of those up for election have made commitments some time ago, thinking Congress would have gone home, maybe, by now.

It is my hope we can accommodate not just the leadership on both sides but the Members on both sides and be able to move to that bill in the morning. But I am not in a position now to do so.

Mr. MITCHELL. I thank my colleague for his comments and his cooperation. I will simply repeat, the fact we are not able to start on one of these bills this evening means that we will have to devote that much time to it tomorrow. I know Senators tomorrow will be concerned about the schedule during the day so there is, of course, no alternative, since Senators do have the right to object and withhold their consent. I will, in accordance with the distinguished Republican leader's comments, renew my request first thing tomorrow morning.

Mr. President, that being the case, since we are unable to get consent from our Republican colleagues to proceed to this measure this evening, this means almost certainly a long tomorrow and possibly a Saturday session. If we do not get consent tomorrow, it will mean with certainty a Saturday session. Senators should be aware of that in making their schedules.

Since we are not able to proceed to those, there will be no further rollcall votes this evening. We will do the best we can tomorrow to get to these bills and avoid a Saturday session.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection it is so ordered.

TRIBUTE TO SIDNEY DARRAH

Mr. MITCHELL. Mr. President, I wish to pay tribute to an outstanding public servant, Mr. Sidney Darrah of Freeport, ME, who retired on August 31, 1990, after 39 years of Federal service, 35 of them in the Immigration and Naturalization Service.

Mr. Darrah served in the U.S. Army in the South Pacific in World War II, became a border patrol officer in 1955, and an immigration inspector in 1967. He was promoted to Assistant District Director of the Immigration and Naturalization Service in 1980 in Portland, the post he held until his retirement.

Sid Darrah was the ideal civil servant. He never lost sight of the fact that Government agencies should be the helpful servants of people and not their cold or indifferent masters. Whenever an individual problem was brought to his attention, his instinct was always to go to great lengths to see, and usually find, a solution. Because of his generous spirit, and his thorough knowledge of immigration laws and policies, countless relatively powerless travelers and immigrants from foreign lands, as well as our own citizens, have benefited from Mr. Darrah's lifelong exercises of practical humanitarianism.

I wish to join them in thanking Sid Darrah for his fine career, and to wish him many happy years of retirement.

CENTENNIAL OF THE NATIONAL SOCIETY OF THE DAUGHTERS OF THE AMERICAN REVOLUTION

Mr. DOLE. Mr. President, I am pleased to join my colleague, the senior Senator from North Carolina, in recognizing the 100th birthday of

the National Society of the Daughters of the American Revolution.

Today, more than 700 members of the organization are gathered in Washington to observe 100 years of community service to the Nation. Wreaths have been laid in Arlington Cemetery commemorating the founding of the Army Nurse Corps by DAR leader Dr. Anita Newcomb McGee, who recruited 1,000 nurses to go to Cuba during the Spanish American War. Meetings and seminars are being held in Constitution Hall, a registered national historic landmark synonymous with the DAR and made available to the Washington community for concerts, graduations, seminars, and lectures.

PATRIOTISM AND LOYALTY

With pride and pleasure, I recognize this national service organization with international chapters dedicated to preserving the spirit of men and women who achieved American independence—with historical, educational, and patriotic programs which encourage love of our country and remind us of the blessings of liberty.

Mr. President, I join other cosponsors in urging swift and favorable approval of Senate Joint Resolution 263, designating October 11, 1990, as "National Society of the Daughters of the American Revolution Centennial Day."

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—CONFEREES TO H.R. 5241

Mr. BYRD. Mr. President, this request has been cleared on both sides of the aisle, with the leadership and the Senators who are affected.

I ask unanimous consent that the list of conferees on H.R. 5241, the Treasury, Postal Service appropriations bill, be modified to reflect the removal of those Senators appointed solely for the consideration of the Federal pay reform.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. Mr. President, I should state for the record that it has long been the policy of the Senate Appropriations Committee that, in the appointment of conferees, members of legislative committees not be included as Senate conferees on appropriations bills. Inadvertently, in the instance that I have just addressed, the appointment of four Senators from a legislative committee was included in the Chair's appointment of the conferees on the Treasury, Postal Service appropriations bill.

I do not want to start down that road. The tradition in the past has been the correct one. It is a longstanding tradition, and it is more than just a tradition, it is a time-honored policy. Mr. President, I do not believe that members of the legislative committees should be included as conferees on appropriations bills, nor would I think that, as a member of the Appropriations Committee, I should be included in a conference on a legislative authorization bill.

Additionally, the House has a policy whereby it will not appoint conferees on an appropriations bill if the Senate has appointed members from legislative committees to serve as conferees on the particular appropriations bill.

So I say this for the record so that in the future, Senators may be guided thereby, and also to make clear that the removal of the conferees in this instance, is not meant to connote anything other than the facts I have just stated: Those Senators were appointed, through no fault of their own. The Chair, in making the appointment of Senate conferees, inadvertently, and without, I am sure, knowledge that to appoint conferees from legislative committees would be launching out on a new, and heretofore, untrammeled path.

I am grateful to those four members of the authorization committee who, when informed of the policy of the House and the policy of the Senate Appropriations Committee, very agreeably understood, and consented to their names being removed from the list of Senate conferees.

Mr. STEVENS. Mr. President, will the Senator yield?.

Mr. BYRD. Yes, I will be happy to yield.

Mr. STEVENS. Mr. President, having been one of those who was named as a conferee and also a member and for the time-being acting ranking member of the Appropriations Committee, I commend the chairman of the committee for his action, and I do support his goal.

I just want to take this time to state for the record that there is still material in the Treasury, Postal Service appropriations bill which is subject to a point of order. Had I been on the floor, I would have raised that point of order. It is a problem, I think, that has to be dealt with and the distinguished Senator from West Virginia, the chairman of our committee, and I have discussed that.

I am pleased to join with the chairman in stating this as a policy that we will object to these matters that are extraneous matters to the appropriations bills. The time factor is very close now for us to be able to comply with the directions we have from the Congress and the budget resolution. I think this year, in particular, we must have the time of the Senate and the Congress in debating matters that might be subject to a point of order at any time as legislation on an appropriations bill.

I just want to state to my good friend that I have had a conversation with the Senator from Arizona and agreed to have our names removed as conferees. Beyond that, from the point of view of being a member of the Appropriations Committee, I think this is the proper course.

I do hope that people who are conferees on this bill will understand that unless this matter is worked out to the satisfaction of all concerned, their amendments are still subject to point of order in the Treasury, Postal Service appropriations bill

I thank my good friend for yielding.

Mr. BYRD. Mr. President, I thank my good friend from Alaska.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I ask unanimous consent to address the Senate for 12 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Arizona is recognized

Mr. McCAIN. I thank the Chair.

(The remarks of Mr. McCain pertaining to the introduction of S. 3190 are located in today's Record under "Statements on Introduced Bills and Joint Resolutions.")

Mr. McCAIN. Mr. President, I again thank my friend from New Jersey for indulging me at this late hour in the Chamber. I hope someday, sometime, I have the opportunity to return the favor to him with gratitude.

Mr. President, I yield the floor.

I yield the remainder of my time.

Mr. GORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Commerce, Science, and Transportation.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 9:46 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills.

H.R. 1608. An Act to strengthen national nutrition monitoring by requiring the Secretary of Agriculture and the Secretary of Health and Human Services to prepare and implement a ten-year plan to assess the dietary and nutritional status of the United States population, to support research on, and development of, nutrition monitoring, to foster national nutrition education, to establish dietary guidelines, and for other purposes;

H.R. 3468. An act to amend the Act entitled "An act to extend the Wetlands Loan Act", to provide for the expansion of the Stewart B. McKinney National Wildlife Refuge; and

H.R. 5070. An act to amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration and other services necessary for the John F. Kennedy Center for the Performing Arts, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore [Mr. Robb].

At 9:55. a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House of Representatives having proceeded to reconsider the bill (H.R. 4328) to provide for orderly imports of textiles, apparel, and footwear, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the bill do not pass, two-thirds of the House of Representatives not agreeing to pass the same.

The message also announced that the House has passed the bill (S. 2737) to require the Secretary of the Treasury to mint a silver dollar coin in commemoration of the 38th anniversary of the ending of the Korean war and in honor of those who served; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the bill (S. 2753) to reauthorize the Developmental Disabilities Assistance and Bill of Rights Act; with amendments, in which it requests the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 12:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 2017. An act to provide a permanent endowment for the Eisenhower Exchange Fellowship Program;

S. 2680. An act to provide for the conveyance of lands to certain individuals in Stone County, Arkansas; and

H.J. Res. 602. Joint resolution designating October 1990 as "National Domestic Violence Awareness Month".

The enrolled bills and joint resolution were subsequently signed by President pro tempore [Mr. Byrd].

At 2:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, each without amendment:

S. 2540. An act to authorize the Board of Regents of the Smithsonian Institution to plan, design, construct, and equip space in the East Court of the National Museum of Natural History building, and for other purposes;

S. 2680. An act to provide for the conveyance of lands to certain individuals in Stone County, Arkansas;

S. 2806. An act to redesignate The National System of Interstate and Defense Highways as The Dwight D. Eisenhower System of Interstate and Defense Highways; and

S. 3046. An act to redesignate the Federal building located at 1 Bowling Green in New York, New York, as the "Alexander Hamilton United States Custom House."

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4151) to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, and the Community Services Block Grant Act; and for other purposes.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5019) making appropriations for energy and water development for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. Bevill, Mrs. Boggs, Mr. Fazio, Mr. Watkins, Mr. Thomas of Georgia, Mr. Chapman, Mr. Whitten, Mr. Myers of Indiana, Mrs. Smith of Nebraska, Mr. Pursell, and Mr. Conte as managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. Traxler, Mr. Stokes, Mrs. Boggs, Mr. Mollohan, Mr. Chapman, Mr. Atkins, Mr. Whitten, Mr. Green of New York, Mr. Coughlin, Mr. Lewis of California, and Mr. Conte as managers of the conference on the part of the House.

The message further anounced that the House disagrees to the amendments of the Senate to the bill (H.R. 5229) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. Lehman of Florida, Mr. Gray, Mr. Carr, Mr. Durbin, Mr. Mrazek, Mr. Sabo, Mr. Whitten, Mr. Coughlin, Mr. Conte, Mr. Wolf, and Mr. DeLay as managers of the conference on the part of the Senate.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5268) making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. Whitten, Mr. Traxler, Mr. McHugh, Mr. Natcher, Mr. Watkins, Mr. Durbin, Ms. Kaptur, Mr. Smith of Iowa, Mrs. Smith of Nebraska, Mr. Myers of Indiana, Mr. Skeen, Mr. Weber, and Mr. Conte as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5311) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. Dixon, Mr. Natcher, Mr. Stokes, Mr. AuCoin, Mr. Dwyer of New Jersey, Mr. Hoyer, Mr. Whitten, Mr. Gallo, Mr. Green of New York, Mr. Regula, and Mr.

Conte as managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5313) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. Hefner, Mr. Alexander, Mr. Thomas of Georgia, Mr. Coleman of Texas, Ms. Kaptur, Mr. Bevill, Mr. Dicks, Mr. Fazio, Mr. Whitten, Mr. Lowery of California, Mr. Edwards of Oklahoma, Mr. Kolbe, Mr. DeLay, and Mr. Conte as managers of the conference on the part of the House.

The message further announced that the House has passed the bill (S. 1289) to improve the management of forests and woodlands and the production of forest resources on Indian lands, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

At 3:54 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3617. An act to transfer jurisdiction of certain public lands in the State of Utah to the Forest Service, and for other purposes;

H.R. 4227. An act to designate segments of the Sudbury, Assabet, and Concord Rivers as a study area for inclusion on the National Wild and Scenic Rivers System;

H.R. 5004. An act to amend the Wild and Scenic Rivers Act to desigante certain segments of the Mills River in the State of North Carolina for potential addition to the wild and scenic rivers system; and

H.R. 5497. An act to authorize the Secretary of the Interior to acquire certain lands to be added to the Fort Raleigh National Historic Site in North Carolina.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 381. A concurrent resolution to correct the enrollment of the bill (H.R. 4151).

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4227. An act to designate segments of the Sudbury, Assabet, and Concord Rivers as a study area for inclusion in the National Wild and Scenic Rivers System.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

S. 3187. An original bill to address immediate problems affecting environmental cleanup activities (Rept. No. 101-520).

By Mr. INOUYE, from the Committee on Appropriations, without amendment:

S. 3189. An original bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes (Rept. No. 101-521).

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments:

S. 2244. A bill to prevent and control infestations of the coastal and inland waters of the United States by the zebra mussel, and other nonindigenous aquatic nuinance species (Rept. No. 101-523).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 3888. A bill to allow a certain parcel of land in Rockingham County, Virginia, to be used for a child care center (Rept. No. 101-525).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

H.R. 2961. A bill for the relief of Sonanong Poonpipat (Latch).

S. Res. 195. A resolution to refer S. 1762 entitled "A bill for the relief of the Menominee Indian tribe of Wisconsin" to the chief judge of the United States Claims Court for a report thereon.

S. 615. A bill providing for a 14-year extension of the patent for the badge of the American Legion.

S. 616. A bill providing for a 14-year extension of the patent for the badge of the American Legion Auxiliary.

S. 617. A bill to provide for a 14-year extension of the patent for the badge of the Sons of the American Legion.

S. 2756. A bill to encourage national law enforcement cooperation.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res 373. Joint resolution granting the consent of the Congress to amendments to the Delaware-New Jersey Compact, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Joseph M. McLaughlin, of New York, to be U.S. circuit judge for the Second Circuit;

Thomas G. Nelson, of Idaho, to be U.S. circuit judge for the Ninth Circuit;

James B. Loken, of Minnesota, to be U.S. circuit judge for the Eighth Circuit;

Diane Gilbert Weinstein, of the District of Columbia, to be a judge of the U.S. Claims Court for a term of 15 years;

Stephen D. Easton, of North Dakota, to be U.S. attorney for the District of North Dakota for the term of 4 years;

William C. Andersen, of Connecticut, to be U.S. marshal for the District of Connecticut for a term of 4 years;

Marvin Collins, of Texas, to be U.S. attorney for the Northern District of Texas for the term of 4 years.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KENNEDY (for himself, Mr. Metzenbaum, Mr. Simon, and Mr. Riegle):

S. 3183. A bill to provide financial assistance to eligible local educational agencies to improve urban education, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KOHL (for himself, Mr. Grassley and Mrs. Kassebaum):

S. 3184. A bill to amend the Federal Deposit Insurance Act to include foreign deposits in the assessment base; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KERREY (for himself, Mr. Kennedy, Mr. Daschle, and Mr. Bingaman):

S. 3185. A bill to establish an Education Capital Fund to assist local education reform efforts, and for other purposes; to the Committee on Finance.

By Mr. JEFFORDS:

S. 3186. A bill to amend the Federal Water Pollution Control Act; to the Committee on Environment and Public Works.

By Mr. BURDICK from the Committee on Environment and Public Works:

S. 3187. An original bill to address immediate problems affecting environmental cleanup activities; placed on the calendar.

By Mr. LUGAR (for himself and Mr. Coats):

S. 3188. A bill to authorize the Secretary of Transportation to release the restrictions, requirements, and conditions imposed in connection with the conveyance of certain lands to the city of Gary, Indiana; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE from the Committee on Appropriations:

S. 3189. An original bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes; placed on the calendar.

By Mr. McCAIN:

S. 3190. A bill to control the transfer of arms to countries that threaten world peace, including countries that are the subject of a United Nations or United States blockadge or embargo; to the Committee on Foreign Relations.

By Mr. KENNEDY (for himself and Mr. Adams):

S. 3191. A bill to provide for necessary medical care for certain persons detained, held hostage, or interned; to the Committee on Labor and Human Resources.

By Mr. CRANSTON (for himself, Mr. Packwood, Mr. Simon, and Mr. Specter):

S.J. Res. 378. Joint resolution prohibiting the proposed sales to Saudi Arabia of certain defense articles and defense services, pursuant to section 36(b)(1) of the Arms Export Control Act; to the Committee on Foreign Relations.

By Ms. MIKULSKI (for herself, Mr. Sarbanes, Mr. Robb, and Mr. Warner):

S.J. Res. 379. Joint resolution providing for furloughed employees compensation; to the Committee on Appropriations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SASSER (for himself, Mr. BRADLEY, Mr. KERRY, Mr. SIMON, Mr. DODD, Ms. MIKULSKI, Mr. BENTSEN, Mr. BUMPERS, Mr. KENNEDY, Mr. RIEGLE, Mr. HEFLIN, Mr. LIEBERMAN, Mr. SARBANES, Mr. DECONCINI, Mr. BURDICK, Mr. PRYOR, and Mr. CRANSTON):

S. Res. 338. Resolution expressing the sense of the Senate that the Department of Commerce should utilize the statistical correction methodology to achieve a fair and accurate 1990 Census; to the Committee on Governmental Affairs.

By Mr. GORE (for Mr. MITCHELL (for himself and Mr. DOLE)):

S. Res. 339. Resolution to authorize testimony and the production of documents by the Senate employees at an unemployment compensation hearing; considered and agreed to.

By Mr. MOYNIHAN:

S. Con. Res. 152. Concurrent resolution expressing the sense of the Congress regarding the establishment of a United States-Canadian commission to preserve and protect the Niagara Falls area; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY (for himself, Mr. METZENBAUM, Mr. SIMON, and Mr. RIEGLE):

S. 3183. A bill to provide financial assistance to eligible local educational agencies to improve urban education, and for other purposes; to the Committee on Labor and Human Resources.

URBAN SCHOOLS OF AMERICA (USA) ACT

Mr. KENNEDY. Mr. President, today I am introducing the Urban Schools of America (USA) Act of 1990.

The President and the Nation's Governors have forcefully spoken out on the need to set and meet new goals for improving our schools by the year 2000. Without that improvement, the United States is in serious danger of falling farther and farther behind in meeting the serious challenges we face at home and around the world. Report after report issued since the Department of Education's landmark "A Nation At Risk" has sounded the alarm.

Nowhere is the challenge of meeting these education goals more vital to the Nation than in our inner cities. Urban public schools continue to have lower achievement rates than other schools, higher dropout rates, more difficulty recruiting teachers, less access to early childhood development programs, older school buildings, greater health problems, and higher concentrations of children in need.

Yet, America's future domestic and global strength depends on these children and the success of their schools. Consider this: If the graduation rate for urban schools equaled the national average, they would have graduated 325,000 students in 1987-88 rather than 239,000. At the current 28-percent tax rate, the Federal tax on the total additional lifetime earnings of those 86,000 individuals would be large enough to double the present congressional appropriation for elementary and secondary education, or boost drug prevention efforts by a factor of 10—efforts that benefit the whole Nation, not just the cities.

Congress needs to address the Nation's educational challenges where we can do the most good. That is why I am urging you to join me in sponsoring this legislation.

First, the USA bill would authorize formula grants to hardpressed city school systems to conduct programs that would move them closer to meeting our national education goals. A unique accountability provision would cutoff those funds if the schools could not demonstrate progress according to preset criteria. Local education agencies would have broad flexibility to design whatever efforts they believe could bring them closest to the goals.

Second, the bill would authorize funds for urban school systems to renovate and repair their aging facilities. According to a report soon to be released by the Council of the Great City Schools, one-third of inner-city schools are over 50 years old, with a cumulative backlog of repairs estimated at $5 billion.

Third, the bill would authorize additional Federal research on urban education, and would provide city schools with more resources to strengthen their own research activities. Dollars would be focused on assessing programs and monitoring urban school progress toward meeting the national goals.

Finally, the bill authorizes a review of regulations whose simplification might enhance learning.

I intend to circulate the USA bill widely this fall for comments and suggestions before reintroduction in the 102d Congress. This is a discussion bill. It was developed with the assistance of the Council of the Great City Schools. I invite all Members to participate and look forward to working together on this critical issue.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3183

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Urban Schools of America (USA) Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the ability of the Nation's major urban school systems to meet the Nation's educational goals and standards will determine the country's economic competitiveness and academic standing in the world community;

(2) the quality of public education in the Nation's major urban areas has a direct effect on the economic development of the Nation's inner-cities;

(3) the success of urban schools in boosting the achievement of its minority youth will determine the ability of the Nation to close the gap between the "haves and have-nots" in society;

(4) urban schools enroll a disproportionately large share of the Nation's poor and "at-risk" youth;

(5) urban schools enroll approximately one-third of Nations's poor, 40 percent of the Nation's African-American, and 30 percent of the Nation's Hispanic youth;

(6) the academic performance of the average inner-city public school system is below that of most other kinds of school systems;

(7) urban school systems have higher dropout rates, more problems with health care and lower parental participation than other kinds of school systems;

(8) urban preschoolers have one-half the access to early childhood development programs as do other children;

(9) shortages of teachers in urban school systems are 2.5 times greater than such shortages in other kinds of school systems;

(10) declining numbers of urban minority high school graduates are pursuing postsecondary educational opportunities;

(11) urban school systems have greater problems with teen pregnancy, discipline, drug abuse and gangs than do other kinds of school systems;

(12) 75 percent of urban school buildings are over 25 years old, 33 percent of such buildings are over 50 years old, and such buildings are often in serious disrepair and create poor and demoralizing working and learning conditions;

(13) solving the challenges facing our Nation's urban schools will require the concerted and collaborative efforts of all levels of government and all sectors of the community;

(14) State and Federal funding of urban schools has not adequately reflected need; and

(15) Federal funding that is well targeted, flexible and accountable would contribute significantly to addressing the comprehensive needs of inner-city schools.

SEC. 3. STATEMENT OF PURPOSE.

It is the purpose of this Act to provide financial assistance for those urban schools most in need to—

(1) assist urban schools in meeting national education goals;

(2) improve the educational and social well being of urban public school children;

(3) close the achievement gap between urban and nonurban school children, while raising the achievement level of all children nationally;

(4) renovate and repair urban school buildings and facilities;

(5) conduct coordinated research on urban education problems, solutions and promising practices;

(6) improve the Nation's global economic and educational competitiveness by improving the country's urban schools;

(7) encourage community collaboration in the improvement of urban schools;

(8) review regulations whose simplification might improve the effectiveness of urban schools.

TITLE I—URBAN SCHOOL IMPROVEMENT

SEC. 101. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 to carry out the provisions of this title.

SEC. 102. ALLOCATION OF FUNDS.

(a) RESERVATIONS.—From the amount appropriated or otherwise made available to carry out the provisions of this title for any fiscal year, the Secretary shall reserve—

(1) 1 percent of such amount for national activities to evaluate programs assisted under this title; and

(2) 5 percent of such amount to carry out the provisions of section 107.

(b) ALLOTMENTS.—From the remainder of the sums not reserved under subsection (a), the Secretary shall allot to each eligible local educational agency with an approved application an amount which bears the same relationship to such funds as the amount such eligible local educational agency was allocated under sections 1005 and 1006 of the Elementary and Secondary Education Act of 1965 in the preceding fiscal year bears to the total amount received under such sections by all eligible local educational agencies.

(c) PAYMENTS.—(1) The Secretary shall annually pay to each eligible local educational agency having an application approved under section 103 the costs of the activities described in the application.

(2) The Secretary shall only make such annual payments to eligible local educational agencies which—

(A) comply with the provisions of section 106(c); and

(B) demonstrate to the satisfaction of the Secretary that the data submitted pursuant to section 106(c) shows progress toward meeting national education goals.

SEC. 103. APPLICATION REQUIRED.

(a) APPLICATION REQUIRED.—(1) Any eligible local educational agency desiring to receive an allotment from the Secretary to carry out the provisions of this title shall—

(1) form a local advisory group, in accordance with section 109 of this Act;

(2) submit to the State educational agency an application for review and comment; and

(3) submit the application described in paragraph (2) to the Secretary for approval. The application described in paragraph (2) may be for a period of not more than 3 years, subject to the provisions of section 106.

(b) CONTENTS OF APPLICATION.—Each application submitted pursuant to subsection (a) shall include a description of—

(1) the ranking of all schools in the eligible local educational agency by achievement, poverty, and racial isolation and how such schools will be served in accordance with section 110(a);

(2) the community served by the schools most in need as determined in accordance with section 110(a) and the effects of the community on the educational conditions within the school;

(3) the feeder system or grade levels to be served;

(4) the collaboration in program planning with the advisory group described in section 109;

(5) how funds will be used;

(6) how the proposed program will assist the eligible local educational agency in progressing toward achieving national education goals; and

(7) the statistical indicators and other criteria that the eligible local educational agency will use to measure progress toward meeting national education goals.

SEC. 104. PLANNING PERIOD.

Any eligible local educational agency requiring additional planning efforts to meet the provisions of this Act may use the first 6 months of the initial program year for planning purposes, subject to approval by the Secretary, except that no more than 15 percent of the first year's allotment shall be used for such purposes. A written report of the results of the plan shall be submitted to the Secretary.

SEC. 105. USES OF FUNDS.

(a) IN GENERAL.—Funds allotted under this title shall be used by eligible local educational agencies to meet national education goals through programs designed to—

(1) increase the academic achievement of urban school children to at least the national average, including—

(A) effective schools programs;

(B) tutoring, mentoring, and other activities to improve academic achievement directly;

(C) activities designed to increase the participation of minority and female students in entry level and advanced courses in mathematics and science;

(D) supplementary academic instruction; and

(E) curriculum development;

(2) prepare all urban children for school, including—

(A) full workday, full calendar-year comprehensive early childhood development services; and

(B) parenting classes;

(3) increase the graduation rates of urban students to at least the national average, including—

(A) dropout prevention activities;

(B) outreach activities to recruit students back into school; and

(C) development of systemwide policies and practices that encourage students to stay in school;

(4) prepare urban school graduates to enter higher education, pursue careers and exercise their responsibilities as citizens, including—

(A) activities designed to increase the number and percentages of students, particularly minority students, enrolling in postsecondary educational institutions after graduation from secondary schools; and

(B) in-school youth employment programs and other activities meant to improve the transition from school to work;

(5) recruit and retain qualified teachers, including—

(A) school-based management projects and activities;

(B) programs designed to test efforts to increase the professionalism of teachers; and

(C) alternative routes to certification; and

(6) decrease the use of drugs and alcohol among urban students, and to enhance the physical and emotional health of such students, including—

(A) activities designed to improve the self-esteem and selfworth of urban students;

(B) the direct provision of health care services and other social services;

(C) programs designed to improve discipline, and reduce in-school violence and vandalism and gang activity;

(D) activities designed to prevent drug abuse; and

(E) alternative schools and projects for students with special needs.

(b) SPECIAL RULE.—Funds allotted under this title may be used for the planning, development, operation or expansion of programs and activities which are designed to assist urban schools in meeting national education goals, and may include—

(1) training of teachers and other educational personnel in subjects or methods that would improve the delivery of services in any of the national education goals through any of the programs designed pursuant to subsection (a);

(2) coordination and collaboration with other municipal agencies, child care organizations, universities or the private sector;

(3) parental involvement and outreach efforts;

(4) guidance, counseling or social work services that would contribute to progress in meeting national education goals; and

(5) efforts to improve access to instructional technology.

SEC. 106. ACCOUNTABILITY.

(a) IN GENERAL.—The Secretary may award grants under this title to enable an eligible local educational agency to operate a program under this title for a period of not more than 3 years. If an eligible local educational agency receiving an allotment under this title meets the accountability requirements described in subsection (b) at the end of 3 years and the requirements described in subsection (c) at the end of each year, as determined by the Secretary, such eligible local educational agency shall be eligible to continue the project with funds under this title for an additional 3 years if such eligible local educational agency so desires.

(b) ACHIEVEMENT.—(1) If, after 3 years, an eligible local educational agency receiving an allotment under this title is able to demonstrate to the satisfaction of the Secretary that its achievement level as measured according to statistical indicators and other criteria specified in the application exceeds the average achievement of such eligible local educational agency in the 3 years prior to the initiation of the project, then such eligible local educational agency shall be eligible to continue the project with funds under this title for an additional 3 years.

(2) If, after 3 years, an eligible local educational agency receiving an allotment under this title is able to demonstrate progress on meeting at least 2 national education goals as measured by the following:

(A) the number or percentage of preschool children served by the eligible local educational agency is greater than the average such number or percentage of such children served in the eligible local educational agency in the 3 previous school years;

(B) a secondary school graduation rate in the eligible local educational agency that is greater than the average such rate for the 3 previous school years;

(C) the percentage of secondary school graduates in the eligible local educational agency enrolled in postsecondary education is greater than such percentage for the 3 previous school years;

(D) the percentage of the teaching force who are minorities in the eligible local educational agency is greater than the average such percentage for the 3 previous school years; and

(E) the incidence of drug use or in-school crime in the eligible local educational agency is less than the average such incidence in the 3 previous school years;

then such eligible local educational agency shall be deemed to have met the requirements of paragraph (1) so long as the achievement level of the project schools did not decline in any of the 3 previous school years.

(c) Progress.—Each eligible local educational agency receiving an allotment under this title shall annually collect and submit to the Secretary data based on the statistical indicators and other criteria described in the application submitted by such eligible local educational agency for the purposes of monitoring progress in achieving national education goals. Such data may include multiple measures or indicators of each variable.

SEC. 107. INCENTIVES.

The Secretary is authorized to retain not more than 5 percent of such amounts as are appropriated pursuant to the authority of section 101 or otherwise made available to make competitive awards to individual schools participating in a program funded under this title which demonstrate to the satisfaction of the Secretary exemplary progress in achieving the national education goals through programs described in section 105.

SEC. 108. REGULATORY ASSESSMENT.

(a) Report on Urban Schools.—In order to assist eligible local educational agencies under this Act in improving the performance of urban school children, the Secretary shall, not later than January 1, 1992, prepare a report on the impact of regulations on urban public schools promulgated pursuant to Federal law.

(b) Contents of Report.—The report shall analyze the impact of legal, regulatory, policy and organizational requirements on the time and resources that eligible local educational agencies under this Act have for educating students, including fiscal resources, staff time, facilities, instructional equipment, and services. The report shall make recommendations on how best to simplify regulations promulgated pursuant to Federal law so that more resources can be devoted to improving urban student performance. The report shall also identify those regulations whose waiver might be used as incentives or rewards for unusual progress toward meeting national education goals.

(c) Specific Issues for Analysis.—In preparing the report required by this section, the Secretary shall analyze—

(1) the effect of regulatory requirements on local program flexibility and management within eligible local educational agencies;

(2) the effect of regulatory requirements on the size, cost and composition of administrative practices within eligible local educational agencies;

(3) the extent to which urban local educational agencies must meet regulatory requirements which are duplicative of other regulatory requirements placed upon other local educational agencies;

(4) the amount of time and resources that school administrators and teachers must spend responding to data requests and reporting requirements pursuant to Federal law;

(5) the extent to which the time and resources eligible local educational agencies must devote to reporting and data requests pursuant to Federal law are the result of State rather than Federal requirements;

(6) the extent to which regulatory requirements are related to instructional rather than noninstructional practices in eligible local educational agencies;

(7) the relationship between specific regulatory requirements and the educational performance of urban students;

(8) the extent to which regulatory requirements may be duplicative or contradictory; and

(9) how the waiver or simplification of regulatory requirements could enhance the performance of urban school children and the progress of urban schools in meeting national education goals.

(d) Consultation With Congress.—The Secretary shall consult with the Committee on Education of the House of Representatives and the Committee on Labor and Human Resources of the Senate concerning the design of the report described in this section.

SEC. 109. LOCAL ADVISORY GROUP.

(a) Establishment.—Any eligible local educational agency desiring to receive an allotment under this Act shall form a local advisory group.

(b) Composition.—(1) The local advisory group shall be composed of representatives of local government agencies, community groups, service providers, teachers and parents, colleges and universities, businesses and organizations with an interest in improving urban education and expertise in the delivery of services needed by the schools selected to participate in a program assisted under this Act.

(2) The superintendent of schools and the president of the board of education of the eligible local educational agency receiving funds under this Act shall appoint the members of the local advisory group. The local advisory group may contain as many members as is necessary to ensure a comprehensive community-wide program to improve urban education.

(3) The local advisory group shall be representative of the community and shall be balanced according to the race, ethnicity, native language background, and gender of its members, to the extent practicable.

(c) Functions.—The local advisory group shall—

(1) design and conduct a needs assessment for all schools expected to participate in the program assisted under this Act;

(2) assist in planning for community-wide collaboration in service delivery for youth in schools expected to be served by the program assisted under this Act;

(3) advise the eligible local educational agency and the community on how they can work together to use multiple service providers; and

(4) monitor the implementation of the program assisted under this title and oversee evaluations of such program's success.

(d) Use of Existing Local Advisory Group.—To the extent that an eligible local educational agency has established a broadly representative local advisory group before enactment of this legislation that is comparable to the local advisory group described in this section, such eligible local educational agency shall be considered to be in compliance with the provisions of this section.

SEC. 110. SPECIAL RULES.

(a) Ranking of Schools to Determine Relative Need.—(1) Each local educational agency desiring to receive a grant under this title shall, in order to determine which schools are most in need of services under the grant, separately rank all schools under the jurisdiction of the agency on the basis of—

(A) achievement;

(B) poverty; and

(C) racial isolation.

(2) Each eligible local educational agency that receives a grant under this title shall serve at least 10 percent, but not more than 20 percent, of the schools under the jurisdiction of such agency.

(3) Each eligible local educational agency that receives a grant under this title—

(A) shall serve any school that is determined to be most in need with respect to all 3 rankings required by paragraph (1); and

(B) may serve any school that is determined to be most in need with respect to any 1 or more of such rankings.

(b) Flexibility.—Each eligible local educational agency shall have the flexibility to serve homeless children, desegregating students, immigrants, migrants or other highly mobile populations within the program assisted under this title.

(c) School Improvement Plan.—The approved program for any school served under sections 1020 and 1021 of the Elementary and Secondary Education Act of 1965, may be considered sufficient to meet the requirements of the provisions of sections 103(b) and 106(b)(1) of this Act.

TITLE II—SCHOOL BUILDING REPAIR AND RENOVATION

SEC. 201. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, to provide assistance to eligible local educational agencies to assist such agencies in repairing, and renovating, or constructing instructional facilities in city schools.

SEC. 202. ALLOCATIONS.

(a) Reservations.—From the amount appropriated or otherwise made available to carry out the provisions of this title for any fiscal year, the Secretary shall reserve—

(1) 1 percent of such amount to monitor activities under this title;

(2) 50 percent of the remainder of the sums not reserved under paragraph (1) to carry out the provisions of section 204; and

(3) 50 percent of the remainder of the sums not reserved under paragraph (1) to carry out the provisions of section 205.

(b) Allotments.—Of each amount reserved pursuant to paragraphs (2) and (3) of subsection (a), the Secretary shall allot to eligible local educational agencies with an approved application—

(1) 33 percent of such funds on the basis of the number of children in the eligible local educational agency between the ages of 5 and 17 who are members of families whose income does not exceed the income official poverty line (as defined by the Office of Management and Budget), according to the most recent decennial census, divided by the number of all such children in all eligible local educational agencies;

(2) 33 percent of such funds on the basis of the number of school buildings used for instructional purposes in the eligible local educational agency, divided by the number of all such buildings in all eligible local educational agencies; and

(3) 33 percent of such funds on the basis of the number of school buildings in the eligible local educational agency which are used for instructional purposes and which are more than 25 years old divided by the number of all such buildings in all eligible local educational agencies.

SEC. 203. APPLICATION.

Any eligible local educational agency desiring to receive an allotment to carry out the provisions of this title shall submit to the Secretary an application for a period of not more than 3 years, subject to annual review. Each such application shall contain—

(1) an assessment of needs for building repair, renovation and construction;

(2) the name and location of all sites scheduled for repair, renovation or construction and a description of the activities planned at each site; and

(3) a description of accounting procedures used to assure proper disbursement of Federal funds.

SEC. 204. REPAIR AND RENOVATION.

From amounts reserved pursuant to section 202(a)(2) the Secretary shall make allotments to eligible local educational agencies with approved applications in accordance with the provisions of section 202(b) to enable such agencies to conduct programs for—

(1) repair and renovation of school buildings used for instruction;

(2) installation or upgrading of school security systems;

(3) construction of new buildings that will serve to replace old facilities that are most cost effectively torn down rather than renovated;

(4) alterations to buildings to meet special program, curricula, or school-site management needs; and

(5) alterations to buildings to meet certain special population needs, such as the needs of homeless children and preschool children.

SEC. 205. ENVIRONMENT AND SAFETY.

From amounts reserved pursuant to section 202(a)(3) the Secretary shall make allotments to eligible local educational agencies with approved applications in accordance with the provisions of section 202(b) to enable such agencies to conduct programs for—

(1) energy conservation;

(2) removal or containment of environmentally hazardous material, such as asbestos, lead and radon;

(3) meeting the requirements of section 504 of the Rehabilitation Act of 1973; and

(4) meeting local, State or Federal codes passed since the initial construction of a building related to fire, air, light, noise, waste disposal, building height or other.

TITLE III—URBAN SCHOOL RESEARCH

SEC. 301. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, to carry out the provisions of this title.

SEC. 302. ALLOCATION OF FUNDS.

(a) Reservations.—From the amount appropriated to carry out this title for any fiscal year, the Secretary shall reserve 10 percent to establish and operate a National Urban Research Center to—

(1) evaluate, monitor, and disseminate activities under this title;

(2) conduct independent research in urban education; and

(3) serve as a clearinghouse on urban education research findings, policies and practices.

(b) Allotments.—From the remainder of the sums not reserved under subsection (a), the Secretary shall allot to each eligible local educational agency with an approved application an amount which bears the same ratio to the amount of such remainder as the enrollment of the eligible local educational agency bears to the enrollment of all eligible local educational agencies.

SEC. 303. REQUIREMENTS.

Any eligible local educational agency desiring an allotment to carry out the provisions of this title shall—

(1) submit an application to the Secretary;

(2) form a collaborative arrangement with local universities, research institutes, laboratories or centers for planning and implementing a plan of research and technical assistance for the eligible local educational agency and individual schools within the local educational agency served under title I of this Act; and

(3) describe in the application submitted pursuant to paragraph (1)—

(A) the research and technical assistance plan described in paragraph (2); and

(B) how funds received under this title will be used.

SEC. 304. USES OF FUNDS.

Funds allotted under this title may be used for—

(1) collaborative and coordinated research and evaluation of educational techniques or approaches used in multiple eligible local educational agencies;

(2) evaluation of projects assisted under title I;

(3) dissemination of information on successful projects and approaches assisted under title I;

(4) design and implementation of programs to allow an eligible local educational agency to provide technical assistance to individual schools and teachers involved in projects assisted under title I;

(5) provision of data and information management services to individual schools assisted under title I;

(6) provision of staff training in schools served under title I; and

(7) evaluation of progress made by eligible local educational agencies assisted under this Act in meeting national education goals.

TITLE IV—GENERAL PROVISIONS

SEC. 401. INTERAGENCY COUNCIL ON URBAN SCHOOLS.

(a) Establishment.—There is established the Interagency Council on Urban Schools (hereafter in this section referred to as the "Council").

(b) Composition.—(1) The Council shall consist of—

(A) the Secretary of Education who shall serve as Chairperson;

(B) the Secretary of Labor;

(C) the Secretary of Health and Human Services;

(D) the Secretary of Agriculture;

(E) the Attorney General of the United States;

(F) the Secretary of Energy;

(G) the Director of the Environmental Protection Agency;

(H) the Director of the Commission on Civil Rights;

(I) the Chairperson of the Advisory Commission on Intergovernmental Relations;

(J) the Chairpersons of the National Endowments on the Arts and the Humanities;

(K) the Director of the National Science Foundation;

(L) the Secretary of Housing and Urban Development; and

(M) such other officers of the Federal Government as may be designated by the President or the Chairperson of the Council to serve wherever matters within the jurisdiction of the agency headed by such an officer are to be considered by the Council.

(2) Each individual described in paragraph (1) may designate an individual to represent such individual on the Council.

(3) Each member shall be appointed for as long as such member serves as the head of the appropriate department or agency.

(4) The Chairperson of the Council shall be the President's principal advisor on urban schools.

(c) Quorum.—One more than one-half of the members of the Council shall constitute a quorum for the purposes of transmitting recommendations and proposals to the President, but a lesser number may meet for other reasons.

(d) Meetings.—The Council shall meet at least 2 times each year. When a Council member is unable to attend a meeting, the Council member shall appoint an appropriate Assistant Secretary or an equivalent individual from the department or agency of the member to represent the member for that meeting.

(e) Duties of the Council.—The Council shall—

(1) review programs and activities conducted by each department or agency of the Council to determine the effects of such programs and activities on the ability of urban schools to meet national education goals;

(2) track progress of urban schools in meeting national education goals;

(3) solicit information and advice from experts in urban education and representatives of urban schools on how the Federal Government could improve the programs and activities of the Federal Government which serve urban school students;

(4) review regulations across various department or agencies of the Federal Government for duplication or contradiction;

(5) issue an annual report to Congress and the President on the progress urban schools are making in meeting national education goals, and on how Congress might change Federal programs to improve the effectiveness of such programs in urban schools;

(6) review and make recommendations regarding ways to improve or streamline various Federal data collection activities in urban schools; and

(7) conduct such research as might be helpful to urban school practitioners in improving the performance of students attending urban schools.

SEC. 402. WHITE HOUSE CONFERENCE ON URBAN EDUCATION.

(a) Authorization To Call Conference.—(1) The President is authorized to call and conduct a White House Conference on Urban Education (hereafter referred to as the "Conference") which shall be held not earlier than November 1, 1991, and not later than October 30, 1992.

(2) The purpose of the White House Conference on Urban Education shall be to—

(A) develop recommendations and strategies for the improvement of urban education;

(B) marshal the forces of the private sector, governmental agencies at all levels, parents, teachers, communities, and education officials to assist urban schools in achieving national education goals; and

(C) conduct the initial planning for a permanent national advisory commission on urban education.

(b) Composition of Conference.—(1) The Conference shall be composed of—

(A) representatives of urban public school systems, including board of education members and school superintendents;

(B) representatives of the Department of Education, the Congress, and other Federal agencies;

(C) State elected officials and representatives from State departments of education; and

(D) individuals with special knowledge of and expertise in urban education.

(2) The President shall select one-third of the participants of the Conference, the Speaker of the House of Representatives shall select one-third of such participants, and the President pro tempore of the Senate shall select the remaining one-third of such participants.

(3) In selecting the participants of the Conference the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall ensure that the participants are as representative of the ethnic, racial, and language diversity of cities as is practicable.

(c) Reports.—(1) A final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President not later than 120 days following the termination of the Conference. The final report shall be made public and, within 90 days after receipt by the President, transmitted to the Congress together with a statement of the President containing recommendations for implementing the report.

(2) The Conference is authorized to publish and distribute for the Conference the reports described in this section. Copies of all such reports shall be provided to the Federal depository libraries and made available to local urban school leaders.

(d) Authorization of Appropriations.—(1) There are authorized to be appropriated for fiscal year 1992 such sums as may be necessary to carry out the provisions of this section.

(2) Amounts made available pursuant to the authority of paragraph (1) shall remain available until expended.

SEC. 403. AUGUSTUS F. HAWKINS NATIONAL COMMISSION ON URBAN EDUCATION.

(a) Establishment.—There is established a National Commission on Urban Education (referred to hereafter as the "Commission").

(b) Membership.—(1) The Commission shall be composed of 12 members. Four of the members shall be appointed by the President. Four of the members shall be appointed by the Speaker of the House, including two Members of the House, of which 1 shall be from each political party. Four of the members shall be appointed by the President pro tempore of the Senate, including 2 members of the Senate, of which 1 shall be from each political party.

(2) The Chair of the Commission shall be elected by the members of the Commission and shall continue to serve for the duration of the Commission.

(3) Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(c) Study.—The Commission shall make a study of the following issues:

(1) Demographic changes in student enrollment and classroom teachers in the 10-year period prior to the date of enactment of this Act.

(2) Numbers and types of special needs of students in urban schools.

(3) Number of unserved or underserved students in urban schools eligible for assistance under the Head Start Act, chapter 1 of title I of the Elementary and Secondary Education Act of 1965, School Dropout Demonstration Assistance Act of 1988, Drug Free Schools and Communities Act of 1986, Carl D. Perkins Vocational Education Act, Education of the Handicapped Act and other Federal programs.

(4) Program and management efforts in urban schools designed to enhance student performance, and reasons for the effectiveness of such efforts.

(5) Financial support and funding needs of urban schools from local, State, and Federal sources.

(6) Collaborative efforts and programs between urban schools, the private sector, and community groups.

(7) Supply needs for teachers in urban schools in the 10-year period beginning on the date of enactment of this Act.

(d) Reports.—(1) The Commission shall prepare and submit a report and recommendations to the President and to the appropriate committees of the Congress on the findings of the study required by this section. The report shall be submitted as soon as practicable.

(2) The report submitted under this section shall include proposals for changes in Federal legislation.

(e) Staff.—Such personnel as the Commission deems necessary may be appointed by the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subtitle III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS–18 of the General Schedule.

(f) Compensation.—(1) Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States. Such members may be allowed travel expenses and per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(2) Members of the Commission who are not officers or full-time employees of the United States may receive such per diem and travel allowance as is provided by the United States Code for persons in the Government service employed intermittently.

(g) Administration.—(1) The Commission or, on the authorization of the Commission, any committee thereof, may, for the purpose of carrying out the provisions of this section, hold such hearings and sit and act at such times and such places within the United States as the Commission or such committee may deem advisable.

(2) In carrying out its duties under this section, the Commission shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

(3) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this section, and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request by the Chair.

(4) The Commission is authorized to enter into contracts for the purpose of securing the necessary data and information to conduct its work and to obtain the services of experts and consultants in accordance with the United States Code.

(5) The heads of all Federal agencies are, to the extent practicable, directed to cooperate with the Commission in carrying out this section.

(6) The Commission is authorized to utilize, with the consent of such agencies, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

(h) Termination.—The Commission shall terminate 3 years after the date of its first meeting.

(i) Authorization of Appropriations.—(1) There are authorized to be appropriated such sums for fiscal year 1991 to carry out the provisions of this section.

(2) Amounts appropriated pursuant to the authority of paragraph (1) shall remain available until expended or until the termination of the Commission, whichever occurs first.

SEC. 404. FEDERAL FUNDS TO SUPPLEMENT NOT SUPPLANT NON-FEDERAL FUNDS.

An eligible local educational agency may use funds received under this Act only so as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of students participating in activities assisted under this Act and in no case may such funds be used to supplant such funds from such non-Federal sources.

SEC. 405. DEFINITIONS.

(a) In General.—Except as otherwise provided under this section, the definitions under the Elementary and Secondary Education Act of 1965 shall apply to the terms used in this Act.

(b) Exceptions.—(1) For the purposes of this Act—

(A) the term "central city" has the same meaning as that used by the United States Census Bureau;

(B) the term "eligible local educational agency" means a local educational agency which—

(i) serves the largest central city in a State; or

(ii) enrolls 30,000 or more students as of October 1, 1987, and serves a central city with a population of at least 200,000 in a metropolitan statistical area;

(C) the term "metropolitan statistical area" has the same meaning as that used by the United States Census Bureau; and

(D) the term "State" means each of the several States and the District of Columbia, but does not include Guam, American Samoa, the Commonwealth of Puerto Rico, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau.

(2) For the purposes of title IV, the term "local educational agency" has the same meaning provided in section 1471(12) of the Elementary and Secondary Education Act of 1965.

By Mr. KOHL (for himself, Mr. Grassley, and Mrs. Kassebaum):

S. 3184. A bill to amend the Federal Deposit Insurance Act to include foreign deposits in the assessment base; to the Committee on Banking, Housing, and Urban Affairs.

FEDERAL DEPOSIT INSURANCE FOREIGN DEPOSITS AMENDMENTS ACT

● Mr. KOHL. Mr. President, today I rise to introduce a bill that does one simple thing: it directs the FDIC to collect deposit insurance premiums on foreign accounts in American banks. The reason for taking this action is just as simple: it's fair.

Under the law, dollar deposits in foreign branches of American banks are not covered by deposit insurance. And, under the same law, banks don't have to pay deposit insurance premiums on those deposits. That sounds fair, and, if the law worked as it was written, it would be fair.

But it doesn't work that way. The de facto policy of this Nation's bank regulators is to fully insure foreign deposits in American banks when those banks fail. Just last August, when the National Bank of Washington failed, the FDIC arranged for $37 million in deposits at NBW's bank in the Bahamas to be completely covered. The depositors made whole in this transaction never paid any premiums. The bank protected in this transaction never had to pay the costs for the benefits it received. Everyone involved in this all too typical incident got a totally free ride. And that's not fair.

It's not fair to many people. It's not fair to the American taxpayer who is being asked to provide insurance for some deposits without receiving a penny in premiums. No private insurance agent would ever agree to that deal, yet we are forcing it on the taxpayer.

It's also not fair to those who deposit their money in American banks located in the United States. Their banks pay premiums on those deposits, and, because of that cost, their banks can't offer interest rates or services as favorable as foreign branches.

And it's especially not fair to the many, many smaller banks that form the heart of this Nation's financial system. Because foreign deposits and some other nondeposit liabilities are not assessed for premiums, many of this Nation's biggest banks avoid assessments on over 50 percent of the money they use to fund their assets. Smaller banks, on the other hand, usually fund 90 percent of their assets in a way that is assessed by the FDIC. We are charging unequal premiums for equal insurance coverage.

Officials at the FDIC, as well as many of my colleagues in this body, would argue that we must cover foreign deposits to maintain the international competitiveness of our banks. They state that other government's provide such coverage, and that to withhold it would lead to massive withdrawals of deposits for American banks overseas. I'll accept that. But, if that insurance coverage is so important for banks' international competitiveness, why can't we ask them to pay for it?

It is not as if the Bank Insurance Fund is in any position to dispense charity. CBO has testified that the FDIC will have to spend as much as $40 billion to cover the 631 bank failures expected through 1993. That cost could rise substantially if the economy falls into a recession. The Bank Insurance Fund needs new funds, and several bills have been introduced in the Senate and the House that provide the FDIC the authority to raise those funds.

My bill would also bring money into the BIF. If my bill were enacted, assessments on foreign deposits could bring $608 million into the Bank Insurance Fund this fiscal year. Imagine that, a bill that is fair and that raises money for a government fund that badly needs money. As we have found out in the last few weeks of debate on the budget, it is rare to find a measure that both promotes equity and reduces the deficit.

Mr. President, I cannot think of one reason not to adopt this simple measure as soon as possible. It is fair to the taxpayer. It is fair to small banks. It makes economic sense. It makes budgetary sense. I urge my colleagues to cosponsor this measure and support my efforts to see it become law this year.●

● Mr. GRASSLEY. Mr. President, I am very pleased to join the Senator from Wisconsin as the lead cosponsor of this bill. I have been involved with this issue on earlier occasions, most recently with Senator Nickles in the context of the FIRREA legislation passed by the Senate 18 months ago. While I have been an ardent supporter of assessing foreign deposits for quite some time, circumstances have changed so that I believe we no longer have any choice but to assess deposits held in foreign branches of American banks.

Mr. President, the most significant development since Senator Nickles and I offered the amendment is full realization of the policy of the Federal Deposit Insurance Corporation to provide protection for deposit in foreign branches of banks. This policy was put into practice just 2 months ago when FDIC approved the sale of the National Bank of Washington to the Riggs National Bank of Washington, DC. Included in the package of deposits assumed by Riggs was $37 million from NBW's branch in the Bahamas.

Let me spell this out just a little more clearly, Mr. President. The FDIC provides protection to foreign deposits, even though the insurance fund does not receive a single dime in insurance premiums on those deposits. If I may rephrase this—community bankers and their customers in States like Iowa are paying for the deposit insurance of big money-center banks' foreign branches.

While this particular transaction of the FDIC affected only $37 million, the prospective liability to the insurance fund is monumental. In a September 25, 1990, letter to Ken Guenther, executive vice president of the Independent Bankers Association of America, the FDIC detailed that 51 percent of the deposits of the nine largest banks in the United States are in foreign markets.

This fact not only reflects the potential liability to the bank insurance fund, but also the growing tendency of money-center banks to put their liabilities into branches which are not subject to assessments for deposit insurance. And why should they—the FDIC will give them insurance even though they don't have to pay for it. Meanwhile, every bank in my State of Iowa pays 19.5 cents for every $100 of the deposits they hold.

Mr. President, higher assessments on deposits will inevitably be passed on to bank customers—through lower interest rates on those deposits and higher interest rates on loans.

Furthermore, I am concerned that this fee will likely increase again in the near future. Numerous reports on the diminishing level of reserves in the FDIC fund have initiated a flurry of legislative activity to "give FDIC more flexibility" to increase deposit assessments to further bolster the insurance fund.

It is my great concern that those reserves will have to be bolstered even more because the FDIC has formalized its de facto policy of protecting foreign depositors, ultimately forcing community banks to pay higher premiums—higher premiums to bail out big money-center banks with overseas branches.

As the FDIC fund is drawn down to cover the deposits of institutions like the National Bank of Washington, those same institutions should be fully responsible for subsequently building up the FDIC reserves. That is all this bill will do—make banks pay for the benefits they now receive.

I hope my colleagues will support this measure when the opportunity arises.●

By Mr. KERREY (for himself, Mr. Kennedy, Mr. Daschle, and Mr. Bingaman):

S. 3185. A bill to establish an Education Capital Fund to assist local education reform efforts, and for other purposes; to the Committee on Finance.

EDUCATION CAPITAL FUND ACT

Mr. KERREY. Mr. President, I know that many of my colleagues have faced the same question that I have with regard to education in our country, that is, What are you doing? We see problems at home, we see problems with some 16,000 school districts in the country. The President had a summit with the Governors over a year ago now, in Charlottesville, where he and the Governors set before the Nation six goals.

There are 45 million school children in America that are mostly in school as I speak. I suspect that many of my colleagues have faced, as I have, the question that I referenced earlier, which is, What are you doing about dropouts? What are you doing about the poor performance in math and science? What are you doing about class that just simply do not appear to be getting the job done? What sort of response do you have coming from Washington, DC?

Mr. President, with due respect for the bureaucracies that are attempting to get that job done, I observe that at least in part they have become part of the problem. Why is it difficult for us to respond? The organization of our Government makes it difficult. It is very difficult for Government to be very effective in working with people at the community level as they try to improve the quality of education in their schools.

The proposal that I introduce today offers a different approach. It creates a five-person board appointed by the President and confirmed by the Senate. It provides a dedicated trust fund, and specifies exactly how that money will be raised. It provides Federal resources that can be used to match a local commitment.

It is not a grant in which people then have to compete and apply for the money. It is a real partnership. It will be run by a board of people who understand the urgent need to improve education in America, who understand what needs to be done to hold people accountable. A board that understands what a real partnership is, that it means everybody must bring something to the partnership. The local community must, with private money if they can, that the local school board must, with public money if they will, and that the State, if it is inclined, can join the Federal match will be up to a 75-percent partner. The Federal share will be in the form of patient venture capital.

Mr. President, the United States of America does face many problems in education, and, as I said, one of the difficulties that we have in getting the job done is due to the way that we have the bureaucracies organized. Let me give you an example.

Let us say that I go to Nebraska, and I see that we have got a dropout rate in certain parts of my State that is higher than I would like it to be. Under the current 0 form, here is what I must do. I try to figure out exactly what I think must be done to improve that particular situation. I go to the Labor Committee and I say, "I have a piece of legislation that I want to introduce." It is heard and I hope approved; I move it to the floor of the Senate. I try to find a sponsor in the House of Representatives. We finally get something passed. It is signed by the President. We have a wonderful Rose Garden ceremony. It is just in time for me to include this accomplishment in my campaign literature for reelection. Let us say that whole period of time takes 3 or 4 years to get done.

First of all, 1½ million additional dropouts have occurred between the time that I have identified the problem and the time that I have got something done, something passed into law. We are not really ready yet to help at the local level. It is all done now, and we have it enacted.

Let us assume we are able to actually appropriate some money, which oftentimes does not occur. Let us assume we appropriated the full amount 4 years from now after we have identified the problem. Keep in mind that the President and the Governors have said that we want to have dropout rates down to 10 percent by the year 2000. Let us say 4 years from now we have it fully funded, in place. We are not done yet. We are not ready to help because what the U.S. Department of Education must do and what they will do is set up a new program office here in Washington, and then what will follow is you get 50 new program offices set up in each one of the States. That will probably take 18 months to 2 years to get done.

They will have to write new rules, regulations about how to apply for grants, and all that sort of thing, and then each one of these State departments of education will send out a notification to school superintendents and ask them to come in over the summer to learn about this new program, and to discover how it is that they can participate in the new program if they are willing to fill out all the new forms, if they are willing to apply for a grant, and if that grant is approved. That will probably take an additional year or so.

So we have, under the current form, I would argue, approximately 6 or 7 years before you can begin to give to the people at the local level what they need to work on a particular problem.

Regrettably, in the process, you have not only siphoned off a considerable amount of money to hire the people in these bureaucracies to make sure that everything is done just right, but you have also created a whole pile of new regulations that everybody wants to get rid of.

None of us wants to burden the most regulated area of our society, our schools, with more regulation, but under the current form that is precisely what we have to do if we identify any problem. It can be dropouts, it can be literacy, math, science, it can be any area of education the Feds want to help under the current form. I suggest that very often our efforts are counterproductive.

This piece of legislation rests on a couple of premises that I will review very briefly, Mr. President, since the distinguished Senator from South Carolina is being gracious in allowing me some time here now.

The first premise, and it is an important one for me is that I fundamentally believe that if you are going to get reform and movement in education in America, it must come from the ground up.

We are a long way away. I am here 220 days a year. I try to get back to Nebraska the balance of the time. When I am there, very often school is not even in session. Very often, I am back when school is out. It is difficult to know what needs to be done and what works. Moreover, if you are going to sustain the effort through all the heartbreak and failure that is always there, you are going to feel the excitement of watching a young person learn and be sustained by that excitement, it must come from a local level. I believe that top-down methods of getting the job done will almost always fail.

I want to quote, Mr. President, for those of you who have not had the opportunity to hear some of the marvelous things said by John Taylor Gatto, teacher of the year, in New York. Some of the thing he says about our current schools and the importance of change coming from the local level makes the point better than I.

> Today's schools are increasingly irrelevant to the great enterprises of the planet. Schools don't teach anything except how to obey orders. This is a great mystery because thousands of humane, caring people work in schools as teachers and aides and administrators, but the abstract logic of the institution overwhelms their individual contributions. Although teachers do care and do work very, very hard, the institution is psychopathic. It has no conscience.
>
> We are taking all the time from our children that they need to develop self-knowledge. We have to invent school experiences that give a lot of that time back. We need to trust children from the very early age with independent study, perhaps arranged in school but which takes place away from the institutional setting.

Perhaps most important, Mr. President, John Gatto says this:

> Family is the main engine of education. If we use schooling to break children away from parents——

Make no mistake about it, our institutions are almost set up to do that.

> we're going to continue to have the horror show we have right now. The curriculum of family is at the heart of any good life.
>
> The way to sanity in education is for our schools to take the lead in releasing the stranglehold of institutions on family life, to promote during school time confluences of parent and child that will strengthen family bonds. We have to demand that new voices and new ideas get a hearing * * * my ideas and yours.

Mr. President, the proposal that I have before the Senate today gives people at the local level, who are trying to bring the family back into schools, that opportunity. They are struggling against, very often, institutions themselves that we have created to get the job done. I emphasize that the message we have in place today creates the kinds of regulations that make it difficult for those institutions to get the job done.

The second guiding belief that I have, and it is a painful guiding belief, is a tremendous dilemma—that there really is no 5-point program that we in Washington can come up with and say, this is how schools in America will get better.

Every single time we attempt to do that, we are going to fail. Every time we try to condense this thing down into 5 points or 10 points, so that it perhaps will look good on a 30-second spot, or perhaps in arcane brochures, we will make matters worse.

I use as my guide—and I will call to your attention—the fine work that is being done by Dr. Ted Sizer, the founder of the Coalition of Essential Schools and professor at Brown University, who says:

> No two good schools are alike. No good school is exactly the same from 1 year to the next. Good schools sensitively reflect their communities, both the students and teachers with the school building, and the wider neighborhood it serves.

Mr. President, if the Federal Government is going to be a good partner, we need a different way to do it. We need a different way for the Federal Government to express our own urgency, that I suspect all 535 Members of Congress feel every single time they go inside of a school. They see what works. We know what works. But, unfortunately, Mr. President, we do not have a tool that will enable us to put in place those commonsense things we see that our schools are trying to get done.

This legislation creates a new Federal partner in education, one that is willing and able to work directly with community leaders who are working to restructure their local schools. This legislation will encourage and support local solutions to local problems and needs rather than prescribing what must be done from the Nation's or the States' capitals.

This legislation creates a venture capital corporation for America's schools. Its five-person Board of Directors will seek out opportunities to leverage a Federal investment in local initiatives. The Board will provide up to 75 percent of the assistance directly to local entities.

A local school or school district would enter into a 3 to 10 year performance-based contract with the Board, which would link annual payments to the entity's progress in carrying out the terms of the contract, including increasing student achievement.

The Education Capital Fund Board would be an independent agency composed of two business leaders involved in education reform, two education experts, including one who is active at the local level, and the Secretary of Education. The Board would administer a $1 billion dedicated trust fund raised through a modest one-third of 1 percent increase in the corporate tax rate. The tax will be eliminated once the fund reaches $1 billion. The Board will use the interest on the fund to invest in our schools.

At the heart of my proposal are two guiding beliefs:

First, successful reform can only come from below. Students will learn more only when community leaders, parents, teachers, administrators, students and taxpayers have control over the future of the school. And this control will be yielded grudgingly by educational institutions accustomed to making decisions without outside interference.

The need for changing the institutional environment of our schools was best described in a speech given earlier this year by a New York City public school teacher, John Taylor Gatto, upon receipt of an award recognizing him as the outstanding teacher in the State of New York:

> Today's schools are increasingly irrelevant to the great enterprises of the planet. Schools don't teach anything except how to obey orders. This is a great mystery because thousands of humane, caring people work in schools as teachers and aides and administrators but the abstract logic of the institution overwhelms their individual contributions. Although teachers do care and do work very, very hard, the institution is psychopathic. It has no conscience.
>
> We are taking all the time from our children that they need to develop self-knowledge. We have to invent school experiences that give a lot of that time back. We need to trust children from a very early age with independent study, perhaps arranged in school but which takes place away from the institutional setting.
>
> Family is the main engine of education. If we use schooling to break children away from parents, we're going to continue to have the horror show we have right now. The curriculum of family is at the heart of any good life.
>
> The way to sanity in education is for our schools to take the lead in releasing the strangle hold of institutions on family life, to promote during school time confluences of parent and child that will strengthen family bonds. We have to demand that new voices and new ideas get a hearing * * * my ideas and yours. Experts in education have never been right. It is time for a return to democracy, individuality and family.

Mr. President, the educational capital fund will help those parents and community leaders and educators who are struggling to restructure their schools from the local level. It will enable them to act faster and much more efficiently than is allowed in the traditional top-down fashion

Let me illustrate how I think the top-down model encourages the very regulations and paper work which most of us recognize as part of the problem in our schools today. Assume that you become interested and concerned with the problem of students dropping out of school. Reducing the numbers of dropouts is one of the goals spelled out by the President and the Governors in Charlottesville at the 1989 education summit.

Assume further that you have a proposal which you believe will help solve this problem. The top-down model requires you to introduce legislation, hold hearings, pass the legislation in both the House and the Senate, convince the President to sign the new law and then get the Appropriations Committees to provide the funds.

By the time all this has happened a minimum of 2 or 3 years have gone by. Of the 45 million students in our 83,000 schools two or three additional graduating classes of 3 million plus will have moved either into the work force or on to higher education. Another 1 to 1.5 million students will have dropped out.

And the only thing we have accomplished by passing and funding the new law thus far is the ability to use this victory in our reelection campaigns. The real mischief of these new efforts begins the moment the bill becomes law.

At that point—let us assume it is now 3 years after you began to respond to the perceived problem of school dropouts—the U.S. Department of Education will set up a new program office. They will notify each of the 50 State Departments of Education where new program offices will also be established.

Allow me to be generous and assume it takes another year to get all of this done. The mechanics of this work—new rules, regulations and forms so that individual school districts can apply for a grant under the program—is not easy.

The next step after the program offices are established in each of the States is the notification of local school superintendents. The local officials and their boards will be invited to attend a summer work shop at which his new effort will be explained. They will be told what they must do to conform to the rules of the new program. They will be invited to apply for a grant with the usual strings attached of course.

The point of all of this, Mr. President, is to suggest two things about our traditional method of responding to educational problems and/or needs.

First, the time lag between the identification of the need and the provision of the resources is quite long. Sometimes the problem has either disappeared, changed or grown worse by the time help arrives.

Second, the requirement that we account for the tax dollars we collect necessitates the mounting pile of paper work which is already clogging the arteries of American schools today.

I believe the education capital fund reverses this relationship. It allows a quick response. It permits the detail of the response to vary from community to community. It requires the local community to be a full partner in a venture they have developed themselves.

My second guiding belief is that there is no such thing as a model or a blueprint for us in the Congress to follow as we try to help improve American primary and secondary education. My thinking is guided by the work of Dr. Ted Sizer, founder of the Coalition of Essential Schools and professor at Brown University.

Dr. Sizer argues:

> No two good schools are ever quite alike. No good school is exactly the same from one year to the next. Good schools sensitively reflect their communities—both the students and teachers within the school building, and the wider neighborhood it serves. A good school respectfully accommodates the best of its neighborhood, not abjectly—playing whatever tune any particular special interest group might demand—but sensibly, balancing the claims of national values with those of the immediate community.
>
> A good school is the special creation of its own faculty—its teachers, counselors, and administrators. These are its permanent folk. A school has character if its key faculty—its Senators—feel collectively responsibility for it, take its standards and its style seriously, and protect its reputation.
>
> Does this mean that there is no such thing as a good "model" school? The answer has to be yes: There is no such thing as a distinct, detailed blueprint for a fine school any more than there is such a thing for a successful family.

My plan seeks to provide venture capital to communities that are willing to challenge themselves and commit themselves to working over the long term to improve their schools, and in time, their communities.

Time is passing quickly. We seem to forget that our schools reflect another era and the needs of another era. As Denis Doyle and David Kearns write in "Winning the Brain Race" the system of mass education fit the society of the time: "It was an education bureaucracy, the purpose of which was to suspend the exercise of judgment. It was an education assembly line, designed to produce a perfectly uniform product by using production processes that employed the labor of people smart enough to follow the teacher's guide * * * in retrospect, it was narrow, prescriptive, and limiting."

Doyle and Kearns argue that if our schools are to provide us with a modern work force, prepared to function in a knowledge-based society, "then they must restructure, not only in terms of content and curriculum, but in terms of organization and performance."

We need to build quality and performance into the system if we are to respond to new challenges. We need to reorganize our schools and our children's education. We need to reward creativity and excellence. We need to teach our children to think, to use their creativity to solve meaningful problems. We need to involve the family in their children's education.

During the last 18 months I have had the opportunity to travel throughout Nebraska holding over 20 education meetings with parents, teachers, administrators, counselors, probation officers, and other individuals involved in and concerned about education. I have heard their words and this legislation begins to address their concerns. It allows the local community to formulate their ideas into a plan and offers a Federal partner that will help them realize their goals.

The education capital fund will enable us to respond quickly and efficiently to the desires and work of parents, teachers, and community leaders who are working at the local level to fashion specific educational programs for their children. It will not only permit the people to answer the question: What should we do?, it will require them to do so. This, I believe, is the best American way.

Mr. President, I ask unanimous consent that the text of the bill and a summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Education Capital Fund Act of 1990".

SEC. 2. FINDINGS.

Congress finds that—

(1) the United States must take far-reaching steps to rethink and restructure its educational system;

(2) numerous measures have been suggested to strengthen and improve the educational system of the United States;

(3) the scope of the problems confronting the 16,000 school districts and 83,000 schools within the United States precludes any single solution;

(4) numerous school districts have undertaken measures to restructure the organization of schools or programs of instruction;

(5) because of the fundamental importance of local participation to the educational system, any restructuring effort must encourage and reward local initiatives;

(6) school reform efforts are most likely to be successful if parents and community leaders work together with teachers and school administrators in order to improve the education of children in the community;

(7) the business leaders of the United States, at both the local and national levels, have demonstrated a commitment to working with educators at restructuring schools;

(8) in light of the economic challenges in the coming decades, it is vital that the United States involve the business community in the process of strengthening schools and preparing a work force that can bring new skills and experience to meet the challenges;

(9) because education is a national concern, the Federal Government should be a leading catalyst in encouraging State and local community efforts to strengthen and improve the education of the children of the United States;

(10) although it is important that the Federal Government be a willing partner in providing educational assistance, educational reform measures can best succeed if a local school or district originates the measures;

(11) local education officials are in the best position to identify the needs, and devise a plan that responds to the strengths and weaknesses, of local schools and the community;

(12) in order for the Federal Government to become a successful partner in local reform efforts, the Federal Government must redefine the traditional means of providing educational assistance; and

(13) in order for the Federal Government to respond to the needs of local reform efforts, it is vital that the Federal Government provide assistance through a flexible mechanism that ensures accountability, and possess the means to contract directly with local school entities.

SEC. 3. PURPOSE.

The purpose of this Act is to—

(1) establish an Education Capital Fund;

(2) provide significant Federal assistance through the Fund to local educational agencies, consortia of the agencies, and nonprofit organizations as an impetus for fundamental educational reforms based within the local community; and

(3) contract directly with the agencies, consortia, and organizations through the Fund to develop and implement educational reform projects that include measures to restructure school organization, school management, and instructional programs in schools.

SEC. 4. EDUCATION CAPITAL FUND BOARD.

(a) IN GENERAL.—There is established as an independent agency an Education Capital Fund Board (referred to in this Act as the "Board").

(b) COMPOSITION.—The Board shall be composed of—

(1) the Secretary of Education; and

(2) four members, no more than two of whom shall be from the same political party, appointed by the President with the advice and consent of the Senate, including—

(A) two individuals with experience with educational reform projects, selected from among—

(i) individuals with experience in venture capital investment; or

(ii) prominent corporate officials;

(B) one individual with widely recognized experience in the field of education; and

(C) one individual selected from among local teachers, local school district officials, or other local education officials.

(c) VACANCIES.—The President shall fill any vacancy in the membership of the Board in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Board.

(d) TERM.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the President shall appoint each appointed member of the Board for a term of 3 years.

(2) ORIGINAL MEMBERS.—The President shall appoint two of the members first appointed to the Board for a term of 3 years, and two for a term of 4 years. The President shall have discretion to determine which positions shall be filled for each term.

(3) VACANCY APPOINTMENTS.—Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

(4) REAPPOINTMENT.—The President may reappoint an appointed member of the Board for a second term in the same manner as the original appointment.

(e) PRESIDENT AND VICE PRESIDENT.—The Board shall select a President and a Vice President from among the members of the Board.

(f) COMPENSATION.—Members of the Board, with the exception of the Secretary of Education, shall be compensated at a level comparable to level II of the Executive Schedule, in accordance with section 5313 of title 5, United States Code.

SEC. 5. STAFF OF BOARD.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Board shall appoint an Executive Director for a 4-year term. No individual may serve as Executive Director for more than 8 years. The Executive Director shall serve at the pleasure of the Board.

(2) RESPONSIBILITIES.—The Director shall—

(A) advise the Board about developments in education that merit the attention of the Board;

(B) identify promising education reform initiatives;

(C) consult with the Board on priorities for providing financial assistance for educational reform projects;

(D) design an application process for entities seeking financial assistance for the projects;

(E) establish a referral network, as described in section 8, to provide technical assistance to entities;

(F) monitor funded projects and administer project reviews under section 9;

(G) disseminate the results of project reviews;

(H) prepare annual reports to Congress under section 11; and

(I) coordinate the work of the Education Capital Fund (referred to in this Act as the "Fund").

(b) CHIEF FINANCIAL OFFICER.—

(1) APPOINTMENT.—The Board shall appoint a Chief Financial Officer for a 6-year term. The Chief Financial Officer shall serve at the pleasure of the Board.

(2) RESPONSIBILITIES.—The Chief Financial Officer shall oversee all financial transactions involving the Fund and ensure the continued financial viability of the Fund.

(c) GENERAL COUNSEL.—

(1) APPOINTMENT.—The Board shall appoint a General Counsel for a 6-year term. The General Counsel shall serve at the pleasure of the Board.

(2) RESPONSIBILITIES.—The General Counsel shall serve as the legal advisor of the Board.

(d) STAFF.—The Board shall employ such staff as the Board may determine necessary to administer the Fund. No individual shall serve as a staff member for longer than 10 years.

(e) APPLICABILITY OF CIVIL SERVICE PROVISIONS.—The Executive Director, Chief Financial Officer, General Counsel, and staff of the Board may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and be compensated without regard to the provisions of chapter 51, and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates, except that no individual may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

SEC. 6. EDUCATIONAL REFORM CONTRACTS.

(a) ESTABLISHMENT.—The Board may enter into contracts with eligible entities to pay for the Federal share of the costs of the educational reform projects described in subsection (b).

(b) USE OF FUNDS.—Eligible entities may use funds awarded under subsection (a) for the planning, implementation, expansion, or replication of educational reform projects, including—

(1) school-based management and shared decisionmaking reforms;

(2) programs that increase parent and community involvement in the schools;

(3) coordinated efforts and partnerships with business, institutions of higher education, and other entities;

(4) programs to train teachers, principals, school board members, parents, and other individuals involved in a restructuring program;

(5) curriculum reforms;

(6) programs of cooperative learning;

(7) models of alternative student assignment to schools and within schools;

(8) programs of interactive learning through technology;

(9) programs to establish satellite learning centers;

(10) programs designed to enhance the professional status and satisfaction of teachers;

(11) programs that decrease dropout rates;

(12) programs that assist at-risk children;

(13) early childhood intervention programs;

(14) innovative summer programs to assist at-risk students; and

(15) developmental education programs.

(c) BASIS FOR CONTRACTS.—

(1) COMPETITIVE BASIS.—The Board shall enter into contracts under subsection (a) on a competitive basis.

(2) CONSIDERATIONS.—In entering into contracts to establish educational reform projects under subsection (a), the Board shall consider—

(A) the need for the proposed projects;

(B) the plan of operation and plan for evaluation of the projects;

(C) the educational value, budget, cost effectiveness, proposed impact, and expected outcomes of the projects; and

(D) the potential transferability of the projects to other settings.

(3) PRIORITY.—In entering into contracts under subsection (a), the Board shall give priority to contracts to develop educational reform projects that—

(A) benefit students or schools with below average academic performances;

(B) benefit schools or local education agencies serving a large number of disadvantaged students;

(C) help ensure a broad geographic distribution of projects that receive funding, including projects in rural, urban, and suburban settings;

(D) have demonstrated a broad-based community support for the proposed reforms and have the potential to become models of education restructuring; and

(E) are consistent with the priorities of the Fund, as established by the Board.

(4) DURATION.—The Board may enter into contracts under subsection (a) for periods of from 3 to 10 years

(d) APPLICATION.—To be eligible to obtain funding under this Act, an entity shall submit an application to the Board at such time, in such manner, and including such information as the Board may require. At a minimum, each application shall contain—

(1) a proposal containing a description of the educational reform project to be funded under this Act;

(2) a detailed description of the identified problems that are to be addressed by the proposal;

(3) a plan of operation, including a description of the measures the entity proposes to undertake in order to address the problems;

(4) a plan for evaluation of the project, including a description of the standardized tests and other measures to be used to evaluate the progress in addressing the problems, with an emphasis on authentic assessment of student achievement;

(5) a detailed budget for each year of proposed funding;

(6) information demonstrating that the applicant has established a partnership with teachers and parents, and has consulted with teachers and parents in developing the proposal;

(7) a description of the measures the local governing entity, school agency, or private sector will undertake to successfully complete the project and fulfill a local commitment to the proposal;

(8) information demonstrating the degree of community support for the proposal;

(9) information demonstrating private sector involvement in the project;

(10) information demonstrating that the plan will improve opportunities for student success and will result in enhanced student achievement;

(11) an assurance that the eligible entity has a long-term, indepth commitment to the proposal;

(12) an assurance that the applicant is willing to streamline its administrative structure in order to cultivate an experimental setting for the educational reform project; and

(13) an assurance, which may consist of a commitment to raise funds, that the applicant will obtain the non-Federal share of the cost of funding educational reform projects.

(e) CONTRACTS.—

(1) NEGOTIATION.—The Board shall negotiate any contracts described in subsection (a) on the basis of the information contained in the applications of the entities.

(2) CONTENTS.—Any contract entered into under subsection (a) shall specify—

(A) a description of the measures the entity proposes to undertake to carry out an educational reform project;

(B) a description of the measures to be used to evaluate the progress made by the project;

(C) the objective criteria to be met each year of the funding term;

(D) the consequences should those criteria not be attained;

(E) a bonus system should the progress achieved by the entity exceed the criteria; and

(F) a detailed budget for each year of proposed funding.

(3) Renegotiation.—The Board may renegotiate contracts entered into under subsection (a).

(f) Eligible Entity.—Entities eligible to enter into a contract under this section shall include—

(1) a local education agency;

(2) a consortium of local education agencies;

(3) a school within a local educational agency or a consortia of the schools in local educational agencies; or

(4) a nonprofit organization, if the Board determines that the organization has a special ability to carry out educational reform projects.

(g) Information.—The Board shall widely disseminate information about funding.

(h) Federal Share.—The Federal share of educational reform projects funded under this Act shall be 75 percent.

(i) Non-Federal Share.—The non-Federal share of educational reform projects funded under this Act shall consist of a cash contribution.

(j) Application to Other Funding Decisions.—

(1) Federal funding decisions.—In making Federal funding decisions for other programs, the head of a Federal agency shall not take into consideration funding under this Act, except to the extent that an entity seeks additional assistance for an educational reform project that receives assistance under this section.

(2) State funding decisions.—In order for an entity in a State to be eligible to receive funds under this Act, the State shall not make funding decisions that take into consideration funding under this Act, except to the extent that an entity seeks additional assistance for an educational reform project that receives assistance under this section.

SEC. 7. NONDISCRIMINATION.

(a) In General.—Any assistance provided under a contract entered into under this Act shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

(b) Nondiscrimination.—

(1) In general.—Any individual with responsibility for the administration of a educational reform project that receives assistance under this Act shall not discriminate in the selection of participants to the project on the basis of race, religion, color, national origin, sex, age, disability, or political affiliation.

(2) Exception.—Nothing in this Act shall prohibit a church or other religious entity—

(A) from requiring that participants adhere to the religious tenets and teachings of the organization;

(B) from requiring that participants adhere to rules forbidding the use of drugs or alcohol; or

(C) if two or more prospective participants are qualified for any position with a church or other religious entity, from accepting a prospective participant who is already participating on a regular basis in other activities of the church or other religious entity.

(c) Regulations.—The Board shall promulgate regulations to provide for the enforcement of this section, including provisions for summary suspension of assistance for not more than 30 days, on an emergency basis, until notice and an opportunity to be heard can be provided.

(d) Right of Action.—Notwithstanding any other provision of law, the Attorney General of the United States may file an action under this section in the appropriate district court of the United States against any person under this Act that violates this section.

SEC. 8. TECHNICAL ASSISTANCE REFERRAL NETWORK.

The Board shall establish a technical assistance referral network in order to assist entities in developing and carrying out education reform project proposals. The network shall include members of the business and education community.

SEC. 9. REVIEW AND MONITORING PROCEDURES.

(a) Review and Monitoring.—The Board shall establish procedures for reviewing and monitoring contracts entered into under this Act. The procedures may not include any review by persons other than the Board.

(b) Contact.—The staff of the Board shall have quarterly contact with each entity that enters into a contract with the Board under the Act.

(c) Enforcement.—The Board shall promulgate regulations permitting the suspension of assistance to any entity that—

(1) fails to comply with the procedures for reviewing and monitoring contracts under subsection (a); or

(2) fails to comply with the conditions of the contract established in section 6(e).

SEC. 10. ANNUAL REPORT.

Each entity that enters into a contract under section 6 shall annually prepare and submit a report on the educational reform projects carried out under the contract to the President of the Board in such manner and containing such information as the President by regulation requires. At a minimum, the report shall contain—

(1) a description of the measures undertaken by the entity during the year;

(2) a description of the extent to which the project attained the objective criteria described in section 6(e);

(3) a description of the measures the entity is proposing to undertake in order to qualify for additional funding, if the entity has not met the requirements of the contract; and

(4) if applicable, a description of the manner in which the entity incorporated recommended changes suggested by the Board during the previous review.

SEC. 11. REPORT TO CONGRESS.

The Board shall annually prepare and submit to the appropriate committees of Congress a report that contains a description of the educational reform projects carried out under this Act. At a minimum, the report shall contain—

(1) information on the number of project applications received, applications reviewed, and disposition of applications;

(2) information on the financial standing of the Fund, indicating projects financed and an overall view of projected commitments made that year and in previous years;

(3) an evaluation of the progress and direction of the Fund; and

(4) recommendations for legislative reform regarding the operation of the Fund.

SEC. 12. REGULATIONS AND POLICIES.

(a) Regulations.—The Board shall establish such regulations as may be necessary to carry out this Act.

(b) Policies.—The Board shall establish policies to carry out this Act, including the establishment of priorities to be used in the selection of entities to develop and evaluate educational reform projects. The Board shall annually make available to the public the funding priorities of the Board.

SEC. 13. EDUCATION CAPITAL FUND.

(a) Establishment.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

"SEC. 9511. EDUCATION CAPITAL FUND.

"(a) Creation of Fund.—There is established in the Treasury of the United States a fund to be known as the Education Capital Fund (referred to in this section as the 'Fund'), consisting of such amounts as may be appropriated or credited to the Fund as provided in this section.

"(b) Transfers to Fund.—There are appropriated to the Fund amounts equivalent to the additional revenues received in the Treasury as the result of the amendments made by section 14 of the Education Capital Fund Act of 1990.

"(c) Expenditures.—

"(1) Purposes.—Amounts in the Fund shall be available, to the extent provided in appropriation Acts, for the purposes of—

"(A) making expenditures under section 6 of the Education Capital Fund Act of 1990; and

"(B) paying for the administrative expenses of the Education Capital Fund Board (referred to in this section as the 'Board'), established in section 4 of the Education Capital Fund Act of 1990.

"(2) Payments based on estimates.—Payments under paragraph (1) shall be made on the basis of estimates by the President of the Board. Proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.".

(b) Conforming Amendment.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended in the table of sections by adding at the end the following new item:

"Sec. 9511. Education Capital Fund Board."

SEC. 14. INCREASE IN CORPORATE TAX RATE.

(a) In General.—Subsection (b) of section 11 of the Internal Revenue Code of 1986 (relating to tax imposed on corporations) is amended by striking "34 percent" each place it appears and inserting "34.33 percent".

(b) Conforming Amendments.—

(1) Section 852(b)(3)(D)(iii) of such Code is amended by striking "66 percent" and inserting "65.66 percent".

(2) Section 1201(a) of such Code is amended by striking "34 percent" each place it appears and inserting "34.33 percent".

(3) Paragraphs (1) and (2) of section 1445(e) of such Code are each amended by striking "34 percent" and inserting "34.33 percent".

(4) Section 7518(g)(6)(A) of such Code and section 607(h)(6)(A) of the Merchant Marine Act, 1936 are each amended by striking "34 percent" and inserting "34.33 percent".

(c) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1990.

(2) No tax increase if unobligated balance in fund exceeds $1,000,000,000.—If on December 31 of any year (hereafter in this paragraph referred to as the "determination date")—

(A) the unobligated balance in the Education Capital Fund exceeds $1,000,000,000, and

(B) the Secretary of the Treasury, after consultation with the Secretary of Education, determines that the unobligated balance in the Education Capital Fund will exceed $1,000,000,000 on December 31 of the year following the determination date if the increase in the corporate tax rate under the amendments made by this section is not effective,

then the amendments made by this section shall not apply to taxable years beginning after the determination date.

Summary of Education Capital Fund Act of 1990

Establish an Education Capital Fund with an accompanying independent five member board composed of business and education leaders. Education Capital Fund Board oversees the distribution of Federal money under this Act and establishes funding policy and regulations.

The Board will act as a venture capital partnership. It will make 3 to 10 years available to local entities. The Federal share will be up to 75 percent of the project's cost. The specific percent of Federal assistance will be decided by the board. The local share should be raised from either public or private sources. The local share can be a commitment to raise a certain amount annually.

Local entities interested in applying for funding will be required to demonstrate broad teacher, parent, student and community, especially private sector support, for their proposed reform. The applicant will be required to describe fully measures to be undertaken, indicate how the plan will improve opportunities for student success, describe what measures should be used to determine whether progress is being made at the class room level in order to qualify for continued funding, and provide a detailed budget.

Funding will be available for a full range of activities on the basis of the negotiated contract between the Board and the local entity.

The Board will undertake careful evaluations of funded programs in order to guarantee the program's effectiveness and financial viability. The Board will work to make the results of their assessments available to the educational and business community.

The Federal Education Capital Fund would be a dedicated trust fund holding approximately $1 billion. The money will be raised by a corporate surcharge tax of approximately .33 percent over a 3-year period. Once the money has been raised the board will use the interest generated from the fund to support local projects.

By Mr. JEFFORDS:

S. 3186. A bill to amend the Federal Water Pollution Control Act; to the Committee on Environment and Public Works.

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS

● Mr. JEFFORDS. Mr. President, I am here to introduce a bill which is of very extreme importance to the States of the Nation.

Mr. President, the Supreme Court recently ruled that a State does not have the right to regulate the flow of water at dams within its border.

Noting its obligation to bind itself to "longstanding and well-entrenched decisions," and arguing that it is better that a rule of law be settled than it be settled correctly, the Court took away the harbored hope of any State to be the ultimate regulatory of its own water resources.

In that case, 49 States joined in the amicus brief against what the final holding was.

Mr. President, the bill I am introducing today would instill a congressional mandate requiring that, in order to receive a Federal permit to operate a facility that impacts navigable waters, that facility must first comply with the laws of the State in which it proposes to operate.

The necessity for this change in law arises from a unanimous Supreme Court decision of May 21 in California versus Federal Energy Regulatory Commission. The Court founded its decision on a precedent established in First Iowa Hydro-Electric Cooperative versus Federal Power Commission 45 years ago. In view of the long period of intervening time, the Court declined to revisit the interpretation of the Federal Power Act as set forth in the First Iowa decision.

My colleague, the senior Senator from Idaho, has introduced legislation to clarify that it is not the intent of the Federal Power Act to preempt State laws. The McClure bill is a promising vehicle which I hope will be promptly and thoroughly reviewed by the Committee on Energy and Natural Resources next year.

My bill takes a different tack by expanding Section 401 of the Clean Water Act to stipulate that a "discharge" includes an activity that, while it might not introduce foreign objects into the waterway, such as chemicals, or whatever, might still result in water quality degradation or impairment of designated uses recognized under State law. With this clarification of the Clean Water Act, the issue of whether the Act governs all discharges or merely discharges of pollution would be rendered moot.

Several courts are currently reviewing the extent of State authority under section 401 of the Clean Water Act. Perhaps a ruling will be issued that affirms the rights of States to thoroughly protect their water resources through conditions of a State-issued Clean Water Act permit. As a former State attorney general, as well as a Federal legislator for the past 16 years, I believe that the act already offers such an opportunity.

Unfortunately, the courts have not agreed. As recently as last Friday, a judge in Maine issued a bench ruling rebuking Maine's authority to set requirements for fish passage and recreation access at a dam undergoing relicensing. In the State's opinion, its requirements are necessary to adequately protect fish habitat and enhance public use of Maine's river resources. By rejecting Maine's petition, the court leaves the fate of Maine's natural resources to Federal regulators on North Capitol Street here in Washington.

Mr. President, the Federal Energy Regulatory Commission occupies itself with very important regulatory business. With the dire energy situation in which this Nation finds itself today, it is very important that we explore new and innovative energy technologies, and that FERC be given the regulatory flexibility to review and approve, if appropriate, emerging energy technologies.

But this is not to say that the concerns of States should not be addressed. And without a regulatory foothold in the application process, the States are rendered essentially powerless.

My bill is not intended to be a hindrance to the development of hydroelectric facilities. I do believe, however, that these facilities should be built and operated in a manner that is considerate of other uses of the waterway, and States that have enacted policies to balance these competing uses should have the authority to enforce their policies.

On the issue of preservation of water quality, the Federal Government is not the sole repository of knowledge. I honestly question whether FERC has the resources and knowledge necessary to undertake the depth of review that is required in many of these applications for small hydroelectric powerplants. I have much more confidence in the ability of States to protect the integrity of streams and rivers, and while I had, in the 98th Congress, proposed to delegate the licensing authority to the States, today I am merely proposing that Congress reaffirm that FERC must abide by State water quality standards.

Mr. President, the Supreme Court, in its Rock Creek decision, clearly invited Congress to revisit and clarify its intent on the issue of States' authority to protect their water resouces. While I intend for this subject to be fully aired during reauthorization of the Clean Water Act, I am introducing this bill today so that all interested parties may be prepared to debate and decide this issue during the next Congress.

Since it will be controversial, I know, and since it will take time, I am hopeful that time can be reduced by discussions which will occur during the period of our recess. I had hoped to have this bill prepared even before now but delays in the drafting moved the date beyond my first expectations. Once again, it is my personal opinion that the current law already provides authority in the States and I hope the courts will reaffirm that feeling.

But in case they do not, by the time the Clean Water Act comes before the committee and before this body, I will hope to make the changes necessary to make it do that.●

By Mr. LUGAR (for himself and Mr. COATS):

S. 3188. A bill to authorize the Secretary of Transportation to release the restrictions, requirements, and conditions imposed in connection with the conveyance of certain lands to the city of Gary, IN; to the Committee on Commerce, Science, and Transportation.

RELEASE OF RESTRICTIONS ON CONVEYANCE OF CERTAIN LAND

● Mr. LUGAR. Mr. President, today I am pleased to join with my colleague, Senator COATS, to introduce legislation which will allow airport development efforts to continue to move forward at the Gary Regional Airport in Gary, IN.

In recent years, I have been working with local and State officials in an effort to foster the development of the airport. Just 35 minutes east of downtown Chicago, the Gary Regional Airport can and will play an important role in relieving the dire airport capacity problems of the Chicago region.

Local officials are now working with the U.S. Department of Commerce to pursue designation of the airport site as a U.S. foreign trade zone. These efforts were stalled recently when it was discovered that the airport property had land use restrictions placed upon it in the late 1940's when it was transferred from the War Assets Administration to the city of Gary.

These restrictions prevent the Federal Aviation Administration [FAA] from allowing the property to be used for nonaviation purposes. Unlike the 1940's, today's airports are engines of economic development for their host communities. Foreign Trade Zone activities such as warehousing are now common at many airports.

This legislation will release the Gary Airport property from these now obsolete land use restrictions and allow efforts to establish a foreign trade zone at the airport to move forward.

Mr. President, I ask unanimous consent that the full text of my legislation be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3188

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELEASE OF CERTAIN RESTRICTIONS.

(a) RELEASE.—Notwithstanding section 16 of the Federal Airport Act (as in effect on May 29, 1947), the Secretary of Transportation is authorized to grant a release or releases, without monetary consideration, with respect to the restrictions, requirements, and conditions imposed on the property described in subsection (b) by a quitclaim deed conveying such property to the city of Gary, county of Lake, Indiana, dated May 29, 1947.

(b) DESCRIPTION OF PROPERTY.—Those lands incorporated in Reconstruction Finance Corporation project known as Tracts A and C of Plancer 1035, Rubber Synthetics, Gary, Indiana (WAA No. R-Ind. 6), legally described as follows:

That part of the East One Half (E½) of Section Thirty-five (35), Township Thirty-seven (37), Range Nine (9) West, of the Second Principal Meridian, lying between the C.L.S. & E. Railroad and the Grand Calumet River, and that part of the West One Half (W½) of Section Thirty-six (36), Township Thirty-seven (37), Range Nine (9) West, lying between the U.S. Highway No. 12 and the Grand Calumet River, and that part of the Southeast Quarter (SE¼) of Section Thirty-six (36), Township Thirty-seven (37), Range Nine (9) West, lying between U.S. Highway No. 12 and the Grand Calumet River, and that part of the Southeast Quarter (SE¼) of Section Twenty-six (26), Township Thirty-seven (37), Range Nine (9) West, lying between the C.L.S. & E. Railroad and U.S. Highway No. 12, all in the City of Gary, Lake County, Indiana. Tract A is composed of 476.885 acres, and Tract C is composed of 133.971 acres. Total area is approximately 610 acres, with all its appurtenances, being a part of the same property acquired by the Defense Plant Corporation under that certain Warranty Deed executed by the Gary Land Company, an Indiana corporation, dated August 25, 1942, and filed for record in the Recorders' Office of Lake County, Indiana, on October 9, 1942, as Documented No. 742127, in Book No. 666, Page 278, and that certain Warranty Deed executed by the Elgin, Joliet and Eastern Railroad Company, an Illinois and Indiana corporation, dated December 22, 1942, and filed for record in the Recorder's Office of Lake County, Indiana, on December 23, 1942, as Documented No. 82584, in Book 670, Page 68.●

● Mr. COATS. Mr. President, today my colleague and I are pleased to introduce legislation which will promote development at the Gary Regional Airport.

The Gary Airport is well situated to provide immediate relief to the air capacity crisis facing northwest Indiana and northeast Illinois. We have much to offer the business and traveling communities. Our access to downtown Chicago is second to none. Our airport operates in a marketplace in desperate need of expanded services.

I was pleased to visit Gary recently to present over $2.5 million to upgrade the runways and taxiways at the airport. The work will enable the airport to accommodate the weight loads of cargo planes, as well as to begin to expand air passenger service.

Our legislation will complement our determination to attract new air services. It will lift obsolete land use provisions and allow the Gary Airport to seek a Foreign Trade Zone designation. Obviously, this designation will assist in attracting cargo hubs by allowing the airport to develop warehouses and other facilities necessary to promote economic development.

A strong viable airport in Gary is key to expanded economic opportunities in northwest Indiana. And a strong northwest Indiana helps all Hoosiers.

I am pleased to join my colleagues today to advance our efforts on behalf of the Gary Regional Airport.●

By Mr. BURDICK, from the Committee on Environment and Public Works:

S. 3187. An original bill to address immediate problems affecting environmental cleanup activities; placed on the calendar.

ENVIRONMENTAL CLEANUP ACTIVITIES

● Mr. LAUTENBERG. Mr. President, I rise to express my support for this legislation. I commend the distinguished Senator from North Dakota, the chairman of the Environment and Public Works Committee, for his prompt action on this measure. The chairman and I, along with other members of the Environment and Public Works Committee, have worked to develop this bill to address a crisis facing Superfund—the unavailability of surety bond, which already has limited competition for Superfund cleanup contracts, and may threaten to slow the program significantly.

For Superfund's federally funded cleanup construction contracts exceeding $25,000, the Government requires cleanup contractors to obtain bonding from sureties. Sureties which provide such bonding, in effect, guarantee the proper performance of the contract, as well as the payment of subcontractors.

After several months of discussion of the issue on September 19, 1990, the Superfund, Ocean and Water Protection Subcommittee held a hearing on the issue. The hearing showed that we have an immediate problem facing Superfund, a problem that should be addressed now. According to EPA, Superfund contractors, environmentalists, and the laborers who do the actual cleanup work, the lack of bonding is resulting in very few contractors being able to bid on certain contracts. A recent EPA-commissioned report by the Corps of Engineers documents the concerns many have raised about the effect this can have on the Superfund Program.

EPA and others confirmed that we are already seeing less competition for Superfund cleanups. Less competition

means higher prices for a program whose funds are already stretched too thin, and for a Nation struggling to deal with a massive budget deficit.

Following up on the report EPA commissioned from the Corps of Engineers, and based on extensive staff discussions with all interested parties, the Environment and Public Works Committee on October 4, 1990, considered the bill being reported today, which is designed to allow contractors and the Government to obtain the necessary bonding protections they need.

The bill—which is supported by the Sierra Club, the Environmental Defense Fund, the Laborers International Union of the AFL–CIO, the National constructors Association, the Associated General Contractors of America, and the American Insurance Association—essentially clarifies two principles. First, where a surety steps into the shoes of a cleanup contractor, and takes over the cleanup work, the surety's liabilities and access to indemnification should be the same as the contractor's. Second, a surety's contractual liabilities should be only those obligations for which the surety contracts.

The consensus among the diverse groups supporting the bill suggests that these are two sensible, noncontroversial principles, consistent with the intent of currently applicable laws. These measures provide sureties with the certainty they need to reenter the markup, and provide the Government with the protection it needs.

The bill does this, and it does it in a way that narrowly addresses the essential issues, without upsetting the scheme of current Federal or State law.

Mr. President, this is a sound approach necessary to respond to an immediate threat to the environmental cleanup effort, and I look forward to quick action by the Senate on this measure.●

By Mr. McCAIN:

S. 3190. A bill to control the transfer of arms to countries that threaten world peace, including countries that are the subject of a United Nations or United States blockade or embargo; to the Committee on Foreign Relations.

WAR PREVENTION AND ARMS TRANSFER CONTROL ACT

Mr. McCAIN. Mr. President, as I begin my statement, 170 West German firms are under investigation for their role in weapons to Iraq. There are new reports that the People's Republic of China has transferred chemicals to Iraq that can be used to produce chemical weapons, and other reports that Libya may be providing covert aid to Iraq in the form of key components or chemicals.

Iraq, however, is only the tip of the iceberg. It is only one of some 25 countries that are producing or seeking to produce weapons of mass destruction, and one of 17 developing nations with more than 1,000 tanks. Iraq is only the most visible symbol of the consequences of arms transfers to aggressive regimes that threaten world peace.

Whether or not we go to war in the Persian Gulf, the current confrontation between those states who believe in a world order based on peace and the rule of law, and those who believe in arms and the rule of force, will not end with the gulf crisis. The world does not become a better place through some mysterious force of history. It becomes a better place only because those who believe in peace and law take action.

THE MC CAIN WAR PREVENTION AND ARMS TRANSFER CONTROL ACT

We have already debated two important bills which will help halt the proliferation of long range missiles, and chemical and biological weapons. I worked closely with my colleagues to draft these measures, and I hope they soon will become law.

It is brutally clear, however, that we must take far firmer action than we have contemplated to date, and that we must pass legislation that will establish controls and sanctions to halt all forms of arms sales to states that threaten world peace.

This is why I rise to day to propose dramatic new measures to deal with the growing threat that the transfer of conventional arms, and weapons of mass destruction pose to the United States, its allies, and world peace

TARGETING NATIONS THAT THREATEN WORLD PEACE

This legislation carefully targets those nations that threaten to use such transfers to attack or intimidate other nations, that violate United States and United Nations embargoes, or that use or threaten to use weapons of mass destruction.

It requires the President to make a determination as to which countries threaten world peace by acquiring conventional arms or the means to manufacture and deliver weapons of mass destruction.

In making this determination, the President is asked to include:

All nations that have conducted an aggressive attack against any other nation during the course of the previous year;

All nations that threaten to attack other states, or to use weapons of mass destruction against them;

All nations that support terrorist organizations or state-sponsored terrorist activity against the United States, its allies, or other peaceful states.

All nations who transferred military and/or arms technology and equipment that may be used to manufacture and deliver arms or weapons of mass destruction, and dual use technology, to nations that the President had listed as threatening world peace in his previous report, and/or which were the subject of a United Nations or United States blockade or embargo during the previous year.

All other nations that the President shall determine are a threat to world peace.

This list of countries does not include our friends or allies, or include any peace-loving state that is acquiring arms for its own defense. It recognizes the fact that all nations have a legitimate right to self-defense, but no nation has a right to threaten its neighbors or to commit acts of unprovoked aggression.

RESTRICTING TRANSFERS OF U.S. ARMS AND TECHNOLOGY

At the same time, this list of countries provides the basis for enforcing powerful sanctions against the arms transfers that have become such a growing threat to our security.

Once the President designates any country as a threat to peace under the provisions of this act, it prohibits all U.S. companies from the transfer of any item or technology subject to controls under the Arms Export Control Act or the Export Administration Act of 1979—unless the President shall delete the country from his list or grant a waiver for national security reasons.

ESTABLISHING SANCTIONS AGAINST MERCHANTS OF WAR AND MASS DESTRUCTION

At the same time, the act does not penalize U.S. firms at the expense of foreign firms. It establishes powerful sanctions against foreign countries and companies that act as merchants of war and mass destruction.

No item or technology produced by a foreign company or entity—which has sold the tools of mass destruction to a state or entity listed in the report that is subject to controls under the Arms Export Control Act or the Export Administration Act of 1979—may be imported into the United States, or enter U.S. airspace and/or waters unless the President shall delete the country from his list or grant a waiver.

Further, no foreign company or entity that has transferred technology or equipment that is a violation of this act may own any property or rights in any company incorporated or licensed to do business in the United States, or maintain any technology transfer or cooperative agreements of any kind with a company incorporated or licensed to do business in the United States.

In the event a foreign company or entity shall violate this act, it must at its sole expense and cost divest itself of all such holdings and ties within 30 days of such violation or all assets and holdings in the United States shall be forfeited and shall become the property of the U.S. Government.

SANCTIONS AGAINST BUYER NATIONS

The penalties for buyer nations are equally severe. The act cuts them off from U.S. military and economic aid of any kind. No foreign military assistance, foreign military sales credits, other military assistance, or technology and technical transfers of any kind may be provided to any country that licenses or permits transfers of items to a state or entity listed in the report—unless the President removes the country from his list or grants a waiver based on national security grounds.

DENIAL OF MOST-FAVORED-NATION STATUS

Additionally, no nation may be given, or retain, most-favored-nation status—or be given any form of loans or credits by the U.S. Government—that licenses or permits transfers of items or technology subject to controls under the Arms Export Control Act or the Export Administration Act of 1979 that is listed in the above act, unless the President strikes the country from his list or grants a waiver.

THE NEED FOR STRONG NEW MEASURES TO LIMIT THE RISK OF WAR

Mr. President, this is strong legislation, and I recognize that it raises serious legal and jurisdictional issues. However, I believe that the time for such action has clearly come. If we are to preserve our world for our children and grandchildren, we must find the requisite courage to act.

MILITARY FORCES ARE THE ENEMY OF POLITICAL AND ECONOMIC DEVELOPMENT

We live in a world where roughly 6 percent of the gross national product, and 20 percent of all Government expenditures of developing countries is now being spent on the military.

At least 22 developing countries are spending more than 10 percent of their GNP on military forces. In three of these countries—Vietnam, Cambodia, and Laos—the average per capita income is under $200 per year.

One cannot ignore the fact that war after war in the developing world has involved hundreds of thousands of casualties and refugees. We cannot even count the millions who have died or starved because of such conflicts since the end of world war.

The arms trade to aggressor states is a major threat to the political and economic development of virtually every less developed state. In fact, if we could reduce total military spending from 6 to 5 percent of the total GNP of the developing world, we would release some $40 billion a year for badly needed development and growth.

THE GROWING THREAT POSED BY THE WORLD ARMS TRADE

What is especially appalling, Mr. President, is that the current traffic in arms to developing states is now worth close to $40 billion a year. Further, this total does not include billions of dollars more for transfers of military engineering equipment, civil goods used by military forces, military construction, military advisors and technicians.

Worse yet, we have no way to estimate the cost of the installations and equipment that some 25 developing states have already purchased to produce and deliver weapons of mass destruction.

In fact, if we talk about the total value of all transfers of arms, technology for weapons of mass destruction, and related goods and services to developing states during the last decade, we may be talking about a sum close to a trillion dollars.

To put this trafficking in death in more concrete terms, we are talking about the transfer to the developing world of roughly 1,700 main battle tanks a year, 2,800 major artillery weapons, 3,400 other armored vehicles, 500 combat aircraft, 100 combat ships, and 5,400 surface-to-air missiles.

While most of these transfer go to the Middle East and North Africa, no region in the world is free of this scourge. It is important to note that these figures do not include thousands and thousands more weapons that are being produced in the developing world because of the transfer of the tools and technology for weapons production.

THE NEED TO TARGET SPECIFIC STATES

Mr. President, we cannot hope to disarm the world, halt every aspect of the traffic in arms, or control every aspect of proliferation. We cannot deny allied and peace loving states the basic tools necessary to preserve their security.

One of the great failures of the Carter administration's efforts to control arms transfers was that it focused largely on the control of U.S. arms sales, and tended to try to halt the sale of arms to friend and foe alike.

We need to recognize that arms races tend to be driven by a few rogue nations, or by the confrontations between a few states in a given region. The developing world has no more love for arms and weapons of mass destruction than the developed world. There also is no point in trying to deny nations the legitimate right of self defense.

STATES THAT THREATEN WORLD PEACE

Mr. President, this need becomes even clearer when we consider a few of the states that we all recognize threaten whole regions.

IRAQ

In the case of Iraq, we are talking about a state that received $45.7 billion worth of arms transfers between 1982 and 1989, and this total does not include expenditures on weapons of mass destruction and military-related imports. Some $22 billion of these arms came from the U.S.S.R., $4.2 billion from the PRC, and $6.1 billion from other Communist states, principally North Korea. West Europe states, principally France, sold $8 billion worth of arms, and other non-Communist states sold $5.3 billion.

Bad as these figures are, they do not include the transfers of technology—principally from West Germany—that have given Iraq chemical and biological weapons and which are bringing it near the ability to use centrifuges to produce nuclear weapons. They do, however, include the funds that brought Iraq some 5,500 tanks and nearly 800 combat aircraft, and which allowed it to invade Iran and Kuwait.

IRAN

The situation in Iran is only marginally better. Iran received $15 billion worth of arms transfers between 1982 and 1989—a total which does not include covert United States arms transfers, expenditures on weapons of mass destruction, and military-related imports.

Some $22 million of these transfers came from the U.S.S.R., $3.3 billion from the PRC, and $4.8 billion from other Communist states, principally North Korea. West European states sold $2.3 billion worth of arms, and other non-Communist states sold $4.4 billion.

Like the arms transfers to Iraq, these transfers fueled an eight year war, and produced over a million casualties on both sides.

CUBA

If we look at Cuba, we see that it received $12.9 billion worth of arms between 1982 and 1989, $11.5 of which came from the U.S.S.R., and the rest from other Communist states. These arms transfers helped virtually bankrupt the Cuban economy and lowered the living standards of every Cuban citizen.

Further, these weapons were used to help fuel civil war and authoritarian regimes in El Salvador and Nicaragua. They also began some 20 years after the Bay of Pigs: Cuba threatens—it does not face any real threat.

NORTH KOREA

The situation in North Korea is equally ominous. North Korea has imported some $3 billion dollars worth of arms in the last decade. Virtually all of these imports have been from the U.S.S.R. and they have been critical to allowing North Korea to acquire the sophisticated weapons and technology it needs to maintain an offensive posture.

North Korea has recently become one of the world's largest arms exporters. It exported well over $3.3 billion worth of arms during the last decade and these exports were the key to giving North Korea the hard currency and earnings it needs to fuel its war machine, as well as import the technology that will soon give it nuclear weapons.

VIETNAM, SYRIA, LIBYA, AND AFGHANISTAN

And, these are only a few examples. If we look at a catalog of aggressor or threatening states on the list of the world's top 10 arms importers, we also see Syria, which imported $15.4 billion worth of arms during 1982–89. We see Vietnam, that imported $12.7 billion worth of arms. We see Afghanistan, which imported $11.6 billion worth of arms, and we see Libya, which imported $12.5 billion worth of arms.

Syria, Vietnam, Afghanistan, and Libya are all either carrying out major efforts to deploy weapons of mass destruction, or had other nations use weapons of mass destruction on their behalf.

It is also worth noting that if we add Angola, Cambodia, and Ethiopia to this list of four countries, we would be talking about seven developing nations whose regional or civil conflicts have produced well over 10 million casualties and refugees, and millions of deaths from combat and starvation.

MERCHANTS OF DEATH AND MASS DESTRUCTION

I am not exempting the United States from blame for many transfers to aggressor states. I believe that we have been far more careful in our arms transfers than most arms exporters, but the fact remains that we exported nearly $50 billion worth of arms during 1982–89. Some went to states such as Iran, and others inevitably contributed to the global arms race, rather than to preserving the security of peaceful states.

We are part of the enemy we face, and so are many of our closest allies. While the U.S.S.R. dominated the arms trade during the last decade—and sold some $134 billion worth of arms—France sold $26 billion, the United Kingdom sold $14 billion, the FRG sold $6.2 billion, Italy sold $5.6 billion, and Spain sold $3.4 billion.

Six of the world's 10 top merchants of death and mass destruction are western democracies, and they accounted for $104 billion worth of arms sales out of the $261 billion sold by the top 10 exporters over the last decade.

We no longer have the excuse that such sales are the inevitable result of the rivalry between East and West. In fact, with the current thawing of the cold war, we now have a priceless opportunity to reduce both our own arms sales and that of the world's largest arms suppliers. East and West now share a common interest in fighting all forms of proliferation, and Iraq's invasion of Kuwait is a grim lesson in the risk of arming one thug to defend against another.

THE NEED FOR ACTION RATHER THAN WORDS

Mr. President, I know that there are those who will call for studies, international conferences, and action by the United Nations. I know that there are those who will see the targeting of aggressor nations as somehow unfair, or who fear that unilateral action will somehow affect our trade.

However, for the sake of our children, and their children, we cannot afford to go on sewing the seeds of destruction. We cannot afford words, when actions speak so much more loudly.

We already have ample evidence that studies, negotiations, and committees do nothing to preserve the peace, to protect weaker nations, to prevent war, or prevent the use of weapns of mass destruction.

Unless we are willing to act, unless we give the welfare of our children and the long-term interests of our world precedence over arms sales and political convenience, we will ultimately reap the deadly harvest we have sown.

Mr. President, I request unanimous consent that the full text of the bill I am introducing today be placed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3190

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "War Prevention and Arms Transfer Control Act".

SEC. 2. STATEMENT OF POLICY.

It is the policy of the United States that all appropriate measures should be taken—

(1) to halt the growing arms race within the developing world, including the race to acquire weapons of mass destruction and the means to deliver them;

(2) to halt the transfer of arms and military technology, and equipment and technology that can be used to manufacture or deliver weapons of mass destruction, to those countries that threaten world peace, including countries that are the subject of a United Nations or United States blockade or embargo;

(3) to halt the transfer of United States arms and military technology, and equipment and technology that can be used to manufacture or deliver weapons of mass destruction, to any country that sells such equipment and technology to countries that threaten world peace, including countries that are the subject of a United Nations or United States blockade or embargo;

(4) to prohibit any foreign company or entity from exporting goods and services to the United States if that company or entity has sold arms and military technology, and equipment and technology that can be used to manufacture or deliver weapons of mass destruction, to countries that threaten world peace, including countries that are the subject of a United Nations or United States blockade or embargo;

(5) to deny most favored country status, United States aid and credits, and the use of United States waters and airspace for foreign commerce to any country that threatens world peace, including any country that is the subject of a United States blockade or embargo, and to any country that has sold arms and military technology, and equipment and technology that can be used to manufacture or deliver weapons of mass destruction, to countries that threaten world peace, including countries that are the subject of a United Nations or United States blockade or embargo; and

(6) to help create a new world order by establishing a more stable balance of military forces which will ensure long-term peace and stability and which limits the buildup of conventional arms and weapons of mass destruction.

SEC. 3. PURPOSE.

It is the purpose of this Act—

(1) to halt all United States transfers of military technology and equipment, technology and equipment that may be used to manufacture and deliver arms or weapons of mass destruction, and dual-use technology, to countries that threaten world peace, including countries that are the subject of a United Nations or United States blockade or embargo; and

(2) to establish sanctions and penalties against those countries, companies, and national entities that transfer such military equipment and technology that assist in building up the military capabilities of other countries that threaten world peace, including their capability to manufacture and deliver weapons of mass destruction.

SEC. 4. PRESIDENTIAL DETERMINATION.

(a) REPORTING REQUIREMENT.—Not later than January 15 of each year, the President shall submit to the Congress a report which—

(1) lists—

(A) any country that has acquired conventional arms or weapons of mass destruction at levels that threaten world or regional peace or the security of the United States, its allies, or other nonbelligerent countries;

(B) any country that has used armed force to carry out an act of aggression against any other country during the preceding calendar year;

(C) any country that threatens to use armed force to carry out an act of aggression against any other country or to use a weapon of mass destruction against such country;

(D) any country that supports, by giving sanctuary or otherwise, any terrorist organization or has supported any act of terrorism against the United States, its allies, or any other nonbelligerent country;

(E) any country which is the subject of a United Nations or United States blockade or embargo or is otherwise determined by the President to threaten world peace; and

(F) any country that has transferred any good or technology, including any dual-use item or technology, that may be used to produce or transfer conventional arms or any weapon of mass destruction to any country identified by the President under subparagraph (A), (B), (C), (D), or (E) in his last report;

(2) describes the flow of defense articles and technology for military uses to each country listed under paragraph (1);

(3) identifies governments and persons that have been involved in the activities described in paragraph (1)(F);

(4) describes the steps taken during the preceding year to enforce this Act, the success of those steps, and the governments and persons sanctioned or penalized as a result of those steps; and

(5) describes the efforts taken by the United States to persuade other countries to cooperate with the United States to halt the activities described in paragraph (1)(F).

(b) REVISION OF LIST.—The President may at any time add to, or remove from, the list established under subsection (a) the name of any country by submitting to the Congress a report identifying such country.

SEC. 5. PROHIBITIONS ON EXPORTS, IMPORTS, AND ASSISTANCE.

During the period in which a country is listed under section 4(a)(1)—

(1) no good or technology, including items on the United States Munitions List, subject to the jurisdiction of the United States may be exported, and no United States person may export any such good or technology, to that country;

(2) no United States military assistance may be provided to that country;

(3) no United States economic assistance may be provided to that country;

(4) notwithstanding any other provision of law, no nondiscriminatory trade treatment (most favored nation status) may be extended to that country; and

(5) notwithstanding any other provision of law, no item which is the product, manufacture, growth, or extraction of that country, and no technology developed in that country, may be imported into the United States, or may transit United States territory.

SEC. 6. WAIVER.

The provisions of section 5 shall not apply with respect to a country beginning 30 days after the President determines, and so notifies Congress, that it is in the national security interests of the United States to do so, except that nondiscriminatory trade treatment (most favored nation status) may not be extended by the President under this section.

SEC. 7. INTERPRETATION.

Nothing in this Act may be construed as requiring the release of any classified information.

SEC. 8. ENFORCEMENT.

(a) PUBLICATION OF CERTAIN CONTROLLED ITEMS.—Not later than 30 days after the date of enactment of this Act, the President shall cause to be published in the Federal Register the United States Munitions List and a consolidated list of dual-use items subject to export controls under the Export Administration Act of 1979.

(b) PUBLICATION OF DETERMINATIONS OF VIOLATIONS.—Not later than 7 days after the President determines that a United States or foreign person has violated this Act, the President shall cause to be published in the Federal Register his determination of such violation.

(c) PENALTIES.—In addition to imposing the applicable penalties under the Arms Export Control Act and the Export Administration Act of 1979, the United States Government, with respect to any United States person or foreign person that is in violation of this Act and with respect to any parent, affiliate, subsidiary, or division thereof or, in the case of a foreign government-owned instrumentality, any other instrumentality of that government—

(1) shall not procure, or enter into any contract for the procurement of, any goods or services from that person or entity;

(2) shall not transfer any technology to that person or entity; and

(3) shall deny security clearances to all individuals under employment by that person or entity,

except that the penalties of this subsection shall not apply with respect to a parent, affiliate, subsidiary, or division of a person in violation of this Act if the President determines that such entity had no knowledge of, and no way to acquire knowledge of or to prevent, the violation.

(d) FORFEITURE OF PROPERTY.—(1) The United States shall vest all right, title, and interest in any property or interest in property within the United States of any foreign concern that has violated this Act.

(2) The United States shall vest all right, title, and interest in all the property of any domestic concern that holds any interest in a foreign concern described in paragraph (1) unless such domestic concern has divested itself of such holdings within 30 days after publication of the violation by the foreign concern.

(e) CONTRACT SANCTITY.—The sanctions of section 5 and the penalties contained in subsection (c) shall not apply to any country, person, or entity in the case of a contract entered into before the sanctioned country was listed by the President under section 4(a) if the application of such sanctions would threaten the security of the third country nationals or would involve massive and unavoidable financial losses to the penalized person or entity.

SEC. 9. DEFINITIONS.

For purposes of this Act—

(1) the term "biological weapons" means—

(A) microbial or other biological agents or toxins, whatever their origin or method of production, of types and in quantifies that have no justification for prophylactic, protective, or other peaceful purposes; or

(B) any weapon, equipment, or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict;

(2) the term "chemical weapon" means—

(A) any toxic chemical, including any supertoxic lethal chemical, other lethal chemical, other harmful chemical and its precursor, including any key precursor, or

(B) any munition or device specifically designed to cause death or other harm through the toxic properties of a toxic chemical which would be released as a result of the employment of such munition or device,

except that such term does not include any toxic chemical intended for peaceful purposes as long as the type and quantities involved are consistent with such purposes;

(3) the term "foreign person" means any person other than a United States person;

(4) the term "good" has the meaning given that term by section 16(3) of the Export Administration Act of 1979 (50 U.S.C. App. 2415(3));

(5) the term "missile" and "missile equipment and technology" mean those items listed in the MTCR Equipment and Technology Annex, as amended;

(6) the term "Missile Technology Control Regime" or "MTCR" means the agreement, as amended, between the United States, the United Kingdom, the Federal Republic or Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on an annex of missile equipment and technology;

(7) the term "nuclear weapon" has the same meaning as is given to the term "atomic weapon" by section 11(d) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(d));

(8) the term "technology" has the meaning given that term by section 16(4) of the Export Administration Act of 1979 (50 U.S.C. App. 2415(4));

(9) the term "United States" includes the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States;

(10) the term "United States economic assistance" means assistance of any kind which is provided by grant, sale, loan, lease, credit, guaranty, or insurance, or by any other means, by any agency or instrumentality of the United States Government to any foreign country, including—

(A) assistance under the Foreign Assistance Act of 1961 (including programs under title IV of chapter 2 of part I of that Act);

(B) sales under title I or III and donations under title II of the Agricultural Trade Development and Assistance Act of 1954 of nonfood commodities;

(C) other financing programs of the Commodity Credit Corporation for export sales of nonfood commodities; and

(D) financing under the Export-Import Bank Act of 1945;

except that the term "United States economic assistance" does not include (i) international narcotics control assistance under this chapter, (ii) disaster relief assistance (including any assistance under chapter (of this part), (iii) assistance which involves the provision of food or medicine, (iv) assistance for refugees, (v) assistance under the Inter-American Foundation Act, (vi) assistance from the Child Survival Fund under section 104(c)(2) of the Foreign Assistance Act of 1961, or (vii) assistance for narcotics education and awareness activities under section 126(b)(2) of the Foreign Assistance Act of 1961 (but any such assistance shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of the Foreign Assistance Act of 1961);

(11) the term "United States military assistance" means—

(A) assistance to carry out chapter 2 (relating to grant military assistance) or chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961; and

(B) sales, credits, and guaranties under the Arms Export Control Act,

except that the term "United States military assistance" does not include activities authorized pursuant to the National Security Act of 1947 (50 U.S.C. 410 et seq.), the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.), or Executive Order Number 12333 (December 4, 1981);

(12) the term "United States person" has the meaning given that term in section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. 2415(2)); and

(13) the term "weapon of mass destruction" includes nuclear weapons, chemical weapons, biological weapons, bomber aircraft with a range in excess of 600 nautical miles, missiles, and missile equipment and technology.

By Ms. MIKULSKI (for herself, Mr. SARBANES, Mr. ROBB, and Mr. WARNER):

S.J. Res. 379. Joint resolution providing for furloughed employees compensation; to the Committee on Appropriations.

FURLOUGHED EMPLOYEES COMPENSATION

Ms. MIKULSKI. Mr. President, I rise today to correct, and also to fight, an injustice. I am introducing a joint resolution today to provide for payment to all Federal employees who lost salary during last weekend's involuntary furlough. I am joined by Senator SARBANES, Senator WARNER, and Senator ROBB. The hardworking men and women of our country who work

to keep the Government functioning should not have to pay for our inability to reach a budget agreement.

As we know, last weekend we reached a budget impasse. National parks were closed, the Statue of Liberty was closed, Fort McHenry, in my own State, where the national anthem was written, was closed. Federal employees were denied pay for 3 days.

I am proud to represent 150,000 Federal employees who live and work in the State of Maryland. I know them to be hardworking and very dedicated professionals. They are just not names on organizational charts. They are not people who we sometimes, in a very harsh way, refer to as bureaucrats. They are families, families who have to pay their bills and take care of their kids. They are moms and dads, many of them, who have as perfect attendance in the workplace as their children have in schools. They should not be used as pawns in a political power struggle.

Who are the Federal employees who suffered a loss of pay? There are law enforcement personnel, people in the Secret Service, people in the FBI, people who, in some instances, we might ask to take a bullet, and we should not ask them to take a furlough.

They are people who work at the National Institutes of Health in Maryland, not only the wonderful physicians but the lab technicians and other personnel out there who right this minute are trying to find a cure for cancer while we are trying to find a cure for the cancerous budget deficit. They should not be penalized again for our inability to solve our problems.

They are FDA people, who right now are working again on how to move pharmaceuticals to the marketplace that will save lives. They are Social Security claims examiners. They are people who are working in HUD to take care of the homeless. These are the people we are talking about.

Mr. President, some members of the public might think our budget fight here in Washington last week was "full of sound and fury signifying nothing." That might be Macbeth, but that is not Mikulski. We are ready here to put in a hard week to come up with a budget reconciliation package that is built on tax fairness and cuts out Government waste.

At the same time we are doing that, we have to acknowledge that there are real victims to last week's Government shutdown: the Federal employees who, without this resolution, would loose pay they are entitled to.

This legislation would direct that employees furloughed between October 5, 1990, and October 9, 1990, would be paid for the time they would have worked, or for paid vacation they would have received.

Mr. President, Federal employees devote their careers to serving our Nation. They deserve, often, our applause and our deep appreciation. I have spoken out on this floor many times on their behalf, and I have talked about fair treatment for Federal employees.

I urge the Senate to act quickly and decisively on this legislation. I understand, as I sponsor this today, it is simultaneously being done in the House, in the Committee on Appropriations. We hope to take action on this legislation in a matter of days.

Mr. President, I reiterate, the sponsors of this legislation urge the adoption of this legislation. I ask unanimous consent the text of this resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 379

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Federal employees furloughed as a result of the lapse in appropriations from midnight October 5, 1990, until the enactment of House Joint Resolution 666 (Public Law 101-412) shall be compensated at their standard rate of compensation for the period during which there was a lapse in appropriations.

All obligations incurred in anticipation of the appropriations made and authority granted by that Act for the purposes of maintaining the essential level of activity to protect life and property and bring about orderly termination of Government functions are hereby ratified and approved if otherwise in accord with the provisions of that Act.

ADDITIONAL COSPONSORS

S. 176

At the request of Mr. PELL, his name was added as a cosponsor of S. 176, a bill to amend the Foreign Agents Registration Act of 1938 to strengthen the registration and enforcement requirements of that Act.

S. 1025

At the request of Mr. KERRY, the names of the Senator from Washington [Mr. GORTON], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Alaska [Mr. STEVENS], the Senator from Oregon [Mr. PACKWOOD], the Senator from Louisiana [Mr. BREAUX], the Senator from Oregon [Mr. HATFIELD], the Senator from Washington [Mr. ADAMS], the Senator from Hawaii [Mr. INOUYE], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 1025, a bill to authorize appropriations to carry out the Magnuson Fishery Conservation and Management Act for fiscal years 1990, 1991, and 1992, and for other purposes.

S. 1126

At the request of Mr. BUMPERS, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1126, a bill to provide for the disposition of hardrock minerals on Federal lands, and for other purposes.

S. 1216

At the request of Mr. SIMON, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 1216, a bill to amend the National Labor Relations Act to give employers and performers in the live performing arts, rights given by section 8(e) of such Act to employers and employees in similarly situated industries, to give to such employers and performers the same rights given by section 8(f) of such Act to employers and employees in the construction industry, and for other purposes.

S. 1808

At the request of Mr. BREAUX, the names of the Senator from Montana [Mr. BURNS], the Senator from Illinois [Mr. DIXON], and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of S. 1808, a bil to amend section 468A of the Interna Revenue Code of 1986 with respect to deductions for decommissioning costs of nuclear powerplants.

S. 1893

At the request of Mr. LAUTENBERG the names of the Senator from North Dakota [Mr. BURDICK] and the Senator from Rhode Island [Mr. CHAFEE were added as cosponsors of S. 1893, bill to reauthorize the Asbestos Schoo Hazard Abatement Act of 1984.

S. 1942

At the request of Mr. ROCKEFELLER the name of the Senator from Pennsylvania [Mr. HEINZ] was added as cosponsor of S. 1942, a bill to provide for home and community care as optional statewide service, and for othe purposes.

S. 2112

At the request of Mr. METZENBAUM the name of the Senator from Nev Jersey [Mr. BRADLEY] was added as cosponsor of S. 2112, a bill to amen the National Labor Relations Act t prevent discrimination based on participation in labor disputes.

S. 2356

At the request of Mr. SYMMS, th name of the Senator from Iowa [M HARKIN] was added as a cosponsor c S. 2356, a bill to amend the Interna Revenue Code of 1986 to allow tax exempt organizations to establish cas and deferred pension arrangement for their employees.

S. 2647

At the request of Mr. KENNEDY, th name of the Senator from Californ [Mr. CRANSTON] was added as a cosponsor of S. 2647, a bill to provide f the admission of the State of New Columbia into the Union.

S. 3059

At the request of Mr. DeConcini, the names of the Senator from Tennessee [Mr. Gore] and the Senator from Colorado [Mr. Armstrong] were added as cosponsors of S. 3059, a bill to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges.

S. 3114

At the request of Mr. Mack, the name of the Senator from Alaska [Mr. Stevens] was added as a cosponsor of S. 3114, a bill to amend the Internal Revenue Code of 1986 to provide a refundable credit for qualified cancer screening tests.

S. 3175

At the request of Mr. Pryor, the name of the Senator from Kansas [Mrs. Kassebaum] was added as a cosponsor of S. 3175, a bill to amend titles XVIII and XIX of the Social Security Act to provide for certain nursing home reform provisions.

SENATE JOINT RESOLUTION 263

At the request of Mr. Helms, the names of the Senator from Nevada [Mr. Bryan], the Senator from North Dakota [Mr. Burdick], the Senator from Montana [Mr. Burns], the Senator from New Hampshire [Mr. Humphrey], the Senator from Idaho [Mr. McClure], the Senator from Arkansas [Mr. Pryor], the Senator from Alabama [Mr. Shelby], the Senator from Florida [Mr. Graham], the Senator from New Jersey [Mr. Bradley], the Senator from Mississippi [Mr. Cochran], the Senator from Rhode Island [Mr. Chafee], the Senator from Washington [Mr. Gorton], the Senator from Ohio [Mr. Glenn], the Senator from Utah [Mr. Hatch], the Senator from New Mexico [Mr. Domenici], the Senator from West Virginia [Mr. Rockefeller], and the Senator from South Dakota [Mr. Daschle] were added as cosponsors of Senate Joint Resolution 263, a joint resolution to designate October 11, 1990, as "National Society of the Daughters of the American Resolution Centennial Days."

SENATE JOINT RESOLUTION 329

At the request of Mr. Kasten, the name of the Senator from Florida [Mr. Mack] was added as a cosponsor of Senate Joint Resolution 329, a joint resolution to designate the week of June 17, 1990 through June 23, 1990 as "National Week to Commemorate the Victims of the Famine in Ukraine, 1932-1933," and to commemorate the Ukrainian famine of 1932-1933 and the policies of Russification to suppress Ukrainian identity.

SENATE RESOLUTION 337

At the request of Mr. Boschwitz, the name of the Senator from Oregon [Mr. Packwood] was added as a cosponsor of Senate Resolution 337, a resolution to express the sense of the Senate to encourage the purchase of recycled paper and paper products to the greatest extent practicable.

SENATE CONCURRENT RESOLUTION 152—RELATING TO THE ESTABLISHMENT OF A UNITED STATES—CANADIAN COMMISSION TO PRESERVE AND PROTECT THE NIAGARA FALLS AREA

Mr. MOYNIHAN submitted the following concurrent resolution; which was referrred to the Committee on Foreign Relations:

S. Con. Res. 152

Whereas Niagara Falls is one of the most spectacular natural wonders of North America;

Whereas the Niagara Reservation plan of 1887 designed by Frederick Law Olmsted and Calvert Vaux intended the Niagara area to be maintained in a natural context;

Whereas subsequent development of the area has not maintained the integrity of the plan; and

Whereas bilateral resources of the area are shared with Canada: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President should negotiate with the Prime Minister of Canada, or other appropriate government officials of Canada, to enter into a treaty to establish a bilateral commission to preserve and protect the Niagara Falls area.

Sec. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

Mr. MOYNIHAN. Mr. President, I rise to introduce a resolution that would establish the sense of the Congress that the President of the United States should negotiate with the Prime Minister of Canada to enter into a treaty to establish a bilateral commission to preserve and protect the Niagara Falls area.

Mr. President, neither we nor our Canadian neighbors can permit the majesty of Niagara Falls to be lost to development. And to succeed this must and ought to be a joint effort.

The Niagara Reservation was created by an act of New York State on April 30, 1883. Some 412 acres were the first lands taken in the United States by eminent domain to be set aside for use as a public park. The reservation was designed by Frederick Law Olmsted and Calvert Vaux. Olmsted, of course, is our greatest landscape architect. His work includes New York City's Central Park, Yosemite National Park and our own Capitol grounds.

Clearly, concerns are increasing. I understand that the National Park Service is now recommending that the Niagara Reservation be placed on a list of endangered landmarks.

Mr. President, New York State purchased this land in the 1880's to reverse the deterioration of this natural wonder. The destruction of the environment is not new. By the 1830's a visitor to Niagara Falls could already detect the deterioration of this site. Only as a result of the efforts of such prominent Americans as the author Henry James and Olmsted himself did we move to protect the falls. Perhaps we have lost sight of our goal. We, along with the Canadians, ought to rededicate ourselves to it, while we still have the opportunity to do.

SENATE RESOLUTION 338—EXPRESSING THE SENSE OF THE SENATE THAT THE DEPARTMENT OF COMMERCE SHOULD UTILIZE THE STATISTICAL CORRECTION METHODOLOGY TO ACHIEVE A FAIR AND ACCURATE 1990 CENSUS

● Mr. SASSER (for himself, Mr. Bradley, Mr. Kerry, Mr. Simon, Mr. Dodd, Ms. Mikulski, Mr. Bentsen, Mr. Bumpers, Mr. Kennedy, Mr. Riegle, Mr. Heflin, Mr. Lieberman, Mr. Sarbanes, Mr. DeConcini, Mr. Burdick, and Mr. Pryor) submitted the following resolution; which was referred to the Committee on Governmental Affairs:

S. Res. 338

Whereas preliminary census counts have missed large numbers of individuals and housing units nationwide; and

Whereas billions of dollars of critical Federal funding will be apportioned to cities, towns, and counties throughout the United States based on the results of the 1990 Census; and

Whereas over the next decade, "more than 400 programs affecting transportation, health, education, housing, community development, environmental, and job training projects" will be based on 1990 Census data; and

Whereas political representation will be based upon the 1990 Census data; and

Whereas minorities, the poor, the elderly, children, and the socially disadvantaged are most affected by the failure to achieve a fair and accurate census count; and

Whereas over 6,000 jurisdictions, including the "51 largest cities in the United States have challenged the preliminary results of the 1990 Census count", according to the Census Bureau; and

Whereas small cities, towns, and counties throughout the United States have also experienced significant population undercounts in the preliminary 1990 Census count; and

Whereas the Census Bureau acknowledged in 1980 that the undercount of the population was 7.2 percent for blacks and 0.7 percent for whites, and the undercount for blacks living in major cities was 11.3 percent and for Hispanics was 10.3 percent; and

Whereas the Census Bureau has developed a statistical methodology for correcting the undercount; Now, therefore be it the sense of the Senate that—

(1) the Department of Commerce, in considering the population discrepancies in the 1990 Census, should utilize the statistical correction methodology so as to achieve a fair and accurate census; and

(2) the Secretary of Commerce should release adjusted data by April 1, 1991 so as to avoid undue complications in various jurisdictions with respect to formulating redistricting plans.

Mr. SASSER. Mr. President, today I rise to introduce Senate Resolution 338 along with my colleagues Senators Bradley, Kerry, Simon, Mikulski, Bentsen, Dodd, Bumpers, Kennedy, Riegle, Heflin, Lieberman, Sarbanes, DeConcini, Burdick, and Pryor, legislation to address an issue of Federal, State, and local concern, the 1990 census. While Senate Resolution 338 expresses the sense of the Senate, it's really a sense of the people, sense of the national community appeal to correct the inequity of undercounting in the 1990 census.

I am introducing Senate Resolution 338 because I believe that attention must be properly focused on the consequences of an undercount in the 1990 census. Clearly, a long-term legislative or a judicial remedy to this problem of undercounting our Nation's population would be preferable. However, time is of the essence.

Ever since the first census count, there have been people missed. That fact, however, should not be the excuse or the price we are willing to pay in order to complete the 1990 census data collection process. A fair and accurate 1990 census should not be compromised for the sake of expediency.

Through the years, legislative and judicial attempts to address head on this issue of undercounting have been protracted and divisive. In the aftermath of the most recent lawsuit seeking an adjustment of the census for undercounts, I believe that the remedy, for the moment, now rests squarely with the Department of Commerce. Senate Resolution 338 is an appeal to the Department of Commerce on behalf of communities throughout this Nation to exercise good will and good faith in addressing discrepancies in the population count of the 1990 census.

Mr. President, no one knows for certain just how many people have been missed in the initial 1990 census count. I for one believe that we ought to find out. As we begin the 1990's, the stakes are too high, and the potential cost to this Nation too great not to do everything we can to ensure a fair and accurate 1990 census.

Poverty, homelessness, illiteracy, unemployment, and malnutrition are not indigenous to only a few cities, or to any one region of the country. These are real life, day to day problems that must be dealt with throughout the Nation from the largest city to the smallest town, in urban and rural America alike. That is why the outcome of the 1990 census is all the more critical, perhaps more so than ever before.

The final results of the 1990 census will determine the apportionment of critical, but limited Federal funds. Billions of dollars in Federal funds for transportation, health, education, housing, environmental, job training, and community development programs are at stake. The persons most likely to have been missed are the very persons who are most in need of Federal assistance. Minorities, the poor, the elderly, children, and the socially disadvantaged must be counted. Everyone must be counted.

Since the Census Bureau released its preliminary population results last month, there have already been more than 6,000 challenges. One in seven cities and counties are protesting the preliminary Census Bureau results. The 50 largest cities in the Nation have all said that the Census Bureau count of their populations is too low. The mayor of New York City has gone on record as saying that the Census Bureau failed to count between 800,000 and 1 million New Yorkers.

But, Mr. President, an undercount in the 1990 census is not just a big city concern. Small cities, towns, and counties throughout the United States want their residents to be counted. A recent Associated Press story illustrates this point.

> Residents in the tiny town of Jacksonburg, OH, were outraged by the Census Bureau count that listed their community as having only 14 residents; 39 residents showed up at a (subsequent) census protest to challenge the preliminary numbers.

Mr. President, I would like to take this opportunity to share with my colleagues what I've been hearing from people in Tennessee. Let me first say that Tennessee on occasion has been referred to as the three great States of Tennessee because of the friendly rivalries that exist between people in the western, middle, and eastern sections of the State. A visitor traveling across Tennessee might even observe the differences as he or she made their way from Memphis to Nashville, and then on to Knoxville or Chattanooga.

However, on the question of the 1990 census, Tennessee—west, middle, and east, is speaking with one voice. Every segment of the State has contacted my office to express their concerns about a potential undercount and the relatively short time within which they had to dispute the preliminary population numbers. Mayors and other officials from cities as diverse as Knoxville, Johnson City, Chattanooga, Dyersburg, Martin, Lexington, McMinnville, Dyer, Trenton, Smithville, Fayetteville, South Pittsburg, Carthage, Jackson, Murfreesboro, Nashville, and Memphis, County Executives from Gibson, Roane, Trousdale, Grundy, Scott, Rhea, Marion, Sequatchie, Fentress, and Celina Counties have all contacted me to dispute the preliminary results of the 1990 census. Tennessee cities, towns, and counties, not unlike those in other

areas across the Nation, want to b
counted. I for one do not believe tha
that is too much to ask.

Mr. President, Senate Resolutio
338 seeks to bring the focus of th
1990 census process back to where i
blongs, to those people at the grass
roots community level, large or smal
urban or rural. Long after the Censu
Bureau officials have packed awa
their pencils, calculators, and comput
ers, it's the American people who mus
live with the final numbers. As repre
sentatives of the people, we must sen
forth to the Census Bureau and th
Department of Commerce a clear an
unequivocal message—the America
people have every right to a fair an
accurate 1990 census.

More than 6,000 jurisdictions larg
and small have formally challenge
the preliminary results of the 199
census. Over the next few months, th
Census Bureau and the Department o
Commerce must reach a fair and equ
table solution to the massive popula
tion discrepancies across the Natio
As we move ever closer to the Decem
ber 31, 1990, deadline for the Pres
dent to receive final census number
we must make every effort to ensur
that the final 1990 census numbe
will indeed be fair and accurate. Th
Secretary of Commerce holds withi
his power an administrative remedy t
the problem of undercounting in th
form of a statistical adjustment.

Mr. President, Senate Resolutio
338 reflects the will of the America
people. I urge my colleagues to join u
in sending a message to the Depar
ment of Commerce on behalf of mi
lions of Americans who want to b
counted in the 1990 census. I urge m
colleagues to join us in calling on th
Secretary of Commerce to statisticall
adjust the 1990 census.●

SENATE RESOLUTION 339—AU
THORIZING TESTIMONY AT A
UNEMPLOYMENT COMPENSA
TION HEARING BY SENAT
EMPLOYEES

Mr. GORE (for Mr. Mitchell, fo
himself and Mr. Dole) submitted th
following resolution; which was co
sidered and agreed to:

S. Res. 339

Whereas the Director of Human R
sources and Supervisor of Custodial Servic
in the Office of the Sergeant at Arms m
testify and provide personnel records co
cerning a discharged employee in procee
ings before the District of Columbia Depar
ment of Employment Services;

Whereas by the privileges of the Senate
the United States and Rule XI of the Stan
ing Rules of the Senate, no evidence und
the control or in the possession of t
Senate can, by administrative or judici
process, be taken from such control or po
session but by permission of the Senate;

Whereas when it appears that inform
tion and records under the control or in th
possession of the Senate are needed for th

promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Kathleen M. Ramsey, Mary Harris, and any other Senate employee whose testimony may be necessary are authorized to testify and produce documents at unemployment compensation proceedings concerning Felix Lockett, pending before the District of Columbia Department of Employment Services, Appeals No. 90.5200-UI.

AMENDMENTS SUBMITTED

COMMERCE, JUSTICE, AND STATE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1991

HEINZ (AND PELL) AMENDMENT NO. 2947

Mr. HEINZ (for himself and Mr. PELL) proposed an amendment to the bill (H.R. 5021) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . STRENGTHENING THE FOREIGN AGENTS REGISTRATION ACT.

(a) DEFINITION OF AGENT OF A FOREIGN PRINCIPAL.—Section 1(c) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(c)) is amended by adding at the end thereof the following new sentence: "For purposes of clause (1), a foreign principal shall be considered to control a person in major part if the foreign principal holds more than 50 percent equitable ownership in such person or, subject to rebuttal evidence, if the foreign principal holds at least 20 percent but not more than 50 percent equitable ownership in such person.".

(b) DEFINITION OF SERVING PREDOMINANTLY A FOREIGN INTEREST.—Section 1(q) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(q)) is amended—

(1) by striking out "and" at the end of clause (ii) of the proviso; and

(2) by inserting before the period at the end thereof the following: ", and (iv) such activities do not involve the representation of the interests of the foreign principal before any agency or official of the Government of the United States other than providing information in response to requests by such agency or official or as a necessary part of a formal judicial or administrative proceeding, including the initiation of such a proceeding.".

(c) SUPPLEMENTAL REGISTRATION.—Section 2(b) of such Act (22 U.S.C. 612(b)) is amended in the first sentence by striking out ", within thirty days" and all that follows through "preceding six months' period" and inserting in lieu thereof "on January 31 and July 31 of each year file with the Attorney General a supplement thereto under oath, on a form prescribed by the Attorney General, which shall set forth regarding the six-month periods ending the previous December 31, and June 30, respectively, or, if a lesser period, the period since the initial filing,".

(d) LIMITING EXEMPTION FOR LEGAL REPRESENTATION.—Section 3(g) of such Act (22 U.S.C. 613(g)) is amended by striking out "or any agency of the Government of the United States" and all that follows through "informal" and inserting in lieu thereof "or before the Patent and Trademark Office, including any written submission to that Office".

(e) CIVIL PENALTIES AND ENFORCEMENT PROVISIONS.—Section 8 of such Act (22 U.S.C. 618) is amended by adding at the end thereof the following:

"(i)(1) Any person who is determined, after notice and opportunity for an administration hearing—

"(A) to have failed to file a registration statement under section 2(a) or a supplement thereto under section 2(b),

"(B) to have omitted a material fact required to be stated therein, or

"(C) to have made a false statement with respect to such a material fact,

shall be required to pay a civil penalty in an amount not less than $2,000 nor more than $5,000 for each violation committed. In determining the amount of the penalty, the Attorney General shall give due consideration to the nature and duration of the violation.

"(2)(A) in conducting investigations and hearings under paragraph (1), administrative law judges may, if necessary, compel by subpoena the attendance of witneses and the production of evidence at any designated place or hearing.

"(B) In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and, upon application by the Attorney General, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as contempt thereof.".

DASCHLE AMENDMENT NO. 2948

Mr. HOLLINGS (for Mr. DASCHLE) proposed an amendment to the bill H.R. 5021, supra, as follows:

At the end of the bill, insert the following new section:

SEC. . DAKOTA WESLEYAN UNIVERSITY.

Notwithstanding the provisions of section 487(c)(2)(B) of the Higher Education Act of 1965, the Secretary of Education shall reduce a penalty owned by the Dakota Wesleyan University, located in Mitchel, South Dakota, in the amount of $159,260, plus any accrued interest thereon to $16,113.

LEVIN AMENDMENT NO. 2949

Mr. HOLLINGS (for Mr. LEVIN) proposed an amendment to the bill H.R. 5021, supra, as follows:

At the end of the table 1 insert:

SEC. 107. The Secretary of Commerce shall direct that $100,000 of the funds available for research on zebra mussels provided in this Act be used for the translation into English of scientific materials published in Russian and in other languages that will aid in the control and eradication of zebra mussels in the Great Lakes and the United States.

GORE AMENDMENT NO. 2950

Mr. HOLLINGS (for Mr. GORE) proposed an amendment to the bill H.R. 5021, supra, as follows:

On page 51 before the colon on line 11 insert ", and of which $350,000 may be available for the purpose of preparations for the 1992 United Nations Conference on Environment and Development".

MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT AUTHORIZATION

HOLLINGS (AND STEVENS) AMENDMENT NO. 2951

Mr. HOLLINGS (for himself and Mr. STEVENS) proposed an amendment to the bill (S. 1025) to authorize appropriations to carry out the Magnuson Fishery Conservation and Management Act for fiscal years 1990, 1991, and 1992, and for other purposes, as follows:

On page 8, line 10, insert "practical" immediately before "measures".

On page 9, line 2, insert "(a) GENERAL.—" immediately after "SEC. 102.".

On page 12, immediately after line 6, insert the following:

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1992.

On page 12, line 18, through page 14, line 19, strike all and insert in lieu thereof the following:

INTERNATIONAL FISHERY AGREEMENTS

SEC. 105. (a) HIGHLY MIGRATORY SPECIES AGREEMENTS.—Section 202 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1822) is amended by redesignating subsection (e) as subsection (f) and by inserting immediately after subsection (d) the following new subsection:

"(e) HIGHLY MIGRATORY SPECIES AGREEMENTS.—

"(1) EVALUATION.—The Secretary of State, in cooperation with the Secretary, shall evaluate the effectiveness of each existing international fishery agreement which pertains to fishing for highly migratory species. Such evaluation shall consider whether the agreement provides for—

"(A) the collection and analysis of necessary infomation for effectively managing the fishery, including but not limited to information about the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the catch and bycatch levels in the fishery, and the present and probable future condition of any stock of fish involved;

"(B) the establishment of measures applicable to the fishery which are necessary and appropriate for the conservation and management of the fishery resource involved;

"(C) equitable arrangements which provide fishing vessels of the United States with (i) access to the highly migratory species that are the subject of the agreement and (ii) a portion of the allowable catch that reflects the traditional participation by such vessels in the fishery;

"(D) effective enforcement of conservation and management measures and access arrangements throughout the area of jurisdiction; and

"(E) sufficient and dependable funding to implement the provisions of the agreement, based on reasonable assessments of the benefits derived by participating nations.

"(2) ACCESS NEGOTIATIONS.—The Secretary of State, in cooperation wtih the Secretary, shall initiate negotiations with respect to obtaining access for vessels of the United States fishing for tuna species within the exclusive economic zones of other nations on reasonable terms and conditions.

"(3) REPORTS.—The Secretary of State shall report to the Congress—

"(A) within 12 months after the date of enactment of this subsection, on the results of the evaluation required under paragraph (1), together with recommendations for addressing any inadequacies identified; and

"(B) within six months after such date of enactment, on the results of the access negotiations required under paragraph (2).

"(4) NEGOTIATION.—The Secretary of State, in consultation with the Secretary, shall undertake such negotiations with respect to international fishery agreements on highly migratory species as are necessary to correct inadequacies identified as a result of the evaluation conducted under paragraph (1).

"(5) SOUTH PACIFIC TUNA TREATY.—It is the sense of the Congress that the United States Government shall, at the earliest opportunity, begin negotiations for the purpose of extending the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, signed at Port Moresby, Papua New Guinea, April 2, 1987, and it Annexes, Schedules, and implementing agreements for an additional term of 10 years on terms and conditions at least as favorable to vessels of the United States and the United States Government.".

(b) DETERMINATIONS OF SECRETARY OF STATE.—(1) Section 205(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1825(a)) is amended—

(1) in paragraph (1) by striking "traditional" and inserting "including fisheries for tuna species," immediately after "authority,"; and

(2) in paragraph (2) by striking "highly migratory" and inserting in lieu thereof "tuna".

(2) The amendments made by this subsection shall take effect on January 1, 1992.

On page 16, lines 1 through 2, strike all after "oceans" and insert in lieu thereof ", including but not limited to the North and South Pacific Ocean and the Bering Sea;".

On page 16, immediately after line 2, insert the following:

"(2) the use of long driftnets is expanding into new regions of the world's oceans, including the Atlantic Ocean and Carribbean Sea;

On page 16, lines 3 through 24, redesignate paragraphs (2) through (6) as paragraphs (3) through (7), respectively.

On page 17, line 2 insert "or developing new fisheries" immediately after "fishing".

On page 18, immediately after line 2, insert the following:

"(1) each driftnet fishing vessel of a foreign nation that is party to the agreement, including vessels that may operate independently to develop new fishing areas, which operate beyond the exclusive economic zone of any nation, is included in such agreement;

On page 18, line 3, through page 19, line 19, redesignate paragraphs (1) through (9) as paragraphs (2) through (10), respectively.

On page 21, on line 2 strike "and", on line 3 strike "(5)" and insert in lieu thereof "(6) containing", and between lines 2 and 3 insert the following:

"(5) containing a list and description of any new fisheries developed by nations that conduct, or authorize their nationals to conduct, driftnet fishing beyond the exclusive economic zone of any nation; and

On page 31, strike lines 15 through 22 and insert in lieu thereof the following:

"(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on—

"(A) participants in the fisheries affected by the plan or amendment; and

"(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants.".

On page 34, line 4, insert "FISHERIES RESEARCH.—" immediately after "(a)"; and on page 34, line 20, strike "AREAS OF RESEARCH.—".

On page 34, line 17, strike "and".

On page 34, line 19, strike the period at the end and insert in lieu thereof "; and".

On page 34, immediately after line 19, insert the following:

"(C) provide a role for affected commercial fishermen in such research, including involvement in field testing.

On page 35, line 18, insert immediately before "Upon" the following: "The Secretary shall ensure that affected commercial fishermen are actively involved in the development of the portion of the plan pertaining to conservation engineering research.".

On page 35, line 24, insert "(1)" immediately after "FISHERIES.—"; on page 36, strike "(1)" on line 3 and insert "(A)", strike "(2)" on line 6 and insert "(B)", and strike "(3)" on line 9 and insert "(C)".

On page 36, line 11, through page 38, line 5, strike all and insert in lieu thereof the following:

"(3)(A) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.

"(B) In accordance with the provisions of this Act and any other applicable law, the Secretary shall—

"(i) identify research and information priorities, including observer requirements and necessary data collection and analysis for the conservation and management of highly migratory species;

"(ii) prepare and amend fishery management plans with respect to highly migratory species fisheries to which this paragraph applies; and

"(iii) diligently pursue, through international entities (such as the International Commission for the Conservation of Atlantic Tunas), international fishery management measures with respect to fishing for highly migratory species.

"(C) In preparing or amending any fishery management plan under this paragraph, the Secretary shall—

"(i) conduct public hearings, at appropriate times and in appropriate locations in the geographical areas concerned, so as to allow interested persons an opportunity to be heard in the preparation and amendment of the plan;

"(ii) consult with and consider the comments and views of commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species;

"(iii) consult with and consider the comments and views of affected Councils;

"(iv) evaluate the likely effects, if any, of conservation and management measures on participants in the fisheries affected by the plan and minimize, to the extent practicable, any disadvantage to United States fishermen in relation to foreign competitors; and

"(v) review, on a continuing basis (and promptly whenever a recommendation pertaining to fishing for highly migratory species has been made under a relevant international fishery agreement), and revise as appropriate, the conservation and management measures included in the plan.

"(D) Conservation and management measures contained in any fishery management plan under this paragraph shall—

"(i) take into consideration traditional fishing patterns of fishing vessels of the United States and the operating requirements of the fisheries;

"(ii) be fair and equitable in allocating fishing privileges among United States fishermen and not have economic allocation as the sole purpose; and

"(iii) promote international conservation.

"(E) With respect to a highly migratory species for which the United States is authorized to harvest an allocation or quota under a relevant international fishery agreement, the Secretary shall provide fishing vessels of the United States with a reasonable opportunity to harvest such allocation or quota.

"(F) In implementing the provisions of this paragraph, the Secretary shall consult with—

"(i) the Secretary of State;

"(ii) commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species; and

"(iii) appropriate Councils.".

(2) Section 305(a)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855(a)(3)), as redesignated by section 111(a)(1) of this Act, is amended by inserting "or (f)(3)" immediately after "304(c)".

On page 38, line 6 through page 39, line 6, strike all.

On page 39, immediately after line 6, insert the following:

(c) INCIDENTAL HARVEST RESEARCH—Section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) is further amended by adding at the end the following new subsection.

"(g) INCIDENTAL HARVEST RESEARCH.—(1) Within 9 months after the date of enactment of the Fishery Conservation Amendments of 1990, the Secretary shall, after consultation with the Gulf of Mexico Fishery Management Council and South Atlantic Fishery Management Council, establish by regulation a 3-year program to assess the impact on fishery resources of incidental harvest by the shrimp trawl fishery within the exclusive economic zone.

"(2) The program established pursuant to paragraph (1) shall provide for the identification of stocks of fish which are subject to significant incidental harvest in the course of normal shrimp trawl fishing activity.

"(3) For stocks of fish identified pursuant to paragraph (2), with priority given to stocks which (based upon the best available scientific information) are considered to be overfished, the Secretary shall conduct—

"(A) a program to collect and evaluate data on the nature and extent (including the spatial and temporal distribution) of incidental mortality of such stocks as a direct result of shrimp trawl fishing activities;

"(B) an assessment of the status and condition of such stocks, including collection of information which would allow the estimation of life history parameters with sufficient accuracy and precision to support sound scientific evaluation of the effects of various management alternatives on the status of such stocks; and

"(C) a program of data collection and evaluation for such stocks on the magnitude and distribution of fishing mortality and fishing effort by sources of fishing mortality other than shrimp trawl fishing activity.

"(4) The Secretary shall, in cooperation with affected interests, commence a program to design, and evaluate the efficacy of, technological devices and other changes in fishing technology for the reduction of incidental mortality of nontarget fishery resources in the course of shrimp trawl fishing activity. Such program shall take into account local conditions and include evaluation of any reduction in incidental mortality, as well as any reduction or increase in the retention of shrimp in the course of normal fishing activity.

"(5) The Secretary shall, upon completion of the programs required by this subsection, submit a detailed report on the results of such programs to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

"(6)(A) Except as provided in this paragraph, the Secretary may not implement any measures under this Act to reduce incidental mortality of nontarget fishery resources in the course of shrimp trawl fishing which would restrict the period during which shrimp are harvested or would require the use of any technical device or other change in fishing technology.

"(B) The prohibition contained in subparagraph (A) shall cease on January 1, 1993, with respect to fisheries under the authority of the South Atlantic Fishery Management Council, and with respect to fisheries under the authority of the Gulf of Mexico Fishery Management Council, shall cease—

"(i) upon the publication of final regulations implementing an amendment to either the Reef Fish Fishery of the Gulf of Mexico Fishery Management Plan (50 C.F.R. 641) or the Shrimp Fishery of the Gulf of Mexico Fishery Management Plan (50 C.F.R. 658) which is intended to reduce the bycatch of nontarget fishery resources to approximately 50 percent of the level of bycatch occurring under the prohibition in subparagraph (A), or

"(ii) on January 1, 1993,

whichever is later.

"(C) This paragraph does not apply to any law or regulation in effect on the date of enactment of this paragraph, nor does it limit in any way the Secretary's authority to take action, including any limitation on entry permitted by this Act, for the conservation and management of the shrimp fishery resource.".

(d) Atlantic Sea Scallop Fishery Management Plan.—(1) The New England Fishery Management Council may submit to the Secretary of Commerce an amendment to the Atlantic Sea Scallop Fishery Management Plan. Any amendment submitted under this section shall—

(A) contain measures providing for the conservation and management of Atlantic sea scallops, that are not based on the scallop meat count but which may include controls on scallop harvesting effort; and

(B) consider the views of fishermen and fish processors involved in the Atlantic sea scallop fishery.

(2) If no amendment is submitted under paragraph (1) before one year after the date of enactment of this Act, the Secretary of Commerce shall prepare the amendment described in paragraph (1) under section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854).

(3) Any amendment prepared by the Secretary under paragraph (2) is not a system for limiting access, for purposes of section 303(b)(6) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(b)(6)).

(e)(1) Moratorium.—Section 304(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(c)) is amended—

(A) in paragraph (1), by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively, and by inserting immediately before subparagraph (B), as so redesignated, the following new subparagraph:

"(A) the Secretary determines that overfishing in a fishery is likely to occur as a result of fishing by vessels in addition to those that have operated in the fishery during the three-year period immediately preceding such determination; or";

(B) in paragraph (3) by striking "paragraph (1)" and inserting in lieu thereof "paragraph (1)(B) and (C)"; and

(C) by adding at the end the following new paragraph:

"(4) Under paragraph (1), and notwithstanding paragraph (3), the Secretary may establish, through a fishery management plan or plan amendment for any fishery, a moratorium that prohibits, as of the date of a determination under paragraph (1)(A), particiaption in the fishery by vessels that have not operated in the fishery during the three-year period immediately preceding such determination. Such moratorium shall be in force and effect for 18 months and, if necessary, may be renewed for no longer than one additional 18-month period. The Secretary shall cancel the moratorium prior to its expiration if a fishery management plan or amendment has been approved and implemented which includes conservation and management measures that the Secretary determines will prevent overfishing.".

(2) The Secretary of Commerce shall, not later than 12 months after the date of enactment of this Act, prescribe by regulation criteria for making a determination of overfishing and establishing a moratorium under section 304(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(c)), as amended by this subsection.

On page 49, line 24, insert "(a)" immediately after "Sec. 118." and on page 54, immediately after line 24, insert the following new subsection:

(b) Conforming Amendment.—The table of contents in the first section of the Magnuson Fishery Conservation and Management Act is amended by inserting immediately after the entry for section 312 the following new entry:

"Sec. 313. North Pacific fisheries research plan.".

On page 50, line 17, stirke "of" and insert in lieu thereof "or".

On page 55, strike all on lines 15 through 18, and add a period and closing quotation marks at the end of line 14.

Strike all on page 56, line 15, through page 57, line 2; and on page 6, line 8, strike the item relating to section 121 in the table of contents.

Add at the end the following new titles:

TITLE VII—NATIONAL FISH AND SEAFOOD PROMOTIONAL COUNCIL

EXTENSION OF TERMINATION DATE

Sec. 701. Section 206(g) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(g)) is amended by striking "October 1, 1990" and inserting in lieu thereof "December 31, 1991".

AUTHORIZATION OF APPROPRIATIONS

Sec. 702. Section 209(d) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4008(d)) is amended by striking "1990" and inserting in lieu thereof "1991".

TRANSFER OF SALTONSTALL-KENNEDY FUNDS

Sec. 703. Section 2(b)(2) of the Act of August 11, 1939 (commonly known as the Saltonstall-Kennedy Act; 15 U.S.C. 713c-3(b)(2)), is amended by striking "fiscal year 1990" and inserting in lieu thereof "each of fiscal years 1990 and 1991".

CONTINUITY OF NATIONAL COUNCIL MEMBERSHIP

Sec. 704. (A) Uninterrupted Service.—Individuals serving on September 30, 1990, as members of the National Fish and Seafood Production Council shall be deemed to continue as members in uninterrupted service since the date of their initial appointment.

(b) Filling of Vacancies.—Notwithstanding section 206(e) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(e)), any vacancy on the National Fish and Seafood Promotion Act not filled as of September 30, 1990, shall be filled within 60 days after the date of enactment of this Act.

(c) Technical Amendment.—Section 207(a)(5) of the National Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4006(a)(5)) is amended by inserting "initial" immediately before "appointments".

TITLE VIII—MISCELLANEOUS

CERTIFICATE OF LEGAL ORIGIN FOR ANADROMOUS FISH PRODUCTS

Sec. 801. (a) Negotiations.—Within 60 days after the date of enactment of this Act, the Secretary of State shall commence negotiations with nations which import or export anadromous fish or anadromous fish products for the purpose of securing general agreement among such nations to implement effective measures to prohibit international trade in anadromous fish or anadromous fish products unless such fish or fish products are accompanied by a valid certificate of legal origin attesting that the fish or fish product was lawfully harvested—

(1) within the jurisdiction of a nation having naturally occurring or artificially established anadromous fish populations of the same species as the imported or exported product; or

(2) on the high seas according to an international agreement among nations with jurisdiction over more than 1 percent of the stocks of anadromous fish being so harvested.

(b) Issuance of Certificates.—For the purposes of subsection (a), a valid certificate of legal origin may be issued only by a nation which—

(1) is the nation having jurisdiction over the vessel or other means by which the fish or fish product was harvested; and

(2) maintains regular harvests of anadromous fish in a manner consistent with the criteria for lawful harvests set out in subsection (a).

(c) Bilateral or Multilateral Agreements.—Efforts undertaken by the Secretary of State pursuant to subsection (a) may, at the discretion of the Secretary, be directed toward achieving either bilateral or multilateral agreements, including trade agreements, whichever the Secretary determines to be most likely to result in the earliest possible date or dates of agreement by those nations which individually have in excess of $1,000,0000, or the equivalent, in import or export trade in anadromous fish and anadromous fish products.

(d) Regulations.—The Secretary of Commerce shall, within 180 days after the date of enactment of this Act, promulgate regulations providing for—

(1) the issuance of certificates of legal origin pursuant to agreements under subsection (a) for anadromous fish and anadromous fish products legally harvested by vessels of the United States;

(2) the delegation of the authority to issue certificates of legal origin to States, territories, or possessions of the United States which the Secretary of Commerce determines to have implemented a program which is sufficient to accomplish the purposes of subsection (a); and

(3) an orderly transition to such regulations, sufficient to ensure that United States commerce in anadromous fish and anadromous fish products is not unduly disrupted.

(e) Report Required.—The Secretary of Commerce, after consultation with the Secretary of the Treasury, shall, within 180 days after the date of enactment of this Act, submit to the Congress a report—

(1) making recommendations as to the need for the adoption of United States import and export restrictions on anadromous fish and adadromous fish products consistent with subsection (a); and

(2) identifying, evaluating, and making recommendations regarding any specific statutory or regulatory changes that may be necessary for the adoption of such restrictions.

(f) Certification.—If, at any time following the promulgation of the regulations required by subsection (d), the Secretary of Commerce finds that any nation is engaging in trade in unlawfully taken anadromous fish or anadromous fish products, the Secretary shall certify that fact to the President, which certification shall be deemed to be a certification for the purposes of section 8(a)(1) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)(1)).

On page 6, line 8, at the end of the table of contents, add the following new items:

TITLE VII—NATIONAL FISH AND SEAFOOD PROMOTIONAL COUNCIL

Sec. 701. Extension of termination date.

Sec. 702. Authorization of appropriations.

Sec. 703. Transfer of Saltonstall-Kennedy funds.

TITLE VIII—MISCELLANEOUS

Sec. 801. Certificate of legal origin for anadromous fish products.

BIDEN (AND KERRY) AMENDMENT NO. 2952

Mr. BIDEN (for himself and Mr. Kerry) proposed an amendment to the bill S. 1025, supra, as follows:

At the end, add the following new section:

Sec. 802. (a) Short Title.—This section may be cited as the "Dolphin Protection Consumer Information Act".

(b) Findings.—The Congress finds that—

(1) dolphins and other marine mammals are frequently killed in the course of tuna fishing operations in the eastern tropical Pacific Ocean and high seas driftnet fishing in other parts of the world;

(2) it is the policy of the United States to support a worldwide ban on high seas driftnet fishing, in part because of the harmful effects that these driftnets have on marine mammals, including dolphins;

(3) the largest processors of tuna products for the American market have recently adopted a policy of not purchasing tuna harvested with high seas driftnets or with purse seine nets intentionally deployed to encircle dolphins; and

(4) consumers should have the right to know whether the tuna they purchased was accurately labeled as to the effect of the harvesting of the tuna on dolphins.

(c) Definitions.—For the purposes of this section—

(1) the terms "driftnet" and "driftnet fishing" have the meanings given those terms in section 4003 of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (16 U.S.C. 1822 note);

(2) the term "eastern tropical Pacific Ocean" means the area of the Pacific Ocean bounded by 40 degrees north latitude, 40 degrees south latitude, 160 degrees west longitude, and the western coastlines of North, Central, and South America;

(3) the term "label" means a display of written, printed, or graphic matter on or affixed to the immediate container of any article;

(4) the term "Secretary" means the Secretary of Commerce; and

(5) the term "tuna product" means a food item which contains tuna and which has been processed for retail sale, except perishable sandwiches, salads, or other products with a shelf life of less than 3 days.

(d) Labeling Requirement.—(1) The label of any tuna product which is exported from or offered for sale in the United States, and which—

(A) contains tuna that is harvested in the eastern tropical Pacific Ocean and is not harvested with purse seine nets intentionally deployed to encircle dolphins or by a vessel using a driftnet, or

(B) is dolphin safe under paragraph (2); may include the following statement: "DOLPHIN SAFE" and may not include any other representation respecting the effect of the harvesting of the tuna on dolphins.

(2) For purposes of paragraph (1)(B), a tuna product which contains tuna harvested in the eastern tropical Pacific Ocean by a fishing vessel using purse seine nets is dolphin safe if—

(A) the vessel is of a type and size that the Secretary has determined is not capable of deploying its nets on or to encircle dolphin; or

(B)(i) the product is accompanied by a written statement executed by the captain of the vessel certifying that no tuna were caught on that trip using a purse seine net intentionally deployed on or to encircle dolphin;

(ii) the product is accompanied by a written statement executed by the Secretary or his or her designees, or by a representative of the Inter-American Tropical Tuna Commission, which states that there was an approved observer on board the vessel during the entire trip and that purse seine nets were not intentionally deployed during the trip on or to encircle dolphin; and

(iii) the statements are endorsed in writing by each exporter, importer, and processor of the product.

(e) Enforcement.—(1) Whoever produces a tuna product that—

(A) includes on its label the statement "DOLPHIN SAFE" when the product is not dolphin safe as determined under subsection (d), or

(B) makes any other representation respecting the effect of the harvesting of the tuna product on dolphins,

shall be considered to have violated section 5 of the Federal Trade Commission Act.

(2) Whoever knowingly and willfully makes a statement or endorsement described in subsection (d)(2)(B)(i) or (ii) that is false is liable for a civil penalty of not more than $100,000.

(f) Regulations.—The Secretary, in consultation with the Secretary of the Treasury, shall issue regulations to implement this section not later than 6 months after the date of the enactment of this Act, including regulations establishing procedures and requirements for ensuring that tuna products are labeled in accordance with this section.

(g) Citizens Suits.—(1) Except as provided in paragraph (2), any person may commence a civil suit on his or her own behalf against any person, including the United States and any other governmental instrumentality or agency, who is alleged to be in violation of a requirement of Subsection (d).

(2) No action may be commenced under paragraph (1)—

(A) before 60 days after the plaintiff has given written notice of the violation to the Secretary and to the alleged violator, or

(B) if the Federal Trade Commission has commenced and is diligently prosecuting a complaint under section 5 of the Federal Trade Commission Act to require compliance with the requirement that is the subject of the action.

(3)(A) The district courts of the United States shall have jurisdiction, without regard to the amount of controversy or the citizenship of the parties, over any action under paragraph (1).

(B) A suit under paragraph (1) may be brought in the judicial district in which a violation occurs.

(4) In any suit under paragraph (1) in which the United States is not a party, the Attorney General, at the request of the Secretary, may intervene on behalf of the United States as a matter of right.

(5) The court, in issuing any final order in a suit under paragraph (1), may award costs of litigation (including reasonable attorney and expert witness fees) to a prevailing party if the court determines the award of those costs is appropriate.

(6) The injunctive relief provided by this section shall not be construed to restrict any right a person (or a class of persons) may have under any statute or common law to seek enforcement of any requirement of subsection (d).

(h) Treatment of Fish Caught With Driftnets.—Section 101(a)(2) of the Marine

Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)) is amended—

(1) in subparagraph (C) by striking "and" after the semicolon at the end;

(2) in subparagraph (D) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(E) in the case of fish or fish products harvested by a nation whose fishing vessels engage in high seas driftnet fishing, shall require that the government of the exporting nation provide documentary evidence that the fish or fish product was not harvested with a driftnet in the South Pacific Ocean after July 1, 1991, or in any other waters of the high seas after July 1, 1992;".

(i) NEGOTIATIONS.—The Secretary of State shall immediately seek, through negotiations and discussions with appropriate foreign governments, to reduce and, as soon as possible, eliminate the practice of harvesting tuna through the use of purse seine nets intentionally deployed to encircle dolphins.

(j) REPORT.—Two years after the date of the enactment of this Act, the Secretary shall report to the Committee on Merchant Marine and Fisheries of the House of Representatives on the cost to consumers and United States tuna fishermen of carrying out this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section not to exceed $4,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995.

(l) EFFECTIVE DATE.—Subsections (d) and (e) shall take effect—

(1) 6 months after the date of the enactment of this Act; or

(2) on such later date, within 1 year after the date of the enactment of this Act, as may be specified by the Secretary for good cause in regulations issued in accordance with subsection (f).

REAUTHORIZATION OF TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE ACT AND NAVAJO COMMUNITY COLLEGES ACT

INOUYE AMENDMENT NO. 2953

Mr. GORE (for Mr. INOUYE) proposed an amendment to the bill (S. 2167) to reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community Colleges Act, as follows:

On page 6, beginning with line 17, strike out all through line 24 on page 18, and insert in lieu thereof the following:

TITLE I—NATIVE AMERICAN LANGUAGES ACT

SHORT TITLE

SEC. 101. This title may be cited as the "Native American Languages Act".

FINDINGS

SEC. 102. The Congress finds that—

(1) the status of the cultures and languages of Native Americans is unique and the United States has the responsibility to act together with Native Americans to ensure the survival of these unique cultures and languages;

(2) special status is accorded Native Americans in the United States, a status that recognizes distinct cultural and political rights, including the right to continue separate identities;

(3) the traditional languages of Native Americans are an integral part of their cultures and identities and form the basic medium for the transmission, and thus survival, of Native American cultures, literatures, histories, religions, political institutions, and values;

(4) there is a widespread practice of treating Native American languages as if they were anachronisms;

(5) there is a lack of clear, comprehensive, and consistent Federal policy on treatment of Native American languages which has often resulted in acts of suppression and extermination of Native American languages and cultures;

(6) there is convincing evidence that student achievement and performance, community and school pride, and educational opportunity is clearly and directly tied to respect for, and support of, the first language of the child or student;

(7) it is clearly in the interests of the United States, individual States, and territories to encourage the full academic and human potential achievements of all students and citizens and to take steps to realize these ends;

(8) acts of suppression and extermination directed against Native American languages and cultures are in conflict with the United States policy of self-determination for Native Americans;

(9) languages are the means of communication for the full range of human experiences and are critical to the survival of cultural and political integrity of any people; and

(10) language provides a direct and powerful means of promoting international communication by people who share languages.

DEFINITIONS

SEC. 103. For purposes of this title—

(1) The term "Native American" means an Indian, Native Hawaiian, or Native American Pacific Islander.

(2) The term "Indian" has the meaning given to such term under section 5351(4) of the Indian Education Act of 1988 (25 U.S.C. 2651(4)).

(3) The term "Native Hawaiian" has the meaning given to such term by section 4009 of Public Law 100-297 (20 U.S.C. 4909).

(4) The term "Native American Pacific Islander" means any descendent of the aboriginal people of any island in the Pacific Ocean that is a territory or possession of the United States.

(5) The terms "Indian tribe" and "tribal organization" have the respective meaning given to each of such terms under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(6) The term "Native American language" means the historical, traditional languages spoken by Native Americans.

(7) The term "traditional leaders" includes Native Americans who have special expertise in Native American culture and Native American languages.

(8) The term "Indian reservation" has the same meaning given to the term "reservation" under section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452).

DECLARATION OF POLICY

SEC. 104. It is the policy of the United States to—

(1) preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages;

(2) allow exceptions to teacher certification requirements for Federal programs, and programs funded in whole or in part by the Federal Government, for instruction in Native American languages when such teacher certification requirements hinder the employment of qualified teachers who teach in Native American languages, and to encourage State and territorial governments to make similar exceptions;

(3) encourage and support the use of Native Amerian languages as a medium of instruction in order to encourage and support—

(A) Native American language survival,

(B) educational opportunity,

(C) increased student success and performance,

(D) increased student awareness and knowledge of their culture and history, and

(E) increased student and community pride;

(4) encourage State and local education programs to work with Native American parents, educators, Indian tribes, and other Native American governing bodies in the implementation of programs to put this policy into effect;

(5) recognize the right of Indian tribes and other Native American governing bodies to use the Native American languages as a medium of instruction in all schools funded by the Secretary of the Interior;

(6) fully recognize the inherent right of Indian tribes and other Native American governing bodies, States, territories, and possessions of the United States to take action on, and give official status to, their Native American languages for the purpose of conducting their own business;

(7) support the granting of comparable proficiency achieved through course work in a Native American language the same academic credit as comparable proficiency achieved through course work in a foreign language, with recognition of such Native American language proficiency by institutions of higher education as fulfilling foreign language entrance or degree requirements; and

(8) encourage all institutions of elementary, secondary and higher education, where appropriate, to include Native American languages in the curriculum in the same manner as foreign languages and to grant proficiency in Native American languages the same full academic credit as proficiency in foreign languages.

NO RESTRICTIONS

SEC. 105. The right of Native Americans to express themselves through the use of Native American languages shall not be restricted in any public proceeding, including publicly supported education programs.

EVALUATIONS

SEC. 106. (a) The President shall direct the heads of the various Federal departments, agencies, and instrumentalities to—

(1) evaluate their policies and procedures in consultation with Indian tribes and other Native American governing bodies as well as traditional leaders and educators in order to determine and implement changes needed to bring the policies and procedures into compliance with the provisions of this title;

(2) give the greatest effect possible in making such evaluations, absent a clear specific Federal statutory requirement to the contrary, to the policies and procedures which will give the broadest effect to the provisions of this title; and

(3) evaluate the laws which they administer and make recommendations to the President on amendments needed to bring such

laws into compliance with the provisions of this title.

(b) By no later than the date that is 1 year after the date of enactment of this title, the President shall submit to the Congress a report containing recommendations for amendments to Federal laws that are needed to bring such laws into compliance with the provisions of this title.

USE OF ENGLISH

SEC. 107. Nothing in this title shall be construed as precluding the use of Federal funds to teach English to Native Americans.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GORE. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate 9:30 a.m., Thursday, October 11, 1990, for a business meeting regarding budget reconciliation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GORE. Mr. President, I ask unanimous consent that the full committee of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 11, 1990, at 2 p.m. on S. 1734, the Interstate Greyhound Racing Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GORE. Mr. President, I ask unanimous consent that the full Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 11, at 10 a.m. to conduct a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GORE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation and National Ocean Policy Study be authorized to meet during the session of the Senate on October 11, 1990, at 9:30 a.m. on coral reefs in the Caribbean and Atlantic waters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, TRADES, OCEANS, AND ENVIRONMENT

Mr. GORE. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Trade, Oceans, and Environment of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 11, at 2 p.m. to conduct a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GORE. Mr. President, I ask unanimous consent that the full Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 11, 1990, at 9 a.m. on the nominations of Paul K. Dayton to be a member of the Marine Mammal Commission and Dr. Sylvia A. Earle to be Chief Scientist of the National Oceanic and Atmospheric Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GORE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on October 11, 1990, at 4 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. GORE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in open session during the session of the Senate on October 11, 1990, at 10 a.m. to receive testimony on the B-2 program and B-2 contract management.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GORE. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, October 11, 1990, at 9:30 a.m. to hold a hearing on the subject: OMB's response to Government management failures.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PAN AM 103 TRAGEDY

● Mr. LIEBERMAN. Mr. President, I would like to salute the work of some of the bravest families in the country, the victims of the Pan Am 103 tragedy. Many of us have families in our States who were victimized by the disaster. But like many of the victims, the families from Connecticut have attempted to salvage some meaning out of this tragedy by promoting better airline security for their loved ones and for all Americans.

At the urging of these families, the Commission on Aviation Security and Terrorism, whose membership included Senators LAUTENBERG and D'AMATO, was formed in 1989 to investigate the disaster. The Commission found that there were major shortcomings on the part of the Government and Pan American with respect to airline security; that security functions at the Federal Aviation Administration were not given the priorities that they deserved; that the State Department did not always deal with the tragedy in a sensitive manner; and that Pan Am did not always employ competent security people.

After devoting many months of study to these problems, Senators LAUTENBERG and D'AMATO have introduced the Aviation Security Improvement Act of 1990. The aviation act proposes a number of useful reforms including:

Elevation of the security and intelligence functions of the FAA to a new position of Assistant Secretary of Transportation for Security and Intelligence;

Improved standards for security personnel;

Accelerated research and development for bomb detection devices; and

The development of a compensation program for American victims of terrorism, to provide relief to surviving families.

Like Senators LAUTENBERG and D'AMATO, I have attempted to educate myself about the dangers of terrorism since the Pan Am 103 disaster. I have held regular seminars on terrorism in my office to which I have invited my colleagues and experts. One of our sessions was devoted to a discussion of "The Fall of Pan Am 103," by Steven Emerson and Brian Duffy. The authors discussed at length the faulty intelligence work performed by the West Germans, who may have been in a position to prevent the Pan Am 103 disaster.

Having held a number of such discussions, I am in complete agreement with the 103 families in Connecticut who support this bill. I understand that the administration has some reservations about creating a position of Assistant Secretary in the Department of Transportation. But millions of Americans fly every year. The least they deserve is to have an upper-level official in charge of their safety.

Mr. President, the 103 families visited Congress on September 25 and 26 to express their support for the aviation act. We must show them that we care about airline security by passing the aviation act. With a confrontation looming in the Persian Gulf, this is an issue that affects, not just them, but all Americans. The time for action is now.●

NURSING HOME REFORM IMPROVEMENTS ACT

● Mrs. KASSEBAUM. Mr. President, I rise today to join as a cosponsor of S. 3175, the Nursing Home Reform Improvements Act. Introduced Tuesday by Senator PRYOR, this bill would make needed adjustments in the newly implemented nursing home reform provisions of the Omnibus Budget Reconciliation Act of 1987.

Like many, I am deeply troubled that key provisions of the OBRA 87 nursing home reforms are now going into effect even though needed regulations pertaining to them have yet to be issued. Unfortunately, this has put providers and State agencies in the difficult position of having to implement congressionally mandated reforms with little or no guidance from Washington.

Also disturbing is the fact that nursing homes—and through them the patients—will face sizable cost increases as they work to comply with the new requirements, many of which become effective this month. Already confronted with severe financial problems, State Medicaid budgets have been unable to assume more than a portion of the added implementation costs.

It is my understanding that the provisions of this bill are now before the Finance Committee for review and possible inclusion in a reconciliation bill. I have already expressed my interest in such reforms to the chairman and ranking member of that committee, and I am hopeful that these adjustments will receive serious consideration as a reconciliation package is developed this week.

One of the most important of the recommended changes would delay compliance action against providers until Federal regulations have been finalized. Although I fully support the 1987 reforms and believe they will vastly improve the quality of life for nursing home residents, I do not believe it is reasonable to hold providers accountable for standards which have not yet been defined.

Of course, the quality of patient care must remain our top priority, and I would strongly oppose any proposal which would in any way compromise the intent of the 1987 reforms. To the extent that nursing home providers or patient advocates might favor further adjustments in Senator PRYOR's bill, I would certainly be willing to listen.

My cosponsorship of this bill today is meant less as an endorsement of its every detail than it is an expression of my strong conviction that a reassessment of OBRA 87's implementation is urgently needed.

Senator PRYOR's bill is a valuable step in this direction, and I commend him for his work. I hope to see these problems resolved this session, but to the extent they are not, I stand ready to join with Senator PRYOR and others in taking up this issue again early next year.●

NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH—H.J. RES. 602

● Mr. KOHL. Mr. President, I rise today to support House Joint Resolution 602, a resolution designating October as National Domestic Violence Awareness Month. I applaud the effort to bring increased public attention to this growing problem.

For too long now domestic violence has been ignored in public; but in the private lives of Americans, it is a problem which surfaces nearly every 15 seconds. It is a problem that affects almost 1 million elderly and 6 million women annually. It is a problem that affects children, whether they are victims themselves or witnesses. It is a problem that both creates and perpetuates itself—abused children or children who witness domestic violence are likely to become abusive adults themselves. It is a problem that knows no boundaries—it affects all races, all religious and ethnic backgrounds, and all social and economic backgrounds. It is not a private matter that should be handled within a home—it is our problem and we must stand today and take the initiative to stop domestic violence.

Unfortunately, Mr. President, domestic violence is still a mystery to many people. Many consider it a problem that is none of our business but when a problem affects so many people it is our business. And it is our obligation to address it. If we persist in ignoring instances of domestic violence we only contribute to its occurrence.

An initiative, such as Domestic Violence Month, is needed to bring this issue to the forefront of our social concerns. Many women and children feel trapped in situations of domestic violence—where can they turn?—How will they support themselves? There is a growing need for shelters for battered women and their children, as well as a need for advice designed to give them some options. Designating October as National Domestic Violence Awareness Month is a small but important step in our efforts to deal with this problem. Again, I commend these efforts and I give my support to House Joint Resolution 602, designating October as National Domestic Violence Awareness Month.●

FEDERAL DEPOSIT INSURANCE

● Mrs. KASSEBAUM. Mr. President, I rise today to ensure that everyone pays their fair share of Federal deposit insurance. Currently big banks with branches in foreign countries are not paying their fair share.

Banking regulators have adopted a policy which in effect extends FDIC deposit insurance to the offshore deposits of our Nation's largest banks. These overseas deposits are protected even though the big banks do not pay for the insurance.

For example when the National Bank of Washington failed, the FDIC made the decision to protect $37 million deposited in the bank's Nassau, Bahamas branch. These deposits were to be protected though the National Bank of Washington never paid into the FDIC insurance fund for their insurance.

Mr. President, it is wrong for any depositor to enjoy the protection of Federal deposit insurance and not pay for it. Moreover, it is not fair to those who do pay for insurance. If an overseas deposit enjoys implicit FDIC protection, the insurance fund should be compensated. This a fundamental principle of insurance. People who pay for insurance are protected, those who do not pay are not protected.

Our banking regulators have defended their decision to protect overseas deposits on the grounds that such action was necessary to maintain depositor confidence in our overseas branches. I cannot argue with the decision. However, deposit protection should not be given without compensation to the FDIC insurance fund.

To some extent this is a big bank versus little bank issue. For example, the Nation's nine largest banks have roughly 51 percent of their deposits in overseas accounts. In total over $326 billion is deposited in the overseas branches of U.S. banks. Under our current premium structure these banks should be paying roughly $620 million a year in deposit insurance for their overseas deposits.

It has been argued that assessing insurance premiums on foreign branch deposits will hurt the ability of our big banks to compete internationally. If our current deposit insurance system hinders their international competitiveness, it should be changed as soon as possible. Indeed, I believe the various proposals to shift to risk-based premiums and private reinsurance may be the proper approach. In the interim, however, we cannot provide the implicit protection of the FDIC fund to overseas deposits and not be paid.

Most small banks have no significant overseas accounts. Small bankers, who have seen their premiums almost tripled, do not understand why foreign deposits should be assessed differently if they effectively enjoy FDIC protection. They believe that if a bank's deposits are protected by the FDIC fund, the parent bank should pay for that protection. I agree. If we are going to reduce the exposure of our Federal deposit insurance fund we are going to have to encourage it to act more like an insurance fund. No insurance company would intentionally protect a customer without being paid. Neither should the FDIC.●

CAMEL BREEDING FARMS

● Mr. SIMON. Mr. President, a constituent has brought to my attention a fascinating article about camels and their potential for improving the lives of the people of the Middle East while turning back the gradual desertification of much of the region.

The author, Rachelle Fishman of Jerusalem, convincingly argues in the September 1990 issue of Llamas magazine that camels, better than other stock animals, can provide high yields of quality milk while eating fodder that grows year-round, even in drought. Camel's ability to go as long as 50 days without water makes them even more suited to the desert environment. Dr. Fishman proposes the establishment of camel-breeding stations in drought-stricken parts of the Third World. That strikes me as something we ought to consider. I ask to print "Camel Breeding Farms: Answer to Famine in Africa and Asia?" in the RECORD.

The article follows:

CAMEL BREEDING FARMS: ANSWER TO FAMINE?

(By Rachelle H. du Bain Fishman, Ph.D.)

The camel is the hero in an international fight against starvation of millions of people in vast arid regions of Africa and Asia. Almost annually, drought in northern Africa, the Sahel, leaves 70 million people on the verge of starvation, and literally millions die.

The answer is food-production self-sufficiency. According to a local proverb: 'If you give a man a fish, he will eat for one day; but, if you teach him how to fish, he will eat for his whole life.' Professor Reuven Yagil of the Ben Gurion University in the desert city of Beersheva is teaching how 'to fish'. In this case, the fish are camels and the water is the desert.

POOR CHOICE OF LIVESTOCK

By tradition, desert dwellers of north Africa choose cattle, sheep and goats for livestock. This choice may be fostering their own demise, and any chance of recultivating the land.

"These animals graze intensively and eat up whatever scarce, precious and water-dependent vegetation that grows after the brief rainy season. They promote the rapid spread of the desert," says Prof. Yagil. "Desert dwellers may wander up to fifty miles per day in search of food for their livestock, not from ideology. They slowly starve to death, literally preceded by their livestock. If they stopped raising cattle, and started raising camels for their milk, they would have adequate food for themselves and enough to sell and earn a decent income."

AN OVERLOOKED PROFITABLE FOOD RESOURCE

The presence of camels is documented in Africa and the Middle East for over 3,700 years. Some 1,400 years ago, the intended purpose of the camel to provide sustenance was inscribed in the Koran: Men living in the desert called out to God in grievous complaint against the harsh climate and lack of food. God responded to their pleas. "He sent unto them the she-camel to drink of her milk. And they became well."

Today camels are held in great esteem in the Moslem world. During the week-long ritual of feast and prayer of the annual haj or pilgrimage to Mecca, thousands of sheep and goats are sacrificed by having their throats cut, but only persons of high esteem, elevated rank and great wealth, are permitted to slaughter camels. The pilgrim may hire a butcher rather than do the sacrifice alone, and it is considered meritorious to give the slaughtered animals to the poor.)

From these noble beginnings and without the necessary breeding programs, the camel, however, never became the coveted food source it was destined to be. Instead, the hardy desert camel became invaluable in conquering new territory, transporting both soldiers and bounty. It went largely unrecognized as a profitable food and income source because it was believed that it needed extended grazing distances, and that its reproduction was poor and uncertain.

The camel becomes reproductively active only once a year during the rainy season when water and fodder is available. Gestation is one year long. Females in the wild are not fertile until five of six years of age and males not until six or seven. Camels were thought to become fertile again one full year after calving, thus with an intercalving period of two years. "The herds were generally poorly managed, with no culling of low producers and poor breeders, so the poor reproductive performance became a vicious cycle, with devastating problems," says Prof. Yagil.

The camel was relegated to the outskirts of arable land, where water and people were scarce, and the camel herder was placed on the lowest rung on the social ladder. This was a tragic mistake in history, says Prof. Yagil. Raising camels instead of cattle could prevent creeping desertification. Camels spare dense green vegetation and are the only animals to survive extended drought.

CAMEL MILK IS THE NUTRITIONAL ANSWER

From the equivalent of just 50 hectares of irrigated pasture, camels produce 3,000 tons of milk/year; cattle need more than 1,200 hectares.

"Not only is camel milk higher in protein and lower in fat than cow's milk, it is more nutritious," says Prof. Yagil, "Even in a drought, the camel can produce up to 40 liters (ten gallons) of milk a day, enough to feed 60-80 people, even if only watered every ten days." Camel's milk is three times as rich in Vitamin C as cow's milk, with high concentrations of vitamins B1, B2, B12 and A. To survive a drought, a child needs about one-half liter of milk and an adult about two liters per day.

Cattle just can't compete with these statistics. Four or five cows operating in the same heat, with the same poor pasturage could only produce one liter of milk, (one-half pint). If they survived—which is unlikely—even that small quantity of milk is unsuitable for nursing offspring or feeding people because the milk volume is so much decreased that the milk concentration in the hot climate is unpalatable, very high in fat and indigestible.

When the miloh camel is severely dehydrated, it secretes a diluted, low fat milk. Even when water is available for only one hour once per week, the diluted milk supplies the entire nutritional needs of the young calves, "and would provide a nutritionally complete diet for humans, young and old," says Prof. Yagil.

Camel milk in India is used therapeutically against jaundice, dropsy, asthma, anemia, tuberculosis and piles. It is common practice to let camels eat certain plants in order to use the milk for medicinal purposes. The high acidity of freshly drawn camel milk makes it well tolerated by infants, and it is prescribed for sick children and the elderly as well. Infants given camel milk are said to have better bone formation, presumbably because the calcium is more available. The taste of camel milk varies from sweet to salty to bitter depending on how much they drink and what fodder they eat.

Camel milk keeps considerably longer than cow milk without refrigeration, an enormous advantage where electricity is unavailable for milk-cooling facilities.

Professor Yagil, a veterinarian, a nature lover and a true humanist, hailed from South Africa about 25 years ago. His interest in animals was nurtured by a wise professor who recognized his talents and encouraged him to apply for a fellowship in veterinary studies in Holland. He developed his advanced camel breeding techniques during 20 years of experiments, most "self-motivated" at the Ben Gurion University in Beersheava, located in the center of the Negev Desert. He is a man before his time, and his ideas have been greeted with a certain lack of understanding by the "civilized" world, keeping them from being widely put into practice "People hear 'camel milk' and they seem to turn off", says Yagil.

DESERT GARDENERS

This lack of understanding has tragic consequences. Camels actually prefer to eat the low nutritional, high-salt content vegetation that grows year round in desert climes, even during drought. These are the plants belonging to the genera Acacia, Salsola and Atriplex. They are the only fodder plants that can grow throughout the year in vast arid zones of the southern hemisphere, and they are actively avoided by all animals except the camel.

Camels take up nitrogen best from dry matter, eating a 70 percent roughage diet. Their digestion of crude fiber is even more efficient on a low-energy diet than on an energy dense diet. Using their long necks, they choose to browse on the bitter, thorny leaves and twigs of tall trees and salt bushes of Boscia, Cadaha, Dobera, Salvadora, and Zizyphus.

Even when starving, cattle, sheep and goats leave these plants untouched; they perish while the camel thrives because, surprisingly, these perennials and salt-laden shrubs, halophytes, contain an enormous amount of water, up to 80% fluid, no matter what the season. This otherwise unpalatable vegetation is also high in protein. The camel doesn't shun these plants because it is adapted to use them to the utmost. Because it produces a concentrated urine, it can eat saltbushes and drink brackish water.

By preference, camels are browsers, taking one bite of one plant then moving on to another even when dense vegetation is available. Their grazing patterns in nature usually cover more than 50 km per day. Rather than destroying the desert vegetation by intensive grazing, they provide "natural pruning". They are the desert's genuine gardeners. And in turn, the high salt and high water content of the plants help the camels thrive long after other animals have succumbed to drought and starvation.

ADAPTED TO THE DESERT

The desert camel defies the usual ideas about mammalian needs. All other mammals are homeotherms: they try to maintain a constant body temperature; 98.6° for humans, for example. To do this in the desert and stay cool, a human being releases up to four liters of water in one hour by evaporative cooling, also known as perspiration or sweating. Within two or three hours, an average mammal can lose up to 10% of its body weight and be in mortal danger of heat stroke.

In contrast, camels are heterotherms: their body temperature fluctuates with the environmental temperature. In the cool of the desert night, it is about 34°C; in the blistering heat of the noon day sun, it is about 41°C. By changing body temperature, the difference between the body and the environment is small, so less heat is absorbed and virtually no water is expanded for evaporative cooling.

Everyone knows that desert camels don't need much water. In fact, they can go up to three weeks without drinking. Even after 50 days without water, they still retain physiological integrity and if watered, will survive without long-lasting complications, such as loss of reproductive capacity. A cow, goat or sheep without fresh water will stop eating after two or three days and begin to die. Camels have the slowest turnover—cattle have the fastest—losing large volumes of water via feces and kidneys.

The camel seeks salt dense plants and brackish water. It stores the salt in its stomach and intestines, which can account for 30% of its body weight. In times of drought, the salty fluid is used as an internal water reservoir. The camel's kidneys can reprocess urea back to the stomach along with a vital water supply. Here the urea is utilized by the microflora and fauna of the first stomach to synthesize protein that is absorbed into the camel's own digestive system.

Because camels are so nutrient efficient, they require less daily food intake than any other domesticated animal. They need about three kilo (6.6 pounds) of fodder per day, while a sheep needs four to five kilos (8.8-11 pounds) and a cow needs five kilos (11 pounds).

Even under the worst conditions, the lifespan of a camel is about forty years. Most of this will be reproductive.

CORRALLED CAMELS DO EVEN BETTER

"In Beersheva, we showed that all of the presumed breeding constraints can be overcome in corralled camels with a small amount of help," says Prof. Yagil. "Camels are ideal for a controlled breeding program."

Experimenting with fertility drugs, he has been able to dramatically improve the breeding capacity of camels. Fertile estrus, sexual maturity, has been induced in prepuberal, corralled camels at two instead of five or six years of age by injecting pregnant mare's serum (PMS) which is rich in follicle-stimulating hormone (FHS). "We've had several healthy calves born without any human intervention to these young mothers and with a calf mortality of close to zero," Prof. Yagil says with the pride of a new father. "The oldest is now ready to calve herself."

Females can calve every year instead of every two years quite naturally. "We discovered an estrus period about three weeks after birthing, when the she-camels can be fertilized," says Prof. Yagil. "It was just missed in traditional pastoral societies because the milch camels, the ones who have just given birth, are kept close to the tents where they can be milked while the males are at a distance grazing. Matings during this fertile period are physiologically possible, but they just don't get together.

The corralled camels in the Beersheva farm eat three to five kg of poor quality hay, thorny bushes, saltbushes or any other hardy fodder with a minimum of water every day. "Even if water is available only once per week, the camel doesn't stop lactating," says Yagil. "And we disproved the belief that the camel will dry up if the calf stops suckling. I hate to make the comparison, but, just like milking cows, we're working on specially adapted camel milking machines too."

FROM LABORATORY FARMS TO BREEDING FARM: "PLAYING THE STOCKING MARKET"

Challenge: to upgrade the low milk-yield camels in Africa and Asia today and keep all the camels. How? Camel breeding stations, specializing in embryo transfer, with programs to reintroduce hardy bushes and grasses for fodder.

"Selective breeding would take more than 30 years," Prof. Yagil continues. "After one generation, four years, via embryo transfer, there can be fifty or one hundred high productivity camels from the original one. The method utilizes all available she-camels because as poor a milk producer as she is, she is still invaluable; no one will sell her or get rid of her, so instead she can be implanted with embryos from high milk producing camels. And contrary to popular myth, these already exist within many of the herds of the Sahel and are ready to go.

"What is holding us up is lack of funding to perfect the embryo transfer and storage techniques," he says.

Starting a breeding station requires more than growing a few camels, Yagil says. "We are assembling a working team of Israeli scientists including an expert in growing fodder plants, a soil specialist, a hydrologist and an agroforester (who hopes to be able to grow firewood). I'll handle the animal husbandry and we'll even have an anthropolgist who can mediate if ritual problems arise within tribes that switch from cattle to camels.

PRACTICAL AID

The most pressing need is for an international project to establish camel breeding stations in the drought stricken parts of the Third World, especially Ethopia, Somalia, Kenya and Sudan, the Sahel. A breeding station was proposed in the arid Turkana area of Kenya, with cooperation from Pakistan and Prof. Yagil hopes to use the fertility treatments that he developed as well as some more advanced techniques of artificial insemination and embryo transfers.

"We have a vision, a practical hope to abate the widespread human catastrophes brought on by periodic devastating droughts that afflict most of northern Africa," he concludes. "We might be able to do it if the nomadic tribes inhabiting these vast and arid regions would give up their cattle and raise camels, and they will when they see the wisdom of it. The cattle farmers now use vast amounts of precious resources, when they could be preserving the environment and faring much better economically with camels. Most help from international agencies up till now has been well intended, during the most pressing emergencies, but the most pressing emergencies, but not very practical in the long haul. Camels are the heroes of this story.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. GORE. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 1008. W. Lee Rawls, to be an Assistant Attorney General;

Calendar 1009. J. Michael Lutting, to be an Assistant Attorney General;

Calendar 1010. Robert S. Mueller III, to be an Assistant Attorney General;

Calendar 1011. Charles B. DeWitt, to be Director of the National Institute of Justice;

Calendar 1045. Branko Terzic, to be a member of the Federal Energy Regulatory Commission;

Calendar 1046. Frederick P. Hitz, to be Inspector General, Central Intelligence Agency; and

Calendar 1047. Sharon P. Rockefeller, to be a member of the Board of Directors of the Corporation for Public Broadcasting.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORE. Mr. President, I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

I further state for the RECORD that Frederick P. Hitz, Calendar 1046, has made a commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF JUSTICE

W. Lee Rawls, of Maryland, to be an Assistant Attorney General, vice Carol T. Crawford, resigned.

J. Michael Luttig, of Virginia, to be an Assistant Attorney General, vice William Pelham Barr.

Robert S. Mueller, III, of Massachusetts, to be an Assistant Attorney General, vice Edward S. G. Dennis, Jr., resigned.

Charles B. DeWitt, of the District of Columbia, to be Director of the National Institute of Justice, vice James K. Stewart, resigned.

DEPARTMENT OF ENERGY

Brako Terzic, of Wisconsin, to be a member of the Federal Energy Regulatory Commission for the remainder of the term expiring October 20, 1991, vice Martha O. Hesse.

CENTRAL INTELLIGENCE AGENCY

Frederick Porter Hitz of Virginia, to be inspector general, Central Intelligence Agency, (new position).

CORPORATION FOR PUBLIC BROADCASTING

Sharon Percy Rockefeller, of West Virginia, to be a member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 26, 1992 (reappointment).

STATEMENT ON THE NOMINATION OF FREDERICK PORTER HITZ

Mr. BOREN. Mr. President, I ask that the Senate now consider the nomination of Frederick Porter Hitz to be Inspector General of the Central Intelligence Agency.

This is a new position, created last year by the Congress to improve the

independence and effectiveness of the CIA Inspector General.

As the first nominee for this crucial position, Frederick Porter Hitz appears to have both the background and experience necessary for this appointment. Mr. Hitz is 50 years old and a native of Washington, DC. He holds a bachelor's degree from Princeton University where he was phi beta kappa, and a law degree from Harvard University. He has held a variety of posts within the Government from 1967 until 1982, including 4 years at the Central Intelligence Agency where he headed the Congressional Affairs Office. Since 1982, he has been a partner in the law firm of Schwabe, Williamson, and Wyatt. He is married with a daughter who is 15.

Mr. Hitz appeared before the Select Committee on Intelligence in both open and closed session on September 25, 1990, to respond to members' questions. He has also complied with the committee's requirements for nominees by submitting answers to our background questionnaire and by providing us with a copy of his financial disclosure statement. In addition, he has responded to two series of interrogatories posed by the committee to elicit his understanding and interpretation of the new inspector General statute.

I would also note, Mr. President, that the committee received a letter from Stephen D. Potts, Director of the Office of Government Ethics, advising that Mr. Hitz, if confirmed, intends to create a blind trust into which his securities portfolio and those in which his immediate family has an interest will be folded. There are two trusts in which Mr. Hitz' wife has a partial interest, which are not being folded into the blind trust, and the Office of Government Ethics and the CIA have granted a waiver for these two trusts in terms of requiring safeguards against possible conflict-of-interest problems. In the concluding paragraph of his letter, Mr. Potts assured the committee that when these arrangements were implemented, "it appears that Mr. Hitz will be in compliance with applicable laws and regulations governing conflicts-of-interest."

In short, Mr. President, the nominee has fully complied with all of the committee's requirements.

BACKGROUND OF THE LEGISLATION

As I mentioned at this outset, this nomination marks the culmination of the committee's efforts to improve the internal oversight arrangements at the CIA. The legislation establishing an inspector general position was developed and reported by this committee last year and approved overwhelmingly by the Senate as part of the Intelligence Authorization Act of fiscal year 1990.

Creating an independent Office of Inspector General at CIA was by no means a new idea, however, nor did the committee act hastily in recommending it.

In 1976, the Church and Pike Committees, which were the forerunners of the two intelligence committees, were critical of the CIA Office of Inspector General, citing its lack of objectivity, as well as its lack of sufficient authority and independence.

In 1978, the committee considered the creation of a permanent position of Inspector General for CIA, as part of its consideration of charter legislation for the intelligence community, but the charter legislation was never enacted and the committee opted to allow the CIA time to make internal reforms.

In November 1987 the congressional committees investigating the Iran-Contra affair, concluded in their final report that the existing Inspector General's Office at CIA "appears not to have had the manpower, resources or tenacity to acquire key facts uncovered by the other investigations of the Iran-Contra affair." The committees recommended, among other things, the creation of a statutory inspector general for the CIA as the best way of improving its standing and performance.

Similar concerns had led Senator SPECTER the month before to introduce a bill, S. 1818, which would have established, among other things, an independent inspector general for the CIA. In 1987, the committee held two sets of public hearings on S. 1818, where the inspector general provisions were considered. In 1988, the committee held a third hearing devoted solely to consideration of the inspector general provisions of S. 1818.

Director of Central Intelligence [DCI] William Webster testified at these hearings in opposition to this legislation and urged the committee to defer action on it until he had had time to make changes to improve the effectiveness of the extant inspector general. Largely on the basis of the DCI's request, the committee did defer action on the independent statutory IG provisions of S. 1818 in order to permit enough time for the actions initiated by the director to bear fruit. The committee, in its action on the intelligence authorization bill for fiscal year 1989, did take several actions to improve the effectiveness and objectivity of the inspector general, however, as well as to improve congressional awareness of the IG's activities.

In the time between the enactment of the Intelligence Autorization Act of fiscal year 1989 and the passage of the CIA Inspector General Act of 1989, the committee received two of the semiannual reports called for by the legislation. On the basis of these reports and other IG reports on specific subjects to which the committee was provided access, the committee was able to assess the overall work of the office. The committee's audit staff also provided new and more thorough insights into the operations of the inspector general than the committee previously had had. Finally, the committee specifically requestd the DCI to undertake several investigations of allegations which had come to the committee's attention which were assigned to the inspector general to carry out. These investigations gave the committee additional opportunities to evaluate the work of the existing office.

In reviewing the work of the Office of Inspector General, the committee found that it had been uneven. While some reports appeared to have been based on thorough investigation and to have reached objective conclusions, too many appeared otherwise. The committee primarily attributed these shortcomings not to the competence of those involved, but rather to the institutional limitations of the office as it operated. In establishing the statutory office of CIA Inspector General, the committee believed that the creation of an independent statutory Inspector General at CIA would improve the effectiveness and objectivity of that office.

Under the old system, the inspector general was a member of the CIA management team and served at the direction of the Director. Moreover, performance of the office had been affected by an over-reliance upon CIA employees who were rotated into office as inspectors and investigators who had no previous training or experience in such work, and who must return to positions in other parts of the Agency once their tour with the inspector general was completed. This had frequently been true as well of the individual assigned to the position of inspector general, several of whom were reassigned to a senior position within the CIA after their tour as inspector general. It was difficult to expect thoroughness and objectivity with these inherent institutional constraints.

Senator SPECTER reintroduced the CIA IG legislation as S. 199 on January 25, 1989, and it was referred to this committee. By the summer, we had come to the conclusion that such legislation was, indeed, needed to improve the performance and effectiveness of that vital element of the oversight process, both in terms of assisting the DCI and assisting the oversight committees of the Congress in carrying out their respective responsibilities. The time had come to act. Accordingly, the committee included the legislation establishing an independent statutory insepector general at the CIA in the Intelligence Authorization Act of fiscal year 1990 by a vote of 11 to 4.

When the Senate took up the Intelligence Authorization Act of 1990 on

November 7 of last year, a motion to table an amendment to delete the inspector general provision passed by a vote of 64 to 34. The provision was approved by the House and Senate conference and was signed into law by President Bush as part of the Intelligence Authorization Act of fiscal year 1990.

OVERVIEW OF LEGISLATION

In many respects, the provisions of the Inspector General Act of 1978 served as a model for the committee in the development of the CIA Inspector General Act of 1989. Twenty-five statutory inspectors general had been appointed by the President pursuant to that statute. With the exception of the CIA, all major departments and agencies of the Federal Government, including those with responsibilities in the national security area, are included in that number. It appeared to the committee that the appointment of inspectors general by the President with Senate confirmation, and with certain independent responsibilities to the Congress, had, in fact, bolstered the status of such offices within other departments and agencies and had led to improved performance.

However, in approving legislation establishing a statutory CIA Inspector General, the committee believed that the CIA presented a unique case in point. The sensitivity of the activities undertaken by the CIA and the need to ensure their protection, the limitations on CIA domestic activities, and the CIA's unique oversight relationship with the Congress, necessarily dictated an inspector general with somewhat different duties, powers, and relationships than those of other Departments and Agencies.

The CIA Inspector General Act of 1989, as enacted into law, contains the following major provisions:

The CIA's Inspector General is appointed by the President, subject to Senate confirmation; and may be removed only by the President;

The inspector general will report to, and be under the general supervision of the DCI;

The DCI may prohibit the inspector general from undertaking an investigation or inspection for national security reasons but is obligated to report such action to the Intelligence Committees within 7 days with the inspector general being permitted to comment upon the DCI's action;

The inspector general is required to submit semiannual reports to the Intelligence Committees on the activities of the inspector's general office, and to make reports within 7 days when he discovers a serious or flagrant problem;

Unlike other inspectors general, the CIA's Inspector General is not granted subpoena power, but the legislation makes it clear that failure to cooperate with the inspector general by providing testimonial or documentary evidence is grounds for administrative action to include termination of employment or contractural relationship with the CIA.

The inspector general is given authority to seek assistance from other Federal Agencies with the concurrence of the DCI;

The inspector general may select his or her own staff but may only employ persons who meet the DCI's personnel and security requirements; and

Notification to the Intelligence Committees is required where the inspector general believes problems focus upon the DCI, or serious problems are found at the CIA.

CONCLUSION

Mr. President, we think President Bush has sent us a fine nominee in Mr. Hitz. He has the qualifications and the experience to make an excellent inspector general.

But it will not be easy. And it is extremely important that this effort get off to a good start, that the pattern be set correctly for the future.

Mr. President, the Select Committee on Intelligence wants an inspector general who will let us know when he sees serious problems. We want an inspector general who will let us know when obstacles are being thrown in his way.

But we also want an inspector general who will work within the DCI's control and will provide the critical support he needs to manage the agency effectively.

We also want an inspector general who will receive the cooperation and support of the Agency and all of its employees, and, in turn, serve their own interests.

There is no reason why these objectives cannot all be realized. They are not mutually exclusive. Difficult as the task may be, we believe Mr. Hitz is qualified by training, experience, and disposition to accomplish each of them.

It is with pleasure, therefore, that I endorse Mr. Hitz for this position, and recommend that the Senate give its advise and consent to his appointment.

STATEMENT ON THE NOMINATION OF PORTER HITZ

Mr. COHEN. Mr. President, I join with the distinguished chairman of the Intelligence Committee in recommending Mr. Hitz to our colleagues for the position of inspector general at CIA. I agree with him that Mr. Hitz seems to bring many talents and truly valuable experience to this position. He has had a fine education; extensive government experience, including a number of years at the CIA itself; as well as a number of years in private law practice. He has been an insider at the agency, and yet has been at a distance now for some time.

That he is willing to give up a lucrative position in private practice and return to the government in what will surely be a difficult and demanding role is, in my view, a very commendable example of public service.

To ensure that an agency like the CIA, with considerable and far-flung resources, some involving the most sensitive type of work under the tightest of security, remains within the constraints of applicable law and policy is no easy job. The congressional oversight committees cannot do this job alone. They have neither the staff nor the time to look into the details of every CIA program or activity.

I am obliged to note that the same point was emphasized in a 1985 report of a committee of the American Bar Association on intelligence oversight, which Mr. Hitz himself coauthored:

> It is extremely important to recognize that external oversight, whether from the Congress or elsewhere, will not in itself suffice to ensure that the activities of the intelligence agencies are conducted in accordance with applicable law and in a manner consistent with appropriate standards of propriety. No system of outside review, even one enjoying many times more resources than those available to the congressional oversight committees, could possibly hope to monitor all the activities of the intelligence agencies. These activities are multitudinous. They are conducted in conditions of the greatest secrecy, often outside the United States, and by their very nature are neither accessible to external review in detail nor capable of being successfully conducted under exposure to such outside review. This, it is imperative, if appropriate standards of conduct be maintained, that the job be done primarily within the executive branch, and principally within the agencies themselves, starting from the bottom up.

The report goes on to say that one approach to this problem that should be taken is to strengthen the role of the offices of inspector general in intelligence agencies:

> At present the agency inspectors general exist largely to react to allegations of wrongdoing and to investigate specific cases brought to their attention. While the inspectors general in some cases conduct general audits of specific agency activities or programs, it is our impression that these are not sufficiently systematic or frequent, nor are they sufficiently focused on high risk areas, to satisfactorily perform the monitoring function * * * moreover, the inspectors general and their staffs usually are drawn from among long-time agency employees with a background in operations and thus may find it difficult to take an appropriately critical stance towards current operations.

Mr. President, although these words were written 5 years ago, and did not single out the Central Intelligence Agency, they fairly characterize the intelligence committee perception of the Office of Inspector General at CIA which predated last year's legislation. Indeed, it was largely this perception that motivated the committee to recommend creating an independent statutory inspector general for CIA almost a year ago.

Mr. President, I believe Mr. Hitz shares our commitment to achieve the goals of this legislation, namely to provide objective and comprehensive oversight of the activities of the CIA. Given what I know of his background and what I perceive to be his enthusiasm for the task ahead, I am hopeful that his appointment will be a significant step in the right direction.

I urge my colleagues to support his nomination.

STATEMENT ON THE NOMINATION OF SHARON PERCY ROCKEFELLER

Mr. McCAIN. Mr. President, I noted with some interest the nomination of Sharon P. Rockfeller to be a member of the board of directors for the Corporation for Public Broadcasting amongst the nominations that was approved by the Senate tonight. I think it is worthy of note that she is related to a distinguished Member of this body and a former distinguished member of this body, but more importantly she brings great skills, experience, and talent to a very difficult and challenging job. I know I speak for all Members of this body when we extend our sincere congratulations to her at assuming this very important position.

Mr. GORE. Mr. President, I would like to speak on the same nomination. I was a Member of the other body prior to becoming a Member of the U.S. Senate, and while there served as a member of the communications subcommittee. I now serve on the communications subcommittee in this body. But in the other body, as a freshman Congressman, I quickly found that the most persuasive and articulate voice on issues affecting public broadcasting was the voice of Sharon Percy Rockefeller. I knew her in that capacity long before I knew her husband, our distinguished colleague, the junior Senator from West Virginia.

I was extremely pleased when she went on the board, pleased when she was named the president and chief executive officer of WETA in the Washington area, and certainly pleased that she has now been reconfirmed as a member of the board of the Corporation for Public Broadcasting. I share in the gracious comments of my colleague from Arizona who has just spoken on this nomination and join him in extending our congratulations on this confirmation.

STATEMENT ON THE NOMINATION OF BRANKO TERZIC

Mr. McCLURE. Mr. President, on October 10, 1990, the Committee on Energy and Natural Resources favorably reported the nomination of Branko Terzic to be a member of the Federal Energy Regulatory Commision by a vote of 18-0.

Mr. Terzic is currently group vice president for A.U.S. Consultants, a firm specializing in regulatory policy, valuation and depreciation, acquisition and divestiture, and strategic planning for regulated public utilities and the investment comunity. He also serves as chairman for the State of Wisconsin racing board, a newly-created regulatory agency, and is on the board of directors for the National Association of Regulatory Utility Commissioners' National Regulatory Research Institute at the Ohio State University. Mr. Terzic is a former public service commissioner for the State of Wisconsin and holds a bachelor of science degree in energy engineering.

Mr. President, I believe Mr. Tarzic's experience in regulatory matters make him well-qualified to be a member of the Federal Energy Regulatory Commission, and I urge my colleagues to join me in supporting his confirmation.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

AUTHORIZING CERTAIN ACTIVITIES BY SENATE EMPLOYEES

Mr. GORE. Mr. President, on behalf of the majority leader and the distinguished Republican leader, I send to the desk a resolution concerning the testimony of Senate employees and the production of documents and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 339) to authorize testimony and the production of documents by Senate employees at an unemployment compensation hearing.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, the appeals section of the District of Columbia Department of Employment Services has noticed a hearing on the grounds on which the Office of the Sergeant at Arms terminated the employment of a former Senate employee. The proceeding will determine whether the employee is eligible for unemployment compensation. Kathy Ramsey, Director of Human Resources, and Mary Harris, Supervisor of Custodial Services for the Sergeant at Arms, are the appropriate employees of the Senate to describe the reasons for the discharge of the former employee. This resolution would authorize them to testify and provide records in this proceeding.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 339) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. Res. 339

Whereas, the Director of Human Resources and Supervisor of Custodial Services in the Office of the Sergeant at Arms may testify and provide personnel records concerning a discharged employee in proceedings before the District of Columbia Department of Employment Services;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that information and records under the control or in the possession of the Senate are needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Kathleen M. Ramsey, Mary Harris, and any other Senate employee whose testimony may be necessary are authorized to testify and produce documents at unemployment compensation proceedings concerning Felix Lockett, pending before the District of Columbia Department of Employment Services, Appeals No. 90.5200-UI.

ESTABLISHMENT OF COMPREHENSIVE PERSONNEL SYSTEM FOR EMPLOYEES OF ADMINISTRATIVE OFFICE OF THE U.S. COURTS

Mr. GORE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4174, the Administrative Office of the U.S. Courts Personnel Act of 1990 now at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 4174) to establish a comprehensive personnel system for employees of the Administrative Office of the United States Courts, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 4174) was ordered to a third reading, was read the third time, and passed.

Mr. GORE. Mr. President, I move to reconsider the vote.

Mr. McCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REAUTHORIZATION OF CERTAIN INDIAN EDUCATION ACTS

Mr. GORE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 692, S. 2167, a bill to reauthorize the Tribally Controlled Community College Assistance Act.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2167) to reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community Colleges Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which has been reported from the Select Committee on Indian Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. TRIBALLY CONTROLLED COMMUNITY COLLEGES.

(a) STUDENT COUNT.—(1) Section 108(a)(1) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1808(a)) is amended to read as follows:

"(1) the Indian student count at such college during the academic year preceding the academic year for which such funds are being made available, as determined by the Secretary in accordance with section 2(a)(7); and".

(2) Section 108(b)(1) of such Act is amended to read as follows:

"(1) The Secretary shall make payments, pursuant to grants under this Act, of not less than 95 percent of the funds available for allotment by October 15 or no later than 14 days after appropriations become available, with a payment equal to the remainder of any grant to which a grantee is entitled to be made no later than January 1 of each fiscal year.".

(3) The last subsection of section 108 of such Act, which is designated as subsection (c), is hereby designated as subsection (d).

(b) AUTHORIZATIONS.—(1) Section 110(a)(1) of such Act (25 U.S.C. 1810(a)(1)) is amended by deleting "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990 and 1991, and for fiscal year 1992, such sums as may be necessary".

(2) Section 110(a)(2) of such Act is amended by deleting "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990 and 1991, and for fiscal year 1992, such sums as may be necessary".

(3) Section 110(a)(3) of such Act is amended by deleting "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990, 1991, and 1992".

(c) ALLOCATION.—(1) Section 111(a)(1)(A) of such Act is amended to read as follows:

"(A) the Secretary shall first allocate to each such applicant which received funds under section 107 for the preceding fiscal year an amount equal to 95 percent of the payment received by such applicant under section 108;".

(2) Section 111(a)(1)(B)(ii) of such Act is amended to read as follows:

"(ii) the applicant's projected Indian student count for the academic year for which payment is being made;".

(d) ENDOWMENTS.—(1) Title III of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1831 et seq.) is amended—

(A) by striking out "equal to" in section 302(b)(2)(B) and inserting in lieu thereof "(or of a value) equal to half of",

(B) by striking out "an equal amount of Federal capital contribution" in section 302(b)(4) and inserting in lieu thereof "an amount of Federal capital contribution equal to twice the amount of (or value of) such withdrawal",

(C) by adding at the end of section 304 the following: "Any real or personal property received by a tribally controlled community college as a donation or gift on or after the date of the enactment of this sentence may, to the extent of its fair market value as determined by the Secretary, be used by such college as its contribution pursuant to section 302(b)(2)(B), or as part of such contribution, as the case may be. In any case in which any such real or personal property so used is thereafter sold or otherwise disposed of by such college, the proceeds therefrom shall be deposited pursuant to section 302(b)(2)(B) but shall not again be considered for Federal capital contribution purposes.";

(D) by inserting "twice the value of the property or" after "equal to" in section 305 each place it appears,

(E) by striking out "$350,000" in section 305(a) and inserting in lieu thereof "$750,000", and

(F) by striking out "and 1990" in section 306(a) and inserting in lieu thereof "1990 and 1991, and for fiscal year 1992, $10,000,000".

(2) The amendments made by paragraphs (A) through (E) of subsection (a) shall take effect October 1, 1991.

SEC. 2. NAVAJO COMMUNITY COLLEGE.

(a) AUTHORIZATION.—Paragraph (1) of section 5(a) of the Navajo Community College Act (25 U.S.C. 640c-1) is amended by striking out "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990, 1991, and 1992".

(b) INVENTORY.—Section 4 of such Act (25 U.S.C. 640c) is amended by adding at the end thereof the following new subsection:

"(c) No later than March 1991, an inventory prepared by the Navajo Community College identifying repairs, alterations, and renovations to facilities required to meet health and safety standards shall be submitted to the Secretary and appropriate committees of Congress. Within 60 days following the receipt of such inventory, the Secretary shall review the inventory, evaluating the needs identified, and transmit the written comments of the Department of the Interior to the appropriate committees of Congress, together with the Department's evaluation prepared by the health and safety division of the Bureau of Indian Affairs.".

SEC. 3. GIFTED AND TALENTED PROGRAMS.

Title IV of the Augustus F. Hawkins, Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 is amended by—

(1) redesignating sections 4008 and 4009 as sections 4010 and 4011, respectively; and

(2) inserting after section 4007 the following new sections:

"SEC. 4008. AMERICAN SAMOAN AND GUAMANIAN GIFTED AND TALENTED DEMONSTRATION PROGRAM.

"(a) GIFTED AND TALENTED DEMONSTRATION AUTHORITY.—(1) The Secretary shall provide a grant to, or enter into a contract with, the governments of American Samoa and Guam—

"(A) to establish a Gifted and Talented Center in American Samoa and Guam; and

"(B) for demonstration projects designed to—

"(i) address the special needs of American Samoan and Guamanian elementary and secondary school students who are gifted and talented students; and

"(ii) provide support services to their families that are needed to enable such students to benefit from the project.

Such a grant or contract shall be subject to the availability of appropriated funds and, contingent on satisfactory performance by the grantee, shall be provided for a term of 4 years.

"(2) After the term of each grant or contract provided, or entered into, under paragraph (1) has expired, the Secretary may, for the purposes described in subparagraphs (A) and (B) of paragraph (1), provide a grant to, or enter into a contract with, an accredited institution of higher education in American Samoa and Guam. Such grant or contract shall be provided on an annual basis. The grantees shall be authorized to subcontract when appropriate.

"(3) The governments of American Samoa or Guam or any accredited institution of higher education receiving a grant or entering into a contract under this subsection may enter into a contract with any other person for the purpose of carrying out the demonstration projects for which such grant was awarded or for which the contract was entered into by the Secretary.

"(4) The centers described in subparagraph (A) of paragraph (1) shall participate in a national network of Native Hawaiian, American Indian and Alaska Native Gifted and Talented Centers.

"(b) USES OF FUNDS.—Demonstration projects funded under this section may include—

"(1) the identification of the special needs of gifted and talented students, particularly at the elementary school level, with attention to—

"(A) the development of criteria for identifying gifted and talented American Samoan and Guamanian students;

"(B) the emotional and psychosocial needs of these children; and

"(C) the provision of support services to their families that are needed to enable these students to benefit from the projects;

"(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the education needs of such gifted and talented children, including, but not limited to, demonstrating and exploring the use of Native languages and exposure to cultural traditions;

"(3) the use of educational technology, including video and computers, in meeting the special educational needs of such gifted and talented children;

"(4) leadership programs, including the dissemination of information derived from the demonstration projects conducted under this section; and

"(5) appropriate research, evaluation, and related activities pertaining to—

"(A) the needs of such children;

"(B) the provision of those support services to their families that are needed to enable such children to benefit from the projects; and

"(C) teacher training.

"(c) ADMINISTRATIVE COSTS.—Not more than 7 percent of the amounts appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(d) ADVISORY COUNCIL.—(1) The Secretary, in cooperation with appropriate local educational agencies, shall establish an advisory council (hereafter in this section referred to as the 'Council') within 1 year after enactment of this section.

"(2) The purpose of the Council shall be to—

"(A) advise in the development of criteria to identify gifted and talented children;

"(B) advise in the development of programs to meet the special needs of such children, which may include using the Native Hawaiian Gifted and Talented Center as a resource;

"(C) monitor the implementation of the gifted and talented programs and recommend changes, as appropriate; and

"(D) study and report on the feasibility of establishing gifted and talented programs in Pacific territories and possessions of the United States other than American Samoa and Guam and report to the appropriate committees of Congress within one year after the establishment of the Council.

"(3) The Council shall be composed of—

"(A) representatives of educational institutions, public schools, agencies, organizations and associations in American Samoa and Guam and throughout the Pacific Basin associated with the education of Pacific Basin children; and

"(B) individuals in American Samoa and Guam and throughout the Pacific Basin who have a special knowledge of and special competence in working with Pacific Basin Islanders and problems in the Pacific Basin, including education, health and economic problems.

"(4) The Secretary of Education shall appoint the members of the Council from recommendations made by the governments of American Samoa and Guam and the United States Department of Education.

"(5) The Council shall elect its chairman from among its members.

"(6) The Council may reserve not more than 15 percent of the funds appropriated pursuant to the authority of paragraph (8) for administrative purposes, including staff salaries.

"(7) While away from their homes or regular places of business in the performance of duties for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Commission not to exceed the rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

"(8) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

"(e) HIGHER EDUCATION SCHOLARSHIPS.—(1) The Secretary shall make grants to the governments of American Samoa and Guam for a demonstration program to provide higher education fellowship assistance to American Samoan and Guamanian students. The demonstration program under this section may include—

"(A) full or partial fellowship support for American Samoan and Guamanian students enrolled at an accredited 2- or 4-year degree granting institution of higher education with awards to be based on academic potential and financial need;

"(B) counseling and support services for such students receiving fellowship assistance pursuant to subparagraph (A);

"(C) college preparation and guidance counseling at the secondary school level for students who may be eligible for fellowship assistance pursuant to subparagraph (A);

"(D) appropriate research and evaluation of the activities authorized by this paragraph; and

"(E) implementation of faculty development programs for the improvement and matriculation of American Samoan and Guamanian students.

"(2) The Secretary shall make grants to the governments of American Samoa and Guam for a demonstration project of fellowship assistance for American Samoan and Guamanian students in postbaccalaureate degree programs. Such project may include—

"(A) full or partial fellowship support for American Samoan and Guamanian students enrolled at an accredited postbaccalaureate degree granting institution of higher education, with priority given to professions in which American Samoans and Guamanians are under-represented and with awards to be based on academic potential and financial need;

"(B) counseling and support services for such subparagraph (A) students receiving fellowship assistance pursuant to subparagraph (A); and

"(C) appropriate research and evaluation of the activities authorized by this paragraph.

"(3) For the purpose of subparagraph (A) of paragraph (2) fellowship conditions shall be established whereby recipients obtain an enforceable contract obligation to provide their professional services, either during their fellowship or upon completion of postbaccalaureate degree program, to the American Samoan and Guamanian community within American Samoa and Guam.

"(4) Not more than 7 percent of the funds appropriated to carry out the provisions of this subsection for any fiscal year may be used for administrative purposes.

"(5)(A) In addition to any other amount authorized to be appropriated for programs described in this section, there are authorized to be appropriated $500,000 for each of the fiscal years 1991, 1992, 1993, and 1994, to carry out the provisions of this subsection, of which—

"(i) $250,000 shall be available to the government of American Samoa; and

"(ii) $250,000 shall be available to the government of Guam.

"(B) Funds appropriated pursuant to the authority of subparagraph (A) shall remain available until expended.

"(f) DEFINITIONS.—For the purposes of this section—

"(1) the term 'American Samoan' means an individual who is a citizen or national of the United States, and is a descendant of the aboriginal people, who, prior to 1900, occupied and exercised sovereignty in the area which now comprises the Territory of American Samoa, as evidenced by—

"(A) written genealogical records;

"(B) public birth records; or

"(C) other public records on file with the archivist or High Court of American Samoa; and

"(2) the term 'Guamanian' means an individual who is a citizen or national of the United States and who is a resident of Guam.

"(g) AUTHORIZATION OF APPROPRIATIONS.—(1) In addition to any other amount authorized for programs described in this section, there are authorized to be appropriated $2,000,000 for each of the fiscal years 1991, 1992, 1993, and 1994, to carry out the provisions of this section of which—

"(A) $1,000,000 shall be available to the government of American Samoa; and

"(B) $1,000,000 shall be available to the government of Guam.

"(2) Funds appropriated pursuant to the authority of paragraph (1) shall remain available until expended.

"SEC. 4009. ALASKA NATIVE GIFTED AND TALENTED DEMONSTRATION PROGRAM.

"(a) GIFTED AND TALENTED DEMONSTRATION AUTHORITY.—(1) The Secretary shall provide a grant to, or enter into a contract with, the Rural College of the University of Alaska, located in Fairbanks, Alaska, for—

"(A) the establishment of an Alaska Native Gifted and Talented Center (hereafter in this section referred to as the 'Center') at the Rural College of the University of Alaska, located in Fairbanks, Alaska; and

"(B) the creation of demonstration projects designed to—

"(i) address the special needs of Native Alaskan elementary and secondary school students who are gifted and talented students; and

"(ii) provide support services to their families that are needed to enable such students to benefit from the project.

Such a grant or contract shall be subject to the availability of appropriated funds and, contingent on satisfactory performance by the grantee, shall be provided for a term of 4 years.

"(2) The Center shall coordinate its activities with the activities of the Alaska Department of Education and school districts within the State, and shall participate in a national network of American Indian and Native Hawaiian Gifted and Talented Programs, and to the extent practicable, with other gifted and talented programs.

"(3) The Center shall establish an Advisory Committee. Such Advisory Committee shall—

"(A) advise the Center on the development of criteria to identify gifted and talented children;

"(B) advise the Center on the development of programs to meet the special needs of these children, which may include using the Native Hawaiian Gifted and Talented Center as a resource; and

"(C) monitor the implementation of the gifted and talented programs and recommend changes, as appropriate.

"(b) USES OF FUNDS.—Demonstration projects funded under this section may include—

"(1) the identification of the special needs of gifted and talented students, particularly at the elementary school level, with attention to—

"(A) the development of criteria for identifying gifted and talented Alaska Native students;

"(B) the emotional and psychosocial needs of these children; and

"(C) the provision of such support services to their families that are needed to enable these students to benefit from the projects;

"(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the education needs of such gifted and talented children, including, but not limited to, demonstrating and exploring the use of Alaska Native language and exposure to Alaska Native cultural traditions;

"(3) the use of educational technology, including computers and television, in meeting the special educational needs of such gifted and talented children;

"(4) leadership programs, including the dissemination of information derived from the demonstration projects conducted under this section; and

"(5) appropriate research, evaluation, and related activities pertaining to—

"(A) the needs of such children; and

"(B) the provision of those support services to their families that are needed to enable such children to benefit from the projects.

"(c) ADMINISTRATIVE COSTS.—Not more than 7 percent of the amounts appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized for projects described in this section, there are authorized to be appropriated $1,000,000 for each of the fiscal years 1991, 1992, 1993 and 1994. Such sums shall remain available until expended.".

AMENDMENT NO. 2953

(Purpose: To delete section 3 of the bill and to add a new title)

Mr. GORE. Mr. President, I send an amendment to the desk on behalf of Senator INOUYE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. GORE], for Mr. INOUYE, proposes an amendment numbered 2953.

Mr. GORE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, beginning with line 17, strike out all through line 24 on page 18, and insert in lieu thereof the following:

TITLE I—NATIVE AMERICAN LANGUAGES ACT

SHORT TITLE

SEC. 101. This title may be cited as the "Native American Languages Act".

FINDINGS

SEC. 102. The Congress finds that—

(1) the status of the cultures and languages of Native Americans is unique and the United States has the responsibility to act together with Native Americans to ensure the survival of these unique cultures and languages;

(2) special status is accorded Native Americans in the United States, a status that recognizes distinct cultural and political rights, including the right to continue separate identities;

(3) the traditional languages of Native Americans are an integral part of their cultures and identities and form the basic medium for the transmission, and thus survival, of Native American cultures, literatures, histories, religions, political institutions, and values;

(4) there is a widespread practice of treating Native Americans languages as if they were anachronisms;

(5) there is a lack of clear, comprehensive, and consistent Federal policy on treatment of Native American languages which has often resulted in acts of suppression and extermination of Native American languages and cultures;

(6) there is convincing evidence that student achievement and performance, community and school pride, and educational opportunity is clearly and directly tied to respect for, and support of, the first language of the child or student;

(7) it is clearly in the interests of the United States, individual States, and territories to encourage the full academic and human potential achievements of all students and citizens and to take steps to realize these ends;

(8) acts of suppression and extermination directed against Native American languages and cultures are in conflict with the United States policy of self-determination for Native Americans;

(9) languages are the means of communication for the full range of human experiences and are critical to the survival of cultural and political integrity of any people; and

(10) language provides a direct and powerful means of promoting international communication by people who share languages.

DEFINITIONS

SEC. 103. For purposes of this title—

(1) The term "Native American" means an Indian, Native Hawaiian, or Native American Pacific Islander.

(2) The term "Indian" has the meaning given to such term under section 5351(4) of the Indian Education Act of 1988 (25 U.S.C. 2651(4)).

(3) The term "Native Hawaiian" has the meaning given to such term by section 4009 of Public Law 100–297 (20 U.S.C. 4909).

(4) The term "Native American Pacific Islander" means any descendent of the aboriginal people of any island in the Pacific Ocean that is a territory or possession of the United States.

(5) The terms "Indian tribe" and "tribal organization" have the respective meaning given to each of such terms under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(6) The term "Native American language" means the historical, traditional languages spoken by Native Americans.

(7) The term "traditional leaders" includes Native Americans who have special expertise in Native American culture and Native American languages.

(8) The term "Indian reservation" has the same meaning given to the term "reservation" under section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452).

DECLARATION OF POLICY

SEC. 104. It is the policy of the United States to—

(1) preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages;

(2) allow exceptions to teacher certification requirements for Federal programs, and programs funded in whole or in part by the Federal Government, for instruction in Native American languages when such teacher certification requirements hinder the employment of qualified teachers who teach in Native American languages, and to encourage State and territorial governments to make similar exceptions;

(3) encourage and support the use of Native American languages as a medium of instruction in order to encourage and support—

(A) Native American language survival,

(B) educational opportunity,

(C) increased student success and performance,

(D) increased student awareness and knowledge of their culture and history, and

(E) increased student and community pride;

(4) encourage State and local education programs to work with Native American parents, educators, Indian tribes, and other Native American governing bodies in the implementation of programs to put this policy into effect;

(5) recognize the right of Indian tribes and other Native American governing bodies to use the Native American languages as a medium of instruction in all schools funded by the Secretary of the Interior;

(6) fully recognize the inherent right of Indian tribes and other Native American governing bodies, States, territories, and possessions of the United States to take action on, and give official status to, their Native American languages for the purpose of conducting their own business;

(7) support the granting of comparable proficiency achieved through course work in a Native American language the same academic credit as comparable proficiency achieved through course work in a foreign language, with recognition of such Native American language proficiency by institutions of higher education as fulfilling foreign language entrance or degree requirements; and

(8) encourage all institutions of elementary, secondary and higher education, where appropriate, to include Native American languages in the curriculum in the same manner as foreign languages and to grant proficiency in Native American languages the same full academic credit as proficiency in foreign languages.

NO RESTRICTIONS

SEC. 105. The right of Native Americans to express themselves through the use of Native American languages shall not be restricted in any public proceeding, including publicly supported education programs.

EVALUATIONS

SEC. 106. (a) The President shall direct the heads of the various Federal departments, agencies, and instrumentalities to—

(1) evaluate their policies and procedures in consultation with Indian tribes and other Native American governing bodies as well as traditional leaders and educators in order to determine and implement changes needed to bring the policies and procedures into compliance with the provisions of this title;

(2) give the greatest effect possible in making such evaluations, absent a clear specific Federal statutory requirement to the contrary, to the policies and procedures which will give the broadest effect to the provisions of this title; and

(3) evaluate the laws which they administer and make recommendations to the President on amendments needed to bring such laws into compliance with the provisions of this title.

(b) By no later than the date that is 1 year after the date of enactment of this title, the President shall submit to the Congress a report containing recommendations for amendments to Federal laws that are needed to bring such laws into compliance with the provisions of this title.

USE OF ENGLISH

SEC. 107. Nothing in this title shall be construed as precluding the use of Federal funds to teach English to Native Americans.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2953) was agreed to.

Mr. INOUYE. Mr. President, I rise in support of S. 2167, to reauthorize the Tribally Controlled Community College Assistance Act of 1978. This measure passed the Senate earlier this summer as an amendment in the nature of a substitute to H.R. 5040, the House-passed version of the tribally controlled community college reauthorization bill. The House, however, is not able to act upon the House measure at this time and accordingly, I am bringing the measure to the floor once again with amendments.

The authorization for the establishment of gifted and talented demonstration programs for American Samoans, Guamanians, and Alaska Natives, has been removed from the bill. S. 1781, to establish as the policy of the United States the preservation, protection, and promotion of the rights of native Americans to use, practice, and develop their native languages, has been included as an amendment to this proposal. S. 1781 passed the Senate earlier this year and was incorporated in the substitute amendment to H.R. 5040.

Tribally controlled community colleges were established to provide postsecondary education to American Indians for whom such educational opportunities might not otherwise exist. Of equal importance, tribal colleges are guided by tribal traditions and values in their approach to education. Tribal colleges have proven to be a critical component in the education and training of Indian youth and adults and it is of utmost importance that Congress continue to give its full support to these efforts.

Mr. President, I strongly support legislation authorizing gifted and talented programs for American Samoans, Guamanians, and Native Alaskans and regret that the Senate has been obliged to remove this section in order to assure House acceptance of the tribal colleges reauthorization. There are already federally authorized gifted and talented programs specifically for American Indians and native Hawaiians in addition to Federal education programs which we know will never have a chance of reaching the remote populations of Alaska or the Pacific Islands. These gifted and talented programs were created because Congress recognized the cultural differences in native American populations and that these differences are manifested in different learning styles and values.

We already know that Alaska Natives and Pacific Islanders are underrepresented in gifted and talented programs and that, not unlike their American Indian or native Hawaiian brothers and sisters, they learn differently. It is a matter of equity that we recognize that Alaska Natives and Pacific Islanders also have a right to education that will challenge them. If we accept that native cultures in our Nation have a right to exist and to continue to be practiced—which is confirmed in ongoing Federal support of the tribal colleges program as well as in S. 1781, a bill that has already passed the Senate twice this session and once during the previous Congress—then it is the responsibility of the Congress to assure that these cultures will have opportunities and challenges to develop to their fullest extent.

Mr. President, I will continue to pursue equity for these American students who are as deserving as any other American children and I look forward to working with my colleagues in the House to achieve this parity. There were highly developed cultures in Alaska, Guam, and American Samoa before we imposed our American way of life upon these "First Americans." It is appropriate in this enlightened era that Congress is formally reversing the Federal Government's policy which tried to mainstream native children by prohibiting them from speaking their languages. We have come a long way in our treatment of native people but it is evident that we have yet a long way to go.

Mr. CONRAD. Mr. President, I wish to express my appreciation to the chairman of the Select Committee on Indian Affairs, Senator INOUYE, for his hard work on this legislation. And I also wish to thank Senators INOUYE and MURKOWSKI for their willingness to compromise on the gifted and talented provisions of the bill in order to allow this important legislation to proceed.

As I mentioned when this reauthorization measure first passed the Senate, S. 2167 contains a slightly altered version of S. 2213, which I introduced earlier this year to double the Federal endowment dollar that goes to tribal colleges.

The endowment provision will take effect in fiscal year 1992, and has been modified to reflect the fact that tribal colleges are extremely cash poor. It will allow gifts of real or personal property to be credited toward the match, which will enable the colleges to increase their endowments without having to identify large sources of cash.

Although tribal colleges are financially pressed, they work wonders on the Indian reservations where they are located. These institutions continue to turn out more and more graduates each year, even though they are faced with a budgetary situation that would force many institutions to close their doors.

By doubling the Federal endowment dollar that goes to tribal colleges, we will help these important institutions further along the road to success. Endowments will help tribal colleges grow, and will leave the colleges less susceptible to the budgetary whims of the Federal Government.

My experiences with tribal community colleges have been extremely positive. They provide a stable environment in areas that can be almost void of stability. They instill pride in their students, many of whom would not otherwise receive the tools they need to succeed in today's world. And they help produce graduates capable of helping their families and reservations meet the challenges of tomorrow.

There are few areas in which Federal investments make such a visible contribution as is the case with tribal colleges. And if given a fair financial chance, these schools will provide even greater contributions to the lives of Indian people in the future.

Mr. McCAIN. Mr. President, I rise in support of S. 2167, as amended, and to briefly explain the need for today's action.

This bill reauthorizes tribally controlled community colleges through 1992 and modifies existing legislation to strengthen their ability to carry out their missions of providing postsecondary academic and vocational education to American Indians. Some changes are merely technical, but others improve the endowment program to help assure strong programs in the future.

As amended today, S. 2167 also declares a national policy of respect for Native American languages and encouragement of their continued vitality. Experts tell us and we readily agree that languages are key components in the preservation of lifeways and cultures. As a cosponsor of the original bill, I am pleased that it has become a part of S. 2167.

Mr. President, we approved provisions for tribal colleges and native languages policy last July in adopting a Senate substitute for H.R. 5040. The House declined to act on the measure, however, because it contained a third provision establishing gifted and talented demonstration centers at three locations. This provision, although important to American Samoans, Guamanians, and Alaska Natives who would have been served, has been deleted by the amendment adopted. We have made this deletion reluctantly, and have done so only because our repeated efforts over the last 2 months to spur House approval of H.R. 4050 have been rejected.

I am pleased that we have the assurances of the chairman of the Education and Labor Committee in the other body that the committee will consider legislation on the subject of gifted and talented demonstration centers during the first session of the next Congress.

Finally, I thank my colleagues who were cosponsors of this bill—Senators INOUYE, CONRAD, BURDICK, DECONCINI, DASCHLE, and MURKOWSKI. I appreciate their contributions to the shaping of this important legislation, and I am sure that I speak for them in expressing the hope that the House will promptly approve it.

Mr. MURKOWSKI. Mr. President, as a cosponsor of the tribal college reauthorization bill and the Native American language bill, I am pleased that we are undertaking again to move this legislation to the House of Representatives.

As a cosponsor with Senator INOUYE, however, of provisions to establish gifted and talented demonstration centers in American Samoa, Guam, and Alaska, I join him in regretting that those provisions cannot be retained in the bill if it is to win passage in the other body during this session.

As Members of this body are aware, the bill we are approving today was approved July 30, including the demonstration centers. But the other body has declined to act upon the bill because of objections of some Members to the demonstration centers. The other body has even declined to request a conference.

A conference would have allowed Senator INOUYE and me to elaborate upon the justification for the centers that has been contained in the report of the Select Committee on Indian Affairs. As Prof. Patt Caldwell of the Rural College of the University of Alaska at Fairbanks pointed out, it is gifted and talented Alaska Native students who are most often overlooked; if they are identified, programs for them may be unsuitable or ineffective. She wrote me that "the uniqueness of Alaska's Native population merits an innovative means of not only identifying and assessing gifted students, but in creating programs to meet their needs."

University of Alaska linguistics Prof. Charlotte Basham, who has also worked with American Indians, wrote to me, saying that her experience with them and with different groups of Alaska Natives persuades her that "differences in students' backgrounds, expectations, and needs require particular and different approaches."

Similarly, anthropology Prof. Patricia Kwachka, who could be speaking of Samoans and Guamanians as well as Alaska Natives, has written that "we cannot assume that Native American—and other—minority populations share broad characteristics; intervention of any kind * * * must take into account the particular cultural orientation of the ethnic group involved."

But, based upon the position of the House Education and Labor Committee, this is a case that we now must make another day.

As chairman of the Select Committee on Indian Affairs, the distinguished Senator from Hawaii has made a judgment I respect and agree with. We need to reauthorize the tribal colleges and to improve their endowment program; we need to pass the Native American languages bill which we have worked on for so long. And the House has informed us that those objectives can be achieved only by deferring action on the gifted and talented demonstration centers.

My understanding is that the House has offered to consider legislation embracing provisions for gifted and talented demonstration centers such as we have approved, and that it will do so during the first session of the next Congress. To accept that offer, allowing the tribal college reauthorization and native languages policy bill to move ahead is the course we must now take.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRIBALLY CONTROLLED COMMUNITY COLLEGES.

(a) STUDENT COUNT.—(1) Section 108(a)(1) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1808(a)) is amended to read as follows:

"(1) the Indian student count at such college during the academic year preceding the academic year for which such funds are being made available, as determined by the Secretary in accordance with section 2(a)(7); and".

(2) Section 108(b)(1) of such Act is amended to read as follows:

"(1) The Secretary shall make payments, pursuant to grants under this Act, of not less than 95 percent of the funds available for allotment by October 15 or no later than 14 days after appropriations become available, with a payment equal to the remainder of any grant to which a grantee is entitled to be made no later than January 1 of each fiscal year.".

(3) The last subsection of section 108 of such Act, which is designated as subsection (c), is hereby designated as subsection (d).

(b) AUTHORIZATIONS.—(1) Section 110(a)(1) of such Act (25 U.S.C. 1810(a)(1) is amended by deleting "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990 and 1991, and for fiscal year 1992, such sums as may be necessary".

(2) Section 110(a)(20 of such Act is amended by deleting "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990 and 1991, and for fiscal year 1992, such sums as may be necessary".

(3) Section 110(a)(3) of such Act is amended by deleting "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990, 1991, and 1992".

(c) ALLOCATION.—(1) Section 111(a)(1)(A) of such Act is amended to read as follows:

"(A) the Secretary shall first allocate to each such applicant which received funds under section 107 for the preceding fiscal year an amount equal to 95 percent of the payment received by such applicant under section 108;".

(2) Section 111(a)(1)(B)(ii) of such Act is amended to read as follows:

"(ii) the applicant's projected Indian student count for the academic year for which payment is being made;".

(d) ENDOWMENTS.—(1) Title III of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1831 et seq.) is amended—

(A) by striking out "equal to" in section 302(b)(2)(B) and inserting in lieu thereof "(or of a value) equal to half of",

(B) by striking out "an equal amount of Federal capital contribution" in section 302(b)(4) and inserting in lieu thereof "an amount of Federal capital contribution equal to twice the amount of (or value of) such withdrawal",

(C) by adding at the end of section 304 the following: "Any real or personal property received by a tribally controlled community college as a donation or gift on or after the date of the enactment of this sentence may, to the extent of its fair market value as determined by the Secretary, be used by such college as its contribution pursuant to section 302(b)(2)(B), or as part of such contribution, as the case may be. In any case in which any such real or personal property so used is thereafter sold or otherwise disposed of by such college, the proceeds therefrom shall be deposited pursuant to section 302(b)(2)(B) but shall not again be considered for Federal capital contribution purposes.";

(D) by inserting "twice the value of the property or" after "equal to" in section 305 each place it appears,

(E) by striking out "$350,000" in section 305(a) and inserting in lieu thereof "$750,000", and

(F) by striking out "and 1990" in section 306(a) and inserting in lieu thereof "1990 and 1991, and for fiscal year 1992, $10,000,000".

(2) The amendments made by paragraphs (A) through (E) of subsection (a) shall take effect October 1, 1991.

SEC. 2. NAVAJO COMMUNITY COLLEGE.

(a) AUTHORIZATION.—Paragraph (1) of section 5(a) of the Navajo Community College Act (25 U.S.C. 640c-1) is amended by striking out "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990, 1991, and 1992".

(b) INVENTORY.—Section 4 of such Act (25 U.S.C. 640c) is amended by adding at the end thereof the following new subsection:

"(c) No later than March 1991, an inventory prepared by the Navajo Community College identifying repairs, alterations, and renovations to facilities required to meet health and safety standards shall be submitted to the Secretary and appropriate committees of Congress. Within 60 days following the receipt of such inventory, the Secretary shall review the inventory, evaluating the needs identified, and transmit the written comments of the Department of the Interior to the appropriate committees of Congress, together with the Department's evaluation prepared by the health and safety division of the Bureau of Indian Affairs.".

TITLE I—NATIVE AMERICAN LANGUAGES ACT

SHORT TITLE

SEC. 101. This title may be cited as the "Native American Languages Act".

FINDINGS

SEC. 102. The Congress finds that—

(1) the status of the cultures and languages of Native Americans is unique and the United States has the responsibility to act together with Native Americans to ensure the survival of these unique cultures and languages;

(2) special status is accorded Native Americans in the United States, a status that recognizes distinct cultural and political rights, including the right to continue separate identities;

(3) the traditional languages of Native Americans are an integral part of their cultures and identities and form the basic medium for the transmission, and thus survival, of cultures, literatures, histories, religions, political institutions, and values;

(4) there is a widespread practice of treating languages as if they were anachronisms;

(5) there is a lack of clear, comprehensive, and consistent Federal policy on treatment of languages which has often resulted in acts of suppression and extermination of languages and cultures;

(6) there is convincing evidence that student achievement and performance, community and school pride, and educational opportunity is clearly and directly tied to respect for, and support of, the first language of the child or student;

(7) it is clearly in the interests of the United States, individual States, and territories to encourage the full academic and human potential achievements of all students and citizens and to take steps to realize these ends;

(8) acts of suppression and extermination directed against Native American languages and cultures are in conflict with the United States policy of self-determination for Native Americans;

(9) languages are the means of communication for the full range of human experiences and are critical to the survival of cultural and political integrity of any people; and

(10) language provides a direct and powerful means of promoting international communication by people who share languages.

DEFINITIONS

SEC. 103. For purposes of this title—

(1) The term "Native American" means an Indian, Native Hawaiian, or Native American Pacific Islander.

(2) The term "Indian" has the meaning given to such term under section 5351(4) of the Indian Education Act of 1988 (25 U.S.C. 2651(4)).

(3) The term "Native Hawaiian" has the meaning given to such term by section 4009 of Public Law 100-297 (20 U.S.C. 4909).

(4) The term "Native American Pacific Islander" means any descendent of the aboriginal people of any island in the Pacific Ocean that is a territory or possession of the United States.

(5) The terms "Indian tribe" and "tribal organization" have the respective meaning given to each of such terms under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(6) The term "Native American language" means the historical, traditional languages spoken by Native Americans.

(7) The term "traditional leaders" includes Native Americans who have special expertise in Native American culture and Native American languages.

(8) The term "Indian reservation" has the same meaning given to the term "reservation" under section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452).

DECLARATION OF POLICY

SEC. 104. It is the policy of the United States to—

(1) preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages;

(2) allow exceptions to teacher certification requirements for Federal programs, and programs funded in whole or in part by the Federal Government, for instruction in Native American languages when such teacher certification requirements hinder the employment of qualified teachers who teach in Native American languages, and to encourage State and territorial governments to make similar exceptions;

(3) encourage and support the use of Native American languages as a medium of instruction in order to encourage and support—

(A) Native American language survival,

(B) educational opportunity,

(C) increased student success and performance,

(D) increased student awareness and knowledge of their culture and history, and

(E) increased student and community pride;

(4) encourage State and local education programs to work with Native American parents, educators, Indian tribes, and other Native American governing bodies in the implementation of programs to put this policy into effect;

(5) recognize the right of Indian tribes and other Native American governing bodies to use the Native American languages as a medium of instruction in all schools funded by the Secretary of the Interior;

(6) fully recognize the inherent right of Indian tribes and other Native American governing bodies, States, territories, and possessions of the United States to take action on, and give official status to, their Native American languages for the purpose of conducting their own business;

(7) support the granting of comparable proficiency achieved through course work in a Native American language the same academic credit as comparable proficiency achieved through course work in a foreign language, with recognition of such Native American language proficiency by institutions of higher education as fulfilling foreign language entrance or degree requirements; and

(8) encourage all institutions of elementary, secondary and higher education, where appropriate, to include Native American languages in the curriculum in the same manner as foreign languages and to grant proficiency in Native American languages the same full academic credit as proficiency in foreign languages.

NO RESTRICTIONS

SEC. 105. The right of Native Americans to express themselves through the use of Native American languages shall not be restricted in any public proceeding, including publicly supported education programs.

EVALUATIONS

SEC. 106. (a) The President shall direct the heads of the various Federal departments, agencies, and instrumentalities to—

(1) evaluate their policies and procedures in consultation with Indian tribes and other Native American governing bodies as well as traditional leaders and educators in order to determine and implement changes needed to bring the policies and procedures into compliance with the provisions of this title;

(2) give the greatest effect possible in making such evaluations, absent a clear specific Federal statutory requirements to the contrary, to the policies and procedures which will give the broadest effect to the provisions of this title; and

(3) evaluate the laws which they administer and make recommendations to the President on amendments needed to bring such laws into compliance with the provisions of this title.

(b) By no later than the date that is 1 year after the date of enactment of this title, the President shall submit to the Congress a report containing recommendations for amendments to Federal laws that are needed to bring such laws into compliance with the provisions of this title.

USE OF ENGLISH

SEC. 107. Nothing in this title shall be construed as precluding the use of Federal funds to teach English to Native Americans.

Mr. GORE. Mr. President, I move to reconsider the vote.

Mr. McCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. GORE. Mr. President, I ask unanimous consent that the senior Senator from New Mexico [Mr. DOMENICI] be recognized to address the Senate and that at the conclusion of his remarks the Senate stand in recess under the order until the hour of 9:30 a.m. on Friday.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico is recognized.

NOMINATION OF W. LEE RAWLS TO BE AN ASSISTANT ATTORNEY GENERAL FOR LEGISLATIVE AFFAIRS

Mr. DOMENICI. Mr. President, I rise to express my very strong support for the confirmation of Lee Rawls to be Assistant Attorney General for Legislative Affairs.

Actually, I am somewhat disadvantaged in trying to describe Lee Rawls to the U.S. Senate because I honestly do not have enough superlatives to do him justice. I imagine that each Senator in his life comes across a very special human being. I happen to have had the privilege of that happening to me when I met Lee Rawls. He was working then for the Environment and Public Works Committee as a staffer, and what an outstanding job he did in helping this Senator with the Clean Air Act the Toxic Substance Act, and a number of the other most significant environmental laws of our land.

Frankly, I have not encountered, in my life, anyone that I have more confidence in than Lee. He is one of those rare individuals who is indeed superbly bright and absolutely principled. More important, he is an unassuming person. If you meet with him and talk with him, you would have to wait until an opportunity presented itself for him to use his talents to know that he is very, very bright, very, very principled, and very, very capable.

As I said, I am disadvantaged because I do not have enough superlatives to speak about Lee Rawls. After he worked for me for a number of years, he left to go into the private sector. As the Chair might know, a man of that talent was earning far more than he could earn here, yet he came back for 3 years and became my administrative assistant. Then he left to become a partner of Howard Baker's in the law practice, and what a wonderful job he did there, according to our former majority leader and minority leader, Howard Baker.

But along with all these talents, Lee is one of these people who just want to be part of making this country better, of being part of public policy. The President asked and he once again left private practice and his partnership to go to the Attorney General's Office of the United States to be helpful to the Attorney General, to become his right-hand man in dealing with the Congress. So we will all get a chance to meet and know Lee Rawls.

I am convinced he will do a tremendous job for the Attorney General and thus for the President of the United States. What a rare privilege it is to find his nomination before the Senate, to be able to ask the Senate to support him, and to be able to tell the Senate that I truly believe we are fortunate to have him in Govenment. In fact, we are fortunate that he would consider being part of the Government so he can be helpful to the Attorney General, the President, and ultimately us.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **AKAKA**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. **AKAKA**. Mr. President, I ask unanimous consent to address the Senate and at the conclusion of my remarks, the Senate stand in recess under the order.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The Senator from Hawaii is recognized.

STRATEGIC PETROLEUM RESERVE TEST

Mr. **AKAKA**. Mr. President, today during markup by the Energy and Natural Resources Committee, I offered legislation which would triple the test drawdown of the strategic petroleum reserve. I am pleased to report that the committee adopted this change, and a bill to increase the test drawdown from 5 to 15 million barrels is now on its way to the Senate floor. This is three times the drawdown level announced by Secretary Watkins on September 27. Mr. President, increasing the test drawdown from 5 to 15 million barrels is good public policy. What's more, the Secretary of Energy also believes that a larger test is good policy. On September 27, Secretary Watkins stated that we would have a better understanding of the drawdown process if we did a 15-million barrel test. He complained, however, that a 5-million barrel test was the maximum the law allowed. Well, this bill approved today corrects that problem. I would have preferred to include a 15-million barrel test as part of the strategic petroleum reserve amendment signed into law on September 15. Unfortunately, Secretary Watkins did not ask for a larger test drawdown until 2 weeks after the bill became law. Secretary Watkins has stated that a 15-million barrel drawdown would be "a better test of the physical capacity of the reserve." A 5-million barrel test, on the other hand, would only test the "paperwork aspects" of the reserve, according to the Secretary. Unfortunately, "paperwork aspects" won't deliver oil to Americans during a crisis. We need to be sure that all the cobwebs are out of the system. Otherwise, when a crisis hits, we could find that the oil flow may be too little, and too late for a State like Hawaii. Compared to the mainland, Hawaii faces a much greater risk of an oil supply disruption because we have no overland access to domestic sources of crude. While the lower 48 States and Alaska have access to oil transported by pipeline, rail, or highway, all of Hawaii's crude oil and refined products arrive by ocean tanker. Our total reliance on tanker deliveries makes Hawaii exceptionally vulnerable to a cutoff of oil supplies.

The strategic petroleum reserve will protect the rest of the United States from severe economic harm. Hawaii would not be so fortunate. Our only means of access to the strategic petroleum reserve would be by tanker delivery from the Gulf of Mexico through the Panama Canal. Unfortunately, these facilities are as far away from Hawaii as Istanbul is from New York City. The American public has seen 9 weeks of steadily rising energy prices since Iraq invaded Kuwait on August 1. In Hawaii, where consumers face the highest energy prices in the Nation, gasoline prices are approaching all-time highs. Escalating oil prices are giving Hawaii's consumers heartburn. Yesterday, however, the Department of Energy accepted bids for 4 million barrels of oil under the first test of the emergency oil stockpile. And do you know what happened as a consequence of this sale? The price of oil on the spot market dropped $1.71 after trading at over $41 earlier in the day. That's evidence enough of the need for this legislation.

Mr. President, I urge the Senate to move swiftly to the consideration of this bill so consumers in Hawaii and other States can get relief from high oil prices.

THE RETURN OF KAHOOLAWE ISLAND

Mr. **AKAKA**. Mr. President, on September 20, I introduced legislation to require the U.S. Government to return Kahoolawe to the people of Hawaii. Today I an happy to report that part of this bill was included as an amendment to the Commerce, State, appropriations bill which just passed the Senate.

One provision of the bill I introduced would require the National Marine Fisheries Service to determine whether a national marine sanctuary should be established in the waters adjacent to Kahoolawe Island. I am glad to say that this requirement was included as an amendment to the bill. Scores of endangered humpback whales annually migrate to the warm Hawaiian waters near Kahoolawe. Recent studies of these mammals suggest that human activity may be adding to their decline. The Navy's bombing may also be disrupting the marine environment and the whale's behavior patterns. This amendment would be an essential first step in determining whether sanctuary protection would help revitalize the endangered humpbacks.

I am pleased that the humpback whale sanctuary provision was included in the bill we just passed.

Mr. President, I yield the floor.

ORDERS FOR FRIDAY, OCTOBER 12, 1990

Mr. **GORE**. Mr. President, I ask unanimous consent that when the Senate completes business today it stand in recess until 9:30 a.m. on Friday, October 12, and that following the time for the two leaders there be a period for morning business not to

extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

PROGRAM

Mr. **GORE**. Mr. President, the majority leader has asked me to announce that it is still his intention to seek consent for the consideration of the two available appropriations bills, Labor-HHS and Foreign Operations, in addition to the conference report on the civil rights bill, S. 2104.

RECESS UNTIL 9:30 A.M. TOMORROW

The **PRESIDING OFFICER**. Under the previous order, the Senate stands in recess until 9:30 a.m. tomorrow morning.

Thereupon, the Senate, at 7:03 p.m., recessed until Friday, October 12, 1990, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 11, 1990:

DEPARTMENT OF TRANSPORTATION

MARION CLIFTON BLAKEY, OF MISSISSIPPI, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION, VICE DAVID PHILIP PROSPERI, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 11, 1990:

DEPARTMENT OF JUSTICE

W. LEE RAWLS, OF MARYLAND, TO BE AN ASSISTANT ATTORNEY GENERAL.

J. MICHAEL LUTTIG, OF VIRGINIA, TO BE AN ASSISTANT ATTORNEY GENERAL.

ROBERT S. MUELLER, III, OF MASSACHUSETTS, TO BE AN ASSISTANT ATTORNEY GENERAL.

CHARLES B. DEWITT, OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF THE NATIONAL INSTITUTE OF JUSTICE.

DEPARTMENT OF ENERGY

BRANKO TERZIC, OF WISCONSIN, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING OCTOBER 20, 1991.

CENTRAL INTELLIGENCE AGENCY

FREDERICK PORTER HITZ, OF VIRGINIA, TO BE INSPECTOR GENERAL CENTRAL INTELLIGENCE AGENCY.

CORPORATION FOR PUBLIC BROADCASTING

SHARON PERCY ROCKEFELLER, OF WEST VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING MARCH 26, 1992.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Thursday, October 11, 1990*

The House met at 10 a.m.

The Reverend Barry Chinn, pastor, First Baptist Church, Villa Rica, GA, offered the following prayer:

Eternal Father, we pray that above the noise of both boisterous and smooth, seductive voices demanding our representatives' ear and vote, that they may hear that still, small voice that calls each of us to know Thy transcendent peace. For if they and other world leaders know not peace, how can they lead this hurting, searching orb to experience that which is unknown to them?

Lift the fallen heart here today, touched by personal crises or tragedy, burdened by national or international problems.

Give courage to the timid, strength to the weak, hope to the despairing, this we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentlewoman from Nebraska [Mrs. SMITH] if she would kindly come forward and lead the membership in the Pledge of Allegiance.

Mrs. SMITH of Nebraska led the pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill and joint resolution of the House of the following titles:

H.R. 4279. An act to amend title 31, United States Code, to improve cash management of funds transferred between the Federal Government and the States, and for other purposes; and

H.J. Res. 602. Joint resolution designating October 1990 as "National Domestic Violence Awareness Month."

The message also announced that the Senate disagrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 1396) "An act to amend the Federal securities laws in order to facilitate cooperation between the United States and foreign countries in securities law enforcement" and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3037. An act to authorize Federal depository institution regulatory agencies to revoke charters, terminate deposit insurance, and remove or suspend officers and directors of depository institutions involved in money laundering or monetary transaction reporting offenses, to amend chapter 53 of title 31, United States Code, to require the Secretary of the Treasury to issue regulations concerning the identification of nonbank financial institutions subject to the Bank Secrecy Act, to prohibit illegal money transmitting businesses, to provide for the standardization of advertised yields on savings accounts and investments, to require the uniform disclosure of the key costs of such accounts and investments, and for other purposes.

WELCOME TO THE REVEREND BARRY CHINN

Mr. GINGRICH. Mr. Speaker, it is a great honor to introduce to the House the Reverend Barry Chinn from Villa Rica, GA.

Reverend Chinn was born in San Antonio, TX. He is a graduate of Lakenheath High School, Brandon, Suffolk County, England. He has a bachelor of arts degree from Southwest Texas State University and a master of divinity from Southwestern Baptist Theological Seminary.

He has had experience as the pastor of the First Baptist Church in Villa Rica, GA.

His wife, Winnell, is with him here today.

It is a real honor for us in Georgia to introduce him to the House. I want to thank him for taking the time to come and be with us today.

LET US DO THIS JOB TOGETHER

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, it would be refreshing if in the coming days while we write the bill that actually reduces the Federal deficit, we were able to select from the stockpile of ideas from both political parties, the best from each rather than the worst from both.

The Republicans say we spend too much, there is too much waste. Well they are right. Let us cut the waste. Let us reduce some spending.

We Democrats say it is time to ask the rich to pay their fair share of taxes in this country. We are right. It is time to stop soaking the middle class and its time to ask the upper income people to pay their fair share. We expect the folks on the minority side and the President to agree with that proposal.

Also, Members on both sides now are saying it is time to ask our allies to start paying their fair share of the defense bill. Uncle Sam cannot afford it anymore. Absolutely.

So let us get together. Let us do this job together as Republicans and Democrats. Let us get the President involved, ask the rich to pay their fair share, and ask the allies to pay for their share of the defense, and let us cut some spending to put Government back on track.

LET 'EM PLAY

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, yesterday afternoon's officiating ran against the unwritten rule of "let 'em play."

When Roger Clemens said "read my lips" from the mound yesterday afternoon, he was tossed from the game.

Without warning. Without the understanding that Clem was caught up in the heat of the battle.

I am not saying that this was the play that caused the Red Sox to lose their series with Oakland, Mr. Speaker.

But you could just see the wind go out of their sails when "the Rocket" was thrown out of the game in the second inning. Fans had come to see a fierce pitching duel between two of the greats of baseball, Clemens and Stewart.

And they went home with their expectations dashed.

It was a sad ending for a team which has been a source of hope and inspiration to so many great fans for so long.

Umpire Terry (Loony) Cooney did not have to pay to get into the ball park yesterday afternoon, and I am sure his hasty action made fans of the game wish they had not paid admission either.

Terry (Loony) Cooney, read my lips, also.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

READ MY HIPS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER "Read my hips? Read my hips?" That is the President of the United States answer to the question of whether or not he will back off his support of the rich and protecting them in this new budget deal on the Tax Code.

I am amazed. I do not know what "Read my hips" means. I guess I was not in Skull and Bones at Yale.

Does that mean "Swish, swish?" Is that a brushoff? I am totally perplexed. I know in the hula that they always say you do not read the hips, you read the hands.

Mr. Speaker, I just want to say that if the President of the United States were female, imagine what today's commentators would be saying if a female made such a comment. I really am shocked, and I think that this is such a serious issue, an issue that stopped the Government, and I think it is time for the President of the United States to stop collecting all of his money from his rich friends, come back to Washington and stop protecting all of his rich friends and start doing what is right for America.

LET US GET SOME LEADERSHIP IN THE HOUSE OF REPRESENTATIVES

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, this morning I had a telephone conversation with a friend of mine in Atlanta, GA, who had just returned from Great Britain.

His message to me, which I told him I would pass on to you, is, "Why do you guys not get your act together?" He said we are looking like a bunch of fools.

Mr. Speaker, I would tell you, and my colleagues, that as we come together and as we come down to the well one by one to make our 1-minute, hoping that whatever we say is so outrageous that it will get on the national news, let us remember one thing, the buck stops here. We pass the tax legislation, not the President. We cut the spending, not the President.

Where we may be getting leadership and encouragement from the President, let us start getting some leadership here in the House of Representatives. Let us get our job done, and let us go home to the American people and give back to this institution the dignity that it has lost in the last month.

EVERYONE MUST PAY THEIR FAIR SHARE

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. "I will shut the Government down." What labor union is this? Is this organized labor once again threatening for some reason to bring the country to its knees? What kind of anarchist group is it? It is the President of the United States speaking, and he is saying he is shutting the Government down if the Congress tries to cut off the tax breaks to the rich. That is what this is all about.

It was 2 hours that rocked the world a couple of days ago when the President said he would consider taxing the rich, and then after a couple of meetings with some Republican leaders, "No, we will not do that after all."

Think about it for a second, the people making over $200,000 a year pay less of a percentage of their income in taxes than the person making $45,000 or $50,000, the middle income. That is what this fight is about. That is what the President of the United States says he will shut the Government down over.

It seems to me to be a pretty outrageous statement to bring the Government to its knees, to subject everyone to this kind of hardship in the name of saving the rich from paying their fair share of taxes. I think we know where the balance lies.

I think we know that it is time that everyone, if they are going to be asked to pay taxes, everyone pay their fair share, and that we not shut the Government down.

"WORKIN' OVER" THE WORKING PEOPLE

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, the Democrat budget proposal passed over the weekend calls for a substantial increase in the tax on gasoline. This tax increase whether it is 8 or 10 cents will hurt poor and middle income Americans at a time when they can ill afford more money taken out of their pockets.

The Democrats are supporting this tax increase on the poor and middle class to pay for their plans to increase spending, with no cuts in the Washington bureaucracy. They have obviously chosen more government over the well-being of million of Americans.

So much for the Democratic Party being for the working people of this Nation. It seems more accurate to say that they're "workin' over" the working people.

☐ 1010

AMERICA DESERVES MORE FROM THE PRESIDENT

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, every Member of this Congress has a concept of where they would take America; 535 different ideas about taxing and spending and leadership. However, in the final analysis, the Congress cannot lead America. For the Constitution itself reads, "and the President shall submit a budget." Mr. Speaker, it is time for George Bush to ask himself, why is it he sought the Presidency? What is it he would seek to achieve? For 8 years there has been in the last administration, and for 2 years in this administration, no problem so big that it cannot be ducked, no crisis so large that it cannot be avoided.

Indeed, Mr. Speaker, the President's indecision, his comments of recent days are a metaphor for all these years of indecision, avoidance, and allowing leadership to others. America deserves more.

EXPLANATION OF AMENDMENTS ON NATIONAL ENDOWMENT FOR THE ARTS

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, at long last today the Congress will have a chance to vote on the National Endowment for the Arts. We will have three amendments as the Committee on Rules has set out, which will deal with this issue.

No. 1, an amendment by the gentleman from Illinois [Mr. CRANE] that will eliminate funding for the National Endowment for the Arts, which I think is a good idea. No. 2 will be an amendment offered by myself, the Rohrabacher amendment, which will set commonsense standards for the National Endowment for the Arts. No. 3, there will be a vote on the Coleman-Williams gut-the-standards substitute which is an attempt to give Congress a chance to vote for standards with one vote, and then a chance to eliminate them with the very next vote.

The American people will not be fooled by this tactic. This is what makes people cynical about democracy in America.

This chart shows that the Coleman-Williams gut-the-standards substitute will not solve, will not handle any o the outrages which have been fi nanced by the American taxpayer over the last few years. My amendment would prohibit the waste of our tax payers' dollars on pornography and sacrilegious art at a time when we are trying to raise taxes on the American people, medical fees for our elderly, let Members quit wasting Government money on pornography and sacrilegious art.

TAKE A STAND, MR. PRESIDENT

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, one of the earlier speakers indicated that we have a responsibility in the House and Senate, and I agree with that, We all have a responsibility in terms of the pending budget considerations. But in the end, George Bush was the one that ran for the President. It was George Bush that wanted to run the country. All George Bush has done lately is run to his rich friends in California, Cleveland, and Colorado, looking for campaign contributions.

When the chips are down, and when we have to make vital decisions in terms of the budget crisis we face, he runs away and says, "Read my hips." His spokesman say, "We want to bob and weave today. We want Congress to come up with a package." He cannot run away from this particular problem. George Bush cannot govern by simply saying no. It is time that he made a decision, took a stand, and became a leader.

REGRESSIVE TAXES IN DEMOCRATIC BUDGET

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, I am confused. What we see in this proposal, which is a proposal of a budget that was passed these last few days, was a Democratic budget, a budget that had nothing but regressive taxes in it, a tax on gas that hits the poor, hits the middle class, not the rich. Medicare, reductions in Medicare are regressive, hit the poor, hit the elderly; $2.7 billion in veterans' cuts. That hits the poor, hits the middle class.

Incredible, and that was carried by the majority of the Democrats in Congress, the Democrats are the ones that put it in, yet they attacked the President. I do not understand it. They attack the President for being late with his budget proposal. What about April 15 when Congress, the majority leader and the Speaker of the House had that obligation, and they defaulted on it? They did not move forward. Constitutionally, that was their requirement to respond to the budget of the President. That was not done.

This is a Democratic proposal. I am against taxes. I am against regressive especially. Yet that is what the Democratic budget calls for.

TAX FAIRNESS

(Mr. ESPY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ESPY. Mr. Speaker, last week this Congress justly voted down a budget resolution that was regressive and unfairly attacked our elderly, working families, farmers, and our poor.

We heeded the call from middle America, Mr. Speaker. They called and said, "No." Now we have a chance to add another chapter to President Kennedy's "Profiles in Courage." The characters in this chapter should be both Republican and Democrat. Mr. Speaker, we hope that our President gets in a few chapters of his own.

We need to have the courage to reduce our deficit by $40 billion this year, and $500 billion over 5 years. We need to have the courage to burst the bubble. We need to have the courage to make our tax system more progressive.

In the last 10 years, taxes on middle-income families rose by 7 percent, while taxes on America's wealthiest dropped by 3.2 percent. Now, try to explain how that can be fair.

Mr. Speaker, as we write another chapter for "Profiles in Courage," we need to make sure that we just do not write off middle America.

BUDGET NOT PROPER VEHICLE FOR OSHA PENALTIES

(Mr. BUECHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUECHNER. Mr. Speaker, it has come to my attention that in the budget that is being passed around these days, language has been included to increase OSHA civil penalties fivefold. Maximum OSHA for nonserious violations would increase $1,000 to $5,000, and for serious violations from $10,000 to $50,000. It is the only part of the budget where penalties are increased to raise money.

More important, this increase could be a mandatory minimum floor for fines. Congress is also considering OSHA user fees for at least two programs: the Onsite Consultation Program where small contractors can call OSHA for onsite help; and the Volunteer Protection Program, in which companies apply for enrollment in the program to receive a safety certificate.

It is anticipated that Senator Metzenbaum on the other side will put his criminal penalties into the budget, too. His plan attaches these penalties to willful violation resulting in serious bodily injury. OSHA will oppose these because they do not belong here.

Mr. Speaker, If we are trying to help businesses, we should work with them, but the place to do this is not in the budget proposal. I would hope that everyone in this body will reject these when they come up, and they will let their people in business know that they are interested in balancing the budget, not simply trying to find a gimmick to hit those that want to willfully comply.

THE PRESIDENT PROTECTS WEALTHY

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute.)

Mr. GLICKMAN. Mr. Speaker, given the President's flip-flop yesterday on raising income taxes on the wealthy, I want to remind him that there is an overwhelming consensus among my constituents, among most Americans, that if taxes have to be raised they ought to include taxes on the well to do.

In that connection, one of the choices facing Congress is between raising taxes on the rich, on the one hand, and maintaining the huge Medicare cuts and gas tax increases on the other. Make no mistake about it, the White House and the Senate Republicans are fighting to protect the wealthy. The people listed in the last issue of Forbes magazine, the 400 richest people in the United States, protecting them at the expense of senior citizens and middle-income families.

The basic question of this budget now is, "Whose side are you on?" The lines are clearly being drawn. The President is on the side of the Forbes 400. The Democrats are on the side of the middle class.

SIZE DOWN GOVERNMENT

(Mr. CRAIG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAIG. Mr. Speaker, the debate is not rich man, poor man, or rich person, poor person, the debate is coming from the American people, loud and clear. Size down Government, do not raise our taxes, and get the job down now.

While the House Committee on Ways and Means chaired a majority run by Democrats yesterday clearly said, "Raise the taxes on the middle class." That is what came out. I do not care who spends what. The bottom line is the final product that this Congress, bipartisan or not, produces and passes on to the American people.

☐ 1020

The product we saw yesterday was the very product that the average taxpayer and the voter rejected just last week. When will this Congress learn?

Well, it has not learned for the last 10 years, because the American people have spoken loudly time and time again. Size down government, cut its growth and its spending rate and do not raise our taxes, rich or poor, because you know, rich really means not me. It is the other guy. But what the American people understand is that "me" is being taxed under a package that is produced by a Democrat majority in this House.

SUPPORT THE DEMOCRATIC TAX PACKAGE

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, whether it is hips or lips, the President clearly is on the side of the wealthiest, and by that we are not talking about the average American. We are talking about the people who earn over $400,000 a year. Those are the people he is defending, and it is time for us Democrats to stand up and be counted, and we are.

Already our Democratic Ways and Means Committee has vastly improved the Summit package in the following ways: softening the blow on Medicare by $12 billion; eliminating the 2-week waiting period for unemployment payments which would ease the pain for many families. They did away with $12 billion of new tax shelters for the wealthiest and they did away with $4 billion of new tax rates for the oil companies who seem to be doing just fine lately, thank you very much.

So the system is working. The Democratic Congress has taken the summit package. It has made it better, and more than that, today they will be meeting and they will be reporting out a Democratic package. That package will ease the pain for the elderly even more than the first package and it will be a tax package which is progressive.

And I say to the President that it is time to come off, come down from campaigning for Jesse Helms and the other people who protect the rich, and fight for all Americans.

CONCURRENT RESOLUTION FOR ANATOLY GENIS

(Mr. McNULTY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McNULTY. Mr. Speaker, in 1976, Anatoly Genis applied for a visa to leave the U.S.S.R. to join his family in the United States. The Soviets turned him down.

As a result, he lost his job and he is prevented from practicing his profession. Today, suffering deep depression and financial hardship, he is a street cleaner and metro sweeper despite his doctorate in mathematics.

His visa applications have been rejected more than 25 times since 1976. Recently, the authorities invited him to seek a visa to visit his family. He did. And again was rejected.

They say Anatoly possesses state secrets although he never worked on classified assignments. Still, they taunt him with false rumors that he will get his visa.

Mr. Speaker, I shall today introduce a concurrent resolution—along with my colleague Ben Gilman of New York—calling upon the President and Secretary of State to personally intervene with the President and foreign minister of the U.S.S.R. to secure permission for Anatoly Genis to be reunited with his family in the U.S. without further delay.

Mr. Speaker, I urge my colleagues to support this resolution.

DENY MFN TO CHINA

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, Chairman Mao once said "Hope is pinned on the people of the United States."

Mr. Speaker, Americans are trusting people. But we are being played for fools by the Chinese Government. Last week the London Independent reported evidence that a subsidiary of North Industries Corp., based in Beijing, has sold, to Iraq, large quantities of lithium hydride, a rare chemical used in the manufacture of nuclear weapons and missile fuel. This is a direct violation of the United Nations embargo.

This week we will consider House Joint Resolution 647, a resolution to deny most favored nation status to China as well as H.R. 4939, a bill establishing conditions for renewal of MFN. To paraphrase Mao, the Chinese Government's hopes for increased economic power are pinned on the business men and women of the United States.

We cannot continue to believe that extension of MFN will induce the Chinese Government to improve its record of gross human rights violations. Allowing the Chinese to keep their MFN status in light of their breach of the U.N. embargo is like rewarding a thief for stealing the crown jewels.

Let us show the survivors of Tienanmen that their friends and relatives did not die in vain. I urge my colleagues to support House Joint Resolution 647 and the Pelosi, Miller, Porter, and Wolf amendments to H.R. 4939.

BUDGET-DEFICIT REDUCTION

(Mr. BRENNAN asked and was given permission to address the House for minute and to revise and extend hi remarks.)

Mr. BRENNAN. Mr. Speaker, if we are going to pass deficit reduction—and everyone agrees that we must—then whatever we do must be fair t all Americans, in order to do this, th White House must get over its obses sion with protecting the tax rates fo the richest Americans. And it almos did this 2 days ago.

To try again to raise the percentag that middle-income Americans pay i new taxes to twice the rate that Amer icans of the richest class pay, is t stand social justice on its head.

That is outrageous, that will no work, and it should not work.

I do not believe that we should tr to solve the deficit by making thos who have little pay more and thos who have a lot, pay less.

It simply is not fair. And that typ of package will not pass the House an it should not pass the House.

We need a package in which al Americans share the burden in a fai manner.

I say to the President—Let us get o board the fairness train.

AMERICA IS SCREAMING FOR THE DEMOCRATIC BUDGET

(Mr. TRAFICANT asked and wa given permission to address the Hous for 1 minute and to revise and exten his remarks.)

Mr. TRAFICANT. Mr. Speaker, th President has gone from "read m lips" to "read my hips."

The American taxpayers are abou ready to lean over and to say "Kiss ou pocketbooks." They are sick and tire

We do not need to raise taxes. I rec ommend 50-50 and 5; cut 50 percent o NATO giveaways, cut 50 percent o foreign aid and international assis ance, and put the 5-percent tax bac on the millionaires, and stay awa from mom and dad's Medicare.

I will tell you what, Democrats, you do that, Old Swivel Hips is a on termer. If he vetoes it, he will not b President in 1992. Let us send a Dem cratic budget to the President. Ame ica is screaming for it.

THE BUSH ADMINISTRATION AND SMALL BUSINESS

(Mr. LIPINSKI asked and was give permission to address the House for minute and to extend and revise h remarks.)

Mr. LIPINSKI. Mr. Speaker, whe the British surrendered in Yorktow they marched to the tune, "The Wor Turned Upside Down."

The following story should be play to the same music, for what the Fede al Government is doing to a small business in my district.

The Bush administration has decided that a small business in my district which employs 26 workers, 21 Hispanic and 5 African Americans, is guilty of discriminatory hiring practices.

No, not because there are no white employees, but because based on a quota formula, there are not enough African American employees. According to the bureaucrats there should be exactly 31.3 percent.

As a result, the Bush administration is imposing $125,000 in fines which if paid will force this business to close.

A conservative Republican administration supporting hiring quotas? Shutting down small businesses because of big Government programs?

The President should say it is not so, or has the world truly turned upside down?

SAUDI CENSORSHIP

(Mr. McCLOSKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLOSKEY. Mr. Speaker, last night on network television the American people witnessed the spectacle of an army censor, allegedly functioning as a public relations person, abruptly terminate an interview in which a young soldier at the front was expressing comfort in his religious faith.

No doubt that statement would have been offensive to our Saudi allies. The United States military and the Saudis should reflect that our youth are there to protect Saudi freedom and dignity against a vicious oppressor.

Our military should think better before disrupting another soldier's statement of belief.

□ 1030

Perhaps the Saudis and our military also should stop ransacking the mail of our military for prohibited Bibles, magazines, and photos from home.

Our young men and women deserve better than that.

WHERE DOES THE BUCK STOP?

(Mr. JACOBS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JACOBS. Mr. Speaker, hearing one of the previous people this morning moves me to say we have come a long way from Harry Truman. When Harry Truman said, "The buck stops here," he was referring to the White House. Now all of a sudden revisionist history says it is the Congress.

The White House says that the Democrats control Congress. Any fool can see that is not true over the last few weeks, because if they did, they would pass their own budget and it would have been law by now. They do not control Congress, because they do not have sufficient votes to override a Presidential veto.

By the way, while we are at it, cutting spending, Congress might prove to the American public it is not kidding if it cancels the big leap forward in congressional and executive salaries scheduled for the first of the year.

I do not suppose they could do anything about the judges' salaries, because the judges would probably find something in the Constitution to declare it unconstitutional for them to make any sacrifice.

Mr. Speaker, I am cutting my time.

WE DO NOT KNOW WHAT THE PRESIDENT'S STAND IS ON TAXES

(Mr. HERTEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERTEL. Mr. Speaker, we do not know what the President's stand is on taxes. We do know where the Republicans have been for the last 10 years.

How did we get into this financial mess, this tripling of the national debt? Well, the Reagan administration doubled the defense budget and they gave tax cuts to the rich. What did the middle class get? They got an increase in taxes over the last decade.

Why should the rich pay a lower income tax rate than the middle-income people? Why? We have no answer to that, because there is no answer. It is basically unfair, patently unfair.

Why do we have today's deadlock on the budget? Because the Republicans want another tax cut for the rich, a tax cut in capital gains.

We are going to end this, we are going to restore fairness and stop the Republicans from just taking care of the rich. We are going to take care of the rest of the country and the rest of the people.

DEMOCRATIC DEMAGOGUERY

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, wow, what demagoguery we hear today. Oh, let us face it, American people, the taxocrat Democrat definition of rich is: middle class.

Look out, America. When the Democrats use this argument of rich versus poor, they are talking about the middle class. They are talking about two-income-earner families, they are talking about a senior citizen with a nest egg or some senior citizen selling their home or a small businessman that is selling his small business or a farmer who is selling a farm.

Yes, that is their definition of rich; it is the middle class who perhaps once or twice in their lives cash in on a home, a store, or a farm. And they are coming after you, middle class. They think that the American people, working until May 8—that is right, from January 1 until May 8—to pay their State, local and Federal income taxes, do not work long enough to pay taxes. They want more from you, these taxocrats.

This rich-versus-poor argument is sheer demagoguery for securing more taxes from the American middle class so that the taxocrats can take credit for giving the American people more presents—presents paid for with other people's money.

PRESIDENT BUSH: FIRST HE SAYS HE WILL, THEN HE SAYS HE WON'T

(Mr. AuCOIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AuCOIN. Mr. Speaker, I am truly amazed at the President's flip-flop on whether the wealthy should pay their fair share of income taxes.

It reminds me of a popular song in the 1940's. If George Bush were singing it today, it would be: "First I say I will, then I won't; then I do, then I don't. I am undecided now; what am I going to do?"

Well, Mr. President, you were elected to know what to do.

The American people are confused. They want you to lead. Let me make a suggestion:

Drop your commitment to no new taxes for your rich friends, and take a stand for the middle class and say, "I am with you. I'm going to make this Tax Code fair for American working families."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. Mazzoli). The Chair is constrained to remind Members that it is not proper directly to address the President from the floor.

"VETO BUSH, THE JOGFATHER"

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, I suppose most of you saw this picture on the front page. It shows a picture of Veto Bush, the Jogfather.

Mr. Bush is saying in this article here, when they asked a question, he said, "Read my hips." Now, this deficit

has become a big joke with him. I am questioning this.

What I am questioning is, Who is right? Who controls the Congress? Bush and the Republicans say, "Well, the Democrats control the Congress of the United States because they have the majority." But yet we have sent Mr. Bush 13 bills, major pieces of legislation, and he has vetoed every one of them, and we have failed to override any of them.

The President says we should do our job, and he says we should do our job if it is to his liking; and if it is not to his liking, then he is going to veto it and his little band of Republicans over here are going to dutifully support him in his veto.

So now who really controls the Congress of the United States? It is the power of the veto, make no mistake about it.

Since the President is such a hipster, he should get in tune with the majority of the people of this country and quit taxing them to death and put the blame where it ought to be.

SEX BIAS IN THE SCIENTIFIC COMMUNITY

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, once again there is another scientific study that indicates 45,000 Americans were involved in a case study that indicated drinking three or four cups of coffee a day was not serious to one's health. The problem is that this study was done on men only, 45,000 cases, and not one woman was a part of the study.

What is disconcerting to me is that in this morning's TV news never was it mentioned that men only were studied. This, then, becomes very, very dangerous because women who have cystic problems should avoid coffee and other caffeine-containing products.

Why is it, honestly, why is it the scientific community refuses to involve women in their studies so that we can get an honest appraisal for all Americans of what these studies purport?

We had an elderly study that was based on 20 years of research related to geriatrics, and never once was a woman studied in the 21,000-case study related to aspirin. Never once was a woman studied. This is outrageous.

Women and their families should really speak out against the scientific community.

PRESIDENT BUSH SHOULD DISASSOCIATE HIMSELF FROM THE REMARKS OF THE REPUBLICAN CANDIDATE IN TEXAS

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, yesterday was when the President made his "Read my hips" statement, and he was campaigning in the South for Jesse Helms and other Republican candidates.

The President has obviously decided to give less than his full concentration to the serious budget questions facing our country.

Since President Bush is serving actively as the head of the Republican Party in this country, I call on him to answer for the comments of Clayton Williams, the President's Republican candidate for Governor of Texas.

Clayton Williams said of his Democratic opponent, Ann Richards, he would "head and hoof Richards and drag her like a calf through the dirt."

Imagine that. Mr. Speaker, for the sake of the children who may be watching, I call on the President to disassociate himself or associate himself with Clayton Williams' remarks.

When I first heard the remark, I thought it was outrageous. When I heard President Bush's "Read my hips" statement, I thought it came from the same school of politics.

AMERICAN PEOPLE ARE WATCHING PRESIDENT BUSH'S TAX POLICY, NOT HIS HIPS

(Mr. DeFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DeFAZIO. Mr. Speaker, White House watchers are puzzled. Just what does the President mean, "Read my hips"? Volumes will be written about his latest cute ploy in an attempt to distract the American people from the issue at hand.

No deep meaning here. It is an old tried and true bunko artist ploy aimed at middle-income families again. While families across America watch the President's hips, he has got his hand in their pockets, in their pocketbooks. Once again raising taxes on middle-income families to subsidize tax breaks for his friends, the wealthiest one-half of 1 percent of the people in America, who earn over $200,000 a year.

The President should know actions speak louder than words, lips, or even hips. The American people are not watching the President's hips, they are watching his tax policy, and they do not like what they see.

MORE THOUGHTS ON THE BUDGET AND TAXES

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker and my colleagues, I do not often take the well during the 1-minute period. But I want to say a few things about the budget and taxes.

First of all, I think it is important to recognize that many of us on the Republican side of the aisle felt that the Democratic and Republican participants in the summit along with the White House summiteers brought us a package that was patently unfair to middle Americans.

□ 1040

Mr. Speaker, I use the term "middle Americans," in two senses, not just geographically. First the summiteers' budget resolution was very unfair to those parts of the Nation, in middle America, that depend heavily on agriculture and are sparsely settled. Those are areas, therefore where residents pay a lot in gasoline and diesel prices.

I am also talking about middle Americans in another sense. I am talking about the working middle class and retired middle class people.

That package was patently unfair to them, and that is one of the reasons why many of us on the Republican side of the aisle and on the Democratic side of the aisle voted against it.

I would say to my colleagues that regardless of the apparent confusion about what the White House is saying on the acceptability of eliminating "the bubble" in income tax rates in exchange for some type of cut in capital gains taxes, the ball is now back on the Democratic side of the aisle. It is before the committees you dominate. If you give us a package that is truly fair to middle income Americans, give us a package that provides some economic stimulation and truly meets the deficit reduction targets. Then you can count on a significant number of Members on the Republican side that will vote for it and will try to persuade the President not to exercise a veto.

THE PENSION TAX EQUITY ACT

(Mrs. UNSOELD asked and wa given permission to address the House for 1 minute, and to revise and extend her remarks.)

Mrs. UNSOELD. Mr. Speaker, I hav just introduced the Pension Ta Equity Act, which will end a modern-day abuse within our tax system—States reaching out and taxing non residents on their pension incomes. This tax is called a source tax. It is taxation without representation.

Many retirees are shocked to lear that their former home States ar taxing their pensions wherever they live on the grounds that the income should be taxed where it was earned. My bill will prohibit those States from imposing income taxes on pension incomes of individuals who are no longer residents of those States.

Thousands of retirees in the State of Washington are being slapped with these unfair source taxes—12,000 retirees from California alone. Nearly 37,000 who live in Washington and work in Oregon will owe Oregon State income taxes on their pensions when they retire. These retirees are taxed for the rest of their lives with no rights.

It is not only unfair, it is wrong to tax citizens who do not receive the benefit of those taxes. It is wrong to tax citizens who do not have a vote. Washington retirees are being hit with double taxation.

Mr. Speaker, I urge my colleagues to put an end to a tax practice that unfairly taxes our senior citizens.

DISCIPLINE NEEDED TO CUT SPENDING, NOT RAISE TAXES

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, the American people said very clearly early last Friday morning when their Representatives voted on that tax package that they do not want taxes increased in America, they want spending cut. It is time we look at this because we are scheduled to add $364 billion to the national debt this year.

I believe the plan that Congress should adopt is the one that I hope to get permission to offer on the floor of this House. That would get us out of this deficit mess, not by raising taxes on anybody in this country but by cutting spending. This institution controls spending in America, Presidents do not, and up to now we have not evidenced the discipline to even cut appropriation bills by a modest 2 percent.

The appropriation bills we passed in this Democrat-controlled Congress are on the average of 13 percent higher than what we spent in the preceding year.

Mr. Speaker, what America needs is a Congress with some discipline, and if we do not get it before November, I hope the American people will get out a broom and start sweeping the big spenders out.

A PLEA TO ELIMINATE THE GRAZING SCAM

(Mr. DARDEN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DARDEN. Mr. Speaker, it is going to be a very difficult and contentious day in the House, I believe, and I think the 1-minute speeches we have already heard seem to indicate it is going to be a rather exciting time around the old House of Representatives.

We have a conference report to consider on the Civil Rights Act of 1990, we have a bill providing for authorization for the National Endowment for the Arts, and I submit that might be somewhat testy, and we have H.R. 5769, the bill on appropriations for Interior and related agencies. But there is one amendment to that bill that should not be controversial.

The gentleman from Oklahoma [Mr. Synar], the gentleman from Pennsylvania [Mr. Clinger], and I will offer an amendment to do away with the grazing scam once and for all. All those Members like the gentleman from California who just spoke, who want to implement the grazing cuts will, I know, see that the Grace Commission recommendation that we seek to implement will save millions of dollars for the taxpayers.

This is a small way by which we can save about $50 million a year. Fifty million dollars a year might not be much to some people, Mr. Speaker, but it is a lot to me and a lot to my constituents.

So, Mr. Speaker, I ask the Members to join with me and the gentleman from Oklahoma and the gentleman from Pennsylvania, and let us eliminate the grazing scam, the subsidy that these greedy Western cattlemen have received for many years. Let us implement the Grace Commission's recommendation and let us cut wasteful Government spending.

REPUBLICANS UNVEIL NEW TAX PROPOSALS

(Mr. HUNTER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, over the last several weeks Republicans have indicated what they do not stand for and what they do not want, and there was a majority on this side of the aisle, on the Republican side, that rejected the budget deal that was put together by the summiteers. It is now important for us to talk about what we do stand for, and I want to say just a couple of things about the package that the gentleman from Ohio [Mr. Kasich] and the gentleman from Michigan [Mr. Pursell] and the task force have produced and which the Republican Policy Committee has voted to approve.

We stand for cutting the 10- to 12-cent-a-gallon gas tax that is present in the summit budget proposal. Republicans stand against the gas tax, and we stand for cutting domestic discretionaries.

I think it is very important to note that the Republican package that will be unveiled very shortly, after the next conference, is going to recommend something less than that 4 percent inflation increase for that pot of money that is known as domestic discretionary spending.

APPOINTMENT OF CONFEREES ON H.R. 5268, RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5268) making appropriations for Rural Development, Agriculture, related agencies programs for the fiscal year ending September 30, 1991, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

Is there objection to the request of the gentleman from Mississippi? The Chair hears none, and appoints the following conferees and, without objection, reserves the right to appoint additional conferees: Messrs. Whitten, Traxler, McHugh, Natcher, Watkins, and Durbin, Ms. Kaptur, Mr. Smith of Iowa, Mrs. Smith of Nebraska, and Messrs. Myers of Indiana, Skeen, Weber, and Conte.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 5158, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1991

Mr. TRAXLER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Michigan? The Chair hears none, and appoints the following conferees and, without objection, reserves the right to appoint additional conferees: Mr. Traxler, Mr. Stokes, Mrs. Boggs, and Messrs. Mollohan, Chapman, Atkins, Whitten, Green of New York, Coughlin, Lewis of California, and Conte.

There was no objection.

□ 1050

APPOINTMENT OF CONFEREES ON H.R. 5313, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1991

Mr. HEFNER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5313) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina? The Chair hears none and appoints the following conferees and without objection, reserves the right to appoint additional conferees: Messrs. Hefner, Alexander, Thomas of Georgia, and Coleman of Texas, Ms. Kaptur, and Messrs. Bevill, Dicks, Fazio, Whitten, Lowery of California, Edwards of Oklahoma, Kolbe, DeLay, and Conte.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 5229, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. LEHMAN of Florida. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5229) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1991, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Florida? The Chair hears none, and appoints the following conferees and without objection, reserves the right to appoint additional conferees: Messrs. Lehman of Florida, Gray, Carr, Durbin, Mrazek, Sabo, Whitten, Coughlin, Conte, Wolf, and DeLay.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 5019, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1991

Mr. BEVILL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5019) making appropriations for energy and water development for the fiscal year ending September 30, 1991, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Alabama? The Chair hears none, and appoints the following conferees and without objection, reserves the right to appoint additional conferees: Mr. Bevill, Mrs. Boggs, and Messrs. Fazio, Watkins, Thomas of Georgia, Chapman, Whitten, Myers of Indiana, and Mrs. Smith of Nebraska, Mr. Pursell, and Mr. Conte.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 5311, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1991

Mr. DIXON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5311) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1991, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. GALLO

Mr. GALLO. Mr. Speaker, I offer a motion to instruct.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

> Mr. Gallo moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on H.R. 5311, be instructed to agree to the amendment of the Senate numbered 18 restoring to the University of the District of Columbia $1.6 million in non-Federal funds.

The SPEAKER. The gentleman from New Jersey [Mr. Gallo] will be recognized for 30 minutes, and the gentleman from California [Mr. Dixon] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. Gallo].

Mr. GALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this motion seeks to restore $1.6 million of the District of Columbia's own funds for the purpose of higher education; namely the University of the District of Columbia.

On July 26, the House voted to strike these funds in a dispute over a piece of artwork that was part of a larger project being planned at the university.

Since that time the artwork in question has been withdrawn from consideration, removing the stated reason for the objection.

Mr. Speaker, I offer this motion to instruct because I believe that we should publicly acknowledge that fundamental changes have occurred—and are still occurring—at the university.

If the Members who voted to strike this money truly believe in the actions they took in July, then they should support this restoration of funds, because it is consistent with that earlier action.

However, I offer this motion today, Mr. Speaker, for another purpose as well.

While we have worked within these walls on a budget, the students of the University of the District of Columbia have raised their voices in protest.

I do not condone the actions of the students at the university, but I understand their frustration.

It is the same frustration that the Members of this body felt when they voted to strike these funds in July, because of the poor judgment of the university's trustees.

But, the university officials have canceled the project that caused this House to remove these funds.

The facility that was to house the objectionable work will not be built.

We should now focus on education.

We should send a clear message to the District government and to the administration and faculty of the university that they should stop fighting over turf and start providing a quality education that the students need to succeed in today's world.

We have a window of opportunity.

It is clear that new leadership will emerge at the university in the near future, as well as within District government.

Let me remind my colleagues that this money represents District tax dollars, not Federal money.

We need to look to the future, not the past.

Mr. Speaker, I urge Members to vote yes on the motion to instruct.

Letter from Mr. Parris follows:

> Committee on the
> District of Columbia,
> *Washington, DC, October 11, 1990.*
>
> Hon. Dean Gallo,
> *Vice Chairman, Appropriations Subcommittee on the District of Columbia, U.S. House of Representatives, Washington, DC.*
>
> Dear Dean: I write in strong support of your motion to instruct the conferees on the FY 1991 D.C. Appropriations Act to restore the $1.6 million which my floor amendment sought to cut from the UDC budget.
>
> The intent of my amendment, as you know, has since been accomplished through the well publicized actions of the students and faculty of the university, and the subsequent withdrawal of the offer to house The Dinner Party.
>
> Thank you for your efforts in this regard.
>
> Sincerely,
>
> Stan Parris,
> *Vice Chairman.*

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the motion to instruct offered by the gen tleman from New Jersey [Mr. Gallo]. As the gentleman astutely pointed out, this is $1.6 million of local moneys, not Federal funds. I certainly support his motion to instruct.

Mr. GALLO. Mr. Speaker, for purposes of debate only, I yield 12 minutes to the gentleman from California [Mr. Dannemeyer].

Mr. DANNEMEYER. Mr. Speaker, I thank the gentleman for yielding. I want to advise Members that at the time when the Speaker calls for the previous question, I will seek to defeat the previous question so that I can offer an amendment to the pending motion to instruct conferees that will incorporate the language that is being offered by the gentleman from California [Mr. Dixon] and the gentleman from New Jersey [Mr. Gallo] on the point that they have described to the House.

I will seek to add an additional instruction to the conferees that will have the effect of adding two amendments that were adopted in the Senate, one by Senator Adams from the State of Washington, and the other by Senator Armstrong from the State of Colorado.

Mr. Speaker, this effort deals with the functioning of Big Brothers in the District of Columbia. The first amendment that was adopted in the Senate dealing with this issue was presented by Senator Adams from the State of Washington. What his amendment did was to amend the basic ordinance of the District of Columbia to make very clear that an organization could adopt a policy that would exclude from membership in such Big Brothers organization the exclusion of any adult convicted of or charged with a crime or who otherwise poses a threat to a child, and, second, would give to a parent the option of whether or not that parent wanted a particular Big Brother to take over a position of helping that parent's child in the Big Brothers organization.

That amendment was adopted on a vote of 98 to 0 in the Senate. I would submit it is appropriate for the House to adopt the same amendment.

☐ 1100

The second amendment that I would seek to add was offered by Senator Bill Armstrong from the State of Colorado, and it would say that any Big Brothers organization could adopt a policy, if they chose do so, which would make clear that they did not have to accept a homosexual as a Big Brother in that youth organization.

The practice that is currently taking place in the District of Columbia is as follows: For many years the Big Brothers organization in the District of Columbia declined to bring into their programs persons who were homosexuals in their sexual orientation. The District of Columbia has an ordinance that precludes discrimination based on sexual preference, and the homosexual community in the District of Columbia pressured the Big Brothers organization to modify their policy to accept homosexuals as Big Brothers in the District of Columbia.

This amendment by Senator Armstrong makes clear that if the Big Brothers organization in the District of Columbia chooses to have a policy that they choose not to have homosexuals as Big Brothers, then they could have such a policy and not be in conflict with the local ordinance of the District of Columbia.

With respect to the legislative need in this area, I think we should be aware of what is going on in this country in the form of an assault on traditional family values.

On August 9, 1989, the U.S. Department of Health and Human Services released a report entitled "Report of the Secretary's Task Force on Youth Suicide." A portion of that report read as follows:

> Communities need to develop social groups and activities specifically for gay and lesbian youth as a way of meeting others like themselves and developing relationship skills. Existing youth programs such as the Boy and Girl Scouts should include gay youth into their activities. Youth programs such as Big Brothers and Big Sisters should enlist gay and lesbian adults to work with gay youth.

When you heard that, you heard it right. This was a publication of the U.S. Government Health and Human Services Department on August 9, 1989. It outraged people in this country who believe in traditional family values of human sexuality as one man and one woman who come together in an institution called marriage and pledge to be mutually faithful, and families in America were properly outraged by this statement.

Secretary Sullivan wrote on October 13, 1989:

> I want to reemphasize that the views expressed in the paper entitled "Gay Male and Lesbian Youth Suicide" do not in any way represent my personal beliefs or the policy of this Department.

So Secretary Sullivan has specifically disavowed that language. But we should not delude ourselves in what is taking place with respect to this publication. It is being disseminated across America as the official position of the U.S. Government.

My friends, it is later than we think.

I want to read at random accounts in newspapers in this country dealing with the issues that I am talking about; namely, youth organizations, Big Brothers and others which are using homosexuals as youth counselors.

> September 1, 1990, Associated Press.—The Mayor of Sunnyvale, California, Brian O'Toole, "resigned his post after pleading no contest Friday to one felony charge of molesting a boy under the age of 14. O'Toole met the boy through the Big Brothers program * * * O'Toole, released on $5,000 bail, is accused of molesting the Cupertino boy from the time the youth was 9 until he was 13."
>
> June 7, 1990, Associated Press.—"A Hartford [Conn.] man, who authorities said tried to coerce a 13-year-old boy into a homosexual relationship and killed him when the boy tried to end their friendship, was sentenced to 36 years in prison * * * [the man] was [the boy's] baseball coach and the two were considered close friends."
>
> April 21, 1990, Associated Press.—"A Boy Scout leader [in Lodi, NY] has been charged with 128 counts of sodomy for alledgedly having sex with members of his scout troop at a summer camp."
>
> April 17, 1990, Associated Press.—"[An Oregon] state study has concluded that procedures giving William Dufort 'unrestricted access to spend time alone with children on and off campus' set the stage for sex abuse at the Children's Farm Home * * * Dufort, the 49-year-old former executive director of the Farm Home, faces 43 felony and misdemeanor charges of sexual abuse involving 10 boys at the home."
>
> April 12, 1990, Associated Press.—"The last two suspects in a homosexual ring that preyed on boys in Mobile [AL] for a decade were given prison sentences * * * [The men] would drive around neighborhoods and look for kids on the street and often these kids were bored kids sometimes from troubled homes * * *."
>
> October 10, 1988, Associated Press.—"I had a teacher tell me, 'I picked out the boys that didn't have fathers. I befriended them. They were vulnerable in that area; I knew they needed role models,' said a therapist who lectures nationally about sex offenders * * * 'I think my son was looking for a big buddy, for an older male to fill [the vacancy of a father],' said another mother."
>
> November 19, 1987, Associated Press.—"An Atlanta area man who was treated in the Anneewakee wilderness therapy program as a teen-ager says he developed a homosexual relationship with the [founder of the program] * * * [the founder] is charged with 26 counts of sodomy * * *."
>
> June 4, 1988.—Staten Island computer analyst who used his position as a Big Brother volunteer to molest a 7-year-old boy.
>
> July 16, 1988.—Episcopalian priest in Wisconsin who ran his church's altar boy program.
>
> July 18, 1988.—The executive director of a missing children's search group who sexually assaulted young boys he was hired to find.
>
> October 17, 1988.—A pentecostal preacher acknowledged at least 100 experiences of oral sodomy on young boys, some only 8 years old.
>
> November 22, 1987.—A conspiracy of male homosexual administrators and employees at a school for the deaf were regularly beating and sexually abusing young deaf boys.
>
> May 11, 1988.—A gym teacher in Maryland abusing boys ages 8 to 10 at an elementary school.
>
> May 11, 1988.—A high school wrestling coach molesting a member of his wrestling team.
>
> May 10, 1988.—A homosexual prison guard assaulting teen-age boys at a state prison.

Here is an advertisement that I would like to put in the Congressional Record from the Big Brothers/Big Sisters of America. This appeared in

Washington Blade, a homosexual publication of the District of Columbia dated February 16, 1990. It says, "Be a Big Brother or Big Sister."

"When I grow up, Dad, I'm gonna be a Big Brother." "Call your local Big Brother/Big Sisters Agency."

Then there was a story in the San Francisco Chronicle on February 18, 1990, "A Silence of Shame—Sons of Asian Refugees Are Being Sexually Abused by 'Friends' and 'Helpers'." I will not take the time of the House to read the entire account, but what it says is that the homosexual network in America is using its access into Big Brother programs around this country for the purpose of soliciting young boys for sexual activity, transporting them around the world to other countries where authorities are more sympathetic to the activities of such relationship than exist here in this country.

The reason I believe it is important to amend this motion to instruct is to designate or require that our conferees from the House in the District of Columbia appropriations bill adopt the same amendments that were adopted by Senator Adams and Senator Armstrong in the Senate in the manner that I have described.

I thank my friend from New Jersey for this time, and I will ask the House to defeat the previous question so that I can amend the instructions that are currently being considered and incorporate both instruction into the one amendment.

Mr. DIXON. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I have heard the arguments of my colleague from California many times before on this floor. The issue that he really fails to address here is that Senator Armstrong and he are both interfering with District of Columbia statutes.

There is a statute in the District of Columbia, the District of Columbia Human Rights Act, with the District determined was possibly being violated by the Big Brothers operating here in Washington, DC. That Big Brothers organization, if it is to operate here, must conform to the laws that have been passed by this District.

Senator Armstrong is not a member of the District's legislative body. Neither is Congressman Dannemeyer. I would ask that Members reject his arguments.

Mr. GALLO. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I know the gentleman from California [Mr. Dannemeyer] is very concerned about this particular issue, and I know he feels very strongly about it.

☐ 1110

Likewise, I feel very strongly about the University of Washington, DC, and the $1.6 million that was taken from it by this House. I know the dispute that centered around that with this objectionable piece of art and also a building that was going to be built.

But I think the words of the House have been heard by not only the university but also by Washington, DC, government.

What I am asking is that we recede by way of instructions, recede to the Senate in full restoration of that $1.6 million.

What I am asking is that my colleagues vote "yes" on the previous question.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. GALLO. I yield to the gentleman from California for purposes of debate only.

Mr. DANNEMEYER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, what I want to make clear is that I am not seeking to eliminate the gentleman's motion to instruct. My amendment, all it does is add my language to his so the two would be combined in the amendment that I seek to offer. I think the gentleman's point is well taken. It would be affirmed if I am successful in my effort. I want to make that clear to our Members.

Mr. DIXON. Mr. Speaker, I yield back the balance of my time.

Mr. GALLO. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion to instruct.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 255, nays 156, not voting 22, as follows:

[Roll No. 443]

YEAS—255

Ackerman
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Bliley
Boehlert
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Browder
Brown (CA)
Bruce
Bryant
Buechner
Bustamante
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Costello
Courter
Coyne
Crockett
Darden
DeFazio
Dellums
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Gray
Green
Guarini
Hamilton
Hatcher
Hawkins
Hayes (IL)
Hertel
Hoagland
Hochbrueckner
Horton
Hoyer
Hubbard
Hughes
Hunter
Johnson (CT)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kostmayer
LaFalce
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Machtley
Manton
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Pickett
Pickle
Price
Pursell
Rangel
Ray
Richardson
Roe
Rose
Rostenkowski
Roybal
Russo
Sabo
Saiki
Sangmeister
Savage
Sawyer
Saxton
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (VT)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Sundquist
Swift
Synar
Tanner
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Vander Jagt
Vento
Visclosky
Walgren
Walsh
Washington
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Wylie
Yates

NAYS—156

Alexander
Applegate
Armey
Baker
Ballenger
Barnard
Barton
Bateman
Bentley
Bereuter
Bilirakis
Broomfield
Brown (CO)
Bunning
Burton
Byron
Callahan
Clinger
Coble
Combest
Condit
Coughlin
Cox
Craig
Crane
Dannemeyer
Davis
de la Garza
DeLay
Derrick
DeWine
Dickinson
Douglas
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Gallegly
Gekas
Gillmor
Gingrich
Goss
Grandy
Grant
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hayes (LA)
Hefley
Hefner
Herger
Hiler
Holloway
Hopkins
Huckaby
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (SD)
Kasich
Kolbe
Kolter
Kyl
Lagomarsino
Lancaster
Laughlin
Leath (TX)
Lent
Lewis (FL)
Lightfoot
Livingston
Lloyd
Madigan
Marlenee
Martin (IL)

McCandless
McCollum
McEwen
McMillan (NC)
Meyers
Miller (OH)
Montgomery
Moorhead
Myers
Nelson
Nielson
Oxley
Packard
Parker
Pashayan
Patterson
Paxon
Penny
Petri
Porter
Poshard
Quillen
Rahall
Ravenel
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Rowland (GA)
Sarpalius
Schaefer
Sensenbrenner
Shumway
Shuster
Skelton
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stangeland
Stearns
Stenholm
Stump
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (WY)
Valentine
Volkmer
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Wolf
Yatron
Young (AK)
Young (FL)

NOT VOTING—22

Archer
Bartlett
Boggs
Dornan (CA)
Engel
Frenzel
Goodling
Harris
Hastert
Henry
Houghton
Kleczka
Lukens, Donald
Markey
McCrery
Neal (NC)
Parris
Ridge
Roukema
Rowland (CT)
Schuette
Wilson

□ 1134

The Clerk announced the following pair:

On this vote.

Mr. Kleczka for, with Mr. Dornan of California against.

Messrs. LEATH of Texas, MYERS of Indiana, ROWLAND of Georgia, SKELTON, and DAVIS, Mrs. PATTERSON, and Messrs. THOMAS of Wyoming, JENKINS, LENT, KOLTER, DOUGLAS, BARNARD, IRELAND and CONDIT changed their vote from "yea" to "nay."

Messrs. PURSELL, UPTON, and BLILEY changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the motion to instruct offered by the gentleman from New Jersey [Mr. Gallo].

The motion was agreed to.

The SPEAKER. The Chair appoints the following conferees, and without objection, reserves the right to appoint additional conferees: Messrs. Dixon, Natcher, Stokes, AuCoin, Dwyer of New Jersey, Hoyer, Whitten, Gallo, Green of New York, Regula, and Conte.

There was no objection.

CONFERENCE REPORT ON S. 2104, CIVIL RIGHTS ACT OF 1990

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 477 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 477

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, and all points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER. The gentleman from Missouri [Mr. Wheat] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. Solomon], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 477 waives all points of order against the conference report to S. 2104, the Civil Rights Act of 1990 and its consideration. In essence, the rule permits the House to consider the conference agreement reached last week by waiving all points of order, particularly those relating to scope of the conference.

Similar versions of the civil rights bill passed both Houses of Congress by overwhelming margins earlier this year, and it is critical that we complete consideration and send this bill to the President as soon as possible.

□ 1140

Mr. SOLOMON. I thank the gentleman for yielding.

Mr. Speaker, as the gentleman from Missouri has indicated, the reason for this rule is to protect the conference report on the Civil Rights Act against possible points of order. Specifically, there are two provisions in the conference report, dealing with a cap on punitive damages and some employment exemptions, which can be construed as exceeding the scope of the conference.

Mr. Speaker, I have no desire to delay the proceedings here today. I would just note, however, that the administration has this past week reiterated its concern about this bill. The administration has made it clear that not a single one of its concerns about the bill was resolved satisfactorily in the conference. Therefore, the veto threat still stands and should be taken seriously.

Mr. Speaker, I regret that we have evidently come to such an impasse. I believe the administration has made a good-faith effort to come to terms with this Congress on the issue of civil rights. But the President has made clear from the outset that he will not sign a quota bill, and this is a quota bill.

So I suspect we will be revisiting this issue next year, the next Congress.

I also would point out, Mr. Speaker, that I understand that a motion will be made at the conclusion of debate today to send this conference report back to conference. I am not sure who will be offering the motion, but I understand that one is on the way here right now.

I just hope we don't have to have further waivers of points of order when this conference report comes back to us again.

Mr. Speaker, I reserve the balance of my time.

Mr. WHEAT. Mr. Speaker, I have no requests for time.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. Fawell], a member of the committee.

Mr. FAWELL. I thank the gentleman for yielding.

Mr. Speaker, I rise in opposition to the rule. I do not plan to take a great deal of time.

The one alteration that was authorized by this rule is one which required a waiver, and I objected to that. I did so because in the conference committee I did present an amendment which called upon the remedies section to be applicable to Congress. I was ruled out of order.

Now, I am not very high myself on having the remedies section of this bill be applicable to Congress because I think it is a tragic overkill and brings about multimillion-dollar lawsuits that can hold employers personally liable.

But I do believe that if we are about to have legislation like this that will be effective upon all the employers of America that that kind of amendment—you cannot deny the logic of having it apply also to Members of Congress, which at times has been described as "the last plantation."

We do have, Mr. Speaker, discrimination on the basis of race, sex, and national origin, and perhaps on religion too. I do not know about that. But to have this gutting of the EEOC and this new kind of bonanza for attorneys afflict all of America's employers and then to exempt Congress once again illustrates our obliviousness, our lack of care, I guess, in regard to the kind of legislation we pass and place upon the shoulders of America's businesses.

I think it contributes, Mr. Speaker, to the disrepute which is growing in this land with regard to this Congress.

We knowingly do this, we protect Congress by this rule, for instance, in the action that we took in the conference committee, and we will say in no way do we want to be dragged into Federal court and be subjected to a couple of hundred thousand dollars of personal liabilities because of allegations of discrimination on the basis of sex or race or religion or national origin; but we are more than willing to say to all of the employers of America, "We are going to do this to you because we think it is right, we think it is just, but we don't think it is right, we don't think it is just as far as the operation of our offices is concerned."

Let me tell you, perhaps there is some sex discrimination and racial discrimination taking place within Congress.

When we have that kind of rule and we overrule an attempt within the conference, when indeed we were entertaining my motion in that regard, we came to vote to adjourn and then we came back, and Senator Kennedy's motion was on the table and mine was no longer there.

And all that Senator Kennedy wanted to do was an alteration in reference to the cap on punitive damages, which is no alteration whatsoever.

So for that reason, Mr. Speaker, I rise in opposition to this rule.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the distinguished ranking Republican member of the Committee on the Judiciary, the gentleman from New York [Mr. Fish].

Mr. FISH. I thank the gentleman for yielding.

I will be very brief.

Mr. Speaker, the rule is to allow us to take up the conference report for the purpose of explaining why we would like the motion to recommit to prevail, to reopen the conference. We are not addressing the substance of the conference passed as much as we are the agreement on changes to be put into the new conference report that we hope will satisfy many of the qualms that have been expressed by the Members.

So we are not asking for a vote on the rule. The purpose here is to bring the conference up so we can explain what we want to do and, hopefully, have a motion to recommit that will prevail.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. Goodling], a member of the committee.

Mr. GOODLING. Mr. Speaker, we are bringing a very, very controversial issue to the floor without much attention being paid to it, I think, by most people in the Congress of the United States. I understand we are going to have an opportunity to send this back to conference. Then we are going to come back and agree to the Hatch language, which, in fact, never agreed to. From everything I can gather from my legal scholars, it is worse than what we had originally and worse than what the conference is.

So I am just calling it to the attention of the Members that I hope they have a lot of time between now and whenever we cast this vote to really understand what it is they are going to be voting on. I will later on, mention some of the issues that I think are going to get worse with this so-called compromise. But at this time I would like to make sure the Members try to understand what it is we are doing here today in relationship to this complex legislation.

□ 1150

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. Sensenbrenner], a member of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Speaker, one thing everybody in this controversy agrees on, is that this bill ought to be recommitted to the conference committee, that the conference committee did not do a very good job. I agree that the conference committee did not do a very good job. This is a prime example of what happens when outside forces, special interest groups, attempt to dictate what goes on in a conference committee.

The conference committee that met on the civil rights bill was one of the most frustrating conferences that I have participated in in the 12 years I have been privileged to serve in this body. Members of the conference committee made motions, and then all of a sudden did not back up their motions. There was a lot of scurrying around to a back room, and as a result, the product we have seems to be unacceptable on both sides of the aisle.

The rule that is before us today purports to waive points of order against the conference report. I think it is important to mention at this point, that during the conference, Republican members of the conference, specifically the gentleman from Illinois [Mr. Fawell], introduced language on congressional coverage that was outside the scope of the conference, and the Chair sustained a point of order against Mr. Fawell, who was trying to bring the Congress under the same rules that we are imposing on the private sector through this bill.

However, when the Senator from Massachusetts [Mr. Kennedy] introduced language that was outside the scope of the conference, the Chair, the gentleman from California [Mr. Hawkins] just shrugged his shoulders and said, "We will have to go to the Rules Committee."

If we can go to the Rules Committee for the Kennedy language, why can we not go to the Rules Committee for the Fawell language to bring Congress under the scope of the civil rights bill? Apparently civil rights is not entitled to apply to all, and the Congress once again will be exempt.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to point out that I was not going to ask for a vote on the rule, but I understand that the motion to instruct has not arrived from legislative counsel; so, therefore, I will ask for a vote.

Mr. Speaker, I yield back the balance of my time.

Mr. WHEAT. Mr. Speaker, I do not have any further requests for time, but I yield myself such time as I may consume, so I might offer this explanation:

I would like to indicate what we expect the order of the proceedings to be at this point in time. After the vote on the rule, we would proceed to the consideration of the conference committee report. It is my understanding that the managers of the bill would then offer a motion to adopt the conference committee report and some Member on the other side would then offer a motion to recommit the conference committee report to the conference committee with instructions. At that point, if that motion passed, this bill would then go back to conference where additional agreements could be made that would, perhaps, make the bill more palatable to Members on both sides of the aisle and in both bodies.

Mr. Speaker, with that, what I hope is a somewhat clear explanation, I urge adoption of the rule so that we may continue with this procedure and so that we may eventually adopt this vitally important conference report.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. Mfume). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were: yeas 412, nays 5, not voting 16, as follows:

[Roll No. 444]

YEAS—412

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin

Courter
Cox
Coyne
Craig
Crockett
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
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Kanjorski
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Kennedy
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Kleczka
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LaFalce
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Leach (IA)
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Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Marlenee
Martin (IL)
Martin (NY)
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
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Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
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Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—5

Crane
Dickinson
Fawell
Quillen
Washington

NOT VOTING—16

Bartlett
Boggs
Dorgan (ND)
Green
Harris
Lent
Markey
Martinez
McCrery
Morrison (CT)
Parris
Rowland (CT)
Schuette
Stark
Udall
Wilson

□ 1211

Messrs. UPTON, STUMP, and DENNY SMITH changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DORGAN of North Dakota. Mr. Speaker, I inadvertently missed the vote on rollcall 444 pertaining to House Resolution 477. Had I been present I would have voted "yes."

Mr. HAWKINS. Mr. Speaker, pursuant to the provisions of House Resolution 477, I call up the conference report on the Senate bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. MFUME). Pursuant to House Resolution 477, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 26, 1990 at page H8045.)

The SPEAKER pro tempore. The gentleman from California [Mr. HAWKINS] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that the time allotted to the majority be equally divided between myself and the gentleman from Texas [Mr. BROOKS].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this brings up again for a discussion the Civil Rights Act of 1990.

I would like to remind the Members that we have already successfully and overwhelmingly adopted a bill. Since that time, many questions have been raised by individuals who have labeled this a quota bill.

During the debate and prior thereto we adopted some 22 amendments to the original bill which has been under debate for more than a year. I would like to remind Members that this civil rights bill, or basically title VII of the Civil Rights Act has never at any time suggested or approved the use of quotas. As a matter of fact, quotas have been prohibited.

There is some confusion between this and several of the executive orders that did require some counting of individuals and separation as to race, sex, and other standards. Racial preference and quotas are illegal under title VII. Being fair to women, minorities, and the poor is not preferential treatment, and I do not know of anyone, I have seen no one who is rushing to become a part of these protected groups any more than protecting the rights of those who are better off is discriminatory.

Racial, sexual, and religious discrimination is an evil regardless of who practices it. Qualifications under title VII are and should be the only test that is right, and that is all the original bill attempted to do.

Since that time, to make it abundantly clear that this is not a quota bill, we have made various changes. We have also adopted provisions that would protect in many cases women as well as men.

I should at this point note that black women are protected under another section, section 1981 of an earlier Civil Rights Act. White women, on the other hand, have the problems that they have no provision in the law today that protects them as opposed to black women who can sue on the basis of race, but on the basis of sex women are unprotected. We have tried through this proposal to protect them.

Basically, the good side of the Civil Rights Act is that it overturns the interpretation placed on title VII by the Supreme Court. In so doing, we have had to accept at various times amendments that we did not agree with, but we have accepted them merely to show good faith, and to attempt to get favorable treatment from the President, who has indirectly been quoted as being opposed to the proposal to civil rights, and we have tried to do our best in a good faith effort to meet that objection.

I think in a large way we have overcome practically all suggestions or objections that have been expressed, and we are continuing to do so. Conferences have been going on between this body and the other body on ways in order to make this not a political test, not a political issue, but to make it a sincere issue on the basis of civil rights, and that is the same spirit that motivates us now.

It is our hope that the Members will adopt what we have proposed and that we can get on to the business of sending a bill down to the President that we believe he will sign.

Mr. Speaker, I reserve the balance of my time.

□ 1220

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when this bill originally came from the other body, one of the ranking members over there said to me, "We did not give you a civil rights bill. We are sorry. We hope you can clean it up and give us a civil rights bill by the time you are finished." That was my hope also, and as we worked through committee, I had hoped that we would spend most of our time talking about how we can bring both sides together rather than how we can set up barriers to having employers and employees mediate matters in a congenial fashion.

I also had hoped that anyone who was aggrieved would have an opportunity to very quickly have their problems settled so that they could return to the work force or hired into the work force. It was not my hope that we would send them off into some lengthy court proceeding that may go on for 2 years, 3 years, 4 years, and then the only persons ending up with geting any benefits would be the attorneys. As I indicated the last time the bill came to the floor, to me it is a full-employment bill for attorneys. I have no objection to their having full employment. I just do not think the Federal Government should be in the business of determining how they get that full employment, but the people who have been aggrieved get nothing.

The changes that have been made to this point are cosmetic, strictly cosmetic. Those changes that were suggested that I suppose we will hear about later, the author of those changes no longer accepts authorship, and all of my legal experts would indicate that what those changes do make it even worse than it was when we finished with it in conference.

I hope before the year is out, or if not, very shortly thereafter, we will have legislation before us that will concentrate on the problems that women are having, the problems Hispanics are having, the problems that Southeast Asians are having.

Certainly we do not have to concentrate on how we can better line the pockets of attorneys and not give those who have been aggrieved the opportunity for redress, and redress immediately.

Mr. Speaker, the bill remains a massive revision of title VII ranging far beyond the Supreme Court cases it was supposedly intended to reverse, retains unlimited punitive and compensatory damages in a radical departure from all other labor law statutes, and will be a lawyers' dream come true. Indeed, the bill has an entire section, section 9, itself reversing four Supreme Court decisions, directed towards providing for larger and larger fee recoveries. The American Bar Association has endorsed this legislation—What a surprise!

Have some changes been made? Sure, but they are purely cosmetic, and in some instances make the bill worse. Perhaps my view might be a little different had the majority seen fit to adopt any of the many amendments offered by the minority during the 4-day markup of this bill in the Education and Labor Committee, an experience largely repeated in Judiciary.

But what happened in conference? Well not much; the Senate receded on almost all points and the bill we are considering today is virtually identical to that considered by this body immediately before the August recess. Oh yes, there was one change—extending H.R. 4000's fictional so-called cap on punitive damages to all businesses. This cap provides that punitive damages may not exceed $150,000 or an amount equal to compensatory damages plus lost backpay, whichever is greater. This is obviously no cap at all, as other speakers will also make clear, and employers remain exposed to six-figure and even million dollar awards for every personnel decision made every day in the workplace.

Mr. Speaker, all past efforts to compromise had been rejected by the proponents of this legislation. The conference committee filed its report on September 26. Yet, 2 weeks later we are considering this report. I would hope my colleagues would ask, why it has taken so long to adopt this conference report? It is our understanding that the proponents of this legislation have been unable to come up with enough votes to show veto strength. It is rumored that a motion to recommit the bill back to conference will be offered. The language that we understand the supporters of this motion wish to include does nothing to resolve the quota issue. No changes are being proposed which would modify that section dealing with damages. The new language would still preclude many individuals from challenging a court decree. I would urge my colleagues to demand meaningful changes rather than simply hollow assurances that the bill will be fixed if the motion to recommit is adopted.

Mr. HAWKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, the language approved by the Conference on the Civil Rights Act of 1990 incorporates many changes in this legislation's original formulation—fashioned at different stages of congressional consideration and designed in response to problems identified by the administration and the business community. The effort to achieve consensus on the Civil Rights Act of 1990 did not end when the conference committee concluded its work; on the contrary, a number of my colleagues and I participated in continuing discussions during the last 2 weeks. The result of these discussions is an alternative formulation of certain key provisions. My hope is that this body will recommit the conference report—thus affording the conferees an opportunity to report back with changes drafted to allay lingering misgivings about this legislation.

The Congress of the United States cannot ignore the erosion of safeguards for women and members of minority groups that results from recent, restrictive Supreme Court decisions. The legislative branch of government possesses an enhanced responsibility to pass new antidiscrimination legislation when existing statutory provisions—as interpreted by our courts—fail to accomplish their intended purposes.

Throughout our consideration of the Civil Rights Act of 1990, I and many of my colleagues have sought to include provisions designed to reassure members of the business community that the legislation does not compel or encourage the use of quotas. I am pleased to report to this body that the conference reported language unequivocally rejects any suggestion that employers must resort to quotas—stating in no uncertain terms:

> (1) The mere existence of a statistical imbalance in an employer's workforce on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation.
>
> (2) Nothing in the amendments made by this act shall be construed to require an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex, or national origin * * *.

In response to concerns that this latter language needs to be worded even more broadly, a reconvened conference will have the opportunity to clarify that the legislation not only does not require quotas but also does not encourage quotas.

I recognize that some will describe our effort to address the quota concern head on as inadequate and argue that employers nevertheless will rely on quotas to protect themselves against claims that groups of employment practices have disproportionate adverse impacts on women or members of minority groups. This argument, however, overlooks the critical point that the complaining party essentially must link a specific practice or practices to disparate impact unless the respondent forecloses the possibility. The following new proposed statutory language, which a reconvened conference will have the opportunity to recommend, removes all lingering ambiguity on this issue:

> [T]he complaining party shall be required to demonstrate which specific practice or practices are responsible for the disparate impact in all cases unless the court finds after discovery (a) that the respondent has destroyed, concealed or refused to produce existing records that are necessary to make this showing, or (b) that the respondent failed to keep such records.

Mr. Speaker, that formulation is balanced and fair.

Employment practices resulting in disparate impact, of course, may not be unlawful. Business necessity serves as a potential defense. Legislative language, incorporated in the conference report, codifies and explicitly acknowledges that it codifies—"the meaning of 'business necessity' as used in Griggs versus Duke Power Co."—a Supreme Court decision with an 18-year history of not leading to quotas. By recommitting the conference report, we will permit modification of the business necessity definition to clarify that certain employment decisions have enhanced protection. The proposal also facilitates proof of business necessity by specifically delineating additional categories of admissible evidence.

This legislation provides a damages remedy in title VII of the Civil Rights Act, but damages will not be available in cases of unintentional discrimination—again negating any suggestion that employers may need to rely on quotas in order to avoid large damage awards. The availability of punitive damages is further circumscribed by the requirement of "malice" or "reckless or callous indifference to the federally protected rights of others." Members will recall that punitive damages were capped for employers of fewer than 100. The conferees lifted this limitation—approving a punitive damages ceiling applicable to all employers. This should allay concerns in the business community and gain broader support for this legislation. The new formulation eliminates any basis for fear of excessive punitive damages awards.

In considering the appropriateness of damages as a remedy, we need to bear in mind that compensatory and punitive damages already are available for racial discrimination under other legislation. Mr. Speaker, it is too late in our national struggle for equal opportunity to contend that damages may be justified for the victims of racial discrimination but not for those who suffer from intentional discrimination based on sex, religion, or national origin.

The proposal the conferees will consider—assuming this body votes to recommit the conference report—incorporates a number of other protections.

First, we eliminate any basis for concern that provisions on "Proof of Unlawful Employment Practices in Disparate Impact Cases" may be interpreted to overrule case law involving comparable worth; proposed language explicitly states that there is no such intent.

Second, we bar damages in mixed motive cases—involving employment practices motivated by both discriminatory and nondiscriminatory criteria—if the same action would have been taken "in the absence of any discrimination." This fully reponds to concerns about potential liability.

Third, we limit the potential, in a subsequent civil rights action, for recovering attorney's fees from the losing party in the original action—thus addressing a concern about fairness in awards of attorneys' fees.

Fourth, we redraft provisions on "Finality of Litigated or Consent Judgments or Orders" to loosen restrictions on challenging resolutions of employment discrimination claims; the nature of "actual notice"—which serves as a bar to subsequent challenges—is delineated with specificity.

Mr. Speaker, this legislation safeguards employment rights without compromising the needs of American businesses. I urge my colleagues to vote to recommit the conference report, thus permitting us to bring back to this body an improved version of the Civil Right Act of 1990.

□ 1230

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Members of the House and Senate, after a free and open conference, have returned to their respective Houses with a Civil Rights Act of 1990 that reflects a consensus between the bills that were passed by the two Houses. This conference report involved a great deal of effort by Members on both sides of the aisle and in both bodies to craft a strong, effective, and fair civil rights bill that would also enjoy the support of the President, I believe that the changes that were made by the conference improved the bill and clarified the act for the benefit of business people who conscientiously seek to follow the law.

Nevertheless, many Members have expressed concern that the conference report, as initially agreed upon, needs further refinement and clarification. Accordingly, a number of Members who are deeply committed to the twin goals of effective civil rights enforcement in the area of employment law, and fairness to those who are subject to the requirements of that law, have formulated additional language involving seven important changes to the original conference report.

First, the report will include a list of specific types of evidence that may be offered by businesses to prove that an employment practice is required by business necessity—such evidence could include testimony of individuals with knowledge of the practice.

Second, in disparate impact cases, language would be added to make abundantly clear that the complaining party must demonstrate what specific employment practice or practices are responsible for the disparate impact. The only time this would not be required is when the employer fails to maintain the necessary records, or destroys, conceals, or refuses to produce those records.

Third, a new provision would be added to clarify that this bill does not overrule existing case law involving comparable worth—some Members have expressed a need for that clarification.

Fourth, damages would not be available in mixed motive employment decisions, that is, decisions based on both nondiscriminatory and discriminatory factors.

Fifth, language would be added to further define and expand the circumstances under which a consent judgment can be challenged.

Sixth, the court have more discretion in determining how attorney's fees should be assessed in a third party's unsuccessful challenge to a court order or consent order.

And, finally, the report would provide expressly that nothing in the bill should be interpreted to even encourage an employer to adopt quotas.

In order to incorporate these beneficial changes, it is necessary to recommit this conference report back to the committee on conference. Accordingly, at the appropriate time, a motion to recommit will be offered. I am in wholehearted support of that motion, and I would urge the Members to join the bipartisan coalition that is working to craft a fair and effective Civil Rights Act of 1990.

Mr. Speaker, I reserve the balance of my time.

Mr. FAWELL. Mr. Speaker, I ask unanimous consent that I may substitute for the gentleman from Pennsylvania [Mr. GOODLING] so far as the control of time is concerned.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. FAWELL. Mr. Speaker, I yield myself 3½ minutes.

Mr. Speaker, we have come a long way on this Civil Rights Act, and I have been involved in it. This is supposed to be a debate, as I understand it, in regard to the conference report.

I am a member of the conference committee, and we did not spend a great deal of time listening to what other people had to say with reference to amendments at that time. We simply, and with all due respect I do not wish to be offensive to any Member, we kind of gaveled things right through, and I must confess I felt my voice, though I put a lot of time and study into this matter, has not had many ears, and perhaps that is my own fault.

We still have, in regard to the bill that was reported out of conference, we still have a quota bill. Make no mistake about that. Yes, it is true that quotas are not legal, but quotas are something that employers, out of necessity, find themselves having to do to find safe harbors, so to speak. When they are charged in disparate impact cases, that is unintentional discrimination. Everyone realizes that is what we are talking about, not somebody who has purposefully discriminated. An employer theoretically, when charged with unintentional discrimination because of a certain employment practice, has the right to present a reasonable business necessity as a defense. But when the definition of business necessity is so difficult to prove, and even if proven, is subject to disregard because the complaining party is allowed to suggest a different employment practice which may result in less disparate impact—then, indeed, employers tend to seek safe harbor, that is, quotas rather than try to abide by the law.

Then, lo and behold, your employment practices, those found to be lawful, become, once again, unlawful. Now we see it, now we do not. We also have a clause in the conference bill which states that the mere existence of a statistical imbalance in an employer's work force on account of race, religion, sex, or national origin is not alone sufficient to establish a prima facie case. We say that, but then we look at the statute, and it does not require specific charges at all. It simply says, as a practical matter, statistics will indeed bring about a prima facie case.

What is an employer supposed to do? He knows he will be subject to the potential of a multimillion dollar lawsuit. There was testimony in our committee that in Brooklyn, NY, for instance, it will take 11 years before he gets a jury trial. He is going to be inundated with legal expenses and so forth. Thus, we have effectively gutted the EEOC traditional remedy of title VII of the 1964 Civil Rights Act. Yet there is nobody in this room who will say that there has ever been a Supreme Court that has to be reversed because of something it did which was inimical so far as the traditional remedies of title VII are concerned. We are simply going to change the remainder of title VII, a place of employment, labor statute, to authorize multimillion dollar tort lawsuits. If we do it here, we have to do it in many, many other labor statutes.

The only thing that was done in the conference committee was to monkey around a bit with the punitive damages cap. But there is no real punitive damages cap because the punitive damages cap in reality is double whatever the compensatory damages are, so that the pain and suffering and the mental distress, plus, also, backpay which can be as high as a recent case, $400,000, will serve as the basis for a punitive damages award. We doubled whatever the award may be for compensatory damages and backpay. That is the punitive damages cap. That is no real cap at all.

So what we did, we did nothing, really, in conference committee. Then we come back here, and then behind the scenes, no person has talked to me about it, and yet I have struggled with this law as earnestly as any Member on that side. We have now, they tell Members, a new compromise, by those who are interested in civil rights, as though I suppose someone like myself, someone like myself is not interested in civil rights because we bring up certain points which the elite of the civil rights community do not like. I think much can be said, I suppose, when we talk about this new compromise which I never saw until this morning, and I will have to react to it later. We will have more comments on that.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the gentlewoman from Illinois [Mrs. COLLINS].

Mr. Speaker, I rise in strong support of the conference agreement on the Civil Rights Act of 1990. While the conferees have sent us back a bill that differs some from the one passed by the House, it is still a good bill and I believe will be very effective in addressing the real need for employment equality in this country. I am sorry to see, however, that the conferees have agreed to a cap on compensatory damages and equitable monetary relief for all employers.

I don't think many of my colleagues understand why this bill is so important to us who are racial minorities. You see, most of the Members of this body are not born with, or wake up each and every single day with an inherent, undeniable and unjustifiable strike against them: the color of their skin. Unless you go through every day of your life scrapping and fighting to defend your basic human and civil rights, then you really don't understand how important this measure is. We who are African-American or of other ethnic minorities, women, slightly older and/or have certain religious beliefs are not trying to take anything from anyone else, or deny anyone else any right or opportunity. All we want is a fair opportunity to succeed—or fail—in the workplace just like anyone else.

We need not rehash our Nation's history of racial discrimination in employment that gave rise to Federal statutes such as section 1981, passed in 1866, and title VII of the Civil Rights Act of 1964. It is clear, though, that they were passed because of the undeniable pervasiveness of job related discrimination.

Unfortunately, these laws were not able to single handedly eliminate employment discrimination. The continued occurrence of these problems is well known and equally disturbing. Race, as well as gender, religion and national origin, regrettably continue to figure into management's decision-making regarding hiring, promotions, lay-offs, firings and day-to-day concerns.

Such practices are absolutely intolerable. Now I ask my colleagues: What is equality worth if it only applies in theory? What are employment protections worth if they are unenforceable? What are judicial remedies worth if the path to justice is obstructed with insurmountable barriers? Absolutely nothing, but to give hope of fairness where there really is none and the charade of democratic practices where they do not actually exist.

As chairwoman of the Government Activities and Transportation Subcommittee of the Committee on Government Operations, I have concluded through our oversight investigations that for women and minorities there is only an illusion of professional and business equality. I can say unequivocally that despite all the laws passed by this body to eliminate discrimination in the workplace and to improve the economic well-being of minority business, the dreams of true opportunity for minorities and women are too often dreams deferred. Let me give you just one example. My subcommittee found after a 2-year investigation of the airline industry, for instance, that the industry continues to deny opportunities to black pilots, managers, and other professionals. Minority airline employees are disproportionately concentrated in low-wage, low-skill positions. The same is true throughout the business sector. Most minorities and women are in clerical or nonprofessional positions, a few make it to middle management, but by and large even fewer have been able to become vice presidents or to hold positions by which real decisions are made. The airline industry and the entire business community remains the bastion of white male domination.

The Supreme Court engaged in unprecedented judicial activism last year when it curtailed well-established rights and remedies under section 1981 and title VII. Previous Court decisions were haphazardly overruled and new interpretations were carelessly expounded. The net result is that the Court disregarded both the letter and the spirit of Congress' efforts, thus doing damage to the legitimate rights of millions of Americans. I believe the Court simply made a mistake.

Today we have the opportunity to restore several essential rights and fashion a nondiscrimination ethic for American business that cannot be ignored.

To begin with, in 1866, Congress only recognized discrimination in hiring. However, it is clear today that such improprieties arise in other aspects of employment. H.R. 4000 would reverse Patterson versus McLean Credit Union on this point.

Second, in the Wards Cove case, the Court overturned its decision in the earlier Griggs case by shifting the critical burden of proof from the employer to the employee to prove that the employer has a reasonable justification for discriminating. That conclusion was incomprehensible, because only the employer has access to the employer's information on why they made their decisions. The Civil Rights Act of 1990 would restore the Griggs decision by returning the burden of proof to the employer.

Third, there is clarification of what is a business necessity for purposes of justifying a discriminatory practice. This definition is necessary so that an employer cannot arbitrarily justify actions as a business necessity when the primary motivation is a discriminatory one.

Fourth, in Lorance versus AT&T, the Court stated that the statute of limitations begins to run when a discriminatory practice is initiated. But that is patently unfair, since an individual employee is not able to keep abreast of every management decision. It may be years until that employee learns of the practice and affected by it. That should be the time when the statute of limitations begins to run, and H.R. 4000 adopts that policy.

Fifth, in Price Waterhouse versus Hopkins, the Court allows intentional discrimination where it is not the primary factor in a management decision. That conclusion was unjustifiable since even our finest psychologists have not found a way to analyze genuine priorities of thought inside the mind of a business administrator. How do we really determine whether discrimination was a primary factor? H.R. 4000 makes it clear that intentional discrimination is never acceptable, whether as a primary factor or otherwise.

Finally, to aid in enforcement, H.R. 4000 stipulates that compensatory and punitive damages, as well as attorney's fees, are available in certain appropriate situations.

To those critics who suggest that this bill goes too far, I suggest that they consider the issue from the other point of view. If they were subject to racial, gender or age discrimination in getting or maintaining a job, I believe that they would be very supportive of H.R. 4000. It is easy to oppose a measure for equality when one cannot fathom the effects of discrimination against oneself. To those critics, I ask simply that the fundamental American principles of equality and justice be upheld irrespective of the extra sheets of paper that it takes to do so.

Mr. Speaker, this measure sets for a fair and workable mechanism to protect the employment rights of all Americans. I urge my colleagues to support the conference agreement.

☐ 1240

Mr. FAWELL. Mr. Speaker, I yield 8 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the conference report and in support of the motion to recommit which will give this Congress another chance to try to fix this bill up.

Despite what the proponents of the conference report claim, this is a quota bill. It is a very subtle bill, and even though it says expressly that it is not a quota bill, the only way an employer can defend against the crushing cost of litigation to clear his name is to hire by the numbers.

The reason this is a quota bill, despite the language that has been stated by previous speakers, is that the Supreme Court decision of Wards Cove Packing Co. versus Atonio was overruled.

Now, as we remember from the original debate on this legislation, the Wards Cove Packing Co. is in the Seattle metropolitan area, which is 11 or 12 percent minority by population; 52 percent of the unskilled work force at Wards Cove were members of minority groups and only 24 percent of the skilled or managerial groups were minority groups.

Someone who was a member of a minority claimed that he was discriminated against in a promotion from an unskilled job to a skilled or a managerial job. It took almost 10 years and almost $2 million worth of legal expenses for the Wards Cove Packing Co. to clear its name and to win its case, and the Congress proposes to overrule this Supreme Court decision by this act. That is just flat out unfair; but fairness or unfairness aside, if Wards Cove is overruled, the only sure defense is to hire by the numbers, and the net effect in the case of Wards Cove is that they will bring their unskilled labor force from 52 percent minority down to 24 percent minority, because that is the only way they would be able to protect themselves against another lawsuit and to bear the burden of the tremendous litigation that is involved.

Second, the damages provision of the conference report is inadequate. The conferees allege that they placed a cap of $150,000 on punitive damages, but the punitive damages for all businesses, large or small, will be doubled the compensatory damages; so if the conpensatory damages are $1 million, the jury can add an extra $1 million in punitive damages. That makes these types of cases very lucrative for an attorney who wishes to file a lawsuit on a contingency fee basis, because the sky is the limit on how much in damages can be awarded, and most contingency fee agreements give 33⅓ to 40 percent of the total recovery to the lawyer who has brought the action.

Now, if you place yourself in the shoes of the employer, the businessman or the businesswoman and looking at this leaky cap on damages, you have to make an economic decision if you are an employer, and that is whether to fight the litigation and attempt to have a jury vindicate your employment practices, or in the alternative to settle out in order to avoid the huge litigation expenses, because defense fees are always on an hourly basis.

Most of these cases are going to be settled, even through unwillingly settled, because the economics are for settlement, rather than for litigation and vindication.

This is unfair to employers throughout the country, regardless of how many employees they happen to have.

Finally, neither the conference report nor the deal that the gentleman from New York [Mr. FISH] explained, which was cooked up behind closed doors and which I have not seen as the ranking member of the Civil Rights Subcommittee does not include the Congress under the scope and coverage of this legislation.

Once again, the Congress of the United States is going to be proposing regulations that apply to everybody in our society, including the executive branch of Government, but exempt ourselves from that type of coverage. That is morally wrong. That is reprehensible, because we should not be sitting here in this U.S. Capitol Building today saying that we are going to impose a burden on everybody in society in the hiring practices, but say that we can continue operating the last plantation.

Now, should this bill be recommitted to the committee of conference, as both supporters and opponents want it to be, I would hope that when the gentleman from Illinois [Mr. FAWELL] offers his amendment once again to include the Congress under the same rules as everybody else, that the chairman of the conference, my distinguished friend, the gentleman from California [Mr. HAWKINS] does not rule it out of order so that we can have an up or down vote on congressional coverage. That is only fair. We should start practicing what we preach.

So for all these reasons, Mr. Speaker, I would hope that this bill would be recommitted to the committee of conference, that the committee would fix it up along the lines that I have described and we could pass a true civil rights bill.

Mr. Speaker, I would like to make one final point before yielding the floor, and that is that the President has been quite plain in expressing his opposition to a bill which is either a quota bill or a litigation bonanza.

This bill can do a lot of good for a lot of people. Some of the Supreme Court decisions on employment and the application of the civil rights laws in the last 2 years, in my opinion, have gone too far; but as we reach the end of the session, a session which has become very, very acrimonious, I think the best thing we can do for people who are victims of discrimination, whether it be discrimination based on race, on sex, on national origin or on religion, is to craft a bill which is signable and to make it a true civil rights bill, rather than use this bill for political purposes as a way of putting together a political issue for the elections that are going to be held next month. A signable civil rights bill is something that we can all take credit for.

A civil rights bill that does not meet the broad parameters that President Bush has outlined of no quotas and no litigation bonanza really does not do credit for anybody, the President, the Congress, victim or employer alike.

So Mr. Speaker, I would urge the recommittal of this legislation. If recommittal fails, then I would urge opposition.

☐ 1250

Mr. FAWELL. Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker and Members, there is only one way to describe this process, and that is: frustrating.

You know, if you have been involved at all in this civil rights legislation, you would be well aware that one of the things we are trying to do is to penalize people for intentional actions of discrimination. I have got to tell you in all sincerity that I think there are some people involved with this legislation who ought to be penalized. They ought to be penalized for intent to embarrass the President because that seems to be the overriding goal of the process. It is not to develop a good bipartisan civil rights bill.

Everybody in this Congress is fully aware that there was a bipartisan majority for a civil rights bill. The Michel-LaFalce substitute that could have been passed by both houses with strong majorities and signed into law by the President, and it overturned all five Supreme Court cases.

What happened? Probably the most intense political pressure we have ever seen, at least on the Democratic side, was implemented in a way to obtain from Members a commitment to switch their vote and defeat the Michel-LaFalce substitute.

We then went to the conference committee, and in conference committee there was simply not going to be any serious deliberation of any of the controversial issues, with one exception, and that was the whole issue of caps on damages. Anyone who was there will remember that display vividly because some of us said, "Why deal with caps, because you are not going to put a cap on compensatory damages and back pay?"

Some people on the other side said, "We don't want caps, because we simply believe there ought to be no caps on damages."

So you had a majority of the conference from the House side which was opposed to imposing caps. So what happened? Certain Members sat at that conference and they passed, so that we could include within the conference report, a new section or a refined section on caps. Why? Because they thought that was going to be enough to get the bill passed and have enough votes to override the President's veto.

But then they figured out that was not enough. So that is why we are here this afternoon because now, point 3 in the effort to try to embarrass the President and override his veto, they have decided there are not enough votes to override the veto, so they said that we are going to take this conference report, that many of us said we have problems, that was not seriously considered in the conference committee, that was not seriously considered in the conference committee and now they want us to send it back to them.

Now, that is a good idea. I am all for that. My only plea is that if we are going to go back to conference at this late time in the session, let us commit to having a real conference, let us commit to doing what is necessary to bring this place back together again so we can bring the country back together again and we can pass a good, strong bipartisan civil rights bill that reverses all five Supreme Court cases and can be signed into law by the President.

The victims of discrimination in this country deserve nothing less from their Congress today.

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume.

Let me just clear up one or two items. First of all, in the conference referred to, the only difference between the two Houses that were conferring on a final civil rights bill was the matter of threshold as to who would be covered, what businesses would be covered. That was the only thing that was a difference between the two Houses.

So the conference had before it a very limited, very limited issue. On that, it was the desire of some of the groups, the conferees in the other body, to remove the distinction between small and big business.

Now, personally, I did not think that it should be removed. The Senate, the conferees from the other side of the Congress, were adamant, and we eventually conceded the point and brought back a conference report that did remove that difference, which was the only thing we really had. It was really outside the scope of the conference. But in order to satisfy the opposition and in order to satisfy arguments that had been raised by the President and others and by the minority, we conceded the issue and brought back a conference report.

Now, it is interesting that the conference members who had been fighting for that provision to be removed voted against removing it, which meant that some of us who did not even like the provision, including the chairman of the conference, voted in favor to remove it, to show good faith, to show that we were not, in a sense, dealing in political chicanery.

Now it is said that that is precisely what we are trying to do, to embarrass the President. I do not know how agreeing with something that the White House has favored all the time is in some way submitting a conference report that would embarrass those who advocated that very difference.

It has been said that this is still a quota bill. Well, the fact is that the original bill overturned the Ward's Cove decision in 1989 as it operated under Duke Power up to 1989. In other words, from 1971 to 1989 we had operated under a standard that had been adopted as a result of Duke Power's decision in 1971.

Now, if quotas were in any way legalized or operative or, let us say, encouraged, why is it that in those 19 years the issue was never debated, never raised? Quotas were never named as being a culprit.

The business community, the civil rights community joined in cooperation.

Now, there has never been a scintilla of evidence presented by the opposition to this proposal to show that quotas in any way have operated in the past. They are simply speculating that if this were to be passed, that the employers, to protect themselves, might resort to quotas despite the fact that we have made it abundantly clear that quotas are illegal.

If they do so, then white males would have an opportunity to present their case, that they are being discriminated against.

So the employer would really be torn between white males saying it is discriminatory, reverse discrimination, and minorities, who obviously never resorted to quotas as a means of getting their civil rights.

Now, the argument is said that it is a lawyers bill. Nobody has indicated that lawyers are available. Lawyers in private cases under civil rights are a vanishing breed. It does not pay, there are no lawyers, with few exceptions, including my dear friend, the gentleman from Texas [Mr. WASHINGTON], who will take such cases. They know it is a difficult matter to prove, that it is expensive and that it is not something that is lucrative.

Yes, that statement has constantly been made. We are trying simply, as I say, through these arrangements that have been made, to reach a consensus, to overcome objection after objection with the result a group of Republican Senators in the other body who have gone to the White House, who have discussed this matter in the last few days, that we are even discussing the question of recommitting the bill to the conference committee.

□ 1300

Mr. Speaker, I can assure my colleagues that, as chairman of the conference committee, if the bill is rejected, I will call a meeting this afternoon, and we will address the issues that have been raised within the scope of a conference committee. We will be fair to everyone. We will listen to their arguments. We may not accept the proposed amendments. I think they have a right to be discussed, and we want every possibility of discussing the objections to this proposal.

To me, Mr. Speaker, that is being fair. It certainly is giving everybody an opportunity to express their views, and we will let the majority of the two bodies come back with what we hope will be something that is more in the line of the President's views.

Mr. Speaker, in trying to reach his views, we certainly are not trying to submit to him an embarrassing political situation. We are all politicians, we are all in the eyes of the public, and we should be willing to stand up and say whether we are really for civil rights or that we are simply speeching it and not acting it.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I reserve the balance of my time.

Mr. FAWELL. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker and my colleagues, I have several reasons why I think this is a bad piece of legislation. One of them is philosophical, and the other one is a practical one.

I listened to the gentleman from California [Mr. HAWKINS], the distinguised chairman of the Committee on Education and Labor, saying that quotas are not mandated, nor encouraged, by this bill. I think quotas are inexorably mandated and encouraged as certainly as Newton's first law of motion is true. I think it is in the nature of this legislation.

First of all, we have a system of jury trials and big dollars damages. What employer is going to run the risk of going bankrupt and maybe losing his own personal assets by not hiring according to the numbers? He is going to hire according to the statistics no matter what the legislation says. The statistics will do the hiring because he does not want to risk being drawn into court by some local attorney who sees a way to get rich on a civil right issue.

Mr. Speaker, the gentleman from California [Mr. HAWKINS] said there are not enough lawyers to do this. Lawyers will follow the money. There are lawyers coming out of our ears in this country. The gentleman from Texas [Mr. WASHINGTON] and I know that because we have had to compete with them. There are too many lawyers around. They will jump on this like the hungry man on a sandwich, so I am not worried about any dearth of lawyers.

We are going to have quotas because it is the easiest way to save a business untold difficulty by hiring according to quotas, and that is unfortunate because, if America has brought anything to this world, it is the notion that people be judged as individuals, not because of the color of their skin, not because of their ethnic heritage, but because of their own individual worth.

Now that is the ideal. We have fallen short of that ideal. My Lord, we fought a bloody Civil War because we did not adhere to that ideal, but it still is the ideal. It is the way each of us is guaranteed equal protection of the law.

We have maintained some national unity in the midst of a multilingual, a multiracial, a multiethnic society because we have conducted ourselves as a melting pot, and we judge people by their personal worth. That is the ideal.

In Canada there are people from Quebec opposed to Canada, and they have the Mohawk Indians opposed to Quebec. In Spain they have the Basques. In Ireland they have the Catholics and the Protestants in Northern Ireland. In Lebanon they have everybody shooting everybody. In the Middle East they have the Sunis and the Druz, and they have the Shiites. In the Balkans, there are the Serbs and the Croatians, the Macedonians and the Montenegrins.

Mr. Speaker, I am just halfway through the catalog of Balkanization that the world is suffering from, but America is trying to offer an example of where every person has individual rights, not group rights.

I am sorry to say that I think this bill is not an effort to say that everyone is equal. Unfortunately, some are more equal than others depending on the statistics, and I think that is a step back for America.

We cannot solve discrimination, which I concede exists, by imposing further discrimination.

Mr. WASHINGTON. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Texas.

Mr. WASHINGTON. Mr. Speaker, it strikes me, and the point of the gentleman from Illinois [Mr. HYDE] is very well taken, and it occurs to me, and I agree with him, that, if we follow that to the end, is there a way of writing language that would prevent an employer from going to a quota system in self-defense? Does the gentleman think, other than putting a criminal provision in that which says, "If you hire by quotas, you go to prison," is there any way to do that, I ask the gentleman from Illinois?

Mr. HYDE. No, I would not want to do that. I would not want people to hire by quotas, and I would like some way to avoid the jury verdicts because that is what terrorizes the employer. He is not going to take a chance. He may be right, but proving it in court is another matter, and I just think this is a step backward, and I think it will discriminate against people who are not protected by the statistics.

Mr. FAWELL. Mr. Speaker, I yield myself an additional 4 minutes.

Mr. Speaker, first thing I do want to point out is that I did at least have a short conversation with Senator HATCH in reference to a compromise, and I was able to at least get some language of this compromise. Whether it is what we have here or not, I am not sure. But Senator HATCH said it very, very clear, that he had talked to the White House, they renounced it and that he himself was no longer supporting it.

So, Mr. Speaker, I think that will be clarified when the conference committee gets together, if indeed the conference committee had any jurisdictional right to determine anything other than what the instructions are in reference to a motion for a committal that I think will be following.

As my colleagues know, the problem of this bill, I think every one of us will agree, is that it is so very very arcane, and people will say that all of us attorneys just confuse the matter a great deal. Tom Sowell, who is a very fine columinst, said, as a practical matter, the way to explain quotas as to point out that the side that is able to build up the burden of proof to such a high degree that the employer; or it may be the other way around, but in this case

employer, cannot possibly win, considering the potential lawsuits that will be brought against him and the burden of proof in regard to proving reasonable business necessity. Reasonable business necessity is what Griggs basically talked about. Look, if it is a reasonable business necessity, then the discrimination, which is unintentional, is not actionable. That was law the courts created, by the way, by case law. It was not something the Congress did back in 1964. It was something the court did.

Mr. Speaker, nobody has any quarrel with Griggs. What we have a quarrel with is all the pundits who have different views as to what Griggs actually does say. I would say, "Look carefully at the burdens of proof. We're willing to say the employer has the burden of proof in regard to proving the business necessity defense. We are saying though, 'My gosh, the guy who comes in and alleges an employment wrong, he ought to specifically charge the employment practices, identify the employment practices specifically, so that the employee will know what the heck he has done wrong—what he's defending against.'"

Mr. Speaker, I do not see anything wrong with something like that, and the bill in its present form does let the plaintiff off the hook, allowing him to come in, as I read it, and not specify the employment practices of the employer which allegedly causes their unintentional employee discrimination. I think most attorneys who are in the civil rights field construe it that way. Well, then the employer has to show business necessity without knowing which employment practices caused the alleged discrimination, and look at the definitions of business necessity that are in section 4.

□ 1310

I mean they do not just simply say, "Hey, the employment practice complained of should be reasonably related to a business requirement." That is common sense, but common sense does not prevail in this bill.

They have all kinds of definitions of what constitutes "business necessity" things. They started with "essential to effective job performance" as a definition for "business necessity". Even the school system from Los Angeles said, "My God, with a definition like that, the employer couldn't even require a diploma as a part of the hiring process of employees". What kind of a signal are we giving to the children of this nation when we have that kind of a definition of what constitutes reasonable standards for hiring employees?

We could not get a change of that definition through the Committee on Education and Labor, though. They would not change that. That had to be done by the higher moguls of greater importance and these drifters around the corridors who decide "Well, maybe we should have some changes here," and so on, and so forth.

Well, they have come up with new changes—"significant relationship to successful job performance." All I can say is that the psychologists who have a great deal to do with determining reasonable business standards are telling us that these are impossible standards that cannot be validated.

I have already talked about another provision which basically states, "Oh, by the way, if the complaining party shows that there are other employment practices in regard to which there will be less disparate impact, that is then the business standard you have to adopt"—even though it might cost you another million dollars, I guess.

And look at that new tort, that 2-year statute of limitations, with punitive and compensatory damages. Think of just what it will cost new premiums to have the insurance companies assume the burden to defend all the employers of America.

I wish we could have more time. I see the gentleman from Texas [Mr. WASHINGTON] there. We have discussed this until we are out of words on it. But I hope we will have a conference that will look at the LaFalce amendment and give it real credibility. Let us not drop it in the ash can. Maybe we can come up with something that is perhaps decent.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, very shortly the minority leader will offer a motion to recommit, with the hope that the conferees can move closer to the Michel-LaFalce stance so we can have a strong piece of legislation that the President will sign.

We are going to hear something about the so-called Hatch compromise which the gentleman from the other body, I believe, has disassociated himself from and has distanced himself from, and, therefore, it will also probably be out of the scope of the conference. I would think it would have to be. So at a later moment we will have a motion made by the minority leader to recommit.

Mr. Speaker, I reserve the balance of my time.

Mr. FAWELL. Mr. Speaker, may I inquire as to how much time remains?

The SPEAKER pro tempore (Mr. MFUME). The Chair will advise the Members that the gentleman from Illinois [Mr. FAWELL] has 4 minutes remaining, the gentleman from California [Mr. HAWKINS] has 30 seconds remaining, and the gentleman from Texas [Mr. BROOKS] has 4½ minutes remaining.

Mr. BROOKS. Mr. Speaker, I yield 1½ minutes to the gentleman from New York [Mr. LAFALCE].

Mr. Speaker, I will support the motion to recommit in the hopes that we will be able to get together and work out a compromise that will obtain the signature of President Bush and be something that every Member of this body can be proud of.

It is ironic, though, what has taken place. One of the arguments I was making before was that if we came in with a bill that differed from the Senate's version, then we would have something to go to conference about, but if we came in with virtually the identical bill, there would be almost nothing to confer about. That is what happened, and as a result the conference had nothing to confer about other than the cap on punitive damages.

The conference report came out, and now we are going back to conference. The issues we will confer about, hopefully, have not been decided in advance. They include some of the provisions I had deep trouble with.

One of those issues was cases involving mixed motives. I argued in August that it is crazy to say that a person, even if unqualified for a position, is still eligible for full damages. Certainly we should reverse Justice Brennan's decision, but let us be careful how we do it. I am not sure about the proposed change, but at least it realizes the absurdity of what we were going to do on that mixed motive provision.

This motion will also allow us to contemplate doing something about the burden of proof that the plaintiff has with respect to the specificity of the alleged discriminatory practices.

In short, Mr. Speaker, let us go back to conference. Let us have all the issues on the table that are necessary to produce, first, a good bill, and, second, the signature of the President.

Mr. FAWELL. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. Speaker, I rise in strong opposition to this bill as it has come out of the conference committee.

I wish to make several comments that my colleagues need to understand as they vote on final passage of this bill. I also rise in support of the Michel motion to recommit.

First, there is no compromise here. In fact, the bill, as it has come back from conference, is identical to the way it had been pushed through the House and in all committees in its original form. The bill contains two egregious errors that in fact reverse 25 years of civil rights progress in this country. The first is by introducing and requiring in fact quotas as the only remedy that would be available to employers, and the second is to provide for virtually unlimited damages and to make this a lawyers' relief act rather than a civil rights act.

Let me take those two issues individually. First, in the area of damages, while this legislation purports to place some kind of a cap on damages, I want to note that the cap relates to all employers, large and small. I would note that the so-called cap on damages is at $150,000 of punitive damages regardless of the size of the employer or the size of the offense, in addition to all damages that might be awarded in the category of compensatory damages.

The fact is that means there is no cap at all. It is still in effect lowering the boom and putting the employer out of business regardless of the size of the employer or the nature of the offense.

Compensatory damages are not capped at all. Thus pain and suffering, humiliation on the job, loss of conjugal relations, and other kinds of so-called compensation can in fact be put into the bill in an uncapped way.

So nothing would prevent a jury from coming up with a very large total award and then dividing that award between compensatory damages and punitive damages. The threat to small businesses would still exist in the sense of this lawyers' relief act, with contingency fee lawsuits that would be held over employers to put them out of business for any violation

Second, quotas still exist. There has been no compromise. The bill permits a plaintiff to specify only the group of practices which results in the disparate impact, so that a defendant must then attempt to identify which individual practices may be under question here.

Business necessity in the case of employment practices is defined in the bill opposite to the way it has been defined in the Griggs case. It is defined as a "significant relationship to the successful performance of the job," and in the case of nonselective practices, as "bearing a significant relationship to a significant business objective of the employer."

Now, Mr. Speaker, had the proponents of this bill wished to reinstate law prior to Ward's Cove, they could have done it by adopting the Griggs defintion of "manifestly related to the employment in question." It would have been easy and simple to do that, but neither the conference nor the House in its original consideration choose to do it.

So, Mr. Speaker, I ask the Members to vote against the bill. It is a dangerous bill. It is a lawyers' relief act.

□ 1320

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. WASHINGTON].

Mr. WASHINGTON. Mr. Speaker, what we are about to do in terms of what people do in diving is called a reverse twist gainer with a swan.

I agree with the gentleman from Wisconsin [Mr. SENSENBRENNER]. We ought to stop letting people who get paid to lobby come down here and tell us how to write legislation. We ought to write legislation for ourselves. There are not 10 Members here who know what is going to happen, what is about to happen, but I know what is about to happen. We are about to fall back in the name of retreat.

Mr. Speaker, if we are going to go back to conference for the purpose of getting a bill that the President will sign, let us find out what the President's position is. The President has not even gotten on, while we continue to guess at what his position is. Let us pass a bill that we can pass, send it over there, and see what his response to it is. But to go back to conference and yo-yo ourselves is nothing but mental gymnastics.

Mr. FAWELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Speaker, today I rise in opposition to the conference report on H.R. 4000.

I would like to take a few minutes to shed light on two of the real world effects of this bill—effects that would have a damaging impact on both employees and employers if this legislation is passed.

First, the bill voted out of conference goes past key case law and creates a third prong of disparate impact analysis. Quite simply, the new paragraph provides that even where an employer demonstrates that a practice—or group of practices—is justified by business necessity, the practice, or group of practices, is nonetheless unlawful, "where a complaining party demonstrates that a different employment practice or group of employment practices with less disparate impact would serve the respondent as well."

This provision clearly sets a standard of compliance above that of the case law even as it existed prior to Wards Cove.

This will require the employer to search the universe for a remedy and even if the employer does so and misses just one practice which a plaintiff identifies, a violation has per se occurred, no ifs, ands, or buts about it.

Of course, the existence of such an alternative, as the Supreme Court has said, is evidence of a pretext for discrimination, but it should not be conclusive regardless of any other factors. This requirement puts employers in an impossible position and would be one more factor leading to quota hiring to avoid lawsuits through statistical imbalances in the work force.

My second point is that this bill applies a $150,000 cap to all businesses that are required to pay punitive damages. While no company, no matter what their size, should be allowed to discriminate against their employees, this provision has a problem because the cap is no cap at all.

This bill says the business would pay up to $150,000 or compensatory damages plus backpay, whatever is higher.

The employer would still pay compensatory damages plus backpay if these were over the $150,000. This is no ceiling at all, as compensatory damages—which include pain and suffering, can be very high and backpay awards can be considerable.

For example, in Price Waterhouse, the plaintiff won $371,175 in backpay alone. In a case under section 1981, Rowlett versus Anheuser, which was cited with favor by the majority Education and Labor Committee report, the plaintiff won $123,000 in compensatory damages and $176,000 in backpay. In this case, the plaintiff was also awarded $300,000 for punitive damages. This is much more than $150,000.

Mr. Speaker, as a member of the conference committee, I want my colleagues to know that this bill has not improved since our last vote. I urge my colleagues to vote "no" on the conference report.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Speaker, I rise in support of the conference report on S. 2104, the Civil Rights Act of 1990.

As a member of the House Education and Labor Committee where hearings on this issue were held, I had the opportunity to listen to disturbing testimony about discriminatory actions which continue to occur in the American workplace.

I feel very strongly that the civil rights measure we are considering today is needed to provide key protections against discrimination in the work force.

After decades of progress, recent Supreme Court decisions have begun to erode our Nation's gains in the area of civil rights.

For example, in the 1971 Griggs versus Duke Power Co., the Supreme Court rule that employment practices that have a disparate impact on women and minorities are prohibited by title VII, unless the employer can present convincing evidence that the practice is required by business necessity.

Unfortunately, in June 1989, the Supreme Court handed down the Wards Cove decision which shifted the burden of proof on the business necessity question from the employer to the worker. This change places a heavy and unfair burden on the plaintiff.

Another important provision of the legislation we are considering today is the coverage it extends to victims of sexual, religious, or ethnic harassment.

The measure amends title VII to grant victims of intentional discrimination the right to recover compensatory damages and, in some cases, punitive damages as well.

The bill restores equity to our present system by making the same remedies available for sexual, religious, and ethnic discrimination claims that are now available for racial discrimination.

Mr. Speaker, I have been involved in efforts to build a fairer and more just society for many years. I urge my colleagues to help us continue the progress we have made by voting to approve the conference report on S. 2104, the Civil Rights Act of 1990.

Ms. SCHNEIDER. Mr. Speaker, I rise today to voice my support for the motion to recommit the conference report on the Civil Rights Act of 1990. This vital piece of legislation declares our determination to eliminate the vestiges of discrimination based on race, religion, sex, or ethnic origin that remain in the workplace. I think, however, that certain important clarifications need to be made in order to allay any lingering fears.

Particularly at this time of stirring changes in Eastern Europe and daunting challenges in the Persian Gulf, it is important that the United States reinforce its continuing commitment to human rights abroad with strong measures to protect individual dignity and equal opportunity here at home. This Civil Rights Act reaffirms this commitment and restores the equitable balance between employee rights and business necessity that has been confused through a series of Supreme Court decisions in 1989.

Make no mistake, this is not a quota bill. It forthrightly rejects the notion of quotas and protects against their unintended implementation. The conference report explicitly stipulates, "Nothing in the amendments made by this act shall be construed to require an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex, or national origin." Furthermore, the report discourages surreptitious hiring quotas and predatory, multi-million-dollar lawsuits. It clearly states, "the mere existence of a statistical imbalance in an employer's work force on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation."

The admissability of punitive damages in some title VII cases is an important asset of this act that underlines the unacceptability of intentional or malicious discrimination. Women and the disabled would finally be able to enjoy the same rights already enjoyed by racial minorities under a different section of the United States Code. At the same time, this provision requires a substantive burden of proof of plaintiffs and the cap on punitive damages offers businesses a significant safeguard against extravagant lawsuits.

The conference report on Civil Rights Act of 1990 provides important legislative support to the fight against discrimination in the workplace. Let's just make sure its provisions are clear so that the false spectre of frivolous lawsuits and mystic quotas do not obscure its true meaning. I urge you to support the motion to recommit.

Ms. PELOSI. Mr. Speaker, I rise in strong support of the conference report on S. 2104, the Civil Rights Act of 1990. This act makes significant improvements in our efforts to end discrimination and improve employment opportunities for all Americans.

Mr. Speaker, it is clear that Congress must take an active role, indeed a leadership role, to end racial, religious, ethnic and gender prejudice.

Discrimination impairs our Nation's ability to guarantee to all citizens the fairness envisioned in the Constitution.

Discrimination handicaps our Nation in the global marketplace by depriving our work force of some of its most valuable members.

Discrimination sentences women, ethnic, racial, and religious minorities to second class citizenship because of unequal access to job opportunities.

In its current form, the conference report on the Civil Rights Act of 1990 is a carefully reasoned measure which meets the criticisms of its detractors. I urge my colleagues to support the conference report on the Civil Rights Act of 1990 so that Congress can send a clear message that discrimination, in any of its invidious forms, will be in violation of the spirit and the letter of the law.

Mrs. KENNELLY. Mr. Speaker, I rise today in strong support for the conference report on the Civil Rights Act of 1990. By passing this conference today, we will renew the commitment of Congress to the employment protections adopted in title VII of the Civil Rights Act of 1964. In fact, Mr. Speaker, we will reaffirm the original intent of the Civil Rights Act of 1964.

I am especially supportive of the Civil Rights Act because of its provisions to guarantee protection in cases of sex discrimination. We must always remember, sex discrimination knows no boundaries. It crosses racial distinctions. White women are not immune. Black women are not spared. Asian women know it well. Put simply, women deserve the same protection from sexism, as they do from racism.

In recent years, we have seen the protections guaranteed in the original Civil Rights Act erode before our very eyes. Basic battles for social justice we thought we won years ago, have been weakened and, in some cases, even reversed.

Today we have the opportunity to set America back on a course of respect and protection of basic civil rights for all of its citizens. Today we must pass the conference report on the Civil Rights Act of 1990.

The SPEAKER pro tempore (Mr. MFUME). All time for the gentleman from Texas [Mr. BROOKS] has expired.

Mr. FAWELL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAWKINS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MICHEL moves that the managers on the part of the House, at the conference on the disagreeing votes between the two Houses on the bill S. 2104 be instructed to report back a bill which includes language making it clear that businessmen/women would not have to adopt artificial hiring and promotion quotas to comply with civil rights laws; language reducing the need for further burdening the judicial system as well as language which lessens the prospect for huge damage awards.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WASHINGTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 375, nays 45, not voting 13, as follows:

[Roll No. 445]

YEAS—375

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Armey
Aspin
Atkins
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clement
Clinger
Coble
Coleman (MO)
Combest
Condit
Conte
Cooper
Costello
Coughlin
Courter
Cox
Craig
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Derrick
DeWine
Dickinson
Dicks
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flippo
Ford (MI)
Frank
Frost
Gallegly
Gallo
Gaydos
Gekas
Gephardt
Geren
Gillmor
Gilman
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennelly
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath

McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Montgomery
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parker
Pashayan
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Penny
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stearns
Stenholm
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Watkins
Waxman
Weber
Weldon
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NAYS—45

AuCoin
Bryant
Clay
Coleman (TX)
Collins
Conyers
Coyne
Crockett
Dellums
Dingell
Durbin
Dymally
Espy
Flake
Foglietta
Ford (TN)
Gejdenson
Gibbons
Gonzalez
Hayes (IL)
Kennedy
Kildee
Lehman (FL)
Lewis (GA)
Luken, Thomas
Martinez
McDermott
Mfume
Miller (CA)
Moody
Pallone
Payne (NJ)
Perkins
Rangel
Roybal
Savage
Schroeder
Serrano
Stark
Stokes
Towns
Washington
Weiss
Wheat
Yates

NOT VOTING—13

Archer
Boggs
Crane
Frenzel
Harris
Lukens, Donald
Mollohan
Morrison (CT)
Parris
Rowland (CT)
Schuette
Skelton
Wilson

☐ 1347

Messrs. TOWNS, DYMALLY, STARK, KENNEDY, and HAYES of Illinois changed their votes from "yea" to "nay."

Messrs. McCANDLESS, WYDEN, SYNAR, NELSON of Florida, and QUILLEN changed their votes from "nay" to "yea."

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the conference report on the Senate bill, S. 2104 just considered.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from California?

There was no objection.

☐ 1350

ARTS, HUMANITIES, AND MUSEUMS AMENDMENTS OF 1990

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 494 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 494

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4825) to amend the National Foundation on the Arts and Humanities Act of 1965, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be considered as having been read for amendment under the five-minute rule. No amendment to the bill shall be in order except the amendments printed in the report of the Committee on Rules, said amendments shall be considered in the order and manner specified in the report and may only be offered by the Member specified in the report. Said amendments shall be considered as having been read and shall be debatable for the time specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment except as specified in the report. All points of order are hereby waived against the amendments printed in the report. It shall be in order to consider the amendments offered by Representative Crane of Illinois en bloc, and said amendments en bloc shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. It shall be in order to consider the amendments offered by Representative Rohrabacher of California en bloc, and said amendments en bloc shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. HERTEL). The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, I yield the customary 30 minutes for purposes of debate only to the gentleman from California [Mr. PASHAYAN], and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 494 is the rule providing for consideration of H.R. 4825, the Arts, Humanities, and Museums Amendments of 1990. This is a modified closed rule, providing for 1 hour of general debate to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Education and Labor.

The rule makes in order only the five amendments printed in the report accompanying this rule, each of which shall be offered in a specified order and debated for a specified period of time. Those amendments, in order, are:

By Representative CRANE, en bloc amendments to abolish the National Endowment for the Arts; debatable for 30 minutes;

By Representative ROHRABACHER, en bloc amendments to prohibit NEA funding for a number of specific activities or projects and to restructure a number of NEA procedures, including the procedures for granting awards; debatable for 30 minutes;

By Representative WILLIAMS of Montana or Representative COLEMAN of Missouri, a compromise substitute to the bill that would prohibit NEA funding of obscene works and make changes in the NEA grant process; debatable for 1 hour;

By Representative GRANDY, to require an NEA grant recipient whose work is found to be obscene to repay the award before being eligible to reapply to the NEA; debatable for 20 minutes; and

By Representative TRAFICANT, to express the sense of Congress that NEA grantees should purchase American-made equipment and products in creating federally supported works; debatable for 10 minutes.

The Crane and Rohrabacher amendments, and the Williams-Coleman substitute, are made in order to the original bill. The Grandy and Traficant amendments are made in order to the Williams-Coleman substitute or to the original bill if the substitute fails.

The rule waives all points of order against the bill, and against all amendments made in order under this rule.

Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, H.R. 4825, the bill for which the Rules Committee has recommended this rule, would authorize the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services for fiscal years 1991 through 1995. The bill as reported does not include any content restrictions for NEA grants.

The rule before us, however, will allow the House to decide whether or not to include any such restrictions and, if so, what those restrictions should be. Although the rule does limit the amendments that may be offered, it is designed to give the House the opportunity to fully debate this highly controversial topic and to consider a full range of options for changing Federal policy on funding the arts.

Mr. Speaker, I urge the adoption of House Resolution 474, so that the House can proceed to consideration of H.R. 4825.

Mr. PASHAYAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 494 is a modified rule under which the House shall consider legislation to resolve a tempestuous controversy over federally funded art.

The rule before us provides for the consideration of the bill, H.R. 4825, a straight 5-year reauthorization of the National Endowment for the Arts, the National Endowment of the Humanities, and the Institute of Museum Services.

These 3 Federal agencies provide financial resources for over 200 Government programs that support the arts, the humanities, and museums. For nearly 2 years now, the work of one of these three small agencies, the NEA, has engendered a rancorous debate over art and obscenity.

Mr. Speaker, the rule before us provides for an orderly and fair amendment process, and gives the House the best opportunity to bring some common sense to what has become a chaotic situation.

When this Nation's citizens are scandalized by the fact that their Federal Government has helped to finance the showing of various works, as well as the works themselves, that are perilously close to the legal definition of obscenity, it is time for Congress to act.

When this Nation's religious and moral values are subject to the kind of ridicule and effrontery evidenced by obscenity, it is time for Congress to act.

I daresay that the Congressional Arts Caucus would not even think of displaying the works under question here upon the walls of the tunnel leading from the Cannon Building to the Capitol.

The Members would be scandalized, and deservedly so.

The rule before us provides the House with the opportunity to enact a remedy.

The rule provides 1 hour of debate, and it waives all points of order against consideration of the bill.

The rule makes in order a series of amendments dealing with NEA and the art or its display that it helps to pay for.

The rule specifies the five amendments the House shall consider, and structures the debate on these amendments so that it will be orderly and will protect the right of Members to vote upon the choices offered in the amendments.

Mr. Speaker, the Committee on Education and Labor reported the bill made in order by the rule late last June. The bill itself is a straight 5-year reauthorization of three Federal agencies. The Committee on Education and Labor was unable to resolve the controversy over what some Members would call obscene pictures, so these issues landed in the lap of the Committee on Rules.

By late August, Mr. Speaker, the Committee on Rules had received 26 requests for amendments to the reported bill.

The chairman of the Education and Labor Subcommittee on Postsecondary Education, the gentleman from Montana [Mr. WILLIAMS], and the ranking Republican member of that subcommittee, the gentleman from Missouri [Mr. COLEMAN], worked throughout the summer and early fall to bring various Members together in support of a comprehensive set of changes that would stand some chance of actually becoming law.

Mr. Speaker, the two gentlemen have consistently said they believed that the House should have the opportunity to debate and decide whether language restricting the award of NEA grants to artists should be included in the reauthorization legislation.

The rule provides three elementary choices for the Members. First, shall the Congress abolish the NEA outright?

The gentleman from Illinois [Mr. CRANE] believes, as many Members do, that the Federal Government simply has no business funding any art whatsoever. Under the rule the House will vote on the amendment to be offered by the gentleman from Illinois [Mr. CRANE], following 30 minutes of debate.

Second, shall the Congress enact an extremely strict set of standards on funding for NEA grants?

Mr. Speaker, the rule provides this choice in the form of amendments to be offered en bloc by the gentleman from California [Mr. ROHRABACHER].

The Rohrabacher amendments, which are not subject to a demand for a division in the House or in the Committee of the Whole, are five pages in length and are available for Members in the report filed by the Committee on Rules.

Without describing in detail the Rohrabacher amendments, let me just say it prohibits Federal funds for art that is obscene or that depicts various sexual activities, or that denigrates religious beliefs; or that promotes minors to engage in sexually explicit conduct, specifying in precise terms the acts that shall not be depicted; or that promotes matter in which the flag of the United States is mutilated, defaced, defiled, burned, or trampled upon.

Mr. Speaker, the gentleman from California is very sincere in his belief that the American people do not want Federal tax dollars to be spent for works of the kind contained in his amendment. The gentleman from California will have 30 minutes of debate on his amendments.

The third choice given the House by this rule is the bipartisan substitute to be offered by the gentleman from Montana [Mr. WILLIAMS] and the gentleman from Missouri [Mr. COLEMAN].

I strongly support this subsitute and I urge Members to consider, during the debate we are about to enter into, that the substitute includes strong language regarding accountability to the public in the use of public funds to support the arts.

Mr. Speaker, the Williams-Coleman substitute is supported by the gentleman from Michigan [Mr. HENRY] and most, if not all, of the Members who have been engaged in resolving this highly charged controversy.

The Williams-Coleman substitute makes it clear that public funds for the arts must be granted in such a way as to take into consideration the general standards of decency and respect that the American people hold for the rights of each other, and the beliefs and values of each other.

The Williams-Coleman substitute clearly states that obscenity is by definition not art for the purposes of Federal funding, is not protected speech, and that obscenity absolutely cannot and will not be funded by NEA.

The definition contained in the Williams-Coleman substitute is based upon the test of obscenity decided by the Supreme Court in Miller versus California.

Mr. Speaker, the rule provides for 1 hour of debate on the Williams-Coleman substitute. There will be ample time for debate on the substitute, and ample time for Members to decide whether they prefer it over Mr. ROHRABACHER's proposal.

In addition, Mr. Speaker, the rule provides 20 minutes of debate on an amendment to be offered by the gentleman from Iowa [Mr. Grandy], who wants to tighten the Williams-Coleman substitute regarding repayment of awards.

The rule also provides 10 minutes of debate on an amendment to be offered by the gentleman from Ohio [Mr. Traficant] stating the sense of Congress that NEA should require its grantees to purchase American-made equipment and products.

Finally, Mr. Speaker, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, the rule is fair to all sides involved in the debate over obscenity in art supported by NEA.

In my personal opinion, the restrictions on Federal funds for the NEA art contained in the Williams-Coleman substitute have little to do with censorship. No one is censoring anything. Artists have the unfettered right, under the first amendment, freely to express themselves.

My understanding of the Williams-Coleman substitute is that the Government, through enactment of this proposal, simply has the right to say "We shall not pay for it, if it is obscene."

□ 1400

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield such time as he may consume to the gentleman from Montana [Mr. Williams].

Mr. PASHAYAN. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. Rohrabacher].

Mr. ROHRABACHER. I thank the gentleman for yielding.

Mr. Speaker, today is the culmination of a year-long fight over whether the Federal Government will continue to subsidize art through the National Endowment for the Arts. We will then decide whether Congress will set standards so that the Federal Government is at least not subsidizing obscenity, child pornography, attacks on religion, desecration of the American flag, and any of the other outrages that we have seen in the past.

Mr. Speaker, this rule is not what I would have preferred. When I testified before the Rules Committee I asked for an open rule. This is not an open rule. I then asked the Rules Committee, if they would at least allow all proposed amendments to be offered—not be to the disadvantage my amendment through a "king of the hill" procedure. I was not successful on this request, either.

But, although the rule is not what I wanted, I do not oppose this rule. I do not oppose it, because it gives the House the opportunity to vote for meaningful standards for the spending of tax dollars on art, even though this rule requires two votes—two votes to accomplish this end of putting in place meaningful and effective standards.

Mr. Speaker, the Rules Committee has boiled the NEA issue down to three key votes. First, there will be a vote on the Crane amendment to abolish the NEA entirely.

Second, there will be a vote on my amendment to establish not extreme but some commonsense standards for NEA funding. Finally, the bottom-line vote will be on the Williams-Coleman substitute which will, if passed, wipe out all the restrictions that my amendment places on NEA funding. If this substitute passes, it will not matter if my amendment is adopted unanimously. The substitute will eliminate its substance.

The public has been alerted, and the constituents are watching. They know the vote on the gut-the-standard Williams substitute is the key vote.

Every Member of this body has a choice to make. Should there be standards on the spending of Federal dollars concerning the arts? Or should the National Endowment for the Arts be completely unrestricted in doling out our tax dollars to whomever they choose. The Rules Committee has left no middle ground. The debate over the past year has made it clear that our constituents do not want their tax dollars to be wasted on projects that they find morally reprehensible. And they will be watching, and they will know that there is only one way to make the NEA responsible, and that is to vote "yes" on the Rohrabacher amendment and "no" on the Williams-Coleman substitute which would gut the standards. They will not tolerate the goal of anyone voting for my amendment to set standards and then voting to wipe out those standards with the very next vote.

Mr. Speaker, I would call on my colleagues to vote for meaningful standards, to listen to their constituents, to vote for my amendment to set standards and then to eliminate and vote against the gut-the-standards substitute offered by the gentlemen, Messrs. Williams and Coleman.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. Downey].

Mr. DOWNEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to congratulate Mr. Williams and Mr. Coleman for their substitute and for the hard work that they have done in bringing the NEA authorization bill to the floor.

One question we should all ask ourselves is why are we here, with all of the other great issues of state before us? Does it not seem strange that this particular issue should draw fire and such fury?

I have a theory, and it is only mine, but I will offer it to you.

I believe that the far right, when they lost the Communist boggeyman, had to search long and hard for a new enemy. Mapplethorpe and Serrano appeared just in the nick of time. They could find the new enemy in the artists of the waning years of the 20th century. Their new enemy could be the National Endowment for the Arts and the work that the Endowment has done.

How convenient. We could offer a variety of mistruths, present them as the whole truth and get our constituents inflamed with the idea that the NEA is busy worrying about pornography, obscenity and sacrilege.

What nonsense, what tripe; 85,000 grants since 1965 to artists, to traveling orchestras, to men and women of sensitivity and creativity. Artists often tell us the truth about ourselves, and that is a very painful business. And they do it, often, in provocative ways that offend sensibilities. And we are going to hear about that today, I am sure. But the one thing that artists do for us is tell us the truth and force us to look a little deeper at ourselves as a people in terms of our values.

Does the Federal Government have a role to play in this? I think it does. I think the Federal Government has a small role to play in making America more creative, more beautiful and more sensitive, and that is what the NEA has done through its long history.

Now, unfortunately, we are not going to be able to talk about all of the traveling orchestras, we are not going to be able to examine in detail the Pulitzer Prize winners who got their start because of the NEA. But we will hear about the provocative works, some of it garbage, and it will masquerade itself for all of the other good things. That indeed is a tragedy.

But I urge my colleagues today to recognize the work that Mr. Williams and Mr. Coleman have done and to support it, to recongize that some restrictions are politically necessary and the ones that they have drafted are appropriate, but nothing else is.

This is a good organization with a brilliant director. It is a proud agency of the Federal Government, and you should be excited at the idea that it is something that has existed for 25 years.

Mr. PASHAYAN. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. Green].

Mr. GREEN of New York. Mr. Speaker, I rise on behalf of the rule and of this bill to reauthorize funding of the National Endowments. I think it is important, as we begin this debate, to reflect a moment on what set it off.

One of the primary claims that set off this whole fight was the assertion that the Mapplethorpe exhibit, which the NEA had funded, was obscene.

□ 1420

Mr. Speaker, as everyone in this House is well aware, in one of the more conservative parts of this country, Cincinnati, we have just had an extended trial on that issue. The jury in that trial saw the pictures which offended some Members of this House, they heard the testimony, and, after a long trial, in 2 hours they found those pictures not obscene.

Mr. Speaker, it is obvious that that jury verdict has shocked the legs totally out from under the case of those who would seek to gut the National Endowment for the Arts.

Mr. Speaker, I urge all of my colleagues to support this rule, to support the Endowment, and vote for the bill.

Mr. PASHAYAN. Mr. Speaker, I yield 15 minutes to the gentleman from Missouri [Mr. Coleman].

Mr. COLEMAN of Missouri. Mr. Speaker, I want to talk about the rule, which I support, but I want to talk about the proposition that we will be facing this afternoon in this debate on the National Endowment for the Arts and the National Endowment for the Humanities, and let us not forget the Institute of Museum Services because the gentleman from Montana [Mr. Williams] and I are actually bringing a bill to the floor this afternoon which reauthorizes those three agencies. The attention has been placed upon the NEA, but I would like to take some time here to talk about some of these other agencies that are doing very good work, and, very frankly, no one has addressed in this reauthorization, or no one has really even questioned, the validity of their functioning and their administration. The Committee on Education and Labor recognizes that these two agencies, the NEH and the Institute for Museum Services, should be reauthorized with only slight changes, and insignificant changes at that. At the same time, because of the controversy surrounding the funding of certain art works and productions by the NEA, and a widespread interest by the members of our committee and of the House, we agreed that the House floor was the proper place and forum to debate these matters and issues surrounding the reauthorization of the NEA.

Mr. Speaker, it seems clear that today's debate involves the Endowment's continued survival. Indeed the first amendment up is going to be from the gentleman from Illinois [Mr. Crane] who will move to strike the existence of the NEA. At the same time, Mr. Speaker, let us not lose sight of the fact that in the 25 years since its authorization, the National Endowment for the Humanities has proved a worthy guardian and sponsor of our Nation's cultural history.

Mr. Speaker, the NEH recently sponsored a public television series called the Civil War. Ken Burns' documentary was seen by more people on public television than any other show in the history of public television, over 14 million people. Many watched all episodes for a week. No Member of the House, and I have talked with a number of my colleagues who have indicated that they have seen this show, no Member who watched it can question the validity and the need for the reauthorization of the National Endowment for the Humanities. All of use were moved by this media to bring to life our national past, and culture and heritage.

Mr. Speaker, the humanities endowment supports projects ranging from the King Tut exhibit to the summer seminars for teachers with grants ranging from the hundreds of dollars, a small grant, to $2.5 million to the New York City Library to preserve their 40,000 volumes of American history and culture. The NEH has made over 41,000 grants in these 25 years totalling $2 billion, stimulating another $1.3 billion by the private sector.

The little Institute for Museum Services, that gets overlooked so frequently, is the only source for operating support for our Nation's museums. It is charged with supporting zoos, aquariums, botanical gardens, natural history and children's museums, as well as art museums and historical sites. Since 1976, the Institute of Museum Services has made nearly 10,000 grants strengthening these institutions for years to come.

Now in its 25 years, the National Endowment for the Arts has supported the work of talented individuals and organizations of high artistic merit, leveraging nearly millions of dollars in private support. Since its inception, the NEA has stimulated the growth of arts organizations, and artists, and arts audiences, arts museums, and theatrical companies, and symphonies and orchestras having flourished during its operation.

In 1965, Mr. Speaker, there were only five States arts agencies. Today all 50 States, plus the territories use Federal dollars that are matched on a local basis of ten to 1 in many instances. They play a very strong role in providing public access to the arts at the State and local level.

Now during the last 18 months, this 25-year-old record of the NEA has come under criticism and scrutiny. It has been distorted and misrepresented regarding its direct or indirect funding of controversial works of art or productions. Out of those thousands of projects that have been funded by the NEA, indeed only a handful, and we will certainly hear about the handful today, have gained public attention and notoriety.

As the debate surrounding the reauthorization of the National Endowment for the Arts developed during the past 1½ years, I became increasingly dismayed by the extreme positions taken by both the critics of the Endowment, who accuse those who support the NEA as de facto supporters of pornography, and, on the other hand, the equally intransigent position of the arts establishment, which writes off any criticism of the Endowment's peer review and grant-making process as an attempt at censorship. What the two extremes have in common, seemingly, was to do in this agency. Justifiable concerns about the Endowment's operations, about its lack of sufficient administrative oversight of its grant-making process, and the need for additional accountability to the public in the Endowment's peer review system, have been relegated to the background. We hardly talk about those issues. So, throughout this debate, we have had an NEA that is careening from one post to another, and I believe it is at risk and is adrift.

While I am a very strong supporter of public funding and the Federal role in the arts, I also feel very strongly that the public funding requires accountability to the taxpayer, and, sharing this view with the gentleman from Wisconsin [Mr. Gunderson], my colleague on the committee, I began to draft what I call the Republican consensus bill which brought some common sense reforms to the Endowment's peer review and grantmaking procedures. It would insure greater accountability to the taxpayers, increase resource allocations to the States, increase access to the arts by the public with new initiatives on arts education through rural and inner city arts programs. And our proposal prohibited the funding of any art work or production which is obscene.

Mr. Speaker, during the past several months, even though we have had our differences, the gentleman from Montana [Mr. Williams] and I have sought to continue to seek and to work together to recognize that neither extreme was going to prevail in this debate, and the resolution of this problem needed to be made, and so, taking the Coleman-Gunderson approach, building upon the initial bill of the gentleman from Montana [Mr. Williams] that he introduced, we began to develop a bipartisan substitute which we bring proudly before the body this afternoon. This initiative was developed because we want an end to this. We want to set this agency on the proper course, and we want more accountability to the taxpayer without intruding on the consitutional creativity and rights of all Americans. Taken as a whole, our bipartisan substitute makes significant and basic changes in the Endowment and has more far-reaching reforms than this agency has ever had in 25 years.

The central question that we need to frame this afternoon is, "To whom is the Endowment for the arts accountable?" The answer to that question is, "It must be accountable to the public whose tax dollars go to fund it, and the public should benefit from the Endowment's existence through support, not only of artists and their work, but also from increased access that all of us will have, and increased appreciation that all of us can gain to the arts."

Our legislation begins with a simple statement, and I quote from our proposal. "The arts and the humanities belong to all of the people of the United States." It expresses a basic principle which seems to have been so taken for granted during all this debate, and then ignored by both the critics and the defenders of the Endowment. The Arts Endowment is a Federal agency established to serve purposes the public expresses through those of us who are their elected officials.

Mr. Speaker, the Williams-Coleman language clearly states, and again I quote:

> Public funds provided by the Federal Government must ultimately serve public purposes the Congress defines." It strongly underscores the basic principle that in funding works or productions of art, "Government must be sensitive the nature of public sponsorship," and that, "Public funding of the arts and humantities is subject to the conditions of accountability" which traditionally govern the use of public money.

□ 1430

An Endowment of the Arts which loses the trust and support of the American people, will not continue to exist. Our legislative language stresses that the Endowment, as a Federal agency and steward of the taxpayers' funds, should make grants in a way that its funding contributes to the public's support and confidence in the use of these taxpayer funds. Our criteria in our proposal is artistic excellence and artistic merit. Those are the criteria by which an applicant will be judged.

Additionally, we have added language by the gentleman from Michigan [Mr. Henry] which underscores that the decisions of artistic excellence must take into consideration general standards of decency and respect for the diverse beliefs and values of the American public. Works which deeply offend the sensibilities of significant portions of the public ought not to be supported with public funds. That is a statement of common sense, of prudence, of sensibility to the beliefs and values of those who, after all, pay the taxes to support this Federal agency.

We make very clear in our proposal that the NEA will not fund obscene works because obscenity is without artistic merit. It is not protected speech and shall not be funded. However, works or productions which are ultimately for some reason determined by a court of law to be obscene are prohibited from receiving funding from the arts, and if there is a violation, the individual applicant must pay back to the NEA those funds and is ineligible for 3 years to receive another grant.

Mr. Speaker, I take this time under the rule to lay out our proposal, because of the time sequence of events, and the pressure for time when it comes to debate the various contested amendments that we have before us today. Some are concerned about putting into the hands of juries the decision as to what is obscene and what is not obscene. I do not shrink from giving this to our fellow Americans to decide. That is where it ought to be decided, by the courts and by the juries, not by Members of Congress, not by the leadership, not by me, not by the chairman, and not even by a majority of us. We should set out the parameters within the bounds of decency and obscenity in this country and let those decisions be made at the local level.

There are some who have given widespread views to some of these questionable pieces of work that we all know about. In fact, those who oppose these works have disseminated them to millions of people in the guise of opposing them. They have given them more coverage than they ever would have gotten if they had just let them lie as they should have.

Mr. WILLIAMS. Mr. Speaker, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Speaker, I am glad the gentleman brought up this matter of disseminating these works which some find obscene. By the way, I find some of them offensive myself.

If the right wing in this country does not stop disseminating these works, we are going to have to build a wing on every gallery in the United States just to take care of the increased crowds that want to go to these galleries to see these works.

Mr. COLEMAN of Missouri. Mr. Speaker, I thank the gentleman for his comment. It certainly has stirred interest in this agency which many people did not know existed.

Let me say that there are some, including the gentleman from California [Mr. Rohrabacher], who want to put into legislative language specific activities and projects which may not receive funding by the NEA. Let me say that if we start down that road of prohibiting categories of expression, categories which are indeed constitutionally protected speech, where do we end? Where one Member's aversions end, others with different sensibilities and with different values begin.

So I do not think any of us want to get into the business of determining which pieces of art ought to be funded. We can put out the general guidelines, and that is why I think the NEA itself can operate with the new restrictions, with the new procedures, and with the new reforms contained in the Williams-Coleman substitute, without specifying particular acts. The Members, and especially those who are watching in their offices, do not know sometimes what the particular acts are, because some of these amendments are X-rated and we cannot even talk about them, but I think our imagination lends itself to what we are referring to.

Mr. Speaker, I will talk more about the Williams-Coleman bipartisan substitute during general debate and also when the bill comes up for amendment. At this time I want to thank the gentleman from California [Mr. Pashayan] for offering me this opportunity early on to set out where we are going on this bill this afternoon.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from New Mexico [Mr. Richardson].

Mr. RICHARDSON. Mr. Speaker, I make this statement with great respect to my friend, the gentleman from California [Mr. Rohrabacher], who was gracious enough to come to my congressional district, which contains one of the largest art communities in the country, and conduct a debate, on the obscenity issue. My friend, Mr. Rohrabacher, on this issue is dead wrong, this initative on defining morality is one of the Far Right's last gasps. The cold war is over, deregulation has been discredited, and the Far Right's agenda has been rejected by the American people. So this is their last gasping, desperate issue that deserves to be repudiated once again.

Nonetheless, we need to be vigilant because it is a dangerous issue, because what my colleague is trying to do is personally set obscenity standards and define morality. I think that is wrong and unacceptable. It's unconstitutional. I think that is dead wrong. This crew wants to define pornography and obscenity in art. What is going to be next?

Yesterday in a playoff baseball game, the great Red Sox pitcher, Roger Clemens, was thrown out of the game because of an alleged obscenity that he did not even say out loud. He mouthed it, according to the umpire. And he was thrown out of the game.

Could baseball be next? Are we going to get into these issues all over the landscape next? Are music records next? We will be descimating the first amendment and free speech if we pass the Rohrabacher-Helms amendment.

Mr. Speaker, the Williams-Coleman compromise is good legislation. The substitute is good because it bans obscenity in arts funding. The legislation

that we have in front of us says very clearly that the NEA may not fund obscenity and the determination of obscenity is left to the courts not politicians, not bureaucrats. But the courts, among juries of average people. The proposal adds a definition of obscenity to be used by the courts in making a determination.

Here is what is obscene based on the Miller versus California standard. First, the average person applying contemporary community standards would find that the work when taken as a whole appeals to prurient interests. That is the first one.

Second, if it depicts or describes sexual conduct in a patently offensive way; and

Third, if it lacks serious literary, artistic, political, or scientific value.

Mr. Speaker, the NEA is a good institution and the Government should fund the arts because we are enriched as a society by the arts. There are hundreds of good NEA projects throughout the country. Here are some examples:

Mr. Speaker, during the past few months you have been receiving a lot of mail on the Arts Endowment. Much of it has been distorted and has led to considerable confusion about the kind of works the endowment funds. As most folks know, the endowment has been an important force in expanding the arts throughout this country and is so doing enriching the lives of our people. I am enclosing examples of some projects that the endowment has actually funded during the past year. Despite the misleading claims made by others, these projects, and others like the Nebraska women's artist project now on display in the Cannon Rotunda, are the kinds of work that characterize the endowment. It is this art that you will be asked to support when we bring the endowment reauthorization bill to the House floor.

Alabama: $40,000 grant to the Alabama State Council on the Arts to support rural arts organizations throughout the State.

Georgia: $27,500 grant to Jomandi Productions in Atlanta, the oldest existing black-owned and produced theater company in the country, to support its Community Without Walls Program which provides free and discounted tickets for schools and public housing residents.

Kansas: $12,000 to the Kaw Valley Arts Council of Kansas City to develop and improve arts programs for disabled and handicapped young people.

Louisiana: $15,000 to the Shreveport Symphony Society to support the Special Concerts for Special People program, bringing symphony performances to institutions for handicapped children and adults and to retirement and long-term care facilities.

Masssachusetts: $28,000 to the Children's Museum in Boston to support a cultural festival featuring the five Southeast Asian refugee groups who have settled in that State.

Nebraska: $48,200 to Nebraskans for Public Television to support a documentary on the preservation and restoration of historic farm buildings and the importance of the farm in the cultural heritage of rural life in America.

New Mexico: $60,000 to the New Mexico Symphony to tour the Southwest region and to expand its education programs, particularly to rural areas and Indian pueblos and reservations.

North Carolina: $23,200 to the North Carolina Maritime Museum to support the documentation and presentation of the traditional arts and artists of the North Carolina coastal region.

West Viriginia: $75,000 to Friends of West Virginia Public Radio to support "Mountain Stage," a weekly live program showcasing a variety of prominent regional artists.

These works, representing the rich cultural heritage of our Nation, are funded by the endowment. They are the actual works on which we should judge the endowment's activities, not the distortions of some who would prefer leaving us with no endowment at all.

Summary for Williams-Coleman Proposal Reauthorizing the National Endowment for the Arts

NEA FUNDING MUST BE SENSITIVE TO PUBLIC SPONSORSHIP

Language is added to the Declaration of Findings and Purposes stating "that the arts and the humanities belong to all the people of the United States; that the Government must be sensitive to the nature of public sponsorship, and that funding of the arts is subject to the conditions of public accountability that govern the use of public money." Additionally, "the arts should reflect the nation's rich cultural heritage and foster mutual respect for the diverse beliefs and values of all persons and groups."

ARTISTIC EXCELLENCE AND ARTISTIC MERIT

The Chairperson of the National Endowment for the Arts is required to ensure that artistic excellence and artistic merit are the criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public.

OBSCENITY

Language specifies that obscenity is without artistic merit and is not protected speech. The proposal makes clear that Constitutional prohibitions against obscenity apply to the NEA.

A. COURT DETERMINATION OF OBSCENITY

While the Act makes clear that NEA may not fund obscenity, the determination of obscenity is left to the Courts. The proposal adds a definition of obscenity to be used by the courts in making a determination. The term "obscene" is based on the Miller versus California standard and means with respect to a project, production, workshop, or program that:

(1) the average person, applying contemporary community standards, would find that the work, when taken as a whole, appeals to the prurient interest;

(2) depicts or describes sexual conduct in a patently offensive way, and

(3) lacks serious literary, artistic, political, or scientific value, when taken as a whole.

B. Repayment to NEA

After notice and opportunity for a hearing on record, should the Chairperson determine that the work of a recipient of financial assistance from the NEA (or through a subgrant by any other public or private agency or organization) has been deemed obscene by a court, the NEA will recapture funds awarded for such work.

Additionally, the recipient is disqualified from eligibility for future NEA funds for a period of 3 years and until all funds are repaid to the Endowment.

These sanctions shall not apply to works funded by NEA before enactment of this Act. Additionally, they may not be in effect for more than seven years after the award of a grant by the NEA.

APPLICATION PROCEDURES

Applications for grants must include a detailed description of the proposed project and a timetable for completion.

Conditions of the grant award or financial assistance include an assurance by applicant that the product or production will meet the standards of artistic excellence and artistic merit as required by the Act.

Site visitations will be required, when necessary and feasible, to view the work of an applicant and a report given to the grant advisory panel to assist in their evaluation.

Applicants will submit interim reports detailing progress and compliance with terms and conditions of the award, except in those cases the Chairperson determines not practicable; annual reports will be required for multi-year grants.

Distribution of grant awards will be made in multiple installments, except in those cases which the chairperson finds that the procedure is impracticable. Two-thirds of the award will be provided at the time the application is approved; the final one-third will be disbursed upon NEA approval of interim report.

A final report on the project is required within 90 days of the completion of the grant award period.

Penalties for noncompliance with terms and conditions of the contract include the recapture of Federal funds and disqualification from future eligibility until complianc is accomplished.

ROLE, RESPONSIBILITIES AND COMPOSITION OF ADVISORY PANELS

Panels are authorized to make recommendations to the National Council for the Arts solely on the basis of standards of artistic excellence and merit.

Panels are broadened, when practicable to include individuals reflecting a wide geographic, ethnic, and racial representation as well as individuals reflecting diverse artistic and cultural points of view.

Panels will include knowledgeable lay persons.

Individual panelists are limited to thre consecutive years of service on a panel an membership of each panel must change substantially each year.

No individual who has a pending application from the NEA or who is an employee o agent of an organization with a pending application can serve as a member of an panel before which such an application i pending.

Panels are required to create writte records summarizing the meetings and discussions of each panel and the recommendations by the panel to the Chairperson These records are to be made available t the public in a manner which protects th privacy of applicants for financial assistanc and individual panel members.

NATIONAL COUNCIL ON THE ARTS

The council will make recommendation to the chairperson concerning funding an funding levels of applications that hav been determined by the advisory panels to have artistic excellence and artistic merit.

All policy meetings of the National Council for the Arts shall be open to the public.

The council must keep records, summarizing meetings, discussions, and funding decisions and must make these records available to the public in the same manner as the grant advisory panels.

CHAIRPERSON OF THE NATIONAL ENDOWMENT FOR THE ARTS

The chairperson of the NEA has the final authority to approve or disapprove recommendations concerning funding and funding levels of applications made by the council. The chairperson may not approve an application that has not been approved by the council.

STATE FUNDING

Funds allocated to the States for Basic State Grants (BSG) will be increased from 20 to 25 percent in fiscal years 1991-1992, and increased to 27.5 percent in fiscal year 1993.

An additional 5 percent of NEA program funds in fiscal years 1991 and 1992 will be reserved for funds for competitive grants to state and local arts organizations for programs to expand public access to the arts in rural and inner-city areas. The percentage will be increased to 7.5 percent in fiscal year 1993.

The current 80-20 ratio of the Federal and State percentages of program funds will be 65-35 by fiscal year 1993.

NEW INITIATIVES AND NEW PROGRAM PRIORITIES

A new authority is created for arts education. Includes initiatives to promote arts instruction for students, teachers, and artists, and strengthen and support research and demonstration projects in arts education and the dissemination of information.

Projects which have substantial national or international artistic or cultural significance are encouraged as are projects that broaden public access to the arts through film, television productions, radio, video, and other media.

A challenge grant program is authorized for "developing arts organizations" of high artistic promise which can expand public access to the arts in rural and inner city areas.

GAO REPORTS TO CONGRESS

A study of Federal, State, and local funding of the arts is required.

A study of the program staffing and use of consultants and independent contractors by the NEA is required.

LENGTH OF AUTHORIZATION

Three years. (The length of authorization applies to the NEA, the National Endowment for the Humanities, and the Institute of Museum Services.)

Mr. PASHAYAN. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, first of all, I rise in strong support of the rule. I want to commend the Rules Committee for having accommodated the interests of each and every Member who came before that committee. The committee gave each and every Member who had an interest in offering an amendment to this bill the opportunity to do so, and I think we should point that out. Every Member who came to the committee and asked to be given an opportunity to present an amendment to this bill was allowed to do so, including the gentleman from California [Mr. ROHRABACHER].

I also want to point out that the rule issued by the committee was unanimous. I think that says a lot, given all the emotion that has gone into this issue and all the political divisiveness of this issue. Again I thank the members of the Rules Committee for putting us on the right ground for having what I hope will be a constructive debate.

Having said that, I want to rise in strong support of the Williams-Coleman substitute. I have been as active as any Member in this body in addressing the problems of content reforms, if you want to use that language, in addresing the problem of art which is deemed by some to be obscene or indecent and in terms of how we get an endowment which is sufficiently responsive to the character of public sponsorship.

□ 1440

This compromise addresses that issue and has met every concern that I have raised in committee and with other Members in this body. I want to make that very clear. The substitute addresses that. I want to make it very clear here, because there is a challenge before each and every Member in this Congress, Republican or Democrat, liberal or conservative.

There are two ways in which we can respond to some of the problems we have had in the NEA. We can try to kill it and punish it and abolish it, or we can try to make it better and preserve this agency, which by and large has served the American people and the American trust exceedingly well.

Mr. Speaker, I am here to stand beside those who seek to strengthen this agency, to correct it where it has been wrong, to address some of the public issues that have been raised, while at the same time urging Members to be careful not to get caught up in a vindictive spirit which has goals quite different than that of simply strengthening this agency.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Pennsylvania [Mr. GAYDOS].

Mr. GAYDOS. Mr. Speaker, the substitute is the product of sincere and significant compromise by the members of the Education and Labor Committee and represents the willingness of many people to ensure the continued support for the arts by the Federal Government.

During the past several months, it has become clear that there has been substantial opposition to continued funding for the National Endowment for the Arts, primarily because of suggestions that too many of the grant-winning projects have been viewed as being obscene.

As I mentioned, I have been one of those critics. I opposed the version of H.R. 4825 as it was reported by the Committee on Education and Labor and, if anyone is interested, the committee reported on the bill, 101-566, including my dissenting views.

In that report, I noted that while I supported the concept of Federal aid for the arts, I could not, in good conscience, vote for that bill because it provided for a straight 5-year reauthorization with no language to prohibit funding for works deemed to be obscene, and provided no system for improving the internal operating structure of the National Endowment for the Arts.

In my dissenting views on H.R. 4825, I suggested that a shorter reauthorization period, 2 or 3 years, would be far more acceptable; that language be included to prohibit or significantly restrict advisory panels from recommending grants for works that would be obscene by traditional standards; and that the Independent Commission, authorized by the Congress and appointed by the President, be extended for an additional year in order to review the internal operations of the NEA and to report its recommendations to the Congress for action.

In the months since that report on H.R. 4825 was printed, a number of things have occurred that have encouraged me to believe that changes for the better were coming forth. In that period between the end of June and today, we have seen a different kind of activity by the chairman of the National Endowment for the Arts—a willingness to take unpopular actions in the interest of seeking to come to terms with the objections to some grant applications.

We also have in hand the report to the Congress on the National Endowment for the Arts from the Independent Commission. This report makes a number of suggestions for revamping the internal structure of the National Endowment, including revised roles for the advisory panels. Those changes and new actions, Mr. Speaker, bring us to this substitute for H.R. 4825.

The compromise proposal opens the door for a fuller review of the National Endowment than would have been possible under the originally reported bill. This measure contains many significant improvements that I firmly believe will make the National Endowment a stronger and more viable force in the arts community, even if the arts community itself doesn't yet recognize that fact.

I know that many of my colleagues have already commented on many of these important features, but I feel that I, as a vigorous opponent of the

original measure, should stress those points that have convinced me to lend my wholehearted support for it.

First, and foremost, the compromise proposal comes to terms with a basic principle for the National Endowment—that it must be sensitive to public sponsorship. The National Endowment is, after all, a creation of the American public. It must reflect the public view.

Mr. Speaker, underlying the entire debate on the reauthorization of this agency is the whole question of the Federal Government's role in the arts. Is it the primary role of Government at the Federal level to provide dollars to individual artists, helping to free them from searching to meet basic needs so that they might create something?

Or, should the principal role of the Federal Government be that of enhancing our existing system of making artistic endeavors more available to the general public and of encouraging a greater appreciation for the broad spectrum of the arts by all of our citizens, whether they live in our cities, towns, or villages?

I believe that this new statement of principle encourages the latter goal, one which I believe is the cornerstone for Federal support for the arts.

I concur in the effort of the compromise to address the obscenity issue and I believe without reservation that the provision that would disqualify any grant recipient found guilty of creating an obscene work from receiving any further assistance for no less than 3 years and until any grant moneys were returned, will be an adequate deterrent.

Perhaps more important in the scheme of things is the means by which the advisory panels are refocused and the makeup of those panels.

I agree with the concept of requiring that applicants provide more detailed information on their initial applications and that they include a timetable for completion of the project.

I support the intention of the crafters of the compromise to require visitations by the advisory panels to examine projects at various stages and the requirement for interim reports on progress from the grant recipients. I also approve of the provision that would split the grants into at least two separate payments available at different times during the course of the project.

I concur with the provision that would broaden the membership of the advisory panels to include the widest range of individuals, especially with the inclusion of "knowledgeable lay persons."

And, finally, I strongly endorse the provision that would limit the basis for recommendations on art projects by the advisory panels to artistic merit, with no voice in the actual grant award.

I agree that the funding recommendations should be made by the National Council on the Arts, primarily because this group is responsible to both an appointing authority, the President, and a confirming authority, the U.S. Senate. These connections to the real world make the council members eminently suited to make the funding level recommendations for grant applicants, with the final say in the hands of the chairperson of the National Endowment.

I know there are those who will question whether the approach embodied in this compromise will be sufficient to truly curb the abuses reflected in the funding of what are or appear to be obscene works.

I believe the system in this substitute will work. I believe that the changes in the internal structure of the Endowment will lend itself to adequate controls because we are now placing the responsibility for the decisions in the hands of those who will be held accountable. Further, I believe the review process, including the interim reports to be required, will help to head off the kinds of works that have embarrassed so many of us.

But that's not all that has encouraged me to support this substitute proposal, Mr. Speaker.

I approve of the concept of increasing the basic grants to the States from the present 20 percent level to 25 percent for fiscal year 1991 and 1992, and to 27.5 percent in fiscal year 1993.

Furthermore, I strongly support the new authority for the arts education program. As I mentioned earlier, that is what I believe the primary thrust of the National Endowment for the Arts should be. And, while I may quibble with the funding approach—only 50 cents for each dollar appropriated above the $175 million level, up to $40 million, the idea is sound and viable.

Finally, Mr. Speaker, I am encouraged by the studies by the General Accounting Office required by the substitute and its 3-year authorization period. I believe the GAO reviews will help us address possible abuses in the system, especially where it appears that funding, both direct and indrect, appears to have gone to organizations, which have had managers and directors on the advisory panels.

Mr. Speaker, I want this program to continue. I have never suggested that we should not fund the National Endowment for the Arts. In fact, it has always been my goal to achieve just the kinds of changes that this substitute provides us with.

The National Endowment is an important factor in my congressional district. In fiscal year 1989, persons, and organizations in my district received $2.24 million from NEA grants. In an area that has been as economically hard hit as mine duirng the past 12 years or so, this is a significant contribution to the economy.

I am committed to ensuring that the National Endowment for the Arts continues as a viable organization and continues to serve the American public.

I know it can do a better job than it has in recent years and I, for one, intend to help the agency achieve that goal. This compromise before us does that.

I believe this compromise will allow us to continue to support the National Endowment's aims and still feel that we are protecting the public's concerns.

This substitute so closely matches the concerns I raised in my dissenting remarks in the committee report that I have no qualms about supporting it myself and in urging all of my colleagues to support its passage.

Mr. Speaker, today's upcoming debate on the reauthorization of the National Endowment for the Arts must seem a strange one to the American people, especially with the concerns about the budget resolution and the potential for a shut-down of critical Government operations.

But this is an important issue, nonetheless. In this debate over reauthorization of the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services, we are saying a lot about national goals and dreams.

I admit that I have been as critical as many other Members of Congress about the ways in which the National Endowment for the Arts has squandered taxpayers' dollars on works that, even if not obscene, seem far removed from what most of us would consider works of artistic merit.

Still, the arts have a vital place in our society. George Washington said that the arts are "essential to the prosperity of the State" and John Adams wrote that he hoped his grandchildren would have the "right to study painting, poetry, music, and architecture."

There is little doubt in my mind that there is a need for a Federal presence in the arts. What that role should be has been one of the points in disagreement.

Later today, Mr. Speaker, we will have several opportunities to express ourselves on that basic issue. There will be amendments offered that would abolish the agency entirely, that would prohibit the agency from using its funds for a variety of activities, and that would continue the agency under a revised formula with different responsibilities for different elements in the structure.

The last amendment is a compromise substitute for H.R. 4825, the bill before us today.

Mr. Speaker, I rise in strong support of the substitute and I urge my colleagues to defeat those amendments that would either abolish the agency or severely limit its operational integrity.

I commend PAT WILLIAMS, the chairman of the Subcommittee on Postsecondary Education, for his perseverance and for his willingness to seek consensus.

I was a vigorous opponent of the original bill as it was reported by the Committee on Education and Labor. My views are on the record.

This compromise substitute is the best available option, Mr. Speaker. It addresses each of my objections sufficiently so that I can support it without reservation.

I stand here to urge my colleagues to support it when the appropriate time occurs. I will vote for this rule and ask my colleagues to join me.

Mr. BEILENSON. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the congressional debate over the National Endowment for the Arts again surfaces the age-old controversy in America between our commitment to free expression and our national conscience, molded since its infancy, by strong religious values. For over 200 years this country has labored to find a safe haven in this stormy debate. Though the artists and their works have changed, this is no new issue. I suspect that 200 years from now some form of this debate will still be taking place.

Under this rule we may consider two amendments, one to be offered by the gentleman from Illinois [Mr. CRANE], and the other to be offered by the gentleman from California [Mr. ROHRABACHER]. In my mind, the amendment by the gentleman from Illinois [Mr. CRANE] is the only serious choice.

The gentleman from Illinois eliminates all public funding of the arts. Rather than produce a chastity checklist, the gentleman from Illinois [Mr. CRANE] presents the issue in a clear, unadulterated state, a simple take it or leave it. I cannot support the gentleman from Illinois [Mr. CRANE] nor his amendment, because I believe Federal support of the arts has real value for our Nation.

We fund music, art, education, and artistic expression. We encourage those qualities which give meaning to the prefix "gentle" in the words "gentleman" and "gentlelady".

The Rohrabacher-Helms approach tries instead to express in words that art which might be morally reprehensible in the minds of some.

Mr. Speaker, let me say at the outset that I find personally tasteless and offensive many of the examples of so-called art which are at the core of this controversy. In my view it strains, if not defies, any definition of art to portray people and beliefs in a degrading, insulting, dehumanizing manner. Yet, when confronted with the burden of defining my own personal threshold of accepable art, I find my legal education and legislative experience inadequate to the task.

We learned recently that a jury of Midwestern Americans in Cincinnati took the existing definition and standards and refused to find the very works of art in question here to be obscene. In my own hometown of Springfield, IL, an aggressive prosecutor several years ago finally threw in the towel when his efforts to close a local porno theater resulted in several juries being unable to agree on the issue of obscenity.

To say that words fall us in this debate is an understatement.

There is an aspect of this debate I find curious and seldom mentioned by Republican Members. Though they concede that only a handful of art works have been found controversial of the 85,000 which have been funded by the NEA, we never hear much about the people on the NEA Board who make these decisions.

In fact, every member of the NEA Board is an appointee of either President Ronald Reagan or President George Bush.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, the gentleman made reference to the amendments proposed by the gentleman from Illinois [Mr. CRANE] and the gentleman from California [Mr. ROHRABACHER]. The amendment offered by the gentleman from Illinois [Mr. CRANE] to kill the money for the arts was the one that the gentleman from California [Mr. ROHRABACKER] offered last year to kill the arts. The difference between the amendment of the gentleman from California [Mr. ROHRABACHER] of last year and this year is that whereas last year the gentleman wanted to have a quick thrust and kill the NEA, this year he wants to smother it with restrictions that are unworkable. It will kill it just as dead.

Mr. DURBIN. Mr. Speaker, reclaiming my time, conceding that neither President nor their administrations, under Ronald Reagan or George Bush, have been viewed as libertine or amoral, who are these people who have on several occasions funded these controversial art works? I do not know any of them personally, but I suspect they were chosen because of their knowledge of the arts and their judgment.

Mr. Speaker, is it not naive to believe that adopting the new definition of obscenity from the gentleman from California [Mr. ROHRABACHER] will somehow bring clarity to each of the minds of the NEA Board, any more than the existing definition of obscenity was seen as a clear call by the Cincinnati jury?

In the final analysis, we still have to put our trust in the judgment of men and women who must struggle on a case-by-case basis with the debate which has consumed this Congress for months. The approach of the gentleman from California [Mr. ROHRABACHER] is no answer at all. It is a broadside attack impossible to administer. Perhaps it is clear in the mind of the gentleman from California [Mr. ROHRABACHER], but I can guarantee Members, it will raise more questions than it answers.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

(Mr. SCHUMER asked and was given permission to revise and extend his remarks.)

Mr. Speaker, I rise today as a supporter of the National Endowment for the Arts. First of all, I would like to thank the gentleman from Montana [Mr. WILLIAMS] and the members of his committee for their outstanding effort under difficult circumstances in bringing forth this bill. I believe that there is no question that the arts endowment should be reauthorized to continue the great contributions that have marked its 25 years of existence.

Mr. Speaker, I would also like to say that as a member of the Interior Appropriations Subcommittee, I am proud to serve on the subcommittee that is responsible for funding the arts, and I am proud to serve with my very able and distinguished chairman, Mr. YATES. Chairman YATES has been a leader and a defender of the arts and has been a tremendously positive force in strenghening the cultural foundation of this Nation. We have all benefited from his leadership and foresight.

While the controversies that have characterized the past year have made this a difficult period for the arts, these are circumstances that I know the NEA and its supporters will successfully endure. The record of the Endowment is long and distinguished, and throughout its 25 years of existence, the NEA has led the way in broadening access to quality arts works in various disciplines. In dance, for example, we have gone from having just 37 professional dance companies when the NEA came into being in 1965, to 250 such companies at present. During that same period, the dance audience grew nationwide from 1 million to 16 million.

One of the most significant ongoing contributions being made by the NEA is through its funding of arts education initiatives, which particularly helps young children develop and express their creativity. NEA arts education initiatives are estimated to reach over 4 million children a year in the United States. Furthermore, I am pleased by the successful partnership that has developed between the National Endowment for the Arts and the States. When the NEA begin, only five States had arts councils. Today there are arts councils in every State and six territories.

In my home State of Washington, grants have been provided to support a variety of outstanding organizations, including: the American Indian Studies Center in Seattle, the Bellevue Art Museum, the Pacific Northwest Ballet, the Puget Sound Chamber Music Society, the Seattle Children's Theater, the Bremerton Symphony Association, the Tacoma Art Museum, the pierce County Arts Commission, the Spokane Ballet, and the Walla Walla Symphony Society.

I am proud that these and many other institutions in my State have been bolstered by support from the NEA. I would like to cite more specifically some of the great activities that have occurred in Washington State in recent years as a result of NEA funding. Through the NEA, the Whatcom Museum Society in Bellingham received a grant to support a touring exhibition and accompanying catalogue examining the impact of the Vietnam war on American art of the past 25 years; the Seattle Symphony Orchestra received funds to support the "Discover Music Program," a children's concert series with educational objectives; the connoisseur concerts association in Spokane received funds to support the 10 annual Northwest Bach Festival, the Pacific Northwest Arts and Crafts Association received a grant to support a program called designing for the Future, an educational program for students in grades 5 through 12 in connection with the Frank Lloyd Wright touring exhibition, and the Washington State Arts Commission received funds to support a collaborative reading exchange between Washington State and Oregon.

These are the kinds of great initiatives that the NEA has supported in my State that harsh opponents of the arts would sacrifice in their zest to punish or eliminate the NEA.

The NEA has built a proud record, and has demonstrated that public support for the arts can lead to significant private dollars. In 1988, for example, the $119 million given by the Endowment for grants generated over $1.36 billion in private funds.

It is hard to believe that we could ever remove all controversy from the NEA or any other bureaucratic institution, for that is not a realistic or humanly achieveable goal. What is achieveable is to instill integrity in the process, and to provide the NEA with the resources and direction it needs to pursue the goals upon which it was founded.

In the best interest of this Nation, let us not lose sight of why we have a National Endowment for the Arts. In this respect, I believe that the words written by the original commission which set up the NEA states it best:

> * * * That the arts are not for a privileged few but for the many, that their place is not on the periphery of society but at its center, that they are not just a form of recreation but are of central importance to our wellbeing and happiness.

I urge my colleagues to vote responsibly and oppose amendments that seek to eliminate or radically restructure the National Endowment for the Arts.

Mr. SCHUMER. Mr. Speaker, this debate is really about two things: it is about the arts in America and America's relationship to the arts, the Government's relationship to the arts, and it is about free speech.

The two are intertwined and you cannot really separate one from the other, although some on the other side in the form of the Crane amendment would like to do so.

In terms of free speech, it seems that in the 1980s a new concept of free speech has emerged. Speech is free, as long as the ideas, thoughts, or pictures enunciated are popular. We have seen that in the flag burning debate. We all abhor the flag burners, but the question is did they have a right to express themselves even in a way obnoxious to most Americans.

□ 1450

We all abhor some of the pictures and things that are funded here. But do they have a right to express them?

I would say to my colleagues I am truly worried about the state of our Bill of Rights, because when they become such a ground swell against speech, against thinking that is unpopular, this country is in trouble. The Founding Fathers did not fight to say the things that King George and others wanted them to say. They fought for things that were decidedly unpopular.

We are forgetting about that, my colleagues. We are losing our whole view of what free speech is all about. It is, I underscore, to defend unpopular speech, abhorrent speech, because if we draw the line in one place we will draw it closer and closer and closer to the beliefs that we cherish.

Mr. BEILENSON. Mr. Speaker, I yield our final 1 minute to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Speaker, I rise in strong support of the reauthorization of the National Endowment for the Arts. I want to compliment the gentleman from Montana [Mr. WILLIAMS], chairman of the committee and the ranking member, the gentleman from Missouri [Mr. COLEMAN] for the substitute they have worked out. I think it deals effectively with the very sensitive issue of obscenity.

I might say that I rise as a supporter of the arts because I think the National Endowment for the Arts has triggered an enormous private contribution to the arts all over this country. We have today many more dance companies than we had back in 1964, and it is because of the seal of professionalism that is given by the National Endowment of the Arts that I think has triggered this private reaction.

I would say to my friends on the Republican side who seem to be so concerned about this, I remember when President Reagan was elected. He tried to do away with the National Endowment for the Arts and yet when we had that ferocious debate, everyone agreed that without it there would not have been the private contributions that have made the arts what they are today in the United States.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRIES

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. HERTEL). The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, my parliamentary inquiry is with regard to the debate on the bill that is about to come up. Under the Rules of the House of Representatives, is the right to free speech protected as defined in the first amendment?

The SPEAKER pro tempore. Yes, clearly it is, consistent with the rules of the House.

Mr. WALKER. Consistent with the rules of the House. Some of the artwork that we are about to discuss has been ruled by the courts as being perfectly appropriate for public display. My parliamentary inquiry is, will that artwork be permitted under the rules of the House and under the provisions of free speech to be brought to the floor for display to the membership during the upcoming debate?

The SPEAKER pro tempore. The Chair will make a determination based on the decorum of the House.

Mr. WALKER. Mr. Speaker, I have a further parliamentary inquiry. Does the decorum of the House override the provisions of free speech?

The SPEAKER pro tempore. Order has to be maintained in the House to conduct the business of the House.

Mr. WALKER. But that is my question, Mr. Speaker. When it comes to the question of artwork, which has been declared by the courts as being appropriate artwork, and while being so referred to by proponents in this debate, will it be violative of the decorum of the House for such artwork to be brought to the House floor?

The SPEAKER pro tempore. Under the rules of the House, the Chair makes the determination as to whether decorum is proper in the House, and the Chair will make that determination at the proper time.

Mr. WALKER. I have a further parliamentary inquiry, Mr. Speaker. So the Speaker is saying that the right to free speech on the House floor can in fact be limited by the Chair, at the Chair's discretion, despite the fact that there are court rulings that indicate that the artwork is perfectly appropriate for public display?

The SPEAKER pro tempore. The gentleman knows that the Chair has the responsibility for the House to be in order, and that includes the decorum in the House. The gentleman from Pennsylvania knows that. The Chair will enforce that.

Mr. YATES. I have a further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois.

Mr. YATES. Mr. Speaker, the gentleman may or may not know that the artwork to which he refers was not cleared by the courts. It was cleared by a jury, not by the courts.

Mr. WALKER. If the gentleman will yield, I appreciate that.

Mr. YATES. It was never submitted, never submitted to a court for consideration.

Mr. WALKER. I certainly agree with the gentleman's point and I make that correction. It was a jury that made that determination.

I have a further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Since a jury has interpreted that this artwork is appropriate for public display, is the Chair going to permit such artwork to be displayed on the floor during the course of the debate?

The SPEAKER pro tempore. The Chair has already ruled and explained to the gentleman. The Chair will make sure that there is decorum in the House. The Chair will rule at any appropriated time that there will be decorum in the House. That is the Chair's ruling.

Pursuant to House Resolution 494 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4825.

The Chair designates the gentleman from Pennsylvania [Mr. Murtha] as chairman of the Committee of the Whole, and requests the gentleman from Pennsylvania [Mr. Kostmayer] to assume the chair temporarily.

☐ 1456

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4825) to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes, with Mr. Kostmayer (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Montana [Mr. Williams] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. Goodling] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Montana [Mr. Williams].

Mr. WILLIAMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we Americans have a pluralistic society. We place great value on the variety of our origins, the hues of many colors, our cultures, our politics. Our differences of those things are very important to us. We understand that America's pluralism is our bulwark against tyranny.

The arts embody our differences, our individual viewpoints, our varied aspirations as a people. The arts and artists explore the many layers of our society.

Almost exactly 25 years ago the Congress, on behalf of the American people, found and declared that while no government can call great art into existence, it is necessary and appropriate for the Federal Government to help create and sustain not only a climate encouraging freedom of thought, imagination and inquiry, but also the material conditions facilitating release of creative talent. And so the National Endowment for the Arts was created.

☐ 1500

A small and lovely revolution has resulted. Prior to the revolution America had 58 symphony orchestras, we now have close to 300. Prior to this small and lovely revolution, America was graced with 27 opera companies. We now have more than 150. There were, prior to this small revolution, 22 nonprofit regional theaters in America. It is now approaching 500. And with regard to dance companies, we have gone from 37 to now close to 300. There were, back in the 1960's prior to the creation of the National Endowment for the Arts, only 5 State arts councils, and now 56 States and territories have State arts councils. There were only 55 local art agencies in America, and now this small and lovely revolution has caused more than 3,000 local arts agencies.

Equally and perhaps more important is the encouragement that has been given to new artists, young, vital, unknown artists, who are exploring, alive and perhaps dangerous. This little agency has so encouraged access to the arts, so enlarged cultural opportunities throughout this land, that it has, in fact, changed the way Americans think about the arts.

The artists Garrison Keillor from that little mythical town called Lake Woebegone has said:

> Today no American family can be secure against the danger that one of its children may, indeed, decide to become an artist.

America likes art and artists as never before in its history. Cultural opportunities for all of our citizens have been enlarged. Art is accessible no longer to the wealthy and the few who live in the great large cities on both coasts, but now all Americans in the great large cities and in the great small towns have increased access to the arts, and we are all better off for it and for the small and lovely revolution created by the National Endowment for the Arts.

Mr. Chairman, I reserve the balance of my time.

Mr. GOODLING. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Iowa [Mr. Grandy].

Mr. GRANDY. Mr. Chairman, I have a quote here that says, "The main instrument of a society's self-knowledge is its culture." You do not have to believe that; after all, that was delivered by one of these tacky show-business types turned political leader, Vaclav Havel.

It puts me in mind of a story I know from my own experience, a story told to me by an actress, an excellent actress, Pat Carroll, who most recently was playing Falstaff at the Folger Shakespeare Theater right here across the street in another one of its impudent experiments in transvestism funded by taxpayers, and she said she recalls playing a production of Gertrude Stein in Hayes, KS, and she was terrified, because the audience was nothing but wheat farmers and their spouses, and she played to that audience.

At the end of that show, there were a bunch of wheat farmers waiting for her, and she thought, "What have I got to look forward to?" One of them said, "Miss Carroll, thank you. We sure need more of this."

That tells me that the debate that we are having today is really not about censorship, and it is not about sponsorship. It is about stewardship. It is about the charter that is being fulfilled and has been fulfilled by the National Endowment for the past 25 years, a charter that read, "It is necessary and appropriate for the Federal Government to help create and sustain not only a climate encouraging freedom of thought, imagination and inquiry, but also the material conditions facilitating the release of this creative talent," releasing it everywhere all over the country, $188,000 into my rural Iowa district in towns sometimes smaller than 300. Sometimes they got a larger grant than they had people.

But the point is we are arguing about a controversy that has roughly cost the American taxpayer two-hundredths of 1 cent, and that is for the art that has been even discussed as controversial. That is accountability. Farmers Home would like to have accountability like that. So would DOD. So would NASA.

If we presume to argue the taxpayer dollars are misspent today, I defy anyone in this Chamber to find me a Federal agency that has a better record of success than the National Endowment. That ought to be something that this body is for, Federal Government that works.

But let me go one step further. Let me talk a little bit about some of the challenges to this today, about the

allegation that we are funding pornography here. As a matter of fact, we have even received in our offices a letter that says if we vote wrong on this, the people that are watching will vote against us. Let me say that I view that with caution. I have a lot of people who are opposed to pornography. I consider myself one of those. But I would also argue that the people who signed this letter, the Phyllis Schlaflys and the Paul Weyrichs and supposedly the Family Coalition do not necessarily speak for all of the families of America.

Let me read another quote from, all right, another artist, and you know my bias in this, so you know where I would draw my material. But let me just conclude with this quote to balance the people who are watching:

> Artists have to be brave: They live in a realm of ideas and expression and their ideas will often be provocative and unusual. Artists stretch the limits of understanding. They express ideas that are sometimes unpopular. In an atmosphere of liberty, artists and patrons are free to think the unthinkable and create the audacious. They are free to make both horrendous mistakes and glorious celebrations. Where there's liberty, art succeeds. In societies that are not free, art dies.

Those quots are from that notorious patron of the arts and liberal, President Ronald Reagan.

Mr. WILLIAMS. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Illinois [Mr. Yates], chairman of the Interior Subcommittee of the Committee on Appropriations.

Mr. YATES. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I want to continue what the gentleman from Iowa [Mr. Grandy] has been saying about what the National Endowment for the Arts has done over the years.

The gentleman from California [Mr. Rohrabacher] got up earlier and talked about this amendment and said that they were not extreme standards that he was imposing. They are very extreme standards, and if by some chance the House in unwisdom were to accept his amendment, it would smother NEA. It would mean the end of NEA.

Some of you may have seen the broadcast of the Civil War over the last few weeks on PBS. All of those who have seen it have acclaimed it. It was magnificent. I cite that example because the series was made possibly by a grant from the National Endowment for the Humanities.

That was a most dramatic and graphic example of the kind of work both the arts and the humanities have made available over the 25 years they have been in existence. They have provided the kind of art for America that the people of America want and like and deserve.

Operas, ballets, plays, special events, both the Endowments have made the funds available that have made this possible, and all through the country there have been grants from the Endowments which are elevating, yes, elevating, the artistic levels and cultural levels of this country, in operas, in plays, in ballet, in lectures, folk art, teaching for children. You listen to some of those who are critical and talk about, as the gentleman from California [Mr. Rohrabacher] did earlier, talk about the outrages, the latest outrages of NEA. What outrages? How many outrages are there? One would think, by the way that he talks and others talk, that there are as many as there are trees in a forest, in one of our national forests. That is not true at all.

In all of the 85,000 grants or more of NEA, there have been a handful of mistakes as there are bound to be. The wonder is that there are not more in the field of culture. What Government agency has not made a mistake? What Government agency has not been held more to account than NEA for its mistakes?

☐ 1510

All we hear from the other side is two grants: Mapplethorpe, Serrano; Mapplethorpe, Serrano; Mapplethorpe, Serrano, time and time again, as though their photographs were all that the Endowments for the Arts and the Humanities had ever done. Nothing is further from the truth.

It was also said that we cannot allow tax money to be used for such purposes. One would think that as much money was going into NEA controversial grants as was in a Stealth bomber overrun. That has gone from $75 million a plane to $750 million a plane. The truth is that for Mapplethorpe and Serrano the Federal Government advanced the sum of $45,000 for both of those grants. $45,000, and the Congress last year recaptured the $45,000 by action on this floor. There is no basis for the charge that taxpayers' money is being wasted on pornographic art.

I just want to conclude this by saying that I would hope that the House does not follow the lead of those who want to kill the Endowment in the guise of correcting the defects. The record of the Endowment deserves our praise, not our blame. It deserves our support, not the kind of distorted criticism NEA have received from some Members of the House. I hope the amendments that are restrictive will be defeated.

Mr. GOODLING. Mr. Chairman, I yield 3½ minutes to the gentleman from Michigan [Mr. Henry].

Mr. HENRY. Mr. Chairman, it is very easy to write a press release. It is much harder to write legislation. I want to commend the gentleman from Montana [Mr. Williams], the gentleman from Missouri [Mr. Coleman], the gentleman from Illinois [Mr. Yates], the gentleman from Ohio [Mr. Regula], and those that have come together to closure on what is for many Members a very, very serious issue.

I am the first to grant that there have been those, and unfortunately in some cases it may be disproportionately from my side of the aisle, but from wherever they come from, there have been those who have brutally misrepresented the Endowments, brutally misrepresented some of the grants that have been out there, and brutally told half truths in terms of what was at stake. I also have to count myself as among those who believe that some of the grants which have been approved have been inappropriate uses of public funds.

At this point, I tend to distance myself from those disproportionately, I suspect, on the other side of the aisle, who have refused in some instances to admit of an intellectual distinction, a policy distinction between public sponsorship and censorship. I say this to my dear friends because we have tussled on this many times. I am here to say that this compromise addressed what I believe have been honestly raised and legitimately raised issues, which ought to be cut off from some of the extreme edges of the debate, in terms of the appropriate use of public funds, when public sponsorship of art is at issue.

This substitute, I want to make very clear, does address that concern. The general charter of the NEA is amended in the Coleman-Williams substitute to read as follows, by adding the language:

> The government must be sensitive to the nature of public sponsorship. Public funding of the arts and humanities is subject to the conditions that traditionally govern the use of public money. Such money should contribute to public support and confidence in the use of taxpayers' funds.

This puts to rest the argument that just because art is art, there is no public accountability.

Second, this substitute includes language in the heart of the grant making grant process. We add to the criteria of artistic excellence and artistic merit, a shell, a screen, a viewpoint that must be constantly taken into account on behalf on the American public which sponsors and upholds this agency. I read, "Artistic excellence and artistic merit are the criteria by which applications are judged taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public." Once again, a major new addition in this Act.

Mr. COLEMAN of Missouri. Mr Chairman, will the gentleman yield?

Mr. HENRY. I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Chairman, I want to commend the gentleman for his contribution to the Williams-Coleman substitute, because a lot of his words and a lot of his concerns are expressed in our substitute. He is part and parcel of it. He has been a very constructive force in bringing this about. I want to thank him for his efforts on behalf of the NEA and our compromise position which we bring forward in bipartisan support.

Mr. HENRY. Mr. Chairman, I appreciate the gentleman's kind words, and later on I know other advocates of the substitute will point out procedural reforms that are integral to reforming the NEA and addressing conditions that some Members have raised. I point out that these procedural reforms that are not continued in any other amendment before this body.

Mr. WILLIAMS. Mr. Chairman, I yield 2 minutes and 15 seconds to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Chairman, I want to compliment Chairman WILLIAMS and Mr. COLEMAN for bringing this important legislation to the floor. Despite the fact that I support the NEA without any content restrictions, I will support their amendment as the only way to protect the high purpose for which the NEA was created.

Over a quarter of a century ago, President Kennedy conceived of the Endowment as a way "to help create and sustain * * * a climate of freedom of thought and imagination." And for close to 25 years now, the NEA has quietly and successfully succeeded in that mission. Dancers, painters, sculptors, and other artists have enriched our communities. And in the process, a national consensus has formed that art is vital to the cultural life of our Nation.

We all know about the Mapplethorpe photos and the Serrano sculptures. Few if any of us can look at such works without some sense of shock. But since the NEA firestorm kicked up over 18 months ago, only 20 out of 85,000 NEA grants have generated any controversy. Works such as these are the exception proving the rule. And the rule is that the NEA works, and works well. To argue, as some do, that we ought to do away with the NEA entirely is to throw the baby out with the bathwater.

Others will argue today that it is fine to fund the arts—but only if the artwork does not offend their standards of decency. But who gives them the right to set standards? This view threatens not only the NEA, but the very freedom of thought and expression that is the cornerstone of our democracy.

History has shown that the best art is not that which is popular, but that which provokes—which forces us to examine who we are and what we believe in. In the process, we become a more thoughtful, sensitive people. As President Kennedy said, "If art is to nourish the roots of our culture, society must set the artist free to follow his vision wherever it takes him * * *. In serving his vision of the truth, the artist best serves his nation."

Mr. Chairman, if we are going to fund the arts—as I believe we should—then we cannot muzzle artists with loyalty oaths and decency standards. Otherwise, their art is little more than a poor propaganda which betrays their vision of truth and pollutes the cultural life of our Nation. In a brave new world of content restrictions, all Americans risk the fate of Robert Frost's hired man, who had nothing to look backward to with pride, and nothing to look forward to with hope. For the sake of our sacred freedoms, and for the sake of our Nation, I urge my colleagues to oppose the efforts here today to kill or maim the NEA.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I am so happy that my side of the debate gets at least 2 more minutes to express its point of view, considering we have heard a lot of debate here, but it seems to be only on one side except for the 4 minutes I have expressed.

Mr. Chairman, we are trying to tell the American people that they are going to have to endure the second largest tax increase in American history. This body is trying to foist upon them Medicare hikes in their payments to Medicare that are aimed directly at sick, elderly Americans. This is the economic condition we find ourselves in America today.

□ 1520

Yet we cannot say that we are going to set standards so that our tax dollars are not being channeled to child pornography? We are saying that we cannot set standards so that we cannot prevent our tax dollars from subsidizing a tax on Christianity?

Yes, there is a serious problem here in Washington, DC, and that serious problem is when Congress is willing to raise the taxes of the American people, when Congress goes to the point where we are able to increase Medicare fees on sick and elderly Americans, but we are not willing to say that this is a waste of taxpayers' dollars to see our money going to attacking Jesus Christ and submerging Jesus Christ in a bottle of urine, or to portray Jesus Christ as a heroin addict, and when I see the tens of thousands of dollars going to this and then I hear people telling me that is just a pittance we should not care about, the American people can understand that.

I am really sorry that we do not have more time to express that on this side of the debate, because I think the American people are watching this debate and we are going to talk about that a little more.

I happen to believe that the only option we have for setting standards give the NEA direction, because they have not proven to us they deserve discretion, because they have been financing things that attack the very moral values of the people who are paying the bill and they are doing so in a very arrogant way.

I would suggest that the Williams-Coleman substitute if it passes will eliminate standards instead of setting standards.

I think the people who are proposing that understand that. They have been against standards all along in this debate.

I hope and I call upon my colleagues to pay attention to this and do what their constituents deserve, and that is to pay attention to how their constituents' dollars are being spent.

Mr. WILLIAMS. Mr. Chairman, I yield myself such time as I may consume.

Given the remarks by the previous speaker, I believe that all of us who are involved in the creation of the Williams-Coleman substitute need to make a clear point here to the American people. None of us support using American tax money to fund pornographic obscenities. I do not think anyone on this floor supports that.

I am outraged when people believe that I support that, so let me try to clarify the record for those people who say, "Well, then, why is the NEA funding obscenity?

The point is, it isn't. It can't under the law. The American people are astonished when they learn the truth, which is Robert Mapplethorpe never received a nickel of NEA money for that work that is in question, not a nickel.

The gentleman from California has referred to work by Andre Serrano in which an image of Jesus Christ was submerged in urine. Not a nickel of NEA money went to produce that work.

The right wing has accused the NEA of funding a performance by a dancer named Annie Sprinkle, performing at a place called the Kitchen in New York. A Senator from the other side asked the General Accounting Office to do a study, a full-blown study on whether any NEA money went for that, and the answer came back officially, not a nickel, not a penny.

What does the NEA fund?

The NEA funded the Vietnam Wall. The NEA funded "Driving Miss Daisy," the Pulitzer prize winning play that so many of you have enjoyed as a film.

The NEA funded "Chorus Line."

The NEA funded the Civil War documentary.

Remember those wonderful television shows, "Great Performances" and "American Masters?" NEA.

Some of you probably saw the traveling museum exhibits of the last few years, the Treasure House of Britain. NEA.

Perhaps you saw the traveling show, the Art of Paul Gauguin. NEA.

Do you remember Cleopatra's Egypt as it traveled around the country and enlightened our lives and museums? NEA.

Out in Oregon, senior citizens have a thing called the Senior Theater Ensemble. NEA.

In Detroit they have a group called the Oldsters. NEA.

In Washington State, the International Children's Festival. NEA.

That is what NEA funds, not pornography, not obscenity. The NEA supports artistic excellence.

Mr. Chairman, I yield 4½ minutes to the gentleman from Michigan [Mr. CARR], chairman of the congressional arts caucus.

Mr. CARR. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, this is an important debate. A lot of people think that it has been trivialized, and I agree with them.

Our country stands for liberty and freedom. You know, I think it is very fitting that the symbol of liberty and freedom in this country sits in New York Harbor. It is a sculpture. It is a statue, the Statue of Liberty. Freedom and liberty are the core value of our society. Inherent in freedom and liberty is the notion that we are going to take some risks. We are going to take some risks that some are going to exercise their freedom and liberty in ways that we might regard as irresponsible. We take a risk that someone is going to exercise freedom and liberty and expression in ways that we certainly would not want and we would not do ourselves, but there are some people in our society, and some of them are represented here in the Congress, who do not want too much liberty and too much freedom. The thought police of America are represented in this Congress. The thought police are represented here and are trying to restrict artistic expression in America today.

As Maya Angelou, the outstanding artist, writer, and woman of letters stated: "Art poses the question of conscience and morality. It does not answer it."

Mapplethorpe may have posed questions. He did not answer them.

Serrano may have posed questions. He did not answer them.

The American public opinion will answer them and the American public opinion is strong enough, free enough, with liberty to make its own decisions about works of art.

The NEA cannot control creativity. It can only foster it.

To be honest, Congress really ought, using first amendment principles, to ensure that all expression is funded.

As Kathleen Sullivan, professor of law at Harvard University stated recently:

> Government may no more bribe citizens to surrender their most precious liberties than it may compel them. Congress may no more bribe Andy Warhol to paint like Wyeth than it may outlaw pop art; either way it creates a world that is safe only for landscapes.

You know, there was a time when jazz was considered dangerous. In the 1920's, the antijazz movement was very strong. Chicago even passed a law that forbade the playing of trumpets and saxophones after dark. Jazz was thought to be decadent, its improvised form viewed as an assault on discipline. Certainly the work of Manet and Matisse and those of Jackson Pollack were not readily received. But we take risks. This is a country of freedom. It is a country of liberty and it is un-American, to be sure, to try to restrict the expression of freedom and the expression of liberty.

The chairman mentioned Garrison Keillor. He did not mention that Garrison Keillor was also funded by the NEA in his early career, and that extraordinarily popular "A Prairie Home Companion" radio show was begun with NEA help.

□ 1530

All governments have given medals to artists when they are old, saintly, and almost dead. But 25 years ago the Congress boldly decided to boldly support the arts, support the art of creation, itself, to encourage the artists who are young, vital, and unknown, very much alive and probably, therefore, very dangerous. This courageous legislation has changed American life and ought to continue.

Mr. GOODLING. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman and Members, I feel sort of inadequate coming here this afternoon because I am not one of those cultured people who can stand up here and tell you about all these different artists, all these different authors, all these different actors and all of that. But I have got a few things to say about this, and I thought this would be the right time to do it because I think we all get a little bit carried away.

Art is the public expression of emotion. Somehow or another, it seems to me we have all come to the conclusion we are going to be artists this afternoon and have great public expressions of emotion.

I was sharing some thoughts with people who happen to be strong supporters of the National Endowment for the Arts, and they said, "Well, can't you control on the floor what amendments we have to vote on?"

I looked at them, and I said, "Just a second. Those of you who believe in the freedom of expression and freedom of speech, for gosh sakes, should we not be allowed to have that same freedom of expression and speech on the floor of the House of Representatives?"

I do not agree with everything the gentleman from California is offering in terms of his amendments, and we have had good discussions about them, but he has every right to discuss them, and we in this Congress ought to be more than willing to have a full and open debate about what they are.

Where I struggle with his amendment and where I struggle with the issue of the National Endowment for the Arts is, what does it all mean and what is its purpose?

I come from a small town, very rural. As a matter of fact, I had a girlfriend in college, she used to take me to plays and concerts. She said the reason she did it was because I needed culture.

So for 10 years I have been in the Congress, and I tried to get the National Endowment for the Arts, now in its third reauthorization, to pay a little attention not to the artists in Washington, DC, New York, and Hollywood, but very frankly pay a little bit of attention to promotion of art around the country and the artists who have not even heard of the process that presently exists for applying for a grant, or taking the productions that exist in the artistic world not to the Kennedy Center but taking them to Whitehall, WI, where the people of my district might be able to see them.

And I tell you that because I think that is significant in the bill that is in front of us, because we are making trends in that direction finally.

The National Endowment for the Arts would not do it by itself. So now we are going to mandate that there be a special section of grants for the inner cities and for the rural areas and I think that is important.

We are going to get into this whole question of censorship.

I took a tour around the Capitol of the United States and went to the Rotunda and took a look up there at the dome and the artwork up there, and you see all kinds of naked people doing a lot of things that I cannot even explain to you. You can go into the Republican leader's office, Bo MICHEL's conference room, and you si there and you see little children with no clothes on, but with wings. I do not know if any of that is pornographic or not, but I think most people would tell you that it is artistic, for certain.

I bring that up because it seems to me the real issue in the National Endowment for the Arts is not whether we in the Congress of the United States are going to decide what is called true and what is not, that we are going to be the censors or not the censors of what America's public can see, but rather that we talk about governmental process of supporting the arts.

That is why, when we get into the debate on the Williams-Coleman substitute, I am going to rise in support of that particular substitute because it makes the most comprehensive, dramatic reforms in the operation of the National Endowment for the Arts and preventing those few abuses which have put a black mark on what is otherwise a good agency with a good purpose.

And I call to the attention of all Members, liberal and conservative, Republican and Democrat, take a good look at that substitute because it will solve the problems procedurally, without getting into censorship, that we all desire.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr Chairman, the legislation before us is a smokescreen. It will be purported that the legislation is all fixed up. It is fixed all right—a fix that allows the junkies to continue to peddle their depraved and sadistic wares with impunity.

If they do not get their grant, they sue the NEA, screaming censorship. I enclose for the record an article from the Los Angeles Times.

[From the Los Angeles Times, Oct. 11, 1990]

FROHNMAYER DENIES 'NEA 4' GRANT APPEALS

(By Allan Parochini)

The National Endowment for the Arts has rejected appeals by four controversial performance artists denied fellowships last month. The denial apparently sets the stage for a lawsuit challenging the grant rejections as illegal because political standards were applied to an artistic decision.

The decision in the case of the so called "NEA Four" by NEA Chairman John E. Frohnmayer was disclosed Friday by the Center for Constitutional Rights, a New York City public interest law group that represents the four artists.

Affected were appeals by performance artists Karen Finley and Holly Hughes of New York; Tim Miller of Santa Monica, and John Fleck of Los Angeles. The work of Hughes, Miller and Fleck is political and gay in its orientation. Finley's is stridently feminist, with strong political overtones. Most of the artists occasionally employ onstage partial nudity as part of their work.

Denial of the appeals by Frohnmayer had been widely expected. Official word of the denials was conveyed in letters to the four artists from Randolph McAusland, acting NEA deputy chairman for programs, received by the artists on Friday. The NEA declined to comment, but lawyers for the artists released copies of the official endowment letters, dated Aug. 17.

"This only underscores that we are being punished for the controversial content of our work." Finley said in a prepared statement issued by her attorneys. "The government wants art to be propaganda for the State and we're not willing to do that."

The letters said Frohnmayer denied the appeals by all the artists except Miller under the chairman's overall authority to "support projects which meet the highest standards of professional and artistic quality."

Miller's appeal, the letter said, was denied on the technical grounds that one of his letters of recommendation—from Los Angeles Festival director Peter Sellars—was never received by the NEA. Miller has said in the past that he discussed the status of his application on several occasions with endowment officials before a deadline for the documents had lapsed and was informed his file was complete.

David Cole, a Center for Constitutional Rights lawyer handling the appeals on behalf of the artists, said all four of his clients would file suit in federal court in either Washington or New York to challenge the NEA decision.

Denial of the appeals was the latest development in a controversy that dates to last May when the NEA's advisory National Council on the Arts voted to delay an advisory vote on 18 performance fellowships until early August. The original vote to delay consideration was taken after a newspaper column published a biting description of Finley's work and conservative politicians made it clear they would make an issue of any NEA fellowship awarded to Finley.

While National Council on the Arts votes are not binding on Frohnmayer, he is precluded from acting on grant applications until the council has voted. Apparently attempting to blunt a growing political crisis over the performance fellowships, Frohnmayer said in late July that he telephoned national council members and secured their approval to reject the four artists in question before denying the grants.

The NEA has not said how many members Frohnmayer reached in his telephone survey. Several members of the 24-member council have said they were never called. One member told The Times several weeks ago that Frohnmayer never actually discussed the situation with her but conveyed his inquiry through an aide.

At a National Council on the Arts meeting in Washington earlier this month, Frohnmayer ruled out of order at least two attempts to reopen discussion of the fellowship rejections. Frohnmayer said that appeals were under way and further discussion would have been inappropriate.

Cole said he would base a court challenge on the contention that the grants and appeals were rejected on political grounds not because of artistic merit.

All four artists were recommended for fellowships by a review panel of artists and arts officials earlier this year.

Frohnmayer, Cole contended, also "violated NEA procedures in the way that he came to these decisions by not convening the national council and, instead, calling them up individually." The NEA's 1965 enabling legislation indicates that a quorum must be physically present for the panel to act.

"The national council, as a body has never actually made a determination on these applications," Cole contended. "Mr. Frohnmayer made a decision and then called the council members individually and urged them to support him."

Frohnmayer's decision to reject the fellowships in July came within days after he reportedly told a group of arts leaders in Seattle that "political" problems between the NEA and Congress would make it necessary to scuttle the Finley fellowhip application.

However, accounts of what Frohnmayer said at the meeting have varied. Some people in attenadance recalled the Frohnmayer mentioned Finley and the political need to reject grants in detail, others said they remembered no specific discussion of Finley.

Under the legislation before us, it's my understanding that the NEA, just as before, is free to award grants for anything and everything.

If a taxpayer objects, the response is "so sue me." It is like a sleaze who steals your wallet, insults your wife, calls you a bad name when you object, and then says "so sue me—take me to court." Mr. and Mrs. America then have the choice of using their money to litigate against insults to themselves, to America, and to the squandering of their money. "So sue me." What a solution.

I enclose an article from the Washington Post—"Art Gallery: Not Guilty of Obscenity," that outlines just how much and how far that approach will get. It also exhibits an arrogance.

[From the Washington Post, Oct. 6, 1990]

ART GALLERY NOT GUILTY OF OBSCENITY—CINCINNATI JURY CLEARS MAPPLETHORPE EXHIBITORS OF ALL CHARGES

(By Kim Masters)

CINCINNATI.—Oct. 5—A jury of four men and four women took less than two hours today to find the Contemporary Arts Center and its director, Dennis Barrie, not guilty on charges that they pandered obscenity by displaying an exhibit of photographs by Robert Mapplethorpe.

Both defendants also were acquitted on charges that they violated a state law against use of materials depicting nude minors.

"Robert Mapplethorpe was a great artist. It was a tremendous show. We should have never been here in court. . . . But I'm glad the system does work," Barrie said after the verdict.

The crowd at the defendants' table erupted into applause and tears as the last of the verdicts was read. The case was the first in which an art gallery was tried on obscenity charges.

The gallery faced $10,000 in fines, and Barrie faced a $2,000 fine and a year in prison.

All eight jurors declined to speak to reporters and were escorted out of the courthouse as soon as the judge dismissed them.

Roger Ach, the chairman of the arts center board, and Robert Allen, the business executive who sponsored the exhibit, stood and embraced each other. Judge David Albanese angrily ordered them out of his courtroom.

As a clerk read the first "not guilty" verdict in a wavering voice, tears welled in the eyes of Amy Bannister, the reserved spokeswoman for the arts center who had sat at the defendants' table as the gallery's representative throughout the two-week proceedings.

The jurors, who had sat expressionless as the attorneys argued the cases and an array of art experts praised Mapplethorpe's work, remained unemotional as the verdicts were read.

After the final "not guilty," the foreman—a stout, square-jawed secretary who wore her dark blond hair in a ponytail—smiled briefly.

Prosecutor Frank Prouty declined to comment on the defeat. "It went before a jury. The jury made a decision," he said.

The gallery and Barrie wee indicted on April 7, the day the Mapplethorpe exhibit opened to record crowds at the arts center.

Local authorities had quietly brought a grand jury through the gallery that morning. Hours later, sheriff's officers swept into the gallery with a search warrant and an indictment. As an angry crowd of gallery supporters chanted outside, police cleared the gallery and shot a videotape to be used as evidence.

The jurors never saw that tape, since the judge ruled that they could consider only the seven photographs cited in the indictment.

The defense had contended that jurors should view all 175 images in the show, including figure studies and pictures of calla lilies. The Supreme Court has ruled that material must be evaluated "as a whole" when determining whether it is obscene.

The obscenity charges were based on five graphic depictions of homosexual and sadomasochistic activities. Barrie and the gallery were also indicted for displaying two portraits of young children whose genitals were visible.

The jury included one college graduate. The rest described themselves during jury selection as working-class churchgoers who had little interest in art. They included a phone company worker, a warehouse manager, a data processor and an X-ray technician.

After the verdict, a mob of reporters surrounded Barrie and defense attorneys Louis Sirkin and Marc Mezibov.

"It's been 17 years that I've been fighting . . . and this is the greatest win," Sirkin said. ". . . We're glad that we go into history as a winner."

Alluding to the famous Scopes trial, in which a teacher was convicted for teaching the theory of evolution, Sirkin said, "We're better than Clarence Darrow. He lost."

Mezibov said he was confident as soon as the jury was selected that the gallery and Barrie would be acquitted. But Barrie said he had his ups and downs throughout the trial.

"The time I felt most confident was when they interviewed those jurors," he said. "They were average, everyday people. Maybe they didn't go to museums but they said there shouldn't be restrictions on adults. I also . . . was encouraged by the way they listened to me when I had a chance to talk to them." Barrie was the final witness for the defense.

He added that "there were some dark moments yesterday" when the judge permitted Judith Reisman, a communications specialist, to testify as a prosecution witness on her "content analysis" of the photographs. The defense had argued that she had no relevant expertise and that her testimony was prejudicial.

Prouty had rested his case after calling only three police officers as witnesses to testify to events in the days before the show opened. He introduced no expert witnesses on Mapplethorpe's merit as an artist. Reisman appeared as a rebuttal witness but not as an art expert. The Supreme Court has ruled that material cannot be deemed obscene if it has serious artistic value.

The Mapplethorpe exhibit set off an ongoing furor over freedom of expression and federal funding of the arts. The controversy was ignited in 1989 when the Corcoran Gallery of Art in Washington canceled the exhibit, which was subsequently shown without incident at the Washington Project for the Arts. The exhibit began in Philadelphia and traveled to Berkeley, Calif.; Hartford, Conn.; and Boston without incident.

The Rev. Donald E. Wildmon, whose American Family Association in Tupelo, Miss., has fought National Endowment for the Arts funding for exhibits such as the Mapplethorpe show, told the Associated Press today: "This is not a landmark, Pearl Harbor decision. This was just another obscenity trial."

In closing arguments earlier today, Prouty insisted that the children's portraits were not "morally innocent," a defense, under Ohio law. "Did you ever try to prop some child on the back of a chair and then tell him to spread his legs?" Prouty said, alluding to a portrait of a little boy.

Defense lawyer Mezibov, speaking for the arts center, told jurors that his client was relieved to have them decide the case. "Through you . . . we are going to put to rest once and for all a controversy which has wracked this community."

The previous evening, Mezibov told the jurors, he had watched the first baseball playoff game between Cincinnati and Pittsburgh and was "touched and excited to see this city lit up for the entire country to see. You have the opportunity to light up this city once again."

Instead of sending a message of reprimand, this Congress is rewarding the peddlers of smut by increasing the authorization by $4 million. Let us add it up:

Arrogant lawsuits to obtain grants for support of the obscene art;

Lawsuits paid for by citizens to prevent abuse;

Increase authorizations to fund all of the above.

The arrogance of the art community; the arrogance of the committee in not recognizing a citizens revolt; and worst of all a legacy left to our children of "Piss Christ" and "Looking for My Penis" leaves us no choice but to reject the whole mess.

Maybe we could spend the money on Medicare.

Mr. Speaker, I enclose my response to those who have contacted me about this issue.

ENCLOSURE NO. 3

I have basically reserved public comment on the question of offensive pornographic art versus the right of expression until I could devote the time necessary to evaluate the evidence being presented, the views of those I represent, and my own perspective.

In my opinion, the occasional convoluted reasonings of the courts often throw us into great national debates over what appears to be very simple matters. These musings by the courts are often then followed by convoluted reasoning by Congress.

The flag issue, the abortion issue, the arts issue, and the balanced budget issue are examples that the system of the checks and balances works well. In the final analysis, it is the people who will speak and whose wishes will be expressed whether it be through those who have been elected to represent them or through changing those who represent them.

In my mind there is no question that taxpayer abuse in the first degree has occurred. It has been documented that taxpayers paid for administrative costs for a pornographic film festival with such features as, "Looking For My Penis," "Blow Job," and "My Hustler."

It has also been documented that certain arts councils were without guidelines or standards and approved the squandering of taxpayer money on solo performances such as:

A performer smearing her nude body with chocolate and adding bean sprouts to symbolize sperm for a performance called, "The Constant State of Desire."

Another solo performance called, "He-Be-She Be's, where a half-man, half-woman has sex with him/herself.

If this sounds like carnival side show stuff you're right. But the difference is the taxpayers were expected to pay for the tent and the performance. To demand that taxpayers pay for the innovative use of urine and pictures is in my opinion, expecting them to approve of flushing our cultural heritage down the toilet.

Each taxpayer should ask themselves nine questions:

1. Are the arts and artists beyond criticism?

2. Should that criticism result in a form of reduction by a lack of support?

3. Do patrons of the arts select and choose those who they wish to support?

4. Have Government taxpayers become a patron or sponsor of the arts? Is $171 million a sponsorship in taxpayer funds?

5. Do the people (patrons/taxpayers) have a right to reject a policy or a program? If not, what makes them different from other patrons?

6. Should that rejection result in the total elimination of all support?

7. In the alternative, should the program that the taxpayers (patrons) support be responsive to their desires?

8. If a patron refuses to purchase or support certain artists, is that censorship or his right?

9. Can these perpetrators of the repulsive peddle their wares anywhere they choose without taxpayer funds?

In answering these questions, I reject the allegations of censorship. I remind you that western art galleries and museums will not exhibit contemporary art. Galleries o modern art think western art is withou feeling and unchallenging. Is that censorship?

Some have alleged that Charles Russell Edgar Degas, Michelangelo and others hav painted some pretty risque pictures. remind you that "Uncle Sugar," the taxpayer, was not footing the bill then.

I agree that a few Congressmen shoul not sit as a censorship board. Even though have had extensive exposure to the visua arts and more than the average to the per forming arts, I would not be inclined to sa that contemporary art or opera ranke higher or lower than landscapes or comedy

I would, however, as a guardian of the tax payer's trust, be compelled to send a broad based message that the taxpayers and cit zens of this nation believe that some of those funds were squandered. That message could be interpreted as, "Clean up your act or else!"

Even with the warnings of public anger and threats of legislative reaction, some members of the arts community insist that they are above criticism. Their response is that under the cloak of art, they can produce virtually anything without any standards of decency applying to them.

The continuance of these excesses will result in elimination of all taxpayer support, so sayeth the taxpayer patron. That would indeed be sad when we consider all the outstanding performances, all the fine art, and all the great public involvement this seed money has generated.

Given these considerations, I will vote for meaningful reform. If reform is not achieved, I will vote against all funding for the National Endowment for the Arts. I do not want my name attached as a patron to a legacy of art that is degenerate, obscene, perverted, pornographic, and exceedingly offensive. Let the artist find another patron, not the taxpayer.

Mr. WILLIAMS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New York [Mr. Weiss].

Mr. WEISS. I thank the gentleman for yielding me this time.

Mr. Chairman, I would like to commend the gentleman from Montana [Mr. Williams] and the gentleman from Missouri [Mr. Coleman] for their work on this reauthorization bill. They have shown remarkable determination and courage in their efforts to reach a compromise on this highly controversial measure.

Nevertheless, I would like to raise some questions about their substitute proposal. A number of its provisions pose serious problems for our country's artistic and cultural future.

The Williams-Coleman substitute excessively punishes NEA grant recipients convicted of obscenity. On top of serving the court's jail sentence and paying the necessary fines, a convicted grant recipient would have to repay the NEA grant and lose eligibility for future grants. They would not be able to apply for a new grant for a minimum of 3 years and until the money is repaid. Court penalties sufficiently punish those convicted of crimes; these extra penalties are excessive. The threat of these additional penalties may very well cause the chill of self-censorship which can stifle the free expression of artists.

This mandatory 3-year minimum debarment—loss of eligibility—is harsher than NEA penalties for other serious crimes committed with agency funds. A discretionary debarment, with a 3-year maximum is set for embezzlement, theft, forgery, bribery, receipt of stolen property, and other serious crimes stipulated in existing 1988 NEA regulations. The 1988 regulations also say "debarment and suspension are serious actions which shall be used only in the public interest and for the Federal Government's protection and not for the purpose of punishment."

The Williams-Coleman substitute poses another major problem. It increases from 20 to 35 percent the amount the NEA gives directly to State art agencies. This increase is extremely unwise.

The President's Independent Commission on the NEA concluded that Congress should maintain the current funding formula. So did the National Assembly of State Arts Agencies, which represents those agencies that would benefit from this redistribution of funds.

The Senate Labor Committee saw the wisdom of these recommendations and reported a bill that maintains the current funding ratio. We must do the same. Increasing the amount of funds going directly to the States will drain funds from the national pot and not necessarily increase resources at the State level. States merely will substitute Federal money for the money they had been giving because this substitute does not require matching grants for Federal funds.

Channeling more money to State agencies will also reduce national coordination currently afforded by the NEA. And it will generate less private funds. In 1988, $119 million in endowment funds generated $1.36 billion in private moneys. Block grants to State agencies have no private matching requirements.

Before dramatically restructuring an effective agency, we should at least, like the Independent Commission, the States, and the Senate recommend, wait until these changes are studied carefully. We are playing with the artistic and cultural future of our country—we should not play carelessly.

Those then are my concerns about the Williams-Coleman substitute.

Because of the context in which we will be considering the Williams-Coleman substitute, with the possibility of other far more destructive amendments being the alternative, I leave open at this time my decision whether to oppose or support the substitute. It is an earnest attempt at a bipartisan compromise, and while it poses many major problems for art and culture in America, it is far preferable to the obnoxious and unconstitutional content-restriction amendment which will be offered by the gentleman from California [Mr. Rohrabacher].

☐ 1540

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. Roth].

Mr. ROTH. Mr. Chairman, I thank the gentleman from Pennsylvania [Mr. Goodling] for yielding this time to me.

Mr. Chairman, the American people have really been outraged by what is taking place because they feel that their hard-earned tax dollars are being used to fund obscene and blasphemous art, and I think that is pretty well the long and short of it. The American people rightly understand that this is not an issue of censorship because no one here is proposing that we outlaw any type of art. What we are proposing is preventing the National Endowment for the Arts from using tax dollars to fund child pornography, obscenity, works denigrating religious beliefs, or an individual's race or sex, and works desecrating the U.S. flag.

Mr. Chairman, I see this as an issue of values and how we want our Government to spend our scarce Federal resources. We should be able to agree that artwork funded by the Federal Government should meet minimum standards. In fact, not only should we agree, I think that this is our duty as people who spend the taxpayers's dollars.

Mr. Chairman, my constituents do not want to see their tax dollars used to fund attacks on religion, desecration of the flag, child pornography or any other such art. In fact, they think that it is outrageous that Congress has even seriously considered such a proposal.

Mr. Chairman, I would like to share with my colleagues just a couple of lines from one of my constituents' letters, and I have received hundreds of letters, just as my colleagues have. This constituent writes:

> It is outrageous to think that our hard-earned money is being used to mock and destroy our values and beliefs. At this point, considering we have such a huge deficit, and the talk of raising taxes.

My constituents want Congress to defend our traditional values. They want an end to taxpayer support of art that they see as utterly offensive to the American public and to their values.

We are moving into a world where values will be debated, and basically what we are doing is debating more than art here. We are debating values.

In my opinion, when someone looks at art, art should be uplifting. Art should lift people's spirits and people's inspiration. This art does not do that, and I think basically that is what many of the American people are saying also.

Mr. GOODLING. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri [Mr. Coleman].

Mr. COLEMAN of Missouri. Mr. Chairman, I rise because the previous speaker, the gentleman from Wisconsin [Mr. Roth], was, I think, misunderstanding, perhaps, what we are trying to do in our proposal. All of the things that he said I hope he does not attribute to being contained in our proposal because we stand foursquare against child pornography in our proposal. We do not believe that under the reform systems that we are putting in place, with the new advisory committees that are going to be not only made up of artists anymore, but of nonartists and people from all walks of life, all parts of the country, different ethnic makeups, and try to put the pluralism in the very threshold question of the people who will determine what is artistic excellence and what is artistic merit.

So, Mr. Chairman, the effort under the Williams-Coleman proposal to sift our various works that have gone through the old system I think is suffcent to assure, with the language which we have already noted, that that type of activity will doubtfully ever be funded under the circumstances that we think are in place under our proposal.

Mr. Chairman, one of the things that a lot of Members have talked to me about and one of the things from the gentleman from Wisconsin [Mr. Gunderson], who was originally one of my sponsors of the Republican alternative, was to try to get away from a national effort here solely organized, and controlled and looked at as a national NEA. Because, as I mentioned earlier, there is a significant role for the States to play. Not only is there a significant role, but I think, when we get into this issue of values that the gentleman from Wisconsin mentioned, by shifting some moneys from the national NEA to the State councils, that will better reflect the attitudes of that particular community and State as to how they do want their taxpayer dollars to be spent in this area, and it makes more sense to me that individual artists and institutions will have a better chance at getting a grant that reflects Missouri values, Montana values, California values, or Wisconsin values at the State level as opposed to competing nationally with all other States up here.

So, under current law there is a distribution formula back to the States of 20 percent. One of the things that I asked for before I could come to the floor to support a bipartisan compromise was to shift some of those funds from the national office, the 80 percent, to the States. And we have accomplished that by increasing that State basic grant from 20, to 25, to 27½ by the third year of this authorization. We also create a competitive grant that the chairman of the Endowment will have control over deciding which States will receive it, but it increases a new program of access to the arts for inner cities and rural areas of 5, building to 7½, percent by the third year. So, combined we have 27½, 7½, or 35 percent.

Mr. Chairman, that might bother some people, but I think for those of us on our side who look for decisions to be made more at a local level and to reflect these types of values that this is a plus and a reason for people to support the Williams-Coleman substitute on this side of the aisle.

Let me also state that, because of the debate being limited on these other proposals, that we are creating new programs for access, and I think the television productions that we recognize, such as "Civil War," are the types of productions we are talking about. As my colleagues know, when people talk about the NEA doing such bad things, let us not forget they do some very mainstream things. I see my colleague from Missouri. They paid for and helped assist the George Caleb Bingham paintings to be brought to Washington, DC, and to be exhibited throughout the country. That was done on an NEA grant.

Mr. Chairman, it is that type of mainstream efforts that we are not going to focus on today. They are very, very important: Local symphonies, support for local opera, or perhaps the college back home. A lot of people utilize this in areas to create tourism and an attraction for economic development, if my colleagues will, such as a small theater in that community, perhaps an arts project, perhaps something to attract people to that little community so that maybe they could put it on on their own, all with some seed money from the NEA.

So, there are some things in the Williams-Coleman substitute, and I want to emphasize at this point, moving some money, not increasing the money, but moving some of the money from the centralized location to a more decentralized location of the States.

We also are a little concerned about some of the staffing at the Endowment, and we have asked for some GAO studies to report back to us about their use of independent contractors and consultant so we do not have a revolving door at the NEA and to make sure these decisions are made on artistic merit alone.

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Mr. WILLIAMS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois [Mrs. Collins].

Mrs. COLLINS. Mr. Chairman, I rise in support of H.R. 4825, legislation to reauthorize the National Endowment for the Arts, National Endowment for the Humanities, and Institute of Museum Services as represented by the bipartisan compromise of Representatives Pat Williams and Thomas Coleman.

I strongly believe that NEA has been a critical component in furthering the arts over the last 25 years. The NEA has repeatedly fostered creativity, encouraged programs which have greatly enriched our society as well as individual artists who have done the same. Further, the NEA has prevented the dissolution of institutions such as the American Ballet Theatre. All of these efforts have been clearly in the public interest.

I believe that NEA has performed admirably and should continue to carry out its clear mandate without restrictions that could well compromise its historically high performance standards.

The arts and humanities have a profound impact on how we perceive each other and on how we live our lives. A our country becomes more culturally diverse and less cohesive, the arts and humanities have a unique opportunity and responsibility to reflect our changing society accurately and fairly. Needless to say, the NEA is essential to meeting that challenge.

Millions of Americans have benefited from the Government's patronag of the arts through NEA, which ha supported such Public Broadcastin television series as "American Playhouse," "Live from Lincoln Center," and "Dance in America." Since 1965 professional dance companies, oper companies, and orchestras have proli erated in this country because of NE support. In addition to the America Ballet Theatre, the NEA also support the critically acclaimed Dance Theatr of Harlem.

NEA supports local, nonprofit theater productions, many of which hav become Broadway and Hollywood successes. In fact, the last 11 Pulitze prize winning plays were developed a NEA funded nonprofit theaters.

It is unfortunate and unjustifie that recently, the NEA has been unde attack because of a few publicize cases. But in all fairness, of the 85,00 grants awarded by the NEA since 196 fewer than 20 have been controversia

Critics have focused on these few exhibits and have accused the NEA supporting obscenity. Mr. Chairma that is baloney. Neither the NEA n the arts community at large suppor obscenity. And I question whether ce tain Members of Congress can should try to determine what is or not obscene.

To those Members of this body wh fit that category I quote the write James Baldwin, who once said:

> I think the artist is a disturber of th peace. He is produced by the people, b cause the people need him. His responsib ity is to bear witness to and for the peop who produce him * * * you have to bear mind that everybody wants an artist on th library shelf, but no one wants him in th house.

Not all people are going to agree what is in good public taste. And man people might find some exhibits question to be offensive. But in on o system of government, only our judi ary can and should determine the i herently constitutional issue of o scenity.

Now let me say at this point that I am totally against the Crane amendment to abolish the NEA.

Through Federal funding of the arts, the country's most significant artists and artistic events can be brought to the far corners of our Nation and the experience shared by citizens countrywide.

Federal funding for the arts is necessary to ensure that the arts reach their full potential as a major force in our society, contributing to our national progress.

Federal funding for the arts can play a major role in facing the national crisis in education by inspiring our youth, instilling knowledge, skills, values, discipline, spirit, and imagination.

As chairwoman of the Government Activities and Transportation Subcommittee of the Committee on Government Operations, I am particularly interested in these issues, since we have oversight jurisdiction of the National Endowment for the Arts. In that capacity, I have held public hearings on how well all ethnic groups are included in our arts and humanities programs.

Mr. Chairman, the arts are crucial to the enrichment of our society and our world. As such, I urge my colleagues to vote "no" to the Crane amendment and join me in the support of the reauthorization of and appropriations for National Endowment for the Arts.

Mr. GOODLING. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas [Mr. Armey].

Mr. ARMEY. Mr. Chairman, it has been my observation that every dollar's worth of Government spending of the taxpayers' hard-earned money brings with it 1 million dollars' worth of audacity and presumptuousness. In this debate, the most audacious presumption of all is the presumption that without the National Endowment for the Arts, there would not be a participation in and enjoyment of a rejoicing in the arts in the United States.

Mr. Chairman, that presumption is ludicrous. The American people enjoyed the arts, produced the arts, and participated in the arts long, long before the existence of the National Endowment. So if in fact there is going to be Government spending on the arts, it is not a question then of how much art will we have and enjoy, but what will be the nature and the type of the art that we will enjoy?

Mr. Chairman, I would suggest that nobody spends somebody else's money as wisely as they would spend their own, and that is certainly true in this case.

Last year alone there were 18,000 people or organizations that made application to the National Endowment for the Arts. Five thousand of those were granted. Thirteen thousand were not.

Are we to believe that none of those 13,000 artistic endeavors that were denied funding by the U.S. Government's agency ever took place? Are we to believe that each of those 5,000 that were funded should have taken place instead? Are we to believe that none of the 5,000 would have taken place without the grants?

I think not. I think it is time to end this intrusion into freedom of expression in the arts. Vote for the Crane amendment.

I appreciate this opportunity to pass along my thoughts regarding the future of the National Endowment of the Arts, and to discuss the volatile mix of taxpayer money and artistic freedom in a somewhat reasoned setting. Until now, the nature of the discussion has been anything but reasoned.

Those of us who question whether or not tax dollars should be used to fund individual artists or organizations in the self-described arts community, or whether such spending should be subject to limits that reflect the sensibilities of the American taxpayer, have been the focus of strident ad hominem attacks. I have had the distinction of being called in the media "petty moralist," "public pinhead," "trogodyte," "philistine," "bozo," "fascist," and, of course, "censor" by advocates of no-strings-attached Federal spending on art. And I know that some on the other side of this issue have been charged with willfully funding pornography, which never goes over big with the votes back home.

In reasonably addressing the future of the National Endowment for the Arts, we must ask outselves three fundamental questions:

First, is it the proper role of the Federal Government to grant money to individual artists, arts organizations, and the more traditional fine arts?

Second, if a majority of Members of Congress feel it is the proper role of the Federal Government to fund these individuals and groups, do we have the resources to do it in an era of $200-plus billion deficits?

Third, if funding individual works of arts and performance art is of such high priority, should the Congress have the right to impose standards on works of art which will be funded.

It is no coincidence that freedom of speech is protected by our Constitution's first amendment, for it may be our most important right in America. Anyone who values freedom of expression as deeply as I do should find abhorrent the very existence of a Federal panel charged with determining what art is worthy of funding.

When last year Senator Helms passed his Senate amendment barring certain types of artwork from receiving taxpayer funding, he was branded a censor with lightning speed. The distinction between his proposed denial of funding and the denial of expression was deliberately ignored.

Let's look at this curious contention that withholding tax funds from certain artists is censorship. According to the budget director at the National Endowment for the Arts, the NEA received 17,879 grant applications in fiscal 1989. They chose to fund 4,372 of these. In the language of the demagogues in the arts community who denounce Senator Helms, the NEA censored 13,507 artists last year. Doesn't that have a chilling effect on the arts community?

Throughout last summer's debate, many outside Congress who opposed content restrictions on NEA grants argued that Federal grants were important because they constitute a stamp of approval that enables an artist to receive greater funding in the private sector. Doesn't that scare any of you? Don't you find it frightening that a Government agency is putting its stamp of approval on what is acceptable art, art which is worthy of funding?

Unfortunately, those who cry out for Government funding of individual works of art in one breath and shout "censorship" in the next refuse to acknowledge the inherent contradiction in their actions. The bottom line is the bottom line. They don't want freedom of expression, they want the money. They care less about freedom of expression than they do about the greenback dollar.

If, however, you accept the premise that a Federal agency should spend taxpayers' money to fund individual works of art, you must put it in the context of a Federal budget with competing demands on limited resources. Then the question becomes, "when we have a projected Federal deficit in excess of $200 billion can we afford to spend $180 million on art?"

Some say that figure is a mere drop in the bucket, but how many homeless families could be housed with $180 million? How many scientists could continue researching a cure for AIDS? How many veterans could be given vouchers to allow them to purchase high-quality medical care closer to their homes? How many fledgling democracies might be assisted? How many new law enforcement personnel could be enlisted in our war on drugs? Or how many taxpayers would appreciate some tax relief and deficit reduction?

Surely funding for museums, individual artists, opera productions, city orchestras, and plays would be high on Maslow's Pyramid of Human Needs, which may be why those who take advantage of their availability tend to be the more privileged members of American society. In other words, spending tax dollars to fund works of art amounts to an inequitable transfer of income from lower and middle-class taxpayers to indulge the less urgent needs of society's more privileged class.

It is this Congress' job to prioritize spending, and I would strongly suggest that funding any artistic activity is at or near the bottom of most taxpayers' priorities.

But, if the majority in the House determine that their constituents deem funding for the arts community a national priority, then the question is, "should the National Endowment for the Arts be held accountable for how it spends tax dollars?"

Boom! This is the explosive question at the center of so much heated debate and rhetoric.

One of my distinguished colleagues summed up the conflict earlier this year by saying "the Federal Government should not diminish the artist's right to offend," but that

on the other hand, "Taxpayers have a right to determine how their money should be used."

I cannot see that conflict here. The indisputable right for an artist to offend the public is different from a claimed right to offend the public at public expense. No one ever contended that Andres Serrano should not be free to urinate in a jar and then take a picture of a crucifix submerged in his urine and call it art, but I do not think taxpayers should be forced to pay for it. It is just that simple.

So, how do you protect the taxpayer from such abuse? Obviously, the easiest way is to abolish the agency and rid ourselves of the heart of the problem. Barring that, the answer becomes less clear.

Many artists felt the NEA was being unfairly singled out for congressional oversight during last years' debate when in fact, every agency in the Federal Government is subject to such oversight. What distinguishes the NEA and its grant recipients from all other Government agencies is its assertion that it be exempted from such congressional oversight.

Many advocates of no-strings-attached Federal arts funding assert that war is too important to be left to the warriors in the Pentagon. Then they assert that art is more important than war, but art should be left to the artists. And not all artists should determine spending priorities at the NEA, but a small clique on the fringe of the art world, sometimes known as the avant garde, but which I prefer to call the looney left.

I do not believe we should spend NEA money for the enjoyment of artists. I believe we should spend NEA money for the enjoyment of the public, if we spend it at all, and that NEA grants should reflect the public's sensibilities and values.

Obviously, defining what the public's sensibilities and values are is a tricky business. It is a business more easily conducted at local levels, where the sense of community standards is readily identifiable. In this regard, the best way to ensure that Americans are given the opportunity to enjoy works of art, to ensure that rural communities across America can still have access to the fine arts, and to reduce the possibiity that tax dollars will be used in a way that denigrates rather than lifts the human spirit may be to grant NEA funds to individual communities for them to spend.

I am very disappointed that Congress has allowed this controversy to continue for much too long and hope that we will do right by the taxpayers today.

Mr. WILLIAMS. Mr. Speaker, I yield myself 30 seconds.

The gentleman from Texas [Mr. Armey], the previous speaker in the well, has said in his judgment it is ridiculous to assume the National Endowment of the Arts assist the arts in America, and he is simply wants to do away with it and turn it over to the free market system.

We have heard that agrument a great deal during the 1980's. It is called in a word, "deregulation." We deregulated the airlines. We deregulated the savings and loans. The tops are peeling off of planes. The sides have fallen out of the savings and loans. Now they want to deregulate the small efforts that the Federal Government takes in assisting the arts under the promise that we will all be better for it.

Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. Kostmayer].

Mr. KOSTMAYER. Mr. Chairman, I think the American people ought to understand what we are talking about. One line of the amendment offered by my friend, the gentleman from California [Mr. Rohrabacher], prohibits funding "for works that denigrate the beliefs or objects of a particular religion."

Well, the Merchant of Venice has an anti-Semitic theme. Does that mean that the National Endowment for the Arts would not fund performances of the Merchant of Venice?

How about Shakespeare's Othello? That has, some critics say, a racism theme. This amendment would deny funding to a theater company to produce Othello.

How about "The Sound and the Fury" by William Faulkner? In the Sound and the Fury, the act of incest takes place. These people would have turned down William Shakespeare and William Faulkner, that's what we're talking about.

Mr. Chairman, what we are talking about and what we are seeing in the House today is very simple: this is book burning in America in 1990. This is what this is all about, and this amendment is brought to you by the book burners in the country and in the Congress.

The Congress cannot set standards for someone who is going to paint or dance or write or sing or compose. These are acts which are creative and occur independently of any rules we may write. We cannot set out preconditions for artists.

The NEA has made about 85,000 grants in it's history. About 20 of them have been controversial. Only about 20. Our country, unhappily, has a dark side to it sometimes, a mean side. This amendment appeals to the darkest and the very meanest side of America. It appeals to ignorance and to bigotry and to fear and to prejudice. That is what this amendment is all about. It is brought to you by the very people who want to deregulate everything that ought to be regulated, and want to regulate everything that ought to be deregulated.

It is not the art that is offensive, it is the amendment that is deeply offensive. This country finds itself in the grip of an economic crisis. A fourth of the students who graduate from high school cannot read. Thousands of people sleep on our streets each night. And what are we talking about? Dirty pictures.

I think this amendment demeans my country. Let us reject it for the mean spirited and narrow effort that it is.

Mr. GOODLING. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. Rohrabacher].

Mr. ROHRABACHER. Mr. Chairman, are we to believe that this Government should not set any standards so that our tax dollars can subsidize the most violent anti-Semitic and anti-Christian works, as long as someone calls themselves an artist? Is that what we are hearing? Those of us who want to set some standards, so you cannot have a picture of someone defecating on the Star of David, that we cannot prevent our tax dollars from subsidizing those things?

I think that we can say that the people are permitted in this country, because we do believe in freedom of speech, a broad freedom to express their views, to express their creative talents, but that when it comes to the Federal tax dollars, that we have a right to set a standard. That makes common sense.

The American people do not want us to buy bullhorns for the Nazi Party in order to "preserve freedom of speech." Yet Nazis have a right to speak. But they do not have a right to expect a Federal subsidy in order to promote what they want to speak about.

Mr. WILLIAMS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. Traficant].

Mr. TRAFICANT. Mr. Chairman America's most obscene works of art are not being debated today, and those are the budgets that are screwing the American taxpayer. But this is an important vote, an important rights issue.

Mr. Chairman, I can recall agonizing over the flag vote. I decided to vote for Old Glory to set her apart. I felt patriotism and national pride warranted that, to put her in a category all by herself. I did not think that anybody had to exercise their first amendment privilege by fornicating on Old Glory in Central Park.

But censorship fails. It fails. Suppression of any kind has no place in free and participatory democracy.

I want to say here today, everybody seems to be bashing the gentlemen from California [Mr. Rohrabacher and Illinois [Mr. Crane]. I stand here today to commend them. I think that they're going to win today, regardless of the vote, because they brought t the consciousness of America som crazy business going on. Hopefull some day someone will not be strapping a Stinger missile to their back citing a second amendment privileg because of the gentlemen from California [Mr. Rohrabacher] and Illinoi [Mr. Crane].

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But I am going to say this, if w could spend billions on military acade mies, we could spend pennies for the arts. Coleman-Williams gives the juries of our Nation, a system that works, an opportunity to make that decision. That is protection.

But I say to the gentlemen from California [Mr. Rohrabacher] and Illinois [Mr. Crane] that they are great Members, and I think they will have helped this country regardless of the vote. So I am not here to bash them. I stand to salute them.

Mr. GOODLING. Mr. Chairman, I yield myself 3 minutes and 30 seconds.

Mr. Chairman, I enjoy watching a religious program from time to time on television. Last week I tuned in, and unfortunately, I am not sure whether I will tune in again, because at that time the reverend had a reporter supposedly from Washington, DC, reporting on the Coleman-Williams amendment or substitute. He misrepresented that substitute about as badly as any misrepresentation I have ever heard, and then the minister proceeded to announce the name of the four or five, he missed a few of us, who were involved in trying to put this substitute together. As I indicated, it was certainly the worst representation I have ever heard of actually what is in a piece of legislation.

As the ranking member of the Education and Labor Committee, I have joined the gentleman from Montana [Mr. Williams] and the gentleman from Missouri [Mr. Coleman] today in bringing to the House floor legislation which reauthorizes the National Endowment for the Arts. I did that because I believe that there are so many good things that we can say about the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services.

It has been mentioned on several occasions that we just saw on television "the Civil War," a beautiful portrayal, if anything as horrible as that period can be beautiful, and that was financed by NEH.

Since the last reauthorization, the Humanities Endowment has engaged in a broad study, "The American Memory," a report on the state of the humanities in the Nation's public schools. It made key recommendations regarding the teaching of history, literature and foreign languages.

In my district in Pennsylvania, by way of example, Dickinson College received a challenge grant to support the establishment of an endowment for language and area studies and to support visiting professorships in cross-cultural studies. A constitutent recently received support for a research study of jazz history of the New Grove Dictionary of Jazz.

In its 25-year history, the National Endowment for the Arts has supported the work of talented artists and art organizations of high merit. We happen to think that the Capitol Hill Choral Society is one of those, of which I am the president, and many of the staff workers from Members' offices sing in that Capitol Hill Choral Society. We have received a $5,000 grant. What do we do with that? We exercise our opportunity to showcase some outstanding artists who otherwise would not have been showcased. One, a blind young lady with a beautiful coloratura voice, has performed for us as a soloist on numerous occasions, and perhaps we have helped her with all of her disabilities to realize a life's ambition.

Mr. Chairman, as ranking member of the Education and Labor Committee, I join Mr. Williams and Mr. Coleman today in bringing to the House floor legislation which reauthorizes the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services. This legislation is a straight reauthorization of these Federal programs, with levels of funding proposed by the administration.

During its 25-year history, the National Endowment for the Humanities has enriched the history and culture of our Nation. The NEH is the primary Federal sponsor of our cultural history. No recent event better proves this point that the broadcast of the Ken Burn's documentary, "The Civil War," on public television. This NEH sponsored program enjoyed the largest audience in the history of public television and demonstrates the capacity of publically funded programming to touch the lives of millions of Americans.

Since the last reauthorization, the humanities endowment has engaged in a broad study the "American Memory," a report on the state of humanities in the Nation's public schools. It made key recommendations regarding the teaching of history, literature, and foreign languages.

The NEH supports the humanities in countless quieter ways: It sends a teacher to a summer seminar; it enables a scholar to visit an archive; it helps a college endow a professorship; it gives a historian time from the classroom to finish a book.

These are both large and small grants, from a few hundred dollars for a high school teacher to study the literature of black Americans, to multimillion-dollar grants to libraries or universities.

In my district in Pennsylvania, by way of example, Dickinson College received a challenge grant to support the establishment of an endowment for language and area studies and to support visiting professorships in cross-cultural studies. A constituent recently received support for a research study of jazz history for the New Grove Dictionary of Jazz.

The Institute for Museum Services in the only Federal source of operating support for our Nation's museums. It supports the operations of thousands of institutions: zoos, children's museums, natural history and science museums, and arts museums and technology centers. Since 1976, IMS has supported over 10,000 projects, including conservation activities, staff development, technical assistance to local, State, and national museum organizations, and many others. The IMS supports those museums which serve over 600 million people annually, that is, roughly three times our population. The IMS is an important Federal agency and will work to strengthen museums and other institutions for years to come.

In its 25-year history, the National Endowment for the Arts has supported the work of talented artists and arts organizations of high merit with Federal support leveraging billions of private dollars. Since 1965, the arts have flourished in America and much of this has been due to the support of the NEA. The growth in the number of museums, dance and theatre companies, and the growth in the number of Americans who enjoy the arts has been phenomenal. In 1965, there were 375 art museums in America: today there are over 700. Opera companies have grown from 27 to 120. Theatrical companies have more than doubled, and small publishers have increased fivefold.

A mushrooming State, local, and regional network of support for the arts has developed as a result of the NEA's support. Fifty-six State arts agencies now serve the 50 States and the territories. This year $34 million in NEA grants will be matched by State appropriations totaling $244 million.

In Pennsylvania, NEA support has covered a broad range of activities, from a $300,000 grant to support the public television series "Wonderworks," a high-quality children's series, to a $9,800 grant to International House in Philadelphia to fund a traveling exhibition on traditional craftsmanship to the Delaware Valley of Pennsylvania.

Grants go to Pennsylvania for rural arts; an Afro-American Historical and Cultural museum; a catalog of 19th- and 20th-century American art; programs for inner-city youth; a jazz festival; and support for a youth ballet foundation.

Despite a strong record of support for the arts, the arts endowment has been under attack from critics for the past 18 months over the controversial funding of works which have offended common sense standards of decency. These grants represent a small number out of the 85,000 grants made by the NEA in its 25-year history. However, I cannot condone the funding of even minor exceptions to the rule, when this funding results in works or productions which offend public standards of decency or are not sensitive to the beliefs and values of the American public.

This is why I will support the Williams-Coleman substitute today which makes the most basic and substantive reforms to the National Endowment for the Arts in its 25-year history. I can support a reformed NEA, an endowment which is more accountable to the public in its decisionmaking process and its grant awards. I believe that these reforms will allow the NEA to get on with its essential business of expanding access to the arts for Americans and of enriching the lives of millions of citizens.

Mr. Chairman, I reserve the balance of my time.

Mr. WILLIAMS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. Owens].

Mr. OWENS of New York. Mr. Chairman, I have here a written statement which contains quite a number of listings of NEA grants that were received by people within my district. I am not going to read them, but I am certain that every Congressman could present the same kind of list of numerous positive projects that have benefited people at all levels, school-age children, adults, everybody.

Some 80,000 projects have been funded by NEA since its inception, and only 25 of those 80,000 have aroused any controversy whatsoever. This is clearly a program that benefits America. This is clearly a program that we need more of and not less of.

The problem is that a few loudmouths and a few people who are very skillful at fanning the flames and leading us into diversion have commanded the media and the press and generated a stampede. Unfortunately, we have a compromise here which I do not particularly like, but I am going to vote for it because the stampede has been so successful that it is going to be necessary to compromise in order to keep the program alive.

Let us realize that while I do not question the sincerity of any Member of Congress, in total this whole stampede has been a diversion from very serious matters. It serves to divert us from the real obscenities in our Nation.

Webster defines obscenity as anything that is morally repugnant. There are a whole list of morally repugnant national matters that we ought to be concerned with.

It is not by accident that I make the following associations: We know the name of Charles Keating because Charles Keating now is one of the leading S&L kingpins, a master crook, a master thief who has stolen billions of dollars from the guaranteed deposits in savings and loan accounts under his jurisdiction. But Charles Keating was also known before as a crusader against obscenity.

Mr. Chairman, I am proud to speak this afternoon in strong support of reauthorizing the National Endowment for the Arts. One of our former presidents once said:

"Artists stretch the limits of understanding. They express ideas that are sometimes unpopular. In an atmosphere of liberty, artists and patrons are free to think the unthinkable and create the audacious.* * * where there's liberty, art succeeds. In societies that are not free, art dies." From whom I quote? Not from one of our liberal Presidents, but from one of the most conservative Presidents of our time, Ronald Reagan.

I stress that point because the debate over the relative merits of the NEA has been centering on the wrong issues. It has been centering on what a very few artists have been doing with their grants and whether or not the works of arts they have created are appropriate or decent. We are not artists. Very few of us would claim to be experts on art. So how can this body sit in judgment over the content of art and even attempt to deem it appropriate or inappropriate or good or bad.

As Mr. Reagan and thousands of other people who are knowledgeable about art assert, artists create art to reflect society, to explore societal ideas and concepts. They do not choose only those ideas which are comfortable and acceptable to us. If they did art would be universally boring. There would be nothing new, nothing daring, nothing to make us think about the art itself and about what it is reflecting.

A person who grew up in the savage ghettos of an inner city, who lived in run-down housing projects and went to school in a crumbling, rat-infested school, it is not going to paint pretty pictures of landscapes and fruit bowls, and frolicking kittens. That artist's portrayals are more likely to reflect the experiences of his or her life and the anger of being shut out from the prosperity apparently being realized elsewhere in society.

This art reflects things that are happening in our society, and closing our eyes will not make those things go away. Such art can help us recognize other influences in our culture, and even help us understand them. And if it does not help me or you specifically, you can be sure that it is helping someone, somewhere, who can relate to it.

Artistic freedom enables us to depict images and realities which may or may not be offensive, but which help us explore influences in our culture that we would otherwise not experience. An image or a picture or a book can travel places and effect people all over the world. People who live in remote communities, even in the United States, may have access to a library program which contains books of stories or books of art or musical reproductions which can allow the people in that community to explore the arts and to witness the reflections of people from all corners of the world.

The NEA has financed many programs which promote access to the arts for people who otherwise would not be able to experience art. These programs may include bringing a dance troupe into rural areas on a tour, or it may include sponsoring a musical exploration program for poor students in the inner city.

In my district in central Brooklyn, the NEA has funded many small and worthwhile community programs. One such program is operated through the Bedford Stuyvesant Restoration Corp. This program consist of art workshops, weekend youth programs, art exhibitions from around the world, dance classes and exhibitions, theater productions, writers workshops, or poetry readings. Students who have participated in these programs have gone on to study at such renowned institutions as the School of the Visual Arts and Pratt Institute. The center received a $36,000 grant from the NEA last year to help fund this multicultural center. With such programs, restoration has become well known and attracts children and adults from throughout the city to participate in those and many other community-minded programs.

Another cultural program funded by the NEA in my district is new radio and performing arts, a pioneer in the fields of experimental documentaries, contemporary radio drama, and sound experiments for the broadcast media. Endowment support over several years has helped this organization to explore new projects about women poets of color and identify new talents for underrepresented radio themes and contents.

Endowment support to another institution in my district, the Brooklyn Museum, has funded a variety of projects intended to showcase new art forms and smaller programs targeted to the local multiethnic community which seek to increase access to different art forms and encourage exploration of the arts by children.

These and many other worthwhile community programs in my district have been funded by the NEA, and thousands more have been funded nationwide. Mr. Chairman, of more than 80,000 grants, only 20 or 25 have been considered controversial. For this, some Members of this body are advocating that we eliminate the entire program.

Members are rising up in arms because tax dollars have been spent on funding these controversial projects. Mr. Chairman, each taxpayer is responsible for only 62 cents of the total yearly budget for the NEA. Compare that with the cost per taxpayer for each $5 billion B-2 bomber that falls from the sky, or each $20 million rocket that blows up, or the astronomical cost of the $500 billion S&L bailout. Where is the outrage over the cost to the taxpayers of these million and billion dollar black holes?

Members are rising up in arms over supposedly morally repugnant projects being sponsored by the Government. Where is the outrage over the equally morally repugnant problems being created by the Government such as the present situation with the WIC Program which is being cut back to the bare bones, or the housing programs which have been cut more than 60 percent in the past 10 years and caused millions of women and children to live on the streets. And where is the outrage over the morally repugnant waste of Federal funds on the $500 billion S&L bailout the likes of which we have never seen before and hopefully will never see again. Where is the outrage?

The situation with the National Endowment for the Arts has been blown way out of proportion. There are no rational reasons for restricting this program and there are no reasons at all to eliminate it altogether. This Congress has been stampeded into making wrong and potentially disastrous decisions too frequently in the recent past. We must not bow to these illogical forces. We must fight to preserve this program based not on fear and intimidation, but based on the history and good experiences of this particular program. I urge my colleagues to have courage, and to vote to defend the National Endowment for the Arts reauthorization. Vote for the Williams-Coleman substitute and defeat both the Crane amendment and the Rohrabacher amendment.

Mr. GOODLING. Mr. Chairman, I yield the balance of my time to the gentleman from Missouri [Mr. Coleman].

The CHAIRMAN. The gentleman from Missouri [Mr. Coleman] is recognized for 1½ minutes.

Mr. COLEMAN of Missouri. Mr. Chairman, let me again point out one of the very positive attributes of the Williams-Coleman substitute, because I think the Members ought to start addressing and looking at these issues as they compare the other proposals coming on.

Our application procedures are tightened up. We require a detailed description by the grant applicant to tell what they want funded, and the NEA will know what in fact they are being asked to fund.

The conditions of grant awards will continue so that an artist cannot change in midcourse that which he has already presented to the endowment as to what the project will be, and he cannot go off and change it in another direction without approval.

They need to submit these interim reports, and also the money will not be given all up front, all at once, because we feel that by giving two thirds up front and one third after the completion of the project, we maintain some sort of control in the sense that the applicant will follow through with what they have been approved to do. That is a very important reform that the William-Coleman substitute makes, and which we have provided I think the leadership on.

I would also point out that the independent commission I believe also felt that that was a good idea.

The constitution of the advisory panels, as I said before, are going to be broadened. They are going to reflect the diversity of this country. And also there will be a rotating membership so that the same people will not be on these panels year after year, and there will be openness in the creation of records so that the public can see what is going on, and all policy meetings of the National Council for the Arts will be open to the public.

The CHAIRMAN. The gentleman from Montana [Mr. WILLIAMS] has one-half minute remaining.

Mr. WILLIAMS. Mr. Chairman, I yield myself my remaining time.

Mr. Chairman, I would not want to have this debate closed without making this personal observation. It is unfortunate that there are those both within and outside of the Congress who have used opposition to the National Endowment for the Arts to troll for money, membership, and votes. Some in this country have used the artist Robert Mapplethorpe as this year's Willy Horton, and they do so because they want to divert America's attention from the very real problems that exist in our economy and our society.

Mr. ALEXANDER. Mr. Chairman, I thank you for the opportunity to speak today on reauthorization of the National Endowment for the Arts [NEA], the National Endowment for the Humanities [NEH], and the Institute of Museum Services [IMS].

These three organizations support education, research, and preservation in the arts and humanities across the United States. Since the first bill providing for such comprehensive assistance was passed 25 years ago, both of the Endowments and the Institute of Museum Services have been instrumental in encouraging excellence among American artists, scholars, and historians.

As my colleagues all know, the reauthorization of the National Endowment for the Arts, in particular, has raised some controversial questions about the appropriations of Federal funding for artistic endeavors.

Mr. Chairman, the NEA simply should not have funded the controversial exhibits of the past year. It was an insensitive and irresponsible decision. Although I did not see these works myself, everything I have seen or heard about them convinces me that they were not worthy of taxpayer support. I want to be clear about this: Our Government has no business funding obscene art.

But I believe that every nation should support the arts, as long as it can be administered wisely. For that reason, I rise in support of the Coleman-Williams amendment.

Let me explain my position.

A quick glance at how the arts have flourished during the past 25 years shows how important Federal support has been. In 1965, before the Endowment was created, only 5 States had art councils. Their funding totaled $2.7 million. Today, every State and territory has an arts council, with combined legislative funding of over $284 million. The number of professional theaters, dance companies, orchestras, choruses, and opera companies has steadily increased, making musical and theater productions accessible to Americans in small communities as well as in large cities.

This growth means a lot more when you look at the difference Federal support makes in a State like Arkansas.

In my district of northeast Arkansas, we are far away from the museums and theaters of Washington or New York. But with the help of Federal NEA dollars, we can bring art exhibits to small towns like Wynne, Horseshoe Bend, Earle Morrilton, or Brinkley. In fact, last year NEA funded exhibits which reached over 30 communities in my district.

During 1990, the NEA provided the Arkansas Arts Council with $418,450. This money funded traveling programs which reached a total of 419,747 people, almost 1 out of every 5 Arkansans.

With Federal money, the arts council also supports traveling exhibits of drawings, prints, and photographs; a traveling children's theater touring company; artist-in-residence programs; and the artmobile, a traveling program for art education.

The director of a local arts council in my district wrote to let me know what projects NEA has underwritten in her community. From January to July of this year, the council: presented theater performances to over 5,000 school children in a three-county rural area; taught local sixth graders and secondary school art students the basic principles of design through a traveling art education exhibit; funded a Memphis-based opera company's presentation of "Little Red Riding Hood" to elementary school students—the only exposure most of these children will ever get to opera; supported a week-long songwriting workshop for local students, and coordinated a 2-month series of arts projects in summer camp programs.

I don't want to suggest that my constituents are not upset about some of the grants NEA has awarded. Indeed, the Endowment's support for artists like Robert Mapplethorpe and Andre Serrano has offended and angered many citizens in my district.

I share their outrage over these grants. Congress needs to listen to these complaints about the NEA and make sure that exhibits like this are not funded again.

To find out more about my constituents' opinions, I questioned over 5,000 people in my district.

When asked to choose between the two options Congress faced last year—to discipline the NEA, or to completely eliminate it—over 70 percent of my constituents elected to discipline the agency and tighten up the grant process, as we did. Almost 80 percent agreed that exposure to the arts is an important part of a young person's overall education. And almost 70 percent said that they favored a continued Federal role in the arts.

In a letter I recently received, a woman from Jonesboro, AR, summed up the opinion of the majority of my constituents. She said:

> The arts in our communities are very important to our quality of life. Many of these activities, such as our community theater, symphony orchestra, and the excellent museum at Arkansas State University would be hard-put for operating funds without the NEA.

Mr. Chairman, the substitute to this bill drafted by Mr. WILLIAMS and Mr. COLEMAN allows towns like Jonesboro to continue offering these programs to young people while addressing the concerns I have about the content of NEA-supported art.

This compromise requires that recipients of NEA grants are accountable to the public. It ensures that if artists violate standards of obscenity that have been established by our courts, they must pay back the full amount of their grants and are ineligible for future awards for at least 3 years.

The compromise requires grant panels to include lay persons in response to charges that only a narrow range of people now sit on the advisory panels.

It also channels additional funds to State and local arts councils, which have a very clear sense of community standards. For example, the Arkansas State Arts Council lets each town evaluate and select the programs it wishes to sponsor, and avoids local controversy with this process.

Mr. Chairman, we need to listen to the taxpayers on the issue. In the end, they foot the bill for the Endowment's activities.

The majority of taxpayers that I represent say two things, First, they don't want their money to fund obscene art. And second, they tell me that without Federal support for publicly accepted work, the arts cannot survive in their communities.

I join them today in this responsible approach to continued NEA funding.

Mr. CONYERS. Mr. Chairman, I rise in support of reauthorization of the National Endowment for the Arts. Jazz, a music once deemed obscene and pornographic has for a considerable time suffered from institutional discrimination. It is also an excellent example of an art form that has grown and flourished under the auspices of the National Endowment of the Arts. My resolution, which Congress passed in 1987, designated jazz a rare and valuable national American treasure to which we ought to devote our attention, support and resources to make certain it is preserved, understood and promulgated. To my surprise the passing of this resolution sent a wave of hope and expectation throughout the jazz community.

I salute the National Endowment for the Arts for having been instrumental in carrying out the spirit of this resolution through its new and invaluable support. The National Endowment for the Art's music program provides support for the creation and performance of music, with an emphasis on assisting the growth of American music and musicians. Jazz, was supported in 1989 through 74 fellowship grants for performance, composition, study and special projects, plus 60 grants to continue support for jazz presenters, jazz management, and jazz special projects. Innovations in special projects included a grant to support the development of a national chamber music information system and two residency programs of the black music repertory ensemble.

Mr. Chairman, I urge my colleagues to support reauthorization of the National Endowment for the Arts and take action that will continue implementation of this and other art forms once deemed indecent and obscene and censored out of America's conscience, and start to fulfill the expectation of many Americans "that the arts and the humanities belong to all the people of the United States * * * and reflect the Nation's rich cultural heritage and foster mutual respect for the diverse beliefs of all persons and groups."

As the sponsor of legislation to raise the Nation's consciousness to the artistic merit of jazz, I seek to bring your attention to a period of American history, the 1920's when Chicago passed a law that forbade the playing of trumpets and saxophones after dark. The anti-jazz censorship movement was one of the strongest that America has ever seen. It lasted for most of the 1920's and almost every major denomination had an antijazz society. Jazz music was thought of as decadent, "the devil's music." The fact that it was improvised was seen as an assault on discipline. Jazz music happened to be the voice of a rising new black urban population.

Throughout time art has always been controversial. Many of the world's greatest artists have received more than their share of negative criticism. They withstood this criticism and went on to become some of the world's greatest masters. Some critics of the National Endowment for the Arts appear to want to sanitize art. The change would seem to herald a new National Arts Endowment for the Mediocre, a National Arts Endowment for the Bland, or, worst of all, a National Arts Endowment for the Safe.

Congress does not have to provide moneys for the arts. It could arbitrarily decide to fund only painters or only dance companies. But, in providing these moneys, first amendment principles must be applied.

I urge my colleagues to support reauthorization of the NEA and take action that will continue implementation of this and other art forms once deemed indecent and obscene and censored out of America's conscience, and start to fulfill the expectation of many Americans "that the arts and the humanities belong to all the people of the United States * * * and reflect the Nation's rich cultural heritage and foster mutual respect for the diverse beliefs of all persons and groups."

Mr. FRENZEL. Mr. Chairman, for the past 9 months my office has been deluged with letters, calls, petitions, and postcards concerning the National Endowment for the Arts. I have been lectured on its virtues, and its failures. I have received graphic illustrations and grisly details of obscene and offensive art and performance. This has been a common experience for many of us. It is a debate that reflects differing values enjoyed in a democracy.

However, there are tax dollars involved in this debate. Taxpayer's ordinarily, should not pay to be offended without choice. The challenges raised are justified. The debate has been healthy.

No government agency should be allowed to become autonomous without challenge. The battle cry was raised last spring. The charges went unanswered. More and more allegations erupted over the ensuing months. Finally, a sleepy NEA heard the call. By that time it was too late. We and the Nation, nearly were as upset by the NEA's oblivion as we were about the obscene art. Change of some sort was necessary.

My constituents object to obscenity, pornography, and lewd performance. So do I. They, and I, object to deliberate offense. I vigorously object to spending taxpayer money carelessly. I also object to what I believe has been a cavalier attitude on the part of NEA.

If this floor debate today concerned the original authorizing act of 25 years ago for the NEA—and the NEH and the IMS—I probably would not support it. But today I cannot vote to zero it out. Neither, can I support unfettered growth without controls for another 5 years.

Given our current and outyear budget difficulties, the amendment offered by my colleague from Illinois [Mr. CRANE] is perhaps the most appropriate action. A privately funded organization similar to the NEA would be in everyone's best interest. Scarce Federal dollars would be saved and the arts community could produce whatever it wishes. It is a commendable proposal which should be given serious consideration. However, it would not be prudent policy to make that kind of shift immediately. The endowment process is entrenched. If it is to be eliminated, it must be phased down gradually. The Crane amendment does not do so.

In recent months the independent commission report cited flaws in the NEA procedures. The chairman assures us that strong, positive internal organizational reforms are being implemented, and that accountability and appropriateness are being ensured. It is with hope, and a prayer, that the NEA will attend to its share of tax dollars with seriousness and that the arts community will not forget to act responsibly as soon as its crisis has passed.

Today I will support the Williams-Coleman substitute with the Grandy amendment.

Mr. HOPKINS. Mr. Chairman, I rise in support of reauthorizing the National Endowment for the Arts, National Endowment for the Humanities, and Institute for Museum Services. In particular, I believe that Federal assistance is warranted and, indeed, is desirable. It is one of the valid, tangible ways for us to ensure and inspire the continued growth of the arts in America.

Look to the future: All signs indicate that there will be a modern renaissance in the visual arts, poetry, dance, theater, and music. Arts may gradually replace sports as the premiere leisure activity.

In fact, an arts explosion is well underway: American museum attendance has increased from 200 million to 500 million annually since 1965; Broadway broke every record in history during the 1988-89 season; U.S. opera audiences have nearly tripled since 1970; and Membership in the leading chamber music association grew from 20 ensembles in 1979 to 578 in 1989.

A 1988 report calculated that Americans now spend $3.7 billion attending arts events, compared with $2.8 billion for sports events.

From 1983-87, arts spending increased 21 percent while sports expenditures decreased 2 percent. Just 20 years ago, Americans were spending twice as much on sports as on the arts.

Promotion of the arts is not an investment in our national culture. It is an investment in economic growth.

Last year, $153 million in NEA funding generated $1.4 billion in private sector funds for the arts. While I support many projects funded by the NEA, there are others such as the Serrano and Mapplethorpe I must strenuously oppose. However, during its 25-year history, there have only been 20 controversial grants out of a total of 85,000 grants. That is an excellent record that I do not believe many Federal programs could equal.

The Commonwealth of Kentucky has been able to promote many useful and important endeavors over the years with financial assistance from the NEA. I urge continuance of this endeavor which has added to the richness of our culture and celebrated the noblest aspirations of our people.

Ms. SCHNEIDER. Mr. Chairman, it is perhaps fitting that Congress has put off the vote to reauthorize the National Endowment for the Arts until this late. Legislation to extend the life of the embattled Federal arts agency was supposed to have been taken up in July. But temperatures and tempers run high in Washington in midsummer. Now that things have cooled down, both inside and outside the House Chamber, I am hopeful reasonable heads will prevail.

For 18 months, Congress has been debating the fate of the NEA. President Bush presented a bill last spring to reauthorize the Endowment for another 5 years. Despite political pressure to the contrary, it did not contain restrictions over the content of funded art, as the so-called Helms amendment prohibiting Federal funding of so-called obscene art now does.

Over the summer, more than two dozen amendments to the NEA bill were introduced in the House. They range from prohibitions over funding art that contains human fetal tissue or that encourages defacing the American flag to requirements that Federal arts grantees buy only American-made products to the outright abolition of the NEA.

The problem with such proposals, constitutional questions aside, is that they suggest an agency run amok, an endowment out of control. In fact, in the 25-year history of the NEA, fewer than 25 grants out of some 85,000 have even caused a stir. That is less then one-quarter of one-tenth of 1 percent. Had the Pentagon, HUD, or agencies overseeing the savings and loan industry been as scrupulous with Federal moneys, we taxpayers would not be facing a bill of thousands of dollars each to fix the damage.

Instead, the NEA asks each of us for 68 cents, pocket change for the millions of students the agency reaches through its arts education programs; the cost of a cup of coffee for supporting the Nation's best orchestras, museums, theaters, and public broadcasting; a handful of coins for bringing the arts into the rural parts of America; less than six bits for helping stimulate more than $6 billion in private giving to the arts. This is 68 cents from each American as compared to per capita spending for the arts in Canada $32, France $32, and West Germany $27.

What does this 68 cents buy us in Rhode Island? NEA moneys help support the Rhode Island Philharmonic's educational concert program, the season of productions by the Trinity Repertory Company, and the Newport Music Festival. Endowment funding to the Rhode Island Black Heritage Society and the Langston Hughes Center for the Arts helped present productions like "Christ Child" and a series of performances on the artistic contributions of African-Americans. Support for Brown University and the Rhode Island School of Design helped fund a variety of exhibitions, catalogs and films. And NEA grants to the Rhode Island Council on the Arts are an enormous boost to our own State's support of arts education, folk arts apprenticeship program, and the funding of outstanding artists throughout the State.

In all, NEA support for culture in Rhode Island totals more than $940,000 so far this year. With requirements that every dollar awarded to an organization be matched with a dollar of private support, Endowment grants to Rhode Island have helped pump millions more dollars into our State's culture and, consequently, our economy.

The NEA has helped bring about a cultural renaissance in this country over the last quarter century. Since 1965 we have seen the number of orchestras double, dance companies grow seven times, theater companies expand eightfold, and State arts agencies multiplied by 10.

Despite this unparalleled record, the very existence of this tiny agency which does so much with so little is being threatened. Because of two grants over the past 3 years that some have found objectionable—grants that indirectly funded the exhibition of some photographs which, incidentally, no NEA panel ever saw—some in Congress want to abolish the Endowment. While it does not appear that they have the votes to succeed, a more chilling threat centers on congressional efforts to restrict what the endowment funds.

These so-called content restrictions have been the focus of much debate in the year since Senator JESSE HELMS had them inserted into Federal law. Some believe that such funding standards are necessary and proper when doling out taxpayers' money. Others contend that artistic expression is a form of speech protected by the first amendment, that to restrict such expression is akin to censorship.

In fact, funding standards already exist—the toughest standard of all, artistic excellence. Individual artists and arts organizations selected from among the 18,000 applications for grants have passed a rigorous three-tiered review process that recommends funding for only the very best projects. In some categories, such as visual artists fellowships, less than 4 percent of the applicants are recommended for grants.

While some Congressmen are calling for a ban against obscene art, the fact is: first, obscenity is already against the law; second, obscenity runs counter to artistic quality and would never knowingly be funded anyway; and third, questions of obscenity are traditionally decided in the courts applying local community standards, as in the current Cincinnati case, and not by a Federal agency.

Returning the responsibility of determining obscenity to the courts is the basis by which the Senate committee overseeing the Endowment's reauthorization overwhelmingly forged a compromise. The legislation enables the Endowment to recoup funds from a grantee whose works has been found in the courts to be obscene. The most notable aspect of the bill is the broad bipartisan support it received, approved by the committee 15 to 1. In the 18 months since this controversy began, the Senators seemed to have unearthed the largest chunk of middle ground that we have seen. The question now is whether it is big enough to accommodate a majority in the House as well. I hope so.

This week marks Banned Books Week, a time to reflect somberly on the volumes of Twain, Joyce, Shakespeare, Cervantes, and Steinbeck that have been removed from libraries and schools. It is time to recall the words of John F. Kennedy who noted that "a nation * * * afraid to let its people judge the truth and falsehood in an open market is a nation that is afraid of its people." And it is also a time to resolve that the ideas and works of those with the courage and talent to create new art never be threatened. Congress should support free speech, not suppress it.

Mr. CHANDLER. Mr. Chairman, I rise today in support of the Williams-Coleman amendment. Frankly, I have been outraged by abuses that have occurred with National Endowment for the Arts funding in the past. I spoke out last year on this floor to express my anger about some of the obscene trash the American taxpayers have been asked to pay for.

I now believe there is a new sense of accountability at the NEA. All but a tiny minority of the arts community have been acting responsibily. Only a very few have abused the privilege of public support for the arts. In fact, since the NEA was founded 25 years ago, there have been over 85,000 grants awarded. Yet, out of all these thousands of recipients, less than 30 have been controversial. This is a remarkable record of success for artists and one that we can all be proud of.

From big-city orchestras to small-town arts festivals, there is a need for public support of the arts. I applaud NEA officials for exercising caution with works of alleged art that are clearly without artistic merit or value. It is only the few bad incidents that draw public concern in the first place. I believe responsible NEA action represents the kind of oversight and accountability the American people want in an arts program. And it is the kind of responsible arts funding that the Williams-Coleman amendment will promote. I ask my colleagues to join me today in adopting this amendment and giving this compromise on NEA funding a chance to work.

Mr. STOKES. Mr. Chairman, I rise today in strong support of H.R. 4825, a bill to reauthorize the National Endowment for the Arts [NEA], the National Endowment for the Humanities [NEH], and the Institute of Museum Services through fiscal year 1995. This measure will help to ensure the continued, unrestricted growth of the arts and humanities throughout America.

The Endowment was specifically created to support and encourage culture and creativity in America. The House Education and Labor Committee reported that since its inception in 1965, the Endowment has been a major catalyst in the remarkable growth of musical theaters, professional opera companies, art exhibits, science and technology centers, museums, and a variety of education programs.

In the sixties, there were only 27 professional opera companies in the United States, performing mostly classic European works with European artists. Today, there are 113 American opera companies and 64 musical theaters, performing original works and using American artists in major roles. Hundreds of thousands of American school children have benefited from another Endowment program—"Poetry Readings in the Classroom." HEH programs in history, language, and archaeology have touched the lives of people in hundreds of rural, inner city, tribal, and minority communities throughout our Nation.

The NEA has reportedly approved approximately 85,000 grants to art organizations and individuals. H.R. 4825 does not include content restrictions on the kind of grants that can be funded. All applications for grants are reviewed by an independent panel of experts, who use artistic standards in recommending grant awards. Unfortunately, during the last 2 years, the tremendous success of the Endowment has been overshadowed by the debate over one-tenth of 1 percent of the total number of grants. The mere fact that so few works of art have aroused controversy is indicative of the effectiveness of the Endowment system.

Opponents of unrestricted Federal funding for the arts and humanities argue that taxpayers' money should not be spent on art that is offensive. While I too find some works of art to be offensive, I cannot agree with imposing restrictions on art supported by the Endowment. It is clearly censorship for the Federal Government to require the exclusion of some works of art based on its content. To do so would trample on constitutionally protected freedoms.

Justice Oliver Wendell Holmes once stated, "it is * * * not free thought for those who agree with us, but freedom for the thought that we hate" which gives the theory of free expression its most enduring value. Unrestricted funding of the arts and humanities preserves this freedom.

For these reasons, I strongly support the continued, unrestricted use of Federal funds for the arts and humanities. I feel it is important to preserve a climate which encourages free expression. We cannot allow the controversy surrounding a Robert Mapplethorpe or Andres Serrano exhibit to jeopardize the tremendous benefits derived from these programs for millions of Americans.

Mr. Chairman, I urge my colleagues to join me in support of H.R. 4825 and continued, unrestricted Federal funding of the arts and humanities.

Ms. PELOSI. Mr. Chairman, I rise in support of the National Endowment of the Arts [NEA] and in reluctant support of the Williams-Coleman compromise. I strongly believe that the NEA deserves continued Federal support and should not be used as an agent of censorship. Since the arts controversy began, I have heard from thousands of constituents expressing unqualified support for the NEA.

Mr. Chairman, the Federal Government has a responsibility to fund artistic excellence through the NEA. By encouraging artistic expression, we encourage a creativity and compassion among our citizens which is an essentil part of our quality of life. In fact, Mr. Chairman, I believe that if we were to spend a fraction of what we spend on defense on fostering creativity instead, we would help to create a significantly better world. We might not have to build as many prisons or manufacture as many bombs.

Mr. Chairman, censorship is dangerous. The framers of the Constitution recognized that freedom of expression is the cornerstone of a free society. The increasing political pressure on arts organizations and museums to monitor the work of their membership and to restrict the work that they exhibit is a disturbing trend. Censorship not only undermines the ability of artists to produce truly creative work, but it also shrinks our cultural horizons. The duty of the NEA should be to promote and encourage creativity, not to suppress it or to play big brother to artists.

Unfortunately, the political reality is that we must accept the Williams-Coleman compromise. If the Williams-Coleman compromise were to fail, the proponents of censorship would have a stronger opportunity to impose their limiting views on all of us and perhaps eliminate the NEA altogether. The compromise would change the mandate of the NEA by instructing it to support projects of national or international artistic significance, replacing a policy of encouraging the development of grass roots artistic expression. The compromise would reform the peer review process and force artists to conform to a general standard of decency.

Mr. Chairman, I am disappointed that we must choose a lesser of two evils, instead of voting for freedom of expression and an unrestricted NEA. I urge my colleagues to vote for the Williams-Coleman substitute. It is the best chance we have to try to save the NEA.

Mr. LEHMAN of California. Mr. Chairman, I rise today to voice my support for the reauthorization of the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services. As many of you know, this year we celebrate the 25th anniversary of the National Endowment for the Arts. Over that 25 years the NEA has funded over 85,000 successful grants to promote museum exhibits, operas, dance companies, theater, mime troops, folk storytelling, and literature. To characterize the NEA as being a tool of pornography and obscenity is a ridiculous proposition and completely misleading at best.

It is important to remember that only 20 grants out of 85,000 have proven to be controversial and of questionable artistic merit. Even with this small number, I believe many of us know that some restrictions must be implemented to save the NEA. In light of this, I urge my colleagues to support the Williams-Coleman compromise substitute amendment. With this amendment we will preserve and strengthen the NEA and the accountability of the grant process. We will give the states a greater role within the NEA, and we will leave the definition and enforcement of obscenity to the courts—which is where it belongs.

As we vote today let us all remember that the NEA enables Americans from all walks of life to experience art—whether it be in the form of a dancer on a stage, a picture on a wall, or a story being told of the past. Let us remember that the NEA is not and has never been about pornography or homoerotic art, it is about educating our country about it's past, it's future, and our very unique culture. Art energizes us, it challenges us, and it ultimately teaches us who we are as a nation. I urge my colleagues to support the NEA and vote for the Williams-Coleman compromise amendment.

□ 1610

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule.

The text of the bill is as follows:

H.R. 4825

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That this Act may be cited as the "Arts, Humanities, and Museums Amendments of 1990".

Sec. 2. Section 3(b) of the National Foundation on the Arts and the Humanities Act of 1965, hereinafter through section 30 of the bill referred to as "Act" (20 U.S.C. 952), is amended by inserting "all those traditional arts practiced by the diverse peoples of this country" immediately after "forms,".

Sec. 3. Section 3(d) of the Act (20 U.S.C. 952) is amended by inserting "the widest" immediately after "enhance".

Sec. 4. Section 3(d)(2) of the Act (20 U.S.C. 952) is amended by inserting ", 7(c)(10)" immediately after "section 5(1)".

Sec. 5. Section 5(c) of the Act (20 U.S.C. 954) is amended—

(1) in paragraph (2), by inserting "or tradition" immediately after "authenticity";

(2) in paragraph (5), by inserting "education," immediately after "knowledge,";

(3) in paragraph (7), by striking out "and";

(4) by redesignating paragraph (8) as paragraph (10);

(5) by inserting after paragraph (7) the following new paragraphs:

"(8) projects which enhance managerial and organizational skills and capabilities;

"(9) international projects and productions in the arts; and"; and

(6) by striking out "clause (8)" and inserting in lieu thereof "paragraph (10)".

Sec. 6. Section 5(g)(2)(E) of the Act (20 U.S.C. 954) is amended by striking out clauses (i) and (ii) and inserting in lieu thereof:

"(i) a description of the level of participation during the most recent preceding year for which information is available by artists, artists' organizations, and arts organizations in projects and productions for which financial assistance is provided under this subsection;

"(ii) for the most recent preceding year for which information is available, a description of the extent projects and productions receiving financial assistance from the State arts agency are available to all people and communities in the State; and".

Sec. 7. Section 5(l)(1) of the Act (20 U.S.C. 954) is amended—

(1) at the end of paragraph (E), by striking "and"; and

(2) at the end of paragraph (F), by striking the period and inserting "; and"; and

(3) by inserting the following new paragraph:

"(G) stimulating artistic activity and awareness which are in keeping with the varied cultural traditions of this Nation.".

SEC. 8. Section 5(m) of the Act (20 U.S.C. 954) is amended—

(1) in the first sentence by striking out "develop" immediately after "relevant Federal agencies" and inserting in lieu thereof "employ";

(2) by striking out the sentence starting with "Not later than one year"; and

(3) in the last sentence by striking out "not later than October 1, 1988, and biennially thereafter" and inserting in lieu thereof "not later than October 1, 1992, and quadrennially thereafter".

SEC. 9. Section 7(a) of the Act (20 U.S.C. 956) is amended by striking out "a" and inserting in lieu thereof "the".

SEC. 10. Section 7(c) of the Act (20 U.S.C. 956) is amended—

(1) in the introductory paragraph, by inserting "enter into arrangements, including contracts, grants, loans, and other forms of assistance, to" immediately after "is authorized to";

(2) in paragraph (2), by striking out "(including contracts, grants, loans, and other forms of assistance)";

(3) in paragraph (3), by striking the first sentence thereof and inserting in lieu thereof "initiate and support training and workshops in the humanities by making arrangements with institutions or individuals.";

(4) in paragraph (7), by striking out "through grants or other arrangements".

(5) in paragraph (8), by striking "and";

(6) in paragraph (9), by striking the "." and inserting "; and"; and

(7) by inserting:

"(10) foster programs and projects that provide access to and preserve materials important to research, education, and public understanding of the humanities.".

SEC. 11. Section 7(d) of the Act (20 U.S.C. 956) is amended by striking "correlate" and inserting in lieu thereof "coordinate".

SEC. 12. Section 7(f)(2)(A) of the Act (20 U.S.C. 956) is amended by striking out "of the enactment of the Arts, Humanities, and Museums Amendments of 1985" and inserting in lieu thereof "the State agency is established".

SEC. 13. Section 7(f)(2)(A)(viii) of the Act (20 U.S.C. (956) is amended—

(1) by striking "previous two years" in subclause (I) and inserting in lieu thereof "most recent preceding year for which information is available"; and

(2) by inserting in subclause (II) after "(II)" "for the most recent preceding year for which information is available,".

SEC. 14. Section 7(f)(3)(J) of the Act (20 U.S.C. (956) is amended—

(1) by striking "previous two years" in clause (i) and inserting in lieu thereof "most recent preceding year for which information is available"; and

(2) by inserting in clause (ii) after "(ii)" "for the most recent preceding year for which information is available,".

SEC. 15. Section 7(g) of the Act (20 U.S.C. 956) is amended by striking in the last sentence everything after "subsection" through "1985".

SEC. 16. Section 7(h)(2)(B) of the Act (20 U.S.C. 956) is amended by striking out "on" after "Endowment" in the last sentence and inserting in lieu thereof "for".

SEC. 17. Section 7(k) of the Act (20 U.S.C. 956) is amended—

(1) by striking out "develop" immediately after "relevant Federal agencies," and inserting in lieu thereof "employ";

(2) by striking out the sentence starting with "Not later than one year"; and

(3) by striking out "October 1, 1988" in the last sentence and inserting in lieu thereof "October 1, 1992, and quadrennially thereafter".

SEC. 18. Section 7 of the Act (20 U.S.C. 956) is amended—

(1) by striking out all language after subsection (l) and inserting in lieu thereof: "Any group shall be eligible for financial assistance pursuant to this section only if (1) no part of its net earnings inures to the benefit of any private stockholder or stockholders, or individual or individuals, and (2) donations to such groups are allowable as a charitable contribution under the standards of subsection (c) of section 170 of title 26.".

(2) by inserting immediately following subsection (l) the following new subsection:

"(m) The Chairperson, with the advice of the National Council on the Humanities, is authorized to make the following annual awards:

"(1) The Jefferson Lecture in the Humanities award to a person for distinguished intellectual achievement in the humanities. The annual award shall not exceed $10,000,

"(2) The Charles Frankel Prize to honor persons who have made outstanding contributions to the public's understanding of the humanities. Up to five persons may receive the award each year. Each award shall not exceed $5,000.".

SEC. 19. Section 9(d) of the Act (20 U.S.C. 958) is deleted in its entirety.

SEC. 20. Section 10(a) of the Act (20 U.S.C. 959) is amended—

(1) in paragraph (6) by striking out "529" and inserting in lieu thereof "3324";

(2) after paragraph (8) and before "In any case" insert new subsection "(b)";

(3) after paragraph (8) and before "In selecting panels" insert new subsection "(c)";

(4) in new subsection (c) by striking "clause (4)" and inserting in lieu thereof "subsection (a)(4)";

(5) after paragraph (8) and before "Panels of experts" insert new subsection "(d)";

(6) by redesignating subsections (b), (c), and (d) as (e), (f), and (g), respectively, and by striking out subsections (e) and (f); and

(7) in redesignated subsection (g)(3) by striking out "the last sentence of subsection (a)" and inserting in lieu thereof "subsection (d)".

SEC. 21. Section 11(a)(1)(A) of the Act (20 U.S.C. 960) is amended by striking out in the first sentence everything after "Arts" and inserting in lieu thereof "$125,800,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995.".

SEC. 22. Section 11(a)(1)(B) of the Act (20 U.S.C. 960) is amended by striking out everything in the first sentence after "Humanities and inserting in lieu thereof "$119,900,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995.".

SEC. 23. Section 11(a)(1)(C) of the Act (20 U.S.C. 960) is amended by striking out subparagraph (C).

SEC. 24. Section 11(a)(2)(A) of the Act (20 U.S.C. 960) is amended—

(1) by striking out "October 1, 1990" and inserting in lieu thereof "October 1, 1995";

(2) by striking out "paragraph (8)" and inserting in lieu thereof "paragraph (10)"; and

(3) by striking out everything after "shall not exceed" and inserting in lieu thereof "$13,000,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995.".

SEC. 25. Section 11(a)(2)(B) of the Act (20 U.S.C. 960) is amended—

(1) by striking out "October 1, 1990" and inserting in lieu thereof "October 1, 1995"; and

(2) by striking out everything after "shall not exceed" and inserting in lieu thereof "$12,000,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995.".

SEC. 26. Section 11(a)(3)(A) of the Act (20 U.S.C. 960) is amended—

(1) by striking out "October 1, 1990" and inserting in lieu thereof "October 1, 1995"; and

(2) by striking out everything after "shall not exceed" and inserting in lieu thereof "$15,000,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995.".

SEC. 27. Section 11(a)(3)(B) of the Act (20 U.S.C. 960) is amended—

(1) by striking out "October 1, 1990" and inserting in lieu thereof "October 1, 1995"; and

(2) by striking out everything after "shall not exceed" and inserting in lieu thereof "$15,150,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995.".

SEC. 28. Section 11(a)(3)(C) of the Act (20 U.S.C. 960) is deleted in its entirety and subparagraph (D) is redesignated as (C).

SEC. 29. Section 11(c)(1) of the Act (20 U.S.C. 960) is amended by striking out in the first sentence everything from "$15,982,000 for fiscal year 1986" through "fiscal years 1989 and 1990" and inserting in lieu thereof "$21,200,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995".

SEC. 30. Section 11(c)(2) of the Act (20 U.S.C. 960) is amended—

(1) by striking out in the first sentence everything from "$14,291,000 for fiscal year 1986" through "fiscal years 1989 and 1990" and inserting in lieu thereof "$17,950,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995"; and

(2) by striking out "or any other source of funds".

SEC. 31. Section 11(d) of the Act (20 U.S.C. 960) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof:

"(1) The total amount of appropriations to carry out the activities of the National Endowment for the Arts shall be $175,000,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995."; and

(2) by striking out paragraph (2) and inserting in lieu thereof:

"(2) The total amount of appropriations to carry out the activities of the National Endowment for the Humanities shall be $165,000,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995.".

SEC. 32. Section 204(a)(1)(A) of the Museum Services Act, hereinafter through section 37 of the bill referred to as "Act" (20 U.S.C. 963), by inserting "conservation," after "curatorial,".

SEC. 33. Section 204(d)(1) of the Act (20 U.S.C. 963) is amended by striking out "four" and inserting in lieu thereof "three".

SEC. 34. Section 205(a)(1) of the Act (20 U.S.C. 964) is amended by striking out "be compensated at the rate provided for level V of the Executive Schedule (section 5316 of title 5), and shall".

SEC. 35. Section 205(a)(2) of the Act (20 U.S.C. 964) is amended by striking out "Chairperson's" and inserting in lieu thereof "Director's".

SEC. 36. Section 206(a)(5) of the Act (20 U.S.C. 965) is amended by striking out "artifacts and art objects" and inserting in lieu thereof "their collections".

SEC. 37. Section 206(b) of the Act (20 U.S.C. 965) is amended—

(1) in paragraph (1), by striking out "with professional museum organizations"; "to such organizations"; and "enable such organizations to";

(2) in paragraph (2)(B), by striking out "the" and by striking out "of any professional museum organization";

(3) by striking out paragraph (2)(A) and renumbering paragraph (2)(B) as paragraph (2).

(4) in paragraph (3), by striking out "to professional museum organizations"; and,

(5) by striking out paragraph (4).

SEC. 38. Section 209 of the Act (20 U.S.C. 967) is amended—

(1) by striking out all language after subsection (a) and inserting in lieu thereof:

"For the purpose of making awards under section 206 of this title, there are authorized to be appropriated $24,000,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995."; and,

(2) by striking out the following language in subsection (d): "during the period beginning on October 8, 1976 and ending October 1, 1990," and inserting in lieu thereof "for fiscal year 1991 through 1995".

SEC. 39. Section 5(b) of the Arts and Artifacts Indemnity Act, hereinafter through section 40 of the bill referred to as "Act" (20 U.S.C. 974), is amended by striking out "$1,200,000,000" and inserting in lieu thereof "$3,000,000,000".

SEC. 40. Section 5(c) of the Act (20 U.S.C. 974) is amended by striking out "$125,000,000" and inserting in lieu thereof "$300,000,000".

SEC. 41. Section 5(d) of the Act (20 U.S.C. 974) is amended—

(1) by striking out "or" at the end of paragraph (2);

(2) by revising paragraph (3) to read as follows:

"(3) $10,000,000 but less than $125,000,000, then coverage under this Act shall extend to loss or damage in excess of the first $50,000 of loss or damage to items covered;" and

(3) by inserting the following new paragraphs (4) and (5):

"(4) $125,000,000 but less than $200,000,000, then coverage under this Act shall extend to loss or damage in excess of the first $100,000 of loss or damage to items covered; or

(5) $200,000,000 or more, than coverage under the Act shall extend only to loss or damage in excess of the first $200,000 of loss or damage to items covered.".

SEC. 42. Title IV of the Arts, Humanities and Museums Amendments of 1985, section 401, is stricken.

SEC. 43. Chapter 53 of title 5, United States Code, is amended in section 5315 by adding at the end thereof "Director of the Institute of Museum Services".

SEC. 44. These amendments shall be effective on the date of enactment.

The CHAIRMAN. No amendments to the bill are in order except the amendments printed in House report 101-801. Said amendments shall be considered in the order and manner specified, may only be offered by the Member specified, shall be considered as having been read, and shall not be subject to amendment. Debate time for each amendment shall be equally divided and controlled by the proponent of the amendment and a member opposed thereto.

It is now in order to consider amendment No. 1 printed in House report 101-801.

AMENDMENTS EN BLOC OFFERED BY MR. CRANE

Mr. CRANE. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. CRANE: Beginning on page 2, strike line 13, and all that follows through line 15 on page 4, and insert the following (and make such technical corrections as may be appropriate):

SEC. 5. Sections 5 and 6 of the National Foundation on the Arts and the Humanities Act of 1965 (42 U.S.C. 954, 955) are repealed.

SEC. 6. (a) Section 2 of the National Foundation on the Arts and Humanities Act of 1965 (42 U.S.C. 951) is amended—

(1) in paragraph (1) and (4) by striking "and the arts",

(2) in paragraphs (3) and (8) by striking "the arts and",

(3) in paragraph (5) by striking "the practice of art and", and

(4) in paragraph (9) by striking "the Arts and".

(b) Section 3 of the National Foundation on the Arts and the Humanities Act of 1965 (42 U.S.C. 952) is amended—

(1) by striking subsections (c) and (f), and

(2) in subsection (d)—

(A) by striking "to foster American artistic creativity, to commission works of art,",

(B) in paragraph (1)—

(i) by striking "the National Council on the Arts or", and

(ii) by striking ", as the case may be,",

(C) in paragraph (2)—

(i) by striking "sections 5(1) and" and inserting "section",

(ii) in subparagraph (A) by striking "artistic or", and

(iii) in subparagraph (B)—

(I) by striking "the National Council on the Arts and", and

(II) by striking ", as the case may be,", and

(D) by striking "(d)" and inserting "(c)", and

(3) by redesignating subsections (e) and (g) as subsections (d) and (e), respectively.

(c) Section 4(a) of the National Foundation on the Arts and the Humanities Act of 1965 (42 U.S.C. 953(a)) is amended—

(1) in subsection (a)—

(A) by striking "the Arts and" each place it appears, and

(B) by striking "a National Endowment for the Arts,",

(2) in subsection (b) by striking "and the arts", and

(3) in the heading of such section by striking "THE ARTS AND".

(d) Section 9 of the National Foundation on the Arts and the Humanities Act of 1965 (42 U.S.C. 958) is amended—

(1) in subsection (a) by striking "the Arts and",

(2) in subsection (b) by striking "the Chairperson of the National Endowment for the Arts,",

(3) in subsection (c)—

(A) in paragraph (1) by striking "the Chairperson of the National Endowment for the Arts and",

(B) in paragraph (3)—

(i) by striking "the National Endowment for the Arts", and

(ii) by striking "Humanities," and inserting "Humanities", and

(C) in paragraph (6) by striking "the arts and".

(e) Section 10 of the National Foundation on the Arts and the Humanities Act of 1965 (42 U.S.C. 959) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking "in them",

(ii) by striking "the Chairperson of the National Endowment for the Arts and", and

(iii) by striking ", in carrying out their respective functions,",

(B) by striking "of an Endowment" each place it appears,

(C) in paragraph (2)—

(i) by striking "of that Endowment" the first place it appears and inserting "the National Endowment for the Humanities",

(ii) by striking "sections 6(f) and" and inserting "section", and

(iii) by striking "sections 5(f) and" and inserting "section",

(D) in paragraph (3) by striking "Chairperson's functions, define their duties, and supervise their activities" and inserting "functions, define the activities, and supervise the activities of the Chairperson",

(E) by striking the second, third, and fourth sentences,

(F) in the fifth sentence by striking "one of its Endowments and received by the Chairperson of an Endowment" and inserting "the National Endowment for the Humanities and received by the Chairperson of that Endowment",

(G) in the sixth and eighth sentences by striking "each Chairperson" each place it appears and inserting "the Chairperson",

(H) in the seventh sentence by striking "Each chairperson" and inserting "The Chairperson", and

(I) by striking the ninth, tenth, and eleventh sentences,

(2) in subsection (b)—

(A) by striking "Chairperson of the National Endowment for the Arts and the ", and

(B) by striking "each" the first place it appears,

(3) in subsection (C)—

(A by striking "National Council on the Arts and the ", and

(B) by striking ", respectively,",

(4) in subsection (d)—

(A) in paragraph (1)—

(i) by striking "Chairperson of the National Endowment for the Arts and the", and

(ii) by striking "sections 5(c) and" and inserting "section",

(B) in paragraph (2)(A)—

(i) by striking "either of the Endowments" and inserting "National Endowment for the Humanities", and

(ii) by striking "involved", and

(C) in paragraph (3)—

(i) by striking "that provided such financial assistance" each place it appears, and

(ii) in subparagraph (C) by striking "the National Endowment for the Arts or",

(5) in subsection (e)—

(A) in paragraph (1)—

(i) by striking "the Chairperson of the National Endowment for the Arts and",

(ii) by striking "jointly",

(iii) in subparagraph (A) by striking "arts education and", and

(iv) in subparagraph (B) by striking "arts and",

(B) in paragraph (2) by striking "Endowments" and inserting "Endowment", and

(C) in paragraph (3)—

(i) by striking "Endowments"and inserting "Endowment",

(ii) in subparagraph (B) by striking "Endowments' " each place it appears and inserting "Endowments's",

(iii) in subparagraphs (B) and (C) by striking "arts and" each place it appears,

(iv) in subparagraph (D)—

(I) by striking "National Endowment for the Arts and the", and

(II) by striking "arts education", and

(v) in subparagraph (E) by striking "National Endowment for the Arts and the", and

(6) in subsection (f) by striking "each Endowment" and inserting "the National Endowment for the Humanities".

Beginning on page 9, strike line 4 and all that follows through line 8 on page 12, and insert the following (and make such technical corrections as may be appropriate):

Sec. 19. (a) The first sentence of section 11(a)(1)(B) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(1)(B)) is amended—

(1) by striking "(B)", and

(2) by striking "$95,207,000" and all that follows through "1990;", and inserting "$119,900,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 through 1995".

(b) Section 11(a)(1) National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(1)) is amended by striking paragraph (C).

(c) Section 11(a) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)) is amended—

(1) in subparagraph (2)(B)—

(A) by striking "1990" the first place it appears and inserting "1995", and

(B) by striking "$10,780,000" and all that follows through "1990", and inserting "$12,000,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 through 1995",

(2) in paragraph (3)—

(A) by striking subparagraph (C), and

(B) in subparagraph (D)—

(i) by striking "(D)" and inserting "(B)", and

(ii) by striking "and subparagraph (B)", and

(3) in paragraph (4)—

(A) by striking "Chairperson of the National Endowment for the Arts and the",

(B) by striking ", as the case may be,", and

(C) by striking "section 5(e), section 5(1)(2), section 7(f)," and inserting 7(f)".

(d) Section 11 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960) is amended—

(1) in subsection (c)—

(A) by striking paragraph (1), and

(B) in paragraph (2) by striking "(2)", and

(2) in subsection (d)—

(A) by striking paragraph (1), and

(B) in paragraph (2) by striking "(2)".

Sec. 20. Section 1 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 951 note) is amended by striking "the Arts and".

Sec. 21. (a) On the effective date of the amendments made by this Act, all property donated, bequeathed, or devised to the National Endowment for the Arts and held by such Endowment on such date is hereby transferred to the National Endowment for the Humanities.

(b) The Director of the Office of Management and Budget shall provide for the termination of the affairs of the National Endowment for the Arts and the National Council on the Arts. Except as provided in subsection (a), the Director shall provide for the transfer or other disposition of personnel, assets, liabilities, grants contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with implementing the authorities terminated by the amendments made by this Act.

The CHAIRMAN. Pursuant to the rule, the amendments en bloc are not subject to a demand for a division of the question.

The gentleman from Illinois [Mr. Crane] will be recognized for 15 minutes and a Member opposed will be recognized for 15 minutes.

Mr. WILLIAMS. Mr. Chairman, I rise in opposition to the amendments en bloc.

The CHAIRMAN. The gentleman from Montana [Mr. Williams] will be recognized for 15 minutes.

Mr. WILLIAMS. Mr. Chairman, I ask unanimous consent that I be allowed to yield 7½ minutes of my time to the gentleman from Missouri [Mr. Coleman] and that the gentleman from Missouri [Mr. Coleman] may yield time.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois [Mr. Crane].

Mr. CRANE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, at the outset to put this into some historical perspective, if we go back to the beginning of the republic, this issue was raised at the Constitutional Convention, as a matter of fact, by two different delegates, and it was voted down resoundingly by those people who attended the Constitutional Convention in Philadelphia as beyond the purview of the legitimate functions of the National Government. That is not to say that through the years the Government did not spend money on the arts. The fact of the matter is historically we commissioned paintings, approved by Government, and some of them hang in the rotunda, magnificent pieces of art, the sculpture work on top of the dome, this painting over here of General Lafayette and President Washington. Specific art projects were paid for with public money, but that is not the issue we are talking about today.

We are talking about having created a whole new bureaucracy ostensibly to promote art in this country. The first deviation from that historic rule was when Franklin Delano Roosevelt under the New Deal put all those unemployed artists on a welfare payroll, and they then continued to paint, and they were being compensated for that. That deviation and experiment died by World War II, and it was not until the guns-and-butter era of LBJ when money was no object that finally in 1965 we created the National Endowment for the Arts.

Mr. Chairman, my argument is that, first of all, if we go back historically and recognize that the Founding Fathers who crafted our Constitution that we all hold our hand up and swear to uphold when we take that oath of office, they gave us instruction on this question.

Second, Mr. Chairman, I would argue that the funding of art is not dependent upon Government. Quite the contrary, if we go back to the 1988 funding levels, they made grants of about $150 million through the National Endowment for the Arts, and by contrast, private citizens in this country, foundations and bequests, conferred $6.8 billion versus the $150 million distributed by the NEA. It is not a question of whether the arts will be funded. It is a question of the propriety of having the funding come through the vehicle of Government.

We have heard a lot of talk about censorship here. Censorship, for goodness sakes, that is one of the reasons many contemporary artists condemn this whole concept of an NEA. If we looked at the numbers of applicants that come under the purview of that National Council to make their determination upon whom they shall confer a grant, we are talking one out of four being successful enough to get the money. They say, "Oh, yes, but that encourages other money to be funded." To be sure, but that is a diversion from the other three. And who died and made the political appointees on that National Council God?

Art is in the eye of the beholder, to be sure, and as our colleague from Texas stated earlier, the fact of the matter is when you are doing it in the private sector, that is exclusively your determination. If you want to take perversions like the Mapplethorpe exhibit, and I will not get into the specifics because it would violate the decorum of this House if I were to verbally attempt to graphically describe what was contained in it you're right to spend your money on it is unimpaired.

What we are proposing here in no way would have prohibited Mr. Mapplethorpe from doing his thing. That is not the issue here. What we are proposing is a prohibition against the use of involuntarily raised tax dollars for such pornographic obscenity.

There is another concern I have, too, and that is the good-old-boy network that controls the distribution of the money.

Our good colleague, the gentleman from New York [Mr. Weiss] over here had a special order the other night, and he was urging all of his New York colleagues to participate, most understandably, because they got roughly $40 million in funding from the NEA that year. Let me contrast that with my home State of Illinois. We only got $5 million at the same time. The State of Michigan got $1.5 million. The State of Oregon, which I heard mentioned earlier in the debate, got $1.3 million; Florida, $2.1 million, the fourth largest State of the Union; Ohio, that our good friend from Youngstown represents, they got $4.9 million; Texas, the third largest State of the Union, Texas got $4.6 million. Even if we add monstrous California, they only got $14.1 million, and if we take all of those States combined, they are dwarfed by New York. They only got roughly half the funding that New York got. So I can totally understand my colleague from New York. They have got the good-old-boy thing going up there, and they are getting the benefit of this public money.

Let me remind the Members of something else. Here we are in our budget struggle at the present time trying to reconcile income and outgo, and we are asking a lot of people to suffer. We are asking the seniors, the Medicare beneficiaries, to suffer. We are asking Joe Sixpack to suffer. We are tightening all of these designated belts, and yet if we held the funding levels for the NEA at the current level over the next 5 years, we are talking roughly $1 billion of funding.

It is an economic outrage at a time like this to be squandering limited resources thus. Especially when there are private sector alternatives. It is not either/or. We are not in a situation where if we do not continue the NEA, we are going to see the elimination of art in this country.

Quite the contrary, we will see a flourishing of art again as existed throughout the 19th century into the 20th century through the pre-World War era. During this period some of the most magnificent artists in literature and art work did not receive the benefit of one cent of Government money.

We simultaneously eliminate the horrifying prospect of commissioning some artist to do that depiction over there of General Lafayette and have him on that wall depicted stark naked or in a compromising position with another male.

That is the sort of thing we are talking about, Mr. Chairman.

Mr. Chairman, the question of whether or not the National Endowment for the Arts [NEA] should exist really involves three issues: Constitutionality, necessity, and censorship.

The debate over Government funding for the arts is as old as our Nation. The Constitutional Convention addressed the matter in 1787 when South Carolina's Representative Charles Pinckney proposed that Congress "establish seminaries for the promotion of literature and the arts and sciences." His colleagues soundly defeated the motion because they reasoned, "The granting of patents is the extent of [our] power." One Congressman's comments proved prophetic. John Page of Virginia argued vigorously against the idea warning, "Congress might, like many royal benefactors, misplace their munificence * * * and neglect a much greater genius of another." Indeed, there can be no question that the authors of the Constitution did not intend for Government funding of the arts.

Our forefathers concluded that there isn't a role for art in Government. Now we must question whether there is a need for Government in the arts. In 1988, $6.8 billion was spend on the advancement of art by the private sector. The $175 million included in today's authorization could be matched almost 40 times over by this fund. This private endowment has fostered two of the greatest periods in American literature. The careers of Mark Twain, Emily Dickenson, William Faulkner, and F. Scott Fitzgerald, among others, flourished without one penny of Federal money. So not surprisingly, many in today's art community question the need for the NEA. Writer Richard Moore explains, "It isn't just that the money we give to artists is being wasted. It's doing positive harm. An arts bureaucracy has grown up in the last few years to formulate the applications, select the judges, and give the right sort of ballyhoo to the recipients. Only mediocrity can destroy art. And in every bureaucracy, mediocrity luxuriates." How can we justify funding the arts while at the same time we threaten to take $50 billion from Medicare? Indeed, how can we do this when artists consider the $2.5 billion they've already received a waste?

Mr. Moore and his colleagues feel that the NEA has suppressed creative genius in favor of less intellectually challenging projects. It's true. Finite resources necessitate selectivity which, in turn, requires standards. These standards are set by a presidentially appointed panel and naturally reflect the tastes of Government. Just 4,372 applicants out of 17,879 received NEA funds in 1989. An NEA grant is considered "highly important money" because it attracts additional fnancial attention to the recipients. Consequently, it draws away potential funding from those who did not receive NEA recognition. So by advancing the career of one artist with a grant, the NEA automatically discourages the futures of three others.

Mr. Chairman, the evidence is conclusive. History proves that art advancement is not a role intended for Government. Private Philanthropy ensures that American art can survive without the NEA. And common sense recognizes that Government inevitably will be a censor as long as there is an NEA. Please support the Crane amendment to H.R. 4825.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. CRANE. I am happy to yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, what did the gentleman mean, that it never received one dime of public tax money? I thought people who contributed were foundations and so forth who had certain tax writeoffs that subsidized art.

Mr. CRANE. To be sure. One can get a deduction for contributions to charity.

Mr. MARLENEE. If the gentleman will yield further, so what we are talking about is a double support with the NEA funds?

Mr. CRANE. We are talking about a double support indirectly, because the first is a revenue loss, to be sure, as the gentleman points out, and the second is, they add money on top of that.

What I am saying is, if we want to permit the greatest flexibility of freedom in promotion of the arts, leave it where it belongs in the private sector, and get Government out of it altogether.

Mr. Chairman, I reserve the balance of my time.

Mr. WILLIAMS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Oregon [Mr. AuCoin].

Mr. AuCOIN. Mr. Chairman, here we have an amendment that would eliminate the National Endowment for the Arts and all of the programs the NEA brings to communities across America.

This measure is part of a 10-year effort by the political right to destroy the NEA. The sponsor of this amendment wants the public to think that he is doing something to really cut the Federal deficit, but what he and his allies are really doing is to nickel-and-dime a small but critical program for people in this country while simultaneously voting for hundreds of billions of dollars in an orgy of spending for pet projects which are mostly military.

□ 1620

The author of this amendment says he will save $180 million. He would like Members to believe that is a big number, and it is, except when we compare that number with the military megabucks he and his allies have insisted on spending year after year. The gentleman and his friends have voted for $14 billion on the Mad Hatter program called SDI. Millions more for chemical weapons and just weeks ago, he and his allies voted against the Frank amendment on vulnerable MX missiles which would have saved $250 million. That is $70 million more than the entire NEA budget in its entirety.

The author of this amendment also votes for the Trident nuclear submarine. Let me tell Members about that ship. It is 527 feet long. It costs $1.32 billion per ship. That works out, my friends, to $2½ million a foot. Someone once said we ought to build that sub 1 foot shorter. With 18 ships in our fleet that would save $45 million for the Treasury, almost a third of the NEA budget. The person who suggested that said that he did not think the Navy would even notice the difference. In fact, he suggested that it was his experience that things submerged under water actually looked larger, so he knew the Navy would not know the difference.

Mr. Chairman, if America can spend trillions of dollars to fund weapons to destroy life, I think it is right and proper to spend a pittance in this bill for the celebration of life through the NEA. Defeat the Crane amendment.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa [Mr. Leach].

Mr. LEACH of Iowa. Mr. Chairman, the question of the relation of art and society will be debated as long as humans possess imagination and critical capacity.

Sensible citizens have every right to question the artistic merit of Government-funded projects, but care should be taken not to confuse censure—the free expression of moral disapproval which is the cherished prerogative of every American—with censorship—a repugnant instinct prohibited by the first amendment.

As in all fields of human endeavor, mistakes will be made. What is impressive with regard to the Endowment is how few, not how many, projects have proven controversial. What is more important than elements of controversy, however, is the question of whether a great society is obligated to tap rather than restrain the creative instinct, even if it produces a controversial product.

It is this Member's view that when it comes to the arts, it is better to light a candle than sit in darkness. Criticism of Government and its programs are almost always helpful. But my hope is that a rebuking of Government, no matter how justified in particular instances, does not deprive our citizens of the opportunity to participate in the creative process and propel in particular an unjustified punishment of our kids.

With all the attention that has riveted on the pictures of Robert Mapplethorpe and the exertions of Annie Sprinkle, it should be clear that Endowment programs have been designed to bring quality art to people of all classes and all ages in all parts of the country. In this regard, I would like to focus for a moment on one group, youth. As I review the array of Endowment programs in my congressional district, I am struck by a singular concern: Kids shouldn't be deprived of the quality programs that characterize most endowment efforts because of the societal transgressions of a few adults.

As for the issue of priorities, it is hard not to be struck by the irony that in the depth of our greatest depression, the Works Progress Administration WPA provided far more resources to artists on a relative GNP basic than government provides today. Regionalist like Grant Wood and Thomas Hart Benton chronicled for history the human condition and because of Government involvement, the inspiration of art was taken from elitist citadels and brought directly to working class homes.

Interestingly, philosophical controversy, not just cost concerns, swirled around these WPA artists. One of Grant Wood's prints, for instance, was defined by the Post Office as obscene and thereby banned from the mails. I raise this historical point simply to underscore that censors can sometimes produce more obscene judgments than artists can produce. And I know of no more inappropriate body of censors than this Congress of people's representatives. Very few Americans I suspect, would suggest that this body is noted for superior moral judgment.

The arts are not a luxury; they are the soul of our society. Without embarrassment this Congress should advance and ennoble their life and thereby our own.

An understandable backlash against a minute percentage of arts projects should not be allowed to lead to an artistic holocaust, to the dispiriting of American society.

Mr. WILLIAMS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. Levine].

Mr. LEVINE of California. Mr. Chairman, I would like to begin by commending the gentleman from Montana [Mr. Williams] for his leadership and courage in helping this body to deal with a tricky and sensitive issue, and yet, one which gets to the core of our first amendment rights and first amendment concerns and free expression in this country. The gentleman from Montana has done a superb job, and we all owe him a debt of thanks.

The National Endowment for the Arts is one of our most successful and cost effective Federal programs.

It has improved the quality of life for millions of Americans by triggering a renaissance in cultural interest and access to art.

At its inception, there were 60 professional orchestras in the United States. Now there are over 210. There were 37 professional dance companies. Now there are over 250.

The same holds true for choruses, opera companies, and nonprofit theaters.

The NEA often targets communities that otherwise would have no access to arts education—funding programs that involve the physically challenged, blind, and the deaf in visual and performing arts.

More than 3½ million children were introduced to art last year through the NEA's Art in Education Program.

We debate today whether Congress should impose restrictive language on NEA grants.

I say no, absolutely not.

We are here because a small group of self-appointed guardians of American morality have used a few NEA grants to endanger the future of this vital program.

They have distorted works of art, misled the public and engaged in a campaign of deception and misinformation.

The right wing has sought to use this issue for its own partisan political purposes, but there really should be no great controversy here.

The NEA does not fund obscene art.

It may fund art which some in our society find objectionable.

That is something a free society can and must tolerate.

Of the more than 85,000 grants funded by the NEA over 25 years, fewer than 15 have been found to be objectionable.

The NEA has done an excellent job and should be allowed to continue its good work with a minimum of interference from Congress.

The American public shares this view.

More than two-thirds of all Americans strongly agree that Congress should not cut funding of art solely on the basis of its content.

Mr. CRANE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. Walker].

Mr. WALKER. Mr. Chairman, the issue here as we set priorities is of what should the American people spend tax money on. A number of Members are concerned that American taxpayer money has been spent on things that are of low priority.

One of the questions that comes before Members is what has tax money been spent on in the past? The fact is, it has been spent on photographs that many Americans would question whether or not that is what their tax money should go for. It seems to me in the course of this debate, so our colleagues can understand the nature of this, that we probably ought to show some of those pictures that the taxpayers have paid for on this floor, so that we can begin to understand the nature of what the taxpayer has been paying for.

PARLIAMENTARY INQUIRIES

Mr. WALKER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WALKER. Mr. Chairman, am I permitted to show such photographs on the House floor?

The CHAIRMAN. The first amendment to the Constitution provides that Congress shall make no law abridging the freedom of speech. The Chair notes, however, the Constitution also provides that the House may determine the rules of its proceedings, and in clause 2 of rule I, the House has assigned to the Speaker the sole responsibility to preserve order and decorum.

In similar circumstances on September 13, 1989, the Chair advised he would prevent the display of exhibits that in his judgment might disrupt order or impair decorum in the Chamber. The current occupation of the Chair would intend to apply that standard.

□ 1630

Mr. WALKER. Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Chairman, how are we going to make that determination about what interferes with the decourm of the House?

The CHAIRMAN. The Chair would not entertain any exhibits in this debate.

Mr. WALKER. So in other words, Mr. Chairman, I have a picture here that shows a group of irises in a bowl. That is a picture which I cannot show on the House floor because it would disturb the decourm of the House?

The CHAIRMAN. The Chair is not going to make a distinction, and because this could be a controversial and volatile issue, the Chair has decided under the rule to allow no exhibits during this debate.

Mr. WALKER. Well, Mr. Chairman, a further parliamentary inquiry: On many occasions on this floor, we have allowed pictures to be shown out here, pictures of war and carnage and all kinds of things. Are we suggesting that those pictures are no longer going to be permitted on the floor either, that the Members do not have the right to freedom of expression of the House floor with regard to these matters?

The CHAIRMAN. The gentleman refers to other debates. The standard the Chair has enunciated applies to this debate, when the issue of decorum has been raised, and the Chair intends to enforce a standard that no exhibits be displayed today, and this is a responsibility which the Chair undertakes after a discussion with the Speaker.

Mr. YATES. Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. YATES. Mr. Chairman, it this coming out of the gentleman's time?

The CHAIRMAN. No. The Chair is trying to make sure that we have a clear ruling on this particular case and will allow liberal time.

Mr. CRANE. Mr. Chairman, may I make a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CRANE. Mr. Chairman, if the gentleman cannot show the photographs in one of the collections that was funded, is it permissible for him graphically to describe the content of photographs from the well?

The CHAIRMAN. The gentleman may in his time limitation describe whatever he sees fit, and the Chair will rule appropriately.

Mr. WALKER. I thank the Chair.

Mr. Chairman, it now becomes clear that in this taxpayer-supported institution——

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. CRANE. Mr. Chairman, I yield 1 additional minute to the gentleman.

Mr. WALKER. Mr. Chairman, it now becomes clear that in this taxpayer supported institution there are, in fact, limits on freedom of expression. You cannot post any kind of pictures in the Chamber, that in fact there are limitations under which we are forced to live.

Now, the question is whether or not taxpayers' supported institutions in other places should have those same kinds of limitations.

All the gentleman from California will suggest later on is that indeed we can have those kinds of restrictions.

The gentleman from Illinois raises another point, though, and that is whether or not the taxpayers ought to be forced to pay for things which are totally obscene in their view. It is not a question whether they are obscene in the view of some court or whether some liberal Member of the House of Representatives finds them all right. It is a question of whether or not tax money should be coerced away from hard-working Americans in order to pay for things which they regard as very obscene.

I think it is clear from just this dialog on the House floor, there is a right under the Constitution to provide limits, and we ought to do so here today.

Mr. WILLIAMS. Mr. Chairman, I yield myself 30 seconds.

Of course, there are restrictions to freedom of full expression. Of course, there are rules and regulations that everyone, including the Members of this House, must abide by.

The National Endowment for the Arts has a criteria which if applied to this House would limit debate. The National Endowment for the Arts has a criteria for funding the arts that is based only on excellence and quality. If we applied that same criteria to the speeches of the Members of the House, we would have been out of here in March.

Mr. CRANE. Mr. Chairman, I yield 30 seconds to the gentleman from Pennsylvania [Mr. Walker].

Mr. WALKER. Mr. Chairman, I thank the gentleman for his speech. I am sure that he is absolutely right. Some of the qualities of the 1-minute speeches have been a little shaky here recently; but I would say to the gentleman, I cannot imagine any standard in any other place in the country that would limit us from showing a picture of irises in a bowl. We just had a ruling on this House floor that you cannot show a picture of irises in a bowl on the House floor. I suggest that not only is a violation of free speech, that is outright censorship.

Mr. WILLIAMS. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois [Mr. Yates].

Mr. YATES. Mr. Chairman, I thank the gentleman for yielding me this time.

Let me point out to the gentleman for Pennsylvania, that is exactly what the court did in the Cincinnati case. They insisted that only the so-called raunchy pictures of Mapplethorpe be shown, not the pictures of irises in the bowl; he would also be showing the other pictures, which are disturbing.

Mr. WALKER. Mr. Chairman, if the gentleman will yield, how does the gentleman know that?

Mr. YATES. Oh, I know what the gentleman usually does.

Mr. WILLIAMS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Michigan [Mr. Carr].

Mr. CARR. Mr. Chairman, I want to at least congratulate my good friend, the gentleman from Illinois, on his honesty. I think in many ways this debate is not about censorship or pornography. It is about the existence of the National Endowment for the Arts, and at least the gentleman from Illinois confronts that directly.

Lest anybody think that we spend an awful lot of taxpayer money on the National Endowment for the Arts, I would just like to give you a little footnote here. The authorization is for approximately $175 million, and while in the abstract that sounds like a lot of money, when you spread it all across America to thousands of little communities, it is not very much at all.

By contract, this Government, this President and this Congress, have appropriated $203 million for military bands. That is military musicians, people in the Pentagon who in uniform perform at a variety of civic functions all over America. I do not mean to say that is a waste of money. Some of the finest musicians in our country are in the military bands; but just think of it. In the Pentagon, you can get $203 million appropriated for military music, and the gentleman from Illinois is objecting to spending $175 million to fund opera and ballet and dance and theater throughout America.

Mr. Chairman, I hope Congress rejects the amendment.

Mr. CRANE. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. Shumway].

Mr. SHUMWAY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to this legislation and in support of the gentleman's amendment. In light of our alarming budget deficit, as well as our somewhat embarrassing inability to develop meaningful solutions, what is the Federal Government doing funding the arts? As a sponsor of the Privatization of Art Act, I believe that the National Endowment for the Arts [NEA] should be eliminated. Coincidentally, this morning's mail brought to my desk the most recent issue of Policy Review. On page 36 is an article entitled "Abolish the NEA," which contains a quote that says it all:

> The distribution of grant money to a chosen few assumes a wisdom that government does not possess, and affords it powers it does not deserve.

Earlier this year, I had the opportunity to present testimony concerning funding for the NEA, which has become an emotional and volatile issue. I stated then and will reiterate now that I am strongly committed to first amendment rights; I do not believe in censorship. Painters, writers, poets, sculptors and other artists should be perfectly free to create; our form of government will not tolerate any restriction of creative expression. However, I also believe that scarce Federal dollars must be prudently prioritized. Nowhere is it written that artists—or any other individuals, for that matter—are entitled to "no strings" Federal support. When Uncle Sam giveth, Uncle Sam generally establishes conditions and criteria concerning applicants for the "gift." Considering that the money used is the people's money, the strings attached are appropriate.

When the House last debated the Interior appropriations bill, including funding for the NEA, amending language was offered which was designed to underline commitment to freedom of expression, while at the same time disapproving questionable use of tax dollars. Unfortunately, as we now know, the effort was unsuccessful and the problem remains unresolved.

We find ourselves at an impasse: there is no accountability for the use of tax dollars where the NEA is concerned, and any effort to add accountability to the process is viewed as censorship. It has become increasingly clear to me over the last year that the only way to get the Government out of the undesirable position of determining what qualifies as art is to get the Government out of the art business, period.

There are those who assert that my suggestion is insensitive, and that it will deprive worthy talent of needed support. I disagree. Many projects are worthy and deserving, but that does not mean that the Federal Government has an obligation to fund them. Indeed, our efforts to decrease the size, cost and intervening role of the Federal Government are constantly being hamstrung by cries of "good" and "worthy." Billions of dollars are being spent privately to promote the arts; record spending at art auctions has been headline news in recent months. If an artist is talented or a project is deserving, I am confident that private sources will recognize marketability and come forward with financial support. The Government in general and Congress in particular will then be freed from that most untenable of positions: Having responsibility without authority. If we have the responsibility to fund the arts, then we must also have the authority to determine what qualifies. I say the Government needs neither. This is not the time nor the place for any unnecessary Federal spending. Moreover, it will never be the time or place for action which smacks of censorship. To me, there is only one possible solution: Eliminate federally funded art.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield 1 minute to the gentleman from Montana [Mr. Williams].

Mr. WILLIAMS. Mr. Chairman, in turn, I yield 1 minute to the gentleman from Michigan [Mr. Hertel].

Mr. HERTEL. Mr. Chairman, we have heard a lot of discussion today about things that people do not like in the NEA, mistakes that have been made, things that have been offensive—even obsence—that have been done with funds from NEA.

Well, let tell you, I have been on the Armed Services Committee of this House for 9 years. I have seen mistakes. I have seen things that I did not like. I have seen things that have been offensive.

☐ 1640

I have seen $400 hammers, I have seen $30 billion B-1 bombers that do not work. This is offensive.

But no one in this House has ever talked about closing down the Department of Defense, stopping public funding for the Department of Defense.

So let us say that we live with some mistakes. We can improve the process and the gentleman's amendment, the Williams amendment, later on, will do that. But the fact is, the fact is many good things are being done for many good people around this country, learning about the arts, and that contributes to the betterment of our Nation.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. HERTEL. I yield to the gentleman from California.

Mr. ROHRABACHER. I thank the gentleman for yielding.

Mr. Chairman, the gentleman mentioned $600 hammers. Would he correct those situations in the Department of Defense but could not correct the situation here?

Mr. HERTEL. I did correct them in the Department of Defense. We do correct them here also. We are correcting them today with the Williams amendment.

Mr. CRANE. Mr. Chairman, I yield 1 minute to our distinguished colleague the gentleman from Texas [Mr. Armey].

Mr. ARMEY. I thank the gentleman for yielding.

Let me get right to the point of the matter: Both the gentleman from Montana [Mr. Williams] and myself argue that we believe in freedom of expression for artists, we oppose Government censorship and regulation of the artists.

The gentleman from Montana proposes that we reauthorize the National Endowment for the Arts under stricter regulations with respect to the manner in which the expenditures will be given. I argue that we ought not have a Federal Government agency that decides what is or what is not art worthy of funding with taxpayer dollars.

His rebuttal to me is that I want to deregulate. Case closed. Vote yes for the Crane amendment if you believe in freedom of expression for artists.

Mr. WILLIAMS. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. Weiss].

Mr. WEISS. Mr. Chairman, I rise in opposition to the Crane amendment.

Mr. Chairman, I rise in strong opposition to the amendment offered by Representative Crane. This amendment seeks to end Federal funding for art and culture in America by abolishing the National Endowment for the Arts [NEA]. Eliminating the NEA would deprive millions of Americans, rich and poor, urban and rural, of the many artistic and cultural programs that this agency makes possible.

Our constituents recognize the merits of Government subsidy for the arts. In a recent nationwide poll, 68 percent of the American public stated their strong support for Government funding of arts. These people want the NEA to continue to preserve the cultural heritage of the United States, make the arts accessible to millions who might otherwise not enjoy them, and foster creativity in our society.

Remarkably, three out of the four of this year's Tony nominees in the "Best Play" category, including the winner, were developed at NEA funded nonprofit theaters. So were the last 11 Pulitzer Prize winning plays.

When the National Endowment for the Arts was founded in 1965, there were 100 local arts agencies; now there are over 2,000. In 1965 there was one full-time professional chorus in the country, 60 professional orchestras, 37 professional dance companies, and 56 nonprofit professional theaters. Now, there are at least 57 professional choruses, 210 orchestras, 250 dance companies, and 400 theaters eligible for endowment support. The audience for all of these activities has grown exponentially.

Also, funds given by the endowment generate sizable donations from private sources. According to the New York Times, $119 million in grants made by the NEA in 1988 encouraged private to contributions of $1.3 billion more.

Without NEA encouragement much of that money would not be contributed.

Certainly, the Government, through the NEA, supports projects that would not get the attention they deserve without public money. For instance, the NEA funds hundreds of educational projects and projects that increase the access to art for inner-city and rural areas. The private sector might not do this as readily on its own.

Abolishing the NEA would eliminate national coordination of arts funding. From its broad national perspective the endowment can coordinate Government funding with the development of artistic programs and projects, and the growth of institutions throughout the country.

Abolishing the NEA would not save us much money either. Its 1991 appropriation totals $180 million. Aggregate Federal spending on culture this year comprises just one-half of 1 percent of the $1.23 trillion budget.

We have an agency that has successfully subsidized the arts in our country for the last 25 years. I strongly urge defeat of the Crane amendment and support H.R. 4825 unamended. Let's not let one or two controversial grants define our national attitude toward art, culture, and progress.

Mr. WILLIAMS. Mr. Chairman, I reserve the balance of my time.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield 2½ minutes to the gentleman from Iowa [Mr. Grandy].

Mr. GRANDY. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, the gentleman from Illinois [Mr. Crane] asked me to support his amendment. I do not support his amendment. But I do support what he is trying to do to this debate. He is trying to purify it and purge it of all of the content restrictions that involve this debate, let alone our legislation before us.

We are debating whether to defund or refund. Why refund the arts? Let me try and bring this down to a macrolevel and let me answer the comments of my friend, the gentleman from Texas [Mr. Armey].

This is a letter from a professor at Waldorf College in Forest City, IA, about 2,800 people. She writes as follows:

> I am a college art professor who has personally benefited from the National Endowment. Funds from it helped a photography exhibit of mine tour the state of Iowa. In addition, monies from the National Endowment has enabled me to schedule exhibits of international, national and local artists in the gallery that I direct here. Without this money, it would be impossible for me to schedule these exhibits and help educate this isolated area of Iowa about the beauty and wonder of art.

Mr. Chairman, I represent that isolated area of Iowa. There are thousands of grants like these all over the country that would not exist without the National Endowment. They would not exist if it was a confederation of regional endowments or local endowments. We would not have the 10-to-1 private funds to public funds that we have. This is an investment that works.

Strip away all the content restrictions, and you have got good business practices here. You have got something that you can actually say gives you a return on your money.

Yes, you can argue that every so often we have a bad apple. That is true in life. That is true in science. We have had space shuttles blow up in space and people die. We are not talking about defunding NASA.

All we are trying to do in this particular portion of the debate is argue whether we need a National Endowment at all. This is the debate to defund. Eventually we will get to the more insidious debate as to whether we should dismember the endowment or not.

But I ask you to strike down the Crane amendment because of the people in Waldorf, IA, and all over the country, and all of the districts that are represented on this floor.

We very often look at our mail not for content but just for volume. Other people are writing letters too. They are not signing petitions. They are writing in as to why this endowment affects them.

That is why we need to refund as opposed to defund.

Mr. CRANE. Mr. Chairman, I yield 1 minute to my distinguished colleague the gentleman from California [Mr. Dornan].

Mr. DORNAN of California. Mr. Chairman, I have wrestled with this subject for over 2 years now, and I come to the unhappy conclusion that the only way to resolve the debate coming up over content restrictions, because although they have been few, they have been so blasphemous and so offensive and so arrogantly defended by the loudest, although minor, smallest voices in the arts community, that the only way I can see now after the last 2 weeks of pounding on the budget crisis is to go back to basics, consider what is essential in this Government—and that is what our defense budget is—and maybe revisit this next year.

The reason I am going to vote to support the Crane amendment is I find myself on the horns of a dilemma, absolutely dazzled by the National Endowment for the Humanities. There was a 5-night special called "The Civil War." Wanting to continue to fund that because I trust the leadership there, but not wanting to fund the one on the arts because I do not trust the leadership there.

So I vote to shut it down and see if we can revisit it next year after we have balanced our budget.

Mr. Chairman, we have a full-fledged, flaming budget crisis going on in this Chamber and in our country. And in the midst of that crisis some in this body are today attempting to reauthorize the National Endowment for the Arts.

Regardless of the social and cultural issues involved, it is simply ludicrous that this Congress continues lavishing money on special interest and corporate welfare programs that serve no essential Government function or vital national need.

Programs like the NEA are simply luxuries we cannot afford at the present time. And I don't know about your constituents, but I can tell you that the vast majority of my constituents would not choose to fund the NEA at this point in our history—controversy or not. My taxpayers will, however, sorely miss the income they will be paying for the new taxes this body is currently proposing, which will go to pay for all sorts of programs, the NEA only one of many. In reality, then, those increased tax revenues will not be going to balance the budget, but to instead pay for these interesting but low-priority programs.

What I want to know is this, Mr. Chairman. Why isn't anyone proposing program terminations? Why? Why are tax increases always the first resort? Are all Federal programs immortal? Are they? Are all Federal programs of equal worth? Is the NEA as important as national defense? Is it important as fighting crime and drug abuse? Is it as important as Medicare or Social Security or highways? I do not think so. And I think the same applies to the Economic Development Administration, the Legal Services Corporation, the Export-Import Bank direct loan program, and Amtrak subsidies, just to mention a few. So why are we still funding them? I suppose the main question is this: Is it worth raising taxes to continue funding such programs? Is it worth risking recession to continue funding such programs?

By refusing to terminate such nonvital programs we imply that they are as important as other truly vital national functions, which is of course absurd. If we are every going to get a handle on the deficit we are going to have to start terminating programs that have either outlived their usefulness or that provide no essential governmental service. And I say the time to start is today, right now, October 11, 1990, and the place to start is with the NEA.

So, Mr. Chairman let me expand my opposition to the reauthorization of the NEA and in support of the Crane amendment. Again two, basic reasons, one economic and the other cultural.

The economic rationale for opposing the NEA reauthorization is simple. At a time when we are facing $200 billion deficit for the coming fiscal year, we just can't afford to spend taxpayer money on special interest or corporate welfare programs that do not address a vital national need. In short, again Mr. Chairman, the NEA is a luxury we simply can't afford at this time. This is especially true when liberals in this Chamber are so eager to raise taxes. In my view, if this Congress would only start doing what it was elected to do and eliminate all unnecessary program however pleasant sounding and curb waste and fraud, then a tax increase would not be necessary. Indeed, again there are a host of programs that could be terminated to start us on our way towards a balanced budget, including, but not limited to: The Rural Electrification Administration, the Farmers Home Administration, Amtrak, Urban Development Action Grants, the Legal Services Corporation and, yes, the National Endowment for the Arts.

It is incredible, Mr. Chairman, that given our precarious fiscal situation the liberal-left is fighting tooth and nail to spend millions of dollars on a totally unnecessary program. At a time when we should be going out of our way to eliminate programs, the liberal-left in this Chamber is going out of its way to save every single program, regardless of merit. Doesn't that strike anybody else here as a little silly? Who wants to be the one to tell the American people that their taxes are going to be raised to pay for programs like the NEA, especially with its current image, whether warranted or not?

The country does not need the NEA, Mr. Chairman. Moreover, I submit the American people would not miss the NEA. And when you consider that two famous paintings recently sold at auction for more than the entire annual NEA budget you have to wonder just how important this funding is to the arts community. I know Mr. Frohmayer says otherwise, and he has spent a lot of time trying to convince Members that this money is the life blood of the arts community. But he hasn't convinced me.

Now I would like to address the cultural aspects of my opposition to the NEA reauthorization. At this point let me say that I do not make these judgments lightly. I am a member of the Congressional Arts Caucus. I come from a family with a background in the theatre and motion pictures. I have done some acting myself, with a love of Shakespeare beyond any other artistic expression. So I think I understand and have an appreciation for the arts.

The problem is not the peer review process, as some of my colleagues claim, or some other institutional flaw within the system. It is the attitude of the NEA and the arts community in general to those few times the process results in an Andres Serrano or Robert Mapplethorpe. If the NEA had said of Serrano and Mapplethorpe, "Oops. Sorry. We made a mistake. It won't happen again," and if the arts community had said, "Serrano's blasphemy against the crucified Christ and Mapplethorpe's homoerotic photographs and child pornography are garbage which should never have been funded," then I am sure we would not be going through this exercise.

But the arts community, instead of decrying the Serrano and Mapplethorpe outrages, turned both of them into heroes, martyrs of the first amendment. Quite frankly, if that is the attitude of the arts community then I don't think they deserve a dime of the taxpayer's money. Serrano's loathsome picture of Christ was both blasphemous and bigoted. The controversial Mapplethorpe photographs were clearly pornographic, as in child pornography. For the arts community to claim otherwise just illustrates how cut off they are from traditional American values. But the arts community did more than defend this so-called art, they demanded that the taxpayer continue to fork over money to pay for it—with no strings attached. Talk about arrogance.

Illustrative of this attitude is the case of one Joseph Papp, producer, New York Shakespeare Festival, the Public Theater. Mr. Papp wanted $50,000 in taxpayer money for his Latin Festival, but was not sure if he should accept NEA guidelines as a condition of funding. In a letter to NEA Chairman Frohnmayer, Papp revealed that he was in a quandary over this particular situation and asked plaintively: "Is this a dilemma, or isn't it?"

Frankly, I see no dilemma at all. Mr. Papp was in a situation no different than any other recipient of Federal money. Take colleges and universities. Since Congress passed the Grove City bill, colleges and universities are not entitled to Federal funding if there exists "discrimination" in any of its programs. Restrictions also apply at the Defense Department. For instance, we do not allow manufacturers of jet aircraft to build and sell to the Government what they alone consider the best fighter plane. No indeed. Manufacturers are given specific design instructions concerning the number of engines, cockpit positions, speed, etc. We always hear that Congress is not full of art critics. Well it is not full of aeronautical engineers or rocket scientists either, but that doesn't prevent Congress from exercising its duty to provide guidance and accountability for how the taxpayers money is spent on those programs.

As my friend and colleague HENRY HYDE noted in his excellent article entitled "The Culture War," which appeared in the National Review:

> Public funds, in a democracy, are to be spent for public purposes, not for the satisfaction of individuals' aesthetic impulses. And if the impulse in question produces a work which is palpably offensive to the sensibilities of a significant proportion of the public, then that work ought not to be supported by public funds.

I ask my colleagues, what could be a simpler or more reasonable formulation?

Why does the arts community think it is somehow exempt from the strings the Federal Government attaches to all other Federal programs? We have turned some NEA recipients into nothing but a class of artistic welfare queens.

So I wrote Mr. Frohnmayer and told him that he should tell Mr. Papp in no uncertian terms that he has not right to the hard-earned money of the taxpayer. If he wants the privilege of a Government subsidy, he has to play by the rules set down by the people whose money, or sponsorship, he seeks. And I said to suggest to Mr. Papp that if his artistic and moral sensibilities have been so contaminated by his longtime participation in the "arts" community that he cannot, as he put it, "decide what others consider obscene," then he should not accept the grant. Indeed, if he is that out of touch with traditional American values Mr. Frohnmayer should not have waited for Papp to refuse the grant, which he eventually did, he should have withdrawn it. In that case, Papp could have done what that vast majority of people all over the country do, fund his production privately. If his festival has any merit, that should be a relatively easy task.

There is also a strain of thought running through this debate, Mr. Chairman, that obscene, blasphemous, or bigoted art does us or our culture no harm. Any offensive art—as long as it is offensive to Judeo-Christian values—is excused in a headlong rush to promote "diversity," as if that were the sole goal of artistic expression. Let me quote Irving Kristol on this point.

"What reason is there to think that anyone was ever corrupted by a book?" asks Kristol.

> This question, oddly enough, is asked by the very same people who seem convinced that advertisements in magazines or displays of violence on television do indeed have the power to corrupt. If you believe that no one was ever corrupted by a book you also have to believe that no one was ever improved by a book (or a play or a movie.) You have to believe, in other words, that all art is morally trivial * * * No one, not even a university professor, really believes that.

It is clear, Mr. Chairman, that America is engaged in a kulturkampf, or culture war. From flag burning to abortion to capital punishment to public funding for the arts, America is struggling to define its moral and ethical foundations. On one side are the moral relativists, whose philosophy can be summed up with the credo "If it feels good do it." It is a philosophy based on nothing more substantial than whim and fancy. On the other side are those who find their moral direction in the Judeo-Christian tradition.

The moral relativists have led this country to excuse—indeed sanction—drug abuse, sodomy, casual sex and its concomitant diseases, abortion-on-demand for any reason, and a host of other acts the traditional community has always deemed immoral. It is hard for me to see how our culture has progressed by tolerating such immoral, indeed barbarous, acts.

Regarding the dangers of moral relativism, Paul Johnson wrote in his masterwork Modern Times, "when legitimacy yields to force, and moral absolutes to relativism, a great darkness descends and angels become indistinguishable from devils." That is exactly what has happened in this debate, Mr. Chairman. Those of us defending the values which form the moral foundations of our way of life and which gave rise to the democratic institutions we do cherish, are accused of being censors and fascists. Those moral relativists who have produced bigoted, blasphemous, and pornographic art are portrayed as persecuted champions of freedom.

Indeed, the misnamed People for the American Way has even launched a celebrity radio campaign criticizing conservatives who oppose Federal funding of obscene and bigoted art. Listen to the outright lies spread by actress Kathleen Turner. "Now the arts are under political attack by right-wing extremists. They fear the power art has in our lives. They want to control it."

Not to be outdone, actress Colleen Dewhurst spreads even more filth. "Imagine a world in which millions of people are at the mercy of a small band of extremists. In which works of art are subject to government censorship and freedom of expression is a crime. * * * Welcome to American, 1990."

Freedom of expression a "crime," Mr. Chairman?

What hyperbolic claptrap.

But perhaps the most outrageous statement came in print ads appearing in major newspapers and entertainment publications. Listen to this nonsense. "Last year we watched students fight for freedom in Tiananmen Square. This year, freedom is being threatened again * * * right here in America."

This, Mr. Chairman, is agitprop. And the agitators and propagandists at People for the American Way responsible for this willful disregard for the truth compose a rat-pack of leftwing lunatics.

What is going on here, Mr. Chairman? By what perverted twist of moral logic does even a mild proposal to require standards for public funding of the arts, as opposed to public display or performance, amount to censorship? Serrano's fellowship was 1 out of 10 chosen from a pool of about 500 applicants. Does this mean that the other 490 artists were censored because they didn't receive grants?

Mr. Chairman, this Member has had it. In fact, I've had a belly full of the whining of the arts community, particularly by those people who earn several million dollars to act in a single motion picture. It is time to strike a blow for traditional values and economic responsibility. It is time for average Americans to take their country back from the amoral elites—in the universities, in the dominant media culture, in certain sectors of the arts community, and elsewhere—who have nothing but contempt for them and their way of life. It is time to put the NEA out of business. Heaven knows we could use the money elsewhere.

Let me sum up my view of the NEA, Mr. Chairman, by quoting that famous New Yorker cartoon of 1928. "I say its spinach, and I say the hell with it."

Mr. WILLIAMS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise in opposition to the Crane amendment.

All over America, local artists and local arts groups rely on the National Endowment for the Arts for essential support. In my district, these groups are struggling for survival.

No one has ever questioned their work. It is not obscene. It does not violate community standards. Rather, it has enriched our community and the quality of life.

But this amendment will end all that. It will shut down deserving arts organizations all over this Nation, and it will do grave damage to our Nation's cultural heritage.

But let me tell you what else will be gravely damaged. In my congressional district, the National Endowment for the Arts provides grant funding to our local schools to expand arts education.

This amendment will end that also. It will take funds out of our schools and away from our children.

Mr. Chairman, I submit to you that any amendment that will harm our Nation's schools and damage our cultural heritage can only be described with one word: Obscene.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the Crane amendment. I also want to say at least Mr. CRANE is direct in what he is saying and what he is doing. He is against the endowment, he is against continuation of the funding.

I suggest that the agenda for many people on the next amendment hereafter will be to accomplish the same thing. At least Mr. CRANE is forward and direct, and I appreciate his candor and bringing it to the attention of the body. Although I do oppose it vigorously because the NEA has provided access to everybody in this country to the arts, not only the wealthy, not only the elite, but to each and every citizen, people in the inner cities and in the rural areas. This is the only opportunity many of them have for art appreciation.

It is an extension of the culture of the country, and it is something that we ought to continue.

Mr. Chairman, I respectfully oppose the gentleman from Illinois' amendment, and I yield back the balance of my time.

Mr. CRANE. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Chairman, because our Nation is broke and almost $3 trillion in debt, I rise to support the Crane amendment.

I rise in support of the Crane amendment. This bill authorizes almost $1 billion for the NEA over the next 5 years. Our Nation simply cannot afford this expenditure at this time.

When a family is broke or in bankruptcy, it does not buy expensive works of art or attend high-priced performances, even though it might like to. Instead, a family in very poor financial condition spends its money on the basics—like food, clothing, shelter, and medical care.

This is the situation our Nation finds itself in today. We must limit ourselves to the basic necessities or our Nation will soon drown in a sea of debt.

Two days ago, syndicated columnist James J. Kilpatrick, in a column which ran in several hundred newspapers, said this concerning our Federal budget:

> The budget is larded with fat. It oozes fat. Given the awesome prospect of monstrous deficits, members ought to ask of every appropriation: Is this necessary? Is it absolutely necessary? Is it absolutely, positively, unavoidably necessary? Or is the proposal merely desirable? Can we do without it for a year or so?
>
> Until the day comes when such questions are seriously addressed, we will stagger from crisis to crisis. If a private business conducted its affairs as stupidly, the business would go broke. Year by year, that is where Congress is taking us now.

This is why, even though I have many good friends who are leaders in the arts community, I must support the amendment by the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. HANCOCK].

Mr. HANCOCK. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Illinois.

Mr. Chairman, while I also object to the scandalous and unapologetic record of the NEA in funding obscene, sacrilegious, and offensive projects, my main objections to continued funding of the NEA are primarily economic ones.

It is my belief that the NEA represents a growing arts bureaucracy which is draining vital resources in this time of budget crisis. It is just one more example of wasteful spending that needs to be cut in order to bring our budget in line.

In 1965 Congress created the National Foundation for the Arts and the Humanities and appropriated $2.5 million in funding.

In the intervening years the arts bureaucracy has grown and expanded at an incredible rate. Today we have four separate Federal agencies that have spun off that original program—they are the National Council for the Humanities, the National Endowment for the Humanities, the National Council for the Arts, and the National Endowment for the Arts, or the NEA.

The funding for the NEA alone last year was in excess of $171 million—an increase of 6,840 percent—or 274 percent per year.

But that is not all—we have seen countless spinoffs at the State level with State arts councils consuming more and more of the taxpayers' money.

Let us take a look at that arts bureaucracy up close. How efficient an agency is the NEA?

The NEA spends a total of 11 percent of its total budget on administrative costs. It has 267 full-time employees and 800 paid consultants on its payroll.

Supervising those almost 300 employees you have 63 middle management personnel of GM 13 level and above and 67 supervisory personnel of GS 11 level and above. That is roughly one supervisor for every two employees—what waste.

You would think it would take less administration and bureaucracy to give money away to artists.

But finally, let us ask ourselves, in this time of budget crisis, when we are contemplating raising taxes on the American people or cutting the benefits of our senior citizens on

Medicare, can we really afford to fund these kinds of wasteful and nonessential programs.

I do not have anything against art. I believe it is important. But the union will survive, and so will the arts community, if we shut down the NEA.

Private funds account for 97 percent of the money spent on the arts in this country. Surely the American people will make up the other 3 percent for those worthy art projects out there that now depend upon the NEA. I'm confident that will be the case.

We cannot afford to do everything we want to do. We nave got to start making choices and eliminating everything that is not absolutely necessary.

We must start cutting somewhere. If we cannot cut spending here, on this item, I don't think we ever will cut spending.

Mr. CRANE. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of the Crane amendment.

Mr. Chairman, I will vote in favor of the Crane amendment to H.R. 4825. This amendment would abolish the National Endowment of the Arts.

This was not an easy decision, yet it was an extremely important one. Our Nation's budget deficit has grown to an unacceptable level. During this time of fiscal crisis, it is essential that we, as lawmakers, prioritize what is important for our country's welfare. In doing so, I simply cannot put the authorization of the arts in the same category as providing Medicare for the elderly or ensuring our country's defense.

When speaking on this issue, other Members of Congress have shown their distaste for certain federally subsidized exhibits. While I may share their concern about the content of artwork, I do not believe that it is a question of censorship, but simply a question of appropriate use of the taxpayers' dollars.

Personally, I am a great supporter of the arts. I have supported many organizations within my district which provide us with the joy of music, heritage, and culture, to name a few. Private donations and endorsements certainly are paramount to the existence of the arts and humanities; now and in the future. The $175 million lost in public funds could easily be recovered by the public sector; people like you and me. Currently the private sector spends nearly $7 billion on arts advancement each year.

During this time of financial constraint, however, we must examine our programs and cut those which are not at the top of the list. Coming to this realization, I simply must support the Crane amendment which would abolish the National Endowment of the Arts.

I believe this is in the best interest of my constituents as well as all Americans so that they may receive the services they so desperately need during this time of fiscal despair.

Mr. CRANE. Mr. Chairman, I yield 1 minute to our distinguished colleague, the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, there is a common thread running through this debate, and I rise in support of my colleague's amendment, the gentleman from Illinois, on the suggestion of deleting roughly $170 million from our deficit.

The issue we are debating here is the existence of a standard in American culture. There is a cultural war going on in this country. The proponents on one side—and I am not saying they are here—but in this cultural war the philosophy of humanism or moral relativism says there are no standards in American society.

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Mr. Chairman, we know better. The Judeo-Christian ethic is the foundation of our civilization that says there are standards.

We are not going to settle this fight, this cultural war, by voting for or against this amendment, but I suggest that, in spending taxpayers' money, we can just retire entirely from this field because frankly, with the national debt being over $3 trillion, I think the taxpayers of this country have no business being involved in funding a legitimate enterprise, which is the arts in the United States.

Mr. WILLIAMS. Mr. Chairman, I reserve the balance of my time, as it is my understanding that I would close.

The CHAIRMAN. The gentleman from Illinois [Mr. CRANE] has 30 seconds remaining.

Mr. CRANE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I think we have already heard the arguments, and I would argue that the presentation of the gentleman from Iowa [Mr. GRANDY] represents the logical alternative. I say to my colleagues, "You can continue to fund without government guidelines and restrictions, or you recognize that this is not a function of the National Government."

Mr. Chairman, one of the representatives from Virginia at the Constitutional Convention said this about Government funding of the arts:

> Congress might, like many loyal benefactors, misplace their munificence and neglect a much greater genius of another.

That already exists with the creation of the NEA. As I said, three people making requests get turned down for every fourth who gets accepted, and there is a misallocation of resources in terms of how that money is distributed to the States.

Mr. Chairman, I would urge my colleagues to support my amendment.

Mr. WILLIAMS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, make no mistake about it. This vote is to kill the NEA in this country and in our States and districts.

Not many blocks from this Chamber is a monument that is now simply called the wall. Americans of all ages and races come by the thousands to that remarkable spot each and every day, no matter rain or snow; mindful of patriotism they come. We have forgotten now that the Vietnam war was at first controversial when the NEA first funded it.

Out in the State of Montana, out in eastern Montana, there is a high point on the ground which is called Poker Jim Butte. A less populated area of the country one could hardly find. Yet out on Poker Jim Butte, around sunset, people come from all around, ranchers, cowboys, Indians, moms, dads, and little children, and they watch "A Midsummer Night's Dream" by Shakespeare. Shakespeare in Montana! And in one of the most lightly populated places in this country!

Mr. Chairman, I say to my colleagues, "You look east into the Dakotas, south into Wyoming, into the Big Horn Mountains, you look north at the northern Cheyenne Indian Reservation. People come to Poker Jim Butte to watch Shakespeare in Montana."

Do not vote for the amendment of the gentleman from Illinois [Mr. CRANE]. Do not vote to end the opportunities for people to continue to visit the Vietnam Wall funded by the NEA and go to Poker Jim Butte in Montana to watch Shakespeare in the sunset. Vote "no" on Crane.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Illinois [Mr. CRANE].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CRANE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 64, noes 361, not voting 8, as follows:

[Roll No. 446]

AYES—64

Archer
Armey
Barton
Bennett
Bunning
Burton
Callahan
Campbell (CA)
Cox
Crane
Dannemeyer
DeLay
Dickinson
Dornan (CA)
Douglas
Dreier
Duncan
Edwards (OK)
Fields
Gekas
Gibbons
Gradison
Grant
Hall (TX)
Hancock
Hastert
Herger
Holloway
Hunter
Hutto
Hyde
Inhofe
Kyl

Laughlin
Lightfoot
Livingston
Luken, Thomas
Lukens, Donald
Marlenee
McCandless
McEwen
Miller (OH)
Parker
Petri
Quillen
Robinson
Rohrabacher
Sarpalius
Shumway
Shuster
Skelton
Slaughter (VA)
Smith, Robert (NH)
Solomon
Stangeland
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor
Vander Jagt
Vucanovich
Walker

NOES—361

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Billey
Boehlert
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crockett
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hansen
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hiler
Hoagland
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Machtley
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
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Sabo
Saiki
Sangmeister
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauke
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walgren
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—8

Boggs
Gingrich
Leath (TX)
Morrison (CT)
Rowland (CT)
Schuette
Wilson
Wylie

☐ 1713

Mrs. SMITH of Nebraska and Mr. HUGHES changed their vote from "aye" to "no."

Messrs. ARCHER, THOMAS A. LUKEN, EDWARDS of Oklahoma, and PARKER changed their vote from "no" to "aye."

So the amendments en bloc were rejected.

The results of the vote was announced as above recorded.

The CHAIRMAN. It is not in order to consider amendment No. 2 printed in House Report 101-801.

AMENDMENTS EN BLOC OFFERED BY MR. ROHRABACHER

Mr. ROHRABACHER. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. ROHRABACHER: Page 4, after line 15, insert the following (and redesignate references and succeeding sections accordingly):

SEC. 9. Section 5 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954) is amended—

(1) by redesignating subsections (k) through (m) as subsections (r) through (t), respectively, and

(2) by inserting after subsection (j) the following:

"(k) Each recipient of such assistance shall submit detailed reports to the Chairperson or the State, as appropriate, on a regular basis. Each such report shall contain—

"(1) a description of all activities undertaken by such recipient to promote or carry out each approved project, production, workshop, or program for which such assistance was received; and

"(2) a videotape or photographs of such activities.

"(l) None of the funds available to carry out this section may be used to promote, distribute, disseminate, or produce matter that—

"(1) is obscene; or

"(2) depicts or describes, in a patently offensive way, human sexual or excretory activities or organs.

"(m) None of the funds available to carry out this section may be used to promote, distribute, disseminate, or produce matter that has the purpose or effect of denigrating the beliefs, tenets, or objects of a particular religion.

"(n) None of the funds available to carry out this section may be used to promote, distribute, disseminate, or produce matter that has the purpose or effect of denigrating an individual, or group of individuals, on the basis of race, sex, handicap, or national origin.

"(o)(1) None of the funds available to carry out this section may be used to promote, distribute, disseminate, or produce material which employs, uses, persuades, induces, entices, or coerces any minor to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct.

"(2) For purposes of this subsection—

"(A) the term 'minor' means an individual under the age of 18 years; and

"(B) the term 'sexually explicit conduct' means actual or simulated—

"(i) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

"(ii) bestiality;

"(iii) masturbation;

"(iv) sadistic or masochistic abuse; or

"(v) lascivious exhibition of the genitals or pubic area of any person; and

"(C) the term 'visual depiction' includes undeveloped film and videotape.

"(p) None of the funds available to carry out this section may be used to promote, distribute, disseminate, or produce matter in which the flag of the United States is mutilated, defaced, physically defiled, burned, maintained on the floor or ground, or trampled.

"(q) None of the funds available to carry out this section may be used to promote, distribute, disseminate, or produce matter that includes any part of an actual human embryo or fetus.".

SEC. 10. Section 6 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955) is amended—

(1) in subsection (a)—

(A) the first sentence by striking ", who shall be Chairperson of the Council,", and

(B) by adding at the end the following: "The chairperson of Council shall be chosen by the Council from among the members of the Council.", and

(2) in subsection (d) by adding at the end the following:

"The meetings of the Council shall be open to the public, and the minutes of such meetings shall be made available promptly to the public.".

Page 8, after line 1, insert the following (and make such technical corrections as may be appropriate):

(1) by inserting the following after the tenth sentence:

"The meetings of such panels shall be open to the public, and the minutes of such meetings shall be made available promptly to the public.".

Page 12, after line 3, insert the following (and redesignate references and succeeding sections accordingly):

SEC. 33. It is the sense of the Congress that the Chairperson of the National Endowment for the Arts—

(1) has discretion under section 5 of the National Foundation on the Arts and the Humanities Act of 1965 to refuse to provide financial assistance for any project, production, workshop or program for which support by the Federal Government would be inappropriate as determined by the Chairperson;

(2) has authority under section 10(a) of such Act to issue rules to exercise such discretion; and

(3) should exercise such discretion and authority to ensure that any project, production, workshop, or program for which the Chairperson provides financial assistance is of such a nature so as to be worthy of the sponsorship of the Federal Government.

The CHAIRMAN. The gentleman from California [Mr. Rohrabacher] will be recognized for 15 minutes, and the gentleman from Montana [Mr. Williams] will be recognized for 15 minutes in opposition to the amendment.

Mr. WILLIAMS. Mr. Chairman, I ask unanimous consent that the gentleman from Missouri [Mr. Coleman] be allowed to control 7½ minutes of my time for the purpose of yielding to other Members.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. HENRY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HENRY. Mr. Chairman, does the rule provide for waiving the reading of the amendments?

The CHAIRMAN. The gentleman is correct. The amendment is printed in the report of the Committee on Rules.

Mr. ROHRABACHER. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, we have heard a lot of talk today and eloquent defenses of freedom of speech, and we have also heard charges of book burning, bigotry, and censorship.

One can believe in the broadest scope of freedom of expression while agreeing that there are limits as to what the Federal Government should or should not subsidize, even when there is not a scarcity of Federal funds. Is it censorship, bigotry and book burning to set standards so that scarce Federal dollars are not wasted on projects that are indistinguishable from hardcore pornography? Is it bigotry, censorship, and book burning to prevent the subsidy of portrayals of Jesus Christ shooting heroin?

If there is bigotry, it is the bigotry of so-called artists who insist on a subsidy from citizens whose religion and values they intend to savage. In these days when we hear objections to manger scenes placed on city hall lawns, and at the same time when we here people talking to us and telling us that it is censorship to subsidize vicious attacks on Christianity, that we have to subsidize the submergence of Jesus Christ in a bottle of urine, it seems like the world has gone crazy.

□ 1720

I, for one, refuse to accept this madness, Mr. Chairman.

The amendment I have offered will prohibit the National Endowment for the Arts from funding works that contain child pornography, obscenity, indecency, or works that attack religion or desecrate the American flag. My amendment is the only amendment that will be offered today that will ensure that the National Endowment for the Arts will spend their dollars, their tax dollars, in a responsible manner.

The first part of my amendment will prohibit the National Endowment for the Arts from funding works that may well violate the Federal law in regard to child pornography. In fact, two of the photographs in the federally funded Mapplethorpe exhibit included photos of naked children which focused on their genitals.

The NEA also gave $17,000 in 1989 and $12,500 in 1988 to En Foco, Inc., which produced Nueva Luz, a photographic journal which included photographs of naked children in sexually photographic and sexually explicit situations with naked adults.

My amendment would prohibit funding such projects.

Another section provides that the National Endowment for the Arts may not fund obscenity or material which is prohibited from broadcast on television under FCC definition of indecency. Why should we be supporting things or why should we be subsidizing projects that cannot even be shown on TV?

The National Endowment for the Arts, even under the leadership of John Frohnmayer, provided $9,000 to the San Francisco Lesbian and Gay Film Festival which, in turn, showed films such as "Looking for My Penis" and "Blow Job." The list of NEA-funded pornography includes Annie Sprinkle, and last year, as the evidence suggests, the NEA gave the Kitchen Theater over $300,000, which includes $60,000 specifically for artist fees related to the costs for the 1989-90 season, meaning the season in which Miss Sprinkle performed her live sex act on stage in New York. It also includes Tongues of Flame, Modern Primitives, John Fleck, Holly Hughes, Karen Finley, all supported by that grant.

My amendment would prohibit funding of such obscenity and indecency at a time when we cannot afford the essentials, at a time when our Government is going broke.

The third section of my amendment prohibits the NEA from funding works that denigrate the beliefs or objects of any particular religion, and I do not care if it is Christianity or Judaism or any other religion, we have no business spending scarce Federal dollars at a time when we cannot afford to take care of the health needs of our people on anything that attacks somebody's religion.

The NEA provided, through a subgrantee, a $15,000 fellowship for Andy Serrano, whose works included, the taxpayers' funds, of course, "Piss Christ" and "Piss Pope." They also provided a $15,000 grant to show "Tongues of Flames" which included attacks on the Catholic Church, laced with four-letter words.

If my amendment passes, artists could continue to attack religion. That is what freedom of expression is all about. People have a right to attack somebody else's religion. But they do not have a right to Federal subsidies and to tax those people whose religion they are attacking to obtain their funds.

Another section provides that the NEA may not fund works which have the purpose or effect of denigrating an individual on the basis of his race, sex, handicap, or national origin.

This section is essentially a codification of current unwritten content restrictions that the NEA peer review panels have enforced quite well.

The fifth part of my amendment says that the NEA may not fund works which desecrate the flag of the United States as defined by the Flag Protection Act of 1989 which I would like to remind my colleagues passed this House by a wide margin.

The NEA, through a subgrant for artist space, provided funds for a Degenerate, with a capital "D," art show which included the so-called proper way of displaying the flag. This work encouraged viewers to trample on Old Glory. The Supreme Court said it is legal to burn and trample the flag and, yes, we have to put up with such things in a free society, but at least we can assure the taxpayers do not have to pay the bill or buy the matches or buy the lighter fluid for those who want to participate in this kind of expression.

The final section of my amendment provides that the National Endowment for the Arts may not fund works which contain any part of an actual, and not a statue, but an actual human embryo or fetus. The same degenerate art show displayed a human embryo as part of its so-called art exhibit, and artists may still display an aborted baby, or they may try to denigrate the human body in any way they want, but they cannot expect to have our tax dollars, scarce tax dollars, subsidize this type of denigration of the human body.

The gentleman from Montana [Mr. Williams] and the gentleman from Missouri [Mr. Coleman] are offering a so-called compromise which I do not believe is a compromise at all. They have been on the same side of this issue opposed to content restriction through this entire debate for the year. It is a compromise between Members who hold the same belief, a compromise between people on the same side of the table, and it is no compromise at all.

It is my amendment that will set standards so that our tax dollars are not wasted at a time when we are struggling to come up with the funds for essential services. The American people cannot understand $15,000 that goes to subsidize someone who is putting a picture of Jesus Christ in a bottle of urine. They know that that is waste, and we can do something about it.

My amendment would do something about it.

The Williams-Coleman substitute, gut-the-standard substitute, would prevent us from acting in a way that would prevent our dollars from subsidizing this travesty.

I ask my colleagues for support of my amendment and ask for a rejection of the William-Coleman amendment, the gut-the-standard substitute amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. WILLIAMS. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. Lancaster], who I note was once chair of the State arts council in his great State of North Carolina.

Mr. LANCASTER. Mr. Chairman, it is very difficult for me to oppose the Rohrabacher amendment, because, like he, and like most Americans, I strongly oppose the funding of art that is obscene with tax dollars.

However, as the former chairman of the North Carolina Arts Council, I am very incensed by this practice, but at the same time, I am a strong supporter of the National Endowment for the Arts, because I know the good that it has done for my State and for the arts community of my State.

Mr. Chairman, I have pledged to my constituents that I will work for passage of legislation that does ensure that obscenity is no longer funded by tax dollars, but you and I, Mr. Chairman, and our colleagues have a higher obligation, and that is the obligation that we took when we swore the oath of office, and that is to defend and protect the Constitution of the United States.

I regret to inform this body that, in my opinion as an attorney, the Rohrabacher amendment is, in fact, unconstitutional and would be struck down by a court of law if it were enacted.

□ 1730

It is an admirable goal, but it will backfire in the end. I support the enactment of effective legislation, legislation that will address the problem of funding obscenity with the National Endowment for the Arts fund, and I believe that the Williams-Coleman compromise does just that.

It is an effective piece of legislation which will accomplish what many of our constituents want to accomplish, and I urge support of the compromise, and urge that Members vote against the Rohrabacher amendment.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. Houghton].

Mr. HOUGHTON. Mr. Chairman, I stand here to object to the Rohrabacher amendment. In due deference to the gentleman from California [Mr. Rohrabacher], who I respect, I will oppose the passage of this amendment. Why? Because the NEA is infallible? Hardly. Hardly anyone is infallible in this city. Because it has not and will continue not to make mistakes? Absolutely not. I object to it because the real purpose I believe in this amendment is to cut the heart out of all Federal educational arts support.

The pornography issue is a ruse. The thrust is to eliminate any Government dollars for the arts. No one here wants to support pornography. It is a red herring. It can be and is being handled by the NEA well. As long as people are people, we will always have to keep an eye on it.

Frankly, I resent my colleagues telling me what the people in my district think I should do about an area, when they have never even been there. Also, I resent very much religious groups threatening me and telling me that I am not a good Christian if I do not vote for the Rohrabacher amendment. I believe in that inscription up there, "In God We Trust," and not in someone who claims they have a special line to our Lord.

When I was growing up, there was no art in this little rural community in which I lived. Nothing. All we listened to was Walter Damrosch on the radio. All my adult life I have tried to bring arts and cultural things into this community, to make the younger people better off for this wonderful heritage which we have. I resent people who are going to try to object to that, because without it we have nothing.

Let the NEA stand aside everyone else in terms of its cuts with the budget process, but let Members not single it out. I object to this amendment.

Mr. ROHRABACHER. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas [Mr. Armey].

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding time to me. By the perverse logic of this debate, I am going to try to be in agreement with the proponents of continuation of the National Endowment for the Arts because that is what we have just expressed by virtue of the last vote as the will of this Congress.

When we argued that we ought not to continue to authorize this agency, we were said to be deregulating. Well, by that logic, then, the existence of the National Endowment for the Arts then is the existence of an agency that regulates art. I oppose that. Nevertheless, that is what we say we want to do, is let a Federal Government agency regulate the arts.

Then we have seen it argued around here that if we seek to deny somebody Federal funding by virtue of your judgment of the quality of their art work, this is censorship. This Federal agency called the NEA turned down 13,000 applicants last year. That makes them the greatest censor of art in America.

Now the question is, if we are going to have a Federal Government agency that censors the art world decide who shall receive money and who shall not receive money, and we get the art, what will be the terms by which that regulation will take force, the terms self-defined by the arts community members appointed to the panel? Or the terms defined by the Members of Congress in our oversight role?

I ask those Members that think this is an intrusion, to read the Department of Agriculture regulations, read the regulations by which we define the terms of expenditures of any other agency in this Government, and I say vote yes.

Mr. WILLIAMS. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Mrs. Boxer].

Mrs. BOXER. Mr. Chairman, ever since I learned about the Rohrabacher amendment, something has been bothering me deep inside, and I hope I can express it in 1 minute.

I did not come here, Mr. Chairman, to be a censor. My district did not send me here to be a censor or an art critic, yet if this amendment passes, Congress will be the ultimate art censor, the ultimate art critic, the ultimate art police. I did come here to defend freedom, and I think we all came here to defend freedom. This amendment is arrogant. It tries to take the place of the family.

I raised a family. I know what it is like. I do not know if the author of this amendment ever raised a family. That is the place to teach values.

This amendment tries to take back the power of the courts to reject this amendment. After the walls of repression have come down in Eastern Europe, let Members not build one here. Let Members defend freedom. Let Members defend the arts. Let Members defeat the Rohrabacher amendment, and let Members do it with conviction.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield 1½ minutes to the gentleman from Washington [Mr. Chandler].

Mr. CHANDLER. Mr. Chairman, last year I supported virtually the same amendment we are considering today. Frankly, I was concerned. I was afraid that the arts funding I support could literally be jeopardized by a handful of people who abuse the privilege of Federal funding. This is a real concern.

I think the American people want NEA funding for the arts, just as I do. But they also want a common sense standard. They do not want to see the kind of art that our friend from California has described.

Now, during the past year, I met with a number of arts groups, both within my district, in the State of Washington, and here in Washington, DC. I frankly found them to be very responsive, extremely concerned, supportive of exactly the same standards that I think we are all interested in, and none of them have ever nor do they contemplate producing obscenity.

Now, the Williams-Coleman amendment I think is a rational, reasonable way to go. Certainly, the arts community is on notice. They understand the requirements. If an artist is to receive Federal funding, then he or she is certainly going to have to be responsive to the concerns of the taxpaying community, otherwise there will be legitimate criticism raised and Federal funding will be jeopardized.

I would like to suggest the adoption of the Williams-Coleman amendment. It is a reasonable compromise and deserves at least a yearlong trial.

Mr. ROHRABACHER. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. Dannemeyer].

Mr. DANNEMEYER. Mr. Chairman, if we analyze the Williams-Coleman substitute with the Rohrabacher amendment, the proponents of the Williams-Coleman amendment substitute will say that it provides sufficient control over using Federal tax dollars to produce obscenity, and their explanation is that if the recipient produces obscenity and is convicted in a court of law of having produced obscenity, then that artist may be required to return the money. May, if the Director of the NEA so decides.

Let me suggest to my colleagues that a jury considering the issue of obscenity will be addressed by the lawyer for the defense, and the lawyer for the defense will say something like this: "Ladies and gentlemen of the jury, does this prosecutor, is he or she really serious that this artist produced obscene material, when we consider that some of the most enlightened, artistic people in America serving on the board of directors of NEA, have funded this exhibit?"

□ 1740

Can any prosecutor be serious that these distinguished men and women of our society would ever fund something that is obscene? Accordingly, they will be instructed by the judge to consider the comments that I have just described among all the other evidence, and for these reasons I think the Williams-Coleman amendment is a fig leaf. I will not describe it as an obscene fig leaf, because that would be disrespectful, but it is a fig leaf nevertheless.

The Rohrabacher amendment should be adopted.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, the gentleman is absolutely wrong. If he had read the Williams-Coleman substitute, we expressly on page 8 state, "Approval of a grant shall not be construed to mean that the project is or is not obscene for purpose of judicial finding of obscenity," which blows the gentleman out of the saddle in his argument, because that is exactly what they were concerned with.

Mr. DANNEMEYER. Mr. Chairman, if the gentleman will yield, does the gentleman think that language is going to bother a defense lawyer? I have news for the gentleman. It will not bother him a bit.

Mr. WILLIAMS. Mr. Chairman, I yield 1 minute to the gentleman from Kansas [Mr. Glickman].

Mr. GLICKMAN. Mr. Chairman, I understand the concerns of people who object to some of the work the NEA has funded and that concern is justified in some of the more extreme cases of the visual arts. But the language of this amendment is so vague and so subjective that it would be impossible to administer, and probably unconstitutionally vague. It says that the National Endowment for the Arts shall not fund works that "denigrates" the beliefs or objects of a particular religion or an individual on the basis of race, sex, handicap, or national origin.

What religion are we talking about? Would it be the Unification Church, the Church of Scientology, the Buddhist religion, or just the more traditional religious practices in the western world? What are these religious objects? A wine glass, a robe, a cow, an Easter lily, meat, bread, a palm leaf? Each religion has hundreds, maybe thousands of objects that could be considered religious in a variety of contexts.

And what about denigrating? What does it mean? I have the dictionary here. Denigrate is defined to cast aspersions on, to deny the importance or validity of. What does that mean? Under the Rohrabacher language, attacking anyone in a piece of Federal literature, art music or dance, for almost any reason, could be subjected to the prohibitions of his language. That is ridiculous. You would end up with no art being funded at all. Maybe that is what is behind the gentleman's reasoning, but that is bad reasoning to approve this amendment.

The Williams-Coleman amendment has constructively improved the NEA. It has tightened its operations, particularly as it relates to obscenity. It properly protects the taxpayer. Vote for it. But vote against this bad Rohrabacher amendment, which is intentionally vague and badly motivated.

Mr. ROHRABACHER. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. Duncan].

Mr. DUNCAN. Mr. Chairman, I rise in support of this very fair and reasonable amendment by the gentleman from California.

It is important to note that this amendment does not censor anything. It has nothing whatsoever to do with censorship. Artists would still be free to create any type of art they wanted, no matter how obscene or pornographic.

This amendment does prohibit taxpayer funding of child pornography.

It would prohibit tax money from being spent on something obscene, something that would be prohibited by the FCC from being broadcast over our airwaves.

It would prohibit Government funds for art that denigrated a particular religion or someone on the basis of race, sex, something that would be prohibited by the FCC, or race or national origin.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN. I yield to the gentleman from Missouri.

Mr. COLEMAN OF Missouri. Mr. Chairman, I believe the gentleman dropped that out of his amendment. If I am not mistaken, it is no longer in there. Indecency is not in the Rohrabacher amendment.

Mr. DUNCAN. All of these are very reasonable restrictions.

The greatest art that this world has seen has been produced without Government funding. Our Federal Government is broke and almost $3½ trillion in debt. We have many needs which are not being met. We certainly do not need to be wasting the taxpayers' hard-earned money on so-called art that is obscene or pornographic,

art that probably 99 percent of the people are opposed.

Mr. Chairman, I urge a vote in support of the Rohrabacher amendment.

Mr. WILLIAMS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Oregon [Mr. AuCoin].

Mr. AuCOIN. Mr. Chairman, this amendment seizes on some isolated controversies and masks itself as being against offensive art, but it is intentionally too sweeping, intentionally too extreme, and intentionally harmful to public art.

This amendment says you cannot denigrate the beliefs of any religion. Who decides that?

Do you know that according to Islamic Fundamentalism it is a sin for a woman to expose the back of her neck? There are Americans who are Islamic Fundamentalists. Are we now going to arrest any actress who walks on a stage with her neck uncovered?

This amendment also bans the depiction of human sexual organs. Sounds like a good vote to take to the folks back home, Mr. Chairman; but I have here on the table a photograph, which I cannot display, which is a photograph of Michelangelo's Statue of David. It displays sexual organs. Are we going to say that in the future if the NEA funds an exhibit with the Statue of David, it has to have a jock strap on it?

This is an extreme amendment. It should be defeated.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. Henry].

Mr. HENRY. Mr. Chairman, I urge you to carefully consider your position in this matter and urge you to vote no on the Rohrabacher amendment, for several fundamental reasons.

First of all, it is cast in misinformation and misrepresentation. To suggest that someone who opposes the Rohrabacher amendment and supports the substitute is then going on to vote for "Piss Christ" and "Gay Film Festival," child pornography, or denigrating the flag does violence to every member in this body, and it is wrong.

Second, I want to make it very clear that I stood with the gentleman from California [Mr. Rohrabacher] on the issue of reform in the content of the NEA, and the gentleman is well aware of that and the Members of this body are aware of that. I want to make clear that my concerns have been satisfied in the substitute bill.

Listen to the language.

> Artistic excellence and merit are the criteria on which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public.

That reaches well beyond pornography and obscenity to a standard of general decency, and that is what we want from the NEA, and it is in there.

Mr. WILLIAMS. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. Levine].

Mr. LEVINE of California. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, this amendment is censorship and extremism, pure and simple. Whatever its intent, it is an effort to intimidate artists in their free expression of ideas and their exercise of first amendment rights. In a free and strong society such as ours, nothing including art is dangerous enough to compromise our commitment to the first amendment.

The time has come to send a clear message that Congress will not be intimidated by an amendment such as this or by the zealots from the Moral Majority and the extreme right wing who are pressuring people to support it.

Mr. Chairman, I urge my colleagues to defeat this damaging amendment.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I oppose the Rohrabacher amendment for a variety of reasons, not the least of which is the gentleman's attempt to restrict, as the gentleman says, denigration of religion. I want to point out to the body that conduct and beliefs dear to one religion may seem the rankest sacrilege to another.

Under the Rohrabacher amendment, I suppose you could not make a drawing of the Ayatollah Khomeini or anybody else of a different religion, because they may be offended by it.

Mr. Chairman, let me point out that one of Missouri's famous artists is Thomas Hart Benton, son of a Congressman. His great uncle was Senator Thomas Hart Benton, whose statute is over here in Statuary Hall. In 1936 he was commissioned to do a mural for the Missouri Capitol, and in 1936 the legislators when this was unveiled said, "Whitewash the murals. They are vulgar. Look at those half-naked dancers."

Mr. Chairman, as a member of the State House of Representatives for 4 years, I sat in that hearing room and looked at all of this, and I wonder how on earth Thomas Hart Benton could ever be funded under the Rohrabacher amendment. All Thomas Hart Benton did was try to depict the history of Missouri. Yes, we had slavery. Yes, we had Frankie and Johnny where she shot Johnny because he was off with another woman. You could not do that under the Rohrabacher amendment, because of the back they were of the black race and that might be denigrating of that race. There are a variety of things that the Rohrabacher amendment will not allow.

□ 1750

How about the politicians that Thomas Hart Benton used to poke fun of? Are politicians off the table here? We can't denigrate them? This is how absurd the Rohrabacher amendment is. It goes through a whole laundry list of things that Mr. Williams and I, in our substitute believe we can screen out without having to put through the laundry list of things, of the works that he is trying to curtail.

Let me say this about the red herring: Child pornography is obscene, obscenity is not to be funded under the Williams-Coleman amendment. Therefore, any suggestion that this is the only way to prohibit funding of child pornography is absolutely false.

Mr. ROHRABACHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. Bunning].

Mr. BUNNING. Mr. Chairman, I rise in support of the Rohrabacher amendment.

Mr. Chairman, here in Congress, on a regular basis, we must make very difficult decisions on what is appropriate and what is not appropriate in terms of spending the public's money.

And that is not always easy, because each of us here has different priorities. Each of us here represents a district with different needs. So, it is natural that arriving at an agreement on spending priorities will always be difficult.

But, in this instance, I cannot believe that there is any dispute at all.

It seems so elementary to me, that the Federal Government cannot and should not be put in a position whereby it could sponsor or subsidize material which could be considered pornographic or objectionable to a large number of people.

It is not a matter of censorship. This is a matter of sponsorship. The question is: Should the Federal Government use taxpayer funds to subsidize filth? The answer is clearly; No.

I believe in encouraging art. I think it is an appropriate area of Government involvement. I support the National Endowment. My wife is an artist. She doesn't get any money from the NEA but she is an artist. Every year, I sponsor the Congressional Artistic Discovery Contest in my district.

So, I support art. I think it is important to the cultural enrichment of our society.

But, smut does not need a Federal subsidy. Smut does not deserve a Federal subsidy.

And we do a serious disservice to our constituents if we give a blank check to the National Endowment for the Arts.

On a regular basis, in this body, we restrict funds from being used for specific purposes. We should do that now by passing the Rohrabacher amendment and putting appropriate restrictions on NEA funding.

It is not censorship. It is common sense.

Mr. ROHRABACHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana [Mr. Holloway].

Mr. HOLLOWAY. Mr. Chairman, I rise in support of the Rohrabacher amendment.

Mr. Chairman, it is a privilege for me to stand here today and support this amendment. It does what should be done. It accomplishes what the vast majority of Americans believe should be accomplished. It is the right thing to do—for a lot of reasons.

We in this country, we in this House, those in the other body, are facing a fiscal crisis. The chickens are coming home to roost. The Federal Government cannot afford to be everything to everybody. Uncle Sam cannot pay for everything. We should not pay for everything. It is questionable at best, that there is Government funding of the arts generally, in this era of diminished resources, during this time when national landmarks and museums are being closed and workers are being laid off. However, public funding of offensive art exhibits in particular is unacceptable.

We certainly cannot justify using taxpayer dollars to pay for dirt and smut, pure and simple pornography. It is a question of sponsorship, not censorship. Mr. Speaker, we should not try to tell artists what art is. But we certainly don't have to use taxpayer dollars to pay for junk which millions of Americans, including this Congressman, find indecent and obscene. We don't want our hard-earned money used to subsidize smut. It's that simple.

The Rohrabacher amendment, which I rise to support today, would keep the Federal Government from using taxpayer dollars to fund such vile, sacreligious exhibits. It is high time that we put the brakes on the way we use taxpayer dollars. There is no better place to start than by approving this amendment.

Mr. ROHRABACHER. Mr. Chairman, we have heard that people do not want to be censors here in this body. No one is suggesting that anyone be a censor in this body. What we are suggesting is that we be held accountable for every dollar taxed out of our constituents' pockets.

I would rather leave those dollars in their pockets or have them going toward more essential services that we are struggling to fund right now than go for the National Endowment for the Arts. Never made any beans about that. I have always admitted that.

I would prefer that there was no National Endowment for the Arts. And those decisions as to what art will be subsidized or will not be subsidized would be left in the hands of the American people themselves.

However, if we tax away the dollars from the American people, we owe them, these hard-working people who work diligently for their money, work long hours, to see that those dollars are not channeled to things that those people consider to be immoral or channeled to things that attack their very religion.

If you cannot tell the difference, if you cannot tell the difference between Michelangelo and some of the hardcore pornography that has been funded by the National Endowment for the Arts, one should not be on a Government panel.

I say that if there is a question—and my amendment stresses if there is a question—maybe we should pass on those particular works. It is hard to define what is art and what is not, yes. But if it is a question of attacking somebody's religion, if it is denigrating Jesus Christ, if it is pornography or child pornography, we should pass on those, and go to support those projects where there is not a question because there are many, many people who have needs in this society.

I would prefer, actually, for those needs to be met outside of the artists' community, and let us meet the health needs of our people before we try to hang pictures on the wall. But if we are going to take that money from our people to make those decisions, for goodness sakes, let us insure, let us have standards so that our tax dollars will not be wasted on pornography and sacreligious artworks.

Mr. WILLIAMS. Mr. Chairman, I yield 30 seconds to the gentleman from New York [Mr. Ackerman].

Mr. ACKERMAN. Mr. Chairman, I rise against the thought police, the art police, the music police, and the Rohrabacher amendment.

Mr. Chairman, I use this 30 seconds to ask Mr. Rohrabacher a question. I happen to belong to a faith of people that have 3 million people or so, 6 million people in this country. To many of them, the consumption of pork products is an anathema. Would the gentleman protect us by not having funding for people who want to draw pictures of other people eating ham sandwiches or bacon, lettuce and tomato? Because if you do——

Mr. ROHRABACHER. Mr. Chairman, we would ensure that Jews are not discriminated against and not denigrated by some Nazi group who happened to be funded by a grant from the NEA.

Mr. ACKERMAN. That is not answering the question. How about pictures of the slaughterhouses in Chicago. There are millions of Muslims and Hindus who do not want to see sacred cows slaughtered. Would you be able to fund that?

Mr. WILLIAMS. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. Scheuer].

Mr. SCHEUER. Mr. Chairman, throughout history, there have been those who would trample the arts, who would devastate culture, who would destroy the humanities, all in the name of morality.

But, Mr. Chairman, we have outlived them. We outlived the Spanish Inquisition, we have outlived the Victorian censors, we have outlived Hitler, we have outlived the Russian repression. The book burners are being relegated to history.

It is time to rid ourselves of the misguided minority who would force their will on the majority. Ours is a strong, vibrant, alive culture. And support for and love of the arts and humanities is the cornerstone of any civilized society.

Our people are too smart to turn back the clock. This amendment seeks to do just that. This amendment would ban the statue of David, a timeless example of form and beauty. Perhaps all of Michelangelo's work would have been banned. Are we, for example, to paint over the ceiling of the Sistine Chapel, because the painter was homosexual? Or burn the works of Oscar Wilde? Do we excise Tennessee Williams from history? Do we censor performances of "A Streetcar Named Desire" because of homosexual undertones? Perhaps we would have prevented Liberace from entertaining millions of senior citizens with some of the most talented piano playing of this century because of his sexual orientation.

What about Shakespeare? Does the character Shylock mortally offend the Jewish faith? No, it does not. The faith is immortal, and so should be the play. Under this amendment, it is conceivable that no other play could ever mention religion again. If a character in a play is evil, and Catholic, we may well see a ban on the play for false portrayal of Catholicism. This is absurd. Is the character study of Quasimodo, in "The Hunchback of Notre Dame," an offense to the handicapped. No. It is a moving portrayal of human desire. What about Othello? Oedipus Rex? What about the historical movie, "Birth of a Nation"? What about Amos and Andy?

Mr. Chairman, the Bible is full of incidents of incest, adultery, fornication, and other objectionable acts. Are we to ban the Bible, simply because history isn't pretty? I think we know better.

Mr. Chairman, the country has clearly decided the flag issue. Why does the ultraconservative element insist on dragging up the issue again, through the back door?

Mr. Chairman, child pornography is already illegal. The fringe on the right keeps invoking child pornography in the same breath as arts funding in the desperate hope to tie the two together somehow.

Government has no business censoring the arts. This is an idea whose time was gone before it got here. The walls of the museums of the world are full of works that were controversial when they were created, and are now considered international treasures.

Mr. Chairman, not everyone wears the same clothes or drives the same car. Not everyone has the same appreciation of art. But art must be judged for arts sake. Nude photographs are judged for line, composition, lighting, and moment. Not because they give someone a prurient thrill.

Mr. Chairman, the ultraright doesn't have any more Communists to hunt, so now they're going after artists. This is another witch hunt, as diabolical as any other. I think it's time that the self-styled moralists among us grew up.

Mr. Chairman, this amendment is an assault on our ability to make intelligent personal choices. It is an attack on our right to decide what we view as acceptable culture. It is a vicious attempt for a few to rule the tastes and prerogatives of many. it is a clear effort to

create a compact, lifeless, sterile version of humanity. It ignores mankind's historical love and support for the arts. It is an effort born of pure cynicism. It must be defeated soundly.

Mr. WILLIAMS. Mr. Chairman, I yield 30 seconds to the gentleman from New York, [Mr. Weiss].

Mr. WEISS. Mr. Chairman, Mr. Rohabacker suggests that in the name of accountability you can deny people's first amendment rights.

The Supreme Court has repeatedly held that the first amendment does not disappear just because the taxpayers pick up the tab. In a unanimous opinion in 1983, Chief Justice William Rehnquist wrote, "Neither by subsidy nor penalty may the Government aim at the suppresion of dangerous ideas." The list of those decisions is long and consistent.

I think it is one of the strong reasons to oppose the Rohrabacher amendment.

Mr. Chairman, I rise in opposition to the Rohrabacher amendment. This amendment, which seeks to restrict the content of art that the National Endowment for the Arts can fund, ignores several critical realities.

First, a majority of our constituents oppose such a proposal. A recent nationwide poll reveals that 61 percent of the American public rejects congressional efforts to restrict or censor NEA funded art.

Second, we do not need content restrictions. The NEA peer review grantmaking process holds a nearly perfect track record. In the NEA's 25-year history, less than 0.02 percent of 84,000 grants awarded have been controversial in any way. It frightens me that a few small photographs by the later Robert Mapplethorpe, which were determined by a Jury not to be obscene, has caused some to want to censor this extraordinarily successful agency.

Moreover, congressionally mandated restrictions based on the content of art violate the first amendment guarantee of freedom of expression. The President's bipartisan independent commission came to this conclusion. So did that commission's legal advisers and the Senate Committee on Labor and Human Resources, which reported its NEA reauthorization bill without such restrictions.

The Supreme Court has repeatedly held that the first amendment does not disappear just because the taxpayers pick up the tab. In Perry versus Sindermann (1972), the Court stated that "the government may not deny a benefit to a person on a basis that infringes his constitutionally protected interests—especially freedom of speech." And, in a unanimous opinion in the 1983 case Regan versus Taxation with Representation of Washington, Chief Justice William Rehnquist wrote that neither by subsidy nor penalty, may the Government "aim at the suppression of dangerous ideas." The list of decisions is long and consistent.

Further, the Rohrabacher amendment is unconstitutional because it would have the NEA make the obscenity determination, and not the courts. This would deprive applicants of their due process rights. Also, these content restrictions impose a national standard for obscenity, while the Supreme Court has said community standards must be applied.

Obviously, the Government must exercise some control over publicly funded art; some accountability is required. The quality of the art, however, and not political palatability, must be the determining factor. In a free society, a government may not purchase artistic orthodoxy by the power of the sword nor by the power of the purse.

As Representatives of the people, we must be responsive to the desires of the people and respect the integrity of the Constitution. I, therefore, urge my colleagues to oppose the Rohrabacher amendment and support H.R. 4825 as reported by committee.

Mr. WILLIAMS. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, I strongly urge my colleagues to vote "no" on Rohrabacher. I am very hopeful that if and when this amendment is defeated, it will end the rightwing fling with intolerance, intimidation, and repression.

Mr. Chairman, if the Rohrabacher amendment is adopted, the flag series by Jasper John which defaces the American flag could not be funded by NEA; a theater production of the "Merchant of Venice," which denigrates a religion, could not be funded by NEA; nor could the Broadway show "Chorus Line" be funded and shown again because it has indecent references to homosexuality.

D.W. Griffiths' classic film "Birth of a Nation" denigrates a great American religion, could not be funded by the NEA. John Steinbeck's "Grapes of Wrath," which contains nudity, could not be funded by the NEA.

Mr. Chairman, this amendment is copper riveted, ironclad censorship of the first degree, and people who would ban, condemn, suppress, exile, edit, silence, and burn are not new to this Chamber or to this planet, tragically.

Mr. GREEN of New York. Mr. Chairman, I rise today to express my profound opposition to the amendment offered by the gentleman from California [Mr. Rohrabacher] which would impose significant restrictions on National Endowment for the Arts funding for the arts.

Under this pernicious amendment, works designated as embodying child pornography; obscenity and indecency; religious, racial, sexual, handicap, or national origin denigration; U.S. flag desecration; or as containing any part of an actual human embryo or fetus would be ineligible for NEA funding.

Let there be no mistake. This amendment would require NEA to impose enormous prior restraints on those whom it would fund. For example, religious beliefs obviously deal with the most fundamental issues of human life and the nature of the universe. Should an NEA-funded artist be denied the right to address such issues because his views may upset some sect?

I long have been a supporter of the arts. We cherish the basic freedoms of our country. Let the strength of those freedoms stand against censorship and for artistic expression.

I urge you to join with me in voting against this destructive amendment.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from California [Mr. Rohrabacher].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ROHRABACHER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 175, noes 249, not voting 9, as follows:

[Roll No. 447]

AYES—175

Annunzio
Applegate
Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bevill
Bilirakis
Bliley
Browder
Brown (CO)
Bunning
Burton
Byron
Callahan
Chapman
Clement
Coble
Combest
Costello
Coughlin
Courter
Craig
Crane
Dannemeyer
Darden
de la Garza
DeLay
DeWine
Dickinson
Dornan (CA)
Douglas
Duncan
Dyson
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Flippo
Gallegly
Gekas
Gibbons
Gillmor
Gingrich
Gradison
Grant
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Hefner
Herger
Hiler
Holloway
Hopkins
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Jones (NC)
Kasich
Kolter
Kyl
Lagomarsino
Laughlin
Leath (TX)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lukens, Donald
Madigan
Marlenee
Martin (IL)
McCandless
McCollum
McCrery
McEwen
Miller (OH)
Montgomery
Moorhead
Murphy
Myers
Natcher
Nielson
Oxley
Packard
Pallone
Parker
Parris
Pashayan
Patterson
Paxon
Penny
Petri
Pickett
Poshard
Quillen
Rahall
Ravenel
Ray
Regula
Rinaldo
Ritter
Robinson
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland (GA)
Sangmeister
Sarpalius
Schaefer
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skelton
Slaughter (VA)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Spratt
Stangeland
Stearns
Stenholm
Stump
Sundquist
Tallon
Tanner
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walker
Watkins
Weber
Weldon
Whitten
Wolf
Yatron
Young (AK)
Young (FL)

NOES—249

Ackerman
Alexander
Anderson
Andrews
Anthony
Aspin

Atkins
AuCoin
Bates
Bellenson
Bereuter
Berman
Bilbray
Boehlert
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Buechner
Bustamante
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Clarke
Clay
Clinger
Coleman (MO)
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Cox
Coyne
Crockett
Davis
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Dreier
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Engel
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank
Frenzel
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hatcher
Hawkins
Hayes (IL)
Henry
Hertel
Hoagland
Hochbrueckner
Horton
Houghton
Hoyer
Hughes
Jacobs
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lowery (CA)
Lowey (NY)
Luken, Thomas
Machtley
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moody
Morella
Morrison (WA)
Mrazek
Murtha
Nagle
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Pickle
Porter
Price
Pursell
Rangel
Rhodes
Richardson
Ridge
Roberts
Rose
Rostenkowski
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Serrano
Sharp
Shays
Sikorski
Skaggs
Skeen
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (VT)
Snowe
Solarz
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tauke
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Vento
Walgren
Walsh
Washington
Waxman
Weiss
Wheat
Whittaker
Williams
Wise
Wolpe
Wyden
Yates

NOT VOTING—9

Boggs
Ford (TN)
Morrison (CT)
Roe
Rowland (CT)
Schuette
Smith (NE)
Wilson
Wylie

□ 1815

Mr. SISISKY, Mrs. BENTLEY, and Mr. PICKETT changed their vote from "no" to "aye."

So the amendments en bloc were rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. ORTIZ. Mr. Chairman, I inadvertently voted "no" on the Rohrabacher amendment to H.R. 4825, authorizing the NEA. I intended to vote "aye" and support the goal of the amendment to ensure that Federal funds are not used to finance obscene art, or art that is otherwise offensive to the general public.

AMENDMENTS TO LEGISLATIVE BRANCH APPROPRIATIONS BILL

(By unanimous consent, Mr. MOAKLEY was allowed to speak out of order.)

Mr. MOAKLEY. Mr. Chairman, I rise to ask my colleagues' cooperation. Next Tuesday, October 16, the Rules Committee will take up the legislative branch appropriations bill H.R. 5399.

In order to assure timely consideration of the measure, the Rules Committee may structure the debate on certain issues.

I am requesting that any Member who is contemplating an amendment to the bill submit 55 copies of the amendment and an explanatory statement to the Rules Committee no later than 5 p.m. Monday October 15.

Mr. Chairman, I have sent a "Dear Colleague" letter to the same effect to every Member of the House. I appreciate my colleagues' help.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, there was so much confusion over here, we could not hear what the gentleman from Massachusetts [Mr. MOAKLEY] was saying. I think he was saying that Members had to have their amendments filed to the legislative appropriations bill.

Mr. MOAKLEY. By Monday, October 15, 1990.

Mr. SOLOMON. It will be taken up by the House when?

Mr. MOAKLEY. That week, probably Tuesday or Wednesday.

Mr. SOLOMON. But Monday at 5 p.m.?

Mr. MOAKLEY. The gentleman is correct.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 101-801.

□ 1820

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WILLIAMS

Mr. WILLIAMS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment in the nature of a substitute offered by Mr. WILLIAMS: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arts, Humanities, and Museums Amendments of 1990".

TITLE I—AMENDMENTS TO THE NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES ACT OF 1965

SEC. 101. DECLARATION OF FINDINGS AND PURPOSES.

Section 2 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 951) is amended to read as follows:

"DECLARATION OF FINDINGS AND PURPOSES

"SEC. 2. The Congress finds and declares the following:

"(1) The arts and the humanities belong to all the people of the United States.

"(2) The encouragement and support of national progress and scholarship in the humanities and the arts, while primarily a matter for private and local initiative, are also appropriate matters of concern to the Federal Government.

"(3) An advanced civilization must not limit its efforts to science and technology alone, but must give full value and support to the other great branches of scholarly and cultural activity in order to achieve a better understanding of the past, a better analysis of the present, and a better view of the future.

"(4) Democracy demands wisdom and vision in its citizens. It must therefore foster and support a form of education, and access to the arts and the humanities, designed to make people of all backgrounds and wherever located masters of their technology and not its unthinking servants.

"(5) It is necessary and appropriate for the Federal Government to complement, assist, and add to programs for the advancement of the humanities and the arts by local, State, regional, and private agencies and their organizations. In doing so, the Government must be sensitive to the nature of public sponsorship. Public funding of the arts and humanities is subject to the conditions that traditionally govern the use of public money. Such funding should contribute to public support and confidence in the use of taxpayer funds. Public funds provided by the Federal Government must ultimately serve public purposes the Congress defines.

"(6) The arts and the humanities reflect the high place accorded by the American people to the nation's rich cultural heritage and to the fostering of mutual respect for the diverse beliefs and values of all persons and groups.

"(7) The practice of art and the study of the humanities require constant dedication and devotion. While no government can call a great artist or scholar into existence, it is necessary and appropriate for the Federal Government to help create and sustain not only a climate encouraging freedom of thought, imagination, and inquiry but also the material conditions facilitating the release of this creative talent.

"(8) The world leadership which has come to the United States cannot rest solely upon superior power, wealth, and technology, but must be solidly founded upon worldwide respect and admiration for the Nation's high qualities as a leader in the realm of ideas and of the spirit.

"(9) Americans should receive in school, background and preparation in the arts and humanities to enable them to recognize and appreciate the aesthetic dimensions of our lives, the diversity of excellence that comprises our cultural heritage, and artistic and scholarly expression.

"(10) It is vital to a democracy to honor and preserve its multicultural artistic heritage as well as support new ideas, and therefore it is essential to provide financial assistance to its artists and the organizations that support their work.

"(11) To fulfill its educational mission, achieve an orderly continuation of free society, and provide models of excellence to the American people, the Federal Government must transmit the achievement and values of civilization from the past via the present to the future, and make widely available the greatest achievements of art.

"(12) In order to implement these findings and purposes, it is desirable to establish a National Foundation on the Arts and the Humanities."

SEC. 102. DEFINITIONS.

(a) LOCAL ARTS AGENCY.—Section 3 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 952) is amended—

(1) in subsection (B) by inserting "all those traditional arts practiced by the diverse peoples of this country," after "forms,", and

(2) by adding at the end the following:

"(h) The term 'local arts agency' means a community organization, or an agency of local government, that primarily provides financial support, services, or other programs for a variety of artists and arts organizations for the benefit of the community as a whole.

"(i) The term 'developing arts organization' means a local arts organization of high artistic promise which—

"(1) serves as an important source of local arts programming in a community; and

"(2) has the potential to develop artistically and institutionally to broaden public access to the arts in rural and innercity areas and other areas that are underserved artistically.".

(b) TECHNICAL AMENDMENTS.—Section 3 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 952) is amended—

(1) in subsection (b) by inserting "film, video," after "radio,",

(2) in subsection (c) by inserting "film, video," after "radio,", and

(3) in subsection (d)—

(A) in the first sentence by inserting "the widest" after "enhance", and

(B) in paragraph (2) by striking "sections 5(1)" and inserting "sections 5(p), 7(c)(10),".

(c) DETERMINED TO BE OBSCENE; FINAL JUDGMENT.—Section 3 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 952), as amended by subsection (a), is amended by adding at the end the following:

"(j) The term 'determined to be obscene' means determined, in a final judgment of a court of record and of competent jurisdiction in the United States, to be obscene.

"(k) The term 'final judgment' means a judgment that is either—

"(1) not reviewed by any other court that has authority to review such judgment; or

"(2) is not reviewable by any other court.

"(1) The term 'obscene' means with respect to a project, production, workshop, or program that—

"(1) the average person, applying contemporary community standards, would find that such project, production, workshop, or program, when taken as a whole, appeals to the prurient interest;

"(2) such project, production, workshop, or program depicts or describes sexual conduct in a patently offensive way; and

"(3) such project, production, workshop, or program, when taken as whole, lacks serious literary, artistic, political, or scientific value.".

SEC. 103. NATIONAL ENDOWMENT FOR THE ARTS.

(a) AUTHORITY TO PROVIDE ASSISTANCE.—Section 5(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(c) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) projects and productions which have substantial national or international artistic and cultural significance, giving emphasis to American creativity and cultural diversity and to the maintenance and encouragement of professional excellence;",

(2) in paragraph (2) by inserting "or tradition" after "authenticity",

(3) in paragraph (5) by inserting "education," after "knowledge,",

(4) in paragraph (7) by striking "and",

(5) by redesignating paragraph (8) as paragraph (10),

(6) by inserting after paragraph (7) the following:

"(8) projects that enhance managerial and organizational skills and capabilities;

"(9) projects, productions, and workshops of the kinds described in paragraph (1) through (8) through film, radio, video, and similar media, for the purpose of broadening public access to the arts; and", and

(7) in the matter following paragraph (10), as so redesignated, by striking "clause (8)" and inserting "paragraph (10)".

(b) ARTISTIC EXCELLENCE AND OBSCENE MATTER.—Section 5(d) of the National Foundation on the Arts and the Humanities Act of 1965 (209 U.S.C. 954(d)) is amended to read as follows:

"(d) No payment shall be made under this section except upon application thereof which is submitted to the National Endowment for the Arts in accordance with regulations issued and procedures established by the Chairperson. In establishing such regulations and procedures, the Chairperson shall ensure that—

"(1) artistic excellence and artistic merit are the criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public; and

"(2) applications are consistent with the purposes of this section. Such regulations and procedures shall clearly indicate that obscenity is without artistic merit, is not protected speech, and shall not be funded. Projects, productions, workshops, and programs that are determined to be obscene are prohibited from receiving financial assistance under this Act from the National Endowment for the Arts.

The disapproval or approval of an application by the Chairperson shall not be construed to mean, and shall not be considered as evidence that, the project, production, workshop, or program for which the applicant requested financial assistance is or is not obscene.".

(c) TECHNICAL AMENDMENT.—Section 5(f) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(f)) is amended by striking "1954" and inserting "1986".

(d) STATE APPLICATIONS FOR ASSISTANCE.—Section 5(g)(2)(E) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(g)(2)(E)) is amended by striking clauses (i) and (ii), and inserting the following:

"(i) a description of the level of participation during the most recent preceding year for which information is available by artists, artists' organizations, and arts organizations in projects and productions for which financial assistance is provided under this subsection;

"(ii) for the most recent preceding year for which information is available, a description of the extent projects and productions receiving financial assistance from the State arts agency are available to all people and communities in the State; and".

(e) PURPOSES OF PROGRAM PROVIDING ASSISTANCE TO AGENCIES AND ORGANIZATIONS.—Section 5(l)(1) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(l)(1)) is amended—

(1) in subparagraph (E) by striking "and" at the end,

(2) in subparagraph (F) by striking the period at the end and inserting "; and", and

(3) by inserting after subparagraph (F) the following:

"(G) stimulate artistic activity and awareness which are in keeping with the varied cultural traditions of this nation.".

(f) SYSTEM OF NATIONAL INFORMATION AN DATA COLLECTION.—Section 5(m) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(m)) i amended—

(1) in the first sentence—

(A) by inserting "ongoing" after "shall in",

(B) by striking "develop" and insertin "continue to develop and implement", and

(C) by inserting "and public dissemina tion" after "collection",

(2) by striking the fourth sentence, and

(3) in the last sentence by striking "1988 and biennially" and inserting "1992, an quadrennially".

(g) CONTENTS OF APPLICATIONS; INSTALLMENT PAYMENTS.—Section 5 of the Nationa Foundation on the Arts and the Humanitie Act of 1965 (20 U.S.C. 854) is amended—

(1) by redesignating subsections (l through (m) as subsections (1) through (p) respectively, and

(2) by inserting after subsection (h) th following:

"(i) It shall be a condition of the receipt o financial assistance provided under this sec tion by the Chairperson or the State agenc that the applicant for such assistance include in its application—

"(1) a detailed description of the propose project, production, workshop, or progran for which the applicant requests such assistance;

"(2) a timetable for the completion o such proposed project, production, work shop, or program;

"(3) an assurance that the applicant wil submit—

"(A) interim reports describing the applicant's—

"(i) progress in carrying out such project production, workshop, or program; and

"(ii) compliance with this Act and the con ditions of receipt of such assistance;

"(B) If such proposed project, productio workshop, or program will be carried ou during a period exceeding 1 year, an annua report describing the applicant's—

"(i) progress in carrying out such projec production, workshop, or program; and

"(ii) compliance with this Act and the con ditions of receipt of such assistance; and

"(C) not later than 90 days after—

"(i) the end of the period for which the applicant receives such assistance; or

"(ii) the completion of such project, production, workshop, or program; which ever occurs earlier, a final report to the Chairperson or the State agency (as the case may be) describing the applicant's compliance with this Act and the conditions of receipt of such assistance; and

"(4) an assurance that the project, production, workshop, or program for which assistance is requested will meet the standards of artistic excellence and artistic merit required by this Act.

"(j) The Chairperson shall issue regulations to provide for the distribution of financial assistance to recipients in installments except in those cases where the Chairperson determines that installments are not practicable. In implementing any such installments, the Chairperson shall ensure that—

"(1) not more than two-thirds of such assistance may be provided at the time such application is approved; and

"(2) the remainder of such assistance may not be provided until the Chairperson finds that the recipient of such assistance is complying substantially with this section and with the conditions under which such assistance is provided to such recipient.

"(k) The Inspector General of the Endowment shall conduct appropriate reviews to ensure that recipients of financial assistance under this section comply with the regulations under this Act that apply with respect to such assistance, including regulations relating to accounting and financial matters.".

(h) LIMITATION ON RECEIPT OF FINANCIAL ASSISTANCE.—Section 5 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954), as amended by subsection (g), is amended—

"(1) by redesignating subsections (l) through (p) as subsections (m) through (q), respectively, and

"(2) by inserting after subsection (k) the following:

"(l)(1) If, after reasonable notice and opportunity for a hearing on the record, the Chairperson determines that a recipient of financial assistance provided under this section by the Chairperson or any non-Federal entity, used such financial assistance for a program, production, workshop, or program that is determined to be obscene, then the Chairperson shall require that—

"(A) during a period of 3 years, beginning on the date the Chairperson makes such determination; and

"(B) until such recipient repays such assistance (in such amount, and under such terms and conditions, as the Chairperson determines to be appropriate) to the Endowment;

no subsequent financial assistance be provided under this section to such recipient.

"(2) Financial assistance repaid under this section to the Endowment shall be deposited in the Treasury of the United States and credited as miscellaneous receipts.

"(3)(A) This subsection shall not apply with respect to financial assistance provided before the effective date of this subsection.

"(B) This subsection shall not apply with respect to a project, production, workshop, or program after the expiration of the 7-year period beginning on the latest date on which financial assistance is provided under this section for such project, production, workshop, or program.".

(i) TECHNICAL AMENDMENTS.—(1) Section 5(m) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(l)), as so redesignated by subsections (g) and (h), is amended by striking "subsection (j)" and inserting "subsection (n)".

(2) Section 11(a) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)) is amended—

(A) in paragraph (3)—

(i) in subparagraph (A) by striking "section 5(l)(1)" each place it appears and inserting "section 5(p)(1)", and

(ii) in subparagraph (C) by striking "section 5(l)(1)" and inserting "section 5(p)(1)", and

(B) in paragraph (4) by striking "section 5(l)(1)" and inserting "section 5(p)(1)".

SEC. 104. INNOVATIVE PROGRAMS TO EXPAND PUBLIC ACCESS TO THE ARTS IN RURAL AND INNERCITY AREAS.

Section 5(p) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(l)), as so redesignated and amended by section 103, is amended—

(1) in paragraph (3) by striking "section 5(c)" and inserting "subsection (c)",

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively,

(3) by inserting after paragraph (1) the following:

"(2)(A) The Chairperson of the National Endowment for the Arts, with the advice of the National Council on the Arts, is authorized in accordance with this subsection, to establish and carry out a program of contracts with, or grants to, States for the purposes of—

"(i) raising the artistic capabilities of developing arts organizations by providing for—

"(I) artistic and programatic development to enhance artistic capabilities, including staff development; and

"(II) technical assistance to improve managerial and organizational skills, financial systems management, and long-range fiscal planning; and

"(ii) stimulating artistic activity and awareness and broadening public access to the arts in rural and innercity areas and other areas that are underserved artistically.

"(B) For purposes of providing financial assistance under this paragraph, the Chairperson shall give priority to the activities described in subparagraph (A)(i).

"(C) The Chairperson may not provide financial assistance under this paragraph to a particular applicant in more than 3 fiscal years for the purpose specified in subparagraph (A)(i).".

SEC. 105. STRENGTHENING ARTS THROUGH ARTS EDUCATION.

The National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 951-960) is amended by inserting after section 5 of the following:

"ACCESS TO THE ARTS THROUGH SUPPORT OF EDUCATION

"SEC. 5A. (a) The purposes of this section are—

"(1) to increase accessibility to the arts through providing education to all Americans, including diverse cultures, urban and rural populations by encouraging and developing quality education in the arts at all levels, in conjunction with programs of nonformal education for all age groups, with formal systems of elementary, secondary, and postsecondary education;

"(2) to develop and stimulate research to teach quality education in the arts; and

"(3) to encourage and facilitate the work of artists, arts institutions, and Federal, State, regional, and local agencies in the area of education in the arts.

"(b) The Chairperson of the National Endowment for the Arts, is authorized to establish and carry out a program of contracts with, or grants to, any State or other public agency, individual, artist, any nonprofit society, performing and nonperforming arts and educational institution or organizations, association, or museum in the United States, in order to foster and encourage exceptional talent, public knowledge, understanding, and appreciation of the arts, and to support the education, training, and development of this Nation's artists, through such activities as projects that will—

"(1) promote and improve the availability of arts instruction for American youth and life-long learning in the arts;

"(2) enhance the quality of arts instruction in programs of teacher education;

"(3) develop arts faculty resources and talents;

"(4) support and encourage the development of improved curriculum materials in the arts;

"(5) improve evaluation and assessment of education in the arts programs and instruction;

"(6) foster cooperative programs with the Department of Education and encourage partnerships between arts and education agencies at State and local levels, arts organizations, business, colleges and universities;

"(7) support apprenticeships, internships, and other career oriented work-study experiences for artists and arts teachers, and encourage residencies of artists at all educational levels;

"(8) support the use of technology and improved facilities and resources in education in the arts programs at all levels; and

"(9) foster the development of demonstration projects, demonstration productions, demonstration workshops, and demonstration programs in arts education and collect, and make available to the public, information on their implementation and effectiveness.

"(c) In order to provide advice and counsel concerning arts education, the Chairperson shall appoint an advisory council on arts education.".

SEC. 106. NATIONAL COUNCIL FOR THE ARTS.

(a) MEMBERSHIP OF COUNCIL.—Section 6(b) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955(b)) is amended by adding at the end the following: "Members of the Council shall be appointed so as to represent equitably all geographical areas in the United States.".

(b) MEETINGS AND RECORDS.—Section 6(d) of the National Foundation of the Arts and the Humanities Act of 1965 (20 U.S.C. 955(d)) is amended—

(1) by inserting "(1)" after "(d)", and

(2) by adding at the end the following:

"All policy meetings of the Council shall be open to the public.

"(2) The Council shall—

"(A) create written records summarizing—

"(i) all meetings and discussions of the Council; and

"(ii) the recommendations made by the Council to the Chairperson; and

"(B) make such records available to the public in a manner that protects the privacy of individual applicants, panel members, and Council members.".

(c) AUTHORITY OF COUNCIL.—Section 6(f) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955(f)) is amended—

(1) in the first sentence—

(A) by striking "(1)" and "(2)",

(B) by striking "thereon", and

(C) by inserting before the period the following: "with respect to the approval of each application and the amount of financial assistance (if any) to provide to each applicant",

(2) in the second sentence by striking ", unless" and all that follows through "time",

(3) in the last sentence—

(A) by striking "a delegation" and inserting "an expressed and direct delegation", and

(B) by striking "; *Provided*, That" and inserting ", and that such action shall be used with discretion and shall not become a normal practice of providing assistance under such subsections, except that",

(4) by inserting after the second sentence the following:

"The Chairperson shall have final authority to approve each application, except that the Chairperson may only provide to an applicant the amount of financial assistance recommended by the Council and may not approve an application with respect to which the Council makes a negative recommendation.", and

(5) by inserting after the first sentence the following:

"The Council shall make recommendations to the Chairperson concerning—

"(1) whether to approve particular applications for financial assistance under subsections (c) and (p) of section 5 that are determined by panels under section 10(c) to have artistic excellence and artistic merit; and

"(2) the amount of financial assistance the Chairperson should provide with respect to each such application the Council recommends for approval.".

SEC. 107. NATIONAL ENDOWMENT FOR THE HUMANITIES.

(a) TECHNICAL AMENDMENT.—Section 7(a) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(a)) is amended by striking "a" and inserting "the".

(b) AUTHORITY OF CHAIRPERSON.—Section 7(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(c)) is amended—

(1) in the matter preceding paragraph (1) by inserting "enter into arrangements, including contracts, grants, loans, and other forms of assistance, to" after "is authorized to",

(2) in paragraph (2) by striking "(including contracts, grants, loans, and other forms of assistance)",

(3) in paragraph (3)—

(A) by striking "award" and all that follows through "Fellowships", and inserting "initiate and support training and workshops in the humanities by making arrangements with institutions or individuals (fellowships", and

(B) by striking "time;" and inserting "time);",

(4) in paragraph (7) by striking "through grants or other arrangements",

(5) in paragraph (8) by striking "and",

(6) in paragraph (9) by striking the period and inserting "; and", and

(7) by inserting after paragraph (9) the following:

"(10) foster programs and projects that provide access to, and preserve materials important to research, education, and public understanding of, the humanities.".

(c) COORDINATION OF PROGRAMS.—Section 7(d) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(d)) is amended by striking "correlate" and inserting "coordinate".

(d) ADMINISTRATION BY STATE AGENCIES.—

(1) DESIGNATION.—Section 7(f)(2)(A) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(f)(2)(A)) is amended by striking "of the enactment of the Arts, Humanities, and Museum Amendments of 1985," and inserting "the State agency is established".

(2) APPLICATION FOR FINANCIAL ASSISTANCE.—Section 7(f)(2)(A)(viii) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(f)(2)(A)(viii)) is amended—

(A) in subclause (I) by striking "previous two years" and inserting "most recent preceding year for which information is available", and

(B) in subclause (II) by inserting "for the most recent preceding year for which information is available," after "(II)".

(3) CONTENTS OF STATE PLAN.—Section 7(f)(3)(J) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(f)(3)(J) is amended—

(A) in clause (i) by striking "previous two years" and inserting "most recent preceding year for which information is available", and

(B) in clause (ii) by inserting "for the most recent preceding year for which information is available," after "(ii)".

(e) CONDITION OF RECEIPT OF GRANTS.—The last sentence of section 7(g) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(g)) is amended by striking "not later" and all that follows through "1985".

(f) TECHNICAL AMENDMENT.—The last sentence of section 7(h)(2)(B) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(h)(2)(B)) is amended by striking "Endowment on" and inserting "Endowment for".

(g) SYSTEM OF NATIONAL INFORMATION AND DATA COLLECTION.—Section 7(k) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(k)) is amended—

(1) in the first sentence—

(A) by inserting "ongoing" after "shall, in",

(B) by striking "develop" and inserting "continue to develop and implement", and

(C) by inserting "and public dissemination" after "collection",

(2) by striking the third sentence, and

(3) in the last sentence by striking "1986, and biennially" and inserting "1992, and quadrennially".

(h) RECEIPT OF FINANCIAL ASSISTANCE AND AWARDS.—Section 7 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956) is amended by striking subsection (l) and inserting the following:

"(l) Any group shall be eligible for financial assistance under this section only if—

"(1) no part of its net earnings inures to the benefit of any private stockholder or stockholders, or individual or individuals; and

"(2) donations to such group are allowable as a charitable contribution under the standards of section 170(c) of the Internal Revenue Code of 1986.".

"(m) The Chairperson, with the advice of the National Council on the Humanities, is authorized to make the following annual awards:

"(1) The Jefferson Lecture in the Humanities Award to one individual for distinguished intellectual achievement in the humanities. The annual award shall not exceed $10,000.

"(2) The Charles Frankel Prize to honor individuals who have made outstanding contributions to the public understanding of the humanities. Not more than 5 individuals may receive such prize each year. Each prize shall not exceed $5,000.

SEC. 108. FEDERAL COUNCIL ON THE ARTS AND THE HUMANITIES.

(a) DIALOGUE AMONG FEDERAL AGENCIES.—Section 9(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 958(c)) is amended—

(1) in paragraph (5) by striking "and" at the end,

(2) in paragraph (6) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(7) encourage an ongoing dialogue in support of the arts and the humanities among Federal agencies.".

(b) TECHNICAL AMENDMENT.—Section 9 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 958) is amended by striking subsection (d).

SEC. 109. REVIEW PANELS; TECHNICAL AMENDMENTS.

Section 10 of the National Foundation o the Arts and the Humanities Act of 1965 (2 U.S.C. 958) is amended—

(1) in subsection (a)—

(A) in paragraph (4) by striking "from time to time, as appropriate,", and

(B) in paragraph (6) by striking "the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529)" and inserting "sectio 3324 of title 31, United States Code",

(2) in subsection (d)(3) by striking "th last sentence of subsection (a)" and inserting "subsection (c)(3)(A)",

(3) by striking subsections (e) and (f),

(4) by redesignating subsection (b), (c and (d) as subsections (d), (e), and (f), respectively,

(5) in the second sentence—

(A) by striking "In any case" and insertin the following:

"(b)(1) In any case",

(B) by striking "(A)", and

(C) by striking "(B)",

(6) in the third sentence by striking "I any case" and inserting the following:

"(2) In any case",

(7) in the fourth sentence by striking "Fo the purposes" and inserting the following:

"(3) For the purposes",

(8) in the fifth sentence by striking "Fo the purpose" and inserting the following:

"(4) For the purpose", and

(9) by striking the sixth sentence and a that follows through "pending.", and inser ing the following:

"(c) The Chairperson of the National E dowment for the Arts shall utilize advisor panels to review applications, and to mak recommendations to the National Counc on the Arts in all cases except cases which the Chairperson exercises authorit delegated under section 6(f). When reviewing applications, such panels shall recommend applications for projects, production and workshop solely on the basis of artist excellence and artistic merit. The Chairpe son shall issue regulations and establis procedures—

"(1) to ensure that all panels are composed, to the extent practicable, of indivi uals reflecting a wide geographic, ethni and minority representation as well as in viduals reflecting diverse artistic and cultu al points of view;

"(2) to ensure that all panels include representation of lay individuals who are knowledgeable about the arts but who are not engaged in the arts as a profession and are not members of either artists' organizations or arts organizations;

"(3) to ensure that, when feasible, the procedures used by panels to carry out their responsibilities are standardized;

"(4) to require panels—

"(A) to create written records summarizing—

"(i) all meetings and discussions of such panel; and

"(ii) the recommendations made by such panel to the Council; and

"(B) to make such records available to the public in a manner that protects the privacy of individual applicants and panel members;

"(5) to require, when necessary and feasible, the use of site visitations to view the work of the applicant and deliver a written report on the work being reviewed, in order to assist panelists in making their recommendations; and

"(6) to require that the membership of each panel change substantially from year to year and to provide that each individual is ineligible to serve on a panel for more than 3 consecutive years.

In making appointments to panels, the Chairperson shall ensure that an individual who has a pending application for financial assistance under this Act, or who is an employee or agent of an organization with a pending application, does not serve as a member of any panel before which such application is pending. The prohibition described in the preceding sentence shall commence with respect to such individual beginning on the date such application is submitted and shall continue for so long as such application is pending.".

SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorizations for the National Endowment for the Arts.—Section 11(a)(1)(A) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(1)(A)) is amended—

(1) by inserting "(i) after "Sec. 11(a)(1)(A)",

(2) in the first sentence by striking "$121,678,000" and all that follows through "1990", and inserting: "$125,800,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993",

(3) by striking the last sentence, and

(4) by adding at the end the following:

"(ii) For fiscal years—

"(I) 1991 and 1992 not less than 25 percent of the amount appropriated for the respective fiscal year; and

"(II) 1993 not less than 27.5 percent of the amount appropriated for such fiscal year;

shall be for carrying out section 5(g).

"(iii) for fiscal years—

"(I) 1991 and 1992 not less than 5 percent of the amount appropriated for the respective fiscal year; and

"(II) 1993 not less than 7.5 percent of the amount appropriated for such fiscal year;

shall be for carrying out programs under section 5(p)(2) (relating to programs to expand public access to the arts in rural and innercity areas). Not less than 50 percent of the funds required by this clause to be used for carrying out such programs shall be used for carrying out such programs in rural areas.".

(b) General Authorizations for the National Endowment for the Humanities.—The first sentence of section 11(a)(1)(B) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(1)(B)) is amended by striking "$95,207,000" and all that follows through "1990;" and inserting "$119,900,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993".

(c) Technical Amendment.—Section 11(a)(1) National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(1)) is amended by striking subparagraph (C).

(d) Incentive Authorizations for the Endowments.—(1) Section 11(a)(2)(A) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(2)(A)) is amended—

(A) by striking "1990" the first place it appears and inserting "1993",

(B) in clause (ii) by striking "paragraph (8)" and inserting "paragraph (10)", and

(C) by striking "$8,820,000" and all that follows through "1990", and inserting "$13,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993".

(2) Section 11(a)(2)(B) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(2)(B)) is amended—

(A) by striking "1990" the first place it appears and inserting "1993",

(B) by striking "(9)" and inserting "(10)", and

(C) by striking "$10,780,000" and all that follows through "1990", and inserting "$12,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993".

(3) Section 11(a)(3)(A) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(3)(A)) is amended—

(A) by striking "1990" the first place it appears and inserting "1993", and

(B) by striking "$20,580,000" and all that follows through "1990", and inserting "$15,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993".

(4) Section 11(a)(3)(B) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(3)(B)) is amended—

(A) by striking "1990" the first place it appears and inserting "1993", and

(B) by striking "$19,600,000" and all that follows through "1990", and inserting "$15,150,000 for fiscal year 1991 and such sums as may be necessary for fiscal year 1992 and 1993".

(e) Authority to Transfer Funds.—Section 11(a)(3) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(3)) is amended—

(1) by striking subparagraph (C), and

(2) by redesignating subparagraph (D) as subparagraph (C).

(f) Administration; Official Reception and Representation Expenses.—(1) Section 11(c)(1) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(c)(1)) is amended—

(A) by striking "$15,982,000" and all that follows through "1990", and inserting "$21,200,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993", and

(B) by striking "$35,000" each place it appears and inserting "$50,000".

(2) Section 11(c)(2) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(c)(2)) is amended—

(A) by striking "$14,291,000" and all that follows through "1990", and inserting "$17,950,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993", and

(B) by striking "$35,000" each place it appears and inserting "$50,000".

(g) Arts Education.—Section 11 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960) is amended by adding at the end the following:

"(f)(1) Subject to subparagraph (2), in any fiscal year in which the aggregate amount appropriated to the National Endowment for the Arts exceeds $175,000,000, 50 percent of such excess shall be available to carry out section 5A; and

"(2) In each fiscal year, the amount made available to carry out section 5A shall not exceed $40,000,000, in the aggregate.

"(3) Funds made available to carry out section 5A shall remain available until expended.".

SEC. 111. GAO STUDY REGARDING FEDERAL, STATE, AND LOCAL FUNDING OF THE ARTS.

(a) Study Required.—The Comptroller General of the United States shall conduct a study—

(1) to evaluate the roles and responsibilities of the National Endowment for the Arts, the States (including State agencies), and local arts agencies, in providing financial assistance under section 5 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954),

(2) the relative effectiveness of the Endowment, the States (including State agencies), and local arts agencies in maximizing the amount of financial assistance they make available under such section, and

(3) the existing capacity of the States to receive increased allocations under section 5 of such Act and the ability of the States to manage such increased allocations effectively.

(b) Report Required.—Not later than October 1, 1992, the Comptroller General shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report summarizing the results of the study conducted under subsection (a).

SEC. 112. GAO STUDY, FINDINGS, AND RECOMMENDATIONS REGARDING STAFFING AND CONTRACTORS OF THE NEA.

(a) Study Required.—The Comptroller General of the United States shall conduct a study of—

(1) the program staffing policies and practices of,

(2) the use of consultants by, and

(3) the use of independent contractors as administrative staff of,

the National Endowment for the Arts.

(b) Report Required.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report containing—

(1) the results of the study conducted under subsection (a), and

(2) findings and recommendations with respect to the matters specified in paragraphs (1), (2), and (3) of such subsection.

TITLE II—AMENDMENTS TO THE MUSEUM SERVICES ACT

SEC. 201. NATIONAL MUSEUM SERVICES BOARD.

(a) Membership.—Section 204(a)(1)(A) of the Museum Services Act (20 U.S.C. 963(a)(1)(A)) is amended by inserting "conservation," after "curatorial,".

(b) Meetings.—Section 204(d)(1) of the Museum Services Act (20 U.S.C. 963(d)(1)) is

amended by striking "four" and inserting "three".

SEC. 202. DIRECTOR.

(a) Compensation.—(1) Section 205(a)(1) of the Museum Services Act (20 U.S.C. 964(a)(1)) is amended by striking "be compensated at the rate provided for level V of the Executive Schedule (section 5316 of title 5), and shall".

(2) Section 5315 of title 5, United States Code, is amended by adding at the end the following new item:

"Director of the Institute of Museum Services.".

(b) Technical Amendment.—(1) Section 205(a)(2) of the Museum Services Act (20 U.S.C. 964) is amended by striking "Chairperson's" and inserting "Director's".

SEC. 203. ACTIVITIES.

(a) Conservation.—Section 206(a)(5) of the Museum Services Act (20 U.S.C. 965(a)(5)) is amended by striking "artifacts and art objects" and inserting "their collections".

(b) Authority of Director.—Section 206(b) of the Museum Services Act (20 U.S.C. 965(b)) is amended—

(1) in paragraph (1)—

(A) by striking "with professional museum organizations",

(B) by striking "to such organizations", and

(C) by striking "enable such organizations to",

(2) in paragraph (2)—

(A) by striking subparagraph (A), and

(B) in subparagraph (B)—

(i) by striking "(B)",

(ii) by striking "the", and

(iii) by striking "of any professional museum organization",

(3) in paragaph (3) by striking "to professional museum organizations", and,

(4) by striking paragraph (4).

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

(a) General Authorization of Appropriations.—Section 209(a) of the Museum Services Act (20 U.S.C. 967(a)) is amended by striking "$21,600,000" and all that follows through "1990", and inserting "$24,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993".

(b) Incentive Authorization of Appropriations.—Section 209(d) of the Museum Services Act (20 U.S.C. 967(d)) is amended—

(1) by striking "during the period" and all that follows through "1990",

(2) by inserting "for each fiscal year ending before October 1, 1993," after "appropriate", and

(3) by striking "such period" and inserting "such fiscal year".

SEC. 205. ASSESSMENT OF CERTAIN MUSEUMS.

The Museum Services Act (20 U.S.C. 961-968) is amended by adding at the end the following:

"ASSESSMENT OF CERTAIN MUSEUMS

"Sec. 211. The Director, subject to the policy direction of the Board and in consultation with appropriate representatives of the museum and cultural communications shall undertake an assessment of the needs of small, emerging, minority, and rural museums. The assessment, to be completed and presented to Congress within two years of enactment, shall include but not necessarily be limited to, the following subjects:

"(1) The need for resources to identify, collect, document, research, preserve and interpect tangible and nontangible collections and to communicate with and involve their own communities and the general public.

"(2) The personnel staffing and training needs for small, emerging, minority, and rural museums, including needs for professional positions and for the community persons employed or utilized by museums who are expert in the history, culture, customs, and other human resources of the communities.

"(3) The building and construction needs, including impediments to assessing Federal and non-Federal funds for this purpose.

"(4) The maintenance, operation and repair needs, including impediments to accessing Federal and non-Federal funds for these purposes.

"(5) The status of the museums' current collections and the museums' interests in accessing, through gift, purchase, repatriation or borrowing, objects now held privately or in public collections.

"(b) As used in this subsection—

"(1) the term "small, emerging, minority, and rural museums" includes tribal museums and museums of other ethnic and cultural groups; and

"(2) the term "Indian tribe" has the meaning given in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(b)).".

(b) Authorization of Appropriations.—Section 209 of the Museum Services Act (20 U.S.C. 967) is amended by adding at the end of the following:

"(e)(1) Subject to paragraph (2), there are authorized to be appropriated $1,000,000 for each of two fiscal years to carry out section 211.

"(2) Paragraph (1) shall not be effective for any fiscal year for which the amount appropriated under subsection (a) is less than $24,000,000.".

TITLE III—AMENDMENTS TO THE ARTS AND ARTIFACTS INDEMNITY ACT

SEC. 301. INDEMNITY AGREEMENTS.

(a) Limitation Applicable to Aggregate Loss.—Section 5(b) of the Arts and Artifacts Indemnity Act (20 U.S.C. 974(b)) is amended by striking "$1,200,000,000" and inserting "$3,000,000,000".

(b) Limitation Applicable to Single Exhibit.—(1) Section 5(c)) of the Art and Artifacts Indemnity Act (20 U.S.C. 974(c)) is amended by striking "$125,000,000" and inserting "$300,000,000".

(2) Section 5(d) of the Act (20 U.S.C. 974(d)) is amended—

(A) in paragraph (2) by striking "or" at the end,

(B) by amending paragraph (3) to read as follows:

"(3) not less than $10,000,000 but less than $125,000,000, then coverage under this Act shall extend to loss or damage in excess of the first $50,000 of loss or damage to items covered;", and

(C) by adding at the end the following:

"(4) not less than $125,000,000 but less than $200,000,000, then coverage under this Act shall extend to loss or damage in excess of the first $100,000 of loss or damage to items covered; or

"(5) $200,000,000 or more, then coverage under the Act shall extend only to loss or damage in excess of the first $200,000 of loss or damage to items covered.".

TITLE IV—EFFECTIVE DATES

SEC. 401. EFFECTIVE DATES.

(a) General Effective Date.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on October 1, 1990.

(b) Special Effective Date.—The amendments made by sections 110, 204, and 301 shall take effect on the date of the enactment of this Act or October 1, 1990, whichever is earlier.

The CHAIRMAN. The gentleman from Montana [Mr. Williams] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

The Chair recognizes the gentleman from Montana [Mr. Williams].

Mr. WILLIAMS. Mr. Chairman, I yield 4 minutes to the gentlewoman from New York [Mrs. Lowey].

Mrs. LOWEY of New York. Mr. Chairman, for months now, we have all been inundated with bizarre and fantastic claims about the behavior of the National Endowment for the Arts.

Today, we are called on to make a judgment: How real are these charges, and what should be done in response?

It takes some doing to separate fact from fiction in this debate, which has been characterized by exaggeration, misstatements and outright falsehoods. But today it is essential that we do so.

For the most part, the NEA is performing admirably in supporting deserving artists and arts organizations around this Nation. The vast and overwhelming majority of the grants it makes have never been called into question by anyone. And despite the desperate attempts of some to link NEA funding to obscenity or other perceived wrongs, there is little truth to these claims.

Have mistakes been made? It is likely that they have. But do these mistakes warrant wholesale changes in the way the NEA does business. The answer is a resounding "no."

As a member of the subcommittee on postsecondary education, I voted for legislation to reauthorize the NEA without restrictions on the content of works of art, and without damaging changes in its grantmaking procedures. And I continue to believe that this is the most appropriate action for Congress to take.

I believe in the statements by the President and the Chairman of the NEA that they will act forcefully to prevent abuses by the agency.

And I also believe in a fundamental principle that guides this Nation: the principle of freedom of expression.

A quarter of a century ago, Congress and the President decided to create Federal agency to promote the arts in America. They did so because they believed that our Nation's cultural heritage must be preserved, and our Nation's artists deserve our strong support. That concept still holds true, a it always should.

Opponents of the NEA argue tha content-based restrictions on NEA-sponsored art are appropriate in ligh of the public sponsorship of such works. But efforts to impose conten restrictions on works of art that ar funded by the Government are dangerous and wrong.

There are certain standards that must not be violated. That is why we have laws against obscenity, libel, and slander. But when the Federal Government goes beyond that and attempts to further restrict the content of works of art, we make a mockery of the principles for which our Nation stands.

I am not happy with all aspects of the Williams-Coleman substitute because I believe that some of its changes in the distribution of funds and the application procedures for NEA grants will not improve the NEA or protect the taxpayers. It also contains language concerning standards of decency that I find very troubling. But I applaud Mr. Williams for his efforts in achieving this compromise under very difficult circumstances, and I applaud him for continuing to reject many of the Arbitrary content restrictions that have been advocated.

In my congressional district, the NEA is providing funds to strugging artists and arts groups whose contributions to our community have never been questioned. And, importantly, the NEA is also providing essential support to our local schools.

Of course, it is imperative that our children be educated in the arts, and that is one reason I support the Williams-Coleman substitute. It contains a very important initiative to expand arts education around the Nation, an initiative that will help children around the Nation express themselves through the arts and achieve their full potential.

We must teach our children about the arts and encourage them in their creative endeavors. And we must also teach our children about respect for freedom of expression.

In my view, efforts to restrict the content of works of art will damage our nation's artists and our Nation's cultural heritage. But it will also damage the principles on which our Nation was founded.

Let us think today about what we teach our children when the Government seeks to restrict freedom of expression. Let us then approve the Willams-Coleman substitute, which rejects censorship in favor of the freedoms we hold dear.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would just like to clear up one matter to make sure there is no confusion. Since no one rose in opposition to the amendment, then the gentleman from Missouri [Mr. Coleman] by uanimous consent can be recognized and yield back the balance of his time. The Chair would not want there to be confusion about the time at the end of the amendment.

Mr. COLEMAN of Missouri. Mr. Chairman, I do not claim the time since I obviously am in support of the amendment, but I would ask unanimous consent that since nobody has risen, we could shorten the time by 30 minutes if it were yielded back, and I would do so for that purpose.

The CHAIRMAN. Without objection, no Member rises in opposition to claim the time, and the time is yielded back.

There was no objection.

Mr. WILLIAMS. Mr. Chairman, I yield 13 minutes to the gentleman from Missouri [Mr. Coleman] and I ask unanimous consent that he be allowed to control that time for the purpose of yielding to other Members.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, let me explain to the committee where we are in this process.

We have pending the Williams-Coleman bipartisan substitute proposal, which if it were not to pass we would go back to the committee bill, which is a straight reauthorization of the NEA with no changes. Having defeated both the Crane amendment and the Rohrabacher amendment, we need to support and pass the Williams-Coleman substitute or else all of the things that we have worked for to provide for accountability, to streamline and to assure proper procedures and reforms in the NEA and to in fact restrict the funding to non-obscene works, all would be for naught. So we need to adopt this amendment.

Mr. Chairman, having explained to the body where we are, I yield 3 minutes to the gentleman from California [Mr. Lewis].

(Mr. LEWIS of California asked and was given permission to revise and extend his remarks.)

Mr. LEWIS of California. Mr. Chairman, in today's Los Angeles Times there was an article regarding the court upholding an item known as the newsman's shield law, which is in our State constitution. Some years ago I was the author of that proposition which changed the constitution, which provides some assurance of a free flow of information between the public and its politicians.

Many of my conservative friends at the time I carried that measure scratched their heads and said, "Lewis, have you gone nuts? What are you doing? The press has never done anything for you."

The point was not that. The point is that fundamental to our society is making certain that the public does have a means of access to that which then elected officials do. One of the other fundamentals of our society that is critical to me as well is that a broad variety and mix of creative art in our culture. The strength of our culture is reflected in such a mix.

The National Endowment for the Arts has been critical to that mix. It is my view, however, that there is a need for reasonable standards. There is indeed a need to review these questions when there are public funds involved.

The fine work done by the members of the committee in that connection should be supported by our colleagues. Indeed, I have not seen a finer piece of work regarding the subject matter.

It is with this in mind that I urge my colleagues to support the Williams-Coleman amendment.

Mr. WILLIAMS. Mr. Chairman, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. Foglietta].

Mr. FOGLIETTA. Mr. Chairman, the history of art is a tradition of public and government support for the great artists, musicians, writers, and playwrights of the world. Let me give you a few examples:

Michelangelo Bounarroti was able to sculpt the David because of the support from the Medici family and Pope Julius II.

Mozart received backing from Emperor Joseph II of Vienna.

Beethoven was supported by Prince Lichnowsky, Prince Krinsky, and Archduke Rudolph. This royal coalition paid him an annual salary: to allow him to focus on his great works.

Today, in America, the National Endowment of the Arts has taken the place of the Kings and Popes of the past. The NEA has allowed thousands of artists to grow and enrich our lives, including choreographer and dancer Twyla Tharp, and writers Alice Walker and Joyce Carol Oates.

Less than five-hundredths of 1 percent of nearly 90,000 NEA grants have resulted in controversy. It is hard to believe that many other Federal programs can claim such a success rate.

It is clear to me what this controversy is all about. The cold war is over. The red menace is gone. And the right wing had to find a hot-button issue to support their direct-mail, fund-raising campaigns. They found that issue in the NEA. Let us say no to these tactics.

Mr. Chairman, we are not art critics. We are not super censors. Let us get on with our job, like eliminating the deficit and let the NEA get on with its job of encouraging and supporting young artists.

Support the Williams-Coleman substitute.

□ 1830

Mr. COLEMAN of Missouri. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. Gunderson].

Mr. Chairman, I want to say he was a great facilitator in trying to put together this package, this bipartisan package, and I appreciate it very much. Much of the Coleman-Gunderson proposal is in here.

Mr. GUNDERSON. Mr. Chairman, after months of controversy, we finally have an agreement to address the problems at the National Endowment of the Arts [NEA]. Having spent many hours looking into these problems over the past several months, I am pleased to support the substitute legislation offered on the floor today by Mr. Williams and Mr. Coleman.

My colleagues on the Education and Labor Committee may recall my frustration early this year when the entire debate over efforts to reauthorize the NEA centered on the straw man of defining "censorship." Let me say it one last time; refusal of public sponsorship is not—by any definition—government censorship.

In fact, we were confining debate on reauthorization of a 25-year-old Federal agency to semantics. No one on either side of the debate stopped long enough to look at the agency itself—at its successes, and its failures. And no one looked for a way out of the vicious circle we each leapt into.

The Williams-Coleman substitute is based on legislation Mr. Coleman and I wrote as a means of letting everyone climb out of the semantic circle. More importantly, our efforts achieved what we set out first to achieve—to shift the debate back to substantive reviews of where we could improve the NEA to eliminate its problems—and let there be no confusion here; despite the important achievements of this agency, it does have significant problems.

The agency suffers from problems at its root—in its definitions and in its goals. Is this to say the agency should be abolished? No. Its problems are understandable when you realize we have not made substantive changes to its original charter in 25 years. Can anyone think of any other agency where this is true?

The agency's biggest fault is that it has been wildly successful. In 1965, when the agency was established, the NEA assisted just five State art councils, and public contributions to the arts were minimal. Today, the NEA funds 56 State arts councils and 600 local agencies, and pulls in public funds for the arts of over $6.8 billion annually. This is a tremendous leveraging of public contributions for the arts.

But this is exactly why it is time to rewrite the goals for our premier arts agency. Americans are refusing to subsidize art which they would never allow in their own homes—and the NEA has an obligation to be sensitive to those views. The substitute bill will redirect the NEA on a course of public stewardship for the arts—and public is the operative word.

Under the bill, the NEA will avoid censoring works for objectionable or obscene content. But that is not to say funding of such works will be allowed. Under this plan, the new NEA will base its funding decisions on standards of artistic merit and artistic excellence only. And, given that obscenity is defined as without merit in the bill, the NEA cannot legally fund obscene works.

I would have preferred to go further in this new standard, but I am convinced we have other more important provisions in the bill to prevent poor judgment—the only scapegoat for funding obscenity under the new NEA—from prevailing in funding decisions.

By tracking past instances of NEA-funded obscenity through the funding process, we can see where changes in the agency are needed.

First, where the chairman, panels, and the council must base all funding decisions on standards of artistic merit and artistic excellence, this is a new—legally binding—provision. Also new is our language, never used before, requiring all projects to be sensitive to the nature of public sponsorship.

Second, at the beginning of the process—the panel review—we've made significant changes. Panelists, now made up of past and future NEA grant recipients, must include nonartists, and may not include past NEA fund recipients. Nor may panelists receive NEA grants in the immediate future. Also, we demand specific levels of annual panel turnover, demand greater public record of panel decisionmaking. Most importantly, though panels have no legal authority to recommend funding levels for projects, they have, leading to rubber stamping of projects at all other levels in the process. We state specifically in the new bill that panels may not recommend or comment on funding levels.

That duty falls on the only body accountable to public scrutiny—the national council. This will force the council to take an active role in every project under review—a habit not followed currently. In fact, the council will not be accountable for every funding decision, as it must approve every project before the chairman may approve funding.

The chairman, although given pure authority to veto any decision to fund a work, may not fund any work without approval of the council. Again, these provisions put the responsibility for important decisions squarely on the back of public servants who are held accountable for their judgment.

Finally, artists will have new responsibilities which they do not have now. As grantees of public funds, they must be held accountable to the public as are all other recipients of Federal funds. We will require up-front detailed explanations of what tax dollars are funding; will require reports proving compliance with funding agreements and showing sensitivity to public sponsorship and religious, ethnic, and cultural traditions and heritage. Site visits will be required, and funds will be cut off immediately for noncompliance with the new standards.

Important to many of us reluctant to continue sending most of the scarce NEA funds to America's sophisticated city art centers, this bill increases direct payments to the States from 20 percent to 27.5 percent and creates a new discretionary account of 7.5 percent of total funding for art programs in rural areas and inner cities. These two changes will dramatically improve our intent to direct more NEA funds to promoting access to art and art education, especially in rural areas.

While I would have preferred consideration today of the original legislation Mr. Coleman and I proposed earlier, I am very pleased with the far-reaching reforms maintained in the Coleman-Williams substitute.

Mr. Chairman, from that perspective, I would like to enter into a colloquy, if I could at this point in time, with the distinguished chairman.

Mr. Chairman, in reference to the authority of review panels under section 109(c), of the bill under consideration, I understand this language is intended to specifically prevent panels from recommending or commenting on funding decisions to be made by the national council.

And, as I understand it, this provision was drafted with the assistance of legal opinion suggesting panels would, in fact, be prevented by law from making decisions or recommendations regarding funding of projects.

Is this understanding correct, and what exactly is the legislative intent of your bill on this matter?

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I am happy to yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, I know of the gentleman's specific concern on this issue.

The intent of the legislation is to prevent panels from making recommendations of anything other than the artistic excellence and artistic merit of projects under consideration. In fact, as the gentleman, I think knows, during the 25-year history, the NEA review panels have never had legal authority to recommend funding levels, and it is our intention that they do not now by statute.

Mr. GUNDERSON. Mr. Chairman, appreciate the gentleman's response.

Mr. WILLIAMS. Mr. Chairman, yield 1½ minutes to the gentleman from Georgia [Mr. Lewis].

Mr. LEWIS of Georgia. Mr. Chairman, I want to thank my colleague

Chairman Williams, for allowing me time to speak.

I rise to urge my colleagues to support the National Endowment by voting for the Williams-Coleman substitute.

My colleagues, have we learned anything from the transformation of Eastern Europe, from the changes in the Soviet Union, from the early signs of democracy in South Africa? These changes have come about because the basic right of free expression cannot be suppressed for long. The struggle against censorship, against censorship of the press, against censorship of religion, against censorship of speech, is as old as the dawn of history. It is strange to me that in every age there is somebody who tries to ban or burn books, or to deny people the right to speak or the right of people to be creative.

If we truly believe that, in this country, we must preserve the right of each person to express himself, then we must back up that belief with a public commitment to the arts and to free expression, a commitment of resources a commitment of dollars.

Mr. Chairman, I speak as an ordained Baptist minister and as a Member of the Congressional Arts Caucus. I see no conflict of interest. I deeply believe in traditional American values. I believe that freedom of expression, freedom of thought, and the freedom to be creative is deeply rooted in the American dream and in the Bill of Rights.

My colleagues, we must remember the words of President Kennedy:

> The artist however faithful to his personal vision of reality becomes the last champion of the individual mind and against an intrusive society * * *. We must never forget that art is not a form of propaganda; it is a form of truth. In serving his vision of the truth, the artists best serves his nation. And the nation which disdains the mission of art invites the fate of Robert Frost's hired man, the fate of having nothing to look backward to with pride, and nothing to look forward to with hope.

I urge all my colleagues to support the Williams-Coleman substitute.

Mr. WILLIAMS. Mr. Chairman, I yield 1½ minutes to the gentleman from Kansas [Mr. Slattery].

Mr. SLATTERY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, first of all, I would like to pay special tribute to our chairman, the gentleman from Montana [Mr. Williams] for his outstanding work on this, and our friend, the gentleman from Missouri [Mr. Coleman]. The two gentlemen have taken a very divisive issue, a very difficult issue, they have listened to both sides in this debate, and they have crafted a very sensible compromise that hopefully the overwhelming majority of this body can support here this evening.

Mr. Chairman, it is clear in this proposal that the Williams-Coleman amendment prohibits Federal funding of any obscene art, and everyone in this country should clearly understand that.

The one point that I wanted to make this evening, Mr. Chairman, is that over the last few years this institution, the Congress of the United States, has been the target of a lot of groups across the country suggesting that somehow we have been responsible for the funding of obscene art, and I want to make the point that that is absolutely not correct.

I hope that during the next few years the people of this country understand that the National Endowment for the Arts and the National Endowment for the Humanities are run by 26 Members of a Board, all of whom are appointed by the President of the United States, all of whom are confirmed by the Senate of the United States, and as I vote for the National Endowment for the Arts reauthorization, I do so with the firm belief that the President's appointee can and will do a much more efficient job of monitoring this program in the days ahead.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. Henry].

□ 1840

Mr. HENRY. Mr. Chairman, given our discussion on the issue of public accountability with the National Endowment for the Arts, I would just like to highlight six changes in the substitute, six different changes which seek to address what I regard to be a very legitimate concern.

The opening charter of the Endowment has new language which makes very clear that the Endowment is, in fact, money-sensitive to the nature of public sponsorship. We are dealing with public funding of the arts, public funding of the humanities, and accordingly there is public responsibility. It is my opinion—I know it is not shared by all—that if Congress wanted by way of standards, say, the only kind of painting it would allow things painted in pink, I think it would be kind of a stupid national policy, but I think they can condition the use of public funds. We begin in this charter by saying, yes, this is public sponsorship, and it is thereby accorded public responsibility in the use of public moneys. That is made clear to put an end to this kind of amorphous debate that just because we are involving public funding of arts, there is no accountabilty on the use of those funds.

Second, as I illustrated—and I want to reiterate this lest there be any public misunderstanding—there is new language now in the grant procedure itself which mandates that in the awarding of funds, in the award process itself, general standards of decency must be accorded. That is very broad language. That is much broader than all the obscenity language which we have been debating about.

One of the reasons for that is, given the Miller versus California standard, anything that has artistic merit is not by legal definition obscene. So, how can we seek to address the problem that we heard from our constituents? We put general decency requirements into the act.

In addition, all grants are released incrementally so that the use of public funds is monitored during the grant disbursements process, so we will no longer have the problem of money out, "Whoops, we didn't know you would do it that way or that is what it would be used for."

Fourth, we review the panel system so we do not have what was a concern raised in some quarters of review panels that had incestuous relationships. I speak allegorically of the artistic communities they were closest to, by way of back scratching, and saying, "I know them. They are good. Give them money."

They make recommendations relative to what meets the new legislative criteria. However, the Endowment, which is Presidentially appointed and subject to Senate confirmation and politically accountable, must now move on those recommendations.

Finally, the Chairman now has very clearly independent veto authority, even above the Council's recommendations to him, based upon the panel's recommendations to it. So, there are many new safeguards addressing the issues that have been brought to our attention.

I commend the gentleman from Montana [Mr. Williams] and the gentleman from Missouri [Mr. Coleman] for their very hard work.

Mr. WILLIAMS. Mr. Chairman, I return the compliment to the gentleman from Michigan [Mr. Henry], who has been of such assistance to Members.

Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. Fazio].

Mr. FAZIO. Mr. Speaker, free expression in this country has been threatened by a manufactured, politically inspired, and overstimulated public reaction to a few atypical problems.

This attack on the NEA has come very close to bringing about an overreaction legislatively that would have meant that we had prior restraint on freedom of expression. However, this amendment, offered by the gentleman from Missouri [Mr. Coleman] and the gentleman from Montana [Mr. Williams] allows Members to avoid that unfortunate attack on freedom of expression.

We deserve—they deserve the thanks of all Members. I think the two of them have operated as the epitomy of a chairman and ranking member when confronted with a national, in this case, contrived crisis.

We owe them, I think, the thanks that go with enactment of a bill that will really not only continue the NEA in its strength, but build on a tradition of expanding public access to the arts, and the substitute which we can agree to now authorizes new programs in art education, in both rural and inner-city areas.

It is really a commentary on the strength and wisdom of a Government which supports and nurtures the creativity of its artists. Every society needs its artists. They are its watchers, its critics, its champions. Thanks to the chairman and the ranking member, the NEA will live on in keeping with its great tradition.

After months of work on a compromise agreement, the chairman and the ranking member of the authorizing committee have developed reforms to address any of the perceived problems with the NEA. I congratulate Mr. Ron Coleman and Mr. Pat Williams.

The bipartisan substitute is a fair compromise, reaffirming our Nation's commitment to the arts while ensuring the endowment is sensitive to the nature of public sponsorship.

The substitute will preserve the tradition of artistic excellence in the NEA, while stating that the NEA may not fund obscene art. Obscenity is without artistic merit and is not protected speech.

Let the courts decide: If a work produced with the assistance of an NEA grant is deemed obscene by a court of law, the NEA would then recover the funds awarded for that work.

The substitute reforms the grant review process to ensure greater accountability and consideration of the diverse beliefs and values of the American public.

Mr. WILLIAMS. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. Jones].

Mr. JONES of Georgia. Mr. Chairman, when business people come looking at a town or a city with the idea of locating their office or factory there, they look at a lot of things: The work force, the weather, transportation, and especially education. The first question they ask is, "What are the schools like." And they also take a long hard look at an area's cultural life.

When the city of Atlanta was chosen by the International Olympic Committee to host the world for the 1996 Olympics, all of those things were considered and found admirable. When they looked at our city's cultural life, they considered the first class Atlanta Symphony and the renowned Atlanta Center for the Puppetry Arts, the National Black Arts Festival, the Alliance Theatre, the Atlanta Ballet, and, among much else, the world-class Woodruff Arts Center—all of which have benefited from funding by the National Endowment for the Arts.

The NEA is good business, and it's good for business. In Georgia, in 1989, the Endowment made 81 grants totaling over $2.8 million. Mr. Chairman, we've all heard from those professional propagandists who preach that the Endowment is a cesspool of pornography, sacrilege, and decadence. It is not. You know, I've noticed that a lot of those demagogues are in business too. There's always a little solicitation for money along with their misinformation. There are also certain elitists in the arts community who forget that the NEA is public money that carries with it a public trust, a responsibility to that public for excellence.

The Williams-Coleman substitute says that the best way of dealing with wretched excess is in the courts, under the Constitution. That's bipartisan common sense, and I'm for it.

Mr. Chairman, I would like to take a minute to talk about a little play called "Driving Miss Daisy." It was written by Alfred Uhry, who was raised in the Fourth Congressional District of Georgia. "Driving Miss Daisy" is Mr. Uhry's first dramatic play. Because of the play's subject matter and simple setting, it hardly seemed a candidate for commercial production. But the play caught the interest of the artistic director of the Playwrights' Horizon Theater in New York City, a nonprofit theater dedicated to the development of new plays and musicals. Of the theater's grant from the NEA, $18,000 was used to produce the first production of "Driving Miss Daisy" in 1987.

Since that time, the play has generated ticket sales in excess of $25 million from productions in New York, Chicago, Atlanta, San Diego, and a national tour. The box office continues to grow as "Driving Miss Daisy" is produced by professional and community theatre companies around the United States. This play has been seen by audiences in Australia, Great Britain, Denmark, Canada, Germany, Israel, the U.S.S.R., Norway, Sweden, Switzerland, and Argentina. And there are upcoming productions in France and China.

"Driving Miss Daisy" received the Pulitzer prize for playwriting, and then a movie adaptation of the play was filmed in the Fourth Congressional District on a budget of $5 million, most of which was spent in the district. The first release of the movie grossed $107 million and won four Academy Awards.

The video cassette of "Driving Miss Daisy" was released in mid-August; 325,000 tapes were shipped to outlets around the United States. It has been at or near the top of all video rentals nationwide since its release, generating an estimated $15 million in rental fees so far.

Using a conservative multiplier of two, the economic impact of the $18,000 investment in a play called "Driving Miss Daisy" is already nearly $300 million. That figure will continue to grow as more productions of the play are mounted, video cassette sales and rentals increase, and the film is released in other parts of the world. So, an $18,000 initial investment made by the NEA has already been returned to the U.S. economy 16,667 times.

However, "Miss Daisy's" most important contribution must be viewed in another way. This delicate story about the love and friendship which grew over the years between an elderly Atlanta widow and her black chauffeur has touched the lives of millions, illuminating places in the human heart and underscoring some old-fashioned American verities, like unselfishness, tolerance, brotherhood, and courage. There is no way to measure that benefit, Mr. Chairman, but that is good business too. The best.

Mr. WILLIAMS. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Ohio [Ms. Oakar].

Ms. OAKAR. Mr. Chairman, I want to compliment the chairman and the distinguished minority leader for all the work and all the grief they have taken because of a few individuals who have chosen to see the dark side of issues. It has really demeaned one of the finest agencies I think we have ever had in this country, and that is the NEA.

There have been 85,000 grants that have been given to all areas of this country, in rural America, urban America, and only a few have been distasteful. However, I believe that the overwhelming good that this agency has done in terms of stimulating the arts, that hail the minds and souls and mirror our heritage as a nation, and give individuals a chance to participate in the arts, are very, very important.

Mr. Chairman, I would like to talk just briefly about a few of the grants that have come to my hometown of Cleveland, OH, in the last 25 years. Young people would never have been able to go to hear a symphony as performed by the Cleveland Orchestra if the orchestra had not received a grant so that young people of all backgrounds could participate. Adults could not participate in seeing a ballet in the Repertory Cleveland Ballet, which has created jobs for our people, and at the same time has a high level of artistic integrity.

Yes, we have seen aspiring artists who may not ever have had a chance to have the leisure to perform, or the leisure to draw, receive grants and have gone on to become professionals. Why is it that in this country we spend about three times less than our northern neighbors of Canada, England, France, Italy, et cetera? We are way behind in our fostering the arts in this country. We ought to not demean the arts but realize what a lofty, noble profession it is, and how much it means to our country.

☐ 1850

Mr. COLEMAN of Missouri. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, again I want to emphasize to the House that without passage of the Williams-Coleman substitute, we have no standards of obscenity. We have no restrictions on the funding of obscene works. We need to pass the Williams-Coleman substitute in order to tighten up the procedures and the process, to provide those detailed descriptions of projects, to condition awards on the highest artistic excellence and artistic merit, to have multiple dispersements, two-thirds up front with one-third at the end, with reporting requirements by the artist, procedural reforms to reform the panels, the advisory panels which are truly advisory. They will not decide how much money is given to each grant, because that will go through the National Council of the Arts under our proposal, who for the first time will really provide funding level policy decisions and make recommendations to the chairman of the endowment, and that chairman will have final authority to approve or disapprove of any work of art which has been recommended to him by the Council. That chairperson does not have to approve an application, but in order to approve an application, it must be submitted to him for his approval by the Council.

In other words, Mr. Chairman, we must pass the Williams-Coleman proposal to broaden the panels to nonartists, to create the mechanism, if you will, to assure that the highest quality art in this country is going to be funded. That is why we have created this bipartisan package.

We recognize that States will receive more money under our proposal to reflect those values, those local community values that we hold dear, without dismantling the National Endowment at the national level.

We have established new programs and priorities for projects that the NEA will now fund, including access to the arts through film and television, radio and video, a new arts education program and a challenge grant to develop arts organizations in order to bring into rural and inner cities the highest quality of art in this country.

Mr. Chairman, I am very proud to stand here tonight in front of this House and join with my colleague, and let me pay special commendation to the gentleman from Montana [Mr. WILLIAMS]. He and I are not the same peas in the pod as some would like to describe us, but we respect each other because we know we both believe in the things that we stand for because we truly feel them. We can respect each other. We can come to the floor in a compromise. That is what the legislative process is all about, Mr. Chairman, to try to find these extremes and bring them together.

Today the middle is holding in this House.

Mr. Chairman, I ask my colleagues to vote yes, regardless how they voted on the previous amendment, to vote yes on Williams-Coleman.

Mr. WILLIAMS. Mr. Chairman, I yield 1½ minutes to the gentleman from Colorado [Mr. CAMPBELL].

Mr. CAMPBELL of Colorado. Mr. Chairman, I have been working in my office, as many of my colleagues have, listening to the debate. I guess I am surprised that people who talk so much about their rights are so quick to step on the rights of other Americans. I was not going to speak, but I thought I should for a moment as a professional artist and a Member of this body who is absolutely opposed to pornography in any form and has never received any kind of grant money for an art project.

I am getting a lot of mail, as many of my colleagues are, from people who believe you set public policy by who yells the loudest. It has been described by one of my colleagues as an artistic holocaust. It has kind of a similar ring to what the Third Reich said in 1939-41 when they were trying to crush freedom of speech in Germany.

I know it takes courage to stand up for a small organization like the NEA, but without it many of our great works of art could not have been funded. I do not think we should be judge, jury, and executioner of art in America.

We should cut out the smoke screening of the real issue. This is not a budgetary question or a management question. The fundamental question to me is really whether we are going to be a people who walk the path of cultural enlightenment, or are we going to be flogged into a new age of darkness by right wing extremists?

I think this vote on the Williams-Coleman amendment is the first step on that path.

Mr. WILLIAMS. Mr. Chairman, I yield myself the remainder of the time.

Mr. Chairman, there are significant procedural changes made in the proposal before the House. This proposal is here because of the cooperation between myself and the gentleman from Missouri who has done excellent, extraordinary work on this legislation and this amendment, and I thank the gentleman from Missouri [Mr. COLEMAN] a great deal.

If we have done one important thing in this amendment, it is this. We have maintained the integrity of freedom of expression in the United States. Up my way in Montana I grew up in a little mining town called Butte. Many years ago in order to judge the health of the air in those deep mines out there, the miners used to bring down into the depths of the mine with them a canary in a cage. They would constantly move the cage out in front of them as they worked ahead in the stope. The purpose of that, of course, was to check the quality of the air, because if the canary could not survive, they knew that the air would soon be not healthy for them, and perhaps they could not survive in those deep mines.

In this country we are about a great experiment, and that is whether democracy can survive, whether a people who would dare to rule themselves can do it. If that experiment is to be successful, the environment of freedom must be maintained, and in this country artists are democracy's miner's canary. If we can protect freedom of expression for them, then the freedom of expression for all of us remains intact.

On the wall of the Kennedy Center are written the words of that young President, John Fitzgerald Kennedy, whose idea in a way we are saluting here today. The words in that wall, written more than 20 years ago by Jack Kennedy, are these:

John Kennedy said:

> I see an America which rewards excellence in the arts just as it rewards excellence in business and statecraft. I see an America that constantly expands cultural opportunities for all Americans.

And finally, said that young President:

> I see an America that is respected throughout the world, not only for its strength, but for its civilization as well.

Mr. Chairman, the House has done itself proud today.

Mr. GALLO. Mr. Chairman, over this past year, serious concerns have been raised about the National Endowment for the Arts. These concerns have been expressed to me by parents, community leaders, patrons of the arts, and many other individuals in my district.

From my days in the State legislature in New Jersey, I have been a strong supporter of the arts. To me, I have always envisioned our role as one that works to increase the public's access to the arts—for our communities, our schools, our children, and the general public. And when I look at what the National Endowment for the Arts has done in our State, I am confident that the NEA has achieved its goal.

Unfortunately, several controversial art exhibits funded by the NEA last year raised serious concerns about the practices and standards for awarding NEA grant moneys. It is clear why these exhibits raised such a firestorm—these decisions showed extremely poor judgment in the use of taxpayer's moneys.

As the Representative of the 11th district of New Jersey, I share my constituents' outrage over these grants that reflect so poorly on the judgment of the NEA. What is so unfortunate

is that these few decisions could put many worthy local projects, such as the New Jersey Chamber Music Society, the Whole Theatre, and the Montclair Art Museum, in jeopardy. Arts projects that have enriched the lives of residents in my district should not be put in jeopardy by the careless actions of others.

However, I believe we must make a change. Strong action needs to be taken to improve the accountability of the NEA in the use of taxpayers' money so that Federal support for the arts can continue.

In a letter I sent to the Chairman of the NEA, I forewarned him that this kind of careless use of taxpayers' moneys would not be forgotten by me or other Members when we considered the reauthorization bill.

Today, we face that debate and we have several choices of action.

We can reauthorize the program "as is." In light of this past year's problems and the justifiable outrage from the taxpayers, this route is completely unacceptable to me.

Similarly, I do not support the Crane amendment to completely abolish the NEA. I will not cut off the worthy projects in our State because of the mistakes of a few.

There are two remaining options—the Rohrabacher amendment and the Williams-Coleman bipartisan substitute. The amendment proposed by Representative ROHRABACHER is worthy in intent but fails in practice. By establishing specific moral, religious, and cultural definitions of acceptable art, this amendment makes the Congress, not the courts and not the public, the purveyor of these standards. Not only is this a dangerous precedent, it is unconstitutional. And when this amendment is declared unconstitutional, I am concerned that we will lose the value of standards and reforms contained in our other alternative. In fact, we would be back at square one with business as usual.

On a even more practical level, I cannot see how the Congress can take on a new role as the standard bearer for cultural expression when it cannot manage to deal with many of its present responsibilities, including the approval of a long overdue Federal budget.

Along with many concerned Members of Congress, I have spent this past year closely reviewing the NEA's budget plan and its procedures for awarding funds to various arts organizations in order to pinpoint where the NEA went wrong and how to change the procedures and standards to prevent similar problems in the future.

For this reason, I am supporting the Williams-Coleman bipartisan substitute because it succeeds in putting much tighter controls over NEA grants, including interim reports, incremental funding, and greater State and community involvement. As with all other Governent expenditures, this substitute makes it very clear that it is the public's money that is being spent and that we have the right and responsibility to ensure that their money is being well spent.

More important, the Williams-Coleman substitute puts the obscenity debate where it belongs—in the community. The substitute clearly states that obscenity is not protected by the Constitution and is not to be funded by the NEA. Under the substitute, any member of the community may bring a court challenge stating that the subject of an NEA grant is obscene. This approach is both appropriate and workable. Any NEA grant found to be used for obscene purposes would subject both the artist and the granting institution to strict penalties.

Mr. Chairman, we should approve this substitute because it makes the National Endowment for the Arts more accountable to the public by prohibiting the funding of obscene work, restructuring the Endowment to give more responsibility to the State and communities and reforms the grant-making process. Most important, it will begin the process of restoring public confidence in the Endowment and will allow our continued support for access to cultural and artistic excellence in America.

Mr. MCMILLEN of Maryland. Mr. Chairman, today I rise in support of the Williams-Gunderson substitute. Let me first state that I abhor obscenity—it is the antithesis of art and deserves no protection under the first amendment. The question at hand is how to prevent the funding of obscene art without trampling on our first-amendment rights. I believe the Williams-Gunderson amendment treads this fine line and will help clear up once and for all the troublesome issue of National Endowment for the Arts funding for obscenity.

The Williams-Gunderson provision provides that the NEA shall not fund obscene art and establishes a clearcut applicable definition of obscenity. Under the substitute, projects would be judged to be obscene if they violated any of the three standards set forth in the Supreme Court definition of obscenity, Miller versus California, in 1973. A project would be judged obscene if: First, the average person, applying contemporary standards, would find that the work, taken as a whole, appeals to prurient interests; second, it depicts or descries sexual conduct in a patently offensive way; and third, it lacks serious literary, artistic, political, or scientific value, when taken as a whole. Grantees whose work was found to be obscene in the courts would have to return the funds to the Government.

The Williams-Gunderson proposal would also radically overhaul the NEA grant application procedures. It would insure that the touchstone for any NEA grant is artistic excellence and artistic merit. It would also open up the grant making procedures to general members of the public and include individuals reflecting a wide geographic, ethnic, and racial representation and diverse cultural and artistic points of views. By increasing the openness and diversity of the grant panels, the measure increases the accountability of the grant making procedures.

Finally, the amendment adds to the declaration of findings-and-purposes statements of the NEA that the Government must be sensitive to the nature of public sponsorship. Similarly, it states that funding of the arts must take into account the conditions of public accountability that govern the use of public funds and that the arts should reflect the Nation's rich cultural heritage and diverse beliefs and values of all Americans.

Let me state unequivocally, that I oppose pornography and obscenity. They are offensive to all decent Americans and are not a form of free speech to be protected by the first amendment. Only the Williams-Gunderson amendment protects all Americans by treading the delicate path of prohibiting the funding of obscene art while protecting our first-amendment rights.

Mr. MATSUI. Mr. Chairman, I rise today to give my strongest support to the Williams-Coleman amendment. Throughout history, the arts have been an essential part of American culture. In 1965, President Johnson and Congress created the National Endowment for the Arts and the National Endowment for the Humanities with the idea that is was appropriate for the Government to play a vital role in nurturing a conducive and creative environment for the arts. Embodied in this creed is the idea that Congress should not exercise any direction or control over the foundation in its granting process or its policy. We must not lose sight of this most important creed as we and our followers in Congress continue to support this most worthy organization.

In the wake of a few controversial grants that have been blown out of proportion by some extremist groups, many have lost sight of what the NEA stands for. The Endowment challenges artists and the public alike, to think, to be imaginative, to create something new that goes beyond the present artistic realm. As President Kennedy once said, "if art is to nourish the roots of our culture, society must set the artist free to follow his vision wherever it takes him."

This challenge has created dramatic growth in all areas of the arts community. In 1965 there were 56 nonprofit theaters in the United States, today there are 400. In 1965 there were 60 professional orchestras in the United States Today there are well over 150. Not only has the Endowment spurred dramatic growth in the arts, it also has helped to document and save our folk traditions for future generations to enjoy.

Last year, a bipartisan commission was named by President Bush and the Democratic and Republican leaders of Congress to review the NEA's grantmaking process. That recently released report reinforced one crucial concept—that freedom of expresion in the arts is essential for its success and the issue of obscenity must be decided by the courts, not the NEA.

The NEA is one of the Federal Government's most accountable and successful programs and it is my feeling that the checks and balances offered in this amendment will not only give artists the freedom to seek their visions but will also keep them responsive to their public sponsorship.

Remember that at one time Michelangelo's "The Last Judgement" in the Sistine Chapel was deemed indecent and Mark Twain's "Huckleberry Finn" was actually banned from bookshelves across the Nation. These great men whose works were once considered indecent by their contemporaries are now known as some of the finest examples of art and literature. The future holds similar great expectations that cannot be dulled by unnecessary Government intervention.

Mr. MILLER of Washington. Mr. Chairman, in 1965, the National Endowment for the Arts [NEA] began as an institution geared to explore and promote the varied arts found throughout America. The Endowment has planted seed money in both established and obscure organizations, which often have blossomed into programs accessible to many Americans. NEA grants have been used to help build the Vietnam Veterans Memorial, help fund the original production of "Driving Miss Daisy," and help create the "Praine Home Companion."

But, now there is a great deal of controversy over the reauthorization of the NEA. A small number of controversial grants in recent years has rightly caused the American taxpayers and their representatives to question the NEA. I cannot and will not tolerate wasting Federal funds for sexually explicit photographs, sacrilegious works, or child pornography that has no artistic value.

As NEA Chairman John Frohnmeyer admits, mistakes were made and changes are needed at NEA. Congress was handed the difficult task of finding a balance between support for the arts and the appropriate use of taxpayers' funds.

Last year I supported restrictive language and a funding penalty for obscene art works. I voted to rescind $45,000 from the NEA because of the funding of certain works by Robert Mapplethorpe and Andres Serrano. But, this did not fully address the underlying internal and external problems with the NEA.

This year, we have four options to choose from to confront the Government's role in promoting American arts.

The first and easiest option is to ignore the problem and simply reauthorize the NEA with no changes. The public has demanded otherwise, and it would be irresponsible of the Congress to keep the program status quo after the surfacing of recent NEA mistakes and problems.

Conversely, we could abolish the NEA altogether. If we did so, we would eliminate a number of children's workshops, cancel traveling exhibitions to rural communities, undermine support for symphonies and museums across the country, and possibly return the arts exclusively to the elite.

Still, we are faced with the question of what steps need to be taken to improve the accountability of the NEA. Congress could dictate restrictions for NEA funding. But, nebulous guidelines intended to prevent obscene and denigrating artworks often suppress acceptable art. For example, although I cannot condone bigotry of any kind, a blanket provision against funding art that contains elements of bigotry could easily forbid the NEA from funding some of Shakespeare's plays or Verdi's operas or Rembrandt's paintings.

Instead, I support the Coleman-Williams bipartisan proposal. This overhauls the internal operations of the NEA for the first time since its inception. Most importantly, obscene works will be forbidden to receive NEA funds. Grant recipients found guilty of obscenity by juries of their peers will have to return any NEA funds and will be barred from receiving other NEA support until the funds are repaid. Grant review panels will be expanded to include people outside the tight art community. National Council of the Arts meetings will be open to the public. The NEA Chairman will be given more power to overrule grant panels.

The process may not be perfect, but I believe these reforms will yield visible improvements. If they do not, next year we can consider abolishing the NEA altogether so as to remove the Federal Government from any direct role in the arts. In that event, the Government could still support the arts by providing tax incentives to the private sector rather than directly funding a government agency.

America must foster creativity and education through the arts. The NEA was created to inspire such creativity and will hopefully continue to do so, but it has no right to take the American taxpayer for granted in the process.

Mr. MOODY. Mr. Chairman, I rise in support of the Williams-Coleman substitute to H.R. 4825, authorization for the National Endowment for the Arts, National Endowment for the Humanities, and Institute of Museum Services.

The Williams-Coleman amendment is a very reasonable and responsible compromise to a thorny problem: How to balance our country's traditional objection to State censorship and taxpayers' right to resist funding of activities they don't like.

The substitute amendment resists the temptation to define obscenity item by item by statute—as the Rohrabacher amendment does—but instead lets the courts decice. It also makes certain reforms of NEA procedures, but it retains the time-honored peer review process rather than institute decisionmaking by Government bureaucrats. The latter would quickly amount to State censorship.

Today we have the opportunity to reauthorize NEA which has provided the opportunity for many people to enjoy art who may have otherwise never been able to do so. Let's not allow lies and inaccuracies to affect our vote today.

Only about 0.02 percent of NEA grants have generated any controversy. This is out of the thousands of grants which it has issued over the last 25 years. Americans have benefited tremendously from the over 80,000 projects funded by the NEA. Since the NEA was established in 1965 we have seen an incredible growth of professional dance companies, professional orchestras, local art agencies, professional choruses, professional opera companies, and professional theaters. All Americans benefit from this expansion of the arts.

The arts enrich our society and promote creativity. As President John Kennedy said, "Time will not remember us for the strengths of our armies, but for the strength of our minds." Most of what government does is ephemeral. Important, but ephemeral. Voting for the NEA is our chance to give something to American society today and for tomorrow. This is a lasting gift that can be enjoyed long after it's first seen.

Taxpayers spend an average of only 68 cents per year to support NEA—such a small price to pay for such a large benefit. Many Federal spending programs spend billions and deliver relatively little.

Congress should adopt the Williams-Coleman substitute and reject the Crane and Rohrabacher amendments. The Williams-Coleman substitute will ensure that the NEA continues as a strong agency with a record of success. We owe it to present and future Americans to continue funding the NEA.

Mr. COLEMAN of Texas. Mr. Chairman. I rise in support of this bill and in support of the substitute language on the NEA offered by Congressman PAT WILLIAMS, of Montana, and TOM COLEMAN, of Missouri.

This entire debate is a waste of time, literally. It is a waste of time for our staffs to have had to answer all of the postcards generated by rightwing direct mail lobbies on this issue throughout the summer—in fact for the past year.

The Dow Jones Industrial Average went down by 80 points yesterday. It did not go down because the NEA funded a couple of works of art that were offensive by consensus. It went down because the financial markets, Wall Street, the city of London and the Ginza, are not persuaded that the Congress and George Bush are serious about deficit reduction, nor about halting the slide in our economy.

I am not a great supporter of the involvement of the Federal Government in the arts. Marshall Stalin and Chairman Mao were great proponents of statist art and propaganda. I am only persuaded that there is a role for the Federal Government and for the three agencies which will be funded today because I support the public underwriting of efforts to broaden the spectrum of the kinds of art we see. Minorities whose work would otherwise have been omitted from what fits neatly in the "mainstream" may benefit from the NEA or the Institute for Museum Services. People from relatively isolated parts of America, like my constituents in west Texas, may have the genius of someone else from another part of this country made accessible to them by virtue of the NEA.

No one in the Congress wants to fund obscenity with our constituents' tax dollars. The Williams-Coleman language goes as far as is reasonable in ensuring that we do not. If we adopt the Rohrabacher amendment, or some other concoction of the far right which seeks to restrict the content of art, we will end up not with the NEA, but with the NEU, a National Endowment for the Unobjectionable. I will not waste any more time on this debate. As a member of the Committee on Appropriations, I know that we are supposed to complete 13 separate conferences in the next 9 days. That is important. This is trivial. I do not have time for it. Let us pass this bill and get on with our business.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Montana [Mr. WILLIAMS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. COLEMAN of Missouri. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 382, noes 42, not voting 9, as follows:

[Roll No. 448]

AYES—382

Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bateman
Bates
Beilenson
Bennett
Bentley

Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bonior
Borski
Bosco
Boucher
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Crockett
Dannemeyer
Darden
Davis
de la Garza
DeFazio
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Douglas
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hiler
Hoagland
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rogers
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walgren
Walsh
Washington
Watkins
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)
Young (FL)

NOES—42

Ackerman
Armey
Bartlett
Barton
Berman
Boxer
Campbell (CA)
Combest
Cox
Craig
Crane
DeLay
Dellums
Dornan (CA)
Dreier
Hancock
Hansen
Herger
Holloway
Hunter
Kostmayer
Kyl
Levine (CA)
Lightfoot
Livingston
McDermott
Mrazek
Petri
Robinson
Rohrabacher
Sensenbrenner
Shumway
Smith, Robert (NH)
Smith, Robert (OR)
Studds
Stump
Vander Jagt
Vucanovich
Walker
Waxman
Weber
Weiss

NOT VOTING—9

Boggs
Hall (OH)
Hayes (IL)
Morrison (CT)
Rose
Rowland (CT)
Schuette
Wilson
Wylie

□ 1918

Messrs. ACKERMAN, McDERMOTT, DELLUMS, STUDDS, HERGER, and BERMAN changed their vote from "aye" to "no."

Messrs. TAYLOR, DONALD E. "BUZ" LUKENS, and SMITH of Texas changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, it is now in order to consider amendment No. 4 printed in House Report 101-801.

AMENDMENT OFFERED BY MR. GRANDY TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WILLIAMS.

Mr. GRANDY. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GRANDY to the amendment in the nature of a substitute offered by Mr. Williams: In subsection (1)(1) of section 5 of the National Foundation on the Arts and the Humanities Act of 1965, as added by section 103(g), strike the dash and all that follows through subparagraph (B), and insert the following:

until such recipient repays such assistance (in such amount, and under such terms and conditions, as the Chairperson determines to be appropriate) to the Endowment

The CHAIRMAN. Under the rule, the gentleman from Iowa [Mr. GRANDY] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Iowa [Mr. GRANDY].

□ 1920

LEGISLATIVE PROGRAM

(By unanimous consent, Mr. YATES was allowed to proceed out of order.)

Mr. YATES. Mr. Chairman, I should like to notify Members that we will not be taking up the Interior appropriations bill tonight. We will be taking up the bill tomorrow, rather than tonight, following the appropriations bill of the Department of Defense.

Many Members had asked me whether we intended to bring that up. That was the intention of the leadership originally, but I think we can dispose of both appropriations bills in a reasonable manner tomorrow in a reasonable time. I see no reason for delaying Members tonight.

Mr. GRANDY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me begin by saying I am a strong supporter of the Coleman-Williams compromise which this House just overwhelmingly passed, and I offer this amendment to improve slightly, and I hope more compassionately, a piece of legislation that I think has found the proper balance between accountability to the taxpayer and due process for the artist, with no limitation on artistic freedom.

Mr. Chairman, if we look at the penalty provisions in this bill, I think we have to give ourselves perhaps a moment to step back and say we are not piling on penalties here for someone who has been found guilty in a court of law. There are no content restrictions in the legislation, but if an artist under this bill is found guilty of obscenity and has exhausted his or her appeal process, then the Cairman of the NEA can require that artist to repay the grant and he will debar that artist for 3 years.

Mr. Chairman, I ask only in this amendment that we make the recoupment of funds and the debarment from the Endowment coterminos. In other words, if you are found guilty and you repay your grant in 2 days; if you repay it in 3 years, you are debarred for 3 years; if you repay it in 10 years, you are debarred0 for 10 years.

The reason being, Mr. Chairman, is that almost invariably those artists that will fall prey to this amendment will probably be young fledgling artists, probably the people that Garrison Keillor refers to when he talks about the Endowment, encouraging artists who are young and dangerous and unknown and very much alive.

Mr. Chairman, here is my point: take the Mapplethorpe case. Assuming that defendant had been found guilty, under Coleman-Williams that defendant would have to obviously repay the grant, in this case the gallery, and would be debarred for 3 years. In so doing we not only cut the artist off from his present livelihood, we cut them off for the future resources.

Young artists only have so many opportunities. All I say is that temper justice with some compassion in this legislation and think very seriously about making the punishment fit the crime. If we make debarment and recoupment coterminous, then we can address a concern that I received from a constituent of mine, who said this about arts when he wrote to me in very strong terms about why we did not need content restrictions and how the Endowment should go forth unimpeded. He said:

> The history of the arts is replete with examples of art works that seem shocking and offensive to some when they first appeared, but later came to be recognized as masterpieces. The works of Michelangelo. Mozart, and Mark Twain have all come under attacks that sound frighteningly like the ones we are hearing now from Washington.

Mr. Chairman, anybody who spent any time in the arts knows that the threat of punishment and the excessive penalties will have a chilling effect on these fledgling artists that might otherwise not access the Endowment, that might not achieve the summit of their brilliance, because they were afraid of what might happen.

Mr. Chairman, I offer this amendment as an attempt to perhaps enhance the artist's rights under what is already a very just bill.

Mr. Chairman, I reserve the balance of my time.

Mr. WILLIAMS. Mr. Chairman, I rise in opposition, to the amendment, and I yield 5 minutes to the gentleman from Missouri [Mr. Coleman].

Mr. COLEMAN of Missouri. Mr. Chairman, I appreciate the gentleman yielding. I rise in opposition to the Grandy amendment. I do so with a heavy heart because Mr. Grandy has been a real soldier in passing this proposal this afternoon, the Williams-Coleman substitute, as well as defeating other amendments today, and has spoken quite eloquently. I appreciate the contribution of the gentleman to this bipartisan agreement.

What the gentleman from Iowa [Mr. Grandy] is trying to do is take out of the Williams-Coleman proposal a 3-year minimum eligibility period for anybody whose work was found to be obscene by a court of law. Not only do they have to pay it back, we both agree on that, but the current bill requires that there be a 3-year period in which they are not eligible for any other grant.

Mr. Chairman, the gentleman from Iowa [Mr. Grandy] would move that to be concurrent with as soon as they pay back the grant, that they would be eligible to get another one.

It seems to me that we need to have some teeth, some sanctions. That is why the 3 years are in there. I think it sends a wrong message to people at this late hour to allow them to go ahead and flaunt it, if you will, pay it back, and then not have any real penalty.

So this is kind of a no-probation, no-parole, 3-year period that we have in the bill. The gentleman from Iowa [Mr. Grandy] would remove that.

Mr. Chairman, I would respectfully ask that the amendment of the gentleman from Iowa [Mr. Grandy] be voted down.

Mr. GRANDY. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. Pelosi].

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding and for his leadership on promoting the arts in this country and in this Congress. I would also like to commend the cosponsors of the Williams-Coleman amendment for their fine work in bringing this compromise before the House.

Mr. Chairman, while I support the Coleman-Williams compromise, I believe that the Grandy amendment is necessary because we should eliminate the debarment contained in the compromise which we have just voted on.

Mr. Chairman, the gentleman from Iowa [Mr. Grandy] has explained his amendment, but I will explain why I want to support it.

Mr. Chairman, the increasing political pressure on arts organizations and museums to monitor the work of their membership and to restrict the work that they exhibit is a disturbing trend. Mr. Chairman, why is it that we subject funding for creativity to such harsh scrutiny, when we are so profligate when it comes to funding weapons of destruction?

Mr. Chairman, this debate also points to the need for increased funding for arts education. The more our children are taught to have a fuller appreciation of artistic expression, the easier it will be for Members to support the arts in Congress.

□ 1930

By encouraging artistic expression and appreciation, we encourage creativity and compassion which is an essential part of a civilized life. Art of its nature will always evoke controversy.

I urge my colleagues not to suppress creativity. I urge them to vote yes on the Grandy amendment in the spirit of the framers of our Constitution who recognized that freedom of expression is the cornerstone of a free society.

Mr. GRANDY. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. Carr].

Mr. CARR. Mr. Chairman, I rise in support of the Grandy amendment.

It is one thing to say that some art that was created by public funds ends up by a court of law or jury or in the judical system to be judged obscene and in violation of what is intended here, and that the organization or the individual pay the money back. That says that the particular art was bad art, it was a mistake and we are going to rectify that mistake. If we debar an organization or an individual we are really saying that not only was the art bad art or a bad mistake, we are saying that the person is a bad person or the organization is a bad organization.

We know there are a lot of museums out there who are interested in fostering art, particularly some of the more avant garde types of art. Just because they make a mistake does not mean that they are not rendering a valuable service to the artistic community and to the communities that they serve. They should not be disbarred, and they should not be required to pay the money back that is provided in the bill. I think the penalty is excessive, and there is no opportunity for adequate, in my judgment, review of the penalty. It is harsh, and I urge the support and adoption of the Grandy amendment.

I also would like to congratulate the gentleman from Iowa for all of the work he has done on this particular issue, not only on his amendment, but the support he has given to the National Endowment for the Arts.

Mr. KOSTMAYER. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Chairman, they should not have to pay the money back; they should not lose future grants. The Federal Government ought not to be involved in this in any way. I support the Grandy amendment and I hope it is adopted.

Mr. CARR. I thank the gentleman for his moderation.

Mr. GRANDY. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. AuCoin].

Mr. AuCOIN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I would like to enter into a colloquy with the gentleman from Iowa, my friend. It is my understanding that under the terms here a recipient of a grant could be an organization.

Mr. GRANDY. If the gentleman will yield, that is true.

Mr. AuCOIN. My concern and the reason I then support the Grandy amendment is that I think a lot of Members have organizations, such as I do in my district, the Oregon Art Institute, for example, where there are three distinct branches of the Oregon Art Institute. Unless the Grandy amendment passes, it could be possible that one branch might be in violation of the law, and then, because it is in violation of the law, every one of the branches, all three branches of this institute would be unable for 3 years to even apply for a grant under NEA. I think that is grossly unfair.

Mr. GRANDY. If the gentleman will continue to yield, that is absolutely correct.

Mr. AuCOIN. I thank the gentleman.

Mr. GRANDY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, under this penalty it is a "one size fits all." So again, going to the gallery in Cincinnati, which was just recently found not guilty, had the decision gone the other way that gallery would have been barred for 3 years.

Quite often a gallery is more at risk than an individual, so I think this does provide a lot of our organizations which support us and whom we support the opportunity to provide some compassion with justice.

Mr. AuCOIN. If the gentleman will yield, I support his amendment and compliment him.

Mr. GRANDY. Mr. Chairman, I urge support for the amendment.

Mr. WILLIAMS. Mr. Chairman, I yield myself the balance of my time to say to my friend from Iowa that although I am opposed to his amendment, along with the gentleman from Missouri [Mr. Coleman], because like him I would say we have an agreement on a bill, and the gentleman from Iowa would break a part of that agreement. So it is on that basis that I express some mild, I must admit, opposition to what the gentleman wants to do.

I say to my colleagues that as always everybody is free to vote in this Chamber any way they wish.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, I accept the gentleman's invitation and I will support the Grandy amendment. I thank the gentleman.

Mr. WILLIAMS. Reclaiming my time, I would say I have some sympathy for the institutional problem of major institutions, small institutions. If the Grandy amendment is defeated, they would not be able to apply for another NEA grant for any purpose for 3 years. So I understand the gentleman's amendment and have some sympathy with it.

Again, with that, I express my opposition.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa [Mr. Grandy] to the amendment in the nature of a substitute offered by the gentleman from Montana [Mr. Williams].

The amendment to the amendment in the nature of a substitute was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 101-801.

AMENDMENT OFFERED BY MR. TRAFICANT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WILLIAMS, AS AMENDED

Mr. TRAFICANT. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, as amended.

The CHAIRMAN. The clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment offered by Mr. Traficant to the amendment in the nature of a substitute offered by Mr. Williams, as amended:
>
> Strike the heading for title IV and insert the following:
>
> TITLE IV—MISCELLANEOUS
>
> Redesignate section 401 as section 403.
>
> Insert after the heading for title IV the following:
>
> SEC. 401. SENSE OF CONGRESS.
>
> It is the sense of the Congress that a recipient (including a nation, individual, group, or organization) of any form of subsidy, aid, or other Federal assistance under the Acts amended by this Act should, in expending that assistance, purchase American-made equipment and products.
>
> SEC. 402. NOTICE.
>
> Any entity that provides a form of subsidy, aid, or other Federal assistance under the Acts amended by this Act shall provide to each recipient of such form of subsidy, aid, or other Federal assistance a notice describing the sense of the Congress stated under section 401.

The CHAIRMAN. The gentleman from Ohio [Mr. Traficant] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Is there a Member opposed to the amendment?

The Chair recognizes the gentleman from Ohio [Mr. Traficant].

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment says that if there has got to be obscenity that we should buy this obscenity in America.

This is a sense of the Congress that says anybody that gets any grants or aid through this bill, they would be encouraged by the Congress to use such funds to buy American-made goods and products.

In addition to that, it says the NEA Chairman shall make such notice without making a tremendous burden on the chairman and on our Government.

I think that we should try and reenforce and plant the seed to use American dollars for American products wherever possible. It does not force anybody. I think it is a good policy. It is an encouragement and it is consistent and persistent with efforts to try and retain our tax dollars.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we would accept the gentleman's resolution to encourage America's artists and art institutions, galleries and museums to buy American.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the distinguished gentleman from Arizona.

Mr. RHODES. Mr. Chairman, just a point of clarification about the amendment. If a grant applicant desires to create a sculpture or some other work of art out of Italian marble, would he necessarily be precluded from applying for a grant under this amendment?

Mr. TRAFICANT. Not at all. We encourage the recipients to buy American wherever possible, but we do not mandate it.

Mr. RHODES. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. Traficant] to the amendment in the nature of a substitute offered by the gentleman from Montana [Mr. Williams], as amended.

The amendment to the amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. Bosco] having assumed the chair, Mr. Murtha, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4825) to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes pursuant to House Resolution 494, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amenment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

□ 1940

The SPEAKER pro tempore (Mr. Bosco). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GOODLING. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 349, nays 76, not voting 8, as follows:

[Roll No. 449]

YEAS—349

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Ballenger
Barnard
Bateman
Bates
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Crockett
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Engel
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Gray
Green
Guarini
Gunderson
Hamilton
Harris
Hatcher
Hawkins
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Huckaby
Hughes
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauke
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walgren
Walsh
Washington
Watkins
Waxman
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (FL)

NAYS—76

Archer
Armey
Baker
Bartlett
Barton
Bennett
Burton
Callahan
Campbell (CA)
Combest
Condit
Cox
Craig
Crane
Dannemeyer
DeLay
Dickinson
Dornan (CA)
Douglas
Dreier
Duncan
Edwards (OK)
Emerson
English
Fields
Gekas
Gibbons
Gingrich
Grant
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Herger
Hiler
Holloway
Hubbard
Hunter
Hutto
Hyde
Inhofe
Kyl
Laughlin
Leath (TX)
Lightfoot
Livingston
Marlenee
McCandless
McCurdy
Miller (OH)
Moorhead
Ortiz
Petri
Robinson
Rohrabacher
Sarpalius
Sensenbrenner
Shumway
Shuster
Skelton
Slaughter (VA)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stenholm
Stump
Sundquist
Tauzin
Taylor
Vander Jagt
Vucanovich
Walker
Weber
Weiss
Young (AK)

NOT VOTING—8

Boggs
Hall (OH)
Hayes (IL)
Morrison (CT)
Rowland (CT)
Schuette
Wilson
Wylie

□ 1959

Mr. ENGLISH and Mr. SLAUGHTER of Virginia changed their vote from "yea" to "nay."

Mr. VOLKMER and Mrs. BYRON changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 2000

PERSONAL EXPLANATION

Mr. PARRIS. Mr. Speaker, I was unavoidably detained earlier today and missed rollcall vote 443 on the Gallo motion to instruct D.C. conferees. Had I been here I would have voted "aye".

On rollcall vote 444, the rule on the Civil Rights Act, had I been present I would have voted "aye".

On rollcall vote 445, the rule to recommit the civil rights measure, had I been present I would have voted "aye".

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent for rollcall No. 444, House Resolution 477—the rule to consider the conference report of the Civil Rights Act of 1990; rollcall No. 445, a motion to recommit with instructions; rollcall No. 446, the Crane en bloc amendments to NEA; rollcall No. 447, the Rohrabacher en bloc amendments to NEA; rollcall No. 448, the Williams amendment to NEA; and rollcall No. 449, final passage of NEA.

Had I been here, I would have cast the following votes: "aye," "nay," "nay," "nay," "nay," "aye," and "aye."

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 4825, ARTS HUMANITIES, AND MUSEUMS AMENDMENTS OF 1990

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 4825, the Clerk be authorized to make corrections in section numbers, punctuation, and cross-references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending H.R. 4825, the bill just passed.

The SPEAKER pro tempore (Mr. Montgomery). Is there objection to the request of the gentleman from Montana?

There was no objection.

GENERAL LEAVE

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 4825, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

REPORT ON RESOLUTION WAIVING ALL POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 5803, DEPARTMENT OF DEFENSE APPROPRIATIONS, 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-849) on the resolution (H. Res. 501), waiving all points of order against the bill (H.R. 5803) making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3960, COLORADO RIVER STORAGE PROJECT AUTHORIZATION INCREASE

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-850) on the resolution (H. Res. 502) providing for the consideration of the bill (H.R. 3960) to increase the amounts authorized to be appropriated for the Colorado River Storage Project, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4939, EXTENSION OF MOST-FAVORED-NATION TREATMENT TO THE PEOPLE'S REPUBLIC OF CHINA

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-851) on the resolution (H. Res. 503) providing for the consideration of the bill (H.R. 4939) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule 1, the Chair announces that he will postpone further proceedings today on each motion to instruct conferees on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate on both motions.

MOTIONS TO INSTRUCT CONFEREES ON S. 2830, AGRICULTURAL PRICE SUPPORT AND RELATED PROGRAMS EXTENSION

Mr. SYNAR. Mr. Speaker, I offer a privileged motion to instruct conferees.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. Synar moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the bill, S. 2830 (the 1990 Farm bill) be instructed to insist upon at a minimum the provisions contained in subtitle G of title XIV of the House amendment relating to pesticide export reform and to accept the provisions contained in sections 1761 and 1762 of the Senate bill relating to revocation of food tolerances for banned pesticides.

The SPEAKER pro tempore. The gentleman from Oklahoma [Mr. Synar] will be recognized for 30 minutes, and the gentleman from Kansas [Mr. Roberts] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. Synar].

Mr. SYNAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this motion to instruct simply instructs the House conferees to insist upon, at a minimum, the House provisions of H.R. 3950, the farm bill, relating to pesticide export reform. In addition, this motion instructs the House conferees to accept the Senate bill's provisions, sections 1761 and 1762, relating to the revocation of food tolerances for banned pesticides, a provision dropped at the last minute solely because of jurisdictional problems.

Mr. Speaker, the House has already spoken on the issue of pesticide export reform. As you know, along with Congressman Panetta and Glickman, I introduced the Pesticide Export Reform Act of 1990 which required that export of banned and unregistered pesticides be prohibited. However, after extensive negotiations with the Agriculture Committee and others, a compromise agreement was reached and successfully passed the House on August 1.

The House provision deals with the circle of poison issue by prohibiting the export of pesticides banned in the United States. Under the House provision, the export of unregistered pesticides is subject to a new regulatory framework designed to ensure that unregistered pesticides are tested for health and safety effects and do not present an unreasonable risk to public health. In addition, to be exported, pesticides which are unregistered in the United States must be registered in at least one OECD country. A practical method to detect pesticide residues also must exist for these pesticides before export so that traces of these substances do not find their way onto American dinner tables.

The merits of these provisions are clear. Pesticides must have either a registration or a tolerance in order to be used in the United States. However, unregistered chemicals will likely find their way to the United States in the form of residues on imported products, since the Food and Drug Administration has the resources to inspect only 1 or 2 percent of imported products. We must insure that chemcials that may find their way back to American dinner tables do not represent an unreasonable risk to human health.

In addition to protecting the health of American consumers, the amendment provides a level playing field for U.S. farmers who must compete against foreign agriculture products grown with pesticides they are not allowed to use here at home.

Senator Lugar has informed the conference that he intends to introduce an amendment which would seriously weaken both the House and Senate versions.

Among other things, Senator Lugar's amendment will do away with the provisions requiring health and safety testing of unregistered pesticides prior to export. Senator Lugar contends that, so long as a pesticide is registered in any OECD country, export should be allowed no matter how weak that country's program might be. We disagree. The purpose behind requiring EPA evaluation of health and safety data for unregistered pesticides is to ensure that consumers are protected against unreasonable risk. Abandoning such a risk determination by EPA is irresponsible and inconsistent with the views previously expressed by the House. Furthermore, the EPA health and safety evaluation acts as a safety net, should an OECD registration scheme weaken over time. Some OECD countries, including Turkey, still have registrations on the books for pesticides which have been determined in the United States to pose serious risk to public health and safety. Without the health and safety determination by EPA, such harmful chemicals could be exported, thus presenting a danger to American consumers of imported food products.

The House amendment also requires that, prior to export, the country of use gives its prior informed consent to receiving unregistered pesticide. Under the House amendment, information on the active ingredient in the pesticide, as well as health and safety concerns that the United States has about the pesticide, are forwarded to the receiving country so that an informed decision will be made. In addition, the country of use must provide the United States with written consent to receipt of pesticide. The importance of this provision is clear. We should not force a country to receive a pesticide that it doesn't want and the country should receive this information in advance of shipments.

Senator Lugar's amendment would remove the requirement for an affirmative response by a country of use prior to export. This clearly contradicts both the prior informed consent provisions endorsed by the House, as well as the prior informed consent provisions of the Senate bill. We should insist upon the House provisions regarding prior informed consent.

Both the House amendment and the Senate bill require extensive reporting and notification procedures prior to the shipment of unregistered pesticides for large-scale research or experimental use. The reporting provisions require that the exporter include information describing the proposed experimental activity, as well as a certification by the exporter that the pesticide will be used only for experimental purposes, and will not be used for nonexperimental commercial purposes. The House amendment also requires that the country of use consent in advance to the shipment of these R&D pesticides. Senator LUGAR's amendment deletes all of the House provisions requiring reporting and notification to the country of use on unregistered pesticides being exported for research and development purposes. Clearly, this undermines the House's prior efforts to ensure that the country of use has as much information as possible to make an informed decision on whether to allow import of the pesticide.

This motion also instructs the House conferees to accept the provisions contained in sections 1761 and 1762 of the Senate bill, relating to revocation of food tolerances for banned pesticides. As originally introduced in the House, H.R. 4219 included a comprehensive statutory plan for the prompt revocation of food tolerances for banned pesticides. Too often, EPA has delayed cancelling a food tolerance, therefore allowing a dangerous pesticide to be present on food imports long after its domestic uses were cancelled. For example, EPA barred U.S. farmers from using DDT in 1972, but waited 14 years to cancel DDT's food tolerance and to make it illegal to be on imported food. Because of jurisdictional questions, the tolerance revocation provisions were not included in the House farm bill, although they are present in the Senate version. Tolerance revocation for banned pesticide makes good sense and is long overdue. The conference committee should include the Senate provisions in the final farm bill.

Finally, the House amendment was a delicate compromise arrived at after several days of intense negotiation with interested members of the House Agriculture Committee, including Mr. STENHOLM, and Mr. OLIN. If I had offered my original bill, identical to its Senate companion, there would have been no issue for the conference to discuss. Instead, we negotiated in good faith with our colleagues to arrive at the House version.

I strongly urge my colleagues to support this motion to instruct the conferees. The motion provides a level playing field for U.S. farmers and protects the health and safety of U.S. consumers. Anything less will not break the circle of poison.

□ 2010

Mr. KOSTMAYER. Mr. Speaker, will the gentleman yield?

Mr. SYNAR. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. I thank the gentleman for yielding.

Mr. Speaker, I asked to be yielded to for the purpose of inquiring: Would this apply to pesticides used in nonfood products? For example, if a company A manufactures paint and uses a particular pesticide to prevent the growth of certain fungus in that paint, would that company, that pesticide, that paint be affected?

Mr. SYNAR. The gentleman from Pennsylvania makes an interesting point, one with which I am particularly concerned because it does not apply to foodstuffs. We are going to work with the gentleman in this conference to make sure that the particular situation he is trying to address will be taken care of.

Mr. KOSTMAYER. And so is it fair to say that pesticides used in nonfood products are not affected here and the gentleman's intentions do not apply to pesticides in nonfoodstuffs?

Mr. SYNAR. To the extent they are affected, we want to work out the problem that the gentleman has in his particular district.

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. SYNAR. I yield to the chairman of the Committee on Agriculture, the gentleman from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding.

Mr. Speaker, we have no problem. The Committee on Agriculture is not the culprit in this endeavor. The gentleman should be making his presentation to the other body, to the other conferees and not here.

But the gentleman just made a reply that negates what the gentleman is trying to do, because if you instruct the Committee on Agriculture, then you cannot help Mr. KOSTMAYER negotiate and improve on the issue in the conference. So either you go one way or you go the other.

Mr. SYNAR. As the gentleman is aware, there is a report language in every conference report which will allow us some leeway with respect to the particular problems the gentleman from Pennsylvania has just inquired about.

Mr. KOSTMAYER. If the gentleman would yield further, I am very sympathetic with what my friend from Oklahoma wants to do. But I do not think we want to penalize companies in America that manufacture pesticides that are in fact used in nonfood products such as the example I gave, paint. If the gentleman could just make it a little bit clearer to me that that is not his intention.

Mr. SYNAR. It is our intention to try to cover those products which cover the safety and health of not only our own citizens but citizens abroad. And the gentleman's particular problem has been presented to us. We are concerned about it. We would like to work with the gentleman to try to alleviate that problem.

Mr. KOSTMAYER. If I may ask a second question?

Mr. SYNAR. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Speaker, the gentleman said this would apply to pesticides which had been banned in the United States and to pesticides which had not been registered in the United States. Would it apply to pesticides manufactured by companies which had in fact not applied for registration?

Mr. SYNAR. Under the legislation, both the House and the Senate versions, three things would happen: We would ban the export of any pesticide which is banned in this country. An unregistered pesticide which has been approved by an OECD country or European Community country would have the opportunity, combined with an EPA review on health and safety of that product, to be allowed to be exported. If it is an unregistered pesticide, then that pesticide would have to come back for a bridge review within the next 3½ years, which this bill provides for.

Mr. KOSTMAYER. Just to clarify a bit further: If a company in the United States wants to sell a particular pesticide abroad, that their market is not in the United States, therefore they have never attempted to register the product in the United States, would that company be banned from exporting?

Mr. SYNAR. They would not be banned from exporting the product. They would have to go through the process of registration because they would not be able to export an unregistered pesticide.

Mr. KOSTMAYER. Let me just say to the gentleman that while I want to be sympathetic, it is very expensive for a chemical company to have to register its product in the United States. If it is making a product which it has no intention of selling in the United States, I wonder why it would be necessary to register this product in the United States.

Mr. SYNAR. I think the gentleman asks an interesting question. That is the whole purpose of trying to do this legislation, which is to break the circle of poison.

Through investigations on my Subcommittee on Environment, Energy, and Natural Resources of the Committee on Government Operations, which I chair, we have found that in both banned and unregistered pesticides which in this country have been banned or are unregistered, they have been exported out of this country, put on products, both animal and vegetables and other consumable items, and shipped back into this country, exposing our own consumers.

Without breaking this circle of poison, we do not solve the problem of unlimited exposure by registering the product.

Mr. KOSTMAYER. What the gentleman says applies only to pesticides used in food products, not in nonfood products.

Mr. SYNAR. One of the reasons for the legislation is not only food products but to protect the safety and health of people both here and abroad who would not only consume the items but would be asked to apply the items.

Mr. KOSTMAYER. I am very sympathetic with the gentleman from Oklahoma, and if he will assure me he will try to work—I am a conferee—if he will assure us he will try to work with us to be fair, I will sit down and be quiet.

Mr. SYNAR. The gentleman from Pennsylvania is a long-time, dear friend, and it is every intention of the gentleman from Oklahoma to work with him on this issue.

Mr. KOSTMAYER. I thank my friend from Oklahoma.

Mr. SYNAR. Mr. Speaker, I reserve the balance of my time.

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think in the interest of informing Members, I had thought that the Speaker had announced that these votes would be put off until tomorrow. That is not the case. These votes will be after both motions.

We are expecting a vote. Under that circumstance, I am going to try to be very brief, but we do have four or five people who wish to be heard on this issue.

Mr. Speaker, I rise in opposition to the gentleman's motion to instruct the conferees.

In both the Senate and House versions of the 1990 farm bill there do exist several provisions which in various ways restrict or prohibit the exportation of pesticide chemicals that are manufactured in this country.

The language in H.R. 3950 was included by way of an amendment offered on the House floor by the gentleman from Oklahoma.

I want to make three points:

First, the House Committee on Agriculture and the House as a whole had very little time to discuss and debate the merits of this particular legislation which the gentleman's motion does address.

Second, Mr. OLIN, who worked with the gentleman from Oklahoma in drafting the final version of the legislation at issue, noted at the time the amendment was offered, and the language was not perfect, that there remained areas of concern that deserve and require further consideration.

At that time there was no apparent disagreement on that point. In fact, as indicated in the CONGRESSIONAL RECORD of August 1, the gentleman from Oklahoma stated that some issues needed real clarification with respect to technical-grade pesticide chemicals.

I quote the gentleman from Oklahoma: "If further clarification is needed, it will be provided for in conference."

□ 2020

Third, it is painfully obvious that the chemical export provisions in both the House and Senate portion of the farm bill would be seriously flawed, and final passage of those provisions, without some modifications, will mean the elimination of thousands of highly skilled, well-paying jobs without any apparent contribution to the quality and the wholesomeness of this Nation's food supply. I want to emphasize that.

Also, Mr. Speaker, I would like to note that the administration's most recent expressed position is in opposition to the amendment of the gentleman from Oklahoma [Mr. SYNAR] by way of letter to the chairman of the conference, Senator LEAHY. That letter was signed by both Mr. William Reilly, who is the administrator of the EPA, and Secretary Yeutter of the U.S. Department of Agriculture. I have here with me also a letter from Carla Hills, who is our Trade Representative. All three have indicated their opposition in their letter to Senator LEAHY. They point out the need for additional modifications to the House and Senate language and urge the conference committee to consider adopting their specific recommendations.

Mr. Speaker, let me quote a sentence from that letter, if I might.

> We believe that these changes could lead to real gains in public health abroad and food safety at home without major damage to the U.S. chemical industry and the jobs that it does support. Without these modifications, and with this instruction, that simply will not take place.

Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Agriculture, the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I guess, since I have been chairman of the Committee on Agriculture, this is the first time that we are faced with a option to instruct conferees. But, as I stated in my earlier comments to our distinguished collegue from Oklahoma, the House Committee on Agriculture is not the culprit. The statements which the gentleman from Oklahoma was making to a Senator, those activities should be made in the other body, not here, because we in good faith negotiated an amendment during the farm bill that was adopted. And it has been, is, and will remain the objective of the Committee on Agriculture in the House to maintain that position.

So, Mr. Speaker, I feel somewhat aggrieved that the gentleman with whom we negotiated in good faith now is attempting to instruct us when there has not been any change in the position, and I say that as chairman of the committee with activities that occurred in the other body.

So, I think possibly that any concern for sending a message; the message needs to be sent some other place, and we are taking the time of the Members at this late hour for something that does not need to be done because our position has not changed.

Mr. Speaker, there are three committees involved: The Committee on Foreign Affairs, the Committee on Energy and Commerce, and the House Committee on Agriculture. All three committees in this endeavor have not changed their position, and all three committees still maintain that the House position should be maintained.

Mr. Speaker, here is what will happen if we instruct, which is contrary to the wishes of my distinguished colleague from Oklahoma, because we have been advised by EPA that the review process in the House bill is not workable as written, and we might have to refine. I would hope that, if that be the case, we could work with the gentleman from Oklahoma and work with the other committees involved to try and address that issue. We cannot if we accept this mandate.

So, Mr. Speaker, I say to my colleagues, "Either you do or you don't," because we want to continue working, but, as the provision says, we are instructed to insist upon at a minimum the provisions contained in the House amendment, which I do not know what a minimum is, we still have areas of scope in the process, and I would like to continue working with the gentleman, and we have a member of our committee, the gentleman from California [Mr. PANETTA] that is a cosponsor and very involved, and I would like to continue working with him.

However, Mr. Speaker, I am somewhat aggrieved that, when we have dealt in good faith, when we say our position has not changed, it will not change. If we can work together to make this better within the scope, a better amendment, then we would do so.

So, we are taking the time here to send a message that probably should be delivered at another forum and not here, and I guess I am somewhat emotionally involved because this is the first time since I have been chairman, since 1981, that there is a motion to instruct the committee, and that somehow, I feel, challenges our responsibility, or challenges our commitment, or, in this case, challenges our integrity when I committed, and the chairman of the subcommittee involved committed, to support the

House version. One does not feel good about that.

In addition, I hate to ask the Members to vote no because I want to work with my distinguished colleague and friend from Oklahoma, but it is something that should not have been done and probably should not be done because it could conceivably tie our hands to the point where we cannot work with him, and, as I mention again and at the risk of repeating myself, this is the first time it has ever been done, and I think that the challenge is not only the integrity, but the dedication of, not only the chairman, but of the members of the committee that have, in fact, committed themselves to this endeavor.

Mr. Speaker, I very respectfully and somewhat reluctantly ask Members to vote "no" on this motion: first, because it is not needed; second, because the good faith is there to continue working, and it is something that will be against the record of the Committee on Agriculture that we had to be instructed contrary to the activity that we were doing in good faith.

Mr. ROBERTS. Mr. Speaker, I thank the chairman of the Committee on Agriculture, the gentleman from Texas [Mr. de la Garza] for his contribution, and I yield 2½ minutes to my friend and colleague, the gentleman from Montana [Mr. Marlenee].

Mr. MARLENEE. First of all, Mr. Speaker, I would like to ask the gentleman from Kansas [Mr. Roberts] a question.

If this is a case of sensationalism, I have never seen one. This one does the trick. It erodes the confidence that the American people have in our system of safety. It also erodes the confidence that our foreign buyers have in the products that we grow in the United States of America. This kind of sensationalism must come to an end.

Mr. Speaker, we have a system of safety that is unparalleled, and I am sure that the gentleman from Kansas [Mr. Roberts], my colleague on the committee, has some information with regard to that safety.

When we test our food, USDA does a lot of tests. What percent of that food tests safely?

Mr. Speaker, I think this is the bottom line of the issue because they are using this circle of poison.

What percent tests safely?

Mr. ROBERTS. Mr. Speaker, will the gentleman yield?

Mr. MARLENEE. I yield to the gentleman from Kansas.

Mr. ROBERTS. Mr. Speaker, I will tell the gentleman from Montana [Mr. Marlenee] that the Food and Drug Administration recently released a report that found that 99 percent of U.S.-grown food and 96 percent of imported food tested in 1989 either was free from pesticide residues or contained residues within very strict limits as set by tolerance.

Mr. MARLENEE. So, Mr. Speaker, 96 percent—98 percent of the food that we have tests below any very strict tolerances that we have set.

Mr. ROBERTS. The gentleman from Montana [Mr. Marlenee] is correct, and I want to assure him and the Members, in association with what the chairman has indicated, that we are working and the conference committee will work very hard to fine-tune a proposal that will provide even greater assurance to the American people.

□ 2030

Mr. MARLENEE. Mr. Speaker, I rise in opposition to this motion. "Circle of poison," what a phrase. We can all go back to our districts and say, "Yes, I voted to break the circle of poison."

Now, that is an nice sound bite, and it sounds like we can solve problems with that. But, Mr. Speaker, this Congress and our success here is predicated on solving problems, so they have got to find something, and "circle of poison" is one of those somethings. But when the cameras stop rolling, that sound bite will not note that instead of exporting agricultural chemicals, we will be exporting American jobs. That sound bite will not tell wheat producers in my district that while wheat drops from $4 a bushel to $2 a bushel, that this motion will cause their chemicals to rise in price by 15 percent, as well as all of the other chemical products in the United States of America, whether used on lawns or gardens. You are going to see an increase because of this.

That sound bite won't tell the American consumer that this motion won't stop the very few cases where there are pesticide residues on food.

Sound bite legislation that solves no problem—that is all we are engaged in today.

Mr. Speaker, I can appreciate the concerns of the gentleman. What he seeks to do is ensure that American consumers don't buy and eat imported food that has pesticide residue. But he seeks to do this by saying American manufacturers cannot export chemicals unless our Government has approved them for use in the United States. There is no earthly reason for companies to go through the difficulties of getting that approval if the compound is not used in the United States. American manufacturers can simply move their operations offshore. In addition, let us not forget, foreign farmers can buy those chemicals from foreign manufacturers.

The Food and Drug Administration recently released a report which found that 99 percent of U.S.-grown food and 96 percent of imported food tested in 1989 either were free from pesticide residues or contained residues within very strict tolerance limits. We are getting very close to having a food supply as safe as is humanly possible. And I can assure my colleagues that as a member of the conference committee, we are working hard to fine-tune a proposal which will provide even greater assurance to the American consumer. This proposal does not do that.

The circle of poison is bad science and this motion is bad legislation.

Mr. ROBERTS. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. Brown], the distinguished chairman of the subcommittee which has jurisdiction over this matter.

Mr. BROWN of California. Mr. Speaker, I express my thanks to the distinguished gentleman from Kansas for yielding. I really do have mixed emotions about this situation, because as far as the subject matter of making the American food supply the safest in the world and reducing the use of chemicals in American agriculture, I probably represent the most extreme view on the Committee on Agriculture of any of its members.

With regard to the thrust of what the gentleman from Oklahoma [Mr. Synar] wishes to achieve, I think I am in fairly substantial agreement with him. But I differ with the gentleman with regard to the procedure that is being followed here.

As the chairman of the Committee on Agriculture indicated, it will be the intention of the conferees, of which I am one, to uphold the House position in the most effective way that we can.

With regard to accepting the Senate position, we are going to have some problems there. Those problems are the same problems that we had when it came to accepting or taking up language with regard to tolerances in the House.

The subject of tolerances is dealt with in the Food, Drug, and Cosmetics Act, not in the farm bill, and it would not be in order to consider such amendments in the farm bill when it came up in the House.

Obviously, the Senate is not bound by similar rules and can put language of this sort into their bill, and have done so and have done similar things with regard to other legislation.

Mr. Speaker, what the gentleman from Oklahoma [Mr. Synar] seeks to do here is to follow the lead of the Senate in circumventing the rules of the House with regard to procedure. Now, even with regard to the issue of chemicals and the export of chemicals, this is a matter more properly within the jurisdiction of the statute that we call FIFRA, the Federal Insecticide, Fungicide, and Rodenticide Act. I can assure Members that the subcommittee which I chair is working diligently to revise that act and to include the kind of rational restrictions which will be good for the safety of the American consumer, but keeping in mind also the needs of the American farmer and the American chemical industry.

Mr. Speaker, one of the effects the proposal of the gentleman from Oklahoma [Mr. Synar] is undoubtedly going to be is to force many American chemical companies to begin to manufacture chemicals which they distribute overseas and not in the United States, but manufacture in the United States, just to move those plants overseas. We will therefore be exporting substantial numbers of American jobs if we adopt the provisions of the language which is proposed by the gentleman from Oklahoma [Mr. Synar].

Mr. Speaker, for these procedural grounds, I have to object to what the gentleman is trying to do, although I reiterate what the chairman of the full committee said, we are prepared to work closely with him in strengthening the laws to the fullest extent possible.

Mr. ROBERTS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Delaware [Mr. Carper].

Mr. CARPER. Mr. Speaker, a couple of things here: No. 1, none of us want to see dangerous pesticides or insecticides that are not legally sold in this country sold in other parts of the world. We are not interested in making those kinds of exports.

No. 2, none of us in this country are interested in seeing food coming to us from other countries tainted by insecticides or pesticides that can somehow be harmful to us and to our families.

Having said that though, let me make point No. 3: point No. 3 is that none of us want to see jobs in the chemical industry, particularly jobs in research and development, where they are trying to come up with safer kinds of insecticides and pesticides, exported to other nations.

Mr. Speaker, we are on the verge of recession in this country. We have seen in recent years the export of jobs, higher paying, more technical jobs, leaving our shores and going to other nations.

My concern and my fear is if we are not careful, the same thing is going to happen in this industry that has happened in other industries.

Mr. Speaker, there is a perverse incentive in this motion to instruct conferees before us to simply move those chemicals industry jobs, including research and development, overseas. The provision before us would effectively eliminate pesticide research and development in this country that might involve testing in overseas labs. Do we want to do that? I do not think we do.

The motion to instruct before us would jeopardize thousands of jobs in this Nation, and would also jeopardize our leadership in the development of newer and safer pesticides.

Mr. Speaker, I have no quarrel with the overall goal or desire here of the author of this motion to instruct. My concern is the way it is being pursued. That is the problem.

It is one thing to wisely prevent the export of harmful chemicals; it is quite another to virtually paralyze our efforts to develop safer ones. I believe the conferees have the ability with the proposals before them to reach a reasonable goal. I recommend that we allow the conferees the flexibility that they need to do the job. As a result, I will vote against this motion to instruct.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. CARPER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I, too, would ask the Members to vote against this. As the gentleman says, it does mean the possible export of jobs. I have one of these plants in my hometown. We presently manufacture for export limited use pesticides. They are planning to bring in, American Cyanamid, additional ones, like one they are talking about that would have a limited use in the country of Japan as a pesticide on Japanese rice.

Mr. Speaker, if they have to go through the registration process, they are not about to do that. Japan does not permit that to come in without their approval. They are not going to do anything to hurt their own citizens. What this amendment would do is say you have to go before EPA, go through the whole registration process, for that limited use pesticide.

Mr. Speaker, American Cyanamid is going to go to one of their plants overseas. They will make it there. So will Dow, so will Monsanto, and so will all the rest of them. They will go overseas to their plants. They have plants overseas. They will make them there.

Mr. Speaker, these pesticides are approved by these countries for the use in those countries. Why do they have to be registered in this country when they are not going to even be used in this country.

Mr. ROBERTS. Mr. Speaker, I reserve the balance of my time.

Mr. SYNAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all with respect to the gentleman from Missouri [Mr. Volkmer], we have investigated the four pesticides made in Missouri. The only limitation that they will have is that they will have to get prior informed consent from the countries they are importing to. They will not have to go through registration, nor will they do health and safety.

Second, with respect to jobs, let us make the record very clear. This is not going to cost American jobs because these products are in very expensive plants and it is not financially efficient for them to move them offshore.

Mr. Speaker, finally, if this is sensationalism, if protecting the health and safety of not only the people who apply these products, as well as the people who can potentially consume them is sensationalism, then I plead guilty to that.

□ 2050

We only inspect 1 to 2 percent of the food products that are imported into this country, which means that 98 percent of the food products are not investigated or inspected, and that is why this circle of poison amendment is so important.

I want to personally apologize to the gentleman from California and the gentleman from Texas, two of my dearest friends in the House. These instructions are in no way a condemnation of the work of the Agriculture Committee or the subcommittee chairman or the committee chairman. It is indeed, as the chairman of the Agriculture Committee said, an attempt to send a message to our colleagues on the other side of the building.

The instruction was specifically written to say that at a minimum we should insist upon the House strength and version of the bill. That gives us plenty of opportunity to take care of the gentleman from Pennsylvania, who spoke earlier, and the problems and concerns he has with respect to the bill. It allows us to do the fine-tuning, but it does not allow us to accept the Lugar amendment which not only guts the House and Senate version and goes way beyond the scope, but it weakens the very essence of what we are trying to do.

I ask my colleagues, in order to try to protect our version, to protect the safety and health of millions of Americans as well as people abroad, to vote with me on the instruction.

Mr. Speaker, I yield back the balance of my time.

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

In closing, Mr. Speaker, and I will make it very brief, I want to echo the statements by my distinguished chairman of the subcommittee of the House Agriculture Committee with regards to the issue of food safety. We should be doing this under the Federal Insecticide, Fungicide and Rodenticide Act reauthorization.

We have a comprehensive food safety bill. We can address the concerns of the gentleman from Oklahoma at that particular time.

I have many letters that have come to my office, and many other Members in this Congress have received letters from various companies that say in effect that, with all due respect to the gentleman from Oklahoma, he is wrong. I have a letter here from Chem

Design Corp., in Massachusetts, which was sent to our colleague, Richard Neal, in regard to a $5.5 million contract for a pesticide sold in Europe. It is not sold in this country. It has been canceled and the business went to a European firm.

That is part of the concern that we are talking about. All we ask is for the opportunity to modify this if we can in the farm bill conference, and we will address it. We will address the food safety issues when we reauthorize FIFRA as of the next year, and we will be working closely with the gentleman from Oklahoma [Mr. Synar], the gentleman from California [Mr. Brown], and myself and the gentleman from Texas [Mr. de la Garza].

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Montgomery). The question is on the motion to instruct conferees offered by the gentleman from Oklahoma [Mr. Synar].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SYNAR. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed until after debate on the second motion to instruct conferees.

Mr. DURBIN. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. Durbin moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill, S. 2830, be instructed to insist upon the provisions of section 1399 of the House amendment.

THE SPEAKER pro tempore. The gentleman from Illinois [Mr. Durbin] will be recognized for 30 minutes, and the gentleman from Kentucky [Mr. Hopkins] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. Durbin].

Mr. DURBIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again I join my colleague from Oklahoma in apologizing for the fact that this came up so late in the session. We attempted to hold this over until tomorrow, but unfortunately there was some concern that there might be too many items on the calendar tomorrow, so we were asked to argue these motions this evening.

I also might say to my colleagues in the House this is the first time I have ever filed a motion to instruct conferees, and I hope it is the last, and I am sure others do too.

This does not reflect in any way upon the Agriculture Committee of the House, on which I served for 2 years, nor any of the conferees who are working hard to produce a farm bill.

I might say at the outset that the amendment which is being considered this evening is the so-called Durbin-Chandler amendment. This amendment authorizes the Extension Service to conduct a program of public education on the hazards of tobacco use and the advantages of quitting or not starting smoking. It authorizes an amount of $10 million to be spent, and it asks that a special emphasis be placed on reaching children and minorities with the message that tobacco use is unwise.

I might say at the outset that we asked the Extension Service to work with the Federal Office of Smoking and Health. When this amendment came before the House of Representatives during consideration of the farm bill I was advised by the chairman of the House Agriculture Committee, the gentleman from Texas [Mr. de la Garza], as well as the minority spokesman on that committee from our State of Illinois [Mr. Madigan], that they would support the amendment in conference. I have no reason to believe that they have not and will not.

I was also advised by my colleague, the gentleman from North Carolina [Mr. Rose], that he would acquiesce in this amendment in conference, and we proceeded along.

The difficulty we ran into is that another committee in the House asserted jurisdiction on this issue. They were successful in having conferees appointed, and at this point the future of this amendment is in doubt. That is the only reason I am asking for this motion to instruct conferees, not to communicate to my friends on the Agriculture Committee, but rather to the Members of the House and those on the other committee as to the support for this issue.

Let me be very brief in describing it. We understand in America we have a serious problem. Today in the United States of America 3,000 teenagers started smoking. The net result of this, many years down the line, is that these young men and women will be more likely to contract emphysema, lung cancer, heart disease and stroke.

We also know that it is more likely that the minorities in American society are more likely to take up the smoking habit, particularly African Americans and Hispanic Americans.

The Extension Service is a perfect vehicle to start what would be the most substantial public education campaign at the Federal level to convince young people not to start smoking. The net result of it will save lives. It will avoid disease. It will avoid the necessity of medical costs down the line. It is a worthy investment.

If Members think it is too much money, let me advise them that today in America the tobacco companies will spend over $10 million trying to recruit young smokers and to recruit young people to take up the habit. We are talking about spending $10 million in the course of 1 year to try to fight that information campaign from the tobacco companies. That is why I believe this amendment is so important.

Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. Chandler], my cosponsor of this amendment.

Mr. CHANDLER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I simply want to commend the gentleman from Illinois for his leadership and join him and my colleague from the State of Washington in support of this amendment.

This is not only a children's issue, but also a minorities' issue. In America, 29 percent of adults over the age of 20 currently smoke cigarettes; 34 percent of black Americans smoke and more than 40 percent of Hispanic males smoke.

If Members want to see the results of smoking, visit the old soldiers' home in my district some day and look at the emphysema, lung cancer, and other problems caused by years and years of smoking.

Let us stop it. Let us try to get some money to educate our young people so that they understand what is going to happen, that they will look exactly like those old men suffering from those hideous diseases if they take up this habit and continue it.

I commend this motion to instruct to my colleagues, and I thank the gentleman for yielding.

☐ 2050

Mr. DURBIN. Mr. Speaker, I thank my colleague, the gentleman from Washington for his support.

Mr. Speaker, I reserve the balance of my time.

Mr. HOPKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to the motion. The particular issue the gentleman raises is currently under consideration by the conferees on the 1990 farm bill. In fact, it is not a topic of dispute causing delay in the final report of conference.

The bill itself, Mr. Speaker, is mammoth. The House version of the omnibus farm bill contains over 25 titles and more than 1,100 pages of text. The Senate bill has a similar number of titles with over 1,700 pages of text. It should not unduly concern Members that the conference has taken more than 20 calendar days to conclude since the appointment of the Speaker's conferees. The conference is moving forward and issues are being resolved.

Mr. Speaker, I do not believe this instruction is either well considered or appropriate. It is a counterproductive action that handcuffs the freedom of conferees appointed by the Speaker to resolve differences in the two bills.

Mr. Speaker, the Department of Health and Human Services already devotes substantial funds for smoking and health activities. In fiscal 1989, HHS spent nearly $78.5 million through public health agency programs. In the 1991 budget request, HHS would budget about $85 million.

Gallup polls already indicate that well over 90 percent of the American population is aware of the issue.

The Surgeon General acknowledged that there are 41 million former smokers in the United States—90 percent of whom quit without any assistance. Farmers don't go to the extension service for a lecture, they go for solid farm program information.

The point is clear: This item is not holding back conclusion of the conference sessions and the conference does not need a last-minute directive to upset the Speaker's delegation in bringing together a bill that will serve agriculture and the Nation.

Mr. Speaker, I urge Members to vote against the motion.

Mr. Speaker, I reserve the balance of my time.

Mr. DURBIN. Mr. Speaker, I yield 2½ minutes to my colleague, the gentleman from the State of Washington [Mr. McDermott], a medical doctor.

Mr. McDERMOTT. Mr. Speaker, every year smoking kills 390,000 Americans, seven times as many as we lost in the Vietnam war, four times as many as we have lost to AIDS. Every year tobacco kills 65 times as many Americans as heroin and cocaine. Every day, 10,000 Americans die of lung cancer, heart disease, emphysema, and other illnesses that tobacco causes. In the 2-year life of a Congress, smoking kills more people nationwide than the population of the average congressional district. The Washington State Department of Health found that smoking directly causes one out of every five deaths in our State.

Pick up any magazine and see the tobacco industry marketing death to our kids. It spends $2.4 billion a year on killer advertising, and we spend $65 billion a year picking up the pieces with health care costs and lost productivity. All the Durbin-Chandler amendment does is authorize $10 million—the cost of 1½ days' worth of tobacco ads—to help kids stay off tobacco. All it does is bring the Agricultural Extension Service onto the team with Dr. Sullivan, Dr. Koop, and other public health leaders who are trying to save lives.

We say we are committed to preventing drug abuse among our children. Most smokers started when they were young between the ages of 14 and 16. They believed, as young people will, that they were invincible, that the risks did not apply to them. By the time they were old enough to realize the danger, they were hooked on a drug, as addictive and as deadly as heroin or crack.

If the Agricultural Extension Service can run 4-H programs to help young people become better citizens, it can help them protect their health by preventing tobacco addiction. We agreed with this when we adopted the farm bill last summer. But someone in the Senate wants to kill this program. We must tell our conferees that we are serious about saving lives. Vote for the motion to instruct.

Mr. DURBIN. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from Texas [Mr. Andrews].

Mr. ANDREWS. Mr. Speaker, I want to compliment my two colleagues, the gentleman from Washington and the gentleman from Illinois, for bringing this amendment to the Congress.

Smoking remains the No. 1 preventable cause of death in this country. Every day 1,000 people die from smoking, 1,000 people. In order for the tobacco companies to replace their market share, they have got to go out and find 1,000 new smokers to take their place, and those new smokers almost all tend to be under the age of 20. In fact, 60 percent of the new smokers every day are under 16, and 90 percent are under 20, and so the problem, the target of the tobacco industry and the target of the Cancer Society and the American Lung Society and the Heart Association are these young teenagers.

Education is the one thing we can do to improve their knowledge and awareness of the hazards of tobacco use.

This is a very important amendment. It can make a significant difference, because we know for sure that education among young people will discourage them from tobacco use.

One recent poll shows that 40 percent of all high school seniors do not think that tobacco use is harmful for them. That is a terrible statistic.

We have got to turn that around if we are going to improve the health of this country, especially the health of young teenage children.

Mr. HOPKINS. Mr. Speaker, I yield 2 minutes to the distinguished, learned chairman of the full committee, the gentleman from Texas [Mr. de la Garza].

Mr. de la GARZA. Mr. Speaker, I thank the gentleman, my distinguished friend, for yielding me this time.

Mr. Speaker, as I mentioned previously on the other motion to instruct, I feel very badly, because, on going back to the previous motion, my distinguished colleague and friend, the gentleman from Oklahoma, is a conferee, and he is making a motion to instruct the conferees on his amendment. It is almost insulting to the committee, because he is making a motion to instruct himself. He is a conferee in one of the sections, and there is no need to be taking the time of the House.

He is agreeing with the Senator on the other side for whatever reason, but it is the first time I have ever, in my legislative career, seen a conferee move to instruct himself as a conferee when the chairman of the committee and the chairman of the subcommittee tell them, "Hey, we are with you, friend."

On the issue at hand, the same thing, we worked out a compromise. The chairman, the subcommittee chairman, told the gentleman, "We are with you." He has agreed with another committee.

I feel badly that there is some implication that the Committee on Agriculture is not living up to their commitment. The gentleman mentioned that we were, but I wanted to make it explicitly clear.

Mr. DURBIN. Mr. Speaker, will the gentleman yield?

Mr. de la GARZA. I yield to the gentleman from Illinois.

Mr. DURBIN. Mr. Speaker, I have no criticism of the chairman of the committee, the minority spokesman or the gentleman from North Carolina, who have kept their word.

The difficulty we have run into is another committee has asserted jurisdiction, and they are now conferees to the section. We have been advised they are in this conference committee in an effort to kill this amendment. I have no choice. I have no animosity against the gentleman.

Mr. de la GARZA. Instruct the other committee. We are not the ones that are the culprit. You can instruct the conferees from the other committee. I feel badly we are taking the time of the House, and in one case the author of the amendment is instructing, or is asking us to instruct him, to support his amendment.

This is beyond my legislative career experience, and in this case also, he is agreeing with another committee. He wants to leave a mark on the Committee on Agriculture, which is unfair, and I ask the Members, very reluctantly, because I agree with their intent, I agree with what they are trying to do, but we should not support this motion to instruct, because it just is ludicrous really at this point.

Mr. HOPKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. Volkmer].

Mr. VOLKMER. Mr. Speaker, I rise to object to the motion of my colleague from Illinois.

I would like to say that I firmly agree with my honorable colleague from Illinois that children should not smoke.

But we have an obligation to the American people to ensure that their tax dollars are wisely—and efficiently—spent, on programs that are necessary and proper. We all take this obligation seriously, and we are spending considerable time—working very hard, to produce a responsible budget.

In keeping with this, our duty to American taxpayers, I must object to the request as presented by my friend from Illinois. He is asking us to authorize $10 million for a new program, a public education program to teach people something they already know. This is not a responsible use of the taxpayers money—especially at this time of fiscal restraint, with a tremendous budget deficit hanging over us.

The fact is, there is almost universal awareness of the dangers of smoking—among adults as well as children. Five years ago, an HHS survey showed that not only had the American public heard that smoking posed a health threat, but 95 percent believed that cigarette smoking increased the risk of lung cancer. And as the Surgeon General has stated, "by the time they reach the seventh grade, the vast majority of children believe smoking is dangerous to one's health."

A survey, published in the Journal of the American Medical Association in 1987, found that over 98 percent of children and adolescents believe smoking is harmful and "accurately named one or more body parts that are adversely affected by smoking."

Obviously, our children are fully cognizant that smoking involves health risks. The Federal Government already helps to educate the public, including children, about those risks, through the Department of Health and Human Services. HHS is now spending an estimated $85 million per year on smoking cessation and prevention programs.

In addition, there is a large antitobacco lobby which spends considerable time and resources to develop outreach programs and educational campaigns designed to teach children about the health effects associated with smoking. Kids Against Tobacco, Doctors Ought to Care, and Stop Teenage Addiction to Tobacco are but some of the examples.

And there are others. The National School Boards Association surveyed public school districts in 1988 and found that 75 percent have antismoking education programs at the elementary level, 81 percent at the middle school level and 78 percent at the high school level.

Another program specifically designed for children is the "Smoke-Free Class of 2000 Project." Sponsored by the American Cancer Society, the American Heart Association, and the American Lung Association, this 12-year awareness and education program targeted children in the first grade in 1988 and continues through their graduation in the year 2000.

A recent study by a major smoking cessation company found that children learn about smoking issues primarily in school, at home, on TV and at church. They must be doing an effective job—they've reached almost the entire population. In fact, one authority told a House subcommittee not long ago, "the level of public awareness on smoking and health issues is virtually unprecedented in our national experience."

The Government is already supporting a program that's proven successful. We don't need to create another expensive program, when what we're already doing is working.

Mr. Speaker, I would like to conclude my remarks by saying that the object of the gentleman's motion is worthy, but the means are inappropriate. We are already spending considerable money for this cause, and people are getting the message.

From the perspective of the average farm family, this measure is offensive. Our farmers have it tough. Farmers are going to suffer the target price freeze in the 1990 farm bill; they're paying increased fuel prices resulting from the Mideast crisis, and we're discussing increases in consumer excise taxes, which hit the farmer hard. More and more, family farmers are being forced off their land.

Things will not improve for American farmers on a permanent and dependable basis unless we act responsibly, and address concerns affecting them. That's what we ought to do. We have plenty of real problems facing American agriculture, and too few solutions for those problems. I suggest we address those concerns responsibly. Let us not authorize $10 million for a solution in search of a problem.

□ 2100

Mr. HOPKINS. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. Lancaster].

Mr. LANCASTER. Mr. Speaker, the Extension Service has done a wonderful job through the years performing research in the field of agriculture, and then sharing that research with family farmers across the country. This is the first time they would be asked to educate on something other than what their research and our State university produces.

It is a bad precedent to set, and one that I think we should not begin because who knows what we will later ask them to educate our farmers on that goes far afield from their original task, which was to research in agriculture related problems, and then share it with our farm families.

I then support the effort of those who oppose this instruction to the conferees.

Mr. DURBIN. I then support the effort of those who oppose this instruction to the conferees.

Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. Glickman].

Mr. GLICKMAN. Mr. Speaker, I am one of the conferees, I guess, that is instructing myself, because I am a conferee on this bill. This is a small, simple antismoking program dedicated to keeping young people from smoking. It is administered through the U.S. Extension Service, probably the greatest thing the Department of Agriculture has ever done to keep young Americans in rural America alive and aware of what is happening in the world.

As opposed to what was just said, I want to tell Members what the U.S. Extension Service does now with kids. They do programs on parenting, antidrug programs. They do nutrition programs, they do health programs. It is perfectly legitimate that they should do an antismoking program as well. I urge my coleagues to support the gentleman from Illinois [Mr. Durbin].

Mr. HOPKINS. Mr. Speaker, I yield back the balance of my time.

Mr. DURBIN. Mr. Speaker, I yield myself 1 minute to say in closing that the rollcall that will come on this particular motion to instruct is a very important one in this House of Representatives. It will put on record this Chamber as to the issue of public education about the danger of smoking, education of our children. We are told over and over by tobacco companies that they are not targeting children as customers. We are told that they do not want children to smoke. This will be proof positive as to whether or not they are standing by that pledge.

We are asking to save lives. We are asking for health care in this country that makes sense. Investment in preventive medicine. We are using an agency which has a proven track record. We are making a modest investment. I ask all those in this Chamber to support my motion to instruct.

The SPEAKER pro tempore (Mr. Montgomery). The question is on the motion to instruct offered by the gentleman from Illinois [Mr. Durbin].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. DURBIN. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5, rule 1, the Chair will now put the question on each motion to instruct conferees on which further proceedings were postponed, in the order in which that motion was entertained.

Votes will be taken in the following order:

The motion offered by the gentleman from Oklahoma [Mr. Synar] by the yeas and nays.

The motion offered by the gentleman from Illinois [Mr. Durbin] by the yeas and nays.

The Chair will reduce to 5 minutes the time for the second electronic vote.

The SPEAKER pro tempore. The pending business is the question of agreeing to the motion to instruct offered by the gentleman from Oklahoma [Mr. Synar], on which the yeas and nays were ordered.

The Clerk will report the motion.

The Clerk read as follows:

Mr. Synar moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the bill S. 2830 (the 1990 Farm bill) be instructed to insist upon at a minimum the provisions contained in subtitle G of title XIV of the House amendment relating to pesticide export reform and to accept the provisions contained in sections 1761 and 1762 of the Senate bill relating to revocation of food tolerances for banned pesticides.

The vote was taken by electronic device, and there were—yeas 162, nays 248, not voting 23, as follows:

[Roll No. 450]

YEAS—162

Ackerman
Andrews
Atkins
Baker
Bates
Beilenson
Bennett
Berman
Boehlert
Bonior
Boucher
Boxer
Brennan
Broomfield
Bryant
Cardin
Chandler
Conte
Conyers
Cooper
Costello
Coyne
Dellums
DeWine
Dixon
Donnelly
Douglas
Downey
Durbin
Dymally
Early
Eckart
Edwards (CA)
Engel
Espy
Evans
Fawell
Feighan
Fish
Ford (TN)
Frank
Gejdenson
Gilman
Glickman
Goodling
Gordon
Green
Henry
Hertel
Hoagland
Hochbrueckner
Hoyer
Hughes
Jacobs
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Lantos
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowey (NY)
Machtley
Manton
Markey
Matsui
Mavroules
McCloskey
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Moody
Morella
Morrison (CT)
Mrazek
Neal (MA)
Nelson
Nowak
Oberstar
Obey
Owens (NY)
Owens (UT)
Pallone
Panetta
Payne (NJ)
Pease
Pelosi
Penny
Petri
Porter
Poshard
Pursell
Ravenel
Richardson
Ridge
Rinaldo
Rostenkowski
Roukema
Russo
Sabo
Saiki
Sangmeister
Savage
Saxton
Scheuer
Schneider
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shays
Sikorski
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (NJ)
Smith (VT)
Smith, Robert (NH)
Snowe
Solomon
Stark
Stearns
Studds
Synar
Torres
Torricelli
Towns
Unsoeld
Upton
Vander Jagt
Vento
Visclosky
Walgren
Walsh
Washington
Waxman
Weiss
Weldon
Wheat
Wolpe
Wyden
Young (FL)

NAYS—248

Alexander
Anderson
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
AuCoin
Ballenger
Barnard
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Borski
Brooks
Browder
Brown (CA)
Brown (CO)
Bruce
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Carper
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Coughlin
Courter
Cox
Craig
Crane
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Derrick
Dickinson
Dicks
Dingell
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Dyson
Edwards (OK)
Emerson
English
Erdreich
Fascell
Fazio
Fields
Flake
Flippo
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gingrich
Gonzalez
Goss
Gradison
Grandy
Grant
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Herger
Hiler
Holloway
Hopkins
Houghton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (CT)
Jones (NC)
Kasich
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Laughlin
Leach (IA)
Leath (TX)
Lehman (FL)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Long
Lowery (CA)
Luken, Thomas
Lukens, Donald
Madigan
Marlenee
Martin (IL)
Martin (NY)
Martinez
Mazzoli
McCandless
McCollum
McCrery
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Mollohan
Montgomery
Moorhead
Morrison (WA)
Murphy
Murtha
Myers
Nagle
Natcher
Neal (NC)
Nielson
Oakar
Olin
Ortiz
Oxley
Packard
Parker
Parris
Pashayan
Patterson
Paxon
Payne (VA)
Perkins
Pickett
Pickle
Price
Quillen
Rahall
Ray
Regula
Rhodes
Ritter
Roberts
Robinson
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Rowland (GA)
Roybal
Sarpalius
Sawyer
Schaefer
Schiff
Schulze
Shaw
Shumway
Shuster
Sisisky
Skeen
Skelton
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (OR)
Solarz
Spence
Spratt
Staggers
Stallings
Stangeland
Stenholm
Stokes
Stump
Sundquist
Swift
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Traficant
Traxler
Udall
Valentine
Volkmer
Vucanovich
Walker
Watkins
Weber
Whittaker
Whitten
Williams
Wise
Wolf
Yatron
Young (AK)

NOT VOTING—23

Boggs
Bosco
Carr
Chapman
Crockett
Dwyer
Foglietta
Ford (MI)
Gray
Hall (OH)
Hawkins
Hayes (IL)
Horton
Kaptur
McCurdy
McDade
Rangel
Roe
Rowland (CT)
Schuette
Wilson
Wylie
Yates

□ 2123

Mr. UDALL changed his vote from "yea" to "nay."

Messrs. ESPY, LENT, and GORDON changed their vote from "nay" to "yea."

So the motion was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. Montgomery). The pending business is the question of agreeing to the motion to instruct offered by the gentleman from Illinois [Mr. Durbin], on which the yeas and nays are ordered.

The Clerk read as follows:

Mr. Durbin moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill S. 2830 be instructed to insist upon the provisions of section 1399 of the House amendment.

The vote was taken by electronic device, and there were—yeas 255, nays 154, not voting 24, as follows:

[Roll No. 451]

YEAS—255

Ackerman
Alexander
Anderson
Andrews
Archer
Aspin
Atkins
AuCoin
Barnard
Bartlett
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bilbray
Boehlert
Boxer
Brennan
Broomfield
Brown (CO)
Bryant
Burton
Campbell (CA)
Campbell (CO)
Cardin
Carper
Chandler
Clinger
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
DeFazio
Dellums
DeWine
Dicks
Donnelly
Dorgan (ND)
Douglas
Downey
Durbin
Dymally
Early
Eckart
Edwards (CA)
Engel
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Ford (TN)
Frank
Frost
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
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Guarini
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Hammerschmidt
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Hayes (LA)
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Hoagland
Hoyer
Huckaby
Hughes
Hutto
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Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
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Kastenmeier
Kennedy
Kennelly
Kildee
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Kostmayer
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LaFalce
Lagomarsino
Lantos
Leach (IA)
Lehman (CA)
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Levin (MI)
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Livingston
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Lowey (NY)
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Lukens, Donald
Machtley
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Markey
Martin (IL)
Martinez
Matsui
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Mazzoli
McCandless
McCloskey
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McDermott
McHugh
McMillen (MD)
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Meyers
Mfume
Miller (CA)
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Moakley
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Moorhead
Morella
Morrison (CT)
Mrazek
Neal (MA)
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Nowak
Oakar
Oberstar
Obey
Owens (NY)
Owens (UT)
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Packard
Pallone
Panetta
Payne (NJ)
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Rinaldo
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Rostenkowski
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Schiff
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Schumer
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Serrano
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Sikorski
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Slattery
Slaughter (NY)
Smith (FL)
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Smith, Denny (OR)
Smith, Robert (NH)

Snowe
Solarz
Staggers
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Studds
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Tauke
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Unsoeld
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Vander Jagt
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Visclosky
Walgren
Washington
Waxman
Weiss
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Annunzio
Anthony
Applegate
Armey
Baker
Ballenger
Barton
Bateman
Bevill
Bilirakis
Bliley
Bonior
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Brooks
Browder
Brown (CA)
Bruce
Buechner
Bunning
Bustamante
Byron
Callahan
Clarke
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Coble
Coleman (MO)
Combest
Cox
Crane
Dannemeyer
Darden
Davis
de la Garza
DeLay
Derrick
Dickinson
Dingell
Dixon
Dornan (CA)
Dreier
Duncan
Dyson
Edwards (OK)
Emerson
English
Espy
Fields
Flippo
Frenzel
Gallo

Gaydos
Grandy
Grant
Gunderson
Hall (TX)
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Hatcher
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Hefner
Herger
Hochbrueckner
Holloway
Hopkins
Houghton
Hubbard
Hunter
Inhofe
Jones (GA)
Jones (NC)
Kolbe
Kolter
Lancaster
Laughlin
Leath (TX)
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Madigan
Marlenee
Martin (NY)
McEwen
McGrath
McMillan (NC)
Michel
Miller (OH)
Mollohan
Montgomery
Morrison (WA)
Murphy
Murtha
Myers
Nagle
Natcher
Neal (NC)
Olin
Ortiz
Parker
Parris
Pashayan
Patterson

Paxon
Payne (VA)
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Pickett
Price
Quillen
Rahall
Ray
Rhodes
Roberts
Robinson
Rogers
Rohrabacher
Rose
Rowland (GA)
Sarpalius
Saxton
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Skeen
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Slaughter (VA)
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Spratt
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Tanner
Thomas (CA)
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Hall (OH)

Bosco
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Horton
Kaptur
McCurdy
McDade
Miller (WA)

Carr
Rangel
Roe
Rowland (CT)
Schuette
Wilson
Wylie
Yates

☐ 2131

Messrs. TRAXLER, HAYES of Louisiana, CRAIG, and GONZALEZ changed their vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION WAIVING ALL POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 2104, CIVIL RIGHTS ACT OF 1990, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-852) on the resolution (H. Res. 504) waiving all points of order against the conference report on the bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, and against its consideration, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 5769, INTERIOR AND RELATED AGENCIES APPROPRIATION ACT, 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-853) on the resolution (H. Res. 505) waiving certain points of order during consideration of the bill (H.R. 5769) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes, which was referred to the House Calendar and ordered to be printed.

AGE DISCRIMINATION CLAIMS ASSISTANCE ACT OF 1990

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the bill (H.R. 5794) to amend the Age Discrimination Claims Assistance Act of 1988 to extend the statute of limitations applicable to certain additional claims under the Age Discrimination in Employment Act of 1967, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. Frost). Is there objection to the request of the gentleman from California?

Mr. GOODLING. Mr. Speaker, reserving the right to object, I yield to the gentleman from Texas [Mr. Bartlett].

Mr. BARTLETT. Mr. Speaker, H.R. 5794 will extend for 15 months, dating from the date of enactment, the statute of limitations for persons who have filed ADEA complaints with the EEOC and whose right to file in court has lapsed while awaiting EEOC action.

This measure solves a problem for a limited number of people, but unless we address the very serious inadequacies of the EEOC system, complaints of discrimination will continue to languish at EEOC.

People who have been discriminated against deserve to have effective and speedy restoration of their rights.

On May 23, 1990, I introduced H.R. 4889, which would streamline the enforcement of antidiscrimination laws including the ADEA, the Civil Rights Act, the Rehabilitation Act, and the ADA.

My legislation would rework the EEOC so that people with real cases of discrimination would get real relief from that agency, rather than being shunted to a court.

The explosion of employment discrimination cases in the Federal courts—a 2,000-percent increase over the last 20 years—translates into considerable time, effort, and money that people are expending before receiving justice.

Rather than expecting EEOC to look to the courts to remedy discrimination, we should enable the commission to handle cases of discrimination in an effective and timely manner.

In the years since we first enacted the Civil Rights Act of 1965, more Federal statutes prohibiting discrimination have been added, and States and localities have enacted such laes. Federal and State anti-discrimination laws total 264, which does not include available tort action or city or county ordinances.

My proposal would pattern the EEOC after the NLRB. The NLRB has been in place since 1935, and it has an admirable record of handling over 95 percent of its cases expeditiously.

Specific components of my proposal are as follows:

Single job bias law consolidates existing patchwork quilt of employment discrimination laws—ADEA, Equal Pay Act, section 1981, title VII, and the ADA—into title VII creating a uniform, national antidiscrimination law.

Preemption/election of remedies lessens caseload burden on courts by eliminating inconsistent and duplicative actions by: requiring election of remedies among EEOC, State agency or private dispute mechanisms; superseding State employment discrimination laws and allowing State enforcement only where State plan—consistent with title VII—has been approved by EEOC; making State actions final and binding.

Alternative dispute resolution lessens burden on courts by making arbitration and other such mechanisms final and binding.

Conciliation facilitates mediation by requiring parties to submit statements describing their positions.

Pattern EEOC enforcement after NLRB reduces caseload burden on Federal courts and eliminates litigation over meritless claims by patterning EEOC enforcement after NLRB, thus creating an administrative adjudicatory process within EEOC for deciding complaints with a limited right of review by Federal courts.

Statute of limitations clarifies statute of limitations by establishing uniform 180-day limit and precluding untimely claims from being piggybacked onto timely claims.

Attorney's fees applies the same attorney's fees standards to both plaintiffs and defendants.

Information disclosure strengthens confidentiality protections involving disclosure of information by EEOC and State officials to third parties.

During the 15 months period that H.R. 5794, I hope Congress and specifically the Committees on Education and Labor and Judiciary will make use of the time to find out the barriers within EEOC to timely case resolution, and to correct those barriers.

Mr. GOODLING. Mr. Speaker, further reserving the right to object, I would ask the gentleman from California [Mr. Martinez] if he agrees with the interpretation that he has just heard, with the exception of the last part dealing with next year.

Mr. MARTINEZ. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from California.

Mr. MARTINEZ. Mr. Speaker, I rise in support of H.R. 5794, the Age Discrimination Claims Assistance Amendments of 1990, and to urge my colleagues to approve this very important bill.

Mr. Speaker, this is a short-fix bill to restore the rights of age discrimination claimants who have had their statutory rights to sue lapse while waiting action by the Equal Employment Opportunity Commission. A rough approximation indicates that at least 3,000 to 4,000 individuals have fallen into this black hole.

This bill would extend the statute of limitations for a period of 15 months for those whose rights have already expired, while extending for approximately 7 months those whose rights will expire within 6 months after the enactment of this bill.

A similar bill to this was passed unanimously in 1988 redressing the lapsed rights of age discrimination claimants, with an 18-month statute of limitations extension.

This bill also requires the EEOC to give notice within 60 days after the enactment of this bill to individuals whose cases have lapsed, and 60 days after the expiration of thc 60-month period after the enactment of this act.

Finally, this bill would require the EEOC to report to Congress on these age discrimination cases every 5 months following enactment.

Mr. Speaker, these cases have lapsed through no fault of the age discrimination claimants. Older workers have innocently relied upon the Federal enforcement agency to handle their cases. Therefore, the older workers should not be penalized for the lapse of their legal recourse to pursue their civil rights.

It is clear that this is only an ad hoc measure, to quote the EEOC, whose letter of support for this bill I am including in the Record, to redress the rights of a narrow range of people, for a fixed time. Chairman Kemp has assured this committee, and has already backed his words with action, that aggressive reforms will occur under his administration to correct this ongoing problem. I believe him.

I am sensitive that EEOC will need additional funds and resources to clean up the agency's dangerous backlog of cases and to carry out the agency's mission. I would like the sponsors of this bill, which include four committees and three subcommittees of jurisdiction, to work with me to assist Chairman Kemp in that endeavor.

I wish to thank Chairman Roybal, Hawkins, Conyers, Lantos, Sikorski, Williams and Clay and ranking members Goodling, Rinaldo, Gilman, Horton, Gunderson, Morella, Lukens, and Bartlett for help and guidance on this legislation and for their vigilant guardianship of older workers' rights.

I urge the Members of the House to approve this bill.

Mr. GOODLING. Mr. Speaker, further reserving the right to object, I would urge my colleagues to vote for the bill and the amendment.

Mr. Speaker, I rise in support of H.R. 5794, the Age Discrimination Claims Assistance Amendments of 1990. This bill is designed to extend the statute of limitations for individuals who have timely filed charges with the EEOC but whose right to file a lawsuit has expired while the charges were being processed by the EEOC.

Although individuals who have been victims of age discrimination do have a right to pursue their claims in court 60 days after a charge has been filed with the EEOC, many individuals rely on the agency in the first instance to investigate and resolve their charges. These charges sometimes become stalled in EEOC processing and are not resolved prior to the expiration of the 2-year statute of limitations for filing an age discrimination complaint in court. Thus, individuals who are often not notified of the disposition of their charges lose their right to file a lawsuit. H.R. 5794 would merely extend the statute of limitations for a 15-month period for individuals who are so affected.

I urge my colleagues to support H.R. 5794 and to provide redress to individuals whose right to be free from discrimination on the basis of age in the workplace may be lost through no fault of their own.

☐ 2140

Mr. GOODLING. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. Roybal].

Mr. ROYBAL. Mr. Speaker, as chairman of the Select Committee on Aging, and as the original sponsor, I rise in strong support of the Age Discrimination Claims Assistance Amendments of 1990, H.R. 5794, bipartisan legislation of immediate importance to thousands of older workers. This legislation will restore the legal rights of older workers who, through no fault of their own, lost their ability to pursue their age discrimination complaints in court. I am pleased to have my colleagues, Representatives Martinez, Hawkins, Goodling, Rinaldo, Gunderson, Conyers, Gilman, Sikorski, Horton, Morella, Lantos, Lukens, Clay, and Williams, join me in this important effort.

Three years ago, congressional hearings revealed that a number of age discrimination charges filed by older workers with the Equal Employment Opportunity Commission [EEOC], were not processed in time to meet the 2- and 3-year statute of limitations for filing complaints in court under the Age Discrimination in Employment Act [ADEA]. As a result of this processing failure, these older workers were left without an effective legal recourse for their claims. Congress, in a bipartisan manner, moved to remedy this situation and passed the Age Discrimination Claims Assistance Act of 1988 [ADCAA], Public Law 100-283, enacted on April 7, 1988, which extended for 18 months the statute of limitations under the ADEA for those older workers with lapsed charges.

On June 26, 1990, the House Select Committee on Aging, the Committee on Education and Labor, and the Subcommittee on Employment Opportunities, asked the General Accounting Office [GAO] to investigate the current status of lapsed charges at the EEOC.

Upon the request of the GAO, the EEOC subsequently conducted a review of its age discrimination charges, and found that 2,801 additional charges have lapsed since the enactment of the ADCAA in which individuals lost rights. These charges were not remedied by the ADCAA, as they lapsed on or after the ADCAA's enactment date. A substantial number of these new lapsed charges were filed with State and local fair employment practices agencies. At this point, I would like to insert in the RECORD a letter from the GAO summarizing the information provided by the EEOC.

The EEOC has acknowledged that something must be done to help these additional older workers with lapsed charges. I am entering into the RECORD at this time a letter from the EEOC stating their full support of the legislation before us today.

U.S. GENERAL ACCOUNTING OFFICE,
Washington, DC, October 5, 1990.

EDWARD R. ROYBAL,
Chairman, Select Committee on Aging, House of Representatives.
AUGUSTUS F. HAWKINS,
Chairman, Committee on Education and Labor, House of Representatives.
MATTHEW G. MARTINEZ,
Chairman, Subcommittee on Employment Opportunities, Committee on Education and Labor, House of Representatives.

In your June 26, 1990, letter and subsequent discussions with your staffs, you asked us to obtain information from the Equal Employment Opportunity Commission (EEOC) on charges filed under the Age Discrimination in Employment Act of 1967 (ADEA). More specifically, you requested the number of individuals who had filed age discrimination charges and lost their right to file suit in federal court since April 7, 1988, when the Age Discrimination Claims Assistance Act (Claims Act) was enacted. Rights to file suit were lost because charges had not been administratively resolved and legal action had not been taken within the 2-year statute of limitations. You expressed concern that a substantial number of individuals may have lost their right to court review and you indicated that this information would help you decide whether the Claims Act should be amended to include this group.

The Claims Act gave individuals who filed ADEA charges and lost their right to sue, as of April 7, 1988, additional time (until September 30, 1989) to file suit in federal court. Before the Claims Act became law, the Senate Special Committee on Aging and the House Select Committee on Aging, during congressional hearings in 1987 and 1988, had gathered evidence showing EEOC's failure to resolve a substantial number of ADEA charges before they reached the statute of limitations.

BACKGROUND

ADEA protects workers 40 years old and older from discrimination based on age by employers with 20 or more employees. EEOC enforces equal employment opportunity through a field structure composed of 50 field offices—24 district, 17 area, and 9 local offices. Under the direction of EEOC's Office of Program Operations, these offices receive, investigate, and resolve employment discrimination charges.

To help carry out its investigative responsibilities for ADEA, EEOC maintains agreements with 46 state and local fair employment practice agencies (FEPAs).

An individual may file a formal age discrimination charge under ADEA with either an EEOC field office or a FEPA if (1) the jurisdiction served by the FEPA has a new law prohibiting employment discrimination on bases covered by ADEA and (2) the FEPA can enforce that law. (In states without a FEPA, charges are filed directly with EEOC.) Filing a charge with EEOC or a FEPA is a prerequisite to court action. Such action may be taken 60 days after filing if EEOC or a FEPA has not resolved the charge.

Under ADEA, barring tolling of the statute of limitations, the right to sue in court on charges of age discrimination lapses when neither the applicable EEOC district or FEPA office nor the individual alleging discrimination initiates court action within 2 years of the alleged violation (3 years if the discrimination is found to be willful).

RIGHT TO SUE IN FEDERAL COURT LOST BY CHARGING PARTIES

EEOC headquarters officials reported that from April 8, 1988, to June 30, 1990, 2,801 age discrimination charges under ADEA involved persons who lost their opportunity to file suit in federal court because EEOC district or state FEPA offices filed to resolve the charges before the 2-year statute of limitations expired and the affected individuals did not initiate court action. (A charge may involve more than one charging party.) These charging parties could have their rights restored only if the Claims Act is amended. EEOC district offices were responsible for 348 of these charges, while FEPA offices were responsible for 2,453 charges.

EEOC officials told us that they do not routinely generate or use these data to monitor the status of the FEPAs' ADEA charges, but that they do use them to monitor ADEA charges in their district offices. However, because EEOC lacked confidence in these data, it directed both the EEOC district and FEPA offices to verify the data included in its national data base. These verification efforts were not completed until late September 1990. We have not independently verified the accuracy of any of the data provided by EEOC and included in this letter.

EEOC district offices' responsibility

As shown in table 1, 348 charges being processed by EEOC district offices exceeded the 2-year statute of limitations, from April 8, 1988, to June 30, 1990, leaving the charging parties without the opportunity to file suit in federal court. The table shows that the number of charges that fell into this category decreased during each of the fiscal-year periods shown. Also, the ratio of charging parties who lost the right to sue, compared to the parties who had their charges resolved, decreased in each period.

TABLE 1.—ADEA CHARGES IN EEOC DISTRICT OFFICES INVOLVING INDIVIDUALS WHO LOST THEIR RIGHT TO SUE (APR. 8. 1988–JUNE 30, 1990)

	Apr. 8, 1988 to Sept. 30, 1988	Oct. 1, 1988 to Sept. 30, 1989	Oct. 1, 1989 to June 30, 1990.	Total
Charges resolved [1]	[2] 10,882	16,969	11,775	39,626
Charging parties who lost right to sue	220	105	23	348
Ratio of rights lost to charges resolved	2.02	0.62	0.20	0.88

[1] These figures do not represent the total universe of ADEA charges processed during each period because charges pending resolution are excluded.

[2] According to EEOC officials, this figure includes ADEA charges resolved from Apr. 1 through Sept. 30, 1988.

EEOC officials reported that of these 348 charges: (1) EEOC district offices were fully responsible for 286 because they were under their control at all times, (2) FEPAs' untimely transfers of 29 charges to EEOC district offices for resolution (that is, more than 18 months after the alleged violation occurred) contributed to these charges being in this category, (3) 17 charges had been transferred from FEPAs to EEOC officers, but they had not been electronically coded in the national data base by the EEOC offices as being received and (4) the statute of limitations lapsed for 18 charges under limited control of EEOC district offices during subpoena enforcement proceedings.

In addition to the 348 charges shown in table 1, EEOC officials reported, for the same period, 763 ADEA charges in which individual rights apparently were not affected by the expiration of the statute of limitations. In 349, charging parties had filed formal ADEA charges with EEOC after the prescribed filing period and too late to protect their right to sue. EEOC initiated and directed 336 charges that involved neither a charging party nor the private right to sue. Through conciliation, 78 charging parties later secured acceptable settlement relief even though their right to sue had lapsed.

FEPA offices' responsibility

As shown in table 2, 2,453 charges being processed by FEPA offices exceeded the 2-year statute of limitations, from April 8, 1988, to June 30, 1990, leaving the charging parties without the opportunity to file suit in federal court. The table also shows that the ratio of charges in which parties lost rights, compared to charges resolved, ranged from 16.07 to 22.74 percent in each of the fiscal-year periods shown. Thus, the ratios were considerably higher than those for the EEOC district offices cited in table 1.

Table 2.—ADEA CHARGES IN FEPA OFFICES INVOLVING INDIVIDUALS WHO LOST THEIR RIGHT TO SUE (APR. 8, 1988–JUNE 30, 1990)

	Apr. 8, 1988 to Sept. 30, 1988	Oct. 1, 1988 to Sept. 30, 1989	Oct. 1, 1989 to June 30, 1990	Total
Charges resolved [1]	[2] 2,630	5,630	4,536	12,796
Charging parties who lost right to sue	598	1,126	729	2,453
Ratio of rights lost to charges resolved	22.74	20.00	16.07	19.17

[1] These figures do not represent the total universe of ADEA charges processed by FEPAs during each period. Only charges resolved under EEOC's age contracts with FEPAs are shown; those pending resolution are excluded.

[2] According to EEOC officials, this figure was an estimate calculated at 50 percent of the FEPAs' total ADEA resolutions during fiscal year 1988.

EEOC officials reported that of these 2,453 charges: (1) FEPA offices were fully responsible for 2,285 because they were under their control at all times; (2) 163 charges had been transferred from EEOC offices to FEPAs, but they had not been electronically coded in the national data base by the FEPAs as being received; (3) an EEOC district office's untimely transfer of 1 charge to a FEPA for resolution contributed to that charge being in this category; and (4) the statute of limitations lapsed for 4 charges under limited control of FEPA offices during subpoena enforcement proceedings.

In addition to the 2,453 charges shown in table 2, EEOC officials reported, for the same period, 412 FEPA charges in which individual rights were not affected by the expiration of the statute of limitations. In 165, charging parties had filed formal ADEA charges with the FEPAs after the prescribed filing period and too late to protect their right to sue, and 247 charging parties later secured acceptable relief through conciliation even though the right to sue had lapsed.

Please call me on (202) 275-1655 if you or your staffs have any questions on the information in this letter.

LINDA G. MORRA,
Director, Human Services Policy and Management Group.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Washington, DC, October 4, 1990.

Hon. EDWARD ROYBAL,
Hon. GUS HAWKINS,
Hon. MATTHEW MARTINEZ,
House of Representatives,
Washington, DC.

DEAR CHAIRMEN ROYBAL, HAWKINS, AND MARTINEZ: EEOC has reviewed the draft legislation which proposes to amend the Age Discrimination Claims Assistance Act of 1988 to extend the statute of limitations applicable to certain additional claims under the Age Discrimination in Employment Act (ADEA) of 1967.

We commend the committees for their interest in the enforcement of the ADEA and would support such legislation which would restore rights to charging parties who lost private suit rights due to the expiration of the ADEA statute of limitations. We see this as a temporary ad hoc measure designed to protect the rights of those charging parties with lapsed charges and look forward to working with you to find a permanent solution.

The views stated here represent those of the EEOC and are not an Administration position on this draft legislation.

Sincerely,

EVAN J. KEMP, Jr.,
Chairman.

AMERICAN ASSOCIATION OF RETIRED PERSONS,
Washington, DC, October 10, 1990.

HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: The American Association of Retired Persons urges you to vote for the Age Discrimination Claims Assistance Amendments of 1990 (H.R. 5794) when considered on the floor of the House this week.

This bipartisan legislation is critical to restoring the rights of thousands of older workers whose rights to sue under the Age Discrimination in Employment Act (ADEA) have been lost due to inaction by the Equal Employment Opportunity Commission (EEOC). H.R. 5794 amends and extends the Age Discrimination Claims Assistance Act (ADCAA) of 1988.

ADCAA gave thousands of older workers a new 18 month period in which to preserve their rights under the ADEA. These workers had previously filed charges of discrimination with the EEOC, but the EEOC failed to process them within the 2-year period required by the statute. ADCAA restored the rights of persons whose charges lapsed prior to April 8, 1988 (date ADCAA was enacted).

Recent information indicates that this problem continues. A recent U.S. GAO study states that "from April 8, 1988, to June 30, 1990, a total of 2,801 charges under ADEA involved persons who lost their opportunity to file suit in federal court because EEOC district or state FEPA offices failed to resolve the charges before the 2-year statute of limitations expired. . . . These 2,801 charging parties could have their rights restored only if the Claims Act is amended."

H.R. 5794 amends ADCAA to *restore the rights of these persons* who were not covered by the initial legislation. In order to give the new leadership at the EEOC an opportunity to correct this problem, it provides an additional 12–18 month period (depending upon the date the charge lapsed) for persons to file a lawsuit if their charge was previously filed in a timely fashion.

AARP urges you to vote for this legislation. Older workers who relied upon the EEOC should not be penalized because the agency failed to process their charges as required.

Very truly yours,

JOHN ROTHER,
Director, Legislation and Public Policy.

The Age Discrimination Claims Assistance Amendments of 1990 is basically an extension of the ADCAA of 1988. It extends for up to 15 months the statute of limitations under the ADEA for those additional older workers with lapsed charges. It specifically applies to charges that lapsed from the date of enactment of the ADCAA, to 6 months after the date of enactment of this new legislation.

I would like to briefly summarize this legislation. First, the rights of persons who filed timely age discrimination charges with the EEOC after April 6, 1985, but did not have a civil action brought on by such claims; did not have the claims either conciliated by the EEOC or receive notice from the EEOC on the disposition of the charge and their right to sue; and whose claims had expired after April 6, 1988, but prior to 6 months after the date of enactment; are revived for an additional 15 months from the date of enactment of the bill.

The bill also requires the EEOC no later than 60 days after enactment, to notify those persons whose claims lapsed prior to the date of enactment, of the following: First, the rights and benefits to which such persons are entitled to under the ADEA; second, the date on which the statute of limitations on their claims have run; and third, that they have an additional period of time to bring an action on their claims. The EEOC must also provide the same notice to those persons whose claims lapsed within the 180 day period after enactment, no later than 60 days after the expiration of that 180 day period.

Finally, the bill includes a reporting requirement for the EEOC. The EEOC must submit periodic reports to certain congressional committees including such information as the number of persons who have claims under the legislation, the number of persons notified, and the disposition of their charges.

In addition to the EEOC, the bill has the strong support of the American Association of Retired Persons [AARP]. I am inserting a letter of support from the AARP into the RECORD.

This legislation is only a temporary remedy to what has become a continual problem of lapsed age discrimination charges at the EEOC. When we first passed the ADCAA in 1988, the EEOC indicated to us that it was taking steps to prevent this problem from occurring in the future. Clearly, whatever measures that were taken were not sufficient. However, a new chairman is now at the EEOC, and there appears to be a renewed commitment on the part of the agency to resolve this problem. A permanent solution must now be quickly developed, either within the management structure of the EEOC itself, or through the efforts of Congress, or both.

In closing, I would like to emphasize one point. The older workers we are helping through this legislation fulfilled all of that which was required of them in order to pursue their claims under the ADEA. It was only through a governmental failure that they lost their rights to pursue their claims in court. I therefore urge you to support this legislation so that we can quickly restore the fundamental legal rights of these older workers.

Mr. GOODLING. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Age Discrimination Claims Assistance Amendments of 1990".

SEC. 2. AMENDMENTS.

(a) EXTENSION OF STATUTE OF LIMITATIONS.—Section 3 of the Age Discrimination Claims Assistance Act of 1988 (Public Law 100–283; 29 U.S. 626 note) is amended—

(1) by inserting "(a) EXTENSION.—" before "Notwithstanding",

(2) in the matter preceding paragraph (1) by striking "540-day period beginning on

the date of the enactment of this Act" and inserting "applicable extension period",

(3) in paragraph (1)—

(A) by inserting "(A)" after "(1)", and

(B) by adding at the end the following:

"(B) with respect to the alleged unlawful practice on which the claim in such civil action is based, a charge was timely filed under such Act with the Commission after April 6, 1985,",

(4) by amending paragraph (3) to read as follows:

"(3)(A) with respect to a claim described in paragraph (1)(A) the statute of limitations applicable under such section 7(e) ran before the date of the enactment of this Act, or

"(B) with respect to a claim described in paragraph (1)(B) the statute of limitations applicable under such section 7(e) runs after April 7, 1988, but before the expiration of the 180-day period beginning on the date of the enactment of the Age Discrimination Claims Assistance Amendments of 1990.", and

(5) by adding at the end the following:

"(b) Definition.—The term 'extension period' means—

"(1) with respect to a charge described in paragraph (1)(A), the 540-day period beginning on the date of the enactment of this Act, and

"(2) with respect to a charge described in paragraph (1)(B), the 540-day period beginning on the date of the enactment of the Age Discrimination Claims Assistance Amendments of 1990, and".

(b) Notice of Statute of Limitations.—Section 4 of the Age Discrimination Claims Assistance Act of 1988 (Public Law 100-283; 29 U.S. 626 note) is amended—

(1) in subsection (a)—

(A) by striking "Not" and inserting "(1) Not",

(B) by inserting "before April 7, 1985," after "filed", and

(C) by adding at the end the following:

"(2) Not later than 60 days after the date of the enactment of the Age Discrimination Claims Assistance Amendments of 1990, the Commission shall provide the notice specified in subsection (b) to each person who filed after April 6, 1985, a charge to which section 3 applies and with respect to which the statute of limitation ran before the date of the enactment of the Age Discrimination Claims Assistance Amendments of 1990.

"(3) Not later than 60 days after the expiration of the 180-day period beginning on the date of the enactment of the Age Discrimination Claims Assistance Amendments of 1990, the Commission shall provide the notice specified in subsection (b) to each person who filed after April 6, 1985, a charge to which section 3 applied and with respect to which the statute of limitations runs in such 180-day period.", and

(2) in subsection (b)(2) by striking "(which is 540 days after the date of the enactment of this Act)".

(c) Reports.—Section 5(a) of the Age Discrimination Claims Assistance Act of 1988 (Public Law 100-283; 29 U.S. 626 note) is amended by inserting "and each 180-day period in the 540-day period beginning on the date of the enactment of the Age Discrimination Claims Assistance Amendments of 1990," after this Act,".

AMENDMENT OFFERED BY MR. MARTINEZ

Mr. MARTINEZ. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Martinez: In section 3(a)(3)(B) of the Age Discrimination Claims Assistance Act of 1988, as added by section 2(a)(4) of the bill, strike "April 7" and insert "April 6".

In section 3(b)(2) of the Age Discrimination Claims Assistance Act of 1988, as added by section 2(a)(5) of the bill, strike "540-day" and insert "450-day".

In the amendment to section 5(a) of the Age Discrimination Claims Assistance Act of 1988, made by section 2(c) of the bill—

(1) strike "180-day" and insert "150-day", and

(2) strike "540-day" and insert "450-day", and

Mr. MARTINEZ (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The SPEAKER pro tempore (Mr. Frost). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MARTINEZ. Mr. Speaker, the amendment is a simple one which changes from 18 months to 15 months the time allotted for the extension of claims.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California [Mr. Martinez].

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AFTERWORD ON THE NEA DEBATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. Dornan] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker, just a little afterword on the NEA debate. I did not take the floor but for a few minutes today to say with a very heavy heart I was going to have to vote against giving some Federal funds to the arts in this country. I truly believe that man does not live by bread alone. My community in southern California had been benefited with some very humble and small artistic projects from NEA funding over the last few years. It is not because all the funding was cut off that I got my nose out of joint and said well, if my small congressional district is not getting a piece of this, I will cut it off. Our little Shakespeare group was cut off. Money to the Garden Grove Symphony, which is a darned good one, was cut off. The State of California only gets $14 million out of $175 million. The State of New York, which does not have but about half our population, gets $40 million.

But what I said today was simply when we cannot get our budgetary crisis under control, how do we start funding nonessential, nonvital aspects of government?

One of my friends got up on the majority side and said that we fought the battles of $400 hammers, and that the defense budget is not perfect. But defense is mentioned in the Preamble to the Constitution. It is mentioned fourth, after forming a more perfect Union, establishing justice, ensuring domestic tranquility. Then we mentioned providing for the common defense, then promoting general welfare, and then ensuring the same benefits that we have to our posterity.

So when we are told that this is essential to defend our country, and look what is happening in the Arabian-Persian Gulf, how can people say that suddenly putting up $175 million to add to the $6.8 billion that the private sector donates to art, that that is an essential role of government?

Taxpayers who are also shareholders in a corporation that funded some of the garbage that we have seen funded, mistakes, I don't care how few the mistakes are, to blaspheme Jesus Christ, to have child pornography be mixed in with self-degrading portraits.

The trial in Cincinnati wasn't indicative of anything, except that a handful of jurors in this middle heartland American city had been so desensitized that they were convinced that a man standing there with a self-photograph of him—I will quote an artist, Charlton Heston, whom I admire greatly, he played Moses on the screen in Agony and the Ectasy, in a moment of frustration on a television show, said that a man jamming a bullwhip up his ——— and then he used a not-too-rough street word for "backside," trying to keep the decorum of the House here—he said that is not art, and it certainly is not.

But listen to how the art critics confused the jury in that Cincinnati trial. You know, to use newspaper terminology, we are asking Bubba, that is kind of a cheap shot at the average hard-working American taxpayer, we are asking Bubba to pay more for his six-pack, to pay so much more for his gasoline that he may not be able to take his family to Yellowstone or to Yosemite Park in my district, but we are telling him that we are still going to take his tax dollars, the illustrative vote today, to pay for a few mistaken things in art. Give the majority of it to New York, add it to this $6.8 billion that private sector properly puts up for art, and then tell Bubba, Joe Six-Pack, to get lost. He is going to have to pay for this.

Here is an article written by Ellen Goodman, a liberal writer of some skill, who although she agrees with the Cincinnati verdict of the jury, says, "Beware, doyens and mavens of the art community." She says, "Perfect moment number 1 at the trial," she is being sarcastic, "Prosecutor Frank Prouty holds up two photographs, one of a man with a bull whip in his rectum. He asks the art director who chose these images for the show: 'Would you call these sexual acts?' "

The lady art critic answers, "I would call them figure studies."

"Perfect moment number 2," writes Ellen Goodman. "Prouty questions Museum Director Dennis Barrie: 'This photograph of a man with his finger inserted in his,' medical term for genitalia, 'what is the artistic content of that,' "

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The art museum director responded: "It's a striking photograph in terms of light and composition."

She says, another moment. "The prosecutor asks how art was determined—was it merely the whim of a museum? The witness, a museum director, said no, it was the culture at large. And this is how he defined the culture at large: 'Museums, critics, curators, historians, galleries'," a vicious circle.

Mr. Speaker, we are going to revisit the NEA funding if today's vote prevails again and again and again until we get it right. This country's average, decent, hard-working American is entitled to some standards on the way we spend every nickel out of this Chamber and in the other great legislative body, the U.S. Senate.

The article referred to follows:

(By Ellen Goodman)

A Warning From the Mapplethorpe Trial

Boston.—There were times when the Mapplethorpe trial in Cincinnati produced testimony worthy of the title attached to the museum exhibit: "The Perfect Moment."

Perfect Moment No. 1: Prosecutor Frank Prouty holds up two photographs, one of a man with a bullwip in his rectum. He asks the art director who chose these images for the show: "Would you call these sexual acts?"

She answers: "I would call them figure studies"

Perfect Moment No. 2: Prouty questions museum director Dennis Barrie: "This photograph of a man with his finger inserted in his penis, what is the artistic content of that?"

He responds: "It's a striking photograph in terms of light and composition."

Perfect Moment No. 3: This one occurs when even the most devoted defender of free expression lifts her eyes from the page to offer her own art criticism to the great curator in the sky: "Aaaarggh!"

There was never any doubt in my mind that the trial over Robert Mapplethorpe's photographs would bring a "cultural clash" into the courtroom. Soho meets Cincinnati.

But at the trial, the testimony often sounded like a linguistic battle, a tale of two tongues: one side speaking art; one side speaking English. It sounded less like a case about obecenity than about class, elitism, artistic sensibilities and common sense.

Americans often divide like this when dealing with art. One group thinks that Andy Warhol's Brillo Box is brilliant, and the other thinks it's a scam. Each believes the other a pack of fools, though one may be called snobs and the other rubes. Guess which one is larger?

The divide is bad enough when the argument is about Brillo. But when it's about bodies, watch out.

The seven photographs at issue in this trial contain some grotesque subjects. In one of them a man urinates into another man's mouth. Show me somebody who can look at that photograph and think about the composition, the symmetry the classical arc of the liquid, and I'll show you someone with an advanced degree in fine arts. This was the sort of thing said in Cincinnati.

In the wake of this, it is remarkable that the verdict was not guilty. A jury without a single museum-goer, artist or student of "What is Art?" decided that the museum was protected turf in the legal quarrel over obscenity.

But the trial in Cincinnati, like the troubles at the National Endowment for the Arts, is partly the result of the art world's own chic insularity. The troubles come because the art community speaks its private language to a circle so small, so cozy and so closed as to be dangerously isolated.

Perfect Moment Number Four: The prosecution asked how art was determined—was it merely the whim of the museum?

The witness, a museum director, said no, it was the culture at large. And this is how he defined the culture at large: "museums, critics, curators, historians, galleries."

I agree with the decision and with those who defended the museum's right to show these photographs. To leave the dark side out of a Mapplethorpe show would be like leaving the tortured black paintings out of a retrospective of Goya's work. It wouldn't be legitimate to pick and choose the sunny side of the work—the Calla lilies and celebrities—and show it as the whole.

Indeed, as the director also said, Mapplethorpe set out to capture the line between the disgusting and the beautiful. There is room in life for the deliberately disturbing. The museum's room—a glass case in a separate gallery—was tame enough.

But even in the moment of victory, there is still a warning here. This trial, and the funding woes of the NEA, are not just the fault of Jesse Helms on the rampage. They are the fault as well of an art community whose members prefer to live in a rarefied climate, talking to each other, subject only to "peer review" and scornful of those who translate the word "art" into "smut."

In many cities, there is still the knock of the policeman at the door. Having failed to make its case in public, the art community ends up making it in court. In the history of art, this is not a perfect moment.

TRIBUTE TO GEN. CASIMIR PULASKI

The SPEAKER pro tempore (Mr. Frost). Under a previous order of the House, the gentleman from Illinois [Mr. Annunzio] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, today marks the 211th anniversary of the death of the great military leader, Casimir Pulaski, who made the ultimate sacrifice for the cause for American independence.

Casimir Pulaski was born in the Province of Podolia in 1748 to an elite and distinguished aristocratic family in Poland. He dedicated over 30 years of his life to fight for the freedom of his country. He was not successful in preventing tyranny from consuming his beloved nation, and unfortunately, Poland was partitioned. Although Count Pulaski was forced into exile, his deep commitment to the ideals of freedom never diminished.

Count Pulaski declared his selfless reasons for joining the American colonies in their fight for independence, stating:

> As an enthusiastic Zeal for the glorious cause which animated America, when I came over, and a contempt of death, first introduced me in your service.
>
> I could not Submit to Stoop before the Sovereigns of Europe. So I came to hazard all the freedom of America, and desirous of passing the rest of my life in a Country truly free and before settling as a Citizen, to fight for liberty.

Benjamin Franklin recruited Count Pulaski in 1777, and he was given a letter of introduction to General George Washington. Arriving in the United States during the summer of that year, he distinguished himself at the Battle of Brandywine. Because of his meritorious efforts, the Continental Congress granted him a commission as a brigadier general and placed him in charge of a newly created American cavalry.

General Pulaski displayed great military ability in his task of organizing this independent corps, known as the Pulaski Legion, and his forces contributed greatly to several American military successes throughout 1778. In 1779, during several fierce encounters against the British in South Carolina, General Pulaski reinforced his reputation as a superior military commander. Sadly, however, on October 9, 1779, in a final act of bravery, General Pulaski was mortally wounded, while leading his famous cavalry legion in driving the British out of Savannah, GA. He died 2 days later.

General Pulaski neither lived to see victory achieved on the battlefield, nor did he live to see America win her fight for independence, yet his valiant efforts were instrumental in establishing this great country, and his actions are representative of the many outstanding contributions that Polish-Americans have made and continue to make to our Nation.

Mr. Speaker, General Pulaski made the supreme sacrifice in the timeless struggle for freedom, and his sacrifice represents the courage and determination of the Polish people to achieve and maintain freedom and self-determination.

On the 211th anniversary of General Pulaski's death, I am proud to join with Americans of Polish descent in the 11th Congressional District of Illinois, which I am honored to represent, and Polish-Americans all over this Nation in commemorating General Pulaski's inspiring acts of courage and his unwavering commitment to the cause of independence during our American Revolutionary War.

TRIBUTE TO THE LATE HON. SCOTT MATHESON

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Utah [Mr. Hansen] is recognized for 5 minutes.

Mr. HANSEN. Mr. Speaker, years ago I was the Speaker of the House in the House of Representatives in the State of Utah. At that time the Governor of the State was the gentleman, Scott Matheson.

Scott was a Democrat, of the other political persuasion. I have known him for years. We grew up across the street from each other on Douglas Street. Despite our political party differences, our relationship was not partisan and we were always very good friends.

Sadly, Mr. Speaker, Gov. Scott Matheson passed away Sunday morning, October 7, 1990 at the age of 61.

Scott Matheson was a very popular Governor because he often placed the interests of the State and the people above party politics. He had a great sense of humor and an amicable public presence which put people at ease and put issues in perspective.

I think perhaps in my political association with Scott the thing I admired about him most was his ability to negotiate, to compromise, with leadership, and in that particular legislative body it was just the opposite of what we have here where we have a President who is a Republican and House and Senate controlled by the Democratic Party. In that instance we had a Governor who was a Democrat and we controlled both the house and the senate.

I always found him to be an amicable man to deal with and a man of intelligence, principle and foresight.

Later, as he decided after two terms that he would not run anymore, he stepped down. He was not forced out of office like many of us are. He elected at that point to go into a law firm and was a very, very successful lobbyist. Many times he was back here. The one thing I like about him as a lobbyist is when he will tell you both sides of the whole, explain it in detail to you, and who will leave no stone unturned.

When he was Governor of the State we passed the 1984 Wilderness Act. That was the Hansen-Garn bill. In the Widlerness Act we decided the only way we could possibly get it through is if the Members of the delegation and the Governor of the State would stand in lock step, no one wavering whatsoever in getting this piece of legislation through. Even though we were of different political persuasions, I was impressed with the way he worked so diligently and so hard to keep that working together.

Mr. Speaker, the State of Utah, America and all who knew Scott Matheson have suffered a great loss with the passing of this fine man and his untimely death that shocked so many of us. Utah has lost a great statesman and we have all lost a great friend.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Henry (at the request of Mr. Michel), for today until 11:45 a.m., on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Hansen) to revise and extend their remarks and include extraneous material:)

Mr. Pashayan, for 60 minutes, on October 16.

Mr. Burton of Indiana, for 60 minutes, on October 12.

Mr. DeLay, for 5 minutes, today.

(The following Members (at the request of Mr. Gonzalez) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Alexander, for 60 minutes, today.

Mr. Mazzoli, for 60 minutes, on October 15.

Mr. McNulty, for 60 minutes, each day, on October 22, 23, 24, and 25.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. Hansen, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Coleman of Texas, on the Coleman-Williams amendment on H.R. 4825 in the Committee of the Whole today.

(The following Members (at the request of Mr. Hansen) and to include extraneous matter:)

Mr. Dornan of California.
Mr. McEwen.
Mr. Shaw.
Mr. Douglas.
Mr. Baker.
Mr. Broomfield.
Mr. Gunderson.
Mr. Schuette.
Mr. Thomas of California.
Mr. Lagomarsino.
Mrs. Vucanovich.
Mr. Schulze.
Mr. Hammerschmidt in two instances.
Mr. Bereuter.
Mrs. Bentley.

(The following Members (at the request of Mr. Gonzalez) and to include extraneous matter:)

Mr. Cardin
Mr. Nelson of Florida in two instances.
Mr. Natcher.
Mr. Lantos.
Mr. Wise.
Mr. Fascell in three instances.
Mr. Miller of California.
Mr. Traficant.
Mr. Weiss.
Mr. Kildee.
Mr. Roybal.
Mr. Frost.
Mr. Ackerman in two instances.
Mr. Skelton.
Mr. Bates.
Mr. Torres.
Mr. Rahall.

ENROLLED JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 602. Joint resolution designating October 1990 as "National Domestic Violence Awareness Month."

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 2017. An act to provide a permanent endowment for the Eisenhower Exchange Fellowship Program, and

S. 2680. An act to provide for the conveyance of lands to certain individuals in Stone County, Arkansas.

BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills of the House of the following titles:

On October 10, 1990:

H.R. 4985. An act to designate the Federal building located at 51 Southwest 1st Avenue in Miami, Florida, as the "Claude Pepper Federal Building," and

H.R. 4593. An act to transfer to the Secretary of the Interior the administration of the surface rights in certain lands presently within the boundaries of the San Carlos Indian Reservation, Arizona, and managed by the Forest Service as part of the Coronado National Forest, and for other purposes.

ADJOURNMENT

Mr. HANSEN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 55 minutes p.m.) the House adjourned until tomorrow, Friday, October 12, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4023. A letter from the Under Secretary of Defense, transmitting three reports on the ultra high frequency [UHF] follow-on system, pursuant to 10 U.S.C. 2400(c); to the Committee on Armed Services.

4024. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled, "Review of D.C. General Hospital's Procurement", pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

4025. A letter from the Inspector General, Department of Defense, transmitting a copy of the annual financial audit of the fiscal year 1989 Superfund; to the Committee on Energy and Commerce.

4026. A letter from the Director, Division of Commissioned Personnel, Department of Health and Human Services, transmitting the annual report on the financial condition of the Public Health Service Commissioned Corps retirement system for the year ending September 30, 1989, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

4027. A letter from the Director, Office of Personnel Management, transmitting a copy of the civil service retirement and disability fund [CSRDF] annual report for fiscal year 1988, pursuant to 31 U.S.C. 9503, 5 U.S.C. 1308(a); jointly, to the Committees on Post Office and Civil Service and Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1270. An act to provide an Indian mental health demonstration grant program; with an amendment (Rept. 101-847, Pt. 1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4728. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Klamath River in Oregon as a component of the National Wild and Scenic Rivers System; with amendments (Rept. 101-848). Referred to the Committee on the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 501. Resolution waiving all points of order against consideration of H.R. 5803, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes (Rept. 101-849). Referred to the House Calendar.

Mr. GORDON: Committee on Rules. House Resolution 502. Resolution providing for the consideration of H.R. 3960, a bill to increase the amounts authorized to be appropriated for the Colorado River Storage Project and for other purposes (Rept. 101-850). Referred to the House Calendar.

Ms. SLAUGHTER of New York: Committee on Rules. House Resolution 503. Resolution providing for the consideration of H.R. 4939, a bill regarding the extension of most favored-nation treatment to the products of the People's Republic of China, and for other purposes (Rept. 101-851). Referred to the House Calendar.

Mr. WHEAT: Committee on Rules. House Resolution 504. Resolution waiving all points of order against the conference report on S. 2104, a bill to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes (Rept. 101-852). Referred to the House Calendar.

Mr. GORDON: Committee on Rules. House Resolution 505. Resolution waiving certain points of order during consideration of H.R. 5769, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes (Rept. 101-853). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MONTGOMERY (for himself, Mr. Stump, and Mr. Smith of New Jersey):

H.R. 5814. A bill to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to improve and clarify the protections provided by such act and to make technical amendments; to amend title 38, United States Code, to clarify veterans' reemployment rights and to improve veterans' rights to reinstatement of health insurance, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. HOLLOWAY (for himself, Mr. Baker, Mrs. Boggs, Mr. Hayes of Louisiana, Mr. Huckaby, Mr. McCrery, Mr. Livingston, Mr. Tauzin, and Mr. Lowery of California):

H.R. 5815. A bill to redesignate the Vacherie Post Office located at 2747 Highway 20 in Vacherie, LA, as the "John Richard Haydel Post Office"; to the Committee on Post Office and Civil Service.

By Mr. HORTON:

H.R. 5816. A bill to amend title 38, United States Code, to require the Department of Veterans Affairs to provide the same health benefits as are provided to former prisoners of war to veterans who while in active military, naval, or service evaded enemy capture while behind enemy lines; to the Committee on Veterans' Affairs.

By Mr. McEWEN:

H.R. 5817. A bill to provide that taxpayers may rely on Internal Revenue Service guidelines in determining the funding limits for pension plans; jointly, to the Committees on Ways and Means and Education and Labor.

By Mrs. SAIKI:

H.R. 5818. A bill to eliminate the retroactive effect on Federal retirement benefits of the repeal of the 3-year basis recovery rule by the Tax Reform Act of 1986; to the Committee on Ways and Means.

By Mr. SMITH of Florida:

H.R. 5819. A bill to amend title 28, United States Code, relating to jurisdictional immunities of foreign states, to grant the jurisdiction of the courts of the United States in certain cases involving tortious conduct occurring in a foreign state; to the Committee on the Judiciary.

By Mr. TAUZIN:

H.R. 5820. A bill to reauthorize the Fish and Seafood Promotion Act of 1986; to the Committee on Merchant Marine and Fisheries.

By Mr. McNULTY (for himself, Mr. Gilman, Mr. Smith of Florida, and Ms. Ros-Lehtinen):

H. Con. Res. 383. Concurrent resolution expressing the sense of Congress that the President and the Secretary of State should personally intervene with the President and the Foreign Minister of the Soviet Union to secure permission for Anatoly Genis to leave the Soviet Union without further delay to be reunited with his family; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

542. By the SPEAKER: Memorial of the Legislature of the State of California, relative to community economic adjustment assistance; to the Committee on Armed Services.

543. Also, memorial of the Senate of the Commonwealth of Pennsylvania, relative to municipal waste; to the Committee on Energy and Commerce. October 11, 1990.

544. Also, memorial of the Senate of the Commonwealth of Pennsylvania, relative to the use of coal; to the Committee on Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

[Omitted from the Record of Sept. 26, 1990]

H.R. 5649: Mr. Walker, Mr. Lewis of Florida, Mr. Morrison of Washington, Mr. Packard, Mr. Smith of Texas, Mrs. Morella, Mr. Rohrabacher, and Mr. Rhodes.

[Submitted Oct. 11, 1990]

H.R. 286: Mr. Grandy.

H.R. 1406: Mr. Smith of New Hampshire

H.R. 1530: Mr. Yatron.

H.R. 2380: Mr. DeWine.

H.R. 2816: Mr. Rowland of Connecticut.

H.R. 3037: Mr. Ford of Michigan.

H.R. 3866: Mr. Johnson of South Dakota

H.R. 3911: Mr. Frank and Mr. Studds.

H.R. 3992: Mr. Weiss, Mr. Waxman, and Mr. Coleman of Texas.

H.R. 4258: Mr. Dickinson.

H.R. 4492: Mr. Dymally.

H.R. 4493: Mr. Kostmayer.

H.R. 4514: Mr. Rose.

H.R. 4565: Mr. Dyson.

H.R. 4583. Mr. Swift.

H.R. 4755: Mrs. Morella, Mr. Annunzio Mr. Tauke, and Mr. Dickinson.

H.R. 5094: Mr. Shumway and Mr. Stump

H.R. 5103: Mr. Bereuter, Mr. Dwyer o New Jersey, and Mr. Lewis of Georgia.

H.R. 5104: Mr. Bereuter, Mr. Dwyer o New Jersey, and Mr. Lewis of Georgia.

H.R. 5105: Mr. Bereuter, Mr. Dwyer o New Jersey, and Mr. Lewis of Georgia.

H.R. 5184: Mrs. Vucanovich, Mr. Russo and Mr. Bustamante.

H.R. 5290: Mr. Rose, Mr. Saxton, Mr Rangel, and Mr. Frost.

H.R. 5332: Mrs. Collins, Mr. Conte, Mr Smith of Florida, Mr. Wilson, Mr. McDermott, Mr. Roe, Mr. Boucher, Mr. Stokes and Mr. Valentine.

H.R. 5336: Mr. ARMEY and Mr. LEWIS of Florida.

H.R. 5361: Mr. MRAZEK.

H.R. 5362: Mrs. JOHNSON of Connecticut.

H.R. 5416: Mr. HALL of Texas and Mr. SMITH of New Hampshire.

H.R. 5443: Mr. KENNEDY and Mr. WILLIAMS.

H.R. 5553: Mr. EMERSON.

H.R. 5568: Mr. MANTON, Mr. LANCASTER, Mr. THOMAS A. LUKEN, Mr. HUCKABY, Mr. HOCHBRUECKNER, Mr. BYRON, and Mr. LANTOS.

H.R. 5601: Mr. GILMAN and Mr. BUSTAMANTE.

H.R. 5603: Mr. SIKORSKI.

H.R. 5654: Mr. LAFALCE, Mr. SIKORSKI, Mr. GILMAN, and Mr. FORD of Michigan.

H.R. 5670: Mr. DEWINE, Mr. LAGOMARSINO, Mr. GLICKMAN, and Mr. OWENS of Utah.

H.R. 5735: Mr. LEWIS of California and Mr. DENNY SMITH.

H.J. Res. 125: Mr. THOMAS of Wyoming.

H.J. Res. 125: Mr. THOMAS of Wyoming.

H.J. Res. 201: Mr. RAVENEL.

H.J. Res. 492: Mr. HUGHES, Mr. ALEXANDER, Mr. BARTLETT, Mr. PICKLE, Mr. ANTHONY, Mr. DUNCAN, Mr. IRELAND, Mrs. SAIKI, Mr. HYDE, Mr. STALLINGS, Mrs. MARTIN of Illinois, Mr. POSHARD, Mr. NAGLE, Mr. HUTTO, Mr. MOAKLEY, Mr. DONNELLY, Mr. PURSELL, Mr. BEVILL, Mr. DORNAN of California, Mr. HUNTER, Mr. CARPER, Mr. TRAXLER, Mr. HATCHER, Mr. HERTEL, Mr. WALGREN, and Mr. ROWLAND of Georgia.

H.J. Res. 518: Mr. BENNETT, Mr. RUSSO, Mr. RAHALL, and Mr. SAWYER.

H.J. Res. 551: Mr. STARK, Mr. WAXMAN, and Mr. LEWIS of California.

H.J. Res. 583: Mr. WHITTEN, Mr. SIKORSKI, Mr. OBERSTAR, Mr. SMITH of New Jersey, Mr. KENNEDY, Mr. ASPIN, Mr. BAKER, Mr. BONIOR, Mr. CALLAHAN, Mr. BRUCE, Mr. KILDEE, Mr. CLARKE, Mr. CONTE, Mr. LANCASTER, Mr. DUNCAN, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FORD of Michigan, Mr. TALLON, and Mr. DICKS.

H.J. Res. 612: Mr. MOLLOHAN, Mr. ROBINSON, Mr. CARDIN, Mr. KOSTMAYER, Mr. ALEXANDER, Mr. HUTTO, and Mr. ERDREICH.

H.J. Res. 613: Mr. ENGLE, Mr. GEREN, Mr. NOWAK, Mr. GILLMOR, Mr. ORTIZ, Mr. GOSS, Ms. OAKAR, Ms. KAPTUR, Mr. WHEAT, Mr. RITTER, and Mr. CAMPBELL of Colorado.

H.J. Res. 628: Mr. GEJDENSON, Mr. GUARINI, Mr. MANTON, Mr. MAZZOLI, and Mr. TRAFICANT.

H.J. Res. 643: Mr. SHAW, Mr. TAUZIN, Mr. FROST, Mr. RAHALL, Mr. BARTLETT, Mr. HUGHES, Mr. COURTER, Mr. GALLO, Mr. LEWIS of Florida, Mr. ROE, Mr. SISISKY, Mrs. JOHNSON of Connecticut, Mr. SKEEN, Ms. KAPTUR, Mr. LIPINSKI, Mr. GILMAN, and Mr. GEKAS.

H.J. Res. 661: Mr. LEHMAN of Florida, Mr. MCNULTY, Mr. ROYBAL, Mr. CROCKETT, Mr. TRAFICANT, Mr. BILIRAKIS, Mr. WOLPE, Mr. CALLAHAN, Mr. MOAKLEY, Mr. PAYNE of Virginia, Mr. COURTER, Mr. ATKINS, Mr. MATSUI, Mr. GEJDENSON, Mr. CARR, Mr. FORD of Tennessee, Ms. KAPTUR, Mr. GRAY, Mr. DE LA GARZA, Mr. STUDDS, Mr. HUGHES, Mr. MILLER of California, Mr. BARTLETT, Mrs. BOXER, Mr. LEVINE of California, Mr. ESPY, Mr. GUARINI, Mr. UDALL, Mr. ROE, Mr. MCCLOSKEY, Mr. DIXON, Mr. FALEOMAVAEGA, Mr. FAZIO, Mr. FRENZEL, Mr. FLIPPO, Mr. DICKS, Mr. MURPHY, Mr. TOWNS, Mr. HAYES of Illinois, Mr. MFUME, Mr. TALLON, Ms. PELOSI, Mr. MACHTLEY, Mr. MANTON, Mr. SOLARZ, Mr. SCHEUER, Mr. HOCHBRUECKNER, Mr. HORTON, Mr. MCMILLEN of Maryland, Mr. MRAZEK, Mr. MARTINEZ, Mr. ERDREICH, Mr. JONTZ, Mr. PANETTA, Mr. FAUNTROY, Mr. SAVAGE, Mr. MCHUGH, Mr. MCDERMOTT, Ms. OAKAR, Mr. RANGEL, Mr. FISH, Mr. DOWNEY, Mr. DURBIN, Mr. BOSCO, Mr. BORSKI, Mr. DONNELLY, Mr. STOKES, Mr. CONTE, Mr. DYMALLY, Mr. KENNEDY, Mrs. COLLINS, Ms. MOLINARI, Mrs. LOWEY of New York, Mr. ACKERMAN, Mr. WAXMAN, Mr. ANDERSON, and Mr. SPRATT.

H. Con. Res. 355: Mr. NAGLE, Mrs. UNSOELD, and Mrs. BOXER.

H. Res. 474: Mr. DORGAN of North Dakota, Mr. UDALL, Mr. MACHTLEY, Mr. PALLONE, Mr. GUARINI, and Mr. FROST.

EXTENSIONS OF REMARKS

LOISE RISHER DAY

HON. MIKE PARKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. PARKER. Mr. Speaker, today I stand in the Halls of Congress, the "people's chamber," to speak in honor of a great citizen of my district, Loise Risher. This day, October 12, 1990, has been designated as Loise Risher Day, by the Mississippi Association of Life Underwriters and the Jackson Association of Life Underwriters as a tribute to her for many years of devoted service to the insurance industry and her community.

Loise is a native Mississippian. She was born Loise Shirley on November 12, 1920 near Pineville, Mississippi. She was the oldest of five children when her mother died. Loise had to assume many of the duties of keeping a family together and seeing that their needs were provided for. She came to Jackson, MS after high school and attended business college. After she finished business school and got her first job she used her first paycheck to buy her family a new refrigerator. She married John Chesney and they later moved to Hammond, IN; Tucson, AZ; and Houston, TX with John's job. John died in 1966 leaving Loise with sons David, age 22, and John, age 4. She then moved back to Jackson.

In 1967 Loise was hired to fill the dual role of executive secretary for both the Mississippi Association of Life Underwriters and the Jackson Association of Life Underwriters. She has served in that capacity since 1967 and will retire at the end of 1990. Loise was the 1983 recipient of the C. Carney Smith Award, which is presented each year by the National Association of Life Underwriters at its annual meeting. It honors the one outstanding association executive from the many affiliates of NALU. She has been active in numerous civic and philanthropic organizations and served as 1973 president of the Public Relations Association of Mississippi, and several years as a board member of the Southern Public Relations Federation.

In 1972 she married William H. Risher, Sr. This extended her family to include William Risher, Jr., and Mrs. Sandra Ingram. William Risher Sr. died December 31, 1984. Loise enjoys playing the organ and painting. Her oil paintings of still life, landscapes and seascapes have been exhibited at numerous art shows. She is a charter member of the Mississippi Artist's Guild. Loise was a long-time member of Calvary Baptist Church until she moved to Brandon in 1985. She is a member of Brandon's First Baptist Church where she continues her many years of singing in church choirs.

Mr. Speaker, I commend Mrs. Loise Risher on her noteworthy accomplishments and exemplary life. She serves as a shining example for us all.

DAVID SOUTER AND THE FEMINIST MISTAKE

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. MCEWEN. Mr. Speaker, David Souter of New Hampshire is now an Associate Justice of our Nation's Supreme Court. It is useful now to reflect on the hearings which preceeded his confirmation.

Like many of his colleagues in journalism, Coleman McCarthy wrote of NOW President Molly Yard's intemperate testimony and behavior in his September 30 column in the Washington Post. It is insightful.

[From the Washington Post, Sept. 30, 1990]

DAVID SOUTER AND THE FEMINIST MISTAKE

(BY COLEMAN MCCARTHY)

High feminist dudgeon went higher at the Souter hearings when Sen. Strom Thurmond said: "We have a lovely group of ladies here. We thank you for your presence. I have no questions." At the witness table, Molly Yard, president of the National Organization for Women, rolled her eyes, shrugged her shoulders and said later that Thurmond had "trivialized" her and other women there to oppose David Souter's nomination to the Supreme Court.

The South Carolina Republican, 87 and the oldest member of Congress, belongs to the school of chivalry that believes men should open doors for women, buss them on the cheek rather than shake hands, and call them lovely ladies as if they were wearing antebellum gowns and serving mint juleps to menfolk on the veranda.

Molly Yard, tightly wound by half, picked a useless fight. She might have had a case had Thurmond said "lovely girls" or, horror, "lovely gals," or fillies, chicks, or duckies.

Getting ticked off because an unreformable old buck uses a double-standard phrase that was, at worst, the equivalent of a burp showed Yard caricaturing the humorless and hypersensitive side of feminism. Her pique gave Sen. Alan Simpson (R-Wyo.) a chance to heave a lasso around this incivility. "Don't shrug," he snapped at Yard. "I get tired of watching shrugs and kind of looking up at the ceiling when Strom Thurmond says something courteous."

Although Souter wasn't called back to give his views on the constitutionality or calling ladies lovely or women acting unlovely in response, Simpson issued a sound judgment: Yard and her sisters "love to dish it out but they don't like to take it." Instead of quitting while they were behind, NOW has called for an apology from the Senate Judiciary Committee, a request that's about as likely to be fulfilled as hair growing on Simpson's pate.

Yard came to the hearings on a mission of wild zealotry, consistent with an abortion rights fanaticism that led her to say that confirming David Souter would mean "ending freedom for women in this country."

This style of apocalyptic trembling, fit for an embattled speech at an abortion rally, puts Yard over the line that separates authentic social revolutionaries from cause-mongering pop-offs who are so sure of the correctness of their stance that anything slightly askew—especially the near-harmless remark of an 87-year-old codger—is not allowed to stand.

By bursting their veins before and during the hearings over Souter's unknown views on abortion, did Yard and her tribalists really expect him to intellectually prostrate himself before the NOW demands? He refused to be cornered and, like Br'er Rabbit, uttered nary a peep from the brier patch. On notice that nothing short of saying "I pledge always to uphold Roe v. Wade" would satisfy the abortion lobby, Souter finessed it. He was well coached by the White House and Justice Department in the art of no-answer answers, so as to appear a good-guy moderate worthy of the Senate's support.

Souter should be rejected—for rank inexperience in federal law. Because abortion dominated his hearings, the public knows little or nothing of his views on such constitutional issues as workplace safety, limits on corporate power, consumer rights or capital punishment.

In arguing against Souter, Yard had much to say about women's rights and reproductive rights but nothing on fetal rights. She defines women's freedom in a narrowness that she would find intolerable if expressed by the other side. For Yard, women's freedom means full empowerment to kill what is alive and growing, which is a bizarre definition of freedom. The state—the patriarchal state—sanctions the destruction of fetal life for the same reason it has legalized the violence of war and capital punishment.

Many credible feminists—female and male—reject the violence of abortion because they oppose all forms of violence. Molly Yard doesn't speak for them. Legal rights don't mean moral rights, a distinction she doesn't discuss.

Alan Simpson, who has a solid record o lambasting anyone who acts like a sidewinder, should have gone further and told Yard to stop offending not only Strom Thurmond but those feminists who differ from the NOW line. Yard doesn't speak for them. Little evidence exists that she even wants to understand them.

TRIBUTE TO MR. CHARLES "BUD" THOMPSON

HON. CHUCK DOUGLAS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. DOUGLAS. Mr. Speaker, today I want t recognize the efforts of Mr. Charles "Bud

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Thompson of Canterbury, NH, for his extraordinary dedication to the preservation of our Nation's heritage. Throughout his life, he has worked to preserve the culture of the Shakers and other American utopian societies as well as Native Americans.

Bud's interest in Shaker history and culture began many years ago when he came across Shaker folk music while looking for new types of traditional American music to perform. His interest in this nearly extinct lifestyle moved him to visit the Shaker Village in Canterbury, NH. He later went on to found the museum at this site, working closely with the few remaining Shakers to conserve and restore the village. He also founded the American Institute for Utopian Studies, which is dedicated to the research of societies such as the Shakers.

His interest in Native American culture began with a collection of Indian artifacts. Before long Bud was dedicating time to the preservation of Indian history and working to help Native Americans throughout the United States. For his efforts he has received many awards, including the Catlin Peace Pipe Award for humanitarian and cultural contributions benefiting American Indians.

Bud has also contributed time to preserving the Concord, NH, home of our Nation's 14th President, Franklin Pierce. As part of a beautification project he distributed hundreds of seedling trees to historic sites and the general public, free of charge.

Mr. Speaker, Bud Thompson had dedicated his life to making our history and our heritage come alive. His efforts serve as a shining example of the type of volunteerism called for by President Bush. Bud is truly one of those "points of light" which contributes so much to the strength of our communities. His preservation work and lectures have contributed much to ensure that as Americans we can all look back and see where we have been, and understand both who we are and what shaped us as a nation.

In further recognition of Bud's achievements, I am today submitting to the CONGRESSIONAL RECORD a brief summary prepared by his son Darryl. I join Darryl in saluting this very special gift from God—Bud Thompson.

CANTERBURY, NH.

DEAR CONGRESSMAN DOUGLAS: I arrived at the village to find a message from your office. They said they had not received the materials I sent on Dad. Evidently the packet must have been lost or delayed in the mail. I *did* send it. But, in case it is lost somewhere in the postal system, enclosed you will find the same material that I sent in the first packet.

In addition to the enclosed articles, I want to give you a listing of my father's accomplishments. They are as follows:

1. He has been instrumental in the preservation of Shaker in Canterbury, a site of historic significance and the repository of important collections of Shaker furniture, books, manuscripts, visual art, photographs, inventions, craft items and artifacts. His endeavors sparked the initial efforts to conserve and restore the village. With the support and assistance of the Shaker Sisters and their counsel, he founded the museum which became the nucleus around which Shaker Village, Inc., the nonprofit organization which currently owns and administers the site, was formed. His strivings to make the public aware of the Shaker heritage, through lectures, guided tours, and the media, have played a consequential part in the enormous growth of interest in the Shakers that this century has witnessed.

2. He has brought "history to the people," giving thousands of lectures to organizations throughout New England on the contributions of the American Indians, the nature lore that was so much a part of early American life, and various aspects of Americana.

3. He has made history live for thousands of school children, lecturing in their schools, leading them on tours through Shaker Village, and in 1973 organizing a festival of Indian culture in Laconia which was attended by schools throughout that area.

4. He was one of the leading participants in the preservation of the home of Franklin Pierce in Concord, for several years serving as the president of the Pierce Brigade, the organization which worked so hard to save the home from demolition.

5. He has given courses in several community colleges on the Shakers, American utopian societies, and on Indian culture.

6. He started a beautification project which distributed hundreds of tree seedlings to the general public and several historic sites at no cost.

7. He has organized clothing shipments to benefit low-income Indians living on a western reservations.

8. He has been the recipient of several awards including the Catlin Peace Pipe Award for humanitarian and cultural contributions benefitting American Indians.

9. He is currently engaged in founding a musuem in Warner, NH which will display his fine collection of Indian art and artifacts for the enjoyment and education of New Hampshire citizens and visitors to our state.

I deeply appreciate your efforts to honor my father and read information about him into the Congressional Record.

Things are very difficult here right now. As you may have heard, we lost our beloved Eldress Bertha this past Wednesday. I can't even begin to describe our feelings of loss. I can say that I am grateful that she died peacefully, without a long period of illness and protracted pain, in her own home and surrounded by those who loved her. The legacy she left is multi-faceted, but the greatest part of that heritage is the transforming effect her love and spirituality had on those around her.

Best wishes always,

DARRYL THOMPSON.

RALPH NADER, INC.

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. DORNAN of California. Mr. Speaker, our colleague, JERRY SOLOMON, has again reminded us that the annual Ralph Nader rating report will be coming out soon. As usual, Mr. SOLOMON has done us all a great service by pointing out what Mr. Nader's goal is. Said Mr. Nader as quoted by an Australian newspaper in 1972, "What is needed is socialism, or communism of one sort or another."

To my knowledge, Mr. Nader has never retracted that statement. Indeed, far from retracting that statement, some of Mr. Nader's work in the intervening years is evidence that he obviously still believes what he said all those years ago.

Some people still don't get it. Given what has occurred around the world the past year, it is incredible that Mr. Nader can go before Russians waiting in line to buy bread or whatever and actually try to talk them out of privatizing because it would give opportunities to Western corporations. This is not rational conduct, and yet he is lionized by the media.

Below is an article that appeared in the September 17, Forbes magazine exposing Nader for the snake oil salesman he has become on many issues. Written by Peter Brimelow and Leslie Spencer, the article exposes the secret world of Ralph Nader, and it is not a pretty place. Because its length precludes me from submitting it all at once, I will only be able to put half of it in the RECORD, but I urge all my colleagues to read the whole article in order that they might educate themselves on the true nature of one of America's foremost public policy ambulance chasers.

So here is "Ralph Nader, Inc.":

[From Forbes magazine, Sept. 17, 1990]

RALPH NADER, INC.

(By Peter Brimelow and Leslie Spencer)

Consumer crusader Ralph Nader recently visted Moscow, along with the cameras of CBS' "60 Minutes" for a show to be aired this fall. According to an account in New York's "Village Voice" Nader was "shocked" when a Soviet official praised free-market economist Milton Friedman. He "protested" that plans to privatize Soviet television might give opportunities to Western corporations. And taken aback by the complaints of Russian consumers standing in line for hours, he suggested:

"Some people say that because the Soviet people have to stand in line, it gives them time to reflect and become philosophical."

The entire crowd laughed at him.

Americans, however, are not laughing at Nader—yet indeed, when insurance executives were planning their futile $30 million effort to defeat California's Proposition 103, the auto premium roll-back and regulation initiative that threw the industry into chaos in 1988, they shrank from attacking Nader directly although he was campaigning as the measure's most visible advocate. Their cowardly rationale: Polls showed he was simply too popular.

Nadar's popularity is based on an almost unchallenged perception: that he is "Saint Ralph," as New Republic magazine once put it. "In all statistical probability, at least several dozen of you who are reading this issue of the New Republic would be dead today if Nader hadn't single-handedly invented the issue of auto safety," wrote editor Michael Kinseley, now co-host of CNN's "Crossfire" and one of many ex-Nader employees strategically placed in the elite media: "Ralph is living proof that there isn't much difference between a fanatic and a saint."

But saints attract myths as well as miracles. Nader did not single-handedly invent the auto safety issue. For example, Senator Abraham Ribicoff (D-Conn.) had long been interested in the cause. He was actually dramatizing his own proposed legislation on the famous occasion in 1966 when he dragged groveling General Motors executives before his subcommittee to confess that they had indeed set detectives onto Nader, whose Unsafe At Any Speed attacked their Corvair.

Nor do statistics necessarily suggest that a Nadar miracle has protected the New Republic subscription list. The fact is that U.S. traffic fatalities per 100 million miles traveled had fallen rapidly throughout the century, from 24 in 1921 to 5.3 in 1965. They have continued to fall since, to a recent 2.2. In 1965 the U.S. traffic fatality rate was about the lowest in the world—and it still is. Arguably, sheer economic growth and technological improvement have been the decisive factors here: Americans just consistently bought better, safer cars as they became available and affordable.

But there is an even more pervasive myth about Nader. As ex-Nader aide Gary Sellers once put it: "Because Ralph is self-sustaining, he is responsible only to his own conscience. The others aren't—they're in the middle of a web of interests, and they have to compromise their ideals to protect present income or future sources."

Last year Forbes found evidence that Nader had not in fact miraculously levitated above the "web of interests" in which other human beings are caught, but instead was intimately entwined with a group of rich lawyers: the plainitiff bar.

Our 1989 survey of the best-paid lawyers in America revealed that the top legal looters are not Ivy League corporate paper-pushers in Wall Street firms, but obscure plaintiff attorneys around the country—specialists in suing, often in personal injury cases. They are getting rich from the interaction of contingent fees, which get them 30 percent to 40 percent of any damage award in addition to expenses, and the litigation explosion resulting from the rewriting of "tort" law, covering personal injury and accidents, by a generation of reformist judges (Forbes, Oct. 16, 1989)

By rich, we mean very rich. Total contingent fee payments, excluding expenses, are now estimated to exceed $10 billion a year and to be rising. Forbes identified at least 62 plaintiff attorneys who made more than $2 million in each of the previous two years. Top moneymaker in 1988: Houston's Joe Jamail, with $450 million to $600 million.

Perhaps out of an uneasy conscience, the plaintiff attorneys were eager to tell us about their financial support of the noble Nader.

"We are what supports Nader," said Pensacola's Frederic Levin ($7.5 million, 1988 income). "We contribute to him, and he fund-raises through us." "We support him overtly, covertly, in every way possible," said San Antonio's Pat Moloney ([illegible] million). "I should think we give him a huge percentage of what he raises."

Why? Says Austin's Bob Gibbins ($3.7 million): "Nader supports all of our issues, and we support all of his."

The most visible aspect of this mutual support is the devastating bombardment of unfavorable publicity that Nader and his affiliates, through their unrivaled media contacts, are able to bring down on corporations which are simultaneously defending a product liability issue. Nader organizations have collaborated in such recent firestorms as the Audi 5000's alleged "sudden acceleration," which government investigators subsequently showed to be totally false.

Regardless of the merits, bad publicity can cripple a defendant's business and compel him to consider settling out of court in the hope of a quiet life—generally the most profitable outcome for the plaintiff attorneys. And for Nader, successful lawsuits are just another way of imposing his policy prescriptions, despite the plaintiff attorneys' expensive rakeoff.

When American Tort Reform Association founder James Coyne asked Nader about his plaintiff attorney funding at a press conference in Washington, he stormed from the podium and his supporter, Jay Angoff, rushed over and punched Coyne in the eye. (Angoff says it was a "very very mild shove.") Nader has refused to talk to Forbes, but in a press-time tax he insisted: "Over the past 30 years, not 1 percent of the total funds raised by all our organizations have come from the legal profession."

Nader's hypersensitivity is easily explained. No one in American public life has been freer with accusations that his opponents are compromised by their own financial sources.

On May 10 there were bitter exchanges during Senate Consumer Subcommittee hearings on the Product Liability Reform Act, an attempt to stablize the tort crisis. Two cosponsors, Senators Jay Rockefeller (D-W.Va.) and John Danforth (R-Mo.), objected to a letter Nader had published in their home newspapers, attacking their interest in tort reform and accusing them of being "huddled in Washington with corporate lobbyists, many of whom finance your [the Senators'] campaigns . . . taking away the existing rights of injured or sick people against the perpetrators of their harm."

Public Citizen's Sidney Wolfe, appearing as a witness interjected angrily that Danforth was "lying" for suggesting that the organization was "talking for the economic interests of trial lawyers." Wolfe claimed that Nader "has had no connection with Public Citizen since 1980"—although Nader's identification with his flagship is so complete that his name is emblazoned on its recent direct mail campaign envelopes. Confronted with Forbes' Oct. 19 article, Wolfe asserted it contained "several mistakes" and implied that Nader's response has forced a Forbes "retraction or correction." [Quite untrue.]

Wolfe grudgingly said he would provide details of Public Citizen's own financing by trial lawyers "if it is possible." Somehow, it wasn't.

Nader tactics in the face of this sort of inquiry apparently haven't changed in nearly 20 years. In 1972 New Republic linked the fact that Nader's Center for Auto Safety had accepted a $10,000 check from the Association of Trial Lawyers of America to his opposition to no-fault insurance. Wall Street Journal editor David Sanford, in his book "Me & Ralph: Is Nader Unsafe for America?" recounts Nader's reaction: (1) refusal to discuss the subject; (2) a "hysterical, personally abusive" counterattack; (3) a claim that the Center for Auto Safety was independent of him, although Sanford later confirmed that Nader was intimately involved in the organization, (4) a claim that a New Republic note that its story did not say Nader's position was actually "determined" by ATLA's check was a "retraction."

Encouraged by all this, Forbes has performed a Nader-type raid on Nader. But let's be clear: We're not saying that Nader's views are "determined" by his financing. We're being more charitable about him than he is about his own opponents. Nader's views could well just coincide with his backers'. But his contacts could also have consequences.

For example, in 1988 Nader and California plantiff attorneys agreed to exchange his credibility for their money. Nader came out in opposition to Proposition 106, a popular contingent-free limitation measure.

"[106] was certain to pass," says Claremont, Calif's Herb Hafif (1988 income, $40 million). "It had 70-to-80 percent approval ratings among the public, and no one [in the plaintiff bar] thought it could be taken on directly . . . Finally I asked Ralph to help, and he did . . . and I helped his 103 initiative, and it passed by a few points, and we beat 106 by a few points."

This was not a sellout but a true compromise. It's embarrassing for Nader to be attacked for his studied passivity on contingent fees and the many other anticonsumer practices of the plaintiff bar. And the plaintiff attorneys presumably don't really want to destory the insurance companies, the "deep pockets" that pay their fees, and pass the costs on to consumers. But both sides sank their differences to make an effective alliance.

It just wasn't especially saintly.

We're also not investigating Nader's personal finances. But he has made his austerity vow central to his public image. He told the Washington Post last summer that he lives on less than $10,500 a year (In a fax reply to our questions, he amended it: "Closer to $15,000, now. Insurance premiums sharply up.") We take this with a pinch of low-sodium seasoning.

"Oh God, limousines and nothing but the best hotels," says a disillusioned former state Trial Lawyers Association official. "We got quite a bill when he was in town." Nader's agent says he makes 50 to 100 appearances a year, charging a sliding scale; Forbes has heard of five-figure fees, suggesting an upper limit of $1 million speaking income alone.

Nader has confirmed to Forbes that his total earnings were around $250,000 a year back in the early 1970s—"funds devoted to our causes." But this is another Nader miracle/myth that needs to be set in perspective. Nader's "causes" are usually tax-exempt entities. Giving money to them is not the same as giving a quarter to a street person. It can generate tax deductions—as well as, in effect, financing Nader's own business. Indeed, Nader may personally own the Public Safety Research Institute (net worth, $649,000), because he has registered it under Delaware's peculiar nonprofit law—an irony, because he has denounced business' taking advantage of the state's liberal incorporation rules.

Another Nader miracle/myth: his longstanding claim that he lives "in a simple room" near his office. Even Nader's close associates apparently aren't told the address. And he personally repeated the story to the New York Times' Philip Shenon last year.

But neighbors say, and have said for nearly 20 years, that Nader lives in a five-story townhouse, worth $1 million to $2 million and assessed at $7,400 annually property taxes, on Bancroft Place in northwest Washington, D.C. District records show the deed is held by Nader's sister Claire, who seems to work in his organization. (Nader still denies this, and will say only that his sister "works on a number of civil projects and research programs.")

There's nothing shocking about living well, except by Nader's peculiar standards. His many admirers would certainly be happy to buy him an ecclesiastical palace. But maybe that would suggest he was not saint but human—even, possibly, fallible.

Forbes does not claim that Ralph Nader i corrupt, although he's clearly a case of wha historian Richard Hofstadter described i his celebrated essay The Paranoid Style i American Politics: "Overheated, oversusp cious, overaggressive, grandiose and apoca lyptic in expression. . . . His sense that hi political passions are unselfish and patriotic, in fact, goes far to intensify his feeling of righteousness and his moral indignation." Nader may be a genius at touching this paranoid strain in the American people. He's also unsaintly—and untrustworthy—at any speed.

OUTSTANDING TREE FARMER OF THE YEAR

HON. MIKE PARKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 10, 1990

Mr. PARKER. Mr. Speaker, today I stand in the Halls of Congress, in the "people's Chamber", to speak in honor of a great citizen of my district, Mr. W.C. Johnson.

Mr. Johnson was recently selected as the Outstanding Tree Farmer of the Year in Southwest Mississippi. A landowner and pulpwood buyer, Mr. Johnson is still enjoying rewards from his first investment in forestland 38 years ago because he manages his timber with an eye "always focused on the future". His concern for the future welfare of his forestland has required that he utilize timber management practices characteristic of an outstanding tree farmer.

Mr. Johnson, who has been a certified tree farmer since 1959, bought his first timberland, a 160-acre tract, in 1952, and in 1960, he bought an additional 360 acres. The landowner has harvested approximately 1.5 million board feet of timber off the 520 acres over the years and still has at least that much standing. This classic example of good forest management has allowed him to enjoy the economic return on his investment and at the same time insure that his timberland has remained productive for the future. Not only does Mr. Johnson plant food plots for wildlife, he utilizes game biologists to help him produce top quality deer herds and big bucks.

The best way to conclude these remarks is to quote Mr. Johnson's remarks to a local newspaper which reflect his philosophy of conservation and long-term planning.

> I originally bought timberland with the intention of sending my sons to college on the profits generated by harvesting. Now I am looking at the timber for the next generation. I have four grandsons, and I hope to leave my timber in good shape for them. I only hope they will do the same for their grandchildren as they manage it.

Mr. Speaker, I would like for my colleagues to join me in saluting Mr. W.C. Johnson on this occasion of his being named Outstanding Tree Farmer of the Year and for his commitment to the values that made this country great.

DEDICATION OF "SOUP R FOOD VAN"

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to the Interfaith Hunger Network of Queens County, NY, whose tireless efforts have brought into being the "Soup R Food Van." The van will be dedicated on October 16 as part of the county participation in World Hunger Day.

The "Soup R Food Van" was originally proposed by the Queens Catering and Restaurant Association. In attempting to find charitable uses for the surplus food of its member establishments, the association began to coordinate its efforts with the Interfaith Hunger Network. A longstanding project of the Queens Federation of Churches, the Interfaith Hunger Network has already been successful in coordinating food pantries and raising donations throughout the county. With the assistance of the Office of Queens Borough President Claire Shulman, the network was successful in obtaining funding for the van.

The "Soup R Food Van" has already gotten under way on a pilot basis. At present, the van is picking up surplus food throughout the borough from participating caterres and distributing it to 70 food pantries. The pantries in turn serve this food to 15,000 people a month within the county. The van's drivers and the coordinating efforts in delivering the food throughout the county have been volunteered by J–CAP, a substance abuse rehabilitation project. J–CAP's efforts not only assist the hungry of Queens County but also serve an important function in the rehabilitation of its clients.

"Soup R Food Van," whose name is the result of a contest within Community School District 27, is working to achieve the purpose for which World Hunger Day was created, to create an awareness of hunger so as to bring people together for feeding the needy. Through the partnership of government, business, and the nonprofit sector, the network is successfully moving to stamp out hunger in Queens County.

I ask all my colleagues to join me in congratulating the Interfaith Hunger Network as it inaugurates the "Soup R Food Van."

MINORITY HONORS PROGRAM, BRONX COMMUNITY COLLEGE

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. SERRANO. Mr. Speaker, I have said on the House floor and on other occasions that everything that could go wrong in American society can be found in my district, the South Bronx. This is due in no small measure to the fact that New York's 18th District ranks among the poorest congressional districts in the United States. Despite the multitude of negative South Bronx images, there are many exemplary facets of daily life and diverse cultures and sadly they are often overlooked. One such outstanding example is the Minority Honors Program in Energy-Related Curricula at Bronx Community College, headed by Dean Evelyn Kish.

The Minority Honors Program completed its 1989–90 academic year with the highest enrollment in its 5 year history. To date, the program has awarded a total of 264 scholarships to 122 participants. There are now 79 graduates in the program, 38 of whom are currently attending 4-year institutions. Five are enrolled in graduate programs. The remaining graduates are either employed full-time or are combining part-time employment and part-time college attendance.

The program owes much of its success to the financial support given through the U.S. Department of Energy scholarships. Without such assistance, the participants would find it necessary to secure part-time employment. This often prevents the student from successfully completing degree requirements in a timely fashion.

Last summer, two very successful internships programs were conducted at Brookhaven National Laboratory on Long Island, and at Lawrence Livermore Laboratory in California. Two students and a faculty member were on similar assignments at Livermore. In addition to paid internships, the students attended physics and math classes at University of California, Berkeley.

The program has not been without a few problems. One that is often encountered by graduating students is the cancellation of advanced classes in physics and math due to insufficient enrollment. Since the college budget is enrollment-driven, small classes for a few advanced science students put a strain on that budget. The college solved this problem by issuing registration permits to participants who take the needed courses in a senior college while carrying the remaining academic requirements at Bronx Community College, the partent institution.

Another problem is of a more personal nature. It is not uncommon for students to be parents. These are bright and motivated students but they are sometimes obliged to miss classes when their children are ill or when baby-sitting arrangements collapse. Also, many students are on public assistance and in-person bureaucratic procedures with a caseworker can consume precious hours of their time and this too adversely affects their academic performance.

Mr. Speaker, with the high crime rate, unemployment, and other unfortunate social conditions with which my constituents must contend, I am most gratified that this math and science program provides some minority students an opportunity to improve themselves through education. For academic year 1990, there are 129 students enrolled in the program—63 Latinos; 51 African-Americans; 14 Asian-Americans; and 1 native American.

Mr. Speaker, underrepresentation of minorities in the math and science professions stem primarily from powerful underlying forces in American society, including discrimination, poverty, and deficits in education. It is predicted that by the year 2000, 85 percent of new entrants to the Nation's work force will be members of minority groups and women. Bronx Community College cannot on its own wipe out discrimination or educate every minority student who wishes to obtain a college education. But for the 129 students who are current participants in the honors program, the college is providing an opportunity that perhaps no other institution would have offered.

I commend Dean Kish, the administration of the college, and especially the students for their efforts to bridge the knowledge gaps and to increase the number of minorities in the math and science professions.

NATIONAL 4-H WEEK

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. NATCHER. Mr. Speaker, once again it is a privilege to join with the members of 4–H as they celebrate National 4–H Week. This year's theme is "4–H for Youth for America."

Over 5.1 million youth participated in 4–H youth development programs in 1989. This is an increase of 5 percent over the previous year. Individual members enroll in one or more organized projects each year. The most popular projects were in the areas of animals and poultry, food and nutrition, natural resources, and individual and family resources.

Last year, the Cooperative Extension Service identified five national initiatives on which to focus educational efforts—Revitalizing Rural America; Water Quality; Improving Nutrition, Diet and Health; Youth at Risk; and Competitiveness of American Agriculture. The goal is to expand extension's outreach to more youth, particularly to those most vulnerable because of poverty, lack of parental and community support and negative peer pressure. Many States have already begun to refocus programs and resources.

To provide further support, a national extension summit on "Youth at Risk—Developing Youth Potential" was held on September 18. Regional workshops are planned to assist county and district staff develop or refine their "Youth at Risk" programming goals and agendas.

The development of a national curriculum for 4–H economics education was launched last year, with five States participating as pilot States in the initial planning stages. State teams explored international interdependence of the world economy and the role of young people in that economy. They developed back-home action plans for establishing or expanding economic education programs in their communities. Each pilot State received a grant for 4–H curriculum development in economic education and entrepreneurship which will be shared nationwide.

For the past 3 years, 4–H has been involved in the development and piloting of six special projects designed to interest more young people in science and technology. These projects are now ready for adaptation and adoption nationwide.

The 4–H hands-on, real-world, learning-by-doing approach to sciences and technology will encourage young people to continue their study of math and sciences in school, and encourage our most capable youth to consider careers in the sciences, engineering, and technology.

Last year, 222,582 young people in my home State of Kentucky were involved in 8,304 4–H clubs, special interest and school enrichment units; 27,017 teen and adult volunteers assisted.

The 4–H members in the Second Congressional District of Kentucky, which I have the privilege of representing in the U.S. Congress, have had many accomplishments during the past year; 33,965 youth in the Second District were involved in 1,369 club/units and were led by 4,518 volunteer teen and adult leaders.

Keith Rogers of Hardin County is serving his second term as president of the Kentucky 4–H Leaders Council, the State program advisory group. Bill Corum of Meade County continues to serve as president of Friends of Kentucky 4–H, the State 4–H Foundation, and Linda Jeffiers of Spencer County was reelected for a second term as treasurer. Margie Brookshire of Breckinridge County continues her years of service on both the State 4–H leaders council and the State 4–H teen council. She also serves on the National Extension Advisory Board. Joe Spalding of Washington County, Russell Lemons of Hardin County, and Larissa Jeffiers of Spencer County have just recently completed their year of service as immediate past State 4–H officers. These outstanding teen and adult volunteers have filled, and are filling, some of the most important leadership roles in the Kentucky 4–H Program.

Sixteen 4–H'ers from the Second Congressional District of Kentucky participated in the American Heritage Program last year. They were among 177 youth and adults who traveled to Washington, DC, stayed at the National 4–H Center, and studied and learned about citizenship and our Government. They also visited with their Representatives and Senators. One family from Warren County hosted a Japanese student through the 4–H LABO Exchange Program.

County 4–H programs in the Second Congressional District of Kentucky have become even more successfully involved in issues based programs such as drug and alcohol education, school drop out, latch key kids/staying home alone, teen pregnancy/sexuality, and building self-esteem through the new pilot program "Being All You Can Be." Nineteen teen and adult leaders participated in the first "Issues Conference" and received training to enable them to go back to their home communities and network with other organizations in seeking solutions to problems facing our youth today.

The following 4–H'ers from the Second Congressional District of Kentucky received recognition at the 4–H Talk Meet at the State level:

Junior 4–H demonstrations—Jerri Fields, Warren; Wesley Chancellor, Daviess; Mandy Hatcher, Hart; Kathleen Phelan, Hardin; April Kirtley, Daviess; Sandy Wells, Daviess; Bradley Atwell, Hart.

Senior 4–H demonstrations—Angie Clark, Nelson; Derek Depp, Barren; Andy Wiggington, Bullitt.

Speech—Stephanie Murphy, Washington; Brian Mattingly, Marion; Lori Wilson, Breckinridge; Tanya Whitehouse, Marion.

State 4–H record book champions (advance to National)—Karen Young, Daviess; Heather Polge, Daviess; Kristie Powell, Daviess.

State 4–H tractor driving contest—Matthew Oliver, Allen.

Meat animal judging contest—Bart Jones, Warren (State team Member for Nationals); Jessica Grimsley, LaRue (Alternate)

Dairy show champions—Amanda Coomer, Barren; Mark England, Hart; Loren Jaggers, Hardin; April Hollon, Marion; Anna Fisher, Allen; Angela Crain, Hart; Martyn Wyatt, Barren; Lonnie Crain, Hart; Corrie Harlow, Hart; Brian England, Hart; David Blankenship, Allen; David O' Bryan, Bullitt; Michael Rider, Hardin; Jesse Chaney, Warren; James Chaney, Warren; Gini Lin Barlow, Barren.

Swine champions—Chris Pontle, Daviess; Wendi Gardner, Barren; Mark Cochran, Hardin; John Poskin, Hardin; Anita Barnett, Daviess; Bart Jones, Warren; Frankie Carroll, Hardin; Best County exhibits: 1st—Hardin; 2nd—Daviess.

Sheep champions—Melinda Grimsley, Daviess; Amy Marsh, Allen.

Beef show champions—Mark Lundy, Nelson; Craig Faulkner, Nelson; Steve Hawkins, LaRue; Will Meng, Warren; Ashley Davis, Washington; Katie Staples, Meade; Stephen Gardener, Barren; Patrick Durham, LaRue; Jaret Farmer, Meade; Tanya Robinson, Breckinridge; Charles Allgeier, Meade; Erin Remington, Washington; Neil O' Bryan, Daviess; Carrie Bittel, Daviess.

Dairy goat champions—Jason McCreary, Hardin; Sara Bell, Spencer; Amy Babb, Hardin; Reuben Baker, Hardin; Loretta Kessenger, Hardin; Jeff Mosby, Hardin; Rose Conyers, Hardin; Loressa Kessenger, Hardin.

Wood science exhibit champions—Jacob Jones, Washington; Travis Smith, Washington.

Photograph exhibits champions—Jennifer Decker, Grayson; Kimberly Dudgeon, Grayson.

Horticulture and plant science exhibits champions—Amy Graves, Simpson; Kim Akins, Washington; Tige Akins, Washington.

Food preservation exhibits champions—Nichole Meador, Simpson.

Electric energy exhabits champions—Ber Johnson, Nelson; Luke French, LaRue Wesley Chancellor, Daviess.

Breads exhibits champions—Christin Johnson, Warren; Holly Stemle, Daviess.

Clothing exhibits champions—Rebecc Smith, Mead.

Arts and crafts exhibits champions—Apri Whitis, Bullitt; Christy Dykes, Nelson.

State beef derby contest champion team—Meade County: Brian Stith, Kevin Stith Phillip Hardesty, Kyle Hardesty

Rabbit show champions—Rebekah Satterly, Hardin; Frankie Carrol, Hardin; Tomm Leachman, Hardin; Jeff McBride, Hardin Jason Leachman, Hardin.

Feltner 4–H leadership recognition—Su Erwin, Allen; Gail Holmes-Lee, Nelson Ernie Stith, Meade; Mardy Smith, Spencer

At this time I would like to commend all o those associated with 4–H programs for the past achievements and accomplishments an wish them continued success in all their futur endeavors.

ARKANSANS OF THE YEAR

HON. JOHN PAUL HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. HAMMERSCHMIDT. Mr. Speaker, recently the Easter Seal Society of Arkansas sponsored one of the largest annual fundraising events in our State—the Arkansan of the Year Dinner.

This worthy event recognizes outstanding Arkansans who have made substantial contributions to the State.

J.B. and Johnelle Hunt jointly share the honor of being the 1990 Arkansans of the Year, joining the company of many fine Arkansans who preceded them in receiving this honor.

J.B. and Johnelle are good friends of mine and for the benefit of my colleagues, I am pleased to enclose the following article from the Arkansas Gazette, which outlines the accomplishments of this exceptional couple.

[From the Arkansas Gazette, Sept. 30, 1990]

ARKANSANS OF THE YEAR—TWO HUNTS TO SHARE THE HONOR

(By Hal Wofford)

Guests at the Easter Seal Society's Arkansan of the Year banquet will get two for the price of one when J.B. and Johnelle Hunt become the first couple to receive the award.

The Hunts, of Springdale, will be saluted during the Oct. 10 dinner in the Grand Ballroom of the Excelsior Hotel in Little Rock. Cocktails will be served at 6 p.m. and dinner at 7 p.m. Dress is semi-formal.

The Arkansan of the Year dinner, one of Easter Seals' largest annual money-raisers, recognizes outstanding Arkansans who have made significant contributions to the state. This year's event will be hosted by Thomas F. "Mack" McLarty and Hunt friends and entertainers Billy Davis Jr. and Marilyn McCoo.

Johnelle Hunt said she and her husband were surprised by the honor. They have attended past Arkansan of the Year money-raisers and even roasted McLarty when he was in the hot seat, but "never do you expect to be in that position," she said. "We were just very appreciative that we were honored and hope that we can do it justice."

Johnnie Bryan Hunt and the former Johnelle DeBusk, both natives of Cleburne County, have been married 38 years. They embarked on the road to financial success when they opened J.B. Hunt rice hull packaging company in 1962. By 1967, the company had grown into a major poultry litter producer. In 1969, the firm purchased a small trucking concern, now known as J.B. Hunt Transport Services based in Lowell (Benton County).

J.B. was company president and chairman of the board from 1961 through 1982. He has continued in his role as chairman of the board since 1982. Johnelle worked part time to help the company get started but eventually became a full-time employee. She now is corporate secretary.

In 1985 the Hunts formed One National Bancshares and purchased First National Bank of Fayetteville, where J.B. is chairman of the board. In 1986, he acquired First American Bank, now One National Bank, which has offices in Little Rock, North Little Rock and Hot Springs. Johnelle is secretary and board member of One National Bancshares. She is chairwoman of the board of One National Bank, Hot Springs.

J.B. is a member of the Arkansas Business Council, Baptist Medical System Foundation's board of trustees and the national advisory committee of Northwestern University's Transportation Center in Evanston, Ill. He is also a member of the board of Daystar Inc., a media ministry of First Baptist Church of Springdale.

Johnelle is director of the University of Arkansas for Medical Sciences Foundation Fund board and is co-chairwoman of the Arkansas Center for Eye Research committee. She sits on the board of the Arkansas Cancer Research Center, the national board of trustees for the Wildwood Center for Performing Arts, and the Walton Arts Center. She's a member of the UAMS Chancellor's Club and the President's Arkansas Advisory Council for Winrock International.

The couple have two children, Jane Tinnin of Fayetteville and Bryan Hunt of Springdale, and five grandchildren.

The Hunts follow in the footsteps of Walter Smiley, Ray Thornton, McLarty, and Herschel H. Friday as Arkansans of the Year. Arkansan of the Year dinners have raised more than $223,000 for Easter Seals. Tickets to this year's event are $100 a person or $1,000 for a table of 10. For tickets or further information, call 664-0917 or (800) 527-2033.

The Arkansas Easter Seal Society has been serving disabled Arkansans since 1944. Ninety-eight percent of money raised remains in Arkansas to support statewide programs.

TRIBUTE TO FRANK MOSS

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. OWENS of Utah. Mr. Speaker, On Saturday, September 13, the former post office and court house on 4th South Main in Salt Lake City was renamed the Frank E. Moss U.S. Court House honoring Utah's former three-term Senator pursuant to legislation which I sponsored earlier this Congress.

This extraordinary event was highlighted by a truly noteworthy speech by the honoree, my former mentor and friend, Senator Frank E. Moss. I want to share it with other members, and commend it to you for your reading.

RESPONSE

Thank you gentlemen for the Eulogy. I'm glad that it came today. If it had come on my demise and at my funeral services I couldn't have checked out what was said and be prepared to refute calumnies which might be uttered. So you see all is happiness today. No one picked on me. And all stretched the truth to offer praise. I give you all high marks!

And this eulogy and ceremony is timely. In one week I enter my eightieth year. So autumn days are upon me.

Let me say that I'm pleased and grateful that you all came out today—at 2:00 P.M. on a hot Saturday with end of summer events and other conflicts tugging on each of you to be elsewhere. Thank you all for coming.

And I express deep gratitude to Wayne and Orin and to all of the Utah Congressional Delegation for their unanimous support of the bill which passed in Congress naming this great Courthouse. And I extend that appreciation to all my old colleagues in Congress who raised no voice against the bill and to the President who signed it into law. Most all of this was done "behind my back". The bill was introduced and in Committee for consideration before Wayne casually mentioned it to me. Of course I didn't fight against it, but no affirmative lobby appears to have been needed to push it along. I never had things so good!

Today my wife and our family and our dear friends and neighbors are grateful too. This is our home, our native State. To be honored by your own brings tears of joy.

Let me introduce my wife of 56 years and our children and grandchildren. I ask each to stand as I name them.

Phyllis Hart Moss whom I met in Granite High School some 65 years ago. Now her hair looks like that of Barbara Bush.

Marilyn Moss Armstrong—our first born, with her daughter Allison and Allison's husband Clay Giad, then Ted Armstrong and Eric Armstrong. Thank you.

Edward Moss and Marilyn his wife with three daughters; Julie Moss, Marianne Moss and Jeniffer Moss. Ed and Marilyn's son, Jim, is on an LDA mission in our 50th State. (Tough duty out there.)

Brian Moss and his wife Carol and their four children: Heather Moss, Brennan Moss, Kristy Moss and Bradley Moss.

Gordon Moss and Christina Moss are not here. They live in Tampa, FL, and it is quite a haul from there, especially with their little ones. Marissa—5 years old and Carson and Zane 3-year-old boy twins. Have you ever caught up in a whirlwind twister?

I am the last of my father and mother's family and Phyllis has survived all of her brothers and sisters except for Mary Hart, her younger sister. Please stand, Mary. As both Phyllis and I complete our eighth decade this year and begin our ninth both of us think this ceremony is timely. In addition, I wish I could introduce all of my former staff and coworkers. No person can accomplish alone the things which triggered this recognition today. I was blessed with the support, service and advice of a remarkable group of people. Many are here today—but many are far away and some have already passed on. I pay tribute to those who worked with me in my various endeavors. To them I give my heart felt appreciation. Each of you is special.

Now about this Building. I'm pleased to have my name on a U.S. Courthouse. Had I had any inkling of what was in store for me and had I been given any choices to make, I would have requested that my name be placed on the U.S. Courthouse, because my whole adult life has been spent in the field of the law.

After law school and a brief stint as a junior attorney with the SEC and the Civil Aeronautics Board in Washington, Phyllis and I elected to come home to Utah where I became a law clerk with the Utah Supreme Court. Then I was elected as one of four city judges in Salt Lake City, with countywide jurisdiction. I had this position for 10 years.

But I interrupted my judicial service to serve in the Army Air Corps as a judge advocate in Europe through World War II.

In 1950 I relinquished my city judge judicial position to run and be elected Salt Lake County attorney—8 years—2 terms. While there, I was twice elected president of the National District Attorney's Association. Then in 1958 I was elected to the U.S. Senate where I served for 18 years enacting

laws. Since 1977 I have practiced law privately and served as senior counsel of the National Association of Home Care.

So my adult life has been in the law. I respect and love the law. Its administration is not always perfect. There are slip ups and oversights and just plain errors in applications. And this unevenness troubles us. But the law is not at fault. Improper application is the difficulty. The law is at the very heart of a free society.

Our basic law is the U.S. Constitution and our State constitutions upon which are built our statutory law. These laws come from our Congress and State legislatures and are interpreted, defined, and applied in our courts. The final judgments of our courts are obeyed and thus we can live in a fair, open and free society. Only the unbalanced or socially depraved defy the law.

If our object is to foster a just and open society, we must work at it through law. We live in a changing world and therefore we need changing laws. In just my life span there have been such far reaching changes in our society that I marvel. To deal with these changes we need modification or introduction of new laws. The law is a living, changing, growing force. But it is based on fixed and fair principals.

As the Earth shrinks in size through swift and safe travel and when we hear and see electronically things transpiring on the other side of our globe we know we need world law.

And swiftly comes the time when we will see and hear from outer space and need universal law.

A whirlwind of changes are now upon us. The cold war ends and a new hot war threatens in the Middle East. Europe is heading into Federation and the United Nations gathers strength.

What an exciting time to be alive.

Our great stabilizer in this blizzard of change must be our law. If all nations could be as stable as ours, many threatening dangers would subside. And as we honor and obey our own law we should help and encourage other nations to establish and obey their own laws. Then we can build effective international law.

Cynics will say that this never will be. Well, did not many say the Berlin Wall would never be breached? That Eastern Europe would never be free; that the U.S.S.R. and USA would never vote together in the Security Council?

As you see, like my father, I am an ongoing optimist. There will be many road blocks but in the end freedom and justice will prevail. And we are making progress.

I won't be around perhaps, to see all these exciting things, but my name on this great building will look down and smile when international law shall go forth to all mankind.

I am grateful beyond words to be accorded this honor: today—and forever.

My feelings—and those of my family and of my coworkers cannot be described. We hope that our actions will reflect our gratitude and our determination to seek peace, personal growth and joy through all of our years.

A WELL-DESERVED AWARD FOR HEROISM

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. BROOMFIELD. Mr. Speaker, last year, 145 police officers were killed in the line of duty. Almost 60,000 were assaulted while performing their jobs.

I know of few other occupations that call on people to put themselves in harm's way day-in and day-out, throughout their entire careers. It's a job that demands judgment, decisiveness, and most of all, pure physical courage.

Courageous people come in all shapes and sizes, and I was delighted to see some recognition of that fact when the 1990 Police Officer of the Year Award was bestowed on a 5 foot 3 inch 107-pound hero named Katherine P. Heller.

Officer Heller of the U.S. Park Police is the first woman to receive the prestigious 25-year old annual award. The courageous actions that merited this award are well-described in a recent issue of Parade magazine, as are the accomplishments of many other police officers who have been recognized by the International Association of Chiefs of Police for their bravery and their devotion to duty.

The article points as well to the accomplishments of the U.S. Park Police, a highly professional organization now under the leadership of Chief Lynn Herring.

I ask that the article from Parade be reprinted in the Record.

A U.S Park Policewoman, who boldly stepped into the open to shoot dead an assailant as he in turn was about to shoot down her fellow police officer, will receive the nation's top award in law enforcement.

"I didn't have time to taste the fear," says Officer Katherine P. Heller.

The 30-year-old Heller is the first woman to receive the Police Officer of the Year award, given by Parade and the International Association of Chiefs of Police (IACP). Established in 1966 to recognize the achievements of the country's more than 500,000 police officers, the award will be presented to Katherine Heller in Tulsa on Oct. 9 at the IACP's annual convention.

Heller's decisiveness should lay to rest any doubts about women's abilities as police officers, asserts U.S. Park Police Chief Lynn Herring. "I hope her example will encourage young women to make the leap to law enforcement," he says.

It all started on a drizzly evening about 7:30 p.m. last Feb. 22 in Lafayette Park, across from the White House, where Kathy Heller was on foot patrol. Officer Scott Dahl had dropped by on his motorcycle to give her a package. As he was leaving, he saw a man with a gashed head staggering in the park. "That guy just hit me with a brick," the man muttered, pointing at a vagrant across the street.

While Dahl crossed the street to investigate, Heller checked the wounded man, who was bleeding profusely. But looking up in Dahl's direction, she saw two figures grappling on the ground. The vagrant had attacked the officer and begun digging at Dahl's eyeballs. As the officer shouted for help, Heller rushed to his aid and beat the attacker over the head repeatedly with her nightstick. Finally the man seemed to back away—but he had grabbed Dahl's gun.

The two cops ran for cover. With the attacker stalking Dahl around a car, Heller moved in close behind a metal electrical box on the sidewalk. As the man leveled his gun at Dahl, Heller stepped into the open to position herself for a clear shot.

Then, as Officer Dahl dived for cover, Heller fired. The bullet struck the man in the pelvis, but he didn't flinch. She pulled the trigger again. This time, her target slumped to the ground, fatally wounded in the heart. The 24-year-old vagrant, Russell Baits—who, police say, had a history of convictions and violent behavior—later died at the hospital.

"I wouldn't be here today if it weren't for Kathy," says Officer Dahl, an ex-Marine who has been on the Park Police for three years. "She saved my life."

Heller's heroism came as no surprise to those who have worked with her. From the time she joined the Park Police in March 1988, she has earned a reputation as an aggressive cop who has a knack for digging behind a case to find trouble. "She always seems to be where things are happening," says Capt. Benjamin Holmes Jr., her former commanding officer. In 1989, she ranked sixth out of 350 patrol officers on the force in making felony criminal cases.

"My biggest asset is my mind," says Heller, who is 5 feet 3 and 107 pounds. "Ninety percent of my adversaries will be bigger than I am. Hopefully, I can outthink them."

What's more, says Capt. Hugh C. Irwin, her former lieutenant, Kathy Heller also has what many other female cops possess—an ability to defuse tense situations. "You can talk somebody into handcuffs," she says. "When you acknowledge your limitations, you can beat almost anything."

What drove her to the police in the first place? The eldest of five sisters, Heller, who's single, found high adventure within the walls of her Potomac, Md., bedroom reading Jack London, Louis L'Amour and Alistair MacLean.

"I had lessons in piano and voice, but I wanted to break free," says Heller, whose mother wouldn't let her play sports for fear she'd get hurt. "I was a wild spirit. I wanted to be out there like Sea Wolf, pirating ships."

After college, where she earned bachelor's degrees in science and geology, she worked at jobs ranging from seismologist to interpretive ranger. Through a ranger friend, she learned about the Park Police, a branch of the Department of the Interior that was started in 1791 to protect federal lands and buildings in Washington, D.C. Today, the Park Police encompass a force of 650, including 62 women, who police the capital region along with federal parkland in New York City and San Francisco.

Heller loves police work so much that when she was offered limited duty after the shooting, she turned it down. Group-therapy sessions with other police officers involved in shootings helped her put the incident behind her. She returned to work after 2½ months and asked to be assigned to the city's tough Anacostia beat, which she patrols in a cruiser.

"As a police officer, you live on the edge," she says. "I went over the edge and was able to come back. But I can never be the same."

THE CONTINUING CRISIS IN LIBERIA

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. WEISS. Mr. Speaker. While much of the world's attention is rightly focussed on the crisis in the Persian Gulf, the international community seems to have quietly forgotten the genuine tragedy that continues to unfold in the West African nation of Liberia. After 10 months of brutal violence and civil war, the Liberian conflict continues with no immediate signs of a peaceful resolution.

One of the most tragic aspects of this situation is the plight of the hundreds of thousands of Liberian refugees who have been uprooted from their homes—some trapped in the besieged capital of Monrovia; others forced into exile in neighboring countries.

I would like to commend to the attention of my colleagues two recent articles about the continuing crisis in Liberia. These two articles—by Holly Burkhalter of Human Rights Watch and Hiram A. Ruiz with U.S. Committee for Refugees—call attention to the extraordinary hardship and suffering of Liberian refugees. These articles also point to the urgent need for a more generous response from the international community, including the United States.

Ms. Burkhalter and Mr. Ruiz remind us that, even though the gulf crisis may have diverted our attention to other issues, the Liberian tragedy has not disappeared—and it will not be adequately addressed until we provide the desperately needed assistance which the situation demands.

[From the Los Angeles Times, Oct. 2, 1990]

PERSPECTIVE ON LIBERIA: A CRY FROM OUR DISTANT COUSINS

(By Holly Burkhalter)

Hundreds of thousands of terrified and starving Liberian have poured into the Ivory Coast, Sierra Leone and Guinea to escape slaughter. Last week I was in the Ivory Coast, listening to accounts of whole families killed in their sleep, villages torched, people executed by the late President Samuel Doe's army or by opposition factions that are also fighting each other.

For most of his decade in power, Doe deliberately inflamed ethnic tensions. The United States, which looked the other way, now has a moral obligation to aid the victims of this disaster.

The current crisis has its roots in a rebel insurgency launched last December, when Charles Taylor's small band of guerrillas from the Mano and Gio tribes attacked government posts in the north. Soldiers of Doe's Krahn tribe slaughtered Mano and Gio civilians in reprisal. By June, rebel forces had gathered enormous strength, largely in reaction to army atrocities and years of pent-up frustration with Doe's dictatorship.

In July, out of sight of the few foreigners remaining in the capital city, Taylor's rebel forces moved through the Krahn stronghold of Grand Gedeh and killed every man, woman and child in their path. Rebel atrocities reached such heights, particularly since the Doe's assassination Sept. 10, that 75,000 Krahn have fled Liberia. An estimated 50,000 remain, facing certain death. It is not overstating the case to conclude that Taylor's forces plan genocide against the Krahn.

Liberia, which was settled in this 1800s by freed American slaves, has close political and historical ties with the United States. We can and should do more to help the victims of this brutal power struggle.

European donors consider Liberia an American problem, and the response to United Nations and Red Cross appeals has fallen short. The Bush Administration's announcement last week of increases in assistance to the refugees is too little and too late. The Liberians I visited in the Ivory Coast were hungry and sick, and their Ivorian hosts, who have shared their meager homes and food, need assistance as well. In one town deep in the jungle, a mother thrust her ailing infant, covered with sores from sleeping on the ground with no blanket, into my arms, as if I could help. All around us, people were without the bare necessities of simple survival. They need blankets, clothes, medicine, soap and above all, food.

The United States also should match the generosity of Liberia's West African neighbors and permit refugees to enter our country. Currently, it is almost impossible for Liberian refugees in West Africa to enter the United States, even if they have close family relationship with Liberia, the State Department should increase the number of refugee slots for Liberians, as was done two years ago for Soviet Jews. And the Immigration Service should instruct our embassies abroad that applications for nonimmigrant travel visas by Liberian refugees should be favorably reviewed.

The U.S. government should ease the anxiety of Liberians living here, who fear that they will be returned home to face carnage and famine. The INS has announced a six-month program of safe haven for Liberians, but it is limited to those who arrived before late July. Safe haven should be granted to all Liberians here until they can return home without fear of violence.

Finally, our government should make it clear that atrocities against civilians are intolerable. In late September, after meeting separately with the rebel leaders, Assistant Secretary of State Herman Cohen asserted that they support democracy and are willing to negotiate. Since then, Taylor and breakaway rebel leader Prince Johnson have sworn to continue fighting, a goal that promises to destroy what is left of Liberia. Unknown thousands have already died, and those remaining, particularly the Krahn and Mandingo people, are desperately at risk from the Taylor and Johnson forces. It is not too late to help them.

[From the Christian Science Monitor, Oct. 5, 1990]

LIBERIAN REFUGEES: THE GULF'S OTHER VICTIMS

(By Hiram A. Ruiz)

The generosity that a number of countries around the world have shown to the more than 500,000 people uprooted by the Gulf crisis—many of them Asians who had been working in Kuwait and Iraq—has been heartening. Although the suddenness of the crisis caught the international community off guard, the refugees' situation has improved. While those who are still trapped in Kuwait and Iraq remain in a precarious situation, at least much world concern and attention is being focused on them.

There has been no such generous response, concern, or attention for the victims of the brutal civil war in Liberia. Their plight, overshadowed by events in the Gulf, is tragic, and demands urgent action.

There have been difficulties in getting aid to the victims of the Gulf crisis. Many were stranded in the middle of the desert, and no clear international system existed for aiding people in their situation. However, through the combined efforts—and political will—of governments, international organizations, and private relief groups worldwide, high-profile media coverage, and quite substantial amounts of money, the international community is finding ways to respond to their needs.

Difficulties also exist in aiding the civilians affected by the Liberian crisis. If the international community could spare some of its goodwill, creativity, and funds for them too, their suffering could also be alleviated.

At greatest risk in Liberia are the 100,000 to 150,000 civilians, mostly women and small children and those too old or sick to flee, who are trapped in Monrovia, the besieged capital. Without water for five months, and food for two months, they are slowly starving. Hundreds of thousands of other Liberians have fled to the relative safety of refugee camps in neighboring countries. But they too are short of food, because the international community has been unwilling to respond adequately to their needs.

Besides the US contribution, the international community has pledged $200 million to aid the Gulf's uprooted. Yet a United Nations appeal for just $12 million to assist nearly half a million Liberian refugees in Guinea, Ivory Coast, and Sierra Leone has yielded only $4.3 million from nations other than the US.

Even more aid than that already requested is likely to be needed. Assistant Secretary of State for African Affairs Herman J. Cohen, who has just been in Liberia and met with both main rebel leaders, said that the prospects for increased warfare are growing. Another US official who also recently returned from Monrovia described the situation there as the worst he's witnessed in 20 years of relief work. Desperate for water, people literally drink from the sewers. Cholera and other diseases are rampant. Children who are still strong enough fight over scraps of food.

When night falls, armed hooligans, many of them soldiers belonging to what is left of the army of the late president, Samuel Doe, rape, pillage, and murder at will. Virtually all aid workers, including those of the International Committtee of the Red Cross (ICRC), the one agency that is often able to assist civilians trapped in war zones, have had to leave because their safety could not be guaranteed.

Protecting and assisting both those in Monrovia and the refugees who have fled to neighboring countries is clearly not an easy matter. There is no internationally agreed-on system for responding to people caught in such situations. The ICRC is experienced in civil conflict and prepared to help, but is unable to go into Monrovia because the warring parties refuse to guarantee ICRC personnel's safety.

A group of West African nations sent a small military force to attempt to restore some order in Monrovia. But not only does it appear not to have the experience or capacity to achieve that goal, the force now seems to be actively participating in the conflict. Clearly, restoring order and protecting the civilians in Monrovia would require a far larger, broader-based effort, such as a UN peace-keeping force.

Getting adequate aid to Liberian refugees in neighboring countries has also been difficult. They settled in regions that are difficult to reach (particularly in Guinea, where the majority have gone); there was no already-established relief network to respond to the emergency; and their plight has generated little international humanitarian response.

Liberians are not sitting atop large oil reserves. The only "hostages" involved in the Liberian crisis have been other West Africans who had been working in Liberia. And, because of Liberia's historical links with the US, Liberia is viewed by many in the international donor community as something of an American dependency. But the "Liberian problem" is not just an "American problem."

CASS HOUGH

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. HAMMERSCHMIDT. Mr. Speaker, it is with deep sadness that I inform my colleagues of the death of Cass Hough on September 17, 1990.

Cass was an unusual, patriotic, talented and gifted citizen. He was also a longtime friend.

I join with his friends at Union National Bank of Arkansas in their tribute to Cass which follows:

UNION SALUTES CASS HOUGH, LEADER, AVIATION PIONEER AND FRIEND

The directors, officers and staff of Union National Bank honor the memory of our friend, Cass Hough. He earned distinction as a leader, not only in our company, but in many walks of life.

We remember Cass Hough for far more than his prestigious accomplishments and honors in business and civic affairs, among them his valued service on our Board of Directors, the presidency of Daisy Manufacturing and leadership of the Arkansas Industrial Development Commission. We also remember his humanity and high-flying valor.

Serving as colonel and director of Technical Operations of the Eighth Air Force in World War Two, he test-piloted the P-38 Lightning aircraft, risking his life in an 800 mile-an-hour veritical dive to prove the aircrafts' attack capability, an accomplishment chronicled in the 1944 Readers Digest article, "Ten Seconds to Live" as an act of heroism and, most probably, aviation's first breaking of the sound barrier.

This and other deeds of courage in the air earned him the Air Medal, the Legion of Merit, the Distinguished Flying Cross and the Belgian Croix de Guerre with Palm among many other citations.

In 1974, he was named an "elder statesman of aviation" by the National Aeronautics Association, joining the ranks of world-famous pioneer fliers such as Eddie Rickenbacker, Admiral Richard Byrd, and General James Doolittle.

A Michigan native and holder of Michigan Pilot License number one (which he received before getting his driver's license), he "adopted" our state and was instrumental in bringing Daisy Manufacturing, the company his grandfather started, to Rogers in 1958. In 1981, he donated his extensive aviation library, featuring over fourteen thousand items of significance to aeronautic history, to Arkansas State University in Jonesboro. Solicited by many prestigious institutions, including the Smithsonian, the library is considered to be the single most important collection of aeronautical materials ever acquired by one individual. It is a tribute to his love of Arkansas that he chose to keep the collection here, where it brings acclaim to us year after year.

We will all miss Cass Hough. His amazing courage, vision and leadership will be long remembered.

CIVIC EDUCATION EXCHANGE PROGRAM

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. LANTOS. Mr. Speaker, as the newly free nations of Central and Eastern Europe struggle to make the difficult transition to constitutional democracy and free-market economy, we must provide them whatever assistance we can to insure the success of their efforts. We have a profound stake in their success. Both World War I and World War II were triggered by events in this frequently neglected region of the world. We now have an opportunity to assist and influence for good the future development of this important area.

A principal focus of our attention should be to help educators in these nations develop and implement programs in their schools to foster among their youth an understanding of and commitment to the fundamental principles and values of constitutional democracy.

For this reason, Mr. Speaker, I strongly support the provisions of title V, section 503 of the International Affairs Authorization Act of 1990 (S. 2944) authorizing assistance for activities of the comprehensive Support for East European Democracy [SEED] Program which seeks to promote the political and economic transition of the countries of Central and Eastern Europe emerging from Communist rule.

Section 503 of this act includes important provisions for civic education exchanges between educators in Central and Eastern European countries and the United States. I want to pay particular tribute to the distinguished Senator from Rhode Island and the chairman of the Foreign Relations Committee, Mr. PELL, for his leadership and foresight in including this provision in the Senate version of this legislation.

For almost five decades, the political education of students in this area has been dominated by indoctrination in Marxist-Leninist ideology. The difficulties which this background places in the path of reform should not be underestimated. These countries lack textbooks in democratic government and civics, and they lack teachers trained in providing the education required of citizens of constitutional democracies. Despite these problems, however, it is clear that the new political and educational leaders of many of these countries are committed to overcoming these difficulties by providing education for democracy in their schools. They have called for our assistance.

As we strive to help these nations realize the benefits of freedom and learn to deal with the stresses which accompany it, we must be sensitive to the fact that in our country the refinements of constitutional democracy have evolved over a period of nearly four centuries. We must be patient and offer our assistance without attempting to impose our views. We must show our Central and East European colleagues the most exemplary educational programs used in the United States to foster among our youth the knowledge, skills, and character traits that are required for the conduct of democracy and for its preservation. At the same time, we have an opportunity to learn from the efforts of these countries in establishing democratic institutions.

The United States has a number of resources in the area of civic education that can be helpful in this effort. I was delighted to note that our colleagues in the Senate have recognized the Center for Civic Education from my home State of California as such a resource and have recommended support for its programs under their legislation. For every 25 years the center has been developing and implementing exemplary programs in civic education, focusing on the principles and values of constitutional democracy.

The center conducts the highly regarded National Bicentennial Competition on the Constitution and Bill of Rights, which is cosponsored by the Commission on the Bicentennial of the U.S. Constitution and funded by Congress. The center also conducts extensive teacher training programs and has administered international cultural exchange programs in civic education with European countries, which is supported by the U.S. Information Agency. Recently the center held an educational conference in Santa Monica, CA, enlisting the views on citizenship education from representatives of Poland, Czechoslovakia, Germany, and Italy.

This legislation should enable organizations such as the Center for Civic Education to play a unique role in assisting the countries of Central and Eastern Europe in the development of their own programs of civic education.

Mr. Speaker, these are extraordinary times. The spirit of home and democracy is alive and thriving in the hearts of millions in the newly liberated nations of the world. As the world's leading democracy, the United States has a unique role to play in providing leadership and exchanging experience with these newly-emerging democracies. An ambitious program of international civic education exchanges represents a vital first step in the critical effort to build a lasting foundation for constitutional democracy in Central and Eastern Europe.

PROVIDING COUNTER NARCOTICS ASSISTANCE TO THE ANDEAN COUNTRIES

HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. WISE. Mr. Speaker, as chairman of a subcommittee that has spent the past year reviewing narcotics control efforts in the Andean region, it is clear to me that continued United States assistance is needed by Peru, Bolivia, and Colombia to disrupt the narcotics trade and dismantle trafficking organizations. The Colombian National Police antinarcotics directorate's efforts which resulted in a reduction of the number of trafficker flights to producing countries during the past year is an example of the kind of Andean initiative we should fully endorse.

While I support funding Andean counter narcotics law enforcement activities, I am more skeptical about the extent to which the military Institutions in Peru, Boliva, and Colombia will undertake this mission. The Committee on Government Operations recently released a report on Andean counter narcotics operations prepared by my subcommittee which concluded that endemic corruption, particularly by elements of each country's military, precluded meaningful results from having been attained in Peru and Bolivia.

In Colombia where interdiction efforts have been more successful, the Colombian National Policy received only 16 percent of the $65 million emergency assistance we provided in August 1989, despite the fact that the police are responsible for nearly 90 percent of all narcotics seizures.

Our oversight also found that the Colombian military planned to spend the majority of our fiscal year 1990 antinarcotics assistance on a counterinsurgency campaign in a region of Colombia not known for narcotics processing or trafficking.

During my subcommittee's three field trips to the Andean region, we found that besides fighting insurgencies, police-military tension in each of the three countries remained an impediment to better coordinated narcotics control operations.

For the above reasons Mr. Speaker, I am concerned that we closely monitor the President's determination required for providing this assistance to ensure that specific antinarcotics program performance criteria contained in our agreements signed with the Andean countries are in fact met.

CELEBRATE 25 YEARS OF HEAD START

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. SCHUETTE. Mr. Speaker, I rise today to celebrate and recognize the Michigan Head Start Association for providing comprehensive developmental services to Michigan's preschool children for 25 years. Head Start prepares primarily low-income children to successfully enter school, thus helping thousands of children to look forward to a brighter future. A celebration will be held in honor of the 25th anniversary of the Michigan Head Start Program on October 11, 1990 at the Detroit Holiday Inn.

Since its inception in 1965, Head Start has provided educational, social, medical, dental, nutritional, and mental health services to over 9 million children and their families across the Nation. Launched by the Office of Economic Opportunity, it is now administered by the Administration for Children, Youth, and Families in the Department of Health and Human Services. Project Head Start has played a major role in focusing the attention of the Nation on the Importance of early childhood development, especially in the first 5 years of life.

Head Start's educational program is designed to meet each child's individual needs. It also aims to meet the need of the community served and its ethnic and cultural characteristics. If programs have a majority of bilingual children, for example, at least one teacher or aide must speak their native language.

Every child receives a variety of learning experiences to foster intellectual, social, and emotional growth. Children participate in indoor and outdoor play and are introduced to the concepts of words and numbers. They are encouraged to express their feelings and to develop self-confidence and the ability to get along with others.

Head Start programs have a low child staff ratio. Staff members receive training in child development and early childhood education. They learn how to work with handicapped children who now account for 13.3 percent of Head Start's total enrollment. Staff at all levels and in all program areas receive training to improve job performance and to provide opportunities for career advancement within the program.

Head Start emphasizes the importance of early identification of health programs. Since many preschool children of low-income families have never seen a doctor or dentist, Head Start provides every child with a comprehensive health care program, including medical, dental, mental health, and nutritional services. Children receive a complete examination, including vision and hearing tests, indentification of handicapping conditions, immunizations, and a dental exam. Followup treatment is provided for identified health problems.

Many children entering Head Start have not received good, nourishing meals at home. In the program, children are served a minimum of one hot meal and snack each day, in order to meet at least one-third of their daily nutritional needs. A trained nutritionist supervises the nutritional activities of each Head Start Program and helps the staff identify the nutritional needs of the children. The nutritionist plans an educational program to teach parents how to select healthy foods and prepare well-balanced meals, and how to obtain food stamps and other community assistance when needed.

Head Start recognizes the importance of providing mental health and psychological services to children of low-income families, to encourage their emotional and social development. A mental health professional must be available to every Head Start Program.

Parents are the most important influence on a child's development. An essential part of every Head Start Program is the involvement of parents in parent education, program planning, and operating activities. Many serve as members of Policy Councils and committees and have a voice in administrative and managerial decisions. Through participation in classes and workshops on child development and through staff visits to the home, parents learn about the needs of their children and about educational activities that can be carried out at home. Many parents also serve in Head Start on a volunteer or paid basis as aides to teachers, social service personnel, and other staff members, and as cooks, storytellers and supervisors of play activities.

The social services component of Head Start represents an organized method of assisting families to assess their needs, and then providing those services that will build upon the individual strengths of families to meet their own needs. The outreach and training efforts of Head Start programs have helped provide low-income parents with the knowledge and service they need to build a better life for their children.

A handicapped child can often learn more readily in a group with other children than in a separate group for the handicapped. Handicapped children and their families receive the full range of Head Start developmental services. In addition, Head Start staff members work closely with community agencies to provide services to meet the special needs of the handicapped child.

Head Start has had a significant impact on community efforts for low-income families. A study of 58 communities with full year Head Start programs showed that the program had influenced local educational and health institutions to become more responsible to the needs of the poor. As a result of Head Start activities, for the first time many school districts revised curricula to place more emphasis on the needs of minorities; health institutions changed services and schedules to serve the poor more effectively; and there was increased participation by low-income individuals in policymaking decisions. All of these are major Head Start goals.

Mr. Speaker, and my colleagues in the House, join me today in saluting the Michigan Head Start Program, for giving the children of our great State educational, social, medical, dental, nutritional, and mental health services that provide them with the necessary foundation to enjoy success throughout their education and their lives.

THE 1991 INTERIOR APPROPRIATIONS FOR THE LA CROSSE NATIONAL FISH LAB

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. GUNDERSON. Mr. Speaker, in my testimony before the Interior Appropriations Subcommittee, I made a request—for the second year in a row—for additional operations and maintenance funds for the National Fish Lab in La Crosse, WI. The lab is facing a severe operating deficit which threatens its very existence.

I appreciate the efforts of the committee to channel $500,000 in new research funds to the lab to combat the zebra mussel problem now afflicting the Great Lakes region and creeping down the Mississippi River. In a time of severe budget constraints, I am proud of our lab in La Crosse for its ability to attract funds for continued world class research.

However, I must continue my plea for additional assistance for the lab's maintenance needs. The Speaker will recall my request—and our agreement—last year to increase the lab's base funding by $175,000 to make up for 8 years of real funding decline. That additional funding was provided to the lab, but not as part of the lab's base allotment. Rather, it all went into the lab's maintenance account, preventing any catchup assistance at all in research funding. According to my reading of the language Congress included in the fiscal year 1990 appropriation for the lab, the additional funds should have gone into the lab's base funding.

Second, the projected fiscal year 1991 operating deficit at the lab is between $300,000 and $500,000. The total funding increase for the lab's operating budget over 8 years has been $175,995. This amounts to a real decline of 5 percent since 1983.

In order to relieve the pressure caused by the continuing shortfall, the lab has had to resort to chasing "soft money" research projects. This results in attention diverted away from critical research in favor of research of secondary importance funded through third parties. I support the lab's desire to focus its research efforts on the most critical projects, such as the Zebra Mussel Research Program.

While no additional funds have been appropriated to relieve operations and maintenance needs at the lab, I'm hopeful the Fish and Wildlife Service will look for ways within its operations and maintenance account to address a number of minimal maintenance projects at the lab badly in need of funding.

To repeat, I am encouraged by the fact that the committee sees the need to provide funds for the Zebra Mussel Research Program—$500,000 of which will be used for research at La Crosse. Our lab has a solid history in research on nuisance aquatic organisms. Lab efforts will focus on individual and integrated control procedures for meeting the zebra mussel threat.

Unfortunately, none of the funds provided to the La Crosse lab through this project would help to eliminate the long-term and chronic funding shortages in the lab's operations and maintenance accounts. Therefore, while La Crosse is best suited for the research, and while the mussel research project is important to the continued mission of the lab, I now encourage the Fish and Wildlife Service to look beyond this project at needs still unmet.

Mr. Speaker, the La Crosse National Fish Lab provides critically needed research and technical assistance to State and Federal fishery programs throughout the entire United States. The center is the only source of research to achieve FDA and EPA approvals for chemicals needed to produce or manage our fishery resources. And major fishery restoration and maintenance programs in the Great Lakes, New England, Washington, Oregon, and Idaho are dependent upon research at the La Crosse lab. In addition, major river systems across the country are, even now, implementing programs established on the upper Mississippi River by the fish lab center.

I hope the Fish and Wildlife Service will take the time to contemplate the importance of the La Crosse National Fish Lab on our national fishery efforts. For the record, let me repeat my willingness to supply as much assistance as I can to the Service to meet these needs.

REPRESENTATIVE MILLER TESTIFIES AGAINST MILITARY FRAUD

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. MILLER of California. Mr. Speaker, earlier today, I had the pleasure of testifying before the Subcommittee on Criminal Justice on my legislation, H.R. 475, the Federal Contract Crimes Sentencing Act.

H.R. 4795 would apply mandatory debarment to any Government contractor who is convicted of repeated felonies in conjunction with a Government contract. This sanction would apply to all contractors, in all agencies. While my remarks today focused on the Department of Defense, I do not intend to single out Defense contractors for special punishment or special blame.

But the scope of fraudulent activity in the Department of Defense is of breathtaking proportions, as is its cost to taxpayers. The fact is that the Pentagon's $2 trillion spending spree during the 1980's was not accompanied by vigilant oversight by those in the Defense Department who were responsible for assuring rigorous levels of quality, safety, and performance.

If ever there were a casebook on crime in the suites, the record of Defense contractors in the 1980's would surely occupy several lengthy chapters.

And that is really the origin of this legislation. I cannot even guess how often I have read accounts of some contractor being accused or convicted of some act of defrauding the public. And very often, the accused admits to serious charges in order to evade prosecution on other counts.

Of the 100 largest Defense contractors, nearly one third have been convicted of, or pleaded guilty to, felony charges since the defense build-up began, including Northrop, GTE, TRW, and Rockwell International. Nearly two-thirds of those top 100 contractors are currently being investigated.

And we are not only talking about juggling the books. Some of these crimes include the knowing supply of substandard materials to the military, bribery of Government and foreign officials, and the falsification of test results. These criminal acts not only cheat taxpayers; they potentially place the lives of servicemen and women—and the national security that depends on the operational performance of these weapons systems—at risk.

No Member of the Congress would sanction such reprehensible greed and criminal behavior. The question is what we will do about it, to protect taxpayers and the men and women whose lives depend on these contractors.

I am struck by how often I read of a new charge, a new conviction, or a plea bargain, and then receive a letter or see an advertisement by the same contractor urging my support for a weapons system. The defrauders are, to put it plainly, back in business.

Let's look at one well-publicized offender—Northrop.

Here's a company that last February pleaded guilty to 34 counts of making false claims against the government. That's a nice way of saying they cheated taxpayers. In return, the Justice Department dropped an additional 141 charges!

Earlier this week, the Air Force investigators looking into mismangement at Northrop concluded that many of the expensive weapons systems built by that contractor—including the B–2, the Tacit Rainbow anti-radar missile, the F–15's jamming system, the guidance system for the MX missile—are all riddled with fraud and performance defects.

And yet the Pentagon is continuing to award billions of dollars in new contracts to Northrop for these very systems, according to testimony at a hearing on Tuesday. Last year, Northrop was given $631 million in defense contracts.

Does that sound like punishment, or a reward, for fraud and incompetence?

Now, I recognize that the Defense Department has used debarments in the past, as have other federal agencies. Indeed, the large number of debarments—582 in 1985 alone—highlights the widespread scope of the criminal activity that infects our defense procurement system.

And I also recognize that debarring a major contractor has defense implications because that company may be the sole supplier of a particular kind of weapon system or technology. I have great compassion for the employees of a company who might be affected by debarment even they in no way were involved in the conspiracy to defraud the Government.

But I don't recall any large contractor, the ones who steal millions and who admit to dozens of criminal acts—I don't remember any of them losing their right to compete for contracts. And at a time when we throw small companies out, that is unreasonable. It says to a large contractor that your size, your influence, and our dependence on your product will insulate you from severe punishment and continue to reward you with additional Government contracts.

That is ludicrous, and it must be stopped.

There are those who will say this legislation is unnecessary because debarment is already an option, and we are all waiting breathlessly to see if Secretary Cheney follows the recommendation of Justice Department officials and debars the Northrop Corporation for its truly stunning record of criminal activity.

I know debarment is an option; my complaint is that it is not used adequately and therefore does not serve either to punish or to deter habitual criminal behavior. As recent articles in the Wall Street Journal and Defense News have pointed out, contractors accused and convicted of defrauding the Government continue to secure lucrative contracts.

That is why H.R. 4795 makes debarment mandatory upon a second conviction. Corporate executives who persistently engage in this kind of theft from taxpayers ought to know they will not just pay a fine, that often doesn't cover the cost of correcting the fraud, or throw an underling to the prosecutors. If they cheat twice, they're out of business with the taxpayers of America.

Now, there is more than one way to achieve this meritorious outcome, and I am confident that the subcommittee will explore other effective ways to discourage fraudulent behavior and to extract meaningful punishment. I am impressed with the initiative by the distinguished chairman of the subcommittee, Mr. SCHUMER, to substitute a Federal receivership for debarment in order to allow the company to continue to function and its employees to remain on the job, while removing the culpable parties from management of the firm.

Another option is to deny guilty contractors their general and administrative costs, and their profits, for contracts held by that company. As with the receivership proposal, this approach would punish the corporate officers and stockholders rather than the innocent employees of a guilty firm.

Any of these approaches is preferable to the current system of rewarding felons with Government contracts, so long as rigorous performance standards are applied to all future activities of the company, and that debarment remains a mandatory action in the case of yet another felony conviction.

For 10 years, we in the Congress have been lectured to by administration spokespeople who proclaim that Government ought to be run like a business. It is now clear, after a decade of mismanagement and criminal mismanagement by high administration officials that had they been running the family business, it would have been bankrupt and defunct years ago.

My legislation speaks to the Department of Defense, but to other agencies of the Government as well. The General Accounting Office, in two recent reports—Federal Integrity Act; Inadequate Controls Result in Ineffective Federal Programs and Billions in Losses and User Fees: Limited Survey of User Fees at the Departments of Commerce and the Interior—has documented the costly mismanagement of the executive agencies, mismanagement that has cost taxpayers hundreds of millions, if not billions, of dollars.

The President and his Cabinet have the responsibility and the mandate to improve efficiency at their agency and departments. They have chosen not to do so. Similarly, they have the authority to refuse further Government contracts to businesses that habitually cheat taxpayers and endanger national security. But in the case of the biggest offenders, they choose not to do so.

The time has come to remove that discretion, because the officials in charge seem incapable of imposing serious punishment. The Congress should impose a mandatory sanction, whether that be debarment as my bill would require, or receivership as the Schumer proposal suggests. Either course is preferable to the present practice of rewarding with additional contracts those who steal from taxpayers and jeopardize the lives of America's military men and women.

WAITING FOR THE EXPLOSION IN ALBANIA

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mrs. BENTLEY. Mr. Speaker, I have been speaking frequently on this floor about the situation in the Balkan States and in particular on the crisis that threatens to destablize the whole region.

The problems in Yugoslavia with the Albanian minority in the area of Kosovo are being fed by old emnities coming from the Tito years when the Albanians were brought in to defuse strong Serbian insurgencies against the Russian-backed government in Belgrade and by the miserable totalitarian conditions existing inside the nation of Albania today.

The Wall Street Journal today, October 11, had an excellent article reporting on these conditions. Being aware of the criticisms of the Albanians in Kosovo—against the present governments of Sarbia and Yugoslavia—in a situation where they are allowed freedom of worship, advantage of schooling—in their own language up through high school with access to university degrees and many job opportunities including in Politics—I am shocked at how repressive the government in Albania is toward all of its citizens—according to the Journal report.

It is doubly shocking that the Albanians in Kosovo are reported to want to have the region annexed to Albania in a plebesite-type action. Reading the Journal article, one wonders if this is really true or, if the pressure is coming from outside of Yugoslavia.

I insert this article in its entirety:

[From the Wall Street Journal, Oct. 11, 1990]

WAITING FOR THE EXPLOSION IN ALBANIA

(By Robert D. Kaplan)

TIRANA, ALBANIA.—Shqiperia, "The Land of Eagles, known in other languages as Albania, is a lair of towering limestone fastnesses where people ride crammed together, on the backs of pick-up trucks to labor with cythes and shovels in the fields and in the shadow of Marxist-Leninist billboards, only to return to their homes at night to watch "Dynasty" and CNN on Greek and Italian television frequencies.

"We live like poor, miserable bastards," a man told me in Greek, on a train from the port city of Durres to Tirana, after discovering that I was an American. The other passengers, including soldiers, stared at me; their eyes registering fear, hope and curiousity.

The country remains a living museum of Stalinism, with its attendant poverty and farcical personality cult. Bicycles and ox carts clog cratered roads. I traveled through the country for a week and saw very few cars and no tractors. The ribs pressed against the flesh of every cow I saw. The apartment blocks are tenuous constructions of corrugated metal and badly mortared brick. I saw one ambulance, a creaking and rusted box-like vehicle that reminded me of the ambulance Ernest Hemingway drove on the Italian front in World War I. In the pharmacies, not even cough drops are available.

In the poorest Third World countries, children board buses and trains to sell chewing gum and other cheap items. In Albania, children beg for gum, since it is unavailable. I watched a gang of semi-naked children fight over a packet of Chicklets that they knew was empty. Here is a primitive service economy that produces nothing: Tailors and cobblers are abundant in Albanian towns because there are no factories producing clothes and shoes, and little or nothing is imported.

The countryside is defaced with tens of thousands of domed, concrete bunkers, built in the 1960s to defend Albania against a joint invasion by "Anglo-American Imperialists" and "Russo-Bulgar revisionists." This mad vision was enunciated by Enver Hoxha (pronounced HO-JA)—Albania's World War II guerilla leader, who, until his death in 1985, kept isolated from even the other communist states in Eastern Europe. Hoxha's name, face, and sage advice stare out at one from billboards that are just as ubiquitous as the bunkers he had built. Tirana's "Museum of Enver Hoxha" is the only well-constructed edifice in Alabania. Its gray marble and polished copper interior, with reverential music piped in on JVC speakers, suggest the atrium of a shopping mall.

The Shqiptars (Eagle-men), as the Albanians call themselves, are already in revolt. Last June, thousands of young Albanians crashed the gates of foreign embassies in Tirana, resulting in a mass exodus and a nervous promise of reform from the regime, along with a crackdown by the *sigurimi* (secret police). At the beginning of this month, the bodies of two ethnic Greeks who tried to escape to Greece were hung upside down in the main square of a village near the town of Korce. The Greek government called the action "barbaric," and has threatened serious consequences.

A few days later in the same area three soldiers and three civilians successfully escaped to Greece after a brief gun battle. Despite the building of concrete walls topped by broken glass at the Greek and other foreign embassies in Tirana, throngs of Albanians gather daily at the diplomatic compounds, demanding asylum.

"Our hearts are pounding. We know what has happened in Romania and the rest of Eastern Europe. Albania is still alone, and we are not proud of this fact. There could be more blood here than in Romania," an engineer in his 30s told me in Durres. Another young Albanian I met compared Hoxha to Adolf Hitler. And another told me how he was secretly baptized. (Albania is an official atheist country where religious worship is a criminal offense.) Such statements do not have to be solicited; Albanians are desperate to talk to foreigners.

Ramiz Alia, Albania's communist ruler since the death of Hoxha, is trying to forestall a Romanian-style uprising by issuing passports, opening a dialogue with the U.S. and other such moves. Though Albanians admit that Mr. Alia is an improvement over Hoxha and his hated wife, Nexhmije, (still a formidable figure in Tirana with a power base of her own inside the secret police), they see Mr. Alia's actions as those of a desperate man, offering too little, too late.

A Western diplomat here said the situation is completely unstable and therefore unpredictable. But an Albanian student I spoke with believes that the crisis in the Persian Gulf "provides a breathing space for the regime, since the world's attention has shifted away from Eastern Europe."

Although Albania, with a population of only 3 million, is Eastern Europe's smallest country, the eventual collapse of communism here will have powerful repercussions both in neighboring Yugoslavia, where another 2 million Albanians are locked in a struggle with the resurgent Serbian nationalist movement over the region of Kosovo, and in Greece, where irredentists are calling for the restoration of Northern Epirus (southern Albania) to Greek sovereignty. The number of Greeks inside Albania may be as high as 400,000—more than 13% of the population. I was stunned by the prevalence of Greek speakers in Albania, as well as by the undercurrents of hostility between Greek Orthodox Christians in the south and ethnic Albanians in the central and northern regions, many of whom are Moslem.

When the official cult of atheism and worship of Hoxha cracks, and traditional religion and religious antagonisms reassert themselves, Moslem violence against Orthodox Christians is a distinct possibility, and one that could easily create populist pressure within Greece for a military adventure in Northern Epirus. There is already talk of a Greek guerilla movement. Ethnic Greeks point out that the Romanian revolution was ignited not by Romanians, but by the Hungarian ethnic minority.

For the moment, Albania appears to be in the lull before the storm. I spent some of my time snapping photos of the statues of Hoxha and Stalin in the main squares, figuring that the monuments will not be around much longer.

HONORING THE 40TH ANNIVERSARY OF THE TEMPLE BETH SHALOM

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. ACKERMAN. Mr. Speaker, I would like to take this opportunity to pay tribute to the Temple Beth Shalom of Flushing in Queens County, NY, on the 40th anniversary of the temple's founding. On October 14, an anniversary dinner dance will be held honoring Frank S. Greene, the temple's first president, and other founding members of the congregation.

Founded in the fall of 1950, Temple Beth Shalom has faithfully served the community as a religious, social, charitable, and activist organization. Under the presidency of Frank Greene the temple obtained a permanent home. It is said that Frank was at the site every day as the synagogue was being built to make sure that every brick was attached correctly. He served at a time of growth and consolidation as the temple took its place as a pillar of the community. Frank richly deserves this honor for his tireless work toward making the temple the great success it remains today.

In the past 40 years the temple has expanded into many aspects of public service. The longstanding Golden Age Club has evolved into the Leisure Club, a highly successful interdenominational group for seniors. Sisterhood members have, for more than 20 years, made regular visits to Veterans' Hospital and to Creedmore, a State mental health institution, to help patients cope with their difficult problems. The temple youth groups participate in nursing home visits and annually collect canned goods for the needy and homeless. There is also deep involvement in education through the sponsorship of a series called Jewish Start, which is designed to spread Jewish learning to students.

Temple Beth Shalom belongs to the Flushing Jewish Community Council and is an active member of the Catholic-Jewish Relations Committee. The social action committee over the years has presented Government and community leaders as speakers and thereby motivated temple members to communicate their opinion on public issues to legislators. These are just some of the many activities that this prominent temple is involved in, and this demonstrates the selflessness of the members and the great dedication the members of the temple have to the lives of those they serve.

Mr. Speaker, I ask that my colleagues in the House of Representatives join me in paying tribute to the Temple Beth Shalom as they honor their first president, Frank Greene, on the occasion of the temple's 40th anniversary. We hope that the next 40 years will be as successful as the first. I know that the temple will continue to grow and remain committed to community service in Queens County.

REAFFIRMATION OF SPANISH LANGUAGE

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. FUSTER. Mr. Speaker, I would like to share with all my colleagues a letter which a significant number of intellectuals and political figures from Puerto Rico have signed regarding the reaffirmation of the Spanish language the 3.6 million U.S. citizens of Puerto Rico speak.

The gist of the letter and its spirit is supported by most Puerto Ricans, including myself. Therefore, I trust that my colleagues will take time to read it.

HOUSE OF REPRESENTATIVES,
Washington, DC, October 8, 1990.

DEAR CONGRESSMAN: Ever since the process to pass a bill authorizing Puerto Ricans to decide on their choice for a final decision on the political status, we have been working on a consensus on the language issue. Up to now, we have sent letters to some of the Representatives who were present at the Congressional Hearings held in Puerto Rico, and the Special Committee of the United Nations that met past August. Different groups have also taken initiatives to pass similar resolutions. At this moment, we can proudly say that the feelings of hundreds of thousands of Puerto Ricans are represented through the signatures of the presidents and leaders of more than a hundred associations and groups of the widest ranks of political, cultural, educational, social, economical, labor and religious beliefs.

Notwithstanding our deep differences in almost every aspect of our lives, all of us agree on the following: Spanish belongs to all Puerto Ricans, it is not negotiable under any circumstances or political status.

No matter which of the formulas of political status is finally chosen, it must recognize the reality that Spanish is our vernacular and official language and it will continue to be so in the future. We feel that it is important for you to have this in mind when you deal with the bill for Puerto Rican self-determination.

We have thousands of signatures endorsing the "Spanish is not negotiable" issue, of Puerto Ricans both from the Island and from the United States. They range from that of the Governor and the President of both Senate and the House of Representatives, present and past Resident Commissioners, representatives and senators, presidents and vice presidents of all political parties, of almost all cultural associations, of all labor union councils. They also range from all the 84 municipal cultural centers, the two associations that represent all the mayors of the 78 municipalities of the Island, to the most important of the professional associations, including the Puerto Rican Bar Association, from the Presidents or Chancellors of the four most important public and private universities, all the teachers and professors associations, to the Chairwoman of both the Democrat and Republican parties of the United States in Puerto Rico, to teachers, school children, blue collar workers, migrants in New York, Chicago, Ohio, and New Jersey, writers, poets, and just plain, hard working citizens.

We have included an unduplicated selected list of a hundred persons who have signed either the statement of consensus, the letters to the Congressman, or to the United Nations, the Resolution of all the Cultural Centers of the Island, or some that now add themselves to this consensus.

We appreciate your interest in the Puerto Rican situation and we hope a bill will be passed soon; but please remember us, Puerto Ricans.

Cordially yours,

Lcdo. JAIME B. FUSTER.
Dr. FRANCISCO O'NEILL.
Dra. AWILDA FALÁU.
Lcdo. AGUSTÍN ECHEVARRÍA.

100 SELECTED SIGNATURES

Hon. Rafael Hernández Colón, Gobernador de Puerto Rico.

Hon. Jaime Fuster, Comisionado Residente.

Lcdo. Rubén Berrios Martínez, Presidente, PIP.

Dr. Pedro Roselló, Segundo Vice-presidente, PNP.

CULTURAL ORGANIZATIONS

Dra. Awilda Palaú, Presidenta, Comité Puertorriqueño de Intelectuales.

Dr. Francisco O'Neill, Presidente, Junta de Directores Instituto de Cultura Puertorriqueña.

Lcdo. Agustín Echevarría, Director Ejecutivo, Instituto de Cultura Puertorriqueña.

Prof. Pedro Juan Rúa, Portavoz, Accion Nacional para la Defensa del Vernáculo.

Lcdo. Eduardo Morales Coll, Presidente, Ateneo Puertorriqueño.

Dra. Gloria Arjona, Presidenta, Instituto Libre Enseñanza.

Dr. Carmelo Delgado Cintrón, Escuela de Derecho, UPR.

Sr. Luis Font, Presidente, Centro Cultural José de Diego de Aguadilla.

Sr. Alexia Massol
González, Taller de Arte y Cultura, Adjuntas.

Sra. Antonia Santiago, Presidenta, Centro Cultural de Ponce.

Sr. Nestor Figueroa Lugo, Gerente General, Radioemiosora WIUC, Ponce.

Sr. David Custodio, Presidente, Sociedad Cultural José de Jesús Esteves, Aguadilla.

Sr. Sixto Diaz, Presidente, Sociedad Bolivarina de Puerto Rico.

Lcdo. Alfonso Garcia Martinez, Director, Revista Colegio de Abogados de Puerto Rico.

Dra. Idalia Cordero Cuevas, Presidenta, Amigos del Español.

Lcdo. Federico Cordero, Presidente, Sociedad Puertorriqueña de la Guitarra.

Dra. Maria Arrillaga, Presidenta, PEN Club de Puerto Rico.

UNIVERSITIES

Dr. Ricardo Alegria, Presidente, Centro de Estudios Avanzados de Puerto Rico y el Caribe.

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Lcdo. José Alberto Morales, Presidente, Universidad del Sagrado Corazón.

Dr. Juan Fernández, Rector, Recinto de Rio Piedras Universidad de Puerto Rico.

Dr. Gamaliel Pérez, Rector, Recinto Metropolitano de la Universidad Interamericana de Puerto Rico.

Dr. Carolos Rivera Lugo, Decano, Escuela de Derecho Universidad Católica.

Lcdo. Antonio Garcia, Decano, Escuela de Derecho Universidad de Puerto Rico.

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Sr. Federico Torres Montalvo, Presidente, Central Puertorriqueña de Trabajadores.

Sra. Luisa Acevedo, Federación del Trabajo de Puerto Rico.

Sr. Luis Carrión, President, Unión de Tronquistas de Puerto Rico.

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Lcdo. Antonio J. Colorado, Secretario de Estado de Puerto Rico.

Lcdo. Jamie Benitez, Ex-comisionado, Residente en E.U.

Sra. Felisa Rincón de Guatier, Ex-alcaldesa de San Juan y National Committeewoman, del Partido Demócrata en Puerto Rico.

Sra. Nitsa Navarro, National Committeewoman, Partido Republicano de los Estados Unidos, Capitulo de Puerto Rico.

Lcdo. Fernando Martin, Vicepresidente, del Partido Independentista Puertorriqueño.

Lcdo. Carolos Vizcarrondo, presidente, Organización Pro ELA.

Sr. Jorge Colberg, Presidente, Juventud Pro-Libre Asociación.

Sr. Luis Vega, Presidente, Juventud Universitaria Autonomista.

Dr. José Milton Soltero, Presidente, Comité Puerto Rico en la ONU.

Lcdo. Carlos Gallisá, Secretario General Partido Socialista.

LEGISLATURE

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Hon. José R. Jarabo, Presidente, Cámara de Representates de Puerto Rico.

Lcdo. Marco Antonio Rigau, Senador, PPD.

Sr. Jorge Navarro, Reapresentante, PNP.

Sr. Rafael Caro Representante, PPD.

Lcdo. David Noriega, Representate, PIP.

Lcdo. Hiram Meléndez,
Representante, PIP.

Lcdo. José Varela,
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Sr. Héctor López Galarza,
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Sr. Severo Colberg Ramírez,
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Lcdo. Victor Negrón,
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Asociación de Alcaldes de Puerto Rico.

Sr. José Rivera Nía,
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Lcdo. Héctor Luis Acevedo, Alcalde,
de San Juan.

Sr. Rosín; Calero,
Alcalde de Aguadilla.

CITIZENS

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Dra. Mayra Muñoz, Profesora,
Universidad de Puerto Rico.

Lcdo. Héctor Ramos Mimoso,
Ex-legislador.

Dr. Rafael Navarro Cadís, Dentista.

Sr. Carlos Juan Santiago, Profesor.

Lcdo. Juan Manuel Garcia Pasalaqua,
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Dra. Delma Arrigoitía, Historiadora.

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Sra. Lillian Pérez Marchán, Poeta.

Prof. José Luis González, Escritor.

Prof. Migdalia García Ramís, Escritora.

Dra. Piri Fernández de Lewis, Ex-presidenta, Ateneo Puertorriqueño.

Lcdo. Germán Rieckehoff Sampayo,
Ex-presidente, Comité Olímpico de Puerto Rico.

Sra. Ada Anglada, Directora Oficina Cultural de San Juan.

Sra. Annie Santiago, Directora,
Museo de la UPR.

Dr. Jalil Sued Badillo, Director de Departamento UPR.

PUERTO RICO IN NEW YORK

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Prof. Diana Caballero,
Chairwoman, Puerto Rico and Latino Educational Round Table.

Sra. Shirley Remeneski,
Directora Ejecutiva, Oficina de Asuntos Hispanos del Estado de New York.

Sra. Elaine Ruiz, Presidenta,
Comité en Defensa del Idioma del,
National Congress for Puerto Rican Rights.

Sr. José Rivera,
Concejal Distrito Trece (13) de Bronx, New York.

Prof. Ana Celia Zentella,
Professor Hunter College.

Sr. William Nieves, Major's Office of Latin Affairs, NY.

Sra. Marta García,
National Puerto Rican Forum.

Sra. Malín Falú, Radio Commentator.

Dr. Luis A. Miranda, President.
Hispanic Federation of NYC.

Dr. Luis O. Reyes,
Aspira de New York.

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Dra. Dolores Miranda, Presidenta,
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Sr. José Delgado, Presidente,
Asociación Periodistas de Puerto Rico.

Sr. Renán Soto Soto, Presidente,
Federación de Maestros de Puerto Rico.

Sr. José Eligio Vélez, Presidente,
Asociación de Maestros de Puerto Rico.

Dra. Carmen Delia Sánchez,
Presidenta, Colegio de Trabajadores,
Sociales de Puerto Rico.

Prof. Arturo Meléndez, Presidente,
Asociación Puertorriqueña de Profesores Universitarios.

Sr. Carolos Delgado, Ex-presidente,
Asociación de Trabajadores Sociales,
de Salud Mental.

JAPAN'S LATEST END RUN AROUND FREE TRADE

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. SCHULZE. Mr. Speaker, Ms. Jennifer Lechner, of Poly-Flow Engineering, Inc., brought a disturbing October 1, 1990, Business Week article to my attention. With your permission, I would like to have it inserted in today's CONGRESSIONAL RECORD.

The article, entitled "Japan's Latest End Run Around Free Trade," describes the Japanese Government's refusal to allow a United States company to sell in Japan, a new metal alloy that cuts energy losses in electrical transfomers by 70 percent. To Japan, a nation totally dependent on imported oil, an invention which would save 25 million barrels of oil yearly should be welcomed.

Regrettably, while the Japanese Government says it is not interested in allowing this technology to be sold in Japan because there is no real need for it, it is working with domestic industry to clone this invention at home, and market it abroad.

Once again, Japan's harsh protectionism rears its ugly head.

I commend this article to my colleagues.

JAPAN'S LATEST END RUN AROUND FREE TRADE

(By Paul Magnusson and Neil Gross)

It should have been a marriage made in heaven. A major industrial nation entirely dependent on foreign oil is courted by a company whose high-tech invention could save the country 25 million barrels of oil yearly. But the nation is Japan, and the inventive company, Allied-Signal Inc., is American—and today, the two are hardly speaking.

On Sept. 19, negotiations between the Bush Administration and the Japanese government were stalled. The two sides failed to agree on a formula that would enable Allied-Signal to sell Japanese utilities a new metal alloy that cuts energy losses in electrical transformers by 70%. The utilities say that claims for the alloy aren't proved. Nonetheless, Japanese companies are working on their own version, and, barring an 11th-hour settlement, Allied faces the loss of lucrative markets throughout Asia.

BIG SPENDER

It's the latest chapter in an all-too-familiar story. Rather than rely on a foreign supplier for a high-technology product, the Japanese government and a web of closely tied companies obstruct imports while they race to clone the invention at home. If the past is any guide, in the next chapter, a Japanese company will begin aggressive exports of remarkably similar products to other countries. U.S. negotiators, in turn, will pursue the chimera of utterly free trade, insisting on written rules that Japan will sidestep. And once again, the message should hit home to non-Japanese businesses: When competing on home ground, the Japanese don't hesitate to throw out the rulebook.

The current fight is over Metglas, an alloy of iron, boron, and silicon that's heated to 1,000 degrees Celsius and cooled to room temperature in one one-thousandth of a second. The resulting substance has properties of both metal and glass and is a highly efficient electrical conductor. Allied-Signal spent 15 years and more than $100 million developing the alloy. It's used in the cores of transformers and in the heads of tape recorders and VCRs. The company estimates Metglas' potential world market at $2.5 billion.

Meanwhile, the Japanese government funded a successful five-year, $12 million attempt by Nippon Steel Corp. to come up with its own version of Metglas. It also formed a consortium of 33 companies to study the alloy's commercial applications.

As Japan Inc. swung into action, the Japanese patent office sat on Allied-Signal's application for 12 years while publishing details of the production process—as is its common practice. And because the clock starts running as soon as the application is filed, the patent granted Metglas in 1984 expires in 1993. At that point, Nippon Steel, which already has 50% of the world market for conventional silicon-steel transformer cores, will be able to market a competing product it developed with the help of a government subsidy.

Where have we heard this story before? Monsanto Co. was stymied in 1985 from entering the Japanese silicon wafer market until Japanese producers could catch up. The company sold its wafer division, claiming that its failure to crack Japan was a major factor in pulling out of the business.

Motorola Inc. was blocked in its attempt to market its palm-size Micro TAC cellular telephone in Japan. Motorola finally won its bureaucratic fight last summer, but it may be too late. Matsushita Electric Industrial Co. is out with an even smaller phone. Says John P. Stern, a vice-president at the American Electronics Assn. in Tokyo: "Allied's case only proves once again that market access delayed is market access denied."

NO QUOTAS

The U.S. may also have muffed a chance to build high-tech trade. While the Japanese abhor the idea of depending on foreign sources for vital technology, they will accept some percentage of imports. But U.S. negotiators often demand written rules to assure a theoretical open market rather than bargain for a quota, which would at least ring up some sales. "One is dealing with an issue of principle, and the other is dealing pragmatically, and that's characteristic of almost every case," says Charles Cook, a vice-president of MEMC, which bought Monsanto's Japanese wafer business.

At least one American industry, semiconductors, is pleased with the market quota that the Reagan Administration negotiated with Japan in 1985. It allowed the Americans to show they can reliably supply a high-quality product at a competitive price. Without it, they maintain, even their present toehold in Japan would be impossible.

But the Japanese willingness to talk numbers has to be matched by a new pragmatism among U.S. negotiators. When it comes to selling in Japan, the bargainers should leave their Adam Smith ties in the closet.

GERMAN REUNIFICATION MARKS NEW CHAPTER IN EUROPE

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. BEREUTER. Mr. Speaker, Germany has been reborn as a uniuted country. Amidst celebration and pageantry, the Federal Republic of Germany and the German Democratic Republic merged into one single, cohesive nation. And with this merger, the most enduring division of the Second World War has come to an abrupt end.

The speed that unification has taken place has astounded the entire world. Just one short year ago East Germany was led by a totalitarian dictator who, though his iron grip had begun to slip, was still felt to be in firm control of the country. The sudden collapse of Erich Honecker's regime left a massive void—a void that was filled through the democratic process. East Germany's first—and only—free and fair elections resulted in the election of Lothar De Maiziere as the Prime Minister tasked with dismantling his government and merging with West Germany. For its part, West Germany, with the leadership, drive, and ingenuity of Chancellor Helmut Kohl, worked hard to ensure that unification soon became a reality.

Surely, the new Germany will face innumerable challenges during the process of reshaping a single identity for the long reported parts. No one would suggest otherwise. Yet the signs are good. It is clear that Germany wishes to work with the Federal Republic of Germany, its allies and neighbors to be a positive force within the European Community; unification will not change that direction. Germany and the huge majority of its citizens seems well aware of the lingering fears and suspicions that are the legacy of two world wars. In short, the unified Germany shows every sign of being and remaining a constructive member of the international community.

Mr. Speaker, this Member would commend to his colleagues an editorial in the October 3, 1990 edition of the Omaha World-Herald and ask that it be inserted into the RECORD. In the words of this insightful essay:

No hint exists of the wild-eyed nationalism of the 1930's, or the imperialism of the Kaisers. Reunion seems to signal a new era, better days for the Germanys, for Europe, and, quite possibly, for the rest of the world.

[From the Omaha World-Herald, Oct. 3, 1990]

NEW CHAPTER IN EUROPE STARTS ON UPBEAT NOTE

Another chapter of the World War II era has come to a close. The two Germans, East and West, have become a sovereign nation once again.

This time the world can be optimistc. No hint exists of the wild-eye nationalism of the 1930s, or the imperialism of the kaisers. Reunion seems to signal a new era better days for the Germanys, for Europe, and, quite possibly, for the rest of the world.

West Germany has prospered under 40 years of successful democracy. Its strong economy and progressive government have served it well, giving it the economic strength and political stability to make reunion possible.

Both parts of the country have made concessions to ease the concerns of other nations. The very swiftness of the act bothered some of the countries in the region. But the Germans addressed the concerns one by one. They promised to maintain a limited role for their armed forces. They agreed never to acquire nuclear weapons. And, in a critical move, they unequivocally gave up any claim to former German territory that is now part of Poland.

The West Germans have worked amicably with the nation's former enemy, France, for many years. Germany is deeply and enthusiastically involved in the affairs of the European community. The military is clearly subservient to the political structure. The ideals of democracy, embraced by West Germans more than 40 years ago, have been equally welcomed by East Germans who were pressing for reunification.

The spirit of the times has changed. World War II flowed in part from Germany's humiliating defeat in World War I. Many German nationals felt embittered and angry because of the terms of the treaty of Versailles.

Hitler used the lingering bad feelings to manipulate and pervert the Germans' national pride. He was able to propel Nazism to the heights of blind nationalism, racism and aggression because of the atmosphere of hatred and resentment rampant in some parts of Germany between the wars.

Similar resentments are less in evidence today. West Germany has prospered under the victorious Allies. If there are any resentments about Germany's defeat, they seem limited to individuals, not large groups of people.

Mankind should never forget the two world wars and the reasons they were fought. Some of the problems that plagued the rest of the world in the latter half of the 20th century were the legacy of German aggression years earlier.

But in the new, unified Germany of 1990, all that has been left in the past. Now there is hope for a more rational world order. And hope that the new commitment to liberty and freedom that has taken root throughout Germany will now spread eastward, through Poland and Czechoslovakia, across the Ukraine and Byelorussia and all the way to Moscow itself.

TRIBUTE TO JUDGE ROYCE R. LEWELLAN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. LAGOMARSINO. Mr. Speaker, I rise to pay tribute today to my friend, Judge Royce R. Lewellan, on the occasion of his retirement from the Santa Barbara County Superior Court.

Judge Lewellan is a longtime friend who served on the superior court from 1975 to this year. He was previously a judge of the Solvang Justice Court, from 1969 to 1975, and carried out a private law practice in Solvang from the time of his admission to the bar in 1958 until his appointment to the supreme court, where he was twice reelected to the office.

Judge Lewellan graduated with honors from the University of Missouri in 1952. He is a native of the gateway city of St. Louis. After graduation he served in the U.S. Air Force for 2 years, then went on to earn his law degree from the University of California at Berkeley, Boalt Hall.

Royce is a member of the California Judges Association, where he served on the executive board from 1983 to 1986, and was chairman of the Criminal Law and Procedure Institute in 1984. He is a past California president of Rotary Club International, past president of the Solvang Business Association, and is an elder at United Presbyterian Church, where he sang in the choir, chaired the building committee and taught Sunday school, as well as serving as a commissioner in the United Presbyterian Church General Assembly. He also served on the Solvang Elementary School Board of Trustees.

Mr. Speaker, Judge Lewellan has been a man of the church, a man of the court, and a member of his community for over three decades, and we will miss his sage wisdom and counsel from the bench although I have no doubt he will be asked to sit on the bench many, many times. We wish he and his bride of 13 years, the former Margaret Brown, and sons, Mark, Michael, and David, the very best in the coming years, and thank him for his long labor in the vineyards of public service. Congratulations, Royce, and thank you.

VICTORY RIVERTOWN INN RECEIVES AWARD

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. SKELTON. Mr. Speaker, I would like to recognize the Victory Rivertown Inn in my hometown of Lexington, MO, for receiving the 1990 Beef Backer Award. The Missouri Beef Industry Council presented the award in a ceremony which included a placque for the restaurant. Only 1 out of 10 Missouri restaurants receive this award.

The award was recently presented to Shirley Danner, the owner of the restaurant from the Missouri Beef Council. The award recognizes the restaurant as an innovator in Beef preparation and presentation. Congratulations to Shirley Danner, her staff, and employees on this fine honor.

TRIBUTE TO MR. JAMES H. PIETSCH

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mrs. MINK. Mr. Speaker, as one who has been in public service for many years, I believe that there is no higher calling than to devote one's life to improving the lives of other people, especially the elderly, who have given so much to pave the way to a better life for succeeding generations. It is with sincere respect and admiration that I rise today to pay tribute to an individual from my State, Mr. James H. Pietsch, winner of the Paul Lichterman Award for 1990, presented by the Friends of Legal Services to Older Persons. Without question, Mr. Pietsch, directing attorney of the elder law unit at the Honolulu office of the Legal Aid Society of Hawaii, is a public servant of the highest order.

I first want to take a few moments to outline the purpose of the Paul Lichterman Award. Paul Lichterman, who died in 1983, was a man who devoted his life to advancing quality legal assistance to older persons. The Paul Lichterman Award was established in 1986 by the Friends of Legal Services to Older Persons to honor his work and to increase the public's appreciation of people at the State and local level who do outstanding and notable work to advance the cause of providing quality legal assistance to the elderly.

Mr. Speaker, there are a host of reasons why James Pietsch deserves this honor and why I rise today to pay him tribute. Mr. Pietsch played a significant role in developing Hawaii's landmark Dependent Adult Protective Services Act. He is the first ever adjunct professor of legal problems of the elderly at the University of Hawaii School of Law. Mr. Pietsch has worked tirelessly as an author and speaker to make the elderly more aware of their legal rights and their access to legal services. Mr. Pietsch's contributions toward building a coordinated system of services involving the aging network, his advocacy for individuals, and his service to the courts also deserve the highest praise and recognition.

James Pietsch was awarded his undergraduate degree from Georgetown University and obtained his juris doctor degree from the Catholic University of America. In addition to his work for older people, Mr. Pietsch serves the Nation as a lieutenant colonel in the U.S. Army Reserves, working as a senior judge advocate at the headquarters of the IX Corps at Fort DeRussy, HI.

Mr. Speaker, it is individuals like James Pietsch who helped make Hawaii and the Nation what they are today, and will surely play a key role in building their future.

THE NATIONAL COMMISSION ON SLEEP DISORDERS RESEARCH

HON. EDWARD A. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. ROYBAL. Mr. Speaker, I am pleased to advise my colleagues in the House of the recent public meeting of the National Commission on Sleep Disorders Research. The Commission met on Monday, September 25, in the Rayburn Building.

The National Commission on Sleep Disorders Research was established by Congress during last year's reauthorization of the National Institutes of Health. During the next 2 years, the Commission will be developing a long range plan for Federal resources dedicated to sleep disorders research.

Many of my colleagues may not be aware of the important health aspects of sleep, and the impact that sleep disorders can have on one's health and well being. Ranging from life threatening to occasionally annoying, sleep disorders, such as sleep apnea, narcolepsy, insomnia, and others, have been recognized more recently as a major factor in one's health status. Sudden infant death syndrome accounts for 7,000 infant deaths per year, the United States' leading cause of infant mortality during the first year of life. Elderly people as well suffer disproportionately from sleep disorders.

Mr. Speaker, again, I am pleased to welcome to Washington the members of the National Commission on Sleep Disorders Research, and I look forward to reviewing their recommendations.

Below is a listing of Commission members:

William C. Dement, M.D., Ph.D., chairman, Stanford, CA.

Mr. Joseph Piscopo, Oak Brook, IL.

Mary A. Carskadon, Ph.D., East Providence, RI.

Norman H. Edelman, M.D., Piscataway, NJ.

James P. Kiley, Ph.D., National Heart, Lung and Blood Institute, Bethesda, MD.

Debra J. Myers, M.D., Indianapolis, IN.

Felix Strumwasser, Ph.D., Woods Hole, MA.

June M. Fry, M.D., Ph.D., Philadelphia, PA.

Mr. Jehu C. Hunter, Washington, DC.

Floyd Brinley, Jr., M.D., Ph.D., National Institute of Neurological Disorders and Stroke, Bethesda, MD.

STATEMENT OF COMMENDATION

HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. BATES. Mr. Speaker, I rise today to commend the thankless work being done by Capt. Mike Sherman, the commander of the U.S. Joint Information Bureau in Bhahran, Saudi Arabia. Capt. Sherman leads a team that toils daily to maintain access for U.S. reporters to troops serving and now dying in the Persian Gulf crisis.

On Nightline last night, Capt. Sherman was attacked unfairly by a disgruntled newsman who had visited Saudi Arabia recently and apparently decided he should have been placed at the head of the line for special news coverage opportunities.

My staff, and in particular Tom Burgess, a former military affairs writer, is well aquainted with Mike Sherman. He is a true believer in providing as much access as possible for newsmen in combat and is the first to concede past DOD media relations problems, like the Panama invasion.

Mike Sherman is a true Navy professional who is dealing with heat, sand, and unfamiliar and unforgiving terrain. He is in the midst of horrible logistical problems satisfying news reporters who understandably want to get to the scene of the action.

Mike is also one who knows that his budget is under scrutiny, as thus his expenditures. This means that the days of spending any amount of money you want in order to shuttle newsmen anywhere along the front they wanted to go, as the Defense Department did during the Vietnam war, are gone. And good riddance.

A certain arrogance has remained in some older newsmen who apparently believe that because special requests are delayed or denied, their right to access is under attack. Poppycock!

If Newsweek wants to get serious about this, they might consider that DOD is now endowed with extra millions in funds for special coverage. The American public will only pay for what it wants: straightforward, uncensored coverage of its troops and the conflict itself.

Mr. Speaker, the public does not want to pay for costly designer journalism. They will not sit still while military PAO's dress up pampered reporters in night vision goggles to hop expensively around in jets and military helicopters to experience the experience, as this reporter wanted. There are 315 American journalists alone from 146 news organizations in Saudi Arabia.

Mr. Speaker, I say Bravo! to Capt. Sherman and other PAO's spearheading the media bureaus in very difficult conditions—cost efficiently—for the Defense Department and Gen. H. Norman Schwarzkopf, Commander-in-Chief, U.S. Central Command.

HONORING THE 25TH ANNIVERSARY OF EL TEATRO CAMPESINO AND ITS FOUNDING DIRECTOR, LUIS VALDEZ

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. TORRES. Mr. Speaker, it gives me great pleasure to congratulate El Teatro Campesino, and its founding artistic director Luis Valdez, in their 25th anniversary celebration. For 25 years, this distinguished theater company has provided Americans of all walks of life, but in particular Hispanic Americans, with an entertainment rooted in a community's sense of reality, life, struggle, hope, laughter, and love.

El Teatro Campesino, having started from a real life incident, was formed during the famous California grape strike of the mid-1960's.

In 1965, the rich agricultural farmland of northern California was home to many Mexican and American migrant farmworker families who labored in unhealthy and inhumane conditions. What began as a labor strike against the Di Giorgio Grape Co., resulted in a 300-mile march from Delano, CA, to the State capitol in Sacramento. It was during this symbolic expression of a people's political will, that El Teatro Campesino found its venue and began entertaining the strikers in their long march to justice.

El Teatro Campesino—the Farm Workers' Theater—at first began presenting striking workers with a series of actos or skits on the picket lines, at organizing meetings and rallies. Accompanied by music, these actos were for the most part performed on the flatbed of a pickup truck. Later, El Teatro branched out to the universities, cities and towns taking the message of the farmworker's plight in the grape fields to the public at large.

This form of people's theater that was so popular following the Great Depression, gained rapid popularity with the public as El Teatro rekindled this type of expression as part of the migrant farmworkers' struggle to wage a strike, set up a union, and win better living conditions.

Twenty-five years later, El Teatro has grown culturally, politically and technically into a superb theater company. In fact, many of us have been entertained with the mystical magic and social consciousness intertwined in Luis Valdez' productions.

The famous 1978 "Zoot Suit" play that ran in the Mark Taper forum in Los Angeles for 46 weeks to over 400,000 people, which won many awards, including the Los Angeles Critic Circle Award for "Distinguished Productions" and eight Drama-Logue Awards for "Outstanding Achievement in Theatre," is but one example.

The next example is the major motion picture "La Bamba." Based on the life of Ritchie Valens, this feature film was released by Columbia Pictures and represented 10 years of work, personal commitment and achievement by Luis Valdez.

As a son of a farmworker, Luis was beaten and jailed for doing theater. Twenty-five years later, Luis Valdez greatly deserves adulations from my colleagues today in the U.S. House of Representatives.

Mr. Speaker, on behalf of my colleagues and constituents, and all Hispanic Americans, I am proud to salute Luis Valdez and his fellow theater workers of El Teatro Campesino on the occasion of their 25th anniversary. The unique vision of founder and artistic director Luis Valdez has brought El Teatro Campesino national and international recognition for its artistic excellence. Congratulations and best wishes.

TRIBUTE TO O.C. SILLS

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. THOMAS of California. Mr. Speaker, today I rise before my colleagues to pay tribute to O.C. Sills, a constituent from the 20th District of California who is retiring as director of the Kern County Department of Human Services. Throughout his varied and illustrious career as director, his primary concern has always been for the poor and disadvantaged people in Kern.

Mr. Sills came to Kern County from Louisiana to accept the director's job in March of 1965. This has resulted in a tenure of a quarter of a century and makes him currently the longest serving county welfare director in California.

Mr. Sills has a strong commitment to volunteer organizations and has been active in a variety of nationwide organizations from the Disabled American Veterans to the American Public Welfare Association.

In addition, he has also received recognition for the lowest error rate in California in the administration of two Government programs—Aid to Families With Dependent Children and Food Stamps.

Kern County and the State of California were fortunate to have had O.C. Sills as director of human services because of his personal and professional commitment and I am pleased to salute him today.

DOING BUSINESS WITH HRH PRINCE MISHAAL BIN ABDUL AZIZ OF SAUDI ARABIA—PART II

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. TRAFICANT. Mr. Speaker, on October 4, 1990, I entered remarks into the RECORD which outlined how Bucheit International, a firm in my district, was ripped off by HRH Prince Mishaal Bin Abdul Aziz, a senior prince of the Saudi royal family. You may recall that these two parties signed a contract to construct a shopping center in Riyadh and that Prince Mishaal resorted to various unscrupulous practices to get Bucheit to acquiesce to demands that went beyond the limit of their contract agreement. Such practices include holding the president of the company, Mr. Pete Bucheit, captive in his palace until he agreed to finance additional work on the mall, detaining 15 Bucheit workers for the same purpose, fraudulently calling on a $1.3 million letter of credit that Bucheit had put up to guarantee the project's completion, and blocking removal of $500,000 worth of Bucheit's equipment.

At the time, I mentioned that I would be entering the stories of some of the other companies ripped off by the prince in the RECORD. Marc A. Miller of HICROPS Hydroponics International, a company that no longer exists, sent me a brief synopsis of his past business relationship with Prince Mishaal. He wrote:

> HICROPS, an American-owned company in the business of hydroponics (growing vegetables and fruit in greenhouses in a water medium), formed a joint venture partnership with an experienced agricultural partner in Saudi Arabia in 1979. This partnership was formed at the request of Prince Mishaal; the prince was very impressed with the concept and products that were the result of the growing process. Because he was a "national leader and royalty," he said he "could not profit from food sold to his subjects". He wanted HICROPS to contract with a Saudi business partner and vowed to do all in his power to make the new company flourish.
>
> However, when the joint venture was formed and extensive funds and commitments were made by both partners, Prince Mishaal recanted his position and told me that he would now be the partner and to get rid of the other partner or "he will be a dead man." It seems that the other partner's father had been in a business deal many, many years ago with one of Mishaal's brothers. Mishaal had not been in on the deal and took it personally. After the expenditure of over a million dollars and thousands of manhours trying to make the Mishaal/HICROPS partnership successful and much chain pulling by Mishaal—he never put his funds into the deal—HICROPS had to withdraw from the Kingdom and its personnel were secreted out of the Kingdom at night. The prince threatened to jail the remaining man in the Kingdom. With much luck and a preplanned escape route this last man out made it home safely.
>
> This is a very brief synopsis of the grief, aggravation and financial bust from another of Mishaal's expartners.

I ask my colleagues to take these events into consideration when it comes time to vote on a $6.74 billion arms deal to the Saudi's. While the United States is spending approximately $20 million a day to preserve Saudi Arabia's independence and integrity, a member of the Saudi royal family has no qualms about nearly bankrupting American companies. We have done enough for the Saudi royal family. It is time they return the favor.

CONGRESSMAN KILDEE HONORS JOHN D. NICKOLA

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. KILDEE. Mr. Speaker, it is with great pleasure that I bring to the attention of my colleagues in the U.S. House of Representatives and the Nation the accomplishment of Mr. John D. Nickola of my hometown, Flint, MI, for his endless commitment and dedication to the community and to the Democratic Party spanning many years. In recognition of his achievements, Mr. Nickola's family and friends will hold a surprise 50th birthday party in his honor on October 24, 1990.

Mr. John Nickola was born and raised in Flint, MI, and he was admitted to the bar association in 1966. He is a highly respected personal injury attorney with a successful practice located in Flint. We are fortunate in Michigan to have had the benefit of John's talent and dedication for many years. Among his long and diverse list of accomplishments is his service as Genesee County assistant prosecuting attorney, speaker for the No-Fault Automobile Update, chairman of the Genesee County Bar Association Public Relations Committee, U.S. Federal Court Mediator, executive member of the Arab-American Institute, and honorary member of the Fraternal Order of Police. John has also given generously of his time, experience, and knowledge of the law by lecturing and teaching at the Detroit College of Law, the Mott School of Nursing, and at the Flint Osteopathic Hospital.

John is also an active member of the Democratic Party as a member of the executive committee, a delegate to the Democratic National Convention. He serves on the finance, fund raising, and resolution committees of the Genesee County Democratic Party. Throughout his long career John has earned his well-deserved reputation for competence, fairness, and thoroughness.

Mr. Speaker, John Nickola has proven himself a distinguished lawyer and active community leader to the people of Flint. I am honored and privileged to pay tribute to this fine man whose mind races with creativity and whose soul is guided by love and respect for human dignity. I am confident that he will continue to work to solve the complex problems facing our community today, just as he has done for the last many years.

A TRIBUTE TO THE EXCELLENT STAFF AT CHARITY HOSPITAL IN NEW ORLEANS

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. BAKER. Mr. Speaker, I would like to take this opportunity to express my deepest respect and admiration for the physicians, nurses, and other health care providers at Charity Hospital in New Orleans. Those who perform service in the emergency room and in the neuro-surgery intensive care unit are deserving of special recognition.

Although the hospital has operated longer than any other such facility in the country, support for the structure has not always been readily available. The physical working conditions are not always satisfactory, while the patient load has remained high. There is also a significantly high percentage of trauma cases, where immediate and very skilled actions are required. With such circumstances, it is difficult to understand the commitment of those who daily meet the public need.

My family and I recently had occasion to utilize the services of Charity Hospital and have a deep appreciation of the quality of care that is provided at this institution. There is a strong commitment to excellence and attentive care for those they serve. And most importantly, the service is available for those who otherwise would be unable to afford such care.

I compliment those who serve the public need at Charity Hospital of New Orleans and I know that their service is of extreme public interest and necessity. The institution should be strongly supported in order to meet the health care needs of our great State.

TRIBUTE TO THE HOUSE FOLDING ROOM

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. FROST. Mr. Speaker, each Congress, as the general election draws near, the House of Representatives folding room is severely pressed to handle the large volume of mail that is sent to various congressional districts throughout the Nation.

As a member of the House Administration Committee, I have been interested in the operation of the folding room and their degree of success in handling the heavy mail schedule that occurs prior to the 60-day cutoff of mass mailings.

Certainly I congratulate Doorkeeper Jim Malloy and his publications and distribution service staff, headed by George Early and Patrick McDonough, for their excellent record this year in getting every single piece of mail postmarked by the 60-day deadline.

The folding room of the House of Representatives performs services which save the Congress hundreds of thousands of dollars each year. Folding room functions, if performed by outside vendors, would be far more expensive than is the case now.

It is easy to point to organizations who fail and to be critical; but, I am pleased to report that the House folding room has succeeded in its mission to clear its deck of Members' mailings, and our congratulations should go to them.

TRIBUTE TO OUTSTANDING COMMUNITY WORKERS

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. RAHALL. Mr. Speaker, I am honored to take this opportunity to bring to the attention of my colleagues the noteworthy accomplishments of Arlene McGinnis, Marcia Evans, James Bragg, John Baumann, Jim Bailey, Rich Hulmess, Anita Cantley, John Thompson, Valerie Harling, Billie Lou Stover, Rhonda Harper, James Bailey, and Mina Louise Bailey of Beckley, WV, who were recently honored by the Raleigh County Community Council, for their outstanding achievements in social work.

Many people have benefited from the guidance of the community workers. Their services have helped the handicapped, given problem schoolchildren the power to be good students, and brightened the days of many children who are residents of child care centers, just to name a few of the many tasks they perform.

We are indebted to these individuals who contribute a tremendous amount of their time

and talents to those in need of special attention and we are grateful to have these people serving in our communities.

TRIBUTE TO EDWARD ATTMAN AND HERBERT S. KASOFF

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. CARDIN. Mr. Speaker, on October 28, 1990, the Maryland Food and Beverage Industries Division for State of Israel Bonds will be honoring two outstanding citizens in my district. Mr. Edward Attman has been chosen as the recipient of the 1990 Food Industries Guest of Honor and Mr. Herbert S. Kasoff will receive the 1990 Beverage Industries Guest of Honor.

Ed is the founder and president of Acme Paper & Supply Co., Inc., a large distributor of paper products and janitorial supplies serving the mid-Atlantic region since 1946. Along with his wife Mildred. Ed has raised Acme Paper from its original 1,200 square-foot building on South Front Street, to its present 80,000 square-foot warehouse on seven acres in Savage, MD.

Ed has received numerous awards for the years of service to the business world and the community at large, including the Golden Eagle Award. Ed has also been an active voice in the campaign against narcotics and alcohol abuse, for which he won citations of achievement from the Governors of Maryland and Pennsylvania.

Ed has shown a strong allegiance to Israel Bonds as a long-term member of the organization. He has also served on the boards of a number of organizations within the Baltimore community including: Chizuk Amuno Congregation and Brotherhood, the Talmudical Academy of Baltimore, Basi Yaakov School for Girls, and the Bonnie View Country Club. Presently, Ed is a board member of the National Jewish Fund.

The Attman family has deep roots within the Baltimore area and have been an integral part of the community since the founding of the Attman's Delicatessen on the famed "Corned Beef Row."

Herbert Kasoff has had an equally outstanding career in the Baltimore area. He is the president of Quality Brands, Inc., a wholesale importer of fine wine, spirits, and beer in the Maryland, and Washington area. The Kasoff family has been involved in the business since 1933, with Herb joining the company in 1960.

With many years of experience in the beverage industry, Herb has represented the State of Maryland for over 9 years, serving as a director of the Wine and Spirits Wholesalers of America.

Herb devotes much of his time to local charities and philanthropic organizations. He is presently a board member at the Levindale Hebrew Geriatric Center and Hospital, the Save-A-Heart Foundation, and the Advertising and Professional Club of Baltimore. In the past, he has served on the board of the Beth El Congregation.

Serving as the president of the Morris A. Kasoff B'nai B'rith Lodge ranks as one of Herb's finest achievements. It is named in the memory of his father who took an active role in the Israel Bond Program as general chairman of the Committee for Israel Bonds in 1964. Herb continues the dedication of the Kasoff family to this organization as a longstanding member of the Food and Beverage Division.

I urge my colleagues to join me in saluting the business and civic achievements of these fine individuals.

MISS HELEN HAYES

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. IRELAND. Mr. Speaker, yesterday marked the 90th birthday of the first Lady of the American Theater, Miss Helen Hayes. She was born in Washington DC, the daughter of actress Estelle Hayes and Mr. Francis Van Arnum Brown. She began her acting career at the age of 5, playing Prince Charles in a production of "A Royal Family." by the age of 9 she was on the New York City stage and went on to an extraordinary career in stage, film, and television.

Over the years Miss Hayes won two Academy Awards for her motion picture performances. The first came in 1931 for "The Sin of Madelon Claudet" and the second in 1970 for her supporting role in "Airport." She also received a Tony in 1947 for "Happy Birthday" and an Emmy Award in 1952.

Helen Hayes married Charles MacArthur in 1928, and they had two children, Mary and Jim. After her daughter died from polio at the age of 19, Helen Hayes established the Mary MacArthur Fund which enabled the Boston Children's Hospital to open a respiratory ward. Miss Hayes also later worked with Dr. Jonas Salk to educate the public on his polio vaccine.

In 1986, President Ronald Reagan awarded Miss Hayes the Nation's highest civilian honor—the Presidential Medal of Freedom for all of her efforts in the health field and her contributions to the dramatic arts.

In 1987, Miss Hayes returned to her birthplace and served as the grand marshall for the St. Patrick's Day parade in Washington. At that time she demonstrated both her pride in her Irish heritage and her fondness for her hometown. She probably is the most well-loved and respected woman in the Nation. I congratulate Miss Helen Hayes on her 90th birthday and I wish her continued health and happiness.

HONORING THE MEMORY OF MONSIGNOR JOHN C. McCARTHY

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. ENGEL. Mr. Speaker, when Msgr. John C. McCarthy, the pastor emeritus of Saint Brendan's parish in the Bronx, died in July 1989, the community lost a true friend and a gifted civic leader. In his honor, the street in front of his beloved St. Brendan's Church is being named in his memory. It is a memory full of inspiration.

In his 10 years as pastor of St. Brendan's and after his retirement, Monsignor McCarthy worked hard for the rights of all members of the community. He as a founding member of the Northwest Bronx Community and Clergy Coalition, which has led the fight for affordable housing and the rehabilitation of buildings in the neighborhood. He was a friend to many children and a comfort to our senior citizens.

Monsignor McCarthy was also dedicated to providing quality education to the students of St. Brendan's school. In addition to the highest educational standards, he stressed strong moral teachings and a commitment to family and community. That is why it is most fitting that all the students who pass through the door of St. Brendan's school for generations to come will see the name of Msgr. John C. McCarthy on the street sign above them. His legacy lives on each day in the parish, and his memory will always be cherished by his friends, relatives, and former students.

LUXURY TAX CN RECREATIONAL BOATS IS A BAD IDEA

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. SHAW. Mr. Speaker, America's boating industry is in a slump. Sales of boats have declined sharply. Now, exacerbating matters even more, some policymakers have recently proposed to further increase the tax on boaters, by imposing a so-called luxury excise tax on the sales of recreational boats. These new revenues would then presumably be used to reduce the Federal budget deficit.

However, enactment of this proposal would have a negative economic impact on the boating industry, and the ripple effect of such an action would surely be detrimental to the local economies where boating is prevalent.

One local economy that would surely be affected for the worse is the 15th Congressional District of Florida, which I represent. My district has perhaps more recreational boaters than any other district in the Nation, and I am especialy concerned about how this new tax would affect my constituents.

Boating is not only a pleasure, it is a major industry in my home State. For example, last year, more than 3.1 million Florida residents—nearly 30 percent of the State's population—participated in some form of boating. Sales of boats and motors totaled some $698 million. Overall, Florida's fleet of registered boats now numbers more than 644,000, making it the fourth largest recreational boating fleet in the United States. However, with all the recreational boats that come to visit Florida from other States, Florida probably leads the Nation in the amount of boats in its waters.

Boating also means jobs for Florida. Currently, there are 2,037 boat dealers, 216 major manufacturers of trailers, accessories and engines, 79 major production boat builders and

1,266 marinas in the State. Boating is also a major source of tax revenue for the State.

American boaters already pay almost half a billion dollars in State and Federal taxes. Imposing new taxes on this beleaguered industry, especially at this difficult time, will needlessly cause further economic dislocation, and will force American jobs overseas. According to preliminary statistics that I have seen, it is estimated that the Federal Government will only collect $25 million in new tax revenues next year if the luxury tax is passed, while an estimated 12,000 people could lose their jobs. Having 12,000 across this Nation lose their jobs, and also practically forcing an American industry overseas for $25 million in tax revenues, seems like a very poor trade-off indeed.

Mr. Speaker, I am committed to bringing down the Federal budget deficit. However, we should bring down the deficit intelligently, not indiscriminately. It seems arbitrary to me that boats should be singled out for new taxes, while other so-called big ticket recreational items like motor homes and vacation homes remain untouched. Additionally, this luxury tax will not be the only new tax boaters may be saddled with this year; $25 Coast Guard user fees, boat licensing and inspection charges, and an increase on the excise taxes on motor fuels are other tax proposals being seriously debated. It is obvious to this Member that the luxury tax is bad fiscal policy, and I urge my colleagues to reject this proposal.

HOUSE OF REPRESENTATIVES—*Friday, October 12, 1990*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Our prayers reach out to You, O loving God, for all those whose lives and witness have touched others in such magnificent ways. We remember with loving gratitude those whose inner light is a source of inspiration and encouragement to others. On this day we recall the life and creative spirit of Barbara Boggs Sigmund and her devotion to the gifts of faith and hope and love. May Your peace, O gracious God, that passes all human understanding, be with her family and all who celebrate her life, now and evermore. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from New York [Mr. Schumer] will please come forward and lead the House in the Pledge of Allegiance.

Mr. SCHUMER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 4174. An act to establish a comprehensive personnel system for employees of the Administrative Office of the U.S. Courts, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 5021. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

H.R. 5241. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1991, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5021) "An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Hollings, Mr. Inouye, Mr. Bumpers, Mr. Lautenberg, Mr. Sasser, Mr. Adams, Mr. Byrd, Mr. Rudman, Mr. Stevens, Mr. Hatfield, Mr. Kasten, and Mr. Gramm to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5241) "An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1991, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. DeConcini, Ms. Mikulski, Mr. Kerry, Mr. Byrd, Mr. Domenici, Mr. D'Amato, and Mr. Hatfield to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1890. An act to amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes; and

S. 2167. An act to reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair wishes to announce that he will receive five 1-minute requests for speeches on each side.

THE LATE HONORABLE ARNOLD OLSEN, A FORMER MEMBER OF CONGRESS

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS. Mr. Speaker, it is with sadness and a sense of loss that I inform the House of the passing this week of a former colleague, Congressman and later Judge Arnold Olsen.

Congressman Olsen represented the western district in Montana in the halcyon days of the New Frontier, from 1960 until 1970. He was later appointed to a district judgeship in Montana. His court was in Butte, MT, which was his home and where he passed away.

Mr. Speaker, we will all miss Arnold Olsen. It has been said before, but it was never surer, this country is a better place because of Arnold Olsen.

ESCALATING PROPANE PRICES CREATING PROBLEMS FOR NORTHERN STATES

(Mr. CONTE asked and was given permission to address the House for 1 minute.)

Mr. CONTE. Mr. Speaker, the country will probably face another grave problem this winter. I am not just talking about rising home heating oil prices. I am talking about another heating fuel necessary to the winter needs of the country, propane.

Mr. Speaker, it seems like the cold States just cannot win. Last year, the price of propane rose from a March average of 27.2 cents per gallon to a January high of 66 cents per gallon.

Currently, the east coast's propane stocks are about 3.6 million barrels and the Midwest's stocks are a bit better at 22.1 million barrels. The millions of barrels may sound like a hell of a lot and the price of propane may sound cheap.

Unfortunately, the statistics speak otherwise. Not only are propane prices on the path toward a steep increase, this is the lowest level of propane stocks in the United States in 20 years. Talk about bad timing, Mr. Speaker.

If the propane shortage and the situation in the Middle East worsen, prices are sure to go right through the roof again this winter.

Mr. Speaker, let us stop sitting on our hands. Let us use the SPR. Let us tax the price gougers. And let us bring oil and gas prices down!

AMERICAN TAXPAYERS RESISTING MORE TAXES, WANT CUTS IN THE PENTAGON AND FOREIGN AID

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. TRAFICANT. Mr. Speaker, there are a lot of tax plans here in Washington, both Democratic and Republican, and they all stink. The American people know it. They can smell it, and they are fed up. They do not want more taxes. They want big cuts, not token cuts, at the Pentagon.

They not only want to cut foreign aid; they want to eliminate all foreign aid. They want Congress to stop sending money to Japan and Germany, and they want to stop the tax breaks for those multinational corporations that are shipping back products and taking our jobs away.

But there is one last thing, Mr. President, that they want. They want the rich to pay some taxes in America for a change. But just today Secretary Brady wants another $40 billion from the American taxpayers to bail out the savings and loans that have been ripped off by the same people Congress is going to give another tax break to.

Mr. Speaker, there is no commonsense in Washington, and the American people should rise up against this place.

NO DEFICIT REDUCTION, JUST MORE TAX AND SPEND

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, how quickly we return to our old ways. We are all aware that there was a long summit in this town, and through that summit the President grudgingly acceded to some new revenues, about $130 billion.

Well, that package did not pass. I guess one of the reasons it did not pass was that it increased taxes $130 billion and increased domestic spending $150 billion, and most Members and most Americans looked at it and said, "That's deficit reduction?"

Well, that may have been the good news, because yesterday the Democratic majority's tax proposal came out, and it is not in the $130 billion range; it is now in the $160 billion range.

If we could not pass $130 billion, we are now going to increase taxes $160 billion?

And then we have the Democrats in the Committee on Education and Labor who will not even report reconciliation savings. We have people in the Committee on Energy and Commerce who are not contracting entitlements but expanding them.

Mr. Speaker, are we back to the tax-and-spend policy that America has rejected and that got us in all this trouble? I hope not, Mr. Speaker.

CONTRASTING DEMOCRATS AND REPUBLICANS

(Mr. SCHUMER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, as the week unfolds, a clear contrast is emerging between the Democratic Party and the Republican Party on budget and tax issues.

Democrats: We have a budget plan. Republicans: They do not.

Democrats: We wish the upper income brackets to pay their fair share. Republicans: They feel the rich should get a net decrease in taxes.

Democrats: We are a party that is finally speaking with one voice. Republicans: They are a party in disarray, with the President torn between one faction of his party and another.

Democrats: We will vote to keep the Government going so as to not hurt millions of Federal workers and their families. Republicans: They will shut down the Government to hide their inability to get a plan together.

And finally, Mr. Speaker, and most importantly—Democrats: We can govern. Republicans: They cannot.

COLUMNIST JAMES J. KILPATRICK SPEAKS OUT ON THE BUDGET

(Mr. DUNCAN asked and was given permission to address the House for 1 minute.)

Mr. DUNCAN. Mr. Speaker, in a column which ran in newspapers across the country 2 days ago, James J. Kilpatrick said this:

> The budget is larded with fat. It oozes fat. Given the awesome prospect of monstrous deficits, members ought to ask of every appropriation: Is this necessary? Is it absolutely necessary? Is it absolutely, positively, unavoidably necessary? Or is the proposal merely desirable? Can we do without it for a year or so?
>
> Until the day comes when such questions are seriously addressed, we will stagger on from crisis to crisis. If a private business conducted its affairs as stupidly, the business would go broke. Year by year, that is where Congress is taking us now.

Mr. Speaker, all of us should listen to the words of this very respected syndicated columnist, James J. Kilpatrick, and act accordingly.

□ 1015

PRESIDENT NEEDS TO EXERT AUTHORITY

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute.)

Mr. TORRICELLI. Mr. Speaker, the specter of an American President confused and stumbling, contradicting himself on taxes and the budget, may bring laughter to those of us in Washington. The idea of an American President retreating when confronted by the press or interest groups or his own political party may seem somehow funny in the American capital, but there is nothing humorous about an American President looking weak or indecisive.

Mr. Speaker, 6,000 miles from here in Baghdad they are preparing for war. At the other end of their guns are 200,000 American soldiers. An American President cannot afford to look weak or indecisive.

This President needs to straighten up, get down to business, gather some strength, get his own party under control, give some leadership, write a budget, and get down to business, at last.

WILL REAL DEMOCRATS PLEASE COME FORTH?

(Mr. BUECHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUECHNER. Mr. Speaker, the American public is up to their waist in rhetoric. They are up to their chin in disgust with the way in which this body has exhibited itself in the last few weeks.

I voted for the budget that failed, because I looked down the road and I saw what would happen. Some of the Members here today have said the Democrats are prepared to govern. Let us peel off the word "govern," and look at what the real word is, and that is "tax."

They say very stridently that they will soak the rich. There will be a surcharge on those millionaires. That raises $1 billion. They are not telling you there is $21 billion more in taxes than within the budget summit they rejected.

They say that they are going to burst the bubble. They do not tell the average American taxpayer that the indexing which is so important to allow them not to be punished by inflation will be eliminated.

They say they are going to lower taxes on gasoline, but they do not tell you that they have eliminated all of the spending controls. That guarantees that there will truly be a reduction in spending in the 5 years.

Mr. Speaker, Americans want us to spend less money. The Democrats want to spend more money. Americans want tax fairness. The Democrats want tax rhetoric. You can waive the bloody shirt about the rich, but do not tell the American public the real truth.

The real truth is, they are back. They want to govern. They want to tax you, and they do not want to touch their spending.

Will the real Democrats, the ones that represent middle America, come forth and join the Republicans in coming up with a compromise that does not hurt the middle class.

REPUBLICANS MUST PRESENT WHAT THEY STAND FOR

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, the real Democrats are right here. Mr. Speaker, you have read his lips, you have read his hips, you have read his clips, you have read his slips, and you have read his flips. But, Mr. Speaker, the only thing you have not read are stories about his leadership. And that is what this is all about.

You cannot stand in this well if you are a Republican and talk from out of doomsday about what the Democrats want to do, and, by the way, as the gentleman from Missouri [Mr. BUECHNER] did, totally misrepresent what is in the Democratic alternative. Totally misrepresent it.

What you cannot do is resurrect your Presidential leadership, unless you are willing to put on this floor, right in the next few days, what the Republicans stand for, what do you stand for, what does the President stand for. Nobody knows, and they will not know, until you come up with it.

The reality is, they are not coming up with it because they are ashamed. Ashamed once again, now that the truth is out, that they just want to protect the rich, and do not know how to hide it.

DEMOCRATS MUST STOP SPENDING WHAT THEY DON'T HAVE

(Mr. WALSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALSH. Mr. Speaker, we have heard a lot of rhetoric from the Democratic side this morning. Later this morning we are gong to receive a $12 billion Interior appropriations bill, $2 billion more than the President has requested.

No wonder the President is confused. He asked for $10 billion; the Democrats give him $12 billion. Where does that $2 billion come from? Ladies and gentlemen, the taxpayer.

Mr. Speaker, it is about time that we in Congress got the message. People are calling me. People from central New York are calling me saying, "Please, Congressmen, stop spending money we do not have."

I say to them, "I am doing my best, but you are going to have to talk to the Democratic congressional leadership, who insists on spending money that we do not have."

REAUTHORIZATION OF TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE ACT OF 1978 AND NAVAJO COMMUNITY COLLEGE ACT

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2167) to reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. McNULTY). Is there objection to the request of the gentleman from Montana?

Mr. GOODLING. Mr. Speaker, reserving the right to object, under my reservation I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Speaker, this measure before us is the reauthorization of the Tribally Controlled Community College Act. As the gentleman from Pennsylvania [Mr. GOODLING] will recall, a companion bill was passed here in the House under suspension on July 23 of this year. The Senate in its initial consideration of the measure added certain provisions, which bipartisanly the House believes it cannot accept. The gentleman from Pennsylvania [Mr. GOODLING] and myself are in agreement with that.

The Senate has now agreed to remove those objectionable provisions from the bill, making it basically comport with the House position. We are now moving the passage of that clean bill.

Mr. GOODLING. Mr. Speaker, I rise in support of the amendments to the Tribally Controlled Community Colleges Assistance Act. However, what started out to be a simple, straightforward reauthorization, almost got diverted by the other body. This has been a difficult compromise, but the result is one that we can live with.

We started this process with a clean bill that we passed under suspension a short time ago. The Senate attempted to add some extraneous provisions, but they were met with objections from a bipartisan group of House Members. These provisions have been struck from this bill, and with this change, our objections have been removed as well.

The bill is a simple extension of the authority for the tribally controlled community colleges, with a few minor technical amendments. With this bill, these programs are brought into sync with the reauthorization cycle of the higher education amendments.

It may seem like a small program, but it has significant implications. These colleges are the primary resource in the economic and social development of the students who attend the 24 tribally controlled community colleges affected by this bill. I support this bill and am pleased that we have been able to resolve the differences we had with the other body.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

The Clerk read the Senate bill, as follows:

H.R. 2187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRIBALLY CONTROLLED COMMUNITY COLLEGES.

(a) STUDENT COUNT.—(1) Section 108(a)(1) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1808(a)) is amended to read as follows:

"(1) the Indian student count at such college during the academic year preceding the academic year for which such funds are being made available, as determined by the Secretary in accordance with section 2(a)(7); and".

(2) Section 108(b)(1) of such Act is amended to read as follows:

"(1) The Secretary shall make payments, pursuant to grants under this Act, of not less than 95 percent of the funds available for allotment by October 15 or no later than 14 days after appropriations become available, with a payment equal to the remainder of any grant to which a grantee is entitled to be made no later than January 1 of each fiscal year.".

(3) The last subsection of section 108 of such Act, which is designated as subsection (c), is hereby designated as subsection (d).

(b) AUTHORIZATION.—(1) Section 110(a)(1) of such Act (25 U.S.C. 1810(a)(1)) is amended by deleting "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990 and 1991, and for fiscal year 1992, such sums as may be necessary".

(2) Section 110(a)(2) of such Act is amended by deleting "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990 and 1991, and for fiscal year 1992, such sums as may be necessary".

(3) Section 110(a)(3) of such Act is amended by deleting "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990, 1991, and 1992".

(c) ALLOCATION.—(1) Section 111(a)(1)(A) of such Act is amended to read as follows:

"(A) the Secretary shall first allocate to each such applicant which received funds under section 107 for the preceding fiscal year an amount equal to 95 percent of the payment received by such applicant under section 108;".

(2) Section 111(a)(1)(B)(ii) of such Act is amended to read as follows:

"(ii) the applicant's projected Indian student count for the academic year for which payment is being made;".

(d) ENDOWMENTS.—(1) Title III of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1831 et seq.) is amended—

(A) by striking out "equal to" in section 302(b)(2)(B) and inserting in lieu thereof "(or of a value) equal to half of",

(B) by striking out "an equal amount of Federal capital contribution" in section 302(b)(4) and inserting in lieu thereof "an amount of Federal capital contribution equal to twice the amount of (or value of) such withdrawal",

(C) by adding at the end of section 304 the following: "Any real or personal property received by a tribally controlled community college as a donation or gift on or after the date of the enactment of this sentence may, to the extent of its fair market value as determined by the Secretary, be used by such college as its contribution pursuant to section 302(b)(2)(B), or as part of such contribution, as the case may be. In any case in which any such real or personal property so used is thereafter sold or otherwise disposed of by such college, the proceeds therefrom shall be deposited pursuant to section 302(b)(2)(B) but shall not again be considered for Federal capital contribution purposes.";

(D) by inserting "twice the value of the property or" after "equal to" in section 305 each place it appears,

(E) by striking out "$350,000" in section 305(a) and inserting in lieu thereof "$750,000", and

(F) by striking out "and 1990" in section 306(a) and inserting in lieu thereof "1990 and 1991, and for fiscal year 1992, $10,000,000".

(2) The amendments made by paragraphs (A) through (E) of subsection (a) shall take effect October 1, 1991.

SEC. 2. NAVAJO COMMUNITY COLLEGE.

(a) AUTHORIZATION.—Paragraph (1) of section 5(a) of the Navajo Community College Act (25 U.S.C. 640c-1) is amended by striking out "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990, 1991, and 1992".

(b) INVENTORY.—Section 4 of such Act (25 U.S.C. 640c) is amended by adding at the end thereof the following new subsection:

"(c) No later than March 1991, an inventory prepared by the Navajo Community College identifying repairs, alterations, and renovations to facilities required to meet health and safety standards shall be submitted to the Secretary and appropriate committees of Congress. Within 60 days following the receipt of such inventory, the Secretary shall review the inventory, evaluating the needs identified, and transmit the written comments of the Department of the Interior to the appropriate committees of Congress, together with the Department's evalution prepared by the health and safety division of the Bureau of Indian Affairs.".

TITLE I—NATIVE AMERICAN LANGUAGES ACT

SHORT TITLE

SEC. 101. This title may be cited as the "Native American Languages Act".

FINDINGS

SEC. 102. The Congress finds that—

(1) the status of the cultures and languages of Native Americans is unique and the United States has the responsibility to act together with Native Americans to ensure the survival of these unique cultures and languages;

(2) special status is accorded Native Americans in the United States, a status that recognizes distinct cultural and political rights, including the right to continue separate identities;

(3) the traditional languages of Native Americans are an integral part of their cultures and identities and form the basic medium for the transmission, and thus survival, of Native American cultures, literatures, histories, religions, political institutions, and values;

(4) there is a widespread practice of treating Native Americans languages as if they were anachronisms;

(5) there is a lack of clear, comprehensive, and consistent Federal policy on treatment of Native American languages which has often resulted in acts of suppression and extermination of Native American languages and cultures;

(6) there is convincing evidence that student achievement and performance, community and school pride, and educational opportunity is clearly and directly tied to respect for, and support of, the first language of the child or student;

(7) it is clearly in the interests of the United States, individual States, and territories to encourage the full academic and human potential achievements of all students and citizens and to take steps to realize these ends;

(8) acts of suppression and extermination directed against Native American languages and cultures are in conflict with the United States policy of self-determination for Native Americans;

(9) languages are the means of communication for the full range of human experiences and are critical to the survival of cultural and political integrity of any people; and

(10) language provides a direct and powerful means of promoting international communication by people who share languages.

DEFINITIONS

SEC. 103. For purposes of this title—

(1) The term "Native American" means an Indian, Native Hawaiian, or Native American Pacific Islander.

(2) The term "Indian" has the meaning given to such term under section 5351(4) of the Indian Education Act of 1988 (25 U.S.C. 2651(4)).

(3) The term "Native Hawaiian" has the meaning given to such term by section 4009 of Public Law 100-297 (20 U.S.C. 4909).

(4) The term "Native American Pacific Islander" means any descendent of the aboriginal people of any island in the Pacific Ocean that is a territory or possession of the United States.

(5) The term "Indian tribe" and "tribal organization" have the respective meaning given to each of such terms under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(6) The term "Native American language" means the historical, traditional languages spoken by Native Americans.

(7) The term "traditional leaders" includes Native Americans who have special expertise in Native American culture and Native American languages.

(8) The term "Indian reservation" has the same meaning given to the term "reservation" under section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452).

DECLARATION OF POLICY

SEC. 104. It is the policy of the United States to—

(1) preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages;

(2) allow exceptions to teacher certification requirements for Federal programs, and programs funded in whole or in part by the Federal Government, for instruction in Native American languages when such teacher certification requirements hinder the employment of qualified teachers who teach in Native American languages, and to encourage State and territorial governments to make similar exceptions;

(3) encourage and support the use of Native American languages as a medium of instruction in order to encourage and support—

(A) Native American language survival,

(B) educational opportunity,

(C) increased student success and performance,

(D) increased student awareness and knowledge of their culture and history, and

(E) increased student and community pride;

(4) encourage State and local education programs to work with Native American parents, educators, Indian tribes, and other Native American governing bodies in the implementation of programs to put this policy into effect;

(5) recognize the right of Indian tribes and other Native American governing bodies to use the Native American languages as a medium of instruction in all schools funded by the Secretary of the Interior;

(6) fully recognize the inherent right of Indian tribes and other Native American governing bodies, States, territories, and possessions of the United States to take action on, and give official status to, their Native American languages for the purpose of conducting their own business;

(7) support the granting of comparable proficiency achieved through course work in a Native American language the same academic credit as comparable proficiency achieved through course work in a foreign language, with recognition of such Native American language proficiency by institutions of higher education as fulfilling foreign language entrance or degree requirements; and

(8) encourage all institutions of elementary, secondary and higher education, where appropriate, to include Native American languages in the curriculum in the same manner as foreign languages and to grant proficiency in Native American languages the same full academic credit as proficiency in foreign languages.

NO RESTRICTIONS

SEC. 105. The right of Native Americans to express themselves through the use of Native American languages shall not be restricted in any public proceeding, including publicly supported education programs.

EVALUATIONS

SEC. 106. (a) The President shall direct the heads of the various Federal departments, agencies, and instrumentalities to—

(1) evaluate their policies and procedures in consultation with Indian tribes and other Native American governing bodies as well as traditional leaders and educators in order to determine and implement changes needed to bring the policies and procedures into compliance with the provisions of this title:

(2) give the greatest effect possible in making such evaluations, absent a clear specific Federal statutory requirement to the contrary, to the policies and procedures which will give the broadest effect to the provisions of this title; and

(3) evaluate the laws which they administer and make recommendations to the President on amendments needed to bring such laws into compliance with the provisions of this title.

(b) By no later than the date that is 1 year after the date of enactment of this title, the President shall submit to the Congress a report containing recommendations for amendments to Federal laws that are needed to bring such laws into compliance with the provisions of this title.

USE OF ENGLISH

SEC. 107. Nothing in this title shall be construed as precluding the use of Federal funds to teach English to Native Americans.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on S. 2167, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

WAIVING ALL POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 5803, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1991

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 501 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 501

Resolved, That all points of order against consideration of the bill (H.R. 5803) making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes, are hereby waived. During consideration of the bill, all points of order against the following provisions in the bill for failure to comply with clauses 2 and 6 of the rule XXI are hereby waived: beginning on page 2, line 1 through "$23,775,605,000:" on page 8, line 1; beginning with "Pro-" on page 9, line 5 through "law:" on page 9, line 14; beginning on page 9, line 22 through "law:" on page 10, line 7; beginning on page 10, line 12 through "purposes;" on page 10, line 22; beginning with *"Provided"* on page 12, line 18 through page 19, line 19; beginning with *"Provided"* on page 19, line 24 through "1993:" on page 22, line 21; beginning on page 23, line 3 through "$963,068,000:" on page 25, line 9; beginning on page 25, line 15 through "1995:" on page 26, line 9; beginning with *"Provided"* on page 26, line 23 through "1993:" on page 27, line 14; beginning on page 27, line 20 through "1993," on page 31, line 3; beginning with *"Provided,"* on page 31, line 4 through "1992," on page 32, line 10; beginning on page 32, line 14 through "1992:" on page 32, line 20; beginning on page 34, line 1 through "1992," on page 34, line 7; beginning on page 34, line 15 through "1992," on page 34, line 25; beginning with *"Provided"* on page 36, line 7 through "Center:" on page 36, line 10; beginning with "Pro-" on page 36, line 17 through "Act:" on page 40, line 1; beginning on page 40, line 7 through page 41, line 3; beginning on page 43, line 23 through page 44, line 15; beginning on page 73, line 22 through page 76, line 22; beginning on page 88, lines 13 through 17; beginning on page 90, line 3 through page 91, line 24; and beginning on page 92, line 12 through page 102, line 5. In any case where this resolution waives points of order against only a portion of a paragraph, a point of order against any other provision in such paragraph may be made only against such provision and not against the entire paragraph.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], and, pending that, I yield myself such time as I may consume.

Mr. DERRICK. Mr. Speaker, House Resolution 501 waives all points of order against consideration of H.R. 5803, The Department of Defense appropriations bill for fiscal year 1991. This rule does not provide any special procedures for consideration of the bill. The bill will be considered under the normal legislative process for consideration of appropriations bills. The time devoted in general debate shall be determined by a unanimous-consent request. The bill will be open to amendment under the 5-minute rule. Any amendment which does not violate the rules of the House shall be in order.

The rule also waives points of order against certain provisions of the bill. Clause 2 of rule XXI, the rule which prohibits consideration of unauthorized appropriations or legislative provisions in general appropriations bills is waived against specified provisions of the bill. The rule also waives clause 6 of rule XXI against specified provisions, a clause prohibiting reappropriations or transfers in general appropriations bills.

The precise provisions of H.R. 5803 for which these waivers are provided are detailed in the rule. Where points of order are waived against a portion of a paragraph, a point of order against any other provision in the paragraph may only be made against that provision, and not against the entire paragraph.

Mr. Speaker, H.R. 5803 appropriates $269.7 billion for fiscal year 1991 for military functions of the Department of Defense and most intelligence related activities. The amount of $269.7 billion is $17.6 billion below the administration's request and $14.7 billion below the fiscal year 1990 level.

The bill was amended in full committee to bring it into compliance with levels included in the budget resolution conference report recently adopted by the Congress. It was further amended to impose a permanent ceiling of United States personnel in Japan for fiscal year 1991, with annual reductions, and to express the sense of Congress that Japan should contribute a higher level of financial support to enforce the U.N. Security Council resolutions on Iraq.

The bill also provides over $1 billion for drug interdiction, an increase of $562.7 million over the 1990 level and $198.4 million less than the level requested by the administration. The bill doubles funding for the Army and Air National Guard drug interdiction missions, and increases funds for research and interrogation of cargo containers and for DOD operations control over the aerostats program of the Customs Department.

Mr. Speaker, the measure before us is one of great significance. At a time when our brave soldiers, sailors and airmen are putting their lives on the line in the Persian Gulf region, it is even more crucial that we quickly move on this important bill. I urge adoption of the rule and passage of this bill.

□ 1030

Mr. SOLOMON. Mr. Speaker, I thank the respected gentleman from South Carolina for yielding me half the time.

Mr. Speaker, we do have before us an example of what has become the standard rule for the consideration of general appropriation bills in this House recently.

As the gentleman from South Carolina has indicated, this rule waives all points of order against consideration of the bill and it issues waivers concerning reappropriations, unauthorized appropriations, and legislative language in an appropriation bill, all of which appear in this bill and all of which violate normal rules of the House.

But Mr. Speaker, this is not nearly as bad as rules that we will see coming before this House later today and later next week. Wait until we see the Interior appropriations rule where we take an entire reauthorization bill and place it in an appropriation bill.

Mr. Speaker, there is no point in delaying the proceedings on the bill today. We have a huge schedule of unfinished business with very little time left in which to complete it.

So I will just conclude by noting that the administration does have some real concerns about H.R. 5803, the Department of Defense appropriations bill. The funding level of this bill is within the general outline of the budget agreement that had been worked out between the White House and congressional leaders; however, I must advise the Members here that the administration is greatly concerned about the level of funding for a number of individual programs.

We all appreciate the good work that has been done by Chairman MURTHA and the ranking member, the gentleman from Pennsylvania [Mr. MCDADE] and the other members of the Subcommittee on Defense Appropriations. They really do yeoman's work and we all appreciate that very much; so I am hopeful that these problematical areas can be worked out in conference.

On the whole, this bill stands a much better chance of eventually being enacted into law than does the Defense authorization bill we passed last month.

This bill is badly needed, among other things to support our young men and women who are serving in Saudi Arabia and the Persian Gulf area today. So I hope we do get on with it and get the bill passed today.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5803, the Department of Defense Appropriations Act, fiscal year 1991.

The SPEAKER pro tempore (Mr. McNulty). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1991

Mr. MURTHA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5803) making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to, and not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Pennsylvania [Mr. McDade] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. Murtha].

The motion was agreed to.

The SPEAKER pro tempore. The Chair designates the gentleman from Illinois [Mr. Rostenkowski] as chairman of the Committee of the Whole and requests the gentleman from South Carolina [Mr. Derrick] to assume the chair temporarily.

□ 1033

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5803, with Mr. Derrick (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN pro tempore. Under the unanimous consent agreement, the gentleman from Pennsylvania [Mr. Murtha] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. McDade] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. Murtha].

Mr. MURTHA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I bring before the House the Defense appropriations bill for fiscal year 1991.

I wish to thank all of the Defense Subcommittee members for their assistance and support in the markup process, especially my good friend, Joe McDade.

I will be brief in my remarks today. Details on the committee's recommendations are in the 273 page report which is available to all Members.

The bill before you is a lean bill. It is an austere bill.

The budget authority provided for Defense in this bill represents the sixth consecutive annual decline in spending for Defense when measured in constant dollars.

The funds provided in the bill for Defense are one of the smallest percentages of the gross national product and one of the smallest percentages of Federal outlays since before World War II.

This bill shows restraint while still providing funding for vital Defense programs.

The Appropriations Committee is recommending to the House a total of $268.2 billion in new budget authority for fiscal year 1991 for the Defense Department.

The recommended funding level in this bill complies with the allocation for Defense approved in the recent budget agreements.

This figure is $19.1 billion below the budget request and $14.4 billion below the fiscal year 1990 level.

These spending levels do not include funds for the nuclear weapons program of the Department of Energy or for military construction. Those activities are funded in separate appropriations bills.

Also, this bill does not include the estimated costs for fiscal year 1991 for "Desert Shield". These costs are projected at roughly $15 billion, of which a very significant portion is to be covered by other governments. We will address the U.S. costs for "Desert Shield" in a future appropriations measure.

HISTORIC CHANGES IN EUROPE

Mr. Chairman, in recent months, the main focus of attention has been on events in the Persian Gulf and on the economic summit. Little attention has been given to the historic events that have occurred in Europe and the historic changes that have taken place in America's relationship with the Soviet Union.

These events have proven the wisdom and rightness of America's overall foreign and defense policies since the end of World War II.

I want to take a moment to thank and congratulate the many Members of the House who have supported a strong defense posture over the years.

It is because of the very success of that strong defense posture that we are able to rather significantly scale back the total funding for defense for the fiscal year 1991 budget.

FORCE STRUCTURE

A major initiative in this bill is the scaling back of the force structure of the Defense Department.

This bill provides for 77,100 fewer troops than were approved for the fiscal year 1990 bill.

This manpower reduction has an impact throughout the bill: 77,100 fewer troops to pay, feed, house and transport; 77,100 fewer troops to train; 77,100 fewer troops to equip; the costs associated with support for their dependents are also eliminated; 77,000 is roughly equal to the population of cities such as Kalamazoo, MI, or Joliet, IL, or Boulder, CO; and we have made significant reductions in the funding for the civilian infrastructure which supports these troops.

It is impossible to estimate precisely what the total savings are spread throughout this bill because of this reduction in force structure, but it is many billions of dollars. More importantly, the savings in the outyears will be enormous as a result of this action. Just in the military personnel and operation and maintenance accounts, the 5-year savings from this lower troop level is $15 billion.

WELFARE OF THE TROOPS

Mr. Chairman, although the total number of troops is reduced in this bill, we have taken a number of steps to assure that the health, welfare and morale of the smaller force structure stays at the high levels of recent years. Some important recommendations in that area are:

The bill contains a $1,250,000,000 add-on for the Champus Program to help pay for the increased medical costs facing our service families.

The bill contains $5.2 billion for real property maintenance to assure that our barracks and facilities in the United States remain in good condition.

The bill funds the pay raise for our men and women in uniform.

The bill recommends a reduced force structure; however, the Defense Department will be able or attain this force structure through attrition. Thus, those who want to remain in the All-Volunteer Force will be able to do so. This is an important contribution to maintaining morale.

A decade ago, the morale of our troops was low, only 68 percent of the recruites had a high school diploma in 1980, combat aircraft were stripped of spare parts, and flight training and steaming hours were well below levels considered adequate to maintain readiness and proper safety.

That situation has been turned around. Today, morale is high, almost all recruites are high school graduates, the supply of spare parts is basically adequate, flying hours and steaming hours are at high levels, and the readiness of all services has greatly improved.

We must be certain that the small force structure which is emerging remains highly motivated, trained and well equipped. I believe the funding level in this bill will enable us to attain that goal.

SAVINGS IN OPERATIONS AND MAINTENANCE

Mr. Chairman, the committee took some important initiatives to achieve savings in the operation and maintenance account. One of these initiatives was in the area of burden sharing.

America has carried the burden of support of defending our allies for decades. While it is true that our allies have made important contributions to that effort, the time has come for these countries, especially Japan and Germany, to bear a heavier portion of those costs.

This bill includes a general provision that requires Japan to assume all costs of United States forces in Japan, other than military personnel costs. If Japan refuses to pay these costs, 5,000 American troops would be withdrawn each year beginning at the end of fiscal year 1991.

We have increased the amount that these countries must cover for burdensharing. The savings in this bill from this area $1.5 billion.

Another important area where we have been able to make significant savings is in the cutting back of excess inventories.

The Defense Department carries very large levels of inventories for their vast amounts of weapon systems, equipment, and bases.

Hearings we held this year showed a very high portion of these inventories were excess to their immediate needs and in many cases, would probably never be needed.

We have made a reduction of $820 million in this area.

CHANGING PRIORITIES WITHIN PROCUREMENT AND R&D

The bill before the committee scales back a number of programs in procurement to reflect a scaled back force structure, changing Defense priorities, budgetary realities and reductions made by the House in the authorization legislation. Some of the major reductions were in the following programs: B-2 bomber; SDI; SSN-21 submarine; DDG-51 destroyer; F-16 tactical fighter aircraft; and the FA-18 tactical fighter aircraft.

The bill recommends termination of 19 programs in RDT&E and procurement. This will save many billions of dollars in the out years.

However, the committee also made a number of additions in programs to reflect the new defense requirements of a rapidly changing world. These additions included increases for: sealift; maritime pre-positioning; V-22 *Osprey* aircraft, and an antitactical ballistic missile.

The last program I mentioned, the anti-tactical ballistic missile, is in R&D and will prove valuable for threats posed by countries like Iraq.

These changed funding priorities in procurement and research and development will bring: a scaled back force structure; a more mobile and deployable force structure; a well trained, well equipped force structure; and a defense department ready to meet the challenges of the 1990's.

CONCLUSION

The committee's recommendations shift the priorities of America's defense from one of concentration on Central Europe to one of enhanced capability to carry out missions in regional conflicts when the vital national security interests of the United States are threatened.

As we have seen in the past decade—in Libya, Grenada, Panama, Liberia, and the Persian Gulf—it is these types of conflicts that are most likely to occur and thus we must tailor our defense capabilities to conduct these missions.

Mr. Chairman, this bill is an austere bill which represents the sixth annual decline in Defense when measured in constant dollars; this bill complies with the defense spending total set in the economic summit; this bill complies with the previously passed authorization legislation in terms of spending levels for all of the major weapon systems; this bill provides for continued peace through continued strength; I recommend support for this important legislation.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I rise in strong support of this legislation. I want to compliment my subcommittee chairman, Mr. Murtha, our ranking member, Mr. McDade, and all of my colleagues on the subcommittee for the hours they have devoted to bring this legislation to the House. And I also want to recognize our very capable staff, without whom it would be virtually impossible to prioritize programs and allow us to cut over $19 billion from the administration request for this bill.

In fact, since I joined the appropriations committee, we have recommended reductions in administration defense requests by over $175 billion. At the same time we have redirected funding to critical areas, such as enhanced sealift and improved personnel benefits, that are proving their worth in Operation Desert Shield.

This bill continues on many of those themes. We have recommended a responsible reduction of 77,100 military personnel and funding associated with approximately 50,000 civilians. We have targeted reductions to place particular emphasis on management headquarters, while exempting medical personnel and to the maximum extent possible those directly involved in readiness. Specifically this involves the industrially funded activities of the respective services, our shipyards and air rework facilities.

This action strikes a balance between the need to begin force structure reductions to reflect changing world circumstances and budget constraints, while avoiding the kind of disruption and personal hardship that would result from more dramatic first year reductions.

We have recommended cuts in areas of waste such as inapplicable inventory, where the services buy more than they can reasonable use of an individual item. The committee feels that nearly $1 billion can be saved by reforming this practice.

We have added funding for enhanced sealift, an area of deficiency that was clearly demonstrated in Desert Shield. We have recommended steps to improve the capabilities of our Guard and Reserve forces so that they can play an increasing and cost-effective role in the total force structure.

The events of the last year affirm the wisdom of our post World War II national security policies. Those policies succeeded because of broad, bipartisan consensus that was forged not out of thin air, but over the period of the late 1940's. But recent events, from the peaceful revolution in Eastern Europe to the current danger in the Persian Gulf, clearly demonstrate the need for a new basis for U.S. security and defense strategy for the 1990's and beyond.

While there is agreement on the need for a new security strategy, there is not as yet a consensus as to what that strategy should be and what policies are needed to implement it. Implications concerning the stability of emerging states in Europe are being debated. There is also considerable uncertainty in the direction of other regions in the world. The events unfolding in the Persian Gulf are but one example. How well the developing world responds to nurturing democracy and economic growth in the lesser developed world will be at least as important as how Eastern Europe fares. The potential for conflict will remain high as prejudice, nationalism, and competition for resources continue to raise their ugly heads. We need a reassessment of the role that other nations will play in a common cause to address these issues.

Developing a new national security policy to deal with the 21st century will not be an easy task. But I am convinced that the process can be improved if we can call on the full range o human resources we possess, both inside and outside government, to meet the challenge. It will also be important to establish a bipartisan dialog if such a policy is to take permanen root. The ad hoc individual strategy posturing we are beginning to witness will only hinde the process unless there is a mechanism to integrate varied points of view.

For these reasons I am especially pleased that the committee accepted my amendmen to establish a National Commission on Defense and National Security. I would expect i to include individuals with experience across the spectrum, including military, diplomatic and economic disciplines. They would be appointed by the President, the Speaker, the Senate majority leader, and both minority leaders. The task of the Commission will not be to make final policy decisions. That must remain the responsibility of the executive and legislative branches of the Federal Government. The Commission could provide an impetus for debate and a mechanism by which the issues could be presented away from the everyday considerations of politics.

Recognizing that recent revolutionary world events require a fundamental reassessment of the defense and national security policies of the United States, the Commission is tasked to analyze and make recommendations to the President and Congress both for the short term and the long term.

Clearly the next 5 years will see a smaller U.S. military force, with a smaller budget. Our task is to make sure that this smaller force is capable of meeting our legitimate security needs and uses taxpayer dollars as efficiently as possible. I am convinced that this bill is an important step in that direction, and recommend its passage to the House.

Mr. McDADE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of this bill and urge its approval.

I intend to be brief, but first, I want to acknowledge all the hard work by our subcommittee—on both sides of the aisle, certainly but especially Congressmen BILL YOUNG, CLARENCE MILLER and BOB LIVINGSTON on our side for their invaluable contributions. Also, to our superb professional staff who have helped us follow the "moving target" of defense in this most difficult year.

And when I say "hard working" I have to recognize, and thank, our Chairman JACK MURTHA. I don't know of any chairman in the Congress who works harder and who takes more of a hands-on approach than you, JACK, and this bill is a testament to your true and deep concern about the Nation's security and especially those young men and women who are on the front lines.

The Defense Subcommittee has had to work hard this year, Mr. Chairman, no question, because we find ourselves in the vortex of so many dramatic and earthshaking issues.

It's easy to forget, but just 11 months ago—even as we were working to finish the conference report on last year's defense bill—all of us, and the world, were amazed with the spectacle of the Berlin Wall being dismantled literally block by block. And as the wall came down, it became apparent to all that after nearly 50 years of sacrifice our great Nation would be able to reduce the tremendous financial commitment we've made to our security and that of freedom-loving people everywhere.

No question that the Nation can reduce the size and shape of the Defense Establishment which has been built up over the past half century. There is no dispute about this, no disagreement whatsoever.

The President certainly recognized this. The wall came down in November, and barely 2 months later he and Secretary Cheney sent the Congress a defense budget which over the next 5 years proposed taking $170 billion from the previous long-range plan. For fiscal year 1991 alone, they took out $22 billion before they sent the budget here this past January.

The defense bill we present today cuts that request by another $19 billion. Just think—the 1991 defense program will be cut by $41 billion from where it was a year ago—$41 billion in 1 year.

Compare that 1-year, $40 billion plus cut in defense to some of the other numbers we've heard here lately. A gas tax raising about $40 billion over 5 years. Medicare savings—we were talking about $60 billion, now maybe $40 billion, again over 5 years.

My Chairman, if we stick to the defense levels just adopted in the budget resolution this weekend we will see defense having to take about $300 billion out of the 5-year plan it had laid out a year ago.

Defense contributes well over a third of the savings in the overall 5-year deficit reduction package we've seen so much effort go into over the past few weeks. We are headed down a path which takes defense down to the lowest levels since before Pearl Harbor—to less than 4 percent of GNP by 1995.

If that is not a peace dividend I do not know what is.

Mr. Chairman, we all agree about the general direction we should be heading, that defense can and will come down. That is the easy part. But as to how we do it—the details—we have yet to reach any consensus.

We face a lot of tough questions. Let me just tick off a few.

How fast we can execute the build down? How many troops can you cut over time, and at what pace, without destroying the fabric of the best military our Nation has ever fielded? What weapons do we need—and which ones can we no longer afford? And as we shrink the Defense Establishment, will the Pentagon also be permitted to streamline and become more efficient, or will we see bases that have long outlived their usefulness be kept open?

Tough questions, complicated even further by the Iraqi invasion of Kuwait and Operation Desert Shield. We have done our best, in this bill, to deal with these issues and meet the new security requirements facing us in the decade ahead.

At this point, Mr. Chairman, despite having shaped this bill in a truly bipartisan fashion, I find myself constrained to observe that we've brought forth a bill that's good news/bad news.

First the bad news. This bill, in its present form, is subject to a veto. It's veto bait because we have followed the will of the House, as expressed on the defense authorization, on crucial strategic programs such as the B-2 bomber and SDI. Without a satisfactory resolution of these issues there's no question the authorization will be vetoed. That goes for this bill, too.

These issues must be addressed in both bills, there's no doubt. In the meantime, however, we have to move the process forward and its with that reservation that I support moving this bill from the House to conference.

Mr. Chairman, I don't want to minimize these problems, but also I don't want the membership to ignore what I regard as the strong points of this bill, which are many.

In particular, even though we've cut the request considerably, we have done our best to protect the quality and readiness of our All-Volunteer Force.

We have taken a number of actions to address both existing and long-term military requirements, highlighted by Desert Shield.

And in general I believe we have provided a mix of recommendations which provide a sound foundation for the type of military that we will need to meet the new security demands of the 1990's.

As the chairman indicated, in this bill we recommend a troop strength reduction of 77,100. While over twice the troop cut originally proposed by the administration, we are confident the Pentagon can execute these types of reductions without excessive pain—and especially important, it will be able to make these reductions and still meet the demands of Desert Shield.

It is not easy for me, certainly, to propose troop strength cuts of this size but the budget targets give us little choice. I want to strongly register, though, that in our committee's view cuts larger than this would not only hamper Desert Shield, but would force the DOD to "fire" many of our volunteer service men and women.

This bill also provides a ready force, with training and maintenance funds given priority.

Depot, shipyard, and aircraft repairs accounts have been kept robust. We have tried to protect key readiness accounts, for example, we fully fund $600 million in critical "spares," called war reserves, which now are essential given the Middle East operation.

In the weapons accounts, we put an emphasis on those systems which will support a less forward deployed posture, as we pull troops out of Europe and elsewhere. We need to be able to move forces abroad—both Panama and now Desert Shield have shown how critical lift is.

By adding $1.5 billion for sealift, by fully funding our aerial refueling modernization, and through supporting the new C-17 airlifter we're taking critical steps to meet the new military realities.

Medical care, drug interdiction, environmental cleanup, we've taken a lot of positive actions in the bill, Mr. Chairman.

Again, I want to commend all the members of the subcommittee for once again rolling up their sleeves and turning out what I consider to be the best bill possible given where we are in the process.

While we have a lot of tough problems to resolve, we do need to move forward, and I urge your support.

Mr. MURTHA. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Chairman, I started on Naval Appropriations in 1943, and have been on Defense Appropriations since.

I would like to present to the House and to the country what is involved here, as pointed out in the report of the subcommittee chaired by the gentleman from Pennsylvania [Mr. MURTHA].

We need to prepare for a transition from military activities to productive investment in America.

We all realize that the world situation has changed greatly, since it became apparent that the Soviet Union's economic situation has proven so bad that its military threat against the West has greatly diminished.

While the crisis in the Persian Gulf is serious and calls for strong support, it is not such as to require maintaining troop levels established to contain the Soviet Union. Thus, there is bound to be a reduction in personnel as we pull back troops from overseas and reduce troop levels overall.

At no time in history has this Nation proposed to reduce its volunteer military force to the extent that is being proposed over the next 5 years. A program is needed to insure that this transition of our military personnel into the civilian sector be as smooth as possible so that troop reductions do not produce undue hardship on either the personnel being displaced or on those areas of our country where facilities are located.

In this connection, we should give attention to using this resource to restore the condition of our roads, our bridges, highways, harbors, waterway locks and dams, schools, hospitals, and other public facilities. The need for these facilities has been well documented. Programs developed to provide for this asset investment not only provide employment opportunities which help the economy, but the facilities themselves provide benefits and growth for the Nation as they are put to their intended use. Such a program needs to be developed which will phase in with the military build-down, and would create productive employment for those crowded out of military production and those who are forced to retire from the military or contractors after devoting their time to the defense of our country.

Attention, too, must be given to the possible expansion and maintenance of a strong Guard and Reserve, where it members contribute to the economy during the week, and train on the weekend.

With the present decline in the economy and present plans for futher reduction in Government-supported projects, I truly believe in a few months it will be evident that we must have a jobs bill, as we did in 1983—following reductions in revenue caused by the 1981 tax bill which repealed windfall profits.

Incidentially, according to the record, this 1981 tax bill has deprived the Nation of an income in excess of $2 trillion since it was enacted.

Mr. Chairman, this is a good bill. I am proud to be associated with it and the chairman and my subcommittee colleagues.

Mr. MURTHA. Mr. Chairman, I want to thank the committee chairman, the gentleman from Mississippi, for his imput. The gentleman has been a valuable part of this subcommittee.

Mr. DORGAN of North Dakota. Mr. Chairman, there are many good features of this Defense appropriations bill and I commend Chairman MURTHA for his efforts to produce a sound bill. It does move our defense dollars toward the emerging defense requirements. It places more emphasis on conventional forces and less on strategic weapons. For example, the committee bill eliminates funding for the rail garrison MX missile and for procurement of more B-2 Stealth bombers. It wisely halves funding for the SDI missile defense system. It ends funding for the Trident submarine fleet with the 18th boat and provides no advanced procurement money for the next submarine.

At the same time, this bill provides a modest pay increase for military personnel. It also appropriates money for National Guard and Reserve personnel, which are playing an increasingly important role in our national defense. These are steps in the right direction and I support them.

However, I regret that the House did not approve the Penny amendment which would have reduced funding in this bill in line with the original House budget resolution and the Defense authorization bill. This saving of $5 billion would still have left in place $283 billion for all Defense Department activities, including $263 billion in this bill. It would not have required cuts in specific programs, but left that discretion to the Secretary of Defense. Neither would the amendment have affected funding for Desert Shield, since those funds will be provided in a separate, supplemental appropriation.

In my view, a bill with $5 billion less would have provided more than enough to meet our national security requirements, as long as we stopped paying our allies' fair share of mutual defense costs. This bill does take one important step in that direction by mandating that the United States reduce military forces based in Japan by 5,000 per year unless Japan agrees to pay all costs of those troops—except for the actual salaries of military personnel. This reflects the amendment which I passed 1 year ago. But we must do much more. If we really want to cut the deficit, we must not exempt the biggest appropriations bill that we consider.

Therefore, I must oppose passage of the Defense appropriations bill.

Mr. Chairman, I rise to alert my colleagues to two funding issues affecting North Dakota's William Langer jewel bearing plan, the only supplier of jewel bearings for the national defense stockpile. This is a relatively small plant which plays a very big role in our national security. I underscore that this does not involve any additional money. In one case, I am talking about money approved last year and in a second instance, about money already assumed in the Pentagon's budget request.

The first issue I wish to bring to my colleague's attention relates to last year's appropriation. The House agreed to a conference report which included $1 million for equipment and repairs at the Langer facility. However, the Defense Department has yet to make available these funds for their designated use. I would urge the Defense Department to release these funds immediately.

Second, I want to refer to this year's Defense authorization and appropriation. Fiscal year 1991 marks the first time that jewel bearings have been a line item in the annual materials plan [AMP]. I do understand that the House Armed Services Committee did not explicitly itemize the $2.4 million provided for the production of 1 million jewel bearings. However, I am informed by the committee's staff that the fiscal 1991 Defense authorization bill did not do so because the Pentagon did not provide timely information. Rather, the committee assumed that the $2.4 million for the jewel bearing production would be part of the National Defense Stockpile budget provided in the bill.

My colleagues may not know that the Langer plant is the major employer in Rolette County, ND, which includes the Turtle Mountain Indian Reservation. The unemployment rate in the area is already extremely high—12 to 14 percent in Rolette County and 35 to 40 percent on the reservation. Those who manage the facility are justifiably concerned that the funding problems could affect adversely this vulnerable region.

Even more importantly, our current defense needs make a strong case for a line item. The Langer plant is the only U.S. facility that manufacturers jewel bearings. These tiny bearings are absolutely essential to the functioning of a variety of weapons and defense systems. The commercial manufacturers in Switzerland do not operate in a manner that would adequately respond to the contracting needs of the U.S. Government. Ninety percent of the Langer plant's orders are for 200 pieces or less, in a timeframe of approximately 3 weeks. Swiss manufacturers of jewel bearings will not promptly respond to such contractor needs.

I point this out to my colleagues because the Langer plant is presently responding to urgent contract requests related to the Desert Shield Operation. This is a modern version of the old saw about losing a kingdom for want of a horseshoe nail. We can't have a sturdy and dependable defense unless our strategic stockpile includes the vital commodities and supplies which may be required in a crisis—including jewel bearings.

The distinguished chairman of the Defense Appropriations Subcommittee, Mr. MURTHA has provided me with assurances that he will address this matter in conference. I want to thank him for his support and cooperation in finding a solution to these two national security funding issues.

Mr. McDADE. Mr. Chairman, I yield back the balance of my time.

Mr. MURTHA. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

H.R. 5803

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1991, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

Military Personnel, Army

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $23,959,991,000.

Military Personnel, Navy

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $19,149,527,000.

Military Personnel, Marine Corps

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $5,887,484,000.

Military Personnel, Air Force

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $19,915,200,000.

Reserve Personnel, Army

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3021, and 3038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $2,394,200,000.

Reserve Personnel, Navy

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,665,700,000.

Reserve Personnel, Marine Corps

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $340,800,000.

Reserve Personnel, Air Force

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8021, and 8038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $697,800,000.

National Guard Personnel, Army

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 265, 3021, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $3,428,800,000.

National Guard Personnel, Air Force

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 265, 8021, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,113,700,000.

Mr. MURTHA (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN pro tempore. Are there any points of order against title I?

Are there any amendments?

The Clerk will read.

The Clerk read as follows:

TITLE II

OPERATION AND MAINTENANCE

Operation and Maintenance, Army

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $14,437,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $21,549,271,000: *Provided,* That of the funds appropriated in this paragraph, $594,815,000 shall not be obligated or expended until authorized by law.

Operation and Maintenance, Navy

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $4,257,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $23,775,605,000: *Provided,* That from the amounts of this appropriation for the alteration, overhaul and repair of naval vessels and aircraft, funds shall be available to acquire the alteration, overhaul and repair by competition between public and private shipyards, Naval Aviation

Depots and private companies. The Navy shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private shipyards, Naval Aviation Depots, and private companies. Competitions shall not be subject to section 2461 or 2464 of title 10, United States Code, or to Office of Management and Budget Circular A-76. Naval Aviation Depots may perform manufacturing in order to compete for production contracts: *Provided further,* That funds appropriated or made available in this Act shall be obligated and expended to restore and maintain the facilities, activities and personnel levels, including specifically the medical facilities, activities and personnel levels, at the Memphis Naval Complex, Millington, Tennessee, to the fiscal year 1984 levels: *Provided further,* That the Navy may provide notice in this fiscal year to exercise options under the LEASAT program for the next fiscal year, in accordance with the terms of the Aide Memoire, dated January 5, 1981, as amended by the Aide Memoire dated April 30, 1986, and as implemented in the LEASAT contract: *Provided further,* That notwithstanding section 2805 of title 10, United States Code, of the funds appropriated herein, $2,000,000 shall be available only for a grant to the Cabot/Dedalo Museum Foundation. These funds shall be available solely for project costs and none of the funds are for remuneration of any entity or individual associated with fund raising for the project: *Provided further,* That of the funds appropriated in this paragraph, $516,609,000 shall not be obligated or expended until authorized by law.

Operation and Maintenance, Marine Corps

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $1,886,280,000: *Provided,* That of the funds appropriated in this paragraph, $54,980,000 shall not be obligated or expended until authorized by law: *Provided further,* That of the funds appropriated in this paragraph, none may be used for the conversion of facilities maintenance, utilities, and motor transport functions at Cherry Point Marine Corps Air Station, North Carolina, to performance by private contractor under the procedures and requirements of OMB Circular A-76 until the General Accounting Office completes their audit and validates the decision.

Operation and Maintenance, Air Force

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $8,433,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $20,977,532,000: *Provided,* That of the funds appropriated in this paragraph, $587,753,000 shall not be obligated or expended until authorized by law: *Provided further,* That not less than $180,000,000 of the funds appropriated in this paragraph are available only for continued development and operation of the Air Force Logistics Command Logistics Modernization System.

Operation and Maintenance, Defense Agencies

(including transfer of funds)

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $8,516,144,000, of which not to exceed $14,661,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes; and of which $501,300,000 shall be available for the Special Operations Command: *Provided,* That of the funds appropriated, $96,000,000, to remain available until expended, is transferred to the Secretary of Commerce, as authorized by section 4302(b) of the National Defense Authorization Act for Fiscal Year 1991 (H.R. 4739) as passed the House of Representatives and, in addition, $100,000,000, to remain available until expended, is available for the purposes of carrying out the provisions of section 4401 of the National Defense Authorization Act for Fiscal Year 1991 (H.R. 4739) as passed the House of Representatives and section 325 of the Job Training Partnership Act (29 U.S.C. 1662-1662c), as amended by section 4405 of the National Defense Authorization Act for Fiscal Year 1991 (H.R. 4739) as passed the House of Representatives. That of this $100,000,000, such amounts as determined by the Secretary of Defense as being unnecessary for the purposes of carrying out section 4401 of the National Defense Authorization Act for Fiscal Year 1991 (H.R. 4739) as passed the House of Representatives, shall be transferred to the Secretary of Labor for use in connection with the provisions of section 325 of the Job Training Partnership Act: *Provided further,* That any unspecified reduction to be applied to appropriations available for civilian personnel costs required for fiscal year 1991 shall be applied on an equal basis to all Defense agencies, the Office of the Secretary of Defense, and the Washington Headquarters Services: *Provided further,* That appropriations available for civilian personnel costs of the Special Operations Command shall not be included in determining the amount of reductions to be applied nor shall such reductions be applied to such personnel costs: *Provided further,* That $10,000,000 shall only be available during the current fiscal year for carrying out the purpose of section 306 of Public Law 101-189, except that the Secretary of Defense, in consultation with the Secretary of Education, shall consider a local education agency as described in subsection (a) of section 306, as eligible for payment only if such agency is unable, without the addition of such assistance, to provide a level of education for such students equivalent to the comparable level of education provided within the State in which such students reside (as determined by comparable student data), and at least 35 percent of the local educational agency's average daily attendance are military dependent students eligible for funding under sections 3(a) and/or 3(b) of Public Law 81-874: *Provided further,* That of the funds appropriated in this paragraph, $912,000 shall be available only for transfer to the Library of Congress: *Provided further,* That of the funds appropriated in this paragraph, $256,836,000 shall not be obligated or expended until authorized by law.

Operation and Maintenance, Army Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $933,607,000: *Provided,* That of the funds appropriated in this paragraph, $20,207,000 shall not be obligated or expended until authorized by law.

Operation and Maintenance, Navy Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $1,015,800,000: *Provided,* That of the funds appropriated in this paragraph, $11,000,000 shall not be obligated or expended until authorized by law.

Operation and Maintenance, Marine Corps Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $86,400,000: *Provided,* That of the funds appropriated in this paragraph, $300,000 shall not be obligated or expended until authorized by law.

Operation and Maintenance, Air Force Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $1,076,500,000: *Provided,* That of the funds appropriated in this paragraph, $25,700,000 shall not be obligated or expended until authorized by law.

Operation and Maintenance, Army National Guard

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $2,049,241,000: *Provided,* That of the funds appropriated in this paragraph, $50,741,000 shall not be obligated or expended until authorized by law.

Operation and Maintenance, Air National Guard

For operation and maintenance of the Ai National Guard, including medical and hospital treatment and related expenses in non Federal hospitals; maintenance, operation repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repai of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; $2,235,100,000: *Provided*, That of the funds appropriated in this paragraph, $32,100,000 shall not be obligated or expended until authorized by law.

National Board for the Promotion of Rifle Practice, Army

For the necessary expenses and personnel services (other than pay and non-travel-related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the national matches) in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; the conduct of the national matches; the issuance of ammunition under the authority of title 10, United States Code, sections 4308 and 4311; the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; and the payment to competitors at national matches under section 4312 of title 10, United States Code, of subsistence and travel allowances under section 4313 of title 10, United States Code; not to exceed $5,000,000, of which not to exceed $7,500 shall be available for incidental expenses of the National Board: *Provided*, That of the funds appropriated in this paragraph, $1,000,000 shall not be obligated or expended until authorized by law.

Court of Military Appeals, Defense

For salaries and expenses necessary for the United States Court of Military Appeals; $5,000,000 and not to exceed $2,500 can be used for official representation purposes.

Environmental Restoration, Defense

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense; $1,900,000,000, to remain available until transferred: *Provided*, That of the funds appropriated and made available in this paragraph, $854,000,000 shall not become available for obligation before September 1, 1991, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further*, That of the funds appropriated in this paragraph, $900,000,000 shall not be obligated or expended until authorized by law: *Provided further*, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, research and development associated with hazardous wastes and removal of unsafe buildings and debris of the Department of Defense, or for similar purposes (including programs and operations at sites formerly used by the Department of Defense), transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense as the Secretary may designate, to be merged with and to be available for the same purposes and for the same time period as the appropriations of funds to which transferred: *Provided further*, That upon a determination by the Secretary of Defense that such action is necessary, funds available to the Department of Defense may be transferred into this appropriation, to be available for the same purposes and the same time period as this appropriation: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Humanitarian Assistance

For transportation for humanitarian relief for refugees of Afghanistan, acquisition and shipment of transportation assets to assist in the distribution of such relief, and for transportation and distribution of humanitarian and excess nonlethal supplies for worldwide humanitarian relief, as authorized by law; $15,000,000, to remain available for obligation until September 30, 1992: *Provided*, That the Department of Defense shall notify the Committees on Appropriations and Armed Services of the Senate and House of Representatives 21 days prior to the shipment of humanitarian relief which is intended to be transported and distributed to countries not previously authorized by Congress: *Provided further*, That of the funds appropriated in this paragraph, $2,000,000 shall not be obligated or expended until authorized by law.

Mr. MURTHA (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN pro tempore. Are there any points of order against title II?

Are there any amendments?

The Clerk will read.

The Clerk read as follows:

TITLE III

PROCUREMENT

Aircraft Procurement, Army

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,576,329,000 to remain available for obligation until September 30, 1993: *Provided*, That section 133 of Public Law 101-189 (103 Stat. 1383) does not prohibit procurement of AHIP Scout aircraft for the Army, and this proviso supersedes such section 133 to the extent necessary to permit the Secretary of the Army to carry out procurement of such aircraft: *Provided further*, That of the funds appropriated in this paragraph, $82,646,000 shall not be obligated or expended until authorized by law.

Missile Procurement, Army

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,335,164,000 to remain available for obligation until September 30, 1993: *Provided*, That of the funds appropriated in this paragraph, $368,819,000 shall not be obligated or expended until authorized by law.

Procurement of Weapons and Tracked Combat Vehicles, Army

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,290,718,000 to remain available for obligation until September 30, 1993: *Provided*, That of the funds appropriated in this pargraph, $362,295,000 shall not be obligated or expended until authorized by law.

Procurement of Ammunition, Army

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized in military construction authorization Acts or authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,394,689,000, to remain available for obligation until September 30, 1993: *Provided*, That of the funds appropriated in this paragraph, $70,518,000 shall not be obligated or expended until authorized by law.

Other Procurement, Army

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed 168 passenger motor vehicles, for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,298,054,000, to remain available for obligation until September 30, 1993: *Provided*, That none of the funds herein appropriated shall be obligated for the Family of Medium Tactical Vehicles program until the Secretary of the Army issues a solicitation for a truck Service Life Extension Program: *Provided further*, That of the funds appropriated in this paragraph, $29,257,000 shall be available only for the Mobile Subscriber Equipment program.

Aircraft Procurement, Navy

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $8,306,229,000, to remain available for obligation until September 30, 1993.

Weapons Procurement, Navy

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, other ordnance and ammunition, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interest therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Ballistic Missile Programs, $1,540,001,000;

Other Missile Programs, $2,429,589,000;

Mark-48 ADCAP Torpedo, $350,291,000;

Mark-50 Torpedo, $328,266,000;

ASW Targets, $26,409,000;

ASROC, $20,156,000;

Modification of Torpedoes, $11,740,000;

Quickstrike mine, $16,096,000;

Support Equipment and Logistics Support, $88,360,000;

Other Weapons, $202,146,000;

Other Ordnance, $302,450,000;

In all: $5,315,504,000, to remain available for obligation until September 30, 1993.

Shipbuilding and Conversion, Navy

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

TRIDENT ballistic missile submarine program, $1,244,629,000;

SSN-21 attack submarine program, $2,106,500,000;

Aircraft carrier service life extension program, $963,068,000: *Provided*, That these funds are available only for advance procurement of material and other efforts associated with the industrial availability of the U.S.S. KENNEDY at the Philadelphia Naval Shipyard leading to the extension of the service life of the carrier;

DDG-51 destroyer program, $3,113,003,000;

LHD-1 amphibious assault ship program, $933,800,000;

LSD-41 dock landing ship cargo variant program, $240,000,000;

MHC coastal mine hunter program, $204,000,000;

AOE combat support ship program, $398,200,000;

LCAC landing craft air cushion program, $267,900,000;

Oceanographic ship program, $43,100,000;

Sealift ship program, $1,500,000,000;

For craft, outfitting, and post delivery $409,800,000;

For first destination transportation, $5,800,000;

For Maritime Prepositioning, Ready Reserve Fleet and Ship Contract Reserve, $900,000,000;

In all: $12,329,800,000, to remain available for obligation until September 30, 1995: *Provided*, That additional obligations may be incurred after September 30, 1995, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further*, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further*, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards: *Provided further*, That of the funds appropriated in this paragraph, not less than $23,000,000 shall be available only to procure thirty Advanced Video Processor units and associated display heads: *Provided further*, That of the funds appropriated in this paragraph, $3,313,200,000 shall not be obligated or expended until authorized by law.

Other Procurement, Navy

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of 671 passenger motor vehicles of which 645 shall be for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $5,344,811,000, to remain available for obligation until September 30, 1993, of which not less than $160,000,000 shall be for the procurement of sonobuoys: *Provided*, That of the funds appropriated in this paragraph, not less than $42,000,000 shall be available only to procure fifty-three Advanced Video Processor units and associated display heads.

Procurement, Marine Corps

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including purchase of not to exceed 172 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; $726,637,000, to remain available for obligation until September 30, 1993.

Aircraft Procurement, Air Force

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $7,663,897,000, to remain available for obligation until September 30, 1993: *Provided*, That of the funds appropriated in this paragraph, $368,322,000 shall not be obligated or expended until authorized by law

Missile Procurement, Air Force

For construction, procurement, and modification of missiles, spacecraft, rockets, an related equipment, including spare part and accessories therefor, ground handlin equipment, and training devices; expansio of public and private plants, Government-owned equipment and installation thereo in such plants, erection of structures, an acquisition of land, for the foregoing purposes, and such lands and interests therein may be acquired, and construction prosecuted thereon prior to approval of title; reserv plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purpose including rents and transportation o things; $5,912,653,000, to remain availabl for obligation until September 30, 1993: *Provided*, That of the funds appropriated i this paragraph, $342,805,000 shall not be obligated or expended until authorized by law

Other Procurement, Air Force

For procurement and modification o equipment (including ground guidance an electronic control equipment, and groun electronic and communication equipment and supplies, materials, and spare part therefor, not otherwise provided for; th purchase of not to exceed 451 passenge motor vehicles of which 376 shall be for replacement only; and expansion of publi and private plants, Government-owne equipment and installation thereof in suc plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $7,835,903,000, to remain available for obligation until September 30, 1993.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces; $1,566,115,000, to remain available for obligation until September 30, 1993.

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 514 passenger motor vehicles of which 458 shall be for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $2,074,542,000, to remain available for obligation until September 30, 1993, of which $507,186,000 shall be available for the Special Operations Command: *Provided*, That of the funds appropriated in this paragraph, $221,028,000 shall not be obligated or expended until authorized by law.

DEFENSE PRODUCTION ACT PURCHASES

For purchases or commitments to purchase metals, minerals, or other materials by the Department of Defense pursuant to section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093); $50,000,000, to remain available until expended: *Provided*, That none of these funds shall be obligated for any metal, mineral, or material, unless a Presidential determination has been made in accordance with the Defense Production Act: *Provided further*, That the Department of Defense shall notify the Committees on Appropriations of the House of Representatives and the Senate thirty days prior to the release of funds for any metal, mineral, or material not previously approved by Congress: *Provided further*, That the funds appropriated in this paragraph shall not be obligated or expended until authorized by law.

Mr. MURTHA (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN pro tempore. Are there any points of order against title III?

Are there any amendments?

The Clerk will read.

The Clerk read as follows:

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $5,366,811,000, to remain available for obligation until September 30, 1992, of which not less than $10,000,000 is available only for the Vectored Thrust Combat Agility Demonstrator flight test program utilizing the Vectored Thrust Ducted Propeller.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $8,954,950,000, to remain available for obligation until September 30, 1992: *Provided*, That for continued research and development programs at the National Center for Physical Acoustics, centering on ocean acoustics as it applies to advanced anti-submarine warfare acoustics issues with focus on ocean bottom acoustics—seismic coupling, sea-surface and bottom scattering, oceanic ambient noise, underwater sound propagation, bubble related ambient noise, acoustically active surfaces, machinery noise, propagation physics, solid state acoustics, electrorheological fluids, transducer development, ultrasonic sensors, and other such projects as may be agreed upon, $1,000,000 shall be made available, as a grant, to the Mississippi Resource Development Corporation, of which not to exceed $250,000 of such sum may be used to provide such special equipment as may be required for particular projects: *Provided further*, That not less than $24,000,000 of the funds appropriated in this paragraph shall be made available to Competitive Technologies Incorporated for efforts associated with advanced shipbuilding design, materials, and manufacturing technologies: *Provided further*, That of the funds appropriated to the Navy in fiscal year 1990 for Research, Development, Test and Evaluation, not less than $10,000,000 is available only for the Skipper Missile Enhancement Program: *Provided further*, That not less than $71,000,000 of the funds appropriated in this paragraph is available only to continue development and testing of the Sea Lance weapon system, to produce a technical data package, and to pursue technology and production engineering improvements.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $11,804,386,000, to remain available for obligation until September 30, 1992, of which not less than $30,000,000 is available only for the National Center for Manufacturing Sciences: *Provided*, That not less than $3,000,000 of the funds appropriated in this paragraph is available only for continuing the research program on development of coal based high thermal stability and endothermic jet fuels, including exploratory studies on direct conversion of coal to thermally stable jet fuels.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $8,566,697,000, to remain available for obligation until September 30, 1992, of which $184,977,000 shall be available for the Special Operations Command: *Provided*, That not less than $18,000,000 of the funds appropriated in this paragraph shall be available only for a facility to enable collaborative research and training for Department of Defense military medical personnel in trauma care, head, neck, and spinal injury, paralysis, and neuro-degenerative diseases: *Provided further*, That not less than $2,000,000 of the funds appropriated in this paragraph is available only for miniature diagnostic proton accelerator research: *Provided further*, That not less than $103,000,000 of the funds appropriated in this paragraph is available only for the Extended Range Interceptor (ERINT) missile: *Provided further*, That not less than $5,000,000 of the funds appropriated in this paragraph is available only to establish a coal utilization center: *Provided further*, That not less than $5,000,000 of the funds appropriated in this paragraph is available only to establish a materials research center: *Provided further*, That not less than $7,000,000 of the funds appropriated in this paragraph is available only to establish an Experimental Program to Stimulate Competitive Research (EPSCoR) in the Department of Defense: *Provided further*, That not less than $10,000,000 of the funds appropriated in this paragraph shall be made available as a grant to establish an Institute for Advanced Science and Technology at an institution of higher education which meets the criteria specified in Section 243 of the National Defense Authorization Act for Fiscal Year 1991 (H.R. 4739) as passed the House of Representatives: *Provided further*, That not less than $6,000,000 of the funds appropriated in this paragraph for the Defense Advanced Research Project Agency Initiative in Concurrent Engineering (DICE) shall be made available as a grant to the Advanced Manufacturing Institute at the Stevens Institute of Technology: *Provided further*, That not less than $15,000,000 of the funds appropriated in this paragraph shall be made available as a grant to the Liberty Science Center: *Provided further*, That not less than $10,000,000 of the funds appropriated in this paragraph shall be made available as a grant to Drake University for a facility under the College of Pharmacy and Health Sciences: *Provided further*, That not less than $3,500,000 of the funds appropriated in this paragraph shall be made available as a grant to Loyola College to complete the Center for Advanced Information and Resource Management Studies: *Provided further*, That of the funds appropriated in this paragraph, $1,195,462,000 shall not be obligated or expended until authorized by law.

DEVELOPMENTAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Deputy Director of Defense Research and Engineering

(Test and Evaluation) in the direction and supervision of developmental test and evaluation, including performance and joint developmental testing and evaluation; and administrative expenses in connection therewith; $229,767,000, to remain available for obligation until September 30, 1992.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith; $15,000,000, to remain available for obligation until September 30, 1992.

Mr. MURTHA (during the reading). Mr. Chairman, I ask unanimous consent that title IV be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN pro tempore. Are there any points of order against title IV?

Are there any amendments?

AMENDMENT OFFERED BY MR. SPRATT

Mr. SPRATT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SPRATT: Page 34, line 6, strike out "$11,804,386,000" and insert in lieu thereof "$11,685,805,000".

Mr. SPRATT. Mr. Chairman, this appropriation bill includes $118 million to proceed with the SRAM-T; that is a tactical variant of the short range attack missile, the so-called SRAM-T missile.

The Armed Services Committee Defense authorization bill contained only $4 million to complete some additional work on the development of the warhead for this particular system.

Mr. MURTHA. Mr. Chairman, will the gentleman yeield?

Mr. SPRATT. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Chairman, will the gentleman withdraw his amendment and submit an amendment which would make this program subject to authorization?

Mr. SPRATT. Yes. I would be glad to compromise on that basis, that this bill would not appropriate anything more than as is ultimately authorized as a result of the conference committee report.

Mr. MURTHA. I would agree to that, if we can get an amendment to the desk implementing that direction.

Mr. SPRATT. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

The CHAIRMAN pro tempore. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. MURTHA

Mr. MURTHA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURTHA: No funds shall be expended for the SRAM-T short range attack missile—tactical unless specifically authorized in law.

Mr. SPRATT. Mr. Chairman, I agree to the amendment.

Mr. McDADE. Mr. Chairman, we have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. MURTHA].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title IV?

The Clerk will read.

The Clerk read as follows:

TITLE V

REVOLVING AND MANAGEMENT FUNDS

ARMY STOCK FUND

For the Army stock fund; $407,000,000: *Provided*, That of the funds appropriated in this paragraph, $104,500,000 shall not be obligated or expended until authorized by law.

NAVY STOCK FUND

For the Navy stock fund; $37,200,000: *Provided*, That the funds appropriated in this paragraph shall not be obligated or expended until authorized by law.

AIR FORCE STOCK FUND

For the Air Force stock fund; $1,039,900,000: *Provided*, That of the funds appropriated in this paragraph, $152,000,000 shall not be obligated or expended until authorized by law.

DEFENSE STOCK FUND

For the Defense stock fund; $50,000,000: *Provided*, That the funds appropriated in this paragraph shall not be obligated or expended until authorized by law.

ARMY INDUSTRIAL FUND

For the Army industrial fund; $75,500,000.

NAVY INDUSTRIAL FUND

For the Navy industrial fund; $119,350,000.

DEFENSE INDUSTRIAL FUND

For the Defense industrial fund; $2,000,000.

Mr. MURTHA (during the reading). Mr. Chairman, I ask unanimous consent that title V be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN pro tempore. Are there any points of order against title V?

Are there any amendments?

The Clerk will read.

The Clerk read as follows:

TITLE VI

OTHER DEPARTMENT OF DEFENSE APPROPRIATIONS

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986, as follows: for Operation and maintenance, $157,100,000; for Procurement, $115,100,000; for Research, development, test and evaluation, $5,300,000; for retrograde, $12,200,000; In all: $289,700,000: *Provided*, That the amount provided for Procurement shall remain available until September 30, 1993, the amount provided for Research, development, test and evaluation shall remain available until September 30, 1992, and the amount provided for retrograde shall remain available until September 30, 1992.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, $1,009,410,000; for transfer to appropriations available to the Department of Defense for Military Personnel serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance (including the Civil Air Patrol); for Procurement; for Research, development, test and evaluation; and for non-reimbursable support to Federal, State, and local government agencies: *Provided*, That the funds appropriated by this paragraph shall be available for obligation for the same time period and the same purpose as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this paragraph is in addition to any transfer authority contained elsewhere in this Act: *Provided further*, That of the funds appropriated by this paragraph, $10,000,000 shall be available only for the National Drug Intelligence Center: *Provided further*, That of the funds appropriated by this paragraph, $123,000,000 shall be available only for the National Foreign Intelligence Program: *Provided further*, That of the funds appropriated in this paragraph, $70,110,000 shall not be obligated or expended until authorized by law.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, as follows: for Operation and maintenance, $98,519,000; for Procurement, $981,000; In all: $99,500,000: *Provided*, That the amount provided for Procurement shall remain available until September 30, 1993.

Mr. MURTHA (during the reading). Mr. Chairman, I ask unanimous consent that title VI be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN pro tempore. Are there points of order against title VI?

Are there any amendments?

The Clerk will read.

The Clerk read as follows:

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $164,600,000.

INTELLIGENCE COMMUNITY STAFF

For necessary expenses of the Intelligence Community Staff; $28,900,000.

Mr. MURTHA (during the reading). Mr. Chairman, I ask unanimous consent that title VII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there points of order against title VII

Are there any amendments?

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The Clerk will read.

The Clerk read as follows:

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps, the National Board for the Promotion of Rifle Practice, Army, or the Defense Department's Education System.

SEC. 8005. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $25,000, shall be available for the procurement of any article or item of food, clothing, tents, tarpaulins, covers, cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials, or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles or items of food, individual equipment, tents, tarpaulins, covers, or clothing or any form of cotton or other natural fiber products, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided*, That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of agreements with foreign governments in which both governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 2457 of title 10, United States Code: *Provided further*, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions.

(TRANSFER OF FUNDS)

SEC. 8006. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $3,000,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

(TRANSFER OF FUNDS)

SEC. 8007. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8008. (a) None of the funds available to the Department of Defense in this Act shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

(b) Except as provided in section 2690 of title 10, United States Code, and thirty days after the Secretary of Defense has notified the Committees on Appropriations of the Senate and House of Representatives, none of the funds available to the Department of Defense in this Act shall be utilized for the conversion of heating plants from coal to oil or coal to natural gas at defense facilities in Europe: *Provided*, That this limitation shall apply to any authority granted pursuant to section 9008 of the Department of Defense Appropriations Act, 1990.

(c) None of the funds available to the Department of Defense in this Act shall be used to enter into any agreement or contract to convert any heating facility at military installations in the Kaiserslautern Military Community (KMC) in the Federal Republic of Germany to district heat, direct natural gas, or other sources of fuel, except as provided in section 2690 of title 10, United States Code, and thirty days after the Secretary of Defense has notified the Committees on Appropriations of the Senate and House of Representatives, and until the Secretary of the Air Force has (1) ensured that the United States coal industry has had the opportunity to provide thermal energy supply to the KMC facilities through participation in a competitive solicitation for proposals for third-party thermal energy supply, provided such solicitation allows evaluation of innovative technical proposals such as cogeneration to enhance the cost-effectiveness of coal derived thermal energy; (2) thoroughly evaluated the cost-effectiveness of all proposals received; (3) submitted evaluation results to the General Accounting Office for review; and (4) notified the Committees on Appropriations of the Senate and House of Representatives of the evaluation results.

SEC. 8009. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 days in advance to the Committees on Appropriations and Armed Services of the Senate and House of Representatives.

SEC. 8010. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

SEC. 8011. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions for section 1079(a) of title 10, United States Code, shall be available for reimbursement of any physician or other authorized individual provider of medical care in excess of the lower of: (a) the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished, as determined for physicians in accordance with section 1079(h) of title 10, United States Code; or (b) the allowable amounts in effect during fiscal year 1988 increased to the extent justified by economic changes as reflected in appropriate economic index data similar to that used pursuant to title XVIII of the Social Security Act.

SEC. 8012. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1992.

SEC. 8013. None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the Committees on Appropriations and Armed Services of the Senate and House of Representatives have been notified at least thirty days in advance of the proposed contract award: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further*, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further*, That no multiyear procurement contract can be terminated without 10-day prior notification to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate: *Provided further*, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement. Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

Avenger;

Global Positioning System;

UH-60 Black Hawk Helicopter (36 per year);

Family of Medium Tactical Vehicles;

MK 45 Gun Mounts and MK 6 Ammunition Hoists.

(TRANSFER OF FUNDS)

SEC. 8014. None of the funds appropriated in this Act may be made available through transfer, reprogramming, or other means between the Central Intelligence Agency and the Department of Defense for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.

SEC. 8015. None of the funds appropriated by this Act shall be available to convert a position in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard occupied by, or programmed to be occupied by, a (civilian) military technician to a position to be held by a person in an active duty status or active Guard or Reserve status if that conversion would reduce the total number of positions occupied by, or programmed to be occupied by, (civilian) military technicians of the component concerned, below 72,529: *Provided*, That none of the funds appropriated by this Act shall be available to support more than 48,932 positions in support of the Army Reserve, Army National Guard, or Air National Guard occupied by, or programmed to be occupied by, persons in an active Guard or Reserve status: *Provided further*, That none of the funds appropriated by this Act may be used to include (civilian) military technicians in computing civilian personnel ceilings, including statutory or administratively imposed ceilings, on activities in support of the Army Reserve, Air Force Reserve, Army National Guard, or Air National Guard.

SEC. 8016. (a) The provisions of section 115(b)(2) of title 10, United States Code, shall not apply with respect to fiscal year 1991 or with respect to the appropriation of funds for that year.

(b) During fiscal year 1991, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(c) The fiscal year 1992 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1992 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 1992.

SEC. 8017. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8018. None of the funds appropriated by this Act shall be obligated for the pay of any individual who is initially employed after the date of enactment of this Act as a technician in the administration and training of the Army Reserve and the maintenance and repair of supplies issued to the Army Reserve unless such individual is also a military member of the Army Reserve troop program unit that he or she is employed to support. Those technicians employed by the Army Reserve in areas other than Army Reserve troop program units need only be members of the Selected Reserve.

SEC. 8019. None of the funds appropriated by this Act shall be used to purchase dogs or cats or otherwise fund the use of dogs or cats for the purpose of training Department of Defense students or other personnel in surgical or other medical treatment of wounds produced by any type of weapon: *Provided*, That the standards of such training with respect to the treatment of animals shall adhere to the Federal Animal Welfare Law and to those prevailing in the civilian medical community.

SEC. 8020. None of the funds available to the Department of Defense may be used for the floating storage of petroleum or petroleum products except in vessels of or belonging to the United States.

SEC. 8021. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239: *Provided further*, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for not more than 250 civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau and Guam.

SEC. 8022. Notwithstanding any other provision of law, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any officer who would otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment.

SEC. 8023. Funds available for operation and maintenance under this Act, may be used in connection with demonstration projects and other activities authorized by section 1092 of title 10, United States Code

SEC. 8024. (a) None of the funds appropriated by this Act, shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act:

(1) enlists in the armed services for period of active duty of less than thre years; or

(2) receives an enlistment bonus unde section 308a or 308f of title 37, United States Code,

nor shall any amounts representing th normal cost of such future benefits b transferred from the Fund by the Secretar of the Treasury to the Secretary of Veterans Affairs pursuant to section 2006(d) o title 10, United States Code; nor shall th Secretary of Veterans Affairs pay such benefits to any such member: *Provided*, That in the case of a member covered by claus (1), these limitations shall not apply t members in combat arms skills or to members who enlist in the armed services on o after July 1, 1989, under a program approved in advance by the Secretary of Defense to test the cost-effective use of specia recruiting incentives involving not mor than nineteen noncombat arms skills: *Provided further*, That no contribution to th Fund pursuant to section 2006(g) shall b made during the current fiscal year tha represents liabilities arising from the Department of the Army: *Provided further*, That this subsection applies to active components of the Army.

(b) None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided*, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further*, That this subsection applies to active components of the Army.

SEC. 8025. Funds appropriated in this Act shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education.

SEC. 8026. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That this section shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Wagner O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act or (3) is planned to be converted to performance by a qualified firm under 51 percent Native American ownership.

SEC. 8027. None of the funds appropriated in this Act to the Department of the Army may be obligated for procurement of 120mm mortars or 120mm mortar ammunition manufactured outside of the United States: *Provided*, That this limitation shall not apply to procurement of such mortars or ammunition required for testing, evaluation, type classification or equipping the Army's Ninth Infantry Division (Motorized).

SEC. 8028. None of the funds appropriated in this Act to the Department of the Army may be obligated for depot maintenance of equipment unless such funds provide for civilian personnel strengths at the Army depots performing communications-electronics depot maintenance at an amount above the strengths assigned to those depots on September 30, 1985: *Provided*, That the foregoing limitation shall not apply to civilian personnel who perform caretaker-type functions at these installations: *Provided further*, That nothing in this provision shall cause undue reductions of other Army depots, as determined by the Secretary of the Army.

SEC. 8029. None of the funds appropriated or made available by this Act may be obligated for acquisition of major automated information systems which have not successfully completed oversight reviews required by Defense Department regulations: *Provided*, That none of the funds appropriated or made available by this Act may be obligated on Composite Health Care System acquisition contracts if such contracts would cause the total life cycle cost estimate of $1,600,000,000 expressed in fiscal year 1986 constant dollars to be exceeded.

SEC. 8030. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of unobligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

SEC. 8031. Funds appropriated by this Act for construction projects of the Central Intelligence Agency, which are transferred to another Agency for execution, shall remain available until expended.

SEC. 8032. Notwithstanding any other provision of law, the Secretary of the Navy may use funds appropriated to charter ships to be used as auxiliary minesweepers providing that the owner agrees that these ships may be activated as Navy Reserve ships with Navy Reserve crews used in training exercises conducted in accordance with law and policies governing Naval Reserve forces.

SEC. 8033. None of the funds in this Act may be used to execute a contract for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) Reform Initiative that exceeds the total fiscal year 1987 costs for CHAMPUS care provided in California and Hawaii, plus normal and reasonable adjustments for price and program growth.

SEC. 8034. Funds appropriated or made available in this Act shall be obligated and expended to continue to fully utilize the facilities at the United States Army Engineer's Waterways Experiment Station, including the continued availability of the supercomputer capability: *Provided*, That none of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the Armed Services and Appropriations Committees of Congress that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8035. For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), the term program, project, and activity for appropriations contained in this Act shall be defined as the most specific level of budget items identified in the Department of Defense Appropriations Act, 1991, the accompanying House and Senate Committee reports, the conference report and accompanying joint explanatory statement of the managers of the Committee of Conference, the related classified annexes, and the P-1 and R-1 budget justification documents as subsequently modified by Congressional action: *Provided, however*, That the following exception to the above definition shall apply:

For the Military Personnel and the Operation and Maintenance accounts, the term "program, project, and activity" is defined as the appropriations accounts contained in the Department of Defense Appropriations Act.

SEC. 8036. Of the funds appropriated to the Army, $46,904,000 shall be available only for the Reserve Component Automation System (RCAS): *Provided*, That none of these funds can be expended:

(1) except as approved by the Chief of the National Guard Bureau;

(2) unless RCAS resource management functions are performed by the National Guard Bureau;

(3) unless the RCAS contract source selection official is the Chief of the National Guard Bureau;

(4) to pay the salary of an RCAS program manager who has not been selected and approved by the Chief of the National Guard Bureau and chartered by the Chief of the National Guard Bureau and the Secretary of the Army;

(5) unless the Program Manager (PM) charter makes the PM accountable to the source selection official and fully defines his authority, responsibility, reporting channels and organizational structure;

(6) to pay the salaries of individuals assigned to the RCAS program management office, source selection evaluation board, and source selection advisory board unless such organizations are comprised of personnel chosen jointly by the Chiefs of the National Guard Bureau and the Army Reserve;

(7) to award a contract for development or acquisition of RCAS unless such contract is competitively awarded under procedures of OMB Circular A-109 for an integrated system consisting of software, hardware, and communications equipment and unless such contract precludes the use of Government furnished equipment, operating systems, and executive and applications software; and

(8) unless RCAS performs its own classified information processing.

SEC. 8037. None of the funds provided for the Department of Defense in this Act may be obligated or expended for fixed price-type contracts in excess of $10,000,000 for the development of a major system or subsystem unless the Under Secretary of Defense for Acquisition determines, in writing, that program risk has been reduced to the extent that realistic pricing can occur, and that the contract type permits an equitable and sensible allocation of program risk between the contracting parties: *Provided*, That the Under Secretary may not delegate this authority to any persons who hold a position in the Office of the Secretary of Defense below the level of Assistant Secretary of Defense: *Provided further*, That at least thirty days before making a determination under this section the Secretary of Defense will notify the Committees on Appropriations of the Senate and House of Representatives in writing of his intention to authorize such a fixed price-type developmental contract and shall include in the notice an explanation of the reasons for the determination.

SEC. 8038. Monetary limitations on the purchase price of a passenger motor vehicle shall not apply to vehicles purchased for intelligence activities conducted pursuant to Executive Order 12333 or successor orders.

SEC. 8039. Not to exceed $20,000,000 of the funds available to the Department of the Army during the current fiscal year may be used to fund the construction of classified military projects within the Continental United States, including design, architecture, and engineering services.

SEC. 8040. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further*, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States.

(TRANSFER OF FUNDS)

SEC. 8041. Notwithstanding any other provision of law, the Department of Defense may transfer prior year unobligated balances and funds appropriated in this Act to the operation and maintenance appropriations for the purpose of providing military technician pay and Department of Defense medical personnel and programs (including CHAMPUS) the same exemption from sequestration set forth in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119) as that granted the other military personnel accounts: *Provided*, That any transfer made pursuant to any use of the authority provided by this provision shall be limited so that the amounts reprogrammed to the operation and maintenance appropriations do not exceed the amounts sequestered under the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119): *Provided further*, That the authority to make transfers pursuant to this section is in addition to the authority to make transfers under other provisions of this Act: *Provided further*, That the Secretary of Defense may proceed with such transfer after notifying the Appropriations Committees of the House of Representatives and the Senate twenty legislative days before any such transfer of funds under this provision: *Provided further*, That amounts transferred under this provision for Department of Defense medical personnel and programs (including CHAMPUS), shall come from prior year unobligated appropriations and shall be offset within the appropriations to which transferred.

SEC. 8042. None of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel homeported on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

SEC. 8043. The designs of the Army LHX helicopter, the Navy Advanced Tactical Aircraft, the Air Force Advanced Tactical Fighter, and any variants of these aircraft, must incorporate Joint Integrated Avionics Working Group standard avionics specifications no later than 1998.

(TRANSFER OF FUNDS)

SEC. 8044. Notwithstanding any other provision of law, $294,000,000 of the funds appropriated or made available in this Act shall be transferred to the United States Coast Guard, of which $289,000,000 shall be transferred to "Operating Expenses" and $5,000,000 shall be transferred to "Acquisition, Construction, and Improvement" for Coast Guard family housing: *Provided*, That of the funds appropriated or made available in the National Guard and Reserve Equipment appropriation in this Act, the Secretary of the Navy shall obligate $6,000,000 to procure six AN/SQQ-T1 antisubmarine warfare trainers for transfer to the United States Coast Guard.

SEC. 8045. The Secretary of Defense shall take such action as necessary to assure that a minimum of 50 percent of the polyacrylonitrile (PAN) carbon fiber requirement be procured from domestic sources by 1992: *Provided*, That the annual goals to achieve this requirement be as follows: 15 percent of the total DOD requirement by 1988; 15 percent of total DOD requirement by 1989; 20 percent of the total DOD requirement by 1990; 25 percent of the total DOD requirement by 1991; and 50 percent of the total DOD requirement by 1992.

SEC. 8046. Of the funds appropriated, reimbursable expenses incurred by the Department of Defense on behalf of the Soviet Union in monitoring United States implementation of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range or Shorter-Range Missiles ("INF Treaty"), concluded December 8, 1987, may be treated as orders received and obligation authority for the applicable appropriation, account, or fund increased accordingly. Likewise, any reimbursements received for such costs may be credited to the same appropriation, account, or fund to which the expenses were charged: *Provided*, That reimbursements which are not received within one hundred and eighty days after submission of an appropriate request for payment shall be subject to interest at the current rate established pursuant to section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (59 Stat. 526). Interest shall begin to accrue on the one hundred and eighty-first day following submission of an appropriate request for payment: *Provided further*, That funds appropriated in this Act may be used to reimburse United States military personnel for reasonable costs of subsistence, at rates to be determined by the Secretary of Defense, incurred while accompanying Soviet Inspection Team members engaged in activities related to the INF Treaty: *Provided further*, That this provision includes only the in-country period (referred to in the INF Treaty) and is effective whether such duty is performed at, near, or away from an individual's permanent duty station.

SEC. 8047. The total amount appropriated to or for the use of the Department of Defense by this Act is reduced by $180,000,000 to reflect savings resulting from the decreased use of consulting services by the Department of Defense. The Secretary of Defense shall allocate the amount reduced in the preceding sentence and not later than March 1, 1991, report to the Senate and House Committees on Appropriations how this reduction was allocated among the Services and Defense Agencies: *Provided*, That this section does not apply to the reserve components.

SEC. 8048. Funds available in this Act may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.

SEC. 8049. (a) Within the funds made available to the Air Force under title II of this Act, the Air Force shall use such funds as necessary, but not to exceed $17,000,000, to execute the cleanup of uncontrolled hazardous waste contamination affecting the Sale Parcel at Hamilton Air Force Base, in Novato, in the State of California.

(b) In the event that the purchaser of the Sale Parcel exercises its option to withdraw from the sale as provided in the Agreement, dated September 25, 1990, between the Department of Defense, the General Services Administration, and the purchaser, the purchaser's deposit of $4,500,000 shall be returned by the General Services Administration and funds eligible for reimbursement under the Agreement and Modification shall come from the funds made available to the Department of Defense by this Act.

(c) Notwithstanding any other provision of law, the Air Force shall be reimbursed for expenditures in excess of $15,000,000 in connection with the total clean-up of uncontrolled hazardous waste contamination on the aforementioned Sale Parcel from the proceeds collected upon the closing of the Sale Parcel.

SEC. 8050. None of the funds available to the Department of Defense or Navy shall be obligated or expended to (1) implement Automatic Data Processing or Information Technology Facility consolidation plans, or (2) make reductions or transfers in personnel end strengths, billets or missions that affect the Naval Regional Data Automation Center or any other Naval personnel commands, data processing, or personnel functions or missions in southeast Louisiana until sixty days after the Secretary of Defense submits a report, including complete review comments by the General Accounting Office, to the Committees on Appropriations of the House and Senate justifying any transfer, reductions, or consolidations in terms of (1) addressing the overall mission and operations staffing of all Naval Automatic Data Processing, Information Technology Facility, and Naval personnel functions for all active and reserve personnel commands and field activities and Automatic Data Processing commands and field activities; and (2) certifying that such reduction, transfer or consolidation plans or operations do not duplicate functions presently conducted; are cost effective from a budgetary standpoint; will not adversely affect the mission, readiness and strategic considerations of the Navy and the Naval Reserve and will not adversely impact on the quality of life and economic benefits of the individual serviceman or have an adverse economic impact on a geographic area.

SEC. 8051. None of the funds appropriated in this Act may be available for offshore procurement of second or third generation night vision image intensifier tubes and devices: *Provided*, That when adequate domestic supplies are not available to meet Department of Defense requirements on timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8052. None of the funds available t the Department of Defense, including expired appropriations and M account ba ances, may be used for the B-1B's ALQ 161A CORE program unless the Secretary of Defense has notified the Congress in ac vance of his intention to use funds for such purpose.

Sec. 8053. No funds appropriated by this Act may be obligated or expended to prepare, or to assist any contractor of the Department of Defense in preparing, any material, report, list, or analysis with respect to the actual or projected economic or employment impact in a particular State or congressional district of an acquisition program for which all research, development, testing and evaluation has not been completed.

Sec. 8054. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

Sec. 8055. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines:

(a) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(b) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(c) where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

Sec. 8056. None of the funds available to the Department of Defense in this Act shall be used to demilitarize or dispose of more than 310,784 unserviceable M1 Garand rifles and M1 Carbines.

Sec. 8057. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

Sec. 8058. Notwithstanding any other provision of law, funds available in this Act shall be available to the Department of Defense to grant civilian employees participating in productivity-based incentive award programs paid administrative time off in lieu of cash payment as compensation for increased productivity.

Sec. 8059. None of the funds appropriated by this Act may be used by the Department of Defense to assign a supervisor's title or grade when the number of people he or she supervises is considered as a basis for this determination: *Provided*, That savings that result from this provision are represented as such in future budget proposals.

Sec. 8060. From the amounts appropriated in this Act, funds shall be available for Naval Aviation Depots to perform manufacturing in order to compete for production contracts of Defense articles: *Provided*, That the Navy shall certify that successful bids between Naval Aviation Depots and private companies for such production contracts include comparable estimates of all direct and indirect costs: *Provided further*, That competitions conducted under this authority shall not be subject to section 2461 or 2464 of title 10, United States Code, or to Office of Management and Budget Circular A-76.

Sec. 8061. Of the funds made available in this Act for military personnel appropriations, $3,000,000 shall be available for the payment of bonuses to officers of the Army Nurse Corps, the Navy Nurse Corps and officers designated as Air Force nurses. A bonus, in an amount not to exceed $6,000, may be paid, under such regulations and conditions as the Secretary of Defense deems appropriate, to such an officer: *Provided*, That the officer is on active duty under a call or order to active duty for a period of not less than one year: *Provided further*, That the officer is qualified and performing as an anesthetist: *And provided further*, That this provision shall not be effective unless specifically authorized.

Sec. 8062. None of the funds appropriated by this or any other Act with respect to any fiscal year for the Navy may be used to carry out an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator for Ships (EMPRESS II) program unless or until the Secretary of Defense certifies to the Congress that conduct of the EMPRESS II program is essential to the national security of the United States and to achieving requisite military capability for United States naval vessels, and that the economic, environmental, and social costs to the United States of conducting the EMPRESS II program in the Chesapeake Bay area are far less than the economic, environmental, and social costs caused by conducting the EMPRESS II program elsewhere.

(TRANSFER OF FUNDS)

Sec. 8063. Upon enactment of this Act, the Secretary of Defense shall make the following transfer of funds: *Provided*, That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, and for the same time period of the appropriation from which transferred: *Provided further*, That funds shall be transferred between the following appropriations in the amounts specified:

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1987/1991":

CG-47 cruiser program, $25,000,000;

Strategic sealift program, $9,539,000; and

For craft, outfitting, and post delivery, $14,736,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1988/1992":

CG-47 cruiser program, $110,000,000;

LHD-1 amphibious assault ship program, $473,000; and

For craft, outfitting, and post delivery, $33,568,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1989/1993":

For outfitting and post delivery, $11,344,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1990/1994":

MHC coastal mine hunter program, $64,900,000;

For craft, outfitting, post delivery, and ship special support equipment, $38,740,000; and

Under the heading, "Other Procurement, Navy, 1990/1992", $13,300,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1984/1988":

SSN-688, nuclear attack submarine program, $23,800,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1985/1989":

SSN-688, nuclear attack submarine program, $54,300,000; and

DDG-51, guided missile destroyer program, $41,700,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1986/1990":

MSH coastal mine hunter program, $36,000,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1987/1991":

SSN-688 attack submarine program, $14,000,000;

AOE fast combat support ship program, $13,300,000;

AO conversion program, $3,600,000; and

T-AGOS ocean surveillance ship program, $2,700,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1989/1993":

MHC coastal mine hunter program, $1,000,000;

AOE combat support ship program, $8,700,000; and

T-AGOS surveillance ship program, $6,700,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1990/1994":

Aircraft carrier service life extension program, $21,000,000;

T-AGOS surveillance ship program, $28,800,000;

AOE combat support ship program, $27,900,000; and

Oceanographic ship program, $36,100,000.

Sec. 8064. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may acquire the depot maintenance and repair of aircraft, vehicles, vessels and components, through competition between Department of Defense depot maintenance activities and private firms: *Provided*, That the Secretary shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids.

Sec. 8065. Of the funds appropriated by this Act, no more than $4,000,000 shall be available for the health care demonstration project regarding chiropractic care required by section 632(b) of the Department of Defense Authorization Act, 1985, Public Law 98-525.

Sec. 8066. None of the funds appropriated by this Act may be used to pay health care providers under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) for services determined under the CHAMPUS Peer Review Organization (PRO) Program to be not medically or psychologically necessary. The Secretary of Defense may by regulation adopt any quality and utilization review requirements and procedures in effect for the Peer Review Organization Program under title XVIII of the Social Security Act (Medicare) that the Secretary determines necessary, and may adapt the Medicare requirements and procedures to the circumstances of the CHAMPUS PRO Program as the Secretary determines appropriate.

Sec. 8067. For the purpose of conducting a demonstration project, to test methods of increasing collections from third-party payers of reasonable inpatient hospital care costs incurred on behalf of retirees and dependents pursuant to section 1095 of title 10, United States Code, the Secretary of Defense is authorized to modify existing Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) regional fiscal

intermediary contracts to assist in the administration of activities in connection with such collections: *Provided*, That amounts collected under this section from a third-party payer for the costs of inpatient hospital care provided at a facility of the uniformed services shall be credited to the appropriation supporting the maintenance and operation of the facility.

Sec. 8068. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

Sec. 8069. None of the funds appropriated by this Act shall be available for payments under the Department of Defense contract with the Louisiana State University Medical Center involving the use of cats for Brain Missile Wound Research, and the Department of Defense shall not make payments under such contract from funds obligated prior to the date of the enactment of this Act, except as necessary for costs incurred by the contractor prior to the enactment of this Act, and until thirty legislative days after the final General Accounting Office report on the aforesaid contract is submitted for review to the Committees on Appropriations in the House and Senate: *Provided*, That funds necessary for the care of animals covered by this contract are allowed.

Sec. 8070. None of the funds provided in this Act or any other Act shall be available to conduct bone trauma research at the Letterman Army Institute of Research until the Secretary of the Army certifies that the synthetic compound to be used in the experiments is of such a type that its use will result in a significant medical finding, the research has military application, the research will be conducted in accordance with the standards set by an animal care and use committee, and the research does not duplicate research already conducted by a manufacturer or any other research organization.

Sec. 8071. None of the funds available to the Department of Defense in this Act may be used to procure air circuit breakers for United States Naval vessels unless the circuit breakers are produced or manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That for purpose of this section substantially all of the components of air circuit breakers shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States.

(INCLUDING TRANSFER OF FUNDS)

Sec. 8072. (a) Upon the date of enactment of this Act, the balances of any unobligated amount of an appropriation of the Department of Defense which has been withdrawn under the provisions of section 1552(a)(2) of title 31, United States Code, the obligated balance of which has not been transferred pursuant to the provisions of section 1552(a)(1) of title 31, United States Code, shall be restored to that appropriation. Thirty days following enactment of this Act all balances of unobligated funds withdrawn from any account of the Department of Defense under the provisions of section 1552(a)(2) of title 31, United States Code, prior to the enactment of this Act, (other than those restored pursuant to the provisions of this subsection) are cancelled.

(b) During the current fiscal year and thereafter,

(1) on the 3rd September 30th after enactment of this section, all obligated balances transferred under section 1552(a)(1) of title 31, United States Code;

(2) on September 30th of the 5th fiscal year after the period of availability of an appropriation account of the Department of Defense available for obligation for a definite period ends or has ended, with respect to those accounts which, upon the date of enactment of this section have expired for obligation but whose obligated balances have not been transferred pursuant to the provisions of section 1552(a)(1) of title 31, United States Code, and,

(3) with respect to any appropriation account made available to the Department of Defense for an indefinite period against which no obligations have been made for two consecutive years and upon a determination by the Secretary of Defense or the President that the purposes of such indefinite appropriation have been carried out, any remaining obligated or unobligated balance of such accounts are closed and thereafter shall not be available for obligation or expenditure for any purpose: *Provided*, That collections authorized to be credited to an account which were not credited to the account before it was closed shall be deposited in the Treasury as miscellaneous receipts: *Provided further*, That, without prior action by the Comptroller General but without relieving the Comptroller General of the duty to make decisions under any law or to settle claims and accounts, when an account is closed (including accounts covered by subsection (a) of this section) and currently applicable appropriations of the Department of Defense are not chargeable, obligations and adjustments to obligations that would have been chargeable to an account prior to closing, may be chargeable to currently applicable appropriations of the Department of Defense available for the same purpose in amounts equal to one percent of the total appropriation for the current account or the amount of the original appropriation, whichever is less: *Provided further*, That after the end of the period of availability of an appropriation account available for a definite period and before closing of that account under this section such account shall be available for recording, adjusting, and liquidating obligations properly chargeable to such account in amounts not to exceed the unobligated expired balances of such appropriation: *Provided however*, That with respect to a change to a contract under which the contractor is required to perform additional work, other than adjustments to pay claims or increases under an escalation clause (hereinafter referred to as a contract change), if such a charge for such a contract change with respect to a program, project or activity would cause the total amount of such obligations to exceed $4,000,000 in any single fiscal year for a program, project, or activity, the obligation may only be made if the obligation is approved by the Secretary of Defense or, if such a change would cause the total amount of such obligations to exceed $25,000,000 in any single fiscal year for a program, project or activity, the obligation may be made only after 30 days have elapsed after the Secretary of Defense submits to the Committees on Appropriations and Armed Services of the Senate and the House of Representatives a notice of the intention to obligate such funds, together with the legal basis and the policy reasons for making such an obligation.

(c) The provisions of this section shall apply to any appropriation account now or hereafter made unless the appropriation Act for that account specifically provides for an extension of the availability of such account and provides an exception to the five year period of availability for recording, adjusting and liquidating obligations properly chargeable to that account.

Sec. 8073. The Secretary of Defense shall include in any base closure and realignment plan submitted to Congress after the date of enactment of this Act, a complete review for the five year period beginning on October 1, 1990, which shall include expected force structure and levels for such period, expected installation requirements for such period, a budget plan for such period, the cost savings expected to be realized through realignments and closures of military installations during such period, an economics model to identify the critical local economic sectors affected by proposed closures and realignments of military installations and an assessment of the economic impact in each area in which a military installation is to be realigned or closed.

Sec. 8074. None of the funds appropriated in this Act shall be used for the transfer, or preparation for the transfer, of the 2.5- and 5.0-ton truck maintenance mission and/or towed and self-propelled artillery maintenance mission from Letterkenny Army Depot.

Sec. 8075. No more than $50,000 of the funds appropriated or made available in this Act shall be used for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and Senate that such a relocation is required in the best interest of the government: *Provided further*, That no funds appropriated or made available in this Act shall be used for the relocations into the National Capital Region of the acquisition function of the Special Operations Command and the Air Force Office of Medical Support located at Brooks Air Force Base.

Sec. 8076. None of the funds appropriated in this Act shall be used to produce more than two-thirds of the liquid gas requirements in-house at Andersen Air Force Base on Guam. At least one-third of Andersen Air Force Base's liquid gas requirements shall be met by acquiring liquid gas from commercial sources on Guam.

Sec. 8077. None of the funds in this Act shall be used to reduce the end strength and force structure of the reserve components of the Department of Defense below the levels funded in this Act: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such a reduction is required for national security purposes: *Provided further*, That the operation of the Air Force and Air Force Reserve WC-130 Weather Reconnaissance squadrons may not be reduced or disestablished, except for the purpose of transferring the mission to the Air Force Reserve.

Sec. 8078. Funds appropriated or otherwise available for any Federal agency, the Congress, the judicial branch, or the District of Columbia for the fiscal year ending September 30, 1991, may be used for the pay, allowances, and benefits of an employee as defined by section 2105 of title 5 or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—

(1) is a member of a Reserve component of the armed forces, as described in section 261 of title 10, or the National Guard, as described in section 101 of title 32;

(2) performs, for the purpose of providing military aid to enforce the law or providing assistance to civil authorities in the protection or saving of life or property or prevention of injury—

(A) Federal service under section 331, 332, 333, 3500, or 8500 of title 10, or other provision of law, as applicable, or

(B) full-time military service for his State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States; and

(3) requests and is granted—

(A) leave under the authority of this section; or

(B) annual leave, which may be granted without regard to the provisions of sections 5519 and 6323(b) of title 5, if such employee is otherwise entitled to such annual leave:

Provided, That any employee who requests leave under subsection (3)(A) for service described in subsection (2) of this section is entitled to such leave, subject to the provisions of this section and of the last sentence of section 6323(b) of title 5, and such leave shall be considered leave under section 6323(b) of title 5.

Sec. 8079. None of the funds appropriated by this Act shall be available to initiate any cost study pursuant to the provisions of OMB Circular A-76 or to continue any such cost study being performed on the date of enactment of this Act beyond a period of 24 months after initiation of such studies with respect to a single function activity or 48 months after initiation of such studies for a multi-function activity: *Provided*, That the prohibition on the continuation of studies under the provisions of this section shall not apply to those studies for which the Secretary of Defense provides notification and justification, on a case-by-case basis, to the Committees on Appropriations of the House of Representatives and the Senate that such continuation is necessary in the national interest.

Sec. 8080. None of the funds appropriated by this Act shall be used to begin closing a military treatment facility unless the Secretary of Defense notifies the Committees on Appropriations of the House of Representatives and the Senate ninety days prior to such action.

(TRANSFER OF FUNDS)

Sec. 8081. Of the funds appropriated or made available to the Department of Defense in this Act, $30,000,000 shall be transferred to the Department of Energy solely for the final decontamination and decommissioning of the Nuclear Fuel Facility, Apollo, Pennsylvania, by January 1993, to meet the National Regulatory Commission's limits for unrestricted use: *Provided*, That these funds shall remain available until expended.

Sec. 8082. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

Sec. 8083. None of the funds appropriated by this Act shall be available for the recruitment or enrollment of a new student or class of students at the Uniformed Services University of the Health Sciences for any class commencing after September 30, 1991.

Sec. 8084. Notwithstanding any other provision of law, after June 1, 1991, all Department of Defense software shall be written in the programming language Ada, in the absence of special exemption by an official designated by the Secretary of Defense.

Sec. 8085. Using funds available in the National Defense Stockpile Transaction Fund, the President shall acquire from current domestic sources not less than thirty-six million pounds of depleted uranium to be held in the National Defense Stockpile.

Sec. 8086. None of the funds appropriated by this Act shall be obligated to fund more than 95,000 permanent change of station moves of active military personnel to Europe.

Sec. 8087. During the current fiscal year, none of the funds available to the Department of Defense shall be used for the training or utilization of psychologists in the prescription of drugs.

Sec. 8088. None of the funds appropriated by this Act shall be used to reduce the military and civilian work force at any military medical facility or medical support facility below the level maintained or authorized for fiscal year 1990: *Provided*, That the foregoing limitation shall not apply to any facility located at an installation scheduled for closure or realignment pursuant to the provisions of the Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2623).

(TRANSFER OF FUNDS)

Sec. 8089. From funds appropriated in this Act, such amounts as may be necessary, but not to exceed $5,000,000 shall be made available only for a project for the design and construction of a parliament building in the Solomon Islands, such project to be carried out so as to be completed not later than November 1993. Funds for such project shall be identified and made available to the Secretary of the Navy not later than 60 days after the date of the enactment of this Act.

Sec. 8090. Clauses (2) and (3) of section 7308(c) of title 10, United States Code, shall not apply with respect to the transfer by the Secretary of the Navy under section 7308(a) of such title of the obsolete destroyer U.S.S. Turner Joy to the Bremerton Historic Ships Association for use by the Association as a Navy museum and memorial.

Sec. 8091. Of the funds appropriated in fiscal year 1989 under the heading, "Aircraft Procurement, Navy", $200,000,000 shall be made available to the Department of the Navy for obligation for the V-22 Osprey tilt-rotor aircraft program.

(RESCISSIONS)

Sec. 8092. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts in the specified amounts:

Aircraft procurement, Army, 1990/1992, $26,798,000;

Missile procurement, Army, 1990/1992, $264,246,000;

Procurement of weapons and tracked combat vehicles, Army, 1989/1991, $45,808,000;

Procurement of weapons and tracked combat vehicles, Army, 1990/1992, $43,000,000;

Procurement of ammunition, Army, 1989/1991, $72,000,000;

Procurement of ammunition, Army, 1990/1992, $18,000,000;

Other procurement, Army, 1989/1991, $24,100,000;

Other procurement, Army, 1990/1992, $18,900,000;

Aircraft procurement, Navy, 1989/1991, $10,600,000;

Weapons procurement, Navy, 1990/1992, $88,205,000;

Other procurement, Navy, 1989/1991, $9,400,000;

Other procurement, Navy, 1990/1992, $56,800,000;

Procurement, Marine Corps, 1989/1991, $7,000,000;

Procurement, Marine Corps, 1990/1992, $80,300,000;

Aircraft procurement, Air Force, 1989/1991, $174,190,000;

Aircraft procurement, Air Force, 1990/1992, $228,159,000;

Missile procurement, Air Force, 1989/1991, $76,168,000;

Missile procurement, Air Force, 1990/1992, $198,969,000;

Other procurement, Air Force, 1989/1991, $1,800,000;

Other procurement, Air Force, 1990/1992, $45,616,000;

Research, development, test and evaluation, Army, 1990/1991, $17,000,000;

Research, development, test and evaluation, Defense Agencies, 1990/1991, $50,000,000.

Sec. 8093. None of the funds made available to the Department of Defense in this Act may be obligated or expended for the Ground-Wave Emergency Network (GWEN) System, until (1) the Secretary of Defense provides for the conduct of an independent study of such system on the health effects and environmental impact of the system on surrounding local jurisdictions; and (2) a report containing the results of such study, together with the Secretary's comments and recommendations concerning the report, has been submitted to the Congressional Defense Committees and a period of 15 days has elapsed after the report is received.

(INCLUDING TRANSFER OF FUNDS)

Sec. 8094. SECTION 1. This section establishes the National Commission on Defense and National Security.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Recent revolutionary world events require a fundamental reassessment of the defense and national security policies of the United States.

(2) Emerging democracies around the world will require political, technical, and economic assistance, as well as military assistance, from the developed free nations in order to thrive and to become productive members of the world community.

(3) Real and potential military threats to the United States and its allies will continue to exist for the foreseeable future from not just the Soviet Union but also from terrorism and from Third World nations.

(4) Proliferation of both sophisticated conventional weapons and of nuclear weapons could produce a world more dangerous than we have faced in the past.

(5) Ethnic rivalries as well as economic inequalities may produce instabilities that could spark serious conflict.

(6) In order to formulate coherent national policies to meet these challenges of a new world environment, it is essential for the United States to achieve a bipartisan consensus such as that which emerged following World War II.

(7) Such a consensus can be fostered by the development of policy recommendations from a highly respected group of individuals who do not bear a partisan label and who possess critical expertise and experience.

SEC. 3. ESTABLISHMENT.

There is established a commission to be known as National Commission on Defense and National Security (hereinafter in this Act referred to as the "Commission").

SEC. 4. DUTIES OF COMMISSION.

(a) In General.—The Commission shall analyze and make recommendations to the President and Congress concerning the national security and national defense policies of the United States.

(b) Matters To Be Analyzed.—Matters to be analyzed by the Commission shall include the following:

(1) The world-wide interests, goals, and objectives of the United States that are vital to the national security of the United States.

(2) The political, economic, and military developments around the world and the implications of those developments for United States national security interests, including—

(A) the developments in Eastern Europe and the Soviet Union;

(B) the question of German unification;

(C) the future of NATO and European economic integration;

(D) the future of the Pacific Basin; and

(E) potential instability resulting from regional conflicts or economic problems in the developing world.

(3) The foreign policy, world-wide commitments, and national defense capabilities of the United States necessary to deter aggression and implement the national security strategy of the United States, including the contribution that can be made by bilateral and multilateral political and economic associations in promoting interests that the United States shares with other members of the world community.

(4) The proposed short-term uses of the political, economic, military, and other elements of national power for the United States to protect or promote the interests and to achieve the goals and objectives referred to in paragraph (1).

(5) Long-term options that should be considered further for a number of potential courses of world events over the remainder of the century and into the next century.

SEC. 5. MEMBERSHIP.

(a) Number and Appointment.—The Commission shall be composed of 10 members, as follows:

(1) Three appointed by the President.

(2) Three appointed by the Speaker of the House of Representatives.

(3) One appointed by the minority leader of the House of Representatives.

(4) Two appointed by the majority leader of the Senate.

(5) One appointed by the minority leader of the Senate.

(b) Qualifications.—Persons appointed to the Commission shall be persons who are not officers or employees of the Federal Government (including Members of Congress) and who are specially qualified to serve on the Commission by virtue of their education, training, or experience.

(c) Terms.—Members shall be appointed for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) Basic Pay.—Members of the Commission shall serve without pay.

(e) Quorum.—A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) Chairman and Vice Chairman.—The Chairman of the Commission shall be designated by the President from among the members appointed by the President. The Vice Chairman of the Commission shall be designated by the Speaker of the House of Representatives from among the members appointed by the Speaker.

(g) Meetings.—The Commission shall meet at the call of the Chairman or a majority of its members.

(h) Deadline for Appointments.—Members of the Commission shall be appointed not later than the end of the 30-day period beginning on the date of the enactment of this Act.

SEC. 6. REPORTS.

(a) Initial Report.—The Commission shall transmit to the President and to Congress an initial report not later than six months after the date on which the Commission is first constituted with a quorum.

(b) Subsequent Annual Reports.—The Commission shall transmit to the President and to Congress an annual report for each of the first five years following the submission of the initial report under subsection (a). Each such report shall update the previous report under this section.

(c) Contents of Reports.—Each report under this section shall contain a detailed statement of the findings and conclusions of the Commission concerning the matters to be studied by the Commission under section 4, together with its recommendations for such legislation and administrative actions as it considers appropriate. Each such report shall include a comprehensive description and discussion of the matters set forth in section 4.

(d) Reports To Be Unclassified.—Each such report shall be submitted in unclassified form.

(e) Additional and Minority Views.—Each report may include such additional and minority views as individual members of the Commission may request be included.

SEC. 7. DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) Director.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, have a Director who shall be appointed by the Chairman and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS-18 of the General Schedule.

(b) Staff.—The Chairman may appoint and fix the pay of such additional personnel as the Chairman considers appropriate.

(c) Applicability of Certain Civil Service Laws.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(d) Experts and Consultants.—Subject to such rules as may be prescribed by the Commission, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(e) Staff of Federal Agencies.—Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

SEC. 8. POWERS OF COMMISSION.

(a) Hearings and Sessions.—The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) Powers of Members and Agents.—Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) Obtaining Official Data.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) Administrative Support Services.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

SEC. 9. INITIAL FUNDING OF COMMISSION.

If funds are not otherwise available for the necessary expenses of the Commission for fiscal year 1991, the Secretary of Defense shall make available to the Commission, from funds available to the Secretary for the fiscal year concerned, such funds as the Commission requires. When funds are specifically appropriated for the expenses of the Commission, the Commission shall reimburse the Secretary from such funds for any funds provided to it under the preceding sentence.

SEC. 8095. CONTRIBUTIONS BY JAPAN TO THE SUPPORT OF UNITED STATES FORCES IN JAPAN.

(a) Permanent Ceiling on United States Armed Forces in Japan.—After September 30, 1990, funds appropriated pursuant to an appropriation contained in this Act or any subsequent Act may not be used to support an end strength level of all personnel of the Armed Forces of the United States stationed in Japan at any level in excess of 50,000.

(b) Annual Reduction in Ceiling Unless Support Furnished.—Unless the President certifies to Congress before the end of each fiscal year that Japan has agreed to offset for that fiscal year the direct costs incurred by the United States related to the presence of all United States military personnel in Japan, excluding the military personnel title costs, the end strength level for that fiscal year of all personnel of the Armed Forces of the United States stationed in Japan may not exceed the number that is 5,000 less than such end strength level for the preceding fiscal year.

(c) Sense of Congress.—It is the sense of Congress that all those countries that share the benefits of international security and stability should share in the responsibility for that stability and security commensurate with their national capabilities. The Congress also recognizes that Japan has made a substantial pledge of financial support to the effort to support the U.N. Security Council resolutions on Iraq. The Congress also recognizes that Japan has a greater economic capability to contribute to international security and stability than any other member of the international community and wishes to encourage Japan to contribute commensurate with that capability.

(d) EXCEPTIONS.—(1) This section shall not apply in the event of a declaration of war or an armed attack on Japan.

(2) This section may be waived by the President if he declares an emergency and immediately informs the Congress of the waiver and the reasons for the waiver.

(e) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act.

Mr. **MURTHA** (during the reading). Mr. Chairman, I ask unanimous consent that title VIII be considered as read, printed in the RECORD, and open to amendment at any point.

The **CHAIRMAN** pro tempore [Mr. DERRICK]. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The **CHAIRMAN** pro tempore. Are there points of order against title VIII?

If not, are there amendments to title VIII?

Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. **TRAFICANT**. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: At the end of the bill reduce all accounts by 10 percent.

Mr. **TRAFICANT**. I do not think this has a shot. But I think it is a shame that an appropriation bill of almost $290 billion on the taxpayer's back in America is going to go without even an amendment to cut it. We are going to add taxes on senior citizens, truck drivers, beer drinkers, mom and dad and everybody else.

Mr. Chairman, I love the chairman from Pennsylvania [Mr. MURTHA]. If there is a better Member, I want to know who he is. And I can understand him standing tall as an ex-marine for our country.

But we have come down to it, folks, we are now down to that fight. Is it going to be guns, or is it going to be education? Is it going to be guns, or is it going to be bankruptcy?

We have created at the Pentagon something General Eisenhower warned us about. Do you know what bothers me about the Pentagon now? They are so strong Congress cannot and does not control the Pentagon.

You call this a cut? My amendment would cut 10 percent, approximately $30 billion, and that is not enough.

Mr. Chairman, we do not need to raise taxes in this country; we need some sanity over there at the Pentagon. They are ripping us off, and they are ripping off the American taxpayers, and these big contractors are feeding on our taxpayers. And Congress is a bunch of wimps for allowing it!

I submitted a handwritten amendment to this Congress. An appropriation bill of almost $300 billion has gone so fast you could blink your eyes and it would have passed, without debate.

I am asking Members of this body who have some common sense: Look, 10 percent, there is 10 percent waste in the best corporation in America. How can you compare, how can you compare the Pentagon with America's best corporations?

I can remember going to Harvard as a new Member, and I can remember talking to the chairman. I am going to name him. I said I am concerned about this MX and buildup of the military. He said, "I know. As a new chairman, I am going to oppose the MX even though deep down I am for it." What happened, we have the MX thrown right down our damn throats.

I am upset with it, damn it. I do not like it, I do not like the hustle, and I do not like the so-called hawks around here. These are not hawks, these are money merchants in this body who are ripping us off, and if Congress fails to cut the defense budget, America is going to have a depression. That is what I am saying, we cannot miss, damn it.

Every one of you knows that, but the trouble is Congress does not own their vote anymore, Congress does not own their vote anymore. Congress sold out. This is a damn house of political prostitutes.

I am not one of them. I would be willing to cut every domestic program there is, and my area is hurting, but I cannot believe that we will stand here and not even offer an amendment, to cut this big tub of pork.

What came out of the House Budget Committee? It was $283 billion. I did not have much of a shot. I offered a 2-percent amendment, which would have taken it to $277 billion, and I said then, that I know "when it goes to conference they are going to take that turkey back up." No, they said, "We are going to stick with $283. These are real cuts." Yeah, and the tooth fairy really lives too!

Mr. Chairman, I am not finished yet.

Mr. **DICKS**. Mr. Chairman, may I inquire how much time does the gentleman have?

The **CHAIRMAN** pro tempore. The gentleman has 1 minute remaining.

Mr. **TRAFICANT**. There is 1 minute remaining to try to influence the Congress that has the most expensive credit card in world history that they put in these little machines, and, the truth is, these credit cards are threatening our freedom.

Do you know what else is bad? We are making a centralized government in the form of the Pentagon so powerful that the American people may someday fear.

I have a 10-percent cut, and then I have a 5-percent cut, and then there will be a 2-percent cut. And if we do not vote to cut this thing, the American people should vote to cut us all to hell out of here and let somebody else do the job.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The **CHAIRMAN** pro tempore. The Chair would caution: The galleries are not to demonstrate, please, for or against anything that goes on.

The time of the gentleman from Ohio [Mr. TRAFICANT] has expired.

(By unanimous consent, Mr. TRAFICANT was allowed to proceed for 2 additional minutes.)

Mr. **TRAFICANT**. You know why the people in the gallery were applauding? Because the American taxpayer agrees with what I have said. The American taxpayer in your district maybe does not even understand it because of all the rhetoric, but if they did, they would agree with what I have said.

You deep down agree with what I have said!

Now I have heard about Desert Shield, and I want to conclude with that. I do not want to see any of our young men and women hurt. I am going to be—it is going to be said, "Look at Traficant now, hurting our young people out there in the gulf." That's baloney—

There are 200,000 troops in the Persian Gulf; 165,000 of them are Americans. This is not America versus Hussein. Hussein is a world problem. Let the world pay for it.

Why do our taxpayers have to pay for every damn fight, why do our kids have to come home in body bags and pine boxes? Do you know why? Because we do not have enough courage in the Congress to run our Government. We are not running it, and it is being run right into the damn ground. That's evident.

This is really a shame. I will tell you, don't anybody call me a dove, don't anybody call me weak on defense, because you will get me mad, because defense cuts will make America stronger, because America's greatest threat is not one of those Winnie-the-Pooh Soviet missiles, it is our economy, and our economy is falling apart! We should make these cuts!

Mr. **PENNY**. Mr. Chairman, are we open for amendment? Is there an amendment pending?

The **CHAIRMAN** pro tempore. Yes, there is an amendment pending.

Mr. **TRAFICANT**. Mr. Chairman, I ask unanimous consent that the pending amendment be allowed to amend the Traficant amendment on the House floor at this time.

The **CHAIRMAN** pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. **McDADE**. Mr. Chairman, reserving the right to object, what is the amendment?

The **CHAIRMAN** pro tempore. The gentleman from Minnesota [Mr. PENNY] may offer an amendment, if he likes, to the amendment, or a substitute for the pending amendment.

Mr. **TRAFICANT**. Mr. Chairman, I withdraw my unanimous-consent request because I do have a second amendment, I withdraw my unanimous-consent request and ask that we consider the first, the 10-percent amendment.

The **CHAIRMAN** pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The **CHAIRMAN** pro tempore. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The question was taken, and the Chairman pro tempore announced that the noes appeared to have it.

REQUEST FOR A RECORDED VOTE

Mr. **TRAFICANT**. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that quorum is not present.

The **CHAIRMAN** pro tempore. The Chair will count for a quorum.

Mr. **TRAFICANT**. Mr. Chairman, on that I withdraw my request for a recorded vote and ask unanimous consent to withdraw my amendment.

The **CHAIRMAN** pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

☐ 1100

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. **TRAFICANT**. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT:

At the end of the bill reduce all accounts by 5%.

Mr. **TRAFICANT**. Mr. Chairman, we have a $290 billion defense budget; 10 percent is a $29 billion cut. The Congress does not want to cut that.

I am not going to make you mad at me. My area is too badly hurt. This is a 5-percent cut. This would take it down to $276 billion. The committees would have to get together and trim a little bit out of some places. It is not very hard to find that, folks. It is just 5 percent. It would take us down to a level that would be, at least, halfway favorable for our economy.

Are Members afraid of even having a recorded vote? The Members around here do not even want to have a recorded vote, because if you would vote no on the Traficant amendment, your people some day are going to question you on this vote. And they should.

But you know what gets me? In 1985 I got the "buy Amercan" amendment passed to the defense bill. It was contested at 1:30 in the morning. Both Chairman ASPIN and everybody on the committee opposed me. It passed 241 to 163 on the House floor. The conferees, who went to the Senate, threw it out. Japan opposed the Traficant amendment. That's right—Japan was our biggest opponent.

I tried to get a sense of the Congress on this bill. It would have included a little statement that said we "encourage" buy American. They threw that damn thing out. Man, we may have the best Congress money can buy.

This 5 percent will cut $14 billion. I am going to ask the Members of this body to give me a vote on the damn thing. I want to join forces with the gentleman from Minnesota [Mr. PENNY] and the gentleman from New York [Mr. SCHUMER] in offering a cut. I want to feel that maybe in the little stay I have had in this House I may have accomplished something.

Mr. Chairman, we should pass this 5-percent cut, and if we do not, it is a sad day in the House as far as I am concerned. And a sad day for America.

The **CHAIRMAN** pro tempore (Mr. DERRICK). Does any Member rise in oppositon to the amendment?

The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. **TRAFICANT**. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The **CHAIRMAN** pro tempore. Evidently a quorum is not present. Pursuant to the provision of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 452]

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Cox
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Ford (TN)
Frenzel
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken, Thomas
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers

Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

□ 1118

The CHAIRMAN. Four hundred and eight Members have answered to their names, a quorum is present, and the Committee will resume its business.

Mr. TRAFICANT. Mr. Chairman, may I address the House for 30 seconds out of order?

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. MURTHA. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

RECORDED VOTE

The pending business is the demand of the gentleman from Ohio [Mr. TRAFICANT] for a recorded vote. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 97, noes 319, not voting 17, as follows:

[Roll No. 453]

AYES—97

Ackerman
Applegate
Bates
Berman
Bosco
Boxer
Bryant
Campbell (CA)
Clay
Collins
Conyers
Coyne
Crockett
DeFazio
Dellums
Donnelly
Dorgan (ND)
Durbin
Dymally
Eckart
Edwards (CA)
Espy
Feighan
Flake
Ford (TN)
Frank
Grandy
Hamilton
Hawkins
Henry
Herger
Hubbard
Jacobs
Johnson (SD)
Jones (NC)
Jontz
Kastenmeier
Kleczka
Kolter
LaFalce
Lantos
Lewis (GA)
Lowey (NY)
Markey
Martinez
Mazzoli
McDermott
Mfume
Miller (CA)
Moody
Murphy
Neal (MA)
Nowak
Oakar
Oberstar
Owens (NY)
Owens (UT)
Payne (NJ)
Pelosi
Petri
Porter
Poshard
Rahall
Rangel
Roth
Roybal
Russo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shays
Sikorski
Slaughter (NY)
Smith (VT)
Stark
Stokes
Synar
Torres
Towns
Traficant
Traxler
Unsoeld
Upton
Vento
Volkmer
Walgren
Washington
Weiss
Wheat
Wolpe
Wyden
Yatron

NOES—319

Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Bartlett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Billey
Boehlert
Bonior
Borski
Boucher
Brennan
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Conte
Cooper
Costello
Coughlin
Cox
Craig
Crane
Dannemeyer
Darden
Davis
de la Garza
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Dornan (CA)
Downey
Dreier
Duncan
Dwyer
Dyson
Early
Edwards (OK)
Emerson
Engel
English
Erdreich
Evans
Fascell
Fawell
Fazio
Fields
Fish
Flippo
Foglietta
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grant
Gray
Green
Guarini
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (CT)
Johnston
Jones (GA)
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kolbe
Kostmayer
Kyl
Lagomarsino
Lancaster
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Marlenee
Martin (IL)
Martin (NY)
Matsui
Mavroules
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (NC)
Nelson
Nielson
Obey
Olin
Ortiz
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (VA)
Pease
Penny
Perkins
Pickett
Pickle
Price
Quillen
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Sabo
Saiki
Sangmeister
Sarpalius
Saxton
Schaefer
Schiff
Schneider
Schulze
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stearns
Stenholm
Studds
Stump
Sundquist
Swift
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torricelli
Udall
Valentine
Vander Jagt
Visclosky
Vucanovich
Walker
Walsh
Watkins
Waxman
Weldon
Whittaker
Whitten
Williams
Wise
Wolf
Wylie
Yates
Young (AK)
Young (FL)

NOT VOTING—17

Barnard
Boggs
Brooks
Condit
Courter
DeLay
Douglas
Ford (MI)
Hall (OH)
Hayes (IL)
Kennedy
Michel
Morrison (CT)
Pursell
Schuette
Weber
Wilson

□ 1132

The Clerk announced the following pair:

On this vote:

Mr. Hayes of Illinois for, with Mr. Barnard against.

Mr. CAMPBELL of Colorado changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1145

Mr. McCURDY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, during the debate on the last amendment the gentleman from Ohio [Mr. TRAFICANT] in my opinion went too far. He crossed the bounds of decorum. It is one thing to differ on policy and on substance, but to stand in the well of this House and call this institution a house of prostitutes, to say it is the best Congress that money can buy, is inaccurate, and I resent it. I resent it, Mr. TRAFICANT. That is a discredit to the committees who labor hours to try to arrive at a position of sound policy on national security. We can differ on the substance. The gentleman can offer his cuts. We will vote on his cuts as we just did.

However, we cannot stand for a Member to play to the cameras and to the audience for applause and totally discredit this institution. If this institution stands by and allows this to occur time and time again, and no one stands out, we deserve it. We have had enough. I resent it.

The gentleman owes us an apology. That committee, directed by that chairman, has labored hours to come up with a reasonable bill. It is a bill that is in compliance with the budget that was passed in this House. I stood in this well 5 years ago, by myself, and challenged the seniority system, challenged the chairman, to bring leadership to our committee. For a Member to stand up and say that we are the best Congress money can buy is an absolute damned lie. The gentleman owes Members an apology.

Mr. TRAFICANT. Mr. Chairman, I move to strike the last word.

We had a defense appropriation bill that moved through this House so fast that we would have had no amendments had I not taken a yellow piece of notebook paper and scribbled out some cuts so that maybe the gentleman from Minnesota [Mr. PENNY] could get here, who had a 2-percent cut * * *.

Mr. DICKS. Mr. Chairman, I make a point of order that the gentleman's words be taken down.

I ask for a ruling. I want the gentleman's words to be taken down.

The CHAIRMAN. The gentleman asks that the words be taken down.

The Clerk will report the words.

Mr. TRAFICANT. Mr. Chairman, I ask unanimous consent that my words be removed.

Mr. GAYDOS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will report the words.

The CHAIRMAN. For what purpose does the gentleman from Pennsylvania [Mr. GAYDOS] rise?

Mr. GAYDOS. Mr. Chairman, I ask unanimous consent, and I thank the gentleman for recognizing me. I understand the frustration of my colleague, and under certain circumstances, I probably might be in a position to support partially what he has indicated in his remarks to this group.

I understand the frustrations we have in meeting a very tight schedule. I understand his people, his constituencies, as well as mine. They are both of the same stripe. In fact, there is so much interplay between the two districts, probably half the people in my district live in his, and his in mine. We share these common frustrations.

We also have, I have in my district a colleague that is next to me, and that is the gentleman from Pennsylvania [Mr. MURTHA] who has worked many, many hours, putting together what I think is a good bill. I think my good friend from Ohio probably shares that part of my opinion also in my feelings, so I think for two or three reasons, No. 1, I do not question his sincere feelings, how he expresses them is his business. Maybe I have criticism, too, the way he expressed them. But because of the sake of this House, and to get the work done to serve his constituency and my constituency and all the constituencies in this House, I would be more than willing, and I hereby ask that my objection be withdrawn on the condition that my good friend and colleague withdraw his remarks.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The gentleman's objection is withdrawn.

Mr. TRAFICANT. Mr. Chairman, I ask unanimous consent that any remarks that I had made to denigrate the integrity and the character of any Member of this House which would have been inadvertenly offered, to have them stricken from the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, I would apologize to any Member who has been so offended.

The CHAIRMAN. Without objection, the gentleman from Ohio [Mr. TRAFICANT] withdraws his words.

Mr. TRAFICANT. Mr. Chairman, I ask unanimous consent to proceed.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

□ 1145

Mr. TRAFICANT. Mr. Chairman, I am going to leave here. I do not want to make any more enemies. I think I have enough here, but I had those enemies before I took the floor.

I had stated in my comments that one of the finest chairmen in the House is the gentleman from Pennsylvania [Mr. MURTHA]. Anybody who tries to make this look like an attack on the gentleman from Pennsylvania [Mr. MURTHA] is just attempting to defeat that amendment, and that bothers me.

If I did not offer a little yellow slip of paper, there would have been no cuts.

You are going to come back here and you are going to tax people, and the people you are going to tax are my people. You are not going to cut a damn thing from anywhere.

I tried to take the defense budget down to approximately $276 billion. I think that America is going to go bankrupt with a budget for Defense of more than $250 billion.

I could be wrong. I sort of hoped that since we have two parties, that the Democrats would offer a clear and distinct choice. I am not faulting the Republican Party. We have both made mistakes, but the Republican position took us to a defense expenditure of $300 billion, and a lot of Democrats voted for that.

Those increases have very much to do with America's bankruptcy today. I was hoping that there would be a Democratic Party, a Democratic Party that would challenge the Republican increases in defense and this supply side trickle down theory that has killed my people.

I only represent certain people. I do not represent you and I may not be the most outstanding Representative in this body, but I represent 500,000-plus people, and while I am here, damn it, that is who I am going to speak for and that is who I am going to vote for.

I hope I did not offend you, because as I look around this room it saddens me to have the gentleman from Pennsylvania [Mr. GAYDOS] stand up and object to one of my unanimous-consent requests. I think the world of the gentleman.

So I am not going to change who I am. I am going to do more of what I am doing. For those I have offended, I apologize, and for those who I did not offend, I commend you.

Mrs. MORELLA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wanted to make a point with the distinguished ranking member of the subcommittee that with respect to looking at the DOD appropriation, that USUHS, the Uniformed Services University of Health Sciences, is being phased out in the language. This is the only military school in the Nation that trains our military doctors, of whom there are 30 right now in the Persian Gulf, for tropical diseases, biological, and chemical warfare, and so it is also in the district that I represent, but it is such a distinguished university and I would like to ask the distinguished gentleman if the conferees, I hope, will keep it in, since the Senate has, and if the gentleman recognizes how valuable this university is, and if I might work with the gentleman in the future with the conferees, holding tight to keep this very important and distinguished university in our system.

□ 1150

Mr. McDADE. Mr. Chairman, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, in response, let me say to the distinguished gentlewoman that she has been assiduous in bringing this matter to our attention. We are sympathetic, as always, to her interest, and we intend to give this a fuller look and a further look when we get into conference. We appreciate the deep interest the gentlewoman from Maryland has in the program.

Mrs. MORELLA. Mr. Chairman, I thank the gentleman from Pennsylvania.

AMENDMENT OFFERED BY MR. PENNY

Mr. PENNY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PENNY: Page 102, after line 5, insert the following new section:

SEC. 8096. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is reduced by 2 percent.

Mr. PENNY. Mr. Chairman, earlier in this legislative session I offered amendments to each appropriation bill to cut those amounts by 2 percent. Every one of those appropriation measures with, I believe, only one exception included increases in excess of the inflation rate.

My goal at the time was to bring those increases down as a way of reducing the deficit by several billions of dollars.

Most of those amendments were unsuccessful, and yet just a few short days ago we agreed by a majority vote in this Congress to pull back virtually every appropriation bill to a 4-percent increase, an inflation-adjusted increase and not the higher levels that had been included in those bills earlier. A slightly different scenario prevails as it pertains to the defense appropriation bill.

Our original budget resolution, while allowing many domestic spending measures to increase, actually called for reductions in the Pentagon budget. It is a changing world. The threat from the Soviet Union has been reduced. The threat in Eastern Europe has been all but eliminated. In recognition of these factors, we decided last spring in passing the House budget resolution that we could cut back defense spending.

Mr. Chairman, subsequent to that original budget resolution, the defense authorization bill was brought to the House floor with significant spending reductions and program eliminations, and it stayed within that budget. The new budget, most recently adopted, allows for a $5 billion increase in those defense appropriations.

I am offering this amendment to bring us back down to the levels approved by our original budget resolution and by the defense authorization bill.

When we passed the budget resolution this last Sunday night, we were told quite clearly that the spending levels for defense and domestic discretionary accounts were ceilings and not floors. That was emphasized quite strenuously by the leadership as they rounded up votes for the new budget resolution. We were told that we would have opportunities to offer amendments to spend less, and that any additional savings would add to our deficit reduction effort. Given the history of a budget resolution that would allocate $5 billion less for the Pentagon and a defense authorization bill approved by this House that allocates $5 billion less for the Pentagon, I think this is clearly one area where the choices have already been made. That is why this 2-percent cut is in order. It would trim back the spending level in this bill from $268.2 billion to $262.9 billion, trimming roughly $5 billion.

This will help us to increase our deficit reduction effort. For those who would argue that this 2 percent is an inappropriate way to trim back spending, I would state that while this is an across-the-board cut, the savings will be threshed out in the conference committee. Several add-ons and increases were approved through the appropriations process in the last couple of days. There is no reason that this across-the-board cut has to be applied in an across-the-board fashion in the final version brought back from the conference. They can allocate the cuts on a priority basis.

Mr. Chairman, Members should not be persuaded by those who say this is trimming pay for personnel in an unwarranted way. There are a variety of ways available to our conference committee to achieve savings. So let us save $5 billion more and increase our deficit reduction effort this year.

Mr. SCHUMER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I join in support of this amendment, the Penny-Schumer defense amendment.

Let me first, before I begin the substance of my remarks, say that one of my best friends in this House is the gentleman from Pennsylvania. He is a man of integrity, and he labors hard. We have ideological disagreements on the defense budget, as we have had throughout this process, but I think Members of this body, from one end of the country to the other, regard the gentleman's integrity as the utmost, and this amendment is not intended as any aspersion on him at all.

Mr. Chairman, this amendment simply moves the defense appropriation budget back to the level of the House Budget Committee, back to the level of the defense authorization bill. It is not, I say to my colleagues, actually a cut. It is simply the rescission of an increase made by the distinguished appropriations committee.

Let me touch on some of the things that were added in, some of the things that are in this huge defense budget. There is the SRAM-II, an unnecessary tactical missile designed for European ground war. That is $119 million. Do my colleagues think we are going to fight a ground war in the next year in Europe?

There is the AMRAAM, a missile program which the authorization report described as plagued with difficulties. That is their language.

There is J-STARS, a radar specifically designed to help stop a Warsaw Pack invasion of Europe.

It also adds additional weapons that we don't need. There are 75 M-1 tanks. Those are great for Europe, but they were too heavy to airlift in a crisis to the Persian Gulf.

Here are 10 Trident missiles. Again we are fighting the old nuclear war that many of us hoped was over.

And it slows down the reduction of troop levels in Europe from 129,500 to 77,100. It slows down the reduction of troops from Europe.

Let me say to my colleagues that because of Gramm-Rudman, these across-the-board cuts can be reallocated. If the Defense Department should wish to have fully funded troops and add a little more on—such as star wars or some of the strategic programs, or tanks—they may. So this is not a cut under any specific program. It is not a cut that is irreversible under any specific program. But most of all, I say to my colleagues, the prerogatives of the House are important here. We labored and struggled on the Budget Committee to come up with a fair compromise, one that understood that we still have real defense needs.

Desert Shield shows that. And, by the way, this cut does not affect Desert Shield, because Desert Shield is not within this bill. So the Members should not think that we are doing anything to undercut our soldiers in the Persian Gulf.

☐ 1200

But what I am saying, my colleagues, is that the House labored long and hard to get to 283. If we on the first appropriation bill that comes up after the summit, after the closure of Government for 3 days, pop, right back up above the authorization level, above the Budget Committee level, what hope is there for real deficit reduction? We have to do our share on deficit reduction, on domestic programs.

Many of us on those committees are laboring hard, but we also have to have defense do its share, and to raise the defense number by $5 billion above the authorization number that authorization committee labored so hard to produce, above the Budget Committee number is sending a signal from one end of this land to the other, and that signal says we are not serious about deficit reduction, we are not serious about the budget numbers we pass, we are not serious about honoring our authorizing committees.

My colleagues, to me this is a crucial vote on the future of this country. We have to turn our direction away from fighting a land war in Europe and a strategic nuclear war in Europe on the military side to be more prepared for things that occur like that in the Persian Gulf, and overall to start recapitalizing America in education, in infrastructure, in companies and businesses in a way so that we will be able to compete against our new rivals, friendly rivals, but rivals of Japan and Germany. Every dollar we spend on unneeded programs, programs designed to deal with land wars in Europe, is a dollar thrown away from America's future.

I urge support of the Penny/Schumer amendment.

Mr. MURTHA. Mr. Chairman, I wonder if we could get some limit on the time. Is one-half hour of each side agreeable?

Mr. Chairman, I ask unanimous consent that we limit the debate to 1 hour, one-half controlled by myself and one-half by the gentleman from Minnesota [Mr. Penny].

The CHAIRMAN pro tempore (Mr. Derrick). Is there objection to the request of the gentleman from Pennsylvania?

Mr. McDADE. Reserving the right to object, Mr. Chairman, I wonder if we could amend that to divide it in thirds, a third for the minority?

Mr. MURTHA. We will give the gentleman half of our time, 15 minutes.

Everyone has been here for two weekends in a row. Everybody wants to get home. I am just afraid that we are going to go on and on, that is all.

Mr. McDADE. Further reserving the right to object, let me say to the gentleman I want to compress the time as well. But I have some speakers.

Mr. MURTHA. What about a half hour for the gentleman from Minnesota [Mr. Penny], a half hour on this side, and a half hour for the gentleman from Pennsylvania [Mr. McDade]. That is an hour and a half.

Mr. McDADE. Mr. Chairman, further reserving the right to object, and I will not object, I was wondering if we could modify that to, 20, 20, 20?

Mr. MURTHA. How about 30, 20, 20.

Mr. Chairman, I ask unanimous consent that the time for the gentleman from Minnesota [Mr. Penny] be limited to a half hour, myself to 20 minutes, and the gentleman from Pennsylvania [Mr. McDade] to 20 minutes.

The CHAIRMAN pro tempore. Does that apply to the amendment and all amendments thereto?

Mr. MURTHA. That is correct.

Mr. YOUNG of Florida. Mr. Chairman, reserving the right to object, the only problem I have with that is that the gentleman from Minnesota [Mr. Penny] and his group has already had about 10 minutes of time on this amendment. I think that the gentleman from Pennsylvania's suggestion of 20, 20, 20 is more fair than 30, 20, 20.

Mr. MURTHA. We will get an extra 10 minutes on both sides.

The CHAIRMAN pro tempore. Does the gentleman object?

Mr. YOUNG of Florida. I do not object, Mr. Chairman.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Minnesota [Mr. Penny] will be recognized for 30 minutes, the gentleman from Pennsylvania [Mr. Murtha] will be recognized for 20 minutes, and the gentleman from Pennsylvania (Mr. McDade) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. Murtha].

Mr. MURTHA. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. Skelton].

Mr. SKELTON. Mr. Chairman, I would like to point out an inaccuracy of the gentleman who sponsors this amendment. He speaks of trimming the Pentagon, and the truth, the fact is we are trimming from the young men and young women who wear uniforms today and what they do.

I think it is important that we keep in mind the fact that we have passed a budget resolution in this House, and this budget resolution cuts $170 billion over 5 years.

The gentleman from Pennsylvania [Mr. Murtha], chairman of the subcommittee, and his subcommittee have labored arduously to put together an appropriation package which we have before us today which complies with that budget, which we in this House and in this Congress have passed. To say that this is not going to affect the uniformed services in the Middle East is incorrect. Already training exercises in parts of the world have been cut, eliminated, cut back because of the budget insufficiency, and the cost of Desert Shield.

If we wish to support the young men and young women, whether they be in Saudi Arabia, aboard ship in the Persian Gulf or in training here at one of our bases, our posts or installations, I think we should vote no on this amendment.

Mr. McDADE. Mr. Chairman, I am pleased to yield 6 minutes to the distinguished gentleman from Florida [Mr. Young].

Mr. YOUNG of Florida. Mr. Chairman, now that we have gotten beyond the harsh words of the earlier debate, I would like to straighten out a couple of points.

This bill comes to the floor under an open rule. Any Member of the House who had an amendment to offer to this bill had every right and opportunity to do so. There was no attempt to railroad anything. It was an open rule. That is a little unusual in itself, to come here with an open rule, but we did.

As a matter of fact, one of our colleagues, the gentleman from South Carolina [Mr. Spratt], offered a specific amendment to this bill which was agreed to by compromise. Again, that is an example. There is no railroading. It is an open rule. Any Member had an opportunity to offer amendments section by section as we read the bill.

Mr. Chairman, since I have been here I have voted for almost every amendment to reduce spending bills. I have taken a lot of criticism and a lot of heat for voting against spending programs, and I am prepared to do that again. But across-the-board cuts ought to be looked at very closely because they may or may not be what the author of the amendment thinks they are or intends them to be.

The gentleman from Minnesota [Mr. Penny] has told us that it will probably work out like this or like that or some other way. But we do not know that because the amendment says 2 percent across the board.

If we were to cut 2 percent across the board on this bill, Mr. Chairman, let me tell Members the type of programs which will be cut. Pay close attention because this is not the guns that one of the earlier speakers spoke about.

It is the salaries of the men and women of America's armed services that will be cut; $78.5 billion of this bill goes to pay those salaries. This bill includes $15 billion for the families of those military personnel. That $15 billion is in addition to the $78 billion for military pay.

Mr. Chairman, this bill contains $32 million for AIDS research and treatment, something that all of us are concerned about, something that all Americans are concerned about. While seldom recognized, the medical services of the armed services do outstanding work in medical research, and as I said $32 million of this bill goes for AIDS research.

One thing that our troops in the Desert Shield operation have learned is that no one is immune from infectious diseases. As a matter of fact, a number of our traveling Congressmen who have been to Saudi Arabia have come back subject to the infectious disease problem and were very ill. This bill has $100 million for research and medical care for infectious diseases, not guns, not bullets, but infectious diseases.

Here is something else that some Members might be interested in, especially if they have retired military folks living in their district, $14 billion of this bill goes for medical care and CHAMPUS, medical care for those in the military services and CHAMPUS for their families and for those who are retired and eligible for CHAMPUS.

Mr. Chairman, $16 billion of the money appropriated in this bill goes to pay the retirement benefits to those who have served well in our Nation's Armed Forces, and who have lived long enough to retire and are retired today, $16 billion for retired pay.

This bill contains $300 million for the U.S. Coast Guard. The Coast Guard is not even in the jurisdiction of our subcommittee, but we have appropriated $300 million to the U.S. Coast Guard for the war against drugs and search and rescue of those who are lost at sea.

Mr. Chairman, my final point, just this week Dr. Donnall Thomas received the Nobel prize for his work in developing a procedure that we refer to as bone marrow transplantation, a procedure that saves lives, and he was one of the pioneers in developing this procedure and making it work. But one of the problems now is if you have leukemia, or if you have a blood disorder or a type of cancer that can be cured by a bone marrow transplant, you had better be lucky enough to have a brother or a sister whose bone marrow matches yours or you cannot get a transplant. And while Dr. Thomas and Dr. Robert Good and others have done such wonderful work in developing the marrow transplant procedure, the real problem now lies in finding donors for patients who need the bone marrow transplant. About 20 percent of those who are going to die of one type of blood disease or another without a transplant might have a brother or a sister who matches, but 80 percent do not.

There is $6 million in this bill to further the bone marrow program, not only in research but in recruiting and typing and expanding the national registry so that one day anyone with a cancer or a leukemia or a blood disease of some type that can be cured by bone marrow transplant will have a chance for life. This bill provides $6 million for that Navy medical research program.

All of that adds up, Mr. Chairman, to about $125 billion for those items that I have just mentioned. These dollars are not for the guns, or the bullets, they are not for the tanks or the airplanes or the missiles. These dollars are for support for those Americans serving in our Armed Forces and their families and as this amendment is presented, it would cut those programs by 2 percent.

What I am saying is this amendment that is before us is an across-the-board cut. It does not exempt the important programs I've just mentioned from the cuts. Nowhere does it say that it does not apply to these medical benefits that I am talking about, or these retirement benefits. In fact, the way the amendment is written, the cuts would apply to all of those programs that I just mentioned, and I do not think Members want to do that.

I believe, as the gentleman from South Carolina [Mr. SPRATT] did, that if a Member has a specific part of this bill that they want to cut, a program, procurement, research and development, or whatever, they should offer their amendment to do just that. But across-the-board cuts are dangerous because they will, as this amendment is written, apply to many items that no one would want to cut.

To conclude, Mr. Chairman, any member desiring to make cuts in this or any appropriations bill owes it to this House to be prepared to spell out specifically which parts of the bill are to be reduced and by how much. Amendments proposing across-the-board cuts are easy to write and argue for, but the responsible approach, Mr. Chairman, is to be prepared to submit to the House and argue for specific cuts with valid justification for those cuts.

Mr. PENNY. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I want to clarify two important matters. First, these cuts can be allocated. That is allowed for and it can be done. So to say that a 2-percent cut leaves our conferees or the Secretary of Defense absolutely no latitude is not accurate. There is latitude to apportion these cuts, and we have already made these tough decisions in the defense authorization bill. We could simply conform to those spending levels, and we are right on target.

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Finally, Mr. Chairman, let me read from the Democratic Study Group summary on Operation Desert Shield, because that was raised as a reason not to vote for this amendment: "The measure," this appropriation bill, "does not include any specific funds for Operation Desert Shield in the Persian Gulf. The fiscal year 1991 costs for Operation Desert Shield are currently estimated to be $15 billion, of which approximately one-half is expected to come from contributions by foreign governments. Any Operation Desert Shield funds for fiscal year 1991 would have to be considered in a supplemental appropriations bill."

We are not cutting Desert Shield with this amendment.

Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. RUSSO].

Mr. RUSSO. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, when we discuss the defense of this country, let us look at the history of the last 10 years. In the last 10 years, defense expenditures have gone up 100 percent. Nondefense discretionary moneys have been cut 40 percent.

A lot of my colleagues in this body receive something called the Protectors-of-the-Treasury Award. Well, it seems to me that they are getting a good award for watching one side of the Government, the side that deals with children's programs, the side that deals with elderly programs, the side that deals with the middle class, the side that deals with education, that deals with health and welfare of the common man. That is the side that they get their award for, because they cut it 40 percent.

They could not get a Protector-of-the-Treasury Award for increasing spending 100 percent. Is that what Protectors of the Treasury means?

There is a different world out there. The Warsaw Pact does not exist anymore. Our NATO commitments do not need to be met like they did in the past. We do not need to spend the money we have in the past in the Pacific Rim.

We have got to do things that are necessary, that will help everybody.

An across-the-board 2-percent cut is modest. It is shameful that we can only cut defense by 2 percent, a $300 billion budget, and we are only asking to cut 2 percent.

Are not the Members even ashamed to say that they would be opposed to that, a 2-percent cut on $300 billion?

We can solve the Medicare problem in this country, the provider problem and the beneficiary problem if we just would cut $8 billion a year out of defense.

What does that do? That takes us from $300 billion, folks, to $292 billion. I feel so sorry for the Defense Department that they are only going to get $292 billion to spend.

Please, let us have some sanity. If we are truly interested in cutting the budget, let us start here.

In a changing world, $300 billion is too much especially when we are making such massive cuts in the Medicare field. Our hospitals are not going to be able to give the kind of care necessary for our citizenry if we continue to cut that side of the budget.

Please, I ask the Members, we cannot keep giving money to an area of the Government that is the No. 1 defrauder of Government, that is the No. 1 waste, fraud, and abuse leader in the world. If there was ever an award that should be given for waste, fraud, and abuse, it ought to be given to the Defense Department, and you all know that.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. RUSSO. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I think the gentleman makes an excellent point, and I would like to work with him in working to correct those abuses that he is talking about, but I wonder if he would identify them and then, hopefully, we could make a specific amendment to go to those areas rather than cutting into the heart of those quality-of-life services that are important to our military personnel.

Mr. RUSSO. I would not want to do that. I understand the gentleman. I appreciate that. Let us just start with the latest revelation in the newspaper, Northrop, that handles the B-2 and the MX missile guidance system, totally inoperable, mismanaged, totally having a problem. They have been penalized before by the Defense Department. That is just one area.

I think the gentleman from Pennsylvania, the gentleman from Florida, and the gentleman from Pennsylvania can work on those programs. I am not trying to say that they are not trying to do a good job, but when we see the defense numbers going up, when most experts tell us that defense ought to be going down, I have a tough time understanding that.

Mr. MURTHA. Mr. Chairman, I yield myself 1 minute.

Let me just say to the gentleman that we had a hearing yesterday addressing the Northrop situation and we are not happy. As a matter of fact, last year, in the conference, one of the Members in the other body asked me if we were trying to put Northrop out of business because we had cut so many of their programs.

We do not care whose programs are whose because we measure programs by their quality.

As the gentleman knows, we have no money for anything except R&D for the B-2. We have no procurement money in for the B-2. The strategic weapons have been reduced substantially.

My big disagreement with what the gentleman is trying to do and the gentleman from New York [Mr. SCHUMER] is trying to do, is to make an across-the-board cut. What we had to do in this bill was to cut out programs we felt were absolutely essential to the military to get down to the figure that was acceptable to the caucus on the first budget resolution.

We, for instance, were not able to properly fund CHAMPUS. We could not provide adequate Sealift, environmental cleanup or maritime prepositioning funding. I do not think the Members would argue with any of those programs.

I could not have those in the budget at the lower level, so we added additional funds for these programs. I am sure there would be areas in this bill where the gentleman and I might agree or disagree on funding levels but the gentleman is cutting the heart out of defense in this particular case by an across-the-board cut.

Mr. McDADE. Mr. Chairman, I yield 5 minutes to my distinguished colleague, the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Chairman, the first thing the gentleman said is that we should look at history to determine how we should judge this defense bill and whether or not we should vote for this 2-percent cut across the board regardless of the importance of specific provisions in the defense appropriations bill. I kind of agree with that. I think we should look at history.

In fact, I would look specifically at the same 10 years he has looked at, the last 10 years of the history of this Nation.

It is said that because the Soviet Union and Eastern Europe have collapsed in the last year or so, and communism is on the wane, we do not need a defense budget; we can decimate it. Some might have voted for the 10-percent cut offered by the gentleman from Ohio [Mr. TRAFICANT], but he withdrew that. But 70 or 80 people voted for his 5-percent cut. And others are now advocating a 2-percent cut across the board.

Just cut our defense budget they say. Walk away from the fact that we have 200,000 young people in the Middle East in harm's way. Do not concern ourselves with the fact that we have got maybe 60,000 kids in Korea. Disregard the 200,000 military people we have in Western Europe. Just consider this to be a safe world, bring them home, forget the defense budget, and we can cut all $270 billion and apply it to health, welfare, and safety of our people.

Let me ask this: Does not the health, welfare, and safety of our people also depend on what happens outside the borders of this Nation? I suspect, ladies and gentlemen, the answer of most Americans is that, indeed, it does. Those people are protecting peace, freedom, and us around the world.

But why, why have the Soviets collapsed? Why has Eastern Europe all of a sudden seen the benefits of freedom, and why are they now seeking to take advantage of those benefits? Is it because over the last 10 years the gentleman who preceded me and the people who vote like him have won their attacks on the defense budget time and time again? Is it because we have decimated our defense budget for the last 10 years? Is it because we made their unilateral cuts and said, "Soviets, you were taking over one country after another in the 1960's and 1970's, and we are going to lie down now, and we do not want to spend money on weapons, we do not want to stand up to you"? No, the fact is that on a bipartisan basis, Republicans and Democrats alike, people who know and understand the meaning of a strong national defense stood strong, stood with the President of the United States and looked at the Soviets in the eyes and said, "You are not going to take any more of this world. You are not going to gobble up one country after another and enslave their people under the system of communism."

We did stand strong, and because we did not make unilateral cuts time after time as advocated by the type of people who just spoke, the Soviet Union is collapsing, Eastern Europe is going free, and more people today live under freedom than at any other time in this world. Because America was the beacon of freedom, because we did stand strong, because we put our money where our mouths were, because we proved we had better alternatives to offer the people of the world, freedom is now on the march.

I find it difficult to understand why the people who offer this amendment, specifically the two authors, the gentleman from Minnesota [Mr. PENNY] and the gentleman from New York [Mr. SCHUMER] were among 13 Members who signed a Dear Colleague supporting this 2-percent across-the-board, and yet on Sunday, they voted for the Democrat budget resolution that included the level of defense spending that we currently have in this bill.

As the chairman, the gentleman from Pennsylvania [Mr. MURTHA], and my friend, the gentleman from Pennsylvania [Mr. McDADE], will soon tell us, the defense appropriations bill before us is already a $14.3 billion cut below last year's level, and a $19 billion cut below the President's original request for fiscal year 1991.

This is the sixth consecutive year of decline in the defense budget. If the Members will bear with me, read page 6, second paragraph of this report of the Committee on Appropriations, the Defense Subcommittee: "Contrary to the impression that many have, the defense buildup of the 1980's did not continue unabated during the Reagan years and just began to reverse at this time. The defense budget has been on an annual decline each year since fiscal year 1985. The recommended funding level for defense in the House budget resolution for fiscal year 1991 represents a decline already," and I put in the word "already," "of 23 percent since fiscal year 1985 when measured in constant dollars."

Ladies and gentlemen, we do not need another blind 2-percent cut across the board, and I urge the defeat of this amendment.

Mr. PENNY. Mr. Chairman, I yield 3 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from Louisiana is very upset about this amendment, and I respect his deep feelings. I just want to say to him that he is really debating sort of a phantom straw man, because we are talking about cutting $5 billion out of a budget that is $268 billion.

My friend, the gentleman from Pennsylvania [Mr. MURTHA], is, I think, one of the most skilled legislators in this House, and one of my dearest friends, and I trust him to be able to handle that kind of a cut of 2 percent. I really do trust him, and I trust the minority Members to make those kinds of priority judgments they will need to make.

I hope we can vote for this very modest cut for the following reasons: First, procurement abuses that have been going on and still continue; second the end of the cold war; and third, the ability of our allies to pay their way, to pay their fair share.

I have been involved in procurement reform since the day I came here, and I heard about $7,000 coffee pots and the Pentagon said, "Oh, that is a rare example." So we kept coming up with all the abuses, the hammers and the screwdrivers and the toilet seats, and all of America was appalled. It is still going on. We cannot reward this budget. It is still going on. Double billings, cost overruns, equipment that malfunctions, late deliveries, ghost employees at our contractors, lavish decor at foreign bases, whistleblowers who point out waste, fraud, and abuse and are sent to psychiatrists and sometimes committed to a mental institution when they tell the truth about waste, fraud, and abuse.

Here we are adding $5 billion to this enormous budget. Sixty of our top 100 contractors are under investigation by the inspector general for waste, fraud, and abuse. Why would we add $5 billion?

I say it is time we take it away.

The gentleman from Louisiana makes a strong and impassioned explanation of why we won it. We were strong, and the cold war policies were bipartisan policies.

I want to tell the Members something, one-sixth of the Warsaw Pact is gone. There is no more East Germany. It is gone. We now spend $150 billion out of the $300 billion defending NATO from the Warsaw Pact.

Since one-sixth of the Warsaw Pact is gone, let us at least cut this budget by one-sixth. That would be $25 billion. Obviously the Congress will not do that. Can we not even do 2 percent now?

I think that the Japanese and the Europeans ought to pay for their defense. Here is a chart that shows a picture of Japan. We spend $26.1 billion defending them. They are eating our lunch economically. They can pay for some of this. So can Western Europe.

So for all of those reasons, support this modest cut.

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The CHAIRMAN pro tempore. (Mr. MONTGOMERY). The gentleman from Pennsylvania [Mr. MURTHA] has 17 minutes remaining, the gentleman from Pennsylvania [Mr. MCDADE] has 9 minutes remaining, and the gentleman from Minnesota [Mr. PENNY] has 23 minutes remaining.

Mr. PENNY. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Chairman, the defense appropriations bill before the House right now, when added to the military construction and the defense-related energy appropriations would bring total fiscal year defense spending to $288 billion. I think it is instructive to point out to the House today that the Defense Department tells Members that of the $288 billion, $182 billion of it is being spent 45 years after World War II to subsidize the defense of Europe and Japan and other countries around the world, countries which are prosperous, which are free, which are no longer threatened by external enemies as they were in the past.

In fact, we are subsidizing these nations today, the very same nations who are having to loan the U.S. Government money to help the United States pay our bills. We are subsidizing the same people who compete with the United States ferociously in international trade by subsidizing their companies that compete with the United States in international trade. We are subsidizing countries who have a crime rate that is dramatically lower than our own, and an educational level dramatically higher than our own, and a level of available health care that far exceeds that which we offer to our own citizens, and yet we are talking about more taxes on the American people and cuts in Medicare to deal with the budget deficit, and now talking about doing something dramatic about eliminating the absurd subsidies of the defense of countries around the world when we do not have the money to pay our own bills any more.

I submit to Members that it is preposterous to continue to pour our national resources into a black hole subsidy that historians will look back on with astonishment. We are now spending of the $182 billion, $2.7 billion a year to pay foreign citizens to work on our military bases, bases which are there to protect their country. There are 121,000 of these, and two-thirds, 83,000, are foreign government employees that we are paying to defend their country. Now, I could read on and on with figures like this, but it is absurd.

I think it is fair for the United States to raise a question about our own ability to deal with our Nation's budgetary needs when our committees continue to bring the U.S. bill that increase defense spending, and do not do anything about that absurd subsidy that does not make sense either in Japan or Europe. Some 55,612 German Government employees are being paid by the American people to work on military installations, which are there to protect their country, not ours.

Members say that we cannot do anything about it? I submit to the Members of the House that we can do something about it. We can vote for the Penny-Schumer amendment, and cut $5.3 billion out of this bloated defense budget, do it today, and let the leaders of our Government, and let the chairman of this committee and the conference committees do what this bill gives them the power to do, and that is rearrange the expenditures within the bill, save the United States $5.3 billion which the American people deserve to have spent on the business of the United States of America, and not these nations that no longer need our subsidy.

Mr. MURTHA. Mr. Chairman, I yield myself 2 minutes. There are a couple of things here that make it so difficult to deal with across-the-board cuts. We have cut some of the very things that the gentleman has talked about. We have tried to insist on burdensharing with these other countries and we have reduced this bill by $1.5 billion in that area. I could not agree with the gentleman more that we ought to reduce our presence in Europe. We started the Congress in that direction last year. We recommended the termination of 20 programs in this bill because we felt they were no longer needed. However, we have deployed 200,000 troops in Saudi Arabia. I do not know if we will have a war and we hope we have averted the war.

Any person that thinks that this reduction does not affect those troops is wrong. I had to add funds into this budget for CHAMPUS which covers medical expenses of our service people. All members know that CHAMPUS is something that has to be paid. I had to add Sealift into this bill, environmental cleanup, and maritime prepositioning. That represents a good deal of the $5 billion we added back in committee. In other words, I did not have the ability to fund those programs at the necessary level under the previous low budget level.

Now, we hope we are not going to have a war, but we need adequate funding to support our troops in the Middle East. However, this amendment certainly affects all accounts and we would not be able to fund particular items in the budget at the proper levels. The White House is going to want to increase funds for strategic weapons and the President is going to insist on funding for these strategic weapons. I do not agree necessarily with the White House, but we have to deal with this problem. I have no argument when an individual wants to cut out an individual weapons system. I have no argument if they want to cut pay. However, they need to be up front about it and recommend specific item reductions. Your Subcommitte on Defense Appropriations has done so much to restructure the defense budget. For instance, we added fast Sealift ships years ago, and the Navy did not want them. These ships played an important role in Desert Shield. Funds are needed for the M-1 A1 tank, because it is the only tank that will overcome the T-72 which they have in Iraq. I just want to say that I appreciate what you are trying to do. I understand your frustration. The Members can imagine what I have to do when we have troops deployed overseas. We must make sure we support them.

Mr. PENNY. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I rise in support of the Penny-Schumer amendment. Before the invasion by Iraq of Kuwait, this country was spending $29 per barrel in military costs to keep the sealanes open in the Middle East. That meant that the real price of oil to American consumers was $50 because after the taxpayer spent $29 per barrel for the oil from the Middle East, an oil company or somebody else has to buy it for another $18 or $20, the price at that time.

We are spotting our competitors who are buying oil from the Middle East, the Europeans, the Asians, and others, we are spotting them $29 a barrel. How long do Members think we can win the economic race if we continue to give away that kind of subsidy?

Now, we are not spotting that price for poor countries. We are spotting that price for countries that are doing better economically than we are. What we are asking in this amendment is a reduction down to the authorization levels, a reduction down to the original budget level. If we cannot afford that, then Members ask our allies to help the United States. How long can we continue these subsidies without burdensharing?

I contend when we see the Federal Reserve Board afraid to lower interest rates because of the deficit, that we cannot find 2 percent in the military budget to help with that deficit. It is only out of admiration for the skill of this chairman, when I saw how quickly he could get that $5 billion, it is my admiration for this skill and knowing that he will be able to know how to handle this cut. We have got to do this, because this is not about a war with the Russians, it is not about a war in the Middle East. This is about the economic survival of this country. We are watching interests rates stay up and drive our economy through the floor. We were told a week ago if we got a summit agreement, we could make lower interest rates a little bit. Now, the Feds say, even with a summit agreement, they do not think we should really be able to lower interest rates. Members start to see the problem, and one of the problems is we are spotting our international competitors billions of dollars in subsidies.

The Germans, and there is only one Germany now, there is not an East and a West Germany. There is one Germany. They are paying the Russians $7 billion to get their troops out of Germany. They are building housing in Russia so they can go home. We are spending billions of dollars to keep our troops in Germany.

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For what purpose, for what purpose? Let us think of this in terms of contemporary views. Let us think of this in terms of our taxpayers and our problems with the deficit. It is the deficit that is going to crush us, not the Russians.

Mr. PENNY. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, this is not a vote against defense. This is a vote for fiscal sanity.

I have stood in the well of this House and argued for cuts in housing, in education, in recreation, any number of things that are good. How can I say I voted against those things and now vote to violate the budget agreement or the budget resolution on behalf of defense?

This does not even get us to a cut or a freeze in defense, because we have taken Operation Desert Shield off the budget.

If you want to get a budget agreement that is real, then put Desert Shield in there, too, but when you add that, we are not cutting defense. If you want a gimmick that works, take defense off budget and put Desert Shield on budget.

Now, in the name of consistency and fiscal sanity, for an America that is bankrupt today, vote for this amendment, which is not a 2-percent across-the-board. It is 2-percent discretionary in the hands of the Department to place those cuts where they believe they can be cut.

And remember, that while the gentleman from Pennsylvania [Mr. MURTHA] points out there are things in the bill that he does not support, and that the White House wants, there are also things in that bill that the White House does not want, and that the Secretary of Defense tells us we do not need for our national defense.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. MURTHA. Mr. Chairman, I yield 1 additional minute to the gentleman.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, apparently the gentleman knows this is serious, and he would not want to mislead the House on the amendment.

Let me read what is in the amendment:

> Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is reduced by 2 percent.

This is a 2-percent across-the-board line item by line item reduction, no discretion for the Secretary of Defense whatsoever. I am sure the gentleman would not want to mislead the House.

Mr. HENRY. Mr. Chairman, if I misled the House, I apologize. It was my understanding.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, the way the gentleman from Washington has read the amendment is exactly the way that I read it. And that means that a 2-percent cut would also apply to military personnel salaries, subsistence for their families, AIDS research, infectious disease, medical programs, CHAMPUS, retirement pay, and so on.

Mr. DICKS. I would like to correct the record. This bill reduces below the budget by $19 billion from the President's budget and $14.3 billion below last year's bill.

Mr. PENNY. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, we keep getting into this debate about whether the across-the-board can be handled. Certainly it can be handled. There is flexibility. You do not go to a conference committee with your hands tied. You go to the conference committee to negotiate with the Senate.

Mr. DICKS. Mr. Chairman, if the gentleman will yield, if the gentleman wants flexibility, why did he not put it in the amendment?

Mr. PENNY. Mr. Chairman, I have served on enough conference committees to know that you can make adjustments and reestablish priorities within the conference committee, and the Pentagon itself has priority at appropriated levels in a certain measure as well.

We have handled these amendments in the past. There is no new ground being broken here.

Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of the Penny 2-percent cut, and I say that so far as I can see in looking in this amendment, I do not see that it is weakening defense whatsoever.

Now, I have the greatest respect in the world for my good friend, the gentleman from Pennsylvania [Mr. MURTHA] and when I need guidance so many times back here in the corner, I go ask him, and he is always willing to give it, and I am always willing to listen; but on this I think the gentleman is wrong.

For the past 10 years the credit card mentality of borrow and spend and spend and borrow has submerged this country into $2½ trillion more in debt than it was before. We are up to $3.3 trillion.

While the wealthy of the Nation has been enriched, the defense contractors have made out like gangbusters.

Just a little over a year ago the GAO came out with a report and they said that there was $30 billion in spare parts they cannot even find.

We have a B-1 bomber that cannot fly. We have $30 billion invested in that.

We have missiles with a corkscrew trajectory. They do not even know where they are going.

We have a lot of waste, abuse, and fraud in this whole thing, and if we cannot find $5 billion, which is peanuts, and we are talking about a reconciliation bill where we are trying to cut out $5 billion and we are looking at cutting Medicare to the old people of this country, talking about cutting veterans' benefits in this country, talking about cutting veterans' health benefits in this country, and talking about the little guy's tax on beer and wine and cigarettes and gasoline, and we do not have $5 billion to cut out of defense? If we cannot find $5 billion out of the defense budget when we are in the throes of a peaceful world now with the superpowers, then there is something drastically wrong.

Yes, I understand we have the Middle East situation, there is the Middle East situation, but Desert Shield is not going to be affected by this. We are still spending $262 billion. That is bigger than 95 percent of all the budgets of all the countries in the world.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. PENNY. Mr. Chairman, I yield 1 additional minute to the gentleman.

Mr. DICKS. Mr. Chairman, if the gentleman will yield further, in the 5-year plan for a $500 billion reduction, we are reducing defense by $170 billion. Defense is taking its share of the cut.

As I pointed out, below the President's budget this bill is $19 billion, and below the fiscal year 1990 budget it is $14.3 billion.

The gentleman's message has been heard by this committee. We have reduced defense spending every year since fiscal year 1985. That was the end of the so-called Reagan buildup. Every year since then defense spending has been reduced, and the gentleman from Pennsylvania has been an outstanding chairman. He has killed 21 weapons systems in this bill.

But I would say to the gentleman that doing this on an across-the-board account-by-account basis is just simply wrong. If you want to come here and offer a 2-percent amendment or come in and offer an amendment that would reduce the bill by 2 percent by taking out X, Y, and Z, that is the way to do it. Do not do it this way.

Mr. APPLEGATE. Well, we are still spending $262 billion, and that is 25 percent of the budget.

Mr. PENNY. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, let me again repeat that which the gentleman from Minnesota [Mr. PENNY] has said over and over again, as did the gentleman from New York [Mr. SCHUMER]. Desert Shield is not affected by this amendment at all. That is going to be covered in a supplemental appropriation. That ought really to be put on rest.

Second, reallocations by both the Appropriations Committee and by the Pentagon have taken place before and can be done again. There is no validity to the argument that we are binding their hands as to particular programs.

Now, let me talk about what is being done here. There is no one in this Congress for whom I have higher regard than the gentleman from Pennsylvania [Mr. MURTHA], but I must say that if the gentleman from Michigan [Mr. TRAXLER] attempted with his subcommittee to come forward and put in $5 billion more for housing programs than the budget resolution allowed or the budget authorization bill allowed, and let us note that since 1981 housing in this country has gone down roughly $32 billion a year to about $9 billion a year, if the gentleman from Michigan [Mr. TRAXLER] came forward and attempted to put $5 billion in without authorization, the roof would cave in here.

If the gentleman from Kentucky [Mr. NATCHER] who chairs the Labor-HHS Subcommittee attempted to do it in his programs and add $5 billion without authorization, the roof would cave in.

☐ 1250

With all due respect to the gentleman from Pennsylvania [Mr. MURTHA] and his subcommittee, he ought not to be allowed to do it either. It is quite clear that when the second budget resolution was adopted, it was stated that the figure that was put in there for defense was not intended to mandate that maximum amount. It permitted them to go up to that amount. As far as we are concerned, it was supposed to be the ceiling, not the floor, which they started out with.

It seems to me that we have heard a great deal in this House, especially over the course of the past 6 months, about how we had to address the deficit and how everybody had to play their role.

In fact, at one point Members on the Republican side of the aisle offered an amendment to cut, I think it was, $19.70 from one appropriation or one authorization bill, to demonstrate that there was no will, no political will in this House to cut any amount from any program.

OK, folks, that was a sham. Here is $5 billion in real money, in a situation where the world has turned around since last year, where the world in Europe is no longer what it was, the Russians are no longer what they were, the Warsaw Pact is no longer what it was. The budget resolution suggests cutting $170 billion, 12 percent, roughly, of the defense budget over 5 years. We should be moving toward a 25-percent cut over the 5 years. Let us start on it by voting "yes" on the amendment.

Mr. MURTHA. I yield myself 1 minute.

Mr. Chairman, the House overwhelmingly passed a budget resolution the other night and most people here voted for that budget resolution. Not long ago Members of this Congress voted to support the troops in the Desert Shield Operation and the troops that are deployed overseas. Now, we cannot have it both ways.

We have to have some common sense here, some practicality. We voted to increase the budget. I added back into the budget the programs that had to have increased funding. Anybody that believes that Desert Shield is not affected by this amendment is wrong. For instance, the bases back here at home are training troops in desert warfare and the personnel that are being paid back in the United States could be transferred to the Middle East as part of Desert Shield. So there is no way that you can separate Desert Shield and our troops deployed overseas from what we are doing in the United States in this Defense appropriations bill. It is absolutely imperative to our national defense.

The C-5's, the C-141's, the sealift that go overseas, the tanks that have been deployed overseas from Michigan, those M-1 tanks are absolutely essential to overcome the madman Hussein's T-72 tanks. All of these programs are funded in this bill and any reduction will affect those programs.

So there is no way you can separate Desert Shield from the present defense budget.

Mr. McDADE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just wanted at this juncture to follow up on a comment that was made by the distinguished chairman about the relationship of this bill to the operations in Desert Shield. It was not more than 1 month or 6 weeks ago that the members of the Defense Subcommittee traveled to Saudi Arabia to try to get a firsthand look at what we needed to do, what we needed to be aware of, to try to understand the environment in which our troops were working. And I say to my

colleagues never have I seen or experienced such a hostile environment.

Every single one of the Members who went on that trip I believe came back and shared the view that we would be hardpressed to work a day, let alone a week, in the environment where we found the Marines and 82d Airborne and the rest of the troops. It was startlingly harsh.

So all of us made a point, as we went around, to question the young men and women who were there in the frontlines to find out how they were coping. "How are you dealing with this?" Well, almost to a man the reply was, "Well, Congressman, we have been there before. We have been through the 29 Palms Mojave Desert training," that the Marines put about 50,000 people through each and every fiscal year. Talk to the 82d Airborne; they have been through the National Training Center. They have been in a desert environment. The money that supports that training is funded in this bill in the operations and maintenance account.

You take money out of this account as this amendment does, make no mistake about it, you are impacting on the ability of those young men to be able to train, to cope with a very difficult, harsh environment, the worst I have ever seen.

So to try to somehow say, "Well, don't worry, you can take $5 billion across the board," and that is what this amendment does "and it won't hurt." Well, look again; it hits personnel, it hits O&M, it hits all the accounts without discretion across the board. You do have a very significant impact here. We are still moving airplanes, ships, troops, and supplies toward the Middle East. Indeed, at one point a military airlift plane landed every 12 minutes.

Where do you think those people came from? They came from the Reserves; they came from the regular components stationed in this country. A heavy rotation of troops will be needed if we are required to keep troops over there for any sustained period of time. That entire support structure is funded in this bill.

The debate has been interesting, but I think this amendment misses, grossly, a point that is beginning to be made by members of the subcommittee, and that is what the Defense Department budget is, where it was, and what it does. Nobody seems to recognize that this is, yes, the 6th straight year of negative growth in the Defense Department. Nobody seems to recognize that just about a year ago we sat in a committee room with our Senate colleagues trying to complete a conference report on this bill, and discovered that the Berlin Wall was coming down. That was November, not quite a year ago, November 10 of last year. In response to that, when the fiscal year 1991 budget was presented, there was immediately withdrawn from that budget $22 billion. And under the leadership of my friend from Pennsylvania and with the unanimous concurrence of Members on both sides of the aisle, we cut that budget $19 billion more in this fiscal year. That is $41 billion in fiscal year 1991 alone.

Now, we were in our debate the other evening, talking about all the ways that we had to look at to raise revenue, do this, do all the other things to achieve deficit reduction. You remember the controversy about the gas tax.

At the levels that it was proposed originally in the House over a 5-year period, that would generate about $45 billion of increased revenue or an offset almost equal to the budget cut we are presenting to the House in this single fiscal year.

And, my friends, in that same period, a little later than January, the Secretary of Defense presented to the House a budget scenario that would take out, under his plan, $170 billion over 5 years. But we did not stop there.

Under the budget resolution adopted just the other night—and we are in compliance fully with the budget resolution presented to the House the other night—that number will swell to $300 billion out of the Department of Defense over the 5-year period.

Defense is the largest share of the $500 billion the House is looking for in enhanced revenues, other cuts, et cetera.

To somehow suggest that the Appropriations Committee has not been looking at the changes in the world, making those changes, trying to cooperate with the Budget Committee and the administration as well, and arrive at a figure which enables us, yes, to be a leader in the world, to retain our strength, to stop aggression should it occur, but nevertheless to contribute to the deficit package $300 billion over the 5-year period, with $41 billion in this 1 fiscal year ignores the fact.

Nothing matches those levels of dollars. Of course, the dollars are higher, but you need at least, all of us, and I would say to my colleagues to plead with you to understand that what we are attempting to do is to enact the defense build down in an orderly way.

Now, there are criticisms, I have heard people say, "Well, you shouldn't have added back $5 billion." The chairman went over each of the items that he added back. Nobody contested them. Anybody could have offered an amendment on any one of them. You could have come out and said, "We are specific, we are going to take out the CHAMPUS money." Nobody did that. I do not think anybody wants to cut out the CHAMPUS money.

We have some money for environmental restoration. Nobody challenged that as part of the $5 billion.

We had money for maritime prepositioning—and let me tell you something, you talk to anybody who has anything to do with the problems we have in Desert Shield and you will find that maritime prepositioning was the key that enabled us to put our people there and to stop aggression and, hopefully, to avoid a war. This is absolutely the wrong amendment at the wrong time, crafted improperly, no discretion, and recognizes none of the cuts that we have made as the budget has gone along. I hope it will be roundly defeated.

Mr. Chairman, I reserve the balance of my time.

☐ 1300

Mr. PENNY. Mr. Chairman, I yield 2 minutes to the distinguished chairman of the Committee on the Budget, the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, first of all, I do not think that anyone does a better job in terms of looking at the priorities in this country as they relate to defense than the gentleman from Pennsylvania and the rest of his committee. They do an outstanding job. No group of subcommittee members are more knowledgeable about the needs of defense in this country and our national security.

As a matter of fact, I do not really blame them for taking the $5 billion and adding it to this bill. Were that $5 billion presented to education or presented to housing, were that $5 billion presented to nutrition or to any other area of need in this country, those committees would have done exactly the same thing. I understand that.

However, I have to speak to the bigger picture that is involved here, and the bigger picture is what we are trying to do with regard to the summit and the deficit challenge that faces us. In the agreement that was worked out with the President, we established caps, caps on defense, caps on discretionary spending, and caps on foreign aid. I do not like caps because I know what happens with caps. Caps become what we spend regardless. So we argued in the summit and we argued on the floor with the budget resolution that these are not caps. These are caps, but they are not floors. So we can indeed try to achieve additional savings, whether it is in foreign aid, whether it is discretionary spending, or whether it is in defense, and we can then use those savings for purposes of reducing the budget.

That was the agreement. That was the budget resolution we passed here. That is what it calls for. So what I am saying to the Members of the House today is that this is not a vote for o against defense, because indeed the gentleman from Pennsylvania will protect the national security. And it is not a vote with regard to whether or not we are going to get tremendous savings. That is not the issue. The vote here is the credibility of this House in standing by the position that these are not floors, these are caps, and we can achieve better savings.

Mr. MURTHA. Mr. Chairman, I yield myself 1 minute.

If I could address myself to the chairman of the Budget Committee, he knew the problem that we had. I negotiated with him for long periods of time before we finally brought to the House the original budget resolution, and he knows that I felt there was no way we could adequately fund defense with those figures.

This has been the problem. We had to actually cut out programs which we believed needed to be funded. We set the priorities. We did it as the majority of the Members required.

When we got the higher funding levels in the latest budget agreement, we added back in programs we felt needed to be funded at higher levels for the rest of the year. CHAMPUS is one that is underfunded every year. We had to add in $1.2 billion for CHAMPUS.

Sealift is something we feel absolutely has to be funded. If it had not been for sealift, we would not have been able to deploy our forces to the Middle East.

The third thing is environmental waste and cleaning up environmental hazards, and so forth. That is something we felt needed additional funds.

Real property maintenance is something else that needs to be funded. If you let it go, it is something that in the end requires that you pay a lot more for upkeep.

So we did reduce the budget to the lower figure, but in the end what happened is that we were underfunding important defense programs. We knew very well at some point we would have to increase the overall budget. In addition to that, we know there are strategic programs that the President would insist upon, and they will have to be put back into the budget.

The CHAIRMAN pro tempore (Mr. Montgomery). The gentleman from Minnesota [Mr. Penny] has 8½ minutes remaining, the gentleman from Pennsylvania [Mr. McDade] has 2 minutes remaining, and the gentleman from Pennsylvania [Mr. Murtha] has 12 minutes remaining.

Mr. PENNY. Mr. Chairman, I yield 3 minutes to the gentleman from Kansas [Mr. Slattery].

Mr. SLATTERY. Mr. Chairman, I rise today as one Member who does not like across-the-board cuts, because I understand what kind of problems this creates for the Appropriations Committee and the subcommittees.

There is no Member of this body who has more respect for the gentleman from Pennsylvania [Mr. Murtha] and his subcommittee than I. The gentleman has a distinguished combat record, he knows the military, he knows what he is talking about in this area, and I respect that.

Mr. Chairman, I am rising today in support of this amendment, and I am doing so because I believe it is very important for us to send some important messages to the conference committee on the authorization bill and to the conference committee on the appropriation bill. I want to reduce the appropriation level and thereby put pressure on these conferences to terminate the B-2.

I am absolutely convinced, Mr. Chairman, that there is enormous waste, fraud, and abuse at the Pentagon. I am not on the Armed Services Committee and I am not on the Appropriations Committee, but I know that this week the Oversight Investigations Subcommittee of the Committee on Energy and Commerce had a very important hearing involving the Northrop Corp., and specifically involving the B-2 contract. If my colleagues missed the front page of the Washington Post earlier this week, let me draw to their attention what was on the front page as a result of that hearing.

Mr. Chairman, the Air Force officials have charged that the Northrop Corp., which builds the B-2, is so poorly managed that it cannot account for the cost of many programs and has suffered major breakdowns in the production of every weapons system that was reviewed. The Air Force concluded that the situation was so chaotic that the design team working on the engine of the B-2 failed to notify the plane's structural teams of significant changes that could dramatically affect the craft's airframe.

The Air Force concluded that they saw the same sort of problems in each of the programs that they looked at. They also concluded that this was a cultural problem with this corporation.

But what really amazes me is that the chairman of the board recently resigned, but he is still on the board of directors, and the person responsible for the aircraft division has now been promoted to become chairman of the board of the company.

What kind of a message does that send if you are trying to deal with a cultural problem within a company that earlier this year pleaded guilty to not 1, not 20, but 34 counts of falsifying the test results of the air launch cruise missile system and the Harrier jet that has been deployed to Saudi Arabia.

I say to my friends that it is time we send a very important message to the Pentagon and Northrop. Heads should roll at the Northrop Corp. The managers responsible for Northrop's terrible performance record should resign. Only by so doing will we restore the confidence of the American public and the Congress in the Northrop Corp. This would also help restore the confidence of this body in the Pentagon's ability to contract with the people who are providing this country with the weapons we need to defend our great Nation.

Mr. MURTHA. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I know the gentleman from Kansas was not here before when I mentioned the Northrop Corp., and our experience.

Members give us responsibility for oversight of these corporations, and we take it very seriously. For the last 3 or 4 years we believed that there were various programs that Northrop had responsibility for in which they did not do a good job.

As a matter of fact, we do not look at who has what program; we look at the program based on the merits, and that is the way it should be.

Last year in the conference one of the Members of the other body said to me, "Are you trying to put Northrop out of business?"

The reason he said that was because we had cut or reduced or eliminated so many programs Northrop had responsibility for and were not being administered in the proper manner.

So this is not something new. This is not something we have not known about. This is not something that we have not sent a message to the Air Force about. As a matter of fact, yesterday the gentleman from Washington chaired a hearing about this very subject because we wanted to make sure the Air Force understood that we want fiscal responsibility in defense programs.

□ 1310

Mr. McDADE. Mr. Chairman, I yield myself 1 minute.

Mr. Speaker, I just want to say to the Member that raised the issue of the article which appeared in the Washington Post regarding the Northrop Corp., we read the same article. We were shocked when we read it, and we acted.

Yesterday afternoon we brought the Secretary of the Air Force, and we brought the Air Force general responsible for writing the report, into the committee to get their views. The long and short of it is they repudiated completely the headlines that appeared. They think there are problems at Northrop, of course, and emphasize what they are doing is trying to engage in a cooperative effort to work together.

I want to say to my friend, he said heads should roll. I think the testimony is that 60 percent of the management at Northrop are new people within the last 3 years. As the chairman said, we are trying to keep an eye on all these programs. The Air Force does not approve of the characterization that appeared in the article.

The CHAIRMAN pro tempore (Mr. Montgomery). The gentleman from Pennsylvania [Mr. Murtha] will have the privilege of closing the debate, and has 10 minutes remaining; the gentleman from Minnesota [Mr. Penny] has 6 minutes remaining; and the gentleman from Pennsylvania [Mr. McDade] has 1 minute remaining.

Mr. MURTHA. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. Dicks].

Mr. DICKS. Mr. Chairman, I would point out to the gentleman from Kansas [Mr. Slattery] that in our hearing yesterday we were apprised of the fact, and I happen to know this myself, that the company had hired a new executive, Mr. Ollie Boileau, to come in as president of the B-2 program. He has had a very long and distinguished career at the Boeing Co., and at General Dynamics. In fact he is a former vice chairman of the board of General Dynamics. This is part of an effort to try and do just what the gentleman suggested, and that is bring some people who have confidence and good judgment in order to try and gain control of the program and make sure that the program moves ahead effectively.

Mr. SLATTERY. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Kansas.

Mr. SLATTERY. Mr. Chairman, I appreciate receiving that information. The only point I would make is if we are concerned about the culture of a corporation, there is one way to change it, and that is to change the people at the top that ultimately must be held accountable. I believe that the Pentagon has the capacity to put pressure on the Northrop Corp., to achieve that. If that is being done, I am delighted.

Mr. DICKS. Mr. Chairman, reclaiming my time, I think frankly that did occur. Not to mention names here, but the former chairman of the board of that company is no longer the chairman of the board.

Mr. SLATTERY. He is still on the board of directors.

Mr. DICKS. He is no longer the CEO of the company.

Mr. SLATTERY. That is true.

Mr. PENNY. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota [Mr. Dorgan].

Mr. DORGAN of North Dakota. Mr. Chairman, I rise in support of the Penny amendment. The Defense budget is the single largest share of spending in this Government. It's being debated today because the question now before this Congress is how do we cut spending and where do we cut spending.

In a decade the defense budget doubled, and no one was asked to pay for it, so our kids were charged with the defense bill. That is irresponsible. Now the bill comes due and the gentleman from Minnesota [Mr. Penny] says, among other areas of cuts, we should have a 2-percent cut here, and he is not touching the money for Desert Shield nor mandating inflexible cuts.

Mr. Chairman, we do not have to cut our real defense. It has been mentioned before on this floor, let us cut their defense. We pay too much of the bill for the mutual defense costs in Japan and Western Europe. For 40 years our Government has said, "Don't worry, the American taxpayer will pick up the defense bill or a major part of it for Japan and Western Europe."

Mr. Chairman, Americans are fed up with that because our allies are no longer the war ravaged nations of the postwar era. We now borrow money from Japan to protect France against an invasion from Poland. Everybody understands how crazy that is. The world has changed, and so should the American defense budget.

Why do we not decide then that the allies should pay their own fair share of the defense bill and relieve our taxpayers the burden? We must bring the defense budget down to where it ought to be. If the people in the Department of Defense cannot defend this country for $263 billion, plus all of the money for Desert Shield, we can find people to put in the Department of Defense who can defend this country for $263 billion.

Mr. Chairman, I applaud the gentleman for his amendment, and I hope this House will pass this flexible and modest 2-percent cut. That will still allow for a strong America, but tell our allies we are tired, you pay your share of the defense bills.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. The Chair would remind our guests today in the gallery they are not to participate in any of this debate in any way, by applause or otherwise.

Mr. PENNY. Mr. Chairman, I yield 1½ minutes to the gentleman from Michigan [Mr. Wolpe].

Mr. WOLPE. Mr. Chairman, I rise in strong support of the Penny amendment. I do so notwithstanding the enormous respect I have for the gentleman from Pennsylvania [Mr. Murtha]. The amendment that the gentleman from Minnesota [Mr. Penny] has offered here is responsible. It does nothing more than restore the defense number to that which this House originally authorized.

Mr. Chairman, the world has changed fundamentally, but the defense budget has not changed fundamentally. Over one-half of our defense budget continues to be focused upon the defense of Europe against a no longer existing threat from the Warsaw Pact and the Soviet Union.

Rand Corp. tells us we have spent $4 trillion in defending Europe in the postwar years. It is time to say enough is enough. We talk about the competitive problems we are having with our European allies and with the Japanese. No wonder, when they continue to spend far less of their gross national product on defense and are investing in the modernization of plants and equipment and education and worker training. No wonder we are having those economic competitive problems.

Mr. Chairman, it is time to understand that our national security is at least as dependent upon getting our economic house in order, and that the defense number that we put up right now will determine whether we are serious about restoring that kind of balance with our European allies and with our Japanese and other trading partners and competitors.

Mr. Chairman, these are our allies. They are also our competitors. It is time to insist upon some fair sharing of that defense burden.

Mr. MURTHA. Mr. Chairman, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. Goodling].

Mr. GOODLING. Mr. Chairman, what a problem we have, having cameras in the well of the House. Unfortunately, before we had them we did not feel a compulsion to come down and say things that people back home want to hear. No. 1, fraud, waste, and abuse. I have heard that. Every committee one is responsible for has fraud, waste and abuse. How much you have depends on how large your budget is.

But the one thing that really drives me up the wall is to hear people back home getting the message that you give them what they want to hear, that somehow or another we are in Europe because we are defending Europeans. We are in the Pacific because we are defending people in the Pacific.

Mr. Chairman, we have never been there to do that. We are there to prevent that war from happening in the first place, and we are there to make sure that it does not happen on our shores. That is why we are in those places. I do not want it to happen in the United States.

Mr. PENNY. Mr. Chairman, I yield 1½ minutes to the gentlewoman from New York [Mrs. Lowey].

Mrs. LOWEY of New York. Mr. Chairman, I rise in support of the Penny-Schumer amendment. If we are serious about deficit reduction, the defense budget which has grown dramatically over the last decade must be a part of the solution. This amendment proposes a $5.4 billion cut. Let me remind my colleagues that when the Appropriations Committee met earlier this week, $5.3 billion was added to this bill from the level approved by the Defense Appropriations Subcommittee.

I have great respect for my colleagues on the Defense Appropriations Subcommittee and its outstanding chairman, Mr. MURTHA, and I am sure they would not have agreed to a level of funding that would jeopardize our security. Approving this amendment, though it applies across the board, will send this bill to conference with the Senate with a strong signal that savings can be made from the spending levels in the budget resolution. It will give our House conferees the opportunity to reinstate the lower defense spending levels which they themselves approved at the subcommittee level.

Let me add to that one other observation. We have a serious situation in the Persian Gulf. We all know that it is costing large sums of money, but this bill which is purported to fund the defense of our Nation and our national interests, does not include funds for that purpose. That is no way to budget. Instead, we should be saving funds in this bill from the level allowed under the budget resolution to permit financing of Operation Desert Shield without busting the budget.

We cannot afford business as usual. We have to face up to reality. That means we need to act today to cut the overall level of this bill in recognition not only of our serious deficit problem, but also to provide the flexibility to respond to the situation in the Persian Gulf.

I urge the approval of this amendment. It is a sound move for fiscal sanity.

Mr. PENNY. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, at a time when various House committees are struggling to wring savings from innumerable domestic programs and to raise new revenues without hurting the working people or inhibiting economic growth, the realization that the Pentagon will not be subject to significant reductions comes as a shock. This bill would appropriate $5.4 billion more for military spending than this House authorized less than 1 month ago.

What has changed? Can the increase be attributed to the situation in the gulf? No. The cost of Desert Shield will be covered in separate appropriations. Has the assessment of the threat we face from the Soviet Union changed in the last month? If anything, the last month has brought new evidence that the cold war is a thing of the past.

How can we justify sending additional billions to the Pentagon when student loan programs are being gutted, taxes are being proposed which target working Americans, and the elderly are being called on to shoulder a greater portion of the already heavy cost of medical care?

We cannot afford to treat the Pentagon as a sacred cow. The world has changed. The pressures upon our budget are more severe. We need investments that will make America more capable and more competitive—not goldplated, outmoded weapons of the cold war.

We must wrest ourselves away from the clutches of the gluttonous military industrial complex. I strongly urge my colleagues to support the Penny-Schumer amendment.

Mr. PENNY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is consistent with the original House-passed budget. It is consistent with the levels authorized in the defense authorization bill.

□ 1320

And it is consistent with our more recently adopted budget, because that new budget stipulated that spending levels were ceilings, not floors. In other words, if we could achieve additional savings by amendment, those savings would be applied against the deficit.

Finally, this amendment does not affect Desert Shield because this appropriations bill does not specifically appropriate for that operation. And it is recognized that we will have to come back with a supplemental to first of all take into account how much our allies are willing to help shoulder the burden and the cost of that operation, how much we might have to expend additionally to take care of the needs there in the coming fiscal year.

I think it is a responsible amendment. It would cut $5 billion more and help us to reduce the deficit.

Mr. McDADE. Mr. Chairman, I yield myself my final 1 minute.

Mr. Chairman, I want to strongly take issue with the characterization of the amendment just presented by the gentleman from Minnesota [Mr. PENNY]. Make no mistake about it, this is an across-the-board cut, most commonly referred to around here as a meat ax cut. It will cost military personnel accounts in this bill an additional $1.4 billion.

When we equate that to spaces, almost 50 percent of this bill, remember, goes to the payroll and benefits for the people who are in the military, we will have to take out an additional 120,000 troops. Nobody but nobody has even advocated that. We have cut out in this bill 77,000 troops. That would mean a gross cut of 197,000 troops as a result of this gentleman's amendment.

The 2-percent cut in O&M would mean an additional $1.7 billion. We have already talked about the training centers that prepare our youngsters to go over to Desert Shield.

To try to say that this is unrelated to Desert Shield is really ignoring reality.

Mr. Chairman, I hope the amendment is resoundingly defeated.

Mr. MURTHA. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, let me just make sure that everybody in the Chamber understands what has happened here. When we originally negotiated with the Budget Committee we explained very clearly that there was no way we could fund defense at the level of the original budget resolution that passed the House. Now, even taking that into consideration, times have changed substantially. Desert Shield has happened since that time, and anybody that believes that Desert Shield is not paid for in this Defense Department bill and is not a comprehensive part of it, is wrong.

This Congress passed a new budget resolution. The leadership supported that new budget resolution. The White House agreed to that figure in the new budget resolution and a majority of Members voted for that budget resolution.

We just passed a resolution supporting the people in Desert Shield. As the gentleman from Pennsylvania suggested, we were just over in the Middle East. The first question they asked me, the ones from western Pennsylvania was, "How are the Pirates doing?" That was the first question. The second question is: "Do the people back home support me?"

Let me tell Members that we passed a resolution that said we support them, but when it comes to money we want to cut out the money. There is no way we can divorce Desert Shield from the operation of the total armed services. It is clearcut and it is together, absolutely together.

The training bases, the training in the desert and other training in the United States is part of this bill. The troops said to us the training that they received in the desert was invaluable. This is the most hostile environment you can possibly live under. The troops in Desert Shield have lost $200 a month in pay. They are deployed in the most hostile environment in the world and they have lost $200 a month.

This amendment would cut CHAMPUS, which funds the medical benefits of the dependents of the Armed Forces and the retirees. Is that what we want to do?

We knew from the very start that there is no way that we could fund this budget under the original budget resolution, and then along came Desert Shield. We have 200,000 people deployed, and we hope that that 200,000 deployment has averted a war. We hope that we will not have a war. But surely we cannot cut the defense budget at this point and have them believe that we support their deployment and that their deployment was not invaluable to the peace and stability in the Middle East.

I would urge defeat the 2-percent across-the-board cut.

Mr. McDERMOTT. Mr. Chairman, I rise in support of the Penny-Schumer amendment.

The House has already authorized $283 billion for defense. Now we are being asked to provide an additional $5 billion to what we approved just 3 weeks ago. This is $5 billion more for the defense of a new Europe that does not need it and missiles for a U.S. stockpile that does not need it.

If you add in the cost of Operation Desert Shield, now estimated at $15 billion, next year we will spend more on defense than we did in fiscal year 1990. That makes a mockery of all our attempts at genuine deficit reduction.

How can we look our senior citizens in the eyes and say, sorry, in this post-cold war era, in this new world order, we must have more missiles—and you must pay for them with cuts in Medicare. How can we ask the middle class to tighten their belts when we permit an already bloated Pentagon budget to loosen theirs?

A recent CBS-New York Times poll found that 58 percent of the American people would be willing to limit defense spending in order to reduce the deficit. The American people know that after more than a trillion dollars in the last decade, the defense spending binge has gone on long enough.

This is a chance to let the American people know we are serious about deficit reduction, and that we are willing to turn down the biggest special interest of all—the Pentagon.

If we cannot hold the line on spending restraints here, if we cannot say no to one of the easiest votes we will have during this budget process, if we cannot begin to dismantle the Pentagon yoke that has been strangling our economy for a decade, and if we cannot recognize that the scarce funds we have are desperately needed elsewhere, then we have no business asking any American to pay more of their hard-earned money to reduce this deficit.

I urge my colleagues to vote for this amendment.

The CHAIRMAN pro tempore (Mr. MONTGOMERY). The question is on the amendment offered by the gentleman from Minnesota [Mr. PENNY].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. PENNY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 201, noes 215, not voting 17, as follows:

[Roll No. 454]

AYES—201

Ackerman
Anderson
Andrews
Anthony
Applegate
Aspin
AuCoin
Bates
Beilenson
Bereuter
Berman
Bilirakis
Bosco
Boxer
Brown (CO)
Bruce
Bryant
Buechner
Campbell (CA)
Campbell (CO)
Cardin
Chandler
Clay
Clement
Collins
Condit
Conyers
Cooper
Costello
Coyne
Craig
Crockett
DeFazio
Dellums
Derrick
Donnelly
Dorgan (ND)
Douglas
Downey
Durbin
Dymally
Eckart
Edwards (CA)
Engel
Espy
Evans
Fawell
Feighan
Flake
Ford (TN)
Frank
Frenzel
Gordon
Goss
Grandy
Grant
Green
Gunderson
Hamilton
Hastert
Hawkins
Hayes (IL)
Henry
Herger
Hertel
Hochbrueckner
Houghton
Hubbard
Hughes
Jacobs
Johnson (SD)
Johnston
Jontz
Kaptur
Kastenmeier
Kildee
Kleczka
Kolbe
LaFalce
Lantos
Leach (IA)
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Long
Lowey (NY)
Luken, Thomas
Markey
Marlenee
Martin (IL)
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McDermott
McGrath
McHugh
McMillan (NC)
Meyers
Mfume
Miller (CA)
Miller (WA)
Mink
Moody
Morella
Mrazek
Murphy
Nagle
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Porter
Poshard
Price
Pursell
Rahall
Rangel
Rhodes
Ritter
Roberts
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Roybal
Russo
Savage
Sawyer
Saxton
Scheuer
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Sikorski
Skaggs
Slattery
Slaughter (NY)
Smith (NJ)
Smith (VT)
Smith, Robert (NH)
Snowe
Solarz
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tauke
Thomas (CA)
Thomas (WY)
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Vander Jagt
Vento
Volkmer
Walgren
Walker
Walsh
Washington
Waxman
Weber
Weiss
Wheat
Wise
Wolpe
Wyden
Yates
Yatron

NOES—215

Alexander
Annunzio
Archer
Armey
Atkins
Baker
Ballenger
Bartlett
Barton
Bateman
Bennett
Bentley
Bilbray
Bliley
Boehlert
Bonior
Borski
Boucher
Brennan
Browder
Brown (CA)
Bunning
Burton
Bustamante
Byron
Callahan
Carper
Carr
Chapman
Clarke
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Conte
Coughlin
Courter
Cox
Crane
Dannemeyer
Darden
Davis
de la Garza
DeLay
DeWine
Dickinson
Dicks
Dingell
Dixon
Dreier
Duncan
Dwyer
Dyson
Early
Edwards (OK)
Emerson
English
Erdreich
Fascell
Fazio
Fields
Fish
Flippo
Foglietta
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gradison
Gray
Guarini
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hatcher
Hayes (LA)
Hefley
Hefner
Hiler
Hoagland
Holloway
Hopkins
Horton
Hoyer
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (CT)
Jones (GA)
Jones (NC)
Kanjorski
Kasich
Kennelly
Kolter
Kostmayer
Kyl
Lagomarsino
Lancaster
Laughlin
Leath (TX)
Lehman (FL)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lukens, Donald
Machtley
Madigan
Manton
Martin (NY)
Mavroules
McCollum
McCrery
McCurdy
McDade
McEwen
McMillen (MD)
McNulty
Michel
Miller (OH)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morrison (WA)
Murtha
Myers
Natcher
Nelson
Nielson
Ortiz
Oxley
Packard
Pallone
Parker
Pashayan
Patterson
Paxon
Pickett
Pickle
Quillen
Ravenel
Ray
Regula
Richardson
Ridge
Rinaldo
Roe
Rogers
Rose
Rowland (CT)
Rowland (GA)
Sabo
Saiki
Sangmeister
Sarpalius
Schaefer
Schiff
Schneider
Shumway
Shuster
Sisisky
Skeen
Skelton
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (OR)
Solomon
Spence
Stump
Sundquist
Tanner
Tauzin
Taylor
Thomas (GA)
Torricelli
Valentine
Visclosky
Vucanovich
Watkins
Weldon
Whittaker
Whitten
Williams
Wolf
Wylie
Young (AK)
Young (FL)

NOT VOTING—17

Barnard
Bevill
Boggs
Brooks
Broomfield
Dornan (CA)
Ford (MI)
Hall (OH)
Kennedy
Morrison (CT)
Parris
Robinson
Roukema
Schuette
Smith (FL)
Torres
Wilson

□ 1345

The Clerk announced the following pairs:

On this vote:

Mrs. Roukema for, with Mr. Broomfield against.

Mr. Robinson for, with Mr. Dornan of California, against.

Messrs. FLIPPO, DONALD E. "BUZ" LUKENS, GEJDENSON, and GRAY changed their vote from "aye" to "no."

Messrs. WISE, COSTELLO, THOMAS A. LUKEN, and SMITH of New Hampshire changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. PARRIS. Mr. Chairman, I was unavoidably detained and missed the vote on the Penny amendment. Had I been present, I would have voted no.

Mr. KOSTMAYER. Mr. Chairman, I move to strike the last word for the purpose of engaging in a colloquy with the chairman.

Mr. Chairman, this bill contains $95 million for the continuation of the Advanced Submarine Technology Program within the Defense Advanced Research Projects Agency. This research program which has made significant progress in the past year, is designed to ensure that adequate research is being conducted on potential technological advancements of our Nation's submarine fleet.

Mr. MURTHA. If the gentleman will yield, Mr. Chairman, that is correct. The committee believes that technology developed under this program will enable the Navy to improve the performance of U.S. submarines and to ensure submarine survivability in the coming decades. The committe believes this program constitutes a key component of our effort to ensure the future viability of the sea-based leg of the triad. The committee strongly supports the Advanced Submarine Technology Program in the bill.

Mr. KOSTMAYER. This program includes the development of composite materials based on the innovative use of advanced weaving technology, does it not?

Mr. MURTHA. That is correct. The development of new composite materials for submarine hulls will allow the Navy greater flexibility in submarine design. New composite materials will also help make Soviet detection of United States submarines more difficult. The committee believes this composite research is a vital part of the overall submarine technology research effort.

Mr. KOSTMAYER. Mr. Chairman I thank the subcommittee chairman for this clarification.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: On page 102 of the bill, after line 5, insert the following:

SEC. 8096. Notwithstanding any other provision of this Act, the operations and maintenance accounts and revolving and management funds shall be reduced by $400,000,000 to reduce inapplicable inventories.

Mr. TRAFICANT. Mr. Chairman, this amendment would cut $400 million from inventory which is not necessarily needed at this point, and critical to our defense. I would ask that Members would support the amendment.

Mr. Chairman, I yield to the chairman of the committee.

Mr. MURTHA. Mr. Chairman, I have no problem with the amendment.

The **CHAIRMAN** pro tempore. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

The **CHAIRMAN** pro tempore. The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Department of Defense Appropriations Act, 1991".

☐ 1350

Mr. HEFNER. Mr. Chairman, I move to strike the last word.

(Mr. **HEFNER** asked and was given permission to revise and extend his remarks.)

Mr. HEFNER. Mr. Chairman, I rise in strong support of this bill. This is a bill that funds those programs necessary to keep this country strong. It provides a good balance between strategic and tactical programs but more importantly it provides the operations and maintenance money to ensure that our military stays well trained as well as being equipped with modern weapons. This bill also decreases military spending, but it does so in an orderly manner. It is designed to manage the military reduction in such a way that we stay strong and are always prepared to respond militarily if that is necessary.

I want to recognize our chairman, Mr. MURTHA, and Mr. MCDADE our ranking minority member for their leadership throughout this year. They are both personally committed and involved with defense issues on a daily basis. They lead by example and I want to publicly thank them for the professional and cordial way in which our subcommittee operates.

I urge all my colleagues to support this bill.

Mr. MURTHA. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BROWN of California) having assumed the chair, Mr. MONTGOMERY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5803) making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The **SPEAKER** pro tempore. Without objection, the previous question is ordered.

There was no objection.

The **SPEAKER** pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The **SPEAKER** pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The **SPEAKER** pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WEISS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 322, noes 97, not voting 14, as follows:

[Roll No. 455]

AYES—322

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Baker
Ballenger
Bartlett
Barton
Bateman
Bennett
Bentley
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bonior
Borski
Bosco
Boucher
Brennan
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Bustamante
Byron
Callahan
Campbell (CO)
Carper
Carr
Chandler
Chapman
Clarke
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Condit
Conte
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Dannemeyer
Darden
Davis
de la Garza
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Downey
Dreier
Duncan
Durbin
Dwyer
Dyson
Eckart
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flippo
Foglietta
Ford (TN)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grant
Gray
Green
Guarini
Gunderson
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefner
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Long
Lowery (CA)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Oakar
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Parker
Parris
Pashayan
Patterson
Payne (VA)
Penny
Perkins
Pickett
Pickle
Porter
Poshard
Price
Ravenel
Ray
Regula
Richardson
Ridge
Rinaldo
Ritter
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Rowland (CT)
Rowland (GA)
Sabo
Saiki
Sangmeister
Sarpalius
Sawyer
Saxton
Schiff
Schneider
Schulze
Schumer
Serrano
Sharp
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny

(OR)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stearns
Stenholm
Sundquist
Swift
Synar
Tallon
Tanner
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Traxler
Udall
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Walgren
Walsh
Watkins
Weldon
Whittaker
Whitten
Wise
Wolf
Wolpe
Wylie
Yatron
Young (AK)
Young (FL)

NOES—97

Armey
Bates
Beilenson
Bereuter
Berman
Boxer
Burton
Campbell (CA)
Cardin
Clay
Collins
Combest
Conyers
Cox
Crane
Crockett
DeFazio
Dellums
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Dymally
Early
Edwards (CA)
Flake
Frenzel
Gekas
Grandy
Hall (TX)
Hancock
Hayes (IL)
Hefley
Henry
Herger
Hughes
Kastenmeier
Kyl
Leach (IA)
Lewis (CA)
Lewis (GA)
Lowey (NY)
Martin (IL)
McCandless
McDermott
Mfume
Miller (CA)
Moody
Nagle
Nowak
Oberstar
Obey
Owens (NY)
Panetta
Paxon
Payne (NJ)
Pease
Pelosi
Petri
Pursell
Quillen
Rahall
Rangel
Rhodes
Roberts
Roth
Roybal
Russo
Savage
Schaefer
Scheuer
Schroeder
Sensenbrenner
Shays
Shumway
Sikorski
Smith (VT)
Smith, Robert (NH)
Stark
Stokes
Studds
Stump
Tauke
Towns
Traficant
Unsoeld
Vento
Vucanovich
Walker
Washington
Waxman
Weber
Weiss
Wheat
Williams
Wyden
Yates

NOT VOTING—14

Barnard
Boggs
Brooks
Broomfield
Ford (MI)
Hall (OH)
Kennedy
Lent
Lipinski
Morrison (CT)
Robinson
Roukema
Schuette
Wilson

☐ 1409

Messrs. WEBER, DORNAN of California, HALL of Texas, OBERSTAR, PAXON, and TOWNS changed their vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent for rollcall No. 453, the Traficant amendment to H.R. 5803—Defense appropriations; rollcall 454, the Penny amendment to H.R. 5803; and rollcall No. 455, final passage of H.R. 5803. Had I been here, I would have cast the following votes: "aye," "aye," and "aye."

☐ 1410

APPOINTMENT OF CONFEREES ON H.R. 5021, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5021) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The **SPEAKER.** Is there objection to the request of the gentleman from Iowa? The Chair has none, and appoints the following conferees and, without objection, reserves the right to appoint additional conferees: Messrs. SMITH of Iowa, ALEXANDER, EARLY, DWYER of New Jersey, CARR, MOLLOHAN, WHITTEN, ROGERS, REGULA, KOLBE, and CONTE.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 5241, TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1991

Mr. ROYBAL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5241) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1991, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The **SPEAKER.** Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following conferees and, without objection, reserves the right to appoint additional conferees: Messrs. ROYBALL, HOYER, ALEXANDER, EARLY, SABO, DIXON, WHITTEN, SKEEN, LOWERY of California, WOLF, and CONTE.

There was no objection.

APPOINTMENT OF CERTAIN PERSONS AS MEMBERS OF THE COMPETITIVENESS POLICY COUNCIL

The **SPEAKER.** Pursuant to the provisions of section 5205(a)(1)(C) of Public Law 100-418, the Speaker and minority leader do jointly appoint the following persons to the Competitiveness Policy Council on the part of the House:

Mr. Lynn Williams of Pittsburgh, PA;

Mr. C. Fred Bergsten of Washington, DC;

Mr. Edward V. Regan of Albany, NY; and

Mr. John J. Murphy of Dallas, TX.

WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 5769, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 505 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 505

Resolved, That all points of order against consideration of the bill (H.R. 5769) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes, are hereby waived. During consideration of the bill, all points of order against the following provisions in the bill for failure to comply with clause 2 of rule XXI are hereby waived: beginning on page 2, line 3 through page 3, line 23; beginning on page 5, line 4 through page 7, line 2; beginning on page 9, line 6 through page 11, line 2; beginning on page 13, line 9 through page 14, line 14; beginning on page 17, line 23 through page 18, line 2; beginning on page 54, lines 16 through 21; beginning on page 57, line 18 through page 62, line 12, beginning on page 62, line 23 through page 66, line 16; beginning on page 77, line 8 through page 78; line 11; beginning on page 82, line 3 through page 84, line 7; beginning on page 86, lines 17 through 21; beginning on page 88, lines 6 through 15; and beginning on page 91, line 13 through page 93, line 23. It shall be in order to consider en bloc amendments, if offered by Representative Yates of Illinois, said amendments en bloc shall be debatable for not to exceed twenty minutes, equally divided and controlled by the proponent and a Member opposed. Said amendments en bloc shall not be subject to amendment, or be subject to a demand for a division of the question in the House or in the Committee of the Whole. Said amendments en bloc may amend portions of the bill not yet read for amendment, and if adopted shall become original text for purpose of further amendment under the five-minute rule. It shall be in order to consider the amendment printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Regula of Ohio or his designee, and all points of order again said amendment for failure to comply with the provisions of clause 7 of rule XVI and clause 2 of rule XXI are hereby waived. Said amendment shall be debatable for not to exceed thirty minutes, equally divided and controlled by the proponent and a Member opposed thereto. Said amendment shall not be subject to amendment except for a substitute consisting of the text of H.R. 4825 as passed by the House, if offered by Representative Williams of Montana, or his designee. Said substitute shall be debatable for not to exceed thirty minutes, equally divided and controlled by the proponent and a Member opposed thereto. Said substitute shall not be subject to amendment and all points of order against said substitute for failure to comply with the provisions of clause 7 of rule XVI and with clause 2 of rule XXI are hereby waived. It shall be in order to consider the amendment printed in the report of the Committee on Rules, if offered by Representative Synar of Oklahoma or his designee, and all points of order against said amendment for failure to comply with the provisions of clause 7 of rule XVI and clause 2 of rule XXI are hereby waived. Debate on said amendment and all amendments thereto shall not exceed one hour.

Sec. 2. House Resolution 500 is hereby laid on the table.

The **SPEAKER** pro tempore (Mr. Bonior). The gentleman from Tennessee [Mr. Gordon] is recognized for 1 hour.

Mr. **GORDON**. Mr. Speaker, I yield the customary 30 minutes, for the purposes of debate only, to the gentleman from California [Mr. Pashayan], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 505 is a rule waiving all points of order against consideration of H.R. 5769, the Interior and related agencies appropriations bill for fiscal year 1991.

House Resolution 505 waives provisions of clause 2 of rule XXI which prohibit unauthorized appropriations or legislative provisions in general appropriations bills, against specific provisions of the bill. The precise provisions of H.R. 5769 for which these waivers are provided are detailed in the rule by reference to page and line in the Interior and related agencies appropriations bill.

House Resolution 505 makes in order an en bloc amendment to be offered by Chairman Yates. This amendment is not subject to amendment nor is it subject to a demand for a division of the question in the House or in the Committee of the Whole. This amendment shall be debatable for 20 minutes to be equally divided and controlled by Chairman Yates and a Member opposed to the amendment. If adopted, the Yates amendment will be original text for purposes of further amendment. Mr. Speaker, this amendment is necessary as it will bring the bill in line with the new 302(b) allocations which reflect the recently passed budget resolution conference report.

House Resolution 505 makes in order an amendment to be offered by Representative Regula which relates to the funding of the National Endowment for the Arts. The amendment will be debatable for 30 minutes to be equally divided and controlled. The rule waives all points of order against the amendment for failure to comply with provisions of clause 7 of rule 16, and clause 2 of rule XXI. The Regula amendment is not subject to amendment, except for the Williams amendment.

The amendment by Representative Williams which consists of the text of H.R. 4825, the National Endowment for the Arts authorization, as passed by the House last night will be offered as a substitute to the Regula amendment. The Williams substitute will be debatable for 30 minutes to be equally divided and controlled by Representative Williams and a Member opposed and is not subject to amendment. Clause 7 of Rule XVI and clause 2 of rule XXI are waived against the Williams amendment.

Mr. Speaker, this rule also makes in order an amendment to be offered by Mr. Synar. Debate on the Synar amendment and all amendments thereto is limited to 1 hour. The rule waives all points of order against the amendment for failure to comply with the provisions of clause 7 of rule XVI, and clause 2 of rule XXI. The Synar amendment would establish a grazing fee structure for western ranchers who graze cattle on Department of Interior, Bureau of Land Management and U.S. Forest Service land.

Finally, the rule lays on the table House Resolution 500, waiving certain points of order during consideration of H.R. 5769, the fiscal year 1991 Interior and related agencies appropriations bill.

Mr. Speaker, H.R. 5769 is the product of old fashion hard work and careful consideration. Thirteen published volumes of committee documents totaling 15,000 pages preserve the committee's 32 days of hearings and the testimony of 860 witnesses. Major committee initiatives include the protection of natural resources on public lands, the development of new energy sources, the preservation and advancement of the arts and the protection of native American interests.

Mr. Speaker, this rule provides for the consideration of this important measure and allows for an en bloc amendment to bring this bill in line with deficit reduction targets mandated by the budget resolution conference report. I urge my colleagues to adopt House Resolution 505.

□ 1420

Mr. **PASHAYAN**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 505 is a rule waiving points of order during consideration of legislation to appropriate almost $12 billion for the Department of the Interior and related agencies and programs in fiscal 1991.

The rule waives all points of order against consideration of the bill, H.R. 5769, which is the 12th regular appropriations bill to come before the House.

The Interior Department appropriations measure is the second appropriation to come onto the floor of the House following the adoption of the conference report on the budget resolution, and as such, the bill as reported does not conform to the section 302(a) allocations contained in the recently passed budget plan.

In order to conform the bill to the section 302(b) discretionary spending amounts allocated for Interior appropriations bill by the Appropriations Committee, the Committee on Rules makes in order an amendment to be offered en bloc by the chairman of the subcommittee, the gentleman from Illinois [Mr. Yates].

The amendment to be offered by the gentleman from Illinois reduces by $35 million the cost of operating schools in the Bureau of Indian Affairs, and shifts the spending of $65 million for clean coal technology into fiscal 1992.

Under the rule, the amendment to be offered by Mr. Yates is debatable for 20 minutes. If the amendment shall be adopted, the new language will become the original text for the purpose of further amendment.

This is an important feature of the rule, since other Members may very well have amendments to the sections changed by the Yates amendments.

Mr. Speaker, the rule ensures that they will not be precluded from offering amendments to the same sections.

The rule waives clause 2 of rule XXI against 10 specific provisions, which are not authorized by law or which propose legislation in an appropriations bill.

Mr. Speaker, I shall not detail these provisions, but I will insert in the Record a letter the Committee on Rules received from the distinguished gentleman from Mississippi, the chairman of the Committee on Appropriations. The chairman's letter includes a summary of the provisions specified in the rule.

Mr. Speaker, the rule also waives clause 2 of rule XXI against two specific amendments, one to be offered by the gentleman from Ohio [Mr. Regula], and one to be offered by the gentleman from Oklahoma.

The amendment to be offered by the gentleman from Ohio [Mr. Regula] limits grants by the National Endowment for the Arts to projects appropriate for a general audience.

The amendment also requires that the NEA shall be "sensitive to the nature of public sponsorship," and it prohibits any funding of art determined to be obscene or indecent.

Mr. Speaker, the Committee on Rules held an emergency meeting last night, shortly after the House finished its work on the legislation reauthorizing the National Endowment for the Arts.

The result of the meeting is that this rule makes in order a substitute for the Regula amendment, consisting of the text of the authorization bill, H.R. 4825, as passed by the House last night.

The Committee on Rules included the Regula amendment for the simple reason that it was viewed as a form of extra insurance that some legally binding restrictions shall actually make it into the law.

Mr. Speaker, the addition of an amendment to a general appropriations bill consisting of the text of an

authorization bill is very unusual. But these are very unusual times, and the addition of H.R. 4825 to this bill might actually improve the chances that the new authorization language should become law.

Mr. Speaker, I want to point out that the House adopted the Williams-Coleman compromise as a substitute last night on a record vote of 382 to 42, and the bill passed by a record vote of 349 to 76.

Mr. Speaker, the amendment to be offered by the gentleman from Oklahoma [Mr. Synar] to require the Secretary of Agriculture substantially to increase the fees charges for domestic livestock grazing on public lands.

The gentleman from Oklahoma will have 1 hour of debate on his amendment. According to the gentleman from Oklahoma, the substance of this amendment is identical to a bill he introduced just last week. That bill, H.R. 5788, has been referred to the Committee on Interior and Insular Affairs.

It is passing strange, I say to my colleagues on the floor of this House, that the gentleman from Oklahoma has been given a vote on an amendment, the subject of which has never been reported from any committee of this House.

Rather than to attempt to defeat this rule, I just want to make it clear that the Synar amendment is premature. The amendment is ill-conceived and should be accorded the quick defeat it so richly deserves.

Mr. Speaker, I support this rule and I urge adoption of the rule.

There is one reason in particular that I support this rule, and that reason is the Committee on Rules said "no" to an attempt by the gentleman from Indiana to offer an amendment regarding timber sales from forest lands controlled by the Forest Service.

The amendment suggested by the gentleman from Indiana [Mr. Jontz] is not made in order by this rule. The gentleman asked for a waiver of clause 2 of rule XXI in order to protect his amendment from a point of order. His request was not accepted by the Committee on Rules.

Since this is a general appropriations bill, however, the rule does not prevent the gentleman from offering his amendment without the benefit of a waiver from the Committee on Rules.

Mr. Speaker, I want to alert the Members that the gentleman from Indiana may yet offer an amendment.

It is my understanding of the Rules of the House, that a point of order would lie against the gentleman's amendment, that is the amendment he presented to the Committee on Rules, if he shall indeed offer it.

I have information, however, that the gentleman from Indiana has submitted several different versions of the amendment to the Parliamentarian's Office, for their review.

I want to alert the Members that if there is any amendment offered by the gentleman from Indiana that seeks to limit timber sales, they should expect some considerable debate and perhaps, the offering of one or more points of order.

Mr. Speaker, I support this rule and urge that it be adopted.

House of Representatives,
Committee on Appropriations,
Washington, DC., October 9, 1990.

Hon. John Joseph Moakley,
Chairman, Committee on Rules, House of Representatives, Washington, DC.

Dear Mr. Chairman: The Committee on Appropriations on October 1 reported the Department of the Interior and Related Agencies Appropriations bill for the fiscal year ending September 30, 1991.

It has become necessary, in order to meet deadlines, that we include appropriations for a number of programs for which legislation has not yet been enacted and several legislative provisions for which a waiver of Clause 2, rule XXI is requested. With respect to the lack of authorization for appropriations, representatives of the legislative committees of jurisdiction have been contacted and we know of no objections. We are also asking for a limited number of waivers for legislative provisions contained in the bill. At this time we know of no objections to them by the committees of jurisdiction. A list of specific requests for waivers is enclosed.

An amendment by Mr. Regula concerning the National Endowment for the Arts should be made in order in line with assurances made before the Committee.

The Committee appreciates your continued cooperation.

Sincerely,

Jamie Whitten
Chairman.

Request for Waiver of Clause 2, Rule XXI, Department of the Interior and Related Agencies Appropriations, Fiscal Year 1991

1. Bureau of Land Management, Management of lands and resources; firefighting; construction and access; range improvements; service charges, deposits and forfeitures; and miscellaneous trust funds. The Committee recommends a total appropriations of $782,737,000 for these programs, which were authorized through fiscal year 1984. Legislation authorizing annual appropriations for these activities (HR 828) passed the House on July 17, 1989.

2. United States Fish and Wildlife Service, Construction and Anadromous Fish. The Committee has recommended an appropriation of $68,375,000 for this account, including $2,000,000 for anadromous fish grants. Authorizing legislation for anadromous fish grants. Authorizing legislation for anadromous fish grants (HR 1224) passed the House on April 25, 1989.

3. National Park Service, John F. Kennedy Center for the Performing Arts. The Committee has recommended an appropriation of $21,150,000. Authorizing legislation (HR 5070) passed the House on September 10, 1990.

4. Department of Energy, Clean coal technology; fossil energy research and development; naval petroleum and oil shale reserves; energy conservation; economic regulation; emergency preparedness; Strategic Petroleum Reserve; and Energy Information Administration. The Committee recommends a total appropriation of $1,063,261,000 for these programs. These amounts are for ongoing programs of the Department for which annual authorizing legislation has not been introduced in the House.

5. Smithsonian Institution, Salaries and expenses. The Committee recommends an appropriation of $274,342,000, of which $15,000,000 for the John F. Kennedy Center for the Performing Arts operating deficit is unauthorized.

6. National Foundation on the Arts and the Humanities: National Endowment for the Arts, grants and administration and matching grants; National Endowment for the Humanities, grants and administration and matching grants; Institute of Museum services, grants and administration. The Committee recommends $378,740,000 for these ongoing programs. Authorizing legislation (HR 4825) was reported by the Committee on Education and Labor.

7. United States Holocaust Memorial Council. The Committee has recommended an appropriation of $7,554,000 for the council. Authorizing legislation (HR 5324) has been introduced in the House.

For items 1 through 7 a waiver of Clause 2 of the Rule XXI is requested, because of lack of annual authorization.

In addition, a waiver of Clause 2 of Rule XXI is requested for the following legislative provisions:

8. Fish and Wildlife Service, Resource management. This account includes $1,000,000 for the Youth Conservation Corps, legislation for which has expired.

9. National Park Service, Operation of the National Park System. This account includes $1,000,000 for the Youth Conservation Corps, legislation for which has expired.

10. Forest Service, Administrative provisions. The provisions include allowance for up to $1,000,000 for the Youth Conservation Corp, legislation for which has expired.

Mr. Speaker, I reserve the balance of my time.

Mr. **GORDON**. Mr. Speaker, for purposes of debate only, I yield 7 minutes to the gentleman from Minnesota [Mr Oberstar].

Mr. **OBERSTAR**. Mr. Speaker, I greatly appreciate the gentleman yielding this time. I take this opportunity to address the House on this matter because I will be in the Chair presiding over the Committee of the Whole and will not be able to address myself to the amendment that may be offered by the gentleman from Indiana [Mr. Jontz].

This amendment, that would normally be a very attractive amendment which attempts to reduce the volume and value of below cost timber sales, i misguided, misjudged, misstated, an should not be offered, and, if it is offered, I hope it will be soundly defeated.

Mr. Speaker, I speak from the perspective of one who represents an are in the eastern region of the U.S Forest Service that is east of the Mississippi, where we have very low value low volume timber harvesting, in con trast to the high value forests of the Pacific Northwest.

Mr. Speaker, the volume of timber cut in the Pacific Northwest has been reduced in recent years as a result of a number of actions, the effect of which will be this action of the gentleman from Indiana [Mr. Jontz], taking a percentage, across-the-board cut, will transfer a disproportionately high amount of reduction in timber sales to low value, low volume forests, which, as I will explain in a moment, are forests in transition.

Mr. Speaker, in the 27 years I have served in one capacity or another in this body, 12 years as a member of the staff of my immediate predecessor in Congress, John Blatnik, and my almost 16 years in the House now, we have seen in the Superior National Forest, in the Chippewa National Forest, in the forests of northwestern Wisconsin and northern Michigan, Rare I, thousands of acres of timberland removed from harvesting. We participated. We thought it was good, and it was a good thing to do.

Then we had Rare II, thousands more acres of timberland removed from harvesting. We participated in that. That was a good thing.

□ 1430

Then we had the Boundary Waters Canoe Wilderness Act. That took thousands of more acres out of timber harvesting, not with my concurrence, although the timber harvest termination part of it, I think, would have eventually evolved on the sheer willingness of the timber companies to terminate timber harvesting. But, by law, thousands more acres were taken out.

Then we had wild and scenic river studies of the forests in Minnesota, and hundreds more acres were taken out, not thousands this time, only hundreds more acres. Throughout this long history the message was: get out of the long growth, long fiber species, and get into the faster rotating species, with shorter fibers that require higher costs to process, but, when they are cut, do not detract from the value of the forests, and furthermore, regenerate quickly. That is what has been done.

The Superior National Forest is a forest in transition. The Chippewa National Forest is a forest in transition.

Now we have moved away from balsam, from jack pine, from red pine, the blister rust killed the white pine and we do not have it anymore, and now we are down to the aspen, a shorter term rotation species, high cost of processing, using it in a lot of ways that were not possible before, in particleboard, in waferboard, and in various kinds of papermaking.

Now along comes the gentleman from Indiana and says, "Oh well, that's not good enough. It costs too much to harvest that timber. It's costing the Federal Government all this money. Those are below cost timber sales and we are going to stick you with a reduction in the amount that you can cut."

People in northern Minnesota think: "what is the matter with people like this?" The loggers have to build the roads to go in and cut, and the Forest Service says build a 50-year road. So they build a 50-year road, and then some self-appointed experts say, "Oh, now, the cost of that road makes the cost of the sale higher than what the good will bring in the market, so this is a below cost sale."

Wait a minute. There are tourists who use those roads. In the wintertime there are cross-country skiers who use the roads. We do not charge them. We do not charge them to do that. We need to have some clear-cutting in northern Minnesota so that the deer will come and feed on the new growth and so that the herd will thrive. Also, much of the forest area of northeasten Minnesota is set aside as a reserve for the timber wolf, which is on the endangered species list, as a threatened species. So you have to have clear-cutting to have new growth, to have the white-tail deer, to sustain the timber wolf population, and now someone comes along and says you cannot cut that stuff?

Now what will this mean? I have been involved in this for a long time. I know how much effort it has taken in wood chemistry to bring about the processes that have made it possible for us to use these lower value, fast rotation hard woods, at an increased cost to the timber industry of using that raw material. If this amendment takes effect, we will for a certainty lose at least 500 and maybe 600 logging jobs, and jobs in the end user industries, from particleboard to papermaking.

That is intolerable in an area that has already lost 10,000 jobs in the taconite industry because of iron ore mining cutbacks due to all of this distress in steel during the 1980's, and one loss of jobs in shipping, all in an area that is already in severe economic distress; and now, should the Jontz amendment be enacted, and the job loss I mentioned occur, we will in addition lose money from reductions in the Federal payments in lieu of taxes to local government. We will lose money from the Federal Treasury in the form of increased unemployment compensation payments that will result, increases in services such as food stamps and Medicaid, and reduced tax revenues from the businesses that are going to be cut out.

If there is a problem with the low cost timber sales, then it ought to be addressed in the proper forum, in legislation that can be amended in subcommittee and full committee and further addressed on the House floor. That is the proper process within which to do it. Do not come to the House floor with a meat ax approach in an appropriation bill where we have only one up or down vote on a simplistic proposition.

It sounds very appealing, very simple, but it has very serious, devasting in fact, consequences for local areas.

I urge my colleagues to take the appropriate action and allow the committee to rise. Do not allow the gentleman to offer the amendment. I appeal to the appropriate subcommittee of the Commttee on Agriculture to take this issue up in due and proper course, and I thank the gentleman and my colleagues for their patience.

Mr. PASHAYAN. Mr. Speaker, I yield 5 minutes to the gentleman from New Mexico [Mr. Skeen].

Mr. SKEEN. Mr. Speaker, in the 10 years I have served in the House of Representatives, there have been very few times I have taken to the floor to speak out against a rule. But my appearance before the House is now warranted to express my strong opposition to this rule.

My opposition is based entirely on the provision in the rule that makes in order an amendment by Mr. Synar. This amendment would arbitrarily raise grazing fees on Federal lands by nearly 500 percent.

The relevance of addressing the grazing fee issue in this bill has been discussed for several years. In the House Appropriations Committee and on the House floor during consideration of previous Interior appropriations bills, the decision has been to reject inclusion of grazing fee language. That is why we have authorizing committees.

I have tremendous respect for Chairman Yates and Mr. Regula for their effort in bringing this appropriations bill to the House floor. This legislation addresses some of the toughest and most controversial issues facing Congress.

It was only after a tremendous amount of time and an agonizingly detailed review of the facts that compromises contained in the bill were obtained.

Allowing the Synar amendment goes against the principled review and consideration of the tough issues included in the Interior appropriations bill.

This amendment does not reflect reality. Many folks across the country believe Congress lives in a fantasy land. This amendment is the best argument I have seen to support that notion.

This amendment would remove the current grazing fee formula established by a Presidential Executive order, which is supported by Secretarys Yuetter and Lujan, and replace

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it with a formula that establishes arbitrary fees.

Under the Synar amendment, fees would move in only one direction and that is up through the stratosphere. More than a 500 percent increase to be exact.

The current formula is working just fine. It is market sensitive so that ranchers pay more in grazing fees when times are good, and they pay less when market conditions turn down.

Grazing fees on private lands work the same way. They are sensitive to current market conditions.

This amendment falsely assumes that all private and public land in this country is equal. And therefore grazing fees should be equal on both private and public lands.

This amendment is a classic case of trying to compare apples to oranges.

Don't be fooled by this issue. Reject the rule and let the authorizing committee exercise its responsibility to consider this difficult issue.

I can support the bill as it was reported out of committee. But I cannot and I will not support this rule.

I urge my colleagues to join me in rejecting the rule.

□ 1440

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from New York [Mr. Weiss].

Mr. WEISS. Mr. Speaker, I want to thank my distinguished friend for yielding me this time.

Mr. Speaker, I will not burden the time or the schedule of the House by asking for a recorded vote on the rule. Others may on other issues.

But I do want to express my very serious disagreement with the authorization under this rule for authorizing language to be included in an appropriation bill.

I have problems with the substance of the authorizing language and, indeed, yesterday when there was a full debate on that particular piece of legislation on the reauthorization of the National Endowment for the Arts, I ended up voting against it because there was language in there which, in my judgment, really raised very serious constitutional questions.

There is a provision which mandates that the National Endowment, in awarding grants, take into consideration standards of obscenity and decency and respect. We know what obscenity is, and that was defined, and how that is to be determined, but no definition of "standards of decency and respect" is included. I do not know what the phrase, "standards of decency and respect," means. I do not think there has been any legal definition of it, and it is just, I think, a totally unconstitutional provision.

I would think that it is bad enough to have it in authorizing language in an authorization bill. I do not understand what it would be doing in this appropriations bill. I have heard it said it is sort of an additional safeguard, but, folks, you know the reason we have the separation between authorizing committees and appropriation committees is so the appropriating committee can appropriate the money, and the authorizing committee can make the substantive decisions.

Every matter that comes up one could say that, well, as a matter of additional safeguard we also ought to put authorizing language into appropriations. It just does not make any sense at all to do it in any instance, certainly not in this instance.

It has already been covered, if one disagrees with it, it is already in the legislation; if one agrees with it, it is in the legislation.

Again, I understand that perhaps when this whole process started the gentleman from Ohio [Mr. Regula] felt this matter might be reached on the floor in an appropriation bill before authorizing legislation had been acted on. It may be, in that situation, there would have been some justification for his wanting to be able to offer an amendment. But that has now been cured. Action on the authorizing bill was taken yesterday.

I would like to think that we could stick to the regular procedures in this kind of situation, especially when there are the kinds of constitutional issues that are raised in this matter.

Mr. PASHAYAN. Mr. Speaker, I yield 5 minutes to the gentleman from Oregon [Mr. Robert F. (Bob) Smith].

Mr. PASHAYAN. Mr. Speaker, I yield 1½ minutes to the gentleman from Montana [Mr. Marlenee].

Mr. MARLENEE. Mr. Speaker, and colleagues of the House of Representatives, allowing the Synar amendment to be considered today is clearly and truly making an end run around the authorizing committee, and it will be repeated time and time again unless we stand up and say, "Hey, no way, Jose." This kind of thing cannot go on.

We have had hearings, the Committee on the Interior has had hearings, and that is the Subcommittee on National Parks and Public Lands, and I am the ranking Republican member. The gentleman from Minnesota [Mr. Vento] has very aggressively acted as chairman in that committee and aggressively pursued with extensive hearings last year a wide range of bills dealing with the grazing fee.

In 1987, we had a hearing that entailed nearly 40 witnesses.

A contention will be made that hearings have not been held, that this thing has not been properly addressed, grazing fees have not been properly addressed. Let me tell the Members that is not true.

The gentleman from Minnesota [Mr. Vento] aggressively held hearings, aggressively chaired the committee. was ranking member and I was there

If the formula has not changed maybe there is a good reason. Mayb there is a good reason why this ha not occurred, and that is because thi committee has been intimately involved in evaluating and monitorin the changing and existing conditions When we get ready, we will make th changes in the formula that are necessary to reflect the return to the Publi Treasury.

What we see coming down the roa has been tried again and again fro the gentleman from Oklahoma.

Let us not end-run the authorizin committee. This rule should be vote down because of that and the NE end run.

Mr. PASHAYAN. Mr. Speaker, yield 3 minutes to the gentleman fro Arizona [Mr. Rhodes].

Mr. RHODES. Mr. Speaker, first o all, this amendment should not be a lowed to be offered to this legislatio This violates the House rules. It is legislation on a general appropriatio bill.

Of course, that point is moot, because the Committee on Rules, as it s often does, has waived that rule an therefore, the point of order abou legislating on an appropriation bill not in fact in order.

□ 1450

I am sure we are going to be tol that we are bringing to the Hous floor an egregious situation that ha been overlooked by the Congress an that needs to be addressed here an as my friend, the gentleman fro Montana [Mr. Marlenee] just state that simply is not the case.

I, likewise, sit on the Subcommitte on National Parks and Public Lan which has jurisdiction over th matter. We have had, as the gentleman from Montana [Mr. Marlene said, extensive hearings in this matte lots of witnesses on both sides. Th subcommittee is chaired by the gentleman from Minnesota [Mr. Vento], o viously not a public land State. M Vento has absolutely no vested inte est in this legislation one way or th other, and the legislation which w have generally considered has bee legislation introduced by the gentleman from Georgia [Mr. Darden Georgia, obviously, is not a public lan State. Yet, with all these hearin being presided over by an individu who basically comes in to looking the situation with an open mind, n being from a State affected, after a these things have occurred, the gentleman from Georgia, Mr. Darden's b has never even been marked up, nev even been referred to the full commi tee.

Now, that indicates to me a syste that works. Some person suggests th existence of a problem, we have hearings, we listen to the expert, and we determine there is not a problem. The fact of the matter is, there is a formula that determines grazing fees, and the fact of the matter is the appropriate committees have determined that the formula is right, the formula operates in the best interests of the people of this country who are the stewards of the public lands, and the people who operate on those public lands at the forebearance of the U.S. Government. It gives a fair return to the Government for the use of the land, and it allows the livestock operator on the land, at a cost to him that allows him to operate economically, and to return in most cases a rather meager profit.

I presume this rule will pass, even though it should not because of the waiver of the point of order, but if so, then I will be back to urge my colleagues at the appropriate time, please do not do what the appropriate committees have chosen not to undo, and to defeat the Synar amendment.

Mr. GORDON. Mr. Speaker, for the purposes of debate only, I yield 5 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, first of all, let me take this opportunity to thank the Committee on Rules for the opportunity to have a debate which we have been trying to have for over 5 years. Also, let me take this opportunity because in the gallery, as well as watching on their TV's, people are going to see one heck of a debate today about a very important issue to a lot of Members.

I want to start off this debate to say that I defer to no one in my respect to the gentlemen from Montana, Oregon, New Mexico, and Arizona, because I know they feel as passionately about this issue as I do on the other side. However, we have a basic policy difference on what is best for the future of the cattle business as well as the Federal lands which we as stewards of those lands, as Congressmen, have a responsibility to protect.

My name is MIKE SYNAR, and I am from Oklahoma. I have 58,236 ranchers in the State of Oklahoma. They are concerned, as all Americans should be concerned, that they may be in an unfair position as they try to compete in a free market for cattle with those who may be subsidized in their product. That is why, along with a number of other reasons Members will hear during the general debate, that I rise and came to the Committee on Rules for the third time in 3 years to request a waiver of the rule in order that we could debate this important issue of whether or not we are going to allow 2 percent of the cattle industry of this country out of the 1.6 million producers to be subsidized at the tune of literally $100 million a year from Federal taxpayers.

It has been said that the amendment that I offer today does not reflect reality. Reality is that Oklahoma farmers and ranchers spend $84 per year carrying a cow-calf unit, while those people who have enjoyed the benefits of Federal subsidized land spend about $21.72 per cow-calf unit. It has been said in this debate on the rule this is an arbitrary fee, but how can it be arbitrary when we look at the charts provided to Members by the USDA and the BLM which carries shows for all the years in question, from 1984 on, that we have only been recovering literally 20 percent of the cost of managing our Federal lands for those which are allowed to be grazed.

This is a subsidy. It is a subsidy that is not going up or down as one of the gentleman has referred to, because last year it went from $1.89 to $1.81. Not an increase of 40 percent, but a decrease of 8 percent.

Now, the gentlemen are correct that this has never come out of any committee of jurisdiction within the House, and that this is not the apprpriate forum to properly debate this issue. But we have waited for 5 years for those committees to act, and during that 5 years, we have lost $500 million of taxpayers' money in waiting for that to happen.

My committee that I chair as chairman of the Committee on Government Operations, Subcommittee on Environment, Energy, and Natural Resources studied this, and one of the most comprehensive studies done by the GAO, which is the investigative arm of this Congress. What we found is not only are the American people being ripped off, but we have an opportunity to put money in the bank for all taxpayers, as well as improve the lands that we are covering in our Federal properties.

Finally, is the amendment that I am offering fair? Because one of the Members said that it was not. Well, I ask the American people to make that decision. Is it fair to subsidize 3 percent of the cattle producers in this country at the expense of the rest? Is it fair to the taxpayers that we have lost $500 million in the last 5 years, and that with the Synar amendment passing we could make $325 million over the next 4? Well, that is what this debate will be about, and that is what 435 Members are going to make a decision on this afternoon.

Mr. PASHAYAN. Mr. Speaker, I yield 2½ minutes to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, I rise in opposition to the rule today and to the thrust of the debate as it has been characterized by the gentleman from Oklahoma [Mr. SYNAR]. I would find it unique that he first of all addresses the Chamber, and then he addresses the Members, and then he mentions his name in full. Sounds like he is running for reelection. Very possibly that is exactly what he is doing on this kind of an issue, because I find it unique that instead of addressing those Members who have the right to vote and make decisions on issues like this, he addresses a television audience instead.

Now, let Members now talk about the difference from Oklahoma to Idaho, or Wyoming, or Montana, or a lot of other States that have massive amounts of public land. My State is 64-percent owned by the Federal Government. We have a lot of choices of what to do with that land. Historically, the Federal Government has said that it is wise to use the land in a careful and balanced management way. To use that land would mean to graze some of it, to allow cattlemen and sheepmen to graze it for a fee, and to use it for recreational purposes, to preserve it, and protect it in its natural state, to assure that it has abundant wildlife habitat components. In other words, our management agencies, both the Forest Service and the BLM historically attempted to build management.

Now, if we were like the State of Oklahoma, and we were basically a nonpublic land State, then we would be a private land State, and those acres and acres of grass that my colleague, the gentleman from Oklahoma [Mr. SYNAR] refers to, that he and his family have an abundance of, would find it an entirely different kind of thing, but we do not have that in Idaho. We did not have that privilege 100 years ago. We came in under an entirely different system, and an entirely different Congress who really did argue that much of this domain ought to remain in the public sector.

□ 1500

So, Mr. Speaker, the fundamental question is, are we going to continue to graze our land in a responsible and balanced way and charge a reasonable fee to those who would want to use it, or are we going to raise the fee in such a way that my opponent would have cattle free in 1993. In other words, the environmental community of this country who is urging the passing of this legislation would see no more grazing on the public lands of this country. That is the fundamental question. It is not a question of cost. It is not a question of balance. It is a question of driving the western cattlemen and sheepmen from the range.

Mr. PASHAYAN. Mr. Speaker, I yield 2 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. MARLENEE. Mr. Speaker, will the gentleman yield?

Mr. THOMAS of Wyoming. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Speaker, I find it amazing that my colleague, the

gentleman from Oklahoma, would vote yesterday for 170 million dollars' worth of art over which there is no control whatsoever, and then want to take it out of the hides of the producers.

Mr. THOMAS of Wyoming. Mr. Speaker, I rise to oppose the rule.

I come from a public lands State. One of the things that is interesting about this Congress is that we all come from different places and we have quite a different situation in where we live.

Now, 50 percent of the land in Wyoming is owned by the Federal Government. Some of it is withdrawn for special purposes, such as parks and wilderness, but for the most part it is not. It is there mostly for use, and the economy of our State depends entirely on the utilization of these resources, grazing of course being one of the most important.

In recent years we have had a 15-percent reduction in the AUM's in our State, largely because of abandonment. Certainly that is not an indication that the price is not high enough. On the contrary, it is an indication that the price is extremely high.

One of the reasons it is high is because there are costs attached to public land grazing that are not similar to the costs of leasing your friend's or your neighbor's irrigated meadow or across the river.

One is predators. You have to take care of predators. We have losses from that. The other is the cost of trucking to these far out permits. Another is the development of water, which I might add has created a great deal of wildlife in Wyoming that would not otherwise have been there had it not been for the users of the livestock industry.

Mr. Speaker, these lands were settled during the early years and only the base properties were put into fee title around the water. These other lands are practically useless if they are not able to be grazed and grazed at a price that allows it to happen.

We would be happy, if we want to equalize some of the cost, to have the Federal Government grant that land to the State, as they have to the 13 original colonies and almost all the other States. We would be glad to do that.

This is done by formula, and I wish we would begin to use the formula rather than have this political exercise evey year.

Mr. Speaker, I rise in opposition to the rule.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, for those of us who live in the New York metropolitan area and in suburban New Jersey, there are two very important provisions in this legislation for our communities. The first involves a rather extraordinary story. Last November after heavy rains in the community of North Arlington, suddenly holes appeared in the ground, one 70 feet wide and nearly 300 feet deep. In the hours that followed, 20 more occurred in the community. Nearly 100 homes were in danger. Thousands of people were losing the value of their property. Indeed, they were afraid for their own lives.

Immediately, the Bureau of Mines responded in nothing short of heroic fashion, surveyed the holes and came to some conclusions. It appears that in the years following the Revolutionary War, through the War of 1812, the U.S. Navy operated copper mines only 2 or 3 miles from what we now know as Times Square. The copper was used as sheathing for Navy ships. When the mines were closed in the latter part of the 19th century, they were poorly closed. They remained in that state for 100 years until the opening last November.

The community immediately spent $800,000 of its own funds to begin assuring the safety of its residences, but they needed Federal help, and appropriately it is being offered in this legislation, since the mines were exclusively operated for the U.S. Government.

I would like to thank the chairman, the subcommittee chairman, and the ranking members for their help. It is of invaluable assistance to the members of this community and to me. I am very grateful for all of their help.

A second matter is of even greater importance for all of us in the New York metropolitan region. Incredibly, some 400 years after the city of New York began to develop, there is in the Sterling Forest, only 15 miles from Manhattan, an area of land of 20,000 square acres known as the Sterling Forest. It is the last large virgin tract of land in the New York metropolitan area. It is untouched. It is the source of much of the water that now flows into our reservoirs. It serves as the outer boundary of suburban sprawl in the New York-New Jersey metropolitan area. It has been untouched all these years. If there had been an urban planner 400 years ago planning this region throughout the birth of America, they would have planned to have this 20,000 acres to define suburban sprawl, to stop it, to keep our water, to preserve our air quality. They did not, but as it evolved, it happened anyway.

Now the land has been sold to Swiss investors, and unless we act it will be lost forever.

Now the land has been sold. It is our hope and this legislation contains funds for a study to decide how we might best preserve this land, what the impact on air quality and water quality might be if we lost it.

I thank the committee chairman, the gentleman from Illinois [Mr. YATES] again for his leadership; the gentleman from Pennsylvania [Mr. MURTHA] and the gentleman from Oregon [Mr. AUCOIN] all for playing a role in helping this study to take place. It will be invaluable.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. TORRICELLI. I am happy to yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I would like to note for my colleagues that while the gentleman is asking for a $250,000 independent study, there is already a study underway of $4 to $5 million by the company that owns the Sterling Forest Preservation. This is an environmental study. There have been a number of hearings. The gentleman himself participated in those hearings, and I have contended that until those hearings and that study is completed, spending a quarter of a million dollars now is premature and wasteful. I would hope that my colleagues would not support this proposal.

Mr. TORRICELLI. Reclaiming my time, Mr. Speaker, the gentleman might note that the companies that are now undertaking the study have themselves engaged in plans for developing the land. If ever there were a case of the fox guarding the chicken coop, this would be it, not the least of which is the same corporation that has now sold the land, is engaging in the sale of the land to European investors.

Therefore, it would be an unlikely place for this to happen.

This is a great public trust. The opportunity that States in the West experienced years ago to preserve great tracts of land for recreation and conservation has been lost to those in the East. This is our last chance in the New York metropolitan area and the last people who should be defining how it should be saved are those who are trying to develop it and profit by it.

The SPEAKER. The time of the gentleman from New Jersey has expired.

Mr. GORDON. Mr. Speaker, I yield 1 additional minute to the gentleman from New Jersey.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. TORRICELLI. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding to me.

The gentleman is concerned about tract of land that is essentially in New York State, with a very small portion of it over into the State of New Jersey. The local officials have been supportive of this proposal. The developers themselves have indicated that only 25 percent of the entire lands would be used for development. The rest would be kept in a pristine state and that there would be no development.

Again I say to the gentleman, let us wait until the environmental study, the $4 to $5 million study is completed. Then if the gentleman is not satisfied, that certainly would be time for an independent study. Let us stop being premature and wasting a quarter of a million dollars.

Mr. TORRICELLI. Reclaiming my time, Mr. Speaker, the gentleman might note this is the highest priority in the State of New York for preservation.

□ 1510

Governor Cuomo has indicated that if the bond issue passes this year, they have a great interest in going forward, because I think Governor Cuomo recognizes, as many of us do, that the appropriate level of development for the Sterling Forest is zero. The State of New York, the State of New Jersey should not be losing any further virgin lands. While much of it is in the State of New York, the traffic, the air quality, the water quality losses would disproportionately be in the State of New Jersey. That is why I think the committee acted properly and why the land should be preserved.

Mr. PASHAYAN. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Speaker, first of all I want to thank the Committee on Rules for the first rule and for giving me an opportunity originally to offer an amendment concerning content restrictions on the National Endowment for the Arts.

Last night the rule was changed, as you know, in light of the action yesterday. We now will be faced with the substitution of the full bill that was passed yesterday on the NEA and NEH reauthorization into the Interior appropriations bill.

I would point out to those of you on authorizing committees, this is a highly unusual procedure, and you may want to give some thought to whether you want to endorse this type of rule. What it will really amount to is that an authorizing bill, the full authorizing bill, will be in the conference on the appropriations bill and, in effect, the jurisdiction of the authorizing committee will be usurped by the Appropriations Committee.

So this rule is unique. I think it sets a bad precedent. Nevertheless that was the judgment of the Committee on Rules.

The other problem is that we have several controversial issues in this appropriations bill. The spotted owl question, the below-cost timber sales; Outer Continental Shelf leasing moratoria, to name a few.

You heard the gentleman from Minnesota discuss this. Also, we have the issue of resolving the dollar differences with the Senate.

Given that, and the constraints of time that face this body, I think it would be difficult to focus, during a conference on the appropriations elements of the bill, adequately on the authorization of NEA and NEH that will be incorporated into this bill if made in order by this rule.

I think the original rule was a far better way to handle the appropriation bill.

Mr. PASHAYAN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, it is a very unusual circumstance for me to rise and speak on a rule. But I must say that the gentleman from California [Mr. PASHAYAN], my classmate, a friend whom I have watched for years as he worked on the Committee on Interior and now on Rules, does a remarkable job. I must say the work that he is doing on this bill, the responsibility he has relative to one of the most important bills affecting our State, is most valuable for the Golden State.

"CHIP" PASHAYAN has demonstrated the kind of leadership that will lead California into the next century. Those who care about our environment and public lands ought to know about this work.

Mr. PASHAYAN, I want you to know, I could not be more proud of what you are doing here in the Congress, and on this rule regarding this most important appropriations matter.

Mr. PASHAYAN. I thank the gentleman for his very kind and generous words indeed.

Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I want to point out there are evidently a multitude of authorizing problems in this particular appropriation bill. I have one too.

Out of the Committee on Science, Space, and Technology we have an authorization in place for some of the energy conservation programs. This bill, on several occasions, exceeds the levels that the authorizations call for.

When the committee went to the Committee on Rules, what did they get? They got a waiver of points of order that would otherwise be brought against those kinds of spending measures. I think it is fairly disturbing that authorizing committees in this body work hard to try to set ceilings and the appropriators ignore everything that we do.

So you not only have problems with the Committee on Education and Labor and the Committee on Interior, and a number of other items and so on, you have got problems amounting to millions of dollars of Science Committee projects.

I think this rule should be turned down. I think this appropriating committee ought to be forced to live up to the authorizing process that should govern this body.

I hear all the time from the appropriators how responsible they are being. This is totally irresponsible to be out here exceeding authorization bills.

Mr. GORDON. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. BONIOR). The question is on the resolution.

The question was taken, and on a division (demanded by Mr. WALKER) there were—yeas 8, nays 15.

Mr. GORDON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 245, nays 160, not voting 28, as follows:

[Roll No. 456]

YEAS—245

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Bonior
Borski
Bosco
Boucher
Boxer
Browder
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Cardin
Carper
Carr
Chapman
Clarke
Clay
Clement
Clinger
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Costello
Coyne
Darden
de la Garza
DeFazio
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Foglietta
Ford (TN)
Frank
Frost
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Gray
Green
Guarini
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horton
Hoyer
Hubbard
Huckaby
Hutto
Jacobs
Jenkins
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Leath (TX)
Lehman (FL)
Levin (MI)
Lewis (GA)

Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Morella
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pashayan
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ravenel
Ray
Richardson
Rose
Rostenkowski
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walgren
Washington
Watkins
Waxman
Wheat
Wolpe
Wyden
Yates
Yatron
Walsh
Weber
Weiss
Weldon
Whittaker
Whitten
Wolf
Wylie
Young (AK)
Young (FL)

NAYS—160

Applegate
Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Billey
Boehlert
Brown (CO)
Buechner
Burton
Callahan
Campbell (CA)
Campbell (CO)
Chandler
Coble
Coleman (MO)
Combest
Coughlin
Courter
Cox
Craig
Crane
Dannemeyer
Davis
DeLay
DeWine
Dickinson
Dornan (CA)
Douglas
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fish
Frenzel
Gallegly
Gallo
Gekas
Gillmor
Gilman
Goodling
Goss
Gradison
Grandy
Grant
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Hughes
Hunter
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (SD)
Kasich
Kolbe
Kyl
Lagomarsino
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lukens, Donald
Machtley
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morrison (WA)
Nielson
Oxley
Packard
Parris
Paxon
Petri
Porter
Pursell
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stallings
Stangeland
Stearns
Stump
Sundquist
Tauke
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker

NOT VOTING—28

Barnard
Boggs
Brennan
Brooks
Broomfield
Bunning
Crockett
Dellums
Fields
Ford (MI)
Gaydos
Gingrich
Hall (OH)
Kennedy
Lehman (CA)
Levine (CA)
Morrison (CT)
Quillen
Robinson
Roe
Roukema
Schuette
Shaw
Smith (VT)
Traxler
Williams
Wilson
Wise

□ 1537

The Clerk announced the following pairs:

On this vote:

Mr. Barnard for, with Mr. Quillen against.

Mr. Morrison of Connecticut for, with Mrs. Roukema against.

Messrs. GILMAN, COLEMAN of Missouri, and MILLER of Ohio changed their vote from "yea" to "nay."

Mr. HORTON changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YATES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5769, which we are about to consider, and that I may be permitted to include tables, charts, and other materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. YATES. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5769) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Ohio [Mr. REGULA] and myself.

The SPEAKER pro tempore (Mr. LEATH of Texas). Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

□ 1540

IN THE COMMITTEE OF THE WHOLE HOUSE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5769, with Mr. OBERSTAR in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Illinois [Mr. YATES] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. REGULA] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we bring to the floor again the appropriations bill for the Department of the Interior and related agencies, this time for fiscal year 1991. I must say, Mr. Chairman, that this bill is one of the most difficul with which I have ever dealt. There are so many issues in this bill that generate controversy, issues that run deep, with passion and with emotion that it is amazing the committee wa able to vote out a bill as unanimousl as it did. Apart from the usual trauma that envelops us when we try to tak care of the Nation's glorious natural and cultural resources with inadequat funds, there are so many issues in th bill that are going to prompt the Members to take the floor today and speak on one side or another of the issues.

I have had many Members come up to me and ask how long will the bil take. I do not think there is any knowing how long the bill will take, but I do know that many Members have com up to request time to speak, and I hav tried to hold them off. I want th membership to know that I have been made very much aware of the fact that many Members have planes t catch and that they have commitments to keep, and the committee wi try to help them keep their commitments to the extent that we can.

The controversial issues with which this bill is concerned include, for example, maintaining a home in our ancient forests for a little bird called the spotted owl whose continued survival we are told, depends upon its being able to live in forests that are designated as old growth forests. Scientist have told us they believe that the ol growth is essential to the continued survival of the spotted owl. That contention was sustained by the Fish an Wildlife Service in June when placed the spotted owl on the endangered species list.

At the same time, the loggers who make their living in the Nation's great forests say that their survival depends upon being able to cut some of these forests, as they have done for so many years. We hope that the provisions we have placed in our bill permit both to be done.

The next item that is controversial in this bill is one that provides for moratoriums on offshore leasing and drilling along almost every coastline in our country when the largest single item swelling our burgeoning Federal deficits and affecting our current military and economic crisis is oil. Yet, our environment must be protected from damages such as occurred in Alaska with the *Exxon Valdez* oilspill.

Item No. 3 that is contentious is the Kennedy Center, one of the jewels of culture in our Nation's Capital which is desperately in need of funds. In the words of its new director, James Wolfenson, it is bankrupt. Its physical plant is falling apart. It will require major repairs costing millions of dollars.

The accumulated operating deficit for the Kennedy Center for its year in the red is about $15 million. We have provided for paying for that deficit in this bill, and the Congress must decide whether that is a wise decision to provide the necessary funds to keep the Kennedy Center operating as a viable performing arts center. The bill we have before us will continue the Kennedy Center in that capacity.

Also in this bill there is the National Endowment for the Arts and Humanities. Members may have thought we disposed of this issue yesterday, and I would hope that we had disposed of this issue. By my good friend on the other side, the gentleman from Ohio, Mr. RALPH REGULA, ranking member, one of my best friends in the Congress, and one of the finest legislators, intends to offer an amendment that will place, to some extent, restrictive content in the standards that NEA and NEH must use in deciding what grants they will approve.

I should also say in addition to the amendment to be offered by the gentleman from Ohio [Mr. REGULA], there is also made in order in this bill by the rule an amendment by the gentleman from Montana [Mr. WILLIAMS], who is chairman of the subcommittee of the Education and Labor Committee of the House which brought the Endowment authorizing bill to the floor yesterday. He proposes to offer as an amendment that bill as passed by the House yesterday, and he proposes to offer that amendment in full as an addition to this bill so that it becomes a part of the appropriations bill.

□ 1550

In addition to other controversies that we have, the gentleman from Oklahoma [Mr. SYNAR] proposes to offer an amendment which will increase the grazing fees for the public lands in the West. This has been a controversy that has raged for many years, and Members from the West have told me that they will fight this proposal by the gentleman from Oklahoma [Mr. SYNAR] to the extent that they can.

I should tell the Members before I close that we have brought a very good bill to the floor. We are within our 302(b) allocation, the first one, and we will be within our amended 302(b) allocation with an amendment that I will offer in the course of the discussion on the bill. We are, or will be, within our new outlay ceilings, and we will be within our new budget authority levels so that we come within the limits that are proscribed under the 302(b) allocation by the House.

In total, the new budget authority in this bill is $11.9 billion, an increase of $475 million or 4.2 percent over the $11.4 billion provided in fiscal year 1990. In relation to the budget request, this bill is $2 billion over the President's proposal. In large part, the increase over 1990 simply keeps our land management agencies such as the Bureau of Land Management, the U.S. Fish and Wildlife Service, the National Park Service, the Forest Service, and the Bureau of Indian Affairs going. For example, the bill provides funding for the proposed January 1991 pay increase so that these personnel intensive agencies and other agencies under our jurisdiction will not have to absorb these costs. Absorption of pay costs over the past several years has steadily eroded these agencies' abilities to provide quality services and stewardship of our public lands.

One of the Park Service regional directors indicated that individual park units are in need of intensive care. With this bill, we hope to at least get the parks and other land management agencies into the recovery room.

Many of you have expressed interest in the land and water conservation fund. We have provided a total of $345 million from the land and water conservation fund including $50 million for grants to the States. This is a significant increase from the $20 million provided in recent years for the States and a $78 million increase for Federal land acquisition.

The committee has been most concerned about the health needs of the Indian people. The bill includes almost $1.6 billion for the Indian Health Service. This represents an increase of 27 percent above fiscal year 1990. It is our hope that the amount provided will be a start in providing a credible level of health services for the Indian people. Today, service is often provided from inadequate facilities which are often overcrowded and without adequate equipment despite our past efforts in this area.

The committee has included initial funding for the President's tree-planting initiative. The bill provides $20 million for the private foundation which will mobilize the corporate and civic sectors to donate funds and labor to plant and care for an eventual goal of 30 million trees to be planted in communities around the Nation. The committee has also provided $15 million for the Urban Forestry Program and $10 million for the stewardship initiative.

Recent events in the Middle East have focused attention on energy, particularly the United States' growing dependence on imported oil. In addition, clean air legislation and related environmental concerns including possible global climate change have raised questions involving the use of fossil energy resources utilizing existing technologies. Criticism abounds that the Nation has no energy policy, and pundits yearn for a simple solution to these problems. Op-Ed pieces are reminiscent of those in former crises expounding solutions favorable to the particular viewpoint, resource, or industry to which the writer is attached, or propounding vague generalities as policy.

This committee and Congress have been supporting activities for over a decade which do form a basis for reasonable energy policy. They are diverse and do not provide global solutions to problems. We see no reason to change these basic approaches, although the current situation may draw more attention to them. It is also possible that additional efforts in other areas may be necessary.

In the 1970's both the administration and Congress provided ample funding for research and development in energy conservation and fossil energy as a result of the original energy crisis of 1973. In addition, funds were provided to support the construction and filling of the strategic petroleum reserve. From 1981 forward, however, administrations have refused to support continuation of adequate research and development. It has only been because of this committee's efforts and constant support that adequate funds have been provided for conservation and fossil energy programs, always over administration objections. Appropriations have been at least twice the administration's requests in these areas since 1981. Even the Clean Coal Technology Program, now a cornerstone of administration policy, was, when proposed by Congress, opposed by the administration. The strategic petroleum reserve, now relied upon as a vital link in providing price and supply stability and insurance, was subject to repeated administration attempts at curtailment and freezes during the 1980's. We believe that clean coal technology, the strategic petroleum reserve, and energy conservation research and development programs currently supported by the administration are in large part in existence because of the constancy of support by this committee and Congress.

From both an oil import and an environmental point of view, conservation of energy resources makes sense. Although this year's budget request finally recognized conservation as a genuine priority, it was at levels less than the committee believes are necessary. In addition, the committee recommends significant increases over previous levels in grant programs providing for low-income weatherization and conservation improvements to institutional buildings such as schools and hospitals. Overall, the committee recommendation for energy conservation programs is $497,684,000, a 134-percent increase over the budget request of $212,591,000 and 22 percent above fiscal year 1990 levels.

The committee has also increased fossil energy research from the budget request of $202,309,000 to $443,258,000, a 119 percent increase. The increases provide substantial funding to investigate substitutes for imported oil from coal and oil shale, increase domestic oil and gas production, and burn coal more cleanly and efficiently. Funding for the successful Clean Coal Technology Program was provided previously and allows for two more procurement rounds for demonstrating technology cleaner and more efficient in the use of coal than current technologies.

Finally, the committee supports continued funding for filling of strategic petroleum reserves at rates that approximate those of recent years. The reserve surely has provided a cushion against possible oil shortages in the current situation and mediated against even larger price increases because of panic.

None of the programs just described are glamourous or breathtaking; none provide an instantaneous solution to energy concerns; and no others will. The search for a magical and easy solution to energy problems is futile. Additional options should be addressed, such as increasing prices and taxes, more support for renewable resources, incentives for efficiency, and others. Some further actions may be taken after due consideration by Congress and the administration but it will take a sustained effort, supporting both current programs and any new activity, to provide for energy needs in the future.

The committee has recommended the continuation of restrictions on offshore leasing for oil and gas development in environmentally sensitive areas of the Outer Continental Shelf. These leasing moratoriums have been a continuing topic of debate before this committee over the last several years. This past June, President Bush announced his support for moratoriums on oil and gas leasing and development over the next 10 years in many of the OCS areas placed under restriction by the Congress. Areas included in the President's moratorium statement are southern Florida near Everglades National Park; northern, central, and southern California; the north Atlantic from Rhode Island northward to Canada; and the frontier area off the coasts of Washington and Oregon.

The committee was pleased to receive these long-awaited decisions by the President which support the actions taken by this committee over the past 10 years. In addition to the areas identified by the President, the committee has recommended continuing restrictions on developing leases in Bristol Bay, AK, and on leasing nearshore areas in the mid-Atlantic. The committee also has recommended delaying lease sale 137 in the Florida panhandle. The entire Florida delegation in the House has supported the delay in sale 137 to allow this sale to be considered under the new approach to OCS leasing announced by the Department of the Interior, wherein specific tracts will be identified for sale rather than the current practice of opening an entire area for leasing.

Since the invasion of Kuwait by Iraq, some have suggested that OCS moratoriums should be abandoned in order to provide additional domestic supplies of oil. Such a suggestion implies that OCS leasing will lead to a readily available supply of oil and gas. This is not the case. Many of these prospective leases will never produce oil and gas and those that do generally will not yield production until 8 to 15 years after the lease sale. On the other hand, the environmental risks associated with leasing, exploration, and development are very real in areas such as the Florida Keys and this committee agrees with the President that in such instances the risks outweigh the potential producible oil and gas resources in certain environmentally sensitive areas.

The committee report accompanying H.R. 5769, House Report 101-789, inadvertently omitted a paragraph on page 35 related to the Santa Fe Trail. The following paragraph should have been included:

> The committee directs the National Park Service to recognize this trail as part of the Santa Fe Historic National Trail and administer it as such.

I want also, in closing, to say that again it has been a pleasure to be associated and to be working with the gentleman from Ohio [Mr. REGULA] as ranking member and with the gentleman from Oregon [Mr. AuCOIN], the gentleman from Washington [Mr. DICKS], the gentleman from Pennsylvania [Mr. MURTHA], the gentleman from Alabama [Mr. BEVILL], the gentleman from Mississippi [Mr. WHITTEN], the gentleman from Massachusetts [Mr. ATKINS], the gentleman from California [Mr. LOWERY], the gentleman from Pennsylvania [Mr. McDADE], and the gentleman from Massachusetts [Mr. CONTE], all Members who make up the Interior Subcommittee of the Committee on Appropriations. All of them made a major contribution to this bill.

It is an excellent bill, and we recommend it to the House for passage.

At this point I would like to insert in the RECORD a table detailing the various accounts included in the bill:

1991 Interior Appropriations Bill (H.R. 5769)

	FY 1990 Enacted	FY 1991 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
TITLE I - DEPARTMENT OF THE INTERIOR					
America the Beautiful					
America the Beautiful - Interior		(366,277,000)			(-366,277,000)
Bureau of Land Management					
Management of lands and resources	435,914,000	466,384,000	503,451,000	+67,537,000	+37,067,000
Firefighting	486,488,000	165,585,000	246,892,000	-239,596,000	+81,307,000
Construction and access	5,882,000	8,890,000	16,106,000	+10,224,000	+7,216,000
Payments in lieu of taxes	105,000,000	105,000,000	105,000,000		
Land acquisition	12,556,000	24,278,000	16,228,000	+3,672,000	-8,050,000
Oregon and California grant lands	94,040,000	65,536,000	81,451,000	-12,589,000	+15,915,000
Range improvements (indefinite)	9,404,000	10,188,000	10,188,000	+784,000	
Service charges, deposits, & forfeitures (indefinite)	8,000,000	8,000,000	8,000,000		
Miscellaneous trust funds (indefinite)	99,000	100,000	100,000	+1,000	
Total, Bureau of Land Management	1,155,383,000	851,961,000	985,416,000	-169,967,000	+133,455,000
United States Fish and Wildlife Service					
Resource management	393,644,000	420,688,000	471,858,000	+78,214,000	+51,170,000
Construction and anadromous fish	58,098,000	33,273,000	68,375,000	+10,277,000	+35,102,000
Land acquisition	73,990,000	56,700,000	84,750,000	+10,760,000	+28,050,000
National Wildlife Refuge Fund	8,904,000	9,000,000	10,000,000	+1,096,000	+1,000,000
North American wetlands conservation fund		25,000,000	15,000,000	+15,000,000	-10,000,000
Rewards and operations		1,000,000	1,000,000	+1,000,000	
Total, United States Fish and Wildlife Service	534,636,000	545,661,000	650,983,000	+116,347,000	+105,322,000
National Park Service					
Operation of the national park system	767,804,000	830,804,000	874,178,000	+106,374,000	+43,374,000
National recreation and preservation	15,923,000	10,125,000	17,968,000	+2,045,000	+7,843,000
Historic preservation fund	32,308,000	33,665,000	34,665,000	+2,357,000	+1,000,000
Construction	197,407,000	99,766,000	227,111,000	+29,704,000	+127,345,000
(Liquidation of contract authority)	(12,000,000)	(20,000,000)	(52,700,000)	(+40,700,000)	(+32,700,000)
Urban park and recreation fund			20,000,000	+20,000,000	+20,000,000
Land acquisition and state assistance	87,502,000	80,153,000	152,386,000	+64,884,000	+72,233,000
Land and water conservation fund (rescission of contract authority)	-30,000,000	-30,000,000	-30,000,000		
John F. Kennedy Center for the Performing Arts	9,118,000	8,150,000	21,150,000	+12,032,000	+13,000,000
Illinois and Michigan Canal National Heritage Corridor Commission	250,000		250,000		+250,000
Total, National Park Service (net)	1,080,312,000	1,032,663,000	1,317,708,000	+237,396,000	+285,045,000
Geological Survey					
Surveys, investigations, and research	484,402,000	506,578,000	571,904,000	+87,502,000	+65,326,000
Minerals Management Service					
Leasing and royalty management	176,042,000	194,252,000	200,128,000	+24,086,000	+5,876,000
Payments to States from receipts under Mineral Leasing		558,000			-558,000
Total, Minerals Management Service	176,042,000	194,810,000	200,128,000	+24,086,000	+5,318,000
Bureau of Mines					
Mines and minerals	172,443,000	145,712,000	171,443,000	-1,000,000	+25,731,000
Transfer from Defense	6,000,000			-6,000,000	
Office of Surface Mining Reclamation and Enforcement					
Regulation and technology	102,728,000	110,845,000	112,027,000	+9,299,000	+1,182,000
Abandoned mine reclamation fund (definite, trust fund)	192,772,000	149,896,000	199,406,000	+6,634,000	+49,510,000
Total, Office of Surface Mining Reclamation and Enforcement	295,500,000	260,741,000	311,433,000	+15,933,000	+50,692,000
Bureau of Indian Affairs					
Operation of Indian Programs	1,021,488,000	1,018,185,000	1,364,259,000	+342,771,000	+346,074,000
Construction	136,850,000	103,099,000	166,935,000	+30,085,000	+63,836,000
Miscellaneous payments to Indians	191,864,000	52,407,000	53,931,000	-137,933,000	+1,524,000
Navajo Rehabilitation Trust Fund	800,000		2,000,000	+1,200,000	+2,000,000
Revolving fund for loans (limitation on direct loans)		(9,000,000)	(9,000,000)	(+9,000,000)	
Indian loan guaranty and insurance fund	4,718,000	11,487,000	11,487,000	+6,769,000	
(Limitation on guaranteed loans)		(45,000,000)	(45,000,000)	(+45,000,000)	
Total, Bureau of Indian Affairs	1,355,720,000	1,185,178,000	1,598,612,000	+242,892,000	+413,434,000
Territorial and International Affairs					
Administration of territories	41,181,000	40,966,000	74,232,000	+33,051,000	+33,266,000
Interest rate differential	35,308,000	30,237,000	30,237,000	-5,071,000	
Total	76,489,000	71,203,000	104,469,000	+27,980,000	+33,266,000
Trust Territory of the Pacific Islands	32,927,000	30,600,000	51,450,000	+18,523,000	+20,850,000
Compact of Free Association	10,260,000	9,200,000	18,800,000	+8,540,000	+9,600,000
Mandatory payments	13,000,000	10,000,000	10,000,000	-3,000,000	
Total	23,260,000	19,200,000	28,800,000	+5,540,000	+9,600,000
Total, Territorial Affairs	132,676,000	121,003,000	184,719,000	+52,043,000	+63,716,000
Departmental Offices					
Office of the Secretary	50,331,000	62,076,000	57,671,000	+7,340,000	-4,405,000
Oil spill emergency fund	7,279,000			-7,279,000	

1991 Interior Appropriations Bill (H.R. 5769), Continued

	FY 1990 Enacted	FY 1991 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Office of the Solicitor	25,305,000	26,485,000	26,883,000	+1,578,000	+398,000
Office of Inspector General	20,464,000	21,722,000	22,156,000	+1,692,000	+434,000
Construction Management	1,800,000	2,039,000	2,097,000	+297,000	+58,000
National Indian Gaming Commission	750,000	1,504,000	1,004,000	+254,000	-500,000
Total, Departmental Offices	105,929,000	113,826,000	109,811,000	+3,882,000	-4,015,000
Total, title I, Department of the Interior:					
New budget (obligational) authority (net)	5,499,043,000	4,958,133,000	6,102,157,000	+603,114,000	+1,144,024,000
Appropriations	(5,529,043,000)	(4,988,133,000)	(6,132,157,000)	(+603,114,000)	(+1,144,024,000)
Definite	(5,513,540,000)	(4,971,845,000)	(6,115,869,000)	(+602,329,000)	(+1,144,024,000)
Indefinite	(15,503,000)	(16,288,000)	(16,288,000)	(+785,000)	
Rescission	(-30,000,000)	(-30,000,000)	(-30,000,000)		
(Liquidation of contract authority)	(12,000,000)	(20,000,000)	(52,700,000)	(+40,700,000)	(+32,700,000)
(Limitation on direct loans)		(9,000,000)	(9,000,000)	(+9,000,000)	
(Limitation on guaranteed loans)		(45,000,000)	(45,000,000)	(+45,000,000)	
TITLE II - RELATED AGENCIES					
DEPARTMENT OF AGRICULTURE					
Forest Service					
Forest research	145,175,000	148,672,000	167,693,000	+22,518,000	+19,021,000
(By transfer)	(4,700,000)			(-4,700,000)	
State and private forestry	104,248,000	231,817,000	132,806,000	+28,558,000	-98,811,000
(By transfer)	(6,900,000)			(-6,900,000)	
National forest system	1,145,299,000	1,211,543,000	1,274,021,000	+128,722,000	+62,478,000
(By transfer)	(4,440,000)			(-4,440,000)	
Forest Service firefighting	811,704,000	297,849,000	304,507,000	-507,197,000	+6,658,000
Construction	221,960,000	222,906,000	243,705,000	+21,745,000	+20,799,000
Timber receipts transfer to general fund (indefinite)	(-96,376,000)	(-96,280,000)	(-96,280,000)	(+96,000)	
Timber purchaser credits	(112,000,000)	(116,249,000)	(110,000,000)	(-2,000,000)	(-6,249,000)
Land acquisition	63,433,000	88,869,000	92,579,000	+29,146,000	+3,710,000
Permanent, definite	(52,441,000)	(43,887,000)	(37,677,000)	(-14,764,000)	(-6,210,000)
Operation and maintenance of recreation facilities		9,084,000			-9,084,000
Acquisition of lands for national forests, special acts	1,054,000	1,103,000	1,103,000	+49,000	
Acquisition of lands to complete land exchanges (indefinite)	1,065,000	1,105,000	1,105,000	+40,000	
Range betterment fund (indefinite)	4,643,000	4,578,000	4,578,000	-65,000	
Gifts, donations and bequests for forest and rangeland research	30,000	30,000	30,000		
Early Winters land exchange			500,000	+500,000	+500,000
America the Beautiful - Agriculture		(263,869,000)			(-263,869,000)
Total, Forest Service	2,498,611,000	2,217,356,000	2,222,627,000	-275,984,000	+5,271,000
DEPARTMENT OF ENERGY					
Clean coal technology:					
Appropriation		-500,000,000	-500,000,000	-500,000,000	
Advance appropriations, fiscal year 1990	-156,000,000			+156,000,000	
Advance appropriations, fiscal year 1991	(631,000,000)			(-631,000,000)	
Advance appropriations, fiscal year 1992	(600,000,000)			(-600,000,000)	
Fossil energy research and development	416,539,000	202,309,000	443,258,000	+26,719,000	+240,949,000
Alternative fuels production			-9,600,000	-9,600,000	-9,600,000
Naval petroleum and oil shale reserves	189,439,000	210,610,000	224,310,000	+34,871,000	+13,700,000
Energy conservation	408,688,000	212,591,000	497,684,000	+88,996,000	+285,093,000
Economic regulation	18,300,000	16,408,000	16,816,000	-1,484,000	+408,000
Emergency preparedness	8,551,000	8,467,000	8,617,000	+66,000	+150,000
Strategic Petroleum Reserve	192,483,000	195,633,000	195,633,000	+3,150,000	
SPR petroleum account	224,310,000	119,935,000	119,935,000	-104,375,000	
Advance appropriations, fiscal year 1991	(108,458,000)			(-108,458,000)	
Advance appropriations, fiscal year 1992		(90,860,000)	(90,860,000)	(+90,860,000)	
Energy Information Administration	64,319,000	66,608,000	68,608,000	+4,289,000	+2,000,000
Total, Department of Energy:					
New budget (obligational) authority	1,364,629,000	530,561,000	1,063,261,000	-301,368,000	+532,700,000
Appropriations, fiscal year 1990	(1,364,629,000)	(530,561,000)	(1,063,261,000)	(-301,368,000)	(+532,700,000)
Advance appropriations, fiscal year 1991	(739,458,000)			(-739,458,000)	
Advance appropriations, fiscal year 1992	(600,000,000)	(90,860,000)	(90,860,000)	(-509,140,000)	
DEPARTMENT OF HEALTH AND HUMAN SERVICES					
Indian Health Service					
Indian health services	1,178,337,000		1,419,700,000	+241,363,000	+1,419,700,000
Tribal health administration		404,287,000			-404,287,000
Federal Indian health administration		874,637,000			-874,637,000
Indian health facilities	71,633,000	13,156,000	167,236,000	+95,603,000	+154,080,000
Total, Indian Health Service	1,249,970,000	1,292,080,000	1,586,936,000	+336,966,000	+294,856,000
DEPARTMENT OF EDUCATION					
Office of Elementary and Secondary Education					
Indian education	73,111,000	75,762,000	75,762,000	+2,651,000	
Reappropriation	509,000			-509,000	
OTHER RELATED AGENCIES					
Office of Navajo and Hopi Indian Relocation					
Salaries and expenses	36,422,000	31,449,000	33,749,000	-2,673,000	+2,300,000
Institute of American Indian and Alaska Native Culture and Arts Development					
Payment to the Institute	4,305,000	4,347,000	5,673,000	+1,368,000	+1,326,000
Smithsonian Institution					
Salaries and expenses	225,480,000	256,174,000	274,342,000	+48,862,000	+18,168,000

1991 Interior Appropriations Bill (H.R. 5769), Continued

	FY 1990 Enacted	FY 1991 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Construction and improvements, National Zoological Park	8,424,000	8,671,000	8,671,000	+247,000	
Repair and restoration of buildings	26,469,000	28,656,000	31,356,000	+4,887,000	+2,700,000
Construction	8,320,000	16,189,000	15,989,000	+7,669,000	-200,000
Total, Smithsonian Institution	266,693,000	307,690,000	328,358,000	+61,665,000	+20,668,000
National Gallery of Art					
Salaries and expenses	40,161,000	46,098,000	46,276,000	+6,115,000	+178,000
Repair, restoration and renovation of buildings	1,795,000	2,805,000	3,205,000	+1,410,000	+400,000
Total, National Gallery of Art	41,956,000	48,903,000	49,481,000	+7,525,000	+578,000
Woodrow Wilson International Center for Scholars					
Salaries and expenses	4,639,000	5,074,000	5,074,000	+435,000	
National Foundation on the Arts and the Humanities					
National Endowment for the Arts					
Grants and administration	144,105,000	147,000,000	152,000,000	+7,895,000	+5,000,000
Matching grants	27,150,000	28,000,000	28,000,000	+850,000	
Total, National Endowment for the Arts	171,255,000	175,000,000	180,000,000	+8,745,000	+5,000,000
National Endowment for the Humanities					
Grants and administration	130,583,000	137,850,000	143,550,000	+12,967,000	+5,700,000
Matching grants	26,327,000	27,150,000	27,150,000	+823,000	
Total, National Endowment for the Humanities	156,910,000	165,000,000	170,700,000	+13,790,000	+5,700,000
Institute of Museum Services					
Grants and administration	22,675,000	24,000,000	28,040,000	+5,365,000	+4,040,000
Total, National Foundation on the Arts and the Humanities	350,840,000	364,000,000	378,740,000	+27,900,000	+14,740,000
Commission of Fine Arts					
Salaries and expenses	509,000	549,000	637,000	+128,000	+88,000
National Capital Arts and Cultural Affairs					
Grants	5,427,000		6,250,000	+823,000	+6,250,000
Advisory Council on Historic Preservation					
Salaries and expenses	1,894,000	2,238,000	2,238,000	+344,000	
National Capital Planning Commission					
Salaries and expenses	3,090,000	3,258,000	3,448,000	+358,000	+190,000
Franklin Delano Roosevelt Memorial Commission					
Salaries and expenses	28,000	28,000	28,000		
Pennsylvania Avenue Development Corporation					
Salaries and expenses	2,375,000	2,465,000	2,365,000	-10,000	-100,000
Land acquisition and development fund	5,000,000	5,000,000	5,000,000		
Rescission	-4,900,000			+4,900,000	
Public development	3,150,000	4,705,000	4,805,000	+1,655,000	+100,000
Total, Pennsylvania Avenue Development Corporation	5,625,000	12,170,000	12,170,000	+6,545,000	
United States Holocaust Memorial Council					
Holocaust Memorial Council	2,297,000	3,304,000	7,554,000	+5,257,000	+4,250,000
Total, title II, Related Agencies:					
New budget (obligational) authority	5,910,555,000	4,898,769,000	5,781,986,000	-128,569,000	+883,217,000
Appropriations, fiscal year 1990	(5,910,555,000)	(4,898,769,000)	(5,781,986,000)	(-128,569,000)	(+883,217,000)
Definite	(5,909,238,000)	(4,893,086,000)	(5,776,303,000)	(-132,935,000)	(+883,217,000)
Indefinite	(6,217,000)	(5,683,000)	(5,683,000)	(-534,000)	
Rescission	(-4,900,000)			(+4,900,000)	
Advance appropriations, fiscal year 1991	(791,899,000)	(43,887,000)	(37,677,000)	(-754,222,000)	(-6,210,000)
Advance appropriations, fiscal year 1992	(600,000,000)	(90,860,000)	(90,860,000)	(-509,140,000)	
(Timber receipt transfer to general fund, indefinite)	(-96,376,000)	(-96,280,000)	(-96,280,000)	(+96,000)	
(Timber purchaser credits)	(112,000,000)	(116,249,000)	(110,000,000)	(-2,000,000)	(-6,249,000)
Grand total:					
New budget (obligational) authority (net)	11,409,598,000	9,856,902,000	11,884,143,000	+474,545,000	+2,027,241,000
Appropriations, fiscal year 1990 (net)	(11,409,598,000)	(9,856,902,000)	(11,884,143,000)	(+474,545,000)	(+2,027,241,000)
Appropriations	(11,444,498,000)	(9,886,902,000)	(11,914,143,000)	(+469,645,000)	(+2,027,241,000)
Definite	(11,422,778,000)	(9,864,931,000)	(11,892,172,000)	(+469,394,000)	(+2,027,241,000)
Indefinite	(21,720,000)	(21,971,000)	(21,971,000)	(+251,000)	
Rescissions	(-34,900,000)	(-30,000,000)	(-30,000,000)	(+4,900,000)	
Advance appropriations, fiscal year 1991	(791,899,000)	(43,887,000)	(37,677,000)	(-754,222,000)	(-6,210,000)
Advance appropriations, fiscal year 1992	(600,000,000)	(90,860,000)	(90,860,000)	(-509,140,000)	
(Liquidation of contract authority)	(12,000,000)	(20,000,000)	(52,700,000)	(+40,700,000)	(+32,700,000)
(Timber receipt transfer to general fund, indefinite)	(-96,376,000)	(-96,280,000)	(-96,280,000)	(+96,000)	
(Timber purchaser credits)	(112,000,000)	(116,249,000)	(110,000,000)	(-2,000,000)	(-6,249,000)
TITLE I -DEPARTMENT OF THE INTERIOR					
Bureau of Land Management	1,155,383,000	851,961,000	985,416,000	-169,967,000	+133,455,000
United States Fish and Wildlife Service	534,636,000	545,661,000	650,983,000	+116,347,000	+105,322,000
National Park Service	1,080,312,000	1,032,663,000	1,317,708,000	+237,396,000	+285,045,000
Geological Survey	484,402,000	506,576,000	571,904,000	+87,502,000	+65,328,000
Minerals Management Service	176,042,000	194,810,000	200,128,000	+24,086,000	+5,318,000
Bureau of Mines	178,443,000	145,712,000	171,443,000	-7,000,000	+25,731,000
Office of Surface Mining Reclamation and Enforcement	295,500,000	260,741,000	311,433,000	+15,933,000	+50,692,000
Bureau of Indian Affairs	1,355,720,000	1,185,178,000	1,598,612,000	+242,892,000	+413,434,000
Territorial and International Affairs	132,676,000	121,003,000	184,719,000	+52,043,000	+63,716,000
Secretarial Offices	105,929,000	113,826,000	109,811,000	+3,882,000	-4,015,000
Total, Title I - Department of the Interior	5,499,043,000	4,958,133,000	6,102,157,000	+603,114,000	+1,144,024,000
TITLE II - RELATED AGENCIES					
Forest Service	2,498,611,000	2,217,356,000	2,222,627,000	-275,984,000	+5,271,000
Department of Energy	1,364,629,000	530,561,000	1,063,261,000	-301,368,000	+532,700,000
Indian Health	1,249,970,000	1,292,080,000	1,586,936,000	+336,966,000	+294,856,000
Indian Education	73,620,000	75,762,000	75,762,000	+2,142,000	
Office of Navajo and Hopi Indian Relocation	36,422,000	31,449,000	33,749,000	-2,673,000	+2,300,000
Institute of American Indian and Alaska Native Culture and Arts Development	4,305,000	4,347,000	5,673,000	+1,368,000	+1,326,000
Smithsonian	266,693,000	307,690,000	328,358,000	+61,665,000	+20,668,000
National Gallery of Art	41,956,000	48,903,000	49,481,000	+7,525,000	+578,000
Woodrow Wilson International Center for Scholars	4,639,000	5,074,000	5,074,000	+435,000	
National Endowment for the Arts	171,255,000	175,000,000	180,000,000	+8,745,000	+5,000,000
National Endowment for the Humanities	156,910,000	165,000,000	170,700,000	+13,790,000	+5,700,000
Institute of Museum Services	22,675,000	24,000,000	28,040,000	+5,365,000	+4,040,000
Commission of Fine Arts	509,000	549,000	637,000	+128,000	+88,000
National Capital Arts and Cultural Affairs	5,427,000		6,250,000	+823,000	+6,250,000
Advisory Council on Historic Preservation	1,894,000	2,238,000	2,238,000	+344,000	
National Capital Planning Commission	3,090,000	3,258,000	3,448,000	+358,000	+190,000
Franklin Delano Roosevelt Memorial Commission	28,000	28,000	28,000		
Pennsylvania Avenue Development Corporation	5,625,000	12,170,000	12,170,000	+6,545,000	
Holocaust Memorial Council	2,297,000	3,304,000	7,554,000	+5,257,000	+4,250,000
Total, Title II - Related Agencies	5,910,555,000	4,898,769,000	5,761,986,000	-128,569,000	+883,217,000
Grand total	11,409,598,000	9,856,902,000	11,884,143,000	+474,545,000	+2,027,241,000

Mr. Chairman, I reserve the balance of my time.

Mr. WHITTEN. Mr. Chairman, I differ with the ruling on this bill. This bill provides investments in America—our public lands, wildlife refuges, fish hatcheries, national parks, and national forests. It provides funds for energy conservation and fossil energy development programs. It provides funds for Indian schools and hospitals. These are programs vital to the development and support of the only thing behind our currency—our country itself.

Examples of these national programs of special interest to my area and State include the Natchez Trace Parkway, the Natchez Historical Park, a Vicksburg park study, the Pvt. John Allen National Fish Hatchery, forest research at Stoneville, Starksville, and Oxford, magnetohydrodynamics research, and the Choctaw Tribal Department of Education.

Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

(Mr. REGULA asked and was given permission to revise and extend his remarks.)

Mr. REGULA. Mr. Chairman, members of the committee, if I had the poetic talents of my ranking Republican on the full committee, the gentleman from Massachusetts [Mr. CONTE], I would write a poem about "America the Beautiful" and recite that today to describe this bill, but the words of the song, if you can visualize them in your mind's eye, really say quite eloquently what this bill is all about.

It is about America the beautiful. We have the responsibility in the Interior Appropriations Subcommittee for the management of 750 million acres of America. One-third of all the land in the United States is owned by the Federal Government, and it is this committee that must address the challenges of managing that land, not only for next year, but for the next generation and the next century, because it is a great resource of these United States. I was struck; I was out on the steps taking a picture with some constituents, and the photographer mentioned that this past weekend he had planned to go camping, but he was not able to because of the budget problem. He normally camps in Prince William Forest Park, and what a pleasure it is, and truly what we manage in this bill does bring great pleasure to millions of Americans.

It is very important that we recognize this, and that we provide for the safety, for the health conditions, for those who visit our public lands. Even though it is a $12 billion bill, it is difficult to meet all of the needs of this Nation and to do it well.

I will mention in passing that I think we need to consider for the future, going to more user fees as part of the management of these public facilities, the Smithsonian, the public forest lands, the parks and so on, because there is an enormous pressure to preserve these well for those who use them.

I think a modest user fee would enable us to do some of the things that we are not able to do otherwise.

Speaking of America the beautiful, we provide the money for the National Endowments for the Arts and the Humanities in this bill. I think anyone who has had the opportunity to watch the Civil War series recognizes what a great thing this can be if the money is used wisely by the agencies in question. The Civil War series was sponsored in part by the National Endowment for the Humanities, and I think one of the challenges to the National Endowment for the Arts is to have this same great response on the projects that they sponsor.

One of the amendments that I proposed to offer, and, of course, the dynamics are changed by the rule, would have imposed some content restrictions on what we sponsor through the NEA so that the projects they are helping along would be America the beautiful in the eyes of those who view those projects.

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I would point out to the Members that we are about 4.7 percent over last year, but that reflects inflation. Because there are salary increases for the people who serve in the public lands, BLM, national parks and the national forests I want to say at this point that we owe a great debt to the staff and the people who work in the Department of the Interior and the Department of Agriculture on the lands that I just mentioned, because they are dedicated.

When I visit the parks or the forests, I see how much they do, how many hours they put in, because they truly care about the land. They care about the experience they provide the visitors. They care about the management, and I do not know of any more dedicated group in public service than those who work in our national parks, forests, Bureau of Land Management and all other Federal lands. We want to help them. We want to provide decent housing for them, decent conditions to work in, and that is the reason we had to adjust this bill for inflation. It is up 4.7 percent over last year.

Also for you, the Members of this body, we recognize your concerns. We had 135 Members on the minority side who requested projects, and a total of about 370 Members who either came before our subcommittee or sent in letters asking for projects. I think that gives an idea of the breadth and the scope of the programs that are funded under this bill, and the fact that they touch all of America in terms of America the beautiful.

We responded to the President's requests in the sense that he is promoting a program for the planting of a billion trees, and we put money in to get started on the America-the-Beautiful Tree Trust Program, to establish a private foundation, so that the President can go out and generate a lot of private funds through that challenge of the America-the-Beautiful trust and get the support of the private sector.

Again, I think there will be a great multiplier effect from the funding that we provided for the President's program.

In addition, we have a number of other forestry projects in this bill that add up to many dollars, but a great investment for America. This bill probably represents more than any other single bill that we handle in this body a true investment in the future of America.

The one thing I am disappointed in, given the conditions that exist in the Middle East, is the fact that we continue the moratoria program that was started 10 years ago as a 1-year program. I can remember so well when Members came before us and said, "We want a moratoria on Outer Continental drilling for 1 year," 1 year, 1 year, and now it has multiplied into 10 years, but the result being that our dependency on oil from the Persian Gulf is up from 7 percent to 26 percent. We are up in the total dependency on imported oil to about 49 percent of what we consume in this country, and we are a long, long way from energy independence.

We are involved in Desert Shield. We just had the Defense bill prior to this one which provides for outlays of great substantial sums. I wish we had some of that money to spend in our bill, and part of that, of course, is the protection of the resources in the Middle East. I think if we could have an orderly program of development of our own resources, we could to some degree reduce our dependency on foreign sources.

We are fast losing our ability to depend on our own oil. We do have money in here for conservation, $498 million to develop conservation programs, recognizing that one of the ways to get energy independence is through the conservation of what we have.

We go forward with the Clean Coal Program, a very vital program for the future, a vital program for the future of these United States, because we do have the coal. We have probably at least one-third of the world's proven resources of coal, and I think that the Clean Coal Program has enormous potential to meet our energy needs in the future.

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Many other things could be said about the importance of this bill to the future of America, but I am sensitive to the time concerns of the Members and therefore will conclude at this point.

Mr. YATES. Mr. Chairman, I yield 7 minutes to the distinguished gentleman from Oregon [Mr. AuCoin], one of the outstanding members of our subcommittee.

(Mr. AuCOIN asked and was given permission to revise and extend his remarks.)

Mr. AuCOIN. Mr. Chairman, I will tell my friend from Illinois [Mr. Yates] that my esteem for him is great, and I appreciate the work he has done once again this year on this bill. I also extend my compliments to the ranking Republican on the committee, the gentleman from Ohio [Mr. Regula] who is a continued pleasure to work with on the subcommittee.

Mr. Chairman, I rise tonight in support of the bill, and I appreciate the effort made by all the Members of the committee, and in particular, especially the staff on both sides of the aisle on our committee who have all worked together to bring this bill to the floor.

Mr. Chairman, in my 20 years of public service to Oregon, no issue has been as contentious, shrill, or irreconciliable as the current debate over management of the Federal forests in my part of the country, the Pacific Northwest.

Since the bill before Members bears significantly on that debate, I want to take a few minutes tonight in general debate to explain to the Members of the House some of the committee's involvement with the Forest Service and the Bureau of Land Management. The Interior appropriations bill sets funding levels for the Forest Service and the BLM to, among other things, prepare and offer timber sales on lands in the Pacific Northwest. Elsewhere in the country, but also in the Pacific Northwest.

Over the years, the committee has, in doing that, considered very carefully what the sustained yield capacity of the national forests is, and this committee always, Mr. Chairman, always funded the timber sale activities within the stated sustained yield capacity of America's forests. The fact is, Mr. Chairman, and notwithstanding a lot of misinformation on the subject the committee has steadily reduced the Northwest Timber Sales Program over recent years as the Forest Service has developed new information and has revised its forest plans.

Let me give Members those figures: For 1986, the Timber Sales Program in the Pacific Northwest set at 4.7 billion board feet; in 1987, the program was reduced by 100 million board feet; for 1988, the program was reduced an additional 100 million board feet in timber sales; in 1989, the program was reduced yet another 150 million board feet in timber sales; and for 1990, the committee reduced the forest timber sales so that the average for 1989 and 1990 was 3.85 billion board feet, nearly 20 percent below that 1986 level. Additionally, major elements of the program of 1986, 1987, and 1988 were made up of timber sales that had been previously prepared, had passed environmental review, had been previously sold, and then turned back to the Government under the Federal Timber Contract Payment Modification Act of 1984. When those twice sold sales are factored out, which they must be in order to arrive at what our committee has actually been doing, the average annual timber sale program funded by this committee for the decade of the 1980's was 3.8 billion board feet. What, Mr. Chairman, does that 3.8 billion board feet average mean? It means, Mr. Chairman, that the timber sales levels provided by this committee over the last decade have been more than 25 percent below the Forest Service's stated allowable sales quantities during that period; 25 percent below. Let no one say this committee, this Congress, has foresaid to the Forest Service or any of the management agencies a timber sales level that is incompatible with the evironment.

And what, Mr. Chairman, is the pattern of those annual reductions in the sales program throughout the mid and the late 1980's mean? It means that the committee, as I have tried to describe, is moving the program of timber sales on a downward glide path, so that the sales level that we are enacting would reflect the new forest plans that are in the making in the land management agencies, while cushioning, at the same time, the blow that will inevitably come to the more than 100 mill-dependent towns in the Pacific Northwest, particularly Oregon and Washington. Therefore, Mr. Chairman, notwithstanding misinformation on this subject, we have been moving, those Members who have been making this appropriation policy to face the future, the change that is inevitably coming from the Pacific Northwest. We think we are doing it in a balanced, sensitive way that is sensitive to the jobs and employment of the people in the Northwest.

Now, I understand that some have taken issue with this funding assumptions in the timber sales program in this before Members tonight. I would point out to my colleagues that these assumptions are only funding assumptions. They are not mandated timber sales targets. They do not mandate any level of harvest, and that would enable the Forest Service, those assumptions would enable the Forest Service to prepare 3 billion board feet of sales in the Pacific Northwest.

Some argue that that level is too high, but many, especially those who do not represent districts with significant national forest timber sales, do not understand that preparation targets do not necessarily mean timber sales targets. In fact, as experience with the Federal sales program over the last few years has borne out, having extra sales prepared in a timber sales pipeline is critical to giving the Forest Service flexibility in shifting its program away from environmentally controversial and sensitive areas that otherwise would be logged.

This bill, Mr. Chairman, gives the Forest Service that environmental flexibility. Thus, sales that might be environmentally defective can have substitute sales made for them that are environmentally sound. We can then have a stable, and at the same time stable sales program that also give communities who depend on the timber, the opportunity to stabilize their employment base and help begin the work to diversify their economy.

This bill, Mr. Chairman, also takes a number of extraordinary steps for environmental protection and economic diversification in the State of Oregon. The bill includes $7.4 million in land acquisition funds, which I fought very hard for the Columbia Gorge, because that is an area that is one of America's scenic and recreational treasures. It has a number of other land acquisitions that I highly commend to Members.

Mr. REGULA. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts [Mr. Conte].

Mr. CONTE. Mr. Chairman, I rise in support of the Interior appropriations bill for fiscal year 1991.

At the outset, I want to commend subcommittee chairman, Sid Yates, my friend for many, many years, for his leadership, for his hard work and his professionalism in managing this important bill.

Sid is a patron of the arts, a protector of Indian programs, and a great defender of our natural resources, especially fish and wildlife resources. And on the behalf of all my friends in the animal kingdom—especially those who are still alive—I thank you.

And I also appreciate the hard work of my good friend Ralph Regula, who has done an outstanding job leading the Republican side of this subcommittee. He represents the minority side very well, and we thank him for his work.

Mr. Chairman, this bill provides the resources necessary to take care of some of this Nation's great and irreplaceable treasures. The National Park Service oversees spectacular natural monuments like the Grand Canyon, the Everglades, Yellowstone, and Yosemite, just to name a few. The Fish and Wildlife Service cares for our living resources and manages over 450 wildlife refuges throughout the country. The Smithsonian, an institution I know well as a member of the Board of Regents, is literally our Nation's attic—maintaining a national collection of our history, art, and culture. It is programs like this that justify the expenditures recommended.

As reported, this bill is significantly over the President's budget and last year's level, but as Chairman Yates pointed out, with adoption of his amendment to reduce certain expenditures by $100 million in budget authority, the bill will be within the anticipated 302(b) allocation for this subcommittee.

As expected, the administration does object to funding levels in the bill.

And in the statement of administration policy, OMB raises that objection and several others, including OCS legislative drilling bans, underfunding of the tree planting initiative, and America the Beautiful. I will point out to my colleagues the most significant aspect of the OMB letter: No veto threat is included for this bill. For the Record, I will include the administration's statement on this bill.

Notwithstanding these objections, I strongly support this bill, and I am particularly supportive of full funding for the North American wetlands fund. This program was authorized last year by a bill that I introduced along with Senator Mitchell. In response to that authorization and with the support of Chairman Yates, this Interior bill provides $15 million in direct appropriations for the program and an additional amount will be available over the next several years from the interest on the Pittman-Robinson fund. No action on this bill is required to make those funds available. This money will be used by the Migratory Bird Commission, working with the North American Conservation Council, to finance cost-shared conservation projects. Already, the Commission has approved, subject to funding availability, 15 million dollars worth of projects which in turn will generate over $27.5 million in matching funds from States and private organizations. Now that is a bang for the Federal buck. This is a unique conservation program where the private sector and the States are actively involved in wetlands protection—a goal of national and international importance. And with 350,000 acres of wetlands in this country disappearing each year, we cannot afford to delay or underfund these important programs.

I appreciate the chairman's support for this program, and I am hopeful that full funding will be part of the conference report.

Mr. Chairman, this is a reasonable bill that funds programs not at excessive levels but in amounts necessary to meet the needs presented by these programs.

I urge my colleagues to support the Interior appropriations bill for fiscal year 1991.

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Mr. YATES. Mr. Chairman, I thank the gentleman from Massachusetts for his more than generous comments. I reciprocate the sentiments he expressed.

LEGISLATIVE PROGRAM

(By unanimous consent, Mr. Gingrich was allowed to speak out of order for 1 minute.)

Mr. GINGRICH. Mr. Speaker, I have asked to proceed out of order for 1 minute to receive from the distinguished majority leader the schedule for the rest of the day.

I yield to the distinguished majority leader.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, we are in the general debate on this bill. We hope to finish this evening and then have an en bloc amendment that will be offered by the chairman of the subcommittee. It is my understanding that amendment can be completed without a rollcall vote, to be completed on a voice vote.

I think everyone agrees with that on both sides. That would mean that sometime around 5 o'clock or 5:15 the House could finish its business today and that would mean there would not be another vote for the rest of the afternoon.

Mr. GINGRICH. Mr. Speaker, on our side we agree with that assessment and certainly our ranking Member tells us there will be no request for a recorded vote over here, so that Members could catch their airplanes and get home and do whatever they need.

I thank the gentleman.

Mr. YATES. Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. Dicks].

Mr. DICKS. Mr. Chairman, I want to rise in strong support of this very important legislation that has a very significant impact in the Pacific Northwest. My good friend and colleague, the gentleman from Oregon [Mr. AuCoin] has addressed some of the issues that were resolved by the committee.

I would also like to commend our chairman, the gentleman from Illinois [Mr. Yates], the gentleman from Ohio [Mr. Regula], and the members of the committee for the patience that they have always demonstrated to the gentleman from Oregon and the gentleman from Washington regarding forestry issues in the Pacific Northwest.

We have obvioulsy had a very major controversy leading to the listing of the spotted owl. I think this year we have reached a compromise on harvest levels in region 6.

Basically what we have done is provide funding and said to the Forest Service, "Go out, do the best job you can," but we do not mandate any level of harvest.

We also believe that there can be some carryover from last year's effort to the 1991 levels, and we hope very strongly that the Forest Service will help to restore the advance timber sales preparation program, the so-called pipeline of sales, which has been diminished over the last several years.

Mr. Chairman, I think this is a good bill. It is balanced.

I think that we have also worked with the Pacific Northwest perspective on protecting our coastal areas from the possibility of oil drilling. This is a very sensitive issue both in Washington and Oregon.

I want to again thank the chairman for his willingness to work with Representative from the Pacific Northwest to preserve and protect our coastal areas.

I know this bill has carried with it some controversy on the arts. I happen to believe that the National Endowment for the Arts is one of the most important entities within the Federal Government. I am very pleased that the House acted wisely in enacting legislation last night to allow the Endowment to go forward. We have witnessed a great explosion of growth in dance, in symphonies, and all our orchestras all over this country because of the involvement of the Federal Government and, of course, there has been no one more committed, more dedicated to protecting the arts, than our chairman, the gentleman from Illinois [Mr. Yates]. He has provided real leadership.

I want to also commend our staff. We have an outstanding staff on this subcommittee. We do not always agree on every single issue, but they worked very professionally for all the members of the committee, and with a bill of this complexity and difficulty I think they deserve commendation as well.

Mr. Speaker, I urge the House to approve this bill when we get further down the road.

Mr. REGULA. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. McDade] a member of the subcommittee.

Mr. McDADE. Mr. Chairman, I rise in strong support of H.R. 5769, the fiscal year 1991 Interior appropriations bill and commend Chairman Sid Yates and the ranking minority member, Ralph Regula, for crafting a bill that is both fiscally responsible and responsive to the needs of our Nation.

I am submitting more detailed remarks for the Record, but I want to bring to the attention of my colleagues a tribute contained in our bill to a great American and former colleague, Ben Reifel. All of us suffered a great loss when Ben went to his eternal reward earlier this year.

In his memory, we have included an administrative provision under the National Park Service which renames the Cedar Pass Visitor Center in the Badlands National Park as the Ben Reifel Visitor Center.

I understand that the Badlands National Park was his favorite national park, a place where he and his family spent many special moments. A good friend of Ben's related to me an amusing incident I wish to share with you. One day Ben was in the Badlands on a fairly nice day with his wife and granddaughter and the Airstream camper. He was showing them around some of the back roads. As a joke he said he thought he would call upon the Indian spirits to produce an electrical storm—because Ben loved a good prairie lightning storm. Sure enough, within less than an hour a terrific storm came up with intense lightning. After that, Ben always said he'd be more careful in invoking the spirits for fear he would get his requests.

Mr. Chairman, this important legislation funds the Department of Interior, the Forest Service, Indian education and health, and conservation and research programs of the Energy Department.

The chairman and vice chairman of the subcommittee, Sid Yates and Ralph Regula, deserve the highest praise in crafting a bill that is both fiscally responsible and responsive to the needs of this Nation. As always, they have shown a genuine concern about the wise use and preservation of our natural resources and the American citizens who are served by the departments and agencies which are funded.

Their job was not an easy one. The bill has more than its fair share of controversies, but Chairman Yates and Vice Chairman Regula responded with skill and diplomacy. The product of their efforts provides a total of $11.8 billion in fiscal year 1991 for the Department of the Interior and related agencies programs. This compares with the fiscal year 1990 appropriation of $11.4 billion, and complies with the budget resolution passed earlier this year by the House.

In considering this appropriation, it should be remembered that the Interior bill, unlike most other appropriations bills, in large part pays for itself through revenues generated by the Interior Department and other represented in the bill. Receipts to the Treasury from timber leases and mineral and oil development are estimated to reach over $7.4 billion during the coming fiscal year.

H.R. 5769 is the product of extensive public hearings and a through review of the programs of the Interior Department and related agencies. An exhaustive examination of the administration's budget request was made by the subcommittee. As in past years, there were a number of areas where priorities were reordered to better meet the Nation's needs.

The committee took a number of initiatives to protect natural resources on public lands and to develop new energy sources. Among the priorities scheduled for increases are forest research, park area management, construction and maintenance, earthquake hazards reduction, forest pest management, and urban parks and recreation. These are sound investments in the future of our Nation.

Events in recent months in the Persian Gulf have pointed to the need for a balanced energy program. I am proud to say that the committee has quietly been funding important conservation and fossil energy programs for the past two decades. Among those initiatives are the strategic petroleum reserve, the clean coal technology program, low-income weatherization, institutional building conservation, and fossil energy research. All of these programs and other energy initiatives are continued under H.R. 5769.

The committee had a difference of opinion on the extent of moratoriums on Outer Continental Shelf drilling, leasing, and preleasing activities. While I support responsible environmental protections, I believe the bans in the bill are carried out to such an extreme that our long-term national security interests are not served. We need a balanced energy policy that includes conservation, research into alternative fuels, and increased domestic energy production.

The bill also provides for the Nation's cultural, intellectual, and educational needs by funding the Smithsonian, National Gallery of Art, Woodrow Wilson International Center for Scholars, National Endowment for the Arts, National Endowment for the Humanities, Commission of Fine Arts, and Advisory Council on Historic Preservation.

Of special note is an administrative provision under the National Park Service which renames the Cedar Pass Visitor Center in the Badlands National Park as the Ben Reifel Visitor Center.

Many of my colleagues will remember that Ben was the first Sioux Indian elected to the U.S. House of Representatives. He worked for the Interior Department and the Bureau of Indian Affairs for over 23 years. He served 10 years in the Congress and was the ranking minority member of the House Interior Appropriations Subcommittee.

It is only fitting and proper that we should publicly recognize Ben's outstanding commitment to his fellow man and to the protection of our Nation's natural outdoor treasures. I understand that the Badlands National Park was Ben's favorite national park—a place where he and his family spent many special moments.

Ben Reifel was a good friend, a trusted colleague, and he served the State of South Dakota and his country with great distinction. I believe this is an appropriate tribute to a very special man.

I urge favorable consideration of H.R. 5769. It is balanced, bipartisan legislation which provides for the stewardship of our public lands, responds to energy needs, preserves our cultural heritage, and protects our natural resources.

I regret that the rule governing consideration of this legislation undermines an important amendment being offered by the vice chairman of the Interior Appropriations Subcommittee, Ralph Regula. His amendment, which I support, would establish a new definition of "artistic excellence" to be used by the National Endowment for the Arts in deciding which projects to fund, and would prohibit NEA funding for obscene or indecent works.

The Regula amendment would apply some needed common sense to the NEA grant process by prohibiting the NEA from funding projects that are obscene under standards set forth in Miller versus California, or indecent as the term is used in Federal Communications Commission versus Pacifica Foundation.

The amendment also requires the chairpersons of the NEA and National Council on the Arts to meet specific criteria in making judgments on artistic excellence. These require that the projects are, among other things, appropriate for a general audience, sensitive to standards of decency, and subject to the conditions of public accountability that govern the use of public money.

My constituents have been justifiably outraged about some highly publicized projects that abuse the use of tax dollars through artwork that is sacrilegious, obscene, and highly offensive to millions of Americans. Unfortunately, these projects tarnish the thousands of worthy endeavors funded by the NEA that promote artistic creativity and are enjoyed in every corner of the country.

We owe it to our constituents not to use their hard-earned tax dollars in a way that violates standards of common decency. The Regula amendment would allow us to respond to the outrage of our citizens and ensure that the NEA uses the public funds in a responsible manner.

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Mr. YATES. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. Mazzoli].

Mr. MAZZOLI. I thank the chairman for yielding this time to me.

Mr. Chairman, I really just rise to join in the tributes paid to the gentleman from Illinois as chairman of the subcommittee and to thank him and his colleagues on the panel, including my friend, the gentleman from Ohio [Mr. Regula] for having put in the bill $34.6 million for historic preservation.

Mr. Chairman, I am privileged to represent my hometown of Louisville in Jefferson County, KY, which is a very historic place. We have many historic sites in old Louisville and along the waterfront and Main Street. The historic perservation fund, under the leadership of Ann Hassett and others has been able to be a motivating force for the local element to come in and help preserve, after identifying, these various historic properties.

Kentucky, despite our relatively small size, ranks in the top 10 States in the Union in the use of these funds, Mr. Chairman, under historic preservation.

I want to thank the chairman for having been very sympathetic to our entreaties, despite the limits on the funding, and being able to come forward with a good package.

So I thank you for that, and rise in support of this portion of the bill and of the total bill.

Mr. REGULA. Mr. Chairman, I yield 3 minutes to the gentlewoman from Nevada [Mrs. Vucanovich].

Mrs. VUCANOVICH. Mr. Chairman, I rise to take strong exception to the provisions within this year's Interior appropriations bill that would ban the expenditure of funds by the Bureau of Land Management to process applications and issue patents under the mining law of 1872, as amended. I serve on the authorizing committee with jurisdiction of this law and I firmly believe that a spending bill is not the proper place to change the mining law.

An important component of the mining law includes the right to apply for, pay for, and receive title to the land and minerals within the boundaries of one's mining claim after establishing that a valuable mineral deposit has indeed been discovered there. The Mining and Natural Resources Subcommittee of the Interior Committee has held hearings on the mining law in each of the last two Congresses. Yet, we have not chosen to move legislation dealing with generic reform, only mineral-specific bills, such as oil shale mining claim revision.

The decision in our committee not to mark up mining law reform bills is a conscious one. The debate over repeal or revision and the substance of reform is still with us. The continuation of a miner's right to seek title to valuable ore deposits that he or she has discovered, and the land that includes them, is part and parcel of that debate. I urge my colleagues to view the patenting ban in this bill as usurping what is properly the jurisdiction of the Interior and Insular Affairs Committee.

Mr. Chairman, we all know how appropriations moratoria have a life of their own—just look at the perennial ban of certain offshore oil and gas leasing expenditures. It is quite disingenuous, I believe, to suggest that a patenting ban will merely freeze the status quo while the authorizing committee acts. In fact, this ban on patenting will likely become the status quo by default.

I would further like to caution my colleagues as to the issue of "legislative takings" inherent in this bill. There is a major difference between potential leaseholders denied the opportunity to bid upon offshore lease tracts because of an OCS moratorium and the rights of citizens that hold valid mining claims being denied benefits under the mining law. While I would argue that leasing moratoria are also ill-advised, I do not deny our authority to ban the holding of such sales. However, with respect to mining claimants I firmly believe that if and when the Congress chooses to diminish the miner's rights we must be very careful to exempt those persons that have established a right to the rewards that the law grants.

Mr. Chairman, I recognize that it remains an unsettled question as to exactly when such a vesting takes place, but I assure you and my fellow Members that this bill does not take the conservative view. The Appropriations Committee would have us believe that unless and until a miner has completed a series of tasks associated with filing a patent application that a miner has no right to ultimately receive the full benefits of the law. I respectfully disagree. The requirement for exemption from the moratorium in this bill makes no note of the fact that the Bureau of Land Management, not the individual seeking his patent, has control over much of the process. In other words, a miner would be at the mercy of the Federal Government as to whether he can assert his right to receive title to the land. The administration agrees with me on this point, I might add.

I would like to believe, Mr. Chairman, that this is merely poor drafting on the part of the committee, and that their intentions are to recognize private property rights, for that is exactly what we are talking about here. The Supreme Court has held on several occasions that an unpatented mining claim is "property in the highest sense of the word." Let's not run roughshod over that recognition by hastily adopting appropriations language that more properly is the business of an authorizing committee to recommend to the House. With this bill we invite litigation by those who have acted in good faith, at the invitation of Congress, to explore for and develop the hardrock minerals of the public domain only to have their rights terminated prematurely.

Mr. Chairman, it is no accident that 58 Congresses have met since 1872 and have not chosen to sever the miners' rights to secure title to the mineral deposits they have discovered. I believe it very unwise for this Congress to begin piecemeal reform of the mining law in this manner.

I urge my colleagues to view the patenting ban as usurping what is properly the jurisdiction of the Committee on Interior and Insular Affairs.

Mr. YATES. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. Coleman].

Mr. COLEMAN of Texas. Mr. Chairman, I rise in strong support of this legislation.

Mr. Chairman, I rise in strong support of this bill. The Chairman, the gentleman from Illinois, has adroitly brought out a bill which is fair and which entertains the majority views of the members of the Committee on Appropriations.

This bill contains funding for two items of particular interest to my constituents in Texas that were omitted from the Bush administration's budget requests. The first is a line-item for land acquisition at Guadalupe Mountains National Park. Two years ago, the Committee on Interior and Insular Affairs, with the guidance of Congressman Vento and Chairman Udall and the concurrence of both the House and Senate approved an authorization to modify the western boundary of the park by adding nearly 10,000 acres of white gypsum and red quartzose dunes. These dunes, if left unprotected, will not last very much longer. Nor would the flora and fauna and the cultural artifacts found in those acres. This bill completes the job begun in that authorizing legislation.

Second, H.R. 5769 corrects an error in the calculation of the baseline funding level for Tribal Services for the Ysleta del Sur Pueblo Tribe, also known as the Tigua Tribe, under the Bureau of Indian Affairs. The amount of funding made in order in this bill to provide the minimal level of assistance to the Tigua Tribe rights an inadvertent but persistent shortfall. The confusion resulted originally from the BIA's determination that the baseline for the Tiguas should be drawn up based on a partial year's needs. The partial year baseline was apparently thought to be the full year baseline because the tribe only had its Federal recognition restored once the Federal Government's fiscal year was well underway in 1986. I emphasize that this increase of $235,000 does not constitute the full Federal funding needs of the tribe. I have urged the committee to review the full scope of those needs when we review the budget requests for fiscal year 1992 next spring. In the interim, thanks to the understanding of the subcommittee, this bill makes a start at bringing the tribe's entitlements up to where they ought to be.

This is a good bill—the first of the 13 appropriations bills to be considered by the House under the terms of the conference agreement on the budget passed last weekend. I urge Members to support H.R. 5769 and commend the chairman for his patience in awaiting a resolution of the tribal debate on NEA funding, which kept this bill in limbo for so many weeks.

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from Utah [Mr. Hansen].

Mr. HANSEN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise with some trepidation and fear regarding what may happen to this particular piece of legislation. The chairman pointed out earlier there would be a battle over the Synar amendment regarding the grazing of cattle on public grounds, and the ranking member talked about America the beautiful.

Having been all over the West and having hiked in those areas and having spent many hours in the outdoors, I have no objection to white-faced cattle and I do not think that makes it not beautiful.

In recent years the National Parks and Public Lands Subcommittee has considered and rejected several proposals to change the formula for calculating grazing fees, and with good reason. The preponderance of evidence is overwhelmingly against any substantial changes in the formula for establishing grazing fees. The Western ranches and farmers are already hard hit by the upward spiral in their fuel taxes and other petroleum-based products. I think I can safely say, Mr. Chairman, if this Synar amendment is passed, it will result in a marked reduction of ranching activity and activity all through the West. Families who for generations have raised cattle on public lands are in no position to absorb this kind of fee increase. Many of them will be forced out of business.

Contrary to the allegations made by supporters of this measure, grazing fees are based on hard economic data to come up with a fair rate. Private lease rates, cattle prices, and production costs are all considered when determining a fair rate. But let us be honest.

This amendment is not about raising revenues. How is it going to raise revenues when all it does is force people out of business? Mr. Chairman, what this really is, if I may say so bluntly, is a thinly veiled attempt to force cattle off public lands.

Environmental extremists have said for a long time, "Cattle-free in '93." And this measure will make that pledge a reality. What is really sad about their attitude is that Western ranchers are true conservationists. Despite a few overpublicized instances of overgrazing, damaging rangelands, the average rancher realizes destroying the range is like killing the goose that lays the golden egg. Ranchers depend on the land for their living and, for the most part, are the best stewards of our lands that we have.

Mr. Chairman, this amendment is an abuse of the authorization process in that it circumvents the committee process. The committee has determined the present formula which is fine and just, and we as a body should abide by the wisdom of their decision.

Mr. REGULA. Mr. Chairman, I allow myself such time as I may consume.

Mr. Chairman, I just want to say we have a tremendous staff on the subcommittee. I do not think, sometimes, we appreciate fully and recognize enough, the work that they do. The staff on our subcommittee does a superb job on behalf of not only the members of the subcommittee but all the Members of this body. They are always concerned to make sure that everybody gets a chance to be heard. It is a very nonpartisan approach to dealing with the problems.

Of course, America the beautiful is nonpartisan. It is something I think we universally care about.

I especially want to pay tribute to the chairman of the subcommittee, the gentleman from Illinois, Mr. Yates. He is very fair, very open in responding to all of the Members from both sides of the aisle, and I think most important, really cares deeply about keeping America beautiful and protecting and building our resources for the future.

It is a real pleasure to work with him and a source of great satisfaction.

Mr. SLATTERY. Mr. Chairman, first of all, I want to thank Chairman Yates and his staff for the excellent work they have done on this bill. This bill represents a difficult task and I want to personally commend Chairman Yates and the committee for their efforts.

I specifically would like to speak in support of the funding in this bill which recognizes the importance of native American higher education.

Haskell Indian Junior College, which is one of the only two national colleges for native Americans in the country and which is located in Lawrence, KS, has an important mission for native Americans across the country.

Haskell has evolved end grown from an elementary school to high school, to a vocational-technical school, and finally to a comprehensive junior college. Haskell's mission as an intertribal college becomes more crucial as tribes and native Americans continue to strive for self-determination and self-sufficiency.

In the past Haskell has survived severe budgetary setbacks and has provided quality education to native Americans across the country in spite of efforts by the previous administration to shut it down.

I am pleased the Appropriations Committee realized the importance of adequately funding Haskell, and I am especially pleased the committee agreed to restore $394,000 to Haskell's budget that President Bush had requested be cut.

This funding will bring Haskell's fiscal year 1991 instructional budget to the same level as the 1990 budget. And more importantly, it will allow a popular and successful summer school program to continue next year.

The amount of $406,000 was approved for necessary program development in the area of natural resources management and for equipment replacement which is in dire need of updating and modernization.

In addition, Haskell will receive $2.3 million for facilities improvement and repair on the Haskell campus. This funding will address some of the safety concerns that were documented at the college in February by the inspector general of the Bureau of Indian Affairs.

Finally, I would like to thank the committee for report language which would allow Haskell to pursue initial plans for the construction of additional housing on campus. Housing is a top priority for Haskell as overcrowding has become a serious problem.

If young native Americans are not to be turned away from the educational opportunities Haskell has to offer, new residence hall spaces are required.

If self-determination and independence from Government are to remain the benchmark of Federal efforts toward native Americans, then we must do all we can to see that this population has access to quality education. Haskell Indian Junior College provides the tools for such an endeavor.

Thank you again, Chairman Yates. Your support for Haskell will allow it to continue its mission and to grow in order to meet the needs of the 21st century.

Mr. GOSS. Mr. Chairman, I support this legislation for a number of reasons, but most especially because of the foresight it demonstrates on the question of offshore oil drilling off the Florida coast.

Earlier this year the President canceled one lease sale off the west coast of Florida, but lease sale No. 137, an area with great ecological significance but virtually no oil and gas prospects, was overlooked. Lease sale 137 is a bygone relic of the discredited James Watt era policy of opening the entire Outer Continental Shelf. Its sale would be incompatible with sound energy, environmental, or economic policy. The Appropriations Committee's decision to place a 1-year moratorium on lease sale 137 is a sensible response to a senseless proposal.

In Florida we drive cars and use gasoline just like the rest of the Nation. We recognize that our country needs domestic production of oil. I do not agree with the contention of some, however, that environmental concerns should be dismissed in favor of drilling if the possibility of oil exists in fragile environments.

The answer to our Nation's energy problems is not to fill with oil rigs the subtropical ecosystems of the Florida coral reef, the Everglades, or the Charlotte Harbor Estuary, all in the elusive hope of a few days' worth of oil. Instead, this Congress needs to get serious about developing a long-term national energy strategy. This strategy needs to make real commitments to developing alternative energy sources and encouraging energy conservation.

I applaud the Appropriations Committee for recognizing the futility of putting Florida's environment at risk as a substitute for genuine energy policy. Florida's coasts should not be the scapegoat for a lack of future energy planning.

Mr. PANETTA. Mr. Chairman, I rise in strong support of H.R. 5769, as reported by the Appropriations Committee. In particular, I rise in support of the provisions of the bill addressing the issue of oil and gas development off the California coast and elsewhere.

The President announced in June his support for a moratorium on all new leasing off the coasts of California, Massachusetts, southwest Florida, Oregon, and Washington until after the year 2000, with the exception of an area in southern California which may be leased in 1996. This announcement was made in conjunction with findings submitted to the President by the President's Outer Continental Shelf [OCS] Leasing and Development Task Force, which was created to resolve environmental concerns with lease sales 91 and 95 in California and 116 part II in southwest Florida.

In accordance with the President's policy, the committee has protected these areas from offshore leasing and related activities in its fiscal year 1991 bill.

As my colleagues know, I have led the fight in Congress in opposition to the drill-at-any-cost mentality that has guided our Nation's OCS Program since former Secretary of the Interior James Watt opened the entire 1.4 billion acres of the Nation's OCS for development. It was this action by the Secretary and its flagrant disregard for the mandate of the OCS Lands Act Amendments of 1978 which calls for a balance between resource protection and exploitation that led to the Congress' first enactment of a moratorium for the OCS Program that same year.

Since that time, I, with the support of the California delegation, have been engaged in 10 years of guerilla warfare with the administration over this issue. Until the administration provided for long-term protection of sensitive areas, we were determined to prevent the exposure of our coastline to the threat of offshore development.

The net result of this warfare has been 9 years of moratoria. Only through the invaluable support of Members like Chairman Sidney Yates have we been able to obtain these stop-gap measures so desperately needed to provide interim protection for our coasts.

These provisions worked to keep the last administration's unwise offshore leasing program in check, and provided us with the leverage needed to bring about this long-term agreement with the administration with regard to the protection of the California coastline.

As a leader in this fight, it is a victory for me to finally see Congress and the President in agreement that the aggressive areawide leasing programs from the Watt era are an irresponsible and unacceptable mismanagement of our Nation's resources and must be abandoned.

Unfortunately, there are those in this Chamber who have used the crisis in the Middle East as justification for calling upon the President to toss aside his carefully considered decision and open up the sensitive coastal areas he has protected for development. I commend the President for spurning these pleas and standing firm in his decision.

The fact remains that wholesale development of sensitive coastal areas containing only a few days' worth oil would do nothing to advance the security interests of our Nation on an immediate basis or over the long term. The best way to truly protect our Nation's security interests is to break our dependency on Middle East oil through the enactment of tough energy conservation legislation as part of a long/term energy strategy for our Nation.

As such, I would also like to commend the committee for refusing efforts to strip the bill of the important protection it affords other sensitive coastal areas not addressed by the President's OCS decision, such as Alaska's Bristol Bay and the northwest portion of Florida.

The need for the protection of these other areas is proof that while, as I indicated earlier, the President's OCS decision is an encouraging response to the concerns Congress has had with the administration's OCS Leasing Program, the battle is not over yet. The issue of permanent protection for sensitive coastal areas is yet to be resolved, and Congress still has the responsibility to enact legislative proposals to ensure that the President's OCS decision is strictly adhered to in future years and by future administrations.

The committee has taken the first step in this process by protecting the area set aside by the President for the next fiscal year, and I urge my colleagues to help in this effort by offering their strong support for this bill.

Mrs. LOWEY of New York. Mr. Chairman, I rise in support of H.R. 5769, the fiscal year 1991 Interior appropriations bill.

I want to congratulate the chairman of the Interior Appropriations Subcommittee, Mr. YATES, and the chairman of the full committee, Mr. WHITTEN, for their fine work in crafting this important legislation. Their efforts are particularly impressive in light of the budget impasse which has stalled the appropriations process and, I'm sure, complicated the work of the committee.

Despite these challenges, the committee has produced a bill that will enable the Interior Department and other essential agencies to continue balancing the protection of our vital natural resources with the judicious use of our mineral riches and forests. The bill includes spending for a wide array of important activities from programs to protect endangered species and encourage tree planting to vital funding to increase the strategic petroleum reserve.

This legislation keeps faith with Congress' longstanding commitment to protecting our natural and historic heritage, enabling Americans to enjoy its wonders, and ensuring prudent development of our natural resources.

In particular, I want to express my appreciation to Chairman YATES for including in the committee report, language earmarking vital funding for restoration work at the national shrine to the Bill of Rights at St. Paul's Church in Mount Vernon, NY. St. Paul's Church, which is administered by the National Park Service, was the site of the earliest struggles for freedoms of speech and religion from which we all benefit today. This funding will help ensure the structural integrity of this historic landmark in time for its use in the Bill of Rights bicentennial celebration in 1991.

I also want to praise the committee for its work in extending and expanding the moratorium on oil and gas leasing in large portions of the outer continental shelf, along the Pacific and Atlantic coasts—including Long Island Sound—the Gulf of Mexico, and the Bristol Bay area off the coast of Alaska. In crafting these provisions, the committee stood firm in its commitment to protect our coastal resources from very risky oil and gas exploration.

Mr. Chairman, H.R. 5759 represents the right approach to addressing our energy needs. Instead of needless, low-percentage speculation on oil reserves along our fragile coastlines, the bill provides vital support for energy conservation. In more than doubling the administration's request for energy conservation programs, the committee is taking a leadership role in returning conservation to the top of America's priorities.

This legislation's energy provisions reflect the lessons of recent winters when oil shortages drove home heating oil prices through the roof. Much of the increased funding for energy conservation will support activities, such as low-income weatherization and conservation measures at schools and hospitals. Given the turmoil in the Middle East, these wise expenditures take on an even greater significance.

Mr. Chairman, in these difficult fiscal times, the committee has produced a bill that reflects our national priorities: Preserving the environment and our national heritage, carefully managing our resources, and conserving energy. By supporting the work of the committee today, we are investing in America's future. I urge passage of H.R. 5769.

Mr. SHAW. Mr. Chairman, I rise in support of H.R. 5769, the Interior appropriations bill for fiscal year 1991. I would like to bring to my colleagues' attention three provisions contained in this bill which are of particular importance to my home State of Florida. I am referring to the full funding of the Everglades buffer strip project, the moratorium on oil drilling and leasing off of Florida's gulf coast, and funding for the historic preservation fund. I am a strong supporter of these provisions, and I am glad that the Appropriations Committee had the foresight and wisdom to include these items in the committee bill.

Regarding the Everglades buffer strip project, I consider the purchase of this buffer strip in west Broward County, FL, to be essential to the future well-being of the Everglades. A primary function of the buffer strip would be to maintain the pristine qualities of the Everglades, since it will act as a valuable ecological buffer between urban development and the Everglades itself. Another useful function of the buffer strip is to help contain and suppress spread of the noxious weed melaleuca, before it establishes a strong foothold in the Everglades National Park. The burden of funding for acquiring this sensitive land is being born equally by Federal, State and local governments, and I am pleased the committee saw fit to include the Federal Government's total share.

Additionally, I commend the committee for including a moratorium on oil drilling and leasing off of Florida's gulf coast. This temporary ban is crucial until the Congress can pass legislation which permanently bans drilling off of Florida's gulf coast.

Finally, I would like to voice my support for the funding of the historic preservation fund [HPF]. President Bush's request to fund HPF was the first such Presidential request in 9 years, and I applaud the President for his actions in recognizing the importance of historic preservation. In Florida, due to a concerned State government and the activism of many Floridians, the State has taken the lead in restoring and rehabilitating many of Florida's historic sites. The committee's allocation for HPF could make the difference in saving the structures which preserve America's history for future generations.

Mr. EDWARDS of California. Mr. Chairman, we can all be proud of the action taken today to include in this bill $7.9 million toward the expansion of the San Francisco Bay National Wildlife Refuge. In 1988, legislation was approved to authorize the addition of over 20,000 acres of wetlands to the refuge. Today's 1991 appropriation will make the acquisition of these lands possible.

I would like to extend special thanks to my colleagues, the capable chairman of the Subcommittee on Interior, SID YATES, and the distinguished chairman of the full Committee on Appropriations, JAMIE WHITTEN, as well as the members of the Appropriations Committee. By their actions, they have recognized the importance of preserving our valuable wetlands, and have consistently supported appropriations to expand and protect the San Francisco Bay Wildlife Refuge. Without their support these past several years, these wetlands and the wildlife that depend on this fragile ecosystem would be facing certain extinction.

Your approval today of the 1991 appropriation will help insure that future generations will be able to enjoy these unique and precious lands.

Mr. STOKES. Mr. Chairman, I rise today in support of H.R. 5769, the Interior appropriations bill for fiscal year 1991. I want to commend the distinguished gentleman from Illinois for bringing this important measure to the floor. The bill provides almost $12 billion in funding for many of our Nation's art, museum, energy, mining, land and water, and other environment-related programs. Rather than going over each program, I would like to specifically acknowledge and thank Chairman YATES for including $328,000 in funding for the initiation of a national jazz program.

This level of funding will allow the Smithsonian Institution to expand upon a program which was started 2 years ago. In 1988, Congress provided $500,000 to aid in the appropriation and storage of Duke Ellington's works. This year's appropriation will allow the Smithsonian to expand this effort to preserve and present other jazz works.

There are two parts to this expanded program. The first part entails publishing the great works of Duke Ellington, Count Basie, Bennie Goodman, and other composers and orchestrators. Right now, one cannot buy the music of these musicians. The Smithsonian is working to rectify this situation through a project that the Wall Street Journal called a monumental publishing project—the jazz masterworks editions. This series of printed editions will make the music available for the first time, for study by our educators and musicians, and for performance by high school, college, and professional jazz groups. The Smithsonian has raised $100,000 to date from private sources, but needs additional funding in fiscal year 1991 to support the transcription—done painstakingly from original recordings—editing, and engraving—musical typesetting—of this music.

The second part of the expanded program involves presenting concerts of this music on the National Mall. The Smithsonian jazz masterworks orchestra would give free concerts in a distinguished and authoritative way. It would draw on the unpublished musical scores in the Ellington and history of jazz collections, and the editions being prepared for the jazz masterworks edition, in a way that no other institution could do. The museum has raised $250,000 in private moneys. The $282,000 provided in the measure we consider today will provide for a weekend of free concerts every month throughout the year, including preparation and copying of music, rehearsal, performance costs, concert programs, and taping for later radio broadcast.

Mr. Speaker, jazz is one of the greatest artworks to emerge from America, and should receive our support. We must recognize the contributions that African-Americans have made to this country. To date, only scattered efforts have been made to record and preserve our history and culture. Continued funding of the Smithsonian's jazz program will rectify this record.

I encourage my colleagues to support this bill and the committee's recommendation to enhance funding for the Smithsonian's jazz efforts.

Mr. LOWERY of California. Mr. Chairman, it has been nearly a decade since Chairman YATES and his Interior subcommittee first addressed the question of offshore drilling moratoria. Secretary James Watt got the ball rolling by proposing to open 1 billion acres of the Federal Outer Continental Shelf [OCS]; in stark contrast to his predecessor, Cecil Andrus, who, in 1980, stated that the 60 million acres he proposed was the maximum acreage that could be made available while still providing adequate environmental safeguards.

Year after year, Chairman YATES held fast to the notion of environmental protection, despite oil industry claims that their activities posed insignificant environmental dangers. Several members of the California and Massachusetts delegations spurred him on. And as the moratoria areas spread, more and more of our colleagues came to support a rethinking of our OCS policies.

President Bush, fulfilling a campaign promise, established a task force to revisit three scheduled lease sales; two in California and one in Florida. But no one could foresee the tragedy that would befall Prince Willam Sound, AK.

If anything positive came out of the *Exxon Valdez* spill it was the nationwide awakening, or realization, that our oilspill cleanup technologies are completely inadequate. In the words of Transportation Secretary Skinner and EPA Administrator Reilly, our technologies are "primitive."

To argue that the *Exxon Valdez* was a tanker and that OCS policy involves stationary rigs is to miss the point. Sure, a tanker is a more likely source for a spill than an oil rig. But how often is a tanker loitering only 3 miles from our shores? Once a rig is built, it is there for a very long time, day and night. But even more important, if that rig has an accident, how effectively will a cleanup proceed? I, for one, Mr. Chairman, am not thrilled by the prospect of using "handiwipes" to polish the bluffs of La Jolla.

Fortunately, the National Academy of Sciences and the Presidential task force came to similar conclusions after 18 months of study. President Bush announced his decision to protect areas offshore California, Florida, Alaska, the North Atlantic, Oregon, and Washington, for a period of 6 to 10 years. And the President has not been deterred by events in the Middle East, stating in early September that he will not alter his policy decision.

The bill before us, Mr. Chairman, incorporates the President's decision for fiscal year 1991. I support this measure, as far as it goes. But it is my intention, next year, to introduce legislation either codifying the President's announcement or resolving the sense of Congress on this matter. As farsighted as the President's policy is, it is not binding on his successors or on this Congress.

And if you don't believe me, take a look at Senator MURKOWSKI's amendment to the defense authorization bill. The oil industry's latest attempt to end-run the President's policy and congressional moratoria is masquerading as an important component of a national energy strategy. Not only does the Murkowski amendment upstage the Energy Department's soon-to-be-completed national strategy, but it runs roughshod over the President's environmental policy enunciated in his OCS announcement. Just a final note on my digression, 87 of our colleagues, myself included, have signed a letter to the defense authorization conference managers urging defeat of the Murkowski amendment. I hope we prevail.

During this decade, we can look forward to intensive study by the Department of the Interior involving the effects of potential oil spills on sensitive marine ecosystems and other environmental and economic impacts of offshore drilling. These studies are long overdue, but necessary if we are to have a workable OCS policy in the future.

Mr. Chairman, the President's decision is a victory for Chairman YATES, Mr. PANETTA, Senator WILSON, myself, and many other colleagues who have persevered these many years. But most of all, it is a victory for our environment and future generations of Americans, who will inherit the magnificence of our coasts.

Mr. WELDON. Mr. Chairman, I rise in strong support for H.R. 5769, the Interior and related agencies fiscal year 1991 appropriations bill.

H.R. 5769 funds hundreds of our Nation's most important environmental projects. I would like to take the time to highlight just one that is of particular importance to Pennsylvania, the Tinicum National Environmental Center [NEC].

Encompassing 898 acres of wetlands, Tinicum NEC is the largest freshwater tidal marsh remaining in the State of Pennsylvania. It is also the only urban wetland refuge on the east coast. Because of its proximity to Philadelphia, part of the refuge lies within the city's limits, several areas within Tinicum's congressionally drawn boundary lines have come under serious developmental pressure.

In February of last year, the owner of a 60-acre tract within the Tinicum NEC boundaries, announced plans to develop his land. Much to the distress of the local communities, plans have now been drawn up to construct a 200-slip marina and 132 condos within the refuge boundary.

Such construction would have a devastating impact on Tinicum's vital role as part of the Mid-Atlantic Wildbird Flyway. For this reason, many national environmental organizations, including National Wildlife Refuge Association, Ducks Unlimited, and the Nature Conservancy support a Federal buyout of the threatened land.

H.R. 5769 does just that, allocating $875,000 for the acquisition of this vital tract of land.

Mr. Chairman, for the sake of our Nation's environment, for the sake of Tinicum NEC, I urge all my colleagues to support H.R. 5769.

Mr. RAHALL. Mr. Chairman, the Interior Department and related agencies appropriation bill for fiscal year 1991 is perhaps one of the most important funding measures to States such as West Virginia which depend on natural resources for their economic livelihood. This bill provides funding, in a balanced manner, for programs aimed at both the development and preservation of our Nation's rich natural resource heritage. In my view, H.R. 5769 is an excellent product and deserves our overwhelming support.

In this regard, I would like to express my deep appreciation to Subcommittee Chairman YATES for his consideration of several matters of importance to this gentleman from West Virginia. The pending legislation would provide $150,000 for the implementation of the Matewan Revitalization Strategy, $2 million in land acquisition funds for the Gauley River National Recreation Area, and $1.7 million to acquire a critical tract of land in the Monongahela National Forest.

The National Park Service is making progress in completing the southern West Virginia coal heritage study which is aimed at evaluating the cultural and historical significance of structures in coal towns such as Holden, Kopperston, Itmann, Gary, Slab Fork, Coalwood, and Redjacket. Matewan, however, has already signed an agreement with the National Park Service—called the Matewan Revitalization Strategy—to implement a conservation, revitalization and tourism strategy for the area. The $150,000 in this bill will be utilized for this purpose.

With the $2 million appropriation for the Gauley River National Recreation Area, the National Park Service will be in the position to begin land acquisition activities at the park unit established in late 1988 by legislation I sponsored. I would envision this money being spent to improve access to the river for fishermen and rafters.

Meanwhile, the $1.7 million in land acquisition funding for the Monongahela National Forest will be used to acquire 17,000 acres of mineral rights underlying the Cranberry backcountry. The tract is currently threatened by a potential surface mining operation and is bordered by two Wild and Scenic Rivers Act study segment candidates.

As chairman of the Subcommittee on Mining and Natural Resources, I do want to to commend Chairman YATES and the gentleman from Ohio, RALPH REGULA, for the funding levels proposed by this bill for the programs I deal with on the authorizing committee: the Office of Surface Mining, the U.S. Geological Survey, the Bureau of Mines, the royalty management functions of the Minerals Management Service, and the energy and minerals programs of the Bureal of Land Management.

With respect to the BLM, of particular note is a provision sponsored by Representative REGULA that would place a limitation on the use of funds appropriated to the BLM for the purpose of issuing mining claim patents. I am fully and enthusiastically supportive of this initiative which comports with my legislation to reform the mining law of 1872. A central element of this measure is the elimination of the most egregious practice of transferring title of extremely valuable public domain lands out of Federal ownership for a mere $2.50 an acre under the guise of the patent.

I also commend the committee for rejecting the administration's proposed mining claim holding fee. For fiscal year 1991, the BLM proposes that legislation be enacted to provide authority to credit to the Mining Law Administration account amounts collected from a proposed $100 per mining claim per year holding fee in lieu of the mining law of 1872's requirement that $100 per claim per year in assessment work be conducted to the benefit of the claim. I am opposed to this proposal. Writing a check out to Uncle Sam does not represent an effort to diligently develop the mining claim. Further, while the large mining companies may be willing to pay this holding fee, the proposal would do undue harm to the small and independent prospectors and miners. This raises anticompetitive implications.

Under the bill, $12 million would be appropriated for BLM's Mining Law Administration Program. Augmented by an estimated $3.3 million in reimbursable funds from fees collected from mining claimholders under the existing fee schedule the BLM should have about $15.3 million available for the program. The gold mining boom in several of the Western States continues to escalate. With it are a whole host of new problems created by processing technologies such as cyanide heap leaching. I am fearful that if we do not take action to bolster BLM's ability to enforce its surface management regulations, the Western States will be saddled with a moonscape legacy similar to what we experienced in the Appalachian region. This legislation represents a first step toward providing the agency with the resources to address these situations.

In a related area, I would also note that this legislation would provide the Forest Service's mineral program with $1.5 million over the request. This is an often neglected program, but it is important to note that about 40 percent of all mining claims in existence are located on National Forest System lands. It is the Forest Service, rather than the BLM, that is responsible for the administration of operations conducted on these mining claims.

With respect to OSM, we must ensure that resources are available to make the applicant violator system fully operational so that surface coal mining permits are not issued to gross violators of the law. The agency has reached a settlement agreement on the AVS with environmental litigations. It calls for sweeping modifications to the system. However, we must keep in mind that the success of the AVS settlement agreement is, to a large degree, incumbent upon the States.

The pending legislation seeks to address this situation by providing $977,000 to, according to the report, fully fund implementation of the AVS agreement. I would note, however, that under existing law it is questionable as to whether OSM can provide full funding to the States as the Surface Mining Control and Reclamation Act has a 50-percent cost-sharing requirement. In this regard, earlier this year, I gained House passage of legislation to provide for an 80-percent Federal contribution, subject to a 2-consecutive-year limitation, if a State signs a memorandum of understanding with OSM to implement the AVS settlement agreement.

In addition, H.R. 5769 would provide $150 million in abandoned mine reclamation funding is being earmarked for the States, $33 million more than requested by the Bush administration. In effect, however, this amount would be much lower due to OSM's reprogramming of $6.5 million in order to undertake emergency reclamation projects in Indiana, Kentucky, Ohio, and Pennsylvania.

While I have no doubt that this amount is necessary to meet the emergency obligations of the program, I would reiterate the concern expressed by the Subcommittee on Mining and Natural Resources earlier this year in its report on OSM's fiscal year 1991 budget request:

> The Subcommittee finds that OSM has consistently underestimated the amount of budget authority it will require to respond to emergencies and undertake remedial actions. Rather than request a level of budget authority that is commensurate with the program's record of prior year obligations, or to seek a supplemental appropriations when the need arises, OSM continues to approach the program with a "rob Peter to pay Paul" mentality. One of OSM's tactics is to depend on reprogramming requests to meet its responsibilities.

Knowing full well that the amount will not be sufficient, OSM annually requests only $9 million for the emergency program. Then, each year, OSM reprograms moneys from State AML grants. The amount of reprogrammed funds are then deducted off the top of the next fiscal year appropriation for State AML grants in order to reimburse the affected States. Obviously, this lowers the amount of overall funding available to the primacy States. For example, of the $150 million for State AML grants in fiscal year 1991 proposed by the pending legislation, the effective rate would only be $143.5 million. As it stands, this is a classic catch-22 situation.

It is dishonest and unfair for OSM to continue to employ this tactic rather than request adequate funds for the emergency program or seek a supplemental appropriation and I am pleased to see that the Appropriations Committee agrees with my assessment. This bill would add to the request additional funds for the emergency program for fiscal year 1991. It will only be in this way that we can stop this vicious cycle of fraudulent budgeting devised by OSM and those responsible for its budget requests.

For the Bureau of Mines, this measure would provide $2.5 million for the black lung disease research center at West Virginia University and Pennsylvania State University, and $1.5 million for WVU's National Mine Land Reclamation Center. Overall, it would bolster the health, safety, and mining technology by appropriating $14.2 million over the request.

Mr. Chairman, I urge the adoption of this bill.

Mr. REGULA. Mr. Chairman, I yield back the balance of our time.

Mr. YATES. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

The Clerk will read.

The Clerk read as follows:

H.R. 5769

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes, namely:

Mr. YATES. Mr. Chairman, I ask unanimous consent that the bill be read by title and that title I be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The text of title I is as follows:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including

maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, $503,451,000 of which the following amounts shall remain available until expended: not to exceed $1,200,000 to be derived from the special receipt account established by section 4 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-6a(i)), and $20,000,000 for the Automated Land and Mineral Record System Project: *Provided,* That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau of Land Management or its contractors: *Provided further,* That none of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to issue a patent for any mining or mill site claim located under the general mining laws unless the Secretary of the Interior determines that, for the claim concerned—

(1) a patent application was filed with the Secretary on or before the date of enactment of this Act, and

(2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims, sections 2329, 2330, 2331 and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and all requirements applicable to mill site claims were fully complied with by that date.

FIREFIGHTING

For necessary expenses for fire management, emergency rehabilitation, firefighting, fire presuppression, and other related emergency actions by the Department of the Interior, $246,892,000, to remain available until expended: *Provided,* That such funds also are to be available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes.

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $16,106,000 to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 6901-07), $105,000,000, of which not to exceed $400,000 shall be available for administrative expenses.

LAND ACQUISITION

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94-579 including administrative expenses and acquisition of lands or waters, or interest therein, $16,228,000 to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $81,451,000, to remain available until expended: *Provided,* That the amount appropriated herein for road construction shall be transferred to the Federal Highway Administration, Department of Transportation: *Provided further,* That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $10,188,000, to remain available until expended: *Provided,* That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93-153, to be immediately available until expended: *Provided,* That notwithstanding any provision to the contrary of subsection 305(a) of the Act of October 21, 1976 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that subsection, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to subsection 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this or subsequent appropriations Acts by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such forfeiture, compromise, or settlement are used on the exact lands damage to which led to the forfeiture, compromise, or settlement: *Provided further,* That such moneys are in excess of amounts needed to repair damage to the exact land for which collected.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $25,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided,* That appropriations herein made for Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the General Fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": *Provided further,* That appropriations herein made may be expended for surveys of Federal lands and on a reimbursable basis for surveys of Federal lands and for protection of lands for the State of Alaska: *Provided further,* That an appeal of any reductions in grazing allotments on public rangelands must be taken within thirty days after receipt of a final grazing allotment decision. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within two years after the appeal is filed: *Provided further,* That appropriations herein made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Bureau and for nonmonetary awards of nominal value to private individuals and organizations that make contributions to Bureau programs: *Provided further,* That notwithstanding section 5901(a) of title 5, United States Code, the uniform allowance for each uniformed employee of the Bureau of Land Management shall not exceed $400 annually: *Provided further,* That unobligated balances in the "Recreation Development and Operation of Recreation Facilities" account are to be deposited into the receipt account established by 16 U.S.C. 460l-6a(i): *Provided further,* That notwithstanding the provisions of the Federal Grants and Cooperative Agreements Act of 1977 (31 U.S.C. 6301-6308), the Bureau is authorized to negotiate and enter into cooperative arrangements with public and private agencies, organizations, institutions, and individuals, to implement challenge cost-share programs.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $471,858,000 of which $6,671,000 to carry out the purposes of 16 U.S.C. 1535, shall remain available until expended; and of which $8,813,000 shall be for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River, and which shall remain available until expended; and of which $1,000,000 shall be for contaminant sample analysis, and shall remain available until expended: *Provided*, That beginning October 1, 1990, and thereafter, the United States Fish and Wildlife Service can perform work for the Great Lakes Fishery Commission, authorized by 16 U.S.C. 931-939c, Great Lakes Fisheries Act of 1956, on the sea lamprey program on a reimbursable basis: *Provided further*, That such reimbursements are to be treated as Intragovernmental funds as defined in the publication titled "A Glossary of Terms Used in the Federal Budget Process".

CONSTRUCTION AND ANADROMOUS FISH

For construction and acquisition of buildings and other facilities required in the conservation, management, investigation, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; $68,375,000 to remain available until expended, of which $1,800,000 shall be available for expenses to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a-757g): *Provided*, That notwithstanding any other provision of law, procurements for the visitor center at the Patuxent Wildlife Research Center and the replacement laboratory for the National Fisheries Research Center—Seattle, Washington may be issued which include the full scope of the facility: *Provided further*, That the solicitation and contract shall contain the clause "availability of funds" found at 48 CFR 52.232.18.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $84,750,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $10,000,000.

REWARDS AND OPERATIONS

For expenses necessary to carry out the provisions of the African Elephant Conservation Act (16 U.S.C. 4201-4203, 4211-4213, 4221-4225, 4241-4245, 1538), $1,000,000, to remain available until expended.

NORTH AMERICAN WETLANDS CONSERVATION FUND

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, Public Law 101-233, $15,000,000.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 129 passenger motor vehicles, of which 117 are for replacement only (including 39 for police-type use); not to exceed $400,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources: *Provided*, That the United States Fish and Wildlife Service may accept donated aircraft as replacements for existing aircraft.

Amounts collected prior to 1983 for "Special Recreation Use Fees," United States Fish and Wildlife Service, pursuant to 16 U.S.C. 460l-6a(b), (c), and (f) shall be transferred to the General Fund of the Treasury.

Amounts collected prior to October 1, 1984 from taxes imposed by section 4161(a) of the Internal Revenue Code; import duties under subpart B of part 5 of schedule 7 of the Tariff Schedules of the United States (19 U.S.C. 1202), and on yachts and pleasure craft under subpart D schedule 6, shall be transferred to the Sport Fish Restoration account of the Aquatic Resources Trust Fund.

National Park Service

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $492,000 for the Roosevelt Campobello International Park Commission, and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $874,178,000, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), of which not to exceed $55,500,000 to remain available until expended is to be derived from the special fee account established pursuant to title V, section 5201, of Public Law 100-203: *Provided*, That the National Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation: *Provided further*, That of the funds provided herein, $600,000 is available for the National Institute for the Conservation of Cultural Property: *Provided further*, That upon enactment of this Act personnel in the Division of Legislation as of September 27, 1990, shall report to the Associate Director, Planning and Development and personnel in the Division of Congressional Liaison as of September 27, 1990, shall report to the Director through the Congressional Affairs Assistant incumbent to that position as of September 27, 1990.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, and grant administration, not otherwise provided for, $17,968,000.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), $34,665,000 to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1992: *Provided*, That the Trust Territory of the Pacific Islands is a State eligible for Historic Preservation Fund matching grant assistance as authorized under 16 U.S.C. 470w(2): *Provided further*, That pursuant to section 105(1) of the Compact of Free Association, Public Law 99-239, the Federated States of Micronesia and the Republic of the Marshall Islands shall also be considered States for purposes of this appropriation.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), $227,111,000, to remain available until expended and including $2,000,000 to assist local communities to protect Mammoth Cave National Park from groundwater pollution notwithstanding the fourth proviso under this head in Public Law 99-[illegible]: *Provided*, That for payment of obligations incurred for continued construction of the Cumberland Gap Tunnel, as authorized by section 160 of Public Law 93-87, $28,000,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended: *Provided further*, That for payments of obligations incurred for improvements to the George Washington Memorial Parkway, $9,700,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended: *Provided further*, That for payments of obligations incurred for improvements to the Baltimore Washington Parkway, $15,000,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended: *Provided further*, That not to exceed $7,500,000 shall be paid to the Army Corps of Engineers for modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989.

URBAN PARK AND RECREATION FUND

For expenses necessary to carry out the provisions of the Urban Park and Recreation Recovery Act of 1978 (title 10 of Public Law 95-625) $20,000,000, to remain available until expended.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 1991 by 16 U.S.C. 460l-10a is rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, $152,386,000 to be derived from the Land and Water Conservation Fund, to remain available until expended, of which $50,000,000 is for the State Assistance program including $3,300,000 to administer the State Assistance program: *Provided*, That of the amounts previously appropriated to the Secretary's contingency fund for grants to States $23,000 shall be available in 1991 for administrative expenses of the State grant program: *Provided further*, That of the amount provided above, $320,000 is for acquisition of the Saxton House, 331 South Market Street, Canton, Ohio, as if authorized by the Historic Sites Act of 1935 (16 U.S.C. 462(e)): *Provided further*, That, of the amount provided herein $4,200,000 shall be made available by the National Park Service, pursuant to a grant agreement, to the State of Florida and Broward County so that the State may purchase the "Everglades Buffer Strip" located in Broward County, Florida and stretching approximately 13 miles between State Road 84 and the Dade County line: *Provided further*, That, management of the Buffer Strip shall be the responsibility of the State of Florida and the grant agreement shall provide that the Buffer Strip shall, after eradication of the exotic species of melaleuca plant, be preserved in its natural state.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for operating and maintaining the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, $21,150,000, of which $13,500,000 shall remain available until expended.

ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

For operation of the Illinois and Michigan Canal National Heritage Corridor Commission, $250,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 1 new rotary-wing aircraft for replacement only and 468 passenger motor vehicles, of which 324 shall be for replacement only, including not to exceed 355 for police-type use, 12 buses, and 7 ambulances; to provide, notwithstanding any other provision of law, at a cost not exceeding $100,000, transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service; options for the purchase of land at not to exceed $1 for each option; and for the procurement and delivery of medical services within the jurisdiction of units of the National Park System: *Provided*, That any funds available to the National Park Service may be used, with the approval of the Secretary, to maintain law and order in emergency and other unforeseen law enforcement situations and conduct emergency search and rescue operations in the National Park System: *Provided further*, That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further*, That none of the funds appropriated to the National Park Service may be used to add industrial facilities to the list of National Historic Landmarks without the consent of the owner: *Provided further*, That none of the funds available to the National Park Service may be used to designate any operating scientific institution or facility as eligible for National Historic Landmark status or eligible for placement on the National Historic Register without the consent of the appropriate authorities of such instruction or facility: *Provided further*, That the National Park Service may use helicopters and motorized equipment at Death Valley National Monument for removal of feral burros and horses: *Provided further*, That notwithstanding any other provision of law, the National Park Service may recover all costs of providing necessary services associated with special use permits, such reimbursements to be credited to the appropriation current at that time: *Provided further*, That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project: *Provided further*, That hereafter the Cedar Pass Visitor Center at Badlands National Park, South Dakota, shall be known as the Ben Reifel Visitor Center: *Provided further*, That Federal funds available to the National Park Service may be used for improvements to the National Park Service rail excursion line between Milepost 132.7 and 100.5 located in Northeastern, Pennsylvania.

Geological Survey

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; $571,904,000, of which $64,299,000 shall be available only for cooperation with States or municipalities for water resources investigations: *Provided*, That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality: *Provided further*, That beginning October 1, 1990, and thereafter, funds received from any State, territory, possession, country, international organization, or political subdivision thereof, for topographic, geologic, or water resources mapping or investigations involving cooperation with such an entity shall be considered as intragovernmental funds as defined in the publication titled "A Glossary of Terms Used in the Federal Budget Process".

WORKING CAPITAL FUND

There is hereby established in the Treasury of the United States a working capital fund to assist in the management of certain support activities of the Geological Survey (hereafter referred to as the "Survey"), Department of the Interior. The fund shall be available hereafter without fiscal year limitation for expenses necessary for furnishing materials, supplies, equipment, work, and services in support of Survey programs, and, as authorized by law, to agencies of the Federal Government and others. Such expenses may include computer operations and telecommunications services; requirements definition, systems analysis, and design services; acquisition or development of software; systems support services such as implementation assistance, training, and maintenance; acquisition and replacement of computer, telecommunications, and related automatic data processing equipment; and, such other activities as may be approved by the Secretary of the Interior.

There are authorized to be transferred to the fund, at fair and reasonable values at the time of transfer, inventories, equipment, receivables, and other assets, less liabilities, related to the functions to be financed by the fund as determined by the Secretary of the Interior: *Provided*, That the fund shall be credited with appropriations and other funds of the Survey, and other agencies of the Department of the Interior, other Federal agencies, and other sources, for providing materials, supplies, equipment, work, and services as authorized by law and such payments may be made in advance or upon performance: *Provided further*, That charges to users will be at rates approximately equal to the costs of furnishing the materials, supplies, equipment, facilities, and services, including such items as depreciation of equipment and accrued annual leave: *Provided further*, That all existing balances as of the date of enactment of this Act from amortization fees resulting from the Survey providing telecommunications services and deposited in a special fund established on the books of the Treasury and available for payment of replacement or expansion of telecommunications services as authorized by Public Law 99-190, are hereby transferred to and merged with the working capital fund, to be used for the same purposes as originally authorized: *Provided further*, That funds that are not necessary to carry out the activities to be financed by the fund, as determined by the Secretary, shall be covered into miscellaneous receipts of the Treasury.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 26 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: *Provided*, That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in Public Law 95–224: *Provided further*, That appropriations available to the Geological Survey may be used to provide nonmonetary awards of nominal value to private individuals and organizations that make contributions to Geological Survey programs.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; $200,128,000, of which not less than $61,552,000 shall be available for royalty management activities: *Provided*, That funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): *Provided further*, That not to exceed $3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine cleanup activities: *Provided further*, That notwithstanding 5 U.S.C. 5901(a), as amended, the uniform allowance for each uniformed employee of the Minerals Management Service shall not exceed $400 annually: *Provided further*, That notwithstanding any other provision of law, $8,000 under this head shall be available for refunds of overpayments in connection with certain Indian leases in which the Director of the Minerals Management Service concurred with the claimed refund due: *Provided further*, That notwithstanding 31 U.S.C. 3302, any moneys hereafter received as a result of the forfeiture of a bond or other security or payment of civil penalty by an Outer Continental Shelf permittee, lessee, or right-of-way holder which does not fulfill the requirements of its permit, lease, or right-of-way or does not comply with the regulations of the Secretary shall be credited to this account to cover the cost to the United States of any improvement, protection, or rehabilitation work rendered necessary by the action or inaction that led to the forfeiture or imposition of the civil penalty, to remain available until expended: *Provided further*, That any portion of the moneys so credited shall be returned to the permittee, lessee, or right-of-way holder to the extent that the money is in excess of the amount expended in performing the work necessitated by the action or inaction which led to their receipt or, if the bond or security was forfeited for failure to pay the civil penalty, in excess of the civil penalty imposed: *Provided further*, That notwithstanding any other provision of law, $136,400,000 shall be deducted from Federal onshore mineral leasing receipts prior to the division and distribution of such receipts between the States and the Treasury and shall be credited to miscellaneous receipts of the Treasury.

BUREAU OF MINES

MINES AND MINERALS

(INCLUDING TRANSFER)

For expenses necessary for conducting inquiries, technological investigations, and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal, and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, $171,443,000, of which $95,922,000 shall remain available until expended: *Provided*, That none of the funds in this or any other Act may be used for the closure or consolidation of any research centers or the sale of any of the helium facilities currently in operation.

Funds in the amount of $6,000,000 appropriated pursuant to 102 Stat. 2270–12, Public Law 100–463, and transferred from the Department of Defense to the Bureau of Mines pursuant to 103 Stat. 1124, Public Law 101–165, are to be transferred to the Secretary of Defense to carry out the Soledad Canyon Demonstration Project in Los Angeles County, California. These funds shall remain available until September 30, 1993.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided*, That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, including the purchase of not to exceed 15 passenger motor vehicles, of which 11 shall be for replacement only; and uniform allowances of not to exceed $400 for each uniformed employee of the Office of Surface Mining Reclamation and Enforcement; $110,527,000, and notwithstanding 31 U.S.C. 3302, an additional amount, to remain available until expended, equal to receipts to the General Fund of the Treasury from performance bond forfeitures in fiscal year 1991: *Provided*, That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States, moneys collected in fiscal year 1991 pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: *Provided further*, That the Secretary of the Interior shall abide by and adhere to the terms of the Settlement Agreement in NWR v. Miller, C.A. No. 86–99 (E.D. Ky), and not take any actions inconsistent with the provisions of footnote 3 of the Agreement with respect to any State or Federal program: *Provided further*, That the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, including the purchase of not more than 22 passenger motor vehicles, of which 16 shall be for replacement only, $199,406,000 to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: *Provided*, That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further*, That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95–87, administrative expenses may not exceed 15 per centum: *Provided further*, That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), or failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders, or uncontested past due Abandoned Mine Land fees: *Provided further*, That the Secretary of the Interior may deny 50 per centum of an Abandoned Mine Reclamation Fund grant, available to a State pursuant to title IV of Public Law 95–87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: *Provided further*, That expenditure of moneys as authorized in section 402(g)(4) of Public Law 95–87 shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95–87: *Provided further*, That 23 full-time equivalent positions are to be maintained in the Anthracite Reclamation Program at the Wilkes-Barre Field Office: *Provided further*, That, notwithstanding any other provision of law, funds appropriated pursuant to Public Law 98-181 and derived from receipts of the Abandoned Mine Reclamation Fund shall be made available to and expended by the Commonwealth of Pennsylvania to provide for the acquisition of the ten properties along Route 61 near the Borough of Centralia, previously identified by the Commonwealth of Pennsylvania to the Office of Surface Mining Reclamation and Enforcement as needing acquisition but ineligible for funding pursuant to Public Law 98–181, and for the relocation of families and individuals residing in such properties who are threatened by the progressive movement of the mine fire currently burning in and around the Borough of Centralia: *Provided further*, That all acquisitions made by the Commonwealth of Pennsylvania under the authority provided herein shall be at fair market value without regard to the mine fire-related damages and such homeowners shall be treated in a manner that avoids any disparity with the treatment authorized and implemented pursuant to Public Law 98–181: *Provided further*, That land acquisition and relocation authorized herein shall not require any matching funding from the Commonwealth of Pennsylvania under section 407(e) of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, $1,364,259,000, including $245,000,000 for school operations costs of Bureau-funded schools which shall become available for obligation on July 1, 1991, and shall remain available for obligation until June 30, 1992, and of which amount, funds obligated pursuant to the authority of Public Law 93–638, as amended, shall remain available for expenditure by the contractor until June 30, 1993; and of which not to exceed $72,024,000 for higher education scholarships, adult vocational training, and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall remain available for obligation until September 30, 1992, and of which $2,180,000 for litigation support shall remain available until expended, $5,000,000 for self-governance tribal compacts shall be made available on completion and submission of such compacts to the Congress, and shall remain available until expended, and the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1992: *Provided*, That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs unless the tribe(s) and the Bureau of Indian Affairs enter into a cooperative agreement for consolidated services; and for expenses necessary to carry out the provisions of section 19(a) of Public Law 93-531 (25 U.S.C. 640d-18(a)), $1,327,000, to remain available until expended: *Provided further*, That none of the funds appropriated to the Bureau of Indian Affairs shall be expended as matching funds for programs funded under section 103(b)(2) of the Carl D. Perkins Vocational Education Act: *Provided further*, That $200,000 of the funds made available in this Act shall be available for cyclical maintenance of tribally owned fish hatcheries and related facilities: *Provided further*, That none of the funds in this Act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for the management of tribal or individual Indian trust funds until the funds held in trust for all such tribes or individuals have been audited and reconciled to the earliest possible date, the results of such reconciliation have been certified by an independent party as the most complete reconciliation of such funds possible, and the affected tribe or individual has been provided with an accounting of such funds: *Provided further*, That notwithstanding any other provision of law, the statute of limitations shall not commence to run on any claim concerning losses to or mismanagement of trust funds, until the affected tribe or individual Indian has been furnished with the accounting of such funds: *Provided further*, That $300,000 of the amounts provided for education program management shall be available for a grant to the Close Up Foundation: *Provided further*, That from funds provided herein the Bureau is directed to pay to the Institute of American Indian and Alaska Native Culture and Arts Development $103,361 in severance pay and accrued annual leave costs for former Bureau employees who elected not to be covered under the personnel system of the Institute: *Provided further*, That not more than $3,235,000 shall be made available for the Federal Financial System in fiscal year 1991: *Provided further*, That none of the funds in this Act shall be used to carry out any proposed reorganization of the Bureau of Indian Affairs, including dividing the current Bureau into separate bureaus or offices unless the reorganization is approved in advance by the House and Senate Committee on Appropriations in compliance with the reprogramming procedures contained in House Report 99–714.

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; preparation of lands for farming; maintenance of Indian reservation roads as defined in section 101 of title 23, United States Code; and construction, repair, and improvement of Indian housing, $166,935,000, to remain available until expended: *Provided*, That $1,000,000 of the funds made available in this Act shall be available for rehabilitation of tribally owned fish hatcheries and related facilities: *Provided further*, That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: *Provided further*, That not to exceed 6 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau of Indian Affairs: *Provided further*, That none of the funds available to the Bureau of Indian Affairs in this or any other Act shall be used to transfer, through agreement, memorandum of understanding, demonstration project or other method, the Safety of Dams program of the Bureau of Indian Affairs to the Bureau of Reclamation.

MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals pursuant to Public Laws 98–500, 99–264, 100–383, 100–512, 100–580, and 100–585, including funds for necessary administrative expenses, $53,931,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, funds appropriated pursuant to Public Law 100–383 shall not be subject to the provisions of 43 U.S.C. 1606(i): *Provided further*, That income earned on funds appropriated by Public Law 101–121, October 23, 1989, 103 Stat. 701, 715 for the purposes of section 6(b) of the Puyallup Tribe of Indians Settlement Act of 1989, Public Law 101–41, June 21, 1989, 103 Stat. 83, may be utilized by the Permanent Trust Fund Board of Trustees to secure necessary and appropriate financial, auditing, accounting, insurance and other administrative services to fulfill the Board of Trustees' fiduciary and administrative responsibilities: *Provided further*, That no more than 5 per centum of the income in any year may be utilized for such purposes.

NAVAJO REHABILITATION TRUST FUND

For Navajo tribal rehabilitation and improvement activities in accordance with the provisions of section 32(d) of Public Law 93-531, as amended (25 U.S.C. 640d–30), including necessary administrative expenses, $2,000,000, to remain available until expended.

REVOLVING FUND FOR LOANS

During fiscal year 1991, and within the resources and authority available, gross obligations for the principal amount of direct loans pursuant to the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), shall not exceed resources and authority available.

INDIAN LOAN GUARANTY AND INSURANCE FUND

For payment of interest subsidies on new and outstanding guaranteed loans and for necessary expenses of management and technical assistance in carrying out the provisions of the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), $11,487,000, to remain available until expended, of which not to exceed $500,000 shall remain available for payment of losses on surety bonds guaranteed pursuant to the authority of said Act: *Provided*, That during fiscal year 1991, total commitments to guarantee loans pursuant to said Act may be made only to the extent that the total loan principal, any part of which is to be guaranteed, shall not exceed resources and authority available.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans and the Indian loan guarantee and insurance fund) shall be available for expenses of exhibits, and purchase of not to exceed 162 passenger carrying motor vehicles, of which not to exceed 115 shall be for replacement only.

Territorial and International Affairs

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of territories under the jurisdiction of the Department of the Interior, $104,469,000, of which (1) $101,162,000 shall be available until expended for technical assistance; maintenance assistance; drug interdiction and abuse prevention; late charges and payments of the annual interest rate differential required by the Federal Financing Bank, under terms of the second refinancing of an existing loan to the Guam Power Authority, as authorized by law (Public Law 98–454; 98 Stat. 1732); grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241; 90 Stat. 272); and (2) $3,307,000 shall be available for salaries and expenses of the Office of Territorial and International Affairs: *Provided*, That the territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: *Provided further*, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with chapter 35 of title 31, United States Code: *Provided further*, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99-396, except that should the Secretary of the Interior believe that the performance standards of such agreement are not being met, operations funds may be withheld, but only by Act of Congress as required by Public Law 99-396: *Provided further*, That $935,000 of the amounts provided for technical assistance shall be available for a grant to the Close Up Foundation: *Provided further*, That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance of capital infrastructure in American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia through assessments of long-range operations and maintenance needs, improved capability of local operations and maintenance institutions and agencies (including management and vocational education training), and project-specific maintenance (with territorial participation and cost sharing to be determined by the Secretary based on the individual territory's commitment to timely maintenance of its capital assets).

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495); grants to the Trust Territory of the Pacific Islands, in addition to local revenues, for support of governmental functions; $51,450,000 to remain available until expended, including $8,000,000 to reduce the accumulated deficit of the former Trust Territory Government and $4,200,000 for settlement purposes related to reef and beach damage on Kosrae Island resulting from airport construction: *Provided*, That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with chapter 35 of title 31, United States Code: *Provided further*, That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration: *Provided further*, That all Government operations funds appropriated and obligated for the Republic of Palau under this account for fiscal year 1991, shall be credited as an offset against fiscal year 1991 payments made pursuant to the legislation approving the Palau Compact of Free Association (Public Law 99-658), if such Compact is implemented before October 1, 1991: *Provided further*, That not less than $300,000 of the grants to the Republic of Palau, for support of governmental functions, shall be dedicated to the College of Micronesia in accordance with the agreement between the Micronesian entities.

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, $28,800,000, to remain available until expended, as authorized by Public Law 99-239: *Provided*, That the effective date of the Palau Compact for purposes of economic assistance pursuant to the Palau Compact of Free Association, Public Law 99-658, shall be the effective date of the Palau Compact as determined pursuant to section 101 of Public Law 101-219.

Departmental Offices

Office of the Secretary

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary of the Interior, $57,671,000, of which not to exceed $10,000 may be for official reception and representation expenses.

Office of the Solicitor

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $26,883,000.

Office of Inspector General

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General, $22,156,000.

Construction Management

SALARIES AND EXPENSES

For necessary expenses of the Office of Construction Management, $2,097,000.

National Indian Gaming Commission

SALARIES AND EXPENSES

For necessary expenses of the National Indian Gaming Commission, pursuant to Public Law 100–497, $1,004,000.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 11 aircraft, 7 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: *Provided*, That no programs funded with appropriated funds in the "Office of the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Sec. 101. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: *Provided*, That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

Sec. 102. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

Sec. 103. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902 and D.C. Code 4-204).

Sec. 104. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

Sec. 105. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley.

Sec. 106. Notwithstanding any other provisions of law, appropriations in this title shall be available to provide insurance on official motor vehicles, aircraft, and boats operated by the Department of the Interior in Canada and Mexico.

Sec. 107. No funds provided in this title may be used to detail any employee to an organization unless such detail is in accordance with Office of Personnel Management regulations.

Sec. 108. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore leasing and related activities placed under restriction in the President's moratorium statement of June 26, 1990, in the areas of Northern, Central, and Southern California; the North Atlantic; Washington and Oregon; and the Eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

Sec. 109. No funds provided in this title may be expended by the Department of the Interior for the conduct of leasing, or the approval or permitting of any drilling or other exploration activity, on lands within the North Aleutian Basin planning area.

Sec. 110. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities for Outer Continental Shelf Lease Sale 137 in the Eastern Gulf of Mexico.

Sec. 111. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities within an area of the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), located in the Atlantic Ocean, bounded by the following line: from the intersection of the seaward limit of the Commonwealth of Massachusetts territorial sea and the 71 degree West longitude line south along that longitude line to its intersection with the line which passes between blocks 423 and 467 on Outer Continental Shelf protraction diagram NK 19-10; then southwesterly along a line 50 miles seaward of the States of Rhode Island, Connecticut, New York, New Jersey, Delaware, and Maryland, to its intersection with the 38 degree North latitude line; then westerly along the 38 degree North latitude line until its approximate intersection with the seaward limit of the State of Maryland territorial sea; then northeasterly along the seaward limit of the territorial sea to the point of beginning at the intersection of the seaward limit of the territorial sea and the 71 degree West longitude line.

Sec. 112. None of the funds made available by this Act may be used for the implementation or financing of agreements or arrangements with entities for the management of all lands, waters, and interests therein on Matagorda Island, Texas, which were purchased by the Department of the Interior with federally appropriated amounts from the Land and Water Conservation Fund.

Sec. 113. The provision of section 112 shall not apply if the transfer of management or control is ratified by law.

Sec. 114. In fiscal year 1991 and thereafter, the Secretary may exercise the authorities granted in the Act of July 1, 1955 (16 U.S.C. 18f) in administration of the Department of the Interior Museum, and may dispose of objects no longer needed for the Museum or held in duplicate among museum properties and apply the proceeds to the purchase of museum objects, museum collections, and other personal properties at reasonable prices.

The CHAIRMAN. Are there any points of order against title I? If not, are there amendments to title I?

AMENDMENTS EN BLOC OFFERED BY MR. YATES

Mr. YATES. Mr. Chairman, I offer several amendments.

The Clerk read as follows:

Amendments en bloc offered by Mr. Yates: On page 32, line 9, strike "$1,364,259,000" and insert "$1,329,259,000" and strike "$245,000,000" and insert "$210,000,000".

On page 57, line 25, strike "$100,000,000" and insert "$35,000,000" and strike "$250,000,000" and insert "$315,000,000".

On page 57, line 19, strike number "100" and insert "101".

On page 65, line 10, strike "petroleum or petroleum products" and insert "crude oil".

On page 65, line 26, strike "petroleum or petroleum products" and insert "crude oil".

On page 67, line 4, strike "petroleum or petroleum products" and insert "crude oil".

On page 67, line 6, strike "petroleum or petroleum products" and insert "crude oil".

Mr. YATES (during the reading). Mr. Chairman, I ask unanimous consent that the amendments en bloc be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

□ 1630

The CHAIRMAN. Pursuant to House Resolution 505, the amendments en bloc are not subject to amendment or to a demand for a division of the question, may amend portions of the bill not yet read for amendment and shall become original text for the purpose of further amendment.

The gentleman from Illinois [Mr. Yates] will be recognized for 10 minutes and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Illinois [Mr. Yates].

Mr. YATES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in explaining the amendments en bloc, let me say that I alluded in my opening remarks to the fact that I was going to present an amendment which would bring the bill into compliance with the proprosed new section 302(b) allocation. The first amendment of the amendments en bloc does that. It is offered for the purpose of reducing budget authority in fiscal year 1991 by $100 million to bring the bill into line with the proposed new 302(b) allocation required by the budget resolution. It will also reduce outlays below the proposed new levels.

The amendment includes a reduction of $35 million in budget authority from the Bureau of Indian Affairs operation of Indian programs account.

Lest some of my friends become alarmed at the prospect of a reduction in the Indian account, let me say that the amount that is being reduced is a part of a total of $245 million, which was included in the account to provide advance funding for Bureau-operated schools for the 1991-92 school year. There will still be enough money in that account to provide for the advance funding and the money that has been deleted will not materially interfere with the proper operation of the schools.

The amendment also removes $65 million from the Clean Coal Technology Program in fiscal year 1991 and provides that same amount for the program in fiscal year 1992. Current estimates are that this will not have an effect on the program schedule based on current procurement schedules.

With respect to the second of the amendments en bloc, it is a technical amendment to the clean coal technology appropriation changing the public law reference from Public Law 100-121 to Public Law 101-121.

With respect to the next series of amendments which are part of the en bloc amendment, these amendments remove petroleum products from leasing limitations included under the strategic petroleum reserve, so that a pilot program for regional petroleum reserves will not be affected by such limitations. Legislation authorizing such a pilot program was recently signed into law.

Mr. Chairman, that completes my explanation of the amendments, and I yield back the balance of my time.

Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are in agreement with the amendments. This reduces the amount of this bill in accordance with the new allocations and we are in agreement with it.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Illinois [Mr. Yates].

The amendments en bloc were agreed to.

Mr. YATES. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. Mazzoli] having assumed the chair, Mr. Oberstar, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5769) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes, had come to no resolution thereon.

CONFERENCE REPORT ON S. 2104, CIVIL RIGHTS ACT OF 1990

Mr. HAWKINS submitted the following conference report and statement on the Senate bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes:

Conference Report (H. Rept. 101–856)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds that—

(1) in a series of recent decisions addressing employment discrimination claims under Federal law, the Supreme Court cut back dramatically on the scope and effectiveness of civil rights protections; and

(2) existing protections and remedies under Federal law are not adequate to deter unlawful discrimination or to compensate victims of such discrimination.

(b) Purposes.—The purposes of this Act are to—

(1) respond to the Supreme Court's recent decisions by restoring the civil rights protections that were dramatically limited by those decisions; and

(2) strengthen existing protections and remedies available under Federal civil rights laws to provide more effective deterrence and adequate compensation for victims of discrimination.

SEC. 3. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end thereof the following new subsections:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion.

"(n) The term 'group of employment practices' means a combination of employment practices that produces one or more decisions with respect to employment, employment referral, or admission to a labor organization, apprenticeship or other training or retraining program.

"(o)(1) The term 'required by business necessity' means—

"(A) in the case of employment practices involving selection such as tests, recruitment, evaluations, or requirements of education, experience, knowledge, skill, ability or physical characteristics, or practices primarily related to a measure of job performance, the practice or group of practices must bear a significant relationship to successful performance of the job; or

"(B) in the case of other employment decisions, not involving employment selection practices as covered by subparagraph (A) (such as, but not limited to, a plant closing or bankruptcy), or that involve rules relating to methadone, alcohol or tobacco use, the practice or group of practices must bear a significant relationship to a manifest business objective of the employer.

"(2) In deciding whether the standards described in paragraph (1) for business necessity have been met, unsubs'antiated opinion and hearsay are not sufficient; demonstrable evidence is required. The court may receive such evidence as statistical reports, validation studies, expert testimony, performance evaluations, written records or notes related to the practice or decision, testimony of individuals with knowledge of the practice or decision involved, other evidence relevant to the employment decision, prior successful experience and other evidence as permitted by the Federal Rules of Evidence, and the court shall give such weight, if any, to such evidence as is appropriate.

"(3) This subsection is meant to codify the meaning of 'business necessity' as used in Griggs v. Duke Power Co. (401 U.S. 424 (1971)) and to overrule the treatment of business necessity as a defense in Wards Cove Packing Co. v. Atonio (109 S. Ct. 2115 (1989)).

"(p) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof).".

SEC. 4. RESTORING THE BURDEN OF PROOF IN DISPARATE IMPACT CASES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end thereof the following new subsection:

"(k) Proof of Unlawful Employment Practices in Disparate Impact Cases.—(1) An unlawful employment practice based on disparate impact is established under this section when—

"(A) a complaining party demonstrates that an employment practice results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such practice is required by business necessity; or

"(B) a complaining party demonstrates that a group of employment practices results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such group of employment practices is required by business necessity, except that—

"(i) except as provided in clause (iii), if a complaining party demonstrates that a group of employment practices results in a disparate impact, such party shall not be required to demonstrate which specific practice or practices within the group results in such disparate impact;

"(ii) if the respondent demonstrates that a specific employment practice within such group of employment practices is not responsible in whole or in significant part for the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity; and

"(iii) the complaining party shall be required to demonstrate which specific practice or practices are responsible for the disparate impact in all cases unless the court finds after discovery (I) that the respondent has destroyed, concealed or refused to produce existing records that are necessary to make this showing, or (II) that the respondent failed to keep such records; and except where the court makes such a finding, the respondent shall be required to demonstrate business necessity only as to those specific practices demonstrated by the complaining party to have been responsible in whole or in significant part for the disparate impact;

except that an employment practice or group of employment practices demonstrated to be required by business necessity shall be unlawful where a complaining party demonstrates that a different employment practice or group of employment practices with less disparate impact would serve the respondent as well.

"(2) A demonstration that an employment practice is required by business necessity may be used as a defense only against a claim under this subsection.

"(3) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses an illegal drug as defined in schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of race, color, religion, sex, or national origin.

"(4) The mere existence of a statistical imbalance in an employer's workforce on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation.

"(5) Nothing in this subsection is intended to overrule existing cases involving comparable worth.".

SEC. 5. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) In General.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(l) Discriminatory Practice Need Not Be Sole Motivating Factor.—Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a motivating factor for any employment practice, even though other factors also motivated such practice.".

(b) Enforcement Provisions.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended by inserting before the period in the last sentence the following: "or, in a case where a violation is established under section 703(l), if the respondent demonstrates that it would have taken the same action in the absence of any discrimination. On a claim where a violation is proven under section 703(l) and the respondent demonstrates that it would have taken the same action in the absence of any discrimination, the court may grant declaratory relief, injunctive relief, attorney's fees and costs, and it shall not award damages".

SEC. 6. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by sections 4 and 5) is further amended by adding at the end thereof the following new subsection:

"(m) Finality of Litigated or Consent Judgments or Orders.—(1) Notwithstanding any other provision of law, and except as provided in paragraph (3), in the case of orders or judgments entered before the date that occurs 30 days after the date of enactment of the Civil Rights Act of 1990, an employment practice that implements and is within the scope of a litigated or consent judgment or order resolving a claim of employment discrimination under the United States Constitution or Federal civil rights laws may not be challenged in a claim under the United States Constitution or Federal civil rights laws—

"(A) by a person who, prior to the entry of such judgment or order, had—

"(i) actual notice from any source of the proposed judgment or order sufficient to apprise such person that such judgment or

order might affect the interests of such person and that an opportunity was available to present objections to such judgment or order; and

"(ii) a reasonable opportunity to present objections to such judgment or order;

"(B) by a person with respect to whom the requirements of subparagraph (A) are not satisfied, if the court determines that the interests of such person were adequately represented by another person who challenged such judgment or order prior to or after the entry of such judgment or order; or

"(C) if the court that entered the judgment or order determines that reasonable efforts were made to provide notice to interested persons.

A determination under subparagraph (C) shall be made prior to the entry of the judgment or order, except that if the judgment or order was entered prior to the date of the enactment of this subsection, the determination may be made at any reasonable time.

"(2) Notwithstanding any other provision of law, and except as provided in paragraph (3), in the case of orders or judgments entered on or after the date that occurs 30 days after the date of enactment of the Civil Rights Act of 1990, an employment practice that implements and is within the scope of a litigated or consent judgment or order resolving a claim of employment discrimination under the United States Constitution or Federal civil rights laws may not be challenged in a claim under the United States Constitution or Federal civil rights laws—

"(A) by a person who during the period of notice was an employee, former employee, or applicant who, prior to the entry of such judgment or order, had actual notice of the proposed judgment or order in sufficient detail to apprise such person—

"(i) that such judgment or order may adversely affect the interests and legal rights of such person;

"(ii) of any numerical relief in the proposed judgment or order on the basis of race, color, religion, sex, or national origin for any job, position, or other employment opportunity;

"(iii) that an opportunity is available to present objections to such judgment or order by a future date certain; and

"(iv) that such person will likely be barred from challenging the proposed judgment or order after such date;

"(B) by a person who during the period of notice was an employee, former employee, or applicant who, prior to the entry of such judgment or order, failed to receive actual notice of the proposed judgment or order meeting the requirements of subparagraph (A), despite the diligent and best efforts of the parties to provide individual notice; or

"(C) by a person who during the period of notice was not an employee, former employee, or applicant, whose interests were adequately and competently represented by a similarly situated person who had previously challenged the judgment or order on the same legal grounds and with a similar factual situation, unless there has been an intervening change in law or fact.

"(3) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure or apply to the rights of parties who have successfully intervened pursuant to such rule in the proceeding in which they intervened;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal Government;

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction; or

"(D) authorize or permit the denial to any person of the due process of law required by the United States Constitution.

"(4) Any action, not precluded under this subsection, that challenges an employment practice that implements and is within the scope of a litigated or consent judgment or order of the type referred to in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28, United States Code.".

SEC. 7. STATUTE OF LIMITATIONS; APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.

(a) Statute of Limitations.—Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) is amended—

(1) by striking out "one hundred and eighty days" and inserting in lieu thereof "2 years";

(2) by inserting after "occurred" the first time it appears "or has been applied to affect adversely the person aggrieved, whichever is later,";

(3) by striking out ", except that in" and inserting in lieu thereof ". In"; and

(4) by striking out "such charge shall be filed" and all that follows through "whichever is earlier, and".

(b) Application to Challenges to Seniority Systems.—Section 703(h) of such Act (42 U.S.C. 2000e-2) is amended by inserting after the first sentence the following new sentence: "Where a seniority system or seniority practice is part of a collective bargaining agreement and such system or practice was included in such agreement with the intent to discriminate on the basis of race, color, religion, sex, or national origin, the application of such system or practice during the period that such collective bargaining agreement is in effect shall be an unlawful employment practice.".

SEC. 8. PROVIDING FOR DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION.

(a) Damages.—Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: "With respect to an unlawful employment practice (other than an unlawful employment practice established in accordance with section 703(k)) or in the case of an unlawful employment practice under the Americans With Disabilities Act of 1990 (other than an unlawful employment practice established in accordance with paragraph (3)(A) or paragraph (6) of section 102 of that Act as it relates to standards and criteria that tend to screen out individuals with disabilities)—

"(A) compensatory damages may be awarded; and

"(B) if the respondent (other than a government, government agency, or a political subdivision) engaged in the unlawful employment practice with malice, or with reckless or callous indifference to the federally protected rights of others, punitive damages may be awarded against such respondent;

in addition to the relief authorized by the preceding sentences of this subsection, except that compensatory damages shall not include backpay or any interest thereon. Compensatory and punitive damages and jury trials shall be available only for claims of intentional discrimination. If compensatory or punitive damages are sought with respect to a claim of intentional discrimination arising under this title, any party may demand a trial by jury.".

(b) Limitation on Punitive Damages.—Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2) The amount of punitive damages that may be awarded under paragraph (1)(B) to an individual against a respondent shall not exceed—

"(A) $150,000; or

"(B) an amount equal to the sum of compensatory damages awarded under paragraph (1)(A) and equitable monetary relief awarded under paragraph (1);

whichever is greater.".

SEC. 9. CLARIFYING ATTORNEY'S FEES PROVISION.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended—

(1) by inserting "(1)" after "(k)";

(2) by inserting "(including expert fees and other litigation expenses) and" after "attorney's fee,";

(3) by striking out "as part of the"; and

(4) by adding at the end thereof the following new paragraphs:

"(2) No consent order or judgment settling a claim under this title shall be entered, and no stipulation of dismissal of a claim under this title shall be effective, unless the parties or their counsel attest to the court that a waiver of all or substantially all attorney's fees was not compelled as a condition of the settlement.

"(3) In any action or proceeding in which any judgment or order granting relief under this title is challenged, the court, in its discretion and in order to promote fairness, may allow the prevailing party in the original action (other than the Commission or the United States) to recover from either an unsuccessful party challenging such relief or a party against whom relief was granted in the original action or from more than one such party under an equitable allocation determined by the court, a reasonable attorney's fee (including expert fees and other litigation expenses) and costs reasonably incurred in defending (as a party, intervenor or otherwise) such judgment or order. In determining whether to allow recovery of fees from the party challenging the initial judgment or order, the court should consider not only whether such challenge was unsuccessful, but also whether the award of fees against the challenging party promotes fairness, taking into consideration such factors as the reasonableness of the challenging party's legal and factual position and whether other special circumstances make an award unjust.".

SEC. 10. PROVIDING FOR INTEREST, AND EXTENDING THE STATUTE OF LIMITATIONS, IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.

Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended—

(1) in subsection (c), by striking out "thirty days" and inserting in lieu thereof "ninety days"; and

(2) in subsection (d), by inserting before the period ", and the same interest to compensate for delay in payment shall be available as in cases involving nonpublic parties, except that prejudgment interest may not be awarded on compensatory damages".

SEC. 11. CONSTRUCTION.

Title XI of the Civil Rights Act of 1964 (42 U.S.C. 2000h et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1107. RULES OF CONSTRUCTION FOR CIVIL RIGHTS LAWS.

"(a) EFFECTUATION OF PURPOSE.—All Federal laws protecting the civil rights of persons shall be interpreted consistent with the intent of such laws, and shall be broadly construed to effectuate the purpose of such laws to provide equal opportunity and provide effective remedies.

"(b) NONLIMITATION.—Except as expressly provided, no Federal law protecting the civil rights of persons shall be construed to repeal or amend by implication any other Federal law protecting such civil rights.

"(c) INTERPRETATION.—In interpreting Federal civil rights laws, including laws protecting against discrimination on the basis of race, color, religion, sex, national origin, age, and disability, courts and administrative agencies shall not rely on the amendments made by the Civil Rights Act of 1990 as a basis for limiting the theories of liability, rights, and remedies available under civil rights laws not expressly amended by such Act.".

SEC. 12. RESTORING PROHIBITION AGAINST ALL RACIAL DISCRIMINATION IN THE MAKING AND ENFORCEMENT OF CONTRACTS.

Section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981) is amended—

(1) by inserting "(a)" before "All persons within"; and

(2) by adding at the end thereof the following new subsections:

"(b) For purposes of this section, the right to 'make and enforce contracts' shall include the making, performance, modification and termination of contracts, and the enjoyment of all benefits, privileges, terms and conditions of the contractual relationship.

"(c) The rights protected by this section are protected against impairment by nongovernmental discrimination as well as against impairment under color of State law.".

SEC. 13. LAWFUL COURT-ORDERED REMEDIES, AFFIRMATIVE ACTION AND CONCILIATION AGREEMENTS NOT AFFECTED.

Nothing in the amendments made by this Act shall be construed to require or encourage an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex, or national origin: *Provided, however*, That nothing in the amendments made by this Act shall be construed to affect court-ordered remedies, affirmative action, or conciliation agreements that are otherwise in accordance with the law.

SEC. 14. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 15. APPLICATION OF AMENDMENTS AND TRANSITION RULES.

(a) APPLICATION OF AMENDMENTS.—The amendments made by—

(1) section 4 shall apply to all proceedings pending on or commenced after June 5, 1989;

(2) section 5 shall apply to all proceedings pending on or commenced after May 1, 1989;

(3) section 6 shall apply to all proceedings pending on or commenced after June 12, 1989;

(4) section 7(a)(1), 7(a)(3), and 7(a)(4), 7(b), 8, 9, 10, and 11 shall apply to all proceedings pending on or commenced after the date of enactment of this Act;

(5) section 7(a)(2) shall apply to all proceedings pending on or after June 12, 1989; and

(6) section 12 shall apply to all proceedings pending on or commenced after June 15, 1989.

(b) TRANSITION RULES.—

(1) IN GENERAL.—Any orders entered by a court between the effective dates described in subsection (a) and the date of enactment of this Act that are inconsistent with the amendments made by sections 4, 5, 7(a)(2), or 12, shall be vacated if, not later than 1 year after such date of enactment, a request for such relief is made.

(2) SECTION 6.—Any orders entered between June 12, 1989 and the date of enactment of this Act, that permit a challenge to an employment practice that implements a litigated or consent judgment or order and that is inconsistent with the amendment made by section 6, shall be vacated if, not later than 6 months after the date of enactment of this Act, a request for such relief is made. For the 1-year period beginning on the date of enactment of this Act, an individual whose challenge to an employment practice that implements a litigated or consent judgment or order is denied under the amendment made by section 6, or whose order or relief obtained under such challenge is vacated under such section, shall have the same right of intervention in the case in which the challenged litigated or consent judgment or order was entered as that individual had on June 12, 1989.

(3) FINAL JUDGMENTS.—Pursuant to paragraphs (1) and (2), any final judgment entered prior to the date of the enactment of this Act as to which the rights of any of the parties thereto have become fixed and vested, where the time for seeking further judicial review of such judgment has otherwise expired pursuant to title 28 of the United States Code, the Federal Rules of Civil Procedure, and the Federal Rules of Appellate Procedure, shall be vacated in whole or in part if justice requires pursuant to rule 60(b)(6) of the Federal Rules of Civil Procedure or other appropriate authority, and consistent with the constitutional requirements of due process of law.

(c) PERIOD OF LIMITATIONS.—The period of limitations for the filing of a claim or charge shall be tolled from the applicable effective date described in subsection (a) until the date of enactment of this Act, on a showing that the claim or charge was not filed because of a rule or decision altered by the amendments made by sections 4, 5, 7(a)(2), or 12.

SEC. 16. COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH.

(a) COVERAGE OF THE SENATE.—

(1) COMMITMENT TO RULE XLII.—The Senate reaffirms its commitment to Rule XLII of the Standing Rules of the Senate which provides as follows:

"No Member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—

"(a) fail or refuse to hire an individual;

"(b) discharge an individual; or

"(c) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment;

on the basis of such individual's race, color, religion, sex, national origin, age, or state of physical handicap.".

(2) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to this Act, the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973 shall apply with respect to employment by the United States Senate.

(3) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment, pursuant to the Acts referred to in paragraph (2), shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(4) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the Acts referred to in paragraph (2).

(5) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the Acts referred to in paragraph (2), the Select Committee on Ethics, or such other entity as the Senate may designate, should to the extent practicable apply the same remedies applicable to all other employees covered by the Acts referred to in paragraph (2). Such remedies shall apply exclusively.

(6) MATTERS OTHER THAN EMPLOYMENT.—

(A) IN GENERAL.—The rights and protections under the Americans with Disabilities Act of 1990 shall, subject to subparagraph (B), apply with respect to the conduct of the Senate regarding matters other than employment.

(B) REMEDIES.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to subparagraph (A). Such remedies and procedures shall apply exclusively, after approval in accordance with subparagraph (C).

(C) PROPOSED REMEDIES AND PROCEDURES.—For purposes of subparagraph (B), the Architect of the Capitol shall submit proposed remedies and procedures to the Senate Committee on Rules and Administration. The remedies and procedures shall be effective upon the approval of the Committee on Rules and Administration.

(7) EXERCISE OF RULEMAKING POWER.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in paragraphs (2) and (6)(A) shall be within the exclusive jurisdiction of the United States Senate. The provisions of paragraphs (1), (3), (4), (5), (6)(B), and (6)(C) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

(b) COVERAGE OF THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—Notwithstanding any provision of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) or of other law, the purposes of such title shall, subject to paragraph (2), apply in their entirety to the House of Representatives.

(2) EMPLOYMENT IN THE HOUSE.—

(A) APPLICATION.—The rights and protections under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) ADMINISTRATION.—

(i) IN GENERAL.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) RESOLUTION.—The resolution referred to in clause (i) is House Resolution 15 of the One Hundred First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(C) EXERCISE OF RULEMAKING POWER.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(c) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under this Act and title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall, subject to paragraph (2), apply with respect to the conduct of each instrumentality of the Congress.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section, instrumentalities of the Congress include the following: the Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Office of Technology Assessment, and the United States Botanic Garden.

(5) CONSTRUCTION.—Nothing in this section shall alter the enforcement procedures for individuals protected under section 717 of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16).

SEC. 17. OTHER STATUTE OF LIMITATIONS; NOTICE OF LIMITATIONS PERIOD.

(a) CHARGE FILING LIMITATION PERIOD.—Section 7(d) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(d)) is amended—

(1) in paragraph (1)—

(A) by striking out "180 days" and inserting in lieu thereof "2 years"; and

(B) by inserting "or has been applied to affect adversely the person aggrieved, whichever is later" after "occurred"; and

(2) in paragraph (2), by striking out "within 300 days" and all that follows through "whichever is earlier" and inserting in lieu thereof "a copy of such charge shall be filed by the Commission with the State agency".

(b) NOTICE OF LIMITATIONS PERIOD FOR FILING SUIT.—Section 7(e) of such Act (29 U.S.C. 626(e)) is amended—

(1) by striking out paragraph (2);

(2) by striking out the paragraph designation in paragraph (1);

(3) by striking out "Sections 6 and" and inserting "Section"; and

(4) by adding at the end thereof the following: "If a charge filed with the Commission is dismissed or the Commission's proceedings are otherwise terminated by the Commission, the Commission shall so notify the individual referred to in subsection (d) and such individual may bring an action against the respondent named in the charge at any time after 60 days from the time the charge was timely filed until the expiration of 90 days after the receipt of the notice provided under this subsection.".

SEC. 18. ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, mini-trials, and arbitration, is encouraged to resolve disputes arising under the Acts amended by this Act.

And the House agree to the same.

From the Committee on Education and Labor:

HAWKINS,
M.G. MARTINEZ,
PAT WILLIAMS,
JAIME B. FUSTER,
KWEISI MFUME,

From the Committee on the Judiciary:

JACK BROOKS,
DON EDWARDS,
BOB KASTENMEIER,
JOHN CONYERS,
PAT SCHROEDER,
GEO. W. CROCKETT, Jr.,
HAMILTON FISH,
Managers on the Part of the House.

EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
PAUL SIMON,
BARBARA MIKULSKI,
JAMES M. JEFFORDS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. PURPOSES

The Senate Bill and the House Amendment use different grammar in describing the purposes of this Act.

The Senate recedes.

2. BUSINESS NECESSITY

The House Amendment, but not the Senate Bill, specifies that this subsection is meant to overturn the treatment of business necessity as defined in *Wards Cove Packing Co.* v. *Atonio*, 109 S.Ct. 2115 (1989).

The Senate recedes with an amendment. The Senate Amendment modifies the definition of the term "required by business necessity." Both the Senate Bill and the House Amendment set forth a two-prong definition of the term. The Senate Amendment continues this approach, but provides examples regarding the application of the two prongs.

Under the Senate Amendment, in the case of employment practices involving selection, including but not limited to practices such as tests, recruitment, evaluations, or requirements of education, experience, knowledge, skill, ability or physical characteristics, or of practices primarily related to a measure of job performance, "required by business necessity" means that the practice or group of practices must bear a significant relationship to successful performance of the job. The Senate Amendment thus lists examples of some of the practices commonly used to select persons in connection with the employment activities covered by Title VII (e.g., hiring, promotion, transfer, retention, apprenticeship or training). For example, to be required by business necessity, evaluations of persons in connection with any of these activities must bear a significant relationship to successful performance of the job. Most of the practices challenged under *Griggs* over the past 19 years would fall under this first prong.

In the case of other employment decisions, not involving employment selection practices (such as, but not limited to, a plant closing or bankruptcy), or that involve rules relating to methadone, alcohol or tobacco use, "required by business necessity" means that the practice or group of practices must bear a significant relationship to a manifest business objective of the employer.

The Senate Amendment also modifies subparagraph (2) of the definition of business necessity. Subparagraph (2) lists examples of the types of evidence which a court may receive on the issue of business necessity. The listing of these examples is not intended to indicate that any one type of evidence, or any particular combination of types o evidence, is, or is not, in a particular case sufficient to meet the standards for business necessity. Rather, courts should give such weight, if any, to such evidence as is appropriate under the meaning of "business necessity" as used in *Griggs* v. *Duke Power Co.*, 401 U.S. 424 (1971).

3. GROUP OF EMPLOYMENT PRACTICES

The Senate Bill and the House Amendment use different grammar.

The Senate recedes with an amendment Under the Senate Amendment, the complaining party is required to demonstrat which specific practice or practices are responsible in whole or in significant part fo the disparate impact in all cases, unless th court finds after discovery either (1) tha the respondent destroyed, concealed or refused to produce existing records that ar necessary to show which specific practice o practices are responsible in whole or in significant part for the disparate impact, or (2 that the respondent failed to keep such records. An employment practice is respons bile in significant part for a disparat impact in a particular case, unless it appear from the circumstances of the case that th practice makes only a trivial or insubstantial contribution to the disparate impact.

4. LESS DISCRIMINATORY ALTERNATIVE

The House Amendment, but not th Senate Bill, specifies that an employmen practice or group of employment practices demonstrated to be required by business necessity shall be unlawful where a complaining party demonstrates that a different employment practice or group of employment practices with less disparate impact would serve the respondent as well.

The Senate recedes. The final clause of subsection 703(k)(1) codifies the law before *Wards Cove Packing Co.* v. *Atonio*, 109 S.Ct. 2115 (1989), with regard to the "less discriminatory alternative" doctrine and makes the bill's treatment of disparate impact claims complete. It clarifies that, if a defendant demonstrates that a practice or group of practices is required by business necessity, a plaintiff can still prevail by showing that other practices with less disparate impact would serve the respondent as well. By demonstrating that a less discriminatory alternative exists, the plaintiff has succeeded in rebutting the employer's contention that business necessity has required its reliance on the particular practice or group of practices which resulted in a disparate impact on the basis of race, color, religion, sex or national origin.

The Supreme Court announced this doctrine in *Albemarle Paper Co.* v. *Moody*, 422 U.S. 405 (1975), where is held that:

> If an employer does then meet the burden of proving that its tests are "job-related", it remains open to the complaining party to show that other tests or selection devices, without a similarly undesirable racial effect, would also serve the employer's legitimate interest in "efficient and trustworthy workmanship."

Since the Court's holding in *Albemarle*, the demonstration of a "less discriminatory alternative" has been consistently viewed as the final stage in determining whether an employment practice or group of practices has led to unlawful discrimination. This stage, however, is only reached after the respondent has succeeded in demonstrating business necessity.

Subsection 703(k)(1) thus makes clear that there are three stages of analysis in disparate impact cases. First, the plaintiff has the initial burden of demonstrating the discriminatory impact of the practice or group of practices being challenged. Second, if the plaintiff makes this showing, the defendant must demonstrate that the practice is required by business necessity to overcome a determination that the practice is unlawful. Finally, if the defendant meets this burden of demonstrating business necessity, the plaintiff may still prevail by showing that other practices with less disparate impact would serve the respondent as well. This test governed before the decision in *Wards Cove* and is restored by this legislation.

5. MERE EXISTENCE OF A STATISTICAL IMBALANCE

The House Amendment, but not the Senate Bill, specifies that the mere existence of a statistical imbalance in an employer's workforce on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation.

The Senate recedes. The Conferees note that this section is not intended to change the existing test of proving disparate impact. Subsection 703(k)(4) reaffirms that the mere existence of a statistical imbalance in an employer's workforce is not alone sufficient to establish a prima facie case of disparate impact violation.

A plaintiff cannot establish a prima facie case of disparate impact merely by showing that an employer had a smaller proportion of minority or women employees than existed in the population as a whole.[1]

In order to establish a prima facie case, the plaintiff must show that a specific employment practice, or group or combination of practices, results in a disparate impact. This provision reaffirms the case law that has been in place since *Griggs*; what constitutes disparate impact remains unchanged.

The Court in *Wards Cove* adopted a consistent view of what a plaintiff must show to establish a prima facie case. Under the majority opinion, a low percentage of minorities or women in a particular job is not by itself, without more, sufficient to establish a prima facie case. The Court held that "the proper comparison [is] between the racial composition of [the at-issue jobs] and the racial composition of the qualified population in the relevant labor market." *Wards Cove*, 109 S. Ct. at 2121, quoting *Hazelwood School Dist.* v. *U.S.*, 433 U.S. 299, 307–08 (1977). In *Wards Cove*, the Court noted that for relatively unskilled jobs, general population figures may be appropriate, but the plaintiff would have to prove that the jobs at issue were in fact unskilled. Depending on the circumstances it may be more appropriate for the court to look to the proportion of applicants who were minorities or women.

Thus, statistics may still be used to make a prima facie case of disparate impact. Indeed, such cases usually rely on statistics. But statistics must meet the requirements of the law. A mere statistical imbalance, without more, will not suffice to establish a prima facie case. The relevant comparision is between the qualified labor pool and the group actually selected. Simple reference to the population at large will generally be insufficient.

6. COMPARABLE WORTH

The Senate Amendment adopted by the Conferees adds a new subsection (5) to subsection 703(k) making it clear that nothing in the subsection is intended to overrule existing precedents involving comparable worth.

7. MIXED MOTIVE CASES

The Senate Amendment adopted by the Conferees modifies section 5 of the bill, which responds to the Supreme Court's decision in *Price Waterhouse* v. *Hopkins*, 109 S. Ct. 1775 (1989). Under the Senate Amendment, where a violation is proved under subsection 703(1) and the respondent demonstrates that it would have taken the same action in the absence of any discrimination, the court may grant declaratory relief, injunctive relief, attorney's fees, and costs, but it may not award compensatory or punitive damages for such a violation.

In providing liability for discrimination that is a "motivating factor," the Conferees intend to restore the rule applied by the majority of the circuits prior to the *Price Waterhouse* decision that any discrimination that is actually shown to play a role in a contested employment decision may be the subject of liability. Conduct or statements are relevant under this test only if the plaintiff shows a nexus between the conduct or statements and the employment decision at issue. For example, isolated or stray remarks not shown, under the standards generally applied for weighing the sufficiency of evidence, to have motivated the employment decision at issue are not sufficient.

8. CHALLENGES TO LITIGATED OR CONSENT JUDGMENTS OR ORDERS

The Senate Amendment adopted by the Conferees modifies section 6 of the bill, which sets forth procedures to assure prompt and orderly resolution of challenges to employment practices implementing litigated or consent judgments or decrees.

Subsection 703(m)(1) establishes procedures for challenges to employment practices implementing litigated or consent orders or judgments entered before the date thirty days after enactment of the bill. Subsection 703(m)(1)(A) would preclude a challenge to an employment practice implementing such a decree by a person, who, prior to the entry of the decree, had both notice from any source of the proposed decree sufficient to apprise such person that the decree might affect his or her interests, and a reasonable opportunity to present objections to the decree. Subsection 703(m)(1)(B) would preclude a challenge by a person as to whom the requirements of subsection 703(m)(1)(A) are not satisfied, if the court determines that the interests of such person were adequately represented by another person who did challenge the decree. And subsection 703(m)(1)(C) would preclude a challenge by persons as to whom the requirements of subsection 703(m)(1)(A) are not satisfied, if the court determines that reasonable efforts were made to provide notice to interested persons.

Subsection 703(m)(2) establishes procedures for challenges to employment practices implementing litigated or consent judgments or orders entered after the date thirty days after enactment of the bill. Such practices may not be challenged in a claim under the Constitution or federal civil rights laws—

(a) by a person who during the period of notice (i.e., the period when the proposed judgment or order is under consideration by the court and notice is being given to persons who may be adversely affected by the proposed order or judgment) was an employee, former employee, or applicant who, prior to the entry of such judgment or order had actual notice of the proposed judgment or order in sufficient detail to apprise such person (1) that the judgment or order may adversely affect his or her interests and legal rights; (2) of any numerical relief in the judgment or order on the basis of race, color, religion, sex, or national origin for any job, position or other employment opportunity; (3) that an opportunity is available to present objections to such judgment or order by a future date certain; and (4) that the person will likely be barred from challenging the proposed judgment or order after such date;

(b) by a person who during the period of notice was an employee, former employee, or applicant who, prior to the entry of such judgment or order, failed to receive actual notice of the proposed judgment or order meeting the requirements of (a), despite the diligent and best efforts of the parties to provide individual notice; or

(c) by a person who during the period of notice was not an employee, former employee, or applicant, where the interests of such

person were adequately and competently represented by a similarly situated person who had previously challenged the judgment or order on the same legal grounds and with a similar factual situation, unless there has been an intervening change in law or fact.

Subsection 703(m)(2)(B) is a limited exception to the requirements of Subsection 703(m)(2)(A) to cover such instances as employees on prolonged leaves of absence or who have changed address without notifying their employers.

9. FEDERAL GOVERNMENT REPRESENTATION

The Senate Bill and the House Amendment contain a typographical difference.

The Senate recedes.

10. DAMAGES SUBSECTION

The House Amendment, but not the Senate Bill, creates subsections within this section.

The Senate recedes.

11. DAMAGES UNDER THE AMERICANS WITH DISABILITIES ACT

The Senate Bill and the House Amendment use different grammar and different placement of parentheses.

The Senate recedes. The Conference Committee intends that the disparate impact provisions of the Americans with Disabilities Act (ADA) shall be interpreted consistently with Title VII as amended by this Act. This was the intent of Congress in passing the ADA, as reflected in reports from Committees in both the Senate and the House of Representatives. See, e.g., Report of the Senate Committee on Labor and Human Resources, 101st Cong., 1st Sess., S. Rpt. 101–116, at 38 ("Senate Report") (nothing that the ADA should be construed consistently with case law prior to the Supreme Court decision in *Wards Cove* on June 4, 1989); Report of the House Committee on the Judiciary, 101st Cong., 2nd Sess., H. Rpt. 101–485, Part 3, at 42, n. 32 (citing *Prewitt* v. *U.S. Postal Service* 662, F.2d 292, 306–308 (5th Cir. 1981) as defining burden of proof under the ADA). The legislative history on disparate impact under the ADA is thus consistent with the amendments to Title VII contained in this Act. Specifically, the terms "demonstrate" and "required by business necessity" in this Act should be applied consistently to the ADA.

The other sections of this Act should also be applied consistently to the ADA. Section 5 of this Act, providing that an unlawful employment practice is established when a plaintiff demonstrates that a protected class status was a motivating factor of an employment practice, the standard already adopted under the ADA. See, e.g., Senate Report, at 45; Report of the House Committee on Education and Labor, 101st Cong., 2nd Sess., H. Rpt. 101-485, Part 2, at 85-86. Sections 7, 8 and 9 of this Act, which amend Section 706 of Title VII, are explicitly incorporated into the ADA through Section 107(a) of that Act. There was apprehension of the part of some Members that section 8, if applied literally, would authorize compensatory and punitive damages for all cases of discrimination under the ADA, including cases of disparate impact. To alleviate that concern, the Act was amended to state explicitly that damages would be available under the ADA for all cases other than for those of disparate impact. (Causes of action for disparate impact are explicitly referenced in section 102(b)(3)(A) and part of section 102(b)(6) of the ADA and therefore those sections are cited in the provision in this Act. Of course, to the extent a court reads a disparate impact cause of action into some other section of the ADA, damages would also not be available for that disparate impact claim). Because similar possible misunderstandings did not exist with regard to sections 7 and 9, no explicit reference to the ADA was necessary in those sections. The modifications to Title VII made in those sections would apply directly to the ADA as a result of the cross-reference in section 107(a).

12. CAP ON PUNITIVE DAMAGES

The House Amendment, but not the Senate Bill, specifies that for respondents employing fewer than 100 employees, punitive damage under the Act are limited to $150,000 or an amount equal to the sum of compensatory damages and equitable monetary relief, whichever is greater.

The Senate recedes with an amendment. The Senate Amendment makes the limitations on punitive damages set forth in the House Amendment applicable to all respondents covered by Title VII of the Civil Rights Act of 1964. Under the Senate Amendment, the amount of punitive damages awarded to an individual under the Act shall not exceed the greater of $150,000 or the amount awarded to such individual in compensatory damages and including backpay.

The Conferees note that as used in Section 8, the term "government, government agency, or a political subdivision" includes the Federal government. Thus, punitive damages are not available against the Federal government.

13. ATTORNEY'S FEES FOR DEFENDING RELIEF OBTAINED UNDER TITLE VII

The Senate Amendment modifies section 9(3) of the bill, which responds to the Supreme Court's decision in *Independent Federation of Flight Attendants* v. *Zipes*, 109 S.Ct. 2732 (1989). Under the Amendment, the court in any action or proceeding in which a judgment or order granting relief under title VII is challenged may, in its discretion and in order to promote fairness, allow the prevailing party in the original action (other than the EEOC or the United States) to recover a reasonable attorney's fee (including expert fees and other litigation expenses) and costs reasonably incurred by that party in defending the judgment or order from either a party which unsuccessfully challenged the relief, or from a party against whom such relief was granted in the original action, or from more than one such party under an equitable allocation determined by the court. In determining whether to allow recovery of fees from the party challenging the initial judgment or order, the court should consider not only whether such challenge was unsuccessful, but also whether the award of fees against the challenging party promotes fairness, taking into consideration such factors as the reasonableness of the challenging party's legal and factual position and whether other special circumstances make an award unjust.

The Conferees intend this provision to be construed in a manner that will promote fairness in the assignment of the responsibility to pay fees incurred in protecting the relief obtained in judgments or orders and to provide a deterrent to the bringing of baseless, frivolous, unjustified or repetitious challenges to the relief provided in a judgment or order, while protecting the ability of challenging parties to make reasonable factual and legal challenges to such relief, and while protecting the ability of the prevailing parties in the original action to afford counsel to protect their rights with respect to the challenge. A successful challenging party will, under section 706(k), have the right to an award of his or her reasonable attorney's fees, expenses and costs from the party against whom relief was granted in the original action, and will not be subject to payment of any fee award to the original prevailing plaintiff for services performed in defending against the challenge. In making an allocation of a fee award between an unsuccessful challenging party and the party against whom relief was granted in the original action, the court should consider their comparative resources and ability to pay, and the comparative reasonableness of their positions. For purposes of this statute, an unsuccessful party is one who challenges the relief originally awarded but fails to obtain the modification requested.

14. INTEREST PAYMENTS BY NONPUBLIC PARTIES

The Senate Bill and the House Amendment contain a typographical difference.

The Senate recedes.

15. QUOTAS

The Senate Amendment adopted by the Conferees amends Section 13 of the bill to provide that nothing in the amendments made by this Act shall be construed to require "or encourage" an employer to adopt hiring or promotion quotas. The Conferees note that there is absolutely no evidence that *Griggs* and its progeny have encouraged quotas. Sections 3 and 4 of the bill merely restore the *Griggs* rule and thus do not encourage quotas. The Senate Amendment is simply intended to further clarify that the bill is intended to restore the *Griggs* rule and thus would not encourage quotas.

16. FINAL JUDGMENTS

The House Amendment, but not the Senate Bill, specifies that any final judgment entered prior to the date of the enactment of this Act as to which the rights of any of the parties thereto have become fixed and vested, where the time for seeking further judicial review of such judgment has otherwise expired pursuant to Title 28 of the United States Code, the Federal Rules of Civil Procedure, and the Federal Rules of Appellate Procedure, shall be vacated in whole or in part if justice requires pursuant to rule 60(b)(6) of the Federal Rules of Civil Procedure or other appropriate authority, and consistent with the constitutional requirements of due process of law.

The Senate recedes. The Senate Bill requires Federal courts, upon request, to vacate all orders and judgments which are inconsistent with certain provisions of the legislation. The Senate Bill mandates such action regardless of whether the case is pending or appealable on the date of enactment or has resulted in the entry of final judgement as to which the time for appeal has run. In contrast, the House Amendment is permissive rather than mandatory with regard to the reopening of final, unappealable judgments, and provides standards to guide Federal courts in deciding whether such judgments should be reopened. The House Amendment adopts the long-standing Federal procedure which allows courts to reopen final judgments only upon a finding that justice so requires.

The House Amendment specifically references the standard set forth in Rule 60(b) of the Federal Rules of Civil Procedure for reopening final orders and judgments. That rule allows Federal courts to reopen closed cases for a number of reasons, including "any . . . reason justifying relief from the operation of the judgment." Under Rule 60(b)(6), Federal courts have broad discretionary power "to vacate judgments whenever such action is appropriate to accomplish justice." *Klapportt* v. *United States*, 335 U.S. 601, 614-15 (1949); see also *First American National Bank of Nashville* v. *Bonded Elevator, Inc.*, 111 F.R.D. 74, 75 (W.D. Ky. 1986) (rule requires "a judicial balancing of the need for finality and the need to do justice in the individual case"); *United States* v. *McDonald*, 86 F.R.D. 204, 208 (N.D. Ill. 1980) (rule allowing relief from judgment is to be liberally applied to accomplish justice). Consistent with that rule, the House Amendment permits Federal courts to reopen final judgments only "if justice requires," and only if such action would be "consistent with the constitutional requirements of due process of law."

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[1] In fact Section 703(j) of Title VII, 42 U.S.C. 2000e-2(j), specifically prohibits an interpretation of Title VII which would require preferential treatment of an individual because of a statistical imbalance between the number or percentage of persons of any race, color, religion, sex or national origin employed in a particular position as compared to the number or percentage of persons in the community as a whole.

Notably, existing case law suggests that final judgments may be reopened where strong public interests are present. See *Pension Benefit Guaranty Corporation* v. *R.A. Gray & Co.*, 467 U.S. 717, 729-30 (1984) (legislation that "readjust[s] rights and burdens is not unlawful solely because it upsets otherwise settled expectations. . . . This is true even though the effect of the legislation is to impose a new duty or liability based on past acts"); *New England Power Company* v. *United States*, 693 F.2d 239, 245 (1st Cir. 1982) (in resolving questions involving the retroactive application of legislation, "the disappointment of private expectations that results from the implementation of a new rule must be balanced against public interest in the enforcement of that rule"). The balancing of affected interests may weigh particularly strongly in favor of reopening such judgments where the legislation is restorative in purpose.

The Supreme Court decisions overturned by this bill repudiated well-settled case law which protected American workers against employment discrimination. In the past year, hundreds of discrimination victims have had their claims dismissed, or their rights and remedies otherwise impaired, as a direct result of the application of these decisions. Both the Senate Bill and the House Amendment provide for the application of this legislation to claims which are pending (or as to which the time for appeal has not yet run) on the date of enactment. Nevertheless, other claims may have been resolved by the entry of a final judgment as to which the time for appeal has run prior to the date of enactment. This latter group of claims may only be revived by a mechanism such as that provided by Rule 60(b)(6). Unlike the Senate Bill, the House Amendment permits courts to make use of such a mechanism with regard to these claims where justice so requires, without dictating the result in particular cases. See *United States* v. *Sioux Nation of Indians*, 448 U.S. 371, 406-07 (1980) (legislation which allows courts to reexamine fully litigated disputes, without dictating the outcome of particular cases, does not violate the separation of powers doctrine); *Tonya K.* v. *Board of Education of Chicago*, 847 F.2d 1243, 1247 (7th Cir. 1988) (Congress may alter or restore a rule of law provided that it leaves to the courts the application of the rule to the facts of particular cases).

17. CONGRESSIONAL COVERAGE

The Senate Bill and the House Amendment contain different provisions for Congressional coverage.

The Senate Bill amends Title VII to apply its provisions to Congress, and each House of Congress shall determine its enforcement mechanism.

The House Amendment applies the rights and protections of Title VII to employees of the House, and administers these rights and protections through the Fair Employment Practices Resolution.

The House recedes to the Senate on coverage of the Senate with an amendment. The Senate recedes to the House on coverage of the House. The Conferees note that the provision adopted by the Conference is very similar to the provision enacted as part of the Americans with Disabilities Act, 42 U.S.C. section 12209, and should be interpreted consistent with that Act.

18. AGE DISCRIMINATION IN EMPLOYMENT ACT

The House Amendment, but not the Senate Bill, amends the Age Discrimination in Employment Act to provide the same 2-year limitations period for filing charges as is provided for Title VII charges under the legislation.

The Senate recedes with an amendment. Section 17 adds a conforming amendment to the Age Discrimination in Employment Act (ADEA), 29 U.S.C. section 621 et seq. to make a similar change in the statute of limitations in that Act.

Although the statute of limitations provisions under Title VII and the ADEA are not identical, their overall scheme, especially with regard to their charge-filing requirements, is very similar. Because of the similarities between the statutes, the courts have routinely looked to Title VII precedents in interpreting corresponding provisions of the ADEA. Thus, there is a danger that *Lorance* v. *AT&T Technologies*, 109 S.CT. 2261 (1989), will be applied under the ADEA, if the statute of limitations is changed in Title VII but not in the ADEA.

Further, some of the differences between the Title VII and ADEA charge-filing and litigation limitations provisions have led to substantial confusion among persons alleging discrimination on the basis of age, or under the ADEA and Title VII together. Two differences in particular have caused serious problems.

First, unlike Title VII, which sets a limitations period only for filing charges, the ADEA imposes time limits both for filing charges and for initiating lawsuits. The limitations period for filing an administrative charge alleging discrimination is the same as in Title VII but, unlike Title VII, ADEA claimants must file their court case within two years of the discriminatory act, regardless of whether the administrative agency has acted.

Second, Title VII specifically directs the EEOC to provide complainants with affirmative notice of their "right to sue" upon the occurrence of certain events. The ADEA does not impose this notice requirement.

As a result of these differences, many age discrimination victims lost their rights to go to court, because they were unaware of the ADEA's time limitations for filing a lawsuit, and received no notice from the EEOC that they could—in fact, must—file suit by certain dates. These differences between Title VII and the ADEA have resulted in confusion, which may be exacerbated by the changes made in Section 7 of this Act.

To avoid future confusion, this section eliminates the ADEA's dual limitations scheme for filing charges and initiating litigation, replacing it with the single 2-year charge-filing requirement that Section 7 proposes for Title VII. ADEA claimants will retain their historical right to go directly into court after filing a charge. As in Section 7, the time period for filing an age discrimination charge will begin to run from when the violation actually "occurred," overturning *Lorance*.

This section also adds a new provision to the ADEA, which imposes an explicit obligation on the EEOC to notify complainants, after the EEOC has dismissed their charges, that the agency's action triggers a 90-day limitations period for filing suit. This section also deletes a tolling provision in the ADEA which becomes obsolete with the establishment of a single statute of limitations.

In addition, the ADEA presently provides to private sector and non-Federal age claimants the right to commence an action 60 days after the timely filing of an age charge with the EEOC. The new language to Section 17(b)(4) makes clear that the claimant may commence a civil action at any time after 60 days from the time the charge was filed up until the expiration of the 90 day period following receipt of notice from the Commission that it has dismissed the charge or otherwise completed its consideration of the charge, whichever, is later.

For purposes of clarity and consistency, the headings have been modified and the term "individuals," as used in section 7(d), is substituted for the term "person aggrieved."

19. ALTERNATIVE MEANS OF DISPUTE RESOLUTION

The House Amendment, but not the Senate Bill, specifies that where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, mini-trials, and arbitration, is encouraged to resolve disputes arising under the Acts amended by this Act.

The Senate recedes. This section encourages the use of alternative means of dispute resolution, where appropriate and to the extent authorized by law. These methods include settlement negotiations, conciliation, facilitation, mediation, factfinding, mini-trials and arbitration.

This amendment was adopted to encourage alternative means of dispute resolution that are already authorized by law. A virtually identical amendment was enacted as part of the Americans with Disabilities Act, 42 U.S.C. section 12212.

The Conferees emphasize, that the use of alternative dispute resolution mechanisms is intended to supplement, not supplant, the remedies provided by Title VII. Thus, for example, the Conferees believe that any agreement to submit disputed issues to arbitration, whether in the context of a collective bargaining agreement or in an employment contract, does not preclude the affected person from seeking relief under the enforcement provisions of Title VII. This view is consistent with the Supreme Court's interpretation of Title VII in *Alexander* v. *Gardner-Denver* Co., 415 U.S. 36 (1974). The Conferees do not intend this section to be used to preclude rights and remedies that would otherwise be available.

From the Committee on Education and Labor:

AUGUSTUS F. HAWKINS,
M.G. MARTINEZ,
PAT WILLIAMS,
JAIME B. FUSTER,
KWEISI MFUME,

From the Committee on the Judiciary:

JACK BROOKS,

DON EDWARDS,
BOB KASTENMEIER,
JOHN CONYERS,
PAT SCHROEDER,
GEO. W. CROCKETT, JR.,
HAMILTON FISH,
Managers on the Part of the House.

EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
PAUL SIMON,
BARBARA MIKULSKI,
JAMES M. JEFFORDS,
Managers on the Part of the Senate.

INTRODUCTION OF H.R. 5822, THE TECHNICAL AND MISCELLANEOUS REVENUE ACT OF 1990

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, today I am introducing H.R. 5822, the Technical and Miscellaneous Revenue Act of 1990, to make technical corrections to previously enacted tax and trade legislation, to delete certain obsolete or so-called deadwood provisions from the Internal Revenue Code, to reform mandates for certain tax-related studies by the Treasury Department, and to increase the refund review threshold for reports submitted to the Joint Committee on Taxation. These changes are described in more detail below.

The bill includes provisions of H.R. 5454, the Technical Corrections Act of 1990, which I introduced on August 3, 1990, along with Congressman ARCHER, and would incorporate refinements suggested by the public with respect to H.R. 5454, as well as certain additional technical corrections. These provisions would make technical and clerical corrections to the Omnibus Budget Reconciliation Act of 1989, the Technical and Miscellaneous Revenue Act of 1988, and other recently enacted tax legislation. These provisions will assist taxpayers in complying with the tax laws by clarifying and correcting existing tax provisions.

The bill also includes the text of H.R. 5778, which I introduced on October 3, 1990, to correct technical errors in the Customs and Trade Act of 1990, enacted on August 20, 1990, and make technical amendments to the Harmonized Tariff Schedule.

The bill also includes the provisions of H.R. 5415, the Deadwood Act of 1990, which I introduced on July 31, 1990, and would incorporate certain refinements suggested in public comments. These provisions would remove from the Internal Revenue Code of 1986 numerous provisions that are no longer used in computing current taxes or are little used and are of minor importance. These provisions would also reform the requirements for various Treasury studies which Congress has mandated in previous years and which are now past due.

The bill would also increase from $200,000 to $1 million the threshold above which refunds must be submitted to the Joint Committee on Taxation. This increase will facilitate the issuance of refunds between $200,000 and $1 million, and will free up significant resources of both the Internal Revenue Service and the staff of the Joint Committee on Taxation.

These various provisions have not been addressed by the Committee on Ways and Means in its action with respect to budget reconciliation, because the committee felt it was very important to focus its attention in budget reconciliation solely on deficit reduction. Nevertheless, because these housekeeping and perfecting measures are of significant importance for the administration of, and compliance with, the tax and trade laws, I would hope that as soon as possible, and before the end of the session, these and other technical clarifications of the same type might be brought for a vote in the House.

HOW WE GOT WHERE WE ARE AND WHO GOT US THERE?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. ALEXANDER] is recognized for 5 minutes.

Mr. ALEXANDER. Mr. Speaker, as we grapple with the grave budgetary problems facing this Nation, we have to ask: How did we get where we are?

The simple answer is that the Reagan economic policy laid not one egg, but a whole nest full of them. They have now hatched and the chickens are coming home to roost. They have been hovering around the Capitol dome for some time, but have been kept away by massive borrowing.

Borrow and spend won't keep the chickens away from the Capitol any longer, however. They are coming in for a landing.

To put it another way, the tax cuts and huge increases in defense spending during the Reagan years, which are responsible for the deficits we face today, are coming home to roost.

And, who left the window open for the chickens to fly through?

The answer is: We all did. The Reagan White House proposed economic policies, which came to be known collectively as Reaganomics; they were strongly supported by the people, and approved by Congress.

So, there is plenty of blame to go around—for all of us.

The time for blame setting and finger pointing, however, is past. The Nation must now face the difficult job of paying back the spree of reckless borrowing necessary to sustain the Reagan policies.

Our massive debt will not go away by pretending it's not there. This isn't a movie, it's real life.

The results of Reaganomics were devastating:

Federal deficits soared.

America went from being the world's largest creditor nation to the world's largest debtor nation.

Savings plunged.

The income share of the rich rose at the expense of the rest of the population.

Trade figures tilted badly as we began to import more than we exported.

Tax policies favored the richest among us and the money trickled up, not down. It was horded, not used for productive purposes.

The free market philosophy of the decade spawned junk bonds, leveraged buyouts and other financial hocus-pocus which added nothing to the productive capacity of the country—but only served to make millions for Wall Street speculators.

Deregulation and tax policies created an overheated, fast-track real estate market and brought the savings and loan industry to its knees, jeopardizing the savings of millions of Americans.

In short, greed became a way of life, a national virtue. Paper millionaires were created by the dozens, but reality has not caught up with many of them—leaving them bankrupt, in jail or headed there.

As the flood of red ink continued to rise during the 1980's warnings were issued that a day of reckoning was coming.

And, coming it was—like a speeding train.

In 1980, the Federal funds deficit stood at $82.6 billion; it was $134.2 billion by 1982.

The clouds were gathering, getting darker. The storm was gathering.

By 1985, we were looking at a Federal funds deficit of $266.4 billion and by 1989, the figure stood at $276 billion.

Our total national debt under Ronald Reagan exceeded that piled up during all previous administrations combined.

The figures don't lie. Our economy was becoming a game of smoke, mirrors, rosy scenarios, and red ink,

We were told if we gave the Reagan policies time to work, the budget would be balanced by 1985.

Or 1986.

Or 1987.

Or sometime.

Don't worry, supply side economics wil work, it really will. Everything will be alright, just give it time.

More smoke, more mirrors, more rosy scenarios, more debt, year after year we moved closer to the edge of the cliff.

Mr. Speaker, we gave the Reagan plan time. But, things didn't get better, they got worse and worse. With the red ink lapping at our chins, we finally started to sober up—and a throbbing headache set in.

The party was over and the feel-good decade of the 1980's, fueled by an addiction to debt, wasn't feeling so good as the new decade dawned. We faced withdrawal—and it was not a pleasant prospect.

Some refuse even to this day to admit that the speeding train of economic disaster was being fueled by the flawed economic policies of the Reagan administration.

Oh, they decry the deficit, all right. But, they overlook the real cause of the problem. In search of a scapegoat, they seek to lay total blame on Congress. That, of course, is political posturing. But, Congress must certainly take the blame for enacting Mr. Reagan's economic policy into law.

There is no doubt on that point.

Even those who were part of the Reagan White House team—who were there when Office of Management and Budget Directo David Stockman warned that the figures were false, that the whole structure was built on the quicksand of creative bookkeeping—won' admit that the policy sent the ship of state onto the reef.

They took Mr. Stockman to the woodshed and the country to the cleaners.

In an attempt to take the heat off themselves, they say it was Congress' profligate spending on domestic programs that is totally to blame for the budgetary crisis we face.

I can only assume that they felt it was all right to set tax rates so the super rich could get even richer, but spending to help middle-class families buy a home, or educate their children or provide quality medical care for the elderly was somehow evil.

They were not out to help Main Street, they were out to help Wall Street.

Those nasty domestic programs, they had to go, they said.

Well, nondefense discretionary spending is not the problem and the country needs to know it.

In fact, since the mid–1940's, we in Congress have appropriated $173 billion less than Presidents have requested in that category—$16 billion in the Reagan years alone.

The message which must be understood is that the tax cut for the rich, borrow-and-spend economic policies of the Reagan administration brought us to the crisis we face today.

Why is it so important to: First, admit the problem, and second, find its cause? Because we are seeing an attempt to continue those policies in the 1990's.

The administration's position during the recent budget summit is clear evidence that voodoo economics is still with us. It can continue to be a curse on our fiscal house if we allow it.

I am amazed, for example, that editorial writers and columnists for some of America's premier newspapers seem to be confused about how we got where we are.

They surely must know that you cannot:

Deeply slash revenues;

Increase defense spending;

Support trade policies which opened America to a flood of imports;

Promote an agriculture policy which drove the price of both commodities and farm land through the floor; and

Follow an energy policy which has seen this Nation become more and more dependent on foreign oil and foreign credit—not to mention making our economy hostage to men like Saddam Hussein.

They must know that you cannot do these things without facing the mountain of debt which confronts this Nation today.

So, we are left to pick our way through the economic wreckage left by the Reagan policies.

Our journey will not be without sacrifice, but we can do it. It is important, however, that no one be confused about why we must make this trip in the first place.

I take heart that every day more and more of the American people are seeing through the policies of the 1980's.

While supply-side economics was irresistible and inevitable at the time it was adopted, we have now learned that what George Bush himself called voodoo economics does not work and that we must go back to basics.

There is also no doubt that we must accept the challenge of dealing with the deficit. It is left to this generation to protect future generations from the economic chaos which will result if we don't take action.

We must work out a pay back, but we must insist that the pay back is fair, that it does not call only on middle-class working families, the elderly, farmers, students and young first-time home buyers to bear the burden of extricating us from this fiscal morass.

The burden must be shared fairly.

It is not too much to ask that the wealthiest among us—those who benefited most from the policies which have brought us to near economic ruin—should be part of the solution.

And, we should be joined in working out a solution to this problem by our friends and allies overseas.

I do not believe, for example, that it is too much to ask that foreign countries which owe money to the United States pay those debts and to ask our allies to take on more of the burden for their own defense.

The United States can no longer afford to guard the world alone nor can Uncle Sam be a global Sugar Daddy.

And, we should vigorously pursue those options in seeking to reduce our bloated budget.

Mr. Speaker, if we are to avoid these problems in the future, we must know how they developed in the first place—and they developed when we blindly followed a failed, flawed economic policy during the past decade.

Some of us voted against Reaganomics, warning that the bill would come due and that it would be difficult to pay for the tax-cutting, borrow-and-spend spree which characterized the decade of the 1980's.

Let us learn from the past so we will not repeat its mistakes.

What America needs is a new order. An economic policy based on truth; a tax policy based on fairness; a trade policy based on productivity; an energy policy based on self reliance, and a national direction based on accepting the reality of a changing world in changing times.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Coleman of Texas) to revise and extend their remarks and include extraneous material:)

Mr. Rostenkowski, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Alexander, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Coleman of Missouri) and to include extraneous matter:)

Mr. Foglietta.
Mr. Matsui.
Mr. Mazzoli in two instances.
Mr. Dymally.
Mr. Bonior.
Mr. Dingell.
Mr. Levin of Michigan.
Mr. Dyson.
Mr. Roybal.
Ms. Pelosi.
Mr. Slattery.

(The following Members (at the request of Mr. Regula) and to include extraneous matter:)

Mr. Rinaldo.
Mr. Horton.
Mr. Gekas.
Mr. McCollum.
Mr. Robert F. (Bob) Smith.
Mr. Shumway.
Mr. Emerson.
Ms. Ros-Lehtinen in two instances.
Mr. Miller of Washington.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1890. An act to amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes; to the Committees on Post Office and Civil Service and Armed Services.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following titles, which was thereupon signed by the Speaker:

H.R. 3787. An act to authorize a joint Federal, State, and tribal study for the restoration of the fishery resources of the Chehalis River Basin, WA, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2806. An act to redesignate The National System of Interstate and Defense Highways as the Dwight D. Eisenhower System of Interstate and Defense Highways.

BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills of the House of the following titles:

On October 12, 1990:

H.R. 4522. An act to improve the information available to emergency response personnel in the field, and for other purposes;

H.R. 1608. An act to strengthen national nutrition monitoring by requiring the Secretary of Health and Human Services to prepare and implement a 10-year plan to assess the dietary and nutritional status of the U.S. population, to support research on, and development of, nutrition monitoring, to foster national nutrition education, to establish dietary guidelines, and for other purposes;

H.R. 5070. An act to amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration and other services necessary for the John F. Kennedy Center for the Performing Arts, and for other purposes; and

H.R. 3468. An act to amend the act entitled "An Act to extend the Wetlands Loan Act", to provide for the expansion of the Steward B. McKinney National Wildlife Refuge.

ADJOURNMENT

Mr. COLEMAN of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 37 minutes p.m.), the House adjourned until tomorrow, Saturday, October 13, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4028. A letter from the Deputy Assistant Secretary (Communications, Computers and Logistics), Department of the Air Force, transmitting notification of the decision to convert to contractor performance the mass attendant function at Cheyenne Mountain, CO, pursuant to Public Law 100–463, section 8061 (102 Stat. 2270–27); to the Committee on Appropriations.

4029. A letter from the Deputy Assistant Secretary (Communications, Computer and Logistics), Department of the Air Force, transmitting notification of the decision to convert to contractor performance the administrative support function at Peterson Air Force Base, CO, pursuant to Public Law 100–463, section 8061 (102 Stat. 2270–27); to the Committee on Appropriations.

4030. A letter from the Secretary, Department of Housing and Urban Development, transmitting and interim report on the home equity conversion mortgage insurance demonstration, also known as the FHA reverse mortgage program, pursuant to Public Law 100–242, section 417 (101 Stat. 1911–1912); to the Committee on Banking, Finance and Urban Affairs.

4031. A letter from the Secretary of Education, transmitting a notice of final funding priorities for fiscal years 1991 and 1992—projects with industry, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

4032. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 90–39, authorizing the furnishing of assistance from the Emergency Refugee and Migration Assistant Fund for urgent and unforeseen needs of persons fleeing Kuwait and Iraq as a result of the current military crisis in the Persian Gulf, pursuant to 22 U.S.C. 2601(c)(3); to the Committee on Foreign Affairs.

4033. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4034. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4035. A letter from the Under Secretary for International Affairs and Commodity Programs, Department of Agriculture, transmitting the first quarterly country and commodity allocation table showing current programming plans for food assistance for fiscal year 1991, pursuant to 7 U.S.C. 1736b(a); jointly, to the Committees on Agriculture and Foreign Affairs.

4036. A letter from the Comptroller General, General Accounting Office, transmitting the results of the audits of the Federal Crop Insurance Corporation's financial statements for the fiscal years ended September 30, 1989 and 1988, pursuant to 31 U.S.C. 9106(a); jointly, to the Committees on Government Operations and Agriculture.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DELLUMS: Committee on the District of Columbia. H.R. 5760. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to establish a predictable and equitable method for determining the amount of the annual Federal payment to the District of Columbia and to simplify congressional review of District acts; with amendments (Rept. 101–854, pt. 1). Ordered to be printed.

Mr. GEJDENSON: Committee on Foreign Affairs. H.R. 4520. A bill to amend title 13, United States Code, and the International Investment and Trade in Services Survey Act to improve the quality of data on foreign investment in the United States, and for other purposes; with an amendment (Rept. No. 101–855, pt. 1). Ordered to be printed.

Mr. HAWKINS: Committee of conference. Conference report on S. 2104 (Rept. 101–856). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CARDIN (for himself, Mrs. Byron, Mr. Hoyer, Mr. Dyson, Mrs. Bentley, Mr. McMillen of Maryland, Mr. Mfume, and Mrs. Morella):

H.R. 5821. A bill to amend the Internal Revenue Code of 1986 to provide greater flexibility for rollovers from qualified employer pension plans; to the Committee on Ways and Means.

By Mr. ROSTENKOWSKI:

H.R. 5822. A bill to make technical corrections in certain recent tax and trade legislation, and for other purposes; to the Committee on Ways and Means.

By Mr. GIBBONS (for himself and Mr. Crane):

H.R. 5823. A bill to provide for the implementation of a tariff preference regime affecting certain articles from Andean countries, and for other purposes; to the Committee on Ways and Means.

By Mr. TAUKE:

H.R. 5824. A bill to authorize States to regulate certain solid waste; to the Committee on Energy and Commerce.

By Mr. TORRICELLI (for himself, Mr. Roe, Mr. Brown of California, Mr. McCurdy and Mr. McMillen of Maryland):

H.R. 5825. A bill to provide for the development of a national strategic plan for advanced materials processing, synthesis, and research and development, the establishment of National Advanced Materials Processing and Synthesis Centers, and the establishment of Advanced Materials Principal Investigator and Fellowship Awards programs, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. GOODLING (for himself, Mrs. Boxer, Mr. Frost, Mr. Lagomarsino, and Mr. McDermott):

H.J. Res. 668. Joint resolution designating September 25, 1991, as "National Reporters Day"; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 911: Mr. Pashayan and Mr. Guarini.

H.R. 917: Mr. Sangmeister, Mr. Sisisky, and Mr. Visclosky.

H.R. 2121: Mr. Barnard and Mr. Shumway.

H.R. 2531: Mr. Frost.

H.R. 4475: Mr. Slaughter of Virginia and Mr. Wylie.

H.R. 4621: Mr. Mavroules, Mr. Udall, Mr Gilman, Mrs. Collins, and Mr. Washington.

H.R. 4669: Mr. Lewis of Georgia and Mr Engel.

H.R. 4814: Mr. Lowery of California.

H.R. 5067: Mr. Fish.

H.R. 5203: Mrs. Lowey of New York.

H.R. 5226: Mr. Fazio.

H.R. 5231: Mr. Feighan, Mr. Schumer, Mr Fawell, and Mr. Durbin.

H.R. 5302: Mr. Grandy.

H.R. 5328: Mr. Fish, Mr. Porter, and Mr Towns.

H.R. 5336: Mr. Dickinson.

H.R. 5351: Mr. Staggers.

H.R. 5359: Mr. Engel.

H.R. 5585: Mrs. Smith of Nebraska.

H.R. 5625: Mr. Weldon, Mr. McMillen o Maryland, Mr. Goodling, Mr. Hughes, Mr Guarini, Mr. Coyne, Mrs. Byron, Mr Hefner, Mr. Valentine, Mrs. Patterson Mr. Geren, and Mr. Dyson.

H.J. Res. 636: Mr. Nelson of Florida, Mr Wyden, Mr. Kildee, Mr. Hayes of Illinois Mr. Mfume, Mr. Pursell, Mr. Roybal, Ms Pelosi, Mr. Crockett, Mr. Pashayan, Mr Smith of Iowa, Mr. Chandler, Mr. Flake Mrs. Johnson of Connecticut, Mr. Herger Mr. McDade, Mr. Robert F. Smith, and Mr Duncan.

H.J. Res. 637: Mr. Applegate, Mr. Atkins Mr. Bateman, Mrs. Bentley, Mr. Borski Mr. Brennan, Mr. Broomfield, Mr. Bryant Mrs. Byron, Mr. Callahan, Mr. Cardin, Mr Carper, Mr. Clarke, Mr. Clement, Mr Clinger, Mr. Coble, Mr. Coleman of Missouri, Mr. Crockett, Mr. Davis, Mr. Dicks, Mr Dorgan of North Dakota, Mr. Duncan, Mr

Dyson, Mr. Edwards of California, Mr. Engel, Mr. English, Mr. Espy, Mr. Foglietta, Mr. Ford of Tennessee, Mr. Gallo, Mr. Gilman, Mr. Gray, Mr. Green, Mr. Hammerschmidt, Mr. Harris, Mr. Hastert, Mr. Hefner, Mr. Hertel, Mr. Hiler, Mr. Hochbrueckner, Mr. Hubbard, Mr. Hughes, Mr. Hunter, Mr. Hyde, Mr. Jenkins, Mr. Jones of Georgia, Mr. Jones of North Carolina, Mr. Jontz, Mr. Kanjorski, Mr. Kolter, Mr. Levin of Michigan, Mr. Lightfoot, Mr. Lipinski, Ms. Long, Mr. Lowery of California, Mrs. Lowey of New York, Mr. Machtley, Mr. Manton, Mr. Martin of New York, Mrs. Martin of Illinois, Mr. McDade, Mr. McEwen, Mr. Nielson of Utah, Mr. Olin, Mr. Owens of New York, Mr. Pallone, Mr. Paxon, Mr. Payne of New Jersey, Mr. Rhodes, Mr. Rogers, Mr. Rowland of Connecticut, Mr. Shaw, Mr. Skeen, Mr. Denny Smith, Mrs. Smith of Nebraska, Mr. Staggers, Mr. Stallings, Mr. Stearns, Mr. Stokes, Mr. Synar, Mr. Tallon, Mr. Taylor, Mrs. Unsoeld, Mr. Vander Jagt, Mr. Volkmer, Mr. Wheat, Mr. Whittaker, Mr. Young of Alaska, Mr. Oberstar, Mr. Boucher, Mr. Campbell of Colorado, Mr. McCloskey, Ms. Slaughter of New York, Mr. Flippo, Mr. Ackerman, Mr. Bruce, Mr. Darden, Mr. Eckart, Mr. Jacobs, Mr. LaFalce, Mr. McMillen of Maryland, Mr. McNulty, Mr. Rangel, Mr. Schiff, Mr. Spratt, Mr. Solomon, Mr. Bunning, Mr. Tanner, and Mr. Wyden.

H.J. Res. 648: Mr. Studds, Mr. Scheuer, Mr. Mrazek, Mrs. Collins, Mr. Machtley, Mr. Payne of New Jersey, Mr. McNulty, Mr. Solarz, Mr. Frost, Ms. Slaughter of New York, Mr. Moakley, Mr. Rangel, Mr. Tallon, Mr. Crockett, Mr. Serrano, Mr. DeFazio, Mr. Fuster, Mr. Chandler, Ms. Pelosi, Mr. Engel, Mr. Frank, Mr. Donald E. Lukens, Mr. Green, Mr. Yates, Mr. AuCoin, Mr. Ford of Tennessee, Mr. Owens of New York, Mr. Savage, Mr. Ackerman, Mr. Beilenson, Mr. Thomas A. Luken, Mr. McDermott, Mr. Roe, Mr. Fish, Mr. Hughes, Mr. Coleman of Texas, Mr. Kleczka, Ms. Kaptur, Mr. Lipinski, Mr. Pallone, Mr. Hoyer, Mr. Towns, Mr. Eckart, Mr. Dymally, Mr. McGrath, Mr. Stokes, Mr. Mfume, Mr. Hoagland, Mr. Foglietta, Mr. Gejdenson, Mr. Flake, Mr. Bates, Mr. Evans, Mr. Gilman, Mr. Clay, Mrs. Lowey of New York, Mr. Boehlert, Mr. Rhodes, Mrs. Boxer, Mr. Manton, Mr. Feighan, and Mr. Tauke.

H. Con. Res. 369: Mr. Udall, Mr. McEwen, Mr. Henry, Mr. Sabo, and Mr. Kasich.

H. Con. Res. 372: Mr. Stark.

H. Con. Res. 373: Mr. English, Mr. Bruce, and Mr. Traficant.

H. Res. 386: Mr. Hancock.

H. Res. 459: Mr. Lowery of California, Mr. Pallone, Mr. Frank, Mr. Torricelli, Mr. Condit, Mr. Towns, Mr. Flake, Mr. Owens of New York, Mr. Walsh, Mr. Saxton, Mr. Stokes, Mr. Vento, Mr. Kildee, Mr. Schuette, Mr. Machtley, Mr. Guarini, Mr. Blaz, Mr. Bonior, Mr. Hyde, Mr. Eckart, Mr. McMillen of Maryland, Mr. Hayes of Illinois, Mr. Mfume, Mr. Early, Mr. Fawell, Mr. Rahall, Mr. Sensenbrenner, Mr. Poshard, Mr. Studds, Mr. Dyson, Mr. Mavroules, Mr. Engel, Mr. Solarz, Mr. Feighan, Mr. Hughes, Mr. Henry, Mr. Fazio, Mr. Lipinski, Mr. Schiff, Mr. Berman, Mr. Tauzin, Mr. Courter, Mr. DeWine, Mr. Moakley, Mr. Lewis of California, Mr. Vander Jagt, Mrs. Byron, Ms. Pelosi, Mrs. Boxer, Mr. Murphy, Mr. Neal of Massachusetts, Mr. Markey, Mr. Borski, Mr. Bates, Mr. Donnelly, Mr. Roe, Mr. AuCoin, Mr. Crockett, Mr. Aspin, Mr. Sangmeister, Mr. Miller of California, Mrs. Roukema, Mr. Conyers, Ms. Kaptur, and Mr. Payne of Virginia.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

247. The SPEAKER presented a petition of the City Council of Fontana, CA, relative to the Federal tax deduction for State and local income and property taxes; which was referred to the Committee on Ways and Means.

SENATE—*Friday, October 12, 1990*

(Legislative day of Tuesday, October 2, 1990)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable Terry Sanford, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

For my people have committed two evils; they have forsaken me the fountain of living waters, and hewed them out cisterns, broken cisterns, that can hold no water.—Jeremiah 2:13.

Mighty God of mercy and grace, these words from the prophet Jeremiah remind us of our propensity to forsake Thee and deprive ourselves of the abundant life You so graciously promise.

One great philosopher theologian said, "Thou has made us for Thyself, O Lord, and restless are our hearts 'til they find rest in Thee." Incurably religious, if we do not follow Thee, the true God, we seek a substitute and follow it, even if it is a No God with a capital "N." Instead of drinking at the well of living water, we draw from dry wells and suffer lives that are barren and arid spiritually. Help us to realize our need of Thee, that we cannot find our way without Thee, whether we reject Thee by decision or indifference. Help us to recognize our need of Thee and turn to Thee and receive from Thee the living waters.

We pray this in His name who can be within us the fountain of living water. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. Byrd].

The legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, October 12, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Terry Sanford, a Senator from the State of North Carolina, to perform the duties of the Chair.

Robert C. Byrd,
President pro tempore.

Mr. SANFORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, as I have stated several times publicly in the last few days, it is my hope that the Senate will be able to proceed to and complete action on two of the recently reported appropriations bills, the Labor, Health and Human Services appropriations bill, and the Foreign Operations appropriations bill.

As all Members of the Senate know, if we are to complete action by this Congress by the deadline of next Friday, we will be required to have completed action before then on all 13 appropriations bills and then, after those are the subject of a conference with the House, the conference reports on those appropriations bills. It is therefore imperative in order to meet that schedule that we complete action on those two appropriations bills which are available this week.

As of yesterday, I was unable to obtain the required consent to proceed to those two appropriations bills because of objection from the Republican side. I stated then and repeat now that if we are unable to obtain consent to proceed to those bills today, we will have to be in session tomorrow, Saturday, to complete action on them because, of course, by tomorrow afternoon the period required with respect to reports on the bills will have been completed and we can move to them at that point.

I believe no useful purpose would be served were that to occur. I believe it makes much more sense, and will be much more accommodating to the overwhelming majority of Senators, if we are able to take up those bills and act on them today, Friday, and not be in session on tomorrow, Saturday. I believe almost all Senators will be inconvenienced and some of them greatly inconvenienced by our inability to act on those measures today and having to wait until tomorrow afternoon to do so.

So I will at the earliest opportunity renew my request for consent to proceed to the Labor, Health and Human Services appropriations bill and the Foreign Operations appropriations bill this morning so that we can get started on those and, hopefully, complete action at a reasonable hour today. If not, I repeat, regretfully, that we will have to be in tomorrow for that purpose.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my time and I reserve all of the time of the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET

Mr. BURNS. Mr. President, as we work this morning and today and these next few short days of this 101s Congress, on our different committees trying to bring some sanity to Government in the direction in which most o us would like to see it go, there ha been some confusion, I think, among some people in this country as to where some of us are coming from and what is making us tick, and where we would like to see Government fulfill its obligations to the people.

It is hard to stand idly by and listen to speech after speech and colloquy after colloquy regarding the problem of financing Government, financing those services that Government

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

should be doing for the people, and trying to maintain some fiscal responsibility to the taxpayer. If you listen to the mass media, you become even more confused, and that is only natural, because I think they, too, are confused when you look at the complexity of the debate.

Over the next few days, I would like to try and clear up a few things—to talk about some myths that happen to be going around the Hill.

Myth No. 1: The deficit problem can be solved by increasing taxes, and especially taxes on the so-called rich. We hear speech after speech, and read column after column extolling the virtues of tax fairness. Economic analysts immediately attacked the budget agreement, the first summit agreement, saying it placed the bulk of the largest tax increase in history on the backs of the middle class and let the very rich escape virtually unscathed.

The congressional tax-writing committees, and many of the other side of the aisle, seized the opportunity to set out to correct this inequity which, according to the mass media, was caused by Republicans who would rather balance the budget on the back of "Joe Six-Pack," than on "Winthrop P. Wine- cooler III.'"

Well, you are looking at a Joe Six-Pack. I am the second poorest Member of this Senate.

I beg to differ with their characterization of me and my party. I consider myself a mainstream Republican. I have worked hard all my life, paid my taxes, some I did not like.

I ran for the U.S. Senate on the platform of no new taxes and advocated the control of Government spending as the solution to our deficit problems. And, after about 2 years now, I still believe that. If we could balance this budget by taxing the rich, we would have done it a long time ago. The fact of the matter is that in order to balance the budget by raising taxes every working man and woman will have to pay.

The bulk of the budget package still relies on the gas tax, cigarette tax, alcohol tax, other transportation taxes, and an increase in one of the payroll taxes. All of these taxes are paid by lower middle class, middle class, and the rich. We all pay them alike.

The so-called tax fairness package, which could include a tax increase on the rich in exchange for some type of reduction in the capital gains rate, will only raise about $40 billion in the next 5 years.

The accumulated debt in that same time period will be just over $1 trillion. We have not made a very big dent in the debt by taxing the so-called Winthrops.

A tax increase on the rich of the size currently being considered would only result in a 4-percent reduction in the debt. Four percent, Mr. President, that does not balance the budget, pure and simple.

Now, at this point some will say, "Well, we just need to increase the taxes on the rich some more. We will put some more on them." That is an option, I guess, but it still will not solve the problem.

In fact, if we confiscated all income from the rich, we still could not balance this budget. If we, the Government, just took all the income from those in this country who make more than $200,000 a year, we still could not meet our goal of a balanced budget.

Based on 1988 statistics, total confiscation of that income would bring the Federal Government an additional $260 billion. That would eliminate about one-quarter of our accumulated debt over the next 5 years.

It would be a start, but it still would not solve the problem.

The fact is that if Congress intends to continue spending at the current rate, every producing, working man and woman of this Nation will have to pay. The middle class, the people who already fork over much more to Uncle Sam than they would like to, will pay more. The rich, who already pay more than they like will not like it either; they will have to pay more. We will all pay so that those who serve in Congress can go on buying their way back into office using public funds to do it.

It is time that the American people knew the truth. They are being asked to sacrifice tremendously so that Congress may do all this. Congress is throwing them bad bait. They will catch no fish.

There was an article this morning that I think the American people would find interesting. I have heard it said we are reaping the results of the Reagan era—where the rich go off scott free. Let us take a look at the facts. As they say, "Liars will figure, but figures do not lie." Right? In 1981, the top 1 percent of the income earners in this country—those called the rich, the very rich—were paying 17.6 percent of total income tax revenues to this Government. In 1987, they were paying 24.7 percent. It is an increase of 39.8 percent.

If you want to go a little further down into those incomes, the top 5 percent of the income earners of this country were paying 35.1 percent of total income tax revenues; in 1987 they were paying 43.1 percent of the incomes taxes to the Federal Government—an increase of 22.8 percent.

Let us take it a little deeper. The top 10 percent of taxpayers—those still considered high income—were paying 48 percent of the income taxes coming into the Federal Government in 1981. In 1987, they were paying 55.5 percent—a 15.6-percent increase.

It is nice to talk about that end of the scale, but let us talk about the other end. And remember the kind of taxes and fees we are talking about in this budget will hit the average people of this country, in other words, the middle-income and lower-income people. Now let us see what happened in the 1980's as far as the lower 50 to 90 percent of income earners that paid income taxes into the Federal coffers. They were paying 44.3 percent in 1981. In 1987, they were paying 38.5 percent, a decrease of 13.1 percent. Finally, in 1981, the bottom 50 percent were paying 7.5 percent of the total income tax revenues to the country. In 1987, they were paying 6.1 percent, a decrease of 18.7 percent.

These are actual figures. These are not myths or pie in the sky.

What I am saying here is that this working Republican still does not believe that collecting more taxes and more fees is going to solve the dilemma that we are in. It has to be the other way around. We have to look at the spending side—at Government waste. In committee the other day we were told that we had to find ways to increase savings. When they talk about increasing savings in the budget reconciliation process, they are talking about increased taxes and fees. I do not know why they say "savings." I cannot run my family like that. You cannot run yours. I guess the term "savings" has a different meaning inside the beltway than it does in Montana.

So the basic disagreement is this: Right now spending is above revenues—we spend more than we bring in. There are those who want to raise revenues higher and with no enforcement spending will continue to rise. I believe we need to bring spending back to the level of our revenues.

Our economy is not all that frisky. I do not think it can stand another tax raise. So that is where this Republican is coming from; make no doubt about it.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. Daschle). Morning business has expired.

TRADITION OF RHODE ISLAND SERVICE: POLICE CAPT. JOHN T. LEYDEN, JR.

Mr. PELL. Mr. President, I want to share with my colleagues an example of the finest traditions of dedicated police service. That example is provided by Capt. John T. Leyden, Jr., who is retiring after 26 years of service to the Rhode Island State Police.

Captain Leyden is part of a proud family tradition of police service in Rhode Island. His father retired as the chief of police in North Providence

and Captain Leyden's son is continuing the family tradition, serving as a trooper in the Rhode Island State Police.

A native of Providence, where he was born January 17, 1940, Captain Leyden is the son of Chief John T. Leyden and the former Marie Hannifan. He is the husband of the former Maureen D. Collins of North Scituate.

They are the proud parents of four children, Dr. Doreen D. Chadwich, M.D., Trooper John T. Leyden III of the Rhode Island State Police, Darlene M. Leyden, and Dianne L. Leyden. They also have three beautiful grandchildren.

Captain Leyden graduated from the Rhode Island State Police Training Academy and was sworn in as a State police trooper in 1964. He was assigned to the Governor's security in 1969 and served that mission for 10 years.

He served Govs. Frank Licht, Phillip W. Noel, and J. Joseph Garrahy. He was promoted to corporal in 1970, to sergeant in 1971, to lieutenant in 1974 and, finally, to captain in 1979.

More recently, Captain Leyden has served as day inspecting officer in 1980-81, division B commander in 1981-82, division A commander from 1982-86, and then as adjutant in-charge of the uniform division.

I am confident that I speak for all who know him, and all who have been helped by his hard work, when I say he and his fine family have all our best wishes. Congratulations on a job well done.

A TRIBUTE TO FRANCES WILLIAMS

Mr. BURDICK. Mr. President, today I rise to pay tribute to a staff member of the Environment and Public Works Committee who has given 30 years of service to the Federal Government and 20 of those to the Senate Environment and Public Works Committee. Frances Williams, known to most as Frankie, epitomizes the dedicated, selfless, hard working Senate employee. Our committee thrived as a result of her tenure.

Mr. President, Frankie began working on the committee 3 years before I joined the Public Works Committee in 1973. She has served under three different chairmen. Her work for both the majority and minority proves her versatility and compatibility. Her generous personality and driven work habits have made working with her pleasurable and effective for staff and Senators alike.

The committee members and staff will miss Frankie, but her retirement is well earned and something we know she is looking forward to. I extend a hearty thank you to Frankie on behalf of all of the members of our committee. Sincere and warm wishes, Frankie, for the best is yet to come!

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,036th day that Terry Anderson has been held captive in Beirut.

Conspicuous among the champions of American hostages remaining in Lebanon, are the men who have suffered like ordeals. Indeed, their techniques vary. But their objective, Mr. President, is the same. This past Wednesday, Frank Reed—released April 30, 1990—vowed that he "will never be free until his fellow hostages are" and implored his audience at Rutgers to "never forget the others."

I ask unanimous consent that an Associated Press article including excerpts from the hour-long address be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Former American Hostage Continues Quest To Free Other Hostages

(By Melanie Burney)

Camden, NJ.—Freed hostage Frank Reed, released nearly six months ago by his Islamic kidnappers, is continuing his quest to focus attention on the plight of the remaining western hostages in the Middle East, including six Americans.

"I'll never be free until my fellow hostages are," Reed told about 100 people Wednesday at Rutgers University's Camden campus. "I will keep trying to get some message across that I do care about the others and want them home."

The remarks came amidst reports Wednesday that Anglican church envoy Terry Waite and other Britons held hostage in Lebanon will be released before the end of next week. The report in Akhbar al-Yom, or Today's News, could not be confirmed. It follows several Lebanese newspaper reports predicting the release of British captives.

Reed, 57, of Malden, Mass., was unaware of the reports Wednesday but he said they came as no surprise. Diplomatic relations between Iran and Britain were restored in September after a 19-month break.

Reed was released April 30 after 44 months in captivity in Lebanon.

"Please, America, please, England and please, Rutgers, let's never forget the others," Reed said during his hour-long address. "I was released, sadly, before the others."

Most of the 13 Westerners missing in Lebanon are believed to be held by Shiite fundamentalists affiliated with the pro-Iranian Hezbollah, or Party of God.

The Americans being held include Terry Anderson, chief Middle East correspondent of The Associated Press, who is the longest-held foreign captive in Lebanon. He was kidnapped in west Beirut on March 16, 1985.

"Terry Anderson has been beaten," Reed said. "Terry Anderson has been deprived."

Camden was the latest stop for Reed, who has tried to focus international attention on the plight of the remaining hostages. He plans to return to New Jersey in several weeks to address a gathering in New Brunswick.

Mr. BURNS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Without objection, the period for morning business has expired.

ORDER OF PROCEDURE

Mr. SPECTER. Mr. President, after conferring with the majority leader, and the Republican leader, I wish to inform my colleagues that there will be an effort to proceed on the appropriations bill for Labor, Health and Human Services, and Education at 11:15. We have been awaiting efforts to try to move this appropriations bill to the floor for some substantial time now. It is the intention of the majority leader to proceed in that direction that way.

So as one of the managers, ranking minority member on that subcommittee for the Appropriations Committee, I think it is useful to give this kind of notice. We are putting word on the telephone, in addition. But we are confronted with a situation where we are looking toward a Saturday session. We have many bills which we have to finish. We are ripe for consideration I believe on the Labor, Health, and Human Services, and Education appropriations bill. That will be done at 11:15.

I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Kohl). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I ask unanimous consent that I may proceed for a period of time not to exceed 10 minutes as in morning business, in light of the fact that there are no other Senators on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CIVIL RIGHTS BILL

Mr. SPECTER. During this break in the proceedings, I think it is worthwhile to report to my colleagues and others the status of the conference report on the civil rights bill.

The House of Representatives recommitted the conference report yesterday to the conference committee. There, the conference committee accepted certain amendments to the civil rights bill, which I think are worthy of some explanation so the Members may be aware of what has been accomplished. It is this Senator's view that the critical issue relating to quotas has now been satisfied by every material change in the bill.

The revisions which were made, Mr. President, resulted from very lengthy negotiations involving Senator HATCH, former Secretary of Transportation, William T. Coleman, Jr., and myself, during the course of the last several weeks. This has followed very extensive negotiations which have involved many Senators and many members of the administration.

There have been good faith efforts to try to work through the problems of the civil rights bill. Some time ago, Governor Sununu and President Bush requested that of Senator DANFORTH, Senator JEFFORDS, and myself, help out on the negotiations. That was the activating force of my personal involvement. It has been seeded for many months.

The critical events occurred in the course of the last several weeks, when Senator HATCH, Mr. Coleman, and I negotiated through, and, in the early morning hours last Thursday, came to terms on some very significant modifications.

The central issue, Mr. President, has been whether or not this civil rights bill would result in quotas. All agreed that we should not have quotas. The difficulty has been in defining special language—as we have wrestled with the Supreme Court's decision in Wards Cove and in Griggs and intervening cases—so that we would accomplish that.

I suggest we have accomplished it in this manner: First, there will have to be a showing of disparate impact, that is, the statistical imbalance. That, however, is not enough to put the burden of proof on the respondent employer to come forward to show business necessity. Instead, the complaining party, the plaintiff, under our revision, has the burden of proof of showing which practice or practices of the employer caused the disparate impact. So the plaintiff has that traditional burden of proof to show with particularity the practice or practices which caused the disparate impact.

It is at that stage, Mr. President, that the respondent employer has the opportunity to come forward and show business necessity, which would justify the business practice or practices which led to the disparate impact.

It may be easier if I would illustrate what we have in mind. This is a hypothetical case where the disparate impact level is 40 percent, the ratio of minorities in the community; but in this particular company, there is an exclusion of 45 percent on three business practices, each of which accounts for 15 percent. Three times 15 is 45. If the complaining party, the plaintiff, proves that these specific business practices caused the disparate impact, then at that stage the employer-respondent may come forward, and by showing business necessity as to one of those factors, then it reduces it to 30, and we are below the level of disparate impact and the employer prevails.

One of the complex issues in this settlement, Mr. President, involved the unique role played by Senator HATCH, the ranking Republican on the Labor and Human Resources Committee.

When we finished our work in the early morning hours a week ago Thursday, and Senator HATCH, Mr. Coleman, and I met for the final agreement, Senator HATCH said that he found the amendments acceptable, although not perfect—and hardly anything is perfect around here or anywhere—and that he would recommend the proposal to the President. However, he reserved the position of voting against the amendment, if the President did not agree to it.

Mr. Coleman, at that juncture expressed some surprise over this, but I said I thought Senator HATCH was within his rights to take that position, because he had not made any commitment beyond the points which he stated.

So we had yesterday an unusual situation where at the conference Senator HATCH voted by proxy against the proposals, because the President has at this stage not found it acceptable.

It is my hope, Mr. President, really my expectation, that before we are finished with the negotiations, we will be able to secure the President's approval. There are ongoing negotiations with representatives of the administration. We did have a meeting a week ago last Thursday, with representatives of the administration present in Senator DOLE's office, and a number of Senators. At that time, the proposal was rejected.

There have since been submissions on my part from members of the administration, not binding with other proponents of the bill, to make some modifications. And it is my hope, as we stand here, we will be able to work that out.

A number of us have requested a meeting with the President. Hopefully, that can occur today, although obviously the President has a very crowded schedule. But that request was made by Senator DOLE's office first this morning so that we can continue in our efforts to try to reach an agreement with President Bush and with the administration on this very important item.

I have talked with quite a number of my colleagues individually on this matter. It is a technical matter. There are some other considerations on the case of Martin versus Wilkes where Senator HATCH secured some very important modifications. That is a case of consent decrees where a court said anyone can come in and upset a consent decree.

The early drafts of the bill eliminated that a consent decree was totally binding on everyone. Senator HATCH's initiatives resulted in significant modifications there which would be helpful to the business community, so that those who are not employees or parties or adequately represented could come in and challenge consent decrees.

There was also a very significant modification made on the Price Waterhouse case, which is a mixed motive case. I am not going to go into great detail on the specifics of the case, but there had been concerns about compensation and punitive damages in the context where the conduct was not responsible for failure to employ. That is mixed motives, where some motives were not proper or appropriate. There were other reasons why the individual was not employed.

As a result of what Senator HATCH has done on that important line, there will not be compensatory or punitive damages, but the relief will be limited to declaratory relief, injunctive relief to prohibit the conduct in the future, and costs and attorney fees.

It is my hope that our colleagues will carefully examine this bill, because I think it moves to the core of the concern over quotas and eliminates that issue, because statistical imbalance alone does not establish the case. There has to be the further showing by the plaintiff of the specific employment practices which cause the disparity. And, as I say, even at that juncture, the defendant may come in and, by showing business necessity, undercut whatever else has been shown.

This disparate impact approach is different from intentional discrimination. If someone can prove specific discrimination, that is a separate cause of action and is always a possibility.

This line on disparity, the impact on statistics, has raised a concern about the quota bill. As I said, I think we have addressed that here. This matter will be coming to the floor of the Senate sometime, perhaps early next week.

Therefore, I am ready to discuss the issues with my colleagues at any time for further amplification on some of these matters, because they are involved.

I thank the Chair, and I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS, 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the Labor-HHS appropriations bill, H.R. 5257.

The PRESIDING OFFICER. Is there objection?

Mr. HUMPHREY. Mr. President, I have been asked on behalf of another Senator to object, and I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL. Mr. President, every Member of the Senate should now understand what is occurring. I have been trying for 2 days to get consent to proceed to this appropriation bill. All of the Senators regularly come up to me and say, we want to get out of session by October 19; it is imperative that we complete this session of the Senate by October 19. And we are trying to do that.

Everyone here knows, or should know, that the Senate cannot adjourn sine die without completing action on all of the appropriations bills. We have not yet completed action on all of them. There are two appropriations bills that are now ready for action. The reports were filed yesterday.

Under the rules of the Senate, if a Senator insists, he can prevent the Senate's taking up until 48 hours have elapsed after the receipt of the report. It has been a regular practice in the Senate, under both the majority of Republicans and the majority of Democrats, to waive that rule and to permit consideration of appropriations bills within less than 48 hours following receipts of the report. I have said publicly on several occasions, we must complete action on those bills this week if we are to have any hope of completing this session of the Senate by the deadline of next Friday, October 19.

Now we have one Senator objecting on behalf of another. I do not know why the Senator who is objecting cannot himself come here and state the objection; if the Senator from New Hampshire does not object himself, why he cannot ask his colleague, who is inconveniencing 99 other Senators by forcing them to be here on a Saturday when the Senate could be acting on a Friday.

I hope all my colleagues will remember, and especially my Republican colleagues, that the President has said he will not sign another continuing resolution after next Friday. So if we do not complete action on this, we continue in session. Presumably we run into the problem of encountering difficulties with another continuing resolution thereby bringing the Government to a stop all because of one Senator, who will not come to the Senate floor and object himself but has another Senator stating objection in his behalf. So the Senate will have to be in on Saturday. Ninety-nine Senators will be inconvenienced.

I just want to say that those are the rules of the Senate. Those are the rules under which we must operate. It is possible for one Senator to inconvenience 99 others.

It would be one thing if, by this objection, the Senator could prevent the Senate from bringing up this bill, but that cannot happen. All it does is delay it for 1 day.

Since we will have to be in session tomorrow and since the receipt of the report occurred at 2:45 p.m. yesterday, the objection can be made until 2:45 p.m. tomorrow.

May I inquire through the Chair of the Senator from New Hampshire if the Senator on whose behalf he is here stating the objection will persist in his objection up until 2:45 p.m. tomorrow, so there is no point in my bringing the Senate in any earlier than that, thereby further inconveniencing Senators?

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, if I may respond, first, the Senator who objects cannot be here. He is engaged elsewhere at this point, but I think will be free shortly. Second, I simply do not know his intent. I yield the floor.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Mr. President, I hope before we make a decision to come in tomorrow we might renew the request maybe at 12 or 12:15. The Senator from New Hampshire states the other Senator just cannot be here at this time but he can be here probably in 30 or 45 minutes. I also hope there will not be an objection at that time.

Let us face it, the realities are there is going to be an election here in about a month. The last time I checked, there were a number of Members on each side who were running for reelection and wanted to be home tomorrow on the weekend for a lot of activities that have been scheduled for some time.

I hope whoever is objecting now would remove that objection. If not, then perhaps at 12:15, if there is still an objection to the Labor and HHS bill, maybe the same request could be made for Foreign Operations. Maybe we could start on that today.

I guess the leader could make that request now. Maybe we could start on that. If there is no objection to that bill we could still have something before the Senate.

Mr. HUMPHREY. Will the Republican leader yield on that point? I wish he would withhold that request for just a few minutes. I was discussing that very matter with the Senator from Alaska a moment ago and we had not concluded that discussion.

Mr. MITCHELL. Mr. President, it had been my intention to, at this moment, make unanimous-consent request to proceed to the Foreign Operations appropriations bill. I hope to do so.

If the Senator would like a few minutes to discuss it, of course I will be pleased to accommodate the Senator's concern.

Might I state, then, that at not later than 11:45 a.m., I will make a request with respect to the Foreign Operations appropriations bill. And then, as the distinguished Republican leader suggested, if we cannot get that up, I will proceed to make another request with respect to the Labor-HHS appropriations bill shortly thereafter.

I simply want to say even if we get consent, we will have wasted the entire morning when we could have been doing these bills. I hope we get consent so we do not have to be in tomorrow. But it just points up the difficulty of proceeding, particularly in these closing hours.

For now, Mr. President, I will, at the request of the Senator from New Hampshire, withhold on my request to ask for consent to proceed to the Foreign Operations appropriations.

Mr. STEVENS. Will the Senator yield to me for just one moment?

Mr. MITCHELL. Certainly.

Mr. STEVENS. I have been working with the distinguished President pro tempore, Senator BYRD, chairman of the Appropriations Committee, as these bills have come through our committee. Because of the delay in getting the 302(b) allocations, we had to wait to bring them to the floor.

With the cooperation of the committee we have now brought to the floor a series of bills that we urged Members not to delay in the committee. Appropriations Committee members did not offer amendments they wanted to offer. Many of the issues to be explored now by the Senators who are objecting were not taken up in committee due to the fact that we knew they would be brought up here on the floor.

I think one of the problems is that some Senators think we should have taken up the amendments, only to take them up here again; the losers there and the winners would trade places when it got to the floor. We felt it was in the best interest to bring the bills out even though we knew there were still issues to be resolved on the floor.

I urge Members on my side to realize we have, because of the leadership and majority on our Appropriations Committee, deferred to the President's negotiators. That is the reason we have delayed this length of time to get these appropriations bills here.

It is extremely unfair to all of us now not to give us the opportunity to proceed to consider the amendments that would have been considered in committee, in which case the bills would not have gotten here until next week. They are here today for the purpose of action. I urge Members on my side to give us the consideration and allow us to go to the votes that will determine these issues right here on the floor. We are ready.

I think there is another bill ready now. The Defense bill is ready. It will take some time to get it printed up. I think there is a printing problem there. But I do think the leader is right, we should proceed. I think we could dispose of both of these bills today, I might say. We know what the issues are. We know they are going to come to a vote here.

There is no reason in my judgment not to proceed.

Mr. MITCHELL. I thank my colleague.

Mr. HARKIN. Will the leader yield?

Mr. MITCHELL. Certainly.

Mr. HARKIN. I want to second what the distinguished Senator from Alaska just said. We worked very hard on Labor-Health and Human Services over the months. Senator Specter, who is the ranking member; Senator Stevens is also on that subcommittee; Senator Domenici—on both sides, Members have worked very hard. Staffs worked very hard.

When we brought this up in subcommittee there was not even one amendment. That is how closely we worked together to fashion a bill that would be acceptable to both sides.

Then when we brought it to full committee again there was not even one amendment. Well, we had one amendment that was just voice voted and that was it. As Senator Stevens said, we understood there would probably be a couple of amendments on the floor that would be offered to the bill.

Beyond that, the rest of Labor-Health and Human Services has had unanimous support from both sides of the aisle in both subcommittee and full committee. That is why I am somewhat surprised and dismayed that someone would object to bringing it up here. As the leader said, they are free to amend it here on the floor if they wish to do so.

I want to add my thoughts to what Senator Stevens said. He is right on the mark on that.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I further ask unanimous consent to address the Senate as in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRASSLEY. If I did not ask a specific time, I ask 10 minutes for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator may proceed for 10 minutes.

MIA/POW REPORTS

Mr. GRASSLEY. Mr. President, I do not expect my colleagues to remember this, but on July 31 I rose before this body and spoke. At that time I posed several questions regarding a request that I had made to the Defense Department several months before for access to eyewitness reports on American prisoners of war in Southeast Asia. I, and also some others of my colleagues, at that time had been denied access to these files for the sole reason, as we were told, that they were classified. That response came in April from Assistant Secretary of Defense for International Security Affairs Mr. Henry Rowen.

In my July 31 speech before this body, I raised the question of whether or not that response from Mr. Rowen was appropriate, in a sense, because how utterly ridiculous to say in a letter from the Defense Department that documents were classified so that Senators could not have access to them because routinely Members of the Senate have access to classified documents. That was on July 31.

The day after I made my statement, I received a letter from the Assistant Secretary of Defense for Legislative Affairs, Dr. David Gribbin. That letter reversed the position announced earlier by Mr. Rowen, and so I and my colleagues have been granted access to these POW files, although the access has been under the most extraordinary of restrictions.

Mr. President, I would like to describe what I mean by the most extraordinary of restrictions. I, Chuck Grassley, have to go the the Pentagon myself and camp out there if I want to review these documents. I am not even allowed to bring my own staff regardless of the fact that some of my staff have the appropriate clearance. Instead, I have to bring staff from one of three committees, even though I do not sit on any of those committees. Furthermore, if I were to leave during this period of time, or my staff being over there, the staff has to leave as well as a matter of practice. To use a rest room or something like that, that has not been the case, but if I leave the Pentagon, it would surely be the case.

Needless to say, this is a maximum inconvenience for a Member of the U.S. Senate for documents that are classified mostly as secret, confidential, or for official use only, which is not a category of classification at all.

Mr. President, my purpose in raising this issue today is not to quarrel with those arrangements at this time, even though it is a most inappropriate and extraordinary arrangement. In the end, the department did the right thing by granting me and my colleagues access after its initial reluctance to do so. I would like to thank those at DOD who worked against the grain and probably at extraordinary odds to finally see the irresponsible answer I first got of denial and to help us get access. So I do want to thank those people in the Defense Department who made access possible.

I have taken advantage of this access by spending 116 man-hours, together with my staff—actually 38 hours of my own time—poring through hundreds of these files. Having seen many of these reports, I am not at all convinced that they warrant such extreme precautionary measures. The question, and this is the purpose for which I rise today, Mr. President, is: What is it, or what has it been, that compels such an unreasonable position on the part of the DOD?

I may not have an answer to that question, but I do believe that I have uncovered the first piece of that puzzle. On Wednesday, I received in the mail a letter from a prominent national organization of POW families. Attached to this letter was a memorandum, without letterhead, dated August 2. The memo is to Mr. Paul Wolfowitz, who most everybody in the Senate would recognize as being involved in a lot of important positions over the last few years in our Government, presently Under Secretary of Defense for Policy. This memo to Mr. Wolfowitz is from someone named Ann Mills Griffiths. Ms. Griffiths, I am told, was the principal agent lobbying against access to POW files by Members of the U.S. Senate. I am told the intensity of her effort was immense.

This memo written just after access was granted to us lays out the entire rationale for why someone ought to question the access to Government information by Members of the U.S. Congress. It also provides an extraordinary explanation of why our access has been restricted.

Before delving into the specifics of the issue, Mr. President, let me say a word or two about this person named Ann Mills Griffiths. First and foremost, she is a member of the Government's interagency group on POW's. She is, however, a nongovernmental employee and is also head of a national POW organization. I am told that she is the only non-Government employee who is a part of the Government interagency group. Despite her non-Government status, she has been given security clearance. That clearance has enabled her to review the very documents that she has lobbied strenuously to deny Members of Congress access to.

Again, these are eyewitness accounts. These files that we wanted to see are eyewitness accounts of U.S. prisoners in Southeast Asia. She told me in a meeting I had with her in my office in April that she has read those eyewitness accounts and that they show no evidence that American citizens were left behind in Southeast Asia after the war in Indochina.

Mr. President, why is it then that this quasi-governmental official would want to deny those of us who are U.S. Senators an opportunity to review these documents as well as she had that opportunity? Could it be that she simply has a misunderstanding about the role of the U.S. Congress as laid out in our Constitution? Or could it be that after years as a quasi-governmental official that she has become afflicted with a disease known as bureaucratitis?

I do not know the answer to these questions, nor even if they are the correct questions that I ought to be asking at this time. But these are the kinds of questions that just naturally arise after reading the memo that I received, which memo was dated August 2.

So I would like to, Mr. President, read from this memo, and I am not going to quote in toto, but I will have the total memo printed in the Record. In fact, Mr. President, I ask unanimous consent to print the memo at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRASSLEY. Mr. President, for the benefit of my colleagues, I want to read from this August 2 memo from Ann Mills Griffiths to Assistant Secretary of Defense Paul Wolfowitz. The subject is: Access to Classified POW-MIA Material:

> As you know, the President, Vice President, Secretary Cheney, you Bob Kimmitt and others have firmly committed the U.S. government to pursuing resolution of the POW-MIA issue as a matter of highest national priority. These pledges were taken at face value and gratefully received by POW-MIA families. If implemented, this course—

Meaning this course giving access to U.S. Senators—

> makes a mockery of the Bush administration commitments.

That is laughable as a statement, but that is what this memo says. Of course, there are no reasons given as to why this should be done.

The message says:

> On any other matter of highest national priority, sensitive information is not subject to indiscriminate release outside the parameters established by the Congress itself, that is the respective select committees on intelligence and responsible staff members with appropriate clearances. This path, if followed—

Meaning the path that was outlined in our access to these records—

> sets a precedent for similar access on other issues; such a step would not be considered, much less approved, on Cambodian, Soviet, Chinese, Middle East or other matters of importance to the United States. In short, the Presidents and Secretary's pledges will be viewed as nothing more than hollow tokenism.

This is where the sky begins to fall in, Mr. President, as I read this memo.

> My concern is that if this decision is implemented, the above message—that the POW/MIA issue is one solely of rhetorical priority—will be made clear throughout the U.S. Government. Equally and more important, Hanoi will perceive that stated U.S. policy on this issue is no longer valid and that resolution of the fate of America's POW/MIA's is not an issue which they need to seriously address.
>
> Beyond these significant policy considerations, there will be a severe negative impact throughout the intelligence community. One can anticipate immediate CIA and NSA action to pull their documents and information from the files currently held by DIA. Department of State, the FBI, and DEA, as well as friendly foreign intelligence services and others with ongoing investigation and cooperative programs will cease all cooperation on POW/MIA-related matters. Sensitive sources and methods will be exposed which will have an adverse effect on source cooperation and reporting. Strategies will be exposed and negotiations will be compromised by revealing the extent of U.S. knowledge and intelligence gaps to those from whom we are seeking information.

She is saying basically if U.S. Senators know this.

> As outlined in Mr. Gribbin's letters DIA's Special Office for POW/MIA affairs will necessarily be available to assist Members of Congress and staff during their review of this material. This will usurp critical manpower from important serious efforts to accomplish the objectives stated by the President and Secretary Cheney. The current level of personnel in DIA's POW/MIA office was established as a result of the Reagan-Bush priority, hard-earned and absolutely mandatory. Squandering their time and efforts to participate in a "witch hunt" against themselves does nothing to help resolve the issue and, in fact, lends credence to those most involved in accusations that a "mindset to debunk" exists in that office.

Of course, it is now 2½ months later, Mr. President, and the sky has not fallen.

Now, Mr. President, this is, indeed, a troubling memo. Quite frankly, I am not really sure what it means and why it was written. The logic in it is twisted and flawed. It is replete with nonsequiturs. It shows no understanding of the role of Congress as set out in the Constitution. It shows no understanding of the proper relationship between the executive branch of Government and legislative branch. It shows little awareness of the responsibility under the Constitution for congressional access to Government information. And it shows a deep misunderstanding of the laws and procedures for handling classified information.

Furthermore, it suggests a lack of awareness of the line between advocacy of a principle or issue—in the case of the POW issue—and the Government's own position. When a self-declared POW advocate, which Ann Mills Griffiths's, in her non-quasi-governmental role, begins to take the Government's position "at face value," as Miss Griffiths declares in her memo that she has done, then that line has been crossed. This is, indeed, the point that gives rise to the question of whether or not this quasi-governmental official has become bureaucratized.

The more important question, though, Mr. President, is what impact did this rationale, this "sky is falling" hysteria, have, or might it have had on the Defense Department's decision to restrict the access of U.S. Senators to eyewitness accounts of POW's, which documents are either secret, confidential or for official use only. None of them are top secret or code word classified. Why is it that a quasi-governmental official can see them but a U.S. Senator cannot see them?

Why is it that a quasi-Government official can dictate or heavily influence the access of policy of the Department of Defense?

It is my hope, Mr. President, that the answer to these questions will become clearer in the weeks ahead as those of us who are interested in this issue continue our oversight responsibilities. I will continue to discuss this ongoing matter with my colleagues on this floor from time to time in the future until these questions are resolved.

Exhibit 1

Memorandum to Paul Wolfowitz

Subject: Access to classified POW/MIA material.

Date: August 2, 1990.

On August 1, letters from ASD/LA Dave Gribbin were sent to Senators Jesse Helms (R-NC) and Charles Grassley (R-IA) giving them full access to cases of interest on the POW/MIA issue. In addition, Mr. Gribbin suggested that the Senators may wish to invite staff of the Foreign Relations, Armed Services or Intelligence Committees, with the appropriate clearances and with responsibility for the POW/MIA issue, to accompany them to review of the classified material.

An additional August 1 letter was sent to Representative Beilenson stating that Congressman Bob Smith (R-NH) would be provided the same opportunity, along with staff of the Armed Services or Intelligence Committees, under the same clearance criteria. Mr. Gribbin's decision to pursue this course (which I understand was strongly opposed by ISA, DIA and the Deputy Chief of Staff for Intelligence, Department of the Army) has far reaching ramifications about which I feel you and the Secretary should be aware.

As you know, the President, Vice President, Secretary Cheney, you Bob Kimmitt and others have firmly committed the U.S. Government to pursuing resolution of the POW/MIA issue as a matter of highest national priority. These pledges were taken at face value and gratefully received by POW/MIA families. If implemented, this course makes a mockery of the Bush Administration's commitments.

On any matter of highest national priority, sensitive information is not subject to indiscriminate release outside of the parameters established by the Congress itself, i.e. the respective Select Committees on Intelligence and responsible staff members with appropriate clearances. This path, if followed, sets a precedent for similar access on other issues, such a step would not be considered, much less approved, on Cambodian, Soviet, Chinese, Middle East or other matter of importance to the U.S. In short, the President's and Secretary's pledges will be viewed as nothing more than hollow tokenism.

Mr. Gribbin's communications authorize access to individual Members of Congress who have been loudest in proclaiming that USG officials are not pursuing this issue with integrity or priority. (Examples are enclosed.) Their records are replete with implications, or outright assertions, that the USG is involved in a conspiracy to coverup evidence that Americans are being held captive in Southeast Asia.

I have no concern that Members of Congress or staff will uncover anything which would lend credence to the charges of conspiracy against which we have collectively fought since the 1983–86 time frame. On the contrary, while problems are continuously identified and remedied, there is a great well of talent in DIA's Special POW/MIA Office.

My concern is that if this decision is implemented, the above message—that the POW/MIA issue is one solely of rhetorical priority—will be made clear throughout the U.S. Government. Equally or more important, Hanoi will perceive that stated U.S. policy on this issue is no longer valid and that resolution of the fates of America's POW/MIAs is not an issue which they need to seriously address.

Beyond these significant policy considerations, there will be a severe negative impact throughout the intelligence community. One can anticipate immediate CIA and NSA action to pull their documents and information from the files currently held by DIA, Department of State, the FBI and DEA, as well as friendly foreign intelligence services and others with ongoing investigations and cooperative programs will cease all cooperation on POW/MIA related matters. Sensitive sources and methods will be exposed which will have an adverse effect on source cooperation and reporting. Strategies will be exposed and negotiations will be compromised by revealing the extent of U.S. knowlege and intelligence gaps to those from whom we are seeking information.

As outlined in Mr. Griffin's letters, DIA's Special Office for POW/MIA Affairs will necessarily be available to assist the Members of Congress and staff during their review of the material. This will usurp critical manpower from important and serious efforts to accomplish the objectives stated by the President and Secretary Cheney. The current level of personnel in DIA's POW/MIA office was established as a result of the Reagan/Bush priority, hard earned and absolutely mandatory. Squandering their time and efforts to participate in a "witch hunt" against themselves does nothing to help resolve the issue and, in fact, lends credence to those most involved in accusations that a "mindset to debunk" exists in that office.

Finally, indiscriminate release such as Mr. Gribbin has now invited will potentially subject POW/MIA family members to further, tragic exploitation by "activists." I am appalled by this action from an individual who obviously knows little about the issue but is seeking to pander to Congress by sacrificing principle and the integrity of the President and Secretary Cheney. He clearly has no understanding of what this will mean in the broader sense, not to mention POW/MIA.

Mr. GRASSLEY. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SIMON). Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I ask unanimous consent that I may be allowed to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMMIGRATION POLICY

Mr. SIMPSON. Mr. President, it is interesting to note that the occupant of the chair has been working with me as we have dealt with this issue of legal immigration. I still very much hope that we might be able to resolve it all an come up with a bill with regard to legal immigration in the United States. Perhaps that is possible. Perhaps it is not. Last night we made some good-faith overtures on both sides of the aisle, and on both sides of the Capitol, to attempt to resolve the difficulties in getting a legal immigration bill. Obviously, there are tremendous pressures and tremendous differences, and that is the essence of "end-of-a-session" activity.

I just want the record to reflect that—and it largely comes from what I thought was a rather extraordinary editorial in this morning's Wall Street Journal with a marvelous logo of the Statute of Liberty with a "no vacancy" sign under it and a great big circle with a slash across it and a picture portraying the unique baldness of the Senator from Wyoming. It is called "Stonewall Simpson." I ask unanimous consent that it be printed in the record.

But I have a few more comments about the Wall Street Journal, one of the most inept publications, I know when it comes to understanding immigration policy or what the Congress has been up to on that subject.

In our work in the preconference on legal immigration reform last night, on October 11, 1990, I made the following offer to the House, and in my proposal, I proposed an annual national level of legal immigration of 675,000 visas. That is far and above what I had proposed in my original legislation and above what was proposed in the legislation which was called the Kennedy-Simpson legislation. That figure of 675,000 visas a year is an increase of 35 percent over current law and an increase of 45,000 visas over the Senate bill. I think that is an extraordinary outreach toward compromise on the part of this Senator.

It was also a requirement that all of the visas over the 630,000 level in the Senate bill—45,000—would go to skilled immigrants—skilled immigrants. Sometimes those have been referred to as classic immigrants, sometimes special immigrants, sometimes those with "supplemental skills and abilities." There are many definitions, but skilled immigrants or "employer based" immigrants is yet another phrase. That is exactly what the Council of Economic Advisers of this President have suggested.

I also offered to allow the overall level of immigration to be "pierced," so to speak, to ensure that the current immigration of the immediate families of citizens and immigrants could continue. It is very important to remember that in those areas we do not even "keep score, as to the number of the immediate families of citizens and immigrants who come to our generous country.

The potential House conferees insisted upon a sunset of the bill, and I said I could not abode a sunset of the bill. It is difficult enough to deal with it at any time, but it seems to me that we could have dealt with it year to year as it came up, and we would have had every ability to do that because we had a commission set up and Presidential reports, providing guidance to the Congress, expedited procedures, and much more so that we could never again let it go on and on without attention, and we would have given it attention as it came up each and every year. That is still in the proposal.

So, the House conferees felt they should have a sunset. I did not. They demanded that some of the 45,000 additional skilled visas would go instead to the more distant relatives of U.S. citizens, in fact, the most distant that can come in under our immigration laws, to brothers, sisters, brothers-in-law, sisters-in-law, nieces, and nephews. That is present law.

So they insisted that some of these 45,000 additional visas—where I came up from 630,000 to 675,000—should go to nieces, nephews, sisters-in-law, brothers-in-law and sisters and brothers instead of having those precious numbers going to spouse and children. I do not understand that. I think precious numbers on precious visas should go to spouses and children and not more distant relatives.

So I believe that I have bent more than perhaps I ever should have in the offer and still it was not accepted. It was my best effort, my best honest effort at a good faith attempt to get a bill.

I could not accept their return offer either, which was to benefit these distant family immigrants and penalize the skilled immigrants. I found that unaccepable. I am willing to consider any additional offers that the House has to make on this issue, and I expect to hear more from them before this session of the Congress ends. I myself intend to make another proposal which does not in any way uphold the sunset aspect of their provision but it does allow to take place what I think they want to obtain.

So we will see what happens. But I just wanted to state that, and that was last night and it certainly does not come from any goading from the minions of the denizens of the Wall Street Journal. I was fascinated at this editorial today in the Wall Street Journal—and it is not a bad picture actually—it is pretty good except for the picture of the Statue of Liberty with the great round circle and the slash. I was really intrigued by that because, as I did my hard work on illegal immigration, I went all over the United States to visit with the editorial boards of the great papers in this country the New York Times, the Los Angeles Times Mirror, San Diego, Washington, DC, and around the horn, telling the story of why I thought we needed to get our borders under control.

When I met with the editorial board of the Wall Street Journal in their great paneled enclave up there in New York City, this old Wyoming boy wandered in and they all sat there with vacuous looks, and I began my pitch. I said, "let me tell you about illegal immigration in this country and what it is and what we are trying to do."

After about 20 minutes with this remarkable group, with their eyes glazed over and while yawning and scratching themselves and looking out the window, I said, "I do not know if anybody is paying any attention here. This is the first time I have seen this reaction throughout the United States." And one worthy turned and said, "Simpson, I live in Teaneck, NJ, and I drive in every morning in my car driven by somebody else, and I have never seen an illegal, undocumented person in all my travels."

And I said, "I can't believe it." I said, "Just give me my hat and coat and I'll head out on the street in a moment." I also said, "that is the most absurd statement I have ever heard."

I sat for a few more minutes and they seemed to summarize that "There are no illegal, undocumented persons. But if there were, they would be good for this country." I said, "Well, you know, I want to get out of the building before I say something that I would really regret."

And what I was going to say then, I will say now. If the Wall Street Journal is criticizing me on immigration matters, then I must be doing something right, because they are the one newspaper in America that is so solely and totally out of touch with immigration activities that there is no recourse but to share my personal views.

I will tell you what the Wall Street Journal supports. They want a five-word constitutional amendment that says, "there shall be open borders." That is what they want. The absurdity and vacuity of that position says it all. No person responsible to the American public, certainly the voting public, would support such a dangerous and outrageous proposal. So when the Journal criticizes me for supporting only a 35-percent increase for legal immigration, we must remember where they are coming from.

And here is what I really wanted to say to them then, but would say now. Where that would lead us would be to a defenseless America without any security of its borders whatsoever. Absolutely stupid. No one would be checked. No checking of the flow of immigration, no checking the flow of people, no checking the flow of aliens, immigrants, refugees, nothing; it would matter not whether they were spies, saboteurs, whether they were malcontents, terrorists, anybody. No restrictions. That is their pitch. Do not miss it.

But what they really want is the most ugly thing. They want an unlimited supply of cheap labor for the employers of the United States. That should put their position in perfect perspective. And I think it is good that right now on our television screens last week you watched a remarkable, beautiful documentary on a tragic event called the Civil War. And the Civil War arose from the fact that some people wanted cheap, subservient labor.

Finally, the Journal tries to lump me into David Duke's camp of anti-immigrant mentality. Now get that bit of stupidity. For a guy who proposed a 35-percent increase in legal immigration, is that anti-immigrant? Lumping me with David Duke is about the most offensive and ridiculous thing that I could ever imagine and shows the bone-headedness of the editorial staff of the Wall Street Journal.

Here is a man, David Duke, who has been repudiated by our party, and I personally repudiate all that he stands for with regard to what he says he would do. It shows once again how desperate and dedicated this singular, misguided, and remarkable paper is to have more low-wage, unskilled, slave-type laborers who will call the Journal editors, "master." I am not in favor of that condition.

The other thing I was going to say that day was, after one of those people in that room that day at the Wall Street Journal said, "Your bill would not affect domestic help, would it, Simpson?" I said, "Yeah, it would." "Oh," they said, "That is most unfortunate, because I have this marvelous, marvelous person—an illegal alien—who is in our home. She is a lovely lady, Patsy. She is like one of the family."

What that phrase means in the vernacular of the Wall Street Journal is, "one of the family" means that we pay her 50 bucks a week and give her every other Sunday off and she looks like she has been on a forced march. That is what they mean by that stuff, "one of the family." They are illegal, they are there, and that is a good place to keep them because it is cheap; and if it is cheap that is good for America and good for business—good for employers.

So, I just thought I would touch upon that. I do not think that is very helpful in America when you have a fine business chronicle, an American employer, business chronicle preaching from the housetops for cheap, cheap, unskilled slave-type laborers without any restriction whatsoever in their coming here legally or illegally.

Then, of course, finally, the editorial went on to state that I am apparently a racist, which is so stupid and arrogant and dull-witted that I should not comment on it. But I will. I will tell you that, not only is that abhorrent and offensive to me, but it goes back again to the real truth. The Journal's editorial board really longs for the good old plantation days where workers were subservient, hardworking, and feared the sting of the lash. That is what they like. They have "never seen" an illegal alien right in their own city where they commute to work—from outside the city, most of them.

So the Journal wants to return to those days with open borders immigration. That is not my vision of America's future.

I continue to sincerely believe that we must close the back door to illegal immigration, and if we do that, then we can open the front door wider to legal immigration. That was the view of Father Ted Hesburgh, the Chairman of our Select Commission on Immigration and Refugee Policy.

So, we will close up the legal immigration shop for a while, and see where we go. I would also like to deal with illegal immigration controls. They mentioned that in the piece. I hope we do that.

We need employer education programs. We need structuring to deter illegal entry at key locations on U.S. borders. We need a more secure driver's license. California is doing that now on their own and civil libertarians are not objecting. We need civil penalties on document fraud and we need an annual attorney general report on illegal immigration. Those are important things.

So watch closely in your local business newspaper, because you will not see much of my response in the Wall Street Journal because they love to dish it out, but when I come back at them with my side in a letter to the editor it takes them about 30 weeks for them to compound a reason why I should or should not, be allowed to respond.

It got so bad the last time I had to call my lovely friend Al Hunt, a really great guy, a remarkable friend, who is head of the Washington bureau of the Wall Street Journal. I said "Al, just how do you get your side in that rag?" And he said, "Let me help you Al. He did."

Finally I got a call from some guy, somewhere, and he said, "Well, send us a few words, Simpson. We will try to publish it and give your views on the situation." They chopped that all to shreds and got it in there in about an inch and a half.

Another time some young reporter over there in the Journal did a number on me, I said, "That is a statement I never made." The higher ups then said, "Well, it was from one of our interns in Philadelphia and we don't know where she is anymore."

So they have a great operation there. I hope they do believe in the first amendment as they always prattle about it. And that marvelous amendment goes both ways.

So watch closely for my response. You may see it after Christmas! It will be my letter to the editor responding to one of the goofiest, stupidest, out-of-touch editorials I have ever seen.

Thank you very much.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the Labor-HHS appropriations bill, H.R. 5257.

Mr. ARMSTRONG. Mr. President, reserving the right to object, if the leader will yield to me briefly, I would just like to explain why earlier I asked Senator HUMPHREY to object to this unanimous-consent request on my behalf, because I was necessarily absent from the floor. But I wanted to express to the leader, and also the Republican manager, my appreciation for working it out so I could be present and to protect my opportunity to participate in the debate and consideration of this matter. I have no objection to the motion. I just wanted to acknowledge their gracious effort.

The PRESIDING OFFICER. The clerk will report the bill by title for the information of Senators.

The assistant legislative clerk read as follows:

A bill (H.R. 5257) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

The PRESIDING OFFICER. Is there objection to immediate consideration of the bill?

There being no objection, the Senator proceeded to consider the bill which had been reported from the Committee on Appropriations, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

H.R. 5257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1991, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

Employment and Training Administration

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, **[**$70,030,000**]** *$71,480,000*, together with not to exceed **[**$54,751,000**]** *$54,301,000*, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act, **[**$4,136,447,000**]** *$4,035,188,000*, plus reimbursements, to be available for obligation for the period July 1, 1991, through June 30, 1992, of which **[**$58,193,000**]** *$64,000,000* shall be for carrying out section 401, **[**$69,047,000**]** *$75,000,000* shall be for carrying out section 402, $9,345,000 shall be for carrying out section 441, **[**$1,894,000**]** *$1,973,000* shall be for the National Commission for Employment Policy, **[**$2,500,000**]** *$6,000,000* shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under the Job Training Partnership Act, and $4,000,000 shall be for service delivery areas under section 101(a)(4)(A)(iii) of the Job Training Partnership Act in addition to amounts otherwise provided under sections 202 and 251(b) of the Act; and, in addition, **[**$63,740,000**]** *$74,100,000* is appropriated for the Job Corps, in addition to amounts otherwise provided herein for the Job Corps, to be available for obligation for the period July 1, 1991 through June 30, 1994;**]** *and in addition, $11,500,000 is appropriated for activities authorized by title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act: Provided,* That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

[For Job Corps program operations authorized by the Job Training Partnership Act, $10,500,000, in addition to amounts otherwise provided herein for these purposes, to be available for obligation for the period July 1, 1990, through June 30, 1991.**]**

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $312,000,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $88,000,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95-250, as amended, and of trade adjustment benefit payments and allowances under part I, and for training, for allowances for job search and relocation, and for related State administrative expenses under part II, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended, **[**$230,500,000**]** *$269,500,000*, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided,* That amounts received or recovered pursuant to section 208(e) of Public Law 95-250 shall be available for payments.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-491-1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502-504); necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, and sections 225, 231-235 and 243-244, title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H)(ii),

212(a)(14), and 216(g) (1), (2), and (3) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); *and necessary administrative expenses to carry out the Targeted Jobs Tax Credit Program under section 51 of the Internal Revenue Code of 1986,* **[**$25,600,000**]** *$23,100,000*, together with not to exceed **[**$2,800,400,000**]** *$2,836,046,000* (including not to exceed $2,000,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980), which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the basic allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502-504), and the sums available in the basic allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, shall be available for obligation by the States through December 31, 1991,**]** *and of which $18,882,000 of the amount which may be expended from said trust fund shall be available for obligation for the period April 1, 1991, through December 31, 1991, for automation of the State activities under title III of the Social Security Act, as amended (42 U.S.C. 502-504 and 5 U.S.C. 8501-8523),* and of which $21,700,000 together with not to exceed $803,300,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1991, through June 30, 1992, to fund activities under section 6 of the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose, *and of which $25,000,000 of the amount which may be expended from said trust fund shall be available for obligation for the period October 1, 1991 through June 30, 1992, for automation of the State activities under section 6 of the Act of June 6, 1993, as amended,* and of which $247,509,000 shall be available only to the extent necessary to administer unemployment compensation laws to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic allocation was based, which cannot be provided for by normal budgetary adjustments based on State obligations as of December 31, 1991.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1992, $328,000,000.

Labor-Management Services

SALARIES AND EXPENSES

For necessary expenses for Labor-Management Services, $90,051,000.

Pension Benefit Guaranty Corporation

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1991, for such Corporation: *Provided,* That not to exceed $42,669,000 shall be available for administrative expenses of the Corporation: *Provided further,* That contractual expenses of such Corporation for legal and financial services in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as non-administrative expenses for the purposes hereof, and excluded from the above limitation.

Employment Standards Administration

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $222,388,000, together with $1,018,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title V, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $322,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: *Provided,* That balances of reimbursements from Federal Government agencies unobligated on September 30, 1990, shall remain available for the payment of compensation, benefits, and expenses through September 30, 1991: *Provided further,* That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1991.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $918,796,000, of which $866,019,000 shall be available until September 30, 1992, for payment of all benefits as authorized by section 9501(d) (1), (2), (4), and (7), of the Internal Revenue Code of 1954, as amended, and interest on advances as authorized by section 9501(c)(2) of that Act, and of which $29,051,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and $23,355,000 for transfer to Departmental Management, Salaries and Expenses, and $371,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided,* That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation, interest, or other benefits for any period subsequent to June 15 of the current year: *Provided further,* That in addition, such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

Occupational Safety and Health Administration

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, **[**$291,243,000**]** *$295,893,000*, including not to exceed **[**$65,220,000**]** *$67,220,000*, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided,* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing : *Provided further, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—*

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected

within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees.

Mine Safety and Health Administration

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, [$177,767,000] *$179,823,000*, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the purchase of not to exceed twenty passenger motor vehicles for replacement only; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

Bureau of Labor Statistics

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, [$207,274,000] *$206,674,000*, together with not to exceed [$52,760,000] *52,210,000*, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

Departmental Management

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of 5 sedans, and including [$3,700,000] *$4,200,000* for the President's Committee on Employment of People With Disabilities, [$132,788,000] *$132,809,000*, together with not to exceed $285,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

WORKING CAPITAL FUND

Funds received for services rendered to any entity or person for use of Departmental facilities, including associated utilities and security services, shall be credited to and merged with this fund.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $172,031,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001-10 and 2021-26.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $45,713,000, together with not to exceed $4,195,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated under this Act shall be used to grant variances, interim orders or letters of clarification to employers which will allow exposure of workers to chemicals or other workplace hazards in excess of existing Occupational Safety and Health Administration standards for the purpose of conducting experiments on workers health or safety.

SEC. 103. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps.

SEC. 104. None of the funds appropriated in this Act shall be used by the Job Corps program to pay the expenses of legal counsel or representation in any criminal case or proceeding for a Job Corps participant, unless certified to and approved by the Secretary of Labor that a public defender is not available.

This title may be cited as the "Department of Labor Appropriations Act, 1991".

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

PROGRAM OPERATIONS

For carrying out titles III, VII, VIII, [XVI, and XXVI] *X, XVI, XIX, XXVI, and XXVII* of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, and the Native Hawaiian Health Care Act of 1988, [$1,627,375,000] *$2,472,940,000*, of which $2,000,000, to remain available until expended, shall be available for renovating facilities related to the activities of the Gillis W. Long Hansen's Disease Center, 42 U.S.C. 247e, of which $488,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act [and of which $4,129,000 shall be made available until expended to make grants under section 1610(b) of the Public Health Service Act for renovation or construction of non-acute care intermediate and long-term care facilities for AIDS patients: *Provided*, That notwithstanding section 838 of the Public Health Service Act, not to exceed $10,000,000 of funds returned to the Secretary pursuant to section 839(c) of the Public Health Service Act or pursuant to a loan agreement under section 740 or 835 of the Act may be used for activities under titles III, VII, and VIII of the Act] *and of which $600,000,000 is available for part A and part B of title XXVI of the Public Health Service Act, including $441,000,000 which shall be available for obligation for the period October 1, 1991, through September 30, 1992: Provided, That notwithstanding any provisions of part B of title XXVI of the Public Health Service Act the Health Resources and Services Administration shall not reduce any current grantee below its fiscal year 1990 funding level: Provided further, That notwithstanding section 2602 (f) of the Public Health Service Act, up to $4,000,000 shall be made available until expended to make grants for renovation or construction of non-acute care intermediate and long-term care facilities for AIDS patients*: *Provided further*, That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advance to this appropriation: *Provided further*, That user fees authorized by 31 U.S.C. 9701 may be credited to appropriations under this heading, notwithstanding 31 U.S.C. 3302: [*Provided further*, That during fiscal year 1991, the Secretary of Health and Human Services may enter into commitments of not to exceed $260,000,000 for fiscal year 1991 to guarantee Health Education and Assistance Loans under subpart 1 of part C of title VII of the Public Health Service Act:] *Provided further*, That none of the funds made available under this heading shall be used to carry out sections 638, 704 and 705 of Public Law 100-607.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $20,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

VACCINE INJURY COMPENSATION

For payments from the Vaccine Injury Compensation Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act as amended, to remain available until expended: *Provided*, That for necessary administrative expenses, not to exceed $1,500,000 shall be available from the Trust Fund to the Secretary of the Department of Health and Human Services.

For compensation of claims resolved by the United States Claims Court related to the administration of vaccines before October 1, 1988, $62,920,000, to remain available until expended.

Centers for Disease Control

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles III, [XVII, XIX] *VII, XVII, XIX, XXV, XXVII* and section 1102 of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal Mine Safety and Health Act of 1977, *Public Law 101-354* and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, [$997,701,000] *$1,322,698,000* of which [$7,740,000] *$37,900,000* shall remain available until expended for equipment and construction and renovation of facilities: *Provided*, That training of private persons shall be made subject to reimbursement or advances to this appropriation for not in excess of the full cost of such training: *Provided further*, That funds appropriated under this heading shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who had participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further, That $7,460,000 shall be available from amounts provided under section 2501 of the Public Health Service Act to directly fund the city health departments funded in fiscal year 1990 and $4,046,000 shall be available to directly fund the local education agencies funded in fiscal year 1990: Provided further, That of the total amount recommended for section 2501, no State or city health or education department shall receive less funds in fiscal year 1991 for the same programs than received in fiscal year 1990 funds, and for the purposes of formula calculation only, that these amounts awarded to cities shall be counted toward the mandatory pass through required of high incidence States by section 2506(5)(A): Provided further*, That collections from user fees may be credited to this appropriation: *Provided further*, That amounts received by the National Center for Health Statistics from reimbursable and interagency agreements and the sale of data tapes may be credited to this appropriation and shall remain available until expended: *Provided further, That in addition to amounts provided herein, up to $20,000,000 shall be available from amounts available under section 2711 of the Public Health Service Act, to carry out the National Center for Health Statistics surveys: Provided further, That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to States or municipalities as assignees under authority of section 214 of the Public Health Service Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality, and employees of the National Center for Health Statistics, who are assisting other Federal organizations on data collection and analysis and whose salaries are fully reimbursed by the organizations requesting the services, shall be treated as non-Federal employees for reporting purposes only.*

National Institutes of Health

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, [$1,749,392,000] *$1,747,462,000*.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out sections 301 and 1105 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, [$1,135,589,000] *$1,137,235,000*.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, [$149,592,000] *$151,057,000*.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, [$613,686,000] *$626,986,000*.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, [$545,225,000] *$555,488,000*.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, [$944,965,000] *$904,010,000*.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, [$693,499,000] *$779,351,000*.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, [$488,282,000] *$480,645,000*.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, [$254,887,000] *$258,324,000*.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311 and title IV of the Public Health Service Act with respect to environmental health sciences, [$244,832,000] *$242,765,000*.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, [$278,311,000] *$377,733,000*.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, [$191,397,000] *$198,746,000*.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, [$125,623,000] *$148,247,000*.

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, [$353,489,000] *$331,629,000*: *Provided*, That none of these funds shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

NATIONAL CENTER FOR NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, [$37,289,000] *$40,013,000*.

NATIONAL CENTER FOR HUMAN GENOME RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, [$66,131,000] *$108,264,000*.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities of the John E. Fogarty International Center, [$18,682,000] *$17,436,000*.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, [$80,725,000] *$94,916,000*.

OFFICE OF THE DIRECTOR

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, [$106,175,000] *$77,975,000*, including purchase of not to exceed five passenger motor vehicles for replacement only: *Provided, That $15,000,000 of this amount shall be available for extramural facilities construction grants if awarded competitively: Provided further, That the funds for the AIDS Research Loan Repayment Program remain available through September 30, 1992: Provided further, That the Director may direct up to one percent of the total amount made available in this Act to all National Institutes of Health appropriations to high-priority activities the Director may so designate: Provided further, That no such appropriation shall be increased or decreased by more than one percent by any such transfers and that the Congress is promptly notified of the transfer.*

BUILDINGS AND FACILITIES

For construction of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, [$239,903,000] *$68,803,000*, to remain available until expended.

Alcohol, Drug Abuse, and Mental Health Administration

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, alcohol abuse, and alcoholism, section 3521 of Public Law 100-690, section 621 of Public Law 100-628, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, [$2,825,891,000] *$3,000,283,000*, of which $3,126,000 for renovation of government owned or leased intramural research facilities shall remain available until expended *and of which $5,000,000 shall be available for grants for the construction, renovation, operation and maintenance of research facilities*: *Provided*, That funds available under this heading for block grants under subpart 1, part B of title XIX of the Public Health Service Act shall be expended by States in accordance with the same criteria and limitations as were applied to such grants for the fiscal year 1990.

FEDERAL SUBSIDY FOR SAINT ELIZABETHS HOSPITAL

To carry out the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, $12,000,000, which shall be available in fiscal year 1991 for payments to the District of Columbia as authorized by section 9(a) of the Act: *Provided*, That any amounts determined by the Secretary of

Health and Human Services to be in excess of the amounts requested and estimated to be necessary to carry out sections 6 and 9(f)(2) of the Act shall be returned to the Treasury.

ASSISTANT SECRETARY FOR HEALTH

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

For the expenses necessary for the Office of Assistant Secretary for Health and for carrying out titles III, XVII, XX, and XXI of the Public Health Service Act, [$61,270,000] *$67,192,000*, and, in addition, amounts received by the Public Health Service from Freedom of Information Act fees, reimbursable and interagency agreements and the sale of data tapes shall be credited to this appropriation and shall remain available until expended.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

AGENCY FOR HEALTH CARE POLICY AND RESEARCH

HEALTH CARE POLICY AND RESEARCH

For carrying out titles III and IX of the Public Health Service Act, and Part A of title XI of the Social Security Act, [$68,579,000] *$91,335,000* together with not to exceed $5,000,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 1142 of the Social Security Act and not to exceed $1,037,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act; and, in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided*, That the amount made available pursuant to section 926(b) of the Public Health Service Act shall not exceed [$13,776,000] *$40,776,000*.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, [$34,614,966,000] *$36,881,301,000*, to remain available until expended.

For making, after May 31, 1991, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1991 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1992, [$12,400,000,000] *$13,500,000,000*, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, and section 278(d) of Public Law 97-248, [$37,056,000,000] *$35,335,000,000.*

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, title XIII of the Public Health Service Act, the Clinical Laboratory Improvement Amendments of 1988, and section 4005(e) of Public Law 100–203, as amended, [$104,966,000] *$91,053,000*, together with not to exceed [$2,026,638,000] *$1,901,888,000* to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds: *Provided*, That $136,500,000 of said trust funds shall be expended only to the extent necessary to meet unanticipated costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act are to be credited to this appropriation: *Provided further*, That all funds collected in accordance with section 353 of the Public Health Service Act are to be credited to this appropriation to remain available until expended: *Provided further, That notwithstanding any other provision of law, including but not limited to sections 1903 and 1919(g) of the Social Security Act, the Secretary shall establish and collect annually user fees from all providers and suppliers of services or items requesting certification under titles XVIII or XIX of the Social Security Act (except clinical laboratories otherwise inspected and certified under section 353 of the Public Health Service Act) and payment thereof shall be made a condition of participation under said titles. Such fees shall be determined annually in an amount sufficient to cover the estimated full cost of survey and certification activities not otherwise covered by fees collected pursuant to section 353(m) of the Public Health Service Act. These fees shall be collected annually from each provider or supplier, regardless whether the provider or supplier will be surveyed in the year for which fees are being charged, and fees may be collected through deductions from payments to be made under titles XVIII and XIX of the Social Security Act. Fees may vary by group or classification of provider or supplier, or by the relative complexity, type, or estimated cost of planned surveys, based on such considerations as the Secretary deems appropriate. Such fees shall be deposited in and credited to this appropriation, to remain available until expended.*

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $46,958,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and when travel of more than 75 miles is required, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, $626,081,000, to remain available until expended: *Provided*, That monthly benefit payments shall be paid consistent with section 215(g) of the Social Security Act.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1992, $203,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income Program, title XI of the Social Security Act, section 401 of Public Law 92-603, section 212 of Public Law 93–66, as amended, and section 405 of Public Law 95–216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, [$12,001,594,000] *$13,954,618,000*, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury: *Provided*, That all collections from repayments of overpayments shall be deposited in the general fund of the Treasury.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out the Supplemental Security Income Program for the first quarter of fiscal year 1992, $3,550,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than [$4,166,974,000] *$4,316,974,000* may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That travel expense payments under section 1631(h) of such Act for travel to hearings may be made only when travel of more than seventy-five miles is required: *Provided further*, That [$50,000,000] *$200,000,000* of the foregoing amount shall be apportioned for use only to the extent necessary to process workloads not anticipated in the budget estimates, for automation projects and their impact on the work force, and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That none of the funds appropriated by this Act may be used for the manufacture, printing, or procuring of social security cards, as provided in section 205(c)(2)(D) of the Social Security Act, where paper and other materials used in the manufacture of such cards are produced, manufactured, or assembled outside of the United States.

FAMILY SUPPORT ADMINISTRATION

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV–A and -D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C. ch. 9), [$9,657,246,000] *$10,172,346,000*, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV–A and -D, X, XI, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV–A and -D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9) for the first quarter of fiscal year 1992, $3,300,000,000 to remain available until expended.

PAYMENTS TO STATES FOR AFDC WORK PROGRAMS

For carrying out aid to families with dependent children work programs, as authorized by part F of title IV of the Social Security Act, [$1,000,000,000] *$1,006,500,000: Provided That, of the amounts made available, not less than $6,500,000 shall be made available for section 505 of the Family Support Act of 1988.*

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,450,000,000, of which $74,610,000 shall become available for making payments on September 30, 1991.

ENERGY EMERGENCY CONTINGENCY FUND

For the purpose of establishing an "Energy Emergency Contingency Fund", in the United States Treasury to be available for grants to the 50 States, the District of Columbia, and Indian tribes and tribal organizations receiving direct funding in fiscal year 1991 under the Low-Income Home Energy Assistance Act of 1981, $200,000,000 which shall be available for obligation after January 15, 1991: Provided, That the national average retail price of home heating oil in any of the months December 1990, January 1991, or February 1991, as reported for Petroleum Marketing Monthly by the Energy Information Administration or the best available data from the Department of Energy on the last day of the month following such month, exceeds by 20 per centum or more the average of the national average retail price for home heating oil for the corresponding month as reported by the Department of Energy for 1986, 1987, 1988, and 1989: Provided further, That these funds shall be allotted to the 50 States and the District of Columbia in proportion to the consumption by low-income households in such jurisdiction (determined on the basis of the best data available at the time of allotment) of home heating oil: Provided further, That for allotment purposes only, home heating oil includes liquified petroleum gas and kerosene: Provided further, That Indian tribes and tribal organizations shall receive the same per centum of the allotment of the State or States in which they are located as they receive from that State's (or those States') allotment for fiscal year 1991 under section 2604 of the Low-Income Home Energy Assistance Act: Provided further, That no State which has transferred funds in fiscal year 1991 to another block grant under section 2604(f) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(f)) shall be eligible for emergency funding under this paragraph except that an Indian tribal organization which is otherwise eligible for emergency funding under this paragraph shall not be denied such funds by reason of such a transfer by the State within which that organization is located: Provided further, That this paragraph shall take effect upon the subsequent enactment into law of a joint resolution certifying the existence of an energy crisis and the need for emergency energy crisis assistance.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), $398,000,000, of which $210,000,000 shall be available for State cash and medical assistance.

INTERIM ASSISTANCE TO STATES FOR LEGALIZATION

Appropriations provided for fiscal year 1991 in section 204(a)(1)(A) of the Immigration Reform and Control Act of 1986 are reduced by $566,854,000.

The amount appropriated for fiscal year 1992 in section 204(a)(1)(C) of the Immigration Reform and Control Act of 1986 are increased by $579,034,000.

COMMUNITY SERVICES BLOCK GRANT

For making payments under the Community Services Block Grant Act and the Stewart B. McKinney Homeless Assistance Act, $448,300,000, of which $21,000,000 shall be for carrying out section 681(a)(2)(A), $4,200,000 shall be for carrying out section 681(a)(2)(D), $3,100,000 shall be for carrying out section 681(a)(2)(E), $11,100,000 shall be for carrying out section 681(a)(2)(F), $250,000 shall be for carrying out section 681(a)(3), $4,150,000 shall be for carrying out section 408 of Public Law 99–425, and $2,500,000 shall be for carrying out section 681A with respect to the community food and nutrition program.

PROGRAM ADMINISTRATION

For necessary administrative expenses to carry out titles I, IV, X, XI, XIV, and XVI of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), title XXVI of the Omnibus Budget Reconciliation Act of 1981, the Community Services Block Grant Act, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, Public Law 100–77, and section 126 and titles IV and V of Public Law 100–485, [$81,200,000] *$84,200,000*, to be reduced by such sums as may be collected, which shall be credited to this account as offsetting collections, from fees authorized under section 453 of the Social Security Act: *Provided*, That funds appropriated in Public Law 101-166 for the Commission on Interstate Child Support shall remain available through September 30, 1991.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

SOCIAL SERVICES BLOCK GRANT

For carrying out the Social Services Block Grant Act, $2,800,000,000.

HUMAN DEVELOPMENT SERVICES

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Older Americans Act of 1965, *the Developmental Disabilities Assistance and Bill of Rights Act, chapter 8-D of title VI of the Omnibus Budget Reconciliation Act of 1981, the Head Start Act, the Child Development Associate Scholarship Assistance Act of 1985*, the Child Abuse Prevention and Treatment Act, chapters 1 and 2 of subtitle B of title III of the Anti-Drug Abuse Act of 1988, the Family Violence Prevention and Services Act (title III of Public Law 98–457), the Native American Programs Act, title II of Public Law 95–266 (adoption opportunities), section 206 of the Temporary Child Care for Children with Disabilities and Crisis Nurseries Act of 1986, the Comprehensive Child Development Centers Act of 1988, the Abandoned Infants Assistance Act of 1988, section 10404 of Public Law 101-239 and part B of title IV and section 1110 of the Social Security Act, [$1,423,217,000] *$3,500,528,000*, of which $1,000,000 shall remain available until expended for the 1991 White House Conference on Aging.

For carrying out title I of S. 5 as passed by the Senate, the Act for Better Child Care, $1,200,000,000, of which $1,159,000,000 shall be available for obligation September 15, 1991, and of which $41,000,000 shall be available for obligation October 1, 1991.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For carrying out part E of title IV of the Social Security Act, [$2,632,192,000] *$2,611,281,000*, of which [$544,000,000] *$520,911,000* shall be for payment of prior years' claims.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, [$82,250,000,] *$75,500,000* of which $20,995,000 shall be available for expenses necessary for the Office of the General Counsel, together with [$31,950,000,] *$28,950,000* of which $26,881,000 shall be available for expenses necessary for the Office of the General Counsel, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $53,500,000, together with not to exceed $43,723,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $17,585,000, together with not to exceed $4,000,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, [$9,167,000] *$8,167,000: Provided*, That not less than $3,150,000 shall be obligated to continue research on poverty *conducted by the Institute for Research on Poverty.*

GENERAL PROVISIONS

SEC. 201. None of the funds made available by this Act for the National Institutes of Health, except for those appropriated to the "Office of the Director", may be used to provide forward funding or multiyear funding of research project grants except in those cases where the Director of the National Institutes of Health has determined that such funding is specifically required because of the scientific requirements of a particular research project grant.

SEC. 202. Appropriations in this or any other Act shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed 2,400 commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents, assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers, and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS-18.

SEC. 203. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term] *; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy*] *: Provided, That the Secretary of Health and Human Services shall promulgate regulations governing this section.*

SEC. 204. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act.

SEC. 205. Funds appropriated in this title shall be available for not to exceed $37,000 for official reception and representation expenses when specifically approved by the Secretary.

SEC. 206. Amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts which finance the activities of the Public Health Service.

SEC. 207. None of the funds made available by this Act shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve medical officer of the Public Health Service for any period during which the officer is assigned to the clinical, research, or staff associate program administered by the National Institutes of Health or the Alcohol, Drug Abuse, and Mental Health Administration.

SEC. 208. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years, so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 209. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 210. For the purpose of insuring proper management of federally supported computer systems and data bases, funds appropriated by this Act are available for the purchase of dedicated telephone service between the private residences of employees assigned to computer centers funded under this Act, and the computer centers to which such employees are assigned.

SEC. 211. No funds appropriated under this Act shall be used by the National Institutes of Health, or any other Federal agency, or recipient of Federal funds on any project that entails the capture or procurement of chimpanzees obtained from the wild. For purposes of this section, the term "recipient of Federal funds" includes private citizens, corporations, or other research institutions located outside of the United States that are recipients of Federal funds.

SEC. 212. None of the funds appropriated by this title shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

SEC. 213. None of the funds appropriated in this title for the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of $120,000 per year.

SEC. 214. Notwithstanding any other provision of this Act, AIDS education programs that receive assistance from the Centers for Disease Control and other education curricula dealing with sexual activity that receive assistance under this Act—

(1) shall not be designed to promote or encourage, directly, intravenous drug abuse or sexual activity, homosexual or heterosexual; and

(2) with regard to AIDS education programs and curricula—

(A) shall be designed to reduce exposure to and transmission of the etiologic agent for acquired immune deficiency syndrome by providing accurate information; and

(B) shall provide information on the health risks of promiscuous sexual activity and intravenous drug abuse.

SEC. 215. Section 402(a) of 42 U.S.C. 286 is amended by inserting after "by and with the advice and consent of the Senate", for a fixed term to expire five years after the onset of the term of the appointing President.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1991".

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For carrying out the activities authorized by chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as amended, [except subpart 2 of part D,] and by section 418A of the Higher Education Act, [$6,225,250,000] *$6,376,674,000*, of which [$6,195,750,000] *$6,350,029,000* shall become available on July 1, 1991 and shall remain available until September 30, 1992: *Provided*, That [$5,121,000,000,] *under the Elementary and Secondary Education Act, $5,130,000,000* shall be available for basic grants under section 1005, [$569,000,000] *$570,000,000* shall be available for concentration grants under section 1006, [$310,000,000] *$293,742,000* shall be available for migrant education activities under subpart 1 of part D, *$152,537,000 shall be available for handicapped education activities under subpart 2 of part D,* [$34,000,000] *$40,000,000* shall be available for delinquent and neglected education activities under subpart 3 of part D, $60,600,000 shall be for State administration under section 1404, and $15,150,000 shall be for program improvement activities under section 1405:] *Provided further, That no State shall receive less than $340,000 from the amounts made available under this appropriation for concentration grants under section 1006: Provided further, That no State shall receive less than $375,000 from the amounts made available under this appropriation for State administration grants under section 1404.*

[From the amounts appropriated for part A of chapter 1, an amount not to exceed $100,000,000 may be obligated to carry out a new Merit Schools program only if such program is specifically authorized in law prior to December 31, 1990.]

Notwithstanding the provisions of section 1006(a)(1)(A) of the Elementary and Secondary Education Act, local educational agencies in any county that has the largest number, among all counties in the same State, of children counted under section 1005(c) for the preceding fiscal year shall be eligible for the additional grants authorized in section 1006. In determining the amount of the additional grants that local educational agencies in counties eligible solely because of this provision will receive, the

number counted under section 1005(c) for the preceding fiscal year, notwithstanding the provisions of section 1006(a)(2) and (3). Notwithstanding the provisions of section 1006(a)(5), in allocating grants to local educational agencies in a county receiving additional grants under this provision, a State educational agency shall give priority consideration to the local educational agency in that county with the largest number of children counted under section 1005(c).

IMPACT AID

For carrying out programs of financial assistance to federally affected schools as authorized by Public Laws 81-815 and 81-874, as amended, $800,000,000, of which [$600,000,000] *$610,000,000* shall be for payments under section 3(a), [$140,000,000] *$130,000,000* shall be for payments under section 3(b), $14,000,000, to remain available until expended, shall be for disaster assistance payments under section 7, $17,000,000 shall be for Federal property payments under section 2, $2,000,000, to remain available until expended, shall be for payments under section 3(e) related to shifts in enrollment and $27,000,000, to remain available until expended, shall be for construction and renovation of school facilities including $10,000,000 for awards under section 10, $10,000,000 for awards under sections 14(a) and 14(b), and $7,000,000 for awards under sections 5 and 14(c): *Provided*, That, of the amounts appropriated for payments under sections 3(a) and 3(b), not to exceed $25,000,000 shall be available for payments under section [3(d)2(b)] *3(d)(2)(B): Provided further, That any school district that received a payment under section 5(b)(2) of the Act for fiscal year 1986, but which the Department of Education has determined to be ineligible for section 2 assistance due to a review of the original assessed value of the real property involved at the time of acquisition of the Federal property, shall be deemed eligible for payments under section 2.*

SCHOOL IMPROVEMENT PROGRAMS

For carrying out the activities authorized by chapter 2 of title I and titles II, III, IV, V, and VI, *without regard to sections 5112(a) and 5112(c)(2)(A)*, of the Elementary and Secondary Education Act of 1965, as amended; the Stewart B. McKinney Homeless Assistance Act; the Civil Rights Act of 1964; title V of the Higher Education Act, as amended; part B of title III and title IV of Public Law 100-297; and chapter 5 of subtitle A of title VI of Public Law 100-418*; the Follow Through Act; and title IX of the Education for Economic Security Act*, [$1,529,045,000] *$1,684,499,000*, of which [$1,148,164,000] *$1,242,490,000* shall become available on July 1, 1991, and remain available until September 30, 1992: *Provided*, That of the amount appropriated, $1,000,000 shall be for an evaluation study of the chapter 2 block grant program, [$3,000,000 shall be for research on dropout prevention,] and [$33,900,000] *$35,914,000* shall be for national programs under part B of chapter 2*; $6,064,000 shall be for section 5133 and $1,213,000 shall be for section 5134 under title V of the Elementary and Secondary Education Act of 1965; $15,000,000 shall be for national program activities under section 2012 and $222,000,000 shall be for State grants under part A of title II of the Elementary and Secondary Education Act of 1965; and $7,465,000 shall be for the Follow Through Act for fiscal year 1991; $4,830,000 shall be for grants for schools and teachers under subpart 1 and $3,871,000 shall be for family-school partnerships under subpart 2 of part B of title III of Public Law 100-297: Provided further, That of the amounts appropriated herein, $2,000,000 shall be available for the National Writing Project, contingent upon enactment of authorizing legislation.*

BILINGUAL AND IMMIGRANT EDUCATION

For carrying out, to the extent not otherwise provided, title VII and part D of title IV of the Elementary and Secondary Education Act, [$205,000,000] *$196,779,000*, of which [$42,000,000] *$31,913,000* shall be for training activities under part C of title VII *including not more than $3,000,000 for the support of not to exceed 300 fellowships under section 7043.*

EDUCATION FOR THE HANDICAPPED

For carrying out the Education of the Handicapped Act, *as further amended in 1990*, [$2,747,730,000] *$2,253,503,000*, of which [$2,400,000,000] *$1,625,125,000* for section 611, [$257,730,000] *$300,000,000* for section 619, and [$90,000,000] *$120,000,000* for section 685 shall become available for obligation on July 1, 1991, and shall remain available [until] *through* September 30, 1992.

REHABILITATION SERVICES AND [HANDICAPPED] *DISABILITY* RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, Public Law 100-407, and the Helen Keller National Center Act, as amended, [$1,851,911,000] *$1,903,862,000*, of which [$17,455,000] *$20,188,000* shall be for special demonstration programs under sections 311 (a), (b), and (c), *including $1,000,000 for support of projects to serve low-functioning deaf adults.*

SPECIAL INSTITUTIONS FOR [THE HANDICAPPED] PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), [$6,076,000] *$6,500,000.*

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), [$37,531,000] *$38,495,000*, of which [$336,000] *$500,000* shall be for the endowment program as authorized under section 408 and shall be available until expended.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf and the partial support of Gallaudet University under titles I and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $74,047,000, of which $1,000,000 shall be for the endowment program as authorized under section 407 and shall be available until expended, and $2,500,000 shall be for construction and shall be available until expended.

VOCATIONAL AND ADULT EDUCATION

[For carrying out, to the extent not otherwise provided, the Adult Education Act, the Stewart B. McKinney Homeless Assistance Act, and the Omnibus Trade and Competitiveness Act of 1988, $245,000,000 which shall become available for obligation on July 1, 1991, and shall remain available until September 30, 1992, of which $3,000,000 shall be for national programs under section 383, and $5,000,000 shall be for literacy clearinghouse activities under section 384 of the Adult Education Act and $1,000,000 shall be for technology education demonstrations under title VI, subtitle B, chapter 2 of the Omnibus Trade and Competitiveness Act of 1988.]

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Applied Technology Education Act, the Adult Education Act, the Stewart B. McKinney Homeless Assistance Act, the Omnibus Trade and Competitiveness Act of 1988, and S. 1310 as passed by the Senate on February 6, 1990, $1,244,879,000 which, unless otherwise provided, shall become available for obligation on July 1, 1991, and shall remain available through September 30, 1992: Provided, That of the amounts made available under the Carl D. Perkins Vocational and Applied Technology Education Act, $7,500,000 shall, notwithstanding section 3(d)(2) and the funding distribution requirements of section 3(d)(1)(G), be for community education employment centers under title III, part G, subpart 1; $3,600,000 shall be for tribally controlled postsecondary vocational institutions under title III, part H, of which the Crownpoint Institute of Technology in Crownpoint, New Mexico shall receive $2,000,000 and the United Tribes Educational Technical Center in Bismarck, North Dakota shall receive $700,000; and $28,276,000 shall be for national programs under title IV, including $9,986,000 for research, of which $6,000,000 shall be for the National Center on Research in Vocational Education and $3,000,000, to remain available until expended, shall be for the national assessment of vocational education, $13,200,000 for demonstrations including $2,000,000 for literacy projects in State correctional institutions under section 420A, $5,000,000 for data collection, and $90,000, to become available on October 1, 1990 and to remain available through September 30, 1991, for regional meetings and negotiated rulemaking: Provided further, That of the amounts made available under the Adult Education Act, $1,000,000 shall be available only for demonstration programs under section 372(d), $3,000,000 shall be for national programs under section 383, and $5,000,000 shall be for literacy clearinghouse activities under section 384: Provided further, That $988,000 of the total appropriated herein shall be for technology education demonstrations under title VI, subtitle B, chapter 2 of the Omnibus Trade and Competitiveness Act of 1988, and: Provided further, That $2,000,000 of the total appropriated herein shall be for commercial driver literacy under S. 1310 as passed by the Senate on February 6, 1990.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 2, and 3 of part A and parts C, D, and E of title IV of the Higher Education Act, as amended, [$6,777,000,000] *$6,873,950,000, which shall remain available through September 30, 1992, and* of which $113,000,000 shall only be available if such funds are necessary to pay a maximum grant of [$2,300] *$2,400* during the 1991-1992 program year, which shall be the maximum Pell grant that a student may receive: *Provided*, That notwithstanding section 479A of the Higher Education Act of 1965 [(20 U.S.C. 1001 et seq.),] *as amended*, student financial aid administrators shall be authorized, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and the expected student or parent contribution (or both) and to use supplementary information about the financial status or personal circumstances of eligible applicants only for purposes of selecting recipients and determining the amount of awards under subpart 2 of part A, and parts B, C, and E of title IV of the Act: *Provided further*, That notwithstanding section 411F(1) of the Higher Education Act of 1965 as amended, the term "annual adjusted family income" shall, under special circumstances prescribed by the Secretary, mean the sum received in the first calendar year of the award year from the sources described in that section: *Provided further, That notwithstanding section 411(b)(6)(B) of the Higher Education Act of 1965, no Pell grant for award year 1991–1992 shall be awarded to any student who is attending an institution of higher education on a less than half-time basis: Provided further, That any institution participating in a loan program authorized under part B of title IV of the Higher Education Act of 1965 as amended, with a default rate, as determined by the Secretary, that exceeds 30 percent after award year 1990–1991 shall implement a pro rata refund policy that complies with minimum standards established by the Secretary in regulations, for any title IV student aid recipient who withdraws before the earlier of six months from the beginning of the course of study for which the assistance was received, or the date on which the student completes one-half of that course: Provided further, That notwithstanding sections 481(b) and 484 of the Higher Education Act of 1965 as amended, in order for a student to be eligible to receive any student financial aid authorized under title IV of the Higher Education Act of 1965 as amended, for award year 1991–1992, a student must have a high school diploma or its recognized equivalent, or, prior to enrollment in the course of study for which such assistance is sought, shall have secured a passing grade on a test of ability to complete successfully that course, and that the test shall be developed, administered, and graded by one or more organizations determined by the Secretary to be independent of the institutions using the test.*

GUARANTEED STUDENT LOANS

(LIQUIDATION OF CONTRACT AUTHORITY)

For payment of obligations incurred under contract authority entered into pursuant to title IV, part B, of the Higher Education Act, as amended, [$3,900,000,000] *$5,381,422,000.*

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided for, titles I, III, IV, V, VI, VII, VIII, IX, X, and XII of the Higher Education Act of 1965, as amended, the Mutual Educational and Cultural Exchange Act of 1961, [and the Library Services and Construction Act Amendments of 1984] *section 612(b) of Public Law 101-162, section 140 of Public Law 100-202, title XIII, part H, subpart 1 of the Education Amendments of 1980 and Public Law 101-300*, [$763,616,000] *$785,592,000*, of which [up to $27,500,000] *$17,893,000* for endowment activities under section 332 of part C of title III *of the Higher Education Act,*] *$300,000 for section 777* and $20,900,000 for interest subsidies under part D of title VII *of the Higher Education Act, $5,500,000 for section 612(b) of Public Law 101-162, $3,000,000 for section 140(a) and $1,000,000 for section 140(b) of Public Law 100-202 and $2,500,000 for Public Law 101-300* shall remain available until expended [, and of which $3,000,000 shall be for carrying out section 304 of Public Law 98-480: *Provided, That of the amounts provided herein, $750,000 shall be available for subpart 1 of part H of title XIII of the Education Amendments of 1980:* [*Provided*, That $8,627,000] *Provided further, That $9,500,000* provided herein for carrying out subpart 6 of part A of title IV shall be available notwithstanding sections 419G(b) and 419I(a) of the Higher Education Act of 1965 (20 U.S.C. 1070d-37(b) and 1070d-39(a)): *Provided further*, That $1,000,000 of the amount provided herein for subpart 4 of part A of title IV of the Higher Education Act shall be for an evaluation of Special Programs for the Disadvantaged to examine the effectiveness of current programs and to identify program improvements: *Provided further, That of the amounts provided herein, $5,000,000 shall be available until expended to carry out title III of H.R. 2666 as passed by the Senate, contingent upon enactment of authorizing legislation: Provided further, That of the amounts provided herein, $1,000,000 shall be available to carry out title II of the Educational Excellence Act, as passed by the Senate: Provided further, That of the amounts provided herein, $4,000,000 shall remain available until expended for an award for carrying out part B of title VII of the Higher Education Act.*

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), [$200,036,000] *$195,536,000*, of which [$3,000,000] *$4,500,000*, to remain available until expended, shall be for a matching endowment grant to be administered in accordance with the Howard University Endowment Act (Public Law 98-480), [and $6,000,000, to remain available until expended, shall be for emergency construction needs].

HIGHER EDUCATION FACILITIES LOANS

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program for the current fiscal year. For the fiscal year 1991, no new commitments for loans may be made from the fund established pursuant to title VII, section 733 of the Higher Education Act, as amended (20 U.S.C. 1132d-2).

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing and academic facilities loans program, the Secretary shall make expenditures, contracts, and commitments without regard to fiscal year limitation: *Provided*, That during fiscal year 1991, gross commitments for the principal amount of direct loans shall be [$30,000,000] *$5,000,000.*

For payment of interest on funds borrowed from the Treasury pursuant to section 761(d) of the Higher Education Act, as amended, $8,449,000, to remain available until expended.

COLLEGE HOUSING LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing loans program, previously carried out under title IV of the Housing Act of 1950, the Secretary shall make expenditures and enter into contracts without regard to fiscal year limitation using loan repayments and other resources available to this account. Any unobligated balances becoming available from fixed fees paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for inspections and site visits, shall be available for the operating expenses of this account.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

For necessary expenses to carry out section 405 and section 406 of the General Education Provisions Act, as amended, *and title IX of the Educational Excellence Act, as passed by the Senate*, [*$133,860,000*] *$139,726,000*, of which $4,000,000 shall be for the rural education program conducted by the regional laboratories which shall be in addition to the amounts carried forward from fiscal year 1990 for this purpose *and of which $5,000,000, to remain available until expended, shall be for the National Board for Professional Teaching Standards.*

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, III, IV, V, and VI of the Library Services and Construction Act (20 U.S.C. ch. 16), and title II of the Higher Education Act, [$140,800,000] *$146,428,000* of which [$18,900,000] *$19,693,000* shall be used to carry out the provisions of title II of the Library Services and Construction Act which shall remain available until expended.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $331,000,000, *of which $125,000 shall be for an Office of Correctional Education as authorized by title VI, part A of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990.*

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, [$49,900,000] *$50,900,000.*

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $25,800,000.

GENERAL PROVISIONS

SEC. 301. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet University shall be subject to financial and program audit by the Secretary of Education and the Secretary may withhold all or any portion of these appropriations if he determines that an institution has not cooperated fully in the conduct of such audits.

SEC. 302. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 303. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 304. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 305. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

This title may be cited as the "Department of Education Appropriations Act, 1991".

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, [$191,659,000] *$200,136,000: Provided*, That [$30,500,000] *$31,569,000* shall be available for title I, section 102. [and $2,245,000 shall be available for title I, part C.]

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1993, [$306,505,000] *$341,940,000*, of which [$46,940,000] *$66,940,000* shall be available for section 396(k)(10) of said Act: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171-180, 182-183), including hire of passenger motor vehicles; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. chapter 71), $27,705,000.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 ct seq.), $4,292,000.

JOINT STUDY COMMISSION ON POSTSECONDARY INSTITUTIONAL RECOGNITION

For salaries and expenses necessary to carry out the functions of the Joint Study Commission on Postsecondary Institutional Recognition as authorized by section 1206 of the Higher Education Act, as amended (20 U.S.C. 1145a), $1,000,000, to remain available until expended.

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

For expenses necessary for the National Commission on Acquired Immune Deficiency Syndrome as authorized by subtitle D of title II of Public Law 100-607, $3,000,000.

NATIONAL COMMISSION ON CHILDREN

For necessary expenses of the National Commission on Children established by section 9136 of the Omnibus Reconciliation Act of 1987, Public Law 100-203 as amended, $1,100,000, which shall remain available until expended.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-845), $750,000.

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

For necessary expenses of the National Commission to Prevent Infant Mortality, established by section 203 of the National Commission to Prevent Infant Mortality Act of 1986, Public Law 99-660, $400,000, which shall remain available until expended.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, [$1,200,000] *$1,750,000.*

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, [$151,103,000] *$140,111,000: Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, $6,675,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For the expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $6,401,000.

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $3,871,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1886(e) of the Social Security Act, [$4,073,000,] *$3,869,000*, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, [$328,000,000] *$335,000,000*, which shall include amounts becoming available in fiscal year 1991 pursuant to section 224(c)(1)(B) of Public Law 98-76: *Provided*, That the total amount provided herein shall be [credited to the account in 12 approximately equal amounts on the first day of each month in the fiscal year] *immediately credited to the account: Provided further, That the amount provided herein plus the interest earned thereon shall be available for payments through September 30, 1991.*

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, [$100,000] *$400,000*, to remain available through September 30, 1992, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98-76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, [$73,125,000] *70,200,000* to be derived from the railroad retirement accounts, of which $2,457,000 shall be available for the lease-to-purchase costs and contract services related to the installation of a mainframe computer only upon the delegation of procurement authority from the General Services Administration to the Railroad Retirement Board: *Provided*, That $200,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum ab-

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sorption of the costs of such workloads within the remainder of the existing limitation has been achieved: *Provided further,* That notwithstanding any other provision of law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 228a–r).

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than [$15,909,000] *$15,420,000* shall be apportioned for fiscal year 1991 from moneys credited to the railroad unemployment insurance administration fund of which $433,000 shall be available for the lease-to-purchase costs and contract services related to the installation of a mainframe computer only upon the delegation of procurement authority from the General Services Administration to the Railroad Retirement Board.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than [$6,000,000] *$7,698,000*, to be derived from the railroad retirement accounts and railroad unemployment insurance account.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Soldiers' and Airmen's Home permanent fund, $41,583,000: Provided, That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CAPITAL OUTLAY

For construction and renovation of the physical plant, to be paid from the Soldiers' and Airmen's Home permanent fund, $11,500,000, to remain available until expended.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, [$8,000,000] *$9,200,000.*

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

For carrying out activities under Public Law 100–382, $1,000,000.

TITLE V—GENERAL PROVISIONS

SEC. 501. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 502. No part of any appropriation contained in this Act shall be expended by an executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

SEC. 503. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18.

SEC. 504. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

SEC. 505. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided,* That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 509. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 510. The Secretaries of Labor and Education are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 511. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

SEC. 512. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 513. None of the funds appropriated under this Act shall be used to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug unless the President of the United States certifies that such programs are effective in stopping the spread of HIV and do not encourage the use of illegal drugs.

SEC. 514. Notwithstanding any other provision of this Act, funds appropriated for salaries and expenses of the Department of Labor are hereby reduced by $9,000,000; salaries and expenses of the Department of Education are hereby reduced by $5,000,000; and salaries and expenses of the Department of Health and Human Services are hereby reduced by $50,000,000: Provided, That no trust fund limitation shall be reduced with the exception of the Social Security Administration, Limitation on Administrative Expenses, which is hereby reduced by $57,000,000.

SEC. 515. For purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, transfers, if any, in the following accounts are a necessary (but secondary) result of significant policy changes: Training and Employment Services; State Unemployment Insurance and Employment Service Operations; Health Resources and Services; Low Income Home Energy Assistance; Interim Assistance to States for Legalization; and Human Development Services.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1991".

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. The chairman of the Subcommittee on Labor, Health, Human Services, and Education is now on his way to the Senate floor. I think for the intervening moment or two, it would be the best procedure to await the arrival of Senator HARKIN.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, while we are waiting the arrival of Senator HARKIN, I think it appropriate to notify all Senators that the bill is proceeding and that we solicit any amendments because the majority leader has announced his intention to go forward on a Saturday session until we finish this appropriations bill and the appropriations bill on Foreign Operations. So that to the extent we can have cooperation of Senators, we would very much appreciate it and we would like to proceed with amendments so we are in a position to move to third reading at the earliest possible moment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, the appropriations bill now before the Senate has gone through a long and careful process to reach the Senate floor.

In developing the legislation, the committee held 20 hearings, taking extensive testimony from administration witnesses, as well as from other 150 public witnesses. The priorities of the four authorizing committees that authorize programs included in this bill have been considered carefully, as have the letters and requests the committee has received from 99 of the 100 Members of the Senate. Every effort has been made in this legislation to accommodate the Members' interests.

Mr. President, the Subcommittee on Labor, Health, and Human Services, Education, and Related Agencies has a discretionary outlay ceiling of $53.534 billion. The bill now before the Members has been scored by the Congressional Budget Office and the Senate Budget Committee, and we are at the full outlay ceiling.

Amendments that Members would make to this bill would need to have outlay offsets to be in order under section 302(f) of the Budget Act.

The bill as reported to the Senate totals $183,334,110,000. Seventy-two percent of this total is for mandatory programs included in the jurisdiction of the subcommittee, such as Medicaid, Medicare, guaranteed student loans, and black lung benefits. The committee has virtually no control over these mandatory programs since reduction or expansion of the program benefits is under the jurisdiction of the several authorizing committees. The remaining $50.698 billion of the budget authority included in the bill is for discretionary programs under the subcommittee jurisdiction.

This legislation funds all the important health and human services programs, all the education programs, and all of the welfare assistance programs of the Federal Government. This appropriations bill has been called the people's bill because this bill funds programs to help the poor become self-sufficient.

It funds programs to find cures for disease and provide health care assistance to those who need it. This bill also funds the programs that help educate our young people.

There are never enough funds to meet the needs of these many critical programs. Nevertheless, in view of the fact that we had no amendments offered in subcommittee, and only on voice vote in full committee, I believe it suggests that the bill is well balanced.

I would like to give the Members a few highlights of the bill:

For AIDS we have included $2,184,955,000 or 41 percent more than last year. This is $561,607,000 more than the 1991 request and $518,234,000 more than the House. Included in these totals is $600,000,000 for the new AIDS care bill provided over 2 years. The 1991 total for the AIDS care bill is $159,000,000, with $49,000,000 of this total for emergency assistance for the 16 high impact cities.

Mental illness research is funded at a level of $491,000,000, which is $78,000,000 over the administration request.

I wish to express, Mr. President, my personal thanks to both Senators RUDMAN and DOMENICI for their efforts in highlighting the mental illness research effort, and for their help and support in getting these levels that are much needed for mental illness research.

We have also doubled all the funding in the bill provided for Alzheimer's research, bringing Alzheimer's research to a total of $305 million.

We are recommending $2,000,000,000 for the Head Start Program, which is $448,000,000 over the 1990 level and $114,000,000 over the 1991 request. Because this program is unauthorized, the House provided zero.

For the Low-Income Home Energy Assistance Program, we are providing $1,450,000,000, $400,000,000 over the administration request. Again because this program is unauthorized, the House provided no funding for LIHEAP.

For chapter 1 we are recommending just under $6,380,000,000, which is $1,000,000,000 over last year, $540,000,000 over the request for 1991, and $154,000,000 over the House bill.

For the Pell Grant Program the committee recommends $5,336,000,000, which is $430,000,000 over the 1991 request and $293,000,000 over the House bill. Unlike the House, we are recommending an increase of $100 in the maximum grant award level which has been frozen for the last 2 years.

Finally, for programs for the aging we are recommending $787,000,000 which is almost $65,000,000 more than the 1991 request and $6,000,000 more than the level recommended by the House.

These are some of the highlights There are more. But instead of taking more of the Members' time, I would like to yield to Senator SPECTER for any opening statement he may have Following Senator SPECTER's statement, we will be ready to answer questions or entertain any comments or amendments the Members may have.

Mr. President, before I conclude my remarks, I also wanted to recognize the staff who have worked long and hard on this bill over the year. As I said, we had no amendments in subcommittee, and only one voice vote in full committee, which indicates the staff worked very hard on both sides of the aisle.

On the majority side, Mike Hall, Jim Sourwine, Amy Schultz, Carol Mitchell, Terry Muilenburg, Nancy Anderson, and Sandra Kruhm; on the minority side, Craig Higgins and Bettilou Taylor, Robin Rosenkrantz, and Susan Steinkamp.

Also I want to say a special word of thanks to our editorial and printshop who this year at our request got the hearing records published before we went to subcommittee markup. This is a real record that the subcommittee has not done in at least 20 years. For this good effort I want to thank Richard Larson, Bob Swartz, Clarence Erney, Bernie Babik, and Ian Reid.

Lastly, Mr. President, let me thank my good friend—and I mean that in every sense of the word—Senator SPECTER for all of his help in working on this bill, working closely with me and his staff and our staff working closely together.

As I said, when we went to subcommittee, I do not think we spent probably more than an hour total on the bill in subcommittee, with no amendments, which indicates we had a very close working relationship on both sides of the aisle. Again I want to commend Senator SPECTER for his great leadership in getting a very difficult bill pulled together.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Pennsylvania [Mr. SPECTER].

Mr. SPECTER. Mr. President, I believe that the distinguished chairman of the subcommittee, Senator HARKIN, has accurately summarized the bill. This is a very important appropriations bill—Labor, Health, Human Services, and Education—because it encom passes a very broad range of important provisions.

Chairman Harkin has outlined what we have done on a number of important issues: for example, AIDS, mental health, Alzheimer's disease, low-income energy assistance. We have made special efforts in expanded lines on lead-based paint, crack babies, infant mortality, capital expenditures for private schools, drug-free schools and communities, substance abuse treatment, literacy programs, mine safety and health administration, black lung, and in many, many others.

Regrettably, as we have moved through the allocation process, we simply have not had enough money to do as many things as we would have liked to do. One of the items taken up, the single item at the full committee, was the allocation to AIDS. We are still searching for ways to provide more funding for that catastrophe which has struck the Nation.

We are in a difficult position, Mr. President. We are at 7 minutes after 1 on a Friday afternoon. We have a bill to be considered. There are amendments to be offered. So I will not take any more time with any additional comments.

I do thank and commend the chairman, Senator Harkin, for his diligent work on this bill. It is not an easy matter to make the allocations when there are so many people in America who have so many needs in the fields of labor, health and human services, and education.

Senator Harkin has commended the staff by name, and I think that is most appropriate, and he has added commendations to the printers as to what they have done.

I conclude by urging our colleagues to come to the floor promptly. I have discussed with the majority leader on other occasions, when he sent out a letter early this year asking for recommendations, that we ought to go to third reading at an early time once Members are on notice that the floor is open for amendments. I think there is no better time to emphasize that than on a Friday afternoon when we have been waiting in the wings for this bill and the Foreign Operations Subcommittee bill with a Saturday session possible.

So I hope we can move quickly to do the will of the Senate and move this appropriations process forward swiftly.

Mr. ADAMS. Mr. President, if they ever gave a Nobel Prize for the creative use of a 302(b) allocation, it would go to Tom Harkin. My appreciation for his work in crafting fiscal year 1991 Labor, HHS, Education and related agencies appropriations bill is enhanced by the reality that he received over 1,000 requests from 99 Senators.

As a member of the Labor, HHS Subcommittee, and as chairman of the Labor Committee's Subcommittee on Aging, and of course 1 of the 99, I am pleased that the bill, and accompanying report language, includes a number of items that I sought and believe to be very important to the well-being of the Nation's women and older citizens.

I am particularly pleased with the funding levels for programs under the Older Americans Act [OAA]. These critical programs, such as congregate and home-delivered meals, transportation to health and social services, in-home long-term care services, legal assistance, and others are critical particularly to low-income, minority, and other vulnerable older Americans. OAA programs have gone too long without a meaningful increase in funding. In light of the demographics of a rapidly aging society, the OAA's ability to keep pace with the needs has fallen steadily and harmfully behind.

The bill also includes important language addressing the needs of older women, particularly in programs under the National Institute of Aging [NIA]. The Baltimore Longitudinal Study on Aging, funded by the NIA, has been studying the aging process for over three decades. Yet in 1984 when they reported their findings, they didn't include women—despite the fact that women had been part of the study since 1978. My language will remedy that. It calls for the Department of Health and Human Services to publish a report summarizing the findings of more than 90 independent studies including women, discuss the implications of gender on the aging process, and make recommendations for future research on aging issues of concern to women.

We have also successfully included $2 million for the establishment of an office of women's health research at NIH to provide leadership in the area of women's health. Among the responsibilities of the office will be to monitor the inclusion of women in clinical research trials. As the sponsor of the Clinical Trials Fairness Act which requires NIH to do this, I am very pleased to see that the office has received funding to monitor and direct research on health issues of concern to women and to make sure women are included in all appropriate research trials.

I am also pleased that the committee has included $600,000 for the National Institutes of Health [NIH] to contract with the National Institute of Medicine to conduct a study which focuses on women's health research and includes recommendations on how research on women's health may be better addressed. Also of great significance is the committee's support for NIH to establish a clinical service in ob/gyn and an intramural research program in gynecology and obstetrics within the National Institute of Child Health and Human Development. To me it is unbelievable that this does not already exist, but since it does not I am very thankful that my colleagues have seen fit to support such a program now.

The many people who are affected by interstitial cystitis [IC], and I have been in close contact with individuals in my home State who suffer from IC, will be happy to hear that an additional $2.5 million is provided in the Senate bill to fund research on this debilitating bladder disease which mainly affects women. The new funds are to be used toward the establishment of a national IC registry and to support IC research solicited through a request for applications specifically for this disease in fiscal year 1991.

I have only several last items that I would like to mention. Enough cannot be said about the importance of the funding provided in this bill for infertility and contraceptive research centers. As I understand it, this bill will provide the funds needed to launch five new research centers, two of which will focus on infertility and three to focus on contraceptive research. The committee also provided $10 million to fund the Mikulski-Waxman breast cancer screening bill to prevent breast and cervical cancer mortality.

The bill before us is a breath of fresh air with regard to research on key health issues. As a person who not only is deeply committed to research but also as one who has experienced the terrible tragedy of Alzheimer's disease in my family, I am particularly delighted with the significant increase slated for the NIA for research on Alzheimer's disease.

I urge my colleagues to support this important measure.

Mr. BYRD. Mr. President, today we are considering H.R. 5257, the Labor, Health and Human Services, Education appropriations bill for fiscal year 1991. This measure provides necessary funding for the programs of the Departments of Labor, Health and Human Services, and Education, and 20 related agencies, including the Corporation for Public Broadcasting and the Railroad Retirement Board.

Among the activities funded by the bill are: biomedical research, Head Start, black lung benefits, administrative costs of the Social Security and Medicare programs, various public assistance entitlement programs, higher education, and compensatory education.

The bill as recommended by the Committee of Appropriations provides total obligational authority of $183,334,110,800. This represents an increase of $11,597,599,000 above the President's request and an increase of $12,659,668,000 above the House-passed bill. I note that some

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$6,666,646,000 recommended by the Committee was not considered by the House. I further note that of the amount recommended, some $50.7 billion is for discretionary activities. The remainder is for programs that are mandatory under existing law.

With respect to the subcommittee's 302(b) allocation, the bill as recommended is within both the budget authority and outlay ceilings.

I commend Senator Harkin, chairman of the subcommittee, and Senator Specter, the ranking minority member, for their excellent work in meeting the priorities of the Senate within the constraints of the budget agreement. Their work was greatly assisted by the cooperation of their colleagues on the subcommittee and on the full Committee on Appropriations.

I also wish to commend the staff of the subcommittee: Mike Hall, Jim Sourwine, Carol Mitchell, Amy Schultz, Terry Muilenburg, Craig Higgins, Bettilou Taylor, Nancy Anderson, Sandra Kruhm, Robin Rosencrantz, and Susan Steinkamp.

The managers have explained in much greater detail the contents of the measure as recommended. The bill as reported by the Appropriations Committee deserves the support of the Senate.

Mr. HARKIN. Mr. President, it is my understanding that the Senator from Colorado [Mr. Armstrong] has an amendment that he wishes to offer, again, as I understand it, to page 43, line 25. I ask for his attention on this.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc with the exception of the amendment on page 43, line 25, and that we move to that right away, that the Senator from Colorado be recognized to offer an amendment right away.

The PRESIDING OFFICER. Is there objection?

Mr. ARMSTRONG. Mr. President, reserving the right to object, I wonder if my friend from Iowa would be willing to rephrase slightly his unanimous-consent request in accordance with our earlier discussion, that we move to the consideration of the proposed committee amendment that begins on page 43 but withhold the other portion of his request for the time being that is, the part that says the other amendments will be considered en bloc and agreed to.

Mr. HARKIN. Mr. President, I would be willing to do that. I understand the Senator has an amendment to offer to that. It would be this Senator's intention however, if we could go to regular reading of the amendments in order, since the Senator is on the floor and trying to expedite things. We will move to that, after which time I would hope that we might return back to the regular order of the amendments after that, and move through those very rapidly.

The PRESIDING OFFICER. The Chair would interpret the Senator's unanimous-consent request as to take up the amendment by the Senator from Colorado first, and then to renew a request for treatment en bloc of the remaining amendments after the disposition of this amendment.

Mr. ARMSTRONG. Mr. President, actually, I think his request was to consider that committee amendment at this time which would then be open to amendment by the Senator from Colorado.

Mr. HARKIN. Mr. President, right now, I do not have to ask anything. The Senator from Colorado can go ahead and amend right now if he wants to, I believe.

I yield the floor.

The PRESIDING OFFICER. The Chair reminds the Senator that the pending question, without a unanimous-consent request, is the first committee amendment on page 2, line 5.

Mr. ARMSTRONG addressed the Chair.

Mr. HARKIN. Mr. President, I ask unanimous consent that we proceed to the committee amendment on page 43, beginning on line 25.

The PRESIDING OFFICER. Without objection, that will be the order.

Mr. ARMSTRONG. Mr. President, I would like to express my appreciation to the Senator from Iowa for helping me to expedite consideration of my amendment in this way. I assure him that I will repay his kindness by seeking in every way to deal with this expeditiously. In fact, the amendment which I want to offer is neither complex nor unfamiliar to the Senate. I see no reason why it should take a lengthy debate. I appreciate his courtesy in arranging it in that way.

AMENDMENT NO. 2954

(Purpose: To protect the health and well-being of young people and the integrity of their families)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. Armstrong] proposes an amendment numbered 2954 to Committee Amendment on page 43, line 25.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 44, on line 8, change the period to a semicolon and add the following: "None of the funds contained in this Act may go to any entity receiving funding under this Act unless such entity certifies to the Secretary that it will not provide an abortion for an unemancipated female under the age of 18 until at least 48 hours after written notice of the pending abortion has been delivered in the manner specified by this subsection, except in instances where an attending physician certifies in such minor's medical record that the abortion was performed due to a medical emergency requiring immediate attention. *Provided, however,* That such entity certifies to the Secretary that such notice shall be addressed to the minor's parent or legal guardian at the usual place of abode of such parent or legal guardian and delivered personally to such parent or legal guardian by the physician performing the abortion or an agent of the entity; or be made by certified mail addressed to the minor's parent or legal guardian at the usual place of abode of such parent or legal guardian with return receipt requested and restricted delivery to the addressee, which means postal employees may only deliver the mail to the authorized addressee. Time of delivery shall be deemed to occur at 12 o'clock noon on the next day on which regular mail delivery takes place, subsequent to mailing. *Provided further,* That this section shall not apply to entities in States that have in effect laws requiring that a parent or legal guardian be notified of, or give consent to, an abortion to be performed on the minor child of such parent or legal guardian.".

Mr. HARKIN. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, as all Senators know, and I think probably every parent knows, it is the well-established principle of law and medical practice that if a minor child is going to have a surgical procedure in almost any jurisdiction of the country, you have to have the consent of at least one parent.

If you are going to have an appendectomy, a tonsillectomy, whatever it might be, doctors and hospitals routinely check signals with the parent for the very obvious reason that, with respect to very young children, the children are really not in a position to exercise the proper judgment, and even with respect to teenage young people, the need for parents to be involved in that decisionmaking process is well established not only by law, as it is in I guess every State—I think it is in every State of the Union—but, more than that, just by the common sense realization that young people are not always in the best position to make that judgment about their own future and their own welfare.

That applies to not only surgical procedures, but to things like giving blood. As I understand it, the routine—I do not know whether this is so much sanctioned by law as just by long-standing custom—is when you go to give blood, if you are an emancipated minor child, as the law would de scribe such person, then in that event you have to have your parent's permission. You go down to the Red Cross to give blood, you have to have permission of a parent. Even if you go down to Tysons Corner Shopping Center, I think, to have your ears pierced—I will say I frankly cannot imagine why anybody, male or female, would wish to have their ears pierced, but I am told this is a fashionable thing to do among people of a certain age—if you do that, and you are a minor, in most places—not every place—you have to have permission of a parent.

That brings me to another kind of surgical procedure far more serious than giving blood or having your ears pierced, and indeed, far more serious than an appendectomy or even open heart surgery, and that is abortion.

Mr. President, Senators will not be surprised to learn that I am gravely concerned about the permissiveness of our country toward abortion. It is heartbreaking not only for the lives of the unborn children that have been sacrificed, which is a tragedy, and in my view a national calamity, but, in addition it is a tragedy for the effect on the parents of the unborn child, and the grandparents of the unborn child.

This amendment which I now offer does not forbid abortion. I say that because many Senators might, if they just casually happen to overhear a portion of this debate and knowing my sentiment in my heart and my conviction, might assume that I was offering an amendment to put an end to abortion. Indeed that is in my heart. I hope to live to see the day when our country will not perform abortions except under very, very unusual and rare circumstances. That is not what my amendment does.

My amendment says that in the event an abortion is to be performed by an entity or an organization which receives funding from this bill, that before an abortion is performed at least written notice must be given to one parent of a minor child 48 hours prior to her obtaining an abortion.

I have already pointed out that for any other kind of surgical procedure, even minor surgical procedures, you have to get parental consent. I am not even asking parental consent. I am not seeking first to outlaw abortion, nor am I seeking parental consent. All I am seeking is a very low-key form of parental notification, and even under some circumstances provide for a waiver of that.

But I make that point so that any Senator who may be wondering about circumstances of this amendment and how it would apply in real life should be on notice that this is not going to stop abortion.

This is not going to require that parents give permission for abortion. It is just going to say that they will be notified, and then only in those cases where the funding comes through an entity which receives money under this act. What happens in any private abortion clinic is beyond the scope of my amendment. And, also, I might say, what happens in any jurisdiction which has enacted parental involvement laws, even if they were contrary to the spirit or letter of what I have provided in my amendment, anything in those States are also exempted.

Mr. President, a State's interest in protecting the welfare of minors is well established by custom and tradition in our country, and I think Senators would like to know that some 35 States have enacted legislation with respect to parental involvement in the abortion process. I want to say, again, that in those States, to the extent that they have a valid existing law—some of the 35 who have passed laws do not have valid existing laws, because of court decisions or for other reasons—but in those States where there is a valid existing law, whatever it is, on parental involvement, my amendment does not affect any abortions performed in those States.

So we have a proposed amendment of very narrow scope, much less, honestly, than I would like to propose. But the reason I come forward with this narrowly defined proposal is really for two reasons, First, because we are dealing here with an appropriation bill, which is probably not the place to try to set broad-gauge policy, if we can do it in a more narrowly focused way, and deal with exactly what is before us. What we have before us, is the appropriation bill for the Department of Health and Human Services. So I am saying, with respect to money that comes through HHS, this amendment would apply at least in those States that do not have a valid existing parental involvement statute requiring parental notification, not consent.

Mr. President, I should note also, for the record, that my second reason for suggesting this exact language, is that the Senate is already on record in support of the principle of parental involvement. On September 26 the Senate adopted a similar amendment by a voice vote after an attempt to table the underlying provision was defeated on a rollcall of 43 to 54. So, for that reason, I am encouraged to think that maybe as the session draws to a close, it would not be a time to invent new language and new approaches, but to offer language we have previously accepted on the title X bill and make it applicable to HHS.

Mr. President, that is the crux and burden of my argument. I could certainly elaborate. I would be happy, if anybody wishes me to, to recite the statistics on abortions in Minnesota, where they have a similar parental involvement approach, or in the State of Massachusetts or elsewhere. My staff has briefed me, as you can tell, to recite not only what happened in the States, but also the Supreme Court decisions, scholarly articles, and other pertinent data. But I do not think Senators really require a great deal of additional explanation.

Let me sum it up. My amendment says that in those States that do not have parental involvement legislation, in those States where an abortion is proposed to be performed by an entity that receives money from this appropriation bill, not from any other, then in those instances, before the abortion is performed, the entity would be required to certify to the Federal Government that their policy is to provide a written notification to at least one person, not consent, but only that the parent be notified.

With that word of explanation, I am prepared to rest my case, and I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ARMSTRONG. Mr. President, I am somewhat taken by surprise that there is not a sufficient second. I would be happy to come forward and suggest the absence of a quorum and get 100 Senators over here so we can get a second, I assume. That is not the desire. I ask again for the yeas and nays.

Mr. HARKIN. If the Senator will yield, we were discussing this over here. This amendment, as the Senator pointed out, was just adopted here not more than 2 or 3 weeks ago, and since the will of the body has already been expressed here, we will go ahead and take it.

Mr. ARMSTRONG. Mr. President, ordinarily, that would be my desire and wish. In fact, if the Senator will recall, when we voted on this before, I was the one who suggested the final adoption be on a voice vote after a tabling motion. I have had requests from Senators that they want a chance to vote. There may be some Senators who voted on the tabling motion, in some way viewing it as a procedural vote, or for some other reason, who would like to have a chance to be recorded on this matter. At their request, I do ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ARMSTRONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Iowa [Mr. HARKIN], is recognized.

Mr. HARKIN. Mr. President, this is an amendment that was offered 2 or 3 weeks ago to another amendment that was here on the floor and was adopted after a motion to table was made on the underlying amendment by Senator LIEBERMAN failed. The motion to table failed, and thus this amendment then carried on beyond that failed motion to table.

I have read this amendment by the Senator from Colorado. I did not much listen to his comments but I did read it. It is a parental notification amendment providing that none of the funds in this act would go to any entity receiving funding under this act unless such entity certifies to the Secretary that it will not provide an abortion for an unemancipated female—that is an interesting word—under the age of 18, until at least 48 hours after written notice of the pending abortion was delivered in the manner specified by this subsection, et cetera.

This Senator has long been in favor of some form of parental notification as long as there is some kind of judicial bypass in the situation where a young women might come from a broken home, or where a young woman might be a victim of rape or incest. There must be some leeway, and there must be some manner of providing something other than parental notification in those cases.

I read the amendment, and there is no exception to that. There is no exception in this amendment for rape or incest. So—and I hope Senators will pay attention to this when they come to vote on this—what this basically provides is, let us say you have a young woman who could be 17 years old. Let us take a young girl. Let us say she is 13 years old, comes from a broken family. Maybe the mother is not there. She is living with the father. The father could be a drug abuser, an alcoholic, sexually abusing his daughter. It happens every day in this country. Rape and incest are the two most underreported crimes in this country.

So let us say you have a young girl who is a victim of incest. She goes down to the Planned Parenthood clinic, or it could be another clinic that might be receiving title X funds. She is poor. She has no money. She goes down there because she thinks she is pregnant and finds out that she is a victim of incest; she wants to terminate the pregnancy.

What this amendment says is that they have to notify the very person responsible, her father, give him notification of this. I find that abnoxious. I find that just totally obnoxious. But there is no leeway in this amendment. It does not provide for any exceptions in that case.

We have a case that happened in Idaho last year, of a young girl who was a victim of incest. Before she could go across the State line to Oregon—because she could not get one in Idaho, she was going across the State line to Oregon to terminate her pregnancy—I think she was 13 years—her father found out that she was going to do that, and he shot and killed her. She was a victim of incest. When he found out she was going to get an abortion, he shot and killed her.

This amendment allows for no exceptions. It is cruel, it is heartless, it is uncaring, and it does not provide for the kind of compassionate and caring society that I want to see in this country. I am all for parental notification but there must be leeways, there must be bypasses, there must be opportunities for a young women who would find herself in that situation.

Again, the amendment provides for the delivery by mail. It has either to be delivered by the physician performing the abortion or an agent of the entity or be made by certified mail with a return receipt requested, which means the postal employees may only deliver the mail to the authorized addressee.

Let us take another case. You have a young woman, 17 years old—this applies to females under the age of 18. Let us say you have a young woman, 17 years old, who has been the victim of rape, comes from a broken home, is poor. She goes down to seek to terminate a pregnancy caused by a rape.

This amendment says they have to notify one of her parents or legal guardian. But maybe there is no one like that around. The mother is gone. The father could be off someplace. Perhaps there is no legal guardian. We have young kids all over this country sleeping on the streets, sleeping under bridges. There was just an article in my own Des Moines Register a few weeks ago about the young kids living in the woods. Because they have been sexually abused at home, parents on drugs, alcoholics, kids are living out in the streets.

For these young girls are the victims of rape, this amendment does not provide for any leeway. It says, either the doctor has to hand deliver it or it has to be by certified mail with return receipt requested, and the postal employee must deliver it to the parent or legal guardian.

What if there is no one there? Do you know what this amendment says to that young woman who is 17 years old, the victim of rape? It says "Tough luck. You thought you were out in the cold before, you are really out in the cold now. You do not have a choice. You have no choice. You have been the victim of rape and violence once. Forget it, you have to carry that child to term." That is what this amendment says.

That is why, Mr. President, this are of parental involvement ought to be left to the States. The States ought to decide the parameters of parental notification and parental consent.

Mr. SPECTER. Mr. President, wil the chairman yield for a question?

Mr. HARKIN. I am delighted t yield.

Mr. SPECTER. The question which arises in my mind—and we have jus been served with the notice of thi amendment by the distinguished Senator from Colorado—is whether thi amendment is constitutional unde the opinion of Webster and the decisions since. I believe Justice O'Conno has held that there has to be som bypass provision which would hav some alternative beyond the notification of the parent.

Perhaps I could best address tha question to Senator ARMSTRONG. regret that I do not have the answe myself. I have read the opinions bu as I said, I did not know that this wa going to be presented at this time. would be interested if that issue ha been considered on the constitutiona ity question.

Mr. HARKIN. Mr. President, I as unanimous consent to allow the colloquy to be engaged in by the Senato from Colorado and the Senator fro Pennsylvania, provided I do not los my right to the floor at such time they finish the colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, direct that question through the Cha to the Senator from Colorado. I do no wish to press the point unduly becaus it is a technical legal question, bu that is a matter of concern to this Senator.

Mr. ARMSTRONG. Mr. Presiden this is going to be one of the shorte colloquys we have ever had aroun here because sometime earlier in m legislative career I got out of the hab of trying to practice law on the flo of the Senate.

I do not know what the courts wou do with it. It is a reasonable provisio It is a provision that is similar to wh we have adopted previously. It is provision that is similar to what h been adopted by two-thirds of th States of the country. I have n looked at the specific case that th Senator asked about, though I shall so. That certainly is something that would take into consideration.

However, I am familiar with sor cases where the courts have said— fact, at the right time I am going quote from at least one of them—where the courts have pointed out that the law assumes that parents would be involved in such decisions and presumes that parents act in the best interest of the child. They may not always do so and there are certainly some tragic exceptions to that. But certainly in the past courts have upheld things that are, at least to the common sense of the issue, analogies to this amendment.

Mr. SPECTER. I thank the distinguished Senator from Colorado. He has the advantages over me. He said that he has avoided the practice of law for many years since coming to the Senate. That is a luxury that this Senator cannot engage in. I am always involved in the practice of law. I have been doing it too long to do anything else.

But I raise the question—one raised by Justice O'Connor, who was the pivotal vote in the Supreme Court on the Webster case—that without some bypass procedure which would go to the Court, the requirement of notification of parents impinged on constitutionality. Justice O'Connor is one of the most sympathetic to the kind of interest the Senator from Colorado is pursuing.

Mr. ARMSTRONG. Will the Senator yield?

Mr. SPECTER. Yes.

Mr. ARMSTRONG. Is not the Minnesota case the Senator referred to quite different than this? As I recall, that was an issue where both parents had to be notified and give consent. That is quite different than the standard we are establishing here, which is notification, not consent and notification, of only a single parent.

Mr. SPECTER. Well, the Senator from Colorado may be correct. I am going to send for the opinion and see if I cannot shed some light on this issue before we finish our debate.

I thank my distinguished colleague for permitting the interruption.

The PRESIDING OFFICER. The Senator from Iowa retains the floor.

Mr. HARKIN. Mr. President, I also have a question about this notification. I just wondered if the Senator from Colorado could respond to my question about what happens to a young women who, as I said, was 17 years old, a victim of rape, finds herself pregnant, has no money, goes to a Planned Parenthood or other clinic, one that gets title X money, seeks to terminate her pregnancy and there is no parent or legal guardian? What would happen in a case like that? Is she just out in the cold? There is no parent. I mean the parents are gone. What would happen in a case like that? If the Senator could enlighten me, what would he do in a case like that?

Mr. ARMSTRONG. I would respond in two ways. First of all, if literally this person goes to a Planned Parenthood clinic, the chances are, not certainty, but the chances are that they would fall under the purview of the amendment we passed the other day on the title X bill. So to that extent it is not really before us in this legislation.

If it were before us in this legislation, let me say to the Senator from Iowa, if it were before us in this legislation, I think the answer is really quite simple in the case that you described. If a person were a minor who had no parent, presumably that person would be a ward of the State or an emancipated minor, and either case would not be covered by this amendment.

Mr. HARKIN. I do not understand what an emancipated minor is. This covers every young woman unemancipated under the age of 18. What does emancipated mean? This Senator does not understand what emancipated means.

Mr. ARMSTRONG. I apologize. Did the Senator have a further question?

Mr. HARKIN. Yes; this Senator would like to know, the Senator said that if you assume there was no parent, that that female would either be a ward of the State or emancipated. What is an emancipated woman under the age of 18? What does that mean?

Mr. ARMSTRONG. Well, it might be a married person.

Mr. HARKIN. Well, what if she was unmarried?

Mr. ARMSTRONG. Well, the legal status of young women falls into one of several categories, so far as I can see. A person is either a minor or is not. If you are not a minor, you are not covered. If you are a minor, you are either emancipated or you are not. If you are legally emancipated, you are not covered. If you are an unemancipated minor person that does not have any parent, then you are a ward of the State or some similar agency.

Mr. HARKIN. But the Senator put in the amendments age 18. Do not various States vary in the age of adulthood? Some States have 18, some have 21, but the Senator has said 18.

Mr. ARMSTRONG. Where does that appear?

Mr. HARKIN. It is in the amendment. It says unemancipated female under the age of 18. Some States have 21.

Mr. ARMSTRONG. Well, that is correct. But if the person who was seeking to have an abortion were an unemancipated minor who was over 18, they would not fall within the purview of this amendment.

Mr. HARKIN. They would still be a minor in the State but they would not fall under this amendment. Is the Senator just arbitrarily drawing the line at age 18? Why did not the Senator draw the line at 19 or 17?

Mr. ARMSTRONG. Well, if the Senator wants to offer an amendment to that effect, that would be all right. But 18 just seems a reasonable place. Eighteen is the voting age in many States. Eighteen is a threshold that has been used in many formulations. Some States have a higher standard, than that. I would not object to a higher standard, and I would not object to tying it to the standard of whatever the State was. In other words, if in a State a person achieves majority status at 21, I would not object to that.

This just seemed a reasonable place to draw the line in consideration of practical facts. I mean, what we are really talking about, if we are talking about youngsters under that age, in general we are talking about high school students, not in every case but in most cases. If you are going to talk about people who are 19, 20, 21, you are talking about people who have, in many instances, moved away from home and who really are emancipated even though they may legally be in minor status. That just seems to me to be the place to draw the line.

I would like to respond to the other question the Senator has raised, though I prefer not to further interrupt his statement and I will seek recognition when he has completed his statement just to respond to the issues he has raised.

Mr HARKIN. I think this colloquy shows that by drawing an arbitrary age of 17 leaves a lot of cloud over just who is covered and who is not

Again, I still do not understand what an emancipated young woman is, a female under the age of 18. I guess it is if they are married. Well, what about a young woman who is 17 who is not married, who is the victim of rape and there is no parent or legal guardian and she is not a ward of the State? I just do not know what happens in a case like that. It seems to me this amendment does not allow for any leeway there.

Again, this Senator is basically in favor of parental notifications. Quite frankly, I think it is best left to the States to decide and develop those parameters. The State of Maine has one that this Senator has looked at that provides for parental consent but it also provides for judicial bypass, and it provides for someone standing in loco parentis, someone standing in place of the parent, another adult, for example, or another counsellor, or someone standing in the place of an adult.

So, if you have a young woman who is the victim of incest, she does not have to go to the parent who committed the incest, she can go to another responsible adult to seek that kind of consent.

That is the kind of thing that ought to be involved in this. Not this kind of

heavy-handed, cold-hearted, uncaring and uncompassionate approach to very sensitive and very delicate situations.

I often wonder, Mr. President, instead of 98 men in this body and 2 women, if we had 98 women and 2 men whether we would be entertaining these kinds of amendments. I rather doubt it. It would be quite different. This really is insensitive.

There might be amendments drafted that would provide for parental consent that this Senator could support—if one had the necessary bypasses, if it had another responsible parent or another responsible adult who would be involved. But basically what this amendment really says is, if you are too poor to pay for your own termination of pregnancy, to pay for your own abortion, that even if you are the victim of rape or incest, forget about it. That is why, as I said, while the author of this amendment may have every good intention of having it apply as a parental notification, it is much more than that. It is much too strict. It does not allow for any leeway, as I just mentioned. Quite frankly, in that case, it is very fatally flawed as a parental notification amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Colorado [Mr. ARMSTRONG].

Mr. ARMSTRONG. Mr. President, I think it is important for me to respond in some detail and in a thoughtful and low key way to the issues raised by the Senator from Iowa. I do not agree with the point of view which he has expressed, but I want to explain why, in a way that is respectful of his opinion and to be as courteous to him as he has been to me. I listened carefully to his statement. In fact, I made notes on it, and I would like to respond to it point by point.

First of all, he makes a point this amendment is utterly lacking in any provisions for leeway and bypass. That, in fact, is not the case. I direct the attention of my colleagues to the language which appears on the second page of the amendment which simply says, as one form of leeway or bypass, that this does not apply in instances where an attending physician certifies in such minor's medical record that the abortion was performed due to a medical emergency requiring immediate attention.

Second, let me point out this amendment does not have general applicability. This does not say to the people of Iowa that no abortion may be performed in Iowa except if notice is given in accordance with this act. It just says it cannot be done in an entity that receives Federal funds.

I said at the outset—I do not confess, in fact I am not embarrassed to say—I want to end abortion. I think abortion is an extraordinarily cruel, barbaric practice. I think it is a practice which is almost intolerance in a civilized society. It is intolerable in a civilized society. A society which kills its young people cannot really be thought of in that sense as truly civilized.

But I know others hold a different point of view; not bad people; not, as someone has been characterized here today as uncaring and uncompassionate, but good people who, after much thought, much consideration, possibly after prayer, have decided that the unborn child is not really a human being. They have decided it is something less than that; that it is an organism, that it is an organ of the woman's body. Up until some point at least, up until point of quickening or birth, until some discrete instant it is not fully human and a human being with the rights every human being has. I do not agree with that point of view, but I respect the fact there are people who reach an opposite conclusion.

These abortion issues always seem to come down to that because, in the final analysis, if the fetus is not an unborn child, if that is not a living human being, then it is absolutely intolerable, Mr. President, to think the power of the State, of the Government, should be used in any way to any degree to interfere with the right of privacy and choice and freedom of the woman and those of her family and those who may be involved. If that is not a little baby, then count me out when it comes to restricting or controlling or regulating or doing anything else about abortion.

But if it is a child, if that is really a child with all that that implies, a helpless, defenseless human person, then we have to do something about it.

There might be somebody—frankly, I have never met such a person—who was simultaneously willing to say that is a baby, that is a human person, and yet was nonetheless very permissive about abortion. I never met even one such person, and if there are such persons I am ready to be corrected.

The fault line always seems to come down to this: Either the unborn fetus is or is not a person. If you think it is a person as I do, based upon the overwhelming weight of scientific evidence, of discussions with mothers, discussions with women who would have been mothers were it not for abortion—if you are convinced that those are babies, then the 1½ million annual abortions in this country are lost human lives, innocent human lives that we are duty-bound, obligated, honor bound to protect.

Even so, my amendment does not do that. My amendment does not forbid even one abortion. Certainly, in Iowa or Colorado or anyplace else, we are not saying to a person who finds themselves in the circumstances which were so eloquently and graphically described by the Senator from Iowa, we are not saying you cannot have an abortion. We are not saying you have to give notice. We are saying you cannot have an abortion performed in a facility that gets funds under this bill. So there is a bit of leeway and there is quite a bit of bypass in it.

I now want to move to the second point the Senator raised and one which is really heartbreaking if we think about it, and there is the question of what about parents who abuse their children?

That does not happen very often But there are cases where, tragically one or both parents abuse their children. What should a medical facility do when a young woman presents herself and asks about an abortion or asks for an abortion and recites those facts I am a victim of rape, I am a victim o incest.

I will tell my colleagues the very first thing that clinic ought to do before they think about an abortion before they think about who they are going to provide notice to. The firs thing they ought to do is call the law enforcement authorities, because there is a far more serious and deepe problem in that kind of a family situation than just the question of who get a certified letter. There is a question that deserves to be and should be and all too often I am afraid is not investigated and people brought to the bar o justice. I do not think that is a rea common occurrence, let me say to my friend from the State of Iowa. It happens but it does not happen all th time. Nor is rape or incest the only kind of abuse that occurs within families.

There are many kinds of abuse other than sexual abuse. There i physical abuse. There is mental abuse There are some parents, not many who deny to their children medica care, food, water, some who lock thei kids in closets. I do not condone an one of these and I know the Senato from Iowa does not either. In each case there is some point at which th State or local or Federal authoritie must step in and protect the child even against the parents.

But, the fact that there are parent who abuse their sacred trust as parents does not mean we ought to mak that presumption. The presumptio which civilized societies have alway made is that parents love their chi dren and act in their best interest Some parents may occasionally transgress that but that is not the genera rule and we should not make famil law or any other kind of law based o the assumption of abuse of discretio by parents any more than we ought t make ethical laws for the U.S. Senat or for the Federal courts or the executive branch based on the realizatio that there are occasional lapses o honor and integrity and occasional vi lations of the law by Senators and county commissioners and Cabinet officers and judges.

We grant enormous discretion and authority to people all the time, even though we know that human nature, being what it is, sometimes people abuse that authority. But our laws are not and should never be based on such exceptions.

Mr. President, Chief Justice Burger put it far better than I can, and I would like to quote him directly:

> The law's concept of the family rests upon the presumption that parents possess what a child lacks in maturity, experience, and capacity for judgment required in making life's difficult decisions. More important, historically it has been recognized that natural bonds of affection lead parents to act in the best interests of their children.

Chief Justice Burger went on to say this, and I ask my friend from Iowa to reflect on it because it sums up so well why his concern, though it is well-founded, does not justify turning down an amendment like this. Justice Burger said:

> The status notion that government power should supersede parental authority in all cases because some parents abuse and neglect their children is repugnant to the American tradition.

Mr. President, I would now like to turn to the third issue which my friend from Iowa raised in opposition to this amendment, which is roughly the issue of States rights. What he said was this whole matter would be left to the States, and frankly I do not dispute that. I think the States are in a better position to do many of the things which we undertake in this Chamber. We try to regulate the speed limits; we try to regulate whether States have billboards along the highway; we try to regulate in minute detail some professions which could be just as well regulated at the State and local level. I am not unsympathetic to the notion of States rights.

I would just like to ask Senators to read the last sentence of my amendment, as follows:

> Provided further, that this section shall not apply to entities in States that have in effect laws requiring that a parent or legal guardian be notified, of, or give consent to, an abortion to be performed on the minor child of such parent or legal guardian.

I am not trying to preempt the States. I mentioned 35 States have legislation in this sensitive area. It would not surprise me, in fact it would please me, if other States would do so partly in response to this amendment.

Finally, the Senator from Iowa said there might be an amendment like this he could support, but this is too strict; it is too severe. He characterized it in some complimentary terms which I hope he will reconsider upon reflection. I think he can disagree with this without declaring it to be uncompassionate or uncaring. Perhaps he could find it in his heart to simply say, as I did earlier, that this is a matter about which thoughtful people sometimes disagree.

I do not question that he is thoughtful and compassionate, even though I think the policies he advocates will adversely affect the life prospects of unborn children. I do not think he thinks that, because if he did, I cannot imagine for a minute the Senator from Iowa would be insensitive to that concern. So I hope he will not be too harsh in his judgment of those of us who want to protect the life of these unborn kids.

In any case, I was intrigued by his observation that there might be some amendment he could support. It seems to me that is what I hear, not just on this subject, but whenever somebody cannot quite vote for an amendment; there is always some reason why this is not the perfect amendment.

I never said this was a perfect amendment. I never said this was the best of all possible amendments. I never even said it was a good amendment, other than it solves a practical problem which is when young girls go to have an abortion in a federally-funded facility under this act, at least one of the parents ought to be notified. We are not requiring they receive consent, but that they be notified so they have some opportunity to participate in the process.

Let me tell my colleagues some specific reasons why it is important. Rachel Ely, a 17-year-old unmarried high school student, was afraid to tell her parents she was pregnant, exactly the circumstances the Senator from Iowa described. although not the same case. Rachel had an abortion on the advice of her high school counselor. Several days after the abortion, Rachel went to another doctor when she became quite ill. Thinking the symptoms were not related, she did not tell the doctor about the abortion. Rachel was left with a permanent wheelchair-bound condition which was found later to be directly attributable to a postabortion surgical infection.

I might also mention Rachel had not been told that there were alternatives to abortion. Had Rachel's parents known of the abortion, they would have questioned the possible relationship between the abortion and Rachel's symptoms so she could get proper treatment quickly. Had Rachel's parents known their daughter was pregnant, they would have provided her with the alternative of keeping her child or placing the child for adoption.

Myoshi Callahan was 15 when she had an abortion without her parents knowledge or consent. At the clinic, she received no counseling whatsoever and felt her only choice was to have an abortion. As a result of the side effects of the abortion procedure, Myoshi had to have a hysterectomy. She has since told both her parents. Both parents grieved with her about the lost life and grieved because Myoshi at 15 had to go through this ordeal by herself. Myoshi has no doubt that if parental consultation for an abortion had been mandatory, she would have never had an abortion.

Holly Trimble was 16 when she became pregnant and decided to have an abortion. Her main purpose for the abortion was so she would not have to tell her parents about the pregnancy. She did not want to hurt them. Because she did not want to hurt them, Holly could not talk to them about the turmoil in her life and what it meant to her to go through the abortion, but she now looks back on what happened with deep regret. She is certain that if she had been exposed by someone to information about fetal development at the time of her decision, she would have chosen to carry the child to term.

Mr. President, I could go on and talk about other specific cases. I did not intend to go into this much detail, but since the Senator from Iowa mentioned some specific cases, I thought I should mention some specific cases as well.

Let me proceed for a moment from the particular to the general. Researchers who analyze data collected under the auspices of the Centers for Disease Control have concluded women under age 18 who obtain abortions are more susceptible to physical injury than older women. Some of the more catastrophic complications occur in teenagers.

Mr. President, I want to also point out that to the extent a minor does not share feelings surrounding a problem pregnancy with her parents, she is inviting a psychological problem that may be lifelong; isolation, alienation, a threat to her emotional and psychological well-being, over and above the death of the unborn child. That is what happens to the mother who undergoes an abortion.

Mr. President, a few minutes ago the Senator from Iowa asked why in the world I picked 18 as the age at which we ought to draw the line. It could have been 17; it could have been 19. But his question reminded me about what people at home say when you ask them the question should parents have a say, have notification in the case that their daughter seeks an abortion.

What brought it to my attention when he mentioned age 18 was that a July 1989 poll in USA Today asked that question and they said if a female under the age of 18 is thinking of an abortion, should the parents be consulted. By a margin of 75 percent, that is 75 percent of those polled, the readers of USA Today indicated that the parents should be notified.

Similarly, in a nationwide survey, a Los Angeles Times poll found that two-thirds agreed that minors should have to receive their parents' permission before they seek an abortion; two-thirds of the people in that survey thought permission was in order. Frankly, so do I.

I do not think young women should have an abortion without the permission of at least one parent. But that is not what my amendment does. My amendment just says at least one parent has to be notified.

Mr. President, I am sorry to take so long on this. I intended to take only a very brief time, but since the Senator from Iowa raised specific questions, I wanted to respond in a very specific manner.

If there are other questions or debate or argument, I shall try to respond to any other issues that arise as well.

The **PRESIDING OFFICER.** The Chair recognizes the Senator from Washington [Mr. ADAMS].

Mr. **ADAMS.** Mr. President, I rise in opposition to the amendment of the Senator from Colorado and in support of the chairman's position.

The issue of abortion is an emotional one and one that has been debated again and again in the Senate and throughout the country. Today we are again debating one of the most troubling aspects of the issue—parental notification requirements. The Armstrong parental notification amendment would prohibit funds under Medicare title X and Federal programs from being used to pay for abortions for poor women in our society, who are the victims of rape or incest, it would also prohibit most hospitals who receive any Medicaid funding from performing abortions without notifying the parents of all young women regardless of their circumstances, and ability to pay.

One of the reasons I oppose this amendment is that it does not provide a judicial bypass for a young woman, under the age of 18.

Mr. President, there is no exception in this amendment for rape or incest. No exception whatsoever. And I cannot support that.

I have raised four children. I have two daughters; I have two sons. One always hopes that communication in a family is perfect or close to perfect, or is at very least, adequate. With my sons, the difficulties were in advising them on the Vietnam war, which is not an issue that was debated as much among young women at that time.

I agree with the comment of the chairman. If there were 98 women in the Senate of the United States and 2 men, I think this debate might have a very different cast. I regret that we are having a debate among 98 men and 2 women over requiring parental notification in the case of abortion for women under the age of 18.

Everyone hopes in this world for perfect communication within a family, but the type of polls cited by the Senator from Colorado have absolutely no relevance to this issue. The young woman who is pregnant, who is experiencing these incredible difficulties with rape and incest maybe to frightened to tell anyone, least of all have her father or guardian notified. The father or the guardian may well be the perpetrator.

That is why the chairman and I have stated that you need, in situations like this, an alternative to parental notification.

I want to mention just one case. I will not go into a number of cases, as was done by the Senator from Colorado. But parental notification cost Becky Bell, a 17-year-old young woman from Indiana, her life because she was afraid to talk to her parents. That is not just my opinion. It is Becky's father's opinion. Mr. Bell has begun a nationwide campaign against parent notification or consent laws, hoping to save other parents the pain of losing a child who was too frightened, too ashamed or was too much afraid of hurting or disappointing her parents.

I think experience shows us that there must be an opportunity for the young woman to seek counsel with other responsible adults and that there be a judicial bypass mechanism.

I might say that the problem is not as has been pictured. A majority of teenagers obtaining abortions at clinics, voluntarily tell at least one parent. They want comfort. They want help. There is usually a very good reason why a child does not notify a parent. Sometimes it may be psychological; sometimes it may be pure fear. But whichever it is, we should be very careful about it.

This is not something that just a lone man, Becky's father, or a few of us think is important. Frankly, I appreciate the statement of the Senator from Colorado. It happens to be something that I believe. I think Government should observe the rights of privacy of families. It should not be involved in the intimate details of decisions that are better made within the family. This is destructive, more often than not, in a family situation.

Becky's father is not alone. Neither is Senator HARKIN nor I. The American Medical Association, the American Psychological Association, the National Association of Social Workers—these are all professionals who work with these teenagers—oppose parental consent and notification laws. Becky's father said it best. "Parental notification denied Becky the right to make a safe choice."

What we are talking about, Mr. President, is the opportunity for young women to make a safe choice. I hope that in this nonperfect society, those of us who have been fortunate enough to raise our children without this problem and those of us in this body who probably, in great majority, will not face this problem, will not make too harsh a judgment on those who do face the problem, sometimes sadly as the result of a crime. We need to be protective of our children—and I would demand this of anyone who counsels young pregnant women—that we counsel them well, explain all the options available and encourage that they speak with a parent or close relative.

But I do not think we should throw a child, particularly not the weakest members of our society, a child below 18, into the situation where she may be fearful of retribution from whomever is being notified.

So I appeal to the kindness of thi male body to understand the problem of a very young woman. I hope I understood my girls—I am not alway sure I have; I am not sure I understand all the things that they say t me every day. And I know I did no understand them as well as I woul have liked when they were teenagers.

I hope that this amendment will b defeated. We have all had our chanc to talk on it. The Senator from Colorado has spoken twice. I have now ha an opportunity. I hope the chairma can move to a vote on this.

But I just felt that some of us wh have had some experience with this—the experience that the Senator fro Colorado has had, the Senator fro Iowa—should just come and tell ou experience, and explain why it is tha we do not want more Government regulation in family matters.

I thank the President. I yield th floor.

Mr. **ARMSTRONG.** Mr. President, appreciate very much the statement o the Senator from Washington, an since he has raised the case of Beck Bell, I would like to share with my co leagues some additional detail th puts that case in quite a differen light. The explanation by the Senato from Washington overlooks some fac that ought to be taken into account.

First of all, let me just make th point that the facts surrounding th Becky Bell case are not clear. Th claim is by the Senator from Washin ton, I believe, and certainly by man others, that Becky Bell died becau Indiana's parental consent law put h in a situation where death became i evitable. That is a huge stretch of th imagination at the very best, and, any case, the Indiana law is not simil to my amendment. The Indiana la requires parental consent. My amen ment requires parental notification.

However, even passing over that, think Senators would want to know, view of what the Senator from Washington has said, a little more about the case of Becky Bell. I would like to read some excerpts from an article by Dr. J.C. Willke under the headline "Becky Bell Did Not Die From An Induced Abortion." I am now quoting:

> Becky Bell is the now-famous 17-year-old Indianapolis girl who died September 16, 1988. Her death is being portrayed by pro-abortion groups all over the country as an example of why parental notification and consent laws are undesirable. The story as told by her parents and others is that she had an illegal induced abortion, became infected, developed pneumonia, and died from the infection. Indiana has a parental consent law that is being enforced. Her parents state that if she could have gotten a legal abortion in Indiana without her parents' knowledge, she would be alive today.
>
> The facts are, as we shall see, that Becky never had an induced abortion—she died from massive penumonia. What most likely happened is that Becky took some drugs, vomited, accidentally inhaled some of the contents of her stomach, which resulted in her pneumonia. But that is not the parents' story and, unfortunately, they have elected to make a public crusade. We have no choice but to respond by publicizing the real facts.

Let me state, again I am quoting from an article by Dr. J.C. Willke.

> Clearly, Becky's parents are still in a stage of profound denial over their daughter's death, and are being used shamelessly by pro-abortion forces for their own anti-life goals. Mr. and Mrs. Bell insist that Becky obtained, in some unexplained way, an induced abortion early in the week before she died. They insist that her womb became infected, that the infection spread through her system, and that the pneumonia developed from this, causing her death.
>
> The National Abortion Rights Action League says loudly that Becky is the first teenager in the country whose death can be linked to parental consent laws. Newspaper accounts published to date go into great detail about this allegedly happy, normal teenage girl who had so many good qualities about her, who was a cheerleader, who bubbled with enthusiasm, who worked on behalf of various causes. A wildly distorted video, blaming Becky's death on Indiana's consent law, has been made with the cooperation of her parents.

Let me skip over some additional parts of this article. I am going to ask it be printed in the Record, and I hope all Senators will make a good point of reading it.

Mr. ADAMS. Will the Senator yield for a question. It is about the article. Is that article by Dr. John Willke, who is also the head of the National Right to Life group?

Mr. ARMSTRONG. Yes. Indeed it is. The article goes on to explain the circumstances and facts surrounding Becky Bell's tragic death. But one of the things that is, in my view, the key to it, is that in the first place, the claim that she could not obtain an abortion is not borne out by the facts because, as a matter of fact, she had an appointment on the day following her death to have a legal abortion. So the notion that this was unavailable to her simply is not borne out.

Moreover, an evaluation of the coroner's report showed no evidence of any abortion or any infection in the uterus, and so on.

Mr. President, the facts in the Becky Bell case are tragic, and all of us, particularly those of us who are parents, fathers and mothers of daughters, cannot help but feel a great sense of compassion for Becky and for her family. We also feel a sense of compassion for the unborn child whose life was lost.

But to use that tragic episode to argue against a commonsense provision to this amendment which will result in the saving of many lives, the lives of unborn children, and which will in addition contribute enormously to the well-being of the mothers who might otherwise go uncounseled into an abortion that could be avoided or, if they prefer to have the abortion, as they go forward doing so, at least to not do it in secrecy from their own parents, which has such profoundly psychological and personal implications.

With that explanation, Mr. President, I ask unanimous consent that we have printed in the Record Dr. Willke's article.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the National Right to Life News, Oct. 2, 1990]

Becky Bell Did Not Die From an Induced Abortion

(By J.C. Willke, M.D.)

Becky Bell is the now-famous 17-year-old Indianapolis girl who died September 16, 1988. Her death is being portrayed by pro-abortion groups all over the country as an example of why parental notification and consent laws are undesirable. The story as told by her parents and others is that she had an illegal induced abortion, became infected, developed pneumonia, and died from the infection. Indiana has a parental consent law that is being enforced. Her parents state that if she could have gotten a legal abortion in Indiana without her parents' knowledge, she would be alive today.

The facts are, as we shall see, that Becky never had an induced abortion—she died from massive pneumonia. What most likely happened is that Becky took some drugs, vomited, accidentally inhaled some of the contents of her stomach, which resulted in her pneumonia. But that is not the parents' story and, unfortunately, they have elected to make a public crusade. We have no choice but to respond by publicizing the real facts.

Clearly, Becky's parents are still in a stage of profound denial over their daughter's death, and are being used shamelessly by pro-abortion forces for their own anti-life goals. Mr. and Mrs. Bell insist that Becky obtained, in some unexplained way, an induced abortion early in the week before she died. They insist that her womb became infected, that the infection spread through her system, and that the pneumonia developed from this, causing her death.

The National Abortion Rights Action League says loudly that Becky is the first teenager in the country whose death can be linked to parental consent laws. Newspaper accounts published to date go into great detail about the allegedly happy, normal teenage girl who had so many good qualities about her, who was a cheerleader, who bubbled with enthusiasm, who worked on behalf of various causes. A wildly distorted video, blaming Becky's death on Indiana's consent law, has been made with the cooperation of her parents. It will be making the rounds of colleges this fall and legislative chambers next year, the purpose of which will be to prevent the passage of parental consent laws.

The actual details of this sad story as revealed in an article by Gannett News reporter Rochelle Sharpe paint a far different picture both about Becky herself and the way she died. Becky had been involved sexually with a high school dropout as long as one year before her death. He also introduced her to drugs. Sometime in late 1987 or early 1988, her mother learned through a family friend that Becky might be pregnant, and immediately took her to Planned Parenthood, where the tests proved negative. Soon after this, her parents also admitted her to the hospital for an almost two-month detoxification program.

After returning home, she apparently became pregnant in mid-May. This time, instead of telling her parents, she told only her best girl friend, Heather Clark, who accompanied her to Planned Parenthood. She was pregnant this time, and was told about the Indiana consent law. According to the oft-repeated story of her friend, Heather, during the four months of her pregnancy, Becky wavered about what to do. She talked of going to Kentucky for an abortion, or running away to California, having the baby, and placing the child for adoption.

But the key part of Becky's sad story is what happened the last six days of her life. That she attended a drug party on a Saturday night, six days before she died, is listed on the coroner's report. It also details the fact that Becky told her mother that she thought someone had put "speed" or cocaine in her drink. It is known that she was in her room all of the following day, Sunday, telling her parents that she had the flu.

Becky apparently began hemorrhaging five days later—Friday morning—the day she died. Her mother recalls that she said earlier that day, "Mommy, I started" with a smile, which she thought was odd because Becky usually dreaded the cramps associated with her period. After the bleeding started, Becky, who had resisted going to the doctor, now agreed to seek medical help. Her father took her to the hospital that afternoon. She died that night.

Becky's mother loudly insists that Becky had someone try to induce her to abort during the final week of her life, although there is no evidence whatsoever to back that up.

In fact, Heather Clark flatly insists that Becky did nothing of the sort, stating repeatedly that Becky talked about getting a legal abortion in Kentucky right up until the day she died. (Heather believes Becky had a miscarriage.) Furthermore, after Becky's death, her mother found a list of abortion clinics and adoption agencies in her daughter's purse. Also, Heather Clark has stated that the day before Becky died, "Becky asked me for the phone number of a Planned Parenthood clinic in Louisville."

AUTOPSY REPORT

Were it not for the way the cause of death was listed on the coroner's report, I doubt that any of her parents' claims would be seen as having any credibility at all. The coroner listed "manner of death" as "undetermined," but "cause of death" as "septic abortion with pneumonia."

An actual reading of the autopsy report is essential in understanding this case and explaining why the coroner's wording has been misrepresented. First, we must remember that the cause of death does not say "induced" abortion, but merely "abortion." In medical terminology, a spontaneous miscarriage is referred to as an "abortion." Accordingly, then, if, as seems evident, Becky had a spontaneous miscarriage, then a more intelligible and accurate designation of cause of death would have been (even by this coroner) "spontaneous abortion, sepsis and pneumonia."

The central question, the answer to which will tell us whether it was physically possible for Becky to have had an induced abortion, is: How did the infection which killed her enter her body? Did the infection start in her uterus, or did it enter directly into her lungs? Let's read the actual report of the examination of her uterus. (It's technical but essential, and I will explain what is meant as we go along.)

"The uterus, fallopian tubes and ovaries are present. They are of usual size and shape for age. No tumors are present. There is evidence of recent pregnancy with recent partial abortion. The uterus is enlarged consistent with current pregnancy of age approximately 2-3 months. The cervix is dilated uniformly without evidence of mucosal or submucosal injury. Extruding from the cervical os is hemorrhagic and necrotic red-tan and grey-brown tissue consistent with products of conception. The lower third of the uterine cavity has only the flat mucosa without obvious evidence of instrumentation. However, the upper ⅔ of the uterine cavity has a mixture of blood clot and necrotic and hemorrhagic products of conception. There are no recognizable fetal parts, and the amniotic membrane has been ruptured, leaving only a small area recognizable as thin blue-tan glistening membranes. There is no evidence of hydatid mole or invasive choriocarcinoma. The serosa of the uterus is smooth and glistening and without exudate, and there are no areas of perforation or pus in or around the uterus. The right ovary has a 1 × 1⅓ × 1 inch bright yellow corpus luteum. The remainder of the ovaries shows unremarkable for age ovaries. There are no injuries of the vagina."

Now let's go back up through this and do a little translating. That she was pregnant is obvious. Central to our concern here is the cervix, which in a 17-year-old having her first pregnancy would have to be stretched open by an abortionist, causing some tearing of the lining of that cervix, even by the most gentle dilation. If a trained abortionist had performed an abortion, there would have been evidence of scraping, trauma, scratching, and tearing. Had an untrained person attempted an abortion, there would have been much more damage to the cervix and uterus. To have cervix "dilated uniformly without evidence of mucosal or submucosal injury" totally rules out the use of any instrumentation; rather; it tells any physician that this was a spontaneous miscarriage, not an induced abortion.

The description of what "extrudes" from the "cervical os" (cervical opening) is of the normal leftover from a nearly completed miscarriage. The report then further states that the lower third of the uterus was "without obvious evidence of instrumentation." The report describes the remaining tissue in the upper two-thirds as exactly what one would expect from a miscarriage. Then the report speaks of the serosa, which is the outer covering of the womb, which is described as "smooth, glistening and without exudate." Exudate would be pus or oozing if the organ was infected. Dr. Bernard Nathanson agrees that were this a case of septic abortion, this tissue would be "shaggy and discolored" (not "smooth, glistening and without exudate"). Further, the report stated, "there are no areas of perforation or pus." Finally, there are "no injuries of the vagina."

The autopsy report of the lungs and pleural (chest) cavities take up over half a page of single-spaced reporting, and describe to us what amounts to near total destruction of those organs by infection.

Dr. Nathanson, who performed thousands of abortions before he completely reversed his position and became a pro-lifer, agrees that "there is no evidence for an induced abortion at all." He states that the cause of death was probably overwhelming pneumonia, unrelated to the miscarriage. He suggests that all slides of tissues examined at autopsy be reviewed by an impartial pathologist. He said that his opinion would be supported. Incidentally, all other specialists that I have consulted also ask that the slides be reviewed.

OUTSIDE EXPERT TESTIMONY

Columnist Cal Thomas quotes Dr. John Curry, former head of the Tissue Bank at Bethesda Naval Hospital, who said that, while there is evidence of massive infection in the lungs and elsewhere in the body, there is no evidence of infection on the outside or the inside of the uterus. Dr. Curry stated that the germ that killed Becky "is a common pneumonia germ (streptococcus pneumoniae) that could have been treated had it been detected earlier; a germ which is unlikely to originate from a contaminated abortion procedure."

Dr. Curtis Harris, a teaching Endocrinologist from Oklahoma City and president of the American Academy of Medical Ethics, has consulted in detail with four prominent specialists in the fields of infectious disease, Ob/Gyn, Infertility, and Pathology. All of them have agreed that Becky had a spontaneous miscarriage; that her uterus was not infected; that in all likelihood her drug taking was the primary cause of the infection, either through aspiration and/or through toxicity; that the miscarriage was likely directly related to drug ingestion; and that she died from overwhelming sepsis from the lung infection, which was completely unrelated to her spontaneous miscarriage. He, too, asks for the slides for pathologic consultation and examination. His consultants have all agreed to serve "in any capacity that they can to dispel this incredible lie."

It is true that the autopsy reported that blood specimens analyzed for the drugs were negative for alcohol, cocaine, "speed," and "other drugs." They did not examine for marijuana. But this negative report is not surprising, considering the fact that the blood specimen was taken one week after Becky took the drugs at the party. Within that period of time, all of the above drugs would have cleared her system. Again, the only germ cultured was streptococcus pneumoniae, which is a very common, primary pneumonia germ, and which would not be at all likely to originate from an infected uterus.

PRO-LIFE "TRUTH SQUADS"

Having gone through all the facts, what are we to say and do? To put it mildly, the pro-aborts' case rests on extremely shaky grounds. Even with a media nearly totally sympathetic to pro-abortionists, the truth on this one should be able to be brought forward. The pro-aborts, we know, will be making the rounds of college and high school campuses this fall. We know that they have unlimited money to produce thousands of copies of their propaganda video. We can fully assume that this same video will be in the hands of state legislators when they reconvene in January.

And so, what are we to do? We must, each of us, in our own state, in our own cities, develop a "truth squad." This should be made up of several persons, preferably including a physician or another knowledgeable professional. This pro-life truth squad should obtain copies of the autopsy report and familiarize themselves with the above story. Then, anytime the Becky Bell case is brought up by the pro-aborts, pro-lifers should be there to tell the truth.

Feel free to contact our office for copies of the papers I have quoted, Olivia Gans, national director of American Victims of Abortion, as well as Dr. Richard Glasow, NRLC Education Director, will be glad to assist you. In the August 16 issue, NRL News Editor Dave Andrusko wrote about Becky Bell. Read his editorial again. It was entitled "They Have No Shame." Let me also tell you—they have no case. But it's up to you to get that story out.

Mr. ARMSTRONG. Mr. President, I also ask unanimous consent to have printed in the Record at this point the article of Cal Thomas, a thoughtful and distinguished newspaper columnist, that appeared in the Washington Times on August 9, 1990, which also discusses and analyzes the events surrounding the case of Becky Bell.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Times, Aug. 9, 1990]

A Rush To Blame in Becky Bell's Death

(By Cal Thomas)

In the dispute over who will exercise the ultimate authority and responsibility for the hearts, minds and bodies of our children, there are some new combatants.

Planned Parenthood, The Fund for a Feminist Majority and several other "pro-choice" groups are using the case of an Indiana teen-ager who died of pneumonia, allegedly caused by an illegal abortion, in an attempt to strike down laws requiring parental consent before a minor can obtain an abortion.

Becky Bell was a 17-year-old Indianapolis girl who died Sept. 16, 1988, under circumstances the pro-choice groups say was the result of her trying to circumvent Indiana's parental consent law by seeking an illegal abortion. Miss Bell's parents have announced plans to use their daughter's death as a rallying cry against such laws. They also have participated in the creation of a video they want to show in public schools and universities that they hope will lead to the repeal of parental consent legislation. The Supreme Court recently upheld paren tal consent laws when they include a judicial bypass provision.

Though the Marion County, Inc., coroner's report lists the cause of Becky's death as "septic abortion with pneumonia," the manner of death was said to be "undermined" and the circumstances leading up to her death are anything but clear.

According to Dr. John Curry, former head of the Tissue Bank at Bethesda Naval Hospital, "septic abortion usually means that as a result of destructive actions within the uterus, an infection has started which subsequently spreads to the rest of the body. In this case, the pathology report is notable in that while there is evidence of massive infection in the lungs and elsewhere in the body, there is no evidence of infection on the outside of or within the uterus." Dr. Curry says the germ that killed her "is a common pneumonia germ (streptococcus pneumoniae) that could have been treated had it been detected within the first six days and which is unlikely to originate from a contaminated abortion procedure."

The coroner's report notes that "Rebecca Bell . . . reportedly has a history of substance abuse for which she was hospitalized from mid-February through April 1988. Investigation disclosed that [she] became pregnant in mid-May 1988 (according to Planned Parenthood referral receipt)."

Becky's mother believes her daughter took something to induce an abortion. But in an interivew conducted by Rochelle Sharpe of Gannett News Service. Becky's best friend, Heather Clark, said she believes Becky had a spontaneous abortion (miscarriage).

The coroner's report says Becky "reportedly was at a party where various drugs were being used (cocaine, 'speed' and LSD) on the weekend of September 10–11, (and later) claimed that someone had put 'speed' in her drink."

The case raises several important questions.

First, why would Becky undergo an illegal abortion when she had scheduled a legal procedure in neighboring Kentucky for the day after she died?

Second, was Becky undecided about whether to seek an abortion or place her baby for adoption? She had papers listing abortion clinics and adoption agencies in her purse when she died.

Third, did her father contribute to his daughter's frustration? According to Heather, Becky's father said that if she messed up one more time, she'd be thrown out of the house.

Fourth, why does no one mention the crisis pregnancy centers or other pro-life counseling agencies that not only provide free counseling but often serve as bridges between parents and children and, if necessary, can offer free housing for girls in crisis situations? The Bells and the pro-choice groups make it appear as if there was no other alternative for Becky than an illegal abortion.

Supporting Heather Clark's account that no abortion had been performed was a doctor who provided emergency treatment when Becky finally went to the hospital. The doctor was quoted by Rochelle Sharpe in her story: "I don't know whether we're going to be able to save the baby."

If Becky's parents had known about her pregnancy, they most likely would have made sure she received medical attention when health complications arose—attention that could have saved her life. The real lesson to be learned from Becky Bell's death is not that parental involvement laws are bad. It is just the opposite—that young girls (and especially Becky, who reportedly had a history of drug abuse that may have contributed to her inability to reason in her own best interests) need the advice and involvement of their parents when facing a crisis pregnancy.

The medical cause of Becky Bell's death may have been pneumonia, but the underlying cause remains unclear. One thing is clear: Her death was not due to Indiana's parental consent law.

Mr. ARMSTRONG. Mr. President, there are a number of other articles we could go into at this time. I try, in dealing with matters like this, to rely on published information rather than the kind of information that sort of is second hand or comes to you over the telephone, because that sort of thing is subject to misinterpretation. That is why, in responding to the Senator from Washington, I have tried to do so with material that has been published in reputable sources.

I have a number of other articles. If Senators have further questions about it, I would be glad to share them with them. But I think I have made my point.

In fact, I think the issue is quite clear. This amendment simply requires that, in a certain number of relatively limited circumstances before an abortion may be performed, at least one parent has to be notified.

The hallmarks of this amendment are, first, it is notification, not consent; second, it only applies in those entities which receive funding under this bill, not in private hospitals, not in private facilities that do not receive funding from HHS, but only in those cases where there is Federal money involved in the support of the entity that might perform the abortion; third, there is a specific bypass procedure in the case of medical emergency, as I have discussed previously; fourth, there is a specific exception for those States that have legislation on this subject so that we do not unnecessarily preempt the State law.

Mr. President, unless other Senators wish to speak or have further information, I am prepared to go to a vote or yield the floor.

Mr. SPECTER. Mr. President, in the intervening moment since this amendment was introduced I have secured a copy of the opinion of the Supreme Court of the United States in Hodgson versus Minnesota. I have not had the time to examine it thoroughly. It runs some 36 pages in the majority and a good many additional pages, 19 pages, on an additional opinion, and 15 more on subsequent opinions.

On the basis of the record here, I am concerned about the constitutionality of the pending amendment. The distinguished Senator from Colorado stated in his closing remarks that the parent has to be notified. The written text of the amendment is not conclusive on that, but it specifies that a physician will not "provide an abortion for an unemancipated female under the age of 18 until at least 48 hours after written notice of the pending abortion has been delivered in the manner specified in this subsection."

The subsection goes on to talk to restricted delivery to the addressee, which means postal employees may only deliver the mail to the authorized addressee. It further provides that the time of delivery shall be deemed to occur at 12 o'clock noon on the next day on which regular mail delivery takes place subsequent to mailing.

It may be that mailing alone is sufficient, but as the Senator from Colorado has said, there has to be notification. Where you talk about notification by analogy and consent, without a judicial bypass—I would not want to state this with finality—it appears to be constitutionally infirm. I wanted to make that point and make the report, without having read the opinion only to the extent possible in this timeframe.

One of the problems that all of us in the Senate knows about—for all those watching this on C-SPAN II, and those listening in the galleries—amendments may be filed by any Senator at any time on any subject, and that is Senator ARMSTRONG's right. I do not raise a question about his pursuing his rights. If I were not the manager, I would not have said anything about this matter, but I feel constrained, being a manager, to make a comment about it.

I am trying to grope with it. It would take some time to give this the kind of analysis which would really be definitive. It might be wrong after the analysis, but at least it would be definitive. I do have that concern.

There had been a similar amendment—I do not know how close the pending amendment is to that one that Senator ARMSTRONG offered before on a similar subject, which I had opposed. I intend to oppose it for the reasons I have stated. I wanted to give my colleague notice of that in my position as manager of the bill.

I yield the floor.

Mr. ARMSTRONG. Mr. President, the Senator from Pennsylvania is either the most thoughtful legislator on such issues, or if he is not, I do not know who is more thoughtful. Over and over again, he has brought to bear an enormous background on the law and a keen intellect. Once again, he has done so. I appreciate the tone and manner in which he has done so.

I have also, in the intervening times since we discussed this, sent off for a Minnesota case, which I have here, and also an Akron case. I am in the same boat he is, in that I have not had a chance to read them. I do not vouch for this, but I am advised that there

are a couple of points we can take comfort on.

First, the Minnesota case—and I am sure of this—is a different fact situation. In that case, we had a two-parent requirement, not one, and it was a requirement for consent, not notice. So we have a factually different situation. That might not change the outcome, but it is factually different.

In the Akron case, I am told—I have not had a chance to locate it, but I will seek to do so and insert it into the RECORD, if I am able to locate it. I am told there is dictum that indicates that the court would sustain one-parent consent without a bypass. In fact, if I may just ask the indulgence of the Senate for a moment, I would like to yield the floor. I have just been handed a document that I think is relevant to that. I am advised that the court indicated they would sustain a one-parent consent.

What we are talking about here is one-parent notification, which is obviously a much lower standard. In any case, I do yield the floor for a moment while I determine what this paper is.

The PRESIDING OFFICER. Who seeks recognition?

Mr. ARMSTRONG. Mr. President, I cannot come to grips with it that fast. I do not know anything about this case, other than just what I have said. I want to say again that I will seek the right time to insert this into the RECORD. I want the Senators to know that I am relying on the advice of counsel who tells me that is what this case said. I have not actually read it. So I leave it at that.

In any event, let me make this point. Whatever the Minnesota case or Akron case says, we are not here as judges or justices of an appellate court or the Supreme Court or anything else. We are here as policymakers. Even in those instances where there has been an opportunity for a thorough examination of legal issues involved, those are never the basis on which we make decisions here, and when we do, some court is going to make up its own mind anyway. That is what courts and lawyers are for.

Frankly, I think it is far-fetched to think there is a serious legal issue here on the constitutionality of it. But I could be wrong. The issue before us is whether or not we think, as legislators, as policymakers, that there ought to be, in the limited number of cases that are encompassed within my amendment, a notification of at least one parent before a minor woman has an abortion. As I mentioned earlier, in a USA Today poll, 75 percent of the people in America polled thought that was a good idea. My hope is that at least 75 percent of the Senators will feel the same way.

Mr. SPECTER. Mr. President, by way of very brief rejoinder, first, I thank my distinguished colleague from Colorado for his kind remarks. I would like to say that they are entirely reciprocated, for in the 10 years I have been here, Senator ARMSTRONG has proposed some very thoughtful legislation. As to his last remarks I agree on one proposition and disagree on another.

I agree on the proposition that we cannot come to judgment about the constitutional implications. I have since been handed the case of Ohio versus Akron Center for Reproductive Health, and I note that this also is a very lengthy opinion. It is a quarter of an inch; I cannot count the pages. The decision syllabus says:

> Fourteenth amendment held not violated by Ohio statute prohibiting abortion on minor absent either parental notification, parental consent, judicial bypass, or inaction.

I want to agree with the Senator from Colorado, that I cannot come to grips with the constitutional implications either. One of the infirmities of our system is that amendments may be offered, appropriately so, without a chance to note their legal impact.

But I disagree, respectfully, with my distinguished colleague from Colorado on the aspect of that constitutionality issue. We do—I think appropriately—consider constitutionality, and it is not just a matter that we are sworn to uphold the Constitution; it is that we have to make that kind of determination that leads preliminarily.

So I think that is for us to consider, whether the proposed amendment is unconstitutional. That is a solid basis for not accepting it or supporting it. I thank the Chair.

Mr. ARMSTRONG. There is an old saying, Mr. President. Earlier I said I never practiced law on the floor of the Senate. Of course, I never practiced law anywhere, because I am not a lawyer. In light of what the Senator has said, let me read one or two sentences from page 5 of that Akron case:

> We leave the question open, because whether or not the 14th amendment requires notice, statutes do contain bypass procedures, the H.B. 319 bypass procedure meets the requirements * * * .

And so on.

In other words, they have left that question open. Let me say again, I do not know what precedes that on page 5. I do not know what follows it on the ensuing 20 or so pages. But counsel advises me that is a question that is left open and, in fact, advises me that the dicta indicates they would approve the kind of amendment that we have before us.

I do not think any Senator, not even one Senator, ought to base his decision on how to vote on it. We do not know how any court is going to hold on this. I do not claim we do. I would not want to leave the impression that it is suspect or in doubt. There is good reason to believe that, purely on the law, it would be upheld. It is a question of whether we think it is good policy. That is the question before us.

Mr. HARKIN. Mr. President, I want to take my second speech here on this amendment to respond to some of the points made by the distinguished Senator from Colorado, who was responding to my first speech on this.

First, the Senator from Colorado says there is a bypass in his amendment. That bypass is for medical emergency, obviously, to save the life of the mother. There is no bypass for rape or incest, absolutely none.

Of course, that, I am sure, is in keeping with the Senator's strong views on this subject of abortion.

I do not mean to put words into the Senator's mouth, but it is my understanding that the Senator from Colorado would prohibit all abortions even in the cases of rape and incest if the Senator had his way and the Senator could mold the laws according to his own personal views on this subject. So there is no bypass here for rape or incest, only to save the life of the mother.

Second, talking about entities that receive Federal funds, this does not just cover Planned Parenthood clinics. This could be any hospital that receives Medicare funding, any hospital that receives NIH funding. It could be all kinds of hospitals throughout the United States.

Again, these are the places that you would hope that a young person who would seek to terminate a pregnancy would have it done where it would be safe, where you would have the kind of expert medical care that one would need in this situation.

Yet if all these hospitals, and I cannot think of any hospitals that do not receive some Medicare funding you say that none of those would be eligible, then a young woman in that situation obviously would wind up in a back alley someplace because she could not seek to have the pregnancy terminated in a medically safe environment like a hospital.

Third, the Senator from Colorado talks about parents abusing children and again I would have to examine the record, but I tried to write down his words, and he said it does not happen often; it does not occur often. I really think that is looking at the real world through rose-colored glasses. I am quoting here from the Nationa Women's Law Center, that came ou sometime this year and they were citing a study that was done, and I wil just quote from it. It says:

> The sexual abuse of children is also tragically widespread and underrreported. Although the American Humane Associatio estimates that 132,000 children were sexually abused in 1986, a national survey conducted by the Los Angeles Times Poll foun that 27 percent of the women and 16 percent of the men surveyed reported a histor

of child sexual abuse, suggesting that the actual extent of child sexual abuse may be much greater.

Mr. President, I ask unanimous consent that that finding be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

II. A RIGID REPORTING REQUIREMENT WOULD EXCLUDE LARGE NUMBERS OF SEXUAL ASSAULT VICTIMS

Requirements that women report sexual assault to law enforcement authorities within a short time frame would exclude most victims from Medicaid funding and would ignore the needs of assault victims. In 1988, the FBI received reports of 92,486 forcible rapes of women over the age of 12.[2] However, because most women do not report rape to law enforcement authorities researchers estimate the actual number of rapes occurring each year to be between 200,000 and 900,000.[3] The sexual abuse of children is also tragically widespread and underreported. Although the American Humane Association estimates that 132,000 children were sexually abused in 1986, a national survey conducted by the Los Angeles Times Poll found that 27% of the women and 16% of the men surveyed reported a history of child sexual abuse, suggesting that the actual extent of child sexual abuse may be much greater.[4]

Mr. HARKIN. So it does tragically occur more often than either the Senators from Colorado or Iowa would ever believe that it did occur, but it does occur, tragically more often than as I said we care to even admit.

The third point the Senator from Colorado talked about is State interference. What I am talking about is having another responsible adult be able to make a decision. Again under the amendment as it is drafted, which is why I believe it is fatally flawed, is that the State really is interfering in a very heavy handed manner. Again, the State has come in under this amendment, mandating that the doctor who performs the abortion has to deliver the notification or it has to be by certified mail with return receipt.

I would say again if it is a young woman who could be 16 or 17 years old, if there are no parents around, and she is not "emancipated," whatever that may mean in its archaic meaning—I am not certain it is legally defined in our society; I am sure this has an archaic meaning "emancipated" young women—a young woman 16 or 17 found herself in a situation with no parents and is a victim of rape, she is out in the cold. Talk about the State interfering, the State is coming in and saying, sorry, you are in a catch-22 situation. This law says we have to notify your parent. There is no parent. Tough luck. Even though you are the victim of rape, tough luck.

So, I believe this amendment is the one that puts the State in a very heavy-handed manner into this system.

I will just say what this amendment again provides is a two-class system. Obviously the Senator from Colorado does not reach a young woman who has financial means who could afford to go to a very ritzy, high-class private clinic that receives no Federal funds someplace and terminate a pregnancy. This amendment does not touch that.

This touches young women who may be poor, who may need to go to a public hospital, or to a Planned Parenthood clinic, and again I would point out that under the law title X funds cannot be used to perform abortions, absolutely none. But this amendment would provide again for two classes. If you have money, you can go ahead and terminate your pregnancy without any of this amendment applying. But if you do not have money, and if you are poor, then the State is going to mandate certain things. There are two classes.

So, again, the Senator from Colorado said this is notification, not consent. For a young woman who is a victim of rape who has no parents, who is not emancipated, or a ward of the State, this is consent because if she cannot notify them, the abortion can't be performed, so it really is consent. The way it is drafted, it is a consent amendment.

For those reasons, I think this amendment, as I said before, is fatally flawed because it does not provide either for a judicial bypass nor does it provide for another responsible adult, or counselor, to be involved to take care of those tough cases of a young woman who may be the victim of rape or incest.

So, Mr. President, I guess all has been said that can be said on this, and so therefore I move to table the amendment.

Mr. ARMSTRONG. Mr. President, will the Senator withhold the motion to table?

The PRESIDING OFFICER. Does the Senator consent to withholding the motion to table?

Mr. HARKIN. I withhold.

Mr. ARMSTRONG. I thank my friend from Iowa for doing so.

The PRESIDING OFFICER. The Senator from Colorado [Mr. ARMSTRONG] is recognized.

Mr. ARMSTRONG. Mr. President, we have had, it seems to me, a very good discussion. I do not want to reargue the points that he has just made. I had my say on those, for the most part. Certainly, he and I do not see the bypass issue the same. There are a couple of ways in which this amendment can be bypassed. We have discussed those.

I was surprised, however, that he raised the question of creating a two-class system. He is correct that this does not forbid, or condition, or put any requirements on abortions that are performed in entities that do not receive Federal funds. I mentioned that in my opening statement. I advertised it as a wise provision of the amendment.

What he characterized as ritzy private clinics presumably are not receiving funds under this legislation. So my amendment is aimed only at those entities which are receiving funding, in other words, precisely avoiding the tempting but in my view unwise recourse to a broad sweeping amendment. It is narrowly focused just on those entities that actually receive funds under this bill.

Let me say also to my friend from Iowa that it is hard to imagine in the light of what he has said that he would actually think the amendment would be improved if it had wider applicability. In fact, I would think that, but I do not really believe the Senator from Iowa would think so.

Mr. President, the Senator from Iowa also makes the point that we should not be complacent about the cases where abuse of children takes place within a family. I am sure no one thought I was complacent about it. I am not complacent about it. If even one such case occurs it is a tragedy, and certainly there are enough such instances that it constitutes a very great concern. Not only sexual abuse but other abuse of children is a shame, a blemish; it is a shocking thing.

I want to remind the Senator what Chief Justice Burger said. "The State's notion," Justice Burger wrote, "that government power should supersede parental authority in all cases because some parents abuse and neglect children is repugnant to the American tradition."

Mr. President, I rest my case right there and if all Senators are prepared to do so to go to a vote because this amendment is consistent with the American tradition. It just makes sense that certainly with some exceptions, maybe even some tragic exceptions, parents love their children, parents are in the best position to be of support and counsel for their children in times of crisis and emergency and an unwanted pregnancy is one of those times.

Certainly, if the law requires that you have parental consent for appendectomies and transfusions and even to donate blood and even in most instances to even have your ears pierced, it is not too much to ask that there should at least be parental notification, not consent but parental notification, before an abortion.

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[2] Federal Bureau of Investigation, "Uniform Crime Reports." (1989).

[3] Koss, "The Hidden Rape Victim: Personality, Attitudinal, and Situational Characteristics," 9 "Psychology of Women Quarterly" 193-212 (1985).

[4] Finkelhor, Hotaling, Lewis & Smith, "Sexual Abuse in a National Survey of Adult Men and Women: Prevalence, Characteristics, and Risk Factors," 14 "Child Abuse and Neglect" 19 (1990).

I hope all Senators will vote for the amendment, or if, as I anticipate, the Senator from Iowa moves to table, that they will vote against the tabling amendment.

Mr. HARKIN. Mr. President, the issue is not parental notification. That is not the issue. I wish that were the issue. It would be a very easy vote. It is not the issue at all. The issue is whether or not you have an amendment of this nature that is so constrained, so tightly worded, that it would not allow for any kind of bypass for victims of rape or incest. That is what this amendment does.

As I said earlier, I do not in any way impugn any motives of the Senator from Colorado. He has very strong feelings on this subject. I recognize those strong feelings. They are his own personal feelings, and certainly I think this amendment reflects those strong feelings he has on abortion.

But I do believe that the end result of this amendment is one that is very cold and very heartless. Again I am not saying that the Senator is. He is a caring person. But I am saying that the effect of this amendment is one that does not provide any kind of leeway for the least in our society, those who are poor, the outcast, the ones that do not have loving and caring parents.

It is easy for us to stand here. I have two daughters, one just starting high school. I will tell you, the older my daughters get, the more sensitive I am becoming to just how vulnerable our young women are in our society, how vulnerable they really are.

I hope that my wife and I have established the kind of loving and caring and open relationship with our two daughters so that they can always come to us with their problems and their concerns. I trust that that will happen. But not all families are like that. I wish they could be. I wish all families had a good relationship, two loving parents. But, sadly enough, that is just not the way it is.

I know that any parent, any parent, would want his or her daughter to come to them in case they were ever in trouble, even if they were pregnant. If they had a young daughter who was pregnant, they would want them to come and work out their problems with that parent. No parent worth his or her salt would not want that to happen.

But, above all, Mr. President, I believe that every parent would want his or her daughter to be safe. And that is what this amendment is about. It is about providing for some compassion, some caring, some understanding that not all families have, like the families that most of us are blessed with.

With that, Mr. President, I move to table the amendment.

Mr. ARMSTRONG. Will the Senator yield for a question?

Mr. ADAMS. Mr. President, point of order. The motion is not debatable.

The PRESIDING OFFICER. The motion is not debatable.

Mr. ARMSTRONG. Mr. President, I suggest the absence of a quorum.

Mr. ADAMS. The absence of a quorum is a point of order.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

Mr. ADAMS. Point of order. Once the vote has been called for and the Senator has the floor and the matter has gone before the clerk, a quorum call is not in order.

Mr. ARMSTRONG. Mr. President, a quorum is not present.

The PRESIDING OFFICER. A quorum call is in order prior to the vote.

The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, will the Senator withhold his motion to table?

Mr. HARKIN. Yes.

The PRESIDING OFFICER. The motion is withheld.

Mr. ARMSTRONG. I thank the Senator for his willingness to do so. I think this has established the point I wished to establish, and that is that Senators can be heard even when somebody does not want them to be heard.

It so happens that a moment ago I was intending to address a question to the Senator from Iowa. I think, under the circumstances, maybe enough has been said and, though I would be interested in his answer to that question, that there could be another time for that and sooner or later at the right time perhaps I shall ask him that question. At the moment, I am satisfied.

I thank my colleagues.

I thank the Chair, and ask for a no vote on a motion to table.

Mr. KOHL. Mr. President, I rise in support of the motion to table the amendment offered by our colleague from Colorado.

As I understand the proposal, it would prohibit a woman under the age of 18 from choosing to have an abortion, unless a parent were notified at least 18 hours prior to the procedure.

I struggle with this vote, Mr. President, because under the parliamentary situation before us, there is no way to modify the amendment. My only choice is yes or no. I believe the questions raised by the issue of parental notification or parental consent, deserve far more deliberation and consideration than a simple yes or no can offer.

This issue has been hotly debated in my own State of Wisconsin, and while all would not agree with me on this, I think in the minds of many voters this is an issue about the family, not just an issue about abortion rights. I have spent a great deal of time struggling with the issues, and even though I strongly believe in a woman's right to choose, I also believe in the role of the family. If we could figure out some fair and appropriate judicial, religious and social service bypass procedures, I could support some form of parental consent requirement.

Without that, Mr. President, we are ignoring the tragic dilemmas of young women who are the victims of incest and domestic violence. We are ignoring the victims of rape. And not only ignoring the reality that some 17-year-old women may not only have legitimate reasons for not wanting their parents involved, but those women may indeed have the maturity to make their own informed choice.

I, for one, Mr. President, am a bit weary of these politically cast votes that are not only misleading in terms of our views on issues, but also do grave injustice to the importance of the policies themselves. Three short weeks ago, this body adopted this amendment by voice vote, having failed to table an underlying amendment. Today, I expect we will once again fall victim to the process. I will vote to table this amendment because as written, it is simply bad public policy.

However, I do hope that we can return to this matter in the next Congress. And I hope that when we do, that we can have the full support and participation of those who support a woman's right to choose. I hope that we can agree on a policy that protects the rights of young women seeking abortions, as well as their parents.

Mr. LEVIN. Mr. President, I support some form of adult involvement in the decision of minors to have an abortion, which would allow minors who cannot turn to their own parents to go to another adult family member or other adult or judge for consultation.

The Senate voted on this same amendment with respect to another piece of legislation a few weeks ago. In the intervening time, nothing has been done to remedy the problems with the amendment that I noted when it was first offered. This amendment does not provide for an exception for rape or incest. In addition, it does not include a provision for judicial bypass in those cases in which parental notification is not appropriate in light of the circumstances. This amendment is not as carefully drawn as the importance of this issue merits.

The PRESIDING OFFICER. The question occurs on the motion to table.

Mr. ARMSTRONG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HARKIN. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Iowa [Mr. Harkin] to table amendment No. 2954 offered by the Senator from Colorado [Mr. Armstrong].

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. Metzenbaum] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from New Mexico [Mr. Domenici], the Senator from Oregon [Mr. Hatfield], and the Senator from California [Mr. Wilson] are necessarily absent.

The PRESIDING OFFICER (Mr. Akaka). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 48, as follows:

[Rollcall Vote No. 266 Leg.]

YEAS—48

Adams
Akaka
Baucus
Biden
Bingaman
Bradley
Bryan
Bumpers
Burdick
Chafee
Cohen
Cranston
Daschle
Dodd
Fowler
Glenn
Gore
Graham
Harkin
Heinz
Hollings
Inouye
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Mitchell
Moynihan
Packwood
Pell
Pryor
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Simon
Specter
Stevens
Wirth

NAYS—48

Armstrong
Bentsen
Bond
Boren
Boschwitz
Breaux
Burns
Byrd
Coats
Cochran
Conrad
D'Amato
Danforth
DeConcini
Dixon
Dole
Durenberger
Exon
Ford
Garn
Gorton
Gramm
Grassley
Hatch
Heflin
Helms
Humphrey
Johnston
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McClure
McConnell
Murkowski
Nickles
Nunn
Pressler
Reid
Roth
Shelby
Simpson
Symms
Thurmond
Wallop
Warner

NOT VOTING—4

Domenici
Hatfield
Metzenbaum
Wilson

So the motion to lay on the table amendment No. 2954 was rejected.

Mr. ARMSTRONG. Mr. President, is the pending question now the amendment?

The PRESIDING OFFICER. The amendment of the Senator from Colorado is pending.

Mr. ARMSTRONG. I move to reconsider the preceding vote.

Mr. HARKIN. I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to reconsider the vote.

Mr. KENNEDY. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Is the one who made the motion on the prevailing side?

The PRESIDING OFFICER. The Senator voted on the prevailing side.

Mr. ARMSTRONG. Mr. President, the pending question is on the amendment?

The PRESIDING OFFICER. The question is now on agreeing to the motion to table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. ARMSTRONG. Mr. President, after consulting with the manager of the bill, I ask unanimous consent that the yeas and nays be vitiated and the question be decided on a voice vote.

The PRESIDING OFFICER. Is there objection? Without objection, the yeas and nays are vitiated.

The question is on agreeing to the amendment.

The amendment (No. 2954) was agreed to.

Mr. ARMSTRONG. I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Illinois is recognized for a technical amendment.

Mr. SIMON. Mr. President, if I may have order.

The PRESIDING OFFICER. The Senate is not in order. The Senator from Illinois is recognized.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognized the Senator from Illinois first. Does the Senator yield?

Mr. SIMON. I yield briefly to my colleague from Iowa, but I want to retain my right to offer an amendment.

The PRESIDING OFFICER. Is there any objection to the request of the Senator from Illinois? If not, it is so ordered. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I ask unanimous consent that the remaining committee amendments be agreed to en bloc, with the exception of the committee amendment starting on page 17, line 15——

Mr. HELMS. Mr. President, we cannot hear.

Mr. HARKIN. And that the bill as thus amended——

The PRESIDING OFFICER. The Senate will be in order.

Mr. HELMS. I hope the Chair will get order.

The PRESIDING OFFICER. The Senate will not proceed until the Senate is in order.

The Senator from Iowa.

Mr. SIMON. Mr. President, I ask unanimous consent that the amendment that I am about to offer be set aside so that the Senator from Iowa may offer his amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I ask unanimous consent that the remaining committee amendments be agreed to en bloc with the exception of the committee amendment starting on page 17, line 15; that the bill as thus amended be considered as original text for the purpose of further amendments, provided that no point of order be waived by reason of this agreement.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I do not want to be a bear about this, but I cannot hear, and if the Chair would persist in getting order in the Senate.

The PRESIDING OFFICER. The Senate is not in order. The Senate will come to order.

The Senator from Iowa.

Mr. HELMS. No. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I do not think I am going to object. Let me inquire of the distinguished Senator from Iowa, he is excepting out the amendment, the provision on page 17, line 15, et cetera, is that correct?

Mr. HARKIN. That is correct. Yes.

Mr. HELMS. Very well. I have no objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Iowa?

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc with the exception of the committee amendment starting on page 17, line 15, and that the bill as thus amended be considered as original text for the purpose of further amendments, provided that no point of order be waived by reason of this agreement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 2955

(Purpose: To require the Secretary of Education to reduce or waive the administrative guideline of a 25-percent non-Federal contribution regarding certain disaster relief provided pursuant to section 7 of Public Law 81-874 and section 16 of Public Law 81-815, and for other purposes)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. Simon] proposes an amendment numbered 2955.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 65, between lines 5 and 6, insert the following:

SEC. 306. IMPACT AID.

Notwithstanding any other provision of law, in carrying out the provisions of section 7 of Public Law 81-874 (20 U.S.C. 241-1) (as amended) and section 16 of Public Law 81-815 (20 U.S.C. 646) (as amended), the Secretary of Education shall reduce or waive the administrative guideline of a 25 percent non-Federal share upon a showing of—

(1) financial hardship by the State or political subdivision thereof in the provision of; or

(2) a good faith effort by the State or political subdivision thereof to provide;

the non-Federal share for purposes related to the disaster for which Federal assistance is sought.

Mr. SIMON. Mr. President, this is an amendment that is a technical amendment that I understand has been agreed to on both sides. It grows out of a tornado that we all read about and heard about in Illinois that killed 31 people, and the impact aid problem that a Plainfield, IL school has.

This is a technical amendment. I think it is completely noncontroversial. I would appreciate the support of the Members of the Senate.

Mr. HARKIN. Mr. President, I have no objection to the amendment of the Senator from Illinois, Senator Simon. It has no budgetary impact on the bill.

Mr. SPECTER. Mr. President, the amendment has been reviewed on my side of the aisle. It is a meritorious amendment to which there is no objection.

Mr. SIMON. Mr. President, I want to thank the distinguished Senator from Iowa for recommending additional funding of $14 million under this bill such disaster relief assistance under the section 7 of the Impact Aid Program, and for his cooperation in working with me on this amendment.

In August of this year, a severe tornado hit Illinois, causing the loss of life and devastating the homes, businesses, and schools of several communities in northern Illinois. One school district, the Plainfield schools, in particular, suffered extensive damage, including the total destruction of the high school, an administration building, bus facility, and athletic fields, and the partial destruction of an elementary school.

Mr. President, a request for nearly $2 million in disaster relief assistance has been submitted by the Plainfield schools to the Department of Education and they anticipate that a supplemental request will be submitted. Their total request could reach nearly $3 million. The school system's needs are immediate and I hope that the Department of Education will move swiftly on this.

My amendment addresses a situation where the Department of Education has administratively adopted a rule requiring State or local matching contributions for disaster relief assistance at a level that may not be attainable for the Plainfield schools. My amendment would simply require the Secretary of Education to reduce or waive its guideline that requires State or local governments to provide nonfederal matching funds of 25 percent. This rule is not a statutory requirement under the Impact Aid Program, nor is it in the Department's own regulations as they pertain to disaster relief provided through that program. My amendment would simply require the Secretary to waive this guideline if the State or local jurisdiction can show that it is experiencing financial hardship, or has made a good faith effort to provide matching funds.

I thank, again, the Senator from Iowa, for his consideration of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment (No. 2955) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SIMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 2955

(Purpose: Strike funds appropriated for fiscal year 1992)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Carolina [Mr. Helms] proposes an amendment numbered 2956 to committee amendment, page 17, line 15.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, line 15, strike out "$600,000,000" and all that follows through "That" on line 19, and insert in lieu thereof the following: "$159,000,000 is available for part A and part B of title XXVI of the Public Health Service Act: *Provided*, That".

Mr. HELMS. Mr. President, if Senators could have an opportunity to even glance through this appropriations bill, and I do not think many have, they will find first that it appropriates $11 billion over the amount requested by the President of the United States.

Next, they will see that $2.1 billion has been allocated soley for AIDS research and treatment. That amount is $561 million over the administration's request for AIDS programs.

Laying all that aside for just a moment, one of the problems with this bill is that it attempts to use more budget gimmicks to increase spending for AIDS beyond fiscal year 1991. I do not believe that Senators paid much attention to Senate rule XVI, which prohibits appropriations for out-years like this. You will notice that $441 million is shifted into fiscal year 1992 to fund the so-called AIDS emergency bill. This bill is supposed to be for fiscal year 1991.

We can debate later the merits of the enormous amounts of money we are spending already for AIDS, amounts that are far out of proportion to the AIDS impact on society. But in any event we should not be appropriating money for fiscal year 1992 before we even get our fiscal house in order for fiscal year 1991.

Therefore the amendment I have sent to the desk will simply delete that amount—$441 million—that this bill attempts to shift over into fiscal year 1992. It is obvious that we do not need the money in this fiscal year. So I think it is only prudent that we should not be trying to appropriate it into a future year.

Mr. President, during the past few weeks we have heard speech after speech about deficits, taxes, and getting our fiscal house in order. But then comes legislation like this, $11 billion more than the President of the United States said he could spend wisely, that attempts to start spending on projects in 1992 with money we do not even have.

As they say in North Carolina, that does not make even good nonsense.

Many Senators and many people around the country might look at this bill and wonder why we are proposing such an enormous amount for our AIDS program. I will tell you why, Mr. President, although a lot of folks do not want to hear it.

These funds, which come from millions of compassionate Americans, are being allocated to fund research and treatment of AIDS not because of its threat to society, but on the basis of media hype and who can make the loudest noise in the Halls of Congress.

I will remind you that AIDS activists have taken to the streets to point the finger at our so-called homophobic society, as they put it, which they claim is committing murder against them. In fact, as a distinguished editor of the New Republic, Charles Krauthammer, said, and I quote him:

> American society is giving overwhelming and indeed disproportionate attention and resources to the fight.

Mr. President, look at the numbers in this bill and tell me if Americans have been inattentive to the problem of AIDS. The Federal Government spends 36.2 percent of its health budget on AIDS already, a disease which accounts for 1.3 percent of the deaths in this country. Shortly, in connection with another amendment, I am going to show the Senate some charts in this regard.

In this year, the Federal Government will spend a total of $4 billion on AIDS programs, and that includes money proposed in this bill in addition to other areas of the Government.

What are the facts? Influenza kills four times as many people in a year as does AIDS. So much for equity in the appropriations process.

In any event, Mr. President, the pending amendment puts Members who have spent the past few weeks talking about fiscal priorities on record. Do we continue down the slope toward disaster by catering to every vocal special interest or do we honestly assess the priorities according to common sense and the needs of society? That is the question.

There is no reason, no need, no justification to appropriate $441 million dollars for AIDS programs in the next fiscal year—not fiscal year 1991—but fiscal year 1992. That is what I am talking about. This amendment now pending restores a modicum of fiscal and public health sanity to the already bloated and inefficient Federal budget.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for other quorum calls be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the issue framed by the distinguished Senator from North Carolina relates to funding provided under the Ryan White Act, which is the very tragic case of the young man who lost his life due to AIDS. The total amount of the funding is at $600 million. But we do not have sufficient funds available this year, so we have taken the extraordinary task of making a commitment of $441 million for next year.

The one issue which was contested on this bill in the committee involved what we were doing for AIDS. There was an amendment offered by three distinguished Senators—Senator Adams, Senator D'Amato, and Senator Lautenberg, in alphabetical order—asking for a reallocation of something in the range of $338 million, to take across the board 0.9 percent, almost a 1 percent cut out of any program in the bill that was increased above the leaseline. This amendment received extensive consideration in committee because of the seriousness of the AIDS problem.

It requires little argument to recognize the epidemic proportion of AIDS in America and how it is being transmitted, and how it is threatening the health and welfare of our country. It is a problem which goes far beyond any moral judgments, infecting people who have transfusions in hospitals, infecting a young man like Ryan White, so that the allocations which we have made, while very extensive in this bill—and Senator Harkin and I have worked very hard to get funding—really is not enough to do the job.

The argument was made in subcommittee that Ryan White's mother was very discouraged with the lack of funding which had been forthcoming, even though we had put up these very substantial funds. My office and Senator Harkin's office was inundated with calls from around the country. The mayors of major cities are very much concerned about the inadequacy of funding for AIDS. We have done as much as we can, but we have not done enough. The subject matter which is raised by the distinguished Senator from North Carolina, I suggest, ought to remain in the bill as a commitment for the future because of the extraordinary nature of this problem.

Mr. President, I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, there is no Senator in this body for whom I have more affection than Arlen Specter, and he knows that. But the argument he has just presented is precisely the reason this Federal Government is in debt to the tune of $3.3 trillion.

I was with a group of young men from Wake Forest University a few minutes ago, and I was thinking about what they are going to have to confront because of the fiscal insanity of this Government. Let us see if we are underfunding research and other matters relating to AIDS. Bear in mind that over $3 billion is now in the pipeline. I do not know whether the Chair can see this chart, but this is Federal spending on disease research. Over here is AIDS, all the way to the top. Heart disease, cancer, and look down here at strokes, pulmonary, pneumonia, influenza, diabetes. Under rule XVI, you are not supposed to appropriate into a future fiscal year. I call that to the attention of the distinguished Presiding Officer.

But the point is that we all go home and say we are doing our best to balance the budget; that we are doing our best to do this and that and the other thing. Then we come back up here, and we have proposals like this. As far as I know, this Senate is going to be in session next year. I may not be here, but the House of Representatives, which has the original responsibility of appropriations, will be here.

Why start appropriating a year in advance? I say to the distinguished Presiding Officer that this is the kind of action by the Congress of the United States over a period of 40 years that has brought us to where we are.

I am not going to make a budget speech, although I could. I will say only that if there were some common sense in the Congress of the United States, and if there had been some common sense and some personal responsibility on the part of Members of Congress, as the President said the other day we would not be in the fix we are in.

They talk about the Reagan deficits and the Reagan debt and the Bush deficits and the Bush debt. But unless the Constitution has been changed when I was not looking, no President can spend one dime that has not been first authorized and appropriated by the Congress of the United States.

If anybody wants to complain about the national debt—and I do—look at who is responsible? This $3.3 trillion debt is Congress' $3.3 trillion debt. And this is a perfect example. I say that with all due respect for friendship with my friend from Pennsylvania.

I do not know how Senators will vote on this. But we do not have to appropriate a year in advance. In fact, Senate rule XVI prohibits us from appropriating a year in advance. I think that is enough justification for the pending amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I will be very brief. I see my colleague, a member of the committee, rising to speak.

I compliment Senator Helms for the logic of his remarks. The thought occurred to me that it is no wonder that babies cry when they are first brought in the world and slapped by the doctor. It is because they recognize they are so far in debt, $3.3 trillion in debt.

I wanted to ask a question and maybe Senator Helms or other Senators who are aware of the way this bill is broken out can answer. But if I heard correctly did I hear, Mr. President, the Senator from North Carolina say that 36 percent of our research dollars, Federal research dollars, are already committed to AIDS research; is that a correct figure?

Mr. HELMS. That is correct. Thirty-six percent is spent on AIDS, research, treatment, and education.

Mr. SYMMS. Thirty-six percent. And this is on top of the 36 percent?

Mr. HELMS. Yes. We have it on the chart. I had not shown the Senate my second chart yet. I will now. Now you can see. These are the various diseases. Heart disease gets 5.3 percent, cancer 30.3 percent, other 17.5, so forth. AIDS is on here somewhere.

Mr. SYMMS. Thirty-six, there it is.

Mr. HELMS. Yes, 36.2 percent.

Mr. SYMMS. Then 1.3 percent of the debt is AIDS.

Mr. HELMS. Yes. It accounts for only 1.3 percent of all deaths.

Mr. SYMMS. Thirty-six percent of the money?

Mr. HELMS. That is correct.

Mr. SYMMS. That is a classic example of the cause-and-effect relationship of special interest politics, applying pressure to the news media, the media making noise and creating this position. There is no other explanation for it.

Mr. HELMS. I agree with the Senator, obviously, particularly when we are in the midst of an obvious budget crisis in this country. As I said earlier, this is precisely the kind of activity by Congress—and I say this with all due respect to the Senators and Members of the House who worked on the appropriations bill.

But I do not see why we should violate rule XVI and attempt to appropriate money for a succeeding fiscal year at the beginning of this fiscal year.

I thank the Senator for his comments.

Mr. SYMMS. Mr. President, I thank the Senator from North Carolina for clarifying that and for the answer.

I would just say to my colleagues that my concern about everything we have been doing here of recent is that we continue to appropriate, appropriate, appropriate, and we talk about what the problem is. This is the very essence of what the philosophical division is all about in this Congress. We cannot raise enough taxes to continue to fund the Government at the fullest level for each cause that comes along. It just simply is not possible.

Mr. President, I recall very vividly that when I came to the House in 1973 H.R. Gross was still a Member of the House from Iowa, and he used to rant and rave about excessive appropriations bills and, God rest his soul, but if he could see what has happened in the last few years where we continue to appropriate and then we talk about tax increases then we find that if we do not want to vote for tax increases somehow we are being unpatriotic when in the reality the American people today are already being taxed 38 percent on their income for Government—State, Federal, and local government—38 percent of their income. How far is enough?

The only way we can head this off is to reduce these things slightly and not stop AIDS research. If I understand the Senator's amendment correctly, we will still have millions of dollars in trying to stop this dreaded disease and stop the spreading of it. I am concerned like all Americans that once it gets into the blood supply it creates all kinds of problems. Of course, that is a concern.

There is another concern here that can be even more and that is a disease in the American money supply, because all we have a choice to do is either tax people, borrow the money, or monetize the currency at the Federal Reserve. If we continue on the course of tax and spend and tax and spend and then print more money, we are all going to need banana lapel pins as the United States of America slids itself into the debt picture and becomes a banana republic like some of our friends in South America have.

I think we ought to try to avoid it and trim off the appropriations bills. I would like to spend not more than we spent last year on any of the appropriations bills. I think we can do that and use last year as the base.

The only place in the world that you can spend and spend more money than you did last year is Washington, DC. They do not do that anywhere else I know of. No company does it, no household does it, no State budget does it, no college does it, no university does it, no school district does it. They do not call it cutting spending when they spend more money than they spent last year.

I thank the Senator for offering the amendment, and I intend to vote for it.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I appreciate the Senator's comments. Bear in mind, that this bill to which I have offered this amendment is $11 billion more than the President of the United States has said he could spend wisely.

Does the Senator see the fiscal problem of operating the U.S. Government in this manner? We will spend $3.9 billion in fiscal year 1991, which this amendment will not touch—$3.9 billion in fiscal year 1991 for AIDS. And here we go leapfrogging into fiscal year 1992.

Mr. LAUTENBERG. Will the Senator yield for a question?

Mr. HELMS. Be glad to.

Mr. LAUTENBERG. Would the Senator clarify his development of the $2.9 billion figure because I believe that which is allocated to AIDS is substantially less than that? I believe it is approximately $1.6 billion through the Public Health Service. It would be helpful if the Senator could clarify that.

Mr. HELMS. In answer to that, I say to the Senator, that I am talking about overall Federal spending for AIDS.

Mr. LAUTENBERG. I heard the Senator very clearly talk about $2.9 billion.

Mr. HELMS. Correct. That is overall.

Mr. LAUTENBERG. Would the Senator mind identifying what the categories are that build this $2.9 billion figure. It is my understanding that the AIDS funding we know about with certainty is about $1.6 billion through the Public Health Service for research, prevention, and a very small amount of AIDS care funding.

Mr. HELMS. That is certainly a fair question, I say to the Senator. The Senator understands that this bill was just made available to be examined.

Now, I do not know whether the Senator wants me to go down orally on this question and answer his question or whether it will suffice to put it in the Record.

Mr. LAUTENBERG. No; in general categories will be all right.

Mr. HELMS. OK.

Mr. LAUTENBERG. Because I cannot get from $1.6 billion in discretionary funding through the Public Health Service to $2.9 billion. Perhaps there is some way.

Mr. HELMS. Well, you have on your desk, I say to the Senator, the Departments of Labor, Health, and Human Services, and Education, and related agencies appropriations bill. I suggest you turn it to page 28, and we will follow it together, and see if I am right.

Mr. LAUTENBERG. If the Senator would permit me a moment to check with the Labor-HHS staff.

Mr. HELMS. I suggest the absence of a quorum so the Senator can do that.

I do that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, if I might respond to the Senator from North Carolina, because I posed the question, I feel in fairness, that I ought to acknowledge the fact that there is a figure on AIDS that he has produced that includes other departments besides those enumerated in the Labor-HHS bill. It includes $870 million through entitlement programs like Medicaid, which is based on soft data. I understand the Health Care Financing Administration has cautioned that these figures are based on soft data. I think the better figure to use is the $1.6 billion one, spend through the Public Health Service.

I thank the Senator for his courtesy.

Mr. HELMS. I thank the Senator.

Mr. President, I attempted to make clear that I was talking about overall Federal spending for AIDS. The Senator from New Jersey, with his customary courtesy, has acknowledged that that is a fact.

Mr. President, I do not have anything further to say. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I will not take much time from the Senate, but I do want to reiterate, in my view, the reasons for providing funding for treatment and care of AIDS patients and for health care systems that are bearing the brunt of the AIDS epidemic.

We had a vote in this body that was 95 to 4 to fund the Ryan White AIDS CARE bill at $600 million. In the process of the deliberations of the House in conference committee, the figure came out to about $880 million.

Mr. President, it is true that we spend substantial sums of money on research for AIDS. The problem is that we do not spend much at all, nowhere near enough, to deal with care for AIDS and for health care systems that are hard hit by the epidemic.

The therapy that is available does not seem to do what is required. One thing is sure: if you have an active AIDS condition, you are going to die. There is not anything that we can say now to AIDS patients that is going to give them a significant measure of hope. But what we ought to do, is at least give these people an opportunity to hang on long enough so that when and if, pray God, something is developed, a discovery is made, that they can get treatment before they have to leave this world at age 20, 30, or 40, or 45, which is when most of the people inflicted with AIDS die.

It is cruel and inhuman to talk about the budget process when we discuss AIDS. People are dying all around America. A staffer that I had, a brilliant man, died of AIDS. He should not have died at age 35.

We are asking for forward funding because the AIDS epidemic demands a response.

What we are looking for is some relief for health care systems being pushed to the limits by an epidemic. Mr. President, if we had a fire, we would call out the fire engines. This requires the biggest fire engine we have. People are dying.

We are not talking about research. We are not talking about discoveries for tomorrow. We do not spend enough on cancer and Alzheimers and asthma and all; we do not spend enough in this country because those diseases still plague our society. We are talking about care dollars—money for health care systems.

But AIDS, AIDS gets looked at askance, like it is someone else's disease; "It is not our family, it is not our State, it is not our community; the disease belongs to someone else."

Well, it does not belong to "them" and we need to recognize that about 90 thousand people have died from AIDS already in this country. That is more people than we lost in Vietnam. AIDS is spreading quickly.

We have a plague on our hands, Mr. President. An epidemic is sweeping our country. I think it is cruel and inhuman to discuss here whether or not we can afford it.

I can tell you lots of things that we cannot afford. We cannot afford to continue growing tobacco that we know will ultimately wind up in someone's lungs and put them in the hospital and cost this country billions of dollars, far more than the $441 million that is proposed for the next fiscal year. We cannot afford to spend billions of dollars, some $60 billion, as a result of people's smoking habits. So we should not spend a dime encouraging that.

If we spent less on tobacco, we would have less people die, less people suffering, less people with emphysema and less people that we all have to pick up bills for.

Mr. President, Mrs. White, Ryan White's mother, came down here. I stood with her, with Senator D'Amato's and Senator Adams, in front of the TV cameras when she pleaded that the funding that was authorized for this program be provided. She did not want her son's name lended to an unfunded law.

Ninety-five to four, Mr. President, was the vote on the Ryan White AIDS Care Act. The Senate said it intended to provide relief when it approved that law. Frankly, I think we ought to stand up and honor our commitment to Mrs. White and the memory of Ryan White, who captured the interest of everyone in this country. Ryan White was 11 years old. When he died from AIDS—he got AIDS from an unknown donor's blood. We can't ignore that and walk away from our commitment to provide funds for this law and for emergency relief.

It is time, Mr. President, to focus our responsibilities, and make good on our promise to provide relief. I hope our colleagues will reject this amendment as it deserves to be.

I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER (Mr. Conrad). The Senator from Iowa.

Mr. SYMMS. I just wanted to ask one question. Was the Senator moving to table or something?

Mr. HARKIN. No, I am just going to talk on the amendment, but I will yield.

The PRESIDING OFFICER. The Senator from Iowa has the floor.

Mr. HARKIN. I yield the floor.

Mr. SYMMS. That is all right, if the Senator wants to go ahead.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. I thank the manager of the bill. I am sorry; I did not mean to crowd him out.

But I would just ask a question. I thought the amendment of the Senator from North Carolina knocked out the money from fiscal year 1992. Is that not correct? Well, the Senator from the New Jersey in his impassioned speech he just gave is not being precluded from putting this money back in the bill next year; is that not correct? Are we talking about two different bills here?

Mr. LAUTENBERG. It has to be apparent to my colleage from Idaho that was supposed to be in this year. And I still hope more can be provided this year. That is what we voted on, in the AIDS Care Act—AIDS emergency relief this year.

So what we are doing in hanging on by our fingernails and praying to God we can hold on to it next year. We would at least like that assurance. I would like to stand in front of Mrs. White and say, "Mrs. White, we are delivering late, but we are delivering on our promise."

Mr. HARKIN. If I might respond to that question, I appreciate it. I was going to mention that in my remarks.

Mr. SYMMS. Certainly.

Mr. HARKIN. Again, I am sort of caught in the middle here. I agree with everything the Senator from New Jersey said. We have to defeat this amendment and keep the money in.

The Senator from Idaho has raised the question of this being forward funded. Let me point out, it has been common practice to forward fund programs like this. The Corporation for Public Broadcasting, the one that just did the recent series on the Civil War that was so highly acclaimed, got forward funded 2 years in advance. Medicaid and AFDC are partially funded in advance. Payment to the health care trust funds for Medicare are funded in advance. Supplemental security income and black lung benefits are also advance funded.

The advanced funding for AIDS in this bill simply guarantees a further Federal commitment to AIDS care in fiscal 1992. The cities that have to bear a very heavy burden, usually in their public hospitals, for these AIDS victims—and we know their numbers are increasing precipitously, there are many more cases—I think it is in the best interests of all of us to let them know we have funding this year of $159 million, but to let them know next year—we have a commitment to fully fund the program the next year thereafter. I think that will relieve a lot of the burdens on our hospitals in some of these larger cities.

That is the primary reason for having the advanced funding in there.

The PRESIDING OFFICER. The Senator from Pennsylvania—has the Senator from Iowa yielded the floor?

Mr. HARKIN. If I may finish my remarks, I will let the Senator from Pennsylvania wrap it up.

For the record, Mr. President, I wanted to say the committee bill includes $600 million for the Ryan White AIDS Care Bill. There is $159 million included in fiscal 1991; $441 million included for fiscal 1992.

Of the forward funding amount, $251 million is for disaster relief for 16 high-impact cities and other heavily impacted areas; $290 million is forward funded for all of the States for fiscal year 1992.

The amendment of the Senator from North Carolina would strip out all of that money that is forward funded for fiscal year 1992.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, just a very brief comment by way of reply to what the distinguished Senator from North Carolina said, and the comment of the distinguished Senator from New Jersey. I believe this budget is appropriate middle ground. I acknowledge what Senator Helms has had to say about our deficit problems. But AIDS is a national problem which requires a national solution.

Senator Lautenberg has spoken eloquently on the subject of the need for further funding here. But we are not breaking the bank. We are not raising the roof. This appropriations bill is within our 302(b) allocation. That is the fancy technical language that means we are complying with the Budget Act. We are meeting our responsibilities in deficit reduction and doing the best we can on this important program.

I yield the floor.

The PRESIDING OFFICER. The question is on the amendment of the Senator from North Carolina. Is there further debate?

Mr. BRADLEY. Mr. President, I rise to vigorously oppose the amendment proposed by the Senator from North Carolina to strike the budget authorization of $441 million for AIDS care for the period October 1, 1991, through September 30, 1992.

I rise in support of the committee's recommendation that even in this difficult budget environment, we devote funds to those facilities at the front line in care for victims of AIDS. I am disappointed that in this wealthy country, we could not find the consensus or the will to devote more resources to develop a substantial, humane system of care for our citizens who are deeply affected by this epidemic, but I am happy that close to $49 million was found to provide relief to the hardest hit health care facilities this year. America's health care facilities are buckling under the weight of caring for individuals with AIDS and they need the emergency relief provided in this bill. And communities need help to build a network of humane home and community systems to care for our citizens with AIDS. I am hopeful that the $441 million in budget authority approved for next year will materialize to enable the development of this network. I am pleased that the current appropriations package will provide approximately $2.2 million to hard-hit hospitals in Newark and $1 million for Jersey City.

Mr. President, many of my colleagues have spoken about the vast human tragedy that this epidemic has created in this country. Others have talked about the tragedy yet to unfold as hundreds of thousands of Americans infected with the virus develop the disease. This country has made remarkable strides in treating the deadly infections that accompany the disease and has developed treatments to mitigate the destruction that the virus brings to individuals. This progress is extremely costly.

As we begin to be able to offer some hope to Americans with AIDS, the cost per case rises because victims will live longer. Many don't belong in hospitals. They have a substantial chance of leading a normal life. The crucial challenge for this country will be in our ability to support a health care system that will provide these patients with the valuable services needed to keep them alive as functioning members of our society. The task for communities will be to invite these citizens back to a full and productive life while supporting their health and service care needs brought about by the infection.

Mr. President, in my home State of New Jersey, nearly 10,000 citizens have been afflicted with the disease. The tragedy of AIDS in New Jersey is compounded by the high proportion of women and children among those affected. While AIDS in children constitutes less than 2 percent of the cases nationwide, nearly 11 percent of the children afflicted live in New Jersey. Heterosexuals and children constitute the highest proportion of cases in my State.

Mr. President, hospitals treating the highest proportions of AIDS patients need this bill. Hospitals who treat AIDS patients are losing as much as $200 a day on each person that they treat. They need financial assistance to avoid buckling under the burden of this caseload. We must support these acute care hospitals while we work to develop community-based systems.

Mr. President, I urge my colleagues to expeditiously enact this important piece of legislation. It is a needed and humane measure that will help alleviate some of the misery inflicted by a tragic epidemic.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I move to table the amendment of the Senator from North Carolina.

Mr. GARN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the motion to lay on the table the amendment of the Senator from North Carolina.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. Bumpers] and the Senator from Ohio [Mr. Metzenbaum] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from New Mexico [Mr. Domenici], the Senator from Oregon [Mr. Hatfield], the Senator from Alaska [Mr. Stevens], and the Senator from California [Mr. Wilson] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. Hatfield] and Senator from

Alaska [Mr. STEVENS] would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 70, nays 24, as follows:

[Rollcall Vote No. 267 Leg.]

YEAS—70

Adams
Akaka
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Burdick
Byrd
Chafee
Coats
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Durenberger
Exon
Fowler
Glenn
Gore
Graham
Harkin
Hatch
Heinz
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mack
McCain
McConnell
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Warner
Wirth

NAYS—24

Armstrong
Baucus
Bond
Boschwitz
Burns
Cochran
Ford
Garn
Gorton
Gramm
Grassley
Heflin
Helms
Humphrey
Lott
McClure
Nickles
Pressler
Roth
Rudman
Simpson
Symms
Thurmond
Wallop

NOT VOTING—6

Bumpers
Domenici
Hatfield
Metzenbaum
Stevens
Wilson

So the motion to lay on the table the amendment (No. 2956) was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If the Senator will suspend for one moment, Senators will clear the aisle, the well, and refrain from audible conversation, and allow the Senator from North Carolina to be heard.

Mr. HELMS. Mr. President, I thank the Chair very much.

AMENDMENT NO. 2957

(Purpose: To obligate certain funds for use in programs promoting the health of children and the elderly)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 2957 to committee amendment on page 17, line 15.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 18, end of line 2, insert:

That the Secretary of Health and Human Services shall make available not less than $120,000,000 from amounts otherwise appropriated for programs relating to AIDS as follows:

"(1) $60,000,000 of such amount shall be made available to the National Institute of Child Health and Human Development for programs relating to the prevention of infant mortality and sudden infant death syndrome, child health research centers, and mental retardation in children; and

"(2) $60,000,000 of such amount shall be made available to the National Institute on Aging for programs relating to Alzheimer's disease:

Provided further,".

Mr. HELMS. Mr. President, I am going to attempt to demonstrate, and I think I can successfully do so, the priorities in this bill seem to me to be rather badly skewed. Let me say at this point at the outset that all of us hate to see anyone die, whether it is from AIDS, sudden infant death syndrome, cancer, or whatever.

I do not intend to suggest that, and I never have, we should treat any disease, especially AIDS lightly. What I do suggest now, and what I have suggested heretofore is that we must in fairness to all American taxpayers consider carefully our priorities when we determine how to allocate our funds for research and treatment of various diseases.

The amendment that I had proposed earlier was defeated, as I knew it would be. I thank Senators who supported it. I think there were 24.

I was simply making the point, Mr. President, that among other things this bill appropriates $11 billion more than the President of the United States requested, $11 billion more than he believes he can spend wisely.

Yet we run around here like a chicken with its head cut off, trying to come up with some sort of reasonable budget. The process needs to start earlier than a bunch of Senators sitting around trying to dream up some magical potion that cannot work, to try to fix the mess we are in. We certainly have not done the job of protecting the coming generations from the nearly $300 billion Federal debt that is now hanging like a plague over the United States of America. Everybody has an instant solution for every problem. You can watch the promising politicians every time. They promise everything, and then they get up here and what do they do? They want to solve problems by throwing money at them.

An objective look at the facts, the arithmetic, shows that the funding in this bill is for some reason inordinately concentrated on AIDS. Let me say again just for the point of emphasis, and at the risk of being repetitive, AIDS is a terrible disease. There is not a Senator in this body who understands that more clearly than I. I sympathize with those who have it, especially the innocent people who have it, especially the babies who are born with it.

I sympathize. All Senators do. But I also sympathize with those who die from cancer and heart disease and other killer diseases. Why in the name of Heaven should we ignore these difficult diseases while we are spending inordinate amounts of money on AIDS?

That is the purpose of this amendment, to shift just $120 million from the overfunded public health service budget for AIDS into two programs, one of which will benefit the elderly, and one which will benefit infants.

This amendment puts $60 million into the National Institute for the Aging for Alzheimer's research, and $60 million into the National Institute of Child Health and Human Development for the fight against infant mortality, sudden infant death syndrome, and mental retardation.

This amendment addresses only a small part of the overall Federal budget, but it sends a message that our health and fiscal priorities need to be changed.

Let me first address myself to the priorities in this bill. The Labor-HHS appropriations bill contains more than $2 billion—$2 billion—in AIDS research, education, and treatment programs. In fact, AIDS spending is so far out of control it is the only disease which gets its own chapter in the committee report. I suggest that Senators look at that.

The report states that the number of AIDS cases in America rose 9 percent last year—9 percent. Yet, the AIDS budget has gone up 37 percent in 1 year's time.

Let us take a look at some charts.

The green column, as I have indicated, indicates the number of deaths caused by each disease in 1989, which are the latest figures available. The orange column is the amount of money spent on research in 1989.

Let us break these numbers down a little bit, so we can perhaps understand better, what all of this shows about our priorities.

In 1989, 731,000 people died of heart disease, and we spent $219 million on research for heart disease. Also that year, 494,000 people died of cancer, and we spent $1.240 billion on research for cancer. But compare that, or contrast it with funding for AIDS. During 1989, AIDS was responsible for 22,000 deaths; a tragic number. One death is a tragic number. But these 22,000 deaths from AIDS constitute less than half of the number of Americans who died of diabetes and less than one-third of the number who died of influenza.

Do you begin to get the picture, Mr. President? We have spent more on AIDS-related research than we have spent on research for heart disease and cancer combined.

The second chart is even more graphic.

As Senators can see from the pie chart, on the right, 36.2 percent of the Federal and health research, education, and prevention budget is spent on AIDS—36 percent. The chart, on the left, shows AIDS accounts for only 1.3 percent of all the deaths in America; a great tragedy. I chose to use the title on the chart of "distorted priorities," because I believe that is what it is.

Mr. President, there is an AIDS lobby. It is a erudite group of people. They know how to lobby. They know how to scare some politicians, and they say that such out-of-control and unfair spending is warranted because of the greed and indifference of our society.

This AIDS lobby also argues that we have to take into account the years of lost productivity as justification for such spending.

Let us examine that argument for just a moment. Chart three indicates the causes of death among people under age 45. This demonstrates which diseases result in the most productivity by showing the number of deaths caused among people under the age of 45. You can see the long line for cancer, 24,052; prenatal conditions, 18,527; heart disease, 17,520; AIDS, 12,912.

Mr. President, in this country, approximately 39,000 children die before the age of 1. That is 64 years of lost productivity for each such death among the most helpless, most innocent segment of society.

This amendment at the desk simply attempts to move our priorities back just a little bit in order to do something about this by shifting $60 million into the fight against infant mortality.

The authors of this legislation—and I respect them, and they are my friends—claim that AIDS threatens the very foundation of America's health system. In fact, a typical AIDS case costs the same as that of a patient who suffers from terminal cancer.

But the fact is, since AIDS patients are such a small percentage of our patient population, the reported cost of AIDS cases this year will be about $2 billion, or less than 1 percent of the total U.S. medical costs.

The National Commission on AIDS says that the disease deserves more funding because it is contagious, while diabetes, cancer, and heart disease are not. In fact, Mr. President, AIDS is contagious through behavior. A change in behavior among two high-risk populations—homosexual men and IV drug users—would reduce the spread of this disease more than one more dime of Federal money on education program.

Mr. President, according to the distinguished publication Commentary—and I am going to put that in the RECORD—AIDS is such an isolated disease that a homosexual male who lives outside areas such as New York and Los Angeles and San Francisco has less chance of getting AIDS than he does of dying of cancer or heart disease.

The unwarranted concentration of Federal resources on AIDS, has created problems for other diseases such as Alzheimer's, the cruel devastating killer of senior citizens, which afflicts, by the way, 4 million Americans and takes more lives in 10 months than AIDS has taken in 10 years.

So this pending amendment adjusts our priorities by shifting the $60 million into the Alzheimer's programs of the National Institute on Aging.

Let me repeat: programs such as Alzheimer's research and cancer research have suffered; AIDS is swallowing up dollars and researchers every day.

Dr. Vincent DeVita, before resigning as director of the National Cancer Institute, said "AIDS has been an extraordinary drain on the energy of the scientific establishment." AIDS has so drained Federal cancer research that new research funding for cancer is at a two decade low.

Then I was very much interested in a statement by Dr. Robert Young, who is now president of the American Society of Clinical Oncology, who said, "The superstructure of cancer research is being dismantled." While NIH lost 1,100 researchers in the last 5 years, the number of employees engaged in AIDS research has increased by about 600.

So let me emphasize once more this amendment is about priorities. Many Americans will die because of the politically driven agenda of the AIDS lobby. Remember this legislation spends $561 million more on AIDS than the President of the United States requested; yet this Senate bill would spend $8 billion less than the House did on the National Institute of Child Health, and by extension its infant mortality program.

I do not think that is fair. I do not think it is wise. I do not think it is prudent. The American people are often accused of being indifferent to the suffering of the AIDS community, but a look at this appropriation bill certainly says otherwise. Under our current pattern in 1991 we will spend almost $4 billion on AIDS-related programs. We are spending more money on AIDS education than we are spending on Alzheimers.

There was an article back in June in the Washington Times which commented:

> It is past time for AIDS activists to acknowledge that greed and indifference, such as they are, do not kill, but irresponsible behavior does.

Mr. President, a lot of unpleasant things have been said about this Senate because I have felt obliged to dissent from the pressure and the wishes of the AIDS lobby. But I am no longer alone in my fight. The dam is starting to break. As I said I would earlier in my comments, I have several articles that I want to print in the RECORD.

I will ask unanimous consent that the following be printed in the RECORD at the conclusion of my remarks. I refer to Charles Krauthammer's essay in Time magazine entitled, "AIDS: Getting More Than Its Share?" Then an editorial from the Washington Times on June 28, 1990, entitled, "AIDS Blame Game." Then the magazine Commentary has an excellent article that Senators ought to read entitled, "Are We Spending Too Much on AIDS?" Finally, and certainly not least, a letter written to Senators by the distinguished Senator from Colorado [Mr. ARMSTRONG] back in September on the impact the Nation's 20 top diseases have on our society.

Mr. President, I ask unanimous consent that all the aforementioned items be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AIDS: GETTING MORE THAN ITS SHARE?

(By Charles Krauthammer)

Last month a thousand demonstrators camped outside the National Institutes of Health near Washington and with a talented display of street theater protested governmental and scientific neglect of AIDS. If not the angriest demonstration Washington has seen in a long time, it was certainly the most misdirected. The idea that American government or American society has been inattentive or unresponsive to AIDS is quite simply absurd. Consider:

Treatment. Congress is about to do something extremely rare: allocate money specifically for the treatment of one disease. The Senate voted $2.9 billion, the House $4 billion over five years for treating AIDS. And only AIDS. When Senator Malcolm Wallop introduced an amendment allowing rural districts with few AIDS patients to spend the money on other diseases the amendment was voted down, 2 to 1.

Research. Except for cancer, AIDS now receives more Government research money than any other illness in America. AIDS gets $1.2 billion to $1.3 billion. Heart disease, for example, receives about half as much, $700 million. The AIDS research allocation is not just huge, it is hugely disproportionate. AIDS has killed 83,000 Americans in nine years. Heart disease kills that many every six weeks.

Testing. Under pressure from AIDS activists, the FDA has radically changed its regulations for testing new drugs. The Administration has proposed "parallel track" legislation that would make drugs available to certain patients before the usual testing process is complete. Nothing wrong with this. But this exception is for AIDS patients only—a fact that hardly supports the thesis that government is holding back an AIDS cure or discriminating against AIDS patients.

The suffering caused by AIDS is enormous. Sufferers deserve compassion, and their disease deserves scientific inquiry. But AIDS has got far more. AIDS has become the most privileged disease in America. Why? Mainly because its victims are young, in many cases creative and famous. Their deaths are therefore particularly poignant and public. And because one of the two groups that AIDS disproportionately affects (gay men) is highly organized. This combination of conspicuousness and constituency has allowed AIDS activists to get more research funding, more treatment money and looser drug-testing restrictions than any comparable disease.

Nothing wrong with that. The system for allocating research and treatment money in American medicine is archaic, chaotic and almost random anyway. Under the "Disease of the Month Club" syndrome, any disease that has in some way affected a Congressman or some relation gets special treatment. There is rough justice in this method of allocation because after a while Congressmen and their kin get to experience most of the medical tragedies that life has to offer. At the end of the day, therefore, funds tend to get allocated in a fairly proportionate way.

AIDS is now riding a crest of public support, won in the rough and tumble of politics. All perfectly legitimate, and a tribute to the passion and commitment of AIDS activists. But that passion turns to mere stridency when they take to the streets to protest that a homophobic society has been ungenerous and stingy in its response to the tragedy of AIDS. In fact, American society is giving overwhelming and indeed disproportionate attention and resources to the fight.

At first the homosexual community was disoriented and defensive in reaction to AIDS. In the quite understandable attempt to get public support, it fixed on a strategy of claiming that AIDS was everyone's problem. Since we were all potential sufferers—anyone can get AIDS, went the slogan—society as an act of self-protection should go all out for cure and care.

This campaign was initially successful. But then it ran into an obstacle. It wasn't true. AIDS is not everyone's problem. It is extremely difficult to get AIDS. It requires the carrying out of specific and quite intentional acts. Nine out of ten people with AIDS have got it through homosexual sex and/or intravenous drug use. The NIH demonstrators, therefore, now appeal less to solidarity than to guilt; every person who dies is more blood on the hands of a society unwilling to give every dollar demanded for a cure.

But society has blood on its hands every time it refuses to give every dollar demanded by the cancer lobby, the heart disease lobby, the diabetes lobby. So now a different tack: the claim that the AIDS epidemic is, of course, not an act of government but an act of God—and government has not done enough to help its helpless victims.

In fact, AIDS is far less an act of God than is, say, cancer or diabetes. Apart from a small number of relentlessly exploited Ryan White-like exceptions, the overwhelming majority of sufferers get AIDS through some voluntary action: sex or drug abuse. You don't get AIDS the way you used to get TB, by having someone on the trolley cough in your face. You don't get it the way you get, say, brain cancer, which is through some act of God that we don't understand at all.

AIDS is in the last class of diseases whose origins we understand quite well. It is behaviorally induced and behaviorally preventable. In that sense it is in the same moral class as lung cancer, the majority of whose victims get it through voluntary behavior, well known to be highly dangerous. For lung cancer the behavior is smoking; for AIDS, unsafe sex (not, it might be noted, homosexuality) and IV drug use.

As a society we do not refuse either to treat or research lung cancer simply because its sufferers brought it on themselves. But we would find it somewhat perverse and distasteful if lung cancer sufferers began demonstrating wildly, blaming society and government for their problems, and demanding that they be first in line for a cure.

Many people contracted AIDS before its causes became known, about six years ago. For them it is truly an act of God. For the rest (as the word has gone out, an ever increasing percentage), it is an act of man. They, of course, deserve our care and treatment. But it is hard to see from where they derive the claim to be first in line—ahead of those dying of leukemia and breast cancer and stroke—for the resources and compassion of a nation.

[From the Washington Times, June 28, 1990]

AIDS Blame Game

(By Mona Charen)

I don't know about you, but I'm tired of being blamed for the AIDS epidemic.

So much of what travels under the name of AIDS education or homosexual activism is really an accusation of heterosexual culpability. Consider the advertisements being carried on Chicago buses. One panel depicts two men kissing, a second shows two women kissing and a third shows an interracial couple kissing. The tag line reads, "Kissing Doesn't Kill, Greed and Indifference Do."

While the statement "Kissing doesn't kill" is literally true, the implication—that individual sexual behavior is irrelevant to the spread of the disease—is absurd. And what about the reference to greed and indifference? Is it the greed of intravenous drug abusers who sell sex for dope? Or the indifference of promiscuous homosexuals who don't bother to get tested? Doubtful. They're talking about our greed, fellow taxpayer, yours and mine.

Our guilt is also the strong implication of those who shouted down Health and Human Services Secretary Louis Sullivan at the Sixth International AIDS conference in San Francisco over the weekend. Members of ACT UP unfurled a pink banner reading, "He talks, We die," and created such a din that only those who could understand the translator for the deaf "heard" his words.

Earlier in the week, protesters were arrested outside the headquarters of the Immigration and Naturalization Service office in San Francisco. Angry at an INS decision to deny visas to foreigners who test positive for HIV, the protesters chanted. "You can't hide; we charge * * *

There is also a veiled accusation in the famous AIDS quilt which the media treat so reverently. I'm not saying that the deaths from AIDS are not tragic, nor that memorializing those who have died is inappropriate. Of course not. But why spread the quilt on the Mall, between the Lincoln Memorial and Washington Monuments? Displaying it there implies broad government guilt for the tragedy of AIDS. The quilt has become the largest bloody shirt in political history.

But the accusation is slanderous. We are now spending more taxpayer dollars on AIDS research, treatment and education than on any other single disease. And we are spending more on AIDS than on diseases which, in sheer numbers, take a much higher toll. In 1989, 21,488 patients died of AIDS, according to the Centers for Disease Control. (The number may be slightly understated due to delays in reporting.) Since the beginning of the epidemic, AIDS has taken 81,906 lives. That's a terrible blight.

But the world is full of horrible diseases. Each year, 40,000 women die of breast cancer, and a few million dollars would buy a lot of mammograms. Indeed, more than a million Americans are diagnosed with cancer each year, and about half die of it. Three-quarters of a million people will die of heart disease in 1990.

Yet federal funding to the Public Health Service for AIDS is $1.8 billion annually, as much as we spend on cancer, and a third more than we spend on heart disease. Is this the "greed and indifference" the Chicago bus ads are talking about?

When will the homosexual lobby take responsibility for its own actions? A new report presented at the AIDS conference in San Francisco reveals that so-called "unsafe sex practices" are on the rise again among homosexual men. Unprotected anal intercourse, the royal road for the AIDS virus, is back among blacks and men under 30.

Jean McGuire, executive director of the AIDS Action Council told the Washington Post, "To stop AIDS, we're going to have to be more explicit. We are going to have to spend more money."

Enough. We already spend $400 million annually on AIDS education. This is on top of the zillions of hours of free education provided by the media. Everyone in the world already knows that anal sex transmits AIDS, and studies show that knowledge has little impact on decisions about sexual behavior.

It's past time for AIDS activists to acknowledge that greed and indifference (such as they are) do not kill, but irresponsible behavior does.

[From Commentary, October 1900]

Are We Spending Too Much on AIDS?

(By Michael Fumento)

If there is one thing Americans seem to agree upon about AIDS, it is that we are not spending enough on the disease. "The government has blood on its hands," reads a bumper sticker that is ubiquitous in major cities, "one AIDS death every half hour." AIDS activists, who are fond of asserting that AIDS is "not a homosexual disease," tell us in the same breath that the failure to spend more on it constitutes genocide against homosexuals. A recent public-opinion poll shows, indeed, that most Americans favor increasing spending on AIDS.

But consider. This past year, reported cases of AIDS in the U.S. increased only 9 percent over the previous year's tally. The federal Centers for Disease Control (CDC) of the Public Health Service (PHS) has been forced to lower greatly both its estimate of

current infections and its projections of future cases. The World Health Organization, similarly, has lowered its original estimate of as many as 100 million infections by 1990 to a current eight to ten million. New York City, AIDS capital of the nation, has lowered its estimate of current infections from 500,000 to about 150,000.

Nor has the long-expected "breakout" of AIDS into the heterosexual middle class shown any sign of occurring. Former Surgeon General C. Everett Koop, who probably coined the expression "heterosexual AIDS explosion," now claims he knew "from the very beginning" that such a thing would never happen; Gene Antonio, author of *The AIDS Coverup!* (300,000 copies in print), which predicted as many as 61 million infections by this year, now denies having made such a prediction. At the recent international AIDS conference in San Francisco, Dr. Nancy Padian put another nail in the coffin of the "breakout" theory when she reported the results of her study of 41 couples among whom the woman was originally infected and the man was not; over a period of years, only one man became infected, and that only after both he and his partner had experienced penile and vaginal bleeding on over 100 occasions.

This year, AIDS dropped from being the 14th biggest killer of Americans to number 15. Heart disease this year will kill about 775,000 Americans, a figure perhaps 20 times as high as the number of Americans who will die of AIDS in the next twelve months. In the next two months cancer will kill almost as many people as have died of AIDS in the course of the entire epidemic.

Nevertheless, the *current* PHS allocation of about $1.6 billion for AIDS research and education is higher than that allocated for any other cause of death. In 1990, the CDC will spend $10,000 on prevention and education for each AIDS sufferer as opposed to $185 for each victim of cancer and a mere $8.50 for each cardiac patient. Total federal research expenditures on AIDS this year will be more than 100 percent of nationwide patient costs; in the case of cancer, the corresponding ratio of research-and-development spending to patient costs is about 4.5 percent, in the case of heart disease about 2.9 percent, and in the case of Alzheimer's disease, less than 1 percent.

AIDS activists have answers to these statistics. Since AIDS strikes most often in the prime of life, they urge us to consider the years of lost productivity as a cost that could be avoided by more spending now on AIDS research. Yet every year cancer and heart disease *each* kills more than 150,000 Americans below the age of sixty, while this year AIDS will kill around 30,000 persons of all ages. Nor do the calculations of years lost take account of the fact that intravenous drug abusers, who make up a growing portion of those affected by the disease, have a very low life expectancy and an even lower expectancy of productivity.

But, say AIDS activists, the disease is overwhelming the nation's health-care system, and this alone justifies increased spending on research. A figure repeated often in the media has been the Rand Corporation's estimate that by 1991, direct medical costs for AIDS (that is, medical expenses only, with lost wages not included) could be as high as $133 billion, with up to $88 billion in 1991 alone. *U.S. News & World Report* flatly declared. "What is now becoming clear to an array of leaders—in medicine, business, government, and academia—is that AIDS not only threatens untold death and suffering but could bankrupt America's health system as well." In fact, however, a typical AIDS case costs approximately the same as a terminal cancer case, about $40,000 to $50,000, which means that the 35,000 reported AIDS cases last year will end up costing the nation something less than $2 billion, or considerably less than 1 percent of this year's total U.S. medical costs of approximately $650 billion.

Of course, localized emergencies can exist. New York City's hospital system, running poorly even before AIDS, is clearly in a state of crisis even though cases in that city have peaked. The reason New York, San Francisco, Los Angeles, and other such cities have been hit so hard by AIDS is that they are refuges for homosexuals and drug abusers. With that in mind, the House and Senate are seeking to authorize $2.9 billion and $4 billion, respectively, over the next six years, mostly for these hard-hit cities and states. (Ironically, the bill has been cast as emergency relief for rural areas, apparently in the belief that voters have more sympathy for the problems of Peoria than for those of San Francisco or New York.) This special allocation for AIDS, which comes on top of an earlier special allocation to subsidize the drug AZT, is almost without precedent. There is nothing similar for people with heart disease or cancer or diabetes or lupus or any number of other potentially fatal diseases (with the exception of end-stage renal disease).

What about the assertion that AIDS deserves more funding because it is contagious, while heart disease and cancer are not? In fact, AIDS is contagious almost exclusively through behavior, and modification of that behavior could in theory reduce future AIDS cases virtually to zero without another penny spent on research and without a single medical breakthrough. An as-yet uninfected homosexual who avoids high-risk behavior will almost certainly never contract AIDS; but his chance of dying of cancer remains one in five. Indeed, male homosexuals outside of such high-incidence areas of San Francisco, Los Angeles, and New York, and whose HIV status is unknown, currently have less chance of getting AIDS than of dying of either heart disease or cancer.

It is said that even if research on AIDS does not yield a cure, spin-offs from that research could lead to cures and treatments for other diseases. In line with this idea, Congressman Ted Weiss (D.-NY) requested the Office of Technology Assessment (OTA) to prepare a report titled, "How Has Federal Research on AIDS/HIV Contributed to Other Fields?" The reviewer in the British medical journal Lancet, struck by the contrast between this tiny report and OTA's customary "behemoth, exhaustive" efforts, noted that it was comprised of nothing more than opinions from an "unspecified organization of 'distinguished biomedical and social scientists,'" and that "For policy or polemics, this OTA production is a bust."

Nevertheless, Dr. Anthony Fauci, the director of the National Institutes of Allergies and Infectious Diseases (NIAID), a branch of the National Institutes of Health (NIH), and long an advocate of increased spending on AIDS, declared that "There's positive spin-offs already and certainly in the next decade or two you'll see more," adding that these included cancer. In fact, no life has ever been saved, no disease ever ameliorated, by AIDS spin-offs. As former NIH director Donald Fredrickson has pointed out, most AIDS research is far too narrowly targeted to lead to significant spin-offs. Indeed, most of the money spent by the PHS on AIDS (including for advertisements on late-night television like the one featuring a man who resolves not to go out on the town and "bring back AIDS to my family") does not involve clinical research at all.

This is not to say that no spin-offs are ever possible. After all, no one knew that the space program would end up introducing the world to velcro. But we did not embark on the space program because we wanted a new kind of fastener. If it is a cure for cancer we seek, we should spend money on cancer research, not on another disease entirely. As it happens, increasing spending on cancer at the expense of spending on AIDS might do more for both diseases; of the first three drugs approved for treatment of AIDS or its conditions, two—AZT and alpha interferon—were spin-offs of cancer research.

Among the deleterious effects of disproportionate spending on AIDS have been inevitable boondoggles, as great a problem in medicine as in national defense. In December 1988, NIAID announced two grants totaling $22.8 million to study non-drug-using heterosexuals in order, as the Associated Press put it, to "prevent a huge new epidemic." Speaking on condition of anonymity, one prominent federal epidemiologist said of the study, "I think it's complete bullshit." He added, "My sense was that a huge amount of money got dumped on NIAID and that by the time they got around to awarding the money a lot of good institutions had already been funded and all that was left was schlock."

Concentration on AIDS has in general prompted a de-emphasis of other medical diseases like Alzheimer's, a cruel, debilitating malady that will continue to exact an everhigher yearly toll unless medical intervention becomes possible. Nobody is more conscious of this than researchers themselves. It takes up to a decade to put a high-school graduate through medical school; thus, for now and for the immediate future, AIDS researchers are being drawn from other research areas, primarily cancer, and the rumblings from traditionally nonpolitical laboratories are growing louder and louder. Some are calling it "AIDS Resentment Complex, a play on "AIDS Related Complex." Dr. Vincent T. DeVita, Jr., just before stepping down from his position as director of the National Cancer Institute (NCI), said that AIDS "has been an extraordinary drain on the energy of the scientific establishment." In fact, AIDS research has now weakened cancer research to the point where NCI's ability to fund promising new proposals is lower than at any time in the past two decades.

Two top doctors left NCI in late 1988, partly out of frustration over this state of affairs. According to one of them, Dr. Robert Young, now president of the American Society of Clinical Oncology, "the superstructure of cancer research is being dismantled." Indeed, for non-AIDS work, NIH lost almost 1,100 employees between 1984 and 1989. At the same time, according to Science magazine, the number of NIH employees engaged in AIDS work increased by more than 400 to 580 workers or their full-time equivalents.

The most vocal opposition to spiraling federal AIDS expenditures has probably come from women concerned about breast cancer, which kills about 44,000 a year; every two years as many women die of breast cancer alone as the number of men and women who have died of AIDS over the course of the entire epidemic. True, Congress is now considering bills that would appropriate funds for cancer screening in women, but the total to be allocated for both breast cancer and cervical cancer—the latter kills 6,000 women a year and is virtually always preventable if caught early enough—is only $50 million, as contrasted with the $3 to $4 billion which Congress wants to spend for AIDS treatment programs over the next six years and which will probably not save a single life, from AIDS or anything else.

The blunt fact is, then, that a great many people will die of other diseases because of the overemphasis on AIDS. We will never know their names and those names will never be sewn into a giant quilt. We will never know their exact numbers. But they will die nonetheless.

Is this right? Should a compassionate society allocate funds and research on the basis of media attention, on the basis of whoever makes the loudest noise? Or should it, rather, put its appropriations where they can do the most good for the greatest number of people?

U.S. SENATE,
REPUBLICAN POLICY COMMITTEE,
Washington, DC, September 8, 1990.

DEAR COLLEAGUE: Last fall the Senate adopted an amendment of mine to the Labor-H.H.S.-Education appropriations bill that would have required the Secretary of Health and Human Services to report to Congress on the amount of money that the Federal government spends on research, prevention, and education for the 20 illnesses that are the leading causes of death in the United States. The conference committee took my amendment out but wrote the same requirement into its report, and the Assistant Secretary for Health has now completed his "Report to Congress on Expenditures for Research, Prevention and Education for the 20 Illnesses that are the Leading Causes of Death in the U.S."

The report is dated July, 1990. I obtained a copy during the August recess and am now sending one to you so that the information in the report will be widely available when Congress makes its appropriations decisions for fiscal year 1991.

The report uses mortality data from 1987 and expenditure data from 1989 (actual) and 1990 (estimated). Things have changed since 1987 (e.g., in 1987 there were 13,468 deaths from HIV infection while in 1989 there were 22,237 deaths), but the overall message of the report would change little if newer data were substituted. (The enclosed charts, which were prepared by Policy Committee staff not H.H.S., do use later data.)

The report tells us that in 1987 for every 1,000 deaths from all causes,

358 were caused by heart disease,
225 were caused by cancer,
71 were caused by stroke,
37 were caused by pulmonary diseases,
33 were caused by pneumonia and influenza,
18 were caused by diabetes, and
6 were caused by HIV infection.

The report tells us that for every $1,000 that we expect to spend in 1990 on research, prevention, and education on these 20 illnesses,

$53 will go to heart disease,
$303 will to go cancer,
$16 will go to stroke,
$7 will go to pulmonary diseases,
$17 will go to pneumonia and influenza,
$85 will go to diabetes, and
$362 will go to HIV infection.

If we divide the report's 1990 numbers for expected spending on research, prevention, and education by the number of deaths in 1987 we see that we are spending,

$288 per death caused by heart disease,
$2,608 per death caused by cancer,
$450 per death caused by stroke,
$383 per death caused by pulmonary diseases,
$1,004 per death caused by pneumonia and influenza,
$6,895 per death caused by diabetes, and
$110,280 per death caused by HIV infection ($86,790 per 1989 death).

If we distributed Federal research, prevention, and education funds to each illness equally for each death caused, each of these 20 killers would receive about $2300 per death. Compare that hypothetical disbursement with the numbers above where average expenditures per death run from below $300 to above $110,000—and keep in mind that we spend far less than $300 per death for some of the other illnesses that are included in the report but not summarized in this letter. Of course, we make decisions about spending for medical research, prevention, and education for many reasons besides the number of persons that an illness kills. For example, the prospects for a cure, the likelihood that education will change behavior, and the possibility of ameliorating the disabling effects of an illness that strikes but doesn't kill are the kinds of additional considerations that we legitimately take into account. Still, one can't look at the numbers above without wondering if our spending priorities are consistent with good science and good government.

I am enclosing a copy of the H.H.S. report together with helpful charts prepared by the Policy Committee. I hope the report and the charts will spark a reassessment of our priorities in medical research, prevention, and education. The American people, Congress, the Executive Branch, and the health professions need to ask if our spending is reasonably matched with the actual risks we face, the suffering and expense of illness and death, and our expectations for medical progress.

Sincerely,

WILLIAM L. ARMSTRONG.

Enclosures:

1. Department of Health and Human Services, Public Health Service, "Report to Congress on Expenditures for Research, Prevention and Education for the 20 Illnesses that are the Leading Causes of Death in the U.S." (July, 1990)
2. Republican Policy Committee, United States, "Charts on the Top 20 Killers" (September, 1990)

[From the Public Health Service, July 1990]

REPORT TO CONGRESS ON EXPENDITURES FOR RESEARCH, PREVENTION, AND EDUCATION FOR THE 20 ILLNESSES THAT ARE THE LEADING CAUSES OF DEATH IN THE UNITED STATES

(By James O. Mason, M.D., Dr.P.H., Assistant Secretary for Health)

INTRODUCTION

In its deliberation on the Fiscal Year 1990 budget for the Department of Health and Human Resources, the Senate stated: "Within 120 days of the enactment of this Act, the Secretary shall submit to the Congress a report listing the 20 leading causes of death in the United States, the number of deaths caused by each, the age-specific and age-adjusted death rates for each, the death rate per 100,000 population and the percent of total deaths for each, and the amount of money and percent of total money that the Government of the United States spends annually on research, prevention, or education with respect to each leading cause of death. The report shall show actual expenditures for fiscal year 1989 (or fiscal year 1988 if final 1989 data are unavailable) and projected expenditures for fiscal year 1990. In determining what programs or activities constitute spending for research, prevention, or education, the Secretary shall use consistent criteria for each of the 20 illnesses and shall specify with reasonable particularity the programs or activities that meet such criteria." (Congressional Record, September 21, 1989, page S11632.)

The following report has been prepared by the Public Health Service of the Department of Health and Human Services in response to this request.

STATISTICS DATA

The mortality statistics are for the calendar year 1987 as stated in the "Monthly Vital Statistics Report" (Vol. 38, No. 5, Supplement, September 26, 1989), National Center for Health Statistics. The crude death rate is calculated by dividing the total deaths by the total population. The age-specific death rate was determined by dividing the deaths occurring in an age interval by the population in that age group. Age-adjusted death rates show what the level of mortality would be if there were no changes in the age composition of the population from year to year. The age-adjusted rates presented in this report were computed by applying the age-specific death rates for a given cause of death to the standard population distribution by age. The total population as enumerated in 1940 was selected as the standard.

CRITERIA

In determining the programs or activities which constitute spending for research, prevention, or eduction, the following criteria was applied for each of the 20 illnesses that are the leading causes of death.

Research—includes the biomedical and behavioral research supported by the National Institutes of Health (NIH) and the Alcohol, Drug Abuse and Mental Health Administration (ADAMHA) as well as the research on medical treatement effectiveness, general health services, and health care technology funded by the Agency for Health Care Policy and Research (AHCPR).

Prevention—includes programs and activities aimed at disease prevention, control, and health promotion supported by the Centers for Disease Control (CDC), NIH, and ADAMHA. In addition the Food and Drug Administration (FDA) expenditures related to HIV/AIDS are included.

Education—includes community-based risk reduction efforts supported by CDC, NIH, and ADAMHA. Spending for HIV/AIDS is also included for the Office of Minority Health, Office of the Assistant Secretary for Health and the Health Resources and Services Administration's Education Training Centers.

20 illnesses that are leading causes of death, USA, 1987 (Based on 9th Revision International Classification of Diseases, 1975)	Number of deaths	Percent total deaths	Death rate per 100,000 population		
			Age-specific death rate	Age-adjusted death rate	Crude death rate
All causes—not just sum of 20 leading illnesses	2,123,323	100.0		535.5	872.4
Under 1 year			1,018.5		
1 to 4 years			51.6		
5 to 14 years			25.6		
15 to 24 years			99.4		
25 to 34 years			133.2		
35 to 44 years			214.1		
45 to 54 years			498.0		
55 to 64 years			1,241.3		
65 to 74 years			2,751.3		
75 to 84 years			6,282.5		
85 years and over			15,320.8		
1. Diseases of heart	760,353	35.8		169.6	312.4
Under 1 year			25.2		
1 to 4 years			2.2		
5 to 14 years			0.9		
15 to 24 years			2.8		
25 to 34 years			8.4		
35 to 44 years			35.6		
45 to 54 years			140.5		
55 to 64 years			408.8		
65 to 74 years			1,007.9		
75 to 84 years			2,560.0		
85 years and over			7,074.2		
2. Malignant neoplasms, including neoplasms of lymphatic and hematopoietic tissues	476,927	22.5		132.9	195.9
Under 1 year			2.7		
1 to 4 years			3.8		
5 to 14 years			3.3		
15 to 24 years			5.1		
25 to 34 years			12.4		
35 to 44 years			43.5		
45 to 54 years			164.3		
55 to 64 years			447.0		
65 to 74 years			843.6		
75 to 84 years			1,298.4		
85 years and over			1,618.0		
3. Cerebrovascular diseases	149,835	7.1		30.3	61.6
Under 1 year			3.4		
1 to 4 years			.4		
5 to 14 years			.2		
15 to 24 years			.6		
25 to 34 years			2.2		
35 to 44 years			7.0		
45 to 54 years			20.1		
55 to 64 years			52.2		
65 to 74 years			157.2		
75 to 84 years			562.6		
85 years and over			1,733.1		
4. Chronic obstructive pulmonary diseases and allied conditions	78,380	3.7		18.7	32.2
Under 1 year			1.4		
1 to 4 years			.3		
5 to 14 years			.3		
15 to 24 years			.5		
25 to 34 years			.6		
35 to 44 years			1.8		
45 to 54 years			9.2		
55 to 64 years			47.4		
65 to 74 years			145.5		
75 to 84 years			300.4		
85 years and over			376.9		
5. Pneumonia and influenza	69,225	3.3		13.1	28.4
Under 1 year			17.9		
1 to 4 years			1.4		
5 to 14 years			.3		
15 to 24 years			.7		
25 to 34 years			1.8		
35 to 44 years			3.4		
45 to 54 years			7.0		
55 to 64 years			17.6		
65 to 74 years			56.7		
75 to 84 years			234.1		
85 years and over			1,002.4		
6. Diabetes mellitus	38,532	1.8		9.8	15.8
Under 1 year			0		
1 to 4 years			.1		
5 to 14 years			.1		
15 to 24 years			.3		
25 to 34 years			1.4		
35 to 44 years			3.5		
45 to 54 years			9.7		
55 to 64 years			26.9		
65 to 74 years			61.1		
75 to 84 years			123.3		
85 years and over			213.4		
7. Chronic liver disease and cirrhosis	26,201	1.2		9.1	10.8
Under 1 year			.4		
1 to 4 years			0		
5 to 14 years			0		
15 to 24 years			.2		
25 to 34 years			2.6		
35 to 44 years			10.0		
45 to 54 years			19.8		
55 to 64 years			32.1		
65 to 74 years			35.1		
75 to 84 years			32.6		
85 years and over			20.9		
8. Artherosclerosis	22,474	1.1		3.6	9.2
Under 1 year			0		
1 to 4 years					
5 to 14 years					
15 to 24 years			0		
25 to 34 years			0		
35 to 44 years			.1		
45 to 54 years			.7		
55 to 64 years			4.0		

20 illnesses that are leading causes of death, USA, 1987 (Based on 9th Revision International Classification of Diseases, 1975)	Number of deaths	Percent total deaths	Death rate per 100,000 population		
			Age-specific death rate	Age-adjusted death rate	Crude death rate
65 to 74 years			16.3		
75 to 84 years			73.6		
85 years and over			406.5		
9. Nephritis, nephrotic syndrome, and nephrosis	22,052	1.0		4.8	9.1
Under 1 year			5.8		
1 to 4 years			.1		
5 to 14 years			.1		
15 to 24 years			.2		
25 to 34 years			.6		
35 to 44 years			1.2		
45 to 54 years			3.3		
55 to 64 years			9.2		
65 to 74 years			26.4		
75 to 84 years			78.9		
85 years and over			218.1		
10. Septicemia	19,916	.9		4.5	8.2
Under 1 year			6.7		
1 to 4 years			.6		
5 to 14 years			.1		
15 to 24 years			.3		
25 to 34 years			.7		
35 to 44 years			1.4		
45 to 54 years			3.2		
55 to 64 years			9.1		
65 to 74 years			24.2		
75 to 84 years			66.5		
85 years and over			188.8		
11. Certain conditions originating in the perinatal period	18,222	.9		7.5	7.5
Under 1 year			479.2		
1 to 4 years			.8		
5 to 14 years			0		
15 to 24 years			0		
25 to 34 years			0		
35 to 44 years			0		
45 to 54 years					
55 to 64 years			0		
65 to 74 years			0		
75 to 84 years			0		
85 years and over					
12. Human immunodeficiency virus infection	13,468	.6		5.5	5.5
Under 1 year			2.3		
1 to 4 years			.7		
5 to 14 years			.1		
15 to 24 years			1.3		
25 to 34 years			11.6		
35 to 44 years			14.0		
45 to 54 years			7.9		
55 to 64 years			3.5		
65 to 74 years			1.3		
75 to 84 years			.8		
85 years and over			.5		
13. Congenital anomalies	12,333	.6		4.9	5.1
Under 1 year			209.1		
1 to 4 years			6.4		
5 to 14 years			1.3		
15 to 24 years			1.3		
25 to 34 years			1.0		
35 to 44 years			1.1		
45 to 54 years			1.5		
55 to 64 years			1.9		
65 to 74 years			2.5		
75 to 84 years			4.1		
85 years and over			5.4		
14. Hypertension with or without renal disease	8,139	.4		1.8	3.3
Under 1 year			.1		
1 to 4 years			0		
5 to 14 years			0		
15 to 24 years			0		
25 to 34 years			.1		
35 to 44 years			.5		
45 to 54 years			1.		
55 to 64 years			3.9		
65 to 74 years			10.9		
75 to 84 years			27.6		
85 years and over			77.4		
15. Benign neoplasms, carcinoma in situ, and neoplasms of uncertain behavior and of unspecified nature	6,570	.3		1.7	2.7
Under 1 year			1.6		
1 to 4 years			.4		
5 to 14 years			.2		
15 to 24 years			.3		
25 to 34 years			.4		
35 to 44 years			.7		
45 to 54 years			1.6		
55 to 64 years			3.8		
65 to 74 years			9.3		
75 to 84 years			20.7		
85 years and over			36.8		
16. Ulcer of stomach and duodenum	6,358	.3		1.4	2.6
Under 1 year			.3		
1 to 4 years			0		
5 to 14 years			0		
15 to 24 years			0		
25 to 34 years			0.1		
35 to 44 years			0.4		
45 to 54 years			1.1		
55 to 64 years			2.9		
65 to 74 years			8.0		
75 to 84 years			22.7		
85 years and over			59.4		
17. Hernia of abdominal cavity and intestinal obstruction without mention of hernia	5,547	.3		1.1	2.3
Under 1 year			2.5		
1 to 4 years			.2		
5 to 14 years					
15 to 24 years			.1		
25 to 34 years			.1		
35 to 44 years			.2		
45 to 54 years			.6		
55 to 64 years			1.7		
65 to 74 years			5.3		
75 to 84 years			19.7		
85 years and over			68.4		
18. Anemias	3,813	.2		.9	1.6
Under 1 year			.5		
1 to 4 years			.3		
5 to 14 years			.2		
15 to 24 years			.3		
25 to 34 years			.5		
35 to 44 years			.4		
45 to 54 years			.6		
55 to 64 years			1.2		
65 to 74 years			3.4		
75 to 84 years			11.6		
85 years and over			40.5		
19. Cholelithiasis and other disorders of gallbladder	3,032	.1		.6	1.2
Under 1 year			0		
1 to 4 years			0		
5 to 14 years			0		
15 to 24 years			0		
25 to 34 years			0		
35 to 44 years			.1		
45 to 54 years			.3		
55 to 64 years			1.2		
65 to 74 years			3.6		
75 to 84 years			11.3		
85 years and over			33.3		
20. Nutritional deficiencies	2,889	.1		.5	1.2
Under 1 year			.7		
1 to 4 years			.1		
5 to 14 years			0		
15 to 24 years			0		
25 to 34 years			0		
35 to 44 years			.1		
45 to 54 years			.2		
55 to 64 years			.5		
65 to 74 years			2.0		
75 to 84 years			9.6		
85 years and over			49.1		

DEPARTMENT OF HEALTH AND HUMAN SERVICES PUBLIC HEALTH SERVICE RESEARCH, PREVENTION AND EDUCATION EXPENDITURES

[In thousands of dollars]

20 illnesses that are the leading causes of death, USA, 1987 (Based on the 9th Revision International Classification of Diseases, 1975)	CDC	NIH	ADAMHA	AHCPR	OASH	Other PHS	Total
1989 ACTUAL							
1. Diseases of heart	6,396	204,565	3,449	2,542			216,952
2. Malignant neoplasms, including neoplasms of lymphatic and hematopoiatic tissues	16,196	1,186,362	1,102	1,464			1,205,124
3. Cerebrovascular diseases (stroke)	245	62,778	1,352	291			64,666
4. Chronic obstructive pulmonary diseases and allied conditions	856	27,066	1,185				29,107
5. Pneumonia and influenza	3,056	63,424	145				66,625
6. Diabetes mellitus	10,625	244,724	613			3,900	259,862
7. Chronic liver disease and cirrhosis	1,982	8,235	5,553				15,770
8. Atherosclerosis	45	117,856		50			117,951
9. Nephritis, nephrotic syndrome, and nephrosis		99,842	946				100,788
10. Septicemia (blood poisoning)	2,723	144					2,867
11. Certain conditions originating in the perinatal period	2,596	74,215	49,092				125,903
12. Human immunodeficiency virus infection	377,592	602,294	173,336	6,831	3,416	89,215	1,252,684
13. Congential anomalies	2,996	92,043	4,175				99,214
14. Hypertension with or without renal disease	14,078	125,382	1,047				140,507
15. Benign neoplasms, carcinoma in situ and neoplasms of uncertain behavior and of unspecified nature	653	1,914	177	87			2,831
16. Ulcer of stomach and duodenum		2,847	61				2,908
17. Hernia of abdominal cavity and intestinal obstruction without mention of hernia			238				238
18. Anemias	1,124	20,453	261				21,83
19. Cholelithiasis and other disorders of gallbladder		4,271	197	116			4,584
20. Nutritional deficiencies	2,733	17,995	3,400				24,12
Total	443,896	2,956,410	246,329	11,381	3,416	93,115	3,754,547
1990 ESTIMATE							
1. Diseases of heart	6,399	204,186	3,712	4,593			218,89
2. Malignant neoplasms, including neoplasms of lymphatic and hematopoiatic tissues	13,640	1,225,904	1,269	2,835			1,243,64
3. Cerebrovascular diseases (stroke)	265	65,386	1,544	279			67,47
4. Chronic obstructive pulmonary diseases and allied conditions	856	27,864	1,338				30,05
5. Pneumonia and influenza	3,147	64,987	158	1,174			69,46
6. Diabetes mellitus	9,467	250,192	635			5,400	265,69
7. Chronic liver disease and cirrhosis	2,129	8,458	6,908				17,49
8. Atherosclerosis	45	118,157		997			119,19
9. Nephritis, nephrotic syndrome, and nephrosis		102,745	1,053				103,79
10. Septicemia (blood poisoning)	2,865	152					3,01
11. Certain conditions originating in the perinatal period	2,633	76,813	92,824				172,27
12. Human immunodeficiency virus infection	442,826	743,532	214,647	8,474	4,010	71,761	1,485,25
13. Congential anomalies	3,263	94,717	5,043				103,02
14. Hypertension with or without renal disease	14,078	125,966	1,118				141,16
15. Benign neoplasms, carcinoma in situ and neoplasms of uncertain behavior and of unspecified nature	694	1,766	202	300			2,96
16. Ulcer of stomach and duodenum		2,932	70				3,00
17. Hernia of abdominal cavity and intestinal obstruction without mention of hernia			272				27
18. Anemias	1,134	20,603	300				22,03
19. Cholelithiasis and other disorders of gallbladder		4,370	225	1,489			6,08
20. Nutritional deficiencies	2,733	18,417	3,818				24,96
Total	506,174	3,157,147	335,136	20,141	4,010	77,161	4,099,76

Note: the "other PHS' column includes: HRSA: 1989—$14,640,000; 1990—$14,549,000. FDA: 1989—$73,775,000; 1990—$56,220,000. IHS: 1989—$4,700,000; 1990—$6,392,000.

CHARTS ON THE TOP 20 KILLERS

The attached charts depict the number of deaths caused by the "top 20 killers" and show how the federal government allocates its research, education and prevention dollars. The spending figures shown in the charts are for fiscal year 1990, and are taken from an HHS report to Congress issued this past July. The mortality figures, however, are *not* taken from the recent HHS report to Congress. That report uses *1987* data on deaths from major killers; the charts, except where otherwise noted, use *1989* mortality figures.

[Charts not reproducible in the RECORD.]

Mr. HELMS. I thank the Chair, and I yield the floor.

The PRESIDING OFFICER (Mr. BRYAN). Who seeks recognition?

The Senator from New Jersey [Mr. LAUTENBERG].

Mr. LAUTENBERG. Mr. President, I want to respond to the comments and the charts shown by our colleague from North Carolina who makes the point that we are spending too much on AIDS, that AIDS is getting more than its fair share, that AIDS is a disease related to a particular segment of the community, that it is associated with a particular behavior type.

It is important to say that if you want to save someone's life from AIDS you do not have to know how that person contracted the disease: Whether it is a child getting a transfusion in the hospital or someone who accidentally contracts it from a dentist or some other way.

We spend billions trying to solve the drug problem because we know we cannot wish the problem away. It's the same thing with AIDS. We need to spend money to ease the burden on health care systems and help families cope with the devastating disease until we do find a cure. AIDS affects all of us. It affects our neighbors, in some cases, unfortunately, our kids, in some cases our fellow workers. And it will get worse.

So, to suggest that AIDS is getting too much, in my judgment, misses the point entirely.

The Senator asks that we take $120 million from AIDS programs to provide more funding for the cure or the prevention of sudden infant death syndrome, Alzheimer's, diabetes. I agree with the Senator that we need more funding for those programs. And we ought to find a way to provide it. But the place to find the money is not the funds available to deal with a disease over which we have little control.

Those victimized by the other diseases need our help. There is not a lot of hope yet for Alzheimer's. We may be encouraged by some things on the drawing board. But there is no cure yet.

But we're searching for them. I come from a State that is the home of a pharmaceutical industry in which I know there are some gains being made in the treatment of diabetes. We know that money is being provided for diseases that harm the elderly. As a matter of fact, this bill provides for a 51-percent increase for the National Institute on Aging from last year to this year. Alzheimer's funding increases from $147 million in fiscal year 1990 to $305 million in this bill.

I also call to the Senator's attention the fact that AIDS is not just an urban problem, and that this is not just a condition related to particular communities. We have information that tells us that the number of AIDS cases is growing in alarming proportions in rural communities, growing at a rate, in some cases, far exceeding the cities.

Between 1988 and 1989, the incidence of AIDS increased over 200 percent in some of our less populated cities and States. It increased dramatically in cities like Indianapolis and Gary, IN. It increased 100 percent in Greenville-Spartanburg, SC, and Johnson City-Kingsport, TN, Springfield, MO, and in Biloxi, MS. We are not talking about only major urban areas.

We are talking about large numbers of people who are affected by AIDS. AIDS is the leading cause of death for women ages 20 to 40 in New York City. AIDS disproportionately affects minority women.

Heterosexual activity accounts for a steadily increasing proportion of all AIDS cases: In 1983, 0.9 percent and in 1988, 4 percent of all AIDS cases were in the heterosexual population. And the list goes on.

I think, Mr. President, that we ought to take a serious look at our health care costs and find out just what it is that costs this country so much money.

One of the causes is the use of tobacco. Mr. President, I point out for the record that approximately $130 billion a year is spent on the results of cigarette smoking. For instance, $65 billion in economic costs; $22 billion in health care costs; $43 billion a year on lost productivity; $4.2 billion in Medicaid and Medicare costs. And that figure goes on relentlessly.

If we are serious about saving money in health care costs and reducing the burden on the budget, then perhaps we ought to spend some money on discouraging people from smoking, and say, "Listen; if you really want to help your health, if you really want to do something for yourself and your family, then stop smoking." Save us all a lot of agony, a lot of pain, a lot of anguish, and save us a lot of money to boot.

I close with one comment. There is not a person here who is not concerned about infant mortality and who does not have the desire to reduce it.

One way to improve infant health and reduce mortality, I read in the papers, read in the journals, is to make sure that pregnant women do not smoke during their pregnancies. The babies that are born to nonsmoking mothers do a lot better in life shortly after their birth and continuing on for sometime if mom never smokes.

So I hope we will be able to enlist the aid of the Senator from North Carolina when it comes to really dealing with these health issues, recognize that AIDS is a health problem that should concern all American citizens. AIDS is an American public health crisis that demands action.

Mr. President, I hope that we will be moving shortly to table this amendment.

Mr. KENNEDY. Mr. President, I join with those that hope that this amendment will be defeated.

Mr. President, this is a mean-spirited amendment. Let us put the facts on the table. Basically, what we are debating in this amendment, is cutting back on research and care for those with HIV disease who might benefit, and balancing that against the needs of children and the elderly in our society.

Rather than coming out on the floor of the U.S. Senate and saying, "I am additionally concerned about children and about those with Alzheimers disease and am going into battle to see if we cannot get additional resources," this amendment put those that are afflicted with various diseases striving and fighting against each other. And then throw the conflict right out on the Senate floor to see how it comes out, so that some will be able to say, "Look, you really care more about one group than about the other."

And how ridiculous is it, Mr. President, on the one hand to be talking about the importance of children's health programs while moving money away from AIDS research or AIDS care. Children benefit a great deal from this research and care. Anyone that has traveled this country and visited the various pediatric AIDS centers at major urban hospitals has seen the tragedy that is affecting hundreds of thousands of infants in this Nation born addicted to drugs and infected with HIV. And make no mistake about it, the research done in HIV benefits not only these children, but many individuals affected by other chronic debilitating diseases.

We saw only a short time ago where scores of Members of the U.S. Senate went to a big howdy-do downtown because it was for pediatrics AIDS research. Everyone was prepared to go out there. Nonetheless, we still have an amendment here to cut back on the research that may very well benefit infants, expectant mothers, and hemophiliacs, not to mention countless others who are suffering with this dreaded disease.

The fastest rate of increase for causes of death among children, is attributable to combinations of HIV and substance abuse. And the fastest increase of mortality due to any disease in the past 2 years has been AIDS.

So, Mr. President, when we have a disastrous force that comes in, whether it is a hurricane, or in this case a disease, we respond. And we commend those that have recognized the importance of this challenge to our society and the challenge to the world.

The United States, Mr. President, is doing the research, the principal research with far-reaching implications around the world. The AIDS research funded under this bill will hopefully benefit the 10 million people around the world who have been diagnosed HIV-positive.

So, Mr. President, I hope that the sound scientific basis and justification for this effort, which has been amply demonstrated and justified by the peer review process time in and time out and which can mean extraordinary hope and opportunity for millions of our fellow citizens will not be denied.

Finally, Mr. President, the care program that was adopted overwhelmingly by this body just a few months ago, partially financed in this appropriation, provides some degree of care, outpatient care, for those in need. Once again, when you see the importance of a comprehensive community-based care system, not only in terms of the implications that it has on the quality of life of sick individuals, and the additional kinds of care and attention that can be given to those with HIV disease, but also terms of saving resources, the critical importance of the Ryan White Care Act is readily apparent. In many instances the cost of a hospital room may be $800 or $900 a day for the treatment of those with HIV disease. It is a fraction of that amount to provide home care. We have a down payment on the creation of appropriate care systems in this program, and through this amendment, such care will be cut as well.

So, Mr. President, I hope that this mean-spirited amendment will be rejected for what it is—the pitting of needy groups, and those who are vulnerable in our society against each other. Whether it is Alzheimer's or children afflicted by a variety of different diseases—and I yield to no one in my understanding of that, having had a child that was afflicted with cancer, or those with HIV disease—we must not place those in need in this type of competition. I believe that the AIDS investment that is included in this particular legislation in the areas of AIDS research, prevention and care, is a wise investment for our fellow citizens here in this country and around the world.

I hope the amendment will be defeated.

Mr. President, I ask unanimous consent that a letter from the Assistant Secretary for Health be printed in the RECORD along with a speech delivered by Secretary Sullivan and other relevant materials.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH
AND HUMAN SERVICES,
Washington, DC, October 10, 1990.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your letter dated September 26 in which you request a public health context for evaluation of the mortality data provided to the Senate in the Report to Congress on Expenditures for Research, Prevention and Education for the 20 Illnesses that are the Leading Causes of Death in the U.S.

I would like to state that my intent in the report which was requested by Congress was to provide statistical information that established one measure of the health of the Nation. The Administration, the Department of Health and Human Services (HHS), and the Public Health Service within HHS, have provided the best summary of our priorities for health care research and prevention and for allocation of resources in these areas in the Fiscal Year (FY) 1991 budget proposal that was submitted to Congress by the President. In this proposal, as well as in the long-range plan outlined in our recently published document Healthy People 2000—National Health Promotion and Disease Prevention Objectives, we have tried to balance the many research and prevention needs of the Nation and to place emphasis or high priority on those areas with the greatest need and/or for which we perceive the opportunity to have the greatest effect.

Let me explain briefly why we have placed a relatively high priority on research and prevention for AIDS and human immunodeficiency virus (HIV) infection. AIDS is a new disease to the United States and the world occurring during the last 15 years or so. It is an infectious disease that continues to spread throughout the Nation. We have the opportunity to make rapid advances in our understanding of the virus and its interaction with the human host, in the means of transmission and the natural history of infection, in development of therapies not only for HIV infection but for the myriad of complicating infections, and in the development of a vaccine. At the same time, more knowledge has been acquired about how HIV is transmitted, and how it can be prevented than is available for most of the other leading causes of deaths in the United States today. Through this accumulated knowledge, we face unprecedented opportunities in the 1990's for implementing prevention efforts to slow or even stop the further spread of this infection.

As you know, the numbers of newly diagnosed cases and deaths continue to increase each year. More than 61 percent of reported AIDS patients are known to have died. Mortality has increased from 131 deaths in 1981, the year the disease was first recognized, to 6,540 deaths in 1985, to 15,026 deaths in 1987, and 22,863 in 1989 (the numbers vary slightly from those cited in the report to Congress due to late reports of death received by the Centers for Disease Control). This is an increase of 175 fold in less than a decade, and 52 percent in the last two years. Our projections for the number of deaths from AIDS in 1993 range from 53,000 to 76,000, a further increase of 232 percent over four years if the lower figure is used. In contrast, mortality numbers and rates for most other diseases are expected to remain relatively constant. This disease, which was unknown in 1980, has climbed to the twelfth spot within seven years as a disease causing death in the United States. It likely will be number eight or nine on the list by the time the cumulative figures for 1989 are available.

The age-specific death rate is another useful comparison. In the report to Congress comparing data for 1987, AIDS is the second leading cause of mortality from disease for young adults aged 25 to 34, and it is the third leading cause for those aged 35 to 44. For both young adult men and women, the significance of AIDS and HIV infection as a cause of death is continuing to increase, as illustrated by the enclosed graphs. For selected populations, such as black women aged 15 to 44 in New Jersey and New York, AIDS had become the leading cause of death as of 1987, and the rates continue to increase. For 1988, AIDS and related conditions accounted for 11 percent of all deaths in black women 25 to 34 years of age, and for 3 percent of deaths in white women of the same age. These data are discussed in greater detail in the enclosed report published recently in the Journal of the American Medical Association, "Impact of the Human Immunodeficiency Virus Epidemic on Mortality in Women of Reproductive Age, United States," by Susan Chu and her colleagues.

I have already mentioned the projected increase in mortality from AIDS in the years ahead. Similar projections for the number of new cases of AIDS suggest that during the next three years we can anticipate a minimum of 56,000 to 61,000 new cases diagnosed annually; the high-range projections for 1993 show 98,000 new cases being diagnosed. Compared with 1990, during which we estimate we have 101,000 to 122,000 persons living with AIDS in the United States, by 1993 we anticipate the number will range from 151,000 to 225,000. Actual case reports likely will be lower than these estimates since reporting of both cases and deaths are estimated to be no more than 85 percent complete. The trends of the epidemic are not static, however. Increasingly, AIDs is a disease that is affecting women and children, our racial and ethnic minority populations, heterosexuals, and people living in smaller cities and rural areas.

However, evaluation of the severity of AIDS for the Nation should not stop simply with looking at the number of deaths in any given year. Years of potential life lost before age 65 (YPLL–65) is another measure that is used to compare the impact that a disease has on a population. For 1988, HIV infection and AIDS is sixth on the list, behind unintentional injuries, malignant neoplasms, diseases of the heart, suicide/homicide, and congenital anomalies; it is ahead of prematurity and sudden infant death syndrome, cerebrovascular disease, chronic liver disease and cirrhosis, pneumonia/influenza, diabetes, and chronic obstructive pulmonary disease. Most striking, however, is that while the YPLL–65 for most of the diseases is stable or declining slightly, that for AIDS increased by 44.8 percent from 1986 to 1987, and again by 30.1 percent from 1987 to 1988.

It is important to recognize, also, that HIV infection and AIDS have an impact far beyond the sole diagnoses. We are in the midst of an increasing epidemic of sexually transmitted diseases (STDs), particularly in our young men and women, that exacerbates transmission of HIV. Tuberculosis (TB), which had been steadily declining in the United States for several decades, has begun to increase again in many areas since the mid-1980's. HIV infection is one of the important risk factors for TB. TB cannot be ignored since it is transmissible to others and both curable and preventable. Rates of septicemia (systemic disease caused by pathogenic microorganisms or their toxias in the blood) in hospitalized patients have increased sharply during the mid-1980's; among patients 15 to 44 years of age, rates increased by 91 percent, which may reflect, at least in part, the impact of the AIDS epidemic.

The incidence of HIV infection in the United States also continues to increase. We estimate that at a minimum we have 40,000 newly infected persons annually; the actual number probably is several times higher. Estimates of infection in women of childbearing age are more accurate, and show that approximately 6,000 HIV-infected women annually are giving birth to babies; approximately 2,000 of these infants will themselves be infected. Studies of the frequency of HIV infection among hospitalized patients who did not have a diagnosis likely to be associated with HIV infection are being conducted in 26 sentinel hospitals in 21 cities across the country. For blood specimens collected from January 1988 to June 1989, the overall seroprevalence rate was 1.3 percent; the rate in individual hospitals ranged from 0.1 percent to 7.8 percent of specimens tested. For hospitals with the highest rates, the ratio of males to females was 2.9:1, in contrast to the high proportion of AIDS cases in men in the United States. In this study, the frequency of infection in racial and ethnic minority populations also was disproportionate. At two hospitals in communities with the highest prevalence of AIDS, 1.1 to 3.8 percent of adolescents 15 to 19 years of age and 18 to 22 percent of men 25 to 44 years of age were seropositive for HIV.

Finally, let me reiterate that we do indeed have many important health problems in this Nation that we need to attack with research and prevention monies. We must not be shortsighted, however, and look at only one side of the problem. HIV infection and its direct association with intravenous drug abuse are having a major impact on our efforts to decrease infant and early childhood morbidity and mortality. HIV infection, again often in association with drugs, is having an adverse impact on our ability to control our STD and tuberculosis problems; prevention in one arena often has an important impact in the other areas. Since it destroys the immune system, HIV infection and AIDS is clinically complicated by a myriad of other infectious diseases and a number of cancers. Progress made in diagnosing and treating these problems in people with AIDS can be translated into better care for people with other medical conditions. Our increase in knowledge about the basic functioning of the human immune system obtained through research on AIDS is having important benefits in other areas of research on immune problems and therapy. This work, for example, will increase our understanding of the interaction of the immune system with other types of cancers, and perhaps lead to better ways to suppress cancer growth in patients.

In summary, we believe the amounts requested for research and prevention of AIDS in the President's FY 1991 budget request are necessary and defensible.

Sincerely yours,
JAMES O. MASON, M.D., Dr. P.H.,
Assistant Secretary for Health.

[From JAMA, July 11, 1990]

IMPACT OF THE HUMAN IMMUNODEFICIENCY VIRUS EPIDEMIC ON MORTALITY IN WOMEN OF REPRODUCTIVE AGE, UNITED STATES

(By Susan Y. Chu, PhD; James W. Buehler, MD; Ruth L. Berkelman, MD)

To assess the effect of the human immunodeficiency virus (HIV) on mortality in U.S. women 15 to 44 years of age and to identify associated causes of death, we examined final (1980 through 1987) and provisional (1988) national mortality statistics. Between 1985 and 1988, the death rate for HIV/acquired immunodeficiency syndrome (AIDS) quadrupled (0.6 per 100,000 to 2.5 per 100,000), and by 1987, HIV/AIDS had become one of the 10 leading causes of death. In 1988, the death rate for black women (10.3 per 100,000) was nine times the rate for white women (1.2 per 100,000). The majority of deaths in both black and white women occurred in women 25 to 34 years of age, for whom HIV-related deaths accounted for 11 percent and 3 percent of all deaths in 1988, respectively. Among 1157 death certificates that included any mention of HIV/AIDS in 1987, other leading diagnoses included drug abuse (27 percent), Pneumocystis carinii pneumonia (20 percent), other pneumonias (14 percent), septicemia (10 percent), other infections not in the AIDS surveillance definition (7 percent), nephritis (6 percent), liver diseases (4 percent), and anemias (4 percent) if current mortality trends continue, HIV/AIDS can be expected to become one of the five leading causes of death by 1991 in women of reproductive age. Because women infected with HIV are the major source of infection for infants, these trends in AIDS mortality in women forecast the impact of HIV on mortality in children as well—(JAMA. 1990:264–225–229)

Although the epidemic of human immunodeficiency virus (HIV) infection has predominantly affected young men, HIV infection is rapidly becoming a major health problem in young women. Human immunodeficiency virus/acquired immunodeficiency syndrome (AIDS) is among the 10 leading causes of death in women of reproductive age, and the death rate for HIV/AIDS continues to rise. The effect of HIV infection on the mortality of women and their children needs to be recognized and addressed by health professionals and policy makers.

In this article, we extend previous analyses of HIV-related mortality in young men to measure the impact of the HIV epidemic on mortality in women of reproductive age.[1] Using national mortality records, we addressed two questions: (1) To what extent are HIV-related deaths contributing to the mortality of women of reproductive age in the United States? (2) What causes of death are associated with HIV-related deaths in women?

MATERIALS AND METHODS

We used final mortality data on public-use computer tapes prepared by the National Center for Health Statistics of the Centers for Disease Control, for the period 1980 through 1987 and provisional mortality statistics published by the National Center for Health Statistics for 1988.[2] To calculate annual death rates (deaths per 100,000 population per year), we used midyear (July 1) age-, gender-, and race-specific population estimates for 1980 through 1988 from public-use computer tapes prepared from Bureau of the Census data.[3] Death rates were age adjusted by the direct method,[4] with the 1980 U.S. female population used as the standard. For multiple cause-of-death analyses and cause-of-death rankings, we used final National Center for Health Statistics mortality data for 1987, the most recent year for which such data were available. We limited our analyses to women aged 15 to 44 years who were residents of the United States (excluding territories) at the time of death.

Causes of death were grouped by means of the *International Classification of Diseases, Ninth Revision (ICD-9).*[5] For 1980 to 1986, we classified deaths attributable to HIV infection or AIDS as deaths with an underlying cause of "deficiency of cell-mediated immunity" (*ICD-9* 297.1, the code implemented in 1983 for HIV/AIDS[6]), *Pneumocystis carinii* pneumonia (*ICD-9* 136.3), or Kaposi's sarcoma (*ICD-9* 173.0 through 173.9). Although these categories were not completely specific for HIV conditions, it is likely that HIV infection was involved in these deaths, especially among women 15 to 44 years of age. For 1987, deaths due to HIV infection were classified to category numbers 042 through 044, codes introduced in 1987 for classifying and coding HIV infection,[7] A separate code for laboratory evidence of HIV (category No. 795.8) was also introduced in 1987. This code is used when a positive test for HIV is mentioned but it is not used to classify HIV infection as an underlying cause of death. Because of the change in classification of deaths due to HIV infection, cause-of-death data for 1987 and 1988 are not strictly comparable with data from 1980 to 1986.[8]

We grouped causes of death with the use of categories similar to those used in a previous analysis of death in young men,[2] with additional categories for causes specific to women (eg, cervical cancer) (a listing of codes is available on request from one of us [S.Y.C.]). For cause-of-death rankings, we used categories that conform with National Center for Health Statistics mortality tabulations.[8]

To identify causes of death that may be associated with HIV-related deaths, we performed two analyses. First, using 1987 multiple-cause mortality data, we identified causes of death that frequently were listed on death certificates with any mention of HIV/AIDS (category Nos. 042 through 044). Second, we compared trends in various causes of death in states having a high AIDS incidence with trends in states having a low AIDS incidence. States were grouped on the basis of reported AIDS cases in women 15 to 44 years per 100,000 population by using data from national AIDS surveillance and taking the average of annual rates for the three most recent years (1986 through 1988). The highest group (New Jersey, New York, the District of Columbia, Florida, and Connecticut) had an average annual rate of 11.8 cases per 100,000 women. Successive groups had average annual rates of 1.5 cases per 100,000 (24 states) and 0.4 cases per 100,000 (22 states). Identifying causes of death that increased in states with a high AIDS incidence but not in those with a low AIDS incidence discloses causes of death that have increased in association

with the HIV epidemic; some or all of these increases could be related to HIV infection.

RESULTS

Overall trends

Deaths attributable to HIV/AIDS increased from 18 (age-adjusted rate, 0.03 per 100,000 population) in 1980 to 1430 (age-adjusted rate, 2.24 per 100,000 population) in 1988 for women 15 to 44 years of age in the United States (Table 1). Death rates for HIV/AIDS quadrupled between 1985 and 1988; in 1988, deaths attributable to HIV/AIDS represented 3% of all deaths in women 15 to 44 years of age.

Race-specific rates

For both black and white women 15 to 44 years of age, death rates for HIV/AIDS have increased steadily since 1985. For black women, the age-adjusted death rate increased from 4.4 per 100,000 in 1986 to 10.3 per 100,000 in 1988. For white women, the age-adjusted death rate for HIV/AIDS increased from 0.6 per 100,000 in 1985 to 1.2 per 100,000 in 1988. The 1988 death rate for HIV/AIDS in black women 15 to 44 years of age was nine times the rate in white women of the same age. The majority of deaths in both black and white women occurred in women 25 to 34 years of age, for whom HIV-related deaths accounted for 10.6% and 2.6% of all deaths in 1988, respectively.

Region- and state-specific rates

Region- and state-specific rates were calculated for 1987, the most recent year such data were available. Death rates for HIV/AIDS in women 15 to 44 years of age varied substantially by region of the United States and by state. In the Northeast, the age-adjusted death rate for HIV/AIDS was 5.3 per 100,000 population, 26 times the rate in the Midwest (0.2 per 100,000). The South and West had intermediate rates of 1.1 and 0.5 per 100,000 population, respectively. Among the 50 states and the District of Columbia, New Jersey and New York had the highest death rates for HIV/AIDS, with age-adjusted rates of 9.4 and 9.3 per 100,000 population, respectively. For both New Jersey and New York, in 1987, HIV/AIDS was the third leading cause of death in women 15 to 44 years of age, following malignant neoplasms and unintentional injuries as causes of death. The next highest rates were in the District of Columbia (4.3 per 100,000), Florida (4.2 per 100,000), and Connecticut (2.2 per 100,000). Seven states reported no deaths attributable to HIV among women 15 to 44 years of age (South Dakota, North Dakota, Montana, Oklahoma, Idaho, Nevada, and Vermont).

The higher death rate for black women in the United States overall was consistent across states. In New Jersey and New York, in 1987, age-adjusted death rates for HIV/AIDS among black women 15 to 44 years of age were 40.7 and 29.5 per 100,000 population, respectively; among white women, adjusted rates were 3.9 and 7.8 per 100,000 population, respectively. In New Jersey and New York, among black women 15 to 44 years of age, HIV/AIDS moved ahead of malignant neoplasms and heart disease and became the leading cause of death in 1987 (Table 2).

Associated causes of death

To examine other causes of death associated with HIV-related deaths, we used 1987 multiple-cause mortality data and identified 1157 deaths in women 16 to 44 years of age that included any mention of HIV/AIDS (category Nos. 042 through 044). Human immunodeficiency virus/AIDS was listed as the underlying cause on 1016 (88%) of these death certificates. Conditions within the AIDS surveillance definition were listed as an underlying or multiple cause on 84.8% of the death certificates: among these, *P carinii* pneumonia (19.7%), cryptococcosis (4.0%), and atypical mycobacterial infections (8.3%) were the most common (Table 3), Among conditions not part of the surveillance definition, the most frequently listed cause of death was drug abuse, which was listed on 26.5% of the death certificates. Other causes associated with HIV-related deaths included pneumonia (excluding *P carinii* pneumonia), septicemia, other infections not part of the AIDS surveillance definition, nephritis, noninfectious respiratory conditions, cardiovascular diseases (excluding cardiac arrests), liver diseases, and anemias, Cervical cancer (*ICD-9* 180) was listed as a cause of death on five certificates (0.4%), and pelvic inflammatory diseases (*IDC-9* 614 through 616) was listed on two certificates (0.2%). Complications of pregnancy and childbirth (*ICD-9* 630 through 676) were not listed on any of the death certificates.

To examine further other causes of death that are increasing in association with the HIV epidemic, we compared cause-specific mortality trends in states with high and low AIDS incidence. As expected, death rates of HIV/AIDS or for conditions included in the AIDS surveillance definition increased more rapidly among states with the highest AIDS incidence than among states with lower AIDS incidence (Fig 1). A similar divergence in mortality trends was seen for six conditions not in the AIDS definition: septicemia, pneumonia (excluding *P carinii* pneumonia), pulmonary tuberculosis, drug abuse, immune deficiency other than defects of cell-mediated immunity, and unknown/unspecified causes. For example, in states with a high AIDS incidence, the death rate for septicemia was 0.3 per 100,000 in 1980 and 1.1 per 100,000 in 1987; for those with low AIDS incidence, the death rate for septicemia was 0.8 per 100,000 in 1980 and 0.4 per 100,000 in 1987. Mortality trends for drug abuse and septicemia for states with the highest and lowest AIDS incidence are shown in Figs 2 and 3.

[Charts not reproducible in the Record.]

COMMENT

Although other causes of death among women 15 to 44 years of age have remained relatively stable during the last decade, the death rate due to HIV infection quadrupled between 1985 and 1988 (Fig. 4). Human immunodeficiency virus/AIDS has emerged as an important cause of mortality in US women of reproductive age, especially in the Northeast and among black women. By 1987, HIV/AIDS death rates in New Jersey and New York black women 15 to 44 years of age were comparable with rates reported in adult women of Abidjan, Ivory Coast (31 per 100,000), a West African city with a high prevalence of HIV infection (K. DeCook, MD, oral communications, Centers for Disease Control, January 1990).

Estimates of HIV seroprevalance in women of childbearing age predict much higher mortality in the coming years. A national estimate of the prevalence of HIV infection in 1988 among women who deliver infants is 140 per 100,000 (M. Gwinn, MD, oral communication, Centers for Disease Control, January 1990); this rate is 60 times higher than the 1988 mortality for HIV/AIDS in women 15 to 44 years of age. A 1-year study of births in New York State found seroprevalance rates as high as 2% to 4% in New York City areas with high rates of drug use. Because of the large number of women already infected, mortality due to HIV infection in women will undoubtedly rise, with particularly high rates in black and Hispanic populations.

Moreover, our estimates of the number of deaths attributable to HIV/AIDS are conservative. The 1987 death rates included only the 1016 deaths that listed HIV/AIDS (category Nos. 042 through 044) as the *underlying* cause of death. There were 141 death certificates that listed HIV/AIDS as an associated cause of death but not as the underlying cause and 144 more death certificates that listed Kaposi's sarcoma, *P carinii* pneumonia, or laboratory evidence of HIV infection (category No. 795.8) as a cause of death without listing HIV/AIDS. If these deaths are included as deaths attributable to HIV/AIDS, the total number of deaths would increase by 28% (from 1016 to 1801).

In addition, by comparing cause-specific mortality trends in states with high and low incidences of AIDS, we identified causes of death not in the AIDS surveillance definition that increased in association with the HIV epidemic. Deaths that increased included several infections not in the AIDS surveillance definition (septicemia, pneumonia [excluding P carinii pneumonia], and pulmonary tuberculosis), drug abuse, immune deficiencies other than cell-mediated immune deficiency, and unknown/unspecified cases. These findings are similar to those found in young men.[2] It is likely that many of these deaths reflect the spectrum of infectious complications and immune defects caused by HIV infection or variations in the way physicians report HIV-related immune deficiencies or conditions on death certificates.[9, 10] In some instances, these deaths may reflect unrecognized cases of HIV infection or reluctance by physicians to specify AIDS or HIV on death certificates.

It is notable that pregnancy complications, cervical cancer, and pelvic inflammatory disease were listed rarely among HIV-related deaths in women. Studies in the United States of pregnant, HIV-infected women have not documented a clear increase in obstetric complications ascribed to HIV infection.[11, 12] A few small studies have reported associations between HIV infection and cervical intraepithelial neoplasia[13, 14] and pelvic inflammatory disease,[15] but we found few HIV-related deaths with either cervical cancer (0.4%) or pelvic inflammatory disease (0.2%) listed as a cause of death. For comparison, cervical cancer and pelvic inflammatory disease accounted for 1.9% and 0.1%, respectively, of all deaths in 1987 among US women 15 to 44 years of age. However, cervical cancer and pelvic inflammatory disease may not be conditions that would be detected or considered an associated cause of death in women who die of HIV/AIDS.

For women of reproductive age, comparing HIV/AIDS with other causes of death by comparing cause specific death rates belies an important distinction. Unlike numbers of deaths from cancer, heart disease, and unintentional injuries, the number of deaths due to HIV infection in women has direct implications about the number of deaths that will occur in infants and children due to HIV infection. As of December 1989, approximately 80% of the 1,995 children diagnosed and reported with AIDS acquired HIV from their infected mothers.[16] Because most women with AIDS are intravenous drug users or sex partners of intravenous drug users, the care of both the women and their children depends heavily on public resources. For perinatally infected infants who are active Medicaid users, estimated costs range from $18,000 to $42,000 per year.[17] As the number of pediatric cases increases, the medical and social costs will become staggering.

The number of new cases of AIDS in women of reproductive age continues to increase (in 1989, there were 2,825 new cases reported in women 15 to 44 years of age); consequently, deaths due to HIV/AIDS will continue to rise. In 1987, HIV infection was the eighth leading cause of death in U.S. women of childbearing age. In 1988, the death rate due to HIV/AIDS was 40% higher. If current mortality trends continue, AIDS can be expected to become one of the five leading causes of death by 1991. Because women infected with HIV are the major source of infection for infants with AIDS, these trends in AIDS mortality in women forecast the impact of the HIV epidemic on mortality in children as well.

TABLE 1.—DEATHS ATTRIBUTABLE TO HIV/AIDS IN WOMEN 15 to 44 YEARS OF AGE, UNITED STATES 1980 THROUGH 1988 [1]

Year	No. of Deaths	Death rate	Age adjusted death rate
1980	18	0.03	0.03
1981	30	.06	.06
1982	36	.07	.06
1983	92	.17	.16
1984	198	.35	.34
1985	380	.83	.60
1986	531	1.10	1.02
1987	1016	1.75	1.62
1988 [2]	1430	3.46	2.24

[1] Data from the National Center for Health Statistics. Centers for Disease Control, Atlanta, Ga. HIV indicates human immunodeficiency virus, AIDS; acquired immunodeficiency syndrome.

[2] For 1987 and 1988, data are based on deaths assigned to category numbers 043 to 044. Data for 1988 are provisional, based on a 10% samples of deaths.

Notes: Deaths per 100,000 population in women aged 15 to 44 years. Age adjusted to the 1980 U.S. population, women aged 15 to 44 years. For 1980 to 1988, data are based on deaths assigned to (underlying cases) International Classification of Diseases, 9th Revision, category numbers 279.1, 173.0 to 173.9 and 136.3.

TABLE 2.—DEATHS AND DEATH RATES FOR THE 10 LEADING CAUSES OF DEATH AMONG BLACK WOMEN 15 TO 44 YEARS OF AGE, NEW JERSEY AND NEW YORK, 1987

Rank and cause of death	No. of deaths	Adjusted death rate [1]
New Jersey		
1. Human immunodeficiency virus/acquired immunodeficiency syndrome	121	40.8
2. Malignant neoplasms	96	30.1
3. Diseases of the heart	71	23.1
4. Unintentional injuries	67	20.3
5. Homicide and legal intervention	29	10.2
6. Chronic liver disease and cirrhosis	23	7.3
7. Pneumonia and influenza	21	7.0
8. Septicemia	15	6.1
9. Cerebrovascular diseases	14	4.6
10. Nephritis, nephrotic syndrome, nephrosis	10	3.4
New York		
1. Human immunodeficiency virus/acquired immunodeficiency syndrome	235	29.5
2. Malignant neoplasms	202	23.8
3. Homicide and legal intervention	130	17.5
4. Diseases of the heart	136	16.3
5. Chronic liver disease and cirrhosis	91	10.5
6. Unintentional injuries	80	10.4
7. Pneumonia and influenza	67	8.4
8. Cerebrovascular disease	56	6.7
9. Septicemia	27	3.4
10. Chronic obstructive pulmonary diseases	22	2.7

[1] Deaths per 100,000 women age 15 to 44 years, age adjusted to the 1980 U.S. population of women age 15 to 44 years

TABLE 3—ASSOCIATED CAUSES OF DEATH ON CERTIFICATES WITH ANY MENTION OF HIV/AIDS [1] (n = 1167) IN WOMEN 16 TO 44 YEARS OF AGE, UNITED STATES

Cause	No. (percent) of deaths
Conditions in the AIDS definition	403 (34.8)
Pneumocystic cannis pneumonia	228 (19.7)
Cryptococcosis	46 (4.0)
Atypical mycobacterial infections	33 (3.3)
Candiasis	31 (2.7)
Other conditions	205 (17.7)
Drug abuse	307 (25.5)
Pneumonia	163 (14.1)
Septicemia	113 (9.8)
Other infections not in the AIDS definition	86 (7.4)
Nephritis, nephrotic syndrome, nephrosis	66 (8.7)
Respiratory disease	55 (4.8)
Cardiovacular diseases	52 (4.5)
Liver diseases	47 (4.1)
Anemias	45 (3.9)

[1] Category number 042 to 044. HIV indicates human immunodeficiency virus: AIDS, acquired immunodeficiency syndrome.

Note: Limited as an underlying or multiple cause.

FOOTNOTES

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Remarks by Louis W. Sullivan, M.D., Secretary of Health and Human Services

(Morehouse Symposium on AIDS, Atlanta GA)

Thank you very much, Sid. I am happy to be home again, and deeply honored to bring you greetings from the President of the United States, and 114,000 men and women at the Department of Health and Human Services.

My purpose today is to ask that we all be aware of the people we are losing to AIDS, and not just the numbers; to ask that you emphasize the benefits of AIDS research for all mankind; and that you proudly tell the world about our efforts to research, prevent and treat HIV disease and AIDS, and to protect the civil rights of those who need it most.

There is no better place to begin than with what is happening in this city. Atlanta, with 2,903 diagnosed AIDS cases, is among the top 10 U.S. cities in the nation with the highest number of AIDS cases. Georgia, with 3,816 reported cases of AIDS, ranks among the 10 leading states. In the course of this symposium, those numbers will grow.

By the end of August, more than 146,000 AIDS cases were reported in the U.S. By 1993, the Centers for Disease Control expects that number to triple, to almost half a million cases. The nearly 90,000 AIDS fatalities recorded could increase almost 4-fold, to 340,000, in that same time period.

We know that 57 percent of the people with AIDS in the U.S. are non-Hispanic whites; 27 percent are non-Hispanic blacks; and 16 percent are Hispanic. This symposium reflects the fact that minorities are contracting AIDS at a far greater rate than their portion of the population. And among pediatric cases, 3 patients out of 4 are minorities, over half of them black.

Not numbers, but names—is how we ought to read the toll of those who die of AIDS. They are human beings—the men, women and children who might have been the next Charles Drew, or Mary McLeon Bethune; another Ralph Bunche, or Benjamin Mays; perhaps even a Roberto Clemente, the baseball legend and humanitarian.

We are losing the next generation of leaders—losing them, by and large, to high risk sexual behavior and intravenous drug abuse. It is not enough for you to be researchers and care givers. I ask that you become role models and teach our young people what they must know to protect themselves. You could become a champion in the eyes of a child, and a hero in the heart of a nation by helping our young people.

So my first charge to you in keynoting this conference is to ask that you remember the people we are losing, and let it energize and stimulate your research, your compassion, and your contribution to your communities. Behind the numbers, behind the names of those who died of AIDS, are human beings whose accomplishments could have been recorded in our history books. They are our children . . . our brothers and our sisters. They might have been our heroes.

And it is getting worse. Our data show that over half of all black Americans with AIDS are either IV drug users; sex partners of users; or children born to mothers who use IV drugs, or who had drug abusers as sex partners. The percentage of all AIDS cases in the IV drug category is increasing. We can expect the proportion of AIDS patients who are black and Hispanic to grow.

We must never allow funding for research, prevention and treatment of this disease to become the hostage of old prejudices.

Some people raise questions about spending so much on a disease which, in relative terms, kills so few. Heart disease kills 1 million people each year; cancer kills half a million a year. In more than 9 years, AIDS has killed fewer than 90,000 people in the U.S. There is little wonder that the Office of Technology Assessment, an agency of the Congress, has reported that half the scientists responding to a poll complained that we are spending too large a proportion of our research and education dollars on this one disease.

So my second charge to you today is that you emphasize not only the unique danger of this communicable disease but the benefits of AIDS research in the treatment of many different diseases. Work with your colleagues to emphasize that what we learn about AIDS will help cure other diseases. Your work on AIDS will give us a new understanding of viruses, the immune system itself, and molecular biology.

Tony Fauci, who runs the AIDS research program at NIH, says research on AIDS may give us insights into degenerative diseases such as multiple sclerosis, and autoimmune diseases such as lupus. CDC director Bill Roper will talk later about how AIDS has had a lasting impact on improvements in our public health infrastructure.

Emphasize the broad benefits of AIDS research for all. This is not a special interest disease. Research on HIV and AIDS will not benefit just the hundreds of thousands, but millions more whose lives will be improved by what science discovers.

AIDS is everywhere. The Global Program on AIDS says it is out of control. The Pan American Health Organization which does not gather data by race, reports that, "the epidemic continues to increase throughout the Region of the Americas. Case data reported * * * suggest annual incidence rates * * * reached up to 653 * * * per million population, and are increasing * * *."

We are told that, "seroprevalence varies from zero among low risk groups * * * to a high of 54 percent among contacts of infected individuals * * *" in some areas. There were more than 23,000 cases of AIDS at last report, and an estimated 500,000 people infected with HIV, in Latin America.

In Africa, AIDS is undoing all that has been done to improve the health of children. The U.S. Agency for International Development reported in July that immunizations, oral rehydration therapy, birth spacing, improved nutrition, and prevention of vitamin A deficiency brought about "remarkable strides in increasing the health and survival of children * * *." The report added, that, "With the continual spread of HIV infection, however, those gains are increasingly likely to be reversed."

The U.S. AID study reported that in Kampala, Uganda, almost 1 woman in 4 at one clinic was HIV positive. Perinatal transmission rates are as high as 4-in-10. Anywhere from one-half to almost all HIV-infected children will die by age 5.

U.S. AID says Africa is the continent most affected by HIV and AIDS. There is a higher rate of HIV infection there than elsewhere in the developing world. The World Health Organization estimates 2.5 million Africans are HIV positive, and that in 20 years, Africa will have more HIV cases than any other continent.

In Africa, less than $3 per person per year is devoted to health care. The experts say Africa cannot afford the cost of treatment for AIDS, and prevention is the only hope.

What is happening in Africa could be the precursor to what might happen elsewhere. The distinguished physician and scholar, Dr. Lewis Thomas, says that we must put Africa at the top of the list for epidemiological and virological studies. He says, "The really urgent matter . . . is Africa, with the plainest evidence that we are, in our part of the world, only in the first stage of what will perhaps become * * * the most devastating and lethal pandemic in the memory of mankind."

Of all the nations in the world, the United States of America contributes more money to the World Health Organization to help fight AIDS abroad than any other country. We are helping in Zaire, and Cote d'Ivoire, and let me add that we help in Thailand, too, with research and prevention strategies. We provide technical assistance programs to Jamaica and the Central African Republic. We offer training in HIV surveillance and disease control in Ethiopia, Uganda, Kenya, Honduras, Papua New Guinea, and Colombia. In Romania, we provided epidemiologic assistance in an investigation of an outbreak of HIV infection among the country's children.

So there is one more charge that I must give you. We are the professionals. We know that the escalation of AIDS as a national priority is unprecedented in U.S. public health history. Share that information with family and friends, with patients and colleagues, with reporters who interview you. Put it in your articles and your speeches. We face financial constraints. We always have, we always will. But we are doing a lot more than most realize, and much more than anyone else.

Overall, federal spending on AIDS will have increased from $8 million in 1982 to $3.5 billion in 1991. Let me quote from the President's propsoed budget: "In total, the 1991 budget proposes an 18 percent increase [or $527 million] over 1990 for all federal HIV/AIDS programs, including a 7 percent increase in research, a 16 percent increase in prevention efforts, a 27 percent increase in treatment, and 39 percent increase in income support for individuals." And that is not all. As President Bush has said, "our $10 billion war on drugs is also a war on AIDS."

We made remarkable progress in uncovering the nature of the virus that causes AIDS. We approved, in record time, medications that are lengthening lives. Today, people are living with AIDS and HIV infection. We continue our efforts to see that those medications reach minorities who might not have access to the help they need.

We expedited approval of AZT, and later DDI. We approved Alpha 2 interferon for Kaposi's Sarcoma; aerosolized pentamidine for prevention of pneumocystis pneumonia; ganciclovir for treating viral retinal infections and fluconozol for life-threatening fungal infections. The Food and Drug Administration has approved more than 300 Investigational New Drug Applications relating to the treatment of HIV and AIDS.

Last year I announced the creation of Community Programs for Clinical Research on AIDS that would locate 18 AIDS treatment research programs in 14 cities where the impact of the HIV epidemic is severe, including Atlanta. These clinical trials of promising experimental AIDS therapies are designed to reach out to blacks, Hispanics, women, and intravenous drug users who are infected but who might not enter clinical trials or receive treatment were it not for these programs.

In May, I said we will increase our efforts to make investigational new drugs available to those with AIDS and HIV-related diseases. We are working to develop a "parallel track" that allows promising experimental therapies to be administered to AIDS patients who are not able to participate in the traditional clinical studies of these drugs.

Last month I said we will compare the effectiveness of two drugs to prevent toxoplasmic encephalitis, a life-threatening parasitic infection affecting the brain of some AIDS patients.

We are funding 50 new multidisciplinary postdoctoral fellowships in AIDS research to ensure an adequate pool of trained biomedical scientists and clinical investigators to confront the research challenges of AIDS.

Finally, just this month, in 30 community-based clinics in the U.S. and Canada, we began a longitudinal study of persons who are HIV-positive. It is the largest study of its type ever conducted. It will involve hundreds of physicians, and thousands of patients including women, Hispanics, blacks and IV drug users who were underrepresented in earlier research. We will learn more about the course of the disease. It will help us identify areas where new research is needed, perhaps help us find new approaches to treatment, and identify patients eligible for clinical trials of experimental AIDS therapies.

We continue to emphasize prevention Our Broadcast Information Service inaugurated this month offers public service announcements on AIDS and other diseases for minority radio stations. Translations are available in Spanish.

We know that children who are able to learn can be taught to protect themselves against AIDS. HHS is deeply involved in the President's commitment to improve education. By the year 2000, we want all children to start school ready to learn. We work closely on that with the Department of Education. Our goal is that next year Head Start will serve nearly 70 percent of the eligible children.

In January, President Bush and I asked for a $500 million increase in Head Start the largest increase in its 25-year history Helping Head Start is helping minorities because two-thirds of the participants are minority Americans. Almost 40 percent are black children. Preventing AIDS means promoting education.

I wish my parting words could be an inoculation with an effective, safe AIDS vaccine. I cannot do that today, or tomorrow But the dramatic spread of HIV and AIDS around the world demands that we develop that vaccine. Maybe it will come out of this symposium. Maybe the interaction of colleagues, the questions, the speeches, the papers and the private discussions and invitations for collaboration will lead us to that vaccine.

As a Morehouse man, a physician, medical educator and clinical researcher, and as Secretary, you have my very best wishes for productive, rewarding, successful symposium.

Thank you all.

[From Business Week, Sept. 17, 1990]

No, Spending More on AIDS Isn't Unfair

(By Naomi Freundlich)

Just a year or so ago, it would have been political suicide for a scientist, politician, o journalist to speak out against increased spending for AIDS research. After a regrettably slow start, the federal government took up the campaign in 1988 and has steadily increased research funding in an effort to curb the deadly epidemic. By the end of fiscal 1989, AIDS had garnered nearly $2.5 billion in government funds. And this year, the National Institutes of Health will kick in $740 million more. Last month, Congress allocated an additional $875 million for states to use for AIDS treatment.

Now, as activists stage protests demanding even more money for AIDS, a backlash is forming. For a few critics, the attack is a value judgment on the lifestyles of AIDS sufferers. Other critics just question whether AIDS research should be such a high priority. Politicians from rural states, for instance, complain that the funds Congress is allocating for AIDS won't be used to fight other diseases. And there is growing resentment among some cancer and other non-AIDS researchers.

They charge that a project without a mention of AIDS in the title runs an unfair risk of getting turned down. An Office of Technology Assessment report released last April shows how pervasive that feeling is. Of some 148 scientists who answered a poll on AIDS research, nearly half complained that too much funding has been diverted to AIDS. This year, some 1 million people will die of heart disease, and an additional 300,000 or so of cancer. So why, the argument goes, spend so much on a disease that has killed just 83,000 Americans in nine years?

In for a shock. It doesn't take much digging to come up with the answer. Heart disease and cancer occur at a fairly stable rate. AIDS, by contrast is an infectious disease and can spread rapidly through a population. In fact, the number of cases is expected to triple in the U.S. by 1998. And in the next decade alone, doctors will be treating a million or more people who are already infected with HIV, the virus that leads to AIDS.

Beyond that, the most recent figures from the Centers for Disease Control in Atlanta show that the malady is no longer confined to gays and drug users. Countrywide, the ratio of men to women who carry the HIV virus has dropped from 11 to 1 early in the epidemic to close to 3 to 1 today. In some rural areas, says Dr. June E. Osborn, dean of the University of Michigan's School of Public Health and chairwoman of the National Commission on AIDS, the ratio is closer to 1 to 1. Because the number of people infected with HIV in these rural areas is growing faster than in urban centers, that raises the specter of a heterosexual epidemic such as is now sweeping parts of Africa. And unlike cancer and heart disease, which usually strike older people, AIDS is a disease of the young. Some 82% of its victims are below the age of 44—in the most productive years of their lives.

If all this isn't reason enough to fund AIDS work, there is one more factor. According to Osborn, AIDS research is yielding a wealth of knowledge about viruses, cancer, the brain, and, most important, the immune system. "We have already learned many broadly important facts about how the body works, and there have been more spin-offs for cancer and other diseases than for AIDS directly," she says. For example, she adds, before AIDS, there was only speculation that the immune system helps fight off cancer. Now, boosting the body's defenses has become a key part of cancer research. The OTA report came to the same conclusion, citing benefits in public health, epidemiology, and basic science from AIDS research.

Small Pie. If there is a problem of scarce resources, moreover, it's not that money used for AIDS is being taken away from cancer and heart disease. It's true that the AIDS share of the NIH budget is rising rapidly. Funding for AIDS is growing 23% this fiscal year, while support for non-AIDS research is rising by only 4.4%. But William F. Raub, acting director of the NIH, says there is no guarantee that AIDS money would have gone to other diseases. More likely, it would have been used elsewhere in the federal budget, he says.

The problem he and others see is too little funding for biomedical research in general. The U.S. spent $600 billion last year on health care—but just 2% of it went to research on disease. Only one-quarter of the research grants submitted to NIH are now approved. Compared with 60% in 1975. That's because the funding pie is growing slower than both the cost of research and the number of scientists clamoring for a slice. As a result, young investigators are less able to get research funds, and even established researchers are leaving basic science to work in industry or to practice medicine.

For many researchers and other critics, AIDS funding is a convenient target. But ultimately, the real issue is how much should be spent on biomedical research. Giving AIDS short shrift while that question is hashed out would be a tragic mistake.

HOW HAS FEDERAL RESEARCH ON AIDS/HIV DISEASE CONTRIBUTED TO OTHER FIELDS?

(By Jane E. Sisk, Study Director; Maria Hewitt, Study Co-Director; Paula Chludzinski, Research Assistant)

(The views expressed in this Staff Paper do not necessarily represent those of the Technology Assessment Board, the Technology Assessment Advisory Council, or their individual members.)

SUMMARY

The House Committee on Government Operations, Subcommittee on Human Resources and Intergovernmental Relations asked the Office of Technology Assessment (OTA) to document the extent to which federally funded research on AIDS/HIV has contributed to advances in other fields including biomedical and behavior research, prevention, patient care, and health care financing. In response to this request OTA conducted a survey of distinguished biomedical and social scientists. This Staff Paper reports on the results of that survey.

In February 1990, OTA mailed a questionnaire to a multidisciplinary group of scientists that asked them to rate the contributions of federally funded AIDS/HIV research to advances in 42 different fields that comprised five broad areas; basic sciences, medicine, applied medical sciences, epidemiology, and public health and health services research. OTA also asked the scientists to express their opinions about the current level and allocation of federal funds for research. Thirty-seven percent of 400 scientists asked to complete the questionnaire completed it.

According to OTA survey respondents, significant benefits from AIDS/HIV research have flowed to a wide variety of fields. More than one-half of respondents indicated that AIDS/HIV research had contributed substantially to the basic science fields of virology, immunology, microbiology, and molecular biology. An increased understanding of gene expression, the immune system, viral evolution, and disease susceptibility were among the specific examples of contributions to advances in the basic sciences cited by respondents.

Infectious disease, oncology, neurology, hematology, and pulmonary medicine were medical disciplines cited by at least 40 percent of respondents as having benefited greatly from AIDS/HIV research. Increased insights into mechanisms of dementia and multiple sclerosis, and improved understanding of the development of children's immune systems are among the contributions of AIDS/HIV research to advances in medical research cited by respondents. More than one-third of respondents felt that AIDS/HIV research had contributed substantially to advances in diagnostics, drug development, other therapeutics, and vaccine development.

In the areas of public health and health services research, OTA survey respondents indicated that AIDS/HIV research has led to improved epidemic-modeling techniques, has furthered the development of new methods for the conduct of clinical trials, has stimulated research on health behavior change, and has provided prototype programs for targeting health education to high risk populations. Furthermore, AIDS/HIV research was cited as having stimulated research on community-based models of care, clarified routes and mechanisms of sexually transmitted disease, provided insights into the effectiveness of drug treatment programs, and improved our understanding of social stigma and prejudice.

Nearly one-half of respondents indicated that Federal spending for AIDs/HIV research was about right and nearly one-third felt that spending was too low. A near equal proportion agreed as disagreed (48 vs. 44 percent) that too much of available research funding has been diverted to AIDS/HIV research from other fields. Not surprisingly, opinions about the level of Federal spending for AIDS/HIV research vary according to whether the respondent had received Federal funds, and whether those funds were for AIDS/HIV or non-AIDS/HIV research. As those not in receipt of any external funding (nearly one-half of OTA survey respondents) are more likely to be "unbiased" in their opinions regarding funding, their responses are of special interest. Over 80 percent of respondents without external support felt that AIDS/HIV funding is about right or too low, and while more than one-half did not agree, nearly one-third agreed that too much research funding has been diverted to AIDS/HIV research from other areas.

In conclusion, results from the OTA survey indicate that, in the opinion of the scientific community, AIDS/HIV research has made many important contributions to advances in biomedical and behavioral sciences. This finding is especially noteworthy given that substantial lead time is needed for advances to influence other fields. The dominant sentiment of survey respondents supports current or augmented Federal AIDS/HIV research spending levels. At the same time, opinion was divided on the question whether too much research funding has been diverted to AIDS/HIV research from other fields. The results raise for continued consideration the appropriate allocation of research funds among HIV, other targeted areas, and basic science.

Mr. HARKIN. Mr. President, I wish to associate myself with the remarks of the distinguished Senator from Massachusetts and the distinguished Senator from New Jersey.

For the record, Mr. President, I wish to point out that the bill already contains $305 million of Alzheimer's, which is double from last year, double the amount of money for Alzheimer's research.

We also fully fund the NIH's 5-year sudden infant death syndrome plan, which includes $7 million for the second year, for fiscal year 1991.

This bill fully funds the 12 mental retardation research centers and provides funds to start two additional research centers.

For infant mortality, the bill includes $35 million, which is fully funding—there are a lot of programs that are not fully funded in this bill but this is one that is—$35 million to the community health centers for the infant mortality initiative. And we have added over $51 million to the maternal and child health block grant. The block grant is now up to $605 million. Again, some of these funds are targeted to home visiting programs and other efforts to reduce infant mortality.

As I said earlier, I believe we have a well-balanced bill here that addresses legitimate needs in all of these areas. I believe this amendment, trying to upset that careful balance we worked out over the last several months, is ill-advised, and I hope the amendment will not be successful.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I move to lay on the table the amendment proposed by the Senator from North Carolina.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the motion to lay on the table the amendment of the Senator from North Carolina. The yeas and nays have been ordered.

The clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS] and the Senator from Ohio [Mr. METZENBAUM] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from New Mexico [Mr. DOMENICI], the Senator from Utah [Mr. GARN], the Senator from Oregon [Mr. HATFIELD], the Senator from Kansas [Mrs. KASSEBAUM] the Senator from Wyoming [Mr. SIMPSON], and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 69, nays 23, as follows:

[Rollcall Vote No. 268 Leg.]

YEAS—69

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Breaux
Bryan
Burdick
Byrd
Chafee
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Durenberger
Exon
Fowler
Glenn
Gore
Gorton
Graham
Harkin
Hatch
Heinz
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mack
McCain
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stevens
Warner
Wirth

NAYS—23

Armstrong
Bond
Burns
Coats
Cochran
Dole
Ford
Gramm
Grassley
Heflin
Helms
Humphrey
Kasten
Lott
McClure
McConnell
Murkowski
Nickles
Pressler
Roth
Symms
Thurmond
Wallop

NOT VOTING—8

Bumpers
Domenici
Garn
Hatfield
Kassebaum
Metzenbaum
Simpson
Wilson

So the motion to lay on the table the amendment (No. 2957) was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote.

Mr. BREAUX. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The Senator from Florida [Mr. GRAHAM] is recognized.

Mr. GRAHAM. Mr. President, I ask unanimous consent to lay aside the pending amendment for purposes of offering an amendment which has been agreed to by the managers.

The PRESIDING OFFICER. Is this there objection? Without objection, it is so ordered.

AMENDMENT NO. 2959

(Purpose: To revise provisions relating to State legalization impact assistance grants)

Mr. GRAHAM. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM], for himself, Mr. BENTSEN, Mr. CRANSTON, Mr. MCCAIN, Mr. REID, Mr. WILSON, Mr. DECONCINI, Mr. WIRTH, Mr. BRYAN, Mr. SIMON, Mr. ADAMS, Mr. MOYNIHAN, Mr. PACKWOOD, and Mr. GRAMM, proposes an amendment numbered 2959.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 38, strike lines 1 through 7 and insert in lieu thereof the following:

Section 204(a)(1)(B) of the Immigration Reform and Control Act of 1986 is amended—

(1) by striking the period at the end thereof and inserting in its place the following: " and funds appropriated for fiscal year 1991 under this section are reduced by $566,854,000.".

Section 204(a)(1)(C) of the Immigration Reform and Control Act of 1986 is amended—

(1) by striking "$1,000,000,000" and inserting in its place "$2,000,000,000"; and

(2) by striking the period at the end thereof and inserting in its place the following "and fiscal year 1991.".

Section 204(b) of the Immigration Reform and Control Act of 1986 is amended by adding the following new paragraph:

"(5) For fiscal year 1992, the Secretary shall make allotments to States under paragraph (1) no later than December 15, 1991."

An amount equal to 5 percent of amount expended by a State for educational service under section 204(a)(1)(C) of the Act (or, i greater, $50,000 times the number of al years in which such expenditures are made may be expended by the State educationa agency for its related administrative costs amounts available to a State for fiscal year after 1988 for public education and outreac to temporary resident aliens under sectio 204(c)(1)(D) of the Act may also be used fo public education and outreach to eligible legalized aliens; and up to one percent o amounts provided to a State under sectio 204 of the Act in fiscal years after 1968 (o if greater, $100,000 times the number o such years) may be used for payment under subparagraph (D) of section 204(c)(1 and up to an equal amount may be used fo payments under subparagraph (E) of eac section, in years after fiscal year 1988.

Mr. GRAHAM. Mr. President, th amendment which I have offere which the managers have indicate they will accept is cosponsored by number of our colleagues includin the Presiding Officer. It deals with program that we have discusse before.

The purpose of offering this amendment at this point and making a fe comments on it is to remind th Senate of this important program an also to alert the Senate that a yea from now we are going to be back o this again whereby the commitment made tonight will come to reality.

Mr. President, this program is calle the State Legalization Impact Assistance Grants, acronym SLIAG.

This program was the result of th 1986 Immigration Act. At the tim that act was being considered it wa recognized that by according legalize status to large numbers of person who had previously been variousl called illegal aliens, undocumented aliens, and other titles that there would be significant cost. Much of that cost would fall upon the States in which those previously illegal aliens would now have acquired legal status.

The agreement which was developed between Congress, the President, and the States was a 7-year program which ran from fiscal year 1988 through fiscal year 1994. Under the program, in the first 4 of those years, there would be $1 billion a year appropriated which would be distributed to the States upon application to finance the various costs such as education and health which the States would be asked to bear as a result of the legalized status of previously illegal aliens.

One billion dollars was appropriated in the first 2 years, that is, fiscal year 1988 and fiscal year 1989. However, last year Congress recognized the fact that there was unexpended funds in the SLIAG account. That should not have been a surprise to anybody because the structure of the program was a 7-year payout, recognizing the fact that there would be extended costs in this assimulation process.

Nevertheless, because there was unexpended funds in the program, last year we diverted funds from this program in the amount of $555,244,000 to other projects within the jurisdiction of the Labor-HHS committee. When we did so we specifically wrote into the law that those plus $555 million would be reauthorized in the same form as the original act but for the fiscal year 1992. This current appropriations bill again dips into the SLIAG appropriation, this time in the amount of $566,854,000.

Again, language is included in this amendment which would do the same thing with these funds as we did last year; that is, give them the same status as the original Immigration Reform Act and provide that those $566-plus million would be appropriated in the 1992 fiscal year.

So, Mr. President, with the adoption of this amendment, in conjunction with the action taken last year, we will be committing ourselves to fund the remaining $1,134,278,000 of this problem in fiscal year 1992.

I take this occasion to bring this matter to the public attention of my colleagues, and of the concerned citizens particularly of those States which have borne most of the national burden of the transition from illegal to legal status of the several million aliens who were affected by the 1986 Immigration Act.

Mr. President, I want to underscore that this Immigration Act of 1986 would not have passed but for the agreement of the States to undertake significant, new responsibilities and to the commitment of the Federal Government to pay a portion of the costs of these responsibilities; two, that we are not fully compensating the States for all of the costs that they have incurred as a result of this Federal action, but this represents a good faith partnership between the Federal Government and the States.

I see this as a moral commitment of the Federal Government. If this commitment is not fulfilled, it will send a clear message to the States that they cannot place their trust in the Congress, not only in this area of immigration refugee policy but a whole range of other important programs that require a functioning partnership between the Federal Government and the States.

Mr. President, I hope that, by adopting this amendment, we will clearly make that commitment to the States, we will clearly indicate that we are prepared to meet our legal and moral obligations, and that the Federal Government can be a trusted partner in this and future relationships with the States.

Mr. President, Senator DIXON has asked to be added as a cosponsor of this amendment. I ask unanimous consent that Senator DIXON of Illinois be so added.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa, Mr. HARKIN.

Mr. HARKIN. This amendment converts the committee's bill language on State legalization impact assistance grants into legislative format amending the authorizing statute. It also calls for provisions that appear to be relatively minor, technical, alterations of the law. Neither the administration nor the authorizing committee objects to this language. CBO has scored this amendment as budget neutral.

I urge adoption of the amendment.

Mr. SPECTER. Mr. President, representing this side of the aisle, we have no objection as long as this does not impact on the ability of the Appropriations Committee and this subcommittee to deal with these funds as we have in the past. I want to make sure that there is no impact on our authority.

Mr. GRAHAM. Mr. President, this is essentially almost verbatim other than the technical amendments that are not germane to the principal point of this proposal. What we did last year; that is, we are amending the Immigration and Reform Act of 1986 which called for a $1-billion appropriation in 4 consecutive fiscal years beginning with fiscal year 1988. We are amending that underlying law, it provides that in 1992 the $566-plus million that are being diverted out of the 1991 account will recur. That is what we did in 1990. We are doing it again in 1991.

Mr. SPECTER. I thank my distinguished friend from Florida. I take that to be a yes.

Mr. GRAHAM. Given the action of the committee in 1990 and 1991 duly operating under the same law, including the same sense of a moral commitment which I know that Senators, and particularly Senators of the high ethical standards of those from Iowa and Pennsylvania, feeling a sense of commitment to a preservation of the vitality of our Federalist system will want to see a commitment to the bill.

Mr. SPECTER. With that eloquent confirmation, this side has no objection.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Florida.

The amendment (No. 2959) was agreed to.

Mr. GRAHAM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAHAM. Mr. President, I will just take a moment to thank the Senator from Iowa and the Senator from Pennsylvania. I have worked closely with them over many months on this issue. I will participate, and continue to work with them in the months ahead. I thank them for their very generous, thoughtful, and sensitive cooperation.

AMENDMENT NO. 2960

(Purpose: To prevent a local educational agency from changing payment categories pursuant to section 5(c)(2)(A) of P.L. 81-874 as a result of families moving off base due to a health concern or an environmental hazard)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for Mr. METZENBAUM, proposes an amendment numbered 2960.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . IMPACT AID.

Section 5(e)(1)(D) of Public Law 81-874 (as amended) (20 U.S.C. 240) (hereafter in this section referred to as the "Act") shall not apply to any local educational agency that was an agency described in section 5(c)(2)(A)(ii) of the Act in fiscal year 1990 but is an agency described in section 5(c)(2)(A)(iii) in fiscal year 1991 as a result of families moving off base due to a landfill or health concern or an environmental hazard, or due to risk assessment, investigation, testing or remediation for such concern or hazard, and any such local educational agency shall be deemed to belong to the category described in section 5(c)(2)(A)(ii) for fiscal year 1991.

Mr. HARKIN. Mr. President, I am proposing this amendment on behalf of the Senator from Ohio [Mr. METZENBAUM]. It has been cleared by the minority. It has no budgetary impact on the bill.

It assures that impact aid payments will not be lost to a school district where students are being temporarily removed from the district for hazardous assessment and remediation due to a possible landfill contamination.

Mr. METZENBAUM. Mr. President, my amendment will assist an Ohio school district which is facing a financial crisis due to an unusual and urgent set of circumstances.

The Fairborn, OH, school district educates students who reside on Wright-Patterson Air Force Base, and as a result is entitled to Federal impact aid payments. A number of these students live in the Woodland Hills housing development on the base. This development is located within close proximity to two landfills, and residents have been extremely concerned about the possible health hazards associated with the landfills. Because of these concerns, the Air Force is moving some 60 families off the base temporarily while risk assessment and remediation for any hazards are conducted. Obviously, the health and safety of these families must be the main concern, and I am pleased that the base has taken this action.

However, if only 54 children who attend Fairborn schools move off the base, the school district will be dropped into a lower impact aid category, significantly reducing their payment and causing a serious financial hardship.

This amendment will allow the Fairborn schools to remain in their category while the situation is being resolved, and will help to make this unfortunate situation a little easier for both the schools and families affected.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Ohio.

The amendment (No. 2960) was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2961

(Purpose: Technical corrections to Human Development Services and Health Resources and Services Administration accounts)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Iowa, [Mr. HARKIN], proposed an amendment numbered 2961.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, line 24, change "$2,472,940,000" to "$2,474,940,000".

On page 40, line 6, change "$3,500,528,000" to "$3,501,278,000".

On page 40, line 19, after the word "claims" insert the following: ": *Provided further*, That of the total amount provided, $47,352,000 shall be transferred to "Human Development Services" account for part B of title IV of the Act".

Mr. HARKIN. Mr. President, first, this is a technical amendment to correct a printing error. Although this provision was in the subcommittee recommendation and adopted by the full committee, it was inadvertently left out of the bill when it was printed. The language was provided in order to provide additional funding for the child welfare services.

The second and third corrects the bill for amendments inadvertently left out of the bill totals. The first is in relation to the $750,000 for the university-affiliated program, and the second relates to $2 million for the excellence in minority education program.

I urge adoption of the amendments en bloc.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Iowa.

The amendment (No. 2961) was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair would inform the managers that the pending question is the committee amendment.

AMENDMENT NO. 2962

(Purpose: To require that funds appropriated to make grants for the establishment and operation of independent living centers be used to support entities currently receiving the grants)

Mr. SPECTER. Mr. President, on behalf of Senator DOLE, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislation clerk read as follows:

The Senator from Pennsylvania, [Mr. SPECTER], for Mr. DOLE, proposes an amendment numbered 2962.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 52, line 25, insert after "deaf adults" the following: ": *Provided*, That, until October 1, 1991, the funds appropriated to carry out section 711 of the Rehabilitation Act of 1973 (29 U.S.C. 796e) shall be used to support entities currently receiving grants under the section".

Mr. DOLE. Mr. President, I am glad that this amendment has been accepted on both sides of the aisle. The purpose of this amendment is technical in nature and will delay for 1 year the competitive grant process for independent living center grantees under the Rehabilitation Act of 1973. This extension will not impede the crucial services provided by independent living centers in any way.

Next year, we will once again reauthorize the Rehabilitation Act, which will give us ample opportunity through the ovesight process to carefully evaluate these programs. The extension will also allow the Rehabilitation Services Administration additional time to develop and publish the standards and indicators that will provide important criteria for the continuation of grants.

The indicators, however, are not the sole reason for delaying implementation of the competitive grant process. We can all attest to a new direction in national disability policy, and we all look forward to discussing issues related to the independent living centers in ensuring their important contributions to enhancing the lives of Americans with disabilities.

Mr. SPECTER. This amendment would postpone for 1 year the competition of the independent living centers. These centers have been noncompetitive, I am told, since 1979. The Rehabilitation Act stipulates that in fiscal 1991 these centers will be competitively awarded.

Mr. President, I believe this has been cleared on both sides.

Mr. HARKIN. We have no objection to the amendment.

Mr. SPECTER. I urge adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2962) was agreed to.

Mr. SPECTER. Mr. President, move to reconsider the vote.

Mr. HARKIN. I move to lay tha motion on the table.

The motion to lay on the table wa agreed to.

TELEPHONE DEVICES FOR THE DEAF IN SOCIAL SECURITY OFFICES

Mr. KASTEN. Mr. President, I wis to thank the chairman and rankin member of the Labor/HHS Appropria tions Subcommittee for accepting my request for funding for the procurement of telephone devices for the deaf—TDD's.

Unfortunately, many Social Security questions and communications cannot be handled by the general operator who staffs the Social Security 800-TDD line. These communications, which may involve specific questions regarding appointments, followups on documentation, or inquiries about additional information necessary for an application or other proceeding, can only be handled by the local caseworker responsible for a client's file. Currently, there is no way for the deaf client to gain direct access by telephone to this person.

Additionally, Mr. President, written communications from local Social Security offices often require telephone followup by Social Security beneficiaries. Many letters from Social Security include the local caseworker's voice telephone number, and instruct the recipient to telephone that number within a limited number of days.

In an effort to provide equal access to all citizens—including the deaf—startup costs of $300,000 for the installation of TDD's in local Social Security offices have been included in Health and Human Services appropriations for fiscal year 1991.

This is an important step—and it puts us on the right track toward full rights for the hearing-impaired.

FUNDING FOR THE DEMONSTRATION PARTNERSHIP PROGRAM

Mr. KASTEN. Mr. President, I wish to thank the members of the Appropriations Committee for accepting my amendment in full committee markup. My amendment provides $500,000 for the Demonstration Partnership Program. This program will provide new and innovative approaches to addressing the problems and needs of disadvantaged youth.

Mr. President, youth crime, gang involvement and drug abuse are growing at alarming rates in this country. The youth involved, most of whom are low-income, minority males, have little hope for their own futures. These youth are unfortunately exposed to few achievable alternatives to a life of gang membership, crime, and drug abuse, and frequently end up as adult prison inmates at great expense to taxpayers.

My amendment provides opportunities for leadership development, community involvement, and educational success to disadvantaged persons between the ages of 14 to 25 from populations experiencing conditions such as a high poverty rate, high unemployment, high dropout rate, low labor force participation, low college enrollment or participation in other post-high school training classes, high incidence of involvement in violence and a high rate of incarceration.

During its 16 months of operation, the minority male opportunity and responsibility project [MMOR] in Milwaukee had 364 individuals referred to the program. Of this number, 125 were formally enrolled into the project. Thirty-three have obtained full-time employment—earning between $4.50 to $5 per hour—and are now totally or partially self-sufficient. Many of the other participants are working full-time as well.

The funding provided by my amendment enables this excellent program, along with other such programs in the country, to expand and continue.

Mr. President, it is imperative that we provide the necessary resources to help disadvantaged young people have another chance at life—by offering them opportunities to succeed.

Mr. RUDMAN. Mr. President, September snow flurries on Mount Washington in the New Hampshire White Mountains send shock waves through the community action programs in my State who face the very difficult problem of making limited fuel assistance budgets serve an increasing population of poor and elderly households. Winter is always a difficult time for low-income households in New Hampshire, but this year, skyrocketing home heating oil prices, coupled with an economic downturn throughout New England make keeping warm during the 1990-91 heating season an increasingly difficult challenge.

The action taken by the Senate Appropriations Committee earlier this week to provide $1.45 billion for the Low-Income Home Energy Assistance Program [LIHEAP] and an additional $200 million for an energy emergency contingency fund will lessen the burden low-income households face from home heating oil prices that are 30 to 50 cents per gallon higher than they were only a year ago. I deeply appreciate the assistance of the chairman and ranking Republican member of the Labor-HHS-Education Appropriations Subcommittee in working with me to find a way to buffer our less fortunate citizens from the effect of rising energy prices. Our work is not done, but we have taken the first step in a commitment to provide a minimal level of protection for the 4 million low-income families throughout this country who heat their homes with oil, kerosene, or liquid propane gas.

Mr. President, the funding levels provided in H.R. 5257 will help to hold the LIHEAP program harmless from increases in oil prices. Every $10 increase in the price of a barrel of oil translates into an additional $200 million that is needed to provide the same energy benefit that was provided to low-income households during last year's heating season. The average LIHEAP recipient has a family income of $7,000 a year and in normal years spends over 13 percent of their income on home energy. The very poorest households in my State receive a maximum benefit of $450 per heating season. These program benefits mean not having to choose between heating a home and putting food on the table for more than 23,000 New Hampshire households.

Less than a year ago, States like New Hampshire were facing devastating energy crises. The Senate Governmental Affairs Committee on which I serve held a hearing to review the impact of plummeting temperatures, skyrocketing oil prices and the long-term decline in LIHEAP resources on the poor. Larry Kelly, executive director of Tri-County Community Action Programs, Inc., of Berlin, NH, testified and shared examples of the impact that energy crisis had a low-income individuals and families in New Hampshire's north country. One of the most poignant examples included in that testimony was the plight of a young single mother in her early thirties who had her 18-month-old child removed from her home by State welfare authorities because she couldn't provide adequate heat and electricity for her child.

Mr. President, there are 4 million more heart-breaking stories that could be told—the same number as there are low-income families throughout the country who heat their homes with oil, kerosene, or liquid propane gas and who will struggle this winter to pay increased energy costs. In reality, energy price increases result in homelessness, illness, and death for countless families.

We have taken the first step to assist our low-income households trying to cope with the extraordinary circumstances in world oil markets and the subsequent increases in home heating oil prices. I intend to continue my efforts to ensure some relief is provided to our most needy citizens.

Mr. ADAMS. Mr. President, to the distinguished chairman of the Labor, HHS Subcommittee of the Appropriations Committee, I would like to say that I am most appreciative of his hard work, under very difficult circumstances, in crafting the fiscal year 1991 Labor, HHS appropriations bill. As a member of the subcommittee, I am well aware of the array of important demands you have had to balance within the constraints of the funds available to the subcommittee. He has done an outstanding job of responding to many and diverse human needs.

As I indicated earlier today, I am especially pleased with the funding levels for the Older Americans Act [OAA]. OAA programs, such as congregate and home-delivered meals, transportation, in-home long-term care services, legal assistance, and others, are vital to the elderly, particularly to low-income, minority, and

other vulnerable older Americans. OAA programs have gone too long without a meaningful increase in funding. Your commitment to funding these programs is evident in the recommended funding levels.

Mr. President, there are a few small, but important, items concerning the OAA that I would like to have some clarification on. As the chairman of the Subcommittee on Aging of the Labor and Human Resources Committee, I know how significant these clarifications will be.

First, the Long-Term Care Ombudsman Program is a critical service that investigates the complaints and concerns of those who must reside in nursing homes and board and care facilities. This exemplary program, which relies extensively on trained volunteers, has proven itself over and over again. Yet, all affected parties agree that it is terribly underfunded and is unable to reach tens of thousands of institutionalized elderly, much less respond to their problems.

The 1987 amendments to the OAA added for the first time a specific authorization level for the program. This bill makes an important step in the right direction by recommending $3,000,000 "to continue and expand support" for this program. Am I correct in understanding that it is the chairman's intent that these funds are intended to be above and beyond the current amounts provided for ombudsman activities; that they are meant to supplement, not replace, current funds?

Mr. HARKIN. The Senator from Washington is correct in his understanding. It is our intention to expand support for the State's ombudsman programs, not to provide new funds merely to supplant existing levels of support. I know that in his capacity as chairman of the Subcommittee on Aging, he shares my commitment to ensuring that this important program be able to respond to the needs of the institutionalized elderly.

Mr. ADAMS. Mr. President, the Senator is to be commended for providing first time funding for the elder abuse prevention program that was established in the 1987 OAA amendments. This enables us to move beyond the rhetoric of addressing the broad spectrum of neglectful and abusive practices against the elderly. This level of funding is an important step and I know he shares my commitment to increase this support over time.

It is my understanding that the committee's intent is to give the States maximum flexibility in the disbursement of these funds so as to assure the most effective efforts to combat elder abuse with limited funds. The States should be permitted to use these funds in the ways they believe will have the greatest impact. Is that the Chairman's understanding?

Mr. HARKIN. I certainly agree with the Senator's comment to leave it to the State's discretion to expend these funds for the most effective elder abuse prevention efforts. For example, it may make sense in one State to award funds within the State on a competitive basis for the most creative proposals; in another State it may be desirable to develop statewide initiatives; and in another, it may be advantageous to distribute it to all area agencies on aging.

Mr. ADAMS. Finally, Mr. President, I seek clarification regarding the relationship between elder abuse funding and the ombudsman program. This program is the one part of the OAA that currently responds to complaints of abuse—in nursing homes. Unfortunately, it has only scratched the surface in board and care homes. As numerous congressional hearings have documented, more abuse than we care to imagine occurs in these facilities. Am I correct in my understanding that it is the committee's intent that some portion of the appropriation for elder abuse prevention be coordinated with the State's ombudsman program?

Mr. HARKIN. I would like to thank the Senator from Washington for raising this important point. He is correct in his understanding. Such coordination, including funding, should improve the ability of ombudsmen to respond to abusive incidents in board and care homes and to coordinate their responses with appropriate State and local officials.

Mr. ADAMS. I would like to thank the chairman for his help in clarifying these points. This is an important bill. I know that the Nation's State and area agencies on aging, the thousands of local service providers, and the millions of older Americans they serve, recognize his efforts on their behalf.

Mr. SPECTER. Mr. President, I wonder if I could engage my colleague, the chairman of the Labor-HHS-Education Appropriations Subcommittee, on an issue of extreme importance regarding a proposed rule affecting clock hour-credit hour conversion.

Mr. HARKIN. I would be more than happy to discuss this issue with my friend from Pennsylvania.

Mr. SPECTER. On October 1, 1990, the Department of Education published in the Federal Register a proposed rule establishing a regulatory formula for the calculation of credit hours by undergraduate vocational training programs. Almost without exception, these proposed rules, if finalized in their present form, will compel every privately owned career school in America to change the method of computing student credit for class work completed from credit hours to clock hours. The Secretary's Notice of Proposed Rulemaking indicates his intention to permit only a 30-day comment period—which closes on October 31, 1990. I am concerned both about the potential impact of this rule on post-secondary educational institutions such as the Art Institutes of Pittsburgh and Philadelphia, as well as South Hills Business School in State College, PA, and the Department's apparent haste to finalize a rule of such far-reaching importance.

Mr. HARKIN. Although I have not had the chance to review the proposed rule in detail, I share the Senator from Pennsylvania's concern about the very brief opportunity provided by the Secretary for the higher education community to comment on these important regulations. As the Senator knows, I have been one who questions some of the abuse and fraud practiced by unscrupulous school owners. However, there are many in the proprietary sector who operate high quality schools.

Mr. SPECTER. I hope the chairman will join me in urging the Secretary to extend the comment period until November 30, 1990, and provide the higher education community a real opportunity to engage the Department in a meaningful way in the rulemaking process. If the Department is not willing to provide additional time, this is one Senator who will pursue other legislative alternatives to limit the Department's ability to drive honest and legitimate schoolowners out of private career education.

Mr. HARKIN. I agree with the Senator.

Mr. LAUTENBERG. Mr. President I rise in support of the Labor, Health and Human Services, Education appropriations bill for fiscal year 1991. commend the subcommittee chairman for his efforts in putting together this bill. Many worthy programs compete for limited funds in this appropriations bill, and subcommittee chairman had to make some very difficult choices in crafting this bill.

I appreciate the willingness of the subcommittee chairman to include funding for a number of programs requested. The bill includes $5.5 million for a Model Law Center for Social Justice at Seton Hall University in Newark, NJ, as authorized in Public Law 101-162. The center will serve as national model of clinical legal education, and will have specialized clinics to serve the homeless, disabled, elderly, and Hispanic populations. In addition to developing innovative teaching strategies, curriculum, and educational materials, the law center will help educate and train students for work in the public interest.

The bill includes $7.5 million for the model community education employment centers program authorized in the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990. I secured the authorization for this new program, an am pleased that this appropriations bill includes funds for no more than five model educational centers designed to assist low-income students in rural and urban areas in overcoming barriers to education and securing employment. I am also pleased that the committee report which accompanies the bill encourages the Department of Education to test the success of the model program in an urban school district in New Jersey.

The bill includes $5.25 million for computer-based educational construction programs through the Secretary's Fund For Innovation in Education. I secured the authorization for this program in 1988 and am pleased that the bill would provide funds for the program for fiscal year 1991 as it did in fiscal years 1989 and 1990. The computer education program provides funds for projects that expand and strengthen computer education resources available in elementary and secondary schools. It is designed to increase opportunities for our young people to receive hands-on experience with computers and technology.

I am pleased that this bill includes $8 million for lead screening, prevention, and outreach programs through the Centers For Disease Control. In line with language from the fiscal year 1990 appropriations bill which I requested, New Jersey has received a grant from the CDC for its lead poisoning program. I am pleased that the report accompanying the fiscal year 1991 appropriations bill highlights the problem of lead poisoning in New Jersey and am hopeful that New Jersey will receive additional funds in fiscal year 1992 to build on its program designed to combat this terrible health problem.

I am also pleased that the bill provides $5 million for mental health prevention services demonstrations and sets aside at least $1 million for projects aimed at reducing the incidence of teenage suicide. I believe that the Federal Government needs to do more to combat the tragedy of youth suicide. That is why I secured an authorization for youth suicide prevention demonstration programs, and it is why I have pursued a set-aside for these demonstration projects for 2 years. In line with the authorization for youth suicide prevention and outreach programs, I hope and expect that ADMHA will use this $1 million to provide resources to community organizations that are working to prevent teenage suicide.

Mr. President, among the more difficult issues in this bill has been providing funding for the Ryan White Aids Care Act, which is authorized at $880 million in fiscal year 1991. I was an original cosponsor of this law, which was approved in the Senate by an overwhelming vote of 95 to 4.

The law establishes a program for emergency relief for hospitals and community health centers in the areas hardest hit by the AIDS epidemic. It also assists all States in developing long-term, cost efficient programs for people and families with AIDS. Two urban areas in my State—Hudson County and Newark—qualify for emergency relief under the law.

There is a tremendous amount of interest in providing funds for the new programs in this law. Newspapers nationwide have editorialized in support of funding. I have received letters from mayors and hospitals and community organizations in support of funding for the programs in the Ryan White AIDS Care Act. I will ask unanimous consent that copies of newspaper editorials and letters in support of funding be included in the Record.

In light of the strong support for the programs in this bill, I was disappointed that the Labor-HHS Appropriations Subcommittee recommended $600 million in funding in fiscal year 1991 for programs authorized in the AIDS Care bill, but stipulated that $490 million for newly authorized programs could not actually be spent until October 1, 1991, the first day of the 1992 fiscal year. Under the subcommittee-approved version of the bill, $110 million would have been available this year to support existing programs. No funds for the new programs in the law would have been provided.

In an effort to provide funding for new programs in the law in fiscal year 1991, I along with Senators Adams and D'Amato offered an amendment when the full Senate Appropriations Committee considered this bill. Our amendment would have provided about $448 million for critically needed AIDS emergency relief and treatment programs and State AIDS programs in fiscal year 1991. It also would have deferred $490 million for States and selected urban areas until October 1, 1991. Unfortunately, the amendment was defeated in the committee on a voice vote.

Although our amendment was not approved, an additional $49 million was provided during the full committee consideration of the bill for emergency AIDS relief to selected urban areas; $110 million would still be available for State programs, and $441 million would still be deferred until October 1, 1991. I appreciate the assistance of the chairman of the Appropriations Committee in addressing this funding issue.

I believe that $49 million is an important step. It will provide some relief to urban areas in New Jersey and nationwide. Under the committee-approved plan, for example, the Newark area would receive about $2.2 million in emergency AIDS funding and Hudson County would get about $1 million within 90 days of enactment. They need this money quickly. So do other hard-hit areas nationwide.

But they need more. The House-approved version of this appropriations bill fenced funds for the Ryan White AIDS Care Act and a number of other programs that were not yet authorized when the appropriations bill was considered. I hope that during the conference on this bill additional funds will be provided to help health care systems cope with the AIDS epidemic. I intend to keep pressing this issue with the conferees on the bill.

The AIDS epidemic will only get worse. An estimated 1 million Americans are already infected with the HIV virus. And the number of actual AIDS cases is expected to triple over the next 2 years, reaching the one-half million mark by 1993. In rural America, the rate of AIDS is increasing seven times faster than in our urban centers. The Centers for Disease Control predict that AIDS will become the fifth leading cause of death for women aged 15 to 44 next year. AIDS is already among the 10 leading causes of death for children between the ages of 1 and 4.

We must address the ravages of this disease. We must provide care to patients, help to hospitals, nurses and doctors, and take steps to prevent its further spread by bringing infected people into the health care system. I sincerely hope that during the conference on this appropriations bill additional funding will be provided for the new programs in the Ryan White AIDS Care Act in fiscal year 1991.

I ask unanimous consent that the material to which I earlier referred be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times, Sept. 14, 1990]

Don't Delay on AIDS Relief

The AIDS emergency relief bill that moved so swiftly through the Senate this summer authorized substantial funds for areas where the bulk of the nation's AIDS victims reside. But the Congressional subcommittee appropriated no funds for new programs this year, replacing the bill's earlier message of hope with one of neglect.

Unless the Senate Appropriations Committee shows courage and reverses the subcommittee's decision, that callous message will be the last one many AIDS victims hear.

The bill that passed this summer, introduced by Senators Edward Kennedy of Massachusetts and Orrin Hatch of Utah, authorized more than $700 million to fight the epidemic. Originally it called for spending $300 million in the next two years to relieve urban hospitals that treat thousands of indigent AIDS patients at a cost of $150,000 per case. The bill also called for $300 million for areas that develop comprehensive case management plans. Such plans might head off the epidemic before it threatens entire communities.

The Senate subcommittee fell far short of honoring Congress's commitment. It appropriated only $110 million to continue inadequate existing programs while deferring almost $500 million for new programs for an entire year.

One year might not seem that long to Washington budget makers. But it may represent a lifetime to many AIDS patients. It's also unconscionable to ask strained hospital staffs to struggle along on inadquate resources for another year. Many patients could be tended to more effectively and cheaply through home case services, hospices and specially designed apartment complexes that the bill might make possible.

Some lawmakers cite procedural difficulties—that the bill was passed too late in the year to be properly funded, that it would be too difficult to cut funds from other programs. But this bill was designed as a form of disaster relief, and the disaster is upon us. Perhaps as many as a million Americans are infected. If only a fraction of that number were trapped in the rubble of an earthquake, Congress would act without delay. The AIDS disaster demands a response now, not a year from now.

[From the New York Newsday, Sept. 14, 1990]

Bait and Switch on Capitol Hill

A U.S. Senate subcommittee delivered a terrible blow to New York and other cities this week when it scuttled almost all new money for AIDS disaster relief New York had expected to receive $50.5 million within the next 90 days or so. Tens of millions more were to follow that. Now the city can only cross its fingers and hope that the full Appropriations Committee repairs some of the damage when it considers the matter today.

How serious is the cut? It's devastating. It's not unusual now for AIDS sufferers to wait 36 hours before they can be moved from hospital emergency rooms to inpatient beds. While 11,000 people are diagnosed with full-blown AIDS. 125,000 to 235,000 are believed to be infected with the AIDS virus—and the city's health facilities are already overwhelmed.

"The impact of not getting that money—it means lives," says Joanna Omi, a city budget analyst. The city had planned to use the relief money in part for case management and to recruit doctors, nurses and support staff. By bolstering the care available outside hospital settings, the city was hoping to reduce the unmanageable demand for its hospital beds. A reduced competition for beds would have benefitted not just people with AIDS, but all patients who need hospitalization.

By focusing, too, on early testing and drugs that slow the onslaught of AIDS, the disaster relief bill would have saved scarce public dollars over time by keeping more people healthier longer. The Appropriations Committee must restore as much of the original $875-million measure as possible.

Yet for all the justified gloom on the AIDS front, there is one tiny glimmer of good news. To find it, we must turn from Washington to Brooklyn. There, as the new school year got underway, 11-year-old Joey DiPaolo revealed that he has the AIDS virus but would be going to school. So far, few people seem to be panicking.

Five years ago, when the city decided to let a second-grader with AIDS attend school in Queens, a boycott kept up 9,000 kids out of classes the first day. Today may chalk up one small victory for decency.

[From the Newark Star-Ledger, Sept. 25, 1990]

Restore AIDS Funding

Too often, Congress enacts legislation, the President signs it and no money is appropriated to fund the law. That appears to be happening again, but this time it involves a measure far too important to be left again on the wayside while Congress does its usual sleight-of-hand routine.

Earlier this year, it seemed federal legislators would responsibly face the reality that the AIDS epidemic has reached such major proportions in many areas that federal assistance to states and cities heavily affected by the disease was warranted.

The Senate overwhelmingly approved more than $700 million for the 1991 fiscal year for programs to care for AIDS patients and for other services and support programs. Under the formula, New Jersey would receive about $20 million and Newark would get more than $8 million.

But suddenly things have changed. A Senate subcommittee recently voted to appropriate no new funds this year for AIDS programs, meaning the 16 hardest hit cities will have to wait yet another year for federal help in dealing with a most pressing health problem—unless the full Senate Appropriations Committee votes otherwise.

In voting to approve the package, Congress acknowledged that the federal government needed to play a much larger role in providing health care for thousands of Americans living under the specter of the deadly AIDS virus. It was a commitment that was both welcome and overdue.

The latest development does not bode well for cities with high AIDS rates, such as Newark and Jersey City, which would see their already overburdened system of care collapse under the weight of the epidemic. The bill was designed to provide "disaster" relief, and it is imperative that the Senate Appropriations Committee, which meets today, understand the pressing nature of the AIDS problem.

If the subcommittee recommendation is allowed to stand, nearly $500 million for new programs to tackle the enormous AIDS health problem will be deferred for another year. A year for those afflicted with the deadly HIV virus can represent a lifetime. It would be unconscionable if Congress reneged on its commitment and failed to fully fund the AIDS relief bill.

[From the Woodbridge (NJ) News Tribune, Sept. 24, 1990]

AIDS Bill Vital to Urban Health Care

A bill designed to help American cities recover from the devastating effects of AIDS on local health-care systems appears headed for defeat, despite its overwhelming support this summer in the House and Senate, and its signing by President Bush.

A Senate appropriations subcommittee decided this month not to fund the full $700 million bill, perhaps dashing hopes for a new government commitment to attempt to end AIDS suffering, and help the cities hardest hit by the epidemic.

If rescued, the Ryan White CARE Act of 1990 would provide emergency relief funds to 16 U.S. cities with the highest number of AIDS cases, among them Newark, which was to receive $6.3 million; Jersey City, $2.8 million; and New York City, $51.3 million.

About $300 million of the total appropriation would have been spent as emergency relief aid for urban hospitals treating thousands of AIDS patients at exorbitant public expense. Another $300 million would go to hospitals that develop case management plans for more efficient handling of AIDS cases.

The subcommittee's refusal to fully fund the bill sent shock waves among AIDS researchers and health-care experts, as well as urban mayors.

Mathilde Krim, founder of the American Foundation for AIDS Research, said the bill is not a "handout . . . for people with a particular disease." Instead, she said, the act represents an overdue government response to the worsening AIDS health-care crisis.

J. Thomas Cochran, executive director of the U.S. Conference of Mayors, cited nearly a 100-fold increase in the number of reported AIDS cases since 1983.

San Francisco Mayor Art Agnos and New York Mayor David Dinkins, in a joint op-ed piece published by The San Francisco Chronicle, drew a disturbing comparison between global outrage over Iraqi President Saddam Hussein's invasion of Kuwait, and the "glacial U.S. response" to an AIDS epidemic that has already killed more than 85,000 Americans. Agnos and Dinkins represent the two American cities most besieged by the AIDS epidemic.

Meanwhile, President Bush said he is "heartbroken" by a failure to fund the bill but unconvinced that spending more money will weaken the AIDS epidemic.

Postponing funding of the AIDS bill not only would guarantee the suffering and death of AIDS patients, particularly the poor, it also would sustain a steady deterioration of the quality of urban health care an issue that affects all people in need of health care.

The disease is spreading. State health officials report a steady increase of AIDS among heterosexuals, mostly women, infected by sexual partners. Regardless of whom the disease kills, the knowledge that people are dying by the thousand should be enough to prompt the government to act.

We call upon Sen. Frank Lautenberg D.N.J., a member of the full Senate Appropriations Committee and an avid supporter of the AIDS bill, to be among those fighting to rescue this vital act this week.

[From the Hackensack (NJ) Record, Sept. 26, 1990]

A Need for AIDS Money

The cost of AIDS can be counted in two ways. There's the human cost, in suffering and shattered lives. And there is the dollars-and-cents cost, which hits especially hard in Newark, Jersey City, New York, and other urban areas that find already overburdened hospitals struggling to cope with a full-scale epidemic. Congress voted last May to send special aid to these cities, but never followed through with the money. Sen. Frank Lautenberg deserves support in his efforts to push through a scaled-down version of the emergency rescue proposal.

The package of about $190 million sought by Mr. Lautenberg, with support from Sen. Alfonse D'Amato, R.-N.Y., and other senators, doesn't go for anything exotic or untried. It is an emergency package pure and simple, to help facilities such as Children Hospital and University Hospital, both in Newark, that are severely strained by the rising number of AIDS cases.

The money could be spent in two ways. It could be given directly to hospitals, to help them pay doctors and nurses and meet other costs of caring for AIDS patients without cutting back on other areas of care

Or it could be used to fund less expensive alternative forms of care for AIDS patients who aren't sick enough to be in a hospital setting. Money could be used to pay for home health-care workers, for hospices, or for small, specially designed apartment complexes to house seriously ill patients.

Mr. Lautenberg's bill would spend about $200 million in 16 metropolitan areas across the country that have been hard hit by AIDS. Newark would receive $6.3 million, and Jersey City, $2.8 million. It's hard to dispute that the money is needed. In the last year alone, the number of AIDS cases in Newark has increased by 33 percent, to 3,885. In Jersey City, the number has increased 23 percent, to 1,537.

Money is obviously tight in Washington, but Mr. Lautenberg has provided a reasonable funding source. He would make small cuts, of less than 1 percent, in all programs administered by the Department of Health and Human Services that are scheduled to receive an increase in the coming year. An aide to Mr. Lautenberg says that the measures faces strong opposition, chiefly because many states don't have an AIDS problem. Mr. Lautenberg's measure would direct money to metropolitan areas in only nine states, plus the District of Columbia and San Juan, Puerto Rico.

After a slow start, the federal government has done a fairly good job of funding research into AIDS. It has made some strides in AIDS education. But the third step, helping to meet the costs of treatment, has been neglected. The problem is too expensive to be borne by local communities alone. AIDS is a national emergency. It demands a national response.

A MINISTER'S DENIAL

A priest giving a Christmas sermon a couple of years ago in Closter asked this question: If Jesus were born today, where do you think it would be? The answer, the priest said, in a modern-day comparison to the inn and the manger, is that he'd be born to a stranded family in a garage behind a motel. He would come, as before, to the poor and the outcast.

That sermon came to mind upon hearing that a minister in Milwaukee recently refused to baptize a 13-month-old baby girl who is dying of AIDS. No details were given on the minister's rationale. Was there fear of contagion? Maybe it was a moral stance. The baby's mother has AIDS as well. Maybe the minister just didn't want to get involved.

Whatever the reason, in denying God's blessing to a dying child, the Milwaukee minister missed the central point of his life's work. Jesus turned no one away. Shunning the AIDS baby was most un-Christian. There's no doubt about the well-being of her soul, baptized or not. It's the soul of the minister that bears praying for.

Manatos & Manatos,
Washington, DC, September 13, 1990.
Hon. Frank Lautenberg,
U.S. Senate,
Washington, DC.

Dear Frank: On behalf of the city of San Francisco, I urge your support of efforts in the full Appropriations Committee to provide the critically needed emergency relief for those metropolitan areas hardest hit by the AIDS epidemic. When you vote in the coming days on the appropriations bill, please support any efforts to provide FY'91 funding for Title I of the Ryan White Comprehensive AIDS resources Emergency Act.

I know that the budget is extremely tight and choices are difficult, but I am sure you would agree that if we were to poll 1,000 Americans in your state and ask them the question: "If you could save the lives of 1,000 of our boys over in the Middle East, with the expenditure of just 2 percent over what we have already financially committed, would you agree to that 2 percent increase?" nearly all would give a resounding yes. Help prolong and save the lives of those thousands of Americans who are dying from AIDS, vote to provide FY'91 funding of Title I of the AIDS CARE Bill.

Sincerely,

Andrew E. Manatos.

Board of Supervisors,
County of Los Angeles,
Los Angeles, CA, September 19, 1990.
Hon. Frank B. Lautenberg,
U.S. Senate, Washington, DC.

Dear Senator Lautenberg: Last summer the Congress overwhelmingly approved the enactment of the Ryan White Comprehensive AIDS Resources Emergency Act authorizing $875 million in emergency relief for AIDS, especially to assist areas most affected by the epidemic. It is my understanding that the Senate Appropriations Committee will very soon be considering the Labor Health and Human Services, Education and Related Agencies Appropriations Bill. I urge your support to include funds in this bill for the emergency AIDS relief program.

AIDS is a major public health problem in Los Angeles County. There are more than 10,000 persons diagnosed with AIDS in the County, which ranks second in the nation in reported AIDS cases. This AIDS epidemic in Los Angeles County is growing at an alarming rate that is placing greater demands on our already strained County budget.

Thank you very much for your efforts on this public health issue of urgency and importance to Los Angeles County.

Sincerely,

Edmund D. Edelman,
Supervisor, Third District.

National Puerto Rican
Coalition, Inc.,
September 21, 1990.
Hon. Frank Lautenberg,
U.S. Senate, Washington, DC.

Dear Senator Lautenberg: The National Puerto Rican Coalition (NPRC) strongly urges you to support the Ryan White Comprehensive AIDS Resources Emergency Act (CARE) Act of 1990 by allocating *at least* $390 million in *new funding* for AIDS. As president of NPRC, which represents over 100 Puerto Rican organizations nationwide, I would like you to be aware that this bill is extremely important to Puerto Ricans in the U.S. mainland and on the island of Puerto Rico.

Among the 16 cities targeted by Title I of the CARE Act are six mainland cities with large concentrations of Puerto Ricans—New York, Philadelphia, Jersey City, Chicago, Newark and Boston (as well as San Juan, Puerto Rico). Puerto Ricans in these cities have been disproportionately affected by the AIDS epidemic.

In Philadelphia, for example, the disease is spreading more rapidly among Puerto Ricans than among any other group except the gay population. In New York, the Health Department predicts that by 1993, the number of Hispanics (mostly Puerto Ricans) will be more than *twice* the number of cases recorded in 1988. The Massachusetts Department of Public Health found that in 1989, Hispanics (again, mostly Puerto Ricans) were *seven times* more likely than Whites to contract AIDS.

The AIDS Emerency Act will provide funds to hospitals, clinics and community centers to care for Puerto Ricans and others with AIDS. It will provide badly needed testing and counseling for people worried about being infected with AIDS and "Early Intervention" drugs to slow down the onset of AIDS in those already infected with HIV—the AIDS virus.

It is extremely unfortunate that the Senate Appropriations Subcommittee on Labor and Health and Human Services provided no new funding for AIDS for Fiscal Year 1991, preferring to allocate the funds late *next year.* It makes no sense to wait a year to deal with a major health emergency affecting people *now.*

For several months, the National Puerto Rican Coalition has been mobilizing grassroots support in the Puerto Rican community for the CARE bill. Attached here is one of the many letters NPRC member organizations have written on this issue, and two handwritten letters from Puerto Ricans who have never before written letters to Congress.

NPRC, our member organizations and Puerto Ricans throughout the United States are looking to you for help. Please do all you can to reverse the Labor-HHS recommendation and support new funding for the CARE bill.

Sincerely,

Louis Nunez,
President.

Unitas, Inc.,
Lowell, MA, September 18, 1990.
Hon. Tom Harkin,
U.S. Senate, Washington, DC.

Dear Senator Harkin: Puerto Rico is a great Island and their people are very warm to their visitors.

AIDS is a worldwide problem and Puerto Rico is among the most affected in this terrible terminal disease. Also Puerto Rican communities along the with continental United States are suffering from this virus.

The government of the United States spends a great deal of money for the Nations Security-Defense system.

Between the U.S. citizens that served during the war, Puerto Ricans were the biggest group not only to serve but also die for the sake of this nation.

It is time that this nation spend money wisely on those citizens that make this nation strong.

Without people, a nation cannot fight over any cause. Without people, there is no nation.

The Puerto Rican community is urging $750 million in funding for the AIDS Emergency Act in Fiscal Year 1991.

On behalf of Unitas, Inc. and myself as Executive Director of this organization that helps Hispanics, I urge you to consider favorable the provision of this utmost important funds.

Very truly yours,

Dalia Calvo,
Executive Director.

Office of the Mayor,
San Juan, PR, September 14, 1990.
Hon. Frank Lautenberg,
U.S. Senate, Washington, DC.

Dear Senator Lautenberg: As you know, last month Congress passed the Ryan White CARE Act by an overwhelming margin to respond to the AIDS epidemic. An important facet of that bill, Title I, would distribute emergency relief funds to those cities-sixteen with the greatest need.

San Juan is one of the cities with the highest incidence of AIDS in the United States, and is in dire need of Federal assistance to help cope with the AIDS epidemic. It is projected that the number of persons diagnosed with AIDS or HIV-related illnesses in San Juan will double every 18 months.

This Wednesday, the subcommittee with responsibility for appropriating funds to implement the CARE Act essentially decided to ignore this public health emergency by failing to appropriate any funds for this program for this coming fiscal year. Unfortunately, the AIDS virus will not remain dormant for a year to accommodate the misplaced funding priorities of Congress—failure to allocate funds for this year will result in further spread of the disease and a worsening of the epidemic.

I urge you to support any initiatives to provide funding for this essential AIDS relief effort when the full committee meets to consider this matter.

Sincerely,

Hector Luis Acevedo,
Mayor, City of San Juan.

City of Suffolk,
Suffolk, VA, September 5, 1990.
Hon. Frank R. Lautenberg,
Senate Appropriations Committee, Washington, DC.

Dear Senator Lautenberg: The City of Suffolk, Virginia is aware that on August 18, 1990, President Bush signed the "Ryan White Comprehesive AIDS Resources Emergency Act" which provides funding to cities for services and care of AIDS afflicted persons.

This funding is desperately needed by cities to help ease the funding burden that had resulted from the growing number of AIDS related cases. As you know, the number of AIDS victims continues to rise and this has resulted in an increasing impact on the amount of funds available for our local health departments. It is essential that more funds become available to help offset the costs that this tragic disease has come to bear on local governments.

Upon the convening of the Senate, the Appropriations Committee will consider this matter. Please make every effort to support the "Ryan White Comprehensive AIDS Resources Emergency Act" and ensure that cities have the necessary funds to care for those afflicted with AIDS and to help prevent the further spread of this devastating disease.

Thank you for your consideration of this matter. Should you have any questions or desire further information, please do not hesitate to contact me.

Sincerely,

John L. Rowe, Jr.,
City Manager.

Office of the Mayor,
City of St. Paul,
St. Paul, MN, August 31, 1990.
Hon. Frank R. Lautenberg,
Senate Appropriations Committee, Washington, DC.

Dear Senator Lautenberg: On August 18, President Bush signed the Ryan White Comprehensive AIDS Resources Emergency Act. Provisions of the Act include direct funding for the 16 cities with the highest number of AIDS cases, and funds for other cities made available through the state formula grants for services and care. This piece of legislation is extremely important to our nation's cities and to those citizens who suffer from AIDS.

When the House passed this measure, they did not have an opportunity to include funding for the programs authorized by the legislation for the coming 1991 fiscal year, which begins October 1, 1990. Your committee will soon hear this issue.

I am writing to you at this time to urge you to appropriate full funding of the $900 million Act for Fiscal Year 1991. Without appropriations in the coming year, the valuable assistance contained in the Ryan White CARE Act will not become a reality.

Sincerely,

James Scheibel,
Mayor.

Office of The Mayor and City
Council, City of Yuma,
Yuma, AZ, August 28, 1990.
Hon. Frank R. Lautenberg,
Senate Appropriations Committee, Washington, DC.

Dear Senator Lautenberg: I am writing to express the City of Yuma's support for the "Ryan White Comprehensive AIDS Resources Emergency Act", and to encourage you to ensure that funding is provided for this important legislation.

I support the funding of this legislation for several reason. First, it obtains federal aid for cities in dealing with the AIDS epidemic. As of now, the cities are dealing with the problem the best they can which in some cases is not at all.

Second, the Bill would ensure that cities have the funds necessary to care for those afflicted with AIDS and to help, through education and counseling, prevent the further spread of the disease.

For these reasons, I am asking that fundings be provided for the CARE Act. I believe that this funding is extremely important to the future and wellbeing of the cities constituents.

Thank you for considering our comments on this Act.

Sincerely,

Robert H. Tippett,
Mayor, City of Yuma.

City of Boston, MA,
Office of the Mayor,
September 6, 1990.
Hon. Frank R. Lautenberg,
U.S. Senate, Hart Office Building, Washington, DC.

Dear Senator Lautenberg: I am writing to urge your support for full funding of the recently authorized "Ryan White Comprehensive AIDS Resources Emergency Act." As mayor of one of the cities which would receive direct funding under the act, I know that this funding is desperately needed for our hospitals and health centers which are struggling to cope with the impact of this deadly disease.

Funds available to cities under Title I of this act will be used for outpatient care, support services and inpatient case management—areas of service that must be expanded quickly. Our city has made a major commitment to AIDS prevention and treatment programs in recent years, however, with our state government fiscally strapped, a national commitment to assist in the care of people with AIDS is essential.

While I recognize that the federal government has its own fiscal crisis to resolve, I believe that our top priorities for federal funding must involve basic human needs. In that context, providing humane care to persons with AIDS should be included when your appropriations decisions are made.

Thank you for your consideration on thi matter.

Sincerely,

Raymond L. Flynn,
Vice President, U.S. Conference of Mayors.

Office of the Mayor,
September 11, 1990.
Hon. Frank R. Lautenberg,
Senate Appropriations Committee, Dirkse Building, Washington, DC.

Dear Senator Lautenberg: I am writing t encourage you to support full funding o the "Ryan White Comprehensive AIDS Re sources Emergency Act," for fiscal yea 1991. This $900 million act is important t assure cities that funds will be available t care for those afflicted with AIDS. The sup port of full funding will also help to preven the further spread of the disease.

Many of our cities are faced with th growing AIDS epidemic and the only way t get a control is through funding for re search and care. As Mayor, I consider it on of my duties to preserve the health an well-being of the constituents which I serve.

Again, your full support for the CAR Act is encouraged. Thank you for your con sideration of this matter.

Sincerely,

Martha G. Scott,
Mayor of Highland Park.

City of Tacoma,
Office of the Mayor,
September 7, 1990.
Hon. Frank R. Lautenberg,
Senate Appropriations Committee, Wash ington, DC.

Dear Senator Lautenberg: On behalf o the City of Tacoma, Washington, I am wri ing to support funding for the "Ryan Whit Comprehensive AIDS Resources Emergenc Act". Provisions of the Act include direc funding for the 16 cities with the highes number of AIDS cases, and funds for othe cities made available through the state fo mula grants for services and care.

I understand that due to the timing o passage of the CARE Act, the U.S. House o Representatives did not have the opportun ty to include funding for the programs au thorized by the legislation for the comin 1991 fiscal year.

To ensure that cities have the funds ne essary to care for those afflicted with AID and to help prevent the further spread o the disease, I urge full funding of the $90 million for Fiscal Year 1991. Without appro priations in the coming year, the valuab assistance contained in the Ryan Whit CARE Act will not become a reality fo cities. The sooner these monies are avai able, the sooner cities can increase the fight against AIDS.

Sincerely,

Karen L.R. Vialle,
Mayor.

Office of the Mayor,
Flint, MI, September 10, 1990.
Hon. Frank Lautenberg,
Senate Appropriations Committee, Dirkse Building, Washington, DC.

Dear Senator Lautenberg: August 1 marks an important date in the figh against AIDS. With the signing of the Rya White CARE Act, a very important fir hurdle to begin stemming the tide of th dreaded disease was overcome. The legisl tion is in place, providing a structure for a sistance to those areas hardest hit. Now, th next important step must be taken. Provisions must be made for full funding of the Ryan White CARE Act.

This is an issue which needs direct immediate attention. The health of our population affects all of us. We have the structure in place, let's put it to work, to help those most affected.

Thank you for your prompt consideration of this matter.

Sincerely,

Matthew S. Collier,
Mayor.

Office of the Mayor,
Vineland, NJ, August 29, 1990.

Re Ryan White Comprehensive AIDS Resources Emergency Act.

Hon. Frank Lautenberg,
Senate Appropriations Committee, Dirksen Building, Washington, DC.

Dear Senator Lautenberg: As Mayor of the City of Vineland and in behalf of the governing body of our City, I would encourage you to favorably support funding for the Ryan White Comprehensive AIDS Resource Emergency Act when this issue appears before the Senate Appropriations Committee.

Without appropriations in the coming year, the valuable assistance contained in this Act will not become a reality.

Thank you for your consideration in this matter.

Very truly yours,

Harry Curley,
Mayor.

Irvington, NJ,
August 28, 1990.

Re Funding for the Ryan White Comprehensive AIDS Resources Emergency Act.

Hon. Frank Lautenberg,
Senate Appropriations Committee, Dirksen Building, Washington, DC.

Dear Senator: As you know, on August 18th, President Bush signed the Ryan White Comprehensive AIDS Resources Emergency Act, which was passed by overwhelming margins in both the Senate and the House.

The Ryan White CARE Act represents a strong Congressional intention to provide relief to the urban areas most affected by the AIDS crisis, and to provide states with the tools they need to combat this disease.

I urge your support in providing full funding of the $900 million Act for Fiscal Year 1991 * * * for this important legislation so vital for America's cities.

Very truly yours,

Michael G. Steele,
Mayor.

Office of the Mayor,
City of Plainfield,
Plainfield, NJ, August 29, 1990.

Hon. Frank R. Lautenberg,
Senate Appropriations Committee, Dirksen Building, Washington, DC.

Dear Senator Lautenberg: It is my understanding that when the Senate returns from its August recess in early September, the Appropriations Committee will take up the issue of funding programs for the coming 1991 fiscal year, which starts October 1, 1990.

I am writing to urge you to vote for full funding of the Ryan White Comprehensive AIDS Resources Emergency Act signed by President Bush on August 18, 1990. We must ensure that cities have the funds necessary to care for those afflicted with AIDS and to help prevent the further spread of the disease.

Thanking you for your consideration, I am

Very truly yours,

Harold W. Mitchell,
Mayor.

Jersey City Medical Center,
Jersey City, NJ, September 26, 1990.

Dear Senator: On behalf of Jersey City Medical Center, the major provider of AIDS health services in Hudson County, we encourage you to endorse the Title I Comprehensive AIDS Resources Emergency Act currently being considered by the Senate Appropriations Subcommittee on Labor, Health and Human Resources.

For cities and communities across the country, the current crush of AIDS and the staggering cost of care is already placing a tremendous strain on local public health systems and services. Jersey City has the second highest prevalence of AIDS in the nation and this funding is critical to our ability to continue to meet the needs of persons with AIDS as well as those at risk. And it is not just the large metropolitan hospitals that are facing financial chaos; the problem extends to hospitals in the south and midwest.

According to statistics from Centers for Disease Control (CDC), we may be entering the grimmest period of the AIDS crisis. Over the next two years, the nation's AIDS caseload will more than triple climbing from over 130 thousand cases today to almost a half million cases by 1993. Much of the increase will take place in rural America. Today, the rate of AIDS in rural communities is increasing seven times faster than in the nation's urban centers. In additon, with as many as one million Americans already infected with HIV, new infections continue to spread, particularly among heterosexuals, women and children. The CDC estimates that as many as two thousand HIV infected infants are born every year.

The C.A.R.E. Act calls for a substantial federal investment in HIV care and services, but if we choose not to make this investment now, the cost will only be much greater in the future. In an era of budget deficits and tight spending, the intent of the Act is not only to save lives, but also to hold down rapidly rising health care costs for AIDS. In 1990 the Federal Government will spend $160 billion on health care. Out of that total $1.6 billion or only 1 percent will go to AIDS, a problem which President Bush has called the nation's number one health problem.

Thank you for your time and consideration. Please call us if you have any questions or require further information.

Rev. James F. Reilly,
Chairman of the Board of Trustees.
Jonathan M. Moisch,
Dr.P.H.,
President and Chief Executive Officer.

Citizens Commission on AIDS
For New York City and Northern New Jersey,
New York, NY, August 28, 1990.

Re Emergency Appropriations for AIDS.

Hon. Frank Lautenberg,
Senate Appropriations Subcommittee on Labor, Health and Human Services, and Education, Washington, DC.

Dear Senator Lautenberg: As a result of overwhelming support by the Congress and by communities affected by the HIV/AIDS epidemic, the Kennedy-Hatch Comprehensive AIDS Resources Emergency (CARE) Act of 1990 was recently enacted. This bill prudently authorizes funds for emergency relief to metropolitan areas devastated by the HIV epidemic and for medical care, including early intervention services. Providing funding for this legislation is vital to our cities, health care facilities, and community-based organizations which have become overwhelmed by the spiraling numbers of people with HIV disease.

Your leadership on this issue is essential to communities in New York and New Jersey, and around the country, whose health care systems will collapse without new federal assistance. We strongly urge your support of a full appropriation of $882 million to fund critically needed health services.

Sincerely,

Gary L. Stein, Esq.,
Policy Director.

Citizens Commission on AIDS,
For New York City and Northern New Jersey,
New York, NY, September 27, 1990.

Hon. Frank R. Lautenberg,
Member, Senate Appropriations Committee, Washington, DC.

Dear Senator Lautenberg: We wish to thank you for your support of partial funding of the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act.

As you know, funding under the CARE Act is critical to the health care and social service delivery systems in the New Jersey/New York metropolitan area. Study after study of the region's hospitals show unprecedented increases in HIV infection among women and children. The region's care system is struggling to respond to its citizens' needs as waiting lists mount and ill people remain unserved.

This past summer, Congress recognized the health care emergency that has been intensifying in the America's larger metropolitan areas. The CARE bill was passed by an overwhelming majority to meet this public health disaster. It is unconscionable that the Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies has deferred disaster relief funding for one year. It is beyond comprehension that funding can be found always for disasters such as hurricanes and earthquakes and for international assistance for countries affected by decreased oil production. This same concern must be shown for Americans who are critically ill as a result of HIV disease. It is time for Congress to demonstrate its compassion for the dying at home.

We strongly support your amendment to provide partial funding now for the CARE bill. Thank you again for sponsoring and advocating vital care and services for people with HIV disease.

Sincerely,

Gary L. Stein, Esq.,
Policy Director.

National Commission on Acquired Immune Deficiency Syndrome,
Washington. DC, September 18, 1990.

Hon. Robert C. Byrd,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The National Commission on AIDS is dismayed by the recommendation of the Subcommittee on Labor, Health and Human Services, Education, and Related Agencies not to provide immediate

funds to implement the Ryan White Comprehensive AIDS Resource Emergency (CARE) Act of 1990. As you know, this measure was approved almost unanimously by both houses of Congress and signed by the President. By their actions, both the Congress and the President declared that the HIV epidemic is a disaster and should be treated as such. As the full Committee on Appropriations begins its deliberations, we urge, you to fully fund the CARE Act.

While we recognize the fiscal constraints existing today, we must state emphatically that any delay in providing emergency relief to areas hardest hit by the epidemic, as well as additional resources to all states, would greatly intensify the present disaster. During the past year, the Commission has heard repeatedly about the critical need for additional resources. Our travels across the country have provided us the opportunity to witness first-hand the serious inadequacies of our health care system—which is teetering on the brink of collapse. While the Ryan White CARE Act cannot fix all the challenges confronting the health care system, it can provide the immediate resources needed to help ensure that states and localities can provide care, treatment, and support services, now in very short supply.

When earthquakes and hurricanes strike, our nations's response is appropriately "Do whatever it takes!" Yet, when faced with a more slowly developing disaster, surely our response should not be to point to Gramm-Rudman-Hollings budget constraints. The federal budget, even under current pressures to reduce the deficit, must include the dollars needed to respond to the current disaster.

Again, we urge the Committee to support full funding of the Ryan White CARE Act of 1990.

Sincerly,

David E. Rogers, M.D.,
Vice Chairman.
June E. Osborn, M.D.,
Chairman.

National Organizations
Responding to AIDS,
September 17, 1990.

Dear Senator: We are writing to you, a member of the Appropriations committee, with an urgent request to fund at least $390 million in new outlays for the Ryan White CARE Act in FY 1991.

The subcommittee's action last week was profoundly disappointing to millions of Americans with HIV infection and AIDS, and the many health, mental health and social service providers that assist them. When the Ryan White CARE bill passed the Senate in May by a vote of 95–4, a message of hope was sent across the nation. The promise of hope quickly turned to a message of callousness when the subcommittee completed action providing for NO additional funds in FY 1991 for the new provisions of the CARE act.

We understand the complex and difficult choices the subcommittee had to make, however it failed to recognize that the AIDS crisis has never secured adequate care resources from the federal government. The "disaster relief" authorized under the bill addressed the simple fact that without federal assistance hospitals will close and public health systems will collapse under the weight of the AIDS epidemic. Clearly "disaster assistance" can not wait for a full year without dire consequences for the sixteen cities affected. Similarly, an investment this year in the coordination of services in all communities and the provision of early intervention treatments for those who are HIV positive but not yet diagnosed with full blown AIDS will defer huge expenditures in indigent care funds, Medicaid programs and bankrupt health service providers.

In the context of AIDS we implore you to understand that one year is a literal lifetime for thousands of Americans.

With ongoing discussions regarding the budget summit still unresolved we firmly believe that additional resources can be found to assist in AIDS care this year. The generous budget authority allocated by the subcommittee is no more than an empty promise for cities and hospitals and people with AIDS who desperately need assistance NOW.

The AIDS disaster is real! Urgent assistance is needed this year. We respectfully request your attention to this matter in full committee deliberations.

Sincerely,

AIDS Action Council, AIDS National Interfaith Network, American Anthropological Association Task Force on AIDS, American Association for Counseling and Development, American Federation of Teachers, American Jewish Committee, American Medical Student Association, American Psychological Association, American Public Health Association, American Nurses' Association, Catholic Health Association, Center for Women Policy Studies, Committee for Children.

Human Rights Campaign Fund, Infectious Diseases Society of America, Legal Action Center, National Association of Community Health Centers Inc., National Association of Home Care, National Association of State Alcohol and Drug Abuse Directors, National Association of Home Care, National Association of Children's Hospitals & Related Institutions, National Council on La Raza, National Council for International Health, National Gay and Lesbian Task Force, National Minority AIDS Council, Parents and Friends of Lesbians and Gays, Rainbow Lobby, The American College Health Association, The National Coalition for the Homeless, Union of American Hebrew Congregations.

National Governors' Association
Washington, DC, September 25, 1990.

Hon. Frank R. Lautenberg,
Committee on Appropriations, U.S. Senate, Washington, DC.

Dear Senator Lautenberg: We write on behald of the nation's Governors to express our concern about several provisions under your consideration in the Labor-HHS-Education appropriations bill. We appreciate the exceedingly difficult task we all face of balancing one priority against the other, but have serious concerns about plans to reduce or excluse funding for programs aimed at preventing dependency, or at helping those most in need.

AIDS: Ryan White Comprehensive AIDS Resource Emergency Act of 1990: The nation's Governors ardently support the programs authorized in the Ryan White Comprehensive AIDS Resources Emergency Act and strongly urge the Committee to appropriate the $880 million necessary to implement the AIDS grant programs. Full funding for the Ryan White Act is essential to address nationally the magnitude of the present and future AIDS epidemic. The Ryan White Act is the first and only legislation enacted since AIDS was diagnosed in 1982 to provide a comprehensive and coordinated national response to the AIDS epidemic. If funded, this long-over-due legislation would enable states to enhance existing AIDS initiatives and advance new efforts to meet the health-care needs of persons with HIV disease and guard against the further spread of AIDS. State and federal governments must work in partnership for the nation to effectively and efficiently address the AIDS crisis, and ultimately conquer this devastating disease. We hope you will support the Ryan White Act with full appropriations.

Child Support Enforcement: We are deeply concerned about a proposal included in the Subcommittee bill to reduce by $150 million child support enforcement federal incentive payments for states that do not meet a national average cost-benefit ratio. Under this plan up to 40 states and territories would face a reduction or total elimination in child support enforcement incentive funding, thereby limiting our ability to ensure that deserving children are provided with the support they are owed by an absent parent—an ironic and unfortunate development given the interest we all share in reducing welfare dependency. Further, the provision would have the effect of creating a disincentive to states to make necessary investments in our programs because we would increase the likelihood of our cost-benefit ratio dropping below the national average. We strongly urge you to delete this provision from the appropriations bill.

Foster Care: We urge you to eliminate a provision contained within the subcommittee bill that would place a cap on so-called administrative activities in the Title IV–E Foster Care Program, reducing funding to states by nearly $80 million in fiscal 1991. These administrative funds are, in fact, largely used by states to provide service-related activities required by the law; a cap would therefore directly affect programs for the country's most vulnerable children.

State Legalization Impact Assistance Grants (SLIAG): We are very concerned about a proposal in the subcommittee bill to reduce the $1 billion for SLIAG by $567 million in fiscal 1991, with a provision to repay this amount in fiscal 1992. SLIAG was created in 1986 to assist states in providing public assistance, public health and education services to newly leglized aliens, and was authorized as a four-year, $4 billion program with a seven year spending cycle. The proposed reduction in SLIAG funding would create a serious fiscal burden for state and local governments and would endanger the availability of services for newly legalized aliens as well as the general service population.

Unemployment Insurance: In addition, we urge you to support the Administration's recent request for an additional $90.7 million in unemployment insurance (UI) funds made necessary because of increased levels of unemployment facing many areas of the country. Specifically, the President now estimates that the unemployment rate for fiscal 1991 will be 5.6%, not 5.3% as he projected in January. Because his original budget request was based on the lower unemployment rate, without the additional $90.7 million the states will not have adequate funds to provide services to unemployed workers. In fact, when the scheduled postage increase takes effect in February, the shortfall will grow by another $10.9 million. As you remember from your efforts during the current fiscal year to provide dire emergency funds for the UI Program when we ran short for the same reasons, inadequate funds will result in major disruptions in service to unemployed workers. Since we already know that a shortfall is inevitable, the Governors urge you to act now in support of the Secretary's request.

Further, the Governors wish to convey our support for the creation of a contingency reserve fund to automatically provide funds to operate our unemployment insurance programs when unemployment rates rise to a higher level than anticipated in the President's budget—the situation we have faced this year and next and 8 other times since 1975. Certainly this is a more effective and responsive way to guarantee continuation of services to workers than to each year be faced with the need to either revising appropriations requests or pursue a dire emergency supplemental.

We thank you for your consideration of our concerns.

Sincerely,

Gov. John R. McKernan, Jr.,
Chair, Committee on Human Resources.
Gov. Jim Florio,
Vice-Chair, Committee on Human Resources.

Department of Social
Development and World Peace,
Office of Domestic Social
Development,
Washington, DC, September 20, 1990.

Dear Senator: The U.S. Catholic Conference, the public policy agency of the nation's Roman Catholic bishops urges you to add to the Labor/HHS bill significant new funding for Titles I, II, and IV of the Ryan White AIDS Resources Act to provide health and social services to persons with AIDS. However, the Senate Appropriations Committee must respond concretely to the tremendous and growing needs of communities facing the AIDS crisis. New funding for AIDS care should not come at the expense of increases provided by the Labor/HHS Subcommittee for programs for the poor and disadvantaged.

People with AIDS are among the most vulnerable in our society, and their communities desperately need federal aid to develop outpatient services, houring, transportation and other programs to help sick people live in dignity. Many dioceses and religious orders are deeply involved in serving people with AIDS and know first hand that the needs far outrun our resources.

In their November 1989 statement, the U.S. bishops urged that a continuum of care be developed to meet the health and human service needs of those who are HIV positive. Titles I, II, and IV of the AIDS Resources Act authorize funding for the kinds of services called for in the bishops' statement. Unfortunately, the Senate Labor/HHS Subcommittee has approved no new funding for the next fiscal year.

The AIDS epidemic won't wait until next fiscal year; neither should the Senate.

Sincerely,

Sharon M. Daly,
Director.

National Association of Counties,
Washington, DC, September 13, 1990.
Hon. Frank R. Lautenberg,
U.S. Senate, Washington, DC.

Dear Senator Lautenberg: As you prepare to mark up the 1991 Labor HHS Appropriations bill, the National Association of Counties would like to highlight health, human services and labor programs of importance to us.

RYAN WHITE COMPREHENSIVE AIDS RESOURCES EMERGENCY ACT

Passed by overwhelming margins in the Senate and House of Representatives, the bill marks the first comprehensive approach to providing health services to individuals with HIV. In many states, countries bear the legal responsibility of providing health care to the indigent. AIDS has exacerbated problems faced by many county hospitals and the overall health system. Not only does the CARE Act assist those cities and urban counties hit hardest by the epidemic, it also helps all 50 states to develop consortia of health services in areas where the epidemic has not yet become acute. Federal funds accompanied by state matches would also provide testing, counseling and other preventive services.

We urge you to provide full funding, approximately $750 million, to help counties, cities and states to prevent the spread of AIDS and care for those already with the disease.

NATIONAL HEALTH SERVICE CORPS

NACo supports strongly the revitalization of the Naltonal Health Service Corps. Many rural counties and inner cities face severe shortages of health professionals. We urge you to appropriate $55 million for field placements, $75 million for loan repayment and scholarship programs and $10 million for the state loan repayment program.

IMPROVING JOB TRAINING SERVICES FOR THE MOST NEEDY

Legislation (S. 543) is pending that would expand and improve job training services for the most needy residents in local committees across the nation. Because these individuals (school dropouts, teen parents, individuals deficient in reading and math skills, etc.) have greater needs, it will cost considerably more to train them. A minimum of $400 million has been requested by the Senate Budget Committee to make improvements in the Job Training Partnership Act and NACo urges all members to support no less than this amount.

STATE LEGALIZATION IMPACT ASSISTANCE GRANT [SLIAG]

The Immigration Reform and Control Act of 1986 [IRCA] established a legalization program for certain undocumented aliens. Congress at the time recognized the financial impact of newly-legalized aliens on state and county programs and created the SLIAG program. Congress authorized and appropriated $4 billion in SLIAG funding, $1 billion per year for fiscal years 1988–1991. Congress also authorized expenditures of these funds over a period of seven years, until September 30, 1994.

For FY 90 Congress reduced SLIAG funding in the amount of $555 million. However, Congress also voted to restore this amount in FY 92, thus creating a fifth year of SLIAG funding.

We strongly urge the Senate to continue to fund SLIAG in the amount of $1 billion for FY 91 and to support the FY 92 pay back of the FY 90 reduction of $555 million. SLIAG funds are necessary not only to provide fiscal reimbursements to states and local governments but also to assure availability of needed services to populations at risk.

REFUGEE ACT OF 1980

Counties throughout the United States have been profoundly distressed at the erosion of federal support for refugee assistance programs. In recent years, the partnership created by the Refugee Act of 1980 between the federal government and the states and counties in the provision of domestic resettlement assistance has become increasingly one-sided, placing greater strain on the ability of the state and county governments to provide necessary service to our residents.

When the Refugee Act was first enacted, reimbursement for cash and medical expenses was provided for a period of 36 months. During FY 90, that level of assistance was reduced to four months. Increased funding is also necessary for social services, preventive health care, and targeted assistance.

We urge full funding for domestic resettlement for FY 91 that would be provided for a period of 36 months.

Thank you for your attention to our views.

Sincerely,

John P. Thomas,
Executive Director.

American Hospital Association,
Washington, DC, September 13, 1990.
Hon. Frank R. Lautenberg,
U.S. Senate, Washington, DC.

Dear Senator Lautenberg: On behalf of the American Hospital Association (AHA) and its more than 5,000 institutional and 45,000 individual members, I am writing to strongly urge the Committee to approve full funding for "The Ryan White Comprehensive AIDS Resources Emergency Act of 1990," (P.L. 101-381) when you consider the appropriations bill for the Departments of Labor, Health and Human Services, Education, and Related Agencies.

As you are aware, P.L. 101-381 was enacted to provide emergency relief for those areas of our country which are hardest hit by the AIDS epidemic. It authorizes grant funds for preventive services for AIDS, including education and counseling, and for the development of cost-effective methods of treatment and support for people with AIDS. Hospitals and clinics serving high volumes of AIDS patients would be eligible to receive funds for preventive services as well as financial relief through the emergency disaster funds.

With the AIDS epidemic continuing to worsen, communities throughout the nation are being faced with the necessity of providing more and better care for AIDS patients. Communities which have been hardest hit by the AIDS epidemic require financial resources in addition to those which are generated locally to assist them to deliver the services to meet the needs of AIDS patients.

While we realize the fiscal constraints that the Committee faces, we believe that full funding for the Ryan White Comprehensive AIDS Resources Emergency Act is imperative in order to help local areas cope with the mounting costs of caring for AIDS patients. As such, the AHA vigorously supports this program and urges you and your colleagues to provide full funding for AIDS emergency relief when you "markup" the Labor/HHS/Education appropriations measure.

Sincerely,

Paul C. Rettig,
Executitve Vice President.

September 24, 1990.

Senator Frank Lautenberg,
U.S. Senate,
Washington, DC.

Dear Senator: Earlier this year, we, the undersigned, directors of Washington-based offices of religious national bodies wrote to offer our support to you as you considered passage of The Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990, (P.L. 101-381). That legislation was overwhelmingly supported and passed the Senate and House with dramatic votes and was signed into law by President Bush. The time has now come to turn this legislative intent into action for the thousands of persons living with AIDS, and the estimated million plus Americans infected with HIV. We urge your support for full funding of this legislation by giving serious consideration for a minimum of $2.5 billion for AIDS related programs within the HHS Appropriations Bill for FY 1991 which includes $750 million for The Ryan White CARE Act.

The religious community in America has been responding to the AIDS epidemic in several ways since the crisis began. Interfaith AIDS ministries are one of the fastest growing responses in the private sector. These organizations, found in every state and nearly every city in our nation provide direct social services to people living with AIDS, pastoral care and education to their own faith community members as well as to the general public. The religious community has especially responded through its expertise in creating housing programs for those in need.

Many of our national religious bodies have established AIDS ministry offices at the national level to coordinate these efforts throughout our organizations and our cooperation with the AIDS National Interfaith Network we have estabished AIDS as a priority issue within our public policy agenda.

The religious bodies we represent will continue to do their part in response to our religious mandate to support people with AIDS, as the struggle against the AIDS epidemic calls us all to works of justice as well as compassion. We cannot, however, provide the millions of dollars that are needed to ensure this care. It is you, our members of Congress, who have the sole power to alleviate suffering and begin to provide adequate health care for thousands of Americans and their families struggling to cope with the reality of AIDS.

Rev. Kenneth T. South, Public Policy Office, AIDS National Interfaith Network; Mary Anderson Cooper, Acting Director, Washington Office, National Council of Churches; Rev. Jay Lintner, Director, Washington Office for Church in Society, United Church of Christ; Robert Alpern, Director, Washington Office, Unitarian Universalist Association; Dr. Kay S. Dowhower, Director, Lutheran Office for Governmental Affairs, Evangelical Lutheran Church in America; Lisa Carr, Director, Washington Office, Catholic Charities; Mark Mengel, S.S.C., Director, Columban Fathers Justice and Peace Office; Rabbi Lynne Landsberg, Union of American Hebrew Congregations; Kathy Lyons, Health and Welfare Ministries of the General Board of Global Ministries, United Methodist Church; J.D. Hanson, Jane Hull Harvey, General Board of Church and Society, United Methodist Church; Rev. Donald J. Wilson, Associate Director, Rev. David L. Zuverink, Associate, Human Services Social Justice & Peacemaking Unit, Presbyterian Church (USA).

ActionAIDS,
Philadelphia, PA, September 13, 1990.
Hon. Frank Lautenberg,
Dirksen Senate Office Building, Washington, DC.

Dear Senator Lautenberg: I am writing to ask for your immediate and vocal support in the Senate Appropriations Committee for full funding of the CARE Bill. Without immediate federal funding in our cities, particularly in a city as financially distressed as Philadelphia, many vital services for people with AIDS will simply not survive.

According to the Centers for Disease Control, more than 83,000 Americans are currently living with AIDS. Most of these citizens live in one of the 16 cities that would directly benefit from the $275 million originally designated for community AIDS service programs.

We cannot afford to wait another year for the federal government to increase its share of the responsibility for these citizens. For many people with AIDS, a year is a lifetime.

It is both irresponsible and cruel to refuse to fund an overwhelmingly approved bill that offers so much hope to so many people. On behalf of ActionAIDS, I urge you to commit the resources necessary to fight this devastating epidemic. The CARE Bill can literally save, prolong and improve hundreds of thousands of American lives.

It is literally within your power to see that it does. Thank you.

Sincerely,

Ennes Littrell,
Executive Director.

Hudson Needs AIDS Funding

Editorial writers are vain people, and it's tough for us to admit that anyone can say anything on a topic better than we can.

But a letter from three congressmen—including New Jersey Sen. Frank Lautenberg—explains more vividly than we could why this country needs emergency AIDS funding.

"When Hurricane Hugo struck South Carolina, we responded immediately with assistance," the letter says.

"When an earthquake rocked northern California, we responded immediately with assistance. When a drought threatened our farm states, we responded with assistance.

"The AIDS disaster is no different, and we must respond in the same way. We must provide relief immediately. We must provide resources now to help our state, cities, counties and health-care providers . . . combat the AIDS epidemic."

The letter was sent last week to a U.S. Senate subcommittee which is considering a plan to free up $190 million for AIDS disaster relief and care programs. About $2 million of that would be earmarked for Hudson County. The money would come by shaving other social programs by about 1 percent.

The plan is a stopgap measure, designed to last until 1991, when other AIDS funding will kick in. It's a good plan, and there should be no hesitation in adopting it. We need AIDS relief. We need it now.

Why anyone fails to grasp the urgency of the situation remains a mystery. The AIDS epidemic is nothing short of a disaster. It is killing hundreds of thousands of people, with hundreds of thousands more already infected and living a death sentence.

In Hudson County, the ravages of the disease are all too apparent. The county owns one of the highest incidence rates of AIDS in the nation. In the state, only Essex County loses more of its residents to AIDS than we do.

Still, the temptation for the public and the politicians to ignore the problem is great.

Sad to say, but because AIDS affects mostly homosexuals and intravenous drug users, many people don't care.

They don't care because, in their minds, they're part of the low-risk group.

They don't care because, as rampant as the disease is, it seems foreign to them. Something that happens to others.

They won't care until they get AIDS themselves. Then it will be too late.

Or they won't care until someone they know, and love, gets AIDS. The way the disease is spreading, that's likely to be too soon.

Sen. Lautenberg, Rep. Frank Guarini, County Executive Robert Janizsewski and every other politician involved in the effort to obtain emergency AIDS funding should be commended.

They have lobbied intensely over the past weeks. They've said what needs to be said.

We only hope that someone was listening.

[From the Houston Chronicle, Sept. 22, 1990]

Fund AIDS Care

A panel of the Senate Appropriations Committee has declined to fund the Ryan White CARE Act, which would provide 16 cities with federal money for emergency care of indigent AIDS patients. The panel's decision carries special impact for Houston and must be reversed by the full committee.

A disproportionate number of AIDS victims reside in Houston, and the number of cases is rising precipitously. The disease quickly bankrupts its victims long before it kills them, leaving local taxpayers responsible for funding public hospital care. If fully funded, the Ryan White CARE Act would give Houston $5.6 million next year that would go directly to care for indigent AIDS patients and more evenly share the burden for this national problem.

Many AIDS patients can be cared for more comfortably and more efficiently at home or in hospices. The CARE Act would help to provide such care, easing the suffering of the afflicted and the burden of Houston's generous but hard-pressed taxpayers.

[From the Atlanta Constitution]

Disaster Relief for AIDS Can't Wait Until 1992

In an amazing display of both compassion and good fiscal sense, Congress overwhelmingly agreed this summer to provide emergency relief funds for the 13 major cities hardest hit by the AIDS epidemic.

The Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990 was signed into law last month by President Bush, authorizing $875 million to be spent on AIDS care. The law is intended to help the big-city hospitals that are being overwhelmed by AIDS patients, many of whom have low incomes or who were driven into proverty by medical bills.

Under the disaster relief bill, Atlanta's beleaguered social services agencies and Grady Memorial Hospital were to have received roughly $8.6 million in fiscal 1991 to help cope with about 2,300 AIDS patients.

Despite Congress' clear intention to send immediate help, the law is being tripped up by a Senate appropriations subcommittee. Earlier this month, the subcommittee decided to put only $110 million toward maintaining existing AIDS programs. Full funding of the CARE package will have to wait at least until 1992.

Unfortunately, death will not wait for those suffering with AIDS today. They need help now, but the existing system of care is crumbling from a lack of funds. Continuing to pile a disproportionate number of poor and uninsured patients on financially strapped public hospitals is neither fair nor economically efficient.

In the long run, spending federal dollars today to support community health centers, nursing services and groups providing support such as nutrition, home visits and counseling is a cheaper and more effective way to treat patients than to dump them tomorrow on expensive public hospitals.

The Appropriations Committee, which will take up the AIDS issue this week, should ignore the subcommittee's descision and agree to fully fund the program.

[From the Los Angeles Times, Sept. 15, 1990]

Do's and Don'ts of Budgeting—Do Stop Playing Games; Don't Cut AIDS Funding

Some Washingtonians complain that they don't have their own baseball team. They may not have a ball club, but the current budget negotiations prove they sure do have some top-flight game players on Capitol Hill. Too bad they're making a game of the budget process.

Just when it seemed that congressional negotiators were edging close to an agreement on how to cut $500 billion from the federal deficit over the next five years, petty partisan politics surfaced again, threatening the chances of negotiating a budget deal that both Democrats and Republicans can live with. Without a deal, Congress would, in effect, relinquish its duty to make responsible decisions about the federal budget, leaving the budget process to the Gramm-Rudman "automatic pilot" approach that would impose unthinking, across-the-board cuts.

The Democrats began howling that the Republicans were trying to soak the poor with taxes while giving tax breaks to the wealthy. The proposal, according to an analysis by the bipartisan Joint Committee on Taxation, would lower taxes by $2.9 billion for those in the $100,000 to $200,000 bracket, decreasing their share of federal taxes from 12.1% to 11.8%; in contrast, the largest tax increases would be imposed on earners in the $20,000 to $30,000 bracket, with a 1.4% increase and the $30,000 to $40,000 bracket, with a 1.2% increase.

The Republicans shot back that the Democrats were leaking "garbage" partisan propaganda; that plan was days old and greatly distorted, the GOP said. Still, the Republicans continue to push for a cut in the capital gains tax in the hope of spurring economic growth and more spending cuts. The Democrats push the "tax equity" issue—that poor Americans should not carry an unfair burden of tax increases—and prefer a greater measure of tax hikes.

There already exists, as we've said before, the elements of a pragmatic, if not ideal, budget solution: Higher income taxes for higher-income Americans, with lower taxes on capital gains. Democrats and Republicans must agree on a starting point first; then the art will come in the details.

There is one detail that must not be lost amid all this: AIDS funding. Just last month, Congress passed legislation that authorized the federal government to spend up to $875 million—for the first time—for the clinical care of AIDS patients. Cities, counties and states have been shouldering the day-to-day costs of diagnosis and treatment of the deadly disease that knows no municipal boundaries. In Los Angeles, one of 16 cities with the most AIDS cases, the bill would mean $13 million a year for five years. In San Diego, it would mean $2.4 million a year. The Senate Appropriations Committee next week should restore funding cuts made by an earlier subcommittee vote.

When it comes to spending taxpayer money, yes, prudence must prevail. But the careful management and economy that prudence implies also requires that government do all that it can to manage—and prevent—the spread of a killer disease.

[From the San Diego Union, Sept. 25, 1990]

AIDS Funding

An emergency bill that would funnel millions of federal dollars into San Diego County immediately to treat AIDS patients has hit a snag on Capitol Hill.

Legislation authorizing the program was passed overwhelmingly this summer by the House and Senate and signed by President Bush. But financing it has turned out to be another matter. A Senate Appropriations subcommittee this month voted to postpone funding on most of the bill until next year.

This measure, known as the Ryan White Comprehensive Aids Emergency Resources Act, in memory of the Indiana boy who struggled valiantly against AIDS discrimination, calls for $875 million to fight AIDS. A portion of it, $275 million, is earmarked as emergency relief to 16 U.S. cities and counties hard hit by AIDS, including San Diego, San Francisco and Los Angeles counties.

San Diego was included in the bill at the last minute, thanks to rallying efforts this spring of San Diego AIDS activists and health care providers who mounted a publicity campaign to spur reporting AIDS cases here. Partially as a result of their efforts, the number of reported cases jumped from 1,344 in July of 1989 to 2,084 this past July, a 55 percent increase and enough to qualify under the bill's guidelines. There are currently 30,000 HIV-infected people in San Diego.

When the full Senate Appropriations Committee considers the Ryan White bill this week, it should overturn the subcommittee's decision to postpone the funding. Sen. Brock Adams, D-Wash., has come up with a compromise that merits prompt approval. He is offering an amendment calling for financing $150 million of the $275 million earmarked for hard-hit regions. That would provide an immediate $1.4 million to San Diego County, plus a share of $75 million to be awarded to the 16 regions on a competitive bidding basis within five months.

The money would come from across-the-board cuts, amounting to less than 1 percent, from other programs the committee finances, such as Head Start, worker training, mine safety, low-income home energy assistance and others. None of the "trimmed" programs would drop below current funding levels, after adjusting for inflation.

Sen. Adams, whose state does not contain one of the 16 crisis regions, is a shining example of a legislator who has overcome the "what's in it for me?" attitude.

AIDS is a health care emergency that already has claimed more than 67,600 American lives. At the very minimum the Appropriations Committee should pass the amended version of the Ryan White bill.

[From the San Francisco Chronicle, Sept. 12, 1990]

Mayors' Plea for Help in War on AIDS

It was only hours after Iraqi tanks rolled into Kuwait that President Bush spearheaded worldwide condemnation of Saddam Hussein. Contrast that with the glacial U.S. response to another invader that has killed more than 85,000 Americans—the HIV (AIDS) virus. It was six years into the epidemic before President Reagan even mentioned AIDS publicly.

Now, Congress and the White House have a chance to compensate for an unconscionably slow response to an epidemic that continues to unmercifully kill thousands of men, women and children each year.

The Ryan White Comprehensive AIDS Resources Emergency Act of 1990, named after the Indiana youth who struggled against AIDS related discrimination, is before the Senate Appropriations Committee today. Despite overwhelming congressional support, this landmark legislation may not be fully financed. Concern for the federal budget deficit, compounded by the costs for mobilizing troops in Saudi Arabia, could derail the money.

Until now, federal AIDS spending has been mostly on research and education. Cities, like San Francisco and New York, have carried the financial burden for AIDS care and treatment. The Ryan White bill would change that by authorizing $275 million in emergency grants to the 16 cities most affected by AIDS. An additional $275 million would be used to improve health care and support AIDS services nationwide. Another $250 million allocation would be available for early medical intervention for those infected with the HIV virus.

The price tag is expensive, but it would be far more costly not to fund the bill. This measure would bring order to a system that is at best chaotic. It would begin to structure care in a logical way, with case management that provides the level of health service needed to avoid hospitalization at a cost of $1,000 per day. The extent to which we keep HIV-infected people healthy and working, we can relieve the burden on our health-care system.

The federal government has done an admirable job of financing AIDS research. But the service delivery system is so haphazard that many poor people cannot get access to the fruits of that research. We are not talking about extraordinary measures, but advancements such as AZT. Quite simply, the Ryan White AIDS bill, if fully financed and signed by the president, will save lives.

New York and San Francisco have been especially hard hit. More San Franciscans have died of AIDS than died in World War I, World War II, Korea and Vietnam—combined and tripled. In the South Bronx, 6 percent of the residents there may die from AIDS.

Cities like New York and San Francisco, which have pioneered compassionate and cost-effective programs, have done so out of their own city dollars. If this federal AIDS bill is not fully financed, cities hardest hit by AIDS will see public health programs collapsing under the weight of this epidemic.

Our cry is the same. Although 3,000 miles separate us, we are united in our call for federal assistance. Protecting lives at home must be given the same priority as protecting strategic oil fields abroad.

[From the San Francisco Examiner, Sept. 12, 1990]

Vote Money for AIDS Care—Cities and Sick People Desperately Need Funds Being Blocked in Congressional Committee

Last month, both houses of Congress overwhelmingly approved a national AIDS policy and authorized up to $880 million to help localities care for people with the disease. San Francisco, which has the second highest number of AIDS cases among the nation's cities, stand to receive at least $20 million a year for the next five years—a total of $100 million—money that is badly needed by overburdened health-care providers.

But while Congress authorized the money, it did not appropriate it. The actual appropriation is being taken up now amid indications of serious trouble. Sen. Tom Harkin of Iowa, chairman of the subcommittee that is handling the measure, opposes the expenditure and is threatening to severely reduce it or kill it altogether.

If Harkin is successful, he will be condemning thousands of people to suffering and death. Poor people who are sick or are in danger of getting sick will be denied AZT. There will be longer waits for treatment and for early intervention to prevent HIV-infected people from falling ill. Instead of receiving preventive care, some people will not be treated until they are hospitalized with full-blown AIDS, at much greater human and financial cost.

Harkin comes from Iowa, which has had relatively few AIDS cases so far, so he may not understand how serious this epidemic is for the nation and how devastating it is for individuals with the disease. In San Francisco, we understand all too well. More than 87,000 Americans have died horrible deaths in the last 10 years, and it is both callous and outrageous for a United States senator to say that money should not be spent to help those who are now ill.

The federal government has done a good job of supporting AIDS research and a fair job of paying for AIDS education, but so far it has done nothing for health care, the cost of which has fallen on localities. Yet this is a national problem of enormous proportions. It must not be treated as anything less.

Congress understood that when it voted to allocate the money. Now it should back up that vote with an appropriation. The members of the subcommittee and the full Appropriations Committee should not allow Harkin to stand in the way of this measure. The country needs it, the cities need it, and most important, thousands of sick people desperately need it.

[From the Dallas Morning News, Sept. 17, 1990]

AIDS Relief: Senate Appropriations Panel Must Restore Funding

When Congress authorized spending more than $700 million to help areas that have been especially hard hit by the AIDS crisis, it acknowledged that the federal government needed to pay a much larger role in providing health care to the thousands of Americans living with the deadly virus. Dallas is to receive about $4 million from the relief package during the first year.

But while Congress authorized the money, it did not appropriate it. The actual appropriation now is being considered by the Senate Appropriations Committee, where it has run into serious trouble. A subcommittee last week voted to put up just $110 million to continue inadequate existing programs next year while deferring $490 million for new programs until October 1991.

That delay would be unconscionable. The cities most affected by acquired immune deficiency syndrome—like Dallas—would see their already overwhelmed systems of care collapsing under the weight of the epidemic. Many agencies that have been funded through private grants will exhaust that money soon. Without federal funding, thousands of people nationwide would be condemned to suffering.

True, federal budget makers are facing fiscal constraints. But a year's delay in AIDS funding could well mean the difference between life and death for many seriously ill AIDS patients. When the authorization bill was approved by Congress and signed by President Bush this summer, it was viewed as a form of disaster relief. The subcommittee has betrayed the spirit of that legislation.

The full Senate Appropriations Committee is expected to consider the subcommittee's callous action, perhaps as early as today. The funding must be restored. Yes, the price tag is high, but not funding the bill could be more costly. The more that Dallas and other communities can keep HIV-infected people healthy and working, the less the burden will be on the health care system.

Congress needs to honor its original commitment. Disasters don't wait.

[From the Miami Herald]

AIDS Funds at High Risk

In a horrible confluence of events, millions of dollars for AIDS treatment and prevention are drying up at the same time. A private, three-year Samuel Wood Johnson Foundation grant that provided Dade and Broward some $2.8 million expires Oct. 31. Federal funding has been halved. The state budget shortfall may mean a 5-percent cut. The two counties, especially Dade, have no extra dollars.

Worse, the expected relief from the much-praised Ryan White Act may be gutted by the Senate Appropriations Committee. A subcommittee has recommended postponing allocations for the nation's hardest-hit areas for at least a year. Dade expected to receive $5.8 million; Broward, $3.9 million. Congress had pushed the bill as a form of "disaster" relief similar to that given after hurricanes and earthquakes.

Indeed, AIDS has been a disaster for social-service and health agencies. Local tax resources strain to pay for hospital and hospice services and to gear up an educational effort to prevent AIDS's spread.

Stunned agency heads frantically are trying to raise private money as well as shake loose the new Federal dollars. At stake are counseling services, a dental clinic, coordination for volunteer efforts, outreach to drug abusers, and case management.

The Dade and Broward community foundations are raising funds to be matched by the National Community AIDS Partnership for a total of $1 million over a two-year period. That money would go into education and prevention. Already the Broward group has a donation of $25,000 from the North Broward Hospital District. This helps, but it does not begin to meet the overall needs.

Barbara Lloyd, director of the South Florida AIDS Network, calls these losses "devastating." Her agency helps some 5,400 people in Dade, 3,000 in Broward.

While those numbers seem small for the South Florida metropolitan area, AIDS increases exponentially. For example, the Broward caseload was 486 a mere three years ago when the Johnson Foundation grant was announced. Congress passed the "disaster-relief" bill precisely because of the impact, both human and financial, on U.S. communities. AIDS will not wait for budgetary considerations; to postpone help is to drive up the costs, both human and dollars, in the future.

[From the Boston Globe, Sept. 20, 1990]

AIDS-Disaster Relief

Emergency relief funds for AIDS treatment—the first substantial federal money to help the cities that are hit hardest by AIDS—have been ruled out by a congressional appropriations subcommittee. If the decision stands, the federal assistance, though desperately needed, will be put off for at least a year.

After receiving overwhelming support in both the House and the Senate, reversal on the aid by the Senate Labor Appropriations subcommittee is a sign of how tough the competition for federal money has grown. Support for treatment subsidies gained broad acceptance after the death last April of Ryan White, the Indiana teen-ager who contracted AIDS from contaminated blood used as part of his treatment for hemophilia.

The bill, which eventually bore Ryan White's name, was introduced by Sen. Edward Kennedy (D-Mass.) and Sen. Orrin Hatch (R-Utah). It authorized $875 million for programs designed for the most efficient and economic management of AIDS treatment—a mix of subsidies for hospital care, home-care services, hospices and special residences for AIDS patients. Funds also were earmarked for AIDS education and prevention in rural areas, where AIDS cases are rising.

Boston was to have received $5.8 million under the bill, which was the health-care equivalent of federal disaster relief for natural calamities such as earthquakes or hurricanes. With more than one million Americans infected with the AIDS virus and heading into serious illness, every effort should be made to have the funding restored by the Senate Appropriations Committee.

Far from abating, the AIDS epidemic already strains the budgets, the medical facilities and the medical manpower of the nation's cities. With up to 50,000 AIDS cases being diagnosed this year—each requiring treatment that will cost $150,000—federal help with funding can no longer be postponed.

[From the Chicago Sun-Times, Sept. 25, 1990]

Don't Slash AIDS-Bill Funding

Congressional backsliding on funding jeopardizes the emergency AIDS relief bill signed by President Bush last month.

We join Mayor Daley and chief executives of other big cities in urging the Senate Appropriations Committee to restore most of $700 million that a subcommittee whittled by six-sevenths.

As introduced, the disaster relief bill called for $300 million to treat AIDS patients for the next two years and another $300 million for setting up community-based planning strategies. The money was targeted to the 16 urban areas with the greatest concentration of AIDS victims.

Both items were scuttled in subcommittee. All that is left is $110 million to continue present programs for one year. That is grossly inadequate.

Mayor Daley points out that the revised legislation would deprive Chicago of $5 million; it would cost much more for cities such as New York and San Francisco, which have far greater numbers of AIDS cases than the 3,000 reported in Chicago.

This is not a case of besceeching Congress for funds for preventive attempts to control a disease (although that is part of what is covered). The original bill authorized up to $150,000 for the health care of patients already afflicted, and these thousands of people are the ones who would suffer most immediately from lack of federal funds.

We do not sympathize with lawmakers' arguments that the bill passed too late in the session to provide proper funding. Given the leviathan federal budget, it defies belief that at least $300 million could not be restored for the care of patients.

[From the Macon Telegraph and News, Aug. 27, 1990]

Our Closer Crisis Requires Our Action

Our preoccupation with the oil/aggression/hostage crisis in the Middle East must not divert us from doing anything about the sex/drug/health crisis in Middle Georgia.

To be sure, the crisis that has dominated the headlines throughout August has hit much closer than the distant Arabian peninsula and storied Mesopotamia. Our own sons and husbands may go; the gasoline we put in our own cars may become costly as liquid gold; our own jobs may be lost or businesses stranded by a war-hastened recession.

So we are right to take "the Iraq thing" personally. But we must also take something to heart, and act on it, that is escalating fearsomely here.

That is the Mid-Georgia AIDS crisis, the rural AIDS crisis.

You don't believe there is such a thing, that it's just gay propaganda? Listen to what the National Commission on AIDS said in the report to President Bush and Congress last Tuesday:

The Bibb County HIV Ambulatory Clinic is "virtually overwhelmed with the increasing number of people with HIV infection and AIDS needing treatment and support services."

The point the report was pursuing was that this clinic and others like it do not receive federal aid, and are going to have to. That may be so, but our concern here is different. The finding that AIDS infections have tripled in Georgia during the past two years—and are now, for the first time, spreading in rural Georgia at the same rate of growth as in metropolitan Atlanta.

And how has Georgia responded? The report is damning:

"AIDS education is virtually non-existent and desperately needed," as evidenced by an "epidemic of fear and bigotry affecting rural America, where the fear of being 'found out' is almost as great as the fear of the disease itself."

"Many health care workers still refuse to fulfill their obligations to the sick if the disease is HIV."

It is ironic that the commission is based on legislation introduced by Georgia 8th District Rep. Roy Rowland, a medical doctor, who is now one of the 15 members of the blue-ribbon body.

He says overburdened community clinics like Macon's should be helped by the recently passed Comprehensive AIDS Resources Emergency Act. But it is not something to be left to the government.

Business, religious organizations, charities, local government must get into the fight against AIDS, Rowland said. We add:

Ordinary citizens have to be given accurate information to replace rumor, myth and bias.

The health care profession needs to reread the Hippocratic Oath and perform a searching attitude check.

We can no longer dismiss the crisis as something cooked up by or affecting only "they"—drug addicts, gays or street people.

We have seen the crisis, and the crisis is us.

Mr. DURENBERGER. Mr. President, I would like to take the opportunity to compliment the chairman and other members of the Subcommittee on the 1991 Departments of Labor, Health and Human Services, and Education and related agencies appropriation bill. While I have one grave concern about the bill, basically, I am pleased with the subcommittee's work. It is only the unfortunate mandate to expand funding of abortion which causes my negative vote for final passage.

In particular, I am pleased with the subcommittee's "Agenda for a Revitalized Rural America." The subcommittee continues to recognize the difficulties rural areas face in getting quality healthcare and education, and both the plan and its Senate funding levels represent another important step toward overcoming these difficulties.

Of the agenda's programs and allocations, the increased funding for rural health care transition grants is very important to me. The grant program was authorized by legislation that I first introduced in 1987. Under this program, rural transition grants of up to $50,000 a year for 2 years are awarded to small rural hospitals to help them develop and implement transition strategies that modify the type and extent of services such hospitals provide. The grants assist rural hospitals and their communities in adjusting to changes such as declining demand for acute-care hospital capacity, increasing demand for ambulatory and emergency services, declining ability to provide appropriate staffing for inpatient services, and changes in service populations. Rural hospitals in my state of Minnesota have been generously funded by this program. Under the first round of grants from this program, eight Minnesota rural hospitals received grants. This year, these eight hospitals received continuation funding, and 10 additional Minnesota rural hospitals received new awards. The increased funding for this program means that more hospitals will be able to receive these very important grants.

Also from the "Agenda for a Revitalized Rural America," I am pleased that the subcommittee has doubled the funding for the National Health Service Corps, provided funds for the Essential Access Community Hospitals and Rural Primary Care Hospitals program, and increased the funding for the Office of Rural Health Policy.

Mr. President, I want to mention three other aspects of this bill which I strongly endorse. The first is the Subcommittee's decision to increase the funding level for Alzheimer's disease research to a level commensurate with the public health impact of this condition. The second is the increased level of funding provided for immunization activities. The third is the increased funding level for the Medical Treatment Effectiveness [MedTep] Program of the Agency for Health Care Policy and Research. The MedTep Program supports outcomes research, data development, clinical practice guidelines, quality standards development, and information dissemination activities. Earlier this year, Senator Mitchell and I, joined by our colleagues, Senator Rockefeller, Senator Hatch, and Senator Kennedy, urged the subcommittee to increase funding for the MedTep Program, and I want to express my appreciation for their attention to our request.

As I have said, I support many of the steps taken and priorities set in this appropriations bill. However, this bill does contain a serious error, in my judgment, which is the expansion of the Hyde amendment to broaden potential Federal funding of abortion. Throughout my career I have voted to prohibit Federal funding of abortions except to save the life of the mother. For 11 years now, I have worked on the Senate Finance Health Subcommittee to expand financial access to required services for America's poor—especially her mothers and children. Mr. President, abortion is not such a medical service except where the mother's life is at risk. I am hopeful that this matter can be resolved in conference and current law restored so that we can vote on a final appropriation that a large majority of the Senate can support enthusiastically.

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 5257, the Labor, Health and Human Services, and Education and related agencies appropriations bill and has found that the bill is under its 302(b) allocation budget authority by $10.6 million and under its 302(b) outlay allocation by $1.3 million.

I compliment the distinguished manager of the bill, Senator Harkin, and the distinguished ranking member of the subcommittee, Senator Specter, for their work.

Mr. President, I have a table from the Budget Committee showing the official scoring of the Labor, Health and Human Services, and Education and

related agencies appropriations bill and I ask unanimous consent that it be inserted in the Record at the appropriate point.

There being no objection, the table was ordered to be printed in the Record, as follows:

[In billions of dollars]

302(b) bill summary	Fiscal year 1991—	
	Budget authority	Outlays
H.R. 5257, Senate reported, (new BA and outlays)	161.4	128.6
Enacted to date	17.1	47.7
Adjustment to conform mandatory programs to resolution assumptions	−4.2	.6
Scorekeeping adjustments	0	0
Bill total	174.3	176.9
Senate 302(b) allocation	174.3	176.9
Total difference		
Discretionary:		
Domestic discretionary spending	50.7	53.5
Domestic discretionary allocation	50.7	53.5
Domestic discretionary difference		
International discretionary spending		
International discretionary allocation		
International discretionary difference		
Total discretionary spending	50.7	53.5
Total discretionary allocation	50.7	53.5
Total discretionary difference		
Mandatory spending	123.6	123.4
Mandatory allocation	123.6	123.4
Mandatory difference		
Bill total above (+) or below (−):		
President's request	5.0	1.3
House-passed bill	.4	.1
House 302(b) allocation	NA	NA
Programmatic baseline	4.3	.8

Mr. COCHRAN. Mr. President, the bill before the Senate today not only makes education programs available to more students, it makes better quality programs available. Educating all students to their full potential is the basic goal of the $27.6 billion in education funding included in this bill, which is a $3.5 billion increase over last year's funding level.

I believe the best thing we can do is invest in our young people. Quality education programs are critical to our future, both individually and as a nation. If we are to break the cycle of poverty that traps the poorest in our society, protect and defend our democratic freedoms, maintain a competitive position in the international market, and strengthen our character as a nation, nothing is more important than education.

Mr. President, I strongly support this legislation. As a member of the Labor, Health and Human Services, Education, and Related Agencies Subcommittee, I know hard choices were made to best direct the Federal dollars. This bill recognizes that the primary support for education comes from State and local sources—State education agencies, local communities, parents, and teachers make most of the decisions that guide education policy in this country. This bill also recognizes, however, that there is an appropriate Federal role in education. Federal dollars should be used to assist needy individuals to acquire a quality education and help those communities with scarce resources to upgrade their educational system. The bill before the Senate today places a priority on targeting Federal funds to these individuals and communities.

H.R. 5257 represents our effort to fulfill an obligation to the American people to use Federal dollars to strengthen the educational system, to provide our students with opportunities to become productive citizens, and to prepare a work force capable of meeting the needs of the next century.

Highlights of this bill include nearly $6.4 billion for compensatory education programs, a $1 billion increase. Chapter 1 remedial reading and math programs have successfully provided many elementary school children in my State of Mississippi with the necessary basic skills to keep up with their peers and the self-esteem they need to stay in school. I am particularly pleased with the provisions of the bill that allow for full funding of the Concentration Grant Program under chapter 1, which targets additional resources to the neediest children.

In addition, the Head Start Program has proven to be an important factor in the early age development of the most disadvantaged children in this country. The committee increased the funding for Head Start by 30 percent, a $448 million increase. This will allow Head Start to serve up to additional 160,000 children from low-income families and to carry forth new requirements made by the recent Human Services Reauthorization.

The bill provides $20 million for another important new program, "Tech-Prep" education, recently authorized under the Vocational and Applied Technology Education Act. Grants would be made to States on a competitive basis to establish or expand educational partnerships between high schools and community and junior colleges. Under the program, students enter a 4-year program their junior year in high school and complete the program after 2 years of postsecondary education.

For the first time in many years, the committee has been able to lift the cap on Pell grants so that needy students will be able to receive a maximum of $2,400 to help pay for the cost of postsecondary education.

The TRIO programs provide a vital link to postsecondary education for many disadvantaged young people that would not otherwise be available. The TRIO Program, in Mississippi, gives many prospective first generation college students an opportunity to visit college campuses, provides counselors to explain complicated student financial aid procedures, and helps prepare disadvantaged students for college life. This bill provides $342 million for this important program, a $100 million increase.

Other higher education programs considered critical in providing access to disadvantaged students are provided substantial increases over the fiscal year 1990 level. I am particularly supportive of the generous increase for title III programs to strengthen developing institutions and for historically Black colleges and universities, as well as the College Work Study Program.

Technology and distance learning techniques have become integral parts of providing top quality educational programs, particularly in the areas of math and science education, to rural and other underserved areas. I am pleased that the committee has adopted an increase for the Star Schools Program by providing $15 million.

The National Assessment of Educational Progress, recently, found that in 1988 fewer than 25 percent of all high school juniors could write an adequate letter, and most of those were filled with numerous errors. Business and corporation leaders have testified on numerous occasions that they are concerned about the limited basic skills of entry level workers. For these reasons, I applaud the committee's decision to include $2 million for the national writing project, a teacher training program which offers intensive summer institutes and school year programs designed to improve a teacher's ability to teach writing effectively and to elevate the quality of student writing.

I am also pleased that the committee's recommendation for under title I for the Department of Labor includes an increase of $146 million for State employment security programs. These funds will be especially helpful to Mississippi, which has continued to experience high rates of unemployment at the same time that a number of service delivery points are being closed.

Community Service Employment for Older Americans will receive an increase of $33 million over last year's level.

I am especially pleased that the committee was able to provide a modest increase totaling about $65 million dollars for programs to help meet the needs of older Americans.

Supportive services under title III-B of the Older Americans Act is increased by $26 million over last year's appropriation; nutrition services, including congregate and home-delivered meals, are increased by about $30 million; grants to Indians are increased by about $3.5 million; and in-home services for the frail elderly are given a modest increase of just over $1.2 million.

Since fiscal constraints demand that we scrutinize all Federal programs for necessity and effectiveness, I believe this bill has for the most part given priority to those health care programs that truly make a difference in the lives of individual citizens. I am especially pleased that the bill is sensitive to the unique needs of those living in rural America. Over the past few years, rural health care has been a major concern of the Congress, and I think this legislation reflects that concern by addressing many of the fundamental health care problems experienced in rural towns and small communities.

Of particular importance is the recognition of the broad concern in the administration, Congress, and the Nation over the growing shortage of health professionals in our rural areas. This bill significantly increases funding for the National Health Service Corps to provide scholarships or repay health education loans for physicians and other health professionals willing to serve in areas with shortages of health care providers. Over 12 million Americans live in areas lacking primary health care services. According to the Department of Health and Human Services, my own State of Mississippi has 58 health manpower shortage areas. We need 107 additional health care providers in Mississippi to serve citizens living in these areas. Provisions in this bill will help Mississippi and other States meet health needs by enhancing the Federal commitment to help States address their shortages of health care professionals.

Another important element of the bill is funding of Federal matching grants to encourage creation of State offices of rural health. I believe there is a great need for many States to begin building their own infrastructure to facilitate coordinated approaches to rural health care problems. State offices of rural health will concentrate on eliminating deficiencies in rural health care delivery systems. They will examine rural health care and recommend improvements in quality and cost effectiveness, assist in recruitment and retention of health professionals, make recommendations to the Federal Office of Rural Health Policy for consideration as part of Federal policies, identify Federal and State programs regarding rural health, and provide technical assistance to public and nonprofit private entities regarding participation in such programs.

I am also pleased that this bill enhances the priority the Federal Government gives to preventive health services. There is no question that investment in preventive health reduces overall health care costs. It is important that the Federal Government show leadership in this field by allocating a significant portion of its health related funds to preventive care as a means of combating escalating health care costs and improving the quality of life for millions of Americans. This bill takes a significant step toward that end.

Mr. MACK. Mr. President, I would like to state my position in relation to my vote against the Senate version of H.R. 5257, the Labor, Health and Human Services, and Education appropriations bill.

While I support many of the provisions of the bill, including $2.184 billion in AIDS and $1.747 billion in cancer research and treatment activities, an increase of $7,051,099 in grants to States for Medicaid, and additional funding for the National Institutes of Health, the Centers for Disease Control, and the Department of Education, I was forced to vote against the bill.

With the need for Congress to show restraint in Federal spending, I cannot support an appropriation bill that increases spending by $24.3 billion for fiscal year 1991. The people of Florida insist that we in Congress learn how to say no. They are outraged by our spending addiction and believe the deficit demands we bring a tighter standard to our appropriations process.

I believe our Nation's priorities, as well as those of the State of Florida, can be adequately funded without providing a 15.3-percent increase. We simply cannot afford to do business as usual.

Mr. SPECTER. Mr. President, we are prepared to move to third reading, unless there are further amendments. I think there has been ample notice for our colleagues to that effect.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, do we have the yeas and nays on final passage?

The PRESIDING OFFICER. They have not been ordered.

Mr. SYMMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. Bumpers], the Senator from Georgia [Mr. Fowler], and the Senator from Ohio [Mr. Metzenbaum] are necessarily absent.

Mr. DOLE. I announce that the Senator from New Mexico [Mr. Domenici], the Senator from Utah [Mr. Garn], the Senator from Oregon [Mr. Hatfield], the Senator from Kansas [Mrs. Kassebaum], the Senator from Wyoming [Mr. Simpson], and the Senator from California [Mr. Wilson] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. Hatfield] would vote "yea."

The PRESIDING OFFICER (Mr. Graham). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 76, nays 15, as follows:

[Rollcall Vote No. 269 Leg.]

YEAS—76

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Breaux
Bryan
Burdick
Burns
Byrd
Chafee
Cochran
Cohen
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Exon
Ford
Glenn
Gore
Gorton
Graham
Gramm
Harkin
Hatch
Heflin
Heinz
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
McCain
McClure
McConnell
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stevens
Thurmond
Warner
Wirth

NAYS—15

Armstrong
Bond
Coats
Conrad
Durenberger
Grassley
Helms
Humphrey
Kasten
Lott
Mack
Nickles
Roth
Symms
Wallop

NOT VOTING—9

Bumpers
Domenici
Fowler
Garn
Hatfield
Kassebaum
Metzenbaum
Simpson
Wilson

So the bill (H.R. 5257), as amended, was passed.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT—ADDITIONAL AMENDMENTS TO H.R. 5257

Mr. HARKIN. Mr. President, I ask unanimous consent that, notwithstanding final passage, the following managers' amendments be considered as having been agreed to en bloc. It has been cleared with the minority side.

Mr. SPECTER. I concur.

The PRESIDING OFFICER. Without objection, it is so ordered.

By unanimous consent, the following additional amendments were deemed to have been agreed to notwithstanding passage of H.R. 5257 having been completed:

Amendment No. 2963

On page 51, line 4, strike out "$1,684,499,000" and insert in lieu thereof "$1,685,247,000".

Amendment No. 2964

On page 49, line 26, strike "$14,000,000" and insert in lieu thereof "$11,000,000."

On page 51, line 4, strike "$1,684,499,000" and insert in lieu thereof "$1,685,499,000."

On page 51, delete the period at the end of line 24 and insert the following: "and provided further that of the amounts appropriated herein, $1,000,000 shall be available, to remain available until expended, for payment of the expenses incurred by the School Year Extension Study Commission if such a Commission is authorized by law.".

On page 61, line 19, strike "$139,726,000" and insert in lieu thereof "$141,726,000" and in line 25, delete the period and insert the following: "; and of which $2,000,000 shall be available, to remain available until expended, for expenses to be incurred in the operation of an independent National Council on Educational Goals, or any similar panel, council, Commission, or other entity whose functions shall include monitoring progress towards achieving the national education goals for 2000 or publishing a report that describes such progress, if—

"(A) such entity has a majority of voting members who are neither Federal appointed or elected officials nor State elected officials but who are citizens distinguished by training or experience in analyzing educational data or widely recognized experience in, knowledge of, and commitment to education and educational excellence;

"(B) such entity has members appointed by the leadership of the National Governors' Association, the President, and the leadership of both houses of Congress; and

"(C) all action of such entity is taken by a simple majority of the members attending a duly called and constituted meeting.".

STATEMENT ON AMENDMENT NO. 2963

Mr. BRADLEY. Mr. President, because of a minor error, funding for gifted and talented education did not take into account last year's supplemental. This amendment simply adds $748,000 to this program to make it consistent with the House-passed level.

Mr. HARKIN. Mr. President, I move that the Senate insist on its amendment to the bill H.R. 5257 and request a conference with the House and that the Chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer appointed Mr. Harkin, Mr. Byrd, Mr. Hollings, Mr. Burdick, Mr. Inouye, Mr. Bumpers, Mr. Reid, Mr. Adams, Mr. Specter, Mr. Hatfield, Mr. Stevens, Mr. Rudman, Mr. McClure, Mr. Cochran and Mr. Gramm conferees on the part of the Senate.

Mr. HARKIN. Mr. President, I want to take this opportunity again to thank my colleague from Pennsylvania, Senator Specter, for working so closely with me on this bill. As I said, it is a well-balanced bill. It is one that meets a lot of human needs throughout this country., I thought the debates on the amendments today were fair. Quite frankly, I think we have gotten through in just about record time, if I am not mistaken.

So, again, I thank all Senators for their indulgence and for their support for this very meaningful piece of legislation.

Mr. SPECTER. Mr. President, I commend my colleague, Chairman Harkin, for his excellent work. I am glad to see the bill finished, and I yield the floor now so we can proceed with foreign operations and get finished with our work.

EXPLANATION OF NOT VOTING

Mr. STEVENS. Mr. President, I would like the Record to show that I did miss a vote on this bill. It was caused by the fact that I was conducting an interview by satellite telecommunications and could not return to the floor. Since I made the other votes today, I wanted the Record to show where I was on that vote.

The PRESIDING OFFICER. The Record shall so indicate.

Mr. GRASSLEY. Mr. President, I voted against H.R. 5257, the Labor appropriations bill, and want to provide my colleagues with a brief explanation.

Our distinguished colleague from North Carolina, Senator Helms, made a telling point earlier today when he underscored the fact that this bill is a whopping $11.597 billion over the President's budget request—well over and above what the President asked for and what the President felt could be wisely spent at the time last spring that he presented to Congress his budget recommendations.

And, in fact, this bill is $12.659 billion over what the House approved.

Much has occurred since the President proposed his budget, and since the House passed this Labor appropriations bill back in July.

And it has all come to a head, peaking with the budget crisis and calamity that has paralyzed the final days of the 101st Congress.

Senator Helms' comments about how this bill is $11.5 billion over the budget request were particularly piercing today, because as we stood here today arguing over this bill, House and Senate Agricultural Committee negotiators were struggling over how in the world they could come up with $13.6 billion in farm program cuts without decimating hundreds of thousands of family farmers throughout the country.

I might note parenthetically, that the original budget summit agreement, for which President Bush was widely blamed or credited for producing, depending upon your perspective on the plan, would have cut agriculture by $13.1 billion.

The Democrat passed budget plan, however, required an additional one-half billion dollars in cuts, increasing the farm cuts to $13.6 billion.

Are these farm cuts fair? You can bet the farm they are not.

And unfortunately, "the farm," and hundreds of thousands of them, are exactly what Congress is risking with this bet.

Furthermore, I have been informed today that it is the Midwest farmers, particularly those from areas like Iowa, are getting the worst of these cuts.

So, I ask myself today, "How can I support a Labor appropriations bill that is $11.5 billion over the President's request, and $12.6 billion over the House passed bill, when I think of what this overspending could mean if it were instead used to help buffer and offset the unfair cuts being applied to my Iowa farmers?"

Well, Mr. President, Iowa's economy depends greatly upon the farm sector. About 7 out of every 10 jobs in Iowa depend directly or indirectly upon agriculture.

So, the answer to my question was crystal clear today. I simply cannot justify voting in favor of this bill, while my State's economy is on the chopping block.

Mr. HARKIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, I ask unanimous consent that I may address the Senate as in morning business for 4 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGREEMENT ON PROGRAM ACCESS AND EXCLUSIVITY PROVISIONS OF S. 1880

Mr. WIRTH. Mr. President, last night Senator Gore and I announced an agreement on the program access and exclusivity provisions of S. 1880. We have discussed and debated the issues of program access back and forth as Members of the House and now as Members of the Senate for many, many years. This agreement, I believe, represents a major breakthrough.

Mr. President, I believe that the steps that Senator Gore and I have taken together break the logjam related to the cable legislation which can now move forward.

In developing the compromise which we arrived at after a lot of very, very hard bargaining, which will be familiar to those who have been close to the issue, we used the framework available in S. 1880.

The goal of this agreement is to promote competition in the distribution of video programming. Today, cable television competes primarily against broadcast television and competition has intensified since the adoption of the Cable Act in 1984. The cable industry and over-the-air broadcasters compete vigorously for product, advertising revenues, and viewers.

At the same time, new technologies are developing which already, or are soon expected to, compete with broadcasters and cable. The agreement balances the competitive needs and interests of cable television operators, other distribution technologies, and video programming vendors.

In general, competition that promotes diversity of programming choices provides the greatest benefits to consumers. I believe program diversity can best be fostered by Federal policy which allows video programming vendors and their distributors to engage in exclusive distribution arrangements. Such a policy encourages investment in new and innovative products, and has been proven the best method for development of television viewing choices. For example, the rights of broadcasters to exclusive distribution of product in their markets has long been recognized by the FCC's network nonduplication rules, and recently was reaffirmed by the Commission's reimposition of syndicated exclusivity for television broadcasters. In the last Congress, the Satellite Home Viewer Act also recognized and reaffirmed this policy.

The agreement also recognizes that the complex ownership arrangements in the television business may provide artificial incentives for programming vendors affiliated with one distribution technology to withhold programming from other distribution technologies. In these circumstances, all multichannel video system operators need to be assured of the opportunity to distribute video programming.

The agreement strikes a fair balance that requires the FCC to promulgate regulations to prohibit any vendor of nationally distributed video programming, in which a multichannel video system operator shares ownership affiliation, from unreasonably refusing to deal with any other multichannel video system operator. At the same time, the provisions of the agreement assure that multichannel video system operators will have the opportunity to compete with one another through exclusive distribution arrangements. The agreement makes it clear that entering into or abiding by the terms of an exclusive contract that does not have the effect of significantly impeding competition shall not be considered an unreasonable refusal to deal. The agreement includes a list of criteria that the FCC must consider in determining if a specific exclusive arrangement significantly impedes competition in a particular market.

Under the agreement, vertically-integrated video programming vendors are required to make their nationally distributed programming available to all cable systems, operators, and buying groups on similar prices, terms, and conditions. Differences in prices, terms, and conditions that reflect normal business practices are permitted. For example, price differentials could be offered if they take into account varying programming costs or legitimate economic benefits, such as promotional assistance, received from different purchasers, or if they are offered to match a competitor.

In addition, bona fide volume discounts may continue to be offered. These include discounts that take into account economies of scale, other cost savings and benefits due to the varying number of subscribers served by different purchasers.

Finally, the agreement also includes provisions to address C-band satellite programming. Approximately 3 million Americans own C-band dishes, most of them in rural areas. This technology has brought television programming to areas that cable and broadcasters cannot now serve and are unlikely to be able to serve in the future. A retail infrastructure for sale of satellite dishes already exists and many of the entrepreneurs in this area already are engaged in the packaging and retail sale of various cable programming networks.

However, because of the relatively small market for C-band programming and the present inability of cable to serve many of these customers, it is unlikely that many programming networks will be created to compete with cable for these customers. This contrasts with the potential market for Ku band customers, which is already attracting large programming ventures planning to produce and market programs in competition with cable.

The agreement establishes a limited exception for C-band programming to the general Federal policy permitting exclusivity in television distribution. This exception is designed to ensure that rural Americans share fully in the growth and diversity of television programming.

This agreement addresses many of the concerns I had with S. 1880 and will resolve an isuse that has been with us for several years.

This is a very good balance, I believe, Mr. President, and the concerns that I have had and the concerns that have been held by the distinguished Senator from Tennessee, I think, have finally been able to be worked out.

I look forward to working with Senator Danforth. We have discussed this with him, with Senator Hollings and with Senator Inouye, and I hope we can now move forward to enact the important cable legislation this year.

A final note, if I might, Mr. President. On this agreement, remember there were two packages of issues in this legislation. There was one package of issues upon which there was no disagreement, in essence, and that was the fact that there had been some problems of excess rates and some problems in service. We had all agreed on that set of provisions.

The other set of provisions related to access exclusivity. That was the area where there were some very deep disagreements. It had been my opinion that some of the proposals would be very damaging to the cable television industry, which as the Chair knows is headquartered in Denver, and has one of the greatest records of growth in the last decade. We did not want to harm that industry.

It is those issues which I felt were very damaging that we have now been able to work out. I want to take this moment to again thank Senator Gore. I also want to thank Senator Danforth for his forbearance in all of this; and particularly for the patience of the chairman of the subcommittee, Senator Inouye, and the chairman of the full committee, Senator Hollings. As we have gone through this rather messy process, they have really given us the time and the room to work it out, and we have now done so.

I ask unanimous consent that an explanation of the agreement, the provisions of the agreements and an outline of the legislation be printed in full in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

Explanation of Wirth/Gore Agreement's Key Additions to S. 1880

The agreement directs the FCC to issue regulations prohibiting any integrated video programming vendor from unreasonably refusing to deal with any multichannel video system operator with respect to nationally-distributed video programming. Entering into or abiding by the terms of an exclusive contract that does not significantly impede competition shall not be considered an unreasonable refusal to deal.

EXCLUSIVITY CRITERIA

The agreement also directs the FCC to consider three criteria in determining if a specific exclusive contract significantly impedes competition.

The first criterion focuses on the conduct of integrated video programmers. The FCC is directed to consider if a contract, when together with other exclusive contracts for the same programming, constitutes a pattern by which exclusive contracts are used to significantly impede competition.

The second criterion focuses on the conduct of multichannel video system operators with respect to exclusive contracts. Under this criterion, the FCC would be required to consider whether an exclusive contract would significantly impede competition in a particular market. In making that judgment, the FCC must look at other exclusive contracts for similar programming in that market.

This criterion recognizes that while an exclusive contract for a particular programming service may not significantly impede competition in one market, a similar contract for that programming service may work to significantly impede competition in a second market because of other competitive conditions. By requiring the commission to consider the exclusive contract in light of other exclusive contracts in a particular market, it ensures a comprehensive analysis of the contract's competitive impact.

The final criterion mandates that the commission consider whether shifting a program service that was previously offered on a non-exclusive basis to an exclusive arrangement significantly impedes competition. Thus, the commission must look at changes in exclusivity arrangements and whether they significantly impede competition.

VOLUME DISCOUNTS

The agreement requires vertically-integrated video programming vendors to make their national distributed programming available to all cable systems, operators, and buying groups on similar prices, terms, and conditions. Differences in prices, terms, and conditions are permitted if they take into account differences in programming costs or legitimate economic benefits received from different purchasers, are offered to meet a competitor's offer, or are attributable to reasonable or legitimate business practices. This can be particularly important to new program services and networks. Bona fide volume discounts that take into account economies of scale, other cost savings and benefits due to the varying number of subscribers on different purchasers are permitted.

PROHIBITION ON COERCION

While there is no intent to deprive those that seek program exclusivity from engaging in normal hard bargaining, if a party is "forced" to enter into an exclusive arrangement rather than agreeing to do so through arms-length commercial bargaining, the result may significantly impede competition.

For this reason, the agreement prohibits use of coercion to obtain an exclusive arrangement.

C-BAND

The agreement also contains important benefits for C-band home satellite dish owners. This is an issue of long-standing interest to Senator Gore and others.

Approximately 3,000,000 Americans own C-band dishes, most of them in rural areas. The number of C-band dish owners is growing at a rate of 350,000 to 400,000 annually.

The agreement requires satellite programmers to make their services available to dish owners and therefore ensures that rural Americans will share fully in the enormous diversity of programming available today.

Further, the agreement requires programmers to establish criteria and nondiscriminatory terms for distribution of their services by other parties. C-band dish owners will therefore have multiple options to receive service, a development that will ultimately drive down consumer costs.

Finally, this provision will also be of enormous help to small enterpreneurs that have already entered or may in the future enter the C-band distribution business.

SUNSETS

Several elements of the agreement include sunset dates.

The programming access provisions would expire after 9 years.

The volume discount provisions would expire after 5 years.

The C-band provisions would expire after 7 years.

Provisions of Wirth/Gore Program Access/Exclusivity Agreement

Under the agreement, as in S. 1880, vertically-integrated video programming vendors would be prohibited from unreasonably refusing to deal with a multichannel video system operator with respect to nationally-distributed programming.

Exclusive contracts that do not significantly impede competition are permitted under the agreement.

The agreement adds new criteria that the Federal Communications Commission must consider in determining if a specific exclusive contract does significantly impede competition.

The agreement also prohibits the use of coercion to obtain an exclusive arrangement.

As in S. 1880, vertically-integrated video programming vendors would have to provide programming to all cable distributors, systems and buying groups on similar prices, terms, and conditions. However, legitimate volume discounts that reflect economies of scale, other cost savings and similar economic factors as well as other legitimate price differentials may be offered.

The agreement includes the House-passed provisions on satellite-delivered programming for C-band dish owners. This requires satellite programmers to make their services available to dish owners.

Finally, the agreement provides a sunset of 9 years for program access, 7 years for C-band provisions and 5 years for the volume discount provisions.

Amendment to S. 1880

PROGRAM ACCESS/EXCLUSIVITY

On page 51, strike lines 1 and 2 and insert in lieu thereof:

"PROHIBITION OF UNREASONABLE REFUSALS TO DEAL, NONDISCRIMINATORY CABLE ACCESS TO PROGRAMMING, MARKETING OF CERTAIN SATELLITE COMMUNICATIONS"

Starting on page 51, line 6, strike everything through line 10 on page 52 and insert in lieu thereof:

"PROHIBITION OF UNREASONABLE REFUSALS TO DEAL, NONDISCRIMINATORY CABLE ACCESS TO PROGRAMMING"

"Sec. 640. (a) Within 180 days of the enactment of the Cable Television Consumer Protection Act of 1990, the Commission shall prescribe regulations to prohibit any integrated video programming vendor from unreasonably refusing to deal with any multichannel video system operator with respect to the provision of nationally-distributed video programming. Entering into or abiding by the terms of an exclusive contract that does not have the effect of significantly impeding competition shall not be considered an unreasonable refusal to deal.

"(b)(1) Within 180 days of the enactment of the Cable Television Consumer Protection Act of 1990, the Commission shall prescribe regulations to require any integrated video programming vendor to make its nationally-distributed video programming available on similar price, terms, and conditions to all cable systems, cable operators, their agents, or their buying groups.

"(2) The Commission shall provide in the regulations prescribed pursuant to paragraph (1) that an integrated video programming vendor may continue to—

"(A) impose reasonable requirements for creditworthiness, marketing, delivery, and offering of service, and financial liability and stability (including a requirement that a buying group be legally and financially capable of ensuring the performance of the contract it negotiates);

"(B) establish different prices, terms, and conditions that—

"(i) take into account differences in—

"(I) cost in the creation, sale, delivery, or transmission of its video programming; or

"(II) legitimate economic benefits (including, but not limited to, advertising and other promotional activities) received from different purchasers;

"(ii) are established in good faith to meet equally favorable prices, terms, or conditions offered by a competitor; or

"(iii) are attributable to reasonable or legitimate business practices; and

"(C) grant bona fide discounts (including, but not limited to, discounts to take into account economies of scale, other cost savings, and legitimate economic benefits reasonably attributable to the number of subscribers served by different purchasers and discounts to encourage purchasers to carry a new video programming service)".

On page 52, line 11 immediately after "affiliate" insert ", or other multichannel video system operator".

On page 52, line 12 strike "or" and insert in lieu thereof: ";".

On page 52, line 15 strike the period and insert in lieu thereof: '; or coerce a video programming vendor to provide exclusive rights against other multichannel video system operators as a condition of carriage on a system.".

On page 52, line 16 immediately after "(d)" insert "(1)"

On page 52, line 19 strike "(1)" and insert in lieu thereof "(A)"

On page 52, line 21 strike "(2) and insert in lieu thereof "(B)"

On page 52, line 23 after the period, add a new paragraph (2), to read as follows:

"(2) In considering whether any exclusive contract significantly impedes competition, the Commission shall take into account, among other relevant factors:

"(A) whether such a contract, when taken together with other exclusive contracts for that programming, constitutes a pattern by which exclusive contracts are used to significantly impede competition;

"(B) whether such a contract, because of the existence of other exclusive contracts for similar programming in a particular market, would significantly impede competition in that market; and

"(C) whether, if the service subject to the exclusive contract was previously offered on a non-exclusive basis, the change significantly impedes competition.".

On page 53, after line 7, add the following:

"(g)(1) The regulations prescribed under subsection (b) shall cease to be effective 5 years after the date of enactment of the Cable Television Consumer Protection Act of 1990. The regulations prescribed under subsection (a) shall cease to be effective 9 years after the date of enactment of the Cable Television Consumer Protection Act of 1990.

"(2) No provision of subsections (a) and (b) shall affect any contract (or the renewal or extension of any contract) that grants exclusive distribution rights to any person with respect to video programming and that was entered into on or before June 1, 1990.

"(h) For purposes of this section—

"(1) the term 'integrated video programming vendor'—

"(A) means any person—

"(i) who licenses or otherwise makes available video programming for national distribution by any multichannel video system operator; and

"(ii) (I) who holds an attributable interest in a multichannel video system operator, or

"(II) in whom a multichannel video system operator or any person with an attributable interest in a multichannel video system operator holds an attributable interest;

"(B) includes satellite delivered programming networks and other programming networks and services;

"(C) does not include—

"(i) a network or service distributing video programming intended for broadcast by a television station affiliated with a broadcasting network; and

"(ii) a broadcast television station;

"(2) the term 'multichannel video system operator' includes an operator of any cable system, multichannel multipoint distribution service, direct broadcast satellite distribution service, television receive-only satellite distribution service, or other comparable system for the distribution of video programming; and

"(3) the terms 'cable system' and 'video programming' have the meanings provided by section 602 of this Act.".

Add a new subsection (b) at the end of section 6, to read as follows:

(b) MARKETING OF CERTAIN SATELLITE COMMUNICATIONS.—

(1) FINDING.—The Congress finds that—

(A) many satellite-delivered programming services have unnecessarily restricted options for consumers wishing to choose between competing television programming distributors;

(B) presently 3,000,000 Americans own C-band home satellite television systems and the number is growing at a rate of 350,000 to 400,000 each year;

(C) there is disparity in wholesale pricing between programming services offered to cable operators and to satellite programming distributors;

(D) independent, noncable third-party packaging of C-band direct broadcast satellite delivered programming will encourage the availability of programming to C-band direct broadcast home satellite television system; and

(E) in order to promote the development of direct-to-home satellite service, Congress must act to ensure that video programming vendors provide access on fair and nondiscriminatory terms.

(2) AMENDMENTS.—Section 705 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(A) by striking "subsection (f) as added by section 204 of the Satellite Home Viewer Act of 1988;

(B) by striking "subsection (d)" each place it appears in subsections (d)(6) and (e)(3)(A) and inserting "subsection (f)";

(C) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively.

(D) by inserting after subsection (b) the following new subsection:

"(c)(1) Any person who encrypts any satellite delivered programming shall—

"(A) make such programming available for private viewing by home satellite antenna users;

"(B) when making such programming available through any other person for distribution through any medium, establish reasonable and nondiscriminatory financial, character, technical, and service criteria and requirements under which noncable distributors shall qualify to distribute such programming for private viewing by home satellite antenna users; and

"(C) when making such programming available through any other person for distribution through any medium, establish by the effective date of this subparagraph or January 1, 1991, whichever is later, price, terms, and conditions for the wholesale distribution of such programming which do not discriminate between the distribution of such programming to distributors for cable television subscribers and distributors to home satellite antenna users, nor among different distributors to home satellite antenna users, except that this subparagraph shall not prohibit rate differentials which are—

"(i) attributable to actual and reasonable differences in the costs of the creation, sale, delivery, or transmission of such programming as between different delivery media;

"(ii) attributable to reasonable volume discounts; or

"(iii) attributable to bona fide agreements for the distribution of such programming which were in effort prior to the enactment date of this subparagraph.

"(2) Where a person who encrypts satellite delivered programming has establish a separate subsidiary for distribution to satellite antenna users, such person shall not be required to establish or license any entity on the same terms and conditions as such separate subsidiary; except that for purposes of any claim of discrimination under this section, a party aggrieved may, as evidence of discrimination, compare the prices, terms, and conditions established by the person who encrypts.

"(3) Nothing contained in this subsection shall require any person who encrypts satellite delivered programming to authorize or license any distributor for a secondary satellite retransmission of such programming, but, if any person who encrypts satellite delivered programming authorizes or licenses such a distributor, such person shall, consistent with the provisions of paragraphs (1)(B) and (1)(C), establish criteria to quality to distribute such programming through such secondary satellite retransmissions, and further establish nondiscriminatory price, terms, and conditions of such distribution. Nothing contained in this subsection shall require any person who encrypts satellite delivered programming to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution.

"(4) Any person aggrieved by any violation of paragraph (1)(A) of this subsection may bring a civil action in a United States district court or in any other court of competent jurisdiction. Such court may grant temporary and final injunctions or other equitable relief on such terms as it may deem reasonable and appropriate to prevent or restrain such violations.

"(5) Any person aggrieved by any violation of paragraph (1)(B), (1)C), or (2) of this subsection may bring a civil action in the United States district court or other court of competent jurisdiction. Such court may grant temporary and final injunctions on such terms as it may deem reasonable and appropriate to prevent or restrain such violations; and (i) direct the recovery of damages to a prevailing plaintiff, including actual damages, or statutory damages for all violations in a sum of not more than $500,000, as the court considers just; and (ii) direct the recovery of full costs, including reasonable attorney's fees, to a prevailing part.

"(6) As used in this subsection—

"(A) the term 'satellite delivered programming' means video programming transmitted by a domestic C-band direct broadcast communications satellite intended for reception by cable television systems or home satellite antenna users and does not include any satellite communication of any broadcaster or broadcast network;

"(B) the term 'home satellite antenna users' means individuals who own or operate C-band direct broadcast satellite television receive-only equipment for the reception of satellite delivered programming for viewing in such individual's single family dwelling unit; and

"(C) the term 'person who encrypts' means the party who holds the rights to the satellite delivered programming or who establishes the prices, terms, and conditions for the wholesale distribution thereof.

"(7) This subsection shall cease to be effective 7 years after the date of enactment of this subsection."; and

(5) in subsection (h) (as redesignated) by striking ", based on the information gathered from the inquiry required by subsection (f),".

(3) EFFECTIVE DATE.—The amendments made by paragraph (2) of this subsection shall take effect 90 days after the date of enactment of this Act.

Mr. LEAHY. Will the Senator yield?

Mr. WIRTH. I will be happy to yield to the Senator from Vermont.

The PRESIDING OFFICER. The Senate is not in order.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I hope in the legislation the distinguished Senator from Colorado speaks of, we correct problems. I can think of one actual example—a company out in Fairfax County. I have never had cable—living in a rural area—before.

I had the misfortune of being on cable systems owned by a monopoly in McLean, Virginia. This is an outrageous ripoff, if there ever was one. The picture is terrible. The equipment is antiquated. They block the ability to use new equipment like cable-ready TV sets, and then sell or rent extra equipment of their own. The pictures that come in are fuzzy and distorted. If you call for any problem you can listen to a recording or listen to the number ring for literally hours on end.

Frankly, when you see something as outrageous as all that, you get the impression that if other cable companies are like that—and I hope they are not—they must feel they have a legal license to steal.

I think we have to look at these service issues. I do not know whether it means bringing the telephone companies in and letting them be competitors or requiring at least two companies in an area or what. I am not sure.

I know the distinguished Senator from Colorado has wrestled and worked harder on this than most people. The Senator from Tennessee, Mr. GORE and I have worked together on satellite dish issues.

I hope we will find some alternatives because I know I get mail from constituents who have similar complaints. The impression I get is that many cable companies will not do anything unless forced to do it.

Frankly, as legislation comes up, I will probably propose some amendments to force them to improve service. And I commend the Senator for all his work.

Mr. WIRTH. Mr. President, to reclaim my time, I ask consent to address the Senate for 2 additional minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. I understand the frustrations and problems raised by the distinguished Senator from Vermont. There have been occasions in various communities around the country where perhaps the promise of cable television has, in fact, been abused. We have seen some places where people took advantage of the opportunities available to them on the rate side or the service side and not done the job they should have done to invest in services and in assuring that customers were in fact satisfied.

But we should not be in a position, and I hope the distinguished Senator from Vermont understands this, of assuming that a few apples are going to be allowed to spoil the whole barrel. That is the purpose of the rate and the service side of this legislation, to go after those and make sure there is recourse when there are abuses.

We have to remember as well that the industry overall has grown very dramatically. The numbers of people subscribing to cable television have increased astronomically. This is now one of the most successful industries in the country, both in terms of its financial return to its shareholders, but more important, in terms of the services it is offering to its customers. Those are services ranging all the way from CNN, a new offering which is used by everybody in the world to see what is going on.

The President of the United States has cited over and over again watching CNN to see what is going on in central and Eastern Europe, to see what is going on in Tiananmen Square and so on.

The children's programming being offered costs a great deal of money. The industry has invested very significantly in these new offerings, and I think that is paying off for America and its children.

There are a variety of other provisions in the existing legislation. The public access, affirmative action programs and so on, are very important elements of an industry that is growing well.

In some places the industry shows growing pains. In some places it has outgrown its shoes. In some places it has outgrown its pants, and you see a gap between the shoes and the pants cuff, as you do on small boys who grow up very quickly. What we are trying to do is fashion the cloth and fashion legislation for an industry that is now maturing.

Mr. President, I greatly appreciate having this opportunity to briefly introduce to my colleagues this agreement, which I think makes a great deal of sense for all of us. I am appreciative of the comments made by the distinguished Senator from Vermont. I understand his frustrations and I believe the fabric of this legislation now gives us the opportunity to address those.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. GORE. Mr. President, I ask unanimous consent to speak as in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

GORE-WIRTH AMENDMENT TO S. 1880

Mr. GORE. Mr. President, I am pleased to join today with my colleague, the Senator from Colorado, to announce that he and I have arrived at a compromise to solve the most difficult problem facing the passage of cable television legislation in this Congress. Today we are introducing an amendment to deal with the so-called exclusivity issue—an issue which has stalled consideration of this important consumer legislation.

As our colleagues know, this June the Commerce Committee reported by a vote of 10 to 1 S. 1880, the consensus cable legislation introduced by Senator DANFORTH, myself, and many of our colleagues. The committee bill passed by an overwhelming bipartisan vote.

The committee bill is the best possible start toward restoring some sanity to the distorted cable television marketplace, providing some measure of rate control and—even more important—stimulating significant competition for local cable operations. It is important that the Senate pass S. 1880, quickly complete a conference with the House, and send this bill to the White House as soon as possible. Consumers and cable's competitors need this relief now.

S. 1880 is now on the calendar, but has been stymied by the objections of a number of our colleagues who oppose various provisions of the bill. I am certain that, if brought to a vote on the Senate floor, S. 1880 would win overwhelming approval without substantive change. In fact, I believe that no more than a handful of our colleagues would be willing to vote against what has been called the single most important consumer issue in this Congress.

In an effort to break the current deadlock, Senator WIRTH and I have been exploring a possible middle ground on the key issue of exclusivity; that is the ability of companies to negotiate exclusive agreements for cable programming distribution. I have long held that such exclusive contracts might be used to stifle competition for cable operators—from home satellite dishes, wireless cable operators, future high-powered direct broadcast satellites, and even competing local cable systems. The largest cable operators believe that the right to enter into exclusive contracts is crucial to their ability to develop new programming products.

Senator WIRTH and I have passionately disagreed about this issue for a long number of years, but we have sought to reach a fair compromise to allow the Senate to act on cable legislation before the clock runs out on this Congress.

For the past 2 weeks, we have been attempting to construct language which allows—under limited circumstances—exclusive program distribution contracts, while ensuring that the use of exclusivity will not be used to unfairly shut out competing technologies.

In that spirit, Senator WIRTH and I have reached an agreement on an amendment to resolve the disagreement over exclusivity in S. 1880. In short, the measure would allow limited exclusivity, but require the Federal Communications Commission to consider that a number of uses of exclusivity may be determined to be anticompetitive—and thus illegal—if such agreements: First, are part of a pattern of shutting out competition; second, result in moving nonexclusive programming to an exclusive basis; and third, create clusters of exclusive contracts which could create an anticompetitive environment, among other factors.

These criteria are important in establishing the principle that the industry cannot use the right of exclusivity to deny program access to cable's competitors.

In addition, the amendment includes critical language protecting the backyard home satellite dish market. We have been fighting for this provision for 8 long years. I have introduced bills each of the last three Congresses, with the floor votes extremely close each time the Senate has considered home viewing rights legislation. To the dozens of my faithful colleagues who have steadfastly supported those initiatives, I can enthusiastically report that, in this amendment, and in S. 1880, the war for satellite television dish owners has been won.

Mr. President, I sincerely hope that this good-faith effort to reach a compromise will enable the bill's managers to obtain a time agreement and bring S. 1880 to the Senate floor for prompt action. To those who would continue to block its consideration on behalf of the cable industry or the White House, I would only say that such a move will backfire.

Fifty million local cable consumers, and 2.5 million rural families with backyard satellite dishes are fed up with their treatment by this industry. They are demanding the protections embodied in this legislation—legislation which is neither punitive to the cable industry, nor a severe regulatory burden.

This legislation is simply a reasonable solution to a monstrous problem. It is time for the Congress to act.

And I would also point out to those who would continue to block consideration of S. 1880 and to those ideologues at the Office of Management and Budget and the White House—if we are unable to pass legislation in this Congress, I will join others in proposing a new, tough bill early next year. In that regard, I do not consider the attached language the last word on program access, or any kind of starting point for a bill next year.

This compromise will not only remove one obstacle to the consideration of S. 1880 by the full Senate. I am hopeful that the bill will move quickly and that the President will sign it.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Massachusetts.

THE THREATENED VETO OF THE CIVIL RIGHTS ACT OF 1990

Mr. KENNEDY. Mr. President, the administration's latest threat to veto the Civil Rights Act of 1990 is less than meets the eye. Throughout this debate, Attorney General Thornburgh has been the leading opponent of this legislation. As the letter he has sent today makes clear, he has no intention of relaxing his anti-civil rights position, however reasonable the compromise we reach in Congress.

He has two words in his civil rights vocabulary—"quotas" and "veto." But this is not a quota bill, and it does not deserve a veto.

Perhaps we have reached the final impasse. Perhaps President Bush will follow his Attorney General's advice and veto this major civil rights legislation. In that case, I believe we have a good chance in Congress to override the veto, as we did with President Reagan's veto of the Civil Rights Restoration Act in 1988.

But I urge President Bush to take an independent look at this legislation and the many good faith efforts we have made to go the extra mile and meet every reasonable objection of the White House. If he does, I believe he will sign this legislation, because he will see that it is an antidiscrimination bill, not a quota bill.

We all know the background of this important legislation and the yearlong effort to achieve a bill that Congress and the President can support. For more than 35 years, the U.S. Supreme Court led the way as America struggled to free itself from the legacy of slavery and discrimination that has stained our history.

But in 1989, the Supreme Court handed down a series of decisions that significantly undermined the struggle for equal opportunity on the job. These rulings should not be allowed to stand, because they take us further from the goal of equality and justice for all Americans.

Now, in the closing days of the session, Congress and the administration have the chance to restore and strengthen these laws that shield minorities and women from bigotry on the job, by passing the Civil Rights Act of 1990.

More than 8 months ago, a bipartisan group of Senators and Representatives introduced the original version of the bill. Extensive hearings were held in both bodies, and numerous changes were made to meet concerns raised during the hearings. When the Senate took up the bill, further changes were made, and other changes we were willing to make were blocked by opponents of the bill. The House continued this process of compromise and accommodation; and these efforts have continued through the conference committee's deliberations this week.

In recent days, we have made significant new changes to several key provisions, including those that address the *Wards Cove, Martin V. Wilks,* and *Price Waterhouse* decisions. This compromise language was developed by Senator SPECTER, in consultation with other Senators, including Senator HATCH, who had opposed the bill passed by the Senate.

Specifically, the legislation is being revised in seven ways.

First, the bill addresses concerns about the definition of "business necessity." Where an employer's practices do not involve job performance or selection or where they concern methadone, alcohol or tobacco use, an employer can avoid charges of discrimination by proving that the practices have a "significant relationship to a manifest business objective."

The bill also specifies additional types of evidence that a court may consider on this issue, including "testimony of individuals with knowledge of the practice."

Second, the bill provides expressly that nothing in the measure should be interpreted even "to encourage" employers to adopt quotas, let alone require them to do so.

Third, the bill requires the plaintiff to prove which specific practices are responsible for a disparate impact in all cases, except where the employer does not have the relevant records or has concealed, destroyed or refused to make them available.

Fourth, the bill provides specifically that it does not overrule existing cases involving "comparable worth." This change is intended to allay concerns that this bill will require courts to adopt the "comparable worth" theory in cases alleging pay discrimination.

Fifth, the bill permits more people to challenge consent decrees in job discrimination cases in the future, and it strengthens the notice requirements for such decrees.

Sixth, the bill revises the "mixed motive" provision by eliminating both compensatory and punitive damages where an employer proves that the same job action would have taken place, even in the absence of discrimination.

Seventh, the bill provides that when an unsuccessful challenge to a court order or consent decree is brought by a third party, the court will have discretion to determine how attorney's fees should be assessed.

The conference committee bill also includes two provisions that were the subject of considerable discussion when the legislation was before the Senate in July.

First, it includes the text of the amendment proposed on the Senate floor by Senator PRYOR, confirming that the mere existence of a statistical imbalance in an employer's work force on account of race, color, religion, sex or national origin does not create a violation of title VII.

Second, the conference committee bill includes a proposal made by Senator BOREN to limit punitive damages against any employer under title VII to $150,000, or the amount of compensatory damages, whichever is greater.

A summary of the compromise has been sent to every Senator. These changes demonstrate that the sponsors of this legislation have done as much as possible to meet any reasonable concern raised about the bill.

Now, it is time to act on this important legislation.

But once again, we have seen the President's advisers urge him to take a confrontational course, at the expense of the public interest. I hope that the President will reject this misguided advice and heed the call for justice on the job for millions of working men and women.

I urge my colleagues to vote for the Civil Rights Act of 1990 when it comes before the Senate, and I urge President Bush to sign it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS, FISCAL YEAR 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 5114, the Foreign Operations appropriations bill, and that when the committee amendment found on page 10, line 20 through page 11, line 17 is considered, there be 30 minutes of debate on the amendment equally divided and controlled between Senators MIKULSKI and HUMPHREY, with no amendment to the committee amendment in order, at the conclusion of which there be a motion to invoke cloture on the committee amendment with the live quorum and the filing of the motion as required under rule XXII waived; with the further proviso that if cloture is invoked on the committee amendment, the amendment be deemed agreed to; and if cloture is not invoked, the amendment will be deemed stricken.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report the bill. The legislative clerk read as follows:

A bill (H.R. 5114) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 5114

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes, namely:

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increases in capital stock for the General Capital Increase, **[**$50,000,795**]** *$110,592,409,* to remain available until expended: *Provided, That 25 per centum of the funds appropriated under this heading shall be withheld from obligation until the Secretary of the Treasury submits a report to the Committees on Apprcvriations which describes in detail the actions the International Bank for Reconstruction and Development has taken during the fiscal year 1990, and the actions it is contemplating for the fiscal year 1991, in support of energy and forestry conservation and family planning activities.*

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed **[**$1,619,692,365**]** *$2,899,610,241.*

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $1,064,149,500, for the United States contribution to the replenishment, to remain available until expended: *Provided,* That, before obligating funds made available under this heading, the President shall reduce from the amount obligated the United States proportionate share of any loans approved by the Board of Directors for China for non-basic human needs since January 1, 1990: *Provided further,* That such funds withheld from obligation may be obligated only if the President certifies that it is in the national interest of the United States to do so: *Provided further,* That fifteen days prior to the obligation of such funds for the International Development Association, the President shall report his certification to the Committee on Appropriations and the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $40,330,972, for the United States share of the increase in subscriptions to capital stock, to remain available until expended.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury for the United States share of the paid-in share portion of the increase in capital stock, $57,449,324, and for the United States share of the increases in the resources of the Fund for Special Operations, $20,850,016, to remain available until expended: *Provided,* That the Secretary of the Treasury shall instruct the United States Executive Director of the Inter-American Development Bank to use the voice and vote of the United States to oppose any assistance by the Bank to any recipient of assistance who refuses to agree in writing that in general any procurement of goods or services utilizing Bank funds shall be conducted in a manner that does not discriminate on the basis of nationality against any member country, firm or person interested in providing such goods or services.

LIMITATION ON CALLABLE CAPITAL SUBCRIPTIONS

The United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $2,235,076,561.

[INTER-AMERICAN INVESTMENT CORPORATION

[For payment to the Inter-American Investment Corporation by the Secretary of the Treasury, $13,000,000, for the United States share of the capital stock of the Corporation, to remain available until expended.**]**

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), **[**$243,900,000**]** *$271,382,000,* to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $105,451,500, for the United States contribution to the fifth replenishment of the African Development Fund, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $10,135,766, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $135,389,294.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the European Bank for Reconstruction and Development by the Secretary of the Treasury, **[**$70,020,600**]** *$56,820,600,* for the United States share of the paid-in share portion of the initial capital subscription, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the European Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $163,381,400.

CONTRIBUTION TO THE ENHANCED STRUCTURAL ADJUSTMENT FACILITY OF THE INTERNATIONAL MONETARY FUND

For payment to the Interest Subsidy Account of the Enhanced Structural Adjustment Facility of the International Monetary Fund, $10,602,000 to remain available until expended.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of sections 301 and 103(g) of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973,

[$268,750,000] *$284,730,000*: *Provided*, That no funds shall be available for the United Nations Fund for Science and Technology: *Provided further*, That the total amount of funds appropriated under this heading shall be made available only as follows: [$104,000,000] *$109,000,000* for the United Nations Development Program; $75,000,000 for the United Nations Children's Fund, of which amount 75 per centum (less amounts withheld consistent with section 307 of the Foreign Assistance Act of 1961 and section 526 of this Act) shall be obligated and expended no later than thirty days after the date of enactment of this Act and 25 per centum of which shall be expended within thirty days from the start of the United Nations Children's Fund fourth quarter of operations for 1991; $2,000,000 for the United Nations Capital Development Fund; $800,000 for the United Nations Development Fund for Women; $200,000 for the United Nations International Research and Training Institute for the Advancement of Women; $200,000 for the Intergovernmental Panel on Climate Change; $2,000,000 for the International Convention and Scientific Organization Contributions; $2,000,000 for the World Meteorological Organization Voluntary Cooperation Program; $500,000 for the World Meterological Organization Special Fund for Climate Studies; $23,555,000 for the International Atomic Energy Agency; $15,800,000 for the United Nations Environment Program; $800,000 for the United Nations Educational and Training Program for Southern Africa; $500,000 for the United Nations Trust Fund for South Africa; $750,000 for the Convention on International Trade in Endangered Species; [$220,000] *$450,000* for the World Heritage Fund; $100,000 for the United Nations Voluntary Fund for Victims of Torture; $245,000 for the United Nations Fellowship Program; $400,000 for the United Nations Center on Human Settlements; $500,000 for the United Nations Industrial Development Organization Investment Promotion Service; $10,000,000 for the Organization of American States; $6,500,000 for the United Nations Afghanistan Trust Fund; $1,000,000 for the International Tropical Timber Organization; $1,000,000 for the World Food Program; $680,000 for the International Union for the Conservation of Nature; *$500,000 for the Tropical Forestry Action Plan; $250,000 for the Ramsar Convention on Wetlands of International Importance Especially as Waterfowl Habitat;* and [$20,000,000] *$30,000,000* for the United States contributions to the replenishment of the International Fund for Agricultural Development: *Provided further*, That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency*: Provided further, That funds appropriated under this heading may be made available for the Tropical Forestry Action Plan (TFAP) only if the Secretary of State determines (and so reports to the Congress) that (1) the TFAP has been reorganized, with an international steering committee and secretariat independent of the Food and Agriculture Organization, and includes the participation of a broad range of experts in its administration, (2) the responsibilities of TFAP have been broadened to include areas outside the forestry sector, and (3) procedures exist to ensure increased participation in national TFAP plans by affected populations and interested individuals and organizations outside the forestry sector.*

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1991, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 103, $481,635,000: *Provided*, That not less than $5,000,000 shall be provided for new development projects of private entities and cooperatives for dairy development: *Provided further*, That not less than $10,000,000 shall be provided for the Vitamin A Deficiency Program [: *Provided further*, That not less than $375,000 shall be provided to support continued United States participation in the Associate Professional Officers Program of the international food agencies: *Provided further*, That in addition to the funds provided under the heading "International Organizations and Programs", not less than $5,000,000 of the funds appropriated under this paragraph shall be made available for United States contributions to the replenishment of the International Fund for Agricultural Development.]

POPULATION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(b), $250,000,000: *Provided*, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further, That notwithstanding the previous proviso, not less than $15,000,000 of the funds appropriated under this heading shall be made available only for the United Nations Population Fund for voluntary family planning activities consistent with the Universal Declaration of Human Rights: Provided further, That none of the funds made available to the United Nations Population Fund shall be used to pay for the performance of abortions: Provided further, That the United Nations Population Fund shall be required to maintain these funds in a separate account and not commingle them with any other funds: Provided further, That none of the funds made available under this heading for the United Nations Population Fund shall be made available for programs for the People's Republic of China: Provided further, That if any such funds are used for programs in the People's Republic of China, the United Nations Population Fund shall refund to the United States the full amount made available to it under this heading: Provided further, That the amount of United States funds made available to the United Nations Population Fund under this heading shall be reduced by the amount of any increase in funding from other sources for the current five year United Nations Population Fund program in the People's Republic of China: Provided further*, That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: *Provided further*, That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further*, That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act: *Provided further, That notwithstanding any other provision of this or any other Act which provides authority to use funds appropriated under this heading for purposes other than to carry out the provisions of section 104(b) of the Foreign Assistance Act of 1961, funds appropriated under this heading shall be made available only to carry out the provisions of that section: Provided further, That of the funds appropriated under this heading, not less than 65 per centum shall be made available for the Office of Population of the Agency for International Development: Provided further, That in addition to funds otherwise available for such purposes, of the funds appropriated under this heading up to 5 per centum may be used for operating expenses for the administration of family planning assistance programs.*

HEALTH, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(c), $135,000,000: *Provided*, That of the funds appropriated under this heading not less than $5,000,000 shall be provided for activities relating to the control, prevention, and eradication of River Blindness: [*Provided further*, That of the funds appropriated under this heading $3,500,000 shall be provided as a contribution to the Pan American Health Organization for funding for the Gorgas Memorial Institute of Tropical and Preventive Medicine in Panama.]

INTERNATIONAL AIDS PREVENTION AND CONTROL PROGRAM

For necessary expenses to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, $52,000,000, which shall be made available only for activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome (AIDS) in developing countries: *Provided*, That of the funds appropriated under this heading [$26,000,000] *$21,000,000* shall be provided directly to the World Health Organization for its use in financing the Global Program on AIDS, including activities implemented by the Pan American Health Organization: *Provided further, That funds appropriated under this heading may be made available notwithstanding any provision of law (except section 620A of the Foreign Assistance Act of 1961 and sections 512 and 556 of this Act) which restricts assistance to foreign countries.*

CHILD SURVIVAL FUND

For necessary expenses to carry out the provisions of section 104(c)(2), $100,000,000.

EDUCATION AND HUMAN RESOURCES DEVELOPMENT, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 105, $134,201,000: *Provided*, That not less than $1,500,000 of the funds appropriated under this heading shall be made available for the Caribbean Law Institute: [*Provided further*, That $5,400,000 of the funds appropriated under this heading shall be provided for Soviet and East European research and training under the Department of State's Title VIII program on Soviet and regional studies, notwithstanding any other provision of law: *Provided further*, That $10,000,000 of the funds appropriated by this paragraph shall be made available to carry out section 206 (relating to the Center for Cultural and Technical Interchange Between North and South) of the House engrossed amendment (as passed the House of Representatives on May 24, 1990) to the bill S. 2364, and that section is hereby enacted:] *Provided further, That not less than $67,100,000 of the funds appropriated under this heading and under the heading "Sub-Saharan Africa, Development Assistance" shall be available only for programs in basic primary and secondary education: Provided further, That in fiscal year 1991 the Agency for International Development shall initiate three new bilateral projects in basic primary and secondary education, at least two of which shall be initiated in sub-Saharan Africa: Provided further, That not less than $20,000,000 of the funds appropriated under this heading shall be made available for the International Student Exchange Program (for the Cooperative Association of States for Scholarships and the East Central European Scholarship Program), of which $3,000,000 shall be available, notwithstanding any other provision of law, for students from Poland and Hungary.*

PRIVATE SECTOR, ENVIRONMENT, AND ENERGY, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 106, $152,223,000: *Provided*, That not less than $7,500,000 shall be made available only for cooperative projects among the United States, Israel and developing countries of which not less than $5,000,000 shall be made available for the Cooperative Development Program, and of which not less than $2,500,000 shall be made available for cooperative development research projects: *Provided further*, That not less than $5,000,000 shall be made available only for the Central American Rural Electrification Support project: *Provided further*, That not less than $5,000,000 of the funds appropriated under this heading or under the heading "Sub-Saharan Africa, Development Assistance", shall be made available for assistance in support of elephant conservation and preservation: *Provided further*, That not less than $20,000,000 shall be for the Office of Energy of the Agency for International Development: *Provided further*, That not less than $75,000,000 of the funds appropriated under this heading shall be made available for environment and global warming activities: *Provided further*, That funds made available under this heading for the purposes of the earmarks contained under this heading and those contained in sections 533 and 534 of this Act may be used to meet the funding requirements of the previous proviso: *Provided further*, That not less than $150,000 shall be for technical assistance and training programs for Soviet and Czechoslovakian statisticians and economists administered by the Bureau of Labor Statistics, notwithstanding any other provision of law.]

SCIENCE AND TECHNOLOGY, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 106, $8,624,000.

MICRO-ENTERPRISE DEVELOPMENT

Of the funds appropriated by this Act to carry out chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $75,000,000 shall be made available for programs of credit and other assistance for micro-enterprises in developing countries: Provided, That local currencies which accrue as a result of assistance provided to carry out the provisions of the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 may be used for assistance for micro-enterprises: Provided further, That such local currencies which are used for this purpose shall be in lieu of funds earmarked under this heading and shall reduce the amount earmarked for assistance for micro-enterprises by an equal amount.

SUB-SAHARAN AFRICA, DEVELOPMENT ASSISTANCE

[For necessary expenses to carry out the provisions of sections 103 through 106 and section 121 of the Foreign Assistance Act of 1961, $800,000,000, for assistance only for Sub-Saharan Africa, which shall be in addition to any amounts otherwise available for such purposes: *Provided*, That the authorities contained under this heading in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461), shall be applicable to amounts appropriated under this heading until an Act authorizing assistance for such purposes for the fiscal year 1991 is enacted into law: *Provided further*, That not less than $50,000,000 of the funds appropriated under this heading shall be made available only to assist activities supported by the Southern Africa Development Coordination Conference: *Provided further*, That funds appropriated under this heading which are made available for activities supported by the Southern Africa Development Coordination Conference shall be made available notwithstanding section 518 of this Act and section 620(q) of the Foreign Assistance Act of 1961: *Provided further*, That funds appropriated under this heading shall remain available until September 30, 1992.

For necessary expenses to carry out the provisions of chapter 10 of part I of the Foreign Assistance Act of 1961, as enacted by this Act, $800,000,000, to remain available until September 30, 1992: Provided, That up to $3,500,000 of the funds appropriated under this heading may be made available, notwithstanding any other provision of law, to support the participation of disadvantaged South Africans in private enterprise development in South Africa: Provided further, That such assistance provided to support the participation of disadvantaged South Africans in private enterprise shall not be used to provide support to organizations or groups which are financed or controlled by the Government of South Africa: Provided further, That up to $50,000,000 of the funds appropriated under this heading may be made available to assist activities supported by the Southern Africa Development Coordination Conference: Provided further, That funds appropriated under this heading which are made available for activities supported by the Southern Africa Development Coordination Conference shall be made available notwithstanding section 518 of this Act and section 620(q) of the Foreign Assistance Act of 1961.

Title III of S. 2944, as reported by the Committee on Foreign Relations of the Senate on July 31, 1990, is hereby enacted into law: Provided, That the enactment of title III of S. 2944 shall not include section 496(n) (relating to local currency generations, as contained in section 302(a) of that title), and all subsequent subsections of section 496 shall be redesignated accordingly.

ZAIRE

[Funds appropriated by this Act to carry out chapter 1 of part I which are allocated for Zaire shall be made available only through private and voluntary organizations.]

None of the funds appropriated by this Act to carry out chapter 10 of part I shall be made available to the Government of Zaire: Provided, That this provision shall not be applicable to assistance provided through nongovernmental organizations, either directly or with appropriate ministries or departments of the Government of Zaire, or made available from funds made available for child survival activities.

ASSISTANCE FOR DISPLACED CHILDREN

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $5,000,000 shall be made available for programs and activities for children who have become orphans as a result of the effects of drought, civil strife, and other natural and man-made disasters: *Provided*, That assistance under this heading shall be made available in accordance with the policies and general authorities contained in section 491 of the Foreign Assistance Act of 1961.

HUMANITARIAN ASSISTANCE FOR CAMBODIAN CHILDREN

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $5,000,000 shall be made available, notwithstanding any other provision of law, to provide humanitarian assistance through international relief agencies *and United States private and voluntary organizations* to children within Cambodia: *Provided*, That none of the funds made available under this heading may be made available, directly or indirectly, for the Khmer Rouge.

ASSISTANCE FOR VICTIMS OF WAR

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $5,000,000 shall be made available, notwithstanding any other provision of law, for medical and related assistance, including the provision of prostheses and vocational rehabilitation and training, for civilians who have been injured as a result of civil strife and warfare.

ASSISTANCE FOR LATVIA, LITHUANIA, AND ESTONIA

Notwithstanding any other provision of law, of the aggregate of the funds appropriated by this Act to carry out the provisions of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, $15,000,000 shall be made available for assistance through United States private and voluntary organizations for the purpose of assisting organizations and individuals in Latvia, Lithuania, and Estonia to foster the development of their private agricultural, industrial, and commercial sectors.

WOMEN IN DEVELOPMENT

In recognition that the full participation of women in, and the full contribution of women to, the development process are essential to achieving economic growth, a higher quality of life, and sustainable development in developing countries, not less than $5,000,000 of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, in addition to funds otherwise available for such purposes, shall be used to encourage and promote the participation and integration of women as equal partners in the development process in developing countries, of which not less than $3,000,000 shall be made available as matching funds to support the activities of the Agency for International Development's field missions to integrate women into their programs: *Provided*, That the Agency for International Development shall seek to ensure that country strategies, projects, and programs are designed so that the percentage of women participants will be demonstrably increased.

PRIVATE AND VOLUNTARY ORGANIZATIONS

None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: *Provided*, That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98–473) shall be superseded by the provisions of this section.

[APPROPRIATE TECHNOLOGY

[Of the aggregate of the funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, not less than $2,000,000 shall be available for Appropriate Technology International: *Provided*, That these funds shall be in addition to $3,000,000 in funds available to Appropriate Technology International under its existing cooperative agreement with the Agency for International Development: *Provided further*, That Appropriate Technology International shall qualify, along with any cooperative development organization, for development assistance funds appropriated or otherwise made available by this Act for United States private and voluntary organizations.]

HUMANITARIAN ASSISTANCE FOR ROMANIA

[(a) The Congress finds that—

[(1) from 20,000 to 200,000 children live in public institutions in Romania, having been abandoned by parents too poor to provide their children with food, clothing, and other basic needs;

[(2) children deposited in these "Homes for the Deficient and Unsalvagable" suffer from hunger, acquired immune deficiency syndrome (AIDS) and other diseases, and neglect, to the extent that it is not uncommon for 25 percent of the children in such an institution to die each year;

[(3) these terrible conditions result from family planning policies of the Ceausescu government which prohibited all forms of contraception and from economic policies which made it impossible for parents to provide the bare necessities for their children and which provided woefully inadequate resources to the institutions to which many parents were forced to abandon their children;

[(4) the United Nations Children's Fund (UNICEF), World Vision, and other international and private and voluntary organizations are working with the new government in Romania to reverse the effects of these policies; however, still greater efforts are needed by that government and the world community if these children are to be afforded minimum levels of health care and to see to it that such circumstances are never again to be repeated; and

[(5) it is in the national interest of the United States, and consistent with the humanitarian spirit of the American people, to support efforts to address the anticontraception policies of the Ceausescu regime and the legacy of health and social problems that were its result.

[(b) Of the aggregate of the funds appropriated by the preceding paragraphs of this title to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (other than funds under the heading "Sub-Saharan Africa, Development Assistance"), not less than $3,000,000 shall be made available for humanitarian assistance for Romania of which $1,500,000 shall be for activities related to:

[(1) acquired immune deficiency syndrome (AIDS), and other health and child survival activities particularly for the care and treatment of abandoned children including the provision of food, medicines, and training of personnel;

[(2) improving the facilities available for the care of abandoned children; and

[(3) facilitating family reunification or adoption of abandoned children: *Provided*, That funds provided under this section may be made available notwithstanding any provision of law which restricts assistance to foreign countries: *Provided further*, That $1,500,000 shall be for family planning assistance, subject to the following:

[(A) The prohibitions contained in section 104(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 215(b)(f) and section 535 of this Act (relating to prohibitions on funding for abortion as a method of family planning, coercive abortion, and involuntary sterilization) shall apply to the funds made available pursuant to this subsection.

[(B) Any recipient of these funds under this heading shall be required to maintain the funds made available pursuant to this subsection in a separate account and not commingle them with any other funds.

[(C) Any agreements entered into by the United States to obligate funds under this subsection shall expressly state that the full amount granted by such agreements will be refunded to the United States if any United States funds are used for any family planning programs in countries other than Romania, or for abortion services, involuntary sterilization, or coercive activities of any kind.]

Of the aggregate of the funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (other than funds under the heading "Sub-Saharan Africa, Development Assistance"), not less than $3,000,000 shall be made available, notwithstanding any provision of law which restricts assistance to foreign countries, for humanitarian assistance for Romania. Of this amount—

(1) $1,500,000 shall be made available for activities related to—

(A) acquired immune deficiency syndrome (AIDS), and other health and child survival activities particularly for the care and treatment of abandoned children, including the provision of food, medicine, and training of personnel;

(B) improving the facilities available for the care of abandoned children; and

(C) facilitating family reunification or adoption of abandoned children, including training of professional adoption specialists; and

(2) $1,500,000 shall be made available for family planning assistance, subject to the following:

(A) The prohibitions contained in section 104(f) of the Foreign Assistance Act of 1961 and section 535 of this Act (relating to prohibitions on funding for abortion as a method of family planning, coercive abortion, and involuntary sterilization) shall be applicable to funds made available under this paragraph.

(B) Any recipient of funds under this paragraph shall be required to maintain them in a separate account and not commingle them with any other funds.

(C) Each agreement entered into by the United States to obligate funds made available under this paragraph shall expressly state that the full amount granted by such agreement will be refunded to the United States if any United States funds are used for any family planning program in a country other than Romania, or for abortion services, involuntary sterilization, or coercive activities of any kind.

PRIVATE SECTOR REVOLVING FUND

During fiscal year 1991, total commitments to guarantee loans shall not exceed [$12,500,000] *$62,500,000* of contingent liability for loan principal: *Provided, That, notwithstanding any other provision of law, the authority of section 108(i) of the Foreign Assistance Act of 1961 may be used to provide up to $15,000,000 in loan guarantees for any one project: Provided further, That, notwithstanding any other provision of law, there shall be held as a reserve in the revolving fund account established pursuant to section 108 of that Act only such amounts as are estimated to be sufficient to cover the expected net liabilities on loan guarantees outstanding under the program authorized by section 108(i).*

AMERICAN SCHOOLS AND HOSPITALS ABROAD

For necessary expenses to carry out the provisions of section 214, [$23,000,000] *$35,000,000.*

INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses to carry out the provisions of section 491, $40,000,000, to remain available until expended: *Provided*, That not less than $500,000 of the funds appropriated under this heading may be made available for assistance for children who have become orphans as a result of natural disasters.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $40,341,000.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667, $435,000,000[: *Provided*, That not more than $15,000,000 (except that payment may be made under this limitation only for those categories of services for which charges have been made under Foreign Affairs Administrative Support both in prior years and in the current year) of this amount shall be for Foreign Affairs Administrative Support.]

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667, [$31,384,000] *$33,884,000*, which sum shall be available only for the operating expenses of the Office of the Inspector General notwithstanding section 451 or 614 of the Foreign Assistance Act of 1961 or any other provision of law: *Provided*, That up to 3 per centum of the amount made available under the heading "Operating Expenses of the Agency for International Development" may be transferred to and merged and consolidated with amounts made available under this heading: *Provided further*, That except as may be required by an emergency evacuation affecting the United States diplomatic missions of which they are a component element, none of the funds in this Act, or any other Act, may be used to relocate the overseas Regional Offices of the Inspector General to a location within the United States without the express approval of the Inspector General: *Provided further*, That the total number of positions authorized for the Office of Inspector General in Washington and overseas shall be not less than two hundred and forty at September 30, 1991: *Provided further, That $1,000,000 of the funds appropriated under the heading "Assistance for Eastern Europe" shall be made available for the Office of the Inspector General of the Agency for International Development to carry out audit and other responsibilities with regard to assistance programs for Eastern Europe.*

HOUSING AND OTHER CREDIT GUARANTY PROGRAMS

During the fiscal year 1991, total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided*, That the President shall enter into commitments to guarantee such loans in the full amount provided under this heading, subject only to the availability of qualified applicants for such guarantees: *Provided further*, That guarantees issued under this heading shall guarantee 100 per centum of the principal and interest payable on such loans: *Provided further*, That no loans guaranteed under this heading shall be issued or held by the Federal Financing Bank: *Provided further*, That the limitation under this heading on total guarantee commitments which may be made in fiscal year 1991 shall not include the additional authority to enter into guarantee commitments provided in Public Law 101–302: *Provided further*, That pursuant to section 223(e)(2) of the Foreign Assistance Act of 1961, and notwithstanding the dollar limitation contained in that section, the borrowing authority provided therein may be exercised in such amounts as may be necessary to retain an adequate level of contingency reserves for the fiscal year 1991: *Provided further*, That section 222(a) of the Foreign Assistance Act of 1961 is amended by striking out "September 30, 1991" and inserting in lieu thereof "September 30, 1992": *Provided further*, That section 223(j) of the Foreign Assistance Act of 1961 shall not apply to commitments to guaranty loans, for which authority is provided under this heading, for Chile and Poland.

ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, [$3,460,000,000] *$3,080,000,000*: *Provided*, That of the funds appropriated under this heading, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within thirty days of enactment of this Act or by October 31, 1990, whichever is later: *Provided further, That of the funds made available under this heading for Israel, during the period of the Desert Shield emergency up to $200,000,000 may be used by Israel, notwithstanding section 531(e) of the Foreign Assistance Act of 1961, for any of the purposes for which military assistance is provided: Provided further*, That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance may be provided, with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and of which not less than $200,000,000 shall be provided as Commodity Import Program assistance: *Provided further*, That in exercising the authority to provide cash transfer assistance for Israel and Egypt, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to each such country: *Provided further*, That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty: *Provided further*, That of the funds appropriated under this heading and allocated for El Salvador, up to $1,500,000 (or the equivalent in local currencies generated with funds provided to El Salvador under this heading) may be made available, notwithstanding section 660 of the Foreign Assistance Act of 1961, to assist the Government of El Salvador's Special Investigative Unit, including for the purpose of bringing to justice those responsible for the murders of United States citizens in El Salvador: *Provided further, That none of the funds appropriated under this heading may be made available for El Salvador's Special Investigative Unit until 15 days after receipt by the Committees on Appropriations of a report from the Secretary of State which transmits a plan of the Government of El Salvador to transfer the Unit from military to civilian control, including the time period within which this transfer is to occur and the actions that will be taken to effect such a transfer: Provided further*, That section 534(e) of the Foreign Assistance Act of 1961 is amended by (1) striking "fiscal year 1990" and inserting in lieu thereof "fiscal year 1991"; and (2) striking "September 30, 1990" and inserting in lieu thereof "September 30, 1991": [*Provided further*, That not less than $35,000,000 shall be made available for Jordan:] *Provided further*, That not less than $12,000,000 of the funds appropriated under this heading shall be made available for the West Bank and Gaza Program through the Asia and Near East regional program: *Provided further*, That not less than $15,000,000 of the funds appropriated under this heading shall be made available for Cyprus, including bicommunal projects and confidence building measures designed to reduce tensions and to promote peace and cooperation between the two communities on Cyprus, with highest priority given to the resettlement of the Famagusta/Varosha area under the auspices of the United Nations: *Provided further, That not less than $20,000,000 of the funds appropriated under this heading shall be made available for Morocco: Provided further, That of the funds appropriated under this heading, up to $125,000,000 may be used in accordance with section 3(b) of the International Narcotics Control Act of 1989 (Public Law 101-231) notwithstanding section 531(e) of the Foreign Assistance Act of 1961: Provided further*, That none of the funds appropriated under this heading shall be made available for Zaire: *Provided further*, That prior to the initial obligation of assistance for El Salvador from funds appropriated under this heading, the President shall report to the Congress on the extent to which the Government of El Salvador has made demonstrable progress in settling outstanding expropriation claims of American citizens in compliance with the judgment of the Supreme Court of El Salvador: *Provided further, That during fiscal years 1991 and 1992, of the local currencies generated from funds made available under this heading for El Salvador by this Act and prior appropriations Acts, the United States and El Salvador shall jointly program the El Salvador colones equivalent of a total of $10,000,000 for the purpose of retiring the debt owed by the University of Central America to the Inter-American Development Bank: Provided further*, That not more than $50,000,000 of the funds appropriated under this heading may be made available to finance tied aid credits, unless the President determines it is in the national interest to provide in excess of $50,000,000 and so notifies the Committees on Appropriations through the regular notification procedures of the Committees on Appropriations: [*Provided further*, That up to $20,000,000 of the funds appropriated under this heading may be made available to provide grant assistance to capitalize an endowment to be used by nongovernmental organizations to enable such organizations to purchase the discounted commercial debt of Mexico as part of a debt-for-development exchange: *Provided further*, That a grant for the purposes of such an endowment may be made only if nongovernmental contributions have been made in an equal amount to capitalize the endowment: *Provided further*, That such debt-for-development exchanges for Mexico shall support the objectives of chapter 1 of part I of the Foreign Assistance Act of 1961:] *Provided further*, That funds made available under this heading shall remain available until September 30, 1992: *Provided further*, That of the funds appropriated under this heading, not less than $7,500,000 shall be available only for Lebanon.

[INTERNATIONAL FUND FOR IRELAND

[For necessary expenses to carry out the provisions of chapter 4 of part II, $20,000,000, which shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99–415): *Provided*, That such amount shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further*, That funds made available under this heading shall remain available until expended.]

MULTILATERAL ASSISTANCE INITIATIVE FOR THE PHILIPPINES

For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961, [$160,000,000] *$100,000,000*, which shall be available for the Multilateral Assistance Initiative for the Philippines: *Provided*, That not less than 75 per centum of the funds appropriated under this heading shall be made available for project and sector activities consistent with the purposes of sections 103 through 106 of such Act: *Provided further,* That the President shall seek to channel through indigenous and United States private voluntary organizations and cooperatives not less than $20,000,000 of the funds appropriated under this heading and of the funds appropriated and allocated for the Philippines to carry out sections 103 through 106 of such Act: *Provided further, That up to $100,000,000 of the funds appropriated to carry out chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 may be transferred to and consolidated and merged with the funds appropriated under this heading notwithstanding the limitations on transfers between accounts contained in sections 109 and 610 of such Act: Provided further,* That funds made available under this heading shall remain available until September 30, 1992: *Provided further,* That none of the funds appropriated under this heading shall be made available except as provided through the regular notification procedures of the Committees on Appropriations.

ASSISTANCE FOR EASTERN EUROPE

(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989, [$418,675,000] *$320,000,000,* to remain available until expended, which shall be available, notwithstanding any other provision of law, for economic assistance for Eastern Europe as follows—

(1) [$80,000,000] *$35,000,000* shall be provided for technical assistance and training, including such activities as support for labor activities, scholarship programs, [medical assistance, and support for private sector development] *and medical assistance;*

(2) [$30,000,000] *$15,000,000* shall be provided for technical and other assistance to support [the] housing sectors [in East European countries;]

(3) $75,000,000 shall be provided for environment and energy activities, *with emphasis on assistance in developing policies encouraging, and providing incentives for, end-use energy efficiency (including preparation of least-cost energy plans), conservation, and reliance on renewable energy resources;*

(4) [$20,000,000] *$7,500,000* shall be provided for activities to foster democratic pluralism, *including support for the newly elected parliaments in Eastern Europe through, among other things, exchanges involving members, staff, and support agencies of Congress and the parliaments in Eastern Europe;*

(5) [$113,675,000] *$72,500,000* shall be provided for the Polish-American and Hungarian-American Enterprise Funds; and

(6) [$100,000,000] *$65,000,000* shall be provided for other private enterprise activities, *with emphasis on technical assistance and training for development of market-oriented policies, restructuring and creation of financial institutions (such as stock markets, insurance companies and banks), creation and management of private business organizations, and privatization of state business organizations; and*

(7) $50,000,000 shall be provided for agricultural activities, with emphasis on technical assistance and training for development of market-oriented policies, restructuring and creation of agricultural financial institutions and marketing systems, creation and management of agribusiness organizations (including farmer-owned cooperatives), and privatization of state farms, agribusiness and credit institutions.

(b)(1) Funds allocated by this Act for any of the paragraphs under subsection (a) may be reallocated for the purposes of any other such paragraph if, at least 15 days prior to such reallocation, the Committees on Appropriations are notified in accordance with regular notification procedures.

(2) None of the funds appropriated under this heading shall be made available except as provided through the regular notification procedures of the Committees on Appropriations.

(3) Not more than 50 per centum of the funds provided under subsections (a) (1) and (3) which are made available for environment and health-related assistance activities may be made available for any single country.

(c) Funds made available for the Polish-American and Hungarian-American Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

(d) Up to $1,000,000 of the funds appropriated under this heading may be used for the administrative expenses incurred by the Agency for International Development in connection with administering programs for Eastern Europe: Provided, That the authority of this subsection shall supersede for fiscal year 1991 the provisions of section 803 of the Support for East European Democracy (SEED) Act of 1989.

(e) Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.

INDEPENDENT AGENCIES

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96-533, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $13,000,000: *Provided,* That, when, with the permission of the Foundation, funds made available to a grantee under this heading are invested pending disbursement, the resulting interest is not required to be deposited in the United States Treasury if the grantee uses the resulting interest for the purpose for which the grant was made. This provision applies with respect to both interest earned before and interest earned after the enactment of this provision.

INTER-AMERICAN FOUNDATION

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $25,000,000.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed $35,000 for official reception and representation expenses), and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

During the fiscal year 1991 and within the resources and authority available, gross obligations for the amount of direct loans shall not exceed $40,000,000.

During the fiscal year 1991, total commitments to guarantee loans shall not exceed $250,000,000 of contingent liability for loan principal.

PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $186,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided,* That none of the funds appropriated under this heading shall be used to pay for abortions.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, $150,000,000: *Provided, That of the funds appropriated under this heading not more than $117,792,000 may be obligated or expended until 15 days after the receipt by the Committees on Appropriations of a report from the Secretary of State describing measures being taken to correct management deficiencies in the Bureau of International Narcotics Matters identified in the report of the Inspector General of the Department of State dated January 1990.*

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; $485,648,000: *Provided,* That not less than $45,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: *Provided further, That not less than $1,000,000 shall be available for Tibetan refugees: Provided further, That not less than $1,500,000 shall be available for the Thai-Cambodian border protection program: Provided further, That not less than $1,500,000 shall be available for the antipiracy program: Provided further, That not less than $5,000,000 shall be available for a United States contribution to the Thai Village Program: Provided further, That not less than $10,000,000 shall be available for implementation of the Comprehensive Plan of Action: Provided further,* That funds appropriated under this heading shall be administered in a manner that ensures equity in the treatment of all refugees receiving Federal assistance: *Provided further,* That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to ensure against Communist infiltration in the Western Hemisphere: *Provided further,* That section 584(a)(1)(B) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202), is amended by striking "during the period beginning on March 22, 1988, and ending on

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September 30, 1990", and inserting "on or after March 22, 1988": *Provided further,* That the ninth proviso under Migration and Refugee Assistance, Department of State, in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 is amended by striking "and before the end" and all that follows through "subsection (a)(1)(B) of such section": *Provided further,* That effective as of December 22, 1987, section 584(b)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202) is amended by striking "the principal alien involved is unmarried and": *Provided further,* That not more than [$8,250,000] *$8,528,000* of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State: *Provided further,* That of the funds appropriated under this heading, $250,000 shall be made available, notwithstanding any other provision of law, for food, medicine, medical supplies, medical training, clothing, and other humanitarian assistance for any Burmese person in Burma or Thailand who is displaced as a result of events relating to civil conflict: *Provided further, That the transfer of any funds appropriated under this heading to programs for refugee admissions shall be subject to the regular notification procedures of the Committees on Appropriations.*

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), [$35,000,000] *$26,500,000,* to remain available until expended: *Provided,* That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose.

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961, $12,026,000.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541, $47,196,000: *Provided,* That none of the funds appropriated under this heading shall be made available for grant financed military education and training for any country whose annual per capita GNP exceeds $2,349 unless that country agrees to fund from its own resources the transportation cost and living allowances of its students: *Provided further, That not less than $1,000,000 of the funds appropriated under this heading shall be made available for developing, initiating, conducting and evaluating courses and other programs for training foreign civilian and military officials in managing and administering military establishments and budgets, and for training foreign military and civilian officials in creating and maintaining effective military judicial systems and military codes of conduct, including observance of internationally recognized human rights: Provided further, That none of the funds appropriated under this hearing shall be available for Malaysia, Zaire, Liberia, Sudan, and Somalia: Provided further, That section 541 of the Foreign Assistance Act of 1961 is amended by inserting the following sentence immediately after the first sentence: "Such civilian personnel shall include foreign governmental personnel of ministries other than ministries of defense if the military education and training would (i) contribute to responsible defense resource management, (ii) foster greater respect for and understanding of the principle of civilian control of the military, or (iii) improve military justice systems and procedures in accordance with internationally recognized human rights.".*

FOREIGN MILITARY FINANCING PROGRAM

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, [$4,229,920,800] *$4,692,268,056: Provided,* That of the funds appropriated by this paragraph not less than $1,800,000,000 shall be available for grants only for Israel, [not less than $50,000,000 shall be available for grants only for Jordan,] and not less than $1,300,000,000 shall be available for grants only for Egypt[: *Provided further,* That of the funds made available for Egypt not less than $100,000,000 may be used for repayments pursuant to section 23(e) of the Arms Export Control Act:] *Provided further, That of the funds appropriated by this paragraph for Israel $1,695,000,000 shall be disbursed within thirty days of enactment of this Act or by October 31, 1990, whichever is later. Provided further,* That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced fighter aircraft programs or for other advanced weapons systems, as follows: (1) up to $150,000,000 shall be available for research and development in the United States; and (2) not less than $475,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development [: *Provided further,* That grants provided with funds made available by this paragraph shall be implemented by grant documents which do not include a requirement to repay the United States Government, notwithstanding any requirement in section 23 of the Arms Export Control Act:] Provided *further, That funds made available under this heading shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a), and shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: Provided further, That none of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed a grant agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds.*

[For expenses necessary for loans to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $405,000,000: *Provided,* That any funds made available by this paragraph, except as otherwise specified, may be made available at concessional rates of interest: *Provided further,* That the concessional rate
of interest on Foreign Military Financi
Program loans shall be not less than 5 p
centum per year: *Provided further,* That s
country and funding level changes in r
quested concessional financing allocatio
shall be submitted through the regular no
fication procedures: *Provided further,* Th
during fiscal year 1991, gross obligations f
the principal amount of direct loans und
this heading, exclusive of loan guarantee d
faults, shall not exceed $405,000,000.

[Funds appropriated under this headi
that are allocated to Greece and Turk
shall be provided according to a 7 to
ratio: *Provided,* That if Turkey receives a
funds under this heading on a grant ba
then not less than $30,000,000 of the fun
provided for Greece shall be made availab
as grants: *Provided further,* That funds]

Funds previously obligated for the Phil
pines under the heading "Foreign Milita
Credit Sales" but uncommitted on the da
of enactment of this Act, shall be used
any time hereafter only to finance sal
made under the Arms Export Control A
[*Provided further,* That uncommitted b
ances of loans for the Philippines ma
under the authority of section 23 of t
Arms Export Control Act may be committ
to a contract only until January 1, 199
*Provided further, That the second senten
of section 505(f) of the Foreign Assistan
Act of 1961 is amended by striking o
"1975" and inserting "1985" in lieu there
Provided further, That funds appropria
under this heading may be used to provi
aircraft (including helicopters) notwi
standing any provision of law that wou
require them to be provided on a lease
loan basis: Provided further,* That of t
funds appropriated under this heading n
more than $2,887,000 shall be available f
non-lethal assistance for Guatemala: *P
vided further,* That funds made availa
under this heading for Guatemala shall
made available only through the regular n
tification procedures of the Committees
Appropriations: *Provided further,* That no
of the funds appropriated under this he
ing shall be available for Zaire, Sudan, Li
ria or Somalia: *Provided further,* That n
more than $300,000,000 of the funds ma
available under this heading shall be av
able for use in financing the procurement
defense articles, defense services, or desi
and construction services that are not s
by the United States Government under t
Arms Export Control Act to countries oth
than Israel and Egypt: *Provided furth*
That only those countries for which assi
ance was justified for the "Foreign Milita
Sales Financing Program" in the fiscal ye
1989 congressional presentation for secur
assistance programs may utilize funds ma
available under this heading for procu
ment of defense articles, defense services
design and construction services that
not sold by the United States Governme
under the Arms Export Control Act: *Prov
ed further,* That any material assistance p
vided with funds appropriated under t
heading for Haiti shall be limited to n
lethal items such as transportation a
communications equipment and unifor
Provided further, That funds made availa
under this heading for Haiti shall be ma
available only through the regular notifi
tion procedures of the Committees on
propriations: *Provided further,* That fu
appropriated under this heading shall be
pended at the minimum rate necessary
make timely payment for defense artic
and services: *Provided further,* That the
partment of Defense shall conduct dur

the current fiscal year nonreimbursable audits of private firms whose contracts are made directly with foreign governments and are financed with funds made available under this heading (as well as subcontractors thereunder) as requested by the Defense Security Assistance Agency: *Provided further,* That not more than $27,920,800 of the funds appropriated under this heading may be obligated for necesary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: *Provided further,* That of the funds appropriated under this heading, *not less than $52,000,000 shall be available for Morocco,* [not more than $301,000,000] *$381,500,000 only* shall be available for Greece, [not more than $430,000,000] *$545,000,000* shall be available for Turkey, [and not more than $95,000,000 shall be available for Portugal.]

FOREIGN MILITARY SALES DEBT REFORM

Funds made available by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, for obligation and expenditure after October 1, 1988, subject to a Presidential budget request, under the heading "Foreign Military Sales Debt Reform", subsection (b) "Interest Rate Reduction" shall be available, subject to the same conditions and provisos, only after October 1, 1991.

GUARANTY RESERVE FUND

If during fiscal year 1991 the funds available in the Guaranty Reserve Fund (Fund) are insufficient to enable the Secretary of Defense (Secretary) to discharge his responsibilities, as guarantor of loans guaranteed pursuant to section 24 of the Arms Export Control Act (AECA) or pursuant to the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, under the heading "Foreign Military Sales Debt Reform", the Secretary shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Such notes or obligations may be redeemed by the Secretary from appropriations and other funds available, including repayments by the borrowers of amounts paid pursuant to guarantees issued under section 24 of the AECA. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this heading. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

SPECIAL DEFENSE ACQUISITION FUND

(LIMITATION ON OBLIGATIONS)

(a) Not to exceed [$278,796,000] *$350,000,000* may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act for the purposes of the Special Defense Acquisition Fund during fiscal year 1991, to remain available for obligation until September 30, 1993: *Provided,* That section 632(d) of the Foreign Assistance Act of 1961 shall be applicable to the transfer to countries pursuant to chapter 2 of part II of that Act of defense articles and defense services acquired under chapter 5 of the Arms Export Control Act.

(b)(1) To the extent provided for in paragraph (2) of this subsection, the President is authorized notwithstanding any other provision of law to finance the purchase by Israel of defense articles and defense services acquired by the Secretary of Defense under chapter 5 of the Arms Export Control Act under terms and conditions pursuant to which Israel shall be required to pay one-third of the value thereof by September 30, 1991, an additional one-third of the value thereof by September 30, 1992, and the final one-third of the value thereof by September 30, 1993.

(2) Of the funds available for Israel under this Act to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, not less than $100,000,000 shall be available to finance the amount required to be paid by Israel in connection with purchases under the authority of paragraph (1) of this subsection during fiscal year 1991.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551, $32,800,000.

TITLE IV—EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided,* That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

LIMITATION ON PROGRAM ACTIVITY

During the fiscal year 1991 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $750,000,000: *Provided,* That there are hereby appropriated $150,000,000 to be made available for tied aid grants in accordance with section 15 of the Export-Import Bank Act of 1945, as amended, or, at the discretion of the Chairman of the Export-Import Bank, in accordance with the Trade and Development Enhancement Act of 1983, as amended: *Provided further,* That there are hereby appropriated [$8,000,000] *$25,000,000* to be made available for interest subsidy payments in accordance with the Export-Import Bank Act of 1945, as amended: *Provided further,* That the funds made available under this heading for both grant and subsidy purposes, including tied aid financed in part through the combined use of concessional financing or grants offered by the Agency for International Development, shall be subject to the regular notification procedures of the Committees on Appropriations of the House of Representatives and the Senate: *Provided* [That $150,000,000 of the funds made available for tied aid grant purposes and $8,000,000] *$25,000,000* of the funds made available for interest subsidy payments shall be subject to the limitation on the gross obligations for the principal amount of direct loans specified under this heading: *Provided further,* That the Bank shall use all amounts appropriated to carry out the interest subsidy program to make commitments to commercial lending institutions and other lenders, subject only to the availability of qualified lenders under the program: *Provided further,* That during the fiscal year 1991, total commitments to guarantee loans shall not exceed $10,599,064,000 of contingent liability for loan principal: *Provided further, That the authorities made available under this title for the Export-Import Bank may be used by the Bank, notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945, in connection with the purchase or lease of any product by any East European country, or any agency or national thereof, except that no such country shall be eligible until that country has been accorded most-favored-nation trade status in accordance with the criteria and procedures established by section 402 of the Trade Act of 1974 (commonly referred to as the "Jackson-Vanik amendment"): Provided further, That section 2(b)(6)(B)(vi) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)(B)(vi)) is amended by striking out "1990" and inserting in lieu thereof "1992": Provided further,* That the direct loan, tied aid grant and interest subsidy authority provided under this heading shall remain available until September 30, 1992.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $23,171,000 (to be computed on an accrual basis) shall be available during fiscal year 1991 for administrative expenses, including hire of passenger motor vehicles and services as authorized by section 3109 of title 5, United States Code, and not to exceed $16,000 for official reception and representation expenses for members of the Board of Directors: *Provided,* That (1) fees or dues to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Export-Import Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Export-Import Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes of this heading.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT PROGRAM

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $35,000,000.

AGENCY FOR INTERNATIONAL DEVELOPMENT

TRADE CREDIT INSURANCE PROGRAM

During fiscal year 1991 total commitments to guarantee or insure loans for the "Trade Credit Insurance Program" for Central America pursuant to the authorities of section 224 of the Foreign Assistance Act of 1961, shall not exceed $200,000,000 of contingent liability for loan principal: *Provided,* That section 224(c) of the Foreign Assistance Act of 1961, is amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1991".

During fiscal year 1991, total commitments to guarantee or insure loans for the "Trade Credit Insurance Program" for Poland, pursuant to the authorities of section 225 of the Foreign Assistance Act of 1961, shall not exceed $200,000,000 of contingent liability for loan principal: *Provided,* That notwithstanding section 225(b) of such Act guarantees provided under this paragraph may be available for medium-term guarantees and insurance extended by the Export-Import Bank.

TITLE V—GENERAL PROVISIONS

COST BENEFIT STUDIES

SEC. 501. None of the funds appropriated in this Act (other than funds appropriated for "International Organizations and Programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America under the principles, standards and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or Acts amendatory or supplementary thereto.

OBLIGATIONS DURING LAST MONTH OF AVAILABILITY

SEC. 502. Except for the appropriations entitled "International Disaster Assistance", and "United States Emergency Refugee and Migration Assistance Fund", not more than 15 per centum of any appropriation item made available by this Act shall be obligated during the last month of availability.

PROHIBITION AGAINST PAY TO FOREIGN ARMED SERVICE MEMBER

SEC. 503. None of the funds appropriated in this Act nor any of the counterpart funds generated as a result of assistance hereunder or any prior Act shall be used to pay pensions, annuities, retirement pay, or adjusted service compensation for any person heretofore or hereafter serving in the armed forces of any recipient country.

TERMINATION FOR CONVENIENCE

SEC. 504. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 505. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

PROHIBITION OF BILATERAL FUNDING FOR INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 506. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

AID RESIDENCE EXPENSES

SEC. 507. Of the funds appropriated or made available pursuant to this Act, not to exceed $126,500 shall be for official residence expenses of the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

AID ENTERTAINMENT EXPENSES

SEC. 508. Of the funds appropriated or made available pursuant to this Act, not to exceed $11,500 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

REPRESENTATIONAL ALLOWANCES

SEC. 509. Of the funds appropriated or made available pursuant to this Act, not to exceed $115,000 shall be available for representation allowances for the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further,* That of the funds made available by this Act for general costs of administering military assistance and sales under the heading "Foreign Military Financing Program", not to exceed $2,875 shall be available for entertainment expenses and not to exceed $75,000 shall be available for representation allowances: *Provided further,* That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $125,000 shall be available for entertainment allowances: *Provided further,* That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,875 shall be available for entertainment and representation allowances: *Provided further,* That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,600 shall be available for entertainment expenses: *Provided further,* That of the funds made available by this Act under the heading "Trade and Development Program", not to exceed $2,300 shall be available for representation and entertainment allowances.

PROHIBITION ON FINANCING NUCLEAR GOODS

SEC. 510. None of the funds appropriated or made available (other than funds for "International Organizations and Programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used to finance the export of nuclear equipment, fuel, or technology.

HUMAN RIGHTS

SEC. 511. Funds appropriated by this Act may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of
the population of such country contrary
the Universal Declaration of Human Right

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 512. None of the funds appropriate
or otherwise made available pursuant
this Act shall be obligated or expended to
nance directly any assistance or reparatio
to Angola, Cambodia, Cuba, Iraq, Libya, th
Socialist Republic of Vietnam, Iran,
Syria: *Provided,* That for purposes of th
section, the prohibition on obligations or e
penditures shall include direct loans, cre
its, insurance and guarantees of the Expor
Import Bank or its agents.

MILITARY COUPS

SEC. 513. None of the funds appropriate
or otherwise made available pursuant
this Act shall be obligated or expended to
nance directly any assistance to any countr
whose duly elected Head of Government
deposed by military coup or decree: *Provi
ed,* That assistance may be resumed to suc
country if the President determines and r
ports to the Committees on Appropriatio
that subsequent to the termination of
sistance a democratically elected gover
ment has taken office.

TRANSFERS BETWEEN ACCOUNTS

SEC. 514. None of the funds made availab
by this Act may be obligated under an a
propriation account to which they were n
appropriated, unless the President, prior
the exercise of any authority contained
the Foreign Assistance Act of 1961 to tran
fer funds, consults with and provides a wr
ten policy justification to the Committe
on Appropriations of the House of Repr
sentatives and the Senate: *Provided* [*f
ther*], That the exercise of such authori
shall be subject to the regular notificati
procedures of the Committees on Appr
priations.

DEOBLIGATION/REOBLIGATION AUTHORITY

SEC. 515. *(a)* Amounts certified pursua
to section 1311 of the Supplemental Appr
priations Act, 1955, as having been obligat
against appropriations heretofore ma
under the authority of the Foreign Assi
ance Act of 1961 for the same general pu
pose as any of the headings under t
"Agency for International Developmen
are, if deobligated, hereby continued ava
able for the same period as the respecti
appropriations under such headings or un
September 30, 1991, whichever is later, a
for the same general purpose, and for cou
tries within the same region as origina
obligated: *Provided,* That the Appropr
tions Committees of both Houses of t
Congress are notified fifteen days in
vance of the deobligation and reobligati
of such funds in accordance with regular
tification procedures of the Committees
Appropriations : *Provided further, That
authority of this subsection shall not
available to reobligate funds previously
propriated to carry out the provisions
chapter 4 of part II of the Foreign Assista
Act of 1961.*

*(b) Obligated balances of funds approp
ated to carry out section 23 of the Ar
Export Control Act as of the end of the fis
year immediately preceding the curr
fiscal year are, if deobligated in accorda
with amendments of applicable grant
loan agreements, hereby continued availa
during the current fiscal year for the sa
purpose under any authority applicable
such appropriations under this Act: Prov
ed, That the Appropriations Committees
both Houses of the Congress are notified*

teen days in advance of the deobligation and reobligation of such funds in accordance with regular notification procedures of the Committee on Appropriations.

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 516. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of enactment of this Act by the Congress.

AVAILABILITY OF FUNDS

SEC. 517. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided*, That funds appropriated for the purposes of chapter 1 of part I, [section 667,] and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: *Provided further*, That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I, [section 667,] and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended: *Provided further*, That the report required by section 653(a) of the Foreign Assistance Act of 1961 shall designate for each country, to the extent known at the time of submission of such report, those funds allocated for cash disbursement for balance of payment and economic policy reform purposes.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 518. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act: *Provided*, That this section and section 620(q) of the Foreign Assistance Act of 1961 shall not apply to funds made available in this Act *for Nicaragua, and* for any narcotics-related assistance in Colombia, Bolivia, and Peru authorized by the Foreign Assistance Act of 1961, as amended, or the Arms Export Control Act.

FINANCIAL INSTITUTIONS—NAMES OF BORROWERS

SEC. 519. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain the amounts and the names of borrowers for all loans of the international financial institution, including loans to employees of the institution, or the compensation and related benefits of employees of the institution.

FINANCIAL INSTITUTIONS—DOCUMENTATION

SEC. 520. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain any document developed by or in the possession of the management of the international financial institution, unless the United States governor or representative of the institution certifies to the Committees on Appropriations that the confidentiality of the information is essential to the operation of the institution.

COMMERCE AND TRADE

SEC. 521. (a) None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided*, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.

(b) None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided*, That this subsection shall not prohibit—

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

(c) None of the funds provided in this Act to the Agency for International Development, other than funds made available to carry out Caribbean Basin Initiative programs under the Tariff Schedules of the United States, section 1202 of title 19, United States Code, schedule 8, part I, subpart B, item 807.00, shall be obligated or expended—

(1) to procure directly feasibility studies or prefeasibility studies for, or project profiles of potential investment in, the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined by section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)); or

(2) to assist directly in the establishment of facilities specifically designed for the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined in section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)).

SURPLUS COMMODITIES

SEC. 522. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

NOTIFICATION REQUIREMENTS

SEC. 523. For the purposes of providing the Executive Branch with the necessary administrative flexibility, none of the funds made available under this Act for "Agriculture, rural development, and nutrition, Development Assistance", "Population, Development Assistance", "Child Survival Fund", "Health, Development Assistance", "International AIDS Prevention and Control Program", "Education and human resources development, Development Assistance", "Private Sector, environment, and energy, Development Assistance", "Science and technology, Development Assistance", "Sub-Saharan Africa, Development Assistance", "International organizations and programs", "American schools and hospitals abroad", "Trade and development program", "International narcotics control", "Economic support fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating expenses of the Agency for International Development Office of Inspector General", "Anti-terrorism assistance", "Foreign Military Financing Program", "International military education and training", "Inter-American Foundation", "African Development Foundation", "Peace Corps", or "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for the current fiscal year unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided*, That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 per centum in excess of the quantities justified to Congress unless the Committees on Appropriations are notified fifteen days in advance of such commitment [or unless such commitment is necessitated by an emergency and the Committees are notified within three days after the commitment is made with an explanation of the emergency circumstances: *Provided further*, That with respect to assistance provided under chapter 1 of part I of the Foreign Assistance Act of 1961, as amended, the requirements of this section for notification prior to reprogramming funds shall apply only for a project, program, or activity (1) which was not justified in Congressional presentation documents for the current fiscal year and for which assistance was not provided in the preceding fiscal year, (2) the purpose for which is significantly different

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from the purpose previously justified, or (3) the assistance would cause the total amount allocated for a country from such chapter to exceed the amount allocated for that country from such chapter (or would be in excess of the total amount allocated from such chapter) in the report required by section 653(a) of the Foreign Assistance Act of 1961]: *Provided further, That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 20 per centum of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year.*

CONSULTING SERVICES

SEC. 524. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

PROHIBITION ON ABORTION LOBBYING

SEC. 525. None of the funds appropriated under this Act may be used to lobby for abortion.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 526. (a) Notwithstanding any other provision of law or of this Act, none of the funds provided for "International Organizations and Programs" shall be available for the United States proportionate share for any programs for the Palestine Liberation Organization (or for projects whose purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it), Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended: *Provided*, That, subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of this section or any similar provision of law, shall remain available for obligation through September 30, 1992.

(b) The United States shall not make any voluntary or assessed contribution—

(1) to any affiliated organization of the United Nations which grants full membership as a state to any organization or group that does not have the internationally recognized attributes of statehood, or

(2) to the United Nations, if the United Nations grants full membership as a state in the United Nations to any organization or group that does not have the internationally recognized attributes of statehood,

during any period in which such membership is effective.

LOANS TO ISRAEL UNDER ARMS EXPORT CONTROL ACT

SEC. 527. Notwithstanding any other provision of law, Israel may utilize any loan which is or was made available under the Arms Export Control Act and for which repayment is or was forgiven before utilizing any other loan made available under the Arms Export Control Act.

PROHIBITION AGAINST UNITED STATES EMPLOYEES RECOGNIZING OR NEGOTIATING WITH PLO

SEC. 528. In reaffirmation of the 1975 memorandum of agreement between the United States and Israel, and in accordance with section 1302 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83), no employee of or individual acting on behalf of the United States Government shall recognize or negotiate with the Palestine Liberation Organization or representatives thereof, so long as the Palestine Liberation Organization does not recognize Israel's right to exist, does not accept Security Council Resolutions 242 and 338, and does not renounce the use of terrorism.

ECONOMIC SUPPORT FUND ASSISTANCE FOR ISRAEL

SEC. 529. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

CEILINGS AND EARMARKS

SEC. 530. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs.

ASSISTANCE FOR EL SALVADOR

[SEC. 531. (a) STATEMENT OF POLICY.—It shall be the policy of the United States—

[(1) to support the Central American Presidents' Agreement of December 12, 1989, calling upon the Farabundo Marti National Liberation Front (hereafter in this section referred to as the "FMLN") to cease its hostilities and renounce all types of violent actions that may directly or indirectly affect the civilian population of El Salvador;

[(2) to support an active role for the Secretary General of the United Nations and the Secretary General of the Organization of American States in negotiations between the Government of El Salvador and the FMLN for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador; and

[(3) to review the level of military assistance for El Salvador on a periodic basis, taking into account both—

[(A) the demonstrated willingness of the Government of El Salvador and the FMLN to negotiate seriously and in good faith for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador; and

[(B) the actions of each side that affect the basic human rights of the Salvadoran people.

[(b) INCENTIVES FOR PEACE: AMOUNTS OF MILITARY ASSISTANCE AVAILABLE FOR EL SALVADOR.—

[(1) FISCAL YEAR 1991.—

[(A) MAXIMUM LEVEL OF MILITARY ASSISTANCE.—The amount allocated for military a sistance for El Salvador for fiscal year 199 may not exceed $85,000,000.

[(B) CONDITIONAL WITHHOLDING OF HAL OF MILITARY ASSISTANCE.—Half of the fund allocated for military assistance for El Sa vador for fiscal year 1991 shall be withhel from obligation for military assistanc unless and until the President submits t the Congress a report containing the dete mination regarding the FMLN described i subsection (c).

[(C) TRANCHING OF ASSISTANCE.—Not mor than half of the amount allocated for mil tary assistance for El Salvador for fisc year 1991 that is not being withheld fro obligation pursuant to subparagraph (F may be obligated before March 1, 1991. I order to provide time for congression review of the report required to be submi ted on that date by subsection (g), fun that become available for obligation und this subparagraph as of that date may n be expended during the 30-day period begi ning on that date.

[(2) USE OF FUNDS IF DETERMINATION R GARDING FMLN NOT MADE.—At the end fiscal year 1991, the President shall transf any military assistance funds then bei withheld pursuant to paragraph (1)(B) appropriations accounts for development a sistance under chapter 1 of part I of th Foreign Assistance Act of 1961 (22 U.S. 2151 and following) for use in providing a sistance for child nutrition, health, housin education, or other programs serving th basic human needs of the people of El Sa vador. Funds so transferred shall rema available until expended notwithstandi any other provision of law. Section 634A the Foreign Assistance Act of 1961 (U.S.C. 2394-1; relating to reprogrammi procedures) applies with respect to the ob gation of any funds so transferred.

[(3) TERMINATION OF MILITARY ASSIS ANCE.—If the President submits to the Co gress a report containing the determinati regarding the Government of El Salvad described in subsection (d), all military a sistance for El Salvador for fiscal year 19 shall be terminated, including deliveries previously obligated military assistance. A military assistance shall be terminated pu suant to this paragraph without regard whether a report is submitted containi the determination regarding the FMLN d scribed in subsection (c).

[(4) RESUMPTION OF MILITARY ASSIS ANCE.—If, after submitting to the Congress report containing the determination regar ing the Government of El Salvador d scribed in subsection (d), the President fin that the facts giving rise to that determin tion no longer prevail, the President m submit to the Congress a report describi the reasons for such finding. If the Pre dent submits such a report under this pa graph, military assistance for El Salvad may be resumed, subject to the requi ments of this section.

[(c) CONDUCT OF THE FMLN RESULTING A RELEASE OF WITHHELD ASSISTANCE.—T determination described in this subsection a determination by the President that—

[(1) the representatives of the FMLN—

[(A) are declining to participate in go faith in negotiations for a ceasefire and permanent settlement to the armed confl in El Salvador, or

[(B) are rejecting or otherwise failing support an active role for the Secreta

General of the United Nations in those negotiations;

[(2) the United States Government has proof that the FMLN is continuing to acquire or receive significant shipments of lethal military equipment from outside El Salvador, and this proof has been shared with the Congress;

[(3) the survival of the constitutional Government of El Salvador is being jeopardized by substantial and sustained offensive military actions or operations by the FMLN; or

[(4) the FMLN is assassinating or abducting civilian noncombatants, is engaging in other acts of violence directed at civilian targets, or is failing to control such activities by elements subject to FMLN control.

[(d) Conduct of the Government of El Salvador Resulting in a Termination of Assistance.—The determination described in this subsection is a determination by the President that—

[(1) the duly-elected Head of Government of El Salvador has been deposed by military coup or decree;

[(2) the Government of El Salvador is declining to participate in good faith in negotiations for a ceasefire and a permanent settlement to the armed conflict, or is rejecting or otherwise failing to support an active role for the Secretary General of the United Nations in those negotiations;

[(3) the Government of El Salvador is failing to conduct a thorough and professional investigation into, and prosecution of those responsible for, the eight murders at the University of Central America on November 16, 1989; or

[(4) the military or security forces of El Salvador are assassinating or abducting civilian noncombatants, are engaging in other acts of violence directed at civilian targets, or are failing to control such activities by elements subject to the control of those forces.

[(e) Submission of Reports Containing Determinations.—The President may submit to the Congress at any time a report containing the determination regarding the FMLN described in subsection (c) or containing the determination regarding the Government of El Salvador described in subsection (d). If the President determines that any of the conditions described in subsection (c) or subsection (d) exist, the President shall immediately report that determination to the Congress.

[(f) Strengthening Civilian Control Over the Military.—In order to strengthen the control of the democratically elected civilian government of El Salvador over the armed forces of that country, military assistance for fiscal year 1991 may be delivered to the armed forces of El Salvador only with the prior approval of the President of El Salvador.

[(g) Reports on Situation in El Salvador.—Thirty days after the date of enactment of this Act and on March 1, 1991, the President shall submit to the Congress a report describing—

[(1) the willingness or unwillingness of the Government of El Salvador and the FMLN to negotiate seriously and in good faith for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador;

[(2) the status of the negotiations;

[(3) the criteria that the President will use in deciding whether to make the determinations described in subsections (c) and (d) with respect to negotiations and other issues; and

[(4)(A) any actions of the Government of El Salvador (including the armed forces) and the FMLN that are having an adverse impact on the basic human rights of the Salvadoran people;

[(B) progress made by the Government of El Salvador toward—

[(i) the establishment of an effective judicial system, including the establishment of an independent, civilian investigative service;

[(ii) ensuring freedom of the press and assembly; and

[(iii) military reform, including the establishment of an officer promotion system based on merit and professional competence, respect for human rights, and respect for civilian control over the armed forces;

[(C) the effects on the civilian population of El Salvador of economic sabotage and other acts of violence committed against civilian targets by the FMLN; and

[(D) the status of investigations into the politically motivated murders of prominent political, religious, labor, and other officials in recent years, and the extent to which the armed forces of El Salvador and the FMLN are each cooperating in those investigations.

[(h) Support for Democracy Program.—

[(1) Establishment of program.—The Secretary of State, through agreement with the National Endowment for Democracy or other qualified organizations, shall establish and carry out a program of education, training, and dialogue for the purpose of strengthening democratic political and legal institutions in El Salvador. The program shall be designed to—

[(A) assist and involve all prodemocratic sectors in El Salvador in efforts to strengthen civilian control over the armed forces;

[(B) establish an effective judicial system;

[(C) facilitate the free and open exchange of political views;

[(D) provide for monitoring and other activities in support of free and fair elections; and

[(E) increase respect for basic civil and human rights.

[(2) Election monitoring.—Of the amount made available to carry out this subsection, $2,000,000 may be used only for support for monitoring the 1991 municipal and National Assembly elections in El Salvador, and for monitoring the registration and campaign processes leading up to those elections, by appropriate organizations such as the Secretary General of the United Nations, the Organization of American States, the Carter Center, the National Democratic Institute for International Affairs, the National Republican Institute for International Affairs, and the Center for Electoral Assistance and Promotion (CAPEL) of San Jose, Costa Rica.

[(3) Assistance.—Up to $10,000,000 of the funds appropriated under the heading "Economic Support Fund", may be used to carry out this subsection.

[(i) Expedited Congressional Review Procedures.—

[(1) Definition of privileged joint resolution.—For purposes of this subsection, the term "privileged joint resolution" means a joint resolution—

[(A) which—

[(i) in the case of the House of Representatives, is reported by the Committee on Foreign Affairs, and

[(ii) in the case of the Senate, is reported by the Committee on Foreign Relations, during the thirty-day period beginning on March 1, 1991;

[(B) which would place conditions or limitations, or both, on expenditures of military assistance funds for El Salvador for fiscal year 1991;

[(C) which does not contain any provision which is not germane to the conditions and limitations provided for in the joint resolution; and

[(D) the title of which is as follows: "Joint resolution relating to military assistance for El Salvador for fiscal year 1991.".

[(2) Motion for floor consideration.—On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) after the day on which a privileged joint resolution is reported by the Committee on Foreign Affairs or the Committee on Foriegn Relations (as the case may be), it shall be in order (even though a previous motion to the same effect has been disagreed to) for the chairman of that committee (or his designee) to move to proceed to the consideration of that joint resolution. In the House of Representatives the motion shall be that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution. The motion may be made in the Senate notwithstanding any rule or precedent of the Senate, including Rule 22. All points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed to the consideration of the joint resolution is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to by a House of Congress, that House shall immediately proceed to the consideration of the joint resolution without intervening motion, order, or other business, and that joint resolution shall remain the unfinished business of the respective House until disposed of.

[(3) Debate time.—Debate on a privileged joint resolution, and on all debatable motions and appeals in connection therewith (other than amendments made in order in the House of Representatives under paragraph (4) and a motion to recommit in the House under paragraph (7)), shall be limited to not more than four hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion further to limit debate is in order and not debatable.

[(4) Amendments in the house of representatives.—Amendments to a privileged joint resolution shall be in order, and shall be debatable, in the House of Representatives to the extent ordered by the House.

[(5) Amendments in the senate.—Amendments to a privileged joint resolution are not in order in the Senate.

[(6) Certain motions not in order.—A motion to postpone or to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which a privileged joint resolution is agreed to or disagreed to is not in order.

[(7) Final passage in the house of representatives.—In the House of Representatives, at the conclusion of debate on a privileged joint resolution and consideration of any amendments made in order to the joint resolution, the Committee of the Whole shall rise and report the resolution back to the House, and the previous question shall be considered as ordered on the joint resolution, with any amendments adopted in the

time, in the same manner, and to the same extent as in the case of any other rule of that House.

[(j) Definition of Military Assistance.—For purposes of this section, the term "military assistance" means assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the foreign military financing program) or under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 and following; relating to the grant military assistance program).]

Sec. 531. (a) Statement of Policy.—United States military assistance to the Government of El Salvador shall seek three principal foreign policy objectives, as follows: (1) to promote a permanent settlement and cease-fire to the conflict in El Salvador, with the Secretary General of the United Nations serving as an active mediator between the opposing parties; (2) to foster greater respect for basic human rights, and the rule of law; and (3) to advance political accommodation and national reconciliation.

(b) Maximum Level of Military Assistance.—Of the funds available for United States military assistance for fiscal year 1991, not more than $85,000,000 shall be made available for El Salvador.

(c) Prohibition of Military Assistance.—(1) Prohibition.—Subject to paragraph (2), no United States military assistance may be furnished to the Government of El Salvador if the President determines and reports in writing to the Congress that—

(A) after he has consulted with the Secretary General of the United Nations, the Government of El Salvador has declined to participate in good faith in negotiations for a permanent settlement and cease-fire to the armed conflict of El Salvador;

(B) the Government of El Salvador has rejected or otherwise failed to support an active role for the Secretary General of the United Nations in mediating that settlement;

(C) the Government of El Salvador has rejected a plan for the settlement of the conflict which—

(i) has been developed by the Secretary General of the United Nations taking into account the Caracas Accord of May 21, 1990 between the Government of El Salvador and FMLN;

(ii) includes a proposal for an internationally monitored cease-fire; and

(iii) has been accepted, within 60 days from its announcement, by the FMLN and is being complied with by the FMLN;

(D) the Government of El Salvador has failed to conduct a thorough and professional investigation into, and prosecution of those responsible for the eight murders at the University of Central America on November 16, 1989; or

(E) the military and security forces of El Salvador are assassinating or abducting civilian noncombatants, are engaging in other acts of violence directed at civilian targets, or are failing to control such activities by elements subject to the control of those forces.

(2) Requirement for Resumption of Assistance.—Assistance prohibited under paragraph (1) may only be resumed pursuant to a law subsequently enacted by the Congress.

(d) Withholding of Military Assistance.—(1) In General.—Fifty percent of the total United States military assistance allocated for El Salvador for fiscal year 1990 and prior fiscal years which has not been obligated, expended, or otherwise made available to the Government of El Salvador as of the date of enactment of this Act, and fifty percent of all military assistance allocated for El Salvador for fiscal year 1991, shall be withheld from obligation or expenditure (as the case may be) except as provided in paragraphs (2) and (3).

(2) Release of Assistance.—The United States military assistance withheld pursuant to paragraph (1) may be obligated and expended only if the President determines and reports in writing to the Congress that—

(A) after he has consulted with the Secretary General of the United Nations, the representatives of the FMLN—

(i) have declined to participate in good faith in negotiations for a permanent settlement and cease-fire to the armed conflict in El Salvador, or

(ii) have rejected or otherwise failed to support an active role for the Secretary General of the United Nations in mediating that settlement;

(B) the FMLN has rejected a plan for the settlement of the conflict which—

(i) has been developed by the Secretary General of the United Nations taking into account the Caracas Accord of May 21, 1990 between the Government of El Salvador and the FMLN,

(ii) includes a proposal for an internationally monitored cease-fire, and

(iii) has been accepted, within 60 days from its announcement, by the Government of El Salvador and is being complied with by the Government of El Salvador;

(C) the survival of the constitutional Government of El Salvador is being jeopardized by substantial and sustained offensive military actions or operations by the FMLN;

(D) proof exists that the FMLN is continuing to acquire or receive significant shipments of lethal military assistance from outside El Salvador, and this proof has been shared with the Congress; or

(E) the FMLN is assassinating or abducting civilian noncombatants, is engaging in other acts of violence directed at civilian targets, or is failing to control such activities by elements subject to FMLN control.

(3) Exception.—Notwithstanding any other provision of law, funds withheld pursuant to paragraph (1) of this subsection may be disbursed to pay the cost of any contract penalties which may be incurred as a result of such withholding of funds under this subsection.

(e) Condition for Termination of all United States Assistance.—(1) Prohibition.—Subject to paragraph (2), no United States assistance may be furnished to El Salvador if the duly-elected head of Government of El Salvador is deposed by military coup or decree.

(2) Requirement for Resumption of Assistance.—Assistance prohibited under paragraph (1) may only be resumed pursuant to a law subsequently enacted by the Congress.

(f) Establishment of a Fund for Cease-Fire Monitoring, Demobilization, and Transition to Peace.—(1) Establishment of Fund.—There is hereby established in the Treasury of the United States a fund to assist with the costs of monitoring a permanent settlement of the conflict, including a cease-fire, and the demobilization of combatants in the conflict in El Salvador, and their transition to peaceful pursuits, which shall be known as the "Demobilization and Transition Fund" (hereafter in this section referred to as the "Fund"). Amounts in this Fund shall be available for obligation and expenditure only upon notification by the President of the Congress that the Govern-
ment of El Salvador and representatives o
the FMLN have reached a permanent settle
ment of the conflict, including a final agree
ment on a cease-fire.

(2) Transfer of Certain Military Assist
ance Funds.—Upon notification of the Con
gress of a permanent settlement of the con
flict, including an agreement on a cease-fire
or on September 30, 1991, if no such notifi
cation has occurred prior to that date, th
President shall transfer to the Fund an
United States military assistance fund
withheld pursuant to subsection (d) of thi
section.

(3) Use of the Fund.—Notwithstandin
any other provision of law, amounts in th
Fund shall be available for El Salvado
solely to support costs of demobilization, re
training, relocation, and reemployment i
civilian pursuits of former combatants i
the conflict in El Salvador, and of the moni
toring of the permanent settlement an
cease-fire.

(4) Duration of Availability of Funds.—
Notwithstanding any other provision c
law, amounts transferred to the Fund sha
remain available until expended.

(g) Strengthening Civilian Control Ove
the Military.—In order to strengthen th
control of the democratically elected civi
ian government of El Salvador over th
armed forces of that country, United State
military assistance for any fiscal year ma
be delivered to the armed forces of El Salva
dor only with the prior approval of the dul
elected President of El Salvador.

(h) Support for Democracy.—(1) Esta
lishing a Program.—The Secretary of Stat
through agreement with the National E
dowment for Democracy or other qualifie
organizations, shall establish and carry o
a program of education, training, and di
logue for the purpose of strengthening dem
cratic political and legal institutions in
Salvador.

(2) Election Monitoring.—Of the amoun
made available to carry out this subsectio
up to $2,000,000 may be used for support f
monitoring the 1991 municipal and Natio
al Assembly elections in El Salvador, and f
monitoring the registration and campaig
processes leading up to those elections, b
appropriate organizations such as th
United Nations, the Organization of Amer
can States, the Carter Center, the Nation
Democratic Institute for International A
fairs, the National Republican Institute f
International Affairs, and the Center f
Electoral Assistance and Promotio
(CAPEL) of San Jose, Costa Rica.

(3) Assistance.—Up to $10,000,000 of fun
appropriated under the heading "Econom
Support Fund" for fiscal year 1991 may
used to carry out this subsection.

(i) Reporting Requirements.—Sixty da
after the date of enactment of this Act a
every 180 days thereafter, the President sh
submit to the Congress a report describing

(1) the willingness or unwillingness of t
Government of El Salvador and the FML
to negotiate seriously and in good faith f
the purpose of achieving a permanent sett
ment to the conflict in El Salvador, inclu
ing a cease-fire, and providing appropria
information regarding criteria described
subsections (c) and (d)(2); and

(2) the status of investigations into the p
litically motivated murders listed in secti
538 of this Act.

(j) Definitions.—For purposes of this se
tion—

(1) the term "United States assistanc
has the same meaning as is given to su
term by section 481(i)(4) of the Foreign A

sistance Act of 1961 (22 U.S.C. 2291(i)(4)) and includes United States military assistance as defined in paragraph (2); and

(2) the term "United States military assistance" means—

(A) assistance to carry out chapter 2 (relating to grant military assistance) or chapter 5 (relating to international military education and training) of part II of Foreign Assistance Act of 1961; and

(B) sales, credits, and guaranties under the Arms Export Control Act.

NOTIFICATION CONCERNING AIRCRAFT IN CENTRAL AMERICA

Sec. 532. (a) During the current fiscal year, the authorities of part II of the Foreign Assistance Act of 1961 and the Arms Export Control Act may not be used to make available any helicopters or other aircraft for military use, and licenses may not be issued under section 38 of the Arms Export Control Act for the export of any such aircraft, to any country in Central America unless the Committees on Appropriations, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified in writing at least fifteen days in advance.

(b) During the current fiscal year, the Secretary of State shall promptly notify the committees designated in subsection (a) whenever any helicopters or other aircraft for military use are provided to any country in Central America by any foreign country.

ENVIRONMENT AND GLOBAL WARMING

Sec. 533. (a) It is the policy of the United States that sustainable economic growth must be predicated on the sustainable management of natural resources. The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank (MDB) to promote vigorously within each MDB the expansion of programs in areas which address the problems of global climate change through requirements to—

(1) expand programs in energy conservation, end-use energy efficiency, and renewable energy and promotion by—

(A) continuing to augment and expand professional staffs with expertise in these areas;

(B) giving priority to these areas in the "least cost" energy sector investment plans;

(C) encouraging and promoting these areas in policy-based energy sector lending;

(D) developing loans for these purposes; and

(E) convening seminars for MDB staff and board members on these areas and alternative energy investment opportunities;

(2) provide analysis for each proposed loan to support additional power generating capacity comparing demand reduction costs to proposal costs;

(3) continue to assure that environmental impact assessments (EIA) of proposed energy projects are conducted early in the project cycle, include consideration of alternatives to the proposed project, and encourage public participation in the EIA process;

(4) continue to include the environmental costs of proposed projects with significant environmental impacts in economic assessments; and

(5) continue to provide technical assistance as a component of energy sector lending.

(b) The Secretary of the Treasury shall, not later than March 1, 1991, submit an annual report to the Congress which shall include—

(1) a detailed description of how the natural resource management initiatives mandated by this section have been incorporated in the Administration's efforts to address Third World Debt (the Brady Plan);

(2) a detailed description of progress made by each of the MDB's in adopting and implementing programs meeting the standards set out in subsection (a) including, in particular, efforts by the Department of the Treasury to assure implementation of this section, progress made by each MDB in subsection (a)(1)(B), and the amounts and proportion of lending in the energy sector for projects or programs in subsection (a)(1);

(3) the progress the Inter-American Development Bank has made in implementing environmental reforms;

(4) an updated analysis of each MDB's forestry sector loans, and a current analysis of each MDB's energy sector loans, and their impact on emissions of CO_2 and the status of proposals for specific forestry and energy sector activities to reduce CO_2 emissions; and

(5) the progress the International Bank for Reconstruction and Development has made in implementing the recommendations set forth in the April 1, 1966, report on "Debt-for-Nature Swaps" by the World Bank.

(c)(1) The Administrator of the Agency for International Development shall update and issue guidance to all Agency missions and bureaus detailing the elements of the "Global Warming Initiative", which will continue to emphasize the need to reduce emissions of greenhouse gases, especially CO_2 and CFCs, through strategies consistent with continued economic development. This initiative shall continue to emphasize the need to accelerate sustainable development strategies in areas such as reforestation, biodiversity, end-use energy efficiency, least-cost energy planning, and renewable energy, and shall encourage mission directors to incorporate the elements of this initiative in developing their country programs.

(2) The Administrator shall pursue this initiative by, among other things—

(A) increasing the number and expertise of personnel devoted to this initiative in all bureaus and missions;

(B) devoting increased resources to technical training of mission directors;

(C) accelerating the activities of the Multi-Agency Working Group on Power Sector Innovation;

(D) focusing tropical forestry assistance programs on the key middle- and low-income developing countries (hereinafter "key countries") which are projected to contribute large amounts of greenhouse gases to the global environment;

(E) assisting countries in developing a systematic analysis of the appropriate use of their total tropical forest resources, with the goal of developing a national program for sustainable forestry;

(F) focusing energy assistance activities on the key countries, where assistance would have the greatest impact on reducing emissions from greenhouse gases; and

(G) continuing to follow the directives with respect to key countries and countries that receive large Economic Support Fund assistance contained in section 534(b)(3) of Public Law 101-167.

[(3) None of the funds appropriated in this Act shall be used for any project that would result in any significant loss of tropical forests].

(3) None of the funds appropriated in this Act shall be available for any program, project or activity which would—

(A) result in any significant loss of tropical forests; or

(B) involve industrial timber extraction in primary tropical forest areas.

(4) Funds appropriated to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961, as amended, may be used by the Agency for International Development, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and energy programs aimed at reducing emissions of greenhouse gases with regard to the key countries in which deforestation and energy policy would make a significant contribution to global warming, except that such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(5) Funds appropriated by this Act to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961 may be used for expenses (including related support costs) relating to the environment and energy sectors, of employees or individuals detailed to or employed by the Agency for International Development, particularly those involved with the "Global Warming Initiative" described in this subsection.

[(6) Not less than $15,000,000 of the aggregate of the funds appropriated to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961 (including funds for sub-Saharan Africa) shall be made available for biological diversity activities, of which $3,000,000 shall be made available for the Parks in Peril project pursuant to the authority of section 119(b) of that Act.

[(7) Not less than $30,000,000 of the funds appropriated to carry out the provisions of section 106 of the Foreign Assistance Act of 1961 shall be made available to support the "Global Warming Initiative" as described in this subsection.]

(d) Of the funds appropriated by this Act to carry out the provisions of part I of the Foreign Assistance Act of 1961, not less than $80,000,000 shall be made available for environment and energy activities, including funds earmarked under section 534 of this Act, as follows—

(1) not less than $15,000,000 of the aggregate of the funds appropriated to carry out the provisions of sections 103 through 106 and chapter 10 of part I of the Foreign Assistance Act of 1961 shall be made available for biological diversity activities, of which: $3,000,000 shall be made available for the Parks in Peril project pursuant to the authority of section 119(b) of that Act, $500,000 shall be for neotropical migratory bird conservation in Latin America and the Caribbean, $750,000 shall be for Project Noah, and $1,500,000 shall be for the National Science Foundation's international biological diversity program;

(2) not less than $30,000,000 of the funds appropriated to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961 shall be made available to support the "Global Warming Initiative" as described in this section;

(3) not less than $5,000,000 of the funds appropriated to carry out the provisions of sections 103, 106 and chapter 10 of part I of the Foreign Assistance Act of 1961 shall be made available for assistance in support of elephant conservation and preservation; and

(4) not less than $20,000,000 of the funds appropriated to carry out the provisions of

sections 103 and 106 of the Foreign Assistance Act of 1961 shall be made available for the Office of Energy of the Agency for International Development.

(e) Chapter 1 of part II of the Foreign Assistance Act of 1961 is amended by adding the following new section:

"Sec. 518. Natural Resources and Wildlife Management.—(a) Authority to Transfer Excess Defense Articles.—Subject to the limitations in this section, the President may transfer excess defense articles to friendly countries, and to international organizations and private and voluntary organizations for the purposes contained in section 119 of this Act.

"(b) Limitation on Transfers.—Transfers under this section shall be subject to the limitations contained in section 516(b), and shall be subject to the notification requirements of section 516(c), of this Act.

"(c) Transportation.—The Department is authorized to transport excess defense articles made available pursuant to this section without charge on a space available basis.

"(d) Waiver of Requirements for Reimbursement of DOD Expenses.—Section 632(d) shall not apply with respect to tranfers of excess defense articles under this section or the transportation of such articles as authorized by subsection (c).".

(f) Notwithstanding any other provision of law, none of the funds appropriated by this Act for programs of the Agency for International Development may be made available for any project or activity except in accordance with the requirements of section 117(c) of the Foreign Assistance Act of 1961 and the regulations issued pursuant thereto (22 CFR 216).

MONTREAL PROTOCOL FACILITATION FUNDS

(INCLUDING TRANSFER OF FUNDS)

Sec. 534. Not less than $10,000,000 of the funds appropriated by this Act to carry out [section] *sections 103 and* 106 of the Foreign Assistance Act of 1961 shall be used to support the creation of a fund to facilitate and support global participation in the Montreal Protocol on Substances that Deplete the Ozone Layer: *Provided*, That these funds shall be transferred to the Bureau of Oceans, International Environment and Scientific Affairs of the Department of State and shall be made available, after consultations with the Environmental Protection Agency, to the United Nations Environment Program in its role as Secretariat to the Protocol: *Provided further*, That the United States representative to the Secretariat shall seek assurances that none of these funds shall be contributed to any developing country that is not a party to the Protocol and operating under Article 5 of the Protocol.

PROHIBITION CONCERNING ABORTIONS AND INVOLUNTARY STERILIZATION

Sec. 535. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations. The Congress reaffirms its commitments to Population, Development Assistance and to the need for informed voluntary family planning.

AFGHANISTAN—HUMANITARIAN ASSISTANCE

Sec. 536. Of the aggregate amount of funds appropriated by this Act, to be derived in equal parts from the funds appropriated to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, and chapter 4 of part II of that Act, up to $70,000,000 may be made available for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law. In carrying out this section, the Administrator of the Agency for International Development shall ensure that an equitable portion of the funds is made available to benefit Afghan women and girls, particularly in programs in refugee camps in Pakistan and in reconstruction projects in Afghanistan.

PRIVATE VOLUNTARY ORGANIZATIONS—DOCUMENTATION

Sec. 537. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development, nor shall any of the funds appropriated by this Act be made available to any private voluntary organization which is not registered with the Agency for International Development.

EL SALVADOR—INVESTIGATION OF MURDERS

Sec. 538. Of the amounts made available by this Act for military assistance and financing for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act, $5,000,000 may not be expended until the President reports, following the conclusion of the Appeals process in the case of Captain Avila, to the Committees on Appropriations that the Government of El Salvador has (1) substantially concluded all investigative action with respect to those responsible for the January 1981 deaths of the two United States land reform consultants Michael Hammer and Mark Pearlman and the Salvadoran Land Reform Institute Director Jose Rodolfo Viera, (2) pursued all legal avenues to bring to trial and obtain a verdict of those who ordered and carried out the January 1981 murders, (3) pursued all legal avenues to bring to trial those who ordered and carried out the September 1988 massacre of ten peasants near the town of San Francisco, El Salvador, and to obtain a verdict, and (4) pursued all legal avenues to bring to trial those who ordered and carried out the November 1989 murders of six Jesuit priests and their associates, and to obtain a verdict.

REFUGEE RESETTLEMENT

Sec. 539. It is the sense of the Congress that all countries receiving United States foreign assistance under the "Economic Support Fund", "Foreign Military Financing Program", "International Military Education and Training", the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), development assistance programs, or trade promotion programs should fully cooperate with the international refugee assistance organizations, the United States, and other governments in facilitating lasting solutions to refugee situations. Further, where resettlement to other countries is the appropriate solution, such resettlement should be expedited in cooperation with the country of asylum without respect to race, sex, religion, or national origin.

ETHIOPIA—FORCED RESETTLEMENT, VILLAGIZATION

Sec. 540. None of the funds appropriated in this Act shall be made available for any costs associated with the Government of Ethiopia's forced resettlement or villagization programs.

SPECIAL NOTIFICATION REQUIREMENTS

Sec. 541. None of the funds appropriated in this Act shall be obligated or expended for Sudan, Liberia, Lebanon, Zaire, Chile, Yemen, Haiti, *Guatemala*, or Somalia except as provided through the regular notification procedures of the Committees on Appropriations.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

Sec. 542. For the purpose of this Act, "program, project, and activity" shall be defined at the Appropriations Act account level and shall include all Appropriations and Authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as (1) justified to the Congress, or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961, as amended.

CHILD SURVIVAL AND AIDS ACTIVITIES

Sec. 543. Of the funds made available by this Act for assistance for health, child survival, and AIDS, up to $8,000,000 may be used to reimburse United States Government agencies, agencies of State governments, [and institutions of higher learning for the full cost of employees detailed or assigned, as the case may be, to] *institutions of higher learning, and private and voluntary organizations for the full cost of individuals (including for the personal services of such individuals) detailed or assigned to or contracted by, as the case may be,* the Agency for International Development for the purpose of carrying out child survival activities and activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome in developing countries: *Provided*, That [personnel who are detailed or assigned for the purposes of this section] *such individuals* shall not be included within any personnel ceiling applicable to any United States Government agency during the period of detail or assignment.

CHILE

Sec. 544. *(a)* Funds appropriated by this Act under the heading "Economic Support Fund" may be used under the authority of section 534(b)(4) and (6) of the Foreign Assistance Act of 1961 to support the efforts of private groups and individuals seeking to develop a national consensus on the importance of an independent judiciary and the administration of justice generally in a democratic society. Assistance may be provided under this section without regard to the requirements of section 726(b) of the International Security and Development Cooperation Act of 1981.

(b) Section 726(c) of the International Security and Development Cooperation Act of 1981 is amended by striking out "and technical manuals for aircraft of the F-5E/F or A/T-37 type which were sold to the Chilean Air Force by the United States before January 1, 1976" and inserting in lieu thereof "components, parts, tools, technical manuals, technical changes to technical orders (TCTOs), or TCTO retrofits for aircraft of the F-5E/F, A/T-37, or C-130E/H type owned by the Chilean Air Force".

PROHIBITION AGAINST INDIRECT FUNDING TO CERTAIN COUNTRIES

Sec. 545. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, Iran, or Syria unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

RECIPROCAL LEASING

Sec. 546. Section 61(a) of the Arms Export Control Act is amended by striking out "1990" and inserting in lieu thereof "1991".

DEFENSE EQUIPMENT DRAWDOWN

Sec. 547. (a) Defense articles, services and training drawn down under the authority of section 506(a) of the Foreign Assistance Act of 1961, shall not be furnished to a recipient unless such articles are delivered to, and such services and training initiated for, the recipient country or international organization not more than one hundred and twenty days from the date on which Congress received notification of the intention to exercise the authority of that section: *Provided*, That if defense articles have not been delivered or services and training initiated by the period specified in this section, a new notification pursuant to section 506(b) of such Act shall be provided, which shall include an explanation for the delay in furnishing such articles, services, and training, before such articles, services, or training may be furnished.

(b) [Section 506(a) of the Foreign Assistance Act of 1961 is amended by inserting the following new paragraph:

["(3) An aggregate value of not to exceed $100,000,000 in any fiscal year of defense articles, defense services, and military education and training may be provided pursuant to paragraphs (1) and (2) of this subsection.".]

[(c)] Drawdowns made pursuant to section 506(a)(2) of the Foreign Assistance Act of 1961 shall be subject to the regular notification procedures of the Committees on Appropriations.

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

Sec. 548. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (c) of that section: *Provided*, That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees: *Provided further*, That such Committees shall also be informed of the original acquisition cost of such defense articles.

AUTHORIZATION REQUIREMENT

Sec. 549. Funds appropriated by this Act may be obligated and expended [subject to] *notwithstanding* section 10 of Public Law 91-672 and section 15 of the State Department Basic Authorities Act of 1956.

NOTIFICATION TO CONGRESS ON DEBT RELIEF AGREEMENTS

Sec. 550. The Secretary of State shall transmit to the Appropriations Committees of the Congress and to such other Committees as appropriate, a copy of the text of any agreement with any foreign government which would result in any debt relief no less than thirty days prior to its entry into force, other than one entered into pursuant to this Act, together with a detailed justification of the interest of the United States in the proposed debt relief: *Provided*, That the term "debt relief" shall include any and all debt prepayment, debt rescheduling, and debt restructuring proposals and agreements[: *Provided further*, That the transmittal of a copy of a debt relief agreement under this section shall be treated for purposes of review by the Committees on Appropriations as if it were a notification submitted pursuant to section 523 of this Act.]

MIDDLE EAST REGIONAL COOPERATION AND ISRAELI-ARAB SCHOLARSHIPS

Sec. 551. (a) Middle East regional cooperative programs which have been carried out in accordance with section 202(c) of the International Security and Development Cooperation Act of 1985 shall continue to be funded at a level of not less than $7,000,000 from funds appropriated under the heading "Economic Support Fund".

(b) Section 556(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, is amended by striking out "September 30, 1990" and inserting in lieu thereof "July 31, 1991".

MEMBERSHIP DESIGNATION IN ASIAN DEVELOPMENT BANK

Sec. 552. It is the sense of the Congress that the United States Government should use its influence in the Asian Development Bank to secure reconsideration of that institution's decision to designate Taiwan (the Republic of China) as "Taipei, China". It is further the sense of the Congress that the Asian Development Bank should resolve this dispute in a fashion that is acceptable to Taiwan (the Republic of China).

DEPLETED URANIUM

Sec. 553. None of the funds provided in this or any other Act may be made available to facilitate in any way the sale of M-833 antitank shells or any comparable antitank shells containing a depleted uranium penetrating component to any country other than (1) countries which are members of NATO, (2) countries which have been designated as a major non-NATO ally for purposes of section 1105 of the National Defense Authorization Act for Fiscal Year 1987 or, (3) Pakistan: *Provided*, That funds may be made available to facilitate the sale of such shells notwithstanding the limitations of this section if the President determines that to do so is in the national security interest of the United States.

EARMARKS

Sec. 554. Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act or, with respect to a country with which the United States has an agreement providing the United States with base rights or base access in that country, if the President determines that the recipient for which funds are earmarked has significantly reduced its military or economic cooperation with the United States since enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990; however, before exercising the authority of this section with regard to a base rights or base access country which has significantly reduced its military or economic cooperation with the United States, the President shall consult with, and shall provide a written policy justification to the Committees on Appropriations: *Provided*, That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That assistance that is reprogrammed pursuant to this section shall be made available under the same terms and conditions as originally provided.

OPPOSITION TO ASSISTANCE TO TERRORIST COUNTRIES BY INTERNATIONAL FINANCIAL INSTITUTIONS

Sec. 555. (a) Instructions for United States Executive Directors.—The Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to vote against any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979.

(b) Definition.—For purposes of this section, the term "international financial institution" includes—

(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund; and

(2) wherever applicable, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the African Development Fund.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

Sec. 556. (a) Notwithstanding any other provision of law, funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to fiscal year 1990, shall not be made available to any country which the President determines—

(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism, or

(2) otherwise supports international terrorism.

(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each

waiver in the Federal Register and, at least fifteen days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

[HONDURAS—RAMIREZ CASE

[Sec. 557. It is the sense of the Congress that, pursuant to the procedures contained in section (j) under the heading "Assistance for Central America" enacted in Public Law 100-71, the Honduran Government appears to have made a reasonable and good faith settlement offer based on a factual analysis by third parties, and the owner of the property in question is strongly encouraged to accept the proposed settlement. Therefore, notwithstanding the provisions of such section, $5,000,000 of the Economic Support Fund assistance made available by Public Law 100-71 for Honduras but withheld from expenditure shall be available for expenditure upon enactment of this Act: *Provided*, That if a settlement is reached on the property in question, then the additional $10,000,000 withheld from expenditure pursuant to such section shall then be available for expenditure.]

COMMISSION ON FOREIGN ASSISTANCE MANAGEMENT

Sec. 557. (a) Findings.—The Congress finds that, although it has effectively carried out United States foreign assistance programs under markedly changed economic and political circumstances since enactment of the Foreign Assistance Act in 1961, the Agency for International Development has in recent years begun to experience serious management difficulties in the areas of program implementation, control and accountability, and deployment of limited personnel resources. The Congress also finds that a pattern of pervasive management problems and weaknesses has persisted in the Agency for several years without significant action by the Agency to remedy or remove these problems and weaknesses. These systemic management problems and weaknesses, coupled with the continued expansion of the Agency's programs to include additional countries and program responsibilities, raise serious concerns about the effectiveness of present management structures, practices, and procedures in the Agency. The Congress recognizes that these persistent management problems and weaknesses are occurring at a time when budget limitations make it imperative that the Agency is able to carry out its mandate efficiently and in a coordinated fashion. Therefore, the Congress believes that the establishment of an independent commission to examine management issues arising from the implementation of the United States bilateral economic assistance program will enhance the effectiveness of that program and serve the national interest.

(b) Establishment.—There is established the Commission on Management of Agency for International Development Programs (hereafter in this section referred to as the "Commission").

(c) Membership.—The Commission shall consist of 5 members appointed by the President after consultation with the Chairmen of the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Chairmen of the Committee on Appropriations and the Committee on Foreign Relations of the Senate. Individual members of the Commission shall be from the private sector or Members of Congress. The President shall designate the Chairman of the Commission from among its members.

(d) Duties.—The Commission shall conduct a thorough study and investigation and recommend appropriate administrative action and legislation necessary in connection with the following:

(1) the adequacy of systems of program and management evaluation and coordination, taking into consideration, among other things—

(A) the need to identify central foci within the Agency to coordinate its program and management responsibilities and to evaluate the Agency's program and management performance;

(B) the need to develop specific indicators of effective performance for both program and management functions;

(C) the need to ensure that the results of program and management evaluations are widely disseminated and taken into consideration in future Agency actions;

(D) the need to focus the review of the Agency's programs by the Administration and the Congress on the impact of those programs;

(2) the adequacy of personnel management systems, taking into consideration, among other things—

(A) the need to systematically ensure the integration of program, operating expense, and personnel levels;

(B) the need to adjust personnel and operating expense levels among organizational units in order to meet changing program requirements;

(C) the capacity to meet changing requirements for program and management skills in headquarters offices and field missions;

(D) the significance of operating and program funding distinctions as they affect the ability of the Agency to adjust its personnel to program requirements;

(3) the adequacy of systems of personal accountability for program management, taking into consideration, among other things—

(A) the need to establish and identify clear lines of decision-making responsibility among headquarters offices and between headquarters and field missions;

(B) the need to ensure that an individual's performance in the implementation and management of the Agency's program portfolio is appropriately reflected in its promotion and assignment processes.

(e) Report.—The Commission shall submit a comprehensive report to the President and to the Congress, not later than six months from the date after which all members of the Commission have been appointed, containing the findings and recommendations of the Commission with respect to its study and investigation. The Commission shall cease to exist on the thirtieth day after the date on which it files the comprehensive report under this subsection.

(f) Compensation and Per Diem.—(1) Compensation.—Members of the Commission shall receive no pay on account of their service on the Commission.

(2) Per Diem.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(g) Authorities.—(1) In General.—The Commission or any member it authorizes may, for the purposes of carrying out this section, hold such hearings, sit and act at such times and places, request such attendance, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) Appointments.—Subject to such rules as may be adopted by the Commission, the Chairman of the Commission, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classifications and General Schedule pay rates, may appoint and fix the compensation of a Director and such other staff as the Chairman considers necessary.

(3) Temporary Services.—The Chairman of the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay then in effect for grade GS-18 of the General Schedule (5 U.S.C. 5332(a)).

(4) Administrative Support.—Upon the request of the Chairman of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist it in carrying out its duties under this section. The Administrator of the Agency for International Development shall provide to the Commission on a reimbursable basis such administrative support services as the Chairman of the Commission may request.

(5) Information From Federal Agencies.—The Commission may secure directly from any department or agency of the United States any information necessary to enable it to carry out this section. Upon the request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(h) Funding.—In addition to funds otherwise available for such purposes, up to $500,000 of the unearmarked funds appropriated by this Act to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961 may be used to carry out the provisions of this section.

SOUTH AFRICA—SCHOLARSHIPS

Sec. 558. Of the funds made available by this Act under the heading "Economic Support Fund", $10,000,000 may be made available for scholarships for disadvantaged South Africans.

NARCOTICS CONTROL PROGRAM

Sec. 559. (a)(1) Of the funds appropriated by this Act under the heading "Economic Support Fund", $59,900,000 may be made available for Bolivia, Ecuador, Jamaica, and Peru.

(2) In addition to funds made available under paragraph (1), of the funds appropriated by this Act under the heading "Economic Support Fund", $195,000,000 may be made available for Peru, Bolivia, Colombia, and Ecuador: *Provided*, That funds under this paragraph may be made available to a country only if such country is making significant progress, as appropriate, in (A) satisfying the goals agreed to in the applicable bilateral narcotics agreement between such country and the United States, or a comparable multilateral agreement, (B) preventing narcotic drugs and other controlled substances from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directl

or indirectly, into the United States, (C) preventing and punishing the laundering in that country of drug-related profits or drug-related moneys, and (D) preventing and punishing public corruption which facilitates the illicit production, processing, or shipment of narcotic drugs and other controlled substances, or which discourages the investigation and prosecution of such acts.

(3) For the purpose of reducing dependence upon the production of crops from which narcotic and psychotropic drugs are derived, funds appropriated by this Act to carry out the provisions of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act may be made available for [Bolivia, Peru, Colombia, Ecuador, and Jamaica] a country which, because of its coca production, is a major illicit drug producing country to promote the production, processing, and the marketing of products which can be economically produced in those countries, notwithstanding section 521 of this Act.

(4) Of the funds appropriated by this Act under the heading "Foreign Military Financing Program", not more than $118,000,000 may be made available for Bolivia, Peru, and Colombia: *Provided*, That no funds may be made available under this paragraph to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights.

(5)(A) Of the funds appropriated by this Act to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, up to $2,000,000, except through the regular notification procedures of the Committees on Appropriations, may be made available for Bolivia, Peru, Colombia, and Ecuador, notwithstanding section 660 of such Act, for—

(i) education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts; and

(ii) the expenses of deploying, upon the request of the government of such foreign country, Department of Defense mobile training teams in that foreign country to conduct training in military-related individual and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction.

(B) Education and training under this paragraph may be provided only for foreign law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement.

(6) Funds made available by this Act to carry out the provisions of the Arms Export Control Act and section 534 of the Foreign Assistance Act of 1961 may be provided for training and equipment for law enforcement agencies or other units in Colombia, Bolivia, and Peru that are organized for the specific purpose of narcotics enforcement: *Provided*, That assistance under this paragraph may be provided notwithstanding section 660 of the Foreign Assistance Act of 1961 and the second sentence of section 534(e) of that Act: *Provided further*, That assistance provided pursuant to this paragraph shall be subject to the regular notification procedures of the Committees on Appropriations.

(7) Funds made available under this subsection shall be available for obligation consistent with *requirements to apply* the provisions of section 481(h) of the Foreign Assistance Act of 1961 (relating to International Narcotics Control).

(b) None of the funds appropriated or otherwise made available under this Act may be available for any country during any three-month period beginning on or after October 1, 1990, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures (including satisfying the goals agreed to in applicable bilateral narcotics agreements as defined in section 481(h)(2)(B) of the Foreign Assistance Act of 1961) to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully.

(c) In making determinations with respect to Bolivia, Colombia, Ecuador, and Peru pursuant to section 481(h)(2)(A)(i) of the Foreign Assistance Act of 1961, the President shall take into account the extent to which the Government of each country is sufficiently responsive to United States Government concerns on coca control and whether the provision of assistance for that country is in the national interest of the United States.

(d) Of the funds appropriated under title II of this Act for the Agency for International Development, up to $10,000,000 should be made available for narcotics education and awareness programs (including public diplomacy programs) of the Agency for International Development, and $40,000,000 of the funds appropriated under title II of this Act should be made available for narcotics related economic assistance activities.

TURKISH AND GREEK MILITARY FORCES ON CYPRUS

SEC. 560. Any agreement for the sale or provision of any article on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) entered into by the United States after the enactment of this section shall expressly state that the article is being provided by the United States only with the understanding that it will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus. The President shall report to Congress any substantial evidence that equipment provided under any such agreement has been used in a manner inconsistent with the purposes of this section.

COMMERCIAL LEASING OF DEFENSE ARTICLES

SEC. 561. Notwithstanding any other provision of law, and subject to the regular notification requirements of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel and Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

CAMBODIAN NONCOMMUNIST RESISTANCE FORCES

[SEC. 562. (a) ASSISTANCE.—Not to exceed $7,000,000 of the funds appropriated by this Act under the heading "ECONOMIC SUPPORT FUND" may be made available for assistance for the Cambodian noncommunist resistance forces and noncommunist civilians in Cambodia, notwithstanding any other provision of law (except that sections 531(e) and 634A of the Foreign Assistance Act of 1961 and section 523 of this Act apply with respect to funds used under this section).

[(b) PROHIBITION ON DIRECT OR INDIRECT ASSISTANCE FOR THE KHMER ROUGE.—(1) Funds made available under this section shall be subject to the prohibitions contained in section 906 of the International Security and Development Cooperation Act of 1985.

[(2) The President shall terminate assistance under this section to any noncommunist resistance organization that he determines is engaged in a pattern of military cooperation and coordination designed to assist the Khmer Rouge.

[(c) ADMINISTRATION OF ASSISTANCE.—To the maximum extent possible, all funds made available under this section shall be administered directly by the United States Government.

[(d) RELATION TO ASSISTANCE FOR CAMBODIAN CHILDREN.—Any assistance provided under this section shall be in addition to the assistance provided for under the heading "HUMANITARIAN ASSISTANCE FOR CAMBODIAN CHILDREN"]

ASSISTANCE FOR BURMA

SEC. 562. Funds appropriated by this Act, and funds appropriated in prior foreign assistance appropriations Acts which were used to provide assistance for Burma under chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, may be made available, notwithstanding any other provision of law, for training and education assistance for Burmese students outside of Burma who are displaced as a result of civil conflict, and for activities which support democratic pluralism in Burma.

COMPETITIVE INSURANCE

SEC. 563. All Agency for International Development contracts and solicitations, and subcontracts entered into under such contracts, shall include a clause requiring that United States marine insurance companies have a fair opportunity to bid for marine insurance when such insurance is necessary or appropriate.

IRELAND

SEC. 564. It is the sense of the Congress that of the funds appropriated or otherwise made available for the International Fund for Ireland, the Board of the International Fund for Ireland should give great weight in the allocation of such funds to projects which will create permanent, full-time jobs in the areas that have suffered most severely from the consequences of the instability of recent years. Areas that have suffered most severely from the consequences of the instability of recent years shall be defined as areas that have high rates of unemployment.

ASSISTANCE TO AFGHANISTAN

SEC. 565. Funds appropriated by this Act may not be made available, directly or for the United States proportionate share of programs funded under the heading "International Organizations and Programs", for assistance to be provided inside Afghanistan if that assistance would be provided

through the Soviet-controlled government of Afghanistan. This section shall not be construed as limiting the United States contributions to international organizations for humanitarian assistance.

EL SALVADOR ECONOMIC SUPPORT FUNDS

SEC. 566. Not less than 25 per centum of the Economic Support Funds made available for El Salvador by this Act shall be used for projects and activities in accordance with the provisions applicable to assistance under chapter 1 of part I of the Foreign Assistance Act of 1961.

DISADVANTAGED ENTERPRISES

SEC. 567. (a) Except to the extent that the Administrator of the Agency for International Development of the Foreign Assistance Act of 1961 determines otherwise, not less than 10 percent of the aggregate amount made available for the current fiscal year for development assistance and assistance for famine recovery and development in Africa shall be made available only for activities of United States organizations and individuals that are—

(1) business concerns owned and controlled by socially and economically disadvantaged individuals,

(2) historically black colleges and universities,

(3) colleges and universities having a student body in which more than 40 per centum of the students are Hispanic American, and

(4) private voluntary organizations which are controlled by individuals who are socially and economically disadvantaged.

(b)(1) In addition to other actions taken to carry out this section, the actions described in paragraphs (2) through (5) shall be taken with respect to development assistance and assistance for famine recovery and development in Africa for fiscal year 1990.

(2) Notwithstanding any other provision of law, in order to achieve the goals of this section, the Administrator—

(A) to the maximum extent practicable, shall utilize the authority of section 8(a) of the Small Business Act (15 U.S.C. 637(a));

(B) to the maximum extent practicable, shall enter into contracts with small business concerns owned and controlled by socially and economically disadvantaged individuals, and organizations contained in paragraphs (2) through (4) of subsection (a)—

(i) using less than full and open competitive procedures under such terms and conditions as the Administrator deems appropriate, and

(ii) using an administrative system for justifications and approvals that, in the Administrator's discretion, may best achieve the purpose of this section; and

(C) shall issue regulations to require that any contract in excess of $500,000 contain a provision requiring that no less than 10 per centum of the dollar value of the contract be subcontracted to entities described in subsection (a), except—

(i) to the extent the Administrator determines otherwise on a case-by-case or category-of-contract basis; and

(ii) this subparagraph does not apply to any prime contractor that is an entity described in subsection (a).

(3) Each person with contracting authority who is attached to the agency's headquarters in Washington, as well as all agency missions and regional offices, shall notify the agency's Office of Small and Disadvantaged Business Utilization at least seven business days before advertising a contract in excess of $100,000, except to the extent that the Administrator determines otherwise on a case-by-case or category-of-contract basis.

(4) The Administrator shall include, as part of the performance evaluation of any mission director of the agency, the mission director's efforts to carry out this section.

(5) The Administrator shall submit to the Congress annual reports on the implementation of this section. Each such report shall specify the number and dollar value or amount (as the case may be) of prime contracts, subcontracts, grants, and cooperative agreements awarded to entities described in subsection (a) during the preceding fiscal year.

(6) The Administrator shall issue interim regulations to carry out this section within ninety days after the date of the enactment of this Act and final regulations within one hundred and eighty days after that date.

(c) As used in this section, the term "socially and economically disadvantaged individuals" has the same meaning that term is given for purposes of section 8(d) of the Small Business Act, except that the term includes women.

STINGERS IN THE PERSIAN GULF REGION

SEC. 568. *(a)* Except as provided in section 581 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, the United States may not sell or otherwise make available any Stingers to any country bordering the Persian Gulf under the Arms Export Control Act or chapter 2 of part II of the Foreign Assistance Act of 1961.

(b) Section 5669(d) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, is hereby repealed.

PROHIBITION ON LEVERAGING AND DIVERSION OF UNITED STATES ASSISTANCE

SEC. 569. (a) None of the funds appropriated by this Act may be provided to any foreign government (including any instrumentality or agency thereof), foreign person, or United States person in exchange for that foreign government or person undertaking any action which is, if carried out by the United States Government, a United States official or employee, expressly prohibited by a provision of United States law.

(b) For the purposes of this section the term "funds appropriated by this Act" includes only (1) assistance of any kind under the Foreign Assistance Act of 1961; and (2) credits, and guaranties under the Arms Export Control Act.

(c) Nothing in this section shall be construed to limit—

(1) the ability of the President, the Vice President, or any official or employee of the United States to make statements or otherwise express their views to any party on any subject;

(2) the ability of an official or employee of the United States to express the policies of the President; or

(3) the ability of an official or employee of the United States to communicate with any foreign country government, group or individual, either directly or through a third party, with respect to the prohibitions of this section including the reasons for such prohibitions, and the actions, terms, or conditions which might lead to the removal of the prohibitions of this section.

APPROPRIATIONS OF EXCESS CURRENCIES

SEC. 570. The provisions of section 1306 of title 31, United States Code, shall not be waived to carry out the provisions of the Foreign Assistance Act of 1961 by any provision of law enacted after the date of enactment of this Act unless such provision makes specific reference to this section.

DEBT-FOR-DEVELOPMENT

SEC. 571. In order to enhance the continued participation of nongovernmental organizations in economic assistance activities under the Foreign Assistance Act of 1961, including debt-for-development and debt-for-nature exchanges, a nongovernmental organization may invest local currencies which accrue to that organization as a result of economic assistance provided under the heading "Agency for International Development" and any interest earned on such investment may be used, including for the establishment of an endowment, for the purpose for which the assistance was provided to that organization.

LEBANON

SEC. 572. [Funds] *Of the funds* appropriated by this Act to carry out chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 [which are] *not less than $7,500,000 shall be* made available for Lebanon *and* may be provided in accordance with the general authorities contained in section 491 of the Foreign Assistance Act of 1961.

LOCATION OF STOCKPILES

[SEC. 573. (a) Except for stockpiles located in the Republic of Korea, Thailand, a country which is a member of the North Atlantic Treaty Organization, or a country which is a major non-NATO ally, no stockpile may be located outside the boundaries of a United States military base or a military base used primarily by the United States.]

SEC. 573. (a) Section 514(c) of the Foreign Assistance Act of 1961 is amended by inserting "or major non-NATO allies," after "Organization,".

(b) Section 514(b)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h) is amended by striking out "$165,000,000 for fiscal year 1990" and inserting in lieu thereof ["$178,000,000 for fiscal year 1991"] *"$278,000,000 for fiscal year 1991, of which amount not less than $200,000,000 shall be for stockpiles in Israel".*

ASSISTANCE FOR PAKISTAN

SEC. 574. *(a)* Section 620E(d) of the Foreign Assistance Act of 1961 is amended by striking out "April 1, 1991" and inserting in lieu thereof "April 1, 1992".

(b) Notwithstanding any other provision of law, none of the funds appropriated by this Act under the headings "Economic Support Fund", "Foreign Military Financing Program", and "International Military Education and Training", may be made available for Pakistan unless the President certifies, and so reports to the Congress, that—

(1) the state of emergency in Pakistan was lifted, and full civil liberties restored, in time to allow for the fair conduct of National Assembly elections;

(2) the Government of Pakistan held timely, free, fair, and internationally monitored National Assembly elections, open to the full participation of all legal parties and all candidates of those parties;

(3) the proceedings of the Special Courts established on August 8 and August 21, 1990 did not interfere with the conduct of free and fair elections; and

(4) the National Assembly has convened and that no elected member of the Assembly has been denied a seat for political reasons

(c) None of the funds appropriated in this Act shall be obligated or expended for Pakistan except as provided through the regular notification procedures of the Committees on Appropriations.

SEPARATE ACCOUNTS

SEC. 575. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—(1) If assistance is furnished to the government of a foreign country under chapter 1 of part I (including assistance for sub-Saharan Africa and the Philippines Multilateral Assistance Initiative) or chapter 4 of part II of the Foreign Assistance Act of 1961 under [arrangements] *agreements* which result in the generation of local currencies of that country, the Administrator of the Agency for International Development shall—

(A) require that local currencies be deposited in a separate account established by that government;

(B) enter into an agreement with that government which sets forth—

(i) the amount of the local currencies to be [generated] *deposited*, and

(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

(C) establish by agreement with that government the responsibilities of the Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

(A) to carry out chapter 1 of part I or chapter 4 of part II (as the case may be), [or] *for—*

(i) project and sector assistance activities, or

(ii) general budget support, including debt and deficit financing; or

(B) for the administrative requirements of the United States Government.

(3) PROGRAMMING ACCOUNTABILITY.—The Agency for International Development shall take all appropriate steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapter 1 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

(5) AMOUNT OF LOCAL CURRENCIES DEPOSITED.—(A) For purposes of this section and section 609 of the Foreign Assistance Act of 1961, the amount of local currencies deposited shall be whatever amount is agreed upon for joint programming by the Administrator and the foreign government and which amount, for the purposes of this section, is specified in the agreement required by subsection (a)(1)(B).

(B) The provisions of this subsection shall supersede the tenth and eleventh provisos contained under the heading "Sub-Saharan Africa, Development Assistance" as included in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 and sections 531(d) and 609 of the Foreign Assistance Act of 1961.

(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—(1) If assistance is made available to the government of a foreign country, under chapter 1 of part I (including assistance for sub-Saharan Africa and the Philippines Multilateral Assistance Initiative) or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Report No. 98-1159).

(3) NOTIFICATION.—At least fifteen days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.

ELIGIBILITY FOR OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 576. (a) PROGRAMS.—Section 239(f) of the Foreign Assistance Act of 1961 is amended by inserting ["Czechoslovakia] *"or any other East European country,"* after "Hungary,".

[(b) PARTICIPATION BY NONGOVERNMENTAL SECTOR.—(1) In accordance with its mandate to foster private initiative and competition and enhance the ability of private enterprise to make its full contribution to the development process, the Overseas Private Investment Corporation shall support projects in Poland, Hungary, and Czechoslovakia which will result in enhancement of the nongovernmental sector and reduction of state involvement in the economy.

[(2) For purposes of this subsection, the term "nongovernmental sector" in Poland, Hungary, and Czechoslovakia includes private enterprises, cooperatives (insofar as they are not administered by the Governments of Poland, Hungary, or Czechoslovakia), joint ventures (including partners which are not the Governments of Poland, Hungary, or Czechoslovakia or instrumentalities thereof), businesses in Poland, Hungary, or Czechoslovakia that are wholly or partly owned by United States citizens, including those of Polish, Hungarian, or Czechoslovak descent, religious and ethnic groups (including the Catholic Church), and other independent social organizations.

[(c) DEFINITION OF ELIGIBLE INVESTOR.—Notwithstanding subsection (b), the term "eligible investor" with respect to OPIC's programs in Czechoslovakia, Poland and Hungary has the same meaning as contained in section 238(c) of the Foreign Assistance Act of 1961.

[(d) EFFECTIVE DATE.—The authority of the Overseas Private Investment Corporation to issue insurance, reinsurance, guarantees, and to provide any assistance under its direct loan and equity programs with respect to projects undertaken in Czechoslovakia, Poland and Hungary shall take effect upon the date of enactment of this Act and shall remain in effect until September 30, 1992.]

(b) PARTICIPATION BY NONGOVERNMENTAL SECTOR.—(1) In accordance with its mandate to foster private initiative and competition and enhance the ability of private enterprise to make its full contribution to the development process, the Overseas Private Investment Corporation shall support projects in Poland, Hungary, and other East European countries which will result in enhancement of the nongovernmental sector and reduction of state involvement in the economy.

(2) For purposes of this subsection the term "nongovernmental sector" includes private enterprises, cooperatives (insofar as they are not administered by the government), joint ventures (including partners which are not governments of East European countries or instrumentalities thereof), businesses that are wholly or partly owned by United States citizens, religious and ethnic groups (including the Catholic Church), and other independent social organizations.

(c) DEFINITION OF ELIGIBLE INVESTOR.—Notwithstanding subsection (b), the term "eligible investor" with respect to OPIC's programs in Eastern Europe has the same meaning as contained in section 238(c) of the Foreign Assistance Act of 1961.

(d) EXPIRATION DATE.—The authority of the Overseas Private Investment Corporation to issue insurance, reinsurance, and guarantees, and to provide any assistance under its direct loan and equity programs with respect to projects undertaken in Eastern Europe shall remain in effect until September 30, 1992.

ASSISTANCE FOR NICARAGUA

SEC. 577. (a) None of the funds appropriated by this Act shall be provided for any member of the Nicaraguan resistance who has not disarmed and is not abiding by the terms of the cease-fire agreement and the addendums to the Toncontin Agreement signed on April 19, 1990.

(b) Section 1 of the Act entitled "An Act to provide survival assistance to victims of civil strife in Central America", approved December 11, 1989 (Public Law 101-215), is amended by repealing subsection (c).

COMPENSATION FOR UNITED STATES EXECUTIVE DIRECTORS TO INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 578. (a) No funds appropriated by this Act may be made as payment to any international financial institution while the United States Executive Director to such institution is compensated by the institution at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to such institution is compensated by the institution at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) For purposes of this section, "international financial institutions" are: the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the International Monetary Fund, and the European Bank for Reconstruction and Development.

WITHHOLDING OF OBLIGATIONS FOR THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

[SEC. 579. (a) None of the funds made available by this Act for the European Bank for Reconstruction and Development may be obligated until—

[(1) the President reaches an agreement, the authority to enter into which he is hereby granted notwithstanding any other provision of law, which accurately reflects the real collectability of debts of the Polish Government to the Government of the United States, and

[(2)(A) an International Monetary Fund agreement is in effect with respect to Poland, and that it is the intent of the Polish Government to continue full implementation of that program,

[(B) the recent historic change of the Polish Government into a democracy is being maintained,

[(C) the Polish Government is seeking comparable treatment of both public and private external debt, and

[(D) final debt adjustment agreements provide comparable treatment of both public and private external creditors in order to avoid inequity between different categories of creditors.

[(b) Debt adjustment agreements for the democratic Government of Poland should recognize that Polish economic conditions and therefore the collectability of Polish debt are far worse than the economic conditions which faced the Federal Republic of Germany in the early 1950's when its external debts were adjusted under both the London Agreement on German External Debts and under other postwar official bilateral debt agreements reached with the Allied powers and Denmark. At that time, the German debt to GNP ratio was 15.6 percent and the German debt to export ratio was 87.1 percent. For Poland today these same ratios, which reflect the dire economic circumstances in Poland and the inability of the Polish Government to service its debt, are 63.9 percent and 300.7 percent.

[(c) Funds may be obligated notwithstanding subsection (a) subject to the regular notification procedures of the Committees on Appropriations.]

SEC. 579. (a) None of the funds made available by this Act for the European Bank for Reconstruction and Development may be obligated until—

(1) the President has reached an agreement, the authority to enter into which he is hereby granted notwithstanding any other provision of law, which accurately reflects the real collectability of debts of the Government of Poland to the Government of the United States, and

(2)(A) an International Monetary Fund agreement is in effect with respect to Poland, and that it is the intent of the Government of Poland to continue implementation of that program,

(B) the recent historic change of the Government of Poland into a democracy is continuing,

(C) the Government of Poland is seeking comparable treatment of both public and private external debt, and

(D) final debt adjustment agreements provide comparable treatment of both public and private external creditors in order to avoid inequity between different categories of creditors.

(b) Funds may be obligated notwithstanding subsection (a) subject to the regular notification procedures of the Committees on Appropriations.

FMF FOR FMS DEBT REPAYMENT

SEC. 580. Section 23 of the Arms Export Control Act is amended by inserting a new subsection (e), as follows:

"(e)(1) Funds made available to carry out this section may be used by a foreign country to make payments of principal and interest which it owes to the United States Government on account of credits previously extended under this section or loans previously guaranteed under section 24, subject to paragraph (2).

"(2) Funds made available to carry out this section may not be used for prepayment of principal or interest pursuant to the authority of paragraph (1).".

[CASH FLOW FINANCING LIMITATION

[SEC. 581. Effective October 1, 1993, not more than 75 percent of the funds allocated to each country in any fiscal year under the Foreign Military Financing Program may be used for the practice of "cash flow financing" as defined in section 25(d) of the Arms Export Control Act.

[SEC. 582. Except for amounts appropriated for Sub-Saharan Africa Development Assistance, the Peace Corps, Anti-Terrorism Assistance, International Narcotics Control, Migration and Refugee Assistance, Emergency Refugee Migration Assistance, the Export Import Bank, Payment to the Foreign Service Retirement and Disability Fund, and the Guaranty Reserve Fund, appropriations contained in this Act for each account shall be reduced by 2 percent of the aggregate of the appropriated and unearmarked funds.]

FUTURE ASSISTANCE PROJECTIONS

SEC. 581. The Congress finds that, as is the case with most domestic programs, overall constraints on the Federal budget will have a significant impact on the ability of the United States Government to meet program requirements in the coming years. Therefore, in order to assist the Congress to make the difficult policy choices attendant to budget shortfalls, the Congressional Presentation Documents of departments and agencies included within this Act shall contain funding projections for each of its major program components for each of the two years following the year for which new budget or other authority is being requested. The requirements of this section shall be effective for the Congressional Presentation Documents submitted for the fiscal year 1992.

HUMAN RIGHTS

SEC. 582. Not later than thirty days after submission of the report required by section 502B(b) of the Foreign Assistance Act of 1961, the Secretary of State shall submit to the Committees on Appropriations a listing of those countries the governments of which are found, based upon the criteria and findings in the report required by section 502B(b) of the Foreign Assistance Act of 1961, to engage in a consistent pattern of gross violations of internationally recognized human rights. This list shall be accompanied by a report from the Secretary of State describing how, for each country receiving assistance under the Foreign Military Financing Program, such assistance will be conducted to promote and advance human rights and how the United States will avoid identification with activities which are contrary to internationally recognized standards of human rights.

OTHER ASSISTANCE FOR EASTERN EUROPE

SEC. 583. Notwithstanding any other provision of law, a total of $500,000 of the Polish currencies which are held by the United States as of the date of the enactment of this Act which are derived from programs administered by the Commodity Credit Corporation, or pursuant to the Agricultural Trade Development and Assistance Act of 1954, section 416(b) of the Agricultural Act of 1949, or the Food for Progress Act of 1985, shall be made available for the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland: Provided, That such currencies shall be made available notwithstanding 31 U.S.C. 1306 and section 570 of this Act.

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

SEC. 584. In all negotiations concerning the structure, bylaws, and operating procedures of the European Bank for Reconstruction and Development (EBRD), the Secretary of the Treasury shall vigorously seek—

(1) establishment of procedures for environmental assessment of all proposed operations with potentially significant environmental impacts;

(2) establishment of an environmental unit with sufficient staff to review proposed operations, monitor compliance with environmental provisions, and provide overall policy guidance;

(3) establishment of procedures for systematic consultation with and involvement of the public and interested nongovernmental organizations, including an opportunity for comment by local communities which may be affected by EBRD operations;

(4) agreement that a significant portion of the EBRD's funds shall be devoted to projects focussed on environmental restoration and protection; and

(5) establishment of an Environment Fund to provide grants and loans for technical assistance, development of environmental institutions and regulatory systems, public education, and training.

PROPERTY MANAGEMENT FUND

SEC. 585. (a) The proceeds of overseas property acquired by the Agency for International Development under the authority of section 636(c) of the Foreign Assistance Act of 1961 may be deposited in a separate fund, which shall be known as the Property Management Fund. Such proceeds shall be available for use only for the purposes of section 636(c) of that Act, and shall remain available until expended. The Administrator of the Agency for International Development shall report all uses of funds deposited into the Property Management Fund as part of the annual Congressional Presentation materials submitted by the Agency for International Development.

(b) The provisions of subsection (a) shall be applicable to property acquired prior to the date of enactment of this Act and at any time thereafter.

COMPLIANCE WITH UNITED NATIONS SANCTIONS AGAINST IRAQ

SEC. 586. (a) IN GENERAL.—No United States assistance appropriated by this Act may be provided to any country which is not in compliance with the United Nations sponsored economic sanctions against Iraq unless the President determines and so certifies to the Congress that—

(1) it is in the national interest of the United States to do so;

(2) such assistance would directly benefit the needy people in that country;

(3) such assistance would be used to provide humanitarian assistance to refugees in that country; or

(4) the government of the country receiving the assistance is making a good faith effort to comply with those economic sanctions.

(b) Definition.—For purposes of this section, the term "United States assistance" means—

(1) assistance under the Foreign Assistance Act of 1961, including programs under title IV of chapter 2 of part I of that Act (relating to the Overseas Private Investment Corporation); and

(2) sales, credits, and guaranties under the Arms Control Export Act.

MILITARY AID LIMITED TO DEMOCRATIC GOVERNMENTS

Sec. 587. None of the funds appropriated or otherwise made available pursuant to this or previous Acts shall be obligated or expended to finance or provide any military assistance to a government that, as determined by the President (1) has not been chosen pursuant to free and fair elections, or (2) is not making significant progress toward democracy: *Provided*, That this section shall not apply to assistance to a country if the President determines, and so notifies the Congress, that assistance to such country is in the national interest of the United States: *Provided further*, That for the purposes of this section, "military assistance" means foreign military financing under the Arms Export Control Act and international military education and training under chapter 5 of part II of the Foreign Assistance Act of 1961.

MANDATORY RETIREMENT FOR CERTAIN INSPECTOR GENERAL STAFF

Sec. 588. (a) Computation of Annuities.—Section 806(a) of the Foreign Service Act of 1980 (22 U.S.C. 4046) is amended—

(1) by inserting "(1)" immediately after "(a)"; and

(2) by adding at the end thereof the following new paragraphs:

"(2) Notwithstanding the percentage limitation contained in paragraph (1) of this subsection—

"(A) utilizing the definition of average pay contained in section 8331(4) of title 5, United States Code, the annuity of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who was appointed to a law enforcement position, as defined in section 8331(20) of the title 5, United States Code, prior to January 1, 1984, and would have been eligible to retire pursuant to section 8336(c) of that title, after attaining 50 years of age and completing 20 years as a law enforcement officer had the employee remained in the civil service shall be computed in the same manner as that of a law enforcement officer pursuant to section 8339(d) of that title, except as provided in paragraph (3); and

"(B) the annuity of a Foreign Service criminal investigator/inspector of such office, who was appointed to a law enforcement position as defined in section 8401(17) of that title on or after January 1, 1984, and who would have been eligible to retire pursuant to section 8412(d) of that title, after attaining 50 years of age and completing 20 years of service as such a law enforcement officer, had the employee remained in the civil service, shall be computed in the same manner as that of a law enforcement officer pursuant to section 8415(d) of that title.

"(3) The annuity of a Foreign Service investigator/inspector of the Office of the Inspector General, Agency for International Development, appointed to a law enforcement position prior to January 1, 1984, who exercised election rights under section 860 of the Foreign Service Act of 1980, shall be computed as follows: for the period prior to election the annuity shall be computed in accordance with section 8339(d) of title 5, United States Code; for the period following election the annuity shall be computed in accordance with section 8415(d) of that title.

"(4) All service in a law enforcement position, as defined in section 8331(20) or 8401(17) of that title, as applicable, in any agency or combination of agencies shall be included in the computation of time for purposes of this paragraph.

"(5) The annuity of a Foreign Service criminal investigator/inspector of the Office of the Inspector General of the Agency for International Development who has not completed 20 years of service as a law enforcement officer, as defined in section 8331(20) or 8401(17) of that title, shall be computed in accordance with paragraph (1).

"(6) For purposes of paragraphs (2), (3) and (4) of this subsection, the term 'basic pay' includes pay as provided in accordance with section 412 of this Act or section 5545(a)(2) of title 5, United States Code.".

(b) Section 812 of the Foreign Service Act of 1980 is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding the following new paragraph:

"(2) Notwithstanding paragraph (1), a Foreign Service criminal investigator/inspector of the Office of Inspector General of the Agency for International Development who would have been eligible for retirement pursuant to either section 8336(c) or 8412(d) of title 5, United States Code, as applicable, had the employee remained in civil service, shall be separated from the Service on the last day of the month in which that Foreign Service criminal investigator/inspector attains 55 years of age or completes 20 years of service if then over that age. If the head of the agency judges that the public interest so requires, that agency head may exempt such an employee from automatic separation under this subsection until that employee attains 60 years of age. The employing office shall notify the employee in writing of the date of separation at least 60 days before that date. Action to separate the employee is not effective without the consent of the employee, until the last day of the month in which the 60-day notice expires.".

PRESIDENTIAL FOREIGN ASSISTANCE CONTINGENCY AUTHORITIES

Sec. 589. Section 451(a) of the Foreign Assistance Act of 1961 is amended by—

(1) striking out the phrases "not to exceed $10,000,000 of" and "in any fiscal year";

(2) striking out the phrase "emergency purposes" and inserting in lieu thereof "unanticipated contingencies"; and

(3) inserting the following immediately before the period: ", except that the authority of this subsection may not be used to authorize the use of more than $50,000,000 during any fiscal year".

LIMITATION ON AVAILABILITY OF ADMINISTRATIVE CHARGES FOR PAYMENT OF THE COSTS OF SECURITY ASSISTANCE ADMINISTRATIVE PERSONNEL

Sec. 590. Section 43 of the Arms Export Control Act (22 U.S.C. 2792) is amended by adding at the end thereof the following new subsection:

"(d)(1) Not more than $265,000,000 of the funds derived from administrative surcharges and logistic support charges pursuant to section 21(e)(1)(A) may be used each fiscal year for payment of the costs associated with security assistance administrative personnel, including the salaries or other benefits of civilians who serve as security assistance administrative personnel.

"(2) For purposes of paragraph (1), the term 'security assistance administrative personnel' means the military or civilian personnel who administer the provision of security assistance.".

IRAQ SANCTIONS

Sec. 591. (a) General Prohibition on Support for Iraq.—

(1) Notwithstanding any other provision of law, no funds, credits, guarantees or insurance appropriated or otherwise made available by any Act for fiscal year 1990 or thereafter, shall be used to support or administer any financial or commercial operation, of any United States Government department, agency, entity or persons subject to United States jurisdiction, involving the Government of Iraq, its agencies, institutions or persons working on its behalf, including the processing of any "validated" or "general" export licenses or any documentation related to the importation of Iraqi-origin products into the United States or its territories, or possessions thereof.

(2) The Department of Commerce is instructed to include Iraq within Country Group S within supplement Number 1 to section 770 of the Export Administration Regulations ("EAR").

(3) This subsection shall become effective immediately upon the enactment of this Act, except for the performance of a contract or agreement entered into before the enactment of this Act.

(4) The penalties for violation of the general prohibition contained in this subsection by exporters, exporting agents and entities under the jurisdiction of the United States, shall be the same as those contained in section 11 of the Export Administration Act of 1979, as amended, Public Law 96–72 (93 Stat. 529, as amended).

(b) Iraq To Be Considered a Terrorist Nation.—(1) Notwithstanding any other provision of law, for the purpose of the application of prohibitions, limitations, restrictions, and other requirements of the provisions of law contained in paragraph (2), Iraq shall be considered a country which grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism, has repeatedly provided support for acts of international terrorism, or otherwise supports international terrorism.

(2) The provisions of law referred to in subsection (a) include—

(A) section 620A of the Foreign Assistance Act of 1961, as amended;

(B) sections 563 and 564 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990;

(C) section 555 of the International Security and Development Cooperation Act of 1985; and

(D) similar provisions of law.

(3) The President may not use any waiver authority provided under Acts referred to in paragraph (2) of this subsection, or statutes made applicable by virtue of paragraph (2)(D), or under subsection 40(b) of the Arms Export Control Act, with respect to Iraq.

(c) Study and Report on the International Export to Iraq of Nuclear, Biological, Chemical, and Ballistic Missile Technology.—(1) The President shall conduct a study

on the sale, export and third party transfer or development of nuclear, biological, chemical and ballistic missile technology to or with Iraq including—

(A) an identification of specific countries, as well as companies and individuals, both foreign and domestic, engaged in such sale or export of, nuclear, biological, chemical and ballistic missile technology;

(B) a detailed description and analysis of the international supply, information, support and co-production network, individual, corporate and state, responsible for Iraq's current capability in the area of nuclear, biological, chemical and ballistic missile technology;

(C) a recommendation of standards and procedures against which to measure and verify a decision of the Government of Iraq to terminate the development, production, co-production and deployment of nuclear, biological, chemical and offensive ballistic missile technology as well as the destruction of all existing facilities associated with such technologies.

(2) The President shall include in the study required by paragraph (1) specific recommendations on new mechanisms, to include, but not limited to, legal, political, economic and regulatory, whereby the United States might contribute, in conjunction with its friends, allies, and the international community, to the management, control or elimination of the threat of nuclear, biological, chemical and ballistic missile proliferation.

(3) Not later than March 30, 1991, the President shall submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives, a report, in both classified and unclassified form, setting forth the findings of the study required by paragraph (1) of this subsection.

(d) Study and Report on Iraq's Offensive Military Capability.—(1) The President shall conduct a study on Iraq's offensive military capability and its affect on the Middle East balance of power including an assessment of Iraq's power projection capability, the prospects for another sustained conflict with Iran, joint Iraqi-Jordanian military cooperation, the threat Iraq's arms transfer activities pose to United States allies in the Middle East, and the extension of Iraq's political-military influence into Africa and Latin America.

(2) Not later than March 30, 1991, the President shall submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives, a report, in both classified and unclassified form, setting forth the findings of the study required by paragraph (1) of this subsection.

(e) Report on Sanctions Taken by Other Nations Against Iraq.—(1) The President shall prepare a report on the steps taken by other nations, both before and after the August 2, 1990 invasion of Kuwait, to curtail the export of goods, services and technologies to Iraq which might contribute to, or enhance, Iraq's nuclear, biological, chemical and ballistic missile capability.

(2) The President shall provide a complete accounting of international compliance with each of the sanctions resolutions passed by the United Nations Security Council against Iraq since August 2, 1990, and shall list, by name, each country which to his knowledge, has provided any assistance to Iraq and the amount and type of that assistance in violation of each United Nations resolution.

(3) The President shall make every effort to encourage other nations, in whatever forum or context, to adopt sanctions toward Iraq similar to those contained in this section.

(4) Not later than every six months from the date of enactment of this section, the President shall submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives, a report in both classified and unclassified form, setting forth the findings of the study required by paragraph (1) of this subsection.

EXCESS DEFENSE ARTICLES FOR COUNTRIES SUPPORTING DESERT SHIELD

Sec. 592. Section 516(a) of the Foreign Assistance Act of 1961 is amended by inserting after the second occurrence of the words "United States security assistance," the words "and those countries which received Foreign Military Financing (FMF) assistance in fiscal year 1990 and which, as of October 1, 1990, contributed armed forces to deter Iraqi aggression in the Arabian Gulf,".

CHEMICAL WEAPONS PROLIFERATION

Sec. 593. None of the funds appropriated by this Act may be used to finance the procurement of chemicals, dual use chemicals, or chemical agents that may be used for chemical weapons production: *Provided*, That the provisions of this section shall not apply to any such procurement if the President determines that such chemicals, dual use chemicals, or chemical agents are not intended to be used by the recipient for chemical weapons production.

JUDICIAL REVIEW OF GRIEVANCES ALLEGING DISCRIMINATION IN THE FOREIGN SERVICE

Sec. 594. (a) Section 1101(a)(1) of the Foreign Service Act of 1980 (22 U.S.C. 4131(a)(1)) is amended by—

(1) by striking out "and" at the end of subparagraph (F);

(2) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(H) any discrimination prohibited by—

"(i) section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16),

"(ii) section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)),

"(iii) section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791),

"(iv) sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), or

"(v) any rule, regulation, or policy directive prescribed under any provision of law described in clauses (i) through (v).".

(b) Section 1101(b) of the Foreign Service Act of 1980 (22 U.S.C. 4131(b)) is amended by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) any complaint brought with respect to the mandatory retirement age in section 812(a).".

(c) Section 1110 of the Foreign Service Act of 1980 (22 U.S.C. 4140) is amended by—

(1) striking out "Any" and inserting in lieu thereof "(a) Any"; and

(2) adding at the end thereof the following new subsections:

"(b) Any case seeking judicial review of alleged discrimination under section 1101(a)(1)(H) shall be filed under section 717(c) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(c)), section 15(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)), or section 16(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(b)), as applicable. Notwithstanding any other provision of law, any such case filed under this subsection must be filed within 180 days after the date the individual filing the case received written notice of the judicially reviewable final action of the Secretary or Board.

"(c) Notwithstanding any other provision of law, nothing in this section shall be construed to affect the right to trial de novo under any provision of law described in section 1101(a)(1)(H) after a judicially reviewable action, including the decision of an agency made pursuant to a specific statutory hearing procedure provided pursuant to such provision of law, or after a final action of the Secretary or the Board. Notwithstanding any other provision of law, any such case seeking a trial de novo must be filed within 180 days after the date the individual filing the case received written notice of the judicially reviewable final action, of the Secretary or Board.".

(d) The amendments made by this section shall apply to grievances filed under chapter 11 of the Foreign Service Act of 1980 on or after the date of enactment of this Act.

NOTIFICATIONS FOR EMERGENCY ASSISTANCE

Sec. 595. Any requirement to provide advance notification to the Congress, or any congressional committees, under any provision of this Act, or of any Act authorizing or appropriating funds for use under the Foreign Assistance Act of 1961 or the Arms Export Control Act, may be waived if failure to do so would pose a substantial risk to human health or welfare, or would be inconsistent with the need to meet an imminent military threat: *Provided*, That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than three days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: *Provided further*, That any notification provided pursuant to this section shall contain an explanation of the circumstances necessitating the use of the authority of this section.

SUPPORT FOR EGYPTIAN MILITARY DEPLOYMENTS IN THE GULF

Sec. 596. (a) Sense of the Senate.—It is the sense of the Senate that—

(1) United States deployments in the Persian Gulf are dependent upon the support of United States friends and allies in the region;

(2) deployments of Egyptian armed forces in Saudi Arabia, and Egyptian logistical support for United States air operations in the region, are an essential element to the success of Operation Desert Shield;

(3) Egyptian troops in Saudi Arabia have deployed with United States-made and supplied equipment, which are supplied under United States military loan and grant aid programs;

(4) in addition to their role in support of Egypt's security, these deployments serve direct United States national security interests; and

(5) the forgiveness of debts on United States military aid loans to Egypt will enhance Egypt's ability to maintain deployments in Saudi Arabia and is in the direct national security interests of the United States.

(b) Debt.—Notwithstanding any other provision of law—

(1) the Secretary of Defense shall (A) issue to the Secretary of the Treasury sufficient notes or other obligations to purchase all

notes made by Egypt evidencing amounts owed by Egypt to the United States (or any agency of the United States), other than amounts already owed to the Secretary of Defense, as a result of loans made before October 1, 1990, by the United States (or any agency of the United States) to Egypt under the Arms Export Control Act (all such loans being hereinafter collectively referred to as the "AECA Loans") and (B) purchase all such notes made by Egypt, such purchase being considered in discharge of the responsibilities of the Secretary of Defense as guarantor of such notes;

(2) the President shall thereupon cancel all amounts owed by Egypt to the Secretary of Defense as a result of all AECA Loans; and

(3) the President shall also cancel all amounts owed by the Secretary of Defense under all notes or other obligations issued by the Secretary of Defense to the Secretary of the Treasury that are related to any guarantees of any AECA Loans, including all notes or other obligations issued under paragraph (1).

KENYA

SEC. 597. Notwithstanding any other provision of law, none of the funds appropriated by this Act under the headings "Economic Support Fund" and "Foreign Military Financing Program", may be made available for Kenya unless the President certifies, and so reports to the Congress, that the Government of Kenya is taking steps to—

(1) charge and try or release all prisoners, including any persons detained for political reasons;

(2) cease any physical abuse or mistreatment of prisoners;

(3) restore the independence of the judiciary; and

(4) restore freedoms of expression.

POLICE TRAINING FOR EAST CARIBBEAN REGIONAL SECURITY SYSTEM

SEC. 598. Section 660 of the Foreign Assistance Act of 1961 is amended by striking out "or" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting "; or" in lieu thereof, and by adding the following paragraph at the end of the subsection:

"(4) with respect to assistance provided to police forces in connection with their participation in the regional security system of the Eastern Caribbean states.".

ENTERPRISE FOR THE AMERICAS INITIATIVE

SEC. 599. (a) It is the sense of the Congress that the President's Enterprise for the Americas Initiative could encourage and support market-oriented reform and economic growth in Latin America and the Caribbean through inter-related actions to promote investment reforms, debt reduction and environmental protection.

(b) It is further the sense of the Congress that the President's proposal for the Enterprise for the Americas Initiative should be given prompt consideration.

EXCESS DEFENSE ARTICLES

SEC. 599A. (a) The Congress finds that impending changes in the United States armed forces are likely to result in increased availability of excess defense articles to meet security assistance requirements. The Congress urges the President to make maximum use of available excess defense articles as a cost-effective supplement to funded security assistance programs to meet the legitimate defense requirements of eligible allies and friends. Accordingly, the President is urged to establish policies and procedures to ensure that excess assets are applied against such requirements. Accordingly, the Foreign Assistance Act of 1961 is amended as follows.

(b) Chapter 2 of part II of the Foreign Assistance Act of 1961 is amended by adding the following at the end:

"SEC. 519. ADDITIONAL AUTHORITIES RELATING TO MODERNIZATION OF MILITARY CAPABILITIES.—(a) AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.—Notwithstanding any other provision of law (except title V of the National Security Act of 1947) and subject to subsection (b), the President may transfer to countries for whom a foreign military financing program was justified for the fiscal year in which the transfer is authorized, such excess defense articles as the President determines necessary to help modernize the defense capabilities of such countries, in accordance with the provisions of this section.

"(b) LIMITATIONS ON TRANSFERS.—The President may transfer excess defense articles under this section only if—

"(1) the equipment is drawn from existing stocks of the Department of Defense;

"(2) no funds available to the Department of Defense for the procurement of defense equipment are expended in connection with the transfer;

"(3) the President determines that the transfer of the excess defense articles will not have an adverse impact on the military readiness of the United States; and

"(4) the President determines that transferring the articles under the authority of this section is preferable to selling them, after taking into account the potential proceeds from, and likelihood of, such sales, and the comparative foreign policy benefits that may accrue to the United States as the result of either a transfer or sale.

"(c) NOTIFICATION TO CONGRESS.—The President shall notify the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate, and the Committees on Appropriations, Armed Services, and Foreign Affairs of the House of Representatives fifteen days before transferring excess defense articles under subsection (a), in accordance with the regular notification procedures of those committees.

"(d) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 632(d) shall not apply with respect to transfers of excess defense articles under this section.

"(e) ANNUAL REPORT.—Commencing in 1991, not later than December 15 of each year, the President shall transmit to the committees described in subsection (c) a report with respect to the previous fiscal year which contains—

"(1) a list of the countries to which the President has furnished excess defense articles under the authority of this section; and

"(2) the value of the excess defense articles that were furnished to each such country.

"(f) TRANSPORTATION AND RELATED COSTS.—(1) Except as provided in paragraph (2), funds available to the Department of Defense shall not be expended for crating, packing, handling and transportation of excess defense articles transferred under the authority of this section.

"(2) Notwithstanding section 632(d) or any other provision of law, the President may direct the crating, packing, handling and transport of excess defense articles without charge to a country if—

"(A) that country has an agreement providing the United States with base rights in that country;

"(B) that country is eligible for assistance from the International Development Association; and

"(C) the excess defense articles are being provided to that country under the authority of this section.".

(c) In section 31(d) of the Arms Export Control Act, insert the following after the word "law" ", and of any defense articles with respect to which the President submits a certification under section 36(b) of this Act.".

JUDICIAL REFORM IN EL SALVADOR

SEC. 599B. (a) JUDICIAL REFORM PROGRAM.—An amount equivalent to 10 percent of the United States military assistance deposited in the Fund established pursuant to section 531(f) of this Act may be obligated and expended to assist in the carrying out of judicial reforms in El Salvador as described in this subsection only if the President certifies to Congress by October 1, 1991, that—

(1) the Government of El Salvador has satisfied the Commission established in subsection (c) of this section that significant progress in establishing an independent civilian judiciary and prosecutorial and investigative system has been made. For purposes of this paragraph "significant progress" means certification by the Commission that—

(A) the Legislative Assembly and the Supreme Court are acting to consider the National Legislative Revisory Commission (CORELESAL) proposals which should include admission of co-conspirator testimony in murder cases and a commitment to the reform of labor law;

(B) the Salvadoran Government has reactivated the Judicial Protection Unit and that the safety of judges and witnesses is being adequately provided;

(C) the procedures for detaining suspects and the treatment of detainees are in compliance with standards set forth by the U.N. Human Rights Commission; and

(D) the Government of El Salvador has devised and commenced implementation of a plan to place the police force under civilian control, including the time period within which such plan is to be implemented and the actions that will be taken to effect its implementation; and

(2) the conditions set forth in section 538 of this Act with respect to investigation of murders are satisfied and reported by the President to the Committees on Appropriations.

(b) REFORMS.—Assistance for judiciary reform pursuant to subsection (a) shall be administered through the Administration of Justice program to support activities which further the progress described in paragraph (1).

(c) ESTABLISHMENT OF BIPARTISAN COMMISSION.—(1) ESTABLISHMENT.—There shall be established a Bipartisan Commission no more than 30 days after enactment of this Act to study, advise, and make recommendations in accordance with subsection (a) that significant progress in establishing an independent civilian judiciary and prosecutorial and investigative system has been made.

(2) COMPOSITION.—The Commission established by this subsection shall be composed of four members—one to be appointed by the Speaker of the House, one to be appointed by the House Minority Leader, one to be appointed by the Senate Majority Leader, and one by the Senate Minority Leader.

(3) FUNDING.—Funds for the Commission established by this subsection shall be derived from unobligated fiscal year 1990 Economic Support Funds for the Administration of Justice program in El Salvador.

EXTENSION OF PROVISIONS

SEC. 599C. (a) Section 599D of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, is amended—

(1) in subsection (b)(3), by striking "fiscal year 1990" and inserting "for each of fiscal years 1990, 1991, and 1992", and

(2) in subsection (e), by striking "October 1, 1990" each place it appears and inserting "October 1, 1992".

(b) Section 599E(b)(2) of such Act is amended by striking "September 30, 1990" and inserting "September 30, 1992".

EXPEDITED RELEASE OF EQUIPMENT

SEC. 599D. (a) Notwithstanding any other provision of law, property supplied under any United States military assistance program, Foreign Military Financing program or the Special Defense Acquisition Fund shall be offered first to NATO allies which are contiguous to Iraq and to major non-NATO allies on the southern and southeastern flank of NATO which do not receive financial assistance from any country in the Near East region before being made available to any other country or entity not subject to United States jurisdiction.

(b) Any country eligible under subsection (a) shall be able to use any funds made available to it by the United States under any military assistance program for the removal, transport and installation of such excess property.

(c) For the purposes of this provision, the term "property" shall include excess defense articles and temporary shelters.

(d) In the administration of this provision, the Department of Defense shall take such measures as are necessary to expedite the transfer of equipment referred to in subsection (a).

ASSISTANCE FOR YUGOSLAVIA

Sec. 599E. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to provide any direct assistance to the Federal Republic of Yugoslavia: Provided, That for purposes of this section, the prohibition on obligation or expenditures shall include direct loans, credits, insurance, and guarantees of the Export-Import Bank of the United States or its agents: Provided further, That the Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to use the voice and vote of the United States to oppose any assistance of the respective institution to the Federal Republic of Yugoslavia: Provided further, That this section shall not apply if substantially all of the assistance provided to any program, project, or activity is used in a Yugoslav Republic which has held free and fair elections and which is not engaged in the systematic abuse of human rights: Provided further, That this section shall not apply to assistance intended to support democratic parties or movements, emergency or humanitarian assistance, or the furtherance of human rights: Provided further, That this section shall not apply if the Secretary of State certifies to the Congress that the Federal Republic of Yugoslavia is in compliance with the obligations of the Helsinki Accords.

TITLE VI—INTERNATIONAL FORESTRY COOPERATION

SEC. 601. SHORT TITLE.

This title may be cited as the "International Forestry Cooperation Act of 1990".

SEC. 602. FORESTRY AND RELATED NATURAL RESOURCE ASSISTANCE.

(a) FOCUS OF ACTIVITIES.—To achieve the maximum impact from activities undertaken under the authority of this title, the Secretary shall focus such activities on the key countries which could have a substantial impact on emissions of greenhouse gases related to global warming.

(b) AUTHORITY FOR INTERNATIONAL FORESTRY ACTIVITIES.—In support of forestry and related natural resource activities outside of the United States and its territories and possessions, the Secretary of Agriculture (hereinafter referred to in this title as the Secretary) may—

(1) provide assistance that promotes sustainable development and global environmental stability, including assistance for—

(A) conservation and sustainable management of forest land;

(B) forest plantation technology and tree improvement;

(C) rehabilitation of cutover lands, eroded watersheds, and areas damaged by wildfires or other natural disasters;

(D) prevention and control of insects, diseases, and other damaging agents;

(E) preparedness planning, training, and operational assistance to combat natural disasters;

(F) more complete utilization of forest products leading to resource conservation;

(G) range protection and enhancement; and

(H) wildlife and fisheries habitat protection and improvement;

(2) share technical, managerial, extension, and administrative skills related to public and private natural resource administration;

(3) provide education and training opportunities to promote the transfer and utilization of scientific information and technologies;

(4) engage in scientific exchange and cooperative research with foreign governmental, educational, technical and research institutions; and

(5) cooperate with domestic and international organizations that further international programs for the management and protection of forests, rangelands, wildlife and fisheries, and related natural resource activities.

(c) ELIGIBLE COUNTRIES.—The Secretary shall undertake the activities described in subsection (b), in countries that receive assistance from the Agency for International Development only at the request, or with the concurrence, of the Administrator of the Agency for International Development.

SEC. 603. TROPICAL DEFORESTATION ASSESSMENT AND ASSISTANCE.

In support of the Tropical Forestry Action Plan and to specifically address tropical deforestation and degradation, the Secretary may—

(1) support and actively participate in global and regional meetings that seek to reform such Plan;

(2) together with the United States Agency for International Development, and other Federal agencies, provide technical assistance to tropical countries for the formulation of national forestry sector development strategies; and

(3) cooperate with tropical countries on research, training, and technical programs aimed at implementing national forestry sector development strategies.

SEC. 604. INSTITUTE OF TROPICAL FORESTRY.

(a) EXPANSION.—The Secretary shall expand the capabilities of and construct additional facilities at the Caribbean National Forest and Institute of Tropical Forestry in Puerto Rico, as the Secretary determines necessary to support the purpose of this title, and as funds are appropriated for such expansion and construction.

(b) TROPICAL FORESTRY PLANS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall prepare and submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Committee on Agriculture of the House of Representatives, and to the Committees on Appropriations of the Senate and House of Representatives, a tropical forestry plan for the expansion and construction of additional facilities under subsection (a). Such plan shall include provisions for—

(1) the construction or acquisition of a major center for education, interpretation, and appreciation of the benefits and methods of the intelligent management of tropical forests;

(2) the acquisition or construction of facilities for housing and classroom instruction near the Caribbean National Forest/Luguillo Experimental Forest; and

(3) the acquisition or construction of facilities for the study and recovery of endangered tropical wildlife, fish and plant species.

SEC. 605. ADMINISTRATIVE PROVISIONS.

(a) COORDINATION OF ACTIVITIES.—The Secretary shall coordinate all activities outside of the United States under this title with other Federal officials, departments, agencies, and international organizations, as the President may require.

(b) ASSISTANCE.—The Secretary may provide assistance, as determined appropriate by the Secretary to carry out this title, including technical and financial assistance, equipment, and facilities without reimbursement.

SEC. 606. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

SEC. 607. CONFORMING AMENDMENTS.

(a) FOREST AND RANGELAND RENEWABLE RESOURCES RESEARCH ACT.—The Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1641 et seq.) is amended—

(1) in section 2 (16 U.S.C. 1641)—

(A) by inserting "(1)" after "(a)";

(B) by adding at the end of subsection (a) the following new paragraph:

"(2) Congress further finds that the forest and rangeland renewable resources of the world are threatened by deforestation due to conversion to agriculture of lands better suited to other uses, over-grazing, over-harvesting, and other causes that pose a direct adverse threat to people, the global environment, and the world economy."; and

(C) by adding at the end thereof the following new subsection:

"(c) It is the purpose of this Act to authorize the Secretary to expand research activities to encompass international forestry and natural resource issues on a global scale."; and

(2) in the first section of section 4(c) (16 U.S.C. 1643(c)), by inserting "international," before "Federal".

(b) COOPERATIVE FORESTRY ASSISTANCE ACT.—The Cooperative Forestry Assistance Act of 1978 (16 U.S.C. et seq.) is amended—

(1) in section 2(a)—

(A) by striking "and" at the end of paragraph (16);

(B) by striking the period at the end of paragraph (17) and inserting "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(18) the same forest resource supply, protection, and management issues that exist in the United States are also present on an international scale, and the forest and rangeland renewable resources of the world are threatened by deforestation due to conversion to agriculture of lands better suited to other purposes, over-grazing, over-harvesting, and other causes which pose a direct adverse threat to people, the global environment, and the world economy ";

(2) in section 2(b), by inserting "in the United States, and forest lands in foreign countries," after "non-Federal forest lands," the first place it appears and in paragraph (10); and

(3) in section 12, by adding at the end thereof the following new subsection:

"(h) In addition to the authority provided elsewhere in this Act, the Secretary may provide assistance to other countries with respect to the activities described in paragraphs (1) through (10) of section 3(b), paragraphs (1) through (5) of section 7(b), and paragraphs (1) through (3) of section 9(b). For the purposes of providing assistance to other countries under this subsection, the term 'non-Federal forest land' shall mean any forest land and related renewable natural resources in such countries. In providing the assistance authorized under this subsection, the Secretary shall coordinate with other Federal officials, departments, agencies, or international organizations, as the President may direct. The references to 'State foresters or equivalent State officials' in this Act shall not apply to the assistance provided by the Secretary to other countries under this subsection.".

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991".

Mr. MITCHELL. Mr. President, the distinguished chairman of the subcommittee, Senator LEAHY, will be managing this bill and will open consideration of the bill. Shortly thereafter, we will proceed to the discussion on the committee amendment described in detail in the unanimous-consent request, which will be managed by Senator MIKULSKI and Senator HUMPHREY. Senator LEAHY is also participating, as chairman of the Agriculture Committee, in the farm bill conference which is going on in a room just off the Senate floor and will not be able to manage during this portion of the debate but hopefully as soon as the farm conference is completed will be able to return to manage the remainder of the legislation.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, the bill before the Senate is the fiscal year 1991 Foreign Operations, Export Financing, and Related Activities appropriations bill. It was unanimously reported by the Appropriations Committee on Wednesday, October 10, 1990.

The bill is within the Foreign Operations Subcommittee's 302(b) allocations of $14.7 billion in discretionary budget authority and $12.9 billion in discretionary outlays. That is a reduction of $130 million from the level appropriated for foreign assistance last year.

The bill is precisely at the allocation. There is no room whatsoever for additional spending. Any increase in any programs in the bill will have to be offset by corresponding deductions. We will consult carefully with the Budget Committee on amendments, and I will have no choice but to raise a Budget Act point of order against any amendment which would cause the bill to exceed its 302(b) allocation. I believe I would have the full support of Senator KASTEN on such a point of order.

Mr. President, this bill is jointly supported by myself and Senator KASTEN, whose help in putting it together was invaluable. He and I have developed a close working relationship over the last 2 years, and I thank him and his staff for their cooperation and friendship.

This bill is never easy to put together, and this year was no exception. The Foreign Aid Program has few friends, particularly in times of budget constraints at home. Yet, foreign aid is an important instrument of U.S. foreign policy, a manifestation of the generosity and good will of the American people toward those in need, and an arm of U.S. economic and commercial policy abroad. Foreign aid has no powerful special interest groups or broad constituency to lobby for it. But it is indispensable if we are to help strengthen democracy around the world and open markets to U.S. trade and investment.

Neither Senator KASTEN nor I are completely satisfied with this bill. That is the essence of bipartisanship. But I think we have a bill which meets essential foreign policy needs, and contributes toward the process of reshaping U.S. foreign aid in new directions more in line with the changing world.

Mr. President, in the interest of saving time I will not make a lengthy opening statement. The majority leader has said he wants to finish action on this appropriations bill today, and we all need to be brief and to the point if we are to do that.

There are a number of issues which will be debated, including language I developed with Senator DODD which withholds 50 percent of military aid to El Salvador, a $15 million contribution to the U.N. Population Fund, and U.S. assistance policy toward the Cambodian factions. The sooner we get started on disposing of these items the better.

I am willing to enter into time agreements, the briefer the better, if that is the will of the leadership.

Mr. President, for the sake of my colleagues, so they will understand what is going on, we will be going to the so-called UNFPA amendment under an agreement that the distinguished leader and others have worked out, and the distinguished Senator from Maryland [Ms. MIKULSKI], will manage that part of the bill.

Following that, there will be a number of other issues I would manage, including Egyptian debt relief and others. On those matters, the schedule is somewhat uncertain because I will be required to be here to manage the bill on those parts.

I can be in only one place at a time and I intend to complete the farm bill conference tonight. I will not be able, once I leave here, to come back, other than for a rollcall vote on the UNFPA issue until the farm bill conference is over, so neither Egyptian debt nor those other issues will be completed until we finish the farm bill conference. But I must say we have had tremendous cooperation from the Democrats and Republicans alike on the farm bill and I think that could be done.

Before I make the usual unanimous-consent requests, I am going to want to yield first to the distinguished Senator from Wisconsin, my good friend, Senator KASTEN. I do this not only because it is the tradition, but I must say that it would be impossible to bring this bill to the floor had it not been for the help and the expertise and knowledge of Senator KASTEN. We worked very closely together on this. We do not agree on all parts of it by any means, but we have put together a solid piece of legislation which advances the foreign policy interests of the United States. I think it is safe to say we have done it with the best spirit of bipartisanship. We tried to follow the tradition of our distinguished predecessor, Senator Vandenberg.

As we have told President Bush when we talked with him about this, we have left our party labels at the water's edge in trying to get this bill completed. It is not an easy time to do it. We have enormous budget pressures in this country. Americans are being asked, on the one hand, to cut way back Government spending on needed programs inside the United States but at the same time expending some $15 billion for programs of foreign aid.

That is not an easy salad to make. But we have certain major matters of this country that have to be taken care of.

I would like some of those directions in our foreign policy to be different than that of the administration. They would like some areas to be different than some of the things that I may have included in here. Overall, however, we all come to this bill with one thought in mind: What is in the best interests of the United States; what advances our security interest and our role as a world power, in fact the world power, today?

With that, I yield to my good friend from Wisconsin, the distinguished senior Senator from Wisconsin.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I would first like to thank Senator LEAHY and his staff for their assistance and cooperation throughout this process.

As he already said, we have worked closely together, and I appreciate and respect his leadership and the fine work he has done.

This is never an easy bill to put together. While we still have some significant differences on some issues, I think we have been able to compromise on 95 percent of the issues in this legislation.

This legislation does contain a number of provisions which I cannot support, including those relating to El Salvador, the one allowing support for the coercive population program in China, the absence of aid to the non-Communist resistance in Cambodia, and some minor issues which other Members may address with amendments.

On the other hand, there are many provisions which I strongly support and which Senator LEAHY and I worked on together. These include an increase in funding for population planning, and a generous increase for the Development Fund for Africa. We also have provided for an increase in the Direct Loan Program of the Export-Import Bank.

In conclusion, this legislation, absent the problems I have cited, is responsive to the foreign policy objectives of the United States, and I would ask my colleagues to support passage as soon as possible so we can move to conference.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. I thank the distinguished Senator from Wisconsin.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, with the exception of: first, the amendment pertaining to the withholding of funds for the International Bank for Reconstruction and Development, page 2, lines 12 through 20; second, the amendment pertaining to funding of UNFPA, page 10, line 20 through page 11, line 16; third, section 531 relating to El Salvador; fourth, section 562 relating to Cambodia; fifth, section 590 relating to administrative charges of personnel; sixth, the sections immediately preceding and following section 596, relating to Egyptian debt, and section 596 relating to Egyptian debt, and that they be considered as original text for the purpose of further amendment; and that no points of order be waived thereon.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I understand the bill now is open to further amendment and debate; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. Mr. President, I ask unanimous consent that the excepted committee amendments be temporarily laid aside, and that I be recognized to offer a technical amendment in behalf of Senator KASTEN and myself.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 2965

Mr. LEAHY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself and Mr. KASTEN, proposes an amendment numbered 2965.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 8, strike "$271,382,000" and insert in lieu thereof "$187,882,457";

On page 31, line 9, strike "$3,080,000,000" and insert in lieu thereof "$3,141,000,000";

On page 45, line 6, strike "$26,500,000" and restore the House amount of $35,000,000; and

On page 56, line 1, insert, in italics, *"further,"* after *"Provided"*; and restore the House language beginning with "That" through "purposes and" on line 3.

On page 64, line 21, strike ": *Provided further*" and all that follows through "1961" on page 64, line 24.

Mr. LEAHY. Mr. President, this amendment is necessary to make adjustments in the bill to reflect the CBO budgetary estimate which was not available until after the committee reported the bill on October 10. These changes have been cleared with the Budget Committee, do not affect our bill totals, budget authority, and outlays.

I ask for its approval.

The PRESIDING OFFICER. Is there further debate on the amendment? If not the question is on agreeing to the amendment of the Senator from Vermont.

The amendment (No. 2965) was agreed to.

Mr. LEAHY. Mr. President, I yield to the distinguished Senator from Maryland [Ms. MIKULSKI].

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I, under the consent agreement, will be managing this part of the bill on the U.N. family planning amendment. Is it my understanding that I will speak for 15 minutes; that this side is allowed 15 minutes?

The PRESIDING OFFICER. The Chair informs the Senator from Maryland that under the previous order the first excepted committee amendment is the pending business, the pending amendment before the Senate. So we have not yet reached the amendment which the Senator desires to have considered at this point.

Ms. MIKULSKI. I ask unanimous consent to lay aside the first amendment and proceed to the U.N. family planning amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized.

Ms. MIKULSKI. Being recognized, is it my understanding that we have a time agreement for a total of 30 minutes equally divided on both sides?

The PRESIDING OFFICER. The Senator is correct.

Ms. MIKULSKI. Thank you, Mr. President. Proceeding under that framework, I yield myself such time as I might consume under the allocation.

EXCEPTED COMMITTEE AMENDMENT, PAGE 10, LINE 20

Mr. President, I am rising to speak in behalf of the Mikulski-Leahy language that would include the U.N. family planning—Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senator is correct. If Senators will retire off the floor to conduct their private conversations, the Senator from Maryland has the floor for such time as she deemed to set aside for herself under the previous order.

Ms. MIKULSKI. Mr. President, the Mikulski-Leahy legislation on U.N. family planning provides $15 million to go into the U.N. agency devoted to family planning. It is for voluntary family planning consistent with the Universal Declaration of Human Rights, meaning no coercion.

Under this legislation, as drafted, no funds may be used for abortions. The U.S. funds would be held in a separate account. And there would be no United States funds for China. If any funds find their way to China, the U.N. Population Fund must refund the full $15 million to the United States.

In terms of it being fungible, the UNFPA has set a 5-year China funding at $57 million. If that amount increases, U.S. funding will be reduced by that amount.

There will be those who oppose this legislation because they say giving money to the U.N. Population Fund will provide money to go to China, where we have heard allegations of the most repugnant practices: coerced abortions, forced sterilizations. I think any American would find that repugnant. I certainly do.

But we want to be sure that the United States participates in the U.N.

Population Fund. That is why we are talking about only a modest sum of $15 million, and we have essentially fenced it at the United Nations so that it could not go to China.

The reason we are advocating funds for the U.N. Population Fund is because it is the most efficient way to bring about some of the important policy objectives that we want.

It is the most effective way to deal with issues related to maternal health. It is the most effective way to lower the rates of abortions. It is the most effective way for the United States to deal with the global population explosion.

First of all, UNFPA helps deal with family planning in 138 countries. The United States has bilateral programs in only 37. The UNFPA has the infrastructure and expertise and personnel that the United States can neither duplicate, nor should it try. Since the U.N. Population Fund was founded, the world birth rate has significantly declined. It has trained an army of family planning workers in all countries.

The demand for culturally acceptable contraceptives is high, if only we can provide them. Mr. President, 500 million women who want them are denied family planning services; 75 percent of women in Asia and Latin America would use family planning services, if available. The best way to reach them is through the UNFPA.

Certainly, if we can use the United Nations to keep the peace in the Middle East, we can use the United Nations to deal with the global population explosion.

Mr. President, today's population of 5.3 billion will double in less than 40 years. That means that this week alone, we added over a million and a half people. Ninety percent of those births will be in the developing world, which cannot handle more people; 512 million children in those countries today are severely malnourished; 40,000 children die each year because of being unwanted, because of malnutrition, and because of the inability to care for them with the proper medical treatment.

Mr. President, we are talking about funding an opportunity that would take us into 138 countries to provide culturally acceptable means of family planning. We would follow meticulously the U.N. Declaration of Human Rights. And for those of us who call ourselves environmentalists, for those of us who call ourselves statesmen, participation in family planning is absolutely critical, and it is one of the most important tools that the women of the world can use to control their own destiny.

Mr. President, I yield the floor. I know opponents of the provision will speak, and I reserve the right to control the time for other Senators who might speak, and to rebut.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. I yield such time as I might use, Mr. President.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HUMPHREY. The issue presented by this amendment presents a very large and and very important principle. There is a very important principle at stake in the matter now before the Senate. Here is the principle: coercive abortion and coercive sterilization is wrong. Involvement of the United States in programs that feature coercive abortion and coercive sterilization is wrong. The United States should not be involved in any way, directly or indirectly, with such grievous violations of human rights.

The issue before us, the amendment before us, is not a question of money. The committee amendment earmarks, $15 million to the U.N. Population Fund, UNFPA. It earmarks $15 million out of a total of $250 million in the bill for population planning. Whether we strike the earmark or leave it standing, the full $250 million will be spent on family planning. The only question to be decided here is whether Senators want to take $15 million from the total of $250 million and earmark it for one specific agency, UNFPA.

I urge Senators to oppose the earmark, to oppose it on the principle which I just enunciated: that coercive abortion and sterilization is a gross and grievous violation of human rights and something with which the United States should not be involved in any way, to any degree.

If we strike the committee amendment not pending, the full $250 million unearmarked, all of it, every dollar, every penny, will be spent on family planning programs. The question is not one of money or the level of funding for family planning programs. The question before us is much more than just this specific earmark for UNFPA. The question before us is morality. Shall we involve the United States in a program that resorts to forced abortions and forced sterilization? That is the question, and the answer should be a resounding no.

The pending committee amendment would, for the first time since 1985, reestablish U.S. funding for the UNFPA. That agency bankrolls the reprehensible policy of forced abortion and sterilization carried out in the People's Republic of China.

Mr. President, since 1985, there has been a statutory prohibition known as the Kemp-Kasten amendment, against such funding going to "any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization."

Every year, the respective administrations have found compelling evidence that the population program of the PRC is pervaded by coercion, including compulsory abortion. And these administrations, therefore, have declared that UNFPA is not eligible for population assistance funds because of its support and management of China's program.

On June 7, 1989, at a meeting of the U.N. Development Program Governing Council, the administration refused to restore United States funding to UNFPA as it related to China. The administration's delegate, Dr. Nyle Brady said:

> We strongly oppose the program as currently formulated and disassociate ourselves unequivocally from any interpretation of this body's consensus that suggests we approve the family planning program of the People's Republic of China.

Well, Mr. President, President Bush, and before him, President Reagan, did not make these determinations lightly. The administration, after all, supports the full expenditure of the money in this bill for family planning activities, $250 million. But the administration opposes funding of one agency out of the many such agencies eligible to receive funds under this bill, namely the UNFPA.

The damning evidence backing up the President's finding, which proves that these repugnant policies persist, continues to mount in 1990. In the 1990 State Department Human Rights Report, there is the finding that China continues to systematically employ coercion in its population control program and to impose "severe sanctions on those who deviate from official guidelines."

The report found that disciplinary measures against couples who violate this policy include stiff fines, withholding of social services, and demotion. If a unit exceeds its birth allocation, punishment may be meted out to offending couples, unit officials, and to the unit as a whole.

Chinese Government officials have publicly conceded that they rely on coercive abortion and sterilization in one component of their population control program: eugenics.

As the New York Times reported in a page 1 story on November 21, 1989, Gansu Province officials admit that they are "aggressively enforcing" the law, which requires retarded people to submit to sterilization and/or abortion. In February 1990 the United Press International reported that Lianoning Province has enacted a similar law, and that the national legislature is expected to do so as well. As UPI reported, "China has indicated it views eugenics as a practical tool and

has indicated Gansu will serve as a model for a national eugenics policy."

Mr. President, the problem is the population control program itself—it is based on the notion that decisions about childbearing should be made by the Government and its representatives, and not by parents. In this it violates the fundamental charter of the UNFPA, which states that family planning decisions should be left to families.

Currently, the compulsory abortion policy is being applied with special brutality in Tibet. On February 26, 1989, the Washington Post published an essay by Dr. Blake Kerr, an international human rights activist, citing credible eyewitness testimony regarding a mobil team of People's Republic of China population control agents who forcibly aborted every pregnant woman in a village, including those 9 months pregnant. I will read a brief excerpt from that essay:

> A particulary appalling story I heard came from a part of refugee Buddhist monks, Ngawang Smanla and Twewang Thonden. "In the autumn of 1987," they told me, "a Chinese birth control team set up their tent next to our monastery in Amdo. The villagers were informed that all women had to report to the tent for abortions and sterilizations or there would be grave consequences. For the women who went peacefully to the tents and did not resist, medical care was given. The women who refused were taken by force, operated on, and no medical care was given. Women 9 months pregnant had their babies taken out."
>
> During the 2 weeks the birth-control tents stood in the village, the monks claimed that all pregnant woman had abortions followed by sterilization, and every woman of childbearing age was sterilized. "We saw many girls crying, heard their screams as they waited for their turn to go into the tent, and saw the growing pile of fetuses build outside the tent, which smelled horrible.
>
> "The birth control teams were initiated in 1982," the monks continued, "but since 1987 there has been a tremendous increase in the number and frequency of the teams that move from town to town, and to nomad areas."

Mr. President, even Senators predisposed in favor of abortion rights as a choice recognized the horror of Chinese policies.

In his 1990 book entitled "Abortion: The Clash of Absolutes", Harvard law professor Lawrence Tribe writes:

> China's one family, one child and compulsory abortion policies greatly undermine the well-being of the couples who bear daughters. Prevented by the State from having additional children, couples to whom daughters are born have increasingly resorted to the drowning or abandonment of their infant girls, thus entitling them to another attempt at a son, greatly adding to the age-old practice of female infanticide.

Mr. President, I recognize that the language before us makes an exception to funds for programs in the PRC. It is an effort in effect to fence this $15 million, but the fence is so full of holes, is such a puny, ineffective fence that it is no fence at all. With this so-called China exception, the UNFPA would receive $15 million while continuing to support China's coercive program. The UNFPA would merely have to keep its books in such a fashion that our money was segregated. In effect, this would give the UNFPA a green light to support coercive abortion policies in China or elsewhere without jeopardizing its United States funding.

Mr. President, I need not tell Senators, of all people and all public servants, that money is fungible. Segregating money into two separate accounts has no practical effect when you are intending, by segregating funds, to uphold certain important principles.

Senators will recall that we went through this very same exercise last year. The President threatened to veto the bill if the bill contained an earmark for UNFPA. Notwithstanding the veto threat, the Congress earmarked the money. The President, true to his word, vetoed the bill and so we had to pass the bill twice. This year again the President has said he will veto the bill if it contains the pending committee amendment. It is important. I will repeat it. The President has said by letter that, if the bill contains the pending committee amendment, he will veto the bill and all of this effort we consume tonight and maybe tomorrow and several days next week will be for naught because we will have to do it again unless, of course, we can override the President's veto. I hope that would not occur.

The President will veto this bill, Mr. President. I will read from the OMB letter dated October 10 to Senator DOLE from the office of OMB:

> The administration opposes the earmarking of $15 million for the United Nations Population Fund [UNFPA]. The President stated in his June 26 letter to Congressman Obey that he will veto this bill if either policy is changed.

He was referring there to Kemp-Kasten and the Mexico City policy.

The reason for that, Mr. President, is very simple and very clear and, in my view, very correct. The administration's opposition to abortion as a method of family planning is an important matter of principle to this administration. Using a segregated account or other complicated procedures to provide support for UNFPA would be perceived as a transparent bookkeeping business transaction and would undermine U.S. opposition to coercive abortions.

So Senators should be clear on this point, Mr. President. If the committee amendment now pending is adopted, which is to say that if the cloture vote succeeds, and under the UC the amendment is therefore adopted, the amendment will be adopted and the President will veto the bill. If cloture fails, the amendment under the UC will be dropped. Those opposing the amendment, those who do not wish the President to veto this bill, will vote against cloture. Again, if the cloture vote fails, under the consent agreement the amendment will be dropped. Again, Mr. President, this issue is in no way connected with money. I think everyone here, including the President downtown, supports the full expenditure of all $250 million. What is at stake here is solely and exclusively this earmark for one agency, the UNFPA.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Ms. MIKULSKI. Mr. President, I yield to the Senator from Colorado 5 minutes and note that the Senator from Colorado has been an ardent advocate in this issue, and we appreciate very much his support. I yield to the Senator 5 minutes.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 5 minutes.

Mr. WIRTH. I thank the distinguished Senator from Maryland, who has been a leader on this and so many other issues enormously important to all of us in this country.

Forced abortions has an ominous sound indeed, but not in this bill, Mr. President. There is nothing in this bill related to forced abortions. Coerced abortions, dangerous indeed, Mr. President, but not in this legislation. There is nothing in this legislation related to the dangerous issue of coerced abortions. Forced sterilization; again, an ominous sound and abhorrent, I believe, to all of us. But nothing in this bill relates to forced sterilization or compulsory abortion or fetuses outside of tents in Tibet. Or female infanticide. All of those are repugnant to everybody here, Mr. President, but have nothing to do with what is in this piece of legislation. Those are appalling stories read by the distinguished Senator from New Hampshire, but they have nothing to do with this amendment.

What this amendment does, Mr. President, and let me again read the language of the amendment, what this amendment says is "None of the funds made available under this heading shall be made available for programs for the People's Republic of China." Let me repeat. "None of the funds made available under this heading shall be made available for programs for the People's Republic of China." How many times does that have to be said?

Second, Mr. President, the UNFPA—and I have talked to Nafis Sadik, that charming, sophisticated, and very, very distinguished women who is the head of the UNFPA—this program has not even requested the United States to give them any money for its program in China. UNFPA's programs for China are fully funded from other sources. They do not want any participation or any help from us. So neither is there any money in here for all of the horrors cited by the distinguished Senator from New Hampshire, but the UNFPA does not need any money for this particular program.

A lot of this debate focuses on what this is not, and I hope, Mr. President, that as Senators cast their vote on this important issue, they cast their vote recognizing what this is. This is, first of all and most simply, a statement for the United Nations. We are asking the United Nations to support and work in a new world community in the Persian Gulf and elsewhere. I hope that we will rejoin the world community of the United Nations by joining UNFPA.

We have been out of this for a long time and yet we say to the world we are a world leader. Now the only superpower remaining, we have a responsibility to rejoin this world community, particularly as we redefine our whole sense of national security and come to understand it is not our relationship with the Soviet Union and nuclear confrontation, it is our understanding of what is happening to this globe, the fact that the environmental and energy challenges are redefining that national security, particularly the burgeoning and very dangerous escalation of population around the world; 5.3 billion people now. In a very short period of time, if we do not act rapidly, the population will soon go to 10 billion people.

What is going to happen to the standard of living; what is going to happen to the world environment as we know it; what is going to happen to our security, Mr. President, when another 5 billion more people in the world are demanding these very resources?

If we think environmental refugees are a problem now, that is going to escalate dramatically. If we think political unrest is here now, that is going to escalate dramatically, all of these elements. And we have an opportunity, with a small bit of prevention, to make an enormous difference.

That is what this amendment is all about; not fetuses outside of tents in Tibet; not coerced abortion; not forced sterilization. That has nothing to do with it.

A final point, if I might, in the time remaining to me. There has been a great deal of talk in the budget debate of the last 2 weeks about how we have to think of a broader interest. Every one of us has been asked to think not about our own constituents, not about particular narrow interests, not about special interests, but a broad interest.

If ever there were an opportunity to think about a broad worldwide interest, this is it; a worldwide interest of enormous import, to be thinking about what is happening to this globe, the rapid and disruptive escalation of the population issue worldwide, and providing women with the opportunity to make choices for themselves.

I urge my colleagues not to be sidetracked by the shrill rhetoric and recognize the language before us has no money going to the People's Republic of China, but it gives us an opportunity as a world power to once again rejoin the world community as we should.

Mr. President, once again we are here on this floor debating a nonissue. The entire debate about whether or not we should contribute to the United Nations Population Fund is absurd.

Undoubtedly, we are going to hear a great deal about forced abortions and involuntary sterilization. I know we will hear about the family planning programs of China. These are smokescreens, Mr. President. On any number of occasions, the United Nations Population Fund has made it clear that it would not contribute U.S. funds to its meager activities in China. The distinguished Senator from Vermont, chairman of the Foreign Operations Subcommittee, has stated that he has no intention of funding the China program. In fact, for the next 5 years, UNFPA's program in China has been fully funded, so that is a moot point.

The issue at hand is whether or not we support funding the world's premier multilateral institution, charged with addressing the dreadful rate of population growth. I understand that the issue of China's population program is upsetting to my colleagues—as it is to me. But not a penny of the funds provided for UNFPA in this act will go toward the China program. Not one cent. It has been stated over and over, ad nauseum.

What has not been made clear is the role UNFPA plays around the world. UNFPA provides family planning services in more than 140 nations around the globe. It is well known that UNFPA is the world's leader in this area. I have met with the executive director of UNFPA, Nafis Sadik, on many occasions. You could not meet a more thoughtful and considerate woman. She is terrific. And if you go to any major conference about the environment or about development, you will meet her because she will be one of the featured speakers.

This debate, once again, highlights the degree to which the United States has ducked its responsibilities to the United Nations and its programs. We want the United Nations to help promote operation Desert Shield and to rally world opinion to our position. And thankfully we have responded by fulfilling our commitment to the United Nations with funding provided in the Commerce, State, Justice appropriations bill. This is another opportunity for us to renew our commitment to the United Nations process and to renew our commitment to sound family planning programs around the world.

I urge my colleagues to support our contribution to the U.N. Population Fund.

The PRESIDING OFFICER (Mr. REID). Who yields time?

Ms. MIKULSKI. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Maryland has 3½ minutes.

Ms. MIKULSKI. I yield myself the remaining time.

Mr. President, the Senator from New Hampshire, who opposes this amendment, outlined case examples that are ghoulish, grisly, and violate every sense of human decency.

We absolutely reject the whole idea of coercive abortion or coercive sterilization. But we should be absolutely clear that there is no money in this bill going to China. Why punish the children or the families of Africa for the abuses that go on in another country? Also, by supporting the U.N. Population Fund, we are not engaged in a global plot to promote abortions. In fact, just the opposite.

Mr. President, those of us in this Chamber and who serve in this body know what family planning is. I would venture to say every Senator and his spouse or her spouse has, at one time, considered, thought about, and even used family planning in their own lives. We know that abortion is not a technique for family planning.

The UNFPA governing counsel says that "It is the policy of the UNFPA not to provide assistance for abortion, abortion services or abortion-related equipment or supplies as a method of family planning. The United Nations does not promote or provide support for involuntary practices as such described."

Mr. President, let me wrap up by also talking about the hypocrisy in this foreign policy debate. China is the big topic tonight. We have a President who vetoed this legislation over China last year, but he is ready to give China most-favored-nation status in terms of trade. He is ready to give them all kinds of goodies in trade and export benefits, and yet he will not allow us to support U.N. family planning because it has a small role in China.

Well, Mr. President, why is it that it is okay for us to consider giving most-favored-nation status to China in trade, but we cannot help the women of the world deal with their own lives and perhaps through this improve their lives? I think it is hypocritical.

In the next few minutes, Mr. President, we are going to be talking about El Salvador. Now, Mr. President, another area of hypocrisy is the way we have supported dictators, tyrants and totalitarian regimes around the world—where they have death squads that will go into villages and perform the most ghoulish atrocities against women. And El Salvador is one of those countries.

I know that my time is up. But in El Salvador not only do they kill Jesuits, they rape women, they maim women, and do cruel and ugly and repulsive things to pregnant women. So if we are going to refuse to support U.N. family planning efforts, we should also refuse to support aid going to El Salvador.

I hope we adopt the motion for cloture, and I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from New Hampshire is recognized.

Mr. HUMPHREY. Mr. President, I will start off by saying once again, if this amendment is adopted, if cloture is invoked, the President is going to veto this bill. Senators who want a bill now rather than in 2 weeks, might wish to vote against cloture.

More importantly, I hope Senators will vote for reasons of principle against cloture, so that this amendment will drop. China is clearly involved in coercive abortion. This amendemnt would earmark $15 million for the UNFPA which helps to manage that Chinese policy. That our funds are segregated on the books makes no difference with regard to principle; none. It is a sham. President Bush will veto this bill if the amendment is adopted.

I point out finally that, earmark or no earmark, all $250 million is going to be spent on family planning. It is just that the UNFPA will not get $15 million of it. It will go to another agency.

Mr. KOHL. Mr. President, we live in a world which has undergone tremendous changes in the past few years: The Berlin Wall has come down and Germany has been unified; the East bloc has crumbled and the Baltic States, as well as the Republics within the Soviet Union, have started the process of achieving independence. In short, the anti-Communist orientation which formed American foreign policy for over four decades is no longer the driving force it once was. It has lost its intellectual and political ability to dictate American foreign policy.

We have yet to adapt to this new world of geo-politics. Even the committee report which accompanied this legislation, while obviously recommending its passage, pointed out that "a searching review of all facets of the U.S. foreign assistance program needs to be undertaken on an urgent basis." Indeed, the Committee expressed the hope that "the foreign assistance request for fiscal year 1992 will be much more reflective of the new world into which we are entering."

Some, however, are uncomfortable with this transition period. They seek a simple way to anchor American policy in some consistent framework. Unable to find that framework in the global confusion of the post-cold war world, they retreat to a narrower view. And so, while the world changes around us, we spend a few hours debating—yet again—that old standby of family planning and abortion.

Now Mr. President, I wish the issue was worth the time we are going to spend on it. But it isn't; it really isn't. The bill before us now is very carefully crafted: it is not a proabortion bill. For just a moment, let's ignore the rhetoric and look at the language of the legislation. In a moment I want to address the amendment now before us; but initially let us consider a few other related provisions of the bill. Section 525 makes it clear that "none of the funds appropriated under this Act may be used to lobby for abortion." Section 535 says, in part, that "none of the funds made available * * * may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions." It seems to me that those statements are pretty clear.

But the issue before us now is not a general concern about abortion: It relates specifically to the U.S. contribution to U.N. Population Fund [UNFPA]. The UNFPA provides services in China, and China, as we all know, has a policy of coerced abortion in place. It is a dreadful policy. I renounce it and reject it. And so does the bill before us. Look at what the bill says: "none of the funds made available * * * may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions." And if that isn't enough, the bill goes on to say that our contribution to the UNFPA shall be kept in a separate account and that "none of the funds made available under this heading for the United Nations Population Fund shall be made available for programs for the People's Republic of China."

Now, Mr. President, I don't know how much clearer we can make it. This bill does not support, assist, involve us in, or associate us with China's policy. All it does is earmark some desperately needed money for an organization which does a great deal of good throughout the world. And in that context, let me point to one last piece of language in the bill. The bill tells us that "in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or indirectly or through referral to, or information about access to, a broad range of family planning methods and services."

Again, Mr. President, this is not a proabortion bill.

We are, Mr. President, in a new world. But we are debating old myths. For those who are concerned about human rights and respect for life in China, I would suggest that they read the bill, end this debate—and perhaps debate whether or not we ought to extend most-favored-nation status to China in light of the "respect" they demonstrated for human life when they slaughtered students a year ago. That would be a meaningful debate. This isn't.

Mr. JEFFORDS. Mr. President, one of the most important issues debated here tonight is funding for family planning programs. I rise in support of the committee amendment on UNFPA.

Mr. President, a lot of my energy during this Congress has been spent on environmental issues. Pollution global warming, devastation of the rain forests, holes in the ozone layer over Antarctica concern us all. If we do not take care of the global environment, we will soon find it impossible to sustain our way of life and to bequeath a safe planet to our grandchildren.

Population is perhaps the critica element in environmental quality. No ecosystem can survive if it is forced to support a too rapidly growing population. If we are to conserve the increasingly scarce resources of this planet we must make strong efforts to contro population growth and slow the explosion that is expected to add 93 millio people to the globe this year alone.

The United Nations Populatio Fund [UNFPA] is the largest multilateral family planning organization in the world. With family planning programs operating in 138 countries UNFPA is providing more people with the information and assistance they need to control the size of their own families than any other single organization. And yet, the United States, one of its founding members over 20 year ago and largest donor until 1985 stands strangely alone in refusing t fund the organization.

I fully understand the concerns tha were raised several years ago over unacceptable practices in the Chinese family planning program. It is appropriate that both the United States and the UNFPA condemned those practices and ended all funding for th Chinese program. In response to continued skepticism over the Chines program, the authors of the committee language before us have stipulate that no funding go to the People's Republic of China. This should addres the concerns of my colleagues.

Mr. President, like so many of the issues we have discussed here today, we cannot wait another year before resuming our funding of the UNFPA. It is critical that we act now to empower people to manage their size of their own families. For the sake of our planet, we must realize that it has limits, and that we are fast bumping up against these limits. One of the most important ways we can buy ourselves some extra time to solve the many critical environmental problems is to resume our leadership in international family planning programs. I urge my colleagues to support the committee amendment to provide $15 million to UNFPA.

Mr. LEVIN. Mr. President, I will vote for cloture in support of the United Nations Population Fund [UNFPA] language in the foreign operations appropriations bill before the Senate.

The United States was instrumental in creating UNFPA in 1969, and urged other nations to contribute to it. For years the United States was its largest donor. But 5 years ago, the United States abandoned UNFPA, the largest multilateral family planning program in the world. None of our major allies—not Britain, Canada, Japan, or Germany—supports the misguided United States boycott.

UNFPA's family planning programs are entirely voluntary and its charter prohibits it from performing or supporting abortion. Nevertheless, UNFPA's program in China is usually cited as the reason for the United States withdrawal of support for UNFPA. I condemn, as strongly as anyone, coercive family planning measures. But this bill does not provide any support to China or for coercive activities in any country.

This bill would renew support for UNFPA, but require that it be kept in a separate account and that no United States funds be used for any purpose in China. If any United States funds leak to China, the bill requires that the entire United States contribution to UNFPA be returned. Furthermore, if UNFPA funding for China from other sources increases, a proportionate share of the United States contribution would be returned.

By withholding funding for UNFPA, the United States denies poor women in over 120 developing countries access to family planning and the ability to exercise their fundamental right to determine the size and spacing of their families. Voluntary family planning not only reduces the number of abortions, but also reduces infant mortality and improves the health of women and their children.

Rapid population growth is outpacing economic growth in many developing countries, hurting people and the environment. To turn our back on this development is both irresponsible and shortsighted. I urge my colleagues to join me in supporting the UNFPA language developed by Senators LEAHY and MIKULSKI.

VOTE ON MOTION TO INVOKE CLOTURE

The PRESIDING OFFICER. All time has expired. Under the previous order, the live quorum is waived. The question is, is it the sense of the Senate that debate on the committee amendment on page 10, line 20, of H.R. 5114 shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCLURE (after having voted in the negative). Mr. President, on this vote, I have a live pair with the distinguished senior Senator from Oregon [Mr. HATFIELD]. If he were present, he would vote aye. I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS], the Senator from Georgia [Mr. FOWLER], and the Senator from Ohio [Mr. METZENBAUM] are necessarily absent.

Mr. DOLE. I announce that the Senator from New Mexico [Mr. DOMENICI], the Senator from Utah [Mr. GARN], the Senator from Oregon [Mr. HATFIELD], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Arizona [Mr. McCAIN], the Senator from Wyoming [Mr. SIMPSON], and the Senator from California [Mr. WILSON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 38, as follows:

[Rollcall Vote No. 270 Leg.]

YEAS—51

Adams	Gore	Moynihan
Akaka	Graham	Nunn
Baucus	Harkin	Packwood
Bentsen	Heinz	Pell
Bingaman	Hollings	Pryor
Bradley	Inouye	Riegle
Bryan	Jeffords	Robb
Burdick	Kennedy	Rockefeller
Byrd	Kerrey	Rudman
Chafee	Kerry	Sanford
Cohen	Kohl	Sarbanes
Conrad	Lautenberg	Sasser
Cranston	Leahy	Shelby
Daschle	Levin	Simon
DeConcini	Lieberman	Specter
Dodd	Mikulski	Stevens
Glenn	Mitchell	Wirth

NAYS—38

Armstrong	Durenberger	Lugar
Biden	Exon	Mack
Bond	Ford	McConnell
Boren	Gorton	Murkowski
Boschwitz	Gramm	Nickles
Breaux	Grassley	Pressler
Burns	Hatch	Reid
Coats	Heflin	Roth
Cochran	Helms	Symms
D'Amato	Humphrey	Thurmond
Danforth	Johnston	Wallop
Dixon	Kasten	Warner
Dole	Lott	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

McClure

NOT VOTING—10

Bumpers	Hatfield	Simpson
Domenici	Kassebaum	Wilson
Fowler	McCain	
Garn	Metzenbaum	

The PRESIDING OFFICER. On this vote, the yeas are 51, the nays are 38. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion to invoke cloture is not agreed to. Under the previous order, the committee amendment on page 10, line 20, is not agreed to.

Mr. HUMPHREY. Mr. President, parliamentary inquiry.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Did the Senator have a parliamentary inquiry? I apologize. I yield to the Senator.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote on the amendment.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The pending question is on agreeing to the committee amendment on page 2, line No. 12.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, we have lined up a number of amendments, and I am about to suggest a unanimous-consent agreement which would permit us to consider them and stack at least some of the votes for the maximum convenience of Senators.

I will shortly offer an amendment regarding Cambodia with respect to which I will ask for a 30-minute time agreement, the time to be equally divided. Senator KERREY of Nebraska has indicated he has an amendment regarding Cambodia on which he is agreeable to a 20-minute time limit.

I am going to ask that those amendments be offered, debated, and then votes on both occur, unless someone would prefer them one at a time, which it will take a little more time. I am trying to do this in a way that will accommodate Senators.

Then Senator DIXON has an amendment regarding the Korean FSX on which he is agreeable to a 1-hour time limit, if it is agreeable to the managers. And then Senators HARKIN and DIXON have an amendment regarding Egyptian debt, a 1-hour time limit equally divided.

Mr. DOLE. Not if we are going to do this tonight.

Mr. MITCHELL. Is there any objection to proceeding to the first three amendments this evening?

Mr. KASTEN. If the Senator will yield, the administration has told us just a moment ago that they are strongly opposed to the Cambodian amendment that was listed. At least as

of this moment, because we are still on the phone back and forth with them, I cannot agree to a time agreement with regard to the Cambodian amendment. But if the Senator wants to start it, there is nothing we can do about that.

Mr. MITCHELL. That is fine. I was merely attempting to convenience as many Senators as possible. If the distinguished manager objects to a time agreement, then why not proceed with the amendment and perhaps in a short time we can develop a way to get agreements on time that will enable us to proceed in an expeditious fashion that is agreeable to the maximum number of Senators.

Mr. President, in light of that, I will not propound a unanimous-consent request.

AMENDMENT NO. 2966 RELATING TO SECTION 562

(Purpose: To make available a limited amount of development and humanitarian assistance to Cambodians and to provide for terminating assistance to any Cambodian organization cooperating with the Khmer Rouge)

Mr. MITCHELL. Mr. President, for myself, Senator BOREN, Senator DANFORTH, and Senator KERREY of Nebraska, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Maine, [Mr. MITCHELL], for himself, Mr. BOREN, Mr. DANFORTH, Mr. KERREY, Mr. HATFIELD, and Mr. SIMON, proposes an amendment numbered 2966.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the language proposed to be inserted by the amendment, strike out "activities and insert in lieu thereof the following:

ASSISTANCE FOR CAMBODIAN DEMOCRACY

SEC. . (a) ASSISTANCE.—(1) Not to exceed $20,000,000 of the funds appropriated by this act under the headings "economic support fund" and "development assistance" may be made available for humanitarian and development assistance for Cambodians including the Cambodian noncommunist resistance along the Thai-Cambodian border and throughout Cambodia, notwithstanding any other provision of law (other than sections 531(e) and 634A of the Foreign Assistance Act of 1961, section 523 of this Act, and the provisions of this section).

(2) Funds made available by paragraph (1) shall be obligated or expended, to the maximum extent possible, consistent with the priorities set forth in the report required by subsection (d). Not later than 6 months after the date of enactment of this Act, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report describing the expenditure of funds under paragraph (1).

(b) PROHIBITION ON DIRECT OR INDIRECT ASSISTANCE FOR THE KHMER ROUGE.—(1) Funds made available under this section shall be subject to the prohibitions contained in section 906 of the International Security Development Cooperation Act of 1985 (Public Law 99-83).

(2) The President shall terminate assistance under this section to any Cambodian organization that he determines is cooperating, tactically or strategically, with the Khmer Rouge in their military operations.

(3) Not later than January 1, 1991, the President shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate an unclassified report describing the extent of military cooperation since 1986 between the Khmer Rouge and any individual group or faction of the noncommunist resistance.

(c) ADMINISTRATION OF ASSISTANCE.—To the maximum extent possible, all funds made available under this section shall be administered directly by the United States Government.

(d) REPORTING REQUIREMENT.—(1) The Administrator of the Agency for International Development shall conduct within 120 days of enactment of this act an on-site assessment along the Thai-Cambodian border and within Cambodia, including Phnom Penh, determining the priorities of the humanitarian and development needs of the Cambodian people, including noncombatant civilians in all sectors of Cambodia.

(2) Not later than January 1, 1991, the President shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report setting forth the priorities determined by the assessment made under paragraph (1).

(e) RELATION TO ASSISTANCE FOR CAMBODIAN CHILDREN.—(1) Any assistance provided under this section shall be in addition to the assistance provided for under the heading "humanitarian assistance for cambodian children".

(2) Notwithstanding any other provision of this Act, funds made available under the heading "humanitarian assistance for cambodian children" shall also be available to civilian victims of war.

(f) DEFINITIONS.—For purposes of this section—

(1) the term "development assistance" means assistance furnished to carry out any of the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961; and

(2) the term "humanitarian assistance" means food, clothing, medicine, or other humanitarian assistance, and it does not include the provision of weapons, weapons systems, ammunition, or other equipment, vehicles, or material which can be used to inflict serious bodily harm or death.

Mr. DOLE. Mr. President, will the majority leader yield for inquiry of the schedule.

Mr. MITCHELL. Mr. President, I yield to the distinguished Republican leader for inquiry.

Mr. DOLE. Mr. President, a number of my colleagues are wondering about how late we may be here this evening, whether or not there will be a session tomorrow or Sunday.

Mr. MITCHELL. Mr. President, first I apologize to all Senators for the inconvenience for having to be here at this hour on Friday evening. I remind my colleagues that we spent 3 hours this morning in a period of total inaction before we could get consent to proceed to the first of the two appropriations bills that we hoped to consider today. Had we not done so, we would hopefully have been much further along on this bill.

There are a number of amendments to be offered. It had been my hope to complete action on this bill this evening. However, I have been advised that for unavoidable reasons, involving family matters, a Senator who is involved in one of the crucial amendments cannot be here, so I was going to suggest that we proceed to dispose of these four amendments and, as we did that, to attempt to reach an agreement with respect to the remainder of the amendments with a time certain to finish the bill on Monday.

I have no desire to have the Senate in tomorrow; I know how inconvenient that is to all Senators, but I think it is also the desire of several dozen Senators who have spoken to me about it that this session be completed as soon as possible, and hopefully by next weekend.

Obviously, we cannot do both—not do these bills now and also get out next weekend. So if we can get an agreement that would identify and limit the amendments and enable us to complete action on this bill at a time certain on Monday and still be able to proceed to the defense appropriations bill at some point on Monday, I think that would be the best way to proceed.

We do not yet have such an agreement, and we are trying to get that now. In the meantime, I suggest that we proceed with this amendment. Hopefully at some point the distinguished manager on the minority side can get agreement to permit us to go to a vote on it. I am prepared to vote within 30 minutes or any time thereafter.

Mr. DOLE. Will the majority leader yield? I know that a number of my colleagues have already left because of commitments, and that happens. I hope the rumor from the House side that we were going to be here until the 27th does not become a self-fulfilling rumor. People say the 27th and pretty soon we are here to the 27th, and it may be later than that. So I think all of my colleagues on this side of the aisle would wish very much that if in fact we can expedite the business we should, giving it proper consideration, obviously, in hopes that we can complete our work by next Friday, Saturday, or next Sunday.

I think as the majority leader has indicated, at 10 after 8, knowing that we may not be in tomorrow, it is hard to determine. There are going to be a lot of people here tomorrow; many Members of this body will be here tomorrow. Members of the Budget Committee will be here tomorrow working on the budget trying to get that ready and maybe members of other committees trying to finish their reconciliation instructions working with the Budget Committee.

So I guess it would be fair to say, even though we are not in session tomorrow, I imagine the majority of Senators will be working in Washington tomorrow because we need to do that if we are going to complete our work.

Mr. MITCHELL. Mr. President, first, as the distinguished Republican leader knows, at all the leadership meetings that we have attended where the subject of adjournment sine die comes up, he and I are in the forefront of those pressing for earlier dates.

I agree completely that even rumors about dates then do become self-fulfilling prophecies. They establish a state of mind that I think is most unfortunate, and that is one reason why I am trying very hard not to do that. I sincerely believe that we can complete our business by midnight October 19, and that is my objective.

I will do everything I can to enable us to meet that objective. If it proves to be not possible, I, of course, will have to take the situation into account at that time.

Second, I might say to the distinguished Republican leader, that it is not a scientific sample, but based upon the conversations I have had with Senators on both sides of the aisle this evening, it is about 50–50; those who would like to stay and finish tonight, and those who would like to finish tomorrow. So it is impossible to accommodate every Senator, as I said.

I think the best way to proceed, which would be best for the largest number of Senators, would be to get an agreement tonight that identified the amendments with a time certain for completing action on this bill on Monday, and that we stay in until we do that this evening which I hope will be in a relatively short period of time. And then we will know we have the bill finished, and we can go to the Defense appropriations bill.

If we cannot do that, of course, we have no alternative but to simply stay in, and plow ahead in a manner that, I think, will be unfortunate, but necessary.

Mr. DOLE. But is there still some slight idea that we might be in tomorrow?

Mr. MITCHELL. Yes, there is. If it is impossible to get identified a list of amendments and some time certain, then we may have no alternative but to stay tonight and tomorrow to complete action on the bill.

Mr. DOLE. I thank the majority leader.

Mr. NICKLES. Mr. President, would there be any possibility of stacking the four votes on the amendments which were described for early Monday morning?

Mr. MITCHELL. There will be, if they are part of a larger agreement to do that with respect to all of the amendments on the bill.

Mr. NICKLES. I thank the majority leader.

Mr. MITCHELL. That is what we are trying to do. My intention was to have votes on as many of these as possible this evening, and while we were doing that, to try to get an agreement limiting the rest of the amendments.

I have no objection to doing that with respect to these, if we can get the larger agreement.

Mr. President, parliamentary inquiry. Is my amendment now the pending business?

The PRESIDING OFFICER. The amendment has been considered as read and is the pending business.

Mr. MITCHELL. Mr. President, along with the chairman of the Intelligence Committee, David Boren, the ranking member of the Commerce Committee, John Danforth, and Senator Bob Kerrey, I rise to offer this amendment to provide assistance to Cambodians, including the non-Communist resistance.

This amendment is designed to make United States assistance consistent with the administration's diplomatic strategy in Cambodia. It broadens the old United States program of nonlethal military assistance to the non-Communist forces to a program that would allow the President to provide humanitarian and development assistance to the non-Communists and to other Cambodians in need. It would pave the way for an elections process that could determine the future of Cambodia.

The administration's efforts, shaped by changes in policy that my colleagues and I had long urged, have helped to transform the situation in Cambodia during the past few months. There is now hope for an end to the debilitating war between the Hun Sen regime, seated in Phnom Penh, and the allied forces of the Khmer Rouge and the non-Communist resistance.

I have long believed that American policy toward Cambodia has been misguided and has greatly increased the likelihood of the return of the Khmer Rouge to power.

I am sadly unconvinced that the settlement guidelines adopted by the five permanent members of the U.N. Security Council contain adequate safeguards against the return of the Khmer Rouge.

Many stress their belief in the need to include the Khmer Rouge, to give them a stake in the system. But I do not trust the Khmer Rouge. I do not believe they will abide by any terms other than their own terms of genocide and bloodshed. I have grave concerns about a diplomatic settlement that relies on the good faith of the murderous Khmer Rouge.

I am concerned that the administration has failed to fully consider the glaring loopholes and the weaknesses inherent in the plan it has promoted so successfully. I urge the administration to seriously and critically examine the plan's most alarming defects, those in the provisions for disarmament. I hope that the administration will devote every effort to making certain that this agreement, when finalized at the Paris Conference, will be Khmer Rouge-proof.

Despite my personal reservations about the current outlines of the plan, I believe the United States must now do everything in its power to make this diplomatic process work. We owe this to the people of Cambodia who deserve the opportunity to determine their own futures, free of coercion and violence.

That goal is precisely what this amendment would promote.

This amendment would provide $20 million in humanitarian and development assistance to Cambodians throughout the country. It would allow the administration to continue providing humanitarian support to the non-Communists and to provide assistance to other Cambodians in need.

Under the amendment, the United States Agency for International Development would conduct a needs assessment inside Cambodia and assistance would be spent, to the maximum extent possible, in accordance with the priority of needs identified by AID.

This is necessary given the serious documented problems with the past U.S. aid program to the non-Communist resistance [NCR]. From 1986 to 1990, the United States provided about $20 million in nonlethal assistance to the NCR.

The United States also provides millions of dollars—some 200 tons between 1987–89—of excess DOD supplies to the non-Communists through a separate Defense Department program. The General Accounting Office reports that AID did not design the assistance program to have specific activities or projects planned and implemented, with goals, objectives and benchmarks being clearly defined. There clearly is a need to establish objectives for our aid program to the NCR and other Cambodians.

There also is an urgent need to improve accountability for U.S. funds. The GAO, in its recent report to Congress, noted that "AID's responsibility for assuring accountability ends when the assistance is turned over to the NCR." The amendment attempts to prompt greater accountability for the U.S. taxpayers' money by requiring the President to report on the use of funds provided to Cambodians. We must address the GAO's conclusion that the actual end-use of U.S. assistance to the NCR "still cannot be monitored or verified."

The GAO's startling conclusion raises grave questions about compliance with current U.S. law which bars any United States aid from having the effect of promoting, sustaining, or augmenting, directly or indirectly, the capacity of the Khmer Rouge to conduct military or paramilitary operations in Cambodia.

The GAO was told by officers of the Thai Government and Prince Sihanouk's party that battle targets were communicated to the Khmer Rouge. GAO concluded that "to the extent that U.S. nonlethal assistance has contributed to the NCR's performance on the battlefield, it would appear that such communications and contact between the NCR and the Khmer Rouge forces may have had the effect of indirectly augmenting the efforts of the Khmer Rouge."

As many are aware, the press has been much less guarded in its conclusions, reporting many examples of military cooperation between elements of the NCR and the Khmer Rouge.

Given new reports that the Khmer Rouge are poised to begin an offensive with tanks provided by China, it is essential that this restriction on the use of United States funds be maintained. Yet this year, the House voted to weaken the prohibition on cooperation between the NCR and the Khmer Rouge.

This amendment therefore reiterates the existing ban and, to prevent creative lawyerly interpretation of that law, adds an even clearer prohibition against using U.S. money to help the Khmer Rouge. The amendment requires the President to terminate assistance to any Cambodian organization that is cooperating, tactically or strategically, with the Khmer Rouge in their military operations. The amendment also requires a report on the extent of military cooperation since 1986 between the Khmer Rouge and any individual group or faction of the non-Communist resistance.

As long as no such cooperation occurred, the President would be able to provide humanitarian and development assistance to the non-Communist resistance.

In the past, the U.S. nonlethal military aid program was, as GAO concluded from State Department documents, designed to complement military assistance to the NCR. The House-passed program of aid to the resistance reflected this military orientation. Now that agreement by the Perm Five has established a diplomatic process, the U.S. aid program should complement this process that the administration has set in motion. It can do so by providing humanitarian and development assistance to the NCR and other Cambodians as they move toward an elections process.

This amendment would not cut off or undermine the non-Communist resistance, nor would it impede any aspect of the international settlement. It would allow the United States to continue providing assistance to meet the legitimate and peaceful needs of the factions the administration has chosen to back, so that they can continue to provide a non-Communist alternative in free elections.

This, after all, was Secretary of State James Baker's main request to Congress in his letter of July 1990.

And this amendment would almost triple the amount of aid available in the House bill.

The amendment strengthens the United States role in Cambodia and supports the administration's diplomatic initiatives.

This aid program will demonstrate the United States' commitment to a political process.

It will show that the United States seeks not to further war, but to build peace. It will enable the non-Communists to participate fully in the political arena. And it will help convince Cambodians that the United States has not forgotten them and will help them emerge from the darkness and devastation of war toward a peaceful future of freedom.

I urge my colleagues to support this amendment.

I yield the floor.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I am pleased to cosponsor this amendment, and I support it with all of the strength I have.

Mr. President, this is the killing fields. Cambodia is the killing fields. Cambodia is the place where, in 1975, Pol Pot came to power, the Khmer Rouge. And Pol Pot's strange, deviant brand of communism included a systematic effort to impose an agrarian system on his country, a system which included, among other things, the evacuation of the city of Phnom Penh, shoving people out of the city. It would be as though a government came to power in the United States, went into the city of Washington, DC, and shoved people out of their homes, out of their buildings, and pushed them out into the countryside.

People who had an education, or who looked as though they might be educated, were murdered. People who wore eyeglasses were murdered. One to two million people in a country of about 7 million people were killed by the Khmer Rouge. And then, blessedly, the Khmer Rouge were evicted. They were not evicted from control of the country by our friends. They were evicted by the Vietnamese, and the Vietnamese and the government that they installed have been more or less in control of that beleaguered country ever since.

The policy of our Government has been to oppose the established government in Cambodia because of the connection with Vietnam. I think that that is mistaken policy. My reason for believing it is a mistaken policy is that all things are relative to something, and however we might be in disagreement with the Government of Cambodia, or the Vietnamese, anything is better than the Khmer Rouge; anything is better than mass murder. And make no mistake about it, the Khmer Rouge that came into power in 1975 is still around. The Khmer Rouge that came into power in 1975 is still an active organization, with Pol Pot in control, and the same small group of people around Pol Pot still controling the Khmer Rouge.

And their methods, if anything, have become more sophisticated in their evil. Their basic method now is to plant land mines in rice paddies, so that people who plant rice or harvest rice are blown up, not soldiers are blown up, but people, including women, children, old people, are blown up by land mines. Cambodia today has more children with missing limbs than any other country in the world.

Now according to press reports, the Khmer Rouge have been armed by their Chinese allies with tanks, and the Chinese tanks will be used by the Khmer Rouge to attack villages. Our Government's position has been to support really minor political organization of no significance from the standpoint of real power, because we say that this is the non-Communist resistance; but these people have allied themselves with the Khmer Rouge against the Government.

The real contest in Cambodia is between the Khmer Rouge and the Government. We would like to have Mr. Son Sann in control of the country. It is not going to be. There is no possibility that that is going to be. So in furtherance of our policy we have cut off all kinds of economic contact with Cambodia, we have isolated the country. We have imposed sanctions on the country and it is one of the poorest countries in the world, all, I would insist, to the furtherance of the cause of Pol Pot.

This amendment says that we are going to provide $20 million of humanitarian and development assistance. It says that we are going to provide that assistance to the people of Cambodia. It says that we are going to stop trying to play games with the Khmer Rouge. It says that those organizations that chose to affiliate themselves with the Khmer Rouge are not going to get any of this aid. It is an amendment that is designed to rescue the people of this God-forsaken country and to turn our policy away from our assistance, albeit indirect assistance, for the most bloodthirsty political organization sinc

Nazi Germany, and that is the Khmer Rouge.

Mr. President, I am sorry if the representation of the Senator from Wisconsin is correct and that the administration is opposed to this. I have spoken on several occasions with Secretary Baker. In fact, even before he was sworn in, I went to the State Department and spoke to him on this subject. I do not believe that we have any place to go up in Cambodia, and I think that anything that furthers the cause of Pol Pot and his gang is reprehensible.

This is not a case of Communist government being opposed by freedom fighters. This is a case of a Communist government all right—I am not sure that any of us are exactly quaking in fear to the appellation any more—but it is a question of a Communist government being opposed by a Communist agrarian Chinese-backed radical gang of goons.

It is high time that we change our policy and it is high time that we say anything but the Khmer Rouge, anything but the Khmer Rouge. And this vote gives us an opportunity to say just that.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I thank and compliment my colleague from Missouri for the comments he just made. I had many discussions with my colleague about this important policy question, about what is going on in Cambodia. No Member of this body has spent more time and showed more concern for the plight of the Cambodian people than the Senator from Missouri. He has awakened all of us to what is going on in that country. He is the most knowledgeable Member of this body about circumstances there.

I compliment him for his interest, I compliment him for the courage that he has shown, and I compliment him for the tenacity he has shown in trying to move our mistaken policy in this part of the world.

I also compliment the distinguished majority leader, the Senator from Maine, for offering this amendment and, like the Senator from Missouri, I am proud to join as a cosponsor with the distinguished majority leader.

This amendment would do just exactly what the Senator from Maine and the Senator from Missouri have said it will do. It will give us an opportunity to support the agreements that have been entered into between the permanent five, the United Nations, to move toward a peaceful and hopefully democratic solution to the situation in Cambodia.

By using the language that allows the administration flexibility in deciding how the nonlethal humanitarian assistance will be used, it gives us, for the first time, some leverage in trying to move other parties, including the current government in Cambodia, toward support of our own objectives. It also tightens up clearly the prohibition on any funds being provided that could directly or indirectly be used to benefit the Khmer Rouge. This is an important prohibition. It is important that we tighten this restriction for the reasons that the Senator from Missouri has just outlined.

None of us want to be in a position of having provided funds which would directly or indirectly enhance any possibility that the Khmer Rouge would once again come to power with its reign of terror in that unfortunate and war torn country.

So, Mr. President, it is important that we tighten up those restrictions. Like the Senator from Maine, I am convinced that there is a strong likelihood that in the past some of the funds from the United States might have been used directly or indirectly to benefit the Khmer Rouge. It is time that we have restrictions that are enforceable and it is time we put in place an adequate mechanism to make sure that those restrictions are enforced.

It is also healthy for us to provide this aid in this forum. I have long believed that this is a policy question that should not be discussed behind closed doors where the majority of the Members of the U.S. Senate could not have an opportunity to participate in those discussions and where indeed the American people could not be broadly engaged in the debate about the appropriate policy which the United States should follow in Cambodia.

So this is a step in the right direction. It in no way turns our backs on the non-Communist resistance. It provides continued humanitarian nonlethal support for them. It opens the door to the possibility that we might provide support to a broader spectrum of Cambodian society in need.

It does not require us to make a decision about recognizing the current government or force us in that direction, but it gives the administration the flexibility to move toward an improved relationship if the circumstances merit it and if the current government in Cambodia begins to move in a direction that would further our own policy aims.

It requires that we put on the ground an AID team to evaluate the needs, both current and long-range needs of that country in the event a peaceful solution can be found. It is important that we have that kind of information and that kind of assessment, moving forward at the current time.

So, Mr. President, this is a timely amendment. It gives us an opportunity to reverse some of the policy mistakes of the past. It gives us an opportunity to involve the American people in an open public discussion of this matter. We should be having an open public discussion of it. And, it puts in place a workable mechanism, legal language which is enforceable, that will make certain that we do not have the possibility that our funds could be used to provide benefit to the Khmer Rouge.

I commend the majority leader. I am proud to join with him in sponsoring this amendment. It is my hope that the administration will decide to lend its enthusiastic support for this amendment as well. It does not tie the hands of the administration. It gives the administration flexibility. It gives the administration an opportunity to move toward a policy which will work, and surely this administration would not want to leave on the books a law related to the flow of funds or assistance to the Khmer Rouge which would open the door in any way to any possibility that American funds could be used to help the people running that particular organization and that particular faction. I do not think any of us could look the American people in the eye, could look at American taxpayers and say to them that we wanted to see a penny of their money go to support a murderous group like the Khmer Rouge, and we have a responsibility to close the door to that possibility.

So I am proud to join in cosponsoring this amendment, and I am proud to state as a Senator, and also as chairman of the Committee on Intelligence, that this debate is occurring where it should be debated, in the open, on the floor of the U.S. Sentate, a matter of public policy and not a matter that should be discussed behind closed doors where the rest of the Senate and the American people are foreclosed from the process.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, first I ask unanimous consent to be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I concur completely with my colleague from Oklahoma, Senator BOREN, and join in commending Senator DANFORTH for his leadership and for his forthright statement that he just made here and for what he has been doing and to commend Senator MITCHELL for introducing this.

Talking about the Senator from Maine, I also commend a former Senator from Maine, Ed Muskie, our former Secretary of State, who has been superb in providing insights into this question.

Let me also commend the junior Senator from Nebraska [Mr. KERREY]. I had the privilege of hearing him testify before the Senate Foreign Relations Committee on this, and he did a

superb job in spelling out where we are and what we ought to be doing.

The reality is that our policy has been massively flawed. I think we have reacted because the Government in Cambodia has had ties, very close ties to the Government of Vietnam and in an emotional response to that, we have backed ourselves into doing things that help the Khmer Rouge, the most murderous government that this Earth has seen since the Nazis were in power in Germany.

This amendment should be adopted, should be adopted overwhelmingly, so that there is a signal both to the House and to the administration that we have to move away from this flawed policy.

I am pleased to join as a cosponsor.

Mr. KERREY. Mr. President, I rise as well as a cosponsor of this amendment in support of it and concur with the remarks that have been made applauding the statements by the Senator from Missouri [Mr. DANFORTH], the Senator from Oklahoma [Mr. BOREN], and the distinguished majority leader.

Mr. President, on the 20th of July last year, 1989, at not too far removed from this particular hour, we debated a Cambodian amendment that was very controversial, that pitted the administration against many Members of Congress and was adopted that evening. Much has happened, and I think it is very important to consider all the things that have happened in the world since the 20th of July because it bears significantly upon this particular amendment and the importance of this particular amendment.

Regrettably, it appears that we may once again be arguing against the administration. I say regrettably because of all the things that have been said thus far the one that I think is perhaps the most important is that the American people need to openly debate our policy toward Cambodia; openly debate it, Mr. President.

Since June 1975 until somewhere early in 1980, we in the United States of America essentially drew the blinds on Southeast Asia. When we had our last helicopter lift from the embassy in Saigon, we turned our backs on that region of the world and said, "Well, the war did not go quite the way we wanted and therefore we going to try to forget this whole matter."

Unfortunately, Mr. President, that permitted Pol Pot to rise in power. It enabled him to use the military power and the absolute political power that he had to do all the things that Senator DANFORTH has described earlier. And that has caused the death in the neighborhood of 2 million Cambodian people during the period of time that he was in control of that country.

It is important that the Members of the Senate understand that what this amendment simply attempts to do is bring it all out in the open. I understand that there are concerns. There were concerns expressed last year that this is going to tip American policy toward a Communist government run by Hun Sen, the puppets, as they were described last year, of Vietnam and that we should not tip our policy toward this Communist government; that what we needed to do was support the non-Communist insurgency on the border of Cambodia and Thailand; that this insurgency would put pressure upon the government and that would produce a positive outcome.

I understand that there is still some concern, Mr. President, that we not tip our policy toward Hun Sen. I must say, with all due respect to that argument, I think the administration's own success the past 6 months in regards to our policy toward Cambodia demonstrates we should not be overly concerned about that and if we are, we are liable to in fact have the wrong policy put in place.

Much has happened since July 1989 when we debated this. The support that the Government of Cambodia had from the Soviet Union, from the East Bloc, has all but disappeared. They continue to get some support from the Soviet Union but not very much, and none whatsoever from the East Bloc. They are increasingly isolated. And that has caused, along with American pressure, that government to appear now to be prepared to agree to an interim national council.

There is going to be a meeting sometime in December in Paris to see if all the parties cannot sign the documents and agree to the creation of this new council. And what this council is going to set in motion is a course toward democracy in Cambodia.

What I urge my colleagues to picture is that we have no presence at all in Cambodia. None. We are guessing about what is going on over there. They have never had a democracy in Cambodia. Never. Military power has always be the most important power. The current government has absolute military power just like the government of Pol Pot did. The professional class in Cambodia is gone. It was wiped out by Pol Pot. It was wiped out by Pol Pot and further decimated by the arrival of the Vietnamese in 1979.

Mr. President, this is a nation that is going to struggle to create a democracy. This is a nation that will struggle to create the structures of free enterprise capitalism as well, but this is a nation that has a capacity to do it.

Part of what President Bush is describing in his new world order is a new response on the part of the United States to help these kinds of democracies, to help these kinds of people as they move toward democracy. And it will not work if we continue our isolation from the people of Cambodia.

What this aid gives us a chance to d is go directly to the people of Cambodia. It cuts off and makes sure none o this money goes to the Khmer Rouge It still permits money to go to th non-Communist resistance, nonletha humanitarian resistance. It does no tie our policy toward one governmen or another. It enables in fact the administration to continue down th course toward getting agreement fo the creation of a supreme nationa council.

Mr. President, this particula amendment reinforces what the administration is trying to do. And thi particular amendment, as well, give the American people the opportunit to participate in the development of good and decent policy toward th nation of Cambodia and the people o Cambodia.

Mr. President, I see no one els wanting to speak at the moment, suggest the absence of a quorum.

The PRESIDING OFFICER. Th clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I as unanimous consent that the order fo the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Mr. President, I as unanimous consent that Senator HATFIELD be added as a cosponsor to th pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Th clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I as unanimous consent that the order fo the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is a ordered.

Mr. KERREY. Mr. President, I as unanimous consent Senator DODD c Connecticut be added as a cosponso of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, wish to speak in support of this ver commendable amendment introduce by Senator MITCHELL and Senato DANFORTH on "assistance for Cambod an democracy."

This amendment is crafted to pr vide continued support for the tw factions of the non-Communist resis ance as long as they do not provid military support to the Khmer Roug while beginning to build a broade base for the return of democracy Cambodia.

For too long our policy has been na rowly constructed at supporting onl the two non-Communist resistanc factions in a political coalition with the Khmer Rouge. I have been deeply disturbed by credible reports that at least one of these factions—the army led by Prince Sihanouk—has cooperated extensively with the Khmer Rouge in attacking the Phnom Penh government of Hun Sen.

The General Accounting Office in public testimony on September 19, 1990, before the Foreign Relations Committee's Subcommittee on East Asian and Pacific Affairs which I chair, concluded that "accountability systems do not exist" to provide assurances that U.S. assistance has not been benefiting the Khmer Rouge.

This amendment will start to make our aid program to Cambodian forces more transparent in terms of accountability.

Second, it will start to refocus our program on what should have always been our goal: to rebuild democractic forces in Cambodia.

Another damaging conclusion of the GAO's investigation was that the United States has provided about $20 million in overt assistance to the non-Communist resistance since fiscal year 1986 without designing specific activities or projects planned and implemented, with goals, objectives, and benchmarks being clearly identified.

In effect, $20 million of American money has gone into a Cambodian sink hole.

By requiring the United States Agency for International Development to conduct an assessment of Cambodian needs, we can begin to put some rationality back into our aid program. By providing support for a National Endowment for Democracy program we can begin funding the type of programs needed in advance of elections in Cambodia.

This amendment does not end aid to the non-Communist resistance. It expands it while beginning a broader program to support democratic forces inside Cambodia.

I urge my colleagues to support this amendment and I ask that I be included as an original cosponsor.

Mr. KERREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Glenn). Without objection, it is so ordered.

AMENDMENT NO. 2966 AS MODIFIED

Mr. MITCHELL. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The Senator has that right, and the amendment is so modified.

The amendment (No. 2966), as modified, is as follows:

In the language proposed to be inserted by the amendment, strike out "activities" and insert in lieu thereof the following:

ASSISTANCE FOR CAMBODIAN DEMOCRACY

Sec. . (a) Assistance.—Not to exceed 20,000,000 of the funds appropriated by this Act under the headings "economic support fund" and "development assistance" may be made available for humanitarian and development assistance for Cambodians, including the Cambodian non-Communist resistance, along the Thai-Cambodian border and throughout Cambodia, notwithstanding any other provision of law (other than sections 531(e) and 634A of the Foreign Assistance Act of 1961, section 523 of this Act, and the provisions of this section).

(2) Funds made available by paragraph (1) shall be obligated or expended, to the maximum extent possible, consistent with the priorities set forth in the report required by subsection (d). Not later than 6 months after the date of enactment of his Act, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report describing the expenditure of funds under paragraph (1).

(b) Prohibition on Direct or Indirect Assistance for the Khmer Rouge.—(1) Funds made available under this section shall be subject to the prohibitions contained in section 906 of the International Security Development Cooperation Act of 1985 (Public Law 99-83).

(2) The President shall terminate assistance under this section to any Cambodian organization that he determines is cooperating, tactically or strategically, with the Khmer Rouge in their military operations.

(3) Not later than January 1, 1991, the President shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate an unclassified report describing the extent of military cooperation since 1986 between the Khmer Rouge and any individual group or faction of the noncommunist resistance.

(c) Administration of Assistance.—To the maximum extent possible, all funds made available under this section shall be administered directly by the United States Government.

(d) Reporting Requirement.—The Administrator of the Agency for International Development shall conduct within 180 days of enactment of this Act an on-site assessment along the Thai-Cambodian border and within Cambodia, including Phnom Penh, determining the priorities of the humanitarian and development needs of the Cambodian people, including noncombatant civilians in all sectors of Cambodia.

(2) Not later than January 1, 1991, the President shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report setting forth the priorities determined by the assessment made under paragraph (1).

(e) Relation to Assistance for Cambodian Children.—(1) Any assistance provided under this section shall be in addition to the assistance provided for under the heading "HUMANITARIAN ASSISTANCE FOR CAMBODIAN CHILDREN".

(2) Notwithstanding any other provision of this Act, funds made available under the heading "HUMANITARIAN ASSISTANCE FOR CAMBODIAN CHILDREN" shall also be available to civilian victims of war.

(f) Definitions.—For purposes of this section—

(1) the term "development assistance" means assistance furnished to carry out any of the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961; and

(2) the term "humanitarian assistance" means food, clothing, medicine, or other humanitarian assistance, and it does not include the provision of weapons, weapons systems, ammunition, or other equipment, vehicles, or material which can be used to inflict serious bodily harm or death.

Mr. MITCHELL. Mr. President, this amendment modifies the provision of the amendment which calls for an assessment to be made within 120 days and changes that date to 180 days to accommodate the administration as well as Senators who have expressed concern about the previous time limitation.

With that amendment, it is my belief that the debate is at or near a conclusion. I hope we can proceed to adopt the amendment.

Mr. KASTEN. Mr. President, I would like to address a question to the distinguished majority leader. Does the Mitchell amendment give the Director of AID discretion to select the recipients of the U.S. humanitarian and also development assistance?

Mr. MITCHELL. Yes, it does.

Mr. KASTEN. I thank the leader.

Let me say, Mr. President and my colleagues, the administration is opposed to this amendment, but I think we have to go forward. With the change that has been made, I believe they will be less opposed to this amendment. It would be my hope it would not be necessary to have the yeas and nays. We could simply determine the outcome on a voice vote.

My understanding is that the yeas and nays have not yet been ordered; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KASTEN. I thank the Chair.

Mr. MITCHELL. Mr. President, that is agreeable to me.

Mr. KENNEDY. Mr. President, today the United States Senate has the opportunity to take two important steps toward peace and stability in Cambodia.

I commend Senator Mitchell for his amendment to increase humanitarian assistance to Cambodia and authorize the Agency for International Development to help address humanitarian needs in that troubled country.

I also commend Senator Kerrey for his amendment to lift the trade embargo against Cambodia.

I strongly support both of these long overdue steps toward the normalization of United States relations with Cambodia.

Our diplomatic and economic isolation of Cambodia is a relic of the cold war and the Vietnam war era that no longer serves our interest. Yet the administration refuses to deal with the Hun Sen government of Cambodia, because it is a Communist government supported by Vietnam.

But the cold war is history. The real threat to peace in Cambodia is not an external Communist threat from Vietnam but the internal threat from the genocidal Khmer Rouge.

Peaceful economic growth is the most effective long-term shield against the Khmer Rouge.

The United States can help Cambodia achieve that growth and prevent a takeover by the Khmer Rouge by normalizing relations with Phnom Penh, lifting the trade embargo, and terminating United States military assistance to non-Communist resistance forces which are working with the Khmer Rouge to overthrow the Hun Sen government.

Small businessmen in Phnom Penh have long since rejected Pol Pot's Maoist principles in favor of the advantages of a free market economy—particularly since they are allowed to own and transfer private property and operate their businesses with virtually no restrictions.

Aside from a Japanese sawmill and a Singapore hotel, however, there is almost no foreign investment in Cambodia, because of United States pressure on its trading partners.

The continued isolation of Cambodia harshly and unfairly penalizes the Cambodian people, and undermines our efforts to promote a diplomatic solution and support self-determination.

It is counterproductive for the United States to refuse diplomatic relations with Phnom Penh. The administration needs a better understanding of the political and military situation on the ground as well as a first hand knowledge of Hun Sen's objectives in the peace process.

The administration recognizes the value of open channels of communication in the Middle East. Why should we maintain an embassy in Baghdad, but not in Phnom Penh?

Moreover, our country's support of rebel groups seeking to overthrow the Cambodian Government by violence is unjustifiable—particularly since that government has agreed to allow the United Nations to administer democratic elections. It is all the more reprehensible to support these groups in light of the fact that their military victory would result in Pol Pot's return to power—a fact that the administration acknowledges.

The concept of the non-Communist resistance as an autonomous group fighting a civil war independently of the Khmer Rouge is a fiction. All three rebel groups are funded by China. All three share the common goal of overthrowing the Hun Sen government—which is why they have shared the United Nations seat for so many years. Obviously, they support and benefit from each others' military offensives.

The administration recently recognized the Khmer Rouge's dominance over the non-Communist resistance and withdrew its support for the coalition in the United Nations. It is inconsistent to maintain that the Khmer Rouge dominates the diplomatic field but not the battlefield—or any future government other than the current one.

Congress should immediately withdraw its military support for all the members of this coalition. To prevent the non-Communist resistance from helping the Khmer Rouge return to power, the Congress should condition the continuation of humanitarian assistance to these groups upon their agreement to stop fighting.

During Pol Pot's genocidal reign of terror between 1975 and 1979, nearly a third of the Cambodian population was brutally murdered. The Khmer Rouge are currently pursuing a military strategy similar to the one that enabled them to take Phnom Penh in 1975. They are stepping up their terrorist attacks and are chocking supply routes with the tragic result that food and medical supplies are running short across the country. Khmer Rouge leaders boast that they can win the war within a year.

The recent agreement among the four factions to a United Nations framework for a comprehensive political agreement is a significant development. However, it remains fraught with political and logistical problems and could take years to implement. In the meantime, the Khmer Rouge are literally bleeding the country to death.

During the first 8 months of this year, they sabotaged the country's two railways on 72 occasions—mining and derailing trains, and murdering and robbing passengers. Now, bolstered by China's secret delivery of 24 tanks, the Khmer Rouge are preparing a major offensive to seize the areas around Angkor Wat—Cambodia's most important cultural and historic region.

As the Khmer Rouge and the non-Communist resistance continue their offensive, Cambodian civilians suffer the heaviest casualties. Every day men, women, and children are killed by the rebels and lose body limbs to land mines. The rebels' terrorist campaign against the civilian population has resulted in thousands of casualties this year alone.

More than 350,000 Cambodian refugees have fled across the Thai border. Provisional hospitals are filled with civilians—many of them children whose arms and legs have been blow off by Khmer Rouge land mines.

There are currently 600 to 800 amputations performed a month in Cambodia. Yet, due partially to the trade embargo, almost none of the amputees have access to prosthetic devices.

During the past few months, many of us have worked to address this problem. I am pleased that the pending bill urges AID to channel assistance from the war victims fund through private voluntary organizations to Cambodian civilians disabled by the war. I also commend the language in the committee report indicating that a portion of the $5 million in humanitarian assistance to Cambodian children should be devoted to caring for victims of land mines.

Continued U.S. military support for the non-Communist forces will only help the Khmer Rouge in their bloody effort to regain power. Our diplomatic and economic isolation of Cambodia is preventing civilians from receiving proper medical treatment and care.

There is no justification for continuing to back a military solution in this devastated country. I urge my colleagues to stop funding this war and to adopt the Kerrey and Mitchell amendments, so that the United States can play a more constructive role in the political and economic development of Cambodia, and help counter the growing influence of the Khmer Rouge.

The United States should be paving the way for a just and lasting peace in Cambodia—not subjecting that beautiful and stuffering land to the risk of further genocide.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 2966), as modified, was agreed to.

Mr. MITCHELL. I move to reconsider the vote.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I am advised that before the committee amendment is adopted, Senator Kerrey of Nebraska wants to offer an amendment on the Cambodia trade embargo. I see him on the floor.

I yield the floor.

AMENDMENT NO. 2967.

(Purpose: To prohibit funding the administration or enforcement of the economic embargo against Cambodia)

Mr. KERREY. Mr. President, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. Kerrey], proposes an amendment numbered 2967 to committee amendment on page 9.

Mr. KERREY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following:

PROHIBITION ON FUNDS TO ADMINISTER OR ENFORCE CERTAIN TRADING WITH THE ENEMY ACT AUTHORITIES

SEC. . Notwithstanding any other provision of law, no funds appropriated by any provision of law may be made available to administer or enforce the authorities of the Trading With the Enemy Act with respect to Cambodia which were in effect before the date of enactment of this Act.

Mr. KERREY. Mr. President, this should not take a great deal of time. It simply reinforces some arguments I made earlier. Again, I understand that in this particular case, the administration will not accept this amendment, so it is apt to be opposed on the other side. I rise to make the argument, nonetheless.

We would be well served in our policy objectives; that is, the objective of having a free and independently elected government in Cambodia, that free markets be permitted to develop in Cambodia, and that those policy objectives would be well served by the United States achieving a presence in Cambodia.

One of the things that denies us that presence is the continuation of a restriction called a "Trading With the Enemy Act" restriction.

We have considered Cambodia a country to be an enemy of the United States since Vietnam went into Cambodia and took them over. We have considered that they are essentially a puppet of the Vietnamese and, in fact, that is a very difficult argument to refute, one that I would not attempt to refute. They have, in fact, enjoyed a considerable amount of support, and the evidence is pretty clear that the Vietnamese have substantial control over the Government of Cambodia.

Nonetheless, we do not have a presence at all in Cambodia. We have no one there. There are nongovernmental organizations there, but there is no economic activity on the part of American citizens there. There is no attempt on the part of the United States Government to influence the course of events in Cambodia.

Again, I urge my colleagues to consider what this country looks like. This is a country with approximately 6½ or 7 million people that are left in the country. This is a country that has never had a democracy before. The most effective political organization in Cambodia today is the Khmer Rouge. The most effective political organization is the Khmer Rouge. They are the ones that are working day in and day out to try to sell a message that is essentially anti-Vietnamese, essentially opposed to corruption that occurs in Phnom Penh itself, and essentially is increasingly successful in Cambodia.

What this enables us to do, Mr. President, is to spur efforts to establish the democratic processes and values in Cambodia. Understand again, there is no due process in Cambodia, and there never has been. The Supreme National Council, I expect, will be approved; the parties to that council will approve the agreement in Paris in December.

This council is composed of people themselves who have never been in a situation where they have said, "All those in favor, say aye." It is composed of the Khmer Rouge, chaired by a former king, Sihanouk, and it is dominated as well, by the government of Hun Sen, obviously not a government that has experienced democracy before.

This is a nation that does not understand due process. It does not understand how to protect the rights of an individual to dissent. This is a nation that has suffered greatly from 1975 to 1978 because there was an absolute military power that enabled the denial of freedoms and the persecution, the execution, and extermination of nearly 2 million people to occur.

As I said, I understand that the administration believes that the timing of this is not right. I understand the concern this might provoke and, in fact, the sort of backlash against their policy. I applaud the administration for their courage demonstrated in their policy. I applaud the progress they have made and the boldness they have demonstrated in a willingness to talk to people that, in fact, we have not talked to previously.

Mr. President, I believe this will enable American and Western business people to go to Phnom Penh. I believe this will enable us to see firsthand what is going on. I cannot emphasize enough that the people of the United States of America have very little information as to what is going on in the nation of Cambodia itself.

Mr. President, I simply ask that this particular amendment be passed with a voice vote, if that is possible, and that it be considered. If it can be accepted on the other side, I would ask that there be no requirement for a rollcall vote on this, and that we simply vote it with a voice vote at this time.

The PRESIDING OFFICER. Is there further debate?

Mr. KASTEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KASTEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KASTEN. Mr. President, I will ask unanimous consent to temporarily set aside the pending Kerrey amendment. The reason I am doing so is there is an indication at least that this may be all or partially within the jurisdiction of the Finance Committee and we are right now making a determination with regard to the Finance Committee's attitude toward this amendment. If we could set this aside momentarily and go to one or two amendments, which could be agreed to within a matter of moments, of the Senator from Illinois, we would then go back and have the Kerrey amendment the pending business. I ask unanimous consent to set the Kerrey amendment temporarily aside.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, reserving the right to object, and I shall not object, upon the completion of matters of Mr. SIMON we will go back to Mr. KERREY with the amendment pending.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

AMENDMENT NO. 2968

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 2968.

Mr. SIMON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 174, line 17, strike the period and insert in lieu thereof the following: ": *Provided*, That no funds under the headings 'Economic Support Fund' and 'Foreign Military Financing Program' may be obligated or expended until 30 days after such report is transmitted to the Congress.".

Mr. SIMON. Mr. President, both of these amendments deal with a situation that this bill already deals with but it simply strengthens what is in the legislation a little more.

Kenya is one of Africa's most exciting countries and it is a country with huge potential. Its leader is President Moi and I have on two occasions had very pleasant visits with President Moi. But unfortunately there has been a deterioration of human rights in Kenya. We have to send a signal firmly and strongly to President Moi and all the leaders in Kenya that that is not acceptable if they are to receive American economic assistance.

Frankly, it is much more than just American economic assistance. Kenya simply cannot prosper as it should if it continues on the present course.

The first amendment requires that none of the funds may be released until 30 days after the President certifies to Congress that certain conditions have been met. It gives Congress a chance to respond.

I believe it is acceptable on both sides.

The PRESIDING OFFICER. Is there further debate?

Mr. LEAHY. Mr. President, if I could ask the distinguished Senator from Illinois, does he have two amendments on the desk or one?

Mr. SIMON. I have one pending.

Mr. LEAHY. Mr. President, is the one pending the one that says on page 174, line 17, strike the period and insert in lieu thereof the following: "*Provided*, That no funds under the headings 'Economic Support Fund'——

Mr. SIMON. That is correct.

Mr. LEAHY. I thank the Senator.

Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. Is there further debate? Without further debate the Senate is prepared to vote.

The question is on agreeing on the amendment of the Senator from Illinois.

The amendment (No. 2968) was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMON. Mr. President, as to the second amendment I think there is some concern on the part of the two managers here. Let me read it and maybe we can enter into a dialog and take care of it without offering the amendment.

It would set condition for the release of any aid which I believe is implied in the legislation before us. My amendment would require the Government, and I quote "to release all prisoners that have been detained for exercising basic political freedoms including freedoms of expression and of assembly."

I understand that the subcommittee feels that this is covered in the bill. If they could simply reassure me that that is precisely what is meant by the language that is in there I will not offer the amendment.

Mr. LEAHY. Mr. President, let me give my assurances to the distinguished Senator from Illinois that that is our intent. We do have language that is very similar. We are seeking the same result. We have the same concern about the political prisoners.

I would ask the distinguished Senator from Illinois if he would be willing not to offer his amendment but to rely on the language we presently have in the bill. I assure him that both the distinguished Senator from Wisconsin and I share his concern about the political prisoners. I believe we have it covered in the bill. I would ask, based on those assurances, if he would be willing to withhold his amendment.

Mr. SIMON. I thank Senator LEAHY and Senator KASTEN. Let me add, I appreciate what they have done. I think it is an important step for human rights.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, while we are in a little hiatus here, let me just commend my colleagues from Wisconsin and Vermont for their leadership on this. Specifically, what we appreciate is some additional assistance for Africa that is in this particular appropriation. Africa has 28 of the world's 42 poorest nations. And yet only about 11 percent of our aid overall—I have not calculated the new figures—but up until this year—have gone to sub-Saharan Africa. This bill improves that somewhat, and I think is clearly a step in the right direction in terms of humanitarian aid.

I apreciate this step forward. I commend my colleagues, Senator LEAHY and Senator KASTEN, for their leadership on this as well as the other members of the subcommittee.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

APPOINTMENTS BY THE MAJORITY LEADER AND THE REPUBLICAN LEADER

The PRESIDING OFFICER. The Chair, on behalf of the majority leader and the Republican leader, pursuant to Public Law 100–418, announces the appointment of the following individuals as members of the Competitive Policy Council:

Mr. Jack Barry, as representative from the labor community;

Dr. Bruce Scott, as representative from the academic community;

The Honorable Michael Hayden, as representative from State or local government; and

Mr. Rand Araskog, as representative from the business community.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KASTEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS, FISCAL YEAR 1991

The Senate continued with the consideration of the bill.

Mr. KASTEN. Mr. President, we have at least three amendments to which the chairman of the subcommittee, the Senator from Vermont, and I agreed. I would like to see if we can bring these amendments to the floor and agree to them.

AMENDMENT NO. 2969

(Purpose: To express the sense of the Senate regarding the Angolan famine)

Mr. KASTEN. Mr. President, on behalf of Senator KENNEDY, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, since the majority floor manager is not here, do we need to proceed to proposing these amendments?

Mr. KASTEN. Mr. President, this has been cleared by the Senator from Vermont.

Mr. FORD. I accept the Senator's word on that. I was just very concerned he was not here.

Mr. KASTEN. He would be here, and he has been here, in and out. He is right now at the farm conference.

Mr. FORD. I have no objection. I just wanted to be sure our side was covered.

The PRESIDING OFFICER. Is there objection to considering the amendments at this time? The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN], for Mr. KENNEDY, proposes an amendment numbered 2969.

Mr. KASTEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

FAMINE ASSISTANCE TO THE ANGOLAN PEOPLE

Sec. . The Congress finds that—

(a) the looming famine in Angola is the world's leading humanitarian crisis, and puts at risk of starvation an estimated 1.9 million Angolans in the absence of effective international assistance;

(b) the majority of the potential famine victims reside in areas of conflict;

(c) the continuing civil war is the primary impediment to effective international famine relief efforts;

(d) the impact of famine on the Angolan civilian population is compounded by the massive effects of prolonged war and deprivation, including the loss in the course of the civil war of over 500,000 lives including 330,000 children, high malnutrition, and high civilian casualties due to land mines: Now, therefore, be it

Sec. . it is the sense of the Senate that—

(a) the United States and the rest of the international community should respond generously to the Angolan famine by providing immediate emergency assistance through appropriate international and private voluntary organizations to Angolan civilians on both sides of the Angolan conflict;

(b) the United States and the international community should strongly urge both sides of the Angolan conflict to cooperate in the famine relief effort, to facilitate the provision of emergency assistance under appropriate international auspices and to work to establish a lasting ceasefire and an end to the civil war;

(c) the efforts of the United Nations, the International Committee of the Red Cross and voluntary agencies to provide famine relief are to be commended and supported.

Mr. KASTEN. Mr. President, this amendment is supported by both sides.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment (No. 2969) was agreed to.

AMENDMENT NO. 2970

Mr. KASTEN. Mr. President, on behalf of Mr. CHAFEE I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment will be in order at this time. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN], for Mr. CHAFEE, proposes an amendment numbered 2970.

Mr. KASTEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 533, "Environment and Global Warming," after subsection (d), insert the following new subsection:

"(e) Of the funds appropriated by this Act to carry out the provisions of section 23 of the Arms Export Control Act, not less than $15,000,000 shall be made available to countries in Africa for programs which support conservation and biological diversity."

Redesignate the following subsections accordingly.

Mr. KASTEN. Mr. President, I ask unanimous consent Senator LEAHY and I be listed as original cosponsors of the Chafee amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KASTEN. I hope now we can move forward in adopting the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2970) was agreed to.

AMENDMENT NO. 2971

(Purpose: To require an analysis of anti-narcotic resource requirements)

Mr. KASTEN. Mr. President, on behalf of Senator HATCH, I send an amendment to the desk and ask for its immedate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN], for Mr. HATCH, proposes an amendment numbered 2971.

Mr. KASTEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . ANTI-NARCOTICS RESOURCE REQUIREMENTS.

(a) The President shall undertake an analysis of the requirements necessary to bolster anti-narcotic efforts and assets of transshipment countries identified in the President's strategy.

(b) The President shall submit to the Congress, at the time of the submission of the President's budget request for fiscal year 1992, a report describing the requirements indicated by the analysis under subsection (a).

Mr. KASTEN. Mr. President, this amendment has been cleared and is supported by both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2971) was agreed to.

Mr. KASTEN. Mr. President, I am in the process of going forward and asking for a quorum call. I understand the Senator from Colorado may want to speak.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TAX PACKAGE

Mr. ARMSTRONG. Mr. President, it is my understanding the managers need some time now to check some amendments and do some other things. I do want to speak on another subject. I do not want to in any way delay the progress on this bill. I was intending to speak after consideration of the bill was concluded. If there is time at this point, I have a few comments I want to make on another subject.

With that understanding, I want to address some other issues. Frankly, I was prepared to wait until whatever time this matter was concluded. I am not displeased to have a chance to say a word now.

It is getting awfully late. It is 10 o'clock. As I look around the room, I notice that some of the Members seem a little glassy-eyed and some of the staff look like their eyes are rimmed with fatigue, and I am in about the same condition myself. I have been up since 4 this morning, and I suspect other Members are in the same condition. But there is a point, even when it is late in the evening, that some things have to be said.

I did not want to let this day end without expressing again my very great concern about the tax package that is being put together even at this moment. I have just come from the Finance Committee, of which I am a member. Over in Finance, they are in the process of marking up a tax bill which, in my view, will have disastrous consequences for the economy of this country and for the taxpayers all over America.

I am sorry to report that this is another package that was developed sort of in the spirit of the summit agreement. I was not a fan of the summit process. I thought at the time and said so at the time, I guess, that it was a mistake to send a handful of people off for secret deliberations with the idea that somehow they could develop a secret package and keep everybody from knowing whose fingerprints were on what piece of the package so they would not be blamed for it, and then present it on a take-it-or-leave-it basis for the rest of us in Congress to consider and pass. That advice that I gave was not heeded.

As my colleagues know, we spent about 5½ months waiting for the summiteers to come back from the Officers' Club out at Andrews Air Force Base, and other locations, to present us a package, and it no sooner was out in the public, presented, and endorsed by the leadership of both parties in the House and Senate, than it was promptly shot down.

It was not shot down, as some have suggested, by Members of the House of Representatives, where the package was defeated in a floor vote. It was shot down by the people in America.

Mr. President, the President of the United States went on national television and was immediately followed and endorsed by the majority leader, the Senator from Maine [Mr. MITCHELL]. Mr. Bush, in his remarks, called for the people of America to get in touch with their Congressmen and Senators, to get on the phone. I do not know how it turned out in most offices, but in our office we got about several hundred calls, and I think about 93 percent were against the package and I believe 3 percent were wrong numbers.

So as far as I can tell, that was the most unpopular legislative initiative we have seen around this place since catastrophic health care was presented and put through.

So, Mr. President, it did not surprise me particularly that the summit package was shot down. I only mention that because the budget package, including the tax portion now being marked up in the Finance Committee, is going to come to the floor within 2, 3, or 4 days under exactly the same kind of parentage and heritage that we had with the summit package. That is, it is a package that was put together by three or four Senators and then presented in committee in a secret session on a take-it-or-leave-it basis. It was put to the members of the Finance Committee, in no uncertain terms, that what were euphemistically termed member amendments would not be in order. This was a leadership understanding that those would all be tabled.

Of course, that is not absolutely binding. Any member is free to offer an amendment. Whether or not some could get adopted, I do not know. I think it is unlikely, because frankly this is one of those cases where the fix is in.

When we get down to the very end of the session, the very fact that it is late in the day, late in the week, and late in the session, and time to adjourn, is used to justify a kind of speeded up process where nobody knows exactly what is in the package, where Members do not have their usual rights to offer amendments, or at least not to have them seriously considered, where the interest groups that would ordinarily be consulted in the process are not consulted, where the hearings that would ordinarily be a part of considering such complicated legislation are not held, all based upon the presumption that, well, it is just a little too late.

That is exactly what this bill is going to be when it gets here early next week. No hearings on some of the most controversial and far-reaching provisions and no real opportunity for consideration in open committee meetings, although I assume there will, before this night is over, be a committee meeting out in the open where people can see it. But most of the real work is being done behind closed doors in secret again.

I do not think that is a good practice. I say that not because I am a great lover of tradition, but I happen to think that legislating out in the open committee meetings, with adequate, preferrably ample time for the public to react to proposals and to let us know how they are affected, is not just a matter of custom and tradition, it is an essential safeguard in the democratic process.

We all know that the worst mistakes that have been made in this Chamber, in tax policy and a lot of other things, have been the result of these late-night secret sessions where a bunch of people sitting around in a room, out of the sight of the public, without the benefit of the advice of those directly affected, cook up some of these cockamamie schemes, foist them off on the public, and rush them through the Chamber on the excuse it is too late to do anything else and we have to do something.

Mr. President, I will tell my colleagues, sooner or later Senators are going to repent of the kind of legislation they are going to get. In my own case, I am regretting it a litte sooner, because having been a member of the Finance Committee, I have had a preview of what this legislation is going to be.

One of the reasons I rise tonight is to share with my colleagues some of the details of what is in that legislation, so that they can be thinking about it over the weekend. I hope that, as they do so, they will come to the same conclusion that I have: We ought to kick this package in the creek. There is no reason to pass a package like this. In fact, it is about the worst possible, idea, with this economy teetering on the cusp of a recession.

In fact, we are not really on the threshold of the cusp of a recession, we are in a recession. Some economists still debate whether that is true, but I think the vast majority of economists recognize something businessmen and consumers have been telling their Senators for several weeks, and in some cases for several months: We are in a recession.

Maybe a lot of people have not noticed it, but the bond market is sagging, the stock market is crashing. It is off 600 points in the last few weeks; off again this week I think 150 points or more. The real estate market is entering the second or third year of recession and, frankly, the experts do not know if we have hit bottom yet.

In consulting economists about what the future may be, we can get a lot of different stories. I do not know any economists—there might be one—I do not know of any economists who think we are not in a recession. What is in dispute is whether or not we are going to have a mild recession that might last a few weeks or a few months, perhaps even a continuation of the so-called rolling recession, or whether or not we are really heading into an old-fashioned depression.

I am not predicting that. I do not know. Frankly, I think a lot of the outcome is beyond our control in this Chamber, thank heavens. It turns out that in the real world, out in the real economy, things like the price of oil and other issues that are beyond the direct control of Congress really have a huge effect on the outcome.

But the reality, Mr. President, is that we can have a big effect on the outcome in this Chamber if we legislate wisely. Or at least if we refrain from legislating foolishly, we will not make the situation any worse.

Yet, as Warren Brookes has pointed out so thoughtfully and forcefully in a series of articles that have been published in a newspaper here in Washington, and I judge have been published in papers all over the country, there is not any known body of economic thought that suggests that the right medicine for the economy when you are in a recession is to raise taxes.

That is what we are doing, and this is a recession, possibly a depression, budget that we are cooking up.

Mr. President, I do not want to take time to give an exhaustive analysis of the bill, but I want to talk now about some specifics. I have made it clear that I do not favor a tax increase of any kind. I do not think this is the moment to raise taxes because our economy is just too fragile, too delicate. It just does not make sense to me. But if I did think a tax increase was necessary at this time—and I would be more favorable, frankly, to some carefully selected tax cuts, particularly a cut in the capital gains rate, but if I thought this was a time to raise taxes, I am sure as thunder would not put together a package of the kind we are going to be presented with from the Finance Committee in a very short order.

The first thing that the Finance Committee is going to do—by the way, as I understand it, this is pretty well in coordination with the Ways and Means Committee. I do not know exactly what the deal is, but, as I understand it, most of these provisions have been preconferenced or preagreed between some of the members of the Finance Committee and some members of the Ways and Means Committee.

The first things that they do in this bill—and the total revenue raising provisions in this bill, if I recall correctly, are about $170 billion—it is actually $170.9 billion over a 5-year period. That makes it, I believe, the largest tax increase in the history of America and though there is some dispute about whether it is the largest tax increase or the second largest tax increase, but it is a whopping increase and I am certain it is the largest tax increase ever proposed, let alone enacted, at a time when the country is in recession.

Among the items which are in here are the following revenue raising provisions: First, a limit on itemized deductions. Let me explain how that lulu works. This is a little number where, if this is enacted, as I expect it probably will be, taxpayers whose income excees $100,000 per year will be disallowed itemized deductions in an amount equal to 5 percent of their adjusted gross income in excess of $100,000.

There are a couple of exceptions, but what this really means is an effective tax rate increase on people in this income bracket. What it also means is that churches and charities and scientific research organizations and others who depend for their income on the contributions of private citizens will find it marginally more difficult to raise their contributions. Perhaps some of them will subsequently come around and suggest they ought to get a direct appropriation from the Treasury, but in the meantime they are going to take a licking.

A second proposal which is included in the Finance-Ways and Means proposed legislation which we will have a chance to vote on sometimes next week is an increase in the gasoline tax. In fact, it comes to just about a doubling, a little more than a doubling, of the tax. I believe it is now 9 cents, and in a two-step process this tax is going to raise $42.6 billion by the simple expedient of raising the tax 9.5 cents. It is going to go in stages, in a two-step process, from 9 cents to 18.5 cents.

Then they are going to raise $5.9 billion by increasing tobacco excise taxes. Mr. President, if I were going to get interested in raising taxes, this one would be all right with me. Frankly, I think smoking is not only a socially undesirable thing, it is a terrible health hazard, and I say that as one who smoked for many years. I used to smoke four packs of cigarettes a day. My dad smoked. A lot of my friends used to smoke. I tell you, if you have ever had somebody in your family, a loved one, who smoked and watched them die, you would get kind of a different perspective on that glamorous habit.

So I am not here to defend cigarette smoking. This is a place where, if I were going to raise taxes, I would be ready to raise them. But I am not here to raise taxes. I do not think that is good medicine. If we want to do something about smoking, maybe we ought to legislate in that area, and, if we do so, I will be among the first ready to proceed. But this is not a moment to raise taxes for the sake of the economy.

Then the tax-and-spend crowd wants to increase taxes on beer, wine, and distilled spirits. They intend to raise $9.1 billion over a 5-year period by increasing the tax on these industries.

They are going to impose a 10-percent tax on certain luxury items. Among those specifically are jewelry, some boats, automobiles, airplanes, furs, and so on. There are some miscellaneous details. But the long and short of it is it is just another way to squeeze about $2.1 billion out of the economy in the next 5 years.

Then they are going to increase the airport trust fund tax, an excise tax that will bring in about $12 billion over 5 years.

Here is a provision that I hope Senators will look at closely. It is technical, probably going to put some insurance companies out of business and throw some people who work in insurance companies out of jobs. They are going to raise $8 billion over the next 5 years from a provision to require that insurance companies amortize the acquisition costs of policies.

Mr. President, earlier today I said it is wise to never say never, but I did say I was never going to learn anything about insurance taxation. That is absolutely the most arcane and boring kind of tax policy I know anything about. So it is really with great reluctance that I forced myself to learn something about it, and it is very simple.

When a company sells an insurance policy, they have an acquisition cost, the sales cost, the Commission, the office expense, the advertising that goes into acquiring that policy. Now, the policy may bring in premiums for 10, 20, 30, 50, 60 years but the cost is disproportionate in the first few days of the policy. And so it has been the custom in that industry, as I understand it, to permit them to expense that if they have to capitalize it and charge it off over a period of years, which does not seem to me a completely unreasonable idea. But the way this provision is drafted, I am told that many companies will find themselves paying a tax that actually exceeds their statutory income. We all know that their statutory income is not exactly the same thing as their income computed according to generally accepted accounting principles. There is a difference.

So I asked this question: What would happen if we took this provision, if we accepted it, but capped it at no more than 34 percent of their income computed according to generally accepted accounting principles—in other words, treat them just like any other corporation is treated?

The answer came back, if we did that, it would not raise any money. So I cannot tell you exactly how hard this is going to hurt insurance companies, but what we do know is that its very reason for being in this bill is to impose on insurance companies a tax well above what other corporations pay.

I do not know, I cannot represent to you as I stand here tonight that I understand the exact effect on insurance companies, but the ones I talked to about it, the ones who called me about it, are terrified. So I hope Senators will take a long, hard look at that.

Mr. WALLOP. Mr. President, will the Senator yield for just a couple of quick questions?

Mr. ARMSTRONG. Mr. President, I will be glad to yield for questions or I will be glad to yield the floor and let the Senator speak. I have quite a few more things on my heart tonight, but I would be glad to let the Senator from Wyoming proceed.

Before I do so, one of the things I am going to do before this night is over is say a few words praising the Senator from Wyoming for a news conference which he conducted this morning which had an extraordinary turnout and at which I heard the most thoughtful statements on tax policy I have heard around here in a long time. I took the precaution of actually obtaining written copies of these statements, and I am going to read some of them and put the rest of them in the Record before the evening is over. I really do congratulate the Senator from Wyoming for his leadership on this matter, and I am very pleased to yield to him.

Mr. WALLOP. Mr. President, the first thing I would say to the Senator in preface to a question is that I agree with him. I know of no reputable economist in America, or anywhere else in the world for that matter, who thinks that it is wise economic policy, fiscal policy, or any other kind of policy to raise taxes on what I said this morning was the cusp of a recession. We are either in one, depending on who you listen to, or about to be in one, depending on who else you may listen to, but I know nobody who thinks we are nowhere near one. So this is a moment in time when the Senate, the country, the House of Representatives, and others ought to wake up and really understand what it is they are doing.

Has the Senator heard any serious talk in the press or otherwise about reducing expenditures as a way of making government more efficient, or has the country's attention focused primarily on merely raising taxes?

Mr. ARMSTRONG. As the Senator knows, the way we got into this jam is earlier this year there was convened a summit conference and there was a drumbeat of insistence that the President, in agreeing to the summit conference, put taxes on the table. To my regret, my everlasting chagrin, he did so. In the process we have the whole country's attention riveted on the tax question.

You know, it is not unlike the horrible situation that develops when somebody goes out on the ledge of a high building and threatens to jump. Everybody down below looks up at that poor devil who is standing up in the window or on the rooftop, wondering will he jump off or will he not? Of course, somebody down below says jump, jump. That is the way it has been with the President.

All year long they have been trying to push him into raising taxes and to some extent, I regret to say, they have succeeded. In the process, we have lost sight of what we ought to be thinking about, which is finding ways to curtail spending.

The fact of the matter is, we could get this budget deficit under control in short order by spending restraint. If you wanted to cut spending, which I do, you could solve this problem quickly. But assuming there is not the political willpower to ever cut anything, if you just take it as a given that you cannot cut back, if you cannot spend less on any of the 1,176 Government programs in any year than you spent the last year, you still do not have to raise taxes to solve the budget deficit gap. All you have to do is restrain the growth. We have completely lost sight of that, as the Senator from Wyoming points out.

I thank him for doing so. In fact, the worst of it is this: In this deficit reduction package, in what is going to come out of the Finance Committee tonight, or tomorrow morning, or very soon, not only are we not addressing the kind of spending issues as we ought to, but we are actually starting new programs. In fact, that is one of the things I was going to bring out, if the Senator would indulge me just a moment.

I have here a list which I will presently ask to put in the Record of some $2.6 billion in new spending for Medicare which is started by this deficit reduction package; $1.635 billion in new spending for Medicaid, which is started by this package. There are a few worthwhile reforms in this package as well.

But the very idea that we would be starting new spending in the bill, the very purpose and intent of which is to somehow close the deficit gap, just shows how far off the track we have wandered.

Mr. WALLOP. Let me pose another question to the Senator. I do not know what his other committee assignment besides Finance is, but let me describe to him my experience this week in the Senate Energy and Natural Resources Committee.

Under the terms of reconciliation, we were given a target, I think, of some $370 million to reduce under the terms of reconciliation. The proposals that were sent to us by the Budget Committee were all proposals to, in essence, raise taxes. They called them fees—camping fees, recreation fees in the Forest Service, mining fees for hard rock miners, and a variety of other things. But they are in effect taxes. They are new items for which Americans have to pay to do what they have been doing less expensively in the past.

I would add that this is not the fault of the chairman of the committee, these are things that were sent down to us. So I suggested to the chairman that we examine how much could be saved if we just reduced 5 percent of the overhead budget, not the program budget, in the Department of Energy and the Department of the Interior.

I do not know what the figure is, and do not to this day because, guess what? Even if we knew the figure, under this wretched budget procedure which we have devised for ourselves in this Congress, we would not be able to insist on efficiency in government and savings for the American people. The only thing that we can do is to raise taxes, commonly called fees.

Mr. ARMSTRONG. Or vote no.

Mr. WALLOP. Or vote no. That happens.

Let me suggest the second thing that happens. We have under the jurisdiction of that committee a small place called Water Island, which is located in the United States Virgin Islands. Water Island is a property of the United States which is leased by a private corporation. The terms of that lease, which comes due in 1992, require the United States to purchase the assets at fair market value on the termination of the lease. That presents a fiscal obligation to the United States. It is a contract.

I suggested that we sell Water Island and recoup to American taxpayers $35 million more than some of the fees that we were going to impose and take credit for the abrogation through sales of the obligation that was going to incur upon the United States.

Guess what? According to the Budget Act under which we all operate, that is an asset sale and therefore not availble to the taxpayers of the United States to reduce our deficit because it is only one time. One-time money does not count. It is only long-time money. The only long-time money is taxes. But had we given it away, we could have been scored for the credit of the obligation that comes on the termination of the lease. To give away $35 million, we could have gotten perhaps $5 or $6 million scored. But that is the process that we have developed for ourselves.

I then suggested that we examine ANWR. Actually I did not. I have to say it was the Senator from Alaska [Mr. Murkowski] who did that. But I examined it from the perspective of the Budget Act. Whether or not one is in agreement with that or not, the fact of it is that this requires us all to raise $3 billion in fees. This one act would have done it—the leasing of ANWR.

It would have provided relief for Americans, America's budget crisis—not a resolution. It would have had provided relief for America's energy crisis—not a resolution. But under the Budget Act that is considered to be an asset sale because, if we lease it and produce the oil, the property that returns to the United States is less valuable on its return than it is today.

But the fact is that since you cannot lease it, it has no value today. There is no business sense of any sort in this process. However, it is CBO who scores it as an asset sale for the purposes of the Budget Act. It is OMB who scores it not an asset sale and available under sequester.

The question that I ask the Senator is that under the Budget Act it appears that no committee save the Appropriations Committee can provide Americans efficiency in government as a means of resolving the defict crisis. And the only means by which we can reach that is to go to sequester or some sort of spending freeze. Either of those is preferable to the American taxpayer than taking that money out of his or her pocket, whether it is through insurance companies, beer companies, or the gasoline tax, whether it is incurred by the wealthy, or anybody else.

Somehow or another that money comes out, does it not, of the economy? And would it not be better in the mind of the Senator from Colorado to devise a budget act later that works better, but in the meantime provide the American people with real savings to address this budget deficit?

Mr. ARMSTRONG. The Senator from Wyoming is absolutely right. Not only have we rather consistently refused to consider spending restraint, but we have actually created a situation in which if a Senator arose to offer an amendment to substitute spending restraint for a tax increase, such an amendment would probably be ruled out of order. That is how degenerate this process has become.

As the Senator pointed out, in committee after committee, I believe next week on the floor, we are going to discover it will be almost impossible to craft an amendment which will get through the parliamentary hurdles to permit us to talk about spending restraint instead of raising taxes. And I use the word degenerate advisely. There is a process which is corrupt, which really is not faithful to the best traditions of our country, and leaves Senators like the Senator from Wyoming and myself, and many others, no real alternative but to rail against it and vote "no."

Mr. WALLOP. Let me ask the Senator one further question: What must it be like in the minds of the poor souls in America that are so unwise as to be watching us tonight to try to understand how it is that taxes count, and that spending restraint is not available to us to relieve them of the tax burden and of the deficit burden, the debt burden that we are putting on them?

Mr. ARMSTRONG. Let us explain that to anybody who is curious in about two sentences. We put ourselves in this straitjacket by adopting the budget resolution last week.

The Senator from Wyoming did not vote for it, and the Senator from Colorado sure as thunder did not vote for it, and in fact we warned this would be the result, because one feature of that ill-advised budget resolution was to create this parliamentary straitjacket that forbids the serious consideration, in at least most cases, of spending restraint as an alternative to raising taxes and fees. We did it to ourselves. It is not an act of God, it is not inevitable, it is not rocket science, not a mystery, a hurricane, or a natural catastrophe.

We are responsible. We did it. Every single person in this Chamber who voted for that budget resolution had a hand in making this horrible situation possible.

Mr. President, I do not say that to criticize. I say it because the representation that was made to Senators when they voted for that budget resolution is, well, it does not count, does not matter. We are not shooting with real bullets. After all, this does not really enact legislation.

Subsequently, you will have the right to look at the legislation when it comes out of committee and to make up your own mind. That is true.

The only real alternative we may have is to simply vote no. I say maybe, because some of us are trying to craft some amendments which would work there way through the parliamentary thickets to gain consideration on their merits. I do not know if we will be successful. If we are, I hope Senators will think of what they have done and what they are about to do to the American economy and vote to restrain spending instead of raising taxes in the teeth of a recession. If we do not succeed in that, then it appears to me that for anybody concerned about these issues, the only alternative is to vote "no."

Mr. WALLOP. I say to my friend from Colorado that I weep for Americans tonight, and I weep for the Senate and the Congress and even the President tonight, because under the terms of the Budget Act and the reconciliation procedure, I think that we will be denied the opportunity to provide Americans the alternative of spending restraint, unless we can so derail it so as to lead to its defeat or its failure to be adopted.

Other than that, what we have done is tell Americans that we have not provided them one iota of accountability, but only a means by which their taxes will be raised. I remember talking on the night we were trying to adopt this budget resolution, and the Senator from Arkansas, quite honestly, said, "I can think of at least 20 reasons why I should vote against this resolution," and I said in my remarks later that he will have the opportunity to visit each of those 20 reasons and vote against them. He will accept it, and so will other Senators on this floor, and at the end of the day, we will have raised their taxes and not done anything to provide them a more efficient Government. I regret that, but I think that is the process set in motion by the vote for the budget resolution the other night.

Mr. ARMSTRONG. While the Senator from Wyoming is here, I want to talk about that press conference he conducted this morning. Before I do so, I would take half a minute to mention one more item that is a specific, which is contained in this package that is under development, because it is so shocking that I would not want to let the evening end without referring to it and letting Senators know about it, so they can check with their people and see how they feel about it. It is item D-14.

I will put this table in the Record with unanimous consent. I call the attention of the Senators to the $4.1 billion item that will be raised by item D-14, "corporate interest disallowance." What do you suppose that means?

I am going to tell you. It means that if you are a business corporation and you litigate a dispute with the Internal Revenue Service and ultimately lose—that is, if you go to court in good faith and fight it out with the Internal Revenue Service, you not only have to pay the taxes that are due, you also have to pay the interest. That is the present law. In other words, if you owed money, you have to pay interest on what was due from the time it was due until you ultimately pay for it. That is fair. This proposal says that such interest does not constitute a business deduction. It is not a business expense.

Mr. President, aside from the fact that that is going to extract some $4.1 billion from corporations, just at the moment when corporate profits are plummeting, it has another insidious, I think outrageous, effect. It is one more unfair form of leverage for the Internal Revenue Service over the heads of taxpayers.

The taxpayers I talked to, corporations and individuals, really think they are playing on an unlevel playing field already. Some of them go so far as to say that the IRS is almost like a Gestapo. I am sure there are some cases where the IRS goes so far that it must seem like that.

I do not think that is a general situation. I think most IRS agents and staff are honest, conscientious, dedicated civil servants, men and women who, in fact, are sensitive to the needs and concerns of taxpayers, but if you are just a taxpayer, if you are not a tax lawyer, tax accountant, just a businessman someplace out in America, or just an individual taxpayer, going up against the IRS, who has unlimited personnel and unlimited lawyers and unlimited amounts of time, frankly, it is pretty awesome and scary.

Mr. WALLOP. I ask my friend if he is aware that one of the ways in which this will raise the $4 billion is to cause businesses to forgo the option of trying to prove their innocence?

Mr. ARMSTRONG. Of course. That is what it is all about.

Mr. WALLOP. It is not that the interest is nondeductible. They will not be able to afford the gamble. So they will concede their guilt, knowing of their own innocence, but unwilling to challenge it in court.

Mr. ARMSTRONG. The Senator is completely right.

I send this table to the desk, and I ask unanimous consent that it be printed in the RECORD in full. I see I have made pencil notations on it, and I ask that my pencil notes be ignored so just the table is printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

BUDGET RECONCILIATION—REVENUE PROPOSALS

[In billions of dollars]

Item	Effective	Fiscal year—					
		1991	1992	1993	1994	1995	1991–95
A. Extend Expiring Provisions through 12/31/91:[1]							
1. Foreign allocation of R&D		−.5	−.3				−.8
2. Research and experimentation tax credit [2]		−.5	−.4	−.1	−.1	(³)	−1.2
3. Employer-provided educational assistance (include graduate students)		−.3	−.1				−.4
4. Employer-provided group legal services		−.1	(³)				−.1
5. Targeted jobs tax credit		−.1	−.1	−.1	(³)	(³)	−.3
6. Business energy tax credits (solar, geothermal, and ocean thermal property)		−.1	(³)	(⁴)	(⁴)	(⁴)	−.1
7. Low-income housing credit		−2	−.3	−.4	−.4	−.4	−1.7

BUDGET RECONCILIATION—REVENUE PROPOSALS—Continued

[In billions of dollars]

Item	Effective	Fiscal year—				
		1991	1992	1993	1994	1995
8. Mortgage revenue bonds and mortgage credit certificates		(³)	−.1	−.1	−.1	−.1
9. Qualified small-issue manufacturing bonds		(³)	−.1	−.1	−.1	−.1
10. Health insurance for self-employed (25 percent deduction)		−.3	−.1			
11. Orphan drug tax credit		(³)	(³)	(³)	(³)	(³)
Subtotals, extension of expiring provisions		−2.0	−1.4	−.8	−.7	−.6
B. Other Tax Incentives						
1. Energy incentives:						
a. Extend nonconventional fuels tax credit (section 29) Permanently and expand tight sands gas	1/1/91	(³)	−.1	−.2	−.3	−.4
b. Tax incentives for ethanol production	1/1/91	(³)	(³)	(³)	−.1	−.1
c. 15 percent for enhanced oil recovery costs[7]	1/1/91	(³)	(³)	(³)	−.1	−.1
d. Percentage depletion amendments	1/1/91	(³)	(³)	−.1	−.1	−.1
e. Exploratory drilling credit and preference cutback [7]	1/1/91	−.2	−.3	−.3	−.3	−.3
f. Reduce AMT preference for percentage depletion on stripper wells [7]	1/1/91	(³)	−.1	−.1	(³)	−.1
2. Additional small business incentives:						
a. Modify estate freeze rules (section 2036(c))	10/9/90	−.1	(³)	−.1	−.2	−.3
b. Public accommodations expenditures:						
i. Disabled persons access tax credit (50 percent/$5,000 [8]	D/o/E					
ii. Lower cap on section 190 expensing [9]	D/o/E					
c. Expand section 179 expensing to $14,000	1/1/91	−.5	−8	−.5	−.4	−.3
Subtotals, other tax incentives		−/.6	−1.3	−1.3	−1.5	−1.7
C. Progressivity enhancement proposals:						
1. Increase EITC [target per Summit Agreement]	1/1/91	−.1	−1.1	−1.2	−1.3	−1.3
2. Additional EITC [10]	1/1/90	−.1	−1.1	−2.7	−3.5	−4.5
Subtotals, progressivity enhancement proposals		−.2	−2.2	−3.9	−4.8	−5.8
D. Revenue-raising provisions:						
1. Limitation on itemized deductions 7/11/ [11]	1/1/91	.9	6.5	6.6	7.2	8.0
2. Motor fuels tax (4 cents; 9 cents after 7/1/91; 9½ cents after 1/1/92) [12]	12/1/90	4.6	9.6	9.4	9.5	9.5
3. Increase tobacco excise taxes by 4 cents pack in 1991 and by 4 cents per pack in 1993	1/1/91	.6	.8	1.5	1.5	1.5
4. Increase beer, wine, and distilled spirits excise taxes[13]	1/1/91	1.4	2.0	1.9	1.9	1.9
5. Impose 10 percent luxury excise tax[14]	1/1/91	.2	.4	.5	.5	.5
6. Expand ozone-depleting chemical excise tax[15]	1/1/91	.1	.1	.1	.1	.1
7. Extend Leaking Underground Storage Tank (LUST) Trust Fund excise tax (5 years)	12/1/90	.1	.1	.1	.1	.1
8. Increase Airport Trust Fund aviation excise taxes (5 years) [16]	1/1/91	1.3	2.3	2.5	2.7	3.0
9. Increase harbor maintenance excise tax	1/1/91	.3	.3	.4	.4	.4
10. Loss deductions and salvage values for insurance companies	1/1/90	.3	.2	.2	.2	.2
11. Amortize insurance policy deferred acquisition expenses (DAC)	9/30/90	1.5	1.7	1.7	1.6	1.5
12. Adopt tax compliance provisions including certain provisions from H.R. 4308 and S. 2410	3/20/90	(⁶)	(⁶)	.1	.1	.1
13. Retiree health with reversion excise increase and asset cushion requirement [17]	1/1/91	.5	.2	.2	.1	(⁶)
14. Corporate interest disallowance	1/1/91	3.3	.3	−.2	.2	.5
15. Business tax provisions:						
a. Expand and clarify reporting and allocation rules for certain asset acquisitions	10/10/90	(⁶)	(⁶)	(⁶)	(⁶)	(⁶)
b. Require accrual of redemption premium for certain preferred stock	10/10/90	(⁶)	.1	.1	.1	.1
c. Expand application of CERT rules to subsidiary acqusitions	10/10/90	(⁶)	.1	.1	.1	.1
d. Require recognition of corporate-level gain in certain divisive corporate transactions (5-year limitation period)	10/10/90	(⁶)	(⁶)	(⁶)	(⁶)	(⁶)
e. Clarify treatment of debt exchanges	10/10/90	.1	.1	.1	(⁶)	(⁶)
16. Extend IRS user fees (permanent) [18]	9/30/90	(⁶)	(⁶)	(⁶)	(⁶)	(⁶)
17. Extend medicare (HI) tax to all State and local employees[19]	1/1/92		.7	1.4	1.6	1.6
18. Extend Social Security (OASDI) to State and local employees not participating in public employee retirement system [20]	1/1/92		1.4	2.1	2.2	2.4
19. FUTA surtax (5 years) [18]	1/1/91	.8	1.1	1.1	1.2	1.2
20. Increase railroad retirement payroll taxes [18]		(⁶)	(⁶)	(⁶)	.1	.1
21. Payroll tax stablization		1.0	2.2	−3.2		
22. Extend telephone excise tax and modify collection period	1/1/91	1.6	2.6	2.8	2.9	3.1
23. Increase medicare (HI) wage cap to $89,000	1/1/91	1.3	4.1	4.2	4.5	4.8
Subtotals, revenue-raising provisions [21]		19.9	36.9	33.6	38.8	40.7
E. Other provisions: Increase JCT refund review threshold	D/o/E					
Grand totals		17.1	32.0	27.7	31.8	32.6

[1] All estimates assume full restoration of tax benefits for 1990.

[2] Credit rate is retained at current level of 20 percent; base limitation is retained at current level of 50 percent.

[3] Loss of less than $50 million.

[4] Gain of less than $10 million.

[5] Loss less than $10 million.

[6] Gain of less than $50 million.

[7] Tax incentive is phased out when price of crude oil is $28 per barrel or more. The estimate in the revenue table is based on current Congessional Budget Office (CBO) macro-economic forecast which projects crude oil in the range of to $23 per barrel during FY 1991–95.

[8] Provide maximum $5,000 per year credit for 50 percent of eligible expenditures to make public accommodations accessible to disabled persons; limited to small businesses.

[9] Reduce the amount of expenses eligible for expensing under section 190 to a level sufficient to make the proposal revenue neutral.

[10] Additional EITC equal to total 5-year tax credit expenditure contained in latest Senate child care offer. Senate child care offer assumes inclusion of Title IV and Labor and Human Resources Committee child

[11] Disallow itemized deductions in an amount equal to 5 percent of AGI in excess of $100,000 for single returns, $100,000 for joint returns, and $100,000 for head of household returns. Proposal does not apply to medical expense investment interest. Disallowance under the proposal cannot exceed 80 percent of otherwise deductible itemized deductions subject to the proposal.

[12] Motor fuels tax dedicated to highway trust fund. Railroads will pay 50 percent of increase in rates; revenue increase dedicated to deficit reduction. Each State to receive Highway account apportionments and allocations equal to at leas percent of its contribution attributable to increased revenue.

[13] Increase distilled spirits by $1.20 (to 13.70/proof gallon); double beer to 32 cents/6-pack ($18/barrel); increase table wine to 21 cents/bottle ($1.07/gallon); maintaining current differential for fortified wines; with small win brewery exemption.

[14] Tax applies to specific newly-manufactured items with retail prices above the following thresholds: automobiles-$30,000; private boats and yachts—$100,000; jewelry—$5,000; furs—$5,000; and airplanes—$250,000. An 80 per business use test applies for forgiveness of tax on airplanes, claimed on the tax return the year following purchase, and allowed only if business use can be demonstrated to be 80 percent for that year. Tax is 10 percent of purchase pric excess of thresholds.

[15] The tax with respect to the new chemicals subject to the tax is as follows: 1991—$1.37, 1992—$1.37, 1993—$1.67, 1994—$3.00, 1995—$3.10.

[16] This estimate is presented relative to the CBO baseline which assumes extension of the Airport and Airway Trust Fund (AATF) taxes with the tax reduction in effect. The estimate reflects the effects both of removing the trigger an increasing the rates of certain of the AATF taxes by 25 percent as proposed in the President's budget. The tax revenues go to the Airport and Airway Trust Fund.

[17] Permit certain tax-free transfers of excess pension assets to pay retiree health benefits. (Revenue effect in billions: 1991=$0.5; 1992=$0.3; 1993=$0.2; 1994=$0.2; 1995=$0.1; 1991–95 Total=$1.3.) Generally effective reversions after September 30, 1990, increase the reversion excise tax to 20 percent. If the employer does not transfer 20 percent of the reversion to a qualified replacement plan (on 15 percent if certain benefit increases to plan participants retirees are provided), the reversion tax is 40 percent. (Revenue effect in billions: 1991=Loss of less than $50 million; 1992=$−0.1; 1993=$−0.1; 1994=$−0.1; 1995=$−0.1; 1991–95 Total=$−0.3.)

[18] Estimate provided by CBO.

[19] HI rate = 0.8 percent in 1992, 1.35 percent in 1993, 1.45 percent in 1994 and thereafter.

[20] In the House, the Energy and Commerce Committee would be allowed offsets of $2.0 billion (5-year total) with respect to the provision that extends the Social Security taxes to State and local employees not covered by a public empl retirement system; the Ways and Means Committee would be allowed offsets of an additional $2.0 billion (5-year total) with respect to the same provision. In the Senate, the Senate Finance Committee would be allowed offsets of $4.0 billion year total) with respect to the same provision.

[21] Proposal includes additional EITC and telephone excise tax corresponding to the Senate child care offer (Conference on H.R.3).

Notes.—Details may not add to totals due to rounding. Interaction between or among items has not been taken into account for the purpose of this table. D/o/E in "Effective" column = Date of enactm

Mr. ARMSTRONG. I want to take a moment to mention and discuss with the Senator from Wyoming that news conference at which he presided this morning. I have attended a lot of news conferences in my time, and this is the best one I have been to in years, for the turnout, attendance, quality of message, and the general enthusiasm. Senator Wallop began the meeting and made many of the same comments he made here tonight about what it means to raise taxes when the economy is teetering on the brink of a recession.

Then I wonder if my friend remembers that wonderful statement that our colleague from Delaware, Bill Roth made. I would like to read a little of it, because it was a crackerjack of a statement. I have the text, and I would like to share part of it: He said this in part:

> So here we go again! With the World Series getting underway, all I can say is that right now, in America, bases aren't the only thing being stolen. In fact the moves some in Congress are putting on the taxpayer would put Rickey Henderson to shame. At the risk of stretching this baseball metaphor, yesterday there was no doubt but that budget negotiators were in a run-down, but in the end it's our tax-paying families who are going to get squeezed!

His statement goes on, and it is a wonderful, witty, thoughtful, incisive analysis. He sums up by saying, our message is loud and clear: no new tax.

I ask unanimous consent that Senator Roth's statement be printed in the Record.

Roth: Proposals for Higher Taxes Should Hit the Bench

Washington.—At a press conference today, Senator William V. Roth Jr., R-DE, once again called on Congress to abandon tax increases as a means of reducing the federal deficit. The following is the text of his remarks:

So here we go again! With the World Series getting underway, all I can say is that right now, in America, bases aren't the only thing being stolen. In fact the moves some in Congress are putting on the taxpayer would put Rickey Henderson to shame. At the risk of stretching this baseball metaphor, yesterday there was no doubt but that budget negotiators were in a run-down, but in the end it's our tax-paying families who are going to get squeezed!

Unfortunately, the play-offs and World Series will come to an end, but I'm afraid this proclivity to tax and spend in Washington never will. But I have one question—a question that I keep hearing from my fellow Delawareans—how much is enough? How much of Americans' hard-earned money will be enough for government—for this insatiable appetite that only gets hungrier the more it's fed?

Our message is loud and clear: No new taxes.

Unless we put the brakes on now, it will never be enough. Congress already spends $158 for every new dollar it taxes. It will never be enough.

In fact, if we eventually take every dollar—every drop of sweat and blood—from the American taxpayer, it still won't be enough. The communists tried it and they failed.

Right now, the Federal Treasury is projected to take in over $1.1 trillion in fiscal '91. This is more than a doubling of revenues since 1980, representing an increase of $618 billion. However spending has outstripped even this enormous increase, and some are trying to make the taxpayers believe that this enormous increase isn't enough and it's their fault!

The American people are not undertaxed—they're overtaxed. They understand this—why can't Congress?

Congress never learns. Somehow it keeps going back to the Jimmy Carter school of economics—all pain and gain for the economy. We need policies for growth, incentives for savings, capital for investment—research and development.

What we get is a Congress that talks deficit reduction but votes deficit increases. Even as deficit talks continue—just last night the Senate passed a spending bill of our $19 billion—more than a seven percent increase over last year. This is no way to bring the deficit down.

We have to stop this congressional blackhole. We have to draw the line on federal spending and cut waste, fraud and abuse wherever possible. These along with a growing economy will cover the deficit and get America moving into a confident future.

Mr. WALLOP. Mr. President, I remember well the statement of the Senator from Delaware. I also remember—and I hope the Senator has it, and if not, I will find it tomorrow and insert it in the Record—the statement from the former Director of the office of Management and Budget, Mr. Miller, who pointed out why this procedure has led us to the politics of class and not the resolution of deficits.

Mr. ARMSTRONG. I would be grateful if the Senator would do that. I did not see that Mr. Miller had a written testimony, and I did not receive it. His message was crystal clear. He was speaking without notes and he outlined in about 1 minute how foolish it would be for us to raise taxes when instead we ought to be cutting spending or at least restrain spending.

Mr. WALLOP. Also how foolish it is to divide Americans over the budget deficit, not unite them in the simple challenge of trying to reach a resolution through more efficient Government and not through the politics of spite.

Mr. ARMSTRONG. We ought to put that in the Record.

Another greater statement was made by the Senator from Wisconsin who summed it up so well. He said:

> Today, I want to urge the President to abandon the idea of getting a budget deal with the Democrats—and to renew his "no new taxes" pledge.
>
> If the Democrat-controlled Congress can't pass a no-tax budget, then the President ought to veto reconciliation and manage the Federal government under a sequester.

Mr. President, I ask unanimous consent that there be printed in the Record the Senator's full statement, which I think every Senator ought to look at and indeed take to heart.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Kasten: Hold Firm Against All Taxes

Washington, DC.—The following statement was issued by U.S. Senator Bob Kasten, R-Wis., at a Capitol Hill press conference held by Senate Republicans against income tax increases in the budget agreement.

"Today, I want to urge the President to abandon the idea of getting a budget deal with the Democrats—and to renew his no new taxes pledge.

"If the Democrat-controlled Congress can't pass a no-tax budget, then the President ought to veto reconciliation and manage the Federal government under a sequester.

"The President has bargained in good faith—he agreed to tax revenue increases that the Democrats so desperately wanted—but he got absolutely nothing in return from them.

"I don't think the American people want to go back to the days of high tax rates and a tax code riddled with loopholes. I don't think they want to give tax shelters a new lease on life and create new jobs for tax accountants, lawyers and financal planners."

Mr. KASTEN. Mr. President, I thank the Senator for including my statement in the Record. I associate myself with the views of the Senator from Colorado and the Senator from Wyoming.

I also wanted to bring up one additional point on the process question that the Senator raised not long ago. Not only are we in the position of having a very difficult time with this new agreement of substituting spending reduction for tax increases, we also are going to be finding ourselves in a very difficult procedural situation where when we try to have dynamic income-producing kinds of tax changes incorporated in any piece of legislation after this bill passes, specifically, a tax bill such as capital gains tax reform which would increase jobs, increase revenues, reduce the deficit and help our economic recovery is now going to be under certain kinds of rules whereby the supermajority are going to be required in order to adopt these kind of changes. Not only are we going to be limited in the ability to substitute spending from tax issues, we also are going to have a very, very difficult time incorporating dynamic kinds of tax changes, a very difficult time incorporating revenue-producing kinds of tax changes, such as the reduction of our capital gains tax.

Mr. ARMSTRONG. Mr. President, one of these days, soon, we are going to cut the capital gains rate, and when that happens, history will record that the Senator from Wisconsin, Bob Kasten, led the fight. I have heard him talk about this, I guess, on a hundred occasions. You run into him on the street, and he is talking about cutting the capital gains rate. He is not obsessed by it, but he realizes if we are serious about jump starting this economy, we have to do something to encourage capital investment. The proposal which Senator Kasten and some other folks have introduced is exactly what we ought to do. I thank him for raising the issue again tonight. I agree with him completely.

Mr. President, I have a number of other matters I want to discuss but I notice the two leaders are on the floor and it is not my desire to delay them. I am happy to suspend my remarks to let the leaders go ahead and transact their cleanup business and whatever they have and then I will pick up at this point if I may.

THE PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I thank my colleague for his courtesy.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the pending bill H.R. 5114 be laid aside, and that no call for the regular order except the one made by the majority leader after consultation with the Republican leader to bring the bill back before the Senate and that on Monday, October 15, at 10 a.m., the Senate proceed to the consideration of S. 3189, the Department of Defense appropriations bill; that following third reading and passage of the Department of Defense appropriations bill, the Senate proceeded to the immediate consideration of H.R. 5803, the House companion measure; that the text of S. 3189 as passed by the Senate be incorporated into the House bill; and that the House bill, as amended, by the incorporation of the Senate-passed bill be deemed as having been read a third time and passed; that the Senate insist upon its amendments, request a conference with the House; and that the Chair be authorized to appoint conferees on the part of the Senate; and that all above mentioned actions take place without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, we have now laid aside the pending bill, the Foreign Operations appropriations bill. I regret that very much, and I regret the fact that the Senate today has taken a giant step backward in our efforts to complete our business by the deadline of Friday, October 19.

First, we were delayed this morning for 3 hours during which there was a period of total inactivity in the Senate.

Second, there are a large number of amendments intended to be offered to the Foreign Operations appropriations bill.

Third, we could not get an agreement limiting those amendments.

Fourth, we could not get time agreements on those amendments which were identified.

Fifth, several Senators simply left this evening, making it impossible to proceed to votes.

It had been my hope, as I expressed earlier, that we could take up several amendments and vote on them. That proved not to be possible. Especially, it had been my hope that we could take up and vote on the Egyptian debt amendment which I know is important to the administration. But there was objection to that, and we could not proceed.

Accordingly, Mr. President, it is my judgment, and it has now been expressed in this consent agreement, that the Senate will best be served by discontinuing this session this evening and going out until Monday morning at which time we will take up the defense appropriations bill. It is my hope that at some point in the next week, we can get back to this bill, if possible, to resolve some of the disagreements and, if possible, have Senators stay here so that we can consider this legislation. But Senators should understand they can leave on a Friday and make it impossible for the Senate to continue action on this legislation. But they cannot do that and then expect to leave finally next Friday. It is not possible to have both. Senators have in the colloquial phrase this evening "voted with their feet" by simply leaving and making it not possible to continue with the business of the Senate this evening, but the result, I fear, makes it much more difficult to reach the hoped for target of adjournment by next Friday evening.

I want to put Senators on notice that next week there will obviously be a large number of matters to be brought before the Senate for final action, including the bill that we tried to complete action on tonight, and maybe we will not be able to get to it until the last day—at the rate we are going, that appears to be the case—as well as the defense appropriations bill, the conference report on the civil rights bill, hopefully, conference reports on other important matters like clean air and, of course, paramount to all our consideration the reconciliation bill which we simply must complete action on to deal with the budget.

So I regret that we were not able to make greater progress on this bill this evening. I hope that we are able to get back to it at some time next week. I made no judgment as to if or when that will occur. We will attempt in the meantime to deal with some of the many issues that have arisen in connection with it today, and Senators should expect lengthy sessions into the evening, with votes throughout the day and evening all of next week, and as a consequence of our inabili to make greater progress today, pos bly extending beyond next Friday.

I say that most regretfully because had been my very strong hope a desire that we could complete actio by next Friday. I still will attempt do so, but obviously the Senate is place that requires cooperation of Senators and it is not possible for t leaders, Senator Dole and myself, accelerate the pace of the Sena beyond that which Senators wish it be.

I hope very much that when we g to next week, we are going to be ab to get started in the morning, and n have lengthy delays during the day that we begin our deliberations late the day and into the evening, as is u fortunately so often the case, and th we will be able to make good progre on many important measures that w be before us next week.

Mr. President, I yield to the disti guished Republican leader.

(Mr. FORD assumed the chair.)

Mr. DOLE. I yield briefly first to t Senator from Vermont.

Mr. LEAHY. Mr. President, I appr ciate both the distinguished leade yielding. One, I share the frustrati in having to bring down the forei aid bill. I should note both Senat Kasten and I are prepared to go any time. I realize the problems scheduling to bring that back up. would advise the distinguished leade I think I know of virtually no amen ment that might come up that I not willing to enter into an extreme short time agreement on. I w commit myself on this side, at least one Senator to enter into the short possible time agreement on anythi that might come up.

I think that this is an extremely i portant matter. It has one controve sial area on Egyptian debt limit. should note that I support the adm istration on that issue. I think t should get resolved. Anybody has just watch the news today in Egypt understand the importance of it. I w stop with that. I will speak further this next week.

But I hope that Senators might willing to cooperate with the lead ship on this matter and work out so short time agreements so Senat Kasten and I can get this bill back and get it completed—because we st face a long and contentious conferen after that—and allow us to get on wi this. This is of vital importance to t United States.

I thank the distinguished Senat from Kansas for yielding to me.

Mr. DOLE. Mr. President, I gener ly agree with the distinguished majo ty leader, but I think this is a ve contentious bill. It always is. We d not start on it until 7 p.m. and we h one vote on it at 7:30. We have not had a vote since that.

We disposed of one amendment on Cambodia. Another amendment is beyond the jurisdiction, as I understand, of this subcommittee and properly belongs in the Finance Committee, and that amendment has been set aside.

I think the record should also reflect that on this side of the aisle we are prepared to enter into agreement on the total number of amendments, except there is a misunderstanding on one amendment on the other side that we thought had maybe some agreement that would not be offered.

I think that is what is holding up any additional agreement. I do not think anyone on this side is holding up the agreement. I do not think that was the intent of the majority leader. He did not say that. But I want the record to reflect that we are prepared right now to enter into an agreement if the junior Senator from Colorado did not offer his Mexico City amendment. I do not even know what it is.

But it is our understanding that was not to be offered. He insists it should be offered, and we cannot get an agreement on that basis. We need to protect the rights of Members on this side.

But I would suggest that even through we got a late start, as the majority leader pointed out, to complete the Labor-HHS bill in one day is not bad. And to get a good start on this bill is not bad.

At one point we only had three amendments on this side on the bill that has just been laid aside. Now that has climbed to 13. I do not know how many amendments there are on the other side. I have a feeling probably many of those 13 will not be offered or there will be a short time agreement as indicated by the distinguished manager of the bill, Senator LEAHY of Vermont.

So I am not going to despair yet on this side. I still hope we can complete our work by next Friday, maybe Saturday noon at the latest, maybe even Saturday evening before dark. But there is a lot of work to do.

I think I know the answer, but I would ask the majority leader, if we start on the defense bill at 10 a.m. Monday, if we can expect votes throughout the day? Is that correct?

Mr. MITCHELL. Yes, that is correct.

Mr. DOLE. So there could be a vote at 11 or 12 o'clock.

Mr. MITCHELL. Yes. I think there is no other way to do it. As the distinguished Republican leader knows, for the most of the past 2 years, we have attempted to stack votes on Mondays. But what we have encountered is, once Senators know there will not be votes before 6 o'clock on Monday, they will not come to offer their amendment.

So it is often a catch-22 situation.

Hopefully, next week will be the last or next-to-the-last week of the session and that Senators will be prepared to come forward and offer their amendments. And there could be votes throughout the day on Monday.

Mr. WIRTH. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. WIRTH. I thank the majority leader for yielding.

The distinguished Republican leader referred to the amendment that the junior Senator from Colorado wishes to offer and suggested in his discussion that, one, there was some understanding that this would not be offered and, second, that nobody on their side was holding up votes on this issue.

The junior Senator from Colorado would like to make clear for the record, one, that as far as I know there was no agreement reached, at least not one that was propounded by any unanimous consent on the floor. If there was, I would be happy to be corrected by the distinguished Republican leader.

Second, the junior Senator from Colorado would be very happy to offer a time agreement. As I have have said on any number of occasions, if we could have 2 hours of debate on the Mexico City issue and have a vote up or down, that is fine. I have made that point over and over and over again.

I would like to ask the distinguished Republican leader if there is a problem with following a procedure like that. The Republican leader was suggesting that nobody on their side was holding this up and that the problem of not having an agreement on this bill rests on the Mexico City issue. I would just like to ask the Republican leader if there is an objection on his side to having a time agreement and a straight up or down vote on the Mexico City resolution.

Might we get unanimous consent to have a 2-hour debate on the issue and an up or down vote; would that be agreeable?

Mr. DOLE. The Senator from Kansas indicated it was our understanding the amendment would not be offered and therefore we had no objection to getting a complete agreement of all the amendments.

But I can say if that will be offered, there will be an objection.

Mr. WIRTH. So somebody on the Republican side would object to bringing up this issue. So therefore the statement made earlier that nobody on the Republican side is holding up this legislation is not correct, Mr. Leader, and I just wanted to point that out.

Mr. DOLE. Not to bringing up the issue, but to giving any time agreement on the issue.

Again you are correct; there was no unanimous consent on the floor. But we had a rather fair understanding that the amendment would not be offered. But again that does not mean it will not be offered. It just means that we will protect the rights of our colleagues on this side of the aisle.

Mr. WIRTH. If the distinguished majority leader might yield further, the Senator from Colorado has made it clear on any number of occasions for many days that if this amendment was not offered by others, the junior Senator from Colorado was going to offer the Mexico City agreement.

There has never been any mystery, nor am I bringing something up, as might be suggested, without having made that clear. That has been made very clear.

Second, I would again say to the distinguished majority leader and to the Republican leader that I would be happy to get a time agreement and a straight up or down vote.

I do not intend to hold up this bill. If the distinguished Republican leader or the Republican, whoever it is on your side who is objecting, would like to do that, fine. But let the record be very clear that, one, there was no agreement by unanimous consent or elsewhere publicly on the floor that this amendment would not be offered. I think that is not an application or a suggestion that accurately can be made.

I, secondly, would again like to propound the request: If the distinguished Republican leader would agree to a unanimous-consent request for a limited period of time for debate, say 2 hours, and a straight up or down vote, that is fine with the junior Senator from Colorado.

But the record should not show that nobody on the Republican side is holding up this legislation. I want to make it very clear that the junior Senator from Colorado would agree, as I am sure, I think, everybody on our side would agree, to a time limitation, say, of 2 hours or whatever, and a straight up or down vote.

I thank the distinguished majority leader for yielding and for allowing me to clear up, as I think it must be, the record for absolute accuracy on this issue.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I think it is obvious this foreign operations bill is not going anywhere in the current state of affairs.

Therefore, I think the best course of action is that which we have already decided upon, which is to proceed to the Department of Defense appropriations bill on Monday, and to make as much progress as we can on that.

But I repeat for the benefit of Senators, particularly for the very large number of Senators who I can confidently predict will come to me on Monday and say are we going to finish by Friday, that we have made a significant step backwards today toward reaching that objective.

Mr. INOUYE. Will the leader yield?

Mr. MITCHELL. Certainly.

Mr. INOUYE. Mr. President, I would like to advise the Senate at this time that I have just conferred with the ranking Republican member of the Defense Subcommittee, and we have decided we will begin our consideration at 10 o'clock in the morning as provided by the unanimous consent, and we will proceed until we complete it. It may be 3 in the morning, but we will be here until this is finished.

Mr. MITCHELL. Mr. President, may I say I hope it is not 3 in the morning, but I admire the determination of the Senator from Hawaii and we look forward to disposition of that measure on Monday.

MORNING BUSINESS

Mr. WIRTH. Mr. President, I ask unanimous consent the Senate be in a period of morning business for Senators to speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN OPERATIONS APPROPRIATIONS BILL

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 5114, the foreign operations, export financing, and related programs appropriations bill and has found the bill exactly on its 302(b) allocation in budget authority and $48 million below its 302(b) allocation in outlays.

The bill scoring reflects an adjustment to cover the budgetary impact of Egyptian and Polish debt liquidation as provided by the budget agreement. However, this scorekeeping adjustment is provisional, pending implementation of the budget summit agreement.

I compliment the distinguished manager of the bill, Senator LEAHY, and the distinguished ranking member of the Foreign Operations Subcommittee, Senator KASTEN, on all their hard work.

Mr. President, I have a table from the Budget Committee showing the official scoring of the foreign operations appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 5114—FOREIGN OPERATIONS SUBCOMMITTEE—SPENDING TOTALS

(Senate Reported)

[Fiscal year 1991—Dollars in billions]

302(B) Bill summary	Budget authority	Outlays
H.R. 5114, Senate reported, (new BA and outlays)	$15.3	6.2
Enacted to date	.3	7.6
Adjustment to conform mandatory programs to resolution assumptions	−(*)	−(*)
Scorekeeping adjustment [1]	−.1	−.2
Bill total	15.4	13.6
Senate 302(b) allocation	15.4	13.6
Total Difference	.0	−(*)
International spending	14.7	12.9
International allocation	14.7	12.9
International difference	.0	−(*)
Mandatory spending	.7	.7
Mandatory allocation	.7	.7
Mandatory difference	.0	.0
Bill total above (+) or below (−):		
President's request	−.4	−.3
House-passed bill	−.2	−.2
House 302(b) allocation	na	na
Programmatic baseline	−.9	−.5
[1] Value of Egyptain/Polish debt liquidation	3.0	.0
Budget summit adjustment	−3.2	−.2
Net adjustment	−.1	−.2

This is a provisional scorekeeping adjustment pending implementation of the Budget Summit Agreement.

COMMERCE, JUSTICE, STATE APPROPRIATIONS BILL

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 5021, the Senate-reported Commerce, Justice, State appropriations bill and has found that the bill is under its 302(b) allocation in budget authority by $23.8 million and is over its 302(b) allocation in outlays by $1 million.

I understand that the managers of the bill offered an amendment to the bill which would bring the bill within its 302(b) allocation for outlays. The current scoring was not available to the committee at the markup.

I compliment the distinguished manager of the bill, Senator HOLLINGS, and the distinguished ranking member of the subcommittee, Senator RUDMAN, for all of their hard work.

Mr. President, I have a table from the Budget Committee showing the official scoring of the Commerce, Justice, State appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 5021—COMMERCE SUBCOMMITTEE—SPENDING TOTALS

(Senate reported)

[Fiscal year 1991—Dollars in billions]

302(B) Bill summary	Budget authority	Outlays
H.R. 5021, Senate reported, (new BA and outlays)	18.8	14.3
Enacted to date	.5	5.3
Adjustment to conform mandatory programs to resolution assumptions	+(*)	−(*)
Scorekeeping adjustments	.0	.0
Bill total	19.3	19.7
Senate 302(b) allocation	19.3	19.7
Total difference	−(*)	+(*)
Discretionary:		
Domestic discretionary spending	13.9	14.0
Domestic discretionary allocation	13.9	14.1
Domestic discretionary difference	−(*)	−(*)
International discretionary spending	4.4	4.6
International discretionary allocation	4.4	4.6
International discretionary difference	+(*)	+(*)
Defense spending	.2	.2
Defense allocation	.2	.2
Defense difference	.0	.0
Total discretionary spending	18.5	18.8
Total discretionary allocation	18.5	18.8
Total discretionary difference	−(*)	−(*)
Mandatory spending	.9	.8
Mandatory allocation	.9	.8
Mandatory difference	.0	.0
Bill total above (+) or below (−):		
President's request	−.3	−.1
House-passed bill	.1	.6
House 302(b) allocation	na	na
Programmatic baseline	−1.8	−.4

BUDGET SCOREKEEPING REPORT

Mr. SASSER. Mr. President, I hereby submit to the Senate the final budget scorekeeping report for fiscal year 1990, prepared by the Congressional Budget Office in reponse to section 308(B) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level of spending is under the budget resolution by $1.3 billion in budget authority, and over the budget resolution by $5.9 billion in outlays. Current level is under the revenue floor by $5.2 billion.

The current estimate of the deficit for purposes of calculating the maximum deficit amount under section 311(A) of the Budget Act is $116.5 billion, $16.5 billion above the maximum deficit amount for 1990 of $100 billion.

There being no objection, the report was ordered to be printed in the RECORD, as follow:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 2, 1990.

Hon. JIM SASSER,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report, my last for fiscal year 1990, shows the effects of Congressional action on the budget and is current through September 30, 1990. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 1990 Concurrent Resolution on the Budget (H. Con. Res. 106). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated September 24, 1990, the President has signed the supplemental appropriations for Operation Desert Shield (P.L. 101-403).

Sincerely,

ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 101ST CONG., 2D SESS., AS OF SEPT. 30, 1990

[In billions of dollars]

	Current level [1]	Budget resolution H. Con. Res. 106	Current level +/− resolution
FISCAL YEAR 1990			
Budget authority	1,328.1	1,329.4	−1.3
Outlays	1,171.1	1,165.2	5.9
Revenues	1,060.3	1,065.5	−5.2
Debt subject to limit	3,145.8	[2] 3,122.7	−23.1
Direct loan obligations	19.1	19.3	.2
Guaranteed loan commitments	115.1	107.3	7.8
Deficit	116.5	[3] 100.0	[4] 16.5

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval and is consistent with the technical and economic assumptions of H. Con. Res. 106. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions. In accordance with Sec. 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act (101 Stat. 762) the current level deficit amount compared to the maximum deficit amount does not include asset sales.

[2] The public debt limit has been increased temporarily to $3,195 billion through October 2, 1990, by Public Law 101-350.

[3] Maximum deficit amount [MDA] in accordance with section 3(7)(E) of the Congressional Budget Act, as amended.

[4] Current level plus or minus MDA.

THE CURRENT LEVEL REPORT, 101ST CONG., 2D SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1990 AS OF CLOSE OF BUSINESS SEPT. 30, 1990

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			1,068,600
Permanent appropriations and trust funds	954,969	791,109	
Other legislation	635,362	638,737	566
Offsetting receipts	−233,985	−233,985	
Total enacted in previous sessions	1,356,347	1,195,862	1,069,166
II. Enacted this session:			
Dire emergency supplemental appropriations (Public Law 101-302)	2,293	666	
An act making technical amendments to title 5, U.S. Code (Public Law 101-303)		−1	
Amtrack Reauthorization and Improvement Act (Public Law 101-322)	−10		−10
Oil Pollution Act (Public Law 101-380)			−1
Customs and Trades Act (Public Law 101-382)		7	−4
Operation Desert Shield (Public Law 101-403)	2,038	1,665	
Total enacted this session	4,321	2,337	−15
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in budget resolution:			
Salaries of judges	−8	1	
Payment to judicial officers' retirement fund	−4	−4	
Judicial survivors' annuities fund	−3	−3	
Fees and expenses of witnesses	−5		
Justice assistance	−4		
Fishermen's guaranty fund	1	1	
Administration of territories	−1		
Firefighting adjustments	−1,057	−192	
Federal unemployment benefits (FUBA)	5		
Advances to unemployment trust fund	(48)	(48)	
Special benefits	−24		
Black Lung disability trust fund	52	31	
Vaccine improvement program trust fund	7	7	
Federal payments to railroad retirement	1	1	
Retirement pay and medical benefits	−4		
Supplemental security income program	263	263	
Special benefits, disabled coal miners	21		
Grants to states for Medicaid	−907		
Payments to health care trust funds	(325)	(325)	
Family support payments to States	84	84	
Payments to states for AFDC work programs	15	15	
Payments to states for foster care	−83		
Health professions student loan insurance fund	−25	−7	
Guaranteed student loans	−175		
College housing and academic facilities loans	−3	−3	
Rehabilitation services	−79		
Payments to widows and heirs	(1)	(1)	
Reimbursement to the rural electrification fund	111	111	
Dairy indemnity program	(1)	(1)	
Conservation reserve program	720		
Special milk program	−2		
Food stamp program	−2,000		
Child nutrition programs	−74		
Federal crop insurance corporation fund	(1)		
Agriculture credit insurance fund	342		
Rural housing insurance fund	(1)		
Rural communication development fund	(1)		
Payments to the farm credit system financial assistance corporation	−2		
Coast Guard retired pay	−17		
Payment to civil service retirement	(84)	(84)	
Government payments for annuitants	−3	−2	
Readjust benefits	−62		
Compensation	258	208	
Pensions	−62		
Burial benefits	−4		
Loan guaranty revolving fund	−7		
Disaster relief	−1,100	−883	
Total entitlement authority	−3,834	−371	
VI. Adjustment for economic and technical assumptions	−28,685	−26,763	−8,900
Total current level as of Sept. 30, 1990	1,328,148	1,171,065	1,060,251
1990 budget resolution H. Con. Res. 106	1,329,400	1,165,200	1,065,500
Amount remaining:			
Over budget resolution		5,865	
Under budget resolution	1,252		5,249

[1] Less than $500,000.

Notes.—Numbers may not add due to rounding. Amounts shown in parenthesis are interfund transactions that do not add to totals.

TRIBUTE TO FRANCEY H. DENNIS

Mr. BRYAN. Mr. President, I rise today to congratulate one of Nevada's leaders in the field of education. Mrs. Francey H. Dennis has been recognized as one of our Nation's outstanding school leaders through the 1990 National Distinguished Principals Program.

Such recognition from the U.S. Department of Education and the National Association of Elementary School Principals brings great pride and honor to both the Silver Lake Elementary School as well as to the citizens of the State of Nevada. We all appreciate her commitment to the promotion of quality education for the children of Nevada.

Mr. President, education is one of the essential foundations upon which the continued prosperity of our Nation rests. As other countries equal or surpass the level of education of our citizens, so also will their advances in technology, health care, and world leadership surpass our own. We cannot let this happen.

If we are going to continue to improve our Nation's educational system, we are undoubtedly going to need more innovative and dedicated leaders. For this reason, it is vital to recognize the work of those devoted to education. With this prestigious award Mrs. Dennis will serve as a model of educational excellence. On behalf of the State of Nevada, I want to congratulate her for this important achievement.

RAILROAD FUEL TAX PROPOSAL

Mr. ADAMS. Mr. President, I rise to speak to a matter that is very close to me. Late Wednesday, the House Ways and Means Committee considered and passed a proposal that imposed a railroad fuel tax proposal for deficit reduction purposes.

Mr. President, the underlying rational for this tax package was to give one industry an advantage over another industry. Mr. President, that isn't right.

As a former Secretary of Transportation, Mr. President, I can assure this body that we have the most extensive freight surface transportation network in the world. It is a network of trucks and railroads that may be regarded as the backbone of this economy. It is a network that exists with many checks and balances, assuring the flow of goods to our ports, our grocery stores and our factories.

And that is why I am very concerned, Mr. President, with this new proposal. It is not only unfair, but disruptive to a competively balanced transportation system.

Mr. President, anyone who has studied the history of Federal transportation policy knows that while the trucking industry benefits from the federally funded Interstate System, the railroads own and maintain their own rights of way. It is also true that the trucking industry pays, in the form of diesel fuel, user fees that go into a trust fund dedicated to the construction and maintenance of the highways they use. While for deficit scoring purposes the Highway Trust Fund counts as revenue, it is revenue which when used will go to the truck right-of-way infrastructure.

By contrast, the freight railroads of the country are being asked to pay a tax and shoulder the burden of deficit reduction unequally and without any value provided to their own right of way infrastructure. The system, Mr. President, becomes unbalanced.

In the end, Mr. President, this becomes an issue of fairness and equity. Both the railroad and trucking industries are important transportation systems in this country. To attempt to injure one for the advantage of the other makes no sense and is bad public policy. Imposing taxes must be done deliberatively and with great care. It is a serious matter that cannot and should not be influenced by special interest politics.

That is why, Mr. President, I send this letter to Senator BENTSEN, chair of the Senate Finance Committee. If we are to impose a tax, let us do it for the right reasons and in the right way.

Thank you, Mr. President, and I submit this attached letter to Senator BENTSEN for the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, October 12, 1990.

Hon. LLOYD BENTSEN,
Chair, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR LLOYD: Recently, there has been much discussion on the imposition of a fuel tax for deficit reduction purposes. In this context, I wanted to draw your attention to a recent fuel tax proposal made in the House Ways and Means Committee.

In particular, it was proposed that railroads pay a deficit reduction targeted fuel tax, unequal to that which is proposed for the trucking industry. As a former Secretary of Transportation I was very concerned to learn of this proposal. Both the trucking and railroad industry have and continue to play a critical role in transporting the bulk of freight and cargo throughout this country. Both have a function in supporting strong and competitive U.S. economy.

Deficit reduction is an important process that must be quickly and seriously implemented. But it is also a burden that must be shared equally among all Americans. This is really a question of equity. Accordingly, I suggest that if a fuel tax is to be imposed, and if all or part of that tax is to go straight to deficit reduction, not targeted to the highway trust fund, we make sure that the trucking and railroad industries share the burden equally. To do otherwise injures not only a particular industry, but our economy in general.

Thank you for your attention to this matter.

Sincerely,

BROCK ADAMS,
U.S. Senator.

HONORING DONALD LEE KIRKPATRICK II

Mr. FORD. Mr. President, on October 14, 1990, a service will be held at the National Fallen Firefighters' Memorial in Emmitsburg, MD, to honor 113 career and volunteer firefighters from across the country who lost their lives during 1989. I rise to pay tribute to all of them, and to recognize their courage and bravery in serving others.

For those of us who value public service, we recognize that there are many ways to contribute to the improvement of the lives of those around us. Only a few of these ways, however, involve the risks and hazards associated with the role of the firefighter, and very few require individuals to expose themselves to the ultimate sacrifice of their lives. We owe a special kind of debt to these unsung individuals, who are motivated by a desire to serve.

I wish to pay a special tribute to Donald Lee Kirkpatrick II, of the Burlington Fire Protection District in Burlington, KY. My heart goes out to his family and friends, and they are in my prayers. Donald Kirkpatrick's example of service to his community has benefited all of us, and I pay tribute to him today.

I urge all of my colleagues to help focus public attention on the need for fire safety, and to join me in recognizing the unselfish sacrifice of these 113 brave individuals.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 1049. Joseph M. McLaughlin, to be U.S. circuit judge for the second circuit;

Calendar 1050. Thomas G. Nelson, to be U.S. circuit judge for the ninth circuit;

Calendar 1051. James B. Loken, to be U.S. circuit judge for the eighth circuit;

Calendar 1052. Diane G. Weinstein, to be a judge of the U.S. Claims Court;

Calendar 1053. Stephen D. Easton, to be U.S. attorney for the District of North Dakota;

Calendar 1054. William C. Andersen, to be U.S. marshal for the District of Connecticut, and

Calendar 1055. Marvin Collins, to be U.S. attorney for the Northern District of Texas.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Joseph M. McLaughlin, of New York, to be U.S. Circuit Judge for the Second Circuit.

Thomas G. Nelson, of Idaho, to be U.S. Circuit Judge for the Ninth Circuit vice J. Blaine Anderson, deceased.

James B. Loken, of Minnesota, to be U.S. Circuit Judge for the Eighth Circuit.

Diane Gilbert Weinstein, of the District of Columbia, to be a Judge of the U.S. Claims Court for a term of 15 years.

DEPARTMENT OF JUSTICE

Stephen D. Easton, of North Dakota, to be U.S. Attorney for the District of North Dakota for the term of 4 years.

William C. Andersen, of Connecticut, to be U.S. Marshal for the District of Connecticut for the term of 4 years.

Marvin Collins, of Texas, to be U.S. Attorney for the Northern District of Texas for the term of 4 years. (Reappointment)

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 11:50 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 2806. An act to redesignate the National System of Interstate and Defense Highways as the Dwight D. Eisenhower System of Interstate and Defense Highways; and

H.R. 3787. An act to authorize a joint Federal, State, and tribal study for the restoration of the fishery resources of the Chehalis River basin, Washington, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

At 5:10 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 2167) to reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act; without amendment.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5021) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. Smith of Iowa, Mr. Alexander, Mr. Early, Mr. Dwyer of New Jersey, Mr. Carr, Mr. Mollohan, Mr. Whitten, Mr. Rogers, Mr. Regula, Mr. Kolbe, and Mr. Conte as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5241) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. Roybal, Mr. Hoyer, Mr. Alexander, Mr. Early, Mr. Sabo, Mr. Dixon, Mr. Whitten, Mr. Skeen, Mr. Lowery of California, Mr. Wolf, and Mr. Conte as managers of the conference on the part of the House.

The message also announced that the House has passed the bill (S. 2059) to establish the Weir Farm National Historic Site in the State of Connecticut; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bills, each with amendments, in which it requests the concurrence of the Senate:

S. 1719. An act to designate segments of the Colorado River in Utah within Westwater and Cataract Canyons as components of the Wild and Scenic Rivers System;

S. 1747. An act to provide for the restoration of Federal recognition to the Ponca Tribe of Nebraska, and for other purposes;

S. 1805. An act to authorize the Secretary of the Interior to reinstate oil and gas lease LA 033164; and

S. 2203. An act to settle certain claims of the Zuni Indian Tribe, and for other purposes.

The message also announced that pursuant to the provisions of section 5205(a)(1)(C) of Public Law 100-418, the Speaker and minority leader jointly appoint the following persons from private life to the Competitiveness Policy Council on the part of the House: Mr. Lynn Williams, Pittsburgh, PA; Mr. C. Fred Bergsten, Washington, DC; Mr. Edward V. Regan, Albany, NY; and Mr. John J. Murphy, Dallas, TX.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3095. An act to amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of medical devices;

H.R. 3789. An act to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes;

H.R. 4090. An act to authorize the establishment of the Glorieta National Battlefield in the State of New Mexico, and for other purposes;

H.R. 4429. An act to relinquish all right, title, and interest of the United States in an to certain lands conditionally relinquished to the United States under the act of June 4, 1897 (30 Stat, 11, 36), and for other purposes;

H.R. 4765. An act to enable the people of Puerto Rico to exercise self-determination;

H.R. 5367. An act to provide for the renegotiation of certain leases of the Seneca Nation, and for other purposes;

H.R. 5388. An act to designate certain lands in the State of North Carolina as wilderness;

H.R. 5402. An act to amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes;

H.R. 5419. An act to designate the Federal building at 88 West 100 North in Provo, UT, as the "J. Will Robinson Federal Building;"

H.R. 5428. An act to designate certain public lands in the State of Illinois as wilderness, and for other purposes;

H.R. 5507. An act regarding the Early Winters Resort;

H.R. 5579. An act to amend section 28(w) of the Mineral Leasing Act, and for other purposes;

H.R. 5667. An act to amend the Water Resource Development Act of 1974 to transfer jurisdiction of the Big South Fork National River and Recreation Area from the Secretary of the Army to the Secretary of the Interior, and for other purposes;

H.R. 5675. An act to authorize expansion of the Saguaro National Monument;

H.R. 5702. An act to amend the Public Health Service Act to improve the health of individuals who are members of minority groups and who are from disadvantaged backgrounds;

H.R. 5708. An act to authorize acquisition of certain real property for the Library of Congress, and for other purposes:

H.R. 5794. An act to amend the Age Discrimination Claims Assistance Act of 1988 to extend the statute of limitations applicable to certain additional claims under the Age Discrimination in Employment Act of 1967; and

H.R. 5803. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes.

MEASURES REFERRED

The following bill, received from the House of Representatives for concurrence on October 3, 1990, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3139. An act to amend title 5, United States Code, to authorize portability of benefits for employees of nonappropriated fund instrumentalities of the Department of Defense when such employees convert to the civil service system, and for other purposes; to the Committee on Governmental Affairs.

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4090. An act to authorize the establishment of the Glorieta National Battlefield in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4429. An act to relinquish all right, title, and interest of the United States in and to certain lands conditionally relinquished to the United States under the act of June 4, 1897 (30 Stat, 11, 36), and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 5402. An act to amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 5428. An act to designate certain public lands in the State of Illinois as wilderness, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 5667. An act to amend the Water Resource Development Act of 1974 to transfer jurisdiction of the Big South Fork National River and Recreation Area from the Secretary of the Army to the Secretary of the Interior, and for other purposes; to the Committee on Environment and Public Works.

H.R. 5675. An act to authorize expansion of the Saguaro National Monument; to the Committee on Energy and Natural Resources.

H.R. 5794. An act to amend the Age Discrimination Claims Assistance Act of 1988 to extend the statute of limitations applicable to certain additional claims under the Age Discrimination in Employment Act of 1967; to the Committee on Labor and Human Resources.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3789. An act to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes.

H.R. 4765. An act to enable the people of Puerto Rico to exercise self-determination.

H.R. 5367. An act to provide for the renegotiation of certain leases of the Seneca Nation, and for other purposes.

H.R. 5579. An act to amend section 28(w) of the Mineral Leasing Act, and for other purposes.

H.R. 5803. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 12, 1990, he

had presented to the President of the United States the following enrolled bills:

S. 2017. An act to provide a permanent endowment for the Eisenhower Exchange Fellowship Program;

S. 2680. An act to provide for the conveyance of lands to certain individuals in Stone County, Arkansas; and

S. 2806. An act to redesignate the National System of Interstate and Defense Highways as The Dwight D. Eisenhower System of Interstate and Defense Highways.

REPORTS OF COMMITTEES

The following reports of committees were submitted on October 11, 1990:

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments:

H.R. 3338. A bill to direct the Secretary of the Interior to convey all interest of the United States in a fish hatchery to the State of South Carolina (Rept. No. 101-522).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. 3095. A bill to authorize the creation of a National Education Report Card to be published annually to measure educational achievement of both students and schools and to establish a National Council on Education Goals (Rept. No. 101-524).

The following reports of committees were submitted on October 12, 1990:

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments:

S. 585. A bill to implement the national objective of pollution prevention by establishing a source reduction program at the Environmental Protection Agency, by assisting States in providing information and technical assistance regarding source reduction, and for other purposes (Rept. No. 101-526).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 4559. A bill to establish the Red Rock Canyon National Conservation Area (Rept. No. 101-527).

By Mr. BURDICK, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 2184. A bill to assist small communities in construction of facilities for the protection of the environment and human health (Rept. No. 101-528).

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments:

S. 2729. A bill to amend the Coastal Barrier Resources Act, and for other purposes (Rept. No. 101-529).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2946. A bill to amend the Public Health Service Act to revise and extend the program establishing the National Bone Marrow Donor Registry, and for other purposes (Rept. No. 101-530).

By Mr. SASSER, from the Committee on the Budget, with an amendment in the nature of a substitute:

S. 1850. A bill to require sequestration for a fiscal year if the actual deficit for the preceding fiscal year exceeds the target by more than $10,000,000,000 (Rept. No. 101-531); referred to the Committee on Governmental Affairs.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 5401. A bill to improve the enforcement of criminal laws relating to banking, to facilitate the recovery of assets of failed financial institutions, to increase existing penalties and provide new penalties for offenses affecting financial institutions, and for other purposes.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 3194. An original bill entitled the "Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Mr. Michael B. Unhjem, of North Dakota, to be a member of the National Council on Disability for the remainder of the term expiring September 17, 1990;

Michael B. Unhjem, of North Dakota, to be a member of the National Council on Disability for a term expiring September 17, 1993;

Richard C. Hackett, of Tennessee, to be a member of the Board of Trustees of the Harry S. Truman Scholarship Foundation for a term expiring December 10, 1993;

Perry L. Adkisson, of Texas, to be a member of the National Science Board, National Science Foundation for a term expiring May 10, 1996

J. Michael Farrell, of the District of Columbia, to be a member of the National Commission on Libraries and Information Science for the term expiring July 19, 1992; and

Andrew F. Reardon, of Illinois, to be a member of the Railroad Retirement Board for the term of five years from August 29, 1988.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GORE (for himself, Mr. Sasser, Mr. Ford, and Mr. McConnell):

S. 3192. A bill to amend the Water Resource Development Act of 1974 to transfer jurisdiction of the Big South Fork National River and Recreation Area from the Secretary of the Army to the Secretary of the Interior, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KOHL:

S. 3193. A bill to require the Administrator of the Environmental Protection Agency to report to Congress concerning the use of fiberglass and mineral wool as a substitute for hazardous chemicals; to the Committee on Environment and Public Works.

By Mr. BIDEN, from the Committee on the Judiciary:

S. 3194. An original bill entitled the "Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990"; placed on the calendar.

By Mr. AKAKA:

S. 3195. A bill for the relief of the heirs, successors, or assigns of Sadae Tamabayashi; to the Committee on the Judiciary.

By Mr. FOWLER:

S. 3196. A bill to amend the National Historic Preservation Act and the National Historic Preservation Act Amendments of 1980 to strengthen the preservation of our historic heritage and resources, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KERRY:

S. 3197. A bill to amend the Federal Prison Industries Reform Act of 1988 to provide for the creation of the maximum of jobs for Federal inmates; to the Committee on the Judiciary.

By Mr. SANFORD:

S. 3198. A bill to authorize the Secretary of the Interior to acquire certain lands to be added to the Fort Raleigh National Historic Site, North Carolina, and for other purposes; to the Committee on Energy and Natural Resources.

S. 3199. A bill to amend the Wild and Scenic Rivers Act to designate certain segments of the Mills River in the State of North Carolina for potential addition to the wild and scenic rivers system; to the Committee on Energy and National Resources.

S. 3200. A bill to designate certain lands in the State of North Carolina as part of the National Wilderness Preservation System; to the Committee on Agriculture, Nutrition, and Forestry.

S. 3201. A bill to direct the Secretary of Transportation to permit the city of Fayetteville, North Carolina, to allow vehicular traffic, other than buses, to use Hay Street; to the Committee on Commerce, Science, and Tranportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KOHL:

S. 3193. A bill to require the Administrator of the Environmental Protection Agency to report to Congress concerning the use of fiberglass and mineral wool as a substitute for hazardous chemicals; to the Committee on Environment and Public Works.

SCHOOL HAZARD REPLACEMENT MATERIAL ACT

● Mr. KOHL. Mr. President, I am introducing legislation to complement the Asbestos School Hazard Abatement Act.

In 1984, Congress recognized the risks to child health and safety posed by asbestos in our Nation's schools. Legislation was enacted to assist school districts in efforts to remove asbestos safely and expeditiously from classrooms. Today, the Senate will reauthorize that 1984 legislation.

Unfortunately, the Environmental Protection Agency [EPA] has not paid sufficient attention to screening replacement materials for asbestos for possible health hazards. The World Health Organization has listed mineral wool and fiberglass—materials routinely used as replacements for asbestos—as carcinogens. Despite such warnings, no effort has been made to advise school districts of these risks.

Mr. President, we now face an untenable situation. Along with local education authorities and State agencies, the Federal Government is spending millions of dollars to remove asbestos from school buildings. Yet school districts may unwittingly be replacing asbestos with materials of equal health risk. In a worst case scenario, some schools may find themselves in the same plight 10 years from now that they are in with asbestos today.

We must address this issue at once. The bill I am introducing today would instruct EPA to advise all Governors and local educational agencies within 30 days of the comparative risks of replacements for absestos such as fiberglass and mineral wool. It would further instruct the Agency to report to Congress within 60 days on what action should be taken to regulate mineral wool and fiberglass as hazardous substances under section 6 of the Toxic Substances Control Act. And, it calls upon the Administrator of EPA to report within 6 months on the need to pretest other materials likely to be used as substitutes for hazardous substances.

In closing, this is clearly in an issue of good government. Congress cannot advise school districts in my State of Wisconsin or any other State to remove asbestos as a health hazard and allow them to use substitutes that are equally dangerous. Parents, teachers, and students all expect more of us. They look to us for leadership on the environment and the health and safety of our Nation's children. The bill I am introducing today would help us fulfill those expectations. I urge my colleagues to join me in sponsoring it. And, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPORT TO CONGRESS.

(a) REPORT.—Prior to the expiration of the 60-day period following the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall report to Congress with respect to what action, if any, the Environmental Protection Agency has taken, or intends to take, in connection with the regulation, in accordance with section 6 of the Toxic Substances Control Act (15 U.S.C. 2605), of fiberglass and mineral wool. Such report shall include the recommendations of the Administrator.

(b) STUDY.—Prior to the expiration of the 180-day period following the date of the enactment of this Act, the Administrator shall report to Congress the views and recommendations of the Administrator regarding the desirability of, and need for, the establishment of a program for the pretesting of chemical substances and mixtures used or likely to be used as substitutes for other hazardous chemical substances and mixtures banned or otherwise restricted or regulated under section 6 of the Toxic Substances Control Act (15 U.S.C. 2605).

SEC. 2. INFORMATION.

The Administrator of the Environmental Protection Agency shall, not later than 30 days after the date of the enactment of this Act, publish and distribute to all local educational agencies and State Governors information or an advisory to describe the comparative risks associated with replacement fibers for asbestos such as fiberglass and mineral wool, including a description of the views of the World Health Organization.●

By Mr. KERRY:

S. 3197. A bill to amend the Federal Prison Industries Reform Act of 1988 to provide for the creation of the maximum number of jobs for Federal inmates; to the Committee on the Judiciary.

PRISON EMPLOYMENT ACT

● Mr. KERRY. Mr. President, today I am introducing the Prison Employment Act of 1990. This bill addresses the problems posed by the rapidly growing Federal prison population. It will maximize the number of jobs created for Federal prisoners and thus help to avoid disciplinary problems that accompany idleness among prison inmates.

This legislation does not involve any new spending. Rather, it instructs Federal Prison Industries [FPI], which employs Federal inmates to manufacture goods for sale to the Federal Government, to enter only labor intensive industries, so that it can create the maximum number of new jobs for Federal prisoners.

In 1988, Congress enacted legislation that required FPI to concentrate on manufacturing products that are labor intensive. But Congress did not provide any definition of a labor intensive industry. Since that time, FPI has taken the position that Congress in 1988 authorized it to enter even capital intensive industries—which, of course, in relative terms cannot create many jobs for prisoners.

To correct this misconception and to prevent further misunderstanding, the Prison Employment Act of 1990 uses three objective economic statistics, compiled by the Department of Commerce, to define industries in which FPI's market entry would be most likely to maximize job creation for Federal prisoners. An industry must have at least 15 production workers per million dollars of value added, at least 10 production workers per million dollars of shipments value, and no more than $18,000 in production wages per production worker. These three requirements will ensure that FPI focuses its activities on labor intensive industries in which it can use its resources to create the greatest number of new jobs for Federal prisoners.

In addition, the bill provides that FPI shall, when considering alternative labor intensive industries suitable for market entry or expansion, first enter or expand market share in the industry in which capital investment will create the largest number of jobs for prisoners. This provision will ensure fiscally responsible management of FPI's operations.

This bill parallels H.R. 5618, introduced last month by Congressmen RICHARD NEAL and JOHN EDWARD PORTER. I salute their leadership in the House on this issue, and I am pleased to propose to my colleagues in the Senate a similar bill for their consideration which I believe to be the key to maximizing job creation for Federal prisoners.

I ask for unanimous consent that the text of the bill be printed immediately after my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3197

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MAXIMIZING JOB CREATION FOR FEDERAL PRISONERS.

Chapter 307 of title 18, United States Code, is amended by adding the following:

"§ 4122A. Objectives of Federal Prison Industries

"(a) Notwithstanding any other provsion in this chapter, Federal Prison Industries' highest priority shall be to maximize the number of jobs created for the employment of Federal prisoners.

"(b) On or after July 1, 1990, Federal Prison Industries shall enter an industry only if private firms in such industry have at the four-digit Standard Industrial Classification Code level—

"(1) at least 15 production workers per million dollars of value added;

"(2) at least 10 production workers per million dollars of shipments value; and

"(3) no more than $18,000 in production wages per production worker, as measured in 1987, dollars.

"(c) Federal Prison industries shall, when considering alternative labor-intensive industries suitable for market entry or expansion, first enter or expand market share in the industry in which capital investment will create the largest number of jobs for Federal prisoners".

SEC. 2. ACCOUNTABILTY FOR USE OF PRISON INDUSTRY FUND.

Section 4126 of title 18, United States Code, is amended by adding the following:

"(g) Any expenditure or obligation of funds by Federal Prison Industries to enter any industry that is not labor-intensive, as defined in 18 U.S.C. § 4122A, shall be subject to 31 U.S.C. § 1341(a)(1).".

SEC. 3. REPORTING REQUIREMENTS ON JOB CREATION.

Section 4127 of title 18, United States Code, is amended to read as follows:

"(a) The board of directors of Federal Prison Industries shall submit an annual report to the Congress on the conduct of the business of the corporation during each fiscal year, and on the condition of its funds during such fiscal year.

"(b) Such report shall disclose, for each of Federal Prison Industries' lines of business, for the preceding fiscal year—

"(1) the net number of jobs created for Federal prisoners;

"(2) the labor intensity of the line of business, for Federal Prison Industries and for the private sector; and

"(3) an audited statement of operating results.".●

By Mr. SANFORD:

S. 3201. A bill to direct the Secretary of Transportation to permit the city of Fayetteville, NC, to allow vehicular traffic, other than buses, to use Hay Street; to the Committee on Commerce, Science, and Transportation.

VEHICULAR TRAFFIC ON HAY STREET IN FAYETTEVILLE, NC

● Mr. SANFORD. Mr. President, I rise today to propose a measure which will correct a severe traffic problem that has developed in Fayetteville, NC, as a result of the closing of Hay Street, a major road in downtown Fayetteville.

Under an agreement between the city of Fayetteville and the Department of Transportation, Hay Street was closed down to vehicular traffic in order to create a pedestrian mall in the heart of downtown, accessible only by buses. While the idea looked good on paper, the project not only has lacked the expected retail and commercial rewards, but has also resulted in an unanticipated traffic bottleneck in Fayetteville.

Local businesses which had hoped to thrive in the downtown area are instead suffering tremendously, due to a lack of interest among Fayetteville consumers who are interested in convenient, drivable locations and easily accessible parking. In addition, the loss of this major thoroughfare has caused a great amount of unnecessary headaches for Fayetteville citizens traveling to and fro in the city, by slowing traffic and forcing them to take longer, more roundabout routes.

Mr. President, I am proposing that the Secretary of Transportation permit Fayetteville to allow vehicular traffic, other than buses, to begin using Hay Street again. I also request that the Secretary does not require Fayetteville to pay any penalty for any past grant agreement with the Department of Transportation, as a result of the reopening of Hay Street.

In closing, I ask that you not fault Fayetteville for a plan gone awry, and give serious consideration to this proposal for the sake of reviving a dying downtown.●

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. CRANSTON, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 15, a bill to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes.

S. 585

At the request of Mr. LAUTENBERG, the names of the Senator from Montana [Mr. BAUCUS], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 585, a bill to implement the national objective of pollution prevention by establishing a source reduction program at the Environmental Protection Agency, by assisting States in providing information and technical assistance regarding source reduction, and for other purposes.

S. 1140

At the request of Mr. MITCHELL, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1140, a bill to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements.

S. 2189

At the request of Mr. PRYOR, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 2189, a bill to establish a grant program to provide health insurance information, counseling, and assistance to individuals eligible to receive benefits under title XVIII of the Social Security Act, and for other purposes.

S. 2319

At the request of Mr. GARN, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 2319, a bill to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to protect the deposit insurance funds, to limit the depository institutions, credit unions, and other mortgage lenders acquiring real property through foreclosure or similar means, or in a fiduciary capacity, and for other purposes.

S. 2733

At the request of Mr. BINGAMAN, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Tennessee [Mr. GORE], and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of S. 2733, a bill to establish an Inter-American Scientific Cooperation Program to increase the level of science and technology cooperation between the United States and Latin America.

S. 2819

At the request of Mr. MOYNIHAN, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2819, a bill to amend title XVIII of the Social Security Act to provide coverage of services rendered by community mental health centers as partial hospitalization services, and for other purposes.

S. 2901

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 2901, a bill to amend the Internal Revenue Code of 1986 to simplify the application of the tax laws with respect to employee benefit plans, and for other purposes.

S. 2925

At the request of Mr. DIXON, the names of the Senator from Kansas [Mr. DOLE], the Senator from Idaho [Mr. MCCLURE], the Senator from Indiana [Mr. COATS], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 2925, a bill to authorize the minting and issuance of coins in commemoration of the quincentenary of the discovery of America and to authorize the payment of the proceeds of the sale of such coins to the Christopher Columbus Quincentenary Scholarship Foundation for the purpose of establishing a scholarship program, and for other purposes.

S. 2980

At the request of Mr. HEINZ, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2980, a bill to amend the Internal Revenue Code of 1986 to modify the provisions permitting certain entities to elect a taxable year other than the required year.

S. 3002

At the request of Mr. MOYNIHAN, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 3002, a bill to amend title XIX of the Social Security Act to permit coverage of residential drug treatment for pregnant women and certain family members under the Medicaid program, and for other purposes.

S. 3059

At the request of Mr. DECONCINI, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 3059, a bill to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges.

S. 3089

At the request of Mr. JEFFORDS, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of S. 3059, a bill to provide a method of locating private and Government research on environmental issues by geographic location.

S. 3148

At the request of Mr. DIXON, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 3148, a bill to condition funding for coproduction with South Korea of the F/A-18 aircraft on receipt by Congress of the relevant Memorandum of Understanding

[MOU] and to extend the 30-day congressional review period until the MOU is received.

SENATE JOINT RESOLUTION 263

At the request of Mr. Helms, the names of the Senator from Oklahoma [Mr. Boren], the Senator from Illinois [Mr. Dixon], the Senator from Tennessee [Mr. Sasser], the Senator from Kansas [Mr. Dole], the Senator from Wyoming [Mr. Simpson], the Senator from Delaware [Mr. Roth], the Senator from Idaho [Mr. Symms], the Senator from Pennsylvania [Mr. Heinz], the Senator from Illinois [Mr. Simon], the Senator from Massachusetts [Mr. Kerry], the Senator from Missouri [Mr. Bond], the Senator from Hawaii [Mr. Akaka], and the Senator from Minnesota [Mr. Durenberger], were added as cosponsors of Senate Joint Resolution 262, a joint resolution to designate October 11, 1990, as "National Society of the Daughters of the American Revolution Centennial Day."

SENATE JOINT RESOLUTION 350

At the request of Mr. Byrd, the names of the Senator from Kentucky [Mr. Ford] and the Senator from Maine [Mr. Mitchell] were added as cosponsors of Senate Joint Resolution 350, a joint resolution to designate October 18, 1990, as "National Hardwood Day."

SENATE JOINT RESOLUTION 356

At the request of Mr. Dole, the name of the Senator from Oklahoma [Mr. Boren] was added as a cosponsor of Senate Joint Resolution 356, a joint resolution designating November 4 through 11, 1990, as "National Key Club Week."

SENATE JOINT RESOLUTION 364

At the request of Mr. Mitchell, his name was added as a cosponsor of Senate Joint Resolution 364, a joint resolution to designate the third week of February 1991, as "National Parents and Teachers Association Week."

SENATE JOINT RESOLUTION 374

At the request of Mr. Pell, the name of the Senator from Illinois [Mr. Simon] was added as a cosponsor of Senate Joint Resolution 374, a joint resolution to declare it to be the policy of the United States that there should be a renewed and sustained commitment to Federal aid to elementary and secondary education.

SENATE JOINT RESOLUTION 375

At the request of Mr. Boschwitz, the names of the Senator from Pennsylvania [Mr. Specter], the Senator from Washington [Mr. Gorton], the Senator from Washington [Mr. Adams], the Senator from New Jersey [Mr. Bradley], the Senator from Mississippi [Mr. Cochran], the Senator from Iowa [Mr. Grassley], the Senator from North Dakota [Mr. Burdick], the Senator from Colorado [Mr. Armstrong], the Senator from Montana [Mr. Burns], the Senator from Vermont [Mr. Jeffords], and the Senator from Kansas [Mrs. Kassebaum] were added as cosponsors of Senate Joint Resolution 375, a joint resolution to designate October 30, 1990, as "Refugee Day."

SENATE JOINT RESOLUTION 378

At the request of Mr. Cranston, the name of the Senator from New Jersey [Mr. Lautenberg] was added as a cosponsor of Senate Joint Resolution 378, a joint resolution prohibiting the proposed sales to Saudi Arabia of certain defense articles and defense services, pursuant to section 36(b)(1) of the Arms Export Control Act.

SENATE RESOLUTION 338

At the request of Mr. Sasser, the name of the Senator from Michigan [Mr. Levin] was added as a cosponsor of Senate Resolution 338, a resolution expressing the sense of the Senate that the Department of Commerce should utilize the statistical correction methodology to achieve a fair and accurate 1990 census.

AMENDMENTS SUBMITTED

LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1991

ARMSTRONG AMENDMENT NO. 2954

Mr. ARMSTRONG proposed an amendment to the bill (H.R. 5257) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1991, and for other purposes, as follows:

On page 44, on line 8, change the period to a semicolon and add the following: "None of the funds contained in this Act may go to any entity receiving funding under this Act unless such entity certifies to the Secretary that it will not provide an abortion for an unemancipated female under the age of 18 until at least 48 hours after written notice of the pending abortion has been delivered in the manner specified by this subsection, except in instances where an attending physician certifies in such minor's medical record that the abortion was performed due to a medical emergency requiring immediate attention. *Provided, however,* That such entity certifies to the Secretary that such notice shall be addressed to the minor's parent or legal guardian at the usual place of abode of such parent or legal guardian and delivered personally to such parent or legal guardian by the physican performing the abortion or an agent of the entity; or be made by certified mail addressed to the minor's parent or legal guardian at the usual place of abode of such parent or legal guardian with return receipt requested and restricted delivery to the addressee, which means postal employees may only deliver the mail to the authorized addressee. Time of delivery shall be deemed to occur at 12 o'clock noon on the next day on which regular mail delivery takes place, subsequent to mailing. *Provided further,* That this section shall not apply to entities in states that have in effect laws requiring that a parent or legal guardian be notified of, or give consent to, an abortion to be performed on the minor child of such parent or legal guardian.".

SIMON AMENDMENT NO. 2955

Mr. SIMON proposed an amendment to the bill H.R. 5257, supra, as follows:

On page 65, between lines 5 and 6, insert the following:

SEC. 306. IMPACT AID.

Notwithstanding any other provision of law, in carrying out the provisions of section 7 of Public Law 81-874 (20 U.S.C. 241-1) (as amended) and section 16 of Public Law 81-815 (20 U.S.C. 646) (as amended), the Secretary of Education shall reduce or waive the administrative guideline of a 25 percent non-Federal share upon a showing of—

(1) financial hardship by the State or political subdivision thereof in the provision of; or

(2) a good faith effort by the State or political subdivision thereof to provide;

the non-Federal share for purposes related to the disaster for which Federal assistance is sought.

HELMS AMENDMENT NOS. 2956 AND 2957

Mr. HELMS proposed two amendments to the bill H.R. 5257, supra, as follows:

Amendment No. 2956

On page 17, line 15, strike out "$600,000,000" and all that follows through "That" on line 19, and insert in lieu thereof the following: "$159,000,000 is available for part A and part B of title XXVI of the Public Health Service Act: *Provided,* That".

Amendment No. 2957

On page 18, end of line 2, insert "That the Secretary of Health and Human Services shall make available not less than $120,000,000 from amounts otherwise appropriated for programs relating to AIDS as follows:

"(1) $60,000,000 of such amount shall be made available to the National Institute of Child Health and Human Development for programs relating to the prevention of infant mortality and sudden infant death syndrome, child health research centers, and mental retardation in children; and

"(2) $60,000,000 of such amount shall be made available to the National Institute on Aging for programs relating to Alzheimer's disease:

Provided further,".

CABLE TELEVISION CONSUMER PROTECTION ACT

WIRTH (AND GORE) AMENDMENT NO. 2958

(Ordered to lie on the table.)

Mr. WIRTH (for himself and Mr. Gore) submitted an amendment intended to be proposed by them to the bill (S. 1880) to amend title VI of the Communications Act of 1934 to ensure

carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates, and for other purposes; as follows:

On page 51, strike lines 1 and 2 and insert in lieu thereof:

"PROHIBITION OF UNREASONABLE REFUSALS TO DEAL, NONDISCRIMINATORY CABLE ACCESS TO PROGRAMMING MARKETING OF CERTAIN SATELLITE COMMUNICATIONS"

Starting on page 51, line 6, strike everything through line 10 on page 52 and insert in lieu thereof:

"PROHIBITION OF UNREASONABLE REFUSALS TO DEAL, NONDISCRIMINATORY CABLE ACCESS TO PROGRAMMING

"Sec. 640. (a) Within 180 days of the enactment of the Cable Television Consumer Protection Act of 1990, the Commission shall prescribe regulations to prohibit any integrated video programming vendor from unreasonably refusing to deal with any multichannel video system operator with respect to the provision of nationally-distributed video prgramming. Entering into or abiding by the terms of an exclusive contract that does not have the effect of significantly impeding competition shall not be considered an unreasonable refusal to deal.

"(b)(1) Within 180 days of the enactment of the Cable Television Consumer Protection Act of 1990, the Commission shall prescribe regulations to require any integrated video programming vendor to make its nationally-distributed video programming available on similar price, terms, and conditions to all cable systems, cable operators, their agents, or their buying groups.

"(2) The Commission shall provide in the regulations prescribed pursuant to paragraph (1) that an integrated video programming vendor may or may continue to—

"(A) impose reasonable requirements for creditworthiness, marketing, delivery, and offering of service, and financial liability and stability (including a requirement that a buying group be legally and financially capable of ensuring the performance of the contract it negotiates);

"(B) establish different prices, terms and conditions that—

"(i) take into account differences in—

"(I) cost in the creation, sale, delivery, or transmission of its video programming; or

"(II) legitimate economic benefits (including, but not limited to, advertising and other promotional activities) received from different purchases;

"(ii) are established in good faith to meet equally favorable prices, terms, or conditions offered by a competitor; or

"(iii) are attributable to reasonable or legitimate business practices; and

"(C) grant bona fide discounts (including, but not limited to, discounts to take into account economies of scale, other cost savings, and legitimate economic benefits reasonably attributable to the number of subscribers served by different purchasers and discounts to encourage purchasers to carry a new video programming service)".

On page 52, line 11 immediately after "affiliate" insert ", or other multichannel video system operator".

On page 52, line 12 strike "or" and insert in lieu thereof: ";".

On page 52, line 15 strike the period and insert in lieu thereof: "; or coerce a video programming vendor to provide exclusive rights against other multichannel video system operators as a condition of carriage on a system.".

On page 52, line 16 immediately after "(d)" insert "(1)"

On page 52, line 19 strike "(1)" insert in lieu thereof "(A)"

On page 52, line 21 strike "(2)" and insert in lieu thereof "(B)"

On page 52, line 23 after the period, add a new paragraph (2), to read as follows:

"(2) In considering whether any exclusive contract significantly impedes competition, the Commission shall take into account, among other relevant factors:

"(A) whether such a contract, when taken together with other exclusive contracts for that programming, constitutes a pattern by which exclusive contracts are used to significantly impede competition;

"(B) whether such a contract, because of the existence of other exclusive contracts for similar programming in a particular market, would significantly impede competition in that market; and

"(C) whether, if the service subject to the exclusive contract was previously offered on a non-exclusive basis, the change significantly impedes competition.".

On page 53, after line 7, add the following:

"(g)(1) The regulations prescribed under subsection (b) shall cease to be effective 5 years after the date of enactment of the Cable Television Consumer Protection Act of 1990. The regulations prescribed under subsection (a) shall cease to be effective 9 years after the date of enactment of the Cable Television Consumer Protection Act of 1990.

"(2) No provision of subsections (a) and (b) shall affect any contract (or the renewal or extension of any contract) that grants exclusive distribution rights to any person with respect to video programming and that was entered into on or before June 1, 1990.

"(h) For purposes of this section—

"(1) the term 'integrated video programming vendor'—

"(A) means any person—

"(i) who licenses or otherwise makes available video programming for national distribution by any multichannel video system operator; and

"(ii)(I) who holds an attributable interest in a multichannel video system operator, or

"(II) in whom a multichannel video system operator or any person with an attributable interest in a multichannel video system operator holds an attributable interest;

"(B) includes satellite delivered programming networks and other programming networks and services;

"(C) does not include—

"(i) a network or service distributing video progamming intended for broadcast by a television station affiliated with a broadcasting network; and

"(ii) a broadcast television station;

"(2) the term 'multichannel video system operator' includes an operator of any cable system, multichannel multipoint distribution service, direct broadcast satellite distribution service, television receive-only satellite distribution service, or other comparable system for the distribution of video programming; and

"(3) the terms 'cable system' and 'video programming' have the meanings provided by section 602 of this Act.".

Add a new subsection (b) at the end of section 6, to read as follows:

(b) Marketing of Certain Satellite Communications.—

(1) Findings.—The Congress finds that—

(A) many satellite-delivered programming services have unnecessarily restricted options for consumers wishing to choose between competing television programming distributors;

(B) presently 3,000,000 Americans own C-band home satellite television systems and the number is growing at a rate of 350,000 to 400,000 each year;

(C) there is disparity in wholesale pricing between programming services offered to cable operators and to satellite programming distributors;

(D) independent, noncable third-party packaging of C-band direct broadcast satellite delivered programming will encourage the availability of programming to C-band direct broadcast home satellite television systems; and

(E) in order to promote the development of direct-to-home satellite service, Congress must act to ensure that video programming vendors provide access on fair and nondiscriminatory terms.

(2) Amendments.—Section 705 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(A) by striking subsection (f) as added by section 204 of the Satellite Home Viewer Act of 1988;

(B) by striking "subsection (d)" each place it appears in subsections (d)(6) and (e)(3)(A) and inserting "subsection (f)";

(C) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively.

(D) by inserting after subsection (b) the following new subsection:

"(c)(1) Any person who encrypts any satellite delivered programming shall—

"(A) make such programming available for private viewing by home satellite antenna users;

"(B) when making such programming available through any other person for distribution through any medium, establish reasonable and nondiscriminatory financial, character, technical, and service criteria and requirements under which noncable distributors shall qualify to distribute such programming for private viewing by home satellite antenna users; and

"(C) when making such programming available through any other person for distribution through any medium, establish by the effective date of this subparagraph or January 1, 1991, whichever is later, price, terms, and conditions for the wholesale distribution of such programming which do not discriminate between the distribution of such programming to distributors for cable television subscribers and distributors to home satellite antenna users, nor among different distributors to home satellite antenna users, except that this subparagraph shall not prohibit rate differentials which are—

"(i) attributable to actual and reasonable differences in the costs of the creation, sale, delivery, or transmission of such programming as between different delivery media;

"(ii) attributable to reasonable volume discounts; or

"(iii) attributable to bona fide agreements for the distribution of such programming which were in effect prior to the enactment date of this subparagraph.

"(2) Where a person who encrypts satellite delivered programming has established a separate subsidiary for distribution to satellite antenna users, such person shall not be required to establish or license any entity on the same terms and conditions as such separate subsidiary; except that for purposes of any claim of discrimination under this section, a party aggrieved may, as evidence of discrimination, compare the prices, terms, and conditions established by the person who encrypts.

"(3) Nothing contained in this subsection shall require any person who encrypts satellite delivered programming to authorize or license any distributor for a secondary satellite retransmission of such programming, but, if any person who encrypts satellite delivered programming authorizes or licenses such a distributor, such person shall, consistent with the provisions of paragraph (1)(B) and (1)(C), establish criteria to qualify to distribute such programming through such secondary satellite retransmissions, and further establish nondiscriminatory price, terms, and conditions for such distribution. Nothing contained in this subsection shall require any person who encrypts satellite delivered programming to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution.

"(4) Any person aggrieved by any violation of paragraph (1)(A) of this subsection may bring a civil action in a United States district court or in any other court of competent jurisdiction. Such court may grant temporary and final injunctions or other equitable relief on such terms as it may deem reasonable and appropriate to prevent or restrain such violations.

"(5) Any person aggrieved by any violation of paragraph (1)(B), (1)(C), or (2) of this subsection may bring a civil action in the United States district court or other court of competent jurisdiction. Such court may grant temporary and final injunctions on such terms as it may deem reasonable and appropriate to prevent or restrain such violations; and (i) direct the recovery of damages to a prevailing plaintiff, including actual damages, or statutory damages for all violations in a sum of not more than $500,000, as the court considers just; and (ii) direct the recovery of full costs, including reasonable attorney's fees, to a prevailing party.

"(6) As used in this subsection—

"(A) the term 'satellite delivered programming' means video programming transmitted by a domestic C-band direct broadcast communications satellite intended for reception by cable television systems or home satellite antenna users and does not include any satellite communication of any broadcaster or broadcast network;

"(B) the term 'home satellite antenna users' means individuals who own or operate C-band direct broadcast satellite television receive-only equipment for the reception of satellite delivered programming for viewing in such individual's single family dwelling unit; and

"(C) the term 'person who encrypts' means the party who holds the rights to the satellite delivered programming or who establishes the prices, terms, and conditions for the wholesale distribution thereof.

"(7) This subsection shall cease to be effective 7 years after the date of enactment of this subsection."; and

(5) in subsection (h) (as redesignated) by striking ", based on the information gathered from the inquiry required by subsection (f),".

(3) Effective Date.—The amendments made by paragraph (2) of this subsection shall take effect 90 days after the date of enactment of this Act.

LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1991

GRAHAM (AND OTHERS) AMENDMENT NO. 2959

Mr. GRAHAM (for himself, Mr. Bentsen, Mr. Cranston, Mr. McCain, Mr. Reid, Mr. Wilson, Mr. DeConcini, Mr. Wirth, Mr. Bryan, Mr. Simon, Mr. Adams, Mr. Moynihan, Mr. Packwood, and Mr. Gramm) proposed an amendment to the bill H.R. 5257, supra; as follows:

On page 38, strike lines 1 through 7 and insert in lieu thereof the following:

Section 204(a)(1)(B) of the Immigration Reform and Control Act of 1986 is amended—

(1) by striking the period at the end thereof and inserting in its place the following: ", and funds appropriated for fiscal year 1991 under this section are reduced by $566,854,000.".

Section 204(a)(1)(C) of the Immigration Reform and Control Act of 1986 is amended—

(1) by striking "$1,000,000,000" and inserting in its place "$2,000,000,000"; and

(2) by striking the period at the end thereof and inserting in its place the following: "and fiscal year 1991.".

Section 204(b) of the Immigration Reform and Control Act of 1986 is amended by adding the following new paragraph:

"(5) For fiscal year 1992, the Secretary shall make allotments to states under paragraph (1) no later than December 15, 1991.".

An amount equal to 5 percent of amounts expended by a State for educational services under section 204(a)(1)(C) of the Act (or, if greater, $50,000 times the number of all years in which such expenditures are made) may be expended by the State educational agency for its related administrative costs; amounts available to a State for fiscal years after 1988 for public education and outreach to temporary resident aliens under section 204(c)(1)(D) of the Act may also be used for public education and outreach to eligible legalized aliens; and up to one percent of amounts provided to a State under section 204 of the Act in fiscal years after 1988 (or, if greater, $100,000 times the number of such years) may be used for payments under subparagraph (D) of section 204(c)(1), and up to an equal amount may be used for payments under subparagraph (e) of such section, in years after fiscal year 1988.

METZENBAUM AMENDMENT NO. 2960

Mr. HARKIN (for Mr. Metzenbaum) proposed an amendment to the bill H.R. 5257, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . IMPACT AID.

Section 5(e)(1)(D) of Public Law 81-874 (as amended) (20 U.S.C. 240) (hereafter in this section referred to as the "Act") shall not apply to any local educational agency that was an agency described in section 5(c)(2)(A)(ii) of the Act in fiscal year 1990 but is an agency described in section 5(c)(2)(A)(iii) in fiscal year 1991 as a result of families moving off base due to a landfill or health concern or an environmental hazard, or due to risk assessment, investigation, testing or remediation for such concern or hazard, and any such local educational agency shall be deemed to belong to the category described in section 5(c)(2)(A)(ii) for fiscal year 1991.

HARKIN AMENDMENT NO. 2961

Mr. HARKIN proposed an amendment to the bill H.R. 5257, supra, as follows:

On page 16, line 24, change "$2,472,940,000" to "$2,474,940,000".

On page 40, line 6, change "$3,500,528,000" to "$3,501,278,000".

On page 40, line 19, after the word "claims" insert the following: : *Provided further*, That of the total amount provided, $47,352,000 shall be transferred to "Human Development Services" account for part B of title IV of the Act".

DOLE AMENDMENT NO. 2962

Mr. SPECTER (for Mr. Dole) proposed an amendment to the bill H.R. 5257, supra, as follows:

On page 52, line 25, insert after "deaf adults" the following: ": *Provided*, That, until October 1, 1991, the funds appropriated to carry out section 711 of the Rehabilitation Act of 1973 (29 U.S.C. 796e) shall be used to support entities currently receiving grants under the section".

BRADLEY AMENDMENT NO. 2963

Mr. HARKIN (for Mr. Bradley) proposed an amendment to the bill H.R. 5257, supra, as follows:

On page 51, line 4, strike out "$1,684,499,000" and insert in lieu thereof "$1,685,247,000".

BINGAMAN (AND OTHERS) AMENDMENT NO. 2964

Mr. HARKIN (for Mr. Bingaman) (for himself, Mr. Kennedy, Mr. Kerry, and Mr. Jeffords) proposed an amendment to the bill H.R. 5257, supra, as follows:

On page 49, line 26, strike "$14,000,000" and insert in lieu thereof "$11,000,000." On page 51, line 4, strike "$1,684,499,000." On page 51, line 4, strike "$1,684,499,000" and insert in lieu thereof "$1,685,499,000." On page 51, delete the period at the end of line 24 and insert the following: "and provided further that of the amounts appropriated herein, $1,000,000 shall be available, to remain available until expended, for payment of the expenses incurred by the School Year Extension Study Commission if such a Commission is authorized by law.".

On page 61, line 19, strike "$139,726,000" and insert in lieu thereof "$141,726,000" and in line 25, delete the period and insert the following: "; and of which $2,000,000 shall be available, to remain available until expended, for expenses to be incurred in the operation of an independent National Council on Educational Goals, or any similar panel, council, commission, or other entity whose function shall include monitoring progress towards achieving the national education goals for 2000 or publishing a report that describes such progress, if—

"(A) such entity has a majority of voting members who are neither Federal appointed

or elected officials nor State elected officials but who are citizens distinguished by training or experience in analyzing educational data or widely recognized experience in, knowledge of, and commitment to education and educational excellence;

"(B) such entity has members appointed by the leadership of the National Governors' Association, the President, and the leadership of both houses of Congress; and

"(C) all action of such entity is taken by a simple majority of the members attending a duly called and constituted meeting."

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, FISCAL YEAR 1991

LEAHY (AND KASTEN) AMENDMENT NO. 2965

Mr. LEAHY (for himself and Mr. Kasten) proposed an amendment to the bill (H.R. 5114) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes, as follows:

On page 5, line 8, strike "$271,382,000" and insert in lieu thereof "$187,882,457";

On page 31, line 9, strike "$3,080,000,000" and insert in lieu thereof "$3,141,000,000";

On page 45, line 6, strike "$26,500,000" and restore the House amount of $35,000,000; and

On page 56, line 1, insert, in italic, "*further,*" after *'Provided'*; and restore the House language beginning with "That" through "purposes and" and on line 3.

On page 64, line 21, strike ": *Provided further*" and all that follows through "1961" on page 64, line 24.

MITCHELL (AND OTHERS) AMENDMENT NO. 2966

Mr. MITCHELL (for himself, Mr. Danforth, Mr. Boren, Mr. Kerrey, Mr. Hatfield, Mr. Simon, and Mr. Dodd) proposed an amendment which was subsequently modified, to the bill H.R. 5114, supra, as follows:

In the language proposed to be inserted by the amendment, strike out "activities" and insert in lieu thereof the following:

ASSISTANCE FOR CAMBODIAN DEMOCRACY

Sec. . (a) Assistance.—(1) Not to exceed $20,000,000 of the funds appropriated by this Act under the headings "economic support fund" and "development assistance" may be made available for humanitarian and development assistance for Cambodians, including the Cambodian non-Communist resistance, along the Thai-Cambodian border and throughout Cambodia, notwithstanding any other provision of law (other than sections 531(e) and 634A of the Foreign Assistance Act of 1961, section 523 of this Act, and the provisions of this section).

(2) Funds made available by paragraph (1) shall be obligated or expended, to the maximum extent possible, consistent with the priorities set forth in the report required by subsection (d). Not later than 6 months after the date of enactment of this Act, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report describing the expenditure of funds under paragraph (1).

(b) Prohibition on Direct or Indirect Assistance for the Khmer Rouge.—(1) Funds made available under this section shall be subject to the prohibitions contained in section 906 of the International Security Development Cooperation Act of 1985 (Public Law 99-83).

(2) The President shall terminate assistance under this section to any Cambodian organization that he determines is cooperating, tactically or strategically, with the Khmer Rouge in their military operations.

(3) Not later than January 1, 1991, the President shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate an unclassified report describing the extent of military cooperation since 1986 between the Khmer Rouge and any individual group or fraction of the noncommunist resistance.

(c) Administration of Assistance.—To the maximum extent possible, all funds made available under this section shall be administered directly by the United States Government.

(d) Reporting Requirement.—(1) The Administrator of the Agency for International Development shall conduct within 180 days of enactment of this act an on-site assessment along the Thai-Cambodian border and within Cambodia, including Phnom Penh, determining the priorities of the humanitarian and development needs of the Cambodian people, including noncombatant civilians in all sectors of Cambodia.

(2) Not later than January 1, 1991, the President shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report setting forth the priorities determined by the assessment made under paragraph (1).

(e) Relation to Assistance for Cambodian Children.—(1) Any assistance provided under this section shall be in addition to the assistance provided for under the heading "humanitarian assistance for Cambodian children".

(2) Notwithstanding any other provision of this Act, funds made available under the heading "humanitarian assistance for Cambodian children" shall also be available to civilian victims of war.

(f) Definitions.—For purposes of this section—

(1) the term "development assistance" means assistance furnished to carry out any of the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961; and

(2) the term "humanitarian assistance" means food, clothing, medicine, or other humanitarian assistance, and it does not include the provision of weapons, weapons system, ammunition, or other equipment, vehicles, or material which can be used to inflict serious bodily harm or death.

KERREY AMENDMENT NO. 2967

Mr. KERREY proposed an amendment to the bill H.R. 5114, supra, as follows:

At the end of the amendment, add the following:

PROHIBITION ON FUNDS TO ADMINISTER OR ENFORCE CERTAIN TRADING WITH THE ENEMY ACT AUTHORITIES.

Sec. . Notwithstanding any other provision of law, no funds appropriated by any provision of law may be made available to administer or enforce the authorities of the Trading With the Enemy Act with respect to Cambodia which were in effect before the date of enactment of this Act.

SIMON (AND KENNEDY) AMENDMENT NO. 2968

Mr. SIMON (for himself and Mr. Kennedy) proposed an amendment to the bill H.R. 5114, supra, as follows:

On page 174, line 17, strike the period and insert in lieu thereof the following: ": *Provided*, That no funds under the headings "Economic Support Fund" and "Foreign Military Financing Program" may be obligated or expended until 30 days after such report is transmitted to the Congress.".

KENNEDY AMENDMENT NO. 2969

Mr. KASTEN (for Mr. Kennedy) proposed an amendment to the bill H.R. 5114, supra, as follows:

At the appropriate place in the bill, insert the following:

FAMINE ASSISTANCE TO THE ANGOLAN PEOPLE

Sec. . The Congress finds that—

(a) the looming famine in Angola is the world's leading humanitarian crisis, and puts at risk of starvation an estimated 1. million Angolans in the absence of effective international assistance;

(b) the majority of the potential famine victims reside in areas of conflict;

(c) the continuing civil war is the primary impediment to effective international famine relief efforts;

(d) the impact of famine on the Angolan civilian population is compounded by the massive effects of prolonged war and deprivation, including the loss in the course of the civil war of over 500,000 lives including 330,000 children, high malnutrition, and high civilian casualties due to land mines Now, therefore, be it

Sec. . It is the sense of the Senate that—

(a) the United States and the rest of the international community should respond generously to the Angolan famine by providing immediate emergency assistance through appropriate international and private voluntary organizations to Angolan civilians on both sides of the Angolan conflict;

(b) the United States and the international community should strongly urge both sides of the Angolan conflict to cooperativ in the famine relief effort, to facilitate the provision of emergency assistance under appropriate international auspices and to work to establish a lasting ceasefire and an end to the civil war;

(c) the efforts of the United Nations, the International Committee of the Red Cros and voluntary agencies to provide famine relief are to be commended and supported.

CHAFEE (AND OTHERS) AMENDMENT NO. 2970

Mr. KASTEN (for Mr. Chafee, fo himself, Mr. Leahy, and Mr. Kasten proposed an amendment to the bil H.R. 5114, supra, as follows:

In section 533, "Environment and Glob Warming," after subsection (d), insert th following new subsection:

"(e) Of the funds appropriated by this Ac to carry out the provisions of section 23 o the Arms Export Control Act, not less tha $15,000,000 shall be made available to cou tries in Africa for programs which support conservation and biological diversity."

Redesignate the following subsections accordingly.

HATCH AMENDMENT NO. 2971

Mr. KASTEN (for Mr. HATCH) proposed an amendment to the bill H.R. 5114, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . ANTI-NARCOTICS RESOURCE REQUIREMENTS.

(a) The President shall undertake an analysis of the requirements necessary to bolster anti-narcotic efforts and assets of transshipment countries identified in the President's strategy.

(b) The President shall submit to the Congress, at the time of the submission of the President's budget request for fiscal year 1992, a report describing the requirements indicated by the analysis under subsection (a).

STEWART B. McKINNEY HOMELESS ASSISTANCE ACT AMENDMENTS

KENNEDY AMENDMENT NO. 2972

Mr. WIRTH (for Mr. KENNEDY) proposed an amendment to the bill (H.R. 4789) to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes, as follows:

Strike all after the enacting clause and insert the following:

TITLE —PROVISION OF COMPREHENSIVE SERVICES TO FAMILIES AND INDIVIDUALS WITH SPECIAL NEEDS

SEC. 01. SHORT TITLE.

This title may be cited as the "Homelessness Prevention and Community Revitalization Act of 1990".

SEC. 02. PURPOSE.

It is the purpose of this title—

(1) help create safe, positive environments for families, children and individuals in low income housing and neighborhoods;

(2) reduce homelessness and institutionalization by making permanent housing accessible and hospitable to low income families, homeless veterans, frail elderly and individuals of special needs; and

(3) prevent additional homelessness by providing onsite social services and case management to families and individuals who are at risk of homelessness due to income level, illness, mental illness or lack of social and economic support networks.

Subtitle A—Family Support Centers

SEC. 11. DEFINITIONS.

As used in this subtitle:

(1) ADVISORY COUNCIL.—The term "advisory council" means the advisory council established under section—12(d)(2)(K).

(2) ELIGIBLE AGENCY.—The term "eligible agency" means State or local agencies, a Head Start agency, any community-based organization including an organization officially designated as a community action agency under section 210 of the Economic Opportunity Act of 1984 (42 U.S.C. 2790), public housing agencies as defined in section 3(b)(6) of the United States Housing Act of 1937, State Housing Finance Agencies, and in addition includes an institution of higher education, a public hospital, a community development corporation, a community health center, and other public or private nonprofit agency or organization specializing in delivering housing or social services.

(3) FAMILY CASE MANAGERS.—The term "family case managers" means advisers operating under the provisions of section 16.

(4) GOVERNMENTALLY SUBSIDIZED HOUSING.—The term "governmentally subsidized housing" means any rental housing that is assisted under any Federal, State or local program (including a tax credit or tax exempt financing program) and that serves a population that predominantly consist of very low income families or individuals.

(5) HOMELESS.—The term "homeless" has the same meaning given such term in the subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302(a) and (c)).

(6) INTENSIVE AND COMPREHENSIVE SUPPORTIVE SERVICES.—The term "intensive and comprehensive supportive services" means—

(A) in the case of services provided to infants, children and youth, infant and child primary and health services designed to enhance the physical, social, emotional, educational and intellectual development of such infants and children and that shall include, where appropriate, screening and referral services, child care services, early childhood development programs, early intervention services for children with, or at-risk of developmental delays, drop-out prevention services, after-school activities, job readiness services, education and support services for youth (including basic skills and literacy services), and nutritional services;

(B) in the case of services provided to parents and other family members, services designed to better enable parents and other family members to contribute to their child's healthy development and that shall include, where appropriate, substance abuse education, counseling and treatment or referral for treatment, employment counseling and job training as appropriate, life-skills training and personal financial counseling, education including basic skills and literacy services, parenting classes, health care and mental health services, peer counseling and crisis intervention services; and

(C) in the case of services provided by family case managers, needs assessment and support in accessing and maintaining appropriate public assistance and social services, referral for substance abuse counseling and treatment or referral for treatment, family violence counseling services, violence counseling and peer support services, family advocacy services, and housing assistance activities including emergency rental or mortgage assistance payments, housing counseling and eviction or foreclosure prevention assistance.

(7) LOW INCOME.—The term 'low income' when applied to families or individuals means a family or individual income that does not exceed 80 percent of the median income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 80 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low individual or family incomes.

(8) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(9) VERY LOW INCOME.—The term 'very low income' when applied to families or individuals means a family or individual income that does not exceed 50 percent of the median income for an individual or family in the area, as determined by the Secretary, except that the Secretary may establish income ceilings that are higher or lower than 50 percent of the median for the area on the basis of a finding by the Secretary that such variations are necessary because of unusually high or low individual or family incomes.

SEC. 12. GENERAL GRANTS FOR THE PROVISION OF SERVICES.

(a) AUTHORITY.—The Secretary is authorized to make grants to eligible agencies in rural and urban areas to pay the Federal share of the cost of programs designed to encourage the provision of intensive and comprehensive supportive services that will enhance the physical, social, emotional, educational, and intellectual development of low-income families, especially those very low-income families who were previously homeless and who are currently residing in governmentally subsidized housing or who are at risk of becoming homeless.

(b) AGREEMENTS WITH ELIGIBLE AGENCIES.—The Secretary shall enter into contracts, agreements, or other arrangements with eligible agencies to carry out the provisions of this section.

(c) CONSIDERATIONS BY SECRETARY.—In carrying out the provisions of this section, the Secretary shall consider—

(1) the capacity of the eligible agency to administer the comprehensive program for which assistance is sought;

(2) the proximity of the agencies and facilities associated with the program to the low-income families to be served by the program or the ability of the agency to provide offsite services;

(3) the ability of the eligible agency to coordinate its activities with State and local public agencies (such as agencies responsible for education, employment and training, health and mental health services, substance abuse services, social services, child care, nutrition, income assistance, and other relevant services), with public or private nonprofit agencies and organizations that provide assistance to homeless families, and with appropriate nonprofit private organizations involved in the delivery of eligible support services;

(4) the management and accounting skills of the eligible agency;

(5) the ability of the eligible agency to use the appropriate Federal, State, and local programs in carrying out the program; and

(6) the involvement of project participants and community representatives in the planning and operation of the program.

(d) REQUIREMENTS.—

(1) IN GENERAL.—Each eligible agency desiring to receive a grant under this section shall—

(A) if a planning grant application has been approved for such agency under section 13(b), have such application on file with the Secretary;

(B) have experience in providing or arranging for the provision of services such as those required under this section; and

(C) submit an application at such time in such manner and containing or accompanied by such information, including the information required under paragraph (2), as the Secretary shall reasonably require.

(2) APPLICATION.—Each application submitted under paragraph (1)(C) shall—

(A) identify the population and geographic location to be served by the program;

(B) provide assurances that services are closely related to the identifiable needs of the target population;

(C) provide assurances that each program will provide directly or arrange for the provision of intensive and comprehensive supportive services;

(D) identify the referral providers, agencies, and organizations that the program will use;

(E) describe the method of furnishing services at offsite locations, if appropriate;

(F) describe the extent to which the eligible agency, through its program, will coordinate and expand existing services as well as provide services not available in the area to be served by the program;

(G) describe how the program will relate to the State and local agencies providing assistance to homeless families, or providing health, nutritional, job training, education, social, substance abuse, and income maintenance services;

(H) provide assurances that the eligible agency will pay the non-Federal share of the cost of the application for which assistance is sought from non-Federal sources;

(I) collect and provide data on groups of individuals and geographic areas served, including types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and nature of conditions and needs identified and treated, and such other information as the Secretary requires;

(J) describe the manner in which the applicant will implement the requirement of section - 14;

(K) provide for the establishment of an advisory council that shall provide policy and programming guidance to the eligible agency, that shall consist of not more than 15 members that shall include—

(i) prospective participants in the program,

(ii) representatives of local private industry;

(iii) individuals with expertise in the services the program intends to offer;

(iv) representatives of the community in which the program will be located;

(v) representatives of local government social service providers;

(vi) representatives of local law enforcement agencies; and

(vii) representatives of the local public housing agency, where appropriate;

(L) describe plans for evaluating the impact of the program;

(M) include such additional assurances, including submitting necessary reports, as the Secretary may reasonably require;

(N) contain an assurance that if the applicant intends to assess fees for services provided with assistance under this section, such fees shall be nominal in relation to the financial situation of the recipient of such services; and

(O) contain an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant Federal, State and local funds currently utilized to provide services of the type described in this section.

(e) FAMILY SUPPORT CENTER.—Each program that receives assistance under this section shall establish at least one family support center that shall operate out, or in the immediate vicinity, of governmentally subsidized housing. Such centers shall be the primary location for the administration of the programs and the provision of services under this subtitle.

SEC. 13. PLANNING GRANTS.

(a) IN GENERAL.—The Secretary is authorized to make planning grants to eligible agencies to enable such entities to develop and submit plans and applications for grants under section 12. * * *

Each eligible * * * receive a planning grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary shall reasonably require. Each such application shall—

(1) describe the capacity of the eligible agency to provide or ensure the availability of the intensive and comprehensive supportive services pursuant to this subtitle;

(2) describe the low-income families to be served by the program including the number to be served and information on the population and geographic location to be served;

(3) describe how the needs of individuals identified under paragraph (2) will be met by the program;

(4) describe the intensive and comprehensive supportive services that program planners intend to address in the development of the plan;

(5) describe the manner in which the program will be operated together with the involvement of other community groups and public agencies;

(6) specify the agencies that are intended to be contacted and the activities to be coordinated during the planning phase;

(7) contain assurances that the applicant will establish a planning phase advisory council, that may become the council required under section 12(d)(2)(K), that shall include—

(A) prospective participants in the program,

(B) individuals with expertise in the services the program intends to offer;

(C) representatives of the community in which the program will be located;

(D) representatives of local government social service providers;

(E) representatives of local law enforcement agencies; and

(F) representatives of local public housing agencies;

(8) describe the capacity of the eligible agency to raise the non-Federal share of the costs of the program and such other information as the Secretary may reasonably require;

(9) contain an assurance that the agency will use funds received under this section to prepare a plan as described in this subsection and submit such plan in an application for a grant under section 12; and

(10) contain an assurance that amounts received under a grant award under this section shall be used to supplement not supplant Federal, State and local funds currently utilized to provide services of this type described in this section.

(c) ADMINISTRATIVE PROVISIONS.—

(1) TERM OF GRANT.—No planning grant may be for a period longer than 1 year.

(2) MAXIMUM NUMBER OF GRANTS—Not more than 20 planning grants may be made under this subsection.

(3) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to those applications that demonstrate that the applicant would not have the financial resources available to prepare a plan and application for a grant under section 12 unless such applicant receives a grant under this section.

(d) MAXIMUM AMOUNT OF GRANT.—No grant awarded under this section to a single eligible agency may exceed $50,000.

SEC. 14. TRAINING AND RETENTION.

The Secretary shall require that agencies that receive a grant under section 12 use not less than 5 percent of such grant to improve the retention and effectiveness of staff and volunteers through appropriate service delivery training programs.

SEC. 15. AMOUNTS OF GRANTS.

(a) IN GENERAL.—The Secretary shall pay to an eligible agency having an application approved under section 12 the Federal share of the cost of the activities described in the application.

(b) FEDERAL SHARE.—The Federal share shall be 80 percent for each fiscal year.

(c) NON-FEDERAL SHARE.—

(1) IN GENERAL.—The non-Federal share of payments under this section may be in cash or in kind fairly evaluated, including equipment or services.

(2) PRIVATE CONTRIBUTIONS.—Of the non-Federal share, 25 percent of such amount shall be provided through contributions from private entities.

(d) PAYMENTS.—Payments under this subtitle may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(e) EQUITABLE CONSIDERATION OF RURAL AREAS.—The Secretary shall ensure that an equitable number of grants are awarded to eligible agencies in rural areas.

SEC. 15. FAMILY CASE MANAGERS.

(a) REQUIREMENT.—Each program that receives a grant under section 12 shall employ, subject to subsection (e), an appropriate number of individuals with expertise in the provision of intensive and comprehensive supportive services to serve as family case managers for the program.

(b) NEEDS ASSESSMENT.—Each low-income family that desires to receive services from a program that receives assistance under this subtitle shall be assessed by a family case manager on such families initial visit to such program as to their need for services.

(c) CONTINUING FUNCTIONS.—Family case managers shall formulate a plan based on a needs assessment for each family. Such case manager shall carry out such plan, and remain available to provide such family with counseling and services, including school advocacy services, to enable such family to become self-sufficient. In carrying out such plan the case manager shall conduct monitoring, tracking, and follow-up activities.

(d) SPECIAL SERVICES.—Case managers shall provide comprehensive services as required under the application submitted under section 12, that places special emphasis on services relating to substance abuse and domestic violence.

(e) LIMITATION.—No family crisis adviser shall carry a caseload of in excess of 20 families.

SEC. 17. EVALUATIONS.

(a) IN GENERAL.—The Secretary shall require that programs that receive assistance under this subtitle be evaluated, by a third party with expertise in the types of services to be provided under this subtitle, on an annual basis.

(b) MATTER TO BE EVALUATED.—Evaluations conducted under subsection (a) shall

examine the efficacy of programs receiving assistance under this subtitle in—

(1) enhancing the living conditions in low income housing and in neighborhoods;

(2) improving the physical, social, emotional, educational, and intellectual development of low income children and families served by the program;

(3) increasing the self-sufficiency of families served by the program; and

(4) such other factors that the Secretary may reasonably require.

(c) Information.—Each eligible agency receiving a grant under this subtitle shall furnish information requested by evaluators in order to carry out this section.

(d) Results.—The results of such evaluations shall be provided to the eligible agencies conducting the programs to enable such agencies to improve such programs.

SEC. 18. REPORT.

Not later than October 1, of each fiscal year, the Secretary shall prepare and submit, to the Committees on Education and Labor, and Banking of the House of Representatives and the Committees on Labor and Human Resources, and Banking of the Senate, a report—

(1) concerning the evaluations required under section 17, together with such recommendations, as the Secretary considers appropriate; and

(2) describing any alternative sources of funding utilized or available for the provision of services of the type described in this subtitle.

SEC. 19. CONSTRUCTION.

Nothing in this subtitle shall be construed to modify the Federal selection preferences described in section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) or the authorized policies and procedures of governmental housing authorities operating under annual assistance contracts pursuant to such Act with respect to admissions, tenant selection and evictions.

SEC. 20. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle, $100,000,000 for fiscal year 1991, and such sums as may be necessary in each of the fiscal years 1992 through 1995.

Subtitle B—Provision of Services to Elderly Individuals and Individuals with Chronic and Debilitating Illnesses and Conditions

SEC. 21. ESTABLISHMENT OF PROGRAM.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end thereof the following new part:

"Part L—Provision of Services to Frail Elderly Individuals and Individuals with Chronic and Debilitating Illness and Conditions.

"SEC. 399B. DEFINITIONS.

"As used in this part:

"(1) Advisory council.—The term "advisory council" means the advisory council established under section 399C(d)(2)(K).

"(2) Eligible agency.—The term 'eligible agency' means any community-based organization, State or local agency, community health center, public or private nonprofit agency or other institution that will provide or arrange for the provision of appropriate comprehensive services to frail elderly or seriously ill individuals.

"(3) Frail elderly.—The term 'frail elderly' has the same meaning given such term in section 602.

"(4) Governmentally subsidized housing.—The term 'governmentally subsidized housing' means any rental housing that is assisted under any Federal, State or local program (including a tax credit or tax exempt financing program) and that serves a population that predominately consists of low income families or individuals.

"(5) Homeless.—The term 'homeless' has the same meaning given such term in subsection (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302 (a) and (c)).

"(6) Low income.—The term 'low income' when applied to families or individuals means a family or individual income that does not exceed 80 percent of the median *income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 80 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low individual or family incomes.*

"(7) Very low income.—the term 'very low income' when applied to families or individuals means a family or individual income that does not exceed 50 percent of the median income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 50 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of unusually high or low individual or family incomes.

"SEC. 399C. GENERAL GRANTS FOR THE PROVISION OF SERVICES.

"(a) Authority.—The Secretary is authorized to make grants to eligible agencies to pay the Federal share of the cost of programs designed to encourage the provision of eligible services to low-income elderly or low-income seriously ill individuals, especially those very low income elderly or seriously ill individuals who were previously homeless or who are at risk of becoming homeless or at risk of institutionalization.

"(b) Agreements With Eligible Agencies.—The Secretary shall enter into contracts, agreements, or other arrangements with eligible agencies to carry out the provisions of this section.

"(c) Consideration by Secretary.—In carrying out the provisons of this section, the Secretary shall consider—

"(1) the capacity of the eligible agency to administer the comprehensive program for which assistance is sought;

"(2) the proximity of the agencies and facilities associated with the program to the low-income individuals to be served by the program, or the ability of the agency to provide offsite services;

"(3) the ability of the eligible agency to coordinate its activities with State and local public agencies (such as agencies responsible for health and mental health services), with public or private nonprofit agencies providing assistance to homeless individuals and with appropriate nonprofit private organizations involved in the delivery of eligible support services;

"(4) the management and accounting skills of the eligible agency;

"(5) the ability of the eligible agency to use the appropriate Federal, State, and local programs in carrying out the program;

"(6) the involvement of program participants and community representatives in the planning and operation of the program; and

"(7) the demonstrated or potential effectiveness of the eligible agency in serving the populations or subpopulations intended to be served under this section.

"(d) Requirements.—

"(1) In general.—Each eligible agency desiring to receive a grant under this section shall submit an application at such time in such manner and containing or accompanied by such information, including the information required under paragraph (2), as the Secretary shall reasonably require.

"(2) Application.—Each application submitted under paragraph (1) shall—

"(A) identify the population and geographic location to be served by the program;

"(B) provide assurances that services are closely related to the identifiable needs of the target population;

"(C) provide assurances that each program will provide directly or arrange for the provision of eligible services of the type described in section 399D;

"(D) identify the referral providers, agencies, and organizations that the program will use;

"(E) describe the method of furnishing services at offsite locations, if appropriate;

"(F) describe the extent to which the eligible agency, through its program, will coordinate and expand existing services as well as provide services not available in the area to be served by the program;

"(G) describe how the program will relate to the State and local agencies providing health, nutritional, social, and income maintenance services;

"(H) provide assurances that the eligible agency will pay the non-Federal share of the cost of the application for which assistance is sought from non-Federal sources;

"(I) collect and provide data on groups of individuals and geographic areas served, including types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and nature of conditions and needs identified and treated, and such other information as the Secretary requires;

"(J) describe the manner in which the applicant will implement the requirement of section 399F;

"(K) provide for the establishment of an advisory council that shall provide policy and programming guidance to the eligible agency, that shall include-

"(i) prospective participants in the program,

"(ii) individuals with expertise in the services the program intends to offer;

"(iii) representatives of the community in which the program will be located;

"(iv) representatives of local government social service providers;

"(v) community based organizations with a history of providing service to participants;

"(vi) representatives of local public housing agencies, where appropriate; and

"(vii) representatives of local health care professions;

"(L) describe plans for evaluating the impact of the program;

"(M) include such additional assurances, including submitting necessary reports, as the Secretary may reasonably require;

"(N) contain an assurance that if the applicant intends to assess fees for services provided with assistance under this section, such fees shall be nominal in relation to the financial situation of the recipient of such services: and

"(O) contain an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant Federal, State and local funds currently utilized to provide services of the type described in this section.

"(e) Home Health Service Program.—Each recipient that receives assistance under this section shall establish at least one home health service program that shall operate out of, or in the immediate vicinity of, governmentally subsidized housing. Such programs shall be the primary location for the administration of the programs and the provision of services under this part. Such programs may operate out of existing family support centers.

"SEC. 399D. PLANNING GRANTS.

"(a) In General.—The Secretary is authorized to make planning grants to eligible agencies to enable such entities to develop and submit plans and applications for grants under section 399C.

"(b) Application.—Each eligible agency desiring to receiving a planning grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary shall reasonably require including—

"(1) a description of the capacity of the eligible agency to provide or ensure the availability of services pursuant to this part;

"(2) a description of the low-income frail elderly or low-income seriously ill individuals to be served by the program including the number to be served and information on the population and geographic location to be served;

"(3) a description of the needs of individuals identified under paragraph (2) that will be met by the program;

"(4) a description of the services that program planners intend to address in the development of the plan;

"(5) a description of the manner in which the program will be operated together with the involvement of other community groups and public agencies;

"(6) a specification of the agencies that are intended to be contacted and the activities to be coordinated during the planning phase;

"(7) assurances that the applicant will establish a planning phase advisory council, that may become the council required under section 399C(d)(2)(K), that shall include—

"(A) prospective participants in the program,

"(B) individuals with expertise in the services the program intends to offer;

"(C) representatives of the community in which the program will be located;

"(D) representatives of local government social service providers;

"(E) representatives of local public housing agencies, where appropriate;

"(8) a description of the capacity of the eligible agency to raise the non-Federal share of the costs of the program and such other information as the Secretary may reasonably require;

"(9) an assurance that the agency will use funds received under this section to prepare a plan as described in this subsection and submit such plan in an application for a grant under section 399C; and

"(10) an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant State and local funds currently utilized to provide services of the type described in this section.

"(c) Administrative Provisions.—

"(1) Term of grant. —No planning grant may be for a period longer than 1 year.

"(2) Maximum number of grants.—Not more than 20 planning grants may be made under this section.

"(3) Priority.—In awarding grants under this section, the Secretary shall give priority to those applications that demonstrate that the applicant would not have the financial resources available to prepare a plan and application for a grant under section 399C unless such applicant receives a grant under this section.

"(d) Maximum Amount of Grant.—No grant awarded under this section to a single eligible agency may exceed $50,000.

"SEC. 399E. ELIGIBLE SERVICES.

"(a) In General.—Grants awarded under this part shall be used to provide services of the type described in subsection (b) to low-income frail elderly or low income seriously ill individuals.

"(b) Services.—Agencies receiving grants under this part shall use such grants to provide comprehensive services, in accordance with the service plan, that shall include, where appropriate—

"(1) 24-hours nursing supervision services;

"(2) case management services;

"(3) home health care services;

"(4) homemaker services;

"(5) meal provision services;

"(6) attendant services;

"(7) volunteer visiting services;

"(8) adult day care service;

"(9) treatment for substance abuse;

"(10) hospice services;

"(11) post hospitalization respite care services;

"(12) transportation services;

"(13) assistance in accessing and maintaining appropriate public assistance;

"(14) housing assistance activities, including emergency rental or mortgage assistance payments, housing counseling, and eviction or foreclosure prevention assistance;

"(15) mental health services; and

"(16) any other services determined appropriate by the Secretary.

"(c) Coordination.—Programs that receive assistance under this part shall be coordinated with a local hospital or community health center that regularly provides emergency medical care services.

"(d) Set-Aside for Elderly.—The Secretary shall require that at least 20 percent of the grants made under this part shall be set-aside for the provision of subsidized housing-based services to elderly individuals, especially those very low-income elderly individuals who were previously homeless or who are at risk of becoming homeless or at risk of institutionalization.

"SEC. 399F. TRAINING AND RETENTION.

"The Secretary shall require that agencies that receive a grant under section 399C use not less than 5 percent of such grant to improve the retention and effectiveness of staff and volunteers through appropriate service delivery training programs.

"SEC. 399G. AMOUNTS OF GRANTS.

"(a) In General.—The Secretary shall pay to eligible agencies having applications approved under sections 399C the Federal share of the cost of the activities described in the application.

"(b) Federal Share.—The Federal share shall be 80 percent for each fiscal year.

"(c) Non-Federal share.—

"(1) In general.—The non-Federal share of payments under this section may be in cash or in kind fairly evaluated, including equipment or services.

"(2) Cash.—At least 25 percent of the non-Federal share under paragraph (1) shall be in the form of cash.

"(d) Payments.—Payments under this part may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account or overpayments of underpayments, as the Secretary may determine.

"(e) Equitable Consideration of Rural Areas.—The Secretary shall ensure that an equitable number of grants are awarded to eligible agencies in rural areas.

"SEC. 399H. EVALUATIONS.

"(a) In General.—The Secretary shall require that programs that receive assistance under this part are evaluated, by a third party with expertise in the types of services to be provided under this part, on an annual basis.

"(b) Matter To Be Evaluated.—Evaluations conducted under subsection (a) shall examine the efficacy of programs receiving assistance under this part in—

"(1) enhancing the living conditions for low income frail elderly and seriously ill individuals;

"(2) improving the opportunity for individuals served by the program to live independently and to avoid institutionalization; and

"(3) such other factors that the Secretary may reasonably require.

"(c) Information.—Each eligible agency receiving a grant under this part shall furnish information requested by evaluators in order to carry out this section.

"(d) Results.—The results of such evaluations shall be provided to the eligible agencies conducting the programs to enable such agencies to improve such programs.

"SEC. 399I. REPORT.

"Not later than October 1, of each fiscal year, the Secretary shall prepare and submit, to the Committees on Education and Labor, and Banking of the House of Representatives and the Committees on Labor and Human Resources, and Banking of the Senate, a report—

"(1) concerning the evaluations required under section 399H, together with such recommendations, including recommendations for legislation, as the Secretary considers appropriate; and

"(2) describing any alternative sources of funding utilized or available for the provision of services of the type described in this part.

"SEC. 399J. CONSTRUCTION.

"Nothing in this part shall be construed to modify the Federal selection preferences described in section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) or the authorized policies and procedures of governmental housing authorities operating under annual assistance contracts pursuant to such Act with respect to admissions, tenant selection and evictions.

"SEC. 399K. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part, $100,000,000 for fiscal year 1991, and such sums as may be necessary in each of the fiscal years 1992 through 1995.".

Subtitle C—Projects to Aid the Transition from Homelessness

SEC. —41. PROJECTS TO AID THE TRANSITION FROM HOMELESSNESS.

Part C of title V of the Public Health Services Act (42 U.S.C. 290cc et seq.) is amended to read as follows:

"Part C—Projects to Aid the Transition From Homelessness".

"SEC. 531. SHORT TITLE.

"This part may be cited as the 'Projects to Aid the Transition from Homelessness (PATH) Act of 1990'.

"SEC. 522. DEFINITIONS.

"As used in this part:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a State, a metropolitan city, or an urban county.

"(2) ELIGIBLE HOMELESS INDIVIDUAL.—The term 'eligible homeless individual' means an individual, including a veteran, who is—

"(A) afflicted with serious mental illness, alcoholism, substance abuse or a combination thereof; and

"(B) homeless or at imminent risk of becoming homeless.

"(3) METROPOLITAN CITY.—The term 'metropolitan city' has the same meaning given such term in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302).

"(4) SERVICE PROVIDER.—The term 'service provider' includes any general purpose unit of local government, a city, county, town, township, parish, village or combination thereof, a public or private non-profit agency including a veterans' community based service provider, or a community based organization.

"(5) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Federated States of Micronesia and Palau.

"(6) URBAN COUNTY.—The term 'urban county' has the same meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 523. ALLOTMENT.

"(a) IN GENERAL.—The Secretary shall utilize amounts appropriated under section 532 in each fiscal year, to make an allotment to metropolitan cities, urban counties, and States (for distribution to service providers in the States) in the same manner as the Secretary of Housing and Urban Development makes allocations under section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306), except that the Secretary shall—

"(1) substitute 50 percent for 70 percent in subsection (a) of such section 106; and

"(2) substitute 50 percent for 30 percent in subsection (d) of such section 106.

"(b) SPECIAL RULES.—

"(1) IN GENERAL.—If, under the allotment provisions applicable under this part, any city or urban county would receive an allotment of less than 0.05 percent of the amounts appropriated to carry out this part for any fiscal year, such amount shall instead be reallotted to the State, except that any metropolitan city that is located in a State that does not have counties as local governments, that has a population greater than 40,000 but less than 50,000 as used in determining the fiscal year 1987 community development block grant program allocation, and that was allocated in excess of $1,000,000 in community development block grant funds in fiscal year 1987, shall receive directly the amount allotted to such city under subsection (a).

"(2) MINIMUM.—Notwithstanding any other provision of law, the total amount allotted to each State under this part, including amounts allotted to each eligible entity within the State, shall not be less than—

"(A) $500,000; or

"(B) the amount of the allotment such State received pursuant to this part in fiscal year 1990 plus 30 percent of such allotment.

"(3) RATABLE REDUCTION.—The Secretary shall ratably reduce the allotments made pursuant to subsection (a) in order to carry out the provisions of this subsection.

"(c) ALLOTMENTS TO TERRITORIES.—In addition to the other allotments required in this section, the Secretary shall (for amounts appropriated under section 532) make allotments under this subtitle to the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Federated States of Micronesia and Palau, and any other territory or possession of the United States, in accordance with an allotment formula established by the Secretary, but in no case shall the total amount allotted to all of the territories and possessions exceed 2 percent of the total amount appropriated under section 532.

"(d) REMAINING AMOUNTS.—The Secretary may allocate any unclaimed or remaining funds to eligible entities determined by the Secretary to be in need of additional assistance.

"(e) REQUIREMENT OF NON-FEDERAL CONTRIBUTIONS.—

"(1) IN GENERAL.—The Secretary shall not make an allotment under this part to an eligible entity unless such entity agrees to make available, directly or through donations from public or private entities, non-Federal contributions toward such costs in an amount equal to not less than $1 for each $3 of Federal funds provided under the allotment.

"(2) DETERMINATION OF AMOUNT.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Except as provided in paragraph (3), amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, shall not be included in determining the amount of such non-Federal contributions.

"(3) SPECIAL RULE.—Funds received pursuant to section 106 of the Housing and Community Development Act of 1974, and the value of any property, buildings, or housing received and fairly evaluated may be included in determining the amount of such non-Federal contributions.

"(4) WAIVER.—The Secretary may waive the requirements of paragraph (1) for metropolitan cities and urban counties which are unable to provide such matching funds.

"(5) PARTICIPATING LOCALITIES.—Each State receiving an allotment under this part shall not require participating localities to provide non-Federal contributions in excess of the non-Federal contributions described in paragraph (1).

"SEC. 524. ALLOTMENT APPLICATION.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Each eligible entity desiring an allotment under section 523 shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(2) APPLICATION PERIOD.—The Secretary shall provide for a 90-day period during which applications may be submitted pursuant to paragraph (1).

"(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall—

"(1) describe the activities and services for which the allotment is sought;

"(2) identify existing programs providing services and housing to eligible homeless individuals and identify gaps in the delivery systems of such programs;

"(3) include a plan for providing services and housing to eligible homeless individuals that shall—

"(A) describe the coordinated and comprehensive means of providing services and housing to homeless individuals; and

"(B) include documentation that suitable housing for eligible homeless individuals will accompany the provision of services to such individuals;

"(4) describe the source of the non-Federal contributions described in section 523;

"(5) contain assurances that the non-Federal contributions described in section 523 will be available at the beginning of the grant period;

"(6) describe any voucher system that may be used to carry out this part; and

"(7) contain such other information or assurances as the Secretary may reasonably require.

"SEC. 525. REQUIREMENT OF SUBMISSION OF DESCRIPTION OF INTENDED USE OF GRANT FUNDS.

"(a) IN GENERAL.—The Secretary shall not make an allotment under section 523 to an eligible entity for any fiscal year unless—

"(1) the eligible entity submits to the Secretary a description of the intended use for the fiscal year of the amounts for which the eligible entity is applying pursuant to such section;

"(2) such description identifies the geographic areas within the eligible entity in which the greatest numbers of homeless individuals with a need for mental health, substance abuse, and housing services are located;

"(3) such description provides information relating to the programs and activities to be supported and services to be provided, including information relating to coordinating such programs and activities with any similar programs and activities of public and private entities; and

"(4) the eligible entity agrees that such description will be revised throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the eligible entity pursuant to section 523.

"(b) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary shall not make an allotment under section 523 to an eligible entity for a fiscal year unless the eligible entity agrees that, in developing and carrying out the description required in subsection (a), the eligible entity will provide public notice with respect to the description (including any revisions) and such opportunities as may be necessary to provide interested persons, such as family members, consumers, and mental health, substance abuse, and housing agencies, an opportunity to present comments and recommendations with respect to the description.

"(c) RELATIONSHIP TO STATE COMPREHENSIVE MENTAL HEALTH SERVICES PLAN.—

"(1) IN GENERAL.—The Secretary shall not make an allotment under section 523 to an eligible entity unless the services to be provided pursuant to the description required in subsection (a) are consistent with the State comprehensive mental health services plan required in subpart 2 of part B of title XIX.

"(2) SPECIAL RULE.—The Secretary shall not make an allotment under section 523 to an eligible entity unless the services to be provided pursuant to the description required in subsection (a) have been considered in the preparation of, have been included in, and are consistent with, the State comprehensive mental health services plan referred to in paragraph (1).

"SEC. 526. USE OF ALLOTMENT.

"(a) USE OF ALLOTMENT.—

"(1) IN GENERAL.—Each eligible entity receiving an allotment under section 523 shall use such allotment to pay the Federal share of awarding grants to or entering into contracts with service providers to enable such service providers to provide comprehensive services and allowable housng assistance to homeless individuals in accordance with the provisions of this part.

"(2) SPECIAL CONSIDERATION.—Each eligible entity receiving an allotment under section 523 shall give special consideration to the provision of services to homeless veterans who are otherwise eligible for services under this substitle. In providing such services to homeless veterans, such eligible entities shall give priority to service providers with a demonstrated effectiveness in serving homeless veterans.

"(3) FEDERAL SHARE.—The Federal share shall be 75 percent.

"(4) SPECIAL RULE.—Each eligible entity receiving an allotment under section 523 shall use at least two-thirds of such allotment to assist eligible homeless individuals who have—

"(A) a primary diagnosis of a serious mental illness; or

"(B) a diagnosis involving a serious mental illness and substance abuse.

"(5) COORDINATION.—Each eligible entity receiving an allotment under section 523 shall only make grants pursuant to paragraph (1) to service providers that have the capacity to meet or coordinate the comprehensive services and housing needs of eligible homeless individuals, including referral services. Such capacity includes contractual arrangements and viable referral plans among service providers of mental health, substance abuse, or housing services so that the comprehensive needs of individuals who are both mentally ill and substance abusers are met.

"(6) ADMINISTRATIVE EXPENSES.—Notwithstanding the provisions of this subsection, each eligible entity receiving an allotment pursuant to section 523 may reserve not to exceed 4 percent of such allotment for administrative expenses.

"(b) SPECIAL RULES.—Each eligible entity receiving an allotment under section 523 shall not award a grant to a service provider that—

"(1) has a policy of excluding individuals from mental health services due to the existence or suspicion of substance abuse; and

"(2) has a policy of excluding individuals from substance abuse services due to the existence or suspicion of mental illiness.

"(c) SUPPLEMENTATION.—Each eligible entity receiving an allotment under section 523 shall only use such funds to supplement and not supplant Federal, State and local government funds currently utilized to provide services of the type described in this part.

"SEC. 527. LOCAL APPLICATION.

"Each service provider desiring a grant pursuant to section 526(a) shall submit an application to the appropriate eligible entity at such time, in such manner and accompanied by such information as the eligible entity may reasonably require.

"SEC. 528. LOCAL USE OF GRANT FUNDS.

"(a) SERVICES.—Grants awarded pursuant to section 526(a) shall be used to provide either on-site or off-site services to eligible homeless individuals, including homeless veterans. Such services shall include—

"(1) outreach and engagement services;

"(2) screening and diagnostic treatment services;

"(3) habilitation and rehabilitation;

"(4) community mental health services;

"(5) alcohol or drug treatment services;

"(6) staff training, including the training of individuals who work in shelters, mental health clinics, substance abuse programs, and other sites where homeless individuals require services;

"(7) case management services, including—

"(A) preparing a plan for the provision of community mental health services to the eligible homeless individual involved, and reviewing such plan not less than once every 3 months;

"(B) providing assistance in obtaining and coordinating social and maintenance services for the eligible homeless individuals, including services relating to daily living activities, personal financial planning, transportation services, and habilitation and rehabilitation services, prevocational and vocational services, and housing services;

"(C) providing assistance to the eligible homeless individual in obtaining income support services, including housing assistance, food stamps, and supplemental security income benefits;

"(D) referring the eligible homeless individual for such other services as may be appropriate; and

"(E) providing representative payee services in accordance with section 1631(a)(2) of the Social Security Act if the eligible homeless individual is receiving aid under title XVI of such act and if the applicant is designated by the Secretary to provide such services;

"(8) supportive and supervisory services in residential settings;

"(9) referral to primary health services;

"(10) referral to job training and education programs; and

"(11) referral to other relevant service of housing programs.

"(b) HOUSING.—Not to exceed 20 percent of amounts received under a grant awarded pursuant to section 526(a) may be used for—

"(1) minor renovation, expansion, and repair;

"(2) planning;

"(3) technical assistance in applying for housing assistance;

"(4) improving the coordination of housing services;

"(5) security deposits;

"(6) the costs associated with matching eligible homeless individuals with appropriate housing situations; and

"(7) one time rental payments to prevent eviction.

"(c) LIMITATIONS.—Grants awarded pursuant to section 526(a) shall not be used—

"(1) to support emergency shelters or construction of housing facilities;

"(2) for inpatient psychiatric treatment costs or inpatient substance abuse treatment costs; and

"(3) to make cash payments to intended recipients of mental health, substance abuse, or housing services.

"SEC. 529. COORDINATION.

"(a) IN GENERAL.—The Secretary shall provide for coordination among eligible entities of housing and service strategies used in carrying out the provisions of this part.

"(b) INFORMATION.—In carrying out the provisions of subsection (a) the Secretary shall make available to eligible entities—

"(1) the information contained in the application and plan submitted pursuant to section 524; and

"(2) the annual report described in section 531.

"SEC. 530. TECHNICAL ASSISTANCE.

"The Secretary, through the National Institute of Mental Health, the National Institute of Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, may provide technical assistance to eligible entities in developing planning and operating programs in accordance with the provisions of this part.

"SEC. 531. REQUIREMENT OF REPORTS BY STATES.

"(a) IN GENERAL.—The Secretary shall not make allotments under section 523 to an eligible entity unless such eligible entity agrees to prepare and submit to the Secretary an annual report in such form and containing such information as the Secretary determines (after consultation with the Comptroller General of the United States, the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse) to be necessary for—

"(1) securing a record and a description of the purposes for which amounts received under section 523 were expended and of the recipients of such amounts; and

"(2) determining whether such amounts were expended in accordance with the provisions of this part.

"(b) AVAILABILITY TO PUBLIC OF REPORTS.—The Secretary shall not make allotments under section 523 to an eligible entity unless such eligible entity agrees to make copies of the reports described in subsection (a) available for public inspection.

"(c) EVALUATIONS BY COMPTROLLER GENERAL.—The Comptroller General of the United States in cooperation with the National Institute of Mental Health, shall evaluate at least once every 3 years the expenditures of grants under this part by eligible entities in order to ensure that expenditures are consistent with the provisions of this part, and shall include in such evaluation recommendations regarding changes needed in program design or operations.

"SEC. 532. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $150,000,000 for each of the fiscal years 1991 through 1995 to carry out this part.".

Subtitle D—Community Development Corporation Improvement Grants

SEC. 51. COMMUNITY DEVELOPMENT CORPORATION IMPROVEMENT GRANTS.

Part 4 of subchapter A of the Community Economic Development Act of 1981 (42 U.S.C. 9814 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 634. COMMUNITY DEVELOPMENT CORPORATION IMPROVEMENT GRANTS.

"(a) PURPOSE.—It is the purpose of this section to provide assistance to community development corporations to upgrade the management and operating capacity of such corporations and to enhance the resources available to enable such corporations to increase their community economic development activities.

"(b) SKILL ENHANCEMENT GRANTS.—

"(1) IN GENERAL.—The Secretary of Health and Human Services shall make grants to community development corporations to enable such corporations to attain or enhance the business management and development skills of the individuals that manage such development skills of the individuals that manage such corporations to enable such corporations to seek the public and private resources necessary to develop low-income housing and to develop community economic development projects.

"(2) USE OF FUNDS.—Grantees may use funds obtained under this section—

"(A) to purchase training and technical assistance from agencies or institutions that have experience in the construction, development and management of low-income housing or experience in community economic development; or

"(B) to purchase such assistance from other highly successful community development corporations.

"(c) Operating Grants.—

"(1) In general.—The Secretary of Health and Human Services shall make grants to community development corporations to enable such corporations to support an administrative capability for planning, developing, constructing and managing low-income housing, and for other community economic development projects.

"(2) Use of funds.—Of amounts made available in any fiscal year for operating grants under this subsection, the Secretary of Health and Human Services shall use—

"(A) 40 percent of such amounts to assist in starting up community development corporations; and

"(B) 60 percent of such amounts to assist established community development corporations.

"(3) Terms and conditions.—Assistance provided through operating grants under this subsection shall be of sufficient size and duration, including multiyear grants where appropriate, to enable a community development corporation receiving such assistance to have an appreciable impact on the area or areas to be served.

"(d) Grants for Community Development Corporation Equity Accounts.—

"(1) In general.—The Secretary of Health and Human Services shall make grants to any nongovernmental, nonprofit entity that is principally involved with the development, construction or management of low-income housing, or to community development corporations, to enable such entities to establish and maintain equity accounts with which corporations may plan, develop, construct and manage low-income housing.

"(2) Terms and conditions.—Assistance provided through equity account grants under this subsection shall be of sufficient size and duration, including multiyear grants where appropriate, to enable a community development corporation receiving such assistance to have an appreciable impact on the area or areas to be served.

"(e) Applications.—Community development corporations that desire to receive assistance under this section shall prepare and submit, to the Secretary of Health and Human Services, an application at such time, in such form, and containing such information as the Secretary shall reasonably require. Such Secretary shall not require project-specific information for applications for assistance under subsections (b), (c) and (d).

"(f) Equitable Consideration of Rural Areas.—The Secretary shall ensure that an equitable number of grants are awarded to eligible agencies in rural areas.

"(g) Authorization of appropriations.—

"(1) In general.—There are authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 1991, and such sums as may be necessary in each of the fiscal years 1992 through 1995.

"(2) Use.—The Secretary of Health and Human Services shall use—

"(A) 20 percent of the amounts appropriated under paragraph (1) in each fiscal year to make grants under subsection (b);

"(B) 30 percent of the amounts appropriated under paragraph (1) in each fiscal year to make grants under subsection (c); and

"(C) 50 percent of the amounts appropriated under paragraph (1) in each fiscal year to make grants under subsection (d).

"(3) Availability.—Amounts appropriated under paragraph (1) shall remain available until expended.

"(h) Definition.—As used in this section, the term 'community development corporation' means a nonprofit entity of the type described in this section and that meets the resident control and governing body requirements of 42 U.S.C. 9807(a)(1).".

Subtitle E—Public Housing Gateway

SEC. 61. SHORT TITLE.

This subtitle may be cited as the "Public Housing Gateway Act of 1990".

SEC. 62. STATEMENT OF PURPOSE.

The purpose of this subtitle is to establish programs, through public housing agencies, to increase the abilities and self-sufficiency of young residents of public housing, increase the prospects for employment of young residents of public housing, and end generational dependency on public assistance in public housing, through—

(1) the provision of literacy training, training in basic and employment skills, and support services through the public housing agencies; and

(2) the employment of residents of public housing and of professional staff to perform outreach services, including identification of and assistance to residents who could prosper from education and training programs.

SEC. 63. GRANT PROGRAM.

(a) In General.—The Secretary of Labor may make grants under this subtitle to public housing agencies for the utilization of public housing in the provision of training and services to economically disadvantaged residents of public housing through gateway programs.

(b) Selection of Grant Recipients.—The Secretary shall select public housing agencies to receive grants under subsection (a) and may select only public housing agencies that meet the following requirements:

(1) Provision of facilities.—The public housing agency shall agree to make available suitable facilities in the public housing projects administered by the public housing agency, or any facilities provided by a State or local governmental agency or any private organization or person, for the provision of training and services under this subtitle.

(2) Need and capability to provide services.—The public housing agency shall demonstrate to the Secretary the need and ability to provide the training and services described in section —64(a) to individuals qualified to receive the training and services under section —65.

(3) Provision of services to qualified individuals.—The public housing agency shall demonstrate to the Secretary that any training and services to be provided under this subtitle will be provided only to individuals qualified to receive the training and services under section —65.

(4) Provision of services to young families.—The public housing agency shall demonstrate to the Secretary that the training and services to be provided under this subtitle will be provided to residents of public housing projects where a significant number of young families receiving public housing assistance reside.

(5) Cooperation with private, non-profit organizations, or community based organizations.—The public housing agency shall demonstrate to the Secretary the ability to create cooperative working relationships with private organizations, non-profit organizations, or community based organizations that are to provide training and services under this subtitle and are located in the same community as the public housing agency.

(1) In general.—The Secretary shall prescribe the form and procedures for public housing agencies to make applications for grants under this section.

(2) Priority.—The Secretary shall give priority to applications that demonstrate significant cooperation and coordination with existing private organizations, nonprofit organizations, or community based organizations.

SEC. 64. GATEWAY PROGRAM ESTABLISHED UNDER GRANT PROGRAM.

(a) Mandatory Training and Services.—Any public housing agency that receives a grant under section 53 shall use the grant to establish a gateway program to make available to individuals eligible under section 65 all of the following training and services, subject to the limitations of section 65:

(1) Information.—The provision of information designed to make individuals aware of training, employment, education, counseling or the provision of services offered by the public housing agency, including the training and services available under this subtitle.

(2) Literacy training.—Literacy training and bilingual training.

(3) Basic skills training.—Remedial education and training in basic skills.

(4) Development of work habits.—Development of good work habits and other personal management skills to enable individuals to obtain and retain employment.

(5) Child care.—Child care services provided free of charge to facilitate the participation of individuals in other training and services provided under this section. The child care services shall be designed, to the extent practicable, to employ and train economically disadvantaged residents of the public housing project involved, and shall include—

(A) services to provide daytime care for the child dependents who do not attend school and adult dependents of eligible individuals;

(B) services to provide care after school hours for the child dependents of eligible individuals; and

(C) irregular, periodic, and evening care for the child dependents of eligible individuals scheduled to allow the eligible individuals to participate in the training and services provided under this section.

(b) Permissive Training and Services.—Public housing agencies that receive grants under section 63 may make available as part of their gateway programs to individuals qualified under section 65 literacy training, training in basic and employment skills, and support services, in addition to the training and services described in subsection (a) and subject to the limitations of section—65, including the following:

(1) Employment assistance.—Assistance in acquiring employment.

(2) Employment counseling.—Employment counseling and vocational exploration services.

(3) Development of jobs.—Development of employment positions.

(4) Private job training.—The provision of training in occupations for which demand is increasing and training in the course of employment, by private employers or organizations.

(5) Other federal employment training or services.—Training or services coordinated with other Federal employment-related activities.

(6) High school education.—Assistance in the attainment of certificates of high school equivalency.

(7) Computer skills training.—Training in computer skills for use in education, skills training, and employment preparation

(8) Training in application of skills.—Services to help individuals receiving training and educational assistance to utilize their acquired skills in the competitive employment market.

(9) Transitional activities.—Activities designed to provide transition from education to employment.

(10) Drug prevention services.—Services to assist individuals with drug prevention, drug counseling, and drug education programs.

(11) Support services.—Support services, including child care services in addition to the services described in subsection (a)(5) and transportation to training and services not held in public housing projects.

SEC. 65. LIMITATIONS ON GATEWAY PROGRAM.

(a) Eligibility in General.—Public housing agencies receiving grants under this subtitle shall limit participation in training and services provided under gateway programs to individuals who meet the following requirements:

(1) Residency.—The individual shall be a resident of public housing.

(2) Age.—The individual shall be not more than 25 years of age.

(3) Economic disadvantage.—The individual shall be economically disadvantaged

(4) Educational disadvantage.—The individual shall—

(A) have encountered barriers to employment because of a deficiency in a basic skill; or

(B) if over 16 years of age or beyond the age of compulsory school attendance under State law, not have a certificate of graduation from a school providing secondary education and not have achieved an equivalent level of education.

(b) Limitations on Child Care Services.—

(1) Eligibility.—Public housing agencies receiving grants under this subtitle shall limit the provision of child care services under section 64(a)(5) to the following individuals:

(A) Participants under gateway programs.—Individuals who are participating in training or services under a gateway program (not including the provision of support services), during the participation of the individual in the training or services.

(B) Unemployed former participants under gateway programs.—Individuals who have successfully completed participation in training or services under a gateway program (not including the provision of support services) and who are not employed, during a period in which the individual searches for employment after the completion of the training or services, as follows:

(i) Commencement.—The period shall begin on the completion of the training or services by the individual.

(ii) Termination.—The period shall end on whichever of the following occurs first:

(I) The expiration of the 3-month period after the completion of the training or services by the individual.

(II) The commencement of the employment of the individual in a position not funded by grants made under this subtitle.

(C) Employed former participants under gateway programs.—Individuals who have successfully completed training or services under a gateway program (not including the provision of support services) and who are employed in a position not funded by grants made under this subtitle, during the 12-month period that begins with commencement of the employment of the individual.

(2) Compliance with state and local laws.—A public housing agency that provides child care services under this subtitle shall ensure that the child care complies with applicable State and local laws.

(c) Limitations on Support Services.—An individual may receive support services under this subtitle after the individual terminates any participation in training or services under a gateway program (not including the provision of support services) only if the individual has completed the training or services. An individual may not receive support services later than 18 months after the completion of the training or services by the individual.

(d) Limitation on Nonresident Personnel.—A public housing agency receiving a grant made under this subtitle shall attempt to employ in positions relating to the administration and delivery of training and services under gateway programs residents of the public housing project involved whenever qualified residents are available.

SEC. 66. EFFECT OF GATEWAY PROGRAMS.

(a) Nonconsideration as Income for Participating Individuals.—The earnings of and benefits to any individual resulting from participation in training and services under a gateway program shall not be considered as income for the purposes of determining eligibility for or the amount of public assistance or determining a limitation on the amount of rent paid by the individual during the following periods:

(1) Period of participation under gateway program.—The period during which the individual participates in training or services under a gateway program (not including the provision of support services).

(2) Employment period.—If the individual participating in training or services under a gateway program (not including the provision of support services) successfully completes the training or services, a single period, not to exceed 18 months, as follows:

(A) Commencement.—The period shall begin on the commencement of employment of the individual in the first position acquired by the individual after completion of the training or services that is not funded by a grant under this subtitle.

(B) Termination.—The period shall end on whichever of the following occurs first—

(i) the expiration of the 18-month period following the commencement of the period described in subparagraph (A); or

(ii) the individual ceases to continue employment without good cause, as the Secretary shall determine.

(b) Public Housing Operating Assistance.—The use of the facilities of a public housing agency receiving a grant under this subtitle in the provision of training or services under a gate way program shall have no effect on the amount of assistance provided to the public housing agency under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g).

SEC. 67. REVIEW AND SANCTIONS.

(a) Review.—The Secretary shall review at least annually the compliance of the public housing agencies receiving grants under this subtitle with the provisions of this subtitle.

(b) Sanctions for Noncompliance.—Whenever the Secretary determines on the record after opportunity for a hearing that a public housing agency has failed to comply substantially with the provisions of this subtitle, the Secretary shall notify the public housing agency that no further grant payments will be made to the public housing agency under this subtitle until the public housing agency demonstrates, to the satisfaction of the Secretary, that the public housing agency will comply. Until the public housing agency demonstrates as required by this subsection, the Secretary shall not make further grant payments to the public housing agency under this subtitle.

SEC. 68. REPORTS.

The Secretary shall transmit annually to the President and to the appropriate Committee of Congress a report containing a detailed statement of the actualities of the public housing agencies receiving grants under this subtitle and the recommendations for any action the Secretary considers appropriate. Such reports shall include an evaluation of the effectiveness of such activities in enhancing the employability of residents of public housing.

SEC. 69. DEFINITIONS.

As used in this subtitle:

(1) Basic skills.—The term "basic skills" means the rudimentary skills necessary fo an individual to function in daily living including literacy, arithmetic skills, and problem-solving.

(2) Economically disadvantaged.—Th term "economically disadvantaged" has th meaning given such term in section 4(8) o the Job Training Partnership Act (29 U.S.C 1503(8)).

(3) Gateway program.—The term "gate way program" means a program for the provision of training and services described i section 64 established by a public housin agency under a grant made by the Secretar under this subtitle.

(4) Literacy.—The term "literacy" mean the knowledge and skills necessary to communicate, including reading, writing speaking, and listening normally associate with the ability to function at a level greate than the 8th grade level.

(5) Officer.—The term "officer" has th meaning given the term in section 2104 o title 5, United States Code.

(6) Public assistance.—The term "publi assistance" means cash payments, credits or other assistance or benefits provided t individuals or families under Federal law.

(7) Public housing.—The term "publi housing" has the meaning given such ter in section 3(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(1)).

(8) Public housing agency.—The ter "public housing agency" has the meanin given such term in section 3(b)(6) of th United States Housing Act of 1937 (42 U.S.C 1437a(b)(6)).

(9) Secretary.—The term "Secretary means the Secretary of Labor.

(10) Support services.—The term "suppor services" means services to facilitate th participation of residents of public housin in training and services under gateway pr grams. The term includes child care service under section—54(a)(5) and services unde section—64(b)(10).

SEC. 70. REGULATIONS.

The Secretary shall promulgate regul tions necessary to carry out this subtitle.

SEC. 71. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated t carry out this subtitle $50,000,000 for each o the fiscal year 1991 through 1995. An amount appropriated under this sectio shall remain available until expended.

Subtitle F—Homeless Youth Demonstration Projects

SEC. 81. SHORT TITLE.

This subtitle may be cited as the "Homeless Youth Demonstration Project Act of 1990".

SEC. 82. DEMONSTRATION PROJECTS.

Subtitle E of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11472 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 763. DEMONSTRATION PROJECTS.

"(a) DEFINITIONS.—As used in this section:

"(1) HOMELESS YOUTH.—The term 'homeless youth' means an individual who is 21 years of age or younger, is in need of services, and lacks a permanent place of shelter that provides appropriate supervision and care for such individual or who resides in a group home on a temporary basis.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(b) DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—The Secretary shall establish not to exceed three demonstration projects that are designed to assist private and public agencies and organizations in working together to provide a network of comprehensive services, including medical, mental health, health, legal, social, outreach, and emergency services, to homeless youth.

"(2) GRANTS.—

"(A) IN GENERAL.—The Secretary shall award grants to not to exceed three private, nonprofit organizations with demonstrated success in providing direct services to homeless youth, in subcontracting for such services, and in coordinating the provision of such services with other agencies, as referred to in paragraph (1).

"(B) LOCATION.—In awarding grants under subparagraph (A), the Secretary shall select organizations that are located in urban areas with a high concentration of out-of-city, out-of-county, and out-of-State homeless youth.

"(C) ABILITY TO PROVIDE SERVICES.—To be eligible for a grant under subparagraph (A), an organization shall demonstrate to the Secretary the ability of such organization, or another competent organization with which such organization has a subcontract, to provide a comprehensive network of each of the services described in paragraph (1).

"(D) PREFERENCE.—In awarding grants under subparagraph (A), the Secretary shall give preference to organizations that would involve a network of public and private agencies in the delivery of services to homeless youth.

"(3) EVALUATION OF DEMONSTRATION PROJECTS.—

"(A) IN GENERAL.—The Secretary shall monitor each demonstration project established under paragraph (1) to determine whether such project is complying with the requirements of this section.

"(B) INDEPENDENT EVALUATOR.—

"(i) IN GENERAL.—The Secretary shall contract with an independent evaluator to evaluate the process and outcome of each demonstration project established under paragraph (1), and to make suggestions for the implementation of other similar demonstration projects in other areas of the country.

"(ii) STABILITY OF HOMELESS YOUTH.—The independent evaluator referred to in clause (i) shall assess the stability of homeless youth that are served by a demonstration project established under paragraph (1) after such youth are either reunited with family or settled in a stable environment.

"(4) ELIGIBLE YOUTH.—

"(A) IN GENERAL.—Except as provided for in subparagraph (B), an individual wishing to receive services under this section shall be not more than 21 years of age.

"(B) EXCEPTION.—The Secretary may grant waivers to provide services under this section to individuals who are 22 through 24 years of age for not more than 10 percent of the funds awarded for grants under paragraph (2).

"(4) LENGTH OF DEMONSTRATION PROJECTS.—Each of the demonstration projects estimated under paragraph (1) shall not exceed a period of 3 years.

"(6) AUTHORIZATION OF APPROPRIATION.—

"(A) IN GENERAL.—There is authorized to be appropriated to carry out this section $2,500,000 for each of the fiscal years 1991, 1992, and 1993.

"(B) INDEPENDENT EVALUATOR.—Of the amounts authorized to be appropriated under subparagraph (A), not to exceed $500,000 shall be utilized for the contract referred to in paragraph (3)(B).".

Subtitle G—Plan for Cooperation

SEC. 91. PLAN FOR COOPERATION.

(a) IN GENERAL.—Not later than the date on which regulations necessary to carry out subtitle A of this title, part L of title III of the Public Health Service Act (as added by subtitle B), part C of title V of the Public Health Service Act (as amended by subtitle C), section 634 of the Community Economic Development Act of 1981 (as added under subtitle D), or subtitle E are issued, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Veterans Affairs, and the Secretary of Housing and Urban Development shall prepare and submit, to the Committee on Education and Labor, and Banking of the House of Representatives and the Committees on Labor and Human Resources, and Banking of the Senate, a plan concerning the programs to be carried out under such subtitle, parts, and section.

(b) CONTENTS.—The plan prepared under subsection (a) shall—

(1) describe the method in which the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Veterans Affairs, and the Secretary of Housing and Urban Development shall consult with one another in implementing and administering the programs described in subsection (a) and coordinate the implementation of such programs with other relevant programs and Acts (including the programs established under the Stewart B. McKinney Homeless Assistance Act, or the amendments made by such Act, and under Federal Housing Acts);

(2) contain an assurance that such Secretaries will consult with one another on an ongoing and continuous basis in such implementation; and

(3) contain procedures, developed by the Secretary of Housing and Urban Development, for granting priority in the provision of construction, rehabilitation or renovation assistance by such Secretary, to applicants that receive grants under the subtitle, parts, and section referred to in subsection (a).

SEC. 2. DEFINITION OF HOMELESS.

Section 103(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302(b)) is amended to read as follows:

"(b) INCOME ELIGIBILITY.—

"(1) IN GENERAL.—A homeless individual shall be eligible for assistance under any program provided by this Act, only if the individual complies with the income eligibility requirements otherwise applicable to such program.

"(2) EXCEPTION.—Notwithstanding paragraph (1), a homeless individual shall be eligible for assistance under the Job Training Partnership Act.".

SEC. 3. REAUTHORIZATION OF CERTAIN PROGRAMS WITHIN THE PUBLIC HEALTH SERVICE ACT.

(a) PRIMARY HEALTH SERVICES FOR THE HOMELESS.—Section 340 of the Public Health Service Act (42 U.S.C. 256) is amended—

(1) in subsection (e)(1)(B)—

(A) by striking out "(i)"; and

(B) by striking out clause (ii);

(2) in subsection (g), by inserting before the period the following: ", including violence counseling services where appropriate"; and

(3) in subsection (q)(1), by striking out "and $66,200,000 for fiscal year 1991" and inserting in lieu thereof "$69,000,000 for fiscal year 1991, $90,000,000 for fiscal year 1992, and $95,000,000 for fiscal year 1993".

(b) ALCOHOL AND DRUG ABUSE DEMONSTRATION PROJECTS.—Section 513(b) of such Act (42 U.S.C. 290bb-2(b)) is amended by striking out "and such sums as may be necessary for fiscal year 1991" and inserting in lieu thereof ", $17,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993".

(c) COMMUNITY MENTAL HEALTH SERVICES DEMONSTRATION PROJECTS.—Section 612(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 290aa-3 note) is amended by striking out "and such sums as may be necessary for fiscal year 1991" and inserting in lieu thereof ", $11,500,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993".

SEC. 4. REAUTHORIZATION OF CERTAIN PROGRAMS WITHIN THE STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.

(a) JOB TRAINING FOR THE HOMELESS.—

(1) APPLICATIONS.—Section 733 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11443) is amended—

(A) by inserting "(a) IN GENERAL.—" before "Each applicant";

(B) in subsection (a)(2), by inserting before the semicolon the following: "or other related programs providing services necessary to address the multiple needs of homeless individuals";

(C) in subsection (a)(3), by inserting "on the street or" before "in-shelter"; and

(D) by adding at the end thereof the following new subsection:

"(b) SPECIAL CONSIDERATION.—

"(1) IN GENERAL.—In awarding grants under this subtitle, the Secretary of Labor may give special consideration to applicants that will implement projects that will serve areas of greatest need, including urban and rural areas, as demonstrated by—

"(A) the large number or concentration of homeless individuals in the project area relative to other similar areas of jurisdiction;

"(B) the high rates of poverty in the project area as determined by the census; or

"(C) the lack of available low cost or affordable housing within the project area, as measured by such indicators as high average local rents or vacancy rates.

"(2) HOLISTIC SERVICE APPROACH.—In awarding grants under this subtitle, the Secretary of Labor may give special consideration to applicants that will implement programs that include formal reciprocal referral agreements with other programs such as substance abuse counseling, local shelters, and subsidized housing that provide a holistic service approach on an individual case management basis.".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 739(a)(1) of such Act (42 U.S.C. 11449(a)(1)) is amended by inserting after "and 1990" the following: ", $15,000,000 for fiscal year 1991, of which $3,000,000 shall be used to carry out section 738, $16,500,000 for fiscal year 1992, of which $3,500,000 shall be used to carry out section 738, and $18,000,000 for fiscal year 1993, of which $4,500,000 shall be used to carry out section 738".

(3) TERMINATION.—Section 741 of such Act (42 U.S.C. 11450) is repealed.

(b) AMENDMENTS TO THE EMERGENCY COMMUNITY SERVICES HOMELESS GRANT PROGRAM.—

(1) USE OF FUNDS FOR ADMINISTRATIVE COSTS.—Section 753(b) of such Act (42 U.S.C. 11463(b)) is amended—

(A) in paragraph (1)—

(i) by striking out "all" in subparagraph (A), and inserting in lieu thereof "not less than 95 percent"; and

(ii) by striking out "90 percent" in subparagraph (B), and inserting in lieu thereof "85 percent"; and

(B) in paragraph (3), by striking out "no amount" and inserting in lieu thereof "not more than 5 percent of the amounts".

(2) ELIGIBLE USE OF FUNDS.—Section 753(c) of such Act (42 U.S.C. 11463(c)) is amended—

(A) in paragraph (1)—

(i) by inserting "(A)" after "(1)"; and

(ii) by adding at the end thereof the following new subparagraph:

"(B) Renovation or purchase of buildings to be used to provide such services."; and

(B) by adding at the end thereof the following new paragraph:

"(5) Provision of, or referral to, violence counseling for homeless children and individuals, and the provision of violence counseling training to individuals who work with homeless children and individuals.".

(3) COMMUNITY SERVICES GRANT PROGRAM.—Section 754 of such Act (42 U.S.C. 11464) is amended by inserting after "and 1990" the following: ", and $50,000,000 for each of the fiscal years 1991 through 1993".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

SEC. 5. AMENDMENTS TO STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT RELATING TO EDUCATION.

(a) STATEWIDE LITERACY INITIATIVES.—

(1) REAUTHORIZATION.—Section 702(c)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421(c)(1)) is amended by inserting after "and 1990" the following: ", $15,000,000 for fiscal year 1991, and such sums as may be necessary in each of the fiscal years 1992 and 1993,".

(2) GENERAL AUTHORITY.—Section 702 of such Act (42 U.S.C. 11421) is amended—

(A) in the section heading by striking out "STATE"; and

(B) in subsection (a)—

(i) by striking out "State educational agencies to enable each such agency to" and inserting in lieu thereof "entities described in paragraph (2) to";

(ii) by redesignating paragraphs (1) and (2) subparagraphs (A) and (B), respectively;

(iii) by inserting "(1)" before "The Secretary"; and

(iv) by adding at the end thereof the following new paragraphs:

"(2) To be eligible to receive a grant under this section, an entity shall be—

"(A)(i) a State education agency or consortia thereof; or

"(ii) a local educational agency or consortia thereof; or

"(B) a partnership between an entity described in subparagraph (A) and—

"(i) a private nonprofit organization;

"(ii) a private business;

"(iii) any other public agency; or

"(iv) any other appropriate entity;

if the entity of the type described in clauses (i) through (iv) has demonstrated effectiveness in carrying out literacy programs.

Priority shall be given to applications submitted by entities under subparagraph (B).

"(3) In awarding grants under this section, the Secretary of Education shall give special consideration to applicants that will implement projects that will serve areas of greatest need, including urban and rural areas, as demonstrated by—

"(A) the large number or concentration of homeless individuals in the project area relative to other similar areas of jurisdiction;

"(B) the high rates of poverty in the project area as determined by the census;

"(C) the proportionally higher numbers or concentrations of homeless individuals or adults who do not have a secondary education or its equivalent; or

"(D) the lack of available low cost or affordable housing within the project area, as measured by such indicators as high average local rents or vacancy rates.".

(3) APPLICATION.—Section 702(b) of such Act (42 U.S.C. 11421(b)) is amended—

(A) by striking out "State educational agency desiring to receive its allocation" and inserting in lieu thereof "eligible entity as defined in section 702(a)(2)"; and

(B) by striking out "and the number" and all that follows through "States to be served".

(b) POLICY.—Section 721(2) of such Act (42 U.S.C. 11431(2)) is amended—

(1) by inserting "or other laws, regulations, policies, or practices that may act as barriers to the enrollment of homeless children and youth in its schools" after "attendance laws,"; and

(2) by inserting "regulations, policies, and practices" after "such laws".

(c) GRANTS FOR STATE AND LOCAL ACTIVITIES.—Section 722 of such Act (42 U.S.C. 11432) is amended—

(1) in the section heading by inserting "AND LOCAL" after "STATE";

(2) in subsection (b), by striking out "section 1005" and inserting in lieu thereof "part A of chapter 1 of title I";

(3) in subsection (c)—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new paragraphs:

"(4) to develop and implement training programs for teachers and administrators; and

"(5) to provide grants to local educational agencies in accordance with section 723.";

(4) in subsection (d)—

(A) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) biennially gather information concerning the nature and extent of barriers to access to, and placement of, homeless children and youth in elementary and secondary schools, including information on the manner in which such barriers have been addressed, what barriers continue to exist, and the difficulties in identifying the special needs of such children;";

(B) by striking out "and" at the end of paragraph (2);

(C) by striking out paragraph (3) and inserting in lieu thereof the following new paragraphs:

"(3) prepare and submit to the Secretary a report concerning the information gathered pursuant to paragraph (1) not later than December 31 of each year in which such information is gathered; and

"(4) facilitate coordination between the State Education Agency, the State Social Services Agency, and other agencies providing services to homeless children and youth and their families."; and

(D) by striking out the last sentence;

(5) in subsection (e)(1)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new subparagraphs:

"(C) educate school personnel (including principals, attendance officers, teachers, and enrollment personnel), parents, shelter operators, and service providers concerning the rights and needs of homeless children and homeless youth in school; and

"(D) ensure that homeless children and homeless youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local school food programs and appropriate child nutrition programs.";

(6) in subsection (e)—

(A) by striking out "(6)" in paragraph (2) and inserting in lieu thereof "(10)";

(B) by striking out "homeless child or youth" in paragraph (3) and inserting in lieu thereof "child or youth who becomes homeless during the school year or during the summer prior thereto";

(C) by striking out "district" each place that such occurs in subparagraphs (A) and (B) of paragraph (3);

(D) by inserting at the end of paragraph (3) the following new sentences: "In determining the best interests of the child or youth, for purposes of making a school assignment, consideration shall be given to a request made by a parent regarding school selection. For purposes of this paragraph, the term 'school of origin' shall mean the school that the child or youth attended when permanently housed, or the school in which the child or youth was last enrolled.";

(E) by redesignating paragraph (6) as paragraph (7);

(F) by inserting after paragraph (5), the following new paragraph:

"(6) The local educational agency of each homeless child or youth shall provide transportation to enable such homeless child or youth to attend the school selected under paragraph (3), to no lesser extent than other children and youth are provided transportation under State or local law or policy.";

(G) by striking out "The school records" in paragraph (7) (as so redesignated by subparagraph (E)) and inserting in lieu thereof "Any records normally kept by the school, which may include, but are not limited to, immunization records, birth certificates, guardianship records, academic records, evaluations for special services or programs,"; and

(H) by adding at the end thereof the following new paragraphs:

"(8) Each local educational agency serving homeless children or youth shall coordinate with local social services agencies, and other agencies or programs providing services to such children or youth and their families.

"(9) Each local educational agency shall designate a homelessness liaison to ensure that—

"(A) homeless children and youth enroll and succeed in the schools of that agency; and

"(B) homeless families, children and youth receive educational services for which they are eligible, and referrals to health care services, dental services, mental health services, and other appropriate services.

State coordinators and local educational agency liaisons shall inform school personnel, service providers and advocates working with homeless families of the duties of the liaisons.

"(10) Each State and local educational agency shall review and revise any policies that may act as barriers to the enrollment of homeless children and youth in schools selected in accordance with section 722(e)(3). In reviewing and revising such policies, consideration shall be given to issues concerning transportation, requirements of immunization, residency, birth certificates, school records, or other documentation, and guardianship. Special attention shall be given to ensuring the enrollment and attendance of homeless children and youths who are not currently attending school."; and

(7) in subsection (g)—

(A) by striking out "$5,000,000" in paragraph (1) and all that follows through the end thereof and inserting in lieu thereof "$50,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993";

(B) by redesignating paragraph (2) as paragraph (4); and

(C) by inserting after paragraph (1) the following new paragraphs:

"(2) The State educational agency may reserve not to exceed 5 percent of the amount received by such agency under this section in each fiscal year, or an amount equal to the amount received by such State agency for State activities under this section in fiscal year 1990, whichever is greater, to conduct activities under paragraphs (1), (2), (3), and (4) of subsection (c).

"(3)(A) In any fiscal year in which the amount appropriated under paragraph (1) does not equal or exceed $100,000,000, the State educational agency shall use funds not otherwise reserved under paragraph (2) to award grants to local educational agencies in accordance with subsection (c)(4).

"(B) In any fiscal year in which the amount appropriated under paragraph (1) equals or exceeds $100,000,000, the State educational agency shall use funds not otherwise reserved under paragraph (2) to allocate to each local educational agency an amount that bears the same ratio to amount not otherwise reserved as the aggregate amount received by such local educational agency under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 for such fiscal year bears to the aggregate amount received by all local educational agencies in the State for purposes of carrying out such part for such fiscal year.".

(d) GRANTS FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.—Section 723 of such Act (42 U.S.C. 11433) is amended to read as follows:

"SEC. 723. LOCAL EDUCATIONAL AGENCY GRANTS FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.

"(a) GENERAL AUTHORITY.—The State educational agency may make grants to local educational agencies to carry out the activities described in subsection (c).

"(b) AWARDS.—

"(1) BASIS.—Except as provided in section 722(g)(3), from amounts appropriated for each fiscal year under section 722(g), the State educational agency may award grants under this section to local educational agencies submitting an application under subsection (d) on the basis of the need of such agencies.

"(2) DETERMINATION.—In determining need under paragraph (1), the State educational agency may consider the number of homeless children and youth enrolled in preschool, elementary, and secondary schools within the area served by the agency, and shall consider the needs of such children and youth, and the ability of the agency to meet such needs. Such agency may also consider—

"(A) the extent to which the proposed use of funds would facilitate the enrollment, retention, and educational success of homeless children and youth;

"(B) the extent to which the application reflects coordination with other local and State agencies that serve homeless children and youth, as well as the State Plan required by section 722(e);

"(C) the extent to which the applicant exhibits in the application and in current practice a commitment to education for all homeless children and youth in its jurisdiction; and

"(D) other criteria as the agency determines appropriate.

"(c) USE.—

"(1) IN GENERAL.—Grants awarded under this section shall be used to provide services intended to facilitate the enrollment, attendance, and success of homeless children and youth in school. Services provided under this section are not intended to replace the regular academic program.

"(2) PROVISION OF SERVICES.—Unless otherwise specified, services under paragraph (1) may be provided through programs on school grounds, or at other nonsectarian facilities. Such services shall be provided, to the maximum extent practicable, through existing programs and mechanisms that integrate homeless individuals with housed individuals.

"(3) TYPES OF SERVICES.—Services provided under this section may include—

"(A) expedited evaluations for special needs, programs, and services, including the areas of special education, limited English proficiency, remediation, and gifted and talented students;

"(B) before- and after-school and summer programs for tutoring, homework assistance, and the supervision of educational activities during nonschool hours, by a teacher or other qualified individual, in coordination with existing programs for children who are not homeless, where appropriate;

"(C) the adaptation of space and the purchase of supplies for nonschool facilities made available under paragraph (2) to provide services under subparagraph (B);

"(D) developmentally appropriate early childhood programs for pre-school age children;

"(E) counseling, social work and psychological services, including violence counseling, and referrals for such services;

"(F) referral to medical, dental, and other health services, and the provision of funds for such services where appropriate and practical, in coordination with services provided under title VI;

"(G) school supplies to be distributed at the shelter or temporary housing facilities;

"(H) parent education and training concerning the rights of, and resources available to, homeless children and youth;

"(I) the training of educators and other school personnel to develop awareness and sensitivity to the needs of homeless children and homeless youths and the rights of such children and youths under this Act;

"(J) the excess cost of transportation for students not provided under section 722(e)(6) and not otherwise provided through Federal, State, or local funding, where necessary to enable students to attend the school selected under section 722(e)(3);

"(K) where necessary, fees and other costs associated with tracking, obtaining and transferring records necessary to enroll students in school, including records of immunizations, birth certificates, academic records, guardianship records, and evaluations for special services or programs;

"(L) coordination between schools and agencies providing services to homeless children; and

"(M) such other extraordinary or emergency assistance determined by the Secretary as essential to enable homeless children and youth to attend school.

"(d) APPLICATION.—A local educational agency that desires to receive a grant under this section shall submit an application to the State educational agency at such time, in such manner, and containing or accompanied by such information as such agency may reasonably require. Each such application shall include—

"(1) a description of the services and programs for which assistance is sought and the problems sought to be addressed through the provision of such services and programs;

"(2) assurances that the applicant complies with or will use requested funds to come into compliance with paragraphs (3) through (10) of section 722(e);

"(3) assurances that such funds will supplement and not supplant non-Federal funds currently used for such purposes; and

"(4) a description of policies and procedures that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and homeless youth.".

(e) NATIONAL RESPONSIBILITIES.—Section 724 of such Act (42 U.S.C. 11434) is amended—

(1) in subsection (a), to read as follows:

"(a) GENERAL ACCOUNTING OFFICE.—Not later than 2 years after the date of enactment of this subsection, the Comptroller General of the United States, in consultation with the Secretary, shall prepare and submit to the appropriate Committees of Congress a report containing the findings of a study conducted to determine the most effective method of distributing funds provided under this subtitle to State educational agencies and local educational agencies."; and

(2) in subsection (b)—

(A) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (4), and (5), respectively;

(B) by inserting after the subsection heading the following new paragraph:

"(1)(A) The Secretary, in consultation with persons and organizations that are knowledgeable about the needs of homeless children and youth, shall, through the awarding of a grant, or through entering into a contract or cooperative agreement,

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conduct a study to determine the best means of identifying, locating, and counting homeless children and youth for the purposes of this subtitle. Such persons and organizations to be consulted shall include representatives of State coordinators, local educational agencies with substantial numbers of homeless children and youth, local government agencies with responsibility for administering homeless shelters, and advocacy groups representing the interests of homeless children and youth. The Secretary shall also consult with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, as appropriate, in carrying out this paragraph.

"(B) The study conducted under subparagraph (A) shall consider—

"(i) the appropriate definition of the terms 'homeless child' and 'homeless youth';

"(ii) the experience of the 1990 Census in identifying, locating, and counting homeless children and youth; and

"(iii) appropriate methodologies for identifying, locating, and counting such children and youth, including using schools, shelters, and other social service agencies to collect data;

to determine the number of homeless children and youth in the United States to create as accurate an account as possible of the number, location, and living circumstances of such children and youth, including the number of such children and youth that are attending school regularly, part-time, or not at all, and reasons for the nonattendence of such children and youth.

"(C)(i) Not later than 240 days after the date of enactment of this paragraph, the Secretary shall prepare and submit, to the appropriate Committees of Congress, a report containing the results of the study conducted under subparagraph (A) and the estimated costs of making the estimates required under clause (ii).

"(ii) Not later than 1 year after the completion of the study under clause (i), the Secretary, in consultation with the appropriate Committees of Congress, and through the use of appropriate statistical methodology, shall determine accurate estimates of the number of homeless children and youth throughout the Nation and the number of such children and youth attending school.

"(D) The Secretary may reserve not more than $250,000 from amounts appropriated under section 722(g) in 1991 to carry out the study required under subparagraph (A).

"(E) There are authorized to be appropriated such sums as may be necessary in 1992 to prepare the report and estimates required under subparagraph (C). Amounts necessary to complete such report and estimates shall be included in the President's 1992 Budget Request to Congress.";

(C) in paragraph (2) (as so redesignated) by adding at the end thereof the following new sentences: "In reviewing the State plans submitted by the States educational agencies under section 722(e), the Secretary shall evaluate whether State laws, policies, and practices described in such plans adequately address the problems of homeless children and homeless youth relating to access to education and placement as described in such plans.";

(D) by inserting after paragraph (2) (as so redesignated), the following new paragraph:

"(3) The Secretary shall provide such support and technical assistance to the State educational agencies as is required by such agencies to carry out their responsibilities under this subtitle."; and

(E) by adding at the end thereof the following new paragraph:

"(6) The Secretary shall conduct evaluation and dissemination activities of programs designed to meet the educational needs of homeless elementary and secondary school students.".

SEC. 6. EVALUATION AND REPORT.

Subtitle D of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11461 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 755. EVALUATION.

"(a) PURPOSE.—It is the purpose of this section to develop as rapidly as practicable, information concerning the organization, impact and effectiveness of services provided to homeless individuals under programs administered by the Secretary of Health and Human Services under this or any other Act, and of the effectiveness of the coordination of such programs with other Federal or Federally assisted programs that provide services to homeless individuals, or to those at risk of becoming homeless.

"(b) REQUIREMENT FOR EVALUATION ACTIVITIES.—In carrying out the purpose described in subsection (a), the Secretary shall conduct evaluations that shall include—

"(1) the use of cost and utilization data collected under the Primary Health Care for the Homeless Program under section 340 of the Public Health Service Act to conduct an evaluation, in consultation with organizations receiving grants under this title and with the national representatives of such organizations, of the impact of health, case management and referral services provided by a representative sample of grantees concerning client outcome;

"(2) under part C of title V, an evaluation of the need for and availability of services for individuals who are homeless or at risk of becoming homeless that have a serious mental illness or substance abuse problem, with special attention paid to the service needs of the dually diagnosed;

"(3) an evaluation to identify and document replicable, community-wide programs that provide integrated, comprehensive services that result in service delivery models which prevent homelessness or lead to the successful relocation of the homeless into permanent housing; and

"(4) an identification through the evaluation conducted under this subsection of those areas where services are lacking.

"SEC. 756. REPORT BY THE SECRETARY.

"Not later than 12 months after the date of the enactment of this section, the Secretary of Health and Human Services shall—

"(1) complete, in consultation with appropriate members of the Interagency Council on the Homeless, a study of the extent to which Federal laws, regulations, or policies are inappropriately or inadvertently hindering Federal facilities (such as cafeterias in the facilities of the Department of Defense and Department of Veterans' Affairs) from making available to programs or entities serving the homeless prepared food that is not consumed; and

"(2) prepare and submit, to the appropriate Committees of Congress, a report containing the findings made as a result of the study conducted under paragraph (1), including any recommendations with respect to administrative and legislative initiatives that would permit Federal facilities to make available to entities serving the homeless such excess prepared food.".

SEC. 7. CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS.

(a) FINDINGS.—Congress finds that—

(1) homelessness is a growing national tragedy;

(2) as many as one-third of the homeless people in the United States are members of families with children;

(3) families represent the fastest growing segment of the homeless population;

(4) homelessness too often results in the placements of children into out-of-home care, or delays the reunification of such children with their parents; and

(5) strong coordination between child welfare agencies and housing authorities can protect homeless children or children at risk of becoming homeless from abuse and neglect and help prevent the unnecessary separation of children from their families.

(b) AMENDMENT.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) (as amended by Public Law 101-126) is amended by adding at the end thereof the following new title:

"TITLE III—CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS

"SEC. 301. DEMONSTRATION GRANTS FOR PREVENTION OF INAPPROPRIATE SEPARATION FROM FAMILY AND FOR PREVENTION OF CHILD ABUSE AND NEGLECT.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary may make grants to entities described in subsection (b)(1) for the purpose of assisting such entities in demonstrating, with respect to children whose families are homeless or at risk of becoming homeless, the effectiveness of activities undertaken to prevent—

"(1) the inappropriate separation of such children from their families on the basis o homelessness or other problems regardin the availability and conditions of housin for such families; and

"(2) the abuse and neglect of such children.

"(b) MINIMUM QUALIFICATIONS OF GRANTEES.—

"(1) IN GENERAL.—The entities referred t in subsection (a) are State and local agencies that provide services in geographi areas described in paragraph (2), and tha have authority—

"(A) for removing children, temporarily o permanently, from the custody of the parents (or other legal guardians) of such children and placing such children in foste care or other out-of-home care; or

"(B) in the case of youths not less than 1 years of age for whom such a placement ha been made, for assisting such youths in preparing to be discharged from such care int circumstances of providing for their ow support.

"(2) ELIGIBLE GEOGRAPHIC AREAS.—The geographic areas referred to in paragraph (1 are geographic areas in which homelessnes and other housing problems are—

"(A) threatening the well-being of children and

"(B)(i) contributing to the placement o children in out-of-home care;

"(ii) preventing the reunification of children with their families; or

"(iii) in the case of youths not less than 1 years of age who have been placed in out-o home care, preventing such youths from being discharged from such care into circumstances of providing their own suppor without adequate living arrangements.

"(3) COOPERATION WITH APPROPRIATE PUBLI AND PRIVATE ENTITIES.—The Secretary shal not make a grant under subsection (a unless the agency involved has entered int agreements with appropriate entities in the geographic area involved (including child welfare agencies, public housing agencies, and appropriate public and nonprofit private entities that provide services to homeless families) regarding the joint planning, coordination and delivery of services under the grant.

"(c) REQUIREMENT OF MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary shall not make a grant under subsection (a) unless the agency involved agrees that, with respect to the costs to be incurred by such agency in carrying out the purpose described in such subsection, the agency will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than $1 for each $4 of Federal funds provided in such grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required under paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, shall not be included in determining the amount of such non-Federal contributions.

"(d) DURATION OF ASSISTANCE.—The period during which payments are made to an agency from a grant under subsection (a) shall not exceed 3 fiscal years. The Secretary shall not make payments for the second or third fiscal year of the grant unless the Secretary determines that, for the preceding fiscal year, the agency has complied with each of the agreements on which the grant is conditioned.

"SEC. 302. PROVISIONS WITH RESPECT TO CARRYING OUT PURPOSE OF DEMONSTRATION GRANTS.

"(a) JOINT TRAINING OF APPROPRIATE SERVICE PERSONNEL.—

"(1) IN GENERAL.—The Secretary shall not make a grant under section 301(a) unless the agency involved agrees to establish, with respect to the subjects described in paragraph (2), a program for joint training concerning such subjects, for appropriate personnel of child welfare agencies, public housing agencies, and appropriate public and private entities that provide services to homeless families.

"(2) SPECIFICATION OF TRAINING SUBJECTS.—The subjects referred to in paragraph (1) are—

"(A) the relationship between homelessness, and other housing problems, and the initial and prolonged placement of children in out-of-home care;

"(B) the housing-related needs of families with children who are at risk of placement in out-of-home care; and

"(C) resources (including housing-related assistance) that are available to prevent the initial or prolonged placement in out-of-home care of children whose families are homeless or who have other housing problems.

"(b) ADDITIONAL AUTHORIZED ACTIVITIES.—In addition to activities authorized in subsection (a), a grantee under section 301(a) may expend grant funds for—

"(1) the hiring of additional personnel to provide assistance in obtaining appropriate housing—

"(A) to families whose children are at imminent risk of placement in out-of-home care or who are awaiting the return of children placed in such care; and

"(B) to youth who are preparing to be discharged from such care into circumstances of providing for their own support;

"(2) training and technical assistance for the personnel of shelters and other programs for homeless families (including domestic violence shelters) to assist such programs—

"(A) in the prevention and identification of child abuse and neglect among the families the programs served; and

"(B) in obtaining appropriate resources for families who need social services, including respite care, and support;

"(3) the provision of emergency housing-related assistance necessary to prevent the placement of children in out-of-home care, to facilitate the reunification of children with their families, and to enable the discharge of youths not less than 16 years of age from such care, including assistance in meeting the costs of—

"(A) rent or utility arrears to prevent an eviction or termination of utility services;

"(B) security and utility deposits, first month's rent, and basic furnishings; and

"(C) other housing-related assistance;

"(4) the provision to families, and to youths not less than 16 years of age who are preparing to be discharged from such care, of temporary rent subsidies necessary to prevent the initial or prolonged placement of children in out-of-home care, which subsidies are provided in an amount not exceeding 70 percent of the local fair market rental value and are provided for a period not to exceed 180 days;

"(5) the development and dissemination of informational materials to advise homeless families with children and others who are seeking housing of resources and programs available to assist them; and

"(6) other activities, if authorized by the Secretary, that are necessary to address housing problems that result in the inappropriate initial or prolonged placement of children in out-of-home care.

"SEC. 303. ADDITIONAL REQUIRED AGREEMENTS.

"(a) REPORTS TO SECRETARY.—The Secretary shall not make a grant under section 301(a) unless the agency involved agrees that such agency will—

"(1) annually prepare and submit to the Secretary a report describing the specific activities carried out by the agency under the grant; and

"(2) include in the report submitted under paragraph (1), the results of an evaluation of the extent to which such activities have been effective in carrying out the purpose described in such section, including the effect of such activities regarding—

"(A) the incidence of placements of children in out-of-home care;

"(B) the reunification of children with their families; and

"(C) in the case of youths not less than 16 years of age who have been placed in out-of-home care, the discharge of such youths from such care into circumstances of providing for their own support with adequate living arrangements.

"(b) EVALUATION BY THE SECRETARY.—The Secretary shall conduct evaluations to determine the effectiveness of demonstration programs supported under section 301(a) in—

"(1) strengthening coordination between child welfare agencies, housing authorities, and programs for homeless families;

"(2) preventing placements of children into out-of-home care due to homelessness or other housing problems;

"(3) facilitating the reunification of children with their families; and

"(4) in the case of youths not less than 16 years old who have been placed in out-of-home care, preventing such youth from being discharged from such care into circumstances of providing their own support without adequate living arrangements.

"(c) REPORT TO CONGRESS.—Not later than March 1, 1993, the Secretary shall prepare and submit to the appropriate committees of Congress a report that contains a description of the activities carried out under this title, and an assessment of the effectiveness of the programs established under this title in preventing initial and prolonged separation of children from their families due to homelessness and other housing problems. At a minimum the report shall contain—

"(1) information describing the localities in which activities are conducted;

"(2) information describing the specific activities undertaken with grant funds and, where relevant, the numbers of families and children assisted by such activities;

"(3) information concerning the nature of the joint training conducted with grant funds; and

"(4) information concerning the impact of programs supported with grant funds on—

"(A) the incidence of the placement of children into out-of-home care;

"(B) the reunification of children with their families; and

"(C) in the case of youths not less than 16 years of age who have been placed in out-of-home care, the discharge of such youths from such care into circumstances of providing for their own support with adequate living arrangements.

"(d) RESTRICTION ON USE OF GRANT.—The Secretary may not make a grant under section 301(a) unless the agency involved agrees that the agency will not expend the grant to purchase or improve real property.

"SEC. 304. DESCRIPTION OF INTENDED USES OF GRANT.

"The Secretary shall not make a grant under section 301(a) unless—

"(1) the agency involved submits to the Secretary a description of the purposes for which the agency intends to expend the grant;

"(2) with respect to the entities with which the agency has made agreements pursuant to section 301(b)(1), such entities have assisted the agency in preparing the description required in paragraph (1); and

"(3) the description includes a statement of the methods that the agency will utilize in conducting the evaluations required in section 303(a)(2).

"SEC. 305. REQUIREMENT OF SUBMISSION OF APPLICATION.

"The Secretary shall not make a grant under section 301(a) unless an application for the grant is submitted to the Secretary, the application contains the description of intended uses required in section 304, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this title.

"SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of carrying out this title, there are authorized to be appropriated $25,000,000 for each of the fiscal years 1991 through 1993.

"(b) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated under subsection (a) shall remain available until expended.".

(c) TECHNICAL AND CONFORMING AMENDMENT.—The Child Abuse and Prevention Act (42 U.S.C. 5101 et seq.) is amended in the table of contents in section 101(b) by adding at the end thereof the following new items:

"TITLE III—CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS

"Sec. 301. Demonstration grants for prevention of inappropriate separation from family and for prevention of child abuse and neglect.
"Sec. 302. Provisions with respect to carrying out purpose of demonstration grants.
"Sec. 303. Additional required agreements.
"Sec. 304. Description of intended uses of grant.
"Sec. 305. Requirement of submission of application.
"Sec. 306. Authorization of appropriations.".

SEC. 4. TECHNICAL AMENDMENT FOR MEMBERSHIP ON THE INTERAGENCY COUNCIL ON THE HOMELESS.

Section 202(a)(15) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 1131(a)(15)) is amended to read as follows:

"(15) The Secretary of Veterans Affairs, or the designee of the Secretary.".

SEC. 5. USE OF CERTAIN PUBLIC REAL PROPERTY TO ASSIST THE HOMELESS.

(a) IN GENERAL—Section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411 is amended to read as follows:

"SEC. 501. USE OF UNUTILIZED AND UNDERUTILIZED PUBLIC BUILDING AND REAL PROPERTY TO ASSIST THE HOMELESS.

"(a) IDENTIFICATION OF SUITABLE PROPERTY.—The Secretary of Housing and Urban Development shall, on a quarterly basis, collect information about Federal public buildings and other Federal real properties (including fixtures) that are excess or surplus or are described as unutilized or underutilized in surveys by the heads of landholding agencies under section 202(b)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(b)(2)). No later than 25 days after receiving a request from the Secretary, the head of each landholding agency shall provide such information to the Secretary. No later than 30 days after collecting such information, the Secretary shall identify which of those buildings and properties are suitable for use to assist the homeless.

"(b) AVAILABILITY OF PROPERTY.—(1) The Secretary shall immediately notify each Federal agency with respect to any property of that agency that the Secretary has identified under subsection (a) of this section. No later than 30 days after receipt of such a notice, the Administrator, with respect to excess property, or the appropriate head of the landholding agency, with respect to underutilized or unutilized property, shall transmit to the Secretary the agency's response which shall include—

"(A) in the case of underutilized or unutilized property—

"(i) a statement of intention to declare the property excess to the agency's needs;

"(ii) a statement of intention to make the property available for use to assist the homeless; or

"(iii) a statement of the reasons the property cannot be declared excess property of the agency or made available for use to assist the homeless;

"(B) in the case of excess property—

"(i) a statement that there is no other compelling Federal need for the property and, therefore, the property will be determined surplus; or

"(ii) a statement of the other compelling Federal need for the property and, therefore, the property is not presently available for use to assist the homeless.

"(2) All surplus property determined suitable under subsection (a) shall be available for application for use to assist the homeless in accordance with the provisions of this section.

"(3) The Secretary shall maintain a written public record of—

"(A) the determinations of the Secretary and the reasons for such determinations under this subsection; and

"(B) the responses of landholding agencies to such determinations.

"(c) PUBLICATION OF PROPERTIES.—(1)(A) No later than 15 days after the last day of the 30-day period provided for under subsection (b)(1), the Secretary shall publish in the Federal Register a list of all property reviewed by the Secretary, which shall include all suitable property that is available for application under subsection (b) for use to assist the homeless.

"(B) Each publication of property shall include a description and location of the property (including the address and zip code) and the current classification of such property.

"(C) The Secretary shall make available upon request all information regardless of format about all property reviewed and determined to be unsuitable, including the reasons such properties were determined unsuitable.

"(D) The Secretary shall publish separately, on an annual basis, all property determined to be suitable, but reported to be unavailable, and the reasons such properties were unavailable.

"(2) No later than 15 days after the last day of the 30-day period provided for under subsection (b)(1), the Secretary shall transmit a copy of the complete list to the Interagency Council on the Homeless. The Council shall immediately distribute to all State and regional homeless coordinators area relevant portions of the list.

"(3) The Secretary, the Administrator, and the Secretary of Health and Human Services shall make such efforts as necessary to ensure the widest possible dissemination of the information on such list.

"(4) The Secretary shall establish a toll-free number to provide the public with specific information about property on the list.

"(5) The Secretary shall make readily available to the public upon request all information regardless of format in the possession of the Department of Housing and Urban Development about the properties under this subsection, including environmental assessment data. The Secretary shall maintain a current list of agency contacts for making referrals of inquiries for information about specific properties.

"(6)(A) On December 31 of each year, the head of each landholding agency shall report to the Secretary the current availability status of each property controlled by the agency, that—

"(i) was included in a list published by the Secretary under paragraph (1)(A) (i); and

"(ii) remains available for application for use as a facility to assist the homeless or has become available for application during the preceding year.

"(B) No later than February 15 each year, the Secretary shall publish in the Federal Register a list of all properties reported under subparagraph (A) for the preceding year, and the current classification of such properties as excess, surplus, unutilized, or underutilized.

"(d) HOLDING PERIOD.—(1) Properties published as suitable and available for application shall not be available for any other purpose for a period of 45 days beginning on the date of such publication.

"(2) Once written notice of intent to apply for a property is received, within the 45-day period described under paragraph (1), for the utilization of any such property by representatives of the homeless, such property may not be made available for any other purpose, until the Secretary of Health and Human Services or other landholding agencies have completed action on the application.

"(3) Excess, surplus, unutilized and underutilized properties determined unsuitable may not be made available for any other purpose for 15 days after the determination of unsuitability to allow for review of the determination at the request of the representative of the homeless.

"(4) Written notice of intent to apply for a property may also be filed at any time after the 45-day period described under paragraph (1) has expired. In such case the application shall be approved and the property assigned to the Secretary of Health and Human Services for disposal for use to assist the homeless, only if the property remains available. If the property remains available, the use to assist the homeless shall be given priority consideration over competing disposal opportunities under section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) and the provisions of subsection (f)(3) shall apply."

"(e) USE OF PROPERTY TO ASSIST THE HOMELESS.—(1) Representatives of the homeless may submit an application to the Secretary of Health and Human Services for any property that is suitable and available for application included in a list published under subsection (c)(1)(A)(i), for use to assist the homeless.

"(2) No later than 90 days after the submission of written notice of intent to apply for a property, an applicant shall submit a complete application to the Secretary of Health and Human Services. The Secretary of Health and Human Services shall, with the concurrence of the Administrator for surplus property and the head of the appropriate landholding agency for unutilized or underutilized property, grant reasonable extensions.

"(3) No later than 25 days after receipt of a completed application, the Secretary of Health and Human Services shall review, make all determinations, and complete all actions on the application. The Secretary of Health and Human Services all maintain a written record of all actions taken in response to an application.

"(4) The Secretary, the Administrator, and the heads of landholding agencies shall immediately take such actions as may be necessary to make property immediately available to representatives of the homeless whose applications are approved by the Secretary of Health and Human Services under this paragraph

"(f) MAKING PROPERTY AVAILABLE TO REPRESENTATIVES OF THE HOMELESS.—(1) Subject to the provisions of this subsection, properties for which the Secretary of Health and Human Services has approved applications for homeless use shall be made immediately available to representatives of the homeless.

"(2) Unutilized or underutilized property shall be make immediately available by the appropriate landholding agency to the approved applicant by lease or permit, for a term of not less than 1 year, unless the applicant requests a shorter term.

"(3)(A) In disposing of surplus property for deed or lease under section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), the Administrator and the Secretary of Health and Human Services shall give priority consideration to uses to assist the homeless under subsection (k)(5) of such section.

"(B) Surplus property shall be made immediately available to the Secretary of Health and Human Services upon request of assignment for immediate provision to the approved applicant in accordance with section 203(k)(5) of such Act, unless the Administrator of the Secretary of Health and Human Services determines that a competing request under section 203 of such Act of the property is so meritorious and compelling as to outweigh the needs of the homeless.

"(C) Whenever the Administrator or the Secretary of Health and Human Services makes a determination under subparagraph (B), the Administrator or the Secretary of Health and Human Services shall transmit to the appropriate committees of the Congress an explanatory statement detailing the need satisifed by conveyance of the surplus property and the reasons for determining that such need was so meritorious and compelling as to outweigh the needs of the homeless.

"(4) For properties made available by lease to representatives of the homeless prior to the date of enactment of the Stewart B. McKinney Homeless Assistance Amendments of 1990, the Secretary of Health and Human Services may, upon written request by the representative, convey by deed such property to the representative under section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)). The lease term shall not be affected if a deed is not granted.

"(g) Records.—The Secretary shall maintain a written public record of—

"(1) the reasons for determinations of the Secretary under this section; and

"(2) the responses of landholding agencies to those determinations.

"(h) Definitions.—For purposes of this section—

"(1) the term 'Administrator' means the Administrator of General Services;

"(2) the terms 'excess property' and 'surplus property' have the same meaning as such terms are defined under section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472);

"(3) the term 'landholding agency' means a Federal department or agency with statutory authority to control real property including, with respect to excess and surplus real property, the Administrator of General Services;

"(4) the term 'representative of the homeless' means a State or local government agency, or private nonprofit organization, which provides services to the homeless; and

"(5) the term 'Secretary' means the Secretary of Housing and Urban Development, except as otherwise provided.".

(b) Amendment to the Federal Property and Administrative Service Act of 1949.—Section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)) is amended by adding at the end thereof the following new paragraph:

"(5) The Administrator shall assign to the Secretary of Health and Human Services for disposal by lease or deed such surplus real property, incuding buildings and fixtures situated thereon, as is recommended by the Secretary of Health and Human Services as being needed for used to assist the homeless. Notwithstanding any other provision of this subsection, all assignments and transfers of real property under this paragraph shall be in accordance with section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411).".

(c) Unutilized and Underutilized Property.—For purposes of section 501 of the Stewart B. McKinney Homeless Assistance Act) (42 U.S.C. 11411) (as amended by subsection (a) of this Act) the term "unutilized and underutilized property" shall have the same meaning as such term before the date of the enactment of this Act under such section 501.

(d) Promulgation of Regulations.—No later than 60 days after the date of the enactment of this Act, the Administrator of General Services, the Secretary of Health and Human Services, and the Secretary of Housing and Urban Development shall promulgate regulations implementing the provisions of this section.

SEC. 6. STUDY OF THE COUNTING OF THE HOMELESS FOR THE NATIONAL CENSUS.

The General Accounting Office shall conduct a study of the methodology and procedures used by the Bureau of the Census in counting the number of homeless persons for the decennial census conducted pursuant to title 13, United States Code, to determine the accuracy of such count, and report to the Congress.

SECTION 1. SHORT TITLE

This Act may be cited as the "Primary Pediatric Outreach and Care for Disadvantaged Children Act of 1990".

SEC. 2. PRIMARY PEDIATRIC CARE FOR DISADVANTAGED CHILDREN PROGRAM.

Part C of title III of the Public Health Service Act (42 U.S.C. 248 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 328. PRIMARY PEDIATRIC CARE FOR DISADVANTAGED CHILDREN PROGRAM.

"(a) Definitions.—As used in this section:

"(1) Primary pediatric care.—The term 'primary pediatric care' means—

'(A) preventive care including anticipating guidance, appropriate early treatment, immunizations, and other services designed to promote health and prevent disease, which should include a comprehensive health examination that involves services identical to those required under early and periodic screening, diagnosis and treatment programs under sections 1902(a)(43) and 1905(a)(4)(B) of the Social Security Act;

"(B) acute illness care, including diagnosis and early treatment of illnesses in order to prevent complications or the development of chronic disorders;

"(C) evaluations conducted to detect physical abuse, sexual abuse, or neglect of children; and

"(D) continuing care of individuals suffering from certain chronic diseases of disabling conditions.

"(2) Outreach.—The term 'outreach' means—

"(A) the intensive identification of isolated and vulnerable children; and

"(B) the undertaking of comprehensive assessments and referrals for purposes of providing immediate direct care and access to health care systems.

"(b) Authority.—The Secretary may make grants to, and enter into contracts with, public and nonprofit private organizations, agencies, and institutios, to pay part or all of the costs of establishing programs designed to provide high quality primary pediatric care to economically disadvantaged children under the age of 19 who, on the date of enactment of this section, do not have access to such care as a result of geographic, cultural, financial, and other barriers, for the purposes described in subsection (c), or for operating such programs, or both.

"(c) Eligible Activities.—A recipient shall use funds available under this section for as many of the following as practicable—

"(1) child outpatient facilities or, where appropriate, mobile medical units, staffed by physicians, nurse practitioners, and other health care providers to provide primary care services;

"(2) an extensive followup system to ensure maximum consultative and referral visits for comprehensive health needs;

"(3) prenatal care;

"(4) substance abuse detection and preventive and therapeutic counseling;

"(5) evaluation and treatment services for behavioral and emotional disorders either directly or through referrals to appropriate specialists;

"(6) a health service program for children in foster care;

"(7) a program to provide medical services and community referrals to runaway and homeless youth;

"(8) a program to provide continuous, comprehensive care for children with special medical needs, particularly children with disabilities and chronic illness;

"(9) formal linkages with facilities providing necessary referral or ancillary services, including hospital outpatient and inpatient care, community health centers, educational institutions, Head Start programs, and social welfare and child abuse programs; and

"(10) methods of data collection (through the use of computerized systems to the extent feasible), including statistics concerning children and families and the specifics of the health care needs of such children and families which should enable the tracking of families and promote a continuum of health care.

"(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 1991, and such sums as are necessary for each succeeding fiscal year.".

NICKLES (AND OTHERS) AMENDMENT NO. 2973

Mr. ARMSTRONG (for Mr. Nickles, for himself, Mr. Boschwitz, Mr. McConnell, Mr. Symms, and Mr. Armstrong) proposed an amendment to amendment No. 2972 proposed by Mr. Kennedy to the bill H.R. 3789, supra, as follows:

At the end of the bill, add the following new subsection:

SEC. . TO PROVIDE FOR HOMELESS INDIVIDUALS TO WORK ON THEIR SHELTER.

Notwithstanding any other provision of law, the Act entitled "An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes," approved March 3, 1931 (40 U.S.C. 276a(a)), commonly known as the Davis-Bacon Act, as well as the Service Contract Act of 1965 (41 U.S.C. 356), and any other similar provision of Federal law, shall not be required with respect to any homeless individual employed in connection with

a project, which is or will be his or her primary nighttime residence and which is constructed, improved, or otherwise assisted under the provision of this Act or any amendment made by this Act.

VACCINE AND IMMUNIZATION AMENDMENTS

KENNEDY AMENDMENT NO. 2974

Mr. WIRTH (for Mr. Kennedy) proposed an amendment to the bill (H.R. 4238) to amend the Public Health Service Act to extend various programs with respect to vaccine-preventable diseases, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Vaccine and Immunization Amendments of 1990".

SEC. 2. GRANTS FOR IMMUNIZATIONS.

(a) Extension of General Program.—Section 317(j)(1) of the Public Health Service Act (42 U.S.C. 247B(j)(1)) is amended—

(1) in subparagraph (A), by striking "there are authorized" and all that follows in the first sentence and inserting the following: "there are authorized to be appropriated $205,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.";

(2) in subparagraph (B), by striking "after the date" and all that follows and inserting the following: "after October 1, 1990, there are authorized to be appropriated such sums as may be necessary."; and

(3) by striking subparagraph (C).

(b) Demonstration Projects for Outreach Programs.—

(1) In general.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, may make grants to public and nonprofit private entities for the purpose of carrying out demonstration projects—

(A) to provide, without charge, immunizations against vaccine-preventable diseases to children not more than 2 years of age who reside in communities whose population includes a significant number of low-income individuals; and

(B) to provide outreach services to identify such children and to inform the parents (or other guardians) of the children of the availability from the entities of the immunizations specified in subparagraph (A).

(2) Authorization of appropriations.—For the purpose of carrying out paragraph (1), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1993.

SEC. 3. SUPPLY OF VACCINES.

(a) In General.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, shall acquire and maintain a supply of vaccines sufficient to provide vaccinations throughout a 6-month period. Any proceeds received by the Secretary from the sale of vaccines from such supply shall be available to the Secretary for the purpose of purchasing vaccines for the supply. Such proceeds shall remain available for such purpose until expended.

(b) Authorization of Appropriations.—For the purpose of carrying out subsection (a), there are authorized to be appropriated $5,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.

SEC. 4. EXTENSION OF NATIONAL VACCINE PROGRAM.

Section 2106 of the Public Health Service Act (42 U.S.C. 300aa-6) is amended—

(1) in subsection (a), by striking "there are authorized" and all that follows and inserting the following: "there are authorized to be appropriated $4,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995."; and

(2) in subsection (b), by striking "there are authorized" and all that follows and inserting the following: "there are authorized to be appropriated $30,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.".

SEC. 5. TECHNICAL AMENDMENTS.

(a) Section 2111.—Section 2111 of the Public Health Service Act (42 U.S.C. 300aa-11) is amended—

(1) in subsection (a)(2)(A), by striking "unless" and all that follows in that subsection and inserting the following:

"unless a petition has been filed, in accordance with section 2116, for compensation under the Program for such injury or death and—

"(i)(I) the United States Claims Court has issued a judgment under section 2112 on such petition, and

"(II) such person elects under section 2121(a) to file such an action, or

"(ii) such person elects to withdraw such petition under section 2121(b) or such petition is considered withdrawn under such section.",

(2) in subsection (a)(5)(A), by striking "without prejudice" the second time it occurs,

(3) in subsection (a)(5)(B), by striking "plaintiff who" and inserting "plaintiff",

(4) in subsection (d), by striking "(d) except as provided in paragraph (3)," before "(d) Additional Information", and

(5) in subsection (e), by striking "(e)" before "(e) Schedule".

(b) Section 2112.—

(1) Suspension of proceedings.—Section 2112(d)(3) of the Public Health Service Act (42 U.S.C. 300aa-12(d)(3)) is amended by adding at the end the following:

"(D) If, in reviewing proceedings on petitions for vaccine-related injuries or deaths associated with the administration of vaccines before the effective date of this part, the chief special master determines that the number of filings and resultant workload place an undue burden on the parties or the special master involved in such proceedings, the chief special master may, in the interest of justice, suspend proceedings on any petition for up to 180 days in addition to the suspension time under subparagraph (C)."

(2) Notice.—Section 2112 of the Public Health Service Act (42 U.S.C. 300aa-12) is amended by adding at the end the following:

"(g) Notice.—If—

"(1) a special master fails to make a decision on a petition within the 240 days prescribed by subsection (d)(3)(A)(ii) (excluding (A) any period of suspension under subsection (d)(3)(C) or (d)(3)(D), and (B) any days the petition is before a special master as a result of a remand under subsection (e)(2)(C)), or

"(2) the United States Claims Court fails to enter a judgment under this section on a petition within 420 days (excluding (A) any period of suspension under subsection (d)(3)(C) or (d)(3)(D), and (B) any days the petition is before a special master as a result of a remand under subsection (e)(2)(C)) after the date on which the petition was filed,

the special master or court shall notify the petitioner under such petition that the petitioner may withdraw the petition under section 2121(b) and the petition will be considered withdrawn under such section if the petitioner, the special master, or the court do not take certain actions.".

(c) Section 2113.—Section 2113(c) of the Public Health Service Act (42 U.S.C. 300aa-13(c)) is amended by inserting "the" after "special masters of".

(d) Section 2115.—Section 2115 of the Public Health Service Act (42 U.S.C. 300aa-15) is amended—

(1) in subsection (e)(2), by striking "the Program," the second time it occurs and all that follows through "limited to the costs" and inserting the following: "the Program, in awarding compensation on such petition the special master or court may include an amount of compensation limited to the costs",

(2) in subsection (f)—

(A) in the second sentence of paragraph (2), by striking "section 2121(b)" and inserting "section 2121(a)", and

(B) in the last sentence of paragraph (4)(B), by striking "subsection (i)" and inserting "subsection (j)" and by striking "section 2111(a)" and inserting "the limitation on civil actions prescribed by section 2121(a)", and

(3) in the first sentence of subsection (j), by inserting before the period ", and $80,000,000 for each succeeding fiscal year in which a payment of compensation is required under subsection (f)(4)(B)".

(e) Section 2116.—Section 2116 of the Public Health Service Act (42 U.S.C. 300aa-16) is amended—

(1) in subsection (a)(1)—

(A) by striking "24 months" and inserting "28 months", and

(B) by inserting before the comma at the end the following: "and no such petition may be filed if the first symptom or manifestation of onset or of the significant aggravation of such injury occurred more than 36 months after the date of administration of the vaccine", and

(2) in subsection (c), by striking "and ending on the date a final judgment is entered on the petition" and inserting "and ending on the date (1) an election is made under section 2121(a) to file the civil action (2) an election is made under section 2121(b to withdraw the petition, or (3) the petition is considered withdrawn under section 2121(b)".

(f) Section 2121.—

(1) Limitation on actions.—Section 2121(a) of the Public Health Service Act (4 U.S.C. 300aa-21(a)) is amended—

(A) by inserting before the last sentence the following: "If a person elects to receive compensation under a judgment of the court in an action for a vaccine-related injury or death associated with the administration of a vaccine before the effective date of this part or is deemed to have accepted the judgment of the court in such an action such person may not bring or maintain a civil action for damages against a vaccine administrator or manufacturer for the vaccine-related injury or death for which the judgment was entered.", and

(B) by inserting after "actions" in the last sentence the following: "for vaccine-related injuries or deaths associated with the ad ministration of a vaccine after the effective date of this part".

(2) WITHDRAWAL OF PETITION.—Section 2121(b) of the Public Health Service Act (42 U.S.C. 300aa-21(b)) is amended to read as follows:

"(b) WITHDRAWAL OF PETITION.—

"(1) A petitioner under a petition filed under section 2111 may submit to the United States Claims Court a notice in writing withdrawing the petition if—

"(A) a special master fails to make a decision on such petition within the 240 days prescribed by section 2112(d)(3)(A)(ii) (excluding (i) any period of suspension under section 2112(d)(3)(C) or 2112(d)(3)(D), and (ii) any days the petition is before a special master as a result of a remand under section 2112(e)(2)(C)), or

"(B) the court fails to enter a judgment under section 2112 on the petition within 420 days (excluding (i) any period of suspension under section 2112(d)(3)(C) or 2112(d)(3)(D), and (ii) any days the petition is before a special master as a result of a remand under section 2112(e)(2)(C)) after the date on which the petition was filed.

Such a notice shall be filed within 30 days of the provision of the notice required by section 2112(g). If such a notice is not filed before the expiration of such 30 days, the petition with respect to which the notice was to be filed shall be considered withdrawn under this paragraph.

"(2) If a special master or the court does not enter a decision or make a judgment on a petition filed under section 2111 within 30 days of the provision of the notice in accordance with section 2112(g), the special master or court shall no longer have jurisdiction over such petition and such petition shall be considered as withdrawn under paragraph (1).".

(g) SECTION 322.—Section 322 of the National Childhood Vaccine Injury Act of 1986 (42 U.S.C. 300aa-1 note) is amended—

(1) in subsection (a)—

(A) by striking "of title XXI" and inserting "part A or B of subtitle 2 of title XXI", and

(B) by striking "such title XXI" and inserting "both such parts", and

(2) by adding at the end the following:

"(c) REVIEW UNDER SECTION 2112(f).—If the review authorized by section 2112(f) is held invalid because the judgment of the United States Claims Court being reviewed did not arise from a case or controversy under Article III of the Constitution, such judgment shall be reviewed by a 3-judge panel of the United States Claims Court. Such panel shall not include the judge who participated in such judgment.".

(h) EFFECTIVE DATE.—The amendments made by subsections (f)(1) and (g) shall take effect as of November 14, 1986, and the amendments made by subsections (a) through (e) and subsection (f)(2) shall take effect as of September 30, 1990.

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 6601(r) of the Omnibus Reconciliation Act of 1989 (Public Law 101-239) is amended—

(1) in paragraph (1), by striking "$1,500,000 for each of the fiscal years 1990 and 1991", and inserting "$2,500,000 for each of the fiscal years 1991 and 1992",

(2) in paragraph (2), by striking "$1,500,000 for each of the fiscal years 1990 and 1991", and inserting "$2,500,000 for each of the fiscal years 1991 and 1992", and

(3) in paragraph (3), by striking "$1,500,000 for each of the fiscal years 1990 and 1991", and inserting "$2,500,000 for each of the fiscal years 1991 and 1992".

(j) RECORDS AND REPORTS.—Section 301(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(e)) is amended by striking out "or (j)" and inserting in lieu thereof "or (k)".

(k) COMMISSIONED CORPS.—

(1) APPOINTMENT OF COMMISSIONED OFFICER.—Section 206(a) of the Public Health Service Act (42 U.S.C. 207(a)) is amended by inserting after the first sentence the following new sentence: "During the period of appointment to the position of Assistant Secretary for Health, a commissioned officer of the Public Health Service shall have the grade corresponding to the grade of General of the Army.".

(2) CONFORMING AMENDMENT.—Section 201(a) of title 37, United States Code, is amended by inserting "Assistant Secretary for Health." in the fourth column of the table corresponding with pay grade O-10.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect on the first day of the month immediately following the month in which this Act was enacted.

SEC. 6. TECHNICAL AMENDMENTS IN CERTAIN PROGRAMS PROVIDING SERVICES REGARDING ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) FORMULA FOR EMERGENCY RELIEF GRANTS.—Section 2603(a)(3) of the Public Health Service Act, as added by section 101(3) of Public Law 101-381, is amended to read as follows:

"(3) AMOUNT OF GRANT.—

"(A) IN GENERAL.—

"(i) Subject to the extent of amounts made available in appropriations Acts, a grant made for purposes of this paragraph to an eligible area shall be made in an amount equal to the product of—

"(I) an amount equal to the amount available for distribution under paragraph (2) for the fiscal year involved; and

"(II) the percentage constituted by the ratio of the distribution factor for the eligible area to the sum of the respective distribution factors for all eligible areas.

"(ii) For purposes of clause (i)(II), the term 'distribution factor' means the sum of—

"(I) an amount equal to the product of 3 and the amount determined under subparagraph (B) for the eligible area involved; and

"(II) an amount equal to the product of the amount determined under subparagraph (B) for the eligible area and the amount determined under subparagraph (C) for the area.

"(B) AMOUNT RELATING TO CUMULATIVE NUMBER OF CASES.—The amount determined in this subparagraph is an amount equal to the ratio of—

"(i) an amount equal to the cumulative number of cases of acquired immune deficiency syndrome in the eligible area involved, as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control by the applicable date specified in section 2601(a); to

"(ii) an amount equal to the sum of the respective amounts determined under clause (i) for each eligible area for which an application for a grant for purposes of this paragraph has been approved.

"(C) AMOUNT RELATING TO PER CAPITA INCIDENCE OF CASES.—The amount determined in this subparagraph is an amount equal to the ratio of—

"(i) the per capita incidence of cumulative cases of acquired immune deficiency syndrome in the eligible area involved (computed on the basis of the most recently available data on the population of the area); to

"(ii) the per capita incidence of cumulative such cases in all eligible areas for which applications for grants for purposes of this paragraph have been approved (computed on the basis of the most recently available data on the population of the areas).".

(b) SET-ASIDE REGARDING CATEGORICAL GRANTS TO CERTAIN ENTITIES FOR EARLY INTERVENTION SERVICES.—Section 2649(c) of the Public Health Service Act, as added by section 301(a) of Public Law 101-381, is amended—

(1) by striking "(c) Certain Allocations" and all that follows through "After determining" and inserting the following:

"(c) Certain Allocations by Secretary.—

"(1) DISCRETIONARY GRANTS TO CERTAIN STATES.—After determining"; and

(2) by adding at the end the following new paragraph:

"(2) GRANTS TO CERTAIN POLITICAL SUBDIVISIONS.—

"(A)(i) In the case of a State containing any political subdivision described in clause (ii), the Secretary shall, subject to subparagraph (B), make a reduction in the amount of the allotment under subsection (a) for the State for each fiscal year in an amount necessary for carrying out subparagraphs (B) and (C) with respect to the political subdivision. Any such reduction shall be in addition to the reduction required in paragraph (1) for the fiscal year involved.

"(ii) The political subdivision referred to in clause (i) is any political subdivision that received a cooperative agreement from the Secretary, acting through the Director of the Centers for Disease Control, for fiscal year 1990 for programs to provide counseling and testing with respect to acquired immune deficiency syndrome.

"(B) In the case of a State described in subparagraph (A), the Secretary shall, from the amounts made available as a result of reductions under such subparagraph, make a grant each fiscal year to each political subdivision described in such subparagraph that exists in the State if the political subdivision involved agrees that the provisions of subparts II and III will apply to the political subdivision to the same extent and in the same manner as such subparts apply to entities receiving grants under section 2651(a).

"(C) Grants under subparagraph (B) for a fiscal year for a political subdivision shall be provided in an amount equal to the amount received by the political subdivision in fiscal year 1990 under the cooperative agreement described in subparagraph (A).".

(c) MISCELLANEOUS AMENDMENT.—Section 2647(c) of the Public Health Service Act, as added by section 301(a) of Public Law 101-381, is amended—

(1) in the first sentence, by striking "are adequate" and inserting the following: "certifies to the Secretary that the laws of the State are adequate"; and

(2) in the second sentence, by striking "subsection (a)" and inserting "subsection (a),".

COMPREHENSIVE MEDICAL DEVICE IMPROVEMENT ACT

KENNEDY AMENDMENT NO. 2975

Mr. WIRTH (for Mr. KENNEDY) proposed an amendment to the bill (S. 3006) to amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of medical devices, and for other purposes, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Medical Device Improvement Act of 1990".

SEC. 2. REFERENCES TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

SEC. 3. REVIEW OF SAFETY AND EFFECTIVENESS INFORMATION.

(a) REVIEW.—Section 510(k) (21 U.S.C. 360(k)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after the subsection designation; and

(3) by adding at the end the following new paragraph:

"(2)(A) The requirements of subparagraph (B) shall apply to a person who submits a notification in accordance with paragraph (1) for a device that the person claims is substantially equivalent to a marketed device—

"(i) that was introduced or delivered for introduction into interstate commerce for commercial distribution before the date of enactment of this paragraph;

"(ii) that is classified as a class III device in accordance with subsections (b) through (d) of section 513; and

"(iii) for which no final regulation requiring premarket approval has been promulgated in accordance with section 515(b).

"(B) A person described in subparagraph (A) shall—

"(i) prior to the submission of a notification in accordance with paragraph (1), conduct a reasonable search for, and review of, published and unpublished data available to the person concerning the safety and effectiveness of the marketed device and the device for which the notification is submitted, including all adverse safety and effectiveness data concerning the devices, except for data that has been submitted to the Secretary in accordance with section 519 of this Act and section 803 of title 21, Code of Federal Regulations; and

"(ii) include in the notification a certification that the search and review was conducted and a citation to and summary of the data resulting from the search.

"(C) The Secretary may require the submission of any data described in the summary required by paragraph (B)(ii).".

SEC. 4. CLASSIFICATION OF DEVICES.

(a) CLASSIFICATION.—Section 513 (21 U.S.C. 360c) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)(ii), by striking "or to establish a performance standard" and inserting "or to establish an additional control or controls, as described in subparagraph (B)(ii),";

(B) by amending subparagraph (B) to read as follows:

"(B) CLASS II, ADDITIONAL CONTROLS.—A device—

"(i) that cannot be classified as a class I device because general controls are insufficient to provide reasonable assurance of the safety and effectiveness of the device;

"(ii) for which there is sufficient information to establish an additional control or controls to provide the assurance, including—

"(I) promulgating a performance standard;

"(II) developing and disseminating a guideline, including a guideline for the submission of clinical data in a premarket notification submission in accordance with section 510(k);

"(III) requiring the use of postmarket surveillance as appropriate in accordance with section 522; and

"(IV) making a recommendation or taking other appropriate action considered necessary by the Secretary to provide reasonable assurance of the safety and effectiveness of the device; and

"(iii) for which it is necessary to establish an additional control or controls to provide reasonable assurance of the safety and effectiveness of the device;

except that for a device that is purported or represented to be for a use in supporting or sustaining human life, sufficient information must exist for the Secretary to identify and describe the provision of a performance standard to provide such assurance."; and

(C) in subparagraph (C)(i)(II), by striking "establishment of a performance standard" and inserting "establishment of an additional control, as described in subparagraph (B)(ii),"; and

(2) in subsection (f)—

(A) in paragraph (1), by inserting "the Secretary by order determines that" after "unless"; and

(B) in paragraph (2), by striking "The" and inserting "The Secretary may initiate the reclassification of a device classified in class III under paragraph (1), or a".

(b) CONFORMING AMENDMENT.—Section 513(h)(1) is amended by inserting after "510" the following: "(except for a guideline for the submission of clinical data in a premarket notification submission in accordance with section 510(k))".

SEC. 5. REVISION OF CLASSIFICATION FOR CERTAIN CLASS III DEVICES.

(a) REVISION OF CLASSIFICATION.—Section 513 (21 U.S.C. 360c) (as amended by section 4(b) of this Act) is further amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"Revision of Classification

"(h)(1) The requirements established by order in accordance with paragraph (2) shall apply with respect to a device—

"(A) that was introduced or delivered for introduction into interstate commerce for commercial distribution before the date of enactment of this subsection;

"(B) that is classified as a class III device; and

"(C) for which no final regulation requiring premarket approval has been promulgated in accordance with section 515(b).

"(2) Not later than 36 months after the date of enactment of this subsection, the Secretary—

"(A) shall by order require manufacturers of devices described in paragraph (1) to submit to the Secretary a citation to and summary of all published and unpublished data reasonably available to the manufacturer concerning the safety and effectiveness of the device, including any adverse safety and effectiveness data, except for information that has been submitted to the Secretary under section 519 of this Act an section 803 of title 21, Code of Federal Reg ulations; and

"(B) may require a manufacturer t submit any data described in the summary

"(3) After the issuance of an order in accordance with paragraph (2)(A), but no later than 24 months after the issuance o the order, the Secretary shall publish in th Federal Register for each device covered b the order a notice of proposed rulemakin proposing to change the classification of th device to class II or to class I or to continu the classification of the device in class III.

"(4) In determining whether to revise th classification of a device or to continue th classification of the device in class III, th Secretary shall apply the criteria in sectio 513(a) to the information available whe the device was initially classified and an new information made available since initia classification.

"(5) After considering any comments submitted in response to the notice of propose rulemaking, the Secretary shall issue a fina regulation changing the classification of th device or continuing the classification i class III. The Secretary shall publish in th Federal Register findings on the matters referred to in paragraph (4), a discussion o the comments received in response to th notice of the proposed rulemaking, and th response of the Secretary to the comment The Secretary shall publish the final regulation not earlier than 90 days, and not late than 12 months, after the date of publication of the notice of proposed rulemakin relating to the regulation.

"(6) A regulation issued in accordanc with paragraph (5) is subject to judicia review in accordance with section 517.

"(7) Not later than 12 months after the e fective date of any regulation issued in accordance with paragraph (5), the Secretar shall establish a schedule for the issuance o a regulation in accordance with sectio 515(b) requiring submission of a premark approval application for each device tha has been continued in class III.".

SEC. 6. ESTABLISHMENT OF PERFORMANCE STAN ARDS.

(a) PROCEDURE.—Section 514 (21 U.S.C 360d) is amended—

(1) in subsection (a), by striking "The Se retary may" and inserting "If the Secretar determines that a performance standard necessary to provide reasonable assuran of the safety and effectiveness of a class device, the Secretary shall";

(2) by striking subsections (b) through (f

(3) by redesignating subsection (g) as su section (b);

(4) in subsection (b) (as redesignated), b striking paragraphs (1) and (2) and insertin the following new paragraphs:

"(1)(A) The Secretary shall publish in th Federal Register a notice of proposed rul making for the establishment, amendmen or revocation of any performance standar for a device.

"(B) A notice of proposed rulemaking f the establishment or amendment of a pe formance standard for a device shall—

"(i) set forth a finding with supportin justification that the performance standar is appropriate and necessary to provide re sonable assurance of the safety and effe tiveness of the device;

"(ii) set forth proposed findings with r spect to the risk of illness or injury that th performance standard is intended to redu or eliminate;

"(iii) invite interested persons to submit to the Secretary within 30 days of the publication of the notice, requests for changes in the classification of the device based on new information relevant to the classification; and

"(iv) invite interested persons to submit an existing performance standard for the device, including a draft or proposed performance standard, for consideration by the Secretary.

"(C) A notice of proposed rulemaking for the revocation of a performance standard shall set forth a finding with supporting justification that the performance standard is no longer necessary to provide reasonable assurance of the safety and effectiveness of a device.

"(D) The Secretary shall provide for a comment period of no fewer than 60 days.

"(2) If, after publication of a notice in accordance with paragraph (1), the Secretary receives a request for a change in the classification of the device, the Secretary shall, within 60 days of the publication of the notice, consult with a classification panel described in the second sentence of section 513(e).".

(b) Conforming Amendments.—

(1) Section 514(b) (as redesignated by subsection (a)(3)) is amended—

(A) in paragraph (3)(A), by striking "paragraph (2)" and inserting "paragraph (1)"; and

(B) in paragraph (4)(A), by striking "paragraphs (2) and (3)(B)" and inserting "paragraphs (1), (2), and (3)(B)".

(2) Section 517(a)(3) (21 U.S.C. 360g(a)(3)) is amended by striking "514(b)(2) or".

(3) Section 520(i) (21 U.S.C. 360j(i)) is amended by striking "514(g)(5)(B)" and inserting "514(b)(5)(B)".

SEC. 7. SUSPENSION OF APPROVAL OF APPLICATION.

Section 515(e) (21 U.S.C. 360e(e)) is amended by adding at the end the following new paragraph:

"(3)(A) The Secretary may by order suspend the approval of an application approved under this section if the Secretary determines that there is a reasonable probability that the continued distribution of a device under the application would cause serious, adverse health consequences or death.

"(B) Not less than 10 days prior to the issuance of a suspension order under subparagraph (A), the Secretary shall issue a notice that the Secretary shall provide the holder of the application for the device with an opportunity for an informal hearing to determine whether to issue the order.

"(C) Not more than 10 days after the hearing described in subparagraph (B), the Secretary shall issue a suspension order or determine that the order should not be issued.

"(D) Not more than 20 days after the issuance of the suspension order, the Secretary shall issue a notice initiating the process of withdrawal of approval of the application, as described in paragraphs (1) and (2). If the Secretary does not issue the notice within the specified timeframe, the suspension order shall be deemed to be vacated.".

SEC. 8. JUDICIAL REVIEW.

Section 517(a) (21 U.S.C. 360g(a)) is amended—

(1) by striking "or" at the end of paragraph (6); and

(2) by inserting after paragraph (7) the following new paragraphs:

"(8) the issuance of a regulation under section 513(h), or

"(9) the issuance of an order under section 513(f)(1) or an order effectuating the classification required under 520(l)(1)(D).".

SEC. 9. EMERGENCY RECALL AUTHORITY.

Section 518 (21 U.S.C. 360h) is amended by adding at the end the following new subsection:

"Emergency Recall Authority

"(e)(1) If the Secretary finds that there is a reasonable probability that a device intended for human use would cause serious, adverse health consequences or death, the Secretary shall issue a recall order. The order shall require the appropriate party or parties (including the manufacturers, importers, distributors, or retailers of the device) to immediately cease any distribution of the device and, thereafter, recall the device from commercial distribution.

"(2)(A) The order issued under paragraph (1) shall include recall of devices from hospitals and other health care institutions, unless the Secretary determines that the risk of recalling the device from the facilities presents a greater health risk than not recalling the device from use.

"(B) For devices subject to an order issued under paragraph (1), and in lieu of including individuals within the recall order, the Secretary shall order a notification under subsection (a) regarding the risks associated with the continued use of the device to individuals or, when appropriate, the health professionals who prescribed the device for the use of the individuals.

"(3) Not later than 10 days after the issuance of a recall order, the Secretary shall provide the party or parties to whom the order is directed with the opportunity for an informal hearing to determine whether the order shall be affirmed or vacated.

"(4) If, after providing an opportunity for an informal hearing, the Secretary determines that the recall order was properly issued, the order shall remain in effect. The Secretary shall specify a timetable in which the device recall will occur, and shall require periodic reports to the Secretary describing the progress of the recall effort.

"(5) If, after providing an opportunity for an informal hearing, the Secretary determines that inadequate grounds exist to support the order issued under paragraph (1), the Secretary shall vacate the order.

"(6) A party to whom the recall order is issued shall—

"(i) remedy the causes that resulted in the issuance of the order;

"(ii) complete the recall in accordance with the order; and

"(iii) submit a report to the Secretary demonstrating compliance with the order.

"(7) After fulfilling the requirements of paragraph (6), a party to whom the recall order is issued may petition the Secretary to vacate the order. The petition shall state the basis for vacating the order.

"(8) The Secretary shall respond to the petition described in paragraph (7) not later than 30 days after the receipt of the petition. If the Secretary finds that the party to whom the recall order was issued has fulfilled the requirements of paragraph (6) and that the device may be distributed in interstate commerce, the Secretary shall vacate the order.

"(9) The remedy provided by this subsection shall be in addition to those provided by subsections (a), (b), and (c).".

SEC. 10. USER REPORTS.

(a) Requirement.—Section 519 (21 U.S.C. 360i) is amended—

(1) in subsection (a)(3), by inserting before the semicolon the following: "and shall require distributors who submit the reports to submit copies of the reports to the manufacturer of the device for which the report was made";

(2) by adding at the end the following new subsections:

"Inclusion of Distributors

"(c) Not later than 1 year after the date of the enactment of this subsection, the Secretary shall amend the regulations promulgated under this section to require distributors of medical devices to establish and maintain records and make reports under this section. In amending the regulations, the Secretary may exempt classes of distributors from whom reports are not necessary for the protection of the public health.

"Certification

"(d) Each manufacturer, importer, and distributor required to make reports under subsection (a) shall submit to the Secretary annually a statement certifying that the manufacturer, importer, or distributor—

"(1) did not file any report; or

"(2) did file a certain number of the reports.

"User Reports

"(e)(1) As used in this subsection:

"(A) The terms 'facility' and 'medical device user facility' mean a hospital, nursing home, or ambulatory surgical facility.

"(B) The terms 'serious illness' and 'serious injury' mean illness or injury, respectively, that is unanticipated and—

"(i) is life threatening;

"(ii) results in permanent impairment of a body function or permanent damage to a body structure; or

"(iii) necessitates immediate medical or surgical intervention to preclude permanent impairment of a body function or permanent damage to a body structure.

"(2) If a medical device user facility receives or otherwise becomes aware of information that reasonably suggests that a medical device has caused or contributed to the death of a patient of the facility, the facility shall, as soon as practicable but not later than 15 working days after becoming aware of the information, report the information to the Secretary and, if the identity of the manufacturer is known, to the manufacturer of the device.

"(3) If a medical device user facility receives or otherwise becomes aware of information that reasonably suggests that a medical device has caused or contributed to a serious illness or serious injury to a patient of the facility, the facility shall, as soon as practicable, but not later than 15 working days after becoming aware of the information, report the information to the manufacturer of the device. If the facility is unable to determine the identity of the manufacturer of the device, the facility shall send a report of the information to the Secretary.

"(4) For purposes of paragraphs (2) and (3), a medical device user facility shall be treated as having received or otherwise become aware of information with respect to a medical device of the facility when appropriate medical personnel employed by or otherwise affiliated with the facility receive or otherwise become aware of information with respect to the device in the course of the duties of the individual.

"(5)(A) Except as provided in subparagraph (B), the Secretary may not disclose the identity of a facility that makes a report in accordance with paragraph (2) or (3)—

"(i) except in connection with an action brought to enforce section 301(q);

"(ii) except in connection with a communication to a manufacturer of a device that is the subject of a report in accordance with paragraph (2) or (3); or

"(iii) unless required to be disclosed in accordance with subsection (a).

"(B) This paragraph shall not authorize the Secretary to withhold the identity of a facility making a report in accordance with paragraph (2), or any information in the report, from duly authorized committees and subcommittees of Congress.

"(6)(A) No report made in accordance with paragraph (2) or (3) by a person described in subparagraph (B) shall be admitted into evidence in any civil action involving private parties unless the person had knowledge of the falsity of the information contained in the report.

"(B) As used in subparagraph (A), the term 'person' means—

"(i) a medical device user facility;

"(ii) one of the appropriate medical personnel employed by or otherwise affiliated with the facility; or

"(iii) a physician who is not required to make a report in accordance with paragraph (2) or (3).

"(7) The obligation of a medical device user facility to make a report in accordance with paragraph (2) or (3) shall not affect the obligation of the manufacturer of the device who receives the information to file a report concerning the device as required under subsection (a).

"User Education

"(f)(1) During the 1-year period beginning on the date of enactment of this subsection, the Secretary may award grants to eligible entities to establish public education programs for hospitals, ambulatory surgical facilities, and nursing homes concerning the user reporting requirements set forth in subsection (e).

"(2) In awarding grants in accordance with paragraph (1), the Secretary shall give priority to entities to submit proposals that demonstrate—

"(A) a need for user education among hospitals, ambulatory surgical facilities, and nursing homes regarding a generic category of medical device; and

"(B) the ability to adequately perform the proposed educational program.

"(3) In order to receive a grant in accordance with paragraph (1), an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require. At a minimum, the application shall contain—

"(A) a description of the proposed public education program;

"(B) the qualifications and experience of the entity to carry out the program; and

"(C) the need for user education among persons to be served by the entity regarding a generic category of medical device.

"(4) The Secretary shall by regulation specify the qualifications for an entity to receive a grant in accordance with paragraph (1).

"(5) There are authorized to be appropriated to carry out this subsection such sums as may be necessary for each of fiscal years 1991 through 1993.".

(b) Regulations.—The Secretary of Health and Human Services shall promulgate regulations to implement section 519(e) of the Federal Food, Drug, and Cosmetic Act, as added by the amendment made by subsection (a), not later than 12 months after the date of enactment of this Act. In promulgating the regulations, the Secretary shall minimize the administrative burdens on medical device user facilities consistent with the need to assure adequate information.

(c) Report to Congress.—Not later than 36 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report that contains an evaluation of the requirements of section 519(e) of the Federal Food, Drug, and Cosmetic Act. In preparing the report, the Secretary shall consult with individuals and organizations with an interest in health care and consumer issues. At a minimum, the report shall contain—

(1) an evaluation of the safety benefits of the requirements;

(2) an evaluation of the burdens placed on the Food and Drug Administration and on medical device user facilities by the requirements;

(3) an evaluation of the cost-effectiveness of the requirements; and

(4) recommendations for legislative reform.

(d) Effective Date.—Section 519(e) of the Federal Food, Drug, and Cosmetic Act shall become effective on the earlier of—

(1) the effective date of regulations promulgated in accordance with subsection (b); or

(2) the date that is 12 months after the date of enactment of this Act.

SEC. 11. REPORTS OF REMOVALS AND CORRECTIVE ACTIONS.

Section 519 (21 U.S.C. 360i) (as amended by section 10 of this Act) is further amended by adding at the end the following new subsection:

"Reports of Removals and Corrective Actions

"(g)(1)(A) Except as provided in paragraph (2), the Secretary shall by regulation require a manufacturer, importer, or distributor of a device to report promptly to the Secretary any removal or corrective action of a device undertaken by the manufacturer, importer, or distributor of a device if the removal or corrective action was undertaken to—

"(i) eliminate a significant risk to health caused by the device; or

"(ii) remedy a violation of this Act caused by the device which may present a risk to health.

"(B) A manufacturer, importer, or distributor of a device who undertakes a corrective action or removal of a device that is not required to be reported under subparagraph (A) shall keep a record of the corrective action or removal.

"(2) No report of the corrective action or removal of a device may be required under paragraph (1) if a report of the corrective action or removal is otherwise required under this Act, or the corrective action or removal was initiated at the request of the Secretary, and a report has been submitted to the agency.

"(3) For purposes of paragraphs (1) and (2), the terms 'corrective action' and 'removal' do not include routine servicing.".

SEC. 12. USE OF PREMARKET APPROVAL DATA.

Section 520 (21 U.S.C. 360j) is amended—

(1) in subsection (c)—

(A) by striking "under section 513 from class III to class II" and inserting "from class III to class II or class I"; and

(B) by inserting "except in accordance with subsection (h) and" after "reclassified from class III to class II,"; and

(2) in subsection (h)—

(A) in paragraph (3), by striking "Any" and inserting "Except as provided in paragraph (4), any"; and

(B) by adding at the end the following new paragraph:

"(4)(A) Any information contained in an application for premarket approval filed with the Secretary pursuant to section 515(c), including clinical and preclinica tests or studies, but excluding descriptions of methods of manufacture and product composition, that demonstrates the safety and effectiveness of a device shall be available 1 year after the original application for the fourth device of a kind has been approved by the Secretary, for use by the Secretary in approving devices, or determining whether a product development protoco has been completed, under section 515, establishing a performance standard unde section 514, and reclassifying devices unde subsections (e) and (f) of section 513, and subsection (l)(2). The Secretary shall deem devices that incorporate the same technologies, have the same principles of operation and are intended for the same use or uses t be within a kind of device.

"(B) The Secretary, contemporaneously with the approval of the fourth device of kind, shall publish a notice in the Federal Register identifying the four devices of kind that have been approved under section 515 and the date on which the data contained in premarket approval application for the devices will be available to the Secretary for use, as described in subparagraph (A). For each device described in subparagraph (D)(i)(I), the Secretary shall publish a notice in the Federal Register setting forth the date, which shall be not earlie than 1 year after the date of notice, tha data identified in subparagraph (A) shall b available for the use of the Secretary.

"(C) The publicly available detailed summaries of information respecting the safety and effectiveness of devices required b paragraph (1)(A) shall be available for us by the Secretary as the evidentiary bas for—

"(i) approving devices, or determinin whether a product development protoco has been completed, under section 515;

"(ii) establishing a performance standar under section 514; and

"(iii) reclassifying devices under subse tions (e) and (f) of section 513, and subse tion (l)(2).

"(D)(i) This paragraph shall become effe tive—

"(I) upon the date of the enactment of th paragraph, for devices approved under se tion 515, where four devices of a kind wer approved on or before December 31, 198 and

"(II) 24 months after the date of the en actment of the paragraph, for devices no included within the scope of subclause (that are subject to a premarket approval r quirement under section 515.

"(ii) For each device described in subpar graph (D)(i)(II) for which the original appl cation for a fourth device of a kind is a proved by the Secretary before the 2 month delayed effective date described subparagraph (D)(i)(II), the 24-month d layed effective date shall be deemed to the approval date for the fourth device of kind.

"(E) The approval date of a device, f purposes of this paragraph, shall be th date of the letter of the Secretary to the a plicant approving a device under sectio

515, and permitting the applicant to commercially distribute the device.".

SEC. 13. TRACEABILITY.

Section 520(j) (21 U.S.C. 360j(j)) is amended to read as follows:

"Traceability Requirements

"(j)(1) The Secretary shall, not later than 1 year after the date of enactment of this subsection, determine which devices should be subject to a requirement of labeling, or coding, or identification by any other means, that is necessary to ensure that the device may be traced from the place of manufacture of the device or initial distribution to the ultimate user of the device, from among devices that—

"(A) are permanent implants;

"(B) are purported or represented to be for use in supporting or sustaining human life; or

"(C) present a potential unreasonable risk of illness or injury.

"(2) Not later than 2 years after the date of enactment of this subsection, the Secretary shall by regulation require the manufacturers, importers, and distributors of the devices that are described in paragraph (1) to establish the means by which the devices will be traced to the ultimate user.".

SEC. 14. REVISION OF CLASSIFICATION FOR DEVICES REGULATED AS NEW DRUGS OR ANTIBIOTIC DRUGS.

(a) In General.—Section 520(l)(2) (21 U.S.C. 360j(l)(2)) is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) in subparagraph (A) (as designated by paragraph (1), by striking "The" and inserting "The Secretary may initiate the reclassification of a device classified in class III under paragraph (1), or a"; and

(3) by adding at the end the following new subparagraph:

"(B)(i) Not later than 90 days after the date of enactment of this subparagraph, the Secretary shall publish a notice in the Federal Register with respect to devices that are subject to regulation pursuant to this subsection. The notice shall state whether each device shall remain in class III or be reviewed for classification into class I or II. The notice shall also require the manufacturer of a device that the Secretary intends to classify into class I or II to submit to the Secretary a description of and citation to any adverse safety and effectiveness information not submitted under section 519(a) of this Act and section 803 of title 21, Code of Federal Regulations. The Secretary may require a manufacturer to submit the adverse safety and effectiveness information for which a description and citation were submitted to the Secretary.

"(ii) After the issuance of the notice under clause (i), and following consultation with appropriate advisory panels in accordance with subsections (b) through (d) of section 513, but before the expiration of the 1-year period beginning on the date of enactment of this subparagraph, the Secretary shall publish a proposed regulation in the Federal Register classifying each device into class I or II, or providing that each device shall remain in class III. The data furnished by manufacturers in accordance with clause (i), in combination with the advice and recommendation of appropriate advisory panels shall, for purposes of this Act, serve as a basis for satisfying the criteria set forth in subclause (I) or (II) of section 513(a)(1)(C)(ii), and shall serve as a basis for the proposed regulation required under this subparagraph.

"(iii) Following a review of comments received on the proposed regulation issued in accordance with clause (ii), and before the expiration of the 1-year period referred to in clause (ii), the Secretary shall promulgate a final regulation prescribing the classification of all devices regulated under this subsection on the date of enactment of this subparagraph. No regulation issued under this subparagraph requiring a device to remain in class III or classifying the device as class I or II may take effect before the expiration of 90 days from the date of the publication of the regulation in the Federal Register.

"(iv) The Secretary may by notice in the Federal Register extend the 1-year period prescribed by clauses (ii) and (iii) for a device for an additional period not to exceed 1 year.

"(v) Notwithstanding any other provision of this subsection, the Secretary shall not retain any daily wear nonhydrophilic plastic contact lens in class III unless the Secretary finds that it meets the criteria set forth in subclause (I) or (II) of section 513(a)(1)(C)(ii). The finding, and the grounds for the finding, shall be published in the Federal Register. If during the 1-year period beginning on the date of enactment of this subparagraph, the Secretary has not made the finding and issued the notice required by this clause, the Secretary shall issue an order placing the lens in class II.

"(vi) Actions taken under this subparagraph shall not interfere with any pending reclassification action. Any device for which a reclassification petition was pending on January 1, 1989, shall not be included in the list published under clause (i).".

(b) Conforming Amendment.—Section 520(l)(1) is amended—

(1) by inserting ", on the initiative of the Secretary or" after "unless the Secretary"; and

(2) by striking "paragraph (2)" and inserting "paragraph (2)(A),".

SEC. 15. SUBSTANTIAL EQUIVALENCE.

Section 520 (21 U.S.C. 360j) is amended by adding at the end the following new subsection:

"Substantial Equivalence

"(m)(1) For purposes of determinations of substantial equivalence under this subchapter—

"(A) The term 'different technological characteristics' means, with respect to a device being compared to a predicate device, that there is a significant change in the materials, design, energy source, or other features of the device from those of the predicate device.

"(B) The term 'substantially equivalent' or 'substantial equivalence' means, with respect to a device being compared to a predicate device, that the device has the same intended use as the predicate device and—

"(i) has the same technological features as the predicate device; or

"(ii) has different technological features and the evidence submitted that the device is substantially equivalent to the predicate device contains information, including clinical data, if required, that demonstrates that the device is as safe and effective as a marketed device.

"(2) A device may not be found to be substantially equivalent to a predicate device that has been removed from the market at the initiative of the Secretary or that has been determined to be misbranded or adulterated by a judicial order.

"(3) The Secretary shall promulgate regulations under which a manufacturer seeking a determination of substantial equivalence may be required to prepare a summary of any clinical data required (including information respecting any adverse effects of the device on health) if the Secretary determines that clinical data must be submitted in accordance with paragraph (1)(B)(ii), and establishing a standard format for the summary. The Secretary shall make the summary available to the public within 30 days of the issuance of a determination of substantial equivalence.".

SEC. 16. HUMANITARIAN DEVICE EXEMPTION.

Section 520 (21 U.S.C. 360j) (as amended by section 15 of this Act) is further amended by adding at the end the following new subsection:

"Humanitarian Devices

"(n)(1) It is the purpose of this subsection to encourage the discovery of devices intended to benefit patients in the treatment or diagnosis of rare diseases or conditions, to the extent consistent with the protection of the public health and safety and with ethical standards.

"(2) As used in this subsection, the term 'rare disease or condition' means any disease or condition that affects fewer than 8,000 persons in the United States. Determinations under the previous sentence with respect to any device shall be made on the basis of the facts and circumstances as of the date of submission of an application under paragraph (3).

"(3) Not later than 8 months after the date of enactment of this subsection, the Secretary shall promulgate regulations prescribing procedures and conditions under which persons may on application be granted an exemption for devices from the effectiveness requirements of section 502, 514, 515, 516, 519, or 706, or subsection (e) or (f) of this section, to permit the use of the devices by physicians in the treatment of patients afflicted by a rare disease or condition.

"(4) In promulgating regulations under paragraph (3), the Secretary may prescribe procedures and conditions under which an exemption may be granted for a device if—

"(A) the device is likely to provide a significant benefit to a patient in the treatment or diagnosis of a disease or condition, or a significant benefit to the patient in quality of life;

"(B) the device is used—

"(i) in the treatment or diagnosis of a rare disease or condition and cannot reasonably be expected to be available absent the exemption; or

"(ii) the patient population affected by the disease or condition is not sufficient to conduct clinical trials of the effectiveness of the device; and

"(C) the Secretary determines that the probable benefit to health from the use of the device outweighs the risk of injury or illness from the use and the probable risks and benefits of currently available devices or alternative forms of treatment.

"(5) Devices granted an exemption under this subsection shall only be used—

"(A) in facilities that have established, in accordance with regulations of the Secretary, a local institutional review committee to supervise clinical testing of devices in the facilities; and

"(B) if, prior to the use of a device, an institutional review committee approves the use in the treatment or diagnosis of a specific rare disease or condition.".

SEC. 17. POSTMARKET SURVEILLANCE.

The Act is amended by inserting after section 521 (21 U.S.C. 360k) the following new section:

"SEC. 522. POSTMARKET SURVEILLANCE.

"(a) In General.—

"(1) Required surveillance.—The Secretary shall require a manufacturer to conduct postmarket surveillance for any device that—

"(A) is a permanent implant the failure of which may cause serious, adverse health consequences or death;

"(B) is intended for use in supporting or sustaining human life; or

"(C) presents potential for serious risk to human health.

"(2) Discretionary surveillance.—The Secretary may require a manufacturer to conduct postmarket surveillance for a device if the Secretary determines that postmarket surveillance of the device is necessary to protect the public health or to evaluate the safety or effectiveness of the device.

"(b) Regulations.—The Secretary shall issue regulations implementing the requirements of this section not later than 1 year after the date of enactment of this section.

"(c) Surveillance Period.—The Secretary may determine the period of surveillance required in order to complete the collection of useful data or other information necessary to protect the public health or to evaluate the safety or effectiveness of the device. In no event may a surveillance period be imposed in accordance with this section without a termination date.

"(d) Contracts.—

"(1) In general.—The manufacturer of a device for which postmarket surveillance is required in accordance with subsection (a) shall contract with a qualified academic medical center, or a representative number of qualified academic medical centers in representative locations, to provide for any monitoring of clinical experience that may be required in accordance with this section.

"(2) Lack of qualified academic medical center.—If no academic medical center has the qualifications and experience to conduct adequate monitoring of clinical experience in accordance with this section, a manufacturer shall contract with a qualified medical center or with a representative number of qualified medical centers in representative locations to provide the monitoring.

"(3) Number and identity.—The manufacturer shall determine, and obtain the approval of the Secretary regarding, the number and identity of the center or centers that will perform surveillance in accordance with this section and the manner of surveillance.

"(e) Application.—This section shall apply only to devices that are first distributed in interstate commerce after the date of enactment of this section.".

SEC. 18. ESTABLISHMENT OF THE OFFICE OF INTERNATIONAL RELATIONS.

Section 801 (21 U.S.C. 381) is amended by adding at the end the following new subsection:

"(f)(1) The Secretary may enter into agreements with foreign governments, which agreements specify that devices of either country that are manufactured in accordance with rules and regulations for device manufacture under this Act are suitable for commercial distribution.

"(2) In entering into the agreements described in paragraph (1), the Secretary shall encourage the mutual recognition of—

"(A) good manufacturing practice regulations promulgated under section 520(f)(1)(A); and

"(B) other rules, regulations, and testing protocols as the Secretary determines to be appropriate.

"(3) The Secretary shall establish an Office of International Relations that shall plan and initiate programs for the recognition of devices in accordance with paragraph (1).

"(4) The Secretary may issue regulations to carry out this subsection.

"(5) Not later than 2 years after the date of enactment of this subsection, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the activities of the Office of International Relations.".

SEC. 19. DEFINITIONS.

Section 201 (21 U.S.C. 321) is amended—

(1) in subsection (g)(1), by striking "; but does not include devices or their components, parts, or accessories"; and

(2) in the language following paragraph (3) of subsection (h), by striking "any of its principal" and inserting "its primary".

SEC. 20. REVIEW OF MARKET APPLICATIONS FOR ARTICLES COMPRISING COMBINATIONS OF DRUGS, DEVICES, AND BIOLOGICS.

Section 503 (21 U.S.C. 353) is amended—

(1) by striking the section heading and inserting the following:

"EXEMPTIONS AND CONSIDERATION FOR CERTAIN DRUGS, DEVICES, AND BIOLOGICAL PRODUCTS";

and

(2) by adding at the end the following new subsection:

"(f)(1) The Secretary shall designate a component of the Food and Drug Administration to regulate products that constitute a combination of a drug, device, or biological product. The Secretary shall determine the primary mode of action of the combination product. If the Secretary determines that the primary mode of action is that of—

"(A) a drug (other than a biological product), the persons charged with premarket review of drugs shall have primary jurisdiction;

"(B) a device, the persons charged with premarket review of devices shall have primary jurisdiction; or

"(C) a biological product, the persons charged with premarket review of biological products shall have primary jurisdiction.

"(2) Nothing in this subsection shall prevent the Secretary from using any agency resources of the Food and Drug Administration necessary to ensure adequate review of the safety, effectiveness, or substantial equivalence of an article.

"(3) The Secretary shall promulgate regulations to implement market approval procedures in accordance with paragraphs (1) and (2) not later than 1 year after the date of enactment of this subsection.

"(4) As used in this subsection:

"(A) The term 'biological product' has the meaning given the term in section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)).

"(B) The term 'market clearance' includes—

"(i) approval of an application under section 505, 507, 515, or 520(g);

"(ii) a finding of substantial equivalence under this subchapter; and

"(iii) approval of a product or establishment license under subsection (a) or (d) of section 351 of the Public Health Service Act (42 U.S.C. 262).".

INOUYE AMENDMENT NO. 2976

Mr. WIRTH (for Mr. Inouye) proposed an amendment to amendment No. 2975 proposed by Mr. Wirth (for Mr. Kennedy) to the bill S. 3006, supra, as follows:

At the end of the amendment add the following:

SECTION 1. AWARDING OF GRANT TO GEORGE WASHINGTON UNIVERSITY.

(a) Authority.—There are authorized to be appropriated $50,000,000 to enable the Secretary of Health and Human Services to award a grant for the construction or renovation of a medical facility at the George Washington University to be utilized as a National Emergency Care Center.

(b) Non-Federal Contributions.—The Secretary of Health and Human Services shall not make a grant under subsection (a) unless the intended recipient of the grant provides assurance satisfactory to such Secretary that such recipient will make available (directly or through donations from public or private entities) non-Federal contributions equal to the amount of the grant provided under such subsection.

ORPHAN DRUG AMENDMENTS

HATCH (AND OTHERS) AMENDMENT NO. 2977

Mr. ARMSTRONG (for Mr. Hatch, for himself, Mr. Dodd, and Mr. Lautenberg) proposed an amendment to the bill (H.R. 4638) to revise the orphan drug provisions of the Federal Food, Drug, and Cosmetic Act and the Orphan Drug Act, and for other purposes, as follows:

On page 4, line 12, strike out "July 16, 1990." and insert in lieu thereof "the date of the enactment of the Orphan Drug Amendments of 1990.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON VETERANS' AFFAIRS

Mr. WIRTH. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a markup on Friday, October 12, 1990, at 9:30 a.m., in order to consider reconciliation legislation pursuant to the fiscal year 1991 budget resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. WIRTH. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Friday, October 12, 1990, at 10 a.m., to conduct a markup of a reconciliation package, and at 2 p.m. to conduct a hearing on the nomination of Mary Shannon Brunette, to be an Assistant Secretary of Housing and Urban Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. WIRTH. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on October 12, 1990, at 2 p.m. to consider the budget reconciliation package.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PATRIOTISM AT ECKERD'S

● Mr. GRAHAM. I rise today to commend the patriotism of American companies that are supporting miltiary reservists who are on active duty in the Persian Gulf.

In our region of the country, that patriotism is exemplified by the Jack Eckerd Corp., based in Clearwater, FL.

Mr. President, since the summer, America's attention has been focused on Saddam Hussein's invasion in the Middle East and the effort to restore fiscal sanity at home.

During this busy time, we must not overlook the sacrifices of corporate America in support of American reservists. When companies support the men and women of the military Reserves, their action is much more than a patriotic gesture.

For many families, it means peace of mind for the brave reservists sent halfway around the world to augment our military mission. At home, it means mortgages and tuition will be paid. It means families can put food on the table while breadwinners are gone.

This corporate commitment was brought home to me on September 22, when I joined thousands of volunteers cleaning up our coastline. I helped clean up Tampa Bay that day.

In the Tampa community, like many other coastal areas across the country, many of the cleanup volunteers came from the military. During the cleanup, I met a Marine Reserve officer named Moises Suarez of Tampa.

Mr. Suarez works for the Jack Eckerd Corp., and he told me how much it meant for him that his company offered to maintain his salary if he was called up for duty.

On August 22, the day President Bush activated the Reserves, Eckerd Chairman Steward Turley announced that the company would make up the differential in pay between an associate's military pay and his or her Eckerd salary while on active duty.

The Jack Eckerd Corp. is not alone in supporting our reservists. A survey by the Reserve Officers Association of the United States revealed that some Fortune 500 companies are supporting employees on Reserve duty.

Mr. President, I call attention to the leadership of the Jack Eckerd Corp. as a model for other companies, and challenge them to meet the Eckerd standard.

We salute the dedication of our reservists at home and abroad. Reservists personify America's preparedness and strong defense. And, we salute their employers such as the Jack Eckerd Corp. that stand by reservists when they are called to duty.●

TRIBUTE TO THE FIVE FALLEN FIREFIGHTERS OF ILLINOIS DURING 1989

● Mr. DIXON. Mr. President, in observance of National Fire Prevention Week, I rise today to pay tribute to the courage and the bravery of five fallen firefighters from my State of Illinois.

Each year, more than 2.4 million fires occur in the United States, killing nearly 6,000 people, injuring 100,000 more and causing an average of $10.4 billion in property losses. The great destructive power of fire is obvious from these figures—yet, there are career and volunteer men and women around the United States risking their lives every single day to fight and control these disasters.

Of these firefighters, I honor five Illinois men who gave their lives in the line of duty during 1989. Kelvin L. Anderson of Chicago, Frank A. Cornell of Wood River, Douglas P. Malcach of South Holland, John P. Meisch of Aurora, and Joseph L. Samec of Countryside, all made the ultimate sacrifice in the protection of their communities.

As a member of the Congressional Fire Services Caucus, I am especially sensitive to the needs and dangers facing our firefighters. To their families and colleagues, I extend my heartfelt thanks for their heroic efforts to protect their communities. Their contributions must not be forgotten.●

KENTUCKY S&L INDUSTRY REMAINS STRONG

● Mr. FORD. Mr. President, on Wednesday of this week the Congress finally received an estimate from the administration of the costs required to continue the cleanup of the savings and loan industry for fiscal year 1991—a staggering $117 billion. Whether this amount is borrowed or appropriated, or funded in whole or in part, it represents a tremendous burden for this country that is a direct result of the failed policies of recent years.

Congress has several difficult decisions ahead with respect to the cost and operation of the cleanup, as well as several larger issues relating to the future of the savings and loan industry. But I think we must also remember—and all Americans must be reminded—that the causes of this situation are complex, and the solutions are even more difficult to understand and successfully implement.

When we now think of the S&L industry, we think of symbols and we tend to stereotype any individual or institution affilated with the industry. But we must remember that the S&L crisis was essentially a regional one, although the pain and the suffering is being felt nationwide.

The S&L's in my State are a prime example of the unfairness of the situation. They have not strayed from their traditional mission of providing homeowership opportunities for many Kentuckians, they have remained strong, and they will remain strong into the future. One reason is that since 1973 every Kentucky institutions has been required to possess a Federal charter.

Mr. President, figures recently released which cover the period from June 30, 1989, through June 30, 1990, indicate that while the thrifts in my State are quite healthy, they have been directly affected—just as the entire industry has been affected nationwide—by the actions of certain individuals in a particular region of the country. Total income for thrift institutions increased during this period in only five States, and a 32.8-percent loss in income for the thrifts in my States was the eighth best ranking in the country.

But that is the bad news. The remainder of the story is good news, and I congratulate the savings and loan institutions in Kentucky for their perseverance during these times. Kentucky was among only six States whose thrifts experienced an increase in assets during the past year. Kentucky thrifts were one of only six States to have an increase in loan volume during this period. And they have continued to maintain a very healthy capital ratio—6.42 percent of tangible capital, the eighth best rating in the country.

Mr. President, there is a lesson in these numbers, I believe, and it should not be missed as we debate the future of this industry. Those institutions, and indeed those States, which did not stray from their mission and which were managed in a proper manner, continue to remain healthy and play an important role in providing, home ownership opportunities. As we consider any future proposals, we should remember not to penalize those who have followed the rules and continue to play a beneficial role for our economy.

Once again, I congratulate the savings and loan industry in Kentucky. I believe that we can learn from them as an example, and we must adequately consider their current situation when contemplating any future action.●

VISIT OF UKRAINIAN OPPOSITION LEADER MYKHAILO HORYN TO WASHINGTON

● Mr. DECONCINI. Mr. President, I recently had the opportunity to meet with Mykhailo Horyn, a leading member of the opposition in the Ukrainian Parliament, Chairman of the Secretariat of the Popular Movement of Ukraine [Rukh], and a former political prisoner whose plight had often been raised by the Helsinki Commission, which I chair, and by many of our colleagues in the Senate. During our discussion, Mr. Horyn described the dramatic changes occurring in Ukraine today—changes which will have a profound impact on the future of the entire Soviet Union. Mr. Horyn, who stands in the forefront of democratic changes in the Ukraine and who echoes the growing sentiment for Ukrainian independence, rejects a Soviet federation in favor of horizontal ties between the republics, thus eliminating the need for a center. He envisions an independent, neutral, and democratic Ukraine which guarantees equal rights to all minorities. Mr. Horyn, and the democratic opposition that he represents, favors taking an evolutionary and parliamentary path to achieve an independent Ukraine.

In view of the important developments occurring in the Ukraine today and their implications on our own foreign policy, I ask that the full text of an October 2 Christian Science Monitor article by Linda Feldmann be printed at this point in the RECORD. Ms. Feldmann presents the issues facing the Ukraine clearly and concisely.

The article follows:

TESTING GORBACHEV'S PATIENCE

(By Linda Feldmann)

Leon Trotsky once said there could be no Russia without the Ukraine. Today, Alexander Solzhenitsyn is calling for creation of a Great Russian state made up of the three Soviet Slavic republics—Russia, Byelorussia, and the Ukraine.

Rubbish, says Mykhailo Horyn, who has been saying this his whole life to such suggestions.

The slight, bushy-haired Ukrainian's mission to establish an independent Ukraine has cost him a total of 12 years in prison camps. Most recently, that mission brought him to Washington for meetings at the White House, State Department, Treasury Department, AFL-CIO, and with constitutional lawyers.

Back home, as the Ukrainian movement for full independence gains support, Mr. Horyn's mission increasingly could mean Soviet President Mikhail Gorbachev's worst nationalist nightmare. The Ukraine is the second-largest Soviet republic, with 52 million people, and is crucial to the geographical and economic integrity of the Soviet Union.

In a sense, President Gorbachev brought this upon himself. In 1987, under his policy of liberalization, Horyn was released from prison. Now Horyn is nearing the top of the Ukraine's pro-independence popular movement. Rukh, which controls 147 of 450 seats in the Ukrainian parliament. Currently in charge of Rukh's day-to-day political direction, Horyn is expected to be elected chairman of the movement at its congress this month.

That would itself be a sign of the times, Rukh's current chairman, poet Ivan Drach, was until recently a member of the Communist Party—a point that helped make him an acceptable compromise choice for leader a year ago when Rukh was formed. But that fact "doesn't go down well now in this radicalizing situation," says Adrian Karatnycky, author of a forthcoming book on Soviet nationalities, "The Hidden Nations."

"In six months, Horyn will be forming a new government" in the Ukraine, Mr. Karatnycky predicts. Such statements invite the comparisons to Lech Walesa that have become increasingly common. On first impression, the soft-spoken Horyn doesn't seem like the larger-than-life Polish activist, but in a Monitor interview he displayed the kind of absolute conviction that has won him many supporters—even in the more Russified eastern Ukraine.

MAJORITY FAVORS SECESSION

One of Rukh's biggest challenges is to unify a republic that is divided between the western region, where Ukrainian language and culture dominate, and the larger eastern area, where one hears much more Russian than Ukrainian, at least in the cities.

According to Horyn, of the Ukraine's 52 million people, 11 million are Russian and 5½ million Russian-speaking. Other figures put the ethnic breakdown of the republic at closer to 40 percent non-Ukrainian. Regardless, Horyn dismisses the notion that Ukrainians who don't know their native language or traditions lack the intensity needed to fuel a drive for independence.

"We felt for a long time that national consciousness was dictated by language, but we have realized this is not so," says Horyn, who is from the western Ukrainian city of Lvov.

"I came across this phenomenon speaking in very large factories in Kiev. There I met with the view that we shouldn't rush with this process of 'Ukrainianization,' of bringing in the Ukrainian language. This was already attempted in our history, with Russification. The workers said, 'Let's not repeat the same experience with Ukrainianization.'

"But on the question of creating a national state," Horyn continues, "the workers said, 'We all support you on this.' "

Horyn also cites a July opinion poll of Kiev residents, conducted by the research arm of Lvov's Rukh-controlled government, that shows 57 percent support Ukrainian secession. But, say some Ukrainian-American activists, it is likely that many of these people favor secession largely because they want to escape the collapsing Soviet economy.

Rukh has staged several events this year designed to heighten Ukrainian national awareness and unity. In January, it organized a "human chain" of up to 500,000 people stretching from Lvov and Ivano-Frankovsk to Kiev. This summer Ukrainian youths participated in a month-long "culturological walk" to villages in eastern Ukraine to hold meetings, bonfires, and rallies designed to inform people about Rukh and Ukrainian history and traditions.

In early August, a half million people (half from western Ukraine) gathered in Zaporozhye to celebrate the 500th anniversary of the Ukrainian-Cossack state—a kind of "Ukrainian Woodstock," one observer called it. Horyn calls it "a revelation." A one-day general strike, centered in Kiev, was scheduled to take place Oct. 1 to protest a new, Gorbachev-proposed union treaty for all the Soviet states.

"I had thought that national revival would take 10 to 15 years," he says. "Apparently, it will take only 10 months."

Overall, Rukh's priority is the economy. Regardless of the republican parliament's recent declaration of Ukrainian sovereignty and adoption of a law on economic independence, the Ukrainian economy remains tightly woven into the Soviet economy.

At this point, the main aim is to preserve the Ukraine's existing economic connections with the other republics of the Soviet Union, while bypassing the central control mechanisms, says Horyn. The Ukraine has sent delegations to the republics to work out bilateral agreements on economic cooperation.

"For now, our economy will be oriented eastward; but we will eventually reorient toward the West and try to enter the 'common European home,' " says Horyn, using one of Gorbachev's stock phrases.

Critics of Rukh worry that the movement, run by freed dissidents and intellectuals who by definition lack experience in governing, is almost dangerously naive in its hard push for complete independence.

In a meeting with Treasury officials here, Horyn says he encountered a preference there for maintaining the "unitary state" of the USSR to serve as a stabilizing factor in Europe and the world. But at the White House, he says, "there was a certain understanding of what the Ukrainians want."

CASE FOR INDEPENDENCE

Horyn rejects the idea that, in the eyes of the U.S. government the Ukraine has a weaker legal case for independence than the Baltic republics, whose 1940 annexation was never recognized by the US. He argues that the Ukraine is actually in a stronger position than Lithuania, Estonia and Latvia: Ukraine has its own seat in the United Nations and the Baltic states do not.

Never mind the fact that gaining separate seats in the UN for the Ukraine and Byelorussia was a maneuver by Stalin that had nothing to do with recognizing Ukrainian independence, Horyn says. The fact remains that the U.S. by going along with Stalin recognized the Ukraine's separateness as a nation.

Rukh now hopes to make something out of that UN seat, a move that would challenge Gorbachev at his own game of boosting the UN's image and importance. Horyn says the Ukraine wants to replace the Moscow-appoinited Ukrainian ambassador and send its own envoy—"someone who will represent the interests of the Ukraine and not those of the empire."

So far, that hasn't happened.●

THE ANTIDRUG APPLE CORPS

● Mr. DECONCINI. Mr. President, during the week of October 20 to October 28 communities all across our Nation will celebrate "National Red Ribbon Week for a Drug-Free America." It is an opportunity for Americans throughout this land to stand up with a powerful message that drug trafficking and drug abuse will not be tolerated.

The red ribbon campaign was started in 1985 after the tragic death of

Drug Enforcement Administration agent, Enrique Camarena. Agent Camarena, who was in Mexico investigating the Caro Quintero drug organization, was kidnapped off the streets of Guadalajara, brutally tortured and killed. At the memorial service DEA agents and other law enforcement officers wore red ribbons as a symbol of their promise to continue efforts to stop the flow of drugs into the United States. The week of October 20–28 is a time when this Nation's citizens can continue that commitment and join forces for a drug-free America.

Mr. President, I would like to take this opportunity to bring to the attention of my colleagues a new and innovative program in Arizona that is committed year-round to helping our young people reject illegal drugs. The Antidrug APPLE Corps began exactly 1 year ago, in October 1989, when Maricopa County Attorney Richard Romley spearheaded an effort to prevent money earmarked for Arizona arts organizations from being taken away and used for drug enforcement. Mr. Romley made a very convincing argument to Arizona State legislators that the criminal element should not be allowed to take away arts programs which bring so much creativity and vitality to our communities. Instead, an idea was born that called for arts organizations to establish programs with an antidrug theme and take them into our communities and our schools.

The program brings together a highly unusual coalition of artists, private enterprise, prosecutors, law enforcement, and educators [APPLE]. This exceptional partnership takes a very creative approach—that presenting an antidrug message through the arts, specifically through plays, art work, music, and stories, can be a very powerful tool in helping our students say "no" to drugs.

This year the Antidrug APPLE Corps is awarding $20,000 in funding to support new arts programs with an antidrug message for use in Arizona schools. The funds, which are being made available by the Maricopa County attorney's office, come from assets seized by law enforcement officers from drug dealers and therefore allowed by Federal law to be used to fight the drug war. The five projects chosen are:

Arts Genesis, Inc.: Arts Genesis, with San Ignacio Yaqui Council, Pascua Yaqui Tribe Social Services Department, and La Frontera, will work on a program focused on creativity, choice-making, self-esteem and positive peer support as the core of a substance abuse prevention model for teenagers.

Childsplay, Inc.: Childsplay, together with Camelback Behavioral Health Services, is focusing on equipping elementary age schoolchildren and their parents with the knowledge and skills necessary to make informed choices regarding drug use, not just parroted responses.

String Sounds: String Sounds, with assistance from the Substance Abuse Department of the city of Phoenix and the DARE [Drug Abuse Resistance Education] Program, is working on presentation of an original story in play form.

Tucson Symphony: The Tucson Symphony will research and develop a musical program supporting BABES [Beginnning Alcohol and Addictions Basic Education Studies].

Very Special Arts Arizona: Very Special Arts Arizona, with the Westcenter Treatment Center and The Third Street Kids, is working on a multi-element program that would help teachers present substance abuse prevention courses of study. These courses would enable teachers to help students develop a strong self-image to counter negative peer pressure. The project will also offer a drama focusing on a family with a drug problem.

I believe, like President Bush, that the war on drugs will ultimately be won neighborhood by neighborhood, block by block, family by family. I believe it will also be won through innovative programs like the Antidrug APPLE Corps which is harnessing some of the best minds from the arts, education, business, and law enforcement in a concerted and creative effort to convince our children that, when it comes to drugs, the best word in the English language is clearly and unequivocally "No."●

ARMENIAN ASSEMBLY HONORS SENATOR DOLE

● Mr. D'AMATO. Mr. President, on September 29, I had the honor to participate in a dinner in New York City sponsored by the Armenian Assembly—one of the largest Armenian-American groups—to honor Senate Republican Leader Bob Dole.

As one of the speakers at the dinner noted, there was good news and bad news that night. The good news was that the assembly, and more generally the Armenian-American community, was honoring Bob Dole, one of the leading political figures of our Nation, and a special friend to that important community.

The bad news was that, just because Senator Dole happens to be a central figure in the decisionmaking process here in Washington, he could not be at the dinner himself, since he was closeted through the long hours of that weekend in the budget summit and related negotiations.

Obviously, all of us at the dinner were disappointed that Senator Dole could not be there. But we all recognized that one reason Bob Dole is someone who truly deserves to be honored is because of his dedication to meeting his responsibility and doing the people's work.

And even in his absence, it was obvious to see, and hear, and feel the enormous admiration, respect, and affection felt by the Armenian-American community for Bob Dole.

So many fine tributes were paid to Senator Dole that evening that I could not put all of them into the Record. But I would like to include the text of the keynote tribute, given by a very prominent Armenian-American, Dr. Gregory H. Adamian, the president of Bentley College, of Waltham, MA.

The address speaks for itself, and in so doing speaks volumes about Bob Dole and about his unique contributions to the causes of Armenian-Americans. I hope all of my colleagues will take a few moments to read Dr. Adamian's speech. They will see reflected in it the Bob Dole that we, too, admire and respect and call our friend.

The speech follows:

Armenian Assembly, Plaza Hotel, New York City, September 29, 1990, Speech by Dr. Gregory H. Adamian, Bentley College President

Mr. Hovnanian, Chairman of the Board of the Assembly, Levon Ter-Petrossian, President of Armenia, our distinguished honoree in absentia, Senator Robert Dole, Senator D'Amato, Senator Pressler, head table guests, members and supporters of the Armenian Assembly, fellow Armenians and friends.

All of us attend dinners and banquets regularly for a variety of worthwhile and noble causes, but my friends, today is a very special and auspicious occasion even though the Senator cannot be with us. We gather tonight to pay tribute to an unusual man—a man who wears the mantle of minority leader of that august body, the United States Senate, which has produced some of the greatest political leaders of our nation in the ranks of which our guest certainly belongs.

This man we honor, Robert Dole, is no ordinary Senator representing his home state of Kansas. The word some people use to refer to legislators in Washington—politician—is not an adequate or proper designation for Robert Dole. On the contrary, he stands strong, resolute, a pillar of unqualified integrity, deeply committed to the political process, to truth and justice, to the people of these great United States and to the preservation of the values that make America the envy of the world. Ladies and gentlemen, we call this rare individual a statesman extraordinary.

Senator Dole's record of service on the local, state and national level is a long and distinguished one. He began that service in the Second World War, as so many men and women of our generation did. In the waning days of the war he was severely wounded, and spent years recovering. Many have observed, and Senator Dole himself admits, that this traumatic ordeal prepared him as few others could have for the rigors of life, and instilled in him the unflagging determination that has characterized his public career.

Bob Dole received his undergraduate and law degree from Washburn University in Kansas. He went to Washington as a congressman in 1960 and was an early supporter of civil rights legislation. After moving to the Senate in 1968, Bob Dole became known as a skillful and pragmatic legislator who won the admiration of members of both parties. He has served as majority leader of the Senate and is currently minority leader. He has been a candidate for vice president and a candidate for the nation's highest office.

Senator Dole's voting record reflects his own personal philosophy of the role of government that avoids a rigid ideological position on any set of issues. While he is generally considered a conservative, he has supported several important initiatives in keeping with his notion that "conservatism can be compassionate." He has consistently advocated assistance to the deserving poor, and funding of programs to aid the physically handicapped. His has also been a voice for tax equity and compromise in the budget battles that have become so common on Capitol Hill in recent years. His talent and leadership, in fact, demand his presence tonight in Washington as the joint budget commission seeks to forge a spending and tax plan for the fiscal year that begins on Monday. It is fair to say that Senator Robert Dole is one of our nation's most distinguished political leaders, and will continue to be so for years to come.

In 1983, consistent with his record for compassion, he established a foundation dedicated to promoting economic independence for people with disabilities, The Dole Foundation for Employment of People with disabilities. Another example of the rare qualities of this man. As you know, the net proceeds from the banquet are being shared equally by the Dole Foundation and the Armenian Assembly Relief Fund, two notably worthy organizations.

His initial contact with Armenians took place after sustaining that traumatic injury in World War II. Dr. Hampar Kelikian was instrumental in his recovery through extraordinary skill and at the same time informed the young soldier of the trials and tribulations of the Armenian people. He was so deeply touched by Dr. Kelikian's caring and compassion that he developed a curiosity and sensitivity to the plight of Armenians. After the earthquake of December 7, 1988 struck, the greatest tragedy to befall the Armenian people since the Genocide of 1915, he visited Armenia with his wife, Secretary of Labor Elizabeth Dole and a US delegation. He saw for himself the ravages and the damage that had in effect destroyed one-third of Armenia, the motherland of Dr. Kelekian, who had made such a profound impression upon him.

Senator Dole, because of the high esteem in which he is held by Republicans and Democrats alike, took the lead in persuading his colleagues of the urgency of the situation and the need for America's financial assistance. Ten million dollars was voted for organizations in the United States to render aid to the Armenian people following this horrendous calamity. In time, we hope that even additional support will be forthcoming.

How ironic that this tiny island of Christianity, the remains of a once proud empire, surrounded by Moslem Azerbaijan, Turkey and Iran, and doormat of rival empires for centuries, should once again face a crisis of intolerable proportions. In its 2,500 years of turbulent existence, while the Byzantines, the Cilicians, the Mongols and the Phoencians, their adversaries and contemporaries faded into oblivion—the Armenian people struggled, endured and never surrendered their faith. And my friends, they will survive even this latest calamity with the continued aid from Armenians in the diaspora, as well as from nations around the world.

The stalwart Senator from Kansas has acted as Armenia's gadfly in prodding the administration about the Nagorno Karabagh territorial dispute and the violation of the rights of Armenians in Karabagh, an autonomous enclave within Azerbaijan that was historically part of Armenia. As we all know full well, Soviet Armenia's lack of international standing does not enable it to denounces effectively the violations of its citizens' rights, especially in the midst of a holy war so reminiscent of the past. The blockade by Azerbaijan is crippling an already devastated economy in Armenia. The Soviet army, ostensibly in Azerbaijan and Armenia to prevent violence is, in fact, for political reasons apparently taking the side of Azerbaijan rather than protecting the rights of Armenians. Senator Dole and his colleagues have raised these issues with the administration. With the Soviet Empire in the throes of dissolution, open talk of democracy and freedom, as well as the rush to a free market economy, events that just a few years ago were unthinkable much less national aspirations, have created a faint glimmer of hope that justice will triumph even though Armenia is, as usual on the side of right but without might. Small in territory and numbers, but overwhelming in spirit and determination, Armenia's greatest challenge is to rebuild its economy in the face of the Moslem threat and Moscow's apparent indifference.

And finally, ladies and gentlemen, we honor Senator Robert Dole tonight because of the courage and tenacity he displayed in the Senate as the champion of joint resolution 212 designating April 24 as National Day of Remembrance of the 75th Anniversary of the Armenian Genocide. Unfortunately, this resolution failed in a very close vote. However, Senator Dole's persistence, integrity, passion for justice and the acknowledgement of truth and history flooded the Senate Chamber like a burst of light. But too many closed their eyes.

His powerful eloquence and forceful logic clearly described what we as Armenian/Americans have been trying to convince the world to acknowledge for so many years. I have had the privilege of speaking on the subject of the Genocide on countless occasions. Today however, I would prefer to quote Senator Dole as he stood before his colleagues and spoke with such passion and conviction on this subject which is a gnawing part of every person of Armenian origin, because each of us somewhere had family or ancestors that experienced the pre-meditated murder of our nation.

He said on the Senate floor—and I quote: "There should be no negative repercussions since this resolution in no way criticizes the Turkish Republic or the current government, nor suggests any culpability on the part of the people of modern day Turkey for what happened so many years ago. Some suggested that if this resolution was adopted it would lead to great turmoil between the United States and Turkey. This is not the intent of the resolution. I certainly have a high regard for Turkey and I understand their importance as a NATO ally." This, I might add, has been recently illustrated by Turkey's support of the United States and most of the world in its stand against Iraqi aggression against Kuwait.

The bottom line, he said, is that the resolution is not pro-Armenia. It is certainly not anti-Turkey. It is a resolution that reminds us all of the incredible human suffering that Genocide brings and by reminding us helps insure that this kind of tragedy should never be allowed to happen again.

This is a simple question of what is right or wrong, not who has the most influence, who has the most lobbyists, who has the most money. No one disputes that there was a genocide in Nazi Germany. But no one makes a claim that such a genocide means that the present day German Government or its people are responsible. We decided there was a Genocide in Germany even before its last potential victims were liberated. We decided that there was a genocide in Cambodia even as the genocide was taking place. And it is high time we acknowledge a genocide which occurred in the Ottoman Empire before the fact of its occurrence is lost to history. The overwhelming weight of documentary evidence of this period supports the fact that there was a genocide even though the term was not used in 1915–23. It was coined in 1946.

In spite of the tremendous lobbying against this resolution by some of the Senate leadership and the US State and Defense Departments—some corporations and some governments who should know better, and I would be embarrassed to identify them in public. Senator Dole stood his ground while others flip-flopped—originally sponsoring the resolution and then when the pressure built—surrendering their integrity for expediency. The saying that politics makes strange bedfellows was never more appropriate. My friends, the unwillingness to cave in when issues of principal and truth are involved is what distinguishes a statesman from a politician.

We understand, but it is unfortunate, that the Senator was unable to be at his tribute and to see and feel this magnificent display of warmth and gratitude. We in the Armenian/American community are privileged to call Robert Dole a statesman and our friend, our "paregham." Thank you.●

TRIBUTE TO DR. GRACE R. CAVANAGH

● Mr. D'AMATO. Mr. President, I rise today to pay tribute to Dr. Grace Cavanagh, who will be honored by the Special Citizens Futures Unlimited, Inc. for her outstanding work as an administrator in the education of the handicapped.

On November 1, 1990, Dr. Cavanagh, principal of the Bronx Comprehensive Program for Autistic Children, will be honored at a testimonial dinner, at which time it will be announced that the agency is naming a residence for autistic adults in her honor.

Dr. Cavanagh has devoted her entire professional life to education. Her first teaching job was at P.S. 47, the junior high school for deaf students. After 5 years at P.S. 47, she spent 9 years as a guidance counselor before going into administration at the Board of Education. She left to start the highly regarded P.S. 176 for autistic children in the Bronx.

The education of our Nation's children is one of the most vital issues of our time. Dr. Grace Cavanagh's efforts on behalf of the handicapped are both commendable and inspiring. Her dedication and commitment to the students at P.S. 176 should serve as a shining example to all of those in the field of education.●

EVENTS ON THE TEMPLE MOUNT

● Mr. **MOYNIHAN**. Mr. President, violence and death have once again shattered the peace of Jerusalem. Since Israel reunited Jerusalem in 1967 it has compiled a distinguished record of protecting the religious rights of persons of all faiths. This record is in sharp contrast to the Jordanian record of the previous 20 years, a period during which Jews were denied all access to their holiest shrines. The Israeli Government's goal of protecting the rights of every faith has been made all the more difficult by the extraordinary proximity of Jewish and Muslim holy sites in Jerusalem. Yet, for the past 23 years persons of both faiths have enjoyed full freedom of religion, as have Christians. This strong commitment to tolerance was again exhibited when Israel authorities went to court last week to prevent a small Jewish group from holding a ceremony on the Temple Mount.

Israeli authorities were rewarded for their successful efforts to prevent the disruption of Muslim worship with a rain of stones and debris thrown from a considerable height at thousands of Jewish worshippers at the Western Wall. Having been allowed to worship in peace, Palestinians nonetheless attacked Jews in devout and peaceful worship.

Mr. President, exactly what happened next is not yet known, and I welcome the Israeli Government's decision to conduct an inquiry. There appear to be good grounds to believe that, although severely provoked, the Israeli police were ill-prepared to handle the crisis. The deaths and injuries of Palestinian protesters is deeply regrettable and, I am sure, is deeply regretted by the Israeli Government.

I am concerned, however, by reports that the United States is willing to consider supporting a plan to send United Nations' observers to Jerusalem. I have grave doubts as to whether this would be a constructive step at this time. Such an observer mission might in fact prove to be a catalyst for violence. It seems almost inevitable that those who oppose dialog and accord would use the occasion of an observer mission to engage in provocative acts, hoping thereby to cause the very violence which they claim to abhor.

Moreover, an observer mission presumes the neutrality of the observers. Yet one cannot help but wonder whether the institution which declared zionism to be a form of racism and racial discrimination can in any sense be considered an impartial party. To the contrary. It has, as an institution, firmly allied itself with the most odious propagandistic claim of one party to this conflict. I urge the administration to vigorously oppose this proposal.●

RESOLUTION TRUST CORPORATION FUNDING ACT OF 1990

● Mr. **KERRY**. Mr. President, this morning the Banking Committee held a markup in which it considered the Resolution Trust Corporation Funding Act of 1990. While the act passed on voice vote, I asked that I be recorded as having opposed the provision.

I would like to explain my vote to oppose the measure.

Mr. President, the savings and loan crisis is the most significant financial crisis that has confronted this country since the Great Depression.

Some have estimated that the cost, spread out over many years, could reach as high $500 billion. One thing is certain, the administration has consistently revised upward its estimate of what the clean-up will cost. The record is clear. The midyear estimate by the Treasury Department projected the total clean-up cost would reach $62 billion by the end of fiscal year 1991. Two weeks ago the administration revised the figure in the budget negotiations to $88 billion. Chairman Seidman has placed the figure at $100 billion. And yesterday the figure rose to $117 billion.

The figure of $117 billion contemplates $60 billion in short-term borrowing and $57 billion which the Banking Committee is being asked to authorize.

Although invited by the committee to appear, Secretary Brady chose to send Under Secretary Glauber to discuss the needs of the RTC. On October 10, Secretary Brady did send the committee a 2 page letter, indicating that the Congress should approve an additional $57 billion. The Secretary's only justification for the funds was only that Chairman Seidman had indicated that this was the amount required and that, if it was not received, the RTC would be forced to cease operations within the next 2 months. The Secretary is trying to hold a gun to the head of the Congress.

However, I cannot in good conscience vote to authorize an additional $57 billion of taxpayer money when the Secretary of the Treasury cannot come before the committee and justify every cent of his request.

Nor can I vote to authorize $57 billion because I believe the administration has not presented the American people with a clear view as to how this money will be raised. The proposal for new funds is that they be placed on budget, but will not count against Gramm-Rudman. This may be politically palatable, but the fact is that it makes a mockery of the budget process. It is grossly misleading to the American people.

Nor can I vote to authorize additional funds for the S&L bailout because I do not believe that the cost for the S&L collapse should be placed on the average wage earner who had nothing to do with the crisis at hand, but who is being forced to fork over their hard earned dollars.

Nor can I vote to authorize additional funds for the S&L bailout because I do not believe that the taxpayers in the Northeast should be bailing out the residents of the Southwest. Most of the failed S&L's were located in the Southwest. Most of them were State regulated. Most of the deposits were from the region and most of the benefits went to the region. But a disproportionate share of tax dollars are coming from the Northeast given the dearth of S&L failures in the region. That does not seem right to me; $57 billion is a lot of money. The administration should not dare to ask for it and Congress should not dare to appropriate it until every cent can be fully justified.●

CENSUS SHOULD BE ADJUSTED

● Mr. **RIEGLE**. Mr. President, I rise today to express my strong support for Senate Resolution 338 which expresses the sense of the Senate that the Secretary of Commerce should make available statistical adjustments to reflect the undercount in the 1990 census data by April 1, 1991. To meet the needs of tomorrow we need an accurate and complete count today. This resolution requests that the Secretary of Commerce release the adjusted census data no later than April 1, 1991, in order to avoid complications with respect to formulating redistricting plans and to make sure that Federal dollars are distributed fairly.

When the preliminary census figures were made available it became quite clear that large segments of our Nation had not been counted. The Commerce Department announced plans to consider adjusting the census figures through an alternative methodology. A final decision on whether to adjust the census will not be made until July 15, 1991. Unfortunately, the Census Bureau plans to release population figures April 1, 1991, so the States can begin redistricting. Thus some States will be working on their redistricting maps and reshuffling their assistance programs well before the adjusted figures are released. This delay will allow some officials to ignore adjusted figures even if they become available, and that will increase the number of lawsuits that typically result from redistricting.

The Census Bureau has made considerable progress in reducing the undercount. In fact, the 1990 census count of the homeless was the first attempt at obtaining a snapshot of America's silent population. In Michigan, every effort was made by local communities to cooperate and assist the Census Bureau in their efforts to obtain an accurate count. Currently in Michigan estimates of the number of homeless range from 30,000 to over 90,000, while national figures range from a quarter of a million to 3 million.

Although the Census Bureau has made significant progress in reducing the undercount, the fact still remains that many people are undercounted. Just this month Detroit volunteers found 11,000 more residents who were missed by the U.S. Census Bureau. For several weekends, city workers and volunteers have walked door to door in several areas where they believed residents may have been missed by Government enumerators.

In my home State of Michigan the preliminary census figures indicate that there are 9,180,000 people living in Michigan. That projection falls far below our estimate of 9,363,000. These figures for Michigan indicate that small cities, towns, and counties have also experienced significant population undercounts. These preliminary population projections may represent as much as $30 million lost Federal dollars to the State of Michigan.

Undercount results for several reasons. First, individuals who do not have a fixed residence often go uncounted because there is a problem identifying special places or group quarter occupants. These facilities include such places as dormitory housing units, jails, and prisons. Second, the questionnaires are not always answered accurately. And finally, for a variety of reasons, many people simply do not return the questionnaire.

Large and small cities alike are challenging the preliminary data. Clio, MI is a closely knit 1-square-mile city with 2,125 registered voters. This city is strongly dissatisfied with the preliminary census count of 2,551. Clio area schools report that they have 2,125 voters plus 509 school age children within their city limits for a total of 2,634 people. When one considers that this number does not include unregistered voters and preschoolers, the census count of 2,551 does not seem reasonable. To further illustrate the need to readjust the count in a timely matter, I have been notified by the city council for the city of Swartz Creek, MI of their formal protest of an undercount of population during the 1990 Census. The preliminary 1990 census indicates 1,985 housing units and an estimated population of 4,837 and these figures indicate a 10-percent increase in housing units with a 4-percent decrease in population. Clearly, a discrepancy exists and should be adjusted.

Mr. President, it is no great secret that errors in the census count have historically had a particularly negative impact on inner city minority communities. This has resulted in inaccurate redistricting in and the loss of Federal funds to these communities. In 1980, blacks constituted a majority, 53 percent, of those undercounted despite only representing 12 percent of the total U.S. population. These undercounts must not be tolerated in calculating the 1990 census data. With the economic slowdown that many of the States are experiencing the allocation of $30 billion in Federal funds is more important than ever. Furthermore, the fair apportionment of the 435 seats in the House of Representatives is dependent on accurate and complete census data.

I urge my colleagues to join us in sending a strong message to the administration to adjust the data to reflect the undercount and to make that information available on a timely basis.●

RECOGNITION OF GLENDA LUNA'S ACT OF COURAGE

● Mr. **AKAKA**. Mr. President, I rise today to recognize a distinguished resident of the State of Hawaii, Mrs. Glenda Luna, who saved the lives of three young boys.

On July 20, 1990, a unit at the Hawaii Housing Authority project in Lahaina, Maui, caught fire. This fire, which was accidentally started by one of the boys, quickly engulfed the apartment. Without hesitation, Mrs. Luna, who lived in an adjoining apartment, entered the smoke-filled home and singlehandedly rescued David Piutau, Darren Almeida, and Devin Almeida. Today, these three boys owe their lives to this very special woman.

Heroism, Mr. President, is a conscious decision—recognizing the dangers and the consequences, Mrs. Luna acted on her own, undaunted by the flames dancing around her. This courage can only be found within the individual person. Mrs. Luna has this unique courage.

Mr. President, at times the world in which we live seems to lack the moral conscience of our forefathers. This is truly unfortunate. Mrs. Luna's heroic feat is an uncommon occurrence in today's society. As a father and grandfather, I know that the family of the boys is grateful for Mrs. Luna's unselfish action.

The stigma associated with public housing is too often untrue and unwarranted. Violence and crime are not inherent traits of public housing tenants. This negative characterization must be shed. Mrs. Luna saved the lives of her neighbor's children and, thus, disproved this misconception. Society should take note of her courage and learn from her example.

Mr. President, I join the Hawaii Housing Authority in recognizing the act of bravery and selflessness exhibited by Mrs. Glenda Luna on July 20, 1990.●

STEWART B. McKINNEY HOMELESS ASSISTANCE ACT AMENDMENTS

Mr. **WIRTH**. Mr. President, I ask unanimous consent that the Senate proceed to H.R. 3789, the McKinney homeless reauthorization bill.

The **PRESIDING OFFICER**. The clerk will report.

The assistant legislative clerk reads as follows:

A bill (H.R. 3789), to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes.

The **PRESIDING OFFICER**. Is there objection to the immediate consideration of the bill.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2972

(Purpose: To combat homelessness and dependency through the establishment of housing-based family support centers, through the provision of housing-based services to frail elderly individuals and individuals with chronic and debilitating illnesses and conditions, through the provision of residence-based outpatient mental health and substance abuse services, and through the use of grants for the improvement of community development corporations)

Mr. **WIRTH**. Mr. President, I send an amendment to the desk on behalf of Senator KENNEDY and ask for its immediate consideration.

The **PRESIDING OFFICER**. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH] for Mr. KENNEDY, proposes an amendment numbered 2972.

Mr. **WIRTH**. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

AMENDMENT NO. 2973 TO AMENDMENT NO. 2972

(Purpose: To provide for homeless individuals to work on the shelter which is his or her primary nighttime residence by exempting them from the Davis-Bacon Act, the Service Contract Act and any other similar provision of Federal law)

Mr. **ARMSTRONG**. Mr. President, I send an amendment to the desk for Mr. NICKLES and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. Armstrong], for Mr. Nickles (for himself, Mr. Boschwitz, Mr. McConnell, Mr. Symms, and Mr. Armstrong) proposes an amendment numbered 2973 to amendment No. 2972.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new subsection:

SEC. . TO PROVIDE FOR HOMELESS INDIVIDUALS TO WORK ON THEIR SHELTER.

Notwithstanding any other provision of law, the Act entitled "An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes," approved March 3, 1931 (40 U.S.C. 276a(a)), commonly known as the Davis-Bacon Act, as well as the Service Contract Act of 1965 (41 U.S.C. 356), and any other similar provision of Federal law, shall not be required with respect to any homeless individual employed in connection with a project, which is or will be his or her primary nighttime residence and which is constructed, improved, or otherwise assisted under the provisions of this Act or any amendment made by this Act.

Mr. ARMSTRONG. Mr. President, I urge the amendment to the Kennedy amendment be adopted.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2973), was agreed to.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Massachusetts as amended.

The amendment (No. 2972), as amended, was agreed to.

Mr. GLENN. Mr. President, is it the distinguished Senator from Massachusetts' understanding that the three programs included in H.R. 3789—the Interagency Council on the Homeless, the FEMA Emergency Food and Shelter Program, and the Title V Surplus Property Program—are under the sole jurisdiction of the Governmental Affairs Committee and that, therefore, conferees from this committee will be appointed to reconcile the Senate and House versions?

Mr. KENNEDY. My distinguished colleague from Ohio is correct.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 3789), as amended, was passed.

Mr. WIRTH. I move that the Senate insist on its amendments, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees.

The motion was agreed to; and the Presiding Officer [Mr. Ford] appointed from the Committee on Labor and Human Resources for matters within their jurisdiction, Mr. Kennedy, Mr. Dodd, Ms. Mikulski, Mr. Hatch, and Mr. Durenberger; and from the Committee on Governmental Affairs, for matters within their jurisdiction, Mr. Glenn, Mr. Kohl, Mr. Lieberman, Mr. Roth, and Mr. Stevens.

Mr. GLENN. Mr. President, today we have passed H.R. 3789, a bill which will reauthorize two programs in the Governmental Affairs Committee jurisdiction, and which contains important changes to a third, the title V, Surplus Real and Personal Property Program. This legislation is a critical part of Congress' effort to ensure the continued functioning of the Omnibus McKinney Act, a collection of programs that has proven to be very successful over the past 3 years.

Mr. President, over the past 3 years, the homeless problem has become a festering sore on the social conscience of America. There is no escaping the hard facts—millions remain homeless or chronically vulnerable to the condition. Millions more teeter perilously on the edge of personal disaster leading directly to homelessness. Increasingly, the homeless are families, single mothers with children, rural Americans, many of whose relatives or friends are the only thing between them and the street. Studies and surveys all over the country are documenting a catastrophe of untold proportions—the birth of a permanent underclass, composed of mothers and their children, sliding down the same hole of poverty into homelessness, from one generation to the next.

I want to commend the Senate for the action it has taken. I look forward to the speedy enactment of this most important measure by the President.

THE CALENDAR

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate proceed to consideration en bloc of the following calendar items: Calendar 912, 913, 915, 916, and 939; that where applicable, the committee amendments be agreed to and the bills be read for a third time and passed; and the motions to reconsider be laid upon th table.

I further ask unanimous consent that their consideration be shown individually in the Record, and that any statements in relation thereto appear at the appropriate place in the Record, as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONVEYANCE OF CERTAIN LANDS TO TAOS, NM

The Senate proceeded to consider the bill (S. 1831) to direct the Secretary of Agriculture to convey certain lands to the town of Taos, NM, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. CONVEYANCE OF PROPERTY.

(a) Conveyance.—No later than eighteen months after the date of enactment of this Act, the Secretary of Agriculture, (hereinafter referred to as "the Secretary") shall, in accordance with the provisions of this Act, convey by quitclaim deed, all right, title and interest of the United States in the property described in subsection (b), to the town of Taos, New Mexico, (hereinafter referred to as "the town").

(b) Description of Property.—The property to be conveyed pursuant to subsection (a) includes the lands and improvements thereon, commonly referred to as the "Old Taos Ranger District Office and Warehouse" (hereinafter referred to as "the property"). Such property, located in Taos, New Mexico, comprises approximately 0.633 acre, and is more particularly described in the warranty deed dated January 22, 1937, by William T. and Mary E. Hinde, husband and wife, to the United States, recorded in Book A-34, page 415, of the Record of Deeds, Taos County, New Mexico.

(c) Consideration.—In consideration for such conveyance, the town shall pay the United States an amount equal to the administrative costs associated with the preparation of title and legal description of the property, as determined by the Secretary of Agriculture.

(d) Reversion.—Title to the property conveyed pursuant to subsection (a) shall revert to the United States if the town attempts to convey or otherwise transfer ownership of any portion of such property to any other party, or permits the use of any portion of such property for purposes other than those described in subsection (e).

(e) Uses of Property.—The property conveyed to the town pursuant to this Act shall be used solely as a community center or for related public purposes.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. DOMENICI. Mr. President, today the Senate considered S. 1831, a bill to direct the Secretary of Agriculture to convey certain lands to the town of Taos, NM. I am pleased to be a cosponsor of this legislation with my colleague, Senator Bingaman, and congratulate him for his efforts on this important legislation.

S. 1831 directs the Secretary of Agriculture to convey the Old Taos Ranger District Office and warehouse to the town of Taos, NM. The facilities are to be used solely as a community center and for other related public purposes.

It further directs the town of Taos to pay for the administrative costs associated with the conveyance and provides for reversion back to the Government of the property in the event that Taos uses the property for purposes other than those described in the act.

Mr. President, I strongly support the passage of S. 1831. It will provide a much needed community center in Taos that will be enjoyed by many of my fellow New Mexicans. I hope my colleagues in the Senate will join me in supporting this bill.

PECOS NATIONAL HISTORICAL PARK EXPANSION ACT

The Senate proceeded to consider the bill (S. 2165) to establish the Glorieta National Battlefield in the State of New Mexico, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clauses and inserting in lieu thereof the following:

SECTION I. SHORT TITLE.

This Act may be cited as the "Pecos National Historical Park Expansion Act of 1990".

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.—The Congress makes the following findings

(1) the Civil War battle of Glorieta Pass, New Mexico, fought on March 26-28, 1982, was the most decisive battle of the Civil War in the Far West, prompting some historians to label it the "Gettysburg of the West";

(2) the battle was particularly significant since following the Confederate defeat at Glorieta Pass, the Confederate grand design to capture the riches and support of the West collapsed as the Confederate forces withdrew from New Mexico and the Rocky Mountains, thus largely ending the Civil War in the West;

(3) although proposals have been advanced for Government protection of the battlefield sites, the areas has not been protected and is subject to a variety of impacts and threats to the integrity of the historic scene;

(4) the campsite and headquarters of the Union forces during the Battle of Glorieta are currently within the boundary of the Pecos National Historical Park;

(5) the purpose of the Pecos National Historical Park is to interpret the significant prehistoric and historic events which have occurred in the area; and

(6) expanding the Pecos National Historical Park to include the most significant sites of the Battle of Glorieta will enhance the ability of the National Park Service to interpret the battle and improve visitor understanding of the Civil War in the Far West.

(b) Purpose.—The purpose of this Act is to recognize the national significance of the Battle of Glorieta and to provide for the interpretation of the battlefield by establishing a new unit of Pecos National Historical Park at the two primary battlefield sites.

SEC. 3. ESTABLISHMENT OF THE GLORIETA UNIT OF THE PECOS NATIONAL HISTORICAL PARK.

(a) Establishment.—In order to preserve and interpret the Battle of Glorieta for the benefit and enjoyment of present and future generations, there is hereby established the Glorieta Unit of the Pecos National Historical Park, (hereinafter referred to as "the Glorieta Unit"), comprising approximately 682 acres as generally depicted on the maps entitled "Glorieta Unit—Pecos National Historical Park", numbered 430—80,031 and dated July, 1990, (hereinafter referred to as "the maps"). The boundary of the Pecos National Historical Park, established by an Act entitled "An Act to establish Petroglyph National Monument and Pecos National Historical Park in the State of New Mexico, and for other purposes" (Public Law 101-313, and hereinafter referred to as "The Petroglyph and Pecos Establishment Act"), is hereby modified to include the Glorieta Unit.

(b) Administration.—The Secretary shall administer the Glorieta Unit to preserve and interpret the Battle of Glorieta for the benefit and enjoyment of present and future generations, in accordance with the provisions of this Act, applicable provisions of the Petroglyph and Pecos Establishment Act, and provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-7).

(c) Acquisition.—Subject to the limitations contained in this subsection, the Secretary is authorized to acquire lands, waters, and interests therein within the boundaries of the Glorieta Unit by donation, purchase with donated or appropriated funds, or exchange.

(1) Lands, waters, and interests therein located within the Glorieta Unit outside the "Historic Zone", on the maps referred to in subsection (a), may be acquired only with the consent of the owner thereof.

(2) Lands identified on the maps referred to in subsection (a) as being within the "Historic Zone" may be acquired only by donation.

(d) Transfer.—Lands identified on the maps referred to in subsection (a) as being within unit number 26 in the "Historic Zone" are hereby transferred from the administration of the Secretary of Agriculture to the administration of the Secretary of the Interior, to be managed in accordance with the provisions of this Act.

(e) Management Plan. The Secretary shall incorporate management direction for the Glorieta Unit into the general management plan for the Pecos National Historical Park, including the identification of routes of travel associated with the Battle of Glorieta, and a study of the feasibility of establishing hiking and riding trails and associated facilities along such routes in cooperation with local landowners.

(f) Authorization of Appropriations.—There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to expand the boundaries of the Pecos National Historical Park."

Mr. DOMENICI. Mr. President, today the Senate enacted S. 2165, which will provide Federal protection to the site of the Battle of Glorieta in New Mexico. My colleague from New Mexico, Mr. Bingaman, introduced this bill, and I am pleased to be a cosponsor.

Millions of Americans were enthralled recently by PBS's outstanding documentary on the Civil War. This program increased the public's knowledge of the most turbulent era of our Nation's history and has generated new interest in the sites associated with the war.

Mr. President, I am sure that before "The Civil War" aired very few Americans realized that the Civil War was fought not only in the East but also in the Southwest.

In March 1862, Glorieta Pass on the Santa Fe Trail was the site of one of the western-most battles of the Civil War. The Battle of Glorieta Pass, known as the "Gettysburg of the West," marked the turning point of the Confederate drive to occupy Arizona and New Mexico and thus establish a foothold for control of the far west.

The troops fought to a draw, but the Union forces "won" the battle when a Union regiment snuck behind Confederate lines and burned their supply wagons, thus forcing the Confederates to abandon their campaign.

The bill would establish 682 acres at the site of Glorieta Battle as the Glorieta Unit of Pecos National Historical Park. Pecos National Historical Park was established earlier this year by merging Pecos National Monument with the adjacent Forked Lightning Ranch, which will be soon be donated to the National Park Service by the Conservation Fund. Pecos National Historical Park currently contains the campsite and headquarters of the Union forces that were involved in the Battle of Glorieta.

The Glorieta Unit of Pecos would consist of the Pigeon's Ranch Site and the Johnson's Ranch Site.

Mr. President, I had a concern about the use of condemnation to acquire the lands that would be protected by this legislation. I am pleased that the legislation has been modified to address those concerns and reduce the possibility that condemnation will be utilized.

The site of the Battle of Glorieta is worthy of protection. This legislation will preserve this site and increase the public's knowledge of this important episode in the Civil War. I am pleased the Senate has approved this bill.

ENCHANTED NATIONAL FORESTS INFORMATION AND EDUCATION STUDY ACT

The bill (S. 2527) to direct the Secretary of Agriculture to conduct a study to determine the need for a National Forest Information Center and an expanded environmental education program in New Mexico, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2527

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Enchanted National Forests Information and Education Study Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) environmental education is fundamental to expanding our understanding of the environment;

(2) the natural resources found on national forests in New Mexico, the Land of Enchantment, can contribute to environmental education programs;

(3) the Forest Service plays a vital role in the environmental education of all Americans;

(4) a center to provide information on the national forests in New Mexico would increase public awareness of their national forests, increase participation in management decisions, and improve the public's appreciation of their national forests;

(5) there is not a central facility dedicated to providing information on the national forests in New Mexico to residents and out-of-State visitors; and

(6) in light of the opportunities provided by national forests and the importance of environmental education, it is necessary to identify, through a comprehensive study, the opportunities that are available to provide information to the public on the national forests of New Mexico and to expand the environmental education program for those forests.

SEC. 3. STUDY AND REPORT BY THE FOREST SERVICE.

(a) STUDY.—The Secretary of Agriculture, acting through the Chief of the Forest Service, shall conduct a study of the opportunities to establish a center to provide information on the national forests in New Mexico and to expand the environmental education program for those forests.

(b) REPORT.—Not later than 1 year after the date that funds are made available for the study referred to in subsection (a), the Secretary of Agriculture shall transmit the Study to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(c) CONTENTS OF STUDY.—The study referred to in subsection (a) shall develop alternative means for the national forests in New Mexico to provide information that improves public awareness and participation in management of their national forests and to expand the environmental education program for those forests. Alternatives shall include an information and education center located in or near Albuquerque, New Mexico, and an expanded education outreach program.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carryout this Act.

Mr. DOMENICI. Mr. President, I rise today in support of S. 2527, the Enchanted National Forests Information and Education Study Act of 1990. I am pleased to be a cosponsor of this legislation with my colleague, Senator BINGAMAN, and congratulate him for his efforts on this legislation.

The Enchanted National Forests Information and Education Study Act of 1990 directs the Secretary of Agriculture to conduct a study to determine the need for a National Forest Information Center and an expanded environmental education program in New Mexico.

The names Cibola, Gila, Lincoln, Carson, and Santa Fe remind many of special places we have enjoyed with our families. New Mexicans and many visitors to my great State have long enjoyed the benefits of our National Forests. We are fortunate to have more than 9 million acres of these national treasures in New Mexico.

S. 2527 would provide a way for us to share information about our National Forests with those who visit New Mexico. Further it calls for expanding environmental education programs in the forests to help us better understand our relationships with our environment and our responsibilities use our forests in a responsible manner.

Mr. President, I support the passage of S. 2527. I thank my colleagues in the Senate for supporting this bill.

PREHISTORIC TRACKWAYS STUDY ACT

The Senate proceeded to consider the bill (S. 2684) to authorize a study of methods to protect and interpret the nationally significant fossil trackways found in the Robledo Mountains near Las Cruces, NM, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Prehistoric Trackways Study Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) fossils are important for scientific studies of prehistoric life on earth;

(2) lands administered by the Bureau of Land Management in the Robledo Mountains in New Mexico contain one of the most important fossil discoveries of the 20th century;

(3) discoveries have included prehistoric tracks of amphibians, reptiles, arthropods and insects, extensive plant fossils, and clues to the weather and climate of the period;

(4) fossil footprints that form trackways help scientists recreate the environment and habitat that supported prehistoric life;

(5) nearly one hundred trackways from the Permian Age have been uncovered in the Robledo Mountains;

(6) the trackways are over 280 million years old and they document the emergence of life from water to land;

(7) the trackways are unique in length and represent most taxonomic groups, including many prints of previously unknown animals;

(8) the trackways and other fossils are being lost for scientific study through unsupervised collecting, and commercial quarrying; and

(9) the trackways and fossils found in the Robledo Mountains and surrounding areas should be evaluated for their potential protection and value for scientific interpretation and education.

(b) PURPOSES.—The purposes of this Act are to—

(1) require the Secretary of the Interior to conduct a study to consider appropriate means to protect the discoveries and identify the scientific, interpretive, and public education values associated with the trackways and fossils located in the Robledo Mountains in southeastern New Mexico; and

(2) provide for interim protection of such trackways and fossils.

SEC. 3. INTERIM WITHDRAWAL.

(a) IN GENERAL.—The area consisting of approximately 736 acres as generally depicted on the map entitled "Prehistoric Trackways Study Area" numbered NM 030-01 and dated September, 1990, (hereafter referred to as the "study area") is hereby withdrawn, subject to valid existing rights, from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, or patent under the mining laws, but not from operation under the mineral leasing laws. Such withdrawal shall terminate on the date 2 years after the date the study referred to in section 4 is transmitted to Congress.

(b) MAP.—The map referred to in subsection (a) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management, Department of the Interior.

SEC. 4. STUDY.

(a) STUDY.—The Secretary of the Interior (hereafter referred to as the "Secretary"), in cooperation with State and local governments, and institutions of higher education, shall conduct a study of the alternatives for the protection and interpretation of the fossil resources within the study area.

(2) The study shall include an analysis of the importance of the discoveries at the site and an evaluation of the feasibility of a developing a facility in New Mexico to evaluate, curate, display, and interpret the fossil resources located within the study area.

(3) The study shall recommend the preferred administrative designation for the area, including but not limited to potential designation as a unit of the National Park System, and the appropriate management agency.

(b) TRANSMITTAL TO CONGRESS.—Not later than 1 year after the date that funds are made available for the study required in subsection (a), the Secretary shall transmit such study to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. DOMENICI. Mr. President, I rise today to voice my strong support for S. 2684, the Prehistoric Trackways

Study Act of 1990. I am pleased to be a cosponsor of this important legislation with my colleague, Senator BINGAMAN, and congratulate him for his efforts on this measure.

S. 2684 requires the Secretary of the Interior to conduct a study to identify the scientific, interpretive, and public education values associated with the nationally significant fossils and fossil trackways found in the Robledo Mountains near Las Cruces, NM. It further directs the Secretary to determine the appropriate means to protect the fossils.

The results of the study are to be reported to Congress with a recommendation on the proper administrative designation for the area and the agency that should be designated to manage the area.

The Robledo Mountains contain prehistoric tracks of amphibians, reptiles, arthropods, and insects; extensive plant fossils; and important clues to the weather and climate from the Permian Era dating back to over 280 million years ago. The trackways are unique in length and contain prints of many previously unknown animals.

Mr. President, I want to personally commend Mr. Jerry McDonald, a New Mexico State University graduate student working on a Ph.D., who made this magnificent discovery 3 years ago. Mr. McDonald describes one episode in his discovery this way: "preserved are the dramatic encounters of vertebrates with invertebrates. A fight between a small reptile and it's quarry—a 12-inch-long centipede. Or the deadly antics of a 12-foot vertebrate Pelycosaur and a soon to be squashed cockroach. The battles of vertebrate animals among themselves are preserved like still photographs frozen in time."

The trackways in the Robledo Mountains have already attracted the attention of internationally recognized experts in the field of paleontology. These experts come from such distinguished institutions as the Smithsonian Institution, the Carnegie Museum of Natural History in Pittsburgh, and the Los Angeles County Museum of Natural History.

Mr. President, I strongly support the passage of S. 2684. This important legislation is needed now to study and protect the nationally significant fossil resources discovered in the Robledo Mountains in New Mexico. I thank my colleagues for supporting this important bill.

FORT TOTTEN NATIONAL HISTORIC SITE

The bill (S. 2802) to authorize the establishment of the Fort Totten National Historic Site was considered, ordered to be engrossed for third reading, read the third time, and passed; as follows:

S. 2802

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Fort Totten National Historic Site Act".

FINDINGS

SEC. 2. The Congress hereby finds that—

(1) Fort Totten is one of the best preserved military posts surviving from the Indian wars in the trans-Mississippi west;

(2) Fort Totten has played a significant role in American Indian History, first as an Indian agency for Indians coming to the area and then, from 1890 through 1960, as an Indian industrial school; and

(3) Fort Totten is in immediate need of major repairs and restoration work which are beyond the capabilities of the State of North Dakota and which would be best undertaken by the National Park Service.

ACQUISITION OF HISTORICAL SITE

SEC. 3. In order to preserve Fort Totten, the Secretary of the Interior is authorized to acquire by donation from the State of North Dakota, the real property described in section 4 for the establishment and administration of a national historic site.

DESCRIPTION OF SITE

SEC. 4. The real property referred to in section 3 is that real property known as the Fort Totten State Historic Site located approximately twelve miles southwest of the town of Devils Lake, North Dakota, on the south shore of Devils Lake on the Fort Totten Indian Reservation.

ADMINISTRATION OF SITE

SEC. 5. The property acquired under this Act shall be known as the "Fort Totten National Historic Site", and it shall be administered by the Secretary of the Interior, acting through the National Park Service, in accordance with the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (30 Stat. 535; 16 U.S.C. 1, 2-4) and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467).

GENERAL MANAGEMENT PLAN

SEC. 6. Within two years after the date of the enactment of this Act, the Secretary shall develop and transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Interior and Insular Affairs of the House of Representatives a general management plan for the use and development of the site consistent with the purposes of this section, indicating—

(1) the lands and interests in lands adjacent or related to the site which are deemed necessary or desirable for the purposes of resource protection, scenic integrity, or management and administration of the area in furtherance of the purposes of this section and the estimated cost thereof;

(2) the number of visitors and types of public use within the site which can be accommodated in accordance with the protection of its resources; and

(3) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses.

AUTHORIZATION

SEC. 7. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Mr. CONRAD. Mr. President, I rise today to support enactment of S. 2802. The bill would authorize the establishment of Fort Totten, a former military post and Indian school near Devils Lake, ND, as a National Historic Site.

The bill was reported unanimously on September 26, 1990, by the Senate Committee on Energy and Natural Resources, following a hearing before the Subcommittee on Public Lands on September 20. At the hearing, the National Park Service testified that there are no units of the National Park System like Fort Totten that represent the special attempts by the Federal Government to assimilate native Americans into our culture. The site is therefore unique and nationally significant, and the bill deserves the support of my colleagues.

Fort Totten State Historic Site on the shores of Devils Lake stands as a monument to the relationship between the U.S. Government and the American Indians. From the policy of pacification practiced during the mid-nineteenth century, to the attempt to assimilate Indians into the society's mainstream, to the mid-twentieth century effort to terminate reservations, Fort Totten reflected the Federal responses to the "Indian question."

Fort Totten was founded as a military installation in 1867 and closed as a reservation community school in 1959. It is one of the best preserved military posts surviving from the Indian wars in the trans-Mississippi west. Fort Totten played a significant role in American Indian history, first as an Indian agency for Indians coming to the area and then, from 1890 through 1960, as an Indian industrial school.

To the army during the 19th century, the Devils Lake area appeared as an oasis. As a result of the constant water supply of Devils Lake, the region had rich vegetation, wild game and fish. Because it was remote from the civilized centers of nineteenth century America, however, the Devils Lake region drew few white explorers in its early history. The Indian that sought the game and shelter of the Devils Lake region generally belonged to the great Sioux or Dakota nation, a tribe that traced its relations with white settlers back into the seventeenth century.

The initial spark for military activity was struck with the Great Sioux Uprising of 1862 in Minnesota. The uprising was the culmination of generations of white harassment, broken treaties, and the noticeable absence of the military due to the drain of the Civil War. Gen. Harry Hastings Sibley was sent in to quash the rebellion, and after Congress abrogated all existing treaties early in 1863, many Sioux bands migrated to areas of refuge and security and so the forest and waters of the Devils Lake area became a haven.

The War Department found that killing of whites and depredations to property posed a major threat to the expanding agricultural frontier and thus demanded a positive and forceful reaction. By the spring of 1867, the majority of hostile attacks had been limited to main travel routes, mail carriers, and inter-fort communication routes. Nevertheless, the sporadic harassment of the growing and vital lines of communication and travel became an increasing concern for the military. What had been mostly incident-reprisal warfare between the whites and the Indians became a constant Sioux guerilla war on early trade, supply, and travel routes.

In the summer of 1867, 323 soldiers of the 31st Infantry under the command of Captain Samuel A. Wainwright built Fort Totten about 900 feet from the shore of Devils Lake. From 1867 to 1880, the post served as an important link to a chain of posts that included forts throughout the Dakotas and Montana. The last harrah of real military action for the fort came in 1865 when the northern border regions became insecure as a result of the Riel Rebellion in Canada.

When Secretary of War Redfield Proctor submitted his annual report of 1890-91, he recommended that the fort be closed due to relative calm in the region. The final military unit at Fort Totten, 10 men under the direction of the last post commander, Maj. S.S. Conrad, left the post for Fort Abraham Lincoln near Mandan, ND on December 21, 1890. On the same day all post buildings were turned over to the superintendent of the Indian School at Devils Lake, and the Devils Lake Sioux opened their first school session at the abandoned post on January 19, 1891.

Fort Totten's original function had been the protection of the routes of travel and communication that grew through its jurisdiction. The men who struggled with the harsh earlier life of the prairies went about their duties protecting the first mail and travel routes and escorting the varied mapping, survey, and telegraph and rail crews. In turn, this growth provided an umbrella of protection for new communities. The garrison was a market for the new farms, a store for manufactured foods for the area's population, and a source of new settlers.

The military years of the fort, however, were only a part of the colorful history of the site. The military stage represented only 23 of the 92 years of operation. The Dawes Act of 1887 attempted to make Indians self-sufficient citizens rather than wards of the U.S. Government and emphasized the need for a system of industrial schools to be developed to speed up the process of assimilation. Fort Totten became one of those schools, and its subsequent history is a microcosm of the successes and failures of the Federal relationship with the American Indian.

Fort Totten remains significant, in part, for its magnificent physical survival. It is also significant as a result of the soldiers who lived and survived there and the Indians who struggled with Federal policies toward native Americans. It is significant for the life Fort Totten brought—the towns and farms that now inhabit the region. S. 2802 would recognize that significance by establishing Fort Totten as a national historic site. I thank my colleagues for supporting its enactment.

VACCINE AND IMMUNIZATION AMENDMENTS OF 1990

Mr. WIRTH. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 743, H.R. 4238, a bill to extend various vaccine-preventable disease programs.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4238) to amend the Public Health Service Act to extend various programs with respect to vaccine-preventable diseases.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2974

(Purpose: To provide for a substitute amendment)

Mr. WIRTH. Mr. President, I send a substitute amendment to the desk on behalf of Senator Kennedy and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. Wirth] for Mr. Kennedy, proposes an amendment numbered 2974.

Mr. WIRTH. Mr. President, I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Vaccine and Immunization Amendments of 1990".

SEC. 2. GRANTS FOR IMMUNIZATIONS.

(a) Extension of General Program.—Section 317(j)(1) of the Public Health Service Act (42 U.S.C. 247B(j)(1)) is amended—

(1) in subparagraph (A), by striking "there are authorized" and all that follows in the first sentence and inserting the following: "there are authorized to be appropriated $205,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.";

(2) in subparagraph (B), by striking "after the date" and all that follows and inserting the following: "after October 1, 1990, there are authorized to be appropriated such sums as may be necessary."; and

(3) by striking subparagraph (C).

(b) Demonstration Projects for Outreach Programs.—

(1) In general.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, may make grants to public and nonprofit private entities for the purpose of carrying out demonstration projects—

(A) to provide, without charge, immunizations against vaccine-preventable diseases to children not more than 2 years of age who reside in communities whose population includes a significant number of low-income individuals; and

(B) to provide outreach services to identify such children and to inform the parents (or other guardians) of the children of the availability from the entities of the immunizations specified in subparagraph (A).

(2) Authorization of appropriations.—For the purpose of carrying out paragraph (1), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1993.

SEC. 3. SUPPLY OF VACCINES.

(a) In General.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, shall acquire and maintain a supply of vaccines sufficient to provide vaccinations throughout a 6-month period. Any proceeds received by the Secretary from the sale of vaccines from such supply shall be available to the Secretary for the purpose of purchasing vaccines for the supply. Such proceeds shall remain available for such purpose until expended.

(b) Authorization of Appropriations.—For the purpose of carrying out subsection (a), there are authorized to be appropriated $5,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.

SEC. 4. EXTENSION OF NATIONAL VACCINE PROGRAM.

Section 2106 of the Public Health Service Act (42 U.S.C. 300aa-6) is amended—

(1) in subsection (a), by striking "there are authorized" and all that follows and inserting the following: "there are authorized to be appropriated $4,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995."; and

(2) in subsection (b), by striking "there are authorized" and all that follows and inserting the following: "there are authorized to be appropriated $30,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.".

SEC. 5. TECHNICAL AMENDMENTS.

(a) Section 2111.—Section 2111 of the Public Health Service Act (42 U.S.C. 300aa-11) is amended—

(1) in subsection (a)(2)(A), by striking "unless" and all that follows in that subsection and inserting the following:

"unless a petition has been filed, in accordance with section 2116, for compensation

under the Program for such injury or death and—

"(i)(I) the United States Claims Court has issued a judgment under section 2112 on such petition, and

"(II) such person elects under section 2121(a) to file such an action, or

"(ii) such person elects to withdraw such petition under section 2121(b) or such petition is considered withdrawn under such section.",

(2) in subsection (a)(5)(A), by striking "without prejudice" the second time it occurs,

(3) in subsection (a)(5)(B), by striking "plaintiff who" and inserting "plaintiff",

(4) in subsection (d), by striking "(d) except as provided in paragraph (3)," before "(d) Additional Information", and

(5) in subsection (e), by striking "(e)" before "(e) Schedule".

(b) Section 2112.—

(1) Suspension of proceedings.—Section 2112(d)(3) of the Public Health Service Act (42 U.S.C. 300aa-12(d)(3)) is amended by adding at the end the following:

"(D) If, in reviewing proceedings on petitions for vaccine-related injuries or deaths associated with the administration of vaccines before the effective date of this part, the chief special master determines that the number of filings and resultant workload place an undue burden on the parties or the special master involved in such proceedings, the chief special master may, in the interest of justice, suspend proceedings on any petition for up to 180 days in addition to the suspension time under subparagraph (C)."

(2) Notice.—Section 2112 of the Public Health Service Act (42 U.S.C. 300aa-12) is amended by adding at the end the following:

"(g) Notice.— If—

"(1) a special master fails to make a decision on a petition within the 240 days prescribed by subsection (d)(3)(A)(ii) (excluding (A) any period of suspension under subsection (d)(3)(C) or (d)(3)(D), and (B) any days the petition is before a special master as a result of a remand under subsection (e)(2)(C)), or

"(2) the United States Claims Court fails to enter a judgment under this section on a petition within 420 days (excluding (A) any period of suspension under subsection (d)(3)(C) or (d)(3)(D), and (B) any days the petition is before a special master as a result of a remand under subsection (e)(2)(C)) after the date on which the petition was filed,

the special master or court shall notify the petitioner under such petition that the petitioner may withdraw the petition under section 2121(b) and the petition will be considered withdrawn under such section if the petitioner, the special master, or the court do not take certain actions.".

(c) Section 2113.—Section 2113(c) of the Public Health Service Act (42 U.S.C. 300aa-13(c)) is amended by inserting "the" after "special masters of".

(d) Section 2115.—Section 2115 of the Public Health Service Act (42 U.S.C. 300aa-15) is amended—

(1) in subsection (e)(2), by striking "the Program," the second time it occurs and all that follows through "limited to the costs" and inserting the following: "the Program, in awarding compensation on such petition the special master or court may include an amount of compensation limited to the costs",

(2) in subsection (f)—

(A) in the second sentence of paragraph (2), by striking "section 2121(b)" and inserting "section 2121(a)", and

(B) in the last sentence of paragraph (4)(B), by striking "subsection (i)" and inserting "subsection (j)" and by striking "section 2111(a)" and inserting "the limitation on civil actions prescribed by section 2121(a)", and

(3) in the first sentence of subsection (j), by inserting before the period ", and $80,000,000 for each succeeding fiscal year in which a payment of compensation is required under subsection (f)(4)(B)".

(e) Section 2116.—Section 2116 of the Public Health Service Act (42 U.S.C. 300aa-16) is amended—

(1) in subsection (a)(1)—

(A) by striking "24 months" and inserting "28 months", and

(B) by inserting before the comma at the end the following: "and no such petition may be filed if the first symptom or manifestation of onset or of the significant aggravation of such injury occurred more than 36 months after the date of administration of the vaccine", and

(2) in subsection (c), by striking "and ending on the date a final judgment is entered on the petition" and inserting "and ending on the date (1) an election is made under section 2121(a) to file the civil action, (2) an election is made under section 2121(b) to withdraw the petition, or (3) the petition is considered withdrawn under section 2121(b)".

(f) Section 2121.—

(1) Limitation on actions.—Section 2121(a) of the Public Health Service Act (42 U.S.C. 300aa-21(a)) is amended—

(A) by inserting before the last sentence the following: "If a person elects to receive compensation under a judgment of the court in an action for a vaccine-related injury or death associated with the administration of a vaccine before the effective date of this part or is deemed to have accepted the judgment of the court in such an action, such person may not bring or maintain a civil action for damages against a vaccine administrator or manufacturer for the vaccine-related injury or death for which the judgment was entered.", and

(B) by inserting after "actions" in the last sentence the following: "for vaccine-related injuries or deaths associated with the administration of a vaccine after the effective date of this part".

(2) Withdrawal of petition.—Section 2121(b) of the Public Health Service Act (42 U.S.C. 300aa-21(b)) is amended to read as follows:

"(b) Withdrawal of Petition.—

"(1) A petitioner under a petition filed under section 2111 may submit to the United States Claims Court a notice in writing withdrawing the petition if—

"(A) a special master fails to make a decision on such petition within the 240 days prescribed by section 2112(d)(3)(A)(ii) (excluding (i) any period of suspension under section 2112(d)(3)(C) or 2112(d)(3)(D), and (ii) any days the petition is before a special master as a result of a remand under section 2112(e)(2)(C)), or

"(B) the court fails to enter a judgment under section 2112 on the petition within 420 days (excluding (i) any period of suspension under section 2112(d)(3)(C) or 2112(d)(3)(D), and (ii) any days the petition is before a special master as a result of a remand under section 2112(e)(2)(C)) after the date on which the petition was filed.

Such a notice shall be filed within 30 days of the provision of the notice required by section 2112(g). If such a notice is not filed before the expiration of such 30 days, the petition with respect to which the notice was to be filed shall be considered withdrawn under this paragraph.

"(2) If a special master or the court does not enter a decision or make a judgment on a petition filed under section 2111 within 30 days of the provision of the notice in accordance with section 2112(g), the special master or court shall no longer have jurisdiction over such petition and such petition shall be considered as withdrawn under paragraph (1).".

(g) Section 322.—Section 322 of the National Childhood Vaccine Injury Act of 1986 (42 U.S.C. 300aa-1 note) is amended—

(1) in subsection (a)—

(A) by striking "of title XXI" and inserting "part A or B of subtitle 2 of title XXI", and

(B) by striking "such title XXI" and inserting "both such parts", and

(2) by adding at the end the following:

"(c) Review Under Section 2112(f).—If the review authorized by section 2112(f) is held invalid because the judgment of the United States Claims Court being reviewed did not arise from a case or controversy under Article III of the Constitution, such judgment shall be reviewed by a 3-judge panel of the United States Claims Court. Such panel shall not include the judge who participated in such judgment.".

(h) Effective Date.—The amendments made by subsections (f)(1) and (g) shall take effect as of November 14, 1986, and the amendments made by subsections (a) through (e) and subsection (f)(2) shall take effect as of September 30, 1990.

(i) Authorization of Appropriations.—Section 6601(r) of the Omnibus Reconciliation Act of 1989 (Public Law 101-239) is amended—

(1) in paragraph (1), by striking "$1,500,000 for each of the fiscal years 1990 and 1991", and inserting "$2,500,000 for each of the fiscal years 1991 and 1992",

(2) in paragraph (2), by striking "$1,500,000 for each of the fiscal years 1990 and 1991", and inserting "$2,500,000 for each of the fiscal years 1991 and 1992", and

(3) in paragraph (3), by striking "$1,500,000 for each of the fiscal years 1990 and 1991", and inserting "$2,500,000 for each of the fiscal years 1991 and 1992".

(j) Records and Reports.—Section 301(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(e)) is amended by striking out "or (j)" and inserting in lieu thereof "or (k)".

(k) Commissioned Corps.—

(1) Appointment of commissioned officer.—Section 206(a) of the Public Health Service Act (42 U.S.C. 207(a)) is amended by inserting after the first sentence the following new sentence: "During the period of appointment to the position of Assistant Secretary for Health, a commissioned officer of the Public Health Service shall have the grade corresponding to the grade of General of the Army.".

(2) Conforming amendment.—Section 201(a) of title 37, United States Code, is amended by inserting "Assistant Secretary for Health." in the fourth column of the table corresponding with pay grade 0-10.

(3) Effective date.—The amendments made by paragraphs (1) and (2) shall take effect on the first day of the month immediately following the month in which this Act was enacted.

SEC. 6. TECHNICAL AMENDMENTS IN CERTAIN PROGRAMS PROVIDING SERVICES REGARDING ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) Formula for Emergency Relief Grants.—Section 2603(a)(3) of the Public Health Service Act, as added by section 101(3) of Public Law 101-381, is amended to read as follows:

"(3) Amount of grant.—

"(A) In general.—

"(i) Subject to the extent of amounts made available in appropriations Acts, a grant made for purposes of this paragraph to an eligible area shall be made in an amount equal to the product of—

"(I) an amount equal to the amount available for distribution under paragraph (2) for the fiscal year involved; and

"(II) the percentage constituted by the ratio of the distribution factor for the eligible area to the sum of the respective distribution factors for all eligible areas.

"(ii) For purposes of clause (i)(II), the term 'distribution factor' means the sum of—

"(I) an amount equal to the product of 3 and the amount determined under subparagraph (B) for the eligible area involved; and

"(II) an amount equal to the product of the amount determined under subparagraph (B) for the eligible area and the amount determined under subparagraph (C) for the area.

"(B) Amount relating to cumulative number of cases.—The amount determined in this subparagraph is an amount equal to the ratio of—

"(i) an amount equal to the cumulative number of cases of acquired immune deficiency syndrome in the eligible area involved, as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control by the applicable date specified in section 2601(a); to

"(ii) an amount equal to the sum of the respective amounts determined under clause (i) for each eligible area for which an application for a grant for purposes of this paragraph has been approved.

"(C) Amount relating to per capita incidence of cases.—The amount determined in this subparagraph is an amount equal to the ratio of—

"(i) the per capita incidence of cumulative cases of acquired immune deficiency syndrome in the eligible area involved (computed on the basis of the most recently available data on the population of the area); to

"(ii) the per capita incidence of cumulative such cases in all eligible areas for which applications for grants for purposes of this paragraph have been approved (computed on the basis of the most recently available data on the population of the areas).".

(b) Set-Aside Regarding Categorical Grants to Certain Entities for Early Intervention Services.—Section 2649(c) of the Public Health Service Act, as added by section 301(a) of Public Law 101-381, is amended—

(1) by striking "(c) Certain Allocations" and all that follows through "After determining" and inserting the following:

"(c) Certain Allocations by Secretary.—

"(1) Discretionary grants to certain states.—After determining"; and

(2) by adding at the end the following new paragraph:

"(2) Grants to certain political subdivisions.—

"(A)(i) In the case of a State containing any political subdivision described in clause (ii), the Secretary shall, subject to subparagraph (B), make a reduction in the amount of the allotment under subsection (a) for the State for each fiscal year in an amount necessary for carrying out subparagraphs (B) and (C) with respect to the political subdivision. Any such reduction shall be in addition to the reduction required in paragraph (1) for the fiscal year involved.

"(ii) The political subdivision referred to in clause (i) is any political subdivision that received a cooperative agreement from the Secretary, acting through the Director of the Centers for Disease Control, for fiscal year 1990 for programs to provide counseling and testing with respect to acquired immune deficiency syndrome.

"(B) In the case of a State described in subparagraph (A), the Secretary shall, from the amounts made available as a result of reductions under such subparagraph, make a grant each fiscal year to each political subdivision described in such subparagraph that exists in the State if the political subdivision involved agrees that the provisions of subparts II and III will apply to the political subdivision to the same extent and in the same manner as such subparts apply to entities receiving grants under section 2651(a).

"(C) Grants under subparagraph (B) for a fiscal year for a political subdivision shall be provided in an amount equal to the amount received by the political subdivision in fiscal year 1990 under the cooperative agreement described in subparagraph (A).".

(c) Miscellaneous Amendment.—Section 2647(c) of the Public Health Service Act, as added by section 301(a) of Public Law 101-381, is amended—

(1) in the first sentence, by striking "are adequate" and inserting the following: "certifies to the Secretary that the laws of the State are adequate"; and

(2) in the second sentence, by striking "subsection (a)" and inserting "subsection (a),".

Mr. KENNEDY. Mr. President, the immunization and vaccine programs which the Senate amendment to H.R. 4238 reauthorizes are among the most valuable public health programs, yet they face significant challenges in achieving the goal of reducing the incidence of infectious and communicable diseases. The current measles epidemic is of particular concern: as many as 30,000 cases of measles could occur this year whereas the incidence of measles was as low as 1,500 cases 6 years ago. Last year, 40 children died of measles; 3 times as many could die from measles this year.

This bill, which incorporates provisions of S. 2629, authorizes $205 million for the Center for Disease Control's immunization programs in fiscal year 1991, and such sums as may be necessary through 1995, to enable CDC to implement the recommended double dose of measles vaccine and increase outreach efforts to high-risk populations which are not receiving the first dose of the vaccine. This bill also initiates authorization for new demonstration project grants to increase the levels of immunization among children under 2 years of age. These efforts are essential to provide the public health community with the tools necessary to build immunization against the current measles epidemic. These funds will also enable the CDC immunization programs to support greater screening for hepatitis B and develop new vaccines for chicken pox and other diseases.

In addition, this legislation authorizes $5 million to complete a 6-month vaccine stockpile to ensure the stability of the supply of vaccines and $30 million for the National Vaccine Program, which provides interagency coordination of the Federal Government's immunization programs through the Office of the Assistant Secretary for Health at HHS.

Finally, the bill includes a number of technical corrections to the National Vaccine Injury Compensation Program that clarify the legislative language and ensure that the original intent of the Vaccine Injury Compensation Program is accurately reflected in the legislation. Among these technicals is an extension of the deadline for submitting retroactive claims. This past August, Senators Levin and Moynihan introduced S. 3004, which would have extended the deadline 6 months. After consulting with the various parties involved, we have included a provision that will extend the deadline for 4 months. I would like to applaud Senator Levin for his strong support and diligence on moving this issue.

The Department of Health and Human Services did not release any publicity about the Vaccine Compensation Program until July of this year, years after the date of enactment. With the deadline for filing preact claims having expired October 1, 1990, families just learning about the program this summer had little time to put together the documentation necessary for filing a complete claim. The extension will enable these families to have full access to the program.

Once this extension is enacted, I would urge the Department of Health and Human Services to ensure that information about the extension is disseminated as widely and in as timely a manner as possible.

The immunization of our children against preventable diseases is one of the most cost-effective and humane investments the Federal Government can make. The additional funds authorized by this legislation can help ensure that future epidemics of measles and other preventable diseases do not occur. Changes in the National Vaccine Injury Compensation Program will clarify legislative intent and the extension of the filing deadline will enable families to have full opportunity to file claims for preact injuries. I urge my colleagues to support the Senate amendment to H.R. 4238.

I ask unanimous consent that an explanation of the technicals concerning the Vaccine Compensation Program be printed in the Record.

There being no objection, the explanation was ordered to be printed in the Record, as follows:

Joint Statement of Explanation of Amendments to the National Vaccine Injury Compensation Program

Section 5 makes a variety of minor and technical amendments to the National Vaccine Injury Compensation Program.

Section 5(a) amends Section 2111 of the Public Health Service Act. Paragraph 1 makes a conforming amendment to clarify that a person who would otherwise be prohibited from bringing a civil action for damages for vaccine injury may do so if he or she (1) files a petition for compensation, (2) receives no judgment from the Claims Court within the appropriate time, and (3) withdraws the petition under the provisions for withdrawal, added by subsection (f), described below.

Paragraph 2 corrects a technical error in the statute.

Paragraph 3 corrects a technical error in the statute.

Paragraph 4 corrects a technical error in the statute.

Paragraph 5 corrects a technical error in the statute.

Section 5(b) amends Section 2112 of the Public Health Service Act. Paragraph 1 gives the chief special master the authority to suspend proceedings on any petition for up to 180 days, over and above other suspensions in the statute, if he or she determines that the number of filings and the workload would create an undue burden on the parties or the Court and that such a suspension is in the interest of justice. The authorizing committees are aware that a very large number of petitions have been filed during the month of September. The Committees also anticipate that a similar increase of filings may occur at the conclusion of the extension of filing time authorized in subsection (e), described below. The committees recognize that the increased workload presented by such a large number of petitions will overburden the Court, the petitioners, the Department of Justice (DOJ), and the Department of Health and Human Services (DHHS). Accordingly, the committees believe that it may become necessary for the strict deadlines imposed by the statute to be suspended in these unusual instances. The committees do not, however, intend for this suspension to become a routine extension of time or for this "ceiling" to become a "floor." Indeed, the committees would expect the chief special master to assure that petitions involving administration of vaccines after the effective date of the program (the so-called "new cases") be processed without suspensions or delay; these cases are bound by the restrictions of Section 2111 and may not proceed in civil actions until the compensation action is completed or withdrawn and should not, therefore, be delayed by the unique problems posed by a surge in filings of petitions involving administration of vaccines before the effective date of the program.

Paragraph 2 requires that notice be given to the petitioner if the special master or the Court does not meet the stautory deadlines for action on the petition.

Section 5(c) amends Section 2113 of the Public Health Service Act to correct a technical error in the statute.

Section 5(d) amends Section 2115 of the Public Health Service Act. Paragraph 1 corrects a technical error in the statute.

Paragraph 2 corrects technical errors in the statute. In addition, subparagraph B makes a conforming amendment to make an exception to the restrictions on civil actions by a petitioner who has accepted compensation, as added by Section 5(f), described below. The exception created by this amendment would allow a petitioner who has elected to accept compensation under Section 2121 to proceed with a civil action if the appropriations made under Section 2115(j) are inadequate to make a payment of annual installment for the compensation. The committees do not anticipate that appropriations will be insufficient to make such payments but also recognize that, if such an event were to occur, it would be unfair to restrict petitioners from pursuing alternative remedies.

Paragraph (3) extends the authorization of appropriations for payment of compensation for petitions involving administration of vaccines before the effective date of the program.

Section 5(e) amends Section 2116 of the Public Health Service Act. Paragraph 1 extends the filing deadline for petitions involving administration of vaccines before the effective date of the program from 24 months to 28 months. The committees have agreed to such a change because they have received complaints that the limited publicity given to the program may have left some legitimately eligible petitioners unaware of the program's availability. The committees do not intend that this extension create an opportunity for filing of claims for injuries that are not described in the Vaccine Injury Table and are not clearly caused by the administration of a vaccine. The committees re-state their original intention that petitions for injuries outside the Table "must affirmatively demonstrate that the injury or aggravation was caused by the vaccine." (House Report 99-908).

Paragraph 1 also restricts filing of such petitions to those cases in which the first symptom or manifestation of injury occurred within three years of the administration of the vaccine.

Paragraph 2 clarifies that limitations on civil actions under State law are to be stayed until the time that an election is made by the petitioner under Section 2121(a) or the time that the petition is withdrawn or is deemed to have been withdrawn under Section 2121(b), as amended by Section 5(f), described below.

Section 5(f) amends Section 2121 of the Public Health Service Act. Paragraph 1 clarifies that no person who elects to receive compensation for a petition involving the administration of a vaccine before the effective date of the program ("old cases") or who is deemed to accept the judgment of the Court regarding such a petition may bring a civil action; an exception to this rule is created by Section 5(d)(2), described above. Paragraph 1 also makes a conforming amendment to clarify that the same restrictions apply to petitions involving the administration of a vaccine after the effective date of the program ("new cases").

The committees have always intended that there be no "double recovery" or parallel actions for vaccine injury or death and have always understood that a petitioner who accepts compensation has given up any similar potential action in other courts. Petitioners are given opportunity to reject compensation if they wish to pursue a civil action, an opportunity that provides significant advantage in knowing the outcome in one venue before choosing whether to pursue action in another. Any attempt both to receive compensation and to pursue tort remedies would be impermissible overreaching.

Paragraph 2 clarifies the opportunity for a petitioner to withdraw the petition under Section 2121(b). As prescribed in the amendment made by Section 5(b)(2), described above, the special master and the court are to provide notice to the petitioner if the prescribed deadline for action (not counting time for allowed suspensions of proceedings of which there are now several) are not met. Under the provisions of this paragraph, if the special master or the court does not meet such deadlines the petitioner may file notice of withdrawal of the petition. If the petitioner does not file such a notice within 30 days, the petition is to be considered withdrawn. Additionally, if a special master or court has failed to meet the prescribed deadline, the special master or court will lose jurisdiction over the petition 30 days after the notice to the petitioner has been issued.

The committees have received information that there is confusion over the extent to which jurisdiction over petitions is retained by the masters and the Court if the statutory deadlines are missed. These amendments are made to clarify that these deadlines are not merely advisory but jurisdictional. The committees recognize that the timeliness of proceedings is not solely within the control of the petitioner, the government, or the Court and that deadlines of this sort may make the burden of the proceedings heavy. The committees believe, however, that one of the chief inducements for old-case petitioners to pursue compensation rather than tort action is the relative certainty that claims will be handled expeditiously. Similarly, the committees believe that new-case petitioners should be given quick consideration of their claims inasmuch as their usual rights in court are precluded during the compensation proceedings. Accordingly, the committees have agreed to these amendments to emphasize that these deadlines are significant to the basic policies of the program and that petitioners, the government, and the Court should act to assure the most direct and abbreviated proceedings and thus to allow petitioners to receive final judgment—whether compensation on or rejection of the petition—as soon as possible.

Section 5(g) amends Section 322 of the National Vaccine Injury Act of 1986. Paragraph 1 clarifies that if a provision of the National Vaccine Compensation Program is ultimately determined to be unconstitutional then both parts of the program, i.e., Part A and Part B, are to become ineffective. Subtitle 1 and other parts of Subtitle 2 are not to be affected by such a determination.

Paragraph 2 provides that, if the appellate review authorized by Section 2112(f) is determined to be unconstitutional because the appellate court cannot hear a case of this nature, a three-judge panel of the Claims Court is to hear the appeal instead. Although the committees do not believe that the review contemplated by the statute is impermissible, the committees have received comments suggesting that such review is without precedent. The committees have, therefore, provided for an alternative method of review so that the program may continue in any event.

Section 5(h) provides for the effective date of the provisions of this Section.

Section 5(i) extends the authorization of appropriations from the Vaccine Injury Compensation Trust for the administration of the program.

Mr. HATCH. Mr. President, I rise to join Senator KENNEDY in supporting the Vaccine and Immunization Amendments of 1990. This bill reauthorizes the immunication programs of the Department of Health and Human Services, establishes a new demonstration program targeted to increasing immunization levels in preschool children, and makes necessary technical changes to the Public Health Service Act.

Immunization for vaccine-preventable diseases has resulted in declining rates of death and disability, and it has proven to be one of the most successful and cost-effective health care services. For example, the reduced incidence of measles yields a 14:1 benefit/cost ratio for the measles vaccine.

That is the good news. The bad news is that the victory we appeared to have in our grasp in the early 1980's seems to be slipping away. There remain problems from low immunization levels among some populations. For example, in the case of measles there is a lack of immunization in many preschool children and the single dose of measles vaccine given to school-age children appears not to be effective. From a 1983 low of 1,500 cases, in 1989 there were major outbreaks of measles, with over 16,000 cases and 40 deaths.

Because of these concerns, the Committee on Labor and Human Resources increased the level of funding for immunizations to provide sufficient funds for a double dose of measles vaccine and expand measles outbreak control activities as well as to support other activities in the fight against vaccine-preventable diseases. The increased funding also will provide for immunizations against chicken pox and infant-transmission of hepatitis B when vaccines are approved for these diseases.

In addition, the bill would establish demonstration projects for outreach and immunization services for children up to 24 months of age. Preschool children who are from low-income families, or from certain high-risk populations or geographic areas are not being immunized at acceptable levels. These infants are at added, and unnecessary, risk of contracting diseases which are fully preventable. This bill will provide grant funds to support the development, demonstration, and evaluation of methods for the screening, referral and immunization of such children.

Other provisions of the bill make important changes to the Vaccine Injury Compensation Program. Under the current law, the deadline for filing claims expired on October 1, 1990 for vaccine-related injuries occurring before enactment of the program. These amendments would extend the filing period for an additional 4 months and it is my understanding the claims court will accept these petitions that, although incomplete, are a good-faith effort to meet the requirements of the court.

In making this change we are responding to the pleas of many parents of children and the adults who have been injured by vaccines. They have told us that they were not aware of the program availability and others have rushed to file petitions by the October 1 deadline even though they have not had time to gather the necessary documentation.

Also, I have been told that some 3,000 cases have been filed in the past several weeks simply overwhelming the ability of the claims court as well as the Departments of Health and Human Services and Justice to process them. To deal with this problem, we have included a change that would provide the court with the authority to suspend, in extraordinary circumstances of undue burden on the parties, proceedings on a petition for up to 6 months. Also, the amendments would increase operating funds so that necessary resources will be available to carry out the program.

Mr. President, this legislation will help the immunization programs of the Public Health Service to regain the momentum, and the significant achievements, of the early 1980's. At the same time, it will make important and necessary technical changes in the Public Health Service Act. I urge my colleagues to join me in moving this legislation forward for the President's signature.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2974) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 4238), as amended, was passed.

Mr. WIRTH. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL INDEFINITELY POSTPONED—S. 2629

Mr. WIRTH. Mr. PRESIDENT, I ask unanimous consent the Senate companion Calendar 713, S. 2629, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL INDEFINITELY POSTPONED—S. 1868

Mr. WIRTH. Mr. President, I ask unanimous consent that Calendar 363, S. 1868, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT

Mr. WIRTH. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2753.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2753) entitled "An Act to reauthorize the Developmental Disabilities Assistance and Bill of Rights Act," do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act of 1990".

SEC. 2. REFERENCE.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act.

SEC. 3. FINDINGS AND PURPOSES.

Section 101 of the Act is amended—

(1) in subsection (a)—

(A) by striking "there are more than two" in paragraph (1) and inserting "in 1990 there are more than three";

(B) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(C) by inserting after paragraph (6) the following new paragraph:

"(7) a substantial portion of persons with developmental disabilities remain unserved or underserved;"; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (2);

(B) by redesignating paragraph (3) as paragraph (8); and

(C) by inserting after paragraph (2) the following new paragraphs:

"(3) to provide interdisciplinary training and technical assistance to professionals, paraprofessionals, family members, and individuals with developmental disabilities;

"(4) to advocate for public policy change and community acceptance of all people with developmental disabilities and their families so that such persons receive the services, supports and other assistance and opportunities necessary to enable such persons to achieve their maximum potential through increased independence, productivity and integration into the community;

"(5) to promote the inclusion of all persons with developmental disabilities, including persons with the most severe disabilities, in community life;

"(6) to promote the interdependent activity of all persons with developmental disabilities, including persons with the most severe disabilities;

"(7) to recognize the contribution of all persons with developmental disabilities as such persons share their talents at home, school, and work, and in recreation and leisure time; and".

SEC. 4. DEFINITIONS.

Section 102 of the Act is amended—

(1) in paragraph (5)—

(A) by inserting "5 years of age or older" after "of a person";

(B) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(C) by adding after and below subparagraph (E) the following:

"except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.";

(2) in paragraph (8), by striking "nondisabled citizens" each place such term appears and inserting "citizens without disabilities";

(3) in subparagraph (A) of paragraph (8)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and integrated employment," after "activities" in clause (ii); and

(C) by inserting before the matter at the end of subparagraph (A) the following new clauses:

"(iii) use of the same community resources by persons with developmental disabilities living, learning, working, and enjoying life in regular contact with citizens without disabilities, and

"(iv) development of friendships and relationships with persons without disabilities,";

(4) in subparagraph (B) of paragraph (8), by striking "or in home-like settings";

(5) in paragraph (9), by striking "specialized services or special adaptation of generic services" each place such term appears and inserting "special adaptation of generic services or specialized services";

(6) in clause (iv) of paragraph (9)(B)—

(A) by striking "models" and inserting "approaches, strategies"; and

(B) by inserting "Federal, State and local" before "policymakers";

(7) in paragraph (10), by striking "case management" and inserting "system coordination and community education";

(8) in paragraph (12), by striking "and family support services" and inserting ", individual, family and community supports";

(9) in subparagraph (B) of paragraph (17), by inserting "and their families" after "disabilities" each place such appears;

(10) by striking paragraph (21) and inserting the following new paragraph:

"(21) The term 'protection and advocacy system' means a protection and advocacy system established in accordance with section 142.";

(11) in paragraph (22), by inserting at the end thereof the following new sentence: "Such term includes assistive technology devices and assistive technology service."; and

(12) by inserting at the end thereof the following new paragraphs:

"(24) The term 'family support service' means services, supports, and other assistance provided to families with members with developmental disabilities, that are designed to—

"(A) strengthen the family's role as primary caregiver,

"(B) prevent inappropriate out of the home placement and maintain family unity, and

"(C) reunite families with members who have been placed out of the home.

Such term includes respite care, assistive technology, personal assistance, parent training and counseling, support for elderly parents, vehicular and home modifications, and assistance with extraordinary expenses associated with the needs of the person with a developmental disability.

"(25) The term 'individual supports' means services, supports, and other assistance that enable persons with developmental disabilities to be independent, productive, and integrated into their communities, and that are designed to—

"(A) enable the person to control his or her environment, permitting the most independent life possible,

"(B) prevent placement into a more restrictive living arrangement than is necessary, and

"(C) enable the person to live, learn, work, and enjoy life in the community.

Such term includes personal assistance services, assistive technology, vehicular and home modifications, support at work, and transportation.

"(26) The term 'community supports' means providing activities, services, supports, and other assistance to persons with developmental disabilities, and the families and communities of such persons, that are designed to—

"(A) assist neighborhoods and communities to be more responsive to the needs of persons with developmental disabilities and their families,

"(B) develop local networks which can provide informal support, and

"(C) make communities accessible and enable communities to offer their resources and opportunities to persons with developmental disabilities and their families.

Such term includes community education, personal assistance services, vehicular and home modifications, support at work, and transportation.

"(27) The term 'system coordination and community education activities' means activities that—

"(A) eliminate barriers to access and eligibility for services, supports, and other assistance,

"(B) enhance systems design and integration including the encouragement of the creation of local case management and information and referral statewide systems, and

"(C) enhance individual, family and citizen participation and involvement.

"(28) The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of a person with a developmental disability.

"(29) The term 'assistive technology service' means any service that directly assists a person with a developmental disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of a person with a developmental disability, including a functional evaluation of the person in the person's customary environment;

"(B) purchasing, leasing or otherwise providing for the acquisition of assistive technology devices by a person with a developmental disability;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as therapies, interventions or services associated with existing education and rehabilitation plans and programs;

"(E) training or technical assistance for a person with developmental disabilities, or, where appropriate, the family of a person with a developmental disability; and

"(F) training or technical assistance for professionals (including persons providing education and rehabilitation services), employers, or other persons who provide services to, employ, or are otherwise substantially involved in the major life functions of a person with developmental disability.

"(30) The term 'prevention' means activities which address the causes of developmental disabilities and the exacerbation of functional limitations, such as activities which—

"(A) eliminate or reduce the factors which cause or predispose persons to developmental disabilities or which increase the prevalence of developmental disabilities;

"(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations; and

"(C) mitigate against the effects of developmental disabilities throughout the person's lifespan.".

SEC. 5. FEDERAL SHARE.

Section 103 of the Act is amended—

(1) in subsection (a), by striking "located" and inserting "whose activities or products target people who live";

(2) in subsection (b) by striking "is located" and inserting "activities or products target people who live"; and

(3) in subsection (c) by inserting "part B of" before "this".

SEC. 6. REPORTS.

Section 107 of the Act is amended—

(1) in subsection (a)—

(A) by striking "each annual survey" and all that follows through the semicolon in paragraph (4) and inserting "any intermediate care facility for the mentally retarded in such State, and with respect to each annual survey report prepared pursuant to section 1902(a)(31)(C) of the Social Security Act and each correction or reduction plan prepared pursuant to section 1922 of such Act;"; and

(B) in paragraph (5)—

(i) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of and with";

(ii) by inserting "particularly unserved and underserved groups," after "impairments,"; and

(iii) by striking "that the State Planning Council may identify under sections 122(b)(3) and 122(f)" and inserting ", and a summary of actions taken to improve access to and services for unserved and underserved groups that the State Planning Council may have identified";

(2) in subsection (c)(1)—

(A) by striking "April" and inserting "July"; and

(B) by striking "the Handicapped" and inserting "Disability"; and

(3) in subsection (c)(1)(C)—

(A) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of,";

(B) by inserting "particularly unserved or underserved groups," after "impairments,";

(C) by striking "may identify" and inserting "has identified"; and

(D) by inserting ", and a summary of actions taken to improve access to services for such groups" before the semicolon.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY.

Section 108(b) of the Act is amended—

(1) by inserting after "Developmental Disabilities" the second place such term appears the following: "the Administration on Children, Youth and Families, the Administration on Aging, and the Health Resources and Services Administration,"; and

(2) by inserting at the end thereof the following: "Each meeting of the interagency committee (except for any meetings of any subcommittees of the committee) shall be open to the public. Notice of each meeting, and a statement of the agenda for the meeting, shall be published in the Federal Register not later than 14 days before the date on which the meeting is to occur.".

SEC. 8. EMPLOYMENT.

Section 109 of the Act is amended by striking "1973".

SEC. 9. RIGHTS OF PERSONS WITH DEVELOPMENTAL DISABILITIES.

Section 110(4)(A) of the Act is amended by striking "January 17, 1974 (39 Fed. Reg. pt. II)" and inserting "June 3, 1988".

SEC. 10. PURPOSE.

Section 121 of the Act is amended by inserting "and their families" before "through the conduct of".

SEC. 11. STATE PLAN.

Section 122 of the Act is amended—

(1) in paragraph (1)(B) of subsection (b), by amending the first sentence to read as follows: "The plan must designate the State agency (hereafter in this part referred to as the 'designated State agency') which, on behalf of the State, shall receive, account for, and disburse funds under this part based on the State plan required in section 122, and shall provide required assurances and other administrative support services.";

(2) in paragraph (2)(C) of subsection (b)—

(A) by inserting ", supports and other assistance" after "scope of services";

(B) by inserting ", or policies affecting," before "federally";

(C) by inserting "or may be" before "eligible to";

(D) by inserting "child welfare," after "social services,";

(E) by inserting "transportation, technology," after "housing,";

(F) by striking "other plans" and inserting "other programs"; and

(G) by striking "and (ii)" and inserting "(ii) the extent to which such federally assisted State programs develop and pursue interagency initiatives aimed at improving and enhancing services, supports and other assistance, which result in increased independence, productivity, and integration into the community for persons with developmental disabilities, and (iii)";

(3) in paragraph (2) of subsection (b)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(B) by inserting "and their families" after "disabilities" in subparagraph (C)(iii) (as so redesignated); and

(C) by inserting after subparagraph (C) the following new subparagraph:

"(D) assess, and if appropriate, update the findings of the report conducted pursuant to subsection (f), and report on any progress achieved concerning issues identified in the report conducted pursuant to such subsection in the previous fiscal year;";

(4) in paragraph (5)(B) of subsection (b)—

(A) by redesignating clauses (iii) through (vi) as clauses (v) through (viii), respectively; and

(B) by inserting after clause (ii) the following new clauses:

"(iii) an analysis of the special and common needs of all subpopulations of persons with developmental disabilities;

"(iv) consideration of the report conducted pursuant to subsection (f);";

(5) in paragraph (5)(D)(i) of subsection (b)—

(A) by striking "and the implementation" and inserting "the implementation"; and

(B) by striking the period at the end and inserting in lieu thereof the following: ", and activities which address the implementation of recommendations made in the report described in subsection (f), including recommendations which address unserved and underserved populations.";

(6) in paragraph (1) of subsection (d)—

(A) by striking "administration of the State Plan approved under this section" and inserting "exercise of the functions of the State designated agency";

(B) by striking "all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration of the State plan" and inserting "the State agency designated under subsection (b)(1)(B)"; and

(C) by inserting at the end thereof the following new sentence: "State contributions pursuant to this paragraph may be counted as part of such State's non-Federal share of allotments under this part.";

(7) by adding at the end of subsection (e) the following new paragraph:

"(5) After October 1, 1990, the Planning Council may issue a request for a review of the designation of the designated State agency by the Governor."; and

(8) by striking paragraphs (4) and (5) of subsection (f) and inserting the following new paragraph:

"(4) Each State Planning Council shall utilize the information developed pursuant to paragraphs (1), (2), and (3) in developing the State plan.".

SEC. 12. STATE PLANNING COUNCILS.

Section 124 of the Act is amended—

(1) in subsection (a)—

(A) by striking "which will" and inserting "to"; and

(B) by striking the period at the end thereof and inserting "by carrying out priority area activities.";

(2) in paragraph (1) of subsection (c)—

(A) by striking "may" and inserting "shall"; and

(B) by striking "hire" and inserting "fund all activities under this part (except administrative costs described in section 122(d)(1)) and to hire";

(3) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) Each State Planning Council shall, consistent with State law, hire a Director of the State Planning Council who shall be supervised and evaluated by the State Planning Council and who shall hire and supervise the staff of the State Planning Council."; and

(4) in paragraph (1) of subsection (d) by striking "jointly with" and inserting "and submit after consultation with".

SEC. 13. STATE ALLOTMENTS.

Paragraphs 3, 4, 5 and 6 of subsection (a) of section 125 of the Act are amended to read as follows:

"(3)(A) Except as provided in paragraph (4), for any fiscal year the allotment under paragraph (1)—

"(i) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $200,000; and

"(ii) to any other State may not be less than the greater of $350,000 or the amount of the allotment (determined without regard to subsection (d)) received by the State for the fiscal year ending September 30, 1990.

"(B) Notwithstanding subparagraph (A), if the aggregate of the amounts to be allotted to each State pursuant to subparagraph (A) in any fiscal year exceeds the total amount appropriated under section 130 for such fiscal year, the amount to be allotted to a State for such fiscal year shall be an amount which bears the same ratio to the amount which is to be allotted to the State pursuant to such subparagraph as the total amount appropriated under section 130 for such fiscal years bears to the total of the amount required to be appropriated under such section for allotments to provide each State with the allotment required by such subparagraph.

"(4) In any case in which amounts appropriated under section 130 for a fiscal year exceeds $65,000,000, the allotment under paragraph (1) for such fiscal year—

"(A) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $210,000; and

"(B) to each of the several States, Puerto Rico or the District of Columbia may not be less than $400,000.

"(5) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 122(b)(2)(C), in the State plan of the State.

"(6) In any case in which the total amount appropriated under section 130 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary shall increase each of the minimum allotments under paragraphs (3) and (4) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 130 for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated under section 130 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 130 for such preceding fiscal year.".

SEC. 14. PART B AUTHORIZATION OF APPROPRIATIONS.

Section 130 of the Act is amended by striking "$62,200,000" and all that follows through the period at the end thereof and inserting "$77,400,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.".

SEC. 15. SYSTEM REQUIRED.

Section 142 of the Act is amended—

(1) in subsection (a)—

(A) by striking subparagraph (C) of paragraph (2) and inserting the following new subparagraph:

"(C) on an annual basis, develop a statement of objectives and priorities, and provide to the public, including persons with disabilities and their representatives, as appropriate, the developmental disability council and the university affiliated program (if applicable within a State), an opportunity to comment on the objectives and priorities established by, and activities of, the system, including—

"(i) the objectives and priorities for the system's activities for each year, and the rationale for the establishment of such objectives; and

"(ii) the coordination with the advocacy programs set out in the Rehabilitation Act of 1973, the Older Americans Act of 1965, and the Protection and Advocacy for the Mentally Ill Act.";

(B) by striking "and" at the end of clause (i) of paragraph (2)(G);

(C) by inserting "as a result of monitoring or other activities" before "there is" in subclause (III) of paragraph (2)(G)(ii)

(D) by inserting "and" at the end of paragraph (2)(G)(ii)(III);

(E) by inserting after clause (ii) of paragraph (2)(G) the following new clause:

"(iii) any person with a developmental disability who has a legal guardian, conservator, or other legal representative with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe the health or safety of the individual is in serious and immediate jeopardy whenever—

"(I) such representatives have been contacted by such system upon receipt of the name and address of such representatives;

"(II) such system has offered assistance to such representatives to resolve the situation; and

"(III) such representatives have failed or refused to act on behalf of the person;"; and

(F) in paragraph (5), by striking "unless notice has been given of the intention to make redesignation to persons with developmental disabilities or their representatives" and inserting "unless—

"(A) notice has been given of the intention to make such redesignation to the agency that is serving as the system including the good cause for such redesignation and the agency has been given an opportunity to respond to the assertion that good cause has been shown;

"(B) timely notice and opportunity for public comment in an accessible format has been given to persons with developmental disabilities or their representatives; and

"(C) the system has the opportunity to appeal to the Secretary that the redesignation was not for good cause"; and

(2) in subsection (b)(2), by striking "the Secretary may" and inserting "the Secretary shall"; and

(3) by adding at the end thereof the following new subsections:

"(d) In States in which the system is organized as a private nonprofit entity with a multimember governing board, or a public system with a multimember governing board, such governing board shall be selected according to the policies and procedures of the system, except that—

"(1) the governing board shall be composed of members who broadly represent or are knowledgeable about the needs of the individuals served by the system;

"(2) not more than ⅓ of the membership of the governing board may be appointed by the chief executive officer of the State involved, in the case of any State in which such officer has the authority to appoint the membership of the board; and

"(3) any vacancy in the board shall be filled not later than 60 days after the date on which the vacancy occurs.

"(e) As used in this section the term 'records' includes reports prepared or received by any staff of a facility rendering care or treatment, or reports prepared by an agency or staff person charged with investigating reports of incidents of abuse or neglect, injury or death occurring at such facility that describes incidents of abuse, neglect, injury or death occurring at such facility and the steps taken to investigate such incidents, and discharge planning records.

"(f) If the laws of a State prohibit a system from obtaining access to records of persons with developmental disabilities the provisions of subparagraph (A) of paragraph (2) of subsection (a) shall not apply to such system before—

"(1) the date such system is no longer subject to such prohibition; or

"(2) the expiration of the 1-year period beginning on the date of enactment of this Act, whichever occurs first.

"(g)(1) Nothing in this Act shall preclude the systems described under this section from bringing a suit on behalf of persons with developmental disabilities against a State, or agencies or instrumentalities of a State.

"(2) Amounts received pursuant to paragraph (1) through court judgments and used by the system are limited to furthering the purpose of this part and shall not be used to augment payments to legal contractors or to award personal bonuses.

"(h) Notwithstanding any other provision of law, the Secretary shall pay directly to any system which complies with the provisions of this section the amount of such system's allotment under this section, unless the system delegates otherwise.".

SEC. 16. PART C AUTHORIZATION OF APPROPRIATIONS.

Section 143 of the Act is amended by striking "$20,000,000" and all that follows through the period at the end thereof and inserting "$24,200,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.".

SEC. 17. GRANT AUTHORITY.

Section 152 of the Act is amended—

(1) in subsection (b)(1)—

(A) by striking "sufficient size and scope" in subparagraph (A);

(B) by striking "and community-based" in subparagraph (A) and inserting "community-based"; and

(C) by striking the period at the end of subparagraph (A) and inserting the following: ", positive behavior management programs (as described in paragraph (5)), assistive technology programs (as described in paragraph (6)) and programs in other areas of national significance as determined by the university affiliated program, in consultation with the State Planning Council (as described in paragraph (7)).";

(D) by striking subparagraph (B);

(E) by redesignating subparagraph (C) as subparagraph (F);

(F) by inserting after subparagraph (A) the following new subparagraphs:

"(B)(i) Grants awarded under this subsection shall be in the amount of $90,000.

"(ii) The Secretary may waive the provisions of clause (i) and award grants under this subsection in an amount which does not exceed $150,000, if the Secretary determines that such grants are of such sufficient scope and quality so as to address issues of national significance as identified in the report conducted pursuant to section 122(f).

"(iii) If an appropriately convened peer review panel determines that applications submitted by university affiliated programs for training programs under this part in any fiscal year insufficiently address quality criteria established under subparagraph (D), the Secretary shall, pursuant to regulations issued under this Act, award any amounts available for carrying out the purposes of this section to other university affiliated programs which the Secretary determines will use the funds in accordance with subsection (b)(1)(B)(ii). The Secretary may make such awards for a period not to exceed 3 years to applicants whose applications are determined to be of minimal quality by peer review, notwithstanding the provisions of (b)(1)(B)(i).

"(C) Grants under this section shall be awarded on a competitive basis. Grants awarded under this section shall be awarded for a period of 3 years.

"(D) The Secretary shall require appropriate technical and qualitative peer review of applications for assistance under this subsection by peer review groups as established under section 153(e)(4) using the following criteria:

"(i) The university affiliated program shall present evidence that core training assisted by funds awarded under this section is—

"(I) competency and value based;

"(II) designed to facilitate independence, productivity and integration for persons with developmental disabilities; and

"(III) evaluated utilizing state of the art evaluation techniques in the programmatic areas selected.

"(ii) Core training shall—

"(I) represent state-of-the-art techniques in areas of critical shortage of personnel which are identified through consultation with the citizens advisory group designated pursuant to subsection (f) and the State Planning Council;

"(II) be conducted in consultation with the citizens advisory group designated under subsection (f) and the State developmental disabilities planning council;

"(III) be integrated into the appropriate university affiliated program and university curriculum;

"(IV) be integrated with relevant State agencies in order to achieve an impact on statewide personnel and service needs;

"(V) to the extent practicable, be conducted in environments where services are actually delivered; and

"(VI) to the extent possible, be interdisciplinary in nature.

"(E)(i) Grants awarded under this subsection shall not be used for administrative expenses.

"(ii) Grants awarded under this subsection shall not be used to carry out the provisions of subsection (a).";

(2) in subsection (b), by adding at the end thereof the following new paragraphs:

"(5) Grants awarded under this subsection for training projects with respect to positive behavior management intervention programs shall be for the purpose of assisting university affiliated programs in providing training to families, foster parents, paraprofessionals, other appropriate community-based staff, and institutional staff, including health care staff and behavioral specialists, who provide or will provide, positive behavior management interventions for persons with developmental disabilities. Such training interventions shall include—

"(A) ethical principles and standards;

"(B) appropriate assessment of the origin of behavior problems including antecedent behaviors, the environment, medical problems (including seizure disorders), other neurological problems, or medication side effects;

"(C) the development of a positive behavior management plan;

"(D) the use of positive reinforcements appropriate to the developmental level of the person;

"(E) the use of emergency procedures; and

"(F) the administration of appropriate psychotropic drugs including drugs which the person may be taking for other conditions such as seizure disorders.

"(6) Grants under this subsection for training projects with respect to assistive technology programs shall be for the purpose of assisting university affiliated programs in providing training to allied health personnel and other personnel who provide or will provide, assistive technology services to persons with developmental disabilities. Such projects may provide training and technical assistance to improve the quality of service delivery in community-based, nonprofit consumer and provider service programs for persons with developmental disabilities and may include stipends and tuition assistance from such organizations. Such projects shall be coordinated with State technology coordinating councils wherever such councils exist.

"(7) Grants under this subsection for training projects with respect to programs in other areas of national significance shall be for the purpose of training personnel in an area of special concern to the university affiliated program, and shall be developed in consultation with the State Planning Council."; and

(3) by adding at the end thereof the following new subsections:

"(f) The Secretary shall only make grants under this section to university affiliated programs which establish a consumer advisory committee comprised of consumers, family members, representatives of State protection and advocacy systems, developmental disabilities councils (including State service agency directors), local agencies, and private nonprofit groups concerned with providing services for persons with developmental disabilities.

"(g) A university affiliated program shall not be eligible to receive funds for training projects pursuant to this section unless—

"(1) such program has operated for at least 1 year; or

"(2) the Secretary determines that such project has demonstrated the capacity to develop an effective training program during the first year such program is operated.".

SEC. 18. APPLICATIONS.

Section 153 of the Act is amended—

(1) in subsection (d)(3)—

(A) by striking "1988, 1989, and 1990" in subparagraph (A) and inserting "1991, 1992, and 1993";

(B) by adding at the end of subparagraph (A) the following new sentence: "The Secretary shall solicit and may approve applications pursuant to this paragraph which encompass multiple universities within the same State university system or two or more universities which are otherwise unrelated.";

(C) by striking "1987" and inserting "1990" in subparagraph (B); and

(D) by adding at the end of subparagraph (B) the following: "If an insufficient number of quality applications, as determined by a peer review process, from such unserved States have not been received in any fiscal year, the Secretary may consider applications for such fiscal year from States that are served by a university affiliated program or satellite center which is not able to serve particular geographic regions of the State, only if such applications demonstrate a need for additional training within the State and an exemplary service capacity to serve individuals within the State.";

(2) in subsection (e)(1)—

(A) by striking "by regulation"; and

(B) by striking the period at the end thereof and inserting the following: ", including on-site visits or inspections as necessary. Such peer review shall be coordinated, as appropriate, with the peer review described in section 152(b)(1)(D).".

SEC. 19. PART D AUTHORIZATION OF APPROPRIATIONS.

Section 154 of the Act is amended to read as follows:

"SEC. 154. AUTHORIZATION OF APPROPRIATIONS.

"(a) For the purpose of grants under subsections (a), (d), and (e) of section 152, there are authorized to be appropriated $11,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(b) For the purpose of grants under section 152(b) and 152(c), there are authorized to be appropriated $5,500,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(c) The Secretary may use funds appropriated under subsection (a) for the purposes described in subsection (b).".

SEC. 20. PURPOSE.

Section 161 of the Act is amended by striking the period at the end thereof and inserting the following: ", and to support the development of national and State policy which enhances the independence, productivity, and integration of persons with developmental disabilities through data collection and analysis, technical assistance to program components, technical assistance for the development of information and referral systems, educating policymakers, Federal interagency initiatives, and the enhancement of minority participation in public and private sector initiatives in developmental disabilities.".

SEC. 21. GRANT AUTHORITY.

Section 162(a) of the Act is amended—

(1) in paragraph (1) by inserting "improve supportive living and quality of life opportunities which enhance recreation, leisure and fitness," after "referral system,"; and

(2) in paragraph (2) to read as follows:

"(2) technical assistance and demonstration projects (including research, training, and evaluation in connection with such projects) which expand or improve the functions of the State Planning Council, the functions performed by university affiliated programs and satellite centers under part D, and protection and advocacy system described in section 142.".

SEC. 22. PART E AUTHORIZATION OF APPROPRIATIONS.

Section 163 of the Act is amended to read as follows:

"SEC. 163. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.—To carry out this part, there are authorized to be appropriated $3,650,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(b) Limitation.—At least 8 percent, but not less than $300,000, of the funds appropriated pursuant to the authority of subsection (a) shall be used to carry out the provisions of section 162(a)(2).".

Amend the title so as to read:

An Act to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act.

Mr. HARKIN. Mr. President, I rise in support of the amendment in the nature of a substitute to S. 2753, the Developmental Disabilities Assistance and Bill of Rights Act of 1990 proposed by the House of Representatives.

I would like to commend our colleagues from the other body, particularly Representatives WAXMAN and MADIGAN, for their willingness to work together to craft this substitute which I know will further enhance the productivity, independence, and integration into the community of persons with developmental disabilities.

I also believe that the substitute will promote the inclusion of all persons with developmental disabilities in community life, promote the interdependent activities of all persons with developmental disabilities and recognize their talents at home, school, and work, and in recreation and leisure time.

The substitute is identical to S. 2753, except as noted below. First, the substitute includes a 3-year authorization period instead of 4 years. Second, the substitute includes lower authorization levels for fiscal year 1991 and "such sums" in the out years.

[Dollars in millions]

	Senate	Substitute
Basic State Grant for Developmental Disabilities Councils		
1991	$81.27	$77.4
1992	85.350	(1)
1993	89.6	(1)
Protection and Advocacy		
1991	27	24
1992	28.35	(1)
1993	29.77	(1)
University Affiliated Programs		
1991	18.4	16.5
1992	21.042	(1)
1993	23.816	(1)
Programs of National Significance		
1991	3.9	3.65
1992	4.095	(1)
1993	4.299	(1)

[1] Such sums.

Third, the relationship between the developmental disabilities councils and the designated State agencies is clarified. Under the substitute, the plan must designate the State agency which, on behalf of the State, shall receive, account for and disburse funds based on the State plan and shall provide required assurances and other administrative support services.

In most States, the relationships between DD councils and their designated State agencies is working well; however, in some states the designated agency inappropriately directs the expenditures of DD basic State grant funds to its own priorities, contradicting or refocusing the intended activities in the State plan manadated by the DD Act. Under the amendment, this practice is unacceptable.

Councils must be conflict-free systems advocates in order to implement statutory mandates. With the exception of funds designated under section 122(d)(1) as "administrative"—totaling the lesser of 5 percent or $50,000 of the State grant for legal, accounting and other support services—Congress intends council decisions to be implemented by the State designated agency regarding the operation of Council and its staff, implementation of the approved State plan, planning, coordination, administration of priority area activities and advocacy.

The responsibilities of the designated State agency are expressly limited to ensuring that expenditures are made in a manner consistent with State law regarding grants and contracts, proper accounting and bookkeeping and other fiscal controls, the provision of assurances, and the provision of administrative support services for this program.

The substitute reinforces the council reporting requirement in section 107(a)(3) and that the designated State agency should consult with the council on all fiscal matters.

Fourth, the substitute modifies the respnsibilities of the Federal Interagency Committee.

Finally, the substitute clarifies the appointment of members to the boards of the protection and advocacy systems.

Again, I urge my colleagues to support the substitute amendment.

Mr. DURENBERGER. Mr. President, I rise to support H.R. 5679, the Developmental Disabilities Assistance and Bill of Rights Act of 1990.

As you know, the Senate passed its version of H.R. 5679 earlier this year. Between then and now we have worked closely with the House on their bill, and I am pleased to say that the House adopted most of the Senate's bill with only a few minor changes. I believe the suggested changes by the House are good ones and I encourage my colleagues to accept them as proposed.

Although this little known act provides less than 2 percent of the total Federal funding for persons with developmental disabilities, it plays a significant role in shaping and guiding services for persons with developmental disabilities. It is, in essence, the engine that drives services and the glue that holds the system together. It assists States in ensuring people with developmental disabilities receive the services and other assistance they need to achieve independence, productivity, and integration into the community.

The continued support of the programs under the Developmental Disabilities Act will be critical if we are to ensure the rights granted under the Americans with Disabilities Act, just signed into law by President Bush, are not gone to waste by a system that does not facilitate independence, productivity, and integration.

Finally, Mr. President, I want to thank my good friend from Iowa, the chairman of the Subcommittee on Disability Policy for all his efforts on this bill. The bill before us is the product of his many hours of hard work to secure a balanced and bipartism agreement that will move this program forward into the 21st century. I would also like to thank Representatives MADIGAN, WAXMAN, LENT, and TAUKE for their fine work on this bill.

Mr. President, I urge my colleagues to support H.R. 5679.

Mr. WIRTH. Mr. President, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. WIRTH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 962, 963, 964, 965, and 968, en bloc; that the bills be read for a third time and passed; that preambles, where appropriate, be agreed to; that statements be inserted in the RECORD at the appropriate place; that the motion to reconsider the passage of these bills and joint resolutions, en bloc, be laid upon the table; and that action on each bill appear separately in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF PATENT FOR THE BADGE OF THE AMERICAN LEGION

The bill (S. 615) providing for a 14-year extension of the patent for the badge of the American Legion, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 615

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Commerce, acting through the Commissioner of Patents and Trademarks, shall, when a certain design patent numbered 54,296 (for the badge of the American Legion) expires, extend such patent for a period of 14 years after such date, with all the rights and privileges pertaining thereto.

EXTENSION OF PATENT FOR THE BADGE OF THE AMERICAN LEGION AUXILIARY

The bill (S. 616) providing for a 14-year extension of the patent for the badge of the American Legion Auxiliary, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 616

Be it enacted by the Senate and House o Representatives of the United States o America in Congress assembled, That the Secretary of Commerce, acting through the Commissioner of Patents and Trademarks shall, when a certain design patent numbered 55,398 (for the badge of the American Legion Auxiliary) expires, extend such patent for a period of 14 years after such date, with all the rights and privileges pertaining thereto.

EXTENSION OF PATENT FOR THE BADGE OF THE SONS OF THE AMERICAN LEGION

The bill (S. 617) providing for a 14-year extension of the patent for the Badge of the Sons of the American Legion, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 617

Be it enacted by the Senate and House o Representatives of the United States o America in Congress assembled, That th Secretary of Commerce, acting through th Commissioner of Patents and Trademark shall, when a certain design patent numbered 92,187 (for the badge of the Sons o the American Legion) expires, extend suc patent for a period of 14 years after suc date, with all the rights and privileges pertaining thereto.

ENCOURAGING NATIONAL LAW ENFORCEMENT COOPERATION

The bill (S. 2756) to encourage national law enforcement cooperation was considered, ordered to be engrossed for a third reading, read th third time, and passed; as follows:

S. 2756

Be it enacted by the Senate and House Representatives of the United States America in Congress assembled,

SECTION 1. SHORT TITLE.

This act may be cited as the "Nationa Law Enforcement Cooperation Act of 1990

SEC. 2. FINDINGS.

The Congress finds that—

(1) cooperation among Federal, state, and local law enforcement agencies is critical to an effective national response to the problems of violent crime and drug trafficking in the United States;

(2) the National Crime Information Center, which links more than 16,000 Federal, state, and local law enforcement agencies, is the single most important avenue of cooperation among law enforcement agencies;

(3) major improvements to the National Crime Information Center are needed because the current system—

(A) is more than twenty years old;

(B) carries much greater volumes of enforcement information; and

(C) at this time is unable to incorporate technological advances that would significantly improve its performance; and

(4) the Federal Bureau of Investigation, working with State and local law enforcement agencies and private organizations, has developed a promising plan, "NCIC 2000", to make the necessary upgrades to the National Crime Information Center that should meet the needs of United States law enforcement agencies into the next century.

SEC. 3. AUTHORIZATIONS OF APPROPRIATIONS

There are authorized to be appropriated the following sums to implement the "NCIC 2000" project:

(1) $17,000,000 for fiscal year 1991;

(2) $25,000,000 for fiscal year 1992;

(3) $22,000,000 for fiscal year 1993;

(4) $9,000,000 for fiscal year 1994; and

(5) such sums as may be necessary for fiscal year 1995.

SEC. 4. REPORT.

By February 1 of each fiscal year for which funds for NCIC 2000 are requested, the Director of the Federal Bureau of Investigation shall submit a report to the Committees on the Judiciary of the Senate and House of Representatives that details the progress that has been made in implementing NCIC 2000 and a complete justification for the funds requested in the following fiscal year for NCIC 2000.

Mr. BIDEN. Mr. President, today the Senate passed S. 2756, the National Law Enforcement Cooperation Act of 1990. This bill authorizes full funding for a new computer system—the National Crime Information Center [NCIC]—that is vital to law enforcement agencies across the country. Run by the FBI, the NCIC computer system contains national records on fugitives, stolen property and missing persons.

The importance of such a computer system is demonstrated each day in the law enforcement community.

More than 16,000 local, State and Federal law enforcement agencies are linked to the NCIC—system making it the single most important means of Federal/State cooperation in the fight against violent crime and drug trafficking.

In 1988 alone, NCIC helped to locate more than 130,000 fugitives, 33,000 missing persons, and more than $1.1 billion in stolen property.

And NCIC is more than just an important law enforcement tool. It is also a critical tool in protecting police officers in the streets. Every time an officer makes a routine traffic stop, the officer checks NCIC to see if the car might harbor a wanted or dangerous person.

Although NCIC is an essential component of the law enforcement community, it will not meet the needs of the law enforcement community into the next century unless the 20-year-old system is upgraded.

Fortunately the FBI has developed such a plan—the so-called NCIC 2000 project. NCIC 2000 calls for using state-of-the-art computer technology to upgrade the NCIC system. With these upgrades, police officers on the street would get more information, more quickly, with fewer mistakes. The results would be clear: more effective law enforcement, and fewer false arrests caused by faulty criminal history information.

This bill provides a 5-year, $78 million authorization that is needed to fully implement the NCIC 2000 project.

I thank my colleagues for their support of this critically needed law enforcement legislation.

RELIEF OF SONANONG POONPIPAT (LATCH)

The bill (H.R. 2961) for the relief of Sonanong Poonpipat (Latch), was considered, ordered to a third reading, read the third time, and passed.

COMPREHENSIVE MEDICAL DEVICE IMPROVEMENT ACT

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 953, S. 3006, a bill to make improvements in the regulation of medical devices.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3006) to amend the Federal Food, Drug and Cosmetic Act to make improvements in the regulation of medical devices, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which has been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Medical Device Improvement Act of 1990".

SEC. 2. REFERENCES TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

SEC. 3. REVIEW OF SAFETY AND EFFECTIVENESS INFORMATION.

(a) Review.—Section 510(k) (21 U.S.C. 360(k)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after the subsection designation; and

(3) by adding at the end the following new paragraphs:

"(2)(A) The requirements of subparagraph (B) shall apply to a person who submits a notification in accordance with paragraph (1) for a device that the person claims is substantially equivalent to a marketed device—

"(i) that was introduced or delivered for introduction into interstate commerce for commercial distribution before the date of enactment of this paragraph;

"(ii) that is classified as a class III device in accordance with subsections (b) through (d) of section 513; and

"(iii) for which no final regulation requiring premarket approval has been promulgated in accordance with section 515(b).

"(B) A person described in subparagraph (A) shall—

"(i) prior to the submission of a notification in accordance with paragraph (1), conduct a reasonable search for, and review of, published and unpublished data available to the person concerning the safety and effectiveness of the marketed device and the device for which the notification is submitted, including all adverse safety and effectiveness data concerning the devices, except for data that has been submitted to the Secretary in accordance with section 519 of this Act and section 803 of title 21, Code of Federal Regulations; and

"(ii) include in the notification a certification that the search and review was conducted and a citation to and summary of the data resulting from the search.

"(C) The Secretary may require the submission of any data described in the summary required by paragraph (B)(ii).".

SEC. 4. CLASSIFICATION OF DEVICES.

(a) Classification.—Section 513 (21 U.S.C. 360c) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)(ii), by striking "or to establish a performance standard" and inserting "or to establish an additional control or controls, as described in subparagraph (B)(ii),";

(B) by amending subparagraph (B) to read as follows:

"(B) Class II, additional controls.—A device—

"(i) that cannot be classified as a class I device because general controls are insufficient to provide reasonable assurance of the safety and effectiveness of the device;

"(ii) for which there is sufficient information to establish an additional control or controls to provide the assurance, including—

"(I) promulgating a performance standard;

"(II) developing and disseminating a guideline, including a guideline for the submission of clinical data in a premarket notification submission in accordance with section 510(k);

"(III) requiring the use of postmarket surveillance as appropriate in accordance with section 522; and

"(IV) making a recommendation or taking other appropriate action considered necessary by the Secretary to provide reasonable assurance of the safety and effectiveness of the device; and

"(iii) for which it is necessary to establish an additional control or controls to provide reasonable assurance of the safety and effectiveness of the device;

except that for a device that is purported or represented to be for a use in supporting or sustaining human life, sufficient information must exist for the Secretary to identify and describe the provision of a performance standard to provide such assurance."; and

(C) in subparagraph (C)(i)(II), by striking "establishment of a performance standard" and inserting "establishment of an additional control, as described in subparagraph (B)(ii),"; and

(2) in subsection (f)—

(A) in paragraph (1), by inserting "the Secretary by order determines that" after "unless"; and

(B) in paragraph (2), by striking "The" and inserting "The Secretary may initiate the reclassification of a device classified in class III under paragraph (1), or a".

(b) Conforming Amendment.—Section 513(h)(1) is amended by inserting after "510" the following: "(except for a guideline for the submission of clinical data in a premarket notification submission in accordance with section 510(k))".

SEC. 5. REVISION OF CLASSIFICATION FOR CERTAIN CLASS III DEVICES.

(a) Revision of Classification.—Section 513 (21 U.S.C. 360c) (as amended by section 4(b) of this Act) is further amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"Revision of Classification

"(h)(1) The requirements established by order in accordance with paragraph (2) shall apply with respect to a device—

"(A) that was introduced or delivered for introduction into interstate commerce for commercial distribution before the date of enactment of this subsection;

"(B) that is classified as a class III device; and

"(C) for which no final regulation requiring premarket approval has been promulgated in accordance with section 515(b).

"(2) Not later than 36 months after the date of enactment of this subsection, the Secretary—

"(A) shall by order require manufacturers of devices described in paragraph (1) to submit to the Secretary a citation to and summary of all published and unpublished data reasonably available to the manufacturer concerning the safety and effectiveness of the device, including any adverse safety and effectiveness data, except for information that has been submitted to the Secretary under section 519 of this Act and section 803 of title 21, Code of Federal Regulations; and

"(B) may require a manufacturer to submit any data described in the summary.

"(3) After the issuance of an order in accordance with paragraph (2)(A), but not later than 24 months after the issuance of the order, the Secretary shall publish in the Federal Register for each device covered by the order a notice of proposed rulemaking proposing to change the classification of the device to class II or to class I or to continue the classification of the device in class III.

"(4) In determining whether to revise the classification of a device or to continue the classification of the device in class III, the Secretary shall apply the criteria in section 513(a) to the information available when the device was initially classified and any new information made available since initial classification.

"(5) After considering any comments submitted in response to the notice of proposed rulemaking, the Secretary shall issue a final regulation changing the classification of the device or continuing the classification in class III. The Secretary shall publish in the Federal Register findings on the matters referred to in paragraph (4), a discussion of the comments received in response to the notice of proposed rulemaking, and the response of the Secretary to the comments. The Secretary shall publish the final regulation not earlier than 90 days, and not later than 12 months, after the date of publication of the notice of proposed rulemaking relating to the regulation.

"(6) A regulation issued in accordance with paragraph (5) is subject to judicial review in accordance with section 517.

"(7) Not later than 12 months after the effective date of any regulation issued in accordance with paragraph (5), the Secretary shall establish a schedule for the issuance of a regulation in accordance with section 515(b) requiring submission of a premarket approval application for each device that has been continued in class III.".

SEC. 6. ESTABLISHMENT OF PERFORMANCE STANDARDS.

(a) Procedure.—Section 514 (21 U.S.C. 360d) is amended—

(1) in subsection (a), by striking "The Secretary may" and inserting "If the Secretary determines that a performance standard is necessary to provide reasonable assurance of the safety and effectiveness of a class II device, the Secretary shall";

(2) by striking subsections (b) through (f);

(3) by redesignating subsection (g) as subsection (b);

(4) in subsection (b) (as redesignated), by striking paragraphs (1) and (2) and inserting the following new paragraphs:

"(1)(A) The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any performance standard for a device.

"(B) A notice of proposed rulemaking for the establishment or amendment of a performance standard for a device shall—

"(i) set forth a finding with supporting justification that the performance standard is appropriate and necessary to provide reasonable assurance of the safety and effectiveness of the device;

"(ii) set forth proposed findings with respect to the risk of illness or injury that the performance standard is intended to reduce or eliminate;

"(iii) invite interested persons to submit to the Secretary within 30 days of the publication of the notice, requests for changes in the classification of the device based on new information relevant to the classification; and

"(iv) invite interested persons to submit an existing performance standard for the device, including a draft or proposed performance standard, for consideration by the Secretary.

"(C) A notice of proposed rulemaking for the revocation of a performance standard shall set forth a finding with supporting justification that the performance standard is no longer necessary to provide reasonable assurance of the safety and effectiveness of a device.

*"(D) The Secretary shall provide for
comment period of no fewer than 60 days.*

*"(2) If, after publication of a notice in ac
cordance with paragraph (1), the Secretar
receives a request for a change in the classi
fication of the device, the Secretary shal
within 60 days of the publication of th
notice, consult with a classification pane
described in the second sentence of sectio
513(e).".*

(b) Conforming Amendments.—

*(1) Section 514(b) (as redesignated by sub
section (a)(3)) is amended—*

*(A) in paragraph (3)(A), by striking "para
graph (2)" and inserting "paragraph (1)
and*

*(B) in paragraph (4)(A), by striking "para
graphs (2) and (3)(B)" and inserting "para
graphs (1), (2), and (3)(B)".*

*(2) Section 517(a)(3) (21 U.S.C. 360g(a)(3
is amended by striking "514(b)(2) or".*

*(3) Section 520(i) (21 U.S.C. 360j(i))
amended by striking "514(g)(5)(B)" and in
serting "514(b)(5)(B)".*

SEC. 7. SUSPENSION OF APPROVAL OF APPLICATIO

*Section 515(e) (21 U.S.C. 360e(e))
amended by adding at the end the followin
new paragraph:*

*"(3)(A) The Secretary may by order su
pend the approval of an application a
proved under this section if the Secretary d
termines that there is a reasonable probab
ity that the continued distribution of
device under the application would cause s
rious, adverse health consequences or deat*

*"(B) Not less than 10 days prior to the
suance of a suspension order under subpar
graph (A), the Secretary shall issue a noti
that the Secretary shall provide the holder
the application for the device with an o
portunity for an informal hearing to dete
mine whether to issue the order.*

*"(C) Not more than 10 days after the hea
ing described in subparagraph (B), the Se
retary shall issue a suspension order or d
termine that the order should not be issue*

*"(D) Not more than 20 days after the iss
ance of the suspension order, the Secreta
shall issue a notice initiating the process
withdrawal of approval of the applicatio
as described in paragraphs (1) and (2). If t
Secretary does not issue the notice with
the specified time frame, the suspensio
order shall be deemed to be vacated.".*

SEC. 8. JUDICIAL REVIEW.

*Section 517(a) (21 U.S.C. 360g(a))
amended—*

*(1) by striking "or" at the end of par
graph (6); and*

*(2) by inserting after paragraph (7) the f
lowing new paragraphs:*

*"(8) the issuance of a regulation under se
tion 513(h), or*

*"(9) the issuance of an order under secti
513(f)(1) or an order effectuating the clas
fication required under 520(l)(1)(D).".*

SEC. 9. EMERGENCY RECALL AUTHORITY.

*Section 518 (21 U.S.C. 360h) is amended
adding at the end the following new subs
tion:*

"Emergency Recall Authority

*"(e)(1) If the Secretary finds that there i
reasonable probability that a device inten
ed for human use would cause serious,
verse health consequences or death, the S
retary shall issue a recall order. The or
shall require the appropriate party or p
ties (including the manufacturers, impo
ers, distributors, or retailers of the device)
immediately cease any distribution of
device and, thereafter, recall the device fr
commercial distribution.*

"(2)(A) The order issued under paragraph (1) shall include recall of devices from hospitals and other health care institutions, unless the Secretary determines that the risk of recalling the device from the facilities presents a greater health risk than not recalling the device from use.

"(B) For devices subject to an order issued under paragraph (1), and in lieu of including individuals within the recall order, the Secretary shall order a notification under subsection (a) regarding the risks associated with the continued use of the device to individuals or, when appropriate, the health professionals who prescribed the device for the use of the individuals.

"(3) Not later than 10 days after the issuance of a recall order, the Secretary shall provide the party or parties to whom the order is directed with the opportunity for an informal hearing to determine whether the order shall be affirmed or vacated.

"(4) If, after providing an opportunity for an informal hearing, the Secretary determines that the recall order was properly issued, the order shall remain in effect. The order shall specify a timetable in which the device recall will occur, and shall require periodic reports to the Secretary describing the progress of the recall effort.

"(5) If, after providing an opportunity for an informal hearing, the Secretary determines that inadequate grounds exist to support the order issued under paragraph (1), the Secretary shall vacate the order.

"(6) A party to whom the recall order is issued shall—

"(i) remedy the causes that resulted in the issuance of the order;

"(ii) complete the recall in accordance with the order; and

"(iii) submit a report to the Secretary demonstrating compliance with the order.

"(7) After fulfilling the requirements of paragraph (6), a party to whom the recall order is issued may petition the Secretary to vacate the order. The petition shall state the basis for vacating the order.

"(8) The Secretary shall respond to the petition described in paragraph (7) not later than 30 days after the receipt of the petition. If the Secretary finds that the party to whom the recall order was issued has fulfilled the requirements of paragraph (6) and that the device may be distributed in interstate commerce, the Secretary shall vacate the order.

"(9) The remedy provided by this subsection shall be in addition to those provided by subsections (a), (b), and (c).".

SEC. 10. USER REPORTS.

(a) Requirement.—Section 519 (21 U.S.C. 360i) is amended—

(1) in subsection (a)(3), by inserting before the semicolon the following: "and shall require distributors who submit the reports to submit copies of the reports to the manufacturer of the device for which the report was made";

(2) by adding at the end the following new subsections:

"Inclusion of Distributors

"(c) Not later than 1 year after the date of the enactment of this subsection, the Secretary shall amend the regulations promulgated under this section to require distributors of medical devices to establish and maintain records and make reports under this section. In amending the regulations, the Secretary may exempt classes of distributors from whom reports are not necessary for the protection of the public health.

"Certification

"(d) Each manufacturer, importer, and distributor required to make reports under subsection (a) shall submit to the Secretary annually a statement certifying that the manufacturer, importer, or distributor—

"(1) did not file any report; or

"(2) did file a certain number of the reports.

"User Reports

"(e)(1) As used in this subsection:

"(A) The terms 'facility' and 'medical device user facility' mean a hospital, nursing home, or ambulatory surgical facility.

"(B) The terms 'serious illness' and 'serious injury' mean illness or injury, respectively, that is unanticipated and—

"(i) is life threatening;

"(ii) results in permanent impairment of a body function or permanent damage to a body structure; or

"(iii) necessitates immediate medical or surgical intervention to preclude permanent impairment of a body function or permanent damage to a body structure.

"(2) If a medical device user facility becomes aware of information that reasonably suggests that a medical device has caused or contributed to the death of a patient of the facility, the facility shall, as soon as practicable but not later than 15 working days after becoming aware of the information, report the information to the Secretary and, if the identity of the manufacturer is known, to the manufacturer of the device.

"(3) If a medical device user facility becomes aware of information that reasonably suggests that a medical device has caused or contributed to a serious illness or serious injury to a patient of the facility, the facility shall, as soon as practicable, but not later than 15 working days after becoming aware of the information, report the information to the manufacturer of the device. If the facility is unable to determine the identity of the manufacturer of the device, the facility shall send a report of the information to the Secretary.

"(4) For purposes of paragraphs (2) and (3), a medical device user facility shall be treated as having received or otherwise become aware of information with respect to a medical device of the facility when appropriate medical personnel employed by or otherwise affiliated with the facility receive or otherwise become aware of information with respect to the device in the course of the duties of the individual.

"(5)(A) Except as provided in subparagraph (B), the Secretary may not disclose the identity of a facility that makes a report in accordance with paragraph (2) or (3)—

"(i) except in connection with an action brought to enforce section 301(q);

"(ii) except in connection with a communication to a manufacturer of a device that is the subject of a report in accordance with paragraph (2) or (3); or

"(iii) unless required to be disclosed in accordance with subsection (a).

"(B) This paragraph shall not authorize the Secretary to withhold the identity of a facility making a report in accordance with paragraph (2), or any information in the report, from duly authorized committees and subcommittees of Congress.

"(6)(A) No report made in accordance with paragraph (2) or (3) by a person described in subparagraph (B) shall be admitted into evidence in any civil action involving private parties unless the person had knowledge of the falsity of the information contained in the report.

"(B) As used in subparagraph (A), the term 'person' means—

"(i) a medical device user facility;

"(ii) one of the appropriate medical personnel employed by or otherwise affiliated with the facility; or

"(iii) a physician who is not required to make a report in accordance with paragraph (2) or (3).

"(7) The obligation of a medical device user facility to make a report in accordance with paragraph (2) or (3) shall not affect the obligation of the manufacturer of the device who receives the information to file a report concerning the device as required under subsection (a).

"User Education

"(f)(1) During the 1-year period beginning on the date of enactment of this subsection, the Secretary may award grants to eligible entities to establish public education programs for hospitals, ambulatory surgical facilities, and nursing homes concerning the user reporting requirements set forth in subsection (e).

"(2) In awarding grants in accordance with paragraph (1), the Secretary shall give priority to entities to submit proposals that demonstrate—

"(A) a need for user education among hospitals, ambulatory surgical facilities, and nursing homes regarding a generic category of medical device; and

"(B) the ability to adequately perform the proposed educational program.

"(3) In order to receive a grant in accordance with paragraph (1), an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require. At a minimum, the application shall contain—

"(A) a description of the proposed public education program;

"(B) the qualifications and experience of the entity to carry out the program; and

"(C) the need for user education among persons to be served by the entity regarding a generic category of medical device.

"(4) The Secretary shall by regulation specify the qualifications for an entity to receive a grant in accordance with paragraph (1).

"(5) There are authorized to be appropriated to carry out this subsection such sums as may be necessary for each of fiscal years 1991 through 1993.".

(b) Regulations.—The Secretary of Health and Human Services shall promulgate regulations to implement section 519(e) of the Federal Food, Drug, and Cosmetic Act, as added by the amendment made by subsection (a), not later than 12 months after the date of enactment of this Act. In promulgating the regulations, the Secretary shall minimize the administrative burdens on medical device user facilities consistent with the need to assure adequate information.

(c) Report to Congress.—Not later than 36 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report that contains an evaluation of the requirements of section 519(e) of the Federal Food, Drug, and Cosmetic Act. In preparing the report, the Secretary shall consult with individuals and organizations with an interest in health care and consumer issues. At a minimum, the report shall contain—

(1) an evaluation of the safety benefits of the requirements;

(2) an evaluation of the burdens placed on the Food and Drug Administration and on medical device user facilities by the requirements;

(3) an evaluation of the cost-effectiveness of the requirements; and

(4) recommendations for legislative reform.

(d) Effective Date.—Section 519(e) of the Federal Food, Drug, and Cosmetic Act shall become effective on the earlier of—

(1) the effective date of regulations promulgated in accordance with subsection (b); or

(2) the date that is 12 months after the date of enactment of this Act.

SEC. 11. REPORTS OF REMOVALS AND CORRECTIVE ACTIONS.

Section 519 (21 U.S.C. 360i) (as amended by section 10 of this Act) is further amended by adding at the end the following new subsection:

"Reports of Removals and Corrective Actions

"(g)(1)(A) Except as provided in paragraph (2), the Secretary shall by regulation require a manufacturer, importer, or distributor of a device to report promptly to the Secretary any removal or corrective action of a device undertaken by the manufacturer, importer, or distributor of a device if the removal or corrective action was undertaken to—

"(i) eliminate a significant risk to health caused by the device; or

"(ii) remedy a violation of this Act caused by the device which may present a risk to health.

"(B) A manufacturer, importer, or distributor of a device who undertakes a corrective action or removal of a device that is not required to be reported under subparagraph (A) shall keep a record of the corrective action or removal.

"(2) No report of the corrective action or removal of a device may be required under paragraph (1) if a report of the corrective action or removal is otherwise required under this Act, or the corrective action or removal was initiated at the request of the Secretary, and a report has been submitted to the agency.

"(3) For purposes of paragraphs (1) and (2), the terms 'corrective action' and 'removal' do not include routine servicing.".

SEC. 12. USE OF PREMARKET APPROVAL DATA.

Section 520 (21 U.S.C. 360j) is amended—

(1) in subsection (c)—

(A) by striking "under section 513 from class III to class II" and inserting "from class III to class II or class I"; and

(B) by inserting "in accordance with subsection (h) and" after "reclassified from class III to class II, except,"; and

(2) in subsection (h)—

(A) in paragraph (3), by striking "Any" and inserting "Except as provided in paragraph (4), any"; and

(B) by adding at the end the following new paragraph:

"(4)(A) Any information contained in an application for premarket approval filed with the Secretary pursuant to section 515(c), including clinical and preclinical tests or studies, but excluding descriptions of methods of manufacture and product composition, that demonstrates the safety and effectiveness of a device shall be available 1 year after the original application for the fourth device of a kind has been approved by the Secretary, for use by the Secretary in approving devices, or determining whether a product development protocol has been completed, under section 515, establishing a performance standard under section 514, and reclassifying devices under subsections (e) and (f) of section 513, and subsection (l)(2). The Secretary shall deem devices that incorporate the same technologies, have the same principles of operation, and are intended for the same use or uses to be within a kind of device.

"(B) The Secretary, contemporaneously with the approval of the fourth device of a kind, shall publish a notice in the Federal Register identifying the four devices of a kind that have been approved under section 515 and the date on which the data contained in premarket approval applications for the devices will be available to the Secretary for use, as described in subparagraph (A). For each device described in subparagraph (D)(i)(I), the Secretary shall publish a notice in the Federal Register setting forth the date, which shall be not earlier than 1 year after the date of notice, that data identified in subparagraph (A) shall be available for the use of the Secretary.

"(C) The publicly available detailed summaries of information respecting the safety and effectiveness of devices required by paragraph (1)(A) shall be available for use by the Secretary as the evidentiary basis for—

(i) approving devices, or determining whether a product development protocol has been completed, under section 515;

(ii) establishing a performance standard under section 514; and

(iii) reclassifying devices under subsections (e) and (f) of section 513, and subsection (l)(2).

"(D)(i) This paragraph shall become effective—

"(I) upon the date of the enactment of the paragraph, for devices approved under section 515, where four devices of a kind were approved on or before December 31, 1987; and

"(II) 24 months after the date of the enactment of the paragraph, for devices not included within the scope of subclause (I) that are subject to a premarket approval requirement under section 515.

"(ii) For each device described in subparagraph (D)(i)(II) for which the original application for a fourth device of a kind is approved by the Secretary before the 24-month delayed effective date described in subparagraph (D)(i)(II), the 24-month delayed effective date shall be deemed to be the approval date for the fourth device of a kind.

"(E) The approval date of a device, for purposes of this paragraph, shall be the date of the letter of the Secretary to the applicant approving a device under section 515, and permitting the applicant to commercially distribute the device.".

SEC. 13. TRACEABILITY.

Section 520(j) (21 U.S.C. 360j(j)) is amended to read as follows:

"Traceability Requirements

"(j)(1) The Secretary shall, not later than 1 year after the date of enactment of this subsection, determine which devices should be subject to a requirement of labeling, or coding, or identification by any other means, that is necessary to ensure that the device may be traced from the place of manufacture of the device or initial distribution to the ultimate user of the device, from among devices that—

"(A) are permanent implants;

"(B) are purported or represented to be for use in supporting or sustaining human life; or

"(C) present a potential unreasonable risk of illness or injury.

"(2) Not later than 2 years after the date of enactment of this subsection, the Secretary shall by regulation require the manufacturers, importers, and distributors of the devices that are described in paragraph (1) t
establish the means by which the device
will be traced to the ultimate user.".

SEC. 14. REVISION OF CLASSIFICATION FOR DEVICE
REGULATED AS NEW DRUGS OR ANTIB
OTIC DRUGS.

(a) In General.—Section 520(l)(2) (2
U.S.C. 360j(l)(2)) is amended—

(1) by inserting "(A)" after the paragrap
designation; and

(2) in subparagraph (A) (as designated b
paragraph (1), by striking "The" and inser
ing "The Secretary may initiate the reclass
fication of a device classified in class I
under paragraph (1), or a"; and

(3) by adding at the end the following ne
subparagraph:

"(B)(i) Not later than 90 days after th
date of enactment of this subparagraph, th
Secretary shall publish a notice in the Fede
al Register with respect to devices that a
subject to regulation pursuant to this su
section. The notice shall state whether eac
device shall remain in class III or be r
viewed for classification into class I or I
The notice shall also require the manufa
turer of a device that the Secretary inten
to classify into class I or II to submit to th
Secretary a description of and citation
any adverse safety and effectiveness info
mation not submitted under section 519(
of this Act and section 803 of title 21, Co
of Federal Regulations. The Secretary m
require a manufacturer to submit the a
verse safety and effectiveness informati
for which a description and citation we
submitted to the Secretary.

"(ii) After the issuance of the notice und
clause (i), and following consultation wi
appropriate advisory panels in accordan
with subsections (b) through (d) of secti
513, but before the expiration of the 1-ye
period beginning on the date of enactme
of this subparagraph, the Secretary sh
publish a proposed regulation in the Feder
Register classifying each device into class
or II, or providing that each device sh
remain in class III. The data furnished
manufacturers in accordance with clau
(i), in combination with the advice and r
ommendation of appropriate adviso
panels shall, for purposes of this Act, ser
as a basis for satisfying the criteria set for
in subclause (I) or (II) of secti
513(a)(1)(C)(ii), and shall serve as a ba
for the proposed regulation required und
this subparagraph.

"(iii) Following a review of comments
ceived on the proposed regulation issued
accordance with clause (ii), and before t
expiration of the 1-year period referred to
clause (ii), the Secretary shall promulgate
final regulation prescribing the classific
tion of all devices regulated under this su
section on the date of enactment of this su
paragraph. No regulation issued under th
subparagraph requiring a device to rema
in class III or classifying the device as cl
I or II may take effect before the expirati
of 90 days from the date of the publicati
of the regulation in the Federal Register.

"(iv) The Secretary may by notice in t
Federal Register extend the 1-year peri
prescribed by clauses (ii) and (iii) for
device for an additional period not
exceed 1 year.

"(v) Notwithstanding any other provisi
of this subsection, the Secretary shall r
retain any daily wear nonhydrophilic pl
tic contact lens in class III unless the Sec
tary finds that it meets the criteria set fo
in subclause (I) or (II) of secti
513(a)(1)(C)(ii). The finding, and t
grounds for the finding, shall be publish

in the Federal Register. If during the 1-year period beginning on the date of enactment of this subparagraph, the Secretary has not made the finding and issued the notice required by this clause, the Secretary shall issue an order placing the lens in class II.

"(vi) Actions taken under this subparagraph shall not interfere with any pending reclassification action. Any device for which a reclassification petition was pending on January 1, 1989, shall not be included in the list published under clause (i).".

(b) CONFORMING AMENDMENT.—Section 520(l)(1) is amended—

(1) by inserting "on the initiative of the Secretary or" after "Secretary"; and

(2) by striking "paragraph (2)" and inserting "paragraph (2)(A)".

SEC. 15. SUBSTANTIAL EQUIVALENCE.

Section 520 (21 U.S.C. 360j) is amended by adding at the end the following new subsection:

"Substantial Equivalence

"(m)(1) For purposes of determinations of substantial equivalence under this subchapter—

"(A) The term 'different technological characteristics' means, with respect to a device being compared to a predicate device, that there is a significant change in the materials, design, energy source, or other features of the device from those of the predicate device.

"(B) The term 'substantially equivalent' or 'substantial equivalence' means, with respect to a device being compared to a predicate device, that the device has the same intended use as the predicate device and—

"(i) has the same technological features as the predicate device; or

"(ii) has different technological features and the evidence submitted that the device is substantially equivalent to the predicate device contains information, including clinical data, if required, that demonstrates that the device is as safe and effective as a marketed device.

"(2) A device may not be found to be substantially equivalent to a predicate device that has been removed from the market at the initiative of the Secretary or that has been determined to be misbranded or adulterated by a judicial order.

"(3) The Secretary shall promulgate regulations under which a manufacturer seeking a determination of substantial equivalence may be required to prepare a summary of any clinical data required (including information respecting any adverse effects of the device on health) if the Secretary determines that clinical data must be submitted in accordance with paragraph (1)(B)(ii), and establishing a standard format for the summary. The Secretary shall make the summary available to the public within 30 days of the issuance of a determination of substantial equivalence.".

SEC. 16. HUMANITARIAN DEVICE EXEMPTION.

Section 520 (21 U.S.C. 360j) (as amended by section 15 of this Act) is further amended by adding at the end the following new subsection:

"Humanitarian Devices

"(n)(1) It is the purpose of this subsection to encourage the discovery of devices intended to benefit patients in the treatment or diagnosis of rare diseases or conditions, to the extent consistent with the protection of the public health and safety and with ethical standards.

"(2) As used in this subsection, the term 'rare disease or condition' means any disease or condition that affects fewer than 8,000 persons in the United States. Determinations under the previous sentence with respect to any device shall be made on the basis of the facts and circumstances as of the date of submission of an application under paragraph (3).

"(3) Not later than 8 months after the date of enactment of this subsection, the Secretary shall promulgate regulations prescribing procedures and conditions under which persons may on application be granted an exemption for devices from the effectiveness requirements of section 502, 514, 515, 516, 519, or 706, or subsection (e) or (f) of this section, to permit the use of the devices by physicians in the treatment of patients afflicted by a rare disease or condition.

"(4) In promulgating regulations under paragraph (3), the Secretary may prescribe procedures and conditions under which an exemption may be granted for a device if—

"(A) the device is likely to provide a significant benefit to a patient in the treatment or diagnosis of a disease or condition, or a significant benefit to the patient in quality of life;

"(B) the device is used—

"(i) in the treatment or diagnosis of a rare disease or condition and cannot reasonably be expected to be available absent the exemption; or

"(ii) the patient population affected by the disease or condition is not sufficient to conduct clinical trials of the effectiveness of the device; and

"(C) the Secretary determines that the probable benefit to health from the use of the device outweighs the risk of injury or illness from the use and the probable risks and benefits of currently available devices or alternative forms of treatment.

"(5) Devices granted an exemption under this subsection shall only be used—

"(A) in facilities that have established, in accordance with regulations of the Secretary, a local institutional review committee to supervise clinical testing of devices in the facilities; and

"(B) if, prior to the use of a device, an institutional review committee approves the use in the treatment or diagnosis of a specific rare disease or condition.".

SEC. 17. POSTMARKET SURVEILLANCE.

The Act is amended by inserting after section 521 (21 U.S.C. 360k) the following new section:

"SEC. 522. POSTMARKET SURVEILLANCE.

"(a) IN GENERAL.—

"(1) REQUIRED SURVEILLANCE.—The Secretary shall require a manufacturer to conduct postmarket surveillance for any device that—

"(A) is a permanent implant the failure of which may cause serious, adverse health consequences or death;

"(B) is intended for a use in supporting or sustaining human life; or

"(C) presents potential for serious risk to human health.

"(2) DISCRETIONARY SURVEILLANCE.—The Secretary may require a manufacturer to conduct postmarket surveillance for a device if the Secretary determines that postmarket surveillance of the device is necessary to protect the public health or to evaluate the safety or effectiveness of the device.

"(b) REGULATIONS.—The Secretary shall issue regulations implementing the requirements of this section not later than 1 year after the date of enactment of this section.

"(c) SURVEILLANCE PERIOD.—The Secretary may determine the period of surveillance required in order to complete the collection of useful data or other information necessary to protect the public health or to evaluate the safety or effectiveness of the device. In no event may a surveillance period be imposed in accordance with this section without a termination date.

"(d) CONTRACTS.—

"(1) IN GENERAL.—The manufacturer of a device for which postmarket surveillance is required in accordance with subsection (a) shall contract with a qualified academic medical center, or a representative number of qualified academic medical centers in representative locations, to provide for any monitoring of clinical experience that may be required in accordance with this section.

"(2) LACK OF QUALIFIED ACADEMIC MEDICAL CENTER.—If no academic medical center has the qualifications and experience to conduct adequate monitoring of clinical experience in accordance with this section, a manufacturer shall contract with a qualified medical center or with a representative number of qualified medical centers in representative locations to provide the monitoring.

"(3) NUMBER AND IDENTITY.—The manufacturer shall determine, and obtain the approval of the Secretary regarding, the number and identity of the center or centers that will perform surveillance in accordance with this section and the manner of surveillance.

"(e) APPLICATION.—This section shall apply only to devices that are first distributed in interstate commerce after the date of enactment of this section.".

SEC. 18. ESTABLISHMENT OF THE OFFICE OF INTERNATIONAL RELATIONS.

Section 801 (21 U.S.C. 381) is amended by adding at the end the following new subsection:

"(f)(1) The Secretary may enter into agreements with foreign governments, which agreements specify that devices of either country that are manufactured in accordance with rules and regulations for device manufacture under this Act are suitable for commercial distribution.

"(2) In entering into the agreements described in paragraph (1), the Secretary shall encourage the mutual recognition of—

"(A) good manufacturing practice regulations promulgated under section 520(f)(1)(A); and

"(B) other rules, regulations, and testing protocols as the Secretary determines to be appropriate.

"(3) The Secretary shall establish an Office of International Relations that shall plan and initiate programs for the recognition of devices in accordance with paragraph (1).

"(4) The Secretary may issue regulations to carry out this subsection.

"(5) Not later than 2 years after the date of enactment of this subsection, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the activities of the Office of International Relations.".

SEC. 19. DEFINITIONS.

Section 201 (21 U.S.C. 321) is amended—

(1) in subsection (g)(1), by striking "; but does not include devices or their components, parts, or accessories"; and

(2) in the language following paragraph (3) of subsection (h), by striking "any of its principal" and inserting "its primary".

SEC. 20. REVIEW OF MARKET APPLICATIONS FOR ARTICLES COMPRISING COMBINATIONS OF DRUGS, DEVICES, AND BIOLOGICS.

Section 503 (21 U.S.C. 353) is amended—

(1) by striking the section heading and inserting the following:

"EXEMPTIONS AND CONSIDERATION FOR CERTAIN DRUGS, DEVICES, AND BIOLOGICAL PRODUCTS"; and

(2) by adding at the end the following new subsection:

"(f)(1) The Secretary shall designate a component of the Food and Drug Administration to regulate products that constitute a combination of a drug, device, or biological product. The Secretary shall determine the primary mode of action of the combination product. If the Secretary determines that the primary mode of action is that of—

"(A) a drug (other than a biological product), the persons charged with premarket review of drugs shall have primary jurisdiction;

"(B) a device, the persons charged with premarket review of devices shall have primary jurisdiction; or

"(C) a biological product, the persons charged with premarket review of biological products shall have primary jurisdiction.

"(2) Nothing in this subsection shall prevent the Secretary from using any agency resources of the Food and Drug Administration necessary to ensure adequate review of the safety, effectiveness, or substantial equivalence of an article.

"(3) The Secretary shall promulgate regulations to implement market approval procedures in accordance with paragraphs (1) and (2) not later than 1 year after the date of enactment of this subsection.

"(4) As used in this subsection:

"(A) The term 'biological product' has the meaning given the term in section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)).

"(B) The term 'market clearance' includes—

"(i) approval of an application under section 505, 507, 515, or 520(g);

"(ii) a finding of substantial equivalence under this subchapter; and

"(iii) approval of a product or establishment license under subsection (a) or (d) of section 351 of the Public Health Service Act (42 U.S.C. 262).".

SEC. 21. NEW DRUG APPROVAL.

Section 505(j) (21 U.S.C. 355) is amended by adding after paragraph (7) the following new paragraph:

"(8) The Secretary may not approve an abbreviated application for new drug approval under this subsection for a period of 10 years from the date of the approval of the listed drug, if the listed drug—

"(A) is an anti-inflammatory, non-steroidal drug; and

"(B) is a drug for which an application under subsection (b) was submitted on or before March 29, 1982, and approved on or after October 31, 1988.".

SEC. 22. PATENTS.

Section 156 of title 35, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2), by inserting ", except as otherwise provided in subsection (i)" after "extended"; and

(B) in the second sentence, by inserting ", and in subsection (i)", after "and (5)"; and

(2) by adding at the end the following new subsection:

"(i)(1) Notwithstanding the provisions of subsection (a)(2), if a claim or claims of any patent on an invention that was conceived or reduced to practice substantially in the performance of work at a nonprofit organization cover more than one product, or a method of using or manufacturing more than one product, that is subject to a regulatory review period before the commercial marketing or use of the product, the claim or claims may be separately extended as to each of the products in accordance with this section.

"(2) In no event may any extensions granted under this subsection extend the term of a patent claim in respect of a product other than a product for which extension is sought.

"(3) As used in this subsection, the term 'nonprofit organization' has the meaning given the term in section 201(i).".

AMENDMENT NO. 2975

(Purpose: To make a substitute amendment)

Mr. WIRTH. Mr. President, I send a substitute amendment to the desk on behalf of Senator KENNEDY.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH], for Mr. KENNEDY, proposes an amendment numbered 2975.

Mr. WIRTH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. KENNEDY. Mr. President, I urge the Senate to pass the Comprehensive Medical Device Improvement Act of 1990. This bill represents a dramatic contribution to the public health.

The goals of the bill are straightforward, yet critical to the protection of the public health. They are to ensure: First, that all medical devices entering the market are safe and effective; second, that problems with devices are identified quickly; third, that defective devices are taken off the market as soon as possible; and fourth, that growth and innovation in the medical device field continue.

This legislation builds upon the Medical Device Amendments of 1976, by improving the device classification and approval process, and by increasing the monitoring of safety and effectiveness after devices have cleared the FDA and are available to the public. This bill will give consumers added assurance that medical devices are safe and effective, and the industry will benefit from more consistent and streamlined regulation.

This legislation reflects the efforts of two Senators in particular—Senator DODD and Senator HATCH, whose impressive work has made this measure a reality. In addition, I want to acknowledge the valuable contributions of Senator COATS and Senator DURENBERGER.

Enactment of this legislation has also been facilitated by the active assistance of consumer groups, the FDA, and the medical device industry. As a result, the bill strikes an appropriate balance between the legitimate interests of all these parties.

The bill clarifies the scope of FDA's
authority to make a finding that a
new device is substantially equivalen
to a device already on the market
Such findings result in the marketin
of over 95 percent of new devices, an
this clarification is long overdue.

The legislation improves the curren
classification and reclassification sys
tems to permit more efficient regula
tion, and to allow more FDA resource
to be directed to the review of device
which present the greatest benefits o
risks.

The bill eases the current prohibi
tion against FDA's use of data on on
device to approve or reclassify othe
devices. The prohibition is excessivel
restrictive, and causes inefficient us
of FDA resources.

The bill creates an early warnin
system that will, for the first time, re
quire reports from hospitals and othe
health care facilities about serious in
juries or deaths that may have bee
caused by medical devices.

The bill provides mandatory clinica
monitoring, immediately after marke
introduction, of certain devices tha
may pose substantial risks.

Finally, the legislation contains sev
eral provisions, such as emergenc
recall authority, to assure that unsaf
devices are quickly identified by FD
and appropriately modified or re
moved from the market.

S. 3006 enhances regulatory efficien
cy while providing greater assurance
to the American people that medica
devices are safe and effective. It en
courages technological innovatio
while providing improved protection
for public health. The House of Rep
resentatives has recently enacted sim
lar legislation, and I urge the Senat
to approve this bill, so that it can go t
conference and be signed into la
before the Congress adjourns.

Mr. DODD. Mr. President, I rise t
express my strong support for S. 300
the Comprehensive Medical Devic
Improvement Act of 1990.

Mr. President, I have been pleased t
work with Senator KENNEDY, th
chairman of the Committee on Labo
and Human Resources, and Senator
COATS, DURENBERGER, and HATCH t
bring this important and significan
legislation to the floor for conside
ation by the full Senate. I want to e
pecially commend Senator KENNED
and his staff for their outstandin
work on this legislation. I am partic
larly pleased that the legislation w
are considering today is the bill I o
fered in committee as an amendmen
in the nature of a substitute.

The purpose of the bill before us
to improve the Medical Device Amen
ments of 1976. The medical devic
amendments formally initiated th
regulation of an ever-growing medic
device industry. The 1976 amendmen
require the Food and Drug Admini

tration to regulate medical devices and ensure their safety and effectiveness.

Our legislation is intended to provide a balanced and comprehensive regulatory scheme intended to: First, protect the public against unsafe or ineffective new devices gaining entry to the market; second, assure that health practitioners can be confident about the medical equipment they use or prescribe for their patients; and third, guard against excessive governmental restrictions which might inhibit innovation in the development and advancement of biomedical products.

The legislation will streamline the approval process for bringing medical devices to market, will create improved procedures for monitoring devices that fail to work as intended, and will make it easier for dangerous devices to be recalled if shown to be defective.

The bill also will spur development of new medical technologies so that both our health care system and our medical device industry retain their status as world leaders.

Mr. President, the Comprehensive Medical Device Improvement Act of 1990 will improve the regulatory scheme for medical devices and will ensure continued public access to safe, effective, high-quality medical devices. I urge my colleagues to support it.

Mr. COATS. Mr. President, I am pleased to support the committee substitute to S. 3006, the Comprehensive Medical Device Improvement Act of 1990, that is before us today. I am an original cosponsor of S. 3006, and the changes that have been incorporated in this substitute have made a good bill even better. I would like to commend Senator Kennedy and Senator Hatch, the chairman and the ranking Republican member of the Labor and Human Resources Committee, for moving this bill through the Labor Committee quickly and giving all the original cosponsors the opportunity to work as a team in perfecting the original draft.

My objective many months ago in joining Senator Kennedy, Senator Dodd, Senator Hatch, and Senator Durenberger, the other original cosponsors of this bill, was to fashion a bill that would speed the movement of innovative devices to the market and enhance public confidence in the safety and effectiveness of all medical devices. There is no doubt in my mind that S. 3006 achieves these goals.

I have had the opportunity to tour a number of medical device plants in Indiana and see products that are revolutionizing the practice of medicine and patient care. These companies are making artificial joints, pocket-sized devices that allow diabetics to monitor their own blood sugar levels, and instruments that enable surgeons to remove gall bladders and ovarian cysts without the large incisions, lengthy operations, and protracted hospital stays that used to be unavoidable.

In this bill we are striking a balance between the need to ensure that innovative devices are properly designed and tested, and the need to have them available as soon as possible for the patients who need them. S. 3006 codifies the expedited process that is used most often to approve new devices. In time, the procedure used for devices that present a brandnew technology or a higher risk will be accelerated by a change that will allow FDA investigators to use clinical data on like products already in their files to evaluate new products seeking approval.

Equally important are the provisions that give the Secretary of Health and Human Services additional authority to monitor a product after it has been approved to ensure that it performs correctly. No matter how carefully a device is reviewed in the approval process there are limits on what can be learned. Devices used in the approval process are custom made, the physicians using them in clinical trials are chosen for their expertise, and the patients used in clinical studies are selected to increase the chances of positive results. There is nothing wrong with this. In fact, the clinical trial procedure is in the best interest of all parties.

However, there is a big difference between a custom-made device used in the approval process and a mass-produced device that is sold nationwide. Currently, the Secretary has, by regulation, established a reporting system that requires manufacturers to report malfunctions of devices as well as deaths and serious injuries caused by these devices. The Secretary also has established good manufacturing practices that assist companies in maintaining high-quality production standards.

The bill we are considering today expands the range of information the Secretary will have to evaluate products that require closer scrutiny. A means to trace certain devices, like those used to sustain or support human life, from the manufacturer to the ultimate user will be developed within 2 years of the date of enactment of the bill. Postmarket surveillance will be conducted for an appropriate period of time on similar devices so that deviations from expected performance can be recognized as soon as possible. In the event that circumstances warrant, S. 3006 gives the Secretary of HHS the authority to recall a device.

The combination of a streamlined approval process and broader authority to gather information on marketed devices in this bill, will put the Secretary in a much better position to meet the challenge of approving and monitoring the increasing number of new products that are being developed. The American medical device industry is a world leader and the changes to the 1976 law contained in S. 3006 make the opportunity for continued leadership much greater.

I would like to thank my fellow cosponsors for accepting my suggestion that S. 3006 include a humanitarian device exemption. This provision will encourage companies to develop devices for people with rare conditions. Rare conditions are defined in this bill as those that affect no more than 8,000 patients. Often, the number is much smaller than that. There is little or no prospect of meeting research and development costs for these products, but the manufacturers with whom I have spoken are not concerned about making a profit. They would manufacture these devices if the regulatory process could be adjusted to make the standards and the timeframe for approval more flexible.

The humanitarian device exemption clears the way for those companies who would like to develop devices for rare diseases. This exemption provides sufficient latitude to the Secretary of HHS to approve a device that would give a significant benefit to the patient in quality of life providing that the probable benefit outweighs the risk. In my judgment, it is important that the Secretary, in determining the risk, consider the comparative risk of any alternative treatment.

I urge my colleagues to join me in voting for S. 3006. We must not delay making these improvements to the medical device law that hold so much promise for the patients who depend on these devices.

AMENDMENT NO 2976 TO AMENDMENT NO. 2975

Mr. WIRTH. Mr. President, on behalf of Senator Inouye, I send to the desk an amendment to the amendment of the Senator from Massachusetts [Mr. Kennedy].

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. Wirth] for Mr. Inouye, proposed an amendment numbered 2976 to amendment No. 2975.

Mr. WIRTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered

The amendment is as follows:

At the end of the amendment add the following:

SECTION 1. AWARDING OF GRANT TO GEORGE WASHINGTON UNIVERSITY.

(a) Authority.—There are authorized to be appropriated $50,000,000 to enable the Secretary of Health and Human Services to award a grant for the construction or renovation of a medical facility at the George Washington University to be utilized as a National Emergency Care Center.

(b) Non-Federal Contributions.—The Secretary of Health and Human Services

shall not make a grant under subsection (a) unless the intended recipient of the grant provides assurances satisfactory to such Secretary that such recipient will make available (directly or through donations from public or private entities) non-Federal contributions equal to the amount of the grant provided under such subsection.

Mr. INOUYE. Mr. President, I am most pleased to offer an amendment today that would authorize $50 million for the renovation and construction of a national emergency care center at George Washington University. Mr. President, George Washington University Hospital has a long and distinguished history of providing the highest quality of health care for those of us in our Nation's Capital. Their emergency room is always on standby for visiting dignitaries from other nations and is of critical importance to the White House itself. Each year over 50,000 patients are seen in the emergency room. Last year alone, over 3,400 wound patients were treated, 80 percent of these individuals from minority families in the area.

Mr. President, George Washington University is currently providing in excess of $30 million annually of uncompensated medical care. Back in the mid-1970's, the university received annual support from the Federal Government for each of the medical students that they were training, but this is no longer the case. Instead, we have asked this outstanding educational institution to bear the burden of continuing to contribute significantly to the very quality of life of our Nation's Capital.

The current George Washington University Hospital was built in 1948 and is badly in need of repair. The university expects their new facility to cost in excess of $150 million, two-thirds of which President Trachtenberg expects to be able to raise from the private sector. With the enactment of this authorization, I would hope to be able to convince my colleagues on the District of Columbia Appropriations Subcommittee of the importance to all of us of the Federal Government providing its fair share to maintaining ready access to the highest quality of health care to the District's citizens.

Mr. President, if George Washington University is forced for economic reasons to have to close the doors of their medical center, and in particular, their emergency room, all of us will suffer. George Washington University is an integral component of the District's health delivery system; without its clinical expertise and patient bed capacity, we will be in dire straits. Each year, George Washington University Hospital provides over 137,000 bed days of care—many of these for the homeless and destitute in our Nation's Capital. We simply cannot allow this important national resource to perish.

Mr. President, I would also like to take this opportunity to express my deepest appreciation for the assistance and support of my colleague, Senator Kennedy, the chairman of the Labor and Human Resources Committee, and Senator Hatch, the committee's ranking minority member. Without their counsel, we would not be able to address this pressing national concern today.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii.

The amendment (No. 2976) was agreed to.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment No. 2975, as amended.

The amendment (No. 2975), as amended, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time.

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate now proceed to the House companion H.R. 3095; that all after the enacting clause be striken; that the text of S. 3006, as amended, be substituted in lieu thereof; that the bill be read a third time and passed and the motion to reconsider be laid upon the table.

I further ask unanimous consent that the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE RETURNED TO CALENDAR—S. 3006

Mr. WIRTH. Mr. President, I ask unanimous consent that Calendar No. 953, S. 3006, be returned to the Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

WORKING TOGETHER

Mr. WIRTH. Mr. President, does the distinguished acting Republican leader have any further business?

Mr. ARMSTRONG. Mr. President, I do have some additional business. I want to address the Senate, but other than that as far as I know, the wrap-up is complete from our side.

Mr. WIRTH. I wanted to make one comment if I might then for the record. I believe that this is the first time that the senior Senator from Colorado and the junior Senator from Colorado have had the privilege of acting together on behalf of the whole of the Senate. I wanted our constituents to know that this particular cooperative endeavor of the last few minutes, I believe, is a reflection of the efforts that both of us have made over the last 4 years. Mr. President, I commend my colleague, the distinguished senior Senator, and once again note that he and I while we have from time to time disagreed on various issues of substance, have made an effort to make the process work and continue to bring people from disparate points of view in the State of Colorado together on many issues.

It has been my privilege to serve with him, and I want to at this point thank the distinguished senior Senator for his great help and advice throughout the last few years. We will miss him. I thank you very much, Mr. President.

Mr. ARMSTRONG. Mr. President, I thank my colleague from Colorado. I figured that sooner or later we would be able to take over around here, and tonight is the night. Unfortunately everybody else has gone home.

Mr. WIRTH. I suspect between the two of us we have caused enough trouble today. It is a good idea nobody is around anymore.

Mr. ARMSTRONG. Mr. President, I thank my friend from Colorado for his gracious comments, which I reciprocate entirely. I am glad for this opportunity to be with him. I see we do have some additional work.

ORPHAN DRUG AMENDMENTS OF 1990

Mr. WIRTH. Mr. President, I ask unanimous consent that the Labo Committee be discharged from furthe consideration of H.R. 4638, the orphan drug bill, and that the Senate proceed to its immediate consideration.

Without objection, it is so ordered.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4638) to revise the orpha drug provisions of the Federal Food, Dru and Cosmetic Act and the Orphan Drug Ac and for other purposes.

The PRESIDING OFFICER. I there objection to the immediate consideration of the bill.

There being no objection, the Senat proceeded to consider the bill.

AMENDMENT NO. 2977

(Purpose: to amend the Orphan Drug Amendmen of 1990)

Mr. ARMSTRONG. Mr. President, send an amendment to the desk an ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Colorado [Mr. Armstrong], for Mr. Hatch (for himself, Mr. Dodd, and Mr. Lautenberg) proposed an amendment numbered 2977.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 4, line 12, strike out "July 16, 1990." and insert in lieu thereof "the date of the enactment of the orphan drug amendments of 1990."

The PRESIDING OFFICER. Is there debate on the amendment, If not, the question is on agreeing to the amendment.

The amendment (No. 2977) was agreed to.

Mr. HATCH. Mr. President, I would like to clarify a requirement in section 3 which provides an exemption from the simultaneous development provisions of the bill. The bill protects under current law drugs for which investigational new drug applications have been filed for orphan drug status prior to date of enactment and for which human clinical trials were actively being conducted before August 15, 1990.

Mr. METZENBAUM. My colleague from Utah is correct.

Mr. HATCH. I want to ensure that if a previous sponsor of an IND has conducted and completed human clinical trials on a drug prior to the transfer of ownership of the IND to a new sponsor, these clinical trials would be considered to fulfill the requirement of the August 15 deadline.

It is my understanding that an IND for nebulized amiloride for the treatment of cystic fibrosis was originally held by the University of North Carolina at Chapel Hill. Results of clinical trials that the university conducted were published in the New England Journal of Medicine on April 26 of this year. This study provides data which will be submitted to the FDA to help support the approval of the new drug application [NDA]. The sponsorship of the IND for amiloride has been transferred to Glaxo, Inc., which applied for orphan drug status on June 25, 1990, and received orphan drug designation on July 18, 1990. Glaxo will conduct additional clinical trials. I would like assurance, however, from the author of the bill that the clinical trials conducted by the previous sponsor of the IND prior to August 15 will fulfill the requirement of section 3.

Mr. METZENBAUM. It is the intent of the floor managers of this bill that these clinical trials would fulfill the requirement that an applicant be actively conducting clinical trials prior to August 15, 1990, to be exempt from the simultaneous development provisions of this bill.

Mr. HATCH. I thank the Senator from Ohio.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 4638), as amended, was passed.

Mr. WIRTH. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. WIRTH. Mr. President, I ask unamimous consent that Senator Armstrong be recognized to address the Senate, and that at the conclusion of his remarks the Senate stand in recess under the previous order until 9:30 a.m. Monday morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET CRISIS

Mr. ARMSTRONG. Mr. President, I wanted to just finish up the loose ends of the subject that I was discussing a little earlier in the evening.

I was sharing with my colleagues some of the remarks of Senators and Representatives who took part in a news conference today at which they made it clear that they think the right solution to this deficit crisis is to hold the line on taxes, and to somehow curtail spending.

I was putting in the Record a number of statements by Senators, and I want to continue that. I want to particularly call attention to my colleagues to the very thoughtful and direct observations of our colleague from Idaho. You all know that when Steve Symms gets up to speak, he does not mince his words. This morning was no exception. He said this in part:

> I'm glad that finally, right thinking Members of this Congress are standing up and telling the American people the truth: We do not need to raise taxes to balance this budget.

His statement goes on.

Then there is a wonderful statement by Congressman Chuck Douglas. It is very brief. It is the results of a poll. A poll by a survey company that asks in about 60 districts across the country the following questions:

> If a tax increase is passed by Congress and my Congressman supports it, then this fact alone is enough to make me vote against him in the next election.

Thirty-nine percent of those who were surveyed strongly agree with that statement, and another 15 percent somewhat agree for a total agreement of 54 percent. Among Republicans, 56 percent agree, and others to different extents.

Mr. Douglas concluded that both on the grounds of politics and principle a tax increase would be foolish.

Congressman Larry Craig from Idaho put it this way:

> If ever there was a recipe for an out and out recession, raising taxes is it.

His statement goes on—and I will ask in a moment to put that in the Record as well. My friend Bob McEwen of Ohio was there and he came right to the point:

> In the early 1980's when America was losing jobs at the rate of 50,000 a week, we had a declining economy—we passed an economic recovery package.
>
> Since that time, we have created 23 million new jobs, increasing revenues by 7.5 percent a year, compounded income has more than doubled. The only difficulty is that Congress has been increasing spending at an average of 9 percent a year. It doesn't take a rocket scientist to figure out that when revenues are going up 7.5 percent and spending is going up at 9 percent, you have a problem.

He concluded:

> There are two solutions. One, you can increase taxes and send the economy back into the doldrums again. Or you can control the growth in spending. We are here very simply to say what our President said in 1984 and 1988—"More taxes are not the solution."

Many of my colleagues know Congressman Bob Smith who indeed aspires to join us here in the Senate. He said this:

> Since I came to Congress, I have pledged not to vote for tax increases. Tax increases are bad politics and bad economics. I stand with my colleagues to strongly oppose any tax increases as a means of reducing the Federal deficit.

He goes on at length.

I send to the desk the statements of our colleagues, Steve Symms, Congressmen Douglas, Larry Craig, Bob McEwen, and Bob Smith, and ask unanimous consent that they be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Statement of Senator Steve Symms

I'm glad that finally, right thinking members of this Congress are standing up and telling the American people the truth: we do not need to raise taxes to balance this budget!

But, I also know that the Democrats and their allies, the national media, will try to turn this news conference into a story about how the Conservatives are trying to protect the rich from taxes. They must feel that by creating class warfare, they will fulfill their own political goals.

The truth is, we do not need to, and we should not raise anybody's taxes! There are plenty of ways to balance this budget without raising taxes. Raising taxes will have a devastating impact on an economy that is fragile at best and quite possibly headed into a recession.

I'm also renewing my call to the President to turn the November elections into a referendum on tax increases. I hope the President will go to the people and ask them to send him a Congress which will help him balance the budget with no new taxes.

Craig Calls Tax Plan Recipe for Recession

Washington, D.C.—"If ever there was a recipe for an out and out recession, raising taxes is it," said Congressman Larry Craig, commenting on the new package of tax increases slated by Chairman Dan Rostenkowski and the House Ways and Means Committee. "There is absolutely no need for a tax increase when our economy is already weakened."

Craig spoke along with other House and Senate Republicans, who gathered today in Washington, D.C. to oppose a tax package now working its way through Congress. The Democrat tax proposal issued from the House Ways and Means Committee raises $144 billion of new taxes over a period of five years.

"Last week, the American taxpayers spoke and Congress responded by voting down the budget summit agreement. But now the Democrats want to resurrect this monster, slap on a new coat of paint and send it back with the label 'New and Improved.' It's false advertising," Craig said. "The tax package was bad last week and it is bad this week as well."

Craig went on to say: "The problem is not finding more money for Congress to spend—it's forcing Congress to reduce the growth of government that produced our deficit?

"We need to reduce spending, reduce government, and hold the line on taxes. This country's economy is too fragile to be siphoning more money off to feed Congress' spending frenzy," he said.

Polls Show We Are Heading in the Wrong Direction

Dear Fellow Republican: The following NRCC question was asked in districts nationwide:

"If a tax increase is passed by Congress and my Congressman supports it, then this fact alone is enough to make me vote against him in the next election."

	Percent
Strongly Agree	39
Somewhat Agree	15
Total Agree	54

56% of all Republicans agree;

60% of older Republicans agree;

59% of Republican men agree.

63% of all respondents say they pay too much income tax (the second highest such finding since 1969).

Let's not walk away from our basic principles, Republicans stand for No New Taxes—that's why we were elected in the first place.

Sincerely,

Chuck Douglas,
Member of Congress.

More Taxes Are Not the Solution

Washington, D.C.—Congressman Bob McEwen (R-OH) today joined with other U.S. Representatives, Senators and leaders of citizens groups at a press conference to oppose tax increases in the budget agreement. Attached are Congressman McEwen's remarks:

"In the early 1980's when America was losing jobs at the rate of 50,000 a week, we had a declining economy—we passed an economic recovery package.

"Since that time, we have created 23 million new jobs, increasing revenues by 7.5% a year, compounded income has more than doubled. The only difficulty is that Congress has been increasing spending at an average of 9% a year. It doesn't take a rocket scientist to figure out that when revenues are going up at 7.5% and spending is going up at 9% you have a problem.

"There are two solutions. One, you can increase taxes and send the economy back into the doldrums again. Or, you can control the growth in spending. We are here very simply to say what our President said in 1984 and 1988—More Taxes Are Not the Solution."

Congressman Bob Smith, Statement on the Budget, October 12, 1990

Since I came to Congresss I have pledged not to vote for tax increases. Tax increases are bad politics and bad economics. I stand with my colleagues to strongly oppose any tax increases as a means of reducing the Federal budget deficit.

I've said it before and I'll say it again, our budget deficit is a problem of spending and not a lack of revenue. The taxpayers understand this and now maybe the Democrat leadership will as they try again to craft a budget. We need spending cuts, growth incentives and budget process reform, not tax increases.

The budget summit agreement failed because the American people spoke loud and clear against tax increases. The failed budget agreement was just more of the same "tax and spend" policies that created the deficit in the first place. If Republicans controlled the U.S. House and Senate, we would never have considered such a liberal "tax and spend" budget.

The Democrat leadership has consistently fought against the goals of the summit and blocked real spending cuts or growth incentives, instead they have championed tax increases at every turn. Well, they must not be listening to the folks at home. Letters and phone calls to my office are running approximately ten to one against any budget that raises taxes.

I will continue to oppose any plan that increases taxes on the working men and women of New Hampshire. Furthermore, I will not look a senior citizen in the eye and tell them their Medicare premium and deductible are going up, while Congress refuses to cut one nickel out of foreign aid.

I urge Congress to live up to its constitutional responsibility and pass a budget that makes real spending cuts and does not succumb to tax increases that will devastate our economy.

Mr. ARMSTRONG. Trent Lott was there. I do not have his written statement, I regret to say. I hope to put it in the Record.

Jesse Helms was there and made a wonderfull off-the-cuff statement. He was not speaking from notes, as far as I know. As usual, he not only spoke, but it was unusual for a news conference, he got a good round of applause when he finished.

Conrad Burns was there and made an earthy statement. I could not begin to repeat exactly what he said, but I got the drift of it. It was "no new tax."

Dan Coats was there. Chuck Grassley could not come, but he was there in spirit. Connie Mack was unable to be with us because of a conference he was taking part in. Rudy Boschwitz, the same. Frank Murkowski, who was not there, I know feels as the others did.

There are a lot of Members of the House and Senate that thought this was an important issue. I do not have the statements of some of the House Members who were there: Bob Dornan; Tom DeLay who made a masterful presentation; Phil Crane; Ron Packard; Cass Ballenger; Jim Inhofe; Bill Dannemeyer; Mel Hancock; Denny Smith; and Dan Burton.

We were pleased to be joined by a very distinguished group of people representing the private sector. Among them, Dr. Richard Rahn, who is the chief economist of the U.S. Chamber of Commerce. Dr. Rahn does not need a written statement. He spoke from his mind and his experience and his heart. He summed it up so well. "This is not a time to raise taxes."

He also addressed a question which I think is in the mind of many people that is, whether or not our resent tax system is sufficiently progressive That is, whether it is graduated to a sufficient extent. He shared these statistics, which I also want to put in the Record: the top 1 percent of American taxpayers earn 13.4 percent of the income and pay 24.8 percent of the tax liability; 1 percent of taxpayers earn 13.4 percent of income, and pay 24 almost 25 percent of the taxes.

The top 5 percent earn 28 percent o all income; that is, the top 5 percent o taxpayers earn 28 percent of the income. They pay 44.8 percent of the taxes.

The top half earn 86 percent of the income and pay 94.4 percent of the taxes.

Dr. Rahn believes, and I share hi conclusion, that is plenty stee enough when it comes to a graduated tax structure.

Dr. Norman B. Ture, president of Institute on Research on the Economic of Taxation, and served with great distinction in the Reagan administration in the Treasury Department, also prepared a statistically thoughtful and insightful statement which I will presently send to the desk and ask it b printed in the Record.

Then there was a great statement o behalf of the National Taxpayer Union, a 200,000-member organizatio criticizing the budget agreement an saying that higher taxes threaten economic growth and weigh heavily o taxpayers. I will ask unanimous consent to put that in the RECORD.

Also a statement of American Legislative Exchange Council which represents some 2,400 conservative Democratic and Republican State legislatures. And they harshly criticize the House Ways and Means Committee-proposed tax bill as "an exercise in fiscal stupidity."

The Business and Industrial Council was represented and the headline on their statement sums it up so well, "Business Leader Joins in a No New Taxes Call."

The Americans for Tax Reform were represented by Grover Norquist. I want to put his statement in the RECORD. It is an excellent one.

We believe that Grace Ellen Rice was there speaking on behalf of the American Farm Bureau, an organization which represents some 3.8 million farm families throughout the country. The statement traces the historical development of economic thought within the Farm Bureau, but Grace Ellen's comment today at the news conference made it clear that the Farm Bureau Federation's opposition to tax increases is not just a matter of historic policy; it is the way that they feel today. And she made a very vivid and helpful statement.

The National Tax Limitation Committee the same. The headline "National Tax Limitation Committee Blasts Ways and Means Tax Bill."

Finally, the Citizens Against Government Waste issued a statement under the caption "Budget Agreement a Fraud on Taxpayers."

Mr. President, I send all of these statements to the desk and ask unanimous consent that they be printed in full in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Statement by Dr. Norman B. Ture, President, Institute for Research on the Economics of Taxation

BAR THE DOOR ON TAX INCREASES

WASHINGTON, D.C.—Commenting on current deficit reduction efforts, Dr. Norman B. Ture, President of IRET, stated "It's astonishing that the Administration and Congressional leaders are even considering tax increases of any sort as part of the fiscal 1991 budget package." He noted that "any tax increase is anti-growth, anti-efficiency, and anti-competitive. The last thing the American economy ever needs is to assume the burden of additional taxes and the economic distortions they impose." Pointing to current economic conditions, Ture said "With the current economic deterioration, tax increases of any sort or any size would be fiscal absurdities."

Noting that the ostensible objective of reducing the federal budget deficit is to increase national saving, Ture asserted that tax increases won't serve that objective. "On the contrary," he insisted, "tax increases will cut private saving, at least dollar for dollar. Moreover, unless history lies, much if not all of the additional tax revenues will simply fund additional spending. Tax increases will reduce national saving, not increase it."

"Increasing federal spending, not reducing the budget deficit, is, clearly, the hidden objective of some of the Congressional leaders," Ture said. He pointed out that deficit reduction could be achieved with no tax increase merely by cutting fiscal 1991 outlays by the $40 billion proposed in the ill-fated summit agreement. "That cut," he stated, "would meet the new Gramm-Rudman-Hollings deficit target proposed in the agreement; it would also allow total federal outlays to increase by $50 billion or more. Surely Congressional and Adminstration policy makers could make do with such genial, nontaxing economizing."

"What the American economy needs today is a tax policy aimed at achieving more vigorous growth, greater efficiency, and more effective use of U.S. businesses in the world market place. No tax increase can possibly serve these objectives," Ture concluded.

Taxpayers' Group Slams Budget Deal

WASHINGTON, D.C.—The 200,000-members National Taxpayers Union today criticized the budget agreement, saying that its higher taxes threaten economic growth and weigh too heavily on taxpayers.

"Most of the beef in this budget deal comes from the hides of taxpayers," said David Keating, executive vice president of the National Taxpayers Union, at a press conference held by groups critical of the plan.

"A typical two-earner family earning $48,000 could expect to pay almost $400 in new taxes. And that's not counting many higher user fees," said Keating. "higher taxes threaten our economy, which is already in recession in much of the country.

"Subsidies to big business, unions and other special interests emerged almost completely unscathed," charged Keating. "The Defense cuts aren't real cuts at all. Defense spending will be frozen, but it is at a higher level than Congress would have approved on its own. Domestic discretionary programs will grow by almost six percent a year.

"All told, higher taxes and fees will take $148 billion out of taxpayers' pockets by 1995, if the plan becomes law. Worse, President Bush and budget negotiators agreed to effectively increase the top income tax rates to 29% and 34%, a direct attack on tax reform.

"One hundred three members of the House of Representatives pledged to our members not to vote for an increase in income tax rates. We are contacting every one of these legislators, which includes a majority of House Republicans, to hold them to their pledge," said Keating.

The National Taxpayers Union, the nation's largest non-profit, non-partisan taxpayers organization, represents 200,000 members interested in reducting and limiting government taxes and spending.

State Legislators Organization Blasts Tax Hike Proposal

The American Legislative Exchange Council (ALEC), representing 2,400 conservative Democratic and Republican state legislators, today harshly criticized the U.S House Ways and Means Committee's proposed tax bill as "an exercise in fiscal stupidity."

Duane Parde, Director of ALEC's Task Force on Tax and Fiscal Policy, said, "Raising taxes is seldom good economic policy; raising taxes with the economy on the edge of a recession is certain disaster."

While acknowledging that the deficit is a serious problem, Parde said that Congress should be addressing the problem through spending cuts. "As long as the federal budget is larded with pork and other waste," said Parde, "the government has no right to take more of the taxpayer's hard earned money."

"Americans are not under-taxed," concluded Parde, "Congress just spends too much!"

The American Legislative Exchange Council is the nation's largest bipartisan individual membership organization of state legislators. More than 2,400 state legislators from all 50 states, including over 500 legislative leaders are members of ALEC, brought together by a common commitment to the Jeffersonian principles of competition in the market place, free enterprise, limited representative government, pro-growth and pro-family tax policies, traditional western values, individual liberties, and effective educational and judicial institutions. ALEC provides the research and resource support on the vital issues challenging these state lawmakers.

Business Leader Joins No-New-Taxes Call; Says "Go After Foreign Subsidiaries, Uncollected Taxes"

WASHINGTON.—"Taxes simply cannot be raised as America sits on the precipice of a potentially severe economic recession. If some in Congress, and the president, are insistent on raising taxes, they should do so by going after the foreign subsidiaries which are underpaying their federal taxes by billions of dollars each year," John P. Cregan, president of the United States Business and Industrial Council, said today.

"Federal revenues nearly doubled between 1980 and 1990, yet the gap between revenues and spending did not significantly close during that period. On average, for each dollar in new revenue Congress spends more than a dollar and a half. That shows no inclination toward fiscal responsibility and leads us to think that greater taxation will only worsen our problems," Cregan continued.

"We said from the beginning that any budget settlement would have to meet four criteria: (1) Does it contain meaningful changes in spending patterns?; (2) Does it contain budget reforms that will stop governance by summit?; (3) Does it contain incentives for economic growth?; and (4) Does it avoid the pitfalls that could worsen and prolong the current economic slowdown? So far, every budget proposal we've seen, from the Washington Summit Deal to Tuesday's Ways and Means Committee bill, fail these four tests miserably.

"The Washington Summit Deal had precious little to recommend it, along with what would have been the largest tax hike in American history. It failed largely because of the huge tax increases it envisioned," Cregan said. "Yet, the House Ways and Means Committee seems to have failed to learn the lesson of last week—they proposed $145 billion in new taxes."

"It is inconceivable to us that when some have estimated that domestic subsidiaries of foreign companies have underpaid their taxes by as much as $50 billion in recent years, we are considering extracting still more from the paychecks of ordinary Americans. At the very least, we must deal with the foreign subsidiary taxation issue before we raise the taxes of American citizens," Cregan concluded.

The United States Business and Industrial Council is a national organization of 1,500 business leaders dedicated to preserving American economic preeminence.

Taxpayer Group Attacks Pledge Breakers and Tax Increases

WASHINGTON, DC.—Grover Norquist, President of Americans for Tax Reform, today launched an attack on those who have suggested raising taxes to balance the budget and released the names of those members of the House of Representatives who refused to keep their pledges to the people of their districts and to the people of the United States.

"To argue that the only way to balance the budget and reduce the deficit is to impose regressive, restrictive tax rates on working America is not only foolish, but it flies in the face of the economic evidence collected over the past 10 years. When you raise taxes, you crowd out growth and investment and you chip away at the value of tax home pay. That's not fair to the people and it's not good economics," Norquist said.

"Raising taxes anytime is unwise and unfair. Raising taxes in a recession is lunacy and economic suicide," Norquist continued.

104 members of the House and 19 Senators have taken the ATR "Taxpayer Protection Pledge" promising to oppose any efforts to increase marginal tax rates or to eliminate deductions or credits without decreasing rates. In the House of Representatives on October 5, 1990, 34 pledge takers broke their pledge to the voters. "These members of Congress all took the Taxpayer Protection Pledge of their own free will. No one held a gun to their head. We expected them to keep their word, as did the people who voted for them. They didn't. They're Pledge breakers," Norquist said.

The list of members who broke the Pledge is listed on the reverse.

Americans for Tax reform is a coalition of taxpayer groups, businesses and civic organizations dedicated to protecting the marginal tax rates set by the Tax Reform Act of 1986.

The U.S. House of Representatives voted 254 to 179 to defeat the proposed Summit tax increase proposal. A vote for that agreement was a violation of the Taxpayer Protection Pledge. Below is the list of names of members who violated their pledge to the voters and to the American people.

Richard Baker (R-LA),
Steve Bartlett (R-TX),
Jack Buechner (R-MO),
Larry Combest (R-TX),
Jim Courter (R-NJ),
Kika de la Garza (D-TX),
Dean Gallo (R-NJ),
George Gekas (R-PA),
Bill Goodling (R-PA),
Fred Grandy (R-IA),
John Hammerschmidt (R-AR),
James Hansen (R-UT),
Denny Hastert (R-IL),
Andy Ireland (R-FL),
Jim Kolbe (R-AZ),
Norm Lent (R-NY),
Jerry Lewis (R-CA),
Bob Livingston (R-LA),
Bill Lowery (R-CA),
Buz Lukens (R-OH),
Mike Oxley (R-OH),
John Porter (R-IL),
John Quillen (R-TN),
John J. Rhodes III (R-AZ),
Pat Roberts (R-KS),
Tommy Robinson (R-AR),
Clay Shaw (R-FL),
Norm Shumway (R-CA),
Don Sundquist (R-TN),
Guy Vander Jagt (R-MI),
Barbara Vucanovich (R-NV),
Bob Whittaker (R-KS),
Bill Young (R-FL),
Don Young (R-AK).

Statement on Budget and Taxes

(Presented by Grace Ellen Rice, Associate Director, Washington Office

The American Farm Bureau Federation is the nation's largest general farm organization with over 3.8 million member families throughout the country.

Farm Baureau has urged consistently the enactment of a budget agreement based on spending restraint, not tax increases, while Congress has wrestled with the budget issue in recent weeks. Higher taxes, regardless of the kind of tax, will be harmful to an already shaky economy. Additionally, Farm Bureau members believe that higher taxes will only fuel more spending. It is our opinion that despite the increased taxes we have paid over the last decade, the deficit has not been reduced. Instead, spending each year is higher than the year before.

The time has come for Congress to enact a workable alternative to the tax increases that are being discussed on Capitol Hill. We ask the Congress to adopt a spending freeze in all areas of federal spending. A freeze is not a cut. Spending would be maintained at the previous year's funding level. A freeze is not a perfect or permanent answer, but it is fair and appropriate for all federal programs to share the responsibility for deficit reduction.

Farm Bureau's main message is 'no to more taxes.' On behalf of the farmers and ranchers in this country, we ask the Congress to reject tax increases and to freeze spending. Yesterday in a telegram we urged the President to veto any budget package from the Congress that includes tax increases. We ask the Congress and the President to enact a budget based upon spending restraint, not higher taxes.

AMERICAN FARM BUREAU FEDERATION,
Park Ridge, IL, October 11, 1990.

Telegram to President Bush.

Hon. GEORGE BUSH,
President of the United States, The White House Washington, DC.

DEAR MR. PRESIDENT: Farm Bureau urges you to veto any budget package from the Congress that includes tax increases.

A budget freeze is the only common sense solution to the budget impasse. We urge you to publicly call on the Congress to pass appropriation bills for FY 1991 at the same level of appropriations as for FY 1990 and to veto all FY 1991 appropriation bills that exceed FY 1990 spending levels.

This would put you in line with the majority of Americans who want to stop the continued growth in federal government taxation and spending.

Sincerely,

DEAN KLECKNER,
President.

NTLC Blasts Ways and Means Tax Bill

WASHINGTON, DC, October 12, 1990.—Today on Capitol Hill, The National Tax Limitation Committee (NTLC), representing 500,000 taxpayer-supporters across America, blasted the House Ways and Means Committee tax bill as "economically irresponsible."

NTLC President Lewis K. Uhler said, "raising $145 billion in new taxes during a recession is a sure recipe for economic disaster."

"This Congress should be working to stimulate the economy, not throttle it. History is clear, tax increases will simply deepen the recession. Just as clear, for every new tax dollar raised by Congress, they have managed to spend a dollar and a half."

"The deficit problem is serious and should be addressed. Just as it was created by excess government spending, it must be solved by restraints on the growth of federal spending," concluded Uhler.

Any significant tax increase will not only deepen the recession, it will, as a result, increase the deficit it is designed to reduce.

NTLC will oppose any Congressional tax hike as totally irresponsible.

Budget Agreement a Fraud on Taxpayers

Upon review of the budget summit agreement, Alan L. Keyes, president of the 400,000-member nonpartisan Citizens Against Government Waste (CAGW), said, "This agreement is simply another effort by our elected officials to perpetuate the big lie that taxes are necessary to reduce the budget deficit."

"The American people are smarter than the budget summiteers think. They are not going to buy this agreement, reached in secret by an arrogant Washington clique, which believes that they can thwart public opinion and raise taxes without changing their method of doing business. Taxpayers believe that most of the money they send to Washington goes to waste, and until they are assured of increased government efficiency, they will resist this fraudulent and massive tax increase, which is the third largest in history," said Keyes.

"The agreement increases taxes for every American, but it does not eliminate one cent of waste from federal programs. The $134 billion in new taxes will not be used for deficit reduction, as domestic programs will increase by $150 billion over the next five years," Keyes said.

Of the $500 billion in deficit reduction, 71% comes from tax increases and defense spending cuts, according to a CAGW analysis.

Keyes added, "While our elected officials are discussing the pain to the taxpayers in this deal, they are laughing all the way to the bank with their salary increase, which as of January 1, 1991, will give House members $124,500 a year, an increase of $35,000, or 40%, in just over one year," Keyes added.

According to the CAGW review of the summit agreement, there is a complete lack of budget process reform that would help prevent future raids on taxpayers' pocketbooks. The President did not get any increase in his veto power; there is no requirement that the budget be signed into law; and does not prevent continuing resolutions at the end of the fiscal year that usually result in billions of dollars in wasteful pork barrel spending.

To help taxpayers take back control of their government, CAGW, through its affiliated lobbying organization, the Council for Citizens Against Government Waste, along with more than a dozen national organizations, is sponsoring Taxpayer's Action Day on October 27th. "That is when our elected officials will really begin to feel the heat from citizens across the nation who are tired of being mis-represented in Washington," Keyes concluded.

To find out more about Taxpayer's Action Day, citizens can call 1-800-BE-ANGRY, or 1-800-232-6479.

Mr. ARMSTRONG. Mr. President, I note that the Senator from Alaska has arrived and I would like to yield to him for a few moments or for as much time as he would like to have.

The PRESIDING OFFICER. I say to the distinguished Senator that when he completes his statement the Senate will recess for the evening.

Mr. ARMSTRONG. I was seeking to yield while retaining the floor as part of my comments.

The PRESIDING OFFICER. I regret. If the Senator wants to ask unanimous consent, he may do that. But we do have a unanimous-consent order that when the Senator completes his remarks the Senate will stand in recess.

Mr. ARMSTRONG. I ask unanimous consent I be permitted to yield to the Senator for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I thank my good friend from Colorado.

While it is late at night, and I apologize to you, Mr. President, and to those who are still here, I think it is appropriate that my contribution be entered into the Record as a consequence of my deep concern that indeed we have failed in meeting our obligation and the consideration of relief in the sense of raising taxes as opposed to what I think we were all hoping would be a reduction in spending, and as a consequence of the controls that were brought about through Gramm-Rudman and the sequestration we have seen as a consequence of the budgeteers the inability to get in the safeguards that many of us felt were absolutely necessary in the budget process.

Mr. President, I would like to call attention to just a few figures that I think are most appropriate. When one considers the total national debt now at $3,189,970,000,000, I would call to the attention of the President when I came to this body in 1981 it was $575 billion.

Mr. President, we are told that if the mandated cuts that are made of the 5-year period at the end of the 5 years our accumulated debt will be in the area of $5 trillion. It is not a question any more of "if." It is simply a question of when. At some point in time the economy will collapse as a consequence of a lack by the public and a lack of the investment community that we are in control and capable of governing. It will come when investors, among them foreign investors, are convinced that no longer are we creditworthy of their investment and that is an investment that now we have become dependent upon because it is what finances our debt.

As a consequence, Mr. President, we look at some of the points that have been brought up. I think the Senator from Wyoming mentioned earlier that an effort was made with regard to the potential for revenue matter totaling about $3.4 billion known as the Anwar issue, the proposal to sell oil leases in Anwar.

It is not necessarily a question, Mr. President, of debating the issue of whether Anwar should or should not be open, but more the realization that the bureaucracy has reached a point where the committee was advised by CBO that they could not even score the saving. It was declared an asset, and therefore inappropriate to be scored.

Mr. President, on perhaps a more positive note, the Veterans Committee today went into an extensive debate in the reconciliation process, and the target for that particular committee, on which the junior Senator from Alaska is the ranking Member, was to save $3 billion over the 5-year period.

Mr. President, there was a proposal that at the end of the 5-year period, as a consequence of the mandate to achieve the first year's target of $600 million, the savings would be in excess of $3 billion, and approximately $5 billion.

Obviously, the committee had a chance to generate the savings and a contribution to the Treasury. There was a proposal that that be sunsetted.

Basically, Mr. President, by sunsetting it, we would have created, in effect, a new entitlement capability for that committee which would give them the authority to authorize because they had the additional funds, which clearly was in conflict with the spirit of the budgeteers as we reflect on the realization that what we were attempting to do was to bring about savings.

Fortunately, Mr. President, after a good deal of debate, the decision was made to drop the sunsetting and this committee, as far as I know, Mr. President—I would bring this to the attention of the senior Senator from Colorado—was the first committee to provide a budget savings of $2 billion. But I assure you it was not easy.

Let me conclude my remarks by referring to a piece that was in the U.S. News and World Report on October 8. I think it summarizes the dilemma that we are in. I think the public is convinced that the political system is broken.

I think the public is convinced that it is going to take a sledgehammer to cure it, and that is going to affect the lives of every one of us. Because this continued debt—spending, spending, spending—has to end at some point in time, just as the Senator from Alaska has to end his remarks at some point in time. And I am sure you are all anxious for that.

But the reality is that Washington is feeling the flames. We have a situation where the idea of limiting the number of years the people could serve in this body is being generated in the legislative bodies throughout the various States. It is true the quality of people in office today is probably higher than before, but I think it is fair to say that many of us feel we are trapped by forces beyond our individual control, in many cases.

To stay in office lawmakers must raise money, work with lobbyists, political consultants. "A single act of courage, elicits an onslaught of 30-second spots." I could go on and on. "Good men and women who might seek office are daunted by the roadblocks in their way. Many say it's not worth demeaning yourselve or allowing your private life to become so deeply invaded. As a result, politics has become much less competitive. Nearly half the Senators seeking reelection in this body face only token opposition," and the same thing is true probably more so in the House.

Mr. President, I ask unanimous consent that an editorial from the U.S. News and World Report on October 8 be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Heat From a Prairie Fire

(By David Gergen)

A prairie fire is starting to roll across America. Citizens of Oklahoma, fed up with high taxes and low returns, kicked up the first sparks this fall, voting overwhelmingly to limit the length of a politician's career in the State Legislature. Voters in California and Colorado are expected to approve similar initiatives this November. Pollsters say that term limitations would have a good chance in every state in the Union and will soon be heading toward Washington.

The sooner Washington feels the flames, the better. On its face, the idea of limiting the number of years a person can serve in Congress is wacky. It denies voters an opportunity to re-elect beloved veterans—say, Barry Goldwater, who served 29 years in the Senate, or Tom Foley, now in his 25th year in the House. In practice, however, the shameful recent performance by Washington's political establishment is quickly turning many skeptics into believers. Everyone knows that the political system is broken, and it is increasingly clear that the only cure is a sledgehammer.

The pity is that the quality of people in office today is higher than in the past—most are well educated, sensible and honest—but they feel trapped by forces beyond their individual control. To stay in office, a lawmaker must answer to an army of lobbyists, fund-raisers, political consultants and party leaders, all far removed from people back home. A single act of courage elicits an onslaught of 30-second spots in the next election. Years of frustration can be spent waiting for a top committee post to open up. Gradually, the willingness to make tough decisions has become more and more rare. Incumbents become less interested in protecting the country than in protecting their rear ends.

Good men and women who might seek office are daunted by the roadblocks in their way. Many say it's not worth demeaning yourself or allowing your private life to be so deeply invaded. As a result, politics has become much less competitive. Nearly half the senators seeking re-election this fall face only token opposition; fewer than 1 in every 7 House races is competitive. The Democrats have a near lock on Congress, Republicans on the White House. Voters looking for fresh faces and intelligent discourse grow more and more disillusioned. The politicians in Washington strike them as increasingly irrelevant.

There are those who will argue that the budget agreement finally shaping up between Congress and the White House proves that the system is still working. It does not. Many in Congress will vote for it with a heavy heart. From early descriptions, the agreement does achieve some important breakthroughs: It begins to cap some of the runaway spending programs, especially in entitlements. But it does little to stimulate economic growth at a time when the economy is sinking. More to the point, it inflicts the pain of higher taxes without really solving the underlying problem: The hemorrhage of government borrowing.

The budget negotiators are trying to reduce the federal deficits by about $500 billion over five years. Government borrowing, however, is now skyrocketing at the rate of some $300 billion a year, so that the package under consideration carries us only about a third of the way toward a truly balanced budget. Congress and the White House must come back next year and start this excruciating process all over again. Just in the 10-plus weeks that these negotiations dragged on, the national debt has jumped more than $75 billion. That's the bill sent C.O.D. to our children, postmarked Washington, D.C.

Nor are the budget deficits the only area where today's "leaders" seem hamstrung. Despite the crisis in the Persian Gulf, neither the President nor the Congress has come up with a national policy on energy. The nation's insurance plan on energy can be summed up in four words: Send in the troops. Congress is also dragging its feet in meeting the President's call to help Egypt and Turkey, staunch allies in the Gulf. On two other contentious issues, clean air and civil rights, Congress and the White House are poles apart. Child care, housing, campaign finance, congressional ethics—all have been bogged down far too long. Where Congress has moved, in passing a protectionist bill for textiles, it has acted so irresponsibly that it could damage important international-trade talks.

Removing the poison of money from politics must be the first step toward reform. But let's keep that prairie fire rolling, too.

Mr. MURKOWSKI. Mr. President, I commend my colleague from the State of Colorado for even at this late date bringing this to the attention of the American public, and more particularly to those of us in this body who the American public expect to respond when the crisis is at hand; and truly, Mr. President, the crisis is at hand, and even more so it is out of control.

I personally am a very optimistic person. But what is occurring as a consequence of the inability to meet our obligations to cut spending is truly disappointing to me.

Mr. President, I yield the floor to my colleague from Colorado.

Mr. ARMSTRONG. Mr. President, I am grateful to the Senator from Alaska for coming over to say what he has. It does not surprise me because I know that the Senator from Alaska is well informed about this whole budget crisis. He comes to the Senate from a business background and a banking background. He knows what happens if you dig yourself too deep into debt as our country is doing. I am thankful to him for standing up to be counted.

When somebody like the Senator from Alaska comes here and says it is time to restrain spending, not to raise taxes, that is going to carry weight with a lot of people not only in Alaska but in this Chamber and elsewhere. So I thank him for saying what he has .

Mr. President, I want to explain my effort tonight in reading what Richard Rahn and Norman Turret and the others from the private sector think about the question of raising taxes, is not just an educational enterprise. I hope it has sort of an educational aspect to it. Perhaps there will be Senators and staffers and others who will read the Congressional Record and whose thought-life will be enriched by reading what these thoughtful men and women are saying about raising taxes and about the threat that it poses to our economy.

But let me say to my colleagues, and especially to the Senator from Alaska, there is more in my mind than just education. I think there is an outside chance, not a certainty, not a probability but an outside chance, that we defeat this tax package. There is an old saying that the race is not always to the swift and the battle is not always to the strong but that is the way to bet.

If you are just to handicap the outcome, the likely outcome is that the streamroller will prevail and that this tax package will be enacted into law. But there is a reasonable prospect that if some people really look at the consequences, this thing can turn on a dime. That happened the other day in the House when the summit package, which supposedly was greased and ready to go through, certain of passage, was unexpectedly defeated despite the efforts of a lot of very important people in this town to get passed.

History could repeat itself, If we were successful in defeating this package of huge tax increase then what is our alternative? There are several alternatives, emphasizing spending restraint. The simplest would be just to adopt a 1-year continuing resolution with a $40 billion sequester. That is not an elegant solution to the budget crisis, but it is a practical solution.

The reason why I say that is probably the most likely outcome if we defeat the tax package is because that is an on-the-shelf, known quantity. That is an idea that was tried out in the House of Representatives. It got 186 votes. It almost passed. It could pass here.

There are many other more sophisticated, more elegant approaches to cutting the budget or to restraining growth in Federal spending we could also consider, but the first prerequisite is we have to defeat the tax package. I hope we can do that. Some will say it is not that bad, it may clip a few high-income people but maybe they ought to be nicked a little.

In fact, there is a rather persistent and deliberate effort on the part of a number of our colleagues to portray this tax package in terms of class warfare, to really set the rich against all the rest of us or, more properly, to sort of draw a circle around all of us and say we are going to blame it on the rich; we are going to tax the rich.

Let me tell you something, Mr. President. This tax bill they are cooking up in the Finance Committee right now is going to hurt the rich, but it is also going to hurt some other people too. You will not be hurt by this unless you earn an income, smoke cigarettes, own a small family business, drive a car, drink beer or wine, work for an insurance company, or have a telephone.

If you do any of those things, your taxes are going to be raised. If you have any of those things in your life, an income, a telephone, a car, or anything like that, you ought to be concerned. Even if you do not have any of those things in your life, if you care about the future of the American economy, you ought to stand up to be counted against this recession tax bill.

Mr. President, I am sorry to keep staff on hand a little later than usual. These things need to be said. They need to be in the Record tonight. I am sorry to delay the Presiding Officer. I am sorry to delay the Senator from Colorado. But I do thank my colleagues and all who have made it possible for me to speak tonight, and I yield the floor.

APPOINTMENT OF CONFEREES—H.R. 3095

The PRESIDING OFFICER. The Chair appoints the following conferees on the part of the Senate for H.R. 3095: Mr. KENNEDY, Mr. PELL, Mr. METZENBAUM, Mr. DODD, Mr. HATCH, Mr. DURENBERGER, and Mr. COATS.

ORDERS FOR MONDAY, OCTOBER 15, 1990

Mr. WIRTH. Mr. President, in behalf of the majority leader I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:30 a.m., Monday, October 15; and that following the time for the two leaders there be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M., MONDAY, OCTOBER 15, 1990

The PRESIDING OFFICER. Under the previous order, the Senate now recesses until Monday, October 15, at 9:30 a.m.

Whereupon, at 11:50 p.m. the Senate recessed until Monday, October 15, 1990, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 12, 1990:

EXPORT-IMPORT BANK OF THE UNITED STATES

CECIL B. THOMPSON, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 20, 1991, VICE SIMON C. FIREMAN, RESIGNED. CECIL B. THOMPSON, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 1995. (REAPPOINTMENT)

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. MICHAEL J.DUGAN, 091-28-2234, U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICERS FOR PERMANENT PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE OF THE AIR FORCE

To be lieutenant colonel

JAMES G CLARK, 156-46-9776

BIOMEDICAL SCIENCES CORPS

To be lieutenant colonel

FRED W OLSEN, JR, 470-58-1663

CHAPLAIN CORPS

To be lieutenant colonel

LAWRENCE J DOYLE, 256-26-5401

LINE OF THE AIR FORCE

To be major

DAVID R HEIN, 585-66-5537

CHAPLAIN CORPS

To be major

STEPHEN E SPINOATH, 546-78-3884

ROBERT M WINEBERG, III, 263-19-7348

MEDICAL SERVICE CORPS

To be Major

MICHAEL T FEESER, 567-90-3169

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED, PROVIDED THAT IN NO CASE SHALL THE OFFICER BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

CHAPLAIN CORPS

To be major

STEPHEN E SPINOATH, 546-78-3884

IN THE AIR FORCE

THE FOLLOWING PERSONS FOR RESERVE OF THE AIR FORCE APPOINTMENT, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 593, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED.

MEDICAL CORPS

To be lieutenant colonel

DENNIS G. CARALIS, 526-72-5930
ALEXANDROS A. CONSTANTARAS, 347-30-4259
STEPHEN DINENBERG, 150-28-1954
PAUL A. LUNSETH, 483-40-5302

THE FOLLOWING REGULAR OFFICERS FOR RESERVE OF THE AIR FORCE APPOINTMENT, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 593, TITLE 10, UNITED STATES CODE.

MEDICAL CORPS

To be lieutenant colonel

ROBERT S. WALDEN, 496-58-5574

DENTAL CORPS

To be lieutenant colonel

BRIAN W. BECK, 422-64-0950
ROBERT S. JOHNSON, 007-50-4045

THE FOLLOWING OFFICERS FOR RESERVE OF THE AIR FORCE (NON-EAD) PROMOTION, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 1552, TITLE 10, UNITED STATES CODE.

NURSE CORPS

To be colonel

JUDITH H. WOOD, 486-48-0131

To be lieutenant colonel

LINDA M. WHITTINGTON, 426-92-1802

LINE

To be colonel

THOMAS M. KOSMO, 018-34-7347

THE FOLLOWING OFFICER FOR RESERVE OF THE AIR FORCE (NON-EAD) PROMOTION, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF THE ASTRONAUT PROMOTION POLICY.

MEDICAL CORPS

To be lieutenant colonel

JAMES P. BAGIAN, 180-38-6103

IN THE MARINE CORPS

THE FOLLOWING NAMED LIMITED DUTY OFFICERS OF THE REGULAR MARINE CORPS FOR APPOINTMENT AND DESIGNATION AS UNRESTRICTED OFFICERS IN THE REGULAR MARINE CORPS UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589:

To be lieutenant colonel

MICHAEL W GASTON, 146-30-8621
JULIUS B HOPKINS, 247-72-1137

To be major

JOHN E THOMAS, 277-38-6964
GARY D WIMSETT, 558-68-6423

To be captain

STEPHEN D BROWN, 015-48-2625
MICHAEL E FERGUSON, 568-68-6140
STEPHEN L GALLOWAY, 437-64-6106
MIGUEL J GRIFFITH, 127-46-8761
FELIPE HERNANDEZ, 546-88-9468
ROBERT E JOHNSON, 465-94-9073
SAMUEL O LEWIS, JR, 260-98-9574
JOSE G LUCIO, 464-84-3713
RICHARD C MATHENY, 337-46-7469
WILLIAM M RUKES, 478-72-1854
CHARLES A RYN, 193-42-4306
WILLIAM S WATKINS, 231-94-2920
TONY L AKINS, 353-48-6483
HARRY L ALMAND, 267-06-8802
THURMAN L BOBBETT, 567-32-1845
KELLY R BOLE, 077-68-1503
EDMUND J BOWEN, 125-46-9635
DANIEL A BROWN, 331-53-8333
DAVID W BURKS, 491-64-0068
JAMES D CLARK, 587-78-7783
EDWIN S CLARKE, 456-13-7326
JAMES W COLMAN, JR, 347-52-7410
MYRON P EDWARDS, 199-50-9906
GARY A GAGNER, 530-50-0024
MARK C GAMBESCIA, 196-40-2624
RICHARD L GRIMM, 506-80-1560
MICHAEL D HAGERTY, 173-44-3912
ANNMARIE HIGGINS, 055-56-2387
JOHN D KLEMM, JR, 013-44-5018
JEFFERY D MARSH, 226-98-0658
AUBREY L MIHALCOE, JR, 329-98-0920
SANDRA H NELSON, 549-31-2328
GORDON E PAGLIONE, 372-50-1343
JEFFREY M POHLMANN, 488-66-3696
GEOFFREY L ROBERTS, 551-27-7644
TERRENCE J SAUBER, 340-52-4014
ANNE M SHUFORD, 030-46-8394
KEVIN J SHUSKO, 156-50-9480
CURTIS R SMITH, 110-54-7390
ANDREW W SWANSTON, 543-90-9071
DAVID L WEGNER, 394-70-5648
DAVID K WINNETT, JR, 566-94-8347

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS RESERVE FOR TRANSFER INTO THE REGULAR MARINE CORPS UNDER TITLE 10, UNITED STATES CODE, SECTION 531:

To be captain

GARY S. BARTHEL, 478-76-3285
ELLIOTT BENSON, 316-72-6546
TIMOTHY C. BRENNEMAN, 079-40-5115
JOSEPH R. BROSHEARS, 080-56-7787
CHARLES K. CARROLL, 526-59-6474
EDWIN B. CASSADY, 228-86-2852
PHILLIP G. CHAPMAN, 254-29-8179
ROBERT E. CLAY, 220-68-2691
CRAIG R. CLEMENT, 228-90-9099
SCOTT M. COCHRAN, 316-60-9012
GARY A. CORREIA, 010-48-3911
MARK W. DAHL, 468-72-8373
TIMOTHY M. DUNN, 237-94-2900
WALTER R. DYAR, 004-56-2328
THOMAS A. EWING, 262-57-6565
JOHN P. GALLAGHER, 404-98-4245
JEFFERY A. GARDNER, 380-48-1789
EUGENE H. GODIN, 080-48-1118
MARK J. GRIFFITH, 087-58-0106
CHRISTOPHEP GUTMANN, 223-52-0894
CHRISTOPHES HADINGER, 093-52-3949
RICHARD D. HAFENBRACK, 297-48-2633
DOUGLAS R. HAMILTON, 440-41-3383
BRUCE E. HATLEM, 476-64-5587
PHILIP T. HEIN, 395-50-8992
JEFFREY M. HEWLETT, 093-56-6053
WILLIAM A. HINDMAN, 414-04-4791
STEVEN M. HOLTZHOUSER, 491-56-3985
GREGORY P. IRVINE, 141-46-8271
MARK L. IRWIN, 444-62-8379
HAROLD S. JACKSON, 431-96-4655
HENRY J. JENIK, 354-62-2093
MICHAEL C. JORDAN, 460-19-6802
CHARLES A. KELLY, 053-62-7070
PHILIP R. KOVACH, 309-66-3465
ERICK J. LERMO, 561-92-1980
GEORGE E. LINES, 585-23-3796
DAVID P. LOBIK, 016-58-0427
JONATHAN E. LOUGEE, 507-80-6720
MICHAEL S. MACIEL, 453-33-4962
ROBERT P. MCCARTHY, II, 522-21-1364
MARK A. MELIN, 542-86-5391
JEFFREY A. MOORE, 257-21-8378
JAMES T. MOORE, JR, 267-59-6775
PAUL T. MOSEY, 045-50-0557
PATRICK C. MURRAY, 089-54-4150
PETER M. NELSON, 061-40-6196
STEPHEN G. NITZSCHKE, 300-52-8326
ROY A. OSBORN, 461-15-5777
TIMOTHY J. OTT, 288-72-4961
BRIAN T. PALMER, 102-02-3369
ROBERT S. PANDIS, 311-46-8117
SEAN M. PATRICK, 411-27-9166
PAUL S. PATTERSON, JR, 266-55-1147
RUSSELL J. PHARRIS, 537-52-2235
THOMAS J. READY, IV, 553-45-9950
DALE A. ROLAND, 505-78-9431
JOSEPH A. RUTIGLIANO, JR, 118-50-0996
KENNETH M. SINGER, 159-54-0263
DALE A. SLEDGE, 448-70-5838
FRANK D. SMITH, 563-41-8771
WILLIAM C. SMITH, 061-58-9123
PAUL J. STENGER, 214-84-8178
CRAIG Q. TIMBERLAKE, 404-92-0175
ROY L. TRUJILLO, 529-88-2180
THOMAS M. WILLIAMS, JR, 671-47-4730
PATRICK T. WILSON, 345-90-7314
JEFFERY C. ZANDER, 419-66-9072

To be lieutenant

PETER W. AHERN, 356-68-3290
JOSEPH F. AUGUSTINE, III, 345-98-3354
BRIAN M. BAGGOTT, 217-90-7783
EDWARD D. BANTA, 565-82-4185
INMAN R. BESSENGER, 229-94-8167
JOHN A. BEVING, 212-96-5782

KENNETH L. BINNING, 549-76-4053
FREDDIE J. BLISH, 006-54-3888
MARTIN E. BOUVERON, 562-29-5929
GREGORY T. BREAZILE, 442-76-5253
MARK A. BRENNAN, 333-58-6473
JAMES E. BROWN, 674-56-8125
LEX A. BROWN, 542-11-7866
JAMES R. BURCHFIELD, 151-60-1175
PETER J. CARZOLI, 326-64-1525
KENNETH R. CHAMBERS, 407-76-4973
JODI B. COHEN, 137-42-4942
BRIAN C. COLEBAUGH, 476-92-6424
JOSEPH W. COLLINS, JR, 509-72-1273
KEVIN B. CONROY, 545-61-3356
WILLIAM R. CUNNINGHAM, 316-62-6473
PETER W. CUSHING, 561-96-2295
WESLEY V. DAVIS, III, 026-54-9635
WILLIAM J. DAVIS, III, 384-88-0399
HARRY DAVIS, JR, 418-23-6791
MARK C. DELUNA, 549-98-8354
DREW T. DOOLIN, 338-44-7709
TERRY M. DRESBACH, 483-72-2480
KURT M. EISGRUBER, 317-74-9789
TERRI E. ERDAG, 560-47-6755
TODD A. FELTON, 239-19-1874
DAVID S. FLORES, 525-06-8176
DAVID A. FLYNN, 304-76-4822
JEFFREY W. FULTZ, 407-96-2381
CHARLES M. GALLAGHER, 175-60-1238
JEFFREY E. GAMBER, 279-74-5238
JOHN J. GAMELIN, 023-58-1346
AURELIO GARCIA, III, 467-08-1911
DAVID K. GARRETT, 315-80-3928
SCOT A. GAST, 494-68-8954
PAUL G. GAYAN, 370-84-3803
FRANCIS B. GILLIGAN, 107-58-1731
HAL M. GOBIN, 178-48-1153
MARK G. GOODMAN, 496-72-7186
WILLIAM P. GORDON, 169-38-4415
ALBERTO GUTIERREZ, 217-94-3383
WILLIAM B. HARRISON, 366-89-4306
DAVID P. HAWKINS, 537-64-8487
DREXEL D. HEARD, 418-90-6200
SCOTT M. HECKERT, 210-60-5871
CLARKE D. HENDERSON, 515-74-1705
PATRICK T. HERZOG, 394-50-1490
CLINTON M. HIGGINBOTHAM, JR, 265-35-1610
HARRY D. HINK, JR, 228-98-2019
CHRISTOPHET HIRSCH, 439-06-5697
RICHARD A. HOLLEN, JR, 282-80-1312
FREDERICK J. HOPEWELL, 226-13-6809
ALEXANDER H. HORAN, 578-82-7011
DOUGLAS C. HUSEMAN, 258-29-6503
WILLIAM M. IVORY, 074-56-0410
BRADLEY S. JAMES, 252-06-8508
KIRK B. JANSEN, 367-76-3830
JEFFREY A. JEWELL, 396-66-4550
ANTHONY J. JOHNSON, 534-31-4984
MATTHEW L. JONES, 404-74-8269
BRIAN D. KERL, 281-74-5033
GLEN L KEY, 266-63-9853
ANDREW N. KILLION, 458-45-8703
ROBERT R. KOSID, 402-11-7181
RICK L. LAIRD, 487-66-5263
BRYANT E. LANDEAN, 007-68-1084
LAURA LITTLE, 122-58-7931
BILLY L. LITTLE, JR, 496-76-5553
MULDROW D. LLOYD, 247-86-8518
DONOVAN J. LOHRENZ, 470-72-6251
RICHARD S. LONG, 511-72-7243
TODD LYMAN, 312-48-9871
MICHAEL P. MAHANEY, 563-80-1747
DIANE M. MARQUIS, 006-58-0485
CHARLES E. MARSHALL, JR, 359-38-8906
THOMAS P. MARTIN, 484-96-0057
CHRISTOPHET MAYETTE, 303-82-4847
EDWARD J. MAYS, 266-49-9836
SCOTT T. MCCLAIN, 309-80-8786
MICHAEL R. MCGUIRE, 256-06-3963
BRAD J. MCNAMARA, 531-78-2152
MARK P. MELZAR, 030-46-3621
PAUL C. MERRITT, 241-94-6512
PAUL A. MILLER, 572-49-2815
CHRIS W. MINER, 242-27-1572
PHILLIP D. MOORE, JR, 336-54-4011
HERBERT O. MORAN, III, 541-72-0076
JOHN C. MORTON, 346-50-0796
FRANK R. MOTLEY, JR, 225-94-4899
DAVID D. MYERSON, 046-58-6340
JOHN G. NETTLES, 346-46-4890
JOHN M. NEUMANN, 488-72-2414
WILLIAM J. NIX, 127-52-5757
JOHN L. OBRIEN, 151-56-4316
DAVID P. OVERTON, 263-49-2944
JOHN R. PARKER, 344-11-9404
RUSSELL A. PAULSEN, 563-08-1433
MICHAEL A. PRATT, 353-58-6685
GORDON K. PRICE, 452-19-9472
CHARLES E. PROTZMANN, 039-44-6287
KENT S. RALSTON, 264-55-6800
CLAY A. RAMSEY, 504-86-7981
KENNETH D. RANDALL, 546-55-1896
ALEJANDRO RODRIGUEZ, 525-25-4041
GREGORY T. ROPER, 261-72-1791
AMANDO RUIZ, III, 448-11-5797
GARY P. RUSSELL, 307-72-9335
MICHAEL H. RUTH, 044-52-0568
SHARON M. SALATHE, 256-21-8319
CHRISTOPHEJ SCHLAFER, 083-54-5029
WILLIAM P. SCHULZ, JR, 420-29-6936
BRUCE A. SHANK, 434-17-7458
PHILIP C. SKUTA, 181-52-6640
RANDY D. SMITH, 537-86-9755
WILLIAM B. SPAHN, 510-80-9668
EDWARD N. SPICKNALL, 571-31-4357
TIMOTHY R. STARK, 201-56-4327
JOHN C. STEVENS, 229-02-6419
ROGER L. STONE, 179-44-7574
STUART M. SUTLEY, 319-58-1110
FRANK J. SVET, 525-39-3570
KENNETH G. THOMPSON, 341-27-6423
TIMOTHY J. THOMPSON, 487-70-5210
PAUL TIMONEY, 206-54-2743
RICHARD P. TIRRELL, 034-38-1563
CHARLES J. TULANEY, 191-54-3683
MARK M. TULL, 157-64-0678
NICHOLAS M. VUCKOVICH, 345-64-3566
CLINTON D. WADSWORTH, 522-88-4111
JOHN W. WASEK, 196-48-7975
THOMAS M. WELDON, 223-04-4040
SCOTT P. WILLIAMS, 368-86-4566
EARNEST WILLIAMS, III, 255-19-6644
JAMES P. WILSON, 420-98-0274
KIN Y. WONG, 568-42-7353
STEVEN J. WOOD, 241-04-2556
CHRISTOPHEI WOODBRIDGE, 116-64-1799
KEVIN T. WOOLEY, 298-68-5602
KENNETH E. WYNN, 085-54-9556

CONFIRMATIONS

Executive nomination confirmed by the Senate October 12, 1990:

THE JUDICIARY

JOSEPH M. MCLAUGHLIN, OF NEW YORK, TO BE U.S. CIRCUIT JUDGE FOR THE SECOND CIRCUIT.

THOMAS G. NELSON, OF IDAHO, TO BE U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT.

JAMES B. LOKEN, OF MINNESOTA, TO BE U.S. CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT.

DIANE GILBERT WEINSTEIN, OF THE DISTRICT OF COLUMBIA, TO BE A JUDGE OF THE U.S. CLAIMS COURT FOR A TERM OF 15 YEARS.

DEPARTMENT OF JUSTICE

STEPHEN D. EASTON, OF NORTH DAKOTA, TO BE U.S. ATTORNEY FOR THE DISTRICT OF NORTH DAKOTA FOR THE TERM OF 4 YEARS.

WILLIAM C. ANDERSEN, OF CONNECTICUT, TO BE U.S. MARSHAL FOR THE DISTRICT OF CONNECTICUT FOR THE TERM OF 4 YEARS.

MARVIN COLLINS, OF TEXAS, TO BE U.S. ATTORNEY FOR THE NORTHERN DISTRICT OF TEXAS FOR THE TERM OF 4 YEARS.

EXTENSIONS OF REMARKS

KENTUCKY STUDENTS ON THE RISE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. MAZZOLI. Mr. Speaker, I rise today to congratulate the elementary and secondary students of the Commonwealth of Kentucky who outscored a national benchmark group in this year's "Comprehensive Test of Basic Skills" test.

Kentucky students bettered the U.S. sample in all grade levels tested—grades 3, 5, 7, and 10—and in every skill area. This includes reading, language, mathematics, spelling, and study skills. And the group of Kentucky students who showed a dramatic improvement were the high school students in 10th grade.

This impressive performance from these students comes just as Kentucky's new school reform law is being implemented. The reform plan has earned—deservedly—national attention. Every augur would point to the successful entry of the Commonwealth into a new and promising era in the education of its young.

Simply stated, Mr. Speaker, Kentucky's best days, educationally speaking, lie dead ahead. I again congratulate the young men and women of Kentucky who are showing America the way of the future.

I also commend to the attention of my colleagues the following New York Times article from September 26 which reviews the educational reform taking place in Kentucky.

[From the New York Times, Sept. 26, 1990]

KENTUCKY BEGINS DRIVE TO REVITALIZE ITS SCHOOLS

(By William Celis, 3d)

ELIZABETHTOWN, KY., Sept. 22.—In the Hardin County School District, a sprawling rural system with 12,300 students, classes have begun with more than the usual opening-day anxieties.

Under the first year of the five-year statewide plan to improve schools, Hardin administrators scrambled to start new mandatory programs, like preschool classes for 4-year-olds from low-income families. They worked to find more teachers for new positions made possible by increased financing under the education plan. And administrators, instructors and parents worked together with some trepidation to lay the cornerstone for school management changes that will ultimately thrust teachers and parents into the unaccustomed role of running their own schools.

"Right now, it's a little frustrating," said Mary Ann Bueso, the district's director of special education. "We're trying to figure out what's what."

"IN A LEAGUE BY ITSELF"

Around the state, other school systems have experienced similar frustrations in complying with the broadest schooling overhaul ever undertaken by a state. The state's reform efforts will force its 176 school districts in the next five years to make sweeping changes including raising the compulsory school age to 18 years old from 16, altering the way the school districts are run, raising local taxes in some cases and giving a battery of tests to measure whether schools and students alike are succeeding under the reform plan.

"In terms of scope, no other state has made such broad changes," said Chris Pipho, director of state relations for the Education Commission of the States, a Denver-based education research and policy organization. "Kentucky is in a league by itself."

As the first such overhaul to be put into effect, Kentucky's plan is being scrutinized by many states facing the prospect of rebuilding their own school systems.

Like Texas and New Jersey, Kentucky was forced by a court order to revamp its school financing after 66 school districts, including Hardin County, charged that the system was inequitable. They said the system was based primarily on property taxes, enabling districts in property-rich areas to spend much more on education. The New Jersey Legislature has enacted a plan to bring about a more equitable distribution of the school tax money.

Under Kentucky's plan, which will cost $1.3 billion in the first two years alone, the state sales tax was increased to 6 percent from 5 percent, the state's utility tax was expanded to cover cable television companies and local districts were authorized to receive matching state aid if they increased local taxes.

AGREEMENT ON THE NEED

School financing experts say Kentucky has addressed the financing inequities on such a broad front that it is unlikely that its new financing system will be overturned in the courts, as the Texas plan was yesterday. Kentucky is also the only state to date that has been ordered by its Supreme Court to revamp not only financing but also curriculums and state and local school bureaucracies.

Many Kentucky education officials acknowledge that changes were necessary to correct such shortcomings as low student achievement scores, low teacher salaries and aging buildings and equipment. But the plan is so broad and so demanding of school systems that it brought the first teacher strikes in the state in 14 years, though the walkouts have all been resolved. In addition, the rigors of complying with the changes helped drive 31 superintendents, a record number in a single year, to education jobs outside the state or to early retirement.

In most districts, though, state education officials say they are pleased and encouraged by the school district's progress in tackling a demanding assignment. Local school leaders, they said, have tried gamely, with some unevenness, to execute as quickly as possible the programs mandated in the first year of the plan.

Hardin County, about 40 miles south of Louisville, is a case in point.

At G.C. Burkehead Elementary School in Elizabethtown, with slightly more than 900 students, Linda Patterson, a preschool teacher, is working against an Oct. 15 deadline to ready the school's preschool program.

"We have a waiting list and we haven't even started yet," she said. More than 40 low-income families have requested the preschool program for their children, but there is room at the Burkehead school for only 34 children this year. They will be admitted based on a drawing.

MORE ROOM URGENTLY NEEDED

At another Hardin County elementary school, there are requests from 100 parents for the preschool program, substantially more than the school can accommodate, and four of the district's 12 elementary schools do not have enough space to even start the mandated program.

"For me, the biggest frustration is having to tell some parents that they don't qualify," Mrs. Patterson said.

The preschool program is considered a key in the state's education plan, and at a cost of $2,350 for each child it is also considered relatively inexpensive. Educators here hope that as widespread education research suggests, exposing young children early to educational concepts and disciplines will minimize their risk of failure or dropping out later.

At New Highland Elementary School, Ms. Bueso frets about the trouble she is having filling two new special education teaching jobs made possible by the $7 million in state and local aid the school district received this year under the revamped state taxing system.

MANY WITH LEARNING HANDICAPS

The extra teachers are sorely needed because 1,200 to 1,300 students, about 9 percent of Hardin County's students, have learning handicaps. It is an area that Ms. Bueso says has long been underfinanced. "It's an opportunity to do right," Ms. Bueso said.

Meanwhile she has already hired a teaching assistant for Kathy Lee, a special education teacher at New Highland Elementary School. Mrs. Lee credits the extra set of hands with allowing her to spend more time working with each of her 13 mentally impaired students.

The extra attention has already helped Tina Pesetski, a 10-year-old in Mrs. Lee's class. Sandy Pesetski, the girl's mother, says her daughter is learning more quickly and retaining more information, including the alphabet.

"I've seen her blossom," Mrs. Pesetski said. "She's really improved, and her self-esteem has increased."

Ms. Bueso says these are the kinds of results the extra financing from the state package will ultimately produce. "Life is not fair," she said. "But we're obligated as educators to make it fairer, and money will help."

One of the most anxiety-inducing of the first-year goals has been the effort to turn over more decision-making in the schools to teachers and parents. The G.C. Burkehead

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

faculty voted 40 to 5 before the school year started to begin an experiment in self-government that has them optimistic and jittery at the same time.

DIFFICULTY IN RESPONSIBILITY

Several teachers said it would be difficult to accept their share of responsibility from a system that had long told them what to do. "It's going to be a learning experience," said Bill Woolridge, a fourth-grade teacher.

Under the new plan, at least one school in each of the state's 176 school districts must start setting its own policy by January. The plan calls for a committee of at least three teachers, two parents and the school principal to decide, for example, how much time to spend on each subject, a detail previously set by the state. By the fifth year, the state program calls for these committees in every school, to assume control of 15 different areas of the management.

In one of its first decisions, the Burkehead committee, which has elected three teachers and is waiting for the school's parent organization to elect its two representatives, will address how to create one overall grouping for pupils of third-grade age or younger. The upgraded primary class was proposed in the mandated changes in the belief that young pupils progress better at their own pace, without facing the pressure of failing an early grade.

Alice Ann Folger, a representative of the Kentucky Education Association, the state teachers' union, says there is some uneasiness among teachers and administrators over the shared responsibilities of governing the school. But she said: "This is a chance of a lifetime. We'd better make the reform package work, because we may never have this opportunity again."

LIES ABOUT ASSAULT RIFLES

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. McCOLLUM. Mr. Speaker, I would like to take this opportunity to draw the attention of my colleagues to a recent article authored by Charley Reese which appeared in the Orlando Sentinel on October 11, 1990, which addressed the growing problem of special interest groups and some politicians and national news media who are deceiving the American public with distortions, misinformation, half-truths and outright lies in their campaign against semiautomatic rifles.

Testimony to Congress notes that military style semiautomatic rifles are estimated to be involved in only 1 percent of rifle-related homicide. And, military-caliber semiautomatic rifles are used in less than one-half of 1 percent of all violent crimes. Indeed, rifle use in murder is on the decline. About 3 to 4 million of our Nation's firearms are military-style semi-automatics, and even though these guns are available by the millions, the traces of such guns to actual violent crimes, like assault and murder, is only in the hundreds.

I encourage my colleagues to join with me in opposing legislation to ban domestic manufacture and sale of some semiautomatic rifles and seeking instead crime remedies that will provide solutions, not add to the crime problem while threatening the civil liberties of honest law-abiding American citizens.

Mr. Speaker, I insert the full text of the Orlando Sentinel column at this point in the CONGRESSIONAL RECORD, in order to share the following views with my colleagues:

LIES ABOUT ASSAULT RIFLES ARE PROPAGANDIST'S WEAPON OF CHOICE

(By Charley Reese)

The amount of lies and propaganda directed at the American people, mostly from Washington but augmented by some national news media, has reached flood proportions.

We ought to be alarmed, because when people lie to us or deliberately deceive us, they have a hidden purpose. Otherwise, they would simply tell the truth. Intentional deception is never without motive. When people deceive us, they are attempting to manipulate us into doing something or agreeing to something that they think we would not do or agree to if we knew the truth.

The man who keeps from you the knowledge that a car has a bent frame does so because he wants to sell you the car and knows that you won't buy it if you know the truth. The same is true of politicians and special interest groups.

A good example is the media and political campaign against assault rifles. I'm not concerned here with arguing the case for or against banning these rifles, but merely to point out to you examples of deliberate deception.

In support of a ban, assault rifles have been called the weapon of choice for criminals, gangs and drug dealers. One quotation often used by the propagandists is from a Baltimore official who said, "We're tired of passing out flags to the widows of officers killed by drug dealers with Uzis."

But what's the truth? The truth is that in nine years, according to the FBI, which is the only official source of data on law-enforcement deaths, only one officer in the United States and its territories has been killed by an Uzi, and he was in Puerto Rico.

In fact, the FBI analysis of the circumstances of law enforcement officers' deaths shows that in nine years, only 12 of 810 deaths resulted from criminals using rifles on the list to be banned. More officers in fact have been killed by their own weapons, by shotguns and by knives than have been killed with the assault rifles on the list to be banned.

The FBI analysis simply confirms what anybody with experience already knows: The weapon of choice by all criminals is the handgun. George Wilson, chief of the firearms section of the Washington, D.C., metropolitan police, testified that drug dealers most commonly use pistols. Detective Jimmy Trahin, of the Los Angeles Police Department's firearms/ballistics unit, has testified that assault rifles do not appear to be the weapon of choice of L.A. criminals. James Moran, commander of the New York Police Department's ballistics unit, has publicly stated pistols or sawed-off shotguns are usually used by criminals, not assault rifles.

Furthermore, all homicides committed by rifles of all military caliber peaked in 1980 at 1,185, began to decline in 1983, and stand in 1989 at 981 homicides in the whole nation and its territories, according to the FBI uniform crime reports.

Recently, two notorious L.A.-based gangs were raided in their dens in several cities, and the only weapons found were pistols.

Finally, bear in mind that all homicides have declined during the 1980s and stood in 1989 at 21,500. To put that in perspective, .000089 percent of Americans were victims of homicide in 1989. Accidental deaths in the United States have been averaging about 95,000 a year, of which only about 600 are firearms accidents.

I believe there are two motives behind the great campaign of deception involving firearms, not necessarily found in the same people. One motive is to divert people's attention from the failure of government to deal effectively with crime and the social problems that breed crime. Shift the blame to the hardware, and you shift the blame away from the politicians.

The other motive, more sinister, is to strip Americans of their constitutional right to keep and bear arms because, as Thomas Jefferson observed, elitists fear and hate the people.

We have more reason to fear liars and propagandists than we do common criminals or firearms.

THE KINGDOM OF LESOTHO

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. DYMALLY. Mr. Speaker, the arrival of His Excellency, Major-General Lekhanya, Head of the Government of the Kingdom of Lesotho, in the United States is a pleasantly unique one and should be well received by all Americans. The specific purpose of Major-General Lekhanya's visit is not to seek financial aid from the United States, but rather to assure the United States that the Kingdom has accepted full responsibility for its own political stability and economic development.

Because of his positive and wholesome experiences while living in the United States, His Excellency is using the governmental operations of the United States as a model, as he seeks to implement sweeping democratic reforms in Lesotho. It is, therefore, significant that a new National Constituent Assembly was sworn in on June 28, 1990, and has been charged with the responsibility of drafting a constitution that will be structured to return the Kingdom to civilian rule by June 1992 and to institute other relevant democratic reforms, including a market economy.

His Excellency is acutely cognizant of the fact that political and economic reforms must operate in tandem in order to insure the political and economic development of Lesotho.

As a consequence, while here, he will be working diligently to encourage American investments in Lesotho, including the highlands water project which is structured to open up a vast market for American manufacturing and technology oriented companies.

Along these lines, Major-General Lekhanya is interested in the concept of providing a "level playing field" for African-Americans and other minorities who wish to invest in Lesotho.

In essence the plan entails the official development and implementation of approved investment guidelines which will provide for an allocation of from 5 to 10 percent of the total amount of foreign investments in Lesotho to African-American business firms and corporations. This should be done with the full understanding that these firms and corporations will meet the same contractual obligations established for all other foreign investors in Lesotho. In the final analysis, the Kingdom of Lesotho could become a model for the involvement of African-American business persons in the economic development of Africa.

TRIBUTE TO JOSE A. FERRE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, this past September we lost a prominent figure and a dear friend to all: Jose A. Ferre, a man full of dreams and ambitions, many of which he was come to fruition during his lifetime. Jose Ferre died of a heart attack in Puerto Rico at the age of 88.

Jose Ferre was known for his big dreams; namely, helping to shape Miami's skyline. In 1957, he vowed to build Miami's biggest building the city had seen, and by 1965 he did just that. The 100 Biscayne Building, at 30 floors, was in fact the tallest building in Miami at that time. His countless acquisitions in the form of real estate and his industrial empire catapulted him to prominence, being profiled in Forbes magazine in 1959.

A man who believed in the value of education, Jose Ferre went back to school as a middle-aged multimillionaire in the mid-1950's. He attended the University of Miami, where he received a master's degree in business administration. Prior to that, his father, Antonio Ferre, insisted that Jose get a further education so he received his bachelor's degree in business administration at Boston University in 1924. After receiving his bachelor's degree, he returned home to Puerto Rico to help build his family's business.

Financial ups and downs set him back some, but Jose Ferre was never known for giving up. It was as though every financial setback was a call for more drastic measures, followed by prosperous results. Jose Ferre retired to Puerto Rico in the late-1970's, and, as his relatives can attest, family was always of the utmost importance to him. His legacy is a testimony that hard work and a belief in oneself can lead to a productive and successful life.

Jose Ferre was survived by his children, former Miami Mayor Maurice Ferre, Mary Ann Ferre Coe, Jo Ann Ferre, Noel Ferre, Jose Antonio Ferre, Christina Ferre, and Emile Ferre; his brother, former Puerto Rican Governor, Luis A. Ferre of Ponce; his sister, Sister Isolina Ferre; 12 grandchildren and 6 great-grandchildren.

In remembrance of Jose Ferre, the family has asked that donations be sent to Centro Isolina Ferre, a nonprofit Catholic center that assists the poor in Puerto Rico at P.O. Box 213, Playa Ponce, PR 00732.

POLITICAL GRAMM-RUDMAN ACT IS NOT A CURE FOR ELECTORAL ILLS

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. BENNETT. Mr. Speaker, I include at this point, an editorial from the Florida Times-Union of October 11, in which it is said, among other things, that the proposal to limit terms of office "restricts the freedom and power of the voters; not the office-holders at whom it is directed." The editorial emphasizes the need for more competitive elections and a better turnout from the voters. Both of these ideas would certainly seem to me to be in the public interest. Limiting terms of elected officials, in my opinion, would work some good where the elected official is an executive over many employees who may become rather captive in their point of view. This is not true of any legislative office, for a legislator has very few employees; and has no such political advantage such as is experienced by a Governor or a mayor.

[From the Florida Times-Union, Oct. 11, 1990]

POLITICAL GRAMM-RUDMAN ACT IS NOT A CURE FOR ELECTORAL ILLS

The move for what amounts to a political Gramm-Rudman act prohibiting the voters from returning legislators for more than a prescribed number of terms is the wrong way to attempt to revitalize an ailing political system.

Florida Gov. Bob Martinez is the latest to jump aboard the bandwagon. For him, it's a free ride since the two-term limit already applies to the governorship. In fact, until 1968, Florida's governors could not be re-elected after serving one full four-year term.

Voters already have the power to limit the length of stay of anyone in elective office by simply voting the office-holder out. What the term-limit amendment would do is to prohibit the voters from returning an incumbent to office after a prescribed length of time.

The proposal restricts the freedom and power of the voters, not the office-holders at whom it is directed. It limits the voters' sovereignty. It ties their hands. That is its most immediate, although little talked about, result.

The basic premise of the term-limiting proposal is that the voters are not to be trusted with such a precious commodity as an unrestricted vote. It is usually voiced as the only way to deal with the awesome power of incumbency.

Like a lot of the other proposed electoral reforms, term limitations treat the symptoms rather than the disease. Ways must be found to restore the vitality of the political system and this includes methods of getting candidates' messages to the voters without spending a fortune doing so.

Term limiting is a sign of justified frustration. If this frustration could be channeled into basic reform, it might save a badly faltering democratic system from breaking down. This limitation won't do the job and might make a bad situation worse.

Signs abound that the electoral system is in deep trouble. Pitiful vote turnouts are the most serious symptoms. The usual answer to this is to "expand the electorate" by loosening registration requirements.

The intended result has been to increase the number of voters. The actual result has been more in the nature of having more eligible nonvoters on the rolls.

Getting back to term limitations, there's plenty of turnover in the Legislature now. Twenty-four of the 120 members of Florida's House of Representatives have served only two years. Another 26 have served four years. Eleven have served six years, 30 have served eight years, seven have served 10 years, 12 have served 12 years and 10 have served more than 12 years.

The House is certainly not full of political time-servers. The novices and near-novices outnumber the ensconced veterans. The shocking electoral statistic for the House is that 44 of the 120 members got by without opposition in the current elections. Something is amiss there. Political party organizations should make an effort to at least offer voters an alternative. Another 11 didn't qualify to run again and most of these were veterans. Other incumbents were defeated in the primaries.

In the Senate, where the members serve four-year terms, 15 of the 40 members are first termers, 12 are second termers, seven are third termers and only six have served more than three terms and are above the suggested cutoff time of 12 years. Again, the record certainly doesn't reflect an institution being stifled by seniority.

In the 20 Senate seats up for re-election, four incumbents did not run again and at least two (one a 16-year veteran) were defeated in the primaries. But again, five were unopposed.

Before voters put restrictions on their own right to vote in order to cure a problem that, at best is peripheral and at worst is hardly even a problem, it makes sense to try to find ways to increase participation at the polls and to make campaigning for office possible without having a ton of money.

Some of the ideas, such as a return of the primaries to May and more effective restrictions on campaign contributions and spending, are being actively considered. Most of all, ways must be found to restore interest and enthusiasm to the electoral system. If people don't participate, democracy fails.

BILL ADAMS—A MODEL FOR LEADERSHIP

HON. PETE GEREN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. GEREN of Texas. Mr. Speaker, the Nation is suffering right now, suffering from a crisis of leadership and a crisis of confidence in all of us who make the decisions that affect their lives. A welcome exception to this sad state of affairs, however, can be found at Union Pacific Resources, Co., in my hometown of Fort Worth. The employees of this great company have found a bright star in the leadership of William "Bill" Adams.

Last week, Bill was honored as the Fort Worth Hall of Fame's outstanding business executive for 1990, an honor that comes as no surprise for anyone that knows a little history. Bill Adams has spent the last 4 years of his life as the chairman and chief executive officer of Union Pacific, and as he will tell you,

these were no ordinary 4 years. When he took charge of the oil company in 1986, it was an institution with little direction and dangerously close to spinning out of control—much like the Federal Government of today.

With oil prices at a dismal $10 per barrel, the company embarked on an agonizing restructuring which resulted in the closure of critical field offices, the dumping of badly needed assets, and the layoff of hundreds of workers—much like the Federal Government of today.

Bill Adams could not have seen the light that waited for him at the end of the tunnel during those dark and bleak days. But if he was not quite sure how to pull his company out of its morass, he understood even less how to quit. If his boyhood on a depression-era farm taught him one thing, it was the power to perserverance and the virtue of hard work—a lesson from which the Federal Government could benefit.

Thanks to Bill Adams, Union Pacific Resources Co. is a model of American enterprise today. Even before the boost in oil prices that have resulted from the Middle East crisis, the company had rebounded into one of the strongest oil and gas companies in the Nation. While it was selling off its assets before, it is now planning to expand its drilling program. Unlike many companies around the country which are paring down their employee rosters, Union Pacific is expanding.

Bill's motto for living is "if you use your time well, you should be able to get everything done." Bill Adams is a model for leadership.

We could all learn something from Bill Adams.

SPECIAL ORDER FOR FORMER MEMBER CHARLES P. FARNSLEY

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. MAZZOLI. Mr. Speaker, I commend to the attention of my colleagues a change in schedule for a special order for a former colleague, Charles P. Farnsley of Louisville, KY. It has been rescheduled for Monday, October 15.

My colleagues are welcome to contact my office for further details on the special order.

OBJECTING TO THE UNITED STATES CONDEMNATION OF ISRAEL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I am disturbed that the United States is actively supporting a U.N. resolution criticizing Israel for the deaths of 19 Palestinians during the September 8 rock-throwing riot in Jerusalem.

On the Sukkot holiday, the Palestinians attacked Jewish worshippers at the Western Wall. During this well-known Jewish holiday, about 4,000 Palestinians assembled on the Temple Mount, stockpiling boulders, stones, and bottles. At the instigation of intifada leaders and Moslem mullahs, they attacked about 45 policemen on duty on the Temple Mount, burned their station, and closed the gates behind them, forcing the policemen to defend themselves. At the same time, the Palestinians also started attacking the Jewish civilians praying at the Western Wall.

The loss of any life is certainly a tragedy and we will lament this unfortunate incident for a long, long time. But before we go pointing fingers at anyone, we need to thoroughly investigate the scene, because that, Mr. Speaker, is the democratic course of action for which the United States has always stood.

Let's not initiate or support a resolution which condemns anyone unless there has been a complete investigation of this tragic situation.

DUTY-DODGERS DIDN'T SHIRK UNCLE SAM'S PAYCHECK

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. BENNETT. Mr. Speaker, I include in the CONGRESSIONAL RECORD at this point the commentary of Brig. Gen. J.D. Hittle, USMC (Ret.), from the Navy Times of September 24, 1990. General Hittle served as Assistant Secretary of the Navy for Manpower and Reserve Affairs and also had a distinguished military career with the Marine Corps in the Pacific Theater in World War II. He speaks from experience and a lifetime of dedication to his country:

[From the Navy Times, Sept. 30, 1990]

DUTY-DODGERS DIDN'T SHIRK UNCLE SAM'S PAYCHECK

(By Brig. Gen. James D. Hittle, USMC (Ret)

There are two sides to every mobilization. First, there is the one we see and read about. It is the system functioning as it should, with each unit, ship, aircraft and individual doing what duty requires.

Then, there is the other side—the dark, and often, shabby one. It is the one that seldom finds itself on the front pages. It is the story of those who try to evade the call of duty, to renege on their promise to serve.

I'm not referring to genuine conscientious objectors. The law makes proper provisions for them. I am referring to those who sign up in peaceful times, and then, when the going begins to look rough, they suddenly discover a lot of things about themselves. For instance, they can't wound or kill another human being, or it's against their philosophical or religious beliefs to pick up a gun. They don't support whatever kind of war it happens to be.

Ever since the United States, besieged by protestors on the home front, cut and ran out of Vietnam, Cambodia and Laos, serious defense observers have been pondering whether a crisis mobilization would set off another round of protests. The Persian Gulf crisis is still in its infancy, but already the nation has its answer to that question.

Yes, the Vietnam era's moral sickness is already here. It's an illness characterized by a willowy spine and an allergy to getting shot at. Press accounts of what is going on can't help but make patriots run to the medicine cabinet for a big swig of Pepto Bismol.

The patriots are the ones who answer their nation's call to duty. They are the ones who shoulder arms and march in the direction of enemy guns. They, and those who support and salute their sacrifice, keep our nation strong and free.

But, unfortunately, there are the others. Already the duty-dodgers are coming out of the woodwork. What makes this current situation so disheartening is that the objectors have already sworn to do their duty as regular and reserve members of our armed forces. An article by William Matthews in this issue of Navy Times put the finger on this unsavory side of the U.S. call to battle stations. It is clear from the article that duty dodging isn't limited to a single isolated case. Matthews reports that the Central Committee for Conscientious Objection in San Francisco is receiving "about 60 calls a day." Those who called were obviously worried. The CCCO spokesman said the mobilization has "been a catalyst that is forcing people to investigate their moral convictions" as to military service and the possibility of going to war. Another press article referred to calls from reservists who "work regular jobs and assumed their reserve duty won't amount to much, except extra money."

GOOD MEMBERS DO THEIR DUTY, AND IF NECESSARY DIE DOING IT

I don't believe the legion of loyal servicemen and women who, often with financial sacrifice and with parting sorrow, do their duty, will shed any tears for those who deliberately take the cop-out route. Whether regulars or reserves, they voluntarily took their obligation. What's more, they solemnly swore an oath to do their duty. For instance, no one going into the reserve had the right to assume that "their duty won't amount to much, except extra money." Anyone who took the oath, took the reserve pay, and now is trying to avoid fulfilling the obligation is, in plain language, a "taker."

A presumably distraught reservist was quoted in the press as saying he realized "as he held a rifle on his first day of training that he could not kill another human being." Such a weak-kneed excuse doesn't wash. He had plenty of opportunity to sense how it felt to pick up a rifle before he picked up his reserve pay. Of course, he has no monopoly on not wanting to kill. During a career in the Marine Corps I never knew a person who simply liked to kill another human being. Yet, killing is what must be done in war. It is too bad if some forget this basic fact in the peaceful interludes between wars, but such forgetfulness does not release one from the obligation voluntarily assumed. What did he think war is a tennis match?

A woman in the National Guard was quoted as saying "Everybody's living in a dream world about being in the reserves. It's kind of fun, you have your buddies. . . . You go down there and run around, but mainly people live in this fantasy that we'll never be mobilized." If accurate, this statement says at least two things: Any officer or NCO who knowingly permitted such skylarking and misconceptions should have been busted. And, the squeezed taxpayers don't pay military salaries and the costs of constructing and maintaining armories for the "fun" of it. Preparation for war is serious business, and a prime purpose of the reserve is mobilization and going to war full time.

For those who were fantasizing about the purpose of the reserve, the time has come to accept reality. It is time to repay Uncle Sam by answering the nation's call to duty.

Some Vietnam duty-dodgers and border-jumpers were really ingenious. But today's cop-out artists don't have to take a back seat when it comes to thinking up ways to default on their obligations. An enlisted man reportedly called a counselor to ask if he would be released from service "if he shot himself in the foot."

Also, two women, a news story related, called at different times to inquire "if they became pregnant, would they subsequently be dismissed from active duty in time to undergo abortions."

Unpleasant and disheartening as these reports are, the regulars and reserves who are resorting to devious means to avoid their duty are, fortunately, a minority. But that certainly is no excuse for their unacceptable conduct. If for no other reason than fairness to the good service members who do their duty and, if necessary, die doing it, the duty-dodgers must not be coddled. They must be dealt with sternly as the law provides. Those who "take the queen's coin," as the old saying goes, must do their duty. The malingerers have taken the goodies. Now let them do their duty, or take the consequences.

Ever since our war to be an independent nation, the United States has had its share of shirkers. Essayist Thomas Paine wrote this while serving in our Revolutionary War: "These are the times that try mens' souls. The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of their country, but he that stands it now deserves the love and thanks of man and woman."

Human nature hasn't changed much in 200 years. We still have the "summer soldiers and sunshine patriots" skimming the goodies and turning tail when the muzzles of the enemy guns get close. But we can be thankful, as was Paine, for all the good soldiers who stand fast and do their duty. They are the ones who made, and kept, our nation free.

And, of course, we will always have the comparatively few who do not stand and do their duty. They, apparently, follow the old and cynical saying: "When the going gets rough, follow the rats."

UNION HIGH SCHOOL HALL OF FAME

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. RINALDO. Mr. Speaker, Union High School of New Jersey will induct five of its distinguished graduates and an outstanding teacher as charter members of the Union High School Hall of Fame at ceremonies on November 29, 1990.

Their accomplishments are noteworthy and range from one of the greatest runners in the history of track to the vice president of Walt Disney Studios. Union residents are indeed proud to honor these men and women for their many and diverse contributions to our Nation in the arts, politics, entertainment, sports, opera, medicine, and teaching.

As a member of the Union High School class of 1933, Eulace Peacock earned fame in the world of track and field with his record breaking speed. In 10 track duels with the famed Jesse Owens at the peak of Owens' career, Eulace Peacock finished ahead of Jesse Owens 7 times. He had a remarkable record in college, too, and was inducted into the Hall of Fame at Temple University and the National Sports Hall of Fame.

Martin Kaplan, a member of the class of 1967, is being recognized for his contributions in the field of politics and entertainment. A summa cum laude graduate of Harvard and Stanford Universities, Dr. Kaplan became a White House speech writer, and later was named vice president of Walt Disney Studios.

Gus Vlahakes, class of 1967, is an outstanding member of the Harvard Medical School faculty. He practiced adult and pediatric heart surgery at Massachusetts General Hospital in Boston, and is a graduate of Harvard Medical School.

Linda Heimall, class of 1959, is an internationally recognized soprano who has performed in over 40 major opera roles. She is listed in "Who's Who in Opera." She gave the opening concert at the New Jersey Garden State Arts Center and has performed throughout the United States and Europe. Linda Heimall also teaches young singers German, French, and Italian.

An artist with a worldwide reputation, Steven Sles is a graduate of the class of 1958 at Union High School. In addition to his art work that has been shown in 29 countries, Mr. Sles also is a distinguished poet whose work has been published in several languages.

Union High School is proud of the large number of exceptional teachers who have been in the school system. Their dedication and scholarship have been greatly responsible for the success of many of its students. In the field of science, Irwin Jaeger has excelled as a teacher and served as teacher and supervisor in the science department at Union High School. He earned the Distinguished Teaching Award at Princeton University, and is a consultant for the College Board Advanced Placement Biology Program, and a past member of the biology test development committee. Mr. Jaeger will have the chair of science and mathematics named in his honor.

This commitment to excellence has been maintained by the Union public schools and the board of education, and in the past year has earned the Union public schools recognition from the U.S. Department of Education, which selected it as a model school district.

I congratulate the charter members of the Union High School Hall of Fame, and trust that the list of outstanding graduates will continue to grow in the years ahead.

A TRIBUTE TO JUDGE GEORGE D. NEILSON

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. DYMALLY. Mr. Speaker, I rise today to pay tribute and bring to the attention of this Congress, an extraordinary American who has served the city of Washington, DC, and this Nation with honor and dedication for 50 years.

When the noted Chief Counsel of Internal Revenue, E. Barrett Prettyman, who later became a judge of the U.S. Court of Appeals, became the Corporation Counsel for the District of Columbia, his first appointment as an assistant prosecutor was George D. Neilson. In this capacity, he tried hundreds of jury and nonjury cases, establishing an enviable record.

On April 29, 1940, President Franklin D. Roosevelt, on the recommendation of Attorney General Robert H. Jackson, appointed Judge Neilson to the court. In a rare occurrence, he was unanimously confirmed the same day by the U.S. Senate.

Upon the expiration of his first term, and on the recommendation of Attorney General Tom C. Clark, Judge Neilson was appointed to a second term by President Harry S. Truman. At the time of his appointment, he was one of the youngest judges ever appointed by a President of the United States.

After 20 years of distinguished service, he retired in 1960 but at the request of Chief Judges Walsh, Smith, Greene, Moultrie, and Ugast, he continues to serve the court.

Judge Neilson has served in all branches of the court, and has a well-known reputation for courtesy, fairness, and gentlemanly courtroom decorum. He is perhaps best known for his leading role in upgrading the quality of justice in the court's traffic branch. A hard and efficient worker, his hallmark is common sense and always tempering justice with mercy. The passage of the years has not lessened his enthusiasm for his work. It is rare when even the defendent speaks highly of a judge, but in Judge Neilson's case, it is the norm rather than the exception.

He has served as consultant on the Traffic Court Subcommittee of the President's Highway Safety Conference and as a member of the Court Division of the National Safety Council, as chairman of the Federal Bar Dinner honoring the Supreme Court and the senior circuit Judges of the United States, and served as chairman of the D.C. Bar's highly successful reception honoring the Secretary of State and the ambassadors of all Latin American countries.

Along with his legal and judicial work, he has been active in civil and community affairs. He is a member of the D.C. Bar, the D.C. Bar Association, American Bar Association, American Judicature Society, American Society of International Law, Inter-American Bar Association, Columbia Historical Society, Fellow of the Smithsonian Institute, and the University Club. He also has taken an active part in promoting hemispheric goodwill, and has served as president of the Simon Bolivar Memorial Foundation, and spoke along with Presidents Truman and Gallegos of Venezeula, and Governor Donnelly of Missouri at the dedication of the Bolivar Statute in Bolivar, MO.

He also served as a member of the Cherry Blossom Festival Committee, the National Citizens' Committee for Columbus Day, and was chairman of the Embassy Participation Committee of the annual Christmas Pageant of Peace at the Washington Monument Grounds. He delivered the Fourth of July address before the oldest inhabitants of the District of Columbia and also the principal address

before the Daughters of American Revolution's annual meeting honoring the 177th anniversary of the signing of the U.S. Constitution. He received the Citizens' Certificate of Appreciation for Outstanding Service to the Community. He also has served as chairman of the court's committee of the Metropolitan Council of Governments.

Judge Neilson was one of the founders of the popular Washington Metropolitan Area Traffic and Trial Courts Program, televised weekly at different times over a 6-year period, by all local television stations. He appeared regularly as the presiding judge. Judge Neilson also has lectured extensively throughout the country at Governors' safety conferences and conferences of the American Bar and the D.C. Association. He also has lectured at Yale University and at other schools.

Judge Neilson was born in Logan, UT, attended public schools there, and was graduated from the Utah State University, where he was awarded the Distinguished Alumni Service Award in 1961. He later was graduated from the law school of George Washington University.

Mr. Speaker, it is my distinct privilege and pleasure to invite my colleagues to join with me in recognizing the accomplishments of Judge George D. Neilson, and acclaiming him a leader and role model for us all.

IRAQI-AMERICAN URGES DIALOG, NOT WAR

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Ms. KAPTUR. Mr. Speaker, I would like to put on official record the article, "Iraqi-American Urges Dialog, Not War" by John Nichols, national writer for the Toledo Blade. It appeared on September 27, 1990.

Dr. Abid Al-Marayati switches on the electronic news each morning, anxious to learn whether the collision between his two worlds will turn to war.

Mr. Al-Marayati is a Shiite Muslim, an Arab, a native of Iraq who was once one of that nation's representatives to the United Nations. But, at the same time, he is an American, a distinguished graduate of New York University, a man who makes his home on the west side of the very American city of Toledo.

Watching a televised report from the Persian Gulf, the University of Toledo's professor emeritus of political science heaves a sigh.

"I understand both sides. I may not agree with either, but I understand George Bush and I understand Saddam Hussein," he says. "The problem, I fear, is that they do not understand one another."

It is hardly surprising, considering his circumstances, that Mr. Al-Marayati would long for peace. He is not hopeful, however.

"I think the overwhelming emphasis is in the direction of war," he says. "Every morning, I wake up and I don't know what will be left of the Middle East."

The barrier, he thinks, is a refusal by each side to see humanity in the other.

Of Iraqis, and many other Arabs, he says, "The point has to be made that many, many of these people think of the Americans as thieves and liars and supporters of evil."

Of Americans, he says, "We always tend to build a devil. We like to create a devil so there is someone to hate. There is a long list of devils, of demons, which we have created in the Arab world—Nasser, Khomeini, Hafez Assad, Kaddafi. And now there is Saddam Hussein.

"It seems to me we like to simplify things, to say that everything revolves around an evil man. This is not true. There are deep, long-term issues that affect the Middle East. They are not the result of a devil."

It is all a matter of stereotypes. And, Mr. Al-Marayati says, "these stereotypes can lead us to war."

At the root of the conflict is a dispute over how to define Kuwait.

America, and its allies around the world, see Kuwait as an independent nation under attack by Iraqi aggressors. Westerners define the world as a collection of nation-states, with internationally accepted borders that should be inviolable.

Iraq, and its Arab supporters, are less bound to the nation-state philosophy, Mr. Al-Marayati says. They accept the Pan-Arab nationalist ideals once advanced by Egypt's Gamal Abdel Nasser.

This notion argues that Arabs should erase their borders and link their fates. They question the validity of borders drawn by colonial powers, which pay little attention to the natural boundaries of the Middle East.

"One side says that Kuwait is a nation, and under the nation-state system it should remain so. The other says, 'But Kuwait was once part of Iraq,' " he explains.

Economic issues complicate the situation, Mr. Al-Marayati says.

Sparsely populated Gulf States, such as Saudi Arabia, Kuwait, and the United Arab Emirates, are extremely wealthy—as a result of vast oil fields within their borders. But far more populous neighboring Arab States, such as Iraq and Jordan lack the oil and the wealth. The disparity in Arab wealth is the source of deep anger and resentment in the Middle East.

"I'm not saying [the Iraqi invasion of Kuwait] was justified," Mr. Al-Marayati says. "But the Gulf States have exacerbated the situation. They have not been willing to share their wealth. They have forced oil prices down—which benefits the West, but harms poorer Arab States. They have refused to write off debts from the Iraq-Iran war—which was actually an Arab war. They have kept Iraq out of the Gulf Cooperation Council."

In addition, they have made Iraqi access to the vital Persian Gulf more difficult.

Americans do not understand that divisions within the Arab world have made Hussein a very popular man in some quarters. The Rev. Jesse Jackson noted, after his return from the Middle East, "In Jordan, and Iran, and Algeria, and the West Bank, and Lebanon, and Libya, [Hussein] is hailed as a hero."

With so many political and economic issues stirring the Middle Eastern pot, simplistic responses are virtually guaranteed to make things worse, Mr. Al-Marayati says.

"The Iraqis do not respond well to pressure," he says of the Western military presence and embargoes against Iraq.

"With the Iraqis—particularly in this crisis—there is always action and reaction. Things escalate. If we put 260,000 troops in place, the Iraqis will put 360,000 in place."

The logical result of such a pattern of escalation is war, he says.

"You will have hundreds of thousands of people killed, Iraqis and Americans, and sadly, some of those body bags will find their way to Toledo," Mr. Al-Marayati says.

"Iraq will be left destitute. Arabs will not blame Saddam Hussein, they will blame the United Nations; they will blame the United States.

"And if Saddam Hussein is killed, someone else will emerge who will want to get even with the West, who will be more angry than Saddam."

In the Arab world, the political scientist says, "People will say to the United States, 'You destroyed our nation with a rich culture. You killed women and children. Why did you not negotiate? Why did you not see these people as human beings with problems of their own?' "

It is not too late tc negotiate, Mr. Al-Marayati says. Last week, PLO leader Yasser Arafat indicated that Hussein would be willing to withdraw from Kuwait.

His requirements? That the former ruling family not be reinstalled at the helm of Kuwait, and that the United States and other Western states support an international conference aimed at resolving a variety of Middle Eastern disputes.

The U.S. response, Mr. Al-Marayati says, is "No negotiations."

"We want a quick solution. We always say, 'Out. Out. Out.' We do not even take the Iraqi offers seriously," Al-Marayati says.

He thinks it is time for a shift.

"Do not dismiss these proposals for negotiations," He says. "They should be seized upon, they have to be seized upon, to be explored.

"We should be putting our energy into creating a dialog, not a war."

Mr. Al-Marayati has not returned to Iraq since the mid-1950's—when he served as secretary to U.N. delegations from Iraq and Yemen. He never did meet Hussein, but the professor knows many players in the Iraqi leader's team. Several are United States-educated, he says.

They are, he argues, far more reasonable than most Americans might suspect. "These people are not crazy, not irrational. I know these people," he says of the Iraqi diplomats. "They are people with whom we can negotiate."

RESOLUTION SUPPORTS UKRAINIAN INDEPENDENCE

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. NOWAK. Mr. Speaker, I would like to take this opportunity to commend the Buffalo chapter of the Ukrainian Congress Committee of America, Inc., for adopting a resolution expressing their support for their brothers and sisters struggling for freedom and peace in Ukraine.

The Ukrainian American Community gathered in the Ukrainian Home, "DNIPRO," in Buffalo, NY on September 29, 1990, urging all Americans to support the Ukrainian independence movement.

While much progress has been made in the relationship between the Soviet Government and the "Captive Nations" like Ukraine, clearly—as the Buffalo resolution explains—much more must be done before Ukrainians realize their dreams of true freedom and total independence.

Mrs. Dasha Procyk, a constituent of mine in Buffalo and chairwoman of the Executive Board of the Ukrainian Congress Committee of America, Inc., has brought to my attention the resolution, which I would like to share at this point in the RECORD with my colleagues:

RESOLUTION

Whereas, the Ukrainian American community of Buffalo and the Niagara Frontier is following with deep concern the escalating strife and turmoil throughout Ukraine and the Soviet Russian empire; and

Whereas, the progressive deterioration of the critical situation of the empire is precipitated by the steadfast refusal of the Kremlin regime to relinguish its colonial domination of nations held captive within the USSR; and

Whereas, the entrenched Kremlin rulers are preparing desperate measures to reinforce the crumbling foundations of their imperial hegemony through the imposition on the Captive Nations of yet another "union treaty" tailored to continue the vise held over these nations; and

Whereas, the popular uprising of the people of Ukraine against ANY "union treaty" is spreading across the vast expanse of the country, as manifested by mass demonstrations, meetings and public gatherings organized by the Ukrainian Republican Party and other Ukrainian forces favoring independence; and

Whereas, popular protests against the imposition of ANY "union treaty" is taking place throughout Ukraine on September 29 and 30, 1990; and

Whereas, voicing their rejection of ANY "union treaty", the people of Ukraine are demanding, in its stead, the unconditional restoration of the Independent and Sovereign Ukrainian State as proclaimed on January 22, 1918 and subsequently reinforced on June 30, 1941; now, therefore be it

Resolved, That Ukrainian American community assembled at the Ukrainian Home "DNIPRO", Saturday, September 29th 1990 stands in total support and solidarity with their brethren in Ukraine in the ongoing relentless struggle to secure freedom and peace to their nation. Furthermore, we call upon our fellow American citizens to exercise moral courage and political wisdom to support national independence for Ukraine and other nations held captive in the Soviet Russian empire.

Likewise, we urge our elected representatives to the United States Congress to call upon President George Bush to employ political influence in tandem with economic power to convince the Kremlin rulers that the era of empires has passed and that time for national independence of Ukraine and other Captive Nations has come as foreseen in Public Law 86/90.

Moscow must be compelled to abandon its nefarious scheme of a new "union treaty" and allow for the orderly restoration of an Independent and Sovereign Ukrainian State.

SADDAM GAVE UNITED STATES A WAKE-UP CALL ON DEFENSE CUTS

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. BENNETT. Mr. Speaker, I include in the CONGRESSIONAL RECORD at this point the commentary of Brig. Gen. J.D. Hittle, USMC (Ret.), as he wrote concerning the situation in the Middle East and here at home in the Navy Times of September 3, 1990. As a combat marine officer in World War II and as a former Assistant Secretary of the Navy, he has had a distinguished career of service to our country, and he speaks from experience in the continued defense of our Nation.

SADDAM GAVE UNITED STATES A WAKE-UP CALL ON DEFENSE CUTS

(By Brig. Gen. James D. Hittle, USMC, Ret.)

The fates that preside over the destiny of nations must have a special affection for the United States. Again, for the third time since World War II, the United States has been saved from its own strategic folly. This time Iraq's Saddam Hussein acted as if the drastic, planned defense cuts had already occurred.

For all too long we have been following a recurring, frightening and foolhardy pattern for a great nation. After the end of World War II, the United States drifted into a peaceful stupor. The war was over, the enemy had been defeated. It was a new kind of world, a world of peace and goodwill. Reduction in wartime forces was, of course, a necessity. But the cutbacks went beyond reason. And, as is usually the case when fads replace facts, the "easy war" theories got the spotlight. Seapower was viewed as a wasteful relic. The symbol of the "immaculate war" was the B-36 with an atom bomb in its belly.

The strategic fantasizing came to a jolting halt when, in June 1950, the North Koreans headed south. Once again we came face to face with the ugly fact of life that this old world still has international thugs who must be repelled by force. So, again the U.S. rearmed, fought the necessary war, suffered the inevitable losses—losses that might well have never occurred if we had not gone gayly down the primrose path of unilateral disarmament.

Then the United States proceeded to do after the Korean War what we did after World War II. We drifted right back into the dream world of utopian goodness in which we thought we did not need a strong and ready defense. So, again we went through the same kind of drastic cutbacks in personnel and weaponry.

Once more we learned that military weakness encourages, and actually invites, aggression.

For the second time since World War II, this time in far away Vietnam, we were saved from our self-inflicted defense policies. Once more an international aggressor interpreted U.S. defense reductions as a lack of will and an opportunity for a power grab. The result was the usual one. We started back up the hill of military strength we had so deliberately descended. Laboriously, and with great expense, we rebuilt our military might. We achieved superiority and militarily won the war. That we blew it politically is, of course, another story. The point here is that the United States had again been saved by the enemy from its own strategic folly.

It was the shock of Vietnam that helped keep the United States alert to the threat of communist aggression. The so-called Cold War thwarted the wishful thinkers from their goal of again dismantling our defenses. But to hold the fort against the cutbacks, even in the face of a powerful and poised adversary, was a constant effort.

We had no choice but to recognize that the United States had become the leader, and hence the protector of the free world. It was the reality of the East-West confrontation that kept our armed forces at a respectable level during the Cold War. As with all earthly things, the Cold War ended. Finally, communist Russia had to declare bankruptcy.

Once again the defense cutters broke out their appropriations hatchets and gleefully started whacking away at our armed forces. Overlooked, of course, was the reality that with the end of the U.S.-Soviet confrontation the world had suddenly become strategically destabilized. That the change set the stage for regional aggressors did not restrain the stampede for the so-called peace dividend.

The spectacle of disabling cuts in U.S. armaments and manpower has been, since World War II, a tempting situation for international adventurers. This time Iraq's Saddam Hussein was fretting for a chance to make his move. Like the Koreans and North Vietnamese before him, Hussein could not resist the temptation to strike. Swiftly, he grabbed Kuwait. Fortunately, his timing was off. If he had waited a bit longer, until the cut-the-military faction in Congress had done the job it intended to do, Hussein would have had an easier road to control of world oil prices and dominance of the Islamic world.

It is a sad commentary on our defense policy that at the moment we were preparing to shred our military strength, Saddam Hussein was preparing his strike toward the oil that is our economic sustenance. He must have been amazed, and impressed, at the spectacle of the United States tearing down the defense structure it so laboriously had built up. If we didn't learn it before, we should take to heart this time the lesson that voluntary disarming is an invitation for aggression. As history so consistently demonstrates, there is always someone ready to accept the invitation.

But while we are condemning Saddam Hussein for his barbarous aggression in the gulf, we should be thankful that he made his move now instead of later, when we would have had so much less to send to battle stations.

As a nation we must face up to the fact that we cannot continue to depend on the enemy to save us from our strange compulsion to destroy our military power. If the United States wants to survive as a great nation, it must act as a great nation, realizing that such greatness is based not only on our good intentions, but more importantly

on a resolute strategic policy and the continuing strength to back it up.

Now that we have fortunately been jerked back to reality by Hussein, there is one thing that must be done: go back to the drawing boards for the defense cutbacks.

Again, we are lucky we got a wake-up call. If the United States doesn't get off the defense roller coaster, one of these days we will be caught at the bottom and won't get back to the top.

TRADING PRACTICES AND KINDERGARTEN

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. DINGELL. Mr. Speaker, I would like to commend to the attention of my colleagues an article by Pat Choate, "Japan and the Big Squeeze," Washington Post on Sunday, September 30. In his article, Mr. Choate describes how the Japanese Government tolerated the formation of a cartel by the home Electronic Appliance Market Stabilization Council. This cartel monopolized the Japanese television market in order to allow it to absorb the losses it incurred while penetrating the American market. To further insulate their domestic market, the Japanese established double standards for imported American televisions, thus making it all but impossible for American companies to compete in Japan, despite still having the best technology. The final nail in this coffin of treachery came when, according to Mr. Choate, the Japanese falsified Customs Service documents in order to allow illegal rebates and discounts to American distributors to go undetected.

Mr. Speaker, the noted author, Robert Fulghum, achieved overnight fame and recognition for the simple aphorisms of politics and equality contained in his essay, "Everything I Needed to Know I Learned in Kindergarten." Basic truths, such as: Play fair, don't take things that aren't yours, and clean up your own mess. Mr. Speaker, with respect to our Nation's television industry, the Japanese have not played fair, they have taken things that do not belong to them, and now I am urging my colleagues to read the following article so that we may begin to clean up the mess created by the failure of the Japanese to learn lessons typically taught in kindergarten.

JAPAN AND THE BIG SQUEEZE

(By Pat Choate)

How did Japan destroy the American television industry?

The secret history of that strategy reveals how Japanese manufacturers and the Japanese government first created an anticompetitive cartel and then reinforced it with diplomacy, fraud and the influence of Washington insiders. And it reveals how, in the end Japan make a direct assault on the entire American electronics industry.

Today, only one American television manufacturer—Zenith—is left (and under intense pressure to give up its TV division). Zenith is alone because between 1968 and 1988, a roster of some of the most distinguished names in U.S. consumer electronics—Philco, Sylvania, Emerson, Motorola, RCA, Westinghouse, Admiral, GE, Magnavox and many others—either went out of the TV manufacturing business or were acquired by foreign competitors.

Japan's raid on the American market dates back to 1956, when the largest Japanese manufacturers formed the Home Electronic Appliance Market Stabilization Council, an illegal production cartel. The intent of the cartel was to monopolize the domestic market for television receivers, radios and other home electric products and to exclude foreign imports. Once their home market was secure, they would launch a drive against the richer American market.

The Stabilization Council set minimum price levels for domestic sales of TV and radio receivers; established profit-margin levels; boycotted nonmembers and denied foreign companies critical access to Japanese distribution networks. At the same time, the council worked with the Japanese government to raise a wall of tariff and nontariff barriers to foreign imports.

Initially the council and its member companies met with opposition from the Japanese Fair Trade Commission (JFTC), created after World War II to enforce the antitrust laws imposed during the American occupation. But the companies were never ordered to make any structural changes in their operations; benign neglect of antitrust statutes was the deliberate policy of the Japanese government.

Still, the JFTC advocated a Western-style, pro-competition approach. The Ministry of International Trade and Industry (MITI), by contrast, advocated hardball industrial policies to advance the interests of domestic producers in global markets, MITI won and in the early 1960s targeted consumer electronics as a key element.

The first step in Japan's targeting initiative was to acquire America's television technology, which was then state-of-the-art. In the 1950s, U.S. TV manufacturers were international-minded, investing in European production facilities to get under Europe's tariff wall. But the only way they could generate earnings in Japan was to license their technology to members of the newly formed cartel. Foolishly, they did. RCA, GE and Westinghouse licensed and then transferred monochrome technology to members of the cartel. In 1962, RCA went one step further and licensed its color technology.

This put the Japanese in position to launch phase two of their plan: a full-scale assault on the very American companies that had licensed their technology.

In 1963, Japanese TV manufacturers created the Television Export Council to set cartel policy. The cartel members knew that their success depended on protecting their home market, using the profits generated by high domestic prices to cover losses incurred by selling the same products abroad at artifically low prices.

Government officials helped by ensuring that U.S. exporters were harrassed by import safety inspectors; the Electronics Industries Association of Japan persuaded Japanese distributors not to handle certain American TV products. U.S. television exports to Japan soon fell precipitously. Japanese manufacturers were thus able to sell a set for more than twice as much in Japan as they could abroad.

Meanwhile, according to the U.S. Justice Department, Japanese manufacturers also had concocted a secret "double-pricing" scheme with the help of 80 American importers—among them Sears and Alexander's. Through this scheme, the Japanese paid U.S. importers rebates of rougly $40 for each Japanese set. Japanese firms also provided offsetting discounts on other merchandise sold to TV importers, as well as payments disguised as "market research."

To avoid detection by the U.S. government and lawsuits by American manufacturers, the participants in this scheme filed falsified documents with the Customs Service, citing what was known as the official "check price" as the amount they had received for each set. But there was no way for U.S. officials or American manufacturers to know how much importers were actually paying for Japanese goods.

It was a nearly perfect crime.

With the help of these secret rebates already low "check prices" and high profits from domestic sales, the Japanese could easily underprice their American compeititors, often selling below production cost. Jobs in the U.S. television manufacturing industry fell 50 percent between 1966 and 1970. They dropped an additional 30 percent between 1971 and 1975, and 25 percent more between 1977 and 1981. When U.S. manufacturers realized what the Japanese were doing, they sought legal protection.

In March 1968, the Import Committee of the U.S. Electronics Industries Association filed a petition with the Treasury Department alleging that TV sets from Japan were being illegally "dumped" on the U.S. market. The Treasury Department began an investigation, sending questionnaires to five major Japanese TV makers—Sony, Sharp, Matsushita, Toshiba and Hitachi—seeking information about their U.S. sales.

The Japanese simply stonewalled the requests. The cartel members and their American partners knew that if their kickback arrangements were revealed, they would face fines and penalties totaling hundreds of millions of dollars. A year went by and nothing happened. When Treasury pressed its demand, the Japanese Embassy requested more time. So did Japan's American importers.

One way to frustrate the Treasury inquiry and avoid these fines was to shred the evidence. In October 1970, an executive of one U.S. importer wrote to his superior suggesting that the firm's files and back purchase orders be "purged." Another—perhaps more predictable—solution was a legal counteroffensive. Still, in 1970, Treasury could only conclude that, on the basis of the "check prices" reported by U.S. importers to Customs, there was clear evidence that the Japanese were dumping TVs. Finally, in March 1971, almost three years after U.S. manufacturers filed their complaint, the U.S. government issued an official finding that the Japanese were doing just that.

By then, however, much damage was done. What America's television firms now needed—and needed quickly—was for the Treasury Department to calculate and collect the anti-dumping levies the law required to offset the cartel's advantage. Calculating the levy involved a complex formula dependent on timely, accurate information from the Japanese about manufacturing and shipping costs, domestic price formulas and other factors.

Years would go by before the Treasury Department came up with a number.

While the dumping investigation dragged on, U.S. companies sought other legal remedies. In late 1970, the National Union Electric Corporation (NUE), whose products sold under the brand names of Emerson and Dumont, filed a private antitrust suit, charging certain Japanese companies were engaged in a conspiracy to restrain competition and drive firms like NUE out of business. In 1974, Zenith filed a similar suit, challenging Matsushita's purchase of the entire Consumer Products Division of Motorola. (Matsushita is the Osaka firm currently discussing the acquisition of MCA Inc., a deal similar to Sony's purchase of Columbia Pictures.) To level the competitive playing field, Zenith asked Treasury to impose a countervailing duty on Japanese exports equal to the Japanese government's tax rebates which were, in effect subsidies.

The Zenith petition posed a dilemma. If Treasury ruled in Zenith's favor, similar countervailing duties could be imposed on most U.S. imports. To avoid a trade conflict with other countries, the United States would then be forced either to alter its tax system to conform to global trade treaties or to renegotiate the essential elements of those treaties.

Treasury chose a third option: It did nothing. Of its tens of thousands of employees in the early 1970s, only one overburdened official was assigned to administer America's countervailing duty laws. This gave Treasury officials the opportunity to bury Zenith's papers amidst huge stacks of unexamined petitions.

One former U.S. trade negotiator recounts a fundamental government tenet of the late 1960s and early 1970s: "our trade policy was to keep U.S. markets open and the Congress pacified." In large measure, this policy reflected the attitudes of Richard Nixon and his national security adviser, Henry Kissinger. Neither had much interest in trade matters, except when they impinged on foreign or defense policies.

But the repeated deliberate delays in enforcing U.S. trade laws hopelessly undermined the strength of U.S. television companies. It also made them easy acquisition targets. In addition to the Motorola-Matsushita deal, Magnavox was purchased by N.V. Philips, a well-known Dutch firm. Warwick Electronics, until then one of America's largest private TV manufacturers, was purchased by Sanyo. In less than a year, three other U.S. television companies were either acquired or forced out of business.

In 1968, there were 28 American-owned TV manufacturers in business. By the end of 1976, only six remained.

When Jimmy Carter became president, the Japanese cartel faced a minefield of proceedings and investigations, and in 1977, five cartel members—Hitachi, Mitsubishi Electric, Sanyo, Sharp, and Toshiba—hired former deputy special trade representative Harald Malmgren to solve their problems.

Malmgren who had served under Nixon and Ford and had helped Nixon prepare for a trade summit with Japan, was well equipped to earn his $300,000 fee—and he quickly delivered. As the Japan Economic Journal reported: "In three short months, Mr. Malmgren was able to talk to all sides involved in the dispute, and work out a compromise. . . ."

That compromise, later known as the Orderly Marketing Agreement (OMA), limited Japanese TV exports to the United States to 1.5 million units a year for three years. but it allowed the Japanese to use their newly acquired U.S. manufacturing base to fill orders that exceeded the quota.

But much more than the television quota was agreed to in those telling first days of the Carter administration. Carter's point man on trade was Robert Strauss, the newly appointed special trade representative and the former chairman of the Democratic Party as well as a top fund-raiser for Democratic candidates. For Strauss and the U.S. trade negotiating office, bilateral issues like the TV case were little more than hindrances to America's larger General Agreement on Tariffs and Trade (GATT) agenda. The Japanese, on the other hand, saw the GATT negotiations as merely a sideshow. They wanted firm control of specific end-use industries—especially the critical consumer electronics sector.

As part of a deal he ultimately negotiated, Strauss signed a secret side letter with the Japanese and agreed to provisions that would hamper American actions on television matters for years to come. Strauss committed the United States to:

Limit the ITC investigation of predatory pricing by the Japanese cartel. (Strauss wrote that he would urge the ITC "to confine its investigation to allegations of practices that are clearly not within the scope of the Antidumping Act of 1921. * * *"

Appeal an earlier ruling by the Customs Court in favor of Zenith.

Liquidate anti-dumping duties expeditiously. (The Japanese understood this to mean that U.S. officials would settle for little or nothing.)

Ignore monopolization charges against Japanese companies when they were acting domestically in accordance with the directives of the Japanese government. (To do otherwise, Strauss wrote, "would raise serious problems of sovereign immunity, act of state and comity." This gave the cartel an inviolable sanctuary from which they could pursue their anti-competitive schemes.)

Inform the Japanese government quickly of any significant findings arising from U.S. investigations of the TV matter, and be open to informal Japanese communications (that is, create a back channel).

A year and a half after Strauss made his secret commitments, Rep. Dan Rostenkowski (D-Ill.) learned of them. At a Ways and Means committee hearing, he asked Strauss for a copy of the agreement, which he was given for the record. Still, the U.S. government remained committed to its deal.

Strauss was, to say the least, badly outnegotiated. Indeed, thanks to Strauss, the cartel achieved a political solution to most of its legal problems in a single bold stroke—and at virtually no cost. It now had everything it needed to complete its assault on what remained of the American television industry.

By the late 1980s, as Japan dominated America's consumer electronics markets, the logical next step was to squeeze extra profits from this dominant position. When New York Attorney General Robert Abrams revealed in 1989 that Panasonic and Technics (both subsidiaries of Japan's Matsushita) had mounted a vertical price-fixing scheme in America, the firms immediately agreed to an $18 million settlement—though without actually acknowledging wrongdoing.

By then, though, the pattern had become all too clear.

As of 1989, more than 20 former government officials with some responsibility for television issues had been hired by Japanese manufacturers or by the law firms and lobbying organizations that represent them. Many other ex-officials involved had gone to work for related Japanese interests. Under existing ethics laws, this is entirely legal.

What, though, is the cost of the decline and fall of the U.S.-owned television industry? Why does it matter that most consumer electronics are foreign-made?

For the United States, it has been an economic loss of historic proportions. During the 1980s, the U.S. market for VCRs alone generated more than $71 billion in sales for Japanese manufacturers, and added significantly to the U.S. trade deficit with Japan. The loss of the American television industry also undermined the TV parts industry—a producer of such integral components as semiconductors, which are also used in hundreds of other industries. The Commerce Department's own analysts have concluded that a key factor in the decline of the American semiconductor industry was the loss of U.S. TV manufacturers, who were among its largest customers. Much like falling dominoes, the decline of the semiconductor industry now threatens dozens of other related U.S. industries, such as super-computers and advanced machine tools.

Japan today has a position of global dominance in the electronics industry. It has, not to put too fine a point on it, reached a point where it can easily launch similar strikes against all the high-technology markets of the world.

PAKISTAN SMUGGLING COMPONENTS AND TECHNOLOGY FOR NUCLEAR WEAPONS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. STARK. Mr. Speaker, in the October 10 Washington Post, there were yet more reports of Pakistan's efforts to clandestinely acquire nuclear weapons. This time they were after high-temperature furnaces, useful in fabricating nuclear weapons grade materials as well as missiles to deliver the bombs.

Over the last decade, Islamabad has complied an extensive record of illegal and questionable nuclear transactions. During this time, they have repeatedly assured the United States that they have no intention of acquiring nuclear weapons.

In the late 1970's, Pakistan acquired an entire uranium hexafluoride plant through the assistance of a West German firm. This facility is useful for converting natural uranium into the form needed to enrich it to weapons grade material. At Pakistan's stage of nuclear power development the facility had little commercial use.

Pakistan received more assistance from foreign firms, especially West German concerns, throughout the 1980's. In its efforts to build a uranium enrichment plant, necessary to produce fissile material, Pakistan acquired design technology, essential electronic components and measuring equipment, vacuum pumps, specialized containers for the transport and storage of uranium hexafluoride, and many metric tons of aluminum for use as centrifuge housing. Like the hexafluoride plant, the centrifuge plant has little commercial value at this time for Pakistan.

Additionally, Islamabad has obtained or attempted to obtain from abroad such items as specialized x-ray cameras, specialized oscilloscopes, high-speed electronic switches useful for nuclear triggers, hot isostatic presses, and spectrometers, all necessary for various stages of building nuclear weapons. Pakistan is also working on acquiring technology and components to produce tritium, a material necessary for constructing higher yield bombs.

Under the Nuclear Non-Proliferation Act, Pakistan may not receive United States aid because of its nuclear weapons program. The purpose of the law was to punish countries pursuing these weapons of mass destruction. But for almost a decade, we have made excuse after excuse, passed waiver after waiver, and sent more than $5 billion to Islamabad. From the record our generosity does not appear to have slowed down the Pakistani nuclear weapons program one bit.

It is inconceivable to me that we could even consider giving Pakistan aid this year. How many solemn oaths, promises, and agreements do they have to break before we change our attitude? In the area of nuclear proliferation, Pakistan's word means nothing. They are the Joe Isuzu of bombmakers. Let's make the United States word mean a little more and keep our promise to cut off assistance.

The following is an article from yesterday's Washington Post about Pakistan's smuggling efforts:

Pakistan Tried to Buy Nuclear Aids—Attempts to Purchase Furnaces Detailed

(By Stuart Auerbach)

Pakistan, working through its embassy in France and intermediaries in Canada and Switzerland, tried at least three times this year to buy American-made, high-temperature furnaces that can be used in manufacturing nuclear weapons, according to documents furnished yesterday to administration officials and congressional investigators.

The furnaces Pakistan sought, made by the Consarc Corp. of Rancocas, N.J., are more advanced technically than similar pieces of equipment whose shipment to Iraq was stopped at the docks in August because of their potential use in making nuclear weapons, officials familiar with the documents said.

Further, the documents show that British authorities were informed in August that Pakistan was trying to buy similar furnaces from German and British manufacturers as well as another American company.

The documents, which were obtained by The Washington Post, surfaced as U.S. aid to Pakistan is coming under increasing attack from Congress because of a growing belief that Pakistan is engaged in a clandestine effort to develop nuclear weapons.

Partially reacting to this pressure, President Bush last week withheld military aid and future foreign aid until he can gain greater assurances from Islamabad that Pakistan does not have nuclear weapons and is not trying to build them.

Pakistan has steadfastly denied for years that it possesses nuclear weapons or maintains a nuclear weapons program, but administration officials and lawmakers are now greeting these assurances with greater disbelief. Nuclear nonproliferation experts believe Pakistan has pursued a nuclear weapons program ever since its neighbor and longtime foe India exploded a nuclear device in 1974.

In Islamabad on Monday, Prime Minister Ghulam Mustafa Jatoi said Pakistan had provided an "assurance" to President Bush, similar to those given in the past, that Pakistan's nuclear program is peaceful, Reuters reported.

No one was available at the Pakistan embassy here to comment on Pakistan's efforts to buy the furnaces.

The paper trail of documents shows that, starting in February, Pakistan approached Consarc Corp. with requests to buy arc melting furnaces that cost about $3 million each. The requests came to the company's New Jersey headquarters as well as to one of its salesmen in Canada and to its British subsidiary.

In all cases, the orders were refused because of U.S. and British restrictions on the sale to Pakistan of equipment that could be used in a nuclear weapons program.

U.S. authorities said the furnaces would allow Pakistan to create the kind of system needed to produce both nuclear materials pure enough to make a bomb and metals that could be used to make missiles to deliver nuclear weapons.

They also cited the "circuitous approach" used by Pakistan—seeking the same time through different channels and from different sources—as evidence that the furnaces would be used in a clandestine nuclear weapons program.

"Judging from the routes they are coming in from, it is clear that Pakistan is trying to hide their real use," said one government specialist.

In turning down the bid of the Swiss company, Fernhandels A.G. Basel, Consarc salesman Manfred Dickersbach wrote that "many other agencies and firms" have tried to buy the furnaces on behalf of Pakistan, according to the documents. Dickersbach also noted that the specifications supplied by the Swiss company do not match the end result called for. Finally, Dickersbach said flatly that the material to be processed in the furnace "appears to be zirconium"—which is used to sheath reactor fuel.

"It sounds like part of a fuel fabricating operation," said Leonard A. Spector, a specialist in nuclear nonproliferation issues at the Carnegie Endowment for International Peace in Washington.

The requests to buy the furnaces came from a variety of sources, according to the documents. The first was sent to Consarc's British subsidiary on Feb. 2 from the Pakistan Embassy in France. In March, Sen. John Glenn (D-Ohio) charged that the embassy helped to arrange for the illicit export from West Germany of technology and equipment associated with the manufacture of hydrogen bombs.

In April, the documents show, the company informed S. Muhtar Ahmed in Pakistan's Embassy in Paris that it could not get an export license to supply the furnaces.

In mid-February, meanwhile, Al Ferrari, a Consarc salesman in Canada, was asked by a Toronto consulting firm with Pakistani connections, Central Diagnostic Inc., about supplying furnaces to make high-quality steel suitable for surgical equipment, according to the documents.

Malik Khalid, an official of Central Diagnostics, denied that his company had anything to do with Pakistan's nuclear program. He said in a telephone interview yesterday that his company decided not to go ahead with the order because Consarc's furnaces are "too expensive" for Pakistan's small surgical equipment industry.

The search continued in April, when Pakistan's Directorate of Technical Procurement in Islamabad asked Consarc's British branch about buying six furnaces.

And four days after the Pakistan Embassy in Paris was turned down in its try to buy the furnace, the Swiss firm, Fernhandels, made its first approach to Consarc. According to the documents, Fernhandels sent the identical specifications supplied by the Pakistan Embassy in Paris to Consarc's New Jersey headquarters and followed up three weeks later with a letter seeking to buy other types of furnaces. Fernhandels attached the same specifications to that second request that the Directorate of Technical Procurement used in trying to buy the furnaces from Consarc's British branch.

COMPETENCY IN ENGLISH URGED FOR YOUNG SCHOOL CHILDREN

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. EMERSON. Mr. Speaker, recently in Laredo, TX, Secretary of Education Lauro Cavazos gave a speech to a group of south Texas school superintendents. Secretary Cavazos said that students who cannot speak English on the first day of school are not ready to learn. As you might guess, that statement has drawn a lot of comment.

A group of 30 Congressmen, myself included, sent a letter to the Secretary commending his remarks. The letter said in part: "English literacy in our country correlates like nothing else with educational, vocational, and economic success." Since 98 percent of the people in the United States speak English, we believe that children should be ready to learn in English when they reach school-age.

However, there are those who dispute that. Almost immediately after Secretary Cavazos spoke, his remarks were branded as "disabling." Children, it was said, are capable of learning in other languages. This is true. But I ask you: Is it beneficial for these children to be learning in another language when they live in an English-speaking country? In France, where the predominant language is French, children learn in French. In Germany, children learn in German. In Mexico, children learn in Spanish. They are learning in the common language of their country, the language that will be of most value to them.

I believe it is time to take a clear-eyed look at language education policy in the United States. Languages serve a practical, common-sense purpose—communication. Our policy has to be judged in light of that basic reality. A language or dialect that severely restricts the number of people you can communicate with is a great handicap, no matter what its merits compared to other languages.

In other words, if I as an English speaker live in France among French speakers and do not speak French, I will not earn as much money or get along as well in daily life as if lived among fellow English speakers. The reason: Communication. I am handicapped by my inability to speak French.

A number of Hispanic-Americans in south Texas took umbrage at Secretary Cavazos' remarks. They felt the Secretary had said their children aren't capable of learning in Spanish. They are, of course, but that is not the point

Spanish is a language of great beauty and subtlety, but if you live in an English-speaking country, you cannot use Spanish to communicate with as many people as you can reach in English. If you cannot communicate well with employers, you may not get a job. If you cannot communicate well with doctors, firemen, or paramedics, you may not get the medical attention you need.

Learning the common language of the land in which one lives is a great advantage economically, socially, and politically. Figures released 3 years ago indicate that Hispanics who can't speak English fluently earn up to 40 percent less than those who can, whether they live inside or outside Spanish-speaking communities. For teenagers with 45 working years ahead of them. English fluency can mean an additional $100,000.

This does not mean that English is a better language than Spanish. It does not mean that Spanish should not be spoken in the United States. It means that the ability to communicate in English with 98 percent of the American population translates into a real economic advantage. If this were Mexico, where 98 percent of the people speak Spanish, the ability to speak Spanish would be equally valuable. Literacy in the language of the land in which one lives is the key.

Ladies and gentlemen, we have a staggering problem with illiteracy in this country. Twenty-three million Americans are functionally illiterate. Twenty-three million of our fellow Americans cannot read a prescription bottle or fill out a job application.

The economic loss to this Nation is tragic, but far more tragic is the loss of talent, energy, and drive that are drained from the life of our country by illiteracy.

There is a direct correlation between poverty and illiteracy. Missionary Frank Laubach, a medical doctor whose travels took him around the world, spoke often of that tragic relationship: "The children of illiterates die young," he said. "The mothers and fathers don't know how to care for their babies' health. The men and women can't grow better crops or get good jobs. They have no voice in their government. They cannot read or write."

With that in mind, it is truly astonishing that in the United States a student may go through school and graduate without learning how to speak and read and write the English language.

In New Jersey last year the State board of education announced that limited English-speaking students may take the test of basic skills required for high school graduation in any of 12 languages.

What the board didn't explain was how a student with only minimal skills in English can find a job in our English-speaking country or qualify for college entrance.

We must address the issue now. Without English language skills, the work force of the future in the United States will be undereducated. Secretary of Education Cavazos recognizes this. That is why he is urging competency in English for young school children.

Secretary Cavazos' position is controversial among his fellow Hispanic-Americans. Many realize, however, that he is speaking out of concern for the economic future of their children and this country. Secretary Cavazos is to be commended for taking this courageous stand.

A TRIBUTE TO LOUISE LYNIP FOR 50 YEARS OF DEDICATED SERVICE AS A MISSIONARY IN THE PHILIPPINES

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. HORTON. Mr. Speaker, tonight, in my district, an anniversary dinner will be held honoring Louise Lynip for her 50 years as a missionary in the Philippines. I wish to take this opportunity to salute Miss Lynip and call the attention to her efforts in that country.

Miss Lynip traces the beginning of her interest in missionary work to the preaching of her pastor, the Reverend Dean Bedford of Brighton Community Church, many years ago. One Sunday, she heard the pastor, his wife, and several missionaries speak about their work. It was a lesson which would shape her life.

After studying at the Moody Bible Institute in Chicago and completing nurses' training at New York's Booth Memorial Hospital, Miss Lynip left the United States for missionary work in the Philippines. There she began her work despite the wartime perils of World War II.

After the war, her interests turned to caring for orphans. In 1950, she founded what would become the Bethany Christian Home for Children. Tonight's celebration is also a tribute to the 40th anniversary of this orphanage. Miss Lynip has worked to make the home into a refuge for the poor and infirm of the Philippines. She has based life at the home on Christian principles and works to instill those values in the residents there.

Over the years, the Bethany Christian Home for Children has grown to include a school for grades K through 12, a health clinic, a working farm, a church, and an adoption agency. Clearly, Miss Lynip has built one of the most comprehensive missions in the world.

Mr. Speaker, Louise Lynip has dedicated her life to the betterment of the disadvantaged in the Philippines. She is truly an inspirational leader. I commend her for her work and congratulate her on the anniversaries she celebrates tonight.

SHORE UP! INC.

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. DYSON. Mr. Speaker, I rise today to salute SHORE UP! Inc., and its outstanding personnel who are celebrating the agency's 25th anniversary in October 1990.

Mr. Speaker, SHORE UP! has been in existence on the Eastern Shore of Maryland for 25 years. During these years this caring agency has dedicated its efforts to the idea of "Helping People to Help Themselves."

When you look at this date in history, SHORE UP! was enacted by Congress as a part of the Economic Opportunity Act which was created to eliminate the paradox of poverty in the midst of plenty in this Nation. The cornerstone of America's war on poverty has been the Community Action Agency. Agencies such as SHORE UP! were created to offer the Nation's poor "A Hand Up, Not a Hand Out." Therefore, we must use this 25th anniversary to recommit ourselves to the elimination of poverty in the midst of plenty. There are still too many unfortunate people who cannot remain productive in society without assistance.

To keep the Eastern Shore community aware of the need for service to the less fortunate, a series of activities through the year have been planned. The 25th anniversary celebration will culminate with a week of events and a banquet to be held on October 19 at the Delmarva Convention Hall, Delmar, MD.

On the same evening of October 19, SHORE UP! will also recognize three outstanding members of its staff: Pearl Warner who has been with the Head Start Program for 25 years, and Christel Hitch Wilson and Shirley Milbourne Beckett, both of whom have been with SHORE UP! for 20 years. I would like to share with my colleagues some background of these women who have given so much to their communities over their decades of service.

Pearl Warner has been with Head Start for 25 years. She began in 1965 at what was then known as Get Set during its formative stages in Philadelphia. Pearl returned to Talbot County, MD, Joining the Head Start Program in 1968, which was administered by the Talbot County Board of Education.

In 1978, SHORE UP! was awarded the Head Start Program. She was a Center Coordinator/Teacher until 1985. From 1985–87, Ms. Warner was a coordinator for the Head Start Program and a family service worker from 1987–88. She became a center coordinator in 1988, and at the present time she is located at St. Michael's Head Start Center.

Ms. Warner received her B.S. in elementary education from Bowie State University in 1951. She has taken additional courses in the summer and evenings at Morgan State University and Chesapeake College. Pearl has also received many certificates of recognition from her home church, Union United Methodist Church. Pearl is the mother of three children, Rhonda, Vance, and William. She is also the grandmother of four.

Christel Hitch Wilson joined SHORE UP!, Inc., in October 1970 as a Head Start teacher at the Salisbury Head Start Center. In 1972, Christel became a Head Start director, then a center coordinator. From 1980 until 1986, Mrs. Wilson was an education specialist for Head Start, and in 1987 became a social service parent involvement specialist. Mrs. Wilson became the foster grandparent director in 1988 and is still in this position.

Mrs. Wilson received her B.A. in 1970 from the University of Maryland Eastern Shore. She has taken graduate courses at Salisbury State University, University of Maryland College Park, and Hood College.

While employed with the Head Start Program, Mrs. Wilson has received many certificates of various training on management and children.

Mr. Speaker, I am proud to inform my colleagues that earlier this year, at the Annual Foster Grandparents Luncheon, I presented Christel with a congressional award.

Christel is married to Floyd Wilson and they have two children, Michael, 22 years of age, and Vonda, who is 13 years old.

Shirley Milbourne Beckett began her career with SHORE UP! in 1970 as a nutritionist for Head Start. She became a teacher aide at the Snow Hill Head Start Center in 1972, and in 1973 was assigned to the Berlin Head Start Commissary as a nutritional aide. Shirley was then transferred to the Stockton Head Start Center in 1980 as a teacher aide, and since 1985 she has been a teacher assistant, presently assigned to the Salisbury Head Start Center.

Shirley received her GED in 1975, and attended Wor-Wic Tech where she took classes in day care I and II.

Shirley has three children, Maria Beckett Curtis, 23 years of age, Amanda Milbourne, 18, and Anthony Milbourne, who is 13 years old.

Mr. Speaker, I congratulate SHORE UP!, Inc., and each and every member of its incredible staff who have served the citizens of Maryland for the past 25 years. Their contributions to communities and families throughout the Eastern Shore are lasting testimony to the agency's motto, "Helping People to Help Themselves."

TRIBUTE TO KRISTIN L. SEEGER

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. SHUMWAY. Mr. Speaker, I ask that my colleagues join with me in paying tribute and expressing deep appreciation to Kristin L. Seeger, who today steps down as Director, Office of Regional Operations, at the Federal Emergency Management Agency [FEMA].

Kristin's contributions to FEMA's mission have been recognized numerous times, culminating in her receiving the Agency's Distinguished Service Award in December 1988. The award is the highest honor bestowed upon employees who have made substantial contributions to the Agency's operations. She has been an outstanding asset to the Agency, to the administration, and, as many of my colleagues know first hand, to Members whose districts have been ravaged by unanticipated disasters.

Her responsiveness to and cooperation with members of the legislative branch undoubtedly results from her first-hand understanding of our needs: Before FEMA was fortunate enough to gain her services, Kristin Seeger was one of our own. For 11 years, she served as a valued senior staff member to several Members of the House.

Kristin has served in her present Directorship since 1983 and, concurrently during 1985–1989, she also filled the roles of Acting Chief of Staff, then Deputy Chief of Staff upon the confirmation of FEMA's previous Director, Julius Becton, Jr. In that collateral capacity, Kristin not only fulfilled the demands of her primary position—she also served as a critical liaison between the Chief of Staff and the Director to ensure the effective and efficient implementation and administration of Federal emergency programs. Despite the heavy, overlapping burdens of responsibility, Kristin continued to acquit herself with excellence, enthusiasm, and the sincere dedication which so readily motivates others. It is no wonder that her efforts were appropriately rewarded with the Distinguished Service Award: Her commitment to excellence was unwavering from her first days at FEMA, when she was appointed special assistant to the Associate Director of State and Local Programs and Support in August 1981.

Few circumstances are so disruptive as the aftermath of disaster. In those situations, no one is more welcome than a knowledgeable, helpful, extremely professional individual like Kris. Her ability to identify reasonable remedies for critical problems, and to see those remedies implemented is admirable. Additionally, she possesses sound management and administrative skills which, coupled with her ability to interact with others, have resulted in maximum effort from those she directs. Kristin Seeger embodies all the best characteristics of a dedicated and responsive public servant.

For selfish reasons, I am extremely disappointed to see Kristin leave FEMA. However, I am confident that she will continue to excel in whatever endeavor she chooses to undertake, and I am pleased to consider her a good friend. I know that my colleagues will be equally pleased to join with me in extending every best wish to Kristin Seeger, as well as our heartfelt congratulations and commendation on a job well done.

HORIZONS ON THE HUDSON MAGNET SCHOOL IS NAMED WINNER IN ELEMENTARY SCHOOL RECOGNITION PROGRAM

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. FISH. Mr. Speaker, I rise today to honor the Horizons on the Hudson Magnet School in Newburgh, NY, for being named a winner in the U.S. Department of Education's 1989–90 Elementary School Recognition Program. That program is a national school improvement strategy designed to identify and call attention to unusually successful public and private schools. Only 221 elementary schools nationwide received such recognition, and only 18 schools in New York State were selected for this award.

This year, in choosing the honored schools, special attention was placed on programs which stress the visual and performing arts and geography education. Throughout its history, Horizons has sought educational mechanisms which nurture and strengthen each child's gifts and talents. In order to achieve this, Horizons has put a special emphasis on the arts through its Unique Options Program and by integrating the arts into the curriculum. The Options Program offers elective classes, taught during the last period of the day, to all students. Approximately 30 to 40 options are offered for 4-to-6 week sessions, in categories ranging from the primary and performing arts, to science and technology, sports, and literature. Examples of these classes include "Mural Mural on the Wall" which is a primary art class that involves painting a mural on the school building and "Author Author" in which K–2 graders write their own books.

The influence of art at Horizons is further evidenced by student artwork, lessons, and photos hanging in the school's corridors, and the presence of a visual arts teacher, a general music teacher, and an itinerant instrumental teacher in the classroom. Additionally, the students are taught the vocabulary, the elements, and the esthetics of the arts as well as how to make and perform art projects.

In preparing our children for the future, it is imperative that we instill the importance of culture and art into their minds, as well as value of academic achievement, a strong work ethic, and moral standards. I am impressed by the effort the Horizons School has made to ensure that their students recognize the virtue of artistic creativity. It is this kind of leadership in education that is essential to keep our school curriculums strong and diverse, and I sincerely hope that other elementary schools in New York, and around the Nation, will emulate the example set by the Horizons on Hudson Magnet School.

CELEBRATING HENRY BERMAN'S 80TH BIRTHDAY

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Ms. PELOSI. Mr. Speaker, I rise today to pay tribute to a dear friend, Henry Berman, on this occasion of his 80th birthday. Tomorrow his family and friends will gather in San Francisco to celebrate Henry's life. San Franciscans from all walks of life will honor Henry Berman as he is truly a San Francisco treasure.

Henry was born in New Haven, CT, and grew up in Springfield, MA. After working on a ranch in Arizona, Henry moved to San Francisco where he has lived ever since with his wife Esther.

Henry's contributions to San Francisco can be seen in various corners of the city—he was a workman on the San Francisco opera house, he owned H. Berman & Co. Liquor Distributor, he served on San Francisco Board of Permits and the San Francisco Commission of Public Utilities; he headed the San Francisco Fire Commission and he still serves as a San Francisco fire commissioner. For the last 18 years Henry has worked for Seagrams and to this day, is still working.

The Jewish community in San Francisco is fortunate to have Henry as their No. 1 advocate and fundraiser. Henry heads the Jewish Community Federation and works on their fundraising campaign. He is also the vice president of the Anti-Defamation League of the Pacific-Central Region and last year served as the chairman of the Society of Fellows—the fundraising committee of the Anti-Defamation League.

In honor of Henry's commitment to education and children, the American Israel Political Action Committee [AIPAC] has developed a Henry Berman Scholarship Fund and just this year, for his 80th birthday, his friends started a Henry Berman Scholarship Fund through the Alfred Fromm Institute. This scholarship will enable adults to receive higher education.

Although job and community activities consume much of Henry's time, he always finds the opportunity to enjoy a golf game and a dedicated golfer Henry is—when he first started golfing he could not find any left-handed golf clubs, so he learned to play golf right handed. Just one more example of Henry's persistence.

Henry is the proud father of two sons, Ronald and Robert, and has two grandchildren, Debbie and Nancy Berman.

Mr. Speaker, it is not often that we have friends, like Henry with such energy and spirit at the age of 80. Henry is a joy and an inspiration to all of us. It gives me great pride and pleasure to honor him today on the floor of the House of Representatives on his 80th birthday. Congratulations Henry.

SUPPORT THE REAUTHORIZATION OF THE NEA

HON. DENNY SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. DENNY SMITH. Mr. Speaker, yesterday I voted to support the reauthorization of the National Endowment for the Arts. I did this for one reason: Chairman John Frohnmayer.

I supported and endorsed fellow Oregonian John Frohnmayer for Chairman of the NEA, and I believe he is working to bring respectability and accountability back to the National Endowment for the Arts. He must be given a fair chance to accomplish this task.

Like all Americans, I am against public funding of pornography, and will vote against all attempts to retain such funding. The Federal Government has no business funding obscenity, and I could not agree more with Chairman Frohnmayer's March 1990 statement regarding this very issue:

> I and the National Endowment for the Arts oppose obscenity unequivocally. It is the antithesis of art. It is without soul. It conveys no message. It degrades humanity, and it sickens me.

Chairman John Frohnmayer has already instigated a policy to rehabilitate an ailing NEA. During his short tenure, he has already turned down four grants due to objectionable content. John Frohnmayer has also strengthened the panel process to become more representative of the American public both geographically and religiously. A layman has been added to every panel.

John Frohnmayer is instituting changes that will make the National Endowment for the Arts accountable to the public. Mr. Speaker, the chairman deserves a chance to prove that the NEA is worthy of funding, and I am willing to give him that chance.

CONGRESSMAN KILDEE HONORS SESQUICENTENNIAL FOR DAVISON TOWNSHIP

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. KILDEE. Mr. Speaker, I would like to bring to the attention of my colleagues and the Nation an event that will occur on October 23, 1990 in Davison, MI, commemorating the establishment of Davison Township. On this day, Davison Township will celebrate its sesquicentennial.

The service that this find township has given to the Davison community can be traced back to April 1840, when it was recognized by the Michigan Legislature. The first township meeting was held on April 6, 1840 at the home of Goodenough Townsend, a Davison Township pioneer. The township was organized in Lapeer County. The Michigan State Legislature extended the boundaries of Genesee County in March 1843 to include Davison Township and three other townships. Township officials requested the change for commercial and business reasons.

More than any other form of local government, America's townships are rooted in rural and small town traditions. The townships are the level of Government closest and most responsive to the people. They are a viable form of grassroots democracy. The powers and authorities of Michigan's 1242 townships rank among the strongest in the country.

Mr. Speaker, it is with great pleasure that I ask my fellow Members to join me in recognizing Davison Township as an outstanding township which has significantly contributed to improving the quality of life in our community.

TRIBUTE TO THE LATE CAPT. ROBERT E.J. MARCHESE

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. GEKAS. Mr. Speaker, the Williamsport Police Department and Pennsylvania's 17th Congressional District lost a faithful public servant with the passing of Capt. Robert E.J. Marchese.

A 22-year city police veteran, Captain Marchese was a graduate of the Pennsylvania State Police Academy, and the Traffic Institute of Northwestern University. He also attended the former Williamsport Narcotic Identification School in 1971.

Captain Marchese joined the police department on April 25, 1968. During the early 1970's, he assisted with special assignments while serving as county deputy sheriff. In February 1980, he was promoted to corporal. When the present city police chief was appointed back in January 1988, Captain Marchese became his administrative assistant. In this capacity, Captain Marchese was an important asset to all homicide and other investigations, contributing to the safety and welfare of the community. Last January, Mr. Marchese achieved the rank of captain.

Captain Marchese was recognized for valor numerous times. In 1974, he received the Department's Officer of the Month Award. And in 1975, he was recognized for aiding a team of officers in the apprehension of a gunman who was randomly firing a rifle on a residential street in Williamsport. Finally, Captain Marchese received a commendation for assisting in a 1987 city fire, where the lives of three elderly people were saved.

These acts of heroism are examples of Captain Marchese's selfless dedication and willingness to come to the aid of others at the risk of his own life. That very fact deserves commendation alone.

Capt. Robert E.J. Marchese was a true patriot, a dedicated public servant, and a father who instilled in his children and colleagues a respect of law and order, and the love of community. He put himself in danger 24 hours a day, every day, for 22 years, committing himself fully to aid those in need—strangers who required his never-ending service. Fortunately, Captain Marchese was there to give it to them.

He was a true American and he will be deeply missed. I extend my sympathy to his colleagues and to the entire Marchese family.

CENSORSHIP OF THE ARTS

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. LAUGHLIN. Mr. Speaker, I do not believe in censorship of the arts, but I do believe that projects sponsored with taxpayer dollars should be responsive to its guarantors, the American people. My constituents are offended by projects recently funded by the NEA. Yet their tax dollars fund such work while at the same time the U.S. Government is asking them to give up Medicare benefits and agricultural income supports.

We tried to send a clear message to the NEA last year by cutting its funds by $45,000 which is the amount that the offensive projects received. But since then, quesitonable projects have continued to be funded with taxpayer money.

It is obvious to me, Mr. Speaker, that if the NEA cannot impose standards on itself, it is our responsibility to do it. By prohibiting funding for obscene or indecent works, the Regula amendment would do just that.

A CONGRESSIONAL SALUTE TO THE SAN PEDRO BAY HISTORICAL SOCIETY IN HONOR OF THE OPENING OF THE MULLER HOUSE MUSEUM

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to pay special tribute to the San Pedro Historical Society on the occasion of the dedication ceremony formally opening the Muller House as a community historical museum. Because this exceptional organization plays such an important role in the preservation of the culture and history of San Pedro, I wish to offer this congressional salute.

In 1974, a group of civic-minded citizens, seeking ways to preserve the unique harbor area so rich in history and important in the development of Los Angeles proper, banded together to form the San Pedro Bay Historical Society.

The primary purpose of the society was, and remains to this day, the restoration and preservation of historical buildings and landmarks in the San Pedro Bay area and to disseminate information about the history of the area. It was incorporated by the State of California as a nonprofit organization on March 3, 1975.

In 1984, the Muller House was donated to the San Pedro Bay Historical Society and moved to its present location to safeguard its protection. The Muller House, built in 1899 and purchased by William Muller in 1901, has quickly become a representation of life in San Pedro at the turn of the century. The house has been moved three times since its construction, and renovated several times by the Muller family. Beautiful African gum woodwork was installed in the house by Mr. Muller, and several rooms and a sunporch were added in later years. The house offers its visitors extensive gardens including roses, bougainvillea, fruit and magnolia trees, and an interesting fish pond made of rocks and shells.

Mr. Speaker, as a resident of San Pedro, I can attest to the tremendous changes which have occurred in recent years. The San Pedro Bay Historical Society has done an exceptional job of preserving for me and many other citizens of this fine city, the memories of a time when San Pedro was just a little sleepy port town. Today it is a bustling community filled with activity and civic pride. The society will help us pay tribute to the past as we enjoy the present.

TRIBUTE TO PHYSICAL THERAPISTS

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to all physical therapists. Physical therapists are working hard in my district and around the country to make a difference—one person at a time.

Their work does more than prepare a physically challenged person for employment, more than building muscles and acquiring skills; it builds confidence, dignity, self-respect and fulfillment. Physical therapy can really mark the beginning of a new life.

I would especially like to commend the efforts by the staff at the Center for Evaluation and Rehabilitation, Inc., in Warren, MI. By providing professional services, the center's staff are satisfying some important needs to the physically challenged community. I want support groups, such as the center, to be assured their efforts are being recognized at the national level.

The gains physical therapists have made in providing rehabilitation services have been exceptional. I am very pleased to see organizations, such as the Center for Evaluation and Rehabilitation, Inc., having an impact at the local level. Through their hard work, physical therapists are opening the doors to new employment opportunities for people who would otherwise encounter difficulties. This is a precedent I would like to call on others to follow. Continued progress providing support to the physically challenged makes our community a better place to live for everyone.

Many years ago, physical therapy was inaccessible to thousands of people across the country. Now it's one of the building blocks of our community. Like few others, physical therapists enrich our community through the individuals they help.

Above all Mr. Speaker, I pay tribute to those challenged individuals who never give up the desire to try. In circumstances where some have given up, these individuals are accepting new challenges, going back to work and increasing their understanding of themselves and their importance to their community.

EFFECTIVE DEFICIT REDUCTION

HON. JOLENE UNSOELD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mrs. UNSOELD. Mr. Speaker, the American public is rightly outraged with the apparent inability of the administration and Congress to hammer out fair and effective deficit reduction.

It is absolutely clear that we must do three things: First, make the rich pay their fair share in any revenue raising package; second, hold the line on domestic spending, shifting funds to investments that will make us more capable and competitive in the future; and third, cut defense spending and weapons that are outmoded remnants of the cold war. Our Persian Gulf strength should no longer be sapped by a focus on strategic arms.

Unfortunately, the rich, the oil companies, and the Pentagon are fighting to preserve the sweet deal they enjoyed in the 1980's. Those fiscal distortions of 1980's should end. Working America should not have to make up the deficit. We should not undermine our future competitiveness.

The Defense appropriation is $5 billion over the House-passed authorization level;

Funding for energy alternatives like solar would be eliminated while oil companies get billions in tax incentives; and

The Student Loan Program would be gutted.

We can do better than this.

A TRIBUTE TO SPALDING HIGH SCHOOL

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to congratulate the Archbishop Spalding High School on the occasion of the silver anniversary of its founding. Faculty, staff, alumnae and students of this fine school should be very proud of the 25 years that Archbishop Spalding High School has stood as a preeminent institution of learning.

Founded in 1966 by His Eminence, Laurence Cardinal Sheehan and located in Glen Burnie, the school's purpose is to serve the Catholic communities in suburban Washington, Annapolis and Baltimore. Initially an all girls school, the Archbishop Spalding High School has been coeducational since 1971, and its goal has always been to encourage students to work to their full potential. The value of schools such as this one to American society, delivering students of intellectual promise, civic responsibility and moral integrity, cannot be overstated.

On this, the Archbishop Spalding High School's 25th anniversary, I wish it continued success as it serves the citizens of the State of Maryland.

MISUNDERSTANDING BETWEEN THE INTERNAL REVENUE SERVICE AND THE STATE OF MARYLAND

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. CARDIN. Mr. Speaker, today I am introducing legislation to assist thousands of teachers and State employees in my State who have been caught in a misunderstanding between the Internal Revenue Service and the State of Maryland.

Over the past decade, the State of Maryland has adopted a series of incentives to encourage its employees, including teachers, to transfer funds from one retirement system to a new one. Many of the employees, upon receiving their distribution, rolled it over into an individual retirement account. Most did so with the understanding that the entire transaction would have no tax consequences.

Now they have learned that understanding was mistaken. The IRS has issued a private letter ruling stating that the distributions are in fact taxable, and subject to interest and penalties. In some cases, for employees who had served 30 years and were rolling over the entire balance of their retirement accounts, the taxes, interest, and penalties involved total tens of thousands of dollars.

Mr. Speaker, this is a cruel burden to place on working people. At stake are the plans they have made for their retirement. They have acted responsibly, in good faith, to save for their retirement. They have done so, in fact, in response to incentives offered by their State government, and, importantly, from their Federal Government. They do not deserve to be traumatized and have their retirement security threatened in this manner.

The failure of Americans to save money is a well-known problem in our economy. Low savings rates hinder capital formation, and create serious problems for those who reach retirement age and are dependent solely on Social Security.

To encourage savings, we have enacted laws providing favored tax tratment for pension plans. The teachers and State employees in Maryland were responding to those incentives. They participated in their pension plan. When the State shifted its emphasis to a new plan, thousands of employees went along, shifting their funds into an IRA. Now they are being penalized for playing by the rules. It's not fair. The bill I am introducing today restores fairness for those who have acted responsibly to maintain their retirement plans.

A BILL TO AMEND THE HISTORIC SITES, BUILDINGS AND ANTIQUITIES ACT

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. SHAW. Mr. Speaker, earlier this week the House passed an important piece of legislation which I strongly supported. This bill, H.R. 2582, amends the Historic Sites, Buildings and Antiquities Act. Although there are many fine conservationist measures contained in this bill, I would like to bring to my colleagues' attention a particular provision included in this legislation which is of great interest to those of us who wish to preserve our Nation's Civil War history.

I am refering to the section in the bill which directs the Secretary of the Interior to study the suitability of including certain Shenandoah Valley Civil War sites within the National Park System, The reason we need this legislation is simple: These historic sites are today being threatened by encroaching development. By conducting a thorough review of these battle sites, I feel a greater understanding of the war that ultimately defined this Nation can be gained.

Many important engagements between the Union and the Confederacy occurred in this area located in both Virginia and West Virginia, such as the Battles of Winchester, the Battle of New Market, the Battle of Kernstown, and the Battle of Cedar Creek, to name a few. It is hard to believe that even though the events in this area enormously influenced the course of the war, not one battle site is represented in the National Park System.

Mr. Speaker, the need to preserve and protect our Nation's Civil War battlefields cannot be understood. H.R. 2582 lays the groundwork for us to forever honor and remember the brave Americans who made the ultimate sacrifice on those battlefields.

IN HONOR OF NAIA 50TH ANNIVERSARY CELEBRATION

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. LEVIN of Michigan. Mr. Speaker, the North American Indian Association of Detroit in my home district is scheduled to celebrate its 50th anniversary tomorrow, October 13.

The oldest urban Indian Center in the United States providing continuous service, NAIA has contributed much to the lives of native Americans and, indeed, to the entire community.

The association was founded in 1940 as a social club for Detroit's Indian community. It has since evolved into much more. It offers outreach programs that bring youth and seniors together, job training, and countless other services. It was also instrumental in getting the Michigan Legislature to recognize the fourth Friday in September as Native American Day, a day that celebrates the history, culture, and achievements of native Americans.

I am proud to commemorate this milestone in the life of an extraordinary organization that does such valuable work. I salute the North American Indian Association.

INDEPENDENCE NATIONAL HISTORICAL PARK

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. FOGLIETTA. Mr. Speaker, I am lucky enough to represent the district which includes Independence National Historical Park.

Independence National Historical Park, dubbed "America's most historic square mile," is the home of the Liberty Bell and Independence Hall. It is the foremost attraction for visitors to the city of Philadelphia and is one of the most popular parks in this country.

Unfortunately, Federal support for Independence National Historical Park has dropped dramatically. While Park Service officials have done their best to cope with diminishing resources, many parts of the park are in a state of decay.

The roof on Independence Hall leaks, its shingles turn to sawdust in your hands. One entire section of the mall is in a state of total decay. When visitors enter the third section of the mall they are greeted with a sign that reads "Danger. Uneven walking surface. Enter at your own risk."

But thanks to the leadership of Congressmen Yates, Murtha, and McDade the roof on Independence Hall will be fixed and the third block of the mall will be restored.

Mr. Speaker, every day thousands of people come to Philadelphia to see the place where this Nation was born. Thanks to the work of this House they will see a park worthy of that tradition.

HOUSE OF REPRESENTATIVES—*Saturday, October 13, 1990*

The House met at 10 a.m.

DESIGNATION OF SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore (Mr. Obey) laid before the House the following communication from the Speaker:

Washington, DC,
October 12, 1990.

I hereby designate the Honorable David R. Obey to act as Speaker pro tempore on Saturday, October 13, 1990.

Thomas S. Foley,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pause in prayer, O loving God, to celebrate this new day—a day of the usual concerns and problems, and yet a new day of opportunity, full of the possibilities for the growth of our spirits, for the broadening of our minds, and the strengthening of the bonds that unite us one to another. Let us not forget, O God, the values that unite us and the traditions on which we can build with a greater appreciation of your good gifts to us. Amen.

THE JOURNAL

The **SPEAKER** pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The **SPEAKER** pro tempore. The Chair recognizes the gentleman from Mississippi [Mr. Montgomery] to lead the House in the Pledge of Allegiance.

Mr. MONTGOMERY led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask to proceed for the purpose of inquiring of the acting majority leader for the day the program that has been outlined by the leadership for next week.

Mr. MONTGOMERY. Mr. Speaker, if the gentleman will yield for the program for next week, we will come in session at 12 o'clock noon on Monday. We will take up the Consent Calendar. Then we will go to suspensions. There are 36 suspensions on this list. I will not go through the list here, but will include the list at the end of our statement about 3:30 p.m. If we have not finished the suspensions, we will go back to the Interior appropriations bill and finish Interior appropriations in the full committee. If we do have votes on suspensions up until 3:30 p.m., those suspension votes will be passed over until we finish all suspensions and we will take up on votes later in the evening.

Mr. MICHEL. Mr. Speaker, I thank the distinguished gentleman. I think maybe there might have been a slight correction in that order, if the gentleman would bear with me for a minute. He is correct, by my understanding with the Speaker, that at about 3:30 or 4 p.m., we obviously would not be through that long list of suspensions that run 36 in number, and we would then go to the Interior appropriations bill, have the rollcall votes on the Interior appropriations bill and the suspensions that had been ordered up to that time, and then use the balance of the evening in having general debate on the balance of the suspensions, with those rollcalls probably being rolled over until the first thing on Tuesday.

Mr. MONTGOMERY. Mr. Speaker, if the gentleman will yield, the gentleman is correct, and I stated it incorrectly. After the Interior appropriations vote, if we would have called for votes on suspensions up until 3:30 p.m., then those votes would follow the Interior appropriations vote.

Mr. MICHEL. And as I understand it, the gentleman is asking then to have the entire program printed in the Record so that all Members might be apprised.

If I might make one quick observation, I think it is very appropriate to highlight in this very abbreviated Record that will be displayed in the Members' offices the fact that when the Speaker and I met yesterday, we talked about the coming week, and maybe more, as we have to get this Congress adjourned eventually with the tremendous workload. We have been observing that our 15-minute rollcalls have been extending to as much as half an hour, simply because Members are not beginning their trek over to the floor from their offices until the 15-minute period has practically expired. Now, this obviously delays the action of the House, and we would like to work in an expeditious manner. We may get to the point where we may want to have a series of 5-minute votes, maybe 2-minute votes, and with the cooperation of the membership, we can certainly expedite the business of the House if Members would pay a little bit of attention to the fact that we would like to move these rollcalls along, telescope them into the timeframe in which they have been originally provided, either 15 minutes, 5 minutes, or 2 minutes, and if Members would take note of that, we could move the business of the House along.

Mr. MONTGOMERY. Mr. Speaker, if the gentleman will yield, I agree with what the gentleman has said. I have had the privilege of chairing the committee on some of these votes, and Members are just going to have to do better. They find other things to leave the floor for; even on a 5-minute vote they will leave and come back, and the 5-minute vote ends up being a 10-minute vote.

I certainly agree with the gentleman that if we are ever going to get through to the end of the Congress, we are going to have to pay attention to what happens on the floor and be here to vote.

Mr. MICHEL. Mr. Speaker, if I might make one further quick observation, the reconciliation measure, of course, is one on which a great deal of attention is being focused. The Committee on Rules is supposed to be meeting on Monday, and as the schedule will point out, hopefully, there will be a reconciliation bill on the floor by Tuesday. There may be some slippage, but the last time I talked to the Speaker we were certainly attempting to try our best to meet that schedule because we also have to take into account that the other body has to also meet on that very important measure.

Mr. MONTGOMERY. Mr. Speaker, if the gentleman will continue to yield, I have been informed by staff that as to our schedule, which will be put into the Record, this schedule is for next week, and the Reconciliation Act of 1991 is on the schedule starting at 10 a.m. on Tuesday, October 16. I am informed that there could be a little slippage, but it is the hope of the leadership on this side that we move quickly on this reconciliation.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

As the gentleman said, something has to be done this next week on reconciliation.

Mr. MICHEL. I thank the gentleman.

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to insert in the Record this legislative program for the week of October 15.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The text of the legislative program is as follows:

Legislative Program

The program for the House of Representatives for the week of October 15, 1990 is as follows:

MONDAY, OCTOBER 15

House meets at noon, Consent Calendar, suspensions (36 bills)

(Recorded votes on suspensions will be postponed until after consideration of all suspensions.)

1. H.R. 5326. Veterans' Compensation Amendments of 1990.
2. H.R. 5740. Veterans' Health-Care Amendments of 1990.
3. H.R. 5739. Naming The Samuel S. Stratton Department of Veterans Affairs Medical Center.
4. H.R. 5814. Soldiers' and Sailors' Civil Relief Act Amendments of 1990.
5. H.R. 5657. U.S. Court of Veterans Appeals Amendments.
6. H.R. 5506. Transfer of Pershing Hall to Department of Veterans Affairs.
7. H.R. 5093. Department of Veterans Affairs Codification Act.
8. H.J. Res. 587. Civic Achievement Award.
9. H.R. 5687. Chief Financial Officer Act of 1990.
10. H.R. 3977. Antarctic Protection Act.
11. H.R. 4009. Federal Maritime Commission.
12. H.R. 4515. High Speed Rail Transportation Policy and Development Act.
13. H.R. 4888. To Reduce Navigational Hazards Resulting From Collisions With Pipelines in The Marine Environment.
14. H.R. 5132. Independent Safety Board Act of 1974 Amendments Act of 1990.
15. H.R. 5071. Federal Triangle Development Act Amendments of 1990.
16. H.R. 3386. Safe Transportation of Food Act of 1990.
17. S. 1824. Handicapped Education Conference Report.
18. S. 580. Student Athletes' Right to Know.
19. H.R. 3315. Extend Authorization For Taft Institute Conference Report.
20. H.R. 3911. Attendant Allowance Adjustment Act.
21. H.R. 3069. Displaced Homemaker Self-Sufficiency Act.
22. H.R. 4257. Supreme Court for The District of Columbia.
23. H.R. 5749. American University Charter.
24. H.R. 4956. To Revise, Codify and Enact Without Substantive Change Certain General and Permanent Laws, Related to Transportation, as Subtitles of Title 49, U.S. Code.
25. H.R. 4407. Requiring Law Enforcement Agencies to Report All Cases of Missing Persons Under Age 18 to The National Crime Information Center of the Department of Justice.
26. H.R. 5652. To Amend The Act Incorporating The American Legion So As to Redesign Eligibility For Membership Therein.
27. H.J. Res. 657. Granting The Consent of The Congress to Amendments to The Delaware-New Jersey Compact.
28. S. 303. The "Negotiated Rulemaking Act of 1989," Concur With Senate Amendment.
29. H.R. 4757. To Provide Permanent Authority For The U.S. Supreme Court Police, Concur With Senate Amendment.
30. H.J. Res. 520. Granting The Consent of Congress to Amendments to The Washington Metropolitan Area Transit Regulation Compact, Concur With Senate Amendment.
31. S. 1783. To Regulate Indian Child Protection and Prevent Child Abuse on Indian Reservations.
32. H.R. 5237. Protecting Native American Graves.
33. S. 321. Revising Provisions of Law Providing Preference to Indians.
34. S. 2846. Authorizing a Study of The Feasibility to Establish a National Park System Unit To Interpret and Commemorate Jazz in The U.S.
35. H.R. 5796. Conducting Certain Studies in New Mexico.
36. S. 267. Land Conveyance in Kuna, Idaho.

H.R. 5769. Interior Appropriations For FY '91. (Complete consideration)

H.R. 3960. Colorado River Storage Project—Central Utah Project. (Subject to a rule)

TUESDAY, OCTOBER 16

House meets at 10:00 a.m., Private Calendar

H.R. —. Omnibus Reconciliation Act For FY 1991. (Subject to a rule)

H.R. 5422. Intelligence Authorization Act For FY '91. (Open rule, one hour of debate)

S. 2104. Civil Rights Act of 1990 Conference Report. (Subject to a rule)

H.R. 4939. Extending Most-Favored-Nation Treatment to The Products of The People's Republic of China. (Modified open rule, two hours of debate)

H.J. Res. 647. Disapproving The Recommendation To Extend Most-Favored-Nation Treatment To The Products of The People's Republic of China. (Closed rule, one hour of debate)

H.J. Res. 649. Approving Extension of Most-Favored-Nation Treatment to Czechoslovakia. (Closed rule, one hour of debate)

WEDNESDAY, OCTOBER 17 AND BALANCE OF THE WEEK

House meets at 10:00 a.m.

H.R. 5399. Legislative Branch Appropriations. (Subject to a rule)

H.R. 4225. Restricted Weapons Act of 1990. (Modified open rule)

H.R. 3848. Depository Institution Money Laundering Conference Report. (One hour of debate)

S. 566. Omnibus Housing Authorization Conference Report. (One hour of debate)

H.R. 486. Defense Production Act Conference Report. (One hour of debate)

H.R. 4739. DoD Authorization Conference Report For FY '91. (One hour of debate)

H.R. 2015. Public Works and Economic Development Act Amendments of 1990 Conference Report. (One hour of debate)

H.R. 5314. Water Resources Development Act Conference Report. (One hour of debate)

H.R. 5170. Aviation Safety and Capacity Expansion Act of 1990 Conference Report. (One hour of debate)

H.R. 5732. Aviation Security Improvement Act of 1990 Conference Report. (One hour of debate)

S. 2830. 1990 Farm Bill Conference Report. (One hour of debate)

S. 1830. Clean Air Act Amendments of 1989 Conference Report. (One hour of debate)

Conference reports may be brought up at any time. Any further program will be announced later.

PERMISSION FOR COMMITTEE ON VETERANS' AFFAIRS TO FILE SUNDRY REPORTS

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that the Committee on Veterans' Affairs have until midnight tonight to file reports on H.R. 5093, H.R. 5326, H.R. 5506, H.R. 5657, H.R. 5739, H.R. 5740, and H.R. 5814.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

HOUR OF MEETING ON TUESDAY, OCTOBER 16, 1990

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, October 15, 1990, it adjourn to meet at 10 a.m. on Tuesday, October 16, 1990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

ADJOURNMENT

Mr. MONTGOMERY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 8 minutes a.m.), the House adjourned until Monday, October 15, 1990, at 12 noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 5326. A bill to amend title 38, United States Code, to revise the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans, to make miscellaneous improvements in veterans' compensation and pension programs, to provide a presumption of service-connection between the occurrence of certain diseases incurred by veterans of active service in Vietnam during the Veteran era and exposure to certain toxic herbicide agents used in Vietnam, and for other purposes; with an amendment (Rept. 101-857). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 5506. A bill to provide for the transfer of an existing United States memorial erected under the auspices of The American Legion, Inc., for the use and benefit of all American officers and enlisted personnel who served in World War I to the Department of Veterans Affairs, and for other purposes; with an amendment (Rept. 101-858). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 5657. A bill to make technical amendments to the Veterans' Judicial Review Act (Rept. 101-859). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 5739. A bill to redesignate the Department of Veterans Affairs medical center located at 113 Holland Avenue in Albany, New York, as the "Sammuel S. Statton Department of Veterans Affairs Medical Center" (Rept. 101-860). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 5740. A bill to amend title 38, United States Code, to make improvements in veterans' health-care programs, and for other purposes; with amendments (Rept. 101-861). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 5814. A bill to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to improve and clarify the protections provided by such Act and to make technical amendments; to amend title 38, United States Code, to clarify veterans reemployment rights and to improve veterans' rights to reinstatement of health insurance, and for other purposes (Rept. 101-862). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSTENKOWSKI:

H.R. 5826. A bill to amend the Internal Revenue Code of 1986 with respect to treatment of small businesses; to the Committee on Ways and Means.

By Mr. THOMAS A. LUKEN (for himself, Mr. Boucher, and Mr. Slattery):

H.R. 5827. A bill to address immediate problems affecting environmental cleanup activities; to the Committee on Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 3343: Mr. Hochbrueckner.

H.R. 4690: Mr. Frost and Mr. Volkmer.

H.R. 5093: Mr. Edwards of California, Mr. Hammerschmidt, Mr. Applegate, Mr. Wylie, Mr. Evans, Mr. McEwen, Mr. Penny, Mr. Rowland of Connecticut, Mr. Staggers, Mr. Burton of Indiana, Mr. Rowland of Georgia, Mr. Bilirakis, Mr. Stenholm, Mr. Ridge, Mr. Harris, Mr. Smith of New Hampshire, Mrs. Patterson, Mr. Jontz, Mr. Payne of Virginia, Mr. Morrison of Connecticut, Mr. Sangmeister, Mr. Parker, Mr. Jones of Georgia, Ms. Long, Mr. Geren of Texas, Mr. Hochbrueckner, Mr. Leath of Texas, Mr. Hefner, Mr. Jenkins, Mr. Richardson, and Mr. Browder.

H.R. 5326: Mr. Edwards of California, Mr. Evans, Mr. Staggers, Mr. Kennedy, Mrs. Patterson, Mr. Jontz, Mr. Morrison of Connecticut, Ms. Long, Mr. Hochbrueckner, Mr. Wylie, Mr. McEwen, Mr. Sangmeister, Mr. Burton of Indiana, Mr. Jones of Georgia, Mr. Bilirakis, Mr. Rowland of Connecticut, Mr. Smith of New Hampshire, Mr. Browder, and Mr. Richardson.

H.R. 5443: Mrs. Johnson of Connecticut.

H.R. 5506: Mr. Edwards of California, Mr. Hammerschmidt, Mr. Applegate, Mr. Wylie, Mr. Evans, Mr. McEwen, Mr. Penny, Mr. Smith of New Jersey, Mr. Staggers, Mr. Burton of Indiana, Mr. Rowland of Georgia, Mr. Bilirakis, Mr. Stenholm, Mr. Ridge, Mr. Harris, Mr. Rowland of Connecticut, Mrs. Patterson, Mr. Smith of New Hampshire, Mr. Jontz, Mr. Payne of Virginia, Mr. Morrison of Connecticut, Mr. Sangmeister, Mr. Parker, Mr. Jones of Georgia, Ms. Long, Mr. Geren of Texas, Mr. Hochbrueckner, Mr. Leath of Texas, Mr. Hefner, Mr. Jenkins, Mr. Richardson, and Mr. Browder.

H.R. 5531: Mr. Hertel.

H.R. 5622: Mr. Towns and Mr. Frost.

H.R. 5657: Mr. Edwards of California, Mr. Hammerschmidt, Mr. Evans, Mr. Wylie, Mr. Penny, Mr. McEwen, Mr. Staggers, Mr. Smith of New Jersey, Mr. Rowland of Georgia, Mr. Burton of Indiana, Mr. Stenholm, Mr. Bilirakis, Mr. Harris, Mr. Ridge, Mrs. Patterson, Mr. Rowland of Connecticut, Mr. Jontz, Mr. Smith of New Hampshire, Mr. Payne of Virginia, Mr. Morrison of Connecticut, Mr. Sangmeister, Mr. Parker, Mr. Jones of Georgia, Ms. Long, Mr. Geren of Texas, Mr. Hochbrueckner, Mr. Leath of Texas, Mr. Hefner, Mr. Jenkins, Mr. Richardson, and Mr. Browder.

H.R. 5739: Mr. Montgomery, Mr. Stump, Mr. Edwards of California, Mr. Hammerschmidt, Mr. Applegate, Mr. Wylie, Mr. Evans, Mr. McEwen, Mr. Penny, Mr. Smith of New Jersey, Mr. Staggers, Mr. Burton of Indiana, Mr. Rowland of Georgia, Mr. Bilirakis, Mr. Stenholm, Mr. Ridge, Mr. Harris, Mr. Rowland of Connecticut, Mrs. Patterson, Mr. Smith of New Hampshire, Mr. Jontz, Mr. Payne of Virgina, Mr. Morrison of Connecticut, Mr. Sangmeister, Mr. Parker, Mr. Jones of Georgia, Ms. Long, Mr. Geren of Texas, Mr. Leath of Texas, Mr. Hefner, Mr. Jenkins, Mr. Richardson, and Mr. Browder.

H.R. 5740: Mr. Edwards of California, Mr. Stump, Mr. Applegate, Mr. Evans, Mr. Wylie, Mr. Penny, Mr. McEwen, Mr. Staggers, Mr. Smith of New Jersey, Mr. Rowland of Georgia, Mr. Burton of Indiana, Mr. Stenholm, Mr. Bilirakis, Mr. Harris, Mr. Ridge, Mr. Kennedy, Mr. Rowland of Connecticut, Mrs. Patterson, Mr. Smith of New Hampshire, Mr. Jontz, Mr. Payne of Virgina, Mr. Morrison of Connecticut, Mr. Sangmeister, Mr. Parker, Mr. Jones of Georgia, Ms. Long, Mr. Geren of Texas, Mr. Hochbrueckner, Mr. Leath of Texas, Mr. Hefner, Mr. Jenkins, Mr. Richardson, and Mr. Browder.

H.R. 5814: Mr. Edwards of California, Mr. Hammerschmidt, Mr. Applegate, Mr. Wylie, Mr. Evans, Mr. McEwen, Mr. Penny, Mr. Burton of Indiana, Mr. Staggers, Mr. Bilirakis, Mr. Rowland of Georgia, Mr. Ridge, Mr. Stenholm, Mr. Rowland of Connecticut, Mr. Harris, Mr. Smith of New Hampshire, Mrs. Patterson, Mr. Jontz, Mr. Payne of Virginia, Mr. Morrison of Connecticut, Mr. Sangmeister, Mr. Parker, Mr. Jones of Georgia, Ms. Long, Mr. Geren of Texas, Mr. Hochbrueckner, Mr. Leath of Texas, Mr. Hefner, Mr. Jenkins, Mr. Richardson, and Mr. Browder.

H.J. Res. 667: Mr. Emerson, Mr. Tauke, Mr. Leach of Iowa, Mr. Skelton, Mr. Berman, Mr. Roybal, Mr. Brown of California, Mr. Martinez, Mr. Hopkins, Mr. Volkmer, Mr. Hammerschmidt, Mr. Nagle, Mr. Savage, Mr. Hefner, Mr. Lipinski, Mr. McCloskey, Mr. Porter, Ms. Oakar, Mr. Price, Ms. Pelosi, Mr. McDermott, Mr. Bunning, Mr. Horton, Mr. Harris, Mr. Jacobs, Mr. Lewis of Florida, Mr. Donnelly, Mr. Machtley, Mr. Fawell, Ms. Long, Mr. McDade, Mr. Cardin, Mr. Clement, Mr. Dickinson, Mr. Serrano, Mr. Grandy, Mr. Clinger, and Mr. Matsui.

H. Con. Res. 382: Mr. Torricelli and Mr. Ackerman.

H. Res. 467: Mr. Wheat, Mr. Lewis of Georgia, Mr. Lipinski, and Mrs. Lowey of New York.

EXTENSIONS OF REMARKS

INTRODUCTION OF H.R. 5826, THE SMALL BUSINESS TAX INCENTIVE ACT OF 1990

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 13, 1990

Mr. ROSTENKOWSKI. Mr. Speaker, today I am introducing H.R. 5826, the Small Business Tax Incentive Act of 1990.

This bill is similar to H.R. 5455, which I introduced on August 3, 1990, except that it is now revenue-neutral, since one revenue losing provision has been deleted.

This bill contains several tax incentives for small businesses, as well as provisions to make the Internal Revenue Service more responsive to small business concerns in its promulgation of tax regulations. This bill is intended to address legitimate needs of small businesses, but within the confines of current budgetary constraints. I would like to commend our colleague, the Honorable NORM SISISKY, who, as always, has been instrumental in advancing the interests of small business.

The bill which I am introducing today incorporates a proposal similar to one originally sponsored by the Honorable FRED UPTON and the Honorable KWEISI MFUME in H.R. 3500 to provide a new tax credit of up to $5,000 for expenditures incurred by small businesses for public accommodations access. I want to commend both of my colleagues for their bipartisan cooperation across the aisle to get this done. This provision is intended to provide relief for small businesses that will be faced with new obligations to make such expenditures under the recently enacted Americans With Disabilities Act. To offset revenue losses from this provision, the existing cap on deductions for removing architectural and transportation barriers would be reduced from $35,000 to $15,000.

In addition, the bill would require the Small Business Administration to comment to the Internal Revenue Service [IRS] on the impact of proposed regulations on small businesses, and the IRS would be required to consider these comments and discuss them when it publishes its final regulations.

Finally, the bill contains a provision intended to be of benefit to all taxpayers and to make the Federal Government more accountable by requiring income tax instruction booklets to contain displays showing the sources and disposition of Federal revenues. This proposal was originally put forward by our colleague, the Honorable HOWARD WOLPE, in H.R. 4555, and I commend him for this useful contribution.

These various provisions have not been addressed by the Committee on Ways and Means in its action with respect to budget reconciliation, because the committee felt it was very important to focus its attention in budget reconciliation solely on deficit reduction. Nevertheless, because this bill addresses issues of significance for small businesses, I would hope that as soon as possible, and before the end of the session, this bill might be brought for a vote in the House.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

SENATE—*Monday, October 15, 1990*

(Legislative day of Tuesday, October 2, 1990)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable CHARLES S. ROBB, a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

"* * * *With men this is impossible; but with God all things are possible.*"—Matthew 19:26.

Almighty God, infinite in wisdom and power, for whom nothing is too hard, help all of us in this place to know You as You really are. What Congress must do this week is impossible, like putting together a million-piece jigsaw puzzle with many of the pieces hidden. Impossible for man, but not for You, Lord. You know all the pieces; You know the minds and motives of all who are involved; You know the future and where we are in Your schedule. Help the Senators and their staffs understand that they do not abdicate responsibility when they depend upon Thee; they do not abandon their intellects or surrender their wills. On the contrary, yielding to Thee, intellects are sharpened, wills strengthened.

Gracious Father in Heaven, immense issues of incalculable significance hang on this week's decisions. Illuminate the minds of Your servants; infuse their wills with superhuman power; help them to see that they are never more themselves in the full potential of their being and reason and productivity than when they submit to You, depend on You, allow You to guide them. In faith, Lord, we believe that what must be done, can be done, will be done, as You work Your way in each of us this week to Your glory and the benefit of all.

In His name who is the Way, the Truth and the Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 15, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Charles S. Robb, a Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ROBB thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning, following the time for the two leaders, there will be a period for morning business not to extend beyond 10 a.m. with Senators permitted to speak therein for up to 5 minutes each.

At 10 this morning the Senate will proceed to the consideration of S. 3189, the Department of Defense appropriations bill. Rollcall votes are expected throughout the day during consideration of this measure.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I reserve all of the leader time of the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m. with Senators permitted to speak therein for up to 5 minutes each.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota.

THE GATT NEGOTIATIONS

Mr. CONRAD. Mr. President, I rise this morning to talk about the General Agreement on Tariffs and Trade negotiations that are ongoing in Geneva.

As the Chair well knows, we are on the brink of the final round of meetings with respect to the Uruguay round of the GATT talks. I rise this morning to discuss a new proposal that the United States is about to table with respect to agriculture.

Mr. President, I am deeply disturbed by the change of position of the United States in terms of this latest proposal. I am disturbed because it will serve to disadvantage the U.S. role as a major player in agricultural trade. I am concerned because the administration has now abandoned its stated goal of reaching a level playing field for all who engage in agricultural trade.

Let me repeat that, Mr. President, because this is a critically important point. The United States most recent proposal abandons the principle of a level playing field for agricultural producers.

Let me just illustrate what I am talking about, Mr. President, with this chart that looks at just one commodity to highlight what is at stake. In this latest round of proposals, the United States has advocated a position that, instead of achieving a level playing field for all producers, would reduce support by an equivalent percentage for all producers. The United States is proposing a 75-percent reduction in internal supports over the next 10 years for all producers. That sounds reasonable. But the problem is simply this, Mr. President: We do not start out from the same spot. Europe starts with much higher levels of support than does the United States. And so if you reduce them both by the same percentage, Europe winds up with a mugh higher level of support than the United States.

Again, let me turn to this chart that shows what happens with just Durum wheat. The EC posed a GATT agreement along the lines of what the United States has proposed. Under our proposal, Europe would support

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Durum wheat at $5.10 a bushel. The United States would support Durum at $3.15 a bushel.

Mr. President, it reminds me of the Russian proverb, "The fat man gets thin; the thin man dies." Because instead of holding to the principle that everyone would have a level playing field, everyone would have the same level of support, the United States, in its latest proposal, has abandoned that principle and has accepted the basic European notion that somehow their farmers deserve a higher level of support, when this negotiation is all said and done, than do our farmers.

Mr. President, that is a grave mistake, and one that will haunt American agriculture for decades to come, if it is the final resolution of the GATT negotiations.

Let me just point to what the EC has proposed. In their proposal, Europe would wind up at $9 a bushel on Durum; the United States at $3.80 cents. That is their idea of some sort of fair resolution to this negotiation. If you look again at the U.S. proposal, we go to $5.10 in Europe, $3.15 in the United States. One can start to see a possible compromise, in which Europe would go to $7.05 a bushel on Durum, and the United States, $3.48.

Mr. President, what kind of a negotiation is that? What kind of a negotiation is that, that instead of reaching a level playing field, would lock in the inequities between Europe and the United States, would lock in the unfairness between the United States and Europe, would lock in a European advantage for decades to come.

Mr. President, that proposal should not be offered. We are told it will be tabled this week. I urge my colleagues and I urge other interested parties to intervene with the Trade Representative and to intervene with the office of the Secretary of Agriculture in order to pursue a different policy.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. CONRAD. Mr. President, I ask unanimous consent for an additional 2 minutes so I might further outline the difficulties we face.

The ACTING PRESIDENT pro tempore. Is there any objection to the request of the Senator from North Dakota?

Mr. BOSCHWITZ. Mr. President, I do not object.

Does the Senator also have a chart on soybeans and wheat in general other than Durum wheat?

Mr. CONRAD. The same principle applies to the other commodities, I might respond to the colleagues from Minnesota.

The ACTING PRESIDENT pro tempore. Without objection, the Senator is recognized for an additional 2 minutes.

Mr. CONRAD. The same principle applies. If I can just complete the additional set of charts I think the point will be made more clear.

Mr. President, the reason that I am deeply concerned about this is that Europe has realized they are in a trade war and they have been engaging the United States in a trade war. Unfortunately, I think sometimes we have been asleep at the switch. We do not recognize what happened.

This chart shows from 1977 to 1978 through 1989-90 what has happened to the trend in production in imports and exports for the European community? Mr. President, very simply this chart shows that they have gone from being the biggest importer in the world as recently as 1977-78 to being the biggest exporter currently. That is the change that we have seen in the world.

Mr. President, that is all grains. Now if we just look at the wheat exports, we have another chart that demonstrates what has happened in relationship to the EC, major competitors, the world, and the United States. And it really leaps out at one what has happened from again the same period 1978-79 through 1988-1989. The EC is the top line. They have gone up over fivefold in terms of their wheat exports, a fivefold increase. Our major competitors have been basically static, the world number basically static. The United States has actually seen something of a decline.

Mr. President, what could be more clear? The European Community is on the march, they are seizing markets, they are taking markets away from the United States. And now in the most important negotiation, on the future of the role of the United States in wheat exports, we have changed our principle. We have abandoned the notion that we are seeking a level playing field. Instead we have gone to a new formulation that will lock in the disadvantaged.

I say to my colleagues, to the U.S. Trade Representative, and to the Secretary of Agriculture, if our side tables the proposal that locks in inequality, that locks in a Europe advantage, then I along with others will introduce a bill later this week to take the GATT treaty off of the fast track. As the President knows, the GATT negotiations or the treaty that will come from it is ready for a fast-track procedure in the Senate that short circuits the normal procedures here. I alert my colleagues and the Trade Representatives if they pursue this course they will face legislation to take the GATT round off the fast track.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Chair recognizes the Senator from Minnesota [Mr. Boschwitz].

Mr. BOSCHWITZ. Mr. President, I appreciate the speech of my friend from North Dakota. I have not looked at each commodity and I am not sure how it applies to Durum wheat. I understand that is an unusual commodity with respect to the GATT negotiation. But if we can lower the supports in Europe by 75 percent then at the same time lower the supports in this country by 75 percent, quite clearly we would be advantaged. They simply cannot produce in the event their supports were lowered by that percentage point and we are far more competitive on the world market.

My friend from North Dakota made this speech when the Secretary of Agriculture was at the Agriculture Committee, and I thought I had gone to the wrong meeting. If we could get the Europeans to lower their support level by 75 percent we would put them out of business, and that is really why that will not happen.

COMPREHENSIVE HEALTH CARE

Mr. BOSCHWITZ. Mr. President, I did not come to the floor to discuss that, however. I came to the floor to discuss a bill that has been introduced by our colleague, Senator Cohen, from Maine, S. 3042, the Comprehensive Health Care Act, and I compliment the Senator, and I will tell him during the course of this morning that I want to join as a cosponsor of this bill.

He really covers many of the points that stand in the way of affordable health care for Americans. I wish to review some of those points and congratulate him for introducing this very worthy bill.

For instance, he deals first with the preempting of State-mandated benefits. I understand that Minnesota and Maryland are the two States with the largest number of mandated benefits and that the cost of insurance in their States is raised because there are 25 or 30 benefits that have been mandated. Minnesota even includes wigs under certain circumstances, which drives up the cost of insurance and makes it less available to many people.

Senator Cohen also has in this package the idea that we should develop a low-cost minimum benefit package of insurance, and I like that very much. The Republican members of the State legislature in Minnesota have come up with such a plan that they think will cost only $60 a month. The Senator from Maine [Mr. Cohen] also suggests promoting risk pools, and they are presently being used in Minnesota and they should be spread throughout the country as a whole.

One of the most critical problems the Senator from Maine says facing Americans in rural areas is the scarcity of doctors and other health professionals. How well we know that in the Midwest, and so Senator Cohen's bill would increase scholarship and loan

repayment opportunities to those who would move to the rural areas. So this bill goes with one good provision after the other.

And it really is a pleasure to join the Senator in this very constructive piece of legislation that addresses many of the very practical problems that Americans now face with respect to insurance. For instance, he also deals with the deductibility of insurance premiums. If a farmer incorporates himself, then he can deduct his health insurance premiums. However, if he is an individual entrepreneur and decides to operate as a partnership or just as an individual, none of his premiums will be deductible after this reconciliation bill; presently 25 percent is.

Senator Cohen says it all should be deductible and therefore makes insurance of individual entrepreneurs of very small businesses that choose not to incorporate more available to them.

There also is a good section with respect to prelitigation screening in the case of medical liability, so that we would reduce medical malpractice cost. While medical malpractice insurance has leveled in the last year or two, it was one of the most rapidly rising element in medical inflation during much of the last decade.

So, Mr. President, I recommend that our colleagues look closely at this bill. I think it is an excellent effort to make insurance more available to the American people and I will be very pleased to cosponsor it today.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Chair recognizes the Senator from Hawaii [Mr. Inouye].

Mr. INOUYE. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. For about 1 minute, the Senate is still conducting morning business, at which time, under the previous order, the Senate is expected to turn to S. 3189.

PRIVILEGE OF THE FLOOR—S. 3189

Mr. INOUYE. Mr. President, I ask unanimous consent that, during the consideration of S. 3189, the following be provided access to the Senate floor: Warren Hall, Cynthia Davis, and Tom Smitham.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEBUNKING THE MYTHS OF THE TAX SUMMIT PART II—POPPING THE BUBBLE

Mr. BURNS. Mr. President, we are still talking about balancing the budget and dealing with deficits. Last Friday, we spoke about taxing the rich. Today, I want to talk about bursting the bubble.

Specifically, Republicans have been criticized for creating this so-called tax break for the rich, but I want to set the record straight. The tax bubble should be named the Bradley-Gephardt bubble, after the two distinguished Democrats who proposed it. The Bradley-Gephardt bubble was created with the Tax Reform Act in 1986. A majority of both Democrats and Republicans believed the bubble was a necessity for fairness and equity in taxation.

Before 1986, we had 14 separate marginal tax rates. Our Tax Code today has only two income tax rates: 15 percent and 28 percent. The reform not only reduced the number of brackets but moved 6 million lower income Americans off the tax rolls entirely.

In 1990, a family pays 15 percent tax on their first $32,450 of taxable income and 28 percent tax on everything more than that amount.

If a family income falls between $78,400 and $185,750, that family pays a 5-percent extra tax on top of the 28 percent marginal rate, bringing the marginal rate to 33 percent.

There is a saying that goes, "Desperate times call for desperate measures." I believe the budget resolution has forced these desperate measures upon us. What was a good idea only 4 short years ago appears to be on the chopping block.

The Democratic controlled Congress is searching for needed billions in additional revenues at the last minute, and the bubble appears to them to be ripe for the picking.

I do not question the right of Members of this Congress to decide that more revenue is necessary and to advocate an increase in income taxes. But I think Members step across the line when they claim that the rates, which were so carefully conceived in bipartisan cooperation in order to bring fairness to the system, are now somehow a Republican device to protect the rich.

Mr. President, the facts clearly show both parties voted for the bubble. Senator Bradley sent a dear colleague back on May 15, 1990, endorsing his bubble. This bubble was a great idea in 1986 and it is still a great idea in 1990.

The argument now for bursting the Bradley-Gephardt bubble is to punish the rich for all the benefits of the 1981 tax cuts. Well, folks, if it had not been for those 1981 tax cuts the average middle-class family would be paying $2,400 more than they do now. Americans also should remember that under the tax policies of the 1970's the average marginal tax rate on middle-income families soared from 23 to nearly 28 percent in 1981. Today that average marginal tax rate is less than 18 percent.

The Republican leader, Senator Dole, came to the floor last Wednesday and spoke eloquently about the misinformation regarding the bubble. I would refer my colleagues to his comments. His frustration is felt by many in the Republican Party that this bubble is becoming an albatross to be hung around Republican necks.

I do not want to waste the Senate's time by duplicating Senator Dole's articles written by tax experts. But I would like to print in the Record at the end of my statement a letter I received back in May from the American Institute of Certified Public Accountants.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BURNS. Mr. President, the AICPA represents more than 296,000 CPA's Mr. President. These people are the unlucky souls that have to figure out what the Congress is talking about in the Tax Code.

In the letter from Mr. Arthur S. Hoffman, Chairman of the Federal Taxation Executive Committee, he states that the debate over the bubble is driven by a misperception of fact. The letter goes on to say:

> In making your profound judgments on tax legislation this year, and as you are exposed to the contention that the bubble is a tax break for wealthy taxpayers, please consider that there is no 33 percent bracket in the Internal Revenue Code; and no taxpayer pays more than 28 percent of his or her income in tax. The introduction of a 33-percent bracket to cure the alleged inequities would be a tax increase in its most fundamental form.

Mr. President, popping the bubble is more smoke and mirrors to raise taxes. If the bubble is eliminated it would set a dangerous precedent for the American taxpayer. Don't think for a minute that it would stop there. If the bubble is eliminated this would set a precedent to raise the bracket for all incomes. Then the worst fear would come true—that the American taxpayer, who gave up many of his deductions with the promise of lower tax rates, would now be faced with higher tax rates and fewer deductions.

The effect of a 33-percent tax bracket on an already shaky economy would be devastating. The economic program of the 1980's was based on the idea that changes in tax rates cause people to change their behavior. At lower tax rates, people have incentives to work harder and produce more income. They also have incentives to engage in less tax avoidance and tax evasion. Thus, at lower tax rates there will be more income to tax, while at higher tax rates there will be less.

These insights are accepted by almost all professional economists. Yet they typically are not incorporated into the economic forecasts of Federal Government agencies. For example, the Congressional Budget Office usually publish forecasts that ignore dynamic behavioral adjustments to changes in tax rates. Their forecasts are based on static rather than dynamic assumptions.

The implicit premise behind static forecasts is that tax rates do not affect people's behavior. A static forecast begins by projecting the income people are expected to earn at current tax rates and multiplying the tax rate increase by the projected income. If the assumptions of static analysis were correct, higher tax rates would always produce more total revenue. At the extreme, Federal revenue would reach its highest level with a 100-percent tax rate. Most economists, however, believe that a 100-percent tax rate would collect no revenue. If people were not allowed to keep any of their income, they would have no incentive to earn anything.

Bursting the bubble would further discourage saving, put upward pressure on interest rates, and discourage investment. It would cause the crowding out that balancing the budget is supposed to eliminate.

The issues of tax progressivity and balancing the budget by "soaking the rich" are based on the politics of envy. By pitting groups of taxpayers against one another, politicians who refuse to consider spending limits are using this issue to gain political support for a tax increase.

The American people should realize that the battle is not between the rich taxpayers and poor taxpayers but between all taxpayers and a Federal Government that refuses to limit spending and is champing at the bit to take an increasing share of what you and I earn.

Thank you, Mr. President, and I yield the floor.

THE BUBBLE

Mr. DOLE. Mr. President, last week, I made a statement on the so-called bubble. We have heard a lot of talk about the bubble. A lot of people saying the bubble ought to be burst. A lot of people do not understand it but they have made great statements, some saying if we do that, that will put more tax on the rich, whoever they are. If we do not do that, it means we are not fair. Again, I recommend at that time that maybe one of the leading newspapers might have an article explaining the bubble.

I want to thank the New York Times for Saturday's edition and a piece, a special to the New York Times by Nathaniel C. Nash. It says, "Four Years After Birth, Should the 'Bubble' Burst?" It is an article which appears on page 10, Saturday, October 13, 1990 issue.

He says:

> To many, the bubble is the marker of what is frequently viewed as an overly regressive income tax code created by the Tax Reform Act of 1986, because it imposes a lower rate of tax on the income of the very wealthy than on some income of the less well to do.

Then he goes on to say, and I will have the entire article printed in the RECORD:

> But the rhetoric surrounding the push to pop the bubble is often larger than the regressive nature than its opponents attribute to it.
>
> "Unfortunately, some people believe incorrectly that taxpayers subject to the 33 percent rate are being treated unfairly, compared to higher-income taxpayers whose top marginal rate is 28 percent," Senator Bill Bradley, Democrat of New Jersey, wrote to a colleague earlier this year. "In fact, the bubble does not reward the rich."

Then he goes on to tell us how the bubble works. We have had a lot of statements on the bubble. A lot of people do not understand the bubble. It is complicated. A lot of tax people do not understand the bubble.

I wrote to my good friend and former colleague, Senator Russell Long, chairman of the Finance Committee for a long, long time. He said he tried to explain the bubble to his wife. She did not understand it. He understood it. In fact, he made one correction in an op-ed piece some of us had written saying we did not have it right; and he was right.

The article further states:

> The bubble—so called because it lends that appearance when it appears on a graph illustrating the range of all income tax brackets—is a 33 percent rate of taxation that applies to part of the income of only the upper middle class and those who might be called the lower rung of the wealthy. A married couple who file jointly, for example, and who have $78,400 to $185,760 in taxable income—the figure remaining after all exemptions, deductions and adjustments are taken into account—pay a 15 percent rate on their first $32,450, 28 percent on the next $45,950 and 33 percent on the rest up to $185,760.
>
> By contrast, a couple with taxable income of more than $185.760 pay a rate of only 28 percent. But that rate is a flat rate, applicable to every dollar of taxable income: such a couple receive no benefit from the 15 percent bracket. And unlike the couple in the bubble, who are allowed all personal exemptions in computing their taxable income, those who pay the 28 percent flat rate are allowed none.
>
> As a result of all this, the effective tax rate—the proportion of income that is actually paid in taxes—is 28 percent for those in the upper bracket but only about 20 percent to about 25 percent for most of those in the bubble.

So the upper income pays more, but no one pays more than 28 percent.

I can recall the debate around here in the last several years. I received thousands of postcards saying what we need is a flat tax rate—no exemptions, no deductions; everybody pays 15 percent. What we have, in effect, is a flat tax rate at 28 percent after you reach a certain income level. That is what many of my colleagues supported and wanted to do in the early eighties. There was a lot of support for it, as I recall from many of my colleagues on both sides of the aisle.

So I just suggest that people take time to read the article. The graph will not show up in the paper. I will be happy to make the graph available because it also illustrates that.

Let me give you another example. I made a statement last week on the floor, sort of in desperation, trying to get people's attention on what the bubble really is. I challenged the Washington Post to go out and hire a tax expert and let the tax expert take a look at some of the stories they have written and then explain the bubble.

This is a lady from Charlotte, NC, Mary Harding, Post Office Box 470911. I quote:

> When I watched you standing on the floor of the Senate yesterday in despair of getting the truth about the "Bubble" before the American people I was moved by your obvious honesty, sincerity and integrity.

I thank her for that. Then she goes on to say:

> Senator, I am neither a Democrat nor a Republican. Nor am I a registered voter. I am one of those many who have given up on both parties and said "A Pox On Both Your Houses". This has been the result of my being convinced by the Democrats and the press that the Republicans are the party of the rich, and my own observations that the Democrats are the party of the Giveaway. I had grown convinced lately that the only hope of the country was the formation of a third party.

And this is the key paragraph:

> I, like everyone else, had bought the argument that the rich were paying less taxes than everyone else, but you were so evidently telling the truth that I decided to get on my computer and find out for myself. You will not be surprised to find out you were right.
>
> I am a far cry from being the tax expert to which you appealed yesterday, actually I'm unemployed, but I am sending you, with this letter, an analysis I made of earnings ratio to effective tax rate based on the 1989 Employer's Tax Guide-Table 7-Page 23-Married Person. (I am sorry I don't have a 1990 guide available). I also calculated the effect on taxes if the highest rate was changed from 28% to 33%. This clearly demonstrates, as you stated, that the purpose of the 1986 tax reform act was to gradually increase the effective tax rate up to 28% at which time it becomes stable for all earnings higher.

I ask unanimous consent that her entire letter be made a part of the RECORD along with the tables where she has calculated every conceivable tax level, starting at $3,200 where the effective tax rate is zero; $4,000, where the effective tax rate is 3 percent, on down the line up to $1 million, where it is 28 percent.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHARLOTTE, NC,
October 11, 1990.

Senator ROBERT DOLE,
U.S. Senate,
Washington, DC.

DEAR SENATOR DOLE: Senator, I am neither a Democrat nor a Republican. Nor am I a registered voter. I am one of those many who have given up on both parties and said "A Pox On Both Your Houses". This has been the result of my being convinced by the Democrats and the press that the Republicans are the party of the rich, and my own observations that the Democrats are the party of the Giveaway. I had grown convinced lately that the only hope of the country was the formation of a third party.

I, like everyone else, had bought the argument that the rich were paying less taxes than everyone else, but you were so evidently telling the truth that I decided to get on my computer and find out for myself. You will not be surprised to find out you were right.

I am a far cry from being the tax expert to which you appealed yesterday, actually I'm unemployed but I am sending you, with this letter, an analysis I made of earnings ratio to effective tax rate based on the 1989 Employer's Tax Guide—Table 7—Page 23—Married Person. (I am sorry I don't have a 1990 guide available). I also calculated the effect on taxes if the highest rate was changed from 28% to 33%. This clearly demonstrates, as you stated, that the purpose of the 1986 tax reform act was to gradually increase the effective tax rate up to 28% at which time it becomes stable for all earnings higher.

The effect of this is that those people whose earnings are $3,200-$34,149 pay an effective rate of 0%-13%. Those earning $34,150-$78,049 pay 14%-21%, those earning $78,050-$160,000 pay 22%-27%, and all of those above—without exception—pay 28%. This was designed just four years ago with a lot of care in order to eliminate inequities and loopholes.

If the gross tax rate were to be changed for the higher earnings from 28% to 33% this would result in a married person earning $300,000 paying only an extra $5,394. Under no circumstance could increasing the tax rate of those in the higher bracket result in a significant effect on the budget deficit, but would only result in driving more capital from our country and negating a fair tax package passed with general approval just four years ago.

This leads us to the real Democratic purpose. Already, those who talk of a tax increase are beginning to drop the phrase "for the rich" when they talk about raising taxes. If the truth is not gotten to the people immediately we will find ourselves with a fait accompli of higher income taxes for all when it is too late for the people to do any thing about it.

Senator Dole, from my understanding of libel, it means that when a person or organization tells lies that they know to be false about a person, with deliberate intention to cause harm, that person has a legal recourse. I am curious about two interesting questions in this matter. Can a political party sue for libel, and what legal recourse do I have, as a citizen, against those who have deliberately told me lies and deliberately withheld the truth from me in order to cause me increased anxiety about the state of my country? These should be fascinating questions for legal scholars to persue.

Because I am acting in haste to get this letter to you, I have not had time to research editorial comment from 1986 to find out what the Democratic and media opinion of the tax reform act was. I would suggest that you have you staff research this so that you would have their own words to throw back into the faces of those who are now attacking tax rates. I would also suggest that you hold a press conference to give all of these facts to the media and make an appeal to them to please return to their proud history of research before publishing, and objective and accurate reporting before it's too late.

The press loves scandal. Let's see if they love it enough to report their own scandalous behavior. I guarantee it would sell a lot of papers and reap a lot of ratings points.

Sincerely,

MARY HARDING.

ANALYSIS OF EARNINGS TO EFFECTIVE TAXES FOR THE YEAR 1989

Earnings	Percent withheld	Of excess over	Dollar value of percent withheld	Additional withheld	Total withheld	Effective tax rate (percent)
$192,120	28	$192,120	$0.00	$54,577.60	$54,577.60	28
$195,000	28	192,120	806.40	54,577.60	55,384.00	28
$200,000	28	192,120	2,206.40	54,577.60	56,784.00	28
$205,000	28	192,120	3,606.40	54,577.60	58,184.00	28
$210,000	28	192,120	5,006.40	54,577.60	59,584.00	28
$215,000	28	192,120	6,406.40	54,577.60	60,984.00	28
$220,000	28	192,120	7,806.40	54,577.60	62,384.00	28
$225,000	28	192,120	9,206.40	54,577.60	63,784.00	28
$230,000	28	192,120	10,606.40	54,577.60	65,184.00	28
$235,000	28	192,120	12,006.40	54,577.60	66,584.00	28
$240,000	28	192,120	13,406.40	54,577.60	67,984.00	28
$245,000	28	192,120	14,806.40	54,577.60	69,384.00	28
$250,000	28	192,120	16,206.40	54,577.60	70,784.00	28
$255,000	28	192,120	17,606.40	54,577.60	72,184.00	28
$260,000	28	192,120	19,006.40	54,577.60	73,584.00	28
$265,000	28	192,120	20,406.40	54,577.60	74,984.00	28
$270,000	28	192,120	21,806.40	54,577.60	76,384.00	28
$275,000	28	192,120	23,206.40	54,577.60	77,784.00	28
$280,000	28	192,120	24,606.40	54,577.60	79,184.00	28
$285,000	28	192,120	26,006.40	54,577.60	80,584.00	28
$290,000	28	192,120	27,406.40	54,577.60	81,984.00	28
$295,000	28	192,120	28,806.40	54,577.60	83,384.00	28
$300,000	28	192,120	30,206.40	54,577.60	84,784.00	28
$400,000	28	192,120	58,206.40	54,577.60	112,784.00	28
$500,000	28	192,120	86,206.40	54,577.60	140,784.00	28
$1,000,000	28	192,120	226,206.40	54,577.60	280,784.00	28

ANALYSIS OF EARNINGS TO EFFECTIVE TAXES FOR THE YEAR 1989

If tax rate over $192,120.00 were changed from 28 percent to 33 percent	Earnings					Effective tax rate (percent)
	Percent withheld	Of excess over	Dollar value of percent withheld	Additional withheld	Total withheld	
$192,120	33	$78,050	37,643.10	16,934.50	$54,577.60	28
$195,000	33	$78,050	38,593.50	16,934.50	55,528.00	28
$200,000	33	78,050	40,243.50	16,934.50	57,178.00	29
$205,000	33	78,050	41,893.50	16,934.50	58,828.00	29
$210,000	33	78,050	43,543.50	16,934.50	60,478.00	29
$215,000	33	78,050	45,193.50	16,934.50	62,128.00	29
$220,000	33	78,050	46,843.50	16,934.50	63,778.00	29
$225,000	33	78,050	48,493.50	16,934.50	65,428.00	29
$230,000	33	78,050	50,143.50	16,934.50	67,078.00	29
$235,000	33	78,050	51,793.50	16,934.50	68,728.00	29
$240,000	33	78,050	53,443.50	16,934.50	70,378.00	29
$245,000	33	78,050	55,093.50	16,934.50	72,028.00	29
$250,000	33	78,050	56,743.50	16,934.50	73,678.00	29
$255,000	33	78,050	58,393.50	16,934.50	75,328.00	30
$260,000	33	78,050	60,043.50	16,934.50	76,978.00	30
$265,000	33	78,050	61,693.50	16,934.50	78,628.00	30
$270,000	33	78,050	63,343.50	16,934.50	80,278.00	30
$275,000	33	78,050	64,993.50	16,934.50	81,928.00	30

ANALYSIS OF EARNINGS TO EFFECTIVE TAXES FOR THE YEAR 1989—Continued

If tax rate over $192,120.00 were changed from 28 percent to 33 percent	Earnings					Effective tax rate (percent)
	Percent withheld	Of excess over	Dollar value of percent withheld	Additional withheld	Total withheld	
$280,000	33	78,050	66,643.50	16,934.50	83,578.00	30
$285,000	33	78,050	68,293.50	16,934.50	85,228.00	30
$290,000	33	78,050	69,943.50	16,934.50	86,878.00	30
$295,000	33	78,050	71,593.50	16,934.50	88,528.00	30
$300,000	33	78,050	73,243.50	16,934.50	90,178.00	30
$400,000	33	78,050	106,243.50	16,934.50	123,178.00	31
$500,000	33	78,050	139,243.50	16,934.50	156,178.00	31
$1,000,000	33	78,050	304,243.50	16,934.50	321,178.00	32

CIRCULAR E EMPLOYER'S TAX FOR YEAR 1989

[Married person]

If the amount of wages (after subtracting withholding allowance) is:		The amount of income tax to be withheld shall be:	
Not over $1,100		0	
Over	But not over		Of excess over
$3,200	$34,150	15 percent	$3,200
$34,150	78,050	$4,642.50 plus 28 percent.	34,150
$78,050	192,120	$16,934.50 plus 33 percent.	78,050
$192,120		$54,577.60 plus 28 percent.	192,120

ANALYSIS OF EARNINGS TO EFFECTIVE TAXES THE YEAR 1989

Earnings	Percent withheld	Of excess over	Dollar value of percent withheld	Additional withheld	Total withheld	Effective tax rate (percent)
$3,200	15	$3,200	$0.00		$0.00	0
$4,000	15	3,200	120.00		120.00	3
$5,000	15	3,200	270.00		270.00	5
$10,000	15	3,200	1,020.00		1,020.00	10
$15,000	15	3,200	1,770.00		1,770.00	12
$20,000	15	3,200	2,520.00		2,520.00	13
$25,000	15	3,200	3,270.00		3,270.00	13
$30,000	15	3,200	4,020.00		4,020.00	13
$34,150	28	34,150	0.00	4,642.50	4,642.50	14
$35,000	28	34,150	238.00	4,642.50	4,880.50	14
$40,000	28	34,150	1,638.00	4,642.50	6,280.50	16
$45,000	28	34,150	3,038.00	4,642.00	7,680.50	17
$50,000	28	34,150	4,438.00	4,642.50	9,080.50	18
$55,000	28	34,150	5,838.00	4,642.50	10,480.50	19
$60,000	28	34,150	7,238.00	4,642.50	11,880.50	20
$65,000	28	34,150	8,638.00	4,642.50	13,280.50	20
$70,000	28	34,150	10,038.00	4,642.50	14,680.50	21
$75,000	28	34,150	11,438.00	4,642.50	16,080.50	21
$78,050	33	78,050	0.0	16,934.50	16,934.50	22
$79,000	33	78,050	313.50	16,934.50	17,248.00	22
$80,000	33	78,050	643.50	16,934.50	17,578.00	22
$85,000	33	78,050	2,293.50	16,934.50	19,228.00	23
$90,000	33	78,050	3,943.50	16,934.50	20,878.00	23
$95,000	33	78,050	5,593.50	16,934.50	22,528.00	24
$100,000	33	78,050	7,243.50	16,934.50	24,178.00	24
$105,000	33	78,050	8,893.50	16,934.50	25,828.00	25
$110,000	33	78,050	10,543.50	16,934.50	27,478.00	25
$115,000	33	78,050	12,193.50	16,934.50	29,128.00	25
$120,000	33	78,050	13,843.50	16,934.50	30,778.00	26
$125,000	33	78,050	15,493.50	16,934.50	32,428.00	26
$130,000	33	78,050	17,143.50	16,934.50	34,078.00	26
$135,000	33	78,050	18,793.50	16,934.50	35,728.00	26
$140,000	33	78,050	20,443.50	16,934.50	37,378.00	27
$145,000	33	78,050	22,093.50	16,934.50	39,028.00	27
$150,000	33	78,050	23,743.50	16,934.50	40,678.00	27
$155,000	33	78,050	25,393.50	16,934.50	42,328.00	27
$160,000	33	78,050	27,043.50	16,934.50	43,978.00	27
$165,000	33	78,050	28,693.50	16,934.50	45,628.00	28
$170,000	33	78,050	30,343.50	16,934.50	47,278.00	28
$175,000	33	78,050	31,993.50	16,934.50	48,928.00	28
$180,000	33	78,050	33,643.50	16,934.00	50,578.00	28
$185,000	33	78,050	35,293.50	16,934.50	52,228.00	28
$190,000	33	78,050	36,943.50	16,934.50	53,878.00	28

Mr. DOLE. Also, Mr. President, I ask unanimous consent that an article entitled "Four Years After Birth, Should 'The Bubble Burst' " be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FOUR YEARS AFTER BIRTH, SHOULD "THE BUBBLE BURST"

(By Nathaniel C. Nash)

WASHINGTON, October 12.—As members of Congress strain to produce a budget agreement, a tax-code anomaly called "the bubble" has become a fixation for lawmakers, and one of the most oft asked questions on Capitol Hill these days is whether to pop it.

To many, the bubble is the marker of what is frequently viewed as an overly regressive income tax code created by the Tax Reform Act of 1986, because it imposes a lower rate of tax on the income of the very wealthy than on some income of the less well to do.

And it has become central to the current debate because many argue that bursting the bubble would be a quick and effective way of redistributing the tax burden more heavily to the nation's rich while at the same time generating large amounts of new revenue to lower the huge budget deficit.

A CAPITAL GAINS TRADEOFF

Indeed, the idea of raising income taxes on the rich has become so attractive that many Democrats are willing to accept a lowering of the tax rate on capital gains—profits from investment, which are currently taxed as ordinary income—if they can win a bursting of the bubble.

"What you see is a political tradeoff," said Henry J. Aaron, director of economic studies at the Brookings Institution in Washington. "You hope to trade more progressive on the overall tax rates in exchange for less progressivity in the area of capital gains."

But the rhetoric surrounding the push to pop the bubble is often larger than the regressive nature that its opponents attribute to it.

"Unfortunately, some people believe incorrectly that taxpayers subject to the 33 percent rate are being treated unfairly, compared to higher-income taxpayers whose top marginal rate is 28 percent," Senator Bill Bradley, Democrat of New Jersey, wrote to a colleague earlier this year." In fact, the bubble does not reward the rich."

Mr. Bradley's point addressed not only the nature of the bubble but also some tax benefits extended to those who fall within it but denied those with higher incomes.

HOW THE BUBBLE WORKS

The bubble—so called because it lends that appearance when it appears on a graph illustrating the range of all income tax brackets—is a 33 percent rate of taxation that applies to part of the income of only the upper middle class and those who might be called the lower rung of the wealthy. A married couple who file jointly, for example, and who have $78,400 to $185,760 in taxable income—the figure remaining after all exemptions, deductions and adjustments are taken into account—pay a 15 percent rate on their first $32,450, 28 percent on the next $45,950 and 33 percent on the rest up to $185,760.

By contrast, a couple with taxable income of more than $185,760 pay a rate of only 28 percent. But that rate is a flat rate, applicable to every dollar of taxable income: such a couple receives no benefit from the 15 percent bracket. And unlike the couple in the bubble, who are allowed all personal exemptions in computing their taxable income, those who pay the 28 percent flat rate are allowed none.

As a result of all this, the effective tax rate—the proportion of income that is actually paid in taxes—is 28 percent for those in the upper bracket but only about 28 percent to about 20 percent for most of those in the bubble.

THE BIRTH OF THE BUBBLE

The bubble sprang from the Tax Reform Act, Congress' effort four years ago to overhaul the tax system by creating fewer brackets, lowering the rate of the top ones and closing loopholes—and still have a plan that would be "revenue neutral," providing neither an increase nor a decrease in Government tax revenue.

Previously, a smooth, upward-moving tax curve on successively higher incomes was accomplished by 15 different tax brackets. But limiting the number of brackets to two—at 15 and 28 percent—created problems when lawmakers sought at the same time to close off a number of loopholes.

According to tax specialists who worked on the legislation, what could not be done politicaly was to set a top tax rate above 28 percent. For example, no bubble would have been needed if the tax writers had been permitted to set the upper rate at 29.5 percent. But at the time, that rate was sufficiently unacceptable to a number of Republicans that any agreement would have collapsed.

Thus, to keep the bill revenue neutral, lawmakers agreed to add a surtax of five percentage points on those with taxable incomes of $78,400 to $185,760, so that their effective tax rates gradually moved toward 28 percent. Thus was the bubble born.

Mr. DOLE. Mr. President, I am going to continue to try to make this point because it is very important. A number of my colleagues who are making judgments about the bubble do not even understand it. It is very difficult to understand.

I also received from someone last week a quote about the decline and fall of the Athenian Republic by Alexander Fraser Tyler, and I quote:

> A democracy cannot exist as a permanent form of government. It can only exist until the voters discover that they can vote themselves money from the Public Treasury. From that moment on the majority always votes for the candidates promising the most benefits from the Public Treasury with a result that a democracy always collapses over loose fiscal policy always followed by dictatorship. The average age of the world's greatest civilization has been 200 years. These nations have progressed through the following sequence:
>
> From bondage to spiritual faith;
> From spiritual faith to great courage;
> From courage to liberty;
> From liberty to abundance;
> From abundance to selfishness;
> From selfishness to complacency;
> From complacency to apathy;
> From apathy to dependency;
> From dependency back to into bondage.

Mr. President, in reference to the budget package that we are going to be asked to consider, nobody wants to take any pain. Everyone wants a balanced budget. Everybody wants to cut the deficit. Most every voter says we ought to do something but do it to somebody else: Do not touch agriculture, do not touch Social Security, do not touch whatever our salaries may be, or whatever our allowances may be in the Congress, do not touch that, and do not raise taxes; do not do anything else but balance the budget.

I happened to be in Abilene, KS, yesterday celebrating the 100th birthday of Dwight David Eisenhower, who made a lot of comments during his Presidency and after about trying to make tough choices for our children and our grandchildren. If we do not make some tough choices this week in the Congress, or next week—I hope we are not here next week—then I am not certain we may not be fulfilling this promise, or at least this statement made between 1748 and 1813—I do not have the exact date—because if we can only exist until the voters discover that they can vote themselves money from the Public Treasury, if that is all the longer democracy is going to last, our 200 years are up.

We are just celebrating our 200th anniversary, and we are on the brink of a real problem in America because those of us in the Congress, regardless of our motives—we are all good people—do not want to disappoint anybody. Somebody mentions the word "Medicare," it is like crying "fire" in a crowded theater and we did not do anything in Medicare that touched poor people. But why should the taxpayer pay the part B Medicare premium of millionaries in America or those making $100,000, $200,000, $300,000, $400,000? Why not means test Medicare, and those who cannot afford it the public pays, but those who can afford it pay it themselves, or pay a part of it.

Forty billion dollars a year go into part B Medicare from the Public Treasury, $40 billion. We are told we cannot save $13 billion over the next 5 years in Medicare or $20 billion or $25 billion? It is crazy.

I read in the Washington Post this morning, oh, we are all afraid of senior citizens. I think if the senior citizen understood what we were doing to their children and grandchildren and they could afford to pay some of the premiums themselves, they would do it.

Now we have the Ways and Means Democratic package from the other side. We do not have any pain in their package. They are going to just tax the rich.

Keep in mind what I have said about the bubble and what I have said about the 1986 Tax Reform Act when nearly everybody stood on this floor, in both parties, and praised the 1986 Tax Reform Act as the greatest of legislation passed in I do not know, 40, 50 years. And I will have all those statements available for people to reread what they said then: tax reform, progressive, those with more incomes paid more.

But at the same time we wanted to make certain there was something left so we could go out and create jobs and more business for all those looking for work, and for their children and their grandchildren.

There is a lot of good in the Ways and Means Democratic alternative. There are the same provisions we have in the Senate package that are going to be on the floor tomorrow or the next day.

We do reduce what we did in Medicare. We do try to reduce the pain, even though there was not much pain there. We do drop a 2-week waiting period for unemployed benefits, and I think that is a good one. We also exempt heating oil, which is a big, big problem in the Northeast, if you live in the Northeast.

But a lot of things they do in the so-called Ways and Means alternative is strictly trying to get votes. Maybe that is how we have to finally do it. The last time I looked at the paper, we are in the Mideast, we are in the gulf and Saudi Arabia because of oil, and we ask the American people—if we would raise the gas tax a little, maybe we would use a little less, and maybe we would not have to send troops over there the next time there is a crisis. But, oh, no; Do not tax gasoline; tax cigarettes, tobacco, and hard liquor and beer. So the Ways and Means Committee, instead of a 10-cent tax or 12-cent tax, is back to 3 cents a gallon. That is to be a crowd pleaser. They raised the spirits tax a little bit.

But in one way I think they made a political mistake, one that stands out. In 1981, we indexed the tax brackets so working people in America—if there was inflation, the brackets would go up, and they would not pay any more tax. And now the Ways and Means package would delay that for 1 year. That is aimed directly at working people in America, directly at working people. We are saying to all the people out there working for a living, you are not going to get your tax indexing this year; you are going to pay taxes on inflation this year, because we have to have $15 to $20 billion out of your paychecks. That is a big, big political mistake.

Plus, they want to burst the bubble and raise the rate to 33 percent, because they believe the American people are convinced that somehow the tax system is unfair. That is not the case. There may be loopholes. If there are, they ought to be closed. If somebody is getting some incentive they should not have, we ought to take it away from them. I know my colleagues are yet to get an agreement here, and we will be discussing this later today or tomorrow.

I really believe that the time has come, and I think the American people want us to do something. They want us to make a decision, and they want it to be fair, f-a-i-r. And it will be fair. In the package passed out by the Senate Finance Committee Saturday morning, about 50 percent of the total taxes are on upper-middle-income or upper-income Americans, because we limit their deductions and we raised the HI, health insurance, cap. People making between $53,000 and $89,000 are going to pay $300 or $400 per year on that one item. We believe it is fair, and it was bipartisan. The vote was 15 to 5. Two Democrats and three Republicans voted against it in a committee of 20. It will be on the floor sometime this week.

So I guess the point I make is this: A lot of people have made fun of the summit agreement and the summiteers, and a lot of us spent 30 days, including 10 days at Andrews Air Force Base, trying to put together a package. Without that group and the summit agreement—again, I thank the majority leader and the Speaker and majority leader of the House and Republican leader in the House—we would not be talking about a $500 billion deficit reduction package. We would not be here today trying to work out some differences.

I met with the President this morning. I meant to tell him I could not understand this talk about how he did this one day last week and something else the next. That is not the case; I was there. He did not change his mind. He listened to the Members of Congress; in this case, Republican Senators and Republican House Members. I was there when he met with the Republican Senators. He listened to all of us. He did not change his mind. The next day he met with House Republicans, and Mr. ARCHER, my friend from Texas, a Member of Congress, afterward said to the press, "We talked about a 31-percent rate and capital gains rate of 15 percent." That was not anything new. We talked about that at Andrews Air Force base 3 weeks ago.

So the President has not flip-flopped, as I read in the press. He stated he would consider that, and that it did not have much of a chance, and was probably a waste of time. So I suggest, notwithstanding some confusion, which I think was media oriented, we have our job to do. I hope we do it this week, and I hope we adjourn the Congress and go home and let the voters make a decision in November.

So I think it is really $36 billion we are putting in general revenues and part B medicare; $36 billion. And it is going to rise a couple of billion dollars a year. So when somebody tells you they paid it all themselves, that is not true. It came right out of the general fund.

So, Mr. President, I apologize to my colleagues for taking the time. I just hope that we will resolve our differences. Right now we think we have a bipartisan Senate agreement. We have some problems on the reform package. Some are trying to duck and dodge on the agreement we thought we made. If we do not have reform, we are not going to have too many votes on this side of the aisle. If there is not some basic reform in the package, there may not be a package. But I believe the Senate Finance Committee package—and I think, as I look at all of it, we made cuts in agriculture, and I come from an agriculture State. Farmers are concerned, yes, about the cuts, but they are also concerned about inflation and interest rates. And they know, if it is going to be fair and across the board, they have to accept some, too. We can make excuses to find reasons not to do it now. So if everybody is willing to accept something, then we can accomplish a great deal of good for not only the national interests, but we are setting an example, I think, for other countries in the world.

I am disappointed in what happened in the House when it was rejected. It should not have happened, but it happened. I guess some did not want to make tough choices. Some do not want to make tough choices.

I do not know any other way to do it. Mr. President, I suggest that if we continue as we have done in the Senate, we will get a bipartisan package with a good solid vote, and we will go to conference with the House, and maybe at that time we can come back nearer and nearer to the summit agreement and get all this done by Friday, so we do not have to worry about shutting down the Government, which I think would be a mistake.

EXHIBIT 1

AMERICAN INSTITUTE OF
CERTIFIED PUBLIC ACCOUNTANTS,
Washington, DC, May 31, 1990.

LETTER ON THE "THE BUBBLE"

DEAR CONGRESSMAN/SENATOR: The American Institute of Certified Public Accountants represents 296,000 CPAs, many of whom practice in the tax area. It is of deep concern to us when proposed tax legislation apparently is driven by a misperception of fact.

Rates of taxation are not the issue for us; the AICPA does not take a position on what a proper tax rate at any level of income should be. Instead, the issue is the accuracy of a fundamental premise upon which a major tax proposal is based. If such a proposal is not founded on objective fact, then the credibility of the tax law would be undermined by it's passage; and the provision, and the tax system itself, ultimately will reap a whirlwind of criticism.

We believe that is the case when the so-called "bubble" is persistently cited as a reason to raise rates on high income taxpapers from 28 to 33 percent. Statements to the effect that the "bubble" is an inequitable benefit to high income taxpayers are just plain wrong. No taxpayer pays more than 28 percent of his or her taxable income.

The "bubble" is the disingenuous term used to describe the application of a 5 percent surcharge to taxable income over a certain level. The surcharge is designed to recapture two tax benefits given to lower income taxpayers: the 15 percent bracket and personal exemptions.

The 5 percent surcharge is a mechanically facile means of recouping the low income benefits. In effect, it progressively increases the 15 percent bracket to 28 percent. The benefits could have been recaptured in various other ways, and over a wider or narrower range of income; and without leaving the false impression that a 33 percent bracket does exist.

In making your profound judgements on tax legislation this year, and as you are exposed to the contention that the "bubble" is a tax break for wealthy taxpayers, please consider that there is no 33 percent bracket in the Internal Revenue Code; and no taxpayer pays more than 28 percent of his or her income in tax. The introduction of a 33 percent bracket to cure the alleged inequities would be a tax increase in its most fundamental form.

Sincerely,

ARTHUR S. HOFFMAN,
Chairman, Federal Taxation
Executive Committee.

IN BALANCE WITH NATURE

Mr. BURNS. Mr. President, I also have another matter this morning to be placed in the RECORD. I am sometimes disheartened when I hear talk about agriculture as referred to by the Senator from North Dakota this morning.

I have in hand a writing by Dr. John Carew, who is deceased but who was chairman of the Horticulture Department at Michigan State University. It gives us a little time to think about what is going on in our Nation and our ability to produce food for this society. I will read it:

IN BALANCE WITH NATURE

In the beginning . . . there was Earth . . . beautiful and wild.
And then man came to dwell.
At first he lived like other animals . . . feeding himself on creatures and the plants around him.
And this was called . . . In Balance With Nature.
Soon man multiplied.
He grew tired of ceaseless hunting for food.
He built homes and villages.
Wild plants and animals were domesticated.
Some men became farmers so that others might become industrialists, artists, or doctors.
And this was called society.
Man and society progressed.
With his God-given ingenuity, man learned to feed, clothe, protect and transport himself more efficiently, so he might enjoy life.
He built cars, houses on top of each other, and nylon.
And life became more enjoyable.
The men called farmers became efficient.
A single farmer grew food for 29 industrialists, artists, and doctors.
And writers, engineers and teachers, as well.
To protect his crops and animals, the farmers produced substances to repel or destroy insects, diseases and weeds.
These were called pesticides.
Similar substances were made by doctors to protect humans . . . these were called medicine.
The age of science had arrived . . . and with it came better diet and longer, happier lives for more members of society.
Soon it came to pass that certain well-fed members of society disapproved of the farmer using science.
They spoke harshly of his techniques for feeding, protecting, and preserving plants and animals.
They deplored his upsetting the balance of nature.
They longed for the good old days.
And this had emotional appeal to the rest of society.
By this time farmers had become too efficient.
Society gave them a new title: unimportant minority.
Because society could not ever imagine a shortage of food.
Laws were passed abolishing pesticides, fertilizers and food preservatives.
Insects, diseases and weeds flourished.
Crops and animals died.
Food became scarce.
To survive, industrialists, artists and doctors were forced to grow their own food.
They were not very efficient.
People and governments fought wars to gain more agricultural land.
Millions of people were exterminated.
The remaining few lives like animals . . . feeding themselves on creatures and plants around them . . .
And this was called . . . In Balance With Nature.

TAXING THE RICH

Mr. SYMMS. I thank the Chair, and I thank the distinguished Senator from Hawaii and Senator STEVENS from Alaska for allowing me this time this morning to make a few comments about the tax package that passed the Senate Finance Committee last Friday

night, and also about the general argument we have heard so much of in the last 2 weeks, or, actually, in the last several months, ever since President Bush made the comment he would put taxes on the table, about how the debate has switched from reducing Government spending to whether or not we want to tax the rich.

If one would listen to the debate we hear, I think we have reached a new low in rhetoric. Some people are trying to make this national crisis into some kind of a modern-day version of the French Revolution where the poor people of the world are facing off against the royal aristrocracy. But the facts are—and I think we should talk about those facts—what happened when the income tax rates were reduced in 1981 and again in 1986.

Is it true that the poor are paying more and the rich are paying less or is just the opposite the truth? The American people deserve to be told the truth about the distribution of the burden, Mr. President. They should have the truth, the facts.

I ask unanimous consent that at the end of my comments today, Friday's column in the Washington Times by Warren Brookes be printed in the RECORD with the table accompanying it.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SYMMS. This column presents the data from the IRS about who has been paying taxes and how much they have paid.

In 1981, the top 1 percent of the taxpayers paid 17.6 percent of the taxes. By 1987, the percentage paid by the top 1 percent was up to 24.6 percent. So it is increasing.

In 1981, the top 5 percent of the taxpayers paid 35 percent of the taxes, and by 1987 the percentage paid by the top 5 percent of the taxpayes had risen to 43 percent. In 1981, the top 10 percent of the taxpayers paid 48 percent of the taxes and by 1987 it had risen to 55 percent.

Mr. President, the facts are clear. During the last 10 years, during the Reagan years, the tax reforms have produced greater progressively and by reducing tax rates we have increased collections. It is a natural law of economics that in order to sell more of a product the producer has to lower the price. The same thing is true in the area of taxes on the rich people. They simply are more willing to pay their taxes and not look for loopholes if the rates are lower.

We must keep in mind that society is made up of many different kinds of people, not just rich people and poor people, but people who are poor in the early years of their lives, richer in the prime of their lives, and perhaps poor again in their older age. It simply treats people as stereotypes and we have this class warfare going on in this country. We need tax fairness and tax justice based on the principle of letting people keep most of the money they earn. That has been the primary version of the fairness that has created the greatness in America.

I think we should tone down this misinformation and false rhetoric about the rich and poor being treated unfairly in the Tax Code.

I am opposed, Mr. President, to any increase in the tax rates for any purpose whatsoever. The debate about capital gains has been allowed to distract Americans and those here in this Chamber from the real issue about fairness. The real issue is, can people keep most of what they produce? They already pay 38 percent of their earned income in America either for State taxes, local taxes, or Federal taxes—38 percent.

I believe, Mr. President, we simply are not an undertax nation. It is wrong in principle to raise tax rates on some people just in order to spend the money on other people. The problem with raising the general income tax rates in order to provide a lower rate of tax on income from selling capital assets is that different people are involved. We would be raising the rates on some taxpayers and cutting them on others. I do not mean rich versus poor taxpayers. I mean we would be increasing rates on rich people in order to cut rates for other rich people. That is not correct. That is not a good policy. Every one of us is an individual and we are not members of groups such as rich and poor.

In conclusion on this point, I will point out what has happened to most people who work and pay taxes in America. In 1981, half of all Americans, the half who earned the least income, paid 7.5 percent of the income tax to the country—7.5 percent of it. In 1987, that tax burden had been reduced to 6 percent of the total income. As for the middle class, taxes on the middle-income people who are between 50 and 90 percent of all incomes was reduced.

In 1981, they paid 44 percent of all income taxes, 44.3, and in 1987 they were down to 38.5 percent of all income taxes. So I hope we do not have to hear any more rhetoric and speeches on the Senate floor about the rich and the poor being treated unfairly.

FINANCE COMMITTEE REVENUE PROPOSALS

Mr. President, if I could just take my remaining time, I would like to continue and address the revenue proposals of the Committee on Finance that passed last Friday night. I would appeal to my colleagues, both Democrat and Republican, to reject this bill that passed the Senate Finance Committee by a vote of 15 to 5.

I know that many people think that somehow this is going to be helpful to the country. I have talked with Keynesian economists, pragmatic economists, Austrian school of economists, supply-side economists, and each and every one of them have advised this Senator. And I invite my colleagues to call up their Congress friends and talk to them. We are going into a recession; is it wise to raise taxes?

Unanimously these economists with diverse points of view say we should not be raising taxes at this time on our economy. The proposal to double, for example, the tax on motor fuels is a discriminatory tax on citizens of the Western States, not to mention the fact that it will be very detrimental to take that money out of the hands and pockets of the American people and feed it into the bureaucratic welfare state so we can continue to have the big full-fledged spending that the Federal Government seems to think it needs.

Not only is it detrimental to take the tax money away from the working, producing Americans, but they have to pay for it twice. Americans fund a bureaucracy that then goes out and regulates small business. They then have to hire more people to fill out additional forms to fulfill the requests of Government which is not only very costly, but has to be funded through tax dollars. Second, they have to hire lawyers in many cases to defend their businesses against Federal regulators who have interfered in the operation of their affairs.

So, Mr. President, for many reasons I think this package should be rejected.

I call for my colleagues in the Congress to put a freeze on spending, or some kind of modified freeze on spending so we can meet the obligations of the Federal Government. We can operate the Federal Government on the same amount of money we had last year or some modified freeze level that will be suitable by both parties in Congress, and not raise taxes on the working men and women in America.

Mr. SYMMS. The revenue proposals of the Committee on Finance should be rejected by the Senate and rejected by the people of the United States as grossly unfair, as well as unnecessary for the health of our economy—and indeed, dangerous and unwise at a time of economic weakness.

The proposal for a doubling of the tax on motor fuels is a discriminatory tax on the citizens of the Western States. The population of the United States is unevenly distributed, and in the States of smaller population but greater geographic territory, the consumption of motor fuels is proportionately higher. It has been calculated that people in the Western States drive over 1,000 miles per year more than those in the Eastern States. Distances between cities, as well as point to point travel in rural areas, are many miles greater in the West than in the South or East.

The most common argument in favor of this increase in taxes on motor fuels is the claim that the United States is overconsuming its share of the world's petroleum, and encouraging this supposedly unvirtuous behavior by too low a price at the gasoline pump. The comparison to fuel taxes in Europe is often made—most often by editorial writers and corporate executives who travel relatively short distances, or ride in limousines provided by profitable corporations. It should require no great insight to reject the argument by analogy to some other part of the world, where territories and population patterns are significantly different from those in the Western States.

The proposal to increase the tax base for the hospital insurance fund is a manifestly unfair violation of the principle of need that was a central part of the philosophy Congress affirmed when Medicare was established.

The principle is that payments to the insurance fund should reflect the claims upon the fund. The tax is proportional to salary and wage income. The point of cutoff is the same as for the old-age, survivors, and disability insurance trust funds because that is the only clearly marked income level where an upper limit on tax liability can be set. The arbitrary increase in the wage base is purely an increase of taxes on the middle class.

Some people have claimed that these tax increases will help to reduce the budget deficit of the Federal Government. That is absurd, since weakening the economy will more surely reduce Government revenues than any of these proposed tax rate increases will yield. These revenue proposals are an economic version of the discredited medical practice of bleeding the sick.

The budget reconciliation package of which these revenue proposals are a part of is a fraud and a deception. More than three quarters of the package represent increases in compulsory extractions from the American people. Less than a quarter represents savings and economy in Government programs. It is shameful for elected Members of Congress to participate in the adoption of this budget proposal.

I strongly urge my colleagues to reject this report by the Committee on Finance, and this Senator cannot stand silently aside and cooperate in this destructive and misguided act.

Mr. President, for these reasons, and I will not even go into the hospital insurance tax, which is clearly a tax on middle-income Americans. They are going to reject it. At some point in time the American taxpayers or voters are going to reject this package.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SYMMS. I thank the Chair and the managers of the bill.

Mr. President, at some point in time—whether in 1990 or whenever—the sharp American voters are going to get angry enough that they are going to get the voting average down here, and find out if people are voting to raise taxes because they do not have the courage to freeze spending. They are going to start voting everybody out of office who votes for this.

I appeal to my colleagues on both sides of the aisle to reject the bill that is coming to you from the Senate Finance Committee. It is based by well-intended leaders whom I have the utmost respect for. They have a noble idea that somehow they are going to resolve the budget problem but it is based on the premise—like the doctors in the old days who used to bleed the sick. They finally found out that is not a good medical practice, and have rejected it.

At some point in time we should stop trying to bleed the producers in this country, and we should in fact encourage work, savings, investment, dollar stability, price stability, and a sound economic growth for this country. Raising taxes so that we can fully fund the Federal Government will do nothing to resolve the problem.

I predict that, if this package passes and taxes are raised, in 2 more years we will have a bigger deficit because we still are failing to grasp the problem.

I do not believe there is one Senator who would not tell you that we could not operate the U.S. Senate on a 10-percent budget cut. We would hardly miss the numbers of people and costs it would take to reduce 10 percent. The House is the same way. The White House is the same way. Almost every Federal agency is the same way. Certainly we could reduce the cost of operating the Pentagon. There are thousands of people who work in the Pentagon, 40,000 people. HHS is loaded with people.

All we need to do is have a flexible freeze that we talked about at the outset of the campaign this year, and I think it would be much more sensible than raising taxes.

[From the Washington Times, Oct. 12, 1990]

Blowing Up the Bubble of Envy

(By Warren Brooke)

It is nothing new for partisan politics to engage in lying. What is troublesome is the way in which the Bush administration is lying down and taking it.

President Bush's willingness to accept the notion of raising the top income, "bursting the bubble," in an implicit acceptance of the liberal Democrats' persistent argument that the Reagan tax cuts benefitted only the rich, while the poor and the middle class wound up paying more.

Even through this argument is patently and factually false (see Table), it is being buttressed by citing the so-called "tax bubble," enacted in 1986 as part of tax reform, whereby those with family incomes between $70,000 and $170,000 pay a temporary 5 percent surcharge on the 28 percent top marginal rate.

That creates an implicit, temporary 33 percent marginal rate which then drops back to 28 percent of the highest incomes. This looks ludicrously unfair. Yet the whole reason for the bubble was to raise more taxes from the rich by taking away all personal exemptions and the lower threshold rate of 15 percent (on the first $30,000) from those in the highest income brackets.

That phaseout adds about $6,000 to the average tax bill of those earning more than $200,000. To avoid an abrupt income cutoff for that addition (and to raise more money), Congress devised the 5 percent surcharge over a "bubble" of about $120,000 in income, from $82,000 to $202,000 (for families of four).

The effect of this bubble transition is to cause a gradual rise in average tax rates from about 25 percent for those at the start of the "bubble" to 28 percent for those at the top and beyond. Thus the effect of the bubble is to increase the progressivity of the system.

The real reason for this concoction was that in 1986 tax reformers needed billions in additional revenues at the last minute and decided to soak the rich to get them. That's why there was bipartisan support for this arrangement, especially from Sen. Bill Bradley, New Jersey Democrat, a sensible liberal.

Now, the Democrats want to use this apparently "unfair" device that they helped invent as an excuse to impose an entirely new 33-36 percent rate on the rich (with no personal exemptions or income threshold), who will see their average tax rate raised a shocking 18-29 percent, wiping out all of the Reagan average-rate tax cuts (less than 20 percent).

The alleged justification for this is that the rich supposedly got all the benefits of the 1981 cuts, and the rest got nothing, or worse. That is a baldfaced lie, and those who repeatedly tell it know it, as do readers of this column.

Not only was the 1981-83 percentage rate cut the same for income brackets, but the lower top rates induced a massive reduction in the exploitation of tax shelters, and that increased the taxes paid by the rich. (See Table.)

Let's go through the numbers one more time, this time in constant 1982 dollars. From 1981 to 1987 (the latest year for which we have data by income percentile) the income taxes actually paid by the top 1 percent of the taxpayers (those with incomes of more than about $130,000) rose by 49 percent in real terms. The income taxes paid by the top 5 percent rose nearly 43 percent real and those paid by the top 10 percent rose 20 percent in the same period.

By contrast, the income taxes paid by the nation as a whole rose only 4 percent real, and those of the middle class (the 50th through the 90th percentile) fell in constant dollars by 9 percent, while the bottom 50 percent paid 15 percent less.

That is to say, the real income taxes paid by 90 percent of Americans fell by 10 percent from 1981 to 1987 while the real

income taxes paid by the richest 5 percent rose by nearly 43 percent.

Aha, say the liberals, but rich got so much richer in this period while everyone else lost income ground. That's also not true. From 1981 to 1987, it's true the top 5 percent saw their median income rise in constant dollars 24.5 percent, but the middle income median also rose by 9 percent. That's less than half as much, but it rose. Yet in that same period the income taxes paid by the top 5 percent rose nearly twice as fast as their median income, while the income taxes on the middle actually fell by nearly 10 percent.

That's why the share of income taxes paid by the top 5 percent rose dramatically from 35.4 percent in 1981 to 43.3 percent in 1987. That's a 22 percent rise in tax share in a period when their share of total income rose by 10 percent.

Finally, as middle incomers listen to the Democrats trash the Reagan tax cuts, they should remember that without those 25 percent rate cuts the average middle-class family would now be paying $2,400 more than they do. Indeed, the main reason for the Democrats' vicious assault on those cuts is precisely because they so massively reduced the actual tax collections from ordinary Americans. Americans also would do well to remember that under the Democrats' "soak the rich" policies of the 1970s the average marginal tax rate on middle-income families soared from 23 to nearly 28 percent in 1981. Today that average marginal tax rate is less than 18 percent.

The real irony is that the wealthy, by and large, would love to trade a higher marginal rate for major capital-gains exemption of 40-50 percent. Their net taxes would be reduced in the right combination. The danger is that the moment we start trading higher rates for more loopholes, the whole rate structure that now so benefits the middle class would be under siege all over again, and the likely losers would be the middle class.

So, beware the green-eyed "bubble blowers."

INCOME TAX COLLECTIONS BY PERCENTILE—1981 TO 1987

[Dollar amounts in billions]

	1981	1987	Percent change
Total	$300.3	$313.0	4.3
The rich			
Top 1 percent	$51.7	$77.1	49.1
percent share	17.6	24.6	39.8
Top 5 percent	$94.6	$134.9	42.6
percent share	35.1	43.1	22.8
Top 10 percent	$144.4	$173.7	20.3
percent share	48.0	55.5	15.6
The rest			
Middle 50-90 percent	$132.9	$120.4	-9.4
percent share	44	38.5	-13.1
Bottom 50 percent	$22.4	$19.1	-14.7
percent share	7.5	6.1	-18.7

Using GNP Deflator

Source: Internal Revenue Service, Statistics on Income

AN ARTIST SPEAKS OUT—ABOUT ART

Mr. HELMS. Mr. President, the controversial funding practices of the National Endowment for the Arts has generated a geat deal of mail for all Members of Congress, both in the House and Senate—I guess, especially this Senator. I myself have heard from untold thousands of citizens from all over America.

This mail has been interesting, to say the least. The vast preponderance of it has come from citizens who resent the use of their tax money to fund crude, pornographic so-called art that is both disgusting and demeaning. I have been a little surprised that there has not been more from the so-called arts community, but I guess they are too busy raising money for certain political candidates. I am aware, nevertheless, of the efforts to orchestrate such correspondence among the kind of people in this country who think there is nothing wrong with the so-called works of Mapplethorpe, Serrano, and others who obviously set out to offend and disgust the majority of the American people. These are the people who have cried "censorship" in what surely is the greatest non sequitur of this century.

I have received an enormous amount of mail, as I have indicated, from citizens with whom I am in total agreement on this issue. As I have also said, a surprising amount of favorable mail has come from artists who reject the notion that sacrilege, distasteful, and blatantly disgusting portrayals of homosexuality should be subsidized or rewarded by NEA grants, using the taxpayers' money.

A few weeks ago, I received a somewhat detailed letter from Susan Kirkland of Houston, TX. Yesterday, I called Susan Kirkland and asked her if she would mind my going public with her letter.

She replied, "Not at all. That's why I wrote it."

Susan Kirkland is an artist. I am not going to attempt to summarize her letter. She speaks eloquently for herself. But I do suggest that Senators should take the time to read Susan Kirkland's letter, all of it. She not only tells how she feels, she tells why as well.

Mr. President, I ask unanimous consent that Susan Kirkland's letter be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. I thank the Chair.

Let me just quote from a portion of Susan Kirkland's letter. Bear in mind she is an artist in Houston, TX. But I guess you might say she is my kind of artist.

For example, she says:

> We live in a time when the demands of the tasteless are heeded. There have always been fads but the wise and frugal among us have selected the classics and let the fads pass. It would be a more effective use of NEA funds if the same logic were followed when selecting artists. Forget about whether the work is obscene or not—do we have to be pushed that far before we draw a line that shouldn't be crossed because it's beyond good taste and not just because we've never been quite so vulgar? Let the tasteless explore the boundaries of aberrant thinking on their own time and money.

I say "amen" to Susan.

Then in another point in the letter—and all of it will be in the Record, Mr. President:

> For me, the satisfaction in art is in the act of creating—not the finished product, but the strokes and mixing of color and the coming together of the piece itself. Art is the only way I can show you what's in my head or how I see things.

And get this, Mr. President:

> Art is not exhibitionism, nor is it an assault of the senses, though from seeing some of the "art work" of recent years I would have to wonder about the artist's motivation.

Then in another point she said:

> I am an artist and it sickened me to see the flag being stepped on by the ignorant in the Chicago Art Museum. Rebellion is good when it serves a principle, even when you must stand alone initially and wait for the masses to follow, but rebellion for the sake of itself is sheer stupidity—a flaunting arrogance in the face of all who have died for this great country in this instance.

The she says:

> My field is filled with the hangers on, the exhibitionists, the voyeurs, the lost souls without direction and let's not forget the folks who try to dress the way they think artists dress. The true artists are too wrapped up in their work to spend time frivolously. Picasso once said "Life has many passions but our work is the ultimate seduction."

The concluding paragraph of Susan Kirkland's letter is quite interesting. This is an artist I would say, Mr. President, in Houston, TX, obviously a lady who thinks deeply. The concluding paragraph says:

> The woman who enjoys standing on stage naked while she rubs food on herself might benefit from a 12-step program where she can keep the focus on herself and find out why she's so wrapped up in narcissicism, exhibitionism, food fetishes and shaming others. That's a performance, all right, but I don't see the art in it.
>
> Sincerely,
>
> Susan Kirkland.

Now, Susan Kirkland just about tells it all. She is not some "ignorant redneck" from North Carolina. She is an artist from Houston, TX, and like many other true artists, she has spoken out.

I am delighted she wrote to me and I am delighted that the distinguished occupant of the chair has consented to make her total letter a part of the Record at the conclusion of my remarks.

I thank the Chair and I thank the distinguished Senator from Hawaii and I yield the floor.

EXHIBIT 1

KIRKLAND UNLIMITED, ADDESIGN,
Houston, TX, September 24, 1990.
Senator JESSE HELMS,
Republican from North Carolina, Senate Dirksen Office Building, Washington, DC.

DEAR SENATOR HELMS: Some of the issues you must deal with are extremely complex and I am grateful that men such as the Senators and Representatives of the Congress devote their time to debating these issues because they are issues I could never make a decision about. So I choose not to put myself in a position that requires decisiveness in behalf of others.

But I can share with you my experience in my field and hope that it will help in some way. I am a professional artist and have been since I graduated from the Columbus College of Art and Design in 1975 with my degree in Advertising Design. The school I went to is very small and very difficult. For each class there were 6 hours of homework per week. My freshman class started at 300 and dwindled to a mere 25 by the time of graduation. The dean of this school feels you can not make a decision about what field of specialization you prefer until you have tried it all, so your first year is a little bit of everything, and you may select from these divisions for your second, third and fourth year: Illustration, Industrial Design, Fine Arts, Retail Advertising or Advertising Design. There is more to learn than four years will permit, so you must attend for 4½.

My family was very poor (in 1971, the solitary wage earner brought home $65 per week) and I knew if I wanted to go to college, I would have to do it on my own. Between my junior and senior year of high school, I took a course at the local community college in data processing during the summer. I received a scholarship for one semester and worked from 5 PM to 9:30 PM every night at a nearby insurance company as a data input operator to fund my college education. During this time, my relatives were less supportive since I was the first person in my family to go to college. They thought I was going to school so I wouldn't have to go to work.

Nobody ever asked my what I wanted to be when I grew up. My gift was so obvious and so great that it was just assumed that I would be an artist—that I *was* an artist.

There is a great rift in the art world. In art school, I was exposed to it for the first time when I discovered the disharmony between the Fine Arts Division and the Advertising Division. It was explained to me this way: Fine artists are those who choose to create their art for the experience of the creation and for the sheer purpose of creating art. Commercial artists are the prostitutes of our field, because they'll do anything for money. I think the National Endowment for the Arts has become the meal ticket for those artists unwilling or unable to make a living from their art.

I would love to sit around and paint pictures and draw and sculpt—but I had the foresight to take my education one step further. I wanted to be able to make a living on my own right. Even the people in Illustration were encouraged to take a few advertising classes so they could make a living prior to the time when they became recognized for their accomplishments.

We live in a time when the demands of the tasteless are heeded. There have always been fads, but the wise and frugal among us have selected the classics and let the fads pass. It would be more effective use of NEA funds if the same logic were followed when selecting artists. Forget about whether the work is obscene or not—do we have to be pushed that far before we draw a line that shouldn't be crossed because it's beyond good taste and not just because we've never been quite so vulgar? Let the tasteless explore the boundaries of aberrant thinking on their own time and money.

For me, the satisfaction in art is in the act of creating—not the finished product, but the strokes and mixing of color and the coming together of the piece itself. Art is the only way I can show you what's in my head, or how I see things. Art is not exhibitionism, nor is it an assault of the senses, though from seeing some of the "art work" of recent years, I would have to wonder about the artist's motivation.

I am an artist and it sickened me to see the flag being stepped on by the ignorant in the Chicago Art Museum. Rebellion is good when it serves a principle, even when you must stand alone initially and wait for the masses to follow, but rebelliion for the sake of itself is sheer stupidity—a flaunting arrogance in the face of all who have died for this great country in this instance.

My field is filled with the hangers on, the exhibitionists, the voyeurs, the lost souls without direct and lets not forget the folks wo try to dress the way they think artist's dress. The true artists are too wrapped up in their work to spend time frivolously. Picasso once said, "Life has many passions, but our work is the ultimate seduction."

When I was in art school, there was a young lady who took her school ID with her photograph on it and reproduced it on a huge canvas. I was in awe of her technique. It was so photo-perfect. One of my professors asked me why I was so impressed and I told him, "because it looks so much like a camera did it." He proceeded to point out that we had cameras, therefore this painting was pointless. Art is human expression. It is the act of an artist putting some part of himself into a work of art and sharing it with every person who sees that piece. What part of the artist can we see in a photograph? There are artistic photographs, but they are artistic only because of their subject matter, not because of how they were created. The Maplethorpe exhibition is a moot point for me because I don't think photography is art and therefore is disqualified from receiving funds from the NEA. This is why there are always art directors at commercial shoots—because photographers are not artists.

This is a free country, but we are not free to do whatever we want because we have agreed to set limits about what is acceptable and those limits are reflected in the laws governing this great country. So why is everyone complaining so about the evidently needed limits at the NEA?

Thank you for your time, and I hope that if you have any questions or feel that I've been obtuse in any way, you'll feel free to call. I am self-employed and work in my studio at home. If I can be of any help in this matter, I would be happy to lend you my moral support on this issue.

The woman who enjoys standing on stage naked while she rubs food on herself might benefit from a 12-step program where she can keep the focus on herself and find out why she's so wrapped up in narcissicism, exhibitionism, food fetishes and shaming others. That's a performance, alright, but I don't see the art in it.

Sincerely,

SUSAN KIRKLAND.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The period for morning business is now closed.

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1991

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 3189, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 3189) making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes.

The Senate proceeded to consider the bill.

Mr. INOUYE. Mr. President, I am pleased to report to the Senate S. 3189, an original Senate bill making appropriations for the Department of Defense for fiscal year 1991. It is important that we emphasize that this is an original Senate bill because we are proceeding under a unanimous-consent agreement that provides for somewhat unusual, but not unprecedented, consideration of defense appropriations. Essentially, that agreement permits the Senate to move forward on the Senate originated bill reported out of the Appropriations Committee last Thursday.

Senator STEVENS and I, as managers of the bill, deeply appreciate the courtesy extended to us by our colleagues. We worked very hard to get our work done on time this year, but we were delayed by the prolonged negotiations to achieve a congressional budget resolution.

Now that the Congress has agreed to a budget resolution, we are on an accelerated schedule. We have to keep to that schedule if there is to be any hope that this legislation will be enacted before the continuing resolution expires, which, incidentally, is 6 days from now. We can meet that deadline.

It is possible for us to complete consideration of this measure in the Senate today. We can do it. And, because the consent agrement provides that the Senate bill is to be incorporated into the House-passed bill, we can be ready to go to conference with the House as early as tomorrow morning. Without the cooperation of our colleagues, we simply could not complete the business of the Senate in the time allowed. I thank my colleagues for their cooperation.

Mr. President, it is important for all Members to understand that, under the terms of the unanimous-consent agreement, after all proposed amendments have been acted upon, the Senate-originated bill will go to third reading and, when passed, it will be incorporated into H.R. 5803, the House-passed bill. That is, Senate provisions and funding levels will be entered into the House bill in lieu of companion provisions and funding levels in the House-passed bill. Original Senate provisions will appear as inserts into the House bill, and House provisions which do not have corresponding provisions in the Senate bill will be stricken from H.R. 5803.

Mr. President, I think everyone here knows how difficult this year has been, especially for each of the appropriations subcommittees. I would submit that it has been extraordinarily difficult for the Defense Subcommittee. While others have faced the challenge of insufficient growth, we on the Defense Subcommittee have had to cope with the largest reduction in military spending since the end of the Vietnam war—and I repeat that, Mr. President—the largest reduction in military spending since the end of the Vietnam war. In point of fact, Mr. President, because defense spending has grown in recent years, the spending reduction put before the committee by the Defense Subcommittee may well be the largest reduction in military spending in the history of the United States.

Whatever point of view we may have on past growth, I think we can agree that the reductions recommended in S. 3189 are significant and will have to be managed very carefully, if we are to avoid the fracturing of our military forces, such as occurred after World War II, after Korea, and after Vietnam.

The recommendations which the Committee on Appropriations has placed before the Senate are the result of a very thorough review of the President's budget request. Most of the reductions we recommend reflect fact-of-life changes which have taken place since the budget was submitted.

I hope that each Senator will bear in mind that—in compliance with the budget resolution—we have produced a bill which is nearly $20 billion below what was provided last year and some $14 billion below the President's request. At this moment, Mr. President, the bill before the Senate provides $268,076,250,000 in budget authority and $277,593,306,000 in discretionary outlays. These amounts are below our 302(b) allocations by $750,000 in budget authority and $694,000 in outlays.

Mr. President, these are very tight constraints. We simply could not afford to fully fund every worthwhile program. Moreover, in accordance with the agreement between the Appropriations Committee and the Senate Armed Services Committee, we have not exceeded authorization account ceilings. And I think it is important to repeat that: We have not exceeded authorization account ceilings. We have also not overturned any program terminations provided in the Senate-passed DOD authorization bill.

For example, though we would have liked to have provided more funding for the military personnel accounts, we were held to a Milpers funding gap of $77,753,700,000. Similarly, while there was some disposition to provide advance procurement funding for the V-22 Osprey, we were restricted by the Senate-passed authorization. We do recommend $238 million in further R&D funding for the V-22 Osprey.

The House completed consideration of the DOD appropriations bill Friday afternoon. We now know that many of the items and Senator's requests which we could not accommodate because of funding shortages or authorization limitations will be in conference. Thus, while we have not been able to satisfy all of the concerns which have been brought to our attention by Senators, we hope to favorably resolve most of those which are outstanding when we are in conference with the House.

We know that Senators may wish to amend some of our recommendations. For example, we fully fund the President's revised request for funding of the B-2 advanced technology bomber. We provided $1.989 billion for procurement, $767 million for advance procurement, and $1.7 billion for completion of further research and development.

Mr. President, needless to say, this issue is controversial. That is true. It does not, however, serve the Senate or the people of America to delay action on this bill in order to revisit an issue which was thoroughly considered and put to a vote in August of this year, just a few months ago. At that time, the amendment proposed by Senator LEAHY on August 2 was defeated by a vote of 56 nays and 43 yeas. A subsequent vote on the same day on the Leahy-Cohen amendment also found the Senate in favor of the B-2. The vote on the Leahy-Cohen amendment was 53 nays to 45 years. I do not think that we need put the Senate through that exercise again—not now, not on this bill.

Others may wish to offer amendments to the proposal we make for SDI funding. Our recommendation provides $3.5 billion, almost $1 billion—$887 million—below the President's request for the strategic defense initiative. Senator STEVENS and I believe that we must hold this level of funding through floor consideration in order to protect the Senate position on many other items in conference with the House. As you may know, Mr. President, the House is at $2.3 billion for SDI; resolution of this matter is crucial to the overall outcome of our conference. Moreover, the amount of funding provided for SDI will be at the heart of the President's decision to sign or veto this measure. So I implore my colleagues, give us the room to negotiate a bill which stands a chance of becoming law.

I am not going to delay consideration of this measure by providing a lengthy overview of the bill. The committee report has been available for review for the required time, and I will say, Mr. President, most emphatically, the committee sets out directives and requirements in its report, and the committee expects the Department of Defense and the services to comply with them.

I also say, it serves no useful purpose for members of the executive branch to state that the executive branch does not consider itself bound by committee reports. Of course the executive branch is not bound by the committee report. However, I suggest that officials of the executive branch and senior officers of the military services would be wise to consider the fact that appropriations bills are annual measures and the Congress can tighten the purse strings in law, if that is what is required to establish the proper working relationship between the Congress and the executive branch.

The Senate Subcommittee on Defense Appropriations seeks no quarrel. But, Mr. President, we will be heard.

Senator STEVENS and I would be pleased to discuss specific recommendations with any Member who desires additional information.

One matter which I wish to highlight for the attention of the Senate is the general provision of our reported bill which will, if enacted, incorporate the classified annex as law. This is very important because it is a significant departure from the way we have in the past conveyed congressional direction with respect to classified intelligence programs and the so-called black or special access procurement programs. So I urge every Member of the Senate to go to room S-407 on the fourth floor of the Capitol building to review the classified annex prior to the passage of this bill. If it is not convenient for any Member to visit S-407 while the bill is under consideration, I hope they will notify the staff of the subcommittee and alternate arrangements will and can be made.

Before I yield the floor I wish to give particular recognition to and express my thanks to my vice chairman, the Honorable TED STEVENS, senior citizen—senior Senator from Alaska.

[Laughter in the gallery.]

Mr. STEVENS. Senior citizen. There he goes again.

Mr. INOUYE. Without the constant support and guidance of Senator Stevens, the subcommittee would not have been able to achieve so much this year, nor would the defense appropriations bill which is now before us be the sound, reasoned, and balanced proposal that it is for funding of our national defense programs.

Therefore, I am pleased to yield the floor to my vice chairman, the senior Senator from the State of Alaska [Mr. Stevens].

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Alaska [Mr. Stevens].

Mr. STEVENS. I thank my distinguished friend from Hawaii for his kind words. I guess I will accept either title, as a matter of fact.

I do express my gratitude to him for the work he has done on this bill. The Senate knows the Senator from Hawaii and I have been together for so long now, and the committee work on the defense subcommittee is a pleasure.

This bill was not an easy task this year because of the budget summit conferences and the various targets we have had to adjust to. But under the circumstances I think this is the best bill we could present. We do not have an authorization bill. This bill would reduce defense spending by $16.2 billion from the amount that was appropriated in 1990. That is a cut of in excess of 6 percent, and it reduces the President's request by over $19 billion.

There is no way anyone could claim this year that defense has any kind of a free ride in the deficit reduction battle. Recognizing our security commitments and the ongoing responsibility of our Department of Defense, I believe that this is a responsible bill, and I hope the majority of the Senate will work with us to hold the funding levels that are in this bill. Considering the events of the past year, they have been staggering in the area of the Department of Defense. We have had so many events it is hard to keep up with them. But I want to remind the Senate of our current deployment to Saudi Arabia. Our subcommittee has listened to the Secretary of Defense and the Chairman of the Joint Chiefs, to the chiefs of the services, and to the regional commanders. I believe we have responded to the priorities they have established within the budget limits imposed upon us.

During our review of the 1991 budget, Secretary Cheney engaged in an unprecedented review of major aircraft, helicopters, and warship acquisition programs. This bill reflects his request to adjust all of those systems, and, I might add, adjust them downward.

While we have recognized the work done by the Armed Services Committee and the decisions made on the Senate floor during our consideration of the 1991 Defense authorization bill, we, once again, bring this defense appropriations bill to the floor without the guidance of an authorization conference report. But this bill reflects the decisions made by the Senate in the consideration of the 1991 authorization bill.

I urge the Senate not to refight those same issues here on the floor now. That bill is in conference. We have pivotal issues, such as the B-2, SDI, Milstar, V-22, and other issues that have not been decided in conference. This bill reflects the Senate position on all of those issues; positions taken after long debate and a rollcall vote, I think, in almost every instance.

For us to change the Senate position now while Senators on the authorization committee are still in conference, to me, would be wrong. We should not undercut those negotiators, who, I was informed last week, were very close to a final conference report on the authorization bill.

I hope, again, that Senators will take the advice of both the distinguished chairman of our subcommittee and my advice, and that is, leave those issues alone. The outcome I do not think will be any different than before. Even if the outcome is different, it would complicate the conference report on the authorization bill, not enhance the opportunity to get a conference report before this bill gets out of conference.

We have committed ourselves, as the Senate has just heard from the chairman of our subcommittee, to follow that conference report in conference, once the authorizing committee has achieved an agreement.

It seems to me we have some other issues coming before us again. I have treated those in my statement, and I just point out to the Senate that it is in this Senator's intention to follow the direction of the Secretary of Defense and the Chairman of the Joint Chiefs with regard to troop deployment pursuant to the decisions made by our Commander in Chief.

While we have troops in the field, it is not timely, in my opinion, to second-guess the Commander in Chief and his Secretary of Defense and the Chairman of the Joint Chiefs in terms of troop deployment elsewhere, outside of Saudi Arabia. They have reviewed the total forces of the United States, forces stationed in Europe and Korea, Japan, and the Philippines, and other areas off our shores. This bill before us recognizes the changes proposed by Gen. Colin Powell, Chairman of the Joint Chiefs, and Secretary Cheney as the Secretary of Defense.

I think the decisions they have made are reasonable under the circumstances. They are in furtherance of the reductions that have been imposed upon us by the budget process, reductions that we have supported. But to go further now at this time I think would be destabilizing, as far as the total troop deployment and defense structure of the United States.

Mr. President, in terms of this bill, it is my hope that it will be passed rapidly.

I want to repeat what the chairman said, in case others did not hear him as we closed on Friday, and that is, it is his intention and his request of the leadership that we continue on this bill today until it is finished.

I believe, under the circumstances that I have outlined in this statement, in view of the fact that the authorization bill is still in conference, that the major decisions of that bill are reflected in this bill; there are no surprises in this bill; that there ought not to be a prolonged debate on this bill, and we ought to be able to take it to conference and await the outcome of the conference.

Mr. President, there are several important initiatives that the committee presents to the Senate in this bill, and I would like to highlight just a few of those. This bill adds $1.2 billion to cover emerging costs in the CHAMPUS Program. CHAMPUS continues to be the fastest growing element in the defense budget, and the bill proposes other initiatives to aid the Department in slowing the growth of CHAMPUS.

This bill continues an initiative begun last year, to upgrade our Nation's sealift fleet. The recent deployment to Saudi Arabia highlighted the inadequacy of the defense sealift fleet. The time needed to assemble our forces in the Persian Gulf reflected our limited ability to move forces overseas. Tremendous credit is owed the men and women who have activated and operated these ships, in the proud tradition of the U.S. Navy and the merchant marine. Asking them to accomplish this mission using World War II vintage Liberty ships, and other vessels kept in moth balls for years undermines our investment in tanks, helicopters, missiles, armored fighting vehicles, and other systems. I fervently hope the funds included in this bill for sealift will help remedy this shortfall.

Mr. President, I have described the deep cuts in defense spending contained in this bill. Even with these cuts, this bill looks to the future. The next generation systems, the advanced tactical fighter, the LH helicopter, the C-17, and the advanced cruise missile, among many, are continued in this bill, though at slower rates. As we build down to a smaller force, maintaining the techical edge of U.S. systems will become even more critical. While some priorities will shift as strategic and conventional arms treaties are negotiated, there are several core systems we must bring forward. This bill maintains our most important next generation systems.

I know that some Members may seek to offer amendments to reduce U.S. military deployments in Europe and Asia. I strongly urge my colleagues to withhold such amendments, and I intent to oppose any amendments mandating reductions in overseas deployments beyond the cuts proposed by Secretary Cheney.

Secretary Cheney has proposed to withdraw 40,000 military personnel and dependents from NATO next year. There will be further adjustments to forces stationed in Korea, Japan, and the Philippines. These changes are only the first step in the plan General Powell and Secretary Cheney have formulated, and this Senate should not at this time second guess their strategy. There are important treaties the Senate will consider for ratification next year. We should not now presuppose the ratification and terms of those treaties, especially those involving our allies. There will be ample time to establish the rate of reduction for U.S. Forces in Europe; I believe 40,000 in 1991 is reasonable.

Mr. President, the Senate's schedule for the remainder of this session is extremely tight, and I believe we must expedite action on this and the other remaining appropriations bills for 1991. The right of all Members to come and amend this bill is protected. I believe we should not repeat recent debates on issues already decided by the Senate, and that we should proceed to conference on this bill and await the conclusion of the authorization conference for some of these issues. Members will again have the opportunity to address these matters on that bill.

It has been my pleasure to work with the chairman for the second year on this DOD appropriations bill, and I stand with him in presenting and commending this bill to the Senate.

Mr. BYRD. Mr. President, today we are considering S. 3189, the fiscal year 1991 Department of Defense appropriation bill. This is a large and important measure, both from the point of view of the sum appropriated—over $268 billion—and the awesome range of activities funded and directed. With respect to the subcommittee's 302(b) allocation, the bill as recommended is within both the budget authority and outlay ceilings.

The bill also funds the wide range of intelligence and special access programs engaged in by the United States, a group of major classified budgets absorbing large sums of money. In order that the normal regime of checks and balances works in this sensitive and critical area, the committee has wisely chosen to incorporate the most important of its decisions, in its classified annex, into the act.

In addition, Mr. President, the subcommittee has worked closely and harmoniously with the Senate Armed Services Committee, according to the agreement in place between the two committees.

I commend Senator Inouye, chairman of the subcommittee, and Senator Stevens, the ranking minority member, for their excellent work in meeting the priorities of the Senate within the constraints of the budget agreement. Their work was greatly assisted by the cooperation of their colleagues on the subcommittee and on the full Committee on Appropriations.

I also wish to commend the staff of the subcommittee: Richard Collins, Dick D'Amato, Charlie Houy, Scott Gudes, Jane McMullan, Peter Lennon, Jay Kimmitt, Rand Fishbein, Mary Marshall, Keith Kennedy, Steve Cortese, Mazie Mattson, Mavis Masaki, and Dona Pate.

The managers have explained in much greater detail the contents of the measure as recommended. The bill as reported by the Appropriations Committee deserves the support of the Senate.

The ACTING PRESIDENT pro tempore. The Senator from Hawaii.

Mr. INOUYE. Mr. President, if I may, I would like to once again emphasize, together with Senator Stevens, that at midnight Friday, goblins and witches will appear if we are not able to resolve this matter. I am certain that my colleagues in the Finance Committee wish to bring up their important measure by Wednesday of this week. If that is the case, this measure should be completed no later than this day.

Mr. BURNS. Mr. President, as we start debate on this very important piece of legislation to maintain the deterrence and the defense of this country as they should be, the charge of that committee is a very, very serious one and one I know they take seriously.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Alaska [Mr. Stevens].

AMENDMENT NO. 2978

(Purpose: Establishment of a Japanese-American Museum)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. Stevens], for Mr. Hatfield, proposes an amendment numbered 2978.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 22, before the period, insert ": *Provided*, That $4,000,000 shall be available only for the establishment of the Japanese American Museum as a component of the Japanese American Cultural Center in Ontario, Oregon".

Mr. STEVENS. Mr. President, this amendment has been cleared with the distinguished chairman of the committee. It reflects statements in the report.

This puts into the bill a provision that is already discussed in the report.

I ask it be adopted in behalf of the ranking member of our committee.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment of the Senator from Oregon.

The amendment (No. 2978) was agreed to.

AMENDMENT NO. 2979

(Purpose: To permit the Army to cooperate with the Department of the Interior in replacing an earth dam at Fort Sill, OK)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. Stevens], for Mr. Nickles (for himself and Mr. Boren), proposes an amendment numbered 2979.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert "Sec. . The Department of the Army may use up to $3,100,000 in troop labor, installation equipment and supplies at Fort Sill to assist the Department of the Interior in replacing an earth dam through a cooperative agreement which benefits each Department and includes such other terms as to protect the United States.

Mr. NICKLES. Mr. President, I wish to thank the floor managers for their acceptance of this technical amendment which is very important to the U.S. Field Artillery Center at Fort Sill OK. As the need for this amendment was brought to our attention only very recently, I appreciate the cooperation of the managers for including it in this bill.

Mr. President, this amendment wil allow Fort Sill to utilize labor, equipment, and supplies to assist the U.S Fish and Wildlife Service in replacing the dam at Lake Elmer Thomas. The dam, which is off post on the Service's property, normally backs the lake up onto Fort Sill, providing recreation flood control, and fire support to the installation. In December 1987, the Service declared the dam unsafe and drained the lake. Since that time, I have worked with my colleague Senator BOREN and the administration to replace the dam and restore the lake.

This project is very important to Fort Sill, the U.S. Fish and Wildlife Service, and local community of Lawton, OK. The Service will spend $11.8 million to construct the dam, and this amendment will allow the Army to cooperate with the Service and utilize in-kind contributions to complete the project.

Mr. President, I again thank the floor managers for their cooperation and support on this matter.

Mr. STEVENS. Mr. President, this is an amendment that has been discussed with the chairman of the committee. It deals with the specific matter of Oklahoma.

It has been cleared by the Department of the Army, and by the majority I believe.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (No. 2979) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the votes by which the two previous amendments were agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2980

Mr. INOUYE. Mr. President, I call up my amendment, which I have submitted on behalf of Senator NUNN, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE] for Mr. NUNN, proposes an amendment numbered 2980.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 17, after the words "of which" insert the following: "not to exceed $35,000,000 may be available for the CINC initiative fund account; and of which".

Mr. NUNN. Mr. President, I rise today to submit an amendment to S. 3189 with respect to the account for "Operation and Maintenance, Defense Agencies."

The amendment would provide for not to exceed $35 million to be used for the CINC initiative fund. This fund which was first established last year is managed by the Chairman, Joint Chiefs of Staff, to fund the activities of the commanders of the unified and specified combatant commanders in several specific areas. The fund is to be used primarily for activities that would enhance the warfighting capability, readiness, and sustainability of the forces assigned to the combatant commands.

General Powell, the Chairman of the Joint Chiefs of Staff, has specifically requested continuation of this fund in a letter to me dated June 29, 1990. In that letter, General Powell advised that he was speaking on behalf of all of the combatant commanders, as he is charged by law to so.

Mr. President, I believe that this initiative is a very valuable resource for response to contingencies and to take advantage of opportunities that cannot be foreseen during the budget preparation and approval process. I ask my colleagues for their support for this modest but important matter.

Mr. INOUYE. Mr. President, I support the amendment by the distinguished chairman of the Senate Armed Services Committee to provide $35 million for a CINC initiative fund.

Last year my subcommittee created and funded a CINC initiative fund to address high priority needs of our various regional and functional commanders; $50 million was appropriated. Our hope was that funding would be targeted for readiness projects and ensure that warfighting capability would be enhanced.

Unfortunately, in fiscal year 1990, the CINC initiative fund did not work as planned. The Department of Defense did not use this funding for high priority readiness programs. Financial execution was particularly poor. And, the Department of Defense did not include funding for the fund in the fiscal year 1991 budget.

Senator NUNN points out that General Powell, Chairman of the Joint Chiefs of Staff, has written recently to the Defense oversight committees to register his strong support for the reinstatement of a CINC initiative fund. Chairman NUNN's fiscal year 1991 Defense authorization bill authorized this fund.

I believe that it is appropriate that we respond to Chairman Colin Powell's request. We should try again and provide funding for this effort. Accordingly, I urge adoption of Senator NUNN's amendment.

Mr. President, this matter has been cleared by both sides and accepted by both sides.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 2980) was agreed to.

AMENDMENT NO. 2981

(Purpose: To direct that no funds be made available for the A-76 cost comparison study currently being conducted at Indian Springs Air Force Auxiliary Field)

Mr. INOUYE. Mr. President, I send an amendment to the desk on behalf of Senator REID and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], on behalf of Mr. REID, proposes an amendment numbered 2981.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

In the appropriate place, insert the following:

None of the funds available during fiscal year 1991 to the Department of Defense, any of its components, or any other Federal department, agency, or entity may be obligated or expended to complete an A-76 cost comparison study for the contracting out of firefighting or security guard functions at Indian Springs Air Force Auxiliary Field.

Mr. INOUYE. Mr. President, this has been accepted by both sides.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 2981) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from South Carolina.

AMENDMENT NO. 2982

Mr. HOLLINGS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself and Mr. THURMOND, proposes an amendment numbered 2982.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

HURRICANE HUGO REPAIRS

(TRANSFER OF FUNDS)

SEC. . Funds available to the Department of Defense during the current fiscal year may be transferred to applicable appropriations or otherwise made available for obligation by the Secretary of Defense to repair or replace real property, facilities, equipment, and other Department of Defense assets damaged by hurricane Hugo in September 1989: *Provided*, That funds transferred shall be available for the same purpose and the same time period as the appropriations to which transferred: *Provided further*, That the Secretary shall notify the Congress promptly, in accordance with standard notification procedures, of all transfers made pursuant to this authority and that such transfer authority shall be in addition to that provided elsewhere in this Act.

Mr. HOLLINGS. Mr. President, my amendment provides for repair of Department of Defense facilities damaged or destroyed by Hurricane Hugo last year. This amendment has been cleared on both sides and is supported by Senator INOUYE, chairman of our Defense Appropriations Subcommittee, and Senator TED STEVENS, the subcommittee's ranking member.

Mr. President, the recent appearance of hurricanes off our Atlantic and gulf coasts vividly serves as a reminder to us all of the destruction caused by Hurricane Hugo to my hometown, Charleston, SC. It was just a little over a year ago that Hugo devastated South Carolina's coastal communities, and severely damaged our Navy and Air Force facilities.

In response I sponsored an amendment, which was included in last year's fiscal year 1990 Defense appropriations bill, to provide for the rebuilding of our Navy and Air Force bases through extraordinary transfer authority. This special authority was used to fund repair of Defense facilities in South Carolina, as well as in Puerto Rico and the U.S. Virgin Islands.

The job of rebuilding, however, is not yet completed. Many facilities at the Charleston Naval Station and the Charleston Navy Shipyard were completely destroyed by Hugo. Due to the enormity of the damage from this hurricane and the time required to complete design of replacement construction projects, the Navy was unable to undertake all necessary rebuilding during fiscal year 1990. Five projects in South Carolina still need to get underway at a total cost of $22.7 million. These include a public works facility and industrial logistics facility at the shipyard, and a fleet operations control building, a military support facility and marina repairs at the naval station.

The Navy has asked that I ensure that this special authority be extended into fiscal year 1991. My amendment does just that. It enables the Department of Defense to complete the task of rebuilding and recovering from Hurricane Hugo.

I urge its adoption.

Mr. INOUYE. Mr. President, I strongly support the amendment of my colleague, Senator HOLLINGS. I think that all Senators recall the destruction caused to South Carolina by Hurricane Hugo.

Senator HOLLINGS correctly points out that the job of rebuilding our Navy facilities in South Carolina, Puerto Rico, and the Virgin Islands has not yet been completed. His amendment will assist the men and women serving at the Charleston Navy Shipyard and Naval Station with this effort.

I thank him for bringing this to our attention and I urge the amendment's adoption.

The ACTING PRESIDENT pro tempore. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 2982) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I thank the Senator from Hawaii and the Senator from Alaska for their courtesy.

Mr. INOUYE. Mr. President, in the strongest terms possible, I wish to advise my colleagues in the U.S. Senate that the managers of this bill stand ready to proceed. We have been advised that there are several colleagues with amendments, but if they are not here to present their amendments, then we are prepared to proceed, according to the rules of the Senate, to its conclusion.

I will be suggesting the absence of a quorum at this time, but I hope that my colleagues will adhere to the admonition of the leadership and get this matter on the road to its conclusion so that we can leave Capitol Hill by midnight this Friday. If we intend to do that, then this measure, which happens to be an important appropriations measure, will have to be resolved by this day. I can assure you that the managers of this bill are prepared to do so, even if it means staying here all night and all morning. But we must finish this measure. I hope my colleagues will cooperate.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CHANGE IN REPORT LANGUAGE

Mr. BUMPERS. Mr. President, wher the committee considered this bill, offered some report language to as the Air Force to advise us on the feasibility of reengining the B-52G's an possibly some of the B-52H's. The B-52H's are the latest models of the B-52. They are relatively old airplane by our way of thinking. The last wa built in 1962.

By the same token, the Air Forc says that the B-52H's have an airframe that will be good to the yea 2020 to 2030. Boeing, for example, say that they can use modern engines, lik those on the 747, and they will pay fo themselves in 17 years just from fue savings alone. We do not often get deal like that in the Pentagon wher something will actually pay for itself But these engines will almost doubl the nonrefueling distance that the B-52 can fly and will save 1,000 barrels o airation fuel per mission. The figure on what we can save by reengining th B-52G's are absolutely staggering. Mr President, I ask unanimous consen that an Air Force memorandum in response to questions I asked earlier thi year be printed in the RECORD at thi point.

There being no objection, the memorandum was ordered to be printed i the RECORD, as follows:

DEPARTMENT OF DEFENSE INFORMATION PAPE

Service/Agency: Department of the Ai Force.

Appropriation Account: Congressional Inquiry.

Subject: B-52 Reengining.

a. What would be the range increase realized in reengining the B-52 fleet?

Range increases are not constant, depending on altitudes flown and payloads carried The 1987 Boeing Military Airplane study determined that the range of a "clean" B-5 would be increased 66 percent. The unrefueled max range would increase from 688 to 11250 Nautical Miles (NM). In a Harpoon type mission loitering at 2,000 miles, on-station time increases from 6.5 to 16.5 hours Flying an unrefueled low-level mission wit 51 Mk-82s (488,000 lbs gross weight at takeoff), range improves from 2396 to 4250 NM (60 percent). Flying an unrefueled max range mission with 20 AGM-86Bs, range improves from 4514 to 7700 NM (77 percent) In a high-low-high mission (51 Mk-82s), B-52G would require 3.1 refueling usin 505,000 lbs fuel, while a reengined aircraf would require no refuelings and use only 251,000 lbs of fuel.

b. What would be the operational cost of reengined, conventionally tasked B-5 versus existing, conventionally tasked B-52s?

Cost savings are significant, particularl in fuel savings, since fuel costs comprise 4 percent of mission costs. It is estimated tha fuel saved on a normal training missio would equate to a 44 percent reduction i fuel costs per flying hour. In the high-low-high mission cited above, cost for fuel is reduced from $57,550.14 to $28,571.40 (base on $0.74/gal and 6.5 lbs/gal). Total cost pe flying hour would be reduced from $6005.0 to $5,464.50 due to using 23 percent less fue (tanker support costs not included).

c. What would be the operational cost of a reengined conventionally tasked B-52 versus the projected operational cost of a conventionally tasked B-1B?

No specific costs for conventionally modified B-1Bs are available: however, using standard AFR 173-13 costs, total flying hour costs for the B-1B are $15,611.00 versus an estimated $5464.50 for a reengined B-52.

d. What would be the operational cost of a reengined conventionally tasked B-52 versus the projected operational cost of a conventionally tasked B-2?

AFR 173-13 documents no operational costs for the B-2. For planning purposes, Life Cycle costs are estimated to be the same as the B-1B for planning purposes.

e. How long would it take to amortize the cost to reengine the B-52 fleet? To reengine only the B-52Hs?

The 1987 study determined amortization for 167 aircraft would take 21.1 years and 24.6 years for 54 aircraft. This is a conservative estimate. A "no frills" approach could reduce the time to just under 20 years.

f. What would be the unit cost to reengine a B-52G and a B-52H?

The unit cost to reengine either a G or an H model should range from $26 to $36 million, depending on the number of aircraft modified and required mission equipment changes. Using command (SAC) requirements currently being drafted in a Statement of Need (SON) will largely determined final unit costs.

Mr. BUMPERS. So, Mr. President, I offered language in the committee to ask the Air Force to give us a study on the feasibility of doing that. I now offer that report language. I have just discussed it with the floor managers. I now offer that report language that I offered in the committee as an addendum to the committee report that is now before us to take to conference.

Mr. INOUYE. Mr. President, we have no objection.

Mr. STEVENS. There is no objection.

The ACTING PRESIDENT pro tempore. Without objection the request of the Senator from Arkansas that the addendum be added to the committee report is agreed to.

There being no objection, the addendum was ordered to be printed in the Record, as follows:

Proposed Report Language on B-52 Modifications

The committee notes that the Air Force believes that theater CINC requirements necessitate an expanded B-52 conventional capability. To this end, the Air Force is pursuing several improvements to the B-52 fleet. The committee has received testimony from Air Force officials that they plan to maintain B-52G and B-52H aircraft in the inventory even after the B-2 is fielded.

In view of the substantial B-52 modifications envisioned by the Air Force, the committee urges the Air Force to provide a comprehensive overview of its plans for the B-52 fleet with the presentation of its fiscal year 1992 defense budget. This overview should address the requirements for B-52's, the numbers and kinds of capabilities needed, useful lifetime remaining, and options for upgrades. In particular, the Air Force should examine the costs and benefits associated with reengining some or all of our B-52G and B-52H aircraft. Range/Payload performance improvements should take into account not only savings from reduced bomber operating costs but also reduced tanker operating costs as well.

Mr. BUMPERS. Mr. President, I thank you and I thank the distinguished floor managers.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be recinded.

The PRESIDING OFFICER (Mr. Bumpers). Without objection, it is so ordered.

AMENDMENT NO. 2983

(Purpose: To require the Secretary of Defense to report to Congress on contributions made by other countries to Operation Desert Shield)

Mr. McCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCain] proposes an amendment numbered 2983.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 101, between lines 2 and 3, insert the following new section:

OPERATION DESERT SHIELD CONTRIBUTIONS BY OTHER COUNTRIES

Sec. 8099. Not later than 30 days after the date of the enactment of this Act and at the end of each 90-day period thereafter, the Secretary of Defense shall submit to Congress a detailed accounting of contributions made by other countries to Operation Desert Shield, to operations in support of the United Nations embargo against Iraq, and to other operations and efforts to counter Iraq aggression in the Persian Gulf region. Such accounting shall include contributions in cash, personnel, equipment, supplies, and of any other kind. Such reports may be submitted in both classified and unclassified form. The Secretary shall continue to submit such reports until United States forces are withdrawn from the Arabian peninsula.

Mr. McCAIN. Mr. President, the amendment that I am proposing this morning is not complicated, but it addresses a concern that the American people are expressing to all of us in Congress. They want to know the extent to which our friends and allies are sharing the burden in the gulf as we continue to be deeply involved in the crisis in the Middle East.

In all candor, when we first began to react to this crisis the silence on the part of many of our closest allies was almost deafening. It was not until about 5 or 6 weeks after this crisis began that we began to hear our most economically powerful allies began to pledge that they too would bear part of the burden. Also that response was only generated by the deep and intense feeling in this body, and across this Nation, about the deep responsibility that our allies had to contribute their fair share in bearing the burden of this crisis.

As we know, the economy in the United States is not good. In the view of some, we are bordering on a recession. Yet, the operating cost of just keeping our forces in the gulf—without any allowance for the cost of war or wear on equipment, is some $15 billion.

Mr. President, the American taxpayer should not bear that financial burden alone. American men and women should not bear that risk alone. Hopefully, they will not. There have been commitments on the part of the Japanese to some $4 billion in recent weeks, and to billions of dollars more on the part of the Federal Republic of Germany. Other friends and allies have made military commitments. It is my understanding that there are now some 11 nations that have committed military forces to some degree or another, although some of these commitments have been small.

Mr. President, the American people have a right to know what share of the burden is being borne by our allies. They have the right to know what pledges are being made good, and what commitments are actually being met. There were at least some commitments made in the crisis of the Iran-Iraq war in the Persian Gulf, that were never successfully completed.

This amendment requires the Secretary of Defense to report to the Congress on the contributions that all other nations are making by deploying forces in support of the effort to force Iraq to free Kuwait and end its aggression, or that they are making to the front-line nations that are deploying forces in the gulf. It would report on all foreign contributions of money, goods, services, and military forces. It would provide a detailed picture of which nations really are providing meaningful support and which nations are not.

The amendment also proposes that the first report be issued 30 days after enactment of the act, and that updates be issued every 90 days thereafter until U.S. forces are withdrawn from the Persian Gulf area.

I recognize that this report involves some sensitive commitments and must be classified material. Therefore, the amendment allows militarily sensitive material to be presented to Congress in classified form.

Let me make it perfectly clear, however, that the intent of this amendment is to ensure that American people will know exactly what is being

done by our friends and allies. Today, in the view of the overwhelming majority of Americans, they are not doing enough. Hopefully, this situation will change in the coming weeks, but we need to know exactly the extent of their evolving commitments. We also need to know the extent of the fulfillment of those commitments which unfortunately do not always match.

I urge the adoption of the amendment and I yield the floor.

Mr. INOUYE. Mr. President, I wish to commend my colleague from Arizona for this amendment. As he indicated, this is a measure that America demands and I think America is entitled to have. We have suggested this endeavor in the Persian Gulf is a multinational endeavor. If it is so, let us see what our multinational allies provide toward this end.

I commend my colleague from Arizona and I am pleased to advise the Chair this measure has been considered by the managers; we concur with it; we approve it.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I concur in the statement made by the chairman of our subcommittee, and I thank the Senator from Arizona for his contribution.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Arizona.

So the amendment (No 2983) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, if it is convenient to the managers of this bill, I am prepared to send an amendment to the desk and ask for its immediate consideration.

AMENDMENT NO. 2984

(Purpose: To condition funding for coproduction with South Korea of the F/A-18 aircraft on receipt by Congress of the relevant Memorandum of Understanding (MOU) and to extend the 30-day congressional review period until the MOU is received)

Mr. DIXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. Dixon], for himself, Mr. Byrd, Mr. Ford, Mr. Heinz, Mr. Shelby, Mr. D'Amato, Mr. Pell, Mr. Reid, and Mr. Biden proposes an amendment numbered 2984.

Mr. DIXON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SECTION 1. ADDITIONAL DOCUMENTS REQUIRED FOR PROPOSED COPRODUCTION OF F/A-18 AIRCRAFT.

(a) Prohibition.—None of the funds appropriated or otherwise made available by any provision of law shall be available for the export, or the licensing for export, of any items or technology to South Korea in connection with the coproduction of F/A-18 aircraft until at least 15 days after the Congress has received the proposed memorandum of understanding between South Korea and the United States regarding that coproduction and all documentation and background material, including agreements concluded through the exchange of letters, relating thereto.

(b) Extension of the Congressional Review Period.—No Presidential certification under subsection (b), (c) or (d) of section 36 of the Arms Export Control Act with respect to the sale or export of items or technology for the coproduction of the F/A-18 aircraft with South Korea shall be deemed to have been received by the Congress until the President submits to the Congress the documents described in subsection (a).

Mr. DIXON. Mr. President, as the Senate knows, on a number of occasions in the past this Senator has had some difficulty with memorandums of understanding the administration has entered into with foreign countries with respect to some of our finest technology regarding our fighting aircraft. The President and others in the Senate will recall that I was very much involved in the debate regarding the FSX memorandum of understanding with Japan. I have taken exception to certain portions of the Korean FX memorandum of understanding the administration has entered into with Korea, together with the supporting letters and documents.

The amendment I am proposing today, Mr. President, is not an amendment to disapprove of the Korean FX memorandum of understanding. It is, instead, an amendment that requires the administration to give us the memorandum of understanding and the supporting documents and other letters that have been exchanged between the two countries.

The remarkable position the administration has taken in this matter, Mr. President, has been that we should either approve or disapprove of the memorandum of understanding without ever seeing it, and despite my attempts over the last 3 weeks to obtain a copy of the memorandum of understanding and the other documents and letters that have been exchanged between the two countries that support that Korean FX memorandum of understanding, the administration has never given me the MOU.

My office and I have called innumerable times. At one point in time for a few days, we were calling two or three times a day. I have talked to the general counsel for the White House, I have talked to other people in the administration at length. To date we have not received that memorandum of understanding.

Consequently, I introduced a bill substantially similar to the amendment I am now offering to this legislation, that said that the arrangement could not be conducted in full or be officially in place until the Speaker of the House and the President pro tempore of the Senate had copies of the memorandum of understanding and the other supporting documents and letters that support that memorandum of understanding.

By negotiations with the managers of the bill, and I thank my friend, the President pro tempore and others who have been involved in this, we have now achieved an agreement. I have altered the terms of this amendment to provide for 15 days, instead of 30.

So, what this legislation that will be adopted this morning says is simply that the administration must give the Speaker of the House and the President pro tempore of the Senate the complete copy of the memorandum of understanding, all documents and letters involved in that memorandum of understanding between the two countries, and that the Congress then has 15 days thereafter to disapprove of the memorandum of understanding and supporting documents; the important consideration then being that the clock does not run until 15 days after we have fully examined the documents.

Mr. President, in connection with this amendment, I have the following cosponsors: The distinguished senior Senator from West Virginia [Mr. Byrd], the President pro tempore; the distinguished senior Senator from Kentucky [Mr. Ford]; the distinguished senior Senator from Pennsylvania [Mr. Heinz]; the distinguished senior Senator from North Carolina [Mr. Helms]; the Senator from Alabama [Mr. Shelby]; the Senator from New York [Mr. D'Amato]; the distinguished senior Senator from Rhode Island [Mr. Pell]; the distinguished senior Senator from Nevada [Mr. Reid]; and the distinguished senior Senator from Delaware [Mr. Biden].

All of these folks support this amendment, Mr. President.

Mr. BYRD. Mr. President, I am pleased to cosponsor the amendment offered by Senator Dixon and I strongly support his effort to ensure that Congress is able to exercise proper oversight of this important agreement with Korea. This amendment will make sure that we at least have the opportunity to thoroughly evaluate the merits of this deal. I want to emphasize that I am not opposing the Korean Fighter Program. I simply want to know the details. As far as I can tell from the information the Defense Department has provided, this is a typical coproduction arrangement, much like a dozen other programs the United States currently has under way. If that is the case, then it should go through with no problem, but I am not prepared to give the administration a blanket go-ahead while they steadfastly refuse to allow Congress access to important information. If the administration has nothing to hide, then why are they so reluctant to give us the full picture? They seem determined to provoke a fight with Congress.

I thought we had made it clear that the Congress had a continuing interest in this particular program and in all such coproduction and codevelopment agreements. Last year, the Senate came within 1 vote of overriding the President's veto of the FSX resolution pertaining to a somewhat similar agreement with Japan. The debate surrounding that resolution should have been ample evidence that Senators view these deals as more than simple defense transfers. Unfortunately, we seem to be back at square one. The agreement with Korea is completed, but the administration tells us that the unsigned memorandum of understanding is a confidential document because it is part of executive negotiations with a foreign power. They say that there are no surprises in the final agreement, but they will not share the details with Congress.

This situation demonstrates the administration's continued insistence that coproduction and codevelopment arrangements are purely defense transfers over which they have undisputed primacy. They are risking this agreement because they think Congress is stepping on their turf. They have yet to fully recognize the economic security aspects of these deals. One of the central arguments of the FSX debate was over the constitutional role of the Congress over foreign commerce. Article 1, section 8 of the Constitution gives Congress the authority to "* * * regulate commerce with foreign nations * * *." A 63 billion coproduction deal, involving the United States aerospace industry and a tenacious international competitor such as Korea, is clearly foreign commerce.

We have not abandoned our own responsibility under the Constitution. The President has the ability to negotiate trade agreements because Congress has given him that authority through statute. If the executive branch chooses to ignore Congress and abuse that authority, then we can just as easily revoke it.

In order to carry out our responsibilities in an informed way, we must have access to the full range of documents associated with this deal. Senator Dixon's amendment will ensure that Congress is able to fully evaluate this very important agreement.

Mr. DIXON. Mr. President, I thank the managers for their consideration of this, and I yield back whatever further time has been allotted in this debate for this side.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. But it was a codevelopment agreement. It was an agreement that involved the transfer of technological know-how to Japan, which is a country that had targeted the aerospace industry as one of the industries for the 21st century. It was an agreement that was negotiated between the United States and Japan with no input whatever from our Commerce Department or from the U.S. Trade Representative's Office. It was exclusively a Defense Department agreement. Because there was no input from those Departments of the Federal Government that have some concern for the economic well-being of the United States and because it involved codevelopment and technology transfer, we took the position that the agreement should not go forward.

My hope is that everything which occurs subsequent to the FSX debate, will not be viewed by the Senate as a replay of the FSX debate. This agreement with Korea is entirely different from the agreement with Japan. This is not a codevelopment deal. This is a coproduction deal. This is an agreement that involves the off-the-shelf purchase of 12 aircraft by Korea and the production from United States-built kits of 36 aircraft and then coproduction of another 72. There is no codevelopment.

Furthermore, unlike the FSX arrangement with Japan, the Commerce Department was in these negotiations from the very beginning. My hope is that we do not view the FSX agreement with Japan as a precedent, and my further hope is that we do not view this 15-day extension as a second precedent. The administration has been more than forthcoming in its arrangement with the Congress on this present deal. In fact, the administration did not just give us the 30-day notification that was required by law; it gave us a 50-day notification.

Did it present to us a signed memorandum of understanding? No, it did not because a signed memorandum of understanding would have represented a contractual commitment, and the U.S. bound under contract would have no reason at all for submitting it to the Congress. So it was not just the letter of the law that the administration complied with; it was the spirit of the law as well.

The concern we have is that if the Congress is going to insist on further extensions of the statutory time period, if the Congress after the fact is going to weigh it in these agreements time after time, then the ability of the United States to enter into such contracts in the future is going to be seriously impaired.

Let us face it. One of the few areas that we have going for us in our dealings with other countries in international trade is our ability to sell aircraft. So the concern that I would have is that we are further complicating what should be a reasonably straightforward business arrangement which offers no threat to the competitiveness of the U.S. aerospace industry and, further, which offers a substantial amount of jobs for American workers in the immediate future.

Mr. BOND. Mr. President, I rise to give my distinguished colleague from Illinois some good news. When he came forward today to speak on this matter, I had been in touch with the White House and have been advised that the now initial memorandum of understanding will be made available today. I have been assured that it will be available to my distinguished colleague within an hour. I think we may want to see how quickly it can get here.

I share the Senator's concern that before we approve something, we have a right to know what is in it. I think that making sure that there is no delay, but giving the Members of Congress a reasonable opportunity to see the details, makes a good deal of sense. This proposed sale is of great importance, I submit, to the United States and its close relationship with the Republic of Korea. It is also of very great interest to a region of the country that my distinguished colleague from Illinois and I both represent, the greater St. Louis metropolitan area.

This deal, which is not a development deal, it is a coproduction deal, like many others that we have previously adopted. It will mean, if approved, $4 billion in trade with Korea, 23 million man-hours for United States workers and, obviously, thousands and thousands of jobs. For the workers at McDonnell Douglas alone, it means 3 years of work for the 8,000 men and women who build the FA-18. I am sure I do not have to point out that those workers live in the States we represent. These men and women have stated to me in the past they very much want this deal approved. The men and women of local 837 in St. Louis build the finest fighter planes in the world. They want to be able to proceed with the arrangement and with the Korean fighter sale.

This deal is very different from the FSX arrangement with Japan. Unlike the FSX, the FA-18 Hornet is a fully developed fighter. No changes will be made to the plane beyond those necessary to make it adaptable to the Korean Air Force. No development or design work will be transferred to Korea. High technology items are excluded from coproduction. The radar, countermeasures and avionics, for example, will be completely produced in the United States.

We have entered into coproduction deals like this many times in the past. In fact, this deal is similar to the sales we are currently participating in with Spain and Canada on the FA-18 and Turkey on the F-16. I reveiw these matters simply to point out that there are no special provisions regarding this sale. It is obviously subject to the rules of the Arms Export Control Act with its procedures. We have had notification from the President of the intent to go forward with the deal.

I am pleased, as I said just a few moments ago, to be able to advise my colleague and the rest of our coalition that we will have the memorandum of understanding now initialed available for scrutiny. I believe that once we have had a chance to look at this measure, there will be no further need to hold up this sale, because certainly, the continued defense needs of the United States and our ally, the Republic of Korea, are of vast importance. It also is extremely important to the continued health and well-being of the jobs that are created in the St. Louis metropolitan area by those men and women who work on the FA-18 and the other fine aerospace equipment that is developed there.

For those reasons, I suggest, I believe that the concerns the Senator from Illinois has raised are being addressed, and I thank him for his understanding of the delays and the administrative difficulties that we have encountered in making this MOU available. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I thank my dear friend and colleague from the State of Missouri. People in my part of the world well know that St. Louis, MO, is an important suburb of Belleville, Il, and has been for many decades. So I am very conscious of the importance of McDonnell Douglas, since folks in my region work there as well.

May I say to my friend, as I have said so many times, that if the memorandum of understanding is satisfactory with respect to the fact that we are not giving up any of our hot technology, if the offset requirements are not more than 30 percent, as I expect they will not be, and if other matters in the memorandum of understanding are in line, we will probably have no problem with it.

I want to thank my friend from Missouri for reporting to me that Fred McClure says within the hour I will have this memorandum of understanding.

I just want to point out, Mr. President, to you and to the Senators on the floor and Senators who may be watching us now as we go along with this debate that for 3 weeks I have been talking to Mr. McClure and Mr. C. Boyden Gray about this, calling several times a day. For 3 weeks we have not received that MOU.

The point I wanted to make here—and I thank my friend from Missouri for whatever assistance he has accorded in seeing to it we are now getting this memorandum of understanding—the law provides we approve or disapprove of these MOU's, and the administration was taking the remarkable position that Senators could not see it. If a member of the Armed Services Committee, who is chairman of the Subcommittee on Readiness, cannot see the memorandum of understanding and the supporting documents and the letters that provide the agreement between the two countries, then obviously Members of the Congress cannot act intelligently on what is transpiring.

So I thank my friend for indicating that within the hour we will have the MOU. We will look at it at once. As soon as we have examined it, we will be glad to comment about it publicly.

If there is no further discussion on this, and the managers are ready, I would like to have this amendment adopted at this point in time.

Mr. INOUYE. Mr. President, I have been advised that the senior Senator from Missouri wishes to be heard on this matter.

He is here.

Mr. BOND. Mr. President, while our colleagues are conferring, I might just add one or two words. I will be more than happy to yield to my distinguished senior colleague, but I assure my friend from Illinois that the telephone logs in the White House will probably reflect as many telephone calls from the junior Senator from Missouri and the senior Senator as from my colleague. The wheels of justice, it has been said, grind exceedingly slow. They still probably look like record-setting track stars compared to some wheels in administrative circles. But I do believe that the questions will be resolved.

I would hope that after the MOU is made available to my colleague, and any others who wish to see it, that the matter could be dropped in conference because the Arms Export Control Act does provide a means for dealing with these sales. If we wish in the future to clarify that law for requiring that MOU's be provided, we would be happy to look at deals in the future to make sure the procedures are followed to afford full availability of the documents to Senators. I hope we will do nothing which will interfere with the sale, assuming of course that the memorandum of understanding does meet the criteria which have been set out here and which my colleague on the Armed Services Committee feels are important.

Mr. DANFORTH. Mr. President, I understand that Senator Dixon has agreed to modify his amendment and that the current form of it is to provide a 15-day period to review the memorandum of understanding and that this has been pretty well worked out. I will reluctantly go along with the agreement, although I am disturbed about the present state of affairs.

I was an ally of the Senator from Illinois in the great controversy relating to the FSX sale to Japan. That was a major battle on the floor of the Senate. We ended up losing that battle by a single vote. That was one where Senator Dixon and I were in total agreement about the problem. The problem of the FSX agreement was that it was not just a coproduction agreement,

I am willing to go along with this agreement, as I understand it; but I must say, Mr. President, I am not at all happy about it, and my hope would be that, in the future, Congress would not be monkeying around in every single transfer of aircraft that comes up.

The PRESIDING OFFICER. Is there further debate?

Mr. INOUYE. Mr. President, the managers of the bill have had the opportunity to inspect and study the amendment. We are prepared to accept it.

Mr. STEVENS. Mr. President, the amendment is acceptable on the basis of the statements that have been made by the Senator from Missouri. It is my understanding that would be complied with by this afternoon and, if it is, I assume also that they could dispose of the amendment with ease in conference. In order to assure compliance with the request of the Senator from Illinois, we have no objection to the amendment.[S15OC0-T1]{S15241}amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2984) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DIXON. Mr. President, I thank the managers and my colleagues from Missouri.

AMENDMENT NO. 2985

(Purpose: To amend section 8049 of S. 3189, the FY 1991 Department of Defense appropriations bill)

Mr. INOUYE. Mr. President, I send an amendment to the desk on behalf of Senator Rudman and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. Inouye] for Mr. Rudman, proposes an amendment numbered 2985.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 62, beginning on line 3, strike from "making use of" through "Air Force," on line 4.

Mr. INOUYE. Mr. President, this amendent has been studied by the managers. We agree with the content and are ready to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendemnt (No. 2985) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Kerrey). Without objection, it is so ordered.

AMENDMENT NO. 2986

(Purpose: Technical amendment to clarify properties available for purchase from Federal agencies)

Mr. STEVENS. Mr. President, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. Stevens], for himself and Mr. Inouye, proposes an amendment numbered 2986.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert:

Sec. . (a) Section 12(b)(7) of the Act of January 2, 1976, as amended (Pub. L. No. 94-204), is further amended as follows:

(1) in subsection (i)(a) by:

(A) deleting the word "surplus" following the phrase "any other bidder for",

(B) inserting the phrase "as defined in subsection 12(b)(7)(vii)," following the word "property" the first time it appears in the subsection,

(C) deleting the phrase "Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), as amended." and inserting in lieu thereof the phrase "applicable laws and regulations of the Federal agency or instrumentality offering such property for sale.", and

(D) deleting the phrase "for General Services Administration surplus property under this subparagraph and no additional advertising shall be required other than that prescribed in title 40, United States Code, section 484(c)(2) of the Federal Property and Administrative Services Act;" and inserting in lieu thereof the phrase "on property under this section 12(b)(7). There shall be no adversity other than that ordinarily required by such sale.".

(2) in subsection (iv) by:

(A) deleting the phrase "Federal surplus property" and inserting in lieu thereof the phrase "property, as defined in subsection 12(b)(7)(vii),",

(B) inserting the phrase "12(b)(7)" immediately preceeding the phrase "(i) or (ii)",

(C) inserting the phrase "12(b)" following the phrase "document referred to in this subsection", and

(D) inserting the phrase "or payments of forfeited deposits, penalties, or other assessments imposed under a valid bid or sales contract on Cook Inlet Region, Incorporated" immediately preceding the period at the end of the subsection.

(3) in subsection (v), by deleting the phrase "subsection (iv)" and inserting in lieu thereof the phrase "subsection 12(b)(7)(iv) for sales or transfers of property made pursuant to the Federal Property and Administrative Services Act of 1949, 40 U.S.C. sec. 471 *et seq.*, or any legislative or executive delegation under that Act,".

(4) adding at the end thereof the following new subsections:

"(vii) Notwithstanding the definition of "property" found in the Federal Property and Administrative Services Act of 1949, as amended, as used in this section 12(b)(7), "property" means any property—real, personal, or mixed—owned, held, or controlled by the United States (including that in a corporate capacity or as a receiver or conservator, or such other similar fiduciary relationship), and offered for sale by any agency of instrumentality of the United States, including but not limited to the General Services Administration, Department of Defense, Department of the Interior, Department of Agriculture, Department of Housing and Urban Development, the United States Courts and any government corporation, agency or instrumentality subject to chapter 91 of title 31, United States Code; real property means any land or interest in land or option to purchase land, any improvements on such lands, or rights to their use or exploitation.

"(viii) Any charge against the property account and any transfer of funds from the property account heretofore made for the purpose of consummating any prior sale or making a deposit or other payment to bind any contract of sale or paying any forfeiture of deposit, penalty or assessment is hereby authorized, ratified and affirmed."

(b) Section 9102 of the Department of Defense Appropriations Act, 1990 (Pub. L. No. 101-165, 103 Stat. 1151), is amended as follows:

(1) in subsection (b)(1), by deleting the phrase "(b)(2)" and inserting in lieu thereof the phrase "(a)(2)",

(2) subsection (d) is amended to read as follows:

"(d) Agency Defined.—In this section the term "agency" includes—

"(1) any instrumentality of the United States, or

"(2) any element of an agency, or

"(3) any wholly owned or mixed-owned United States Government corporation identified in chapter 91 of title 31, United States Code."

(3) by adding at the end thereof the following new subsections:

"(e) Property Defined.—Notwithstanding the definition of "property" found in the Federal Property and Administrative Services Act of 1949, as amended, in this section the term "property" includes any property—real, personal, or mixed—owned, held, or controlled by the United States (including that in a corporate capacity or as a receiver or conservator, or such other similar fiduciary relationship), and offered for sale by any agency or instrumentality of the United States, including but not limited to the General Services Administration, Department of Defense, Department of the Interior, Department of Agriculture, Department of Housing and Urban Development, the United States Courts and any government corporation, agency or instrumentality subject to chapter 91 of title 31, United States Code; real property as used in this section means any land or interest in land or option to purchase land, any improvements on such lands, or rights to their use of exploitation.

"(f) The Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish procedures to permit the accounts described in subsection (a)(2) to receive deposits, to make deposits into escrow when an escrow is required for the sale of any property, and to reinstate to such accounts any unused escrow deposits if sales are not consummated."

Mr. STEVENS. Mr. President, during the consideration of the 1988 military construction appropriations bill, language was included in that bill to permit the Cook Inlet Region Inc. to use bidding credits it received in lieu of its land entitlement under the Alaska Native Claims Settlement Act, to acquire Federal properties from the Department of Defense and other agencies. Similar legislation had already been enacted to enable the

Hawaii homesteaders to use credits they received in settlement of a land dispute with the National Park Service. Those were credits that were received in a similar manner for the Hawaiian people.

When it was discovered that the Department of Defense only had authority to accept cash for certain properties and therefore could not accept the Hawaii and Alaska credits, Chairman Inouye and I included an amendment in last year's bill to resolve the problem. The amendment provided that the Hawaii and Alaska accounts could be used the same as cash "for all purposes (including use for purchase) involving any public sale of property by an agency of the United States" (Public Law No. 101-165, section 9102). The conference report made clear that "the groups will be able to acquire property from agencies (for example the Departments of Defense and Housing and Urban Development) and instrumentalities (for example, the Resolution Trust Corporation) * * *."

We have since been advised that the Department of the Interior will not release funds from the Hawaii and Alaska accounts for purchase of certain properties because of further technical problems. This amendment that I offer on behalf of myself and the Senator from Hawaii [Mr. Inouye] was worked out in consultation with the Department of the Interior to resolve those technical Infirmities. In essence, the amendment simply defines the terms "property" and "agency" included in the original 1989 legislation. The amendment will provide the Interior Department with the guidance it needs to approve use of the Hawaii and Alaska accounts for acquisition of all Federal properties from all Federal agencies that are available in the bidding process.

I do thank the chairman for his help and leadership in resolving the problem for his people in Hawaii and assisting me in resolving the problem for my people of Alaska. By clarifying Congress original intent, this language will enable the Federal Government to finally fulfill its obligation to both the Hawaiian and Alaskan people pursuant to these previous pieces of legislation.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I am pleased to support this measure.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 2986) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, in response to several inquiries submitted by our colleagues, I wish to make the following announcement: Senator Stevens and I intend to call for the third reading of this measure by 7 p.m. this evening. We have the following amendments by Senators still pending:

One by Senator Leahy. We have agreed with him to set aside an hour and a half, equally divided, and at the end of the debate an up or down vote. Mr. Leahy's amendment relates to the B-2 bomber.

After that, we hope to take up an amendment by Senator Conrad, which proposes to reduce European end strength by an additional 30,000. That should take about an hour, equally divided.

We have pending, after Mr. Conrad's amendment, an amendment by Senator Kennedy referring to the Angola situation; followed by one by Senator Riegle on international economic burdensharing; and, finally, one by Senator Sanford on the matter of woodpeckers at Fort Bragg.

We have no other amendments beyond that. We assume that it should not take beyond 7 o'clock this evening.

If Senators have amendments, I hope that they will bring them up immediately. Otherwise, we are prepared at 7 o'clock, as I indicated, to go to third reading.

Mr. President, I ask unanimous consent that the following amendments be the only amendments remaining in order to the bill S. 3189:

By Senator Leahy, referring to the B-2; by Senator Inouye, to amend Federal prison industry statute for DOD contracting; by Senator Conrad, to reduce European end-strength by 80,000; by Senator Kennedy, relating to Angola; by Senator Riegle, relating to international economic burdensharing; by Senator Sanford, relating to red woodpeckers at Fort Bragg; by Senators Symms and McClure, on SHIPCO; by Senator Bond, on the F-15E; by Senator Nunn, on DOD authorization; by Senator Grassley on Sealift; by Senator Specter, on multinational drug force; by Senator Conrad, on burdensharing in Japan; and by Senator Symms, on assault ballistic rocket systems; that no motions to recommit be in order; that relevant second-degree amendments be considered in order; and that all provisions of the previous unanimous-consent agreement remain in effect.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, and I shall not object, I note that means there are 13 amendments to be taken up on this bill, and it is now 1:05 p.m.

I hope that the Members who are going to offer these amendments will come forward now and give us some reasonable time restraints on the amendments. Otherwise, there are several that are substantial amendments; they were debated previously on the authorization bill. If we took the same amount of time that they took on the authorization bill we would be here to about 3 a.m.

I hope that we will not have to go through the same debate again and again and that we can get some time limits. I know my good friend from Hawaii would welcome such a development.

I will not object, but I do hope that Members would agree that we can have a half-hour time limitation on these amendments, unless there is something new that has not been discussed before.

I do not object, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2:15 P.M.

Mr. INOUYE. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate stand in recess until 2:15 p.m.

There being no objection, the Senate, at 1:07 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Acting President pro tempore [Mr. Robb].

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SANFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1991

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2987

Mr. SANFORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. SANFORD] proposes an amendment numbered 2987.

Mr. SANFORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

"If there are any unexpended funds in the fiscal year 1990 Operations and Maintenance account, such funds up to the amount of $400,000 shall be made available for the environmental protection program at Fort Bragg, North Carolina, to be used to fund Fort Bragg's efforts to ensure the protection of the endangered red-cockaded woodpecker."

Mr. SANFORD. Mr. President, I would like to commend our colleague, Senator INOUYE, for the fine work he has done to bring this appropriations bill to the floor. I also would like to express my support for a new initiative that appears in the Department of Defense appropriation bill, the Legacy Resource Management Program.

I am pleased with the development of the Legacy Resource Management Program. This program is designed to give the Department of Defense the resources it needs to become the steward it should be of the lands and natural resources it controls. As the committee report for this bill notes, the Department of Defense controls over 25 million acres of land containing a wealth of plants and animals, as well as historical sites. A number of animals on the Federal endangered species list live on lands controlled by the Department of Defense. I applaud the efforts of Senator INOUYE in formulating the Legacy Program and I urge each of my colleagues to offer their support to this program

In my home State of North Carolina there are six Department of Defense installations, all of which are on lands rich with resources. Fort Bragg, for instance, contains one of the largest undeveloped longleaf pine forests in the Southeastern United States which is home to the second largest concentration of red-cockaded woodpeckers in the world. Estimates suggest that 1,100 red-cockaded woodpeckers live in 284 active colonies at Fort Bragg in the North Carolina sandhills.

The red-cockaded woodpecker is provided protection under the Endangered Species Act of 1973. The Fish and Wildlife Service issued a report commenting on the environmental dangers of the military activities at Fort Bragg and made recommendations to improve the protection of the woodpecker.

Fort Bragg has been taking extraordinary measures to develop and implement a plan to protect the red-cockaded woodpecker and has diverted funds from its other activities to comply with the findings of the Fish and Wildlife Service. The Legacy Program establishes a fund for environmental protection at military installations, and addresses the environmental needs of DOD-owned lands across the country. Fort Bragg has been very conscientious in carrying out its environmental protection plan, and the Legacy Program will recognize such efforts and work with the various military bases in safeguarding the environmental resources of the United States.

Fort Bragg is developing a management plan, in consultation with environmental groups, to protect the red-cockaded woodpecker and other endangered species but has been given no additional funds to implement the plan. The Army's efforts in this area are restricted by available resources. Fort Bragg needs an additional $400,000 in this current fiscal year to ensure that the environmental management plan is fully developed and implemented. However, I have been told that there are no more fiscal year 1990 funds available in the operations and maintenance accounts. Therefore, I have offered an amendment to the Department of Defense appropriation bill, requesting up to $500,000, be made available for the environmental protection program at Fort Bragg, NC, in fiscal year 1991. I believe this amendment recognizes the need at Fort Bragg to protect the red-cockaded woodpecker. My request for $500,000 is a modest amount to be made available from the Department of Defense for the protection of this endangered species and the implementation of an important environmental management program.

I commend the efforts of Senator INOUYE in developing the Legacy Resource Management Program and the efforts the Army has made to protect the red-cockaded woodpecker at Fort Bragg. I hope that our concern for the priceless natural resources on our military installations continues.

Mr. President, I would also like to commend our colleague, Senator INOUYE, for the fine work he has done to bring this appropriations bill to the floor and to ask him for some clarification regarding one program outlined in the bill.

As I have stated, I am very pleased with the development of the Legacy Resource Management Program. This program is designed to give the Department of Defense the resources it needs to become the steward it should be of the lands and natural resources it controls. As the Committee Report for this bill notes, the Department of Defense controls nearly 25 million acres containing a wealth of plants and animals, as well as historical sites. A number of animals on the Federal endangered species list live on lands controlled by the Department of Defense.

The report notes that the Legacy Resource Management Program is to concentrate principally on in-situ preservation.

I would like to know if it is the committee's intention that the Legacy Resource Management Program is supposed to encompass and fund efforts like those currently underway at Fort Bragg, NC, to protect the endangered red-cockaded woodpecker?

Mr. INOUYE. The Senator from North Carolina is correct. The Legacy Resource Management Program is designed to, among other things, support efforts by our bases to carry out programs to protect endangered species such as the red-cockaded woodpecker.

Mr. SANFORD. I thank my colleague. As my colleague knows, the Fish and Wildlife Service recently issued a report commenting on the environmental dangers of military activities at Fort Bragg and made recommendations to improve endangered species protection. Fort Bragg has been acting on those recommendations, but has been given no additional funds to implement them. Current estimates are that Fort Bragg needs $400,000 for the current fiscal year and $500,000 for fiscal year 1991 to ensure that its environmental management plan is implemented. I believe that this is a modest amount of money for the protection of this endangered species and the implementation of an important environmental management program. Am I correct that the funds appropriated for the Legacy Resource Management Program could be used to support this $500,000 effort in fiscal year 1991 at Fort Bragg?

Mr. INOUYE. The Senator from North Carolina is correct.

Mr. SANFORD. I thank my colleague from Hawaii, and I appreciate his efforts to fund this important program within the Department of Defense.

Mr. President, it is my understanding this amendment has been accepted by both sides.

Mr. INOUYE. Mr. President, the managers of this bill have studied this, and we concur with it.

The ACTING PRESIDENT pro tempore. Is there further debate? If there be no further debate, the question is on agreeing to the amendment of the Senator from North Carolina.

So the amendment (No. 2987) was agreed to.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the

order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I wish to address myself to this pending measure and my concern about the dollars involved in it. This bill, together with the appropriations bill that funds nuclear weapons production, will allocate $297 billion for the Pentagon next year. That is $3.1 billion more than the budget resolution passed by the Senate last year. It is $1.5 billion more than the budget resolution passed by the House. It is $1.5 billion more than was provided in the Defense authorization legislation passed by the House. It is exactly the same amount that we provided in outlays last year. It is not a cut in the defense budget.

What has happened to all the talk about the peace dividend? I am aware of the fact we need funds for that which is occurring in Saudi Arabia. We are not talking about that. We are talking about an overall defense budget, and that is a separate issue entirely.

Later this week we will adopt a budget reconciliation bill that will cut health insurance benefits for the aged; it will raise taxes on middle- and lower-income families; it will cut student loan and other important programs that benefit our children. But we are not going to hurt the Pentagon; the Pentagon will remain strong and solid, and we are not going to cut back on defense spending. They will still get everything they want.

This bill still continues the largest peacetime military buildup this country has ever seen. Why? The B-2 bomber is intact; the Trident submarine continues to be built; the Sea Wolf submarine continues to grow; star wars. They are all in here. I could go on with a host of others. The bill has $3.8 billion for star wars, $1 billion more than the House and Senate defense authorization conferees recently agreed to. This bill has the AMRAAM missile even though it does not work. It is nonoperable; the MX missile. You name it.

This bill has money in it for every one of those programs, whatever the weapon. It has billions of dollars for strategic weapons to be targeted on the Soviet Union. We do not need those weapons. While we stand here, our allies in Germany are paying for the cost of maintaining Soviet soldiers in Eastern Germany, and we are procuring weaponry to go to war with the Soviet Union. We do not need those weapons. If you do not believe me, listen to what others are saying. Richard Perle, the former Assistant Secretary of Defense under President Reagan, formerly known as the hardline prince of darkness, says it is no longer possible to imagine a cohesive Warsaw Pact invasion. He says, we ought to cancel the MX, Midgetman missile, the advanced tactical fighter and slow down SDI.

Former Secretary of Defense, James Schlesinger, agrees the Warsaw Pact's role as an alliance and a military threat has largely been broken.

Former Secretary of Defense, Harold Brown, says we ought to limit SDI to research only, cut troops in Europe, and mothball some of our aircraft carriers. Even John Lehman, the architect of Reagan's 600-ship Navy effort, now says the active Navy can make do with 450 ships. There is a consensus out there, but the consensus here is just to throw more and more and more dollars at the Defense Establishment.

This bill only cuts $9 billion in real dollars from the baseline. Three percent, 3 percent. That is peanuts, when you are talking about a $297 billion appropriations bill. This bill equals last year's outlay level of $297 billion.

This bill preserves the most expensive, the most unjustified weapons system ever to be fobbed off on the American taxpayers—the B-2 bomber. The Air Force repeatedly has been unable to justify the need for this airplane. Had we cancelled the B-2, we would have saved the American taxpayers some $34 billion over the next 6 years.

Put it in perspective. Do we need those B-2's? Two B-2 bombers would pay for the entire Head Start Program for a year, or cover the entire budget for the National Cancer Institute. One-and-a-half B-2 bombers would cover the cost of the entire range of Federal drug and alcohol abuse treatment grants. Really, will 1½ more bombers mean more to this country, to the 240 million Americans, or would doing more with respect to drug and alcohol abuse treatment mean more to the country?

I think the American people, given a chance to vote, would say skip that extra 1½ B-2 bombers. The drug problem and the alcohol abuse problem is a much more serious one and a much greater threat to this country. The cost of one B-2 bomber is equivalent to what the Environmental Protection Agency spends for pollution abatement control and compliance.

The American people and the world are crying to do something, to do more about our environment and about the pollution that we live with. We battle to a fare-thee-well on the floor with respect to a pollution bill. We go back and forth and go to conference, and it is a tremendous battle to look for a little bit of money to do the job. One B-2 bomber is equivalent to the cost of the EPA's entire pollution abatement and control and compliance.

What about the issue of troops? For 45 years the taxpayers of the United States have paid more money out of their pockets to defend Europe than all the taxpayers in Europe combined—$160 billion each year. We spend more defending them then they spend defending themselves. That is almost $700 for every man, woman, and child in America.

How pleased I am that the distinguished Senator from North Dakota will shortly be offering an amendment on this very subject, which I support. I am proud and pleased he is going to do so. I believe they will have difficulty carrying the amendment, but this whole question of keeping our troops, 310,000 of them in Europe, and in Southeast Asia, keeping our troops all over the world to defend other nations, while these nations are clobbering us economically, does not make sense.

To repeat what I said the other day, our troops are in Saudi Arabia, defending Saudi Arabia, and the Saudi Arabians are contributing something like $6 billion to the cost of Desert Shield. Meanwhile, they are picking up about $4 million a month extra in added oil charges. And they are devastating the American economy and other economies throughout the world.

Just the other day we sent a letter—over 51 of us in the U.S. Senate—to the President of the United States, asking the President to call upon the King of Saudi Arabia to bring down the price of oil, because the price of oil is doing such great harm to this Nation and the people of this country. While we are defending his nation militarily, he is doing great harm to our Nation economically.

Some would say, how can he do it alone, and I say that the King who controls 20 percent of the total world's oil supply—and he just today announced a new discovery with untold numbers of billions of barrels of oil—is in a position to say, we are reducing our price. My opinion is, that would have a real depressive effect upon oil prices throughout the world and certainly would be helpful to the American economy.

Mr. President, I come back to the question of our subsidizing the cost, paying for the cost of our troops in Europe. It is an outrageous subsidy. Their standard of living in Europe is higher than ours. Their health care is free. Their education is free. Their day care is free and provided at government expense. They are cleaning our clocks economically, and we are paying for our 310,000 troops to be stationed in Western Europe to defend them.

What does this bill do? It reduces U.S. troop strength in Europe by a minuscule amount, 50,000 troops, out of 311,000 U.S. combat troops stationed there. Nine months ago, President Bush announced that he wanted to withdraw 80,000 troops. What is the reason for further delay? Let us get it done.

We need to refocus our defense priorities. We are facing a whole new set of threats: regional dictators like Hussein; worldwide economic competition from our allies. We have lost millions of manufacturing jobs in steel and automobiles and electronics in the past decade because we have neglected to make crucial investments in education, retraining, and other domestic priorities; in 10 years we have built an additional trillion-dollar debt and pushed it off on our children and grandchildren. What a tragedy.

I am going to vote against this bill because it is fat. It is a letdown of the American people. It is more of the same, and we in this country cannot afford that anymore.

Mr. President, I yield the floor.

Mr. INOUYE. Mr. President, I wish to advise one and all that we still have 13 amendments to consider. The work has to be concluded this day. On Friday, the 19th of this month, at 12 midnight, the goblins and witches will appear once again if we do not get down to business. So I suggest that we take up the amendments at this time.

I am pleased to note that Senator CONRAD is here, and if Senator CONRAD is ready, we are ready here.

Mr. COHEN. Mr. President, will the Senator yield for a question?

Mr. INOUYE. Yes.

Mr. COHEN. I understand there are two amendments to be offered by Senator CONRAD. Is the sequence then to be the Senator from Vermont to offer an amendment on the B-2?

Mr. INOUYE. I just discussed this matter with Senator LEAHY, and he intends to follow Senator CONRAD.

Mr. COHEN. I thank the Senator.

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes Senator CONRAD.

AMENDMENT NO. 2988

(Purpose: To limit the use of appropriated funds for maintaining United States military personnel in NATO member countries in Europe)

Mr. CONRAD. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD], for himself Mr. REID, Mr. METZENBAUM, and Mr. PRESSLER, proposes an amendment numbered 2988.

Mr. CONRAD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 101, between lines 2 and 3, insert the following:

SEC. 8099. None of the funds appropriated by this Act may be used for the purpose of supporting an end-strength level, as of September 30, 1991, of—

(1) members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization (NATO) at any level greater than the number equal to 80,000 less than the end-strength level, as of September 30, 1990, of members of the Armed Forces of the United States assigned to permanent duty ashore in such nations; and

(2) members of the Armed Forces of the United States at any level greater than 1,946,405.

(b) It is the sense of Congress that (1) a declaration of war by Congress or a declaration of a national emergency by Congress or the President authorizes the President to obligate and expend funds appropriated by this Act for the purpose of supporting any end-strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization (NATO), and any total end-strength level of members of the Armed Forces, that is necessary to prosecute the war or to resolve the national emergency, (2) any amount that is obligated subject to full reimbursement of the United States by any European member nation of NATO should not be considered as obligated in violation of subsection (a), and (3) an obligation of any amount for the purpose of supporting an end-strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO in order to carry out a comprehensive agreement entered into by the United States and its NATO allies and the Soviet Union and its Warsaw Pact allies on the reduction of conventional armed forces in Europe (CFE) should not be considered as an obligation in violation of subsection (a).

Mr. CONRAD. Mr. President, I am offering this amendment which I offered earlier on the Defense authorization bill. This amendment does three things.

First, it reduces our forces in Europe by 30,000 in addition to the 50,000 reduction called for in the committee bill. That will take our strength level in Europe to 231,000, which leaves us with a troop strength above the 225,000 level being discussed at the conventional force talks in Europe.

Second, this amendment would require the demobilization of those 30,000 troops, taking our end-strength level from 1,973,000 to a 1,946,000.

Third, this amendment would authorize the President to waive the ceiling if national security interests dictate.

Mr. President, as I indicated, this amendment is identical to the amendment that I offered on the Defense authorization bill. I received 40 votes when I offered it to the Defense authorization. Some of my friends have asked why are you offering it now on Defense appropriations. Simply, I believe that intervening events make it even more apparent and more clear that it is time to take this step.

I think the distinguished Acting President, who knows so clearly what is happening with the projections of our budget deficit here at home, recognizes that in the intervening period the estimates of the Federal budget deficit for this year have skyrocketed. When we started working on this budget, the President told us we would face a budget deficit this year of some $64 billion. That estimate is increased almost weekly so that we are at a point today where the President tells us without action the budget deficit for fiscal 1991 will be $293 billion. That does not count the fact that the Social Security surplus is being taken to reduce the apparent size of the deficit and that in fact if the trust fund surpluses were taken into account we would be facing a budget deficit of over $400 billion.

Mr. President, we are not able to pay our own bills and yet we are paying the bills for others. We are overpaying almost $100 billion a year of Europe's bills for their defense. We are paying nearly $50 billion a year for Japan's defense. We have to borrow the money from them to do it.

It does not make any sense.

Mr. President, several weeks ago West Germany announced that they will be spending nearly $8 billion over the next 4 years to pay the Soviets to keep their troops in East Germany; this at the very time that we are spending nearly $100 billion a year to defend West Germany against the Soviet troops in East Germany.

Let me just repeat that, Mr. President: West Germany will be paying nearly $8 billion to pay for the Soviet troops to stay in East Germany while we are spending $100 billion a year to protect West Germany against the Soviet troops in East Germany.

It does not make any sense. We wonder why we cannot pay our own bills. We wonder why we have seen a tripling of the national debt in the last 10 years. We wonder why we see a national deficit out of control. We wonder why this country cannot meet its urgent domestic priorities.

I submit to my colleagues and I submit to the American people the key reason we are not able to pay our own bills, to balance our own budget, to meet the domestic priorities of this country, is that we are so busy out paying the bills for everyone else—$100 billion a year for Europe, nearly $50 billion a year for Japan—and still it goes on.

Mr. President, I note, as I did in my argument on this matter in the authorization bill: President Eisenhower, 30 years ago, upon leaving office, said this: "For 8 years in the White House I believed that a reduction of American strength in Europe should be initiated as soon as European economies were restored. I believe that time has now come for withdrawing some of those troops."

Those were the comments of President Dwight D. Eisenhower 30 years ago, 30 years ago, Mr. President, and as of this day we still retain over 300,000 troops in Europe. There are over 500,000 people on our payroll in Europe. That is the biggest economic development project in the world being maintained at the expense of the American taxpayer. And, Mr. President, we cannot pay our own bills and we are over there doing this at a time when Europe is resurgent, Europe is on the move, Europe is beating us in terms of competition for international markets.

They are well able to pay their own bills, Mr. President, and it is time for us to insist that they do.

The Europeans themselves recognize that it is time for them to pick themselves up by their own bootstraps on the question of defense. Let me quote from the Economist, a respected European publication that said 2 years ago:

> Two hundred and forty-one million Americans with an income a bit over $4 trillion do not see why 374 million Europeans with nearly $3.5 trillion should need 300,000 American servicemen and about $100 billion a year of the American defense budget to guard them.

They are right. They are right when the Economist suggests that it is time for Europe to pay for their own defense and time for America to allow the baton to pass and time for America to start saving that money so that we can pay our own bills and so that American can get back on a course that will lead to fiscal restraint and fiscal responsibility.

Mr. President, I have believed for some time that the greatest threat to America's security is our economic vulnerability, and we are faced with a package today that says we are going to reduce that $293 billion deficit to $253 billion. After we have taken the action that was outlined by the summit agreement, we will still be left with a deficit larger than any we have faced. The question is: When do we take action? What action do we take?

Mr. President, it is clear to me that one of the major opportunities for spending reduction is to say to our European friends, "You take up this burden. You have experienced an enormous economic resurgence, and at that very moment when you are ready to take on a greater burden, the forces on the other side have virtually collapsed."

We have witnessed the collapse of the Warsaw Pact. President Bush has acknowledged as much himself. Other leading defense advocates have done the same. The fact is the warning period in Europe for an attack by the Warsaw Pact, which has disintegrated, has been altered so dramatically that we are now told that warning time, which was once calculated to be 2 weeks, has now been stretched to 12 to 18 months.

President Gorbachev announced in December 1988 that the Soviets would unilaterally cut their armed forces by 500,000 men, 250,000 of those out of Europe alone. In January, CIA Director William Webster confirmed that significant cuts are being made by the Soviets. Large numbers of Soviet troops are being removed from Warsaw Pact countries; 75,000 from Czechoslovakia by July of next year; 65,000 from Hungary by June of next year. In fact, half of those troops from Hungary have already been removed. We have seen German reunification, and, even more remarkable, the Soviets removed any objection to united Germany's staying in NATO.

Mr. President, that forms the backdrop for the decision we are about to make today. It seems to me that it is time to respond to changing reality. America can no longer afford to pay others' bills when we cannot pay our own. We have seen a massive change in global reality. The Warsaw Pact has collapsed. Europe is resurging economically. The United States deficit has grown geometrically.

How do we respond? I submit to my colleagues that one response should be to bring home 10 percent of our troops in Europe over and above the reduction called for in the committee bill, a small step but a significant signal to our friends in Europe that they need to take on a greater share of this common burden. The time is now.

I ask my colleagues to carefully review this proposition. This does not undermine anything. It does help us begin to strengthen America by reducing this burgeoning budget deficit. Mr. President, it seems to me this is a prudent step and one that we ought to take.

I ask unanimous consent that Senator REID, Senator METZENBAUM, and Senator PRESSLER appear as original cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. I yield the floor.

Mr. INOUYE. Mr. President, at first glance, this amendment appears to be a very simple one. It just calls for the reduction of our forces by 130,000. But let me remind my colleagues that this is not a numbers amendment. It is an amendment that involves men and women, citizens of the United States.

Second, the matter that we are now discussing is a matter which is being negotiated by the President of the United States, together with the chiefs of state of NATO countries and the Soviet Union, a reduction of conventional forces in Europe.

Let us speak first of the numbers. On paper, it would appear to be a prudent thing to do, to cut down our troops and thereby save money. Keep in mind that, if you sign up for the Army, you are signing up for 3 years or more; for the Navy, 4 years or more; for the Air Force, 4 years or more. All of our men and women in uniform are volunteers. Nothwithstanding all the parades in which we participate, all the flags that we wave, most Americans do not want to put the uniform of our country on their shoulders. They want someone else to do the service; we will wave goodbye to them. Ask your neighbors how many of their college graduate sons are signing up. Very few.

Now we come to the numbers. A GI signs up for 3 years. He makes his plans for 3 years. Then he and his wife confer, and they say, "Well, since we have medical benefits, maybe it is a good time for you to get pregnant." She gets pregnant. This amendment passes, and he gets thrown out. What insurance company is going to cover his wife, 4 months pregnant? No insurance company will cover that. So we now have in our authorization bill an extended health benefit bill. That will be billions of dollars.

Since you are signing up for 3 or 4 or 6 years, you make plans accordingly. Under ordinary circumstances, if you enlistment is for 4 years, at the end of 3 you begin thinking about the future. And if you plan to leave at the end of 4 years, you are looking around for work to do, for employment, so your transition is a smooth one. But if the separation is involuntary and abrupt, you suddenly find yourself not being able to make plans for the future. So we have in the authorization bill an involuntary separation pay proposal, again billions.

Most of the men and women who will be cut as a result of these amendments are the lower ranking enlisted personnel. These are men and women who will find it very difficult to find jobs in the private sector. Many of them joined up because they were not able to get employed in the first place.

So what happens? Unemployment compensation, welfare payments. And there is a corrollary between unemployment and crime. Crime costs will go up. Mr. President, under the most conservative estimates, reductions of this nature will result not in savings, but in increased costs. It will take at least 3 years to come out even.

Now I come to the volunteer aspect of this proposal. I do not think anyone will disagree with me when I say that if we were to propose a draft bill on this floor, it would fail. It would fail because most Americans, as I indicated, do not wish to put on the uniform. They look to the next guy and say, "You do it. You fight my wars."

Now, if you want that next person to do your bidding and fight your wars, then we have to provide them with health care, with sufficient pay, and other benefits. It is an expensive thing if you want your neighbors to do the dirty work.

We are suggesting a prudent, manageable approach in the reduction of costs. Now it is 10,000. We hope in coming years we may increase this further. But now is not the time, Mr. President.

Finally, if I may note, today an announcement was made that Mikhail Sergeyevich Gorbachev will receive the Nobel Peace Prize. I join my fellow Americans in congratulating the Soviet leader.

I also know, as everyone else knows, that the wall came down. There has been a dramatic change in Eastern Europe. However, strange as it may seem, while we are debating whether we should cut our costs down, that is not the debate in the Soviet Union. The assembly lines on ICBM's continue to go on, unabated. There is no reduction whatsoever. While we are discussing and debating whether we should study the advisability of mobile ICBM systems, they already have over 250 operational and on the road. While we are providing moneys for two submarines, the Soviets will be building, in the same time period, nine. Last year they built nine, we built two. The year before they built nine, and we built three. They are now building an aircraft carrier.

Mr. President, I, too, want to provide peace dividends. As I indicated in my opening statement, this bill is $14 billion less than what we appropriated last year; it is $19 billion less than what the President requested. It is the greatest reduction in military expenditure since Vietnam, and very likely the greatest in the history of the United States. But I think we have our responsibilities to our fellow Americans.

Much as I would like to believe the millenium has arrived, it has not arrived. So I believe there is a need for the military. And since most Americans do not want to put on the uniform, Mr. President, we have to entice them. We do not entice men and women to serve in uniform if we do not provide them stability.

Imagine a young man or young woman who has decided to make the military a career, served diligently in combat, served diligently in whatever assignment given, and he or she has 17 years of service. Suddenly, we find this amendment passing—next year they are fired with no retirement and no separation pay.

If I am standing on the sidelines thinking about a career in the military and I see my neighbor's son having to leave after 17 years of service with no retirement pay, do you think I would be signing up? No way.

This is not a simple numbers amendment. This is a very fundamental amendment. I hope my colleagues take it in that spirit and in that spirit I oppose this amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska.

Mr. STEVENS. Mr. President, the Senator from Hawaii has spoken for the subcommittee. I concur in his opposition to this amendment.

We have underway a very intricate plan for withdrawing our forces from Europe and for changing the end strengths of our Armed Forces. It will not be an easy task with a volunteer army. If we terminate the contract that we have made with these volunteers prematurely and do not live up to the Government's portion of those agreements, not only will they not volunteer, but I predict their sons will not volunteer, or their daughters.

I was one of those, along with the Senator from Arizona, Senator Goldwater, who first brought to the Senate the concept of repealing the draft. The Senator from Hawaii is absolutely correct. If we take action like this we will have to put back into effect a draft, just to maintain a peacetime army.

We have gone over the plans of the Department of Defense for the withdrawal and reduction of our forces and they are good plans. They are cost effective. It is important for us, I believe, to realize that these moves cost a great deal of money. They take our transportation capability. If this amendment were to pass, how are we going to have the airlift and capability logistically to deal with the forces in the field in the Middle East? And how does it appear to the world that on one hand we are calling up our National Guard and Reserve units, and on the other hand, we are mandating a reduction in strength of those who have volunteered to serve on a full-time basis?

I remind the Senate, it was our committee that set maximum deployment levels on forces in Europe. That was a very controversial thing several years ago. Many of those who have been involved in reviewing the Department of Defense plans for some time thought we were premature in setting limits on the total end strength in Europe. We did that. We accomplished our goal. We started the process of withdrawal.

I want to reaffirm what the Senator from Hawaii has said, confirming what is going on in the Soviet Union. Those of us who watch the Department of Defense and the defense activities of this country also spend a great deal of our time trying to find out what is going on within the Soviet Union. A period of great instability is now occurring. It is a period of great decentralization or the collapse of the Soviet system.

They still have that awesome supply of warheads, 4 million men still under arms, and we are proceeding to reduce our budget. We are proceeding to reduce our production. But we are doing so with the thought in mind that those of us who served in war ought to know how to try to prevent us getting into another one.

This is no time to make political judgments concerning military strength without listening to those who are experts. I have known a lot of people in charge of the Department of Defense, but those two who are over there now, I think we are very fortunate to have. Secretary Cheney and Gen. Colin Powell are two of the finest men I have ever known. They are working night and day to see to it we keep our strength and at the same time, respond to the developing circumstances in Europe and throughout the world, and to our own budgetary problems.

They have given us the plan to reduce our end strength and to reduce our forces in Europe. This amendment would destabilize both of these plans. I oppose the amendment.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise to say that it gives me some pain to be on the opposite side from my dear friend, the subcommittee chairman from Hawaii. There are few people in this body for whom I have greater respect and greater affection. The senior Senator from Hawaii has provided, I think, a career of distinguished public service, not only in this body, but before he ever came to this body. I think that is well known not only here in this Chamber but across the country as well.

Mr. President, I profoundly disagree—profoundly disagree—with the Senator from Hawaii and the Senator from Alaska. I deeply believe we are undermining the strength of this country in the most fundamental way because we somehow cannot change course.

Mr. President, the facts have changed. The reality has changed. The Warsaw Pact has disintegrated. Germany has been unified. East Germany is now combined with West Germany, and they are in NATO. There is no longer an East Germany in the Warsaw Pact.

State after state has thrown off the shackles of communism and have said it is a bankrupt system. Indeed, it is a bankrupt system.

Mr. President, if we do not take action about our own deficits, we will be a bankrupt system, not a system in the sense of capitalism versus communism, because what could be more clear than the capitalistic system is superior to the Communist system, but what else could be more clear than the United States has tripled its national debt in the last 10 years; that even under the agreement that is before this Congress to reduce the deficits $500 billion over the next 5 years, even

with all of that, we will add another $1 to $1.2 trillion to our national debt over the next 5 years.

Mr. President, when do we act? We are spending over $100 billion a year to pay the bills for Europe and Japan, and we cannot pay our own. We have to borrow the money from them to pay their bills. It does not make sense. We have to stop it.

Let us make clear this amendment does not cut troop strength in Europe by 130,000. This amendment that I am offering today cuts our troop strength 30,000 in Europe over and above the 50,000 the committee has already determined to cut. That would still leave us with a troop level in Europe of 231,000, 40 years after the last war and after the Warsaw Pact has disintegrated, after Europe is resurgent, well able to pay their own bills and, for some reason, we want to keep on subsidizing Europe. Goodness knows, Mr. President, we cannot afford it.

We have heard some inventive arguments offered here today. It has been suggested that if we cut 30,000 over and above the 50,000 the committee called for, we will have a rise in crime. Why does that not extend to the committee decision to cut 50,000? I reject the suggestion that our young men and women who are in uniform in Europe are the kind of people who are going to come home to the United States and be engaged in crime. I do not believe that. I think they are outstanding young men and women in Europe, and I think there are jobs for them to do here at home. Goodness knows we have 500,000 people on our payroll in Europe, and we have a deficit of $293 billion. We have plenty of economic development activities right here at home that those people could be engaged in.

We have heard the argument extended that this is unfair to those who are already in the service. Mr. President, let me make it clear this amendment does not propose to turn these dedicated and loyal troops out of the service without adequate separation pay and training and relocation assistance to allow them to make the transition from military to civilian jobs. It does not do that.

The $400 million of savings in personnel costs have already been reduced to account for the separation costs and the benefits at the levels proposed elsewhere in the bill. So let us understand that when the Congressional Budget Office did the analysis, there were greater savings than the net savings I have referred to. They already took out the separation costs. They already took out the transition benefits. Frankly, Mr. President, if you add back the maintenance and operations savings associated with this troop reduction, the overall savings are about $700 million, just the first year. Over the 5 years, far more than that.

Mr. President, I go back to my underlying thesis. I believe sincerely and firmly that the greatest threat to the security of this country is our economic vulnerability. We have seen the value of the United States dollar drop nearly 20 percent against the Japanese yen in just the last 60 days. We have seen the value of the American dollar drop nearly 10 percent against the German mark in just the last 60 days. We have seen the United States move to take the primary responsibility with respect to the Iraqi invasion of Kuwait at enormous costs to the United States and, frankly, neither Japan nor Germany has taken the appropriate role in meeting those costs.

Mr. President, it has to start somewhere. I have been of the opinion for a very long time that every element of the Federal budget has to be included. I do not know what could be more clear than the fact that we can no longer afford to station 310,000 troops in Europe and have a half million people on our payroll in Europe when Europe is well able to defend itself.

So I urge my colleagues to review what is being offered here; 30,000 troops out of Europe, in addition to the 50,000 already called for in the underlying bill will leave us with a troop strength of 231,000 in Europe 45 years after the last war, after the Warsaw Pact has collapsed, and while we are starting a whole new commitment in the Persian Gulf.

Mr. President, our pockets are not that deep. Germany says they cannot send troops to the gulf because of their Constitution. Japan says the same thing. There is nothing in their constitutions that prevents them from paying for their own defense.

Mr. President, I submit that now is the time to begin the process of transferring these costs to our friends in Europe and Japan so that we can get our own fiscal house in order.

I yield the floor. I am ready to vote if the managers are ready to vote.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

Mr. CONRAD. Mr. President, I ask for a recorded rollcall vote.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Massachusetts [Mr. Kerry] is necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts [Mr. Kerry] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. Hatfield], the Senator from Kansas [Mrs. Kassebaum], and the Senator from California [Mr. Wilson] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. Hatfield] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 46 nays 50, as follows:

[Rollcall Vote No. 271 Leg.]

YEAS—46

Adams
Baucus
Biden
Bingaman
Boren
Bradley
Bryan
Bumpers
Burdick
Cohen
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Exon
Fowler
Harkin
Helms
Humphrey
Kasten
Kennedy
Kerrey
Kohl
Lautenberg
Levin
Metzenbaum
Mikulski
Mitchell
Moynihan
Nickles
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Wirth

NAYS—50

Akaka
Armstrong
Bentsen
Bond
Boschwitz
Breaux
Burns
Byrd
Chafee
Coats
Cochran
Danforth
Dole
Domenici
Durenberger
Ford
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Hatch
Heflin
Heinz
Hollings
Inouye
Jeffords
Johnston
Leahy
Lieberman
Lott
Lugar
Mack
McCain
McClure
McConnell
Murkowski
Nunn
Robb
Roth
Rudman
Simpson
Specter
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—4

Hatfield
Kassebaum
Kerry
Wilson

So the amendment (No. 2988) wa rejected.

Mr. STEVENS. I move to reconside the vote.

Mr. INOUYE. I move to lay tha motion on the table.

The motion to lay on the table wa agreed to.

AMENDMENT 2987, AS MODIFIED

Mr. INOUYE. Mr. President, I ask unanimous consent that amendmen No. 2987 be modified with the text now send to the desk. This matter ha been cleared. There was a typographi cal error.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2987), as modified, is as follows:

"FORT BRAGG CONSERVATION

"SEC. . of the funds appropriated unde 'Operation and Maintenance, Army,' up t $500,000 shall be available for the environmental protection program at Fort Bragg North Carolina.".

Mr. STEVENS. Mr. President, the Senator from Pennsylvania [Mr. Specter] has an amendment.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 2989

(Purpose: To express the sense of the Congress that the President should call for international negotiations for the purpose of agreeing on the establishment of an international strike force to counter major international drug traffickers)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. Specter] proposes an amendment numbered 2989.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

"It is the sense of the Senate that United States participation in a multilateral antinarcotics strike force, as called for in sections 4101 and 4103 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100–690), should include the full range of appropriate law enforcement and anti-drug abuse agencies, and that consideration be given to aiding such a strike force by funding from appropriate sources for multilateral intelligence-sharing, multilateral training of law enforcement personnel, and multilateral support for crop substitution, drug treatment, drug research and drug education programs.

"Funds made available under this Act for Department of Defense drug interdiction activities may be expended to fund the participation of United States Armed Forces in conjunction with appropriate United States law enforcement and anti-drug abuse agencies, in accordance with other applicable laws, in such a strike force.".

Mr. SPECTER. Mr. President, the most expeditious way to explain this amendment is to read it. It is two relatively short paragraphs.

It is the sense of the Senate that United States participation in a multilateral antinarcotics strike force, as called for in sections 4101 and 4103 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100–690), should include the full range of appropriate law enforcement and anti-drug abuse agencies, and that consideration be given to aiding such a strike force by funding from appropriate sources for multilateral intelligence-sharing, multilateral training of law enforcement personnel, and multilateral support for crop substitution, drug treatment, drug research and drug education programs.

Funds made available under this Act for Department of Defense drug interdiction activities may be expended to fund the participation of United States Armed Forces in conjunction with appropriate United States law enforcement and anti-drug abuse agencies, in accordance with other applicable laws, in such a strike force.

Mr. President, an identical amendment was added to the Department of Defense appropriations bill last year and was agreed to a vote of 95 to 5. This Senator does not seek a rollcall vote on it this year, but I would like to add a few words of explanation and will incorporate most of what was said last year in the Record and save both time and printing costs.

Mr. President, in the Department of Defense authorization bill, this Senator offered authorization language on August 3, 1990, which appears at page S12079 of the Congressional Record, which sets forth the authorization.

Mr. President, the essence of this amendment is another step forward in what I would call the internationalization of law enforcement. The Congress took a significant step forward in 1984 in our Omnibus Crime Control Act by making it a violation of the United States law for anyone to hijack a plane carrying U.S. citizens or take any U.S. citizen as a hostage.

The internationalization of law enforcement was carried forward in 1986 by legislation introduced by this Senator on terrorism, making it a violation of U.S. law to assault, maim, or murder a U.S. citizen anywhere in the world. The 1984 and 1986 legislation has led us to extra territorial jurisdiction resulting in the arrest of a major international terrorist, Fawaz Yunis, returned to the United States for trial, was prosecuted, convicted, and jailed in an American jail where he is at the present time.

In 1986, on my initiative the Congress adopted a sense-of-the-Senate resolution moving toward an international court as an appropriate body to try international crimes.

Mr. President, the thrust of the international court was an effort to find an agency, a body, a judicial body which could try terrorist drug dealers in a context where they could not be extradited to the United States.

In a celebrated case involving Abu Abass, a United States military action forced down an Egyptian airliner, leading to an international incident where there was a confrontation between Italian forces and United States forces and eventually, rather than have a shootout, United States forces backed down. Abu Abbas was turned over to Italian forces. He eventually was let go and later tried in absentia, given 30 years in jail, in a meaningless gesture by the Italian Government. The fact of life was he could not be tried because of the hot international situation caused by his apprehension.

The thrust of an international court is to find an international body where nations like the Italians might be willing to accede Abu Abbas to a court rather than turn him over to the United States.

Similarly, the celebrated case of Mata, the international drug dealer turned over by Honduras to the United States, led to riot outside the American Embassy. There again is an illustration of where an international court could obviate the conflict and have at least criminals turned over to an international court.

Mr. President, we enacted far-reaching drug legislation in 1988. In 1989, we saw the beginning of a major war between the Government of Colombia and drug dealers there when, on August 18, 1989, there was a brutal assassination of a Senator in Colombia, a presidential candidate by the name of Mr. Luis Galan. Following that event, a major drug war ensured with very heroic action by the Colombian Government and President Barco.

Mr. President, there have been many problems of extradition where the United States has sought to have these drug dealers extradited from Colombia to the United States and in some cases they have been extradited. In other cases there have been major problems. It continues to be the suggestion of this Senator that we ought to move ahead to an international court to deal with that very important problem.

The international strike force which is the subject of this resolution was first initiated and suggested by Prime Minister Michael Manley of Jamaica.

Since this concept was advanced in the Senate drug bill in 1988 and funds set aside for appropriation in 1989, and then the action of the Senate this year in authorizing an international strike force, we have seen the coalition of U.N. joint activity with the inception in the gulf of a true international police force where the United States, as the major party in interest, has been joined by military units from many other nations, Britain, France, Egypt, Morocco, Syria, and others.

The drug scene, Mr. President, has faded somewhat as the budget has captured center stage in this body and the national headlines. The drug issue has receded from center stage also in the summer as we have had the action of the invasion by Iraq of Kuwait.

But the problem of drugs remains an overwhelming problem in the streets of the United States with enormous numbers of crimes being instigated by the drug dealers, murders in Washington, DC, Philadelphia, New York, Detroit, and Los Angeles, and not only every other major city but hamlets as well, with drug gangs operating in rural areas like central Pennsylvania, all over this country.

The problem of interdiction remains a major item of concern. So, therefore, Mr. President, I have offered this amendment again. Last year I had taken the time to secure quite a number of cosponsors and in the rush of other business this year have not done so, but I think it not inappropriate to note that on this identical resolution last year it was cosponsored by Senators Nunn, Kerry, Inouye, Biden, DeConcini, D'Amato, Dixon, and Heflin.

So, I think this is an important amendment to keep this ball rolling. And with that relatively brief statement, Mr. President, I will yield the floor with the understanding, after having conferred with the distinguished chairman, Senator Inouye, and the distinguished ranking member, Senator Stevens, that it would be appropriate to accept the amendment in view of the overwhelming 95 to 5 approval of the vote last year.

Mr. President, I ask unanimous consent at the conclusion of my comments there be a reference to the Congressional Record of September 27, 1989, page S12003, and the following pages, which set forth in detail an argument on this resolution including correspondence which need not be repeated but the reference will suffice.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I am pleased to advise the Senate that the managers of the bill agree with this amendment. We are willing to accept it.

The PRESIDING OFFICER (Mr. Exon). Is there further debate on the amendment?

The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (No. 2989) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Hawaii.

AMENDMENT NO. 2990

(Purpose: To provide for more balanced international economic burden sharing in a new international order)

Mr. INOUYE. Mr. President, I send to the desk an amendment on behalf of Senator Riegle and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. Inouye], for Mr. Riegle, proposes an amendment numbered 2990.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SECTION 1. INTERNATIONAL ECONOMIC BURDEN SHARING.

(a) Findings.—The Congress finds that—

(1) the President and Secretary of State have stated publicly that a new international order is being created;

(2) such order is characterized, among other things, by—

(A) a rough parity of financial and technological strength and of standards of living among Members of the Group of Seven;

(B) the successful culmination of allied postwar foreign policy in the emergence of political and economic freedom in formerly communist nations and the progressive integration of such nations into the world economy; and

(C) with the reduction of ideological and military tension between members of the North Atlantic Treaty Organization and the Warsaw Pact, the increased importance of economic strength in the ability of nations to provide for national security and promote foreign policy objectives;

(3) such rough parity of economic strength among Members of the Group of Seven as well as the large and growing net national and international debt of the United States affirm that the new international order should be accompanied by a more balanced distribution of the economic burden of providing for common security than that which accompanied the postwar international order; and

(4) it should be a priority of United States foreign policy in the new international order to attain at an early stage a more balanced distribution of the aggregate economic burden of common security among advanced industralized nations.

(b) Negotiations.—It is the sense of the Congress that the President should negotiate within the Group of Seven to conclude agreements providing for—

(1) a commonly accepted methodology by which to measure relative rates of expenditures on common security objectives by each Member;

(2) through the application of such methodology, commonly accepted calculations of current rates of expenditures on common security objectives by each Member; and

(3) a framework, concrete agenda, and timetable of actions by each Member to converge substantially their aggregate rates of expenditures on common security objectives as a proportion of national income over a reasonable, finite period.

(c) Reports to Congress.—It is the sense of the Congress that the President should submit reports to Congress no later than August 1, 1991, and August 1, 1992, assessing progress toward the agreements referred to in subsection (b). In the absence of substantial progress toward the agreements referred to in subsection (b) at the time of issuance of such reports, the President should include in such reports a calculation and comparative analysis of current rates of expenditures on common security objectives by each member of the basis of the best and most current information available.

(d) Definitions.—For purposes of this section—

(1) the term "Members" means the United Kingdom, France, Italy, Canada, the Federal Republic of Germany, Japan, the United States, and the European Community; and

(2) the term "expenditures on common security objectives" includes—

(A) expenditures on defense operations and activities outside a Member's territory which provide for the defense of two or more Members pursuant to a treaty or other arrangement between two or more Members;

(B) official development assistance to developing or emergency democracy country markets;

(C) contributions to multilateral development banks;

(D) untied export credit assistance to developing or emerging democracy markets;

(E) other non-military, untied economic or financial assistance to developing or emerging democracy country markets; and

(F) expenditures which address global environmental problems or which improve environmental conditions outside a Member's territory.

Mr. INOUYE. Mr. President, this amendment has been considered by both managers and we are ready to vote on it. We support it.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2990) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, inspired by the newfound cooperation between East and West in the United Nations, the President of the United States recently made a speech in which he observed that the postwar international order has ended. I agree we have entered a new era in world history.

The Warsaw Pact alliance has all but dissolved, Germany has reunified and revolutionary changes are underway in the Soviet Union. It is readily apparent that we have passed from one international order into another in a geopolitical sense. But, Mr. President, this is equally true, if less well understood, in an economic sense.

From 1945 until the mid-1980's American technological and financial strength as well as living standards were demonstrably more advanced than these of its allies. Today, there is a rough parity of economic strength in Japan, Europe, and North America. Indeed, in some respects, the United States is in an inferior economic position. Our foreign debt, now the world's largest, is likely to surpass $1 trillion by 1993. The U.S. Department of Commerce has estimated that the United States is either losing or losing badly to Japan in the race to develop 9 of 1 emerging technologies with a combined commercial potential of more than $1 trillion over the next 10 years.

During the postwar era, in the interest of consolidating democracy and containing communism, the United Sates shouldered a large majority of the economic burden of providing for the West's common security. We could afford to. Our financial and technolog ical lead was large enough that we could foot most of the bill for mutual defense arrangements and economic assistance for the Third World as well as maintain a more open market than other countries without materially affecting our relative economic position.

This is no longer true. Our national debt has tripled in the past decade. We have amassed $700 billion in net foreign debt in the past 5 years. Ironically, we owe this money mainly to the very countries which benefited most directly from the burdensharing arrangements of the postwar era.

Once the world's largest creditor, today we struggle to make ends meet. For many years, we were the treasury as well as the arsenal of democracy. But today, symbolized by the budget quagmire of the past few weeks, we are hard-pressed to find money to maintain our infrastructure and schools, much less to launch an ambitious effort to consolidate democracy in Eastern Europe and Latin America.

At the same time that economic strength has become more evenly distributed, it has become important to the task of providing for global leadership and national security. Accordingly, in the new era, the economic burden of providing for common security must be more evenly distributed as well. The new international order requires a reassessment of not only military doctrines and alliance structures but also international economic responsibilities and arrangements.

Furthermore, a new definition of common security and burden sharing is needed to reflect these changes. The common security of advanced industrial democracies is served not only by mutual defense arrangements but also by expenditures on economic and environmental security. Economic assistance intended to consolidate democracy and political stability among developing and former Communist countries makes the world a safer place for all of us. Efforts to combat global environmental problems have the same effect.

Although new ground has recently been broken in this respect, the need to apportion the costs of common security more equitably does not begin and end with the Persian Gulf crisis or with initial commitments of capital to Poland and other Eastern European countries. Even with the inclusion of allied commitments for Operation Desert Shield and the reconstruction of Eastern Europe, the United States continues to spend far more on common security than other nations at a comparable level of economic development.

To permit current imbalances to persist would be unsustainable, unfair to American taxpayers and their children, and ill-advised even from the perspective of our allies.

The United States cannot remain a first rate world power without remaining a first rate economic power. And while our economic problems are largely of our own making, a certain amount of the Nation's financial exhaustion can be traced to the burden of maintaining a global military presence over several decades and, more recently, to supplying the fiscal stimulus which propelled the world economy out of its severe slump in the early 1980's. Western military resolve and strong economic growth were centrally responsible for the collapse of Soviet communism and the birth of the new international order. Americans do not regret having paid a disproportionate share of the price of victory in the cold war. However, having paid this price, we realize that we cannot bear it indefinitely without seriously undermining our relative economic strength. Our economic competitors continue to invest more heavily than we do in areas which affect national economic strength.

Moreover, recent efforts at burden sharing have been on a one-shot, ad hoc basis, in reaction to an immediate crisis. They required very public solicitation by the United States, characterized by some as tin-cup diplomacy. Mr. President, I am concerned that every time we have to solicit contributions for initiatives of collective benefit, we feed a growing sense of unfairness among Americans and run the risk of eroding some of the good will toward our allies that bonds us with them and holds at bay our traditional isolationism. This is neither in our interest nor in that of our friends overseas.

For these reasons, I am pleased to offer an amendment calling on the President to initiate formal negotiations among advanced industrial nations to redistribute and bring into better balance aggregate spending on:

First, common military security—spending on defense operations outside one's borders;

Second, common economic security—economic assistance to developing and former Communist countries; and

Third, common environmental security—expenditures on global environmental problems or to improve environmental conditions outside one's own territory.

The negotiations would have three specific objectives:

First, to create a commonly accepted methodology for measuring such expenditures;

Second, to establish what each country now spends on common security; and

Third, to gain the necessary commitments to bring overall spending on common security into better balance within a reasonable, finite period.

Negotiations would be conducted to the Group of 7, the main forum for economic policy coordination for the United States, Europe, and Japan. Heads of government convene in a summit once a year, usually in June, and ministers meet periodically. These features make the Group of 7 the logical locus of such negotiations. At a later stage, I would envision this process being broadened to include other OECD nations of comparable economic means which are not members of the Group of 7.

Finally, the amendment calls on the President to report to Congress after each of the next two annual summits on progress achieved. In the absence of progress, he is asked to supply to Congress the administration's calculations of what each country spends on common security.

Mr. President, I believe it is time to begin the business of constructing the new international order of which the President speaks. New, more sustainable arrangements for sharing the economic responsibilities of maintaining world stability and progress must be a part of the new era.

There are large legal and historical obstacles to significantly higher defense spending by Japan and Germany. Yet it would not necessarily be in our interest to see these and other countries close the burden sharing gap through bilateral economic assistance to developing and former Communist countries. A significant part of this aid would likely be tied to trade in one way or another, potentially permitting these countries to gain a lock on the markets of the future. New, more creative approaches are needed. They have the best chance of succeeding in a multilateral framework. Accordingly, I urge my colleagues to support my amendment and ask that the amendment be printed in full in the Record accompanying my statement.

AMENDMENT NO. 2991

(Purpose: To limit the use of appropriated funds for maintaining United States military personnel in NATO member countries in Europe)

Mr. CONRAD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. Conrad], for himself, Mr. Reid, and Mr. Daschle, proposes an amendment numbered 2991.

Mr. CONRAD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 101, between lines 2 and 3, insert the following:

Sec. 8099. (a) None of the funds appropriated by this Act may be used for the purpose of supporting an end-strength level, as of September 30, 1991, of all members of the

Armed Forces of the United States assigned to permanent duty ashore in Japan at any level in excess of 50,000.

(b) None of the funds appropriated for the Department of Defense for any fiscal year after September 30, 1991 may be used for the purpose of supporting an end-strength level, as of the end of such fiscal year, of all members of the Armed Forces of the United States assigned to permanent duty ashore in Japan at any level in excess of the number that is 5,000 less than such end-strength level for the preceding fiscal year, unless the President certifies to Congress before the end of the fiscal year to which the certification applies that Japan has agreed to offset for that fiscal year the direct costs incurred by the United States related to the presence of all members of the Armed Forces of the United States so assigned.

(c) It is the sense of Congress that (1) a declaration of war by Congress or an armed attack on Japan authorizes the President to obligate and expend funds appropriated to the Department of Defense for the purpose of supporting any end-strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in Japan that is necessary to prosecute the war or to assist in the defense of Japan, and (2) the President may waive the limitation in this section for any fiscal year if he declares an emergency and immediately informs the Congress of the waiver and the reasons for the waiver.

Mr. CONRAD. Mr. President, I ask unanimous consent that Senator Reid and Senator Daschle be shown as original cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I further ask unanimous consent that Senator Daschle's name appear as an original cosponsor of the amendment previously acted upon by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, this amendment is very simple. It says simply that our friends in Japan are asked to pay the full costs of maintaining United States troops in Japan and, if they do not, the United States will begin the process of bringing those troops back home, 10,000 at a time per year.

This is very similar to an amendment that was agreed to in the House of Representatives 370 to 53. In fact, the only difference is the House amendment provided that we would bring the troops home 5,000 a year. This amendment takes that to 10,000. We have 50,000 troops in Japan, Mr. President, and most of our people are wondering why. At the very time, once again, that we cannot pay our bills, we are subsidizing the defense of one of our major competitors. Our total subsidy is variously estimated at $40 to $50 billion a year to Japanese defense.

Now, Mr. President, with the operation in the Persian Gulf, we see once again that the United States is being asked to carry a disproportionate part of the load. We are being asked to defend Europe's interests. We are being asked to defend Japanese interests. And yet neither one of them are providing an equivalent level of support. A disproportionate share of the burden is being put on the shoulders of the American taxpayers.

The American taxpayer is being told, "You pony up," not only to protect the United States position but to protect the position of our Japanese friends who are far more dependent upon Middle East oil than are we; and not only to protect the position of Japan, but to protect the position of Europe as well.

Mr. President, I made the argument very strongly in the previous amendment, with respect to bringing home some of the forces from Europe, that the greatest vulnerability of American security is our economic vulnerability. I believe that is true.

I believe one of the reasons that we see Japan and Western Europe starting to move ahead of us in terms of their position in world trade and economic development is because we are carrying a burden that they are not. We carry the burden of our common defense to a disproportionate share and the result is that our friends in Japan are able to take the money that they would otherwise spend on defense and invest it in products for the commercial marketplace. They are able to take that savings and put it into education for their children. They are able to take that savings and put it into health care for their people. And we in this country continue to share the disproportionate burden of world defense.

We are not talking, Mr. President, of cutting forces for our own defense. We are talking about insisting that our friends in Japan pay the full cost of stationing our troops in their country or we will begin to bring our troops home 10,000 at a time, year after year, until all of our troops are brought here.

Mr. President, again I will make the argument: it makes no sense for the United States to pay the bills for others when we cannot pay our own bills; it makes no sense for the United States to spend some $100 billion a year for Europe's defense and nearly $50 billion a year for Japan's defense when we have to borrow the money from them to do it.

We have heard economists argue in the last several months that the United States is in an increasingly vulnerable economic position. The argument goes like this: Our budget deficit is increasing. The President now says it will be $293 billion this year. Earlier this year he said it would be $64 billion. And as a result of that burgeoning budget deficit more of our money has to be borrowed. And where are we borrowing it from? We are borrowing it from Japan. We are borrowing it from West Germany.

Now, Mr. President, the Japanese stock market has collapsed. West Germany has made a commitment to East Germany at a very substantial cost That means they are less able to fund our deficits, less able to buy U.S. Government debt. And that means that unless we respond by reducing our deficit, interest rates in this country wil rise.

Many economists believe we are already in a recession. We have just seen one of the most prestigious business groups in this country meet. They had presentations made to them by the leading economists in the United States, most of them saying we are in a recession. Well, Mr. President, tha recession is going to be far more serious, far more prolonged, if interes rates start to rise in this country.

What are the tools available to us We have to reduce the deficit in thi country. We can do it in one of tw ways. We can reduce spending or w can increase taxes. I suggest we woul be better off by emphasizing th spending side to the extent tha we prudently can. And the place t start is by insisting that our allie start paying for their own defense. W simply cannot afford to continu paying everyone else's bills in th world when we cannot pay our own We simply cannot afford to continu to ask our people to shoulder a disproportionate share of what is clearly common burden.

Mr. President, this amendment very simple. It says: Japan, you star paying for the cost of our stationin troops on your soil or we are going t have to start bringing them home.

This is the economic reality we confront in 1990. It is not Japan bashing none of that. I have a great respect fo the Japanese. They, through the own effort, through their own disc pline, through their own creativity are whipping us in the world marketplace.

We ought not to contribute to tha economic edge. We ought not to tak the burden off of them and have to f nance it ourselves. Instead, we ough to say it is time for our friends Japan to take on their reasonab share of this common burden. It time for our European friends to do as well.

The world has changed since th Second World War. The end of th Second World War was 45 years ag and sometimes we act as though nothing has changed. Things have change and they have changed dramaticall The position of the United States the world economy is no longer one unchallenged preeminence. We are a race. We are in a competition. Th question is, is the United States goin to adjust? Are we going to ma changes so the United States is fully able to compete?

I believe this amendment, modest though it is, is a start at getting our fiscal house in order so we are prepared to compete through the 1990's.

I yield the floor.

The PRESIDING OFFICER (Mr. Dixon). The Senator from Hawaii.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I wish to state to the Senate I have had no request from any Member on this side of the aisle to make a comment about this amendment. I want to make certain Members realize this amedment is liable to go very quickly. If any Senator wishes to speak on this amendment, he or she should come over here now.

Mr. LEAHY. Will the Senator yield?

Mr. STEVENS. I do yield, Mr. President.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I ask unanimous consent to be listed as a cosponsor of the amendment of the distinguished Senator from North Dakota.

The PRESIDING OFFICER. The distinguished senior Senator from Vermont [Mr. Leahy] is listed as a cosponsor on the amendment offered by the Senator form North Dakota.

Mr. LEAHY. Mr. President, I must say it makes a great deal of sense. I am very concerned that Japan, notwithstanding our long ties of cooperation, has pretty much sat on its hands during the matters in the Middle East. We have protected the shipping lanes for them, for their oil, just as we did during the Iran hostage crisis. They did very, very little to help us during the time of the Iran hostage matter, even though they expected our ships to keep open the sealanes for the oil that they were receiving. They are now also in a case where it is very much, "The check is in the mail; we will certainly help," we hear from Japan, but very little help comes. They are one of those countries getting the absolute total benefit of what the United States is doing and the United States' sacrifice in Saudi Arabia and doing virtually nothing in response. They offered to send some trucks, I know. It is probably the slowest shipment we have ever seen out of Japan anywhere.

I feel very strongly that the Senator from North Dakota is correct. There comes a time when we should stop feeling we have to carry the burdens of all other countries in the world, especially when they are well able to carry the burdens themselves and do very little to help. I must admit I came very close to voting for the previous amendment. Unless I see more cooperation from Europe, certainly far more than we have seen so far in Operation Desert Shield, unless we see somehting more than the absolute minimal help we have gotten from them, should the Senator from North Dakota bring up a similar amendment in the future, I will vote for it.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

AMENDMENT NO. 2991, AS MODIFIED

Mr. CONRAD. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. Is there objection to the Senator's modifying his amendment? Without objection, the amendment will be modified.

The amendment, as modified, is as follows:

> On page 101, between lines 2 and 3, insert the following:
>
> Sec. 8099. (a) None of the funds appropriated by this Act may be used for the purpose of supporting an end-strength level, as of September 30, 1991, of all members of the Armed Forces of the United States assigned to permanent duty ashore in Japan at any level in excess of 50,000.
>
> (b) None of the funds appropriated for the Department of Defense for any fiscal year after September 30, 1991 may be used for the purpose of supporting an end-strength level, as of the end of such fiscal year, of all members of the Armed Forces of the United States assigned to permanent duty ashore in Japan at any level in excess of the number that is 10,000 less than such end-strength level for the preceding fiscal year, unless the President certifies to Congress before the end of the fiscal year to which the certification applies that Japan has agreed to offset for that fiscal year the direct costs incurred by the United States related to the presence of all members of the Armed Forces of the United States so assigned.
>
> (c) It is the sense of Congress that (1) a declaration of war by Congress or an armed attack on Japan authorizes the President to obligate and expend funds appropriated to the Department of Defense for the purpose of supporting any end-strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in Japan that is necessary to prosecute the war or to assist in the defense of Japan, and (2) the President may waive the limitation in this section for any fiscal year if he declares that it is in the national interest to do so and immediately informs the Congress of the waiver and the reasons for the waiver.

Mr. CONRAD. Mr. President, let me indicate the modification is a minor one. On line 19 on the second page where it states, "The President may waive the limitation in this section for any fiscal year if he declares an emergency and immediately informs the Congress of the waiver and the reasons for the waiver", I strike the two words "an emergency" and instead insert "that it is in the national interest to do so".

So the full text would then read:

> The President may waive the limitation in this section for any fiscal year if he declares that it is in the national interest to do so and immediately informs the Congress of the waiver and the reasons for the waiver.

I am told with this modification there would be no objection to the amendment, and we might adopt it on a voice vote. I hope that is the case. I believe this will begin the process of sending a very strong signal that the United States can no longer afford to continue to pay others' bills when we cannot pay our own. We cannot continue to pay others' bills when we have to borrow the money from them to do it.

I am very hopeful this is the beginning of a turning point in which the United States recognizes a new reality and prepares to put its own fiscal house in order so the United States can once again find itself on the move economically, ready to compete head to head with our major allies who are also our economic competitors.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I stand ready to accept the amendment with the modification. However, in so doing I would like to note the following. At this moment the Japanese Government provides more support for American troops than any other host nation. For example, one-half of the costs of foreign national civilians hired by the United States are paid for by Japan. The NATO countries do not pay anything at all. Furthermore, the Japanese Government funds construction of all nonmilitary facilities required by our troops in that country, and NATO countries do not do that. By nonmilitary construction we are talking about gymnasiums, post exchanges, commissary buildings, recreation centers.

The other thing we should keep in mind is that our presence in that part of the world is essential if we are to maintain any stability in the Pacific rim.

So this is a very serious amendment, but I am willing to accept it with that modification.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, for years now the Senator from Hawaii and I have been going to Japan and carrying the message that the time would come when the Senate and the House would express this point of view, the point of view contained in the amendment of the Senator from North Dakota.

We have urged an increase by the Japanese in the support of those forces that are deployed in Japan for our mutual benefit. I do not think there can be a contention that the total deployment is solely for the purpose of defending U.S. interest.

For that reason, we have urged and, as the Senator from Hawaii has indicated, others have urged. Mr. Armacost did a very good job in carrying that message there in the past. I remember distinctly that trip.

I think that there is still room for the Government of Japan to do more to pay its share of these costs. It is apparent from the viewpoint being expressed by the other body that this is the sentiment of the Congress. We have made a request for anyone who objected to this amendment to come forward. There have been no objectors, Mr. President.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I just want to state, and I will not insist on a rollcall vote in deference to my colleagues and the time of my colleagues, I do not think there is any necessity for it, although I think a rollcall vote would send a very powerful signal, because I believe we would win on a rollcall vote.

Let me indicate that on the last vote that involved bringing home troops from Europe, I received 46 votes. Two who had previously supported an identical amendment were not here. If they had been here, I assume we would have had 48 votes. That is up from 40 votes the last time we voted, just in August.

I believe there is the beginning of a very clear change of opinion in this country, reflected by a change of the votes of my colleagues in this Chamber, that it is time to send a clear and unmistakable message to our allies that they must take on a greater share of this common defense burden.

I want to thank very much my colleagues from Alaska and Hawaii for accepting this amendment. I yield the floor.

Mr. BIDEN. Mr. President, I was pleased to cast my vote for Senator Conrad's amendment in support of reducing the U.S. troop presence in Europe.

Mr. President, I strongly believe the United States must remain a major European power. Some of our most important economic, political, and cultural ties lie there. Certainly part of being a European power is maintaining Armed Forces on European soil, something I believe equally strongly the United States should continue to do.

But as the distinguished Senator from North Dakota said earlier, times have changed in Europe and old realities no longer hold. The United States must adjust its deployments to address these new realities appropriately.

One important effort to change our presence in Europe, and that of all members of the European alliances, is the Conventional Armed Forces in Europe [CFE] negotiation. I was delighted to learn recently that Secretary of State Baker and Soviet Foreign Minister Shevardnadze reached an agreement in principle on CFE. I urge the administration to ensure that the remaining technical and other details necessary to sign an accord be resolved before the CSCE summit in November, where hopefully 22 nations will sign one of the most sweeping arms control accords of all history.

While a CFE agreement will remove thousands of tanks, armored personnel carriers, and artillery pieces from Europe, it will probably not mandate the withdrawal or demobilization of any troops. Our administration had originally negotiated a deal with the Soviet Union to reduce United States and Soviet stationed troops to 195,000 each in the European central region, with the United States allowed an additional 30,000 troops in the flanks. That was a solid agreement that I supported wholeheartedly when it was announced last winter.

Since that time, however, the changes in Eastern Europe and the Soviet Union have more or less made that agreement obsolete. Soviet troops will leave Hungary and Czechoslovakia anyway through bilateral accords, and they will also depart former East German soil as a result of German unification. I welcome these agreements and look forward to seeing them carried out in full.

In the meantime, there is now no provision in the CFE talks for reductions in any nation's troops. Hopefully follow-on CFE negotiations will seek to cut personnel numbers and I hope the administration, which has done an outstanding job in negotiating CFE I, will take today's strong vote in favor of the Conrad amendment as a vote in favor of every seriously pursuing troop cuts in CFE II. This amendment symbolizes where we are, and should be, heading in Europe, and now is the time to prepare for that.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from North Dakota.

The amendment (No. 2991), as modified was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2992

(Purpose: To limit the use of funds for the B-2 Advanced Technology Bomber Program)

Mr. LEAHY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Vermont [Mr. Leahy], for himself, Mr. Cohen, Mr. Wirth, Mr. Bradley, Mr. Kennedy, and Mr. Sasser, proposes an amendment numbered 2992.

Mr. LEAHY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 23, strike out lines 21 and 22, and insert in lieu thereof "$7,521,753,000, to remain available for obligation until September 30, 1993; *Provided*, That, notwithstanding any other provision of this Act (1) none of the funds appropriated in this Act may be obligated or expended to commence production of any B-2 aircraft, and (2) the funds appropriated in this Act for the B-2 advanced technology bomber program may be expended only for (A) the completion of production of those B-2 aircraft that are included in the full-scale development program as of the date of the enactment of this Act, (B) research and development for the B-2 aircraft, (C) testing and evaluation of the B-2 aircraft, including flight testing and (D) the costs of termination of production under the B-2 advanced technology program.

Mr. LEAHY. Mr. President, for those who are following the order of the day, this is a so-called B-2 amendment. I understand the distinguished chairman of the subcommittee has suggested for his scheduling purposes that we might enter into a time agreement. I am willing to do that if the distinguished Senator from Hawaii has one he wishes to propose.

The PRESIDING OFFICER. Does the Senator from Hawaii, the manager of the bill, have a time limit that he wants to suggest to the Senate?

Mr. NUNN. Will the Senator yield for a brief comment?

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. I have been trying to ge a copy of the amendment. If we could just hold off a few minutes on the time agreement, I would like to know what we have.

Mr. LEAHY. Mr. President, I will g forward with some comments of m own. I understand the distinguished Senator from Georgia wishes to look over the amendment, which I will sa is what was basically brought up i the Appropriations Committee wher it lost by a 1-vote margin, 14 to 15.

Mr. WARNER. Mr. President, wi the Senator yield for a question? How does this amendment compare with the previous amendments that th

Senator from Vermont has had on this subject?

Mr. LEAHY. Mr. President, if the distinguished Senator from Virginia would just let me continue, I was about to explain the various aspects of the amendment.

It is, basically, the same one that we just voted on in the Appropriations Committee. It cuts $2.7 billion in procurement; it bans procurement in fiscal year 1991; it allows the Air Force complete construction of the six planes used for flight testing. Research and development will continue. If we ever justify the program, it is going to be the technology, not the hardware.

I hope that answers the question of the distinguished senior Senator from Virginia.

Mr. President, we have been asked to reduce the Federal deficit by $500 billion over the next 5 years. I have heard some of the most stirring speeches from both Democrats and Republicans alike as to how we must bite the bullet; we must make the tough choices; we must stand up to the special interests; we must make actual spending cuts. Mr. President, they were inspirational. We are going to give everybody a chance to stand up and do that this afternoon.

There are many hard choices to make, but I think I am actually offering the Senate a fairly easy choice. We can cut $35 billion of the deficit by ending the B-2 Stealth bomber.

Mr. President, I was thinking late Friday night and again today—and I suspect that the Agriculture Committee with our committee of conference will be meeting well into tonight—we have been inflicting some very painful cuts in farm programs. We are making very painful cuts for farmers from every part of this country. We are doing that to reduce the budget by $13 billion over the next 5 years. Other cuts in domestic programs are going to be felt at every single level of our society, from a child on a nutrition program to a senior citizen on medicare.

This amendment, my amendment, includes the Pentagon in the sacrifices all other Americans are about to make. In the last decade, if we look back, the Pentagon was on a shopping spree. We bought weapons we could not afford and did not need. If somebody said it is conceivable that we could make such and such a weapon, immediately somebody said, my God, if we can make it, of course we must start making it. Nobody even seemed to ask what it cost. The cost ballooned out of sight.

To give the Department of Defense its due, the cold war was still warm when the B-2 came off the drawing board. How else could you explain a $26 billion outlay to design and build exactly one plane that has yet to complete 97 percent of its scheduled flight testing? That is $26 billion. We have one plane. It has done about 3 percent of its testing; 97 percent to go. Even by Pentagon standards that is pretty expensive.

So this amendment, as I said to the distinguished Senator from Virginia, is almost identical to the measure I introduced on August 2. It cuts $2.7 billion in procurement and it bans procurement in fiscal year 1991. We allow the Air Force to complete construction on the six planes that are going to be used for flight testing. Research and development will continue in the technology.

Mr. President, opposition to the B-2 is growing around this country. Certainly I hear it every week when I go back home to Vermont. Other Senators are hearing it. They are listening to the people in their State, virtually every State in this country. In fact, the B-2 program is a symbol of the morass that is spreading through our economy.

Thursday of last week we came very close to ending this in the Senate Appropriations Committee. By a one-vote margin, it was kept alive. By a one-vote margin, it was kept on the life support system; 15 to 14 the vote was to keep it alive.

Not only that, I suspect even some of those who voted for it in committee will vote against it on the floor here today.

The Northrop Corp. that is building it, frankly, Mr. President, deserves a vote of no confidence from this body. Last week the Air Force revealed that the B-2 builder, Northrop Corp., is riddled with widespread production and management problems. In fact, let me quote the Assistant Secretary of the Air Force for Acquisition. He sent a letter to the Northrop Corp. saying, "The nature of the performance problems is most serious."

We are not talking minor deficiencies. We are talking major problems in systems engineering, transition to production, software management, organization, personnel, even the business system. In Northrop's defense there are those who feel they just grew too fast to handle something like the B-2 bomber. That may be a reason, but it is no excuse simply to pour taxpayer's money down a hole if nothing results from it.

In that case I think the Secretary of the Air Force defies logic, or at least challenges the kind of common sense that we try to live by in Vermont. He argues that we should buy the B-2 because weapons systems must continue to be judged on the basis of the threat. Mr. President, I would think that at least we would buy them based on whether the darned things work or not.

Moments before the vote on the B-2 in the Appropriations Committee last week, President Bush sent a letter to the committee. He argued for the B-2. He says the B-52 fleet is aging. He said the B-2 is essential to the START Treaty, and we need to reap the technological benefits of the B-2. These points have been made before.

My response is this: the same Air Force admits that the B-52 will remain a useful part of our force to the year 2000. In fact, the distinguished Senator from Arkansas, Senator BUMPERS, went into detail of the options to re-engine the B-52. I am tired of hearing that the B-2 is essential to the START Treaty. The first strategic arms agreement in more than 10 years cannot be held hostage to whether we can spend $65 billion on a plane we do not need.

This same kind of argument we heard on treaties on tactical nukes. We were told earlier this year, that we had to spend millions and millions of dollars to continue production of a missile that was designed to be placed in what was then West Germany and could fire only to East Germany. We were told we should continue, but yet we did not have a treaty to get rid of it, as though unified Germany was going to put a missile in one part of the country simply designed to fire into another part of the country. It defies logic, if we halt production, that it may close one loophole in the START Treaty.

But there are a lot more. For example, if Congress cancels the B-2 we are still going to have more than 9,000 warheads in our nuclear arsenal. The Soviet Union will have around 8,000 warheads. The Congressional Research Service says we can respond with 5,000 warheads into the worst possible conditions without the B-2.

Mr. NUNN. Will the Senator yield just briefly procedurally?

Mr. President, I have had a chance to read the amendment now, and although I object to the amendment and will vote against the amendment and argue against it, I have no objection to a time agreement.

The PRESIDING OFFICER. What is the pleasure of the sponsor and the manager in view of the comments by the distinguished chairman of the Armed Services Committee?

Mr. INOUYE. Mr. President, if the Senator will yield, the managers of the bill are prepared to agree to a time limitation of 1 hour equally divided.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. INOUYE. And no second-degree amendments are in order.

The PRESIDING OFFICER. The Chair inquires of the Senator from Vermont as to whether he is agreeable to the suggested time limit offered by the distinguished Senator from Hawaii?

Mr. LEAHY. Mr. President, I see the distinguished Senator from Maine on

the floor, who has been one of the leaders in the Senate in this area, who also wants time. Mr. President, I have no objection to 1 hour, but I would ask the Senator from Maine if he has any objection to that. I am only going to take about one more minute myself.

Mr. COHEN. I was just going to inquire, reserving the right to object, how much longer the Senator from Vermont was going to speak? I would need 12 to 15 minutes myself.

Mr. LEAHY. Mr. President, I am perfectly willing to agree to a 1-hour time agreement. I thank the distinguished Senator from Hawaii for his usual courtesy.

The PRESIDING OFFICER. Is there objection to the time agreement to limit the time on this issue, the B-2 amendment, to 1 hour on each side equally divided?

Mr. STEVENS. Reserving the right to object, Mr. President, and I have seen amendments like this where time sneaks in, I wonder if the Members would agree that we would have time equally divided and vote on this amendment without any further delay at 6 p.m., so we know exactly and we can tell people when to get back?

The PRESIDING OFFICER. Is there any objection to that as part of the unanimous-consent agreement? The Senator from Hawaii.

Mr. INOUYE. And further that second-degree amendments not be in order on this amendment.

The PRESIDING OFFICER. Is there any objection to the unanimous-consent agreement, the time limit to be 1-hour equally divided between the manager and the senior Senator from Vermont, there be no second-degree amendment in order, and the vote will occur promptly at 6 p.m.? Is there any objection?

Mr. STEVENS. Mr. President, let me make a parliamentary inquiry. Is there anything that could intervene now so that the vote would not take place at 6 p.m. except by unanimous consent?

The PRESIDING OFFICER. For the purpose of this discussion, technically, certain points of order could intervene. For the purposes of this unanimous-consent agreement those terms already alluded to would be satisfactory.

Mr. STEVENS. Is it this Senator's understanding then that we would have no points of order against this amendment, and there can be no second-degree amendments, and no intervening action of any kind following the 1 hour, and we will vote precisely at 6 p.m.?

The PRESIDING OFFICER. Is there any objection to that all being part of the unanimous-consent agreement? Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be allowed to designate time under my control when I finish in the next minute or so to the Senator from Maine.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, let me conclude with this so people understand. My amendment ensures that we reap the important technological benefits from the B-2 program. This measure only stops production. It does not stop research and development. The House has already killed the B-2, and I believe wisely. The House and Senate conferees in the defense authorization bill are deadlocked over the B-2.

We need to send a message: The Senate in these extraordinary times is willing and prepared to end this program of the B-2, to take the money saved and use it for things we need in this country. It could have been done in the Appropriations Committee last week. It was not. The battle was saved for this Chamber. Let us not ask the American taxpayers to put up with this wasteful and unnecessary program for even one more day. Let us make the Stealth bomber truly invisible. Let us make it disappear today.

Mr. President, I yield to the Senator from Maine.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. COHEN. Mr. President, I yield myself 10 minutes.

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. LIEBERMAN). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. COHEN. Mr. President, the last time the Senate debated this program I argued that the B-2's cost remains elusive, its mission remains questionable, and its capability remains unproven. Today all of those very same points remain true, but we can add another observation: the management abilities of the B-2's prime contractor are now, as the Senator from Vermont has pointed out, in serious doubt.

With respect to costs we have Yogi Berra back behind the plate. He said "It is deja vu all over again." Last year we were told "We have spent $23 billion. So we cannot afford not to proceed." This year we are being told "We spent nearly $27 billion. So we cannot throw it away."

Mr. President, every dollar we approve seems to justify the appropriation of yet more money.

I think that most Senators recognize that the incredible budgetary pressure that is whipsawing Washington today essentially guarantees that this program is going to be terminated. It is just a question of when.

I would argue that we ought to take those losses now as quickly as possible. We are looking at a $186 billion reduction in budget authority over the next 5 years; $237 billion in budget authority. So this program will be terminated. I think that is inevitable.

The amendment before the Senate would do precisely that, and do so, I think, in the most sensible way possible. Under this amendment, the taxpayer would actually get back at least $1 billion that was appropriated in previous years.

I would like to emphasize the fact that this is not the proposal that has won favor in the House of Representatives. The House proposal would proceed with the construction of 15 operational aircraft and would cost nearly $9 billion above what has already been appropriated.

The sponsors of this amendment accept the Air Force's argument that 15 operational aircraft are simply not worth having. That is the position of the Air Force. They do not find an operational need for 15 aircraft. So I accept that. The sponsors of the amendment accept that. So we would allow the Air Force to complete the R&D program but would not waste any more money on trying to field a force of 15 operational aircraft which the Air Force says to maintain would not be necessary, or needed, under the circumstances.

So, as a result, the funds that have already been appropriated but which remain unobligated, unexpended, would allow for termination costs to be paid, and then the balance returned to the U.S. Treasury. In other words, this amendment would save at least $10 billion compared to the House proposal and $35 billion to $40 billion compared to the Pentagon's proposal.

With respect to the Pentagon's proposal, I would like to point out a fact that may have escaped the attention of a number of my colleagues.

Last year, the Pentagon was proposing that we buy 132 B-2 bombers for a cost of $70 billion. Let me repeat that just a year ago, the proposal was that we build 132 B-2 bombers at a cost of roughly $70 billion. This year, today the Pentagon is proposing that we buy 75 B-2 bombers for a cost of $65 billion. We have cut the production by nearly half, and we have saved $5 billion.

Naturally the argument could be: Go ahead with 132 for $70 billion if you are going to build any, but do no come back here proposing the force be cut down to 75 and the cost reduced by $5 billion. That clearly is a real waste of taxpayer money.

Mr. President, I think this would be humorous if it were not so serious. Bu the bottom line is that it simply is an unsustainable proposition. So I urge again, rather than approving another $2.76 billion on top of what we have already appropriated, that we instead face up to the reality and cut those losses now.

The Senator from Vermont has referred to the management of Northrop. I began by noting in my introductory remarks that in addition to the unresolved questions concerning the B-2's costs, mission, and capability, we have recently seen some questions being raised about the B-2 prime contractor's ability to manage this and other Air Force programs.

Last week we learned that the Air Force has been seriously concerned for several years about Northrop's ability to manage programs, and in May the Air Force Systems Command initiated an in-depth review of Northrop's management practices.

The review focused on six areas of management, and in all six, according to Secretary Rice, Northrop has been making efforts to improve its performance, but in all six areas he testified that further efforts are needed to resolve continuing problems.

I would like to highlight Secretary Rice's testimony on one of the six areas reviewed, software management. According to Secretary Rice, "Northrop seeks to become a world class software producer, and we hope they succeed."

Mr. President, when we talk about Soviet forces and arms control, it is common to make the distinction between intent and capability. And the Pentagon is always anxious to argue that we need to focus on capability not intent.

We have seen this with respect to Saddam Hussein, as well. Let us look at his capability, and not try to divine what his intent is. That is very ambiguous. It is the same with the Soviets over the years.

Here we have a cash in which just the opposite is the case. The Air Force is willing to trust Northrop's intent rather than focus on its capabilities. I think we need to be quite wary of this approach.

It is not possible at this time to determine whether Northrop has the capability to perform successfully as the prime contractor of the B-2, but we know that Northrop has a long history of management problems, and while progress seems to have been made, the problems continue.

So I think we have to take this situation into account when we consider whether we want to gamble with the taxpayers' money by proceeding with the program.

One of the key arguments that has been made is that the money that has been invested to date will have been wasted if we adopt the amendment proposed by the Senator from Vermont and by myself.

Mr. President, could I ask how much time I have remaining?

The PRESIDING OFFICER. The Senator from Maine has 2½ minutes remaining.

Mr. COHEN. Mr. President, I think that I have made very clear my view that we should not throw good money after bad when it comes to procuring this aircraft. But as I discussed earlier, the question has been raised as to whether we would be wasting all that we have invested in the B-2 if we do not proceed to deploy and build the 75 aircraft.

I see the chairman of the Armed Services Committee on the floor. I would like to take the opportunity while he is present to quote from a session that was held last Thursday before the committee in which Senator Nunn posed a number of questions to Secretary Rice. Secretary Rice answered his questions very forthrightly.

Senator Nunn asked, "What could we say to the American people they bought for the (money spent), if we stopped everything right now?"

Secretary Rice answered:

> They have bought a monumental advance in aircraft technology * * * It has also produced major advances in subsystem technologies and manufacturing technologies and in materials that are already showing their fruit in other defense programs and, in fact, some of the composite materials and other things are already being examined and considered for application in commercial aircraft and perhaps even for other high-strength plastics applications in the commercial world. The computer-aided design and computer-aided manufacturing technology will change the way that every future aircraft is produced and will spread to many other areas of manufacturing technology.

That was Secretary Rice's answer.

All of this has already been accomplished. Nothing can take it back. Certainly this amendment would not roll back any of the advances that we have made; as Secretary Rice testified, those advances have "permeated" the U.S. aviation industry.

I would also point out that spending more money on procuring B-2 bombers is not going to expand up these benefits to the aerospace industry. These benefits have resulted from the R&D effort that has already been completed. Building more B-2's is not going to produce similar benefits.

The principal R&D benefits that remain to be achieved from the B-2 program will come from flight testing which will be of value to other Stealth aircraft programs and to anti-stealth research efforts.

This amendment would permit this flight testing to go forward.

In sum, Mr. President, the money spent to dates will not have been wasted. But if we continue to pour money into this program to build an aircraft that we cannot afford, then the American taxpayer is going to have a legitimate basis to criticize our judgment on the priorities we establish in defending our Nation's national security interests.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. I yield 6 minutes to Senator Thurmond.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina [Mr. Thurmond].

Mr. THURMOND. Thank you very much, Mr. President.

Mr. President, I rise in opposition to the amendment which would terminate the B-2 bomber program.

Mr. President, the United States must always have a strategic deterrent that is powerful and survivable so that leaders and organs of state power, face sure and rapid destruction if they ever unleash a nuclear war.

This principle is now at stake? Unless we decide to modernize now, we will enter the next century with an older bomber force, a compromised force, a force vulnerable to sophisticated air defense systems that are spreading throughout the world. Decisions we make now will determine the effectiveness of our strategic triad for years to come. We have to modernize.

While we are arguing, the Soviets understand this perfectly. With all their problems, with their economy in shambles, with their military budget declining, with their cities plagued with ethnic unrest—the Soviets are still moving ahead. I want to repeat, they are moving ahead at top speed to modernize their strategic forces.

Mr. President, what are we doing? We quibble about crisis stability and cost effectiveness at the margin, and we talk about abandoning the most important development in military technology in years, the Stealth bomber.

I hope we do not lose the fight for the B-2 bomber. We know that the Soviets have not in the least slowed their research to defeat our strategic forces. That is why we have always relied on the triad. If we stop the B-2, we give away one leg of the triad. Then we will be relying on ICBM's and submarines. We know the Soviets can destroy the ICBM's in silos. Can we be sure they will never find the Tridents?

Mr. President, I am convinced that we need the B-2 bomber. I am convinced that it works. My confidence is supported by a recent Defense Science Board review:

> * * * from the results of block 1 testing that we have seen, we note no technical or performance problems that would lead us to challenge range and payload performance expectations for the B-2. Nor have we observed any flight worthiness or aerodynamic problems to give us cause for program caution.

I, like every Member of this body, am concerned about its price. It is important, however, that we put the cost of the B-2 in the proper perspective.

It is true that Secretary Cheney's revised B-2 program reduced the total buy and annual procurement rates, which resulted in increased flyaway cost. However, when put into historical context, this flyaway cost would not seem unreasonable. History has shown that each generation of aircraft has been significantly more expensive than the previous, reflecting advances in technology and capabilities. For instance, the flyaway cost of the B-36 was nearly 600 percent more than that of the B-29. The B-52 cost nearly 200 percent more than the B-36. Although it represents a totally revolutionary design of materials, avionics and systems on the leading edge of technology, the B-2 will only cost 80 percent more than the conventionally designed B-1B.

Mr. President, our men and women are now in Saudi Arabia facing a formidable Iraqi air defense system. They have world class air defense missiles—mostly of Soviet design and manufacture. If we go to war, we are going to lose planes, and possibly some of our airmen since our F-15's, A-6's, and B-2's represent current technology. Just imagine what the B-2's Stealth technology could do—it could orbit outside Iraq and dash in within minutes to drop 20 tons of conventional bombs. How can we deny our pilots this capability?

Mr. President our Nation needs the capability represented by the B-2. It represents a critical element of our strategic framework for maintaining deterence and stability for many decades. The B-2 will make contributions to national security objectives across the continuum from peacetime to nuclear war that cannot be matched by any other system.

I hope we will not abandon this leap in technology, and I urge my colleagues to vote against the amendment to terminate the B-2.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. Mr. President, I yield 11 minutes to the chairman of the Armed Services Committee, Mr. Nunn, and to his ranking member, Mr. Warner, a total of 11 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Georgia [Mr. Nunn].

Mr. NUNN. Mr. President, I rise in opposition to this amendment. The B-2 program remains one of the most controversial programs in the defense budget, and large numbers of Members in both houses are prepared to terminate it. Nonetheless, I think, on balance, an objective assessment of the factors that bear on this critical decision argues for supporting the decision taken by the Senate in August to continue the B-2 program for another year.

Let's begin with the amazing changes we have witnessed over the past year. What do they portend? A general lessening of tensions to be sure, and, in my view, a further reduction in the likelihood of nuclear confrontation. Of all the possibilities for nuclear conflict, the scenario of escalation from a major convention war has always seemed the most credible. The dissolution of the Warsaw Pact military threat and the beginning of the withdrawal of Soviet troops makes this scenario less likely.

These changes, however, do not mean the millenium has arrived. Whatever the disposition of Soviet troops, however large the reductions under CFE, Soviet nuclear forces will continue to pose the paramount threat to United States national security interests, and will continue to do so even after all required reductions under START have been fully implemented.

Despite all the dramatic changes in Europe, the Soviets still cling to their huge inventory of nuclear weapons as their principal claim to superpower status. When you consider their failing economy, their sagging exports, their discredited ideology, and their growing domestic political turmoil, you realize that strategic nuclear weapons are their only claim to superpower status.

This means that we must still take those actions that are required to ensure that we do not concede any significant strategic nuclear advantage to the Soviet Union. If we are to maintain parity in the strategic balance, we cannot allow key components of our strategic retaliatory force, including our bombers, to become obsolete or ineffective.

If we do not deploy the B-2, that is just what will happen. We will within a few years discover that we are left with older bombers which will become increasingly vulnerable to Soviet air defenses and whose ability to deliver nuclear weapons against key Soviet targets will increasingly be put in doubt. That will not be a problem facing the Soviets. Since we have chosen to maintain no meaningful air defenses.

In short, without the B-2, the strategic balance will tilt in favor of the Soviet Union.

This tilt will be exacerbated by the way we have negotiated the START treaty. START has been designed to encourage each side to deploy penetrating bombers like the B-2; that is, bombers that fly over their targets and drop nuclear bombs instead of shooting cruise missiles at their targets from great distances away. If we kill the B-2, we will be faced with the choice of going back to the drawing boards in renegotiating START or accepting the fact that the Soviets are going to be able to deploy thousands more nuclear weapons under the agreement than we will be able to deploy. However, without the leverage provided by the B-2, we might find it very hard indeed to get a better deal in a new START negotiation than the one which is emerging now.

I believe that United States and the Soviets can and should utilize the START agreement and subsequent negotiations to increase the stability of deterrence on both sides, while reducing the number of nuclear weapons. In this respect, bomber forces are highly desirable. They can be kept on high alert, ground or airborne, they can be launched early, they are slow fliers, and they can be recalled. They are not first-strike weapons. Their launch does not place the Soviets in a position where they must decide—in the next few minutes—to launch their missiles or risk losing them. I hope that in subsequent START agreements we can work to eliminate highly MIRV'd land-based missiles, whether mobile or in silos. Then, not even ICBM's in silos would have to be on hair-trigger alert—if it takes two or three enemy warheads to reliably destroy one of our single-warhead ICBM's, that's a mighty bad exchange for the attacker, and a powerful incentive to any strategic nuclear attack.

Many wonder whether there is any valid mission for the B-2 in the 1990's and beyond since we have so many ICBM's and submarine-launched ballistic missiles [SLBM's]. The answer is yes. The reason we need the B-2 is the same reason we have needed manned penetrating bombers since ballistic missiles were first deployed 30 years ago: we cannot take the risk of assuming that the survivability of our ICBM's and SLBM's will never be threatened.

Our silo-based ICBM's are already highly vulnerable to a Soviet first strike and they will remain so if Congress and the President cannot agree on a plan for making our ICBM's mobile. With regard to our SLBM's we simply cannot trust the Soviet scientists will never find a way of detecting and tracking our missile submarines at sea. Moreover, if we kill the B-2, and thus spare the Soviets the $40 billion that would otherwise be required to revamp their air defenses t defend against it, the Soviets will b free to concentrate their research an development efforts on ways to further threaten the survivability of ou ICBM's and SLBM's.

But doesn't the B-2 cost too much Isn't the cost so high that we simpl cannot afford it no matter how important the contribution it might make t maintaining deterrence? I woul answer no. Make no mistake, the B- is a very expensive program. It wil cost on the order of $34 billion to complete the program and deploy 7 bombers. But this cost must be put i context.

First, the B-2 is far from being th Defense Department's most expensiv program. For example, we are consid ering spending $99 billion to complete the Air Force's new Advanced Tactical Fighter Program. We are considering spending $51 billion to complete the Navy's new A-12 Attack Fighter Program. And we are considering spending another $39 billion to finish the DDG-51 Destroyer Program.

Should we kill the B-2 and save $34 billion while spending $39 billion to produce 50 destroyers when 75 B-2's could hold every surface Navy in the world at risk? is that a sensible choice?

In addition to the total program cost, B-2 opponents also criticize the unit cost of the B-2, in other words, the cost of each aircraft. The best measure of unit cost is called flyaway cost—that is, what it will cost to build each bomber from this day forward, recognizing that all previous research and development spending on the program can never be recovered.

If we buy 75 B-2's, the unit flyaway cost for each bomber is on the order of $450 million. That is a lot of money. But consider this: A new 747 airliner today costs about $150 million. Is it reasonable to assume that a bomber that is capable of flying half way around the world, penetrating Soviet air defenses, dropping nuclear bombs on multiple targets, and returning home would cost three times the cost of a 747 that we routinely fly to London? I think the answer is yes.

Mr. President, over the last year, we have gained considerably more test and operational experience with stealth vehicles—not with the B-2, to be sure. But those of us who have reviewed this test data now understand much more clearly the revolutionary nature of stealth technology. Those Senators who have not been following these details should ask for a briefing on these matters, since the unclassified snippets of information only hint at the revolution in air warfare that stealth technologies are about to create.

Among the unclassified snippets of information are that Soviet AWACS radars will not detect a B-2 unless it were so foolish as to fly directly at the AWACS. Similarly, the pilot of the most modern, look-down, shoot-down Soviet interceptor has a better chance of detecting a B-2 if he scans the horizon through his canopy with his naked eyeballs than if he concentrates on his radar scope. We have learned that the B-2 is designed to have the radar cross-section the size of an insect! In sum, stealth works—it has a devastating effect on the effectiveness of modern air defenses, whether on land, in the air, or at sea.

Will these judgments apply to the B-2? We cannot answer that question fully, as the B-2 is only now being prepared for its low-observability testing. The Defense Department has done extensive calculations, simulations, and tests using scale models of the B-2, as they did with our earlier stealth vehicles. When those real production items were tested, the test results were in very close agreement with the predictions. But, to repeat, the full-size B-2 will only begin low observability testing this fall.

Mr. President, I understand the case against the B-2:

First, all of us are suffering from sticker shock;

Second, the cartoonists are having a field day with both the costs and the stealth characteristics of the B-2;

Third, we are all trying to find ways to save money to alleviate severe fiscal pressures;

Fourth, the contractor has had serious charges of fraud against it on other programs; and

Fifth, the negative experience with the B-1's cost and quality causes considerable skepticism as to Air Force claims for the B-2.

We must think long and hard, however, before we end the role of the penetrating bomber in our strategic triad. Those who propose to kill the B-2 program have an obligation to answer some questions for the Senate and for the country.

Question 1: I call on the B-2 opponents to explain what arguments you will use to justify our acceptance of the fundamental difference that, while the United States has no air defenses against the many Soviet bombers the treaty allows, the Soviets have massive air defenses, against which we have chosen to forego the one bomber that can penetrate the robust Soviet air defenses—the B-2?

Question 2: I call on the B-2 opponents to explain why we should allow the Soviets to complete the modernization of their air defense system and then be free to focus their energies and their defense resources solely on the problem of defeating our cruise missile carrying bombers before they can get to their launch points.

Question 3: I call on them to explain why, if we are prepared to spend $36 billion to acquire a token force of 15 B-2's we should not spend another $27 billion for 60 more B-2s, so that we could render virtually worthless a Soviet capital investment of some $400 billion and complicate their future defense planning inordinately.

Question 4: I call on the B-2 opponent to explain the potential vulnerability of B-52's and B-1's with cruise missiles to interdiction before they have reached their launch-point for the cruise missiles. I note that in this bill, we are funding the development of two space-based surveillance programs—one Air Force and one Navy—that are designed to track nonstealth aircraft like the B-52 and B-1 in flight on a worldwide basis. The Soviet RORSAT reportedly can already track the U.S. Navy at sea. I call on the B-2 opponents to explain why their proposed reliance on nonstealth bombers carrying cruise missiles does not create inherent and exploitable vulnerabilities.

Question 5: In my view, if this amendment passes, the savings the proponents are assuming may well not materialize, and in the long run, this amendment may even cost us significantly more than the B-2 would. If the asymmetries advantages in the Soviet's favor in both bombers and air defenses can be exploited to whip up a public concern during the Senate debate, or once the B-1 ceases to be a penetrator, will we begin a better air defense program? What will be the cost of much more robust U.S. air defenses? Can it be any less than the $123 billion cost of a limited phase 1 SDI system?

Question 6: I call on the B-2 opponents to address in detail their assumptions about the penetration capability of the B-1, without both the B-2 and a substantial barrage of Soviet air defenses by United States ballistic missiles. What do they assume? I ask the B-2 opponents to tell the Senate what are the implications of the loss of 1,500 to 2,000 bomber-carried weapons, once the B-1 is no longer able to penetrate. What is the effect of this loss of weapons? And I have not heard them suggest their criterion for withdrawing the B-1 from penetration missions—is it 50 percent attrition? Sixty percent? Seventy-five percent? Do they disagree with the judgment that the B-1 will not be able to penetrate Soviet defenses by the end of the decade?

In closing, Mr. President, I want to return briefly to the issue of cost. I will only give a couple of ways of looking at where we are. The easiest formula to remember is 27-9-27. The first number, 27, represents the money already appropriated—$27 billion, in round numbers. Most of that is gone.

The second number, 9, represents the added cost, in round numbers, to complete the flight-test program, finish construction of the 15 operational B-2's authorized to date, and deliver those 15 B-2's—one squadron—to SAC.

The third number, 27 again, represents the cost of completing the Cheney program. For another $27 billion, we would get the last 60 B-2's.

Mr. President, I think this illustrates how far down the road we have already traveled. For $36 billion, we can get 15 B-2's—hardly a fighting force. For $27 billion more, we would get 4 times that number—60 more B-2's.

Each senator will have to make up his own mind whether another $27 billion to buy 60 more B-2's—or whether some lesser, but still significant, number of B-2's at some lesser cost—makes sense. The Air Force does not believe that only 15 B-2's constitutes a meaningful bomber force. Thus, I do

not support this amendment; I believe we need to acquire more than 15 B-2's, assuming they prove they work.

Mr. President, I have identified a number of questions about this amendment that the B-2 opponents have not answered. The absence of answers to these questions should be troubling to this body. These unanswered questions go to the heart of the issue of our confidence in our nuclear deterrent; they pose questions of accepting yet another arms control agreement with what appear to be major asymmetries in favor of the Soviet Union; they pose questions of the future viability of a bomber force of any kind in the triad.

At this hour, Senate and House conferees are in the final stages of trying to reach compromises on remaining hurdles blocking the completion of the conference on the fiscal year 1991 Defense authorization bill. I ask my colleagues not to undercut our position in that conference by approving this amendment.

Mr. President, I know the Senator from Virginia has some remarks he wants to make, and I want to share this time with him.

Mr. President, we have had this debate once this year, and I assume we will have it again next year. But by the time we have the debate next year, we are going to have a lot more information on the B-2 program. We are going to have completed many of the important tests. I think everyone should understand that in the authorization bill that was passed, there are fences around the B-2 production money that prevent the money from being expended until certain threshold tests have been completed sucessfully.

I know that there is a lot of skepticism about the B-2. The one thing that is certain is that the B-2 has received more attention than almost any aircraft in a long time. The reason is probably because it was classified, and classified for too long; this program was not talked about in public. The public right now, and certainly those who write editorials negative to the B-2, do not understand that we are talking about a revolutionary technology, a revolutionary capability. We are not talking about the technology of the B-52, or the B-1. We are talking about a revolutionary airplane that is going to change the nature of warfare, and it will change it in our favor. I think it is important for people to understand that.

I also think that it is important for people to understand a few things about costs. I will not take much time, but I will say that the unit flyaway cost for each bomber is on the order of $450 million. That is how much it will cost us from this point on to build these aircraft. I think we have to look at it that way. As the Senator from Maine said, the money already spent has been spent across a whole array of programs. All of our stealth technology has benefited from the B-2 stealth technology R&D.

We are talking about $450 million per aircraft. That is a lot of money, but a new 747 passenger airliner costs $150 million today. We are talking about an airplane that can fly 10,000 miles with one refueling, and we are talking about an airplane that can fly over virtually any radar system in the world, ours or any adversary's, and be able to penetrate successfully. We are also talking about a situation where, unfortunately, the B-1 is not performing the role that it was intended to perform, because the electronic countermeasures on the B-1 have simply not come up to the standards that were advertised. This means that the B-1, increasingly, over a period of time, will not be used as a penetrating bomber but, rather, as a carrier of cruise missiles, a standoff cruise missile carrier. That changes the nature of the debate about the B-2.

Mr. President, I understand very well the case against the B-2. All of us suffer from sticker shock when we look at the cost per aircraft. The cartoonists are having a field day with the cost and the stealth characteristics of the B-2. Those decrying the cost do not tell you that we have at least seven other weapons systems that just have not received a lot of attention and that will cost more to complete than the B-2, much more, including the advanced tactical fighter, the ATA program for the Navy, the remaining procurement program on the DDG-51's. All of those cost substantially more than the B-2. So we do have problems with the B-2, but these have not been technical problems, they have been perception problems.

I think that those who oppose this aircraft need to answer some questions for the American people. I call on the B-2 opponents to explain the arguments used to justify our acceptance of the fundamental difference that while the United States has no air defenses and no plan for air defenses against the many Soviet bombers that the START treaty will allow, the Soviets have massive air defenses against which we will have chosen, if this amendment succeeds, to forego the one bomber that can penetrate the Soviet air defenses.

The draft START agreement will have to go back to the drawing board. Anyone who rises next year, after voting to kill the B-2, and asks, "What happened to START?"—if this amendment passes—will have to answer the question themselves. We cannot enter into a START agreement as presently structured if this bomber goes down the tube. It would simply be imprudent from America's point of view; we will have to go back to the drawing board to try to restructure the strategic arms agreement now pending.

I also call on the B-2 opponents to explain why we should allow the Soviets to complete the modernization of their air defense system and then be free to focus their energies and their defensive resources solely on the problem of defeating our cruise-missile-carrying bombers before they can get to their launch points. The Soviets will be able to concentrate against an outmoded B-52, that is going to be a cruise missile carrier and also against the B-1.

I call on the opponents to explain why, if we are prepared to spend $36 billion to acquire a token force of 15 B-2's, we should not spend $27 billion more for 60 more B-2's so we could render virtually worthless a Soviet capital investment of some $400 billion, that they have invested in their air defenses. I also think the B-2 opponents need to think very carefully about what the result will be if their amendment is adopted.

I do not think people have thought this through. But if this amendment is adopted, in addition to its implications for START and the opponents of this system, it may well end up costing significantly more money than the B-2 would cost.

Wait until one day in the future, maybe a year from now or two years from now; wait until the public wakes up and finds out that the Soviet Union has bombers that can fly all over this country while we have no air defenses, but we have nothing that can penetrate their air space because we killed the B-2. Wait until we have some public concern whipped up over that—we know these cycles come and go—and someone stands up and says we have to have air defenses, we must have air defenses over this country. The air defenses will cost, in my opinion, well over $100 billion, perhaps closer to $200 billion. That is 6 times more than it will cost to complete the rest of the B-2.

Mr. President, I have many more points I could make today. I would say that I hope everyone will consider very carefully whether they are going to support this amendment which kills the B-2 program.

There is one thing to which I will take exception that my friend from Vermont has said. He says there is a deadlock in the defense authorization conference over the B-2. I am not in a position to announce a conference agreement today; I hope I will be by late tonight or tomorrow. But there is no deadlock in conference. We are going to resolve this problem and resolve it in a responsible way that is constructive to America's security. I believe my friend from Virginia will verify that.

So at this point, Mr. President, I urge that this amendment be defeated.

I yield such time as I may have remaining to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, the distinguished chairman of our committee has stated the basic points that we have covered in the year-long analysis of this issue in the Armed Services Committee. Also, the chairman called a special meeting here a few days ago to deal with the question relating to the contractor, Northrop Corp.

I think throughout those deliberations in our committee, while expressing concern about certain allegations relating to the contractor, the membership of our committee, I think, left with the feeling that the contractor could finish the job, predicated on assurance provided by the Secretary of the Air Force.

Mr. President, I want to pick up on a point and draw the chairman's attention once again to this issue of air defenses, because the B-2 issue is vastly complicated and I think many Americans are concerned about that and legitimately, given the cost. The plane has performed to date exactly as we had planned it. It is only, as of last week, 1 day behind schedule and is now proceeding to go through a series of tests, which tests were laid down in a formula by the Armed Services Committee last year.

The chairman has pointed out that we made decisions in this country many years ago that we would predicate our deterrence against the nuclear attack on three basic systems: land, sea, and air. And we would not invest, as have the Soviets, hundreds and hundreds of billions of dollars into air defenses. The amount of money they have put in their air defense system is really incalculable, but it is one of the largest parts of their defense budget.

To the contrary, we have decided to put our money into these systems which act as a deterrence, and not air defenses. If we go into that expenditure, as the chairman pointed out, it too becomes incalculable.

But the Soviet Union can then begin to redirect their entire air defense system, take it from the central regions of the Soviet Union where much of it is located today, located there again as their form of deterrence against our air breathing leg, and move it up a distance to where it can just begin to even interdict the cruise missile carriers, because this will be virtually the only air breathing leg left if the B-2 program is subject to the cancellation measure as proposed by the Senator from Vermont. That will enable the Soviets to bring all of those resources to bear on the last remaining element of the air breathing leg of the triad and virtually render that one less effective.

In due time those aging planes, the B-52 airship itself is older than the pilots and the aircrew that operate them, would virtually eliminate the U.S. triad system which has protected us for these many years.

Mr. President, I urge my colleagues to refer to a very well written piece today appearing in the Washington Post by our former colleague and chairman of the Armed Services Committee, John Tower. Senator Tower goes through the analysis very carefully, and I think it is well worth the time of those who have some concern at this moment about their vote. I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Now More Than Ever, We Need the B-2

(By John G. Tower)

I would emphatically urge some of my former colleagues in Congress, who seem determined to junk the American strategic triad of manned bombers, intercontinental ballistic missiles and submarine-launched ballistic missiles to stop and reconsider. Their euphoria at the disintegration of the Warsaw Pact is understandable. But they forget that this triad made that collapse possible by keeping the communist world at bay for more than 40 years. Worst of all, they appear oblivious to the fact that the Soviet strategic force of missiles and bombers that has threatened us is still in place and actually is still growing—in capability and numbers.

What is more, the profound crisis in the Middle East—and the suddenness with which it arose—can only be a grim reminder for all that, despite the end of the Cold War, the real world remains a perilous place.

Of course, the revolutionary changes in Eastern Europe and President Mikhail Gorbachev's reforms in the Soviet Union do constitute a reduction in the threat to our interests and permit significant reductions in defense spending. But reductions should be made primarily in the forces designed to fight in Central Europe, where the disintegration of the Warsaw Pact guarantees us more warning and a less potent adversary.

Nevertheless, among those who are focusing on the strategic budget, the B-2 "stealth" bomber is proving to be a favorite target. They say the B-2 costs too much, that it isn't needed because the job can be done by the B-1 bomber or by cruise missiles. They claim that successful arms control (START) talks will make it irrelevant, that buying the plane shortchanges conventional force needs, that the B-2 isn't "stealthing" and that it can't locate mobile Soviet targets.

They are wrong. The B-2 is, in fact, the manned bomber of the future.

On arms control, for instance, President Bush has made the projected B-2 force a vital prerequisite for START negotiations. National security adviser Brent Scowcroft left no doubt on this score last summer. "The B-2 has been a cornerstone of the START agreement since negotiations began," he said. "Further delays in the program will raise increasing doubts in the minds of the Soviets about our resolve and commitment to maintain the bomber leg of the triad."

Both the U.S. and Soviet negotiating positions recognize that manned bombers are more stable systems than missiles. Bombers are unsuitable for surprise attack but excellent for retaliation. Bombers can be recalled or redirected long after they take off. However, only the B-2 Bomber can fill this role in the future, because its "stealthiness" will protect it from sophisticated air defenses. Non-stealthy aircraft, including the B-1 bomber, will be vulnerable, and cruise missiles, because of payload and range limitations, cannot do the job.

In the past year, it has become voguish to float repeated rumors that new technological developments will destroy the B-2's stealthiness. The fact is that for more than 10 years an independent "Red Team" of experts has tested every alleged threat to "stealth" technology. These experts have concluded that "there is no 'Achilles heel' that would negate the B-2's stealth technology within the foreseeable future," according to Air Force Secretary Donald Rice.

Much has been said about the ability—or inability—of the B-2 to strike relocatable targets. The most important rejoinder is that the B-2's justification never depended on a relocatable target capability. Gen. Larry Welch, former Air Force Chief of Staff, has pointetd out that 60 percent of strategic targets are suitable to manned penetrating bombers. That is why we began to modernize the manned bomber force. The fact is that the B-2 will have the best capability of any U.S. weapon to attack mobile military targets within the Soviet Union. This is another reason to continue the B-2 program, not a shortcoming.

Clearly the B-2 will make a valuable contribution to our strategic deterrent. But the other component of value is cost, and the cost of the B-2 is a source of legitimate concern. The cost of preserving freedom has always been dear, and the B-2—at a program cost of $62.9 billion for a force of 75 planes—is expensive. Yet it will absorb a smaller percentage of the defense budget than the B-52 and B-1 bombers did in the years they were being built.

If the opponents of the plane are successful in killing the program now, it will have cost a total of $35.4 billion (including the "up front" development costs and termination costs) for the 15 bombers already funded. For the additional expenditure of much less—$27.4 billion spread over several years—we can buy an additional 60 airplanes to complete militarily significant force of 75.

In the rumpus over the B-2, the level of funding for the strategic portion of the defense budget has been blown far out of proportion. All strategic modernization, including the B-2, amounts to only about 6 percent of the total defense budget. Since this is a mission area where the threat has not abated, drastic spending reductions in this area seem imprudent.

As the present-day marauding of Iraq reminds us, the post-Cold War "new international order" actually increases the need for a strategic manned bomber force with the characteristics of long range, quick responsiveness, survivability and discrimination. In this new environment, our forward based forces and our access to overseas bases will be reduced. This is already happening rapidly.

As the focus of our concern broadens beyond Europe to more far-flung theaters such as the Middle East, where the distances are greater and the bases may well be fewer, the utility of these long-range systems is multiplied. From such distances, the role of the manned bomber, as the only long-range system able to deliver conventional as well as nuclear weapons becomes unique.

With rogue regimes acquiring modern, sophisticated air defense and state of the art weaponry it makes no sense for us to relinquish unilaterally one of our most valuable and dramatic competitive and military advantages, the revoluntionary new stealth technology.

The strategic triad, which has shielded us for more than four decades, remains necessary against Soviet strategic forces, which are as strong as ever and still being enhanced. Within the triad, the assets of the manned bomber are enormous. With but one mid-air refueling, the B-2 will have the capability to hit a target anywhere in the world. No other U.S. weapon will have the range, payload and survivability necessary to deter and deal with any possible combat situation—with nuclear or conventional weapons—anywhere in the world.

The PRESIDING OFFICER. Who controls time?

The Senator from Hawaii.

Mr. INOUYE. Mr. President, I am pleased to yield to the Senator from Washington [Mr. Gorton] 4 minutes.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, perhaps the most significant single point made by the distinguished Senator from Georgia, who chairs the Armed Services Committee, is that it will be more expensive for the people of the United States to provide for an adequate national defense policy if we cancel this project than it will be if we go ahead with this project because of the other technologies that we may have to develop in its place.

The opposite side of that coin is the proposition that it is far more expensive for a potential adversary to counter the B-2 than it is to build the B-2 itself. It is ironic that much of the cost which is now used as a reason to cancel the program has been caused by the delays required by the opponents to the proposition itself, and they leave us in this amendment with the proposition that we would spend between $25 and $30 billion for no aircraft at all.

In a time of declining defense budgets, perhaps the single highest priority we should have in our advanced technology is to utilize that advanced technology in a way which will provide us systems which are subject to, or available for, a multiplicity of uses. The B-2, in contrast with the missile system, is recallable. The B-2, in contrast to a missile system, can have its target changed after it has departed under very, very difficult circumstances. The B-2 can be used as conventional, as well as a nuclear weapon. The B-2 can be used tactically as well as strategically.

We do not know whether or not a B-2, if it were available, would be used if there is at some time or another forcible action taken against Iraq. We do not know whether it would have been used a few years ago against Libya. But we do know that it could have been used under those circumstances and could be in the future.

The B-2, rather than being a marginal priority, Mr. President, should be an extremely high defense priority just because the defense budget is declining.

The PRESIDING OFFICER. Who yield time?

The Senator from Maine.

Mr. COHEN. Mr. President, I yield 6 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado [Mr. Wirth].

Mr. WIRTH. Mr. President, I thank the distinguish Seantor from Maine for yielding.

I am pleased again to join Senator Cohen, Senator Leahy, and others, in offering this amendment to terminate the B-2 Stealth Program. I can think of no other more glaring example of misplaced priorities for our country in this decade. We all have noticed such remarkable change. We do not need, nor can we afford, a new penetrating strategic bomber.

We have all been engaged in this current budget crisis debate. The country is watching very carefully. I think most people know that the Federal Government is broke. At the same time, most of us watch the Soviet Union and watch centrifugal forces tearing apart the Soviet Union; the Russian Republic exerting its power as a single Republic and a dominant one. In this context, how in the world can we justify buying a fleet of billion-dollar bombers? We simply cannot.

This amendment, as has been pointed out, would cut all the procurement funding for fiscal year 1991 while retaining the requested funds to complete the full-scale development and testing. This will result in savings of up to $35 billion—not an insignificant amount in the context of the pain that we are going to have to inflict on other members of our society as part of any meaningful budget agreement.

For example, the amount of money that we can save here could buy back all the beneficiary cuts in the President's original Medicare budget proposal. Thirty-five billion dollars could make the difference between a meaningful investment strategy in infrastructure or education, investing in something for our future, for America in the 1990's and the next century, not an investment in the 1960's and 1970's.

In light of these competing demands on very scarce resources, what is the case for the B-2? The distinguished chairman of the Armed Services Committee makes a case. And I think, just to look at the central case, the proponents argue that we need the B-2 to maintain the strategic triad of land-based ballistic missiles, submarine-launched missiles and strategic bombers, a case made this morning by the Senator from Texas. But do we need a third bomber to maintain a balanced credible deterrent?

Where did we change our whole deterent strategy, Mr. President, to say that the triad was no longer going to be there so that each leg balanced off the other but now what we are going to try to do is make each leg of triad itself invulnerable? That is an enormous escalation of policy and an enormous escalation of cost.

So we go back to, I think, Mr. President, once again how much is enough. It used to be in the 1980's, this excessive decade that everybody in the country is now reacting to, the answer to that question was "never enough." The Reagan administration came in and said you can have everything you want at no cost whatsoever. You can have everything you want in terms of decreased taxes, you can have everything you want in terms of increased defense expenditures, and you can have every weapons system you possibly can imagine. The rationale for that was that we needed platforms and associated equipment to provide "escalation dominance," "escalation control," "cross targeting," and other elements of strategy that simply today, with the rapid change in the world, does not make sense at all.

As part of this mindset, we also moved from the concept of a diverse strategic triad to the premise that each leg of that triad should be invulnerable and capable of "hard target kill" capability.

Obviously, the B-2 provides additional capability to strike strategic targets—and therefore can be said to provide greater options to the President. But it is a redundant capability: Virtually all the targets we need to hold at risk can be covered by other means: Minuteman, MX, Trident D-5, and air- and sea-launched cruise missiles. Can we afford an additional $35 billion to provide greater redundancy and "cross targeting" options? Would procurement of a third strategic bomber buy the United States 35 billion dollars' worth of national security? I do not think so.

Mr. President, the requirements of nuclear deterrence are much less demanding than the war planners at the Pentagon would have us believe. American common sense tells us this is so. It is up to us to reflect that common sense in this debate.

Recently, the B-2 has taken on the additional mission of selective conventional strikes. This new mission was not part of the original requirement for B-2, and it is, of course, true that B-2 could be used in a coventional mode. But do we really need such an aircraft to strike conventional targets? Would we build a B-2 for such a mission? The answer to those questions is no—and certainly not at the cost of $1 billion per bomber.

Some will try to exploit the gulf crisis to justify the B-2, but there is little military need for B-2 to deter or attack Iraq. It is in the "nice to have" category, not the "essential" category. We do not have the luxury of funding the "nice to haves." There are many more important priorities, both within and without the Pentagon.

Mr. President, we do not need the B-2 to deter nuclear war. We do not need the B-2 to perform tactical air strikes in Third World countries. We cannot afford to continue to squander scarce resources on a nuclear war-fighting system whose contribution to America's real security needs in this decade and beyond are marginal at best.

We have already spent $27 billion on B-2. The Bush administration would like to spend another $35 billion. The pending amendment would save up to $35 billion on B-2 by limiting further expenditures on B-2 to $1.7 billion for R&D. This would be the last bill we would pay for B-2. The billions in the procurement pipeline would be used to cover the termination costs of the program.

There are two arguments that I would make in sum in the short time available to me. One, the times have passed us by. We have other agendas. All we have to do is read and remember Paul Kennedy, the "Rise and Fall of the Great Powers," and keep in mind that our national security is as much if not more dependent on our ability to pay our debts, educate our young, and think ahead to the future.

That is the future argument, Mr. President. The past one against this is that there is no need for us to escalate the triad to make sure that each leg of that triad is itself invulnerable. The triad is there for the purposes of one leg of that triad if other legs themselves have a problem. That is the whole purpose of the triad. Let us leave it at that.

Let us not get ourselves into this situation spending this enormous amount of money, or I might say be blackmailed by various officials in the Air Force saying we are never going to get another arms control agreement if we do not build 75 B-2 bombers. You know and I know that just is not the case.

If the President wants to get an arms control agreement, he can get an arms control agreement. That is his responsibility. We do not have to be blackmailed to spend $35 billion to get an arms control agreement.

I thank the distinguished Senator from the State of Maine for yielding me time.

● Mr. WILSON. Mr. President, I am pleased to once again state the critical need for Congress to support what amounts to a resolution in both technology and war prevention. For America to sacrifice the Stealth aircraft would amount to an abdication of our new leadership role in a world of more sophisticated economies and unpredictable dictators.

Our abandonment of the B-2 would signify our readiness to make our strategic forces and valued allies in unstable areas of the globe more vulnerable to attack and military intimidation. It would indicate to our men and women in uniform that we want to put more of their lives rather than new technologies at risk. It would advertise America's ambivalence to seize a new negotiating strategy emphasizing more stable, recallable, and defensive-oriented platforms such as the B-2.

Today, we face at least the fourth decision of this session of the Senate not on whether we will save money by killing the B-2 but how we will have to spend the remainder of the program's funds. If we terminate this aircraft, the Air Force will be forced to spend $35 billions to close the manufacturing line and pay outstanding bills. If we keep it alive, the Air Force will spend this same amount of money to finish buildling another 60 aircraft.

We owe it to the taxpayers to invest their resources in an economically sensible way that will better protect their children's lives and America's position of world leadership. The obligation of the Senate is clear. Let us now show the will to meet it.●

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. Mr. President, I am pleased to yield 4 minutes to the Senator from Alaska [Mr. STEVENS].

The PRESIDING OFFICER. The Senator from Alaska [Mr. STEVENS].

Mr. STEVENS. Mr. President, I have some hesitancy because I have heard some of my good friends—people that I have discussed this policy with, such as the Senator from Maine—discuss this weapons system. I view it in a different way. I think if there is one system that so startled the Soviet military mind into thinking about where they are going, it was this system.

We used to talk about the person that had to meet with the Soviet leader, and answer his question, which was: If we struck at him today, could we hit him? Could we get by with it? Could we win? They had to say no, they could not win.

But then this system came along. It is not fully operational and it is not fully perfect yet, but this was a system for a penetrating bomber to go after mobile targets and go after command and control targets, targets that were illusive and sometimes very highly mobile. They had a task to do it, and it was a manned bomber. And it was a task that was the most interesting one.

We followed it through from its inception in our committee. The first thing that struck me was that if the system worked in terms of the radar complexity of this, without getting into too many things that are in the classified side, it was clear that if this system worked, the Soviets would have spent a great deal of money trying to find out how to locate this bomber. This bomber had one aspect that nothing else that we had possessed, and that was the possibility of being undiscovered until it was too late.

I think that in all the meetings I went to in the arms control area in Geneva as a representative of the Senate, and in the meetings we had with the Soviet military representatives there, they all wanted to discuss one thing. They wanted to discuss the B-2. We were there to discuss missiles and a lot of other things, but they wanted to discuss the B-2.

The Senate has already heard the Senator from Hawaii set forth the status of the Soviet military might today. I do not intend to repeat it. But I challenge anyone here today to say it has changed; that is the main point about this system. That has not changed.

We have slowed down the production. We have tried to slow down the cost. We are still waiting to find out if it is possible to get an agreement with the Soviets that will change that system. Right now they still are turning out more strategic systems than we are. Still they continue to build their military posture and they seem to be getting stronger every minute as far as their strategic capabilities, though we do understand their command and control systems are not as good as they used to be.

I do not believe, despite what has been said here, it is time to change the policy of the United States on the B-2. It has been reviewed and reduced in cost and in numbers. That, incidentally, has increased the unit cost, as everyone knows. I hope the Senators here to discuss the unit cost would admit that the impact the reduction has had in units has a great deal to do with the unit cost.

But, for me, it is not time to change this policy. Again, the two people that I rely on, I think, as much as anyone—the third person being the President—Secretary Cheney and Colin Powell said we still need this system. I urge the Senate to continue to support it. And if we can get agreement to dismantle the Soviet military, to stop this forever-expansion of their capability, I would support eliminating the system. Until then, it is still necessary, in my opinion, to have this bomber; to be able to penetrate that Soviet system, if the time comes. I hope to God it never comes.

The PRESIDING OFFICER. Who yields time?

The Senator from Vermont.

Mr. LEAHY. I yield myself just 1 minute. I wish it was possible to go

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into, in open session, all the various things—I know the Senator from Alaska does, too—about the capabilities of the Soviet Union and the capabilities of the United States. Every day we look at the economic difficulties of the Soviet Union; we look at the collapse of their economic system; we look at their inability to put together their 500-day program.

We are talking about our national security here, and that includes our economic security. Do we really want to get into the same kind of economic trouble they have? Mr. President, our security is not just the number of airplanes and missiles and ships that we have. It is also the economic viability of this country.

The B-2 is sapping the vitality of this country. It is as much in our national security interests to save the money the B-2 is costing us as is what limited effect it may have on our arsenal.

I yield to the distinguished Senator from Maine. I also thank the distinguished Senator from Maine. He knows I have been wearing two hats this afternoon with the farm bill conference going on in the next room.

I thank him for his help.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I was interested in the comments offered by my friend from Alaska, Senator STEVENS, when he pointed out that the one system that has struck fear and loathing into the hearts and minds of Soviet military planners was the B-2 bomber. As I recall, it used to be the SDI program; that is the one, we were told, that brought them back to the negotiating table, which really posed the basic threat to their entire strategic systems. It is no longer the SDI system, but now the B-2 bomber.

But if that were the case, and I have no reason to question the judgment of the Senator from Alaska, if it is the B-2 which the Soviets fear the most, then I have to ask the question which has yet to be answered: Why in the world would the Soviet Union propose a counting rule at Reykjavik which favors the construction and deployment of the B-2 bomber? If they were really afraid of the B-2, it seems to me logical they would argue: "Let us have a counting rule which discourages the B-2; let us count the B-2 as 20; let us not count it as 1." They did precisely the opposite.

I have yet to have an answer to that question: Why, if they fear the B-2, would they propose a counting rule which favors its deployment?

Then it is also suggested, if we do not have a penetrating bomber then we necessarily have to turn to air defenses. I do not believe that to be the case. To say if we did not have a penetrating bomber, if we only have a B-1B with a stealthy cruise missile, then, alas, we are naked to our enemies and they can be free to send in their Blackjacks and Backfire bombers and we have to rely on air defenses which will cost two or three times as much.

I do not accept that particular scenario. As a matter of fact, I do not understand. If the Soviet Union were so mad as to contemplate and carry out a nuclear attack upon the United States, would they initiate it with the Blackjack bomber, or Backfire bomber? Would that be the strategic force they send in first? I doubt it.

They undoubtedly, if they were that mad, would send off an SS-18 or SS-19 or SS-24, SS-25, or their SLBM's. They have a variety of fast-flying strategic systems which would be here in 30 minutes or less.

Air defenses would be irrelevant against those missiles, unless we are talking about an SDI program which is yet to be conceived that could in fact protect us against a massive assault by strategic forces of that nature.

If they fire, I doubt very much they are going to be relying primarily on their bombers and we are only to rely upon an air defense system.

It has been suggested by one of my colleagues that the Soviets are moving ahead. Indeed they are. They are continuing to modernize their strategic systems. They are also moving ahead into an abyss. They are heading into chaos. They are on the verge of disintegration. They cannot house their soldiers, their people; they cannot feed them. Their shelves are bare. Their crops are rotting in the fields. They continue to build strategic systems.

They are moving, according to some reports, nuclear weapons out of certain areas back to more secure regions of the Soviet Union, or what remains of this vast empire.

They are moving ahead; they are moving into an abyss. I suggest we need not follow them into an abyss by constructing a system which is going to put tremendous pressure upon the balance of what we are going to be able to allocate to our national defense system.

We are looking at $186 billion cut in defense outlays over the next 5 years. And we are now being asked to spend roughly $65 billion for 75 aircraft. Again, if it were really a question of numbers, let us add $5 billion more back. Last year they said we can build you 132 for $70 billion; this year we are down to 75 aircraft for $65 billion. Let us put another $5 billion in and build another 132. It does not work that way. We know. The numbers have been shifted around where we are looking at the possibility of one B-2 approaching $1 billion per aircraft.

I recall reading and quoting from Norman Augustine's book called "Augustine's laws" in which he points to the exponential cost growth of tactical aircraft in this country. He said by the year 2054 the entire Defense budget will purchase just one tactical aircraft that will have to be shared by the Air Force and Navy 3.5 days a week, except for leap year when it will be made available to the Marine Corps. Perhaps Mr. Augustine had his tongue in cheek. But looking at the record, he is not far from being accurate.

For 2 years now we have forewarned the administration not to adopt an arms control counting rule that favored the B-2. The administration rejected this warning.

We have the B-1B and we have a Stealth cruise missile and I submit that will be sufficient to get us through this period of time until such time as the Soviets also come to their senses by stopping this moderniziation of all of their strategic systems.

If we vote for the funding for the B-2 again this year, next year the Pentagon will be back to say, "We have gone this far; do not cut the legs out from under us now."

The time to stop this system is now. We have reaped research and development benefits from the program. We ought not to spend more money to construct 15 operational aircraft which the Air Force says would not be significant enough for them to go forward with.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Hawaii.

Mr. INOUYE. I yield 3 minutes to Senator BOSCHWITZ.

The PRESIDING OFFICER. The Senator from Minnesota [Mr. BOSCHWITZ].

Mr. BOSCHWITZ. Mr. President, I rise as a supporter of the B-2. I said so last night, I might say, in the debate I had with my opponent in this particular election. I support the B-2 because I support high technology that we in this country have developed. I think it has done much to bring about the peace that we see throughout the world.

The United States is not going to put 5 million people under arms the way the Russians have, nor are we going to build all those tanks and field pieces. This is a democracy. We do not even want that many people under arms.

But the great advantage that the United States has had is technology; whether that technology is the SDI or the B-2, it has been that we have been able to develop weapons to which the Russians—who have been our principal competitor and still are our principal competitor—could not respond.

I understand the Russians have undertaken a very broad and a very large defense system throughout their country against air attack; that their landscape bristles with SAM missiles and radar installations. All of those are made obsolete by the B-2. All of those, and I understand it is $350 billion or $400 billion, are no longer operative against this new aircraft.

We ourselves have a committee, it is my understanding, that is seeking to find a way to detect the B-2, and has not been able to do so. So certainly the Russians, in all probability, I should say, have not been able to do so, either.

It is their inability to cope with our advanced technology that is driving them to the wall. They are spending 14 or 15 percent of their gross national product on defense. That is an extraordinary overhead to impose upon society. They cannot spend more. And they cannot find defenses against the weapons that we develop.

That is the way to drive them to the bargaining table, Mr. President. That is the way to negotiate lower levels of weapons, which should be our goal and which is a good goal and a good step toward peace.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, who controls time on behalf of proponents?

The PRESIDING OFFICER. The time is controlled by the Senators from Vermont and Maine.

Mr. COHEN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Maine has 7 minutes and 14 seconds remaining.

Mr. COHEN. How much time is remaining for the Senator from Hawaii?

The PRESIDING OFFICER. The Senator from Hawaii, 3 minutes and 7 seconds.

Mr. BUMPERS. May I have 5 minutes?

Mr. COHEN. I yield the Senator from Arkansas 5 minutes.

Mr. BUMPERS. Mr. President, we are here on October 15, for reasons that nobody ought to lose sight of, as to precisely what the Republican leader, Senator Dole, said the other night, that we have had it all, and everybody wants to solve the problem in a painless way. And the Democratic leader rose and said it has been the decade of indulgence. For 10 years we have been told we can have it all: tax cuts, doubling of defense. And we are here because we have not been able to deal with the threat to this Nation that is greater than the Soviet air defense threat.

I do not know of anything that has the people of this country as upset as they are now about our inability to deal with how we have indulged ourselves, and they have been a party to it, too. We all have. In 16 years in the Senate, Mr. President, I have seen the Secretary of Defense, I believe, kill two weapons systems. I have never seen the U.S. Senate kill a weapons system. That is just from memory standing here. I cannot ever remember that happening. The arguments on the floor today sound just as though the Warsaw Pact was intact and is as dangerous as ever.

Mr. President, today I found out that senior citizen centers, which give meals to elderly and needy people in my State, are closing 1 day a week. In the past, they could get five warm meals a week at noon. Because of a shortage of Federal funding, those Meals on Wheels programs and senior citizens are being cut back while we sit and debate about an airplane that has been flown about 70 hours out of 30,000 hours that it must be flown before we know if we want to buy it, and out of 70 hours of testing a 3,000-hour test airplane, we are prepared to embark on another $27 billion. What on Earth is going on?

Mr. President, the B-1's were a mistake. The Senator from Georgia voted against the B-1 because it was being sold as a penetrating bomber. He believed, and I believed, that it would not penetrate. We also knew that the stealth technology was coming on, and he and I and most people in this body were strong supporters of the Stealth bomber. I had been until last year. Do my colleagues know where the B-1's are right now? Grounded. Do my colleagues know why? Because we bought them before we flew them.

Don Atwood, the Deputy Secretary of Defense, came before our committee last year, and I questioned him. He said, "Senator, I promise you from now on we will not buy anything that has not passed the test, the threshold, before we go further. I promise you, we are not buying anything before it flies."

So here we are with big full-page ads in the Washington Post and New York times every day, distinguished men, whom I respect, saying here is why we need the B-2 bomber. But who is paying for the ads? The Northrop Corp. They are a fine defense contractor, according to some. According to others, recently, they look very, very ominous. If they were a small contractor in the State of Arkansas, they would have been disbarred a long time ago.

Mr. President, I plead with the Members of this body to wake up and do what the House did in a very responsible way. We cannot have it all. We have 150 B-52G's, and we have 95 B-52H's all of which have airframes which are good through the year 2030 which can be reengined. We have, by far, the biggest bomber force in the world and yet we are buying an $840 million aircraft that we do not know anything about at this stage. Talk about buying a pig in a poke. How many times have I heard people on this floor say we will never buy another one before we fly it. The B-1 is not just grounded because an engine fell off the other day. By the time we had 97 B-1 bombers, we found out that the avionics systems on the B-1 was far below what the specifications required.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BUMPERS. I ask for 30 seconds additional time.

Mr. COHEN. I yield 1 minute.

Mr. BUMPERS. Mr. President, this country is in a heap of trouble in the Persian Gulf. I do not know this for sure, but my guess is if we got into a Yom Kipper type war with Saddam Hussein and we started firing off 1 million artillery shells a day, which is very possible, do my colleagues know what we are going to do? We are going to start making bullets and artillery shells, where some of us said our money ought to be spent. Instead, over the years, we opted for these gold-plated weapons systems that invariably do not work, that always wind up two and three times over budget, and we are going to be short of artillery shells and bullets. Do my colleagues know how many B-1's there are in the Persian Gulf? Talk about stealth technology, we cannot find one because they are not there. They do not dare risk that B-1 in a theater war like that.

Where is it when we really need it? Grounded.

I am hoping for once this body will do something responsible. I promise my colleagues the American people are expecting it. We are not laying down our defenses because the cold war, as Maggie Thatcher said, is over. We're still spending about $300 billion on defense. But the Soviets cannot even feed their people, and we continue to make the same arguments here I have heard for 16 years, just as though Brezhnev were still in power.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Hawaii.

Mr. INOUYE. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Hawaii has 2 minutes and 17 seconds remaining.

Mr. INOUYE. Mr. President, on a historical note, in the spring of 1949, President Truman submitted to the Congress of the United States a $11 billion defense budget. At that moment, the country was taken over by euphoria of peace, and the Congress revolted, and that budget was cut in half. Our Army was dismantled; our Navy was put to rest; the Marines became a matter of history; the Air Force was nonexistent. A year later on June 25, they crossed the 38th parallel. The rest is history. Fifty-four thousand Americans have their names on monuments today.

We are at this moment involved in the euphoria of a new dimension. Mikhail Gorbachev today received the Nobel Peace Prize. The wall was tumbled. Eastern European countries are democratic, and people are asking us: Why do we need the B-2 bomber? Mr. President, we have a foreign policy, unfortunately, that evolves around one person: Mr. Gorbachev. Our foreign policy success would depend upon his success. If he fails, then God knows what will happen to our foreign policy.

As every Senator here has testified, Mr. Gorbachev is in trouble. What happens if he leaves? Who is going to take over the Soviet Union? And also keep in mind, Mr. President, with all this talk of perestroika and glasnost, they have not stopped producing ICBM's. While we debate whether we should have a mobile system, they have over 250 operational and on the road; while we are cutting down our navy, they are increasing their naval capabilities; while we built two submarines last year, they built 9. That is the story, Mr. President. And as chairman of the Defense Subcommittee, I do not wish to preside over the demise of the United States. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. How much time do I have?

The PRESIDING OFFICER. The Senator from Hawaii has 20 seconds remaining.

Mr. DOLE. Mr. President, as we, again, prepare to vote on the future of the B-2, I just want to ask my colleagues, just what has changed in the world since the Senate last rejected terminating the B-2?

The world has not become a safer place—it has become more dangerous. The Soviet Union has not stopped modernizing its strategic forces—their strategic buildup continues unabated. The very foundation of the START treaty we are negotiating has not changed—our position remains predicated on building the B-2. The B-52 has not gotten any younger—it continues to age.

So, the point is this—the case for pressing on with the B-2 program remains as valid today as it did when we voted to support the program just 2 months ago. I reaffirm my support for the B-2. I believe the full Senate will reaffirm their support, so, let us get on with it.

Mr. BUMPERS. Does the Senator from Maine have any additional time? If the Senator plans to use it, please proceed.

The PRESIDING OFFICER. The Senator from Maine has 45 seconds remaining.

Mr. COHEN. I thank the Senator from Arkansas for his generosity.

Mr. President, I disagree with the Senator from Arkansas only on one point. He said the House has done the responsible thing. The House has not done the responsible thing. The House would authorize the funding for 15 operational aircraft. We are proposing the responsible thing and that is to terminate the program and just complete the R&D so we can finish that off.

Second, I am not one who is caught up in any walve of euphoria; a wave of hope perhaps, somewhat optimistic about the future, but no wave of euphoria.

Let me say about the Soviet Union, they can continue to build a throne of bayonets, but as a great theologian said, you can build a throne of bayonets, but you cannot sit on it. Whether it is Mikail Gorbachev or Boris Yeltsin, they are going to find it increasingly difficult to sit on that throne of bayonets, and they are going to go under if they continue to spend the way they are. We have enough to deter any attack on the United States and we do not need to spend this kind of money for this system at this time.

The PRESIDING OFFICER. The Senator from Hawaii has 12 seconds remaining.

Mr. INOUYE. I think we have said enough, Mr. President. Let us vote.

Mr. JEFFORDS. Mr. President, this summer, during debate on the defense authorization bill for fiscal year 1991, this body argued for many hours over the wisdom of producing the B-2 bomber, how many should be built and how much money was required for fiscal year 1991 to maintain the program. We had the options of fully funding the B-2, terminating it, or providing for a break in funding while we evaluated the program.

In August, I supported my colleagues Senators Cohen and Leahy in their amendment to withhold new production funds for 1991 while fully funding the research and testing program. Northrop has many bugs to work out of the system, and sufficient funds were appropriated in past years to keep the production lines moving. Unfortunately, the Senate did not agree with this position, but instead chose to provide the full amount of the administration's request; $4.2 billion. Upon returning from the August recess, the House of Representatives decided to terminate production of the B-2, thereby setting the stage for a confrontation with the Senate over the B-2, one that has yet to be resolved.

This time we have fewer options available to us. There is no amendment to delay funding, or to cancel the procurement request until we can get a better sense of the viability of the program or the shape of international change. We are asked to either fully fund or terminate the program. If the Senate were to vote to terminate the program, it would negate any other agreement reached by the authorizing committee conferees, as conferees on both bills would have no choice but to terminate the program completely. In my mind, this is not the time to terminate the B-2. We are in the midst of sensitive negotiations with the Soviet Union over strategic weapons limitations, and the B-2 remains central to the projected balance of forces. While I would support a funding pause, I am not ready to cancel the program completely.

Mr. President, like the rest of my colleagues, I am troubled by ongoing reports of mismanagement at Northrop and improprieties in Air Force contracting behavior. Close congressional scrutiny and strict oversight are obviously necessary. If these abuses continue, Congress will have no choice but to terminate the program.

As we struggle to come up with an overall Federal budget, we are forced to accept cuts in many programs that are tough and unwanted. This makes it all the more difficult to vote for a multibillion-dollar program. While I must support the President's request today, I will be closely following the program in the coming months, and I will not hesitate to vote against the B-2 in the future if budgetary and procurement programs persist.

Mr. CRANSTON. Mr. President, I rise today in support of this amendment to end production of the B-2 bomber.

A year ago, when the fiscal year 1990 Defense appropriations bill came to the Senate floor, I offered an amendment to terminate further funding for the wasteful B-2 program. On that day, we were only able to muster 29 votes, one of the first votes on the B-2. But in the short span of a year—actually less than a year—opposition for the B-2 program has grown. At the beginning of this session of Congress, along with my distinguished colleague from Vermont, I introduced the Cranston-Leahy B-2 termination bill. The Cranston-Leahy bill would terminate the B-2 program once and for all. This past summer, together with Senator Cohen, we almost passed an amendment on the Defense authorization bill to do just that.

The House has deleted funding for any further procurement of the B-2 and it is time for the Senate to follow suit.

There are those who argue that we have spent so much on the B-2, we have no choice but to proceed. The specious argument follows that the B-2 is just too expensive to kill.

If we continue to build more B-2 bombers, past experience with other bomber programs suggests that this plane will only cost more. Even in the bill before us, funding for the B-2 was increased per plane above the administration's request because of newer, ever more costly estimates of this unnecessary program. As we speak, the cost of this plane continues to rise. I'm afraid if we let this hemorrhage of dollars continue this plane will be too expensive to fly.

I believe we can make deep cuts in defense spending that will lead to savings in the short term. More important, the cuts we make today will lay the groundwork for the deeper defense cuts needed for the future.

And there will be future cuts, notwithstanding the fact that this bill is business as usual.

By spending billions of taxpayer dollars on these big ticket items we are committing ourselves to invest in systems that are simply no longer relevant. As I have said before, our strategic deterrent is robust without the B-2. Standoff aircraft with stealthy cruise missiles, including our new fleet of B-1's, can adequately perform the missions designated for the B-2. Our B-52's can last us well into the 21st century.

The essential question we must pose, however, is: What are we deterring? An attack by the Warsaw Pact—a military alliance which crumbled with the Berlin Wall? By the Soviets on their own? Surely not. One of the favorite arguments of B-2 proponents is that the B-2, should the program continue, will serve as our top of the line conventional aircraft. Perhaps we should proceed with the B-2 to deter an attack by Saddam Hussein. Recent events in the gulf highlight the folloy of this argument. With a price tag of well over $1 billion a copy, it is highly unlikely we would risk such a plane to a mission that could be accomplished at far less risk and cost with other aircraft.

In this post-cold-war era where our most likely hypotheses of conflict are third-rate dictators like Saddam, not the professional might of the Red army, our security does not hinge on the big ticket strategic items of the eighties. Our security rests on the nuts and bolts of our conventional forces and our ability to deploy these forces expeditiously. And, above all, our security is contingent on our ability to advance the real security needs of the next generation of Americans—education, health, the environment, housing, transportation, anti-drug and anticrime programs. Every dollar we invest in the B-52 is a dollar less in programs to address critical human needs.

Mr. President, let us not use the situation in the gulf as justification for weapons system we are reluctant to kill. Let us not use the situation in the gulf as a rationale for weapons systems which we do not need and cannot afford.

Mr. President, I urge my colleagues to support this amendment.

Mr. EXON. Mr. President, I think the record is very clear, the stand that this Senator has taken as the chairman of the Subcommittee of Jurisdiction in the Armed Services Committee with regard to the B-2. I happen to agree completely with former Secretary of Defense John Tower who had an insertion in the op-ed, editorial page of the Washington Post.

I ask unanimous consent to have that printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. Mr. President, I would also like to have printed in the RECORD a letter from another stalwart supporter of the B-2, whose water I have carried frequently on the floor of the Senate and in the committees on the B-2; the Commander in Chief of the United States, President George Bush, indicating his support. He asked me to continue to be with him on the B-2.

I ask unanimous consent to have that letter printed in the RECORD also.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. EXON. I think it is interesting, Mr. President, that both former Senator John Tower and the President of the United States, George Bush, have been in Nebraska the past week. In fact the President of the United States is there right now. I am glad to join with these two in total agreement on this particular matter.

I yield the floor.

EXHIBIT 1

NOW MORE THAN EVER, WE NEED THE B-2

(By John G. Tower)

I would emphatically urge some of my former colleagues in Congress, who seen determined to junk the American strategic triad of manned bombers, intercontinental ballistic missiles and submarine-launched ballistic missiles to stop and reconsider. Their euphoria at the disintegration of the Warsaw Pact is understandable. But they forget that this triad made that collapse possible by keeping the communist world at bay for more than 40 years. Worst of all, they appear oblivious to the fact that the Soviet strategic force of missiles and bombers that has threatened us is still in place and actually is still growing—in capability and numbers.

What is more, the profound crisis in the Middle East—and the suddenness with which it arose—can only be a grim reminder for all that, despite the end of the Cold War, the real world remains a perilous place.

Of course, the revolutionary changes in Eastern Europe and President Mikhail Gorbachev's reforms in the Soviet Union do constitute a reduction in the threat to our interests and permit significant reductions in defense spending. But reductions should be made primarily in the forces designed to fight in Central Europe, where the disintegration of the Warsaw Pact guarantees us more warning and a less potent adversary.

Nevertheless, among those who are focusing on the strategic budget, the B-2 "stealth" bomber is proving to be a favorite target. they say the B-2 costs too much, that it isn't needed because the job can be done by the B-1 bomber or by cruise missiles. They claim that successful arms control (START) talks will make it irrelevant, that buying the plane shortchanges conventional force needs, that the B-2 isn't "stealthing" and that it can't locate mobile Soviet targets.

They are wrong. The B-2 is, in fact, the manned bomber of the future.

On arms control, for instance, President Bush has made the projected B-2 force a vital prerequisite for START negotiations. National security adviser Brent Scowcroft left no doubt on this score last summer. "The B-2 has been a cornerstone of the START agreement since negotiations began," he said. "Further delays in the program will raise increasing doubts in the minds of the Soviets about our resolve and commitment to maintain the bomber leg of the triad."

Both the U.S. and Soviet negotiating positions recognize that manned bombers are more stable systems than missiles. Bombers are unsuitable for surprise attack but excellent for retaliation. Bombers can be recalled or redirected long after they take off. However, only the B-2 bomber can fill this role in the future, because its "stealthiness" will protect it from sophisticated air defenses. Non-stealthy aircraft, including the B-1 bomber, will be vulnerable, and cruise missles, because of payload and range limitations, cannot do the job.

In the past year, it has become voguish to float repeated rumors that new technological developments will destroy the B-2's stealthiness. The fact is that for more than 10 years an independent "Red Team" of experts has tested every alleged threat to "stealth" technology. These experts have concluded that "there is no 'Achilles heel' that would negate the B-2's stealth technology within the foreseeable future," according to Air Force Secretary Donald Rice.

Much has been said about the ability—or inability—of the B-2 to strike relocatable targets. The most important rejoinder is that the B-2's justification never depended on a relocatable target capability. Gen. Larry Welch, former Air Force Chief of Staff, has pointed out that 60 percent of strategic targets are suitable to manned penetrating bombers. That is why we began to modernize the manned bomber force. The fact is that the B-2 will have the best capability of any U.S. weapon to attack mobile military targets within the Soviet Union. This is another reason to continue the B-2 program, not a shortcoming.

Clearly the B-2 will make a valuable contribution to our strategic deterrent. But the other component of value is cost, and the cost of the B-2 is a source of legitimate concern. The cost of preserving freedom has always been dear, and the B-2—at a program cost of $62.8 billion for a force of 75 planes—is expensive. Yet it will absorb a smaller percentage of the defense budget that the B-52 and B-1 bombers did in the years they were being built.

If the opponents of the plane are successful in killing the program now, it will have cost a total of $35.4 billion (including the "up front" development costs and termination costs) for the 15 bombers already funded. For the additional expenditure of much less—$27.4 billion spread over several years—we can buy an additional 60 airplanes to complete militarily significant force of 75.

In the rumpus over the B-2, the level of funding for the strategic portion of the defense budget has been blown far out of proportion. All strategic modernization, includ-

ing the B-2 amounts to only about 6 percent of the total defense budget. Since this is a mission area where the threat has not abated, drastic spending reductions in this area seem imprudent.

As the present-day marauding of Iraq reminds us, the post-Cold War "new international order" actually increases the need for a strategic manned bomber force with the characteristics of long range, quick responsiveness, survivability and discriminaiton. In this new environment, or forward based forces and our access to overseas bases will be reduced. This is already happening rapidly.

As the focus of our concern broadens beyond Europe to more far-flung theaters such as the Middle East, where the distances are greater and the bases may well be fewer, the utility of these long-range systems is multiplied. From such distances, the role of the manned bomber, as the only long-range system able to deliver conventional as well as nuclear weapons, becomes unique.

With rogue regimes acquiring modern, sophisticated air defense and state of the art weaponry, it makes no sense for us to relinquish unilaterally one of our most valuable and dramatic competivie and military advantages, the revolutionary new stealth technology.

The strategic triad, which has shielded us for more than four decades, remains necessary against soviet strategic forces, which are as strong as ever and still being enhanced. Within the triad, the assets of the manned bomber are enormous. With but one mid-air refueling, the B-2 will have the capability to hit a target anywhere in the world. No other U.S. weapon will have the range, payload and survivability necessary to deter and deal with any possible combat situation—with nuclear or conventional weapons—anywhere in the world.

EXHIBIT 2

THE WHITE HOUSE,
Washington, October 11, 1990.

Hon. JAMES EXON,
Committee on Armed Services, U.S. Senate,
Washington, DC.

DEAR SENATOR EXON: As you continue the Conference on the FY 91 Defense Authorization Bill, I want to make clear the importance I place on the B-2 bomber and my strong support for its continued production and deployment.

While we are witnessing truly historic changes in the international environment, these changes have not obviated the need for a credible and effective nuclear deterrent. Soviet strategic modernization continues and there remains a fundamental requirement for the B-2. The long-range penetrating bomber is the most flexible and most stabilizing element of the strategic triad and the only one that is applicable across the full spectrum of possible conflict. The B-52 is approaching the end of its useful life and the B-1B was expressly bought to bridge the gap between the B-52 and the B-2. I am convinced that the United States should proceed with the B-2.

We have made considerable progress in the strategic arms talks. B-2 is integral to our force plans under START. A key goal in these talks is to move the strategic forces of the United States and the Soviet Union toward the greater stability offered by the manned bomber.

Clearly, stealth technology ranks among the most important military developments since World War II. The B-2 represents a revolution in aircraft technology, not just an evolutionary change. It will offset a major investment by our potential adversaries while minimizing the requirements for a large force structure of our own. We lead the world in this technology—we must maintain this lead and deploy the B-2.

I fully understand the fiscal constraints under which you are attempting to fashion a sound and supportable Defense Authorization Bill. However, I have no doubt in the requirement for the B-2—I ask that you join me in a shared commitment to deploy the B-2 and urge your continued leadership for the B-2 as a vital part of our strategic modernization programs.

Sincerely,

GEORGE BUSH.

Mr. LEVIN. Mr. President, as a member of the Strategic Subcommittee of the Senate Armed Services Committee, I have followed the strategic bomber debate very carefully. I opposed the B-1 bomber and supported the B-2 as an alternative. However, over the last few years the cost of the B-2 has ballooned, and the reduction in the number of planes from 132 to 75 has raised that cost even higher.

During the debate on the fiscal year 1991 DOD authorization bill I voted for an amendment offered by Senator COHEN that would have eliminated the procurement funds requested by the Air Force for two new B-2's in fiscal year 1991. The Cohen amendment made sense because the Air Force already has $1.66 billion in procurement funds for two new B-2's that is untouched from fiscal year 1990. This money will not be released until the Air Force meets strict testing requirements written into law by the Senate last year. The Cohen amendment would also have allowed us to protect the option of making the B-2 aircraft that are already in the pipeline fully operational.

While I have concerns about the cost of the B-2, I will vote against the Leahy amendment because I believe that the fences around the B-2 program make sense and we should refrain from terminating the B-2 program until we have a better understanding of the technological merits of this aircraft.

The PRESIDING OFFICER. All time has been yielded back. The question is now on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SANFORD (when his name was called). Mr. President, I have a pair with the Senator from Massachusetts [Mr. KERRY]. If he were present and voting, he would vote "aye." If I were permitted to vote, I would vote "nay." I, therefore, withhold my vote.

Mr. JEFFORDS (when his name was called). Mr. President, on this vote I have a live pair with the senior Senator from Oregon [Mr. HATFIELD]. If he were present, he would vote "aye." If I were permitted to vote, I would vote "nay." I withhold my vote.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from California [Mr. WILSON] are necessarily absent.

The PRESIDING OFFICER (Mr. BRYAN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 44, nays 50, as follows:

[Rollcall Vote No. 272 Leg.]

YEAS—44

Adams
Akaka
Baucus
Biden
Bradley
Bumpers
Burdick
Byrd
Cohen
Conrad
Cranston
Daschle
DeConcini
Glenn
Graham
Grassley
Harkin
Heinz
Hollings
Humphrey
Kennedy
Kerrey
Kohl
Lautenberg
Leahy
Lieberman
McCain
McClure
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Rockefeller
Roth
Sarbanes
Sasser
Simon
Wirth

NAYS—50

Armstrong
Bentsen
Bingaman
Bond
Boren
Boschwitz
Breaux
Bryan
Burns
Chafee
Coats
Cochran
D'Amato
Danforth
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Gore
Gorton
Gramm
Hatch
Heflin
Helms
Inouye
Johnston
Kasten
Levin
Lott
Lugar
Mack
McConnell
Murkowski
Nickles
Nunn
Robb
Rudman
Shelby
Simpson
Specter
Stevens
Symms
Thurmond
Wallop
Warner

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Sanford, against

Jeffords, against

NOT VOTING—4

Hatfield
Kassebaum
Kerry
Wilson

So the amendment (No. 2992) was rejected.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I will not take the time of my colleagues now, because I know the distinguished managers wish to complete this. I will speak further on the B-2 bomber during this week. But I wish to thank those Senators who supported the amendment, those Senators who voted earlier this year for either the Cohen-Leahy amendment or other Leahy-Cohen amendments on the B-2.

I note, Mr. President, that the B-2 survived by one vote in the Appropriations Committee within the past few days. It survived by only six votes here on the floor of the Senate. It is a virtual deadlock in the authorizing committee of conference. It lost in the House.

I think more and more Members are listening very clearly to the concerns of the American people in this. I think that the days, in many ways, of the B-2 are limited. I applaud those Senators who joined with us, and I also applaud the managers of the bill for their courtesy and concern in expediting this debate.

I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, to address a comment to my colleague, the manager of the bill, it is my understanding from this side that Senator Symms has an amendment, which we are going to accept, and then Senator Grassley has an amendment. We have gone through the majority of the amendments, I might add, so we are trying to finish up those on this side of the aisle. I have not seen the Grassley amendment. Other than that—does the Senator have two amendments?

Mr. SYMMS. Mr. President, I will counsel with my senior colleague. We think he is going to modify the one amendment to suit the committee. If he cannot do that, we may not offer it. I would like to have 5 minutes to counsel with him.

Mr. STEVENS. We have one potential amendment with Senator Nunn. There are no second-degree amendments that I know of, of any kind. If we can see the Grassley amendment, we can answer the questions being asked of us as to how long we are going to be here. As far as I can see, we are down to four possible amendments.

AMENDMENT NO. 2993

Mr. SYMMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The Senator from Idaho [Mr. Symms] proposes an amendment numbered 2993.

Mr. SYMMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

Of the amount appropriated in this Act for Research, Development, Test and Evaluation, Navy, the sum of $31,000,000 may be obligated for an evaluation of the Assault Ballistic Rocket System.

Mr. SYMMS. Mr. President, this amendment addresses what I see as an increasingly serious situation—a significant void in our military capabilities which has developed over time—the ability of the Navy to provide adequate ship-to-shore fire support essential to the Marine Corps in amphibious operations.

Mr. President, let me say at the outset, that this amendment in no way should be misunderstood as a move against the battleships our Navy currently has. In fact the thrust of this amendment is to emphasize that the capability of the Navy to provide adequate ship-to-shore fire support even with the current four battleships in the fleet is inadequate.

The administration announced earlier this year its plans to retire two of the four battleships. Operation Desert Shield has forced a postponement in the date for these deactivations, but we will surely have to face these decisions on deactiviation eventually. We must take action now to improve fire support capability for amphibious assault operations.

The Navy's capability to provide adequate fire support for the Marines is a matter that deserves attention. Fire support can be essential for military success, and we need more capability in this area to provide balance to our forces. We have spent great sums of money providing ship-to-shore transport for the Marines by funding LCAC air cushion landing craft and several kinds of helicopters. This capability allows the Marines to operate from over-the-horizon distances.

Now we must increase the range and capability of naval fire support. Like artillery in our land forces, naval fire support can suppress an enemy force, but we need greater range and firepower. Two battleships help, but they are not enough. The relatively small caliber of our guns on other naval ships do not have the range or the rate of fire necessary to balance our amphibious assault capability.

My amendment would allow the assault ballistic rocket system to be considered as a conference issue, and it matches the authorization in the Senate version of the Defense authorization bill. The assault ballistic rocket system [ABRS], would build on the successful MLRS system already developed for the Army, and package it in modules, or containers, suitable for use on ships.

Such a system could also use the longer-range ATACMS missile, which the Army is also using. The advantage of putting this system in containers is that we could use virtually any naval ship fire support and avoid the expense of building special ships to provide this capability. This capability would complement and enhance the battleships we now have.

Mr. President, I would like to review at least one historical example just to emphasize how far we have allowed our capabilities in this area to decline over the years. I want to be sure that Senators understand the magnitude of the ship-to-shore fire support we have employed in the past to ensure our Marines could get ashore with minimal loss of life.

In April, 1945 prior to the Marines going ashore in Okinawa, and I urge my colleagues to listen closely to these numbers, 8 battleships, 16 heavy cruisers, and I quote from the official report—dozens of destroyers, shelled the island for 6 days, 27,226 rounds, 5 inch or larger were fired in the pre-assault bombardment alone.

Mr. President, at this very moment, we have between 10,000 to 15,000 Marines aboard ships in the Persian Gulf. If hostilities break out there, they may be called on to make an amphibious assault against heavy resistance—and we have only one battleship there to provide the pre-assault ship-to-shore bombardment.

Now I know that we will have close air support in the Persian Gulf, but we had close air support in World War II and Korea also—and that does not negate the need for future ship-to-shore fire support. I also am aware that we have other ships in the gulf but the guns on these ships are not optimized for ship-to-shore fire support.

Mr. President, my amendment provides $31 million for the Navy to conduct a proof-of-principle evaluation of the Army's multiple-launch rocket system [MLRS] and Army tactical missile system [ATACMS] on board naval ships for ship-to-shore fire support.

The MLRS fires a free flight rocket, each of which is filled with 644 submunitions with dual action effects against both personnel and light armor. Twelve rockets are capable of blanketing 30 acres with these lethal submunitions. The 30 kilometer range of the MLRS equates to that of the 16-inch gun on the battleship and provides devastating firepower. The MLRS is contained in a prepackaged six-rocket pod.

The ATACMS is an extremely accurate surface-to-surface missile system with a range of 140 kilometers providing the capability to fire over-the-horizon and hit targets deep inland such as air defense sites, command and control facilities and artillery positions. The ATACMS missile contains 1,000 anti-personnel/antimaterial submunitions.

The suppression of air defense sites is critical to the Marine Corps ability to conduct heliborne assaults deep inland beyond the beach area.

The configuration which will be evaluated is a modular approach which includes a launcher module, a loading module and a magazine module, all of which could be adapted to almost any ship—including the battleships and other combatants to increase their ship-to-shore fire power—and even on noncombatants such as amphibious ships to provide the added

required fire support for the Marine assault force.

This amendment would appropriate $31 million for a proof-of-principle evaluation of the MLRS/ATACMS launcher aboard Naval ships for ship-to-shore fire support.

This is one of those missions which, in my view, we have allowed to decline over the years. This is not necessarily the Navy's fault, in fact, the Navy began to examine this concept themselves several years ago. It became known then in the Navy as the assault ballistic rocket system.

We have asked a great deal of our Navy over the past few years and they have not been able to afford to buy all of the capabilities they need to accomplish the many varied missions they have. I believe that this amendment provides a cost effective and operationally effective way to get a marked increase in capability and I urge my colleagues to support this amendment.

Too often when an amendment such as the one I have just proposed is introduced, the question arises, "Is this a constituent issue?" In this case, let me say there is a constituency—they have not lobbied me for this—they are a proud group who believe they can overcome virtually any obstacle.

The constituency is the U.S. Marine Corps and I ask my colleagues to support them by voting for this amendment.

Mr. STEVENS. Mr. President, the Senator's amendment does not increase the amount appropriated for research and development for the Navy, and we have agreed to take this amendment to conference and work it out there.

Mr. INOUYE. Mr. President, we have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2993) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, it was my intention to submit the following amendment, which I send to the desk and ask unanimous consent to be printed in the Record. I just wish the Senate to know that I will do my best to have this amendment accepted in conference. I have made this promise and pledge to the Senator from Washington, Mr. Slade Gorton, and I shall do so.

The PRESIDING OFFICER. Is the Chair correct, that was not offered as an amendment? If the Chair might inquire of the manager, it was not the Senator's intention to offer that as an amendment but to have the requested amendment made a part of the Record; is that correct?

Mr. INOUYE. The Presiding Officer is correct, sir.

There being no objection, the material was ordered to be printed in the Record, as follows:

On page 77, between lines 17 and 18, insert the following:

(d) The effects of subsections (b) and (c) shall be nullified on and shall have no further effect after September 30, 1991.

AMENDMENT NO. 2994

(Purpose: To enact the National Defense Authorization Act for fiscal year 1991)

Mr. INOUYE. Mr. President, I send an amendment to the desk on behalf of Senators Nunn and Warner and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The Senator from Hawaii [Mr. Inouye], for Mr. Nunn (for himself and Mr. Warner) proposes an amendment numbered 2994.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 101, between lines 2 and 3, insert the following new title:

TITLE IX—DEFENSE AUTHORIZATIONS

SEC. 9001. ENACTMENT OF FISCAL YEAR 1991 DEFENSE AUTHORIZATION BILL

The provisions of the bill H.R. 4739 of the One Hundred and First Congress, as passed the Senate on September 25, 1990, are hereby enacted into law.

SEC. 9002. TERMINATION OF PROVISIONS UPON ENACTMENT OF AUTHORIZATION BILL

Section 9001 shall not take effect if the bill H.R. 4739 of the One Hundred and First Congress is enacted before this Act. If that bill is enacted after this Act, the provisions of section 9001 shall cease to be effective upon the enactment of that bill.

Mr. NUNN. Mr. President, the amendment by Senator Warner and myself incorporates by reference the Senate-passed DOD authorization bill into the pending DOD appropriations bill. This is the same approach adopted by the Senate in 1988, which was enacted into law as part of Public Law 100–488, the Defense Appropriations Act for Fiscal Year 1989.

Today, the Senate faces a situation similar to 1988. The delays in reaching budget agreements in 1988 led to delays in resolving both the authorization and appropriations bills. This made it necessry to address the appropirations bill before final action was taken on the authorization bill. In order to preclude the lengthy debate on the appropriations bill that would have resulted from resurrecting every issue debated on the authorization bill, we simply incorporated the authorization bill by reference.

We are in the same situation today. The difficulties in reaching a budget agreement have delayed and compressed both the authorization and appropriation process. The Senate has approved a DOD authorization bill. We are close to concluding our conference with the House, but a final agreement has not yet been reached. Therefore, we need to incorporate our bill by reference in order to ensure that the Senate is not further delayed by revisiting all the issues that were dealt with in the authorization bill.

Mr. President, the Armed Services and Appropriations Committees have worked very closely this year to ensure a cooperative, mutually beneficial approach to the national defense issues that confront us. I would like to express my appreciation to Senator Byrd, the chairman of the Appropriations Committee, Senator Hatfield, the ranking minority member, Senator Inouye, the chairman of the Defense Subcommittee, and Senator Stevens, the ranking minority member. I urge the adoption of the amendment.

Mr. INOUYE. Mr. President, I am pleased to announce that this has been considered by both managers, and we are pleased to take this to conference.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 2994) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCAIN. Mr. President, I would like to make an inquiry of my good friend from Hawaii, the chairman of the Defense Appropriations Subcommittee, regarding a provision in this bill.

The section to which I refer is section 8038, the provision regarding CHAMPUS mental health benefits.

I know of my good friend's longstanding concern about the rapidly escalating cost of the mental health benefit under CHAMPUS, and of his commitment to see that, in restructuring this benefit, we do so in a manner that continues to provide our Nation's military dependents and families with a benefit that is sound from a health policy concern.

I might say that I share his concern. I am concerned, however, that, while we are awaiting studies and the results of cost control measures and preparing for hearings next year, we do not pull the rug out from under our Nation's military families—those from whom we are expecting so much sacrifice at this time.

I understand of my good friend, that the committee's purpose in adopting section 8038, regarding CHAMPUS mental health benefits, was to initiate a discussion of needed changes in the benefit.

I further understand that it is not necessarily the intention of my good friend to see the appropriations conference adopt the specific language in this section, but rather to consider the language regarding this issue that comes as a result of the conference between the House and Senate Armed Services Committees.

This is of particular concern to me, as Senator GLENN and I, and the full Armed Services Committee, are in the process of trying to negotiate with the House Armed Services Committee what types of changes might be made in the mental health benefit pending extensive hearings next year.

I would like to inquire of my good friend whether my understanding is correct?

Mr. INOUYE. I say to my good friend from Arizona, the ranking Republican on the Senate Armed Services Subcommittee on Manpower, that his understanding is correct.

I might also say that I am aware of his strong concern for the cost escalation in this area of CHAMPUS, and his desire to make sure that as we attempt to bring costs in to line we do not pull the rug out from under critically ill individuals.

It is my intention to take to the appropriations conference the result of the authorization conference agreement on this issue. In addition, I look forward to continuing to work with my good friend on this issue as he and the authorizing committee delve deeply into this issue next year.

Mr. McCAIN. I thank my good friend from Hawaii for his clarification of section 8038, and I, too, look forward to working with him in resolving this issue.

C-130 AEW PLATFORM

Mr. HATCH. Mr. President, I wish to engage in a colloquy with the distinguished floor managers on S. 3189, the Department of Defense appropriations bill, on a matter of great importance.

In putting together S. 2695, the Anti-Drug Abuse Act of 1990, which I subsequently introduced in May, I met with representatives from the Marine Corps regarding their stated requirement for a C-130 AEW platform. Not only would this aircraft meet the Marine Corps requirements for an air command platform, but it would give them the capability to assist in the monitoring and detection of drug trafficking flights, the prime area of responsibility for the Department of Defense in the war against drugs. As a result of these meetings, I included a provision in my bill that would authorize $35,000,000 for the retrofit of one C-130 to a C-130 AEW.

The current situation in the Persian Gulf highlights the need for additional AEW assets dedicated to the war on drugs. As a result of Operation Desert Shield, Air Force AWACS have been redeployed to the gulf, reducing drug monitoring and detection flights by over 50 percent. With events in the Persian Gulf being so unpredictable there is no telling when these AWACS will be available to resume their drug mission. In the meantime, our ability to detect and monitor drug trafficking flights has been greatly reduced.

Therefore, I inquire from my two distinguished colleagues, the Senator from Hawaii and the Senator from Alaska, as to their knowledge of the Marine Corps interest in acquiring AEW capability to meet their mission and drug detection requirements?

Mr. STEVENS. Yes, it my understanding that elements of the Marine Corps are interested in the C-130 AEW. I understand the Marine Corps has sufficient C-130 air frames already available for retrofit and thus would not acquire new aircraft. I am also aware of their commitment to using this asset in support of the Department's counter-drug mission.

Mr. INOUYE. I concur with that assessment regarding the C-130 AEW.

Mr. HATCH. I thank the Senators for that clarification of the Marine Corps interest in the C-130 as an AEW platform.

Could the chairman and ranking member of the Appropriations Subcommittee on Defense give this Senator some assurances today that when they go to conference with the House they will consider favorable language such as that in the House report?

Mr. INOUYE. I believe that the recommendation of the Senator from Utah may have merit and I would consider the inclusion of such language in the Statement of Managers accompanying the conference report.

Mr. STEVENS. I agree with my distinguished colleague and chairman. I know of the Senator of Utah's interest in this matter and thank him for bringing it to our attention.

Mr. HATCH. I thank both Senators for their consideration, and I pledge to work with both of them, the Marine Corps, and the Secretary of Defense on this matter.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I wonder if I might just engage the attention of the distinguished managers of this bill for a moment as it relates to certain language which is incorporated on page 112 of the report.

There is reference there to their concerns about the future contracting of the SS-21 submarine program. I wonder if I might ask the distinguished manager of the bill, the Senator from Hawaii, as to what was the purport of the language? I understand he drafted it and put it in.

Mr. INOUYE. Mr. President, if the Senator will yield, the intent of the drafters of this report was very simple. We wanted to provide a level playing field for all contracting parties, and, second, to make certain that the taxpayers of the United States get their money's worth.

Mr. WARNER. In that context, I am certain there is no desire on the part of the managers to diminish in any way the authority of the Secretary of Defense and the Secretary of the Navy as that authority now exists under the current law and regulations and practices with respect to second-source competition.

Mr. INOUYE. As long as he maintains the competitiveness.

Mr. WARNER. I understand that. That was the clarification that I sought, because I did not think there was any intention on the part of the managers in any way to try and influence the award of this contract. That is a matter that can really be best judged by the Secretary of Defense, acting on behalf of the President.

Mr. INOUYE. It is very important that we always keep that in mind because the whole debate this afternoon has been on cost and the heavy burden upon our taxpayers. So one must say that the primary purpose of this amendment was to make certain that we taxpayers of the United States get the best deal dollarwise.

Mr. WARNER. Mr. President, that is perfectly clear. And that would incorporate their judgment with respect to the industrial base need to preserve that industrial base because that, too, is in the interest of the taxpayers. Because when there is competition through the years for a program, that has proven to be the most cost-effective way to get the prices down of various military items. I think I fully understand now with this clarification by the Senator from Hawaii.

Mr. DODD. Will the Senator yield on that?

Mr. INOUYE. I am happy to yield.

Mr. DODD. Just for the purpose of following up on this colloquy here, as I understand it, reading the report language, what the committee is saying is that in this situation it is the judgment of the committee that the best way to achieve that lowest possible

cost is through a competitive bidding rather than trying to predetermine or preselect a contractor in this particular case; but let the competitive process work as it normally does, and through that process the best possible price will be the determining factor for where that contract would be awarded. Is that the interpretation?

Mr. WARNER. I do not think——

Mr. DODD. I directed the question to the manager.

Mr. WARNER. If I might clarify that.

Mr. DODD. I would like an answer to my question, if I may. Did I present the correct interpretation?

Mr. INOUYE. The Senator is correct.

Mr. WARNER. If I could go back, because we now have a dichotomy in what we are saying. You want to preserve for the American taxpayer the best, as the manager of the bill and the author of the language said, the best possible deal.

In this instance, the key operative here is that the Secretary of Defense, who is the contracting authority, using as his deputy, the Secretary of the Navy, is given the full latitude of the current laws and regulations and practices. In no way did the Senator from Connecticut or the Senator from Hawaii wish to attenuate or circumscribe that practice.

Mr. DODD. No; I think I will let the Senator from Hawaii respond, but what the report says is that competition, certainly that is the process. But this would not necessarily be decided by directing or contracting necessarily with one particular contractor, but rather allowing the two contractors in this case to compete. That would determine the best possible price for the product.

Mr. WARNER. Competing in an atmosphere that leaves intact the authority of the Secretary of Defense and the Secretary of Navy under existing laws and regulations as it relates to contracting practices.

Mr. DODD. As long as there is competition between the two contracts.

Mr. WARNER. That is correct. I understand that. There will be a fierce and good competiton. I am sure the Senator from Connecticut and I will make sure that takes place.

Mr. DODD. I am confident that will take place.

Mr. WARNER. I wanted to make sure there was no intention in any way to try and influence the manner in which this was going to take place.

Mr. DODD. Just as long as it is good healthy competition between both contractors.

Mr. WARNER. Understood.

Mr. STEVENS. I must say, I had a conversation with the Senator from Rhode Island [Mr. CHAFEE] earlier about this same subject. He has been quite active in conversations, too, about the meaning of the report. I believe the statement that has just been made by the distinguished chairman of the committee is the same that I have made concerning the intent to have a level playing field in this competition and to make sure the interests of the taxpayers as well as the basic interests of the two competitors is preserved on an equal footing.

It is unfortunate he did not know this discussion was going to occur. I had a conversation with both my colleagues off the floor, so to speak. I do not want him to believe we talked about something I told him was not going to be discussed. I told him we were not going to discuss the matter because it was in the report. I wanted the record to show he, too, was involved in the conversation, and I am sure my friend from Virginia would understand that.

Mr. WARNER. The distinguished Senator from Alaska is in agreement there was no intention by any of this language in any way to influence which contractor would ultimately receive the award, is that correct?

Mr. STEVENS. That is correct. We are trying to maintain the level playing field and understand competition is in the best interests of all concerned.

Mr. WARNER. Correct. I understand some of the language that may be in the House report might somehow have necessitated the amendment, or not the amendment but the insertion here.

Also, I say to may good friend from Alaska, there was no intention by virtue of this language to diminish in any way or circumscribe the authority of the Secretarys of Defense and Navy in their contract authority to award this contract.

Mr. STEVENS. I think the law and regulations of the Department of Defense remain as they were prior to this exchange.

Mr. WARNER. I thank the Senator.

The PRESIDING OFFICER. Who seeks recognition?

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I would like to briefly discuss, if I might, with the managers of the bill the subject of the *Sea Wolf* which I understand was briefly discussed on the floor before. It is my understanding, if I might address the distinguished floor manager of the bill, it is my understanding the report language—and this is agreed to, by the senior Senator from Virginia, there is no question about this—clearly states that this *Sea Wolf* that we provide for in the 1991 appropriations is to be competed between the two yards?

Mr. INOUYE. That is correct.

Mr. CHAFEE. There is no direction to go hither, to Newport News or to Electric Boat. It is to be competed?

Mr. INOUYE. The Senator is correct.

Mr. CHAFEE. Well, I appreciate that. I think that is the way we get the least expensive boat out of the deal.

Mr. WARNER. Would the Senator kindly redirect that question, since I am present on the floor, since both of us had the jobs of doing contracts for submarines?

Mr. CHAFEE. That is right. I am sure whoever fills our shoes——

Mr. INOUYE. If I may clarify this, Mr. President. We did not wish to repeat the proviso in the House. In the House, the proviso directs the Department of Defense, more specifically the Department of the Navy, to designate shipyard A. What we are doing by our amendment is to tell the Secretary, do this on a competitive basis, a level playing field.

Mr. WARNER. Mr. President, essentially what the Senator wants to do is nullify whatever the House may have done in its report language. But in no way do we wish to detract, circumscribe or otherwise limit the authority of the Secretary of Defense and the Secretary of the Navy as the contracting officers in the performance of their duties in selecting a second source?

Mr. INOUYE. As long as he opens it up to competitive bid.

Mr. WARNER. The two yards will have the opportunity to compete. But recognizing that one yard at the present time has a lead ship, the second yard does not have a lead ship. It has a disadvantage, in the sense of the learning curve, infrastructure, and the like.

In the negotiations that have to take place for a second source, and you know this, Mr. Secretary of the Navy, certain parameters have to be established so that source, second potential source, can compete in the bidding contract.

Mr. INOUYE. As the Senator is well aware, under the current practices and under the rules and regulations relating to contracts, the Secretary may award a contract without competition. We wish to make certain that in this case there will be competition.

Mr. WARNER. Mr. President, I am confident there will be competition. There should be competition for this. But it should not be restricted to where the lowest bidder receives the contract. That could lend itself to the interpretation of this language. I am sure the committee did not wish that to be the case. The committee wished a good, healthy competitive structure between these two potential contractors and the Secretarys of Defense and Navy acting under the existing law, regulations and practices in awarding a contract to a second source.

Mr. INOUYE. A level playing field.

Mr. STEVENS. Mr. President, who has the floor?

Mr. CHAFEE. Mr. President, I thought I had the floor.

The PRESIDING OFFICER. The Senator from Rhode Island has the floor.

Mr. CHAFEE. Mr. President, to me competition means that you compete on price. That is the way I read competition. The objective, as I understand it—if I might read the language—if I have it correct. If I have not I will be glad to have somebody point out where I am in error.

> The Committee is concerned that the recent decision resulting from the major warship review to curtail the overall production rate of the SSN-21 program may be inconsistent with the Navy's current plan to establish a second source. Therefore, the Committee directs that the contract for the next SSN-21 be competed.

"Competed" to me means you compete in price.

Mr. WARNER. Mr. President, obviously, price would be a factor. But you are not suggesting in any way by virtue of this language that the Congress should tilt to either contract.

Mr. STEVENS. Mr. President, point of order. Senators should address the Chair. We cannot handle this debate unless we do it through the Chair.

The PRESIDING OFFICER (Mr. Akaka). The Senator from Alaska is correct.

Mr. WARNER. If the Senator is directing the comments at me, I said, "Mr. President," and turned to my colleague. I have no other intention other than addressing the Chair.

Mr. STEVENS. Mr. President, I will wait. I just make the point that we have had this debate and we are trying to clarify the matter. It is not possible if it gets into a dialog between Senators. I mean no umbrage to either Senator.

Mr. CHAFEE. Certainly this Senator does not take umbrage. I just commend the distinguished members of the Appropriations Committee, and particularly the subcommittee, the Military Subcommittee of the Appropriations Committee. To me this language is clear; that there be competition and competition to me means price, because the design is the same. There are no changes in design, so I take it that it means price. I am glad the word competition is used.

Mr. WARNER. Will the Senator yield for a question?

Mr. CHAFEE. Yes.

Mr. WARNER. Certainly price would be a factor. I think it was said here earlier they did not want to allow the Secretary of Defense or Navy, whichever case, to direct us to one yard without allowing the second yard to compete. I think that is perfectly clear, and we are all agreed on that. Price will be a factor. It would not be the sole determining factor, as you well know, in selecting a second source. Am I not correct in that?

Mr. CHAFEE. I would hope the objective here is not to select a second source. The objective is to get the submarine at the lowest possible price. The design is not in contention.

Mr. WARNER. Will you yield for a question?

Mr. President, the point is, in your experience, you recognize second sources are often necessary to provide that competition with sequential orders in fiscal years to get the best price for the American taxpayer; am I not correct?

Mr. CHAFEE. Sometimes that is true. But when you are dealing with very, very small volume, very low numbers, as I foresee the submarine building being in the future, just working under the fiscal constraints that we all know are going to exist, I think that second source is not always the best way to proceed. That is why I like the word "competition" in here.

Mr. WARNER. Mr. President, would the Senator further yield? You would not suggest here tonight in just a few minutes of colloquy relating to important language that we were in any way trying to influence the major decision that has to be made in the future respecting whether or not it is in the interest of the United States to have a second source for this particular class of submarine?

That is a subject, it seems to me, that has to be carefully deliberated within the executive branch and then their reasoning presented to the Congress, should Congress wish to involve itself in that all-crucial decision.

Mr. CHAFEE. Mr. President, let us just say I like the word "competition" that is in there.

Mr. WARNER. Mr. President, we both agree we like the word "competition." We understand what it means.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I find myself at a loss for words, which I am sure neither the Senator from Virginia nor the Senator from Rhode Island ever anticipated.

Again, I want to read this sentence to make sure everyone understands it. In our report we said:

> The Committee is concerned that the recent decision resulting from the major warship review to curtail the overall production rate of the SSN-21 program may be inconsistent with the Navy's current plan to establish a second source. Therefore, the Committee directs that the contract for the next SSN-21 be competed. In addition, the Committee directs the Navy to reassess its current strategy to ascertain and adopt the most cost-effective plan.

Mr. President, I hope that my two colleagues will agree with me. That is a fairly succinct statement. It deals with both second sourcing and being cost effective. I would hope that the gentleman who is now the Secretary of the Navy has the wisdom and sagacity of both of my colleagues.

Mr. WARNER. Mr. President, I thank my distinguished friend from Alaska. As long as he assures me that in no way the Secretary of the Navy is attenuated by the suggested languge, I am perfectly satisfied. I thank the Chair.

Mr. DODD. We keep on having this debate.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, to be clear, the report language is clear as to what should occur. If my distinguished colleague is suggesting by that language that somehow the Secretary of the Navy would decide not to complete the SSN-21 in the 1991 budget, then he would be denying what is included in the report language. Certainly the Secretary has the power in the absence of this language to designate one contractor and negotiate a price with that one contractor.

This language says the Secretary shall not do that under this particular bidding process. Let there be no doubt about what the language says. So there must be competition. To that extent, it does narrow the authority of the Secretary of the Navy and the Secretary of Defense in awarding this SSN-21 in the 1991 budget. Am I not correct in that, I say to the distinguished manager of the bill?

Mr. INOUYE. If the Senator will yield, the Senator is correct.

Mr. DODD. I thank the Senator.

Mr. LIEBERMAN. Mr. President, as one who was involved regarding the report language concerning construction of the second SSN-21 *Sea-Wolf* submarine, I want to note my understanding of the intent of that provision. The report language on this subject is clear and explicit. The committee directs that a competition occur for the second *Sea-Wolf*. A major savings to taxpayers is potentially involved if a competition is held, and that saving is what the committee is seeking. The discretion of the Secretaries of the Navy and Defense in administering this competition is retained, of course, and the committee is not attempting to dictate which shipyard should receive the award, but the committee directs that a competition take place. The discretion of the Secretaries is limited to the extent that a competition is directed.

The committee report language closes with the point that the Navy is directed to adopt the "most cost-effective plan" regarding bringing on a second source, noting in a prior sentence that the Navy's curtailment of SSN-21 total production numbers may be inconsistent with utilization of a second source. Clearly, the emphasis on cost-effectiveness underscores the intent for a competition for the second SSN-21.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2995

Mr. INOUYE. Mr. President, on behalf of Senator McClure, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Hawaii [Mr. Inouye], for Mr. McClure, proposes an amendment numbered 2995.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the appropriate place in the bill add the following:
>
> "The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, the sum of $3,625,000 to Shipco General, Inc., an Idaho corporation. The payment of such sum shall be in full satisfaction of any claim of Shipco General, Inc., against the United States arising out of the termination of a contract at Kirtland Air Force Base, New Mexico, for the rehabilitation of 155 housing units for Zia Park Housing (Contract No. F29650-82-C-0201).
>
> "It shall be unlawful for more than 10 percent of the sum appropriated by section 1 to be paid to or received by any agent or attorney for services rendered in connection with the claim described in such section. Any person who violates this section shall be fined not more than $1000."

Mr. INOUYE. Mr. President, this matter has been pending before this body for many years. I have personally discussed this with the Under Secretary of the Air Force, Ms. Ann Forman, and she has advised me and given me the authority to advise my colleagues that the Air Force does not object to the adoption of this amendment. Accordingly, we have no objection.

The PRESIDING OFFICER. Is there further debate?

Mr. STEVENS. Mr. President, I join my colleague from Hawaii, the chairman of the committee, in accepting this amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2995) was agreed to.

Mr. INOUYE. I move to reconsider the vote.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SUPERCONDUCTING MAGNETIC ENERGY STORAGE

Mr. KASTEN. There is an issue that needs to be clarified. It involves the funding of the Superconducting Magnetic Energy Storage [SMES] program, which has been widely recognized as having significant and positive long-term implications for our environment, as well as for our industrial competitiveness. It is my understanding that there may be an attempt by the agency with jurisdiction over the program to reprogram some of the $15 million that has been authorized and appropriated for fiscal year 1991. This action would cause significant delay and greater cost for this important program.

Mr. STEVENS. Is SMES the dual-use program which has shown such promising results in the energy storage area for defense as well as civilian use?

Mr. KASTEN. Yes. There is extensive bipartisan support for the SMES program in both Houses as evidenced by the extensive report language in the 1990 DOD appropriations and authorization bills. In addition, this program was broken out as a separate line item in the 1990 appropriations process to ensure its full funding.

Mr. STEVENS. This is an issue we need to address in the conference report.

Mr. KASTEN. I agree.

ASAT VERIFICATION

Mr. BUMPERS. Mr. President, I would like to engage the distinguished chairman of the Defense Appropriations Subcommittee in a short colloquy concerning antisatellite [Asat] verification technology.

While there are no limits on Asat in the START Treaty that is nearing completion in Geneva, it is entirely possible that future agreements may have such limits. While there is disagreement here in the Senate and elsewhere over Asat arms control, I think most people would agree that at least some kinds of limits on Asat weapons, such as limits on high-altitude Asat's, would probably be beneficial to U.S. security interests. Would my distinguished colleague agree with that statement?

Mr. INOUYE. Mr. President, my esteemed friend from Arkansas has rightly pointed out that there is a definite difference of opinion over the subject of Asat limits. While I would not want to pass judgment here on what limits might be desirable and what might not, it does not seem unreasonable that there could be some limits that would be in the United States security interests.

Mr. BUMPERS. And I wonder, Mr. President, if my good friend from Hawaii would agree that if in the future there should be any such Asat limits in a treaty, that they should be verifiable, just as we would want any treaty limits to be verifiable?

Mr. INOUYE. Mr. President, I would of course agree that any such limits should be verifiable. As the senior Senator from Arkansas well knows, verification is essential for any arms control provision.

Mr. BUMPERS. I agree with my distinguished chairman completely, Mr. President. And to this end, I believe that research into technology to aid in the verification of potential limits on the testing of antisatellite weapons is a worthwhile endeavor.

It is my understanding that the House version of the fiscal year 1991 Defense appropriation bill contains an $8 million earmark of Defense Advanced Research Projects Agency [DARPA] funding for continued development, testing, and evaluation of technology to monitor ground-based laser Asat weapons.

Mr. INOUYE. That is my understanding, Mr. President.

Mr. BUMPERS. I am told, Mr. President, that a logical objective of such an unclassified program would be the development of prototype hardware suitable for use in cooperative verification of limits on ground-based laser Asat weapons, with initial field demonstrations to begin by the end of next year.

Mr. INOUYE. The Senator from Arkansas is correct.

The Defense Advanced Research Projects Agency [DARPA] has assembled a team of four national laboratories to develop this prototype monitoring system and to demonstrate its use against an actual high energy laser in July 1991. The utility of such a sensor in treaty verification will be determined, in part, by its accuracy in assessing laser brightness, its resistance to deception, and its ability to detect a laser operating in unexpected modes.

Congress appropriated $2 million in fiscal year 1990 for this effort, Mr. President. I have been assured these funds are sufficient for the development of the monitoring system prototype and for a preliminary assessment of its effectiveness. No further funds are needed to provide Congress with the results of this demonstration.

Mr. President, our committee will monitor closely the results of this development and field test. We look forward to receiving the results, so we might evaluate whether additional funds for continued research and development are needed in fiscal year 1992. Work on follow-on efforts should await these results, which hopefully will show that it is possible to monitor, under certain conditions, limits on some types of ground-based laser antisatellite weapons.

If such monitoring is possible, this could be a step forward in the process of trying to craft verifiable arms control limits in the Asat area.

Mr. BUMPERS. Mr. President, I thank my distinguished colleague for his comments, and compliment him for his interest in this program. The Congress should increase the priority it places on efforts in this important arms control matter. I look forward to working with the subcommittee chairman to ensure that these efforts receive the funding level they truly deserve.

ENVIRONMENTAL RESTORATION PROGRAM AND STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM

Mr. LEVIN. Mr. President, S. 3189 is very supportive of the Department of Defense's Environmental Restoration Program and the Strategic Environmental Research Program. As a member of the Senate Armed Services Committee, I have been involved in these programs' evolution and know how important adequate funding for these programs is to address the complex and long-delayed cleanup needs at many DOD sites.

As the chairman knows, Senator Riegle and I had previously sought the Appropriations Committee's support for defense related environmental restoration activities by a nonprofit institute in Michigan. While the bill and the report on S. 3189 do not specifically mention these activities, it appears that increased funding levels for DERA and SERP could accommodate our particular concern.

Mr. RIEGLE. Mr. President, I share my colleague from Michigan's concern with this issue. Together, we have been seeking greater support for innovative environmental restoration work at Defense Department sites, and to a large extent are satisfied with the way these matters have been addressed in your bill. At the same time, we had hoped that the committee would highlight the meritorious demonstration of environmental restoration technology by a nonprofit institute in Michigan.

Mr. INOUYE. Mr. President, let me assure my colleagues that though the report does not contain language specifically mentioning the need for a demonstration of this innovative environmental restoration technology, I recognize the potential contribution that this technology could make to swifter and more complete cleanups.

Mr. LEVIN. As we outlined in a letter to the distinguished subcommittee chairman, we are seeking support for a specific bioremediation technology that will greatly enhance the Department's progress in resolving ground water contamination problems at many of its facilities. Nitrate contamination and chlorinated aromatic compounds from munitions productions and benzene, toluene, and xylene, leaking from underground storage tanks are of particular concern.

We ask that the committee direct the Department to support ground water contamination remediation projects which employ technology utilizing a biological fluidized bed system containing granular activated carbon as the microbial support medium, microbial cultures with proven ability to degrade nitrates, chlorinated aromatic compounds, benzene, toluene, and xylene, as well as an advance monitoring system to ensure optimal control of electron donor feeds.

Mr. RIEGLE. Mr. President, we are seeking generic support for this specific technology, which uses biological processes as opposed to chemical processes. Despite the extremely promising results of similar bioremediation technologies at recent oil spills in the Gulf of Mexico and Prince William Sound, the Department of Defense is unlikely to invest the $1 million required to undertake this demonstration without the encouragement of the Appropriations Committee. It is our strong hope that the subcommittee chairman will do everything he can to bring a bill back from conference with the House which provides this encouragement.

Mr. INOUYE. I appreciate my colleagues' putting the arguments in support of this project on the record. While it is difficult to predict what the conference is likely to produce, I will do my best to give every consideration to the ground water remediation projects which my colleagues have described at the funding level they have requested.

Mr. LEVIN. I thank the distinguished subcommittee chairman.

Mr. RIEGLE. I would also like to thank the Senator from Hawaii for his willingness to consider this request.

DEFENSE NUCLEAR AGENCY

Mr. NUNN. Mr. President, I would like to engage the distinguished chairman of the Defense Appropriations Subcommittee on a matter of mutual interest.

The Senate Armed Services Committee this year added $30 million to the budget of the Defense Nuclear Agency [DNA] to bring that Agency's considerable expertise to bear on the development of electro-thermal and electro-thermal-chemical gun technologies. The Armed Services Committee also authorized $20 million for the Army to continue its efforts in this area.

Our committee believes this technology for high velocity guns has the potential to make an enormous contribution to a wide range of missions and forces within the Armed Services, including long-range artillery, antiarmor and antiair warfare, ship defense, and defense against tactical ballistic missiles.

The Army conducted some very important and useful tests last year of this technology. I believe these tests demonstrated to the Army that this technology warrants vigorous pursuit. At the same time, however, the tests showed that the fundamental physics and chemistry underlying this technology are not yet sufficiently understood.

It is my judgment that DNA has the right kind of experience, analytic tools, and technical expertise to help solve these scientific problems. Moreover, DNA is at the forefront of technology for high-density capacitors and energy storage devices that would be critical for transforming electric gun technology into practical weapons.

The Defense Appropriations Subcommittee, I realize, faced extremely difficult fiscal constraints. Despite these constraints, the subcommittee was able to provide funds for the Army to continue its electric gun technology program.

I would ask my friend, Senator Inouye, whether he agrees that DNA has an important role to play in furthering this high-payoff technology program?

Mr. INOUYE. I thank my friend, Senator Nunn, the distinguished chairman of the Armed Services Committee, for raising this matter.

As he stated, our fiscal constraints prevented establishing a separate electric gun technology program in DNA. It is clear, however, that the Army program would benefit greatly from DNA's participation. It is our intent that the Army work closely with DNA toward the goals outlined in the Armed Services Committee's report.

I would further suggest that if such cooperation is not forthcoming, other measures may have to be pursued. The Appropriations Committee intends to monitor this program carefully, from a funding and management perspective.

Mr. NUNN. I thank the Senator for that clarification. Our views are in accord. My committee also intends to monitor this program carefully.

APACHE LONGBOW RESEARCH FUNDING

Mr. DeCONCINI. I would like to ask my good friend, the chairman of the Defense Appropriations Subcommittee, if he would clarify for me the intent of the committee's action in the AH-64 Apache Longbow Program.

The committee provided $171.5 million for the program, a $48 million reduction from the President's budget request. The committee report notes that the adjustment was made in accordance with the Senate-passed Defense authorization bill. In fact, this $48 million was essentially earmarked by the Senate Armed Services Committee for other purposes; $30 million for an Apache reliability, availability, and maintainability [RAM] improvement program and $18 million to study the AH-64 and AH-58D helicopters as alternatives to the Army's planned light helicopter, a new system which I strongly support.

I note further that the House fully authorized the $219.5 million budgeted for the Longbow Program. Is it the chairman's position that he will fully fund the Apache Longbow Program approved by the authorization conference?

Mr. INOUYE. I thank my good friend, the senior Senator from Arizona, for his inquiry. As we proceed through conference with the House on the Defense appropriations bill, it is my hope that we can fully fund the authorized Longbow Program. As he knows, the subcommittee has worked very hard this year to fully reflect the authorization priorities established by the Senate Armed Services Committee. And, as I am sure my distinguished colleague realizes, there are many RDT&E programs which are at issue in conference. Unfortunately, all of these cannot be fully funded within the budgetary constraints facing this conference.

As he will also note, the Appropriations Committee recommendation is certainly without prejudice to the Apache helicopter, as the report clearly indicates. The committee reduction was directed to the radar part of the program.

I note further that we did not fund the $30 million RAM improvement program because there was no demonstrated requirement for R&D funding. Similarly, we did not feel that there was a need for an $18 million study of alternatives to the LH.

Mr. DeCONCINI. I thank the chairman for his clarification. I greatly appreciate and acknowledge the distinguished chairman's continuing support of the Apache helicopter as well as the hard work of his staff on this issue over the past year. The Apache, which has been a frequent media target for unfair attacks, is performing very well right now in Saudi Arabia.

I note in closing that the committee rolled all of the Longbow funding into a single budget line to give visibility to the total funding requirement. If it should turn out that it was preferable to retain two separate lines for Longbow R&D, would my colleague object to reverting to that method for this program?

Mr. INOUYE. As the Senator noted, the purpose of combining these two lines into one was to give visibility to the Longbow Program and to account for total funding for this program in one location. If it turns out that it is preferable to keep the airframe and radar funds separate, then the committee would have no objection to reverting back to that method. I will be pleased to review this issue.

Mr. DeCONCINI. I thank my good friend, the distinguished chairman, for his clarification of this issue.

COASTAL MINE HUNTER PROGRAM

Mr. NUNN. Mr. President, I would like to engage the chairman of the Defense Appropriations Subcommittee, the Senator from Hawaii, in a colloquy on the Navy's coastal mine hunter program. The coastal mine hunter program remains urgently needed by the Navy because of the critical capability these ships will provide in sweeping mines in important coastal waters. I would also like to insert a letter from Navy Secretary Garrett emphasizing his strong support for the coastal mine hunter program.

Mr. INOUYE. Mr. President, I would be glad to discuss this important program with the distinguished chairman of the Armed Services Committee.

Mr. NUNN. Mr. President, I find the actions of the House Defense Appropriations Subcommittee on the coastal mine hunter program to be very troubling. First, they have proposed that money for the second ship in fiscal year 1990 be rescinded. This would, in effect, preclude viable competition in this program. I understand, however, that the Senate Defense appropriations bill did not take a similar action. Is that correct?

Mr. INOUYE. Mr. President, that is correct. Our bill would provide the additional funds needed to execute the contract for the second coastal mine hunter in the fiscal year 1990 program.

Mr. NUNN. Mr. President, may I ask the distinguished Senator from Hawaii whether the Senate conferees on the Defense appropriations bill intend to insist on their position on providing the additional funds for the 1990 program and not rescinding the 1990 coastal mine hunter funds?

Mr. INOUYE. Mr. President, the Senate conferees intend to support vigorously retaining the fiscal year 1990 funds in the program.

Mr. NUNN. Mr. President, I certainly am encouraged to hear such strong words of support. I would like to ask the distinguished Senator from Hawaii about the reasons the Senate Appropriations Committee has recommended dropping the three coastal mine hunters from the amended budget request.

Mr. INOUYE. Mr. President, the members of the Appropriations Committee were concerned about the delays that the coastal mine hunter program has experienced and the fact that the estimated cost of the ships has increased since the budget was submitted. Due to these factors and the unique construction process of these fiberglass ships, the committee felt that it was unlikely that sufficient progress will be made on prior year ships to warrant funding additional ships during this fiscal year. The committee's action should certainly not be construed as a lack of support for mine warfare programs.

Mr. NUNN. Mr. President, I appreciate the Senator's response. I would like to briefly recount the status of the coastal mine hunter program in the conference on the Defense authorization bill. I have found that the conferees share the concern of the Senate Appropriations Committee about the program, but have nevertheless reiterated their strong support for continuing the program in fiscal year 1990. In fact, the House amended their authorization bill on the floor to restore the coastal mine hunters to the authorization bill and to authorize them at the highest prices now estimated by the Navy. I fully expect that the final position of the conferees will be to express strong support for three coastal mines hunters. I would point out that this very much reflects the fact that the threat to our Navy from Third World countries using inexpensive mines to hamper our ability to operate in critical areas has continued to increase.

Mr. President, I would like to point out that the House appropriations bill includes funding for two coastal mine hunters. Although this represents a reduction from the level that will probably be included in the final authorization bill, it certainly closer to the level that the authorization conferees would deem appropriate.

Mr. President, I would like to ask the distinguished Senator from Hawaii whether the Senate conferees on the Defense appropriations bill will give strong consideration to the Navy position and to the recommendation of the authorization conference when reaching decisions on the fiscal year 1991 program.

Mr. INOUYE. Mr. President, I thank the distinguished Senator from Georgia for providing a status report on the the state of deliberations in the Defense authorization conference on this important issue. I would also like to answer the Senator's question. I can assure the senior Senator from Georgia that the Senate conferees will weigh the results of the authorization process very carefully as we approach conference with the House. Having the numbers of both Armed Services Committees solidly behind this program is a very compelling argument for seriously considering the position taken in the House Defense appropriations bill.

Mr. NUNN. Mr. President, I thank the distinguished chairman for the Defense Appropriations Subcommittee for clarifying his own position and that of the Appropriations Committee on this vital issue. I recognize the difficulties you will face in conference and know that you and the other Senate conferees will take all factors into consideration.

I ask unanimous consent that the letter from Secretary Garrett be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Department of the Navy,
Washington, DC, October 15, 1990.
Hon. Sam Nunn,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

Dear Mr. Chairman: I am writing concerning the Senate Appropriations Committee's decision to provide no funding to the Coastal Mine Hunter (MHC) shipbuilding program for FY 1991. Your Committee and others in Congress have repeatedly emphasized the need for the Navy to move forward on mine countermeasures programs, and numerous world events have demonstrated the wisdom of that position. The Navy needs modern, capable mine countermeasures ships. The MHC will provide urgently needed capability and advance the state of the art in mine warfare ships. We now have a steady program of mine warfare shipbuilding, and need to keep it moving forward with the three MHCs requested for 1991 and authorized by both the Senate and House Defense Authorization Bills.

As you are aware, there have been start-up problems with lead ship construction, but these appear to be largely behind us and a second shipyard for the MHC program is now coming on line. Both yards could experience serious problems if no FY 1991 ships are appropriated. Because of the unique design of the MHC and the nature of building ships of glass-reinforced plastic (GRP), both MHC shipbuilding facilities are single-product yards with little ability to transfer work or workers to other programs. Zero MHCs in FY 1991 would probably cause layoffs, reduce productivity, and further increase costs. The three MHCs requested are the minimum required to preserve the vital GRP shipbuilding industrial base which we have now established.

I would also call your attention to the action of the House Appropriations Committee in transferring $64.9 million from the FY 1990 MHC program to offset costs in other shipbuilding programs. This action would prevent us from awarding a contract for the second of two MHCs authorized and appropriated for 1990. Earlier this year, we awarded a countract for one FY 1990 MHC. Because of higher than anticipated bid and award prices, we delayed award of the second MHC and indicated to the Appropriations Committees staffs our desire to transfer $55.4 million into the MHC program from other shipbuilding programs to fully fund the second MHC. This would permit us to consider awarding it to the other shipyard for industrial base considerations. The Senate Appropriations Committee included the transfer of $55.4 million to the MHC program as requested. I strongly urge your support of this position.

As always, I appreciate your continuing support of Navy shipbuilding programs.

Sincerely,
H. Lawrence Garrett III,
Secretary of the Navy.

UNIFORMED SERVICES UNIVERSITY OF HEALTH SCIENCES

Mr. SARBANES. Mr. President, I am pleased that the Defense appropriations bill that we are considering today contains a number of provisions designed to ensure that our Armed Forces continue to receive the health care that they need and deserve.

First, the bill contains funding for the Uniformed Services University of Health Sciences in Bethesda, MD. As my colleagues know, we established this institution in 1972 in response to a shortage of military physicians. Since its first commencement in 1980, the school has graduated more than 1,350 physicians and 98 percent of them remain in active military service today.

Currently, the university has about 600 students who, in addition to a regular medical school program, are receiving specialized training in such areas as tropical medicine, radiation, combat stress, chemical agents, and aeromedical evacuation. This additional training readies the school's graduates to serve in a combat situation should their services ever be needed.

The need for military physicians remains strong today. As our Nation's recent deployment to the Persian Gulf illustrates, we must be prepared to provide medical support to our troops with very little advance notice. It is my understanding that more than 30 graduates of the Uniformed Services University are currently serving in the Middle East as part of Operation Desert Shield.

Mr. President, our military cannot rely on recruiting doctors who have graduated from other public and private institutions because their indebtedness often accepting Federal positions that, regretfully, pay comparatively low salaries. Graduates of the Uniformed Services University are required to spend 7 years in military service and many may choose to stay in for a full 20-year career. The university's emphasis on preparation for public service is unique among our Nation's 127 medical schools.

Since its founding, there have been concerns about the cost of operating this institution. However, I understand that the Journal of the American Medical Association has estimated that the cost per graduate at the Uniformed Services University is roughly half of the average cost at medical schools in the United States.

The Uniformed Services University of Health Services provides an essential service to our military, and I strongly support full funding for its programs. I regret to note, however, that the House-passed version of the Defense appropriations for fiscal year 1991 proposes to close the University. The House of Representative's version of this bill includes substantial reductions in the school's operating budget as a prelude to closing it down in the next few years.

Even in a time of shrinking defense outlays, I do not believe it would be wise or prudent to eliminate or reduce the University's training programs. I am pleased that the Senate bill does not include the same provisions that the House bill does and I urge the Senate conferees to push as hard as they can to uphold the Senate position.

Mr. President, the Senate bill not only preserves the university's existing programs but also appropriates almost $300,000 for the establishment of a clinical psychology program at the university. The committee's intent, which I support, is to eventually include 36 students in this program each year—including some drawn from the Public Health Service.

The report language accompanying the bill that we are now considering also notes the Senate's continuing concern about the shortage of nurses at the Department of Defense, the Veterans Administration, the Public Health Service, and other Federal agencies. The report directs the Department of Defense to complete a congressionally mandated study on the need for a Federal nursing school and to examine the potential costs of such a school. Mr. President, it is my view that such a school should be established so that our Nation will have a pool of nurses with the specific competencies needed for operational readiness and mobilization.

Last April I was in touch with Secretary Cheney to urge his support for this proposal and to suggest that such a school be co-located with the Uniformed Services University. This would be a logical addition to the Federal medical facilities in the area incuding the National Institute of Health, Walter Reed Army Medical Center, the Bethesda Naval Hospital, and the National Museum of Health and Medicine. I am pleased that the committee included this language and I strongly support its efforts in this area.

Finally, Mr. President, I thank the committee for including report language that I proposed regarding the National Museum of Health and Medicine. This facility, a part of the Department of Defense, was moved off the Mall to Walter Reed Medical Center in 1968. Since then visitation has declined substantially and the museum has been unable to adequately maintain its facility.

I am pleased to report that efforts are underway to revitalize this museum and that a private foundation has been established to raise funds to support the construction of a new facility.

The report language that the committee included directs the Department of Defense to work with the Public Health Service and the National Institutes of Health to determine if the museum might be appropriately moved under the control of one of

those agencies. I am pleased that the language also directs the Department to work with those agencies in establishing a new museum facility. A revitalized museum could contribute significantly to the educational experience available to students at the Uniformed Services University of Health Sciences.

Mr. President, in my view, the provisions I have discussed will have a positive impact on the health care provided to the men and women of the Armed Services and I commend Senator Inouye and the other members of the committee for their hard work. I especially thank them for their continued support of the Uniformed Services University and I urge them to reject any proposals made in conference to close that important institution.

EISENHOWER LEGACY OF CARING FOR TROOPS PERSISTS IN THE ARMED FORCES BENEFIT ASSOCIATION

Mr. HATCH. Mr. President, I take special note of the 100th anniversary of the birth of one of America's most distinguished generals: Dwight David Eisenhower.

General Eisenhower has a special meaning to this debate today. Senator Inouye has commented on the need to assure benefits for our serving military personnel. My friend from Ohio, Senator Glenn, has taken the admirable initiative, supported by many of us in the Senate, to assure that the basic allowance for subsistance, a payment which is suspended when troops are deployed to combat areas, can be recaptured through other pay and allowances.

The theme of caring for the troops was never better enunciated by word and deed than was done by General Eisenhower. As the Supreme Allied Commander, with jurisdiction over the largest American Army ever assembled in World War II, Ike moved to assure that members of the Armed Forces were properly protected from the awful costs of combat service.

In 1947, Ike formed the Armed Forces Benefit Association, a nonprofit, tax-exempt, federally chartered association dedicated to providing care for the men and women of our Armed Forces. The organization's purpose was, and remains: "to promote the general welfare of its members for the mutual benefit of all."

Since its founding, AFBA has provided $300 million in death benefits to the survivors of casualties from the Korean and Vietnam conflicts through its life insurance programs which, Mr. President, I hasten to add excludes that awful restriction that all military people fear: the so-called war clause that suspends insurance coverage if one is killed in combat.

AFBA's board of directors today includes some of our most distinguished military leaders, including the Chairman of the Joint Chiefs of Staff, Gen. Colin Powell. The Board assures that AFBA is responsive to the needs of our men and women serving in Saudi today and, I hope, will continue to provide care for our forces well into the next decade and century.

I ask all my colleagues in the Senate to join with me in commemorating Ike's birthday by applauding one of his great legacies, the Armed Forces Benefit Association.

START

Mr. GARN. President Bush and President Gorbachev have endorsed an early signing of a Strategic Arms Reduction Treaty, probably the most important single arms control agreement that will affect the security of the United States. However, as important as the strategic arms reduction talks are, I am concerned that very little attention has been paid by the Department of Defense as to industry's capability to demilitarize large solid rocket motors in a safe, economical and environmentally sound manner. The question of solid rocket motor demilitarization led our committee to investigate the need for funding a research and demonstration program through the Director of Defense Research and Engineering. I have been informed that approximately $3 million may be required in the fiscal year 1991 for such efforts.

I believe these are important security and environmental questions that DOD must begin addressing now. We need a far clearer understanding as to what environmentally acceptable methods we will begin using to destroy solid rocket propellants. We have learned some valuable lessons in the destruction of the Pershing missiles under the INF Treaty, and we know that the current method of demilitarization by open burn—open detention and static firing will not be acceptable in an era of new environmental ethics.

We are entering the 1990's without some of the necessary technology. We cannot ignore or dismiss the alternative technologies that are available to us now. Our efforts today can lead to a very real national and international benefit. I ask the Chairman for his support in conference to continue these efforts.

Mr. INOUYE. I agree that the economic and environmental concerns the Senator expressed are matters worthy of our attention. I, too, am concerned about the current methods of demilitarization. The problem is one the committee has recognized. There are several programs in the Defense Department to fund these efforts. One of these may be the new Strategic Environmental Research Program. We will do our best in conference to obtain the needed resources in fiscal year 1991 to begin addressing your concerns.

Mr. GARN. I thank my good friend from Hawaii for working with me to support the Solid Rocket Demilitarization Research and Development Program in conference. Given the diversity, complexity and scope of this program, it is essential that we begin focusing on new technologies.

Mr. ROTH. Mr. President, I have resolved to vote against final passage of the fiscal year 1991 Defense appropriation bill. My decision derives from an opinion of the overall value that Americans will receive from this particular funding measure. Like the Defense authorization bill passed by the Senate last August, this appropriation bill does not adequately reflect the peace dividend resulting from the changed global security situation which springs from developments in the Soviet Union, Eastern Europe and the consequent easing of superpower tensions.

The bill does not take advantage of the past year's rapid spread of freedom for our overall security policy or our procurement program. It makes economies in certain Defense programs, but fails to address the fact that many of those systems are fundamentally irrelevant in the current security scenario. It is not enough to trim here and cut there. That only leads to stretchouts which result in rapid cost growth and to purchase of the wrong systems, further deflating the value of taxpayer dollars spent for defense. The most expensive single example of such practices in this bill is the B-2 bomber production, which I voted against, and which is going to result in nearly doubling the cost of each plane. We need to reevaluate thoroughly our strategic situation and restructure our Armed Forces appropriately. Reducing the size of our Armed Forces and equipping a new, smaller military establishment with the equipment which it will need to meet emerging threats to our security.

Moreover, the expenditure of funds appropriated in this legislation cannot be justified on the basis of events in the Middle East because it does not contain funding for Operation Desert Shield, and it does not change our defense force structure to better enable the Department of Defense to respond to such contingencies. In fact, this bill rejects the need for explicitly budgeting for 1990's contingencies as in the Middle East, suggesting a preference for meeting these needs by forcing us to approve to supplemental funding legislation in the waning hours of the fiscal year.

It is simply not satisfactory to work on the margins of our Defense problems—we need to press ahead with a thorough and complete reevaluation. This the bill fails to do. We have reduced our Defense budget. Yet, we continue buying forces largely equipped to fight a conventional war against the Soviet Union on the European continent—a war which appears ever less likely to take place.

Exciting developments, which promised to revolutionize our security posture, such as the strategic defense initiative, have been looted for the sake of pork barrel interests, causing major harm to the project. In the meantime, other pork barrel interests have effectively prevented the realization of some of the most obvious Defense economies. No adequate attempt has been made to address the question of closing the excessive number of military bases which this Nation maintains and which some Members of Congress appear determined to keep alive, despite the fact that they do not, in any way, assist our national security. They merely drain the National Treasury.

How can the Congress justify increasing taxes when we fail to take advantage in this appropriations bill of the savings that should have been derived from the spread of democracy over the past year?

Mr. PELL. Mr. President, I join my colleagues in applauding the language of the report of the Senate Appropriations Committee in directing the competitive procurement of the second *Sea Wolf* submarine. And I thank the distinguished Senator from Hawaii for his assurances that the committee's intention was to assure a level playing field that will produce the best deal for the taxpayer.

This is an important step toward overriding the unfortunate action of the House of Representatives last month in their report on the Defense authorization bill which would have directed the Navy to contract with the Newport News shipyard. Now, in the present context, noting that the House appropriations report contains no instructions or directions respecting this procurement, I urge the Senate conferees to insist on their requirement of a competitive procurement.

In doing so, I join my distinguished colleagues, Senators DODD and CHAFEE, in emphasizing that the terms "competition", "best deal for the taxpayer" and "level playing field" mean just what they suggest, and that is the lowest price. In these times of fiscal distress, no amount of bureaucratic smokescreens should be used to obscure the least costly option.

On another aspect of the bill, I would note that the House report provides for $200 million for funding those sections of the authorization bill which provide for adjustment of communities and workers adversely effected by budgetary cutbacks. I am advised that a comparable amount will probably be authorized in the final conference bill.

As the author of S. 2097, the Defense Diversification and Adjustment Act, I have a very special interest in seeing that these provisions are funded adequately and promptly, and I urge the Senate conferees to accept the House provision.

Mr. KOHL. Mr. President, when I voted for the Defense authorization bill earlier this year, I praised the new direction the bill charted but indicated that I remained concerned about the level of funding. I believed then, and I believe now, that a combination of forces allow—indeed require—us to spend less on defense than that bill did. Symbolic of the shift in the world situation is today's decision to award the Nobel Peace Prize to President Gorbachev of the Soviet Union. Symptomatic of the dilemma facing our own Nation is the fact that the entire Government was forced to shut down last weekend.

Given the reduced military threat that we face abroad and the increased economic threat we face here at home, I believe we could and should have reduced defense spending below the level authorized by the Senate earlier this year. Today I voted for two specific proposals which would have accomplished that goal—Senator CONRAD's amendment to reduce American troops in Europe and Senator LEAHY's amendment to cancel the B-2 bomber. While both amendments had more support today than they did a few months ago, both failed. As a result, we are committed, for at least another year, to policies we can not afford and do not need. As events in the Persian Gulf indicate, we still need a military capability second to none; but we need to know who we are defending and how that defense ought to be structured. Too much of this bill remains focused on a Soviet threat to Europe, a nuclear threat to our own shores, and not enough to the kind of conflicts we most need to deter and defend against.

Mr. President, while I will vote against this bill I want to once again take the opportunity to congratulate the committee for the work it did in fashioning it. Like the authorization bill, it represents a real step in the right direction. Unfortunately, this bill calls for us to take only small and hesitant steps while we ought to be striding into the future and embracing it as a well earned victory.

V-22 OSPREY

Mr. SPECTER. Mr. President, while I appreciate the fact that we are attempting to accomplish a great deal of work in a very short time, I feel it is important to discuss events that have taken place since last years debate regarding the V-22 Osprey Program and urge that the Senate recede to the House and provide advanced procurement funding to the V-22 Program in fiscal year 1991.

Mr. President, as you are aware, earlier this year the Department of Defense once again terminated the V-22 Program. During last year's debate on the V-22, the Department of Defense supported their decision to terminate the V-22 Osprey Program due to the high cost of procuring this aircraft for the Marines, the Navy and the Special Operations Forces. At that time, the Department of Defense decided to procure a mix of older, conventional helicopters which they envisioned would result in reduced costs over the V-22. In terminating the V-22 Program this past January as part of their fiscal year 1991 budget submission, DOD once again claimed that the V-22 was simply too expensive and that requirements could be met with a more cost effective fleet of conventional helicopters.

But, Mr. President, this is no longer the case. The results of a cost and operational effective analysis directed by this Congress to compare the cost effectiveness of the V-22 with conventional helicopter alternatives conclusively proved that the V-22 Osprey was the most cost effective alternative to meeting Marine Corps amphibious landing, Navy search and rescue, and Air Force Special Operations requirements. This study, which was commissioned by the Department of Defense and guided by a high level DOD steering committee, took the Institute for Defense Analysis nearly 10 months to complete. During this period, the IDA made over 400 excursions from the original study—most at the direction of the DOD steering committee—to analyze and evaluate various assumptions and scenarios.

At its conclusion, the IDA determined that—and I quote—"the V-22's speed, range, and survivability advantages could enable even the 356 aircraft fleet to be more effective—sometimes significantly more and other times only slightly more—than all of the proposed helicopter alternatives in each of the four Marine missions examined." Further, they determined—and I again quote—"The V-22 is more cost effective than helicopter alternatives for the Navy combat search and rescue, Air Force special operations, and DOD or other Government Agency drug interdiction missions."

In response to the results of this study the Department of Defense has altered their position on the V-22. Since the cost effectiveness of the V-22 can no longer justify termination of the program, the Department now claims that the level of near term funding required to initiate production of the V-22 is more than the Navy can afford. But this DOD claim, too, was found to be in question by the Institute for Defense Analysis. Dr. Dean Simmons, the Institute's Director for the V-22 study, stated at a special hearing before the Senate Appropriations Subcommittee on Defense that the funds required for the V-22 during the period fiscal year 1991 through

fiscal year 1997 were actually less than those required to procure the alternative mix of conventional helicopters during the same period.

Subsequent to the release of the IDA Cost and Operational Effective Analysis results, the Lawrence Livermore National Laboratory conducted a study to evaluate the "Effectiveness of Tiltrotor Aircraft in Support of Ground Combat." The purpose of this study was two-fold: First, to determine how the rate of build-up of troops and equipment could affect the outcome of a battle; second, to compare the operational effectiveness of both an equal cost fleet and an equal lift fleet of V-22's and DOD proposed alternatives in a simulated battle. The results of this study again demonstrated that the V-22's speed, range, payload and survivability make it the most cost effective solution in meeting Marine Corps and other agency requirements. Mr. President, while I am certain that the Department of Defense has their reasons for maintaining their position to terminate the V-22 program in the face of the results of both the IDA and Lawrence Livermore studies I previously discussed, frankly they elude me.

Mr. President, there is one further point I would like to discuss in connection with cost, that being the potential impact of foreign military and commercial sales of the V-22 on the cost to produce this aircraft for the U.S. military. Unlike the conventional CH-60 and CH-53 helicopters which would generate little, if any, interest in the international market, the V-22 once tested and integrated in U.S. military forces, has the potential to generate substantial foreign military and commercial sales. These sales, when added to U.S. military requirements, would measurably reduce the cost to the Department of Defense to procure the proposed fleet of V-22's due to the economies of scale. This potential for future cost reduction should be weighed heavily when comparing the merits of the V-22 with the conventional helicopter alternative.

Mr. President, the V-22 Osprey is a unique aircraft offering both military and commercial applications. Some, including officials from the Department of Defense, have asserted that if the Osprey has so much commercial potential then the marketplace will ensure that it is developed. Mr. President, this is a naive assumption. Historically, the U.S. military has developed and proven every major advancement in aircraft technology. Only after the military has proved the reliability and usefulness of a new aircraft technology has this technology found its way into the commercial market. If the U.S. Armed Forces decline to produce the V-22 for its superior military capabilities, it is doubtful that tiltrotor aircraft will ever be produced by a U.S. company in the role of a commercial airliner.

The issue of cost aside, there is only one remaining question—Is the V-22 Program ready for advanced procurement funding? Does it meet the "fly-before-buy" criteria? The answer to these questions is "yes". The V-22 is ready. There are currently four aircraft flying and the test program has made steady progress. More importantly, no major technical problems have been uncovered. The V-22 Program needs advance procurement funding to begin long lead-time activities necessary to support limited production in fiscal year 1992. I know this bill does not contain advance procurement funding. Although myself and many other Senators do not agree with that decision. I am, therefore, hopeful that the opinions of the many Senators that support this program receive adequate consideration when we proceed to conference.

Mr. President, the V-22 represents the best of both worlds. It is extremely cost effective in its role as a military aircraft yet has tremendous potential as a spin-off technology which could benefit the citizens of this Nation for many years to come. It is also clear that the Congress believes that the V-22 Osprey Program should continue. I trust that the Department of Defense will abide by this mandate.

HOWITZER IMPROVEMENT PROGRAM [HIP]

Mr. SPECTER. Mr. President, I would like to briefly discuss the Howitzer Improvement Program [HIP]. This program has been designed to significantly upgrade all 155mm artillery pieces in the U.S. Army inventory.

There are no technical problems with this program and it greatly enhances the Army's ability to move, shoot and communicate in a revolutionary manner. A quantum leap in artillery tactics, for giving greater survivability, greatly improving response times and increased range and accuracy are all direct benefits generated by this program.

During markup by the Senate Appropriations Subcommittee on Defense, this procurement was reduced from $206 million to zero. Of that total, the Army requires $180.9 million to execute the minimum requirements in fiscal year 1991.

The reasons for the deferral of fiscal year 1991 HIP funding as set forth in the subcommittee report have now been overtaken by events. All but $200,000 of 1989 and 1990 funding has now been obligated and the Army acquisition executive has provided approval to enter limited production in fiscal year 1991. Further, the Army has extended the schedule for the AFAS, a follow-on to the improved Howitzer. Under current planning, the follow-on system will not be issued to the field until after the year 2000.

The Army needs the Howitzer Improvement Program. Accordingly, I urge the chairman to provide production funding in fiscal year 1991.

Mr. BAUCUS. Mr. President, I rise today to state my reluctant opposition to the Department of Defense appropriation bill of fiscal year 1991.

I say reluctant, Mr. President, because no one in this body is more interested in a strong defense than this Senator.

But I cannot responsibly support a bill which spends too little on conventional weaponry we need, and too much nuclear weapons we do not.

Two days after Saddam Hussein's invasion of Kuwait, I voted against the Defense authorization for precisely this reason: It did not spend enough money on the types of weapons that our soldiers and sailors need in the Persian Gulf.

I had hoped that this year's Defense appropriation would have a different set of priorities. I had hoped that the pending bill would spend more on the conventional weapons we need in the gulf.

Regrettably, it does not. The Defense appropriation bill spends virtually the same amount on key conventional weapons as its predecessor, the Defense authorization.

Both bills spend the same amount on M-1 tanks, the armored giants we need to deter Saddam's ground forces. Both spend the same on Apaches, our principle combat helicopter in the Persian Gulf.

With hostilities ever more likely in the gulf, the pending legislation spends no more than did the Defense authorization bill on the F-15, the F-16, and the F/A-18—conventional fighter planes whose role would be crucial should our Nation carry out an advanced air strike on Iraq.

The list goes on and on. The pending appropriation bill spends the same amount as its predecessor on the Patriot missile and the Stinger missile, the two key defensive conventional missiles systems now deployed in the Persian Gulf. They may well play a key in deterring Saddam's missiles and air force.

At the same time, Mr. President, the Defense authorization and appropriation bills lavish scarce tax dollars upon high-technology nuclear weapon systems we do not need.

Both bills spend $4.7 billion upon the $865 million a copy Stealth bomber. What could we buy for the cost of one Stealth bomber?

50 F-16's; 20 F-15's; 30 F/A-18's.

Both bills spend $3.7 billion on star wars. Mr. President, that was half of Saddam Hussein's total defense budget at the peak of the Iran-Iraq war. Saddam Hussein spent the same amount of money to fight 1 year of the last decade's bloodiest war as we do to get a pile of reports from Beltway bandit defense contractors.

Again, the list goes on.

Both the Defense authorization and appropriation spend one-and-a-quarter billion dollars on an 18th Trident nuclear submarine. How many do we need?

Both bills spend a half a billion dollars on research and development for the MX mobile missile, while they give only a paltry $200 million for the Midgetman missile. This is a missile, I hasten to add which is harder to hit and more stablizing than the MX.

Mr. President, this bill prepares us to fight the wars of yesterday. We should be preparing to fight the wars of tomorrow.

In today's hazardous world we need to spend more money on conventional weapons. And we need to spend less on big-ticket nuclear weapons. This bill does neither. Therefore, I will vote against it.

Mr. DURENBERGER. Mr. President, I rise to support the final passage of the fiscal year 1991 Department of Defense appropriations bill. I would also like to congratulate the distinguished floor managers of this bill for their expeditious handling of the debate.

As is the usual practice in this body, and with this bill, there were several contentious issues that my colleagues and I had to address.

I won't take the time at this point, after a full day's debate and a full agenda ahead of us, to express my views on the individual issues on which the U.S. Senate has voted. By and large, we have debated these issues in the past and debated them thoroughly again today.

Mr. President, although I have a number of reservations about specific issues within the overall bill, I believe the committee has produced a reasonable and balanced bill. It conforms well with the will of the Senate, as expressed recently during the DOD authorization debate.

I do have a number of objections to the bill sent over to us by the House. But I do believe that the likely result of the House and Senate actions will be a conference report that will strike a proper balance between national security and budgetary responsibility. I will therefore vote for passage of this appropriations bill.

THE FISCAL YEAR 1991 DEFENSE APPROPRIATIONS BILL

Mr. SASSER. Mr. President, the Senate Budget Committee has examined S. 3189, the Department of Defense appropriations bill, and has found that the bill is under its 302(b) allocation by $1.150 million in budget authority and $1.094 million in outlays.

I compliment the distinguished manager of the bill, Senator DANIEL INOUYE and the ranking minority member, Senator TED STEVENS, for their work in bringing this bill to the floor at its 302(b) allocation level.

Mr. President, I have attached a table from the Budget Committee that shows the official scoring of the Defense appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF S. 3189—DEFENSE SUBCOMMITTEE—SPENDING TOTALS (SENATE REPORTED)

[In billions of dollars]

302(b) bill summary	Fiscal year 1991	
	Budget authority	Outlays
S. 3189, Senate reported, (new budget authority and outlays)	268.2	170.8
Enacted to date	0.0	107.0
Adjustment to conform mandatory programs to resolution assumptions	0.0	0.0
Scorekeeping adjustments	0.0	0.0
Bill total	268.2	277.8
Senate 302(b) allocation	268.2	277.8
Total Difference	−(*)	−(*)
Discretionary:		
Defense Discretionary spending	268.1	277.6
Defense Discretionary allocation	268.1	277.6
Defense Discretionary difference	−(*)	−(*)
Mandatory spending	0.2	0.2
Mandatory Allocation	0.2	0.2
Mandatory difference	−(*)	−(*)
Bill total above (+) or below (−):		
President's request	−19.0	−6.9
House-passed bill	0.4	0.3
House 302(b) allocation	NA	NA
Programmatic baseline	−27.3	−10.5

DEFENSE

[In millions of dollars]

	President's request		House-passed		Senate-reported		Senate-passed		Conference	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
302(b) bill summary:										
Total enacted to date	0	106,972,957	0	106,972,957	0	106,972,957	0	0	0	0
Total new budget authority	287,282,764	177,661,736	267,824,339	170,446,849	268,240,850	170,784,949	0	0	0	0
Adjustments:										
Discretionary programs	0	0	0	0	0	0	0	0	0	0
Mandatory programs	0	0	0	0	0	0	0	0	0	0
Adjusted bill total	287,282,674	284,634,693	267,824,339	277,419,806	268,240,850	277,757,906	0	0	0	0
Total 302(b) allocation (point of order)			268,242,000	277,759,000	268,242,000	277,759,000	268,242,000	277,759,000	268,242,000	277,759,000
Domestic discretionary allocation			0	0	0	0	0	0	0	0
International discretionary allocation			0	0	0	0	0	0	0	0
Defense discretionary allocation			268,077,000	277,594,000	268,077,000	277,594,000	268,077,000	277,594,000	268,077,000	277,594,000
Mandatory allocation			165,000	165,000	165,000	165,000	165,000	156,000	165,000	165,000
House Appropriations 302(b) allocation			NA	NA	NA	NA	NA	NA	NA	NA
Baseline			295,511,620	288,275,783	295,511,620	288,275,783	295,511,620	288,275,783	295,511,620	288,275,783
Adjusted bill above (+) or below (−):										
Total 302(b) allocation (point of order)			−417,661	−339,194	−1,150	−1,094	−268,242,000	−277,759,000	−268,242,000	−277,759,000
Domestic discretionary allocation			0	0	0	0	−268,242,000	−277,759,000	−268,242,000	−277,759,000
International discretionary allocation			0	0	0	0				
Defense discretionary allocation			−417,261	−338,974	−750	−694				
Mandatory allocation			−400	−400	−400	−400				
House Appropriations 302(b) allocation			NA	NA	NA	NA	NA	NA	NA	NA
Baseline			−27,687,281	−10,855,977	−27,270,770	−10,517,877	−295,511,620	−288,275,783	−295,511,620	−288,275,783
President's request			−19,458,335	−7,214,887	−19,041,824	−6,876,787	−287,282,674	−284,634,693	−287,282,674	−284,634,693
House adjusted bill			NA	NA	416,511	338,100	NA	NA	NA	NA
Senate adjusted bill										
DISCRETIONARY										
Previously enacted:										
Permanent appropriations										
Advance appropriations										
Outlays from prior year appms		107,411,341		107,411,341		107,411,341				
Other action to date		−438,384		−438,384		−438,384				
Total enacted to date	0	106,972,957	0	106,972,957	0	106,972,957	0	0	0	0
New budget authority: S. 3189	287,118,074	177,497,136	267,659,739	170,282,249	268,076,250	170,620,349				

DEFENSE—Continued

[In millions of dollars]

	President's request		House-passed		Senate-reported		Senate-passed		Conference	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Adjustments:										
Possible later requirements, examples										
Total PLRs										
Scorekeeping adjustments, adjustment										
Total discretionary adjustments	0	0	0	0	0	0	0	0	0	
Discretionary total	287,118,074	284,470,093	267,659,739	277,255,206	268,076,250	277,593,306	0	0	0	
MANDATORIES										
Previously enacted:										
Permanent appropriations										
Advance appropriations										
Outlays from prior year appms										
Other action to date										
Total enacted to date	0	0	0	0	0	0	0	0	0	
New budget authority: S. 3189	164,600	164,600	164,600	164,600	164,600	164,600				
Adjustments for Mandatories:										
Mandatories in bill	0									
Resolution assumptions	0									
Mandatory adjustment	0	0	0	0	0	0	0	0	0	
Adjustment for prior year outlays not assumed in resolution										
Total mandatory adjustment	0	0	0	0	0	0	0	0	0	
Mandatory total	164,600	164,600	164,600	164,600	164,600	164,600	0	0	0	

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill having been read the third time, the question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. BREAUX] and the Senator from Massachusetts [Mr. KENNEDY] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 79, nays 16, as follows:

[Rollcall Vote No. 273 Leg.]

YEAS—79

Adams
Akaka
Armstrong
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
D'Amato
Danforth
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Hatch
Heflin
Heinz
Helms
Hollings
Inouye
Jeffords
Johnston
Kasten
Kerrey
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McClure
McConnell
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Symms
Thurmond
Warner

NAYS—16

Baucus
Bradley
Conrad
Cranston
Daschle
Grassley
Harkin
Humphrey
Kerry
Kohl
Metzenbaum
Pressler
Rockefeller
Roth
Wallop
Wirth

NOT VOTING—5

Breaux
Hatfield
Kassebaum
Kennedy
Wilson

So, the bill (S. 3189), as amended was passed.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, in the time that I have been on the Defense Appropriations Subcommittee—and I think I have been there longer than anyone other than my friend—I have never seen a bill of this magnitude go through the Senate so quickly. It is to the great credit of my good friend, the senior Senator from Hawaii, the Chairman of our subcommittee, that this has taken place.

We have brought to the Senate a bill that is within the budget. It is consistent with the authorization bill, and it is a bill that I think has settled more controversies than it has created which is, in and of itself, a significant thing for a defense appropriations bill

So I publicly acclaim the leadership of my good friend and state to the Senate once again how pleasant it is to be able to work with him as chairman of the Defense Appropriations Subcommittee.

While I am at it, let me thank Keith Kennedy and Steve Cortese working with me, and, of course, Richard Collings, who is the director of the subcommittee who has been so gracious and easy to work with again this year

I do think this evening is a significant tribute to my good friend, and I am pleased to be able to state that.

Mr. INOUYE. Mr. President, I thank my dear friend from Alaska for his very generous words. Needless to say it was a great pleasure working with him, and we look forward to next year.

The PRESIDING OFFICER (Mr. WIRTH). Pursuant to the previous order, the Senate shall proceed to the consideration of H.R. 5803, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5803) making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the text of S. 3189 will be engrossed as a Senate amendment to the House bill, the amendments are agreed to, and H.R. 5803 is read a third time and passed, and also under the previous order, the Senate insists on its amendments and requests a conference with the House, and the Chair appoints Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. BYRD, Mr. LEAHY, Mr. SASSER Mr. DECONCINI, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Mr. STEVENS, Mr. GARN, Mr. MCCLURE, Mr. KASTEN, Mr. D'AMATO, Mr. RUDMAN, Mr. COCHRAN, Mr. SPECTER, and Mr. HATFIELD, conferees on the part of the Senate.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING JOHN QUINCEY SOMERVILLE

Mr. HEFLIN. Mr. President, I rise today to commend one of my former staff members, John Quincey Somerville, for his exceptional performance at the University of Alabama School of Law. Last month, John began his third and final year at the university, with a shining academic record and as editor of the Alabama Law Review.

John left my office in 1987 after working for 2½ years as a legislative assistant and speech writer. As my chief wordsmith, John's work was always of the highest quality—thorough, polished, and thoughtful. If anything, John tended to labor over things too long—sometimes for hours, days, or weeks—in an effort to make them perfect. This tendency usually left him working on 1 million projects at once pacing the office till all hours of the night and sitting at his desk most weekends. No one would ever accuse John Somerville of approaching any task lightly and, for that reason, his outstanding performance in law school comes as no surprise to me or, I am sure, to anyone who knows him.

John's success in law school has certainly not surprised anyone who knows his family and the respected position which they have always held in the legal community. In fact, John comes from a long line of attorneys on both sides of his family. On his mother's side, both his grandfather and great grandfather practiced law in Georgia. On the Somerville side of the family, in addition to two Alabama Supreme Court justices, Henderson Somerville and Ormond Somerville, attorneys abound. John's father, William G. Somerville, was a highly respected attorney who practiced for years in Birmingham, where John's brother currently practices and where his sister-in-law clerks for a Federal judge. I know how proud these relatives would and must be of the success which John has already found following so closely in their footsteps.

In closing, I want to wish John and his delightful wife, Holly, a gifted clincial psychologist, the best of luck in their future endeavors.

Thank you, Mr. President.

NATIONAL DRUG INTELLIGENCE CENTER

Mr. HEINZ. Mr. President, in his January 1990 "National Drug Control Strategy," President Bush announced his intention to create a National Drug Intelligence Center [NDIC] to, in his words, "consolidate and coordinate all relevant intelligence gathered by law enforcement agencies and analyze it to produce a more complete picture of drug trafficking organizations."

The NDIC is an integral part of the strategy's intelligence agenda which is an important chapter in the strategy's seven-point plan.

The NIDC's analyses will be provided as appropriate to drug enforcement agencies at the Federal, State, and local level.

The NDIC will be under the direction of the Attorney General who will appoint an advisory board, members of which will be drawn from relevant Federal agencies.

This is an important initiative in our efforts to develop a comprehensive strategy to overcome the drug crisis. The metaphor of war has often been invoked in describing these efforts. As any military strategist will attest, an effective intelligence infrastructure is essential toward the goal of winning a war.

I inquire of the distinguished chairman of the Department of Defense Appropriations Subcommittee whether he is aware that the House version of the legislation provides $10 million through the National Foreign Intelligence Program in startup funding for the NDIC?

Mr. INOUYE. Mr. President, I am aware of this provision in the House version.

Mr. HEINZ. Mr. President, is it the intention of the distinguished chairman to urge Senate conferees to recede to the House on this matter?

Mr. INOUYE. Mr. President, I appreciate the Senator from Pennsylvania's interest in this matter. The NDIC would be an important tool in our efforts to track the movement of drugs and a necessary link connecting the various information gathering agencies. I am sympathetic to the goals of the provision and will keep the thoughtful comments made by the Senator from Pennsylvania in mind during the conference with the House.

Mr. HEINZ. Mr. President, I thank the distinguished chairman for his comments. I ask unanimous consent that the section of the 1990 National Drug Control Strategy that discusses the need for a National Drug Intelligence Center be printed in the RECORD at this point. I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AN INTELLIGENCE AGENDA

In drug investigations, interdiction activities, and especially efforts to dismantle drug trafficking organizations, Federal, State, and local drug enforcement agencies depend on intelligence to understand and effectively combat the illegal drug trade. Intelligence information can tell us about the structure, membership, finances, communications, and activities of criminal drug organizations, in addition to the specific details of particular drug smuggling or money laundering operations. This intelligence information is crucial for formulating sound policy and conducting drug supply reduction activities because it enables us to learn about the groups that traffic drugs, to discover the points at which they are most vulnerable to attack, and ultimately to disrupt and dismantle them.

The United States relies on two principal sources to gather drug-related intelligence information: the national law enforcement and foreign intelligence communities. The greatest challenges to these intelligence bodies are, first, to capitalize on the opportunities to collect potentially useful information and, second, to analyze, coordinate, and disseminate that information so that it aids our national drug control programs. The pages that follow describe major initiatives that will address that challenge.

NATIONAL DRUG INTELLIGENCE CENTER

In order to coordinate the collection and the production of intelligence information regarding drug trafficking, the Administration will create a National Drug Intelligence Center (NDIC) to consolidate and coordinate all relevant intelligence gathered by law enforcement agencies and analyze it to produce a more complete picture of drug trafficking organizations. The finished products prepared by the Center will then be distributed as appropriate to drug enforcement agencies at the Federal, State, and local level.

The NDIC will serve other key drug intelligence functions by developing and maintaining computer databases and other drug intelligence systems for the entire law enforcement community; providing intelligence and direction to law enforcement agencies that allow them to focus their own intelligence gathering activities on key drug

trafficking targets; establishing collection requirements for law enforcement intelligence; serving as an exchange point for classified drug intelligence between the law enforcement community and the foreign intelligence community; providing guidance for domestic and foreign drug intelligence collection; assessing interagency intelligence efforts; and promoting information sharing among various law enforcement agencies.

NDIC will closely coordinate its efforts with the Financial Crimes Enforcement Network (FINCEN), which is the Treasury Department's central mechanism for the collection, analysis, and dissemination of all drug-related financial intelligence. A fuller discussion of FINCEN activities is found in the "International Initiatives" chapter of this report. NDIC will also work closely with the El Paso Intelligence Center (EPIC), which will remain the principal national archive and processing facility for tactical drug law enforcement intelligence.

The NDIC will be under the supervision of the Attorney General, assisted by an Advisory Board comprised of representatives of the Office of National Drug Control Policy and involved Federal Departments, including the Departments of Justice, Treasury, Defense, and Transportation. The Attorney General will appoint the Director and Deputy Director of the NDIC with the concurrence of the Advisory Board. The NDIC Director will report directly to the Attorney General and create the necessary links to serve the strategic intelligence needs of policy making and law enforcement agencies at all levels of government.

CHRIST THE KING SCHOOL, BURLINGTON, VT.

Mr. LEAHY. Mr. President, Christ the King School of Burlington, recently celebrated its 50th anniversary as one of Vermont's most distinguished educational institutions.

The school began just 1 month after Msgr. Charles Towne opened the doors of the new church as its first pastor. At that time, the school was needed to make room for the overflow of children from the Cathedral School.

Christ the King's commitment to education is exemplified by Sister Margaret Mary Lyons. She was the school's first principal back in 1940, and is still teaching today, 50 years later, in Burlington.

The school has seen some changes in half a century. In 1961, increasing enrollment made it necessary to expand and eight classrooms, a gymnasium, and a kitchen were added to the original structure.

During the 1970's the Sisters of Mercy, who had always been the heart of the school staff, met the growing needs by engaging Brothers of the Sacred Heart and more lay teachers to serve on the faculty and staff.

The school is celebrating its 50th anniversary led by James Provost, the first lay principal in the school's history.

Christ the King School has changed to meet the needs of the students. Excellence in education has always been the overriding mission of the school.

It is this long history of commitment to excellence in education that earns Christ the King School the congratulations of a thankful community and the Senate of the United States.

May schools like Christ the King remain to give spiritual and academic guidance to our young people, for yet another 50 years and beyond.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,039th day that Terry Anderson has been held captive in Beirut.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar items numbered 1056, 1057, 1058, 1059, 1060, and 1061.

I further ask unanimous consent that the nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

NATIONAL COUNCIL ON DISABILITY

Michael B. Unhjem, of North Dakota, to be a member of the National Council on Disability for the remainder of the term expiring September 17, 1990.

Michael B. Unhjem, of North Dakota, to be a member of the National Council on Disability for a term expiring September 17, 1993 (reappointment).

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

Richard C. Hackett, of Tennessee, to be a member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1993.

NATIONAL SCIENCE FOUNDATION

Perry L. Adkisson, of Texas, to be a member of the National Science Board, National Science Foundation for a term expiring May 10, 1996 (reappointment).

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

J. Michael Farrell, of the District of Columbia, to be a member of the National Commission on Libraries and Information Science for the remainder of the term expiring July 19, 1992.

RAILROAD RETIREMENT BOARD

Andrew F. Reardon, of Illinois, to be a member of the Railroad Retirement Board for the term of five years from August 29, 1988.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Unde the previous order, the Senate wil return to legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of th United States were communicated t the Senate by Mr. McCathran, one o his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presidin Officer laid before the Senate mes sages from the President of the Unite States submitting sundry nomination which were referred to the appropri ate committees.

(The nominations received today ar printed at the end of the Senate pro ceedings.)

MESSAGES FROM THE HOUSE

At 10:48 a.m., a message from th House of Representatives, delivered b Mr. Hays, one of its reading clerks, a nounced that the House has passe the bill (S. 319) to effect an exchang of lands between the U.S. Forest Ser ice and the Salt Lake City Corporatio within the State of Utah, and fo other purposes; with an amendmen in which it requests the concurrenc of the Senate.

The message also announced tha the House has passed the followin bills, in which it requests the concu rence of the Senate.

H.R. 2582. An act to amend the Histor Sites, Buildings, and Antiquities Act, a for other purposes;

H.R. 3840. An act to establish the Ne berry National Volcanic Monument in th State of Oregon, and for other purposes;

H.R. 4630. An act to acquire and study ce tain lands in the State of New Mexico, a for other purposes;

H.R. 4914. An act to amend the Nation Parks and Recreation Act of 1978 to autho ize the Secretary of the Interior to e change city-owned lands in the Los Angele California area with public lands manag by the Bureau of Land Management Nevada;

H.R. 5308. An act to approve the Fort H Indian Water Rights Settlement, and f other purposes; and

H.R. 5433. An act to direct the Secreta of Agriculture to release on behalf of th United States a condition in a deed conve ing certain lands to the Conservation Co mission of West Virginia, and for other pu poses.

At 11:43 a.m., a message from th House of Representatives, delivered b Mr. Hays, one of its reading clerks, a nounced that the House has passe the following bill, in which it reques the concurrence of the Senate:

H.R. 5269. An Act to control crime.

At 4:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the bill (S. 3127) to designate the Department of Veterans Affairs Medical Center in Albany, NY, as the "Samuel S. Stratton Department of Veterans Affairs Medical , Center"; without amendment.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 1677) to require the Federal Communications Commission to reinstate restrictions on advertising during children's television, to enforce the obligation of broadcasters to meet the educational and informational needs of the child audience, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5326. An act to amend title 38, United States Code, to revise the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans, to make miscellaneous improvements in veterans' compensation and pension programs, to provide a presumption of service-connection between the occurrence of certain diseases incurred by veterans of active service in Vietnam during the Vietnam era and exposure to certain toxic herbicide agents used in Vietnam, and for other purposes; and

H.R. 5740. An act to amend title 38, United States Code, to make improvements in veterans health-care programs, and for other purposes.

The message also announced that the Speaker makes the following modifications to the appointment of conferees on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4739) entitled "An Act to authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes":

(1) At the end of the appointment, add the following new paragraph:

As additional conferees from the Committee on Agriculture, for consideration of section 2823 of the Senate amendment, and modifications committed to conference: Mr. Volkmer, Mr. Johnson of South Dakota, Mr. Harris, Mr. Olin, Mr. Campbell of Colorado, Mr. Robert F. Smith, Mr. Combest, and Mr. Marlenee.

(2) Immediately after the paragraph naming additional conferees from the Committee on Energy and Commerce, insert the following proviso:

Provided, That Mr. Markey is appointed in place of Mr. Eckart for consideration of sections 2851 and 2852 of the House bill.

(3) In the paragraph naming additional conferees from the Committee on Interior and Insular Affairs, replace Mr. Young of Alaska with Mrs. Vucanovich.

(4) In the paragraph naming additional conferees from the Committee on Post Office and Civil Service, strike "1502(b)" and insert in lieu thereof "1502".

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 2540. An act to authorize the Board of Regents of the Smithsonian Institution to plan, design, construct, and equip space in the East Court of the National Museum of Natural History building, and for other purposes;

S. 3046. An act to redesignate the Federal building located at 1 Bowling Green in New York, New York, as the "Alexander Hamilton United States Custom House"; and

H.R. 4279. An act to amend title 31, United States Code, to improve cash management of funds transferred between the Federal Government and the States, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore [Mr. Byrd].

At 5:48 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 4009) to authorize appropriations for fiscal year 1991 for the Federal Maritime Commission, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1824) to reauthorize the Education of the Handicapped Act, and for other purposes.

The message further announced that the House has agreed to the concurrent resolution (S. Con. Res. 150) directing the Secretary of the Senate to make corrections in the enrollment of S. 1824.

At 6:56 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4257. An act to create the Supreme Court of the District of Columbia, and for other purposes;

H.R. 4825. An act to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes; and

H.R. 5749. An act to amend the Act entitled "An Act to incorporate the American University", approved February 24, 1893, to clarify the relationship between the Board of Trustees of the American University and the General Board of Higher Education and Ministry of the United Methodist Church.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2582. An act to establish the Newberry National Volcanic Monument in the State of Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4830. An act to acquire and study certain lands in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4914. An act to amend the National Parks and Recreation Act of 1978 to authorize the Secretary of the Interior to exchange city-owned lands in Los Angeles, CA, with public lands managed by the Bureau of Land Management in Nevada; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4825. An act to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3699. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Financial Audit: Federal Crop Insurance Corporation's Financial Statements for 1989 and 1988; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3700. A communication from the Under Secretary of Defense (Acquisition), transmitting, pursuant to law, three reports on the Ultra High Frequency Follow-On system; to the Committee on Armed Services.

EC-3701. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the status of the public ports of the United States for calendar years 1988 and 1989; to the Committee on Commerce, Science, and Transportation.

EC-3702. A communication from the Inspector General of the Department of Defense, transmitting, pursuant to law, the Army Audit Agency report on Superfund financial transactions for fiscal year 1989; to the Committee on Environment and Public Works.

EC-3703. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a copy of a Presidential determination that the Agreement on Trade Relations Between the Government of the United States and the Czechoslovak Federative Republic will promote the purposes of the Trade Act and is in the national interest; to the Committee on Finance.

EC-3704. A communication from the General Counsel of the Department of Health and Human Services and the Deputy Assistant Attorney General (Legislative Affairs), Department of Justice, transmitting jointly a draft of proposed legislation to amend the Omnibus Budget Reconciliation Act of 1989; to the Committee on Finance.

EC-3705. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice that the President has authorized the use of assistance from the U.S. Emergency Refugee and Migration Assistance Fund for urgent and unforeseen needs of persons fleeing Kuwait and Iraq as a result of the current military crisis in the Persian Gulf; to the Committee on Foreign Relations

EC-3706. A communication from the Executive Director of the National Mediation Board, transmitting, pursuant to law, the annual report of the Board under the Government in the Sunshine Act for calendar year 1989; to the Committee on Governmental Affairs

EC-3707. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Review of D.C. General Hospital's Procurement"; to the Committee on Governmental Affairs.

EC-3708. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on Tribal Contract Costs Associated With Indian Self-Determination Contracts, dated June 1990; to the Select Committee on Indian Affairs.

EC-3709. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on the Indian Health Service Health Facilities Construction Priority System; to the Select Committee on Indian Affairs.

EC-3710. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report of the Department of Labor under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-3711. A communication from the Secretary of Health and Human Services, transmitting, for the information of the Senate, the views of the Department on the enactment of S. 2946, the "Transplant Amendments Act of 1990"; to the Committee on Labor and Human Resources.

EC-3712. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the Final OMB Sequester Report for Fiscal Year 1991; pursuant to the order of January 30, 1975, as modified on April 4, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on the Judiciary, the Committee on Labor and Human Resources, the Committee on Rules and Administration, the Committee on Small Business, the Committee on Veterans' Affairs, the Select Committee on Indian Affairs, and the Select Committee on Intelligence.

EC-3713. A communication from the Director of the Congressional Budget Office, transmitting, pursuant to law, the Final Sequestration Report for Fiscal Year 1991; pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on the Judiciary, the Committee on Labor and Human Resources, the Committee on Rules and Administration, the Committee on Small Business, the Committee on Veterans' Affairs, the Select Committee on Indian Affairs, and the Select Committee on Intelligence.

EC-3714. A communication from the Under Secretary of Agriculture (International Affairs and Commodity Programs), transmitting, pursuant to law, the first quarterly country and commodity allocation table showing current programming plans for commodity assistance under Public Law 480 for fiscal year 1991; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3715. A communication from the Under Secretary of Housing and Urban Development, transmitting, pursuant to law, a report on the Department of Housing and Urban Development's denial of request for approval of a new program by the Federal National Mortgage Association; to the Committee on Banking, Housing, and Urban Affairs.

EC-3716. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report on the accomplishments of the Sole Source Acquifer Demonstration Program; to the Committee on Environment and Public Works.

EC-3717. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to October 11, 1990; to the Committee on Foreign Relations.

EC-3718. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Unvouchered Expenditures: Presidential and Vice Presidential Expenditures for the Periods Reviewed Were Proper"; to the Committee on Governmental Affairs.

EC-3719. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final funding priorities for fiscal year 1991 and 1992—Projects With Industry"; to the Committee on Labor and Human Resources.

EC-3720. A communication from the Secretary of Education, transmitting, pursuant to law, Stafford Loan, Supplemental Loans for Students, PLUS, and Consolidation Loan Programs—Notice of Interpretation; to the Committee on Labor and Human Resources.

EC-3721. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the President's final sequester order for fiscal year 1991; pursuant to the order of January 30, 1975, as modified on April 4, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environmental and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on the Judiciary, the Committee on Labor and Human Resources, the Committee on Rules and Administration, the Committee on Small Business, the Committee on Veterans' Affairs, the Select Committee on Indian Affairs, and the Select Committee on Intelligence.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PELL:

S. 3202. A bill to amend the Higher Education Act of 1965 to provide financial assistance for middle income students; to the Committee on Labor and Human Resources.

By Mr. JEFFORDS:

S. 3203. A bill to establish a replacement fuels program, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MITCHELL (for himself, Mr. Cohen, Mr. Sanford, Mr. Heinz, and Mr. Pryor):

S. 3204. A bill to amend the Harmonized Tariff Schedule of the United States to exclude certain footwear assembled in beneficiary countries from duty-free treatment; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated

By Mr. BURDICK (for himself, Mr Moynihan, Mr. Baucus, Mr. Reid Mr. Lieberman, Mr. Symms, Mr. Jeffords, Mr. Adams, Mr. Conrad, Mr Heflin, Mr. Akaka, Mr. Rudman Mr. Bryan, Mr. Sarbanes, Mr Harkin, Mr. Grassley, Mr. Daschle Mr. Hatch, Mr. Garn, Mr. Dixon Mr. Heinz, Ms. Mikulski, Mr. Murkowski, Mr. Dodd, Mr. Pressler Mr. D'Amato, Mr. Wallop, Mr Leahy, and Mr. Biden):

S. Res. 340. A resolution to express th sense of the Senate that any proposal to increase the Federal-aid highway program' minimum allocation percentage from 85 percent to 95 percent should be addressed a part of the legislative process to reauthoriz surface transportation programs in 1991; t the Committee on Environment and Publi Works.

By Mr. INOUYE (for himself, M McCain, Mr. Cochran, Mr. Murkowski, Mr. Reid, Mr. Daschle, M Gorton, Mr. DeConcini, Mr. Burdick, Mr. Pressler, Mr. Bradle and Mr. Hatfield):

S. Con. Res. 153. A concurrent resolutio to acknowledge the 100th anniversary of th tragedy at Wounded Knee Creek, State o South Dakota, December 29, 1890, wherei soldiers of the United States Army 7th Cavalry killed and wounded approximately 350 375 Indian men, women and children o Chief Big Foot's band of the Minneconjo Sioux, and to recognize the Year of Reconciliation declared by the State of Sout Dakota between the citizens of the Stat and the member bands of the Great Siou Nation; to the Committee on the Judiciar

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PELL:

S. 3202. A bill to amend the Higher Education Act of 1965 to provide financial assistance for middle-income students; to the Committee on Labor and Human Resources.

MIDDLE-INCOME STUDENT ASSISTANCE ACT

Mr. PELL. Mr. President, as chairman of the Senate Subcommittee on Education, Arts, and Humanities, I am deeply concerned with the skyrocketing costs of a college education. Over the past decade, these costs have soared by 60 percent to 103 percent, depending on the type of institution.

The impact of this trend is an ominous one, indeed. Many American families are finding the ability to pay for their children's college education beyond their reach. Nowhere is this more evident than among hard-pressed middle-income families who must bear enormous educational costs without being eligible for Federal grant assistance.

The legislation I am introducing today would help remedy that situation. Under the provisions of my bill, a family of four with an annual income of $40,000, one child in college, and no unusual expenses would only be eligible to receive a Pell grant of $250 a year.

In addition, my bill removes from student aid eligibility the consideration of home equity for any family that earns less than $40,000 a year. This is a particularly important provision for areas of our country where home values have escalated enormously and continue to outpace increases in income.

My own home State of Rhode Island is deeply affected by this situation. The value of a Rhode Island home has increased to such an extent that the family owning it is eliminated not only from Pell grant eligibility but in some cases from Stafford loan eligibility as well.

That same family, however, often cannot borrow against the value of the home simply because their annual income is too low to pay the loan off. The other alternative, to sell the home, is out of the question because the replacement cost is too high.

Finally, the children of these families often work after school and during the summer so that they can save enough money to attend college. Current Federal law, however, stipulates that 70 percent of what they earn will be counted against their eligibility for student aid. Thus the student who works hardest is penalized the most. This is unfair. My bill would decrease to 50 percent the amount a student would have to save for his or her education.

Mr. President, in 1978 we enacted my Middle Income Student Assistance Act, legislation that addressed a similar problem that we were experiencing 12 years ago. That law brought Pell grant help within the reach of middle-income families. Unfortunately, the relief it provided was short-lived and wiped out by the Reagan administration.

Throughout the decade of the eighties, the Reagan administration proposed cutback after cutback in Federal student aid programs. The very existence of Federal student aid was in jeopardy. In order to save the programs themselves, eligibility was tightened so that only the most needy qualified. Today, more than 75 percent of all Pell grant recipients come from families with incomes of less than $15,000 a year.

Middle-income families, however, bore the brunt of those cutbacks. Increasingly, they found themselves cut out of Federal student aid programs at precisely the time they needed the help most.

This is a situation that cannot continue, for its impact on our people is very harmful. We know, for example, that students have had to rely more heavily on loans to pay for their college education. We know also that student loan indebtedness has mushroomed, and that the need to repay those loans has had a very negative effect on career decisions. Students who must pay $200 to $300 a month on their student loans are being driven away from teaching and other public service careers.

The crisis, however, is a double-barreled one. For as I noted at the outset, the soaring costs of a college education have come at precisely the same time that we were fighting off draconian efforts to curtail Federal student aid. A couple of illustrations from Rhode Island accurately capture the total picture.

Today, in Rhode Island, the average annual cost for a student attending Rhode Island College and living on campus is approximately $5,740. This includes tuition, fees, and room and board. In 1978 that same cost was about $2,100. Thus, in 12 years the cost to attend RIC has increased by more than 170 percent.

The same picture exists at the Unversity of Rhode Island. Twelve years ago the cost to attend URI was about $2,600. Today, it is $6,586, or an increase of more than 150 percent.

Of equal concern is the terrible burden faced by a a family with very young children who are planning to send their children to college.

If a family has a child who is 1 year old today that family, according to estimates, will have to save an average of $1,790 a year to pay for 4 years of education at a public university when their child becomes old enough to enter college.

If that same family wants to send their child to a private institution of higher education, they will have to save an average of $4,533 a year.

These figures are both startling and disturbing. They reflect a trend that will clearly price education beyond the reach of thousands upon thousands of families. Something must be done to provide help.

Action is very definitely necessary to help these families. The time has come to expand our view concerning who needs assistance, and to recognize that middle-income American families need our help. These citizens are in a most difficult situation. They are considered to have too much money to qualify for Federal student aid, but the plain fact is that they do not have sufficient resources to send their children to college. I believe we have a responsibility to help these families.

Mr. President, I am introducing this legislation well ahead of our scheduled reauthorization of the Higher Education Act. We will not begin that work until next year. The issue addressed by this legislation, however, is of sufficient importance that I believed we had to have a proposal on the table from the outset. It needs careful examination and equally careful consideration, but it is something that should be uppermost in our minds as we move toward reauthorization. It is without question that it should, must, and will be one of the primary focal points in our student aid deliberations.

I ask unanimous consent that the full text of the legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3202

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Middle Income Student Assistance Act".

SEC. 2. STUDENT CONTRIBUTION MODIFICATION.

Section 475(g)(1)(C) of the Higher Education Act of 1965 (hereinafter referred to as the "Act") is amended by striking out "70 percent" and inserting in lieu thereof "not less than 50 percent".

SEC. 3. TREATMENT OF NONLIQUID ASSETS.

(a) Pell Grant Needs Analysis.—Section 411F(2) of the Act is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end thereof the following:

"(B) For academic year 1991-1992 and succeeding academic years, the term 'assets' shall not include, in the case of a family with an adjusted gross income which is equal to or less than $40,000, the net value of—

"(i) the family's principal place of residence; or

"(ii) a farm on which the family resides.

(b) General Need Analysis.—Section 480(g) of the Act is amended—

(1) by inserting "(1)" after "Assets.—"; and

(2) by adding at the end thereof the following:

"(2) For academic year 1991-1992 and succeeding academic years, the term 'assets' shall not include, in the case of a family with an adjusted gross income which is equal to or less than $40,000, the net value of—

"(A) the family's principal place of residence; or

"(B) a farm on which the family resides.".

SEC. 4. DISCRETIONARY INCOME CHARTS.

(a) Eligibility for Dependent Students.—

Section 411B(f) of the Act is amended in paragraph (2) by striking all beginning with "Determined" through the end thereof and inserting "10.5 percent of such discretionary income.".

(b) Eligibility for Independent Student Other Than a Spouse.—

Section 411(C)(e) of the Act is amended in paragraph (2) by striking all beginning with "determined" through the end thereof and inserting "10.5 percent of such discretionary income.".

By Mr. JEFFORDS:

S. 3203. A bill to establish a replacement fuels program, and for other purposes; to the Committee on Energy and Natural Resources.

REPLACEMENT FUELS PROGRAM

Mr. JEFFORDS. Mr. President, now that we have gained approval of a budget resolution, we face some very tough decisions molding that resolution into a formal, specific budget reconciliation agreement. This will be a very critical document.

We had hoped that the budget resolution would have been completed last spring, as scheduled. But we all understand why it was not. Now we must recognize that a very short time remains before adjournment. The election is close at hand. Yet, it is important to realize that with a 5-year budget, we must be alert as to how we structure our priorities.

During the budget negotiations, the world witnessed the invasion of Kuwait by Iraq. Suddenly, with the rapid and steep increases in world oil prices, the awareness that our dependancy on foreign oil can create serious problems, was highlighted.

The drawn-out budget process, coupled with an even longer clean air process, has not lent itself to serious consideration of a national energy policy. The new budget agreement does leave some latitude for the use of tax incentives, yet the severe budget constraints make it unlikely that substantial help will or can be found there.

My purpose today is to share with you a program that I believe can provide a substantial contribution to reducing oil imports. I also believe that it is even possible that the program can be enacted this year, in order to get us on the road to energy independence.

This may seem like an incredible suggestion at this late date. But I believe, when you understand the program, you will agree.

To help establish credibility of this bold statement, I will share with you the history of its development.

I served as a Member of the House of Representatives from the mid-seventies until this session. Many of my colleagues in the House are now Members of the Senate. Especially in the late seventies, much time was spent by many of us in developing energy policy.

I remember in particular a briefing held by then-Secretary Schlesinger, whose major theme revolved around the development of the synthetic fuels program. As I listened, I thought how much simpler and less costly it would be to mandate a demand rather than mandate a supply.

I was aware at the time that Brazil has such a program, taking advantage of ethanol produced from sugar cane. That program is still in effect and has been successful.

I envisioned a program to require that a percentage of gasoline be comprised of fuels made from renewable, and other domestic sources. I saw this as complimenting the synthetic fuels programs. Such fuels would qualify. But there would be no need to specify the particular alternative fuel. The least costly option would be selected by the refiners, the market.

I introduced such a bill and it eventually gained the support of over 100 cosponsors.

The House Agriculture Committee approved it since it would help reduce corn surpluses through ethanol sales.

The Education Committee passed it since it would create thousands of new jobs, especially in the coal regions.

Part of the concept was used, but limited to military purchases.

The bill reached its peak of support when a subcommittee of the House Energy and Commerce Committee included it in the omnibus energy bill being prepared. However, OPEC disintegrated, oil prices fell, and the omnibus energy bill never left the committee.

This year I was involved in the alternative fuels program of the clean air bill, and recognized that such a concept could complement other measures to reduce pollution. By mixing and burning cleaner fuels, we reduce pollution. Also, in order to get expanded use of alternative fuels, and to promote increased sales of alternatively fueled vehicles, it would be necessary to ensure the availability of fuels. A slight modification of my original proposal could solve that dilemma.

Let me briefly summarize the bill I am introducing today.

The bill defines "replacement fuels" as liquid energy sources that, while not derived from crude oil, can be mixed with gasoline to power automobiles. These would include ethanol and methanol, as well as liquids derived from coal, oil shale and tar sands.

The bill also defines "nonpetroleum motor fuels" as those alternative fuels that are not suitable for mixing with gasoline, but yet are capable of powering automobiles. These include natural gas, propane, hydrogen, and electricity.

The purpose of this bill is to encourage the production of replacement fuels and nonpetroleum motor fuels in order to promote energy security and reduce environmental damage.

Now, how do we go about this task?

My bill would establish a program to replace gasoline with the maximum amount of replacement fuels and nonpetroleum motor fuels as is economically and technically feasible.

The bill requires gasoline refiners to ensure that a fixed percentage of their product is comprised of replacement fuels, or that market credits are received from sales of nonpetroleum fuels. The bill sets targets of 10 percent, by volume, as the amount of replacement fuel in motor fuel. In other words, by 1996, fuel sold for transportation purposes would be required to be 90 percent gasoline and 10 percent replacement fuel, or adequate credits must be shown for sales of nonpetroleum fuels. By the year 2005 the percentage rises to 30 percent.

To allow refiners flexibility in meeting these requirements, the bill establishes a system of marketable credits so each individual gallon of fuel sold need not be 10 percent replacement fuel, but rather refiners may average the requirement across their annual totals. In addition, refiners who fall short of the percentage goals can purchase credits from others who exceed the percentage goals.

Further, the bill extends this marketable credit program to distributors of fuels that are not readily mixable with gasoline, but are yet alternative fuels whose promotion is consistent with the purposes of the program.

In other words, natural gas sold for transportation purposes would be eligible for credits that could then be traded within the system to be credited toward the refiners' percentage requirement.

It would be left to the Secretary of Energy, working with the Administrator of the EPA, to devise the formula under which different fuels would be traded in a single system, but that formula would be based on comparable energy content, as well as the individual fuel's comparable benefits in promoting the purposes of the bill namely promoting energy security and environmental protection.

That, in essence, is a summary of my replacement fuels bill. By 1996, 10 percent of the volume of this Nation's gasoline must be comprised of replacement fuels or nonpetroleum motor fuels. By 2005, replacement fuels must constitute 30 percent of our national transportation fuel mix. The percentage requirements are industry-wide averages.

The bill contains a provision allowing a gradual "ramping-up" to the initial 10 percent requirement, as well as a provision allowing an adjustment to the 30 percent requirement based on technical and economic feasibility.

The bill calls on Federal agencies to coordinate activities and stipulates that these provisions be administered and enforced in coordination with the Energy Security Act and other laws.

Let me run through a couple of scenarios that exemplify how this program would work.

One way refiners could meet their percentage mandate is by producing fuels from non-oil sources to be mixed during the refinery process. For example, there are currently pilot projects producing crude oil from domestic sources that is then refined for consumer use. In Colorado, oil is being manufactured from oil shale; in Alabama, oil is being manufactured from coal.

The reason that these programs have not expanded is not for reasons of technology—it is because of cost. Imported oil has been much cheaper than other supply options. At the current price of oil, these technologies are cost-effective, or nearly so, but without a guaranteed price, or an assured demand, the industry is unwilling to make the investments necessary to develop these domestic resources.

My bill would require the use of such fuel sources, stimulating the development of these promising resources regardless of the volatility of crude oil prices.

A second scenario allows refiners to meet their percentage requirements by mixing their gasoline with stocks such as ethanol, produced from domestic corn surpluses or from biomass resources.

Current ethanol production capacity in the United States is about a billion gallons per year. Although a recent GAO report found that the industry is capable of tripling domestic production to an excess of 3 billion gallons per year during the next 8 years, without adequate assurances for sales the industry may not expand. My bill assures demand.

A third scenario envisions expansion of natural gas, propane, and electricity development as transportation fuels. To the extent that the major oil companies are vertically integrated with retailers as well as gasoline refineries, sales of natural gas through their gas stations into the transportation sector could count toward the percentage requirement.

The same would be true for an arrangement of independent refiners, with natural gas producers and independent retailers. Independent natural gas and propane producers would generate credits for their sales of fuel for motor vehicle use, which would then be available for refiners to use toward their percentage requirements. I note that this program would complement the alternative fuels provisions of the clean air bill, currently in conference with the House of Representatives.

So, there are three scenarios envisioned by my bill. I note that each of these situations are currently being practiced, with varying degrees of development. Under my replacement fuels program, these programs, which have the duel benefit of promoting energy security and enhancing environmental protection, would flourish.

Mr. President, our current—and increasing—reliance on imported oil threatens our domestic security and is a large reason why we find ourselves in such a precarious position in the Middle East.

Our national cost for imported oil accounts for about half of our national trade deficit. This cost continues to grow as consumption increases and domestic production declines.

By all accounts, it is in our national interest to promote cleaner, available domestic reserves. Indeed, most analysts agree that the sorts of fuels my bill would encourage are the very fuels that will eventually replace imported oil.

The barrier to the technological advancement of these products is the traditionally low and volatile cost of imported oil.

I propose that it is in the national interest to promote fuels that will replace imported oil.

We can do this through the supply side—encouraging production through Federal incentives and tax credits—as was invisioned by the infamous Synfuels Program and as continued through tax credits contained in the budget deal. The negative budget implications make this a poor option.

Or, as an alternative, we can promote replacement fuels through the demand side—by requiring the production and sale of alternatives to imported crude, and leaving it to the industry to devise the most cost-effective means to achieve this goal.

My bill will put us on the course of being energy independent by ensuring a demand for alternative fuels, with no budget costs.

It will enhance our ability to reduce pollution through the availability of cleaner fuels.

It will create thousands of new jobs by shifting tens of billions of dollars toward alternative and replacement fuels production.

It will provide revenues through the many industries created to supply the replacement fuels.

It will reduce agriculture program costs by increasing the demand for ethanol.

The variety of fuels that will compete in this market will help coal regions, natural gas regions, as well as regions that produce fuels from shale or tar sands.

The guaranteed demand will attract capital necessary to stimulate the production of these fuels.

Market forces, subject to environmental standards, will select the least costly options.

Mr. President, replacement fuels are means by which we will extricate ourselves from the multitude of problems brought on by our dependence on imported oil. My bill offers a cost-effective method for promoting the commercial development of these domestic resources.

Tomorrow, I will describe a scenario by which the percentage targets of my bill can be met. It is my belief that domestic resources can be tapped at current oil prices, which means that America can curb its addiction to imported oil with little or no difference in today's gasoline price. And with no negative budget impacts.

By Mr. MITCHELL (for himself, Mr. Cohen, Mr. Sanford, Mr. Heinz, and Mr. Pryor):

S. 3204. A bill to amend the Harmonized Tariff Schedule of the United States to exclude certain footwear assembled in beneficiary countries from duty-free treatment; to the Committee on Finance.

TARIFF TREATMENT OF CERTAIN FOOTWEAR

Mr. MITCHELL. Mr. President, I am introducing legislation today with Senators Cohen, Sanford, Heinz, and Pryor that corrects what I believe was an inadvertent change in law included as part of the Caribbean Basin Economic Recovery Act.

Under section 222 of that legislation, footwear products imported from CBI nations now enjoy duty free status if assembled from U.S. components or materials. The effect of this provision may well be the final destruction of our domestic footwear manufacturing industry, an industry which has already been decimated by increased imports in the last decade.

The inclusion of footwear in section 222, while textile, apparel, and petroleum products were exempted, is in my view clearly contrary to the expressed intent of Congress to protect footwear from the benefits provided in CBI legislation. The original CBI initiative enacted in 1983 exempted footwear and other import sensitive products from duty-free treatment accorded products from Caribbean Basin nations. When new CBI legislation was considered this year both the House and Senate went on record in support of protecting the domestic footwear industry

from the benefits otherwise accorded imports from CBI nations. The Senate evidenced its intent when it overwhelmingly defeated a floor amendment that would have reduced CBI footwear imports by 50 percent.

Unfortunately, this intent did not survive conference committee action because a provision was included in section 222 that permits duty-free imports of footwear imported from CBI nations which are produced from component parts made in the United States. While textile, apparel, and petroleum products were exempted from those provisions, footwear was included. This is an expansion on current law treatment under 807 which provides for duty-free treatment only on the value added portion of the product. To make matters worse, the conference committee further liberalized these rules by adopting language offered on the Senate floor intended to apply to computers which permits products to qualify for duty-free treatment if processed from U.S. materials, whether or not there is any assembly production in this country.

The objective of section 222 is supposed to be to increase employment in CBI nations in manufacturing facilities that make use of American made component parts that will provide jobs in U.S. supplier industries. But if that is the case, the Kerry amendment language is counterproductive because manufacturing of the component parts will be permitted to occur in CBI nations. American workers who cut leather products and footwear components in supplier industries will lose out to workers in CBI nations. More importantly, whatever effect this legislation has on suppliers in the United States, it is quite clear that domestic footwear manufacturing jobs will be lost as these companies move their operations to the Caribbean to take advantage of the lower duties.

The legislation I am introducing today would correct this situation by adding footwear to the products now exempted from the duty-free provisions of section 222. I ask unanimous consent that a copy of this legislation be included in the Congressional Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF FOOTWEAR AND LEATHER RELATED PRODUCTS.

(a) In General.—Paragraph (b) of U.S. Note 2 of subchapter II of chapter 98 of the Harmonized Tariff Schedule of the United States is amended by inserting "footwear, leather related products" in the parenthetical after "apparel article,".

(b) Effective Date.—The amendment made by this section shall take effect as if included in section 222 of the Customs and Trade Act of 1990.

ADDITIONAL COSPONSORS

S. 1676

At the request of Mr. Pell, the name of the Senator from Florida [Mr. Graham] was added as a cosponsor of S. 1676, a bill to strengthen the teaching profession, and for other purposes.

S. 2724

At the request of Mr. Pell, the name of the Senator from Vermont [Mr. Leahy] was added as a cosponsor of S. 2724, a bill to extend and improve arts and humanities programs, museum services, and arts and artifacts indemnification, and for other purposes.

S. 2993

At the request of Mr. Daschle, the name of the Senator from Connecticut [Mr. Lieberman] was added as a cosponsor of S. 2993, a bill to amend the Internal Revenue Code of 1986 to extend the solar, geothermal, ocean thermal energy tax credits through 1995.

S. 3042

At the request of Mr. Cohen, the names of the Senator from Minnesota [Mr. Boschwitz] and the Senator from Alaska [Mr. Stevens] were added as cosponsors of S. 3042, a bill to establish a uniform minimum package and claim procedures for health benefits, provide tax incentives for health insurance purchases, encourage malpractice reform, improve health care in rural areas, establish state uninsurable pools, and for other purposes.

SENATE JOINT RESOLUTION 350

At the request of Mr. Byrd, the names of the Senator from Maine [Mr. Cohen], the Senator from South Dakota [Mr. Daschle], the Senator from Pennsylvania [Mr. Heinz], and the Senator from Nevada [Mr. Reid] were added as cosponsors of Senate Joint Resolution 350, a joint resolution to designate October 18, 1990, as "National Hardwood Day."

SENATE JOINT RESOLUTION 351

At the request of Mr. Byrd, the name of the Senator from Iowa [Mr. Grassley] was added as a cosponsor of Senate Joint Resolution 351, a joint resolution to designate the month of May 1991, as "National Trauma Awareness Month."

SENATE CONCURRENT RESOLUTION 153—RELATIVE TO THE 100TH ANNIVERSARY OF THE TRAGEDY AT WOUNDED KNEE CREEK, SD

Mr. INOUYE (for himself, Mr. McCain, Mr. Cochran, Mr. Murkowski, Mr. Reid, Mr. Daschle, Mr. Gorton, Mr. DeConcini, Mr. Burdick, Mr. Pressler, Mr. Bradley, and Mr. Hatfield) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. Con. Res. 153

Whereas, in order to promote racial harmony and cultural understanding, the Governor of the State of South Dakota has declared that 1990 is a Year of Reconciliation between the citizens of the State of South Dakota and the member bands of the Great Sioux Nation;

Whereas the Sioux people who are descendants of the victims and survivors of the Wounded Knee Massacre have been striving to reconcile and, in a culturally appropriate manner, to bring to an end their 100 years of grieving for the tragedy of December 29, 1890;

Whereas historians regard the 189 Wounded Knee Massacre as the last armed conflict between Indian warriors and the United States Cavalry which brought to a close an era in the history of this country commonly referred to as the Indian war period characterized by an official government policy of forcibly removing the Indian tribes and bands from the path of westwar expansion and settlement through placement on reservations;

Whereas this era of government polic has been replaced by a more enlightene policy of Indian self-determination and respect for human rights characterized by recognition of the valuable contribution o Indian cultures, traditions, and values to th history and fabric of American society;

Whereas, on September 25, 1990, hearing were conducted in the United States Senat by the Select Committee on Indian Affair regarding the historical circumstances surrounding the Wounded Knee Massacre an to receive testimony regarding a propose Wounded Knee Memorial and the need t designate the area an historic site or national monument in order to properly preserv and maintain the terrain; and

Whereas it is proper and timely for th Congress of the United States of America t acknowledge, on the occasion of the impending one hundredth anniversary of th event, the historic significance of the Massacre at Wounded Knee Creek, to expres its deep regret to the Sioux people and i particular to the descendants of the victim and survivors for this terrible tragedy, an to support the reconciliation efforts of th State of South Dakota and the Wounde Knee Survivors Association: Now, therefor be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) the Congress, on the occasion of th one hundredth anniversary of the Wounde Knee Massacre of December 29, 189 hereby acknowledges the historical signif cance of this event as the last armed con flict of the Indian wars period resulting the tragic death and injury of approximat ly 350-375 Indian men, women, and childre of Chief Big Foot's band of Minneconjo Sioux and hereby expresses its deep regr on behalf of the United States to the d scendants of the victims and survivors a their respective tribal communities;

(2) the Congress also hereby recogniz and commends the efforts of reconciliatio initiated by the State of South Dakota a the Wounded Knee Survivors Associatio and expresses its support for the establis ment of a suitable and appropriate Memor al to those who were so tragically slain Wounded Knee which could inform t American public of the historic significan of the events at Wounded Knee and acc

rately portray the heroic and courageous campaign waged by the Sioux people to preserve and protect their lands and their way of life during this period; and

(3) the Congress hereby expresses its commitment to acknowledge and learn from our history, including the Wounded Knee Massacre, in order to provide a proper foundation for building an ever more humane, enlightened, and just society for the future.

● Mr. INOUYE. Mr. President, it gives me great pleasure to submit a concurrent resolution to commemorate the centennial of the events at Wounded Knee, SD. This resolution expresses the deep regret of this U.S. Congress for the loss of so many Indian lives at the hands of the 7th Calvary on December 29, 1890, and commends the State of South Dakota and the Oglala Sioux tribe for making this centennial year a "Year of Reconciliation."

This tragic event in our Nation's history marked the final chapter of the so-called Indian wars period when the great chiefs and warriors of the Sioux, the Cheyenne, the Arapahoe, and other Plains Indian tribes waged a heroic and courageous struggle to defend their people, their lands, and their ways of life against the tide of western expansion. This year, 1990, marks the centennial anniversary of the last armed conflict of this campaign, an event which historians verify was not a battle but a massacre in which hundreds of unarmed Indian women and children along with a few armed warriors lost their lives on the frozen prairie at a place called Wounded Knee.

On September 25, 1990, the Senate Select Committee on Indian Affairs held an oversight hearing on proposals to establish a memorial at Wounded Knee. Without the leadership of the South Dakota congressional delegation and the Governor of South Dakota, neither the hearing nor other important initiatives to establish a memorial at Wounded Knee, including this concurrent resolution, could have been possible. These truly bipartisan efforts show how the highest elected officials from a State can work together to bring reconciliation to the diverse populations in their State.

Governor Mickelson, responding to a suggestion from the Lakota Times editor Tim Giago, declared in February that 1990 is a "Year of Reconciliation" between Indians and non-Indians of South Dakota. Governor Mickelson's testimony at the select committee's hearing reflected his commitment to ending years of social conflict and misunderstandings between Indians and non-Indians, and the need for both the State and Federal Government to play a key role in this effort. "The dispute resolution and reconciliation process has been, and will be, a difficult undertaking, but I remain convinced such efforts are necessary for the betterment of all South Dakotans."

Senator Larry Pressler's sensitive testimony highlighted the need for long overdue recognition of this national tragedy at Wounded Knee and the importance of creating an appropriate memorial as a critical step in reconciliation. "The definition of reconciliation is 'a reestablishment of friendship.' Friendships look to the future. * * * Rather than basing our reconciliation efforts on the turning of the calendar year, we must maintain a continuous effort toward the establishment of a better relationship and understanding between Indians and non-Indians in South Dakota." His strong support for this concurrent resolution demonstrates his clear understanding of the issues involved.

I would like to give special thanks to my friend Senator Tom Daschle, who presided over the September 25 hearing, whose compassion and heartfelt commitment to Indian people is evident in his work as a member of the Select Committee on Indian Affairs.

The combined efforts of these elected officials is an excellent example of true dedication and bipartisan cooperation.

Mr. President, I would like to take this opportunity to remind the Members of this body of the historical background leading up to the Wounded Knee incident.

HISTORICAL BACKGROUND

This tragic chapter of American history came at a time of great upheaval and turbulence for the Indians of the Plains. In 1890, 10 years had passed since the last bison roamed the Plains or provided food for the Sioux people. Relentless pressures to force the tribes onto smaller and smaller reservations left the Indians distrustful, feeling betrayed, and with a greater and greater dependence on the Federal Government for their very survival.

Under these trying circumstances, we can understand the fervor in which the Sioux people embraced the Ghost Dance revival of 1890. Federal agents feared that this spiritual movement would quickly turn to hostility against them, a fear of which eventually resulted in several thousand troops being sent to Sioux country to suppress the Ghost Dance. On December 15, 1890, Indian agents in the employ of the Government attempted to arrest the great Hunkpapa Chief Sitting Bull, who had been a prominent leader of the Ghost Dance movement. When one of his followers shot at the two Indian police, they returned fire and mortally wounded Sitting Bull.

Chief Big Foot, Sitting Bull's half-brother and another Ghost Dance leader, took in Sitting Bull's followers. The band then fled from the Badlands toward the Pine Ridge Reservation. Major Whitside, having orders to intercept them, accepted an unconditional surrender from Chief Big Foot under a white flag of truce. The entire band was escorted to Wounded Knee Creek, where Colonel Forsyth assumed command.

A minor skirmish between several of Chief Big Foot's followers and soldiers initiated by firing of a single gunshot, the origins of which remain unknown, escalated into a largely one-sided volley of bullets, leaving approximately 350 to 375 Sioux men, women, and children wounded or dead. The casualties for the soldiers was a total of 60 wounded or killed, many of them reportedly from the bullets of their own comrades.

Although we may never be able to construct a full and accurate account of the events at Wounded Knee on December 28, 1890, the rough outline is enough to show that the soldiers of the 7th Cavalry clearly overreacted and the consequent loss of many lives of Sioux people could not be justified. What might be found even more appalling than this is the ensuing treatment of victims and the survivors. Mario Gonzalez, an attorney for the Wounded Knee Survivors Association, gave the following testimony at the September 25 select committee hearing:

> The callousness of the 7th Cavalry soldiers is evident from their gruesome conduct as they buried the Indian dead, posing for photographs and jumping on the piles of bodies to pack them down into the mass grave. The soldiers were buried immediately. The Indian people were not buried, as indecent a burial as it was, until 5 days after the massacre, on January 3, 1891. At least one of Big Foot's people is known to have been buried alive, and with the knowledge of the overseers of the burial party.

In light of this history, I think we can all understand why the psychological wounds inflicted upon all the survivors and Sioux relatives of Big Foot's band were felt so grievously and have remained unhealed for so many years. Many of us were deeply moved by the account of this tragedy by the well known author Dee Brown in his book, "Bury My Heart at Wounded Knee." As Mr. Brown so forcefully points out, this was not just another military defeat, but a statement of dishonor directed at an entire race of people for having the courage to fight for their survival.

I am pleased that my colleagues on the Select Committee on Indian Affairs have agreed to cosponsor this resolution. We are presented with an opportunity to not only commemorate an important historical event but to respond to the poignant feeling of grief shared by many of the Sioux for the injuries, physical and psychological, that linger on today from this tragic event. Finally, we should be aware that we are speaking not just to the Sioux, but to all citizens when we acknowledge such mistakes of the past and commit ourselves and this Nation

to a more humane and enlightened future society.

The concurrent resolution I am introducing today represents a chance for Congress to right a wrong by expressing our deep regret for the massacre at Wounded Knee 100 years ago. I urge my colleagues to reflect upon the issue and to support this concurrent resolution.●

SENATE RESOLUTION 340—RELATIVE TO THE FEDERAL-AID HIGHWAY PROGRAM

Mr. BURDICK (for himself, Mr. Moynihan, Mr. Baucus, Mr. Reid, Mr. Lieberman, Mr. Symms, Mr. Jeffords, Mr. Adams, Mr. Conrad, Mr. Heflin, Mr. Akaka, Mr. Rudman, Mr. Bryan, Mr. Sarbanes, Mr. Harkin, Mr. Grassley, Mr. Daschle, Mr. Hatch, Mr. Garn, Mr. Dixon, Mr. Heinz, Ms. Mikulski, Mr. Murkowski, Mr. Dodd, Mr. Pressler, Mr. D'Amato, Mr. Wallop, Mr. Leahy, and Mr. Biden) submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. Res. 340

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Findings.—The Senate finds that—

(1) Current authorizations for the Federal-aid highway program expire on September 30, 1991;

(2) The Congress will be considering major legislation to reauthorize the highway program in 1991;

(3) The issue of minimum allocation is properly within the jurisdiction of the Committee on Environment and Public Works in the Senate and within the jurisdiction of the Committee on Public Works and Transportation in the House of Representatives;

(4) The authorizing committees will hold hearings next year during which testimony on the minimum allocation program, as well as other highway program and policy issues, will be heard;

(5) Inclusion of a provision on minimum allocation as part of budget reconciliation represents legislating on a spending measure; and

(6) The original provisions to create and expand the minimum allocation program were contained in highway reauthorization legislation enacted in 1983 and 1987.

Sec. 2. Sense of the Senate.—It is the sense of the Senate that any proposal to increase the Federal-aid highway program's minimum allocation percentage from 85 percent to 95 percent should be addressed as part of the legislative process to reauthorize surface transportation programs in 1991.

● Mr. BURDICK. Mr. President, together with more than 25 cosponsors, I am offering a sense-of-the-Senate resolution regarding the minimum allocation provision being considered in budget reconciliation. I am concerned that this very important highway policy issue will not receive the scrutiny it deserves if it is buried in reconciliation legislation. A fundamental principle of the Federal-Aid Highway Program has been the redistribution of tax revenue which makes it possible to have a truly national highway system. Otherwise States with small tax bases would never be able to provide the links that make interstate travel possible.

A proposal to change that fundamental principle could seriously weaken this Nation's most successful public works program. The Federal Highway Program will be up for reauthorization next year. The authorizing committee—the Environmental and Public Works Committee—will continue to hold a series of hearings providing an opportunity for close examination of every aspect of the program. The minimum allocation issue will be carefully examined in that context.

I would also note that in 1982 when the minimum allocation program was created and again in 1987 when it was expanded, the issue was addressed—properly in my view—as part of highway reauthorization legislation. Minimum allocation is an important policy concern and is interrelated with other critical policy decisions on funding levels, formulas, and program design.

Last year, the American Association of State Highway and Transportation Officials [AASHTO] issued a major policy statement on the future of the Federal Surface Transportation Program. This organization is made up of the top officials of State departments of transportation, and they represent the State agencies charged with the actual administration of the Federal-Aid Highway Program. After extensive debate, AASHTO recommended the 85-percent minimum allocation provision, and rejected an increase in the percentage.

Because of the importance of minimum allocation and its place in the highway program, my colleagues and I are introducing this sense-of-the-Senate resolution urging that the jurisdiction of the Environment and Public Works Committee be respected.

I must also note that including minimum allocation in the budget reconciliation legislation is a violation of the Budget Act and is subject to a point of order. I urge my fellow Senators to join me in support of this resolution.●

Mr. BAUCUS. Mr. President, I rise in support of Senate Resolution 340, introduced earlier today by the distinguished chairman of the Environment and Public Works Committee, Mr. Burdick.

This resolution, with 29 cosponsors, including Mr. Burns, would put the Senate on record as: First, respecting the Environment and Public Works Committee's jurisdiction over the Federal-Aid Highway Program; and second, opposing any change in the existing program until the highway bill is reauthorized next year.

Like so many of my colleagues, I was dismayed to see that the budget agreement includes a provision changing the highway program's minimum allocation—the minimum payback that States receive from the gas tax dollars their citizens pay into the highway trust fund—from 85 to 95 percent.

Nobody argues this change will save the Federal Government a single dime. It certainly will not. It has nothing to do with reducing the deficit.

Rather, this is an attempt to use the budget process to bring about an abrupt change in Federal policy. In my view, this is inappropriate and just plain wrong.

Moreover, such a change would be inconsistent with the basic idea behind a national highway program that links all regions of our country together. Of course, some States, the thinly populated States, get back more money from the highway program than they put in. My State has many, many miles of highway with very few people and there are many other States just like it.

We have a better State highway system because we are a national country. The highway system was built and designed to link our country together. It has to be a national program.

Mr. President, already battle lines are forming over the shape of the next highway bill due to come up before the Congress next year. Largely urban donor States claim the current formula unfairly benefits donee States like Montana. They want to revise the formula, by shifting money maintaining primary roads away from rural areas.

With this battle looming next year, the proposed change in the minimum allocation formula represents a major concession to the donor States. We are giving them a two-touchdown advantage before the coin toss in next year's battle.

With all due respect to those who perceive this issue differently, I am unalterably opposed to the change. It is unfair and I strongly oppose it.

In closing, I ask unanimous consent that two letters, one from Chairman Burdick to Chairman Bentsen, and one from the Montana Highway Department be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

U.S. Senate,
Committee on Environment and
Public Works,
Washington, DC, October 10, 1990.

Hon. Lloyd Bentsen,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

Dear Lloyd: Thank you for your recent letter regarding your proposal to increase the Federal-aid highway program's minimum allocation computation from 85 percent to 95 percent. I am extremely concerned about including this change as part of a budget agreement for two reasons.

First, by guaranteeing each State nearly 100 percent of a portion of its estimated tax payments into the Highway Trust Fund, it seems to me difficult to justify having a national program. I recognize the uneven contributions in Trust Fund payments, but the reason for that is obviously the difference in each State's ability to pay. The debate between donor-donee States is an important one. It is also one the Committee on Environment and Public Works has a record of addressing in highway reauthorization legislation.

Second, as you know, current authorizations for the highway program expire on September 30, 1991. Enactment of reauthorization legislation will be a top priority for the Environment and Public Works Committee next year. The issue of minimum allocation is properly within the jurisdiction of the authorizing committee. I can assure you that the committee will act very shortly to address minimum allocation and other highway program issues in the hearing process and in legislation.

From 1971 to 1985 you served as a key member of the Committee on Environment and Public Works, and you have always been a stalwart supporter of the highway program. I do appreciate those efforts. However, I very much hope you will reconsider offering your minimum allocation proposal at this time.

With best regards, I am,

Sincerely,

Quentin N. Burdick,
Chairman.

Department of Highways,
State of Montana,
Helena, MT, October 11, 1990.

Subject: 95 percent return provision.

Hon. Max Baucus,
U.S. Senate, Washington, DC.

The recent budget agreement contains a provision that would harm Montana's Highway Program.

The provision would require that 95 percent of all gas tax monies collected at the gas pump be returned to the state from which the monies were collected. The current provision is 85 percent returned to the donor state.

As a major donee state, there is no question an upward adjustment in the minimum allocation would hurt Montana. With our vast distances and high state gas tax, the State of Montana is already struggling to maintain our existing road system. Yet, we are now being asked to make a huge concession to help far wealthier states back east and on the West Coast—states that already benefit from vast expenditures for urban mass transit. That's just plain unfair.

We urge you to stridently oppose this provision.

Robert E. Champion, P.E.,
Deputy Director of Highways.

Mr. BAUCUS. Mr. President, I strongly urge all my colleagues to pay close attention to this matter when it comes before the full Senate on reconciliation. It is not the time now to change the highway formula. It does not belong in this bill. It is wrong on the merits and has nothing to do with the budget deficit reduction. Help us fight this battle this year, not next year.

Mr. CONRAD. Mr. President, first of all I wish to associate myself with the remarks of the senior Senator from Montana. I think he has addressed the issue directly and correctly. Many of us who represent States with big mileages to be covered by the Federal highway system but small populations are in the same position. Very frankly, we think it is unfair that, in any package that is supposed to be deficit reduction, a change in policy as it relates to the distribution of funds is included. The distribution of funds has nothing to do with deficit reduction.

Mr. President, I think it is most unfortunate that this change in the formula for allocation of highway funds has been included in a package that is supposed to address deficit reduction.

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, FISCAL YEAR 1991

HATFIELD AMENDMENTS NO. 2978

Mr. STEVENS (for Mr. Hatfield) proposed an amendment to the bill (S. 3189) making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes, as follows:

On page 9, line 22, before the period, insert ": *Provided,* That $4,000,000 shall be available only for the establishment of the Japanese American Museum as a component of the Japanese American Cultural Center in Ontario, Oregon".

NICKLES AMENDMENTS NO. 2979

Mr. STEVENS (for Mr. Nickles) proposed an amendment to the bill (S. 3189), supra, as follows:

At the appropriate place in the bill, insert:

Sec. . The Department of the Army may use up to $3,100,000 in troop labor, installation equipment and supplies at Fort Sill to assist the Department of the Interior in replacing an earth dam through a cooperative agreement which benefits each Department and includes such other terms as to protect the United States.

NUNN AMENDMENTS NO. 2980

Mr. INOUYE (for Mr. Nunn) proposed an amendment to the bill (S. 3189), supra, as follows:

On page 9, line 17, after the words "of which" insert the following: "not to exceed $35,000,000 may be available for the CINC initiative fund account; and of which".

REID AMENDMENT NO. 2981

Mr. INOUYE (for Mr. Reid) proposed an amendment to the bill S. 3189, supra, as follows:

In the appropriate place, insert the following:

None of the funds available during fiscal year 1991 to the Department of Defense, any of its components, or any other Federal department, agency, or entity may be obligated or expended to complete an A-76 cost comparison study for the contracting out of firefighting or security guard functions at Indian Springs Air Force Auxiliary Field.

HOLLINGS (AND THURMOND) AMENDMENT NO. 2982

Mr. HOLLINGS (for himself and Mr. Thurmond) proposed an amendment the bill S. 3189, supra, as follows:

At the appropriate place in the bill, insert the following:

HURRICANE HUGO REPAIRS

(TRANSFER OF FUNDS)

Sec. . Funds available to the Department of Defense during the current fiscal year may be transferred to applicable appropriations or otherwise made available for obligation by the Secretary of Defense to repair or replace real property, facilities, equipment, and other Department of Defense assets damaged hy hurricane Hugo in September 1989: *Provided,* That funds transferred shall be available for the same purpose and the same time period as the appropriations to which transferred: *Provided further,* That the Secretary shall notify the Congress promptly, in accordance with standard notification procedures, of all transfers made pursuant to this authority and that such transfer authority shall be in addition to that provided elsewhere in this Act.

McCAIN AMENDMENT NO. 2983

Mr. McCain proposed an amendment to the bill S. 3189, supra, as follows:

On page 101, between lines 2 and 3, insert the following new section:

OPERATION DESERT SHIELD CONTRIBUTIONS BY OTHER COUNTRIES

Sec. 8099. Not later than 30 days after the date of the enactment of this Act and at the end of each 90-day period thereafter, the Secretary of Defense shall submit to Congress a detailed accounting of contributions made by other countries to Operation Desert Shield, to operations in support of the United Nations' embargo against Iraq, and to other operations and efforts to counter Iraq aggression in the Persian Gulf region. Such accounting shall include contributions in cash, personnel, equipment, supplies, and of any other kind. Such reports may be submitted in both classified and unclassified form. The Secretary shall continue to submit such reports until United States forces are withdrawn from the Arabian peninsula.

DIXON (AND OTHERS) AMENDMENT NO. 2984

Mr. DIXON (for himself, Mr. Byrd, Mr. Ford, Mr. Heinz, Mr. Helms, Mr. Shelby, Mr. D'Amato, Mr. Pell, Mr. Reid, and Mr. Biden) proposed an amendment to the bill S. 3189, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SECTION 1. ADDITIONAL DOCUMENTS REQUIRED FOR PROPOSED COPRODUCTION OF F/A-18 AIRCRAFT.

(a) Prohibition.—None of the funds appropriated or otherwise made available by any provision of law shall be available for the export, or the licensing for export, of any items or technology to South Korea in connection with the coproduction of F/A-18 aircraft until at least 15 days after the Congress has received the proposed memorandum of understanding between South Korea

and the United States regarding that coproduction and all documentation and background material, including agreements concluded through the exchange of letters, relating thereto.

(b) Extension of the Congressional Review Period.—No Presidential certification under subsection (b), (c) or (d) of section 36 of the Arms Export Control Act with respect to the sale or export of items or technology for the coproduction of the F/A-18 aircraft with South Korea shall be deemed to have been received by the Congress until the President submits to the Congress the documents described in subsection (a).

RUDMAN AMENDMENT NO. 2985

Mr. INOUYE (for Mr. Rudman) proposed an amendment to the bill S. 3189, supra, as follows:

On page 62, beginning on line 3, strike from "making use of" through "Air Force," on line 4.

STEVENS (AND INOUYE) AMENDMENT NO. 2986

Mr. STEVENS (for himself and Mr. Inouye) proposed an amendment to the bill S. 3189, supra, as follows:

At the appropriate place insert:

Sec. . (a) Section 12(b)(7) of the Act of January 2, 1976, as amended (Pub. L. No. 94-204), is further amended as follows:

(1) in subsection (i)(a) by:

(A) deleting the word "surplus" following the phrase "any other bidder for",

(B) inserting the phrase "as defined in subsection 12(b)(7)(vii)," following the word "property" the first time it appears in the subsection.

(C) deleting the phrase "Federal Property and Administrative Services Act of 1949 (40 U.S.C. sec. 484), as amended." and inserting in lieu thereof the phrase "applicable laws and regulations of the Federal agency or instrumentality offering such property for sale.", and

(D) deleting the phrase "for General Services Administration surplus property under the subparagraph and no additional advertising shall be required other than that prescribed in title 40, United States Code, section 484(c)(2) of the Federal Property and Administrative Services Act;" and inserting in lieu thereof the phrase "on property under this section 12(b)(7). There shall be no advertising other than that ordinarily required by such sale.".

(2) in subsection (iv) by:

(A) deleting the phrase "Federal surplus property" and inserting in lieu thereof the phrase "property, as defined in subsection 12(b)(7)(vii).",

(B) inserting the phrase "12(b)(7)" immediately preceeding the phrase "(i) or (ii)",

(C) inserting the phrase "12(b)" following the phrase "document referred to in this subsection", and

(D) inserting the phrase "or payments of forfeited deposits, penalties, or other assessments imposed under a valid bid or sales contract on Cook Inlet Region, Incorporated" immediately preceeeding the period at the end of the subsection.

(3) in subsection (v), by deleting the phrase "subsection (iv)" and inserting in lieu thereof the phrase "subsection 12(b)(7)(iv) for sales or transfers of property made pursuant to the Federal Property and Administrative Services Act of 1949, 40 U.S.C. sec. 471 et seq., or any legislative or executive delegation under that Act,".

(4) adding at the end thereof the following new subsections:

"(vii) Notwithstanding the definition of "property" found in the Federal Property and Administrative Services Act of 1949, as amended, as used in this section 12(b)(7), "property" means any property—real, personal, or mixed—owned, held, or controlled by the United States (including that in a corporate capacity or as a receiver or conservator, or such other similar fiduciary relationship), and offered for sale by any agency or instrumentality of the United States, including but not limited to the General Services Administration, Department of Defense, Department of the Interior, Department of Agriculture, Department of Housing and Urban Development, the United States Courts and any government corporation, agency, or instrumentality subject to chapter 91 of title 31, United States Code; real property means any land or interest in land or option to purchase land, any improvements on such lands, or rights to their use or exploitation.

"(viii) Any charge against the property account and any transfer of funds from the property account heretofore made for the purpose of consumating any prior sale or making a deposit or other payment to bind any contract of sale or paying any forfeiture of deposit, penalty or assessment is hereby authorized, ratified and affirmed."

(b) Section 9102 of the Department of Defense Appropriations Act, 1990 (Pub. L. No. 101-165, 103 Stat. 1151), is amended as follows:

(1) in subsection (b)(1), by deleting the phrase "(b)(2)" and inserting in lieu thereof the phrase "(a)(2)",

(2) subsection (d) is amended to read as follows:

"(d) Agency defined.—In this section the term "agency" includes—

"(1) any instrumentality of the United States, or

"(2) any element of an agency, or

"(3) any wholly owned or mixed-owned United States Government corporation identified in chapter 91 of title 31, United States Code."

(3) by adding at the end thereof the following new subsections:

"(e) Property defined.—Notwithstanding the definition of "property" found in the Federal Property and Administrative Services Act of 1949, as amended, in this section the term "property" includes any property—real, personal, or mixed—owned, held, or controlled by the United States (including that in a corporate capacity or as a receiver or conservator, or such other similar fiduciary relationship), and offered for sale by any agency or instrumentality of the United States, including but not limited to the General Services Administration, Department of Defense, Department of the Interior, Department of Agriculture, Department of Housing and Urban Development, the United States Courts and any government corporation, agency or instrumentality subject to chapter 91 of title 31, United States Code; real property as used in this section means any land or interest in land or option to purchase land, any improvements on such lands, or rights to their use or exploitation.

"(f) The Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish procedures to permit the accounts described in subsection (a)(2) to receive deposits, to make deposits into escrow when an escrow is required for the sale of any property, and to reinstate to such accounts any unused escrow deposits if sales are not consummated."

SANFORD AMENDMENT NO. 2987

Mr. SANFORD proposed an amendment, which was subsequently modified, to the bill S. 3189, supra, as follows:

"FORT BRAGG CONSERVATION

"Sec. . Of the funds appropriated under "Operation and Maintenance, Army," up to $500,000 shall be available for the environmental protection program at Fort Bragg, North Carolina."

CONRAD (AND OTHERS) AMENDMENT NO. 2988

Mr. CONRAD (for himself, Mr. Reid, Mr. Metzenbaum, Mr. Pressler, and Mr. Daschle) proposed an amendment to the bill S. 3189, supra, as follows:

On page 101, between lines 2 and 3, insert the following:

Sec. 8099. None of the funds appropriated by this Act may be used for the purpose of supporting an end-strength level, as of September 30, 1991, of—

(1) members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization (NATO) at any level greater than the number equal to 80,000 less than the end-strength level, as of September 30, 1990, of members of the Armed Forces of the United States assigned to permanent duty ashore in such nations; and

(2) members of the Armed Forces of the United States at any level greater than 1,946,405.

(b) It is the sense of Congress that (1) a declaration of war by Congress or a declaration of a national emergency by Congress or the President authorizes the President to obligate and expend funds appropriated by this Act for the purpose of supporting any end-strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization (NATO), and any total end-strength level of members of the Armed Forces, that is necessary to prosecute the war or to resolve the national emergency, (2) any amount that is obligated subject to full reimbursement of the United States by any European member nation of NATO should not be considered as obligated in violation of subsection (a), and (3) an obligation of any amount for the purpose of supporting an end-strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO in crder to carry out a comprehensive agreement entered into by the United States and its NATO allies and the Soviet Union and its Warsaw Pact allies on the reduction of conventional armed forces in Europe (CFE) should not be considered as an obligation in violation of subsection (a).

SPECTER AMENDMENT NO. 2989

Mr. SPECTER proposed an amendment to the bill S. 3189, supra, as follows:

At the appropriate place in the bill, insert the following:

"It is the sense of the Senate that United States participation in a multilateral anti-narcotics strike force, as called for in sections 4101 and 4103 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690), should include the full range of appropriate law enforcement and anti-drug abuse agencies, and that consideration be given to aiding such a strike force by funding from appropriate sources for multilateral intelligence-sharing, multilateral training of law enforcement personnel; and multilateral support for crop substitution, drug treatment, drug research and drug education programs.

"Funds made available under this Act for Department of Defense drug interdiction activities may be expended to fund the participation of United States Armed Forces in conjunction with appropriate United States law enforcement and anti-drug abuse agencies, in accordance with other applicable laws, in such a strike force.".

RIEGLE AMENDMENT NO. 2990

Mr. INOUYE (for Mr. RIEGLE) proposed an amendment to the bill S. 3189, supra, as follows:

At the appropriate place in the bill, insert the following:

SECTION 1. INTERNATIONAL ECONOMIC BURDEN SHARING.

(a) FINDINGS.—The Congress finds that—

(1) the President and Secretary of State have stated publicly that a new international order is being created;

(2) such order is characterized, among other things, by—

(A) a rough parity of financial and technological strength and of standards of living among Members of the Group of Seven;

(B) the successful culmination of allied postwar foreign policy in the emergence of political and economic freedom in formerly communist nations and the progressive integration of such nations into the world economy; and

(C) with the reduction of ideological and military tension between members of the North Atlantic Treaty Organization and the Warsaw Pact, the increased importance of economic strength in the ability of nations to provide for national security and promote foreign policy objectives;

(3) such rough parity of economic strength among Members of the Group of Seven as well as the large and growing net national and international debt of the United States affirm that the new international order should be accompanied by a more balanced distribution of the economic burden of providing for common security than that which accompanied the postwar international order; and

(4) it should be a priority of United States foreign policy in the new international order to attain at an early stage a more balanced distribution of the aggregate economic burden of common security among advanced industralized nations.

(b) NEGOTIATIONS.—It is the sense of the Congress that the President should negotiate within the Group of Seven to conclude agreements providing for—

(1) a commonly accepted methodology by which to measure relative rates of expenditures on common security objectives by each Member;

(2) through the application of such methodology, commonly accepted calculations of current rates of expenditures on common security objectives by each Member; and

(3) a framework, concrete agenda, and timetable of actions by each Member to converge substantially their aggregate rates of expenditures on common security objectives as a proportion of national income over a reasonable, finite period.

(c) REPORTS TO CONGRESS.—It is the sense of the Congress that the President should submit reports to Congress no later than August 1, 1991, and August 1, 1992, assessing progress toward the agreements referred to in subsection (b). In the absence of substantial progress toward the agreements referred to in subsection (b) at the time of issuance of such reports, the President should include in such reports a calculation and comparative analysis of current rates of expenditures on common security objectives by each member of the basis of the best and most current information available.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "Members" means the United Kingdom, France, Italy, Canada, the Federal Republic of Germany, Japan, United States, and the European Community; and

(2) the term "expenditures on common security objectives" includes—

(A) expenditures on defense operations and activities outside a Member's territory which provide for the defense of two or more Members pursuant to a treaty or other arrangement between two or more Members;

(B) official development assistance to developing or emergency democracy country markets;

(C) contributions to multilateral development banks;

(D) untied export credit assistance to developing or emerging democracy markets;

(E) other non-military, untied economic or financial assistance to developing or emerging democracy country markets; and

(F) expenditures which address global environmental problems or which improve environmental conditions outside a Member's territory.

CONRAD (AND OTHERS) AMENDMENT NO. 2991

Mr. CONRAD (for himself, Mr. REID, Mr. DASCHLE, and Mr. LEAHY) proposed an amendment, which was subsequently modified, to the bill S. 3189, supra, as follows:

On page 101, between lines 2 and 3, insert the following:

SEC. 8099. (a) None of the funds appropriated by this Act may be used for the purpose of supporting an end-strength level, as of September 30, 1991, of all members of the Armed Forces of the United States assigned to permanent duty ashore in Japan at any level in excess of 50,000.

(b) None of the funds appropriated for the Department of Defense for any fiscal year after September 30, 1991 may be used for the purpose of supporting an end-strength level, as of the end of such fiscal year, of all members of the Armed Forces of the United States assigned to permanent duty ashore in Japan at any level in excess of the number that is 10,000 less than such end-strength level for the preceding fiscal year, unless the President certifies to Congress before the end of the fiscal year to which the certification applies that Japan has agreed to offset for that fiscal year the direct costs incurred by the United States related to the presence of all members of the Armed Forces of the United States so assigned.

(c) It is the sense of Congress that (1) a declaration of war by Congress or an armed attack on Japan authorizes the President to obligate and expend funds appropriated to the Department of Defense for the purpose of supporting any end-strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in Japan that is necessary to prosecute the war or to assist in the defense of Japan, and (2) the President may waive the limitation in this section for any fiscal year if he declares that it is in the national interest to do so and immediately informs the Congress of the waiver and the reasons for the waiver.

LEAHY (AND OTHERS) AMENDMENT NO. 2992

Mr. LEAHY (for himself, Mr. COHEN, Mr. WIRTH, Mr. BRADLEY, Mr. KENNEDY, and Mr. SASSER) proposed an amendment to the bill S. 3189, supra; as follows:

On page 23, strike out lines 21 and 22, and insert in lieu thereof "$7,521,753,000, to remain available for obligation until September 30, 1993; *Provided*, That, notwithstanding any other provision of this Act (1) none of the funds appropriated in this Act may be obligated or expended to commence production of any B-2 aircraft, and (2) the funds appropriated in this Act for the B-2 advanced technology bomber program may be expended only for (A) the completion of production of those B-2 aircraft that are included in the full-scale development program as of the date of the enactment of this Act, (B) research and development for the B-2 aircraft, (C) testing and evaluation of the B-2 aircraft, including flight testing, and (D) the costs of termination of production under the B-2 advanced technology program.

SYMMS AMENDMENT NO. 2993

Mr. SYMMS proposed an amendment to the bill S. 3189, supra, as follows:

At the appropriate place, insert the following:

ASSAULT BALLISTIC ROCKET SYSTEM

SEC. . Of the amount appropriated in this Act for Research, Development, Test and Evaluation, Navy, the sum of $31,000,000 may be obligated for an evaluation of the Assault Ballistic Rocket System.

NUNN (AND WARNER) AMENDMENT NO. 2994

Mr. INOUYE (for Mr. NUNN, for himself, and Mr. WARNER) proposed an amendment to the bill S. 3189, supra, as follows:

On page 101, between lines 2 and 3, insert the following new title:

TITLE IX—DEFENSE AUTHORIZATIONS

SEC. 9001. ENACTMENT OF FISCAL YEAR 1991 DEFENSE AUTHORIZATION BILL

The provisions of the bill H.R. 4739 of the One Hundred and First Congress, as passed the Senate on September 25, 1990, and hereby enacted into law.

SEC. 9002. TERMINATION OF PROVISIONS UPON ENACTMENT OF AUTHORIZATION BILL

Section 9001 shall not take effect if the bill H.R. 4739 of the One Hundred and First Congress is enacted before this Act. If that bill is enacted after this Act, the provisions of section 9001 shall cease to be effective upon the enactment of the bill.

McCLURE AMENDMENT NO. 2995

Mr. INOUYE (for Mr. MCCLURE) proposed an amendment to the bill S. 3189, supra, as follows:

At the appropriate place in the bill add the following:

"The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, the sum of $3,625,000 to Shipco General, Inc., an Idaho corporation. The payment of such sum shall be in full satisfaction of any claim of Shipco General, Inc., against the United States arising out of the termination of a contract at Kirtland Air Force Base, New Mexico, for the rehabilitation of 155 housing units for Zia Park Housing (Contract No. F29650-82-C-0201).

"It shall be unlawful for more than 10 percent of the sum appropriated by section 1 to be paid to or received by any agent or attorney for services rendered in connection with the claim described in such section. Any person who violates this section shall be fined not more than $1000.".

BUDGET RECONCILIATION

PRESSLER AMENDMENT NO. 2996

(Ordered to lie on the table.)

Mr. PRESSLER submitted an amendment intended to be proposed by him to a measure relating to budget reconciliation, as follows:

At the appropriate place(s) in the bill, strike all provisions that would change the current Federal Highway Administration minimum allocation formula.

Mr. PRESSLER. Mr. President, I rise to speak on the subject of the new highway allocation formula inserted into the budget package by the Finance Committee. As an original cosponsor of the sense-of-the-Senate resolution objecting to this usurption of Public Works Committee jurisdiction, I agree that this nonbudget impact issue should not be part of the budget package we are working on this year. This is a matter for proper discussion before the Environment and Public Works Committee.

Mr. President, I am proud to be an original cosponsor of the resolution which objects to this Finance Committee action. However, as I understand it, that resolution would not change the fact that the Finance Committee has already acted outside of its jurisdiction by changing a highway formula that has no budget impact whatsoever.

Therefore, I intend to offer an amendment to the budget package which would strike the nonbudget portion of the Finance Committee's package. As is the case every time we debate the highway bill, I am sure there will be a big battle next year over formula funding and in highway allocation. But that is a battle for next year on the highway bill. We should not bog down the budget package with these nonbudget items. I will move to strike the formula change provision from the Finance Committee package, and I urge my colleagues to join me. My staff is preparing materials on how this formula change affects each State. We will be sending that around shortly. In the meantime, if any officers listening have any questions as to how your State is affected, you can call my office and get those details sooner.

At any rate, Mr. President, I want to make this body aware of my intentions on this budget. I feel very strongly about this issue. This is not the time or place to be discussing highway formulas. It is a time to be discussing budget packages. I urge my colleagues' support of this proposal.

I ask unanimous consent that the text of my amendment be printed in the RECORD. We will adjust and modify the language when we see the final text of the budget reconciliation bill.

Mr. President, I might add to what I have said that the small States, such as mine, South Dakota, that are small in population, are in a dilemma over these highway formulas. We have a lot of miles of road, very difficult winter conditions, but a very small population. The densely-populated States always want to have the highway formula allocation based more on population. That is very unfair to the sparsely-populated States. I recall the last battle we had over the allocation formula. We had to reach a compromise.

In the last highway bill, the House of Representatives passed a formula that was very favorable to the big cities, quite naturally. The House is made up more of Members from the big cities. But the Western coalition Senators and those Senators from smaller States under our Federal system fought back when the bill came to the Senate. The bill then was vetoed by the President. We had a long battle. Finally, by a one-vote margin, the President's veto was overridden and we had a highway bill that was very fair both to the big States and to the small States. We will face the same battle next year in the highway bill reauthorization debate.

It is very important that small States be given fair consideration. The formula should take into account the long miles of road in the lesser-populated States, the winter conditions that require more road repair, the fact that in the summertime tourists and others heavily use those roads; as well as National Defense needs; and the interests of small business. But that is a battle for next year. A change in that formula should not be sneaked into the budget considerations we are undertaking this week.

ASBESTOS SCHOOL HAZARD ABATEMENT ACT AUTHORIZATION

BURDICK AMENDMENT NO. 2997

Mr. MITCHELL (for Mr. BURDICK) proposed an amendment to the bill (S. 1893) to reauthorize the Asbestos School Hazard Abatement Act of 1984, as follows:

SECTION 1. (a) On page 2, section 2(a), strike lines 3 through 10 and renumber subsequent paragraphs accordingly.

(b) On page 11, strike subsection 11(a), lines 18 through 24, and insert in lieu the following:

"(a) AUTHORIZATION.—Paragraph (1) of section 512(a) is amended to read as follows: "There are hereby authorized to be appropriated for the asbestos abatement program not more than $200,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995. In addition, for such purposes and for each of such fiscal years there are authorized to be appropriated out of the Asbestos Trust Fund established by section 5 of the Asbestos Hazard Emergency Response Act of 1986 (20 U.S.C. 4022) such sums as are contained in such trust fund in each of such fiscal years."

METZENBAUM AMENDMENT NO. 2998

Mr. MITCHELL (for Mr. METZENBAUM) proposed an amendment to the bill S. 1893, supra, as follows:

On page 19, after line 19, add the following:

SEC. . ASBESTOS ABATEMENT TRAINING AMENDMENTS.

(a) ACCREDITATION REQUIREMENT FOR WORKERS IN PUBLIC AND COMMERCIAL BUILDINGS.—(1) Paragraphs (1) and (3) of section 206(a) of the Toxic Substances Control Act (15 U.S.C. 2646) are amended by adding before the comma at the end of each the following: "or in a public or commercial building".

(2) Clauses (i) and (iii) of section 206(b)(1)(A) of such Act are amended by adding before the period at the end of each the following: "or in public or commercial buildings".

(3) Not later than one year after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall revise the model contractor accreditation plan promulgated under section 206(b)(1) of the Toxic Substances Control Act (15 U.S.C. 2646(b)(1)) to increase the minimum number of hours of training, including additional hours of hands-on health and safety training, required for asbestos abatement workers and to make such other changes as may be necessary to implement the amendments made by paragraphs (1) and (2).

(4) Section 207 of such Act (15 U.S.C. 2647) is amended by adding at the end thereof the following:

"(g) Any contractor who—

"(1) inspects for asbestos-containing material in a school, public or commercial building;

"(2) designs or conducts response actions with respect to friable asbestos-containing material in a school, public or commercial building; or

"(3) employs individuals to conduct response actions with respect to friable asbestos-containing material in a school, public or commercial building;

and who fails to obtain the accreditation under section 206 of this Act, or in the case of employees to require or provide for the accreditation required, is liable for a civil penalty of not more than $5,000 for each day during which the violation continues, unless such contractor is a direct employee of the Federal Government.".

(b) Disclaimer.—In exercising any authority under the Toxic Substances Control Act in connection with the amendment made by subsection (a) of this section, the Administrator of the Environmental Protection Agency shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), be considered to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

"(c) Effective Date.—This section shall take effect upon the expiration of the 12-month period following the date of the enactment of this Act. The Administrator may extend the effective date for a period not to exceed one year if the Administrator determines that accredited asbestos contractors are needed to perform school-site abatement required under the Asbestos Hazard Emergency Response Act (15 U.S.C. 3641), and such an extension is necessary to ensure effective implementation of section 203 of the Toxic Substances Control Act.

SEC. . TRAINING GRANTS.

(a) Authorization for Training Grants.—Title II of the Toxic Substances Control Act (15 U.S.C. 2541 et seq.) is amended by adding at the end of the following:

"SEC. 216. TRAINING GRANTS.

"(a) Grants.—The Administrator is authorized to award grants under this section to nonprofit organizations that demonstrate experience in implementing and operating health and safety asbestos training and education programs for workers who are or will be engaged in asbestos-related activities (including State and local governments, colleges and universities, joint labor-management trust funds, and nonprofit government employee organizations) to establish and, or, operate asbestos training programs on a non-for-profit basis. Applications for grants under this subsection shall be submitted in such form and manner, and contain such information, as the Administrator prescribes.

"(b) Authorization.—Of such sums as are authorized to be appropriated pursuant to section 512(a) of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4011 et seq.) for the fiscal years 1991, 1992, 1993, 1994, and 1995, not more than $5,000,000 are authorized to be appropriated to carry out this section in each such fiscal year.

(2) The table of contents for title II of such Act (contained in section 1 of such Act) is amended by inserting after the item relating to section 215 the following new item:

"Sec. 216. Training grants.".

(b) Effective Date.—Section 216 of the Toxic Substances Control Act, as added by subsection (a), shall take effect on the date of the enactment of this Act.

REIMBURSEMENT OF EXPENSES FOR BRUCELLOSIS TESTING OF CATTLE

JOHNSTON AMENDMENT NO. 2999

Mr. MITCHELL (for Mr. Johnston) proposed an amendment to the bill (S. 1767) to reimburse Montana and individuals for expenses incurred to test cattle for brucellosis organisms carried outside Yellowstone National Park by elk and bison, and for other purposes, as follows:

On page 3, line 12, striking "Wyoming" and insert in lieu thereof "Wyoming, North Dakota".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Full Committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate 9 a.m., Monday, October 15, 1990, for a business meeting regarding budget reconciliation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on October 15, 1990, 10 a.m., to hold a nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Monday, October 15, beginning at 10 a.m., to consider reconciliation recommendations to the Budget Committee pursuant to section 4(c)(5) of House Concurrent Resolution 310 for the fiscal years 1991, 1992, 1993, 1994, and 1995.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE HOMELESS ACT

● Mr. BRADLEY. Mr. President, on Friday night the Senate passed legislation which provides important funding for the homeless. I am particularly pleased that a provision I introduced with Senator Dodd is included that would fund outreach projects to provide children with basic health care services.

Today, nearly one in five children under the age of 18 lives in poverty. This rate is 50 percent higher than in 1969. For many of these children, significant barriers exist for obtaining basic services that would allow them the hope of escaping the chains of poverty. Some are homeless, others neglected and abused.

All are deserving of the opportunities that this land of plenty has to offer. But the grim facts show that we're not meeting their needs very well. A country that invented the polio vaccine should not lag behind 14 other countries in the rate of immunization of our children. A country that has one of the highest standards of living in the world should not lag behind 19 countries in preventing infant mortality. A country that can take people to the moon ought to be able to get children to a doctor or doctors to children.

The program we are introducing provides a way to reach children who are at risk, and to provide basic pediatric health services and access to a range of health services.

This program is modeled after a remarkable and unique program developed by Paul Simon and run by Dr. Irwin Redlener at the New York Children's Health Project. This remarkable project delivers health care to homeless children through mobile medical vans that reach out into the community. It provides children basic care for illnesses, immunizations, health screenings and assessments as well as an important link for referrals to other medical and support services. In reaching squarely beyond the barriers with early and preventive interventions, programs like this one can make a difference to these innocent victims of poverty and neglect. And with the emphasis on tracking the children who are served, the program conveys the message to these children that they will not be lost again.

Mr. President, earlier this year I met with Paul Simon and Dr. Redlener to discuss this special program and its applicability for other areas. It is my belief that the program could be replicated in other parts of the country if sufficient financial resources can be marshaled.

It is my belief that programs such as this one could have a major impact in urban areas in New Jersey. Almost half of all poor children in my home State have no public or private health insurance. Many poor children, even those with coverage, do not have access to quality and timely health services. Less than 3 children in 10 under the age of 5 in Newark have received the full recommended course of childhood immunization.

Mr. President, we simply must find better ways to reach out to very poor children to make sure that they receive basic services such as health care. As a nation, we cannot tolerate losing an entire generation of children to neglect and indifference. This legislation will support efforts to this end. I urge my colleagues to support it.●

"HOMEGROWN HEROES"

● Mr. DURENBERGER. Mr. President, in its first 25 years, the National Endowment for the Arts has provided financial support for hundreds of artists and arts organizations in Minnesota. Many are large, internationally known institutions—like the Guthrie Theatre, the Minnesota Orchestra, and the Walker Art Center and Minneapolis Institute of Arts.

But, many others are smaller struggling arts organizations and emerging artists. One such arts organization that has received NEA funding through the Minnesota State Arts Board is the Great North American History Theater, located in St. Paul.

The Great North American History Theatre is—consistent with its name—a theater that makes history. Unique in the Nation, this theater consistently presents works by contemporary artists that explore human stories of real people as a way of connecting us to our past and our future. Audiences make an immediate connection to History Theatre plays, often recognizing themselves or a family member on stage.

The History Theatre's playwrights take what they would regard as "dull history" and turn it to gripping drama, full of the ecstasies and sorrows of extraordinary everyday life. In the past, History Theatre plays have delighted audiences with barnstorming pilots and daring wingwalkers, farm women singing about chickens and chores, the legendary temper of James J. Hill, Minnesota farm boys swept up in the Civil War, and cowgirls riding the rodeo road.

Last summer, Mr. President, this unique theater presented four one-act plays as part of a single production entitled "Homegrown Heroes." And, one of the "Hometown Heroes" featured was a personal hero of mine, Sister Mary Giovanni Gourhan, of St. Paul.

Sister Giovanni is known for founding and leading the Guadalupe Area Project on St. Paul's West Side, which includes a highly successful alternative high school. "Sister G," as she is known to students, friends, and admirers like me, is the only character in the History Theatre's play, "All this and Hell, Too?!"

Mr. President, because of the important contributions being made both by the Great North American History Theatre and "Sister G," I would ask that the following two articles on this outstanding theater and this wonderful woman be printed at this point in the Record.

The articles follow:

THEATER PORTRAYS HOMEGROWN HEROES

(By Don Ahern staff worker)

It was "Sister G" in stereo.

Two black nuns' habits, two rimless spectacles, two "school face" scowls and, finally, two hearty laughs.

"Isn't it great," said the one in the wheelchair, slapping her knee.

"Isn't it great," paroled the younger one, slapping her knee.

As onlookers howled, the young "Sister Giovanni" switched to a stero expression and waggled a finger at the merrymakers "Do it my way or hit the highway Bud!" she growled like a Marine drill instructor.

The real Sister G laughed again and allowed as how her "clone" isn't like her at all, despite the copied mannerisms, because "she's too skinny and nice. I was always too much of a hunk."

"Hunk means attractive, now," the imitator pointed out.

"Well, I mean big, big," said the real thing.

The imposter, Rosalie Tenseth, has been studying the personality, teaching methods and especially the mannerism of one of St. Paul's living legends: Sister Mary Giovanni, founder, backbone and driving force of St. Paul's Guadalupe Area Project, Minnesota's only accredited alternative school for high school dropouts.

Tenseth will portray Sister G as she is affectionately and almost universally called in one of four plays in "Homegrown Heroes," a production of the Great North American History Theatre. The show will run June 7 through 24 in the Crawford Livingston Theater, 30 E. 10th St.

The plays sketch vignettes of four real-life "heroes." two from St. Paul—Sister G and grand scale artist Ta-Coumba Aiken; another person currently living in Minneapolis, and a four-footed hero from Savage who lives on in Minnesota's heart, Dan Patch.

Actress Tenseth said her portrayal of Sister Giovanni "will be a dialogue with the audience. The premise is her class, living ethically, or what is it?"

"It's effective living snapped Sister G. "Get it right!"

Sister G has been telling dropouts to get it right for 25 yeears at her West Side institution. Most of them have. She has graduated hundreds of "success stories," she said. One of her graduates is currently in Paris helping design the sweaters worn on television by actor Bill Cosby.

"Did you know that each one of those sweaters cost over $1,000?" Sister G gasped in an aside.

Her method at GAP is "tough love," epitomized by the probably apocryphal story in a theater promo about her living threat to a 16-year-old after assigning a special reading tutor. "If you're still reading on the second grade level next week, all hell is going to break loose."

Sister Giovanni, born Helene Gourhan on the West Side, recently has been largely confined to a wheelchair. Moving slowly from her walker to the chair, she said, "It's cancer. It may also be neuritis, bursitis or arthritis. But whatever it is, it hurts like hell."

St Paul's other "Homegrown Hero," Ta-Coumba Aiken, is scared of heights.

Aiken, president of the Lowertown Cooperative Artists Loft, is a well-known naturalist who has brightened the landscapes and lives of rural Minnesotans with his gigantic historical paintings. The huge murals display the history, lives and pride of towns such as Good Thunder, Annandale, Olivia, Erskine, McIntosh and others, including some in the Twin Cities, area.

This is the man who routinely scales grain elevators rising hundreds of feet from the Minnesota prairie to paint scenes of community culture.

But that paintbrush trembles when he looks out in any direction to see miles and miles of cornfields stretching off to the horizon. Nevertheless, the large surface for his creations was just too much to pass up for simple terror.

"Grandma told me to 'stay and pray," he recalled when he got the job in Good Thunder and wondered how he would ever do it.

"I didn't think that advice was worth a hill of beans until I got up there and froze. But I couldn't move, and I did it, and it worked." he said.

When Lance Belville, the playwright, first proposed writing a play. "I didn't understand it was to be me doing a mural," Aiken said. "I thought it was going to be about the small town historical characters in the mural. But it's a story of the artist who creates another history by recreating the history of the area and of the artist's life. Lance was getting into my head. I didn't know if I liked that."

Aiken said he likes to do the rural murals because "it's my way of doing homage to the community, especially to farmers, to end the negative thing about farmers. They feed the nation.

"I'm trying to give community pride to kids who think their parents don't know anything and their grandparents are just old people who sit around on the porch. But when they find out they were actually the pioneers, it's, wow, that's something important."

Aiken, part African-American and part American Indian said he didn't know until he was an adult what the name Ta-Coumba meant.

"I was born Tyrone. But when I was 8 years old, my grandmother came up from South Carolina and all of a sudden my name was changed. At first I hated it. Then when I got to be about 13 and I heard all this stuff from Malcoln X and others about black pride, other kids said 'Hey, where'd you get that name? Did you look it up in a book? I said, No, it's my name.'"

It wasn't until he attended the Second World Black and African Arts Festival in Nigeria in 1977 that he learned the meaning.

"It's a Nigerian name that means one who is born of Nigerian parents and returns from over the waters."

NUN GIVES A NOD TO ACTRESS

(by Doug Grow)

Clearly, the nun approves of the actress who will portray her in a one-act play that begins in St. Paul next week.

"Got a ring for you," Sister Mary Giovanni said to actress Rosalie Tenseth. "Ring like mine."

Sister Giovanni spoke the soft words quickly, because St. Paul's famous nun has an image to maintain. The image is of a tough-love woman who is not afraid to express her affection for her students by cracking' em across the knuckles with a cane if they get out of line.

That's one of her troubles these days. Sister Giovanni has had to replace her cane with a walker, which she uses for support when she's not in her wheelchair. It's tough to get the same sort of stroke with a walker as you can get with a cane.

Oh, walkers and wheelchairs and chemotherapy. These are tough times for the beautifully tough 75-year-old woman who has built a school, Guadalupe Area Project (GAP), with the power of her personality and, she would say, with the power of prayers.

The school, which will graduate a class of nine tonight, serves students whom Sister Giovanni describes as "nonquitters."

Officials from other schools and law enforcement officials have other descriptions for many of the GAP students.

But we have digressed. Digression happens often when Sister Giovanni is doing the talking.

"She speaks in parentheses," said Tenseth, the actress, who has the same sort of energy—and humor—as the nun she'll portray.

One day, for example, Tenseth went to study Sister G at the school. Tenseth walked into Sister G's classroom wearing a nun's habit and was introduced as Sister Rosalie.

The kids looked at her suspiciously. And their eyes bulged when Sister Rosalie pulled up her habit—revealing the skirt she was wearing beneath it.

But that, too, is a digression.

The subject was the sister's health. So tough are the times that sometimes the irrepressible nun doesn't feel irrepressible at all.

"Sometimes I feel like I'm in the last stage," she said, the energy suddenly drained from her voice, "Ah, these last days. Sometimes you just want to go" (she slapped her hands together).

But then the subject returned to the ring the nun is giving to the actress who will portray her in a one-act play beginning June 7 at the Great North American History Theatre.

"Sister G" will be one of four stories in a series called "Homegrown Heroes." Another play, "Golden Thunder," is about the work of Tacoumba Aiken, who paints murals on structures such as grain elevators. Another, "Patch," is about Minnesota's famous racehorse, Dan Patch. The fourth, "Was Rosemary Clooney in Dark Shadows," is about AIDS.)

The sister bought the silver ring she has worn for years, and several others like it, from a vendor in Mexico.

They should have been cheap. But Sister G, the nun who is unafraid to ask favors of powerful business and political leaders, the woman who goes jaw-to-jaw with tough kids, wilted in her bartering with a vendor.

"The man said the ring would cost something like 80 pesos," Sister G recalled. "A friend told me I should counter with 40 pesos. So that's what I did."

The transaction, she said, went like this:

Sister G: I'll offer 40 pesos.

Vendors: "Oh, sister Oh, sister."

Sister G: "I'm sorry."

"I think I ended up paying 90 pesos," she said.

The silver band has three sets of symbols, including the peace symbol. The symbols, Sister G said, serve as a constant reminder of her vows of poverty, chastity and obedience.

Others, though, have seen the ring differently.

"One woman looked at it," Sister G said, "and pointed to the peace sign and said, 'That's devil worship.' "

There was a long pause.

"There are a lot of things I could have said," she said. "But I should have said, 'You have a right to your opinion, even if it's a stupid one.' "

The actress and the nun laughed loudly and hugged warmly when they parted.

Later Tenseth talked about what the play will attempt to do.

"We'll try to capture her spirit," she said. That will be a very big job.●

TED STRAWSER'S CRIME: PLAYING HIS RADIO—IT'S TIME TO FIX THE COPYRIGHT LAW

● Mr. COATS. Mr. President, Ted Strawser is a small businessman in small-town America. He owns and operates Patterson Furniture Store in Wolcottville, a town of less than 900 residents just north of Sylvan Lake, in northwest Indiana.

Mr. Strawser also owns a small radio which he keeps in the store, tuned to a local radio station which provides him some background music while he putters around the place and waits on customers.

One day he received a letter from an organization called BMI, accompanied by legal documents and a lengthy law review article, informing him that he was violating the law, and that if he would agree to sign a music performance agreement and pay BMI $600, he could continue to play his radio. It seems that, under copyright law, by playing his radio in his place of business, he was a user of copyrighted music, and as such, has a responsibility to the creators of that music. By failing to purchase a license from BMI, he was infringing on the copyright of all those composers, lyricists and publishers whose music happened to be aired on that station.

At first, Mr. Strawser was incredulous, and he ignored the letter. Then, he received a second letter warning him to pay up or turn off his radio. "When your customers shop, browse, or simply enjoy the music you provide in your store, the creators of that music are working for you," BMI explained, "* * * but without a BMI music performance agreement, they are not being paid."

Mr. Strawser made some inquiries. No one in that town had ever heard of BMI. Moreover, none of his fellow merchants had paid for any such license. However, when he contacted the Better Business Bureau, he was informed that there were societies that represented composers and musicians known as BMI [Broadcast Music Inc.], ASCAP [American Society of Composers, Authors and Publishers], and SESAC, representing gospel and religious music groups and, in order for him to continue to use live or recorded music in a public place of business, he had to purchase a license.

This bad news was confirmed by the National Home Furnishing Association, the organization representing small retailers like himself, which told him he had only two choices: pay BMI what they want or shut off his radio.

Of course, if Strawser purchased the Muzak service for his store, Muzak would pay the required fee. However, Strawser did not want elevator music—he probably couldn't afford that service anyway. He merely wanted to tune into local radio station WAWK which played his favorites and occasionally provided local news.

Mr. Strawser was naturally upset. In addition to being forced to fork over $600 to BMI, he would have to pay hundreds more annually to ASCAP and SESAC since all three organizations required separate licenses if he wished to continue playing his radio in his store. To make matters worse, if he did not purchase these licenses but continued to play his radio, Strawser could be fined up to $10,000 per copyrighted song performed publicly without a license and face criminal charges that could result in a fine of not more than $10,000 or imprisonment or both. According to BMI, Strawser was lucky he had escaped detection this long, and as for those other stores and restaurants in Wolcottville, they just had not been caught yet.

Mr. President, I find this whole incident outrageous. I do not quarrel with the work of BMI et al. to protect the reproduction rights and provide compensation to the creators of music. But I think that this effort can be taken to extremes. Of what possible harm can there be to composers, musicians and publishers if a small merchant plays his radio in a 10,000 square-foot store, that happens to provide a pleasant background for himself and a few customers? What can they be losing?

After all, BMI and the music creators, presumably through BMI, already are being paid performance fees by the radio stations which broadcast their recorded music in the first place. Moreover, one could argue that the more listeners hear their works, the more records that are sold and played over the radio, and so the more payments that the creators receive.

Surely an unlicensed proprietor cannot be said to be stealing the music he listens to over the radio in his small store any more than when he listens to that music at home or when he tapes that music or videotapes an entire television program with music at home for his own enjoyment. Is this the kind of limited fair use exception that should be written into the copyright law to protect small businessmen like Mr. Strawser from the greedy, or at least overzealous, clutches of a huge outfit like BMI?

I must say that I sympathize with Ted Strawser when he writes:

> Where are the freedoms going that we once had? If this copyright law cannot be amended, to the point that (it) gives us that freedom to play our radios in whatever place we may be, then just what will be next as far as freedom being taken away? The power of the people has got to be stronger than these music societies.

Mr. President, I request that the complete text of a letter dated August 4, 1990, to me from Ted Strawser be printed in the CONGRESSIONAL RECORD at this point. I also ask that the texts of a Los Angeles Times syndicated colum by Paul Harvey and an article by Bob Greene in the Chicago Tribune of September 30 be printed in the RECORD.

The material follows:

PATTERSON FURNITURE
STORE, INC.,
Wolcottville, IN, August 4, 1990.

Senator RICHARD LUGAR,
Senator DAN COATS,
Indianapolis, IN.

SENATOR LUGAR AND COATS: Thanks for your reply to my letter to you about the BMI company wanting to charge us a fee for being able to display a license in our store so that we can play our radio, tape or records so we can have background music in the store. You stated that you will have someone look into the copyright rules and or laws.

I understand that the people writing the music should have some protection against having their music stolen. We have no intent in stealing the music. All we want to do is play the radio in the store. We do not sell any music to the public, we don't do a thing with the music, but turn the radio on.

I have called the BMI company and have told them that the letter from them was the most threatening thing I have had since I have been here in this store. The BBB has a letter out now, stating that they go after one in a hundred businesses. How I got there on their list by being in a town of 890 people is beyond me.

For every law, there are some exceptions. How BMI or ASCAP can believe that we are stealing from the copyrighters of music is no different than to say that the BMI & ASCAP are trying to take the rights away from the people in businesses.

I have written everyone I can think of that has any power in trying to let the people of the United States know what is going on with BMI and ASCAP. Even Dear Abby and Ann Landers. Everyone that I have talked to about this thinks the same as I do. It is wrong for them to charge us a fee for being able to play music in our stores, offices, or what ever. We are not, repeat, are not doing this for the so-called "entertainment".

What I am hoping for is that there will be enough people that will take the time to write their Senators and anybody else that has some power in doing something about it. One business in one hundred hasn't any more of a voice than nothing. I may not be able to speak about this sort of thing, but I am writing to a lot of people and hopefully, something will be changed. The people that I talk to say the "air is free". The information that we got from BMI, the air is not free. As stated in my first letter to you, where were the law makers when this got tacked on to some other bill? I just can't believe that it is against the law to play a radio in a store. Before long there will be a law to be able to breath. Perhaps the National Debt could be reduced by having meters installed around cities and towns for the people to deposit so much money for an hour of air. So far that is about the only thing we aren't paying for.

Again, I was out into other stores and restaurants over the past week and they all are saying that they have never heard from such a company as the BMI or ASCAP. I was in Ohio, Pennsylvania, New York, and Michigan and not a one said they were paying to have their radio on.

I call this "discrimination". BMI says that it isn't that, it is only because they haven't got to everyone else yet. This has been around since 1939, so the Better Business Bureau states. The Pony Express could have gotten everyone a notice of this BMI by now, why only one in a hundred is being contacted? One voice in a hundred can't be heard, right?

Hope to hear from someone about this. The "Copyright Protection" was put in place in 1976, so I have been told. In the Copyright Act, it states "any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered".

Our store is 10,000 square feet of space, counting the office and work area. If at anytime we had a "substantial number" of persons inside of the store, we might need the EMS, not the BMI or ASCAP.

Thanks for reading this, if you have time, let us know more about this.

Sincerely,

TED STRAWSER,
Patterson Furniture Store, Inc.

[From the Los Angeles Times]

HAVING TO PAY TO PLAY YOUR RADIO?

(By Paul Harvey)

The Patterson Furniture Store in Wolcottville, Ind., advertises, on its modest letterhead, "furniture, carpets and draperies."

The smallish 10,000-square-foot store on North Main Street, serving a town of fewer than 1,000 people, is overseen by its proprietor, Ted Strawser.

He's enough, he says, since his customers usually comes in one at a time, only rarely as many as 10.

So he keeps his radio turned on as background entertainment for himself and customers.

The other day he received a letter saying that he must have a "license" to play the radio in his store.

Strawser had never heard of such a thing. Surely, he reasoned, this must be either a joke or a racket or a shakedown. He ignored the letter.

But shortly thereafter the received a second letter saying the same thing Pay up or turn the radio off.

The letters were from BMI, Broadcast Music Incorporated.

BMI wanted $600 a year.

Strawser asked fellow merchants; they'd never heard such a thing.

He contacted the Better Business Bureau.

Now it was explained to Strawser that there are "societies" organized to protect composers. To play the music of those composers in public one may be required to purchase a "license."

In addition to BMI there are ASCAP, the American Society of Composers, Authors and Publishers, and SESAC (representing gospel and religious music). All three of these organizations were demanding separate payment for "licenses" to allow Strawser to play his store radio. ASCAP and SESAC are entitled to similar amounts. Now we're up to $1,800 a year that Strawser is expected to pay.

Understand, networks and/or radio stations have already paid tens of thousands of dollars to these societies.

Now the listener is held hostage for yet a third bite?

U.S. copyright law specifies that any business using live or recorded music must pay a fee.

And If you play the music without paying the fee you can be fined as much as $100,000 per copyright song.

In cases where store music is provided by Muzak, that supplier is obligated for the required fees.

I've been in the broadcast business a while. My son is a musician and composer. I fully comprehend and respect what BMI and ASCAP and SESAC have done to protect reproduction rights and to compensate the creators of contemporary music.

But I have also lived through the excesses of some organizations that resulted in their own undoing. When the American Federation of Labor demanded the hiring of featherbedding musicians "not to perform" in theaters, that union organization invited derision and eventually legislation.

I do not know precisely how BMI and ASCAP and SESAC should discipline themselves, but they'd better.

If they are letting themselves be used to pressure merchants into subscribing to Muzak, that pressure should end somewhere the other side of the Patterson Furniture Store in Wolcottville, Ind.

[From the Chicago Tribune, Sept. 30, 1990]

THE MUSIC POLICE TURN UP THE VOLUME

(By Bob Greene)

Ted Strawser, 55, owns an establishment called the Patterson Furniture Store, in Wolcottville, Ind. There are only 890 or so residents in Wolcottville, so Ted Strawser was surprised to get an official-looking letter from BMI on the East Coast.

If the truth be told Ted Strawser had never heard of BMI. BMI stands for Broadcast Music Inc.; along with ASCAP, BMI is one of the two giant organizations representing music composers.

Strawser's furniture store, on Main Street in Wolcottville, would seem to have nothing to do with the music business. But as Strawser read the letter, he realized that he could be in big trouble.

The letter from BMI informed Strawser that he was in violation of the law. The letter said that Strawser was illegally withholding money from the men and women who composed songs under the jurisdiction of BMI. There were several references to attorneys in the BMI letter, and a deadline by which Strawser was advised to comply with BMI's demands.

Confused, Strawser called BMI headquarters in New Jersey. He found out what he was doing wrong:

Strawser was playing a radio in his furniture store.

That's right. He was playing a radio in the store and it was audible to the customers. He had always played a radio in the store; the music on the radio kept him company. There were seldom more than six customers in the store at a time; when we spoke with Strawser, there were no customers. He just liked the sound of music in the store.

"I had no idea I was doing anything wrong," Strawser said. "This wasn't special music being piped in or anything. We don't even have a radio station here in Wolcottville. I just have always kept the radio tuned to an easy-listening station over in South Bend. The radio played all day commercials and all."

BMI informed Strawser to keep playing his radio in his store—at least loud enough for other people to hear it—he must sign a contract with BMI, and play BMI an annual fee.

"It came out to about $600 a year." Strawser said. "I had never heard of this particular music society, but they said that if I wanted to keep my radio on, it would cost me $600 a year."

Strawser didn't know what to do. The references to attorneys frightened him. He got in touch with the Better Business Bureau, over in Ft. Wayne, and he also wrote a letter to Paul Harvey, the famous radio commentator.

"I didn't know where else to turn for advice," he said. "Both the Better Business Bureau and Paul Harvey could hardly believe this could be true."

Strawser said that, after doing some research, the Better Business Bureau told him that BMI could collect enormous damages if it was determined that music was being played illegally in Strawser's furniture store. "I was told that I could be fined up to $100,000 for every BMI song that came out of that radio," Strawser said.

We called BMI to see if this could all be a big mistake. We were told that it was no mistake.

"When music is used as a tool to enhance the atmosphere of a business, it is considered commercial usage," said James Popik, a BMI licensing representative in New Jersey. "If the radio can be heard throughout this man's store, then it is necessary for him to sign a contract with us, and to pay us a fee."

Even if the music is just a radio playing in a store on Main Street in small-town Indiana?

"That's right," Popik said.

Strawser had been concerned about an additional matter: Who had turned him in? Had one of his friends or customers notified BMI that he was playing the radio?

"I'm sure that was not the case," said BMI's Popik. "BMI has a number of companies that we buy information from."

So, under threat of legal action, Strawser turned off the radio in his furniture store. He signed up with Muzak, which now supplies him with piped-in music. He doesn't even particularly like the Muzak music, although it's costing him $38 a month.

"But I was told that Muzak was licensed by BMI, so that I don't have to worry about being sued," Strawser said. "If I turned my radio on in the store and I got caught, and they sued me for $100,000, if would wipe me out."

Strawser has promised not to play his radio again.

"I can't afford to take the chance," he said.

And then he added:

"Sometimes I don't know what's going on in this country."●

ARMS SALES TO SAUDI ARABIA

● Mr. BOSCHWITZ. Mr. President, the issue of large-scale arms sales to Saudi Arabia has been brought to the fore by Iraq's invasion and occupation of Kuwait in August. Since that time, the administration has formally notified Congress of two different emergency sales to Saudi Arabia, totaling almost $10 billion. The first, in August, was a $2.2 billion sale that included 150 tanks, 24 F-15 aircraft, and various air-to-air missiles and spare parts.

Then, in late September, we were informed that the administration wants to sell an additional 7.3 billion dollars' worth of weapons in a second emergency transaction, although some of the items on the list would not be available for as many as 3 years. This sale would include systems which would be new to the Saudi inventory, including surface-to-air missiles, M1A2 tanks, TOW II antitank missiles, Apache helicopters, and multiple launch rocket systems.

The second, September, notification was chopped out of a larger $21 billion proposed sale which had run into unexpected opposition when soundings were taken by senior administration officials on Capitol Hill. We are told that the balance of the $21 billion original proposal will be forwarded to us in January, fine-tuned and minus the $7.3 billion in September notification, but otherwise essentially as it was when originally brought to us.

I have three comments to make on these sales. First, the Saudis obviously are facing a massive threat and need our help to defend themselves. I do not believe we can responsibly deny them the weapons sought in the September notification, although, as I said earlier, some of them will not be delivered for several years.

However, and this is my second comment, I believe we need additional justification from the administration as to why Congress should consider another proposed arms sale to the Saudis in January, a sale which would be the third sent up to Congress in 5 months. We have yet to hear in detail how the proposed sale fits into Saudi plans to expand their Armed Forces so as to make them more capable of deterring or defending against aggression. We have not heard how the military balance in the Middle East will be affected by the influx of enormous new quantities of weapons. We have yet to hear how new regional security arrangements may be constructed and what the American role may be in them.

These are important issues and Congress needs much more information than currently available if we are to act in a responsible manner.

My third comment is that, apart from the transfer of two surface-to-air missile systems, we have not heard from the administration how it plans to ensure that Israel has the resources it needs to deter or respond to the threats it faces or may face. Many of us are concerned that Israel's security may be unintentionally affected, that its qualitative edge will be eroded, as a result of actions taken by the United States either during this crisis or in its aftermath.

Weapons we sell to Arab countries today could conceivably be used against Israel—or against us—in the future. Regimes can change quickly in the Middle East, as we know all to well from recent history, with serious consequences for our country and its allies. If we are ever to ask Israel to take risks for peace, it must be confident about its ability to defend itself. Helping Israel to ensure its security is a crucial component of our desire to see peace come to the Middle East.

Mr. President, a letter I sent recently to Secretary of Defense Cheney along with Senators MOYNIHAN, STEVENS, and KASTEN makes some of these same points, as well as others, in regard to Israel's security. I ask that that letter be printed in the RECORD.

The letter follows:

U.S. SENATE,
Washington, DC, September 18, 1990.

Hon. RICHARD CHENEY,
Department of Defense, Washington, DC

DEAR MR. SECRETARY: The President's resolute response to Iraq's aggression against Kuwait has deservedly won the overwhelming support of both the Congress and the American people.

We believe that the collective response to the Gulf crisis will have positive, long-term effects on the conduct of international relations. But we recognize that, even when Iraq is forced to withdraw from Kuwait, the Middle East will remain the most unstable region in the world, with numerous possibilities remaining for armed conflict.

In this regard, we want to express our concern that the security of our close friend and ally, Israel, not be unintentionally affected as a result of actions taken by the United States either during this crisis or in its aftermath.

As you know, because of the sensitivity of the regional situation, Israel has refrained from placing its military forces in as high a state of readiness as might be expected. Israel would be at a disadvantage if Iraq, seeking both to divert the attention of the world from its actions and to break up the coalition confronting it, threatened Israel. Iraq must be convinced that the United States continues to stand behind Israel. We must ensure that Israel has the means to deter and, if necessary, respond to an Iraqi attack.

In addition, Israel's qualitative edge against its adversaries, which the United States has long pledged to ensure, will be eroded with the shipment of large amounts of our most advanced weapons to countries which have yet to make peace with Israel. It is crucial that Israel's edge be maintained if it is to be confident about its ability to defend itself.

The current crisis has also clearly demonstrated how quickly political conditions in the Middle East can change for the worse.

Nations which we now count among our friends and which we are arming could, in the future, become hostile. Israel must be assured of having the means to defend itself should it, in the future, face powerful enemies that we have armed.

We urge you to be sympathetic in working with Israel to ensure it has the resources to enable it to deter or respond to the threats it faces and may face. Helping Israel to ensure its security is a crucial component of our desire to see peace come to the Middle East.

Sincerely,

DANIEL PATRICK MOYNIHAN,
Chairman, Subcommittee on Near Eastern and South Asian Affairs, Foreign Relations Committee;
TED STEVENS,
Ranking Member, Subcommittee on Defense, Appropriations Committee;
RUDY BOSCHWITZ,
Ranking Member, Subcommittee on Near Eastern and South Asian Affairs, Foreign Relations, Committee;
ROBERT W. KASTEN, Jr.,
Ranking Member, Subcommittee on Foreign Operations, Appropriations Committee.●

BRO HERMAN'S 80TH BIRTHDAY

● Mr. WIRTH. Mr. President, last weekend in Boston the family of David "Bro" Herman gathered to celebrate the 80th birthday of this truly remarkable American. Nearly 50 members of the Schadel clan joined in this weekend of warm tribute to "the man of the octade," including wife Jean and three extraordinary children: Mary, Tom, and John.

Many in the Senate came to know Tom Herman during his work with Governor and then candidate Dukakis. Others, including the majority leader, are more familiar with Mary and her husband Angus King, a familiar face on Maine public television. And those who do not know John, well, frankly are missing out.

Mr. President, I ask that a tribute to Bro Herman be placed in the RECORD at this point.

The tribute follows:

DAVID A. HERMAN, MAN OF THE OCTADE

His life spans the century, and his accomplishments span the spectrum available to mortal souls. Even those from Sandusky, Ohio.

The five year old who dressed in a Teddy Roosevelt "Rough Rider" outfit grew up to be a Harvard jock, a 14th Air Force flyboy who served under General Chennault's wing in World War II, and one of the most creative and respected public relations men in the country, a leader of his community. He also managed to marry Milwaukee's most eligible maiden, Jean Saltzstein, and raise three kids, Mary, Tom and John. And he accomplished all this without having the faintest idea of how to change a lightbulb.

David A. Herman was born in Marion, Ohio, on October 14, 1910. William Howard Taft was President. Kaiser Wilhelm sat on the German throne. Cy Young was pitching for the Cleveland Indians. And hot dogs cost a nickel.

He moved with his father, H.L. ("Eccentric Hank") Herman, and his mother, "Lawnmower Jennie" Schadel, to Sandusky when he was still a toddler. His adoring sisters, Ruth and Hortense, nicknamed him "Bro" (Shorter for Brother).

Bro led a privileged childhood. Eccentric Hank ran a successful jewelry business, attended Lake Erie Clambakes and proudly skippered the family to Cedar Point in his cabin cruiser. Jennie hosted a constant parade of visiting relatives to her "rubber house" at 228 Finch Street and worried about the books at the jewelry store. Young Bro was doted on (some, unkindly, would later say spoiled) by Ruth and Horty, by his cousins Jeanne Betty and Bobby Rothenberg, by his aunt Pauline and others. He breezed through the Campbell School and Sandusky High School—playing saxophone and all manner of sports—with such distinction that he was admitted, in the fall of 1928, to that pantheon of American academe, Harvard College, in Cambridge, Massachusetts.

Harvard exposed the handsome, engaging young midwest innocent to a world which would expand his horizons and change him forever: the Eastern monied establishment, intellectual challenges and world renowned teachers like George Lyman Kittridge, beautiful 'Cliffies and Smithies and, of course, many nights out with the boys at the famous Scollay Square burlesque house, the Old Howard. Next to his marriage to Jean Saltzstein, his Harvard years were perhaps the happiest experience of his life. Gore Hall and Winthrop House and Widener Library. Briggs Cage, the Althletic fields and track meets. The famous professors. Fancy dinners at Locke Obers when roommate Gene Sterne's parents came to town.

When he graduated magna cum laude in 1932, Harvard Law School beckoned. But, in the depths of the Great Depression, income from H.L.'s jewelry store back in Sandusky simply did not stretch far enough to pay the tuition. So, after a brief stint selling tar soap for the Cincinnati Soap Co. in hill and hollow mining towns of the rural South (not exactly the life the newly sophisticated Harvard man had in mind for himself), Bro landed a job in the basement of Rollman's Department store in Cincinnati. He had decided advertising was his ambition. His intelligence, drive and winning personality quickly propelled him upward. Working late, often spending the night in his office, smoking compulsively at the ring of a telephone, he soon became Rollman's advertising director.

Ambition—and fate—took Bro on to Milwaukee, where in 1939 he was hired as Advertising Director of Gimbels Department Store at the then large salary of $5,000. He moved with the fast, young set in Milwaukee and became well-known at local watering holes like the bar at the old Schroeder Hotel, where one evening he met a beautiful young woman who was to mend his ways, steal his heart and change his life: Jean Saltzstein.

After a whirlwind courtship carried on under the watchful, if not always approving eyes of her parents, Edna and B.F. Saltzstein, Jean and Bro were married at the Salzstein family home at 5290 N. Lake Drive on November 16, 1941.

The wedding cake candles were scarcely blown out before the winds of war announced the outbreak of World War II. Three weeks after the wedding, the Japanese bombed Pearl Harbor, and the newlyweds began a wartime odyssey from Maimi to Chanute Field, Ill., to Lincoln Neb., to Spokane, Wash. and finally, for Bro, to Kunming, China, where he played a major role in bringing the Japanese war machine to its knees.

Peacetime brought the decorated war hero back to Gimbels (though not before he tried to persuade Jean to move to China with him) and to a spacious Georgian home on Wahl Avenue overlooking lake Michigan. The home was soon filled with the little squeals and dirty diapers of his progeny: Mary, born in 1947, Tommy in 1948, and Johnny in 1951.

By 1952, in order to pay for the expensive tastes of his children and the telephone bills of his wife, Bro left Gimbels and, with Ben Barkin, formed what was to become one of the most successful public relations firms in America, Barkin, Herman and Associates ("I knew marketing and merchandising; he knew showbiz. It was a match made in heaven.").

The successful business partnership with Barkin enabled Bro to lead the kind of lifestyle of which his mother-in-law approved: lavish European vacations, expensive cars, membership in a fancy country club. His increasing prominence in the community brought him to more board memberships than H.L had club memberships.

As the kids grew and tuition bills were finally paid, Bro was able to retire and devote more of his time to the things he likes most: painting, reading, golfing, visiting his family and complaining to his accountant—or anyone else within earshot.

Friends and relatives from across the country were headed to Boston this week to celebrate Bro's eightieth birthday. None was surprised at his unanimous selection as Man of the Octade. When a journalist informed him of the honor, the son of Sandusky said simply and with typical modesty, "Oh, they shouldn't have done it!"●

ASBESTOS SCHOOL HAZARD ABATEMENT REAUTHORIZATION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 672, S. 1893, the asbestos school hazard abatement reauthorization.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1893) to reauthorize the Asbestos School Hazard Abatement Act of 1984.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1893

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Asbestos School Hazard Abatement Reauthorization Act of 1989".

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds the following:

(1) Exposure to asbestos fibers has been found to cause various cancers and other severe or fatal diseases, such as asbestosis.

(2) Children are particularly susceptible to the adverse health effects of inhaling asbestos fibers.

(3) Asbestos which is friable can result in the release of asbestos fibers into the air, presenting a health hazard.

(4) The Environmental Protection Agency has estimated that more than forty-four thousand school buildings contain friable asbestos, exposing more than fifteen million school children and one million five hundred thousand school employees to unwarranted health hazards.

(5) All elementary and secondary schools are required by the Asbestos Hazard Emergency Response Act to inspect for asbestos, develop an asbestos management plan, and implement such plan.

(6) The Environmental Protection Agency has estimated it will cost local education agencies more than $3,000,000,000 to comply with the Asbestos Hazard Emergency Response Act.

(7) Without a continuing program of information assistance, technical and scientific assistance, training, and financial support, many local educational agencies will be unable to carry out sufficient response actions to prevent the release of asbestos fibers into the air.

(8) Without the provisions of sufficient financial support, the cost to local educational agencies of implementing asbestos response actions may have an adverse impact in their educational mission.

(9) The effective regulation of interstate commerce for the protection of human health and the environment requires the continuation of programs to mitigate hazards of asbestos fibers and materials emitting such fibers.

(b) Purposes.—The purposes of this Act are the following:

(1) To direct the Environmental Protection Agency to maintain a program to assist local schools in carrying out their responsibilities under the Asbestos Hazard Emergency Response Act.

(2) To provide continuing scientific and technical assistance to State and local agencies to enable them to identify and abate asbestos health hazards.

(3) To provide financial assistance to State and local agencies for training of persons involved with inspections and abatement of asbestos, for conducting necessary reinspections of school buildings, and for the actual abatement of asbestos threats to the health and safety of school children or employees.

(4) To assure that no employee of a local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.

SEC. 3. AMENDMENTS TO ASBESTOS SCHOOL HAZARD ABATEMENT ACT OF 1984.

Except as otherwise specifically provided, whenever in this Act a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4011 et seq.).

SEC. 4. ASBESTOS HAZARDS ABATEMENT PROGRAM.

Subsection (b) of section 503 is amended—

(1) in paragraph (2), by inserting "educational" after "local";

(2) in paragraph (2), by inserting ", including parent and employee organizations," after "institutions"; and

(3) by amending paragraph (3) to read as follows:

["(3) not later than 45 days after the appropriation of funds each year to carry out the asbestos hazards abatement program under this title, the development and distribution to all local educational agencies of an application form; and".**]**

"(3) not later than November 15 of each year for which this title is authorized, the development and distribution of applications, or notifications to all local educational agencies of the availability of application forms including information for obtaining such forms; and".

SEC. 5. STATE RECORDS AND PRIORITY LISTS.

(a) Maintenance of Records.—Subsection (a) of section 504 is amended—

(1) by striking out "Not later than" and all that follows through "maintaining records on—" and inserting in lieu thereof "The Governor of each State shall maintain records on—";

(2) in paragraph (2), by inserting "and other response actions" after "abatement activities";

(3) by inserting "and" after the semicolon at the end of paragraph (2); and

(4) in paragraph (3), by striking out "subparagraph (B)" and inserting in lieu thereof "paragraph (2)".

(b) Deletion of Department of Education References.—Subsection (b)(1) of section 504 is amended—

(1) by striking out "Not later than six months after the date of the enactment of this title and annually thereafter," and inserting in lieu thereof "Each year, in accordance with procedures established by the Administrator,";

(2) in subparagraphs (A) and (B), by striking out "and the Secretary of the Department of Education" both places it appears;

(3) in subparagraph (A), by inserting "and" after the semicolon at the end of such subparagraph; and

(4) by striking out subparagraph (C).

(c) Determination of Adequacy of Resources.—Subsection (b)(4) of section 504 is amended—

(1) by redesignating subparagraph (F) as subparagraph (G); and

(2) by inserting after subparagraph (E) the following new subparagraph:

"(F) Any additional costs to the local educational agency of meeting the special needs of disadvantaged students.".

(d) Conforming Amendment.—Section 504 is further amended by striking out subsection (c).

SEC. 6. FINANCIAL ASSISTANCE.

(a) Application Approval Deadline.—Subsection (b) of section 505 is amended—

(1) in paragraph (2), by striking out "applications shall be submitted," and inserting in lieu thereof "the Governor shall submit applications,";

(2) in paragraph (2), by adding at the end the following: "The Administrator shall approve or disapprove applications for financial assistance no later than April 30 of each year."; and

(3) by striking out paragraph (3).

(b) Ranking Applications.—Subsection (c)(2)(B)(iv) of section 505 is amended by striking out "is cost-effective compared to other techniques including management of material containing asbestos" and inserting in lieu thereof "uses the least burdensome methods which protect human health and the environment".

(c) Deletion of Reference to Department of Education Report.—Subsection (c)(3) of such section is amended by striking out "shall consider—" and all that follows through the end of the paragraph and inserting in lieu thereof the following: "shall consider the financial resources available to the applicant as certified by the Governor pursuant to section 504(b)(4).".

(d) Additional Limitation.—Subsection (d) of such section is amended to read as follows:

"(d) Limitation.—In no event shall financial assistance be provided under this title to an applicant if—

"(1) the Administrator determines that such applicant has resources adequate to support an appropriate asbestos materials abatement program; or

"(2) the applicant is not in compliance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.).".

(e) Requirement to Deposit Funds into Asbestos Trust Fund.—Subsection (f) of such section is amended in paragraph (3) by striking out "for deposit in the general fund" and inserting in lieu thereof the following: "for deposit in the Asbestos Trust Fund established by section 5 of the Asbestos Hazard Emergency Response Act (Public Law 99-519; 20 U.S.C. 4022)".

(f) Additional Requirements for Application Approval.—Subsection (g) of such section is amended—

(1) in paragraph (1), by striking out "within the five-year period beginning on the effective date of this title" and inserting in lieu thereof "in accordance with such procedures as may be developed by the Administrator";

(2) in paragraph (2)(B), by amending clauses (i) and (ii) to read as follows:

"(i) the local educational agency has prepared and is implementing an asbestos management plan, as required under title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.); and

"(ii) all activities to be conducted with the financial assistance will be performed by individuals trained and accredited in conformance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.) and regulations promulgated under that title;"; and

(3) by striking out paragraph (4).

SEC. 7. ADMINISTRATIVE PROVISIONS.

Section 506 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Procedures.—The Administrator also shall establish procedures to be used by local educational agencies, in programs for which financial assistance is made available under section 505, for—

"(1) abating asbestos materials in school buildings;

"(2) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

"(3) restoring such school buildings to conditions comparable to those existing before asbestos containment or removal activities were undertaken.

"(c) Relationship to Other Laws.—Nothing contained in this title shall be construed, interpreted, or applied to diminish in any way the level of protection required under any other State or Federal worker protection or other applicable laws.".

SEC. 8. ANNUAL REPORT.

(a) Report Deadline.—The first sentence of section 507 is amended to read as follows: "During each calendar year until 1999, the Administrator shall prepare and submit, not later than June 1 of each year, to the Committee on Environment and Public Works of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report on the loan and grant program authorized by section 505 of this title.".

(b) Contents of Report.—Paragraph (6) of such section is amended by inserting before the period the following: "and the amount of resources needed by such schools, categorized by State, to abate all remaining asbestos hazards".

SEC. 9. RECOVERY OF COSTS.

Paragraph (2) of section 508(a) is amended by inserting after "repay to the United States," the following: "by deposit in the Asbestos Trust Fund established by section 5 of the Asbestos Hazard Emergency Response Act (20 U.S.C. 4022),".

SEC. 10. DEFINITIONS.

Section 511 is amended—

(1) in paragraph (3), by inserting ", vibration," after "damage from water"; and

(2) by adding at the end the following new paragraph:

"(9) The term 'response action' has the meaning given such term by section 202(11) of the Toxic Substances Control Act (15 U.S.C. 2642(11).".

SEC. 11. AUTHORIZATION.

[(a) Authorization.—Paragraph (1) of section 512(a) is amended to read as follows: "(1) There are hereby authorized to be appropriated for the asbestos abatement program not more than $250,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995.".**]**

(a) Authorization.—Paragraph (1) of section 512(a) is amended by adding the following new sentence at the end. "There are authorized to be appropriated for the asbestos abatement program not more than $250,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995, including sums as may be available in each of those years from the Asbestos Trust Fund.".

(b) Specific Programs.—Subsection (b) of section 512 is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Of those sums appropriated for the implementation of this title, not more than 5 percent may be reserved during each fiscal year for the administration of this title and for programs including (but not limited to) the following:

"(A) The establishment of training centers for contractors, engineers, school employees, parents, and other personnel to provide instruction, in accordance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.), on asbestos assessment and abatement.

"(B) The development and dissemination of abatement guidance documents to assist in evaluation of potential hazards and the determination of proper abatement programs.

"(C) The development of rules and regulations regarding inspection, reporting, and recordkeeping.

"(D) The development of a comprehensive testing and technical assistance program.

"(3) Of those sums appropriated for any fiscal year for the implementation of this title, the Administrator may use not more than 5 percent to provide grants to States for the following purposes:

"(A) Assisting local educational agencies in performing the periodic reinspections and training activities required under title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.).

"(B) Establishing and maintaining programs to accredit personnel performing asbestos inspections and response actions.".

SEC. 12. CONFORMING AMENDMENTS TO ASBESTOS TRUST FUND.

(a) Amounts Transferred to Trust Fund.—Section 5(b)(1) of the Asbestos Hazard Emergency Response Act of 1986 (Public Law 99-519) is amended—

(1) in subparagraph (A), by striking out "as in effect on the date of the enactment of this Act, and" and inserting in lieu thereof a comma;

(2) in subparagraph (B), by striking out the period at the end and inserting in lieu thereof ", and"; and

(3) by adding at the end the following new subparagraph:

"(C) amounts received as proceeds from any judgment recovered in any suit brought pursuant to section 508(a)(1) of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4017(a)(1))."

(b) Expenditures from Trust Fund.—Section 5(d) of such Act is amended by striking out "as in effect on the date of the enactment of this Act".

SEC. 13. EPA INFORMATION OR ADVISORY.

Section 203(d) of title II of the Toxic Substances Control Act is amended by adding the following new paragraph at the end thereof:

"(7) The Administrator shall, not later than 30 days after enactment of this paragraph, publish and distribute to all local education agencies and State Governors information or an advisory to—

"(A) facilitate public understanding of the comparative risks associated with in-place management of asbestos-containing building materials and removals;

"(B) promote the least burdensome response actions necessary to protect human health, safety, and the environment; and

"(C) describe the circumstances in which asbestos removal is necessary to protect human health.

"Such information or advisory shall be based on the best available scientific evidence and shall be revised, republished, and redistributed as appropriate, to reflect new scientific findings.".

SEC. **[**13.**]** *14.* TECHNICAL AMENDMENTS.

(a) Section Headings.—(1) Section 501 is amended by striking out "Sec. 501." and inserting the following section heading:

"SEC. 501. SHORT TITLE.".

(2) Section 502 is amended by striking out the section heading and "Sec. 502." and inserting in lieu of the section heading the following:

"SEC. 502. FINDINGS AND PURPOSES.".

(3) Section 503 is amended by striking out the section heading and "Sec. 503." and inserting in lieu of the section heading the following:

"SEC. 503. ASBESTOS HAZARD ABATEMENT PROGRAM.".

(4) Section 504 is amended by striking out the section heading and "Sec. 504." and inserting in lieu of the section heading the following:

"SEC. 504. STATE RECORDS AND PRIORITY LISTS.".

(5) Section 505 is amended by striking out the section heading and "Sec. 505." and inserting in lieu of the section heading the following:

"SEC. 505. FINANCIAL ASSISTANCE.".

(6) Section 506 is amended by striking out "Sec. 506." and inserting the following section heading:

"SEC. 506. ADMINISTRATIVE PROVISIONS.".

(7) Section 507 is amended by striking out "Sec. 507." and inserting the following section heading:

"SEC. 507. ANNUAL REPORT.".

(8) Section 508 is amended by striking out "Sec. 508" and inserting the following section heading:

"SEC. 508. RECOVERY OF COSTS.".

(9) Section 509 is amended by striking out "Sec. 509." and inserting the following section heading:

"SEC. 509. EMPLOYEE PROTECTION.".

(10) Section 510 is amended by striking out "Sec. 510." and inserting the following section heading:

"SEC. 510. AFFECT ON RIGHTS UNDER OTHER LAWS."

(11) Section 511 is amended by striking out "Sec. 511." and inserting the following section heading:

"SEC. 511. DEFINITIONS.".

(12) Section 512 is amended by striking out "Sec. 512." and inserting the following section heading:

"SEC. 512. AUTHORIZATION.".

(b) Subsection Headings.—(1) Section 502(a) is amended by inserting "Findings.—" after "(a)".

(2) Section 502(b) is amended by inserting "Purpose.—" after "(b)".

(3) Section 503(a) is amended by striking out "(1)" and inserting in lieu thereof "Abatement Program.—".

(4) Section 503(b) is amended by inserting "Duties.—" after "(b)".

(5) Section 504(a) is amended by inserting "Records.—" after "(a)".

(6) Section 504(b) is amended—

(A) by inserting "Priority List.—" after "(b)";

(B) by inserting "activities and other response actions" after "abatement" each place it appears in subparagraphs (A) and (B) of paragraph (1);

(C) in paragraph (1)(B), by striking out "section 503(b)(3) and"; and

(D) in paragraph (4)((C), by inserting a comma after "per capita income".

(7) Section 505 is amended—

(A) in subsection (a), by inserting "Assistance Program.—" after "(a)";

(B) in subsection (b), by inserting "Application Submission.—" after "(b)";

(C) in subsection (c), by inserting "Review of Application.—" after "(c)";

(D) in subsection (e), by inserting "Amount of Loan or Grant.—" after "(e)";

(E) in subsection (f), by inserting "Loan Agreement.—" after "(f)"; and

(F) in subsection (g), by inserting "Application Requirements.—" after "(g)".

(6) Section 506(a) is amended by inserting "Regulations.—" after "(a)".

(7) Section 506(d) (as redesignated by section 7) is amended—

(A) by inserting "Other Authority.—" after "(d)"; and

(B) by inserting a comma after "standards" the first place it appears.

(8) Section 508(a) is amended by inserting "Loan Condition.—" after "(a)".

(9) Section 508(b) is amended by inserting "Expeditious Recovery.—" after "(b)".

(c) Miscellaneous Technical Amendments.—(1) Section 505(b) is amended in paragraph (1) by striking out the comma after "educational agency".

(2) Section 505(c) is amended—

(A) in paragraph (2), by inserting "and" after the semicolon at the end of subparagraph (A); and

(B) in paragraph (2), by inserting a comma after "confined space" in subparagraph (B)(ii) and after "techniques" in subparagraph (B)(iv).

(3) Section 505(e) is amended by striking out "per centum" both places it appears and inserting in lieu thereof "percent".

(4) Section 505(g) is amended—

(A) by redesignating the subparagraph (B) appearing after paragraph (3) as paragraph (4) and conforming the margin accordingly; and

(B) by inserting a comma in paragraph (4) (as so redesignated) after "section 512(b)(1)".

(5) Section 508 is amended by striking out "sections" and inserting in lieu thereof "section".

(6) Section 511 is amended—

(A) by striking out "For purposes of this title—" and inserting in lieu thereof "For purposes of this title:";

(B) by striking out "the" at the beginning of each paragraph and inserting in lieu thereof "The";

(C) by striking out the semicolon at the end of each paragraph and inserting in lieu thereof a period;

(D) by striking out the word "each" in paragraph (3); and

(E) by inserting "secondary" before "school" in paragraph (5).

AMENDMENT NO. 2997

(Purpose: To amend the findings and clarify authorizations for appropriations)

Mr. MITCHELL. Mr. President, on behalf of Senator Burdick, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. Mitchell], for Mr. Burdick, proposes an amendment numbered 2997.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Section 1. (a) On page 2, Sec. 2.(a), strike lines 3 through 10 and renumber subsequent paragraphs accordingly.

(b) On page 11, strike subsection 11(a), lines 18 through 24, and insert in lieu the following:

"(a) Authorization.—Paragraph (1) of section 512(a) is amended to read as follows: "There are hereby authorized to be appropriated for the asbestos abatement program not more than $200,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995. In addition, for such purposes and for each of such fiscal years there are authorized to be appropriated out of the Asbestos Trust Fund established by section 5 of the Asbestos Hazared Emergency Response Act of 1986 (20 U.S.C. 4022) such sums as are contained in such trust fund in each of such fiscal years."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2997) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2998

(Purpose: To provide for asbestos abatement training)

Mr. MITCHELL. Mr. President, on behalf of Senator Metzenbaum, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. Mitchell], for Mr. Metzenbaum, proposes an amendment numbered 2998.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, after line 19, add the following:

SEC. . ASBESTOS ABATEMENT TRAINING AMENDMENTS.

(a) Accreditation Requirement for Workers in Public and Commercial Buildings.—(1) Paragraphs (1) and (3) of section 206(a) of the Toxic Substances Control Act (15 U.S.C. 2646) are amended by adding before the comma at the end of each the following: "or in a public or commercial building".

(2) Clauses (i) and (iii) of section 206(b)(1)(A) of such Act are amended by adding before the period at the end of each the following: "or in public or commercial buildings".

(3) Not later than one year after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall revise the model contractor accreditation plan promulgated under section 206(b)(1) of the Toxic Substances Control Act (15 U.S.C. 2646(b)(1)) to increase the minimum number of hours of training, including additional hours of hands-on health and safety training, required for asbestos abatement workers and to make such other changes as may be necessary to implement the amendments made by paragraphs (1) and (2).

(4) Section 207 of such Act (15 U.S.C. 2647) is amended by adding at the end thereof the following:

"(g) Any contractor who—

"(1) inspects for asbestos-containing material in a school, public or commercial building;

"(2) designs or conducts response actions with respect to friable asbestos-containing material in a school, public or commercial building; or

"(3) employs individuals to conduct response actions with respect to friable asbestos-containing material in a school, public or commercial building;

and who fails to obtain the accreditation under section 206 of this Act, or in the case of employees to require or provide for the accreditation required, is liable for a civil penalty of not more than $5,000 for each day during which the violation continues, unless such contractor is a direct employee of the Federal Government.".

(b) Disclaimer.—In exercising any authority under the Toxic Substances Control Act in connection with the amendment made by subsection (a) of this section, the Administrator of the Environmental Protection Agency shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), be considered to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

(c) Effective Date.—This section shall take effect upon the expiration of the 12-month period following the date of the enactment of this Act. The Administrator may extend the effective date for a period not to exceed one year if the Administrator determines that accredited asbestos contractors are needed to perform school-site abatement required under the Asbestos Hazard Emergency Response Act (15 U.S.C. 2641), and such an extension is necessary to ensure effective implementation of section 203 of the Toxic Substances Control Act.

SEC. . TRAINING GRANTS.

(a) Authorization for Training Grants.—Title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.) is amended by adding at the end the following:

SEC. 216. TRAINING GRANTS.

"(a) Grants.—The Administrator is authorized to award grants under this section to nonprofit organizations that demonstrate experience in implementing and operating health and safety asbestos training and education programs for workers who are or will be engaged in asbestos-related activities (including State and local governments, colleges and universities, joint labor-management trust funds, and nonprofit government employee organizations) to establish and, or, operate asbestos training programs on a not-for-profit basis. Applications for grants under this subsection shall be submitted in such form and manner, and contain such information, as the Administrator prescribes.

"(b) Authorization.—Of such sums as are authorized to be appropriated pursuant to section 512(a) of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4011 et seq.) for the fiscal years 1991, 1992, 1993, 1994, and 1995, not more than $5,000,000 are authorized to be appropriated to carry out this section in each such fiscal year.

(2) The table of contents for title II of such Act (contained in section 1 of such Act) is amended by inserting after the item relating to section 215 the following new item:

"Sec. 216. Training grants.".

(b) Effective Date.—Section 216 of the Toxic Substances Control Act, as added by subsection (a), shall take effect on the date of the enactment of this Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2998) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BURDICK. Mr. President, I am pleased to bring before the Senate, S. 1893 the Asbestos School Hazard Abatement Reauthorization Act of 1989. This measure will extend the loan and grant program to schools for asbestos abatement for 5 years. More than $200 million per year will be authorized for this program with the addition of an amendment I am offering to authorize use of funds in the asbestos trust fund.

Though important progress in abating asbestos in schools has been made, much work remains to be done. The schools in North Dakota, are making good efforts in the area of asbestos abatement, but I hear constantly of the need for additional resources to carry out the necessary asbestos abatement work. That need is national in scope and will continue to be high in the next few years as schools fully implement their asbestos management plan requirements.

The health risks from exposure to asbestos are well documented. It is important to recognize that health exposure concerns are not just limited to school children. Asbestos abatement workers, building maintenance workers and janitors face a substantial occupational exposure risk. An amendment being offered by Senator Metzenbaum today will extend the contractor accreditation requirements of the Asbestos Hazard Emergency Response Act to those who inspect, or abate asbestos in public and commercial buildings. This is an important step in curtailing the activities of fly-by-night asbestos abatement contractors who subject their workers to extreme hazards.

I commend the chairman of Toxic Substances, Environmental Oversight, Research and Development Subcommittee, Senator Reid for the fine work he has done on this legislation. Senator Lautenberg is to be commended for introducing this bill last year and for his continued efforts to see it passed this year. Senator Metzenbaum, who joined the Environment and Public Works Committee earlier this year, deserves credit for his hard work on the asbestos abatement worker protection issue. Senator Warner, the ranking member of the Subcommittee made valuable contributions to this measure. As always, I appreciate the fine cooperation of Senator Chafee, the ranking minority member of the committee in making consideration of this bill possible.

I urge my colleagues to support passage of this important legislation.

Mr. REID. Mr. President, I am pleased that the Senate is today considering S. 1893, the Asbestos School Hazard Abatement Reauthorization Act of 1989. I believe that health protection from exposure to asbestos is of paramount importance. In that regard, I believe that the bill and an amendment that Senator Metzenbaum is offering today will continue progress in abating asbestos hazards in schools and will help provide important health protections for asbestos abatement workers in the nations public and commercial buildings.

An important step was taken with enactment of the Asbestos Schools Hazard Abatement Act [ASHAA] and the Asbestos Hazard Emergency Response Act [AHERA]. Asbestos is a known human cancer causing substance, and can cause other serious and fatal diseases such as asbestos. Asbestos related diseases may not appear for years or even decades after exposure. That means that we must take every precaution to assure that our young people are protected in the school environment. Further, there is no dispute that those who sustain the greatest exposure are most likely to develop asbestos diseases. That includes asbestos abatement workers, building maintenance workers, and janitors.

Schools have completed inspections for asbestos and developed asbestos management plans. Full implementation of those plans began a year ago. Asbestos abatement, and particularly removals can be fairly costly. To date, Congress has provided $245 million to assist schools through Federal loans and grants. That has amounted to $40 to $50 million per year, far less than the amount the schools have needed. As a result, many schools with a legitimate financial need have been eliminated from consideration for grant and loan funding. For example, in Nevada, Clark County schools face nearly $50 million in asbestos abatement costs, yet have received only $1.3 million in grants and loans in the early years of the program, and have been ineligible for assistance since.

This legislation will reauthorize the loan and grant program under "ASHAA" through fiscal year 1995 at a level of more than $200 million per year, with the authorization of funds from the asbestos trust fund provided for in an amendment that the chairman of the Environmental and Public Works Committee, Senator Burdick is offering. That nearly doubles the current authorization in recognition of the increased funds needed by schools as they carry out the provisions of their asbestos management plans. In addition, provisions of the bill will assure that funding applications are processed, and grants and loans issued expeditiously, to enable schools to plan and proceed with asbestos abatement during the summer months when it is least disruptive.

As I indicated earlier, the asbestos exposure problem does not stop with students and workers in schools. EPA estimated in its 1988 report on asbestos in public buildings that of the 3.6 million public and commercial buildings in the United States 733,000 contain asbestos; 501,000 are estimated to contain partially damaged asbestos, and of those 317,000 contain significantly damaged material. Potential exposure to asbestos, particularly for asbestos abatement workers and building custodial and maintenance personnel is high.

Dr. Philip Landrigan, chairman of the department of community medicine and director of the division of environmental and occupational medicine at the Mount Sinai School of Medicine, made the following statement before my Subcommittee on Toxic Substances, Environmental Oversight, Research and Development:

> By the end of this century, an estimated 30,000 to 50,000 premature deaths will have occurred in New York State and ten times that number across the United States as the result of occupational exposures to asbestos that occurred prior to 1980. The additional number of deaths which may ultimately result from exposure to asbestos in building is not yet known nor is the number of additional cases which may ultimately result from occupation exposure in the years subsequent to 1980.

With this statement and other compelling testimony presented at the hearing I chaired on asbestos issues in April in mind, I commend my colleague from Ohio, Senator Metzenbaum, for addressing the issue of asbestos abatement worker training in the amendment he is offering today. The amendment will address deficiencies in the existing EPA program. It will require that the accreditation requirement apply to abatement workers in public and commercial buildings and that the model accreditation program for all such workers be amended to increase the minimum number of hours of training.

Specifically, provisions of the Toxic Substances Control Act requiring accreditation of workers who inspect for asbestos or abate asbestos in schools will be amended to encompass public and commercial buildings. That means inspectors, and abatement workers who remove, enclose, or encapsulate asbestos in public and commercial buildings will be subject to the requirements of C.F.R. 40, subpart E, appendix C, I.A. and I.E. Further, the amendment will require EPA to increase the hours of training for asbestos abatement workers under the accreditation plan for those who do such work in schools and public and commerical bulidings.

This amendment will go far toward deterring the "rip and skip" contractors who subject their workers to major health risks. Further, through the use of unacceptable asbestos abatement techniques, unqualified contractors may expose building occupants to a greater asbestos risk after they leave than was present when they began their work.

In addition, Senator Metzenbaum's amendment will authorize a $5 million annual training grant program, administered by EPA. The grants will be available to nonprofit organizations for the purpose of establishing and operating asbestos training programs.

Asbestos risks, however, do not stop with asbestos abatement workers. Building maintenance workers and custodial personnel are also at risk. As EPA noted in its 1988 report to Congress on asbestos in public and commercial buildings, "Service workers may encounter higher episodic exposures, particularly if their activities disturb asbestos containing materials. They appear to be equally at risk, whether employed in public or commercial buildings or in schools." It is important that all workers who may come into contact with asbestos in buildings are informed about the health risks of asbestos exposure and informed about ways to protect against them.

It has taken much effort and cooperation to get this bill before the Senate today. The efforts of Chairman Burdick and Senator Chafee have been considerable to make this possible, and reflect the importance they attach to this matter. I want to thank my colleague, Senator Lautenberg, who introduced this bill with my cosponsorship last November. My colleague from New Jersey has been a dedicated proponent of the Asbestos in Schools Program for many years. Though he is not a member of my subcommittee, he took the time and effort to fully participate in our hearing on asbestos issues in April. The members of my subcommittee are also to be thanked for their interest and attention in the development of this legislation.

Mr. President, I believe that S. 1893 combined with the amendments I have noted, make this a public health initiative of major importance. I urge my colleagues to join me in supporting its passage.

Mr. LAUTENBERG. Mr. President, I rise in support of S. 1893, the Asbestos School Hazard Abatement Reauthorization Act. This bill would continue funding for the proper management of asbestos which pose health threats to our schoolchildren.

Mr. President, I want to express my appreciation to Senator Reid, chairman of the subcommittee with jurisdiction over this legislation, for joining me in introducing this bill and for moving to bring this bill to full committee. His efforts have clearly demonstrated his concern for the health of our Nation's schoolchildren.

Under the Asbestos School Hazard Abatement Act or ASHAA, EPA provides financial assistance to local schools with financial need to correct hazards to children posed by damaged asbestos.

Asbestos is a known human carcinogen. Extensive epidemiologic evidence demonstrates that inhalation of asbestos fibers can lead to mesothelioma—a form of cancer, lung cancer, asbestosis and other diseases which are serious, irreversible and may be fatal. There is no safe level of exposure to asbestos fibers. And, medical science suggests that children may be particularly vulnerable to environmentally induced cancers.

Substantial amounts of asbestos were used in schools, particularly between 1946 and 1972. In a number of these schools, materials containing asbestos fibers have become damaged causing asbestos fibers to be dislodged into the air. The presence of this asbestos creates an unwarranted hazard to the health of schoolchildren and school employees who are exposed to such materials.

During the hearing Senator Reid chaired on this bill, one witness testified that asbestos in schools does not pose a significant health threat. But witnesses from EPA and the Centers for Disease Control, as well as the Mount Sinai Medical Center, which has been a leader in studying the threats posed by asbestos, all testified that asbestos poses a health threat which must be addressed. It simply is unacceptable to ignore the threat posed by friable asbestos in our Nation's schools. The lives of our children and school employees are at stake.

ASHAA, which was a bipartisan initiative sponsored by 25 Senators and which was signed into law by President Reagan on August 11, 1984, authorized a program of loans and grants to both public and private schools for abatement of asbestos hazards. Although $700 million has been authorized for assistance to schools, schools will have received only around $240 million by the end of fiscal year 1990. According to EPA, existing needs exceed $3 billion. EPA is providing assistance for less than 50 percent of the asbestos projects in the highest priority needs category and only 17 percent of all requested assistance. Fifteen million schoolchildren and 1.5 million school employees remain potentially exposed on a daily basis to asbestos.

In 1986, the Congress enacted the Asbestos Hazard Emergency Response Act of 1986 [AHERA]. Under AHERA, all school districts are required to have inspected their schools for asbestos and prepared an asbestos management plan. As of July 9, 1989, all schools must have initiated implementation of this plan. This means that over the next few years, schools will have a significant financial burden as they begin asbestos abatement activities.

It is important to focus on what we did in these bills. We required that asbestos be monitored and managed. And we provided Federal assistance to help in this effort. But we did not require that all asbestos be removed. In many cases, removal may not be the best course of action to reduce asbestos exposure and protect public health. I applaud the efforts of EPA and others to inform schools of the most appropriate management options.

The ASHAA reauthorization legislation will extend the authorization for 5 years through fiscal year 1995 and increase it from $125 million to $200 million per year. EPA will be allowed to use a small portion of the funds for training, information dissemination, and technical assistance and to assist schools in performing periodic reinspections and training activities required under AHERA.

The bill also will update its provisions to conform them with the provisions of AHERA. Financial assistance will be limited to local educational agencies which are implementing an AHERA management plan and are using individuals trained and accredited under AHERA to perform work.

The annual report requirement will be expanded to include an analysis of the amount of resources needed by schools to abate all remaining asbestos hazards. This will provide the most up to date information on remaining needs.

The bill also addresses an inequity in the existing program which makes it difficult for inner-city nonpublic schools with high operating costs to receive ASHAA assistance. EPA has interpreted ASHAA to make financial assistance for nonpublic schools based on per pupil operating costs. But inner-city nonpublic schools have high operating costs because of the number of disadvantaged students which they educate. S. 1893 addresses this problem by requiring EPA to consider additional costs to local educational agencies from meeting the special needs of disadvantaged students in its financial assistance decisions.

Finally, the bill will ensure that applications for assistance and awards are provided on a timely basis.

The bill has the support of the asbestos-in-schools coalition which is composed of over 30 organizations including the National Education Association, the American Association of School Administrators, the American

Public Health Association, the Environmental Defense Fund, the National Conference of State Legislatures, the Service Employees International Union, the U.S. Catholic Conference and the U.S. Conference of Mayors.

I urge my colleagues to support this legislation.

Mr. WALLOP. Mr. President, the bill under consideration would reauthorize the Asbestos School Hazard Abatement Act of 1984. This legislation was originally enacted to provide assistance to public and private schools for programs to stabilize construction materials containing asbestos. Public concern about exposure to asbestos developed in the early 1980's in large part due to the health problems of shipyard workers who had worked with large quantities of asbestos during the Second World War. It was several decades before the lung diseases associated with asbestos exposure were manifested. As it became apparent that asbestos appeared to pose a health risk, various efforts were undertaken to reduce exposure.

Two programs were eventually legislated to minimize asbestos exposure in school-age children. The first program is the subject to the reauthorization currently under consideration. The second is a program legislated in 1986 to require schools to adopt "Response Actions" whenever asbestos-containing material is discovered in a public or private school. As many of my colleagues are aware, schools have been virtually forced into undetaking expensive and unnecessary asbestos removal projects as a result of the 1986 legislation.

There are a number of response actions that a school could take whenever asbestos is discovered in the building materials. Stabilizing the material in place is the most logical. However, many school officials have decided that rather than risk litigation, the most prudent, and costly, action is to undertake removal.

Removing asbestos from school buildings is as cumbersome as it is expensive. Earlier this year, I described such a project at the Kelly-Walsh High School in Casper, WY. They had undertaken a $4 million removal project which had closed down the school for a year. Fortunately, there is a second high school in Casper, the Natrona County High School, and all high school students in the community attended classes there this past year in a double-track schedule. The school officials, led by Jake Dailey, the now retired school superintendent, and Joe Simpson, the Kelly-Walsh High School principal, in a heroic effort, put together a program to ensure students received a proper education while work on the school proceeded. At the end of August, Kelly-Walsh opened for a new school year.

Over the past year, questions have been raised as to whether the current public hysteria over asbestos is justified. Science magazine has carried several articles which discuss the health effects of the various forms of asbestos. I will remind my colleagues that the term "asbestos" refers to an assortment of minerals which differ in structure and health effects.

As a result of this new criticism of asbestos, I had sought reforms in the asbestos control program. The first step is to develop an accurate assessment of the health risk of exposure to the different forms of asbestos. The Environmental Protection Agency now concedes that the consensus on asbestos no longer exists. The Health Effects Institute is currently undertaking a study of asbestos in an attempt to resolve the current controversy about the health risk. The Office of Technology Assessment will also review this issue. EPA has developed a revised Response Action Program which takes a more balanced approach to this issue. In particular, school officials are urged to undertake other actions, such as stabilization, before even considering a removal project.

I ask unanimous consent that a recent article in the Washington Times about this policy by printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WALLOP. The legislation now under consideration contains an amendment that I developed with Senator Warner regarding the direction of the Response Action Program by EPA. Our amendment goes a long way to improving this program. This asbestos information and advisory provision requires EPA to enhance its communication to educational agencies with regard to appropriate actions in response to the presence of asbestos-containing materials. In testimony before the Environment Committee this summer, Dr. Linda Fisher of EPA outlined a more sensible approach to asbestos management based on five points. I ask unanimous consent to have her testimony printed at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. WALLOP. While this is a step in the right direction, our statutory language clarifies the direction Congress believes this program should take. It has never been the intent of Congress or EPA for the school asbestos program to be interpreted as biased in favor of removal. The AHERA program is a management program, not a removal program.

Unfortunately, that is not how the AHERA regulations have been interpreted. For example, some self-serving asbestos consultants use the Clean Air Act's section 112 requirements, which dictate asbestos removal prior to building demolition, as a rationale for removing asbestos now. Congress never intended that this section in any way affects how or when schools respond to asbestos in their buildings.

There is one remaining problem with the legislation. The formula for distributing funds to school districts is flawed. It is based on per capita income rather than per pupil expenditures in a school district. We have argued that the formula is not a true expression of the resources of the school district. Unfortunately, programs have a momentum that is tough to break. The committee report does clearly state that there are problems with the formula, and directs EPA to provide a more equitable program. I understand they are working on a proposal to reserve a portion of funds to be distributed to school districts which do not meet the per capita income limits.

As with most legislations, the ASHAA reauthorization is a compromise which does not satisfy all my concerns. It is an improvement over the existing program. We are making progress. The most important accomplishment is that we are finally taking a serious, scientific look at asbestos rather than basing actions on emotion. This year, my State of Wyoming is celebrating its statehood centennial. It has been interesting reviewing the various events that occurred in Wyoming 100 years ago. One such event is relevant to the legislation now under debate. On September 23, 1890, a report announced that the most common mineral in Wyoming was asbestos. We are breathing asbestos every day in Wyoming in every corner of the State. I cannot imagine what the cost would be to remove this material from the State. I mention this merely to remind my colleagues that the world is not benign, it is not risk free. Let us tailor public policies to reflect this realization. This legislation is a much needed step in that direction.

Exhibit 1

EPA Warns Against Asbestos Removal

(By Ronald A. Taylor)

The best way to handle asbestos in buildings may be not to handle it at all, Environmental Protection Agency administrator William Reilly said yesterday.

"I am aware of billions of dollars of asbestos removal . . . that can in fact raise the risk by disturbing otherwise inactive asbestos fibers," Mr. Reilly said.

"It is the opinion of EPA professionals that very often the best thing about asbestos when you find that it's in your building is to manage it," Mr. Reilly said as aides handed out the agency's recently released asbestos guidance manual for building owners.

Managing asbestos means identifying a building's hot spots and training building personnel to work safely around the material as they do maintenance, repairs, and remodeling. That approach is less expensive than removal, but is not cheap, asbestos industry officials noted.

"The long-term costs of management plans are more expensive in total costs, but a building owner will be able to better manage the timing of removal," said David Meyer, former president of the National Asbestos Council.

Mr. Reilly said during a 45-minute meeting with reporters that he is concerned about "the very large amount of unnecessary asbestos removal that's going on in the nation's buildings." Much of the work, he said, "is done out of an excess of caution and a concern to be absolutely sure that the health of occupants is protected."

Still, he said, the agency is examining whether asbestos contractors are misleading their clients about asbestos health threats. EPA-approved asbestos-removal firms found to be overselling their services will be decertified, he said.

Mr. Reilly's message was directed at the parents of school-age children, too. "We hope it will have the effect of discouraging parents who learn from EPA-required inspections of asbestos that removal is not necessarily the best thing they can . . . insist on for the health of their children," he said.

The goal of yesterday's session, and a similar briefing last week with reporters from trade publications, was to underscore the idea that, unless asbestos is in a crumbly or "friable" state, the widely present insulation and fire-retardant material poses a minimal health hazard.

Instead of paying for cumbersome removal efforts that could increase human exposure to cancer-causing asbestos fibers, building owners should "make sure that [asbestos] is contained, that it is not friable and that, absent some disturbance, it's left alone," Mr. Reilly said.

Asbestos industry officials and developers have complained for years that lenders often rejected mortgage applications until asbestos materials are removed from properties.

While some asbestos removal may be unwarranted by its potential as a health hazard, real estate economics are another matter, Peggy Hathaway, director of commercial real estate for the Mortgage Bankers Association of America, said yesterday.

Until recently, she said, there was widespread concern among leaders about the potential liabilities posed by asbestos contamination in a building. Citing "a number of economic incentives," she said "it may be more cost-effective to have a properly conducted removal than a properly conducted operation and maintenance plan."

For example, she said, "if a lender has a loan on a building with asbestos-containing materials in it and the borrower defaults then the lender owns that problem forever."

That approach was never "a universal practice," she said. "My impression is that fewer and fewer lenders are doing that and are begining to realize that a properly conducted operations and maintenance plan can protect people's health and safety."

On another health and safety matter, Mr. Reilly told reporters yesterday that he had signed agreements with the chief operating officers of nine major companies that will reduce by 83 percent the toxic air emissions from 40 factories in 14 states.

Under the agreement, the firms agreed to slash their emissions of butadiene, ethylene oxide, carbon tetrachloride, methylene chloride, chloroform, ethylene dichloride and other known cancer-causers by December 1993.

The unusual voluntary agreement began at a meeting when Mr. Reilly asked key members of the Chemical Manufacturers Association to reduce their toxic chemical emissions.

Mr. Reilly said the COOs agreed when the agency, through a consultant's study, demonstrated how the firms were allowing valuable amounts of expensive processed chemicals to go up in smoke.

EXHIBIT 2

STATEMENT OF LINDA J. FISHER, ASSISTANT ADMINISTRATOR FOR PESTICIDES AND TOXIC SUBSTANCES, U.S. ENVIRONMENTAL PROTECTION AGENCY

Mr. Chairman and distinguished members of this Subcommittee, I am Linda Fisher, Assistant Administrator for the Office of Pesticides and Toxic Substances (OPTS) of the U.S. Environmental Protection Agency. I very much welcome the opportunity to clarify the Agency's policies to reduce asbestos exposure in the Nation's schools. I would also like to set the record straight with regard to a number of recent studies and reports which have received a lot of media attention.

Allow me to first address some of the specific concerns you have regarding the EPA asbestos in schools program.

IMPLEMENTATION OF AHERA

As you know, on October 22, 1986, President Reagan signed the Asbestos Hazard Emergency Response Act (AHERA), under which the EPA is directed to issue regulations that require public and private elementary and secondary schools to inspect their buildings for asbestos, develop asbestos management plans and submit them to their state, and to implement appropriate response actions such as in-place management, repair, encapsulation or removal. AHERA also required schools to use accredited personnel to carry out these inspection management activities.

AHERA established very ambitious deadlines for EPA and the schools to implement this program. EPA was required to issue by April, 1987 a Model Accreditation Plan for training and accrediting inspectors, planners, and abatement contractors and workers. EPA was also required to promulgate final regulations for asbestos inspection and management by October, 1987. The Agency met both these deadlines. The nation's schools also faced a difficult deadline of October, 1988 for completing inspections and submitting management plans to states. Congress later amended AHERA to give schools the option of extending this deadline, to May, 1989. EPA's analysis indicates that at least 94% of the Nation's schools now have completed their inspections and management plans. Thus, after more than three years of hard work by EPA, states, and the schools, a framework for managing asbestos risks in schools is now in place.

ACCREDITATION OF ASBESTOS PERSONNEL

As mentioned above, EPA was directed to issue under AHERA a model accreditation plan to provide training and accreditation for persons who inspect, manage and abate asbestos in schools. The training and accrediting of sufficient numbers of inspectors and planners to meet the demands being placed on school districts by the AHERA requirements posed a major challenge for us. The competence of these accredited persons, and the quality of the work they perform in our schools in an ongoing concern for EPA. EPA has substantialy increased the number of competent asbestos professionals. In fact, we believe that EPA's university training centers, and a couple of leading labor training programs alone have accredited nearly 60,000 individuals. In all, we estiamte 100,000 or more AHERA-accredited persons are available nationally for asbetos-related work today.

The model plan specified criteria necessary for initial training, examination and continuing education required under AHERA for accreditation of persons in all asbestos management disciplines including inspectors, management planners, abatement supervisors and abatement workers. These persons can be accredited by states, which are required under AHERA to adopt contractor accreditation plans at least as stringent as the EPA model plan by July, 1989 or by completing an EPA-approved training course and passing an examination.

We developed a system to insure the fast, efficient, and competent review of proposed accreditation courses submitted to EPA by private training organizations. As of February, 1990, a total of 587 training providers are offering 1,113 EPA-approved training courses for accreditation, including 487 asbestos worker courses, and 373 courses for contractors and supervisors. EPA has promoted national consistency by publishing model course curricula for AHERA contractor, inspector and management planner training, while model marterials for abatement workers and custodial workers will be available this summer.

EPA has financed and implemented several projects in addition to the Model Plan that were designed to develop and enhance State accreditation programs:

EPA through the National Conference of State Legislatures (NCSL), provided the States with model legislation to assist them in developing contractor certification programs and fee-based funding options to support these programs;

Since 1985, EPA has awarded $2.5 million in grants to 39 States for the purpose of establishing abatement contractor and worker certification programs since 1985;

In 1987, the Agency approved grants totalling more than $1 million for 17 States to help them develop AHERA inspector and management planner accreditation programs;

In 1990, EPA has recently distributed an additional $1.5 million for State activities, which included accreditation programs as part of our effort to enhance State asbestos programs.

Today, due in part to EPA seed funding and technical assistance, 20 States now have accreditation programs that meet AHERA standards for abatement contractors and workers who conduct school projects. In addition, another 27 States have some type of licensing our certification program for asbestos abatement which can upgrade to AHERA levels. Of these 47 states, 42 have extended their asbestos training and certification requirements to cover abatement work in public and commercial buildings as well as schools. This is a dramatic improvement from 1985, when only four States had any kind of contractor certification program at all. Now only three states have no certification programs at all.

Several other training and accreditation efforts should be noted. First, EPA has provided funding to the National Asbestos Council (NAC), the nation's largest interdisciplinary asbestos professional organization, to develop standard national examinations for AHERA accreditation disciplines and promote reciprocity among states. In addition, in 1989 and 1990, EPA will provide a total of $1.9 million to join labor-management trust funds to increase asbestos worker training. Also, the Asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP), which requires asbestos removal to protect public health during major building relocations and demolitions, is being revised this summer to include new training for the on-site work supervisor. Finally, EPA, under the Toxic Substances Control Act (TSCA), extends the protections afforded by the U.S. Occupational Safety and Health Administration (OSHA) to private sector asbestos workers to state and local government employees.

EVALUATION OF AHERA

As the AHERA program has progressed, EPA has begun to evaluate the effectiveness of the inspection and management regulations and the accreditation programs we have established. A major evaluation of the AHERA program is underway, and we should begin to receive results from some portion of the evaluation in the next 6-12 months.

Five studies will comprise the AHERA evaluation. The first study will include site visits and reinspection. The objective of this study is to ascertain whether or not inspections mandated by AHERA are being done properly and whether material is properly assessed.

The second study will measure the quality of the management plans in providing useful, accurate, the detailed information. Management plans will be compared to the original AHERA inspections reports. An analysis of the options in the plans for managing the asbestos will be done to see if they are specific enough to provide real guidance to the Local Education Agencies (LEAs). Between 200 to 400 schools will be completely reinspected and their management plans will be reviewed for accuracy and completeness.

The third study includes site visits to determine whether maintenance and custodial personnel have received training, and also examines the operation and maintenance plan and determines whether it is being implemented.

The fourth study deals with the effectiveness of notification for AHERA requirements. This study seeks to identify the people who were notified, the medium through which the notification was accomplished, and the response of the people who were notified.

The fifth study is a series of on-site visits designed to evaluate response actions. This study seeks to determine what response action have been or are being done and whether or not they are completed in a professional manner.

ASBESTOS LOAN AND GRANT PROGRAM

I would like now to discuss the school loan and grant program established under the Asbestos School Hazard Abatement Act (ASHAA) of 1984.

As you know, ASHAA established a program within EPA to provide financial assistance to public and nonprofit schools to help them conduct asbestos abatement projects. Under the provisions of ASHAA, EPA is to provide financial assistance to LEAs which have both serious asbestos hazards *and* a demonstrated financial need.

Since its inception in 1985, EPA has distributed a total of $201.8 million in ASHAA funds, for 2,194 abatement projects. Public schools have been awarded $173 million. Private schools have received $23.8 million. As a result of the abatement projects conducted using ASHAA funding, exposure of students and school employees to asbestos will be reduced by an estimated 17.3 million hours each week.

Regarding the 1990 award cycle, approximately $43 million will be distributed to LEAs. Applications were made available through a toll-free number provided in the announcement memo mailed to school districts and private schools nationwide. EPA is now reviewing the 882 applications submitted by public school districts and private schools from 46 States. Those applications contain 3,346 separate abatement projects, in 1,856 schools. Our review of these projects includes approximately 100 field inspections by EPA Regional personnel to verify project descriptions and hazard data. The awards will be announced in May, 1990.

When the 1990 awards are distributed in May, a total of $245 million in federal funding will have been provided for asbestos abatement in local schools over the past five years. This investment of federal funds has addressed a significant portion of the most severe asbestos hazards in the most needy schools. While we do not oppose reauthorization at this time, we are concerned that this may not be the best use of scarce resources for a problem which is essentially a State and local responsibility.

Risk, Exposure, and Abatement Issues

Now that I have discussed issues relating to EPA's administration of AHERA and ASHAA, let me turn to another topic.

Regrettably, EPA's asbestos policies have recently been the subject of several erroneous news reports and at least two seemingly contradictory exposure studies which have confused, rather than enlightened, the public.

For example, a national television news report on asbestos in floor tile last November suggested that dangerous fiber levels were generated through routine floor stripping operations to remove wax from tile. This news report promoted a "one fiber can kill" image in the public's mind of an asbestos material that rarely if ever releases fibers under normal conditions. On the other hand, an article on asbestos published on January 19 in Science magazine, followed by various editorials, has been interpreted to suggest that the most common form of asbestos fibers in buildings are "safe" and do not warrant our attention or concern.

Frankly, I appreciate this chance to clarify the Agency's current policies and requirements for asbestos control in schools and public and commercial buildings.

Fact one: Although asbestos is hazardous, human risk of asbestos disease depends upon exposure.

Asbestos is known to cause cancer and other disease if fibers are inhaled into the lung and remain there. This conclusion is based upon studies involving human exposure, particularly exposure at high levels. While evidence is better for some types of asbestos, there is no clear proof that other types are not as potent. EPA, based on careful evaluation of available scientific evidence, has adopted a prudent approach in its regulations of assuming that all fibers are equally potent. While, as the Science article indicated, exposure to chrysotile or common white asbestos may be less likely to cause some asbestos-related diseases, various scientific organizations, including the National Academy of Sciences, support EPA's more prudent regulatory approach.

With respect to the so-called "one fiber can kill" image, the present scientific evidence will not allow us to state unequivocally that there is a level of exposure below which there is a zero risk, but the risk in fact could be negligible or even zero.

However, the mere presence of a hazardous substance, such as asbestos on an auditorium ceiling, no more implies disease than a potential poison in a medicine cabinet or under a kitchen sink implies poisoning. Asbestos fibers must be released from the material in which they are contained, and an individual must breathe those fibers in order to incur any chance of disease.

While scientists have been unable to agree on a level of asbestos exposure at which we, as public policy makers, can confidently say, "there is no risk," this does not mean that all or any exposure is inherently dangerous.

Mr. METZENBAUM. Mr. President, the Senate is about to approve important legislation, including an amendment I am offering, which will help improve the Nation's asbestos abatement efforts.

The bill before us will help see to it that our Nation's schoolchildren are protected from exposure to harmful asbestos by continuing the financial assistance program for asbestos removals in schools.

And an amendment I am offering to the bill will help see to it that asbestos training and accreditation activities are improved.

Just last week, the Cleveland Plain Dealer concluded a multipart series on the asbestos removal industry in Ohio. The reporter uncovered slipshod cleanups and insufficient government oversight of the asbestos removal industry.

I believe my amendment will help move us in the direction of better asbestos cleanups in Ohio and the rest of the country.

Let me explain.

Right now, only contractors and workers removing asbestos from schools are required to be officially trained and certified.

But, Mr. President, we all know that the problem of asbestos—contaminated buildings is not confined to our schools. Indeed, the Environmental Protection Agency estimates that there are over 700,000 public and commercial buildings in the United States that contain asbestos—contaminated materials. These buildings pose a health risk to the occupants and to the public at large.

Many building owners have recognized the potential hazards created by the presence of asbestos in their buildings, and they have acted to clean up their properties. Asbestos abatement is a booming business. News reports estimate that at least 150-200 contractors have earned $5 million or more in the asbestos removal business. The market for asbestos abatement in commercial buildings is expected to reach $8 billion by 1993.

But the problem is that not all contractors and workers in the asbestos removal business know what they are doing. Many are untrained or otherwise unprepared to undertake the complex and hazardous job of asbestos removal.

The amendment I am offering today is similar to an amendment I succeeded in attaching to the Senate clean air bill when that was debated in the spring. Like that provision, today's amendment will extend current Federal asbestos training and accreditation requirements for schools to inspectors, contractors and workers involved in asbestos removals in public and commercial buildings.

There is an additional piece in today's amendment which will help ensure that all workers obtain better asbestos removal training. My amendment directs EPA to increase the minimum hourly training course requirements for asbestos removal workers in schools, public and commercial buildings.

There is ample evidence to suggest that EPA needs to lengthen the training hours they currently require.

The House Subcommittee on Health and Safety recently heard testimony from people involved in asbestos abatement.

These experts stated that the current EPA requirement of 24 hours of training is simply inadequate to effectively train workers handling asbestos.

Indeed, several States, including Rhode Island, agree. They are requiring more lengthy asbestos training programs than that required by EPA. New York City has recognized we need to do more. They require 36 hours of training.

There are two other important parts to my amendment.

Contractors who fail to obtain proper certification or who do not properly certify their workers will be subject to tough civil penalties. And, in order to meet the increased demand for well qualified asbestos abatement workers, the amendment will authorize a training grant program.

I want to point out that nothing in these amendments should be construed as relieving a building owner from liability because an accredited person has been hired.

Mr. President, there is one additional issue I would like to address.

We know that not every building owner is going to choose full scale asbestos abatement as a course of action. That is why we need to protect workers and the public from asbestos that remains in place.

Service workers, in particular, are perhaps most vulnerable to this problem.

In the daily course of their work, building service personnel are asked to perform duties which disturb asbestos. Yet they are denied the basic right to know whether the material they are disturbing contains asbestos. They are denied basic training and basic protections.

This is a disgrace. Until EPA requires building owners to inspect their buildings for asbestos and to inform their workers of the results, janitors will be left in the dark. They will continue to unknowingly disturb asbestos, putting not only themselves at risk but the general public as well.

EPA admitted in its 1988 report to Congress that janitors in public and commercial buildings are at the same risk of asbestos disease as janitors in schools. Medical studies have found that up to one-third of school janitors are showing early signs of asbestos disease. There is no reason to doubt that janitors in largely unregulated public and commercial buildings are suffering similar adverse health effects.

EPA has stonewalled for years on protecting building service workers in public and commercial buildings from the risks posed by asbestos. I understand that both EPA and OSHA are in the midst of reviewing this issue. I urge EPA and OSHA to move forward quickly to protect building service workers and the public from asbestos in public and commercial buildings.

Mr. President, in conclusion, I would like to thank Senators REID, CHAFEE, and BAUCUS for their cooperation in working on my amendment and for their efforts on the underlying measure. The legislation deserves prompt passage.

Mr. CHAFEE. Mr. President, I am pleased that the Senate is today considering the Asbestos Hazard Emergency Response Act [AHERA], S. 1893. This bill will reauthorize the Federal Loan and Grant Program under the Asbestos School Hazard Abatement Act [ASHAA], at a level of more than $200 million per year. These funds, nearly double the current authorization, are needed to assist primary and secondary schools in implementing the provisions of school management plans developed pursuant to the Asbestos Hazard Emergency Response Act [AHERA].

By assisting schools in implementing these management plans, Congress is helping to ensure that our school-age children will not be exposed to asbestos and the life-threatening diseases it causes. In my own State of Rhode Island more than 150 schools are in the process of managing the asbestos identified under AHERA.

This bill also contains an important provision offered by my colleague from Virginia, Senator WARNER. This provision requires the Environmental Protection Agency to provide information to the States and local education agencies to improve understanding of the risks of in-place management of asbestos compared to asbestos removal. The provision also requires EPA to promote the least burdensome and costly response actions to the presence of asbestos which are necessary to protect human health, safety, and the environment.

This provision was included to address a concern that asbestos removals may be taking place in situations where in-place management of the asbestos may be preferable, both in terms of human health impacts and cost. Unnecessary removals may result in a much higher degree of occupant exposure, in addition to increasing health risks for abatement workers. In distributing information pursuant to this provision, EPA should emphasize that removal should be considered only after other more environmentally safe options, such as encapsulation, have been thoroughly explored.

Testifying before the Subcommittee on Toxic Substances, Environmental Oversight, Research and Development, Linda Fisher, the EPA Assistant Administrator for Pesticides and Toxic Substances related the Agency's efforts to get the message across to schools that in-place management of asbestos, encapsulation or enclosure, is a recommended alternative to asbestos removal in most circumstances. She concluded that only when these methods will not work is removal a necessity.

This bill also includes an amendment, offered by the distinguished Senator from Ohio [Mr. METZENBAUM] which extends the current training requirements for workers who remove asbestos from schools, to abatement workers removing asbestos from public and commercial buildings. In testimony before the subcommittee witnesses were in agreement that the group of people most at risk from asbestos-related illnesses are the abatement workers who come into direct contact with the substance. Accordingly, this legislation extends the worker training requirements to abatement workers not only in schools, but also in all public and commercial buildings.

This amendment also will require EPA to increase the hours of training under the model contractor accreditation plan. I would like to clarify four points regarding this amendment:

First, the additional number of hours required by this section are for hands-on health and safety training which should be designed to improve a worker's ability to handle asbestos in a safe manner.

Second, the amendment only requires EPA to increase the number of training hours, but it does not specify the number of hours. EPA is purposely given discretion to determine the number of additional training hours necessary to adequately promote worker safety and health.

Third, in revising the model contractor accreditation plan, this amendment does not require the accreditation of any category of individuals not now required to be accredited to perform asbestos abatement work.

Fourth, the amendment increasing the minimum number of hours of training for asbestos abatement workers authorizes "such other changes as may be necessary to implement the amendments * * *." It is my understanding that this refers to the model contractor accreditation plan, which currently refers only to asbestos abatement workers in schools. The changes referred to in this section are to clarify that the plan will need to be modified to refer to abatement workers in public and commercial buildings, as well as schools.

This bill will have an important and beneficial impact on public health, and I urge my colleagues to join me in supporting passage of this legislation.

Mr. SIMON. Mr. President, I would like to pose a question to the Senator from Nevada [Mr. REID] regarding S. 1893, reauthorizing ASHAA. It is my understanding that S. 1893 does not intend strict cutoffs in regard to directing funds to schools with asbestos abatement projects classified as Hazard Category I.

Mr. REID. The Senator is correct. The formula for allocating grants under the ASHAA Program is determined administratively. Currently, the EPA determines who is initially eligible for funding by eliminating applications from public school districts with average per-capita income in the top 30 percent of the country. For private schools, the EPA uses per-pupil spending to eliminate the top 30 percent of the applicant pool. In some cases, needy schools that have unusually high asbestos abatement expenditures are eliminated because of these strict initial cutoffs. This automatic elimination fails to take into account the severe burden some schools may face for asbestos abatement costs and other important financial factors.

In determining a school district's financial need, it is important to consider the cost of an abatement project, the number of people available to share the burden, and other factors, such as the local cost of living. But the exceptional costs facing particular schools that fall outside the current funding formula should be given recognition. At the request of the Senator from Illinois [Mr. SIMON], the committee report on S. 1893 discusses this problem and urges EPA to address it.

Further, the loan and grants program has been inadequately funded from the outset. This has contributed to the problem. We are trying to spread resources too thinly and are failing to assist many schools with a legitimate financial need. EPA has done a good job in trying to allocate these scarce resources equitably, but it is important to consider the other circumstances discussed.

Mr. SIMON. I agree that automatic elimination is a serious concern for those truly needy schools that the EPA is eliminating. The EPA should implement an exceptions policy to its strict per-capita and per-pupil cutoffs. It is my expectation that the EPA will try to address this problem in its funding policies, and recognize the particular burden facing schools with high asbestos abatement costs. Also, my understanding is that S. 1893 adds another factor to the list of those which may be considered in determining a school district's financial need.

Mr. REID. S. 1893 adds another factor to these considered by States in prioritizing applications for financial assistance for submission to EPA—the costs of meeting the needs of disadvantaged students. It is intended that the term disadvantaged include students from low-income families, students with disabilities, and students with limited English proficiency.

Mr. SIMON. I thank the Senator for clarifying these issues.

Mr. KOHL. I wish to congratulate my distinguished colleague from Nevada, Senator REID, for his leadership in this effort to remove safely and swiftly carcinogenic asbestos from our Nation's schools. The health and safety of our Nation's children should be our No. 1 priority. If we do not invest in child health now, we will pay some tragic costs later.

Mr. REID. I thank the Senator from Wisconsin.

Mr. KOHL. The legislation before us today, however, does not address the important issue of replacement materials. The World Health Organization has certified that such replacements for asbestos as mineral wool and fiberglass are themselves carcinogenic. Schools using such replacement fibers may jeopardize the health of children and adults alike. I understand that my colleagues from Nevada felt there was not sufficient time to deal with such risks within the context of this bill. I therefore ask him to assure me that he will consider legislation I am introducing on this subject today as early as possible next year.

Mr. REID. I believe that the legislation my colleague plans to offer addresses an important issue. To eliminate one hazard only to substitute something of equal or unknown health risk is of real concern. In hearings I've chaired this session, I've become aware of the need to closely scrutinize the program for controlling both new and existing toxic substances. The authorities are contained in the Toxic Substances Control Act administered by EPA. It is my intention to consider reforms to the act next year, and in that context I will certainly give close attention to the legislative proposal of my colleague from Wisconsin.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendments as amended.

The committee amendments were agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1893) was passed, as follows:

S. 1893

Be it enacted by the Senate and House o Representatives of the United States o America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Asbestos School Hazard Abatement Reauthorization Act of 1989".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The Environmental Protection Agency has estimated that more than forty-four thousand school buildings contain friable asbestos, exposing more than fifteen million school children and one million five hundred thousand school employees to unwarranted health hazards.

(2) All elementary and secondary schools are required by the Asbestos Hazard Emergency Response Act to inspect for asbestos develop an asbestos management plan, and implement such plan.

(3) The Environmental Protection Agency has estimated it will cost local education agencies more than $3,000,000,000 to comply with the Asbestos Hazard Emergency Response Act.

(4) Without a continuing program of information assistance, technical and scientific assistance, training, and financial support, many local educational agencies wil be unable to carry out sufficient response actions to prevent the release of asbesto fibers into the air.

(5) Without the provisions of sufficient financial support, the cost to local educational agencies of implementing asbestos response actions may have an adverse impac in their educational mission.

(6) The effective regulation of interstat commerce for the protection of huma health and the environment requires th continuation of programs to mitigate hazards of asbestos fibers and materials emitting such fibers.

(b) PURPOSES.—The purposes of this Ac are the following:

(1) To direct the Environmental Protection Agency to maintain a program to assis local schools in carrying out their responsibilities under the Asbestos Hazard Emergency Response Act.

(2) To provide continuing scientific an technical assistance to State and local agencies to enable them to identify and abate asbestos health hazards.

(3) To provide financial assistance to Stat and local agencies for training of persons involved with inspections and abatement o asbestos, for conducting necessary reinspections of school buildings, and for the actua

abatement of asbestos threats to the health and safety of school children or employees.

(4) To assure that no employee of a local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.

SEC. 3. AMENDMENTS TO ASBESTOS SCHOOL HAZARD ABATEMENT ACT OF 1984.

Except as otherwise specifically provided, whenever in this Act a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4011 et seq.).

SEC. 4. ASBESTOS HAZARDS ABATEMENT PROGRAM.

Subsection (b) of section 503 is amended—

(1) in paragraph (2), by inserting "educational" after "local";

(2) in paragraph (2), by inserting ", including parent and employee organizations," after "institutions"; and

(3) by amending paragraph (3) to read as follows:

"(3) not later than November 15 of each year for which this title is authorized, the development and distribution of applications, or notifications to all local educational agencies of the availability of application forms including information for obtaining such forms; and".

SEC. 5. STATE RECORDS AND PRIORITY LISTS.

(a) Maintenance of Records.—Subsection (a) of section 504 is amended—

(1) by striking out "Not later than" and all that follows through "maintaining records on—" and inserting in lieu thereof "The Governor of each State shall maintain records on—";

(2) in paragraph (2), by inserting "and other response actions" after "abatement activities";

(3) by inserting "and" after the semicolon at the end of paragraph (2); and

(4) in paragraph (3), by striking out "subparagraph (B)" and inserting in lieu thereof "paragraph (2)".

(b) Deletion of Department of Education References.—Subsection (b)(1) of section 504 is amended—

(1) by striking out "Not later than six months after the date of the enactment of this title and annually thereafter," and inserting in lieu thereof "Each year, in accordance with procedures established by the Administrator,";

(2) in subparagraphs (A) and (B), by striking out "and the Secretary of the Department of Education" both places it appears;

(3) in subparagraph (A), by inserting "and" after the semicolon at the end of such subparagraph; and

(4) by striking out subparagraph (C).

(c) Determination of Adequacy of Resources.—Subsection (b)(4) of section 504 is amended—

(1) by redesignating subparagraph (F) as subparagraph (G); and

(2) by inserting after subparagraph (E) the following new subparagraph:

"(F) Any additional costs to the local educational agency of meeting the special needs of disadvantaged students.".

(d) Conforming Amendment.—Section 504 is further amended by striking out subsection (c).

SEC. 6. FINANCIAL ASSISTANCE.

(a) Application Approval Deadline.—Subsection (b) of section 505 is amended—

(1) in paragraph (2), by striking out "applications shall be submitted," and inserting in lieu thereof "the Governor shall submit applications,";

(2) in paragraph (2), by adding at the end the following: "The Administrator shall approve or disapprove applications for financial assistance no later than April 30 of each year."; and

(3) by striking out paragraph (3).

(b) Ranking Applications.—Subsection (c)(2)(B)(iv) of section 505 is amended by striking out "is cost-effective compared to other techniques including management of material containing asbestos" and inserting in lieu thereof "uses the least burdensome methods which protect human health and the environment".

(c) Deletion of Reference to Department of Education Report.—Subsection (c)(3) of such section is amended by striking out "shall consider—" and all that follows through the end of the paragraph and inserting in lieu thereof the following: "shall consider the financial resources available to the applicant as certified by the Governor pursuant to section 504(b)(4).".

(d) Additional Limitation.—Subsection (d) of such section is amended to read as follows:

"(d) Limitation.—In no event shall financial assistance be provided under this title to an applicant if—

"(1) the Administrator determines that such applicant has resources adequate to support an appropriate asbestos materials abatement program; or

"(2) the applicant is not in compliance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.).".

(e) Requirement to Deposit Funds into Asbestos Trust Fund.—Subsection (f) of such section is amended in paragraph (3) by striking out "for deposit in the general fund" and inserting in lieu thereof the following: "for deposit in the Asbestos Trust Fund established by section 5 of the Asbestos Hazard Emergency Response Act (Public Law 99-519; 20 U.S.C. 4022)".

(f) Additional Requirements for Application Approval.—Subsection (g) of such section is amended—

(1) in paragraph (1), by striking out "within the five-year period beginning on the effective date of this title" and inserting in lieu thereof "in accordance with such procedures as may be developed by the Administrator";

(2) in paragraph (2)(B), by amending clauses (i) and (ii) to read as follows:

"(i) the local educational agency has prepared and is implementing an asbestos management plan, as required under title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.); and

"(ii) all activities to be conducted with the financial assistance will be performed by individuals trained and accredited in conformance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.) and regulations promulgated under that title;"; and

(3) by striking out paragraph (4).

SEC. 7. ADMINISTRATIVE PROVISIONS.

Section 506 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Procedures.—The Administrator also shall establish procedures to be used by local educational agencies, in programs for which financial assistance is made available under section 505, for—

"(1) abating asbestos materials in school buildings;

"(2) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

"(3) restoring such school buildings to conditions comparable to those existing before asbestos containment or removal activities were undertaken.

"(c) Relationship to Other Laws.—Nothing contained in this title shall be construed, interpreted, or applied to diminish in any way the level of protection required under any other State or Federal worker protection or other applicable laws.".

SEC. 8. ANNUAL REPORT.

(a) Report Deadline.—The first sentence of section 507 is amended to read as follows: "During each calendar year until 1999, the Administrator shall prepare and submit, not later than June 1 of each year, to the Committee on Environment and Public Works of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report on the loan and grant program authorized by section 505 of this title.".

(b) Contents of Report.—Paragraph (6) of such section is amended by inserting before the period the following: "and the amount of resources needed by such schools, categorized by State, to abate all remaining asbestos hazards".

SEC. 9. RECOVERY OF COSTS.

Paragraph (2) of section 508(a) is amended by inserting after "repay to the United States," the following: "by deposit in the Asbestos Trust Fund established by section 5 of the Asbestos Hazard Emergency Response Act (20 U.S.C. 4022),".

SEC. 10. DEFINITIONS.

Section 511 is amended—

(1) in paragraph (3), by inserting ", vibration," after "damage from water"; and

(2) by adding at the end the following new paragraph:

"(9) The term 'response action' has the meaning given such term by section 202(11) of the Toxic Substances Control Act (15 U.S.C. 2642(11).".

SEC. 11. AUTHORIZATION.

(a) Authorization.—Paragraph (1) of section 512(a) is amended to read as follows: There are hereby authorized to be appropriated for the asbestos abatement program not more than $200,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995. In addition, for such purposes and for each of such fiscal years there are authorized to be appropriated out of the Asbestos Trust Fund established by section 5 of the Asbestos Hazard Emergency Response Act of 1986 (20 U.S.C. 4022) such sums as are contained in such trust fund in each of such fiscal years.".

(b) Specific Programs.—Subsection (b) of section 512 is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Of those sums appropriated for the implementation of this title, not more than 5 percent may be reserved during each fiscal year for the administration of this title and for programs including (but not limited to) the following:

"(A) The establishment of training centers for contractors, engineers, school employees, parents, and other personnel to provide instruction, in accordance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.), on asbestos assessment and abatement.

"(B) The development and dissemination of abatement guidance documents to assist in evaluation of potential hazards and the

determination of proper abatement programs.

"(C) The development of rules and regulations regarding inspection, reporting, and recordkeeping.

"(D) The development of a comprehensive testing and technical assistance program.

"(3) Of those sums appropriated for any fiscal year for the implementation of this title, the Administrator may use not more than 5 percent to provide grants to States for the following purposes:

"(A) Assisting local educational agencies in performing the periodic reinspections and training activities required under title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.).

"(B) Establishing and maintaining programs to accredit personnel performing asbestos inspections and response actions.".

SEC. 12. CONFORMING AMENDMENTS TO ASBESTOS TRUST FUND.

(a) Amounts Transferred to Trust Fund.—Section 5(b)(1) of the Asbestos Hazard Emergency Response Act of 1986 (Public Law 99-519) is amended—

(1) in subparagraph (A), by striking out "as in effect on the date of the enactment of this Act, and" and inserting in lieu thereof a comma;

(2) in subparagraph (B), by striking out the period at the end and inserting in lieu thereof ", and"; and

(3) by adding at the end the following new subparagraph:

"(C) amounts received as proceeds from any judgment recovered in any suit brought pursuant to section 508(a)(1) of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4017(a)(1))."

(b) Expenditures from Trust Fund.—Section 5(d) of such Act is amended by striking out "as in effect on the date of the enactment of this Act".

SEC. 13. EPA INFORMATION OR ADVISORY.

Section 203(d) of title II of the Toxic Substances Control Act is amended by adding the following new paragraph at the end thereof:

"(7) The Administrator shall, not later than 30 days after enactment of this paragraph, publish and distribute to all local education agencies and State Governors information or an advisory to—

"(A) facilitate public understanding of the comparative risks associated with in-place management of asbestos-containing building materials and removals;

"(B) promote the least burdensome response actions necessary to protect human health, safety, and the environment; and

"(C) describe the circumstances in which asbestos removal is necessary to protect human health.

"Such information or advisory shall be based on the best available scientific evidence and shall be revised, republished, and redistributed as appropriate, to reflect new scientific findings.".

SEC. 14. TECHNICAL AMENDMENTS.

(a) Section Headings.—(1) Section 501 is amended by striking out "Sec. 501." and inserting the following section heading:

"SEC. 501. SHORT TITLE.".

(2) Section 502 is amended by striking out the section heading and "Sec. 502." and inserting in lieu of the section heading the following:

"SEC. 502. FINDINGS AND PURPOSES.".

(3) Section 503 is amended by striking out the section heading and "Sec. 503." and inserting in lieu of the section heading the following:

"SEC. 503. ASBESTOS HAZARD ABATEMENT PROGRAM.".

(4) Section 504 is amended by striking out the section heading and "Sec. 504." and inserting in lieu of the section heading the following:

"SEC. 504. STATE RECORDS AND PRIORITY LISTS.".

(5) Section 505 is amended by striking out the section heading and "Sec. 505." and inserting in lieu of the section heading the following:

"SEC. 505. FINANCIAL ASSISTANCE.".

(6) Section 506 is amended by striking out "Sec. 506." and inserting the following section heading:

"SEC. 506. ADMINISTRATIVE PROVISIONS.".

(7) Section 507 is amended by striking out "Sec. 507." and inserting the following section heading:

"SEC. 507. ANNUAL REPORT.".

(8) Section 508 is amended by striking out "Sec. 508" and inserting the following section heading:

"SEC. 508. RECOVERY OF COSTS.".

(9) Section 509 is amended by striking out "Sec. 509." and inserting the following section heading:

"SEC. 509. EMPLOYEE PROTECTION.".

(10) Section 510 is amended by striking out "Sec. 510." and inserting the following section heading:

"SEC. 510. AFFECT ON RIGHTS UNDER OTHER LAWS."

(11) Section 511 is amended by striking out "Sec. 511." and inserting the following section heading:

"SEC. 511. DEFINITIONS.".

(12) Section 512 is amended by striking out "Sec. 512." and inserting the following section heading:

"SEC. 512. AUTHORIZATION.".

(b) Subsection Headings.—(1) Section 502(a) is amended by inserting "Findings.—" after "(a)".

(2) Section 502(b) is amended by inserting "Purpose.—" after "(b)".

(3) Section 503(a) is amended by striking out "(1)" and inserting in lieu thereof "Abatement Program.—".

(4) Section 503(b) is amended by inserting "Duties.—" after "(b)".

(5) Section 504(a) is amended by inserting "Records.—" after "(a)".

(6) Section 504(b) is amended—

(A) by inserting "Priority List.—" after "(b)";

(B) by inserting "activities and other response actions" after "abatement" each place it appears in subparagraphs (A) and (B) of paragraph (1);

(C) in paragraph (1)(B), by striking out "section 503(b)(3) and"; and

(D) in paragraph (4)(C), by inserting a comma after "per capita income".

(7) Section 505 is amended—

(A) in subsection (a), by inserting "Assistance Program.—" after "(a)";

(B) in subsection (b), by inserting "Application Submission.—" after "(b)";

(C) in subsection (c), by inserting "Review of Application.—" after "(c)";

(D) in subsection (e), by inserting "Amount of Loan or Grant.—" after "(e)";

(E) in subsection (f), by inserting "Loan Agreement.—" after "(f)"; and

(F) in subsection (g), by inserting "Application Requirements.—" after "(g)".

(6) Section 506(a) is amended by inserting "Regulations.—" after "(a)".

(7) Section 506(d) (as redesignated by section 7) is amended—

(A) by inserting "Other Authority.—" after "(d)"; and

(B) by inserting a comma after "standards" the first place it appears.

(8) Section 508(a) is amended by inserting "Loan Condition.—" after "(a)".

(9) Section 508(b) is amended by inserting "Expeditious Recovery.—" after "(b)".

(c) Miscellaneous Technical Amendments.—(1) Section 505(b) is amended in paragraph (1) by striking out the comma after "educational agency".

(2) Section 505(c) is amended—

(A) in paragraph (2), by inserting "and" after the semicolon at the end of subparagraph (A); and

(B) in paragraph (2), by inserting a comma after "confined space" in subparagraph (B)(ii) and after "techniques" in subparagraph (B)(iv).

(3) Section 505(e) is amended by striking out "per centum" both places it appears and inserting in lieu thereof "percent".

(4) Section 505(g) is amended—

(A) by redesignating the subparagraph (B) appearing after paragraph (3) as paragraph (4) and conforming the margin accordingly; and

(B) by inserting a comma in paragraph (4) (as so redesignated) after "section 512(b)(1)".

(5) Section 508 is amended by striking out "sections" and inserting in lieu thereof "section".

(6) Section 511 is amended—

(A) by striking out "For purposes of this title—" and inserting in lieu thereof "For purposes of this title:";

(B) by striking out "the" at the beginning of each paragraph and inserting in lieu thereof "The";

(C) by striking out the semicolon at the end of each paragraph and inserting in lieu thereof a period;

(D) by striking out the word "each" in paragraph (3); and

(E) by inserting "secondary" before "school" in paragraph (5).

SEC. 15. ASBESTOS ABATEMENT TRAINING AMENDMENTS.

(a) Accreditation Requirement for Workers in Public and Commercial Buildings.—(1) Paragraphs (1) and (3) of section 206(a) of the Toxic Substances Control Act (15 U.S.C. 2646) are amended by adding before the comma at the end of each the following: "or in a public or commercial building".

(2) Clauses (i) and (iii) of section 206(b)(1)(A) of such Act are amended by adding before the period at the end of each the following: "or in public or commercial buildings".

(3) Not later than one year after the dat of the enactment of this Act, the Adminis trator of the Environmental Protectio Agency shall revise the model contractor ac creditation plan promulgated under sectio 206(b) (1) of the Toxic Substances Contro Act (15 U.S.C. 2646(b)(1)) to increase th minimum number of hours of training, in cluding additional hours of hands-on healt and safety training, required for asbesto abatement workers and to make such othe changes as may be necessary to implemen the amendments made by paragraphs (1 and (2).

(4) Section 207 of such Act (15 U.S.C 2647) is amended by adding at the en thereof the following:

"(g) Any contractor who—

"(i) inspects for asbestos-containing mate rial in a school, public or commercial buil ing;

"(2) designs or conducts response actions with respect to friable asbestos-containing material in a school, public or commercial building; or

"(3) employs individuals to conduct response actions with respect to friable asbestos-containing material in a school, public or commercial building:

and who fails to obtain the accreditation under section 206 of this Act, or in the case of employees to require or provide for the accreditation required, is liable for a civil penalty of not more than $5,000 for each day during which the violation continues, unless such contractor is a direct employee of the Federal Government.".

(b) Disclaimer.—In exercising any authority under the Toxic Substances Control Act in connection with the amendment made by subsection (a) of this section, the Administrator of the Environmental Protection Agency shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), be considered to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

(c) Effective Date.—This section shall take effect upon the expiration of the 12-month period following the date of the enactment of this Act. The Administrator may extend the effective date for a period not to exceed one year if the Administrator determines that accredited asbestos contractors are needed to perform school-site abatement required under the Asbestos Hazard Emergency Response Act (15 U.S.C. 2641) and such an extension is necessary to ensure effective implementation of section 203 of the Toxic Substances Control Act.

SEC. 16. TRAINING GRANTS.

(a)(1) Authorization for Training Grants.—Title II of the Toxic Substances Control Act (15 U.S.C. 2541 et seq.) is amended by adding at the end the following:

"SEC. 216. TRAINING GRANTS.

"(a) Grants.—The Administrator is authorized to award grants under this section to nonprofit organizations that demonstrate experience in implementing and operating health and safety asbestos training and education programs for workers who are or will be engaged in asbestos-related activities (including State and local governments, colleges and universities, joint labor-management trust funds, and nonprofit government employee organizations) to establish and, or, operate asbestos training programs on a not-for-profit basis. Applications for grants under this subsection shall be submitted in such form and manner, and contain such information, as the Administration prescribes.

"(b) Authorization.—Of such sums as are authorized to be appropriated pursuant to section 512(a) of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4011 et seq.) for the fiscal years 1991, 1992, 1993, 1994, and 1995, not more than $5,000,000 are authorized to be appropriated to carry out this section in each such fiscal year.

(2) The table of contents for title II of such Act (contained in section 1 of such Act) is amended by inserting after the item relating to section 215 the following new item:

"Sec. 216. Training grants.".

(b) Effective Date.—Section 216 of the Toxic Substances Control Act, as added by subsection (a), shall take effect on the date of the enactment of this Act.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. DOLE, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ZUNI LAND CONSERVATION ACT

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2203.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2203) entitled "An Act to settle certain claims of the Zuni Indian Tribe, and for other purposes," do pass with the following amendments:

Strike out all after the enacting clause and insert:

SHORT TITLE

Section 1. This Act may be cited as the "Zuni Land Conservation Act of 1990".

ZUNI RESOURCE DEVELOPMENT PLAN

Sec. 2. (a) Before the first day of the third fiscal year beginning after the date of enactment of this Act, the Secretary of the Interior and the Zuni Indian Tribe shall jointly formulate a Zuni resource development plan for the Zuni Indian Reservation, which shall include (but not be limited to)—

(1) a methodology for sustained development of renewable resources;

(2) a program of watershed rehabilitation;

(3) a computerized system of resource management and monitoring;

(4) programs for funding and training of Zuni Indians to fill professional positions that implement the overall plan:

(5) proposals for cooperative programs with the Bureau of Indian Affairs and other private or public agencies to provide technical assistance in carrying out the plan; and

(6) identification and acquisition of lands necessary to sustain Zuni resource development.

(b) The Resource Development Plan shall be implemented in a manner that protects resources owned and controlled by the Zuni Tribe and promotes sustained yield development.

TRUST FUND

Sec. 3. (a) There is hereby established within the Treasury of the United States the Zuni Indian Resource Development Trust Fund (hereafter in this Act referred to as the "Trust Fund"). The Trust Fund shall consist of amounts appropriated to the Trust Fund and all interest and investment income that accrues on such amounts.

(b)(1) The Secretary of the Interior shall be the trustee of the Trust Fund and shall invest the funds in the Trust Fund with a financial institution.

(2) The Secretary of the Interior shall not deduct any amount from the Trust Fund for administrative expenses or charge the Zuni Indian Tribe for expenses incurred by the Secretary in acting as trustee.

(c)(1) The funds appropriated to the Trust Fund under the authority of section 4 shall constitute the corpus of the Trust Fund and may be expended, subject to paragraph (2), only for the following purposes:

(A) payment of any loans, debts, or future expenses incurred by the Zuni Indian Tribe to any person for the purchase of land or obtaining or defending rights of access to the area described in Public Law 98-408;

(B) payment of up to $600,000 per year for two years for the formulation of the Zuni resource development plan described in section 2;

(C) payment of all costs, attorneys' fees, and expenses incurred prior to September 30, 1990, by the Zuni Indian Tribe in the prosecution of docket numbers 327-81L and 224-84L of the United States Claims Court; and

(D) payment of all invoices submitted by any person to the Zuni Indian Tribe for which proper vouchers have been received prior to September 30, 1990, and subsequently approved by the Secretary of the Interior.

(2) The total amount of the corpus of the Trust Fund that may be expended under paragraph (1) shall not exceed $8,000,000.

(3) The interest and investment income that accrues on the corpus of the Trust Fund may be expended by the Secretary of the Interior pursuant to the Zuni resource development plan described in section 2.

(4) No funds appropriated under the authority of this Act may be used to make per capita payments to members of the Zuni Indian Tribe.

(5) All sums paid pursuant to this Act shall be offset against any judgment entered in favor of the Zuni Indian Tribe in docket numbers 327-81L and 224-84L, but not against any judgment entered in docket number 161-79L, of the United States Claims Court.

(6) Nothing in this Act shall be construed to affect in any way the trust status of Zuni Indian Reservation land or resources.

AUTHORIZATION OF APPROPRIATIONS

Sec. 4. There are authorized to be appropriated to the Zuni Indian Resource Development Trust Fund $25,000,000. Such funds shall remain available without fiscal year limitation.

ADDITIONAL LANDS

Sec. 5. The first section of the Act entitled "An Act to convey certain lands to the Zuni Indian Tribe for religious purposes", approved August 28, 1984 (98 Stat. 1533), is amended by adding at the end thereof the following: "Also, all of sections 13 and 23, township 14 north, range 26 east, Gila and Salt River Meridian, such lands to be acquired and held in accordance with sections 2 and 3 of this Act.".

Amend the title so as to read: "An Act to authorize appropriation of funds to the Zuni Indian Tribe for reservation land conservation, and for other purposes.".

Mr. DOMENICI. Mr. President, I rise to encourage the Senate to recede to the House amendments to S. 2203, the Zuni Land Conservation Act. This bill would allow the Zuni Indian Tribe to rehabilitate and reclaim their natural resources that have been damaged, directly and indirectly, by misguided policies of the U.S. Government.

Located 40 miles south of Gallup, Zuni Pueblo encompasses 408,000 acres and is the largest of the 19 pueblos in New Mexico. The Zuni Valley has been occupied continuously from an early period. In 1540, Coronado visited Zuni during his famous search for the "Seven Cities of Cibola" and found

a thriving community with a substantial agricultural base.

Since the United States gained sovereignty over New Mexico in 1846, the Zuni have lost 90 percent of their cultivated land to erosion. In the mid-19th century, the Zuni were cultivating 10,000 to 12,000 acres of crops using traditional farming methods. Today only 1,370 acres are being cultivated.

According to the best available evidence, the erosion of the Zuni's agricultural lands is directly due to the negligence and mismanagement of the U.S. Government, which led to destructive logging practices on adjoining National Forests, severe livestock overgrazing on the deforested lands, loss of mineral resources, destruction of archaeological sites, and unwise development of dams and reservoirs on and adjacent to reservation land.

In 1978, I authored legislation that allowed the Zuni to file a suit in the Court of Claims to recover damages from the U.S. Government for the negligence and mismanagement that led to the erosion of the Zuni's lands. The lawsuit was filed in 1981, but it still has not come to trial, and there is no estimate of when the case will be fully litigated. Negotiations with the Department of Justice have not yielded any results.

In the meantime, the erosion continues and the tribe has no funds to begin to correct the damage and to restore their agricultural lands.

As amended by the House of Representatives, the Zuni Land Conservation Act would establish a $25 million trust fund to remedy the damages to the Zuni's lands. Up to $1.2 million of the trust fund would be used to develop a Zuni Resource Development Plan for watershed rehabilitation, land protection, resource management, and renewable resource development; $8 million could be used to pay off loans and debts of the Zuni Tribe and for legal expenses related to the Zuni's effort to obtain compensation for their damaged lands. The interest and investment income of the trust fund would be used to implement the Zuni Resource Development Plan to rehabilitate and reclaim the Zuni's land and to create, using traditional Zuni technology and state-of-the-art scientific methods, a model of sustainable agricultural development.

S. 2203 also includes a provision regarding an area known as Zuni Heaven, which has traditionally been used by the Zuni for religious purposes. In 1984, the Congress authorized the Zuni to acquire certain lands in this area. Section 7 of the bill would permit the Zuni to acquire additional lands in Zuni Heaven.

This legislation was previously approved by the Senate last June. After the Department of Justice voiced its concerns over the bill as approved by the Senate, I brought the Zuni and the Department of Justice together to negotiate the provisions of a compromise bill. Those negotiations were successful, and the agreement that the Zuni and the Department of Justice reached is reflected in the bill now before the Senate.

I would particularly like to acknowledge the contributions of Gov. Robert E. Lewis of Zuni Pueblo, the members of the Zuni Tribal Council, the Zuni's attorney Steve Boyden, and Lee Rawls and Miles Flint of the Department of Justice. Each of these individuals worked very hard to craft the compromise bill, and the legislation now before the Senate is the product of their efforts.

I would also like to note that Representative Bill Richardson was very helpful in getting this matter considered by the House of Representatives. He had to overcome some unusual legislative hurdles to bring this bill up on the House floor, and I appreciate his assistance.

Mr. President, this legislation is needed to remedy damages to the Zuni Pueblo that resulted from the actions of the U.S. Government. I hope that the Senate will recede to the House amendments so that we can send this bill to the President.

Mr. MITCHELL. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRANSFER OF PLATORO RESERVOIR TO THE CONEJOS WATER CONSERVANCY DISTRICT IN COLORADO

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 933, S. 1118, the Platoro Reservoir transfer bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1118) to provide for the transfer of the Platoro Reservoir to the Conejos Water Conservancy District of the State of Colorado, and for the protection of fish habitat on the Conejos River.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all afte the enacting clause, and inserting i lieu thereof the following:

SECTION 1. FINDINGS AND DECLARATIONS.

The Congress finds and declares the following:

(1) Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the Sa Luis Valley Project was built in 1951 and fo all practical purposes has not been usabl because of the constraints imposed by th Rio Grand Compact of 1939 on the use o the Rio Grand River among the States o Colorado, New Mexico and Texas.

(2) The usefulness of Platoro Reservoi under future compact compliance depend upon the careful conservation and wis management of water and requires the operation of the reservoir project in conjunctio with the privately owned water rights of th local water users.

(3) It is in the best interest of the peopl of the United States to:

(A) transfer operation, maintenance an replacement responsibility for the Plator Dam and Reservoir to the Conejos Wate Conservancy District of the State of Color do, which is the local water user distric with repayment responsibility to the Unite States, and the local representative of th water users with privately owned wate rights;

(B) relieve the people of the United State from further financial risk or obligation connection with the collection of constru tion charge repayments and annual ope ation and maintenance payments for th Platoro Dam and Reservoir by providing fo payment of a one-time fee to the Unite States in lieu of the scheduled annual pa ments and termination of any further r payment obligation to the United State pursuant to the existing repayment contra between the United States and the Distri (Contract No. Ilr-1529, as amended); and

(C) determine such one time fee, takin into account the assumption by the Distri of all of the operations and maintenan costs associated with the reservoir, inclu ing the existing Federal obligation for th operation and maintenance of the reservo for flood control purposes, and taking int account 50 percent sharing of the cost maintaining a minimum stream flow as pr vided in section 2(d) of this Act.

SEC. 2. TRANSFER OF OPERATION AND MAINT NANCE RESPONSIBILITY OF PLATO RESERVOIR.

(a) In General.—The Secretary is autho ized and directed to undertake the follo ing:

(1) Accept a one-time payment of $450,0 from the District in lieu of the repayme obligation of paragraphs 8(d) and 11 of th Repayment Contract between the Unit States and the District (No. Ilr-1529) amended.

(2) Enter into an agreement for the tran fer of all of the operation and maintenan functions of the Platoro Dam and Rese voir, including the operation and maint nance of the reservoir for flood control pu poses, to the District. The agreement sha provide—

(A) that the District will have the excl sive responsibility for operations and th sole obligation for all of the maintenance the reservoir in a satisfactory condition f the life of the reservoir subject to review such maintenance by the Secretary ensure compliance with reasonable ope ation, maintenance and dam safety requi ments as they apply to Platoro Dam and Reservoir under Federal and State law; and

(B) that the District shall have the exclusive use of all associated facilities, including outlet works, remote control equipment, spillway, and land and buildings in the Platoro townsite.

(b) TITLE.—Title to the Platoro Dam and Reservoir and all associated facilities shall remain with the United States, and authority to make recreational use of Platoro Dam and Reservoir shall be under the control and supervision of the United States Forest Service, Department of Agriculture.

(c) AMENDMENTS TO CONTRACT.—The Secretary is authorized to enter into such other amendments to such Contract No. Ilr-1529, as amended, necessary to facilitate the intended operations of the project by the District. All applicable provisions of the Federal reclamation laws shall remain in effect with respect to such contract.

(d) CONDITIONS IMPOSED UPON THE DISTRICT.—The transfer of operation and maintenance responsibility under subsection (a) shall be subject to the following conditions:

(1)(A) The District will use its best efforts to operate the Platoro Dam and Reservoir in such a way as to provide—

(i) that releases or bypasses from the reservoir flush out the channel of the Conejos River periodically in the spring or early summer to maintain the hydrologic regime of the river; and

(ii) That any releases from the reservoir contribute to even flows in the river as far as possible from October 1 to December 1 so as to be sensitive to the brown trout spawn.

(B) Operation of the Platoro Dam and Reservoir by the District for water supply uses (including storage and exchange of water rights owned by the District or its constituents), interstate compact and flood control purposes shall be senior and paramount to the channel flushing and fishery objectives referred to in subparagraph (A).

(2)(A) The District will provide and maintain a permanent pool in the Platoro Reservoir for fish, wildlife, and recreation purposes, in the amount of 1,800 acre-feet, including the initial filling of the pool and periodic replenishment of seepage and evaporation loss.

(B) If, in addition to the pool referred to in subparagraph (A), the District commits to storage of water up to 1,200 acre-feet for the purpose of guaranteeing instream flows below the dam, the District will hold such additional storage and water to enhance the permanent pool unless and until needed for instream flow releases.

(3) The District shall maintain releases of water from the Platoro Reservoir of the least 5 cubic feet per second during the months of October through April. The District has previously agreed with the State of Colorado to subordinate its rights to those of the State to maintain instream flows of 40 cubic feet per second, or natural inflow if less, during the months of May through September.

(e) FLOOD CONTROL MANAGEMENT.—The Secretary of the Army, acting through the Chief of Engineers, shall retain exclusive authority over Platoro Dam and Reservoir for flood control purposes and shall direct the District in the operation of the dam for such purposes. To the extent possible, management by the Secretary of the Army under this subsection shall be consistent with the water supply use of the reservoir and with the administration of the Rio Grande Compact of 1939 by the Colorado State Engineer. The Secretary of the Army shall enter into a Letter of Understanding with the District and the United States Bureau of Reclamation prior to transfer of operations which details the responsibility of each party and specifies the flood control criteria for the reservoir.

(f) COMPLIANCE WITH COMPACT AND OTHER LAWS.—The transfer under section 2 shall be subject to the District's compliance with the Rio Grande Compact of 1939 and all other applicable laws and regulations, whether of the State of Colorado or of the United States.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "District" means the Conejos Water Conservancy District of the State of Colorado;

(2) the term "Federal reclamation laws" means the Act of June 17, 1902 (32 Stat. 388), and Acts supplementary thereto and amendatory thereof;

(3) the term "Platoro Reservoir" means the Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project; and

(4) the term "Secretary" means the Secretary of the Interior.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment, in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1118), as amended, was passed, as follows:

S. 1118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND DECLARATIONS.

The Congress finds and declares the following:

(1) Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project was built in 1951 and for all practical purposes has not been usable because of the constraints imposed by the Rio Grand Compact of 1939 on the use of the Rio Grand River among the States of Colorado, New Mexico and Texas.

(2) The usefulness of Platoro Reservoir under future compact compliance depends upon the careful conservation and wise management of water and requires the operation of the reservoir project in conjunction with privately owned water rights of the local water users.

(3) It is in the best interest of the people of the United States to:

(A) transfer operation, maintenance and replacement responsibility for the Platoro Dam and Reservoir to the Conejos Water Conservancy District of the State of Colorado, which is the local water user district with repayment responsibility to the United States, and the local representative of the water users with privately owned water rights;

(B) relieve the people of the United States from further financial risk or obligation in connection with the collection of construction charge repayments and annual operation and maintenance payments for the Platoro Dam and Reservoir by providing for payment of a one-time fee to the United States in lieu of the scheduled annual payments and termination of any further repayment obligation to the United States pursuant to the existing repayment contract between the United States and the District (Contract No. Ilr-1529, as amended); and

(C) determine such one time fee, taking into account the assumption by the District of all of the operations and maintenance costs associated with the reservoir, including the existing Federal obligation for the operation and maintenance of the reservoir for flood control purposes, and taking into account 50 percent sharing of the cost of maintaining a minimum stream flow as provided in section 2(d) of this Act.

SEC. 2. TRANSFER OF OPERATION AND MAINTENANCE RESPONSIBILITY OF PLATORO RESERVOIR.

(a) IN GENERAL.—The Secretary is authorized and directed to undertake the following:

(1) Accept a one-time payment of $450,000 from the District in lieu of the repayment obligation of paragraphs 8(d) and 11 of the Repayment Contract between the United States and the District (No. Ilr-1529) as amended.

(2) Enter into an agreement for the transfer of all of the operation and maintenance functions of the Platoro Dam and Reservoir, including the operation and maintenance of the reservoir for flood control purposes, to the District. The agreement shall provide—

(A) that the District will have the exclusive responsibility for operations and the sole obligation for all of the maintenance of the reservoir in a satisfactory condition for the life of the reservoir subject to review of such maintenance by the Secretary to ensure compliance with reasonable operation, maintenance and dam safety requirements as they apply to Platoro Dam and Reservoir under Federal and State law; and

(B) that the District shall have the exclusive use of all associated facilities, including outlet works, remote control equipment, spillway, and land and buildings in the Platoro townsite.

(b) TITLE.—Title to the Platoro Dam and Reservoir and all associated facilities shall remain with the United States, and authority to make recreational use of Platoro Dam and Reservoir shall be under the control and supervision of the United States Forest Service, Department of Agriculture.

(c) AMENDMENTS TO CONTRACT.—The Secretary is authorized to enter into such other amendments to such Contract No. Ilr-1529, as amended, necessary to facilitate the intended operations of the project by the District. All applicable provisions of the Federal reclamation laws shall remain in effect with respect to such contract.

(d) CONDITIONS IMPOSED UPON THE DISTRICT.—The transfer of operation and maintenance responsibility under subsection (a) shall be subject to the following conditions:

(1)(A) The District will use its best efforts to operate the Platoro Dam and Reservoir in such a way as to provide—

(i) that releases or bypasses from the reservoir flush out the channel of the Conejos River periodically in the spring or early summer to maintain the hydrologic regime of the river; and

(ii) that any releases from the reservoir contribute to even flows in the river as far as possible from October 1 to December 1 so as to be sensitive to the brown trout spawn.

(B) Operation of the Platoro Dam and Reservoir by the District for water supply uses (including storage and exchange of water rights owned by the District or its constituents), interstate compact and flood control purposes shall be senior and paramount to the channel flushing and fishery objectives referred to in subparagraph (A).

(2)(A) The District will provide and maintain a permanent pool in the Platoro Reservoir for fish, wildlife, and recreation purposes, in the amount of 1,800 acre-feet, including the initial filling of the pool and periodic replenishment of seepage and evaporation loss.

(B) If, in addition to the pool referred to in subparagraph (A), the District commits to storage of water up to 1,200 acre-feet for the purpose of guaranteeing instream flows below the dam, the District will hold such additional storage and water to enhance the permanent pool unless and until needed for instream flow releases.

(3) The district shall maintain releases of water from the Platoro Reservoir of at least 5 cubic feet per second during the months of October through April. The District has previously agreed with the State of Colorado to subordinate its rights to those of the State to maintain instream flows of 40 cubic feet per second, or natural inflow if less, during the months of May through September.

(e) FLOOD CONTROL MANAGEMENT.—The Secretary of the Army, acting through the Chief of Engineers, shall retain exclusive authority over Platoro Dam and Reservoir for flood control purposes and shall direct the District in the operation of the dam for such purposes. To the extent possible, management by the Secretary of the Army under this subsection shall be consistent with the water supply use of the reservoir and with the administration of the Rio Grande Compact of 1939 by the Colorado State Engineer. The Secretary of the Army shall enter into a Letter of Understanding with the District and the United States Bureau of Reclamation prior to transfer of operations which details the responsibility of each party and specifies the flood control criteria for the reservoir.

(f) COMPLIANCE WITH COMPACT AND OTHER LAWS.—The transfer under section 2 shall be subject to the District's compliance with the Rio Grande Compact of 1939 and all other applicable laws and regulations, whether of the State of Colorado or of the United States.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "District" means the Conejos Water Conservancy District of the State of Colorado;

(2) the term "Federal reclamation laws" means the Act of June 17, 1902 (32 Stat. 388), and Acts supplementary thereto and amendatory thereof;

(3) the term "Platoro Reservoir" means the Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project; and

(4) the term "Secretary" means the Secretary of the Interior.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MINERAL LEASING ACT AMENDMENTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 977, H.R. 5579, a bill to amend the Mineral Leasing Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5579) to amend section 28(w) of the Mineral Leasing Act, and for other purposes.

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

Mr. MITCHELL. I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. I ask unanimous consent that the Senate companion measure, S. 3017 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

VANCOUVER NATIONAL HISTORICAL RESERVE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 938, S. 2771, a bill to establish the Vancouver National Historical Reserve.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2771) to establish the Vancouver National Historical Reserve in the State of Washington, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. STATEMENT OF FINDINGS.

The Congress finds that—

(1) the city of Vancouver, Washington, has a unique array of contiguous historical sites and resources which chronicle important steps in the settlement and development of the Northwest, including—

(A) Forth Vancouver National Historic Site, the site of the Hudson's Bay Company trading post established in 1825;

(B) Vancouver Barracks, an active military installation since 1849;

(C) Officers' Row National Register Historic District, 21 adaptively rehabilitated military officers' quarters;

(D) Pearson Airpark, an early United States Army airfield and one of the oldest operating airports in the country; and

(E) the Columbia River, an early Northwest exploration and settlement corridor, including the route of the Lewis and Clark expedition, center of Indian trade, shipbuilding, and fishing;

(2) these historical asets are owned and managed by several governmental entities, including the National Park Service, the City of Vancouver, and the United States Army;

(3) sites within the Vancouver historical area are in a state of transition and are the focus of various proposals and initiatives;

(4) there is a lack of formal coordination of management or planning among the various entities; and

(5) failure to coordinate the planning and management within the historical area may result in lost opportunities to preserve and enhance irreplaceable historical sites and open space.

SEC. 2. VANCOUVER HISTORICAL STUDY COMMISSION.

(a) ESTABLISHEMENT.—There is hereby established a Vancouver Historical Study Commission which shall study and make recommendations regarding—

(1) the preservation, protection, enhancement, enjoyment, and utilization of the historic, cultural, natural, and recreational resources of the historical area; and

(2) the feasibility of establishing a Vancouver National Historical Reserve.

(b) MEMBERSHIP.—The Commission shall consist of the following five members:

(1) The Director of the National Park Service, or his designee.

(2) One individual appointed by the Secretary from among recommendations submitted by the Mayor of Vancouver to represent the City of Vancouver.

(3) The Secretary of the Army, or his designee.

(4) One individual appointed by the Secretary from among recommendations submitted by the Governor of Washington to represent the State Historic Preservation Office.

(5) One individual appointed by the Secretary to represent the general public.

(c) VACANCY.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(d) COMPENSATION.—Members of the Commission shall serve without pay. While away their homes or regular places of business in the performance of services for the commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under se citon 5703 of title 5 of the United States Code.

(e) CHAIRMAN.—The Chairman of the Commission shall be appointed by the Secretary.

(f) QUORUM.—3 members of the Commission shall constitute a quorum.

(g) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of its members.

(h) STAFF.—The Secretary shall provide the Commission with such staff and technical assistance as the Secretary, after consultation with the Commission, considers appropriate to enable the Commisison to carry out its duties. Upon request of the Secretary, any Federal agency may provide to the Commission, on a reimbursable basis, information, personnel, property, and services to assist in carrying out its duties under this Act. The Secretary may accept the service of personnel detailed from the State of Washington or any political subdivision of the State and may reimburse the State or such political subdivision for such services. The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(i) Termination of Commission.—The Commission shall terminate upon submission of the study report to the Secretary as provided in section 3.

SEC. 3. DUTIES OF THE COMMISSION.

(a) Report.—(1) The Commission shall prepare a report—

(A) specifying the results of the study required by section 2(a); and

(B) containing—

(i) an inventory and assessment of the historic, cultural, natural, and recreational resources located within the historical area;

(ii) specific preservation and interpretation goals;

(iii) proposed alternative management strategies whereby the funds, data, personnel, and authorities of public and private entities may be coordinated; and

(iv) recommendations concerning the continued operation of Pearson Airpark in a manner that will preserve and promote historic aviation and interpretation of the historical area, compatible with other historic and cultural resources of the historical area, including the Fort Vancouver National Historic Site.

(2) In making recommendations under paragraph (1)(B)(iv), the Commission shall assess—

(A) the impact of current airport operations on the preservation, use, and interpretation of historic and cultural resources in the historical area; and

(B) future operation of the airport taking into account mitigation measures as may be necessary to minimize the intrusion on adjacent historic and cultural resources.

(b) Development of Study.—In undertaking the study under section 2(a), the Commission shall—

(1) consult on a regular basis with appropriate officials of any local government or Federal or State agency which has jurisdiction over lands and waters within the historical area;

(2) consult with interested conservation, business, professional and citizen organizations; and

(3) conduct public hearings within the historical area; and at such other places as may be appropriate, for the purpose of providing interested persons with the opportunity to testify with respect to matters to be addressed by the study.

(c) Transmittal of Study Report.—Not later than eighteen months after the date funds are made available for the study, the Commission shall submit the report required under subsection (a) to the Secretary and the Secretary of the Army. The Secretary shall submit the report along with any comments or recommendations that the Secretary may wish to make to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within thirty days after receipt of such report from the Commission.

SEC. 4. DETERMINATION OF SUITABILITY OF CERTAIN REAL PROPERTY.

(a) Notification of the Secretary.—The Secretary of Defense shall notify the Secretary upon any determination by the Secretary of Defense that any real property located at the Vancouver Barracks is excess property of the Department of Defense.

(b) Review of Property by the Secretary.—Not later than ninety days after receiving notification from the Secretary of Defense under subsection (a), the Secretary shall—

(1) review the property that is the subject of the notification with respect to the suitability of all or part of the property for administration by the Secretary or the State of Washington or its political subdivisions; and

(2) report to the Congress the findings of that review and recommendations for any legislation.

SEC. 5. RESTRICTION ON DISPOSAL OR USE OF PROPERTY.

Notwithstanding any other provision of law, any real property located at the Vancouver Barracks that is determined by the Secretary of Defense to be excess property of the Department of Defense may not be disposed of or used by any Federal agency before the end of the one-year period following submission of the report to the Congress regarding such property under section 4(b).

SEC. 6. DUTIES OF OTHER FEDERAL ENTITIES.

Any Federal entity conducting or supporting activities directly affecting the historical area shall—

(1) consult with the Secretary and the Commission with respect to such activities;

(2) cooperate with the Secretary and the Commission in carrying out its duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner consistent with the provisions of this Act.

SEC. 7. DEFINITIONS.

As used in this Act—

(1) the term "Commission" means the Vancouver Historical Study Commission established by section 2; and

(2) the term "historical area" means the area which incorporates those resources listed in section (1);

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

Mr. HATFIELD. Mr. President, section 3 of the bill calls on the Vancouver Historical Study Commission to prepare a report containing an inventory and assessment of the area, preservation, and interpretation goals, management strategies, and recommendations concerning the Fort Vancouver Area and, specifically, Pearson Airpark. It is this last requirement that I would like to have the committee and the bill's sponsor clarify.

Subparagraph (a)(1)(B)(iv) requires the Commission to develop "recommendations concerning the continued operation of Pearson Airpark in a manner that will preserve and promote historic aviation and interpretation of the area, compatible with other historic and cultural resources of the area, including Fort Vancouver National Historic Site.

It is my understanding that this provision would not limit the Commission's ability to develop any number of alternative recommendations with respect to the operation of Pearson Airpark which may include removing that portion of the airpark which exists on Park Service land, continuing the airpark as it is currently being managed, or any alternative management option.

Mr. BUMPERS. The Senator is correct. The Commission would be free to develop a number of different recommendations regarding the operation of Pearson Airpark. Section 3 does require that the Commission address the issue of the continued operation of Pearson Airpark. It requires that the Commission assess the impact of the airpark on other resources, and it calls on the Commission to assess mitigation measures that would minimize the intrusion on adjacent resources. But nothing in the bill limits the ability of the Commission to develop alternative recommendations.

Mr. ADAMS. As one of the sponsors of the Senator's bill, I would like to state that this is also my interpretation of the bill's provision to look at all management options for the area without preordaining the outcome with respect to the Commission's overall recommendation. Specifically, the Commission is able to make recommendations on management options with respect to the Pearson Airpark in addition to the proposal to continue operation.

Mr. HATFIELD. Mr. President, I rise today in support of S. 2771, a bill to establish the Vancouver Historical Study Commission. As many of my colleagues may be aware, Fort Vancouver is located in Vancouver, WA, which is located across the Columbia River from Portland, OR. A conflict among several local interest groups has arisen over continuing the operation of the Pearson Airpark which is located adjacent to the fort on land which is partially owned by the Park Service.

S. 2771 sets up a commission in order to suggest future management of Fort Vancouver and its adjacent lands and, specifically, Pearson Airpark—a process which I support. However, during the consideration of S. 2771 in the Senate Energy and Natural Resources Committee I indicated that I had concerns over some of the bill's provisions. Those concerns rested with the language outlining the Commission's duties. If we are going to set up a commission to judge the substantive merits of a case, it is important that it be able to render an unbiased overall recommendation on its findings. It is on this point that I would like to enter into a colloquy with the chairman of the Public Lands Subcommittee, Senator Bumpers, and the bill's sponsor, Senator Adams.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the the committee amendment in the nature of a substitute.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 5144, the House companion bill, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5144) to provide for the study of certain historical and cultural resources located in the city of Vancouver, Washington, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HATFIELD. Mr. President, will the Senator from Washington, [Mr. Adams] yield for a question?

Mr. ADAMS. I will be happy to yield to my friend from Oregon.

Mr. HATFIELD. It has come to my attention that Fort Vancouver and the surrounding historic area lies in the flight path of Portland International Airport, which serves both of our States. In fact, fully 25 percent of all arriving flights use an approach that brings planes directly over the proposed reserve.

I am told that this flight path has been designed in order to minimize the impact of aircraft noise on residential areas in Vancouver. My question is whether there is anything in this legislation that will prohibit overflights of the Fort Vancouver area by aircraft serving Portland International Airport?

Mr. ADAMS. There is no such prohibition in this legislation or any current Federal regulation of which I am aware. In addition, I assure my friend that there is no intention on the part of the sponsors to in anyway, impact flight patterns at Portland International Airport if they serve to increase the efficiency and safety of that airport and reduce noise in residential areas.

Mr. HATFIELD. I thank the Senator.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 5144) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table

The motion to lay on the table was agreed to.

Mr. MITCHELL. I ask unanimous consent that S. 2771 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

REIMBURSEMENT OF CERTAIN EXPENSES FOR TESTING CATTLE FOR BRUCELLOSIS ORGANISMS

Mr. MITCHELL. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 937, S. 1767, a bill to reimburse Montana and individuals for expenses incurred in testing cattle for organisms carried outside Yellowstone National Park by elk and bison, and for other purposes.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1767) to reimburse Montana and individuals for expenses incurred to test cattle for brucellosis organisms carried outside Yellowstone National Park by elk and bison, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 1767

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that—

(1) Yellowstone National Park has no effective means to keep free roaming elk and bison from crossing into **[**Montana private lands**]** *private lands in Montana, Wyoming and Idaho* in search of food and shelter, which is a **[**defacto**]** *de facto* expansion of the Federal holdings;

(2) 50 percent of the Yellowstone bison harvested outside Yellowstone National Park in the winter of 1989 were tested positive for the brucellosis organism;

(3) Yellowstone National Park officials believe that attempts to control brucellosis in elk and bison herds would violate the responsibilities to preserve and protect natural processes;

(4) Yellowstone National Park officials have determined that the National Park Service has no legal jurisdiction over, or liability for, animals that are outside the boundaries of Yellowstone National Park;

(5) brucellosis is a very infectious disease that causes cows to abort calves;

(6) **[**Montana is a brucellosis-free state with a cattle industry that represents millions of dollars to the economy;**]** *Montana, Wyoming, Idaho and North Dakota (except for areas within Yellowstone National Park) are brucellosis-free States with cattle industries that represent millions of dollars to their economies;* and

(7) **[**Montana**]** *Montana, Wyoming, Idaho and North Dakota* must continue to test cattle for brucellosis contamination and to destroy animals infected with brucellosis in order to ensure that herds are kept disease free.

SEC. 2. REIMBURSEMENT FOR COSTS.

(a) In General.—The Secretary of *the* Interior shall reimburse **[**Montana, the individual cattle-owners in Montana, or both**]** *the cattle owners of Montana, Wyoming and Idaho and the governments of those states* for the cost of testing cattle for brucellosis if there is a demonstrated risk of such cattle becoming infected with brucellosis due to exposure to national park herds.

(b) Validity of Claims.—A claimant for reimbursement under subsection (a) shall prove the validity of such claim by presenting bills or other explanations of expenses to the Secretary of *the* Interior.

SEC. 3. AUTHORIZATION.

There are authorized to be appropriated to carry out this Act $50,000 for fiscal year 1990, $50,000 for fiscal year 1991, and $50,000 for fiscal year 1992.

AMENDMENT NO. 2999

Mr. MITCHELL. Mr. President, on behalf of Senator Johnston, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. Mitchell], for Mr. Johnston, proposes an amendment numbered 2999.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 12, strike "Wyoming" and insert in lieu thereof "Wyoming, North Dakota".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2999) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendments, as amended.

The committee amendments, as amended, were agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1767

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that—

(1) Yellowstone National Park has no effective means to keep free roaming elk and bison from crossing into private lands in Montana, Wyoming, and Idaho in search of food and shelter, which is a de facto expansion of the Federal holdings;

(2) 50 percent of the Yellowstone bison harvested outside Yellowstone National park in the winter of 1989 were tested positive for the brucellosis organism;

(3) Yellowstone National Park officials believe that attempts to control brucellosis in elk and bison herds would violate the responsibilities to preserve and protect natural processes;

(4) Yellowstone National Park officials have determined that the National Park Service has no legal jurisdiction over, or liability for, animals that are outside the boundaries of Yellowstone National Park;

(5) brucellosis is a very infectious disease that causes cows to abort calves;

(6) Montana, Wyoming, Idaho, and North Dakota (except for areas within Yellowstone National Park) are brucellosis-free States with cattle industries that represent millions of dollars to their economies; and

(7) Montana, Wyoming, Idaho, and North Dakota must continue to test cattle for brucellosis contamination and to destroy animals infected with brucellosis in order to ensure that herds are kept disease free.

SEC. 2 REIMBURSEMENT FOR COSTS.

(a) In General.—The Secretary of the Interior shall reimburse the cattle owners of Montana, Wyoming, North Dakota, and Idaho and the governments of those States for the costs of testing cattle for brucellosis if there is a demonstrated risk of such cattle becoming infected with brucellosis due to exposure to national park herds.

(b) Validity of Claims.—A claimant for reimbursement under subsection (a) shall prove the validity of such claim by presenting bills or other explanations of expenses to the Secretary of the Interior.

SEC. 3. AUTHORIZATION.

There are authorized to be appropriated to carry out this Act $50,000 for fiscal year 1990, $50,000 for fiscal year 1991, and $50,000 for fiscal year 1992.

Mr. MITCHELL. I move to reconsider the vote by which the bill, as amended, was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read: "A bill to reimburse cattle owners in Montana, Wyoming, Idaho, and North Dakota and the governments of those States for expenses incurred to test cattle for brucellosis organisms carried outside certain units of the National Park System by elk and bison, and for other purposes.".

SOUTHEAST LIGHT RELOCATION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 931, S. 3160, a bill to authorize the relocation of the Southeast Light on Block Island, RI.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk reads as follows:

A bill (S. 3160) to authorize the relocation of the Southeast Light on Block Island, Rhode Island.

There being no objection, the bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3160

Be in enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TITLE.

This Act may be cited as the "Southeast Light Relocation Act of 1990".

SECTION 2. DEFINITIONS.

For the purposes of this Act, the term "Secretary" means the Secretary of the Army.

SECTION 3. PROJECT AUTHORIZATION.

The Secretary is directed to relocate the Southeast Light on Block Island, Rhode Island to a more suitable location. There is authorized to be appropriated to the Secretary the lesser of $970,000 or 50 per centum of the total cost of relocating the structure.

Mr. MITCHELL. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator Akaka be recognized to address the Senate this evening, and that at the conclusion of his remarks, the Senate stand in recess under the order until 9 a.m. tomorrow, Tuesday, October 16.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I understand the distinguished Republican leader will address the Senate now prior to Senator Akaka coming over.

I thank my colleague.

TAX FAIRNESS

Mr. DOLE. Mr. President, I will just take a minute to underscore what I said earlier today about the so-called Ways and Means Democratic plan on the House side. There is no doubt about it. Middle-class taxpayers are going to pay more under the deficit reduction plan. A typical $50,000 a year, four-member family could face a $402-income tax increase next year under a deficit reduction proposal backed by many House Democrats. That is not my statement. It is in a wire story.

It goes on to point out what we are doing in an effort to raise about $30 billion, only 1 percent of which would be raised from those with incomes more than $200,000.

So I have had all the talk about fairness. I have listened to all of it come from the other side—about how we have to go after the rich, whoever they are.

I think there is a fatal flaw in this, and there are probably others, but I address this one now. Indexing was put into the Tax Code, I might say, over the objections of the Reagan administration in 1981.

There was an amendment on the Senate floor by the distinguished senior Senator from Colorado [Mr. Armstrong]. I joined Senator Armstrong. In fact, we worked together for 2 or 3 years on indexing. Over the objections of the administration and others, it prevailed by a vote of 60-some to 30-some. What it says, in effect, is that the working people should not have to pay taxes on inflation.

Why should somebody working for a living have taken out of their check taxes on inflation they never received? In my view, it is probably the single most important part of the 1981 tax bill and probably will receive less attention because, to some, it is hard to explain.

We also indexed the personal exemptions, again, so that working people and people with children would not have their exemption eroded away by inflation.

I must say, I was surprised when I picked up a copy of the Democratic House plan, which seems to have captured the imagination and attention of a lot of people, because it is painless. It is not painless for working men and women in America. If you are out there working for a living, and you have children, and you are not rich, then beware of this Democratic plan that will cause a couple earning $50,000 about a $402 increase; a $30,000 couple would pay $90 more in income taxes; and we will have numerous other examples tomorrow afternoon, the next day and the next day.

I just suggest that in all the rush to characterize different plans and different statements and different ideas, and what is fair and what is unfair, there is no doubt in my mind that this one gets the blue ribbon. This idea gets the blue ribbon or the gold cup for the worst tax idea of the year.

I say to working people in America, wherever they may be, and whoever

they may be, Republicans, Democrats, independents, whatever: When someone tells you that the so-called Democratic Ways and Means package is painless, take a look at your paycheck and figure it out for yourself; see what it does to your personal exemptions, the so-called bracket creep.

Remember, a Republican idea passed in 1981, a Republican amendment on the Senate floor, not in the House bill; it was a Senate amendment. As the distinguished senior Senator from Colorado leaves the Senate, I hope he will protect what I believe is the best tax policy amendment that I have considered in the time I have been in the U.S. Senate.

But although the freeze will be only for 1 year, the story points out, personal exemptions and bracket adjustments would forever be 1 year lower than they would have been if the adjustment had gone through on schedule. Thus, every person's taxes would always be higher than otherwise.

So they can say it is only for a year. It is going to have an impact from then on; they are going to pay more taxes.

So I congratulate those who have called this to our attention and to the attention of the wire services and, hopefully, when the package shows up, this will not be in it. There will be a number of other provisions not in it either.

So I urge my colleagues, before they rush to judgment and rush to embrace this great package that seems painless, introduced by the chairman of the House Ways and Means Committee, my friend, Chairman Rostenkowski, to take a close look and read the fine print. If you are from an oil producing State, there are no incentives for more production, more exploration. The last time I checked, that is why we were fighting in the gulf, because we have an energy problem. We import too much oil.

There are a lot of other things. There are no extenders. A lot of people say what about the targeted jobs credit. We have to have low-income housing credit. There are none in the so-called Democratic Ways and Means package. How are they going to pay for those?

I guess it is easy to draft an alternative plan and say we are going to soak it to the rich—whoever the rich may be. In its simplest terms, the so-called Rostenkowski package, the Ways and Means package, is a $93 to $94 billion income tax increase, income tax increase; $94 billion, plus all the excise taxes that hit working people, too, and $30 to $94 billion out of the pockets of working men and women.

I underscore that only 1 percent of those making over $200,000 would be impacted by the 1-year delay on indexing.

So for all the right reasons, I hope that my colleagues on either side of the aisle who may have been favorably considering this package would take a hard look at it.

Mr. President, I yield the floor.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a-1928d, as amended, appoints the following Senators as members of the Senate delegation to the North Atlantic Assembly Fall Meeting during the 2d session of the 101st Congress, to be held in London, England, November 25–30, 1990:

The Senator from Rhode Island, Mr. Pell; the Senator from Ohio, Mr. Metzenbaum; the Senator from Maryland, Mr. Sarbanes; the Senator from Oklahoma, Mr. Boren; the Senator from Alabama, Mr. Heflin; the Senator from Washington, Mr. Adams; and the Senator from Georgia, Mr. Fowler.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the distinguished Senator from Hawaii.

TRANSPORTATION OF CHEMICAL MUNITIONS TO JOHNSTON ATOLL

Mr. AKAKA. Mr. President, I rise today to thank the chairman, the senior Senator from Hawaii, Danny Inouye; the ranking member, the Senator from Alaska, Mr. Stevens; and other members of the Subcommittee on Defense Appropriations for including my bill to prohibit future shipments of chemical weapons to Johnston Island in the defense appropriations bill for fiscal year 1991.

Today, the people of Hawaii and the Pacific can breath easier with a sigh of relief. We can rest easier knowing that future shipments of chemical weapons to Johnston Island will be prohibited under the legislation passed by the Senate tonight.

The Federal Government has a duty to protect the health of the people of the Pacific. If the administration will not halt these shipments, then Congress must step in and act. It is unfair to expect the Pacific alone to shoulder the entire burden of chemical munitions disposal. It is only reasonable and just that the rest of the Nation share in this responsibility as well.

The inclusion of my provision in the defense appropriations bill ensures that the Pacific does not become the world's chemical dumping ground. It will also alleviate many of the concerns held by the people in the Pacific that Johnston Island may be come a toxic wasteland.

I am pleased that the Defense Appropriations Subcommittee recognized that this is an obligation we must all share, and I appreciate the compassion and understanding of the members of this subcommittee.

Mr. President, the people of Hawaii will breathe a sigh of relief. The Senate has done a great job to help the people of the Pacific.

Thank you, Mr. President. I yield the floor.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. on Tuesday, October 16; that the time for the two leaders be reserved for their use later in the day, the Journal of proceedings be deemed approved to date, and that there be a period for morning business not to extend beyond 9:30 a.m.; that Senator Dodd be permitted to speak for up to 15 minutes and Senator Sanford be permitted to speak for up to 10 minutes; that other morning business speeches be limited to minutes.

I further ask unanimous consent that at 9:30 a.m., the Senate proceed to the consideration of the conference report on S. 2104, the civil rights bill and that the Senate stand in recess between 12:30 p.m. and 2:15 p.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until tomorrow morning at o'clock.

Thereupon, the Senate, at 8:31 p.m. recessed until Tuesday, October 16, 1990, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 15, 1990:

DEPARTMENT OF STATE

WILLIAM W. TREAT, OF NEW HAMPSHIRE, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 45TH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

THE JUDICIARY

JAMES R. MCGREGOR, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA VICE GERALD J. WEBER, RETIRED.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 15, 1990:

NATIONAL COUNCIL ON DISABILITY

MICHAEL B. UNHJEM, OF NORTH DAKOTA, TO BE MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR THE REMAINING OF THE TERM EXPIRING SEPTEMBER 17, 1990.

MICHAEL B. UNHJEM, OF NORTH DAKOTA, TO BE MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1993.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

RICHARD C. HACKETT, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 1993.

NATIONAL SCIENCE FOUNDATION

PERRY L. ADKISSON, OF TEXAS, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION FOR A TERM EXPIRING MAY 10, 1996.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

J. MICHAEL FARRELL, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR THE REMAINDER OF THE TERM EXPIRING JULY 19, 1992.

RAILROAD RETIREMENT BOARD

ANDREW F. REARDON, OF ILLINOIS, TO BE A MEMBER OF THE RAILROAD RETIREMENT BOARD FOR THE TERM OF FIVE YEARS FROM AUGUST 29, 1988.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Monday, October 15, 1990*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we meditate upon the concerns of people and as we view the turmoil of our world, we see so clearly the difficulties that press in on every side. Yet, we know too, O gracious God, that Your light is in the midst of the world's darkness, and Your star of hope can be seen over all the uncertainty and pain of the day. We pray, O loving God, that we will see Your brightness and hear Your good word, a brightness and a word that can change people and give new hope to all our communities. As we seek to do our duty, may Your light be in our minds and Your love be in our hearts, this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Florida [Mr. Goss] please come forward and lead the House in the Pledge of Allegiance.

Mr. GOSS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3095. An act to amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of medical devices, and for other purposes, and

H.R. 4238. An act to amend the Public Health Service Act to extend various programs with respect to vaccine-preventable disease.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 3095) "An Act to amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of medical devices, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. PELL, Mr. METZENBAUM, Mr. DODD, Mr. HATCH, Mr. DURENBERGER, and Mr. COATS, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 364. Joint resolution to designate the third week of February 1991 as "National Parents and Teachers Association Week."

The message also announced that, pursuant to Public Law 100-418, the Chair on behalf of the majority leader and the Republican leader, appoints: Mr. Jack Barry, as representative from the labor community; Dr. Bruce Scott, as representative from the academic community; the Honorable Michael Hayden, as representative from State or local government; and Mr. Rand Araskog, as representative from the business community; as members of the Competitive Policy Council.

OIL WINDFALL PROFIT TAX URGED

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I was home this weekend, and as the pundits and pollsters have said, the people are uneasy and not totally happy, but it is not just with the question of the budget. Though I do hope this week we can unravel the snarls and get that done. The people are very much upset, and I concur in their upset, about the profiteering of the big oil companies.

As we recall, back in August, Saddam Hussein's forces had barely crossed the Kuwait border before—almost immediately—the gas prices went up at the pump. The high-priced oil had not even gotten to the barges, much less across the ocean, much less, into the underground tanks as processed gasoline before the prices went up. The fact of the matter is that big oil makes big profits, and they are making it upon the backs of an awful lot of people in America.

I would hope that when the situation of Desert Shield has been decided, that we will be able to look at oil profits and perhaps enact some kind of an oil windfall profit tax. It is not fair to the American people to let these oil companies get away with this kind profit, at their expense.

SOLUTION TO GOVERNMENT SHUTDOWN THREAT

(Mr. GEKAS asked and was give permission to address the House for minute and to revise and extend h remarks.)

Mr. GEKAS. Mr. Speaker, here v go again. In a few short days we fa this threat of the shutdown of o Government. That is disgraceful. Tl American people cannot tolerate tha

We have a solution for it. There is proposal which we want to present the Committee on Rules on Reconci ation today which would say that the Congress of the United Stat should fail to produce a budget September 30, the end of the fisc year, that the next day automatical last year's budget should be enacte and that would continue until tl Congress found the will and tl muscle to pass an appropriate budge

It would do no harm to any of o processes, and we would actually sa money. A kind of freeze would ent the picture, and we would be able be free of the threat for Federal er ployees, that they do not have a pla to report to for work, and the thre of a shutdown of Government wou be set aside forever. I urge Members support our efforts in that regard.

MODIFICATIONS OF APPOIN MENT OF CONFEREES ON H. 4739, NATIONAL DEFENSE A THORIZATION ACT FO FISCAL YEAR 1991

The SPEAKER. The Chair desir to announce modifications in the a pointment of conferees on H.R. 473 National Defense Authorization A for fiscal year 1991 and the Sena amendment thereto.

Under the previous order of tl House of October 5, 1990, the Speak hereby modifies the appointment conferees on the bill, H.R. 4739, follows:

At the end of the appointment a the following new paragraph:

As additional conferees from tl Committee on Agriculture, for consi eration of section 2823 of the Sena amendment, and modifications co mitted to conference: Messrs. VOLKME JOHNSON of South Dakota, HARRI OLIN, CAMPBELL of Colorado, ROBERT (BOB) SMITH, COMBEST, and MARLENE

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Immediately after the paragraph naming additional conferees from the Committee on Energy and Commerce, insert the following proviso: Provided that Mr. MARKEY is appointed in place of Mr. ECKART for consideration of sections 2851 and 2852 of the House bill.

In the paragraph naming additional conferees from the Committee on Interior and Insular Affairs, replace Mr. YOUNG of Alaska with Mrs. VUCANOVICH.

In the paragraph naming additional conferees from the Committee on Post Office and Civil Service, strike "1502(b)" and insert in lieu thereof "1502".

REDUCE BLOATED MILITARY BUDGET

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, the New York Times did it again. They told it like it is! In the lead editorial yesterday, the Times said that "Americans can walk and chew gum at the same time."

Mr. Speaker, so can the Congress.

That means we must work diligently and effectively toward reducing the deficit and at the same time begin to face the challenge of our enormous unmet needs.

Under both the Senate and House versions of the budget before us, there will be strict limits on spending for 5 years. Any new program spending must come from savings elsewhere. Fortunately, these funds are available from two places where we can squeeze out the fat and cut waste—the Defense budget and the health care system. If Congress has the courage and will, we can liberate badly needed funds that are currently being misused. This is the major challenge for the 102d Congress that will begin next year.

Mr. Speaker, there are two great sources of funding available to us today, to meet the urgent needs of our society. The first is the military budget, which is bloated beyond belief, a military budget poised and focused on the worst days of the cold war. We do not need star wars with its $20 billion price tag. We do not need the B-2 bomber at $2.3 billion each. We do not need mobile missiles that cost billions more. The Soviet Union is no longer a major threat. They are cooperating with the United States in the Middle East. They are supporting the U.N. resolution, and American goals. We can save tens of billions this year alone, and hundreds of billions over the next decade and beyond.

□ 1210

Secretary McNamara advocated that we cut our military budget by 50 percent in 10 years. That means roughly $15 billion a year cumulatively. We can, we must, do this.

Another great area of unmet needs is in our bloated, wasteful health care system. Experts have testified before the Joint Economic Committee that we can save $100 billion a year there, too, not only without cutting a single service, but enhancing services for our seniors and a wide range of others. We can meet our unmet needs from that pot.

We can provide long-term and catastrophic care to our senior citizens. We can provide access to the health care system to the 31 million Americans currently excluded. We can educate our kids. We can provide quality training to our noncollege youth so that they can readily enter the work force and ensure a competitive economy. We can maintain our roads, bridges, tunnels, water and sewer systems.

Mr. Speaker, with billions available in wasted spending in just these two areas, there is no reason we cannot wisely reduce the deficit, expand intelligent social programs, and maintain our desired standard of living.

Let's get on with it.

A KINGDOM DIVIDED AGAINST ITSELF CANNOT STAND

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, what has gone on in this town the last couple of weeks is embarrassing.

The American people are disgusted with what is going on in Washington and in the Congress. They are tired of seeing the constant bickering and personal attacks. They are tired of inaction. They are fed up with threats about shutting the Government down.

Some in Congress and the administration want to resolve the budget crisis this way. Some want to do it that way. The American people want it done and they expect us to do it and do it soon.

In the Bible it says:

> If a kingdom is divided against itself, that kingdom cannot stand. If a house is divided against itself that house cannot stand.

Let us work together.

TERRORISTS USE AMERICAN WEAPONS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, since 1984 weapons stolen from the Army were involved in the killing of 13 Americans and another 165 were injured. Guns, grenades, mines, explosives, and even rockets turned up in the hands of drug dealers, mercenaries, and hitmen throughout our Nation.

Antitank weapons capable of blowing up this Capitol were found and recovered in major cities.

A GAO report says, quite right to the point, that terrorists today can attack America with American weapons.

To give you some idea, in the last 10 years our Government agents recovered 5 tons of TNT and C-4 plastics. A 4-ounce C-4 plastic explosive can knock out a 747.

Mr. Speaker, I think it is time that we do more than just listen to what the GAO studies say and take a look at what is going on at the Pentagon.

By the way, they said the only accounting system they have when they find out something is missing is when it turns up on a police report.

MIKHAIL GORBACHEV AND THE NOBEL PEACE PRIZE

(Mr. COX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX. Mr. Speaker, Mikhail Gorbachev has won the Nobel Peace Prize. It must have been a full Moon in Oslo when they came up with this idea.

Consider just some of the things that Gorbachev has done to earn the Nobel Peace Prize:

He used poison gas against Georgian citizens in Tbilisi.

He continues to arm Fidel Castro, and his worldwide terrorist network.

This year alone, he has pumped over $3 billion into the continued barbaric war against the Afghan people.

He has tried to crush the peaceful democratic movements in Lithuania, Latvia, and Estonia.

His military advisers, even now, continue to assist Saddam Hussein as he plots chemical warfare against American troops.

And while Gorbachev is taking credit for the liberalization of Eastern Europe, news reports tell us that his KGB is infiltrating the newly united Government of Germany.

Well, at least the man on the street in Moscow knows that Gorbachev will never receive the Nobel Prize in economics. But perhaps, now that Gorbachev has received the Nobel Peace Prize, we can also look forward to "Two Live Crew" winning the Nobel Prize in literature, and Roseanne Barr winning the Nobel Prize in music.

MIKHAIL GORBACHEV AND THE NOBEL PEACE PRIZE

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, the announcement came out today, as my friend, the gentleman from California has said, that Mikhail Gorbachev received the Nobel Peace Prize for 1990. I would like to join with the rest of the world in extending congratulations to President Gorbachev.

A number of things were underscored as this award was given. They said that he received it for the role that he played in the liberalization of Eastern Europe.

We have to recognize that the role he played was in not limiting preventing the liberalization of Eastern Europe.

The other statement that was made in granting the award, Mr. Speaker, was that he has brought about tremendous changes within the Soviet Union. We have to recognize that both perestroika and glasnost still have a long way to go as we move down this road, and as has been said also by my friend, the gentleman from California [Mr. Cox], we have to recognize that the Soviet Union continues to pump $17 billion a year into propping up left wing liberal dictatorships which have imposed repression on their peoples.

I congratulate President Gorbachev for being the recipient of this award. Now let us take and move it forward and make these desperate changes that the people of the world want.

THE BUDGET CRISIS

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, I think that the people of this country ought to know how serious this budget deficit really is and what Congress and the administration are doing about it.

The President called for a $500 billion deficit reduction plan and the people were told that this was going to be significant; but $500 billion will not pay half of the interest by the end of 5 years on the national debt, and a $500 billion deficit still will leave the United States with a $300 billion annual deficit, and the national deficit is going to increase to over $4 trillion. And why is that?

Well, there are a lot of reasons, but it is the credit card mentality of borrow and spend of the Bush and Reagan administrations over the past 10 years. They have given away $2 trillion to the wealthy and to corporate America, not getting anything back for it, and then they blame the little guy who keeps asking for handouts, the little bit that the little people need, the elderly who want Medicare, the veterans who want their benefits and they want health care, low and moderate income people who have funded most of this country for all those years. They have paid their way. Now I think it is up to the big guy to pay his.

ECONOMY IS MIRED IN DEEP SUNUNU

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, this economy is mired in deep Sununu. This economy is teetering on the brink of going over the edge while Sununu plays with it, like the cat and the mouse.

We have all sorts of very interesting budget proposals on the House and the Senate side, and yet Sununu will not let us through the door to talk to the big man in the big White House.

I think this economy is much too serious to play with. I think it is time for the President of the United States to give Sununu movie money and take back the reins of power.

This is the week we should get down to business. Let us dig this economy out of deep Sununu and get it back on the road to recovery.

MESSAGE FROM CONSTITUENTS

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, I have just returned from my district. The weekend was made up, among other things, of one picnic, two receptions, one dance, a Pulaski Day parade, and a spaghetti supper.

I received a message from my constituents. It was very clear. It was, "BARBARA, what are you people doing? Why can't you finish the job we sent you down there for? Why don't you get us a budget?"

They did not talk about progressivity tables. They did not talk about providers vis-a-vis beneficiaries. They did not even insist that the bubble be burst or not burst.

□ 1220

What they said was, "We pay you to do the budget. Why don't you do it?" In fact, I think the man on the parade route said it best. He shouted out, "BARBARA, what are you doing here? Go back to Washington and do your job."

Mr. Speaker, I hope my colleagues had the same experience I did this weekend. We all represent good people, people who believe in their Government but people who want their Government to act responsibly.

Mr. Speaker, I hope this week we vote. I hope if we have to, and I certainly hope we do not have to, override and go home.

OUR UNFAIR TAX POLICY

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, the hour is late. This country faces hemorrhaging deficits and a crisis of confidence, and there is no more time for politics as usual.

We have got to reduce these crippling deficits.

How do we do that? First of all, we do have to cut some spending, and that is a fact. Second, the wealthy in this country have to start paying their fair share of taxes, and that is a fact too.

In the past decade, the rich have gotten much richer, and yet their tax burden relative to what everybody else pays has decreased.

So you'd think the President would agree with us that those who make a couple of hundred thousand dollars a year should pay a fair proportion of their income in taxes.

But no; the President says, "I really want a capital gains tax cut that will give the major benefits to the rich."

You know, the way this debate has unfolded reminds me of a lyric from Bob Wills of the Texas Playboys back in the 1930's. It goes, "The little bee sucks the blossom, but the big bee gets the honey. The little guy picks the cotton, and the big guy gets the money."

Mr. President, it is time to stand up for the little guy, the one who does not have a million dollars, the one who works all day, the one who is tired of paying his tax and the tax of his wealthy neighbor as well. It is the little guy who needs a little help. They demand and deserve a tax system that is fair for everybody.

LEGISLATION TO CONDEMN ANY LINKAGE BETWEEN THE POLICIES AT ONE END OF THE MIDDLE EAST IN THE PERSIAN GULF AND AT THE OTHER END IN ISRAEL

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, this weekend the fact that the United States not only failed to veto but led the charge for a U.N. resolution condemning Israel will come to be regarded as our first major blunder in the Persian Gulf war. Like it or not, our actions will be seen as a wink at Saddam Hussein, inside and outside of Iraq, as a palliative act of weakness.

It confirms what many had feared, that despite administration denials, there is linkage between our policy in the Persian Gulf and our policy toward Israel. And when Saddam Hussein looks and sees when time after time after time resolutions in the United Nations that condemned Israel were vetoed by the United States but now we are behind one, he is going to say that we are weakening and we will give in if he stays strong.

To combat that kind of feeling, the gentleman from California [Mr. Levine] and I are introducing a resolution that will condemn any linkage and state that the United States policy should be for no linkage between the policies at one end of the Middle East in the Persian Gulf and at the other end in Israel.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. Mazzoli). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

However, many recorded votes ordered on suspensions debated prior to consideration of H.R. 5769, the Interior appropriations bill, will be taken after consideration of H.R. 5769. Any rollcall votes ordered on suspensions debated following disposition of H.R. 5769 will be taken on Tuesday, October 16, 1990.

VETERANS' COMPENSATION AMENDMENTS OF 1990

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5326) to amend title 38, United States Code, to revise the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans, to make miscellaneous improvements in veterans' compensation and pension programs, to provide a presumption of service-connection between the occurrence of certain diseases incurred by veterans of active service in Vietnam during the Vietnam era and exposure to certain toxic herbicide agents used in Vietnam, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5326

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE, AND TO SECRETARY OF VETERANS AFFAIRS.

(a) Short Title.—This Act may be cited as the "Veterans' Compensation Amendments of 1990".

(b) References to Title 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

(c) References to Secretary.—Except as otherwise expressly provided, any reference in this Act to "the Secretary" is a reference to the Secretary of Veterans Affairs.

TITLE I—COMPENSATION RATE INCREASES

SEC. 101. DISABILITY COMPENSATION.

(a) Rounded Down 4.5 Percent Increase.—Section 314 is amended—

(1) by striking out "$76" in subsection (a) and inserting in lieu thereof "$79";

(2) by striking out "$144" in subsection (b) and inserting in lieu thereof "$150";

(3) by striking out "$220" in subsection (c) and inserting in lieu thereof "$229";

(4) by striking out "$314" in subsection (d) and inserting in lieu thereof "$328";

(5) by striking out "$446" in subsection (e) and inserting in lieu thereof "$466";

(6) by striking out "$562" in subsection (f) and inserting in lieu thereof "$587";

(7) by striking out "$710" in subsection (g) and inserting in lieu thereof "$741';

(8) by striking out "$821" in subsection (h) and inserting in lieu thereof "$857";

(9) by striking out "$925" in subsection (i) and inserting in lieu thereof "$966";

(10) by striking out "$1,537" in subsection (j) and inserting in lieu thereof "$1,606";

(11) in subsection (k)—

(A) by striking out "$66" both places it appears and inserting in lieu thereof "$68"; and

(B) by striking out "$1,911" and "$2,679" and inserting in lieu thereof "$1,996" and "$2,799", respectively;

(12) by striking out "$1,911" in subsection (l) and inserting in lieu thereof "$1,996";

(13) by striking out "$2,107" in subsection (m) and inserting in lieu thereof "$2,201";

(14) by striking out "$2,397" in subsection (n) and inserting in lieu thereof "$2,504";

(15) by striking out "$2,679" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,799";

(16) by striking out "$1,150" and "$1,713" in subsection (r) and inserting in lieu thereof "$1,201" and "$1,790", respectively; and

(17) by striking out "$1,720" in subsection (s) and inserting in lieu thereof "$1,797".

(b) Special Rule.—The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 102. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 315(1) is amended—

(1) by striking out "$92" in clause (A) and inserting in lieu thereof "$96";

(2) by striking out "$155" and "$48" in clause (B) and inserting in lieu thereof "$161" and "$50", respectively;

(3) by striking out "$64" and "$48" in clause (C) and inserting in lieu thereof "$66" and "$50", respectively;

(4) by striking out "$74" in clause (D) and inserting in lieu thereof "$77";

(5) by striking out "$169" in clause (E) and inserting in lieu thereof "$176"; and

(6) by striking out "$142" in clause (F) and inserting in lieu thereof "$148".

SEC. 103. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 362 is amended by striking out "$414" and inserting in lieu thereof "$432".

SEC. 104. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 411 is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$589	W-4	$845
E-2	607	O-1	746
E-3	623	O-2	770
E-4	662	O-3	824
E-5	680	O-4	871
E-6	695	O-5	961
E-7	729	O-6	1,084
E-8	770	O-7	1,171
E-9	[1] 804	O-8	1,284
W-1	746	O-9	1,377
W-2	775	O-10	[2] 1,511
W-3	798		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $868.

"[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,619.";

(2) by striking out "$65" is subsection (b) and inserting in lieu thereof "$67";

(3) by striking out "$169" in subsection (c) and inserting in lieu thereof "$176"; and

(4) by striking out "$83" in subsection (d) and inserting in lieu thereof "$86".

SEC. 105. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

(a) DIC for Orphan Children.—Section 413(a) is amended—

(1) by striking out "$284" in clause (1) and inserting in lieu thereof "$296";

(2) by striking out "$409" in clause (2) and inserting in lieu thereof "$427";

(3) by striking out "$529" in clause (3) and inserting in lieu thereof "$552"; and

(4) by striking out "$529" and "$105" in clause (4) and inserting in lieu thereof "$552" and "$109", respectively.

(b) Supplemental DIC for Disabled Adult Children.—Section 414 is amended—

(1) by striking out "$169" in subsection (a) and inserting in lieu thereof "$176";

(2) by striking out "$284" in subsection (b) and inserting in lieu thereof "$296"; and

(3) by striking out "$144" in subsection (c) and inserting in lieu thereof "$150".

SEC. 106. EFFECTIVE DATE FOR RATE INCREASES.

(a) Effective Date.—The amendments made by this Act shall take effect on January 1, 1991.

(b) Later Repayment of COLA Amount Withheld in Fiscal Year 1991.—The amount of compensation or dependency and indemnity compensation payable to any individual for the month of January 1992 who is entitled to such benefits as of January 1, 1992, shall be increased for such month by the amount equal to the amount of the monthly increase provided for that individual's benefit level (as of January 1, 1992) pursuant to the amendments made by this title.

TITLE II—MISCELLANEOUS PROGRAM AMENDMENTS

SEC. 201. PENSION BENEFITS FOR INSTITUTIONALIZED VETERANS.

(a) Technical Correction.—Section 3203(a)(1)(C) is amended by striking out "$60" and inserting in lieu thereof "$90".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if

contained in section 111 of Public Law 101-237.

SEC. 202. EXPANSION OF AUTHORITY TO ACCEPT GIFTS, BEQUESTS, AND DEVISES.

Section 5101 is amended by adding at the end the following new sentence: "The Secretary may also accept, for purposes of all laws administered by the Secretary, gifts, devises, and bequests which will enhance the Secretary's ability to provide services or benefits.".

SEC. 203. FREQUENCY OF PAYMENT OF PARENTS' DIC.

Subsection (a) of section 415 is amended to read as follows:

"(a)(1) Except as provided in paragraph (2), dependency and indemnity compensation shall be paid monthly to parents of a deceased veteran in the amounts prescribed by this section.

"(2) Under regulations prescribed by the Secretary, benefits under this section may be paid less frequently than monthly if the amount of the annual benefit is less than 4 percent of the maximum annual rate payable under this section.".

SEC. 204. TECHNICAL AMENDMENT RELATING TO COLLECTION OF CERTAIN INDEBTEDNESS TO THE UNITED STATES.

(a) Deposit of Coast Guard Amounts.—Section 3101(c)(4) is amended by inserting before the period at the end the following: "or to the Retired Pay Account of the Coast Guard, as appropriate".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to funds collected after September 30, 1990.

SEC. 205. PRESERVATION OF RATINGS WHEN CHANGES MADE IN RATING SCHEDULES.

(a) In General.—Section 355 is amended by adding at the end the following: "However, in no event shall such a readjustment in the rating schedule cause a veteran's disability rating in effect on the effective date of the readjustment to be reduced unless an improvement in the veteran's disability is shown to have occurred.".

(b) Effective Date.—The amendment made by subsection (a) shall apply with regard to changes in rating schedules that take effect after the date of the enactment of this Act.

SEC. 206. PRESUMPTIVE PERIOD FOR OCCURRENCE OF LEUKEMIA IN VETERANS EXPOSED TO RADIATION.

(a) Change in Presumptive Period.—Section 312(c)(3) of title 38, United States Code, is amended by striking out ", except that" and all that follows through "leukemia)".

(b) Effective Date.—No benefit may be paid by reason of the amendment made by subsection (a) for any period before October 1, 1990, or the date of the enactment of this Act, whichever occurs later.

SEC. 207. PRESUMPTION OF SERVICE-CONNECTION FOR CERTAIN RADIATION-RELATED DISEASES.

(a) In General.—For purposes of chapters 11, 13, 17, 23, 24, and 35 of title 38, United States Code—

(1) an individual described in subsection (b) shall be deemed to be a veteran; and

(2) the disease of such an individual described in subsection (b)(2) shall be deemed to have been contracted in line of duty in the active military, naval, or air service.

(b) Individuals Covered.—This section applies to any individual who—

(1) while a member of a reserve component of the Armed Forces participated onsite in a test involving the atmospheric detonation of a nuclear device during a period of active duty for training or inactive-duty training, and

(2) has contracted a disease listed in section 312(c)(2) of title 38, United States Code, which became manifest to a degree of 10 percent or more within the presumption period specified in subsection (c).

(c) Presumption Period.—The presumption period for purposes of subsection (b)(2) is the 40-year period beginning on the last date on which the individual participated onsite in a test involving the atmospheric detonation of a nuclear device during a period of active duty for training or inactive-duty training.

(d) Presumption Rebuttable.—The provisions of section 313 of title 38, United States Code, shall apply to subsection (a)(2) in the same manner as to a presumption under section 312 of such title.

(e) Definitions.—For purposes of this section, the term "reserve component" has the meaning given that term in section 101 of title 38, United States Code.

SEC. 208. LIFE INSURANCE PROGRAMS.

(a) Mortgage Protection Life Insurance.—Section 806(b) is amended in the first sentence—

(1) by striking out "initial"; and

(2) by striking out "$40,000" and inserting in lieu thereof "$90,000".

(b) National Service Life Insurance.—Subsections (a) and (b) of section 722 are amended—

(1) by striking out "one year" each place it appears in such subsections and inserting in lieu thereof "two years"; and

(2) by striking out "one-year" each place it appears in such subsections and inserting in lieu thereof "two-year".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on October 1, 1990, or the date of the enactment of this Act, whichever occurs later.

TITLE III—AGENT ORANGE

SEC. 301. SHORT TITLE.

This title may be cited as the "Veterans Agent Orange Exposure and Vietnam Service Benefits Act of 1990".

SEC. 302. FINDINGS.

Congress makes the following findings:

(1) There is sufficient scientific evidence and experience to warrant a presumption that certain diseases suffered by veterans of service in the Republic of Vietnam during the Vietnam era are connected to such service.

(2) The Secretary of Veterans Affairs has determined that it is reasonable to presume that any veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era was exposed to dioxin and other toxic agents in herbicides during such service.

(3) It is also reasonable to presume that any veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era was exposed, during such service, to other causes of disease.

SEC. 303. PRESUMPTION OF SERVICE CONNECTION FOR CHLORACNE.

Section 312 is amended by adding at the end the following new subsection:

"(d) For the purposes of section 310 of this title, and subject to the provisions of section 313 of this title, in the case of a veteran who, during active military, naval, or air service, served in the Republic of Vietnam during the Vietnam era, the disease of chloracne shall be considered to have been incurred in or aggravated by such Vietnam service, notwithstanding there is no record of evidence of such disease during the period of such Vietnam service, if such disease or another acneform disease consistent with chloracne became manifest to a 10 percent degree of disability or more within one year after the last date on which that veteran performed such Vietnam service.".

SEC. 304. PRESUMPTION RELATING TO CERTAIN OTHER DISEASES.

(a) Presumption of Service Connection.—Section 312, as amended by section 303, is further amended by adding at the end the following new subsection:

"(e) For the purposes of section 310 of this title, in the case of any veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era, the following diseases shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of evidence of such disease during the period of such service:

"(1) Non-Hodgkin's lymphoma.

"(2) Soft-tissue sarcoma.".

(b) Applicability of Presumption.—If, in the case of any veteran, compensation under chapter 11 or dependency and indemnity compensation under chapter 13 of title 38, United States Code, is awarded to any person on the basis of a presumption provided in subsection (e) of section 312 of such title (as added by subsection (a)), such award shall take effect on the date (whether before, on, or after the date of the enactment of this Act) on which the Department of Veterans Affairs first received an application in which such person claimed entitlement to such compensation on the basis of the disability or death of such veteran resulting from a disease referred to in such subsection (e).

SEC. 305. PRESUMPTION OF SERVICE CONNECTION FOR DISEASES ASSOCIATED WITH EFFECTS OF EXPOSURE TO CERTAIN HERBICIDE AGENTS.

(a) Findings.—Congress makes the following findings:

(1) It is in the public interest to provide for an independent nonprofit scientific organization which has appropriate expertise and is not connected to the Department of Veterans Affairs to review and evaluate the available scientific evidence regarding associations between diseases and exposure to dioxin and other chemical compounds in herbicides and to make judgments on the degree and probability of such associations, because there is no uniform body of scientific literature on such issues.

(2) The standard of proof required for a scientific conclusion of causation is higher than the standard of proof required for justification of a presumption, for purposes of veterans disability compensation laws, that an adverse health effect is connected, based on sound medical and scientific evidence, to active service in the Armed Forces of the United States.

(b) In General.—(1) Subchapter II of chapter 11 is amended by inserting after section 312 the following new section:

"§ 312A. Presumption of service connection for diseases associated with effects of exposure to certain herbicide agents

"(a)(1) For the purposes of section 310 of this title, and subject to section 313 of this title, in the case of a Vietnam veteran who, during Vietnam service, was exposed to a herbicide agent containing dioxin or 2,4-dichlorophenoxyacetic acid or to any other herbicide agent, each disease (if any) listed in regulations prescribed by the Secretary in accordance with this section and identified in such regulations as having positive association with the biological effects of exposure to such herbicide agent shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of evidence of such disease during the period of such service.

"(2) For the purposes of this subsection, a veteran who performed Vietnam service and has a disease referred to in paragraph (1) of this subsection shall be presumed to have been exposed during such service to a herbicide agent containing dioxin or 2,4-dichlorophenoxyacetic acid, and may be presumed to have been exposed during such service to any other chemical compound in a herbicide agent, unless there is affirmative evidence to establish conclusively that the veteran was not exposed to any such agent during such service.

"(3) The Secretary may extend the applicability of paragraph (1) of this subsection to the case of any veteran who, during the performance of active military, naval, or air service outside Vietnam, was exposed to an agent of the same type as the herbicide agent referred to in paragraph (1) of this subsection.

"(b)(1) Whenever the Secretary determines pursuant to this section that there is positive association between any disease and the biological effects of exposure to a herbicide agent in Vietnam, the Secretary shall prescribe regulations listing each disease having such positive association. In the case of each disease listed in the regulations, the Secretary shall identify the herbicide agent that causes the biological effects with which the disease has positive association. After the Secretary prescribes regulations pursuant to this paragraph, the Secretary shall periodically revise such regulations, as appropriate, to reflect determinations periodically made pursuant to paragraph (2) of this subsection.

"(2) The Secretary shall periodically (and not less often than biennially)—

"(A) determine whether any disease not listed in regulations under this section has positive association with such effects; and

"(B) determine whether any disease listed in such regulations does not have positive association with such effects.

"(3) The Secretary shall make determinations for the purpose of this subsection on the basis of reports received by the Secretary from a contract scientific organization pursuant to this section and all other relevant scientific evidence, information, or analyses available to the Secretary at the time of the determinations.

"(c) In prescribing and revising regulations for the purposes of subsection (b), the Secretary shall obtain, by contract, the determinations and estimates of a contract scientific organization as provided in this section.

"(d)(1) Each contract entered into under subsection (c) of this section shall provide for a contract scientific organization—

"(A) to determine, in the case of each herbicide agent—

"(i) which diseases (if any) have positive association with the biological effects of exposure to such agent, including specifically effects involving porphyrin synthesis, nervous system function, immune function, reproduction, and birth defects, and psychological and psychiatric effects;

"(ii) which diseases (if any) have limited positive association with such biological effects;

"(iii) which diseases (if any) have insubstantial association with such biological effects; and

"(iv) to the extent practicable, the biological basis for the positive, limited positive, and insubstantial associations of diseases referred to in subclauses (i), (ii), and (iii) of this clause with such biological effects; and

"(B) to estimate the extent of the association between each such disease and such biological effects using methods as quantitative and as objective as the relevant available data permit.

"(2) The contract scientific organization shall specifically determine whether there is positive, limited positive, or insubstantial association between the biological effects referred to in paragraph (1) of this subsection and the following diseases:

"(A) Lung cancer.

"(B) Each other cancer.

"(e)(1) The first contract entered into under subsection (c) of this section shall provide for the contract scientific organization—

"(A) to conduct as comprehensive a survey and evaluation as is practicable of the completed and ongoing scientific studies of, and other scientific evidence or information regarding, the effects that herbicide agents have on humans or other animals that have been exposed to such agents, including an evaluation of the CDC Selected Cancers Study report; and

"(B) make its determinations and estimates on the basis of the results of such survey and evaluation.

"(2) The contract scientific organization shall conduct the survey and evaluation referred to in paragraph (1)(A) of this subsection through a panel composed of recognized experts, in toxicology, medicine, epidemiology, statistics, biochemistry, and related fields. The conduct of such survey shall be subject to appropriate peer review.

"(f) A contract entered into under subsection (c) of this section in connection with the Secretary's periodic determinations under subsection (b)(2) of this section shall require a contract scientific organization—

"(1) to conduct as comprehensive a survey and evaluation as is practicable of the scientific studies, evidence, and information referred to in subsection (e)(1)(A) of this section that have become available since the last such survey and evaluation under this section; and

"(2) make its determinations and estimates on the basis of the results of such survey and evaluation and all other surveys and evaluations conducted for the purposes of this section.

"(g)(1) Each contract scientific organization making determinations and estimates under this section shall transmit to the Secretary and the Committees on Veterans' Affairs of the Senate and the House of Representatives a written report regarding its determinations and estimates.

"(2) Each report shall contain—

"(A) the name of each disease (if any) determined to have positive association with the biological effects of exposure to a herbicide agent in Vietnam and the identity of such agent;

"(B) the name of each disease (if any) determined to have limited positive association with the biological effects of exposure to a herbicide agent in Vietnam and the identity of such agent;

"(C) the name of each disease (if any) determined to have insubstantial association with the biological effects of exposure to an herbicide agent in Vietnam and the identity of such agent; and

"(D) with respect to each disease named pursuant to clauses (A), (B), and (C) of this paragraph—

"(i) a discussion of the biological basis for the association;

"(ii) the contract scientific organization's estimate of the statistical significance of the association.

"(iii) the contract scientific organization's estimate of the relative risk for such disease in veterans who, during Vietnam service, were exposed to an herbicide agent; and

"(iv) the probability that the estimates referred to in subclauses (ii) and (iii) are correct.

"(3) Estimates and probabilities are not required under clauses (ii), (iii), and (iv) of paragraph (2)(D) of this subsection when the available data do not permit meaningful estimates and probabilities.

"(4)(A) If a contract scientific organization determines that a disease has positive association with the biological effects of exposure to a herbicide agent used in Vietnam, such organization shall determine whether there is a reasonable basis for concluding that a Vietnam veteran with the highest level of exposure to that herbicide agent in Vietnam was exposed to such agent under the circumstances necessary for such biological effects.

"(B) If a contract scientific organization determines that there is no such reasonable basis, the organization shall state that determination in a report under this subsection and include in such report—

"(i) a description of the evidence that supports such determination;

"(ii) a description of the evidence (if any) that supports alternative conclusions; and

"(iii) a full discussion of the organization's reasons for such determination, including a discussion of the reasons for the organization's determination that the evidence referred to in clause (i) of this subparagraph outweighs the evidence (if any) referred to in clause (ii) of this subparagraph.

"(C) A determination with respect to reasonable basis is not required under subparagraph (A) of this paragraph when the available data do not permit a meaningful determination.

"(5) The first report under this subsection shall be transmitted to the Secretary and the Committees on Veterans' Affairs of the Senate and the House of Representatives on or before the later of (A) the date 60 days after the date on which the contract scientific organization obtains a copy of the CDC Selected Cancers Study report, or (B) the date one year after the date of the enactment of the Veterans' Agent Orange Exposure and Vietnam Service Benefits Act of 1990.

"(h)(1) Not later than 60 days after the date on which the Secretary receives the first report under subsection (g) of this section, the Secretary shall—

"(A) for the purpose of subsection (b)(1) of this section—

"(i) determine in accordance with subsection (b)(3) of this section whether there is positive association between any disease and the biological effects of exposure to an herbicide agent in Vietnam; and

"(ii) if so, issue proposed regulations listing each such disease and specifying such agent;

"(B) transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report containing the scientific basis for including each disease listed in such proposed regulations, and

"(C) if any disease listed in the first report under subsection (g) of this subsection as having positive association is not listed in such proposed regulations—

"(i) include in the report to the Committees on Veterans' Affairs the scientific basis for not including that disease in the proposed regulations; and

"(ii) publish in the Federal Register a notice that such disease is not listed in the proposed regulations despite the report under subsection (g) and include in such notice a discussion of such scientific basis.

"(2) Not later than 60 days after the date on which the Secretary issues any proposed regulations pursuant to paragraph (1) of this subsection, the Secretary shall issue final regulations under subsection (b). Such regulations shall be effective on the date of issuance.

"(i)(1) Upon receiving a contract scientific organization's report after a periodic survey and evaluation conducted for the purpose of subsection (b)(2) of this section, the Secretary shall—

"(A) determine in accordance with subsection (b)(3) of this section whether—

"(i) any disease named in such report not listed in regulations under subsection (b) of this section has positive association with the biological effects of exposure to a herbicide agent in Vietnam;

"(ii) any disease listed in such regulations does not have positive association with such effects; and

"(B) promptly transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report containing the Secretary's determinations under clause (A) of this paragraph and the scientific bases for such determinations.

"(2)(A) Not later than 60 days after transmitting a report to the Committees on Veterans' Affairs under paragraph (1)(B) of this subsection, the Secretary shall prescribe or revise regulations, as the case may be, pursuant to subsection (b) of this section as may be necessary to reflect the Secretary's determinations included in that report. The regulations or revisions of regulations, as the case may be, shall take effect 30 days after the date on which the Secretary issues the proposed regulations or revisions, as the case may be.

"(B) If any disease listed in a periodic report under subsection (g) of this section as having positive association is not listed in such regulations or revisions of regulations, as the case may be, the Secretary shall, not later than 60 days after transmitting a report under subparagraph (A) of this paragraph, publish in the Federal Register a notice that such disease is not listed in the proposed regulations despite such report and include in such notice a discussion of the scientific basis for not including that disease in such regulations or revisions.

"(j) Whenever a disease is removed from regulations pursuant to paragraph (2) of subsection (i) of this section as a result of a determination under paragraph (1)(A)(ii) of such subsection—

"(1) any veteran who was awarded compensation for such disease on the basis of the presumption provided in subsection (a) of this section before the effective date of the removal shall continue to be entitled to receive compensation on such basis; and

"(2) any survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from such disease on the basis of such presumption shall continue to be entitled to receive dependency and indemnity compensation on such basis.

"(k) The contract authority provided in this section shall be effective for a fiscal year to such extent or in such amount as is provided for in an appropriation Act.

"(l) Subsections (b) through (i) and (k) of this section shall cease to be effective 10 years after the first day of the fiscal year in which a contract scientific organization transmits to the Secretary the first report under subsection (g) of this section.

"(m) In this section:

"(1) The term 'Vietnam veteran' means a veteran who performed Vietnam service.

"(2) The term 'Vietnam service' means active military, naval, or air service in Vietnam during the Vietnam era.

"(3) The term 'herbicide agent' means an agent in a herbicide used in support of United States and allied military operations in Vietnam during the Vietnam era.

"(4) The term 'biological effect', with respect to exposure to a herbicide agent, means—

"(A) each known biological effect of such exposure on humans, including those biological effects resulting from relevant host and environmental factors; and

"(B) each biological effect of such exposure on humans that it is reasonable to infer on the basis of the known biological effects of such exposure on appropriate animal models.

"(5) The term 'positive', with respect to association between a disease and the biological effects of exposure to a herbicide agent in Vietnam, means that the credible evidence for the association is equal to or outweighs the credible evidence against the association.

"(6) The term 'limited positive', with respect to association between a disease and the biological effects of exposure to a herbicide agent in Vietnam, means that the credible evidence against the association outweighs the credible evidence for the association but that there is substantial credible evidence for the association.

"(7) The term 'insubstantial', with respect to association between a disease and the biological effects of exposure to a herbicide agent in Vietnam, means that there is some credible evidence for the association but the evidence is not substantial.

"(8) The term 'relative risk', with respect to a report of a contract scientific organization for the purposes of subsection (g) of this section, shall have the meaning determined by such organization and specified in such report.

"(9) The term 'contract scientific organization', with respect to a contract under this section, means—

"(A) the National Academy of Sciences; or

"(B) in the event that the Secretary determines that the National Academy of Sciences is unwilling to enter into such contract, any other appropriate private nonprofit scientific organization which has appropriate expertise and has no connection with the Department of Veterans' Affairs and which the Secretary identifies to the Committees on Veterans' Affairs of the Senate and the House of Representatives in a written notification received by such committees at least 90 days before the date on which such contract is entered into.

"(10) The term 'soft tissue sarcoma' means any sarcoma other than osteosarcoma, condrosarcoma, Kaposi's sarcoma, and mesothelioma.

"(11) The term 'CDC Selected Cancers Study report' means the report submitted to Congress by the Secretary of Veterans Affairs that contains the final results of the Selected Cancers Study conducted by the Centers for Disease Control pursuant to section 307 of the Veterans Health Programs Extension and Improvement Act of 1979 (Public Law 96-151; 38 U.S.C. 219 note).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 312 the following new item:

"312A. Presumption of service connection for diseases associated with effects of exposure to certain herbicide agents.".

(c) Conforming Amendment.—Section 313 is amended by inserting "or 312A" after "section 312" each place it appears.

(d) Special Effective Date for Awards of Disability Compensation.—If the Secretary issues final regulations under subsection (h)(2) of section 312A of title 38, United States Code (as added by subsection (b)), after April 15, 1993, any award of disability compensation under chapter 11 of such title (in the case of a claim received by the Secretary before the effective date of such final regulations) on the basis of presumption provided in subsection (a) of such section 312A shall be effective on the later of April 16, 1993, or the date determined under section 3010 of such title.

SEC. 306. RESULTS OF EXAMINATIONS AND TREATMENT OF VETERANS FOR DISABILITIES RELATED TO EXPOSURE TO CERTAIN HERBICIDES OR TO SERVICE IN VIETNAM.

(a) In General.—The Secretary shall compile and analyze, on a continuing basis, all clinical data that (1) are obtained by the Department of Veterans Affairs in connection with examinations and treatment furnished to veterans by the Department after November 3, 1981, by reason of eligibility provided in section 610(e)(1)(A) of title 38, United States Code, and (2) are likely to be scientifically useful in determining the association, if any, between the disabilities of veterans referred to in such section and exposure to dioxin or any other toxic substance referred to in such section or between such disabilities and active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

(b) Annual Report.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives an annual report containing—

(1) the information compiled in accordance with subsection (a);

(2) the Secretary's analysis of such information;

(3) a discussion of the types of incidences of disabilities identified or treated by the Department of Veterans Affairs in the case of veterans referred to in subsection (a);

(4) the Secretary's explanation for the incidence of such disabilities;

(5) other explanations for the incidence of such disabilities considered reasonable by the Secretary; and

(6) the evaluation of such report submitted by the Director of the National Institutes of Health (NIH) Research and Grants Division in conjunction with the National Institute of Environmental Health Sciences (NIEHS) pursuant to subsection (c)(2).

(c) Consultation With NIH Research and Grants Division in Conjunction With NIEHS.—(1) The Secretary shall consult with the Director of the NIH Research and Grants Division in conjunction with NIEHS before compiling and analyzing any information under this section and shall submit each annual report required by subsection

(b) to the Director before submitting such report to the committees referred to in such subsection.

(2) The Director of the NIH Research and Grants Division in conjunction with NIEHS shall review each annual report submitted under paragraph (1) and shall transmit to the Secretary the Director's evaluation of the content of the report.

(d) FIRST REPORT.—The first report under subsection (b) shall be submitted one year after the date of the enactment of this Act.

SEC. 307. TISSUE ARCHIVING SYSTEM.

(a) ESTABLISHMENT OF SYSTEM.—For the purpose of facilitating future scientific research on the effects of exposure of veterans to dioxin and other toxic agents in herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era, the Secretary shall establish and maintain a system for the collection and storage of voluntarily contributed samples of blood and tissue of veterans who performed Vietnam era service in the Republic of Vietnam during active military, naval, or air service. The system may be administered by the Department of Veterans Affairs or under a contract awarded by the Secretary, whichever is more cost-effective.

(b) SECURITY OF SPECIMENS.—The Secretary shall ensure that the tissue is collected and stored under physically secure conditions and that the tissue is maintained in a condition that is useful for research referred to in subsection (a).

(c) AUTHORIZED USE OF SPECIMENS.—The Secretary may make blood and tissue available from the system for research referred to in subsection (a) in a manner consistent with the privacy rights and interests of the blood and tissue donors.

(d) LIMITATIONS ON ACCEPTANCE OF SAMPLES.—The Secretary may prescribe such limitations on the acceptance and storage of blood and tissue samples as the Secretary considers appropriate consistent with the purpose specified in the first sentence of subsection (a).

(e) CONSULTATION REQUIREMENTS.—(1) To the extent provided under any agreement entered into by the Secretary and the National Academy of Sciences, the Secretary shall consult with the National Academy of Sciences regarding the establishment and maintenance of the tissue archiving system under this section, including any limitation to be prescribed under subsection (d).

(2) In the event that the National Academy of Sciences does not enter into an agreement for consultation under paragraph (1), the Secretary shall consult with the Director of the Medical Follow-up Agency on the establishment and maintenance of the tissue archiving system under this section, including any limitation to be prescribed under subsection (d).

(f) CONTRACT AUTHORITY SUBJECT TO APPROPRIATION.—The contract authority provided in this section shall be effective for a fiscal year to such extent or in such amount as is provided for in an appropriation Act.

SEC. 308. SCIENTIFIC RESEARCH FEASIBILITY STUDIES PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to provide for the conduct of studies of the feasibility of conducting additional scientific research on—

(1) health hazards resulting from exposure to dioxin;

(2) health hazards resulting from exposure to other toxic agents in herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era; and

(3) health hazards resulting from active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

(b) PROGRAM REQUIREMENTS.—(1) Under the program established pursuant to subsection (a), the Secretary shall, pursuant to criteria prescribed pursuant to paragraph (2), award contracts or furnish financial assistance to non-Government entities for the conduct of studies referred to in subsection (a).

(2) The Secretary shall prescribe criteria for (A) the selection of entities to be awarded contracts or to receive financial assistance under the program, and (B) the approval of studies to be conducted under such contracts or with such financial assistance.

(c) REPORT.—The Secretary shall promptly report the results of studies conducted under the program to the Committees on Veterans' Affairs of the Senate and the House of Representatives.

(d) CONSULTATION WITH THE NATIONAL ACADEMY OF SCIENCES.—To the extent provided under any agreement entered into by the Secretary and the National Academy of Sciences (1) the Secretary shall consult with the National Academy of Sciences regarding the establishment and administration of the program under subsection (a), and (2) the National Academy of Sciences shall review the studies conducted under contracts awarded pursuant to the program and the studies conducted with financial assistance furnished pursuant to the program. The agreement shall require the National Academy of Sciences to submit to the Secretary and the Committees on Veterans' Affairs of the Senate and the House of Representatives any recommendations that the National Academy of Sciences considers appropriate regarding any studies reviewed under the agreement.

(e) AUTHORITY SUBJECT TO APPROPRIATION.—The authorities to enter into contracts and to furnish financial assistance provided in this section shall be effective for a fiscal year to such extent or in such amount as is provided for in an appropriation Act.

SEC. 309. OUTREACH SERVICES.

Section 1204(a) of the Veterans' Benefits Improvement Act of 1988 (division B of Public Law 100-687; 102 Stat. 4125) is amended—

(1) in clause (1), by striking out ", as such information on health risks becomes known";

(2) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively;

(3) by inserting "(1)" after "PROGRAM.—";

(4) by adding at the end the following new paragraph:

"(2) The Secretary of Veterans Affairs shall furnish the information described in paragraph (1) to the individuals listed in the Department of Veterans Affairs' Agent Orange Registry. Each year the Secretary shall (A) update that information, and (B) furnish the updated information to such individuals.".

SEC. 310. REPORT RELATING TO RESEARCH ON TREATMENTS FOR EXPOSURE TO DIOXIN AND OTHER TOXIC AGENTS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report containing a discussion of the research being conducted to identify and develop treatments for physiological absorption of dioxin and other toxic agents similar to the toxic agents in herbicides used in support of United States and allied operations in the Republic of Vietnam during the Vietnam era, including research relating to exposure to dioxin and other toxic agents outside the Republic of Vietnam.

SEC. 311. EXTENSION OF HEALTH-CARE ELIGIBILITY BASED ON AGENT ORANGE OR IONIZING RADIATION EXPOSURE.

Section 610(e)(3) is amended by striking out "December 31, 1990" and inserting in lieu thereof "December 31, 2000".

SEC. 312. RANCH HAND STUDY AMENDMENTS.

Section 1205 of the Veterans' Benefits Improvement Act of 1988 (division B of Public Law 100-687; 102 Stat. 4126) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(2) by inserting after subsection (b) the following new subsection (c):

"(c) ADVISORY RELATIONSHIP.—The Advisory Committee may consult directly with and provide information and recommendations directly to the Department of the Air Force scientists conducting the Ranch Hand Study, and such scientists may consult directly with and provide information and recommendations directly to the Advisory Committee. No officer or employee of the Federal Government may intervene in or impair direct communication between the Advisory Committee and such scientists under this section except as may be necessary to prevent an inappropriate disclosure of classified information.";

(3) in subsection (d), as redesignated by clause (1)—

(A) by adding at the end of paragraph (1) the following: "The schedule shall provide for the preparation of annual reports and a final report."; and

(B) in paragraph (4), by inserting "in" after "report referred to"; and

(4) in paragraph (1) of subsection (e), as redesignated by clause (1), by striking out "Defense" and inserting in lieu thereof "Health and Human Services".

SEC. 313. DEFINITIONS.

In this title:

(1) The terms "veteran", "service-connected", "active military, naval, or air service", and "Vietnam era" have the meanings given those terms in paragraphs (2), (16), (24), and (29), respectively, of section 101 of title 38, United States Code.

(2) The term "disability" refers to a disability within the meaning of chapter 11 of such title.

(3) The term "soft-tissue sarcoma" means any sarcoma other than osteosarcoma, condrosarcoma, Kaposi's sarcoma, and mesothelioma.

SEC. 314. MANDATORY BLOOD TESTING OF CERTAIN VIETNAM-ERA VETERANS.

(a) BLOOD TESTING.—In the case of any veteran described in section 610(e)(1)(A) of title 38, United States Code, who—

(1) has applied for medical care from the Department of Veterans Affairs; or

(2) has filed a claim for, or is in receipt of disability compensation under chapter 11 of title 38, United States Code.

the Secretary of Veterans Affairs shall, upon the veteran's request, obtain a sufficient amount of blood serum from the veteran to enable the Secretary to conduct a test of the serum to ascertain the level of 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) which may be present in the veteran's body.

(b) NOTIFICATION OF TEST RESULTS.—Upon completion of such test, the Secretary shall

notify the veteran of the test results and provide the veteran a complete explanation as to what the results of the test indicate regarding the likelihood of the veteran's exposure to TCDD while serving in the Republic of Vietnam.

(c) INCORPORATION IN SYSTEM.—The Secretary shall maintain the veteran's blood sample and the results of the test as part of the system required by section 302 of this Act.

SEC. 315. EFFECTIVE DATE.

This title shall take effect on October 1, 1990, or the date of the enactment of this Act, whichever occurs later.{H15OC0-X1}{H9574}urs later.

The SPEAKER pro tempore. Is a second demanded?

Mr. STUMP. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

(Mr. MONTGOMERY asked and was given permission to revise and extend his remarks.)

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on this bill, H.R. 5326, and the next 5 bills, H.R. 5740, H.R. 5739, H.R. 5814, H.R. 5657 and H.R. 5506.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

ANNOUNCEMENT RECONSIDERATION OF DEPARTMENT OF VETERANS' AFFAIRS CODIFICATION ACT, H.R. 5093

Mr. MONTGOMERY. Mr. Speaker, we will not take up the seventh bill, H.R. 5093. The paperwork was not ready. I might even wait until next year to take up that technical bill.

Mr. Speaker, on the 6 bills that we will take up today we have blue sheets at the majority leader's table for further explanation of the different bills that we are taking up pertaining to veterans.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5326, as amended, would provide a 4.5-percent increase in the rates of compensation for service-connected disabilities and the rates of dependency and indemnity compensation paid to surviving spouses and children of veterans who die of service-connected causes.

I want to thank the distinguished chairman of the subcommittee, and the ranking minority member, the gentleman from Ohio [Mr. MCEWEN] for bringing this bill to the floor and for their leadership throughout this session of the Congress. I also want to thank the ranking minority member of the full committee, the gentleman from Arizona [Mr. STUMP] for his cooperation on this bill and for the leadership he provides on numerous bills we bring to the floor. We continue to operate the committee in a truly bipartisan spirit and I am grateful to my friend from Arizona.

Mr. Speaker, to explain this legislation, I yield such time as he may consume to the able chairman of the Subcommittee on Compensation, Pension, and Insurance, the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Speaker, I thank my very distinguished chairman for yielding time to me.

Mr. Speaker, title I of H.R. 5326 as reported provides a 4.5-percent cost-of-living adjustment in the rates of compensation for veterans suffering from service-connected disabilities and in the rates of dependency and indemnity compensation [DIC] paid to surviving spouses and children of veterans whose deaths are service connected. The increased rates in the recommended bill would become effective on January 1, 1991, and would be reflected in the checks to be received on the first of February. Title II contains several provisions that would improve the compensation, pension and insurance programs, including an extension of eligibility for certain presumptions relating to exposure to ionizing radiation to certain members of the National Guard and Reserve, proposed by Hon. CLAUDE HARRIS, and an amendment conforming the manifestation period applicable to leukemia to the 40-year period applicable to other disabilities resulting from radiation exposure, offered by Hon. J. ROY ROWLAND.

Title III of the bill contains provisions establishing statutory presumptions of service connection for non-Hodgkin's lymphoma and soft-tissue sarcomas suffered by Vietnam-era veterans, established a new mechanism involving the National Academies of Science to assist the Secretary of Veterans Affairs in making determinations regarding further presumptions for other disabilities which may be linked to exposure to agent orangé, and makes other improvements relating to further activities surrounding the issue of agent orange exposure, including blood testing to determine residual levels of dioxin in Vietnam veterans. I want to commend the very fine and tireless efforts of Hon. LANE EVANS, who authored much of the agent orange title—his efforts on behalf of Vietnam era veterans are second to none—and I also wish to commend Hon. TIM PENNY for his efforts in this area.

There follows a more detailed explanation of the bill as reported.

DISCUSSION OF THE REPORTED BILL

PROPOSED COMPENSATION AND DEPENDENCY AND INDEMNITY? COMPENSATION RATE ADJUSTMENTS—TITLE I

Sections 101 through 106 of H.R. 5326 would provide, effective January 1, 1991, a 4.5 percent cost-of-living adjustment in the rates of compensation and dependency and indemnity compensation. Section 106 would provide for the payment of additional amounts of compensation of DIC benefits during Fiscal Year 1992, in recognition of a one-month delay in the effective date of the cost-of-living adjustment, resulting from the enactment of deficit reduction provisions affecting veterans programs. The additional amount would be effective January 1, 1992 and included in February checks.

As indicated earlier, the Administration proposed indexing these rates to the annual adjustment in the consumer price index in the same manner as the non-service-connected pension program and social security. The Committee does not believe such action would be in the best interest of veterans. It is extremely important that the rate increases for compensation and DIC be legislated on a periodic basis by the Congress rather than being tied directly to changes in the CPI. It is argued that indexing the rates of compensation and DIC would obviate the need for annual Congressional action. However, this would remove from the Congressional arsenal a vehicle through which periodic and necessary improvements to the programs may be made. Furthermore, there is precedent for the Congress enacting a higher increase than would otherwise have resulted through indexing. For example, in enacting Public Law 98-576, effective January 1, 1986, the Congress provided a 1.5 percent increase for these service-connected benefits rather than the 1.3 percent increase reflected by the change in the CPI that would otherwise have resulted. Similarly, Public Law 100-687, effective December 1, 1988, provided a 4.1 percent increase while the change in the CPI was 4.0 percent. For these reasons, the Committee has rejected the Administration's indexing proposal.

Should the proposed 4.5 percent rate increase be enacted, the changes in compensation and DIC rates effective January 1, 1991 would be as follows:

COMPENSATION AND DIC RATES EFFECTIVE JANUARY 1, 1991

	Increase (monthly rate)	
	From	To
Percentage of disability or subsection under which payment is authorized:		
(a) 10 percent	$76	$79
(b) 20 percent	14	150
(c) 30 percent	220	229
(d) 40 percent	314	328
(e) 50 percent	446	466
(f) 60 percent	562	587
(g) 70 percent	710	741
(h) 80 percent	821	857
(i) 90 percent	925	966
(j) 100 percent	1,537	1,606
Higher statutory awards for certain multiple disabilities:		
(k) (1) Additional monthly payment for anatomical loss, or loss of use of, any of these organs: one foot, one hand, blindness in one eye (having light perception only), one or more creative organs, both buttocks, organic aphonia (with constant inability to communicate by speech), deafness of both ears (having absence of air and bone conduction)—for each loss	66	68
(2) Limit for veterans receiving payments under (a) to (j) above	1,911	1,996
(3) Limit for veterans receiving benefits under (l) to (n) below	2,679	2,799
(l) Anatomical loss or loss of use of both feet, one foot and one hand, blindness in both eyes (5/200) visual acuity or less), permanently bedridden or so helpless as to require aid and attendance	1,911	1,996
(m) Anatomical loss or loss of use of both hands, or of both legs, at a level preventing natural knee action with prosthesis in place or of 1 arm and 1 leg at a level preventing natural knee or elbow action with prosthesis in place or blind in both eyes, either with light perception only or rendering veteran so helpless as to require aid and attendance	2,107	2,201

COMPENSATION AND DIC RATES EFFECTIVE JANUARY 1, 1991—Continued

	Increase (monthly rate) From	Increase (monthly rate) To
Percentage of disability or subsection under which payment is authorized:		
(n) Anatomical loss of both eyes or blindness with no light perception or loss of use of both arms at a level preventing natural elbow action with prosthesis in place or anatomical loss of both legs so near hip as to prevent use of prosthesis, or anatomical loss of 1 arm and 1 leg so near shoulder and hip to prevent use of prosthesis	2,397	2,504
(o) Disability under conditions entitling veterans to two or more of the rates provided in (l) through (n), no condition being considered twice in the determination, or deafness rated at 60 percent or more (impairment of either or both ears service-connected) in combination with local blindness (5/200 visual acuity or less) or deafness rated at 40 percent or total deafness in one ear (impairment of either or both ears service-connected) in combination with blindness having light perception only or anatomical loss of both arms so near the shoulder as to prevent use of prosthesis	2,679	2,799
(p) (1) If disabilities exceed requirements of any rates prescribed, Secretary of Veterans Affairs may allow next higher rate or an intermediate rate, but in no case may compensation exceed	2,679	2,799
(2) Blindness in both eyes (with 5/200 visual acuity or less) together with (a) bilateral deafness rated at 30 percent or more disabling (impairment of either or both ears service-connected) next higher rate is payable, or	2,679	2,799
(b) service-connected total deafness of one ear or service-connected loss or lose of use of an extremity the next intermediate rate is payable, but in no event may compensation exceed		
(3) Blindness with only light perception or less with bilateral deafness (hearing impairment in either one or both ears is service-connected) rated at 10 or 20 percent disabling the next intermediate rate is payable, but in no event may compensation exceed	2,679	2,799
(4) Anatomical loss or loss of use of three extremities, the next higher rate in paragraphs (l) to (n) but in no event in excess of	2,679	2,799
(q) [This subsection repealed by Public Law 90-493.]		
(r) (1) If veteran entitled to compensation under (o) or to the maximum rate under (p); or at the rage between subsections (n) and (o) and under subsection (?), and is in need of regular aid and attendance, he shall receive a special allowance of the amount indicated at right for aid and attendance in addition to such rates	1,150	1,201
(2) If the veteran, in addition to need for regular aid and attendance is in need of a higher level of care, a special allowance of the amount indicated at right is payable in addition to (o) or (p) rate	1,713	1,790
(s) disability rated as total, plus additional disability independently ratable at 60 percent or over, or permanently housebound	1,720	1,797
(t) [This subsection repealed by Public Law 99-576.]		

In addition to basic compensation rates and/or statutory awards to which the veteran may be entitled, dependency allowances are payable to veterans who are rated at not less than 30 percent disabled. The rates which follow are those payable to veterans while rated totally disabled. If the veteran is rated 30, 40, 50, 60, 70, 80, or 90 percent disabled, dependency allowances are payable in an amount bearing the same ratio to the amount specified below as the degree of disability bears to total disability. For example, a veteran who is 50 percent disabled receives 50 percent of the amounts which appear below.

	Increase (monthly rate) From	Increase (monthly rate) To
If and while veteran is rated totally disabled and:		
Has a spouse	$92	$96
Has a spouse and child	155	161
Has no spouse, 1 child	64	66
For each additional child	48	50
For each dependent parent	74	77
For each child age 18–22 attending school	142	148
Has a spouse in nursing home or severely disabled	169	176
Has disabled, dependent adult child	169	176

The following increases are provided for surviving spouses of deceased veterans whose deaths are service-connected and who are receiving dependency and indemnity compensation (DIC) payments.

Pay grade	Increase (monthly rate) From	Increase (monthly rate) To
E-1	$564	$589
E-2	581	607
E-3	597	623
E-4	634	662
E-5	651	680
E-6	666	695
E-7	698	729
E-8	737	770
E-9	770	[1] 804
W-1	714	746
W-2	742	775
W-3	764	798
W-4	809	845
O-1	714	746
O-2	737	770
O-3	789	824
O-4	834	871
O-5	920	961
O-6	1,038	1,084
O-7	1,121	1,171
O-8	1,229	1,284
O-9	1,318	1,377
O-10	[2] 1,446	[2] 1,511

[1] If the veteran served as Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, at the applicable time designed by section 402 of this title, the surviving spouse's rate shall be $868.

[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,620.

When there is no surviving spouse receiving dependency and indemnity compensation, payment is made in equal shares to the children of the deceased veteran. These rates are increased as follows:

	Increase (monthly rate) From	Increase (monthly rate) To
One child	$284	$296
Two children	409	427
Three children	529	552
Each additional child	105	109

MISCELLANEOUS AMENDMENTS—TITLE II

Section 201 corrects an error made in connection with the enactment of section 111 of Public Law 101-237 which increased the applicable maximum rate of pension payable to veterans in nursing homes or domiciliaries. The technical correction would increase the rate in section 3203(a)(1)(C), which applies to readmissions within six months of discharge, from $60 per month to $90 per month, with an effective date as if the amendment had been made in section 111 of Public Law 101-237.

Section 202 would expand the authority of the Secretary of Veterans Affairs to accept gifts, devises, and bequests, that will enhance the Secretary's ability to provide services or benefits for veterans. Under current law, pursuant to sections 1006, 1007, and 5101 of title 38, the Secretary has authority to accept certain gifts for the benefit of national cemeteries and the Department's hospitals. However, no broad authority exists which would allow other DVA activities, such as the regional offices of the Veterans Benefits Administration, to benefit from the generosity of veterans and service organizations or other parties, in the form of donations of office equipment or similar materials. The Committee believes this expansion of gift-acceptance authority can only work to the benefit of the Nation's veterans.

Section 203 would amend section 415 of title 38 to permit payment of dependency and indemnity to parents (also referred to as "parents" DIC) on a less than monthly basis. The Committee has been advised that, in certain instances, payment of this benefit on a monthly basis can adversely affect certain beneficiaries' eligibility for other Federal needs-based benefits. This amendment simply authorizes the Secretary to provide the same options under this program to needy parents of veterans whose deaths are service connected as are available to beneficiaries under the improved pension program.

Section 204 would make a technical amendment to section 3101(c) of title 38 to authorize the deposit of amounts collected for unpaid survivor benefit plan premiums from Coast Guard members into the Retired Pay Account of the U.S. Coast Guard. Current law requires that all such sums now collected through offsets of compensation and pension payable to these individuals be deposited into the Department of Defense Military Retirement Fund under chapter 74 of title 10. The Coast Guard, however, as a component of the Department of Transportation, maintains a separate fund, the Retired Pay Account, for the receipt of these payments or collections. The Committee believes enactment of this provision will ensure that the collected funds will be deposited into the proper account.

Section 205 would amend section 355 of title 38 to provide that no readjustment in the schedule for rating disabilities shall cause a veteran's disability rating in effect on the date of the readjustment to be reduced unless an actual improvement in the veteran's disability has been shown to have occurred. The Committee is aware of cases, particularly with respect to adjustments in the rating schedule pertaining to the evaluation of hearing loss, in which individual veteran's ratings have been reduced although no improvement in the veteran's disability has occurred. Enactment of this provision is necessary to protect veterans' ratings, especially in light of forthcoming future readjustments to the rating schedule which otherwise could have resulted in similar reductions.

Section 206 would amend section 312(c) by conforming the manifestation period applicable in the case of a radiation-exposed veteran suffering from the disease of leukemia to the manifestation period of forty years which is applicable to other cancer related diseases for which presumptions of service connection were provided under Public Law 100-321. This amendment is consistent with a recommendation submitted to the Committee by the Secretary of Veterans Affairs' Advisory Committee on Environmental Hazards and with conclusions reached as to the long-term effects of exposure to low levels of ionizing radiation set forth in the BEIR V Committee report follow-up to the BEIR III Committee report.

Section 207 would expand applicability of presumptions found in section 312(c) of title 38 for veterans exposed to low levels of ionizing radiation during atmospheric testing of nuclear weapons or the occupation of Hiroshima and Nagasaki during World War II to certain members of the National Guard and Reserve who also participated in the tests but were not on active duty. The Committee has been advised that as many as 1,500 such individuals may have participated in these tests. The General Counsel of

the DVA has determined that such individuals, not having been on active duty, are not covered by these presumptions. The expansion of eligibility for certain benefits would, however, be limited in application to chapters 11, 13, 17, 23, 24, and 35 of title 38.

Section 208(a) would increase the maximum amount of coverage under the Veterans Mortgage Life Insurance (VMLI) program for severely disabled veterans who are eligible for specially adapted housing grants from $40,000 to $90,000.

Section 208(b) would extend the time period for applying for additional life insurance coverage under the Service-Disabled Life Insurance (SDVI) program from one year following a determination of service connection of a disability to two years after that date.

AGENT ORANGE PROVISIONS—TITLE III

The amendments made in title III (section 304) would provide permanent disability benefits on a presumptive basis for Vietnam veterans, who suffer from non-Hodgkin's lymphoma and soft-tissue sarcoma, or death benefits for their survivors. The amendment to section 312 of title 38 would codify decisions of the Secretary of Veterans Affairs announced during the summer of 1990 to compensate veterans suffering from these diseases, and it is further provided that awards of disability compensation or dependency and indemnity compensation would be retroactive to the date of the veteran's or survivor's first claim.

Section 303 would establish a permanent presumption of service connection in section 312 of title 38 for chloracne in Vietnam-era veterans whose chloracne became manifest within one year of their service in Vietnam.

Other provisions in title III (section 305) would establish a mechanism under which the Secretary must determine, based largely on biennial independent scientific reviews conducted by a private contract organization covering all relevant evidence, whether permanent disability benefits should be given to veterans suffering from any diseases determined to have positive association with exposure to Agent Orange or other toxic chemicals in Vietnam. The organization conducting the reviews would be the National Academy of Sciences (NAS) unless NAS declines the contract. The authority for the contract organization to conduct the reviews would be effective for a fiscal year to such extent or in such amount as is provided in an appropriations act. The Department would not be expected to use existing medical care funds for this purpose.

The DVA would also be required to gather, analyze, and report, on a continuing basis, clinical data from the health records of veterans examined or treated for disabilities related to 1) dioxin or other toxic agents in herbicides; or 2) Vietnam service; establish a tissue archiving system of voluntarily contributed blood and tissue samples to facilitate future research; and fund appropriate independent pilot studies to determine whether or not future scientific research on Vietnam service-related disabilities is feasible.

The Secretary of the Department of Health and Human Services would be required to submit a report on research being conducted to identify and develop treatments for exposure to dioxin and other toxic agents in herbicides.

An amendment to section 610(e) of title 38 would extend veterans' eligibility for health care based on Agent Orange or ionizing radiation exposure through December 31, 2000. This authority would otherwise have expired on December 31, 1990.

Title III would also make technical changes regarding 1) DVA outreach services related to Agent Orange; and 2) reporting procedures related to the Air Force's "Ranch Hand Study."

Finally, section 314 would require the Secretary to test for the presence of dioxin in the blood of any veteran who served in-country in the Republic of Vietnam, who is receiving health care for a disability alleged to be associated with Agent Orange exposure or who has applied for disability compensation for such a disability, if the veteran requests such a test. The Committee would expect the Secretary to advise veterans of the availability of this test consistent with the outreach responsibilities contained in section 1204(a) of Public Law 100-687 as amended by section 309 of the bill.

Section-by-Section Analysis of H.R. 5326

Section 1 states that this Act may be cited as the Veterans' Compensation Amendments of 1990.

TITLE I—COMPENSATION RATE INCREASES

Section 101 would amend present section 314 of title 38, relating to the rates of service-connected disability compensation.

Subsection (a) of section 101 would amend subsections (a) through (j) of present section 314 to increase by 4.5 percent the basic monthly rates of compensation paid to veterans with service-connected disabilities rated from 10 to 100 percent. The reported bill would also increase by 4.5 percent:

The higher monthly rates of compensation authorized under subsections (l) through (o) and (s) of section 314 for veterans with certain combinations of severe disabilities;

The maximum amount payable monthly to a veteran under subsection (p), which authorizes the Secretary to pay the next higher rate or intermediate rate to a veteran whose disabilities exceed the requirements for any of the rates prescribed in section 314, or who is both blind and deaf;

The rates payable monthly under subsection (r) to veterans who are in need of aid and attendance; and

The rate payable under subsection (s) to veterans who are permanently housebound.

Subsection (b) of section 101 would authorize the Secretary to increase by 4.5 percent the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38. Public Law 85-857 generally codified in title 38 of the United States Code the law relating to veterans' benefits; section 10 of that law provides that any person who was receiving benefits as a veteran on December 31, 1958, under public laws administered by the VA but not so codified, is to continue to receive benefits at the rates payable under such public laws or under corresponding provisions of title 38, whichever is the greater, so long as he or she remains eligible.

Section 102 would amend paragraph (1) of present section 315 of title 38, relating to additional compensation payable monthly to veterans with service-connected disabilities rated as 30 percent or more disabling who have spouses, children, or dependent parents, to increase those allowances by 4.5 percent. Under paragraph (2) of present section 315, which is not amended by the reported bill, the additional compensation payable for dependents to veterans rated from 30- to 90-percent disabled is prorated, as that, for example, a veteran rated at 30 percent receives 30 percent of that amount specified in paragraph (1) of section 315.

Section 103 would amend present section 362 of title 38, relating to the clothing allowance payable annually to a veteran receiving compensation whose disability requires the use of prosthetic or orthopedic appliance or appliances, including a wheelchair, that tends to wear out or tear the veteran's clothing, to increase that allowance by 4.5 percent.

Section 104 would amend present section 411 of title 38, relating to the rates of dependency and indemnity compensation (DIC) for the surviving spouses of veterans whose deaths are service-connected.

Clause (1) of section 104 would amend subsection (a) of present section 411 to increase by 4.5 percent the DIC benefit payable monthly to the surviving spouse of a veteran who has died as a result of service-connected disability. Under current law, a surviving spouse's DIC is paid according to the pay grade—service rank—of the deceased veteran. The DIC rate payable to the surviving spouses of veterans who had attained the grades of E-1 through O-10 would be increased by 4.5 percent, and proportionate increases would be provided in the rates payable to the surviving spouses of veterans who had served in the positions specified in footnotes 1 and 2 to the table of grades and rates in existing section 411 of title 38, United States Code.

The enactment of these increases would automatically result in identical increases in the benefits payable at DIC rates under section 418 of title 38 to surviving spouses of certain veterans compensated at the 100-percent rate whose deaths were not service-connected.

Clause (2) of section 104 would amend subsection (b) of present section 411 of title 38 to increase by 4.5 percent the dependents' allowance for each child under the age of 18 to a surviving spouse receiving DIC.

Clause (3) of section 104 would amend subsection (c) of present section 411 of title 38 to increase by 4.5 percent the additional amount of DIC payable monthly to a surviving spouse who is a patient in a nursing home or who is helpless or blind or so nearly helpless or blind as to be in need of regular aid and attendance.

Clause (4) of section 104 would amend subsection (d) of present section 411 of title 38 to increase by 4.5 percent the DIC payable monthly to a surviving spouse who is so disabled as to be permanently housebound.

Section 105 subsection (a) of section 105 would amend present section 413 of title 38, relating to DIC for surviving children of veterans whose deaths were service-connected, to provide a 4.5 percent increase in the monthly rates of DIC payable to the veteran's children where no surviving spouse is entitled.

Benefits payable at DIC rates under section 418 of title 38 to the surviving children of certain veterans compensated at the 100 percent rate whose deaths were not service-connected would also be automatically increased as a result of this increase under section 413.

Subsection (b) of section 105 would amend present section 414 of title 38, relating to supplemental DIC for certain surviving children.

Paragraph (1) of subsection (b) would amend subsection (a) of present section 414 to provide a 4.5 percent increase in the additional allowance payable monthly to a child eligible for DIC who has attained the age of

18 and who became permanently incapable of self-support before reaching age 18.

Paragraph (2) of subsection (b) would amend subsection (b) of present section 414 to provide a 4.5 percent increase in the DIC payable monthly, concurrently with the payment of DIC to a surviving spouse, to a surviving child who has attained the age of 18 and who became permanently incapable of self-support before reaching age 18.

Paragraph (3) of subsection (b) would amend subsection (c) of present section 414 to provide a 4.5 percent increase in the additional DIC payable monthly, concurrently with the payment of DIC to a surviving spouse, to a surviving child pursuing a course of education approved under present section 104 of title 38.

Section 106 would provide that the amendments made by sections 101 through 105 shall take effect on January 1, 1991 and further provides for the payment of additional amounts of disability compensation or DIC for the month of January 1992.

TITLE II—MISCELLANEOUS AMENDMENTS

Section 201 would make a technical correction to section 3203(a)(1)(C).

Section 202 would amend section 5101 of title 38, United States Code, to provide the Secretary with broad authority to accept gifts, devises, and bequests for the benefit of any of the Department's programs.

Section 203 would amend 38 U.S.C. subsection 415(a) to permit payment of dependency and indemnity compensation to parents less frequently than monthly.

Section 204 would amend 38 U.S.C. subsection 3101(c), which authorizes VA to collect, by means of offset from compensation or pension, underpayments resulting from a retired service member's failure to make required Survivor Benefit Plan or Retired Servicemen's Family Protection Plan payments. This technical amendment would permit funds collected from retired Coast Guard personnel to be credited to the Retired Pay Account of the Coast Guard.

Section 205 would amend section 355 of title 38, United States Code, to provide that no readjustment in the rating schedule would cause a veteran's disability rating in effect on the effective date of the readjustment to be reduced unless an improvement in the veteran's disability is shown to have occurred. The section would be effective as the changes in the rating schedule which take effect after the date of enactment.

Section 206 would amend section 312(c)(3) of title 38, United States Code, relating to presumptive periods for service connection of diseases incurred by radiation-exposed veterans following participation in a radiation-risk activity, to increase the presumptive period for leukemia from 30 to 40 years.

Section 207 would provide that an individual who, while a member of a reserve component, participated onsite in a test involving the atmospheric detonation of a nuclear device during a period of active duty for training or inactive-duty training would be treated, for purposes of chapters 11, 13, 17, 23, 24, and 35 of title 38, United States Code, the same as an individual who so participated during active-duty service.

Section 208 would make changes in two insurance programs. Section 208(a) would increase the maximum amount of coverage available under the Veterans Mortgage Life Insurance program from $40,000 to $90,000. Section 208(b) would amend sections 722(a) and 722(b) of title 38, United States Code, to extend from one year to two years the period during which veterans with service-connected disabilities may apply for Service-Disabled Veterans Insurance.

TITLE III—AGENT ORANGE

Section 301 states that this Title may be cited as the "Veterans Agent Orange Exposure and Vietnam Service Benefits Act of 1990."

Section 302 states that Congress finds that certain diseases suffered by Vietnam veterans are related to such service, that the Secretary of Veterans Affairs has presumed that veterans who served in Vietnam were exposed to dioxins and that it is reasonable to presume that Vietnam service resulted in exposure to other causes of disease.

Section 303 provides for a statutory presumption of service-connection for chloracne for veterans who served in Vietnam.

Section 304 would amend section 312 of title 38, United States Code, by adding a new subsection (e) at the end thereof. Subsection (a) would provide that for the purposes of section 310 of this title, the diseases of Non-Hodgkins Lymphoma and Soft-tissue sarcoma shall be considered to have been incurred in or aggravated by a veteran's service in the Republic of Vietnam during the Vietnam era.

Subsection (b) would provide that the effective date of any award of compensation or dependency and indemnity compensation provided in subsection (a) will be the date of claim for such compensation.

Section 305(a) states that Congress finds:

(1) it is in the public interest to provide for review by an independent nonprofit scientific organization review and evaluate available scientific evidence relative to associations between diseases and dioxin or other chemicals and to make judgments on degree and probability of association.

(2) that the standard of proof required for scientific conclusion of causation is higher than the standard required to justify a presumption for VA purposes that an adverse health effect is connected to military service, based on sound medical and scientific evidence.

Section 305(b) would add a new Section 312A which provides

(1) in subsection (a)(1) that the Secretary of Veterans Affairs may, by regulation, add diseases suffered by Vietnam veterans exposed to herbicides which have positive association to such exposure, and be presumed service-connected.

(2) in subsection (a)(2) that veterans who served in Vietnam will be presumed to have been exposed to dioxin.

(3) in subsection (a)(3) that the Secretary may extend the applicability to other veterans who may have had similar exposures to toxic chemicals.

(4) in subsection (b) that the Secretary will prescribe regulations listing diseases with positive association and will require periodic revision and evaluations of diseases.

(5) in subsection (c) the Secretary will obtain determinations and estimates from a contract scientific organization.

(6) in subsection (d) provides that each contract entered into under subsection (c) shall require the contractor to make determinations in the case of each herbicide agent relating to diseases with positive, limited positive or insubstantial associations relating to adverse health effects of exposure to herbicide agents.

(7) in subsection (e) provides that the contractor shall conduct a comprehensive survey and evaluation of the completed and ongoing studies relating to herbicides and to make its determinations and estimates on the basis of the results of such survey.

(7) in subsection (f) provides that the Secretary will require a contract scientific organization to review available new studies and make determinations and estimates.

(8) in subsection (g) provides that the contract scientific organization making determinations and estimates shall send the Secretary and the Committees on Veterans' Affairs of the Senate and the House of Representatives a written report of its findings.

(9) in subsection (h) provides that the Secretary shall transmit to the Committees a report containing the scientific basis for including each disease he proposes to recognize within sixty days from the day he receives the contractor's report.

(10) in subsection (i) requires the Secretary to transmit to the Committees a report containing the scientific basis for his actions on the contracting organizations findings.

(11) in subsection (j) provides that if a disease is removed from the list, compensation based on an earlier inclusion will continue to be paid.

(12) in subsection (k) provides that contract authority under this title is effective for a fiscal year to such extent or in such amount as is provided for in an appropriations act.

(13) in subsection (l) limits the effects of subsection (b) through (i) and (k) to ten years after submission of the first report.

(14) In subsection (m) provides definitions for terms used in this title; amends tables at the beginning of chapter 11, provides a conforming amendment and a special effective date for awards of disability compensation.

Section 306 would require the Secretary to compile and analyze on a continuing basis all associations between exposures to toxins and Vietnam service and requires an annual report to Committees containing information compiled, and an analysis of data with explanations. It would also require the Secretary to consult with and review by the National Institutes of Health before submission of the report.

Section 307 would require the Secretary to establish and maintain a system for collecting and storing samples of blood and tissue of Vietnam veterans in consultation with the National Academy of Science.

Section 308 would require the Secretary to establish a program to conduct studies on the feasibility of additional studies on dioxin hazards on a contract basis with consultation with the National Academy of Science. This contract authority would be subject to appropriations.

Section 309 would extend the Secretary's outreach requirement relating to Agent Orange.

Section 310 would require the Secretary of Health and Human Services to report on research being conducted relative to dioxin and physiological absorption.

Section 311 would extend the ending date for health care eligibility based on agent orange or ionizing radiation exposure from December 31, 1990 to December 31, 2000.

Section 312 would authorize a direct information link between the Ranch Hand advisory Committee and Air Force scientists conducting the Ranch Hand Study with no intervention or impairment of communication by any federal official. It requires annual and final reports by the Secretary of Defense.

Section 313 defines several terms used in Title III.

Section 314 would require the Secretary to conduct blood serum tests to ascertain the

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presence of dioxin in the body of any Vietnam veteran who requests such a test. The blood sample and results would be maintained as part of the system of tissue archiving required by section 307 of this title.

Section 315 would provide that the amendments need by title III shall take effect on the later of October 1, 1990 or the date of enactment.

I want to take just a moment to acknowledge the outstanding leadership of the chairman and ranking minority member, Mr. Stump, in bringing this bill to the floor in such short order. I also want to express my sincere thanks to Mr. McEwen for his leadership and cooperation in developing this bill.

Mr. Speaker, I urge all Members to support passage of the bill.

☐ 1230

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Veterans' Affairs Committee has several bills on the Suspension Calendar today, so in the interest of time I will make my comments on each one brief.

H.R. 5326, provides for a 4.5-percent increase in compensation for service-connected disabilities and rates of indemnity compensation for surviving spouses and children of veterans who die of service-connected causes. It also codifies actions taken by the Secretary of Veterans Affairs regarding Vietnam veterans suffering from certain cancers of indeterminant cause.

I support the cost-of-living increase and commend Mr. Applegate, the chairman of our Compensation Subcommittee, along with Bob McEwen, the subcommittee's ranking member, and of course, the distinguished chairman of the full committee for providing a COLA bill that complies with our budget and reconciliation instructions. I oppose the rest of the bill but will not request a recorded vote, because I believe veterans need this cost-of-living increase.

Mr. Speaker, H.R. 5326 makes the policy determination that sufficient scientific evidence and experience exist to warrant a presumption that certain diseases suffered by Vietnam veterans are connected to such service.

I disagree and believe this action is premature. In fact, the recent scientific reports have indicated a decreasing likelihood that exposure to herbicides causes cancer in humans.

The Secretary of Veterans Affairs has decided to pay compensation for non-Hodgkins lymphoma [NHL] and soft-tissue sarcoma [STS], but neither of these actions were based upon conclusive scientific evidence, and Congress should not codify presumptions for service connection without convincing scientific evidence. The Secretary's decision on NHL was based upon service in Vietnam but not exposure to agent orange or any other herbicide. The decision on STS was based on evidence indicating a just as likely as not relationship between the disease and any exposure to herbicides.

Both decisions are compassionate examples of Secretary Derwinski's desire to give the benefit of the doubt to the veteran. However, codification of those actions is premature. Congress should not legislatively establish presumptions of service connection for NHL or STS until convincing scientific evidence is confirmed and accepted widely by medical experts.

The Committee on Veterans' Affairs has received material from the Department of Health and Human Services, the Office of Technology Assessment, the Center for Disease Control, and the Paralyzed Veterans of America refutting claims about any scientifically proven relationship between cancer in humans and exposure to herbicides.

The Department of Health and Human Services' agent orange task force science panel concluded that a review of the scientific literature on agent orange sponsored by the American Legion, Vietnam Veterans of America and the National Veterans Legal Service Project, has major defects.

> The [AOSTF] agent orange scientific task force review ignores the "negative" studies and instead concentrates on those studies which show an effect that supports their preconceived opinions on the health effects of agent orange exposure. There is no attempt at a balanced critical evaluation of the literature.
>
> In summary, the AOSTF review did not use generally accepted criteria for evaluating causality. The review cited an extensive list of elevated risks without acknowledging the limitations of the studies from which they were taken. Finally, the review gave undue weight to studies where exposure to agent orange was either unknown or poorly defined in order to draw a casual relationship between health outcomes and agent orange.

The congressional scientific advisory body, the Office of Technology Assessment [OTA], has concluded that a report on agent orange by Adm. Elmo Zumwalt to the Secretary of Veterans Affairs has major defects.

> * * * We conclude that many of the assertions made in the report supporting a conclusion that agent orange is responsible for a wide range of health problems among Vietnam veterans, are incorrect. These are not mainly matters of differing opinion, but matters of fact—what did or did not happen. For those aspects about which OTA staff have detailed knowledge, it appears that Admiral Zumwalt's arguments are based, in many instances, on faulty information or incorrect interpretation of data.

The Paralyzed Veterans of America [PVA] on July 24, 1990, wrote to Representative Douglas Applegate, chairman of the House Veterans' Affairs Subcommittee on Compensation, Pension and Insurance to oppose service-connection of Vietnam veterans for certain diseases based on exposure to agent orange. To their credit, PVA is the only service organization with the guts to take an objective public position on this issue:

> In our opinion, it would be unwise and inappropriate for the subcommittee to approve this legislation in this form at this time.
>
> Certainly no connection whatsoever was made between non-Hodgkin's lymphoma and agent orange exposure.
>
> We have seen no convincing evidence that veterans with Vietnam service have incurred higher rates of soft tissue sarcoma when compared to Vietnam era veterans who did not serve in Vietnam.
>
> * * * Apart from the Air Force ranch hand personnel who flew the spraying missions and actually handled herbicides on a daily basis, very few Vietnam veterans were exposed to dioxin at levels higher than the general background experience of the American population.

Mr. Speaker, the following items are news clippings and executive summaries of studies and reports regarding research into the health effects of agent orange:

Congress of the United States,
Office of Technology Assessment,
Washington, DC, September 27, 1990.

Hon. Bob Stump,
Ranking Minority Member, Committee on Veterans' Affairs, House of Representatives, Washington, DC 20515

Dear Congressman Stump: Enclosed is a review of the Center for Disease Control's study on "The Association of Selected Cancers With Service in the U.S. Military in Vietnam," which you and your colleagues requested in your letter of May 22.

OTA approved the protocol for this study in February 1984, in accordance with the mandate of Public Laws 96-151 and 97-72. We find the "Selected Cancers Study" (SCS) to be well designed, conducted, and analyzed. We note that a modest increase in the risk of contracting one of the six cancers studied, non-Hodgkin's lymphoma, was found. There is no obvious explanation for the cause of this excess, but the pattern of risk among the services suggests strongly that it is not related to Agent Orange exposure (see attachment).

You asked specifically about whether any follow-up studies were warranted based on the results of the SCS. We do not see the need for new studies, but it would be valuable for the Department of Veterans Affairs to continue following the pattern of causes of death among Vietnam veterans, as they have been doing in their proportionate mortality study. In addition, while CDC has analyzed the SCS data for all appropriate military related variables, it is a rich source for analysis for many other factors, e.g., occupational and other exposures reported in the interviews. The data should be further analyzed by CDC, or some provision made to ensure that it is adequately accessible to independent researchers. Much of the value of the data will be lost if this is not done.

I hope this review is useful to you and your Committee. If you have any questions about it, please do not hesitate to contact me, or call Hellen Gelband or Clyde Behney in the OTA Health Program (at 8-6590).

Sincerely,

John H. Gibbons.

Enclosure.

OTA REVIEW OF: THE ASSOCIATION OF SELECTED CANCERS WITH SERVICE IN THE U.S. MILITARY IN VIETNAM

(By the Centers for Disease Control Selected Cancers Cooperative Study Group March 1990)

INTRODUCTION

The "Selected Cancers Study" (SCS) was one of three studies proposed by CDC to respond to the mandates of Public Laws 96-151 and 97-72, after responsibility for the studies had been shifted by interagency agreement from the Veterans Administration to the Department of Health and Human Services. The Vietnam Experience Study was completed in 1988, and the Agent Orange Cohort Study was canceled after extensive military records research and the laboratory-based "validation study" provided convincing evidence that the majority of ground troops had relatively little direct exposure to Agent Orange in Vietnam. By mandate of the two laws, OTA reviewed the study protocols for scientific validity and responsiveness to the laws. The SCS protocol was approved by the OTA Director in February 1984.

DESCRIPTION OF STUDY

The SCS is actually six separate case-control studies of the following cancers: non-Hodgkin's lymphoma (NHL), soft tissue and other sarcomas (STS), Hodgkin's disease, nasal cancer, nasopharyngeal cancer, and primary liver cancer. These cancers were chosen, on the basis of literature available when the study was planned, to include cancers that might plausibly be associated with exposure to phenoxy herbicides and their contaminants (mainly 2,3,7,8-tetrachlorodibenzo-p-dioxin, 2,3,7,8-TCDD, or dioxin). From the outset, the primary purpose of the study was to determine whether serving in Vietnam placed men at a higher risk of developing these cancers than if they had not gone. It was also planned, however, to include an analysis using some Agent Orange exposure rating to see whether there might be a correlation between level of exposure and cancer risk. As it turned out, the procedure envisioned to accomplish this was not acceptably reliable (this was not the same tracking procedure that was used in the "validation study," which examined the relationship between exposure estimates based on military records and blood dioxin levels of veterans), and there was no reasonable alternative. According to CDC, they asked the cancer registries participating in the study whether blood dioxin analyses could be added to the study. This was rejected by physicians treating the cancer patients, many of whom understandably felt it not in their patients' best interests to remove blood from them unnecessarily.

In a case-control study, a group of individuals with cancer ("cases") is identified, and another group is identified ("controls"), who are as similar as possible to the cases, except that they do not have cancer. For the SCS, cases and controls were identified, contacted, and interviewed by eight population-based cancer registries around the country, according to a protocol drawn up by CDC and approved by OTA. The study included males born between the years 1929 and 1953, and first diagnosed with cancer between December 1, 1984 and November 30, 1988. Controls were identified by random digit dialing, and frequency matched to the lymphoma cases according to 5-year date of birth interval. Deceased controls were identified for cases who died before they could be interviewed.

In analyzing a case-control study, a determination is made for all individuals in the study concerning the "risk factor(s)" of interest. In the SCS, the main risk factor was whether the men served in Vietnam. Using appropriate statistical analysis, an "odds ratio" is arrived at, in this case signifying the odds of getting the particular cancer after serving in Vietnam versus the odds of getting the disease without service in Vietnam. (For relatively rare diseases, such as the cancers in this study, the odds ratio is nearly equivalent to another measure, the "relative risk.") An odds ratio of one (or a number near one, allowing for chance departures) connotes no excess risk.

In practice, a great deal of information, not just on particular risk factors, is gathered on each participant, much of it from personal interview (or from interviewing a surrogate, for those who have died). In addition to using this information directly in the analyses, it is used to adjust for differences (e.g., in demographic characteristics) that may exist between the cases and controls. The analyses and the ways in which information was used in SCS were appropriate and in accordance with good scientific practice.

In addition to interview information, CDC also collected information from military records and verified the diagnoses of cases by having pathologists review tissue specimens.

RESULTS

In all, there were 1,157 men with NHL, 342 with STs, 310 with Hodgkin's disease, 48 with nasal carcinoma, 80 with nasopharyngeal carcinoma, and 130 with primary liver cancer. A pool of 1,776 controls was used for each cancer-specific analysis. These numbers make for a relatively powerful (in a statistical sense) study. The power to detect a relative risk as low as 2 (a relatively modest risk) for an association of service in Vietnam with non-Hodgkin's lymphoma, soft tissue sarcomas, or Hodgkin's disease was well over 90%. For the rarer cancers (nasal carcinoma, naspharyngeal carcinoma, and primary liver cancers), the power was lower, but still adequate to detect relative risks of 5 or more. It is worth noting that for rare diseases, even a doubling of risk may amount to a very small number of extra cases.

The study found a modest excess risk of NHL among Vietnam veterans, about 1.5 times the risk for men who were not in Vietnam, and this finding was statistically significant at the conventionally-accepted 5 percent level. For the other cancers, no excess risk was seen for Vietnam veterans.

One of the puzzling aspects of this elevated risk for NHL is that it appears to be greatest among "blue water Navy" veterans, who were not actually stationed in Vietnam but were on ships off the coast. For men who actually were stationed in Vietnam, there is no statistically significant excess risk. CDC points out that this pattern of risk is not consistent with the hypothesis that the cancers were associated with exposure to Agent Orange. No obvious explanation has been put forth to explain these results. It is possible that the observed excess risk is an anomaly due to some unknown "confounding variable," something associated independently both with getting the cancer and with having served in Vietnam. It could be a chance finding. It could also represent a real risk arising from some common feature of serving "in Vietnam," which would have to encompass serving in the blue water Navy, as well as on land.

NEED FOR FOLLOW-UP

The results of the SCS do not suggest the need for more studies. However, it would be valuable for the Department of Veterans Affairs to continue following the pattern of cause of death among Vietnam veterans, as they have been doing in their proportionate mortality study. In addition, while CDC has analyzed the SCS data for all appropriate military-related variables, it is a rich source-analysis of many factors, e.g., occupational and other exposures reported in the interviews. The data should be further analyzed by CDC, or some provision made to ensure that it is adequately accessible to independent researchers. Much of the value of the data will be lost if this is not done.

[From the Washington Times, Sept. 18, 1990]

THE TRIALS OF AGENT ORANGE

(By Michael Gough)

The U.S. military sprayed between 10 million and 12 million gallons of the herbicide Agent Orange in Vietnam. In the mid-1970s, a decade after its greatest use, some veterans began to assert that exposures to Agent Orange had caused various diseases—especially cancer. A group of veterans brought suit against former manufacturers of Agent Orange, and hundreds, then thousands, of veterans filed claims at the Veterans Administration asking for medical care and compensation for "Agent Orange diseases."

The Agent Orange issue subsided over the years: The lawsuit settlement stated that no association had been proved between Agent Orange and disease. Centers for Disease Control studies showed that mortality rates, current health status and frequency of birth defects in their children were comparable for Vietnam and non-Vietnam veterans.

Recently, the "Agent Orange controversy" heated up when the Department of Veterans Affairs decided to award compensation to Vietnam veterans with either of two forms of cancer. Do these two decisions mean that the many scientists are wrong who have studied possible associations between exposure to Agent Orange and various diseases and concluded that none exist? Not at all.

One of the two decisions says nothing about Agent Orange: A CDC study reported that Vietnam veterans were about 1.5 times as likely as other men to develop tumors called non-Hodgkin's lymphoma, and that the highest occurrence was among veterans of Navy service on "blue water" ships, where there was no opportunity for exposure to Agent Orange. Edward J. Derwinski, secretary of Veterans Affairs, stated that the decision concerning non-Hodgkin's lymphoma was "not a scientific decision and should not be seen as that. My decision and the president's support for it is a policy determination.

I have no quarrel with the decision about non-Hodgkin's lymphoma. Neither Mr. Derwinski nor anyone else claims it is based on scientific evidence of a link with Agent Orange.

I disagree completely with the other decision. On May 17, Mr. Derwinski announced that the DVA would begin compensating veterans with soft-tissue sarcoma because of a recommendation of the DVA's Advisory Committee on Environmental Hazards that an association was "as likely as not" between exposure to Agent Orange and those tumors. The committee's report "noted that work done in Sweden was strongly compelling for an association, while studies done elsewhere not showing an association were also very strong. . . . Studies involving Vietnam veterans did not find such an association. . . . The committee recommended to the secretary that, in their opinion, there was a significant statistical association between exposure to a herbicide containing dioxin [Agent Orange] and soft-tissue sarcomas. Several committee members noted, however, that they did not believe that the evidence demonstrated a causal association."

The only evidence for an association between exposure to dioxin-containing herbicides and soft-tissue sarcomas comes from a half-dozen papers published by a group of Swedish investigators. The other 70 or so articles that the DVA committee reportedly considered fail to confirm those findings. The Swedish scientists reported that herbicide sprayers who had been exposed for only one, two or three days were at increased risk of soft-tissue sarcomas. In contrast, careful studies of factory workers who were engaged in the manufacture of the herbicides day after day for many years revealed no excess of soft-tissue sarcomas. If a tiny exposure of a few days increased the risk, how could years-long continual exposures have no effects? Furthermore, other studies of herbicide applicators in Sweden as well as studies in New Zealand and the United States found no association. Finally, the latest paper from the same Swedish investigators who reported the association failed to confirm it. The Swedish scientists suggested that failure might have resulted from changes after the mid-1950s in the manufacture of herbicides that rendered them less carcinogenic. Alternatively, of course, the earlier studies could have been wrong.

The DVA committee admitted there is no excess of soft-tissue sarcomas among Vietnam veterans. Therefore, its decision depended upon the credence given to the unreplicated Swedish studies. It gave them much more credence than have other committees of experts assembled by the Environmental Protection Agency, the International Agency for Research on Cancer and governmental groups in Great Britain, Canada and elsewhere who have considered the same information. All those groups concluded no association has been demonstrated between dioxin-containing herbicides and soft-tissue sarcomas, and they consider the Swedish studies as unconfirmed suggestive evidence.

Evidence is even weaker that Vietnam veterans have been exposed to significant amounts of dioxin. Since dioxin is produced in a number of industrial processes and as a byproduct of combustion of wood, municipal wastes, gasoline and other things, everyone is exposed to it. "Background" levels of dioxin in Americans who have no record of industrial exposures range from 2 to 20 parts per trillion (ppt). The average levels in both Vietnam veterans who served in the most-likely-to-have-been-exposed units and in non-Vietnam veterans are identical and below 5 ppt, well within background levels.

The DVA's advisory committee did not, however, consider any questions about exposure. In the early 1980s before any studies had been done, it seemed possible that everyone of the 2.8 million Vietnam veterans had been exposed to Agent Orange, and DVA had established a policy based on that assumption. Exposure is, therefore, taken for granted, and DVA makes no scientific inquiry into whether veterans were exposed. Exposure assessment is, of course, usually a critical part of deciding links between exposures and disease.

Because of my surprise about the committee's "as-likely-as-not" recommendation, I called two of its members. Each said that as a matter of science he would not have reached that conclusion. Both also said, however, that committee members were constantly reminded to consider a court decision made last year. In it, a federal judge decided that the rules of science, as practiced by the committee, were too stringent for use in deciding whether to compensate veterans. The judge's decision, which DVA did not appeal, cast aside federal guidelines for evaluating epidemiology studies and scientific judgment.

I cannot leave the discussion of scientific evidence without mentioning reports prepared by retired Adm. Elmo Zumwalt for the DVA and by the self-proclaimed "Agent Orange Scientific Task Force" for the American Legion, the Vietnam Veterans of America (VVA) and the National Veterans Legal Service Program. Both reports list nearly every disease for which an association with dioxin or Agent Orange has ever been suggested. Neither weighs the negative studies against the positive ones nor considers the weight of the scientific evidence. Most damning of all, neither can point to any evidence for exposure of veterans, other than the few who actually sprayed Agent Orange.

In a July 6 letter to the Washington Times, the national commander of the American Legion claimed that his organization has been able to identify exposed veterans. There is no confirmation for that claim.

On Aug. 1, the Legion and the VVA sued the U.S. government. The suit demands that the government complete a health study to Agent Orange-exposed veterans as mandated by Congress in 1979. In response to that mandate, between 1980 and 1987, the DVA and then the CDC attempted to design and mount such a study, but the project was ended in 1987 when identical dioxin levels were determined in Vietnam and non-Vietnam veterans.

In contrast, the Legion and VVA claim that government scientists have covered up military records that make it possible to pinpoint where men served in Vietnam and to identify men that were actually exposed. That claim is without merit. In the mid-1980s a careful search revealed which Army battalions had been most exposed. Even the most exposed was within 2 kilometers of an Agent Orange spray only two to four days in a year, and most were never that close. Given that information, one would expect that the members of those battalions would have no excess amounts of dioxin in their blood. That, of course, is exactly what was found.

Although the "covered-up" records may permit more accurately locating the members of those battalions, the important point is that the battalions were seldom, if ever, close to a spray, and their members, accurately located or not, would not be expected to have high exposures. To go ahead with the study as the Legion and the VVA want would be to chase the wind.

[From the Washington Post, May 31, 1990]

SCIENTISTS TEMPER VIEWS ON CANCER-CAUSING POTENTIAL OF DIOXIN

(By Malcolm Gladwell)

Dioxin—the chemical that forced the evacuation of Love Canal, sparked a wave of lawsuits over Agent Orange and became notorious as the most potent carcinogen ever tested—may be far less dangerous than previously imagined, according to new scientific evidence.

After close study of the chemical's effect and a reevaluation of the original scientific data on dioxin's alleged dangers, many scientists have sharply reduced their estimates of dioxin's cancer-causing potential. Calling it a weak carcinogen, some scientists now recommend relaxing guidelines for the handling and cleanup of the chemical.

The reevaluation is not complete, and in some cases is hotly disputed by environmentalists. Even those scientists leading the revision stress that dioxin is far from being and should be handled with care.

But the new research sharply contradicts the arguments of many environmentalists that the levels of dioxin currently in the environment pose a significant health risk and suggests that at least some of the billions of dollars being spent to reduce trace amounts of dioxin in the air and water might be better spent elsewhere.

"I certainly wouldn't want to get more of this stuff into the environment," said Renata Kimbrough, toxicology and risk evaluation adviser in the Environmental Protection Agency administrator's office and one of a growing number of scientists inside and outside government pushing for more relaxed standards for dioxin. "But the present levels we're exposed to should not be of particular concern. We've overestimated the risk. . . . There are a lot of social ills in this country and we've got to concentrate on things that are really necessary."

The reevaluation of dioxin also calls into question some of the fundamental principles of risk assessment that have guided federal health policy on toxic chemicals for the past 20 years. If, as many experts argue, scientific advances have invalidated previous judgments about dioxin, it could mean that federal policy on a broad range of chemicals is also invalid.

"The stakes are enormous with dioxin," said Michael Gough, author of the 1986 study "Dioxin, Agent Orange" and a senior fellow at the Washington-based Resources for the Future. "If we change the way we regulate it, it will force an enormous change in the way we regulate all animal carcinogens."

The case against dioxin dates back to two large rodent studies conducted in the 1970s, both of which showed the chemical to be one of the most potent carcinogens ever measured in animals. Subsequent research on the chemical has led many scientists to believe that at higher doses dioxin can cause liver toxicity, immune system dysfunction and birth defects in humans and animals.

Dioxin is everywhere. It is a by product of incineration, wood and coal burning, papermaking and other industrial processes, and trace amounts of it are found in the air and water as well as in milk, orange juice, eggs hamburger meat, hot dogs and chicken broth.

Of course, these amounts are extremely small. The average daily exposure for Americans, for example, has been estimated by some scientists to be 0.5 picograms per kilogram of body weight every day, which amounts to one-half of a millionth of a millionth of a gram. This is equivalent to about one 10-billionth the concentration of aspirin in 150-pound person taking a standard tablet. But given dioxin's extraordinary tox icity, the question has logically been raised about whether that dose is safe.

The position of EPA is that it isn't. The agency's estimate of a safe daily dose of dioxin—one that officials believe carries a cancer risk of less than one in a million—is 0.006 picograms per kilogram, about 1 percent of the dose people actually receive. Although EPA officials stress that that figure represents only a starting point for policymaking, their risk assessment has added hundreds of millions of dollars to the costs of cleaning up contaminated sites, forced the pulp and paper industry into an expensive dioxin reduction program, and limited construction of toxic-waste incinerators.

"The only acceptable standard for dioxin is zero," said Mark Floegel, an official with Greenpeace, one of a number of environmental groups for whom dioxin has become a rallying cry. "We're devoting the same kind of resources to this issue as we do to whales or nuclear missiles."

But increasingly, scientists familiar with dioxin have become skeptical of the EPA's position and a number of other Western countries have radically reduced their estimates of dioxin's dangers.

Part of the reason is that repeated epidemiological studies involving people exposed to much higher than normal levels of dioxin—most recently Vietnam veterans exposed to the defoliant Agent Orange, which contained dioxin—have failed to show that dioxin has the same effect on humans as it does on laboratory animlas.

Other scientists have begun to raise questions about the accuracy of the original rodent tests involving dioxin. This concern stems form the fact that in the 10 years since the original animal studies tested dioxin's carcinogenicity, the scientific standards for evaluating a chemical's potency have become much more precise and reliable.

Last year, Johns Hopkins University scientist Robert Squire—who performed the original analysis of the animal data for the EPA a decade ago—reexamined his findings. Based on the new criteria, his conclusion—endorsed this spring by a panel of prominent pathologists—was that as many as half of the lesions originally thought to be evidence of dioxin's carcinogenicity were actually benign.

While the original analysis showed dioxin to be dangerous in even the smallest amounts, the new assessment found that it caused no tumors except at the very highest dose level, making it only a weak carcinogen. Extrapolated to humans, this difference means the safe daily dose of dioxin could be increased as much as thirtyfold.

"Based on all of the biological evidence, I do not believe that dioxin poses a cancer risk to humans at any anticipated levels of exposure," Squire said in a letter to the EPA.

Perhaps the most serious reservation about the way the risks of dioxin have been evaluated, however, stems from the assumptions used by the EPA in translating its animal data on dioxin's risk to a policy governing human exposure.

The agency used its standard risk assessment model, which assumes that the amount of cancer caused by a chemical at high doses in an animal study is directly proportional to the risk of cancer from the much lower doses found in the real world.

In other words, if 50 out of 100 rats got cancer from eating a bowl of dioxin a day, the EPA assumes that at half a bowl a day, half as many would get cancer, and at one-quarter bowl one-quarter would get sick, and so on down to the point where at 0.006 picograms per kilogram per day the agency assumed that the cancer risk to humans would be somewhere around one in a million.

This risk assessment technique assumes that any dose—no matter how small—of a chemical carries some risk of causing cancer. Indeed, there is a class of chemicals known as mutagens that damage DNA directly and can trigger cancer-causing mutations in even the most minute quantities.

But dioxin is not a mutagen. It does not damage DNA directly. Rather it seems to work by triggering a significant—but reversible—change in the biological functions of cells. Many scientists believe that below a certain threshold level of exposure, dioxin is incapable of triggering that change.

What is that threshold? Using an alternative model for interpreting dioxin's risk, Canada, Australia and a number of countries in Europe have estimated that dioxin remains safe at doses from one to 10 picograms per kilogram per day—a range several hundred times higher than the EPA estimate and comfortably above the levels to which Americans are currently exposed. This range also corresponds to safe limits for dioxin's other toxic effects, such as the potential for causing birth defects.

According to Dennis Paustenbach, vice president of McLaren Environmental Engineering in California and one of the country's foremost dioxin cleanup specialists, the United States could save upwards of $1 billion by moving to a standard of 5 picograms. Even a standard of one picogram "would eliminate 75 to 90 percent of the cost of cleanup" in sites where dioxin was the major chemical of concern.

Not everyone is convinced by this analysis.

"We know a lot about how dioxin acts, but we don't know everything," said Ellen Silbergeld, a toxicologist with the Environmental Defense Fund. Silbergeld and others recently opposed an attempt by the EPA to increase the acceptable daily dose for dioxin.

But enough experts have joined in the revisionist chorus that some scientists consider a softening in the government's stance toward the chemical inevitable.

"There is an awful lot of dioxin around," said Henry Pitot, a pathologist and dioxin expert at the McCardle Laboratory at the University of Wisconsin. "But the levels are so low that if this is a threshold carcinogen, then a good bit of our exposure is meaningless."

[From the Chicago Tribune, April 2, 1990]

Let Agent Orange Off the Hook for the Ills of Viet Vets

(By Joan Beck)

Once again, quickly. Another big study has just shown that Agent Orange and its contaminate dioxin can't be linked to the medical problems Vietnam veterans claim it has caused.

But almost immediately, the Department of Veterans Affairs announced it would pay full disability claims to Vietnam veterans with non-Hodgkin's lymphoma, even though the new study found no scientific cause-effect link between the herbicide and the cancer.

The problem with the payout isn't the money. This country owes all of its veterans more than it can ever repay. Tens of thousands of Vietnam veterans, beyond doubt, suffer from cancer, depression, skin diseases, kidney problems, sterility and assorted other ills. Many of their wives have had miscarriages. Some of their children have birth defects or learning disabilities.

If Congress or the VA wants to pick up the medical bills for any assortment of veterans' ills and can find the money to do so that's fine.

But the government should call it politics, not science.

The problem is that the VA has been clutching at scientific straws for years in hopes of justifying what is essentially a political action. The timing of its announcement immediately after the release of the new Agent Orange study implies a scientific cause-and-effect link that can't be found.

It's no surprise that the five-year study, made by the Centers for Disease Control, couldn't pin the blame on Agent Orange for any of the six kinds of cancers commonly linked to the herbicide by veterans and their supporters. Piles of studies, done by different researchers using other methods—including two others by the CDC—have also failed to find evidence to back the veterans' contentions.

What the new data did turn up was a small increase in a rare kind of cancer called non-Hodgkin's lymphoma. Vietnam veterans had an annual risk of 1.5 per 10,000 of getting the disease compared with 1 per 10,000 for men in the same age group who didn't serve in that war.

But the lymphoma can't be blamed on Agent Orange. The highest incidence of the cancer was found among men who had been stationed on ships off the coast of Vietnam, not in the jungles and other areas sprayed with the herbicide. In fact, the lowest rates of non-Hodgkin's lymphoma occurred among veterans who were stationed where the use of Agent Orange was heaviest.

What does it mean? No one knows. It could be just a statistical clip, an accidental red herring. Or it could be a tantalizing clue to a cause of cancer that an imaginative scientist could turn into a major discovery.

Even before it findings were announced, critics were knocking the new CDC study for its methods—just as they have lambasted all the research about Agent Orange which has failed to find the link to the veterans' health problems they are sure exists.

As time goes by it becomes less and less likely that the connection the veterans want so much to find can be teased out, no matter how many studies are done. No one can now measure precisely how much herbicide individual soldiers were exposed to when, or where any traces of dioxin detectable in their bodies came from or whether any of the skin problems they had in Vietnam were really the choracne that indicates dioxin poisoning.

The veterans cancers, kidney problems, sterility and other disorders are undeniably real. So are the miscarriages suffered by veterans' wives and the birth defects of their children. Something—defective genes, viruses, radiation, other environmental factors, some other still unimaginable biological triggers—are causing them. If it isn't Agent Orange, we've wasted years—and lives—trying to convict the wrong culprit.

"Why me" is an inevitable question when cancer strikes, a miscarriage occurs, a baby is born not quite perfect. When science has no answer yet, the mind usually invents one anyway to make the inexplicable tolerable. Pesticides and herbicides make good culprits. So does nuclear power.

It's easier to pick a villain beyond one's control—government, big business—than to blame one's self for smoking or excessive drinking, for example. And the longer the

time lapse between trigger and onset of illness, the less likely it is the real cause will be found.

Edward Derwinsky, the secretary of veterans affairs, said it wasn't necessary to specify a cause of non-Hodgkin's lymphoma when he announced the government would pay its victim's claims for a service-related health problem. ("My decision is not a scientific decision. It's a policy decision.")

But that's not good enough for the rest of us. Other people have non-Hodgkin's lymphoma who were never on ships stationed in Vietnam waters. All of the same disorders that afflict the veterans and their families occur in other people who were never sprayed with Agent Orange.

It's time to put emotion, politics, convenient assumptions and trendy beliefs aside, learn to look objectively at scientific data and get on with finding the real things that are hurting the veterans and all the rest of us.

[From the Washington Times, May 30, 1990]

Dioxin and the Trashing of Science

(By Warren Brookes)

On Friday May 18, Veterans' Affairs Secretary Edward Derwinski made a decision that will cost taxpayers billions of dollars. But its cost to scientific integrity is incalculable.

Mr. Derwinski announced the herbicide Agent Orange, specifically dioxin, may have caused a very rare form of cancer known as soft-tissue sarcomas. This was a complete reversal of one-month-earlier findings of a three-year study by the Centers For Disease Control that found no evidence of a link between dioxin exposure and cancer.

Veterans' groups were clearly delighted, and their champion, Sen. Thomas Daschle, South Dakota Democrat, called it a "major victory." But scientists around the country were shocked. James Wyngaarden, associate director for life sciences in the White House Office of Science and Technology Policy, told us "It's always distressing when you have pretty clear-cut scientific evidence and then policy decisions are made directly counter to that evidence. My understanding is there is no valid association between Agent Orange exposure and cancer. In the first place, the exposure was so very small."

In fact, one of the greatest challenges faced by the CDC was finding even 6,000 Vietnam veterans sufficiently exposed to the herbicide (within two kilometers and seven days of spraying) to generate an adequate epidemiological sample.

Even among that most-exposed group, CDC found that the dioxin levels in the blood fat of the veterans averaged only 5 parts per trillion, well within normal U.S. civilian levels of 2 to 20 parts per trillion, and no different from non-Vietnam veterans.

By contrast, the 1,200 Air Force personnel involved in the actual spraying program known as Operation Ranch Hand showed an average concentration of 38 ppt, seven times that of the ground troops, with many readings as high as 300 ppt. Yet exhaustive peer-reviewed studies of the Ranch Hand veterans have found "no adverse health effects" except the severe but not life-threatening skin rash known as chloracne.

That is consistent with equally lengthy epidemiological studies of eight industrial accidents between 1949 and 1968 in six countries where exposure ranged as high as 27,821 ppt, with average levels thousands of times that of Vietnam ground troops.

In 1987 the International Agency for Research on Cancer and in 1989 the British Environmental Protection Directorate reviewed all of this exposure evidence and concluded there had been "no increased levels of cancer" and no increased birth defects.

In 1988, the Senate Veterans Affairs Committee asked epidemiologist Dr. B. MacMahon and statistician A. Whittemore to look at the same evidence. They reached the same conclusion: "Looking at the industrial experiences overall, there is no evidence of excess occurrence of soft-tissue sarcoma, non-Hodgkins lymphoma or any other cancer."

Dr. Vernon Houk, assistant surgeon general and director of environmental health for the CDC—and head of the CDC Agent Orange Study—told a 1989 San Antonio, Tex., symposium on dioxin: "Over the past eight years, the science base on human exposure to dioxin has expanded substantially . . . We know for certain that dioxin can cause chloracne, but as yet we have found no other adverse health effect that is clearly linked to dioxin exposure."

How could Mr. Derwinski and his Veterans Advisory Committee on Environmental Hazards ignore all this evidence? Not apparently without a lot of heavy lobbying from Mr. Derwinski's chosen adviser, Adm. Elmo Zumwalt, who pushed the committee to focus entirely on some early, discredited studies of Swedish foresters.

As the committee statement concluded, "The work done in Sweden was strongly compelling for an association," but it added in the same breath, "studies done elsewhere showing no association were also very strong," and that "studies involving Vietnam veterans did not find such an association." The committee also admitted that "several members did not believe the evidence [from Sweden] demonstrated a casual connection."

In fact those early anecdotal Swedish studies were completely repudiated by an exhaustive 1986 study of 354,620 Swedish farmers and forestry workers reported in the Journal of the National Cancer Institute. It found that the relative risk for soft-tissue sarcomas among such exposed workers was well below average.

White House scientist Mr. Wyngaarden expressed his frustration: "It's clear that in spite of hundreds of millions spent on trying to ascertain any relationship between Agent Orange and cancer, scientists do not believe such a relationship exists, and we really should go with that, even though we have a normal tendency to want to blame someone for our problems."

How could Mr. Derwinski justify putting Adm. Zumwalt in charge of this process, given his great personal tragedy of having lost his son to cancer and having publicly blamed himself for having ordered the Agent Orange spraying? Mr. Derwinski said: "I've known the admiral for over 20 years. He is a totally distinguished and knowledgeable military official. He has been very active and involved in this issue, and called by Congress to testify on it. I just felt he was a respected authority."

But as a scientist? "He has science training and there are a number of people on that commission with only lay knowledge, as the law required. I asked the admiral to give me a report based on his knowledge and long interest."

Did you clear the decision with the White House? "We sent them advance copies of our statement. No one has called me from the White House to complain."

Obviously the White House was sufficiently pleased by how the decision played with veterans' groups. Mr. Wyngaarden admitted, "This won't be the first time that good science was undermined by politics—and it probably won't be the last." Indeed not.

The man most outraged is Michael Gough, the distinguished microbiologist who now heads the Center for Risk Management at Resources for the Future (RFF). Mr. Gough directed the Agent Orange studies for the congressional Office of Technology Assessment and wrote the seminal 1985 book "Dioxin, Agent Orange."

Mr. Gough said, "There are more important costs than money. If Congress ignores the scientific consensus about dioxin why shouldn't judges and juries? If that happens, people's confidence in science will be further eroded. Well-qualified scientists with many demands on their time may be reluctant to play a role in the next policy controversy. . . . Why should they work hard when they know their knowledge and advice may be ignored?"

The week before, Mr. Gough and his associates at RFF listened to James Mahoney, head of the federal National Acid Precipitation Assessment Project, raise the same issue: Why had both the White House and Capitol Hill totally ignored $500 million worth of research by 700 top scientists who found no basis for the president's $7 billion per year crash program on acid rain? Because ignoring science when it conflicts with politics is now a way of life in Washington.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. McEwen].

Mr. McEWEN. Mr. Speaker, today we have a number of veterans bills on the agenda which speak well of our committee's continuing efforts to bring improvements in our veterans programs in a time of budgetary difficulties. I want to commend the leadership of Chairman Montgomery and Vice Chairman Stump for their work in producing a solid legislative package for our veterans, particularly in the area of health care.

The committee also has produced legislation, H.R. 5326, which grants a much needed 4.5-percent cost-of-living increase in compensation for veterans with service-connected disabilities. The COLA also would go to the surviving spouses and children of veterans who died of service-connected causes.

This 4.5 percent COLA is the product of the Veterans Affairs Subcommittee on Compensation, Pension, and Insurance on which I serve with a most dedicated and capable friend of veterans, Mr. Applegate, who is a good personal friend as well.

The COLA we propose is emblematic of the contract between our Nation and those veterans whom we compensate for the injuries they incurred while serving us. We also compensate their survivors, and rightly so.

This compensation recognizes our veterans' sacrifices, and the COLA ensures their compensation retains the value intended when the law originally was enacted.

Today, this Congress has an opportunity to pass legislation which will assure adequate compensation to shelter against changing economic conditions. It gives us a chance to demonstrate our commitment to veterans.

I join Chairman APPLEGATE in urging passage of H.R. 5326, the Veterans' Compensation Amendments of 1990.

Mr. STUMP. Mr. Speaker, I reserve the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. EVANS] who is chairman of the Subcommittee on Oversight and Investigations.

Mr. EVANS. Mr. Speaker, I want to thank Chairman MONTGOMERY and I want to say I'm proud to join him in support of this needed legislation.

In addition to providing a cost-of-living increase to disabled veterans and widows this bill contains, for the first time, provisions that would provide permanent disability benefits to Vietnam veterans who suffer from now—Hodgkin's lymphoma and soft tissue sarcoma.

Thus this legislation will codify the actions taken earlier this year by Secretary Ed Derwinski to compensate these two diseases.

The bill will also codify permanent benefits for veterans suffering from chloracne.

In addition, the legislation provides a method by which the DVA must determine, based largely on independent scientific reviews, whether permanent disability benefits should be given to veterans suffering from any disease determined to have a positive association with exposure to agent orange.

This is a big step forward by Congress in recognizing the duty we have to help Vietnam veterans who served our country and who are suffering as a result. We salute all of those who came to our country's call during that most unpopular war by passing this legislation.

Finally I want to thank several of our veteran organizations, especially the Vietnam Veterans of America, the American Legion, the Veterans of Foreign Wars for their hard work in moving this legislation through the committee and to the House floor.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also want to thank the distinguished chairman of the subcommittee, the gentleman from Ohio [Mr. APPLEGATE], and the ranking minority member, the gentleman from Ohio [Mr. MCEWEN], for bringing this bill to the floor and their leadership throughout this session of the Congress. In addition, I certainly want to thank the gentleman from Arizona [Mr. STUMP], ranking minority member, for his cooperation for the full year. It has been a pleasure working with him, and I look forward to working with him again in the future.

Mr. BONIOR. Mr. Speaker, I rise in strong support of several pieces of legislation being considered by the U.S. House of Representatives today which greatly benefit our Nation's veterans. This legislation is truly of monumental importance to veterans, their families, and our country.

In particular, I wholeheartedly endorse the veterans compensation amendments, H.R. 5326, which provide compensation for veterans affected by service-connected disabilities. In addition to helping all of our Nation's disabled veterans, this legislation helps end the nightmare of agent orange by bringing relief to the thousands of Vietnam veterans who suffer from the effects of agent orange. Like no other war-time illness, agent orange represents for many of us the lingering horror of Vietnam.

H.R. 5326 provides permanent disability benefits to Vietnam veterans who suffer from non-Hodgkins' lymphoma and soft-tissue sarcoma. These diseases have been irrefutably linked to the powerful defoliant agent orange which was used extensively in Southeast Asia. With the passage of this legislation, we put behind us the years of controversy over agent orange. We put behind us allegations of fraudulent studies and botched research to finally come to grips with the total impact of the agent orange tragedy.

H.R. 5326 is very similar to provisions contained in H.R. 3004, the Veterans Agent Orange Exposure and Vietnam Service Benefits Act, of which I am an original cosponsor. As the founder of the Vietnam-era Veterans in Congress, I have worked for the full compensation of all veterans affected by exposure to agent orange. I am very proud that the passage of H.R. 5326 sends a strong message that the time for more studies and more talk is over—agent orange victims must be treated for their suffering.

I also rise to applaud the passage of H.R. 5740, the Veterans' Health Care Act, which contains several landmark provisions of benefit to Vietnam-era veterans. In particular, H.R. 5740 establishes an Advisory Committee on Readjustment of Veterans and increases the number and quality of post-traumatic stress disorder [PTSD] outreach centers. Many Vietnam veterans are plagued with the memories of their service in Vietnam and have had a long and tortuous road home. H.R. 5740 will help care for those veterans and their families through counseling and therapy.

One final piece of legislation that merits our praise is H.R. 5657, which will streamline the operations of the newly established U.S. Court of Veterans Appeals. This legislation will improve the administration of justice and allow the Court of Veterans Appeals to reduce its backlog of veterans' compensation claims. H.R. 5657 will provide relief to veterans and their families who are left in limbo by a lengthy appeals process.

These bills we are considering today are truly of great national significance for veterans and will help us to close the book on the lingering scars of the Vietnam war and better provide for all veterans. I strongly support the passage of this landmark legislation.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 5326, the Veterans Compensation Amendments of 1990.

I would like to commend the gentleman from Ohio [Mr. APPEGATE] for introducing this important measure, and the distinguished chairman of the Veterans Committee, the gentleman from Mississippi [Mr. MONTGOMERY] and the ranking minority member, the gentleman from Arizona [Mr. STUMP] for their uncreasing efforts on behalf of our Nation's veterans.

H.R. 5326 provides a 4.5-percent cost-of-living adjustment in compensation and dependency and indemnity compensation rates, as well as increases the rates of veterans' disability compensation and clothing allowance for certain disabled veterans.

Additionally, this measure increases the maximum coverage severely disabled veterans are eligible to receive under the veterans' mortgage life insurance from $40,000 to $90,000.

Mr. Speaker, our Vietnam veterans continue to fight for benefits due to them because of their exposure to agent orange. The Department of Veterans Affairs has taken steps to compensate veterans who were exposed to agent orange by awarding service-connected disability benefits to veterans suffering from non-Hodgkin's lymphoma.

In regard to agent orange exposure, this measure codifies a permanent disability benefit for Vietnam veterans who suffer from non-Hodgkin's lymphoma or soft-tissue sarcoma, establishes a permanent presumption of service connection for chloracne in Vietnam veterans, instructs the Department of Veterans Affairs to conduct a study to determine whether permanent disability benefits should be given to veterans suffering from agent orange and related diseases, and requires the Department of Veterans Affairs to examine clinical data from the health records of veterans examined or treated for disabilities related to dioxin or other toxic agents in herbicides.

Mr. Speaker, many of our Nation's veterans are suffering each day due to their exposure to agent orange. Secretary Derwinski has taken the first step to compensate those who were exposed. It is time for Congress to continue to take important and necessary steps in providing compensation and medical care for those who were exposed to agent orange.

Accordingly, I fully support H.R. 5326, and urge my colleagues to vote in favor of it.

Mr. WEISS. Mr. Speaker, H.R. 5326, the Veterans' Compensation Amendments of 1990, contains provisions to compensate Vietnam veterans for diseases associated with exposure to the toxic defoliant agent orange. The legislation will, for the first time, grant statutory service-connected status to non-Hodgkins lymphoma, soft-tissue sarcoma, and melanoma and basil cell carcinoma, for Vietnam veterans.

I hope this bill is only the first step in redressing the wrongs our Government has perpetrated against Vietnam veterans. For more than two decades, different administrations have refused to accept responsibility for the diseases suffered by veterans exposed to agent orange during the Vietnam war.

A recent report by the House Government Operations Committee concluded that the Centers for Disease Control [CDC], which was assigned the task of assessing the exposure of veterans to agent orange, improperly canceled the study at a time that the White House had secretly adopted a legal strategy to deny liability for civilian and military exposure to toxic chemicals and radiation.

At the time the legal strategy was formulated, the White House had been overseeing a $43 million study by CDC, which had been asked by Congress to determine whether Vietnam veterans had been exposed to agent orange.

The White House ordered the study canceled in 1987 after CDC claimed it was scientifically impossible to use military records to identify veterans who had been exposed to the defoliant. The cancellation occurred after White House attorneys made a decision to oppose legislative and judicial attempts to compensate veterans who had been exposed to agent orange and nuclear radiation.

The decision is revealed in a series of internal memoranda obtained by the Human Resources and Intergovernmental Relations Subcommittee.

More than 11 million gallons of agent orange was sprayed in Vietnam. A contaminant contained in the defoliant dioxin is the most toxic chemical ever tested in laboratory animals. Vietnam veterans and many scientists believe dioxin is responsible for various illnesses, including rare cancers and birth defects.

The CDC study was continually monitored by a White House task force called the Agent Orange Working Group. The Government Operations Committee's report concluded that, "The White House compromised the independence of the CDC and undermined the study by controlling crucial decisions and guiding the course of research at the same time it had secretly taken a legal position to resist demands to compensate victims of agent orange exposure and industrial accidents."

The committee also found that CDC had diluted the original study design to the point that it was unlikely to identify the veterans with the greatest opportunity for exposure to agent orange. According to the committee's report, CDC eliminated from the study all veterans who had served more than one tour of duty in Vietnam and all veterans who had served in branches of the military other than the Army, including marines.

According to the report, after selecting veterans for the study who met CDC's restricted criteria, the agency then tested their blood for traces of dioxin, even though CDC had been advised by independent scientists that the chemical was not likely to persist in the blood of all veterans exposed more than two decades before.

When few veterans were found to have elevated levels of dioxin in their blood, the White House ordered that the study be cancelled, based on CDC's recommendation that the blood test had demonstrated it was impossible to estimate exposure to agent orange. However, the committee's report concluded, "The blood serum analysis, which was used as proof by CDC that an agent orange exposure study could not be conducted, was based on erroneous assumptions and a flawed analysis."

CDC argued that the blood test also proved that the military records used by the agency to select veterans for testing were unusable. The report stated that military record experts at the Defense Department and reviewers from the National Academy of Sciences found the records to contain adequate information to conduct the study, and strongly disagreed with CDC's evaluation.

The committee's report also said that CDC had found evidence that Vietnam veterans are at greater risk of a rare form of cancer, non-Hodgkins lymphoma, certain birth defects in their offspring, and low sperm counts. CDC dismissed any connection between agent orange and these problems, the report said, because its cancelled study had found few troops to be exposed to the defoliant. The report called CDC's finding "a false and misleading interpretation of its own study." CDC did not find that few troops were exposed; it found that it could not estimate exposure at all.

H.R. 5326 takes into account the inadequacy of the CDC study, and directs the Secretary of Veterans Affairs to contract with the National Academy of Sciences to continue investigating agent orange and provide periodic reports as new information is developed about exposure assessments and diseases linked to the defoliant. I believe this is a major recognition that past studies were not credible and much more needs to be learned.

I bring these facts to the attention of my colleagues as a reminder that the compensation bill we consider today is an important beginning. But many questions remain to be answered before we can close the agent orange chapter in our military history.

Mr. ROTH. Mr. Speaker, today the House will consider important legislation affecting our Nations' veterans. The legislation before the House today will help America's most severely disabled veterans and those suffering from agent orange exposure. These bills will also allow the Veterans' Administration to speed up the recruitment of needed medical personnel, and strengthen veterans' civil protections and legal rights.

I congratulate Mr. MONTGOMERY, chairman of the Veterans' Committee, and Mr. HAMMERSCHMIDT, the vice chairman, as well as the other members of the Veterans' Committee, for their fine work in bringing this legislation to floor.

Of the measures before us, I am particularly proud to support legislation that recognizes the suffering of veterans exposed to agent orange. H.R. 5326, the Veterans Compensation Amendments of 1990, extends free medical care for agent orange exposure through the turn of the century.

H.R. 5326 also establishes service connection for chloracne in Vietnam veterans, and codifies the permanent disability benefit for Vietnam veterans or their survivors who suffer from non-Hodgkin's lymphoma or soft-tissue sarcoma.

Finally, the bill increases disability compensation rates and provides a 4.5-percent COLA for dependency and indemnity compensation.

I also support H.R. 5740, Veterans Health Care Amendments of 1990, which will help to improve the quality of health care in VA facilities. As the veterans population continues to age, they will require more intensive care. A large part of the burden will fall on the staff who must provide that care. This legislation will make sure that qualified staff is there when our veterans require medical attention.

Understaffing is a critical problem at many VA facilities including one that serves many veterans who reside in my area of northeast Wisconsin. This bill will help to relieve the load on over-burdened facilities.

H.R. 5657 would make reforms in the U.S. Court of Veterans Appeals. These reforms will serve veterans by helping to improve the way the court operates.

Finally, H.R. 5652 would amend the charter of the American Legion to redefine eligibility for membership by including the Lebanon, Grenada, and Panama conflicts. This bill, as reported out of the Judiciary Committee, is supported by the American Legion.

America's veterans deserve the best our Nation has to offer. These bills make sure that they receive the best.

Mr. SYNAR. Mr. Speaker, I rise in support of several measures before us today which would benefit our Nation's veterans.

In particular, I join my colleagues in strong support of H.R. 5326, the Veterans Compensation Amendments of 1990. This legislation provides a 4.6-percent cost-of-living increase in compensation for veterans with service-connected disabilities, as well as dependency and indemnity compensation for dependents of veterans whose death is the result of service-connected injuries.

Furthermore, this measure increases the maximum coverage severely disabled veterans are eligible to receive under the veteran's mortgage life insurance from $40,000 to $90,000.

H.R. 5326 also provides permanent disability benefits for Vietnam veterans who suffer from non-Hodgkins' lymphoma and soft-tissue sarcoma, or to their survivors. Those provisions are similar to H.R. 3004, the Veterans Agent Orange Exposure and Vietnam Service Benefits Act, of which I am a cosponsor. H.R. 5326 further recognizes that the CDC's finding which dismissed the connection between agent orange exposure and these diseases was false and misleading. Many more questions need to be answered about this issue, so the bill directs continued study of the link between agent orange exposure, immunity disorders, and other diseases.

Another piece of legislation that merits our consideration is H.R. 5652, which amends the charter of the American Legion to allow membership for post-Vietnam era veterans. This bill, endorsed by the American Legion, extends eligibility to include those who served in Lebanon, Grenada, and Panama conflicts.

I also rise in support of H.R. 5740, the Veterans' Health Care Amendments of 1990, which makes significant improvements to health care programs in the Department of Veterans Affairs. This bill improves the recruitment and retention of critical health care professionals, retained needed medical professionals, and allows part-time physicians and dentists in the VA to accept payment for their other part-time private employment. It also improves fiscal responsibility by prohibiting the expenditure of funds for major construction projects without congressional approval. Finally, the measure expands the VA's existing treatment programs for post traumatic stress syndrome (PTSD).

The Department of Veterans Affairs runs the largest health care system in the free world. Across the land are 172 VA hospitals, 200 outpatient clinics, and 137 counseling outreach centers. In that setting, thousands of devoted medical employees, administrative staff, and support personnel are challenged to carry out that arduous task within severe budget restraints which result in a burdensome shortage of staff and supplies.

The Veterans' Health Care Amendments of 1990 will improve the quality of health care in the VA health care system and relieve the burden now borne by the hard-working health professionals in understaffed VA medical centers.

Mr. Speaker, in closing I congratulate SONNY MONTGOMERY, chairman of the Committee on Veterans' Affairs, and our colleagues on the committee, for bringing this legislation to the floor. These bills are the result of their advocacy for the veterans whose sacrifice secured freedom for all Americans.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5326, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

VETERANS' HEALTH-CARE AMENDMENTS OF 1990

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5740) to amend title 38, United States Code, to make improvements in veterans' health care programs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5740

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Health-Care Amendments of 1990".

(b) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—HEALTH-CARE BENEFITS

SEC. 101. CONTRACT HOSPITAL CARE FOR VETERANS WITH PERMANENT AND TOTAL SERVICE-CONNECTED DISABILITIES.

Section 603(a)(1) is amended—

(1) by striking out "or" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph:

"(C) for any disability of a veteran who has a total disability permanent in nature from a service-connected disability.".

SEC. 102. EXTENSION OF ANNUAL REPORT ON FURNISHING NONSERVICE-CONNECTED HEALTH CARE.

Section 19011(e)(1) of the Veterans' Health Care Amendments of 1986 (38 U.S.C. 610 note) is amended by striking out "each of" and all that follows through "1989" and inserting in lieu thereof "each fiscal year through fiscal year 1992".

SEC. 103. EXTENSION OF VETERANS MEMORIAL MEDICAL CENTER, REPUBLIC OF THE PHILIPPINES.

Section 632(a) and 632(b)(1) are amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1991".

TITLE II—HEALTH-CARE PERSONNEL

SEC. 201. LICENSURE OF SOCIAL WORKERS.

(a) IN GENERAL.—Subsection (a) of section 4105 is amended by adding at the end the following new paragraph:

"(10) SOCIAL WORKER.—Hold a master's degree in social work from a college or university approved by the Secretary and, if the law of the State of employment so requires, be licensed, certified, or registered as a social worker, except that to allow completion of requirements for such licensure, certification, or registration, the Secretary may waive the requirement in any case for a period not to exceed three years.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall not apply to any person employed as a social worker by the Department of Veterans Affairs on or before the date of the enactment of this Act.

SEC. 202. MINIMUM PERIOD OF SERVICE FOR SCHOLARSHIP RECIPIENTS.

(a) MINIMUM SERVICE REQUIREMENT.—Section 4312(c)(1) is amended by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", but for not less than two years.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to scholarship agreements entered into after the date of the enactment of this Act.

SEC. 203. AUTHORITY TO PURCHASE ITEMS OF NOMINAL VALUE FOR RECRUITMENT PURPOSES.

Section 4108 is amended by adding at the end the following new subsection:

"(f) The Secretary may purchase promotional items of nominal value for use in the recruitment of individuals for employment under this chapter. The Secretary shall prescribe regulations for the administration of the preceding sentence.".

SEC. 204. CONDITIONS OF EMPLOYMENT OF PART-TIME MEDICAL EMPLOYEES.

Section 4114 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(h) A person appointed as an employee of the Veterans Health Services and Research Administration on a part-time basis may (notwithstanding any other provision of law) receive and retain amounts (or any other thing of value) paid to that person for an appearance, speech, or article, so long as the appearance, speech, or article does not create a conflict of interest or an appearance of a conflict of interest.".

TITLE III—HEALTH-CARE MANAGEMENT

SEC. 301. ADMINISTRATIVE REORGANIZATION AUTHORITY.

Section 210(b)(2) of title 38, United States Code, is amended—

(1) in subparagraph (A), by striking out the second and third sentences and inserting in lieu thereof the following: "No action to carry out such reorganization may be taken after the submission of such report until the end of a 60-day period of continuous session of Congress following the date of the submission of the report. For purposes of the preceding sentence, continuity of a session of Congress is broken only by an adjournment sine die, and there shall be excluded from the computation of such 60-day period any day during which either House of Congress is not in session during an adjournment of more than three days to a day certain.";

(2) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) An administrative reorganization described in this subparagraph is an administrative reorganization of a covered field office or facility that involves a reduction during any fiscal year in the number of full-time equivalent employees with permanent duty stations at such office or facility—

"(i) by 15 percent or more; or

"(ii) by a percent which, when added to the percent reduction made in the number of such employees with permanent duty stations at such office or facility during the preceding fiscal year, is 25 percent or more.";

(3) in subparagraph (C)—

(A) by inserting "administrative" before "reorganization" the first place it appears;

(B) by striking out "the reorganization" after "applies to" and inserting in lieu thereof "an administrative reorganization";

(C) by striking out "more than 25 but less than 100 employees" and inserting in lieu thereof "100 or more employees"; and

(D) by striking out "in such unit—" and all that follows and inserting in lieu thereof "in such unit by 25 percent or more."; and

(4) in subparagraph (D)—

(A) by adding at the end of clause (i) the following new sentence: "Such term does not include a consolidation or redistribution of functions at a covered field office or facility, or between components of the Veterans Benefits Administration and the Veterans Health Services and Research Administration at a Department medical and regional office center, if after the consolidation or redistribution the same number of full-time equivalent employees continues to perform the affected functions at that field office, facility, or center.";

(B) by striking out clause (ii); and

(C) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

SEC. 302. AUTHORIZATION REQUIREMENT OF NEW MEDICAL FACILITIES.

(a) AUTHORIZATION REQUIREMENT.—(1) Paragraph (2) of section 5004(a) is amended to read as follows:

"(2) No funds may be appropriated for any fiscal year, and the Secretary may not obligate or expend funds, for any major medical project or any major medical facility lease unless funds therefor have been specifically authorized by law.".

(2) Paragraph (3)(B) of that section is amended—

(A) by inserting "(including a lease renewal)" after "means a lease"; and

(B) by striking out "$500,000" and inserting in lieu thereof "$300,000".

(3) Subsection (c) of section 5004 is amended by striking out "resolution" both places it appears and inserting in lieu thereof "law".

(b) APPLICABILITY.—The amendments made by paragraph (1) shall not apply with respect to projects for which funds were appropriated before the date of the enactment of this Act or for which funds were requested in the President's budget for fiscal year 1991.

SEC. 303. SUBMISSION OF REPORTS OF GERIATRICS AND GERONTOLOGY ADVISORY COMMITTEE.

Subparagraph (C) of section 4101(f)(2) is amended to read as follows:

"(C)(i) The Committee shall submit to the Secretary, through the Chief Medical Director, such reports as the Committee considers appropriate with respect to its findings and conclusions under subparagraph (B) of this paragraph. Such reports shall include the following:

"(I) Descriptions of the operations of the centers of geriatric research, education, and clinical activities established pursuant to paragraph (1) of this subsection.

"(II) Assessments of the quality of the operations of such centers.

"(III) An assessment of the extent to which the Department, through the operation of such centers and other health-care facilities and programs, is meeting the needs of eligible older veterans for geriatric and extended-care and other health-care services.

"(IV) Assessments of, and recommendations for correcting any deficiencies in, the operations of such centers.

"(V) Recommendations for such other geriatric, extended-care, and other health-care services as may be needed to meet the needs of older veterans.

"(ii) Whenever the Committee submits a report to the Secretary under division (i) of this subparagraph, the Committee shall at the same time transmit a copy of the report in the same form to the appropriate committees of Congress. Not later than 90 days after receipt of a report under division (i) of this subparagraph, the Secretary shall submit to the appropriate committees of Congress a report containing any comments and recommendations of the Secretary with respect to the report of the Committee.".

TITLE IV—MISCELLANEOUS

SEC. 401. PRESERVATION OF DATA REGARDING RETURNED VIETNAM-ERA PRISONERS OF WAR.

(a) TRANSFER OF JURISDICTION.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall enter into an agreement with the Secretary of the Navy to facilitate the transfer to the Secretary of Veterans Affairs of all medical follow-up data in possession of the Secretary of the Navy regarding Vietnam-era prisoners of war which have been collected by the Center for Prisoner of War Studies and the Naval Aerospace Medical Institute.

(2) The Secretary of Veterans Affairs shall compile, analyze, and maintain data transferred under paragraph (1).

(b) REPORT.—Within one year after the date of the enactment of this Act the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report detailing the results of the Secretary's analysis of such data.

(c) FUNDS.—The Secretary may carry out this section during fiscal year 1991 using funds available to the Secretary for that fiscal year for the cooperative medical research program carried out by the Secretary of Defense and the Secretary of Veterans Affairs.

SEC. 402. REPORT ON IMPLEMENTATION OF BENEFITS NOTICE REQUIREMENT WITH RESPECT TO HEALTH BENEFITS.

Not later than 60 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report describing the actions of the Secretary to that date in implementing section 3004 of title 38, United States Code, with respect to notice of decisions with respect to health benefits.

TITLE V—EXPANSION OF SERVICES FOR VETERANS SUFFERING FROM POST-TRAUMATIC STRESS DISORDER (PTSD)

SEC. 501. FINDINGS.

The Congress finds that—

(1) 479,000 Vietnam-era veterans currently suffer from full-blown post-traumatic stress disorder (hereinafter in this Act referred to as "PTSD");

(2) 10% of these veterans were served by the Department of Veterans Affairs for the treatment of PTSD in the final year of a congressionally mandated study of the readjustment of Vietnam-era veterans;

(3) Expansion of the programs which currently exist to provide services to veterans suffering from PTSD, including specialized inpatient PTSD units (SIPUs), PTSD clinical teams (PCTs), Vet Centers, and other such services, would be an effective means of reaching the unserved veterans;

(4) Implementing the recommendations of the Chief Medical Director's Special Committee on PTSD would be an effective means of reaching the unserved veterans.

SEC. 502. EXPANSION OF THE SPECIALIZED INPATIENT PTSD UNIT PROGRAM.

(a) POLICY.—It shall be the policy of the Secretary of Veterans Affairs (hereafter in this Act referred to as the "Secretary") to implement the recommendations of the CMD's Special Committee on PTSD with respect to the specialized inpatient PTSD unit program (hereafter in this Act referred to as 'SIPUs").

(b) NUMBER OF SIPUS.—The Secretary shall increase the number of SIPUs existing on the date of enactment of this Act by not less than 6 additional units by September 30, 1991, and by not less than 8 additional units each subsequent Fiscal Year thereafter through the Fiscal Year ending September 30, 1995.

SEC. 503. EXPANSION OF THE VET CENTER PROGRAM AND OUTREACH EFFORTS FOR VETERANS WITH READJUSTMENT COUNSELING NEEDS.

(a) SPECIAL COMMITTEE RECOMMENDATION.—The Chief Medical Director's Special Committee on PTSD (hereinafter in this Act referred to as the "Special Committee") shall—

(1) identify where the needs lie for expanding the Vet Center program, especially in areas of concentrated minority Vietnam-era veteran populations and areas which are currently not well-served by Vet Centers;

(2) present a list of not less than 25 candi
date sites based on its findings as describe
in subsection (a)(1) to the Readjustmen
Counseling Service not later than Septem
ber 30, 1991.

(b) VET CENTER PROGRAM EXPANSION.—
Based on the requirements of subsection (a)
the Readjustment Counseling Service shal
increase the number of Vet Centers existin
on the date of enactment of this Act by no
less than an additional 5 centers by Septem
ber 30, 1992, and by not less than an addi
tional 5 centers each subsequent Fiscal Yea
thereafter through the Fiscal Year endin
September 30, 1996.

(c) OUTREACH RECOMMENDATIONS.—Th
Readjustment Advisory Committee (as de
scribed in section 5 of this title) shall pre
pare a report on recommendations to in
crease outreach efforts to all veterans wit
readjustment counseling needs (in additio
to the requirements of subsection (b)).

(b) DEFINITION OF VET CENTER.—As used i
this section, the term "Vet Center" has th
meaning given that term in section 612(i)(1
of title 38, United States Code.

SEC. 504. ADVISORY COMMITTEE ON READJUST
MENT OF VETERANS.

(a) ESTABLISHMENT OF ADVISORY COMMIT
TEE.—Subchapter II of chapter 3 of title 38
United States Code, is amended by addin
at the end the following new section:

**"§ 225. Advisory Committee on Readjustment o
Veterans**

"(a)(1) The Secretary shall establish a
advisory committee to be known as the Ad
visory Committee on Readjustment of Ve
erans (hereinafter in this section referred t
as the 'Committee').

"(2) Except as provided by paragraph (3
the members of the Committee shall be ap
pointed by the Secretary from the gener
public and shall include individuals who ar
recognized authorities in fields pertinent t
the social, psychological, economic, or edu
cational readjustment of veterans, who ar
not current employees of the Department o
Veterans Affairs, and who have preferabl
been awarded a campaign or expeditionar
medal from the Armed Forces.

"(3) The Committee shall include, as e
officio members—

"(A) the Assistant Secretary of Defens
for Manpower (or a representative designa
ed by the Assistant Secretary);

"(B) at least seven members, appointed b
the Secretary, who are members of veteran
service organizations chartered by an Act o
Congress which have an interest in the re
adjustment of veterans, except that no
more than two members may be from th
same organization.

"(4) The Secretary shall determine th
term of service and pay and allowance o
members of the Committee appointed unde
paragraph (2) of this subsection, excep
that the term of service of any suc
member may not exceed three years. Th
Secretary may reappoint any such membe
for additional terms of service. The Secr
tary shall determine the number of mem
bers, except that such number may no
exceed 20 nor be less than 12.

"(5) The Committee shall meet once ever
four months.

"(b)(1) The Secretary shall, on a regul
basis, consult with and seek the advice o
the Committee with respect to—

"(A) The administration of benefits by th
Department of Veterans Affairs for pos
Vietnam era veterans and veterans of an
war, but with particular emphasis on Vie
nam era veterans;

"(B) reports and studies pertaining to post-Vietnam era veterans and veterans of any war, but with particular emphasis on Vietnam era veterans; and

"(C) the needs of post-Vietnam era veterans and veterans of any war with respect to compensation, health care, readjustment, outreach, and other benefits and programs administered by the Department.

"(2) Not later than July 1 of each year, the Committee shall submit to the Secretary a report on the programs and activities of the Department that pertain to the social, economic, educational, and psychological readjustment of veterans. Each report shall contain—

"(A) an assessment of the needs of post-Vietnam era veterans of any war with respect to compensation, health care, readjustment, outreach, and other benefits and programs administered by the Department of Veterans Affairs;

"(B) a review of the program and activities of the Department of Veterans Affairs designed to meet such needs;

"(C) such recommendations (administrative and legislative) as the Committee considers appropriate; and

"(D) such other matters as the Committee considers appropriate.

"(3) Within 60 days after receiving each such report, the Secretary shall submit to the Congress a copy of the report together with any comments concerning the report that the Secretary considers appropriate.

"(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 214 of this title, a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted pursuant to such section.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 3 of such title is amended by inserting after the item relating to section 223 the following:

"225. Advisory Committee on Readjustment of Veterans.".

SEC. 505. PILOT PROGRAM FOR TREATMENT OF PTSD.

"(a) Establishment of Program.—Subchapter II of chapter 17 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 620C. Treatment and rehabilitation for post-traumatic stress disorder; pilot program

"(a)(1) The Secretary, in furnishing hospital, nursing home, and domiciliary care and medical and rehabilitative services under this chapter, may conduct a pilot program under which the Secretary may contract for care and treatment and rehabilitative services in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community based treatment facilities for eligible veterans suffering from post-traumatic stress disorder. Such pilot program shall be planned, designed, and conducted by the Chief Medical Director, with the approval of the Secretary, so as to demonstrate any medical advantages and cost effectiveness that may result from furnishing such care and services to veterans with PTSD in contract facilities as authorized by this section, rather than in facilities over which the Secretary has direct jurisdiction.

"(2) Before furnishing such care and services to any veteran through a contract facility as authorized by paragraph (1) of this subsection, the Secretary shall approve (in accordance with criteria which the Secretary shall prescribe by regulation) the quality and effectiveness of the program operated by such facility for the purpose for which such veteran is to be furnished such care and services.

"(b) The Secretary, in consultation with the Secretary of Labor and the Director of the Office of Personnel Management, may take appropriate steps to (1) urge all Federal agencies and appropriate private and public firms, organizations, agencies, and persons to provide appropriate employment and training opportunities for veterans who have been provided treatment and rehabilitative services under this title for PTSD and have been determined by competent medical authority to be sufficiently rehabilitated to be employable, and (2) provide all possible assistance to the Secretary of Labor in placing such veterans in such opportunities.

"(c) Upon receipt of an application for treatment and rehabilitative services under this title for PTSD from any individual who has been discharged or released from active military, naval, or air services but who is not eligible for such treatment and services, the Secretary shall—

"(1) provide referral services to assist such individual, to the maximum extent practicable, in obtaining treatment and rehabilitative services from sources outside the Department; and

"(2) if pertinent, advise such individual of such individual's rights to apply to the appropriate military, naval, or air service and the Department for review of such individual's discharge or release from such service.

"(d) The capacity of the pilot program under subsection (a) of this section shall be maintained at 500 eligible individuals.

"(e) The Secretary may not furnish care and treatment and rehabilitative services under subsection (a) of this title before September 30, 1991, and after the last day of the fifth fiscal year following the fiscal year in which the pilot program authorized by such subsection is initiated.

"(f) Not later than March 31, 1995, the Secretary shall report to the Committee on Veterans' Affairs of the Senate and House of Representatives on the findings and recommendations of the Secretary pertaining to the operation through September 30, 1994, of the pilot program authorized by this section.

"(g) The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 620B the following:

"620C. Treatment and rehabilitation for post-traumatic stress disorder; pilot program.".

SEC. 506. REPORT ON PTSD CONTRACT CARE.

The Chief Medical Director's Special Committee on PTSD, in consultation with the Advisory Committee on the Readjustment of Veterans, shall examine the effectiveness of contracts for the treatment of PTSD with private facilities and therapists under section 612A(e) of title 38, United States Code. Not later than September 30, 1991, the Special Committee shall report to the Committees on Veterans' Affairs of the Senate and House of Representatives of its findings and recommendations pertaining to (1) establishing stable funding for PTSD contract care, and (2) the availability of PTSD contract care to eligible individuals in rural areas and such individuals who are not currently well-served by other Department of Veterans Affairs medical services.

SEC. 507. USE OF SCHOLARSHIP AND TUITION REIMBURSEMENT PROGRAMS FOR MENTAL HEALTH PROFESSIONALS.

In administering the Health Professionals Educational Assistance Program (chapter 76 of title 38, United States Code), the Secretary shall seek to encourage the participation of individuals in the program who desire to become psychologists, psychiatrists, psychiatric nurses, and other professionals specializing in the treatment of PTSD. The Secretary shall designate, pursuant to section 4312(b)(3) of title 38, United States Code, additional fields of education or training that may be beneficial for the comprehensive treatment of veterans suffering from PTSD.

SEC. 508. PTSD RESEARCH PROGRAMS.

The Chief Medical Director of the Department of Veterans Affairs, through the National Center on PTSD, in consultation with the CMD's Special Committee on PTSD and Advisory Committee on Readjustment of Veterans, shall conduct the following research programs:

(1) Preparation of a plan for an intermodal approach to the treatment of PTSD with recommendations for the Department's future activities in this respect. The Chief Medical Director shall report the findings not later than December 31, 1994, to the Committees on Veterans' Affairs of the Senate and the House of Representatives.

(2) The effectiveness of involving the family in the treatment of PTSD. The Chief Medical Director shall report the findings not later than December 31, 1993, to the Committees on Veterans' Affairs of the Senate and the House of Representatives.

SEC. 509. EXPANSION OF THE PTSD CLINICAL TEAM PROGRAM.

(A) Policy.—It shall be the policy of the Secretary to implement the recommendations of the CMD's Special Committee on PTSD with respect to the PTSD clinical team program (hereinafter in this Act referred to as "PCTs").

(b) Number of PCTs.—The Secretary shall increase the number of PCTs existing on the date of enactment of this Act by not less than 10 additional units by September 30, 1993, and by not less than 10 additional units each subsequent Fiscal Year thereafter through the Fiscal Year ending September 30, 1996.

The SPEAKER pro tempore. Is a second demanded?

Mr. STUMP. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. Montgomery] will be recognized for 20 minutes and the gentleman from Arizona [Mr. Stump] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. Montgomery].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in recent weeks and months, Members of the House and Senate have received thousands of letters from veterans throughout the country complaining about not being able to get into a VA hospital because the hospital is short of staff or the hospital is running short of money.

Mr. Speaker, H.R. 5740, as amended, makes significant improvements to programs under the direction of the Veterans Health Services and Research Administration and we do so with very little new spending. Where the committee authorizes new programs in the bill, it is important to point out that funding for them would not come out of existing medical care funds. Rather these new programs would be subject to additional appropriations. The committee has done this because we do not want the Department's current medical care resources stretched even further.

Specifically, H.R. 5740, as amended, would improve the recruitment and retention of critical health care professionals. The committee has attempted to do this by giving the VA the maximum flexibility to compete for these needed health professionals. This bill would give the Secretary the authority to purchase items of nominal value for recruiting purposes. These items, such as pens and key chains, would have the VA logo or some other message encouraging the recipient to consider employment with the Department. These items would have little monetary value, but would enable the VA to match similar successful recruiting efforts made by the private sector and some parts of the public sector.

Another provision in the bill, as amended, would increase the Department's ability to retain needed medical professionals by extending the period of obligated service would accomplish several things. First, it would allow the new appointees to reach their full professional potential. In many instances, the current 1-year period of obligation is not a sufficient amount of time for these employees to completely develop and utilize their skills. Second, it would allow the VA to better meet its staffing needs in those areas where the Department continues to suffer shortages by requiring appointees to remain with the Department for an additional year.

The bill, as amended, would also enhance the VA's retention efforts by allowing part-time physicians and dentists in the VA to accept amount paid to them for activities outside the Department as long as those activities do not create a conflict of interest or the appearance of a conflict of interest. It would also apply to part-time chaplains in the VA.

Mr. Speaker, I have long encouraged full-time employment for health care professionals within the VA. However, in some subspecialties, there is not a sufficient workload to justify a full-time staff member. If part-time physicians in critical subspecialties are penalized by being denied fees that they would otherwise collect while not on duty with the VA, many will seek employment elsewhere. With staffing levels already low in some specialties, the Department cannot afford to lose critical personnel.

Mr. Speaker, the VA has recently gone through some major transformations. Among them was the reduction of medical regions within the Department from seven to four. As with any changes, there were some difficulties with the reorganization. This bill addresses some of those problems in three significant ways by relaxing existing restrictions on reorganizations and allowing the Secretary more flexibility to manage the Department efficiently.

First, the bill would allow the Secretary to submit plans for reorganizations at any time during the year. Currently, these plans must be presented along with the Department's budget submission.

Second, the bill would increase the thresholds for reportable reorganizations. By raising the percentages for the number of employees that would be affected by a reorganization and by restructuring the way VA central office reorganizations are reported, it is the committee's intent to provide the Secretary the necessary flexibility to operate the Department effectively.

Third, the bill would allow reorganizations in place without any advance notice. In effect, these changes represent only paper changes because there is no change in the number of employees or the work that they do. The only change is one in which the bureau, agency, or office management control changes.

Mr. Speaker, it is important to note that these changes do not reflect a lack of interest on the committee's part regarding VA's internal operations. Rather these changes are the result of the committee's observations regarding the Secretary's efforts to restructure the VA, and I believe that this bill provides the Secretary with the flexibility that he needs to carry out his mission.

Mr. Speaker, as I stated previously, these are tight fiscal times. In that regard, funds that are appropriated for the VA must be utilized effectively to the maximum extent possible. This bill would prohibit the appropriation and expenditure of funds for major construction projects and for certain leases which have not been approved by law. This restriction will assure that VA's construction funds are targeted for high priority projects.

Finally, Mr. Speaker, H.R. 5740, as amended, would authorize the expansion of the VA's existing PTSD Treatment Programs and would authorize new ones in order to augment the Department's current efforts to provide care to veterans suffering from PTSD. The Department should be doing a better job in this area, but medical care funds are limited. In that regard, it is important to note that funding for these new treatment units would not come out of existing medical care funds. Rather, the authorization of these additional units would be subject to new appropriations. Even though there is a need to expand the VA's efforts in this area, it should not be done at the expense of existing programs.

I urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5740, Veterans Health-Care Amendments of 1990 makes a variety of changes and improvements in the provision of health care to our Nation's veterans, as my good friend, the gentleman from Mississippi has explained. I again commend Chairman Montgomery and John Paul Hammerschmidt, the ranking member on the Hospitals and Health Care Subcommittee, for their efforts on behalf of our Nation's veterans and urge passage of the bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. Hammerschmidt].

□ 1240

Mr. HAMMERSCHMIDT. M Speaker, I join my colleagues today i strong support of H.R. 5740, as amended, the Veterans' Health-Care Amendments of 1990. This bill contains number of fiscally responsible improvements for veterans' health ca in order to ensure that we provide ou veterans with the quality health ca services they deserve.

In an effort to improve the veteran access to medical services, which hav suffered from a shortage of qualifie professionals, this bill would help th DVA recruit and retain part-time me ical care employees, in particular ph sicians. Furthermore, H.R. 5740 wou allow the Secretary to provide co tract hospital care and medical ser ices in non-Department of Vetera Affairs facilities.

When the . . . Department is unab to provide the necessary care or ser ice for a veteran due to geographic inaccessibility or the nature of the ve eran's disability.

H.R. 5740 also stipulates that fun may not be appropriated for a major medical project or major lea unless these funds have been speci cally authorized by the Veterans' A fairs Committee. This measure re forces the committee's prerogative authorize all DVA medical projects.

In light of the current budget cris this committee is best suited to ma the difficult choices with regard major medical construction proje and leases. This bill further guara tees that our Nation's veterans a well-served while allowing the DVA to fulfill its responsibility of saving funds to meet deficit reduction targets.

I urge my colleagues to support H.R. 5740, as amended, which substantially improves the quality of health care our veterans so rightfully deserve for their great service to our Nation.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, as always, I appreciate the work of the ranking minority member of our Hospitals and Health Care Subcommittee, JOHN PAUL HAMMERSCHMIDT, on this bill. His expertise on health issues has been of great benefit to the committee.

I also want to thank my distinguished colleague from Georgia, J. ROY ROWLAND, who is the ranking member of the subcommittee. Dr. ROWLAND has been directly involved in the issues. He has chaired numerous hearings and I thank him for his great leadership in the committee.

I urge the adoption of the bill.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 5740, a measure to make changes in the veterans' health care system pertaining to benefits, personnel, and health care management.

I would like to commend the distinguished chairman of the Veterans' Committee, the gentleman from Mississippi [Mr. MONTGOMERY], and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] for introducing this important measure, and the ranking minority member, the gentleman from Arizona [Mr. STUMP] for his unceasing efforts on behalf of our Nation's veterans.

H.R. 5740 requires the Department of Veterans Affairs to report to Congress annually regarding the number of veterans receiving veterans' health care, the type of health insurance they possess, and the number of veterans who applied for the Department of Veterans Affairs health care, but did not receive it.

Additionally, this measure includes provisions allowing the Department of Veterans Affairs to waive certain requirements to facilitate the hiring of additional qualified social workers, requiring health professional scholarship recipients to serve at least 2 years in a Department of Veterans Affairs facility, allowing the Department of Veterans Affairs to purchase promotional items to help recruit individuals for a variety of medical positions, and allowing part-time employees of the Department of Veterans Affairs veterans' health services and research administration to receive compensation for appearances, speeches, and articles.

Mr. Speaker, our support of this measure confirms the support in Congress for our veterans through making important changes in the veterans' health care system to meet our Nation's veterans' needs.

H.R. 5740 establishes an advisory committee on the readjustment of veterans which will review the administration of benefits to veterans. Most importantly, this period will give special consideration to the compensation, health care, readjustment, and outreach needs of Vietnam veterans.

Mr. Speaker, many of our Nation's veterans suffer daily from recuring nightmares of their days in combat. H.R. 5740 adds six inpatient post-traumatic stress disorder units in each of fiscal years 1991 through 1995, and adds five veterans' centers in each of fiscal years 1992 through 1996, based on the recommendations of the Special Committee on Post-Traumatic Stress Disorder.

Accordingly, Mr. Speaker, I support H.R. 5740, and urge my colleagues to vote in favor of it.

Mr. JONTZ. Mr. Speaker, I rise in strong support of H.R. 5740, as reported by the Committee on Veterans' Affairs. Given the tight budget constraints facing the Congress and the Veterans' Affairs Committee, I believe that our distinguished chairman, with the help of the committee, has brought an excellent package of improvements to veterans' health care programs to the floor of the House today.

I wanted to call to the attention of my colleagues, provisions in H.R. 5740, which would expand services for the 400,000-plus veterans of the Vietnam war who are currently suffering from post-traumatic stress disorder [PTSD].

Mr. Speaker, 20 years have passed since most of the 3 million men and women who served our country in Vietnam came home. But for too many of these veterans, the Vietnam war lingers on.

Known as 'shellshock' in World War I and 'combat fatigue' in World War II, post-traumatic stress disorder—or PTSD—is a psychological readjustment condition which today still affects an estimated 15 percent of our Vietnam veterans.

Like some other issues which extend from our country's Vietnam experience, PTSD hasn't been well understood. The disorder wasn't recognized by the Government or the mental health community until 1980, and the Department of Veterans Affairs has been much too slow in responding to the affected veterans.

The national Vietnam veterans' readjustment study, released 22 months ago by the Research Triangle Institute under contract with the Department of Veterans Affairs, concluded that there are a substantial number of Vietnam veterans who are not receiving the treatment which they rightfully deserve from the VA for PTSD. In fact, of the 479,000 Vietnam veterans currently suffering from full-blown PTSD, only 10 percent received any help from the DVA for their problems in the last year of the study, 1988.

The findings of the RTI study were confirmed by another study published in March 2 edition of the Journal of the American Medical Association. The Twins Study, conducted by researchers in Chicago and St. Louis, found that the prevalence of PTSD is 16.8 percent in twins who served in Vietnam, using a sample of over 2,000 identical twin pairs who were Vietnam-era veterans.

The conclusion is unavoidable: Our Nation has failed to live up to the commitment which it made to these veterans when it sent them into war: To provide appropriate and timely care for any condition—physical or mental—which was contracted as a consequence of exposure to combat.

At the suggestion and with the assistance of veterans and PTSD treatment professionals in the Fifth Congressional District of Indiana and on a national basis, I introduced H.R. 3037, the Veterans PTSD Treatment and Psychological Readjustment Act last July with 45 original cosponsors.

Mr. Speaker, the Veterans' Affairs Committee included in H.R. 5740 provisions similar to H.R. 3037. I wanted to summarize those provisions for you.

The bill would expand inpatient treatment for PTSD by adding 30 additional centrally funded inpatient PTSD units over the next 5 years. There are currently 20 inpatient units nationwide, not all of them centrally funded.

Twenty-five additional vet centers would be authorized to complement the 195 which currently exist. Vet centers provide readjustment counseling for all Vietnam veterans, including valuable outpatient services to veterans who suffer from PTSD.

H.R. 5740 would give statutory authority to the advisory committee on the readjustment of veterans, which provides critical advice to Secretary Derwinski on the problems which Vietnam veterans, and veterans of other conflicts, still face.

The bill would establish a pilot program for PTSD care in halfway houses. This is the suggestion of the administrator at the Marion, IN, medical center, who is familiar with the problems that medical centers have in providing bed space for PTSD patients, given the time-intensive nature of its treatment.

H.R. 5740 would also expand the PTSD clinical team [PCT] program, authorizing 40 additional PCT's beginning in fiscal year 1993. The Department has established PCT's at 44 medical centers nationwide over the past 2 years.

Mr. Speaker, many of the components of the bill are based on the recommendations of the VA's own special committee on PTSD. For the past 6 years, this committee has recommended an inpatient unit for every State and a PCT for every medical center with mental health services.

During the course of the last year, it has become increasingly apparent that Congressional action will be necessary, if we are to expand treatment opportunities to the thousands of veterans with PTSD who aren't getting help. The VA has done little to respond to the findings of the RTI study since it was issued 22 months ago, despite the fact that waiting lists for inpatient treatment at some VA medical centers extend for as long as a year, and cities as big as Toledo, OH, and Nashville, TN—both with significant Vietnam veteran populations—have no vet centers.

Mr. Speaker, I want to thank my 128 colleagues who have cosponsored the PTSD legislation, as well as the veterans' service organizations who have given it their support—Vietnam Veterans of America, the American Legion, AMVETS, Veterans of Foreign Wars, Disabled American Veterans, and Paralyzed Veterans of America.

This legislation, which includes many improvements to veterans' health programs, in addition to the PTSD treatment provisions, deserve the overwhelming support of the House. I thank our distinguished chairman for his leadership in bringing this legislation to the floor today.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5740, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SAMUEL S. STRATTON DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5739) to redesignate the Department of Veterans Affairs medical center located at 113 Holland Avenue in Albany, NY, as the "Samuel S. Stratton Department of Veterans Affairs Medical Center."

The Clerk read as follows:

H.R. 5739

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Department of Veterans Affairs medical center located at 113 Holland Avenue in Albany, New York, shall, after the date of enactment of this Act, be known and designated as the "Samuel S. Stratton Department of Veterans Affairs Medical Center".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, map, regulation, document, paper, or other record of the United States to the Department of Veterans Affairs medical center referred to in section 1 shall after the date of enactment of this Act, be deemed to be a reference to the "Samuel S. Stratton Department of Veterans Affairs Medical Center".

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill would name the Department of Veterans Affairs medical center in Albany, NY, for our late colleague and good friend, Sam Stratton.

All members of the New York congressional delegation are sponsors of the bill, and all the veterans' organizations of New York support this move also. Many of us served on the Committee on Armed Services with Sam and know of his great work. He was a veteran himself, and I think it is very, very appropriate that this facility in Albany, NY, be named after Sam Stratton.

Mr. Speaker, I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is fitting and thoroughly appropriate that the U.S. House of Representatives takes this action to pay tribute to Sam Stratton by redesignating the VA medical center in Albany, NY, in his memory.

Sam devoted his career in this Chamber to the maintenance of a strong national defense and support of the men and women in our Armed Forces. This dedication naturally carried over to supporting veterans. Sam will long be remembered by the veterans of New York and the rest of the country for his service on their behalf.

I strongly urge my colleagues to support passage of the bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, I join my colleagues today in strong support of H.R. 5739, to redesignate the Department of Veterans Affairs medical center in Albany, NY, as the "Samuel S. Stratton Department of Veterans Affairs Medical Center."

This is an appropriate way for us to honor Sam Stratton and to express our appreciation and admiration for such a true leader.

I have always thought very highly of Sam throughout the 24 years we served together in Congress. He was one of the true leaders in defense legislation and I don't know of a more patriotic, dedicated individual.

I urge my colleagues to support H.R. 5739, in honor of our deserving former colleague, Mr. Sam Stratton.

Mr. MONTGOMERY. Mr. Speaker, I yield 3 minutes to the author of this legislation, the Sam Stratton bill, to the gentleman from New York [Mr. MCNULTY].

Mr. MCNULTY. Mr. Speaker, as Sam Stratton's successor in Congress, I rise today to urge my colleagues to support passage of H.R. 5739, a bill to redesignate the Department of Veterans Affairs medical center in Albany, NY, as the "Samuel S. Stratton Department of Veterans Affairs Medical Center."

I would like to extend thanks and appreciation on behalf of Joan Stratton and Congressman Stratton's entire family, and the people of New York, to Chairman SONNY MONTGOMERY, ranking member, BOB STUMP, Chairman HARLEY STAGGERS, ranking subcommittee member JOHN PAUL HAMMERSCHMIDT, Congressman FRANK HORTON, the dean of the New York delegation, and Congressman JIM SCHEUER and my other New York colleagues, for their efforts and support in bringing this bill to the floor today. As you know Mr. Speaker, Sam Stratton served the people of New York in Congress for 30 years. Sam was a committed and dedicated public servant who worked tirelessly for all of his constituents Throughout his tenure on the House Armed Services Committee, he had a deep and special concern for our men and women in uniform. Sam was a veteran himself, a Navy man, who served as an intelligence officer for Gen Douglas MacArthur in the Pacific theater during WWII. He was reactivated and served during the Korean conflict as well. His passing was a loss not only to his family and friends, but also to the Congress and the entire Nation Mr. Speaker, I urge my colleagues to support this bill in Sam's memory.

Mr. MONTGOMERY. Mr. Speaker I yield 2 minutes to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, there is a phrase in the English language "Lest we forget," and we do forget from time to time about outstanding contributions made by fellow Americans.

I had the privilege and the opportunity to serve on the Committee on Armed Services with the late distinguished Member from the State o New York, Sam Stratton. Sam Stratton, of course, was a friend. He was a patriot. He was a leader. He felt very deeply and very strongly about maintaining a strong national defense fo our country. He headed the subcommittee dealing with procurement.

I remember year after year the endless work he did in helping to maintain the strong material strengths of our country. His background was that o being in the Navy as an intelligence officer during World War II, and I think it was very fitting and proper, Mr Speaker, that a few days ago the funeral of Sam Stratton was conducted by the U.S. Navy over at Arlington Cemetery here in Washington.

Mr. Speaker, I wish to join my friend and colleague, the gentleman from Mississippi [Mr. MONTGOMERY and my friend and colleague, the gentleman from Arizona [Mr. STUMP] along with our colleague, the autho of this bill, the gentleman from New York [Mr. MCNULTY]. Many of us served together on the Armed Service Committee.

Mr. Speaker, I urge the passage o this very, very important piece of legislation.

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Mr. MONTGOMERY. Mr. Speaker I yield myself 2 minutes.

Mr. Speaker, the gentleman from New York [Mr. SOLOMON] and I had the wonderful privilege of eulogizing Sam Stratton when he was buried a Arlington National Cemetery. I had just returned from Saudi Arabia with other Members who had been over to see our American troops there and look at the equipment. Thanks to Sam Stratton, we have good equipment, working equipment in Saudi Arabia, and a lot of that is due to Sam Stratton of New York for his pushing when he was chairman of the Subcommittee on Procurement and Military Nuclear Systems. It just made me think about Sam Stratton when we were over there. We have modern equipment, we can get the job done, thanks to Sam Stratton. It was his actions while serving in the House that give me reassurance about our American troops being in Saudi Arabia. They have the know-how and the skills and the equipment to do the job.

Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. Solomon].

Mr. SOLOMON. Mr. Speaker, I certainly thank the gentleman for yielding time to me. First of all, let me commend my good friend and neighbor, the gentleman from New York [Mr. McNulty], for bringing this vital piece of legislation to the floor, and commend the gentleman from Mississippi [Mr. Montgomery] and the gentleman from Arizona [Mr. Stump] for ushering the bill to the floor.

Mr. Speaker, several weeks ago we decided to name a naval vessel after our departed friend and colleague, former Congressman Sam Stratton.

There is one thing left to do, and that is to name the veterans hospital after a man who's help was so instrumental in making it one of the best in the country—our Nation's defense and our Nation's veterans.

Sam Stratton dedicated his entire adult life to making sure that defense was second to none, and making sure those veterans received a Nation's gratitude.

Mr. Speaker, when I see democracy breaking out all over the world, when I see America responding quickly and forcefully to aggression in the Mideast, I think of two men, two heroes of mine. One is Ronald Reagan, and the other is Sam Stratton.

President Reagan's leadership raised our national defense from a low point in 1980, when the wreckage from our failed rescue operation lay scattered over an Iranian desert to a high point today, when our Armed Forces are better trained, better educated, and more motivated then at any time in our history.

But there was another man, a man who continued to fight for a stong defense even when such a position was unpopular and that man was Sam Stratton.

Sam Stratton, a philosophy professor before he entered politics, knew enough about human history to know how easy it is for man to lose his freedom.

Sam Stratton saw Europe during the calm before the Nazi storm broke over it and nearly destroyed it.

Sam Stratton saw what it took to defend a free world when he served as an intelligence officer on the staff of General McArthur.

Sam Stratton was a gentleman and a scholar in every sense of the term.

But he was more than that, he was a compassionate, sensible man.

He cared for people, especially our veterans, who made the greatest sacrifices in defending those freedoms that so many nations are now starting to enjoy.

That is why, Mr. Speaker, when I became ranking member on the House Veterans' Affairs Committee, no one was more helpful to me in my fight to elevate the Veterans' Administration to a full, Cabinet-level department.

No one was more helpful in making sure veterans hospitals were adequately funded to handle the special needs of the men and women who served in our Armed Forces.

No institution has been a greater beneficiary of Sam Stratton's wisdom, foresight, dedication, and compassion than the veterans' hospital in Albany.

I tour that facility every year, and there is none finer in the country.

What finer tribute could there be than to name that hospital after Sam Stratton?

Mr. Speaker, I rise in support of this measure, and urge the support of every Member in renaming the Albany Veterans' Administration Hospital the Samuel S. Stratton Veterans' Hospital.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 1 minute.

Again I want to thank the gentleman from New York [Mr. McNulty] and the other members of the New York congressional delegation for supporting this bill.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 5739, a measure to rename the Department of Veterans Affairs Medical Center in Albany, NY, as the "Samuel S. Stratton Department of Veterans Affairs Medical Center."

I would like to commend the gentleman from New York [Mr. McNulty] for introducing this important measure, and the chairman of the Veterans' Committee, the gentleman from Mississippi [Mr. Montgomery] and the ranking minority member, the gentleman from Arizona [Mr. Stump] for their unceasing efforts on behalf of our Nation's veterans.

Congressman Samuel Stratton served in the House of Representatives for 30 years where he admirably represented the 23d District of New York.

Representative Stratton was elected to the House of Representatives in 1958 where he worked vigorously on the House Armed Services Committee, trying to strengthen our Nations defense system. He served in the House until January 1989, until he retired for health reasons.

Mr. Speaker, I knew, respected, and worked with Samual Stratton for many years. As a colleague, as a member of the New York delegaton, and as a friend; renaming the Department of Veterans Affairs Medical Center in Albany, NY, as the "Samuel S. Stratton DVA Medical Center" will display our respect for our deserving former colleague. Accordingly, I fully support this measure, and urge my colleagues to vote in favor of it.

Mr. HORTON. Mr. Speaker, I am pleased to join with my colleagues today in support of naming the Veterans' Medical Center in Albany, NY, in honor of our former colleague, Sam Stratton. In light of Sam's commitment to our men and women in uniform, there could be nothing more fitting than to name a veterans medical center for him.

One of Sam's passions during his years in Congress was working on behalf of the men and women in the military. His efforts to improve their lives mirrored his efforts to improve the lives of his constituents. As one who now represents two of the counties that Sam once represented, I can attest to the esteem in which he is still held. Remarkably, Sam last represented these counties nearly 20 years ago.

On a personal level, Sam Stratton befriended me when I first came to Congress and showed me the ropes. I learned many things from him over the years. This friendship continued until his recent death. I will always count Sam Stratton as one of the biggest influences of my life, and I am sure that many others feel the same.

One of Sam's greatest traits was his willingness to help all of his colleagues, Republicans and Democrats alike. Most members of the New York delegation are able to relate their own stories of how Sam helped them during their career.

Mr. Speaker, naming a veteran's health care facility after Sam Stratton would be a most fitting tribute. The medical center named in his honor will serve the two groups of people for whom Sam worked so hard during his 30 years in Congress: his constituents and those who served in the military. I fully support this legislation and urge its adoption.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SPEAKER pro tempore (Mr. Mazzoli). The question is on the motion offered by the gentleman from Mississippi [Mr. Montgomery] that the House suspend the rules and pass the bill, H.R. 5739.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that the Committee on Veterans' Affairs be discharged from further consideration of the Senate bill (S. 3127) to designate the Department of Veterans Affairs Medical Center in Albany, NY, as the "Samuel S. Stratton Department of Veterans Affairs Medical Center," and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3127

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Department of Veterans Affairs Medical Center in Albany, New York, shall be known and designated as the "Samuel S. Stratton Department of Veterans Affairs Medical Center".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Department of Veterans Affairs Medical Center referred to in section 1 shall be deemed to be a reference to the "Samuel S. Stratton Department of Veterans Affairs Medical Center".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 5739) was laid on the table.

SOLDIERS' AND SAILORS' CIVIL RELIEF ACT AMENDMENTS OF 1990

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5814) to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to improve and clarify the protections provided by such Act and to make technical amendments; to amend title 38, United States Code, to clarify veterans' reemployment rights and to improve veterans' rights to reinstatement of health insurance, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5814

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Soldiers' and Sailors' Civil Relief Act Amendments of 1990".

SEC. 2. COMMUNICATIONS CONSTITUTING A COURT APPEARANCE.

(a) Clarification of Actions Constituting an Appearance.—Section 201 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 521) is amended by adding at the end the following new sentence: "An application for a stay of proceedings pursuant to this section shall not constitute an appearance for any purpose.".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to cases commenced on or after the date of the enactment of this Act.

SEC. 3. EVICTION AND DISTRESS DURING MILITARY SERVICE.

(a) Increased Maximum Rental Amount for Applicability of Stay.—Section 300 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 530) is amended—

(1) by redesignating subsections (1), (2), (3), and (4) as subsections (a), (b), (c), and (d), respectively;

(2) in subsection (c), as so redesignated, by striking out "subsection (1)" and inserting in lieu thereof "subsection (a)"; and

(3) in subsection (a), as so redesignated, by striking out "$150" and inserting in lieu thereof "$1,200".

(b) Effective Date.—The amendment made by this section shall apply to actions for eviction or distress commenced on or after August 1, 1990.

SEC. 4. EXTENSION OF POWER OF ATTORNEY PROTECTION.

Subsection (c) of section 701 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 591) is amended to read as follows:

"(c) This section applies to the following powers of attorney executed by persons in military service:

"(1) A power of attorney that is executed during the Vietnam Era (as defined in section 101(29) of title 38, United States Code).

"(2) A power of attorney that expires by its terms after August 2, 1990.".

SEC. 5. PROFESSIONAL LIABILITY PROTECTION FOR CERTAIN PERSONS ORDERED TO ACTIVE DUTY IN THE ARMED FORCES.

Article VII of the Soldiers' and Sailors' Civil Relief Act (50 U.S.C. App. 590 et seq.), is amended by adding at the end the following:

"Sec. 702. (a) This section applies to a person who—

"(1) after August 1, 1990, is ordered to active duty (other than for training) in the Armed Forces pursuant to section 672 (a) or (g), 673, 673b, 674, 675, or 688 of title 10, United States Code, or who is ordered to active duty under section 672(d) of such title during a period when members are on active duty pursuant to any of the preceding sections;

"(2) immediately before receiving the order to active duty—

"(A) was engaged in the furnishing of—

"(i) health care services; or

"(ii) other services determined by the Secretary of Defense to be professional services; and

"(B) had in effect a professional liability insurance policy that does not continue to cover claims filed with respect to such person during the period of the person's active duty unless the premiums are paid for such coverage for such period; and

"(3) during the period of active duty does not provide professional services except in the performance of official duties as a member of the Armed Forces.

"(b)(1) Coverage of a person referred to in subsection (a) by a professional liability insurance policy shall be suspended in accordance with this subsection upon receipt of the written request of such person by the insurance carrier.

"(2) A professional liability insurance carrier—

"(A) may not require that premiums be paid by or on behalf of a person for any professional liability insurance coverage suspended pursuant to paragraph (1); and

"(B) shall refund any amount paid for coverage for the period of such suspension or, upon the election of such person, apply such amount for the payment of any premi-
um becoming due upon the reinstatement o
such coverage.

"(c)(1) Professional liability insurance cov
erage suspended in the case of any perso
pursuant to subsection (b) shall be reinstat
ed by the insurance carrier on the date o
which such person transmits to the insur
ance carrier a written request for reinstate
ment.

"(2) The request of a person for reinstate
ment shall be effective only if the perso
transmits the request to the insurance carr
er within 30 days after the date on whic
the person is released from active duty.

"(3) The minimum period for which pro
fessional liability insurance coverage sha
be reinstated for a person under this subsec
tion may not be less than the balance of th
period for which coverage would have con
tinued under the insurance policy if the cov
erage had not been suspended.

"(d) An insurance carrier may not increas
the amount of the premium charged fo
professional liability insurance coverage o
any person for the minimum period of th
reinstatement of such coverage require
under subsection (c)(3) above the amoun
chargeable for such coverage for suc
period before the suspension, except to th
extent of any general increase in the prem
um amounts charged by that carrier for th
same professional liability coverage for pe
sons similarly covered by such insuranc
during the period of the suspension.

"(e) This section does not—

"(1) require a suspension of profession
liability insurance coverage for any perso
who is not a person referred to in subsectio
(a) and who is covered by the same profe
sional liability insurance as a person r
ferred to in such subsection; or

"(2) relieve any person of the obligation
pay premiums for the coverage not require
to be suspended.

"(f)(1) A civil or administrative action fo
damages on the basis of the alleged profe
sional negligence or other professional
ability of a person whose professional liab
ity insurance coverage has been suspende
under subsection (b) shall be stayed unt
the end of the period of the suspension if

"(A) the action was commenced durin
such period;

"(B) the action is based on an act or omi
sion that occurred before the date on whic
the suspension became effective; and

"(C) the suspended professional liabilit
insurance would, except for the suspensio
on its face cover the alleged profession
negligence or other professional liabilit
negligence or other professional liability
such person.

"(2) Whenever a civil or administrati
action for damages is stayed under par
graph (1) in the case of any person, suc
action shall be deemed to have been filed o
the date on which the professional liabilit
insurance coverage of such person is rei
stated under subsection (c).

"(g) In the case of a civil or administrati
action for which a stay could have bee
granted under subsection (f) by reason
the suspension of professional liability i
surance coverage of the defendant und
this section, the period of the suspension
the coverage shall be excluded from th
computation of any statutory period of lim
tation on the commencement of such actio

"(h) If a person whose professional liab
ity insurance coverage is suspended und
subsection (b) dies during the period of th
suspension—

"(1) the requirement for the grant or con
tinuance of a stay in any civil or administr

tive action against such person under subsection (f)(1) shall terminate on the date of the death of such person; and

"(2) the carrier of the professional liability insurance so suspended shall be liable for any claim for damages for professional negligence or other professional liability of the deceased person in the same manner and to the same extent as such carrier would be liable if the person had died while covered by such insurance but before the claim was filed.

"(i) In this section:

"(1) The term 'Armed Forces' has the meaning given the term 'armed forces' in section 101(4) of title 10, United States Code.

"(2) The term 'active duty' has the meaning given that term in section 101(22) of title 10, United States Code.

"(3) The term 'profession' includes occupation.

"(4) The term 'professional' includes occupational.

SEC. 6. HEALTH INSURANCE REINSTATEMENT UPON REEMPLOYMENT.

(a) AMENDMENT TO TITLE 38.—Section 2021(b)(1) of title 38, United States Code, is amended by adding at the end the following new sentence: "For any person participating under this paragraph in health insurance offered by an employer, no health or physical condition arising before or during a period of training and service in the Armed Forces shall be subject to a waiting period or exclusion of coverage as a preexisting health or physical condition in any case in which the coverage would have been provided if no period of military service had occurred, unless the Secretary has determined such health or physical condition to be service-connected.".

(b) AMENDMENT TO SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940.—Article VII of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 590 et seq.), as amended by section 4, is further amended by adding at the end the following:

"SEC. 703. (a) A person who, by reason of entry into military service, is entitled to the rights and benefits of this Act shall also be entitled upon release from such military service to reinstatement of any health insurance coverage of such person (or such person and the family of such person) which (1) was in effect on the day before such service commenced, and (2) was terminated effective on a date during the period of such service.

"(b) For any person entitled to reinstatement of health insurance coverage required under subsection (a), no health or physical condition arising before or during a period of military service shall be subject to a waiting period or exclusion of coverage as a preexisting health or physical condition in any case in which the coverage would have been provided if no period of military service had occurred, unless the Secretary of Veterans Affairs has determined such health or physical condition to be a disability incurred or aggravated in the line of duty (within the meaning of section 105 of title 38, United States Code).

"(c) Subsection (a) does not apply in the case of employer-offered insurance benefits in which a person referred to in such subsection is entitled to participate pursuant to the provisions of chapter 43 of title 38, United States Code.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of August 1, 1990.

SEC. 7. CLARIFICATION OF TITLE 38 REEMPLOYMENT RIGHTS COVERAGE FOR RESERVISTS.

(a) IN GENERAL.—Section 2024(g) of title 38, United States Code, is amended—

"(1) by striking out "active duty for not more than 90 days" and inserting in lieu thereof "active duty (other than for training)"; and

"(2) by inserting before the period at the end the following: ", including any period of extension of active duty under section 673b of title 10".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any member of a reserve component of the Armed Forces of the United States who is ordered to active duty (other than for training) under section 673b of title 10, United States Code, on or after August 1, 1990.

SEC. 8. TECHNICAL AMENDMENTS.

(a) SOLDIERS' AND SAILORS' CIVIL RELIEF ACT.—The Soldiers' and Sailors' Civil Relief Act of 1940 Act is further amended as follows:

(1) Section 101 (50 U.S.C. App. 511) is amended—

(A) in paragraph (1), by inserting "the Air Force," after "the Marine Corps,"; and

(B) in paragraph (2), by striking out "shall include" and all that follows through "discharge," and inserting in lieu thereof "means, in the case of any person, the period between the date on which the person enters active service and the date of the person's release from active service".

(2) Section 102 (50 U.S.C. App. 512) is amended by striking out ", including the Philippine Islands while under the sovereignty of the United States,".

(3) Section 103(4) (50 U.S.C. App. 513(4)) is amended by striking out "after the date of the enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942".

(4) Section 105 (50 U.S.C. App. 515) is amended—

(A) by striking out "The Secretary of War and the Secretary of the Navy" and all that follows through "to insure" in the first sentence and inserting in lieu thereof "The Secretary of Defense and the Secretary of Transportation, with respect to the Coast Guard when it is not operating as a service in the Navy, shall ensure"; and

(B) by striking out "the Secretary of War and the Secretary of the Navy" in the second sentence and inserting in lieu thereof "the Secretary of Defense and the Secretary of Transportation".

(5) Section 106 (50 U.S.C. App. 516) is amended—

(A) by striking out "Selective Training and Service Act of 1940, as amended," and inserting in lieu thereof "Military Selective Service Act";

(B) by striking out "the Enlisted Reserve Corps" and inserting in lieu thereof "a reserve component of the Armed Forces of the United States"; and

(C) by striking out "he reports for such service" and inserting in lieu thereof "such member reports for military service or the date on which the order is revoked, whichever is earlier".

(6) Section 205 (50 U.S.C. App. 525) is amended by striking out "the date of enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942" and inserting in lieu thereof "October 6, 1942".

(7) Section 206 (50 U.S.C. App. 526) is amended—

(A) by striking out "his entry" and inserting in lieu thereof "the entry of such person"; and

(B) by striking out "the date of enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942" and inserting in lieu thereof "October 6, 1942".

(8) Subsection (d) of section 300 (50 U.S.C. App. 530), as redesignated by section 3(a)(1), is amended by striking out "Secretary of War," and all that follows through "as the case may be" and inserting in lieu thereof "Secretary of Defense or Secretary of Transportation, with respect to the Coast Guard when it is not operating as a service in the Navy,".

(9) Section 302(3) (50 U.S.C. App. 532(3)) is amended by striking out "the date of enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942" and inserting in lieu thereof "October 6, 1942,".

(10) Section 400(a) (50 U.S.C. App. 540(a)) is amended by striking out "the date of enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942" and inserting in lieu thereof "October 6, 1942,".

(11) Section 401 (50 U.S.C. App. 541) is amended—

(A) by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs";

(B) by striking out "Veterans' Administration" each place it appears and inserting in lieu thereof "Secretary"; and

(C) by striking out "Administrator" in the last sentence and inserting in lieu thereof "Secretary".

(12) Section 402 (50 U.S.C. App. 542) is amended—

(A) in the first sentence, by striking out "Veterans' Administration" and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(B) in the second sentence, by striking out "Veterans Administration" and inserting in lieu thereof "Secretary".

(13) Section 403 (50 U.S.C. App. 543) is amended—

(A) in the first sentence, by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(B) in the second sentence, by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary".

(14) Section 404 (50 U.S.C. App. 544) is amended by striking out "Veterans' Administration" each place it appears and inserting in lieu thereof "Secretary of Veterans Affairs".

(15) Section 405 (50 U.S.C. App. 545) is amended by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs".

(16) Section 407 (50 U.S.C. App. 547) is amended—

(A) in the first sentence, by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(B) in the second sentence by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary".

(17) Section 408 (50 U.S.C. App. 548) is amended—

(A) in paragraph (1)—

(i) by striking out "prior to the enactment of the Soldiers' and Sailors' Civil Relief Act amendments of 1942" and inserting in lieu thereof "before October 6, 1942,"; and

(ii) by striking out "prior to the date of enactment of the Soldiers' and Sailors' Civil Relief Act amendments of 1942" and inserting in lieu thereof "before October 6, 1942,"; and

(B) in paragraph (2)—

(i) by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(ii) by striking out "the date of enactment of the Soldiers' and Sailors' Civil Relief Act amendments of 1942" and inserting in lieu thereof "October 6, 1942".

(18) Section 504(3) (50 U.S.C. App. 564(3)) is amended by striking out "within six months after the effective date of this Act or".

(19) Section 506(2) (50 U.S.C. App. 566(2)) is amended—

(A) by striking out "within six months after the effective date of this Act or"; and

(B) by striking out "General Land Office" and inserting in lieu thereof "Bureau of Land Management".

(20) Section 510(2) (50 U.S.C. App. 570(2)) is amended by striking out "prior to the effective date of this Act" and inserting in lieu thereof "before October 17, 1940".

(21) Section 514 (50 U.S.C. App. 574) is amended—

(A) by striking out "orders: *Provided*, That nothing" and inserting "orders. Nothing"; and

(B) by striking out "the use thereof:" and all that follows through "has been paid" and insert in lieu thereof "thereof, but shall not include a license, fee, or excise required by the State or territory, possession, or District of Columbia of which the person is a resident or in which the person is domiciled if such license, fee, or excise has been paid".

(22) Section 600 (50 U.S.C. App. 580) is amended by striking out "the date of the approval of this Act" and inserting in lieu thereof "October 17, 1940,".

(23) Section 601 (50 U.S.C. App. 581) is amended—

(A) in paragraph (1), by striking out "Chief of the Bureau of Navigation of the Navy Department" and inserting in lieu thereof "Chief of Naval Personnel"; and

(B) in paragraph (3)—

(i) by striking out "Department of War or the Navy" and inserting in lieu thereof "Department of Defense"; and

(ii) by striking out "jurisdiction: *Provided*, That no" and inserting in lieu thereof "jurisdiction. No".

(24) Section 604 (50 U.S.C. App. 584) is amended—

(A) by striking out "1945: *Provided*, That" and inserting in lieu thereof "1945, except that"; and

(B) by striking out "thereafter: *Provided further*, That whenever" and inserting in lieu thereof "thereafter. Whenever".

(b) TITLE 38.—(1) Section 2024(a) of title 38, United States Code, is amended by striking out "provided for by this section" and inserting in lieu thereof "provided for by this chapter".

(2) The amendment made by paragraph (1) shall take effect as of December 3, 1974.

The SPEAKER pro tempore. Is a second demanded?

Mr. STUMP. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5814, as amended, would make amendments to the Soldiers' and Sailors' Civil Relief Act of 1940.

Due to the call up of some Reserve and National Guard units for Operation Desert Shield, our committee held a joint hearing with the Senate on September 12 to determine whether the protections provided by the act are adequate. There have been no amendments to the act since the Vietnam conflict.

Certain problems were brought out at the hearing. Senator CRANSTON and I agreed that we should only make changes where absolutely necessary and that the committees should wait until next year to consider further amendments to the act that do not require immediate attention.

The bill would increase the maximum rental amount from $150 to $1,200 for the purpose of staying eviction proceedings.

It would provide for health insurance reinstatement when members leave active duty.

It would provide for suspension of professional malpractice insurance for physicians serving on active duty. Many physicians are among those called up as part of Operation Desert Shield. Once they leave active duty, their malpractice insurance will be reinstated as if they had never been called.

Those are the major changes. A few others are spelled out in the committee report.

In addition to our own members, I want to thank the distinguished chairman of the Senate Veterans Affairs Committee, Senator CRANSTON, and the distinguished ranking minority member of the committee, Senator MURKOWSKI, for their cooperation in getting this bill before the House and Senate. All of us want to be certain that the provisions of the Soldiers' and Sailors' Civil Relief Act are adequate to protect our young men and women who serve their country, and especially those who were recently called up as part of Operation Desert Shield.

I urge my colleagues to support the bill.

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Mr. Speaker, I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as ranking minority member of the Veterans' Affairs Committee, I rise in strong support of the Solders' and Sailors' Civil Relief Act of 1990, H.R. 5814.

The largest deployment of U.S. military forces since the Vietnam war has prompted both the Department of Defense and the congressional Veterans Affairs Committees to take a comprehensive look at the legal protections afforded our men and women in uniform as they are engaged in the essential work of protecting our national security. This time it is in the Middle East, but it could be anywhere in the world or right here at home.

They are willing to make any sacrifice for our country and, with the Soldiers' and Sailors' Civil Relief Act of 1940, it was recognized that they should at least have some peace of mind, some assurance that their legal and financial interests would have certain protections. As the years have passed, costs are higher, new financial arrangements are available and reliance on Reserve military forces is much greater.

So it is apparent to the committee that the Soldiers' and Sailors' Civil Relief Act needs updating with some new provisions and revisions. Our distinguished chairman has discussed H.R. 5814's provisions and our plan to examine more comprehensive legislation next session. I might add that the administration supports this bill.

Chairman MONTGOMERY and Chairman CRANSTON of the Senate Veterans Affairs Committee, as well as Senator MURKOWSKI, ranking minority member of the Senate committee have cooperated closely to produce this bipartisan legislation and I commend them for their responsible leadership on this matter. I want to especially commend CHRIS SMITH, ranking minority member of the House Subcommittee on Education, Training and Employment, for his essential contributions to the bill, particularly in the area of health insurance coverage for members of the Reserves.

I urge my colleagues to give these amendments favorable consideration. We owe our brave men and women of the armed services nothing less.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank my friend for yielding time to me and for his kind words.

Mr. Speaker, I would also like to commend the gentleman from Mississippi [Mr. MONTGOMERY] as well as the gentleman from Arizona [Mr. STUMP] for their leadership.

Mr. Speaker, as the vice chairman of the Veterans Affairs Subcommittee on Education, Training, and Employment, I rise in strong support of H.R. 5814, the Soldiers' and Sailors' Civil Relief Act. As an original sponsor of the legislation, I am keenly aware of the need to update current law in order to meet the needs of guards and reservists called to active duty in Operation Desert Shield.

Hearings in our committee, Mr. Speaker, revealed some gaping deficiencies in the Soldiers' and Sailors' Civil Relief Act—deficiencies that are fixed by the bill we offer today.

Legislation I introduced on September 18, 1990, the Operation Desert Shield Reserve Forces Health Care Act of 1990—H.R. 5659—set out to accomplish objectives similar to H.R. 5814. I am pleased that H.R. 5814 contains a provision which, like the earlier bill I introduced, assures selected reservists and their families that they will have comprehensive and continuous medical coverage during and upon release from their active duty obligation in Operation Desert Shield.

The provision stipulates that a guard or reservist and his or her dependents cannot be refused health insurance upon resumption of employment following active duty service due to a newly developed condition or illness. In other words, there can be no waiting period or exclusion of coverage due to a so-called preexisting health condition.

Additionally, Mr. Speaker, H.R. 5814 makes appropriate adjustments in current law by extending protections against evictions for the families of reservists renting homes up to a monthly rate of $1,200. The bill also provides relief for professionals—particularly physicians—who are making payments on liability insurance by stipulating that coverage and the payment of premiums can be suspended upon request of the reservist called to active duty.

Mr. Speaker, as earlier hearings held by the Veterans Affairs Committee revealed, these provisions are needed to update current law and to help ensure that reservists and their families are not subject to undue hardships. Mr. Speaker, I applaud the tremendous leadership of Mr. Montgomery and Mr. Stump in moving so swiftly to correct the problems we have identified. I support H.R. 5814 and urge my colleagues to join in my support.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I ask my colleagues to support this legislation. It amends the Soldiers' and Sailors' Civil Relief Act to help those people who are now involved in Desert Shield in Saudi Arabia.

I also want to commend the gentleman from New Jersey [Mr. Smith] for his work on this legislation. He was one of the Members who encouraged us to take a look at this act, and we have done that. Next year we ought to come back and maybe bring it further up to date. I thank the gentleman from New Jersey.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Mazzoli). The question is on the motion offered by the gentleman from Mississippi [Mr. Montgomery] that the House suspend the rules and pass the bill, H.R. 5814, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

VETERANS' JUDICIAL REVIEW AMENDMENTS OF 1990

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5657) to make technical amendments to the Veterans' Judicial Review Act.

The Clerk read as follows:

H.R. 5657

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Judicial Review Amendments of 1990".

SEC. 2. AMENDMENTS TO SECTION 4067 OF TITLE 38, UNITED STATES CODE.

Section 4067 of title 38, United States Code, is amended—

(1) by striking out subsection (b);

(2) by redesignating subsection (c) as subsection (b);

(3) by striking out subsection (d);

(4) by striking out "except as provided in subsection (d) of this section" in subsection (a); and

(5) by redesignating subsection (e) as subsection (c).

SEC. 3. JUDICIAL CONFERENCE.

(a) In General.—Subchapter III of chapter 72 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 4086. Judicial Conference of the Court of Veterans Appeals

"The Chief Judge of the Court of Veterans Appeals is authorized to summon annually the judges of the Court to a judicial conference, at a time and place that he designates, for the purpose of considering the business of the Court and advising means of improving the administration of justice within the Court's jurisdiction. The Court shall provide by its rules for representation and active participation at such conference by persons admitted to practice before the Court and by other persons active in the legal profession."

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 4085 the following new item:

"4086. Judicial Conference of the Court of Veterans Appeals.".

SEC. 4. AVAILABILITY OF MEDICAL RECORDS IN CONNECTION WITH JUDICIAL REVIEW.

Section 4132(b)(2) of title 38, United States Code, is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B) the following new subparagraph (C):

"(C) To the United States Court of Veterans Appeals and any other Federal court for use in connection with review under chapter 72 of this title, but any disclosure of records under this subparagraph shall be made under seal.".

SEC. 5. CLERICAL AMENDMENTS.

Chapter 72 of title 38, United States Code, is amended—

(1) in subsection (c) of section 4067 (as redesignated by section 2), by striking out "Administrator of the National Archives and Records Administration" and inserting in lieu thereof "Archivist of the United States";

(2) in section 4068(b)(2)—

(A) by striking out "shall" and inserting in lieu thereof "may, upon motion of the appellant or the Secretary,"; and

(B) by striking out "before" and inserting in lieu thereof "or"; and

(3) by redesignating the second subsection (d) of section 4054 (authorizing judges of the Court to administer oaths) as subsection (e).

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Mississippi [Mr. Montgomery] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. Stump] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. Montgomery].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5657 would make amendments in the law that established the U.S. Court of Veterans Appeals. The amendments are designed to help the court carry out its business in a more efficient manner. The bill is based on legislation requested by the court.

I urge the adoption of the bill.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5657, the Court of Veterans Appeals Amendments of 1990.

This legislation has been requested by Chief Judge Nebeker of the Court of Veterans Appeals in order to improve the court's operation. As the newly established court has considered its first few cases, not unexpectedly it has become apparent to the court that some legislative fine tuning is needed. Consequently, the committee is pleased to respond, particularly in view of the very promising start the court has made. It is living up to expectations, and we hope this is the beginning of a long cooperative relationship between the Committee on Veterans' Affairs and the court, a relationship which of course observes the proprieties between legislative and judicial functions of Government.

Mr. Speaker, I urge my colleagues on both sides of the aisle to support this bill.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. Montgomery] that the House suspend the rules and pass the bill, H.R. 5657.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TRANSFER OF PERSHING HALL TO DEPARTMENT OF VETERANS AFFAIRS

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5506) to provide for the transfer of an existing U.S. memorial erected under the auspices of the American Legion, Inc., for the use and benefit of all American officers and enlisted personnel who served in World War I to the Department of Veterans Affairs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5506

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERSHING HALL, PARIS, FRANCE.

(a) In General.—Pershing Hall, an existing memorial in Paris, France, owned by the United States, together with the personal property of such memorial, is hereby placed under the jurisdiction, custody, and control of the Department of Veterans Affairs so that the memorial to the commander-in-chief, officers, men, and auxiliary services of the American Expeditionary Forces in France during World War I may be continued in an appropriate manner and financial support be provided therefor.

(b) Administration.—(1)(A) The Secretary of Veterans Affairs shall administer, operate, develop, and improve Pershing Hall and its site in such manner as the Secretary determines appropriate to meet the needs of veterans, including maintaining an office to disseminate information, respond to inquiries, and otherwise assist veterans and their families in obtaining veterans' benefits.

(B) In order to carry out the purposes of this Act, the Secretary may enter into agreements authorized by subsection (c) to fund the operation of the memorial and projects authorized by subsection (d)(6).

(2)(A) The Secretary shall, after consultation with the American Battle Monuments Commission, provide for a portion of Pershing Hall to be specifically dedicated, with appropriate exhibitions and monuments, to the memory of the commander-in-chief, officers, men, and auxiliary services of the American Expeditionary Forces in France during World War I.

(B) The establishment and continuing supervision of the memorial that is dedicated pursuant to subparagraph (A) shall be carried out by the American Battle Monuments Commission.

(3) To the extent that funds are available in the Pershing Hall Revolving Fund established by subsection (d), the Secretary may incur such expenses with respect to Pershing Hall as the Secretary determines necessary or appropriate.

(c) Leases.—(1) The Secretary may enter into agreements for the operation, development, and improvement of Pershing Hall and its site, including the leasing of portions of the Hall for terms not to exceed 35 years in areas that are newly constructed or substantially rehabilitated and for not to exceed 20 years in other areas of the Hall, as the Secretary determines necessary or appropriate.

(2) Leases entered into by the Secretary shall be for consideration in the form of cash or in-kind, or a combination of the two, as determined by the Secretary, which shall include the value of space leased back to the Secretary by the lessee, net of rent paid by the Secretary, and the present value of the residual interest of the Secretary at the end of the lease term.

(3) The Secretary may not enter into a lease agreement described in this subsection until the end of a 60-day period of continuous session of Congress following the date of the submission of the proposed lease agreement to the Committees on Veterans' Affairs of the Senate and House of Representatives. For purposes of the preceeding sentence, continuity of a session of Congress is broken only by an adjournment sine die, and there shall be excluded from the computation of such 60-day period any day during which either House of Congress is not in session during an adjournment of more than three days to a day certain.

(d) Funds.—(1) There is hereby established the Pershing Hall Revolving Fund to be administered by the Secretary of Veterans Affairs.

(2) There shall be transferred to the Pershing Hall Revolving Fund, at such time or times as the Secretary may determine without limitation as to year, amounts as determined by the Secretary, not to exceed $1,000,000 in total, from funds appropriated to the Department of Veterans Affairs for the construction of major projects. The account from which any such amount is transferred shall be reimbursed promptly from other funds as they become part of the Pershing Hall Revolving Fund.

(3) The Pershing Hall Memorial Fund, established in the Treasury of the United States pursuant to section 2 of the Act of June 28, 1935 (Public Law 74-171; 49 Stat. 426), is hereby abolished and the corpus of the fund, including accrued interest, is transferred to the Pershing Hall Revolving Fund.

(4) Funds received by the Secretary from operation of Pershing Hall or from any lease or other agreement with respect to Pershing Hall shall be deposited in the Pershing Hall Revolving Fund.

(5) The Secretary of the Treasury shall invest any portion of the Revolving Fund that, as determined by the Secretary of Veterans Affairs, is not required to meet current expenses of the Fund. Each investment shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Secretary of Veterans Affairs, has a maturity suitable for the Revolving Fund. The Secretary of the Treasury shall credit to the Revolving Fund the interest on, and the proceeds from the sale or redemption of, such obligations.

(6)(A) Subject to subparagraphs (B) and (C), the Secretary of Veterans Affairs may expend not more than $100,000 from the Fund in any fiscal year upon projects, activities, and facilities determined by the Secretary of Veterans Affairs to be in keeping with the mission of the Department.

(B) An expenditure under subparagraph (A) may be made only from funds that will remain in the Fund in any fiscal year after payment of expenses incurred with respect to Pershing Hall for such fiscal year and only after the reimbursement of all amounts transferred to the Fund under subsection (d)(2) has been completed.

(C) An expenditure authorized by subparagraph (A) shall be reported by the Secretary to the Congress no later than November 1 of each year for the fiscal year ending on the previous September 30.

(e) Waiver.—The Secretary may carry out the provisions of this section without regard to section 5022 of title 38, United States Code, section 321 of the Act of June 30, 1932 (40 U.S.C. 303b; 47 Stat. 412), sections 202 and 203 of the Federal Property and Administrative Services Act (40 U.S.C. 483 and 484), or any other provision of law inconsistent with this section.

The SPEAKER pro tempore. Is a second demanded?

Mr. STUMP. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. Montgomery] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. Stump] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. Montgomery].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5506, as amended, would transfer Pershing Hall to the Department of Veterans Affairs. This building in Paris, France, was established for the primary use of veterans. The building was also supposed to serve as a memorial to Gen. John J. Pershing and the American Expeditionary Forces that served during World War I.

The American Legion acquired the building in 1928 and managed the facility for many years under an operating agreement with the Department of France American Legion Paris Post No. 1. For a variety of reasons, the Legion decided to terminate the agreement in May 1982.

In 1985, based on a GSA task force report, the committee was informed that a legislative proposal would be submitted by the administration to transfer title of the building to the State Department. The proposal was never submitted to the Congress.

This past May, I asked Secretary Derwinski to send a site team to Paris to see what could be done about the situation. Deputy Secretary Anthony Principi and other staff made a site visit and reported back to the Secretary and to the committee. The site team confirmed there were numerous problems with the operation and management of Pershing Hall. Secretary Derwinski was so concerned that he has agreed to take custody of the building. He has agreed to work with the American Battle Monuments Commission in establishing the memorial as was originally intended. A VA contact office would be located in the building to assist veterans, and the Secretary would have authority to lease out the remaining space. Proceeds from such space would be deposited into a revolving fund to offset expenses. It is intended that the fund will be self-sustaining.

Mr. Speaker, we must act now to resolve the problems that currently exist at Pershing Hall and I am confident the transfer of this facility to the VA will solve those problems.

I appreciate Secretary Derwinski's interest. It is the first time we have seen the head of any department or agency willing to assume responsibility for the facility. I commend him for his leadership and for the work of my friend, Deputy Secretary Tony Principi and his site team headed by David Lewis, Assistant Secretary for Acquisition and Facilities. I also want to thank Tony Kushnir for the very able technical assistance he provided to the committee staff in drafting this legislation. We very much appreciate their assistance and cooperation.

I urge the adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

As my chairman has stated, Pershing Hall is in a state of disrepair, and frankly is a disgrace. The Secretary of Veterans Affairs has agreed to take jurisdiction and control over this memorial. I believe this measure comes just in time and urge my colleagues to support.

If the other committees worked in this fashion, the legislative product of the House would be immensely improved, and deserve the respect of the American people, as you have earned the respect of our Nation's veterans through thoughtful, responsible legislation.

I would also like to compliment Mack Fleming, the committee's chief counsel, and his deputy, Pat Ryan and Carl Commenator, minority counsel, and Kingston Smith, deputy counsel—as well as the subcommittee and administrative staff for their cooperation and assistance during this Congress.

I will not take more time discussing it but I do want to take a few minutes to compliment my good friend Sonny Montgomery, chairman of the House Committee on Veterans' Affairs, and the best friend veterans have.

Last Friday may have been our final full committee markup for the 101st Congress. It has truly been a privilege and honor to serve on the committee, with the chairman of the committee. His bipartisan approach to every aspect of the committee's operation is unparalleled in this House.

The veterans of the United States have the best possible advocates they could imagine in the House of Representatives.

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Mr. MONTGOMERY. Mr. Speaker, I yield myself 1 minute.

While the gentleman from Michigan [Mr. Conyers] is on the floor, I want to recognize the chairman of the Committee on Government Operations, as this legislation also is a matter which his committee took an interest in. He and his staff were very cooperative in working it out so that we will now have an agency in charge of Pershing Hall in Paris, France. I want to thank the chairman of the Committee on Government Operations, the gentleman from Michigan [Mr. Conyers] for his total cooperation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Mazzoli). The question is on the motion offered by the gentleman from Mississippi [Mr. Montgomery] that the House suspend the rules and pass the bill, H.R. 5506, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PRIVATE SECTOR RESPONSIBILITY FOR CIVIC ACHIEVEMENT AWARD

Mr. FROST. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 587) committing to the private sector the responsibility for support of the Civic Achievement Award Program in honor of the Office of Speaker of the House of Representatives, and for other purposes.

The Clerk read as follows:

H.J. Res. 587

Whereas the continuing strength and vitality of American democratic traditions depend on the civic awareness of future generations;

Whereas numerous studies have documented the need to improve the level of civic literacy of American young people;

Whereas students in the fifth grade through the eighth grade are at a critical stage for development of values, character, and attitudes;

Whereas Congress established the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives in 1987 to assist in providing such students with a meaningful and relevant supplement to the social studies curriculum;

Whereas the Program has helped students to master knowledge of American history, geography, government, economics, culture, and current events, and to develop library, research and critical thinking skills;

Whereas participating students have volunteered hundreds of thousands of hours in civic and community service activities since the inception of the program;

Whereas the Close Up Foundation and the National Association of Elementary School Principals are to be commended for the development and conduct of the Program and for generating private sector support;

Whereas private sector support for the Program has enabled participation to grow from 60,000 students to more than 400,000 students for the current academic year and will ensure the continued success and expansion of the Program in 1991 and beyond; and

Whereas private sector support will enable continuing and broadening participation in the Program without continued assistance from the Congress: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Joint Resolution entitled "Joint resolution providing support for the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives", approved November 9, 1987 (2 U.S.C. 1001 et seq.), is repealed.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas [Mr. Frost] will be recognized for 20 minutes, and the gentleman from California [Mr. Thomas] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. Frost].

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

With true bipartisan support, Congress enacted the program in 1987 to provide funds for the establishment of a pilot program to promote civic awareness among fifth through eighth graders. The Close-Up Foundation and its civic achievement award program [CAAP] have proven to be an extremely successful and popular supplement to the social studies curriculum. CAAP includes exercises in government, history, economics, and current events; a research project; and active participation in a community service project. All three aspects of CAAP strengthen students' knowledge of government and how our democratic process works. This program helps students relate personally to the curriculum and allows them to directly apply what they have learned.

Last year, as one of my first actions as a new member of the House Administration Committee, I was pleased to introduce legislation to reauthorize the Civic Achievement Award Program.

At that time, the committee strongly urged the Close-Up Foundation to seek additional private resources for

the operation of this program. Acting on that recommendation, the Close-Up Foundation sought and obtained a financial commitment from the Burger King Corp. to continue and expand the operation of the program.

As a result of that commitment, the Civic Achievement Award Program will be able to serve 1.6 million students in the coming school year, far more than would have been otherwise possible were the program to remain reliant upon Federal funds.

I am familiar with Close-Up and have been impressed by the foundation's dedication to civic education for people of all ages. I am delighted that Burger King will be involved with this vital citizenship education program and wish to thank them for their commitment to our Nation's youth. Additionally, I want to thank the Congress and the Library for providing the necessary resources in the program's initial development. Finally, I want to express my sincere appreciation and congratulations to Close-Up for their outstanding efforts to date and assure them of my continued support. I urge my colleagues to join me in supporting House Joint Resolution 587 and in commending Close-Up for the creation of yet another inspiring and successful program.

Mr. THOMAS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend my colleagues on the Committee on House Administration and in particular on the Subcommittee on Libraries and Memorials for their efforts on the House Joint Resolution 587. We have worked hard to attain the independence of the Civic Achievement Award Program. This would not have been reached without the commitment of everyone involved.

The Civic Achievement Award Program [CAAP] aims to instill and reward civic awareness in the young people of our country. Its growth from 25,000 students in 1988 to potentially 1.6 million next year is due to private sector assistance from the Burger King Corp. and the hard work of the Close-Up Foundation. A program of this size would not have been possible with the limited funds the Federal Government could offer. This is why I am proud to support House Joint Resolution 587, which allows CAAP to grow to its full potential without Federal assistance. Through this bill, CAAP will serve as an example of the advantages of public-private partnership.

Mr. FRENZEL. Mr. Speaker, I, too, wish to join my colleagues in expressing strong support for House Joint Resolution 587. As many of my colleagues are aware, it's rare when I support the creation of yet another congressional program, but that is exactly what I did in 1987. In fact, in this instance, I was a true believer in what was to become the Civic Achievement Award Program [CAAP] and jumped on board as an original cosponsor of the legislation which created the program. One of the reasons I felt comfortable in doing so was due to the concept itself. The other reason, of course, was due to my longstanding belief in the Close Up Foundation and its remarkable touch.

For almost 20 years, I have seen the Close Up Foundation develop and conduct effective educational programs involving a seed element of Federal dollars and a partnership with the private sector. The major commitment from Burger King Corp., that has been described by my distinguished colleague from Missouri [Mr. Clay], represents an even more positive evolution that demonstrates the best of corporate citizenship.

Last year Close Up was encouraged to seek additional funding for CAAP from the private sector in order to reach more students than the congressional funding would have allowed. Close Up took that charge very seriously and I am proud to announce to my colleagues that Close Up has exceeded everyone's expectations.

The funding from Burger King, combined with the Federal appropriations for this previous academic year, enabled Close Up to reach a staggering 420,000 students! CAAP is now in every congressional district and in more that 15,000 classrooms. Furthermore, Burger King's commitment for next year will enable Close Up to reach approximatley 1 million students without any support from the Federal Government. Rather than augmenting the congressioal funding, Close Up has secured private funding from the Burger King Corp. at such a level as to establish a self-perpetuating program, independent of Federal support.

Therefore, at this time, the Close Up Foundation is not seeking any further Federal funding for CAAP.

House Joint Resolution officially passes the CAAP torch from Congress to the Burger King Corp. We should proclaim loud and clear the great success of the investment of the Federal dollars and frankly, gentlemen, we should encourage the further development of just these kinds of efforts.

In closing, it makes me proud to not only stand here before you today and join my colleagues in supporting this resolution, but also to be a part of such a successful endeavor. I praise the Close Up Foundation and its commitment to the civic education of this Nation's youth, the National Association of Elementary School Principals, and Burger King. I will follow closely the continued success of the Civic Achievements Award.

Mr. FROST. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. THOMAS of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. Frost] that the House suspend the rules and pass the joint resolution (H.J. Res. 587).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FROST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CHIEF FINANCIAL OFFICERS ACT OF 1990

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5687) to amend title 31, United States Code, to improve the financial management of the Federal Government by establishing a Chief Financial Officer of the United States within the Office of Management and Budget; by establishing a Chief Financial Officer within each executive department and within each major executive agency; and by requiring the development of systems that provide complete, accurate, and timely reporting of financial information as amended.

The Clerk read as follows:

H.R. 5687

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—GENERAL PROVISIONS

SEC. 101. SHORT TITLE.

This Act may be cited as the "Chief Financial Officers Act of 1990".

SEC. 102. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds the following:

(1) General Management functions of the Office of Management and Budget have not received sufficient priority and need to be significantly enhanced to improve the efficiency and effectiveness of the Federal Government.

(2) Financial management functions of the Office of Management and Budget need to be enhanced to provide overall direction and leadership in the development of a modern Federal financial management structure and associated systems.

(3) Billions of dollars are lost each year through fraud, waste, abuse, and mismanagement among the hundreds of programs in the Federal Government.

(4) These losses could be significantly decreased by improved management, including improved central coordination of internal controls and financial accounting.

(5) The Federal Government is in great need of fundamental reform in financial management requirements and practices as financial management systems are obsolete and inefficient, and do not provide com-

plete, consistent, reliable, and timely information.

(6) Current financial reporting practices of the Federal Government do not accurately disclose the current and probable future cost of operating and investment decisions, including the future need for cash or other resources, do not permit adequate comparison of actual costs among executive agencies, and do not provide the timely information required for efficient management of programs.

(b) Purposes.—The purposes of this Act are the following:

(1) Bring more effective general and financial management practices to the Federal Government through a comprehensive statutory plan for establishing in the Office of Management and Budget a Deputy Director for Management, for establishing an Office of Federal Financial Management headed by a Controller, and for designating a Chief Financial Officer in each executive department and in each major executive agency in the Federal Government.

(2) Provide for improvement, in each agency of the Federal Government, of systems of internal controls to assure the issuance of reliable financial information and to deter fraud, waste, and abuse of Government resources.

(3) Provide for the production of complete, reliable, timely, and consistent financial information for use by the executive branch of the Government and the Congress in the financing, management, and evaluation of Federal programs.

TITLE II—ESTABLISHMENT OF CHIEF FINANCIAL OFFICERS

SEC. 201. REDESIGNATION OF DEPUTY DIRECTOR FOR BUDGET.

Section 502 of title 31, United States Code, is amended—

(1) in subsection (b)—

(A) in the first sentence by striking "Deputy Director of the Office of Management and Budget" and inserting "Deputy Director for Budget"; and

(B) by striking the second sentence; and

(2) in subsection (e) by inserting "for Budget" after "Deputy Director" each place the term appears.

SEC. 202. DEPUTY DIRECTOR FOR MANAGEMENT.

Section 502 of title 31, United States Code, as amended by this Act, is amended—

(1) by redesignating subsections (c), (d), and (e), as amended by this section, as subsections (d), (e), and (f); and

(2) by inserting after subsection (b) the following:

"(c) The Office has a Deputy Director for Management appointed by the President, by and with the advice and consent of the Senate. The Deputy Director for Management shall be the chief financial management officer of the United States.".

SEC. 203. FUNCTIONS OF DEPUTY DIRECTORS.

(a) Clerical Amendments.—Sections 503 and 504 of title 31, United States Code, are redesignated in order as sections 505 and 506, respectively.

(b) Functions of Deputy Directors.—Subchapter I of chapter 5 of title 31, United States Code, is amended by inserting after section 502 the following:

"§ 503. Functions of Deputy Directors

"(a) The Deputy Director for Budget shall—

"(1) carry out the duties and powers prescribed by the Director; and

"(2) act as the Director when the Director is absent or unable to serve, or when the office of Director is vacant.

"(b)(1) Subject to the direction and approval of the Director, the Deputy Director for Management shall establish governmentwide financial management policies for executive agencies and shall perform the following financial management functions:

"(A) Perform all functions of the Director, including all functions delegated by the President to the Director, relating to financial management.

"(B) Provide overall direction and leadership to the executive branch on financial management matters by establishing financial management policies and requirements, and by monitoring the establishment and operation of Federal Government financial management systems.

"(C) Review agency budget requests for financial management systems and operations, and advise the Director on the resources required to develop and effectively operate and maintain Federal Government financial management systems and to correct major deficiencies in such systems.

"(D) Review and, where appropriate, recommend to the Director changes to the budget and legislative proposals of agencies to ensure that they respond to program evaluations by, and are in accordance with financial management plans of, the Office of Management and Budget.

"(E) Monitor the financial execution of the budget in relation to actual expenditures, including timely performance reports.

"(F) Oversee, periodically review, and make recommendations to heads of agencies on the administrative structure of agencies with respect to their financial management activities.

"(G) Develop and maintain qualification standards for agency Chief Financial Officers appointed under section 901.

"(H) Provide advice to agency heads with respect to the selection of agency Chief Financial Officers and Deputy Chief Financial Officers.

"(I) Provide advice to agencies regarding the qualifications, recruitment, performance, and retention of other financial management personnel.

"(J) Assess the overall adequacy of the professional qualifications and capabilities of financial management staffs throughout the Government and make recommendations on ways to correct problems which impair the capacity of those staffs.

"(K) Settle differences that arise among agencies regarding the implementation of financial management policies.

"(L) Chair the Chief Financial Officers Council established by section 302 of the Chief Financial Officers Act of 1990.

"(M) Communicate with the financial officers of State and local governments, and foster the exchange with those officers of information concerning financial management standards, techniques, and processes.

"(N) Issue such other policies and directives as may be necessary to carry out this section, and perform any other function prescribed by the Director.

"(2) Subject to the direction and approval of the Director, the Deputy Director for Management shall establish general management policies for executive agencies and perform the following general management functions:

"(A) Coordinate and supervise the general management functions of the Office of Management and Budget.

"(B) Perform all functions of the Director, including all functions delegated by the President to the Director, relating to—

"(i) managerial systems;

"(ii) procurement policy;

"(iii) grant, cooperative agreement, and assistance management;

"(iv) information and statistical policy;

"(v) property management;

"(vi) human resources management;

"(vii) regulatory affairs; and

"(viii) other management functions, including organizational planning, program evaluation, productivity improvement, experimentation and demonstration programs, and privatization.

"(C) Provide complete, reliable, and timely information to the President, the Congress, and the public regarding the management activities of the executive branch.

"(D) Facilitate actions by the Congress and the executive branch to improve the management of Federal Government operations and to remove impediments to effective administration.

"(E) Provide leadership in management innovation, through—

"(i) experimentation, testing, and demonstration programs; and

"(ii) the adoption of modern management concepts and technologies.

"(F) Work with State and local governments to improve and strengthen intergovernmental relations, and provide assistance to such governments with respect to intergovernmental programs and cooperative arrangements.

"(G) Review and, where appropriate, recommend to the Director changes to the budget and legislative proposals of agencies to ensure that they respond to program evaluations by, and are in accordance with general management plans of, the Office of Management and Budget.

"(H) Provide advice to agencies on the qualification, recruitment, performance, and retention of managerial personnel.

"(I) perform any other functions prescribed by the Director.".

SEC. 204. OFFICE OF FEDERAL FINANCIAL MANAGEMENT.

(a) Establishment.—Subchapter I of chapter 5 of title 31, United States Code, as amended by this Act, is amended by inserting after section 503 (as added by section 203 of this Act) the following:

"§ 504. Office of Federal Financial Management

"(a) There is established in the Office of Management and Budget an office to be known as the 'Office of Federal Financial Management'. The Office of Federal Financial Management, under the direction and control of the Deputy Director for Management of the Office of Management and Budget, shall carry out the financial management functions listed in section 503(b)(1) of this title.

"(b) There shall be at the head of the Office of Federal Financial Management a Controller, who shall be appointed by the President, by and with the advice and consent of the Senate. The Controller shall be appointed from among individuals who possess—

"(1) demonstrated ability and practical experience in accounting, financial management, and financial systems; and

"(2) extensive practical experience in financial management in large governmental or business entities.

"(c) The Controller of the Office of Federal Financial Management shall be the deputy and principal advisor to the Deputy Director for Management in the performance by the Deputy Director for Management of functions described in section 503(b).".

(b) Statement of Appropriations in Budget.—Section 1105(a) of title 31, United States Code, is amended by adding at the end the following:

"(28) a separate statement of the amount of appropriations requested for the Office of Federal Financial Management.".

(c) Clerical Amendment.—The table of contents at the beginning of chapter 5 of title 31, United States Code, is amended by striking the items relating to sections 503 and 504 and inserting the following:

"503. Functions of Deputy Directors.
"504. Office of Federal Financial Management.
"505. Office of Information and Regulatory Affairs.
"506. Office of Federal Procurement Policy.".

SEC. 205. DUTIES AND FUNCTIONS OF THE DEPARTMENT OF THE TREASURY.

Nothing in this Act shall be construed to interfere with the excercise of the functions, duties, and responsibilities of the Department of the Treasury, as in effect immediately before the enactment of this Act.

SEC. 206. AGENCY CHIEF FINANCIAL OFFICERS.

(a) In General.—Subtitle I of title 31, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 9—AGENCY CHIEF FINANCIAL OFFICERS

"Sec.
"901. Establishment of agency Chief Financial Officers.
"902. Authority and functions of agency Chief Financial Officers.
"903. Establishment of agency Deputy Chief Financial Officers.

"§ 901. Establishment of agency Chief Financial Officers

"(a) There shall be within each agency described in subsection (b) an agency Chief Financial Officer. Each agency Chief Financial Officer shall—

"(1) for those agencies described in subsection (b)(1)—

"(A) be appointed by the President, by and with the advice and consent of the Senate; or

"(B) be designated by the President, in consultation with the head of the agency, from among officials of the agency who are required by law to be so appointed;

"(2) for those agencies described in subsection (b)(2)—

"(A) be appointed by the head of the agency;

"(B) be in the competitive service or the senior executive service; and

"(C) be career appointees; and

"(3) be appointed or designated, as applicable, from among individuals who possess demonstrated ability in general management of, and knowledge of and practical experience in financial management practices in, large governmental or business entities.

"(b)(1) The agencies referred to in subsection (a)(1) are the following:

"(A) The Department of Agriculture.
"(B) The Department of Commerce.
"(C) The Department of Defense.
"(D) The Department of Education.
"(E) The Department of Energy.
"(F) The Department of Health and Human Services.
"(G) The Department of Housing and Urban Development.
"(H) The Department of the Interior.
"(I) The Department of Justice.
"(J) The Department of Labor.
"(K) The Department of State.
"(L) The Department of Transportation.
"(M) The Department of the Treasury.
"(N) The Department of Veterans Affairs.
"(O) The Environmental Protection Agency.

"(2) The agencies referred to in subsection (a)(2) are the following:

"(A) The Agency for International Development.
"(B) The Federal Emergency Management Agency.
"(C) The General Services Administration.
"(D) The National Aeronautics and Space Administration.
"(E) The National Science Foundation.
"(F) The Nuclear Regulatory Commission.
"(G) The Office of Personnel Management.
"(H) The Small Business Administration.

"§ 902. Authority and functions of agency Chief Financial Officers

"(a) An agency Chief Financial Officer shall—

"(1) report directly to the head of the agency regarding financial management matters;

"(2) oversee all financial management activities relating to the programs and operations of the agency;

"(3) develop and maintain an integrated agency accounting and financial management system, including financial reporting and internal controls, which—

"(A) complies with applicable accounting principles, standards, and requirements, and internal control standards;

"(B) complies with such policies and requirements as may be prescribed by the Director of the Office of Management and Budget;

"(C) complies with any other requirements applicable to such systems; and

"(D) provides for—

"(i) complete, reliable, consistent, and timely information which is prepared on a uniform basis and which is responsive to the financial information needs of agency management;

"(ii) the development and reporting of cost information;

"(iii) the integration of accounting and budgeting information; and

"(iv) the systematic measurement of performance;

"(4) make recommendations to the head of the agency regarding the selection of the Deputy Chief Financial Officer of the agency;

"(5) direct and manage agency financial management personnel, activities, and operations, including—

"(A) the preparation and annual revision of an agency plan to—

"(i) implement the 5-year financial management systems plan prepared by the Director of the Office of Management and Budget under section 3512(a) of this title; and

"(ii) comply with the requirements established under sections 3515 and subsections (e) and (f) of section 3521 of this title;

"(B) the development of agency financial management budgets;

"(C) the recruitment, selection, and training of personnel to carry out agency financial management functions;

"(D) the approval and management of agency financial management systems design or enhancement projects;

"(E) the implementation of agency asset management systems, including systems for cash management, credit management, debt collection, and property and inventory management and control;

"(6) prepare and transmit, by not later than 30 days after the submission of the audit report required by section 3521(f) of this title, an annual report to the agency head and the Director of the Office of Management and Budget which shall include—

"(A) a description and analysis of the status of financial management by the agency;

"(B) the annual financial statements prepared under section 3515 of this title;

"(C) the audit report transmitted to the head of the agency under section 3521(f) of this title;

"(D) a summary of the reports on internal accounting and administrative control systems submitted to the President and the Congress under the amendments made by the Federal Managers' Financial Integrity Act of 1982 (Public Law 97-255); and

"(E) other information the head of the agency considers appropriate to fully inform the President and the Congress concerning the financial management of the agency;

"(7) monitor the financial execution of the budget of the agency in relation to actual expenditures, and prepare and submit to the head of the agency timely performance reports; and

"(8) review, on a biennial basis, the fees, royalties, rents, and other charges imposed by the agency for services and things of value it provides, and make recommendations on revising those charges to reflect costs incurred by it in providing those services and things of value.

"(b)(1) In addition to the authority otherwise provided by this section, each agency Chief Financial Officer—

"(A) subject to paragraph (2), shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which are the property of the agency or which are available to the agency, and which relate to programs and operations with respect to which that agency Chief Financial Officer has responsibilities under this section;

"(B) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this section from any Federal, State, or local governmental entity; and

"(C) to the extent and in such amounts as may be provided in advance by appropriations Acts, may—

"(i) enter into contracts and other arrangements with public agencies and with private persons for the preparation of financial statements, studies, analyses, and other services; and

"(ii) make such payments as may be necessary to carry out the provisions of this section.

"(2) Except as provided in paragraph (1)(B), this subsection does not provide to an agency Chief Financial Officer any access to records, reports, audits, reviews, documents, papers, recommendations, or other material of any Office of Inspector General established under the Inspector General Act of 1978 (5 U.S.C. App.).

"§ 903. Establishment of agency Deputy Chief Financial Officers

"(a) There shall be within each agency described in section 901(b) an agency Deputy Chief Financial Officer, who shall report directly to the agency Chief Financial Officer on financial management matters. The position of agency Deputy Chief Financial Officer shall be a career reserved position in the Senior Executive Service.

"(b) Consistent with qualification standards developed by, and in consultation with, the agency Chief Financial Officer and the Director of the Office of Management and Budget, the head of each agency shall appoint as Deputy Chief Financial Officer an individual with demonstrated ability and experience in accounting, budget execution, financial and management analysis, and systems development, and not less than 6 years practical experience in financial management at large governmental entities.".

(b) Clerical Amendment.—The table of chapters at the beginning of subtitle I of title 31, United States Code, is amended by adding at the end the following:

"9. Agency Chief Financial Officers .. 901.".

(c) Chief Financial Officers of Department of Veterans Affairs and Department of Housing and Urban Development.—

(1) Designation.—The Secretary of Veterans Affairs and the Secretary of Housing and Urban Development may each designate as the agency Chief Financial Officer of that department for purposes of section 901 of title 31, United States Code, as amended by this section, the officer designated, respectively, under section 4(c) of the Department of Veterans Affairs Act (38 U.S.C. 201 note) and section 4(e) of the Department of Housing and Urban Development Act (42 U.S.C. 3533(e)), as in effect before the effective date of this Act.

(2) Conforming amendment.—Section 4(c) of the Department of Veterans Affairs Act (38 U.S.C. 201 note) and section 4(e) of the Department of Housing and Urban Development Act (42 U.S.C. 3533(e)), as added by section 121 of Public Law 101-235, are repealed.

SEC. 207. TRANSFER OF FUNCTIONS AND PERSONNEL OF AGENCY CHIEF FINANCIAL OFFICERS.

(a) Agency Reviews of Financial Management Activities.—Not later than 120 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall issue regulations requiring each agency listed in subsection (b) of section 901 of title 31, United States Code, as amended by this Act, to conduct a review of its financial management activities for the purpose of consolidating its accounting, budgeting, and other financial management activities under the agency Chief Financial Officer appointed under subsection (a) of that section for the agency.

(b) Reorganization Proposal.—Not later than 120 days after the issuance of regulations under subsection (a) and subject to all laws vesting functions in particular officers and employees of the United States, the head of each agency shall submit to the Director of the Office of Management and Budget a proposal for reorganizing the agency for the purposes of this Act. Such proposal shall include—

(1) a description of all functions, powers, duties, personnel, property, or records which the agency Chief Financial Officer is proposed to have authority over, including those relating to functions that are not related to financial management activities; and

(2) a detailed outline of the administrative structure of the office of the agency Chief Financial Officer, including a description of the responsibility and authority of financial management personnel and resources in agencies or other subdivisions as appropriate to that agency.

(c) Review and Approval of Proposal.—Not later than 60 days after receiving a proposal from the head of an agency under subsection (b), the Director of the Office of Management and Budget shall approve or disapprove the proposal and notify the head of the agency of that approval or disapproval. The Director shall approve each proposal which establishes an agency Chief Financial Officer in conformance with section 901 of title 31, United States Code, as added by this Act, and which establishes a financial management structure reasonably tailored to the functions of the agency. Upon approving a proposal of an agency under this section, the Director shall transmit to the head of the agency a written notice of that approval.

(d) Implementation of Proposal.—Upon receiving written notice of approval of a proposal under this section from the Director of the Office of Management and Budget, the head of an agency shall implement that proposal.

SEC. 208. COMPENSATION.

(a) Compensation, Level II.—Section 5313 of title 5, United States Code, is amended—

(1) by striking "Deputy Director of the Office of Management and Budget."; and

(2) by adding at the end the following:

"Deputy Director for Budget, Office of Management and Budget.

"Deputy Director for Management, Office of Management and Budget.".

(b) Compensation, Level III.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Controller, Office of Federal Financial Management, Office of Management and Budget.".

(c) Compensation, Level IV.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Chief Financial Officer, Department of Agriculture.

"Chief Financial Officer, Department of Commerce.

"Chief Financial Officer, Department of Defense.

"Chief Financial Officer, Department of Education.

"Chief Financial Officer, Department of Energy.

"Chief Financial Officer, Department of Health and Human Services.

"Chief Financial Officer, Department of Housing and Urban Development.

"Chief Financial Officer, Department of the Interior.

"Chief Financial Officer, Department of Justice.

"Chief Financial Officer, Department of Labor.

"Chief Financial Officer, Department of State.

"Chief Financial Officer, Department of Transportation.

"Chief Financial Officer, Department of the Treasury.

"Chief Financial Officer, Department of Veterans Affairs.

"Chief Financial Officer, Environmental Protection Agency.".

TITLE III—ENHANCEMENT OF FEDERAL FINANCIAL MANAGEMENT ACTIVITIES

SEC. 301. 5-YEAR FINANCIAL MANAGEMENT SYSTEMS PLAN.

(a) In General.—Section 3512 of title 31, United States Code, is amended by striking the heading thereof, redesignating subsections (a) through (f) in order as subsections (b) through (g), and by inserting before such subsection (b), as so redesignated, the following:

"§ 3512. Executive agency accounting and other financial management systems

"(a)(1) The Director of the Office of Management and Budget shall prepare and maintain a governmentwide 5-year financial management systems plan. Such plan shall describe the activities the Director, the Deputy Director for Management, the Controller of the Office of Federal Financial Management, and agency Chief Financial Officers shall conduct over the next 5 fiscal years to improve the financial management of the Federal Government.

"(2) Each 5-year financial management systems plan prepared under this subsection shall—

"(A) describe the existing financial management structure and any changes needed to establish an integrated financial management system;

"(B) be consistent with applicable accounting principles, standards, and requirements;

"(C) provide a strategy for developing and integrating individual agency accounting, financial information, and other financial management systems to ensure adequacy and consistency of financial information;

"(D) identify and eliminate duplicative and unnecessary systems by encouraging agencies to share systems which have sufficient capacity to perform the functions needed;

"(E) identify projects to bring existing systems into compliance with the applicable standards and requirements;

"(F) contain milestones for equipment acquisitions and other actions necessary to implement the 5-year plan consistent with the requirements of this section;

"(G) identify financial management personnel needs and actions to ensure those needs are met;

"(H) include a plan for ensuring the annual audit of financial statements of executive agencies pursuant to section 3521(h) of this title; and

"(I) estimate the costs of implementing the 5-year plan.

"(3)(A) Not later than 1 year after the date of the enactment of this subsection, the Director of the Office of Management and Budget shall submit the first 5-year financial management systems plan prepared under this subsection to the appropriate committees of the Congress.

"(B)(i) Not later than 30 days after each submission thereafter by the President of a budget under section 1105 of this title, the Director of the Office of Management and Budget shall submit to the appropriate committees of the Congress a revised 5-year financial management systems plan to cover the succeeding 5 fiscal years and a report on the accomplishments of the executive branch in implementing the plan during the preceding fiscal year.

"(ii) The Director shall include with each revised 5-year financial management systems plan a description of any substantive changes in the financial statement audit plan required by paragraph (2)(H), progress made by executive agencies in implementing the audit plan, and any improvements in Federal Government financial management related to preparation and audit of financial statements of executive agencies.".

(b) Clerical Amendment.—The table of contents at the beginning of chapter 35 of title 31, United States Code, is amended by striking the item relating to section 3512 and inserting the following:

"3512. Executive agency accounting and other financial management systems.".

SEC. 302. CHIEF FINANCIAL OFFICERS COUNCIL.

(a) Establishment.—There is established a Chief Financial Officers Council, consisting of—

(1) the Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the council;

(2) the Controller of the Office of Federal Financial Management of the Office of Management and Budget;

(3) the Fiscal Assistant Secretary of Treasury; and

(4) each of the agency Chief Financial Officers appointed under section 901 of title 31, United States Code, as amended by this Act.

(b) Functions.—The Chief Financial Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on such matters as consolidation and modernization of financial systems, improved quality of financial information, financial data and information standards, internal controls, legislation affecting financial operations and organizations, and any other financial management matter.

SEC. 303. FINANCIAL STATEMENTS OF AGENCIES.

(a) Preparation of Financial Statements.—

(1) In general.—Subchapter II of chapter 35 of title 31, United States Code, is amended by adding at the end the following:

"§ 3515. Financial statements of agencies

"(a) Not later than December 31 of each year, the head of each executive agency identified in section 901(b) of this title shall prepare and submit to the Director of the Office of Management and Budget a financial statement for the preceding fiscal year, covering—

"(1) the revolving funds and trust funds of the agency; and

"(2) to the extent practicable, the accounts of all offices, bureaus, and activities of the agency which performed substantial commercial functions during the preceding fiscal year.

"(b) Each financial statement of an executive agency under this section shall reflect—

"(1) the overall financial position of the revolving funds, trust funds, offices, bureaus, and activities covered by the statement, including assets and liabilities thereof;

"(2) results of operations of those revolving funds, trust funds, offices, bureaus, and activities;

"(3) cash flows or changes in financial position of those revolving funds, trust funds, offices, bureaus, and activities; and

"(4) a reconciliation to budget reports of the executive agency for those revolving funds, trust funds, offices, bureaus, and activities.

"(c) The Director of the Office of Management and Budget shall prescribe the form and content of the financial statements of executive agencies under this section, consistent with applicable accounting principles, standards, and requirements.

"(d) For purposes of this section, the term 'commercial functions' includes buying and leasing of real estate, providing insurance, making loans and loan guarantees, and other credit programs.

"(e) Not later than December 31 of each year, the head of each executive agency designated by the President may prepare and submit to the Director of the Office of Management and Budget a financial statement for the preceding fiscal year, covering accounts of offices, bureaus, and activities of the agency in addition to those described in subsection (a).".

(2) Effective date of subsection.—Subsection (e) of section 3515 of title 31, United States Code, as added by paragraph (1), shall take effect on the date on which a resolution described in subsection (b)(1) of this section is passed by the Congress and approved by the President.

(b) Resolution Approving Designation of Agencies.—

(1) Resolution described.—A resolution referred to in subsection (a)(2) is a joint resolution the matter after the resolving clause of which is as follows: "That the Congress approves the executive agencies designated by the President pursuant to section 3515(e) of title 31, United States Code.".

(2) Introduction of resolution.—No later than the first day of session following the day on which the President submits to the Congress a designation of executive agencies authorized to submit financial statements under section 3515(e) of title 31, United States Code, as added by subsection (a), a resolution as described in paragraph (1) shall be introduced (by request) in the House by the chairman of the Committee on Government Operations of the House of Representatives, or by a Member or Members of the House designated by such chairman; and shall be introduced (by request) in the Senate by the chairman of the Committee on Governmental Affairs of the Senate, or by a Member or Members of the Senate designated by such chairman.

(3) Referral.—A resolution described in paragraph (1), shall be referred to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House (and all resolutions with respect to the same designation of executive agencies shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be. The committee shall make its recommendations to the House of Representatives or the Senate, respectively, within 60 calendar days of continuous session of the Congress following the date of such resolution's introduction.

(4) Discharge of Committee.—If the committee to which is referred a resolution introduced pursuant to paragraph (2) (or, in the absence of such a resolution, the first resolution introduced with respect to the same designation of executive agencies) has not reported such resolution or identical resolution at the end of 60 calendar days of continuous session of the Congress after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(5) Procedure after report or discharge of committee; vote on final passage.—(A) When the committee has reported, or has been deemed to be discharged (under paragraph (4)) from further consideration of, a resolution described in paragraph (1), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is passed or rejected shall not be in order.

(C) Immediately following the conclusion of the debate on the resolution and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1), shall be decided without debate.

(E) If, prior to the passage by one House of a resolution of that House, that House receives a resolution with respect to the same designation of executive agencies from the other House, then—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(F) It shall not be in order in either the House of Representatives or the Senate to consider a resolution described in paragraph (1), or to consider any conference report on such a resolution, unless before December 31, 1993, the Director of the Office of Management and Budget submits to the Congress a report under subsection (e).

(c) Report on Substantial Commercial Functions.—Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall determine and report to the Congress on which executive agencies or parts thereof perform substantial commercial functions for which financial statements can be prepared practicably under section 3515 of title 31, United States Code, as added by this section.

(d) Pilot Project.—Not later than December 31 of each of 1991 and 1992, the head of the departments of Agriculture, Housing and Urban Development, Labor, Veterans Affairs, and the Air Force, and of the General Services Administration, shall each prepare and submit to the Director of the Office of Management and Budget financial statements for the preceding fiscal year for the accounts of all of the offices, bureaus, and activities of that department or administration.

(e) Report on Initial Financial Statements.—Not later than June 30, 1993, the Director of the Office of Management and Budget shall report to the Congress on the financial statements prepared for fiscal years 1991 and 1992 under subsection (a) of section 3515 of title 31, United States Code (as added by subsection (a) of this section) and under subsection (d) of this section. The report shall include determination of—

(1) the accuracy of the data included in the financial statements;

(2) the difficulties each department and agency encountered in preparing the data included in the financial statements;

(3) the benefits derived from the preparation of the financial statements; and

(4) the cost associated with preparing and auditing the financial statements, including a description of any activities that were foregone as a result of that preparation and auditing.

(f) Clerical Amendment.—The table of sections at the beginning of chapter 35 of title 31, United States Code, is amended by inserting after the item relating to section 3514 the following:

"3515. Financial statements of agencies.".

SEC. 304. FINANCIAL AUDITS OF AGENCIES.

Section 3521 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(e) Each financial statement prepared under section 3515 by an agency shall be audited in accordance with applicable generally accepted government auditing standards—

"(1) in the case of an agency having an Inspector General appointed under the Inspector General Act of 1978 (5 U.S.C. App.), by the Inspector General, by the Comptroller General of the United States, or by an independent external auditor, as determined by the Inspector General of the agency; and

"(2) in any other case, by the Comptroller General of the United States or by an independent external auditor, as determined by the head of the agency.

"(f) Not later than June 30 following the first fiscal year for which a financial statement is submitted under section 3515 of this title by an agency, and not later than March 31 following each fiscal year after the first fiscal year, the person who audits the statement for purposc of subsection (e) shall submit a report on the audit to the head of the agency. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards.

"(g) The Comptroller General of the United States—

"(1) may review any audit of a financial statement conducted under this subsection by an Inspector General or an external auditor; and

"(2) shall report to the Congress, the Director of the Office of Management and Budget, and the head of the agency which prepared the statement, regarding the results of the review and make any recommendation the Comptroller General considers appropriate.

"(h) Each financial statement prepared by an executive agency for a fiscal year after fiscal year 1991 shall be audited in accordance with this section and the plan required by section 3512(a)(2)(H) of this title.".

SEC. 305. FINANCIAL AUDITS OF GOVERNMENT CORPORATIONS.

Section 9105 of title 31, United States Code, is amended to read as follows:

"§ 9105. Audits

"(a)(1) The financial statements of Government corporations shall be audited by the Inspector General of the corporation appointed under the Inspector General Act of 1978 (5 U.S.C. App.) or by an independent external auditor, as determined by the Inspector General or, if there is no Inspector General, by the head of the corporation.

"(2) Audits under this section shall be conducted in accordance with applicable generally accepted government auditing standards.

"(3) The Comptroller General of the United States—

"(A) may review any audit of a financial statement conducted under this subsection by an Inspector General or an external auditor; and

"(B) shall report to the Congress, the Director of the Office of Management and Budget, and the head of the Government corporation which prepared the statement, regarding the results of the review and make any recommendation the Comptroller General of the United States considers appropriate.

"(4) A Government corporation shall reimburse the Comptroller General of the United States for the full cost of any audit conducted under this subsection, as determined by the Comptroller General. All reimbursements received under this paragraph by the Comptroller General of the United States shall be deposited in the Treasury as miscellaneous receipts.

"(b)(1) Upon request of the Comptroller General of the United States, a Government corporation shall provide to the Comptroller General of the United States all books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Government corporation and its auditor, except those of the Inspector General of the corporation appointed under the Inspector General Act of 1978 (5 U.S.C. App.), that the Comptroller General of the United States considers necessary to the performance of any audit or review under this section.

"(2) Nothing in this subsection shall be construed to prohibit the Comptroller General of the United States from requesting or receiving from, or being provided by, the Inspector General of a Government corporation such information or assistance as the Comptroller General of the United States considers necessary to the performance of any audit or review under this section.

"(c) Activities of the Comptroller General of the United States under this section are in lieu of any audit of the financial transactions of a Government corporation that the Comptroller General is required to make under any other law.".

SEC. 306. MANAGEMENT REPORTS OF GOVERNMENT CORPORATIONS.

(a) In General.—Section 9106 of title 31, United States Code, is amended to read as follows:

"§ 9106. Management reports

"(a)(1) A Government corporation shall submit an annual management report to the Congress not later than 180 days after the end of the Government corporation's fiscal year.

"(2) A management report under this subsection shall include—

"(A) a statement of financial position;

"(B) a statement of operations;

"(C) a statement of cash flows;

"(D) a reconciliation to the budget report of the Government corporation, if applicable;

"(E) a statement on internal accounting and administrative control systems by the head of the management of the corporation, consistent with the requirements for agency statements on internal accounting and administrative control systems under section 3512(d) of this title;

"(F) the report resulting from an audit of the financial statements of the corporation conducted under section 9105 of this title; and

"(G) any other comments and information necessary to inform the Congress about the operations and financial condition of the corporation.

"(b) A Government corporation shall provide the President, the Director of the Office of Management and Budget, and the Comptroller General of the United States a copy of the management report when it is submitted to Congress.".

(b) Clerical Amendment.—The table of sections for chapter 91 of title 31, United States Code, is amended by striking the item relating to section 9106 and inserting the following:

"9106. Management reports.".

SEC. 307. FINANCIAL MANAGEMENT REPORTS OF DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET.

(a) In General.—Chapter 35 of title 31, United States Code, is amended by adding at the end the following:

"§ 3516. Financial management reports of Director of Office of Management and Budget

"(a) Not later than 30 days after the preparation of the audit report required under section 3521(f) of this title, the Director of the Office of Management and Budget shall prepare and submit to the appropriate committees of the Congress a financial management status report.

"(b) A report under this section shall include—

"(1) a description and analysis of the status of financial management in the executive branch;

"(2) a summary of the most recently completed financial statements—

"(A) of Government corporations; and

"(B) of Federal agencies under section 3515 of this title;

"(3) a summary of the most recently completed financial statement audits—

"(A) of Government corporations; and

"(B) of Federal agencies under section 3521(e) of this title;

"(4) a summary of the most recently completed audit reports under section 3521(f) of this title;

"(5) a summary of reports on internal accounting and administrative control systems submitted to the President and the Congress under section 3512(d) of this title; and

"(6) any other information the Director considers appropriate to fully inform the Congress regarding the financial management of the Federal Government.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 35 of title 31, United States Code, as amended by this Act, is amended by inserting after the item relating to section 3515 the following:

"3516. Financial management reports of Director of Office of Management and Budget.".

SEC. 308. ADOPTION OF CAPITAL ACCOUNTING STANDARDS.

No capital accounting standard or principle, including any human capital standard or principle, shall be adopted for use in an executive department or agency until such standard has been reported to the Congress and a period of 60 days of continuous session of the Congress has expired.

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. Conyers] will be recognized for 20 minutes, and the gentleman from New York [Mr. Horton] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. Conyers].

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to first acknowledge the major contribution of the ranking minority Member in crafting this legislation and working with me to get it to the floor today. My distinguished colleague, Frank Horton, has worked tirelessly on this issue for the past year. The product before the House today reflects technical changes and some modifications requested by the administration since the committee markup.

Mr. Speaker, H.R. 5687, the Chief Financial Officer Act of 1990, is perhaps the most important legislation this Congress can pass to rein in the massive amounts of fraud, waste, abuse, and mismanagement draining the Federal treasury and undermining public confidence in Government.

The S&L bailout will cost taxpayers an estimated $500 billion. The HUD scandal, uncovered by our Subcommittee on Employment and Housing, will cost the Treasury a couple of billion dollars more. The General Accounting Office and the Office of Management and Budget conducted separate studies of high risk programs over the last year and identified 78 different problems which potentially pose hundreds of billions of more dollars in liabilities.

The causes of these problems are many and varied. A principal cause was an ethic promoted over the last decade which said "Government isn't the solution. it's the problem." This attitude led to harmful deregulation, unnecessary privatization, cutbacks in agency enforcement staffs, and low morale, recruitment, and retention of Government workers. The result has been a hollowing out of Government which all of us must work together to reverse.

Part of that hollowing out of Government is the deplorable state of the Government's own management infrastructure—particularly your financial management systems—which are critical for rooting out fraud, waste, and abuse.

It is almost inconceivable that an organization which controls almost one-fourth of the country's gross national product has incompatible and outmoded financial management systems. Yet, there are hundreds of separate Federal agency accounting systems, making efforts to monitor and audit programs unnecessarily difficult. Billions of dollars are being spent to upgrade accounting and financial management systems, but these efforts are poorly thought out, incoordinated, and routinely fail to meet their objectives.

This legislation will be the beginning of the end of much fraud, waste, and abuse. It will create a centralized and professional leadership structure at OMB—under a chief financial officer [CFO] of the United States. With this structure Congress will be better able to hold the executive branch accountable for progress, or the lack of it, in correcting the many high risk programs that have been identified.

The CFO will have to produce a comprehensive plan with clear goals and timetables for upgrading the poor state of our financial management operations. And the CFO will be better positioned to demand more money from the budget side at OMB to accomplish these goals.

H.R. 5687 also will improve the financial management structure at 22 departments and major agencies by creating statutory chief financial officers, along with career deputy CFO's who have extensive financial management experience. In this way it builds on recently created CFO's at the Department of Veterans Affairs and at HUD which have proven to be very effective. This stronger authority creates a means by which the Congress can hold agencies more accountable for how their money gets spent—and how it gets wasted.

Mr. Speaker, until recently the ranking Member and I were not united on this legislation. Our disagreements centered on a very technical but, nonetheless, important issue. Frank Horton wanted to require all Federal agencies to produce balance sheets like financial statements for all of their activities as private corporations do. My position was to take it slow and require financial statements where the problems are—in real estate transactions, loans and loan guarantees, trust funds and revolving funds—all in all about 40 percent of Government spending.

The ranking Member agreed to this go-slow approach. In return, I agreed to a 2-year pilot project which requires six departments and agencies to prepare agencywide financial statements. We also agreed to consider, before December 31, 1993, whether to require all Federal departments and agencies to prepare these financial statements for all of their activities.

The committee adopted this go-slow approach because more research is needed. Congress needs to weigh the costs of preparing these statements against their benefit. The General Accounting Office and the executive branch need to develop agreed-upon accounting standards for many Government programs, otherwise the utility of the information is questionable. Perhaps most important, Congress needs to better understand what impact financial statements may have on budgetary decisions; for instance, will they favor capital spending like military hardware over social programs? The compromise which is reflected in this legislation requires OMB to report back to Congress on these questions within 2 years.

This legislation is a product of many meetings held over the past 6 months with OMB, agency officials, inspectors general, the GAO, and industry groups. Twenty-seven agencies and departments, and all of the full committees of the House, have been surveyed for their opinions on improving financial management. Finally, we held 2 days of hearings on the subject.

I regret that the administration has not seen fit to join with us in this compromise, primarily because they object to our reasonable and prudent go-slow approach on financial statements. Saving taxpayers money and making Government more efficient is not a partisan issue. This bill is a result of a great deal of negotiation and is fair to the concerns of both the legislative and executive branches. It is very unfortunate that the administration feels it has to have it all—or nothing.

H.R. 5687 is an excellent product and I urge this body to support its swift passage.

□ 1320

Mr. HORTON. Mr. Speaker, I yield myself 8 minutes.

Mr. Speaker, I rise in support of H.R. 5687, the Chief Financial Officer Act of 1990.

I might say parenthetically that I think one of the most important things that we do is to perform oversight. I think we have really two basic duties; one is to legislate and the other is to oversight. The Government Operations Committee is the oversight committee of the House of Representatives, even though most of the committees do have oversight subcommittees, but their oversight is within the jurisdiction of the committee.

□ 1330

Our oversight is administration-wide. We cover all the agencies, the special agencies, the regulatory agencies. That is a very important function.

One of the most important things we did years ago was to establish the General Accounting Office, which is very helpful in helping us to fight waste, fraud, and abuse. Then more recently the gentleman from Texas [Mr. Brooks] and I authored legislation to create inspectors general. The Committee on Government Operations passed that legislation and now we have inspectors general in all of the Federal agencies making reports to the Committee on Government Operations, that also is a very important tool in this oversight function.

The Office of Management and Budget was established, and the M—management—is a very important function. That management function has not been carried out like it should be carried out. That is what the substance of this bill is about today.

Mr. Speaker, I want to commend the gentleman from Michigan [Mr. Conyers] for his cooperation. We have had some differences, and I will explain those differences and what we have worked out in this bill.

This could be one of the most important bills that we pass in this session of the Congress.

For most of the last 2 years, members and staff of the Government Operations Committee have conducted detailed research into the financial management structure of our Federal Government. They have studied the foundations of the management morass which currently exists throughout the departments and agencies. Some very spectacular breakdowns in management are, by now, very well known—the HUD scandal and the savings and loan mess are two examples. But waste, fraud, and abuse goes on every day in our vast Government. This waste occurs because of a lack of effective management organization in the executive branch, and a real absence of accurate and timely management information which would help us in that function.

The bill before us today is designed to set up a structure and a set of disciplines which would help remedy these problems. I believe that the bill could go even further than it does, in the matter of statements and audits. But I do look upon this bill as an important first step in the right direction. It is high time for financial management legislation.

I would also like to point out, Mr. Speaker, that the bill which is offered here as an amendment in the nature of a substitute is quite different from the bill which was passed out of the Committee on Government Operations last month. Many changes have been made, some rather fundamental. Therefore, the report which accompanies H.R. 5687 does not necessarily reflect the committee's present understanding of several sections of the present bill, and certainly does not reflect mine which I will explain later.

The bill creates the position of deputy director for management at a very high level, executive level 2, within the Office of Management and Budget. This individual will function as the Government's chief financial management officer.

Below this position would be an office of Federal financial management, headed by an executive level 3 controller, who would be the deputy director's own deputy.

In the Cabinet Departments and in eight independent agencies, the act would create chief financial officers who would report to their agency heads and be responsive to the management direction of the OMB Deputy Director. There are appropriate qualification requirements in the bill for each of these positions, assuring that these individuals will possess competence as well as clout.

The other major feature of this bill is the series of reporting requirements that it contains. Two are especially crucial. First, the OMB would report each year to Congress with a comprehensive 5-year plan for management activities and reform. Second, the bill would institute the statutory requirement that, by the end of 1991, agencies issue yearly audited financial statements for those portions of agency business involving revolving funds, trust funds, or commercial-like activity. Also, six specific agencies with experience in this area would be required to issue comprehensive, agencywide statements by the end of 1991 as part of a pilot project. Congress would receive a series of reports on how those statements and audits are working, and vote by the end of 1993 on whether the statement and audit regime can proceed on a comprehensive basis throughout Government. There is a provision in the bill which would assure that this vote would be taken.

I understand that the administration has problems with this bill because it does not immediately create a regime of comprehensive, agencywide financial statements. I share this concern, and my own choice would be to put comprehensive statements and audits in statute. This is why H.R. 5492, which I introduced in August, contained such provisions. I am satisfied, though, that the slower approach of this bill, H.R. 5687, is based on a defensible premise. In drafting this bill, and in hearings that our committee held last month, the gentleman from Michigan and I became aware that adequate accounting standards, necessary to create meaningful audited financial statements, did not exist at this time for a large percentage of Government activity. The OMB acknowledges this, and recently signed a memorandum of understanding with the Treasury Department, the General Accounting Office, and other agencies to create an accounting standards advisory board. I believe, as a practical matter, that until standards are developed for noncommercial Government activity, the Federal Government has better uses for its scarce resources than spending them on audits of those areas on a widespread basis. Because of this situation, I would ask the administration to consider the invitation to work within a more gradual and measured schedule, especially since the alternative is probably no schedule at all.

On the other hand, it has always been my belief that OMB can administratively do what it wants in internal executive branch management. According to my understanding of constitutional law, the bill does not, and can not, change that. If passed into law, this bill could not prohibit such activities as financial statements and audits in the agencies. However, such activity would have greater clout and effectiveness with a statutory backing which is what this bill is all about.

The administration's statement of position lists a few other provisions of this bill with which it disagrees. Since this statement was written, several of these concerns have been completely accommodated. Specifically, the bill would no longer create a 4-year term for the OMB controller, nor would it require the accounting standards study. Furthermore, the description of the deputy director for management as the chief financial officer of the United States has been changed to chief financial management officer of the United States. We believe that these changes indicate Congress' desire to work with the administration in this important area.

Mr. Speaker, through all the recent fussing and fighting about revenue enhancers and spending cuts, which kept us here until the wee hours of several mornings and earned us the scorn of our constituents, I heard very little about a third option: cutting waste. H.R. 5687 provides an opportunity for Congress to allow the Federal Government to shine light into some of the dark corners where waste, fraud, and abuse occur. I would ask this House to finally turn the light on and support this bill.

Again I want to commend the gentleman from Michigan for his willingness to cooperate to bring this bill to the floor so we can get it through and, hopefully, get it signed into law before this Congress recesses.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. Lantos], chairman of the Subcommittee on Employment and Housing of the Committee on Government Operations, who has done more than any other one person in the House to help bring this HUD scandal to some understanding.

Mr. LANTOS. Mr. Speaker, I rise in strong support of H.R. 5687, the Chief Financial Officer Act of 1990. During the past decade, many Federal agencies, including the Department of Housing and Urban Development under former Secretary Pierce, lost control of their financial management systems, resulting in losses in the billions of dollars. I am pleased to join the chairman, John Conyers, and ranking minority member, Frank Horton, of the Government Operations Committee in seeking a bipartisan solution to this problem that has plagued many Federal agencies.

When my subcommittee began its series of hearings on abuses and mismanagement at the Department of Housing and Urban Development over 1½ years ago, we did not imagine that we would discover that the dollar losses resulting from these abuses would run in the billions. Enactment of H.R. 5687, with its procedures for tightening up agency financial practices, would go a long way toward preventing another HUD.

One of the most memorable examples of costly results of HUD's failure to enforce strict financial management practices is the case of Marilyn Harrell—the so-called Robin HUD. When she testified before our subcommittee, Ms. Harrell explained that she was able to siphon off millions of dollars from the sale of HUD properties simply by not remitting the proceeds to HUD. When she delayed transmitting the funds, no one at HUD asked her where the money was. HUD's failure to monitor its closing agents, and its failure to keep track of the proceeds due the agency from the sale of HUD properties, has cost the taxpayers more than $50 million.

Another example of the cost to taxpayers from HUD's lack of control over its financial management practices is the millions of dollars lost under the coinsurance program. Under this program, a few private financial organizations were handed Uncle Sam's checkbook and wrote millions of dollars of Government-insured mortgages. In one case, a coinsurance lender issued a HUD-insured loan for over $47 million. When the project failed, the Government was left holding the unpaid mortgage. At a foreclosure sale in the spring of 1989, the property sold for only $8.9 million.

We found that the HUD inspector general did a remarkable job in trying to warn top HUD management of the potential for these abuses—and Secretary Pierce did not want to hear it. Had a chief financial officer with an obligation to report to OMB been in place at HUD, I believe these abuses might have been detected sooner, and the hemorrhage of dollars away from the Treasury stopped.

□ 1340

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Maryland [Mr. McMillen].

Mr. McMILLEN of Maryland. Mr. Speaker, I would like to commend the gentleman from Michigan [Mr. Conyers] for bringing this very important bill to the floor, H.R. 5687, the Federal Financial Management Reform Act. This legislation is long overdue.

Mr. Speaker, when we talk about financial controls, it is ironic. This is not a sexy issue. And unfortunately it does not get the kind of attention that this issue deserves.

However, Mr. Speaker, I really do believe that this bill will go a long way to saving taxpayers significant dollars in years ahead.

For too long, very simply, the Federal Government has placed the issue of how to manage its affairs on the back burner. As a result, financial scandals have rocked the very economic foundation of our Nation. The S&L scandal, the HUD scandal, and scores of others are examples of U.S. regulatory agencies not doing their jobs and I think are points in fact.

Mr. Speaker, today we have legislation before us that would take us a long way toward establishing financial credibility within the Federal Government. H.R. 5687 would insure that the Federal Government functions more like a business by adding tough auditing and statements requirements upon Federal agencies by including a Chief Financial Officer in the Office of Management and Budget and financial officers at each of the Federal agencies. We are establishing an early warning system which will be in place to prevent the kind of scandals we have seen in the S&L's, and HUD and the like.

Mr. Speaker, one of the problems we saw time and time again back in 1988 is that testimony from the Committee on Energy and Commerce and the Committee on Banking, Finance and Urban Affairs told us the S&L problem was only a $15 billion problem. It was manageable and within the resource of the Federal Savings and Loan Insurance Corporation. Clearly that was wrong. It was not even wrong. It was not even close.

There are lots of reasons why these mismanagements occurred, but I believe in large part it occurred because there was a lack of adequate controls. I think it is very, very important that we move on this bill because I think by doing so we can bring Federal financial systems into the 20th century, and I again want to commend the gentleman from Michigan [Mr. Conyers], as I said. It is a very, very important piece of legislation. I am delighted that we are moving it today.

Mr. CONYERS. Mr. Speaker, I rise to clarify the intent of section 302 of H.R. 5687, The Chief Financial Officers Act of 1990. During floor debate on the bill, the ranking minority member on the Government Operations Committee, the Honorable Frank Horton, suggested that according to his understanding of constitutional law, this bill could not prohibit the Office of Management and Budget from administratively requiring executive branch agencies to prepare financial statements of their activities and have them audited.

I have a different interpretation of this section which is borne about by the committee report of H.R. 5687 (Rept. 101–818) and by another view of constitutional law.

Section 303 basically sets the statutory parameters under which all Federal agencies shall prepare financial statements of their activities. Specifically, under section 3515(a) of title 31, United States Code. as added by section 303(a) of H.R. 5687, an agency is allowed to prepare not later than December 31 of each year a financial statement for revolving funds, trust funds, or for the accounts of all offices, bureaus, and activities of the agency which perform substantial commercial functions during the preceding fiscal year. This requirement clearly provides statutory authority for these particular matters.

In subsection 303(d) of H.R. 5687, a pilot project is established for the purpose of requiring five departments and one administration to prepare a financial statement for the preceding fiscal year for the accounts of all of the offices, bureaus, and activities of that department or administration. These agencies were chosen because they have either previously prepared such a consolidated financial statement or they are in the process of preparing one.

Statutory authority for all other departments and agencies to prepare financial statements is established under section 3515(e) of title 31, United States Code, as amended by H.R. 5687, and under section 303(a)(2) of the Act, which establishes a process for enacting section 3515(e). This process has two requirements before all agencies can proceed with financial statements: (1) the Office of Management and Budget must conduct a study and report to the Congress on the utility, reliability and cost-benefit of preparing financial statements under section 3515(a) of title 31, and under the pilot project (section 303(d) of H.R. 5687); and (2) the President must submit a joint resolution to the Congress identifying the agencies which are authorized to prepare financial statements for all of their activities, and the Congress will vote on this highly privileged resolution after it has been discharged by the Committee on Government Operations and our companion committee in the other body.

This elaborate process was created as a result of a great deal of negotiation within the Committee on Government Operations and between the Committee and the Administration. It was done with clear statutory intent: to prohibit the Office of Management and Budget from administratively requiring agencies to prepare financial statements. The clear prescription on those agencies and activities which would be covered by the financial statement requirement was due to the Committee's strong concerns about the use and potential abuse of financial statements. The legislative report and the hearing record from September 17 and 18, 1990 which resulted in this legislation amply document those concerns.

Page 26 of the Committee report on H.R. 5687, of which there were no dissenting views, clearly states the statutory proscription on the President's authority:

> Section 3515(e) establishes three conditions which are to be met before all agencies shall be allowed to prepare comprehensive finan-

cial statements. First, the OMB Director must submit the report analyzing the costs versus benefits, and other matters, of preparing agency-wide financial statements required by section 303(b)(2) of this Act. Second, the accounting study required by section 308 of this Act must be completed and the standards approved. Third, the Congress must pass, and the President must sign, a resolution by December 31, 1993 which affirms the preparation and audit of agency-wide financial statements. Until all three conditions have been met, the Committee intends this Act to prohibit the President from unilaterally requiring offices, bureaus, and activities of agencies, other than those explicitly stated in section 3515 (a) and (b), from preparing financial statements.

I would like to note that this report is based on the bill reported out of the Committee on September 26, 1990. Changes made to the legislation prior to floor consideration resulted in the dropping of some provisions and the reordering of other, as a result citations in the final passed bill may not exactly correspond to those in the Committee report.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Mazzoli). The question is on the motion offered by the gentleman from Michigan [Mr. Conyers] that the House suspend the rules and pass the bill, H.R. 5687, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The title of the bill was amended so as to read: "a bill to amend title 31, United States Code, to improve the financial management of the Federal Government.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on H.R. 5687, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ANTARCTIC PROTECTION ACT OF 1990

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3977) to protect and conserve the continent of Antarctica, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3977

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Antarctic Protection Act of 1990".

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds that—

(1) the Antarctic continent provides a habitat for many unusual and exotic species of plants and wildlife and offers a natural laboratory from which to monitor critical aspects of stratospheric ozone depletion and global climate change;

(2) the United States is a party to international agreements, including the Antarctic Treaty, to protect the environment, conserve the natural resources, and to take advantage of the opportunities for scientific research in Antarctica;

(3) recent developments in Antarctica, including increased siting of bases, poor waste disposal practices, oil spills, and increased tourism, have raised serious questions about the adequacy of existing international agreements and domestic law to protect the Antarctic environment;

(4) the parties to the Antarctic Treaty have negotiated a Convention on the Regulation of Antarctic Mineral Resources Activities which the United States has signed but not yet ratified;

(5) the Convention on the Regulation of Antarctic Mineral Resources Activities does not guarantee the preservation of the fragile environment of Antarctica and could actually stimulate movement toward Antarctic mineral resource activity

(6) the exploitation of mineral resources in Antarctica could lead to additional degradation of the Antarctic environment, including increased risk of oil spills; and

(7) the Antarctic Treaty Consultative Parties have agreed to a voluntary ban on Antarctic mineral resource activities which needs to be made legally binding.

(b) Purpose.—The purpose of this Act is to—

(1) substantially strengthen overall environmental protection of Antarctica;

(2) prohibit prospecting, exploration, and development of Antarctic mineral resources by United States citizens and other persons subject to the jurisdiction of the United States;

(3) urge other nations to join the United States in immediately negotiating a new agreement to provide an indefinite ban on Antarctic mineral resource activities and comprehensive protection for Antarctica and its associated and dependent ecosystems;

(4) urge all nations to consider a permanent ban on Antarctic mineral resource activities; and

(5) clarify the application of the National Environmental Policy Act to activities undertaken by Federal agencies in Antarctica.

SEC. 3. DEFINITIONS.

For the purposes of this Act:

(1) The term "Antarctica" means the area south of the Antarctic Convergence as defined in section 303(1) of the Antarctic Marine Living Resources Convention Act of 1984 (16 U.S.C. 2432).

(2) The term "Antarctic mineral resource activity" means prospecting, exploration, or development in Antarctica of mineral resources, but does not include scientific research within the meaning of article III of the Antarctic Treaty, done at Washington on December 1, 1959.

(3) The term "development" means any activity, including logistic support, which takes place following exploration, the purpose of which is the exploitation of specific mineral resource deposits, including processing, storage, and transport activities.

(4) The term "exploration" means any activity, including logistic support, the purpose of which is the identification or evaluation of specific mineral resource deposits. The term includes exploratory drilling, dredging, and other surface or subsurface excavations required to determine the nature and size of mineral resource deposits and the feasibility of their development.

(5) The term "mineral resources" means all nonliving natural nonrenewable resources, including fossil fuels, minerals, whether metallic or nonmetallic, but does not include ice, water, or snow.

(6) The term "person" means any individual, corporation, partnership, trust, association, or any other entity existing or organized under the laws of the United States, or any officer, employee, agent, department, or other instrumentality of the Federal Government or of any State or political subdivision thereof.

(7) The term "prospecting" means any activity, including logistic support, the purpose of which is the identification of mineral resource potential for possible exploration and development.

(8) The term "Under Secretary" means the Under Secretary of Commerce for Oceans and Atmosphere.

(9) The term "Council" means the Council on Environmental Quality.

SEC. 4. PROHIBITION ON ANTARCTIC MINERAL RESOURCE ACTIVITIES.

Pending a new agreement among the Antarctic Treaty Consultative Parties in force for the United States, to which the Senate has given advice and consent or which is authorized by further legislation by the Congress, which provides an indefinite ban on Antarctic mineral resource activities, it is unlawful for any person to engage in, finance, or otherwise knowingly provide assistance to any Antarctic mineral resource activity.

SEC. 5. IMPACT OF AGENCY ACTIONS ON THE ANTARCTIC ENVIRONMENT.

(a) Issuance of Regulations By Council.—Not later than one year after the date of enactment of this Act, the Council shall issue final regulations under which each Federal agency shall ensure the consideration, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), of the significant effects of its major actions on the Antarctic environment.

(b) Contents of Regulations.—The regulations issued by the Council under subsection (a) shall—

(1) be consistent with—

(A) the national security and foreign policy of the United States, and

(B) the purposes and provisions of this Act; and

(2) include guidance for Federal agencies for assessing the effects (including cumulative effects) of proposed major actions, on—

(A) global climate change,

(B) depletion of the ozone layer,

(C) the loss of biological diversity, and

(D) other matters of environmental concern in Antarctica.

SEC. 6. INTERNATIONAL AGREEMENT.

The President is requested to direct the Secretary of State to enter into negotiations with the Antarctic Treaty Consultative Parties to conclude one or more international agreements to—

(1) conserve and protect the natural environment of Antarctica on a permanent basis;

(2) prohibit Antarctic mineral resource activities by all parties to the Antarctic Treaty;

(3) grant Antarctica special protective status as a land of science dedicated to wilderness protection, international cooperation, and scientific research; and

(4) ensure that the results of all scientific investigations relating to geological processes and structures be made openly available to the international scientific community, as required by the Antarctic Treaty.

SEC. 7. ENFORCEMENT.

(a) In General.—A violation of this Act or any regulation promulgated under this Act is deemed to be a violation of the Antarctic Marine Living Resources Convention Act (16 U.S.C. 2431-2444) and shall be enforced under that Act by the Under Secretary or another Federal official to whom the Under Secretary has delegated this responsibility.

(b) Penalty.—If the Under Secretary determines that a person has violated section 4—

(1) that person shall be ineligible to locate a mining claim under the mining laws of the United States; and

(2) the Secretary of the Interior shall refuse to issue that person a patent under the mining laws of the United States or a lease under the laws of the United States related to mineral or geothermal leasing.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) to the Under Secretary not more than $1,000,000 for each of fiscal years 1991 and 1992 to carry out the purposes of this Act;

(2) to the Secretary of State not more than $500,000 for each of fiscal years 1991 and 1992 to carry out section 6 of this Act; and

(3) to the Office of Environmental Quality not more than $500,000 for fiscal year 1991 to carry out section 5 of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. SHUMWAY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. Jones] will be recognized for 20 minutes, and the gentleman from California [Mr. Shumway] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. Jones].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 3977, the Antarctic Protection Act of 1990.

H.R. 3977, introduced by that distinguished gentleman from the other side of the aisle, Representative Silvio Conte, provides needed environmental protection for the pristine continent of Antarctica. I am an original cosponsor of H.R. 3977.

In addition, I have introduced, and the Committee on Merchant Marine and Fisheries has recently ordered reported, H.R. 4210, a bill which provides further environmental protections for Antarctica from the problems of waste disposal, marine pollution, tourism, and other unregulated sources of pollution. Because H.R. 4210 was referred to three other committees, we were not able to complete work on it during the 101st Congress. I am hopeful that we can complete work on an expanded Antarctic environmental protection bill in the next Congress.

I recognize that the United States, acting alone, cannot provide complete and comprehensive protection for Antarctica. No one nation owns Antarctica or part of its territory and this is how it should be. Rather, the United States is one of 39 nations party to the Antarctic Treaty of 1959.

The Antarctic Treaty system has been successful in governing activities in Antarctica for the past 30 years without any conflict. However, in the past year, since the negotiation of a new Convention on the Regulation of Antarctic Mineral Resource Activities [CRAMRA], the usual consensus of the Antarctic Treaty system has been disrupted by strong differences of opinion over the ratification of CRAMRA.

Australia, France, and New Zealand, among other treaty parties, are opposed to the ratification of CRAMRA. The United States is more undecided. We have signed CRAMRA, but not yet ratified it. The treaty parties have scheduled a special consultative meeting in Santiago, Chile, beginning on November 19 of this year.

The United States will need to exercise strong leadership and guidance if the treaty parties are once again to reach consensus. In my opinion, the best approach, and the one taken by H.R. 3977, is to provide an indefinite, and legally binding, ban on mining in Antarctica.

Such a ban will provide important protections for the Antarctic environment, while allowing the treaty parties to continue their work on more pressing matters, including a comprehensive convention or protocol for the protection of the Antarctic environment. This convention is needed to make existing recommendations on waste disposal, marine pollution, environmental assessment procedures, and specially protected areas legally binding on all treaty parties.

According to the Office of Technology Assessment, in its 1989 report, entitled "Polar Prospects: A Minerals Treaty for Antarctica," there are no known commercial deposits of oil, gas, or other minerals in Antarctica. Furthermore, the technology does not currently exist to recover them, even should they be discovered.

At the same time, given the harsh Antarctic environment, the only feasible exploration would be for a giant or supergiant oilfield, which OTA does not believe exists. Rare minerals could be exploited in Antarctica, but, again, none have been found in commercial deposits. Furthermore, to my knowledge, I do not know of any U.S. company that has expressed an interest in mining in Antarctica.

H.R. 3977 prohibits any U.S. citizen from engaging in any Antarctic mineral resource activity, including prospecting, exploration, or development. To ensure that U.S. citizens are not discriminated against, the prohibition will remain in place until the treaty parties conclude a new agreement that provides an indefinite, and legally binding, ban on mining in Antarctica, and has entered into force for the United States, either through the Senate's advice and consent to a treaty, or through the enactment of implementing legislation by the Congress. This proviso will ensure that the negotiated ban must be approved and implemented by the Congress and will be enforceable and consistent with the purposes of this act.

The prohibition on mining by U.S. citizens will be enforced by the Under Secretary of Commerce for Oceans and Atmosphere, the Administrator of the National Oceanic and Atmospheric Administration [NOAA]. NOAA currently administers the Antarctic Marine Living Resources Convention Act in Antarctica and it is therefore appropriate that they administer this act.

The full range of civil and criminal penalties under the Antarctic Marine Living Resources Convention Act will be available to enforce violations of this act. In addition, should the Under Secretary determine that a violation of section 4, the prohibition on mining activities, has occurred, the violator will be deemed ineligible to receive a mining claim or a patent under the mining laws of the United States, or a lease under the laws of the United States related to mineral or geothermal leasing. The Secretary of the Interior will enforce this additional sanction.

At the same time, section 6 of H.R. 3977 requests the President to direct the Secretary of State to negotiate one or more new international agreements to prohibit Antarctic mineral resource activities by all parties to the Antarctic Treaty, to conserve and protect the natural environment of Antarctica on a permanent basis, to grant Antarctica special protective status as a land of science, and ensure that the results of all scientific investigations relating to geological processes be made openly available to all treaty parties. CRAMRA is not an agreement that meets the terms or intent of this provision. I strongly encourage the President to instruct the Secretary of State to begin these negotiations at the upcoming Santiago meeting of Antarctic Treaty consultative parties.

A second important aspect of H.R. 3977 is its application of the National Environmental Policy Act of 1969, [NEPA] to major Federal actions in

Antarctica. NEPA is the premier environmental law in the United States. There is no reason that NEPA should not apply to major actions of Federal agencies in Antarctica.

Such requirement would not impinge on the foreign policy of the United States or present a conflict of laws with any other nation. Section 5 of the bill makes perfectly clear what should be patent—that NEPA does apply to major Federal actions having significant effects on the Antarctic environment.

The Council of Environmental Quality [CEQ], which is generally responsible for NEPA compliance, will be given 1 year to issue final regulations to ensure that each Federal agency conducting or sponsoring activities in Antarctica applies section 102 of NEPA to its actions having any significant effects on the Antarctic environment. The regulations are to be consistent with the national security and foreign policy of the United States, as well as the purposes and provisions of this act.

The language in section 5 has been modified somewhat from the bill reported by the Committees on Merchant Marine and Fisheries and Foreign Affairs and is now virtually identical to the language in H.R. 1113, the Office of Environmental Quality Reauthorization Act, which the House passed on October 11, 1989. H.R. 1113 also makes clear that NEPA applies to Federal actions in the global commons, including Antarctica.

To those who say that the application of NEPA could hold up important scientific research in Antarctica, I assure my colleagues that this is not my intent nor the intent of Mr. Conte. Rather, we want to see Federal agencies, including the National Science Foundation, analyze, pursuant to NEPA, the environmental consequences of their major activities in Antarctica and examine reasonable alternatives before deciding to proceed.

These acts could include the construction of a new base, the siting of a new airfield, construction of a new incinerator or sewage treatment plant, the closure of a landfill, or the issuance of a permit to allow entry into specially protected areas. I do not expect that the routine award of a research grant to an individual scientist will constitute a major Federal action triggering the requirement to prepare an environmental impact statement.

Compliance with NEPA does not dictate a particular result; rather, it ensures that the consequences of Federal actions and all reasonable environmental alternatives are considered by a Federal agency before it proceeds. In this way, the United States will be fully implementing the recommendation on environmental impact assessment procedures already adopted by the Antarctic Treaty parties.

I strongly encourage the National Science Foundation, a major actor in Antarctica, to establish a NEPA compliance office at the earliest time to begin environmental assessments and impact statements under NEPA. In this way, their activities in Antarctica can continue in a responsible manner, and their Antarctic projects will not be interrupted.

Finally, the bill authorizes appropriations to the three Federal agencies responsible for its implementation, as follows: $1 million for each of fiscal years 1991 and 1992 to the Under Secretary of Commerce to carry out the purposes of the act, including the prohibition of mining; $500,000 to the Secretary of State for each of fiscal years 1991 and 1992 to conduct the international negotiations in section 6; and $500,000 to CEQ to promulgate the NEPA regulations under section 5.

This bill adds teeth to the Owens resolution, House Joint Resolution 418, which the House passed by overwhelming numbers on October 1, 1990. Its passage sends a strong message to the administration and to the other Antarctic Treaty nations that the Congress does not want to see mining take place in Antarctica.

Passage of H.R. 3977 will help ensure that Antarctica remains a protected, natural scientific laboratory and land of peace.

I thank Congressman Conte and Chairman Fascell for their unfailing efforts in support of H.R. 3977, and urge my colleagues to pass this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SHUMWAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3977, the Antarctic Protection Act of 1990.

Mr. Speaker, I have made the journey down to Antarctica and have seen firsthand the magnificence of this continent. Literally, there is no other place on Earth like it. The environment and the wildlife are one of a kind. I believe this Congress should take the strongest action possible to ensure that this fragile environment remains unspoiled. Two weeks ago the House voted overwhelming to adopt a sense-of-the-Congress resolution calling for the negotiation of an international treaty to ban commercial mining activities in Antarctica. H.R. 3977 is our first opportunity to ensure that we accomplish this protection under U.S. law.

On June 2, 1988, final negotiations were completed on an international minerals mining regime known as the Convention on the Regulation of Antarctic Mineral Resource Activities [CRAMRA]. For a number of years, discussion of the prospect of possible commerical resource development in Antarctica had been a strong incentive to the consultative parties to negotiate an agreement setting forth conditions under which mining activities would be permitted. The United States is a signatory to the 1988 convention, but has yet to ratify it. I strongly believe that this convention is flawed and would be the first step toward the eventual commercial exploration and development of the Antarctic. A number of member nations have already indicated that they will not sign the convention and therefore the prospect of its international application is extremely unlikely at this point.

Because I have traveled to Antarctica, I not only have a keen appreciation for its fragile environment, but I also have a keen appreciation for the political sensitivity that prevails under the existing Antarctic Treaty. Territorial claims have gone unpursued because of the general accord established under this treaty, and we would be making a mistake, in my view, to try to change the status quo by introducing the concept of mineral extraction, as is the case under the CRAMRA.

The bill before us today specifically prevents the commercial development of minerals in the Antarctic under U.S. law until an international regime is in place to implement such a ban worldwide. The bill applies to all U.S. citizens, corporations, or any other entity existing under U.S. law. While it does not apply to foreign citizens, it would be a clear demonstration of international leadership by the United States to enact this mineral resource development ban. The bill also applies the provisions of the National Environment Policy Act to all U.S. activities that might have an effect on the environment of Antarctica.

In summary, Mr. Speaker, the continent of Antarctica must be preserved as it has been under international law to this date. The prospect of a treaty regulating mining activities must be rejected. The United States has a duty to lead in this effort to maintain the pristine continent of Antarctica as an international enclave—one where the environment will not be disturbed and benign environmental research will continue.

I urge support of this legislation.

□ 1350

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. Vento].

Mr. VENTO. Mr. Speaker, this is a good measure, and I rise in support of it. I congratulate its sponsors, the gentleman from Massachusetts [Mr. Conte], the chairman of the Committee on Merchant Marine and Fisheries, the gentleman from North Carolina [Mr. Jones], and his committee, and the many others responsible for bringing it to the floor today.

The bill would, of course, significantly bolster the existing mechanisms established under the Antarctic Treaty for protecting the Antarctic environment by removing any doubt that the provisions of the National Environmental Policy Act of 1969 [NEPA] will guide Federal agencies in planning and carrying out their activities in Antarctica.

Furthermore, the bill would establish as a matter of U.S. law a prohibition on mineral exploration or mineral development in the Continent of Antarctica.

The committee that I serve upon had an interest in the bill because the Committee on Interior and Insular Affairs has, of course, some jurisdiction generally over mining interests. I know I speak for the chairman, the gentleman from Arizona [Mr. Udall], and other members of the committee in expressing our appreciation for the cooperation of the Committee on Merchant Marine and Fisheries in recognizing our interests in this matter.

Mr. Speaker, not only would the bill prohibit mineral exploration or development in Antarctica, but it would also make any person or entity engaging in such activities there ineligible to locate a mining claim or to receive a mineral or geothermal lease on any Federal lands here in the United States.

Mr. Speaker, we in Minnesota have a special interest in Antarctica, not because of our climate but because one of our explorers just led a trek with skis and dog sleds across the continent. Will Steger from Ely, MN, who actually hails from the district of the gentleman from Minnesota [Mr. Oberstar]. Will Steger has a deep interest in Antarctica, as we all do who are on the floor today. He had testified before the subcommittee chaired by the gentleman from the Virgin Islands [Mr. de Lugo] to testify concerning another measure, a more ambitious measure that I sponsored, the Antarctica World Park and Protection Act of 1990.

I believe that this element of deterrence is an important one, which is why it was included in H.R. 4514, the Antarctica World Park and Protection Act of 1990, which I introduced earlier this year. Time clearly will not be sufficient for the House to act on that bill this year, Mr. Speaker, but it is my intention to reintroduce a similar measure in the next Congress, and I look forward to working with the other members of our committee and all members interested in furthering the protection of Antarctica and planning for its proper management as the first great world park, devoted to peace and science. In any case, it is clear that such matter will not be acted upon this year, and so the protection we are discussing today would be very helpful.

Again, Mr. Speaker, I hail the sponsors of this measure and the work that has been done as a good, positive step forward. It is a major initiative for a very important continent and an important environmental resource.

Mr. Speaker, I thank the gentleman for being so generous in yielding time to me.

Mr. SHUMWAY. Mr. Speaker, I am pleased to yield 7 minutes to the distinguished author of this bill, the gentleman from Massachusetts [Mr. Conte].

Mr. CONTE. Mr. Speaker, I rise in strong support of H.R. 3977, the Antarctic Protection Act of 1990. It's a bill that I introduced in February with Congressmen Walter Jones, Wayne Owens and 40 other Members of the House.

Many Members and several committees have worked hard to improve and refine the provisions of this legislation, and they deserve mentioning here today. Chairman Jones and Congressman Owens are original sponsors of the bill and are strong supporters. In fact, Chairman Jones has introduced an excellent bill to provide even greater environmental protection for Antarctica, and I hope that legislation is enacted in the near future. I commend him for his leadership in this area. Chairman Studds, my colleague from Massachusetts, guided this bill through the legislative process. His strong support for the bill, especially the NEPA provision, is a great asset. The Foreign Affairs Committee has made valuable contributions to the bill, including Chairman Dante Fascell, Gus Yatron, ranking member Bill Broomfield and Doug Bereuter. And the Interior Committee, under the leadership of Congressmen Vento, Rahall, and de Lugo, has contributed to the final product. I appreciate all their assistance in crafting an acceptable and effective bill.

And let me give special thanks to Assistant Secretary of State Buff Bohlen, who has taken an active interest in this legislation, and who has worked with several committees of the House and the Senate to fashion an acceptable compromise. And I think we are almost there. We have made many changes to accommodate administration concerns: the NEPA provision includes national security and foreign exception; we've revised the language describing the mining ban to give the administration flexibility in negotiations; we made the unilateral mining ban effective pending an international agreement; we removed the sections on commercial fishing and tourism; and we clarified the prohibition as it relates to foreign governments.

All these changes were made at the request of the administration. I understand that all the differences are not worked out, but I am confident that when this bill is finally presented to the President during this session that it will be acceptable to the administration. Every reasonable effect will be made to accommodate reasonable concerns.

With these changes, the bill is now designed to embody two very important principles.

First, the bill provides real and substantial environmental protection for this last great unspoiled part of the world. As a natural extension of the Owens resolution passed last week, this bill makes it unlawful for any American or anyone subject to the laws of the United States to engage in mineral activity in Antarctica. It prohibits prospecting, exploration, drilling, and development of any mineral resource on the continent, and the financing of those activities. The land should be left pristine, and maintained as a land of science.

In addition, the bill extends the application of the National Environmental Policy Act to major Federal actions in Antarctica.

Basically, it says that any U.S. activities designed to study this amazing place should not itself be degrading or damaging to the continent. This provision is not designed or intended to hinder or prohibit any scientific activity in Antarctica. It only requires that environmental laws and protection be followed by everyone with activities on the continent.

Now, I know that NSF and others in the administration have expressed concerns about this section—that scientific projects, with limited windows of opportunity in which to set up experiments or construct facilities—will be adversely affected by citizen suits. Well, the statistics about NEPA litigation just don't support that concern.

In 1988, for example, only 91 cases were brought against all Federal agencies under NEPA, and of those 91 cases, only 7 resulted in injunctions that delayed the projects in any way. In addition, it is unlikely that all scientific projects will be covered under NEPA as a major Federal action. Construction projects and other major activities will probably be covered, and for those actions, there will be ample time for Federal agencies to comply with environmental reporting requirements.

The second principle motivating enactment of this bill is more symbolic, but not less important. Enactment of this legislation will place the United States in a position of leadership among the Antarctic Treaty parties in providing long-term protection for the continent. Unilateral action by the United States, as provided in section 4 of this bill, sends a strong message to the world that America is concerned about the degradation of the Antarctic environment and that we will not allow U.S. citizens to exploit the land for commercial mineral resources.

In addition, section 6 of the bill calls on the President and the Secretary of State to enter into negotiations with the other countries to conclude one or more international agreements that would prohibit mineral development activities in Antarctica, and that would grant Antarctica special protective status as a land of science dedicated to wilderness protection, international cooperation, and scientific research. This direction places the United States in a position of leadership in the international movement to permanently protect this important area.

In fact, other countries are already planning to follow the lead of this legislation. I will include in the RECORD a press release from the Australian Embassy that describes steps that country is taking to ban mineral development by their citizens.

Mr. Speaker, today, the House is presented with a rare opportunity. Saving a continent from exploitation is a once in a lifetime chance. It's an opportunity to leave a lasting legacy to future generations, to preserve an entire continent pristine and intact. After talking with experts like Capt. Jacques Cousteau, I've come to appreciate this part of the planet even more. Antarctica is a beautiful place, a relatively unspoiled ecosystem abundant in fish and wildlife resources. It's an area that we can still talk about protecting now instead of trying to restore later. H.R. 3977 provides an initial layer of protection that I hope will develop into a blanket protection for all time.

I urge the House to unanimously approve this important bill, and I thank my colleagues for this time and their assistance in bringing this bill forward.

[Australia News Release]

AUSTRALIA TO LEGISLATE BAN ON ANTARCTIC MINING

(Joint statement by Senator Gareth Evans, Minister for Foreign Affairs and Trade, and Mrs. Ros Kelly, Minister for the Environment, 17 August 1990.)

The Minister for Foreign Affairs and Trade, Senator Gareth Evans, and the Minister for the Environment, Ros Kelly, today announced that the Government would introduce legislation in the Budget session to ban all mining in Antarctica to the extent of Australia's legal capacity to apply such a ban.

The new legislation will prohibit mining by Australians and non-Australians alike in the Australian Antarctic Territory, and on its adjacent continental shelf. The legislation will also ban mining by Australians anywhere else in the Antarctic region. "Mining" for the purposes of the legislation will include oil drilling, and the related steps of prospecting and exploration.

"This legislation is an important step in Australia's campaign to maintain the Antarctic forever as the world's last great untouched and unexploited wilderness area," the Ministers said.

"The Australian campaign on the Antarctic has been joined by France since August 1989 and is continually gaining momentum. We are determined to secure through the Antarctic Treaty System a comprehensive system of environmental protection.

"This legislation is the most public evidence of our commitment to a better system than the current voluntary moratorium on mining and exploration.

"While there is still a long way to go, we hope that significant progress will be made at the Special Consultative Meeting of the Antarctic Treaty Parties in Santiago, Chile in November.

"Our message is that while we want to keep Australia green, Antarctica must stay white."

[Australia Background]

PROTECTING ANTARCTICA

On 17 August, the Australian Minister for Foreign Affairs and Trade, Senator Gareth Evans, delivered a major speech on the Australian/French Antarctic initiative, spelling out the details of the comprehensive environment protection regime envisaged and the state of play in the international campaign in support of the initiative.

In the course of the speech (attached), delivered at the launch of a new book, Antarctica's Future: Continuity or Change?, Senator Evans: announced new legislation banning mining in Antarctica to the extent of Australia's legal capacity to do so (see p. 3, and separate joint press statement with Environment Minister Ros Kelly); outlined the present state of the debate on the Minerals Convention (pp. 3-5); described the principles (pp. 6–8) and the basic elements (pp. 8–13) of Australia's proposal for a comprehensive environment protection regime, and evaluated the present degree of support for the proposal and the steps ahead necessary to achieve it (pp. 13-15).

PROTECTING ANTARCTICA

(Speech by Senator Gareth Evans, Minister for Foreign Affairs and Trade, launching Richard Herr et. al, *eds.*, Antarctica's Future: Continuity or Change? (Australian Institute of International Affairs, 1990), at the Commission for the Conservation of Antarctic Marine Living Resources Headquarters, Hobart, 17 August 1990.)

When the Australian Government decided on 22 May last year not to sign or ratify the Convention for the Regulation of Antarctic Mineral Resource Activities (CRAMRA) but to seek instead a ban on mining in Antarctica and the negotiation of a comprehensive convention for the protection of the Antarctic environment, I have to concede that we did not have immediately in mind the Australian Institute of International Affair's then forthcoming National Conference, let alone this splendid book born of it.

But the Conference last November certainly provided an excellent opportunity for the first major open discussion of a decision going to the heart of Antarctica's future and an excellent series of papers were prepared for this occasion. We should all be indebted to Richard Herr and his colleagues for not only the skill but the speed with which they have now made those proceedings available to a wider audience, both Australian and international.

Their book is current, comprehensive, authoritative and accessible. The issues it debates are those the world is now debating, and none of the material is out of date, as so often happens with symposia of this kind. All the policy issues that are currently being wrestled with are amply covered, as a glance at the table of contents makes clear. The book contains contributions from some of the very best people in their field—including, may I say with some pride, officers in my own Department—writing after access to the latest information. And the book is accessible to a wide audience—not just because of its price (exceedingly modest for any book on this subject) but because of the quality of the writing and editing.

In the spirit of this book, I want to take the opportunity its launching presents to make a substantive contribution of my own to the ongoing debate on Antarctic environmental protection—a worldwide debate which has taken off in a quite new direciton since the Australian decision—and Australian-French comprehensive protection initiative—were announced. I want to bring you up to date on that debate, describe just what it is we are trying to achieve, and sketch out the steps ahead of us if we are to eventually get there.

The starting point for our decision, and all our subsequent activity, is the vital need to protect the indisputably fragile Antarctic environment. To do so is vital for science, vital to preserve the richness of the Southern Ocean, vital for the Antarctic's highly specialized wildlife and ecosystems, and vital for the world's environment.

Already the existing level of activity in the Antarctic poses worrying environmental threats. But those threats are minor compared to those entailed in mining and oil drilling. However much CRAMRA (which I shall refer to from now on as the "Minerals Convention") professes to take environmental factors into account, the environment would come out the loser should there be mining. The Australian environment is so unique, so uniquely fragile, and so irreplaceable that it simply cannot be treated in the same way as any other land mass around the world, where one may well want to argue out, and balance out, the competing claims of mineral exploitation and environmental protection. The only prudent response for this unique Antarctic wilderness is to remove altogether the option of mining which the Minerals Convention left open.

To demonstrate as unequivocally as we can Australia's determination to see that mining does not take place in the Antarctic, the Minister for the Environment, Mrs. Kelly, and I are today jointly announcing that the Government has decided to legislate this session to ban all mining in the Australian Antarctic Territory, including offshore, on the continental shelf of that Territory. The legislation will extend to Australians and non-Australians alike so far as the Australian Antarctic Territory is concerned; it will also ban mining by Australian nationals anywhere else in the Antarctic region. "Mining" for the purposes of the legislation will include oil drilling, and the related steps of prospecting and exploration.

The new legislation will commit Australia in *law* to the approach we have adopted as *policy*. It indicates our realisation of the high stakes involved and is a concrete embodiment of our determination to preserve the Antarctic environment. It is a signal to the international community that our commitment to the approach we have begun will not falter. Australia intends to maintain its leadership in working with France towards an international prohibition on mining. The legislation will illustrate what

we expect collective international action to achieve.

Proponents of the Minerals Convention argue against our approach, but in fact nearly all of them have already conceded a large part of the Australian case by admitting that there should be no mining for at least several decades because it could not be conducted safely. If for that reason, or for other practical ones such as the cost of mining and absence of known resources, mining is unlikely to take place for a long time, why not accept an outright ban? Those who reject our approach say a total ban will be unstable, and will be overturned or ignored. But why should such a ban on all mining activities be more unstable than the Minerals Convention, which has a bet both ways? Moreover, why should a ban on mining be any more unstable than the absolute ban on military activities and nuclear explosions found in the Antarctic Treaty. Justifications for the Minerals Convention and the mining option have more in common with theology than either law or science.

A compelling argument against the Minerals Convention is that it will, in practice, hasten the very mining activity that its defenders acknowledge to be, at least for several decades, undesirable. The Convention includes incentives for mining activity. It permits prospecting here and now and offers security of title. It also allows the results of prospecting to remain confidential—so conceding a damaging exception to the important Antarctic Treaty requirement to share the results of scientific research.

The Minerals Convention, with its medley of objectives, does not in fact quite know where it is going. Our fear is that in that confusion, Antarctic environmental protection would suffer in any trial of strength with mining.

The defenders of the Minerals Convention have on a number of occasions gone so far as to suggest that Australia's attitude has threatened the Antarctic Treaty system itself. This is a claim we wholly reject. The Government has left no doubt about its commitment to the Antarctic Treaty system. When it was drawn up more than thirty years ago, the Treaty represented a quantum leap in international relations. Against a background of Cold War distrust and squabbling about national claims, it brought for the first time to an entire region of the globe lasting disarmament and a dedication of it to the pursuit of science. This outcome was visionary at the time, and the Treaty is no less valuable today. It guarantees the peaceful use of Antarctica and provides a framework for co-operative scientific research. It is also the only viable framework within which Australia's objectives of environmental protection can be achieved—so why would we want to undermine it?

Australia has also been criticised for proposing a *comprehensive* environmental protection convention, as well as the ban on mining activities. The nub of this criticism is that the practice since 1961 is good enough, and that any new measures to protect Antarctica can be put in place one by one after any particular problem has been identified.

This sector by sector approach—reflected in the companion Conventions to the Antarctic Treaty on Seals, and Marine Living Resources respectively—may have been adequate in the past. But now the increased level and greater diversity of human activity in the region requires that, 30 years after the Treaty, the Antarctic Treaty parties go beyond this sectoral approach. Australia and France are by no means alone in urging this approach: Chile and New Zealand, to name but two, have made persuasive calls for a comprehensive approach to envionmental protection to bring about the co-ordination and integration which the existing system lacks.

Even more significantly, just three weeks ago, the United States Administration itself called for a protocol on environmental protection. The change of attitude we are seeing reflects intense public scrutiny of the Antarctic Treaty system, reflected in the interest which parliaments are taking in Antarctic conservation, most recently in Spain. Officials who have administered Antarctic affairs are now accountable to a wider audience.

On my recent visit to New Delhi, the Indian External Affairs Minister, Mr I K Gujral, told me of his Government's continuing support for the Australian and French initiative. There is very widespread, and steadily growing, sympathy for the initiative in Europe. And we have been gratified by the receptive approach of South American countries to our ideas: I shall be making Antarctica the principal focus of my visit, starting next week, to Argentina, Chile, Brazil, Uruguay and Peru, which have for a very long time been central players in this whole debate.

I would like to now outline just what we have in mind for a comprehensive environmental protection regime, and to lay to rest some misconceptions about our position.

It should be said at the outset that the international political and legal framework covering the region, and upon which its peace depends, matches the fragility and uniqueness of the Antarctic environment itself. Twenty-six countries now have active Antarctic programs; seven of these, including Australia, have claims. Only four countries have expressly recognised Australia's claim and even fewer have recognised those of some others. A significant part of the continent is unclaimed. There is thus little scope for territorial regulation in the traditional sense. How is co-ordination to be achieved between the national Antarctic programs? What is to be done about non-governmental expeditions particularly when third countries are involved? How are third countries wishing to establish an Antarctic program, to be brought into the decision-making process?

These issues have long been around. The Antarctic Treaty system has dealt with them primarily by informal cooperation, which was effective enough while the Antarctic community was relatively small. But because of the number of Antarctic actors and the level and range of their activity, the stage has been reached for us, the nations active in the Antarctic, to take a more formalised and co-ordinated approach to environmental protection. If we do not show to the international community that we can carry out this important task, in my view less competent forums will seek to do it for us.

There are four principles which guide Australia in its search for a satisfactory environmental protection regime.

In the first place, the achievements and guarantees of the Antarctic Treaty should not be imperilled. I have already stated Australia's commitment to the Treaty, and the reasons for that. The Treaty is the starting point for any viable proposal. While its assurance must not be prejudiced on matters such as the peaceful use of Antarctica anc
freedom of scientific research and accommo
dation of the different view of states o
claims, it is important to recognise that th
Antarctic Treaty is silent on a number o
points, or mentions them only obliquely. I
is, for example, inconceivable today that
Treaty on Antarctica would be drawn u
with merely a statement that measures ma
be adopted for "the preservation and con
servation of living resources in Antarctica"
As I have already indicated, the Treaty par
ties have already had to take steps to rectif
blind spots of the Antarctic Treaty by sup
plementing it, not least by the Conventio
which is associated with this city o
Hobart—the Convention on the Conserva
tion of Antarctic Marine Living Resources.

Secondly, the regime must depend o
international cooperation. Exemplary inter
national co-operation between States ha
ensured the success of the Antarctic Treat
system to date—a practice all the more im
portant because the Treaty leaves so muc
to be worked out. There is no substitute fo
the continuation of this co-operation. With
out it, a more formalised approach and a
attempt at greater co-ordination would be i
vain.

Thirdly, the regime must incorporate
precautionary approach to environmenta
protection. The fragility of the Antarcti
environment does not allow countries activ
in the region the luxury of adopting a tria
and-error approach. If a mistake is made i
conducting an activity in the region, the e
fects might well be long term, permanentl
diminishing the scientific value of the are
and even have implications for the region
and global environment. We must loo
before we leap.

Finally, the regime must be effective o
the ground. It is not enough for the Antar
tic Treaty Parties to erect an elegant theo
retical edifice for the admiration of all whil
activity with unacceptable environment
impacts continues to take place. For th
reason, I am apprehensive that some a
now attracted to a regime with so scanty
framework that it is no more than a stat
ment of good intent to set up a program
action. We already have a mechanism and
body of environmental measures under th
Antarctic Treaty. To replicate that syste
would be no advance. We must move now t
tackle basic issues.

These four principles underlie the att
tude that Australia brings to the elemen
that a comprehensive environmental prote
tion regime should have.

At the heart of a comprehensive regim
must be a set of clear and rigorous stan
ards applying to all human activity in th
region. The absence of such standards is o
of the main defects of the present syste
Given the need for the regime to be effe
tive and for it to embody a precautiona
approach, it must be clear that no huma
activity may take place in the Antarct
unless there is a satisfactory assurance th
its impact will be within acceptable bound
Indeed, for all its fundamental weakness
the Minerals Convention is a helpful mod
in this respect.

Despite arguments from some quarters
the contrary, it is perfectly feasible for th
principle of prior assurance of environme
tal safety to be maintained. With our ac
mulated experience it can be confident
predicted that most of the activities that
comprehensive environmental protecti
regime would seek to regulate can be carri
out without the need for any time consu
ing preliminary enquiry. Activity on the bi

logically inert ice cap would generally fall into this category. But the regime must identify such activities with precision. If there is doubt about the impact of a particular kind of activity, then it should not be allowed to proceed until it has been subject to an appropriate assessment.

While there must be general standards, there will need to be flexibility to adapt them to the needs of particular circumstances which in any case can change. It may come to be accepted that certain activities, tourism, for example, merit particular regulation of a more detailed kind, or that other activities can be safely added to the list of those for which prior assessment of impact is unnecessary. Since the convention will be a framework document, it needs to contain provision for the development of such subsidiary measures. Without it, the regime would rapidly become ossified. At the same time, those subsidiary measures must always be consistent with the general standards.

As I have mentioned, without effective implementation, the regime would be no more than a theoretical construct. In this context, prior assessment is not enough on its own. It needs to be supplemented by at least the following national or co-operative international steps or procedures: the establishment of legally binding measures, and effective national enforcement; monitoring and inspection, and the capacity to alter or even halt activity that monitoring shows to be harmful; response action in the event of accident; and compulsory dispute settlement procedures.

It is encouraging that the United States, for one, is also happy to embrace some of these elements, particularly legally binding measures and compulsory dispute settlement. I would be concerned, though, if other essential elements were to be relegated for future attention.

There is an intimate link between the protection of the Antarctic environment and the preservation of Antarctica's value for its primary human activity: science. Environmental degradation would undermine much scientific work and reduce or even eliminate Antarctica's value as an area for monitoring baseline levels of contamination and the effects of environmental change.

From the earliest days of the Antarctic Treaty, the Scientific Committee on Antarctic Research initiated many environmental measures, in a convincing testimony to the link between the environment and science. Australia and France recognise that science should be reaffirmed as the primary human activity in Antarctica. For this reason we have called for the designation of the region as a "nature reserve—land of science" under the regime and have proposed that if we have to choose, for environmental reasons, between scientific and nonscientific uses of the Antarctic, the scientific use should be given priority.

Given this approach, I am perplexed by recurrent suggestions that an environmental regime is somehow incompatible with science and even infringes freedom of scientific research under the Antarctic Treaty. The suggestion is baseless. It is more so because a principal objective of the regime would be to subject nonscientific activities to many of the same environmental disciplines that now apply to science. It is ironic that existing environmental impact assessment procedures should apply only to scientific activities.

I should also mention geoscientific research. Even though this uses many of the techniques applicable to minerals prospecting, it is quite clear that geoscientific research must continue. In the Antarctic it has much to offer not least because of the light that sedimentary cores can throw on past climate change. With mining ruled out and no exceptions made (as one is made in the Minerals Convention) from the Antarctic Treaty requirement to exchange the results of scientific research, geoscientific research can safely continue. The legislation I have proposed, insofar as it relates to the banning of prospecting, will make this clear.

At the same time, geoscience provides a good example of the need to consider environmental factors in carrying out scientific research. To conduct a seismic survey in a penguin colony during the breeding season would have the biologists just as much up in arms as the environmentalists. Again, the existing system already recognises this type of problem by, for example, establishing special rules for scientific drilling.

It is common sense that we should build as necessary on the arrangements as we now find them. Mining, because of its inevitably high environmental impact and economic consequences, required the establishment under the Minerals Convention of an elaborate organisational structure: other conceivable activities will not require this. Australia is not about redesigning the Antarctic Treaty system. We believe that the centre of gravity under the environmental regime for decision making and implementation should remain in national hands. It should be primarily for national authorities to implement the general and subsidiary standards of the regime and to carry out monitoring, inspection and other measures. What is presently lacking and what the regime needs to provide, is a set of co-ordinated rules which will allow national efforts to work together.

A great deal can be achieved simply by improving mechanisms for co-operation between national authorities responsible for Antarctic programs. Two examples would be the exchange of information about possible activities early in the planning stage to permit the assessment of the cumulative impact of several activities, and the sharing of data information services to inform the basis of environmental decisions. Apart from the regime, much could be done by greater sharing of logistic facilities including stations to minimise environmental impact, reduce the high cost of operating in the Antarctic, and encourage more states to become active in the region. I would hope that an environmental regime would foster this move.

A costly and clumsy international structure should be avoided. At the same time, some organisational adaptation of the existing Consultative Party process in necessary. I am pleased that the United States recognizes this point and has called for the accelerated entry into force of environmental measures, the establishment of a small and cost-effective secretariat and an advisory body to provide expert scientific and technical advice. I understand that a number of other countries are coming around to this view. I would only add that there should be a body which can meet more frequently and flexibly than Consultative Meetings.

Such changes are necessary to foster consistency of application of the regime. They would assist and supplement national application, take collective measures when necessary, review national decisions, talk through differences and in the final resort be there to blow the whistle.

There would be little difficulty in grafting institutional changes on to the existing Consultative Party structure. Provision will need to be made for the transparent operation of the system particularly in making information available and providing the opportunity for comment.

The political foundation of international co-operation in the Antarctic is the stipulation of the Antarctic Treaty tht the position of neither claimants nor non-claimants can be prejudiced. A comprehensive environmental regime is compatible with national sovereignty just as much as is the declaration by a party within its metropolitan territory of a national park where mining is prohibited. Environmental protection measures are now a standard part of national life in many countries. So should they be in the Antarctic.

A great strength of the provision on moratorium of claims in the Antarctic Treaty, which would also form part of the conservation regime, is that the Treaty does not prescribe that any particular activity or international regulation is incompatible with claims to sovereignty. Much less does it single out environmental regulation in this regard.

While failure to respect realities such as claims would imperil the scope for co-operation on the environment and much else, it is in this area that ingenuity is needed. When uncoordinated national measures are inadequate, we cannot afford to let legal formalism stand in the way of taking necessary action. Let me give a simple illustration why co-ordinated action is needed. In the Australian Antarctic Territory there are seven permanent bases but only three of them are Australian. On and around the Antarctic Peninsula there are just three claimants, but the bases of thirteen other countries. The Antarctic Treaty system needs to build on its tradition of finding constructive ways around political and legal obstacles.

There is particular scope for ingenuity on the question of jurisdiction—an issue only coyly touched on in the Antarctic Treaty. Thirty years of experience have invalidated fears of a break-down in the Treaty on the grounds that it did not regulate conflicts of jurisdiction. This positive experience is attributable to the restraint and good will that has characterised the operation of the Treaty. Subsidiary measures have since been adopted which in specific cases lay down jurisdictional rules. Let us build on this restraint and co-operation and harness available capacities, not to solve all theoretical jurisdictional difficulties but only those in aid of the environmental protection regime where the absence of adequate enforcement has been felt. Such an approach is the logical consequence of enforcement of the environmental regime being primarily in national hands, and of the call in United States Congressional testimony for "legally binding measures" and for parties "to ensure compliance with them." It is also consistent with the competence long asserted by Antarctic Treaty parties for the protection of the Antarctic environment.

Twelve months ago, in the light of the frosty initial reception of the Australian and French proposals, it was almost unimaginable that the Antarctic Treaty parties would accept the concept of a long-term ban on mining including prospecting, and a rigorous comprehensive environmental protection regime. There are now solid grounds for optimism in both respects. A long-term ban on mineral activity in the form of a moratorium for 30 years or longer is now being widely contemplated: it is not the permanent prohibition we prefer, but a step in that direction. In the same way, the idea is gaining currency in a number of countries of a protocol to the Antarctic Treaty on environmental protection with general standards, revised decision-making procedures and compulsory dispute settlement: this does not yet amount to embrace in those countries of our preferred position of a comprehensive environmental protection convention, but is moving towards it.

There is still, obviously, some distance to go before any new regime is put in place, but at least the course ahead is reasonably clear.

The next crucial step is the Special Consultative Meeting of the Antarctic Treaty parties devoted to the issue of comprehensive environment protection, which will open in Santiago on 19 November this year and run for some three weeks. It will be attended by delegations of officials from 39 Treaty Parties. Already there are high expectations that it should produce significant results.

In the three months that remain until that meeting, Australia, France and other like-minded countries will be seeking to refine further our already quite well-developed ideas on the elements of a new international legal instrument within the Treaty system to provide an effective protection regime. We shall be seeking the widest possible dialogue with other Treaty parties so that by the time of the Santiago meeting as much common ground as possible is marked out and, collectively, we shall be well-positioned to achieve optimum progress there. Since the last meeting of the parties in Paris in October last year there has in fact, through the efforts of Australia and France, already taken place a level of dialogue between meetings which has been exceptional.

As to our expectations of the Santiago meeting, Australia would hope, first, that there will be agreement to begin a process of negotiation of a new legal instrument which will, within the shortest time-frame possible, lead to a comprehensive and effective regime to protect the Antarctic environment. Secondly, we would like to see some progress on the linked issue of putting in place some more satisfactory prohibition of mineral resource activities than the voluntary restraint agreement that now exists. We will work hard for a consensus, no easy task among 39 parties, which will be built around real and not just token advances in these areas.

Even if the Santiago meeting is successful in these terms much intensive work will be required to craft the instrument in final form and bed down the new regime. Australia stands ready to host a negotiating session for this purpose early in the new year. During 1991, meetings of the parties will take place in April and October in Bonn as part of the regular cycle of Treaty meetings, and further work in the environment protection regime could take place in association with those meetings. No one with any experience of multilateral negotiations in general, or Antarctic ones in particular, doubts that there is a long, hard slog ahead. But it is a slog we are totally committed to undertaking, and we are confident that eventually we will have a protective regime in place for which future generations will thank us.

The Antarctic Treaty system is unique; but for it to remain relevant and to survive into the next century it must adapt now as it has adapted to new challenges at various stages in the last 30 years. Its ideals must be preserved but equally it is necessary to ensure that one ideal not tyrannize the others and pervert the whole. Untrammelled action carried out under the banner of, say, freedom of scientific research may not only damage the environment and even destabilize the basis of co-operation, but may well destroy the very quality which gives the region its scientific value.

The challenge in the negotiation of a comprehensive environmental protection regime will be to accommodate the various elements in a way which perpetuates the inspirational quality that Antarctica has always had. The task is to maintain the relevance of the whole system in a world that is rapidly changing: unless the Antarctic Treaty system moves forward, it is in danger of moving back. And this whole process will require of its participants realism, creativity and—not least—stamina.

In all of this, I have no doubt that this book, *Antarctica's Future,* will be an ongoing resource of very great utility. I congratulate everyone associated with its publication, and declare it duly launched.

Cousteau Society
April 30, 1990.

Dear Congressman Conte: I have spent my lifetime exploring our world, priviledged to witness its miracles.

However, few experiences have so impressed and haunted me as my memories of Antarctica—so pure, so beautiful, so important, so endangered.

Recently, I have turned my full time attention to the protection of this vast white land of ice, light, atmosphere, and ocean, vital to regulating global climate.

And, believing that Antarctica is an inviolable inheritance of future generations, I undertook an unusual voyage, returning to Antarctica at the beginning of 1990, with six children—each representing a different continent. These young citizens took symbolic possession of Antarctica on behalf of the future. I am enclosing herewith the film that documents their journey.

It is not often that one has the opportunity to act on behalf of the interests of all of the children in the world. I am pleased and proud to share my effort with you.

Respectfully,

Jacques Yves Cousteau.

☐ 1400

Mr. SHUMWAY. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan [Mr. Broomfield].

Mr. BROOMFIELD. Mr. Speaker, I support this bill to provide additional protection to the Antarctic ecosystem.

Antarctica is one of the last remaining true wildernesses on earth. Due to the extreme harshness of its climate, it has an extremely fragile environment.

Slowly but surely, the pace of human activities in the Antarctic is increasing. Adequate controls have not always been applied, and in recent years there has been some environmental damage.

Of all human activities, mineral exploitation has perhaps the greatest potential for environmental harm. Therefore, the countries which are members of the Antarctic Treaty have put off such activities for the time being.

There is concern that at some point there will be pressure to permit mineral exploration in the Antarctic. Recognition of this fact led to the signing of the Convention for the Regulation of Antarctic Mineral Resource Activities in 1988.

In the last few years, new fears have been expressed about mineral activities in the Antarctic, and the possibility that the convention itself could actually encourage them. In recognition of this fact, the House and Senate earlier this month passed joint resolutions calling for further negotiations on this subject.

The administration has reviewed its policy in this area and is now entering into new negotiations. These discussions will commence in Santiago, Chile in December. The bill before us will make an important contribution to these efforts.

I commend the chief sponsor, Mr. Conte, for his efforts. I also thank Chairman Fascell of the Foreign Affairs Committee and Congressmen Yatron and Bereuter, the chairman and ranking Republican member of the subcommittee, for their work in support of this bill. Congratulations are also due Chairman Walter Jones of the Merchant Marine Committee for first reporting the bill.

H.R. 3977 would impose an indefinite ban on mineral activities in the Antarctic by Americans. This will send an important signal to the international community that the United States is serious about negotiating a new agreement to protect Antarctica from mineral development.

At the same time, the prohibition in the bill would continue to apply only until a similar international agreement is attained. This makes clear that our country remains committed to a multilateral approach.

One problem remains, however. Section 5 of the bill would apply the provisions of the National Environmental Policy Act [NEPA] to U.S. activities in the Antarctic.

This provision raises the issue of how NEPA—particularly the requirement of environmental impact statements—should apply to U.S. actions abroad. The administration opposes inclusion of this provision.

Efforts are underway to resolve this issue both with regard to this bill and other, more general legislation. I hope that the conference on H.R. 3977 will lead to a satisfactory resolution.

With this reservation, I support H.R. 3977 and encourage its passage.

Mr. SHUMWAY. Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska [Mr. Bereuter].

Mr. BEREUTER. Mr. Speaker, I rise in strong support of H.R. 3977. It is magnificent in its impact, but the legislation has a simple and straightforward purpose—to prevent the further degradation of the Antarctic environment. To achieve this objective, this legislation would require the administration to work toward tough new international agreements that would prevent mineral exploitation in Antarctica, and would set strict guidelines on matters such as scientific research, fishing, tourism, waste disposal.

In recent months the Subcommittee on Human Rights and International Organizations, the subcommittee with jurisdiction over international environmental matters, has conducted a number of hearings on Antarctica. The hearings highlighted the critical role Antarctica plays in ongoing research on important environmental matters, such as ozone depletion, and global climate change. These hearings also reflected general agreement that the Antarctic Treaty parties must work together to preserve that region's natural resources.

As ranking member of the Human Rights Subcommittee, this member strongly supports H.R. 3977. The distinguished gentleman from Massachusetts [Mr. CONTE] is to be commended for his initiative on this critical environmental matter. The gentleman and his staff have worked with the administration, with environmental organizations and the committees of jurisdiction in order to craft the best possible resolution. And, while the administration continues to voice reservation for one portion of the resolution as just explained by the distinguished gentleman from Michigan [Mr. BROOMFIELD] that dealing with the application of the National Environmental Policy Act—this Member believes that the gentleman from Massachusetts has produced a balanced and important bill.

This Member would only add that H.R. 3977 gives teeth to an Antarctica policy that has already been adopted by this body in the form of a resolution by the gentleman from Utah [Mr. OWENS]. Together they form a coherent policy guidance to the executive branch on Antarctica. In approving H.R. 3977, this body will be setting forth a bold reasonable, and environmentally sound strategy for preserving the precious resources in Antarctica. This Member urges the adoption of the Antarctica Protection Act of 1990.

Mr. SHUMWAY. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. SAXTON].

(Mr. SAXTON asked and was given permission to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, I rise in support of H.R. 3977 "The Antarctica Protection Act."

Antarctica is a distant, mysterious shore. It is a land that most of us will only imagine—and I suspect we all imagine it to be pure, wild, and untouched. Unfortunately, some of the Antarctic is already polluted, abused, and feeling the impact of insenstive human activity.

What is even more alarming is that I am referring to the insensitivity of the scientific research bases stationed on the more livable areas of the continent.

These research stations have dumped untreated, toxic waste into the coastal waters without fear of breaking any clean water laws.

Garbage is burned uncontrolled in open pits here because there are no clean air standards.

And drums, filled with hazardous materials, litter the landscape because there are no hazardous waste laws being enforced.

I would have thought that environmental researchers would prove to be good stewards of the planet they are attempting to understand. The fact that they have not been, is frightening and demands our attention.

The Antarctica Protection Act would extend the National Environmental Protection Act [NEPA] to include the Antarctic.

More importantly, this bill will require the United States to engage in negotiations for the international stewardship and preservation of this fragile and unique environment. Without the involvement of all nations, efforts to protect the seventh continent will be futile.

The Antarctic has two unique characteristics shared by no other continent:

First, it is still relatively undamaged and provides scientists a laboratory for monitoring and investigating planet Earth. If we allow the degradation to continue, we will lose a vital link to understanding the past and determining our ecological future.

Second, the Antarctic provides an ethical test for the human species. It can either become a victim of an international gold-rush frenzy, or it can serve to unite nations in scientific endeavors and ecological stewardship.

The choice we make today is a link in the chain which will determine its eventual fate.

I urge my colleagues to join me in supporting this responsible and urgently needed initiative.

Mr. FASCELL. Mr. Speaker, I rise in support of H.R. 3977, as amended, the Antarctic Protection Act of 1990.

I would like to begin my commending the chief sponsor of H.R. 3977, our distinguished colleague from Massachusetts the Honorable SILVO CONTE for his leadership in crafting this legislation, and in raising Member's attention to this critical environmental issue. I also wish to commend the efforts of the chairman of the Merchant Marine and Fisheries Committee the Honorable WALTER B. JONES, and the very adept contributions of the Honorable GERRY STUDDS who sits on both Merchant Marine and Fisheries, and Foreign Affairs Committees. In addition, I would like to compliment the continuing efforts and diligence of Chairman GUS YATRON and ranking minority member DOUG BEREUTER of the Human Rights and International Organizations Subcommittee of the Committee on Foreign Affairs on behalf of this bill as well as other environmental legislation.

The express purpose of the bill is to substantially strengthen environmental protection in Antarctica, and to prohibit mining activities. In pursuit of that objective, this bill bans any U.S. mining activities in Antarctica, and urges negotiation of a new international agreement to indefinitely ban mineral activitites and fully protect the Antarctic environment. It also urges that all nations consider a permanent ban on mineral resources activities. The bill recognizes the need to codify the current voluntary minerals ban that the Antarctic Treaty parties are now respecting. Finally, H.R. 3977, as amended, clarifies the application of the National Environmental Policy Act [NEPA] to U.S. agency actions in Antarctica.

The bill before us was initially ordered favorably reported, as amended, by both the Committees on Merchant Marine and Fisheries, and Foreign Affairs. Since those mark-ups, a new consensus position has been forged in consultations among the chief sponsor, the administration, environmental groups, and the two committees of primary jurisdiction. It also includes a provision to reflect the jurisdictional interests of the Interior Committee. Reformulation of H.R. 3977 was painstakingly devised to achieve the delicate balance reflected in the version now before the House.

Although the basic thrust of the bill is the same, nuances of language were changed in an effort to satisfy all parties concerned. With respect to a mining ban, the final language gives the administration flexibility to negotiate a new agreement without first abandoning the recently negotiated Convention on the Regulation of Antarctic Mineral Resource Activities [CRAMRA]. CRAMRA is broadly recognized as insufficient to safeguard the Antarctic environment. The overriding concern is that its system to regulate mining would in fact open a Pandora's box enabling mining activity and consequent environment degradation of the fragile Antarctic Continent. The new version is intended to strengthan the hand of U.S. negotiators in achieving a minerals ban.

The revision takes a more flexible approach on the application of NEPA to Federal activities in Antarctica. Within 1 year, it would phase in regulations formulated by the Council on Environmental Quality [CEQ] pursuant to NEPA. It would assure that actions undertaken by U.S. Federal agencies in Antarctica, are consistent with U.S. foreign policy and national security; and consider the cumulative environmental impacts of their actions.

H.R. 3977, and Congressman WAYNE OWENS' resolution, House Joint Resolution 418, which passed the House last week, are complementary and share mutual objectives of a U.S. policy in opposition to minerals activities in Antarctica, and support of comprehensive environmental protection for that continent. Congress will be paying close attention to activities and developments which are critical to the preservation of Antarctica's pristine

environment, and its continued status as a land for peace, science, and international cooperation.

Mr. Speaker, I urge the adoption of H.R. 3977, as amended.

Mr. DAVIS. Mr. Speaker, I rise in support of the bill and commend Congressman CONTE and Chairman JONES for their work in this area. I believe the version of the bill we are considering today is superior to the version reported from the Merchant Marine and Fisheries Committee, August 1, 1990. Section 5 of the bill, which clarifies the application of the National Environmental Policy Act to Federal activities in Antarctica, reflects an approach adopted by the House of Representatives on other legislation. This approach recognizes that the extraterritorial application of NEPA must be consistent with our national security and foreign policy of the United States. This is a fair consideration, and I hope that this provision serves as a model for other countries who have operations in Antarctica.

Mr. YATRON. Mr. Speaker, I strongly support H.R. 3977, introduced by Congressman CONTE. I want to commend him for this extremely important initiative. Let me also commend Chairman FASCELL, Congressman OWENS, Congressman BEREUTER, Congressman STUDDS, and Chairman JONES for all their efforts to protect Antarctica's environment.

Mr. Speaker, the House and Senate have taken several actions to ensure the fragile and critically important environment of Antarctica is adequately protected from increased human activity. Recently, this body passed a measure to establish the continent as a global ecological commons with a permanent ban on all minerals activities.

H.R. 3977, seems to be the logical next step. The bill prohibits any Antarctic resource mineral activity by any person under U.S. jurisdiction and provides criminal and civil penalties for violations. It calls for an agreement to ban minerals development in Antarctica and to preserve its environment. It strengthens environmental regulations, consistent with the National Environmental Policy Act, regarding U.S. activities in Antarctica.

Antarctica's near-pristine environment, its increasing importance to scientific research, its irreplaceable role in maintaining the Earth's climatic stability, and its unique and sensitive wildlife resources need greater protection from human-created pollution. H.R. 3977 constitutes a significant step toward this goal.

Mr. Speaker, the committee passed H.R. 3977 after extensive hearings by the Subcommittee on Human Rights and International Organizations, which I chair, and after adopting an amendment in the nature of a substitute to make the bill consistent with the version approved by the Merchant Marine Committee. The substitute was then modified to accommodate some of the concerns of the administration. The version we have before us today is a well-crafted bill which will be a major step forward in preserving Antarctica's environment, and should be acceptable to all.

I ask my colleagues to support H.R. 3977, as amended.

Mr. HERTEL. Mr. Speaker, I rise today in support of H.R. 3977, the Antarctic Protection and Conservation Act of 1990. This legislation, which strengthens the 1978 Antarctic Conservation Act, aims to protect the continent of Antarctica from any and all mining operations which would threaten this unique territory's environmental integrity.

Antarctica is the only continent on the Earth, one remaining of seven, to exist today in relatively pristine form. Pollution problems and the threat of mining operations are very recent developments, not because past generations have actively restrained from exploitation, but because the continent's geographic remoteness and frigid climate have historically deterred human interference.

The Antarctica Continent encompasses 5.4 million square miles, an area larger than the United States and Mexico combined. Antarctica holds 90 percent of the world's ice, and its surrounding coastal waters support nearly 200 types of fish and abundant, biologically diverse species of penguins and whales. For centuries, Antarctica has been preserved simply because the land and climate were inhospitable to humans. Now that exploitation is possible, we must take concerted, specific measures to ensure that today's treasure exists for future generations.

H.R. 3977 proposes such measures. Namely, the act's purpose is to prevent prospecting, exploration, and exploitation of Antarctic mineral resources by U.S. citizens and any other persons subject to the jurisdiction of the United States. Furthermore, the bill urges the United States to negotiate a new international agreement to prohibit all mineral resource development activities on the Antarctic Continent.

While H.R. 3977 identifies mining activity as the primary source of environmental degradation in Antarctica, it also calls for regulation of tourist expeditions. At present, the touring industry remains unregulated, and while the self-policing of many responsible tourists is to be applauded, more efficient, and more universal, efforts are clearly in order.

Mr. Speaker, I hope my colleagues will join me in support of H.R. 3977. The scientific and aesthetic benefits derived from this unexploited continent override any mining interests. Regulated scientific activity in Antarctica has yielded instructive, important information, and the continent has furthermore proven to be a unique natural laboratory from which to monitor global environmental changes. H.R. 3977 strictly outlaws mineral resource activity in Antarctica, and thereby aims at preserving the integrity of this special land. This means keeping one continent free of human exploitation and pollution, and ensuring that the unique research occuring today can continue in the future.

Mr. DE LUGO. Mr. Speaker, I rise in support of H.R. 3977, the bill that would prohibit U.S. citizens and other persons subject to U.S. jurisdiction from prospecting, exploring, and developing Antarctica's mineral resources. Failure to preserve the pristine and unique continent of Antarctica, the source of 90 percent of the world's fresh water, would inflict on this fragile Earth of ours an irrevocable blow from which it would never recover. Future generations would suffer the serious consequences.

The bill provides that those who violate this ban will have penalties imposed on them by the Under Secretary of Commerce as set forth in the Antarctic Marine Living Resources Convention Act. Additionally, language has been added that would give the Secretary of the Interior the right to deny anyone determined to be guilty eligibility to locate a mining claim or to receive a patent under the mining laws of the United States. Such a person could also be denied the issuance of a lease under any law of the United States related to mineral or geothermal leasing.

Passage of this bill before the 101st Congress adjourns is critical to the success of the November Antarctica consultative parties meeting in Chile to preserve and protect Antarctica. With the enactment of this bill, the U.S. Congress will go on record in supporting a strong leadership position by the U.S. State Department to bring about a consensus among all participants to develop a permanent ban on Antarctic mineral resource activities.

I urge my colleagues to support this extremely important and timely piece of legislation.

Ms. SCHNEIDER. Mr. Speaker, I rise in strong support of H.R. 3977. This bill addresses the major problems facing the last great unspoiled wilderness on Earth.

Aside from the international status of Antarctica, the continent is unique in many ways. Nearly the entire continent in covered by an icecap that extends for 14 million square kilometers, and averages 7,090 feet thick. Antarctica, in fact, contains 90 percent of all the ice and 70 percent of all the fresh water on Earth, yet because of the lack of precipitation, virtually the entire continent is classified as a desert. This highest, coldest, driest, and darkest continent, supports 35 species of penguins and other birds, 6 varieties of seals, 12 whale species, and nearly 200 types of fish.

In the past few years scientists have also gained a greater understanding of Antarctica's role in global warming. The continent's glacial cap reflects up to 80 percent of the solar radiation it receives, which when spun through the air and ocean currents, moderates the heat absorbed in the tropics, thus reducing the Earth's mean temperature. Research conducted in Antarctica provided the first warning of an expanding ozone hole and the threat of global warming.

This bill recognizes the delicate ecosystem of this continent, as well as its interaction with the rest of the Earth. Applying U.S. environmental laws to Antarctica is long overdue, and this bill will do that. H.R. 3977 also directs the United States to consider an international designation of Antarctica as a world park—I strongly support this proposal, and urge the Department of State to work with our Antarctic Treaty partners toward this goal.

This bill also recognizes that the Wellington Convention, which was drafted in 1982 to regulate, but not to prohibit, mining in Antarctica, is now outdated. What may have seemed like an excellent idea back in 1982 is no longer. Things have changed considerably in the past 8 years and we have entered a new decade. Since the Wellington Convention was first drafted we have seen our relations with the Soviet Union and East European countries change dramatically; we have a clearer understanding of the role that the Antarctic plays in regulating the climate of the entire Earth; and we have witnessed how vulnerable the continent is to environmental accidents, as illustrated by the grounding of the Argentine supply vessel *Bahia Paraiso*. The vessel ran aground well over a year ago and is still leaking oil into Antarctic waters.

Mr. Speaker, this is an excellent bill, and I urge my colleagues to support it.

□ 1410

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rule and pass the bill, H.R. 3977, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3977, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

FEDERAL MARITIME COMMISSION AUTHORIZATION, FISCAL YEAR 1991

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4009) to authorize appropriations for fiscal year 1991 for the Federal Maritime Commission, and for other purposes, with an amendment.

The Clerk read as follows:

Senate Amendment: Strike out all after the enacting clause and insert: That in fiscal year 1991, $15,894,000 is authorized to be appropriated for the use of the Federal Maritime Commission; except that for fiscal year 1991, and for each fiscal year thereafter, not to exceed $2,000 may be expended for official reception and representation expenses.

SEC. 2. Subsection (h) of section 18 of the Shipping Act of 1984 is amended by inserting "Advisory" immediately before "Commission shall", and by striking "its establishment" and inserting in lieu thereof "all of its members have been duly appointed".

SEC. 3. Section 19 of the Merchant Marine Act, 1920 (46 App. U.S.C. 876) is amended—

(1) in subdivision (b) of paragraph (1) by inserting "including intermodal movements, terminal operations, cargo solicitation, forwarding and agency services, non-vessel-operating common carrier operations, and other activities and services integral to transportation systems," immediately after "generally,"; and

(2) by adding at the end the following new paragraphs:

"(5) The Commission may initiate a rule or regulation under paragraph (1)(b) of this section either on its own motion or pursuant to a petition. Any person, including a common carrier, tramp operator, bulk operator, shipper, shippers' association, ocean freight forwarder, marine terminal operator, or any component of the Government of the United States, may file a petition for relief under paragraph (1)(b) of this section.

"(6) In furtherance of the purposes of paragraph (1)(b) of this section—

"(a) the Commission may, by order, require any person (including any common carrier, tramp operator, bulk operator, shipper, shippers' association, ocean freight forwarder, or marine terminal operator, or an officer, receiver, trustee, lessee, agent, or employee thereof) to file with the Commission a report, answers to questions, documentary material, or other information which the Commission considers necessary or appropriate;

"(b) the Commission may require a report or answers to questions to be made under oath;

"(c) the Commission may prescribe the form and the time for response to a report and answers to questions; and

"(d) a person who fails to file a report, answer, documentary material, or other information required under this paragraph shall be liable to the United States Government for a civil penalty of not more than $5,000 for each day that the information is not provided.

"(7) In proceedings under paragraph (1)(b) of this section—

"(a) the Commission may authorize a party to use depositions, written interrogatories, and discovery procedures that, to the extent practicable, are in conformity with the rules applicable in civil proceedings in the district courts of the United States;

"(b) the Commission may by subpoena compel the attendance of witnesses and the production of books, papers, documents, and other evidence;

"(c) subject to funds being provided by appropriations Acts, witnesses are, unless otherwise prohibited by law, entitled to the same fees and mileage as in the courts of the United States;

"(d) for failure to supply information ordered to be produced or compelled by subpoena in proceedings under paragraph (1)(b)(7) of this section, the Commission may—

"(i) after notice and an opportunity for hearing, suspend tariffs of a common carrier or that common carrier's right to use the tariffs of conferences of which it is a member, or

"(ii) assess a civil penalty of not more than $5,000 for each day that the information is not provided; and

"(e) when a person violates an order of the Commission or fails to comply with a subpoena, the Commission may seek enforcement by a United States district court having jurisdiction over the parties, and if, after hearing, the court determines that the order was regularly made and duly issued, it shall enforce the order by an appropriate injunction or other process, mandatory or otherwise.

"(8) Notwithstanding any other law, the Commission may refuse to disclose to the public a response or other information provided under the terms of this section.

"(9) If the Commission finds that conditions that are unfavorable to shipping under paragraph (1)(b) of this section exist, the Commission may—

"(a) limit sailings to and from United States ports or the amount or type of cargo carried;

"(b) suspend, in whole or in part, tariffs filed with the Commission for carriage to or from United States ports, including a common carrier's right to use tariffs of conferences in United States trades of which it is a member for any period the Commission specifies;

"(c) suspend, in whole or in part, an ocean common carrier's right to operate under an agreement filed with the Commission, including any agreement authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargoes or revenue with other ocean common carriers;

"(d) impose a fee, not to exceed $1,000,000 per voyage; or

"(e) take any other action the Commission finds necessary and appropriate to adjust or meet any condition unfavorable to shipping in the foreign trade of the United States.

"(10) Upon request by the Commission—

"(a) the collector of customs at the port or place of destination in the United States shall refuse the clearance required by section 4197 of the Revised Statutes (46 App. U.S.C. 91) to a vessel of a country that is named in a rule or regulation issued by the Commission under paragraph (1)(b) of this section, and shall collect any fees imposed by the Commission under paragraph (9)(d) of this section; and

"(b) the Secretary of the department in which the Coast Guard is operating shall deny entry for purpose of oceanborne trade, of a vessel of a country that is named in a rule or regulation issued by the Commission under paragraph (1)(b) of this section, to any port or place in the United States or the navigable waters of the United States, or shall detain that vessel at the port or place in the United States from which it is about to depart for another port or place in the United States.

"(11) A common carrier that accepts or handles cargo for carriage under a tariff that has been suspended under paragraph (7)(d) or (9)(b) of this section, or after its right to use another tariff has been suspended under those paragraphs, is subject to a civil penalty of not more than $50,000 for each day that it is found to be operating under a suspended tariff.

"(12) The Commission may consult with, seek the cooperation of, or make recommendations to other appropriate Government agencies prior to taking any action under this section.".

SEC. 4. Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of Transportation may issue a certificate of documentation for the following vessels:

(1) Angelos, hull identification numbered HAZ1432C0173 and State of Hawaii registration numbered HA 1432 C.

(2) Arctic Sounder, United States official numbered 569927.

(3) Bounty, United States official numbered 950956.

(4) Camelot, United States official numbered 923202.

(5) Cherokee V, United States official numbered 570746.

(6) Ernestina, United States official numbered 136423.

(7) Ghostrider, United States official numbered 906121.

(8) He'Enalu, State of Hawaii registration numbered HA 842 CP.

(9) Job Site, United States official numbered 595013.

(10) Kainalu, State of Hawaii registration numbered HA 779 CP.

(11) Lady Rose Anne, United States official numbered 603040.

(12) Mariner III, United States official numbered 225459.

(13) Ocean Prowler, United States official numbered 632751.

(14) Pacific Pearl, hull identification numbered MRY10161M76H414.

(15) Pumpkin, United States official numbered 627259.

(16) Rose, United States official numbered 928811.

(17) Salisa M, United States official numbered 265653.

(18) Sea Devil, United States official numbered 569316.

(19) Sea Nugget, State of Alaska registration numbered AK 2233 E.

(20) Sinbad, formerly SANGRIA, hull identification numbered 15846 and State of Alaska registration numbered AK 3650.

(21) Solitaire, United States official numbered 521894.

(22) Swee'Pea, hull identification numbered PBL32012K990 and State of Alaska registration numbered AK 8550 L.

(23) Weatherbird, United States official numbered 527918.

(24) Weatherbird II, United States official numbered 652213.

House amendment to Senate amendment: Strike out all after the enacting clause and insert:

TITLE I—FEDERAL MARITIME COMMISSION AUTHORIZATION FOR FISCAL YEAR 1991

That in fiscal year 1991, $15,894,000 is authorized to be appropriated for the use of the Federal Maritime Commission; except that for fiscal year 1991, and for each fiscal year thereafter, not to exceed $2,000 may be expended for official reception and representation expenses.

SEC. 102. Subsection (h) of section 18 of the Shipping Act of 1984 is amended by inserting "Advisory" immediately before "Commission shall", and by striking "its establishment" and inserting in lieu thereof "all of its members have been duly appointed".

SEC. 103. Section 19 of the Merchant Marine Act, 1920 (46 App. U.S.C. 876) is amended—

(1) in subdivision (b) of paragrpah (1) by inserting "including intermodal movements, terminal operations, cargo solicitation, fowarding and agency services, non-vessel-operating common carrier operations, and other activities and services integral to transportation systems," immediately after "generally,"; and

(2) by adding at the end the following new paragraphs:

"(5) The Commission may initiate a rule or regulation under paragraph (1)(b) of this section either on its own motion or pursuant to a petition. Any person, including a common carrier, tramp operator, bulk operator, shipper, shippers' association, ocean freight forwarder, marine terminal operator, or any component of the Government of the United States, may file a petition for relief under paragraph (1)(b) of this section.

"(6) In furtherance of the purposes of paragraph (1)(b) of this section—

"(a) the Commission may, by order, require any person (includng any common carrier, tramp operator, bulk operator, shipper, shippers' association, ocean freight forwarder, or marine terminal operator, or an officer, receiver, trustee, lessee, agent, or employee thereof) to file with the Commission a report, answers to questions, documentary material, or other information which the Commission considers necessary or appropriate;

"(b) the Commission may require a report or answers to questions to be made under oath;

"(c) the Commission may prescribe the form and the time for response to a report and answer to questions; and

(d) a person who fails to file a report, answer, documentary material, or other information required under this paragraph shall be liable to the United States Government for a civil penalty of not more than $5,000 for each day that the information is not provided.

"(7) In proceedings under paragraph (1)(b) of this section—

"(a) the Commission may authorize a party to use depositions, written interrogatories, and discovery procedures that, to the extent practicable, are in conformity with the rules applicable in civil proceedings in the district courts of the United States;

"(b) the Commission may be subpoena compel the attendance of witnesses and the production of books, papers, documents, and other evidence;

"(c) subject to funds being provided by appropriations Acts, wintesses are, unless otherwise prohibited by law, entitled to the same fees and mileage as in the courts of the United States;

"(d) for failure to supply information ordered to be produced or compelled by subpoena in proceedings under paragraph (1)(b)(7) of this section, the Commission may—

"(i) after notice and an opportunity for hearing, suspend tariffs of a common carrier or that common carrier's right to use the tariffs of conferences of which it is a member, or

"(ii) assess a civil penalty or not more than $5,000 for each day that the information is not provided; and

"(e) when a person violates an order of the Commission or fails to comply with a subpoena, the Commission may seek enforcement by a United States district court having jurisdiction over the parties, and if, after hearing, the court determines that the order was regularly made and duly issued, it shall enforce the order by an appropriate injunction or other process, mandatory or otherwise.

"(8) Notwithstanding any other law, the Commission may refuse to disclose to the public a reponse or other information provided under the terms of this section.

"(9) If the Commission finds that conditions that are unfavorable to shipping under paragraph (1)(b) of this section exist, the Commission may—

"(a) limit sailings to and from United States ports or the amount or type of cargo carried;

"(b) suspend, in whole or in part, tariffs filed with the Commission for carriage to or from United States ports, including a common carrier's right to use tariffs of conferences in United States trades of which it is a member for any period the Commission specifies;

"(c) suspend, in whole or in part, an ocean common carrier's right to operate under an agreement filed with the Commission, including any agreement authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargoes or revenue with other ocean common carriers;

"(d) impose a fee, not to exceed $1,000,000 per voyage; or

"(e) take any other action the Commission finds necessary and appropriate to adjust or meet any condition unfavorable to shipping in the foreign trade of the United States.

"(10) Upon request by the Commission—

"(a) the collector of customs at the port or place of destination in the United States shall refuse the clearance required by section 4197 of the Revised Statutes (46 App. U.S.C. 91) to a vessel of a country that is named in a rule or regulation issued by the Commission under paragraph (1)(b) of this section, and shall collect any fees imposed by the Commission under paragraph (9)(d) of this section; and

"(b) the Secretary of the department in which the Coast Guard is operating shall deny entry for purpose of oceanborne trade, of a vessel of a country that is named in a rule or regulation issued by the Commission under paragraph (1)(b) of this section, to any port or place in the United States or the navigable waters of the United States, or shall detain that vessel at the port or place in the United States from which it is about to depart for another port or place in the United States.

"(11) A common carrier that accepts or handles cargo for carriage under a tariff that has been suspended under paragraph (7)(d) or (9)(b) of this section, or after its right to use another tariff has been suspended under those paragraphs, is subject to a civil penalty of not more than $50,000 for each day that it is found to be operating under a suspended tariff.

"(12) The Commission may consult with, seek the cooperation of, or make recommendations to other appropriate Government agencies prior to taking any action under this section.".

TITLE II—DOCUMENTATION OF VESSELS

SEC. 201. Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with appropriate endorsement for employment in the coastwise, or Great Lakes trades, or the fisheries of the United States for the following vessels:

1. American Eagle (U.S. official number 523873).

2. Angelos (hull identification number HAZ1432C0173 and State of Hawaii registration number HA1432C).

3. Arctic Sounder (U.S. official number 569927).

4. Big Deal (North Carolina registration number 8817BD).

5. Bounty (U.S. official number 960956).

6. Camelot (U.S. official number 923202).

7. Cherokee V (U.S. official number 570746).

8. Conqueror (U.S. official number 552790).

9. Ernestina (U.S. official number 136423).

10. Esperance (U.S. official number 691732).

11. Flora Vee (U.S. official number 526631).

12. Ghostrider (U.S. official number 906121).

13. He'Enalu (State of Hawaii registration number HA843CP).

14. Hell's-a-Poppin (U.S. official number 963543).

15. Hippocampus (U.S. official number 560934).

16. Impulse (U.S. official number 69209).

17. Job Site (U.S. official number 595013)

18. Kainalu (State of Hawaii registration number HA779CP).

19. Lady Rose Anne (U.S. official number 603040).

20. Mariner III (U.S. official number 225459).

21. Ocean Prowler (U.S. official number 632751).

22. Oh Baby At Last (U.S. official number 938936).

23. Open Return (U.S. official number 658689).

24. Pacific Pearl (hull identification number MRY10161M76H414).

25. Paula Sue (State of Maryland registration number MD7449K).

26. Playpen (U.S. official number 617198).

27. Pumpkin (U.S. official number 627259).

28. Rangga (U.S. official number 675379).

29. Rose (U.S. official number 928811).

30. Rough Point (U.S. official number 917958).

31. Salisa M (U.S. official number 265653).

32. Sea Devil (U.S. official number 569316).

33. Seagull (U.S. official number 958929).

34. Sea Nugget (State of Alaska registration number AK2233E).

35. Sea Wind (U.S. official number 610694).

36. Sinbad (ex-Sangria) (State of Alaska registration number AK3650 and hull identification number 15846).

37. Solitaire (U.S. offical number 521894).

38. Swee'Pea (State of Alaska registration number AK8550L and hull identification number PBL32012K990).

39. Syringa (hull identification number 363412; U.S. Customs number 84-129170-6).

40. Weatherbird (U.S. official number 527918).

41. Weatherbird II (ex-Aunt Bee) (U.S. official number 652213).

42. Eight inflatable vessels identified as follows:

Serial number 3966B, model number J990.
Serial number 4581B, model number J990.
Serial number A501A, model number D989.
Serial number A502A, model number D989.
Serial number 6291C, model number G091.
Serial number 6300C, model number G091.
Serial number 7302C, model number G091.
Serial number 7305C, model number G091.

SEC. 202. Notwithstanding the first proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), a vessel of less than five hundred gross tons that was sold to and operated by a nonprofit corporation organized under United States law, the majority of whose directors are United States citizens, for use by that corporation exclusively as an oceanographic research vessel, has not been "sold foreign" unless the vessel has been placed under the registry of a nation other than the United States during the period of ownership by that corporation.

SEC. 203. (a) The S/V Zodiac (United States official number 223755) shall be deemed to be less than one hundred gross tons and, in applying the regulations relating to the inspection of passenger vessels, the Secretary of the department in which the Coast Guard is operating shall inspect that vessel under regulations apply to vessels of that weight.

(b) Notwithstanding any other provision of law, the Secretary of the department in which the Coast Guard is operating shall inspect the Zodiac (United States official number 223755) under subchapter T of title 46, Code of Federal Regulations. Any certification issued by the Secretary under subchapter T for the Zodiac shall permit that vessel to carry not more than forty-nine passengers on lakes, bays, and sounds service.

TITLE III—COAST GUARD OMNIBUS ACT OF 1990

SEC. 301. SHORT TITLE.

This Act may be cited as the "Coast Guard Omnibus Act of 1990".

SEC. 302. AMENDMENT TO THE VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT OF 1971.

Section 4(a)(1) of the Vessel Bridge-to-Bridge Radiotelephone Act of 1971 (33 U.S.C. 1203) is amended to read as follows:

"(1) every power-driven vessel of twenty meters or over in length while navigating;".

SEC. 303. DESIGNATION OF THE SIDNEY LANIER BRIDGE AS AN OBSTRUCTION TO NAVIGATION.

Notwithstanding another law, the Sidney Lanier Bridge at mile 6.3 on the Brunswick River in Georgia is deemed an unreasonable obstruction to navigation.

SEC. 304. EXEMPTION OF CERTAIN VESSELS USED AS MEMORIALS TO MERCHANT MARINERS FROM PASSENGER SHIP INSPECTION REQUIREMENTS.

(a) Section 3302 of title 46, United States Code, is amended by adding the following new subsection:

"(l)(1) The Secretary may issue a permit exempting the following vessels from the requirements of this part for passenger vessels so long as the vessels are owned by nonprofit organizations and operated as nonprofit memorials to merchant mariners:

"(A) The steamship John W. Brown (United States official numbered 242209), owned by Project Liberty Ship Baltimore, Incorporated, located in Baltimore, Maryland.

"(B) The steamship Lane Victory (United States official numbered 248094), owned by the United States Merchant Marine Veterans of World War II, located in San Pedro, California.

"(C) The steamship Jeremiah O'Brien (United States official numbered 243662), owned by the United States Maritime Administration.

"(2) The Secretary may issue a permit for a specific voyage or for not more than one year. The Secretary may impose specific requirements about the number of passengers to be carried, manning, the areas or specific routes over which the vessel may operate, or other similar matters.

"(3) A designated Coast Guard official who has reason to believe that a vessel operating under this subsection is in a condition or is operated in a manner that creates an immediate threat to life or the environment or is operated in a manner that is inconsistent with this section, may direct the master or individual in charge to take immediate and reasonable steps to safeguard life and the environment, including directing the vessel to a port or other refuge.".

SEC. 305. BIENNIAL DESIGNATION OF MEMBERS OF THE COAST GUARD ACADEMY CONGRESSIONAL BOARD OF VISITORS.

Section 194 of title 14, United States Code, is amended to read as follows:

"(a) In addition to the Advisory Committee, a Board of Visitors to the Academy is established to visit the Academy annually and to make recommendations on the operation of the Academy.

"(b) The Board shall be composed of—

"(1) two Senators designated by the Chairman of the Committee on Commerce, Science, and Transportation of the Senate;

"(2) three Members of the House of Representatives designated by the Chairman of the Committee on Merchant Marine and Fisheries of the House of Representatives;

"(3) one Senator designated by the President of the Senate;

"(4) two Members of the House of Representatives designated by the Speaker of the House of Representatives; and

"(5) the Chairman of the Committee on Commerce, Science, and Transportation of the Senate and the Chairman of the Committee on Merchant Marine and Fisheries of the House of Representatives, as ex officio members.

"(c) When a member is unable to attend the annual meeting another member may be designated as provided under subsection (b).

"(d) When an ex officio member is unable to attend the annual meeting that member may designate another member.

"(e) Members of the Board shall be designated in the First Session and serve for the duration of the Congress.

"(f) The Board shall visit the Academy annually on the date chosen by the Secretary. Each member of the Board shall be reimbursed, to the extent permitted by law, by the Coast Guard for actual expenses incurred while engaged in duties as a member of the Board.".

SEC. 306. SIMPLIFIED MEASUREMENT OF CERTAIN BARGES.

Section 14301(b) of title 46, United States Code, is amended by adding the following:

"(6) a barge (except a barge engaged on a foreign voyage) unless the owner request.".

SEC. 307. COAST GUARD BONDING REQUIREMENT.

(a) Chapter 17 of title 14, United States Code, is amended by adding the following new section:

"§ 667. Vessel construction bonding requirements

"The Secretary or the Commandant may require bid, payment, performance, payment and performance, or completion bonds from contractors for construction, alteration, repair, or maintenance of Coast Guard vessels if—

"(1) the bond is required by law; or

"(2) the Secretary determines after investigation that imposing these bonding requirements would not prevent a responsible bidder or offeror from competing for award of the contract.".

(b) The analysis for chapter 17 of title 14, United States Code, is amended by inserting after the item relating to section 666 the following:

"667. Vessel construction bonding requirements.".

SEC. 308. SELF-PROPELLED HOPPER DREDGE EXEMPTION FROM FEDERAL PILOT REQUIREMENT.

Section 8502 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(i) A seagoing, self-propelled hopper dredge is exempt from subsection (a) of this section.".

SEC. 309. HEMPSTEAD, NEW YORK TRANSFER.

Notwithstanding another law, the Secretary of Transportation shall transfer by quitclaim, without consideration, to the Town of Hempstead, Nassau County, New York, all rights, title, and interest of the United States in Coast Guard property and improvements located at Reynolds Channel, Atlantic Beach, New York. The Secretary shall require the property to be surveyed before it is transferred and the transferee shall pay for that survey and all conveyance costs.

SEC. 310. SOUTH HAVEN, MICHIGAN TRANSFER.

(a) Notwithstanding another law, the Secretary of Transportation shall transfer without consideration to the City of South Haven, Michigan all rights, title, and interest of the United States in Coast Guard property described in subsection (b). The transferee shall pay for all conveyance costs.

(b) The property is part of block 52 in the original Village (Now City) of South Haven, Van Buren County, Michigan, described as, beginning at a point found by commencing at the North quarter post of section 10. Town 1 South, range 17 West, Van Buren County, Michigan; thence with bearings referenced to the Corps of Engineers Harbor Line Survey of 1941. South 89 degrees 34'36" West along the North line of the section, 2386.95 feet; thence South 00 degrees 25'24" East at right angles to said section line. 450.64 feet to the place of beginning of this description, said place of beginning being 825.50 feet South 81 degrees 52'10" West of the East terminus of the Black River Channel entrance; thence South 10 degrees 38'30" East, 147.00 feet; thence South 81 degrees 52'10" West, 131.47 feet; thence North 07 degrees 43'50" West 146.85 feet; thence North 81 degrees 52'10" East, 124.00 feet to the place of beginning of this description, as per a survey made July 11, 1925, by T.A. Smith, Van Buren County Surveyor, subject to existing easements and restrictions of record.

SEC. 311. MUSKEGON, MICHIGAN TRANSFER.

(a) Notwithstanding another law, the Secretary of Transportation shall transfer without consideration to the Secretary of Commerce all rights, title, and interest of the United States in Coast Guard property and improvements described as follows: Part of Block 739 of Revised Plat of City of Muskegon of part of section 28, Town 10 North, Range 17 West, City of Muskegon, Muskegon County, Michigan described as beginning at a point distant South 48 degrees 15 minutes 56 seconds East 414.13 feet from Corps of Engineers Disc Guard 2 and distant North 35 degrees 59 minutes 49 seconds West 225.70 feet from Corps of Engineers Monument MUS 34 and distant South 85 degrees 51 minutes 27 seconds West 727.32 feet from the Northwest corner of Block 757 of the Revised Plat of City of Muskegon and proceeding thence North 28 degrees 38 minutes 52 seconds West 230.13 feet; thence South 61 degrees 14 minutes 26 seconds West 14.96 feet; thence North 28 degrees 24 minutes West 128.23 feet; thence South 61 degrees 14 minutes 26 seconds 00 seconds West 150 feet, more or less, to the shore of Lake Michigan; thence Southeasterly 358 feet, more or less, along the shore of Lake Michigan to the intersection with the line bearing South 61 degrees 14 minutes 26 seconds West from the point of beginning; thence North 61 degrees 14 minutes 26 seconds East 163 feet, more or less, to the point of beginning.

(b) The Secretary of Commerce shall make the property transferred under this section available to the National Oceanic and Atmospheric Administration.

SEC. 312. STRATEGIC PLAN FOR INFORMATION RESOURCES MANAGEMENT.

(a) None of the funds authorized to be appropriated for use by the Coast Guard in Fiscal Year 1992 may be expended to acquire additional information resources, including information equipment, until the Commandant of the Coast Guard develops and implements a strategic information resources plan to identify long-term information priorities and link the Coast Guard's missions, priorities, and organizational strategies to Coast Guard information resources.

(b) The Commandant shall submit to the Committee on Commerce, Science, and Transportation in the Senate and to the Committee on Merchant Marine and Fisheries in the House of Representatives quarterly reports during Fiscal Year 1991 concerning the progress toward completion of the strategic information resources plan, and specifically listing any expenditures or obligations made to acquire information resources.

(c) Section 663 of title 14, United States Code, is amended in the first sentence, by striking "and Shore Facilities Plan." and inserting "Shore Facilities Plan, and Information Resources Management Plan.".

SEC. 313. BOATING SAFETY PROGRAM.

Chapter 131 of title 46, United States Code, is amended—

(a) in section 13101(b)(2) by striking "and with the guidelines developed under that Act; and" and inserting "the Federal Aid in Sport Fish Restoration Act of 1950 (16 U.S.C. 777-777k), and with the guidelines developed under those Acts; and";

(b) in section 13102—

(1) in subsection (a)(3) by inserting "State" after the word "general";

(2) in subsection (c)(4) by inserting "or drugs" after the word "alcohol"; and

(3) in subsection (d) by striking "the proportionate share" and inserting "a proportionate share";

(c) in sections 13103(a)(3) and 13105(a) by striking "or obligated" each time it appears; and

(d) in section 13108(a)(1) to read as follows: "During the second quarter of a fiscal year and on the basis of computations made under section 13105 of this title and submitted by the States for the preceding fiscal year, the Secretary shall determine the percentage of the amounts available to which each eligible State is entitled for the next fiscal year.".

SEC. 314. DARE COUNTY, NORTH CAROLINA TRANSFER

Notwithstanding another law, the Secretary of Transportation shall transfer without consideration by quitclaim deed to Dare County, North Carolina all rights, title, and interest of the United States in Coast Guard property and improvements located on the northern end of Pea Island east side of State road 1257, 0.3 miles north of North Carolina Highway 12 in Rodanthe, Dare County, North Carolina. The Secretary shall require the property to be surveyed before it is transferred.

SEC. 315. BAYOU LAFOURCHE, LOUISIANA.

Bayou Lafourche, in the State of Louisiana, between the Percy Brown Road (Hwy 648), city of Thibodaux, parish of Lafourche, and the Southern Pacific Railroad bridge crossing the bayou, city of Thibodaux, parish of Lafourche, is declared to be a navigable waterway of the United States under chapter 11 of title 33, United States Code.

SEC. 316. COLD WATER SURVIVAL TRAINING CENTER.

In addition to any sums authorized to be appropriated for the Coast Guard for fiscal year 1992, $6,000,000 is authorized to be appropriated for fiscal year 1992 and transferred to the University of Alaska to establish a Cold Water Survival Training Center in Kenia, Alaska.

SEC. 317. FISHING VESSELS IN CALIFORNIA.

(a) DEFINITION.—For purposes of the application of sections 8103(a), 12102, 12110 and 12111 of title 46, United States Code, to a fishing vessel operating in waters subject to the jurisdiction of the United States off the coast of the State of California, the term "citizen of the United States" includes an alien lawfully admitted to the United States for permanent residence.

(b) TERMINATION.—This section shall terminate on October 1, 2000.

TITLE IV—FALSE DISTRESS REPORTS

SECTION 401. PENALTIES AND LIABILITY FOR MAKING A FALSE DISTRESS REPORT.

Section 88 of title 14, United States Code, is amended by adding at the end the following new subsection:

"(c) An individual who knowingly and willfully communicates a false distress message to the Coast Guard or causes the Coast Guard to attempt to save lives and property when no help is needed is—

"(1) guilty of a class D felony;

"(2) subject to a civil penalty of not more than $5,000; and

"(3) liable for all costs the Coast Guard incurs as a result of the individual's action.".

SEC. 402. AUTHORIZATION FOR ACQUIRING DIRECTION FINDING EQUIPMENT.

There is authorized to be appropriated to the Secretary of the department in which the Coast Guard is operating not more than $2,000,000 for fiscal year 1991 and not more than $2,000,000 for fiscal year 1992 for acquiring direction finding and transmitter identification equipment to improve land-based and mobile Coast Guard search and rescue capabilities.

TITLE V—ADDITIONAL COAST GUARD AUTHORIZATION FOR FISCAL YEAR 1991

That section 102 of Public Law 101-225, the Coast Guard Authorization Act of 1989, is amended—

(1) in subsection (1), by striking "$2,381,500,000" and inserting "$2,391,500,000"; and

(2) by adding a new subsection to read as follows:

"(6) ENVIRONMENTAL COMPLIANCE AND RESTORATION.—For environmental compliance and restoration at Coast Guard facilities, $30,000,000.".

TITLE VI—ALEUTIAN TRADE ACT OF 1990

Section 601. SHORT TITLE—This Act may be cited as the "Aleutian Trade Act of 1990".

Sec. 602. Alaska Cargo Provisions.—

(a) DEFINITION.—Section 2102 of title 46, United States Code, is amended by—

(1) designating the existing text as subsection (a); and

(2) adding the following new subsection at the end:

"(b) In chapters 33, 45, 51, 81, and 87 of this title, 'Aleutian trade' means the transportation of cargo (including fishery related products) for hire on board a fish tender vessel to or from a place in Alaska west of 153 degrees West Longitude and east of 172 degrees East longitude, if that place receives weekly common carrier service by water, to or from a place in the United States (except a place in Alaska).".

(b) INSPECTION PROVISIONS.—Section 3302(c) of the title 46, United States Code, is amended by adding at the end the following:

"(3) A fishing, fish processing, or fish tender vessel of not more than 500 gross tons is exempt from section 3301 (1), (6), and (7) of this title if—

"(A) when transporting cargo to or from a place in Alaska—

"(i) that place does not receive weekly common carrier service by water from a place in the United States; or

"(ii) the cargo is of a type not accepted by that common carrier service; or

"(B) in the case of a fish tender vessel, the vessel is not engaged in the Aleutian trade.

"(4) A fish tender vessel is exempt from section 3301 (1), (6), and (7) of this title when engaged in the Aleutian trade if the vessel—

"(A) is not more than 500 gross tons;

"(B) has an incline test performed by a marine surveyor; and

"(C) has written stability instructions posted on board the vessel.".

(c) SAFETY STANDARDS—

(1) Section 4502(b) and (c) of title 46, United States Code, is amended to read as follows:

"(b)(1) In addition to the requirements of the subsection (a) of this section, the Secretary shall prescribe regulations requiring the installation, maintenance, and use of the equipment in paragraph (2) of this subsection for documented vessels to which this chapter applies that—

"(A) operate beyond the Boundary Line;

"(B) operate with more than 16 individuals on board; or

"(C) in the case of a fish tender vessel, engage in the Aleutian trade.

"(2) The equipment to be required is as follows:

"(A) alerting and locating equipment, including emergency position indicating radio beacons;

"(B) lifeboats or liferafts sufficient to accommodate all individuals on board;

"(C) at least one readily accessible immersion suit for each individual on board that vessel when operating on the waters described in section 3102 of this title;

"(D) radio communications equipment sufficient to effectively communicate with land-based search and rescue facilities;

"(E) navigation equipment, including compasses, radar reflectors, nautical charts, and anchors;

"(F) first aid equipment, including medicine chests; and

"(G) other equipment required to minimize the risk of injury to the crew during vessel operations, if the Secretary determines that a risk of serious injury exists that can be eliminated or mitigated by that equipment.

"(c)(1) In addition to the requirements described in subsections (a) and (b) of this section, the Secretary may prescribe regulations establishing the standards in paragraph (2) of this subsection for vessels to which this chapter applies that—

"(A)(i) were built after December 31, 1988, or undergo a major conversion completed after that date; and

"(ii) operate with more than 16 individuals on board; or

"(B) in the case of a fish tender vessel, engage in the Aleutian trade.

"(2) The standards shall be minimum safety standards, including standards relating to—

"(A) navigation equipment, including radars and fathometers;

"(B) life saving equipment, immersion suits, signaling devices, bilge pumps, bilge alarms, life rails, and grab rails;

"(C) fire protection and firefighting equipment, including fire alarms and portable and semiportable fire extinguishing equipment;

"(D) use and installation of insulation material;

"(E) storage methods for flammable or combustible material; and

"(F) fuel, ventilation, and electrical systems.".

"(2) Section 4502(f) of title 46, United States Code, is amended to read as follows:

"(f) To ensure compliance with the requirements of this chapter, at least once every 2 years the Secretary shall examine—

"(1) a fish processing vessel; and

"(2) a fish tender vessel engage in the Aleutian trade.".

(d) LOAD LINES.—Section 5102(b)(5)(B) of title 46, United States Code, is amended to read as follows:

"(B)(i) is not on a foreign voyage; or

"(ii) engaged in the Aleutian trade (except a vessel in that trade assigned a load line at any time before June 1, 1992).".

(e) MANNING.—

(1) Section 8104 of title 46, United States Code, is amended by adding at the end the following:

"(n)(1) Except as provided in paragraph (2) of this subsection, on a fish tender vessel of not more than 500 gross tons engaged in the Aleutian trade, the licensed individuals and crewmembers shall be divided, when at sea, into a least 3 watches.

"(2) On a fish tender vessel of not more than 500 gross engaged in the Aleutian trade, the licensed individuals and crewmembers shall be divided, when at sea, into at least 2 watches, if the vessel—

"(A) before September 8, 1990, operated in that trade; or

"(B)(i) before September 8, 1990, was purchased to be used in that trade; and

"(ii) before June 1, 1992, entered into service in that trade.".

"(2) Section 8702 of title 46, United States Code, is amended as follows:

(A) in subsection (a)(3) by striking "vessel" and substituting "vessel (except a fish tender vessel engaged in the Aleutian trade)";

(B) in subsection (b)(2) by—

(i) striking "50 percent on a vessel permitted under section 8104 of this title to maintain a 2-watch system."; and

(ii) substituting the following:

"50 percent—

"(i) on vessel permitted under section 8104 of this title to maintain a 2-watch system; or

"(ii) on a fish tender vessel engaged in the Aleutian trade."

(3) For the purposes of chapter 73 of title 46, United States Code, the Secretary of Transportation shall accept the service used by an individual to qualify for an endorsement as able seaman—fishing industry as qualifying service toward an endorsement as the able seaman—

(A) under sections 7307 and 7309 of that title; or

(B) if the service is on board a vessel of at least 100 gross tons, under section 7308 of that title.

(f) EFFECTIVE DATES.—This section is effective on the date of enactment of this section except as follows:

(1) The requirements imposed by section 3302(c)(4)(B) and (C) of title 46, United States Code, (as enacted by subsection (b) of this section) is effective 6 months after the date of enactment of this Act.

(2) Before January 1, 1993, section 4502(c) (as amended by subsection (c) of this section) does not apply to a fish tender vessel engaged in the Aleutian trade, if the vessel—

(A)(i) before September 8, 1990, operated in that trade; or

(ii) before September 8, 1990, was purchased to be used in that trade and, before June 1, 1992, entered into service in that trade; and

(B) does not undergo a major conversion.

(3) Before January 1, 2003, a fish tender vessel is exempt from chapter 51 of title 46, United States Code, (as amended by subsection (d) of this section) when engaged in the Aleutian trade, if the vessel—

(A)(i) before September 8, 1990, operated in that trade; or

(ii) before September 8, 1990, was purchased to be used in this trade and, before June 1, 1992, entered into service in that trade;

(B) does not undergo a major conversion; and

(c) did not have a load line assigned at any time before the date of enactment of this Act.

(4) The requirements imposed by section 8702(b)(2) of title 46, United States Code, (as amended by subsection (e)(2)(B) of this section) are effective 1 year after the date of enactment of this Act.

SEC. 603. MISCELLANEOUS TECHNICAL AMENDMENTS.—Title 46, United States Code, is amended as follows:

(1) Section 2101(14)(C) is amended by striking "(49 U.S.C. 1803)" and substituting "(49 App. U.S.C. 1803)".

(2) Section 3302(j)(2)(B) is amended by striking "(46 App. U.S.C. 1295(c))" and substituting "(46 App. U.S.C. 1295c)".

(3)(A) Section 4104 is repealed.

(B) The chapter analysis for chapter 41 is amended by striking item 4104.

(4) The catch line of section 5114 is amended by striking "officers employees" and substituting "officers and employees".

(5)(A) Section 5115 is repealed.

(B) The chapter analysis for chapter 51 is amended by striking item 5115.

(6) Section 8103(i)(1)(C) is amended by striking "Naturalization" and substituting "Nationality".

(7)(A) Section 8105 is repealed.

(B) the analysis for chapter 81 is amended by striking item 8105.

(8) The chapter analysis for chapter 81 is amended by striking items 12113-12116, 12118, and 12121.

(9) Section 12109(b) is amended by striking "aboard such a pleasure vessel" and substitute "on board that recreational vessel".

(10) Section 12501(b)(2)(A) and 12503(a)(2)(A) are amended to read as follows:

"(A) the owner's social security number or, if that number is not available, other means of identification acceptable to the Secretary; or".

(11) Section 12505 is amended by—

(A) striking subsections (b), (c), (d), and (f); and

(B) redesignating subsection (e) as subsection (b).

(12)(A) Section 14102 is repealed.

(B) The chapter analysis for chapter 141 is amended by striking item 14102.

(3) Section 31308 is amended by striking "(46 App. U.S.C. 1241 et seq.)" and substituting "(App. U.S.C. 1271 et seq.)".

The SPEAKER pro tempore. Is a second demanded?

Mr. DAVIS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. DAVIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4009 is the fiscal year 1991 authorization bill for the Federal Maritime Commission. The authorized figure—$15,894,000—is exactly the amount requested by the President.

On April 3, 1990, the House passed this bill. It was passed by the Senate on August 3, with an amendment which authorized documentation for coastwise trading and fishing privileges for additional vessels.

The committee amendment today consists of provisions which have already been passed by this House. In addition to the FMC authorization, they include H.R. 4491, the Coast Guard Omnibus Act of 1990, H.R. 4632, regarding hoax calls to the Coast Guard, and H.R. 4609, providing a supplemental authorization for the Coast Guard.

We have added several vessels for documentation and a new title 6, the Aleutian Trade Act. This last provision deals with the relationship between fish tender vessels and regular cargo vessels operating in remote areas of Alaska.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I, too, want to indicate my strong support for H.R. 4009, the authorization for the Federal Maritime Commission. This bill passed the House earlier this year. The bill before us today is the version as passed by the Senate. The changes passed by the Senate are largely technical and noncontroversial and I support these changes.

I will note for the record that the bill conforms with the monetary figures requested by the President—an important point during this period of increasing budgetary restraint.

Mr. Speaker, this legislation also contains a provision which was first offered by the distinguished ranking member of the Merchant Marine Subcommittee, Mr. LENT. Quite frankly this is perhaps the most important element of H.R. 4009. Section 3 of H.R. 4009 contains a provision which will broaden the FMC's authority to look at international trade practices used by foreign ship operators that unfairly restrict American vessels. This provision is an important addition to the Foreign Shipping Practice Act of 1988 and I want to compliment the gentleman from New York for his valuable work on this bill.

This bill also contains several sections important to the general management of the Coast Guard navigation safety and a supplemental authorization for Coast Guard funding to bring it in line with the President's request.

There is a provision requiring the Secretary of Transportation to determine that a Coast Guard bonding requirement will not preclude responsible bidders from competing for a contract. It will still allow the Secretary to apply the traditional standards of responsibility contained in the Federal Acquisition Regulations. Recent requirements for 100 percent bonds for shipyards bidding on all Coast Guard contracts for construction and repairs of Coast Guard vessels have placed an unnecessary burden on responsible yards. These bonds are expensive and difficult for small yards to acquire, resulting in fewer yards bidding on contracts, less competition, and consequently higher costs to the Government. Excessive bonds are not needed to protect the Government's interest in most cases, and should not be used when the effect is to exclude small business participation.

Another provision requires the Coast Guard to develop a strategic plan for their management of information resources before further acquisitions of these resources are made in fiscal year 1992. The preparation of a strategic plan will maximize the benefits gained from the individual systems being acquired and emphasize the need for compatibility and information exchange between the systems. This will give the Coast Guard access to a wide range of information that in the past was difficult or impossible to retrieve. It will also make the Coast Guard better able to meet all of its missions and place it in the forefront of Federal agencies with the management of its information resources.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DAVIS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of H.R. 4009, a bill to authorize appropriations for fiscal year 1991 for the Federal Maritime Commission [FMC], and for other purposes.

This legislation, which was reported by the Merchant Marine and Fisheries Committee on April 2, 1990, passed by the House of Representatives on April 3, 1990, subsequently approved by the Senate on August 4, 1990, is now before the House again. H.R. 4009 would authorize appropriations for the FMC. The funding authorized in this legislation—$15,894,000—is identical to the budget request of the administration, and will provide the necessary funds for the FMC. At a hearing held by our committee last February, the acting chairman of the FMC testified that this bill would give the agency sufficient funding to carry out their responsibilities.

Section 3 of the bill contains language drawn from H.R. 3185, a bill I introduced last year to improve the FMC's ability to correct conditions unfavorable to shipping in the U.S.-foreign trade. This provision updates section 19 of the Merchant Marine Act 1920 to enable the Commission to respond to changing conditions.

Other sections of H.R. 4009 provide congressional authorization for coastwise trading privileges for vessels that for one reason or another, are ineligible for U.S. Coast Guard documentation.

Lastly, Mr. Speaker, H.R. 4009 contains the texts of three previously passed bills dealing with the U.S Coast Guard.

I want to thank Chairman JONES fo his handling of this legislation. A always, it has been a pleasure to wor with the chairman because of th open, bipartisan manner that he conducts the business of the Committe on Merchant Marine and Fisheries.

Mr. Speaker, I urge my colleagues t join the chairman and myself in supporting this bill so we can move along toward enactment.

Mr. YOUNG of Alaska. Mr. Speaker, I rise support of the House amendments to H.R. 4009 and urge their adoption.

I want to give special attention to the prov sions of the bill dealing with vessels in th Aleutian trade. These provisions incorpora the text of H.R. 5802, which I introduced October 6, 1990. They are designed to pr vide continued cargo service to remote communities in Alaska while ensuring better safe standards for vessels operating in the Aleutia trade, as defined in these provisions.

I want to make clear that the vessels w are talking about here are those vesse classed as tenders by the U.S. Coast Gua which carry cargo on a regular basis. They a not to be confused with fish tender vesse that provide the traditional tender service use by the fishing industry, that is, which carry fis from vessels to shore so that the fish can processed. Further, this legislation is not i tended to disrupt the normal beginning a end of season procedures whereby a 'fi processing facility will use its traditional tend vessels to pre-position, or carry home, equ ment used by the fish processing facility during the course of a fishing season.

In brief, this legislation provides that vessels already in the service, or purchased before September 8, 1990, and put in the service within the time specified in the legislation, will have to meet safety and manning standards that they do not now meet, but meet them over a specified period of time. Any vessels newly entering the service, or which undergo major conversion, will have to meet the new standards immediately.

Mr. Speaker, this legislation has been agreed to by all participants in the Aleutian trade and is acceptable to affected Members on both sides of the aisle. It represents a compromise necessary to provide greater safety to vessels in the trade while ensuring that remote communities in Alaska do not lose their cargo service. I urge its adoption.

Mr. DAVIS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. Jones] that the House suspend the rules and concur in the Senate amendment to H.R. 4009, with an amendment.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in with an amendment.

A motion to reconsider was laid on the table.

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REDUCING NAVIGATIONAL HAZARDS FROM COLLISIONS WITH PIPELINES IN MARINE ENVIRONMENT

Mr. TAUZIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4888) to improve navigational safety and to reduce the hazards to navigation resulting from vessel collisions with pipelines in the marine environment, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4888

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OFFSHORE PIPELINE INSPECTION AND BURIAL.

(a) Natural Gas Pipeline Safety Act of 1968.—Section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672) is amended by adding at the end the following new subsection:

"(h) Offshore Pipeline Inspection and Burial.—

"(1) Initial inspection.—

"(A) Requirement.—Not later than—

"(i) 18 months after the date of enactment of this subsection; or

"(ii) one year after the issuance of standards under subparagraph (D),

whichever occurs first, the operator of each offshore pipeline facility in the Gulf of Mexico and its inlets shall inspect such pipeline facility and report to the Secretary on any portion of the pipeline facility which is exposed or is a hazard to navigation. This subparagraph shall apply only to pipeline facilities between the mean high water mark and the point where the subsurface is under 15 feet of water, as measured from mean low water.

"(B) Extension.—The Secretary may extend the time period for compliance under subparagraph (A) with respect to a pipeline facility for an additional period of up to six months if the operator of the pipeline facility demonstrates to the satisfaction of the Secretary that a good faith effort, with due diligence and care, has failed to enable compliance with the deadline under subparagraph (A).

"(C) Prior inspection recognition.—Any inspection of a pipeline facility which has occurred after October 3, 1989, may be used for compliance with subparagraph (A), if the inspection conforms to the requirements of that subparagraph.

"(D) Establishment of standards.—The Secretary shall, within six months after the date of enactment of this subsection, establish standards—

"(i) for the purposes of this subsection, for what constitutes an exposed pipeline facility; and

"(ii) for the purposes of this subsection, for what constitutes a hazard to navigation.

"(2) Hazardous conditions.—

"(A) Reporting procedure.—The Secretary shall, by regulation, establish a program to require pipeline facility operators described in paragraph (1)(A) to report potential or existing navigational hazards involving pipeline facilities to the Secretary through appropriate Coast Guard offices.

"(B) Marking of hazardous pipeline facilities.—The operator of a pipeline facility described in paragraph (1)(A) who discovers any portion of the pipeline facility which is a hazard to navigation shall mark the location of the hazardous portion with a Coast Guard approved marine buoy or marker and shall immediately notify the Secretary as provided by the Secretary pursuant to subparagraph (A) of this paragraph. Any marine buoy or marker used pursuant to this subparagraph shall be considered a pipeline sign or right-of-way marker for purposes of section 11(c)(3).

"(3) Permanent inspection requirement.—Not later than 30 months after the date of enactment of this subsection, on the basis of experience with the initial inspection program under paragraph (1) and any other information available to the Secretary, the Secretary shall establish a mandatory, systematic, and where appropriate, periodic inspection program of offshore pipeline facilities in the Gulf of Mexico and its inlets.

"(4) Burial requirement.—The Secretary shall, by regulation, require that each offshore pipeline facility—

"(A) that is subject to inspection under paragraph (1) and is exposed or constitutes a hazard to navigation; or

"(B) that constitutes a hazard to navigation, is buried within six months after the date that the condition of the pipeline facility is reported to the Secretary. The Secretary may extend the time period for compliance under this paragraph with respect to a pipeline facility for such period as is reasonable to ensure compliance with this paragraph.".

(b) Hazardous Liquid Pipeline Safety Act of 1979.—Section 203 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002) is amended by adding at the end the following new subsection:

"(1) Offshore Pipeline Inspection and Burial.—

"(1) Initial inspection.—

"(A) Requirement.—Not later than—

"(i) 18 months after the date of enactment of this subsection; or

"(ii) one year after the issuance of standards under subparagraph (D), whichever occurs first, the operator of each offshore pipeline facility in the Gulf of Mexico and its inlets, other than gathering lines of 4 inch nominal diameter and smaller, shall inspect such pipeline facility and report to the Secretary on any portion of the pipeline facility which is exposed or is a hazard to navigation. This subparagraph shall apply only to pipeline facilities between the mean high water mark and the point where the subsurface is under 15 feet of water, as measured from mean low water.

(B) Extension.—The Secretary may extend the time period for compliance under subparagraph (A) with respect to a pipeline facility for an additional period of up to one year if the operator of the pipeline facility demonstrates to the satisfaction of the Secretary that a good faith effort, with due diligence and care, has failed to enable compliance with the deadline under subparagraph (A).

"(C) Prior inspection recognition.—Any inspection of a pipeline facility which has occurred after October 3, 1989, may be used for compliance with subparagraph (A), if the inspection conforms to the requirements of that subparagraph.

"(D) Establishment of standards.—The Secretary shall, within six months after the date of enactment of this subsection, establish standards—

"(i) for the purposes of this subsection, for what constitutes an exposed pipeline facility; and

"(ii) for the purposes of this subsection, for what constitutes a hazard to navigation.

"(2) Hazardous conditions.—

"(A) Reporting procedure.—The Secretary shall, by regulation, establish a program to require pipeline facility operators described in paragraph (1)(A) to report potential or existing navigational hazards involving pipeline facilities to the Secretary through appropriate Coast Guard offices.

"(B) Marking of hazardous pipeline facilities.—The operator of a pipeline facility described in paragraph (1)(A) who discovers any portion of the pipeline facility which is a hazard to navigation shall mark the location of the hazardous portion with a Coast Guard approved marine buoy or marker and shall immediately notify the Secretary as provided by the Secretary pursuant to subparagraph (A) of this paragraph. Any marine buoy or marker used pursuant to this subparagraph shall be considered a pipeline sign or right-or-way marker for purposes of section 208(c)(3).

"(3) Permanent inspection requirement.—Not later than 30 months after the date of enactment of this subsection, on the basis of experience with the initial inspection program under paragraph (1) and any other information available to the Secretary, the Secretary shall establish a mandatory, systematic, and where appropriate, periodic inspection program of offshore pipeline facilities in the Gulf of Mexico and its inlets.

"(4) Burial requirement.—The Secretary shall, by regulation, require that each offshore pipeline facility—

"(A) that is subject to inspection under paragraph (1) and is exposed or constitutes a hazard to navigation; or

"(B) that constitutes a hazard to navigation, is buried within six months after the

date that the condition of the pipeline facility is reported to the Secretary. The Secretary may extend the time period for compliance under this paragraph with respect to a pipeline facility for such period as is reasonable to ensure compliance with this paragraph.".

SEC. 2. NAVIGATIONAL HAZARDS.

The Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.) is amended by adding at the end the following new section:

"SEC. 14. NAVIGATIONAL HAZARDS.

"(a) Reporting Procedure.—The Secretary shall establish a program to encourage fishermen and other vessel operators to report potential or existing navigational hazards involving pipelines to the Secretary through Coast Guard field offices.

"(b) Secretary's Response.—(1) Upon notification by the operator of a pipeline of a hazard to navigation with respect to that pipeline, the Secretary shall immediately notify Coast Guard headquarters, the Office of Pipeline Safety, other affected Federal and State agencies, and vessel owners and operators in the pipeline's vicinity.

"(2) Upon notification by any other person of a hazard or potential hazard to navigation with respect to a pipeline, the Secretary shall promptly determine whether a hazard exists, and if so shall immediately notify Coast Guard headquarters, the Office of Pipeline Safety, other affected Federal and State agencies, vessel owners and operators in the pipeline's vicinity, and the owner and operator of the pipeline.

"(c) Establishment of Standards.—The Secretary shall, within six months after the date of enactment of this section, establish standards, for the purposes of this section, for what constitutes a hazard to navigation.

"(d) Definition.—For purposes of this section, the term 'pipelines' has the meaning given the term 'pipeline facilities' in the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979.".

SEC. 3. STUDY.

(a) Study Requirement.—The Secretary of Transportation shall—

(1) consult with appropriate Federal and State agencies, pipeline owners and operators, the fishing and maritime industries, and other affected groups, with respect to underwater pipeline burial;

(2) study feasible methods of determining how deeply underwater pipelines are buried;

(3) research existing marine safety and vessel operational practices relating to underwater pipeline rights-of-way, particularly in shallow offshore waters, and related marine safety and navigational technology; and

(4) consider the availability and quality of navigational charts showing the location of pipelines in the marine environment.

Not later than six months after the date of enactment of this Act, the Secretary of Transportation shall report to the Congress on the results of actions taken under this section.

(b) Definitions.—For purposes of this section—

(1) the term "marine environment" has the meaning given such term in section 3(1) of the Ports and Waterways Safety Act (33 U.S.C. 1222(1)); and

(2) the term "pipelines" has the meaning given the term "pipeline facilities" in the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979.

The SPEAKER pro tempore (Mr. Mazzoli). Is a second demanded?

Mr. DAVIS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Louisiana [Mr. Tauzin] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. Davis] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. Tauzin].

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that I may yield 6 minutes, 40 seconds of my time to the gentleman from Indiana [Mr. Sharp] and 6 minutes, 40 seconds to the gentleman from California [Mr. Mineta], and, further, that they be allowed to yield portions of their time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. Sharp] will be recognized for 6 minutes, 40 seconds and have permission to yield time from that bloc, and the gentleman from California [Mr. Mineta] will be recognized for 6 minutes, 40 seconds, and have permission to yield time from that bloc.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we consider H.R. 4888, a bill to promote the inspection and burial of offshore natural gas and hazardous liquid pipelines in the shallow waters of the Gulf of Mexico.

Mr. Speaker, 13 lives have been lost in the past 3 years due to fishing vessels coming into contact with unburied natural gas pipelines. October 3 marked the 1-year anniversary of the tragic accident involving the fishing vessel *Northumberland* off the coast of Texas where 11 lives were lost.

Presently, none of the three Federal agencies with jurisdiction over offshore pipelines requires that they be sufficiently inspected anytime beyond the initial laying of the line. Thus, pipelines 15, 20, and 25 years old in areas of rapid land erosion are not inspected, lose their covering, and present a very serious hazard to commercial and recreational vessels.

This bill, which I introduced in May, was the subject of hearings by the Committees on Merchant Marine and Fisheries, Public Works and Transportation, and Energy and Commerce. At the same time, meetings between the pipeline and fishing industries on this legislation provided great opportunity to iron out potential conflicts.

Furthermore, Mr. Speaker, the National Transportation Safety Board recently released its finding from its 10-month investigation. The NTSB cited the failures of both the pipeline owner and the Federal Government for not requiring inspections and burial. H.R. 4888 will do precisely what the NTSB has suggested.

H.R. 4888 is an emergency bill which requires operators to conduct initial inspections within 18 months from the time the bill is enacted or 1 year after the Secretary of Transportation establishes certain standards, whichever comes first. Pipeline operators will report to the Secretary of Transportation portions of pipelines that are exposed or a hazard to navigation and bury the line within 6 months. H.R. 4888 calls for a study of pipeline burial and related safety and technology. The bill requires the Secretary of Transportation to establish a permanent inspection program for the offshore pipeline industry.

H.R. 4888 will establish a one-call system where vessel operators and pipeline operators can report potential and existing navigational hazards to the Coast Guard and help prevent potentially deadly situations. Pipeline operators will mark hazardous sections of the pipeline with buoys or markers until buried as required.

With the passage of H.R. 4888, and the passage soon of S. 3168, the companion bill introduced by my colleague Senator John Breaux, Congress will improve navigation, protect lives, and greatly enhance safety for the hundreds of thousands of fishermen, recreational boaters, and offshore workers of the Gulf of Mexico.

Mr. Speaker, we cannot bring back the lives of those that have unfortunately perished but we can put in place requirements that should have been law all along.

In addition, Mr. Speaker, I would like to add that although we have agreed not to include in the text of H.R. 4888 our concerns for pipeline facilities in inland waterways (rivers, bayous, canals), it is our intention to take up these concerns in the context of the Natural Gas Pipeline Safety Act and the Hazardous Liquid Pipeline Safety Act Reauthorizations next year.

Mr. Speaker, I wish to thank Chairman Jones of the Merchant Marine and Fisheries Committee and all the Members who will speak today on behalf of the bill for their expedited action.

I urge your favorable consideration of this emergency bill.

Mr. DAVIS. Mr. Speaker, I ask unanimous consent that I be allowed to yield 6½ minutes of my time to the gentleman from Arkansas [Mr. Hammerschmidt] and 6½ minutes to the gentleman from California [Mr. Moorhead], and, further, that those gentlemen be permitted to yield their time as they see fit.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. Accordingly, the gentleman from Arkansas [Mr. Hammerschmidt] will be recognized for 6½ minutes, the gentleman from California [Mr. Moorhead] will be recognized for 6½ minutes. Each of those gentlemen will have the opportunity to yield time from within that bloc.

The gentleman from Michigan [Mr. Davis] retains 7 minutes.

Mr. DAVIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise with Chairman Tauzin in support of H.R. 4888, and congratulate him on his determined effort to reduce the hazards to navigation resulting from vessel collisions with pipelines in the marine environment.

Out of sight, out of mind. That has been the situation with these offshore pipelines since they were first implanted. Now the dangers involved with having a completely uninspected, and largely unidentified, network of pipelines have become dreadfully apparent. The effects of the severe erosion occurring along the gulf coast have left untold miles of pipelines perilously uncovered, unmarked, and forgotten until a tragedy like the explosion of the fishing vessel the *Northumberland* occurs. And as erosion causes more of these pipelines to rear their ugly heads from the ocean floor we can only expect more accidents to occur if the situation goes unchecked.

H.R. 4888 will provide the framework for identification, inspection, and reburial requirements for the pipeline industry and safeguards for the fishing industry. The compromise legislation we are considering today will significantly reduce the hazard of collision with exposed offshore pipelines and I urge its adoption.

Mr. SHARP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to indicate that the Committee on Energy and Commerce was pleased to move forward with this legislation. The gentleman from Louisiana [Mr. Tauzin] brought it to our attention because of the serious accident in the Gulf of Mexico which we know was a preventable accident.

What we want to have happen is immediate inspection of these pipelines with our coming back next year under our normal authorization for the Pipeline Safety Act to see if we can improve substantially protection on and around the coastal areas as well as the onshore pipelines which we have been working on for quite some time.

H.R. 4888, is an important pipeline safety bill which requires the inspection of underwater pipelines in the Gulf of Mexico to assure they are not a hazard to navigation. The bill was introduced by Mr. Tauzin as a result of an accident in the Gulf of Mexico.

On October 14, 1989, in the Gulf of Mexico near the Texas-Louisiana border, the fishing vessel *Northumberland* struck a natural gas line. An explosion resulted which killed 11 crew members. A 100-foot high flame of natural gas burned for 18 hours.

Until the pipeline industry completes an inspection of its underwater pipelines in the Gulf of Mexico and buries those pipelines that are a hazard to navigation, this type of accident could occur again. This legislation mandates an immediate inspection of all underwater pipelines in the Gulf of Mexico in water up to a depth of 15 feet. It also requires DOT to issue rules requiring the establishment of a permanent inspection program for all pipelines in the Gulf of Mexico.

The committee expects to expand this permanent inspection requirement to cover all offshore pipelines as well as some other underwater pipelines when it considers its reauthorization of the Pipeline Safety Act during the 102d Congress.

Specifically, H.R. 4888 amends the Natural Gas Pipeline Safety Act and Hazardous Liquid Pipeline Safety Act to:

Require an inspection of each pipeline under the Gulf of Mexico to assure that it is not exposed or a hazard to navigation. This must be done within 18 months of enactment unless the Secretary of Transportation extends this deadline for an additional 6 months for natural gas pipelines and for an additional 12 months for hazardous liquid pipelines.

Establish standards for this inspection;

Require the burial of pipelines that are exposed or are a hazard to navigation;

Require the reporting and marking of any pipelines that are exposed or are a hazard to navigation; and

Require the Department of Transportation to issue rules establishing a permanent inspection program for all underwater pipelines in the Gulf of Mexico.

I appreciate the cooperation of my colleagues on the Energy and Commerce Committee and the other committees with which we have worked to bring this measure to the floor.

This is an important piece of legislation that is necessary to protect lives. I strongly urge my colleagues to support it.

Mr. Speaker, I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4888, a bill to reduce navigational hazards resulting from collisions with natural gas and hazardous liquids pipelines in the marine environment. However, in the interests of saving time I will be brief.

I want to commend the authors of this legislation for bringing the house a bipartisan compromise which will expedite consideration and enactment of H.R. 4888. This bill addresses the problem of the safety of offshore pipelines in shallow waters. This is a particularly important matter for the Gulf of Mexico where there is a high concentration of pipelines and vessels, but it is also relevant to my home State of California.

We are in debt to Mr. Callahan, Mr. Sharp, Mr. Tauzin, Mr. Davis and Mr. Jones, among others, for their work on this bill.

The initial inspection of pipelines in the Gulf of Mexico submerged under 15 feet of water or less will provide the Congress and the Department of Transportation with reliable information on the true extent of the safety problem in the Gulf of Mexico.

The directive to the Department of Transportation to fashion a permanent periodic inspection program within 30 months will help prevent accidents like the one in the Gulf of Mexico last year in which 11 crew members were killed. At the same time, the bill properly calls upon the Department of Transportation to examine marine vessel operational practices which could be improved. Both groups—pipelines and vessels—have a role to play in making the waters safer for both industries.

I urge support for the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MINETA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4888.

H.R. 4888 addresses a distressing safety problem that is occurring in the Gulf of Mexico. At least two fishing boats have collided with underwater pipelines with disastrous results. Thirteen people have died in those collisions. This bill is designed to abate and hopefully to eliminate any similar accidents in the future.

The National Transportation Safety Board [NTSB] investigated the second accident which occurred on October 3, 1989, when the fishing vessel *Northumberland* struck and ruptured a 16-inch natural gas transmission pipeline one-half mile offshore in the Gulf of Mexico.

Among its recommendations, the NTSB advised the Department of Transportation of the need for burial of offshore pipelines, the need for inspection of burial depths, and maintenance of all submerged pipelines in areas subject to damage by surface vessels. The Board also called for the development of practices that can be adopted by vessel operators to lessen the likelihood of vessels striking submerged pipelines. Finally, the Board recommended that pipeline operators should be required to establish and implement a program for regular and adequate inspections of their submerged pipelines.

H.R. 4888 meets the Safety Board's recommendations by establishing an inspection regimen and an identification system for natural gas and hazardous liquid pipelines located in the Gulf of Mexico. Specifically, it requires each offshore pipeline operator to inspect its pipelines in the gulf and to report to the Secretary any portion of the pipeline facility which is exposed or is a hazard to navigation. The operator must mark the location of any such exposure or hazard with a Coast Guard approved buoy or marker. The Department of Transportation is required by the bill to submit a report on various aspects of pipeline activity and fishing operations in the gulf.

I fully intend to look at this matter more closely next year when the Committee on Public Works and Transportation reauthorizes the pipeline safety program at the Department of Transportation in order to determine what should be done regarding underwater pipelines in other areas of the country.

I sincerely hope my colleagues will support H.R. 4888.

In closing, I would like to thank Congressman John Paul Hammerschmidt, Congressman Bud Shuster, and Public Works and Transportation Committee Chair Glenn Anderson. I also want to compliment the Committee on Energy and Commerce, especially Chairman Dingell and Subcommittee Chair Phil Sharp and the Committee on Merchant Marine and Fisheries, especially Chairman Walter Jones and Subcommittee Chair Billy Tauzin who authored the original bill. Their hard work made this bill possible.

□ 1430

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4888, a bill which will address a very serious pipeline safety problem along our Nation's gulf coast. I would like to commend all three committees who took swift and responsible action to bring this measure to the floor today. At stake are the lives of fishing vessel crews who face danger every day at the possibility of their boats striking natural gas and oil pipelines which are exposed in shallow ocean waters. Unfortunately, 13 people have already died as a result of these tragic collisions. It is my hope that this legislation will help to avoid needless additional loss of life.

This legislation imposes inspection requirements on operators with facilities in the gulf, requires them to mark hazardous portions with marine buoys and to rebury exposed segments. DOT is directed to set up a mandatory regular inspection program for underwater pipelines within 2 years, as well as a program to encourage fishermen and other vessel operators to report potential navigational hazards to the Coast Guard.

Mr. Speaker, it is indeed unfortunate that sometimes it takes serious accidents such as the one in the Gulf of Mexico to spur safety procedures which logically should have occurred in the first place. I am encouraged that most pipeline operators have shown laudable responsibility by beginning to do underwater inspections on their own, regardless of this legislation. However, we would be remiss not to take this action today to see these requirements made part of the law. I encourage my colleagues to support this important bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MINETA. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. Anderson], chairman of the Committee on Public Works and Transportation.

Mr. ANDERSON. Mr. Speaker, I thank the gentleman for yielding time, and I rise in support of H.R. 4888.

H.R. 4888 was crafted to address a problem that has been occurring in the Gulf of Mexico. We have been advised that fishing boats in the Gulf have bene colliding with underwater pipelines. These collisions have resulted in the deaths of at least 13 people.

This bill should go far to eliminate the future possibility of such accidents. The safety of the fishing population in the gulf will be enhanced as a result of the vigorous inspection and reporting-requirements in the identificaiton program the bill establishes to detect exposed portions of underwater pipelines that could cause a hazard to navigation.

It is the intent of the Committee on Public Works and Transportation to look at this matter closely, as it relates to other offshore areas, when we take up reauthorization of the pipeline safety program next year.

I would like to thank Norm MIneta and Bud Shuster, chairman and ranking member of the Subcommittee on Surface Transportation, and John Paul Hammerschmidt, ranking member of the full committee, for their diligent work in bringing this important legislation to the floor. I also want to compliment the Committee on energy and Commerce, especially Chairman Dingell and Subcommittee Chairman Phil Sharp, and the Committee on Merchant Marine and Fisheries, especially Chairman Walter Jones and Subcommittee Chairman Billy Tauzin, who authored the bill.

Through their hard work we were able to bring this bill to the floor today, and I urge its adoption.

Mr. DAVIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Alabama [Mr. Callahan].

Mr. CALLAHAN. Mr. Speaker, I am pleased to be the Energy and Commerce Republican sponsor of the amendment in the nature of a substitute for H.R. 4888 as introduced. This amendment reflects the compromise worked out between the three committees to which H.R. 4888 was referred—Energy and Commerce, Merchant Marine and Fisheries, and Public Works and Transportation. The compromise reflects the input of both the pipeline and marine vessel industries.

The most important provision of this amendment will require natural gas and hazardous liquid pipelines which are submerged in shallow waters in the Gulf of Mexico to be inspected within 18 months and corrective action taken as determined by new Federal rules.

Just last month, the National Transportation Safety Board issued its report on the tragic accident in October 1989 in which 11 crew members of a fishing vessel in the gulf were killed when their boat struck a natural gas pipeline which was exposed on the bottom of the gulf. The NTSB determined that the probable cause of this accident was the failure of the pipeline's owner to maintain the pipeline at the burial depth to which it was placed when constructed in 1973.

Mr. Speaker, the Gulf of Mexico is a critical part of the economy of the State I represent. By necessity we have multiple uses of the gulf going on at the same time. It is our duty to see to it that these multiple uses coexist in as safe a manner as possible. That is why this legislation is so important While current pipeline safety regulations require an initial minimum cover over underwater pipelines, there is no requirement that the minimum cover be maintained after construction.

While an interagency task force is looking at this issue in the wake of the October 1989 accident, the NTSB pointed out that part of the probable cause for the accident was the failure of the Department of Transportation to require inspections.

Thus, the bill requires an initial inspection, so that we might have a better sense of the extent of any problems with pipelines no longer buried a their original depths. This information will help DOT establish rules for permanent periodic inspections.

Again, I thank my colleagues fo working with those of us from the gul coast, including the bill's sponsor, Mr Tauzin, in fashioning a compromise that I hope will be enacted this year

Mr. MINETA. Mr. Speaker, I hav no further requests for time, and yield back the balance of my time.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume t simply conclude by particularly thanking my colleague and friend, the gentleman from Michigan [Mr. Davis] ranking minority of our subcommittee, and thank him for the extraordinary help and cooperation he and the staff have provided to members and my staff to help get this bill brought forward. I want to pledge my assistance to the gentleman from California [Mr. MINETA] and the gentleman from Indiana [Mr. SHARP].

As a member of the gentleman from Indiana Mr. SHARP's subcommittee, we will be busy next year on the full authorization of the Pipeline Reauthorization Safety Act, and work together to learn from what evidence this particular act will expose, in regard to how pipelines should be maintained and inspected, and hopefully build a safety program all Americans can be proud of, and that provides some real measure of security and safety in regard to the hazardous lines. I ask for passage of this bill.

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Louisiana [Mr. TAUZIN] that the House suspend the rules and pass the bill, H.R. 4888 as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4888, the bill just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

EDUCATION OF THE HANDICAPPED ACT AMENDMENTS OF 1990

Mr. OWENS of New York. Mr. Speaker, I move to suspend the rules and agree to the conference report on the Senate bill (S. 1824) to reauthorize the Education of the Handicapped Act, and for other purposes.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore. Pursuant to the rule, a second is not required on this motion.

(For conference report and statement see proceedings of the House of October 1, 1990, at page 26864.)

The **SPEAKER** pro tempore. The gentleman from New York [Mr. OWENS] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to urge approval of the conference report to S. 1824, that reauthorizes the discretionary programs under the Education of the Handicapped Act [EHA]. This bill represents a bipartisan effort to address specific needs that have come to our attention during this legislative process. Changes were made and new initiatives were added to bring the act into the 1990's and to respond to some of the emerging problems that we face as we move into the 21st century.

I am pleased that the House and Senate have reached agreement on the four major issues that form the cornerstone of this bill: Minority participation, personnel preparation, transition services, and authorization levels.

We have worked long and hard to develop this piece of legislation. It is the result of lengthy negotiations, compromises, and hard work by both sides of the House and Senate. I would like to thank Congressman BARTLETT, the ranking minority member of the subcommittee, for his assistance during this process. Also, special thanks for the support of Congressmen HAWKINS, MARTINEZ, JONTZ, and PAYNE, and their staffs. In particular, I want to thank my staff—Maria Cuprill, Pat Laird, Laurence Peters, Wanser Green, and Theda Zawaiza—for their excellent work. Additionally, I wish to acknowledge the contributions made by many of the organizations working with the disability community. We can be proud of this bill for it represents our continued commitment to providing an equal education for every child and youth with disabilities.

MINORITY PARTICIPATION

The overrepresentation of minorities continues to be one of the problematic issues in special education. This ethnic disproportion has been reported across the country. As the number of African-American and Hispanic students in special education increases, the number of minority teachers and related service personnel produced in our colleges and universities continues to decrease.

In response to the critical shortage of minority teachers and to the lack of participation of minority individuals and entities in the discretionary grant programs, this bill takes several actions. Historically black colleges and universities produce more than 50 percent of all minority teachers. In reestablishing the priority for the training of minority personnel, the bill provides a line item for personnel training to HBCU's and other institutions having at least 25 percent minority student enrollment. A second provision requires grant applicants to include in their applications a detailed description of strategies that will be utilized to recruit and train members of minority groups. Further, priority shall be given to minority students for receipt of fellowships or traineeships. Finally, the current authority establishing the parent training centers was amended to require the boards of these centers and their programs to include minority parents and professionals.

PERSONNEL PREPARATION

Another issue addressed by this bill is the growing critical shortages of qualified special education and related services personnel. During the 1987-88 school year 29,774 additional teachers were needed to fill vacancies and replace uncertified staff. For the same time period, States reported needing 15,571 additional staff other than teachers.

This bill does several things to remedy this dire situation:

It allows regular education or special education personnel to benefit from or participate in training activities conducted under personnel preparation grants on a preservice or inservice basis.

It gives authority for model demonstration projects that provide inservice and preservice training of regular education and special education and related services personnel with infants, toddlers, children, and youth. These projects would include a component that addresses the coordination among all service providers.

It gives authority to conduct some projects on an interdisciplinary basis which are designed to coordinate special education and related services.

It requires the State to describe how they will ensure that there will be an adequate supply of qualified special education personnel to meet the educational needs of children with disabilities.

TRANSITION SERVICES

Each year nearly one-quarter of a million special education students 16 years or older exit the educational system. Less then one-half graduate with a high school diploma and nearly 60,000 drop out of school. These individuals will move from school into adult life with varying degrees of success. Some will go to college, some will enter vocational training programs, while others will enter the work force and some will qualify for vocational rehabilitation services. Unfortunately, others will exit our Nation's schools into nothing. Years of special education will be wasted while these individuals languish at home, their ability to become independent and self-sufficient placed at significant risk. Most importantly, human potential and

hope are needlessly destroyed. This outcome is highly undesirable.

To reverse this trend new provisions were included in the bill. First, a definition of transition services was added to the act. This definition is aimed at preparing students for post-school activities such as employment, post-secondary education, vocational training, continuing and adult education, adult services, independent living, or community participation. Schools would be expected to develop these activities within an outcome-oriented process and be based on the student's needs, preferences, and interests. Second, the bill requires that a statement of needed transition services be part of the IEP beginning at age 16 and, when appropriate, at age 14. Finally, this bill creates a new competitive State grant program designed to help State educational and vocational rehabilitation agencies create a consistent, coordinated, and comprehensive system that involves the private industry councils and local employment offices in the provision of transition services.

AUTHORIZATION LEVELS

These provisions and new initiatives would be meaningless without corresponding increases in authorization levels. The discretionary programs have not kept pace with inflation since 1979. Therefore, the authorization levels for these programs were increased to help them catch up. The total for fiscal year 1991 is over $321 million.

Additionally, the bill addresses the following:

In examining the representation of children with disabilities within special education and the quality of services provided to them, we learned of the inadequate or inappropriate provisions of services to certain disabling conditions; or in some cases, no services. Children with autism, traumatic brain injury [TBI], attention deficit disorder [ADD] and serious emotional disturbance are having difficulty in receiving a free appropriate public education even though they require special education and related services by reason of their disabling condition. Therefore, children with autism and traumatic brain injury were included under the definition of "children with disabilities" under the act. It was decided to postpone the inclusion of attention deficit disorder [ADD] until Congress is provided with a range of comments on this disabling condition through the process of a notice of inquiry. We did, however, add a provision requiring the establishment of a center or centers for the purpose of organizing, synthesizing, and disseminating current knowledge relating to children with this disorder. It is expected that these two efforts will produce an approach that addresses the needs of these children.

In response to the concerns and problems expressed by parents, educators, mental health professionals, and child advocates about the provision of services and the placement of children and youth with serious emotional disturbance, this bill creates a new discretionary program devoted to this population. It allows for a wide range of activities including the facilitation of interagency and private sector resource pooling and the dissemination of findings from these projects.

Another group of children requiring our attention are those children who were harmed developmentally by prenatal exposure to addictive substances. Significant numbers of these children are beginning to enter our school system. To assure that they receive the special educational assistance they require when they enter the school system, authority was added to fund projects that address the unique needs of these young children. As stated in House Committee Report 101-544, the Secretary is required to develop estimates of this population and report to the committees of jurisdiction its plans to address this concern.

Congress is aware that since passage of EHA, advances in the development and use of assistance technology have provided new opportunities for children with many disabilities to participate in educational programs. However, there is a problem in the consistent provision of this technology. There continues to be a gap between the need for assistance technology and the level of awareness among social education and related services personnel of the existing devices and services available, and confusion among the various disciplines regarding the vocabulary of terms used in reference to technology-related programs and services. In an effort to shorten these gaps we included throughout the bill: First, a definition of assistance technology services and device; second, authority for projects which develop and disseminate exemplary programs and practices utilizing assistive technology services and devices in the transition of students from school to other post-school activities; third, authority to train personnel in this area; and fourth, authority for projects which increase access to, and use of, assistive technology devices and services. With these inclusions, we intend that these services and devices be made available for students who require special education or related services, or be provided as supplementary aids and services for students with disabilities who are educated in regular classes.

In the spirit of the Americans With Disabilities Act, this bill takes note of the objection of the disability community to the term "handicap" and its historical meaning. Therefore, the title of the act will be changed to "Individuals With Disabilities Education Act" [IDEA] and references to "handicaps" and "handicapped children' have been changed throughout thi legislation.

We have worked long and hard t develop this piece of legislation. It i the result of lengthy negotiations compromises, and hard work by both sides of the House and Senate. I woul like to thank Congressman BARTLETT the ranking minority member of th subcommittee, for his assistanc during this process. Also, specia thanks for the support of Congressman HAWKINS, MARTINEZ, JONTZ, and PAYNE. In particular, I want to thank my staff—Maria Cuprill, Pat Laird Laurence Peters, Wanser Green, and Theda Zawaiza—for their excellen work. Additionally, I wish to acknowledge my appreciation for the contributions made by many of the organizations which assisted us in the development of this bill. We can be proud o this bill for it represents our continued commitment to providing an equa education for every child and youth with disabilities.

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Mr. GOODLING. Mr. Speaker, yield such time as he may consume t the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I ris to support the conference report on S 1824, which reauthorizes the discretionary programs under the Educatio of the Handicapped Act. This conference agreement represents change that will strengthen and improv these programs so that they will continue to be a catalyst for providin access to and increasing the quality c education offered to children with di abilities.

We have come a long way since w first began discussing this legislatio and what improvements needed to b made. Our accomplishments have bee met through true bipartisan negoti tion and hard work, and I think w can be proud of this legislation.

Today, we are embarking on a 4-yea reauthorization of these discretionar programs with the hope that th changes we make will lead to childre with disabilities graduating with th skills necessary to live independer and productive lives once they leav the classroom.

One of the most important prov sions of this conference agreement its treatment of transition services f children with disabilities who trans tion from school to adult life.

While we have made enormou progress in educating and mainstrean ing children with disabilities durin their school years, we have not been s successful at providing the skills ne essary for them to succeed after gra uation.

In an effort to reverse that trend, we have made three major changes to the act which improve a student's transition from school to adult life. Those changes include requiring that transition services be part of the child's IEP beginning at age 16 and, when appropriate, at age 14 or younger; defining the term "transition services" so that schools, parents, providers, and other agencies understand exactly what we mean;' and creating a new competitive State grant program to assist States in developing and improving transition services for youth with disabilities from age 14 through the age when they exit school. This new initiative offers an opportunity for State education agencies and State vocational rehabilitiation agencies to plan together to better serve our youth with disabilities.

We are also facing a crisis in personnel preparation for special education teachers. This conference agreement makes several improvements to meet that crisis by requiring inservice and preservice training to special education personnel, related services personnel, and early intervention personnel and requiring training for regular educators in an effort to train them to work with students with disabilities in the regular classroom. Trained personnel are a critical factor if we expect the mandates in EHA to be met.

Finally, the conferees decided to ask the public, through a Notice of Inquiry, for guidance on the question of attention deficit disorder. One of the most difficult and controversial issues for the conferees was the question of whether or not attention deficit disorder should be included in the definition of disability under the Education of the Handicapped Act, and if so, how should it be defined.

The conferees agreed to direct the Department of Education to issue a public "Notice of Inquiry" through the Federal Register to solicit public comments on this issue. The conferees also agreed to establish a research center to organize, synthesize, and interpret current knowledge relating to this disorder. This information will be available for use by the Congress when we consider the EHA Early Intervention Program next year. Based on these comments, we can then determine how to proceed on the ADD question.

We have spent a long time developing this bipartisan proposal and I believe this conference report demonstrates our commitment to build upon a strong foundation and add programmatic initiatives in the area of demonstrated needs. I again commend the chairman on his hard work in developing programs that will work in the 1990's.

Mr. OWENS of New York. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. Martinez].

Mr. MARTINEZ. Mr. Speaker, I urge my colleagues to join me in supporting the conference report for the Education of the Handicapped Amendments of 1990.

This legislation takes the first step in dealing with some serious problems and helps open opportunities for individuals with disabilities. I draw the attention of my colleagues to several issues in this legislation—issues that will remain salient as other provisions of this program are reauthorized next Congress.

Perhaps a very useful awareness has grown out of the negotiations over whether or not the attention deficit disorder [ADD] provision should be included in this measure. Debate focused on whether or not these students were being adequately served under current law, cost and redtape implications for schools, and on the risk that significant numbers of normal students would end up on misdiagnosed and misplaced in special education. As the Department of Education conducts the "Notice of Inquiry" mandated in this legislation, it should make it perfectly clear to all that information on the extent to which ADD students are currently receiving services and on whether or not any legislative action is needed are sought as part of this "Notice of Inquiry."

The ADD issue is important precisely because it raises concerns that are at the heart of a much larger issue that is central to the operation of this entire program. The heavy overrepresentation of minority children already in special education, and the wide differences among our Nation's various localities and States in the number of children in special ed—as well as in the number of children under various categories—suggest that something is not working well. Even in areas in which there would seem to be relatively clear guides to assessment, there may be problems.

We trust teachers, doctors, and psychologists adhering to the processes prescribed in law to get help to the kids who need it. This usually works. But sometimes it doesn't. The number of students classified with various disability categories bounces around wildly from one State and one locality to another, with little epistemological or epidemiological rhyme or reason. Everyone involved may be well-intentioned, but good intentions are not always enough.

For example, dyslexia is one of the conditions covered by the Education of the Handicapped Act. Recent research has turned up troubling results that contradict decades of conventional wisdom. For years we have heard that boys are far more likely than girls to suffer dyslexia. Large bodies of research have been commissioned to explain why boys are more likely than girls to have such reading problems. Now several major studies, including one reported in a recent issue of the Journal of the American Medical Association—August 22/29, 1990—find that girls are just as likely as boys to have the reading impairment dyslexia. But teachers are far more likely to diagnose the condition in boys. Since dyslexia is thought to afflict 10 to 15 percent of the population, this is no small matter.

For the past century, educators and psychologists have assumed that dyslexia strikes mostly boys. Entire research programs have been set up to find the biological basis for the presumed gender differences in developing dyslexia. For example, researchers have proposed that something that occurs in fetal life can turn a male brain into that of a dyslexic, Most research on dyslexia has worked with children identified by the school systems as having dyslexia. Most school systems rely on the recommendations of teachers before testing students for the impairment, rather than testing all students for it. Male participants typically account for 80 percent of those treated at dyslexia clinics, despite the fact that several studies suggest that boys and girls are equally likely to suffer from dyslexia. This suggests that even in an area as fundamental as learning to read there may be legitimate concerns that too many boys who don't need it are being labled as dyslexic, and too many girls who need help are not getting it. Similar concerns extend to other disabilities.

Improving referral, diagnosis, and treatment is important. The number of limited-English proficient students is growing far faster than the total student body. For example, in California, which accounts for one out of every nine students in the Nation, one out of every six students was born outside the United States and one out of every four speaks a language other than English at home. Few of the instruments used to assess disabilities have been developed or normed to work with students from these diverse backgrounds. Many of the persons assessing disabilities are not trained to understand the normal processes of acquiring a new language in the school context. Information from many parts of our Nation suggests that too often students with no disability who are limited-English proficient are being placed in special education courses where they do not get the services they need. And many limited-English proficient students who have disabilities are not receiving the services that they need.

These and other issues in referral, diagnosis, and placement are critical to the functioning and the future of this program. I hope that the coming Congress will closely examine these issues as it moves to reauthorize other provisions of the Education of the Handicapped Act.

This legislation takes important steps to improve the quality of training and assessments by strengthening research and upgrading the quality of assessments, training, and dissemination for all students.

On paper the protections in current law look strong, but the data suggests that something is not working. Some argue that all we need is tougher enforcement of existing laws. Indeed, effective enforcement of our Nation's laws against discrimination is vital. But tougher regulation and more litigation are not substitutes for effective policies and incentives that improve practice.

There are many interesting State and local initiatives under way that seek to improve referral, diagnosis, and placement. Some are proving highly effective. Congress should build on these proven models. One issue that needs to be addressed is improving coordination between special education and other programs—particularly in identifying students who are encountering difficulties in school and in getting help to them. Congress should take a close look at the ways to get services to kids.

This legislation takes several measures to upgrade the quality of data on students with disabilities. In future reauthorizations, Congress may wish to consider additional improvements. The data on students with disabilities is often collected as a separate data set, often with no way to link it up to other health, education, or employment data that would allow us to know what happens to these students, and that would allow us to address how they are faring in services and outcomes relative to other students. This lack of coordination not only undercuts the quality and usefulness of data on education of the handicapped and its outcomes, but it is also an inefficient use of research funds. Linking collection and analysis of data on education of the handicapped more clearly to education of all students, with better links to State and local data is needed so that data can be used to improve progams and educational outcomes, not merely to keep track of paperclips and body counts.

Finally, Public Law 94-142 worked a revolution in providing educational opportunities to children with disabilities. Subsequent work to assure access to assistive technology and to promote early intervention are helping to consolidate that revolution. But we also need to look at what happens to the students who are leaving this program. Too many of these young Americans are graduating to TV. Many students with disabilities drop out of school, and even many of those who complete the program with a high school degree or a certificate find that they are unable to obtain employment and otherwise participate in adult life.

Transition from school to work and adult life needs to be improved. California's Workability Program has built a solid record of helping youths with disabilities move smoothly from school to higher education, employment, and adult life by combining clear outcome requirements with local flexibility. As this legislation was being developed, the committee heard testimony from Mr. Bob Snowden, who represented the California Workability Program.

That made it clear that workability is making a significant difference. This and other testimony of what is already being done at the State and local level to improve the transition process made it clear that action is needed.

This legislation takes the vital step of making a transition plan a fundamental component of the individualized education program. It also increases Federal support to States on a one-time basis for developing transition programs.

These long overdue measures had strong bipartisan support. I look forward to working with other Members of Congress and the broad education community to further strengthen this process, recognizing that developing and implementing effective transition programs are not a one-shot event, and recognizing that clear information and outcome measures are necessary to ensure continued program improvement and accountability.

In sum, this legislation takes important initiatives to provide better education to children with disabilities. I look forward to working with other Members of Congress and with the broad education community to improve education for Americans with disabilities and for all Americans.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. Conte], the favorite of all umpires.

Mr. CONTE. Mr. Speaker, I rise today in support of the conference report on the Education of the Handicapped Act Amendments of 1990. As you know I am no stranger to the needs of the disabled. I have long championed expanding their rights and have worked to make sure all children can be educated in the least restrictive environment possible.

In my role as ranking member of the Appropriations Committee, and its subcommittee that oversees the act, I have fought for all the Federal special education programs and a plethora of other Federal programs to make life better for the disabled.

My efforts have included expanding Federal funding for special education services, research into the causes and nature of disabling conditions, and special initiatives for underachieving students that help students who do not qualify for special education services but need help in order to achieve their full potential. To underscore my commitment to the disabled let me take this opportunity to highlight a few of the actions I have recently taken.

The fiscal year 1991 Labor-Health, and Human Services-Education appropriations bill, H.R. 5257, which passed the House on July 19, 1990, provides $2.75 billion dollars for special education programs. That $700 million increase over the previous year brings Congress much closer to the commitment we made over 14 years ago to provide for the excess costs of educating disabled children.

To ensure that money is put to good use and students are appropriately served, I put language in H.R. 5257 directing the department to look into how school districts distinguish between students who receive services through the chapter 1 and special education programs and to submit a report to the committee prior to the 1991 Appropriations Committee deliberations.

In addition, as many of you know I was an original sponsor, along with former Representative Tony Coelho, of the American's With Disabilities Act which was recently enacted. To help businesses respond to the challenges created by this law I, along with Congressman Steny Hoyer, inserted language into H.R. 5257 that creates 10 regional centers supported by the Department of Education.

I am proud to be the chief sponsor of the Disability Prevention Act of 1990. The House passed my bill this summer. I made sure that an increase of almost $6 million in H.R. 5257 would be devoted to reducing disabilities through education, research and other measures dedicated to prevention.

Last summer President Bush signed into law my decade-of-the-brain legislation. It is a clarion call for a revolution in brain research, including the neurological aspects of disabilities. It is my hope that more research will produce the cures we need for the many disorders which plague humankind.

I am very proud of my work on behalf of the disabled. That is why I am very pleased with what this bill does. It demonstrates our continued desire to bring the disabled out of the backwaters of society and into the mainstream by providing them with a free and appropriate education in the least restrictive environment. It is a bill that sends good news to the disabled throughout the land.

The good news is in the form of several new major initiatives. The transition initiative which will make connections between the State education and vocational rehabilitation agencies and help disabled children lead productive lives after leaving high school. The multifaceted minority initiative allows the department to help minority groups effectively compete for special education dollars, requires parent training centers to work closely with parents of minority special education students, and provides for training minority special education teachers. The ombudsman initiative will ensure children get the services they need, by providing extra advocates on their behalf.

The good news continues with a whole new section for addressing the needs of children with serious emotional disturbances that will be added to the act by these amendments, thus allowing for research, model demonstrations and technical assistance.

To make the act more consistent with new technological developments special language was included concerning assistive technology devices and services in the early education, personnel training, and media-materials sections of the act.

Good news was also sent to the deaf-blind, severely disabled, autistic, and traumatic brain injured children because under the revised act they will receive additional services.

The only bad news in the bill, as far as I am concerned, is the omission of attention deficit disorders [ADD] from the act.

I understand ADD received much attention by the conferees and its inclusion in the act was hotly debated in the waning days of the reauthorization process. Unfortunately, despite countless attempts at working out an agreement and the involvement of thousands of parents whose children have ADD, the disorder was not included in this bill, thus leaving thousands of ADD children either unserved or mislabeled, and prolonging the frustration felt by parents, children, educators, and researchers concerning ADD.

The greatest obstacles preventing ADD from being included in the act were developing a definition of ADD on which all the special interest groups could agree and determining a threshold at which special education services should be provided to ADD children.

Hopefully all lingering questions about ADD can be answered before the part H and pre-school sections of the act are reauthorized next year, so ADD can finally be included as a separate handicapping condition in the Education for All Handicapped Act.

In an attempt to answer these and other lingering questions concerning ADD, this bill requires the Education Department to publish a notice-of-inquiry inviting public comment about eight questions that should set the stage for the resolution of the ADD debate. According to the conference report it is expected that the Department will solicit comment on questions similar to the following:

First, how the disorder should be described operationally for purposes of qualifying a child for special education and related services under part B of the Education of the Handicapped Act?

Second, what criteria should be included in the definition to qualify children with the disorder for special education and related services under part B of the act?

Third, what specific manifestations of the disorder, if any, should be included in the act?

Fourth, whether the definition should include references to characteristics or circumstances that produce transient inattentive behaviors that, in and of themselves, would not make a child eligible for special education and related services under the definition of the disorder? (e.g., should the definition exclude a child who is inattentive as a result of social maladjustment or a child who is inattentive as a result of recent parental divorce or death of a family member?)

Fifth, whether the definition should address the concurrence of ADD with other disabilities such as specific learning disabilities or serious emotional disturbances, and if so addressed, the manner in which such is to be accomplished?

Sixth, whether guidelines should be provided to State and local agencies regarding their obligation to conduct an evaluation of a child suspected of having this disorder, and a description of such guidelines?

Seventh, who should be authorized to conduct an assessment of a child having or suspected of having the disorder and whether the assessment should be conducted by more than one individual, such as a teacher and a psychologist?

Eighth, what provisions should be included in the definition and what additional steps, if any, not currently required by the regulations in part B of the Education of the Handicapped Act, should be included to ensure that racial, ethnic, and linguistic minorities are not unclassified under this definition.

I am hopeful that since Congress is raising these questions everyone with an interest in ADD will express their opinions, thus allowing the authorizing committee to finally act on the merits of including ADD in the act. The public comment should help the committee avoid a situation like the one we just experienced where many folks failed to voice their concerns until the very last days of the debate, thus making it difficult to arrive at an agreement.

ADD is a serious issue that deserves our fullest attention. Folks who believe that ignoring ADD will keep it out of the law are acting irresponsibly. I urge them to participate in the notice-of-inquiry process because I think it will help the Department and the committees gather the necessary information to render a decision on this matter.

The bill also contains another provision concerning ADD children. It is the creation of Centers Relating to ADD. The provision lets the Secretary establish centers designed to organize, synthesize, and disseminate current knowledge relating to ADD children.

According to the conference report the centers will help develop expertise in the following general areas. Please refer to the conference report for more details.

First, strategies for assessing ADD children;

Second, identifying competencies needed by professionals for assisting ADD children through special, regular and related services;

Third, fostering conditions necessary for effective professional practice concerning ADD children;

Fourth, documenting learning characteristics of ADD children;

Fifth, instructional strategies, techniques, and activities;

Sixth, effective curricula and instructional tools for assisting ADD children; and

Seventh, developing strategies for involving families of ADD children in the educational process.

According to the conference report in the process of selecting the centers the Secretary will give priority to centers with: demonstrated knowledge of ADD, proven effectiveness in performing the functions in the scope-of-work, and the ability to maintain the necessary communication with national, regional, State, and local agencies.

While both provisions should be helpful, creating a center and holding a notice-of-inquiry are not enough. Together they leave us woefully short of responding to the needs of ADD children. Too many ADD children remain unserved or underserved. They will continue to suffer while Congress and the special interest groups spar over their fate. Clearly we must do much more.

Given the recent intense debate over ADD and the fact that it is a serious handicapping condition affecting so many persons, it is imperative that, before the rest of the reauthorization of the act begins, we all should work to more fully understand ADD.

I think this is doubly important given the fact that extensive formal hearings have not been held on this matter, thus denying the professionals who have been studying ADD the opportunity to helf us better understand this disorder.

According to Harvey Parker, Ph.D, executive director of CH.A.D.D. a support group for parents of children with attention deficit disorders, ADD has been known by many names, but most popularly as childhood hyperactivity. The ADD roots spread across several disciplines including pediatrics, neurology, psychiatry, psychology and education. An extensive review of the history of this disorder can be found in "Hyperactive children: A Handbook for Diagnosis and Treatment," 1981, by Russell Barkley.

Barkley defines ADD as featuring "inappropriate degree of inattention, impulsiveness, and overactivity which arises in early childhood and is relatively chronic throughout adolescence. The disorder is significantly pervasive and appears to have a biological predisposition. This disorder is not the direct result of gross brain damage, psychosis, autism, or severe profound mental retardation."

The revised edition of the "Diagnostic and Statistical Manual of Mental Disorders, DSM III-R 1987, of the American Psychiatric Association defines "disorders of attention" and allows for two classifications of attentional disorders. First, attention-deficit hyperactivity disorder and; second, undifferentiated attention deficit disorder.

Since defining ADD was one stumbling block that prevented inclusion of ADD in this bill perhaps a quick review of the criteria set forth by APA could set the stage for additional discussion on the subject next session.

APA defines attention-deficit hyperactivity disorder [ADHD] as behavior that either appears before the age of seven, does not meet criteria for a pervasive developmental disorder disturbance or behavior lasting at least 6 months during which a person exhibits at least 8 of the 14 behaviors listed below. The list was prepared by Ch.A.D.D. and is from one of their position papers concerning ADD. For additional information please refer to pages 50-53 of the DSM III-R.

No. 1. Often fidgets with hands or feet or squirms in seat;

No. 2. Has difficulty remaining seated when required to do so;

No. 3. Is easily distracted by extraneous stimuli;

No. 4. Has difficulty awaiting turns in games or group situations;

No. 5. Often blurts out answers to questions before they have been completed;

No. 6. Has difficulty following through on instructions from others;

No. 7. Has difficulty sustaining attention in tasks or play activities;

No. 8. Often shifts from one uncompleted activity to another;

No. 9. Has difficultly playing quietly;

No. 10. Often talks excessively;

No. 11. Often interrupts or intrudes on others, such as butting into other children's games;

No. 12. Often does not seem to listen to what is being said to him or her;

No. 13. Often loses things necessary for tasks or activities at school or at home; and

No. 14. Often engages in physically dangerous activities without considering possible consequences and not for the purpose of thrill seeking such as running into street without looking.

Let me point out that skeptics of ADD have used items off this list to belittle the debilitating nature of ADD by singling out behaviors listed above and saying that those behaviors are merely symptoms of childhood or adolescence. In so doing the skeptics clearly demonstrate their lack of understanding of ADD and demonstrate that they missed the key point of considering this list in the first place. The point is, ADD is a complex and persistent disorder.

It is the nature and severity of symptoms across all life situations which set ADD apart from "typical" behavior of children.

Also ignored by the skeptics is the recommendation that the type of criteria outlined above is only one tool out of a tool chest full of tools which could be used to identify ADD children for special education services. The other tools included standardized rating scales that could be completed by teachers and parents, classrooms observation, and detailed family histories. The value of comprehensive, multimodal assessment of students can not be over estimated in correctly identifying and placing ADD children in educational programs.

The DSM III-R also acknowledges children with disturbances in which the primary characteristics is significant inattentiveness without signs of hyperactivity. Some of these children were previously diagnosed as attention deficit disorder without hyperactivity. For more information please refer to page 95 in the manual.

APA has also set forth, in DSM III-R, criteria for establishing severity of ADHD. The APA severity criteria will be useful as we discuss establishing a threshold at which ADD children are eligible for special education and related services. The criterion are:

Mild: Few, if any, symptoms in excess of those required to make the diagnosis and only minimal or no impairment in school and social functioning.

Moderate: Symptoms or functional impairment intermediate between "mild" and "severe".

Severe: Many symptoms in excess of those required to make the diagnosis and significant and prervasive impairment in functioning at home and school or with peers.

Many folks wonder about the causes of ADD. Unfortunately, even though much research has been done concerning ADD, many questions remain about the cause of the disorder.

According to Harvey Parker ADD has been weakly linked to a variety of conditions including: prenatal and/or perinatal trauma, maturational delay, environmentally caused toxicity such as fetal alcohol syndrome or lead toxicity, and food allergies. Before anyone jumps to conclusions, Parker has noted that while a history of such conditions may be found in some individuals who suffer from ADD, for most individuals with ADD there is no history of any of the above correlates.

Researchers have recently intensified their research into altered brain biochemistry as a cause of ADD. The fact that certain medications can produce changes in the behavior of affected children has stimulated interest in looking at abnormalities in brain biochemical functions.

Furthermore a 1987 report to Congress prepared by the Interagency Committee on Learning Disabilities attributes the primary cause of ADD to "abnormalities in neurological function, in particular to disturbances in brain neurochemistry involving a class of brain neurochemicals termed 'neurotrasmitters'. " Studies of the levels of various transmitter chemicals in the brain are providing some of support for an explanation of the cause of ADD. According to Zametkin and Rapoport, 1987, exactly how these neurochemical transmitters affect the development of symptoms of ADD is still unclear.

Neurological research into issues relating the ADD remains a top priority at the National Institute of Mental Health and is integrally linked with my "Decade of the Brain" resolution. The research at NIHM has produced some remarkable findings. In a paper by Zametkin appearing in the New England Journal of Medicine, November 1990, NIMH documented an abnormally low brain metabolism for this disorder.

A position paper prepared by Harvey Parker, Ph.D., indicates many promising studies concerning ADD are also underway. For example studies of the incidence of ADD within biologic and adoptive families suggests that genetic factors may play a significant role in terms of causality of the disorder.

Researchers are also looking into the psychosocial conditions involving adverse family and social relationships that might also contribute to ADD. Such adverse family and social relationships could also very well be the result of living with an ADD child.

Research by Shaywitz and Shaywitz in 1988 suggests ADD may be explained by an "interactional, transactional" model featuring both biological and psychosocial factors. They contend that while the child's genetic heritage may provide the biologic basis for a particular set of behaviors, the manifestation of these behaviors may be mitigated or exaggerated by the child's environment. Most experts agree that this combination of biological and enviromental factors is probably responsible for the development and expression of ADHD symptomatology.

Another stumbling block to including ADD in the act was finding a way to identify children with ADD. Most of the folks who have shared information and with me suggest that a combination of professional judgment and objective multidisciplinary assessment be used to determine eligibility for special education and related service.

Since the work of many researchers, such as Stanton & Brumback, 1981; Shapiro & Garfinkel, 1986; and Barkley, et al., indicates that ADD can coexist with other disorders of childhood and adolescence, a comprehensive assessment should include an evaluation of the individual's medical, psychological, educational, and behavioral functioning. Clearly the more domains that are assessed, when making an ADD determination, the more likely it will be that a comprehensive, valid, and reliable diagnosis will be made. This approach would result in an appropriate educational placement of the child.

Some critics have maintained that since ADD can exist with other handicapping conditions there is no need to add another category to the act. That argument is weak because many children only have ADD and exhibit no other concomitant disabling conditions. Furthermore, it is inappropriate to place a child in a program to remediate a problem that does not exist. Children should receive services based on their primary disabling condition, not the availability of services for another condition.

Public Law 94-142, written in 1975, did not specifically make provisions for individuals diagnosed as having ADD as it did for other handicapping conditions, some of which were also considered at the time to be the result of minimal brain dysfunction. Meaning unless ADD was specifically mentioned no services would be provided.

The consequences of ADD not being specifically mentioned in the statutory definition of the term "handicapped children" was underscored in 1989 by G. Thomas Bellamy, Ph.D., formerly Director of the U.S. Office of Special Education Programs, who said, "a child who exhibits hyperactivity or ADD without a coexisting specific learning disability or other handicapping condition may not be handicapped under EHA-B."

Unfortunately, since many ADD students do not meet criteria for a coexisting disorder such as a specific learning disability, severe emotional disturbance, speech and language disability, hearing impairment, mental retardation, or orthopedic disability they do not qualify for exceptional educational services on the basis of any of the above conditions. Current law does not address the needs of children who have ADD and no other disabling condition. ADD is a unique disorder which is distinct from all other handicapping conditions and thereby is worthy of specific eligibility criterion within the law.

It is important to note current research indicates that, although many ADD children will exhibit academic performance problems in school, the majority of these children would not meet criteria for placement in a special education program for children with specific learning disabilities for that matter any other disabling condition in most States.

Shaywitz and Shaywitz in "Learning Disabilities: Proceedings of the National Conference," by Kavanagh and Truss, (1988), indicate that as few as 10 percent of the children with ADD may be classified as "learning disabled". This figure, lower than previous estimates of the incidence of specific learning disabilities among the ADD population, was generated by using a criteria for classifying children as learning disabled which depends on the use of an ability/achievement discrepancy model. Discrepancy models are used in some States to classify their learning disabled students.

In 1984 a National Task Force, created by the Office of Special Education Programs at the U.S. Department of Education, was convened to review the eligibility criteria to be used by States for specific learning disabilities. The task force found that all but 4 States used some type of ability/achievement discrepancy guideline for their specific learning disability eligibility criteria with 23 States using a standard score deviation method and with 6 using a regression model formula, Beech, 1987. By using ability/achievement discrepancy as part of the criteria to classify learning disabled children as many as 90 percent of children with ADD could be eliminated from the specific learning disability eligible group.

The majority of ADD children in the United States are generally not admitted into special education programs on the basis of a coexisting learning disability unless they meet the specific criteria established for specific learning disabilities. A similar conclusion was also made in a recent report issued by the Virginia Department of Education.

Throughout the discussion of including ADD in the act critics have suggested the possibility of millions of ADD children being added to the special education rolls. Even though many persons may be afflicted with ADD, that statement is misleading because within ADD, as with all other handicapping conditions, there is only a small percentage of ADD children whose disabling condition is severe enough to necessitate special education and related services.

It has been estimated by Harvey Parker, Ph.D., that within the entire ADD population approximately one percent or 160,000 students would be severely impaired enough to be in need of special education and related services. Some of those children may already be receiving services via another category and might need to be reclassified in order to receive services under the most appropriate category.

One last point, an area that needs immediate attention is the preparation of educators to educate ADD children. That is why I included language in H.R. 5257 asking the Education Department to explore a variety of ways, including amending the act, to meet the needs of ADD children.

The majority of educators in this country have had very little training for teaching students with ADD. College and university schools of education currently provide no instruction on this disorder. Making it critical that programs immediately be made available to train all educators about ADD and to help teachers become knowledgeable about effective classroom intervention. Such programs could be delivered through in-service training, recertification courses, or added to already existing curricula within the college and university settings.

Mr. Speaker, I am disappointed that ADD was not included in the act. I hope that by creating the centers and conducting a notice-of-inquiry enough information will be generated to support serious consideration of creating a special category for ADD when the next part of the act is authorized.

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Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on the reauthorization on the Education of the Handicapped Act. I am pleased that the conference on EHA is over and that all differences have been resolved. However, it is unfortunate that the reauthorization process has taken so long, and that those affected by EHA funding were subjected to a process that took us to the wire. Nonetheless, I commend my colleagues for their persistence.

This conference report reauthorizes 13 discretionary programs that play a central role in strengthening and complementing Public Law 94-142 which mandates the availability of a free appropriate public education for each of the 4.3 million children with disabilities in this Nation. These discretionary programs provide the glue, the infrastructure, and the focus that will result in qualitative improvements in how we serve our special children tomorrow and in the next century.

I would like to make observations on three issues.

First, I am especially pleased with the new transition program that will assist States develop transition supports for disabled youth about to exit secondary education. It is very important that LEA's, other public agencies, and the private sector work together to offer meaningful opportunities to America's youth and their families. This is particularly true for disabled youth.

The cooperative planning and services that this new transition will encourage, as well as the changes we made in the Carl D. Perkins Vocational Education and Applied Technology Act, will substantially increase the likelihood that disabled youth will have meaningful opportunities, and become independent, well-trained, and employed members of society.

Second, it is also timely that in this reauthorization we recognize the need to support a broad range of activities that will help communities and schools better serve children and youth with serious emotional disturbance. Federal support for model projects, training, research, and information dissemination related to serving these children will greatly enhance the capacity of local communities to work with these children and their families, and decrease the use of institutional settings.

Finally, I am especially pleased that we have developed a strategy for collecting information about attention deficit disorder that is acceptable to all affected parties. I will review with interest the comments that the Department of Education receives on its Notice of Inquiry on ADD.

The changes this conference report will bring to the lives of disabled children, will not be judged in terms of dollars, but in terms of new opportunities, better teachers, more meaningful choices, opened minds, manageable challenges, and increased cooperation. I urge our colleagues to join me in supporting it.

Mr. MILLER of California. Mr. Speaker, I rise in support of the conference agreement on the Education of the Handicapped Act Amendments of 1990.

The children of America with special need and their families join with me in thanking my colleagues on the Education and Labor Committee, and especially Mr. OWENS, chairman of the Subcommittee on Select Education, for working so hard to bring this measure before us for consideration today. Countless advocates and organizations working for the benefit of children with disabilities and their families are to be commended for picking up, once again, the gauntlet on their behalf.

Parents who have testified before the Select Committee on Children, Youth, and Families have told us that "special education is the single most important support system available to families with disabled children." It is essential, then, that accessing the special education system be as facile and supportive as possible for parents of disabled children.

The legislation before us today clarified ambiguities in current law to ensure that all children who need special services are not excluded because of definitional barriers or lack of quality services. The bill makes clear that children with an autistic condition or traumatic brain injury, regardless of its severity, are entitled to a free, appropriate public education and related services. The legislation also addresses administrative concerns, including the recruitment and retention of qualified teachers and other support personnel.

In addition, the bill creates a very important new program to better serve children with emotional disabilities in the school system, and new efforts to help disabled youths to make the transition from school to work and community life.

Our Nation's history of providing free and appropriate education for children with special needs is not a long one. Congressional hearings in 1966 revealed that only about one-third of 5.5 million disabled children were being provided appropriate special education services. It was not until passage of Public Law 94-142 in 1975, Mr. Chairman, that the Federal Government made a substantial commitment to educating children with disabilities, stating that the purpose of the law was "to assure that all handicapped children have available to them * * * a free appropriate public education."

I was proud to have played a part in authoring that historic legislation, and I am pleased that services are now more uniformly available to younger children. We know that the earlier the intervention, the more beneficial and cost effective it can be. That is why 4 years ago Congress added part H, the Infant and Toddler Program, to the Education of the Handicapped Act to ensure that services are available to children as soon as their disabilities and special needs are identified. Part H assists States in developing "a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for handicapped infants and toddlers and their families."

In 1986, Congress also further strengthened the law by requiring States to serve children with disabilities ages 3 to 5. I would hope, Mr. Chairman, that this body will look beyond and over the budget summit to meet our obligation to fully fund these proven, cost-effective efforts to serve the youngest and most vulnerable of the Nation's children.

We've come a long way since 1975. The U.S. Department of Education's 12th annual report on the Implementation of the Education of the Handicapped Act indicates that 4.6 million children received services during the 1988-89 school year. And if Congress and the President agree to meet our fiscal responsibility under the act, even more children will be served as States begin providing services to children from birth to age 3.

There can be no doubt that the EHA is one Federal program that works. Research on cost-effective programs undertaken by the Select Committee on Children, Youth, and Families found that students who have received special education services have made positive adjustments in their communities. Children that participate in early intervention programs are more likely to move into regular classrooms. A program in Delaware that integrated special education students with regular education students found that the students with disabilities made significant academic gains and the nondisabled students out-performed their peers in ordinary classes.

A very special witness before the select committee, 11-year-old Kristie Joy Drury, who is in a wheelchair because of spina bifida, told us just how important mainstreaming is. She said: "Ever since kindergarten I have been mainstreamed in school and I think that is very important because I get the chance to do most everything everyone else gets to do."

Mr. Speaker, I am especially pleased that the legislation under consideration today addresses one of the most critical issues in special education today: the shortage of qualified, committed individuals to work within this population, especially in minority communities. The bill provides for the recruitment and training of more educators, particularly minority and bilingual educators, to work with children with special needs.

There will be an even greater demand for special educators and other skilled personnel to work with infants and toddlers as the States begin to implement their programs for the very youngest children in need of special education services.

Funds for personnel training are specifically targeted to historically black colleges and universities and other institutions having at least a 25-percent minority enrollment. Grants will be made available to both institutions of higher education and nonprofit agencies for preservice and inservice training. Training for careers in preschool and early intervention services for infants and toddlers with disabilities has been added to the list of fundable activities.

While EHA has helped bring most disabled students out of the basement into regular classrooms, there is still one neglected and often invisible group. As the Select Committee on Children, Youth, and Families has documented, there are 7 to 9 million children with serious emotional disturbances who go without appropriate educational or mental health services.

A recent report by the Bank Street College of Education examining programs and policies for children with emotional and behavioral problems found that only 10 percent to 30 percent of children with emotional disturbances are identified by the schools. And those identified may not be receiving the educational, mental health and support services they need. Almost one out of five children identified are not only removed from the regular classroom, but from the schools entirely.

This bill, Mr. Speaker, helps bring us out of the dark ages by providing demonstration grants for educational agencies to work with mental health programs to offer improved special education and related services to this population, as well as additional funds to improve research and information on teaching emotionally disturbed children.

The historic legislation that Congress passed this past May, the Americans With Disabilities Act of 1990, ensures the right of all American children to go where other children go, to play and interact with their peers. The legislation before us today will strengthen the EHA to ensure that all disabled children receive the education and training they are entitled to under the law.

And let us make certain that well-trained and competent educators and support personnel are available to provide the best education and support services to the children in our society who may need just a little more help.

Join with me today in supporting this legislation to build upon the existing foundation of education services to allow disabled children to participate fully in school, in the community, and in the future labor force.

Mr. GOODLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OWENS of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Mazzoli). The question is on the motion offered by the gentleman from New York [Mr. Owens] that the House suspend the rules and agree to the conference report on the Senate bill, S. 1824.

The question was taken; and (two thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

A motion to reconsider was laid on the table.

DIRECTING SECRETARY OF SENATE TO MAKE CORRECTIONS IN ENROLLMENT OF S. 1824, EDUCATION OF THE HANDICAPPED ACT AMENDMENTS OF 1990

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 150) directing the Secretary of the Senate to make corrections in the enrollment of S. 1824, and ask for its immediate consideration in the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. GOODLING. Mr. Speaker, reserving the right to object, and I shall not object, I take this time to inquire of the gentleman from New York [Mr. Owens] if he would like to explain exactly what we are doing.

Mr. OWENS of New York. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from New York.

Mr. OWENS of New York. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I understand this is a technical correction of the section that was numbered incorrectly, and the renumbering is the only matter at issue here.

Mr. GOODLING. Mr. Speaker, apparently the gentleman does not have the same sheet of paper I have.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. Con. Res. 150

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 1824), an Act to reauthorize the Education of the Handicapped Act, and for other purposes, the Secretary of the Senate shall make the following correction:

(1) In the amendment made by section 405, strike out "631(a)(6)" each place that such occurs and insert in lieu thereof "631(a)(7)".

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the Senate bill, S. 1824.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

DISPLACED HOMEMAKERS SELF-SUFFICIENCY ASSISTANCE ACT

Mr. MARTINEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3069), to amend the Job Training Partnership Act to establish an employment training program for displaced homemakers and for other purposes, as amended.

The Clerk read as follows:

H.R. 3069

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Displaced Homemakers Self-Sufficiency Assistance Act".

SEC. 2. FINDINGS; STATEMENT OF PURPOSE.

(a) Findings.—The Congress finds that—

(1) The Nation has a vested interest in building a quality and productive workforce that will enable the United States to compete effectively in the global marketplace;

(2) two in every three new entrants to the workforce during the 1990's will be women, and such women need appropriate basic and occupational skills to fill jobs requiring much higher skill levels than the jobs of today;

(3) there are approximately 15,600,000 displaced homemakers in the United States, the majority of whom are women not in the labor force, who live in poverty and who require educational, vocational, training and other services to obtain financial independence and economic security; and

(4) Federal, State, and local programs addressing the training and employment needs of displaced homemakers have been fragmented and insufficient to serve displaced homemakers effectively.

(b) Purpose.—It is the purpose of this Act to provide assistance to States to provide coordination and referral services, support service assistance, and program and technical assistance to displaced homemakers and displaced homemaker service providers. Such assistance will enable public and private entities to better meet the needs of displaced homemakers and will expand the employment and self-sufficiency options of displaced homemakers.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term "adult population" includes individuals aged 22 through 64.

(2) The term "community-based organization" has the same meaning given that term in section 4 of the Job Training Partnership Act.

(3) The term "displaced homemaker" means an individual who has been providing unpaid services to family members in the home and who—

(A) has been dependent either—

(i) on public assistance and whose youngest child is within 2 years of losing eligibility under part A of title IV of the Social Security Act, or

(ii) on the income of another family member but is no longer supported by that income, and

(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(4) The term "eligible service provider" means—

(A) a community-based organization;

(B) a local educational agency (as such term is defined in section 4 of the Job Training Partnership Act);

(C) a postsecondary school (as such term is defined in such section);

(D) an institution of higher education (as such term is defined in such section);

(E) an area vocational education school (as such term is defined in such section); or

(F) other entities designated by the Governor that have the demonstrated ability to meet the needs of displaced homemakers.

(5) The term "eligible statewide public agency or statewide nonprofit organization" means agencies and organizations with demonstrated experience administering programs that serve displaced homemakers.

(6) The term "Secretary" means the Secretary of Labor.

(7) The term "State" includes any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(8) The term "supportive services assistance" means assistance which is necessary to enable an individual eligible for services under this Act to participate in programs funded under this Act. Such services may include transportation, health care, special services and materials for the handicapped, child care, adult dependent care, meals,

temporary shelter, financial counseling and other reasonable expenses required for participation in the program and may be provided in-kind or through cash assistance.

SEC. 4. PROGRAM AUTHORIZATION.

(a) Grants by the Secretary.—Except as provided in subsections (b) and (c), for any fiscal year for which the appropriation for this Act is less than $25,000,000, the Secretary shall make the funds available as grants to eligible State agencies and statewide nonprofit organizations on a competitive award basis.

(b) State Grant Program.—Except as provided in subsection (c), for any fiscal year for which the appropriation for this Act equals or exceeds $25,000,000, and for any fiscal year thereafter the Secretary shall use the available funds to make grants to States from allocations under section 7.

(c) Reservation.—The Secretary shall reserve such amounts as are necessary, not to exceed 5 percent of the funds appropriated pursuant to this Act, for training and technical assistance under section 14(b), and for administration and evaluation of the programs funded under this Act.

SEC. 5. COMPETITIVE GRANTS.

(a) In General.—Each eligible statewide public agency or statewide nonprofit organization desiring to receive a competitive grant under section 4(a) of this Act shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Each such application shall contain assurances that the State Job Training Coordinating Council and the Governor have had an opportunity to review and comment on the application. Each applicant shall include the comments received by the applicant pursuant to such review.

(b) Priority.—In awarding grants under section 4(a) of this Act, the Secretary shall give priority to applications from statewide public agencies and statewide nonprofit organizations which—

(1) demonstrate that employment and training related services will be provided to displaced homemakers who are economically disadvantaged;

(2) provide access to a comprehensive referral system so that participants will be directed to appropriate services based on their assessed needs;

(3) demonstrate that employment and training related funds and services to be provided will be coordinated with other Federal and non-Federal programs providing education, training, or other human services;

(4) demonstrate the ability to provide appropriate transition for participants into other related programs such as adult basic education, remedial education, vocational education, and the Job Training Partnership Act; and

(5) demonstrate experience in providing services to displaced homemakers.

(c) Awards.—The Secretary shall not award more than 1 competitive grant per State. The competition for such grants shall be conducted annually, except that when a grantee has performed satisfactorily under the terms of an existing grant agreement and the immediately preceding grant agreement, the Secretary may waive the requirement for such competition upon receipt from the grantee of a satisfactory program plan for the succeeding grant period.

SEC. 6. USE OF COMPETITIVE GRANT FUNDS.

(a) In General.—Funds awarded under section 4(a) of this Act may be used for any purpose described in section 10 and for statewide model and demonstration projects that provide special services for rural displaced homemakers, minority displaced homemakers, women age 40 and older, and for nontraditional training or self-employment training.

(b) Administrative Cost.—Each eligible service provider receiving assistance under this Act may use no more than 20 percent of the funds awarded to such service provider for administrative costs.

SEC. 7. ALLOCATION.

(a) Allocation Among States.—

(1) In general.—Except as provided in paragraph (2), financial assistance to States under section 4(b) of this Act shall be allotted based on the ratio of the adult population of the State to the total adult population of the United States.

(2) Minimum state allocation.—No State shall receive an allotment for any fiscal year described in section 4(b) that is less than 0.5 percent of the total funds appropriated for such fiscal year.

(3) Timely allocation.—(A) All allotments and allocations under this Act shall be based on the latest available data and estimates satisfactory to the Secretary.

(B) Whenever the Secretary allots and allocates funds required to be allotted or allocated by formula or otherwise under this Act, the Secretary shall publish in a timely fashion in the Federal Register the proposed amount to be distributed to each recipient.

(C) All funds required to be distributed by formula under this Act shall be allotted within 45 days after the enactment of the appropriations therefor.

(D) All funds required to be distributed through competitive grants under section 5 of this Act shall be allotted within 30 days after the completion of the competition and the approval of grants.

(b) Maintenance of Effort.—

(1) In general.—Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under section 4(b) of this Act for any fiscal year if the Secretary finds that the aggregate expenditures of public funds within the State with respect to the provision of services for displaced homemakers for the preceding fiscal year was not less than 90 percent of such aggregate expenditures of public funds for the fiscal year preceding the first fiscal year for which an allocation of funds is made under section 4(b).

(2) Reductions.—The Secretary shall reduce the amount of the allocation of funds under section 4(b) of this Act in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of the aggregate expenditures of public funds.

(3) Waiver.—The Secretary may waive, for any fiscal year, the requirements of this subsection if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

SEC. 8. STATE PLAN.

(a) Plan Required.—In order to receive funds under section 4(b) of this Act, the Governor of each State shall develop and submit to the Secretary for review and approval an annual State plan, describing the programs, assessment, and counseling activities, coordination and referral activities, and services for displaced homemakers to be assisted with funds provided. Such plan shall be submitted at such time and in such form as the Secretary shall require by regulation.

(b) Contents of Plan.—Each State plan submitted under subsection (a) shall—

(1) contain assurances that funds provided under this Act will be used to supplement and not supplant Federal, State, and local public funds expended to provide services for displaced homemakers;

(2) contain assurances that displaced homemakers with the greatest financial need will be given priority for services under this Act;

(3) contain assurances that displaced homemakers 40 years of age or older and minority displaced homemakers will be given special consideration for services under this Act;

(4) provide a description of the State's administration of the program funded under this Act;

(5) demonstrate that funds and services, including supportive services, under this Act will be coordinated with other existing Federal and non-Federal programs providing education, training, or other human services; and

(6) contain assurances that the State Job Training Coordinating Council and any significant State organization representing displaced homemakers have had the opportunity to review and comment on the State plan, and include such comments when it is submitted for approval.

SEC. 9. STATE ADMINISTRATION.

(a) Designation of Administrative Entity.—The Governor of each State receiving an allotment under section 4(b) shall designate either—

(1) the existing State displaced homemaker unit, or

(2) the State unit administering displaced homemaker/single parent programs as authorized by the Carl Perkins Vocational and Applied Technology Education Act,

as the administrative entity for programs funded under this Act.

(b) State Administrative Entity.—Each State administrative entity for displaced homemaker services in a State receiving financial assistance under section 4(b) of this Act shall—

(1) make appropriate services available to displaced homemakers through the use of eligible service providers;

(2) develop an annual plan for the use of all funds available under this Act for displaced homemaker programs, manage and coordinate the distribution of these funds, and monitor the use of funds distributed to eligible service providers;

(3) set forth the criteria to be used in approving applications from eligible service providers;

(4) provide appropriate pre-service and in-service training, technical assistance, and advice to individuals providing services to displaced homemakers; and

(5) gather, analyze, and disseminate data on the adequacy and effectiveness of the State in meeting the training and employment needs of displaced homemakers.

SEC. 10. USE OF FUNDS.

(a) In General.—Funds allocated to States pursuant to section 4(b) shall be used to provide services to displaced homemakers, including (but not limited to) the following: referral services, supportive service assistance, career counseling, assessment, testing and evaluation, pre-employment services, basic skills, literacy and bilingual training, recruitment and outreach, job development and placement, follow-up services and life skills development.

(b) Supplement not Supplant.—Funds provided under this Act shall be used to supplement and not to supplant Federal, State, and local public funds expended to provide services to displaced homemakers.

(c) Supportive Services Limitations.—

(1) Health care, meals, and shelter.—Not more than 5 percent of the funds made available to any eligible service provider for any fiscal year may be used to provide health care, meals, and temporary shelter.

(2) Duplication.—Funds used under this Act to provide supportive services shall not be used to duplicate services provided by any other public or private source that are available to participants without cost.

(d) Administrative Cost.—Each eligible service provider receiving assistance under this Act may use no more than 20 percent of the funds awarded to such service provider for administrative costs.

SEC. 11. WITHIN STATE ALLOCATION.

(a) In General.—Subject to subsection (e), from amounts allotted to each State pursuant to section 4(b), the designated administrative entity of each State shall make grants to eligible service providers to provide education, training related, and supportive services to displaced homemakers.

(b) Awards.—The administrative entity of each State receiving assistance under this Act shall award grants to eligible service providers only on a competitive basis. The competition for such grants shall be conducted annually, except that when a grantee has performed satisfactorily under the terms of an existing grant agreement and the immediately preceding grant agreement, the administrative entity may waive the requirement for such competition upon receipt from the grantee of a satisfactory program plan for the succeeding grant period.

(c) Assurances.—Each service provider receiving a grant shall provide assurances that the services offered under this Act are of sufficient size, scope, and quality to reasonably meet the education and training related needs of the displaced homemakers being served.

(d) Reservations.—The Governor of each State shall reserve no more than 5 percent of funds allotted under section 4(b) for the costs of State administration pursuant to section 9.

SEC. 12. ELIGIBLE SERVICE PROVIDERS.

(a) In General.—The designated administrative entity of each State receiving assistance shall select eligible service providers that demonstrate the ability to effectively deliver training, education, and supportive services to displaced homemakers.

(b) Priority.—Each State receiving financial assistance under this Act shall give priority in awarding grants to eligible service providers which have experience in providing services to displaced homemakers.

(c) Community-Based Organizations.—Community-based organizations shall be given the opportunity to compete on an equitable basis with other eligible service providers for grants under this Act.

SEC. 12. NATIONAL ACTIVITIES.

(a) Information.—From amounts available under section 4(c), the Secretary shall implement a uniform data collection system to collect information from the States. The information to be collected shall include—

(1) the number of displaced homemakers served,

(2) the race, age, and sex of displaced homemakers,

(3) the number of dependents of each displaced homemaker,

(4) the amount of income of displaced homemakers,

(5) the range of services identified during the assessment process as necessary for displaced homemakers, and

(6) the services received by displaced homemakers and appropriate outcomes, including type of training and education received, and type of job and wage-at-placement for displaced homemakers placed.

SEC. 14. ADMINISTRATIVE PROVISIONS.

(a) In General.—The Secretary shall take appropriate action to establish administrative procedures for the selection, administration, monitoring, and evaluation of displaced homemaker programs authorized under this Act.

(b) Special Rule.—The Secretary may provide, where appropriate, through grants or contracts, training and technical assistance to statewide public agencies or statewide nonprofit organizations serving displaced homemakers.

(c) Report.—The Secretary shall biennially report to the Congress on the funds and services provided to displaced homemakers and the results of any evaluations under this Act.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $50,000,000 for fiscal year 1991 and such sums as may be necessary for each succeeding fiscal year. Funds appropriated pursuant to this section are authorized to remain available for two fiscal years succeeding the fiscal year for which appropriated.

The SPEAKER pro tempore. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. Martinez] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. Goodling] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Martinez].

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to urge support of the Members for this substitute of H.R. 3069, the Displaced Homemakers Self-Sufficiency Assistance Act.

The substitute bill, crafted in concert with Chairman Hawkins, Mr. Goodling, and Mr. Gunderson, will set up a support services and training augmentation program to serve the approximately 15.6 million displaced homemakers in America.

Displaced homemakers are mainstream citizens, related to you and I as aunts, mothers, grandmothers, nieces, former spouses, sisters, and daughters, who have lost their primary source of income. They have scarce resources, and limited work experience and marketable skills. But they have an ingredient we all admire, a desire to become self-sufficient and the dignity not to go on welfare or dependency.

These individuals need our assistance. They often don't need much, just a start toward acquiring the skills they need for self-sufficiency.

This modest $50 million authorization bill expands and coordinates existing training and support services at the State and local levels. Depending on level of funding, the program will be delivered through either competitive grants or statewide allocations to serve displaced homemakers.

The Department of Labor will administer this program through the State vocational education homemaker or single parent programs. The Secretary will provide technical assistance and reserve 5 percent of funds for administration and the Governor may also reserve 5 percent for State administrative costs. The Secretary will collect data to evaluate and improve services.

Mr. Speaker, this program is a wise investment in our citizenry to help those not in the job market to mainstream to become productive wage earners, as well as Chairman Hawkins, for their cooperative assistance in drafting this bipartisan bill.

I urge the Members to approve this important bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of this bill, H.R. 3069, as amended. The Displaced Homemakers Self-Sufficiency Assistance Act will provide access to many of the needed services that the growing ranks of displaced homemakers in this Nation need.

It is estimated that the number of displaced homemakers in this country has grown 12 percent during this decade. Despite the fact that many displaced homemakers find employment outside of the home, it is estimated that almost 60 percent are not employed, and those who do find employment are in jobs that are entry level and do not lead to long-term careers. One out of three displaced homemakers lives below the poverty line, and another one in four has an income below 150 percent of the poverty line.

Displaced homemakers typically are long-term homemakers who are removed from their accustomed role in the home through divorce, separation, abandonment, or the death or disability of a spouse. They must find alternative means of economic support because most often the replacement income from a spouse's pension, unemployment benefit, disability insurance or court ordered support payment is insufficient or nonexistent. Displaced

homemakers also find that they do not fit the requirements of Federal and State income assistance programs.

Additionally, because displaced homemakers have experienced a long separation from the workplace, they are at a disadvantage that goes beyond lack of education or training. What must be provided is a means, coupled with appropriate services and a support system, that will facilitate the transition into education, training and employment. H.R. 3069 goes a long way toward achieving this goal.

In my congressional district for example, I have already seen the potential that single parent/homemaker programs have for giving these women the skills that they need to support themselves and their families. I have heard from women who have turned their lives around by virtue of the support they received from these programs. H.R. 3069 will enable more women to take advantage of the outstanding services offered by organizations such as the GROWTH Single Parent and Homemaker Center in York, PA. Additionally, I have visited with participants in these programs and have personally seen the growth they experience through the assistance they receive. The change this type of program makes in these women's lives cannot be measured in dollars alone—rather it can be seen in their improved confidence, self-esteem, and ability to move forward with their lives and obtain education and training and hold their own in a competitive labor market.

I urge my colleagues to support this bill. It is a good step toward providing the services needed in a comprehensive and coordinated fashion so that displaced homemakers can achieve the self-sufficiency they want and deserve.

Mrs. MORELLA. Mr. Speaker, I rise in strong support of H.R. 3069, the Displaced Homemaker Employment Training and Self-Sufficiency Act.

this bill has been an important bipartisan effort to improve the quality of employment and training services to displaced homemakers. The act is designed to fill the gaps between disparate Federal and State programs, and it will vastly improve coordination between the various programs already in existence. H.R. 3069 wisely makes use of existing administrative structures, and promotes the use of service providers with experience in serving displaced homemakers.

Today, employers across the Nation are facing labor shortages. The labor pool from which they have traditionally drawn is shrinking. business and industry will increasingly have to look to other populations to fill new and vacant positions. Displaced homemakers are among those nontraditional workers. In fact, the Department of Labor's Workforce 2000 report predicts that two out of three new entrants to the American work force will be women. It is crucial then that the Nation's job training system be actively responsive to the needs of women—not just those who are young, or have previous work experience.

We must have well-trained displaced homemakers both to build a productive work force and to support themselves and their families. H.R. 3069 is another important piece in our efforts to ensure a strong economy and self-sufficient families and individuals, now and in the future.

Mr. BILIRAKIS. Mr. Speaker, I rise in support of H.R. 3069, the Displaced Homemaker Self-Sufficiency Act. The legislation, which provides for awards on a competitive basis for statwide demonstrtion programs for displaced homemakers, would assist these women in becoming self-sufficient.

I have strongly supported efforts to assist displaced homemakers and have consistenly introduced legislation that would encourage their entry into the work force. If enacted, my bill would amend the Internal Revenue Code to allow employers a tax credit for hiring a displaced homemaker.

The legislation before us today is a step in the right direction—it focuses on rural displaced homemakers, minority displaced homemakers, women over 40 years of age, and nontraditional and self-employed training. I am a strong advocate of any bill before the Congress with the ultimate goal of eliminating the "hidden poor" of our society. However, it is my understanding that the Education and Labor Committee did not take formal action on this bill and today, it is on the floor of the House of Representatives under suspension of the rules. I only ask that my Displaced Homemaker bill be given some consideration by the appropriate House committees in the future.

The measure, which I have introduced, expands the Targeted Jobs Tax Credit Program (TJTC) to include displaced homemakers. the TJTC was established in 1978 and is designed to combat and lessen the problem of unemployment among individuals who have had a problem of unemployment among individuals who have had a problem reentering the job market. My bill would permantently establish America's 11.4 million displaced homemakers as a targeted group under the TJTC Program.

The bill before the House today is the first step toward training these individuals who want to work. My bill will keep them off of the welfare rolls and in productive jobs by encouraging employers to hire them.

I am hopeful that my colleagues will seriously consider my legislation during the 102 Congress so that displaced homemakers will be given a much deserved opportunity to reenter the job market.

Mr. GUNDERSON. Mr. Speaker, I rise today in support of the legislation before us, the Displaced Homemakers Self-Sufficiency Assistance Act. This legislation is designed to address the particular needs of our Nation's displaced homemakers, to enable these individuals to then benefit from other education and training programs.

Mr. Speaker, when this legislation was originally introduced last year, I and other members of the Education and Labor Committee had significant reservations about the structure of the proposed program, its scope, the allowable uses of funds, even the need for a separate program at all, given the existence of both the Job Training Partnership Act and the Carl Perkins Act. Since that time, minority and majority staffs working together have created a new proposal, tightening, and refocusing the program considerably, addressing my concerns and those of others without resulting in needless duplication of services.

H.R. 3069 in its final version establishes a program of competitive grants to States for displaced homemaker services. These services will provide displaced homemakers with the means to begin to reenter—or enter for the first time—the work force. The programs will ensure that when the displaced homemakers do enter the work force, or the education and training programs available through JTPA or Carl Perkins, they will have the self-esteem, the belief, and the basic skills to succeed.

I urge my colleagues to support this legislation.

Mr. GOODLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MARTINEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Martinez] that the House suspend the rules and pass the bill, H.R. 3069, as amended.

The question was taken, and (two thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1500

GENERAL LEAVE

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3069, the bill just passed.

The SPEAKER pro tempore (Mr. Mazzoli). Is there objection to the request of the gentleman from California?

There was no objection.

DISTRICT OF COLUMBIA JUDICIAL REORGANIZATION ACT OF 1990

Mr. DELLUMS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4257) to create a supreme court for the District of Columbia, and for other purposes as amended.

The Clerk read as follows:

H.R. 4257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Judicial Reorganization Act of 1990".

TITLE I—SUPREME COURT OF THE DISTRICT OF COLUMBIA

SECTION 101. ESTABLISHMENT OF SUPREME COURT OF THE DISTRICT OF COLUMBIA.

Title 11 of the District of Columbia Code is amended by adding after chapter 5 the following new chapter 6:

"Chapter 6. Supreme Court of the District of Columbia

"SUBCHAPTER I. ESTABLISHMENT AND ORGANIZATION

"Sec.
"11-601. Establishment; court of record; seal.
"11-602. Composition.
"11-603. Justices; service; compensation.
"11-604. Oath of justices.
"11-605. Hearings; quorum.
"11-606. Absence, disability, or disqualification of judges; vacancies.
"11-607. Assignment of justices to and from other courts of the District of Columbia.
"11-608. Clerks and secretaries for justices.
"11-609. Reports.

"SUBCHAPTER II. JURISDICTION

"11-621. Certification to the Supreme Court of the District of Columbia.
"11-622. Review by the Supreme Court of the District of Columbia.
"11-623. Certification of questions of law.

"SUBCHAPTER III. MISCELLANEOUS PROVISIONS

"11-641. Contempt powers.
"11-642. Oaths, affirmations, and acknowledgments.
"11-643. Rules of court.
"11-644. Judicial conference.

"SUBCHAPTER I. ESTABLISHMENT AND ORGANIZATION.

"§ 11-601. Establishment; court of record; seal.

"(a) The Supreme Court of the District of Columbia (hereafter in this chapter referred to as 'the court') is hereby established as a court of record in the District of Columbia.

"(b) The court shall have a seal.

"§ 11-602. Composition.

"The court shall consist of a chief justice and 6 associate justices.

"§ 11-603. Justices; service; compensation.

"(a) The chief justice and the justices of the court shall serve in accordance with chapter 15 of this title.

"(b) Justices of the court shall be compensated at 90 percent of the rate prescribed by law for justices of the United States Supreme Court. The chief justice shall receive $3,000 per year in addition to the salary of other justices of the court.

"§ 11-604. Oath of justices.

"Each justice, when appointed, shall take the oath prescribed for judges of courts of the United States.

"§ 11-605. Term; hearings; quorum.

"(a) The court shall sit in one term each year for such period as it may determine.

"(b) The court shall sit in banc to hear and determine cases and controversies, except that the court may sit in divisions of 3 justices to hear and determine cases and controversies certified for review under section 11-621 if the court determines that subsection (b)(2) of such section is the exclusive basis for such certification. The court in banc for a hearing shall consist of the justices of the court in regular active service.

"(c) A majority of the justices serving shall constitute a quorum.

"(d) A rehearing before the court may be ordered by a majority of the justices of the court in regular active service. The court in banc for a rehearing shall consist of the justices of the court in regular active service.

"§ 11-606. Absence, disability, or disqualification of justices; vacancies.

"(a) When the chief justice of the court is absent or disabled, the duties of the chief justice shall devolve upon and be performed by such associate justice as the chief justice may designate in writing. In the event that the chief justice is (1) disqualified or suspended, or (2) unable or fails to make such a designation, such duties shall devolve upon and be performed by the associate justices of the court according to the seniority of their original commissions.

"(b) A chief justice whose term as chief justice has expired shall continue to serve until redesignated or until a successor has been designated. When there is a vacancy in the position of chief justice the position shall be filled temporarily as provided in the second sentence of subsection (a).

"§ 11-607. Assignment of justices to and from other courts of the District of Columbia.

"(a) The chief justice of the Supreme Court of the District of Columbia may designate and assign temporarily one or more judges of the District of Columbia Court of Appeals or the Superior Court of the District of Columbia to serve on the Supreme Court of the District of Columbia whenever the business of the Supreme Court of the District of Columbia so requires. Such designations or assignments shall be in conformity with the rules or orders of the Supreme Court of the District of Columbia.

"(b) Upon presentation of a certificate of necessity by the chief judge of the District of Columbia Court of Appeals or the chief judge of the Superior Court of the District of Columbia, the chief justice of the Supreme Court of the District of Columbia may designate and assign temporarily one or more justices of the Supreme Court of the District of Columbia to serve as a judge of the District of Columbia Court of Appeals or the Superior Court of the District of Columbia.

"§ 11-608. Clerks and secretaries for justices.

"Each justice may appoint and remove a personal secretary. The chief justice may appoint and remove not more than three personal law clerks, and each associate justice may appoint and remove not more than two personal law clerks. In addition, the chief justice may appoint and remove law clerks for the court and law clerks and secretaries for the senior justices. The law clerks appointed for the court shall serve as directed by the chief justice.

"§ 11-609. Reports.

"Each justice shall submit to the chief justice such reports and data as the chief justice may request.

"SUBCHAPTER II. JURISDICTION

"§ 11-621. Certification to the Supreme Court of the District of Columbia.

"(a) In any case in which an appeal has been taken to or filed with the District of Columbia Court of Appeals, the Supreme Court of the District of Columbia, by order of the Supreme Court sua sponte, or, in its discretion, on motion of the District of Columbia Court of Appeals or of any party, may certify the case for review by the Supreme Court before it has been determined by the District of Columbia Court of Appeals. The effect of such certification shall be to transfer jurisdiction over the case to the Supreme Court of the District of Columbia for all purposes.

"(b) Such certification may be made only when, in its discretion, the Supreme Court of the District of Columbia determines that—

"(1) the case is of such substantial or immediate public importance as to justify the deviation from normal appellate practice and to require prompt decision in the District of Columbia Supreme Court; or

"(2) the case was pending in the District of Columbia Court of Appeals on the effective date of this section and, because the justices of the Supreme Court of the District of Columbia were familiar with the case while serving as judges of the District of Columbia Court of Appeals, the sound and efficient administration of justice dictates that the case be certified for review by the Supreme Court of the District of Columbia.

"§ 11-622. Review by the Supreme Court of the District of Columbia.

"(a) Any party aggrieved by a final decision of the District of Columbia Court of Appeals may petition the Supreme Court of the District of Columbia for an appeal. Such a petition may be granted and appeal be heard by the Supreme Court of the District of Columbia only upon the affirmative vote of not less than 3 of the justices that the matter involves a question that is novel or difficult, is the subject of conflicting authorities within the jurisdiction, or is of importance in the general public interest or the administration of justice. The granting of such petitions for appeal shall be in the discretion of the Supreme Court of the District of Columbia. The Supreme Court of the District of Columbia shall not be required to state reasons for denial of petitions for appeal.

"(b) On hearing an appeal in any case or controversy, the Supreme Court of the District of Columbia shall give judgment after an examination of the record without regard to errors or defects which do not affect the substantial rights of the parties.

"§ 11-623. Certification of questions of law.

"(a) The Supreme Court of the District of Columbia may answer a question of law of the District of Columbia certified to it by the Supreme Court of the United States, a Court of Appeals of the United States, or the highest appellate court of any State, if—

"(1) such question of law may be determinative of the case pending in such a court; and

"(2) there is no controlling precedent regarding such question of law in the decisions of the District of Columbia Court of Appeals or the Supreme Court of the District of Columbia.

"(b) This section may be invoked by an order of any of the courts referred to in subsection (a) upon such court's motion or upon the motion of any party to the case.

"(c) A certification order under this section shall—

"(1) describe the question of law to be answered;

"(2) contain a statement of all facts relevant to the question certified and the nature of the controversy in which the questions arose; and

"(3) upon the request of the Supreme Court of the District of Columbia contain the original or copies of the record of the case in question or of any portion of such record as the Supreme Court of the District of Columbia considers necessary to determine the questions of law which are the subject of the motion.

"(d) Fees and costs shall be the same as in appeals docketed before the Supreme Court of the District of Columbia and shall be equally divided between the parties unless

precluded by statute or by order of the certifying court.

"(e) The written opinion of the Supreme Court of the District of Columbia stating the law governing any questions certified under subsection (a) shall be sent by the clerk to the certifying court and to the parties.

"(f) The Supreme Court of the District of Columbia, on its own motion, the motion of the District of Columbia Court of Appeals, or the motion of any party to a case pending in the Supreme Court of the District of Columbia or the District of Columbia Court of Appeals, may order certification of a question of law of another State to the highest court of such State if, in the view of the Supreme Court of the District of Columbia—

"(1) such question of law may be determinative of the case pending in the Supreme Court of the District of Columbia or the District of Columbia Court of Appeals; and

"(2) there is no controlling precedent regarding such question of law in the decisions of the District of Columbia Court of Appeals or the Supreme Court of the District of Columbia.

"(g) The Supreme Court of the District of Columbia may prescribe the rules of procedure concerning the answering and certification of questions of law under this section.

"SUBCHAPTER III. MISCELLANEOUS PROVISIONS

"§ 11-641. Contempt powers.

"In addition to the powers conferred by section 402 of title 18, United States Code, the Supreme Court of the District of Columbia, or a justice thereof, may punish for disobedience of an order or for contempt committed in the presence of the court.

"§ 11-642. Oaths, affirmations, and acknowledgments.

"Each justice of the Supreme Court of the District of Columbia and each employee of the court authorized by the chief justice may administer oaths and affirmations and take acknowledgments.

"§ 11-643. Rules of court.

"The Supreme Court of the District of Columbia shall conduct its business in accordance with such rules and procedures as the court shall adopt.

"§ 11-644. Judicial conference.

"The chief justice of the Supreme Court of the District of Columbia shall summon annually the justices and active judges of the District of Columbia courts to a conference at a time and place that the chief justice designates, for the purpose of advising as to means of improving the administration of justice within the District of Columbia. The chief justice shall preside at such conference which shall be known as the Judicial Conference of the District of Columbia. Each justice and judge summoned, unless excused by the chief justice of the Supreme Court of the District of Columbia, shall attend throughout the conference. The Supreme Court of the District of Columbia shall provide by its rules for representation of and active participation by members of the unified District of Columbia Bar and other persons active in the legal profession at such conference.".

SEC. 102. TRANSITION PROVISIONS.

(a) ELEVATION OF JUDGES OF THE DISTRICT OF COLUMBIA COURT OF APPEALS AS JUSTICES OF THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.—

(1) Except as provided in paragraph (2), beginning on the effective date of this title the chief judge of the District of Columbia Court of Appeals shall serve the remainder of the term to which he or she was appointed as the chief justice of the Supreme Court of the District of Columbia and the associate judges of the District of Columbia Court of Appeals shall serve the remainder of the respective terms to which they were appointed as associate justices of the Supreme Court of the District of Columbia. The Supreme Court of the District of Columbia shall conform to the numerical requirements of section 11-602 of the D.C. Code through attrition. Vacancies in the offices of chief judge and associate judge of the District of Columbia Court of Appeals shall be filled in accordance with chapter 15 of title 11 of the D.C. Code.

(2) Any judge of the District of Columbia Court of Appeals may serve the remainder of the term to which he or she was appointed as a judge of that court by providing written notice to the chief judge of the District of Columbia Court of Appeals not less than 30 days after the date of the enactment of this Act.

(b) TRANSITION PERIOD FOR THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.—

(1) The Joint Committee on Judicial Administration in the District of Columbia (in this subsection referred to as the "Joint Committee") shall be responsible for the administration of the period of transition prior to the establishment of the Supreme Court of the District of Columbia, including the hiring of necessary staff, the preparation of facilities, and the purchase of necessary equipment and supplies.

(2) Not more than 120 days after the date of the enactment of this Act, the Joint Committee shall submit to the Subcommittee on Government Efficiency, Federalism, and the District of Columbia of the Committee on Governmental Affairs of the Senate and the Committee on the District of Columbia of the House of Representatives a transition report, consistent with this Act, regarding the establishment of the Supreme Court of the District of Columbia and the filling of vacancies on the District of Columbia Court of Appeals resulting from the elevation of the judges of such Court to positions on the Supreme Court of the District of Columbia pursuant to subsection (a).

(3) This subsection shall take effect on the date of the enactment of this Act.

SEC. 103. CONFORMING AND OTHER AMENDMENTS.

(a) AMENDMENTS TO THE HOME RULE ACT.—

(1) Section 431(a) of the District of Columbia Self-Government and Governmental Reorganization Act is amended—

(A) in the first sentence by inserting "Supreme Court of the District of Columbia," after "vested in the"; and

(B) by adding after the fourth sentence the following: "The Supreme Court of the District of Columbia has jurisdiction of appeals from the District of Columbia Court of Appeals and of cases certified to the Supreme Court under section 11-621(a), District of Columbia Code.".

(2) Section 431 of such Act is further amended in subsections (b), (c), and (g)—

(A) by inserting "chief justice or" before "chief judge" each place it appears;

(B) by inserting "justice or" before "judge" each place it appears;

(C) by inserting "justices or" before "judges" each place it appears; and

(D) by inserting "chief justice's or" before "chief judge's" each place it appears.

(3) Section 432 of such Act is amended—

(A) by inserting "justice or" before "judge" each place it appears;

(B) by striking "District of Columbia Court of Appeals" each place it appears and inserting "Supreme Court of the District of Columbia"; and

(C) in subsection (a)(1) by striking "law or which would be a felony in the District" and inserting "law or the laws of the District of Columbia".

(4) Section 433 of such Act is amended—

(A) in the heading by inserting "JUSTICES AND" before "JUDGES";

(B) by inserting "justices and" before "judges" each place it appears; and

(C) by inserting "justice or" before "judge" each place it appears.

(5) Section 434 of such Act is amended in subsections (b)(3) and (d)—

(A) by inserting "justice or" before "judge" each place it appears;

(B) by inserting "justices or" before "judges" each place it appears; and

(C) by inserting "justice's or" before "judge's" each place it appears.

(b) AMENDMENTS TO CHAPTER 1 OF TITLE 11, D.C. CODE.—

(1) Section 11-101(2), D.C. Code, is amended by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively, and by adding before subparagraph (B) (as so redesignated) the following:

"(A) The Supreme Court of the District of Columbia.".

(2) Section 11-102 of the D.C. Code is amended to read as follows:

"§ 11-102. Status of Supreme Court of the District of Columbia.

"The highest court of the District of Columbia is the Supreme Court of the District of Columbia. Final judgments and decrees of the Supreme Court of the District of Columbia and of the District of Columbia Court of Appeals where review is denied by the Supreme Court of the District of Columbia are reviewable by the Supreme Court of the United States in accordance with section 1257 of title 28, United States Code.".

(3) The item relating to section 11-102 of the table of contents of chapter 1 of title 11, D.C. Code, is amended to read as follows:

"11-102. Status of Supreme Court of the District of Columbia.".

(c) AMENDMENTS TO CHAPTER 3 OF TITLE 11, D.C. CODE.—(1) Section 11-301, D.C. Code, is amended to read as follows:

"§ 11-301. Jurisdiction of appeals from the Supreme Court of the District of Columbia.

"In addition to its jurisdiction as a United States court of appeals and any other jurisdiction conferred on it by law, the United States Court of Appeals for the District of Columbia Circuit has jurisdiction of appeals from judgments of the Supreme Court of the District of Columbia with respect to violations of criminal laws of the United States which are not applicable exclusively to the District of Columbia if a petition for the allowance of an appeal from that judgment is filed within 10 days after its entry.".

(2) The item relating to section 11-301 of the table of contents of chapter 3 of title 11, D.C. Code, is amended to read as follows:

"11-301. Jurisdiction of appeals from the Supreme Court of the District of Columbia.".

(d) AMENDMENTS TO CHAPTER 7 OF TITLE 11, D.C. CODE.—

(1) Chapter 7 of title 11, D.C. Code, is amended by striking sections 11-723 and 11-744 and by striking the items relating to such sections in the table of contents of such chapter.

(2) Section 11-703(b), D.C. Code, is amended by striking "$500" and inserting "$2,500".

(3) Section 11-707, D.C. Code, is amended by striking "chief judge of the District of Columbia Court of Appeals" both places it appears and inserting "chief justice of the Supreme Court of the District of Columbia".

(4) Section 11-708, D.C. Code, is amended by striking "not more than three law clerks for the court." and inserting "law clerks for the court and law clerks and secretaries for the senior judges.".

(5) Section 11-722, D.C. Code, is amended by striking "Commissioner" and inserting "Mayor".

(6) Section 11-743 is amended by striking "according to" and all that follows and inserting "in accordance with such rules and procedures as it may adopt.".

(e) Amendments to Chapter 9 of Title 11, D.C. Code.—

(1) Section 11-904(b), D.C. Code, is amended by striking "$500" and inserting "$2,500".

(2) Section 11-908(b), D.C. Code, is amended to read as follows:

"(b) When the business of the Superior Court requires, the chief judge may certify to the chief justice of the Supreme Court of the District of Columbia the need for an additional judge or judges as provided in section 11-607 and 11-707.".

(3) Section 11-910, D.C. Code, is amended by adding at the end the following new sentence: "In addition, the chief judge may appoint and remove law clerks for the court, who shall serve as directed by the chief judge.".

(4) Section 11-946, D.C. Code, is amended by striking "District of Columbia Court of Appeals" each place it appears in the second and third sentences and inserting "Supreme Court of the District of Columbia".

(f) Amendments to Chapter 15 of Title 11, D.C. Code.—

(1) Section 11-1501, D.C. Code, is amended to read as follows:

"§ 11-1501. Appointment and qualifications of judges.

"(a) Except as provided in section 434(d)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, the President shall nominate, from the list of persons recommended by the District of Columbia Judicial Nomination Commission established under section 434 of such Act, and, by and with the advice and consent of the Senate, appoint all justices and judges of the District of Columbia courts.

"(b) No person may be nominated or appointed a justice or judge of a District of Columbia court unless that person—

"(1) is a citizen of the United States;

"(2) is an active member of the unified District of Columbia Bar and has been engaged in the active practice of law in the District for the five years immediately preceding nomination or for such five years has served as a judge of the United States or the District of Columbia, has been on the faculty of a law school in the District, or has been employed as a lawyer by the United States or the District of Columbia government;

"(3) is a bona fide resident of the District of Columbia and has maintained an actual place of abode in the District for at least 90 days immediately prior to nomination, and shall retain such residency as long as he or she serves as such judge, except judges appointed prior to December 23, 1973, who retain residency in Montgomery or Prince George's Counties in Maryland, Arlington or Fairfax Counties (or any cities within the outer boundaries thereof) or the city of Alexandria in Virginia shall not be required to be residents of the District to be eligible for reappointment or to serve any term to which reappointed;

"(4) is recommended to the President, for such nomination and appointment, by the District of Columbia Judicial Nomination Commission; and

"(5) has not served, within a period of 2 years prior to nomination, as a member of the District of Columbia Commission on Judicial Disabilities and Tenure or of the District of Columbia Judicial Nomination Commission.".

(2) Section 11-1504(a)(1), D.C. Code, is amended by striking the period at the end of the first sentence and inserting the following: ", except that a retired judge may not serve or perform judicial duties on the Supreme Court of the District of Columbia.".

(3) Section 11-1505(a), D.C. Code, is amended in the second sentence by striking "District" and all that follows and inserting "court of the District of Columbia on which the judge serves.".

(4) Subchapter I of chapter 15 of title 11, D.C. Code, is amended by adding at the end the following new section:

"§ 11-1506. Definitions.

"For purposes of this chapter—

"(1) the term 'judge' means any justice of the Supreme Court of the District of Columbia, or any judge of the District of Columbia Court of Appeals or the Superior Court; and

"(2) the term 'chief judge' means the chief justice of the Supreme Court of the District of Columbia, or the chief judges of the District of Columbia Court of Appeals or the Superior Court, as appropriate.".

(5) Section 11-1526, D.C. Code, is amended by striking "District of Columbia Court of Appeals" each place it appears and inserting "Supreme Court of the District of Columbia".

(6) Section 11-1528, D.C. Code, is amended in subsection (a)(2)(C) by inserting "the Supreme Court of the District of Columbia or" after "elevation to".

(7) Section 11-1529, D.C. Code, is amended by striking "District of Columbia Court of Appeals" and inserting "Supreme Court of the District of Columbia".

(8) Section 11-1561, D.C. Code, is amended—

(A) in paragraph (1), by inserting "any justice of the Supreme Court of the District of Columbia," before "any judge"; and

(B) in paragraph (2), by inserting "a justice in the Supreme Court of the District of Columbia," before "a judge".

(9) The table of sections for subchapter I of chapter 15 of title 11, D.C. Code, is amended by adding at the end the following:

"11-1506. Definitions.".

(g) Amendments to Chapter 17 of Title 11, D.C. Code.—

(1) Section 11-1701, D.C. Code, is amended—

(A) by amending subsection (a) to read as follows:

"(a) There shall be a Joint Committee on Judicial Administration in the District of Columbia (hereafter in this chapter referred to as the 'Joint Committee') consisting of the chief justice of the Supreme Court of the District of Columbia (who shall serve as chairperson) and two other justices of such court, the chief judge of the District of Columbia Court of Appeals, and the chief judge of the Superior Court of the District of Columbia and two additional judges of such court.";

(B) in subsection (b)—

(i) by amending paragraph (4) to read as follows:

"(4) Preparation and publication of an annual report of the District of Columbia court system regarding the work of the courts, the performance of the duties enumerated in this chapter, and any recommendations relating to the courts.", and

(ii) by striking paragraphs (6) and (9) and redesignating paragraphs (7) and (8) as paragraphs (6) and (7); and

(C) in subsection (c)—

(i) by amending paragraph (2) to read as follows:

"(2) formulate and enforce standards for outside activities of and receipt of compensation by the judges of the District of Columbia court system;",

(ii) in paragraph (3), by striking ", and institute such changes" and all that follows through "justice",

(iii) by striking "and" at the end of paragraph (3),

(iv) by striking the period at the end of paragraph (4) and inserting a semicolon, and

(v) by adding at the end the following new paragraphs:

"(5) submit the annual budget requests of the Supreme Court of the District of Columbia, the District of Columbia Court of Appeals, and the Superior Court to the Mayor of the District of Columbia as part of the integrated budget of the District of Columbia court system, except that any such request may be modified upon the concurrence of 5 of the 7 members of the Joint Committee; and

"(6) with the concurrence of the chief justice of the Supreme Court of the District of Columbia and the respective chief judges of the other District of Columbia courts, prepare and implement other policies and practices for the District of Columbia court system and resolve other matters which may be of joint and mutual concern of the Supreme Court of the District of Columbia, the District of Columbia Court of Appeals, and the Superior Court.".

(2) Section 11-1702 is amended—

(A) in the heading, by inserting "the chief justice and the" after "of";

(B) by redesignating subsections (a) and (b) as subsections (b) and (c); and

(C) by inserting before subsection (b) the following new subsection:

"(a) The chief justice of the Supreme Court of the District of Columbia, in addition to the authority conferred by chapter 6 of this title, shall supervise the internal administration of that court—

"(1) including all administrative matters other than those within the responsibility enumerated in section 11-1701(b), and

"(2) including the implementation in that court of the matters enumerated in section 11-1701(b),

consistent with the general policies and directives of the Joint Committee.".

(3) Section 11-1703(a), D.C. Code, is amended—

(A) by striking "He" each place it appears and inserting "The Executive Officer"; and

(B) in the fourth sentence, by striking "judges" and inserting "judge of the District of Columbia Court of Appeals and the chief judge of the Superior Court of the District of Columbia".

(4) Section 11-1721, D.C. Code, is amended by amending the matter following the heading to read as follows:

"(a) The Supreme Court of the District of Columbia, the District of Columbia Court of Appeals, and the Superior Court of the District of Columbia shall each have a clerk appointed by the chief justice or the chief judge of that court who shall, under the direction of such chief justice or chief judge, be responsible for the daily operations of that court.

"(b) Each such clerk appointed under this section shall receive a level of compensation, including retirement benefits, determined by the Joint Committee on Judicial Administration, except that such level may not exceed the level of compensation provided for the Executive Officer.".

(5) Section 11-1730(a), D.C. Code, is amended—

(A) by striking "Judges" and inserting "Justices and judges";

(B) by inserting "11-609," after "sections"; and

(C) by inserting "chief justice or" after "respective".

(6) Section 11-1731, D.C. Code is amended—

(A) by striking "or the chief judge" and inserting ", the chief justice, or the chief judges";

(B) in paragraph (7), by striking "the District of Columbia Bail Agency" and inserting "the District of Columbia Pre-trial Services Agency";

(C) by inserting "and" at the end of paragraph (9); and

(D) by striking paragraphs (10) and (11) and inserting the following:

"(10) the Department of Human Services.".

(7) Section 11-1741, D.C. Code, is amended—

(A) by amending the matter preceding paragraph (1) to read as follows: "Within the District of Columbia courts, and subject to the supervision of the chief justice of the Supreme Court of the District of Columbia (acting in consultation with the chief judge of the District of Columbia Court of Appeals and the chief judge of the Superior Court of the District of Columbia), the Executive Officer shall—";

(B) by inserting "chief justice or" before "chief" each place it appears in paragraphs (5), (7), and (9);

(C) by striking "and" at the end of paragraph (8);

(D) by striking the period at the end of paragraph (9) and inserting "; and"; and

(E) by adding at the end the following:

"(10) be responsible for the allocation, negotiation for, and provision of space in the courts.".

(8) Section 11-1745(b)(2), D.C. Code, is amended by striking "Commissioner" and inserting "Mayor".

(9) Section 11-1747, D.C. Code, is amended by striking "him" and inserting "the Executive Officer".

(10) The table of sections for subchapter I of chapter 17 of title 11, D.C. Code, is amended by amending the item relating to section 11-1702 to read as follows:

"11-1702. Responsibilities of the chief justice and the chief judges in the respective courts.".

(h) Amendments to Chapter 25 of Title 11, D.C. Code.—

(1) Section 11-2501, D.C. Code, is amended—

(A) by striking "District of Columbia Court of Appeals" each place it appears and inserting "Supreme Court of the District of Columbia"; and

(B) by amending subsection (c) to read as follows:

"(c) Members of the bar of the District of Columbia Court of Appeals in good standing on the effective date of title I of the District of Columbia Judicial Reorganization Act of 1990 shall be automatically enrolled as members of the bar of the Supreme Court of the District of Columbia, and shall be subject to its disciplinary jurisdiction.".

(2) Section 11-2502, D.C. Code, is amended by striking "District of Columbia Court of Appeals" and inserting "Supreme Court of the District of Columbia".

(3) Section 11-2503, D.C. Code, is amended by striking "District of Columbia Court of Appeals" and inserting "Supreme Court of the District of Columbia".

(4) Section 11-2504, D.C. Code, is amended by striking "District of Columbia Court of Appeals" and inserting "other courts of the District of Columbia".

(i) Amendment to Chapter 26 of Title 11, D.C. Code.—Section 11-2607, D.C. Code, is amended by striking "Commissioner" and inserting "Mayor".

(j) Amendment to Chapter 3 of Title 13, D.C. Code.—Section 13-302, D.C. Code, is amended by inserting "the Supreme Court of the District of Columbia," after "process of".

(k) Amendments to Chapter 3 of Title 17, D.C. Code.—

(1) The chapter heading for chapter 3 of title 17, D.C. Code, is amended to read as follows: "SUPREME COURT OF THE DISTRICT OF COLUMBIA AND DISTRICT OF COLUMBIA COURT OF APPEALS,".

(2) Section 17-302, D.C. Code, is amended by striking "District of Columbia Court of Appeals" each place it appears and inserting "Supreme Court of the District of Columbia".

(3) Section 17-305, D.C. Code, is amended by adding at the end the following new subsection:

"(c) The Supreme Court of the District of Columbia shall apply the same standards regarding the scope of review and the reversal of judgment as the District of Columbia Court of Appeals applies under subsections (a) and (b).".

(4) Section 17-306, D.C. Code, is amended by inserting "Supreme Court of the District of Columbia or the" before "District".

(l) Amendment to Title 28, United States Code.—Section 1257 of title 28, United States Code, is amended by striking "District of Columbia Court of Appeals" and inserting "Supreme Court of the District of Columbia".

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—In addition to any other sums authorized to be appropriated to the District of Columbia, there are authorized to be appropriated to the District of Columbia for costs incurred by the District of Columbia in implementing the amendments made by sections 101 and 103 and in carrying out section 102 the following amounts:

(1) $500,000, for fiscal year 1991.
(2) $5,000,000, for fiscal year 1992.
(3) $4,000,000, for fiscal year 1993.
(4) $3,000,000, for fiscal year 1994.
(5) $2,000,000, for fiscal year 1995.
(6) $1,000,000, for fiscal year 1996.

(b) Availability of Funds.—Funds appropriated pursuant to the authorization referred to in subsection (a) shall remain available to the District of Columbia until expended.

SEC. 105. EFFECTIVE DATE.

(a) General Rule.—Except as provided in section 102 and subsection (b), this title and the amendments made by this title shall take effect one year after the date of enactment of this Act.

(b) Exception.—The amendments made by section 103(g)(3) shall apply to the position of Executive Officer of the District of Columbia courts—

(1) after the individual in that position on the date of the enactment of this Act leaves that office; or

(2) one year after the date of the enactment of this Act,

whichever occurs first.

TITLE II—JUDGES OF THE DISTRICT OF COLUMBIA COURTS

SEC. 201. DESIGNATION OF CHIEF JUDGE.

Section 11-1503(a), D.C. Code, is amended to read as follows:

"(a)(1) Except as provided in paragraph (2), the chief justice or chief judge of a District of Columbia court shall be designated by the District of Columbia Judicial Nomination Commission from among the judges of the court in regular active service. A chief judge shall serve for a term of 4 years or until a successor is designated, and shall be eligible for redesignation. A judge may relinquish the position of chief judge, after giving notice to the District of Columbia Judicial Nomination Commission.

"(2) Notwithstanding the first sentence of paragraph (1), the first chief justice of the Supreme Court of the District of Columbia shall be appointed in accordance with section 102(a) of the District of Columbia Judicial Reorganization Act of 1990.".

SEC. 202. COMPOSITION OF SUPERIOR COURT OF THE DISTRICT OF COLUMBIA.

Section 11-903, D.C. Code, as amended by section 138 of the District of Columbia Appropriations Act, 1990, is amended—

(1) by striking "Subject to the enactment of authorizing legislation, the" and inserting "The";

(2) effective October 1, 1991, by striking "fifty-eight" and inserting "sixty"; and

(3) effective October 1, 1992, by striking "sixty" and inserting "sixty-two".

SEC. 203. STUDY OF FEASIBILITY OF ESTABLISHING DISTRICT OF COLUMBIA NIGHT COURT.

The Executive Officer of the District of Columbia courts shall conduct a study of the feasibility and desirability of establishing a District of Columbia Night Court as a division of the Superior Court of the District of Columbia, and shall submit a report on such study to Congress not later than 180 days after the date of the enactment of this Act.

SEC. 204. EFFECTIVE DATE.

Except as provided in section 202, the amendments made by sections 201 and 202 shall take effect on the date of the enactment of this Act.

TITLE III—JUDICIAL MAGISTRATES

SEC. 301. JUDICIAL MAGISTRATES.

(a) In General.—

(1) Replacement of Hearing Commissioners.—Section 11-1732, D.C. Code, is amended to read as follows:

"§ 11-1732. Judicial Magistrates.

"(a) Establishment.—There are established—

"(1) effective October 1, 1991, not fewer than 15 judicial magistrates;

"(2) effective October 1, 1992, not fewer than 17 judicial magistrates;

"(3) effective October 1, 1993, not fewer than 19 judicial magistrates; and

"(4) effective October 1, 1995, not fewer than 20 judicial magistrates,

who shall serve as judicial officers in the Superior Court and perform the duties enumerated in subsection (f) and such other duties authorized by the chief judge of the Superior Court, together with such other functions incidental to such duties as are consistent with the rules of the Superior Court and the

Constitution and laws of the United States and the District of Columbia.

"(b) Appointment.—

"(1) In general.—Judicial magistrates shall be appointed by the chief judge of the Superior Court of the District of Columbia, with the approval of a majority of the judges of the Superior Court in active service, from among individuals recommended by the District of Columbia Judicial Nomination Commission.

"(2) Training program.—The Joint Committee shall establish a training program for judicial magistrates to assist magistrates in performing their duties under this section.

"(c) Qualifications.—No individual shall be appointed as a judicial magistrate unless that individual—

"(1) is a citizen of the United States;

"(2) is an active member of the unified District of Columbia Bar and has been engaged in the active practice of law in the District for the 5 years immediately preceding the appointment or for such 5 years has been on the faculty of a law school in the District, or has been employed as a lawyer in the District of Columbia by the United States or District government; and

"(3) is a bona fide resident of the District of Columbia and has maintained an actual place of abode in the District for at least 90 days immediately prior to appointment, and retains such residency during service as a judicial magistrate.

"(d) Service of Judicial Magistrates.—

"(1) Judicial magistrates shall be appointed for terms of 6 years and may be reappointed for terms of 6 years in accordance with section 433(d) of the District of Columbia Self-Government and Governmental Reorganization Act.

"(2) Upon the expiration of a judicial magistrate's term, a judicial magistrate may continue to perform the duties of office until a successor is appointed, or for 90 days after the date of the expiration of the judicial magistrate's term, whichever is earlier.

"(3) No individual may serve as a judicial magistrate after having attained the age of 74.

"(4) Judicial magistrates may not engage in the practice of law, or in any other business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of their duties as judicial magistrates.

"(5) Judicial magistrates shall abide by the same standards of conduct that apply to judges of District of Columbia courts.

"(e) Compensation.—Judicial magistrates shall be compensated at a rate equal to 80 percent of the rate of compensation for a judge of the Superior Court.

"(f) Duties of Judicial Magistrates.—A judicial magistrate, when authorized by the chief judge of the Superior Court and subject to the rules of the Superior Court, may make findings and enter final orders or judgments as provided by law, which shall constitute a final order or judgment of the Superior Court, with respect to proceedings concerning the following:

"(1) landlord and tenant disputes brought under chapter 15 of title 16 of the District of Columbia Code, or chapter 39 of the Act of March 3, 1901 (31 Stat. 1382; section 45-1401 et seq., D.C. Code);

"(2) small claims proceedings brought under chapter 13 of this title;

"(3) civil proceedings at law or in equity in which the amount in controversy does not exceed $25,000;

"(4) criminal misdemeanors;

"(5) proceedings to determine conditions of release pursuant to title 23 of the District of Columbia Code;

"(6) preliminary examinations and initial probation revocation hearings in all criminal cases to determine if there is probable cause to believe that an offense has been committed and that the accused committed it;

"(7) civil pre-trial discovery proceedings;

"(8) traffic offenses;

"(9) proceedings brought pursuant to the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978 (section 6-1901 et seq., D.C. Code);

"(10) uncontested actions or proceedings assigned to the Family Division of the Superior Court under section 11-1101, unless, in an uncontested proceeding brought under section 11-1101(13), a child is alleged to have committed an act which would constitute a felony if committed by an adult;

"(11) contested proceedings brought under paragraphs (1), (3), (4), (10), or (13) of section 11-1101 involving the establishment or enforcement of child support or the modification of an existing child support order;

"(12) contested proceedings brought under section 11-1101(13) in which a child is alleged to be delinquent, neglected, or in need of supervision, to determine conditions of detention, release, or placement, or determinations of probable cause, unless the child is alleged to have committed an act which would constitute a felony if committed by an adult;

"(13) contested proceedings brought under section 11-1101(14) to determine probable cause;

"(14) contested proceedings brought under section 11-1101(15) or section 11-1101(16); and

"(15) uncontested probate and fiduciary proceedings brought under title 20 of the District of Columbia Code.".

(2) Clerical amendment.—The item relating to section 11-1732 of the table of contents of chapter 17 of title 11, D.C. Code, is amended to read as follows:

"11-1732. Judicial magistrates.".

(b) Removal for Disability by Commission on Judicial Disabilities and Tenure.—Section 11-1521, D.C. Code, is amended by striking "a judge" and inserting "a judge or judicial magistrate".

(c) Appointment of Judicial Magistrates.—

(1) Transition provision regarding hearing commissioners.—Any individual serving as a hearing commissioner under section 11-1732 of the District of Columbia Code as of the date of the enactment of this Act shall serve the remainder of such individual's term as a judicial magistrate, and may be reappointed as a judicial magistrate in accordance with section 433(d)(1) of the District of Columbia Self-Government and Governmental Reorganization Act (as added by paragraph (3)(B), except that any individual serving as a hearing commissioner as of the date of the enactment of this Act who was appointed as a hearing commissioner prior to the effective date of section 11-1732 of the District of Columbia Code shall not be required to be a resident of the District of Columbia to be eligible to be reappointed.

(2) Appointments made from individuals nominated by judicial nomination commission.—Section 434(b)(3) of the District of Columbia Self-Government and Governmental Reorganization Act is amended by striking the period at the end and inserting the following: ", and to submit nominees for appointment to positions as judicial magistrates of the Superior Court of the District of Columbia in accordance with section 11-1732 of the District of Columbia Code.".

(3) Review of candidates for reappointment by tenure commission.—Section 433 of the District of Columbia Self-Government and Governmental Reorganization Act (as amended by section 103(a)(4)(A)) is further amended—

(A) in the heading of such section, by striking "JUSTICES AND JUDGES" and inserting "JUSTICES, JUDGES, AND JUDICIAL MAGISTRATES"; and

(B) by adding at the end the following new subsection:

"(d) Not less than 6 months prior to the expiration of such individual's term of office, any judicial magistrate of the Superior Court of the District of Columbia under section 11-1732 of the District of Columbia Code may file with the Tenure Commission a declaration of candidacy for reappointment. If a declaration of candidacy is so filed, the Tenure Commission shall, not less than 60 days prior to the expiration of the declaring candidate's term of office, prepare and submit to the chief judge of the Superior Court of the District of Columbia (hereafter in this subsection referred to as the 'chief judge') a written evaluation of the declaring candidate's performance during the candidate's present term of office and the candidate's fitness for reappointment to another term. If the Tenure Commission determines the declaring candidate to be well qualified for reappointment to another term, then the term of such candidate shall be automatically extended for another full term, subject to mandatory retirement, suspension, or removal. If the Tenure Commission determines the declaring candidate to be qualified for reappointment to another term, then the chief judge may extend the term of such candidate for another full term, subject to mandatory retirement, suspension, or removal. If the Tenure Commission determines the declaring candidate to be unqualified for reappointment to another term, then the chief judge may not extend the term of such candidate, and such candidate shall not be eligible for reappointment or appointment as a judicial magistrate or as a judge of a District of Columbia court. If a declaration of candidacy is not filed under this paragraph by any judicial magistrate, or if the chief judge does not extend the term of a declaring candidate determined to be qualified by the Tenure Commission, a vacancy shall result upon the expiration of the judicial magistrate's term of office and shall be filled by appointment as provided under section 434(e).".

(4) Vacancies filled by individuals nominated by judicial nomination commission.—Section 434 of the District of Columbia Self-Government and Governmental Reorganization Act is amended by adding at the end the following new subsection:

"(e)(1) In the event of a vacancy in any position of a judicial magistrate of the Superior Court of the District of Columbia under section 11-1732 of the District of Columbia Code, the Commission shall, not later than 60 days following the occurrence of such vacancy, submit to the chief judge of the Superior Court of the District of Columbia (hereafter in this subsection referred to as the 'chief judge') a list of 3 persons for possible nomination and appointment for each vacancy. If more than one vacancy exists at one given time, the Commission must submit lists in which no person is named more than once and the chief judge may select more than one nominee from one list. Whenever a vacancy will occur by reason of the expiration of such a magistrate's term of office, the Commission's list of nominees shall be submitted to the chief judge not less than 60 days prior to the occurrence of such vacancy.

"(2) In the event any person recommended by the Commission under this paragraph requests that his/her recommendation be withdrawn, dies, or in any other way becomes disqualified to serve as a judicial magistrate, the Commission shall promptly recommend to the chief judge one person to replace the person originally recommended.

"(3) In no instance shall the Commission recommend any person who does not, upon the time of appointment to service as a judicial magistrate, meet the qualifications specified in section 11-1732(c) of the District of Columbia Code.".

(d) Conforming Amendments.—(1) Section 11-1701(c)(2), D.C. Code (as amended by section 103(g)(1)(C)) is amended by inserting "and judicial magistrates" after "judges".

(2) Section 16-924, D.C. Code, is amended—

(A) by striking "hearing commissioner" each place it appears and inserting "judicial magistrate"; and

(B) in subsection (f), by striking "hearing commissioner's" and inserting "judicial magistrate's".

(3) The District of Columbia Self-Government and Governmental Reorganization Act is amended—

(A) in section 431(g), as amended by section 103(a)(2)(B), by striking "justice or" and inserting "judicial magistrate, justice, or"; and

(B) in section 432, as amended by section 103(a)(3)(A), by striking "justice or" each place it appears and inserting "judicial magistrate, justice, or".

SEC. 302. STUDY OF UTILIZATION AND EFFECTIVENESS OF JUDICIAL MAGISTRATES.

(a) Study.—During each of the first 3 years that begins after the date of the enactment of this Act, the chief judge of the Superior Court of the District of Columbia shall, in consultation with members of the unified bar of the District of Columbia and other interested parties, conduct a study of the utilization and effectiveness of judicial magistrates in the District of Columbia court system.

(b) Report.—Not later than the last day of each of the first 3 years that begins after the date of the enactment of this Act, the chief judge of the Superior Court shall submit a report on the study conducted under subsection (a) to Congress and the Mayor of the District of Columbia.

SEC. 303. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.[H15OC0-T1]H9642}this Act.

The **SPEAKER** pro tempore. Is a second demanded?

Mr. PARRIS. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from California [Mr. Dellums] will be recognized for 20 minutes, and the gentleman from Virginia [Mr. Parris] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Dellums].

Mr. DELLUMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of this legislation is to create a supreme court for the District of Columbia and for other purposes.

Mr. Speaker, in an effort to confront these tragic times, the D.C. committee on a bipartisan basis passed in 1989 the first in a series of legislative packages that should begin to bring a level of relief to the citizens of the District of Columbia. H.R. 1502, presently Public Law 101-223, the D.C. Police Authorization and Expansion Act, authorized the appropriation of funds to the District of Columbia for 700 additional police officers; it called for the development of a community-oriented police department; it directed the District of Columbia to begin immediate construction of a new detention center, which includes a drug treatment center; it provided for the development of a classification system for individuals convicted of crimes in the District of Columbia; it directed that proceeds of forfeited property for law enforcement activities be used to finance law enforcement activities of the D.C. Metropolitan Police Department; and it provided for the participation of the D.C. Metropolitan Police Department in the national crime information system. In addition to H.R. 1502, the D.C. committee moved expeditiously to increase the D.C. superior court by 8 additional judges and appropriate support staff to ease the overload on the court.

In keeping with the cooperative bipartisan effort of the first session of the 101st Congress, I am pleased to bring before the House today H.R. 4257, as amended, and am equally pleased to report to my colleagues in the House that once again we have reached across our political differences and have been able to draft a very good compromise bill. However, before going further, I want to express my deepest gratitude to Fiscal Affairs and Health Subcommittee Chairman Walter E. Fauntroy for his diligence in working with the other members of the committee in bringing out this legislation. The gentleman has done well in his capacity as subcommittee chair. During the first session he led the way toward passage of H.R. 1502, the police authorization bill, he fought hard and won the battle for 8 additional superior court judges, his service to the citizens of the District of Columbia and to the D.C. committee has been exemplary in helping us improve the safety of D.C. citizens and the large number of tourists and visitors who come each year.

Mr. Speaker, H.R. 4257, as amended, had its beginnings in 1986 when then Chief Judge William Pryor engaged Judiciary and Subcommittee Chairman Mervyn Dymally in considerable discussion about the creation of a local supreme court. On April 13, 1988, Messrs. Fauntroy, Dymally, and Mazzoli introduced H.R. 4366, a bill to establish a supreme court of the District of Columbia. On April 19 and 28, 1988, the Subcommittee on Judiciary and Education held hearings on H.R. 4366. Witnesses included the honorable William C. Pryor, then chief judge of the D.C. Superior Court; Larry P. Polansky, executive officer, D.C. Courts; and Richard Hoffman, Clerk of the Court of Appeals. In addition, the subcommittee took testimony from Frederick D. Cooke, Jr., then corporation counsel of D.C.; Hon. Wilhelmina Rolark, D.C. city councilmember; as well as other distinguished members of the bar.

Mr. Speaker, per the recommendation of Mr. Fauntroy's judicial mission team and their independent hearings, on October 16, 1989, Mr. Fauntroy introduced H.R. 3470, a similar but revised bill to establish a supreme court of the District of Columbia. This bill authorized eight additional judges for the Superior Court of the District of Columbia and revised the present hearing commissioner system in the Superior Court of the District of Columbia.

Mr. Dymally held hearings on H.R. 3470 on October 26 and November 6 respectively and a November 15 hearing was held at the request of our colleague on the minority side.

A subcommittee markup of H.R. 3470, originally scheduled on March 6, 1990, was postponed to Thursday, March 15, 1990, at the request of Mr. Rohrabacher, the ranking Republican on the Judiciary and Education Subcommittee.

Based upon a substantial hearing record, on March 14, 1990, Messrs. Fauntroy and Dymally introduced a new bill, H.R. 4257, which is a revised version of H.R. 3470. It included several recommendations from the last series of hearings.

Mr. Speaker, on Thursday, March 15, 1990, the Subcommittee on Judiciary and Education referred H.R. 4257 to the full committee for consideration.

On October 2, 1990, the full committee voted November 1 to report to the House an amendment in the nature of a substitute to H.R. 4257.

Mr. Speaker, H.R. 4257, as amended, does several things:

First, it establishes a seven-member supreme court by elevating the present nine-member appellate court and by attrition allowing the size to diminish to seven. The President would then appoint nine new judges to fill the appellate division.

Second, it provides for four additional superior court judges, two to be appointed by the President in October

1992; two to be appointed by the President in October 1993.

Third, it changes the makeup and size of the joint committee on judicial administration. Presently the committee has five members, two from the appellate and three from the superior court. Under the new bill, there would be a seven-member joint committee made up of the chief judge of the supreme court, two associate justices; the chief judge of the appellate court; and the chief judge of the superior court and two associate judges.

Fourth, the new bill upgrades the hearing commissioners to judicial magistrates and increases their number from 14 to 20 by October 1, 1995.

Fifth, the new bill authorizes $15.5 million over a 6-year period beginning fiscal year 1991—ending September 30, 1996.

Mr. Speaker, it is important to note that the appellate and supreme courts have two distinct functions. The intermediate court generally has an error correcting function—correcting errors in the lower court's application of law. The supreme court—as the highest State court—has a law stating—law development—function and a final error correcting function—being the final interpeters of the law. These functions are more logically performed by a court sitting en banc—as a whole—rather than by a subpanel of a larger court in the court of appeals, as is typical in most States.

In closing I want to personally thank Mervyn M. Dymally, Subcommittee chair, Judiciary and Education Subcommittee, for his leadership in ringing H.R. 4257 to the full committee, as I stated early on in my remarks, this has been a nonpartisan effort. Therefore, I want to thank Stan Parris, the ranking Republican on our committee, and Mr. Thomas Bliley the ranking Republican on the Fiscal Affairs and Health Subcommittee, for their personal assistance in making the way possible for the passage of this bill. Also, I want to thank former senior staff counsel Donald M. Temple; Mr. Ronald C. Willis, senior staff associate; Mr. Mark J. Robertson, minority staff director and Mr. Jeff Schlagenhauf, minority staff assistant, for their excellent work in bringing to the full committee the legislation we have before us.

Mr. Speaker, I reserve the balance of my time.

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Mr. PARRIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4257, a bill to create a supreme court for the District of Columbia. It is a bill which has had an arduous trek through the committee process. Its emergence demonstrates what good will, compromise, and cooperation can do. The bill also reflects the evolving needs of the judicial system in our Nation's Capital.

The bill makes several important changes to the local court system. The most important is that it creates a supreme court for the District of Columbia by elevating the present appellate court's members. The present court then becomes an intermediate court of appeals. It is anticipated that this will help to alleviate the unacceptably large backlog of cases and that it will permit the highest court to devote some much needed energy to a more careful examination of some of the most critical question of law. It will, in short, divide the functions of error correction and jurisprudential analysis. In the shrt run, that should speed the backlog. In the longer run, it should provide a clearer understanding and establish precedents of the law thereby reducing the number of necessary appeals.

The bill also improves both the pay and the status of the present hearing commissioners. It will change their titles to magistrates and set their pay as a fixed percent of the compensation that judges receive. More importantly, it will give the chief judge of the trial court the ability to better use the newly designed Magistrates. That should help to move the more than 50,000 arrests which this city is now experiencing each year as it seeks to crack down on crime and drug abuse.

There are other changes which the bill makes in the administration of the courts, in the number of trial judges, and in provisions of Federal funds for the transition to this more modern court.

It is not easy to modify a court system. It should not be. We have undertaken to make these changes with the greatest of care. We have done so because we believe that it's necessary and prudent. We have made only those changes we agreed were absolutely necessary. There are no changes in the selection process, no changes in the role of the President or Senate for nomination and confirmation, and no increased role for the local government, its mayor, or council.

This is one area where Congress has not contemplated giving up any of its authority in the Nation's Capital. That we have worked so diligently to achieve this bill signals, too, that we will not do so. For all these reasons and more, I encourage passage of this bill.

Mr. Speaker, let me extend my congratulations to all those who brought the creation of this bill about, as so adequately explained by the chairman of the committee.

Mr. Speaker, I reserve the balance of my time.

Mr. DELLUMS. Mr. Speaker, I yield 5 minutes to my distinguished colleague, the gentleman from the District of Columbia [Mr. Fauntroy].

Mr. FAUNTROY. Mr. Speaker, I would like to join my colleagues on the Committee on the District of Columbia in urging passage of H.R. 4257, as amended—the District of Columbia Supreme Court bill. I would also like to thank the Members on both sides of the aisle for their assistance in shaping this very important piece of legislation and, now their support in bringing it to the floor of the House. On occasions such as this, I am grateful, on behalf of the citizens of the District, for their wholehearted cooperation and I extend my personal thanks also to each of them.

This bill has benefited from the valuable guidance of former Appellate Chief Judge William Pryor and now current Appelate Chief Judge Judith Rogers. Superior Court Chief Judge Fred Ugast also provided valuable guidance. All of these efforts have sped this legislation toward today's action and though in the future further review will be recommended, this is the crucial step that will make Supreme Court a fact.

In 1971, Congress passed legislation creating the current structure of the District of Columbia court system. In many ways this reorganized court system has improved the administration of justice. It became apparent to me, however, that these courts were failing to meet the needs of District of Columbia residents in significant ways. Presidentially appointed judges had become aloof and distanced themselves from the needs of the citizens because they are no way accountable to them. Judicial administration had become chaotic and aribtrary, in some measure because the courts were poorly organized to respond to the drug crisis which overan the dockets of the court. The delays in the processing of civil cases and appeals had become intolerable because of poor organization and internal politics.

It seemed to me that the 20th anniversary of court reorganization called for a thorough evaluation of the 1971 Reorganization Act. I appointed a mission team to study the problems, and report to me on their conclusions and recommendations. The team consisted of prominent local practitioners, law professors, a former clerk of the court, and counsel and the staff director of this committee. The chief judges of the local courts were asked to appoint representatives, but they declined. The mission team conducted a detailed and extensive examination. Hearings were held where local judges, the U.S. Attorney, representatives form all local bar associations, judges from surrounding jurisdictions, and a dean from a local law school all testified.

The mission team proposed a judicial reorganization plan in the form of a bill that I introduced—H.R. 3470. That measure proposed a new intermediate court of appeals; a reorganization of court administration placing control in the Chief Judge of the new District of Columbia Supreme Court; the creation of judicial magistrates to handle less important matters, thereby freeing superior court judges for felony dockets and larger civil cases; and expanding local appointments on the judicial nominating and tenure commissions to interject more local involvement. This was a conservative bill. The mission team deeply felt that local appointment of judges was central to reformation of the courts, but also recognized that such a measure would not be feasible in view of current congressional suspicion of local leadership.

Major revisions were made in the bill, although significant features were retained. The bill before you falls far short of my hope to have more local involvement in the courts. But in proposing an intermediate court of appeals, and instituting a system of judicial magisrates, important improvements in the courts are made. I therefore will vote for and support this bill with hope that the agenda of reorganization of local courts set forth by the mission team will be pursued by this committee in the next session of Congress.

Mr. PARRIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DELLUMS. Mr. Speaker, I yield the balance of my time to the distinguished gentleman from California [Mr. Dymally].

The SPEAKER pro tempore (Mr. Mazzoli). The gentleman from California [Mr. Dymally] is recognized for 6 minutes.

Mr. DYMALLY. Mr. Speaker, I wish to thank the chairman of the Committee on the District of Columbia the distinguished gentleman from California [Mr. Dellums] for bringing to the floor H.R. 4257, as amended. This bill has come a very long way and through a very arduous review process.

I wish to commend former Appellate Chief Judge William Pryor for his initial push of this legislation and current Appellate Chief Judge Judith Rogers for her continued pursuit of this goal after succeeding Judge Pryor in the court of appeals. Also I want to commend Superior Court Chief Judge Fred Ugast for his insights and support as we crafted this legislation. It is not perfect and will require review in the future.

Mr. Speaker, the Subcommittee on Judiciary and Education held two hearings on this proposal in the 100th Congress. Thereafter, consistent with Fiscal Affairs and Health Subcommittee Chair Walter E. Fauntroy's leadership and recommendations made at our subcommittee hearings, Mr. Fauntroy and I introduced a new bill, H.R. 3470.

To ensure the best possible legislation, Mr. Fauntroy established a mission team on judicial reorganization, which held its own hearings and which also made significant recommendations.

Mr. Speaker, the record before us is clear. There is considerable backlog in the D.C. Appellate Court.

Mr. Speaker, the court reorganization bill addresses that backlog problem and gives the court a new and improved structure and viability. This legislation, in creating a supreme court, would provide the local court system with an appropriate law development and law stating forum and a court of appeals that could focus more efficiently on its traditional function of correcting errors of law made at the trial level.

Mr. Speaker, operation of the new court would be most fluid since management would remain vested in a joint committee. This system has worked well for the District for the last 20 years and we have agreed that it remains the best suited system for continued management of the courts.

Mr. Speaker, the magistrates' provisions provide increased authority and status to the present superior court hearing officer—and is designed to help the judges with their trial court calendar overload. Thus, we expressly provided the chief judge of the superior court sufficient authority to direct these new magistrates.

Mr. Speaker, overall I believe this legislation is a giant step in the right direction, I echo the remarks of our chairman and congratulate Mr. Fauntroy on his leadership on this bill. I also commend Mr. Parris for his cooperative bipartisanship spirit. Finally, Mr. Speaker, I commend former senior staff counsel, Donald M. Temple, for his work on the bill. Mr. Temple has a skilled and creative staff counsel, I wish him well in his new endeavors.

Mr. Speaker, I indeed support H.R. 4257, as amended, and urge my colleagues to vote for the passage of this bill.

☐ 1520

Mr. Speaker, because of our schedule, this is probably the last time I may have the opportunity to say to my friend, the distinguished gentleman from the District of Columbia [Mr. Fauntroy], how much he is going to be missed. I had known of the gentleman before coming here. I met him in Sacramento during his initial drive for statehood.

In the last 10 years the gentleman from the District of Columbia [Mr. Fauntroy] has become a personal friend of mine, one to whom I look for advice and counsel and leadership on these matters, and matters affecting voters' rights across the country. So I do wish that his pardon from the Congress does not mean his pardon from the issues and causes for which he has given so much of his life, and that we will continue to have his advice, counsel, and leadership on a number of matters that affect us all, including the Speaker, a good friend of 20 years, and Members of this body. So I wish him godspeed.

Mr. Speaker, I ask for an aye vote on this bill.

Mr. PARRIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DELLUMS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Mazzoli). The question is on the motion offered by the gentleman from California [Mr. Dellums] that the House suspend the rules and pass the bill, H.R. 4257, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to create the Supreme Court of the District of Columbia, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 4257.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AMERICAN UNIVERSITY INCORPORATION AMENDMENTS ACT OF 1990

Mr. DELLUMS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5749) to amend the act entitled "An Act to incorporate the American University," approved February 24, 1893, to clarify the relationship between the board of trustees of the American University and the general board of higher education and ministry of the United Methodist Church.

The Clerk read as follows:

H.R. 5749

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "American University Incorporation Amendments Act of 1990".

SEC. 2. CLARIFICATION OF RELATIONSHIP BETWEEN BOARD OF TRUSTEES AND UNITED METHODIST CHURCH.

(a) In General.—The Act entitled "An Act to incorporate the American University", approved February 24, 1893, is amended—

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(1) in section 1 by striking "three-fifths of whom shall at all times be members of the Methodist Church" and inserting "including individuals who are members of the United Methodist Church, including (subject to their acceptance) the Bishop of the Washington Episcopal Area and the General Secretary of the General Board of Higher Education and Ministry of the United Methodist Church,"; and

(2) in section 2—

(A) in subsection (a)(2), by striking "and subject to the terms and provisions of the discipline of the Methodist Church;" and inserting a semicolon,

(B) by striking "the Methodist Church" each place it appears and inserting "the United Methodist Church", and

(C) by striking "Board of Education" each place it appears and inserting "General Board of Higher Education and Ministry".

(b) **Effective Date.**—The amendments made by subsection (a) shall take effect December 31, 1990.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. Dellums] wil be recognized for 20 minutes, and the gentleman from Virginia [Mr. Parris] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Dellums].

Mr. DELLUMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5749 changes the requirement in the congressional charter of the American University for membership on the university's board of trustees, and makes certain technical amendments. The university will continue to operate under the auspices and control of the United Methodist Church.

A charter for the American University within the District of Columbia was enacted by Congress and signed by President Benjamin Harrison on February 24, 1893. Congress amended the charter in 1895, 1951, and 1953.

The committee is informed that the appropriate agency of the United Methodist Church has given permission to this change in the articles of incorporation, as is required by an amendment to the charter enacted by Congress in 1953.

H.R. 5749 removes the requirement that three-fifths of the 40- to 50-member board of trustees of American University be members of the United Methodist Church. Instead, an unspecified number of individuals must be included who are members of the United Methodist Church, including—subject to their acceptance—the bishop of the Washington Episcopal area and the general secretary of the Board of Higher Education and Ministry of the United Methodist Church."

A reference in the charter to the university operating, "subject to the terms and provisions of the discipline of the Methodist Church" is deleted by H.R. 5749.

On October 2, 1990, a majority being present, the Committee on the District of Columbia, on a rollcall vote of 12 to 0, ordered H.R. 5749 reported to the House.

The report of the congressional budget office states, "that enactment of this bill would result in no cost to the Federal Government or to State and local governments."

Mr. Speaker, I urge adoption of this legislation, and I reserve the balance of my time.

The SPEAKER pro tempore (Mr. Mazzoli). The Chair notes a disturbance in the visitors' gallery in contravention of the laws and rules of the House. The doorman will please remove from the gallery those persons participating in the disturbance.

Mr. PARRIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation. It is a bill which has been requested by the American University whose charter was granted by Congress and approved by President Benjiman Harrison on February 24, 1893.

All the bill does is eliminate the requirement of the charter that three-fifths of the board of trustees be members of the United Methodist Church. It shall e understood that this request does not signal any effort by the university to eliminate its ties or its historical relationship to the Methodist Church.

It comes about simply out of the need to assure that the legal documents of the university accurately reflect the actual membership of the board of trustees which may from time to time, be more or less than a fixed percentage required by law. The university is concerned, that should the actual membership be less than the stated percentage now set in the statute, the university could be in violation of some lending or borrowing agreements that are conditioned on a duly constituted board having undertaken the borrowings. It's really only a potential problem in cases involving revenue bonds. Nonetheless, it is one which legal experts believe should be addressed, and this legislation does so. The legislation is supported by the United Methodist Church.

The American University is an important institution in the Nation Capital. It has contributed mightily to the Nation's leadership and it will continue to do so as it grows and prospers with the Nation. This effort, by us, is our contribution to this university's role in our local and national life. I urge its passage.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DELLUMS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Dellums] that the House suspend the rules and pass the bill, H.R. 5749.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ATTENDANT ALLOWANCE ADJUSTMENT ACT

Mr. MURPHY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3911) to amend title 5 of the United States Code to increase the allowance for services of attendants.

The Clerk read as follows:

H.R. 3911

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Attendant Allowance Adjustment Act".

SEC. 2. INCREASE IN AMOUNT.

Subsection (a) of section 8111 of title 5, United States Code is amended—

(1) by striking out "of not more than $500 a month, as the Secretary considers necessary," and inserting in lieu thereof "equal to the amount paid monthly as of October 1, 1990, for attendants described in this subsection by the State in which such employee resides under its State plan under title XIX of the Social Security Act", and

(2) by adding at the end the following: "The additional amount paid under this subsection shall be increased, beginning October 1, 1992, and biennially thereafter, by the percentage increase in the consumer price index for all urban consumers (U.S. city average as established by the Bureau of Labor Statistics of the Department of Labor) during the 2-year period ending in the month before the date of the increase.".

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall take effect October 1, 1990.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Pennsylvania [Mr. Murphy] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. Goodling] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. Murphy].

Mr. MURPHY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today, the House is considering the merits of H.R. 3911 which was introduced by the gentleman from Massachusetts, Congressman Joe Kennedy.

Some 225 Federal employees have suffered job-related injuries or developed work-related health conditions

that are so severe that they are unable to perform the basic tasks of living.

These people include paraplegics and quadraplegics, and they need to hire some care assistants to perform such tasks as cleaning their homes, making their meals, writing out checks to pay their bills, assist in bathing, and getting in and out of bed and into their wheelchairs.

These 225 people have already been certified as requiring various levels of home attendant care by the Labor Department. Some need 10 hours a month, some need 200.

Currently, FECA provides a maximum Federal reimbursement of $500 per month for these services. This rate has not been increased since 1974, and is too low for those 225 recipients to hire anyone to provide those services.

The Office of Workmen's Compensation Programs also recognizes that the home care allowance levels are inadequate. To compensate for the low reimbursement levels, the Labor Department routinely pays each recipient who qualifies for home attendant care the maximum $500-per-month cap, regardless of the level to which they are entitled. In addition, earlier this year, the Department of Labor proposed changes to the FECA program to my subcommittee, and included in those changes was a recommendation that the allowance be increased by 140 percent.

H.R. 3911 raises the monthly maximum from $500 to $1,500. This was the rate that was approved by the subcommittee on September 26, by a unanimous vote.

It is impossible to predict the exact cost of H.R. 3911, since all 225 recipients will not receive $1,500. The Federal budget is in crisis, and asking for additional funds is difficult. I know that everyone must make sacrificies. The severely disabled Federal worker has made 16 years of sacrifice.

Each Congressman must determine whether providing decent funding levels to assist severely handicapped Federal workers justifies a 1-cent per year per pseron expenditure. Republicans and Democrats on the committee feeel that it does.

I want to thank Congressman Kennedy for bringing this matte to the subcommittee's attention. I also want to thank my Democratic colleagues on the subcommmittee and Congressman Petri and the Republicans for their swift action of this issue.

☐ 1530

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself what time I may consume.

Mr. Speaker, under the Federal Employees Compensation Act, Federal employees who are totally disabled because of injuries sustained in the performance of duty, and are deemed by the Secretary of Labor to be in need of constant service of an attendant, are, in addition to compensation, awarded $500 per month for service of an attendant. H.R. 3911 would simply adjust the attendant allowance to $1,500 per month, although it may cause the Secretary to check eligibility more carefully.

The sponsor of this legislation, the gentleman from Massachusetts, Mr. [Kennedy], introduced the bill because his constitutent could not afford to hire an attendant under the current allowance level. Passage of this legislation would allow the 225 currently qualified disabled employees to receive the constant attendant they require.

I would suggest all Members support the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MURPHY. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. Kennedy].

Mr. KENNEDY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, first let me thank the chairman of the Labor Standards Subcommittee, Austin Murphy, and the ranking minority member, Tom Petri, for their leadership allowing severely disabled individuals a fair allowance to pay for personal care attendanets. Chairman Murphy is a champion on labor issues—and always stands up for the rights of working people, the poor and the disabled. I also want to thank the chairman and also the ranking minority member of the full committee, Gus Hawkins and Bill Goodling, for their support in getting this bill to the floor today. And also to my friend and colleague, Steve Bartlett, for his support.

The problem that we are addressing today was brought to my attention by a constituent of mine named Joe Keane from Somerville, MA. The issue is very simple: The amount of money that is currently provided to severely disabled individuals under the Federal Employees Compensation Act is not enough to hire a personal care attendant to take care of their basic needs. The law states, that when severely disabled individuals require the care of a constant attendant, the Secretary of Labor will pay not more than $500/month which translates to $16.44 per day. This law has not been changed in 16 years. In the case of Joe, who is a quadriplegic and cannot hire anyone for less than $7.25/hr., this means that beyond 2½ hours a day, if Joe needs someone to help him eat, or pick up a dropped object, or help him place a phone call, or get himself into bed or to the bathroom—he is flat out of luck. This bill will remedy that problem by providing individuals like Joseph with a reasonable amount of money so that he may hire an attendant.

Under H.R. 3911, the amount of money allowed for personal care attendant services will be increased from $500/per month to $1,500/per month. This increase is modest since it allows for a $50-per-day maximum for attendant care. Because only 225 people in this country are eligible under FECA for attendant care and because only a handful of these people are eligible for the maximum allowance, it is reasonable to conclude that this increase should amount to no more than an additional $2 million per year.

I would like to state for the record that the Department of Labor has no objection to this legislation and has supported similar efforts earlier.

Congress created the barrier that prevents the 225 people like Joe from receiving the care they need to make their lives manageable. These severely disabled individuals depend on our vigilance to ensure that the law remains fair and just. My constituent, Joe Keane started a one-man campaign to get this law changed. He has painstakingly typed letters to Members of Congress—both Democrats and Republicans—along with labor unions, department officials and grass-roots organizations asking for their endorsement. He was successful in securing their endorsement but Joe is now looking for an endorsement by the House today. Joe is a courageous man who is trying his best to maintain his independence in his home. Joe and other disabled individuals like him need our help. Again I want to thank Chairman Murphy, Mr. Petri, and Mr. Goodling for their kind and considerate efforts on behalf of the disabled.

Mr. PETRI. Mr. Speaker, I yield 2 minutes to our colleague, the gentlewoman from Maryland [Mrs. Morella].

Mrs. MORELLA. Mr. Speaker, I rise in support of H.R. 3911, the Attendant Allowance Adjustment Act.

This bill revises the maximum amount which the Secretary of Labor may pay attendants for services to disabled Federal employees receiving workers' compensation from $500 to $1,500 per month. The current rate has been in effect since 1974.

The cost of specialized services for attendant care has risen drastically over the past 15 years. This bill would make the adjustment so that disabled Federal employees will be able to pay a reasonable rate for the services they require.

Mr. Speaker, the administration has no objection to the bill.

I commend the gentleman from Massachusetts for this bill which will assist Federal employees and I encourage my colleagues to support this legislation to increase the allowance for attendant service rendered to disabled

Federal employees receiving workers' compensation.

Mr. Speaker, the gentleman from Massachusetts, as a matter of fact, mentioned that the impetus for this came from someone from Somerville, MA, which as he knows is my home town.

I compliment the chairman of the subcommittee, the gentleman from Pennsylvania [Mr. Murphy], as well as the ranking member of the full committee, the gentleman from Pennsylvania [Mr. Goodling], and the ranking member of the subcommittee, the gentleman from Wisconsin [Mr. Petri].

I certainly encourage my colleagues to support this legislation to increase the allowance for attendant services rendered to disabled Federal employees receiving workmen's compensation. It is long overdue.

Mr. MURPHY. Mr. Speaker, I yield 1 additional minute to the gentleman from Massachusetts [Mr. Kennedy].

□ 1540

Mr. KENNEDY. Mr. Speaker, I just wanted to say how much we appreciate the efforts of my long-lost constituent, the gentlewoman from Maryland [Mrs. Morella], who has decided to move on to another district, but still, nevertheless, speaks up for the disabled not only in her district here in the State of Maryland but also for disabled persons all across our country. I wanted to acknowledge her efforts and thank her very much on behalf of her old neighbor, Joe Keen, in Somerville.

Mr. PETRI. Mr. Speaker, I yield such time as he may consume to my colleague on the subcommittee, the gentleman from Texas [Mr. Bartlett].

Mr. BARTLETT. Mr. Speaker, I rise in support of H.R. 3911, the Attendant Allowance Adjustment Act.

I think it is an act long overdue, and I particularly know everyone on the subcommittee appreciates the gentleman from Massachusetts [Mr. Kennedy] for bringing this to our attention.

The Federal Employees Compensation Act is designed to provide compensation to Federal employes who are disabled due to on-the-job injury or employment-related disease.

In connection with this, the Secretary of Labor may pay an employee up to $500 a month for the service of an attendant if an attendant is needed. As has been stated previously, this $500 cap has not been adjusted since 1974 even though the current cost of a personal care attendant averages $7 an hour, so $500 a month averages to $16.44 per day or $2 and a nickel per hour for an 8-hour day. I would note that in 1988 there were 225 individuals who qualified for the attendant allowance.

I would also note that the Secretary of Labor is, under current law and under the intent of this bill, is required to certify that that individual requires the services of a personal-care attendant. There is no indication to suggest that in any way should the Secretary of Labor make more people eligible, and this bill, H.R. 3911, does not make more people eligible for those services. It just says that for those individuals who are otherwise eligible for attendant care, and attendant care is required as a result of their on-the-job injury, then the $500 cap can be raised to as much as $1,500 per month.

In reviewing the data, in reviewing the information of the current Federal Employees Compensation Act, I would also note two other points. First, that it could be that the Secretary of Labor at this point should begin to review the criteria for which she chooses those who need personal-attendant care.

The fact is, as with modern rehabilitation and with modern technology, many persons who did require personal-care attendants in 1974, with the same set of injuries may well be far better off with a whole new type of approach based on rehabiliation and based on technology and based on the goal of getting those individuals back on the job.

So in reviewing this cap, I would personally encourage the Secretary of Labor to also review the methodology used to choose who is allowable for attendant allowance.

I would also note in reviewing the Federal Employees Compensation Act as a whole as part of the reconciliation, the budget reconciliation, it does seem to me the Committee on the Budget could make some savings in other areas of the Federal Employees Compensation Act as a way of meeting the reconciliation targets that have been sent to the Committee on Education and Labor.

I do appreciate the gentleman for his time.

Mr. PETRI. Mr. Speaker, this legislation is fair. It is needed, and it should be passed by this House.

Mr. Speaker, I am pleased to join with my colleagues today in supporting H.R. 3911, the Attendant Allowance Adjustment Act. I would like to commend the chairman of the Labor Standards Subcommittee, Mr. Murphy, for his efforts in working out a compromise on this bill.

Under the Federal Employees Compensation Act, Federal employees who are totally disabled because of injury sustained while in the performance of duty and are determined by the Secretary of Labor to be in need of constant service of an attendant are, in addition to compensation, awarded $500 per month for service of an attendant.

The sponsor of H.R. 3911, Representative Joseph Kennedy, introduced this legislation because a constituent could not find an attendant to hire at the current allowance level. Upon examination, the subcommittee found that the personal attendant care allowance has not been adjusted since 1974.

As a result, the legislation that we are considering simply raises the attendant care allowance to $1,500 per month. This allowance should allow the 225 currently qualified disabled Federal employees to receive the constant attendance they need and deserve.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MURPHY. Mr. Speaker, I thank all of the previous speakers for their support of this very vital legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Mazzoli). The question is on the motion offered by the gentleman from Pennsylvania [Mr. Murphy] that the House suspend the rules and pass the bill, H.R. 3911.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURPHY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3911, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

GENERAL LEAVE

Mr. YATES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5769, the bill about to be considered, and that I be permitted to include tables, charts, and other materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. YATES. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5769) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

□ 1545

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5769, with Mr. McNulty (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Friday, October 12, 1990, the en bloc amendments offered by the gentleman from Illinois [Mr. Yates] had been disposed of and title I was open for amendment at any point.

Are there further amendments to title I?

If not, the Clerk will read.

The Clerk read as follows:

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

Forest Service

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $167,693,000, to remain available until September 30, 1992.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest pest management activities, $132,806,000, to remain available until expended, as authorized by law: *Provided*, That a grant of $250,000 shall be made for a study of the Sterling Forest in New York and New Jersey.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", "Forest Service Firefighting", and "Land Acquisition", $1,274,021,000 to remain available for obligation until September 30, 1992, and including 65 per centum of all monies received during the prior fiscal year as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 460l-6a(i)): *Provided*, That unobligated balances in the National Forest System account at the end of fiscal year 1990, which would otherwise be returned to the general fund of the Treasury, shall be merged with and made a part of the fiscal year 1991 National Forest System appropriation, and shall remain available for obligation until September 30, 1992.

FOREST SERVICE FIREFIGHTING

For necessary expenses for firefighting on or adjacent to National Forest System lands or Department of the Interior lands, and for forest fire management and presuppression; and emergency operations on National Forest System lands, $304,507,000, to remain available until expended: *Provided*, That such funds are also to be available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes.

CONSTRUCTION

For necessary expense of the Forest Service, not otherwise provided for, for construction, $243,705,000, to remain available until expended, of which $68,829,000 is for construction and acquisition of buildings and other facilities; and $174,876,000 is for construction of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205: *Provided*, That funds becoming available in fiscal year 1991 under the Act of March 4, 1913 (16 U.S.C. 501) shall be transferred to the General Fund of the Treasury of the United States: *Provided further*, That not to exceed $110,000,000, to remain available until expended, may be obligated for the construction of forest roads by timber purchasers.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $92,579,000, to be derived from the Land and Water Conservation Fund, to remain available until expended of which $300,000 is for acquisition of land and interests therein at and near the Old Chief Joseph Gravesite, Wallowa County, Oregon, as depicted on a map entitled "Old Chief Joseph Gravesite Acquisition—1990" on file with the Forest Service, pursuant to the Department of Agriculture Organic Act of 1956 (7 U.S.C. 428(a)).

ACQUISITION OF LANDS FOR NATIONAL FORESTS

SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, $1,103,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94-579, as amended, to remain available until expended, of which not to exceed 6 per centum shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), $30,000 to remain available until expended, to be derived from the fund established pursuant to the above Act.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 202 passenger motor vehicles of which 27 will be used primarily for law enforcement purposes and of which 170 shall be for replacement only, of which acquisition of 144 passenger motor vehicles shall be from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 97 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) uniform allowances for each uniformed employee of the Forest Service, not in excess of $400 annually; (d) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (e) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (f) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (g) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the Forest Service Firefighting appropriation and may be used for forest firefighting and the emergency rehabilitation of burned-over lands under its jurisdiction.

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to reimburse employees for the cost of State licenses and certification fees pursuant to their Forest Service position and that are necessary to comply with State laws, regulations, and requirements.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

All funds received for timber salvage sales may be credited to the Forest Service Permanent Appropriations to be expended for timber salvage sales from any national forest.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 99-714.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to provide nonmonetary awards of nominal value to private individuals and organizations that make contributions to Forest Service programs.

Notwithstanding any other provision of law or existing policy, the peak that is the second peak to the south of Mount Whitney, and is the highest point on Pinnacle Ridge where it reaches the Sierra Crest, located approximately ¼ mile to the south of the summit of Mount Whitny and approximately ½ mile to the north of the summit of Mount Muir, near Lone Pine, in the State of California, shall be known and designated as "Crooks Peak". Any reference in any law, regulation, document, record, map, or other paper of the United States to the peak is deemed to be a reference to "Crooks Peak".

Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408.

Notwithstanding the provisions of the Federal Grant and Cooperative Agreements Act of 1977 (31 U.S.C. 6301-6308), the Forest Service is authorized to negotiate and enter into cooperative arrangements with public and private agencies, organizations, institutions, and individuals to continue the Challenge Cost-Share Program.

None of the funds available in this Act shall be used for clearcutting or other forms of even-age management in hardwood timber stands in the Wayne National Forest, Ohio or the Shawnee National Forest, Illinois: *Provided*, That all funds for clearcutting in the Wayne National Forest shall be reserved for use in pine timber stands for the purpose of reverting these stands to hardwood forest.

None of the funds made available to the Forest Service in this Act shall be expended for the purpose of issuing a special use authorization permitting land use and occupancy and surface disturbing activities for any project to be constructed on Lewis Fork Creek in Madera County, California, at the site above, and adjacent to, Corlieu Falls bordering the Lewis Fork Creek National Recreation Trail until the studies required in Public Law 100-202 have been submitted to the Congress: *Provided*, That any special use authorization shall not be executed prior to the expiration of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt of the required studies by the Speaker of the House of Representatives and the President of the Senate.

Any money collected from the States for fire suppression assistance rendered by the Forest Service on non-Federal lands not in the vicinity of National Forest System lands shall be used to reimburse the applicable appropriation and shall remain available until expended as the Secretary may direct in conducting activities authorized by 16 U.S.C. 2101 (note), 2101-2110, 1606, and 2111.

No funds made available under this Act may be used for the issuance of any permit or other authorization providing access to, or permitting the construction of, any motel-restaurant or similar overnight accommodations on lands located within the exterior boundaries of the Allegheny National Forest in the State of Pennsylvania, and no funds made available under this Act may be used to enter into any contract or lease for the construction of any such facilities.

The Secretary of Agriculture may sell to the Louisiana Pacific Corporation, without complying with the advertisement and competitive bidding requirements of section 14 of the National Forest Management Act of 1976 (Public Law 94-599, 16 U.S.C. 472a) and of the regulations issued by the Secretary, replacement trees, portions of trees, or forest products located on National Forest System lands that are equal in total value to the trees, portions of trees, or forest products deleted by agreement of the Secretary and the Louisiana Pacific Corporation from the contract (numbered 001657) for the sale of timber in the Bowen Gulch area of the Arapaho National Forest, State of Colorado: *Provided*, That in selling such replacement trees, portions of trees, or forest products, the Secretary shall comply with all other laws and regulations applying to timber sales on National Forest System lands.

Notwithstanding section 705(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539d(a)), $37,677,000 shall be available from the Tongass Timber Supply Fund for timber supply, protection and management, research, resource protection, and construction on the Tongass National Forest in fiscal year 1991: *Provided*, That this funding limitation shall not include those funds available to the Forest Service as National Forest System, Construction, Trust Funds, Permanent Funds (other than the Tongass Timber Supply Fund), or Purchaser Road Construction.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

The first paragraph under this head in Public Law 100-121 is amended by striking "$600,000,000 shall be made available on October 1, 1990, and shall remain available until expended, and $600,000,000 shall be made available on October 1, 1991, and shall remain available until expended" and inserting "$600,000,000 shall be made available as follows: $100,000,000 on September 1, 1991, $250,000,000 on October 1, 1991, and $250,000,000 on October 1, 1992, all such sums to remain available until expended for use in conjunction with a separate general request for proposals, and $600,000,000 shall be made available as follows: $150,000,000 on October 1, 1991, $225,000,000 on October 1, 1992, and $225,000,000 on October 1, 1993, all such sums to remain available until expended for use in conjunction with a separate general request for proposals": *Provided*, That these actions are taken pursuant to section 202(b)(1) of Public Law 100-119 (2 U.S.C. 909).

With regard to funds made available under this head in this and previous appropriations Acts, unobligated balances excess to the needs of the procurement for which they originally were made available may be applied to other procurements for use on projects for which cooperative agreements are in place, within the limitations and proportions of Government financing increases currently allowed by law: *Provided*, That the Department of Energy, for a period of up to five (5) years after completion of the operations phase of a cooperative agreement may provide appropriate protections, including exemptions from subchapter II of chapter 5 of title 5, United States Code, against the dissemination of information that results from demonstration activities conducted under the Clean Coal Technology Program and that would be a trade secret or commercial or financial information that is privileged or confidential if the information had been obtained from and first produced by a non-Federal party participating in a Clean Coal Technology project: *Provided further*, That, in addition to the full-time permanent Federal employees specified in section 303 of Public Law 97-257, as amended, no less than 90 full-time Federal employees shall be assigned to the Assistant Secretary for Fossil Energy for carrying out the programs under this head using funds available under this head in this and any other appropriations Act: *Provided further*, That reports on projects selected by the Secretary of Energy pursuant to authority granted under this heading which are received by the Speaker of the House of Representatives and the President of the Senate less than 30 legislative days prior to the end of the second session of the 101st Congress shall be deemed to have met the criteria in the third proviso of the fourth paragraph under the heading "Administrative provisions, Department of Energy" in the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190, upon expiration of 30 calendar days from receipt of the report by the Speaker of the House of Representatives and the President of the Senate or at the end of the session, whichever occurs later.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, $443,258,000, to remain available until expended, of which $267,000 is for the functions of the Office of the Federal Inspector for the Alaska Natural Gas Transportation System established pursuant to the authority of Public Law 94-586 (90 Stat. 2908-2909) and of which $3,169,000 is for the fuels program, and of which $3,000,000 is for a cooperative research program with States: *Provided*, That no part of this appropriation shall be used to pay more than one-half the cost of any project carried on in the above-mentioned cooperative research program: *Provided further*, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

Of the funds herein provided, $40,250,000 is for implementation of the June, 1984 multiyear, cost-shared magnetohydrodynamics program targeted on proof-of-concept testing: *Provided*, That 35 per centum private sector cash or in-kind contributions shall be

required for obligations in fiscal year 1991, and for each subsequent fiscal year's obligations private sector contributions shall increase by 5 per centum over the life of the proof-of-concept plan: *Provided further*, That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further*, That cost-sharing shall not be required for the costs of constructing or operating Government-owned facilities or for the costs of Government organizations, National Laboratories, or universities and such costs shall not be used in calculating the required percentage for private sector contributions: *Provided further*, That private sector contribution percentages need not be met on each contract but must be met in total for each fiscal year.

Of the funds provided herein, $8,000,000 is to initiate a ten-year industry/government cooperative agreement to design, construct, and operate a proof-of-concept oil shale facility employing modified in-situ retorting and surface processing of mined shale and waste at Federal Prototype Oil Shale Lease Tract Cb near Meeker, Colorado: *Provided*, That the Federal contribution to the cooperative agreement shall not exceed $80,000,000 in 1989 dollars escalated yearly by the annual GNP deflator, or 40 per centum of the total equity in the project, whichever is less: *Provided further*, That at no time during the project shall the Federal contribution exceed 40 per centum of total equity in the project: *Provided further*, That in fiscal years 1992 and thereafter, the annual Federal contribution shall not exceed the annual portion of the remaining allowable Federal contribution distributed evenly over the remaining years of the project: *Provided further*, That construction of such facility shall not commence prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a report on such project including the results of the detailed design, cost estimate, and environmental compliance activities, and such additional facts and circumstances as necessary to support project construction and operation.

ALTERNATIVE FUELS PRODUCTION

(INCLUDING TRANSFER OF FUNDS)

Monies received as investment income on the principal amount in the Great Plains Project Trust at the Norwest Bank of North Dakota, in such sums as are earned as of October 1, 1990, shall be deposited in this account and immediately transferred to the General Fund of the Treasury.

Monies received as revenue sharing from the operation of the Great Plains Gasification Plant shall be immediately transferred to the General Fund of the Treasury.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserve activities, $224,310,000, to remain available until expended: *Provided*, That, notwithstanding any other provision of law, revenues received from the sale of natural gas after the date of enactment of this Act from wells drilled or communitized in fiscal year 1990 and thereafter as part of gas protection activity at the Naval Oil Shale Reserves shall be deposited in this account, to remain available until expended, for use in further gas protection activity.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $497,684,000, to remain available until expended, including, notwithstanding any other provision of law, the excess amount for fiscal year 1991 determined under the provisions of section 3003(d) of Public Law 99-509 (15 U.S.C. 4502): *Provided*, That $247,893,000 shall be for use in energy conservation programs as defined in section 3008(3) of Public Law 99-509 (15 U.S.C. 4507) and shall not be available until excess amounts are determined under the provisions of section 3003(d) of Public Law 99-509 (15 U.S.C. 4502): *Provided further*, That notwithstanding section 3003(d)(2) of Public Law 99-509 such sums shall be allocated to the eligible programs in the same proportion for each program as in fiscal year 1990: *Provided further*, That $1,250,000 of the amount provided under this heading shall be for establishment of a National Metal Casting Research Institute at the University of Alabama consistent with the provisions of the "Department of Energy Metal Casting Competitiveness Research Act of 1990", H.R. 1243 or equivalent legislation: *Provided further*, That $16,900,000 of the amount provided under this heading shall be available for continuing research and development efforts begun under title II of the Interior and Related Agencies portion of the joint resolution entitled "Joint Resolution making further continuing appropriations for the fiscal year 1986, and for other purposes", approved December 19, 1985 (Public Law 99-190), and implementation of steel and aluminum research authorized by Public Law 100-680: *Provided further*, That existing facilities, equipment, and supplies, or previously expended research or development funds are not accepted as contributions for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further*, That the total Federal expenditure under this proviso shall be repaid up to one and one-half times from the proceeds of the commercial sale, lease, manufacture, or use of technologies developed under this proviso, at a rate of one-fourth of all net proceeds.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $16,816,000.

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, $6,617,000.

STRATEGIC PETROLEUM RESERVE

For expenses necessary to carry out the provisions of sections 151 through 166 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), $195,633,000, to remain available until expended: *Provided*, That appropriations herein made shall not be available for leasing of facilities for the storage of petroleum or petroleum products for the Strategic Petroleum Reserve.

SPR PETROLEUM ACCOUNT

For the acquisition and transportation of petroleum and for other necessary expenses under section 167 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), $119,935,000, to remain available until expended: *Provided*, That an additional $90,660,000 shall be made available until expended beginning October 1, 1991: *Provided further*, That notwithstanding 42 U.S.C. 6240(d) the United States share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of to other than the Strategic Petroleum Reserve: *Provided further*, That no funds appropriated in this or any other appropriations Act may be used for the lease of petroleum or petroleum products for the Strategic Petroleum Reserve: *Provided further*, That outlays in fiscal year 1991 resulting from the use of funds in this account other than funds deposited pursuant to 42 U.S.C. 6247 as a result of the sale of petroleum products in any drawdown and distribution of the Strategic Petroleum Reserve under 42 U.S.C. 6241 shall not exceed $378,000,000: *Provided further*, That this action is taken pursuant to section 202(b)(1) of Public Law 100-119 (2 U.S.C. 909).

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $68,606,000, of which $1,000,000 for computer operations shall remain available until September 30, 1992 and $1,700,000 for end use energy consumption surveys shall remain available until expended.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs, or the leasing of petroleum or petroleum products for the Strategic Petroleum Reserve or the leasing of facilities for the storage of petroleum or petroleum products for the Strategic Petroleum Reserve unless specific provision is made for such programs or activities in an appropriations Act.

The Secretary of Energy is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided*, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further*, That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further*, That any contract, agreement, or provision thereof entered into by the Secretary of Energy pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either

House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet any unforeseen emergency needs from any funds available to the Department of Energy from this Act.

Annual appropriations made in this Act and previous Interior and Related Agencies Appropriations Acts shall be available for obligations in connection with contracts issued by the Department of Energy for supplies and services for periods not in excess of twelve months beginning at any time during the fiscal year.

Notwithstanding any other provision of law, the Secretary of Energy may enter into a contrct, agreement, or arrangement, including, but not limited to, a Management and Operating Contract as defined in the Federal Acquisition Regulations (17.601), with a profit-making or non-profit entity to conduct activities at the Department of Energy's research facilities at Bartlesville, Oklahoma: *Provided*, That any contract, agreement, or arrangement shall contain provisions encouraging use of the Department of Energy's Bartlesville facilities by interested third party sponsors: *Provided further*, That any contract, agreement, or arrangement entered into by the Secretary pursuant to this authority shall be submitted to the Senate Committee on Appropriations and the House Committee on Appropriations and a period of thirty days shall elapse while Congress is in session (in computing the thirty days, there shall be excluded the days on which either the Senate or the House is not in session because of adjournment for more than three days) before the contract, agreement, or arrangement shall become effective.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXVI and sections 208 and 338G of the Public Health Service Act with respect to the Indian Health Service, including hire of passenger motor vehicles and aircraft; purchase of reprints; purchase and erection of portable buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; $1,419,700,000: *Provided*, That notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86-121 (the Indian Sanitation Facilities Act): *Provided further*, That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until expended: *Provided further*, That $17,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund and contract medical care: *Provided further*, That of the funds provided, $5,000,000 shall be used to carry out a loan repayment program under which Federal, State, and commercial-type educational loans for physicians and other health professionals will be repaid at a rate not to exceed $25,000 per year of obligated service in return for full-time clinical service: *Provided further*, That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further*, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available for two fiscal years after the fiscal year in which they were collected, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, construction of new facilities, or major renovation of existing Indian Health Service facilities): *Provided further*, That of the funds provided, $2,500,000 shall remain available until expended, for the Indian Self-Determination Fund, which shall be available for the transitional costs of initial or expanded tribal contracts, grants or cooperative agreements with the Indian Health Service under the provisions of the Indian Self-Determination Act: *Provided further*, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under section 103 of the Indian Health Care Improvement Act and section 338G of the Public Health Service Act with respect to the Indian Health Service shall remain available for expenditure until September 30, 1992: *Provided further*, That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act and Public Law 100-713 shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended: *Provided further*, That notwithstanding the existing Indian Health Service facilities priority system, $1,500,000 shall remain available until expended for the purpose of funding a demonstration program to equip, supply, operate, and maintain up to three health centers to be selected by the Secretary of Health and Human Services, acting through the Service, for the provision of Indian Health Service funded health services: *Provided further*, That the centers shall be selected on a competitive basis from those tribal applicants who agree to provide an appropriate facility for use as a health center for a minimum of 20 years, under a no cost lease, in exchange for financial resources to equip, supply, operate and maintain such health centers.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of portable buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, $167,236,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land for sites to construct, improve, or enlarge health or related facilities.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem equivalent to the rate for GS-18, and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided*, That none of the funds appropriated under this Act to the Indian Health Service shall be available for the initial lease of permanent structures without advance provision therefor in appropriations Acts: *Provided further*, That non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, if such care can be extended without impairing the ability of the facility to fulfill its responsibility to provide health care to Indians served by such facilities and subject to such reasonable charges as the Secretary of Health and Human Services shall prescribe, the proceeds of which, together with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651-53), shall be deposited in the fund established by sections 401 and 402 of the Indian Health Care Improvement Act or in the case of tribally administered facilities, shall be retained by the tribal organization without fiscal year limitation: *Provided further*, That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further*, That with the exception of Indian Health Service units which currently have a billing policy, the Indian Health Service shall not initiate any further action to bill Indians in order to collect from third-party payers nor to charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: *Provided further*, That personnel ceilings may not be imposed on the Indian Health Service nor may any action be taken to reduce the full-time equivalent level of the Indian Health Service by the elimination of temporary employees by reduction in force, hiring freeze or any other means without the review and approval of the Committees on Appropriations: *Provided further*, That none of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law: *Provided further*, That funds made available in this Act are to be apportioned to the Indian Health Service as appropriated in this Act, and accounted for in the appropriation structure set forth in this Act.

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, the Indian Education Act of 1988, $75,762,000, of which $56,556,000 shall be for subpart 1 and $16,304,000 shall be for subparts 2 and 3: *Provided*, That $1,578,000 available pursuant to section 5323 of the Act shall remain available for obligation until September 30, 1992.

OTHER RELATED AGENCIES

Office of Navajo and Hopi Indian Relocation

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93-531, $33,749,000, to remain available until expended: *Provided*, That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: *Provided further*, That none of the funds contained in this or any other Act may be used to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further*, That no relocatee will be provided with more than one new or replacement home: *Provided further*, That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d-10.

Institute of American Indian and Alaska Native Culture and Arts Development

PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by Public Law 99-498, as amended (20 U.S.C. 56, part A), $5,673,000, of which not to exceed $300,000 for Federal matching contributions, to remain available until expended, shall be paid to the Institute endowment fund: *Provided*, That notwithstanding any other provision of law, the annual budget proposal and justification for the Institute shall be submitted to the Congress concurrently with the submission of the President's Budget to the Congress: *Provided further*, That the Institute shall act as its own certifying officer.

Smithsonian Institution

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed thirty years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $274,342,000, of which not to exceed $20,402,000 for the instrumentation program, collections acquisition, Museum Support Center equipment and move, exhibition reinstallation, the National Museum of the American Indian, and the repatriation of skeletal remains program shall remain available until expended and, including such funds as may be necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research Centers: *Provided*, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations: *Provided further*, That $15,000,000 of the amount appropriated under this head shall be made available to the Trustees of the John F. Kennedy Center for the Performing Arts for repayment of an accumulated operating deficit.

MUSEUM AND RELATED RESEARCH

(SPECIAL FOREIGN CURRENCY PROGRAM)

Funds previously appropriated in this account for the American Institute of Indian Studies Forward Funded Reserve may be invested in India by the United States Embassy in India in interest bearing accounts with the interest to be used along with other funds in the account to support the ongoing programs of the American Institute of Indian Studies.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $6,671,000, to remain available until expended.

REPAIR AND RESTORATION OF BUILDINGS

For necessary expenses of repair and restoration of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $31,356,000, to remain available until expended, including $1,500,000 for the East Court building of the National Museum of Natural History, subject to authorization: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or restoration of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses for construction, $15,989,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, the Institution is authorized to transfer to the State of Arizona, the counties of Santa Cruz and/or Pima, a sum not to exceed $150,000 for the purpose of assisting in the construction or maintenance of an access to the Whipple Observatory.

National Gallery of Art

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901-5902); purchase, or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $46,276,000, of which not to exceed $4,370,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $3,205,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

Woodrow Wilson International Center for Scholars

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $5,074,000.

PAYMENT TO ENDOWMENT CHALLENGE FUND

Funds appropriated pursuant to Public Law 100-446, 102 Stat 1820, for payment to the Endowment Challenge Fund for the Woodrow Wilson International Center for Scholars and not transferred to the Center as of September 30, 1990, shall remain available until September 30, 1992: *Provided*, That such sums shall be transferred only to the extent matched on a three-to-one basis by private funds.

National Foundation on the Arts and the Humanities

National Endowment for the Arts

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and Humanities Act of 1965, as amended, $152,000,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $28,000,000, to remain available until September 30, 1992, to the National Endowment for the Arts, of which $15,000,000 shall be available for purposes of section 5(l): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

National Endowment for the Humanities

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended $143,550,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, of which $8,700,000 for the Office of Preservation shall remain available until September 30, 1992.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $27,150,000, to remain available until September 30, 1992, of which $15,150,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

Institute of Museum Services

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $28,040,000, including not to exceed $250,000 as authorized by 20 U.S.C. 965(b): *Provided*, That the National Museum Services Board shall not meet more than three times during fiscal year 1991.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided*, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses: *Provided further*, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to require the signing of an affidavit respecting the content of a product of a grant.

Commission of Fine Arts

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $637,000.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99-190 (99 Stat. 1261; 20 U.S.C. 956a), as amended, $6,250,000.

Advisory Council on Historic Preservation

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89-665, as amended, $2,238,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions.[H15OC0-T2]{H9653}positions.

National Capital Planning Commission

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-711), including services as authorized by 5 U.S.C. 3109, $3,448,000.

Franklin Delano Roosevelt Memorial Commission

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92-332 (86 Stat. 401), $28,000 to remain available until September 30, 1992.

Pennsylvania Avenue Development Corporation

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92-578, as amended, $2,365,000, for operating and administrative expenses of the Corporation.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92-578, as amended, $4,805,000, to remain available until expended.

LAND ACQUISITION AND DEVELOPMENT FUND

The Pennsylvania Avenue Development Corporation is authorized to borrow from the Treasury of the United States $5,000,000, pursuant to the terms and conditions in paragraph 10, section 6, of Public Law 92-576, as amended.

United States Holocaust Memorial Council

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96-388, as amended, $7,554,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

Mr. YATES (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN pro tempore. Are there any points of order against title II?

If not, are there any amendments?

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER. Page 63, line 11, strike "$497,684,000" and insert "$494,334,000".

Mr. WALKER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this particular amendment will not save a lot of money in this bill, but it does save some, and I think it saves some while doing something which is symbolically right to do.

It is more than symbolism. It says something about process. I think many of us who serve on authorizing committees have become increasingly disturbed by an Appropriations Committee that does not know we exist and could care less.

A lot of us feel strongly that we do some pretty good work here, too, and that we take as long and as hard a look at some of these programs as the appropriators do, and we believe that some of the things that we contribute to the body politic here are, in fact, reasonable and valuable. The appropriators have a very solid foundation when they suggest that sometimes the authorizing committees do not get their work done and there is no authorization in place, and so they, the Appropriations Committee, are perfectly in order to do whatever it is they want at this point, that the policies are theirs to define, because the authorizing committees have not gotten their work done.

On the other hand, they have no right in my opinion to begin to set new policies when the authorizing committees do their work.

Serving on the Science Committee and where we deal with R&D policies, there are many occasions when we have not gotten our work done, and I have been disturbed at times that the appropriators have gone ahead and set policy despite the fact that we had bills in progress, but if we did not have authorizations in place, then it seems to me that it was appropriate for them to go ahead and appropriate.

However, in this particular bill there is an authorization in place. It is a public law, Public Law 101-218, which last year set the energy efficiency authorization standards and did so line by line, just as they are in the committee's report. If you go down through the bill from last year, you will see that we are appropriating in the R&D area for energy efficiency research, development and demonstration programs, transportation, industrial buildings, community systems, multisector and policy and management.

□ 1550

It is all right here in the bill, line for line, dollar for dollar, what the appropriators' upward limits were for appropriations. Guess what? The appropriators decided, "We don't care. We don't care that you passed a law. It doesn't matter that there is this wall in place setting upper limits. We will appropriate what we want because we think your priorities are nonsense. We have other priorities. We think this is

too important to be limited by what you have done."

Mr REGULA. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, I would like to point out that the authorization is $236,035,000, and that the total appropriation in the bill is $228,791,000. So, in fact, the appropriation is about $7 million less than the authorization. It is a matter of priority choices.

Mr. WALKER. The gentleman is wrong. We authorized within specific categories. That is what I mentioned to the gentleman a moment ago.

Mr. REGULA. If the gentleman will continue to yield, I am saying in terms of the total, we are below the authorization.

Mr. WALKER. The gentleman does not have the ability to decide new priorities over the authorizing committee. When authorizing committees make a determination, we are supposed to follow our sense of priorities as well.

Now, there are upward limits in which we are to live with, and we can go up to that limit, but we are not supposed to go above that. If we want to cut below that, we can do it, but in this particular case, we set categorical areas for Members to live with, and they have not done it.

This amendment is aimed at the transportation area where they are over $3 million above what the authorizing legislation says they should be, so they just ignored it. They did not care. It did not matter to them what the law of the land was. They just went ahead and appropriated the money.

I am saying it is wrong. I am saying that one of the reasons why we are in trouble as a country, and why we are in trouble as a Congress, and we are talking about raising taxes massively because we cannot get our spending priorities in order, we cannot find ways to save the country the money that needs to be saved in order to stop raising the taxes of the American people. This is one example of it, where the authorizing committee did its work, we passed a law. We said flatly, "This is the amount of money that you have to work with," and they said, no, we are going to go ahead and spend more.

Now, the fact is I have targeted in, I would say to the gentleman from Ohio on $3 million because that is one which is absolutely clear where they have just stepped out of the budget. The majority staff agrees with that. Every person who has looked at it agrees we are well over. If we look at the overall authorization in the accounts where we appropriated, we will find we are some $28 million over where they should be.

(By unanimous consent Mr. WALKER was allowed to proceed for 3 additional minutes.)

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Ohio.

Mr. REGULA. I note that the authorization, if I am correct, was passed in December of 1989, and my question would be, has the committee reviewed their authorization levels in light of the Persian Gulf, which has changed the dynamics considerably on transportation, because of the fuel problem; and secondly, the Clean Air Act, which is making its way through this body and will, again, have an enormous impact on conservation, alternate fuels and so on? In light of those two very substantial changes in the transportation environment, has the authorizing committee evaluated that?

Mr. WALKER. The answer to the gentleman's question is no. We passed a multiyear authorization bill that takes Members through until 1993.

Now, what they are saying again, it does not matter what the law says. That had they come to the committee and consulted with Members and asked Members to go back and review it, we might well have done it. I know I was never consulted with about it. I did not find out what your new priorities were until I picked up the bill and found out what it was. So, what they are saying is, "You can pass multiyear authorizations, you can go ahead and put something into law, but we do not care. We are going to do our own thing. We are going to come out here, and will pass any amount of money that we doggone well please, because you are not important. Only we are important. Only we can take a look at the world and figure out what is in the best interests of the country. You in the authorizing committees forget it. You do not count."

I am saying to the gentleman, I just do not think that that is the right way to treat the people around here who do a lot of good work in a lot of committees. This is one I happen to be familiar with because I can target in on it very well, and I understand what we do. I understand that the gentleman is ignoring Members, and that your sense of priorities is something different from what we have determined. I think that the Members of this authorizing committee deserve a lot more respect than that because I think in our particular case we worked hard on this particular bill. We came up with something that we thought represented the long-term best interests of the country over a 4-year period, and I am disturbed to find that the committee has decided to go on a spending spree and spend well over the amount of money that has been appropriately authorized by the Committee on Science, Space, and Technology.

Now, I know that they are going to claim that there are separate authorizations for extra money, even though some of those contain no dollars. Nevertheless, Public Law 101-218, a joint product of the House Committee on Science, Space, and Technology and the Committee on Energy and Commerce, and the Senate Energy Committee, authorizes specific overall levels for these exact accounts that I am talking about today. Neither the statute nor the accompanying report indicates that these are only partial authorizations.

(On unanimous consent, Mr. WALKER was allowed to proceed for 1 additional minute.)

Mr. WALKER. When I go to your report on page 121, the report itself says that "the committee is pleased the Department has printed a budget request more in line with funding levels and priorities provided by Congress over the past 10 years for research and development activities. The committee recommends modest increases in areas of research and development." They say in their own report that these are indeed accounts, what we authorize.

When they are millions of dollars over, in the particular case that I have targeted in where there is no dispute, when they are $3½ million over, they have justified it to ignore what the authorizing committees did. I think if they want to save a little money, maybe we ought to take some of the wisdom of the authorizing committees and decide to have a bill which reflects appropriate authorizations rather than the Committee on Appropriations fairly narrow view of the world.

Mr. YATES. Mr. Chairman, I rise in opposition to the gentleman's amendment. I have listened with interest to the gentleman's argument. Mr. Chairman, I make the point that the subject matter of this amendment and of this appropriation is too important for a turf fight. That is exactly what the gentleman is raising.

If there is anything of critical importance in this day and age, it is the subject of energy conservation, particularly in the field of transportation. We knew about the passage of the bill of the gentleman. Yet we thought that we as an appropriations committee ought to bring it to the attention of the Congress rather than suggesting to the gentleman's subcommittee that he go through the long process of establishing the higher level itself. Many of the authorizing committees use the Committee on Apropriations as a vehicle for getting their work done.

The gentleman alluded to the fact that there are some energy programs that have not been authorized to which the gentleman had made no objections because his committee has passed no legislation, and he knows the work is very important. Therefore, he has no objection to the Committee on Appropriations getting a rule which permits the provision of that money.

If there is any particular subject in the broad field of energy conservation that is important, it is the subject of transportation conservation. Transportation consumes over 10 million barrels of oil a day. That is about 60 percent of total oil consumption. Transportation is responsible in the greatest respect for the significant urban pollution that is fouling our country today. Given the current world situation, which was the point raised by the ranking member of our subcommittee, the doubling of oil prices, as well as what appears the imminent passage of clean air legislation, we believe in the Committee on Appropriations that we ought to give the House the opportunity of deciding whether the level estabished by the gentleman's committee last year for the next 2 years to come should continue, or whether the Congress in its wisdom should decide that the device used by the Committee on Appropriations is a responsible way to provide more funding in this critically important area.

□ 1600

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding to me.

The gentleman characterized what I am doing here as a turf fight. It is a turf fight that has massive implications for this body, because it is apparent that we are in a major budgetary mess; so I would disagree with the gentleman on that, because the gentleman knows the rules as well as I do.

The gentleman's committee is not supposed to appropriate ever above authorization levels. The gentleman knows that, but the gentleman goes to the Rules Committee and gets them waived.

If the gentleman is correct that what he wanted to do was test whether or not we wanted to go above the authorization, then the gentleman has a duty to bring an amendment to the floor to raise the amount, but under the rules of the House the gentleman is not supposed to bring a bill out here in violation of the authorizing committee. If the gentleman wants to have that kind of fight, he should have brought the bill to the floor within the authorization amount and offered his own amendment on that.

Mr. YATES. I reclaim my time, Mr. Chairman, in order to point out what we followed the rules of the House. We went to the Rules Committee. The Rules Committee could have refused to give us that opportunity. The Rules Committee knows the rules as well as the gentleman does and as well as I do. If the Rules Committee wanted me to offer an amendment to follow what the gentleman says is the correct procedure to be followed, the Rules Committee could have stopped me from doing what I did. Rather that that, it gave me a rule and said, yes, this is kind of an important subject to be brought to the floor of the House.

The gentleman is making the same argument that one sees made in so many cases, as though there were many millions of dollars involved.

How much did we exceed the gentleman's level? By $3 million.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. YATES. Of course, I yield to the gentleman from Pennsylvania.

Mr. WALKER. The actual figure, Mr. Chairman, is about $28 million over the Science Committee authorization.

Mr. YATES. The gentleman's figures do not agree with ours.

Mr. WALKER. This gentleman's amendment is the $3 million that even the gentleman's own staff admits is a place where they went over.

Mr. YATES. I admit that, too. I admit we went over.

Mr. WALKER. Is that not in violation of the House rules?

Mr. YATES. It is not a violation of the House rules as long as I go to the Rules Committee and ask the Rules Committee for permission.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. Yates was allowed to proceed for 3 additional minutes.)

Mr. YATES. As long as I go to the Rules Committee, present the problem to them and say to the Rules Committee what the level of funding is. We have put $3 million more in. We request a rule that will permit us to bring it to the floor.

Mr. WALKER. Mr. Chairman, will the gentleman yield further?

Mr. YATES. Surely, I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, did the gentleman at any time suggest to the Rules Committee that they were $3 million over the transaction?

Mr. YATES. This gentleman did not.

Mr. WALKER. So the Rules Committee had no idea that this is an area where the gentleman had exceeded his authorization.

Mr. YATES. On the contrary. The gentleman presented the following facts to the Rules Committee, that there were, about 15 programs that did not have authorization or where the authorization had been established at a certain level by one House or had certain other aberrations that required a rule.

Let me point out to the gentleman that since 1975 at the time when we first began to feel this energy crisis, the gentleman's committee has failed to act and it only acted after about 12 years of the Appropriations Committee bringing this kind of appropriation to the floor, with the consent of the Rules Committee, because there was no existing authorizing legislation.

Mr. WALKER. Mr. Chairman, will the gentleman yield further?

Mr. YATES. Of course, I yield to the gentleman from Pennsylvania.

Mr. WALKER. The gentleman is absolutely correct, and this gentleman said in the well that when we do not act, the gentleman has every right to do those things he is going to do.

Mr. YATES. We do not have the right.

Mr. WALKER. But the fact is there is a public law. It is a law of the land specifying limits. It is not just some level passed by one of the Houses. It is the law. It is what we now have in place as being the law of the land on the amounts in accounts, and the gentleman is over it.

Mr. YATES. Well, let me reclaim my time to point out that under the gentleman's theory, we do not have the right if the legislative committee has not acted, under the gentleman's theory we do not have the right to put any legislation in our bill. The legislative committee is supposed to do it. As a result, if I had done it without going to the Rules Committee, the gentleman might have offered a point of order.

Mr. WALKER. Mr. Chairman, if the gentleman will yield further, under the way the House is supposed to work, that is absolutely right. They are not supposed to appropriate one dime that has not been authorized.

Mr. YATES. That is absolutely right, and if we were to do that, the gentleman's committee would be derelict in more than one respect, because the committee has not acted. The only way we can make progress is by the Appropriations Committee knowing what the situation is and the need for energy conservation to do the things that have to be done. Even in the field of energy conservation in the field of transportation, the gentleman's committee has not acted fully enough and we have to get a rule in order to come to the floor.

Mr. Chairman, I ask that the gentleman's amendment be defeated.

Mr. REGULA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are dealing here with the problem of which committee has jurisdiction. This is a law also. There was a law passed on December 11, 1989, setting levels for transportation conservation research and development. Many things have happened since that time. Our responsibility is not just to the committee. It is to the American people.

I hear, as I talk with people in my district, "Why aren't you doing more about conservation? Why aren't you doing more about alternative fuels?" That is a refrain, because people are concerned.

We are attempting to respond to that, because this bill is before us today. We are saying in effect that we want to do some additional funding to develop more efficient engines, both turbine and diesel. That is embodied in this change. When we deal with the offshore drilling issue, and I have been trying to get more of that done, the people come back to me, the opponents, and say, "Do more on conservation." That is exactly what we are trying to do here today.

There is some additional funding in here for electric vehicles and fuel cell research. Just recently some of the major companies have had a competition to develop more efficient electrical vehicles to address the problem. Some of the cities in California are even thinking about mandating the use of a certain number of these, and we have to do the research to get ready for it.

Another issue is ceramics. The Japanese and the Europeans are pushing hard to develop ceramic technology, and we are in competition with them. In this bill we put some additional funding in to take care of the need to advance our position in ceramics.

So basically what we are saying is that this is the objective of a congressional body to be responsive to conditions that exist today.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. REGULA. Yes, I yield to my chairman, the gentleman from Illinois.

Mr. YATES. The gentleman from Pennsylvania has not once said that this is a waste of money. I think he will concede that this is not a waste of money. The only point he makes is that his committee in passing the law established a level that is $3 million below the level that we thought it should be.

We had hearings following the passage of the law by the gentleman's committee. We listened to the Department of Energy and we concluded that the level established by the gentleman's committee was inadequate and that there ought to be a little more money in this in order to carry out the kind of research that is necessary in this vitally important matter.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Since the gentleman referred to the Department of Energy, the Department of Energy's requests are far lower than what are in the authorization bill; so insofar as the gentleman has listened to the Department of Energy, the Department of Energy is much lower than even what my amendment would take us to. I do not know who the gentleman is listening to. He is not listening to the authorizers. He is not listening to the Department of Energy. He seems to be listening only to himself.

Mr. REGULA. If I can reclaim my time, Mr. Chairman, we are listening to the American people.

Mr. WALKER. Could the gentleman tell me who among the American people right now is pleading with Congress to spend more money?

Mr. REGULA. The American people are pleading with Congress, if I can reclaim my time, for more conservation programs, for more alternate fuels, because when they pull up to the pump and they are paying $1.36 or $1.37 per gallon, they want to have us address the problem.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Illinois.

Mr. YATES. We have consistently in this committee spent more than the administration has wanted, ever since 1973.

□ 1610

The gentleman, I assume, is going to be critical of us because we have recommended in every year levels for transportation research and development above those recommended by the Department of Energy, both before the gentleman's committee acted and since the gentleman's committee acted, because this subject is so critically important.

The gentleman wants to observe the niceties, the rigors of rules. There are times when you have to submit to the attention of the House a critical situation that deserves more money, and that is what we have done.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Because our authorizing committee authorized 5 percent more in 1991 than 1990; in other words, we were authorizing an expansion in spending. What I hear from the American people—and it is confirmed by polls all over the country—about 80 percent of the American people are telling us to cut spending, to get our house in order, to do the job of at least freezing the spending in Washington.

All this gentleman is suggesting is that we should stick to the authorizations.

The CHAIRMAN pro tempore (Mr. McNulty). The time of the gentleman from Ohio [Mr. Regula] has expired.

(By unanimous consent, Mr. Regula was allowed to proceed for 2 additional minutes.)

Mr. REGULA. Mr. Chairman, I do not quarrel with the fact that we need to cut spending, there is no question. We have to make some priority judgments, however,

In today's critical situation, I think it is very important we develop the ceramic engine, I think it is important we develop the electric fuel cell programs, and I think it is important that we develop the diesel and turbine technology to meet our conservation and alternate-fuel requirements. This body will have an opportunity, as it should, by voting on this amendment, as to whether or not they think this is good policy.

Mr. WALKER. Mr. Chairman, will the gentleman yield.

Mr. REGULA. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, first of all the way in which this body should act should not have to be because Members come to the floor and tell you to obey the law.

Second, I say to the gentleman all of those things that he mentioned are things that we considered as well.

We built them into an authorization process that we thought met the need.

We considered the ceramic engine, we considered the new diesel technology and so forth, but we thought you could do it on the amount of money that was in the authorization bill. The gentleman has decided to go on a spending spree.

I would suggest to the gentleman that is precisely what the American people are telling us they do not want.

Mr. REGULA. Reclaiming my time, Mr. Chairman, research and development is not a spending spree. I would also point out that when you considered these things, we did not have the Persian Gulf crisis nor did we have the clean air bill. Circumstances have changed. We feel the Members of this body, in light of the changed circumstances, new challenges, should have the opportunity to make that policy choice. That is why we are having this debate today.

Mr. WALKER. This authorization is less than a year old. Sure we had the clean air bill, we knew where the clean air bill was going at that point. We did not have the Persian Gulf crisis, but we knew there was an oil problem, an oil shortage problem for years. So to suggest that somehow we were acting without information and so on is to suggest the absurd.

All you have done is act to spend money; we ought to spend a little less.

Mr. REGULA. Reclaiming my time, I would suggest that circumstances in 1990 are much different than they were in 1989.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. WALKER. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electornic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 457]

ANSWERED "PRESENT"—375

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Boehlert
Bonior
Borski
Boucher
Brooks
Broomfield
Browder
Bruce
Bryant
Buechner
Bunning
Burton
Byron
Callahan
Campbell (CA)
Campbell (CO)
Carper
Chandler
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Crane
Dannemeyer
Darden
Davis
de la Garza
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans
Fascell
Fawell
Fields
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frost
Gallegly
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Jacobs
James
Jenkins
Johnson (CT)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ravenel
Regula
Rhodes
Richardson
Rinaldo
Ritter
Roberts
Robinson
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stearns
Stenholm
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torrés
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Walker
Walsh
Watkins
Waxman
Weber
Weiss
Weldon
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (FL)

□ 1636

The CHAIRMAN. Three hundred seventy-five Members have answered to their names, a quorum is present, and the Committee will resume its business.

□ 1640

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Pennsylvania [Mr. WALKER] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 104, noes 281, not voting 48, as follows:

[Roll No. 458]

AYES—104

Archer
Armey
Ballenger
Barnard
Bartlett
Barton
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Clinger
Coble
Coleman (MO)
Coughlin
Cox
Crane
Dannemeyer
Davis
DeLay
Dickinson
Dornan (CA)
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Gekas
Gingrich
Goodling
Gradison
Grandy
Grant
Gunderson
Hancock
Hansen
Hastert
Herger
Hiler
Hopkins
Hunter
Hyde
Inhofe
Jacobs
James
Kasich
Kolbe
Kyl
Leach (IA)
Lewis (FL)
Lightfoot
Livingston
Lukens, Donald
Madigan
Marlenee
McCandless
McCollum
McCrery
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Nielson
Packard
Parris
Patterson
Paxon
Penny
Petri
Porter
Pursell
Ravenel
Rhodes
Ritter
Roberts
Robinson
Rohrabacher
Roth
Saxton
Schaefer
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Slattery
Smith (TX)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stangeland
Stearns
Stump
Sundquist
Tauke
Thomas (CA)
Upton
Vander Jagt
Walker
Weber
Weldon
Wylie

NOES—281

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Boehlert
Bonior
Borski
Boucher
Brooks
Browder
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Carper
Chandler
Clarke
Clay
Clement
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Costello
Courter
Coyne
Craig
Darden
de la Garza
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
English
Erdreich
Evans
Fascell
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Goss
Gray
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jenkins
Johnson (CT)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leath (TX)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Machtley
Manton
Markey
Martin (NY)

Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pashayan
Payne (NJ)
Payne (VA)
Pease
Perkins
Pickett
Pickle
Poshard
Price
Quillen
Rahall
Regula
Richardson
Rinaldo
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Sawyer
Scheuer
Schiff
Schneider
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (VT)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Studds
Swift
Synar
Tallon
Tanner
Tauzin
Taylor
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walsh
Watkins
Waxman
Weiss
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (FL)

NOT VOTING—48

Baker
Billey
Boggs
Bosco
Boxer
Brennan
Brown (CA)
Cardin
Carr
Chapman
Combest
Crockett
DeFazio
Douglas
Early
Engel
Espy
Fazio
Feighan
Frenzel
Gallo
Hefley
Holloway
Ireland
Johnson (SD)
Laughlin
Lehman (CA)
Martin (IL)
Mink
Mollohan
Moody
Morrison (CT)
Oxley
Pelosi
Rangel
Ray
Ridge
Roe
Rowland (CT)
Rowland (GA)
Savage
Schuette
Smith, Denny (OR)
Stokes
Udall
Washington
Wheat
Young (AK)

□ 1648

The Clerk announced the following pair:

On this vote:

Mr. Frenzel for, with Mr. Fazio against.

Mrs. VUCANOVICH changed her vote from "aye" to "no."

Mr. ROBERTS and Mr. FAWELL changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments to this title of the bill?

□ 1650

Mr. YATES. Mr. Chairman, I move to strike the last word.

Mr. CHAIRMAN, the gentleman from New York [Mr. GILMAN] was on his way to the floor when the proceedings began today, and when the title was made open for points of order unfortunately he was not on the floor.

He has a request to make on a point of order, and I ask unanimous consent that the Chair recognize the gentleman from New York [Mr. GILMAN] to present his point of order.

Mr. GILMAN. Mr. Chairman, I ask unanimous consent to raise a point of order to title II.

The CHAIRMAN. Without objection, the gentleman from New York [Mr. GILMAN] will be recognized on his point of order.

There was no objection.

POINT OF ORDER

Mr. GILMAN. Mr. Chairman, I make a point of order that on page 47, lines 15 through 17 of title II of the bill, making an appropriation in the amount of $250,000 for a Federal study of the Sterling Forest, are in violation of clause 2, rule XXI.

The CHAIRMAN. Does the gentleman from Illinois [Mr. YATES] desire to be heard on the point of order?

Mr. YATES. Mr. Chairman, we have examined the gentleman's point of order.

Much as the committee believes there is a very good argument to be made with respect to the need for reviewing potential development of the tract in this case for which the funds have been placed in the bill, we must concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained.

Accordingly, the proviso is stricken.

Are there further amendments to title II of the bill?

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: Page 63, line 23, strike "*Protided*" through "equivalent legislation:" on page 64, line 4.

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, small wonder that there is a growing contempt for the spending habits of this Congress across the country, and small wonder that the appropriations themselves have become somewhat contemptuous of the authorization process. The last vote just proved that we have no willingness whatsoever to stick even within the authorized amounts that this Congress operates under.

Please, in the future I would say to the chairman of the committee, the full committee, save us the speeches about the Appropriations Committee in there fighting for keeping spending down. We just proved that the Appropriations Committee has no intention of trying to do that.

But this amendment gives us another opportunity, because once again the Appropriations Committee has stepped well beyond the law and has decided to authorize a project in total violation of the law.

If we go to the committee's bill, we will find that the committee says on page 63 of its bill, "*Provided, further*, That $1.25 million of the amount provided under this heading shall be for the establishment of a National Metal Casting Research Institute at the University of Alabama." and now get this, "consistent with the provisions of the Department of Energy Metal Casting Competitive Research Act of 1990, H.R. 1243, or equivalent legislation."

I think that is an important little line in there. It says that we are going to establish this University of Alabama Research Institute consistent with the Research Act of 1990. That Research Act, by the way, was just signed into law. That particular piece of legislation was just signed into law today by the President of the United States. It has been around for quite a while, so the committee knew exactly what was in it.

If we take a look at that law, we will find it consists of several pages. The print that I have here before me is about 10 pages. Most of those pages tell about how we are supposed to operate the program, what the proposed criteria of the program are, how the content of the management plan and how proposals shall be selected, in other words, for these research institutes. Now, it is interesting. The bill says flatly the Secretary shall select the proposals, and then it goes on into a whole series of criteria that these particular institutes havc to meet in order to be eligible for selection.

Guess what, the Appropriations Committee decided that most of the pages of this bill, in fact, about half of the pages of the bill, are pure nonsense, are absolutely meaningless pieces of crap that the committee did not have to pay any attention to, that they would go ahead and designate this research institute without even a reference to the bill.

What they did was simply in the bill said that they were going to designate the University of Alabama, and the fact that we passed a law saying as how that designation should take place, ignore the law. The law is a meaningless exercise, and the Appropriations Committee again knows best.

I know that there are powerful members of the Committee on Appropriations who think that they are above the law and who think that the law is something which can be ignored at will, but I think that this House ought to give some consideration to that, because here is a case of brand-new legislation where many of us expressed a concern as it was going through that it was going to lead to some unfettered kind of spending. "Oh, no," we were assured, "do not worry about it. This is going to be tightly controlled, because, after all, we have all of these criteria that are going to have to be met in order to be able to get one of these research institutes established."

Guess what, the Committee on Appropriations just decided that none of those criteria made any difference, and they established the University of Alabama in the bill as something that can ignore it.

I have a couple of questions for the chairman of the committee if he would answer for me. The criteria suggest that the institute that gets the bill, that will be a place that will best result in carrying out the needed metal casting research and development in one or more of the following general areas: Solidification and casting technologies, computational modeling and design, processing technologies and design for energy efficiency, material conservation, environmental protection and industrial productivity, other areas of research that in the judgment of the Secretary, after consulting with the board established in section 7, further the purposes of the act.

Which of these criteria does the University of Alabama meet?

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, it was the impression of the committee that the University of Alabama met most of them.

Mr. WALKER. Does it have expertise in the solidification and casting technologies?

Mr. YATES. If the gentleman will yield further, the committee was advised that it does have such an expertise.

Mr. WALKER. And computational modeling and design?

Mr. YATES. The gentleman is correct. Yes.

Mr. WALKER. And processing technologies and design for energy efficiency, material conservation, environmental protection, and industrial productivity?

Mr. YATES. I believe that is true.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, of course, the Secretary, in fact, did designate this in consultation with the board as well? Is that right?

□ 1700

Mr. YATES. Mr. Chairman, the committee was of the opinion that in following the instructions of the authorizing committee which would establish four regional centers, that in order to save money it would be better to establish a pilot program first in order to see whether or not the process was one that should be followed.

Mr. WALKER. Reclaiming my time, your bill does not talk about a pilot program.

Mr. YATES. That is what this is.

Mr. WALKER. The law that we are passing here today says it is consistent with the provisions of the Department of Energy, Metal Casting Competitive Research Act of 1990. How is that consistent? Does the act call for a pilot program?

Mr. YATES. The committee believes that a pilot program is the way to proceed.

Mr. WALKER. So the committee, once again, here we have another case where the Committee on Appropriations believes something is better than what the authorizing process calls for, and the Committee on Appropriations has decided to simply set aside the authorizing process, and say, "we are irresponsible, and we believe something different. We have our own ideas about this. The heck with others, we do not need to be consulted, we do not need to be taken into account."

I will tell Members that I am a little tired of it. I am a little sick of it, to tell the Members the truth, that we have people who simply think that the law has no meaning.

So once again, what we have here now, is the establishment of a specific piece of pork. It is one particular project. It is in total violation of the authorization process. There is no indication whatsoever that it meets any of the criteria. I just started reading criteria. The fact is there are several pages more of that, and it is not clear to me that it meets any of the criteria. The Secretary and the Board did not act on this proposal. This is a provision that ought to be stricken from the bill.

Mr. YATES. Mr. Chairman, I rise in opposition to the amendment. The congressional delegation from Alabama has taken a leading role in developing the authorization for metal casting research. It is true that the authorizing language does not specifically include language that would authorize a pilot program, but yet it does not specifically prohibit such a pilot program either.

In its discretion, the Committee on Appropriations believed that rather than undertaking bidding for the four regional centers that the authorizing legislation provided for in this new field, this entry into what can only be described as a new field of research, applied research, should be undertaken as a pilot program rather than in following the director of the committee.

Therefore, the Committee on Appropriations has included $1,250,000 for such research, earmarked for the University of Alabama, because of the leading role taken by the delegation from Alabama. They did show expertise in this field, and Congress can be assured, based upon what the delegation has done, that specific industrial interests exist to fund such research.

The committee believed that if the pilot program is successful, the Congress can consider expanding the program to additional regional centers. Now, except for this competitive aspect of the program itself, every other aspect of the directions given in the authorizing legislation have been followed, including 50-50 cost-sharing direction that will have to be undertaken by industry and the University of Alabama.

As I have pointed out, the amount that is involved is not a very great amount. It is $1,250,000. We believed in our committee that this was the rational, the logical, the reasonably way to proceed. That is why we provided the funds.

Mr. DANNEMEYER. Mr. Chairman, I move to strike the last word, and I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding. I just want to point out that what the chairman did not say, however, was that the entire bill that this particular project is based upon, in other words, the authorization, is based upon a competitive process. That is the operative word in everything that was in the legislation that we passed, was it to be a competitive process, for any kind of institute that was established. There is no competitive process here. This is a decision of a particular committee.

Mr. YATES. Does the gentleman's colleague want to cut off his time?

Mr. DANNEMEYER. Mr. Chairman, I yield to my friend from Pennsylvania. However, I am happy to yield to the gentleman from Illinois if he has an answer.

Mr. WALKER. If the gentleman will let me finish my point.

The CHAIRMAN. The gentleman from California [Mr. DANNEMEYER] must remain standing while he yields time.

Mr. DANNEMEYER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. The point I am making is this now has done an end run around the very bill that requires a competitive process, could be assured all criteria are met. This does not do so. It designates one project, in one State. Interestingly enough, it comes from a State where a number of the people who have sponsored the original legislation were from, who keep assuring Members that all of this was on the up and up. One now has to wonder whether or not this was not designed for pork in the first place.

Mr. DANNEMEYER. Mr. Chairman, I yield to the gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Chairman, the action of the committee is on the up and up, and at such time that the pilot program has been completed and the research appraised and evaluated, and the decision is made to proceed with the development stage by following the directions in the legislation to go to the regional centers, at that time the competitive process for awarding contracts will be followed.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. The committee keeps insisting it is consistent with the law that has been signed into being by the President today. The fact is, that the only thing that is consistent, is the inconsistency of this committee in its adherence to the law.

Mr. DANNEMEYER. Mr. Chairman, reclaiming my time, I am just amazed at, frankly, the irresponsibility of the Committee on Appropriations in bringing this bill to the floor in the levels of spending that are presented.

I want to draw attention to my colleagues that last fiscal year which ended September 30, the amount of $11,409,000,000 was spent for all these activities. The President requested for these activities for fiscal year 1991, $9.6 billion, a reduction of $1.7 billion. The American people really want to know who is responsible for the irresponsible level of spending by the Federal Government of the United States. This bill, for the Interior Department and other related agencies, is a good explanation of how this happened. The President proposes and Congress disposes. A Presidential request is to reduce what has been spent last year by some $1.7 billion, and this House committee has brought forth this bill to the floor of the House that totally sets aside the President's request and proposes that we spend $11,885,000,000 in fiscal year 1991, which represents an increase of 4.1 percent over what we spent last year. At the end of the consideration of the bill, this Member from California will offer an opportunity to every Member of the House to vote to reduce the appropriation of this bill by 4 percent, which will put the level of spending slightly above what was spent in 1990.

I know we are all looking for a chance with our votes to reduce spending. When we have an opportunity to vote on this amendment, I hope Members will do so.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Illinois.

Mr. YATES. I think the gentleman ought to point out that the action of the committee in establishing its appropriations levels is within the new reduced level to what we are allowed under the 302(b) allocation, which is the current budget that has been approved by the House and the Senate.

Mr. DANNEMEYER. I thank my colleague for that observation, but if we want to evaluate what we are going to spend this year, the baseline for consideration is not the CBO baseline, it is not a budget resolution that presupposes the existence of new taxes, it is how much was spent last year. People do not understand that.

Mr. YATES. Then why go through the budget process every year if we have a baseline?

Mr. DANNEMEYER. I have been asking that for 12 years myself.

Mr. YATES. If we have a baseline established, there is no need for a budget process. We would just establish a baseline and go below, and below it every year.

(On request of Mr. REGULA and by unanimous consent, Mr. DANNEMEYER was allowed to proceed for 2 extra minutes.)

Mr. DANNEMEYER. Mr. Chairman, I yield to my friend, the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, just to keep the record straight you use the number of $11.4 billion, but when it is recorded by CBO, the fiscal year 1990 adjusted for scorekeeping is $12,195,000,000.

□ 1710

So I think that if we factor that in, plus the fact that in this bill we have forward funded on Indian education, and the reason for that is that the Indian schools obviously open in September, but historically do not know their funding levels until late in October; so what we have done on a one-time basis is make an adjustment, an advance funding, so that they will know in their summer planning, as well as when school opens, exactly what the Indian school education program will have available. If we take that out because it is a one-time factor, actually this bill is about 3 percent in real numbers over fiscal year 1990; so the gentleman's amendment would propose to put it 1 percent less than fiscal year 1990.

Now, I understand that is the gentleman's objective, if anything, to reduce it to go below fiscal year 1990 levels, but I would also point out that we are faced with pay increases that are mandated by law once the President makes his recommendation, and the result is, if there is nothing factored in here, either operations or maintenance of the parks and forests and the public lands will have to suffer because something has to give.

Mr. DANNEMEYER. Mr. Chairman, I will not go through all the items, but the gentleman's committee has exhibited such tender concern for the taxpayers in fiscal year 1990 that we spent $9.1 million for the Kennedy Center. This bill increases that by $12 million, raising it to $21.1 million. I do not understand how we justify something like that.

In other categories, under the National Park Service, we spent $2 million-plus in 1990. That is going to be raised by $22 million. I could go on and on. This level of appropriations does not recognize the existence of a fiscal emergency.

Mrs. LLOYD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Walker amendment. H.R. 5769 clearly states that the funding associated with the Metal Casting Research Institute will be used consistent with the provisions of H.R. 1243, the Department of Energy Metal Casting Competitiveness Research Act of 1990. I am pleased that the legislative activity on H.R. 1243 originated in my Subcommittee on Energy Research and Development. The subcommittee consideration was followed by the full Committee on Science, Space, and Technology endorsement. The other body also acted on the authorizing legislation and the House overwhelmingly voted 331 to 84 on passage of the conference report. I am happy to inform the Members that the bill was signed this afternoon.

My point in providing the legislative history of the metal casting bill for my colleagues is to clarify that the House and Senate followed the proper legislative procedures and strongly supported the bill.

The gentleman from Illinois (Mr. YATES) has included the program as part of the fiscal year 1991 Department of Energy appropriations bill but has cited the authorizing legislation for program direction. I view this coupling of authorizing directives with appropriations funding as the proper legislative procedure. Indeed, it is all too infrequently that we have the opportunity to work together as the House rules recommend.

I believe that the Walker amendment ignores the strong congressional support shown for the legislation and I urge my colleagues to oppose the amendment.

Mr. WALKER. Mr. Chairman, will the gentlewoman yield?

Mrs. LLOYD. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, where in the record of our committee was it that we were going to permit projects to be brought to the House floor that violated the selection process that we prepared in the committee?

Mrs. LLOYD. Well, Mr. Chairman, I appreciate the gentleman bringing this to our attention. As the gentleman knows, this was a $5 million a year authorizing legislation for 3 years that called for three research centers to be funded by the private sector on a 50–50 cost share basis. It is good legislation. I support it. This is only one of the centers, and it has my support. If the gentleman objects to it——

Mr. WALKER. Mr. Chairman, if the gentlewoman will yield, that was not my question.

In our committee, we spent a lot of time putting together language which assured that these particular research centers would be selected on a competitive basis, that they would, in fact, represent the very best that the country had to offer.

I do not think we anticipated it to become another barrel of pork for the Appropriations Committee to dive into when we got the bill passed. I do not remember anybody suggesting that this was going to become an area where the Appropriations Committee would select the research institutes, rather than as the bill says, if the gentlewoman remembers the bill that came out of her subcommittee, it says that the Secretary shall select proposals, and then goes into a whole series of criteria that he was to use to do that.

Mrs. LLOYD. Well, Mr. Chairman, I appreciate the gentleman bringing this to our attention, but this legislation says that it will be used consistent with the provisions of H.R. 1243, so it seems to me that this has the blessing of the Secretary of Energy. The gentleman was opposed to this bill, if I remember, when it was brought to the floor.

Mr. WALKER. No, I supported the final version of the bill, I would say to the gentlewoman.

Mrs. LLOYD. The gentleman opposed it on the floor of the House of Representatives.

Mr. WALKER. As it went to the committee and the Senate, but the conference report I did support.

I would say to the gentlewoman that I supported it based upon my understanding that had corrected some of the major flaws that I considered in the bill. One of my great fears throughout the process, if the gentlewoman will remember, was that these research institutes would turn into simply pork barrel, and I was assured throughout that this would not happen, that good heavens, look at the criteria that we have, and what the gentlewoman is telling me now is that the authorizing process did not mean anything, that as long as the committee says that it is consistent with the bill, it must be, despite the fact that it is a violation of everything the bill stands for.

Mrs. LLOYD. Well, I would say to the gentleman that it certainly has my blessing. I am sure that the University of Alabama is certainly a fine center. We have two more that will be chosen.

Mr. Chairman, I urge my colleagues to defeat this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 106, noes 295, not voting 32, as follows:

[Roll No. 459]

AYES—106

Archer
Armey
Ballenger
Bartlett
Barton
Bates
Bennett
Bentley
Bilirakis
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Campbell (CA)
Chandler
Coble
Combest
Courter
Cox
Craig
Crane
Dannemeyer
DeWine
Dornan (CA)
Dreier
Duncan
Fawell
Fields
Fish
Frenzel
Gallegly
Gekas
Gingrich
Gradison
Grandy
Hancock
Hansen
Hefley
Henry
Herger
Hopkins
Hubbard
Hunter
Hyde
Inhofe
James
Kyl
Leach (IA)
Lewis (FL)
Lightfoot
Lukens, Donald
Madigan
Marlenee
McCollum
McCrery
McMillan (NC)
Mfume
Michel
Miller (OH)
Miller (WA)
Moorhead
Morella
Nielson
Packard
Parris
Paxon
Pease
Penny
Petri
Porter
Ravenel
Rinaldo
Ritter
Robinson
Rohrabacher
Ros-Lehtinen
Roth
Saiki
Saxton
Schaefer
Schiff
Sensenbrenner
Shays
Shumway
Shuster
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stearns
Stump
Tauke
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weiss
Weldon
Wolf
Wylie

NOES—295

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Baker
Barnard
Bateman
Beilenson
Bereuter
Berman
Bevill
Bilbray
Boehlert
Boggs
Bonior
Borski
Boucher
Brooks
Browder
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Clarke
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Coyne
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans
Fascell
Feighan
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hiler
Hoagland
Hochbrueckner
Horton
Houghton
Hoyer
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leath (TX)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Machtley
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Miller (CA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Pashayan
Patterson
Payne (NJ)
Payne (VA)
Perkins
Pickett
Pickle
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Regula
Rhodes
Richardson
Roberts
Roe
Rogers
Rose
Rostenkowski
Roukema
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stenholm
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walgren
Walsh
Watkins
Waxman
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (FL)

NOT VOTING—32

Bliley
Bosco
Boxer
Brennan
Brown (CA)
Chapman
Crockett
Douglas
Early
Engel
Espy
Fazio
Gallo
Holloway
Ireland
Laughlin
Lehman (CA)
Martin (IL)
Mink
Moody
Morrison (CT)
Pelosi
Ray
Ridge
Rowland (CT)
Rowland (GA)
Savage
Schuette
Smith, Denny (OR)
Stokes
Washington
Young (AK)

□ 1735

Mr. LANTOS changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments to title II?

If not, the Clerk will read.

The text of title III is as follows:

TITLE III—GENERAL PROVISIONS

Sec. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Sec. 302. None of the funds provided in this Act to the Department of the Interior may be obligated or expended to implement a transfer of property located within the city of Minneapolis from the Department of Housing and Urban Development to any Indian Tribe.

Sec. 303. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided*, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

Sec. 304. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

Sec. 305. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Sec. 306. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

Sec. 307. None of the funds provided in this Act shall be used to evaluate, consider, process, or award oil, gas, or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal watershed upstream of river mile 11.7, and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

Sec. 308. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such Committees.

Sec. 309. Employment funded by this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law.

Sec. 310. Notwithstanding any other provision of law, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Energy, and the Secretary of the Smithsonian Institution are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction.

Sec. 311. None of the funds provided by this Act to the United States Fish and Wildlife Service may be obligated or expended to plan for, conduct, or supervise deer hunting on the Loxahatchee National Wildlife Refuge.

Sec. 312. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands until an environmental assessment has been completed and the giant sequoia management implementation plan is approved. In any event, timber harvest within the identified groves will be done only to enhance and perpetuate giant sequoia. There will be no harvesting of giant sequoia specimen trees. Removal of hazard, insect, disease and fire killed giant sequoia other than specimen trees is permitted.

Sec. 313. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

Sec. 314. With respect to claims resulting from the performance of functions, or claims asserted after the effective date of this Act, but resulting from the performance of functions prior to fiscal year 1991, under a contract, grant agreement, or cooperative agreement authorized by the Indian Self-Determination and Education Assistance Act of 1975, as amended (88 Stat. 2203; 25 U.S.C. 450 et seq.) or by title V, part B, Tribally Controlled School Grants of the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988, as amended (102 Stat. 385; 25 U.S.C. 2501 et seq.), an Indian tribe, tribal organization or Indian contractor is deemed hereafter to be part of the Bureau of Indian Affairs in the Department of the Interior or the Indian Health Service in the Department of Health and Human Services while carrying out any such contract or agreement and its employees are deemed employees of the Bureau or Service while acting within the scope of their employment in carrying out the contract or agreement: *Provided*, That upon the effective date of this legislation, any civil action or proceeding involving such claims brought hereafter against any tribe, tribal organization, Indian contractor or tribal employee covered by this provision shall be deemed to be an action against the United States and will be defended by the Attorney General and be afforded the full protection and coverage of the Federal Tort Claims Act: *Provided further*, That beginning with the fiscal year ending September 30, 1991, and thereafter, the appropriate Secretary shall request through annual appropriations funds sufficient to reimburse the Treasury for any claims paid in the prior fiscal year pursuant to the foregoing provisions: *Provided further*, That nothing in this section shall in any way affect the provisions of section 102(d) of the Indian Self-Determination and Education Assistance Act of 1975, as amended (88 Stat. 2203; 25 U.S.C. 450 et seq.).

Sec. 315. Notwithstanding any other provision of law, the payment to be made by the United States Government pursuant to the provision of subsection (a) of title II of the Act of August 28, 1937 (50 Stat. 876) to the Oregon and California land-grant counties in the State of Oregon from fiscal year 1991 receipts derived from the Oregon and California grant lands shall not be less than 90 per centum of the average annual payment made to those counties of their share of the Oregon and California land-grant receipts collected during the three-year baseline period of fiscal years 1988 through 1990: *Provided*, That in no event shall this payment exceed the total amount of receipts collected from the Oregon and California grant lands during fiscal year 1991.

Sec. 316. Notwithstanding any other provision of law, payments to States pursuant to 16 U.S.C. 500 for National Forests affected by decisions relating to the Northern Spotted Owl from fiscal year 1991 receipts shall not be less than 90 per centum of the average annual payments to States, based on receipts collected on those National Forests during the three-year baseline period of fiscal years 1988 through 1990: *Provided*, That in no event shall these payments exceed the total amount of receipts collected from the affected National Forests during fiscal year 1991.

Sec. 317. (a) The sum of $500,000 is hereby appropriated under this Act for the Forest Service to prepare the Supplement to the Final Environmental Impact Statement (SEIS) for the proposed Early Winters Alpine Sports Site in the Methow Valley, Washington State. This sum may be used by the Forest Service to employ additional employees or consultants in the preparation of the SEIS. The SEIS shall be completed, and a final Record of Decision shall be issued by the Forest Service not later than twelve months after the date of enactment of this Act.

(b) Judicial challenge to a Notice of Decision or Record of Decision issued by the Forest Service under subsection (a) or to the actions of the Forest Service or the Secretary under this section or under any other Federal law shall be made in accordance with this subsection not withstanding any other provision of law:

(1) Such judicial challenge must be filed in the United States Court for the District of Oregon.

(2) Any judicial challenge raised in the United States District Court for the District of Oregon must be filed within fifteen days of such Notice of Decision, Record of Decision or District Court action.

(3) Any appeal from a decision of the District Court shall be filed within thirty days of such final decision in the United States Court of Appeals for the Ninth Circuit.

(4) The Courts shall render their final decision relative to any judicial challenge or appeal, or any further judicial review of the Forest Service's actions pursuant to this section expeditiously. The District Court shall make every effort to render its final decision relative to any judicial challenge within sixty days from the date such challenge is filed, and the Court of Appeals shall make every effort to render its final decision relative to any appeal within ninety days from the date such appeal is filed.

The CHAIRMAN. Are there any points of order against title III?

Are there any amendments to title III?

For what purpose does the gentleman from Washington [Mr. DICKS] rise?

AMENDMENT OFFERED BY MR. DICKS

Mr. DICKS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dicks: On page 92, line 19, strike everything after the period through page 93, line 23.

Mr. DICKS. Mr. Chairman, I rise to amend section 317 in the general provisions of the bill. This amendment reduces the language in the bill relating to the Early Winters Resort in Washington State. I am deleting language that is part of a provision that I had included during full committee consideration of H.R. 5769.

Mr. Chairman, my introduction to this amendment reflects what I perceive to be positive cooperation between members of the appropriations and authorizing committees.

□ 1740

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Oregon.

Mr. AuCOIN. Mr. Chairman, the committee has had a chance to carefully examine the amendment of the gentleman from Washington [Mr. Dicks], and accepts the amendment.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, we have no objection to the amendment.

Mr. DICKS. Mr. Chairman, I rise to amend section 317 in the general provisions of the bill. This amendment reduces the language in the bill relating to the Early Winters Resort in Washington State. I am deleting language that is part of a provision that I had included during full committee consideration of H.R. 5769.

My introduction of this amendment reflects what I perceive to be positive cooperation between members of the appropriations and authorizing committees who have been involved in seeking a solution on the Early Winters Resort issue.

In this regard, I would like to particularly thank Chairman Vento of the Interior Subcommittee for Parks and Public Lands and Chairman Studds from the Merchant Marine and Fisheries Subcommittee on Fisheries and Wildlife Conservation for their cooperation in seeing the Early Winters project go foward in a manner consistent with environmental statutes.

I also want to thank my colleagues from the Washington State delegation whose support has been invaluable in developing a consensus and finding grounds for compromise on this issue. Particularly, I want to thank congressman McDermott and Congressman Morrison for their commitment to working out concerns on Early Winters.

This project has been in a conceptual stage for 20 years. It is supported by members of the Washington State Congressional delegation, the Governor, and numerous citizens. One of the reasons that we have been anxious to move this project forward is because of the great economic and recreational potential that the project has for the State of Washington. The State earlier concluded a fiscal impact analysis of Early Winters which concluded that several economic benefits would result from the project, including: in-State tourism dollars, State employment gains, and State and county revenue surpluses. Furthermore, Early Winters will greatly help the local economy in the area it is to be located, a depressed area of the State that is anticipated to suffer even greater job losses as a result of a downturn in the timber economy.

If the amendment that I am offering today is adopted, the bill will leave the floor with only a provision that includes funding for the supplemental environmental impact statement [SEIS], which is necessary to complete in order for the Early Winters project to proceed in a manner consistent with environmental protections.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington [Mr. Dicks].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SYNAR

Mr. SYNAR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Synar:

At an appropriate point in the bill, insert the following:

Sec. . Subsection 401(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1751[a]) is hereby amended to read as follows:

(a) Grazing Fee Structure for Public Lands.—(1) Notwithstanding any other provision of law, the Secretary of Agriculture, with respect to lands in the 16 Western States administered by the U.S. Forest Service where domestic livestock grazing is permitted under applicable law, and the Secretary of the Interior, with respect to public lands administered by the Bureau of Land Management where domestic livestock grazing is permitted under applicable law, shall establish the following domestic livestock grazing fee structure for such grazing:

(a) For fiscal year 1991, the grazing fee on such lands shall be not less than $4.35 per animal unit month.

(b) For fiscal year 1992, the grazing fee on such lands shall be not less than $5.80 per animal unit month.

(c) For fiscal year 1993, the grazing fee on such lands shall be not less than $7.25 per animal unit month.

(d) For fiscal year 1994, and each fiscal year thereafter, the grazing fee on such lands shall be not less than $8.70 per animal unit month or fair market value, whichever is higher.

(e)(1) Fair Market Value for purposes of this Section shall be defined as follows:

Fair Market Value = Appraised Base Value × Forage Value Index / 100

(ii) As used in this Section, "Forage Value Index" means the Forage Value Index computed annually by the Economic Research Service, U.S. Department of Agriculture. "Appraised Base Value" means the 1983 Appraisal Value conclusions by animal class (expressed in dollars per head or pair month) for the pricing area concerned, as determined in the 1986 report prepared jointly by the Secretary of Agriculture and the Secretary of Interior entitled "Grazing Fee Review and Evaluation," dated February, 1986.

(2) Executive Order No. 12548 of February 14, 1986 is hereby revoked.

Mr. SYNAR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The CHAIRMAN. Pursuant to House Resolution 505, debate on this amendment and all amendments thereto will not exceed 1 hour.

The Chair recognizes the gentleman from Oklahoma [Mr. Synar] for 5 minutes.

Mr. SYNAR. Mr. Chairman, as is customary with an amendment like this, I will yield one-half of the time, 30 minutes, to an opposing point of view.

The CHAIRMAN. The rule does not address the matter of allocation of time. The gentleman is recognized for 5 minutes.

Mr. SYNAR. Mr. Chairman, I think it would only be fair in this circumstance to yield one-half the time to an opposing point of view.

The CHAIRMAN. The gentleman from Oklahoma [Mr. Synar] may ask unanimous consent to divide the time, but there is no specific allocation provided under the rule.

Mr. SYNAR. Mr. Chairman, for purposes of debate only, I would ask unanimous consent to allocate 30 minutes of the 1 hour of time to the gentleman from New Mexico [Mr. Skeen].

The CHAIRMAN. The gentleman can ask unanimous consent that the time be divided 30 minutes there and 30 minutes for himself.

Mr. SYNAR. Mr. Chairman, I thought that is what the gentleman from Oklahoma did. I asked unanimous consent that 30 minutes of the 1 hour be allocated to the gentleman from New Mexico, and 30 minutes to the gentleman from Oklahoma.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. SYNAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to speak in favor of the Synar-Darden grazing fees amendment to the Interior appropriations bill. The enactment of this amendment will be good for not only the taxpayers, but for the environment.

Mr. Chairman, first of all let me take this opportunity to thank the gentleman from Illinois [Mr. Yates], the gentleman from Ohio [Mr. Regula], the gentleman from Pennsylvania [Mr. Clinger], the gentleman from New York [Mr. Horton], and the gentleman from Texas [Mr. Brooks], as well as members of the Committee on Rules, for giving us this opportunity to debate this very important issue.

Mr. Chairman, I am a two-time National 4"H champion. I am also a two-time State 4"H Club vice president of

the State of Oklahoma. I am a lifelong rancher, and a third generation rancher from the State of Oklahoma.

Mr. Chairman, I repeat that resume not to brag, but to try to inform Members of the special background, expertise, and experience that bring to today's debate.

Mr. Chairman, today's amendment will do two simple things: first, it will improve the management of 250 million acres of Federal ranch lands administered by the Department of Interior's Bureau of Land Management and the Department of Agriculture's U.S. Forest Service.

Second, this amendment will make the taxpayers more than $325 million over the next 5 fiscal years.

Today, more than 55 years after passage of the Taylor Grazing Act, much of the public rangeland is still in unsatisfactory condition. In fact, the Bureau of Land Management's own reports show that 60 percent of the public rangeland will continue to be in fair to poor condition well into the next century.

Only 2 percent of the 1.6 million cattle producers in the country graze their cattle on Bureau of Land Management and Forest Service land.

This year, many grazers in the 16 Western States—including 250 million acres of Federal rangelands—paid a fee of only $1.81 per animal unit month or AUM. This fee is far below the market rate and contrasts with fees ranging as high as $14 per AUM on other Federal lands, State lands, and private lands.

Ironically, Mr. Chairman, the Bureau of Land Management currently charges a fee of $8.70 per AUM as the value of forage consumed as a result of trespass on public land.

It costs the taxpayer the same to feed every cow on public rangelands, whether it is trespassing or not. Unfortunately, cost has little to do with this argument. The culprit here is an outdated and unjustifiable subsidy for a tiny fraction of the U.S. livestock industry.

The simple truth is: A small number of grazing permit holders are feeding off the Federal Treasury. They are chewing through at least $100 million of taxpayer money each year. And, this below-cost feeding frenzy is locked-in by Executive order of the President.

As chairman of the Subcommittee on Environment, Energy and Natural Resources, I have had Federal grazing practices under review for several years. Review has led me to cónclude that grazing on our public lands is producing an ecological and fiscal disaster.

In 1986, in a report that we issued to this Congress, we made these following recommendations: that the grazing program ought to establish a fair market grazing fee; it ought to require collection of excess profits gained through subleasing Federal leasing permits; it ought to improve the trespass enforcement, and also improve the fee collections; finally, it ought to establish a program to aggressively reduce environmental damage attributed to overgrazing.

Since that day, nothing has been done.

Here is what is at stake today: over the past 5 fiscal years the taxpayers have lost more than $500 million, because grazing fees on their public rangelands were lower than fair market value.

As much as $150 million may be lost during fiscal year 1991, unless we pass the Synar-Darden grazing fees amendment.

Today, we have the opportunity to reduce the grazing subsidy by more than $325 million over the next 3 fiscal years. In turn, these savings can be used to fully fund Federal range improvement activities on a "pay as you go" basis, or to reduce the Federal deficit.

In conclusion, this amendment is good for the taxpayers and the environment.

Mr. Chairman, I reserve the balance of my time.

Mr. SKEEN. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I am strongly opposed to this amendment. I believe it is unfair and unreasonable and should be soundly defeated by the House.

This amendment would arbitrarily increase grazing fees on Federal lands by at least 500 percent. The supposed reason for this increase is to achieve fairness. The facts will show this proposal is anything but fair.

What the facts show is the amendment would replace the current grazing fee formula that is based on the concept of "ability to pay." A formula that has worked well for years and is supported by Secretarys Yuetter and Lujan.

Last week, Mr. Synar implied that because of the current grazing fee, the 58,000 ranchers in Oklahoma are put in an unfair position in today's beef market. Oklahoma livestock producers don't share this view.

I have letters from the Oklahoma Farm Bureau and the Oklahoma Sheep and Wool Producers. Both these organizations oppose this amendment.

Let me add that the Farm Bureau represents 25,000 cattle producers in the State of Oklahoma. These organizations see this amendment for what it is, an attempt to put thousands of ranchers out of business.

What this amendment fails to do is accurately compare the enormous differences between grazing on public and private lands.

Using the reasoning incorporated in this amendment, the gentleman from Oklahoma would charge someone buying a Chevette the same price as a Cadillac. Or price a townhouse in Manassas the same as a single family home in McLean.

It does not make sense, it is unfair, and it is unreasonable.

The amendment bases this outrageous 500-percent increase on what is called the "trespass fee" imposed by BLM. This trespass fee has absolutely nothing to do with establishing a fair grazing fee for public rangeland in the West.

The trespass fee is designed as a penalty to deter unauthorized use of BLM lands. It is meant to be punitive.

Mr. Synar talks about the difference in the cost of leasing private lands and public lands. There is a very good reason these costs are not the same.

Ranchers who lease public lands only pay for the right to graze a limited number of livestock on the land. It is up to the rancher to build and maintain water improvements and fences. Ranchers must provide supplemental feed, labor, and pay veterinary costs. It all comes out of the rancher's pocket.

Now it is a totally different issue on private lands.

Most, if not all of these services are included in the cost of leasing those private lands.

Ranchers on public lands must contend with other factors that impact their operation.

There is higher death loss of livestock on public rangelands, greater transportation costs and greater constraints imposed on the management of a ranch because of multiple use considerations.

This amendment assumes that all private and public land in this country is created equal. And therefore all grazing fees on both private and public lands should be equal. Believing this is to ignore reality.

The current formula has proven to be fair and sensitive to market conditions. That is, ranchers pay more in grazing fees when times are good, and they pay less when market conditions turn down. It works the same way on private grazing leases.

Let's not compare apples to oranges or Chevettes to Cadillacs as this amendment tries to do.

This amendment is not fair, it distorts reality and it should be soundly defeated. I urge my colleagues to reject this amendment.

□ 1750

Mr. SYNAR. Mr. Chairman, I yield minutes to the gentleman from Minnesota [Mr. Vento].

Mr. VENTO. Mr. Chairman, I rise in support of this amendment.

I must say that I would have preferred that this debate be occurring in connection with the reconciliation bill or another authorization bill, instead of this appropriations measure. That is because this amendment, if it is adopted, obviously will constitute legislation in an appropriations measure, contrary to the normal rules of the House. I don't approve of the process, but at this point the rule is adopted and now we just consider the merits of the proposal to restructure and reform grazing fees.

In fact, Mr. Speaker, this amendment is identical to a bill, H.R. 5578, recently introduced and now pending before the Interior Committee and the Subcommittee on National Parks and Public Lands, which I chair.

This House has decided to make it in order to consider this amendment to raise grazing fees, I do support it and urge its adoption.

Mr. Chairman, this subject of grazing fees is far from a new subject. The Forest Service has been charging fees for grazing on national forest lands since 1906, and fees for grazing on public lands, now managed by the Bureau of Land Management, date from enactment of the Taylor Grazing Act in 1934. Probably at no time has there been complete agreement as to the basis upon which these fees should be set, and what objectives the fees should be aimed at achieving.

At least since the late 1950's some have argued that the Government should attempt to realize the fair market value of the forage consumed by grazing on Federal lands. And in fact in some places fees are set now on that basis.

The grazing fees issue played a prominent part in the debates that preceded enactment of the Federal Land Policy and Management Act of 1976. Section 401 of that act called for a joint study of the issue by the Agriculture and Interior Departments, and froze grazing fees for the 1977 grazing year pending the results of the study.

After the study was completed, Congress imposed a further moratorium on changes through enactment of Public Law 95-321, signed by President Carter in July 1978. That was followed by enactment of the Public Rangelands Improvements Act, which became law in October 1978.

The Public Rangelands Improvement Act established a formula for setting grazing fees, to be used during a 7-year trial period. It also mandated further study and a report to Congress, with recommendations for future grazing fees, by December 31, 1985. The expectation was that the 99th Congress then would act on this subject.

Although there were extensive discussions invovling members of this committee and also members of the other body, the 99th Congress did not complete action on grazing fees. After the expiration of the formula established by the Public Rangelands Improvement Act, President Reagan issued an Executive order which called for continued use of that formula, with a "floor" fee of $1.35 per animal unit month.

In the last Congress, the gentleman from Georgia [Mr. Darden] and the gentleman from Montana [Mr. Marlenee] each introduced different bills to replace the Reagan executive order with a new statutory basis for setting grazing fees. Those bills were referred to the Subcommittee on National Parks and Public Lands, and in September 1987 we held a very thorough and protracted hearing on them. Mr. Darden's bill would have had the effect of raising fees, by adopting a formula identified in the study carried out pursuant to the Public Rangelands Improvement Act as more closely representing the fair market value of the public's forage than is the case under the formula embodied in the Executive order. Mr. Marlenee's bill would have in effect reenacted the formula that was in the law prior to 1986—but without the minimum fee provided for by the Executive order.

Since 1987, it has become evident that the matter of grazing fees is very divisive within the Interior Committee and there is no practical likelihood that the committee will be able to bring to the floor of the House any bill dealing with grazing fees that would represent any type of consensus or agreement from within the committee. As members are well aware the work load before the Interior and Insular Affairs Committee is significant and we have no shortage of controversy, earlier this session, we had considered the BLM reauthorization which incorporated some provisions related to grazing allotments and the unlawful practice of subleasing. The House acted on that measure, sent it to the Senate and hasn't been heard from since than. Placing a measure on this must pass appropriation or the forthcoming reconciliation measure which I would prefer as a vehicle will insure that it will not be side tracked in the Senate—Congress should face up and vote on this measure. These subleases are leased again, giving the initial holder a windfall at Federal taxpayer expense.

This Congress Mr. Darden and Mr. Marlenee have both reintroduced their bills from last Congress, and now Mr. Synar has added another bill to those pending in the committee.

It is appropriate for the House under such circumstances to vote, to have an opportunity to work its will on this subject of grazing fees.

As to the merits of the amendment, I myself believe that the present grazing fee levels are too low. They do not enable the land-managing agencies even to recover the costs of managing the range. They are vastly less than private parties are able to obtain, through the open market, for forage. They are far below what many States or other governmental bodies receive for grazing on their lands—lands which in many cases are indistinguishable in character and quality from the Federal lands with which they are intermixed.

As Mr. Synar and Mr. Darden explain, the fee levels that would be set by the Synar amendment reflect, first, the fees—introduced to reflect forage values—that the Bureau of Land Management now charges in cases of trespass grazing; and second, for fiscal years after 1994 would be base on the formula identified by the Agriculture and Interior Departments, in their "grazing fee review and evaluation" report of February 1986.

Mr. Chairman, in recent days much has been said about the need to take a new look at existing programs, to weed out waste, fraud, and abuse. I do not think that President Reagan, in issuing the Executive order under which grazing fees are now set, was influenced by fraud. But I do think that the result of that Executive order has been to continue wasteful, inefficient practices that amount to a subsidy inviting abuse. Now is the time for Congress to reassert itself, and to replace that Executive order with sound policy embodied in law, That will end the present subsidy and allow the taxpayer to receive fair value for the forage of the public rangelands. The Synar-Darden amendment would do that, and would also promote better management of the range, by cutting down on some excessive, economically submarginal grazing that now occurs only because of the unrealistically low grazing fees now being charged.

Mr. Chairman, I urge support for this amendment, for reasons of equity, economics, and sound management of the resources and values of the public rangelands that are the property of all the American people.

Mr. Chairman it concerns me greatly that reports from the GAO have repeatedly documented significant damage to the range as a result of over grazing and intense damage to raparian areas, the fact is that the giveaway prices of grazing allotments can readily result in a careless, irresponsible practices that scar public lands and forests. While not all those using the public lands do so improperly the low cost AUM leaves little justification to monitor and enforce effective rules and regulations. The extreme drought conditions in recent years for example have placed severe limits on the carring capacity of the range and with out proper stewardship long term damage is certain. The cheap grazing fee has pushed significant amounts of

marginal land into use as grazing allotments such ephemeral areas—often arid are extremely fragile. After grazing has occurred for just a decade the entire population of plants have been modified—gone are the native grasses and plants replaced by exotic nonnative species generally nonedible the entire ecosystem is changed—stressing the fauna and flora common to these special unique places, the ramifications that flow from low grazing fees are evident. Proper price is clearly a significant factor in addressing the environmental concerns as well as the taxpayer concerns who now lose the revenue, fair fees that would and should flow from these public lands. I strongly support this proposition and the amendment.

Therefore Mr. Chairman I stand in strong support of this amendment. I do not like the process as I said. But it is being considered under a rule and process that Members have chosen.

Our committee has jurisdiction on this matter and has had extended hearings on the issue. I can tell Members that it is a contested issue in the committee, and if it arrived at the floor, whether brought here by this rule or in another manner, we would be going through the same debate.

The fact of the matter is we have a situation that is really intolerable. These grazing allotments are held by a few people. They are often then subleased and used by others at a much higher cost, and at a loss to the taxpayer.

Many individuals are second or third generation leaseholders in a grazing area, they are freezing out many other individuals in that particular community or area. In other words, they have what amounts to a proprietary right in terms of using these particular allotments, and they are not giving up those rights, and there is good reason that they are not giving them up, it is because allotments are the best deal you can get. If they had to graze those cows in Minnesota or someplace else, they would be paying a heck of a lot more money.

I do not know what the right fee is. I chaired many hours of hearings on the topic. I have read the studies. Grazing fee has been studied up and studied down, and the fact is that the fees that the gentleman from Oklahoma [Mr. Synar] is recommending in this bill makes at least as much sense as the current system and very likely more sense than the current situation.

At the same time that these fees are going forward, these low fees, we are doing a lot of damage to the range and to the forests that are being used for such allotments. The concern that I have, and it greatly concerns me, is that the General Accounting Office has pointed out the deplorable damage to the riparian areas and range. We do not even have the money to maintain, monitor, or supervise what is occurring in these particular areas. It is bad enough, that for instance, we are practically giving away use of our national lands for these low fees, but what is worse is that we are damaging irreparably much of the range. It just takes a decade of cows grazing intensely on the range and we change the entire ecosystem and the whole fauna and flora are changed. Gone are the native grasses and in come the exotics, which are worthless and harmful to the community of life forms that are natural to our public range areas.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. Campbell].

Mr. CAMPBELL of Colorado. Mr. Chairman, I thank my friend from New Mexico for yielding time to me.

Mr. Chairman, I rise in opposition to the Synar amendment. We are trying to fix something, very simply, that is not broken.

Adjustments are already being made in the price the Department of Interior charges ranchers to graze cattle on public lands. Any attempt to raise the grazing fees by 500 percent, particularly now when we are also cutting the agricultural budget by something like $13 billion in the next 5 years, is absolutely unfair. Similar proposals have been brought up before the House Interior and Insular Affairs Committee, Subcommittee on National Parks and Public Lands, and it has never gotten out of that subcommittee.

This amendment is not needed. It certainly is an end run around the committee process. I think it is going to be very detrimental to western communities as well as western ranchers.

Few Members from the East realize that in 1976 Congress directed the Department of Interior and the Department of Agriculture to restudy the value of grazing on public lands, taking into account production costs. Since then they have required the Government to get fair market value for its public land resources. In fact, if we take all things into consideration, it costs more to graze livestock on public lands than it does on leased private lands.

The gentleman from Oklahoma [Mr. Synar] would have Members believe that cattle growers in other parts of the United States support his position. I believe that is absolutely untrue. The National Cattlemen and the National Wool Growers, and every agricultural group I know is opposed to the Synar amendment.

The ability-to-pay fee structure is currently working and is intended to prevent disruption of the Western livestock industry. When beef prices are high, the cost of production remains stable and fees go up. When beef prices are low, production costs are high because of inflation. The fee adjusts downward. We cannot support the Synar amendment because it would force the cost of beef production up, and who do Members think would pay that $325 million the gentleman has spoken of? It is going to be the consumer at the meat market.

Grazing fees represent the benefits that cattle ranching has on public lands. Livestock grazing reduces noxious weeds. Ranchers build stock ponds and maintain fences. In short, livestock ranchers benefit and improve the quality of the open range as well as keeping the fire hazard low.

I urge my colleagues to oppose the Synar amendment.

Mr. SYNAR. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia [Mr. Darden], my cosponsor of this amendment.

Mr. DARDEN. Mr. Chairman, I thank the distinguished gentleman from Oklahoma for yielding time to me. I want to take just a moment to inform the House that I was not present when this bill came up on general debate, and I want to take just a brief moment to commend the chairman of the full committee, the chairman of the subcommittee, the gentleman from Illinois [Mr. Yates], the ranking minority member, the gentleman from Ohio [Mr. Regula], for their outstanding work in this committee. Even without this amendment that we are proposing today this is an outstanding bill and I will be voting for it. But with our amendment it becomes even stronger.

Mr. Chairman, I could not help but note a few moments ago the gentleman from Pennsylvania and others admitting the fact that this bill they thought was absolutely over budget by some $3 million. However, if the Synar amendment is adopted, then this will mean an additional $50 million into the Treasury of the United States. So I submit that this bill, if we adopt this amendment, will certainly more than meet the objections of the gentleman from Pennsylvania and others who have been concerned about whether or not it is more than it should be.

I would also like to say, Mr. Chairman, that I was delighted to learn that the cosponsor of the amendment today is a former 4-H member. Mr. Chairman, the first time I ever left the State of Georgia I won a trip to Oklahoma to participate in the National Land Judging Contest.

□ 1800

I went to Oklahoma and placed approximately 35th in the Nation out of 50 States, but that was the first time I left the State of Georgia, and also the first speech I ever gave was under the auspices of the 4-H Club, and some people in my district remarked that perhaps the 4-H Club may have had a negative impact as well as a positive.

Mr. Chairman, of course, I rise today to urge my colleagues to support this amendment. Last weekend, this Government was on the verge and the brink of collapse because we could not agree on a budget plan. Many expressed concern that while revenues would be increased, unnecessary or inefficient government programs would need to be cut or improved.

This amendment offered in cooperation with the gentleman from Oklahoma [Mr. Synar] and the gentleman from Pennsylania [Mr. Clinger] assures all Americans that at least in the Bureau of Land Management programs their money will not be wasted.

Young Americans cannot afford homes, older Americans cannot afford health care, middle Americans cannot afford to educate their children, yet private cattle ranchers continue to get a sizable break and subsidy from the Federal Government. It costs the Federal Government about $63 million to administer 307 million acres of Federal grazing lands. However, the grazing fee income for this land totals only about $22 million.

Incredibly, the Goverment charges far less than market value for these lands, requiring only $1.86 per animal unit a month in 1989 for grazing rights worth at least three times this amount.

To add insult to injury, Mr. Chairman, this year the grazing fees charged to private ranchers for using Federal grazing lands were reduced. They were actually cut while everything else in the world goes up; grazing fees were reduced to $1.81.

Both the 99th and 100th Congresses and again in January 1989 I introduced legislation which was referred to the Committee on the Interior to require ranchers pay fair market value for these valuable grazing rights.

With our budget deficit requiring cuts in many worthy programs, I feel subsidizing private ranchers is a luxury we can no longer afford. Many ranchers have taken advantage of this cheap grazing land, and Federal grazing lands have suffered because of it.

The Bureau of Land Management estimates that the majority of this land will remain in fair to bad condition into the 21st century. Additionally, overgrazing damages the delicate ecological balance in these areas. Even designated national parks and wilderness areas are not immune from the grazers' encroachment.

Therefore, I join my colleagues, the gentleman from Oklahoma [Mr. Synar] and the gentleman from Pennsylvania [Mr. Clinger], in demanding change. Americans can, and no longer will, afford to lose as much as $50 million a year in cattle rancher welfare. With the savings realized through passage of this amendment, we can protect our public lands, help meet our deficit-reduction target, and get on with the business of governing.

It is, incidentally, very interesting to note, Mr. Chairman, that this bill is supported by the National Taxpayers' Union. It is supported by the National Wildlife Federation, the Wilderness Society, and for those friends of mine who believe in cutting waste and inefficiency from the Government, let us look to the Grace Commission. The Grace Commission says we can recover over a 10-year period $500 million.

So vote for the Grace Commission. Vote for the National Taxpayers' Union. Do away with the grazing subsidy. Vote for the Synar amendment.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. Robert F. (Bob) Smith].

Mr. ROBERT F. (BOB) SMITH. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, what is fair? The question of fairness, I think, is something that this House ought to recognize. Is it fair to put 27,000 people out of business in the West? Is it fair to raise grazing fees 500 percent with an act of this body when this issue has never gone before the Committee on the Interior or the Committee on Agriculture? Is that fair? Is it fair in this responsive body, responsive to people, this greatest democratic body in the world, to ignore its own committee system and bring an issue that would eliminate the lives of some thousands of people in the West?

I do not think that is very fair. We have heard some strange things today, and one thing I want to correct: this grazing fee is a moving target. As cattle prices and private pasturage goes up, this grazing fee goes up. In fact, instead of going down, it has gone up 40 percent in the last few years. So it is not going down. It is going up.

This whole idea of legislating on an appropriation bill ought to stop, because that is what we have. You know, two-thirds of the public lands lie west of the Rockies. This issue is a Western issue. Thirteen Western States control 95 percent of the public lands. We depend on them, and you are trying to wipe us out.

You eliminated the Indians in 1850, this Congress, and you eliminated the sheep man in the early 1900's. Now you are after the cowboys. I think it is time to stop. There will be nobody left on public ranges. Maybe that is what this is all about, "Cattle free by '93." That is what this is about. Eliminate livestock. Eliminate the timber industry with the spotted owl. Eliminate the sheep industry in this country. All right, that is fair. Let us vote for the Synar amendment and eliminate all of us.

Mr. SYNAR. Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from Massachusetts [Mr. Atkins].

Mr. ATKINS. Mr. Chairman, I rise in support of the Synar amendment.

The Synar amendment is fair. There has been talk of a 500-percent increase. All that 500-percent increase does is it begins to move us to fair market value.

When you have something that is that far below fair market value, when you raise it to fair market value, there is going to be a huge percentage increase. The 500-percent-increase figure is simply a reflection of how ridiculously low these figures, these charges, are presently for the grazing fees.

It really is not fair to ask our taxpayers to subsidize 70 percent of the cost of the Federal Grazing Program. It is a travesty that we support spending tens of millions of taxpayer dollars to subsidize 2 percent of the cattle producers in this country, while at the same time we nickel and dime the resource protection programs in this bill that are providing for public education, providing for scientific research, for tourism, for the protection of our great national treasures like Yosemite and Yellowstone.

We cannot afford the loss of significant revenues that would be generated by fair market grazing fees, estimated eventually to be in excess of $100 million annually, any more than we can afford to ignore the failure of the Bureau of Land Management to collect subleasing profits generated by many of privileged permit holders.

Although many of the permittees are traditional family ranchers, others include major oil companies, land investment partnerships, feedlot operators, agribusiness companies, and lawyers and doctors who engage in ranching pursuits as weekend avocation.

Is it fair to ask the taxpayers to subsidize these people? It is a fact that many of these operators, family and corporate, sublease their public rangeland allotments for prices which are far above the price charged under the current fee formula, and presently there is a fairly substantial business in people taking this enormous subsidy from the Federal Government, the range fees with their permits, and then charging far more, the fair market value, and they pocket the difference between the fees they pay and the fair market value. Is that fair to our taxpayers to subsidize those permit holders in that way, particularly the corporate ones?

Livestock grazing on suitable public lands is certainly a legitimate use of those lands, but taxpayers subsidizing that grazing is not a suitable policy.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. Herger].

Mr. HERGER. Mr. Chairman, this attempt to raise grazing fees by 500 percent is really an attempt to drive grazing completely off of Federal

lands by making the costs prohibitively expensive.

This proposal, which has not gone through the regular authorizing committee, ignores the fact that ranchers who graze livestock on Federal lands actually make positive contributions to the maintenance of these lands.

Ranchers who graze livestock on Federal lands must pay to build and maintain water developments on public lands which benefit not only livestock; but wildlife as well.

Moreover, in addition to factoring in these maintenance costs, Federal rangelands are usually sparse desert or mountain terrain, not lush fenced pastures. Transportation and herding costs are much higher, as are losses due to predators.

Mr. Chairman, the West's leading rangeland scientists and Federal land management agencies tell us that Federal range conditions are better today than at any other time in this century. We do not need this amendment, and I urge its defeat.

□ 1810

The CHAIRMAN. The gentleman from Oklahoma [Mr. Synar] has 15½ minutes remaining, and the gentleman from New Mexico [Mr. Skeen] has 20 minutes remaining.

Mr. SYNAR. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. Miller].

Mr. DARDEN. Mr. Chairman, would the distinguished gentleman from California [Mr. Miller] yield for a question?

Mr. MILLER of California. I am happy to yield to the gentleman from Georgia.

Mr. DARDEN. Does the gentleman from California realize that in California only 6 percent of the livestock producers have BLM permits. Therefore, 94 percent of all livestock producers in California have no access to BLM lands?

Mr. MILLER of California. That is correct. The gentleman is quite correct, and that is the nature of his program, no matter how we divided it by how many States.

Mr. DARDEN. Mr. Chairman. I thank the gentleman.

Mr. MILLER of California. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Oklahoma.

This amendment would gradually increase the grazing fees on Federal lands from $1.81 per animal unit month to $8.70 per AUM over the next 4 years. The new fee is considered by the Bureau of Land Managment to be fair market value since it is the fee they charge in instances of trespass.

The present grazing fee is yet another instance of an unwarranted subsidy which benefits a handful of individuals who exploit public resources.

And in this case, the subsidy not only costs taxpayers millions of dollars, it also has a significant impact on the environment.

It is important for us to keep in perspective the size of this subsidy.

This subsidy is provided only to a few western ranchers. Only two or three percent of the cattle producers in this country graze their cattle on Federal lands. Approximately 27,000 permittees in all.

Yet, these permittees have almost permanent access in perpetuity to 307 million acres of rangeland managed by the Bureau of Land Management and Forest Service.

How much land is this? It amounts to 17 percent of the total land area of the lower 48 States. It is an area larger than the States of Texas, California, and Georgia combined.

And how much do these ranchers pay the Federal Government for this privilege?

If we pass the Synar amendment, it is estimated that grazing revenues will increase by over $100 million per year. That is $100 million we don't have to take from Medicare recipients to meet our current budget problems.

Mr. Chairman, few Federal resource subsidies can compete with the grazing fee scam. For example, the permittees are not satisfied with simply receiving this substantial Federal largesse. To add insult to injury, studies have found they are subleasing these lands and pocketing the difference. In some cases, they are making $5 to $6 per AUM.

This subsidy program is not only unfair to the taxpayers, but it's also unfair to other cattle producers. This program represents a substantial advantage to western ranchers over their competitors in other States. Producers in New York, Florida, Illinois, Texas, and Pennsylvania do not get this subsidy.

The question of equity to the taxpayer goes beyond the subsidy to the fee itself. In theory, this is another Federal program that is supposed to be paying its way.

Unfortunately, the theory does not live up to the practice.

Fees collected by the agencies do not even cover the costs of running the grazing program. Instead, taxpayers have to pay an additional $32 million to pay BLM's administrative costs for this program.

Mr. Chairman, let me turn to the final problem with the grazing program which is devastating impact this program has on the environment.

Western rangelands have been badly damaged by overgrazing. Many thousands of miles of riparian habitat have been destroyed as cattle strip the areas of vegetation, and trample the streambeds causing erosion and siltation.

The General Accounting Office investigated the issue of overgrazing. It found widespread degradation in the riparian areas and only limited efforts at restoration.

GAO found the agencies made little progress in restoring riparian areas because of lack of funds. Because grazing fees are artificially low, there is insufficient revenue to restore areas that are overgrazed.

Mr. Chairman, it is time to return some fiscal and environmental sanity to this program.

Let us pass the Synar amendment.

Let us get a fair price for Federal resources.

Let us raise the funds necessary to restore these overgrazed lands.

Let us make those who caused the damage pay for correcting it.

Mr. Chairman, I urge an "aye" vote on the Synar amendment.

Mr. SKEEN. Mr. Chairman, I yield minutes to the gentleman from South Dakota [Mr. Johnson].

Mr. JOHNSON of South Dakota Mr. Chairman, I rise in strong opposition to the Synar amendment. I think all Members are in favor of a fair economic return to the taxpayers in the use of public lands. All Members are in favor of the proper management o those rangelands.

However, the specific amendment we have before Members today comes to Members with absolutely no review from either the Committee on Interior and Insular Affairs or the Committee on Agriculture. It imposes a 500-percent increase, with that increase in fee levels being absolutely unrelated to any kind of market factors. In fact, i is tied to what was intended to be punitive trespass level of fee, and it ignores the fact that the current fee formula already in place can increase by as much as 15 percent per year based on market factors.

I believe this kind of amendment i counterproductive. I believe that if we are going to pursue perfection of the existing formula, and it may be tha that is in order, that it ought to g through the proper legislative process through the Committee on Interio and Insular Affairs, through the Committee on Agriculture, to find som level of fee, or some adjustment in th formula, if that indeed is necessary that is rational, that is designed t maintain a strong level of agricultur while providing a fair return to th taxpayers in management of thos lands.

What we do not need is a choice of fee level that is simply arbitrary an capricious in nature, and that is exac ly what this 500 percent increase is. is absolutely unrelated to any kind o market factors. Absolutely unrelate to what ranchers can afford to pa and it ignores the private input cos that our ranchers, our public range lands, necessarily have to put into that land. It ignores the fact that it is an apple and orange comparison between private and public lease lands. Therefore, let Members pursue fairness. Let Members pursue equity. However, let Members do it in a rational manner. This amendment fails on that score.

Mr. SYNAR. Mr. Chairman, I yield myself 1 minute.

Mr. DARDEN. Mr. Chairman, will the gentleman from Oklahoma yield?

Mr. SYNAR. I yield to the gentleman from Georgia.

Mr. DARDEN. Mr. Chairman, I have been very impressed with reading the gentleman from Oklahoma Mr. Synar's report by the Committee on Government Operations, the Federal Grazing Program, "all is not well on the range." In reviewing that, after hearing our good friend from South Dakota a few moments ago speak about grazing lands in South Dakota, your report points out in South Dakota there are 27,000 livestock producers, only 756 have BLM permits. Therefore, over 97 percent of the South Dakota ranchers have no access to the public lands.

I thank the gentleman from Oklahoma very much for bringing this out in his report.

Mr. SYNAR. Mr. Chairman, I yield myself 2 additional minutes.

I thank the gentleman from Georgia for his insightful information. It appears that the major argument opponents of this amendment have is the issue of unfairness. First, they say it is unfair we are increasing the fee 500 percent. I might point out that we are raising this over a period of 4 years. We are not doing this in 1 year. The fact is that they are ignoring the reality that we are losing 80 cents of every dollar on the leases that we presently have. Raising it five times the present level is a justifiable increase.

Second, they argue that 27,000 people will be put out of work. I would like to see someone show some evidence of that, but I think what is more important is that the argument that we are going to be eliminating cattlemen in this country I think we need to put that in the context that only 3 percent at the maximum of the 1.6 million cattlemen in this country enjoy this benefit. They also say that the present law allows adjustments, and adjustments should go up during good times. Who would argue that the cattle business has not been better in the last couple of months? Yet, the fees have gone down from $1.89 to $1.81 in just the last fiscal year.

Finally, the argument that this is punitive damage because it is based upon a punitive trespass is simply incorrect. The Synar amendment uses the fee for a nonwillful or accidental violation of 43 C.F.R. 4150.3 if the amendment had used willful trespass standard, it would be twice the fee this amendment recommends. What the fee is based upon is the value of the forage consumed as determined by the average positive rate of AUM for pasturing livestock on non-irrigated privately-owned land for the 11 Western States, as published annually by the Department of Agriculture's National Statistical Service. That is not arbitrary, capricious. That is basically using the knowledge that we have gained through years of study. I think that that is the reason why the Members ought to accept the Synar amendment.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Montana [Mr. Marlenee].

Mr. MARLENEE. Mr. Chairman, there is no question where this amendment comes from. It has been tried a number of years.

We went into the argument of how it by passes the authorizing committee. I rise in vehement opposition to this because it is, in fact, arbitrary, capricious, and punitive. Now, the $8.70 fee for which it finally elevates, within a very short period of time, that $8.70 fee, make no mistake about it, is a punitive fee that is assessed by the Bureau of Land Management for those livestock that got outside of the producer's fense and get out on public lands.

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That is what they charge them and the Bureau of Land Management has stated to us that this is above the cost production and above the cost of operation.

Now, you can argue about whether that is punitive or not, but when they charge you above what it would normally cost for the cost of production and operation, it is in fact punitive. It is in fact a capricious fee.

So in effect what the Synar amendment does, it penalizes producers who are law-abiding producers with a fee that they would be penalized or charged if their livestock was in trespass.

This reconfirms my worse suspicions that the Synar amendment could be part of the radical environmental cause that advocates that the public lands be "livestock free by '93."

This reminds me of an article in the Western Livestock Journal of September 24, 1990, about the radical environmental group, Earth First, advocating a new outdoor sport, cattle hunting. This eco-terrorist group has advocated that its members hunt livestock, cattle and sheep, as a means to eliminate livestock from public lands.

Earth First went on to recommend using a bow and arrow, mainly because it was silent, and that shotguns can be used because it is difficult to determine which gun buckshot is fired from.

If you want to join the radical terrorists at the Earth First group in their sport and eliminate livestock on public lands, then support the Synar amendment.

Mr. SYNAR. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. Darden].

Mr. DARDEN. Mr. Chairman, I would like to ask the distinguished gentleman from Oklahoma if he is a member of the Earth First group, if he is a member of any of these so-called raging environmantalist groups, if he has as his goal to remove all livestock from Federal lands, or does he belong to any other of these alleged subversive organizations?

Mr. SYNAR. No, sir, and if the gentleman will yield, I am not a member of that group. I am a member of Oklahoma 4-H foundation. I am an active cattle member and I do not even know what those groups are.

In fact, the argument that the gentleman made is really ridiculous. Grazing is allowed under our amendment on public lands. It will not change that. The Synar amendment requires that grazers pay their fair share.

Do you know who is for that? The taxpayers. They want their fair share received, and I thank the gentleman for the question.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Montana [Mr. Williams].

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, I did not mean to imply that the gentleman from Oklahoma [Mr. Synar] was a member of Earth First and a member of a radical terrorist group, but I know that his staff director was the head of the Wilderness Society.

Mr. WILLIAMS. Reclaiming my time, Mr. Chairman, this country has almost throughout its history established laws and mechanisms to encourage the private economy. The Federal Government, States, and local governments, build and maintain highways and roads. Many of those go right to the doorsteps of some business; for example, perhaps a resort, but those roads are maintained and paid for by the public, by the Government. It is a way to encourage the private sector.

We have encouraged investment by the private sector through leveraging through the Tax Code. That has been a major way that the public has assisted the private sector.

We have placed through the Federal Government appropriate trade restrictions to protect American business against unfair foreign practices. There are hundreds of other ways that the Federal Government has been involved in encouraging the private sector.

With regard to the cattle business, the Federal Government provides little assistance. Of course, leather and beef have been a very important part of the economy not only of the West, but of the United States.

The major encouragement of the Federal Government is to have these allotments on public lands in which we allow folks to graze their cattle.

I understand we are in a budget-balancing mood in the Congress. I expect we are going to see more slamdunk amendments like this that raise $100 or $500 million. I would just bet that these moneys are going to come out of a minority of the American people; that is to say, places in this country that find it difficult to protect themselves and that have very few Members here in this House.

The CHAIRMAN. The time of the gentleman from Montana has expired.

Mr. SYNAR. Mr. Chairman, I yield 1 additional minute to the gentleman.

Mr. WILLIAMS. Mr. Chairman, I thank my friend and colleague, the gentleman from Oklahoma, for his courtesy in yielding this time.

Look, let me tell you how important cattle is to Montana. If one considers only the cattle and sheep that graze on the public lands, the importance of that production to the public lands, the importance of that production to the State of Montana, just that part of it, those that graze on the public lands, is more important than oranges are in Florida; more important than wheat to Kansas. It is 2 percent of the gross national product of our State of Montana. A 500-percent increase in these grazing fees might help balance the Federal budget, but you are going to do it to a small segment of the American people, people who have not asked for much Federal help through the years and people who do not have dozens of Members of Congress here.

Do not do this to them. Give us a hand here. Do not try to balance the budget on the backs of these cattle folks out in the West.

Mr. SKEEN. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas [Mr. de la Garza], the chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman for yielding this time to me.

Let me first explain to my colleagues that this is an issue in another committee, the Interior Committee, not in the Agriculture Committee; but it involves the production of food and fiber. We are at the other side of the Capitol at this very moment in a very traumatic situation, doing all the bleeding and suffering as we work with the budget proposal for agriculture. Agriculture is going to give $13.6 billion for deficit reduction, much beyond the little line on the target chart that I have shown you.

Also let me state that in the balance of payments, as our Nation against the world, what we manufacture is not bringing money back. The only thing that is bringing money back in agriculture, and beef is a major factor. So under the guise of bringing money to the deficit, it is not going to. It is the taxpayers who will not benefit. The taxpayers basically will not benefit because you could conceivably be reducing the amount of beef that we export to bring back money from abroad.

This is ill-conceived. I do not know where the figures came from, because I do not know of any responsible study that shows that these figures are correct and accurate.

I would hope that the Members vote no on this amendment for those reasons.

Mr. SYNAR. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. Darden].

Mr. DARDEN. First of all, Mr. Chairman, in response to the question propounded by the distinguished chairman of the Agriculture Committee, where do we get thoses figures, well, ever since I have come to Washington I have heard what an accurate statement that the National Taxpayers Union and the Grace Commission, appointed by President Reagan, gives us as to how we can save money in the Federal Government. Those two particular studies continue to emphasize that we can save $50 million a year with the Synar amendment.

Also, I would like to point out to the body, Mr. Chairman, that a number of State universities have school trust lands which they make available for grazing to a number of individuals.

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And let us look at what they do. If you want to use some land for grazing that is owned by the University of Colorado, it will cost you $4, almost four times what it costs for the Federal Government. Montana, $3.37. In the State of Washington, in which there are only 3 percent, incidentally of its livestock producers who use subsidized grazing, the State of Washington charges these cattleman $4.20 per animal unit month.

So it seems ironic, Mr. Chairman, that so many of these State universities which own land and so many of these other public entities which have grazing lands available charge far in excess of what our own Federal Government does.

So I think it is important to note that these are much better standards than those of the Federal Government and they ought to be brought in line more with the grazing fees for the State school trust lands.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Idaho, [Mr. Stallings].

Mr. STALLINGS. Mr. Chairman, I rise in opposition to the Synar amendment. I oppose this amendment for two reasons.

First, I believe it represents an end run around the authorizing process. The National Parks and Public Lands Subcommittee has held a number of hearings on this issue over the last few years. It has not passed this legislation and the full House should not do so now by legislating on an appropriations bill. Second, this amendment would be an onerous burden to western permittees who view it as a raise of some 500 percent over the current price.

I have long maintained that the current fee system that was first mandated by Congress as part of the Public Rangelands Improvement Act of 1978 is fair to both the grazing permittees and the Federal Government.

The Federal grazing fee is determined by a formula set by Congress in 1978 with bipartisan support, including that of the Carter administration. The formula was later extended by President Reagan by Executive order and has since been upheld in Federal court.

The current fee is fair. It is based on market conditions, and goes up or down depending on three market variables that are measured by the Government each year: private lease rates, beef cattle prices, and production costs in 11 Western States.

It is a reflection of market value because of the additional costs incurred by a producer in running cattle on public lands. Federal permittees must bear many additional nonfee costs not borne by private lessees. Public rangelands are less productive for feed, allowing lower carrying capacities Transportation costs are greater water hauling, fence repair, doctoring of sick animals, and protection from predators all are costs paid by the producer and must be recognized in any comparison of fees for public versus private grazing costs. Studies show that when these additional costs are added to the Federal grazing fee, the cost of grazing on public lands equals or surpasses private lease rates.

Western States, including my own State of Idaho, can offer substantia proof that the public grazing system is a vital part of their economic vitality as well as being an organized program to manage public lands.

Many of the 31,000 ranchers who graze cattle and sheep on western public lands run small, family owned operations. They simply cannot afford this kind of increase.

Mr. Chairman, I appreciate this opportunity to speak today and I encourage my colleagues to reject thi amendment.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Idaho [Mr. Craig].

Mr. CRAIG. Mr. Chairman, I thank my colleague for yielding to me.

Mr. Chairman, I stand in opposition to the Synar amendment. My colleague from Idaho who has just spoken has clearly outlined the differences that are there and understandable about public graze versus private graze.

I know my colleague from Oklahoma for years has taken this on as an issue in the Government Operations Committee and it seems to become an issue that, although he demonstrates some expertise in it, it simply does not reflect not only the values of public land but the concept of reasonable public land management.

One of the issues that has not been talked about today is the management of the grass on public lands is in fact a management tool. While most of us from the West understand the value of public graze to the economy of Western States, many fail to recognize that land that is not grazed, land that in fact grows, is land that sometimes can become victim of ravaging range fires. We have seen it in my State where BLM has failed to manage properly or to refill permits that have been emptied by circumstances in the livestock industry.

Just this year alone in Idaho, I saw a marvelous piece of grassland that for 5 years has gone ungrazed simply because the BLM would not refill the permits when the livestock owners had asked that they be refilled.

Today that is nothing but ash. The sagebrush, the willow, the riparian areas have been devastated and destroyed. Wildfires burned it to the ground this year.

If it had been properly grazed, it could have been managed. The fires could have been controlled, and that land would not have been destroyed.

The 500-percent grazing fee increase is not an attempt to return money to the Treasury; it is, in my opinion, a direct attempt to remove grazing from public lands. There have been those environmental organizations who have bragged over a period of time that that was their goal, that would be their intent. I have to believe that a 500-percent grazing fee is a fulfillment or at least an attempt to fulfill that goal.

Mr. SKEEN. Mr. Chairman, I yield 1½ minutes to the gentleman from North Dakota [Mr. Dorgan].

Mr. DORGAN of North Dakota. I thank the gentleman for yielding.

Mr. Chairman, I could not help but smile as my friend from Georgia mentioned the Grace Commission. I think most of us understand the Grace Commission made some fine recommendations and some were absolutely cockeyed.

This may be one of those that is half goofy. The Grace Commission said let us sell the Federal hydroelectric dams so that we can have private companies jack up the cost of electricity out in the country. That makes no sense.

The Grace Commission was not right in every respect, and they are not right here.

The question here is how much should be charged for grazing fees. The gentleman from Oklahoma suggests we should have a recipe developed here on the floor of the House at the end of this legislative session. He knows how much should be charged for grazing fees, and he imposes an arbitrary charge in this amendment.

Well, it is interesting, in my State of North Dakota there is not now 1 acre that has adequate subsoil or topsoil moisture, not 1. And that includes the grasslands.

Three years of drought, and I guarantee that you stick this kind of arbitrary grazing fee formula in law and you will find that you have radically overpriced the grazing opportunities in North Dakota.

Now, I do not have any problem discussing in a thoughtful and serious way what we ought to charge for grazing fees at some point. We put in law a formula 12 years ago that works fairly well. I do not have any problem talking about that at some point in the future, but it ought to be done in the Interior Committee and the other committees.

The Synar amendment is the wrong amendment. Let us vote "no."

Mr. SYNAR. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. Regula].

Mr. REGULA. I thank the gentleman for yielding.

Mr. Chairman, this is a classic example of a matter that ought to be addressed in the authorizing committee. Unfortunately, it has been pending there for several years now without any action.

I am a strong proponent of reasonable user fees, fees that are fair and responsible under the circumstances.

We all do have an interest in this matter; contrary to what was stated earlier. All of the people in the United States have an interest. They own the land, and we spend $93 million in this bill on range improvements and collect only $28 million in fees. So, obviously, there is an outlay of taxpayers' money.

By the same token, there are burdens that go with leasing lands from the BLM or any other public lands, and that is the multiple use. That is a growing problem.

We find it in the national forests, we find it in BLM in particular because people today treasure their outdoor experience and they want to go out and use the land.

Most people do not realize that the lessees under these grazing permits have to let the public on the land. The result is they have gates that are left open, and I have had enough experience in the cattle business to know what a problem that is. They shoot holes in stock watering tanks, they do not take care of the land.

Therefore, that burden falls on the lessee. I think if we could ideally deal with this problem, we ought to put a value on the multiple-use factor in the public lands.

In other words, the numbers here do not give you the whole story because there is a value to the public that is not recognized in allocating the rental amount.

I would hope that we could develop a program where there are agreements between the lessees and the Government to enhance these lands not only for multiple use by the public, but also for use by wildlife, to enhance the development of wildlife and a lot of things that could be accomplished that would be valuable to every side of if this were handled properly.

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Mr. SKEEN. Mr. Chairman, I yield 1½ minutes to the gentleman from Wyoming [Mr. Thomas].

Mr. THOMAS of Wyoming. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Oklahoma [Mr. Synar].

Mr. Chairman, previous speakers have talked about slogans that have passed around the West. "Cattle-free by 1993," and there is another which says "No move by 1992." I am pleased that that is the effort that is being promoted here, and that is to remove cattle and to remove the multiple-use concept from public lands in the West.

One of the difficulties, of course, in the Congress and in establishing national policy is to try and craft a policy that fits as well in Georgia as it might in Jugwater, WY, and that is not an easy prospect. In my State of Wyoming 50 percent of the land is public land, and that is not wilderness or parks. The most of it is residual land that was not taken up in homesteads. It is not productive land. It takes a great many acres per animal unit. The gentleman from Georgia often speaks of subsidies to the West. If we could transfer that land to private ownership, as his was, we would not be in this, and we would be willing to do that by the way.

Mr. Chairman, the economic future of my State depends upon multiple use. The communities there depend upon multiple use. And let me tell my colleagues that the wildlife, which is very important to us, has prospered and grown greatly since we have had grazing on public lands, the development of water, the control of fire, the development of grazing and grass. It has helped the wildlife as much as it has cattle.

Mr. Chairman, let us utilize the formula that is in place that depends upon a floating fee on the price of livestock, on the cost of production.

Mr. SYNAR. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, let me just say we have listened with great interest over the last hour to a number of Members from various States in the West who have come forward, and their argument has been that we need reasonable land management. I would direct those Members to look to their own States because as we look at the States and what they charge, as average on their public grazing in their lands, we find Montana charges $5.88; Idaho, $6.20; Arizona, $5.99; Wyoming, $7.00; Oregon, $5.41; California, $9.21; New Mexico, $4.41; North Dakota, $6.63; South Dakota, $7.76.

Could it be any clearer that the States are being more responsible, acting more prudently, in protecting the national jewels, our national treasures, and that we in the U.S. Federal Government ought to take a lesson from our States and raise the fee from $1.81 to $8.70 over 4 years? It is inexcusable that 60 percent of our Federal lands are either in fair or poor condition. Trying to get a better and fairer deal for the people of this country is the only way to ensure land management.

Mr. SKEEN. Mr. Chairman, I yield 1½ minutes to the gentleman from Arizona [Mr. Kolbe].

Mr. KOLBE. Mr. Chairman, I rise today in strong opposition to the Synar amendment to the fiscal year 1991 Interior appropriations bill, H.R. 5769.

My reasons are simple: The provisions of this amendment are fundamentally unfair. The current practice of levying grazing fees, is fairly based on prevailing market conditions. In fact, the fee has risen considerably in the past few years due to increased market variables.

The Synar amendment would raise grazing fees a whopping 500 percent over the current price. This would unduly burden western permittees who already pay a fair and reasonably determined fee. This fee, in fact, was determined using a formula devised by this body—a formula supported by the Carter, Reagan, and now the Bush administrations—and a formula that has withstood challenge in Federal court.

Proponents of this amendment compare Federal and private lease rates as though they were analogous. This just simply is not the case. Most Federal rangeland is not lush meadows, but sparse desert or mountainous terrain. Federal permittees bear additional costs of transportation, herding, and predator and death losses. In addition, these permittees must pay for and upkeep water systems development on public lands that benefit grazing livestock as well as wildlife. Further, the Federal permittee has the right to the grass only, yet must pay for all maintenance and improvements. When these costs are tolled, the differences between Federal and private lease rates, not surprisingly, disappear. Or, in many cases, final costs to Federal permittees surpass private lease rates.

Mr. Chairman, now is not the time for legislating on this issue. The House National Parks and Public Lands Subcommittee has separately considered measures similar to this legislation a number of times during the past few years. On no occasion has any of these similar measures passed out of subcommittee—the very subcommittee charged with oversight of this matter. Doesn't that tell us all something? Yes, it tells us about the relative merits of the legislation. It tells me that raising grazing fees in a manner other than the current system is simply a bad idea.

Mr. SKEEN. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Nevada [Mrs. Vucanovich].

Mrs. VUCANOVICH. Mr. Chairman, I rise in strong opposition to the Synar amendment. The amendment is being offered in an inappropriate forum which denies any constructive debate and any legitimate investigation of the facts. The amendment circumvents proper procedure implementing a fee, not just this grazing fee, Mr. Chairman, but any fee. And on top of all this, the Synar amendment stretches the rules of germaneness beyond the breaking point. But, unfortunately, we will never have a germaneness ruling from the Chair, because the Rules Committee issued, and we have passed, a rule that waives all points of order against this amendment.

The ranching industry in Nevada and the entire West is heavily dependent on the multiple-use, sustained-yield principle of our public lands. Between 85–90 percent of new cattle are grazed on public lands at some time. Yes, Mr. Chairman, there have been hearings on the subject matter of this amendment. Many, many people testified at these hearings who would be affected by this amendment, and no action was taken by the committee. No action, because the current system works.

Some argue that the animal unit month, or AUM fee currently being charged by the Bureau of Land Management [BLM] is a Government giveaway, a subsidy of some sort. If this amendment were to be examined in the normal manner, that is through proper authorizing committee hearings and markup, we would find this not to be the case.

Mr. Chairman, a common misperception about the current fee is that it is too low. Unfortunately, these people are misinformed. The current AUM fee is fair and equitable. Mr. Chairman, simply put, there are increased costs involved with running cattle on public lands, increased costs that the proponents of this amendment fail to recognize.

Development of available water entails fencing off a spring or digging a well, a financial responsibility of the rancher leasing the allotment from the BLM. Any access roads that are needed are the responsibility of the rancher. The construction and maintenance to BLM specifications of needed fences is another incurred cost. Mr. Chairman, these are not inexpensive items easily overlooked. The current pricing index takes these into account.

The current formula used eliminates the differences between privately leased land that has no out-of-pocket maintenance costs, and leased public lands that have a lower lease cost, but higher out-of-pocket cost. These points, of course, will never be investigated properly in this forum, because the amendment has not gone through the proper and accepted method of examination and approval.

Mr. Chairman, I urge my colleagues to vote down this amendment and send a message that we, Members of the U.S. House of Representatives, will not put up with this type of haphazard attempt to raise revenue. Vote down this amendment which has not been investigated. What impacts will this proposed fee increase have on the ranching industry? Can any of the proponents of this amendment honestly and knowledgeably answer? No, they have not investigated this proposal.

Mr. Chairman, this is not the right forum to bring an amendment of this nature to the floor, Not the right forum, Mr. Chairman. I urge the defeat of this amendment, and deplore the haphazard manner in which it has been offered.

Mr. SYNAR. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. Darden].

Mr. DARDEN. Mr. Chairman, I appreciate the time the gentleman from Oklahoma [Mr. Synar] has yielded to me.

Mr. Chairman, I have a question for the gentleman from Oklahoma. I was astounded and flabbergasted a few moments ago when the gentleman from Oklahoma [Mr. Synar] read a list of charges that the States make for ranchers who use the State lands. Is there any difference between the State land and the Federal land? Is there a tremendous discrepancy in the cost that is charged to the ranchers by the State rather than the Federal Government? Why is that? What is his authority for that?

Mr. SYNAR. Mr. Chairman, will the gentleman yield?

Mr. DARDEN. I yield to the gentleman from Oklahoma.

Mr. SYNAR. Mr. Chairman, the gentleman from Georgia [Mr. Darden] makes an interesting point, and that is that under the grazing fee review and evaluation made by the Department of Agriculture and the Department of the Interior in 1986 they found this discrepancy, and that is when they made these recommendations that we ought to get our act together and follow the States. These discrepancies, as of this year, continue, and that is why this amendment is so important.

Mr. DARDEN. Mr. Chairman, what is the possible justification for these discrepancies between what the States charge and what the Federal Government charges?

Mr. SYNAR. Very simply because of the sweetheart deals that exist because of the Executive order of the President.

Mr. DARDEN. Mr. Chairman, I thank the gentleman from Oklahoma [Mr. Synar].

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana [Mr. Holloway].

Mr. HOLLOWAY. Mr. Chairman, I appreciate this opportunity to express my opposition to the Synar amendment.

First of all, Mr. Chairman, we are saying only a few percent of the people are going to be involved in this. Mr. Chairman, this body is out of touch if we believe fees can be increased 500 percent yet those affected can stay in business. That is silly. Most of the people in my district that do this have to work another job as it is. They have to maintain fences on these properties. It is impossible for us to even pretend that people can survive and continue to graze cattle on poor grasslands which have no fertilizer and we are going to be able to absorb a 500-percent increase and stay in business. That is impossible.

Mr. Chairman, I rise in very, very strong opposition to this amendment.

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. Rhodes].

Mr. RHODES. Mr. Chairman, as my colleagues know, there has been a very interesting change in this debate since it started on Friday. On Friday the gentleman from Oklahoma [Mr. Synar] was talking about subsidies and unfair competition. Today he is talking about preserving the environment and enhancing tax revenues.

Speaking to the second first, let me just say to my friends from the National Taxpayers Union, "Your allies in this fight, the Wilderness Society and the Wildlife Federation, have a different agenda than you do. They don't want to maximize tax revenues. They want cattle and sheep off public lands."

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They are off the public lands. There is not going to be any revenue to the United States. In fact, the United States will have to pick up the full cost of managing these public lands, much to the detriment of the taxpayer.

Let us talk about subsidies and unfair competition. What kind of subsidy is it that produces a 3-percent market share? That is what we are talking about here. Three percent of the market for livestock in this country is produced on public lands. If I were to concede, which I will not, that this is a subsidy, how pernicious is it a subsidy that produces 3 percent of the market.

Mr. SKEEN. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I just want to say fair market, how do you establish a fair market on something you cannot buy? This land is intermixed with State and private lands, and it has no value whatever. It has got a trespass value.

The other thing is how do you keep up with the increased costs of BLM management when those operations have increased over 100 percent in the last 4 or 5 years? That is ludicrous, it will not work, it cannot work, and it is not an appropriate approach. The gentleman from Oklahoma [Mr. Synar] has been told this time and time again, and I am sorry that he has never been able to quite grasp it.

Mr. SYNAR. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, as we come to this debate, maybe the best question to ask is the one the gentleman from Arizona [Mr. Rhodes] asked in his final remarks, and that is what kind of subsidy is this for 3 percent?

For the last 5 years it has been $500 million, one-half billion dollars of subsidy, to less than 3 percent of all livestock producers in this country.

Every year during this debate on the budget there is a never-ending search for that fiscal equivalent of the Holy Grail, the funds to reduce the deficit of this country. That question is often hampered by the lack of information contained in a budget proposition concerning programmatic changes in revenues that we need.

The amendment before us today, the Synar-Darden amendment, will return the fair market value of the lease of publicly owned lands. It is fair, it is reasonable, it is a vote for both the taxpayers of this country and a vote for the environment, and I ask Members to support it.

Mr. KYL. Mr. Chairman, I rise in opposition to the Synar amendment.

An appropriations bill is no place to be considering an increase in grazing fees. If any increase is justified, it ought to be reviewed in the Interior Committee with full and fair opportunity for public comment. The public has not had that opportunity here.

Second, Mr. Chairman, the increase is excessive and unfair. It would raise Federal grazing fees some 500 percent over the current level.

The increase is particularly onerous given the tax increases that the House will be considering within the next few days.

Although the Interior Appropriations bill is relatively conservative—a 4.2-percent increase over fiscal year 1990 levels—other appropriations bills have been as high as 17.3 percent over last year. Before we look for ways of raising more revenues—whether from fees, premiums or taxes—we ought to reduce the amount of Federal spending.

Mr. Chairman, I think the existing grazing fee formula is a fair one. It is based upon market conditions, and goes up or down depending on market variables measured by the Government each year.

I urge my colleagues to reject this amendment.

Mr. LEHMAN of California. Mr. Chairman, I rise today in opposition to the Synar amendment. This is the wrong place and time to move forward with this type of legislation.

Mr. Synar's amendment would raise the current grazing fee over 450 percent in the next 4 years to a price of $8.35 per animal unit month [AUM]. This is a significant increase for any business to try to absorb, not to mention a business as risky as livestock raising. Certainly, such a major change should at least go through the proper committee hearing process—which this amendment has not done.

In addition, the logic behind the $8.35 is curious to me. My understanding is that it is based on the trespass fee currently charged by the Bureau of Land Management for unauthorized grazing. Why should a rancher who holds a legitimate permit to graze on public land pay a grazing fee equivalent to that of a penalty imposed for trespassing? The implication is that somehow if you legitimately graze livestock on public lands it is the same as trespassing. Surely, the gentleman does not mean to imply that.

Although many studies have been conducted which provide evidence that the attendant costs of raising livestock on public lands is the same or higher than on private lands, I do not stand here today to suggest that the current grazing fee might not use some modifications. In fact, I have been told as much by many ranchers. However, bringing this issue up on an appropriations bill, without the proper committee hearing process is the wrong approach. And, the reason it is being done is that the votes do not exist in the committee to report this bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. Synar].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SKEEN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 251, noes 155, answered "present" 1, not voting 26, as follows:

[Roll No. 460]

AYES—251

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
Barnard
Bartlett
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Boehlert
Bonior
Borski
Boucher
Brooks
Broomfield
Browder
Bruce
Bryant
Bustamante
Byron
Campbell (CA)
Cardin
Carper
Carr
Chandler
Clarke
Clay
Clement
Clinger
Coble
Coleman (TX)
Collins
Conte
Conyers
Cooper
Costello
Cox
Coyne
Darden
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Downey
Duncan
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
English
Erdreich
Evans
Fascell
Feighan
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horton
Hoyer
Huckaby
Hughes
Hutto
Jacobs
James
Jenkins
Johnson (CT)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowey (NY)
Luken, Thomas
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCollum
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Morella
Mrazek
Murphy
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Pallone
Panetta
Patterson
Payne (NJ)
Payne (VA)
Pease
Penny
Petri
Pickett
Pickle
Porter
Poshard
Price
Rahall
Rangel
Ravenel
Regula
Ridge
Rinaldo
Ritter
Roe
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roukema
Roybal
Russo
Sabo
Sangmeister
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slaughter (NY)
Smith (FL)
Smith (NJ)
Smith, Robert (NH)
Snowe
Solarz
Solomon
Spence
Spratt
Stark
Stearns
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walgren
Walker
Washington
Waxman
Weiss
Weldon
Wheat
Wise
Wolpe
Wyden
Yates
Yatron
Young (FL)

NOES—155

Archer
Armey
AuCoin
Baker
Ballenger
Barton
Bateman
Bentley
Bilbray
Bilirakis
Boggs
Bosco
Brown (CO)
Buechner
Bunning
Burton
Callahan
Campbell (CO)
Coleman (MO)
Combest
Condit
Coughlin
Courter
Craig
Crane
Dannemeyer
Davis
de la Garza
DeFazio
DeLay
Dickinson
Dorgan (ND)
Dornan (CA)
Dreier
Dyson
Edwards (OK)
Emerson
Espy
Fawell
Fields
Frenzel
Frost
Gallegly
Gekas
Gillmor
Gingrich
Goodling
Goss
Grandy
Grant
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hatcher
Hayes (LA)
Hefley
Herger
Hiler
Holloway
Hopkins
Houghton
Hubbard
Hunter
Hyde
Inhofe
Johnson (SD)
Jones (NC)
Kasich
Kolbe
Kyl
Lagomarsino
Leath (TX)
Lehman (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Long
Lowery (CA)
Lukens, Donald
Madigan
Marlenee
Martin (NY)
McCandless
McCrery
McEwen
Michel
Molinari
Mollohan
Montgomery
Moorhead
Morrison (WA)
Murtha
Myers
Nagle
Natcher
Nielson
Olin
Oxley
Packard
Parker
Parris
Pashayan
Paxon
Perkins
Pursell
Quillen
Rhodes
Richardson
Roberts
Robinson
Rogers
Rose
Roth
Saiki
Sarpalius
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Slattery
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (TX)
Smith (VT)
Smith, Robert (OR)
Staggers
Stallings
Stangeland
Stenholm
Stump
Sundquist
Thomas (CA)
Thomas (GA)
Thomas (WY)
Traxler
Udall
Vander Jagt
Vucanovich
Walsh
Watkins
Weber
Whittaker
Whitten
Williams
Wilson
Wolf
Wylie

ANSWERED "PRESENT"—1

Owens (UT)

NOT VOTING—26

Bliley
Boxer
Brennan
Brown (CA)
Chapman
Crockett
Douglas
Early
Engel
Fazio
Gallo
Hawkins
Ireland
Laughlin
Martin (IL)
McCloskey
Mink
Moody
Morrison (CT)
Pelosi
Ray
Rowland (CT)
Rowland (GA)
Schuette
Smith, Denny (OR)
Young (AK)

□ 1912

The Clerk announced the following pair:

On this vote:

Mrs. Boxer for, with Mr. Denny Smith against.

Mr. HUNTER changed his vote from "aye" to "no."

Mr. DICKS, Mr. HUTTO, and Mrs. BYRON changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT OF REPUBLICAN CONFERENCE ON TOMORROW

(By unanimous consent, Mr. Lewis of California was allowed to speak out of order.)

Mr. LEWIS of California. Mr. Chairman, I take this moment to indicate to the Members on this side of the aisle that there will be a Republican conference tomorrow morning in Cannon Caucus Room at 9 a.m. That is Cannon Caucus, at 9 a.m.

The CHAIRMAN. Are there additional amendments to title III?

AMENDMENT OFFERED BY MR. REGULA

Mr. REGULA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Regula: On page 93, after line 23, add the following new section:

"Sec. 318. (a) The Chairperson of the National Endowment for the Arts and the National Council for the Arts, in making judgments of artistic excellence, shall ensure that projects supported by an award, grant, loan or other form of support provided by the National Endowment for the Arts (1) are sensitive to the nature of public sponsorship; (2) take into account general standards of decency; (3) are subject to the conditions of public accountability that govern the use of public money; (4) reflect the high place accorded by the American people to the nation's rich cultural heritage and to the fostering of mutual respect for the diverse beliefs and values of all persons and groups; and (5) are appropriate for a general audience, so that all members of the public may have access to art funded under the program.

"(b) None of the funds made available by this Act shall be used by the National Endowment for the Arts to finance or support any award, grant, loan, or other form of support that is obscene under the standards of *Miller* v. *California,* 413 U.S. 15, 24 (1973) or indecent as the term is used in *Federal Communications Commission* v. *Pacifica Foundation,*" 438 U.S. 726, 732 (1978).".

The CHAIRMAN. Pursuant to House Resolution 505, the amendment is not subject to amendment, except for a substitute, consisting of the text of H.R. 4835, as passed the House, by and if offered by the gentleman from Montana [Mr. Williams] or his designee.

The gentleman from Ohio [Mr. Regula] will be recognized for 15 minutes and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentleman from Ohio [Mr. Regula].

PARLIAMENTARY INQUIRY

Mr. YATES. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. YATES. Mr. Chairman, the Clerk, when he read subsection (b), read it to read, "None of the funds made available by this Act shall be used by the National Endowment. * * *" The copy of the amendment, as filed, used the words "may be used."

The CHAIRMAN. The Chair will advise the gentleman that the word is "may."

Mr. YATES. I thank the Chair.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio [Mr. Regula].

The correct text of the amendment, as filed, is as follows:

Amendment offered by Mr. Regula: On page 93, after line 23, add the following new section:

"Sec. 318. (a) The Chairperson of the National Endowment for the Arts and the National Council for the Arts, in making judgments of artistic excellence, shall ensure that projects supported by an award, grant, loan or other form of support provided by the National Endowment for the Arts (1) are sensitive to the nature of public sponsorship; (2) take into account general standards of decency; (3) are subject to the conditions of public accountability that govern the use of public money; (4) reflect the high place accorded by the American people to the nation's rich cultural heritage and to the fostering of mutual respect for the diverse beliefs and values of all persons and groups; and (5) are appropriate for a general audience, so that all members of the public may have access to art funded under the program.

"(b) None of the funds made available by this Act may be used by the National Endowment for the Arts to finance or support any award, grant, loan, or other form of support that is obscene under the standards of *Miller* v. *California*, 413 U.S. 15, 24 (1973) or indecent as the term is used in *Federal Communications Commission* v. *Pacifica Foundation*, 438 U.S. 726, 732 (1978).".

Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman and members of the Committee, this very simply is an amendment to ensure that the $180 million provided in this bill for the National Endowment for the Arts will not be used to fund obscenity, indecency, or items that would be offensive to the American public.

I recognize that it is difficult to establish those standards, and for that reason, the amendment provides a reference to cases decided by the U.S. Supreme Court in the case of obscenity, and indecency.

The real issue here is accountability. I hope in this language to force accountability on the Chairman of the National Endowment for the Arts and the council who are jointly responsible, in part, for funding projects.

That National Endowment for the Arts can do some great things, and they have, in sponsoring ballets, symphonies, string ensembles that travel to the schools, education programs. Many of us saw what the National Endowment for the Humanities did the other night in the Civil War series, how effective these programs can be. This, of course, the Civil War series, was sponsored by the NEH.

□ 1920

I think during the next 12 months the National Endowment for the Arts has a very great responsibility: To gain and restore the confidence of the American public in what they do, and that to give the public accountability and assurance that the $180 million of taxpayer money that is spent by NEA will be used wisely.

The language in my amendment is designed to achieve that degree of accountability. All Members are aware of some of the things that have been sponsored by NEA that have been found to be offensive to the American public, that have brought serious questions of credibility for NEA funding. I therefore think in many respects, by adopting language of this type, we are doing the NEA a favor because we are saying that this Agency can do an effective job, provided they exercise good judgment on what kind of projects they sponsor. We know so well from the experience of the Pentagon, that while they may do some wonderful things, and have in terms of defending this country, it is just a few bad apples that they have been responsible for that were mentioned on the floor the other day, such as coffee makers. The same thing happens with NEA. If they fund projects that are offensive, it erodes the public support.

This is very important because NEA becomes a yardstick by which the private sector often measures the value of projects. The foundations that provide a lot of funding for the arts programs around this Nation will often say, "Has the NEA given this project its support?" As a matter of fact, for every dollar that is spent in NEA funds, we have $3 of private sector money that goes into the mix. Many times people say to me, "Well, the United States does not do as much for the arts as does France or Great Britain or Germany." Well, of course it is because we follow a different technique in our country. In those countries, practically 100 percent, or certainly a large percentage of what they get in support comes from the public sector. In the United States, we made a decision that we want the private sector to participate in funding the cultural heritage of this Nation. That is quite evident from the Tax Code because we provide deductibility for contributions to museums, to art projects, to all types of things of this nature. Of course, that is, in so doing, we keep the private sector involved.

Nevertheless, the National Endowment for the Arts is a great responsibility because they set the standard to some extent. Again, I emphasize that getting the private sector support is often predicated upon the endorsement of a project by NEA. Therefore, they bear a great responsibility to be accountable, and if they have a great responsibility to be credible so that the foundations that the individuals, that the wealthy donors that oftentimes give some of the great artworks to public museums, will feel confident that when they follow the lead of NEA, that it is being done in an effective way.

The question comes up as to whether there should be a different standard for public funds versus private funds. As all Members are aware, we in last year's legislation, provided for a commission to look at this problem and the Commission came back with recommendations. They have completed their review, and by and large I think they have done an excellent and thoughtful job of reviewing the problem. However, I want to point out that in completing their review, they conclude emphatically that the standard is necessarily different between public and private funding. The Commission went on to emphasize that the arts belong to all of the American people, and that is essentially a quote right out of the Commission report, and not only to those who benefit directly from the agency. I cannot emphasize that enough, that the arts program, the NEA programs belong to all the American people. Therefore, we need to develop standards that will give all of the people confidence in the judgments. The Commission went on to conclude that the Endowment is not setting policy and making grants, adequately meeting its public responsibilities at the present time. That is the Commission saying that, that they are not meeting those responsibilities, and it is our objective in this language to give them a measuring yardstick so that they can meet those responsibilities. The Commission made recommendations for substantive changes in the grant-making procedures which, when implemented, should resolve the problems that have plagued the agency for over a year.

I want to say, to the credit of the Williams-Coleman bill, that many of the Commission's recommendations are embodied, in a large measure, in that legislation, which passed this House by a rather large margin last week. Unfortunately, the time left in this session is relatively short, and one of the reasons that I feel that we need languge in the appropriations bill is because we know this bill is going to get signed. It has to be signed in order to fund the Department of Interior and the Forest Service and so on. In this legislation will be $180 million for the National Endowment for the Arts. Therefore, it is absolutely essential that there be language in the bill, controlling through content restrictions, what will be funded with that $180 million. This is the reason for the amendment that I have offered today.

Now, some will raise the question of constitutionality. I think in the Commission report they talked to that, in some respects, and they say from the Commission report, "The Endowment, in making grants should act to strengthen, not to weaken, public confidence in its prudence and sensitivity as a steward of public funds. If the Endowment loses the trust and support of the American people it will have failed." One of the lawyers that testified before the independent commission had this to say in his testimony in front of the Commission:

> The key consideration for purposes of constitutional analysis is that the grants it makes are selective. Congress does not purport to be subsidizing all art, but only the best art.

That is an important statement.

> Artists who do not receive grants are not being singled out or deprived of their generally available benefit, rather those who receive grants are singled out and the imprimatur of government approval is placed upon their work. Indeed, this symbolic recognition is one of the intended effects of the program.

I think it addresses very clearly the constitutional issue, that when we are dealing with public funds we have a different standard of accountability than when dealing with private funds. That is the thrust of the amendment I am proposing. That is to say, if we are spending $180 million of the taxpayers' money, there has to be accountability and a standard of content that is above that of private, simply because we are dealing with something that the public has a rightful interest in, as opposed to private funds where the individual makes a decision.

Now, we will have an amendment to substitute the language of the Williams-Coleman bill for the amendment that I have offered today. I have a problem with that, but I do not make the rules around here. I think the difficulty is, that if we substitute Williams-Coleman, in effect, we are putting an authorization bill into an appropriations bill en toto. Now, we have had a lot of debate here earlier about the question of authorization versus appropriation, the question raised that we are indeed usurping the authorizing committees' area of responsibility. Yet here we are preparing to take an authorization bill in total, every line, every word, every comma, and put it in an appropriation bill, I think it will create great problems in conference simply because the Senate has no comparable situation. We go to conference and the members of the Subcommittee on the Committee on Appropriations will be the conference to deal with a Senate appropriations bill without all the authorizing language. Therefore, we are in an apple and oranges situation.

□ 1930

I do not mean by this to say that the Williams-Coleman bill is not a good bill. I think it has a lot of merit, but I think the procedure here is wrong. The Williams-Coleman bill should go to conference with the counterpart committee from the Senate. They should try to address the differences, put together a final authorization bill and get it down to the White House and signed before the end of this legislative session. That would be the proper way to do it, and therefore our appropriation bill would be bound by the authorization. We are being asked here to appropriate without an authorization. Therefore, I think it is vital that the bill get to the White House.

So I have a problem with the mechanics here. I think it is bad procedure to use an authorizing bill and to put it completely in an appropriation bill.

Mr. HENRY. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Michigan.

Mr. HENRY. Mr. Chairman, I want to say on behalf of all the Members of the House, and quite frankly of the American public at large, the debt of gratitude we owe to the gentleman from Ohio who has worked very hard to help us approach this entire issue reasonably. His involvement in this issue goes back to last year when, along with the distinguished chairman of the committee, the gentleman from Illinois [Mr. Yates], they sought to address this issue constructively and, as you know, were ruled down on a procedural motion.

I want to say thank you because I think we are indebted for the kind of leadership we have had from the gentleman from Ohio, who has tried to balance legitimate public concerns in terms of the integrity of the National Endowment for the Arts, while at the same time being supportive of the role and mission of that agency. That has been a very hard line to walk, and the gentleman has been very firm on that.

Now, make no mistake that the issue involved before us in this. We have passed an authorization bill that the House has approved by a ratio of roughly 6 to 1, overwhelmingly, in which the issues that this gentleman has fought for have been resolved in great substance, certainly to my satisfaction and I think, quite frankly, to the gentleman's satisfaction as well.

The problem before us is that the authorization bill may not make it through the conference process. The Senate may not even pass an authorization bill. Therefore, it is very important that we protect ourselves, as it were, in seeing that the issue is raised in the appropriation process.

There are two approaches before us. There is the language of the gentleman from Ohio [Mr. Regula] and there is also what I understand will be a substitute. I will support the substitute. Should the substitute fail, I will support the gentleman from Ohio [Mr. Regula], but I think we do, all of us, Republican and Democrat alike, want to express our appreciation for the kind of leadership that the gentleman has given us on this, because it has been responsible, while at the same time forcing the issue in a way which responds to the concerns of the American public, and I want to commend the gentleman.

Mr. REGULA. Mr. Chairman, I thank the gentleman, and I would say that he has been extremely helpful in drafting the language. Much of what is in the amendment that I have proposed is language proposed initially by the gentleman from Michigan [Mr. Henry].

We have a common interest, and that is that we want to see the NEA maintained as a strong, credible institution, because the private sector depends so heavily on it for leadership, and because preservation of our cultural heritage is an important thing that we all want to accomplish.

The CHAIRMAN. Is the gentleman from Illinois [Mr. Yates] opposed to the amendment of the gentleman from Ohio?

Mr. YATES. I am opposed, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized for 15 minutes.

Mr. YATES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Ohio [Mr. Regula] is one of my very good friends in the Congress. Over the years we have worked together on various issues and problems that concern the Appropriations Subcommittee of the Committee on Appropriations, and usually we are in agreement. On this issue, we have a very great disagreement.

In offering this amendment which the gentleman proposes to establish new grant-making standards for the NEA, I think the gentleman is totally wrong.

First let me say that the House has already spent a whole day arguing and fighting over what should be proper grant-making standards for the NEA and for the NEH. The subcommittee of the Education and Labor Committee which drafted the bill worked a whole year on it, and their work culminated in the vote that took place last week in the House of Representatives.

Grant-making standards for the NEA that they have labored over for the whole year were presented to the House and approved by the House. Now the gentleman from Ohio wants to throw all that work away and to establish new standards of grant-making for the NEA, which in great measure are totally different than those approved by the legislative committee and by the House.

If the gentleman has his way, if his amendment is approved, if the standards that he sets up in his amendment become the guidelines for grant-making for the NEA, there will be two sets of standards that will have been approved by the House; those approved in the Williams-Coleman bill last week and those approved in the amendment of the gentleman from Ohio [Mr. Regula], totally different standards. How is the NEA to be administered?

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. YATES. I am glad to yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, putting aside the merits of the gentleman's amendment for the moment, is he correct in saying that the whole thing becomes mixed up if the authorization portion of the Williams-Coleman enters into this? Does the gentleman agree that Williams-Coleman would be in order, aside from the merits of the Regula amendment?

Mr. YATES. Ordinarily I am opposed to the introduction of legislative bills as a part of an appropriation bill. The gentleman from Montana [Mr. Williams] is offering his bill because he believes there is a very strong possibility, as has been pointed out by the gentleman from Ohio, there is a strong possibility the Senate may not take up that legislative bill. It will. It has to take up an appropriations bill.

So if the Williams-Coleman bill is to become law, they seek to protect that possibility by making it a part of this appropriations bill.

Mr. GEKAS. What I am actually asking, Mr. Chairman, I am in a dilemma. I supported the Williams-Coleman substitute.

Mr. YATES. So did I.

Mr. GEKAS. I do want, though, to allow the Regula amendment to have a full debate and vote on its own merits.

I am asking whether the Chairman is willing to relegate that to the debate alone on its merits, or is he going to support the offering of the Williams-Coleman amendment?

Mr. YATES. I would point out to the gentleman that there is a full debate on the Regula amendment. The Rules Committee allotted 15 minutes to the gentleman from Ohio [Mr. Regula] and 15 minutes to me as a full debate, and we are taking that now.

Mr. GEKAS. I understand that, but the gentleman does not oppose the Williams-Coleman amendment?

Mr. YATES. I voted for it, I will say to the gentleman.

Mr. GEKAS. We all did. We support it here, even though it violates the rule.

Mr. YATES. I think we all have supported it here, because this bill becomes a vehicle for its passage, in all probability.

Mr. GEKAS. I thank the gentleman. I just wondered about the mixup of the procedures.

Mr. YATES. If I may return to the question of the Regula amendment, Mr. Chairman, the guidelines that he cites, that he lists, are not only unconstitutional in a number of respects, they are so vague as to be valueless.

Take a look at his standards. He uses the term "general standards of decency." What are general standards of decency which he requires to be taken into consideration by the NEA in making its grants?

He also requires that the grants take into consideration the fact that they may become viewed by a general audience. Does that mean that a general audience may consist of children in that respect, and must the grants that are approved establish as standards those that are applicable and fitting for children?

□ 1940

Obviously that is a standard that would be intolerable.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding to me.

Is not one of the problems also that whereas the Williams-Coleman substitute provides for the obscenity determination to be made by the courts, in the Regula amendment the determination would have to be made by NEA and that in itself would be unconstitutional, an abrogation of first amendment rights.

Mr. YATES. The gentleman is correct. Let me point out, as my third point, in furthering what the gentleman has just said, the gentleman's amendment is in conflict with itself. And I say that in this respect: His amendment requires following the guidelines for determining the obscenity standards established in the Supreme Court case of Miller versus California.

When you look at the standards established by the gentleman, it speaks of a general standard for decency. There are no general standards for decency in the United States.

The standards vary from State to State. That was pointed out in the Miller case.

Let me read from the decision in the Miller case from the opinion of Chief Justice Burger, who wrote the majority opinion. He said, "It is neither realistically nor constitutionally sound to read the first amendment as requiring that the people of Maine or Mississippi accept the public depiction of conduct," the public depiction of conduct, "which is found tolerable in Las Vegas or New York City."

The standards are different, says the Judge, in Maine or Mississippi, from New York or Las Vegas. He says we have to recognize that.

Then he goes on to say, "The people in different States vary in their tastes and in their attitudes, and this diversity is not to be strangled by the absolutism of imposed uniformity." And that is exactly what the gentleman's amendment does. It imposes a standard of uniformity. General standards of decency are an imposition.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Ohio, of course.

Mr. REGULA. I thank the gentleman for yielding.

Mr. Chairman, the public-private school is an example. If it is a public school, there are standards of uniformity; whereas in a private school, where the people pay themselves, they make a lot of choices in the way that school program is constructed.

I think the big difference here is that in one instance it is public money and the Constitution says Congress shall appropriate and therefore it has accountability. The first amendment addresses the rights of individuals if they are using their own private money.

Mr. YATES. Mr. Chairman, the difference between the gentleman's amendment and the Williams-Coleman bill is essentially a difference in what is needed for standards of grantmaking. The gentleman from Ohio believes that there ought to be content restriction. What an artist can paint, what he should paint has been the thrust and the hallmark of a totalitarian country, not the United States of America. Like the Soviet Union, for example; I was reading from the Post the other day a review of the exhibition now taking place at the National Art Gallery.

This is what a review by Hank Burchard said. He says:

> Obscene art goes on open display Sunday at the National Gallery. Kazimir Malevich's paintings and drawings are not only wholly without redeeming social value, they tend to disturb the peace, corrupt youth and endanger this country.

This at the National Gallery. Then he goes on to say:

> This is the considered judgment of one of the 20th century's most influential art critics, Josef Stalin. The 170 works to be shown in the East Building were suppressed in the 1930's by Stalin's order, ending the career of one of the 20th century's most innovative artists. Probably the only reason Malevich didn't end up in Siberia is that he died in bed before the thought police could get around to him.

Content restriction? Our atmosphere is one of freedom, not of content restriction.

Mr. CARR. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Michigan.

Mr. CARR. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman is correct in opposing this particular amendment. The gentleman from Ohio is a good friend of us all, and I know he means well, but I think this amendment is going to lead to a lot of constipated thinking if not a lot of litigation.

These are not standards, Mr. Chairman, these are platitudes, but they could form a cause of action by any group dissatisfied with anything in the arts community to literally close museums around the country.

It says in this amendment:

> The chairperson of the National Endowment for the Arts shall insure that projects supported by an award, grant, loan or other form of support provided by the National Endowment for the Arts.

We all know that the National Endowment gives grants to museums, helps them with their administrative expenses, helps them with their expertise, and they must put some kind of an exhibit in their museum that would fail some one person's test, somewhere in America, create a lawsuit, totally tie up the Endowment, totally tie up the museum, and it would fail what the amendment says is its goal, to insure that all members of the public have access to art funded by the program.

I think it is going to restrict access. Furthermore, I think it needs to be pointed out that the definition of indecent that it seeks to apply vis-a-vis the Federal Communications Commission versus the Pacifica Foundation really attempts to apply a broadcast standard to indecency, to the Endowment's funding. That is wholly inappropriate for what we are trying to do here.

I urge a "no" vote on the Regula amendment if indeed it is not substituted.

Mr. YATES. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Illinois [Mr. Yates] has 2 minutes remaining.

The Chair will advise that the gentleman from Ohio [Mr. Regula] will close debate.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi [Mr. Whitten].

Mr. WHITTEN. Mr. Chairman, this matter came up in the Committee on Appropriations over very simple language which was in the report, saying that none of this should be done. If the language had been accepted, it would have not been subject to amendment and it have been turned over to the Chairman of the NEA to determine whether these things happen along with a remedy if they did.

After listening to both sides here, I do not believe either side wants the problem settled. They would not have anything to talk about.

But my proposal was defeated because assurances were given that this would be taken care of when this bill was considered.

Now let me point out to you, and I support the Regula amendment, and I have talked to the gentleman from Montana [Mr. Williams] about this: Our appropriations are already tied up, which tied up the Congress. As chairman of the committee, I offered a resolution to let us operate to October 20. The leadership talked me into 5 days. The second resolution also went to the 20th and the leadership got me to go to the 12th and that was noted. The third CR went to the 20th and the other body changed it to the 19th—this Friday—and now we are about to close the Government again.

So let me tell you, and I am not going to call any names, but if you think you can put a legislative bill in an appropriations bill and run the risk of tying up the Congress in view of the Senate and the Senate amendments and the Senate rules or lack thereof, you are just fixing to tie the country into a knot.

I tried to get my friend from Montana not to offer his amendment. I do know I was assured when the amendment was up in our full committee that this matter would be taken care of on the floor.

If you put this legislative committee bill in the appropriations bill, it will be the first time I remember seeing such a thing done on the floor in my lengthy experience in Congress.

But if you do it, you are going to be responsible for tying up the country because you know the Senate, you know who the people are and you know what they will do under the rules.

This has to do with Federal funds. When this matter was before our Appropriations Committee the first time, I offered the following language:

National Endowment for the Arts

> The Chairman of the National Endowment for the Arts is charged with the responsibility that no Federal grant or other Federal funds be used for the purpose of authorizing and supporting or financing any indecent, anti-religious, or obscene picture, play or writing.
>
> The Committee recommends that any organization or person violating these guidelines shall be obligated to return all Federal funds under the control or such organization or person to the Endowment.
>
> The appropriate committees of Congress shall be kept advised of all projects funded.

This language, if adopted, would have solved this problem, for it went to the report, which was not amendable in the House and would have let the NEA Chairman, Mr. Frohnmayer, make the determination.

Chairman Frohnmayer has agreed to do his part to keep the bad situation from recurring, as did my amendment.

My proposal was defeated on a commitment by the subcommittee members who gave assurances that continuing the Interior bill under the terms and conditions of the fiscal year 1990 bill, the current law, would prohibit such actions for the duration of the continuing resolution.

When the Interior bill was before the committee, the Regula amendment was offered but withdrawn upon agreement that all would work to make his amendment in order on the floor. My letter to the Rules Committee asked that his amendment be made in order, and the rule reported from the Rules Committee made the Regula amendment in order.

The amendment by Mr. Williams was made in order in a second rule after the business of the House was concluded last Thursday and after we had gone home—and was not in response to my request for a rule on behalf of the Committee on Appropriations.

Mr. Chairman, this is a most serious disruption of House procedures and particularly under present conditions, where the continuing resolution expires Friday of this week, and in view of the report that the President will again close down the Government—unless we meet his demands.

STATUS OF APPROPRIATIONS

Mr. Chairman, I repeat the statement I made to my committee today in connection with our revised 302(b) subdivision which was approved.

I'm proud of our committee. We have done our work. I have pointed out time and time again that our financial situation is not the fault of our committee. Since 1945, the total of our bills has been $173 billion below the total of the requests of the Presidents, and our progress this year has held up, despite our readiness to act.

The final sequester report would be in force today except for the continuing resolution. It would require a sequester of $152.5 billion in budget authority to reduce outlays by $83.3 billion. This is a 31.6-percent reduction in nondefense discretionary spending and a 34.5-percent reduction in military spending.

Reductions of one-third would be catastrophic. The existing continuing resolution expires Friday, the 19th. The budget resolution conference report adopted last week contained reconciliation instructions to the appropriate legislative committees that may result in sequestration being set aside for the year. That conference agreement also changed the 302(a) allocation to the committee from what was provided in the deemed House-passed resolution we have been operating within since June 19.

Before you is a revised 302(b) subdivision which we have discussed at the staff level and through the staff with subcommittee chairmen. We are moving our bills in the House and conference to conform to these levels.

Here is our situation: The continuing resolution expires midnight Friday.

The House has passed 11 bills and will pass the Interior bill today—for total of 12. The legislative bill will be up on Wednesday. The Senate has passed nine bills and is considering DOD today. We have appointed conferees on eight bills and expect to appoint on Labor-HHS later today. We have concluded conference on two bills.

Another continuing resolution will likely be required. Our success in getting it through Congress and into law will be affected by what is happening on the reconciliation bill.

Once again, the committee will have to work hard to get our work done. I hope we will not see the Government held up for reasons unrelated to appropriations.

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Mr. REGULA. Mr. Chairman, I want to quote from the report to Congress by the Independent Commission, because the constitutional issue has been raised, and there were five lawyers testifying before the Commission from the University of Chicago, Columbia, Harvard, and two private law firms, and they had an agreement, unanimous agreement, on this language:

> There is no constitutional obligation on the part of the Federal Government to fund the arts. That is a policy decision to be determined by Congress based upon its views as to whether it is useful and wise for the Federal Government to play a role in the arts funding process.

Mr. Chairman, I think they address that question clearly. I think the chairman of the Committee on Appropriations, the gentleman from Mississippi [Mr. Whitten] has made the point that the procedure here is going to create real problems in the conference, and I would hope that we will not approve the substitute to my amendment at this point.

Mr. WEISS. Mr. Chairman, first I would like to stress my very serious opposition, as I did during consideration of the rule on this measure, to including authorizing language in an appropriations bill. As I understood it, authorizing committees and appropriating committees have different responsibilities—authorizing committees make legislative decisions and appropriations committees make funding decisions. I would like to think we could stick to the regular procedures.

The Regula amendment is not only inappropriate for an appropriations bill, but also unnecessary and unconstitutional.

The Regula amendment has two parts. The first part needlessly restates provisions of the National Endowment for the Arts reauthorization bill the House passed just 4 days ago. The requirement that funding be sensitive to the nature of public sponsorship, take into account general standards of decency, and be subject to the conditions of public accountability that govern the use of public money—have already been covered in the reauthorization language. Why must we rehash these vague requirements?

Whereas the first section of the Regula amendment is utterly unnecessary, the second section is utterly unconstitutional. This section prohibits the NEA from funding art that the agency determines is "obscene" or "indecent." "Obscenity," however, must be determined in a court of law, based on community standards. By requiring the NEA to make the determination of obscenity, and not the courts, the amendment deprives applicants of their due process rights, violating the first amendment.

Just 4 days ago, this body overwhelmingly rejected the Rohrabacher amendment to the NEA reauthorization bill which also required the NEA to judge obscenity. The House is not alone in its opposition to such a requirement. The President's Independent Commission on the National Endowment for the Arts, that Commission's legal advisers, and the Senate Committee on Labor and Human Resources all rejected proposals that would forced the NEA, and not the courts, to determine what is and is not obscene.

Despite the fact that we have already cast our votes on these issues, I guess we need to do it again to make ourselves clear. I urge my colleagues to vote to maintain the integrity of the U.S. Constitution and defeat the Regula amendment.

Mr. FAZIO. Mr. Chairman, after months of work on a compromise agreement, the chairman and the ranking member of the authorizing committee have developed sufficient reforms to address any of the perceived problems with the NEA.

The Williams substitute will preserve the tradition of artistic excellence in the NEA, while stating that the NEA may not fund obscene art—obscenity is without artistic merit and is not protected speech.

Many of the Regula provisions have been included in the reauthorization bill—the NEA must be sensitive to the nature of public sponsorship, greater accountability by the Endowment for grant awards, and advisory panels will reflect diverse cultural and artistic viewpoints.

Regula's amendment, like Rohrabacher's, requires prior restraint and places the Government in the role of judge and jury—Williams' leaves the determination of what is obscene to the courts, the traditional and appropriate venue for this issue.

Including the definition of indecency as defined by FCC versus Pacifica is very dangerous. This is a broadcast standard, not one which has been applied to works of art. One has a choice to go to a museum, attend a play, or listen to music. The standard for indecency under Pacifica is intended for radio and TV broadcasts, mediums which traditionally have required stricter regulation.

The language requiring that work must be "appropriate for a general audience" would be extremely difficult to interpret: Would only landscapes be safe?

The reauthorization bill approved by the House yesterday reaffirms our Nation's commitment to the arts while ensuring the NEA will be sensitive to the nature of public sponsorship.

Let us put an end to this demagoguery against the NEA and support the Williams substitute—a fair and reasonable remedy.

Mr. CONTE. Mr. Chairman, I rise in opposition to the Regula amendment, and in support of the Williams-Coleman substitute.

Let me just make it clear from the beginning that in addition to my objections to the Regula amendment, I oppose obscenity and indecency. I do not approve of the few grants that are used by proponents of NEA restrictions to illustrate a so-called problem. Those projects were in bad taste, and whether or not they were technically obscene or indecent, I felt they should not be federally funded.

But that's history, and besides it's not the real issue in this debate. No one wants to use scarce Federal funds to finance pornography, obscene art, or indecent projects. The real challenge in this debate is identifying a problem, and crafting a solution that addresses that problem in a constitutional and fair way. The Regula amendment, in my opinion, misses that challenge in several respects, especially when the amendment is evaluated in light of recent NEA reforms and in light of action taken by the House just today.

First of all, the obscenity prohibition of the Regula amendment is duplicative and potentially damaging to the prohibition contained in the Williams-Coleman substitute adopted last week and offered here today. Clearly the authorization bill prohibits funding of obscene art, but unlike the Regula amendment, the authorization bill provides for a specific mechanism to enforce that prohibition. These two potentially conflicting commands of Congress could in the end make both prohibitions ineffective.

Second, I have serious constitutional concerns about the funding prohibition in the Regula amendment, particularly the prohibition against indecent art. I am troubled by this provision because as an appropriator, I am a strong defender of the right of Congress to determine Federal spending. The Framers of the Constitution were clear to give the Congress the power of the purse. And when proponents argue that Congress has the right to determine which art to fund and which not to fund, frankly, it is a very powerful argument. But after close examination of the substance of this prohibition, I am very concerned that the Congress is stepping over the line of constitutional propriety.

The Independent Commission, established on the recommendation of the author of this amendment, clearly points to this problem. On page 85 of the Commission report, it says:

> While Congress has broad powers as to how to expend public funds, it may not do so in a way that the Supreme Court has said is aimed at the suppression of dangerous ideas.

Similarly, a paper prepared by the New York City Bar Association argued that restraints on funding could "constitute an impermissible prior restraint in violation of the due process clause of the fifth amendment." To me, this provision presents a serious constitutional flaw which in the end could jeopardize the effectiveness of all NEA funding prohibitions.

My final point is again made by the Independent Commission report. On page 89, the report recommended "against legislative changes to impose specific restrictions on the content of works of art supported by the Endowment." Constitutional concerns are cited as the justification for this recommendation, but the underlying proposition is that these restrictions, in effect, provide a deficient solution to a nonproblem. Over the past 25 years, the Endowment has funded over 85,000 grants, reaching every congressional district, and of those grants only a few can be even classified as controversial.

What is not mentioned in this debate by proponents of restrictive language are those thousands of grants funded each year without controversy or banner headlines. Grants for activities like the Peoria Symphony; an opera company in Mobile, AL; children's books in San Francisco; the Mississippi Museum of Art in Jackson; and the Boise Philharmonic, just to name a few. This is the real NEA, an organization that brings the arts to all of America, not just to those who can afford it.

Mr. Chairman, for me the real issue in this debate was dramatically raised by a witness appearing before the Interior Subcommittee. I did not have the opportunity to attend the star-studded hearing earlier this year, but if Sid Yates charged admission, he would have made a fortune. World famous performers and artists from a variety of disciplines gave personal testimony about the arts in America and the work of the NEA.

One witness was particularly effective. Jessica Tandy, the Oscar winning actress, closed her testimony with a quote from the film "All About Eve." The quote from the movie addressed this question: "You want to know what theater is?" The answer from the film was:

> Donald Duck, Ibsen and the Lone Ranger. Sarah Bernhardt, Lunt and Fontanne, Betty Grable, Rex the Wonder Horse, Eleanora Duse—all theater. You do not understand them all. You do not like them all. Why should you? The theater's for everybody, you included, but not exclusively. So don't approve or disapprove. It may not be your theater. But it's theater for somebody somewhere.

Mr. Chairman, I am not sure that I know exactly what theater is or what art is obscene or indecent. But I am sure that Congress does not know and that restrictions without definition or enforcement mechanisms are stifling and constitutionally suspect.

I urge my colleagues to oppose this amendment, and stick with the position adopted by the House yesterday, a position that bans obscene art in an enforceable way.

The CHAIRMAN. All time on the amendment offered by the gentleman from Ohio [Mr. Regula] has expired.

AMENDMENT OFFERED BY MR. WILLIAMS AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. REGULA

Mr. WILLIAMS. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

> Amendment offered by Mr. Williams as a substitute for the amendment offered by Mr. Regula: strike out the language proposed to be added and insert in lieu thereof the provisions of H.R. 4825 as passed by the House.

The CHAIRMAN. Pursuant to House Resolution 505, the amendment is not subject to amendment.

The gentleman from Montana [Mr. Williams] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Mr. REGULA. Mr. Chairman, I rise to claim the time in opposition.

The CHAIRMAN. The gentleman from Ohio [Mr. Regula] will be recognized for 15 minutes.

The Chair now recognizes the gentleman from Montana [Mr. Williams].

Mr. WILLIAMS. Mr. Chairman, I ask unanimous consent to yield 5 minutes to be controlled by the gentleman from Missouri [Mr. Coleman].

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. WILLIAMS. Mr. Chairman, I would prefer, as I think most Members of the House would, that we not be here. I frankly would have rather that the Committee on Rules had allowed neither the amendment of the gentleman from Ohio [Mr. Regula] or my own amendment to be offered to this bill.

However, Mr. Chairman, once the Committee on Rules did decide to allow the amendment of the gentleman from Ohio [Mr. Regula], then it was clear that, unless mine was also offered, the work that many of us have conducted for 1½ years to this matter would be for naught, and, more important, the 5 hours of debate and vote that the House considered, I believe, 2 legislative days ago, would be moot.

Mr. Chairman, I recognize this is a very unusual method, asking that we in this substitute to the amendment of the gentleman from Ohio [Mr. Regula] place in total the legislation which the House passed reauthorizing the National Endowment for the Arts, the National Endowment for the Humanities and the Institute for Museum Services, but with this amendment I ask that all of that legislation be placed upon this appropriation bill.

I want to say to the chairman of the full House Committee on Appropriations, the gentleman from Mississippi [Mr. Whitten] that I understand and am not entirely in disagreement with his concern that we are going to weigh down this extremely important appropriations bill. I agree with him that this is not good process. I only do it in these extraordinary circumstances because I do not want to see the work of our committees and the work that this House took 5 hours to accomplish just a few days ago go for naught.

I am not going to belabor the matter. Let me just suffice it to say that, if the amendment of the gentleman from Ohio [Mr. Regula] had been accepted, and I oppose it, it would have extraordinarily confused the grant-making process as conducted by the peer review panels, and the national council and the chair of the National Endowment for the Arts. The House, I am hopeful, will, with the same vote that it accepted the Williams-Coleman amendment, now accept this substitute.

Mr. Chairman, this is the identical language, with no changes, and I remind the House that this will then place this legislation on two legislative tracks. The first track is that which we passed just a legislative day or so ago when we accepted the Williams-Coleman amendment. The second track will be to place that identical language on this Interior appropriation bill. This will assure, I hope, that the will of the House reaches the President's desk and becomes law.

Mr. Chairman, I reserve the balance of my time.

Mr. REGULA. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. Henry].

Mr. HENRY. Mr. Chairman, the gentleman from Ohio [Mr. Regula] is obviously opposed to this amendment, and it is particularly gracious of him that he would yield to me since I am supportive of this amendment, and he gave me his time. I think that indicates, however, the shared spirit here of one way or another addressing this issue to the fullest and to the best of our ability, and to that extent I do appreciate the gentleman yielding.

However, Mr. Chairman, I want to say, while I rise in support of the amendment, because I believe incorporating the authorization bill, as unusual as it is, that it is the smoothest way to address the issue given where we find ourselves in relationship to the Senate.

I want to rise in defense of some of the objections that were raised earlier relative to the language of the gentleman from Ohio [Mr. Regula]. Obscenity under the law has a very specific legal meaning under Miller versus California, and, even under that specific meaning, it is very difficult because of the community standards aspect of the standard. The Miller versus California standard, quite frankly, does not fully encompass many of the concerns raised by the public and shared in this Congress, and that is why the gentleman in his language refers to general standards of decency as an obligation under the endowment, and, under the context and rubric of being sensitive to the nature of public sponsorship and public accountability that governs the use of public money, some comments have been made suggesting referencing the Pacific case in terms of indecency is inappropriate.

What should be understood is that those of us who have suggested this have done so by way of putting some limitations, and restrictions and guidelines on the decency standard to insure that we would respond to some of those concerns which have been raised: What does decency mean? What does indecency mean? That is so we could give it some broad parameters of meaning through which the council and its director could make prudential judgments.

I think, related in that light, I think it shows a good deal of sensitivity. I do not find the language of the gentleman from Ohio [Mr. Regula] to be irresponsible, but I do believe the best way we could proceed at this point in time is by supporting the substitute, and I again thank the gentleman from Ohio [Mr. Regula] for yielding to me.

The CHAIRMAN. For what purpose does the gentleman from Missouri [Mr. Coleman] rise?

Mr. COLEMAN of Missouri. Mr. Chairman, I have 5 minutes that was yielded to me, and I yield myself those 5 minutes.

Mr. Chairman, I rise in support of the Williams-Coleman substitute to the amendment of the gentleman from Ohio [Mr. Regula]. I do so for the same reasons that the gentleman from Montana [Mr. Williams] does.

Mr. Chairman, the House has just been through a rather difficult process of coming to grips with this issue. I think we spent 7, or 8 hours on the floor the other day doing this, and people, I think, are being called upon to now switch their votes or change their votes. It is really tough on Members having to face this issue, and it was a crucial issue. It was probably one of the most difficult ones we faced this year. I would rather not have to force them to do that, and that is why the Williams-Coleman amendment is being offered again for the people to vote on.

Mr. Chairman, let me point out that the amendment of the gentleman from Ohio [Mr. Regula] introduces some language and some concepts that are not in our proposal, so it is not just a Hobson's choice here. There are some very distinct differences in our amendments, and one of them is the term "indecency" as the gentleman from Ohio [Mr. Regula] would use in the Federal Communications Commission versus Pacific Foundation, a Supreme Court case, which he wants to incorporate into the law and into the appropriation bill.

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Indecency is a more abstruse standard than the obscenity standard we have talked about, and has not clearly been defined by the Supreme Court. Indeed, in the Pacifica case, the Court did allow limited regulation of indecent material in the radio broadcast medium, and later restricted it simply and solely to the broadcast medium. It was limited because the broadcast medium is uniquely accessible to children. That means that a child could turn on the radio any time of the day or night and receive this information over the radio, but the Supreme Court said because it was going out over the airwaves, it was in fact indecent, but when applied to other aspects of life, would not be indecent.

By incorporating indecency as defined by the Pacifica case, the Regula amendment is in fact imposing a standard created by the Supreme Court to protect children listening to the radio, and he is applying it to everyone, including adults, by his amendment.

The essence is that the Regula amendment would mean that no project or work that might be deemed unsuitable for a child under 12 could be funded by the NEA. I think that Members have to recognize that that is indeed the case. Words that are common in one setting are indeed shocking in another. Coming out over the airwaves is one thing. Going to a theater performance is another.

So I respectfully submit that the Regula amendment goes far beyond Williams-Coleman, it is vague, and I believe therefore unconstitutional in this respect. I again ask Members to support the Williams-Coleman substitute to the Regula amendment, to reconfirm their vote on this the other day. As sloppy as this process and procedure is, it may be the only way that we can deal with this issue and get it behind us.

Mr. Chairman, I think Members want to get this behind us. If Members want this issue behind them, vote for the Williams substitute motion to Regula tonight.

The CHAIRMAN. The gentleman from Missouri [Mr. Coleman] has consumed 3 minutes, and has 2 minutes remaining.

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. Carr].

Mr. CARR. Mr. Chairman, as I said a few minutes ago, I oppose the Regula amendment. I think it is unworkably vague and will lead to much mischief in the courts, vis-a-vis litigation by people who want a plain vanilla art in America, which I think most of us do not want.

It is also a very difficult thing for me to stand and oppose the inclusion of the Williams-Coleman substitute of a few days ago. I do not think, and I think the chairman of the subcommittee would concede, that outside of the members of the subcommittee, there were few other people who worked as hard to see that the National Endowment for the Arts was reauthorized and the passage of the Williams-Coleman substitute.

I would like to side in this particular instance with the chairman of the full committee, the gentleman from Mississippi [Mr. Whitten], and the gentleman from Ohio [Mr. Regula], and those who believe that inclusion of an authorization bill in toto on the House floor in an appropriations bill is the wrong thing to do, for a lot of reasons that have nothing to do with the National Endowment for the Arts.

Mr. Chairman, this puts the Committee on Appropriations in a very, very difficult position of being a freight forwarder, if you will, of work that is rightfully that of others in the Congress. I would hope and I would work very hard, as I did with the subcommittee chairman, the gentleman from Montana [Mr. Williams] and the ranking member, the gentleman from Missouri [Mr. Coleman], to see to it that the Senate does take up and does pass and have a successful conference and that their authorization bill goes to the desk of the President, because I believe that is in the best interest of this country. But I do not believe we should hijack an appropriations bill to do so.

Mr. Chairman, I urge a no vote.

The CHAIRMAN. The gentleman from Ohio [Mr. Regula] has 10 minutes remaining, the gentleman from Montana [Mr. Williams] has 6 minutes remaining, and the gentleman from Missouri [Mr. Coleman] has 2 minutes remaining.

Mr. WILLIAMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, for informational purposes, let me note that there is a unique attribute to broadcasts, and that is that broadcasting can intrude on the privacy of a home really without one's permission. For example, if certain indecent remarks are coming across that broadcast, children may hear them. It is not the intention of the parents that the children hear them, but the radio happens to be turned on, or the television happens to be turned on, and the parent is out of the room.

Because of that, the FCC has ruled that works that are indecent have to be tightly restrained by FCC regulations. What the gentleman from Ohio [Mr. Regula] would do is place that standard of indecency where it was not intended, and that is he would overlay it on the selection process of the National Endowment for the Arts.

Mr. Chairman, one can quickly see both the confusion and mischief that that would bring. The Supreme Court itself has never allowed the FCC standards to be applied beyond broadcasting. For example, it has specifically found that those standards do not apply to books or magazines or photographs. That is the reason to turn down the Regula amendment.

The reason to accept the Williams-Coleman substitute, which is the vote that will occur, is simply to keep alive the work of the past year and a half, and to place on the appropriation bill,

which may be the only vehicle with regard to the National Endowment for the Arts, the National Endowment for the Humanities, and the Institution of Museum Service, the only vehicle that ever reaches the President's desk for signature.

Mr. Chairman, I want to say finally that again I think this is a bad process. I believe that the gentleman from Illinois [Mr. Yates] and the gentleman from Michigan [Mr. Carr] and the gentleman from Mississippi [Mr. Whitten] are right, indeed, to oppose this process. I would have preferred, I will say to them and to Members, that the Committee on Rules had never allowed the Regula amendment to be offered. But once it was offered, I felt compelled on behalf of the Members of this House, who overwhelmingly supported the Williams-Coleman amendment, as the new reauthorization of the National Endowment for the Arts, the other Endowment, and the Institute as well, I felt compelled on their behalf to offer this.

Mr. Chairman, I reserve the balance of my time.

Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have had discussions of the question of using the FCC case as a standard of definition. I would point very carefully to the language. It says, "or indecent as the term is used in the FCC."

Now, let us go to the case. The FCC case, says, "Indecent, which merely refers to nonconformance with accepted standards of morality."

So by using the language as the term is used, we are incorporating the language from the case to give the Chairman of the NEA some type of guideline in making these decisions. The guideline would be that we could not spend the money if it would be indecent, if it were in nonconformance with accepted standards of morality.

Mr. Chairman, Congress does have a responsibility, because we regulate the public money. I think this is just as important as what goes out over the airways. We are trying to say the use of taxpayer dollars should not be for anything in the way of projects that are obscene or indecent. We have set up, what I think, is a responsible standard to give the chairman guidelines in making these decisions.

Mr. WILLIAMS. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. Weiss].

Mr. WEISS. Mr. Chairman, if the Williams-Coleman substitute were standing by itself freely, I would vote against it, as I did the other day. But it is not. It is being offered in substitution for the Regula amendment. It is obviously far preferable to the Regula amendment, so I urge Members to vote for it as a substitution.

But I must tell Members that if I get a chance to vote against it after that, I will, because standing as it does, with all the eloquence that the distinguished gentlemen from Illinois stated as to why the Regula amendment was unconstitutional, the same thing I think applies to the Williams-Coleman substitute.

Mr. Chairman, listen to the language of the Williams-Coleman substitute. It requires that in establishing application procedures and regulations, the NEA chairperson has to ensure that "artistic excellence and merit are the criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public."

□ 2010

What does that mean? Mr. David Duke, the former head of the Ku Klux Klan, who got 44 percent of the vote for the U.S. Senate in Louisiana, does he represent the values of the American public, that we are supposed to be abiding by?

The language is so vague that it is exactly the kind of thing the Supreme Court has repeatedly held to be unconstitutional, and I think that is what will happen again.

But clearly the Regula amendment is unconstitutional on all points, and the Williams-Coleman only partially unconstitutional, so it is preferable as a substitute.

Mr. Chairman, I have already expressed my opposition to the rule which allowed authorizing legislation in an appropriations bill. It goes against established procedures, especially considering that the House already passed an authorization bill for the National Endowment for the Arts [NEA].

I recognize that Mr. Williams and Mr. Coleman came up with this substitute to try and ward off efforts, such as the Rohrabacher amendment, to completely and unconstitutionally tie the hands of the NEA. I appreciate their courageous work in attaining a compromise. However, I did not vote for the Williams-Coleman substitute when the House passed it during the reauthorization of the NEA. If it were freestanding I would vote against it now. But, clearly, it is preferable to the Regula amendment. And on that basis alone I urge its adoption.

This substitute includes provisions that pose serious problems for our country's artistic and cultural future. Such provisions include those increasing the percentage of NEA grants that go directly to state art agencies and those that unpracticably revise the peer review process.

Most troubling, the substitute sets new standards for judging grant applications violating the first amendment.

The Williams-Coleman substitute requires that in establishing application procedures and regulations, the NEA Chairperson ensure that "artistic excellence and artistic merit are the criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public."

These amorphous requirements are unconstitutionally vague. What "standard of general decency" will be used? How can one determine whether a particular work of art is within "general standards of decency" or respects "the diverse beliefs and values of the American public?" What is the American public? Who is to take into the consideration these standards—the Chairperson when making the regulations, or the panels when they are reviewing the applications?

These funding standards are so broad that they have no constitutional meaning; they permit an administrator to make speech-based decisions without any fixed standards. Consequently, they will chill creative output because an artist simply will have no clear indication of their meaning. These considerations have led the Supreme Court consistently to hold vague and amorphous content standards, such as the ones in the Williams-Coleman substitute, to be unconstitutional.

In *Shuttleworth* v. *City of Birmingham* (1969), for example, the Court struck down as unconstitutionally vague a statute that permitted city officials to deny a parade permit if the officials believed that "decency, good order, morals or convenience require that it be refused." The Court stated that "subjecting the exercise of First Amendment freedoms to [restrictions] without narrow, objective, and definite standards . . . is unconstitutional."

In *Joseph Burstyn, Inc.* v. *Wilson* (1952) the Court stated that "to allow vague indefinable powers of censorship is bound to have stultifying consequences on the creative process of literature and art."

In addition to being unconstitutionally vague, the Williams-Coleman prohibition against indecency and disrespect violates the bedrock principle that the Government may not impose content restrictions on speech merely because society may find that speech offensive or disagreeable. Until the Court decides something is "obscene," it is protected by the first amendment. The first amendment stringently limits restrictions on indecent speech and art. In *Sable Communications* v. *FCC*, 109 S.CT. at 2836, the Supreme Court stressed that "sexual expression which is indecent but not obscene is protected by the First Amendment." And, the first amendment does not disappear because the Government picks up the tab. The Supreme Court has upheld this principle over and over again.

I realize that the Williams-Coleman substitute represents an earnest attempt at compromise on a controversial issue. I am concerned by its provisions especially, because of its challenges to the integrity of the Constitution.

But as a substitute to Regula it deserves to be supported.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. AuCoin].

Mr. AuCOIN. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in strong support of the Williams-Coleman substitute to the Regula amendment. I hope Members will think about this very carefully because, as has been pointed out, only about two legislative days ago this House voted by a margin of 382 to 42 in support of the language that is now embodied in the substitute.

That language requires the repayment to the Federal Treasury of any grant that a court may find obscene. That language calls for stricter and tighter oversight over the grant applications. It applies the Miller test of obscenity to the question of what is obscene.

I think Members are going to have an extremely difficult time tonight if after voting by a margin of 382 to 42 for the Williams language to now tonight vote no on it, some 2 to 3 legislative days later. So for heaven's sake, as bad as things are today in terms of the public trying to make some sense out of what is happening in this place, let us be consistent here and support the Williams-Coleman language.

Mr. REGULA. Mr. Chairman, I yield 1 minute to the gentleman from Mississippi [Mr. WHITTEN], chairman of the Committee on Appropriations.

Mr. WHITTEN. Mr. Chairman, May I point out, and I do not think folks take it near as serious as I do, we have been dragged around in the Congress from October 5, to October 12, to October 19, and our ability to operate quits this Friday. To send this to the Senate is inviting disaster, and Members should remember that when we are unable to proceed on an appropriations bill because we are bogged down in the authorization for the arts—which we all support but which we would endanger by gambling the Senate will take an authorization bill in an appropriations bill.

Mr. REGULA. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I think the Regula amendment is excellent. I do commend the gentleman from Missouri [Mr. COLEMAN] and the gentleman from Montana [Mr. WILLIAMS] for their amendment. It is certainly better than the bill as originally conceived, but I do not see why anyone should be surprised that the gentleman from Ohio [Mr. REGULA] wants to tighten up the accountability and deny funds for obscene and indecent art.

Public funds should be used for public purposes, and some of the alleged art, and we have heard it until we are sick, was an affront and is an affront to the sensibilities of the overwhelming majority of American taxpayers. To object to the Mapplethorpe homoerotic photos, to illuminating Christianity by Serrano, to object to the use of public funds extracted, coerced from taxpayers for child pornography seems to me is entirely opportune. It just seems to me to force taxpayers to pay for art that you cannot display on the floor of this room before the body of the people, that newspapers will editorialize in favor of but dare not print on the pages is just too much. It is carrying the emperor's clothes too far, and it seems to me the rest of the 85,000 works of art that were funded by the National Endowment are not vanilla art. They just do not happen to be indecent or obscene.

We are easily intimidated by the arts establishment, the elite who make these decisions. But when they pick this artist to fund and this artist not to fund, they are exercising curatorial discretion. Congress has a duty to the people we coerce the money from to see that their money goes for appropriate public purposes.

It seems to me the gentleman from Ohio [Mr. REGULA] by adopting some of the language chosen by the gentleman from Montana [Mr. WILLIAMS] and the gentleman from Missouri [Mr. COLEMAN], but adding to it that none of the funds may be used to finance or support an award, grant, loan or other form of support that is obscene, and then setting out legal standards for it, Miller versus California for indecent is doing the same thing, is not too far stretched. It is not an abuse of the local arts councils. It is really a vote in favor of standards, in favor of decency, against obscenity that I am sure your voters, your people who pay these taxes support.

So I support the Regula amendment and I do not support reintroducing and swallowing up the Regula amendment by Williams-Coleman, good as that is, better than nothing. But the Regula amendment is the best, and I hope that we will defeat this amendment and keep the Regula amendment alive.

Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to point out one other thing, one basic difference between the Regula amendment and the Williams-Coleman amendment.

In this report, and I refer again to the report of the Independent Commission, it says under recommendation 1, "The Independent Commission recommends that the sole authority of the chairperson to make grants be made explicit in legislation." I think that the Regula amendment does that.

Second, it recommends as follows: "The Independent Commission recommends that in order to carry out his responsibilities more effectively the chairperson be given more authority and more choices." Again, I think the Regula amendment does that, and it provides a standard.

I want to say that I think the gentleman from Montana [Mr. WILLIAMS] and the gentleman from Missouri [Mr. COLEMAN] did good work as far as it went. I think they worked hard in trying to get a good authorization bill.

After the Rohrabacher amendment failed the other day, and I voted for that, then I voted for Williams-Coleman as the best choice that was available at that time, because we should not have an authorization of NEA and NEH without standards, and I say this is true of both of them. There should be standards. In the Williams-Coleman amendment they adopted a number of good procedural recommendations that I think are very important for the long haul. It is a 3-year authorization.

Let me make it clear that the issue today is the procedure, not the substance, and in substituting Williams-Coleman I think we are creating a real problem, as was pointed out by the gentleman from Michigan. I think procedurally this is the wrong way to go, and in objecting to the Williams-Coleman I am objecting to the procedure.

Let me also point out that just because Williams-Coleman would be rejected as a substitute for my amendment does not mean that the bill is in any way canceled or no longer viable. A no vote simply means that Williams-Coleman will have to take the regular path that any authorization bill takes, and that is to go to the conference with the Senate, and the appropriate committee from the Senate, and resolve the differences on a long-term authorization bill. That is the right way to do it. And it it is rejected as a substitute here, it will still go forward and could very well be conferenced in the balance of the time available to us, and be on the President's desk. That is the proper procedure.

A vote no here is a vote for the right procedure. By adopting my amendment, if the Williams-Coleman substitute fails, we will have language that will guarantee over the next 12 months only, this is a 12-month bill, and in fact it will be less time than that because here we are at October 15, but it will guarantee or ensure that in the spending of the $180 million provided in the bill that the chairperson of the Endowment and the Council will have to exercise the kind of judgment that the American people want on their behalf in the expenditure of their tax dollars.

☐ 2020

But in the meantime, the Williams-Coleman bill could go the route that it should go, and that is to have a conference with the Senate authorizing committee, work out their differences, and get a bill back here for confirmation and to the President.

In the meantime, I think we need the Regula language to protect the appropriations during the next 12 months.

Mr. Chairman, I yield back the balance of my time.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, one final comment, in the Regula amendment, one of the standards he is declaring for the National Endowment to fund projects is that they will be appropriate for a general audience. I do not know what that means. I do not know that anybody knows what that means. That is why I think the Regula amendment is unworkable and why we need to support the Williams-Coleman substitute.

Mr. Chairman, I yield back the balance of my time.

Mr. WILLIAMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my colleagues, today is October 15. On October 19 the Congress is scheduled to end its business.

We have been talking with the Senate today including the majority leader's office, and there appears little, if any, chance that the authorization bill on the NEA and the Humanities Endowment and the Institute of Museum Services will ever see the light of day. It may well be that this is the only vehicle on which they can reach the White House.

Does the House of Representatives want to place the 41-page bill with all of the changes that we made in the reforming of the grant review process and shifting money to the States and making obscenity illegal, but leaving it to the courts, do we want to substitute all of that for the 20 lines in the Regula amendment? I say the answer is no.

So the only way to go back to what the House did a legislative day or two ago is to vote "aye" now on the Williams-Coleman substitute. That is the vote before us.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I rise in very strong support of the Williams-Coleman amendment. I think this is the right course to take. The House has worked its will on this legislation.

Mr. CONTE. Mr. Chairman, I rise in support of the Williams-Coleman substitute, and in opposition to the Regula amendment.

The substitute offers an exacting, well thought out approach, which regulates and fine-tunes the grantmaking process for the National Endowment for the Arts. The substitute addresses the concerns of NEA critics primarily in two ways. First, the substitute makes procedural reforms in the grantmaking process. Second, it establishes a clear prohibition against funding of obscene art.

The substitute completely revamps the grant application process, requiring detailed applications and periodic reporting. It restructures the panel review process, requiring lay persons and geographic balance on the panels. The substitute assures that ultimate funding decisions and ultimate accountability rests with the Chairperson of the NEA. These reforms address the problems that have arisen over the past few years when the application process and granting procedures did not adequately ensure accountability.

And, for those who are concerned about obscenity in the arts, and that includes myself, the substitute makes it clear that constitutional prohibitions against obscenity apply to the NEA. The substitute states in law that obscenity is without artistic merit, is not protected speech, and shall not be funded by the NEA. I can think of no stronger restrictions that can seriously survive exacting constitutional scrutiny.

The Regula amendment, on the other hand, is not exacting or precise. It is a meat ax approach to the problem that has serious constitutional infirmities. The independent commission report, on page 85, points to this problem:

> While Congress has broad powers as to how to expend public funds, it may not do so in a way that the Supreme Court has said is "aimed at the suppression of dangerous ideas."

The Regula amendment bans indecent art, which for the most part, is protected speech. These deficiencies could, in the end, if adopted by Congress and held to violate the Constitution, provide no restrictions on NEA grantmaking procedures.

Mr. Chairman, I urge Members to stick with the reforms mandated in the Williams-Coleman substitute. They provide constitutionally sound restrictions on the NEA which are enforceable and realistic. Vote yes on the substitute amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana [Mr. WILLIAMS] as a substitute for the amendment offered by the gentleman from Ohio [Mr. REGULA].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. REGULA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 234, noes 171, not voting 28, as follows:

[Roll No. 461]

AYES—234

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bates
Bellenson
Bereuter
Berman
Bilbray
Boehlert
Bonior
Borski
Bosco
Boucher
Brooks
Bruce
Bryant
Buechner
Bustamante
Byron
Campbell (CO)

Cardin
Carper
Chandler
Clarke
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Courter
Coyne
Davis
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)

Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Espy
Evans
Fascell
Feighan
Fish
Flake
Foglietta
Ford (TN)
Frank
Frenzel
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gilman
Glickman
Gonzalez
Goodling
Gordon

Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hatcher
Hayes (IL)
Henry
Hertel
Hoagland
Hochbrueckner
Hopkins
Horton
Hoyer
Hughes
Jacobs
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lowery (CA)
Lowey (NY)
Machtley
Manton
Markey
Martin (NY)
Matsui
Mavroules
Mazzoli

McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Morella
Morrison (WA)
Mrazek
Murtha
Nagle
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Payne (NJ)
Payne (VA)
Pease
Perkins
Pickett
Pickle
Price
Rangel
Rhodes
Richardson
Ridge
Roberts
Roe
Ros-Lehtinen
Rose
Rostenkowski
Roybal
Russo
Sabo
Saiki

Sangmeister
Savage
Sawyer
Saxton
Scheuer
Schiff
Schneider
Schroeder
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (VT)
Snowe
Solarz
Staggers
Stark
Stokes
Studds
Swift
Synar
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Vento
Visclosky
Walgren
Walsh
Washington
Waxman
Weiss
Weldon
Wheat
Whittaker
Williams
Wise
Wolpe
Wyden
Yates

NOES—171

Applegate
Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bevill
Bilirakis
Boggs
Broomfield
Browder
Brown (CO)
Bunning
Burton
Callahan
Campbell (CA)
Carr
Coble
Combest
Costello
Cox
Craig
Crane
Dannemeyer
Darden
DeLay
DeWine
Dickinson
Dornan (CA)
Douglas
Dreier
Duncan
Dyson
Edwards (OK)
Emerson
English

Erdreich
Fawell
Fields
Flippo
Gallegly
Gekas
Gibbons
Gillmor
Gingrich
Goss
Gradison
Grant
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Hefner
Herger
Hiler
Holloway
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
James
Jenkins
Jontz
Kasich
Kolbe
Kyl
Lagomarsino
Laughlin
Leath (TX)
Lewis (FL)
Lightfoot

Lipinski
Livingston
Lloyd
Long
Luken, Thomas
Lukens, Donald
Madigan
Marlenee
McCandless
McCollum
McCrery
McDade
McEwen
Michel
Miller (OH)
Montgomery
Moorhead
Murphy
Myers
Natcher
Nielson
Ortiz
Oxley
Packard
Pallone
Parker
Parris
Pashayan
Patterson
Paxon
Penny
Petri
Porter
Poshard
Pursell
Quillen
Rahall
Ravenel
Regula
Rinaldo
Ritter

Robinson
Rogers
Rohrabacher
Roth
Roukema
Sarpalius
Schaefer
Schulze
Sensenbrenner
Shumway
Shuster
Skeen
Skelton
Slaughter (VA)
Smith (NJ)
Smith (TX)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Spratt
Stallings
Stangeland
Stearns
Stenholm
Stump
Sundquist
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (GA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weber
Whitten
Wilson
Wolf
Wylie
Yatron
Young (FL)

NOT VOTING—28

Bliley
Boxer
Brennan
Brown (CA)
Chapman
Coughlin
Crockett
Early
Engel
Fazio
Ford (MI)
Gallo
Hawkins
Houghton
Ireland
Martin (IL)
Martinez
Mink
Moody
Morrison (CT)
Pelosi
Ray
Rowland (CT)
Rowland (GA)
Schuette
Smith, Denny (OR)
Thomas (CA)
Young (AK)

□ 2041

The Clerk announced the following pair:

On this vote:

Mr. Moody for with Mr. Thomas of California against.

Messrs. POSHARD, THOMAS A. LUKEN, and PARRIS, Mrs. PATTERSON, and Messrs. LIPINSKI, COSTELLO, and MILLER of Ohio changed their vote from "aye" to "no."

Mr. SAXTON and Mr. LENT changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. REGULA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, just to clarify the parliamentary situation, my amendment has now been amended by Williams-Coleman and the next vote will be on Regula, as amended by Williams-Coleman.

A vote "aye" will send the appropriations bill, with $180 million for the NEA, to conference with the Williams-Coleman language as part of the bill.

A vote "no" would send the appropriation bill to conference with no restrictions, with zero content restrictions as a matter of fact.

While I would prefer the Regula language, I think it is important that we have restrictive language in the appropriations bill, and therefore it is necessary to have an aye vote for Regula as amended by Williams-Coleman so that we can go to conference and hopefully come out with a strong bill both on the appropriation as well as the authorization.

Mr. YATES. Mr. Chairman, I move to strike the next to the last word.

Mr. Chairman, I should like to tell the House that I take the opposite view from the gentleman from Ohio [Mr. REGULA].

I agree with the chairman of the Appropriations Committee that this appropriations bill should not be a vehicle for a legislative enactment.

I oppose the procedure, but I recognize what has to be done by the gentleman from Montana [Mr. WILLIAMS]. Nevetheless, I propose to vote "no" on the next vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. REGULA], as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. REGULA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 342, noes 58, answered "present" 2, not voting 31, as follows:

[Roll No. 462]

AYES—342

Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
Baker
Ballenger
Barnard
Barton
Bateman
Bates
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Boehlert
Boggs
Borski
Bosco
Boucher
Brooks
Broomfield
Broder
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CO)
Carper
Chandler
Clarke
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Conte
Conyers
Cooper
Costello
Courter
Craig
Crane
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Duncan
Durbin
Dwyer
Dyson
Eckart
Edwards (CA)
Emerson
English
Erdreich
Fawell
Fields
Fish
Flippo
Ford (TN)
Frenzel
Frost
Gallegly
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Hopkins
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Schiff
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stearns
Stenholm
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Walsh
Watkins
Weber
Weldon
Wheat
Whittaker
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (FL)

NOES—58

Ackerman
Armey
AuCoin
Bartlett
Beilenson
Bennett
Berman
Bonior
Campbell (CA)
Cardin
Carr
Collins
Condit
Cox
Coyne
Dellums
Dixon
Dreier
Dymally
Espy
Evans
Fascell
Feighan
Flake
Foglietta
Frank
Gekas
Hancock
Hayes (IL)
Hunter
Johnston
Jontz
Kastenmeier
Kostmayer
Kyl
Lehman (FL)
Levine (CA)
Lewis (GA)
Luken, Thomas
Mfume
Owens (NY)
Pease
Rangel
Robinson
Roybal
Savage
Scheuer
Shumway
Stark
Studds
Towns
Vucanovich
Walker
Washington
Waxman
Weiss
Whitten
Yates

ANSWERED "PRESENT"—2

Holloway
Rohrabacher

NOT VOTING—31

Bliley
Boxer
Brennan
Brown (CA)
Chapman
Clay
Coughlin
Crockett
Early
Edwards (OK)
Engel
Fazio
Ford (MI)
Gallo
Hatcher
Hawkins
Houghton
Ireland
Martin (IL)
Mink
Moody
Morrison (CT)
Pelosi
Ray
Rowland (CT)
Rowland (GA)
Schuette
Smith, Denny (OR)
Stokes
Thomas (CA)
Young (AK)

□ 2102

Mr. PEASE and Mr. BEILENSON changed their vote from "aye" to "no."

Mrs. SCHROEDER changed her vote from "no" to "aye."

Mr. HOLLOWAY changed his vote from "no" to "present."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

Mr. YATES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. NELSON].

Mr. NELSON of Florida. Mr. Chairman, I thank the gentleman from Illinois [Mr. YATES] for this opportunity to engage in a colloquy.

Mr. Chairman, I would like to bring to your attention the Apollo 11 launch umbilical tower, which was used to send the first human to the Moon.

Because of its historical significance, and the previous listing of the tower in the National Registry as nationally significant, it would seem appropriate for the National Park Service to consider making the site a national monument to man's race to the Moon.

Mr. YATES. Mr. Chairman, in reply, let me say that I agree. The Apollo 11 launch umbilica tower is of historical significance. It deserves special consideration and the interpretative education skills that the National Park Service has. I think the National Park Service should study the costs and alternative financing methods, suitability, feasibility, and national significance and appropriate place to erect the launch tower and to establish the Apollo National Monument if one is to be erected.

Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: At the appropriate point in the act insert the following new section:

Notwithstanding any other provision of the act, each amount appropriated or otherwise made available by this act that is not required to be appropriated or otherwise made available by a provision of law is reduced by 4.6 percent.

Mr. FRENZEL. Mr. Chairman, there is no fancy footwork in this amendment. It is the usual across-the-board reduction attempt. In this case the percentage reduction is 4.6 percent.

That comes out in rough numbers to a reduction of about $584 million from the billion before us, which started at $12.8 million approximately and was subjected to an amendment by the chairman of $100 million reduction. So, the bill now stands at about $12.7 billion.

Mr. Chairman, my amendment would reduce the bill further to $12.115 billion roughly.

This bill that is now before us is in compliance with the recently adopted budget resolution for fiscal year 1991. The problem is, of course, that the budget resolution does not cut domestic discretionary spending at all.

Many Members of this House have suggested that they think a freeze on discretionary spending would be one wise way to cut the budget, that would make unnecessary some of the very deep cuts that have been suggested in such entitlement programs as Medicare. I suggest that this is one place we might start, if we really believe in the freeze concept.

The intent of my amendment is to take spending back to the level of fiscal year 1990. Now, there is a little problem there because of a change in scoring of mandatories. The casual observer would believe that the spending in fiscal year 1990 was considerably less than the amount to which I have reduced this bill. However that is the way CBO scores it, and far be it from me to take exception to their scoring. It has a bigger megaphone than I do.

Nevertheless, Mr. Chairman, I think a modest 4.6-percent cut, less than $600 million, is certainly warranted in these times of fiscal despair. This House and this Congress are foundering trying to achieve a budget resolution and reconciliation to make that budget resolution come true. We are a long way from home in the process. We would be aided greatly if we could adopt an amendment like this.

Mr. Chairman, this would spread the pain around rather than savaging entitlements, as has been suggested in the budget resolution, and I urge my colleagues to stand up for fiscal sobriety and vote for my amendment.

Mr. Chairman, I yield such time as he may consume to the distinguished ranking member of the subcommittee, the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Question, and that is, in making those calculations, does the gentleman from Minnesota [Mr. FRENZEL] take into account the impact that this cut would have on receipts?

I would point out that the activities under this bill generate $7.4 billion in receipts to offset the 12 billion in appropriations. Obviously, if we reduce personnel, reduce the management availability, it is going to have an impact on the receipts side of the ledger, and I wonder if the gentleman's amendment takes that into account.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman from Ohio [Mr. REGULA] for raising that point. It is a good one.

On the other hand, my reductions are only 4.6 percent, and I suspect that very little of that amount, if this amendment were to be adopted, would relate to personnel. My guess is that current personnel would be able to collect the amounts of money contemplated in the bill. I have made no effort, I say to the gentleman from Ohio [Mr. REGULA], to try to put a quantitative asssessment on what they might not be able to collect.

Mr. Chairman, I yield back the balance of my time.

□ 2110

Mr. YATES. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois [Mr. YATES]?

There was no objection.

The CHAIRMAN. the gentleman from Illinois [Mr. YATES] will be recognized for 5 minutes, and the gentleman from California [Mr. DANNEMEYER] will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just like to draw the attention of Members to some of the items that are in this bill. One would hope that the work product of the Committee on Appropriations would reflect the fiscal crisis that the Nation is facing. We are hopefully going to develop a reconciliation package that will free spending, and yet when one looks at the work product of the Committee on Appropriations on the Interior bill and related agencies, one finds that this committee is exhibiting in my judgment no reflection of the fiscal crisis facing this country.

Mr. Chairman, let me just give Members some reasons why I say that. In the category of National Park Service, land acquisition, we spent $87 million in 1990. We are going to up that to $152 million in 1991, an increase of $65 million.

The Kennedy Center, last year we spent a little over $9 million. We are going to give them $12 million more, for some $21 million-plus.

In the category of Other, under National Park Service we spent a little over $2 million. We are going to raise that to $24 million-plus, an increase of $22 million.

Indian programs under the Bureau of Indian Affairs, a little over a billion, we are going to raise that by $343 million to $1.3 billion in 1991.

There are a lot of affairs going on in the Indian territories, because in 1990 territorial affairs consumed $132 million. In 1991 we are going to raise that by $52 million to $184 million.

In related agencies of the Forest Service, land acquisition, $63 million was spent in 1990. We are going to raise that some $30 million to over $92 million.

On Indian health we are going to vastly imnprove the health of Indians of this country. We spent $1.2 billion in 1990. We are going to up that over $300 million to some $1.5 billion.

The Smithsonian Institute, admittedly a favorite spot of tourists here in Washington, we spent $266 million to operate it in 1990. We are going to increase that by $62 million in 1 year to a total of $328 million.

It is mind boggling to believe that the work product of this committee could come up with increases of this magnitude just with the items I mentioned. Believe me, this list I described is far from a complete identication of what I perceive to be an irresponsible work product from this committee.

Mr. Chairman, I believe we should adopt this amendment. These items I have enumerated, by the way, total some $886 million. There is no mystery as to where we could find $525 million to accommodate the amendment of the gentleman from Minnesota [Mr. Frenzel].

Mr. Chairman, I would ask for an aye vote.

Mr. YATES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment. The gentleman from Minnesota said that his amendment proposed to return the levels of funding to those that were approved by the Congress for the last fiscal year.

Mr. Chairman, that is not true. The gentleman from Minnesota [Mr. Frenzel] uses the wrong base for his figuring. As a result, if his amendment were accepted, the amount made available to the Department of Interior and related agencies under the bill would be $105 million less than was made available by the Congress last year.

In addition to that, Mr. Chairman, for the first time there is a forward funding for education for the Bureau of Indian Affairs. For the first time there is 2-year funding in order to provide for the school funding for the Indian children to be the same as for the non-Indian children throughout the country.

Mr. Chairman, we are financing the school budget so that Indian school systems will know in the summertime what will be available for them in the fall. That amounts to $210 million. It is a one-time additional.

Mr. Chairman, I should also say that this bill is within the 302(b) allocation as amended by the summit agreement. We are within our allocation under the summit agreement, and I think in so doing, we are keeping faith with the effort of the gentleman from Minnesota [Mr. Frenzel].

As a member of the Committee on the Budget and of the summit committee, he came forward with the so-called summit agreement, and the result of that summit agreement is reflected in the amount that is made available by the levels of this bill.

Mr. Chairman, I urge the House, in order to take care of the additional expenses that we have for the next fiscal year, the raises in salaries, the additions in firefighting, the acquisitions of public lands, all of the expenses that are necessary to run the Department of the Interior and the related agencies, I would urge defeat of the amendment.

Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. Regula.].

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from Illinois [Mr. Yates], the chairman of the committee, explained it well. If you take out the Indian education, where it is a double funding for one time to get them ahead of the school year, it is a 3-percent increase over last year. The rate of inflation is about 4.5 percent. We have worked hard to keep the totals down.

Mr. Chairman, we had requests from 370 Members of this body for increases in park funding, for forest funding, Bureau of Land Management funding, all kinds of good projects. We could not do them all, but we did most of them.

To do that, we had to be very careful in how we managed these funds available to us.

Mr. Chairman, I think this is an investment bill. We produce $7.4 billion in revenues as a result. It is one of the few, if any, bills that comes before this House that actually produces more than 50 percent of the cost in revenues generated.

Mr. Chairman, we are managing one-third of the United States, one-third of America. We are responding to many requests from the administration on the tree planting program, wetlands conservation, operations and maintenance programs. I think given those constraints, to stay at 3 percent over last year is recognition that we worked hard to bring a responsible bill to the Members of this body.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Minnesota [Mr. Frenzel].

The question was taken; and on a division (demanded by Mr. Frenzel) there were—ayes 41, noes 68.

RECORDED VOTE

Mr. FRENZEL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 167, noes 234, not voting 32 as follows:

[Roll No. 463]

AYES—167

Annunzio
Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bates
Bentley
Bereuter
Bilirakis
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Campbell (CA)
Chandler
Clement
Coble
Coleman (MO)
Combest
Condit
Cooper
Courter
Cox
Craig
Crane
Dannemeyer
DeWine
Dickinson
Douglas
Dreier
Duncan
Emerson
English
Fawell
Fields
Fish
Frenzel
Gallegly
Gekas
Geren
Gingrich
Goodling
Gradison
Grandy
Grant
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen

Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Kasich
Kolbe
Kyl
LaFalce
Lagomarsino
Laughlin
Leach (IA)
Lent
Lewis (FL)
Lightfoot
Lloyd
Long
Lukens, Donald
Machtley
Madigan
Marlenee
Martin (NY)
McCandless
McCollum
McCrery
McCurdy
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Montgomery
Moorhead
Neal (NC)
Nielson
Oxley
Packard
Parker
Parris
Patterson
Paxon
Penny
Petri
Pickett
Porter

Pursell
Ravenel
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rohrabacher
Ros-Lehtinen
Roukema
Sangmeister
Sarpalius
Saxton
Schaefer
Schneider
Schroeder
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skelton
Slaughter (VA)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stallings
Stangeland
Stearns
Stenholm
Stump
Sundquist
Tanner
Tauke
Tauzin
Taylor
Thomas (WY)
Upton
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Whittaker
Wolf
Wylie
Yatron

NOES—234

Ackerman
Alexander
Anderson
Andrews
Anthony
Applegate
Aspin
Atkins
AuCoin
Bateman
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Bonior
Borski
Bosco
Boucher
Brooks
Browder
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Clarke
Clay
Clinger

Coleman (TX)
Collins
Conte
Conyers
Costello
Coughlin
Coyne
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Erdreich
Espy
Evans
Fascell
Feighan
Flake
Flippo
Foglietta

Frank
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Goss
Gray
Green
Gunderson
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horton
Houghton
Hoyer
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz

Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
Lowery (CA)
Lowey (NY)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Moakley
Molinari
Mollohan
Morella
Morrison (WA)
Mrazek
Murphy

Murtha
Myers
Nagle
Natcher
Neal (MA)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Pashayan
Payne (NJ)
Payne (VA)
Pease
Perkins
Pickle
Poshard
Price
Quillen
Rahall
Rangel
Regula
Richardson
Roe
Rogers
Rose
Rostenkowski
Roth
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Scheuer
Schiff
Schumer
Serrano
Sharp

Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Snowe
Solarz
Spence
Spratt
Staggers
Stark
Stokes
Studds
Swift
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Valentine
Vento
Visclosky
Walgren
Watkins
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Young (FL)

NOT VOTING—32

Bliley
Boehlert
Boxer
Brennan
Brown (CA)
Chapman
Crockett
DeLay
Dornan (CA)
Early
Edwards (OK)

Engel
Fazio
Ford (MI)
Ford (TN)
Gallo
Hawkins
Huckaby
Ireland
Martin (IL)
Mink
Moody

Morrison (CT)
Pelosi
Ray
Rowland (CT)
Rowland (GA)
Schuette
Smith, Denny (OR)
Thomas (CA)
Washington
Young (AK)

□ 2137

The Clerk announced the following pair:

On this vote:

Mr. Thomas of California for, with Mrs. Boxer against.

Mr. GUNDERSON changed his vote from "aye" to "no."

Mr. ANNUNZIO changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read the last two lines of the bill.

The Clerk read as follows:

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 1991".

Mr. CAMPBELL of Colorado. Mr. Chairman, I rise in strong support of the work Mr. Yates and the other members of the Appropriations Subcommittee on the Interior have done this year.

The subcommittee is always deluged with requests for money for special projects. Many of my colleagues are well aware my Colorado district is one of America's most vast and beautiful places. Because it is comprised of a significant number of national parks, monuments, forests and other open spaces, the money appropriated by the subcommittee is very important to the people who live there.

This bill will help Indian tribes become self sufficient, help alternative fossil fuels like oil shale be developed, allow the Fish and Wildlife Service to help recover endangered species and allow valuable lands to be purchased for the continued access and enjoyment of hunters, fishermen, hikers, and bikers. The bill also keeps the Interior Department from patenting mining claims at bargain basement prices and helps protect the public from the dangers of abandoned mines.

It is an important bill that is sensitive to the needs of people who work with the Department of the Interior, the Forest Service, and the Department of Energy every day and I urge my colleagues to support it.

Mr. RICHARDSON. Mr. Chairman, I rise in strong support of H.R. 5769, the Department of Interior appropriations bill for fiscal year 1991.

I want to thank the chairman for his support and efforts to include $5 million to establish an additional fish hatchery in region 2 of the U.S. Fish and Wildlife Service located in Mora, NM. This amount is sufficient to complete planning and design, acquire water rights and acquire the site.

Last year the committee appropriated $1 million to conduct a feasibility study for this project which was completed. The study recommended the construction of a 100,000 pound production facility operating in conjunction with a technology center to investigate water reuse systems, and the efficiency of raising fish at different levels of water reuse. There is considerable national need for such technology development due to the growing aquaculture industry and the limited availability of high volume water supplies.

The construction of a fish hatchery in Mora will benefit the country and New Mexico. Mora County, one of the poorest counties in the Nation, will benefit greatly from this project. I look forward to working with you in the future as we move toward the construction phase of this project.

I also want to thank the chairman for his attention to the critical problem of Indian alcoholism in Gallup, NM. The Gallup alcoholism program has gained national media coverage. NBC's "Today Show," ABC's "20/20" documentary, and the "McNeil-Lehrer News Hour" have all highlighted Gallup's Indian alcoholism problem. This media attention is due in part to the tremendous loss of life associated with alcoholism in Gallup.

Death rates from cirrhosis of the liver in McKinley County are three times higher, alcohol related traffic accidents are seven times higher, and deaths from all alcohol related causes are four times higher than the national average. Additionally, chronic alcoholism rates are 19 times higher than the national average. Finally, the National Institute on Alcohol and Alcohol Abuse [NIAAA] found McKinley County had the highest composite index of alcohol related problems of all 3,106 counties in the United States. These statistics have earned Gallup the unfortunate label of "Drunk City."

As the Representative with the largest Indian constituency in Congress, I am also pleased to see this legislation's emphasis on the Bureau of Indian Affairs budget. This legislation contains funding for the Navajo Indian irrigation project as well as funding for the Tohatchee Medical Clinic in Tohatchee, NM. The existing medical facility in Tohatchee was built in 1955 and is sorely inadequate for the current patient load. These two programs are of tremendous importance to the Navajo Nation.

The measure also includes funding for the Indian Summer Law Program and the University of New Mexico and the Institute for American Indian Arts. The Summer Law Program has proven essential for the channeling of talented native Americans to the legal profession. The Institute for American Indian Arts is the leading institution for the study and promotion of native American culture and is a tremendous resource for our entire Nation.

Finally, the bill includes projects for several of New Mexico's Indian pueblo communities. I would like to thank the chairman and committee for being especially sensitive to the needs and concerns of native Americans.

In closing, I would like to thank Chairman Yates for his attention and leadership on issues critical to the people of New Mexico.

Mr. JOHNSON of South Dakota. Mr. Chairman, I rise today to honor former Congressman Ben Reifel and to speak in support of a provision in the fiscal year 1991 Interior appropriations bill that would rename the Cedar Pass Visitor Center in the Badlands National Monument in South Dakota as the Ben Reifel Visitor Center. The Badlands National Monument is visited by thousands of tourists and nature lovers annually. It is a scenic region of primitive beauty and was Ben Reifel's favorite national park.

Ben Reifel was the first native American elected to Congress. Ben was elected in November of 1960, and while in Congress he served on the House Appropriations and Agriculture Committees. In addition, he worked for the Department of the Interior and the Bureau of Indian Affairs for over 23 years. Ben improved Indian education across the Nation, helped to establish the National Endowment for the Humanities and worked tirelessly to benefit all the people of South Dakota. I believe this gesture is a fitting tribute to a man who was an outstanding representative for our State.

South Dakota is currently observing the "Year Of Reconciliation" between the white and native American communities. These observances were recently capped by ceremonies at the Crazy Horse Monument in the Black Hills of South Dakota on October 8, which was redesignated this year by the State legislature as native American Day in South Dakota. Efforts are being made to address past misunderstandings and to confront stereotypes and old attitudes. South Dakotans are working against racism and toward unity.

Ben Reifel preached the goal of interracial understanding long before today. He worked to improve relations between the white community and native Americans, thus this commemoration comes at an appropriate time. Ben Reifel was recently recognized by the South Dakota Newspaper Association, the

South Dakota Committee on the Humanities and the South Dakota Reconciliation Council in a weekly column that appeared in newspapers across South Dakota.

The news article contained a quote from Ben that appeared in an article in the winter 1989 South Dakota magazine. I would like to share this with you as a model for improved relations between whites and native Americans.

To the Indian people he says:

> We can't relive the past. We find ourselves where we are. We have our feet in two worlds. We want to preserve the old values and that is good. But we cannot continue the same value systems as we had with the buffalo economy.
>
> To the white people of South Dakota he asks for tolerance. The Indian people are not lazy. They face cultural struggle that overshadows their individual struggles. You need to recognize that these folks have been here a long time for them to assimilate into a new culture. Be patient. Be careful not to stereotype. Be understanding.

Ben Reifel offers us a model of understanding as South Dakota addresses its Year of Reconciliation, indeed he is a model for the United States as we work to cope with the potentially divisive issues facing our Nation. We must resist division and work for unity. I am pleased that we have a chance to honor Ben Reifel in such an appropriate manner, and I would like to thank my colleague Congressman McDADE for making it possible.

Mr. YATES. Mr. Chairman, I move that the committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill, as amended, do pass.

The motion was agreed to.

☐ 2140

Accordingly the Committee rose, and the Speaker pro tempore [Mr. GEPHARDT] having assumed the chair, Mr. OBERSTAR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5769) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

PARLIAMENTARY INQUIRIES

Mr. RUSSO. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. RUSSO. Mr. Speaker, I was wondering if the Speaker would advise the membership as to what the rules of the House are in terms of smoking cigars, cigarettes, and pipes in the Chamber.

The SPEAKER pro tempore. The gentleman has asked what the rules of the House are on smoking on the floor.

The Chair would advise the gentleman that clause 7 of rule XIV states that "neither shall any person be allowed to smoke upon the floor of the House at any time."

Mr. RUSSO. I have a further parliamentary inquiry. Does that mean Members can smoke behind the rail, or is that prohibited? Is smoking behind the rail prohibited?

The SPEAKER pro tempore. The chair would say to the gentleman that the area behind the rail is part of the area of the floor of the House, and smoking is not allowed.

Mr. RUSSO. Under no circumstances can a Member have a cigar, cigarette, or pipe lit on the floor of this Chamber, anywhere inside this Chamber?

The SPEAKER pro tempore. The gentleman is correct.

Mr. RUSSO. Would the Chair indicate how we could enforce those rules?

The SPEAKER pro tempore. The Chair will attempt to enforce it with officers and employees of the House.

Mr. RUSSO. Well, let Members beware.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 327, noes 80, not voting 26, as follows:

[Roll No. 464]

AYES—327

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Boggs
Bonior
Borski
Bosco
Boucher
Brooks
Broomfield
Browder
Bruce
Bryant
Bustamante
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Clarke
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
English
Erdreich
Espy
Evans
Fascell
Fawell
Feighan
Fish
Flake
Flippo
Foglietta
Ford (TN)
Frank
Frost
Gallegly
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hansen
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Herger
Hertel
Hoagland
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Huckaby
Hughes
Hutto
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Machtley
Madigan
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Porter
Poshard
Price
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roe
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roybal
Russo
Sabo
Saiki
Sangmeister
Savage
Sawyer
Saxton
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Serrano
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stokes
Studds
Swift
Synar
Tallon
Tanner
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (FL)

NOES—80

Archer
Armey
Baker

Ballenger
Barnard
Bartlett
Barton
Brown (CO)
Buechner
Bunning
Burton
Callahan
Coble
Combest
Condit
Cox
Crane
Dannemeyer
DeLay
Dornan (CA)
Douglas
Dreier
Duncan
Emerson
Fields
Frenzel
Gekas
Gradison
Grant
Hall (TX)
Hancock
Hastert
Hefley
Henry
Hiler
Holloway
Hubbard
Hunter
Inhofe
Laughlin
Lewis (FL)
Lukens, Donald
Marlenee
McCollum
McCrery
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Moorhead
Nielson
Oxley
Packard
Paxon
Petri
Pursell
Roberts
Robinson
Rohrabacher
Roukema
Sarpalius
Schaefer
Sensenbrenner
Shumway
Shuster
Skelton
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stenholm
Stump
Sundquist
Tauke
Tauzin
Taylor
Upton
Vucanovich
Walker
Walsh

NOT VOTING—26

Bliley
Boehlert
Boxer
Brennan
Brown (CA)
Chapman
Crockett
Engel
Fazio
Ford (MI)
Gallo
Hawkins
Hyde
Ireland
Martin (IL)
Mink
Moody
Morrison (CT)
Ray
Rowland (CT)
Rowland (GA)
Schuette
Sharp
Smith, Denny (OR)
Thomas (CA)
Young (AK)

☐ 2159

The Clerk announced the following pair:

On this vote:

Mr. Denny Smith for, with Mr. Thomas of California against.

Mr. HUNTER and Mrs. MEYERS of Kansas changed their vote from "aye" to "no."

Mr. BORSKI and Mr. KASICH changed their vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent for rollcall No. 458, the Walker amendment to H.R. 5769—Interior appropriations; rollcall No. 459, the second Walker amendment to H.R. 5769; rollcall No. 460, the Synar amendment to H.R. 5769; rollcall No. 461, the Williams amendment in the nature of a substitute to the Regula amendment to H.R. 5769; the Regula amendment as amended; the Frenzel amendment to H.R. 5769; final passage of H.R. 5769; the Miller amendment to H.R. 3960, the Central Utah Project Completion Act; the Solomon amendment to H.R. 3960; and final passage of H.R. 3960.

Had I been here, I would have cast the following votes: "nay," "nay," "aye," "aye," "aye," "aye," "aye," "aye," "nay," and "aye."

PERSONAL EXPLANATION

Ms. PELOSI. Mr. Speaker, I offer a personal explanation of my absence from voting. I was in route from San Francisco when the votes took place. Had I been here to vote, I would have voted the following way:

On rollcall 458, the Walker amendment to H.R. 5769, "nay."

On rollcall 459, the second Walker amendment to H.R. 5769, "nay."

On rollcall 460, the Synar amendment to H.R. 5769, "yea."

On rollcall 461, the Williams amendment to H.R. 5769, "yea."

On rollcall 462, the Regula amendment to H.R. 5769, "nay."

On rollcall 463, the Frenzel amendment to H.R. 5769, "nay."

☐ 2200

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5769, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. YATES. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 5769, the Clerk shall be authorized to make any necessary technical corrections.

The SPEAKER pro tempore (Mr. GEPHARDT). Is there objection to the request of the gentleman from Illinois?

There was no objection.

CENTRAL UTAH PROJECT COMPLETION ACT AND RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1990

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 502 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 502

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3960) to increase the amounts authorized to be appropriated for the Colorado River Storage Project, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and the amendment made in order by this resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, by titles instead of by sections and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

(Mr. GORDON asked and was given permission to revise and extend his remarks.)

Mr. GORDON. Mr. Speaker, House Resolution 502 is an open rule providing for 1 hour of general debate on H.R. 3960, the Central Utah Project Completion Act and Reclamation Projects Authorization and Adjustment Act of 1990. General debate is to be equally divided and controlled by the chairman and ranking minority member of the Interior and Insular Affairs Committee.

The rule makes in order the amendment in the nature of a substitute recommended by the Interior Committee now printed in the bill as an original bill for purposes of amendment under the 5-minute rule. The bill will be considered by title with each title considered as read. The rule waives clause 7 of rule XVI against the committee substitute.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, titles 1 through 5 of H.R. 3960 provide for the completion of the central Utah project. The Colorado River storage project was authorized by an act of Congress on April 11, 1956. The Colorado River storage project is a system consisting of four main storage projects on the Colorado River, plus a series of participating projects constructed primarily for irrigation purposes. The central Utah project is the largest component of the Colorado River storage project.

Titles 6 through 25 incorporate in whole the provisions of H.R. 2567, the Reclamation Projects Authorization and Adjustments Act of 1990, as passed by the House on June 4, 1990.

H.R. 3960 is the product of extensive negotiations between parties interested in completing the central Utah project and the environmental protection community. H.R. 3960 willl provide for the orderly completion of the central Utah project while upholding the policies of the National Environmental Policy Act and the Endangered Species Act.

Mr. Speaker, House Resolution 502 is an open rule providing for the consideration of this very important piece of legislation. I urge my colleagues to adopt the rule.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the able gentleman from Tennessee [Mr. Gordon] has explained the provisions of the rule.

Mr. Speaker, according to the testimony in the Rules Committee, the bill made in order by this rule is much more complex and controversial than the title would indicate. As reported by the Committee on Interior and Insular Affairs the first five titles of this bill deal with completion of the central Utah water project. But then the remaining titles V through XV incorporate the provisions of H.R. 2567 as passed by the House. These titles cover such issues as the amount of water supplied by the Federal Government that certain Western farmers may legally receive.

Mr. Speaker, there are Members with strong feelings on both sides of these issues.

This rule provides that the bill will be open to amendment, and therefore the House will have an opportunity to make appropriate changes.

I will not object to this rule so that the House can get down to business and fully debate the bill.

Mr. Speaker, I yield 10 minutes to the gentleman from California [Mr. Pashayan].

Mr. PASHAYAN. Mr. Speaker, I thank the gentleman for yielding time to me. I think I should reserve my time rather than take the time now to speak. I do have the assurance of the gentleman from Utah [Mr. Hansen] that he will yield me some time during the debate on the bill itself. So I shall reserve my remarks until that time.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 502 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3960.

□ 2208

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3960) to increase the amounts authorized to be appropriated for the Colorado River storage project, and for other purposes, with Mr. Slattery in the chair.

The CHAIRMAN. Pursuant to the rule, the bill is considered as read the first time.

Under the rule, the gentleman from California [Mr. Miller] will be recognized for 30 minutes, and the gentleman from Utah [Mr. Hansen] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. Miller].

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 3960 as reported by the Committee on Interior and Insular Affairs includes both the Central Utah Project Completion Act and the Reclamation Projects Authorization and Adjustments Act of 1990.

The Central Utah Project Completion Act represents the culmination of years of hard work by the Interior Committee to reach a compromise that would apply modern economic and environmental standards to the completion of this important project.

Together with the Merchant Marine and Fisheries Committee, we have crafted a compromise that has the full support of the Utah congressional delegation, the Bush administration, and the National Wildlife Federation and other national environmental organizations.

I sincerely appreciate the cooperation of the chairman of the Merchant Marine and Fisheries Committee, Mr. Jones, and the chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, Mr. Studds. Additionally, the entire Utah congressional delegation, State officials, the Central Utah Water Conservancy District, environmentalists, and many others all deserve special recognition for the cooperation they have demonstrated in bringing this important compromise bill to the House floor.

This unusual compromise was not achieved quickly. For nearly 4 years, the committee has held extensive hearings and countless meetings on this and similar legislation to reform the central Utah project.

The result is balanced legislation that imposes contemporary fiscal and environmental standards to the last of the large Western water projects. In addition, the bill corrects fundamental mistakes made by the Bureau of Reclamation in the design, construction, and overall management of this project.

The primary purpose of titles I through V of H.R. 3960 is to provide for the orderly completion of the central Utah project, a participating project of the Colorado River storage project.

The bill does this by authorizing an increase in the appropriations ceiling for the project, authorizing certain water conservation and wildlife mitigation measures, providing for the construction of certain features to deliver municipal and irrigation water to certain areas, and by settling the outstanding water claims of the Ute Indian Tribe.

The most important provisions of the Central Utah Project Completion Act are the following:

The bill imposes contemporary cost-sharing requirements. Local interests will now pay more than $100 million to complete the project.

The bill strips the project of expensive and unnecessary features. Specifically, the bill would deauthorize over a dozen features or projects.

The bill requires tough new accounting procedures to be implemented. These procedures were recommended by GAO and the Interior Department inspector general.

The bill removes the Bureau of Reclamation from responsibility for building the project. The project construction will now be placed in the hands of the Central Utah Water Conservancy District.

The bill deauthorizes obsolete and uneconomical project features.

The bill establishes a new and innovative method for addressing fish and wildlife impacts of the project. After years of neglecting these resources, environmental values will become full partners in the project.

The bill imposes the toughest and most comprehensive water conservation requirements ever included in major water project legislation. These requirements will save enough water to meet the needs of 125,000 people.

The bill provides for a final settlement of the water right claims of the Ute Indian Tribe. For over 20 years, the Ute Tribe has not been compensated for water it has made available to the project. This legislation will correct this gross inequity.

Completing this project and accomplishing the goals of this legislation does not come cheaply. Although every effort has been made to trim costs, we still have before us what amounts to nearly three-quarters of a billion dollars in new spending authority.

I believe this spending ceiling increase is justified because of the innovative and progressive water resource management reforms included in this bill. Without these provisions in H.R. 3960, the cost of completing this project would undoubtedly be significantly higher.

With the passage of this bill, we are closing one chapter in the history of western water projects, and opening another.

The central Utah project will be dramatically different from the project originally conceived early in this century and finally authorized by Congress in 1956. CUP will no longer be a bloated, wasteful, and environmentally destructive project with gold-plated plumbing.

Instead, it will incorporate economically reasonable and environmentally sound solutions for solving water shortages in the Wasatch Front Range of Utah.

It will require real water conservation. It will entrust fish and wildlife mitigation to an independent commission; this will be their only responsibility.

It contains a specific, project-by-project schedule for fish and wildlife mitigation. For 20 years, the Bureau of Reclamation has refused to give fish and wildlife issues fair consideration. This bill will end this neglect to the resource.

Mr. Chairman, I would conclude by noting that in addition to providing for the completion of the central Utah project, H.R. 3960 also incorporates the entire text of H.R. 2567, the Reclamation Projects Authorization and Adjustment Act of 1990. This bill passed the House by voice vote on June 14, 1990. The committee has included the provisions of H.R. 2567 in this bill in the hope of encouraging prompt enactment by the other body.

Mr. Chairman, the Interior Committee has worked on this central Utah project legislation for over 3 years. It is our hope that we can pass the bill this Congress. I urge my colleagues to join me in support of this legislation.

□ 2210

Mr. Chairman, I reserve the balance of my time.

Mr. HANSEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the Central Utah Water Project Completion Act, legislation which increases the authorization ceiling to finish the project.

The central Utah water project is the last, great water project in the West to go through Congress. This process started in the early 1950's with the passage of the Colorado River Storage Act and now, almost a half-century later, we seek the final authorizations to finish this water project.

During the last 3 years, there has been an intense effort to craft legislation to meet the new challenges of reclamation development. We have learned that in order to build water projects, we need to be cost-efficient and environmentally sound.

The Utah delegation has negotiated a very complex piece of legislation which has the support of various environmental, public power interests, native Americans, water districts, and local governments. The negotiations have not been easy; rather, they have been long and hard. This coalition has come together after a tremendous, bipartisan effort. I salute the many people who have brought us this far and express appreciation for their excellent work. Among others, I want to express my appreciation to Chiarman Miller for his leadership on this bill.

I would like to make four major points in my remarks today. First, this bill cuts new ground in reclamation law. For the first time, the local water district, in this case the Central Utah Water Conservancy District, will construct the remaining water delivery features. As a result, the cost of the construction can be reduced significantly because private enterprise will engineer and construct the water systems rather than a more expensive Federal agency with its built-in overhead costs. We have determined this amounts to a 35-percent reduction in costs.

The second point concerns one of the most aggressive water conservancy plans in the Nation. Local water districts have agreed to plans to protect the scarce water supplies the CUP will provide.

The third point deals with local cost-sharing and repayment obligations set forward in the legislation. This bill is not a gift to the State of Utah. There are local cost-sharing obligations which require local parties to pay 35 percent of the cost of the systems in the bill. This is a substantial sum to the citizens in the State of Utah and was part of a long, drawn out compromise. We have determined while this might be a burden, it will be a sacrafice the people of Utah will have to make to assure themselves of a long-term water supply.

Regarding repayment obligations, the legal basis for the Bureau of Reclamation's repayment policy is based on a series of Federal laws dating back to the Reclamation Act of 1902. The Reclamation Project Act of 1939 provided for irrigation repayment to be based on the irrigator's ability to pay for water from the increased net income from irrigated farming. Contracts for the repayment of the irrigation construction obligation are based on payment capacity remaining after operation, maintenance, and repayment costs have been deducted. It is the Bureau of Reclamation's policy to collect 100 percent of remaining payment capacity after the OM&R costs have been deducted.

Under reclamation law, the costs allocated to irrigation are fully repaid without interest over a repayment period not to exceed 40 years. Assistance is also available from power revenues to repay the costs that are beyond the irrigators ability to pay. In essence, irrigators pay on construction costs up to their ability to pay and power repayment revenues provide the balance.

The need for municipal and industrial water in the West has been historically a growing concern. The basis for the repayment of M&I was established in the Reclamation Project Act of 1939 and the Water Supply Act of 1958. Interest is charged on M&I water development and allows a payback over a 50-year period.

Of course, these water facilities will have a long-term operational life period and their value should exceed their repayment periods easily. They are assets of the Federal Government. The point here of repayment is that this legislation calls for increased authorizations to finish the central Utah water project. Utah is the second driest State in the Union. The Federal moneys will not be a gift, the moneys will be repaid in the future. The Federal Government will be making an investment in Utah's future, and as a result of securing these water supplies, the economy of Utah will be able to produce more goods and services adding to the overall prosperity of this great country.

My fourth and final point relates to the environment. This legislation provides for the completion of the environmental mitigation features associated with the CUP. It creates a commission to oversee the various environmental initiatives and allows for significant funding to make sure actions are taken.

And finally, like other large and complex bills, there may be items within this legislation I personally disagree with. However, this is a consensus bill. It has the support of the key groups associated with water development in Utah and I support the package wholeheartedly.

Mr. Chairman, I urge adoption o the Central Utah Water Completion Act.

Mr. Chairman, I reserve the balance of my time.

□ 2220

Mr. MILLER of California. Mr Chairman, I yield myself 30 minutes.

Mr. Chairman, I take this time jus to let me assure Members that but fo the incredible efforts of my colleagu on the Committee on the Interior, the gentleman from Utah [Mr. Owens] this bill would not be on the floor o the Congress of the United States. H has probably spent more hours, mor effort, and more time negotiating wit every conceivable group that was con cerned with this project, from wate users, to irrigators, to city officials, t environmentalists. Many times when threw in the towel, the gentlema from Utah [Mr. Owens] told me tha it was still possible to get an agree ment and get these parties to com around and work together to complet this project.

The gentleman proved me wrong and he was right. We are here thi evening for that reason and tha reason only. I think that the delegation and everyone else connected with this project owes the gentleman from Utah [Mr. Owens] a great deal of thanks for the incredible number of hours he spent in trying to put this compromise together.

Mr. Chairman, I yield such time as he may consume to the gentleman from Utah [Mr. Owens].

Mr. OWENS of Utah. Mr. Chairman, I thank the gentleman very much for those remarks.

Mr. Chairman, this is an important piece of legislation. It is the consummation of a 40-year promise. This legislation was first authorized nearly 40 years ago. It is the last of the western reclamation water projects to be completed. Had appropriations been available earlier and had appropriations been spent for purposes that they were appropriated for, that is, the completion of this legislation, it would have long since been completed.

Mr. Chairman, I would like to make eight very fast points in my remarks. All costs to the Federal Government of providing municipal and industrial water under this bill will be repaid, with interest. It is not a charitable contribution.

All irrigation and drainage costs will be repaid to the Federal Government by farmers and power users at a rate which is equal to investing the same amount of Federal dollars at 10 percent interest over 60 years.

It will provide real and concurrent cost sharing for State and local interests at a rate of 35 percent, which is higher than has ever before been required for a Federal reclamation project.

It establishes a process for deauthorizing over $250 million worth of outdated and inactive Federal reclamation projects in Utah.

It provides an assured source of municipal water for 50 years of economic growth in Utah communities, principally in Salt Lake County.

It requires implementation of the most progressive and far-reaching water conservation program ever established in a western water project, and perhaps anywhere in the country.

It replaces, at no increase in cost to the Federal Government, all of the outdated fish, wildlife, and recreation mitigation projects proposed by the Bureau, with cost effective, proven mitigation measures designed by an interagency panel of experts.

Mr. Chairman, last it provides a fair and complete settlement of the water rights claims of the Ute Indian Tribe in eastern Utah by creating financial investment opportunities in lieu of costly or infeasible water development projects.

Mr. Chairman, H.R. 3960 is the culmination of 3 years of effort by the State of Utah to fulfill the promise made by the Federal Government over 40 years ago when the Colorado River Storage Project Act was passed in 1956 as part of the Federal reclamation program. The intent of the reclamation program was to provide water for communities and economic development opportunities in the arid Western States in the same way that the Federal Government invested in massive flood control projects to protect farmlands and communities along the Mississippi and other of our Nation's major rivers. The 1956 act intended that the Central Utah Project would be completed to bring Utah's share of the Colorado River from the eastern part of the State to the populated and agricultural areas on the west side.

This is not a request for a whole new Federal undertaking, Mr. Chairman. Construction of the Central Utah Project began in 1966, but timely completion of the project was severely hindered by low appropriations in the early years and by the Bureau of Reclamation diversion of CUP appropriations to pay for projects in other States and the Bureau's charging of extraordinarily high administrative overhead costs. The water collection systems and much of the municipal and industrial features are finally nearing completion. This legislation is necessary to complete the remaining irrigation features and, equally important, to implement almost all of the environmental mitigation.

Mr. Chairman, we all understand and acknowledge that the ability of the Federal Government to undertake major investments in western water projects has changed considerably in the last decade; but we must also recognize that the people of Utah have relied on the Federal Government's promise of water for 35 years: Paying annual property assessments, making their family and business decisions, and planning for the day when the second driest State in the Nation would have an assured source of water for the future.

Mr. Chairman, this legislation is not merely the fulfillment of a promise to those who have paid taxes and made family and business decisions based on a Federal promise.

It is not merely the fulfillment of a promise made to the citizens of Utah and the United States that the environment would be restored to a healthy and productive condition after over $1.1 billion worth of reclamation development.

Nor is it merely the fullfillment of a promise to the Ute Indian Tribe in eastern Utah that the tribe would be compensated for water diverted from rivers and streams on the reservation to the municipal and agricultural areas in the central and western parts of the State.

Mr. Chairman, this legislation is a sound investment in the social and economic stability of our communities. At a time when the Federal Government is struggling to find ways to stabilize the economies of American communities, this bill shows that Congress can, by working together with all of the affected groups, find solutions that are acceptable and that provide real long-term benefits.

Municipal and agricultural economies will be provided greater certainty of future water supplies. Water will be available to accommodate population growth of over 100,000 people. Approximately 120,000 acres of existing Utah farmlands will have an assured supply of irrigation water, resulting in $13 million in increased agricultural production each year and increasing thereafter.

Environmental conditions will be restored to healthy and productive conditions, and protected to provide improved water quality and recreational benefits to maintain the great natural beauty of Utah for all citizens of the United States to enjoy. An additionsemial 25,000 acres of recreational areas will generate up to $65 million in annual revenues from tourism and recreation. The bill will prevent the dewatering of over 240 miles of rivers and streams and will quadruple the miles of class A trout fishing in Utah.

Mr. Speaker, this bill truly represents a new national partnership in water development policy. It is the consensus of farmers and conservationists, municipal water managers and national environmental groups, local public officials and outdoor recreation interests. It is the product of the most progressive thinking by the leaders, members, and staffs of the House Interior and Insular Affairs Committee and the Merchant Marine and Fisheries Committee. More importantly, it is the product of a truly bipartisan effort on behalf of the Utah congressional delegation to forge a bill that would not merely be acceptable, but would be recognized as a major step forward not just for Utah but for all who are interested in keeping communities in the West alive.

This bill is an investment in a future in which all citizens can share. The people of Utah are accepting the challenge of making new Federal reclamation policies work, and they are doing so because many of them had a direct role in fashioning this legislation. They have accepted the responsibility for implementing the most far-reaching water conservation program in the Western United States. They have agreed to pay a larger than ever share of the cost of developing their water. They have designed careful and comprehensive environmental protections. And they have committed themselves to a fair and final settlement of the longstanding water claims of the Ute Indian Tribe.

This legislation gained the widespread support of many different interests by including many, many people in the process of designing its provisions. Innovation became the key to cooperation. Differences were resolved through the development of highly innovative concepts to achieve both the economic and the environmental objectives of the bill.

One of the key economic objectives was to ensure that not only the new sources of water developed through this legislation would be used as efficiently as possible, but also that the current sources of water in Utah would be conserved as well, thereby maximizing the economic benefits of the Federal investment and postponing or eliminating the economic and environmental costs of developing additional sources of water.

Utah was well prepared to meet this challenge. Water managers in our State are leaders in water conservation. After many hours of work with conservation groups and committee and congressional staff, they fashioned the most progressive and comprehensive water conservation program in the country. This program is designed to provide financially attractive investment opportunities for local water agencies and the private sector, and thereby overcome traditional institutional approaches that too often focus only on engineering improvements rather than greater end use efficiencies. It creates a State water conservation advisory board to recommend nationally significant water conservation standards and regulations for implementation at the State and local levels. We are confident and proud that this program will become a model for future water conservation policy.

Another important economic objective was to ensure that the State and local share of the cost of the irrigation and drainage system would be a real and concurrent contribution. The State and local share was set at 35 percent, the highest ever imposed on a Federal reclamation project. This was included within an innovative cost-sharing approach that places a $150 million cap on the Federal investment, but gives the local sponsor the authority to construct the project and therefore a substantial incentive to control costs and achieve financial savings wherever possible. In addition, the bill also establishes a process that would deauthorize over $250 million worth of the outdated and inactive reclamation projects in Utah.

The careful planning and innovation that went into making this bill a landmark in modern water project legislation did not stop there, Mr. Chairman. The bill also provides innovative, alternative solutions if the economic and environmental standards contained in the bill indicate changes may be needed in the irrigation systems proposed, including substantial local discretion for counties eligible to participate in the project. It also authorizes comprehensive feasibility studies of groundwater management, salinity control, and other irrigation improvements to identify alternative means to provide additional benefits or to resolve potential problems that may arise during planning or construction.

Another important economic, and social, objective of this legislation was to provide a fair and complete settlement with the Ute Indian Tribe of the promises made by the Federal Government in 1965 to compensate the Tribe for the diversion of tribal waters into the Central Utah Project. This bill achieves that settlement by replacing various water development projects proposed for tribal lands, estimated at one time to cost almost $2 billion, with an innovative proposal for a tribal development fund and other provisions for investments in farming operations and fish, wildlife, and recreation programs designed to provide a firm economic base for the Tribe far into the future.

One of the primary environmental objectives of the bill, Mr. Chairman, was to ensure that the mitigation of fish, wildlife, and recreation resources impacted by Federal reclamation development in Utah would be completed concurrently with CUP construction and in accordance with modern environmental standards. Such mitigation has fallen substantially behind over the years and has often been based on outdated environmental concepts.

This bill replaces, at no increase in cost, the outdated and often ill-conceived mitigation actions proposed by the Bureau of Reclamation with a schedule of specific mitigation and conservation measures designed by an interagency team of biologists and engineers.

The bill also eliminates the past lack of accountability for implementation of mitigation by creating a new Mitigation and Conservation Commission with the exclusive jurisdiction to establish the mitigation program priorities, standards, and procedures, and to administer the mitigation and conservation funds. The Commission will be appointed by the President and will be responsible for implementing the mitigation program through contracts with other agencies and entities that can provide the necessary expertise and resources to perform the various projects and studies necessary to carry out the Commission's program.

The Commission will be made up of five residents of Utah who, except for the member representing the Central Utah Water Conservancy District, must have working knowledge of the Fish and Wildlife Coordination and Endangered Species Acts and have demonstrated experience in implementing fish and wildlife mitigation and habitat restoration projects. Such expertise on the Commission will provide strong advocacy of fish, wildlife, and recreation values and ensure that the mitigation measures scheduled in this act and developed by the Commission through its own planning process will restore and conserve these values as effectively as possible.

The Commission is expressly authorized to reallocate any funds for specifically listed mitigation projects that may be funded through other agency appropriations. For example, if certain scheduled mitigation activities should be completed through Forest Service appropriations, the Commission may reallocate the scheduled funds for acquisition of wetlands around the Great Salt Lake or Utah Lake.

Mr. Chairman, the Central Utah Project is the last of the large water reclamation projects in which the Federal Government has made a major financial investment. All of the many interest groups that have participated in forging this remarkable compromise believe it represents a fiscally responsible and environmentally sound policy for completing the investment that the United States made in the future of the State of Utah in 1956. We believe we have exercised our responsibilities thoughtfully and carefully, and we ask the Members of this House to join us in passing this important bill.

This bill literally represents a high-water mark for Utah, a banner, blue ribbon day for our State's economic future and for preservation of our natural beauty and nature resources.

Everybody wins with this complex 3-year effort: The Wasatch Front in Utah will have water for 50 years of economic growth, sportsmen and all those who love the outdoors will have the natural beauty preserved and the fish and wildlife and outdoor recreation enhanced, as a result of what we do today. We have been responsible as Members of Congress, and with the cost share of 35 percent, the American taxpayer has been responsibly protected.

And with this bill we write into statute what is perhaps the most far-reaching water conservation plan in this country, an amazing accomplishment when you consider that it was developed through the cooperative efforts of environmental and water development leaders from the second most arid State in the country.

We have accomplished what the pessimists said could not be done: Environmental and water development leaders, in 3 years of negotiations have brought forth a bill which balances water development with protection and enhancement of fish and wildlife and repairs to the environment and adds innovative water conservation. We left more water in the mountains and we made minimum stream flow requirements and quadrupled class A fishing streams and we will complete the Jordan River Parkway to compensate for the damages of construction and water diversion.

To say that this is the highlight of my last 4 years' service in the House is to understate the obvious. This bill is, in current lingo, win-win for everyone who loves Utah and its natural beauty, and I want to express appreciation to you, Mr. Chairman UDALL, for your guidance, advice and support over these 3 years, and to you, Mr. Chairman MILLER, for active help and counsel and leadership in bringing this all about. Your staff director, Dan Beard, who is a legend around this institution, and his associate Steve Lanich have been exceedingly helpful, and we owe them our gratitude.

There are others who have been key players in this drama, and I want to take the Committee's time to express that fact.

I doubt that any State delegation, divided politically, has ever worked more unitedly than ours has to get this bill written. Senator JAKE GARN has been the spiritual leader and champion of the central Utah project throughout, and although this has been played out principally on the House side in the last 3 years, he has been involved in every negotiation and stretched himself to permit decisions which he didn't like, at times, to assure we could get this bill written. He's been working for the CUP for more than 20 years, and this day must be especially welcomed by him.

Senator HATCH has always been there at key times and given much needed and valued advice and help. My colleague JIM HANSEN on the committee has been totally supportive as has our other Utah Member, HOWARD NIELSON. Governor Bangerter has kept himself apprised of our activities, and has has valuable input at key times and always supported the unified Utah delegation, and we express appreciation to and for him.

Our staff members have labored day and night: Mike Weyland of my staff, and before him Kenley Brunsdale, have had great input in developing these concepts and putting them into place, as has Bob Weidner of Senator GARN's staff who's been particularly active and played key roles in getting this done. So too has Jim Barker, representing Congressman HANSEN and the minority side of the committee, and Millard Wyatt and Jayneanne Rex representing Senator HATCH and Congressman NIELSON.

Don Christiansen, general manager of the Central Utah Water Conservancy District has been the guiding genius behind these negotiations and the information and idea resource and always been the seasoned, wise head who has led us through this thicket. The board's attorney, Marcus Faust, has been irreplaceable in these negotiations. Whatever they're paying him, it isn't enough. The Central Utah Water Conservancy Board has been supportive and helpful throughout.

The environmental side has been exceedingly well represented by Ed Osann and David Conrad of the National Wildlife Federation. They have been tough and they have been assertive, and they have been able to lead in the give and take, and I want to express special commendation and admiration for them. They have had the confidence of the environmental community and have developed the real respect of the other side of these negotiations too. My good friend Jeff Appel, representing the Utah environmental community at key times in this process, has been skillful and helpful and innovative, and I express very real gratitude to him.

Last, the water development and users associations leaders have been totally cooperative and, in the end, exceptionally helpful in developing this innovative water conservation plan. Virtually nonstop negotiations have been going on the last 3 days in my office on the seventh floor. Mayor DePaulis of Salt Lake City has sent his three top water lieutenants, LeRoy Hooten, Nick Sefakis, and their attorney, Joe Novak, who have worked very hard and well, and Jerry Maloney, Dave Ovard, and Sale Gardiner from the Salt Lake County Water Conservancy District have worked well too, and Lee Kapalooski, attorney for Sandy City, has been heavily involved, and I express appreciation for all of them.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Chairman, I wish to speak against titles XXI and XXII of the Central Utah Project Completion Act, H.R. 3960. While I am supportive of the proposal to complete the central Utah project, I am strongly opposed to titles XXI and XXII of the bill. This section is the so-called reclamation reform proposal.

These titles would have far-reaching and detrimental impacts on farm and ranch families in the arid West. The proposal would raise havoc with co-op and family farms. All this would be done in the name of economic efficiency and fairness. Nothing could be further from the truth.

The Reclamation Reform Amendments of 1982 that currently address these issues were developed with the full consideration of the impacts of those amendments. Promises were made and people have developed farms and ranches based on those promises. Now without the benefit of hearings and with no indepth consideration by the Congress of the impacts or the effects of these sweeping changes they are being buried in the Central Utah Completion Act. This is poor public policymaking and the citizens of this country deserve better treatment.

While I support the completion of the central Utah project, I must oppose H.R. 3960 because of its onerous impacts on reclamation project water users as a result of titles, XXI and XXII.

Mr. Chairman, I must say to this body that I will work vigorously in the Senate to assure that if titles XXI and XXII are not stripped form this legislation, this legislation will be in fact dead on arrival as it reaches the Senate.

Mr. HANSEN. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. PASHAYAN].

Mr. PASHAYAN. Mr. Chairman, I rise in strong opposition to titles XXI and XXII of H.R. 3960, as I did when they were raised on the floor of this body in June. These two amendments, as my colleagues know, deal with what the intent of the Reclamation Reform Act of 1982 may or may not have included.

It is needless for me to relate the results of the action by the House; it is a matter of record, as is the debate. The emotion today is just as real as it was in June. Many of us remain convinced that we should be able to use a rifle to single out the guilty, if there are any, rather than to use field artillery and hurt the small and innocent.

The interest in these efforts to reform the Reclamation Reform Act come from a report of the General Accounting Office where, for the first time ever, the concept of congressional expectations is introduced. So that we know the playing field we are on, I subscribe to the definition of congressional expectations as defined by Senator JAMES MCCLURE: There are 535 expectations: Yours, mine, and theirs.

Mr. Chairman, this report was made available to me and others in Congress just days before November 5, 1989, the airing of the television fantasy program "60 Minutes." It perhaps addresses your expectations, but it does not address my expectations. The GAO does note, but does not emphasize, that the owners and lessees of the land were in general compliance with the Act's 960-acre limit. Further, the report recognizes that " * * * the 1982 Act does not preclude multiple land holdings to individually comply for federally subsidized water * * * " having a common farm manager or custom farmers.

But the most compelling statement in the report is at page 17. It says, in part,

> * * * the Commissioner decided to base the Bureau's [Bureau of Reclamation] implementing regulations on the law as written rather than on Congressional expections reflected in the Act's legislative history, and the regulations permit multiple landholdings of not over 960-acres to receive federally subsidized water even if they are being operated collectively as one farm.

It is gratifying to me to know that the executive branch of the Federal Government will write regulations reflecting the law, the whole law, and only the law.

The GAO recommended to the Congress amendments to sections 202, 203, 204, 214, and 228 of the Reclamation Reform Act of 1982 by inserting the term "farm or farm operations" into those sections.

By doing so, the GAO, without the benefit of a public hearing or consultation outside the Federal Government, has determined that the flow of water to a specific landholding can better be controlled and the congressional expectations shall be met. They did not seek to quantify the harm those amendments would inflict, nor anticipate the wounds that would be reopened. In my view, GAO did a great disservice to irrigated agriculture, and its report is seriously flawed.

Let me put the results of this legislation in a different light, one that we all might appreciate.

Take for example a family which began farming on California's west side in the mid-1950's, initially starting with small leaseholdings and gradually acquiring more acreage as the farming operation grew. Prior to 1972, the farm was irrigated exclusively with pumped well water. When Central Valley project water became available, the land owned in excess of the parents' 320-acre entitlement was placed under recordable contract. Eventually, the parents transferred the interest in the farming operation to their four adult sons.

The four adult sons brought three adult cousins into the family farming operation. These seven adults held the land as a family corporation until forming a trust in 1987 to comply with the Reclamation Reform Act of 1982.

This multidistrict farm family trust now includes the four adult brothers and eight adult cousins. The trust owns 3,570 acres and leases 7,275 acres with 6,620 acres situated in Westlands Water District. All 12 beneficiaries of this family trust hold an equal 8.33-percent interest in the entity—a landholding attribution of 904 acres each—and jointly make the farming decisions.

Currently, the trust operates the land for the benefit of the 12 adult beneficiaries. The trust pays an operations and management fee to a family corporation made up of the four brothers and three of the cousins. The corporation actually provided the farming services, equipment, and labor for the trust. However, all farming decisions are made by the 12 family members.

Titles XXI and XXII of H.R. 3960 would be destructive to the trust arrangement in this example. The family trust, even though it has 12 adult beneficiaries, would be eligible to receive water on only 960 acres. Any owned acreage over 960 acres would become excess and ineligible for water and any leased land over 960 acres would be subject to full cost, thus depriving 11 of their entitlement under the law.

The trust also utilizes the services of a farm operator, a company composed of eight of the trust beneficiaries. Those eight are paid a flat fee, a decision made by the 12 family members, to provide labor, equipment, and supervisorial services to the trust. Yet, under this legislation, this family-farm arrangement would become invalidated. Instead of one efficient farming operation, in which each beneficiary receives no more than his or her entitlement, this trust may be forced to separate into 12 different entities, or to remain together and pay full cost of water on leased land and used pumped ground water on owned land that become ineligible.

Another example is even richer in history and is fully illustrative of the settling of the West. This family entity began in the 1920's with a husband and wife. The family matriarch is in her nineties and began the farm with her late husband when she was in her twenties. The farm is made up of five entities: Her landholding, her adult daughter's landholding, and three minor children's landholdings (the matriarch's grandchildren). One farm manager oversees the farming operations for the five entities, for a total acreage of 5,280 acres.

The family also owns and operates a packing shed and shipping company. The family uses these facilities to get their produce to market.

Each of these five landholders has elected to be subject to the discretionary provisions of the Reclamation Reform Act of 1982. About 4,320 acres are subject to class one equivalency, with only 62 acres (52 acres for one entity, 10 acres for another) exceeding the statutory entitlement. The two entities pay full cost on those 62 acres.

The farm manager is the father of the three minor children, husband of the adult daughter, and son-in-law of the matriarch. He receives a management fee by each of the five entities. He also provides the labor and equipment for the various farms.

Titles XXI and XXII of this bill would effectively eliminate the three minor children's eligibility to receive water on their landholding, despite their nondependent status. Because the legislation includes minor children in the definition of an individual, should the minor children's trust remain, those landholdings would be attributed to their parents as excess land and become ineligible.

The farm manager could continue to manage his wife's landholdings of 1,050 acres. With equivalency, this landholding exceeds the legal entitlement, so full cost would continue to be paid for 10 acres.

However, the farm manager could not also manage his widowed mother-in-law's holding. If he were to be paid to manage her farm, her landholding and that of his wife would be combined for eligibility and pricing purposes. Under titles XXI and XXII this matriarch, farming since the 1920's may be forced to hire an outsider to manage her farm because her own family members would be prohibited from doing so.

Additionally, because the family operates its own packing shed and shipping business, the acreage is likely to be combined anyway. Because of the vague definition presented in S. 2659, the packing shed, the shipping company, the farm manager, and even the landholders could be construed one operator at any given point in time. And if these titles pass as is, it could prohibit the family from packing and shipping other farmers' produce because all acreage could be combined for pricing purposes.

This aspect of the legislation impacts both the farmers in the Friant unit of the Central Valley project, where the size of farms averages about 75 acres, and Westlands, and just about any water or irrigation district in the 17 Western States.

Yet another example, Mr. Chairman, is in the case of two brothers who each farm a combination of owned and leased land of 960 acres. These are two separate and independent farms. There is no sharing of profit or loss between them.

To help to control farming costs, the two brothers formed a partnership that owns the large pieces of equipment, such as tractors and harvesters. This partnership leases the equipment to the two farms on an as needed basis. This way, the two brothers do not have to buy two tractors or two harvesters every time they need to replace some of their equipment. The brothers share equipment through their partnership. Their farms, however, remain separate, independent entitities.

In this case, if the Congress changers the rule by adopting further amendments to the Reclamation Reform Act of 1982, these two brothers, who farm separately with no sharing of profit or loss, would have to combine all their acreage together for water pricing and eligibility purposes. They would be penalized by having to pay full cost simply because they share a tractor.

This kind of family farm, the sharing of equipment, is commonplace for many family farms whether they are in a reclamation state or not. The economics of farming today simply do not allow individuals the luxury of purchasing expensive, sometimes specialized equipment, whenever they need it. The ability to share equipment, while operating totally separate farms, is one way to make farming more feasible for families. The legislative fix, in this case, would simply and surely eliminate this customary practice and jeopardize many family operations.

Yet another example I should like to relate involves three adult brothers who have been farming on their own since 1979. Their parents had farmed prior to that, and after the death of their father, his landholdings were put in a trust for his widow. The three brothers and their mother divided their legal entitlement of 960 acres into three partnerships, in which each individual has a 25-percent interest. Together, the four adults own 1,588 acres, which is leased by the three partnerships. The partnerships also lease an additional 1,844 acres from other individuals. The total acreage for the three partnerships is 3,432 acres. Each partner, then, has an attribution of 858 acres and is within his or her legal entitlement.

They operate the three farms separately; the profit or loss of one entity does not affect the profit or loss of the others.

To manage the farms efficiently, the brothers contribute their services to the farms, based on their areas of expertise. One brother is responsible for crop selection and production. Another brother is responsible for purchasing, repairing, and managing all of the equipment. The third brother is responsible for managing the business aspects of the farms. Each contributes these services to the three farm operations.

Should this legislation amending the Reclamation Reform Act of 1982 be passed, the three partnerships will be combined for the purposes of eligibility and water pricing. The entire 3,432 acres would be considered one farm, of which only 960 acres would be eligible to receive water.

Additionally, because the three brothers contribute their services to the three farms, any one of them could be considered an operator at a given point in time. This, too, would cause the lands to be combined for eligibility and pricing purposes.

This kind of cooperative sharing also is widespread in farming. It is not unique to irrigated agriculture, nor is it unique to Western agriculture. Like my previous examples, these three brothers are able to spread their cost over more land to farm more efficiently. Yet, each brother and the mother does not exceed their entitlement of 960 acres. The legislation would accomplish one thing, and one thing only: the total disruption of legal and efficient family farms.

Another most troublesome issue presented by these legislative fixes is the financing arrangement required of all farmers. If my earlier examples served to illustrate the disruptions of unique family operations, perhaps others will illustrate the problems presented by financing the day-to-day operation of a farm.

For example, consider a father and son who each own and farm 960 acres as completely separate operations. Due to the realities of farming, the lender requires that the father co-sign or guarantee the son's crop financing. The son leases separate equipment from a third party on his farm operation. Under this legislation, the son would be required to obtain his own financing or be denied the opportunity to enter farming because the father and son would be considered a single farm and full cost would have to be paid for water received on the son's entire 960 acres. This would be true even though neither the father nor the son received benefits from the use of water on more than 960 acres.

Another example is two brothers who each own 960 acres and operate separately. Because of the high cost of purchasing farm equipment, one brother leases the equipment from his brother as needed. Under the proposed amendment, both farms, even though separately financed and operated, would be considered a single farm eligible to receive water for 960 acres only. This, because one brother leases equipment from another, he would lose eligibility for water on 960 acres.

One last example, Mr. Chairman, and I should like to isolate it somewhat because it involves two brothers who do not farm in Westlands, they farm in the Delano-Earlimart Irrigation District, which is a division of the Friant unit on the central Valley project. These two brothers own 100 acres, but lease an additional 990 acres through three separate entities. Although each has an attributable acreage total of 545 acres, they choose to operate as a family unit, one reason being capital, and, second, because they do custom farming. The business, pest control, is done for 47 different growers owning and leasing 12,000 acres.

Under this legislation, the partnerships would be merged, although each has no more than 545 acres. This would immediately subject these two brothers to the full cost water pricing provisions on a portion of their jointly leased acreage, and increase their annual water cost by $8,000. The only alternative for these two brothers would be to cease operating as a family operation and try to exist and farm separately.

An additional problem is presented in the form of the custom farming business. As a pest control business, the brothers are hired on time and material contracts and share no economic risks in their customers' farms or crops. However, this legislation might ensnare them by defining them as a farm operator. If so, then the end result of this legislative initiative would be too terminate an innocent business venture by two brothers. This is truly a heroic decision by the Congress.

Mr. Chairman, titles XXI and XXII hold the same pitfalls as title XVI of the already House-passed H.R. 2567. Simply put, these legislative initiatives would invalidate too many legitimate existing farming operations, undue loan and security arrangements, prohibit traditional family cooperation, and force cooperatives and other legitimate farming endeavors to evaluate unnecessarily their relationship and services. The amendments are but a siege on traditional Western agriculture.

I feel most strongly that the GAO is wrong in its basic premise that the Congress expected more than what is offered in current regulation and law, and I do not agreee that the Congress should again spend time on seeking to define a farm or farm operation. To me that is an exercise in futility, and is an issue that even the Committee on Agriculture cannot resolve.

The common farm; joint operation, or decisionmaking tests presently being proposed will only lead to confusion, uncertainty, traps for the unwary, and further tinkering by Congress.

As one of those who went through the drafting of the Reclamation Reform Act of 1982, I disagree with the GAO Report and its expectations of Congress. The 1982 act was a compromise involving the same concepts which we are considering today.

The first attempt at reform was in the Senate in 1979. It voted an absolute farm size of two sections, and rejected the full cost concept, either for owned or leased land above 1,280 acres. The House then spent almost 3 years trying to define a farm, a farmer, or some other means limiting farm size. Every proposal proved unworkable.

The final compromise allowed 960 acres of nonfull cost water to be owned or leased by a qualified recipient: an individual who was a citizen of the United States, a resident alien of the United States, or any legal entity established under State or Federal law that benefits 25 natural persons or less.

The nonfull cost and ownership entitlement could be in one ownership or through multiple ownerships.

A limited recipient was simply a legal entity which benefits more than 25 natural persons. A limited recipient was allowed to own only 640 acres but all at full cost.

And finally, land leased by a limited recipient or a qualified recipient was required to pay full cost for any water received in excess of the ownership limitations.

Two classes of full cost were provided for. Qualified recipients were required to pay no less than 7½ percent interest or the interest rate charged when the expenditures were made.

Limited recipients were required to pay a higher interest rate, based on the rates in 1982, which is basically 12 percent interest.

Basically, this was the compromise by which Congress abandoned the all but impossible task of defining a farm, a farmer, or other appropriate recipient of nonfull cost water.

If we change any elements of this compromise now, the balance collapses, and the whole scheme would have to be renegotiated.

Mr. Chairman, there is a very simple solution to this problem. Congress should make clear once and for all that no one should be able to share in the profit and loss from more than a total of 960 acres served by Federal project water. It is a simple test. It is easily defined. We need only to ensure that the Department of the Interior has the tools to enforce it. The tools should be the same as the Internal Revenue Service has to determine income and deductions.

Irrigated agriculture is not avoiding its lawful responsibilities, it is only seeking a level playing field it thought evolved from the Reclamation Reform Act of 1982. In California, Mr. Chairman, we felt we helped to level that field with the development of and signing of the Coordinated Operations Agreement. I fear that they are beginning to feel otherwise at this time.

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Mr. HANSEN. Mr. Chairman, I yield 1 minute to the gentleman from Wyoming [Mr. Thomas].

Mr. THOMAS of Wyoming. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support particularly of the section of the bill that deals with the Buffalo Bill Dam in Wyoming. As the chairman pointed out in his introductory remarks, H.R. 2567 was passed by this House on June 14, 1990. This title of the bill authorizes an increase of $12 million on the Buffalo Bill Dam in Wyoming.

Mr. Chairman, I just rise to say that if we do not get that authorization we are down to the point where the project is some 90 percent completed, and without this authorization we begin to lose contracts. The appropriations are there. This is a very important aspect of the bill. It is the responsible thing for us to do to continue with the authorization of this project.

Mr. HANSEN. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I would like to say that the next speaker will be the Congressman from the Third District of Utah, Hon. Howard Nielson.

Mr. Nielson has worked on this bill for many, many years, not only here, but when he was Speaker of the House in the State of Utah. He is truly a workhorse and not a show horse, truly a man of compromise, unyielding principle, and I have the highest respect for the great work Howard Nielson has done.

I would also like to point out that the majority of the central Utah project happens to be in his district, and the people that will benefit from it, many of them live in that particular area.

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from the Third District of Utah [Mr. Nielson].

Mr. NIELSON of Utah. Mr. Chairman, I rise today in support of H.R. 3960, the Central Utah Project Completion Act. This legislation would increase amounts authorized to be appropriated for the central Utah project portion of the Colorado River storage project.

This bill represents a compromise reached by members of the Utah delegation and the appropriate committee chairmen and Members of the House and Senate. Input was received from urban and rural water users, public power interests, environmental groups, the Ute Indian Tribe, the administration, and the State of Utah. We have spent many months working toward resolution of some serious conflicts in order to develop legislation that will keep the Federal Government's commitments for water development to the State of Utah.

As authorized by the Colorado River Storage Project Act of 1956, completion of the central Utah project would allow the State of Utah to develop and use its share of the water from the Colorado River. Over the past 34 years some features of the central Utah project have been completed. However due to delays, diversion of funds, inflation, et cetera, one of the most vital components of the overall project, the irrigation and drainage features, has not been constructed.

A considerable amount of money has already been spent. In order to fully utilize the features already complete and the money that has already been spent, the whole project must be completed.

The people of Utah have been paying their taxes in good faith over the years, waiting for the Government to fulfill its promises. We have evaluated and adjusted our priorities and the incomplete features to make them more environmentally and economically feasible. In addition to this, we have agreed to a real 35-percent local cost share of this part of the project.

We have come a long way since 1988, the last time we had a bill before the Congress. I am pleased with many of the provisions we have in H.R. 3960. We have done our best to keep this legislation neutral to other States participating in CRSP. We have provided for the completion of the irrigation and drainage components of the central Utah project, both in the Sevier River basin and the Uintah basin, provided funding for environmental mitigation and enhancement throughout the project area, and resolved longstanding commitments to the Ute Indian Tribe. In my opinion these accomplishments are a great improvement over the proposal in 1988, and go a long way toward winning my support for the bill.

While I support most of the provisions in this legislation, I must take a minute to express my strong opposition to the Utah Lake Wetlands Preserve established in title II. This was added to the bill over my objections as well as objections from numerous towns, soil conservation districts, farmers, and citizens of Utah County. While I recognize that there is much support of this provision among other parties involved in the bill, I wanted to make sure the record accurately reflected that there is opposition to this as well.

With the exception of the wetlands preserve, I am supportive of this bill. It is critical to future growth and development in the State of Utah. All parties involved in the negotiations of the past months have compromised to arrive at this point. I would like to express my appreciation to the other members of the Utah delegation, Chairman Udall, Chairman Miller, and other committee members for their assistance in resolving the concerns with this legislation. I hope that we can pass this legislation with all the necessary components to keep the commitments made to all interests, not just a select few.

Mr. HANSEN. Mr. Chairman, I yield back the balance of my time.

Mr. MILLER of California. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I do so to again thank the entire Utah delegation for their cooperation in this matter. Both Mr. Nielson and Mr. Hansen have been incredibly helpful in this process, as Members might have determined now by the remarks that have already been given.

Managing this central Utah project over the last several years has been very difficult. This project and the residents of the State have been victims of mismanagement at the Federal level on this project. As the State and its environment and its population have changed, unfortunately the abilities of the Bureau of Reclamation did not change, and a part of what we are doing here tonight is to make up for those mistakes. But it has been with the full cooperation of both gentlemen from Utah, Mr. HANSEN and Mr. NIELSON, in that effort.

Mr. Chairman, I would also like to recognize the fact that our colleague, Mr. NIELSON, is retiring this year. We will miss working with him on these projects of mutual concern, and have enjoyed working with him during his tenure here in the Congress of the United States.

Mr. UDALL. Mr. Chairman, I rise in strong support of increased funding for the completion of the central Utah project. I commend my friend and fellow westerner, Representative WAYNE OWENS, for achieving the nearly impossible during the preparation of this legislation-finding consensus between the interests of the conservation community, the Bush administration, and the water-users.

I've kept track of these negotiations for the last 3 years and have followed the progress of the CUP since my first election to the House in 1961. All interests have been involved in these discussions and are now supportive. I don't think even Henry Clay himself, the House's Great Compromiser, could have worked out a more artful resolution to this seemingly irreconcilable situation. WAYNE OWENS showed himself capable of bridging impasse after impasse. The fact that the bill is before us today is a tribute to his dogged persistence, his skillful negotiating, and his determination to revive the CUP each time it seemed it might expire.

This is a great bill which we can proudly support. Completion of the central Utah project will ensure an adequate supply of water for the second-most arid State in the Nation and provide an equitable settlement for water obatined from the Ute Indians. But it does much more than that. This is landmark legislation because it provides the most far-reaching and comprehensive environmental component of any water project in the history of the United States—nearly one-quarter of the amount authorized will be dedicated to environmental repair and maintenance, assuring the protection of streamflow and fish and wildlife habitat. This bill also includes the most rigorous and responsible water conservation plan ever designed for legislation. It sets a new standard for what will be expected in the future. The bill is endorsed across-the-board because it provides needed water, promotes conservation, protects habitat, and does it all in the most fiscally responsibile way possible. I encourage my colleagues from both sides of the aisle to give this legislation their full support.

Mr. JONES of North Carolina. Mr. Chairman, I support H.R. 3960, the Central Utah Project Completion Act. This bill was jointly referred to the Committee on Merchant Marine and Fisheries because of the extensive fish and wildlife mitgiation measures it contained to offset adverse environmental effects from the central Utah project.

The ERA of large western reclamation projects is rapdily coming to an end due to the environmental and economic costs associated with these projects. Fortunately, Congressman OWENS and the other members of the Utah delegation had the foresight to address the enivornmental concerns over the central Utah project in an open and constructive manner. After months of negotiations with the environmental community, agreement has finally been reached on an unprecedented package of fish and wildlife mitigation measures to be included in the central Utah project. These measures will offset the adverse environmental impacts of the project as well as other past unmitigated features of the Colorado River storage project. They will also ensure that mitigation measures be implemented simultaneously with the construction phase of the project. This will avoid the repetition of past problems with certain reclamation projects where the projects were ultimately built but the promised fish and wildlife mitigation measures were never implemented. Under H.R. 3960, as reported, construction and mitigation would move forward together on the same approximate timetable. This is a very important feature of H.R. 3960 and is one of the primary reasons I rise in support of this bill today.

The content of fish and wildlife mitigation measures and the relationship of the central Utah project and Colorado River storage project to existing environmental laws like the Endangered Species Act and the National Environmental Policy Act are matters of junsdictional interest to the Committee on Merchant Marine and Fishenes. In recognition of our interests, Congressmen MILLER and OWENS have worked closely with my committee to incorprate all of the changes to H.R. 3960 that we felt were necessary. As a result of this cooperative working relationship, the amended text of H.R. 3960, as reported out of my committee, is identical to the text of the first live titles of H.R. 3960 as reported out of the Interior Committee. My committee is thus in complete agreement with the central Utah project provisions of the bill before us today.

Two other aspects of H.R. 3960 deserve specific mention. First, title V of the bill makes it very clear that none of the provisions of the bill override or modify in any way the requirements of the Endangered Species Act [ESA] and the National Environmental Policy Act [NEPA]. If any conflict exists between the provisions of those acts and H.R. 3960, the current requirements of the ESA and NEPA would control.

The second feature of the bill concerns the Utah Lake Wetlands Preserve established under section 206. Section 206 directs the Utah Reclamation Mitigation and Conservation Commission to acquire lands and waters adjacent to Utah Lake for inclusion in a newly created Utah Lake Wetlands Preserve. The preserve is to be acquired with appropriated Federal funds and is to be managed by the State in accordance with the substantive provisions of the National Wildlife Refuge System Administration Act of 1966. This reference to the Refuge Administration Act will ensure that the substantive management standards governing Federal wildlife areas be applied to the management of the Utah Lake Wetlands Preserve. For purposes of this section only, all references to the Secretary of the Interior or the Director of the Fish and Wildlife Service [FWS] currently found in the Refuge Administration Act are to be interpreted to mean the head of the Utah Division of Wildlife Resources. My committee does not intend that section 206's reference to the Refuge Administration Act be construed to imply that the Utah Lake Wetlands Preserve will actually become a part of the National Wildlife Refuge System. It will not, because the lands will not be acquired or managed by the Federal Government. Rather, the reference to the Refuge Administration Act was merely intended to be a device of drafting convenience whereby the substantive management provisions of the act were incorporated by reference without having to include the actual text of the statute in H.R. 3960. Accordingly, section 206 is not inconsistent with the historical congressional policy that units of the National Wildlife Refuge System be administered only by FWS since the Utah Lake Preserve will never become part of the refuge system.

Mr. Chairman, the fish and wildlife conservation interests of my committee have been fully satisfied in the text of H.R. 3960 as reported out of the Committee on Interior and Insular Affairs. Therefore, I support the passage of this bill and urge my colleagues to vote yes on H.R. 3960. Congressmen MILLER and OWENS have developed a bill that is sensitive to environmental concerns and it deserve our full support.

Mr. CAMPBELL of Colorado. Mr. Chairman, I nse in support of the Miller amendment.

In arriving at the compromise that this bill embodies the subcommittee looked for ways to save money the Federal Government now spends and redirect it to the construction of the Central Utah Project.

The subcommittee found that Congress has authorized roughly $84 million to be spent on constructing water projects that were planned in 1962 but that have never been built.

While those projects may seem antiquated to some, they do represent a dream for many in my congressional district and water users have been working to perfect the water rights associated with those projects for years.

I offered an amendment in the full committee to delete provisions deauthorizing several water projects that have not been constructed in Colorado. Water conservation boards in my district have spent years perfecting their water rights decrees, yet the original bill would have taken those rights away from the farmers, ranchers, businesses, and communities. Fortunately, the committee accepted an amendment to indicate that only projects located in the State of Utah would be deauthorized.

In the face of continued pressure to deauthorize these projects, the technical amendment contains a provision directing the Secretary of the Interior to study the remaining CRSP projects and report to Congress.

I appreciate my friend from California's help in crafting this section and I look forward to working with him next year when the study is completed.

My colleagues from Utah have been working diligently for years to draft a bill which would allow the Central Utah Project to be

completed. I appreciate their hard work and I understand how important water projects are to their constituents.

Mr. MILLER of California. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs, now printed in the reported bill, shall be considered by titles as an original bill, bill for the purpose of amendment and each title is considered as read.

The Clerk will designate section 1.

Mr. MILLER of California. Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 3960

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—Titles I through V of this Act may be cited as the "Central Utah Project Completion Act".

(b) TABLE OF CONTENTS.—The table of contents for titles I through V of this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Definitions.

TITLE I—CENTRAL UTAH PROJECT CONSTRUCTION

Sec. 101. Authorization of additional amounts for the Colorado River Storage Project.
Sec. 102. Bonneville Unit water development.
Sec. 103. Uinta Basin replacement project.
Sec. 104. Non-Federal contribution.
Sec. 105. Definite Plan Report and environmental compliance.
Sec. 106. Local development in lieu of irrigation and drainage.
Sec. 107. Water management improvement.
Sec. 108. Limitation on hydropower operations.
Sec. 109. Operating agreements.
Sec. 110. Jordan Aqueduct prepayment.
Sec. 111. Audit of Central Utah Project cost allocations.
Sec. 112. Surplus crops.

TITLE II—FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION

Sec. 201. Utah Reclamation Mitigation and Conservation Commission.
Sec. 202. Increased Central Utah Project water capability.
Sec. 203. Central Utah Project stream flows.
Sec. 204. Fish, wildlife, and recreation projects identified or proposed in the 1988 Definite Plan Report for the Central Utah Project.
Sec. 205. Wildlife lands and improvements.
Sec. 206. Wetlands acquisition, rehabilitation, and enhancement.
Sec. 207. Fisheries acquisition, rehabilitation, and enhancement.
Sec. 208. Stabilization of high mountain lakes in the Uinta mountains.
Sec. 209. Stream access and riparian habitat development.
Sec. 210. Section 8 expenses.
Sec. 211. Jordan and Provo River Parkways and natural areas.
Sec. 212. Recreation.
Sec. 213. Fish and wildlife features in the Colorado River Storage Project.
Sec. 214. Concurrent mitigation appropriations.
Sec. 215. Fish, wildlife, and recreation mitigation schedule.

TITLE III—UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT

Sec. 301. Findings, purpose, operation and administration.
Sec. 302. Utah Reclamation Mitigation and Conservation Account.

TITLE IV—UTE INDIAN RIGHTS SETTLEMENT

Sec. 401. Findings and purpose.
Sec. 402. Provision for payment to the Ute Indian Tribe.
Sec. 403. Tribal use of water.
Sec. 404. Tribal farming operations.
Sec. 405. Reservoir, stream, habitat, and road improvements with respect to the Ute Indian Reservation.
Sec. 406. Tribal development funds.
Sec. 407. Waiver of claims.

TITLE V—ENDANGERED SPECIES ACT AND NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) The term "Bureau" means the Bureau of Reclamation of the Department of the Interior.

(2) The term "Commission" means the Utah Reclamation Mitigation and Conservation Commission established by section 201 of this Act.

(3) The term "conservation measure(s)" means actions taken to improve the efficiency of the storage, conveyance, distribution, or use of water, exclusive of dams, reservoirs, or wells.

(4) The term "1988 Definite Plan Report" means the May 1988 Draft Supplement to the Definite Plan Report for the Bonneville Unit of the Central Utah Project.

(5) The term "District" means the Central Utah Water Conservancy District.

(6) The term "fish and wildlife resources" means all birds, fishes, mammals, and all other classes of wild animals and all types of habitat upon which such fish and wildlife depend.

(7) The term "Interagency Biological Assessment Team" means the team comprised of representatives from the United States Fish and Wildlife Service, the United States Forest Service, the Bureau of Reclamation, the Utah Division of Wildlife Resources, and the District.

(8) The term "administrative expenses", as used in section 201(i) of this Act, means all expenses necessary for the Commission to administer its duties other than the cost of the contracts or other transactions provided for in section 201(f)(3) for the implementation by public natural resource management agencies of the mitigation and conservation projects and features authorized to this Act. Such administrative expenses include but are not limited to the costs associated with the Commission's planning, reporting, and public involvement activities, as well as the salaries, travel expenses, office equipment, and other such general administrative expenses authorized in this Act.

(9) The term "petitioner(s)" means any person or entity that petitions the District for an allotment of water pursuant to the Utah Water Conservancy Act, Utah Code Ann. Sec. 17A-2-1401 et. seq.

(10) The term "project" means the Central Utah Project.

(11) The term "public involvement" means to request comments on the scope of and, subsequently, on drafts of proposed actions or plans, affirmatively soliciting comments, in writing or at public hearings, from those persons, agencies, or organizations who may be interested or affected.

(12) The term "Secretary" means the Secretary of the Interior.

(13) The term "8" means section 8 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620g).

(14) The term "State" means the State of Utah, its political subdivisions, or its designee.

(15) The term "Stream Flow Agreement" means the agreement entered into by the United States through the Secretary of the Interior, the State of Utah, and the Central Utah Water Conservancy District, dated February 27, 1980, as modified by the amendment to such agreement, dated September 13, 1990.

TITLE I—CENTRAL UTAH PROJECT CONSTRUCTION

SEC. 101. AUTHORIZATION OF ADDITIONAL AMOUNTS FOR THE COLORADO RIVER STORAGE PROJECT.

(a)(1) INCREASE IN CRSP AUTHORIZATION.—In order to provide for the completion of the Central Utah Project and other features described in this Act, the amount which section 12 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), authorizes to be appropriated, which was increased by the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note) and the Act of October 31, 1988 (102 Stat. 2826), is hereby further increased by $679,854,000 plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved. This additional sum shall be available solely for design, engineering, and construction of the Central Utah Project and features identified in title I of this Act and for the planning and implementation of the fish and wildlife and recreation mitigation and conservation projects and studies authorized in titles II and III of this Act, and for the Ute Indian Settlement authorized in title IV of this Act.

(2) APPLICATION OF INSPECTOR GENERAL RECOMMENDATIONS.—Notwithstanding any other provision of law to the contrary, the Secretary shall implement all the recommendations contained in the report entitled "Review of the Financial Management of the Colorado River Storage Project, Bureau of Reclamation (Report No. 88-45, February 1988)", prepared by the Inspector General of the Department of the Interior, with respect to the funds authorized to be appropriated in this section.

(b) UTAH RECLAMATION PROJECTS AND FEATURES NOT TO BE FUNDED.—Notwithstanding the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 105), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), the Act of Oc-

tober 19, 1980 (94 Stat. 2239; 43 U.S.C. 620), and the Act of October 31, 1988 (102 Stat. 2826), funds may not be made available, obligated, or expended for the following Utah reclamation projects and features:

(1) Fish and wildlife features:

(A) The dam in Bjorkman Hollow;

(B) The Deep Creek pumping plant; and

(C) The North Fork pumping plant;

(2) Water development projects and features:

(A) Mosida pumping plant, canals, and laterals;

(B) Draining of Benjamin Slough;

(C) Diking of Goshen or Provo Bays in Utah Lake;

(D) Ute Indian Unit;

(E) Leland Bench development; and

(F) All features of the Central Utah Project not proposed and described in the 1988 Definite Plan Report.

Counties in which the projects and features described in this subsection were proposed to be located may participate in the local development projects provided for in section 106.

(c) Termination of Authorization of Appropriations.—Notwithstanding any provision of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), the Act of September 2, 1964 (78 Stat. 852), the Act of September 30, 1968 (82 Stat. 885), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), and the Act of October 31, 1988 (102 Stat. 2826), to the contrary, the authorization of appropriations for construction of any Colorado River Storage Project participating project located in the State of Utah shall terminate five years after the date of enactment of this Act unless: (1) the Secretary executes a cost-sharing agreement with non-Federal entities for construction of such project, and (2) the Secretary has requested construction funds for such project.

(d) Use of Appropriated Funds.—Funds authorized pursuant to this Act shall be appropriated to the Secretary and such appropriations shall be made available in their entirety to non-Federal interests as provided for pursuant to the provisions of this Act.

SEC. 102. BONNEVILLE UNIT WATER DEVELOPMENT.

(a) Of the amounts authorized to be appropriated in section 101, the following amounts shall be available only for the following features of the Bonneville Unit of the Central Utah Project:

(1) Irrigation and drainage system.—(A) $150,000,000 for the construction of an enclosed pipeline primary water conveyance system from Spanish Fork Canyon to Sevier Bridge Reservoir for the purpose of supplying new and supplemental irrigation water supplies to Utah, Juab, Millard, Sanpete, Sevier, Garfield, and Piute Counties. Construction of the facilities specified in the previous sentence shall be undertaken by the District as specified in subparagraph (D) of this paragraph. No funds are authorized to be appropriated for construction of the facilities identified in this paragraph, except as provided for in subparagraph (D) of this paragraph.

(B) The authorization to construct the features provided for in subparagraph (A) shall expire if no funds to construct such features have been obligated or expended by the Secretary in accordance with this Act, unless the Secretary determines the District has complied with sections 102, 104, and 105, within five years from the date of its enactment, or such longer time as necessitated for—

(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act: Provided, however, That such extension of time for the expiration of authorization shall not exceed twelve months beyond the five year period provided in subparagraph (B) of this paragraph;

(ii) judicial review of a completed final environmental impact statement for such features if such review is initiated by parties other than the District, the State, or petitioners of project water; or

(iii) a judicial challenge of the Secretary's failure to make a determination of compliance under this subparagraph: Provided, however, That in the event that construction is not initiated on the features provided for in subparagraph (A), $125,000,000 shall remain authorized pursuant to the provisions of this Act applicable to subparagraph (A) for the construction of alternate features to deliver irrigation water to lands in the Utah Lake drainage area, exclusive of the features identified in section 101(b).

(C) Requirement for binding contracts.—Amounts authorized to carry out subparagraph (A) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase for the purpose of agricultural irrigation of at least 90 percent of the irrigation water to be delivered from the features of the Central Utah Project described in subparagraph (A) have been executed.

(D) In lieu of construction by the Secretary, the Central Utah Project and features specified in section 102(a)(1) shall be constructed by the District under the program guidelines authorized by Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505). Any such feature shall be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements entered into between the Secretary and the District.

(2) Conjunctive use of surface and ground water.—$10,000,000 for a feasibility study and development, with public involvement, by the Utah Division of Water Resources of systems to allow ground water recharge, management, and the conjunctive use of surface water resources with ground water resources in Salt Lake, Utah, Davis and Weber Counties, Utah.

(3) Wasatch county irrigation efficiency improvements.—$500,000 for the District to conduct, within eighteen months from the date of enactment of this Act, a feasibility study, with public involvement, of irrigation efficiency improvements to facilitate the acquisition of Strawberry basin water rights authorized in section 203(b), and to increase efficiency, enhance beneficial uses, and achieve greater water conservation within Wasatch County, to the extent practicable without interference with downstream rights.

(4) Utah lake salinity control.—$1,000,000 for the District to conduct, with public involvement, a feasibility study to reduce the salinity of Utah Lake.

(5) Strawberry-provo conveyance study.—(A) $2,000,000 for the District to conduct a feasibility study, with public involvement, of direct delivery of Colorado River Basin water from the Strawberry Reservoir or elsewhere in the Strawberry Collection System to the Provo River Basin, including the Wallsburg Tunnel and other possible importation or exchange options. The study shall also evaluate the potential for changes in existing importation patterns and quantities of water from the Weber and Duchesne River Basins, and shall describe the economic and environmental consequences of each alternative identified.

(B) The cost of the study provided for in subparagraph (A) shall be treated as an expense under section 8; Provided, however, That the cost of such study shall be reallocated proportionate with project purposes in the event any conveyance alternative is subsequently authorized and constructed.

(6) Completion of diamond fork system.—(A) Of the amounts authorized to be appropriated under section 101, $69,000,000 shall be available to complete construction of the Diamond Fork System.

(B) In lieu of construction by the Secretary, the Central Utah Project and features specified in paragraph (A) shall be constructed by the District under the program guidelines authorized by Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements entered into between the Secretary and the District.

SEC. 103. UINTA BASIN REPLACEMENT PROJECT.

(a) In General.—Of the amounts authorized to be appropriated by section 101, $30,538,000 shall be available only to increase efficiency, enhance beneficial uses, and achieve greater water conservation within the Uinta Basin, as follows:

(1) $13,582,000 for the construction of the Pigeon Water Reservoir, together with an enclosed pipeline conveyance system to divert water from Lake Fork River to Pigeon Water Reservoir and Sandwash Reservoir.

(2) $2,987,000 for the construction of McGuire Draw Reservoir.

(3) $7,669,000 for the construction of Clay Basin Reservoir.

(4) $4,000,000 for the rehabilitation of Farnsworth Canal.

(5) $2,300,000 for the construction of permanent diversion facilities identified by the Commission on the Duchesne and Strawberry Rivers, the designs of which shall be approved by the Federal and State fish and wildlife agencies. The amount identified in paragraph 5 shall be treated as an expense under section 8.

(b) Expiration of Authorization.—The authorization to construct any of the features provided for in paragraphs (1) through (5) of subsection (a)—

(1) shall expire if no funds for such features have been obligated or expended in accordance with this Act within five years from the date of completion of feasibility studies, or such longer time as necessitated for—

(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act; Provided, however, That such extension of time for the expiration of authorization shall not exceed twelve months beyond the five year period provided in subparagraph (B) of this paragraph; or

(ii) judicial review of a completed Final Environmental Impact Statement if such review was initiated by parties other than the District, the State, or petitioners of project water;

(2) shall expire if the Secretary determines that such feature is not feasible.

(c) Requirement For Binding Contracts.—Amounts authorized to carry out subsection (a), paragraphs (1) through (4) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the irrigation water to be delivered from the features of the Central Utah Project described in subsection (a), paragraphs (1) through (4) have been executed.

(d) Non-Federal Option.—In lieu of construction by the Secretary, the features described in subsection (a), paragraphs (1) through (5) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505).

(e) Water Rights.—To make water rights available for any of the features constructed as authorized in this section, the Bureau shall convey to the District the water rights evidenced by Water Right No. 43-3825 (Application No. A36642) and Water Right No. 43-3827 (Application No. A36644).

(f) Uintah Indian Irrigation Project.—(1) Notwithstanding any other provision of law, the Secretary is authorized and directed to enter into a contract or cooperative agreement with or make a grant to the Uintah Indian Irrigation Project Operation and Maintenance Company, or any other organization representing the water users within the Uintah Indian Irrigation Project area, to enable such organization to—

(A) administer the Uintah Indian Irrigation Project, or part thereof, and

(B) operate, maintain, rehabilitate, and construct all or some of the irrigation project facilities using the same administrative authority and management procedures as used by water user organizations formed under State laws who administer, operate, and maintain irrigation projects.

(2) Title to Uintah Indian Irrigation Project rights-of-way and facilities shall remain in the United States in trust for the benefit of the land owners. The Secretary shall retain any trust responsibilities to the Uintah Indian Irrigation Project.

(3) The Secretary shall use funds received from assessments, carriage agreements, leases, and all other additional sources related to the Uintah Indian Irrigation Project exclusively for Uintah Indian Irrigation Project administration, operation, maintenance, rehabilitation, and construction where appropriate. Upon receipt, the Secretary shall deposit such funds in an account in the Treasury of the United States. Amounts in the account not currently needed shall earn interest at the rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding obligations of the United States with remaining periods to maturity comparable to the period for which such funds are not currently needed. Amounts in the account shall be available without further authorization or appropriation by Congress. Such amounts shall be treated as private funds to be held in trust for landowners of the irrigation project and shall not be treated as public or appropriated funds.

(4) All noncontract costs, direct and indirect, required to administer the Uintah Indian Irrigation Project shall be nonreimbursable and paid for by the Secretary as part of his trust responsibilities, beginning on the date of enactment of this Act. Such costs shall include (but not be limited to) the noncontract cost positions of project manager or engineer and two support staff. Such costs shall be added to the funding of the Uintah and Ouray Agency of the Bureau of Indian Affairs as a line item.

(5) The Secretary is authorized to sell, lease, or otherwise make available the use of irrigation project equipment to a water user organization which is under obligation to the Secretary to administer, operate, and maintain the Uintah Indian Irrigation Project or part thereof.

(6) The Secretary is authorized to lease or otherwise make available the use of irrigation project facilities to a water user organization which is under obligation to the Secretary to administer, operate, and maintain the Uintah Indian Irrigation Project or part thereof.

(g) Brush Creek and Jensen Unit.—(1) The Secretary is authorized to enter into Amendatory Contract No. 6-05-01-00143, as last revised on September 18, 1988, between the United States and the Uintah Water Conservancy District, which provides, among other things, for part of the municipal and industrial water obligation now the responsibility of the Uintah Water Conservancy District to be retained by the United States with a corresponding part of the water supply to be controlled and marketed by the United States. Such water shall be marketed and used in conformance with State law.

(2) The Secretary, through the Bureau, shall—

(A) establish a conservation pool of 4,000 acre feet in Red Fleet Reservoir for the purpose of enhancing associated fishery and recreational opportunities and for such other purposes as may be recommended by the Commission in consultation with the Utah Division of Wildlife Resources and the Utah Division of Parks and Recreation; and

(B) enter into an agreement with the Utah Division of Parks and Recreation for the management and operation of Red Fleet recreational facilities.

SEC. 104. NON-FEDERAL CONTRIBUTION.

The non-Federal share of the cost for the design, engineering, and construction of the Central Utah Project features authorized by sections 102 and 103 shall be 35 percent of the total costs and shall be paid concurrently with the Federal share, except that for the facilities specified in 102(a)(6), the cost-share shall be 35 percent of the costs allocated to irrigation beyond the ability of irrigators to repay. The non-Federal share of the cost for studies required by sections 102 and 103, other than the study required by sections 102(a)(5), shall be 50 percent and shall be paid concurrently with the Federal share. Any feature or study to which this section applies shall not be initiated until after the non-Federal interests enter into binding agreements with the appropriate Federal authority to provide the share required by this section.

SEC. 105. DEFINITE PLAN REPORT AND ENVIRONMENTAL COMPLIANCE.

(a) Definite Plan Report and Feasibility Studies.—Except for amounts required for compliance with applicable environmental laws and the purposes of this subsection, amounts may not be obligated or expended for the features authorized in section 102(a)(1) or 103 until—

(1) the Secretary or the District, at the option of the District, completes—

(A) a Definite Plan Report for the system authorized in section 102(a)(1), or

(B) an analysis to determine the feasibility of the separate features described in section 103(a), paragraphs (1) through (4), or subsection (f);

(2) the requirements of the National Environmental Policy Act of 1969 have been satisfied with respect to the particular system; and

(3) a plan has been developed with and approved by the United States Fish and Wildlife Service to prevent any harmful contamination of waters due to concentrations of selenium or other such toxicants, if the Service determines that development of the particular system may result in such contamination.

(b) Compliance With Environmental Laws and the Terms of This Act.—Notwithstanding any other provision of this Act, Federal funds authorized under this title may not be provided to any non-Federal interests until any such interest enters into binding agreements with the appropriate Federal authority to be considered a "Federal Agency" for purposes of compliance with all Federal fish, wildlife, recreation, and environmental laws with respect to the use of such funds, and to comply with this Act.

(c) Initiation of Repayment.—For purposes of repayment of costs obligated and expended prior to the date of enactment of this Act, the Definite Plan Report shall be considered as being filed and approved by the Secretary, and repayment of such costs shall be initiated by the Secretary of Energy at the earliest possible date. All the costs allocated to irrigation and associated with construction of the Strawberry Collection System, a component of the Bonneville Unit, obligated prior to the date of enactment of this Act shall be included by the Secretary of Energy in the costs specified in this subsection.

(d) Of the amounts authorized in section 101, the Secretary is directed to make such sums as are necessary, available to the district for the completion of the plans, studies, and analyses required by this section pursuant to the cost sharing provisions of section 104.

SEC. 106. LOCAL DEVELOPMENT IN LIEU OF IRRIGATION AND DRAINAGE.

(a) Optional Rebate to Counties.—(1) After two years from the date of enactment of this Act, the District shall, at the option of an eligible county as provided in paragraph (2), rebate to such county all of the ad valorem tax contributions paid by such county to the District, with interest but less the value of any benefits received by such county and less the administrative expenses incurred by the District to that date.

(2) Counties eligible to receive the rebate provided for in paragraph (1) include any county within the District, except for Salt Lake County and Utah County, in which the construction of Central Utah Project water storage or delivery features authorized in this Act has not commenced and—

(A) in which there are no binding contracts as required under section 102(1)(C); or

(B) in which the authorization for the project or feature was repealed pursuant to section 101(b) or expired pursuant to section 102(1)(B) of this Act.

(b) Local Development Option.—(1) Upon the request of any eligible county that elects not to participate in the project as provided in subsection (a), the Secretary shall provide as a grant to such county an amount that, when matched with the rebate received by such county, shall constitute 65 percent of the cost of implementation of measures identified in paragraph (2).

(2)(A) The grant provided for in this subsection shall be available for the following purposes:

(i) Potable water distribution and treatment.

(ii) Wastewater collection and treatment.

(iii) Agricultural water management.

(iv) Other public infrastructure improvement as may be approved by the Secretary.

(B) Funds made available under this subsection may not be used for—

(i) draining of wetlands;

(ii) dredging of natural water courses; and

(iii) planning or constructing water impoundments of greater than 5,000 acre feet, except for the proposed Hatch Town Dam on the Sevier River in southern Garfield County, Utah.

(C) All Federal environmental laws shall be applicable to any projects or features developed pursuant to this section.

(3) Of the amounts authorized to be appropriated by section 101, not more than $40,000,000 may be available for the purposes of this subsection.

SEC. 107. WATER MANAGEMENT IMPROVEMENT.

(a) Purposes.—The purposes of this section are, through such means as are cost-effective and environmentally sound, to—

(1) encourage the conservation and wise use of water;

(2) reduce the probability and duration of periods necessitating extraordinary curtailment of water use;

(3) achieve beneficial reductions in water use and system costs; and

(4) prevent or eliminate unnecessary depletion of waters in order to assist in the improvement and maintenance of water quantity, quality, and streamflow conditions necessary to augment water supplies and support fish, wildlife, recreation, and other public benefits;

(5) make prudent and efficient use of currently available water prior to any importation of Bear River water into Salt Lake County, Utah; and

(6) provide a systematic approach to the accomplishment of these purposes and an objective basis for measuring their achievement.

(b) Water Management Improvement Plan.—The District, after consultation with the State and with each petitioner of project water, shall prepare and maintain a water management improvement plan. The first plan shall be submitted to the Secretary by January 1, 1994. Every three years thereafter the District shall prepare and submit a supplement to this plan. The Secretary shall either approve or disapprove such plan or supplement thereto within six months of its submission.

(1) Elements.—The plan shall include the following elements:

(A) A water conservation goal, consisting of the greater of the following two amounts for each petitioner of project water:

(i) 25 percent of each petitioner's projected increase in annual water deliveries between the years 1990 and 2000, or such later ten year period as the District may find useful for planning purposes; or

(ii) the amount by which unaccounted for water or, in the case of irrigation entities, transport losses, exceeds 10 percent of recorded annual water deliveries.

In no case shall the goal for the District be less than twenty-five thousand acre feet per year.

(B) A water management improvement inventory, containing—

(i) conservation measures to improve the efficiency of the storage, conveyance, distribution, and use of water in a manner that contributes to the accomplishment of the purposes of this section, exclusive of any measures promulgated pursuant to subsection (f)(2) (A) through (D);

(ii) the estimated economic and financial costs of each such measure;

(iii) the estimated water yield of each such measure; and

(iv) the socioeconomic and environmental effects of each such measure.

(C) A comparative analysis of each cost-effective and environmentally sound measure.

(D) A schedule of implementation for the following five years.

(E) An assessment of the performance of previously implemented conservation measures, if any. Not less than ninety days prior to its transmittal to the Secretary, the plan, or plan supplement, together with all supporting documentation demonstrating compliance with this section, shall be made available by the District for public review, hearing, and comment. All significant comments, and the District's response thereto, shall accompany the plan transmitted to the Secretary.

(2) Evaluation of conservation measures.—

(A) Any conservation measure proposed to the District by the Executive Director of the Utah Department of Natural Resources shall be added to the water management improvement inventory and evaluated by the District. Any conservation measure, up to a cumulative five in number within any three-year period, submitted by nonprofit sportsmen or environmental organizations shall be added to the water management improvement inventory and evaluated by the District.

(B) Each conservation measure that is found to be cost-effective, without significant adverse impact to the financial integrity of the District or a petitioner of project water or without significant adverse environmental impact, and in the public interest shall be deemed to constitute the "active inventory". For purposes of this section, the determination of benefits shall take into account:

(i) the value of saved water, to be determined, in the case of municipal water, on the basis of the project municipal and industrial repayment obligation of the District, but in no case less than $200 per acre foot, and, in the case of irrigation water, on the basis of operation, maintenance, and replacement costs plus the "full cost" rate for irrigation computed in accordance with section 202(3) of the Reclamation Reform Act of 1982 (96 Stat. 1263; 43 U.S.C. 390bb), but in no case less than $50 per acre foot;

(ii) the reduced cost of wastewater treatment, if any;

(iii) net additional hydroelectric power generation, if any, valued at avoided cost;

(iv) net savings in operation, maintenance, and replacement costs; and

(v) net savings in on-farm costs.

(3) Implementation.—The District, and each petitioner of project water, as appropriate, shall implement and maintain, consistent with State law, conservation measures placed in the active inventory to the maximum practical extent necessary to achieve 50 percent of the water conservation goal within seven years after submission of the initial plan and 100 percent of the water conservation goal within fifteen years after submission of the initial plan. Priority shall be given to implementation of the most cost-effective measures that are—

(A) found to reduce consumptive use of water without significant adverse impact to the financial integrity of the District or the petitioner of project water;

(B) without significant adverse environmental impact; and

(C) found to be the public interest.

(4) Use of saved water.—All water saved by any conservation measure implemented by the District or a petitioner of project water under subsection (b)(3) may be retained by the District or the petitioner of project water which saved such water for its own use or disposition. The specific amounts of water saved by any conservation measure implemented under subsection (b)(3) shall be based upon the determination of yield under paragraph (b)(1)(B)(iii), and as may be confirmed or modified by assessment pursuant to paragraph (b)(1)(E). Each petitioner of project water may make available to the District water in an amount equivalent to the water saved, which the District may make available to the Secretary for instream flows in addition to the stream flow requirements established by section 203. Such instream flows shall be released from project facilities, subject to space available in project conveyance systems, to at least one watercourse in the Bonneville and Uinta River Basins, respectively, to be designated by the Interagency Biological Assessment Team. Such flows shall be protected against appropriation in the same manner as the minimum streamflow requirements established by section 203. The Secretary shall reduce the annual contractual repayment obligation of the District equal to the project rate for delivered water, including operation and maintenance expenses, for water saved and accepted by the Secretary for instream flows pursuant to this subsection. The District shall credit or rebate to each petitioner of project water its proportionate share of the District's repayment savings for reductions in deliveries of project water as a result of this subsection.

(5) Status report on the planning process.—Prior to January 1, 1992, the District shall establish a continuous process for the identification, evaluation, and implementation of water conservation measures to achieve the purposes of this section, and submit a report thereon to the Secretary. The report shall include a description of this process, including its financial resources, technical support, public involvement, and identification of staff responsible for its development and implementation.

(c) Water Conservation Pricing Study.—

(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner of project water, shall prepare and transmit to the Secretary a study of wholesale and retail pricing to encourage water conservation as described in this subsection, together with its conclusions and recommendations.

(2) The purposes of this study are:

(A) to design and evaluate potential rate designs and pricing policies for water supply and wastewater treatment within the District boundary;

(B) to estimate demand elasticity for each of the principal categories of end use of water within the District boundary;

(C) to quantify monthly water savings estimated to result from the various designs and policies to be evaluated; and

(D) to identify a water pricing system that reflects the incremental scarcity value of water and rewards effective water conservation programs.

(3) Pricing policies to be evaluated in the study shall include but not be limited to the following, alone and in combination:

(A) recovery of all costs, including a reasonable return on investment, through water and wastewater service charges;

(B) seasonal rate differentials;

(C) drought year surcharges;

(D) increasing block rate schedules;

(E) marginal cost pricing;

(F) rates accounting for differences in costs based upon point of delivery; and

(G) rates based on the effect of phasing out the collection of ad valorem property taxes by the District and the petitioners of project water over a five-year and ten-year period.

The District may incorporate policies developed by the study in the Water Management Improvement Plan prepared under subsection (b).

(4) Not less than ninety days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(5) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any policies or recommendations contained in the study.

(d) Study of Coordinated Operations.—

(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner of project water, shall prepare and transmit to the Secretary a study of the coordinated operation of independent municipal and industrial and irrigation water systems, together with its conclusions and recommendations. The District shall evaluate cost-effective flexible operating procedures that will:

(A) improve the availability and reliability of water supply;

(B) coordinate the timing of reservoir releases under existing water rights to improve instream flows for fisheries, wildlife, recreation, and other environmental values, if possible;

(C) assist in managing drought emergencies by making more efficient use of facilities;

(D) encourage the maintenance of existing wells and other facilities which may be placed on standby status when water deliveries from the project become available;

(E) allow for the development, protection, and sustainable use of ground water resources in the District boundary;

(F) not reduce the benefits that would be generated in the absence of the joint operating procedures; and

(G) integrate management of surface and ground water supplies and storage capability.

The District may incorporate measures developed by the study in the Water Management Improvement Plan prepared under subsection (b).

(2) Not less than ninety days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(3) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any operating procedures, conclusions, or recommendations contained in the study.

(e) Authorization of Appropriations.—

(1) For an amount not to exceed 50 percent of the cost of conducting the studies identified in subsections (c) and (d) and developing the plan identified in subsection (b), $3,000,000 shall be available from the amount authorized to be appropriated by section 101, and shall remain available until expended. Such Federal share shall be allocated among project purposes in the same proportions as the joint costs of the Strawberry Collection System, and shall be repaid in the manner of repayment for each such purpose.

(2) For an amount not to exceed 65 percent of the cost of implementation of the conservation measures in accordance with subsection (b), $40,000,000 shall be available from the amount authorized to be appropriated in section 101, and shall remain available until expended. Such Federal share shall be allocated between the purposes of municipal and industrial water supply and irrigation, as appropriate, and shall be repaid in the manner of repayment for each such purpose.

(f) Utah Water Conservation Advisory Board.—

(1) Prior to March 31, 1991, the Governor of the State may establish a board consisting of nine members to be known as the Utah Water Conservation Advisory Board, with the duties described in this subsection. In the event that the Governor does not establish said board by such date, the Secretary shall establish a Utah Water Conservation Advisory Board consisting of nine members appointed by the Secretary from a list of names supplied by the Governor.

(2) The Board shall recommend water conservation standards and regulations for promulgation by State or local authorities in the service area of each petitioner of project water, including but not limited to the following:

(A) metering or measuring of water to all customers, to be accomplished within five years. (For purposes of this paragraph, residential buildings of more than four units may be considered as single customers);

(b) elimination of declining block rate schedules from any system of water or wastewater treatment charges;

(C) a program of leak detection and repair that provides for the inspection of all conveyance and distribution mains, and the performance of repairs, at intervals of three years or less;

(D) low consumption performance standards applicable to the sale and installation of plumbing fixtures and fittings in new construction;

(E) requirements for the recycling and reuse of water by all newly constructed commercial laundries and vehicle wash facilities;

(F) requirements for soil preparation prior to the installation or seeding or turf grass in new residential and commercial construction;

(G) requirements for the insulation of hot water pipes in all new construction; and

(H) requirements for the installation of water recycling or reuse systems on any newly installed commercial and industrial water-operative air conditioning and refrigeration systems.

(3) Any water conserved by implementation of subparagraphs (A), (B), (C), or (D) shall not be credited to the conservation goal specified under subparagraph (b)(1)(A). All other water conserved shall be credited to the conservation goal specified under subparagraph (b)(1)(A).

(4) The Governor may waive the applicability of paragraphs (2)(D) through (2)(H) above to any petitioner of project water that provides water entirely for irrigation use.

(5) Prior to January 1, 1992, the Board shall transmit to the Governor and the Secretary the recommended standards and regulations referred to in subparagraph (f)(2) in such form as, in the judgment of the Board, will be most likely to be promulgated by January 1, 1993, and the failure of the Board to do so shall be deemed substantial noncompliance.

(6) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any standards or regulations recommended by the Utah Water Conservation Advisory Board.

(g) Compliance.—

(1) Notwithstanding subsections (c)(5), (d)(3) or (f)(6), if the Secretary after 90 days written notice to the District, determines that the plan referred to in subsection (b) has not been developed and implemented or the studies referred to in subsections (c) and (d) have not been completed or transmitted as provided for in this section, the District shall pay a surcharge for each year of substantial noncompliance as determined by the Secretary. The amount of the surcharge shall be:

(A) for the first year of substantial noncompliance, 5 percent of the District's annual Bonneville Unit repayment obligation to the Secretary;

(B) for the second year of substantial noncompliance, 10 percent of the District's annual Bonneville Unit repayment obligation to the Secretary; and

(C) for the third year of substantial noncompliance and any succeeding year of substantial noncompliance, 15 percent of the District's annual Bonneville Unit repayment obligation to the Secretary.

(2) If the Secretary determines that compliance has been accomplished within twelve months after a determination of substantial noncompliance, the Secretary shall refund 100 percent of the surcharge levied.

(h) Reclamation Reform Act of 1982—Compliance with this section shall be deemed as compliance with sec. 210 of the Reclamation Reform Act of 1982 (96 Stat. 1268; 43 U.S.C. 390jj) by the District and each petitioner of project water.

(i) Judicial Review.—(1) For the purposes of sections 701 through 706 of title 5 (U.S.C.), the determinations made by the Secretary under subsections (b), (f)(1) or (g) shall be final actions subject to judicial review.

(2) The record upon review of such final actions shall be limited to the administrative record compiled in accordance with sections 701 through 706 of title 5 (U.S.C). Nothing in this subsection shall be construed to require a hearing pursuant to sections 554, 556, or 557 of title 5 (U.S.C.).

(3) Nothing in this subsection shall be construed to preclude judicial review of other final actions and decisions by the Secretary.

(j) Citizen Suits.—(1) In General.—Any person may commence a civil suit on their own behalf against only the Secretary for any determination made by the Secretary under this section which is alleged to have violated, is violating, or is about to violate any provision of this section or determination made under this section.

(2) JURISDICTION AND VENUE.—The district courts shall have jurisdiction to prohibit any violation by the Secretary of this section, to compel any action required by this section, and to issue any other order to further the purposes of this section. An action under this subsection may be brought in the judicial district where the alleged violation occurred or is about to occur, where fish, wildlife, or recreation resources are located, or in the District of Columbia.

(3) LIMITATIONS.—(A) no action may be commenced under paragraph (1) before sixty days after written notice of the violation has been given to the Secretary.

(B) Notwithstanding subparagraph (A), an action may be brought immediately after such notification in the case of an action under this section respecting an emergency posing a significant risk to the well-being of any species of fish or wildlife.

(C) Subparagraph (A) is intended to provide reasonable notice where possible and not to affect the jurisdiction of the courts.

(4) COSTS AWARDED BY THE COURT.—The court may award costs of litigation (including reasonable attorney and expert witness fees and expenses) to any party, other than the United States, whenever the court determines such award is appropriate.

(5) DISCLAIMER.—The relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief.

(k) PRESERVATION OF STATE LAW.—Nothing in this section shall be deemed to preempt or supersede State law.

SEC. 108. LIMITATION ON HYDROPOWER OPERATIONS.

(a) LIMITATION.—Power generation facilities associated with the Central Utah Project and other features specified in titles I through IV of this Act shall be operated and developed in accordance with the Act of April 11, 1956 (70 Stat. 109; 43 U.S.C. 620f).

(b) COLORADO RIVER BASIN WATERS.—Use of Central Utah Project water diverted out of the Colorado River Basin for power purposes shall only be incidental to the delivery of water for other authorized project purposes. Diversion of such waters out of the Colorado River Basin exclusively for power purposes is prohibited.

SEC. 109. OPERATING AGREEMENTS.

The District, in consultation with the Commission, the Utah Division of Water Rights and the Bureau, shall apply its best efforts to achieve operating agreements for the Jordanelle Reservoir, Deer Creek Reservoir, Utah Lake and Strawberry Reservoir by January 1, 1992.

SEC. 110. JORDAN AQUEDUCT PREPAYMENT.

Under such terms as the Secretary shall prescribe, the Secretary shall allow for the prepayment, or shall otherwise dispose of, repayment contracts entered into among the United States, the District, the Metropolitan Water District of Salt Lake City, and the Salt Lake County Water Conservancy District, dated May 16, 1986, providing for repayment of the Jordan Aqueduct System. In carrying out this section, the Secretary shall take such actions as he deems appropriate to accommodate, effectuate, and otherwise protect the rights and obligations of the United States and the obligors under the contracts executed to provide for payment of such repayment contracts.

SEC. 111. AUDIT OF CENTRAL UTAH PROJECT COST ALLOCATIONS.

Not later than one year after the date on which the Secretary declares the Central Utah Project to be substantially complete, the Comptroller General of the United States shall conduct an audit of the allocation of costs of the Central Utah Project to irrigation, municipal and industrial, and other project purposes and submit a report of such audit to the Secretary and to the Congress. The audit shall be conducted in accordance with regulations which the Comptroller General shall prescribe not later than one year after the date of enactment of this Act. Upon a review of such report, the Secretary shall reallocate such costs as may be necessary. Any amount allocated to municipal and industrial water in excess of the total maximum repayment obligation contained in repayment contracts dated December 28, 1965, and November 26, 1985, shall be deferred for as long as the District is not found to be in substantial noncompliance with the water management improvement program provided in section 107 and the stream flows provided in title II are maintained. If at any time the Secretary finds that such program is in substantial noncompliance or that such stream flows are not being maintained, the Secretary shall, within six months of such finding and after public notice, take action to initiate repayment of all such reimbursable costs.

SEC. 112. SURPLUS CROPS.

Notwithstanding any other provision of law relating to a charge for irrigation water supplied to surplus crops, until the construction costs of the facilities authorized by this title are repaid, the Secretary is directed to charge a surplus crop production charge equal to 10 percent of full cost, as defined in section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb), for the delivery of project water used in the production of any basic agricultural commodity if the total supply of such commodity for the marketing years in which the bulk of the crop would normally be marketed is in excess of the normal supply as determined by the Secretary of Agriculture. The Secretary of the Interior shall announce the amount of the surplus crop production charge for the succeeding year on or before July 1 of each year.

TITLE II—FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION

SEC. 201. UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION.

(a) PURPOSE.—(1) The purpose of this section is to provide for the prompt establishment of the Utah Reclamation Mitigation and Conservation Commission in order to coordinate the implementation of the mitigation and conservation provisions of this Act among the Federal and State fish, wildlife, and recreation agencies.

(2) This section, together with applicable environmental laws and the provisions of other laws applicable to mitigation, conservation and enhancement of fish, wildlife, and recreation resources within the State, are all intended to be construed in a consistent manner. Nothing herein is intended to limit or restrict the authorities or opportunities of Federal, State, or local governments, or political subdivisions thereof, to plan, develop, or implement mitigation, conservation, or enhancement of fish, wildlife, and recreation resources in the State in accordance with other applicable provisions of Federal or State law.

(b) ESTABLISHMENT.—(1) There is established a commission to be known as the Utah Reclamation Mitigation and Conservation Commission.

(2) The Commission shall expire twenty years from the end of the fiscal year during which the Secretary declares the Central Utah Project to be substantially complete. The Secretary shall not declare the project to be substantially complete at least until such time as the mitigation and conservation projects and features provided for in section 215 have been completed in accordance with the fish, wildlife, and recreation mitigation and conservation schedule specified therein.

(c) DUTIES.—The Commission shall—

(1) formulate the policies and objectives for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;

(2) administer in accordance with subsection (f) the expenditure of funds for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;

(3) be considered a Federal agency for purposes of compliance with the requirements of all Federal fish, wildlife, recreation, and environmental laws, including (but not limited to) the Fish and Wildlife Coordination Act, the National Environmental Policy Act of 1969, and the Endangered Species Act of 1973; and

(4) develop, adopt, and submit plans and reports of its activities in accordance with subsection (g).

(d) MEMBERSHIP.—(1) The Commission shall be composed of five members appointed by the President within six months of the date of enactment of this Act, as follows:

(A) One from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the Speaker of the House of Representatives upon the recommendation of the Members of the House of Representatives representing the State.

(B) One from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the majority leader of the Senate upon the recommendation of the Members of the Senate representing the State.

(C) One from a list of residents of the State submitted by the Governor of the State composed of State wildlife resource agency personnel.

(D) One from a list of residents of the State submitted by the District.

(E) One from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish and wildlife matters or environmental conservation matters and have been recommended by Utah nonprofit sportsmen's or environmental organizations, submitted by the Governor of the State.

(2)(A) Except as provided in subparagraph (Bureau), members shall be appointed for terms of four years.

(B) Of the members first appointed—

(i) the member appointed under paragraph (1)(C) shall be appointed for a term of three years; and

(ii) the member appointed under paragraph (1)(D) shall be appointed for a term of two years.

(3) A vacancy in the Commission shall be filled within ninety days and in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the

term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(4)(A) Except as provided in subparagraph (B), members of the Commission shall each be paid at a rate equal to the daily equivalent of the maximum of the annual rate of basic pay in effect for grade GS-15 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(B) Members of the Commission who are full-time officers or employees of the United States or the State of Utah shall receive no additional pay by reason of their service on the Commission.

(5) Three members of the Commission shall constitute a quorum but a lesser number may hold public meetings authorized by the Commission.

(6) The Chairman of the Commission shall be elected by the members of the Commission. The term of office of the Chairman shall be one year.

(7) The Commission shall meet at least quarterly and may meet at the call of the Chairman or a majority of its members.

(e) DIRECTOR AND STAFF OF COMMISSION; USE OF CONSULTANTS.—(1) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS-15 of the General Schedule.

(2) With the approval of the Commission, the Director may appoint and fix the pay of such personnel as the Director considers appropriate. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(3) With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-15 of the General Schedule.

(4) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

(5) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(6) In times of emergency, as defined by rule by the Commission, the Director may exercise the full powers of the Commission until such times as the emergency ends or the Commission meets in formal session.

(f) IMPLEMENTATION OF MITIGATION AND CONSERVATION MEASURES.—(1) the Commission shall administer the mitigation and conservation funds available under this Act to conserve, mitigate, and enhance fish, wildlife, and recreation resources affected by the development and operation of Federal reclamation projects in the State of Utah. Such funds shall be administered in accordance with this section, the mitigation and conservation schedule in section 215 of this Act, and, if in existence, the applicable five year plan adopted pursuant to subsection (g). Expenditures of the Commission pursuant to this section shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or provisions of law.

(2) REALLOCATION OF SECTION 8 FUNDS.—Notwithstanding any provision of this Act which provides that a specified amount of section 8 funds available under this Act shall be available only for a certain purpose, if the Commission determines, after public involvement and agency consultation as provided in subsection (g)(3), that the benefits to fish, wildlife, or recreation will be better served by allocating such funds in a different manner, then the Commission may reallocate any amount so specified to achieve such benefits; Provided, however, That the Commission shall obtain the prior approval of the United States Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 215.

(3) CONTRACTING AUTHORITY.—The Commission shall, for the purpose of carrying out this Act, enter into and perform such contracts, leases, grants, cooperative agreements, or other similar transactions, including the amendment, modification, or cancellation thereof and make the compromise or final settlement of any claim arising thereunder, with universities, nonprofit organizations, and the appropriate public natural resource management agency or agencies, upon such terms and conditions and in such manner as the Commission may deem to be necessary or appropriate, for the implementation of the mitigation and conservation projects and features authorized in this Act, including actions necessary for compliance with the National Environmental Policy Act of 1969.

(g) PLANNING AND REPORTING.—(1) Beginning with the first fiscal year after all members of the Commission are appointed initially, and every five years thereafter, the Commission shall develop and adopt by March 31 a plan for carrying out its duties during each succeeding five-year period. Each such plan shall consist of the specific objectives and measures the Commission intends to administer under subsection (f) during the plan period to implement the mitigation and conservation projects and features authorized in this Act.

(2) FINAL PLAN.—Within six months prior to the expiration of the Commission pursuant to this Act, the Commission shall develop and adopt a plan which shall—

(A) establish goals and measurable objectives for the mitigation and conservation of fish, wildlife, and recreation resources during the five-year period following such expiration; and

(B) recommend specific measures for the expenditure of funds from the Account established under section 302 of this Act.

(3) PUBLIC INVOLVEMENT AND AGENCY CONSULTATION.—(A) Promptly after the Commission is established under this section, and in each succeeding fiscal year, the Commission shall request in writing from the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public, recommendations for objectives and measures to implement the mitigation and conservation projects and features authorized in this Act or amendments thereto. The Commission shall establish by rule a period of time not less than ninety days in length within which to receive such recommendations, as well as the format for and the information and supporting data that is to accompany such recommendations.

(B) The Commission shall give notice of all recommendations and shall make the recommendations and supporting documents available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public. Copies of such recommendations and supporting documents shall be made available for review at the offices of the Commission and shall be available for reproduction at reasonable cost.

(C) The Commission shall provide for public involvement regarding the recommendations and supporting documents within such reasonable time as the Commission by rule deems appropriate.

(4) The Commission shall develop and amend the plans on the basis of such recommendations, supporting documents, and views and information obtained through public involvement and agency consultation. The Commission shall include in the plans measures which it determines, on the basis set forth in paragraph (f)(1), will—

(A) restore, maintain, or enhance the biological productivity and diversity of natural ecosystems within the State and have substantial potential for providing fish, wildlife, and recreation mitigation and conservation opportunities;

(B) be based on, and supported by, the best available scientific knowledge;

(C) utilize, where equally effective alternative means of achieving the same sound biological or recreational objectives exist, the alternative that will also provide public benefits through multiple resource uses;

(D) complement the existing and future activities of the Federal and State fish, wildlife, and recreation agencies and appropriate Indian tribes;

(E) utilize, when available, cooperative agreements and partnerships with private landowners and nonprofit conservation organizations; and

(F) be consistent with the legal rights of appropriate Indian tribes.

Enhancement measures may be included in the plans to the extent such measures are designed to achieve improved conservation or mitigation of resources.

(5) REPORTING.—(A) Beginning on December 1 of the first fiscal year in which all members of the Commission are appointed initially, the Commission shall submit annually a detailed report to the Committee on Energy and Natural Resources of the Senate, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries of the House of Representatives, to the Secretary, and to the Governor of the State. The report shall describe the actions taken and to be taken by the Commission under this section, the effectiveness of the mitigation and conservation measures implemented to date, and potential revisions or modifications to the applicable mitigation and conservation plan.

(B) At least sixty days prior to its submission of such report, the Commission shall make a draft of such report available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public, and establish procedures for timely comments thereon. The Commission shall include a summary of such comments as an appendix to such report.

(h) DISCRETIONARY DUTIES AND POWERS.—In addition to any other duties and powers provided by law—

(1) The Commission may depart from the fish, wildlife, and recreation mitigation and conservation schedule specified in section 215 whenever the Commission determines, after public involvement and agency consultation as provided for in this Act, that such department would be of greater benefit to fish, wildlife, or recreation; Provided, however, That the Commission shall obtain the prior approval of the United States Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 215.

(2) The Commission may, for the purpose of carrying out this Act—

(A) hold such public meetings, sit and act at such times and places, take such testimony, and receive such evidence, as a majority of the Commission considers appropriate; and

(B) meet jointly with other Federal or State authorities to consider matters of mutual interest.

(3) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Director of the Commission, the head of such department or agency shall furnish such information to the Commission. At the discretion of the department or agency, such information may be provided on a reimbursable basis.

(4) The Commission may accept, use, and dispose of appropriations, gifts or grants of money or other property, or donations of services, from whatever source, only to carry out the purposes of this Act.

(5) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(7) The Commission may acquire and dispose of personal and real property and water rights, and interests therein, through donation, purchase, sale, or lease, but not through direct exercise of the power of eminent domain, in order to carry out the purposes of this Act. This provision shall not affect any existing authorities of other agencies to carry out the purposes of this Act.

(8) The Commission may make such expenditures for offices, vehicles, furnishings, equipment, supplies, and books; for travel, training, and attendance at meetings; and for such other facilities and services as may be necessary for the administration of this Act.

(9) The Commission shall not participate in litigation, except litigation pursuant to subsection (1) or condemnation proceedings initiated by other agencies.

(i) FUNDING.—(1) Amounts appropriated to the Secretary for the Commission shall be paid to the Commission immediately upon receipt of such funds by the Secretary. The Commission shall expend such funds in accordance with this Act.

(2) For each fiscal year, the Commission is authorized to use for noncontract expenses an amount equal to 10 percent of the amounts available to the Commission pursuant to this Act during such fiscal year, but not to exceed $1,000,000. Such amount shall be increased by the same proportion as the contributions to the Account under section 302(b)(3)(C).

(j) AVAILABILITY OF UNEXPENDED AMOUNTS UPON COMPLETION OF CONSTRUCTION PROJECTS.—Notwithstanding any other provision of law, upon the completion of any project authorized under this title, Federal funds appropriated for that project but not obligated or expended shall be deposited in the account pursuant to section 302(b)(4)(D) and shall be available to the Commission in accordance with section 302(c)(2).

(k) TRANSFER OF PROPERTY AND AUTHORITY HELD BY THE COMMISSION.—Except as provided in section 302(b)(4)(A), upon the termination of the Commission in accordance with subsection (b)—

(1) the duties of the Commission shall be performed by the Utah Division of Wildlife Resources, which shall exercise such authority in consultation with the United States Fish and Wildlife Service, the District, the Bureau, and the Forest Service; and

(2) title to any real and personal properties then held by the Commission shall be transferred to the Utah Department of Natural Resources or, for such parcels of real property as may be within the boundaries of Federal land ownerships, to the appropriate Federal agency.

(l) REPRESENTATION BY ATTORNEY GENERAL.—The Attorney General of the United States shall represent the Commission in any litigation to which the Commission is a party.

(m) CONGRESSIONAL OVERSIGHT.—The activities of the Commission shall be subject to oversight by the Congress.

(n) TERMINATION OF BUREAU ACTIVITIES.—Upon establishment of the Commission as provided in subsection (b), the responsibility for implementing section 8 funds for mitigation and conservation projects and features authorized in this Act shall be transferred from the Bureau to the Commission.

SEC. 202. INCREASED PROJECT WATER CAPABILITY.

(a) ACQUISITION.—The District shall acquire, on an expedited basis with funds to be provided by the Commission in accordance with the schedule specified in section 215, by purchase from willing sellers or exchange, 25,000 acre-feet of water rights in the Provo River Drainage to achieve the purposes of this section. Of the amounts authorized to be appropriated by section 101, $15,000,000 shall be available only for the purposes of this subsection.

(b) NONCONSUMPTIVE RIGHTS.—A nonconsumptive right in perpetuity to any water acquired under this section shall be tendered in accordance with the laws of the State of Utah within thirty days of its acquisition by the District to the Utah Division of Wildlife Resources for the purposes of maintaining instream flows provided for in section 203(c)(3) and 203(c)(4) for fish, wildlife, and recreation in the Provo River.

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated by section 101, $4,000,000 shall be available only to modify existing or construct new diversion structures on the Provo River below the Murdock diversion to facilitate the purposes of this section.

SEC. 203. STREAM FLOWS.

(a) STREAM FLOW AGREEMENT.—The District shall annually provide, from project water if necessary, amounts of water sufficient to sustain the minimum stream flows established pursuant to the Stream Flow Agreement.

(b) INCREASED FLOWS IN THE UPPER STRAWBERRY RIVER TRIBUTARIES.—(1) The District shall acquire, on an expedited basis with funds to be provided by the Commission in accordance with the schedule specified in section 215, all of the Strawberry basin water rights being diverted to the Heber Valley through the Daniel's Creek drainage and shall apply such rights to increase minimum stream flows—

(A) in the upper Strawberry River and other tributaries to the Strawberry Reservoir;

(B) in the lower Strawberry River from the base of Soldier Creek Dam to Starvation Reservoir; and

(C) in other streams within the Uinta basin affected by the Strawberry Collection System in such a manner as deemed by the Commission to be in the best interest of fish and wildlife.

The Commission's decision under subparagraph (C) shall not establish a statutory or otherwise mandatory minimum stream flow.

(2) The District may acquire the water rights identified in paragraph (1) prior to completion of the facilities identified in section 102 either by purpose or lease from willing sellers or by replacement or exchange of water in kind. The District shall proceed to fulfill the purposes of this subsection on an expedited basis.

(3) Any water acquired under this subsection by the District shall be tendered in accordance with the laws of the State of Utah within thirty days of its acquisition by the District to the Utah Division of Wildlife Resources for the purposes of providing stream flows under paragraph (1).

(4) Of the amounts authorized to be appropriated by section 101, $3,500,000 shall be available only for the acquisition of water under paragraph (1).

(5) Water made available pursuant to paragraph (1) shall be in addition to water described in subsection (a).

(c) STREAM FLOWS IN THE BONNEVILLE UNIT.—The yield and operating plans for the Bonneville Unit of the Central Utah Project shall be established or adjusted to provide for the following minimum stream flows, which flows shall be provided continuously and in perpetuity from the date first feasible, as determined by the Commission:

(1) In the Diamond Fork River drainage subsequent to completion of the Monks Hollow Dam or other structure that rediverts water from the Diamond Fork River Drainage into the Diamond Fork component of the Bonneville Unit of the Central Utah Project—

(A) in Sixth Water Creek, from the exit of Strawberry Valley tunnel to the Last Chance Powerplant and Switchyard, not less than 32 cubic feet per second during the months of May through October and not less than 25 cubic feet per second during the month of November through April, and

(B) in the Diamond Fork River, from the bottom of the Monks Hollow Dam to the Spanish Fork River, not less than 80 cubic feet per second during the months of May through September and not less than 60 cubic feet per second during the months of October through April, which flows shall be provided by the Bonneville Unit of the Central Utah Project.

(2) In the Provo River from the base of Jordanelle Dam to Deer Creek Reservoir a minimum of 125 cubic feet per second.

(3) In the Provo River from the confluence of Deer Creek and the Provo River to the Olmsted Diversion a minimum of 100 cubic feet per second.

(4) Upon the acquisition of the water rights in the Provo Drainage identified in section 202, in the Provo River from the Olmsted Diversion to Utah Lake, a minimum of 75 cubic feet per second.

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(5) In the Strawberry River, from the base of Starvation Dam to the confluence with the Duchesne River, a minimum of 15 cubic feet per second.

(d) MITIGATION OF EXCESSIVE FLOWS IN THE PROVO RIVER.—The District shall, with public involvement, prepare and conduct a study and develop a plan to mitigate the effects of peak season flows in the Provo River. Such study and plan shall be developed in consultation with the Fish and Wildlife Service, the Utah Division of Water Rights, the Utah Division of Wildlife Resources, affected water right holders and users, the Commission, and the Bureau. The study and plan shall reflect, at a minimum, all mitigation and conservation opportunities identified through—

(1) a fishery and recreational use study that addresses anticipated peak flows;

(2) study of the mitigation and conservation opportunities possible through habitat or stream bed modification;

(3) study of the mitigation and conservation opportunities associated with the operating agreements referred to in section 109;

(4) study of the mitigation and conservation opportunities associated with the water acquisitions contemplated by section 202;

(5) study of the mitigation and conservation opportunities associated with section 102(2);

(6) study of the mitigation and conservation opportunities available in connection with water right exchanges; and

(7) study of the mitigation and conservation opportunities that could be achieved by construction of a bypass flowline from the base of Deer Creek Reservoir to the Olmsted Diversion.

(e) EARMARK.—Of the amounts authorized to be appropriated by section 101, $500,000 shall be available only for the implementation of subsection (d).

(f) STRAWBERRY VALLEY TUNNEL.—(1) Upon completion of the Diamond Fork System, the Strawberry Tunnel shall not be used except for deliveries of water for the instream purposes specified in subsection (c). All other waters for the Bonneville Unit and Strawberry Valley Reclamation Project purposes shall be delivered through the Diamond Fork System.

(2) Paragraph (1) shall not apply during any time in which the District, in consultation with the Commission, has determined that the Syar Tunnel or the Sixth Water Aqueduct is rendered unusuable or emergency circumstances require the use of the Strawberry Tunnel for the delivery of contracted Central Utah Project water and Strawberry Valley Reclamation Project water.

SEC. 204. FISH, WILDLIFE, AND RECREATION PROJECTS IDENTIFIED OR PROPOSED IN THE 1988 DEFINITE PLAN REPORT FOR THE CENTRAL UTAH PROJECT.

The fish, wildlife, and recreation projects identified or proposed in the 1988 Definite Plan Report which have not been completed as of the date of enactment of this Act shall be completed in accordance with the 1988 Definite Plan Report and the schedule specified in section 215. The amount expended for any such project, as provided in the 1988 Definite Plan Report, and which is not provided for within the remaining project ceiling, shall be treated as if that amount was made available from the amounts authorized to be appropriated by section 101 only for that project, unless modified by this Act.

SEC. 205. WILDLIFE LANDS AND IMPROVEMENTS.

(a) ACQUISITION OF RANGELANDS.—In addition to lands acquired on or before the date of enactment of this Act and in addition to the acreage to be acquired in accordance with the 1988 Definite Plan Report, the Commission shall acquire on an expedited basis with funds to be provided by the Commission, in accordance with the schedule specified in section 215 and a plan to be developed by the Commission, big game winter range lands to compensate for the impacts of Federal reclamation projects in Utah. Such lands shall be transferred to the Utah Division of Wildlife Resources or, for such parcels as may be within the boundaries of Federal land ownerships, to the appropriate Federal agency, for management as a big game winter range. Of the amounts authorized to be appropriated by section 101, $1,300,000 shall be available only for the purposes of this subsection.

(b) BIG GAME CROSSINGS AND WILDLIFE ESCAPE RAMPS.—In addition to the measures to be taken in accordance with the 1988 Definite Plan Report, the Commission shall construct big game crossings and wildlife escape ramps for the protection of big game animals along the Provo Reservoir Canal, Highline Canal, Strawberry Power Canal, and others. Of the amounts authorized to be appropriated by section 101, $750,000 shall be available only for the purposes of this subsection.

SEC. 206. WETLANDS ACQUISITION, REHABILITATION, AND ENHANCEMENT.

(a) WETLANDS AROUND THE GREAT SALT LAKE.—Of the amounts authorized to be appropriated by section 101, $14,000,000 shall be available only for the planning and implementation of projects to preserve, rehabilitate, and enhance wetland areas around the Great Salt Lake in accordance with a plan to be developed by the Commission.

(b) INVENTORY OF SENSITIVE SPECIES AND ECOSYSTEMS.—(1) The Commission shall, in cooperation with the Utah Division of Wildlife Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive nongame wildlife species and their habitats.

(2) Of the amounts authorized to be appropriated by section 101, $750,000 shall be available only to carry out paragraph (1) of this section.

(3) The Commission shall, in cooperation with the Utah Department of Natural Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive plant species and ecosystems.

(4) Of the amounts authorized to be appropriated by section 101, $750,000 shall be available for the Utah Natural Heritage Program only to carry out paragraph (3) of this section.

(c) UTAH LAKE WETLANDS PRESERVE.—(1) The Commission, in consultation with the Utah Division of Wildlife Resources and the United States Fish and Wildlife Service, shall, in accordance with paragraph (9), acquire private land, water rights, conservation easements, or other interests therein, necessary for the establishment of a wetlands preserve adjacent to or near the Goshen Bay and Benjamin Slough areas of Utah Lake as depicted on a map entitled "Utah Lake Wetland Preserve" and dated September, 1990. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia.

(2) The Secretary shall enter into an agreement under which the Wetlands Preserve acquired under subparagraph (1) shall be managed by the Utah Division of Wildlife Resources pursuant to a plan developed in consultation with the Secretary and in acc

ance with this Act and the substantive

quirements of the National Wildlife Re

System Administration Act of 1966

U.S.C. 668dd et seq.).

(3) The Wetlands Preserve shall be m

aged for the protection of migratory bi

wildlife habitat, and wetland values i

manner compatible with the surround

farmlands, orchards, and agricultural

duction area. Grazing will be allowed

wildlife habitat management purposes

accordance with the Act referenced in p

graph (2) and as determined by the Divis

to be compatible with the purposes st

herein.

(4) Nothing in this subsection shall

strict traditional agricultural practices

cluding the use of pesticides) on adja

properties not included in the preserve

acquisition or easement.

(5) Nothing in this subsection shall

empt existing water rights under Utah S

law.

(6) Nothing in this subsection shall g

authority to the Secretary to introdu

Federally protected species into the wetla

preserve.

(7) The creation of this preserve shall

in any way interfere with the operatio

the irrigation and drainage system au

ized by section 102(1).

(8) All water rights not appurtenant to

lands purchased for the Wetlands Pres

acquired under paragraph (1) shall be

chased from the District at an amount

to exceed the cost of the District in acq

ing such rights.

(9) It is the intent of Congress that ac

sition and development of the Utah

Wetlands Preserve pursuant to subp

graph (1) be accomplished with such f

as may be available to the Secretary,

Commission, or its successor.

(10) Lands or easements may not be

quired pursuant to this subsection wit

the consent of the owner of such lands.

(11) Base property of a lessee or perm

(and the heirs of such lessee or permi

under a Federal grazing permit or lease

on the date of enactment of this Act sha

clude any land of such lessee or perm

acquired by the Secretary under this su

tion.

SEC. 207. FISHERIES ACQUISITION, REHABILITA AND ENHANCEMENT.

Of the amounts authorized to be appr

ated by section 101, the following amo

shall be in addition to amounts avail

under the 1988 Definite Plan Report

shall be available only for fisheries acq

tion, rehabilitation, and improve

within the State:

(1) $750,000 for fish habitat restoratio

the Provo River between the Jordanelle

Deer Creek Reservoirs.

(2) $4,000,000 for fish habitat restora

in streams impacted by Federal reclama

projects in Utah.

(3) $1,000,000 for the restoration of t

taries of the Strawberry Reservoir to as

trout spawning recruitment.

(4) $1,500,000 for post-treatment man

ment and fishery development costs a

Strawberry Reservoir.

(5) $1,000,000 for—

(A) a study to be conducted as direct

the Commission to determine the appr

ate means for improving Utah Lake

warm water fishery and other related is

and

(B) development of facilities and

grams to implement management object

(6) $1,000,000 for fish habitat restoration and improvements in the Diamond Fork River and Sixth Water Creek drainages.

(7) $475,000 for the restoration of native cutthroat trout populations in streams and lakes in the Bonneville Unit project area.

(8) $2,500,000 for watershed restoration and improvements, erosion control, and wildlife habitat restoration and improvements in the Avintaquin, Red, and Currant Creek drainages and other Strawberry River drainages affected by the development of Federal reclamation projects in Utah.

SEC. 208. STABILIZATION OF HIGH MOUNTAIN LAKES IN THE UINTA MOUNTAINS.

(a) Revision of Plan.—The project plan for the stabilization of high mountain lakes in the Upper Provo River drainage shall be revised to require that the following lakes will be stabilized at levels beneficial for fish habitat and recreation: Big Elk, Crystal, Duck, Fire, Island, Long, Wall, Marjorie, Pot, Star, Teapot, and Weir. Overland access by vehicles or equipment for stabilization and irrigation purposes under this subsection shall be minimized within the Lakes Management Area boundary, as depicted on the map in the Wasatch-Cache National Forest Plan (p. IV-166, dated 1987), to a level of practical necessity.

(b) Costs of Rehabilitation.—(1) The costs of rehabilitating water storage features at Trial, Washington, and Lost Lakes, which are to be used for project purposes, shall be borne by the project from amounts made available pursuant to section 101. Existing roads may be used for overland access to carry out such rehabilitation.

(2) The costs of stabilizing each of the lakes referred to in subsection (a) which is to be used for a purpose other than irrigation shall be treated as an expense under section 8.

(c) Fish and Wildlife Habitat.—Of the amounts authorized to be appropriated by section 101, $5,000,000 shall be available only for stabilization and fish and wildlife habitat restoration in the lakes referred to in subsection (a). This amount shall be in addition to the $7,538,000 previously authorized for appropriation under section 5 of the Act of April 11, 1956 (43 U.S.C. 620g), for the stabilization and rehabilitation of the lakes described in this section.

SEC. 209. STREAM ACCESS AND RIPARIAN HABITAT DEVELOPMENT.

(a) In General.—Of the amounts authorized to be appropriated by section 101, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for stream access and riparian habitat development in the State:

(1) $750,000 for rehabilitation of the Provo River riparian habitat development between Jordanelle Reservoir and Utah Lake.

(2) $250,000 for rehabilitation and development of watersheds and riparian habitats along Diamond Fork and Sixth Water Creek.

(3) $350,000 for additional watershed stabilization, terrestrial wildlife and riparian habitat improvements, and road closures within the Central Utah Project area.

(4) $8,500,000 for the acquisition of additional recreation and angler accesses and riparian habitats, which accesses and habitats shall be acquired in accordance with the recommendation of the Commission.

(b) Study of Impact to Wildlife and Riparian Habitats Which Experience Reduced Water Flows as a Result of the Strawberry Collection System.—Of the amounts authorized to be appropriated by section 101, $400,000 shall be available only for the Commission to conduct a study of the impacts to soils and riparian fish and wildlife habitat in drainages that will experience substantially reduced water flows resulting from the operation of the Strawberry Collection System. The study shall identify mitigation opportunities that represent alternatives to increasing stream flows and make recommendations to the Commission.

SEC. 210. SECTION 8 EXPENSES.

(a) Unless otherwise expressly provided, all of the amounts authorized to be appropriated by this Act and listed in subsection (b) of this section shall be treated as expenses under section 8.

(b) The sections referred to in subsection (a) of this section are as follows: title II, and 302(b)(2).

SEC. 211. JORDAN AND PROVO RIVER PARKWAYS AND NATURAL AREAS.

(a) Fisheries.—Of the amounts authorized to be appropriated by section 101, $1,150,000 shall be available only for fish habitat improvements to the Jordan River.

(b) Riparian Habitat Rehabilitation.—Of the amounts authorized to be appropriated by section 101, $750,000 shall be available only for Jordan River riparian habitat rehabilitation, which amount shall be in addition to amounts available under the 1988 Definite Plan Report.

(c) Wetlands.—Of the amounts authorized to be appropriated by section 101, $7,000,000 shall be available only for the acquisition of wetland acreages, including those along the Jordan River identified by the multi-agency technical committee for the Jordan River Wetlands Advance Identification Study.

(d) Recreational Facilities.—Of the amounts authorized to be appropriated by section 101, $1,000,000 shall be available only to construct recreational facilities proposed by the State of Utah for the "Provo/Jordan River Parkway", a description of which is set forth in the report to accompany the bill H.R. 3960 (H. Rept. 101—).

(e) Provo River Corridor.—Of the amounts authorized to the appropriated by section 101, $1,000,000 shall be available only for riparian habitat acquisition and preservation, stream habitat improvements, and recreation and angler access provided on a willing seller basis along the Provo River from the Murdock diversion of Utah Lake, as determined by the Commission after consultation with local officials.

SEC. 212. RECREATION.

Of the amounts authorized to be appropriated by section 101, the following amounts shall be available to the Commission only for Central Utah Project recreation features:

(a) $1,000,000 for Utah Lake recreational improvements as proposed by the State and local governments.

(b) $750,000 for additional recreation improvements, which shall be made in accordance with recommendations made by the Commission, associated with Central Utah Project features and affected areas, including camping facilities, hiking trails, and signing.

SEC. 213. FISH AND WILDLIFE FEATURES IN THE COLORADO RIVER STORAGE PROJECT.

Of the amounts authorized to be appropriated by section 101, the following amounts shall be available only to provide mitigation and restoration of watersheds and fish and wildlife resources in Utah impacted by the Colorado River Storage Project:

(a) Habitat Improvements in Certain Drainages.—$1,125,000 shall be available only for watershed and fish and wildlife improvements in the Fremont River drainage, which shall be expended in accordance with a plan developed by the Commission in consultation with the Wayne County Water Conservancy District.

(b) Small Dams and Watershed Improvements.—$4,000,000 shall be available only for land acquisition for the purposes of watershed restoration and protection in the Albion Basin in the Wasatch Mountains and for restoration and conservation related improvements to small dams and watersheds on State of Utah lands and National Forest System lands within the Central Utah Project and the Colorado River Storage Project area in Utah, which amounts shall be expended in accordance with a plan developed by the Commission.

(c) Fish Hatchery Production.—$22,800,000 shall be available only for the planning and implementation of improvements to existing hatchery facilities or the construction and development of new fish hatcheries to increase production of warmwater and coldwater fishes for the areas affected by the Colorado River Storage Project in Utah. Such improvements and construction shall be implemented in accordance with a plan identifying the long-term needs and management objectives for hatchery production prepared by the United States Fish and Wildlife Service, in consultation with the Utah Division of Wildlife Resources, and adopted by the Commission. The cost of operating and maintaining such new or improved facilities shall be borne by the Secretary.

SEC. 214. CONCURRENT MITIGATION APPROPRIATIONS.

Notwithstanding any other provision of this Act, the Secretary is directed to allocate funds appropriated for each fiscal year pursuant to titles I through III of this Act as follows:

(a) deposit the Federal contribution to the account as authorized in section 302(b)(2); then,

(b) of any remaining funds, allocate the amounts for implementation of the mitigation and conservation projects and features specified in the schedule in section 215 concurrently with the allocation of amounts for implementation of title I of this Act.

SEC. 215. FISH, WILDLIFE, AND RECREATION SCHEDULE.

The mitigation and conservation projects and features shall be implemented in accordance with the following schedule:

TITLE III—UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT

SEC. 301. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds that—

(1) the State of Utah is a State in which one of the largest trans-basin water diversions occurs, dewatering important natural areas as a result of the Colorado River Storage Project;

(2) the State in Utah is one of the most ecologically significant States in the Nation, and it is therefore important to protect, mitigate, and enhance sensitive species and ecosystems through effective long term mitigation;

(3) the challenge of mitigating the environmental consequences associated with trans-basin water diversions are complex and involve many projects and measures (some of which are presently unidentifiable) and the costs for which will continue after projects of the Colorado River Storage Project in Utah are completed; and

(4) environmental mitigation associated with the development of the projects of the Colorodo River Storage Project in the State of Utah are seriously in arrears.

(b) Purposes.—The purpose of this title is to establish an ongoing account to ensure that—

(1) the level of environmental protection, mitigation, and enhancement achieved in connection with projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah is preserved and maintained;

(2) resources are available to manage and maintain investments in fish and wildlife and recreation features of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah;

(3) resources are available to addr known environmental impacts of projects identified in this Act and elsewh in the Colorado River Storage Project in State of Utah for which no funds are be specifically authorized for appropriati and earmarked under this Act; and

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE

I. FISH AND WILDLIFE BUDGET TO IMPLEMENT THE CUP COMPLETION ACT OF 1990

Projects and Features	Appropriations (thousands of 1990 dollars)				
	TEC	FY92	FY93	FY94	FY
Instream flows:					
1. Acquisition of Daniel's Creek water rights to restore Upper Strawberry River flows [Sec. 203(a)]	$3,500	$0	$1,000	$1,500	$1,
2. a. Acquisition of 25,000 AF on Provo River for streamflows from Murdock Diversion to Utah Lake [Sec. 202]	$15,000	$0	$5,000	$5,000	$5,
b. Modify and/or construct diversion structures on Provo River from Murdock Diversion to Utah Lake [Sec. 202]	$4,000	$0	$500	$1,500	$1,
3. Study of high-flows in Provo River from Deer Creek Dam to Olmsted Diversion [Sec. 203(e)]	$500	$0	$0	$100	$
Subtotal	$23,000	$0	$6,500	$8,100	$7,
	FY96	FY97	FY98	FY99	
Instream flows:					
1. Acquisition of Daniel's Creek water rights to restore Upper Strawberry River flows [Sec. 203(b)]	$0	$0	$0	$0	
2. a. Acquisition of 25,000 AF on Provo River for streamflows from Murdock Diversion to Utah Lake [Sec. 202]	$0	$0	$0	$0	
b. Modify and/or construct diversion structures on Provo River from Murdock Diversion to Utah Lake [Sec. 202]	$500	$0	$0	$0	
3. Study of high-flows in Provo River from Deer Creek Dam to Olmsted Diversion [Sec. 203(e)]	$100	$100	$100	$0	
Subtotal	$600	$100	$100	$0	
Wildlife lands and improvement:					
1. Acquisition of big game winter range [Sec. 205(a)]	$1,300	$0	$100	$200	$
2. Construction of big game crossings and escape ramps—Provo Res. Canal, Highline Canal, Strawberry Power Canal or others [Sec. 205(b)]	$750	$0	$0	$250	$
Subtotal	$2,050	$0	$100	$450	$
	FY96	FY97	FY98	FY99	
Wildlife lands and improvement:					
1. Acquisition of big game winter range [Sec. 205(a)]	$500	$0	$0	$0	
2. Construction of big game crossings and escape ramps—Provo Res. Canal, Highline Canal, Strawberry Power Canal or others [Sec. 205(b)]	$250	$0	$0	$0	
Subtotal	$750	$0	$0	$0	
	TEC	FY92	FY93	FY94	FY
Wetland acquisition, rehabilitation, and development:					
1. Rehabilitation and enhancement of wetlands around Great Salt Lake [Sec. 206(a)]	$14,000	$0	$1,000	$2,200	$2,
2. Wetland acquisition along Jordan River [Sec. 211(c)]	$7,000	$0	$100	$200	$1,
3. Inventory sensitive species [Sec. 206(b)]	$1,500	$0	$200	$200	$
Subtotal	$22,500	$0	$1,300	$2,600	$3,
	FY96	FY97	FY98	FY99	
Wetland acquisition, rehabilitation, and development:					
1. Rehabilitation and enhancement of wetlands around Great Salt Lake [Sec. 206(a)]	$2,200	$2,200	$2,200	$2,000	
2. Wetland acquisition along Jordan River [Sec. 211(c)]	$1,500	$2,000	$2,000	$0	
3. Inventory sensitive species [Sec. 206(b)]	$200	$200	$200	$300	
Subtotal	$3,900	$4,400	$4,400	$2,300	
Fisheries acquisition, rehabilitation, and enhancement:					
1. Fish habitat restoration on Provo River between Jordanelle Dam and Deer Creek Reservoir [Sec. 207(1)]	$750	$0	$50	$0	$
2. Fish habitat improvements to streams impacted by the CUP [Sec. 207(2)]	$4,000	$0	$0	$0	$
3. Rehabilitation of tributaries to Strawberry Reservoir for trout reproduction [Sec. 207(3)]	$1,000	$0	$200	$200	$
4. Strawberry Reservoir posttreatment management and development [Sec. 207(4)]	$1,500	$0	$0	$300	$
5. Study and facility development to improve Utah Lake warmwater fishery [Sec. 207(5)]	$1,000	$0	$50	$200	$
6. Fish habitat improvements to Diamond Fork and Sixth Water Creeks [Sec. 207(6)]	$1,000	$0	$0	$0	
7. Restoration of native cutthroat trout populations [Sec. 207(7)]	$475	$0	$0	$50	
8. Fish habitat improvements to Jordan River [Sec. 211(a)]	$1,150	$0	$0	$0	
9. Stabilization of Upper Provo River reservoirs for fishery improvement [Sec. 208]	$5,000	$0	$0	$0	
10. Development of additional fish hatchery production for CRSP waters in Utah [Sec. 213]	$22,800	$0	$100	$2,500	$4
Subtotal	$38,675	$0	$400	$3,250	$5
	FY96	FY97	FY98	FY99	
Fisheries acquisition, rehabilitation, and enhancement:					
1. Fish habitat restoration on Provo River between Jordanelle Dam and Deer Creek Reservoir [Sec. 207(1)]	$200	$200	$200	$0	

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. FISH AND WILDLIFE BUDGET TO IMPLEMENT THE CUP COMPLETION ACT OF 1990

Projects and Features	Appropriations (thousands of 1990 dollars)				
	TEC	FY92	FY93	FY94	FY95
2. Fish habitat improvements to streams impacted by the CUP [Sec. 207(2)]	$600	$1,000	$1,000	$1,000	
3. Rehabilitation of tributaries to Strawberry Reservoir for trout reproduction [Sec. 207(3)]	$200	$200	$0	$0	
4. Strawberry Reservoir posttreatment management and development [Sec. 207(4)]	$300	$300	$300	$0	
5. Study and facility development to improve Utah Lake warmwater fishery [Sec. 207(5)]	$150	$150	$150	$150	
6. Fish habitat improvements to Diamond Fork and Sixth Water Creeks [Sec. 207(6)]	$0	$100	$500	$400	
7. Restoration of native cutthroat trout populations [Sec. 207(7)]	$75	$100	$100	$100	
8. Fish habitat improvements to Jordan River [Sec. 211(a)]	$100	$300	$400	$350	
9. Stabilization of Upper Provo River reservoirs for fishery improvement [Sec. 208]	$0	$500	$2,000	$2,500	
10. Development of additional fish hatchery production for CRSP waters in Utah [Sec. 213]	$4,000	$4,000	$4,000	$4,000	
Subtotal	$5,625	$6,850	$8,650	$8,500	
Watershed improvements:					
1. Projects for watershed improvement, erosion control, wildlife range improvements in Avintaquin Creek, Red Creek, Currant Creek and other drainages [Sec. 207(8)]	$2,500	$0	$650	$350	$350
2. Watershed, stream, and riparian improvements in Fremont River drainage [Sec. 213(a)]	$1,125	$0	$50	$75	$200
3. Small dam and watershed improvements in the CRSP area in Utah [Sec. 213(b)]	$4,000	$0	$100	$500	$700
Subtotal	$7,875	$0	$800	$925	$1,250
	FY96	FY97	FY98	FY99	
Watershed improvements:					
1. Projects for watershed improvement, erosion control, wildlife range improvements in Avintaquin Creek, Red Creek, Currant Creek and other drainages [Sec. 207(8)]	$350	$350	$350	$350	
2. Watershed, stream, and riparian improvements in Fremont River drainage [Sec. 213(a)]	$200	$200	$200	$200	
3. Small dam and watershed improvements in the CRSP area in Utah [Sec. 213(b)]	$700	$700	$700	$600	
Subtotal	$1,250	$1,250	$1,250	$1,150	
	TEC	FY92	FY93	FY94	FY95
Stream access and riparian area development:					
1. Rehabilitation of riparian zones along Provo River from Jordanelle Dam to Utah Lake [Sec. 209(a1)]	$750	$0	$0	$0	$250
2. Rehabilitation and development of riparian areas along Diamond Fork and Sixth Water Creeks [Sec. 209(a2)]	$250	$0	$0	$0	$0
3. Watershed stabilization, terrestrial wildlife habitat improvements, and road closures [Sec. 209(a3)]	$350	$0	$0	$0	$0
4. Acquisition of angler access in CUP area, in addition to needs identified in 1988 DPR [Sec. 209(a4)]	$8,500	$0	$500	$1,000	$1,500
5. Study of riparian impacts caused by CUP from reduced streamflows and identify mitigation opportunities [Sec. 209(b)]	$400	$0	$50	$50	$50
6. Riparian rehabilitation and development along Jordan River [Sec. 211(b)]	$750	$0	$75	$75	$120
Subtotal	$11,000	$0	$625	$1,125	$1,920
	FY96	FY97	FY98	FY99	
Stream access and riparian area development:					
1. Rehabilitation of riparian zones along Provo River from Jordanelle Dam to Utah Lake [Sec. 209(a1)]	$250	$250	$0	$0	
2. Rehabilitation and development of riparian areas along Diamond Fork and Sixth Water Creeks [Sec. 209(a2)]	$0	$50	$100	$100	
3. Watershed stabilization, terrestrial wildlife habitat improvements, and road closures [Sec. 209(a3)]	$50	$100	$100	$100	
4. Acquisition of angler access in CUP area, in addition to needs identified in 1988 DPR [Sec. 209(a4)]	$1,750	$1,750	$1,000	$1,000	
5. Study of riparian impacts caused by CUP from reduced streamflows and identify mitigation opportunities [Sec. 209(b)]	$50	$50	$75	$75	
6. Riparian rehabilitation and development along Jordan River [Sec. 211(b)]	$120	$120	$120	$120	
Subtotal	$2,220	$2,320	$1,395	$1,395	
Recreation funds:					
1. Recreational improvements at Utah Lake [Sec. 212(1)]	$2,000	$0	$75	$225	$300
2. Recreation facilities at other CUP features, as recommended [Sec. 212(2)]	$750	$0	$50	$100	$100
3. Jordan River Parkway Development [Sec. 211(d)]	$1,000	$0	$75	$75	$200
4. Provo River Parkway Development [Sec. 211(e)]	$1,000	$0	$50	$100	$150
Subtotal	$4,750	$0	$250	$500	$750
Total new	$109,600	$0	$9,375	$17,350	$21,420
	FY96	FY97	FY98	FY99	
Recreation funds:					
1. Recreational improvements at Utah Lake [Sec. 212(1)]	$350	$350	$350	$350	
2. Recreation facilities at other CUP features, as recommended [Sec. 212(2)]	$125	$125	$125	$125	
3. Jordan River Parkway Development [Sec. 211(d)]	$300	$350	$0	$0	
4. Provo River Parkway Development [Sec. 211(e)]	$200	$200	$200	$100	
Subtotal	$975	$1,025	$675	$575	
Total new	$15,470	$15,845	$16,370	$13,770	

II. FISH AND WILDLIFE BUDGET TO IMPLEMENT THE 1988 DPR

Projects and Features	Appropriations (thousands of 1990 dollars)				
	TEC	FY92	FY93	FY94	FY95
Strawberry collection system:					
1. Acquire 545 acres of Coal Mine Hollow property as riparian mitigation	$800	$800	$0	$0	$0
2. Acquire angler access on about 35 miles of streams identified in the Aquatic Mitigation Plan	$3,700	$3,700	$0	$0	$0
3. Construct fish habitat improvements on about 70 miles of streams as identified in the Aquatic Mitigation Plan	$5,490	$966	$1,103	$1,090	$753
[1] 4. Rehabilitation of Strawberry Project Lands for wildlife range and riparian improvements	$3,000	$600	$600	$600	$600
Subtotal	$12,990	$6,066	$1,703	$1,690	$1,353
	FY96	FY97	FY98	FY99	
Strawberry collection system:					
1. Acquire 545 acres of Coal Mine Hollow property as riparian mitigation	$0	$0	$0	$0	
2. Acquire angler access on about 35 miles of streams identified in the Aquatic Mitigation Plan	$0	$0	$0	$0	
3. Construct fish habitat improvements on about 70 miles of streams as identified in the Aquatic Mitigation Plan	$904	$574	$0	$0	
[1] 4. Rehabilitation of Strawberry Project Lands for wildlife range and riparian improvements	$600	$0	$0	$0	
Subtotal	$1,504	$674	$0	$0	
Duchesne River area canal rehabilitation:					
[2] 1. Acquire and develop 782 acres of bottomland along Duchesne River	$910	$910	$0	$0	$0
Subtotal	$910	$910	$0	$0	$0
	FY96	FY97	FY98	FY99	
Duchesne River area canal rehabilitation:					
[2] 1. Acquire to develop 782 acres of bottomland along Duchesne River	$0	$0	$0	$0	
Subtotal	$0	$0	$0	$0	
	TEC	FY92	FY93	FY94	FY95
Municipal and industrial system:					
1. a. Acquire 720 acres of land on north shoreline of Jordanelle Reservoir as big game range	$2,247	$1,747	$500	$0	$0
b. Fence and develop lands identified above for big game winter range	$226	$0	$0	$100	$126
2. Acquire angler access to entire reach of Provo River from Jordanelle Dam to Deer Creek Reservoir	$1,050	$0	$525	$525	$0
3. Acquire and develop 100 acres of wetland at base of Jordanelle Dam	$900	$0	$900	$0	$0
Subtotal	$4,423	$1,747	$1,925	$625	$126
	FY96	FY97	FY98	FY99	
Municipal and industrial system:					
1.a. Acquire 720 acres of land on north shoreline of Jordanelle Reservoir a big game range	$0	$0	$0	$0	
b. Fence and develop lands identified above for big game winter range	$0	$0	$0	$0	
2. Acquire angler access to entire reach of Provo River from Jordanelle Dam to Deer Creek Reservoir	$0	$0	$0	$0	
3. Acquire and develop 100 acres of wetland at base of Jordanelle Dam	$0	$0	$0	$0	
Subtotal	$0	$0	$0	$0	
Diamond Fork system:					
1.a. Acquire lands to be managed for wildlife, including big game winter and summer ranges, upland game habitat, golden eagle and furbearer habitat	$900	$0	$450	$450	$0
b. Develop lands acquired per above, including fencing, water developments and range improvements	$801	$0	$101	$700	$0
2. Acquire angler access on about	$400	$0	$200	$200	$0
Subtotal	$2,101	$0	$751	$1,350	$0
	FY96	FY97	FY98	FY99	
Diamond Fork system:					
1.a. Acquire lands to be managed for wildlife, including big game winter and summer ranges, upland game habitat, golden eagle and furbearer habitat	$0	$0	$0	$0	
b. Develop lands acquired per above, including fencing, water developments and range improvements	$0	$0	$0	$0	
2. Acquire angler access on about 2 miles of lower Diamond Fork	$0	$0	$0	$0	
Subtotal	$0	$0	$0	$0	
	TEC	FY92	FY93	FY94	FY95
Irrigation and drainage system:					
1. Acquire 705 acres of big game winter range for transfer to UDUR for management	$1,721	$0	$0	$721	$1,000
2. Construct big game crossings on canals and laterals built as part of I and D System	$6,571	$0	$0	$0	$1,950
Subtotal	$8,292	$0	$0	$721	$2,950
Total DPR	$28,716	$8,723	$4,379	$4,386	$4,429
Grand Total	$138,316	$8,723	$13,754	$21,736	$25,849
	FY96	FY97	FY98	FY99	
Irrigation and drainage system:					
1. Acquire 705 acres of big game winter range for transfer to UDUR for management	$0	$0	$0	$0	
2. Construct big game crossings on canals and laterals built as part of I and D system	$2,685	$1,936	$0	$0	
Subtotal	$2,685	$1,936	$0	$0	
Total DPR	$4,189	$2,610	$0	$0	
Grand total	$19,659	$18,453	$16,370	$13,770	

[1] Previously authorized pursuant to PL100-563

[2] Acquisition and development of 782 acres along Duchesne River is a tentative replacement item for wetland mitigation previously identified in the DPR as wetland establishment around the p Starvation Reservoir, which has since proved to be unsuccessful.

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(4) resources are available to address presently unknown environmental needs and opportunities for enhancement within the areas of the State of Utah affected by the projects identified in this Act and elsewhere in the Colorado River Storage Project.

SEC. 302. UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT.

(a) Establishment.—There is hereby established in the Treasury of the United States a Utah Reclamation Mitigation and Conservation Account (hereafter in this title referred to as the "Account"). Amounts in the Account shall be available for the purposes set forth in section 301(b).

(b) Deposits into the Account.—Amounts shall be deposited into the Account as follows:

(1) State contributions.—In each of fiscal years 1992 through 1999, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, a voluntary contribution of $3,000,000 from the State of Utah.

(2) Federal contributions.—In each of fiscal years 1992 through 1999, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, $5,000,000 from amounts authorized to be appropriated by section 101, which shall be treated as an expense under section 8.

(3) Contributions from project beneficiaries.—(A) In each of fiscal years 1992 through 1999, or until the fiscal year in which the project is declared substantially complete in accordance with this Act, whichever occurs first, $750,000 in non-Federal funds from the District.

(B) $5,000,000 annually out of the revenues paid each year to the general fund of the Treasury from receipts from power contractors within the State of Utah for the sale of electric power and energy from the Colorado River Storage Project which amount shall be made available without further appropriation for expenditure from the Account: *Provided*, That such amount, to the extent deposited in the Account, shall be treated as having repaid and returned to the general fund of the Treasury costs assigned to power for repayment under section 5 of the Act of April 11, 1956 (70 Stat. 107; 43 U.S.C. 620d): *Provided further*, That in the event power revenues deposited in the Basin Fund are insufficient after first meeting annual operating needs to make the payment provided for under this subsection, payment to the Account shall be deferred until sufficient funds are available.

(C) The annual contributions described in subparagraphs (A) and (B) shall be increased proportionally on March 1 of each year by the same percentage increase during the previous calendar year in the Consumer Price Index for urban consumers, published by the Department of Labor.

(4) Interest and unexpended funds.—(A) Any amount authorized and earmarked for fish, wildlife, or recreation expenditures which is appropriated but not obligated or expended by the Commission upon its termination under section 201.

(B) All funds annually appropriated to the Secretary for the Commission.

(C) All interest earned on amounts in the Account which, until the date on which the Commission terminates under section 201, shall be added to and become part of the principal of the Account.

(D) Amounts not obligated or expended after the completion of a construction project and available pursuant to section 201(j).

(c) Operation of the Account.—(1) All moneys deposited in the Account which the Commission determines are not needed to meet current or planned expenditures or obligations may be invested in accordance with paragraph (4).

(2) The Commission is authorized to administer and expend without further authorization and appropriation by Congress all sums deposited into the Account pursuant to subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B). The Commission may elect to deposit funds not expended under subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B) into the Account as principal.

(3) All amounts deposited in the Account pursuant to subsections (b) (1) and (2), and any amount deposited as principal under paragraph (2), shall constitute the principal of the Account. No part of the principal amount may be expended for any purpose.

(4) The Secretary, in consultation with the Governor, shall establish requirements for the investment of all amounts deposited in the account under subsection (c). Such requirements shall ensure that such amounts are invested with sound investment principles and shall ensure that persons managing such investments exercise their fiduciary responsibilities in an appropriate manner.

(d) Administration by the Utah Division of Wildlife Resources.—(1) After the date on which the Commission terminates under section 201, the Utah Division of Wildlife Resources or its successor shall receive:

(A) All amounts contributed annually to the Account pursuant to section 302(b)(3)(B); and

(B) All interest on the principal of the Account, at the beginning of each year. The portion of the interest earned on the principal of the Account that exceeds the amount required to increase the principal of the Account proportionally on March 1 of each year by the percentage increase during the previous calendar year in the Consumer Price Index for urban consumers published by the Department of Labor, shall be available for expenditure by the Division in accordance with this section.

(2) The funds received by the Utah Division of Wildlife Resources under paragraph (1) shall be expended in a manner that fulfills the purposes of the Account established under this Act, in consultation with and pursuant to, a conservation plan and amendments thereto to be developed by the Utah Division of Wildlife Resources, in cooperation with the United States Forest Service, the Bureau of Land Management of the Department of the Interior, and the United States Fish and Wildlife Service.

(3) The funds to be distributed from the Account shall not be applied as a substitute for funding which would otherwise be provided or available to the Utah Division of Wildlife Resources.

TITLE IV—UTE INDIAN RIGHTS SETTLEMENT

SEC. 401. FINDINGS.

(A) Findings.—The Congress finds the following—

(1) the unquantified Federal reserved water rights of the Ute Indian Tribe are the subject of existing claims and prospective lawsuits involving the United States, the State, and the District and numerous other water users in the Uinta Basin. The State and the Tribe negotiated, but did not implement, a compact to quantify the Tribe's reserved water rights.

(2) There are other unresolved Tribal claims arising out of an agreement dated September 20, 1965, where the Tribe deferred development of a portion of its reserved water rights for 15,242 acres of the Tribe's Group 5 Lands in order to facilitate the construction of the Bonneville Unit of the Central Utah Project. In exchange the United States undertook to develop substitute water for the benefit of the Tribe.

(3) It was intended that the Central Utah Project, through construction of the Upalco and Uintah units (Initial Phase) and the Ute Indian Unit (Ultimate Phase) would provide water for growth in the Uinta Basin and for late season irrigation for both the Indians and non-Indian water users. However, construction of the Upalco and Uintah Units has not been undertaken, in part because the Bureau was unable to find adequate and economically feasible reservoir sites. The Ute Indian unit has not been authorized by Congress, and there is no present intent to proceed with Ultimate Phase Construction.

(4) Without the implementation of the plans to construct additional storage in the Uinta Basin, the water users (both Indian and non-Indian) continue to suffer water shortages and resulting economic decline.

(b) Purpose.—This Act and the proposed Revised Ute Indian Compact of 1990 are intended to—

(1) quantify the Tribe's reserved water rights;

(2) allow increased beneficial use of such water; and

(3) put the Tribe in the same economic position it would have enjoyed had the features contemplated by the September 20, 1965 Agreement been constructed.

SEC. 402. PROVISIONS FOR PAYMENT TO THE UTE INDIAN TRIBE.

(a) Bonneville Unit Tribal Credits.—(1) Commencing on July 1, 1991 and continuing for 50 years, the Tribe shall receive from the United States 26 percent of the annual Bonneville Unit municipal and industrial capital repayment obligation attributable to 35,500 acre-feet of water, which represents a portion of the Tribe's water rights that were to be supplied by storage from the Central Utah Project, but will not be supplied because the Upalco and Uintah units are not to be constructed.

(2)(A) Commencing in the year 2042, the Tribe shall collect from the District 7 percent of the then fair market value of 35,500 acre-feet of Bonneville Unit agricultural water which has been converted to municipal and industrial water. The fair market value of such water shall be recalculated every five years.

(B) In the event 35,500 acre-feet of Bonneville Unit converted agricultural water to municipal and industrial have not yet been marketed as of the year 2042, the Tribe shall receive 7 percent of the fair market value of the 35,500 acre-feet of such water converted to municipal and industrial water.

(b) Bonneville Unit Tribal Waters.—The Secretary is authorized to make any unused capacity in the Bonneville Unit Strawberry Aqueduct and Collection System diversion facilities available for use by the Tribe. Unused capacity shall constitute capacity, only as available, in excess of the needs of the District for delivery of Bonneville Unit water and for satisfaction of minimum streamflow obligations established by this Act. In the event that the Tribe elects to place water in these components of the Bonneville Unit system, the Secretary and District shall only impose an operation and maintenance charge. Such charge shall commence at the time of the Tribe's use of such facilities. The operation and maintenance charge shall be prorated on a per acre-foot basis, but shall only include the operation and maintenance costs of facilities used by the Tribe and shall only apply when the Tribe elects to use the facilities. As provided in the Ute Indian Compact, transfers of certain Indian reserved rights water to different lands or different uses will be made in accordance with the laws of the State of Utah governing change or exchange applications.

(c) Election To Return Tribal Waters.—Notwithstanding the authorization provided for in subparagraph (b), the Tribe may at any time elect to return all or a portion of the water which it delivered under subparagraph (b) for use in the Uinta Basin. Any such Uinta Basin use shall protect the rights of non-Indian water users existing at the time of the election. Upon such election, the Tribe will relinquish any and all rights which it may have acquired to transport such water through the Bonneville Unit facilities.

SEC. 403. TRIBAL USE OF WATER.

(a) Ute Indian Compact.—The Tribe is authorized to enter into a compact with the State reserving waters to the Tribe and establishing the uses and management of such Tribal waters. Such compact shall be subject to ratification by the Congress.

(b) 'ɪʜᴇ Indian Intercourse Act.—The provisions of section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any water rights confirmed in the Compact. Nothing in this subsection shall be considered to amend, construe, supersede or preempt any State law, Federal law, interstate compact or international treaty that pertains to the Colorado River or its tributaries, including the appropriation, use, development and storage, regulation, allocation, conservation, exportation or quality of those waters.

SEC. 404. TRIBAL FARMING OPERATIONS.

$45,000,000 is authorized for the Secretary to permit the Tribe to develop over a three-year period—

(1) a 7,500 acre farming/feed lot operation equipped with satisfactory off-farm and on-farm water facilities out of tribally-owned lands and adjoining non-Indian lands now served by the Uintah Indian Irrigation Project;

(2) a plan to reduce the Tribe's expense on the remaining sixteen thousand acres of tribal land now served by the Uintah Indian Irrigation Project; and

(3) a fund to permit tribal members to upgrade their individual farming operations.

Any non-Indian lands acquired under this section shall be acquired from willing sellers and shall not be added to the reservation of the Tribe.

SEC. 405. RESERVOIR, STREAM, HABITAT AND ROAD IMPROVEMENTS WITH RESPECT TO THE UTE INDIAN RESERVATION.

(a) Repair of Cedarview Reservoir.—$5,000,000 is authorized to permit the Secretary to repair the leak in Cedarview Reservoir in Dark Canyon, Duchesne County, Utah, so that the resultant surface area of the reservoir is two hundred and ten acres.

(b) Reservation Stream Improvements.—$10,000,000 is authorized for the Commission, in consultation with the Tribe, to undertake stream improvements to not less than 53 linear miles (not counting meanders) for the Pole Creek, Rock Creek, Yellowstone River, Lake Fork River, Uinta River, and Whiterocks River, in the State of Utah. Nothing in this authorization shall increase the obligation of the District to deliver more than 44,400 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flows in the Uinta Basin.

(c) Bottle Hollow Reservoir.—$500,000 in an initial appropriation is authorized to permit the Secretary to clean the Bottle Hollow Reservoir on the Ute Indian Reservation of debris and trash resulting from a submerged sanitary landfill, to remove all non-game fish, and to secure minimum flow of water to the reservoir to make it a suitable habitat for a cold water fishery. The United States, and not the Tribe, shall be responsible for cleanup and all other responsibilities relating to the presently contaminated Bottle Hollow waters.

(d) Minimum Stream Flows.—As a minimum, the Secretary shall endeavor to maintain continuous releases from the outlet works of the Upper Stillwater Dam into Rock Creek of 29 cubic feet per second during May through October and continuous releases into Rock Creek of 23 cubic feet per second during November through April. Nothing in this authorization shall increase the obligation of the District to deliver more than 44,400 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flow in the Uinta Basin. Water may not be withheld for additional storage in Upper Stillwater Reservoir at any time when such withholding would result in the stream flow in Rock Creek at the outlet works of the Upper Stillwater Dam falling below those specified minimum flows, and water already in storage will be released for such purpose, so long as such releases do not require the Central Utah Project to provide a total of 44,400 acre-feet per year of Central Utah Project water for such purposes in all streams.

(e) Land Transfer.—The Bureau shall transfer 315 acres of land to the Forest Service, located at the proposed site of the Lower Stillwater Reservoir as a wildlife mitigation measure.

(f) Recreation Enhancement.—$10,000,000 is authorized for the Secretary, in consultation with the Commission, to permit the Tribe to develop big game hunting, fisheries, campgrounds and fish and wildlife management facilities, including administration buildings and grounds on the Uintah and Ouray Reservation, in lieu of the construction of the Lower Stillwater Dam and related facilities.

SEC. 406. TRIBAL DEVELOPMENT FUNDS.

(a) Establishment.—There is hereby established to be appropriated a total amount of $125,000,000 to be paid in three annual and equal installments to the Tribal Development Fund which the Secretary is authorized and directed to establish for the Tribe.

(b) Adjustment.—To the extent that any portion of such amount is contributed after the period described above or in amounts less than described above, the Tribe shall, subject to appropriation Acts, receive, in addition to the full contribution to the Tribal Development Fund, an adjustment representing the interest income as determined by the Secretary, in his sole discretion, that would have been earned on any unpaid amount.

(c) Tribal Development.—The Tribe shall prepare a Tribal Development Plan for all or a part of this Tribal Development Fund. Such Tribal Development Plan shall set forth from time to time economic projects proposed by the Tribe which in the opinion of two independent financial consultants are deemed to be reasonable, prudent and likely to return a reasonable investment to the Tribe. The financial consultants shall be selected by the Tribe with the advice and consent of the Secretary. Principal from the Tribal Development Fund shall be permitted to be expended only in those cases where the Tribal Development Plan can demonstrate with specificity a compelling need to utilize principal in addition to income for the Tribal Development Plan.

SEC. 407. WAIVER OF CLAIMS.

(a) General Authority.—The Tribe is authorized to waive and release claims concerning or related to water rights as described below.

(b) Description of Claims.—As a condition to the receipt of the moneys described in sections 402 and 406, the Tribe shall waive, upon receipt of the section 406 moneys, any and all claims relating to its water rights covered under the agreement of September 20, 1965, including claims by the Tribe that it retains the right to develop lands as set forth in the Ute Indian Compact and deferred in such agreement. Nothing in this waiver of claims shall prevent the Tribe from enforcing rights granted to it under this Act or under the Compact. To the extent necessary to effect a complete release of the claims, the United States concurs in such release.

(c) Resurrection of Claims.—In the event the Tribe does not receive on a timely basis the moneys described in section 402, the Tribe is authorized to bring an action for an accounting against the United States, if applicable, in the United States Claims Court for moneys owed plus interest at 10 percent, and against the District, if applicable, in the United States District Court for the District of Utah for moneys owed plus interest at 10 percent. the United States and the District waive any defense based upon sovereign immunity in such proceedings.

TITLE V—ENDANGERED SPECIES ACT AND NATIONAL ENVIRONMENTAL POLICY ACT

Notwithstanding any provision of titles I through IV of this Act, nothing in such titles shall be interpreted as modifying or amending the provisions of the Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or the National Environmental Policy Act of 1969 (42 U.S.C. 4231 et seq.).

TITLE VI—SHORT TITLE AND DEFINITION

SEC. 601. SHORT TITLE.

Titles VI through XXV of this Act may be cited as the "Reclamation Projects Authorization and Adjustment Act of 1990".

SEC. 602. DEFINITION OF "SECRETARY".

For purposes of titles VI through XXV of this Act, the term "Secretary" means the Secretary of the Interior.

TITLE VII—BUFFALO BILL DAM AND RESERVOIR, WYOMING

SEC. 701. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.

Title I of Public Law 97-293 (96 Stat. 1261) is amended as follows:

(1) In the second sentence of section 101, by striking "replacing the existing Shoshone Powerplant," and inserting "constructing power generating facilities with a total installed capacity of 25.5 megawatts,".

(2) In section 102—

(A) by amending the heading to read as follows: "recreational facilities, conservation, and fish and wildlife"; and

(B) by adding at the end the following: "The construction of recreational facilities in excess of the amount required to replace or relocate existing facilities is authorized, and the costs of such construction shall be borne equally by the United States and the State of Wyoming pursuant to the Federal Water Project Recreation Act.".

(3) In section 106(a)—

(A) by striking "for construction of the Buffalo Bill Dam and Reservoir modifications the sum of $106,700,000 (October 1982 price levels)" and inserting "for the Federal share of the construction of the Buffalo Bill Dam and Reservoir modifications and recreational facilities the sum of $80,000,000 (October 1988 price levels)"; and

(B) by striking "modifications" and all that follows and inserting "modifications.".

TITLE VIII—TREATMENT OF DRAINAGE FROM THE LEADVILLE MINE DRAINAGE TUNNEL, COLORADO

SEC. 801. AUTHORIZATION OF CONSTRUCTION, OPERATION, AND MAINTENANCE.

In order that water flowing from the Leadville Mine Drainage Tunnel, Colorado shall meet water quality standards, the Secretary is authorized, subject to the provisions of section 804 of this title, to—

(a) design, construct, operate and maintain a water treatment plant, including the disposal of sludge produced by such a treatment plant, as appropriate, and

(b) install concrete lining on the rehabilitated portion of the Leadville Mine Drainage Tunnel.

SEC. 802. DESIGN.

The treatment plant authorized by section 801 shall be designed and constructed to treat the quantity and quality of effluent, historically discharged from the Leadville Mine Drainage Tunnel, and to meet requirements of the Clean Water Act.

SEC. 803. TREATMENT OF COSTS.

Design, construction, and operation and maintenance costs of the works authorized by section 801 shall be nonreimbursable.

SEC. 804. DESIGN AND OPERATION NOTIFICATION.

Prior to the initiation of construction and during construction of the works authorized by section 801, the Secretary shall submit the plans for design and operation of the works to the Administrator of the Environmental Protection Agency, and the State of Colorado to obtain their views on the design and operation plans. After such review and consultation, the Secretary shall notify the Speaker of the House of Representatives and the President Pro Tempore of the Senate that the discharge from the works to be constructed will meet the requirements set forth in Federal Facilities Compliance Agreement No. FFCA-89-1, entered into by the Bureau of Reclamation and the Environmental Protection Agency on February 7, 1989, and in National Pollutant Discharge Elimination System permit No. CO-0021717 issued to the Bureau of Reclamation in 1975 and reissued in 1979 and 1981.

SEC. 805. OPERATION AND MAINTENANCE.

The Secretary shall be responsible for operation, maintenance, and replacement of the water treatment plant, including sludge disposal authorized by this title. The Secretary may carry out the responsibilities of this section by contract.

SEC. 806. RESTORATION OF FISH AND WILDLIFE RESOURCES.

(a) AUTHORIZATION.—The Secretary is authorized, in consultation with the State of Colorado, to formulate and implement, subject to the provisions of subsection (b) of this section, a program for the restoration of fish and wildlife resources of those portions of the Arkansas River basin impacted by the effluent discharged from the Leadville Mine Drainage Tunnel. The formulation of the program shall be undertaken with appropriate public consultation.

(b) NOTIFICATION TO THE CONGRESS.—Prior to implementing the program, the Secretary shall submit a copy of the proposed restoration program to the Speaker of the House of Representatives and the President pro tempore of the Senate for a period of not to exceed sixty days.

SEC. 807. UPPER ARKANSAS RIVER BASIN WATER QUALITY RESTORATION INITIATIVE.

(a) AUTHORIZATION.—The Secretary of the Interior is authorized, in consultation with the State of Colorado, the Environmental Protection Agency, and other Federal entities, to conduct investigations of water pollution sources and impacts attributed to mining related and other development in the Upper Arkansas River Basin, to develop corrective action plans, and to implement corrective action demonstration projects. The Secretary of the Interior shall have no authority under this section at facilities or units which are subject to or covered by the Resource Conservation and Recovery Act or the Comprehensive Environmental Response Compensation and Liability Act of 1980.

(b) UPPER ARKANSAS RIVER BASIN.—For the purposes of subsection (a), the Upper Arkansas River Basin means the hydrologic basin in the Arkansas River in Colorado extending from Pueblo Dam (a United States Bureau of Reclamation facility) upstream to its headwaters.

(c) PUBLIC INVOLVEMENT.—The development of all corrective action plans and subsequent corrective action demonstration projects shall be undertaken with appropriate public involvement pursuant to a public participation plan, consistent with regulations promulgated under the Federal Water Pollution Control Act, developed by the Secretary in consultation with the State of Colorado and the Environmental Protection Agency.

(d) UTILIZATION OF NON-FEDERAL FUNDS AND SERVICES.—The Secretary shall arrange for cost sharing with the State of Colorado and for the utilization of non-Federal funds and in-kind services where possible. The Federal share of costs for the activities authorized in subsection (a) of this section shall be limited to 50 percent.

(e) SUBMISSION OF PLANS TO CONGRESS.—Prior to implementing any corrective action demonstration project, the Secretary shall submit a copy of the proposed project plans to the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

(f) CERCLA.—Nothing in this title affects or modifies, in any way, the obligations or liabilities of any person under other Federal or State law, including common law, with respect to the discharge or release of hazardous substances, pollutants or contaminants, as defined under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601).

SEC. 808. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out the activities specified in sections 801 through 807 of this title, the sum of $20 million (based upon January 1989 prices). There are also authorized to be appropriated such additional sums as may be required for operation and maintenance of the works authorized by sections 801 and 807(a) of this title.

TITLE IX—LAKE MEREDITH SALINITY CONTROL PROJECT

SEC. 901. AUTHORIZATION TO CONSTRUCT AND TEST.

The Secretary is authorized to construct and test the Lake Meredith Salinity Control Project, New Mexico and Texas, in accordance with the Federal Reclamation laws (Act of June 17, 1902, 32 Stat. 788, and Acts amendatory thereof or supplementary thereto) and the provisions of this title and the plan set out in the June 1985 Technical Report of the Bureau of Reclamation on this project with such modification of, omissions from, or additions to the works, as the Secretary may find proper and necessary for the purpose of improving the quality of water delivered to the Canadian River downstream of Ute Reservoir, New Mexico, and entering Lake Meredith, Texas. The principal features of the project shall consist of production wells, observation wells, pipelines, pumping plants, brine disposal facilities, and other appurtenant facilities.

SEC. 902. CONSTRUCTION CONTRACT WITH THE CANADIAN RIVER MUNICIPAL WATER AUTHORITY

(a) AUTHORITY TO CONTRACT.—The Secretary is authorized to enter into a contract with the Canadian River Municipal Water Authority of Texas (hereafter in this title the "Authority") for the design and construction management of project facilities by the Bureau of Reclamation and for the payment of construction costs by the Authority. Operation and maintenance of project facilities upon completion of construction and testing shall be the responsibility of the Authority.

(b) CONSTRUCTION CONTINGENT ON CONTRACT.—Construction of the project shall not be commenced until a contract has been executed by the Secretary with the Authority, and the State of New Mexico has granted the necessary permits for the project facilities.

SEC. 903. PROJECT COSTS.

(a) CANADIAN RIVER MUNICIPAL WATER AUTHORITY SHARE.—All costs of construction of project facilities shall be advanced by the Authority as the non-Federal contribution toward implementation of this title. Pursuant to the terms of the contract authorized by section 902 of this title, these funds shall be advanced on a schedule mutually acceptable to the Authority and the Secretary, as necessary to meet the expense of carrying out construction and land acquisition activities.

(b) FEDERAL SHARE.—All project costs for design preparation, and construction management shall be nonreimbursable as the Federal contribution for environmental enhancement by water quality improvement, except that the Federal contribution shall not exceed 33 per centum of the total project costs.

SEC. 904. CONSTRUCTION AND CONTROL.

(a) PRECONSTRUCTION.—The Secretary shall, upon entering into the contract specified in section 902 with the Authority, proceed with preconstruction planning, preparation of designs and specifications, acquiring permits, acquisition of land and rights, and award of construction contracts pending availability of appropriated funds.

(b) TERMINATION OF CONSTRUCTION.—At any time following the first advance of funds, the Authority may request that the Secretary terminate activities then in progress, and such request shall be binding upon the Secretary, except that, upon termination of construction pursuant to this section, the Authority shall reimburse to the Secretary a sum equal to 67 per centum of all costs incurred by the Secretary in project verification, design and construction management, reduced by any sums previously paid by the Authority to the Secretary for such purposes. Upon such termination, the United States is under no obligation to complete the project as a nonreimbursable development.

(c) TRANSFER OF CONTROL.—Upon completion of construction and testing of the project, or upon termination of activities at the request of the Authority, the Secretary shall transfer the care, operation, and maintenance of the project works to the Authority or to a bona fide entity mutually agreeable to the States of New Mexico and Texas. As part of such transfer, the Secretary shall return unexpended balances of the funds advanced, assign to the Authority or the bona fide entity the rights to any contract in force, convey to the Authority or the bona fide entity any real estate, easements or personal property acquired by the advanced funds, and provide any data, drawings, or other items of value procured with advanced funds.

SEC. 905. TRANSFER OF TITLE.

Title to any facilities constructed under the authority of this title shall remain with the United States.

SEC. 906. AUTHORIZATION.

There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this title, except that the total Federal contribution to the cost of the activities undertaken under the authority of this title shall not exceed 33 per centum.

TITLE X—CEDAR BLUFF UNIT, KANSAS

SEC. 1001. AUTHORIZATION OF REFORMULATION.

The Secretary, consistent with the provisions of the Memorandum of Understanding between the Bureau of Reclamation and the Fish and Wildlife Service of the Department of the Interior, the State of Kansas, and the Cedar Bluff Irrigation District No. 6, dated December 17, 1987, is authorized to reformulate the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program, Kansas, including reallocation of the conservation capacity of the Cedar Bluff Reservoir, to create—

(1) a designated operating pool, as defined in such Memorandum of Understanding, for fish, wildlife, and recreation purposes, for ground water recharge for environmental, domestic, municipal and industrial uses, and for other purposes; and

(2) a joint-use pool, as defined in such Memorandum of Understanding, for flood control, for water sales, for fish, wildlife, and recreation purposes, and for other purposes.

SEC. 1002. CONTRACT WITH THE STATE OF KANSAS FOR OPERATING POOL.

The Secretary may enter into a contract with the State of Kansas for the sale, use and control of the designated operating pool, with the exception of water reserved for the city of Russell, Kansas, and to allow the State of Kansas to acquire use and control of water in the joint-use pool, except that, the State of Kansas shall not permit utilization of water from Cedar Bluff Reservoir to irrigate lands in the Smoky Hill River Basin from Cedar Bluff Reservoir to its confluence with Big Creek.

SEC. 1003. CONTRACT WITH THE STATE OF KANSAS FOR CEDAR BLUFF DAM AND RESERVOIR.

(a) AUTHORIZATION.—The Secretary may enter into a contract with the State of Kansas, accepting a payment of $350,000, and the State's commitment to pay a proportionate share of the annual operation, maintenance, and replacement charges for the Cedar Bluff Dam and Reservoir. After the reformulation of the Cedar Bluff Unit authorized by this title, all net revenues received by the United States from the sale of water of the Cedar Bluff Unit shall be credited to the Reclamation Fund.

(b) CONTRACT TERMINATION.—Upon receipt of the payment specified in subsection (a), the Cedar Bluff Irrigation District's obligations under contract number 0-07-70-W0064 shall be terminated.

(c) TRANSFER OF FISH HATCHERY.—The Secretary may transfer ownership of the buildings, fixtures, and equipment of the United States Fish and Wildlife Service fish hatchery facility at Cedar Bluff Dam, and the related water rights, to the State of Kansas for its use and operation for fish, wildlife, and related purposes. If any of the property transferred by this subsection to the State of Kansas is subsequently transferred from State ownership or used for any purpose other than those provided for in this subsection, title to such property shall revert to the United States.

SEC. 1004. TRANSFER OF DISTRICT HEADQUARTERS.

The Secretary may transfer title to all interests in real property, buildings, fixtures, equipment, and tools associated with the Cedar Bluff Irrigation District headquarters located near Hays, Kansas, contingent upon the District's agreement to close down the irrigation system to the satisfaction of the Secretary at no additional cost to the United States, after which all easement rights shall revert to the owners of the lands to which the easements are attached. The transferee of any interests conveyed pursuant to this section shall assume all liability with respect to such interests and shall indemnify the United States against all such liability.

SEC. 1005. ADDITIONAL ACTIONS.

The Secretary may take all other actions consistent with the provisions of the Memorandum of Understanding referred to in section 1001 that the Secretary deems necessary to accomplish the reformulation of the Cedar Bluff Unit.

TITLE XI—MISCELLANEOUS PROVISIONS, CENTRAL VALLEY PROJECT, CALIFORNIA

SEC. 1101. EXTENSION OF THE TEHAMA-COLUSA CANAL SERVICE AREA.

The first paragraph of section 2 of the Act of September 26, 1950 (64 Stat. 1036), as amended by the Act of August 19, 1967 (81 Stat. 167), and the Act of December 22, 1980 (94 Stat. 3339), authorizing the Sacramento Valley Irrigation Canals, Central Valley Project, California, is further amended by striking: "Tehama, Glenn, and Colusa Counties, and those portions of Yolo County within the boundaries of the Colusa County, Dunnigan, and Yolo-Zamora water districts or" and inserting in lieu thereof: "Tehama, Glenn, and Colusa Counties, those portions of Yolo County within the boundaries of the Colusa County Water District, Dunnigan Water District, Yolo-Zamora Water District, and Yolo County Flood Control and Water Conservation District, and Solano County, or".

SEC. 1102. AUTHORIZATION FOR LONG-TERM CONTRACT.

(a) GENERAL AUTHORITY.—Notwithstanding the Energy and Water Development Appropriations Act, 1990, the Secretary is authorized, pursuant to section 203 of the Flood Control Act of 1962 (76 Stat. 1191), to enter into a long-term contract in accordance with Federal Reclamation laws with the Toulumne Regional Water District, California, for the delivery of water from the New Melones Unit, Central Valley Project, California, for the delivery of water from the New Melones project to the county's water distribution system.

(b) RECLAMATION LAWS.—For purposes of subsection (a), the term "Federal Reclamation laws" means the Act of June 17, 1902 (32 Stat. 388), and Acts supplementary thereto and amendatory thereof.

TITLE XII—SALTON SEA RESEARCH PROJECT

SEC. 1201. RESEARCH ON ENHANCED EVAPORATION SYSTEM FOR SALINE WATER.

The Secretary is authorized to conduct a research project for the development of an enhanced evaporation system for saline water treatment. The project shall be located in the area of the Salton Sea of Southern California.

SEC. 1202. COST-SHARING.

The non-Federal share of the cost of the research project referred to in section 1201 shall be 50 per centum of the total cost of the project.

SEC. 1203. REPORT.

Not later than September 30, 1995, the Secretary shall submit a report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate regarding the results of the research project referred to in section 1201.

SEC. 1204. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $10,000,000 to carry out the provisions of this title.

TITLE XIII—AMENDMENT TO SABINE RIVER COMPACT

SEC. 1301. CONSENT TO AMENDMENT TO SABINE RIVER COMPACT.

The consent of Congress is given to the amendment, described in section 1303, to the interstate compact, described in section 1302, relating to the waters of the Sabine River and its tributaries.

SEC. 1302. COMPACT DESCRIBED.

The compact referred to in the previous section is the compact between the States of Texas and Louisiana, and consented to by Congress in the Act of August 10, 1954 (Chapter 668; 68 Stat. 690; Public Law 85-78).

SEC. 1303. AMENDMENT.

The amendment referred to in section 1301 strikes "One of the Louisiana members shall be ex officio the Director of the Louisiana Department of Public Works; the other Louisiana member shall be a resident of the Sabine Watershed and shall be appointed by the Governor of Louisiana for a term of four years: Provided, That the first member so appointed shall serve until June 30, 1958." in article VII(c) and inserts "The Louisiana members shall be residents of the Sabine Watershed and shall be appointed by the Governor for a term of four years, which shall run concurrent with the term of the Governor.".

TITLE XIV—NAME CHANGE

SEC. 1401. DESIGNATION.

The Salt-Gila Aqueduct of the Central Arizona Project, constructed, operated, and maintained under section 301(a)(7) of the Colorado River Basin Project Act (43 U.S.C. 1521(a)(7)), hereafter shall be known and designated as the "Fannin-McFarland Aqueduct".

SEC. 1402. REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the aqueduct referred to in section 1401 hereby is deemed to be a reference to the "Fannin-McFarland Aqueduct".

TITLE XV—WARREN ACT AMENDMENTS

SEC. 1501. EXCESS STORAGE AND CARRYING CAPACITY.

The first sentence of the first section of the Act of February 21, 1911 (43 U.S.C. 523; commonly known as the "Warren Act"), is amended—

(a) by striking out "lands to be irrigated under any project" and inserting in lieu thereof "water users then entitled to the delivery of water from a Federal reclamation project";

(b) by striking out "lands and entrymen under the project" and inserting in lieu thereof "users of the Federal reclamation project, including fish and wildlife purposes,"; and

(c) by inserting before the final period ", municipal, industrial, domestic, or miscellaneous purposes, including fish and wildlife purposes".

TITLE XVI—AMENDMENTS TO RECLAMATION STATUTES

SEC. 1601. CONTRACT AMENDMENTS.

Subsection (h) of section 8 of the Reclamation Project Act of 1939 (43 U.S.C. 485g(h)) is amended to read as follows:

"(h) If any classification or reclassification of irrigable lands undertaken pursuant to this section results in an increase in the outstanding construction charges or rate of repayment on any project, as established by an existing contract with an organization, the Secretary shall amend the contract to increase the construction obligation or the rate of repayment. No other modification in outstanding construction charges or repayment rates may be made by reason of a classification or reclassification undertaken pursuant to this section without the approval of Congress.".

SEC. 1602. AUTHORITY FOR APPROPRIATE PENALTIES.

Section 224 of the Reclamation Reform Act of 1982 (43 U.S.C. 390ww), as amended, is further amended by adding at the end of subsection (c) the following: "Notwithstanding any other provision of law, the Secretary shall establish appropriate and effective penalties for failure to comply with any provision of this Act or any regulation established pursuant to this Act.".

TITLE XVII—WATER RECLAMATION AND REUSE

SEC. 1701. PARTICIPATION IN STUDY.

The Secretary is authorized to participate with the City of San Diego, California in the conduct of a study of conceptual plans for water reclamation and reuse. The Federal share of the cost of the study referred to in this section shall not exceed 50 per centum of the total cost of the study.

SEC. 1702. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated the sum of $250,000 to carry out the Federal share of the study specified in section 1701 of this title.

TITLE XVIII—MINE EFFLUENT FISHERY

SEC. 1801. ESTABLISHMENT OF FISHERY RESOURCES.

(a) AUTHORIZATION.—The Secretary is authorized and directed to conduct a feasibility study on establishing a Federal fish hatchery in McDowell County, West Virginia. Conditioned upon the completion of the feasibility study and the location of a suitable site and water supply, the Secretary is authorized to construct a Federal fish hatchery as provided for in the feasibility study. The study shall be undertaken by the United States Fish and Wildlife Service in consultation with the State of West Virginia.

(b) If a fish hatchery is constructed in McDowell County, West Virginia pursuant to section 1801(A), the fish hatchery shall be known as the Carl R. Sullivan National Fish Hatchery.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated the sum of $2,500,000 to carry out the provisions of this title.

TITLE XIX—McGEE CREEK CONTRACT ADJUSTMENT

SEC. 1901. CONTRACT ADJUSTMENT

(a) AUTHORIZATION.—The Secretary is authorized and directed to enter into a contract with the McGee Creek Water Authority, Oklahoma City, Oklahoma, accepting a payment of $88,629,000.

(b) CONTRACT TERMINATION.—Upon receipt of the payment specified in subsection (a), the McGee Creek Water Authority's obligation under contract between the Authority and the Secretary numbered 0-07-50-X0822, dated October 11, 1979 shall be terminated.

SEC. 1902. TITLE TO PROJECT FACILITIES.

Notwithstanding any payments made by the McGee Creek Water Authority pursuant to section 1901(a) of this title or pursuant to any contract with the Secretary, title to project facilities of the McGee Creek Project, Oklahoma shall remain with the United States.

TITLE XX—WATER AND POWER NEEDS OF INSULAR AREAS

SEC. 2001. FINDINGS.

The Congress hereby finds and declares that assuring adequate supplies of water, sewerage, and power for the residents of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and Virgin Islands has become a problem of such magnitude that the welfare and prosperity of these jurisdictions require the Federal Government to assist in finding permanent, long-term solutions to their water, sewerage, and power problems.

SEC. 2002. STUDY.

(a) AUTHORIZATION.—The Secretary, acting through the Bureau of Reclamation, is authorized and directed to undertake a comprehensive study of how the long-term water, sewerage, and power needs of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands can be resolved. Such study shall be conducted in consultation with the governments of those islands. Such study for each jurisdiction shall include, but not be limited to—

(1) an assessment of the magnitude and extent of current and expected needs;

(2) an assessment of how the needs can be resolved;

(3) the costs and benefits of alternative solutions;

(4) the need for additional legal authority for the President to take actions to meet the needs; and

(5) specific recommendations for the role of the Federal Government and each local government in solving the long-term needs.

(b) SUBMISSION OF THE REPORT.—Not later than two years after the date of enactment of this title, the Secretary shall transmit the studies required by this section, together with supporting documentation and recommendations of the Secretary and the views of the governments of the islands referred to in subsection (a), to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 2003. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary, acting through the Bureau of Reclamation, through the end of fiscal year 1994, such sums as may be necessary, which are authorized to remain available until expended.

TITLE XXI—RECLAMATION REFORM ACT AMENDMENTS

SEC. 2101. SHORT TITLE AND DEFINITION.

(a) SHORT TITLE.—This title may be cited as the "Reclamation Reform Act Amendments of 1990".

(b) DEFINITION.—As used in this title, the term "the Act" means the Reclamation Reform Act of 1982 (Public Law 97-293, 96 Stat. 1263, 43 U.S.C. 390aa, et seq.).

SEC. 2102. NEW DEFINITION.

Section 202 of the Act is amended by adding the following new definition, and renumbering the subsequent sections accordingly:

"(3) The term "farm" or "farm operation" means any landholding or group of landholdings, including partial landholdings, directly or indirectly farmed or operated by an individual, group, entity, trust, or any other combination or arrangement. The existence of a farm or farm operation will be presumed when ownership, operation, management, financing or other factors, individually or together, indicate that one or more landholdings, including partial landholdings, are directly or indirectly farmed or operated by the same individual, group, entity, trust, or other combination or arrangement thereof: Provided, That the mere sharing of labor, equipment or services by members of a family, where such sharing is not part of any larger direct or indirect joint operation or management, shall not by itself initiate said presumption.".

SEC. 2103. ADDITION OF FARM OR FARM OPERATION TO THE ACT.

(a) The second sentence of section 203(b) of the Act is amended by inserting after "landholding" wherever it appears, the following: ", farm, or farm operation", and inserting after "leased" wherever it appears the following: ", farmed or operated".

(b) Section 205 of the Act is amended by inserting after "landholding" wherever it appears, the following: ", farm, or farm operation", and by inserting after "landholdings" the following: ", farms or farm operations".

SEC. 2104. TRUSTS.

Section 214(a) of the Act is amended by striking the period and inserting at the end of the section the following: ", except that such limitations shall apply to any trust, trust beneficiary, and farm or farm operation operated by or for such trustee for one or more beneficiaries. The provisions of this section, as amended, shall be applicable to any trust approved by the Secretary prior to June 14, 1990, to which the Secretary has not already applied such ownership or pricing limitations, 180 days after the date of enactment of this Act. In the case of all other trusts, such limitations are immediately applicable.".

SEC. 2105. INTENT AND PURPOSES.

Section 224(c) of the Act is amended to read as follows:

"(c) The Secretary is directed to prescribe regulations and shall collect all data necessary to carry out the intent, purposes, and provisions of this title and of other provisions of Federal reclamation law.".

SEC. 2106. REPORTING REQUIREMENTS.

(a) Section 228 of the Act is amended by inserting after "contracting entity" wherever it appears, the following: ", farm, or farm operation".

(b) Section 206 of the Act is amended by inserting after the final sentence the following: "This section shall also apply to all landholdings, farms, or farm operations, to all lands operated under any kind of operating agreement, and to all operators thereof. The Secretary, may also require the submission of any agreement or other document relating to the certification.".

SEC. 2107. RELIGIOUS OR CHARITABLE ORGANIZATIONS.

Section 219 of the Act is amended by—

(a) inserting at the beginning "(a)"; and

(b) inserting the following new subsections:

"(b) The terms 'farm' or 'farm operation' shall not apply to any landholding of a religious or charitable entity or organization which qualifies as an individual under this section. If an individual religious or charitable entity or organization holds land as a lessor within a district, it shall qualify as an individual with respect to such lands: Provided, That the entity or organization directly uses the proceeds of the lease only for charitable purposes: Provided further, That the lessee is eligible to receive reclamation water upon the leased lands.

"(c) If an individual religious or charitable organization holds lands within a district, but fails to qualify as an individual under this section, its lands within a district with regard to which it does not qualify as an individual shall be lands held in excess of the ownership limitations of section 209 of this Act, and shall receive reclamation water only as excess lands in compliance with the provisions of section 209 of this Act. The failure of an individual religious or charitable entity or organization to qualify as an individual under this section shall not affect the qualification as an individual under this section of another individual religious or charitable entity or organization which is affiliated with the same central organization or is subject to a hierarchical authority of the same faith.".

SEC. 2108. RESTRICTION OF BENEFITS TO CITIZENS AND RESIDENT ALIENS.

(a) Section 202(7) of the Act is amended by striking the period and inserting in lieu thereof the following: ": Provided, That all such persons are citizens of the United States or resident aliens thereof.".

(b) Section 202(9) of the Act is amended by striking the period and inserting in lieu thereof the following: ": Provided, That all such persons are citizens of the United States or resident aliens thereof.".

TITLE XXII—COST OF IRRIGATION WATER

SEC. 2201. COST FOR DELIVERY OF WATER USED TO PRODUCE THE CROPS OF CERTAIN AGRICULTURAL COMMODITIES.

Section 9 of the Reclamation Projects Act of 1939 (43 U.S.C. 485h) is amended by inserting at the end thereof the following new subsection:

"(g)(1) All contracts entered into, renewed, or amended under authority of this section or any other provision of Federal reclamation law after—

"(A) 2 years after the date of enactment of this subsection shall require that the organization agree by contract with the Secretary to pay at least 50 percent of full cost for the delivery of water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provisions of the Agricultural Act of 1949, if the stocks of such commodity in Commodity Credit Corporation storage exceed an amount that the Secretary of Agriculture determines is necessary to provide for a reserve of such commodity that can reasonably be expected to meet a shortage of such commodity caused by drought, natural disaster, or other disruption in the supply of such commodity, as determined by the Secretary of Agriculture; and

"(B) 4 years after the date of enactment of this subsection shall require that the organization agree by contract with the Secretary to pay at least full cost for the delivery of water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provisions of the Agricultural Act of 1949, if the stocks of such commodity in Commodity Credit Corporation storage exceed an amount that the Secretary of Agriculture determines is necessary to provide for a reserve of such commodity that can reasonably be expected to meet a shortage of such commodity caused by drought, natural disaster, or other disruption in the supply of such commodity, as determined by the Secretary of Agriculture.

"(2) The Secretary shall announce the amount of the full cost payment for the succeeding year on or before July 1 of each year.

"(3) As used in this subsection, the term "full cost" shall have the meaning given such term in paragraph (3) of section 202 of the Reclamation Reform Act of 1982.

"(4) This subsection shall not apply to—

"(A) any contract which provides for irrigation on individual Indian or tribal lands on which repayment is deferred pursuant to the Act of July 1, 1932 (chap. 369; 47 Stat. 564; 25 U.S.C. 386(a); commonly referred to as the "Levitt Act");

"(B) an amendment of any contract with any organization which, on the date of enactment of this subsection, is required pursuant to a contract with the Secretary as a condition precedent to the delivery of water to make cash contributions of at least 20 percent of the cost of construction of irrigation facilities concurrently with the construction of such facilities by the Secretary;

"(C) any contract which carries out the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294, 100 Stat. 418); and

"(D) water delivered to any agricultural producer who is not a participant in any acreage reduction program in effect under the Agricultural Act of 1949.".

TITLE XXIII—BUY-AMERICAN

SEC. 2301. BUY-AMERICAN REQUIREMENT.

(a) DETERMINATION BY THE SECRETARY OF THE INTERIOR.—If in carrying out title I of Public Law 97-293 (96 Stat. 1261), any provision of this Act, or any amendment made by this Act, the Secretary of the Interior, with the concurrence of the United States Trade Representative and the Secretary of Commerce, determines that the public interest so requires, the Secretary of the Interior is authorized to award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

In determining under this subsection whether the public interest so requires, the Secretary shall take into account United States international obligations and trade relations.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) LIMITATION.—This section shall apply only to contracts for which—

(1) amounts are authorized by title I of Public law 97-293, titles V through XXIV of this Act, or any amendment made by titles V through XXIV of this Act to be made available; and

(2) solicitations for bids are issued after the date of the enactment of this title.

(d) REPORT TO CONGRESS.—The Secretary shall report to the Congress on contracts covered under this section and shall report to the Congress on the number of contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representative to be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party. The Secretary shall also report to the Congress on the number of contracts covered under this title and awarded based upon the parameters of this section.

(e) DEFINITIONS.—For purposes of this section:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) DOMESTIC FIRMS.—The term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States.

(3) FOREIGN FIRM.—The term "foreign firm" means a business entity not described in paragraph (2).

SEC. 2302. PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.

(a) If the Secretary of Interior determines that any person intentionally affixes a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall declare that person ineligible to receive a Federal contract or grant in conjunction with the issuance of any contract made under this Act for a period of not less than three years and not more than five years. The Secretary may bring action against such person to enforce this subsection in any United States district court.

(b) RESTRICTIONS ON CONTRACT AWARDS.—No person or enterprise domiciled or operating under the laws of a foreign government may enter into a contract or subcontract made pursuant to this Act if that government unfairly maintains, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to section 305(g)(1)(A) of the Trade Agreements Act of 1979.

TITLE XXIV—SUNNYSIDE VALLEY IRRIGATION DISTRICT

SEC. 2401. CONVEYANCE.

The Secretary of the Interior shall convey to Sunnyside Valley Irrigation District of Sunnyside, Washington, by quitclaim deed or other appropriate instrument and without consideration, all right, title, and interest of the United States, excluding oil, gas, and other mineral deposits, in and to a parcel of public land described as lots 1 and 2 of block 34 of the Town of Sunnyside in section 25, township 10 north, range 22 east, Willamette Meridian, Washington.

TITLE XXV—SLY PARK UNIT SALE

SEC. 2501. SALE OF SLY PARK UNIT.

(a) IN GENERAL.—The Secretary shall, as soon as practicable after date of enactment of this Act, sell the Sly Park Unit to the El Dorado Irrigation District.

(b) SALE PRICE.—The Secretary shall negotiate with the District a sale price which is acceptable to both the District and the United States. The factors to consider when negotiating the sale price shall primarily include, but are not limited to—

(1) the construction costs as included in the accounts of the Secretary, plus

(2) interest on the construction costs allocated to domestic use at the authorized rate included in enactment of the Act of October 14, 1949 (63 Stat. 852), up to an agreed upon date, plus

(3) the presently assigned Federal operation and maintenance costs, less

(4) all revenues to date as collected under the terms of the contract (Symbol 175v-1809) between the United States and the El Dorado Irrigation District.

(c) TERMS OF PAYMENT.—The Secretary may negotiate for a payment of the purchase price on a lump-sum basis or on a semiannual basis for a term of not to exceed twenty years. If payment is not to be lump-sum, then the interest rate to be paid by the District shall be the rate referred to in subsection (b)(2).

(d) CONVEYANCE.—Upon completion of payment by the District, the Secretary shall convey to the El Dorado Irrigation District all right, title, and interest and future liability of the United States in and to the Sly Park Unit. All costs associated with the transfer shall be borne by the District.

SEC. 2502. DEFINITIONS.

For the purpose of this title, the term—

(1) "El Dorado Irrigation District" or "District" means a political subdivision of the State of California duly organized, existing, and acting pursuant to the laws thereof with its principal place of business in the city of Placerville, El Dorado County, California.

(2) "Secretary" means Secretary of the Interior.

(3) "Sly Park Unit" means the Sly Park Dam and Reservoir, Camp Creek Diversification Dam and Tunnel and conduits and canals as authorized under the American River Act of October 14, 1949 (63 Stat. 853).

AMENDMENTS OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer a series of amendments, and I ask unanimous consent that they be considered en bloc, considered as read, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the amendments is as follows:

Amendments offered by Mr. MILLER of California: 1. In section 101(a)(1) on page 6, line 12, delete "$679,854,000" and insert in lieu thereof "$681,104,000".

2. In section 405 on page 101, before line 3, insert a new subsection (g) as follows:

"(g) MUNICIPAL WATER CONVEYANCE SYSTEM.—Of the amounts authorized to be appropriated in section 101, $1,250,000 shall be available to the Secretary for participation by the Tribe in the construction of pipelines associated with the Duchesne County Municipal Water Conveyance System."

3. In section 102(a)(1)(D) on page 11, line 14, delete "Central Utah Project and features" and insert in lieu thereof "facilities".

4. In section 102(a)(1)(D) on page 11, line 22, insert the following sentence at the end of the subsection: "The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in section 102(a)(1)."

5. In section 102(a)(6)(B) on page 13, line 19, delete "Central Utah Project and features" and insert in lieu thereof "facilities".

6. In section 102(a)(6)(B) on page 14, line 2, insert the following sentence at the end of the subsection: "The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subparagraph (A) of this paragraph."

7. In section 103(d) on page 16, line 12, insert the following sentence at the end of the subsection: "The United States shall not be liable for damages resulting from the design, construction, operations, maintenance, and replacement by the District of the features specified in subsection (a) of this section."

8. In section 103(e) on page 16, line 15, after the word "District", insert ", in accordance with State law,".

9. In section 103(f)(2) on page 17, lines 12 and 13, place a period after "United States" and delete "in trust for the benefit of the land owners."

10. In section 103(f)(3) on page 17, line 16, insert at the beginning of the first sentence "Notwithstanding any other provision of law,".

11. In section 105 on page 22, line 13, delete the comma.

12. In section 105 on page 22, before line 17, insert a new subsection (e) as follows:

"(e) CONTENT AND APPROVAL OF THE DEFINITE PLAN REPORT.—The Definite Plan Report required under this section shall include economic analysis consistent with the *Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (March 10, 1983)*. The Secretary may withhold approval of the Definite Plan Report only on the basis of the inadequacy of the document, and specifically not on the basis of the findings of its economic analyses."

13. In section 201(h)(7) on page 58, line 9, after the word "purchase" and before the comma, insert "on a willing seller basis".

14. In section 201(i)(2) on page 59, line 4, delete the word "noncontract" and insert in lieu thereof "administrative".

15. In section 201(n) on page 60, line 16, delete "establishment" and insert in lieu thereof "appointment".

16. In section 203(b)(1) on page 62, line 1, after the word "with" and before "the schedule specified in section 215", insert "State law and".

17. In section 203(d) on page 65, line 5, delete the word "reflect" and insert in lieu thereof "discuss and be based upon".

18. In section 204 on page 67, line 2, after "section 215", delete the period and the remainder of the section and insert", unless otherwise provided in this Act."

19. In section 205(a) on page 67, lines 14 and 15, delete "with funds to be provided by the Commission" and insert in lieu thereof "from willing sellers".

20. In section 206(c)(5) on page 70, line 20, delete the word "preempt" and insert in lieu thereof "affect".

21. In section 206(c)(9) on page 71, delete paragraph (9) and insert in lieu thereof a new paragraph as follows:

"(9) Of the amounts authorized to be appropriated by section 101, $16,690,000 shall be available for acquisition of the lands, water rights, and other interests therein described in paragraph (1) of this subsection for the establishment of the Utah Lake Wetland Preserve."

22. In section 206(c)(10) on page 71, line 12, after the word "Lands", delete the word "or" and insert a comma; and after the word "easements" insert ", or water rights".

23. In section 206(c)(10) on page 71, line 14, after the word "lands" and before the period, insert "or water rights".

24. In section 206 on page 71, before line 20, insert a new subsection (d) as follows:

"(d) PROVO BAY.—In order to protect wetland habitat, the United States shall not issue any Federal permit which allows commercial, industrial, or residential development on the southern portion of Provo Bay in Utah Lake, as described herein and depicted on a map dated October 11, 1990, except that recreational development consistent with wildlife habitat values shall be permitted. The southern portion of Provo Bay referred to in this subsection shall be that area extending 2000 feet out into the Bay from the ordinary high water line on the south shore of Provo Bay, beginning at a point at the mouth of the Spanish Fork River, and extending generally eastward along the ordinary high water line to the intersection of such line with the Provo City limit, as it existed as of October 10, 1990, on the east shore of the Bay. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia. Nothing in this Act shall restrict present or future development of the Provo City Airport or airport access roads along the north side of Provo Bay."

25. In section 215 on page 80, before line 7, insert the following "Fish, Wildlife, and Recreation Mitigation and Conservation Schedule":

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and features	Total	Appropriations (thousands of 1990 dollars)				
		Fiscal year 1992	Fiscal year 1993	Fiscal year 1994	Fiscal year 1995	Fiscal year 1996
Instream flows:						
1. Acquisition of Daniels Creek water rights to restore Upper Strawberry River flows (Sec. 203(b))	$3,500	$0	$3,500	$0	$0	$0
2.a. Acquisition of 25,000 AF on Provo River for streamflows from Murdock Diversion to Utah Lake (Sec. 202)	15,000	5,000	5,000	5,000	0	0
b. Modify or replace diversion structures on Provo River from Murdock Diversion to Utah Lake (Sec. 202)	4,000	500	1,500	1,500	500	0
3. Study and mitigation plan for excessive flows in the Provo River (Sec. 203(d))	500	100	100	100	100	100
Subtotal	23,000	5,600	10,100	6,600	600	100
Wildlife lands and improvement:						
1. Acquisition of bid game winter range (Sec. 205(a))	1,300	0	100	200	500	500
2. Construction of big game crossings and escape ramps—Provo Res. Canal, Highline Canal, Strawberry Power Canal or others (Sec. 205(b))	750	0	0	250	250	250
Subtotal	2,050	0	100	450	750	750
Wetland acquisition, rehabilitation, and development:						
1. Rehabilitation and enhancement of wetlands around Great Salt Lake (Sec. 206(a))	14,000	1,000	2,600	2,600	2,600	2,600
2. Wetland acquisition along the Jordan River (Sec. 211(c))	7,000	300	1,200	1,500	2,000	2,000
3. Inventory of sensitive species and ecosystems (Sec. 206(b))	1,500	250	250	250	250	250
4. Acquisition of lands, waters, and interests for Utah Lake Wetland Preserve (Sec. 206(c)(9))	16,690	1,690	3,000	3,000	3,000	3,000
Subtotal	39,190	3,240	7,050	7,350	7,850	7,850
Fisheries acquisition and restoration:						
1. Fish habitat restoration on Provo River between Jordanelle Dam and Deer Creek Reservoir (Sec. 207(1))	750	50	0	100	200	200
2. Fish habitat improvements to streams impacted by Federal reclamation projects in Utah (Sec. 207(2))	4,000	0	400	600	1,000	1,000
3. Rehabilitation of tributaries to Strawberry Reservoir for trout reproduction (Sec. 207(3))	1,000	200	200	200	200	200
4. Strawberry Reservoir posttreatment management and development (Sec. 207(4))	1,500	300	300	300	300	300
5. Study and facility development to improve Utah Lake warmwater fishery (Sec. 207(5))	1,000	150	150	200	150	150
6. Fish habitat improvements to Diamond Fork and Sixth Water Creek drainages (Sec. 207(6))	1,000	0	0	0	100	500
7. Restoration of native cutthroat trout populations (Sec. 207(7))	475	50	50	75	100	100
8. Fish habitat improvements to the Jordan River (Sec. 211(a))	1,150	0	0	100	300	400
9. Stabilization of Upper Provo River reservoirs for fishery improvement (Sec. 208)	5,000	0	0	0	500	2,000
10. Development of additional fish hatchery production for CRSP waters in Utah (Sec. 213)	22,800	100	3,500	4,200	5,000	5,000
Subtotal	38,675	850	4,600	5,775	7,850	9,850
Watershed improvements:						
1. Projects for watershed improvement, erosion control, wildlife range improvements in Avintaquin Cr, Red Cr, Currant Cr and other drainages (Sec. 207(8))	2,500	0	500	500	500	500
2. Watershed, stream and riparian improvements in Fremont River drainage (Sec. 213(a))	1,125	125	200	200	200	200
3. Small dam and watershed improvements in the CRSP area in Utah (Sec. 213(b))	4,000	500	700	700	700	700
Subtotal	7,625	625	1,400	1,400	1,400	1,400
Stream access and riparian habitat development:						
1. Rehabilitation of riparian habitat along Provo River from Jordanelle Dam to Utah Lake (Sec. 209(a)(1))	750	0	250	250	250	0
2. Restoration of watersheds and riparian habitats in the Diamond Fork and Sixth Water Creek drainages (Sec. 209(a)(2))	250	0	0	50	100	100
3. Watershed stabilization, terrestrial wildlife habitat improvements and road closures (Sec. 209(a)(3))	350	0	0	50	100	100
4. Acquisition of angler and other recreational access, in addition to the 1988 DPR (Sec. 209(a)(4))	8,500	500	1,000	1,500	1,500	2,000
5. Study of riparian impacts caused by CUP from reduced streamflows, and identify mitigation opportunities (Sec. 209(b))	400	50	75	75	75	75
6. Riparian rehabilitation and development along Jordan River (Sec. 211(b))	750	75	75	150	150	150
Subtotal	11,000	625	1,400	2,075	2,175	2,425
Recreation funds:						
1. Recreational improvements at Utah Lake (Sec. 212(a))	2,000	125	275	400	400	400
2. Recreation facilities at other CUP features, as recommended (Sec. 212(b))	750	50	100	150	150	150
3. Provo/Jordan River Parkway Development (Sec. 211(d))	1,000	0	75	75	200	300
4. Provo River corridor development (Sec. 211(e))	1,000	0	75	75	200	300
Subtotal	4,750	175	525	700	950	1,150
Total additional	126,290	11,115	25,175	24,350	21,575	23,525
Strawberry collection system:						
1. Acquire angler access on about 35 miles of streams identified in the Aquatic Mitigation Plan	2,700	2,700	0	0	0	0
2. Construct fish habitat improvements on about 70 miles of streams as identified in the Aquatic Mitigation Plan	3,990	666	803	790	453	604
3. Rehabilitation of Strawberry Project wildlife and riparian habitats	3,000	600	600	600	600	600
Subtotal	9,690	3,966	1,403	1,390	1,053	1,204
Duchesne canal rehabilitation:						
1. Acquire and develop 782 acres along Duchesne River	160	160	0	0	0	0
Subtotal	160	160	0	0	0	0
Municipal and industrial system:						
1. Fence and develop big game on north shoreline of Jordanelle Reservoir	226	100	126	0	0	0
2. Acquire angler access to entire reach of Provo River from Jordanelle Dam to Deer Creek Reservoir	1,050	525	525	0	0	0
3. Acquire and develop 100 acres of wetland at base of Jordanelle Dam	900	900	0	0	0	0
Subtotal	2,176	1,525	651	0	0	0
Total DPR	12,026	5,651	2,054	1,390	1,053	1,204
Grand total	138,316	16,766	27,229	25,740	22,628	24,729

26. On pages 82 through 88, delete the entire "Fish, Wildlife, and Recreation Mitigation and Conservation Schedule".

27. In section 302(b)(4)(C) on page 91, line 6, after the word "Account", insert a period and delete the remainder of subparagraph (C).

28. In section 302(c) on page 91, lines 13 through 17, delete paragraph (1) and insert a new paragraph (1) as follows:

"(1) All funds deposited as principal in the Account shall earn interest in the amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of compara
maturities. Such interest shall be added
the principal of the Account until com
tion of the projects and features specifie
the schedule in section 215. After com
tion of such projects and features, all in
est earned on amounts remaining in or
posited to the principal of the Account s

be available to the Commission pursuant to subsection (c)(2) of this section.".

29. In section 302(c)(2) on page 91, line 21, after "(b)(3)(B)" and before the period, insert ", as well as interest not deposited to the principal of the Account pursuant to paragraph (1) of this subsection".

30. In section 302(c)(3) on page 92, line 3, delete "paragraph (2)" and insert "paragraphs (c)(1) and (c)(2)".

31. In section 302(c) on page 92, lines 6 through 12, delete all of paragraph (4).

32. In section 302 on page 93, after line 16, insert a new subsection (e) as follows:

"(e) Audit by Inspector General.—The financial management of the Account shall be subject to audit by the Inspector General of the Department of the Interior."

33. In section 402(a)(2)(B) on page 96, line 6, after the second word "the" and before "35,500" insert the word "first".

34. In section 402(a)(2)(B) on page 96, line 8, after the sentence ending with "and industrial water.", insert a new sentence as follows: "The monies received by the Tribe under this title shall be utilized by the Tribe for governmental purposes, shall not be distributed per capita, and shall be used to enhance the educational, social, and economic opportunities for the Tribe."

35. In section 403(a) on page 97, lines 14 through 18, delete the existing subsection (a) and insert a new subsection (a) as follows:

(a) Ratification of Revised Ute Indian Compact.—The Revised Ute Indian Compact of 1990, dated October 1, 1990, reserving waters to the Ute Indian Tribe and establishing the uses and management of such Tribal waters, is hereby ratified and approved, subject to reratification by the State and the Tribe. The Secretary is authorized to take all actions necessary to implement the Compact.

36. In section 403 on page 98, after line 2, at the end of the section, insert new subsections (c), (d), and (e) as follows:

"(c) Restriction on Disposal of Waters into the Lower Colorado River Basin.—None of the waters secured to the Tribe in the Revised Ute Indian Compact of 1990 may be sold, exchanged, leased, used, or otherwise disposed of into or in the Lower Colorado River Basin, below Lees Ferry, unless water rights within the Upper Colorado River Basin in the State of Utah held by non-Federal, non-Indian users could be so sold, exchanged, leased, used, or otherwise disposed of under Utah State law, Federal law, interstate compacts, or international treaty pursuant to a final, non-appealable order of a Federal court or pursuant to an agreement of the seven States signatory to the Colorado River Compact: *Provided, however,* That in no event shall such transfer of Indian water rights take place without the filing and approval of the appropriate applications with the Utah State Engineer pursuant to Utah State law.

(d) Use of Water Rights.—The use of the rights referred to in subsection (a) within the State of Utah shall be governed solely as provided in this section and the Revised Compact referred to in section 403(a). The Tribe may voluntarily elect to sell, exchange, lease, use, or otherwise dispose of any portion of a water right confirmed in the Revised Compact off the Uintah and Ouray Indian Reservation. If the Tribe so elects, and as a condition precedent to such sale, exchange, lease, use, or other disposition, that portion of the Tribe's water right shall be changed to a State water right, but shall be such a State water right only during the use of that right off the reservation, and shall be fully subject to State laws, Federal laws, interstate compacts, and international treaties applicable to the Colorado River and its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.

(e) Rules of Construction.—Nothing in Titles I through V of this Act or in the Revised Ute Indian Compact of 1990 shall—

(1) constitute authority for the sale, exchange, lease, use, or other disposal of any Federal reserved water right off the reservation;

(2) constitute authority for the sale, exchange, lease, use, or other disposal of any Tribal water right outside the State of Utah; or

(3) be deemed a Congressional determination that any holders of water rights do or do not have authority under existing law to sell, exchange, lease, use, or otherwise dispose of such water or water rights outside the State of Utah."

37. In section 405(a) on page 98, line 23, after the word "Secretary", insert ", in cooperation with the Tribe,".

38. In section 405(b) on page 99, lines 4 and 5, after the phrase "for the", delete "Commission, in consultation with the Tribe", and insert in lieu thereof "Secretary, in cooperation with the Tribe and in consultation with the Commission".

39. In section 405(d) on page 100, line 7, after the sentence ending "in the Uinta Basin.", delete the remainder of subsection (d).

40. In section 405(f) on page 100, line 21, after "Secretary", delete "in consultation with the Commission" and insert in lieu thereof "in cooperation with the Tribe".

41. In section 405(f) on page 100, line 22, after "develop", insert ", after consultation with the appropriate fish, wildlife, and recreation agencies,".

42. In section 407(b) on page 102, lines 9 and 10, after the title "Description of Claims.—", delete "As a condition to the receipt of the moneys described in sections 402 and 406, the", and insert "The".

43. In section 406 on page 102, after line 4, insert a new subsection (d) as follows:

"(d) No funds from the Tribal Development Fund shall be obligated or expended by the Secretary for any economic project to be developed or constructed pursuant to subsection (c) of this section, unless the Secretary has complied fully with the requirements of applicable fish, wildlife, recreation, and environmental laws, including the National Environmental Policy Act of 1969 (43 U.S.C. 4321 *et seq.*)."

44. In section 407(b) on page 102, line 11, after the phrase "upon receipt of", delete "406 moneys" and insert "404, 405, and 406 monies".

45. On page 129, line 15, delete "Projects" and insert in lieu thereof "Project".

46. On page 9, after line 3, add a new subsection "(e)" as follows:

"(e) Status of Participating Projects.—The Secretary, in consultation with the Secretary of Energy and the Governors of the Upper Colorado River Basin States, is directed to report to Congress not later than April 15, 1991, on the status of Colorado River Storage Project participating projects for which construction has not begun as of October 15, 1990. The report of the Secretary shall include, but not be limited to, the following information:

"(1) a description of each project, its legislative history, and history of environmental compliance;

(2) an analysis of the economic costs and benefits of each participating project;

(3) a recommendation as to whether the authorization of appropriations for that project be amended, be terminated, or should remain unchanged, along with the reasons supporting each recommedation.".

47. In section 102 on page 14, after line 2, insert subsection

(b) as follows:

"(b) Strawberry Water Users Association.

(1) In exchange for, and as a precondition to approval of the Strawberry Water Users Association's petition for Bonneville Unit water, the Secretary, after consultation with the Secretary of Agriculture, shall impose conditions on such approval so as to ensure that the Strawberry Water Users Association shall manage and develop the lands referred to in subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828) in a manner compatible with the management and improvement of adjacent Federal lands for wildlife purposes, natural values, and recreation.

(2) The Secretary of Agriculture and the Secretary shall not permit commercial or other development of Federal lands within Sections 1 and 12, T. 3 S., R. 12 W., and Sections 6 and 7, T. 3 S., R. 112 W., Unitah Special Meridian. Such Federal lands shall be rehabilitated pursuant to subsection 4(f) of the Act of October 31, 1988 (102 Stat. 2826, 2828) and hereafter managed and improved for wildlife purposes, natural values, and recreation consistent with the Uinta National Forest Land and Natural Resources Management Plan. This restriction shall not apply to the 95 acres referred to in the first sentence of subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828), valid existing rights, or to uses of such Federal lands by the Secretary of Agriculture or the Secretary for public purposes."

Mr. MILLER of California. Mr. Chairman, the amendment makes a number of important changes in the bill as reported by the committee.

The amendment increases the authorization ceiling for the Colorado River storage project by $1,250,000 due to the addition of subsection 405(g), which authorizes the Ute Indian Tribe to participate in the Duchesne County Municipal Water Conveyance System.

The amendment limits the liability of the United States for activities undertaken by the Central Utah Water Conservancy District. This is important because the district will be taking over responsibility for construction of the project.

The amendment makes a number of other changes, including:

Makes technical corrections to the bill.

Expressly preserves the primacy of State water laws. Provides specific direction for the completion and approval of the Definite Plan report for the Central Utah Project.

Provides for protection of wetland values in Provo Bay in Utah Lake.

Reallocates funds within the mitigation schedule to provide a specific line item for acquisition of the Utah Lake Wetland Preserve.

Clarifies the operation of the Conservation Account and authorizes the Inspector General to audit the Account.

Provides for ratification of the recently revised compact between the State of Utah and the Ute Indian Tribe.

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Mr. HANSEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have reviewed these amendments. We have no objections, and we accept the amendments.

Mr. PASHAYAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have a couple of questions for the author of the amendments.

First of all, let me make sure I am working from the actual text of the amendments. I have here a document entitled "Amendment to H.R. 3960 offered by Mr. Miller of California." The first few words say "In section 101(a)(1)."

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. PASHAYAN. I am happy to yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, the gentleman is correct.

Mr. PASHAYAN. The whole thing is about 20 pages long.

Mr. MILLER of California. That is correct.

Mr. PASHAYAN. On the first page in No. 5, it says, "Delete Central Utah Project and features and insert in lieu thereof facilities." Could the gentleman explain what that is intended to do and what it means?

Mr. MILLER of California. If the gentleman will yield further, I will in 1 second. I think this is, if I am correct, to provide for the control over this project for the district. As the gentleman knows, the Utah delegation has asked for a rather unique arrangement where they would take over the management of this project. They have been rather disappointed with the overhead by the Bureau of Reclamation and with the failure to spend the money as they believed properly on project features as opposed to that overhead and have obviously been disappointed with the completion schedule that has been pursued over the last several years.

Mr. PASHAYAN. Does that provision have any effect on the 1982 act or any act prior to that?

Mr. MILLER of California. No. Not to my knowledge.

Mr. PASHAYAN. And the gentleman's knowledge is extensive.

Mr. MILLER of California. Extensive of the 1982 act.

Mr. PASHAYAN. On page 2, section 9 of the gentleman's amendment where it says: "After the United States and delete in trust for the benefit of the landowners"; could the gentleman, please, explain what that is intended to mean?

Mr. MILLER of California. This is, again, a technical amendment to conform the settlement between the Utes and the United States and the State of Utah in the settlement of that case.

Mr. PASHAYAN. Once again, does it have any effect on the 1982 Reclamation Act or any act prior, any reclamation act prior thereto?

Mr. MILLER of California. Not to my knowledge.

Mr. PASHAYAN. Once again, please, section 10.

Mr. MILLER of California. Excuse me, is the gentleman still on page 2?

Mr. PASHAYAN. The gentleman is correct. Could the gentleman explain what the addition of those words "notwithstanding any other provision of law" means, please?

Mr. MILLER of California. Again, this is an amendment to allow for the participation by the Uinta Indian irrigation project, Indian irrigation project by the Indians. This is a technical change to allow that participation.

Mr. PASHAYAN. Once again, does that make any change in the 1982 Reclamation Act or any reclamation act prior thereto?

Mr. MILLER of California. Not to my knowledge.

Mr. PASHAYAN. Rather than going through these point by point, may I ask the gentleman: Is there any langauge in his en bloc amendments that would make any change in the 1982 Reclamation Act or any prior reclamation act?

Mr. MILLER of California. Not to my knowledge.

Mr. PASHAYAN. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California [Mr. Miller].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DORNAN of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 351, noes 0, not voting 82, as follows:

[Roll No. 465]

AYES—351

Ackerman
Anderson
Andrews
Anthony
Applegate
Archer
Armey
Atkins
Baker
Ballenger
Barnard
Bartlett
Barton
Bates
Bellenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Bonior
Borski
Bosco
Brooks
Browder
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Clarke
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Crane
Dannemeyer
Darden
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Feighan
Flake
Flippo
Foglietta
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Goss
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Inhofe
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Laughlin
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Martin (NY)
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Moorhead
Morrison (WA)
Mrazek
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Obey
Olin
Ortiz
Owens (NY
Owens (UT
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rohrabache
Ros-Lehtine
Rose
Rostenkows
Roth
Roukema
Roybal
Russo
Sabo
Saiki
Sangmeiste
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schumer
Sensenbren
Serrano
Shays
Shumway
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter (
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Den
(OR)
Smith, Rob
(NH)
Smith, Rob
(OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon

Tanner
Tauke
Tauzin
Taylor
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (FL)

NOT VOTING—82

Alexander
Annunzio
Aspin
AuCoin
Bateman
Boehlert
Boggs
Boucher
Boxer
Brennan
Broomfield
Brown (CA)
Chapman
Clay
Conte
Conyers
Crockett
Davis
Donnelly
Dorgan (ND)
Edwards (OK)
Engel
Fazio
Fields
Fish
Ford (MI)
Gallo
Gibbons
Gillmor
Goodling
Gradison
Hancock
Hawkins
Hefley
Horton
Hyde
Ireland
Jones (NC)
Lantos
Leach (IA)
Leath (TX)
Lehman (FL)
Livingston
Marlenee
Martin (IL)
Martinez
Mavroules
Mink
Montgomery
Moody
Morella
Morrison (CT)
Murphy
Murtha
Oakar
Oberstar
Oxley
Petri
Ravenel
Ray
Robinson
Rogers
Rowland (CT)
Rowland (GA)
Schneider
Schuette
Schulze
Sharp
Shaw
Shuster
Skelton
Slaughter (NY)
Smith (TX)
Smith (VT)
Thomas (CA)
Traxler
Udall
Vander Jagt
Weber
Wilson
Yates
Young (AK)

□ 2303

Mr. GORDON changed his vote from "no" to "aye."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: Page 90, line 1, strike "$5,000,000 annually" and insert "$750,000 in fiscal year 1992, $1,500,000 in each of fiscal years 1993 through 1995, and $3,000,000 in each fiscal year thereafter until the termination of the Commission,".

Page 90, line 7, strike "Account:" and all that follows through line 17 and insert "Account.".

Mr. SOLOMON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SOLOMON. Mr. Chairman, if Members will bear with me, we do not intend to have a long debate over this, probably 5 minutes on each side; but I just want to call attention to a flyer here from the National Wildlife Federation, the Sierra Club, the American Rivers Inc., the National Audubon Society, and the National Taxpayers Union, all of which intended to use this as a rating for their next publication.

Mr. Chairman, I do not rise to offer an amendment like this often, but I am frustrated, just like many Members of this House are. We passed an Interior Appropriations Committee request here a while ago that was $500 million over the budget request. It was $2 billion over the Presidential request, and we wonder why we are in the predicament we are in today.

This amendment that I am offering today, the purpose of this amendment is simply to require that those who have benefited from the Bureau of Reclamation projects in Utah, specifically Utah water users and Utah power users, assume a share of the responsibility for restoring the environment that has been damaged by these water and power projects.

Mr. Chairman, 5 years ago this Member spoke on the floor when it became apparent that Utah water users were reluctant to assume their fair share of the costs of the Central Utah Water Project.

Construction costs had risen over the years, while water users' contributions were frozen by a contract written decades ago. For years the Bureau of Reclamation has been unwilling to insist that the local contribution be increased. For years they have been promising Congress that the local commitment would be increased, but Mr. Chairman, it never has been. At that time, some 5 years ago with the help of the distinguished chairman of the Water and Power Subcommittee over there, we made the same point and we made it stick. The House insisted that the Utah water users agree to pay their fair share, or Federal funds would be cut off. Our colleagues from Utah objected at that time, but very shortly thereafter the contracts were revised to increase that local share.

Now a different bill is coming due. It is the cost of repairing the environmental damage in Utah caused by the construction and operation of the central Utah project, and by the dams producing hydroelectric power on the Upper Colorado River. It is the same problem we faced 5 years ago all over again. People would rather pay less than pay more. It is that simple. The only problem is that if this job is ever going to get done, someone will have to pay for it.

Utah's water users are willing to contribute, but Utah's electric power utilities apparently are not.

I understand that there may be concern about the impact of this amendment outside the State of Utah, and let me assure all of you that there is no impact whatsoever.

The amendment would gradually phase in a surcharge on the cost of Federal power delivered to electric utilities in Utah and this charge would only come to about two-tenths of a percent of kilowatthours when it takes full effect in 1996.

Mr. Chairman, I could go on, but again this amendment responds to the concerns that have been raised by the administration about the financing of the Utah conservation account. It is supported by the major national environmental groups, as I said, as well as all the taxpayers' groups.

Others may be concerned about any precedents that might result for the sale of federally generated hydropower elsewhere. Let me state for the record that no new precedents will be set by this amendment. Ratepayers in the Pacific northwest are already paying about $100 million per year in direct and indirect costs for fish and wildlife restoration in the Columbia River Basin. Ratepayers in California and Nevada are paying a surcharge of 2.5 mills per kilowatthour to finance salinity control measures for the Colorado River.

And of course, current law has long provided for power customers to assist in repayment of costs related to irrigation development. Congress can and does make judgments from time to time about what to include in the rate base for federally generated hydropower. It is still a bargain—certainly in the Colorado basin.

Mr. Chairman, I support the environmental goals of this bill and commend the sponsors for establishing an ongoing fund dedicated to restoring Utah's environment. My amendment will place this fund on a more sound financial footing by avoiding excessive reliance on Federal contributions from an empty treasury.

The Federal contributions to this fund should be balanced with contributions from local interests in Utah.

Let's face it—we're broke. We have to find a way to supplement limited Federal funds to get the necessary environmental work done. And that is this amendment does—no more, no less.

Mr. Chairman, this amendment responds to concerns that have been raised by the administration about the financing of the Utah conservation account. It is supported by the major national environmental groups, including the National Wildlife Federation and the Sierra Club. It is also supported by the National Taxpayers Union. And it will be a rated vote by both environmental and taxpayer groups.

This amendment will save Federal money, it will protect the environment of Utah and it only applies to Utah. I urge the adoption of the amendment.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from California.

Mr. PASHAYAN. Mr. Chairman, is one of the reasons the gentleman is offering his amendment because this project is going to cost the taxpayers about $1 billion?

Mr. SOLOMON. Well, that is exactly right. Right now the U.S. Government appropriates discretionary funds for it. The State of Utah puts up taxpayers' dollars. Local water users do, but the power authority itself does not. That is my objection to it.

I certainly do not want to impose anything on any of the people from Utah. I have great respect for the Members from Utah, all of you, but I think this is necessary if we are going to really continue cost-sharing of those benefits derived from these projects so that the rest of the country does not have to bear those costs.

The CHAIRMAN. The Chair recognizes the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the hour is late and I will take only 2 or 3 minutes of this 5 minutes and then we will be ready, I hope, to vote.

We have spent 3 years negotiating this central Utah project solution, and as the chairman of the subcommittee, the gentleman from California [Mr. MILLER] explained earlier, every single party involved is now supporting this bill, including the environmental groups who have been very active.

□ 2310

This amendment tonight of the gentleman from New York, which is brought in very late, would in essence change significantly what has been negotiated over this period of 3 years.

This agreement provides for very significant repayments by the public power people and they will make very significant repayments. In fact, all costs, Mr. Chairman, of the irrigation and drainage will be repaid to the Federal Government by farmers and power users at a rate which is equal to investing the same amount of Federal dollars at 10 percent interest over 60 years.

We take care of the gentleman's interests. The gentleman's amendment would reduce from $5 million to $3 million the amount of money that is available for ongoing mitigation for the damage which is done by this project.

Mr. Chairman, I urge Members of the House on behalf of the chairman of the committee and of the subcommittee to please vote down this amendment. It would be mischievous as this bill moves to the other body. It would cause extended debate and bring about the defeat of this body, and I ask very sincerely that you vote against the Solomon amendment.

Mr. HANSEN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the Bush administration supports this bill and is against this amendment. The Water and Power Subcommittee supports the bill and is against this amendment. Congressman OWENS will be offering an amendment which will basically take care of the problem the gentleman from New York has brought up. This is one of those places where the repayment is more than any other water project that I am aware of, including many of those in the East. And I say that respectfully. I know the gentleman has them.

Those under the Corps of Engineers have no sharing. So basically we are doing something that others have not done. We have come up with 35 percent plus the payback that we talked about. I know of no other water project giving money back that way. So this is actually going to be paid back. It may take a little while, I would agree with that.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from New York.

Mr. SOLOMON. I thank the gentleman for yielding.

Mr. Chairman, I am informed as a matter of fact from the Bush administration that the ratepayers in the Pacific Northwest are already paying about $100 million per year in direct and indirect costs for fish and wildlife restoration in the Columbia River Basin; ratepayers in California and Nevada are paying a surcharge of 2.5 mills per kilowatt-hour to finance the salinity control measures for the Colorado River.

This falls in line with everything else that is being done. That is the only reason I would offer it. I certainly would not want to discriminate against good people like the gentleman from Utah.

Mr. HANSEN. And I thank the gentleman. And we would not want to discriminate against good people like the gentleman from New York, if I may say so.

I do not want to go through the many projects. I have spent the entire day going through projects in everybody's district. And if we want to take the time, we could do that. But we do not want to do that. We feel we have some things particular to the State of Utah. We urge you to defeat this amendment. We feel it would be somewhat discriminatory against our State, and it has been taken care of.

Public power is paying more than their share now. They are saying, "What do we get out of this?" Basically, they get nothing out of it.

So I feel this is discriminating against the public power people, and I would urge a "no" vote.

Mr. NIELSON of Utah. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

First of all, I was the one referred to when he said it took 5 years and you told me to come up with more money. We did. We passed a bond issue. Every county voted for it. We did increase our contribution.

We have more payback on this contract than any other project in the history of the State or country. And let me read a few figures: Federal water projects in the Middle Atlantic States, New York, New Jersey, Pennsylvania, $22 billion, nothing paid back. The Mountain States, $10 billion, $298 million paid by the Federal Government, $22 million paid back.

We are paying over two-thirds back, the best percentage anywhere in the country. You can look at these figures, I would be happy to share them with you. This is the most active participation in paying back projects. We have cost-sharing that has never been imposed on anyone before. We think it is a good project. Two years ago I would have agreed with you because they did put too much in on public power. This year they have balanced it out.

I am very disappointed in the Wildlife Federation, Sierra Club, the American Rivers, and National Wildlife because they are part of the coalition that put this package together. I am very disappointed they would support the gentleman in this amendment.

I hope for a resounding defeat of the amendment.

Mr. RHODES. Mr. Chairman, I move to strike the requisite number of words.

Let me just say that I do not want the House to believe, because you have only heard from three members of the Utah delegation, that this is simply a Utah-versus-New York squabble because this does affect the rest of the Colorado River Basin.

You know, when this bill was reported out of committee, it was intended to be a Utah bill. Now that it has gotten to the floor, it has the Reclamation Reform Act provisions in it which affects the rest of the basin, which I regret deeply.

It has now the potential of the Solomon amendment being added to it which also affects not just Utah power users but the rest of the public power users in the Colorado River Basin, for which they will receive no benefit.

The fact of the matter is that in terms of cost-sharing, the central Utah project is one of the heaviest cost-sharing projects this country has ever seen. Ninety-five percent of the costs of the irrigation projects in Utah will be repaid by power users, not water users, not irrigation users, in the State of Utah.

There is no point in adding anything more to the burden of the power consumers.

We are not talking about companies, we are talking about people who go into their houses and turn their light switches on. They are paying these bills. They are paying 95 percent of the cost of the irrigation works in this project already.

This is not fair to them. It is not fair to the power consumers outside the State of Utah.

I urge you to not support the Solomon amendment.

Mr. **MILLER** of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

I say to my colleagues that the gentleman from Arizona is quite correct. We have completely changed this project around with respect to local contribution. We have drafted a piece of legislation that is over 100 pages long.

I have withheld my consent to this legislation; Mr. Owens has withheld his consent to this legislation. On behalf of the environmentalists, they received everything they wanted and what you now see is an 11th-hour attempt to get the one thing that they could not otherwise get because the fact of the matter is it is unfair.

We have provided for the repayment, we have provided for the mitigation, the most detailed mitigation plan. This is a project, with all due respect, that has been somewhat victimized by the ineptness of the Federal Bureau of Reclamation. Had they spent the money properly over the last 30 years, we would not be here today; had they spent the money as this delegation tried to get them to do, we would not be here.

I would hope the House would reject this amendment.

The **CHAIRMAN**. The question is on the amendment offered by the gentleman from New York [Mr. Solomon].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. **SOLOMON**. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

A vote was taken by electronic device, and there were—ayes 151, noes 204, not voting 78, as follows:[H15OC0-X2]{H9722}follows:

[Roll No. 466]

AYES—151

Andrews
Applegate
Archer
Armey
Atkins
Baker
Ballenger
Bartlett
Barton
Bereuter
Bilirakis
Boehlert
Bosco
Bruce
Bryant
Buechner
Bunning
Burton
Byron
Campbell (CA)
Cardin
Carr
Coble
Coleman (MO)
Combest
Cooper
Coughlin
Cox
Craig
Crane
Dannemeyer
DeLay
DeWine
Dornan (CA)
Douglas
Dreier
Duncan
Durbin
Dwyer
Eckart
Erdreich
Evans
Fawell
Frenzel
Gallegly
Gekas
Geren
Gillmor
Gilman
Glickman
Goss
Grant
Green
Gunderson
Hamilton
Hammerschmidt
Hancock
Hastert
Hefner
Henry
Hiler
Hoagland
Holloway
Hopkins
Hughes
Hutto
Inhofe
James
Jontz
Kasich
Kostmayer
Lagomarsino
Lancaster
Laughlin
Lent
Lewis (FL)
Lipinski
Lukens, Donald
Machtley
Martin (NY)
Mazzoli
McCollum
McCrery
McCurdy
McEwen
McGrath
McMillan (NC)
McNulty
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Myers
Neal (NC)
Nelson
Pallone
Parker
Parris
Pashayan
Patterson
Paxon
Pickett
Porter
Price
Quillen
Regula
Ridge
Rinaldo
Ritter
Rogers
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Saxton
Schneider
Sensenbrenner
Shays
Slattery
Slaughter (VA)
Smith (NJ)
Smith, Robert (NH)
Snowe
Solarz
Solomon
Spence
Staggers
Stangeland
Stearns
Studds
Sundquist
Tauke
Taylor
Upton
Valentine
Vento
Walker
Walsh
Weldon
Wolf
Wolpe
Wyden
Wylie
Young (FL)

NOES—204

Ackerman
Anderson
Anthony
AuCoin
Barnard
Bateman
Bates
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Bliley
Bonior
Borski
Brooks
Browder
Brown (CO)
Bustamante
Callahan
Campbell (CO)
Carper
Chandler
Clarke
Clement
Clinger
Coleman (TX)
Collins
Condit
Costello
Coyne
Darden
de la Garza
DeFazio
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Dorgan (ND)
Downey
Dymally
Dyson
Early
Edwards (CA)
Emerson
English
Espy
Fascell
Feighan
Flake
Flippo
Foglietta
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Gingrich
Gonzalez
Goodling
Gordon
Grandy
Gray
Guarini
Hall (OH)
Hall (TX)
Hansen
Harris
Hatcher
Hayes (IL)
Herger
Hertel
Hochbrueckner
Houghton
Hoyer
Hubbard
Huckaby
Hunter
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kyl
LaFalce
Lehman (CA)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Madigan
Manton
Markey
Marlenee
McCandless
McCloskey
McDermott
McHugh
McMillen (MD)
Miller (CA)
Mineta
Moakley
Mollohan
Moorhead
Morrison (WA)
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Nielson
Nowak
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Packard
Panetta
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Pickle
Poshard
Rahall
Rangel
Rhodes
Richardson
Roberts
Roe
Rose
Roybal
Savage
Sawyer
Schaefer
Scheuer
Schiff
Schumer
Serrano
Shumway
Sikorski
Sisisky
Skaggs
Skeen
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith, Denny (OR)
Smith, Robert (OR)
Spratt
Stallings
Stenholm
Stokes
Stump
Swift
Synar
Tallon
Tanner
Tauzin
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Unsoeld
Visclosky
Volkmer
Vucanovich
Walgren
Washington
Watkins
Waxman
Weiss
Wheat
Whittaker
Whitten
Williams
Wise
Yatron

NOT VOTING—78

Alexander
Annunzio
Aspin
Boggs
Boucher
Boxer
Brennan
Broomfield
Brown (CA)
Chapman
Clay
Conte
Conyers
Courter
Crockett
Davis
Donnelly
Edwards (OK)
Engel
Fazio
Fields
Fish
Ford (MI)
Gallo
Gibbons
Gradison
Hawkins
Hayes (LA)
Hefley
Horton
Hyde
Ireland
Jones (NC)
Lantos
Leach (IA)
Leath (TX)
Lehman (FL)
Livingston
Martin (IL)
Martinez
Matsui
Mavroules
McDade
Mfume
Mink
Montgomery
Moody
Morella
Morrison (CT)
Murphy
Oakar
Oberstar
Oxley
Petri
Pursell
Ravenel
Ray
Robinson
Rowland (CT)
Rowland (GA)
Schroeder
Schuette
Schulze
Sharp
Shaw
Shuster
Skelton
Smith (TX)
Smith (VT)
Stark
Thomas (CA)
Traxler
Udall
Vander Jagt
Weber
Wilson
Yates
Young (AK)

□ 2335

Mr. **BEILENSON** changed his vote from "aye" to "no."

Messrs. **STAGGERS**, **WYDEN**, **ERDREICH**, **DORNAN** of California, and **BRYANT**, and Mrs. **BYRON** changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. OWENS OF UTAH

Mr. **OWENS** of Utah. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Owens of Utah: In section 302(b)(3)(B) on page 90 in line 17, after "until sufficient funds are available" and before the period, insert ", to repay the deferred amount, plus interest that would have accrued on such payment as principal in the Account".

Mr. **OWENS** of Utah. Mr. Chairman, this is a simple explanatory and technical amendment which has been cleared by all sides and it is noncontroversial. Insofar as I know, it is not challenged or opposed by any Member.

Mr. **HANSEN**. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Utah [Mr. Owens], and urge its adoption.

Mr **OWENS** of Utah. Mr. Chairman, if the gentleman will yield, this simply makes clear that the amounts paid into the ongoing mitigation fund from public power's repayment to the Federal Government shall be accrued with interest for any years on which the payment is not made because of an overabundance of expenses, as opposed to principal repayments. I believe this is noncontroversial.

Mr. **MILLER** of California. Mr. Chairman, if the gentleman will yield, we have had a chance to look at the amendment. This has been approved by both the majority and the minority. We ask for approval of the amendment.

Mr. **HANSEN**. Mr. Chairman, the minority has looked at this and suggests adoption of the amendment.

The **CHAIRMAN**. The question is on the amendment offered by the gentleman from Utah [Mr. Owens].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. OWENS OF UTAH

Mr. **OWENS** of Utah. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Owens of Utah: In section 101(a)(1) on page 6 in line 12, delete "$679,854,000" and insert "$896,706,000".

In the same subsection on page 6 in line 16, after the words "construction involved" and before the period, insert the following: ": *Provided however*, That of the amounts authorized to be appropriated by this section, the Secretary is not authorized to obligate or expend amounts in excess of $214,352,000 for the features identified in Table 2 of the Report accompanying the bill H.R. 3960 (H. Rept. 101-764, Part 1)".

Mr. **OWENS** of Utah (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The **CHAIRMAN**. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. **OWENS** of Utah. Mr. Chairman, this is a technical amendment which reflects a change in the Bureau of Reclamation's calculations of the effect of applying the recommendations of the Department of the Interior's inspector general to the amounts authorized for the Colorado River Storage project. Prior to consideration of H.R. 3960, the Bureau of Reclamation informed the Committee on Interior and Insular Affairs of the change in the CRSP authorization that would result from the application of the inspector general's accounting recommendations.

Subsequent to the committee approval of the bill, the Bureau informed the committee that it had failed to calculate the amount of funds already appropriated through fiscal year 1990 in accordance with the inspector general's methodology.

Therefore, a paper increase of $214 million in the authorization would be necessary to permit the $681 million, which is the cost of the project's features which are herein authorized.

This amendment simply is a bookkeeping correction for past appropriations already made, and I ask for its consideration.

□ 2340

Mr. **PASHAYAN**. Mr. Chairman, I rise to oppose the amendment.

Mr. Chairman, I just want the Members to understand that although the gentleman from Utah mentioned the figure of some $200 million, the total cost of this one project is almost $1 billion. It is very close to $900 million, and I just want all Members to understand that if they vote for this bill that they will be voting to spend on one project, in these times when everybody is wondering what is going to be in the budget, and how much money the United States should be spending, that Members will be authorizing to be spent on this one project almost $1 billion. I just want everybody to understand that. Although the gentleman is talking about $220 million in the amendment, that takes it up to a total cost of almost $1 billion for one dam in one State.

Mr. **HANSEN**. Mr. Chairman, I rise in support of the amendment. I am sure the gentleman from California realizes, not to be redundant, the payback is there, and it will come back.

This project has been around for 26 years. This is one of the projects with the heaviest payback of any water reclamation project in America. We on this side and the majority side have looked at it, and it does correct a Bureau of Reclamation error reported by the agency after the committee marked up the bill. We find no objection to it on this side and accept the amendment.

Mr. **MILLER** of California. Mr. Chairman, I move to strike the last word and I rise in support of the amendment, and to tell my colleagues that this amendment is exactly why the Utah legislation, both in the House and Senate, have determined to write the Bureau of Reclamation out of any further involvement and oversight with this project, because what this amendment does is correct for a deception that was engaged in by the Bureau of Reclamation over the last several years to try to hide from the Congress the real cost of this project.

This delegation, both in the House and the Senate, has come forward. They have asked for an honest accounting, and even in the process of providing the so-called honest accounting the Bureau of Reclamation failed to let this committee know prior to our reporting of the bill the actual cost of this project.

So I would hope that we would accept this amendment and get on with the repayment of this project which the people of the United States are entitled to, and I would ask that we vote aye on the amendment.

The **CHAIRMAN**. The question is on the amendment offered by the gentleman from Utah [Mr. Owens].

The amendment was agreed to.

The **CHAIRMAN**. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The **CHAIRMAN**. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. Williams] having assumed the Chair, Mr. Slattery, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3960) to increase the amounts authorized to be appropriated for the Colorado River storage project, and for other purposes, pursuant to House Resolution 502, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The **SPEAKER** pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

If not, the question is on the amendment.

The amendment was agreed to.

The **SPEAKER** pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The **SPEAKER** pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. **OWENS** of Utah. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 211, noes 143, not voting 79, as follows:

[Roll No. 467]

AYES—211

Ackerman
Anderson
Andrews
Anthony
Applegate
Atkins
AuCoin
Barnard
Bateman
Bates
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bliley
Boehlert
Bonior
Borski
Bosco
Brooks
Browder
Brown (CO)
Bruce
Bryant
Bustamante
Callahan
Campbell (CO)
Cardin
Carper
Chandler
Clarke
Clement
Coleman (MO)
Coleman (TX)
Collins
Coyne
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Dorgan (ND)
Dymally
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Feighan
Flake
Flippo
Foglietta
Ford (TN)
Frank
Frost
Gallegly
Gaydos
Gejdenson
Gephardt
Gillmor
Gonzalez
Gray
Green
Hall (OH)
Hamilton
Hansen

Harris
Hatcher
Hayes (IL)
Hefner
Hoagland
Hochbrueckner
Houghton
Hoyer
Hunter
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kastenmeier
Kennedy
Kennelly
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Manton
Markey
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Miller (CA)
Mineta
Moakley
Mollohan
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nelson
Nielson
Nowak
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Packard
Panetta
Parris
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Pickle
Poshard
Price
Quillen
Rahall
Rangel
Rhodes
Richardson
Ridge
Rinaldo
Roe
Rose
Roth
Roybal
Sabo
Saiki
Sarpalius
Savage
Sawyer
Schaefer
Scheuer
Schiff
Schneider
Schumer
Serrano
Sikorski
Sisisky
Skaggs
Skeen
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Solarz
Spratt
Staggers
Stokes
Studds
Swift
Synar
Tanner
Tauzin
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Unsoeld
Vento
Vucanovich
Walgren
Washington
Watkins
Waxman
Weiss
Wheat
Williams
Wise
Wolpe
Wyden
Yatron

NOES—143

Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bennett
Bentley
Bilirakis
Buechner
Bunning
Burton
Byron
Campbell (CA)
Carr
Clinger
Coble
Combest
Condit
Cooper
Costello
Coughlin
Cox
Craig
Crane
Dannemeyer
DeLay
DeWine
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dyson
Emerson
Fawell
Frenzel
Gekas
Geren
Gilman
Gingrich
Glickman
Goodling
Gordon
Goss
Grandy
Grant
Guarini
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hastert
Henry
Herger
Hertel
Hiler
Holloway
Hopkins
Hubbard
Huckaby
Hughes
Hutto
Inhofe
Jacobs
James
Kanjorski
Kaptur
Kasich
Kildee
Laughlin
Lehman (CA)
Lewis (FL)
Lightfoot
Lipinski
Lloyd
Lukens, Donald
Machtley
Madigan
Marlenee
McCandless
McCollum
McCrery
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Neal (NC)
Pallone
Parker
Pashayan
Patterson
Paxon
Pickett
Porter
Regula
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roukema
Russo
Sangmeister
Saxton
Sensenbrenner
Shays
Shumway
Slattery
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stallings
Stangeland
Stearns
Stenholm
Stump
Sundquist
Tallon
Tauke
Taylor
Upton
Valentine
Visclosky
Volkmer
Walker
Walsh
Weldon
Whittaker
Wolf
Wylie
Young (FL)

NOT VOTING—79

Alexander
Annunzio
Aspin
Boggs
Boucher
Boxer
Brennan
Broomfield
Brown (CA)
Chapman
Clay
Conte
Conyers
Courter
Crockett
Donnelly
Edwards (OK)
Engel
Fazio
Fields
Fish
Ford (MI)
Gallo
Gibbons
Gradison
Hawkins
Hayes (LA)
Hefley
Horton
Hyde
Ireland
Jones (NC)
Lantos
Leach (IA)
Leath (TX)
Lehman (FL)
Livingston
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
McDade
Mfume
Mink
Montgomery
Moody
Morella
Morrison (CT)
Murphy
Oakar
Oberstar
Oxley
Petri
Pursell
Ravenel
Ray
Robinson
Rowland (CT)
Rowland (GA)
Schroeder
Schuette
Schulze
Sharp
Shaw
Shuster
Skelton
Smith (TX)
Smith (VT)
Stark
Thomas (CA)
Traxler
Udall
Vander Jagt
Weber
Whitten
Wilson
Yates
Young (AK)

□ 0013

Messrs. McCANDLESS, GRANDY, TAYLOR and McGRATH changed their vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 3960, the bill just passed.

The SPEAKER pro tempore (Mr. OWENS of Utah). Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

Ms. SLAUGHTER of New York. Mr. Speaker, I was unable to be present for one rollcall vote. Had I been present, I would have voted "yea" on rollcall vote 465.

Mr. Speaker, I ask unanimous consent that my statement appear at the appropriate place in the RECORD.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3960, CENTRAL UTAH PROJECT COMPLETION ACT AND RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1990

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 3960, the Clerk be authorized to make necessary technical, grammatical, and conforming changes in the text of the bill and in the table of contents of the bill (H.R. 3960) to increase the amounts authorized to be appropriated for the Colorado River storage project, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REPORT ON H.R. 5835, PROVIDING FOR RECONCILIATION PURSUANT TO SECTION 4 OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR THE FISCAL YEAR 1991

Mr. PANETTA, from the Committee on the Budget, submitted a privileged report (Rpt. No. 101-881) on the bill (H.R. 5835) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1991, which was referred to the Union Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such recorded votes, if ordered, will be taken tomorrow.

PARLIAMENTARY INQUIRY

Mr. FRANK. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. FRANK. Mr. Speaker, what day is tomorrow?

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would answer the gentleman's question by stating that it is on the next legislative day.

REDEFINING ELIGIBILITY FOR MEMBERSHIP IN THE AMERICAN LEGION

Mr. FRANK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5652) to amend the act incorporating the American Legion so as to redefine eligibility for membership therein.

The Clerk read as follows:

H.R. 5652

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act entitled "An Act to incorporate the American Legion", approved September 16, 1919 (41 Stat. 285; 36 U.S.C. 45), is hereby amended to read as follows:

"SEC. 5. No person shall be a member of this corporation unless he has served in the naval or military services of the United States at some time during any of the following periods: April 6, 1917, to November 11, 1918; December 7, 1941, to December 31, 1946; June 25, 1950, to January 31, 1955; December 22, 1961, to May 7, 1975; August 24, 1982, to July 31, 1984; December 20, 1989, to January 31, 1990; all dates inclusive, or who, being a citizen of the United States at the time of entry therein, served in the military or naval service of any governments associated with the United States during said wars or hostilities: *Provided, however,* That such person shall have an honorable discharge or separation from such service or continues to serve honorably after any of the aforesaid terminal dates.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Florida [Mr. JAMES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have a process of chartering organizations. Some of the Members will be aware, Mr. Speaker, that those of us on the subcommittee have raised some questions about it.

Mr. Speaker, the fact that we are here today considering this legislation is an example of why some of us think the Federal chartering process is one that we ought to revise. The American legion is a congressionally chartered organization. That means that certain aspects of the American Legion organizations are controlled by act of Congress.

Now, we would not, of course, act without the full concurrence of the Legion, and in fact in this case what happened was that at their national convention, which concluded at the end of August, the American Legion voted to expand its membership rolls to include people who served in the United States Armed Services during the conflicts recently in Lebanon, Panama, and Grenada. Because they are a federally chartered organization, to give effect to that decision by the Legion we need to pass legislation. That is what we have before us.

The Legion came to us in the middle of September to inform us that they had passed a resolution. The ranking minority member, the gentleman from Florida [Mr. JAMES] and myself sought to accommodate them. We convened a hearing in the subcommittee. Thanks to the permission which we got from our chairman and ranking minority member, we move fairly quickly. No one opposed this. It is a decision which I believe most Members support, which is to expand the membership of the Legion to allow some of the younger people who participated in military activity when shots were fired and lives were lost in those three latest conflicts. That is the purpose of this legislation. We need to act on it to effectuate that decision for the Legion.

Mr. JAMES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5652, a bill to amend the charter of the American Legion to enable that organization to admit those who served in the Armed Forces during the conflicts in Lebanon, Grenada, and Panama.

The window for those who served during the Lebanese crisis will extend from August 24, 1982, the day before our troops landed in Beirut, to July 30, 1984, when the last U.S. Marine was withdrawn. During that period it will be sadly remembered, 241 Americans were killed when terrorists blew up our Marine headquarters in Beirut on October 23, 1983. Also within that period we had the Grenada invasion, which began on October 25, 1983 and extended to the last withdrawal of U.S. troops on Christmas Eve of that year.

In addition, elibibility for American Legion membership will be extended by this bill to men and women who served in our Armed Forces between December 20, 1989, the day of the Panama invasion, and January 31, 1990, when President Bush advised the Congress and the Nation in his State of the Union Address that the Panama operation had achieved its objectives.

Mr. Speaker, I strongly urge my colleagues to support H.R. 5652.

Mr. MONTGOMERY. Mr. Speaker, I want to commend the distinguished gentleman from Massachusetts, Mr. FRANK, chairman of the Judiciary Subcommittee on Administrative Law and Governmental Relations, for introducing this legislation and for expediting its consideration as we near the end of the 101st Congress. I also want to thank the ranking minority member of the subcommittee, Mr. JAMES of Florida, as well as Mr. BROOKS of Texas, chairman of the full committee, and the ranking minority member, Mr. FISH of New York, for their support of the measure and for allowing it to be brought before the House for discussion and a vote.

Mr. Speaker, some organizations have instant name recognition because they have historically contributed to an improved society. Few though have played roles as significant as the American Legion in the development of freedom and the improved understanding of our heritage. I am proud of the close working relationship that I, as chairman of the Veterans' Affairs Committee, have enjoyed with this fine organization over the years. Even more, I'm proud to be a legionnaire myself.

For 71 years, the American Legion has served the needs of its members and their families and has promoted the highest ideals of freedom and democracy in the process. The American Legion has helped fortify our national spirit, our national pride through its programs. For instance, the organization has long recognized that our youth, our future leaders, are the real heartbeat of this Nation and has cultivated their sense of Americanism through programs such as American Legion baseball, Boys State and Boys Nation. It is interesting to note that a number of my colleagues here in the House are former parti pants in these programs. The Americ Legion also watches over the children of d abled and deceased veterans.

From firsthand experience, I know well t strong vigil the American Legion maintai over the preservation of veterans' benef and services. That's why I am so pleased w this legislation, which will give more vetera the opportunity to participate in and bene from the outstanding work of this American i stitution.

Our veterans of the armed conflicts in Leb non, Grenada, and Panama deserve the c portunity to join the American Legion. This b has my wholehearted support.

□ 0020

Mr. JAMES. Mr. Speaker, I have further requests for time, and I yie back the balance of my time.

Mr. FRANK. Mr. Speaker, I have further requests for time, and I yie back the balance of my time.

The SPEAKER pro tempore (M MAZZOLI). The question is on t motion offered by the gentleman fro Massachusetts [Mr. FRANK] that t House suspend the rules and pass t bill H.R. 5652.

The question was taken; and (tw thirds having voted in favor there the rules were suspended and the b was passed.

A motion to reconsider was laid the table.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I a unanimous consent that all Membe may have 5 legislative days in which revise and extend their remarks on t measure just passed.

The SPEAKER pro tempore. there objection to the request of t gentleman from Massachusetts?

There was no objection.

PROVIDING PERMANENT A THORITY FOR THE U.S. S PREME COURT POLIC CONCUR WITH SENAT AMENDMENT

Mr. FRANK. Mr. Speaker, I move suspend the rules and concur in t Senate amendments to the bill (H. 4757) to provide permanent author for the United States Supreme Co Police.

The Clerk read as follows:

Senate amendments:

Strike out all after the enacting cla and insert:

That section 9(c) of the Act entitled " Act relating to the policing of the build and grounds of the Supreme Court of United States," approved August 18, 1 (40 U.S.C. 13n(c)), is amended in the f sentence by striking out "1990" and ins ing in lieu thereof "1993".

Amend the title so as to read: "An Act provide for the extension of certain auth ity for the Marshal of the Supreme Co and the Supreme Court Police.".

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **JAMES**. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Florida [Mr. JAMES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. **FRANK**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Congress authorized some time ago a police force for the Supreme Court. The reasons for it are obvious. We all wish we lived in a time when this sort of special protection for institutions like the Supreme Court was not necessary, and no one is claiming the Supreme Court has become the center of great violence. But clearly there is a reason to have this.

The Supreme Court, understandably, wants to have the administrative authority over its own police. This would make permanent that authority.

The House passed this bill without objection some time ago. The Senate has made some small amendments to which no one has any objection. Our proposal is we concur with the Senate amendment.

Mr. Speaker, I reserve the balance of my time.

Mr. **JAMES**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4757 originally provided a permanent extension of the authority of the Supreme Court Police to provide protection, both on and away from the grounds of the Supreme Court, for the Justices, Court personnel, and offical visitors.

It was in that form that it was reported from the Subcommittee on Administrative Law and Governmental Relations, on which I serve as the ranking minority member. It was in that form that it was reported from the Judiciary Committee and it was in that form that it was passed by the House on June 5, 1990. But it was not in that form, unfortunately, that it has been returned by the Senate.

Mr. Speaker, the grant of authority to the Supreme Court Police force has been reviewed three times during the last decade. The first time was in 1982, and was reexamined in 1985 and 1986. No abuses were found and the cost of this important assignment has been minimal. The case for a permanent extension of authority was clear and compelling. Nevertheless, the Senate has decided to amend H.R. 4757 so that it merely provides for a 3-year extension until December 31, 1993.

It is necessary to act on this matter, of course, before the existing authority expires on December 31, 1990. The prospect of sending this bill back to the Senate has considerable appeal under the circumstances. But the better course, in view of the crush of other pending business, may be to pass this bill with the Senate amendment while resolving once and for all to do the right thing in 1993.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. **FRANK**. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 4757.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. **FRANK**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendments just concurred in.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

VACCINE AND IMMUNIZATION AMENDMENTS OF 1990

Mr. **WAXMAN**. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4238) to amend the Public Health Service Act to extend various programs with respect to vaccine-preventable diseases.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Vaccine and Immunization Amendments of 1990".

SEC. 2. GRANTS FOR IMMUNIZATIONS.

(a) Extension of General Program.—Section 317(j)(1) of the Public Health Service Act (42 U.S.C. 247B(j)(1)) is amended—

(1) in subparagraph (A), by striking "there are authorized" and all that follows in the first sentence and inserting the following: "there are authorized to be appropriated $205,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.";

(2) in subparagraph (B), by striking "after the date" and all that follows and inserting the following: "after October 1, 1990, there are authorized to be appropriated such sums as may be necessary."; and

(3) by striking subparagraph (C).

(b) Demonstration Projects for Outreach Programs.—

(1) In general.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, may make grants to public and nonprofit private entities for the purpose of carrying out demonstration projects—

(A) to provide, without charge, immunizations against vaccine-preventable diseases to children not more than 2 years of age who reside in communities whose population includes a significant number of low-income individuals; and

(B) to provide outreach services to identify such children and to inform the parents (or other guardians) of the children of the availability from the entities of the immunizations specified in subparagraph (A).

(2) Authorization of appropriations.—For the purpose of carrying out paragraph (1), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1993.

SEC. 3. SUPPLY OF VACCINES.

(a) In General.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, shall acquire and maintain a supply of vaccines sufficient to provide vaccinations throughout a 6-month period. Any proceeds received by the Secretary from the sale of vaccines from such supply shall be available to the Secretary for the purpose of purchasing vaccines for the supply. Such proceeds shall remain available for such purpose until expended.

(b) Authorization of Appropriations.—For the purpose of carrying out subsection (a), there are authorized to be appropriated $5,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.

SEC. 4. EXTENSION OF NATIONAL VACCINE PROGRAM.

Section 2106 of the Public Health Service Act (42 U.S.C. 300aa-6) is amended—1

(1) in subsection (a), by striking "there are authorized" and all that follows and inserting the following: "there are authorized to be appropriated $4,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995."; and

(2) in subsection (b), by striking "there are authorized" and all that follows and inserting the following: "there are authorized to be appropriated $30,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.".

SEC. 5. TECHNICAL AMENDMENTS.

(a) Section 2111.—Section 2111 of the Public Health Service Act (42 U.S.C. 300aa-11) is amended—

(1) in subsection (a)(2)(A), by striking "unless" and all that follows in that subsection and inserting the following:

"unless a petition has been filed, in accordance with section 2116, for compensation under the Program for such injury or death and—

"(i)(I) the United States Claims Court has issued a judgment under section 2112 on such petition, and

"(II) such person elects under section 2121(a) to file such an action, or

"(ii) such person elects to withdraw such petition under section 2121(b) or such petition is considered withdrawn under such section.".

(2) in subsection (a)(5)(A), by striking "without prejudice" the second time it occurs,

(3) in subsection (a)(5)(B), by striking "plaintiff who" and inserting "plaintiff",

(4) in subsection (d), by striking "(d) except as provided in paragraph (3)," before "(d) Additional Information", and

(5) in subsection (e), by striking "(e)" before "(e) Schedule".

(b) Section 2112.—

(1) Suspension of proceedings.—Section 2112(d)(3) of the Public Health Service Act (42 U.S.C. 300aa-12(d)(3)) is amended by adding at the end the following:

"(D) If, in reviewing proceedings on petitions for vaccine-related injuries or deaths associated with the administration of vaccines before the effective date of this part, the chief special master determines that the number of filings and resultant workload place an undue burden on the parties or the special master involved in such proceedings, the chief special master may, in the interest of justice, suspend proceedings on any petition for up to 180 days in addition to the suspension time under subparagraph (C).".

(2) Notice.—Section 2112 of the Public Health Service Act (42 U.S.C. 300aa-12) is amended by adding at the end the following:

"(g) Notice.— If—

"(1) a special master fails to make a decision on a petition within the 240 days prescribed by subsection (d)(3)(A)(ii) (excluding (A) any period of suspension under subsection (d)(3)(C) or (d)(3)(D), and (B) any days the petition is before a special master as a result of a remand under subsection (e)(2)(C)), or

"(2) the United States Claims Court fails to enter a judgment under this section on a petition within 420 days (excluding (A) any period of suspension under subsection (d)(3)(C) or (d)(3)(D), and (B) any days the petition is before a special master as a result of a remand under subsection (e)(2)(C)) after the date on which the petition was filed,

the special master or court shall notify the petitioner under such petition that the petitioner may withdraw the petition under section 2121(b) and the petition will be considered withdrawn under such section if the petitioner, the special master, or the court do not take certain actions.".

(c) Section 2113.—Section 2113(c) of the Public Health Service Act (42 U.S.C. 300aa-13(c)) is amended by inserting "the" after "special masters of".

(d) Section 2115.—Section 2115 of the Public Health Service Act (42 U.S.C. 300aa-15) is amended—

(1) in subsection (e)(2), by striking "the Program," the second time it occurs and all that follows through "limited to the costs" and inserting the following: "the Program, in awarding compensation on such petition the special master or court may include an amount of compensation limited to the costs",

(2) in subsection (f)—

(A) in the second sentence of paragraph (2), by striking "section 2121(b)" and inserting "section 2121(a)", and

(B) in the last sentence of paragraph (4)(B), by striking "subsection (i)" and inserting "subsection (j)" and by striking "section 2111(a)" and inserting "the limitation on civil actions prescribed by section 2121(a)", and

(3) in the first sentence of subsection (j), by inserting before the period ", and $80,000,000 for each succeeding fiscal year in which a payment of compensation is required under subsection (f)(4)(B)".

(e) Section 2116.—Section 2116 of the Public Health Service Act (42 U.S.C. 300aa-16) is amended—

(1) in subsection (a)(1)—

(A) by striking "24 months" and inserting "28 months", and

(B) by inserting before the comma at the end the following: "and no such petition may be filed if the first symptom or manifestation of onset or of the significant aggravation of such injury occurred more than 36 months after the date of administration of the vaccine", and

(2) in subsection (c), by striking "and ending on the date a final judgment is entered on the petition" and inserting "and ending on the date (1) an election is made under section 2121(a) to file the civil action, (2) an election is made under section 2121(b) to withdraw the petition, or (3) the petition is considered withdrawn under section 2121(b)".

(f) Section 2121.—

(1) Limitation on actions.—Section 2121(a) of the Public Health Service Act (42 U.S.C. 300aa-21(a)) is amended—

(A) by inserting before the last sentence the following: "If a person elects to receive compensation under a judgment of the court in an action for a vaccine-related injury or death associated with the administration of a vaccine before the effective date of this part or is deemed to have accepted the judgment of the court in such an action, such person may not bring or maintain a civil action for damages against a vaccine administrator or manufacturer for the vaccine-related injury or death for which the judgment was entered.", and

(B) by inserting after "actions" in the last sentence the following: "for vaccine-related injuries or deaths associated with the administration of a vaccine after the effective date of this part".

(2) Withdrawal of petition.—Section 2121(b) of the Public Health Service Act (42 U.S.C. 300aa-21(b)) is amended to read as follows:

"(b) Withdrawal of Petition.—

"(1) A petitioner under a petition filed under section 2111 may submit to the United States Claims Court a notice in writing withdrawing the petition if—

"(A) a special master fails to make a decision on such petition within the 240 days prescribed by section 2112(d)(3)(A)(ii) (excluding (i) any period of suspension under section 2112(d)(3)(C) or 2112(d)(3)(D), and (ii) any days the petition is before a special master as a result of a remand under section 2112(e)(2)(C)), or

"(B) the court fails to enter a judgment under section 2112 on the petition within 420 days (excluding (i) any period of suspension under section 2112(d)(3)(C) or 2112(d)(3)(D), and (ii) any days the petition is before a special master as a result of a remand under section 2112(e)(2)(C)) after the date on which the petition was filed.

Such a notice shall be filed within 30 days of the provision of the notice required by section 2112(g). If such a notice is not filed before the expiration of such 30 days, the petition with respect to which the notice was to be filed shall be considered withdrawn under this paragraph.

"(2) If a special master or the court does not enter a decision or make a judgment on a petition filed under section 2111 within 30 days of the provision of the notice in accordance with section 2112(g), the special master or court shall no longer have jurisdiction over such petition and such petition shall be considered as withdrawn under paragraph (1).".

(g) Section 322.—Section 322 of the National Childhood Vaccine Injury Act of 1986 (42 U.S.C. 300aa-1 note) is amended—

(1) in subsection (a)—
(A) by striking "of title XXI" and inser
ing "part A or B of subtitle 2 of title XXI
and
(B) by striking "such title XXI" and i
serting "both such parts", and
(2) by adding at the end the following:
"(c) Review Under Section 2112(f).—If th
review authorized by section 2112(f) is hel
invalid because the judgment of the Unite
States Claims Court being reviewed did n
arise from a case or controversy under Art
cle III of the Constitution, such judgme
shall be reviewed by a 3-judge panel of t
United States Claims Court. Such pan
shall not include the judge who participate
in such judgment.".
(h) Effective Date.—The amendmen
made by subsections (f)(1) and (g) shall ta
effect as of November 14, 1986, and t
amendments made by subsections (
through (e) and subsection (f)(2) shall ta
effect as of September 30, 1990.
(i) Authorization of Appropriations.—Se
tion 6601(r) of the Omnibus Reconciliati
Act of 1989 (Public Law 101-239) is amen
ed—
(1) in paragraph (1), by striki
"$1,500,000 for each of the fiscal years 19
and 1991", and inserting "$2,500,000 f
each of the fiscal years 1991 and 1992",
(2) in paragraph (2), by striki
"$1,500,000 for each of the fiscal years 19
and 1991", and inserting "$2,500,000 f
each of the fiscal years 1991 and 1992", a
(3) in paragraph (3), by striki
"$1,500,000 for each of the fiscal years 19
and 1991", and inserting "$2,500,000 f
each of the fiscal years 1991 and 1992".
(j) Records and Reports.—Section 301(
of the Federal Food, Drug, and Cosmetic A
(21 U.S.C. 331(e)) is amended by striking o
"or (j)" and inserting in lieu thereof "
(k)".
(k) Commissioned Corps.—
(1) Appointment of commissioned of
cer.—Section 206(a) of the Public Heal
Service Act (42 U.S.C. 207(a)) is amended
inserting after the first sentence the follo
ing new sentence: "During the period of a
pointment to the position of Assistant Sec
tary for Health, a commissioned officer
the Public Health Service shall have t
grade corresponding to the grade of Gene
of the Army.".
(2) Conforming amendment.—Secti
201(a) of title 37, United States Code,
amended by inserting "Assistant Secreta
for Health." in the fourth column of t
table corresponding with pay grade 0-10.
(3) Effective date.—The amendme
made by paragraphs (1) and (2) shall ta
effect on the first day of the month imme
ately following the month in which this A
was enacted.
SEC. 6. TECHNICAL AMENDENTS IN CERTAIN P
GRAMS PROVIDING SERVICES REGA
ING ACQUIRED IMMUNE DEFICIE
SYNDROME.
(a) Formula for Emeroency Re
Grants.—Section 2603(a)(3) of the Pub
Health Service Act, as added by secti
101(3) of Public Law 101-381, is amended
read as follows:
"(3) Amount of orant.—
"(A) In general.—
"(i) Subject to the extent of amounts m
available in appropriations Acts, a gr
made for purposes of this paragraph to
eligible area shall be made in an amo
equal to the product of—
"(I) an amount equal to the amount av
able for distribution under paragraph (2)
the fiscal year involved; and

"(II) the percentage constituted by the ratio of the distribution factor for the eligible area to the sum of the respective distribution factors for all eligible areas.

"(ii) For purposes of clause (i)(II), the term 'distribution factor' means the sum of—

"(I) an amount equal to the product of 3 and the amount determined under subparagraph (B) for the eligible area involved; and

"(II) an amount equal to the product of the amount determined under subparagraph (B) for the eligible area and the amount determined under subparagraph (C) for the area.

"(B) AMOUNT RELATING TO CUMULATIVE NUMBER OF CASES.—The amount determined in this subparagraph is an amount equal to the ratio of—

"(i) an amount equal to the cumulative number of cases of acquired immune deficiency syndrome in the eligible area involved, as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control by the applicable date specified in section 2601(a); to

"(ii) an amount equal to the sum of the respective amounts determined under clause (i) for each eligible area for which an application for a grant for purposes of this paragraph has been approved.

"(C) AMOUNT RELATING TO PER CAPITA INCIDENCE OF CASES.—The amount determined in this subparagraph is an amount equal to the ratio of—

"(i) the per capita incidence of cumulative cases of acquired immune deficiency syndrome in the eligible area involved (computed on the basis of the most recently available data on the population of the area); to

"(ii) the per capita incidence of cumulative such cases in all eligible areas for which applications for grants for purposes of this paragraph have been approved (computed on the basis of the most recently available data on the population of the areas).".

(b) SET-ASIDE REGARDING CATEGORICAL GRANTS TO CERTAIN ENTITIES FOR EARLY INTERVENTION SERVICES.—Section 2649(c) of the Public Health Service Act, as added by section 301(a) of Public Law 101-381, is amended—

(1) by striking "(c) Certain Allocations" and all that follows through "After determining" and inserting the following:

"(c) Certain Allocations by Secretary.—

"(1) DISCRETIONARY GRANTS TO CERTAIN STATES.—After determining"; and

(2) by adding at the end the following new paragraph:

"(2) GRANTS TO CERTAIN POLITICAL SUBDIVISIONS.—

"(A)(i) In the case of a State containing any political subdivision described in clause (ii), the Secretary shall, subject to subparagraph (B), make a reduction in the amount of the allotment under subsection (a) for the State for each fiscal year in an amount necessary for carrying out subparagraphs (B) and (C) with respect to the political subdivision. Any such reduction shall be in addition to the reduction required in paragraph (1) for the fiscal year involved.

"(ii) The political subdivision referred to in clause (i) is any political subdivision that received a cooperative agreement from the Secretary, acting through the Director of the Centers for Disease Control, for fiscal year 1990 for programs to provide counseling and testing with respect to acquired immune deficiency syndrome.

"(B) In the case of a State described in subparagraph (A), the Secretary shall, from the amounts made available as a result of reductions under such subparagraph, make a grant each fiscal year to each political subdivision described in such subparagraph that exists in the State if the political subdivision involved agrees that the provisions of subparts II and III will apply to the political subdivision to the same extent and in the same manner as such subparts apply to entities receiving grants under section 2651(a).

"(C) Grants under subparagraph (B) for a fiscal year for a political subdivision shall be provided in an amount equal to the amount received by the political subdivision in fiscal year 1990 under the cooperative agreement described in subparagraph (A).".

(c) MISCELLANEOUS AMENDMENT.—Section 2647(c) of the Public Health Service Act, as added by section 301(a) of Public Law 101-381, is amended—

(1) in the first sentence, by striking "are adequate" and inserting the following: "certifies to the Secretary that the laws of the State are adequate"; and

(2) in the second sentence, by striking "subsection (a)" and inserting "subsection (a),".[H15OC0-P1]{H9728y(a),".

The SPEAKER pro tempore. Is a second demanded?

Mr. WHITTAKER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from Kansas [Mr. WHITTAKER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that al! Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4238 is designed to achieve three goals. First, it would reauthorize the Childhood Immunizations Program of the Centers for Disease Control. Second, the bill would reauthorize—at current levels—the National Vaccine Program which conducts and coordinates Federal vaccine development. Third, the legislation would make technical corrections to the National Vaccine Injury Compensation Program. In addition the bill makes minor and conforming amendments in other areas of health legislation.

As Members well know, Mr. Speaker, the Childhood Immunization Program provides grants to States for the purchase of vaccine against preventable diseases such as polio, measles, and pertussis. It also provides for the administration of State childhood immunization programs.

H.R. 4238 would provide for a 5-year extension of this program and would set an authorization level of $205 million for fiscal year 1991. This amount is needed to address a number of financial shortfalls that the program would otherwise face in the coming year, including: First, funds for a second measles funds for a second measles shot that CDC is now recommending for all children; second, funds to provide emergency immunization services in areas that are undergoing outbreaks of measles; third, funds to provide hepatitis B vaccine for women and newborns; and fourth, funds to assist States in the operation of their own childhood immunizations programs.

For each of fiscal years 1992 through 1995, H.R. 4238 would establish an authorization of level of "such sums as may be necessary."

The provisions included in this legislation relating to the National Vaccine Injury Compensation Program would correct drafting errors that were made last year when the program underwent substantial revision as part of Public Law 101-239. In addition, the bill would extend for 4 months the filing deadline for compensation for children injured by vaccines administered before the effective date of this program. On behalf of myself and my colleague, the distinguished gentleman from Illinois [Mr. MADIGAN], I included a detailed description of these amendments to make our intent and meaning clear.

Each of the programs addressed in this legislation, Mr. Speaker—the Childhood Immunizations Program, the National Vaccine Program, and the National Vaccine Injury Compensation Program—enjoys strong bipartisan support. Mr. MADIGAN, as well as Chairman DINGELL and Congressman ROY ROWLAND, joined with me in introducing the original legislation under consideration today. The bill was passed unanimously in the House. The bill as amended was passed unanimously in the Senate.

I ask all Members to support H.R. 4238, with an amendment.

JOINT STATEMENT OF EXPLANATION OF AMENDMENTS TO THE NATIONAL VACCINE INJURY COMPENSATION PROGRAM

Section 5 makes a variety of minor and technical amendments to the National Vaccine Injury Compensation Program.

Section 5(a) amends section 2111 of the Public Health Service Act. Paragraph 1 makes a conforming amendment to clarify that a person who would otherwise be prohibited from bringing a civil action for damages for vaccine injury may do so if he or she: First, files a petition for compensation; second, receives no judgment

from the Claims Court within the appropriate time; and third, withdraws the petition under the provisions for withdrawal, added by subsection (f), described below.

Paragraph 2 corrects a technical error in the statute.

Paragraph 3 corrects a technical error in the statute.

Paragraph 4 corrects a technical error in the statute.

Paragraph 5 corrects a technical error in the statute.

Section 5(b) amends section 2112 of the Public Health Service Act. Paragraph 1 gives the chief special master the authority to suspend proceedings on any petition for up to 180 days, over and above other suspensions in the statute, if he or she determines that the number of filings and the workload would create an undue burden on the parties or the court and that such a suspension is in the interest of justice. The authorizing committees are aware that a very large number of petitions have been filed during the month of September. The committees also anticipate that a similar increase of filings may occur at the conclusion of the extension of filing time authorized in subsection (e), described below. The committees recognize that the increased workload presented by such a large number of petitions will overburden the court, the petitioners, the Department of Justice [DOJ], and the Department of Health and Human Services [DHHS]. Accordingly, the committees believe that it may become necessary for the strict deadlines imposed by the statute to be suspended in these unusual instances. The committees do not, however, intend for this suspension to become a routine extension of time or for this ceiling to become a floor. Indeed, the committees would expect the chief special master to assure that petitions involving administration of vaccines after the effective date of the program—the so-called new cases—be processed without suspensions or delay; these cases are bound by the restrictions of section 2111 and may not proceed in civil actions until the compensation action is completed or withdrawn and should not, therefore, be delayed by the unique problems posed by a surge in filings of petitions involving administration of vaccines before the effective date of the program.

Paragraph 2 requires that notice be given to the petitioner if the special master or the court does not meet the statutory deadlines for action on the petition.

Section 5(c) amends section 2113 of the Public Health Service Act to correct a technical error in the statute.

Section 5(d) amends section 2115 of the Public Health Service Act. Paragraph 1 corrects a technical error in the statute.

Paragraph 2 corrects technical errors in the statute. In addition, subparagraph B makes a conforming amendment to make an exception to the restrictions on civil actions by a petitioner who has accepted compensation, as added by section 5(f), described below. The exception created by this amendment would allow a petitioner who has elected to accept compensation under section 2121 to proceed with a civil action if the appropriations made under section 2115(j) are inadequate to make a payment of an annual installment for the compensation. The committees do not anticipate that appropriations will be insufficient to make such payments but also recognize that, if such an event were to occur, it would be unfair to restrict petitioners from pursuing alternative remedies.

Paragraph (3) extends the authorization of appropriations for payment of compensation for petitions involving administration of vaccines before the effective date of the program.

Section 5(e) amends section 2116 of the Public Health Service Act. Paragraph 1 extends the filing deadline for petitions involving administration of vaccines before the effective date of the program from 24 months to 28 months. The committees have agreed to such a change because they have received complaints that the limited publicity given to the program may have left some legitimately eligible petitioners unaware of the program's availability. The committees do not intend that this extension create an opportunity for filing of claims for injuries that are not described in the vaccine injury table and are not clearly caused by the administration of a vaccine. The committees restate their original intention that petitions for injuries outside the table must affirmatively demonstrate that the injury or aggravation was caused by the vaccine. (House Report 99-908.)

Paragraph 1 also restricts filing of such petitions to those cases in which the first symptom or manifestation of injury occurred within 3 years of the administration of the vaccine.

Paragraph 2 clarifies that limitations on civil actions under State law are to be stayed until the time that an election is made by the petitioner under section 2121(a) or the time that the petition is withdrawn or is deemed to have been withdrawn under section 2121(b), as amended by section 5(f), described below.

Section 5(f) amends section 2121 of the Public Health Act. Paragraph 1 clarifies that no person who elects to receive compensation for a petition involving the administration of a vaccine before the effective date of the program—old cases—or who is deemed to have accepted the judgment of the court regarding such a petition may bring a civil action; an exception to

this rule is created by section 5(d)(2
described above. Paragraph 1 als
makes a conforming amendment t
clarify that the same restriction
apply to petitions involving the admin
istration of a vaccine after the effec
tive date of the program—new cases.

The committees have always intend
ed that there be no double recovery o
parallel actions for vaccine injury o
death and have always understoo
that a petitioner who accepts compen
sation has given up any similar poter
tial action in other courts. Petitioner
are given the opportunity to rejec
compensation if they wish to pursue
civil action, an opportunity that pro
vides significant advantage in knowin
the outcome in one venue befor
choosing whether to pursue action i
another. Any attempt both to receiv
compensation and to pursue tort reme
dies would be impermissible overreach
ing.

Paragraph 2 clarifies the opportun
ty for a petitioner to withdraw the pe
tition under section 2121(b). As pre
scribed in the amendment made b
section 5(b)(2), described above, th
special master and the court are t
provide notice to the petitioner if th
prescribed deadline for action—no
counting time for allowed suspensior
of proceedings of which there are no
several—are not met. Under the prov
sions of this paragraph, if the speci
master or the court does not mee
such deadlines the petitioner may fi
notice of withdrawal of the petition.
the petitioner does not file such
notice within 30 days, the petition is t
be considered withdrawn. Additiona
ly, if a special master or court ha
failed to meet the prescribed deadlin
the special master or court will lose j
risdiction over the petition 30 da
after the notice to the petitioner ha
been issued.

The committees have received info
mation that there is confusion ove
the extent to which jurisdiction ove
petitions is retained by the maste
and the court if the statutory dea
lines are missed. These amendmen
are made to clarify that these dea
lines are not merely advisory but juri
dictional. The committees recogni
that the timeliness of proceedings
not solely within the control of the p
titioner, the Government, or the cou
and that deadlines of this sort m
make the burden of the proceedin
heavy. The committees believe, howe
er, that one of the chief inducemen
for old-case petitioners to pursue con
pensation rather than tort action
the relative certainty that claims w
be handled expeditiously. Similarl
the committees believe that new-ca
petitioners should be given quick co
sideration of their claims inasmuch
their usual rights in court are preclu
ed during the compensation procee
ings. Accordingly, the committe

have agreed to these amendments to emphasize that these deadlines are significant to the basic policies of the program and that petitioners, the Government, and the court should act to assure the most direct and abbreviated proceedings and thus to allow petitioners to receive final judgment—whether compensation on or rejection of the petition—as soon as possible.

Section 5(g) amends section 322 of the National Vaccine Injury Act of 1986. Paragraph 1 clarifies that if a provision of the National Vaccine Injury Compensation Program is ultimately determined to be unconstitutional then both parts of the program, that is, part A and part B, are to become ineffective. Subtitle 1 and other parts of subtitle 2 are not to be affected by such a determination.

Paragraph 2 provides that, if the appellate review authorized by section 2112(f) is determined to be unconstitutional because the appellate court cannot hear a case of this nature, a three-judge panel of the Claims Court is to hear the appeal instead. Although the committees do not believe that the review contemplated by the statute is impermissible, the committees have received comments suggesting that such review is without precedent. The committees have, therefore, provided for an alternative method of review so that the program may continue in any event.

Section 5(h) provides for the effective date of the provisions of this section.

Section 5(i) extends the authorization of appropriations from the vaccine injury compensation trust fund for the administration of the program.

Mr. Speaker, I reserve the balance of my time.

Mr. WHITTAKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us contains the Senate amendments to H.R. 4238, the vaccine immunization amendments which were worked out with the Committee on Energy and Commerce.

Mr. Speaker, I urge my colleagues to join me in support of this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4238.

The question was taken; and (two thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

REVISING, CODIFYING, AND ENACTING WITHOUT SUBSTANTIVE CHANGE CERTAIN GENERAL AND PERMANENT LAWS RELATED TO TRANSPORTATION

Mr. FRANK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4956) to revise, codify, and enact without substantive change certain general and permanent laws; related to transportation, as subtitles II, III, and V–X of title 49, United States Code, "Transportation", and to make other technical improvements in the Code.

The Clerk read as follows:

H.R. 4956

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SUBTITLES II, III, AND V–X OF TITLE 49, UNITED STATES CODE

SECTION 1. (a) Certain general and permanent laws of the United States, related to transportation, are revised, codified, and enacted by subsections (c)–(e) of this section without substantive change as subtitles II, III, and V–X of title 49, United States Code, "Transportation". Those laws may be cited as "49 U.S.C. ————".

(b) Title 49, United States Code, is amended by striking the table of subtitles at the beginning of the title and substituting the following new table of subtitles:

"SUBTITLE	*Sec.*
"I. DEPARTMENT OF TRANSPORTATION	*101*
"II. OTHER GOVERNMENT AGENCIES.	*1101*
"III. GENERAL AND INTERMODAL PROGRAMS	*5101*
"IV. INTERSTATE COMMERCE	*10101*
"V. RAIL PROGRAMS	*20101*
"VI. MOTOR VEHICLE AND DRIVER PROGRAMS	*30101*
"VII. AVIATION PROGRAMS	*40101*
"VIII. PIPELINES	*50101*
"IX. COMMERCIAL SPACE TRANSPORTATION	*60101*
"X. MISCELLANEOUS	*70101".*

(c) Title 49, United States Code, is amended by striking subtitle II, except that chapter 31 (comprising sections 3101–3104) of subtitle II is redesignated and restated as chapter 315 (comprising sections 31501–31504) of subtitle VI of title 49, as enacted by subsection (e) of this section.

(d) Title 49, United States Code, is amended by adding the following immediately after subtitle I:

SUBTITLE II—OTHER GOVERNMENT AGENCIES

CHAPTER	*Sec.*
11. NATIONAL TRANSPORTATION SAFETY BOARD	*1101*

CHAPTER 11—NATIONAL TRANSPORTATION SAFETY BOARD

Sec.
1101. Definitions.
1102. Organization.
1103. General authority for accident investigations.
1104. Civil aircraft accident investigations.
1105. Inspections and autopsies.
1106. Special boards of inquiry on air transportation safety.
1107. Studies and reports.
1108. Secretary of Transportation's responses to safety recommendations.
1109. Review of other agency action.
1110. Training.
1111. Administrative.
1112. Availability and use of information and evidence.
1113. Aviation enforcement.
1114. Joinder and intervention in aviation proceedings.
1115. Judicial review.
1116. Aviation penalties.
1117. Annual report.
1118. Authorization of appropriations.

§ 1101. Definitions

Section 40102(a) of this title applies to this chapter.

§ 1102. Organization

(a) The National Transportation Safety Board is an independent establishment of the United States Government.

(b) The Board is composed of 5 members appointed by the President, by and with the advice and consent of the Senate. Not more than 3 members may be appointed from the same political party. At least 3 members shall be appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation.

(c) The term of office of each member is 5 years. An individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, is appointed for the remainder of that term. When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified. The President may remove a member for inefficiency, neglect of duty, or malfeasance in office.

(d) The President shall designate, by and with the advice and consent of the Senate, a Chairman of the Board. The President also shall designate a Vice Chairman of the Board. The terms of office of both the Chairman and Vice Chairman are 2 years. When the Chairman is absent or unable to serve or when the position of Chairman is vacant, the Vice Chairman acts as Chairman.

(e) The Chairman is the chief executive and administrative officer of the Board. Subject to the general policies and decisions of the Board, the Chairman shall—

(1) appoint, supervise, and fix the pay of officers and employees necessary to carry out this chapter;

(2) distribute business among the officers, employees, and administrative units of the Board; and

(3) supervise the expenditures of the Board.

(f) Three members of the Board are a quorum in carrying out duties and powers of the Board.

(g) The Board shall establish offices necessary to carry out this chapter, including an office to investigate and report on the safe transportation of hazardous material. The Board shall establish distinct and appropriately staffed bureaus, divisions, or offices to investigate and report on accidents involving each of the following modes of transportation:

(1) aviation.

(2) highway and motor vehicle.

(3) rail and tracked vehicle.

(4) pipeline.

(h) The Board shall have a seal that shall be judicially recognized.

§ 1103. General authority for accident investigations

(a)(1) The National Transportation Safety Board shall investigate or have investigated (in detail the Board prescribes) and establish the facts, circumstances, and cause or probable cause of—

(A) an aircraft accident the Board has authority to investigate under section 1104 of this title;

(B) a highway accident, including a railroad grade crossing accident, the Board selects in cooperation with a State;

(C) a railroad accident in which there is a fatality or substantial property damage, or that involves a passenger train;

(D) a pipeline accident in which there is a fatality or substantial property damage;

(E) a major marine casualty (except a casualty involving only public vessels) occurring on the navigable waters or territorial seas of the United States, or involving a vessel of the United States, under regulations prescribed jointly by the Board and the head of the department in which the Coast Guard is operating; and

(F) any other accident related to the transportation of individuals or property when the Board decides—

(i) the accident is catastrophic;

(ii) the accident involves problems of a recurring character; or

(iii) the investigation of the accident would carry out this chapter.

(2) An investigation by the Board under paragraph (1)(A)–(D) or (F) of this subsection has priority over any investigation by another department, agency, or instrumentality of the United States Government. The Board shall provide for appropriate participation by other departments, agencies, or instrumentalities in the investigation. However, those departments, agencies, or instrumentalities may not participate in the decision of the Board about the probable cause of the accident.

(3) This section and sections 1105(a), (c), and (d), 1107(b), 1109, and 1111 do not affect the authority of another department, agency, or instrumentality of the Government to investigate an accident under applicable law or to obtain information directly from the parties involved in, and witnesses to, the accident. The Board and other departments, agencies, and instrumentalities shall ensure that appropriate information developed about the accident is exchanged in a timely manner.

(b)(1) The Board or the head of the department in which the Coast Guard is operating shall investigate and establish the facts, circumstances, and cause or probable cause of a marine accident involving a public vessel and any other vessel. The results of the investigation shall be made available to the public.

(2) Paragraph (1) of this subsection and subsection (a)(1)(E) of this section do not affect the responsibility, under another law of the United States, of the head of the department in which the Coast Guard is operating.

(c)(1) When asked by the Board, the Secretary of Transportation may—

(A) investigate an accident described under subsection (a) or (b) of this section in which misfeasance or nonfeasance by the Government has not been alleged; and

(B) report the facts and circumstances of the accident to the Board.

(2) The Board shall use the report in establishing cause or probable cause of an accident described under subsection (a) or (b) of this section.

(d) The Board shall report on the facts and circumstances of each accident investigated by it under subsection (a) or (b) of this section. The Board shall make each report available to the public at reasonable cost.

§ 1104. Civil aircraft accident investigations

(a)(1) The National Transportation Safety Board shall investigate—

(A) each accident involving civil aircraft; and

(B) with the participation of appropriate military authorities, each accident involving both military and civil aircraft.

(2) A person employed under section 1111(b)(1) of this title that is conducting an investigation or proceeding about an aircraft accident has the same authority to conduct the investigation or proceeding as the Board.

(b) The Board shall prescribe regulations governing the notification and reporting of accidents involving civil aircraft.

(c) The Board shall provide for the participation of the Secretary of Transportation in the investigation of an aircraft accident under this chapter when participation is necessary to carry out the duties and powers of the Secretary. However, the Secretary may not participate in establishing probable cause.

(d) If an accident involves only military aircraft and a duty of the Secretary is or may be involved, the military authorities shall provide for the participation of the Secretary. In any other accident involving only military aircraft, the military authorities shall give the Board or Secretary information the military authorities decide would contribute to the promotion of air safety.

§ 1105. Inspections and autopsies

(a) An officer or employee designated by the National Transportation Safety Board—

(1) on display of appropriate credentials and written notice of inspection authority, may enter property where a transportation accident has occurred or wreckage from the accident is located and do anything necessary to conduct an investigation; and

(2) during reasonable hours, may inspect any record, process, control, or facility related to an accident investigation under this chapter.

(b)(1) In investigating an aircraft accident under this chapter, the Board may inspect and test, to the extent necessary, any civil aircraft, aircraft engine, propeller, appliance, or property on an aircraft involved in an accident in air commerce.

(2) Any civil aircraft, aircraft engine, propeller, appliance, or property on an aircraft involved in an accident in air commerce shall be preserved, and may be moved, only as provided by regulations of the Board.

(c) In carrying out subsection (a)(1) of this section, an officer or employee may examine or test any vehicle, rolling stock, track, or pipeline component. The examination or test shall be conducted in a way that—

(1) does not interfere unnecessarily with transportation services provided by the owner or operator of the vehicle, rolling stock, track, or pipeline component; and

(2) to the maximum extent feasible, preserves evidence related to the accident, consistent with the needs of the investigation and with the cooperation of that owner or operator.

(d) An inspection, examination, or test under subsection (a) or (c) of this section shall be started and completed promptly, and the results shall be made available.

(e)(1) The Board may order an autopsy be performed and have other tests ma when necessary to investigate an accide under this chapter. However, local law p tecting religious beliefs related to autops shall be observed to the extent consiste with the needs of the accident investigatio

(2) With or without reimbursement, t Board may obtain a copy of an autop report performed by a State or local offic on an individual who died because of transportation accident investigated by t Board under this chapter.

§ 1106. Special boards of inquiry on air transpor tion safety

(a) If an accident involves a substant question about public safety in air transp tation, the National Transportation Saf Board may establish a special board of quiry composed of—

(1) one member of the Board acting chairman; and

(2) 2 members representing the public, pointed by the President on notification the establishment of the special board of quiry.

(b) The public members of a special boa of inquiry must be qualified by training a experience to participate in the inquiry a may not have a pecuniary interest in aviation enterprise involved in the accide to be investigated.

(c) A special board of inquiry has the sa authority that the Board has under t chapter.

§ 1107. Studies and reports

(a) The National Transportation Saf Board shall report periodically to Congre departments, agencies, and instrument ities of the United States Government a State and local governmental authorit concerned with transportation safety, a other interested persons. The report shall—

(1) advocate meaningful responses reduce the likelihood of transportation ac dents similar to those investigated by Board; and

(2) propose corrective action to make transportation of individuals as safe a free from risk of injury as possible, incl ing action to minimize personal injur that occur in transportation accidents.

(b) The Board also shall—

(1) carry out special studies and investi tions about transportation safety, includi avoiding personal injury;

(2) examine techniques and methods of cident investigation and periodically p lish recommended procedures for accid investigations;

(3) prescribe requirements for persons porting accidents and aviation incide that—

(A) may be investigated by the Bo under this chapter; or

(B) involve public aircraft (except airc of the armed forces and the intellige agencies);

(4) evaluate, examine the effectiveness and publish the findings of the Board ab the transportation safety consciousness other departments, agencies, and instrum talities of the Government and their ef tiveness in preventing accidents; and

(5) evaluate the adequacy of safegua and procedures for the transportation hazardous material and the performance other departments, agencies, and instrum talities of the Government responsible the safe transportation of that material.

§ 1108. Secretary of Transportation's responses to safety recommendations

(a) When the National Transportation Safety Board submits a recommendation about transportation safety to the Secretary of Transportation, the Secretary shall give a formal written response to each recommendation not later than 90 days after receiving the recommendation. The response shall indicate whether the Secretary intends—

(1) to carry out procedures to adopt the complete recommendation;

(2) to carry out procedures to adopt a part of the recommendation; or

(3) to refuse to carry out procedures to adopt the recommendation.

(b) A response under subsection (a)(1) or (2) of this section shall include a copy of a proposed timetable for completing the procedures. A response under subsection (a)(2) of this section shall detail the reasons for the refusal to carry out procedures on the remainder of the recommendation. A response under subsection (a)(3) of this section shall detail the reasons for the refusal to carry out procedures.

(c) The Board shall make a copy of each recommendation and response available to the public at reasonable cost.

(d) The Secretary shall submit to Congress on January 1 of each year a report containing each recommendation on transportation safety made by the Board to the Secretary during the prior year and a copy of the Secretary's response to each recommendation.

§ 1109. Review of other agency action

The National Transportation Safety Board shall review on appeal—

(1) the denial, change, suspension, or revocation of a certificate issued by the Secretary of Transportation under section 44703, 44709, or 44710 of this title;

(2) the revocation of a certificate of registration under section 44106 of this title; and

(3) a decision of the head of the department in which the Coast Guard is operating on an appeal from the decision of an administrative law judge denying, revoking, or suspending a license, certificate, document, or register in a proceeding under chapter 77 or section 6301, 7503, or 9303 of title 46.

§ 1110. Training

(a) In this section, "Institute" means the Transportation Safety Institute of the Department of Transportation and any successor organization of the Institute.

(b) The National Transportation Safety Board may use, on a reimbursable basis, the services of the Institute. The Secretary of Transportation shall make the Institute available to—

(1) the Board for safety training of employees of the Board in carrying out their duties and powers; and

(2) other safety personnel of the United States Government, State and local governments, governments of foreign countries, interstate authorities, and private organizations the Board designates in consultation with the Secretary.

(c)(1) Training at the Institute for safety personnel (except employees of the Government) shall be provided at a reasonable fee established periodically by the Board in consultation with the Secretary. The fee shall be paid directly to the Secretary, and the Secretary shall deposit the fee in the Treasury. The amount of the fee—

(A) shall be credited to the appropriate appropriation (subject to the requirements of any annual appropriation); and

(B) is an offset against any annual reimbursement agreement between the Board and the Secretary to cover all reasonable costs of providing training under this subsection that the Secretary incurs in operating the Institute.

(2) The Board shall maintain an annual record of offsets under paragraph (1)(B) of this subsection.

§ 1111. Administrative

(a)(1) The National Transportation Safety Board, and when authorized by it, a member of the Board, an administrative law judge employed by or assigned to the Board, or an officer or employee designated by the Chairman of the Board, may conduct proceedings to carry out this chapter, administer oaths, and require, by subpena or otherwise, necessary witnesses and evidence.

(2) A witness or evidence in a proceeding under paragraph (1) of this subsection may be summoned or required to be produced from any place in the United States to the designated place of the proceeding. A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(3) A subpena may be issued under the signature of the Chairman or the Chairman's delegate but may be served by any person designated by the Chairman.

(4) If a person disobeys a subpena, order, or inspection notice of the Board, the Board may bring a civil action in a district court of the United States to enforce the subpena, order, or notice. An action under this paragraph may be brought in the judicial district in which the person against whom the action is brought resides, is found, or does business. The court may punish a refusal to obey an order of the court to comply with the subpena, order, or notice as a contempt of court.

(b)(1) The Board may—

(A) procure the temporary or intermittent services of experts or consultants under section 3109 of title 5;

(B) make agreements and other transactions necessary to carry out this chapter without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

(C) use, when appropriate, available services, equipment, personnel, and facilities of a department, agency, or instrumentality of the United States Government on a reimbursable or other basis;

(D) confer with employees and use services, records, and facilities of State and local governmental authorities;

(E) appoint advisory committees composed of qualified private citizens and officials of the Government and State and local governments as appropriate;

(F) accept voluntary and uncompensated services notwithstanding another law;

(G) accept gifts of money and other property;

(H) make contracts with nonprofit entities to carry out studies related to duties and powers of the Board; and

(I). require that the departments, agencies, and instrumentalities of the Government, State and local governments, and governments of foreign countries provide appropriate consideration for the reasonable costs of goods and services supplied by the Board.

(2) The Board shall deposit in the Treasury amounts received under paragraph (1)(I) of this subsection to be credited to the appropriation of the Board.

(c) When the Board submits to the President or the Director of the Office of Management and Budget a budget estimate, budget request, supplemental budget estimate, other budget information, a legislative recommendation, prepared testimony for congressional hearings, or comments on legislation, the Board must submit a copy to Congress at the same time. An officer or a department, agency, or instrumentality of the Government may not require the Board to submit the estimate, request, information, recommendation, testimony, or comments to another officer, department, agency, or instrumentality of the Government for approval, comment, or review before being submitted to Congress.

(d) The Chairman of the Board may determine the number of committees that are appropriate to maintain effective liaison with other departments, agencies, and instrumentalities of the Government, State and local governmental authorities, and independent standard-setting authorities that carry out programs and activities related to transportation safety. The Board may designate representatives to serve on or assist those committees.

(e) The Board, or an officer or employee of the Board designated by the Chairman, may conduct an inquiry to obtain information related to transportation safety after publishing notice of the proceeding in the Federal Register. The Board or designated officer or employee may require by order a department, agency, or instrumentality of the Government, a State or local governmental authority, or a person transporting individuals or property in commerce to submit to the Board a written report and answers to requests and questions related to a duty or power of the Board. The Board may prescribe the time within which the report and answers must be given to the Board or to the designated officer or employee. Copies of the report and answers shall be made available for public inspection.

(f) The Board may prescribe regulations to carry out this chapter.

§ 1112. Availability and use of information and evidence

(a) Except as provided in subsections (b) and (c) of this section, a copy of a record, information, or investigation submitted or received by the National Transportation Safety Board, or a member or employee of the Board, shall be made available to the public on identifiable request and at reasonable cost. This subsection does not require the release of information described by section 552(b) of title 5 or protected from disclosure by another law of the United States.

(b)(1) The Board may disclose information related to a trade secret referred to in section 1905 of title 18 only—

(A) to another department, agency, or instrumentality of the United States Government when requested for official use;

(B) to a committee of Congress having jurisdiction over the subject matter to which the information is related, when requested by that committee;

(C) in a judicial proceeding under a court order that preserves the confidentiality of the information without impairing the proceeding; and

(D) to the public to protect health and safety after giving notice to any interested person to whom the information is related and an opportunity for that person to comment in writing, or orally in closed session, on the proposed disclosure, if the delay resulting from notice and opportunity for comment would not be detrimental to health and safety.

(2) Information disclosed under paragraph (1) of this subsection may be disclosed only in a way designed to preserve its confidentiality.

(c)(1) The Board may not disclose publicly any part of a cockpit voice recorder recording or transcription of oral communications by and between flight crew members and ground stations related to an accident or incident investigated by the Board. However, the Board shall make public any part of a transcription the Board decides is relevant to the accident or incident at the public hearing held by the Board or not later than 60 days after the accident or incident, whichever is earlier.

(2) This subsection does not prevent the Board from referring at any time to cockpit voice recorder information in making safety recommendations.

(d) No part of a report of the Board, related to an accident or an investigation of an accident, may be admitted into evidence or used in a civil action for damages resulting from a matter mentioned in the report.

§ 1113. Aviation enforcement

(a) The National Transportation Safety Board may bring a civil action in a district court of the United States against a person to enforce section 1104, 1105(b) or (e)(1), or 1116(a) of this title or a regulation prescribed or order issued under any of those sections. An action under this subsection may be brought in the judicial district in which the person does business or the violation occurred.

(b) On request of the Board, the Attorney General may bring a civil action—

(1) to enforce section 1104, 1105(b) or (e)(1), or 1116(a) of this title or a regulation prescribed or order issued under any of those sections; and

(2) to prosecute a person violating those sections or a regulation prescribed or order issued under any of those sections.

(c) On request of the Attorney General, the Board may participate in a civil action to enforce section 1104, 1105(b) or (e)(1), or 1116(a) of this title.

§ 1114. Joinder and intervention in aviation proceedings

A person interested in or affected by a matter under consideration in a proceeding or a civil action to enforce section 1104, 1105(b) or (e)(1), or 1116(a) of this title, or a regulation prescribed or order issued under any of those sections, may be joined as a party or permitted to intervene in the proceeding or civil action.

§ 1115. Judicial review

(a) The appropriate court of appeals of the United States or the United States Court of Appeals for the District of Columbia Circuit may review a final order of the National Transportation Safety Board under this chapter. A person disclosing a substantial interest in the order may apply for review by filing a petition not later than 60 days after the order of the Board is served.

(b)(1) A person disclosing a substantial interest in an order related to an aviation matter issued by the Board under this chapter may apply for review of the order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 60 days after the order is issued. The court may allow the petition to be filed after the 60 days only if there was a reasonable ground for not filing within that 60-day period.

(2) When a petition is filed under paragraph (1) of this subsection, the clerk of the court immediately shall send a copy of the petition to the Board. The Board shall file with the court a record of the proceeding in which the order was issued.

(3) When the petition is sent to the Board, the court has exclusive jurisdiction to affirm, change, or set aside any part of the order and may order the Board to conduct further proceedings. After reasonable notice to the Board, the court may grant interim relief by staying the order or taking other appropriate action when cause for its action exists.

(4) In reviewing an order under this section, the court may consider an objection to an order of the Board only if the objection was made in the proceeding conducted by the Board or if there was a reasonable ground for not making the objection in the proceeding.

(5) A decision by a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28.

§ 1116. Aviation penalties

(a)(1) A person violating section 1104 or 1105(b) or (e)(1) of this title or a regulation prescribed or order issued under either of those sections is liable to the United States Government for a civil penalty of not more than $1,000. A separate violation occurs for each day a violation continues.

(2) This subsection does not apply to a member of the armed forces or an employee of the Department of Defense subject to the Uniform Code of Military Justice when the member or employee is performing official duties. The appropriate military authorities are responsible for taking necessary disciplinary action and submitting to the National Transportation Safety Board a timely report on action taken.

(3) The Board may compromise the amount of a civil penalty imposed under this subsection. When the amount of a civil penalty is decided, the Government may deduct the amount from amounts it owes to the person liable for the penalty.

(4) A civil penalty under this subsection may be collected by bringing a civil action against the person liable for the penalty. The action shall conform as nearly as practicable to a civil action in admiralty.

(b) A person that knowingly and without authority removes, conceals, or withholds a part of a civil aircraft involved in an accident, or property on the aircraft at the time of the accident, shall be fined under title 18, imprisoned for not more than 10 years, or both.

§ 1117. Annual report

The National Transportation Safety Board shall submit a report to Congress on July 1 of each year. The report shall include—

(1) a statistical and analytical summary of the transportation accident investigations conducted and reviewed by the Board during the prior calendar year;

(2) a survey and summary of the recommendations made by the Board to reduce the likelihood of recurrence of those accidents together with the observed response to each recommendation;

(3) a detailed appraisal of the accident investigation and accident prevention activities of other departments, agencies, and instrumentalities of the United States Government and State and local governmental authorities having responsibility for those activities under a law of the United States or a State; and

(4) an evaluation conducted every 2 years of transportation safety and recommendations for legislative and administrative action and change.

§ 1118. Authorization of appropriations

(a) Not more $28,600,000 may be appropriated to the National Transportation Safety Board for the fiscal year ending September 30, 1990, to carry out this chapter.

(b) The Board has an emergency fund of $1,000,000 available for necessary expenses of the Board, not otherwise provided for, for accident investigations. The following amounts may be appropriated to the fund:

(1) $1,000,000 to establish the fund.

(2) amounts equal to amounts expended annually out of the fund.

(c) Amounts appropriated under this section remain available until expended.

SUBTITLE III—GENERAL AND INTERMODAL PROGRAMS

CHAPTER		Sec.
51.	TRANSPORTATION OF HAZARDOUS MATERIALS	5101
53.	URBAN MASS TRANSPORTATION	5301
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CHAPTER 51—TRANSPORTATION OF HAZARDOUS MATERIALS

Sec.
5101. Purpose.
5102. Definitions.
5103. Standards.
5104. Handling standards.
5105. Air transportation.
5106. Exemptions.
5107. Administrative.
5108. Enforcement.
5109. Civil penalty.
5110. Criminal penalty.
5111. Relationship to other laws.
5112. Authorization of appropriations.

§ 5101. Purpose

The purpose of this chapter is to provide adequate protection against the risks to life and property inherent in the transportation of hazardous material in commerce by improving the regulatory and enforcement authority of the Secretary of Transportation.

§ 5102. Definitions

In this chapter—

(1) "commerce" means trade or transportation within the jurisdiction of the United States—

(A) between a place in a State and a place outside of the State; or

(B) that affects trade or transportation between a place in a State and a place outside of the State.

(2) "hazardous material" means a substance transported in commerce in an amount and form that may pose an unreasonable risk to health and safety or property.

(3) "serious harm" means death, serious illness, or severe personal injury.

(4) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and Guam.

(5) "transports" or "transportation" means the movement of property and loading, unloading, or storage incidental to the movement.

§ 5103. Standards

(a) The Secretary of Transportation shall designate material (including an explosive, radioactive material, etiologic agent, flammable or combustible liquid or solid, poison, oxidizing or corrosive material, and compressed gas) as hazardous when the Secretary decides that transportation in com-

merce of the material in a particular amount and form may pose an unreasonable risk to health and safety or property.

(b)(1) The Secretary may prescribe regulations for the safe transportation in commerce of hazardous material. The regulations—

(A) apply to a person—

(i) transporting hazardous material or causing it to be transported; or

(ii) manufacturing, marking, maintaining, reconditioning, repairing, or testing a package or container that is represented, marked, certified, or sold by that person for use in transporting hazardous material in commerce; and

(B) may govern safety aspects of the transportation of hazardous material, including—

(i) packing, repacking, handling, labeling, marking, placarding, and routing (except by pipeline) hazardous material; and

(ii) manufacturing, marking, maintaining, reconditioning, repairing, or testing a package or container that is represented, marked, certified, or sold for use in transporting hazardous material.

(2) A proceeding to prescribe the regulations must include an opportunity for informal oral presentations.

(c) Before prescribing a regulation related to the routing of hazardous material, the Secretary shall consult and cooperate with the Interstate Commerce Commission. To the extent authorized by another law, the Commission shall take appropriate action to carry out the regulation.

(d) A person may represent, by marking or otherwise, that a container or package for transporting hazardous material is safe or certified or complies with this chapter only if it meets the requirements of each regulation prescribed under this chapter.

§ 5104. Handling standards

(a) The Secretary of Transportation may prescribe criteria for handling hazardous material, including—

(1) a minimum number of personnel;

(2) minimum levels of training and qualifications for personnel;

(3) the kind and frequency of inspections;

(4) equipment for detecting, warning of, and controlling risks posed by the hazardous material;

(5) specifications for the use of equipment and facilities used in handling and transporting the hazardous material; and

(6) a system of monitoring safety procedures for transporting the hazardous material.

(b)(1) The Secretary may require a person that transports, or causes to be transported, hazardous material in commerce, or that manufactures, marks, maintains, reconditions, repairs, or tests a package or container that is represented, marked, certified, or sold by that person for use in transporting hazardous material in commerce, to file a registration statement with the Secretary not more than once every 2 years. The statement shall include—

(A) the name and principal place of business of the person;

(B) the location of each place at which hazardous material is handled;

(C) a list of the hazardous material handled; and

(D) a declaration that the person is complying with criteria prescribed under subsection (a) of this section.

(2) A person required to file a registration statement under this subsection may transport, or cause to be transported, hazardous material, and may manufacture, mark, maintain, recondition, repair, or test a package or container for use in transporting hazardous material, only if the person has filed the statement.

(3) Any individual may inspect a registration statement filed under this subsection without charge. This paragraph does not require the release of information protected by law from public disclosure.

§ 5105. Air transportation

(a) Material that emits ionizing radiation spontaneously may be transported on a passenger-carrying aircraft in air commerce (as defined in section 40102(a) of this title) only if the material is intended for a use in, or incident to, research or medical diagnosis or treatment and does not present an unreasonable hazard to health and safety when being prepared for, and during, transportation.

(b) The Secretary of Transportation shall prescribe procedures for monitoring and enforcing regulations prescribed under this section.

(c) This section does not apply to material in which—

(1) the estimated specific activity is not more than .002 microcuries for each gram of material; and

(2) the radiation is distributed in an essentially uniform way.

§ 5106. Exemptions

(a)(1) The Secretary of Transportation may issue an exemption from this chapter or a regulation prescribed under section 5103(b) of this title to a person transporting, or causing to be transported, hazardous material in a way that achieves a safety level—

(A) at least equal to the safety level required under this chapter; or

(B) consistent with the public interest and this chapter, if a required safety level does not exist.

(2) An exemption under this subsection is effective for not more than 2 years and may be renewed on application to the Secretary.

(b) When applying for an exemption or renewal of an exemption under this section, the person must provide a safety analysis prescribed by the Secretary that justifies the exemption. The Secretary shall publish in the Federal Register notice that an application has been filed and shall give the public an opportunity to inspect the safety analysis and comment on the application. This subsection does not require the release of information protected by law from public disclosure.

(c)(1) The Secretary shall exclude, in any part, from this chapter and regulations prescribed under this chapter—

(A) a public vessel (as defined in section 2101 of title 46);

(B) a vessel exempted under section 3702 of title 46 from chapter 37 of title 46; and

(C) a vessel to the extent it is regulated under the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221 et seq.).

(2) This chapter and regulations prescribed under this chapter do not prohibit—

(A) or regulate transportation of a firearm (as defined in section 232 of title 18), or ammunition for a firearm, by an individual for personal use; or

(B) transportation in commerce of a firearm or ammunition.

(d) Unless the Secretary decides that an emergency exists, an exemption or renewal granted under this section is the only way a person subject to this chapter may be exempt from this chapter.

§ 5107. Administrative

(a) To carry out this chapter, the Secretary of Transportation may investigate, make reports, issue subpenas, conduct proceedings, require the production of records and property, take depositions, and conduct research, development, demonstration, and training activities. After notice and an opportunity for a proceeding, the Secretary may issue an order requiring compliance with this chapter or a regulation prescribed under this chapter.

(b) A person subject to this chapter shall—

(1) maintain records, make reports, and provide information the Secretary by regulation or order requires; and

(2) make the records, reports, and information available when the Secretary requests.

(c)(1) The Secretary may authorize an officer, employee, or agent to inspect, at a reasonable time and in a reasonable way, records and property related to—

(A) manufacturing, marking, maintaining, reconditioning, repairing, testing, or distributing a package or container for use by a person in transporting hazardous material in commerce; or

(B) the transportation of hazardous material in commerce.

(2) An officer, employee, or agent under this subsection shall display proper credentials when requested.

(d)(1) The Secretary shall—

(A) maintain a facility and technical staff sufficient to provide, within the United States Government, the capability of evaluating a risk related to the transportation of hazardous material and material alleged to be hazardous;

(B) maintain a central reporting system and information center capable of providing information and advice to law enforcement and firefighting personnel, other interested individuals, and officers and employees of the Government and State and local governments on meeting an emergency related to the transportation of hazardous material; and

(C) conduct a continuous review on all aspects of transporting hazardous material to decide and recommend ways to ensure safe transportation of hazardous material.

(2) Paragraph (1) of this subsection does not prevent the Secretary from making a contract with a private entity for use of a supplemental reporting system and information center operated and maintained by the contractor.

(e) The Secretary shall submit to the President, for submission to Congress, not later than June 15th of each year, a report about the transportation of hazardous material during the prior calendar year. The report shall include—

(1) a statistical compilation of each accident and casualty related to the transportation of hazardous material;

(2) a list and summary of applicable Government regulations, criteria, orders, and exemptions;

(3) a summary of the basis for each exemption;

(4) an evaluation of the effectiveness of enforcement activities and the degree of voluntary compliance with regulations;

(5) a summary of outstanding problems in carrying out this chapter in order of priority; and

(6) recommendations for appropriate legislation.

§ 5108. Enforcement

(a) At the request of the Secretary of Transportation, the Attorney General may bring a civil action to enforce this chapter or a regulation prescribed or order issued

under this chapter. The court may award punitive damages.

(b)(1) If the Secretary decides that transporting hazardous material presents a substantial likelihood that serious harm will occur before a proceeding to lessen the risk of that harm can be completed, the Secretary may bring a civil action—

(A) to suspend or restrict the transportation of the hazardous material; or

(B) to lessen the likelihood of serious harm occurring.

(2) On request of the Secretary, the Attorney General shall bring an action under paragraph (1) of this subsection.

§ 5109. Civil penalty

(a) A person that knowingly violates this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than $10,000 for each violation. A separate violation occurs for each day the violation, applicable to a person that transports or causes to be transported hazardous material, continues.

(b) The Secretary of Transportation may find that a person has violated this chapter or a regulation prescribed under this chapter only after notice and an opportunity for a proceeding. The Secretary shall impose a penalty under this section by giving the person written notice of the amount of the penalty.

(c) In determining the amount of a civil penalty under this section, the Secretary shall consider—

(1) the nature, circumstances, extent, and gravity of the violation;

(2) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue to do business; and

(3) other matters that justice requires.

(d) The Secretary may compromise a civil penalty imposed under this section. A compromise may be made only before the Secretary requests the Attorney General to bring a civil action to collect the penalty.

(e) The Government may deduct the amount of a civil penalty imposed or agreed on from amounts it owes the person liable for the penalty.

(f) Amounts collected under this section shall be deposited in the Treasury as miscellaneous receipts.

§ 5110. Criminal penalty

A person willfully violating this chapter or a regulation prescribed under this chapter shall be fined under title 18, imprisoned for not more than 5 years, or both.

§ 5111. Relationship to other laws

(a) This chapter and regulations prescribed under this chapter preempt an inconsistent requirement of a State or a political subdivision of a State. However, a requirement of a State or political subdivision is not preempted if the Secretary of Transportation decides, on application of the appropriate State authority, that the requirement provides at least as much protection to the public as a requirement of this chapter or of a regulation prescribed under this chapter and does not unreasonably burden commerce. The requirement of the State or political subdivision may not be preempted to the extent provided in the decision of the Secretary as long as the State or political subdivision effectively administers and enforces the requirement.

(b) This chapter does not apply to a pipeline subject to regulation under chapter 501 of this title.

§ 5112. Authorization of appropriations

Not more than $——— may be appropriated to the Secretary of Transportation for the fiscal year ending September 30, ——, to carry out this chapter.

CHAPTER 53—URBAN MASS TRANSPORTATION

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§ 5301. Policies, findings, and purposes

(a) It is in the interest of the United States to encourage and promote the development of transportation systems that embrace various modes of transportation and serve States and local communities efficiently and effectively.

(b) Congress finds that—

(1) more than 70 percent of the population of the United States is located in rapidly expanding urban areas that generally cross the boundary lines of local jurisdictions and often extend into at least 2 States;

(2) the welfare and vitality of urban areas, the satisfactory movement of people and goods within those areas, and the effectiveness of programs aided by the United States Government are jeopardized by deteriorating or inadequate urban transportation service and facilities, the intensification of traffic congestion, and the lack of coordinated, comprehensive, and continuing development planning;

(3) transportation is the lifeblood of an urbanized society, and the health and welfare of an urbanized society depend on providing efficient, economical, and convenient transportation in and between urban areas;

(4) for many years the mass transportation industry capably and profitably satisfied the transportation needs of the urban areas of the United States but in the early 1970's continuing even minimal mass transportation service in urban areas was threatened because maintaining that transportation service was financially burdensome;

(5) ending that transportation, or the continued increase in its cost to the user, is undesirable and may affect seriously and adversely the welfare of a substantial number of lower income individuals;

(6) some urban areas were developing preliminary plans for, or carrying out, projects in the early 1970's to revitalize their mass transportation operations;

(7) financial assistance by the Government to develop efficient and coordinated mass transportation systems is essential to solve the urban transportation problems referred to in clause (2) of this subsection; and

(8) immediate substantial assistance by the Government is needed to enable mass transportation systems to continue providing vital transportation service.

(c) Rapid urbanization and continuing dispersal of the population and activities in urban areas have made the ability of all citizens to move quickly and at a reasonable cost an urgent problem of the Government.

(d) It is the policy of the Government that elderly and handicapped individuals have the same right as other individuals to use mass transportation service and facilities. Special efforts shall be made in planning and designing mass transportation service and facilities to ensure that mass transportation can be used by elderly and handicapped individuals. All programs of the Government assisting mass transportation shall carry out this policy.

(e) It is the policy of the Government that special effort shall be made to preserve the natural beauty of the countryside, public park and recreation lands, wildlife and waterfowl refuges, and important historical and cultural assets when planning, designing, and carrying out an urban mass transportation capital project with assistance from the Government under sections 5306 and 5307 of this title.

(f) The purposes of this chapter are—

(1) to assist in developing improved mass transportation equipment, facilities, techniques, and methods with the cooperation of public and private mass transportation companies;

(2) to encourage the planning and establishment of areawide urban mass transportation systems needed for economical and desirable urban development with the cooperation of public and private mass transportation companies;

(3) to assist States and political subdivisions of States in financing areawide urban mass transportation systems that are to be operated by public or private mass transportation companies as decided by local needs; and

(4) to establish a partnership that allows a community, with financial assistance from the Government, to satisfy its urban mass transportation requirements.

§ 5302. Definitions

(a) In this chapter—

(1) "capital project" means a project for—

(A) acquiring, constructing, supervising, or inspecting equipment or a facility for use in mass transportation, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, and acquiring rights of way), relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

(B) rehabilitating a bus that extends the economic life of a bus for at least 5 years;

(C) remanufacturing a bus that extends the economic life of a bus for at least 8 years; or

(D) overhauling rail rolling stock.

(2) "chief executive officer of a State" includes the designee of the chief executive officer.

(3) "emergency regulation" means a regulation—

(A) that is effective temporarily before the expiration of the otherwise specified periods of time for public notice and comment under section 5322(b) of this title; and

(B) prescribed by the Secretary of Transportation as the result of a finding that a delay in the effective date of the regulation—

(i) would injure seriously an important public interest;

(ii) would frustrate substantially legislative policy and intent; or

(iii) would damage seriously a person or class without serving an important public interest.

(4) "fixed guideway" means a mass transportation facility—

(A) using and occupying a separate right of way or rail for the exclusive use of mass transportation and other high occupancy vehicles; or

(B) using a fixed catenary system and a right of way usable by other forms of transportation.

(5) "handicapped individual" means an individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semiambulatory capability), cannot use effectively, without special facilities, planning, or design, mass transportation service or a mass transportation facility.

(6) "local governmental authority" includes—

(A) a political subdivision of a State;

(B) an authority of at least one State or political subdivision of a State;

(C) an Indian tribe; and

(D) a public corporation, board, or commission established under the laws of a State.

(7) "mass transportation" means transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include schoolbus, charter, or sightseeing transportation.

(8) "new bus model" means a bus model—

(A) that has not been used in mass transportation in the United States before the date of production of the model; or

(B) used in mass transportation in the United States but being produced with a major change in configuration or components.

(9) "regulation" means any part of a statement of general or particular applicability of the Secretary of Transportation designed to carry out, interpret, or prescribe law or policy in carrying out this chapter.

(10) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

(11) "urban area" means an area that includes a municipality or other built-up place that the Secretary of Transportation, after considering local patterns and trends of urban growth, decides is appropriate for a local mass transportation system to serve individuals in the locality.

(12) "urbanized area" means an area—

(A) encompassing at least an urbanized area within a State that the Secretary of Commerce designates; and

(B) designated an urbanized area within boundaries fixed by State and local officials and approved by the Secretary of Transportation.

(b) The Secretary of Transportation by regulation may change the definition of subsection (a)(5) of this section as it applies to section 5304(d)(1)(D) of this title.

§ 5303. Planning and technical studies

(a) To carry out section 5301(a) of this title, the Secretary of Transportation shall cooperate with State and local officials in developing transportation plans and programs. The plans and programs shall be based on transportation needs, considering long-range land use plans, development objectives, overall social, economic, environmental, system performance, and energy conservation goals and objectives, and the probable effect of transportation plans and programs on the future development of an urban area with a population of more than 50,000.

(b)(1) Planning shall—

(A) be continuing, cooperative, and comprehensive, based on the complexity of transportation problems;

(B) consider all modes of transportation;

(C) analyze alternative transportation system management and investment strategies to make more efficient use of existing transportation facilities; and

(D) develop long-term financial plans for regional urban mass transportation improvements and revenues available from current and potential sources to carry out the improvements.

(2) Urbanized area planning shall be conducted by local officials acting through a metropolitan planning organization in cooperation with the State. The chief executive officer of a State and the units of general local government shall designate the metropolitan planning organization.

(c) A program of projects eligible for assistance under this chapter shall be submitted to the Secretary for approval. The Secretary may approve any part of the program for an urbanized area only if the Secretary finds that the planning on which the program is based is consistent with section 5301(a) of this title.

(d) Consistent with criteria the Secretary establishes, the Secretary may make a contract for, and a grant to a State or a local governmental authority for—

(1) the planning, engineering, designing, and evaluation of a mass transportation project;

(2) the study of the management, operations, capital requirements, and economic feasibility of a project;

(3) the preparation of engineering and architectural surveys, plans, and specifications;

(4) the evaluation of previously financed projects;

(5) another similar or related activity preliminary to, or in preparation of, a capital project for, or acquiring or improving the operation of, a mass transportation system, equipment, or facility; and

(6) other technical studies.

(e) A plan or program required by subsection (a) of this section shall encourage to the maximum extent feasible the participation of private enterprise. A program shall provide that equipment or a facility already being used in mass transportation in an urban area be improved so that it will better serve the transportation needs of the area if it is to be acquired under this chapter.

§ 5304. Block grants

(a) In this section—

(1) "associated capital maintenance items" means equipment, tires, tubes, and material, each costing at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment, tires, tubes, and material are to be used.

(2) "designated recipient" means—

(A) a person designated, as provided by the planning process required under section 5303 of this title, by the chief executive officer of a State, responsible local officials, and publicly owned operators of mass transportation to receive and apportion amounts under section 5324 of this title that are attributable to urbanized areas with a population of at least 200,000;

(B) a State or regional authority if the authority is responsible under the laws of a State for a capital project and for financing and directly providing mass transportation; or

(C) a recipient designated under section 5(b)(1) of the Urban Mass Transportation Act of 1964 not later than January 5, 1983.

(b)(1) The Secretary of Transportation may make grants under this section for capital projects and to finance the planning, improvement, and operating costs of equipment, facilities, and associated capital maintenance items for use in mass transportation, including the renovation and improvement of historic transportation facilities with related private investment.

(2) A grant for a capital project under this section also is available to finance the leasing of equipment and facilities for use in mass transportation, subject to regulations the Secretary prescribes limiting the grant to leasing arrangements that are more cost effective than acquisition or construction. The Secretary shall prescribe those regulations not later than November 28, 1988.

(3) A project for the reconstruction of equipment and material, each of which after reconstruction will have a fair market value of at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and material will be used, is a capital project for an associated capital maintenance item under this section.

(c) Each recipient of a grant shall—

(1) make available to the public information on amounts available to the recipient under this section and the program of projects the recipient proposes to undertake;

(2) develop, in consultation with interested parties, including private transportation providers, a proposed program of projects for activities to be financed;

(3) publish a proposed program of projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed program and submit comments on the proposed program and the performance of the recipient;

(4) provide an opportunity for a public hearing in which to obtain the views of citizens on the proposed program of projects;

(5) consider comments and views received, especially those of private transportation providers, in preparing the final program of projects; and

(6) make the final program of projects available to the public.

(d) A recipient may receive a grant in a fiscal year only if—

(1) the recipient, within the time the Secretary prescribes, submits a final program of projects prepared under subsection (c) of this section and a certification for that fiscal year that the recipient (including a person receiving amounts from a chief executive officer of a State under this section)—

(A) has or will have the legal, financial, and technical capacity to carry out the program;

(B) has or will have satisfactory continuing control over the use of equipment and facilities;

(C) will maintain equipment and facilities;

(D) will ensure that elderly and handicapped individuals, or an individual presenting a medicare card issued to that individual under title II or XVIII of the Social Security Act (42 U.S.C. 401 et seq., 1395 et seq.), will be charged during non-peak hours for transportation using or involving a facility or equipment of a project financed under this chapter not more than 50 percent of the peak hour fare;

(E) in carrying out a procurement under this section—

(i) will use competitive procurement (as defined or approved by the Secretary);

(ii) will not use a procurement that uses exclusionary or discriminatory specifications; and

(iii) will comply with applicable Buy America laws in carrying out a procurement;

(F) has complied with subsection (c) of this section;

(G) has available and will provide the required amounts as provided by subsection (e) of this section;

(H) will comply with sections 5301(a) and (d), 5303, and 5307(a)-(d) of this title; and

(I) has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation; and

(2) the Secretary accepts the certification.

(e) A grant of the United States Government for a capital project (including associated capital maintenance items) under this section is for 80 percent of the net project cost of the project. A recipient may provide additional local matching amounts. A grant for operating expenses may not be more than 50 percent of the net project cost of the project. The remainder of the net project cost shall be provided in cash from sources other than amounts of the Government or revenues from providing mass transportation (excluding revenues derived from the sale of advertising and concessions that are more than the amount of those revenues in the fiscal year that ended September 30, 1985). Transit system amounts that make up the remainder shall be from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

(f)(1) A State authority that is a designated recipient and providing mass transportation in at least 2 urbanized areas may apply for operating assistance in an amount not more than the amount for all urbanized areas in which it provides transportation.

(2) When approving an application under paragraph (1) of this subsection, the Secretary may not reduce the amount of operating assistance approved for another State or a local transportation authority within the affected urbanized areas.

(g)(1) When a recipient obligates all amounts apportioned to it under section 5324 of this title and then carries out a part of a project described in this section (except a project for operating expenses) without amounts of the Government and according to all applicable procedures and requirements (except to the extent the procedures and requirements limit a State to carrying out a project with amounts of the Government previously apportioned to it), the Secretary may pay to the recipient the Government's share of the cost of carrying out that part when additional amounts are apportioned to the recipient under section 5324 if—

(A) the recipient applies for the payment;

(B) the Secretary approves the payment; and

(C) before carrying out that part, the Secretary approves the plans and specifications for the part in the same way as for other projects under this section.

(2) The Secretary may approve an application under paragraph (1) of this subsection only if an authorization for this section is in effect for the fiscal year to which the application applies. The Secretary may not approve an application if the payment will be more than—

(A) the recipient's expected apportionment under section 5324 of this title if the total amount authorized to be appropriated for the fiscal year to carry out this section is appropriated; less

(B) the maximum amount of the apportionment that may be made available for projects for operating expenses under this section.

(3) The cost of carrying out that part of a project includes the amount of interest earned and payable on bonds issued by the recipient to the extent proceeds of the bonds are expended in carrying out the part. However, the amount of interest allowed under this paragraph may not be more than the amount by which the estimated cost of carrying out the part (if it would be carried out at the time the part is converted to a regularly financed project) exceeds the actual cost (except interest) of carrying out the part.

(4) The Secretary shall consider changes in capital project cost indices when determining the estimated cost under paragraph (3) of this subsection.

(h)(1)(A) At least annually, the Secretary shall carry out, or require a recipient to have carried out independently, reviews and audits the Secretary considers appropriate to establish whether the recipient has carried out—

(i) the activities proposed under subsection (d) of this section in a timely and effective way and can continue to do so; and

(ii) those activities and its certifications and has used amounts of the Government in the way required by law.

(B) An audit of the use of amounts of the Government shall comply with the auditing procedures of the Comptroller General.

(2) At least once every 3 years, the Secretary shall review and evaluate completely the performance of a recipient in carrying out the recipient's program, specifically referring to compliance with statutory and administrative requirements and the extent to which actual program activities are consistent with the activities proposed under subsection (d) of this section and the planning process required under section 5303 of this title.

(3) The Secretary may take appropriate action consistent with a review, evaluation, and audit under this subsection, including making an appropriate change in the amount of a grant or withdrawing the grant.

(i) A recipient (including a person receiving amounts from a chief executive officer of a State under this section) shall submit annually to the Secretary a report on the revenues the recipient derives from the sale of advertising and concessions.

(j) A recipient may request the Secretary to approve its procurement system. The Secretary shall approve the system for use for procurements financed under section 5324 of this title if, after consulting with the Administrator for Federal Procurement Policy, the Secretary decides the system provides for competitive procurement. Approval of a system under this subsection does not relieve a recipient of the duty to certify under subsection (d)(1)(E) of this section.

(k)(1) Section 1001 of title 18 applies to a certificate or submission under this section. The Secretary may end a grant under this section and seek reimbursement, directly or by offsetting amounts available under section 5324 of this title, when a false or fraudulent statement or related act within the meaning of section 1001 is made in connection with a certification or submission.

(2) Sections 5302, 5311, 5315(a)(1), (d), and (f), 5320, 5321, and 5322(e) of this title apply to this section and to a grant made under this section. Except as provided in this section, no other provision of this chapter applies to this section or to a grant made under this section.

§ 5305. Mass Transit Account block grants

(a) The Secretary of Transportation may make grants under this section to be used only for capital projects (including capital maintenance items).

(b)(1) Sections 5304(a)-(d) and (h)-(k) and 5324(a)-(c), (f), (g), and (i) of this title apply to amounts made available under section 5325(a)(2) and (c)(2) of this title to carry out this section.

(2) Sections 5304(e) and 5324(d) of this title apply to grants under this section.

§ 5306. Discretionary grants and loans

(a) The Secretary of Transportation may make grants and loans under this section to assist State and local governmental authorities in financing—

(1) capital projects for new fixed guideway systems, and extensions to existing fixed guideway systems, including the acquisition of real property, the initial acquisition of rolling stock for the systems, alternative analyses related to the development of the systems, and the acquisition of rights of way, and relocation, for fixed guideway corridor development for projects in the advanced stages of alternative analyses or preliminary engineering;

(2) capital projects, including property and improvements (except public highways other than fixed guideway facilities), needed for an efficient and coordinated mass transportation system;

(3) the capital costs of coordinating mass transportation with other transportation;

(4) the introduction of new technology, through innovative and improved products, into mass transportation;

(5) transportation projects that enhance urban economic development or incorporate private investment, including commercial and residential development, because the projects—

(A) enhance the effectiveness of a mass transportation project and are related physically or functionally to that mass transportation project; or

(B) establish new or enhanced coordination between mass transportation and other transportation; and

(6) changes in equipment and fixed facilities (except stations) that the Secretary decides are necessary to avoid an adverse effect resulting from the Northeast Corridor improvement program under chapter 249 of this title.

(b)(1) The Secretary of Transportation may make loans under this section to State and local governmental authorities to acquire interests in real property for use on urban mass transportation systems as rights of way, station sites, and related purposes, including reconstruction, renovation, the net cost of property management, and relocation payments made under section 5316(a) of this title.

(2) The Secretary of Transportation may make a loan under paragraph (1) of this subsection for an approved project only after finding that the property reasonably is expected to be required for a mass transportation system and that it will be used for that system within a reasonable time.

(3) An applicant for a loan under this subsection shall provide a copy of the application to the planning agency for the community affected by the project at the same time the application is submitted to the Secretary of Transportation. If the planning agency submits comments to the Secretary not later than 30 days after the application is submitted, or, if the agency requests more time within those 30 days, within a period the Secretary establishes, the Secretary shall consider those comments before taking final action on the application.

(4) A loan agreement under this subsection shall provide that a capital project on the property will be started not later than 10 years after the fiscal year in which the agreement is made. If an interest in property acquired under this subsection is not used for the purpose for which it was acquired, an appraisal of the current value of the property or interest shall be made when a decision is made about the use. The decision shall be made within the 10-year period. Two-thirds of the increase in value shall be paid to the Secretary of Transportation for deposit in the Treasury as miscellaneous receipts.

(5) A loan under this subsection must be repaid not later than 10 years after the date of the loan agreement or on the date a grant agreement for a capital project on the property is made, whichever is earlier. Payments made to repay the loan shall be deposited in the Treasury as miscellaneous receipts.

(c) The Secretary of Transportation shall consider the adverse effect of decreased commuter rail transportation when deciding whether to approve a grant or loan under this section to acquire a rail line and all related facilities—

(1) owned by a rail carrier subject to reorganization under title 11; and

(2) used to provide commuter rail transportation.

(d)(1) Except as provided in paragraph (2) of this subsection and subsection (b)(2) of this section, the Secretary of Transportation may approve a grant or loan for a project under this section only after finding that the project is part of the approved program of projects required under section 5303 of this title and that an applicant—

(A) has or will have the legal, financial, and technical capacity to carry out the project, satisfactory continuing control over the use of equipment or facilities, and the capability to maintain the equipment or facilities; and

(B) will maintain the equipment or facilities.

(2)(A) The Secretary of Transportation may approve a grant or loan under this section for a capital project for a new fixed guideway system or extension of an existing fixed guideway system only after deciding the proposed project is—

(i) based on the results of alternative analyses and preliminary engineering;

(ii) cost effective; and

(iii) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable financing sources to construct, maintain, and operate the system or extension.

(B) The Secretary of Transportation also may consider other appropriate factors.

(C) The Secretary of Transportation shall prescribe guidelines on how the Secretary will evaluate cost effectiveness, results of alternative analyses, and the degree of local financial commitment.

(D) Subparagraph (A)-(C) of this paragraph apply to a project—

(i) for which a letter of intent or contract for the complete amount is issued under subsection (e) of this section after April 1, 1987; or

(ii) not in the preliminary engineering, final design, or construction stage on January 1, 1987.

(3) Each grant or loan under subsection (a)(5) of this section shall require that a person making an agreement to occupy space in a facility pay a reasonable share of the costs of the facility through rental payments and other means.

(4) Eligible costs for a project under subsection (a)(5) of this section—

(A) include property acquisition, demolition of existing structures, site preparation, utilities, building foundations, walkways, open space, and a capital project for, and improving, equipment or a facility for an intermodal transfer facility or transportation mall; but

(B) do not include construction of a commercial revenue-producing facility or a part of a public facility not related to mass transportation.

(e)(1) The Secretary of Transportation may issue a letter of intent to an applicant announcing an intention to obligate, for a project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project. The amount shall be sufficient to complete an operable segment when a letter is issued for a fixed guideway project.

(2) At least 30 days before issuing a letter under paragraph (1) of this subsection, the Secretary of Transportation shall notify in writing the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of the proposed issuance of the letter.

(3) The issuance of a letter is deemed not an obligation under sections 1108(c) and (d), 1501, and 1502(a) of title 31 or an administrative commitment.

(4) An obligation or administrative commitment may be made only when amounts are appropriated. The total estimated amount of future obligations of the United States Government covered by all outstanding letters of intent may be not more than the amount authorized under section 5325(a) of this title to carry out this section, less an amount the Secretary of Transportation reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters may be not more than a limitation specified in law.

(f)(1) Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary of Transportation shall estimate the part of the cost of a project under subsection (a) of this section that reasonably cannot be financed from revenues. Except as provided in paragraph (2) of this subsection, a grant for the project is for 75 percent of the net project cost. The remainder shall be provided in cash from a source other than amounts of the Government. Transit system amounts that make up the remainder must be from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

(2) A grant for a project under subsection (a)(6) of this section may be for all of the net project cost.

(g) Except for a loan under subsection (b) of this section, a loan, including a renewal or extension of the loan, may be made, and a security or obligation may be bought, only if it has a maturity date of not more than 40 years. Interest on a loan may not be less than—

(1) a rate the Secretary of the Treasury establishes, considering the current average yield on outstanding marketable obligations of the Government that have remaining periods of maturity comparable to the average maturity of the loan, adjusted to the nearest .125 percent; plus

(2) an allowance the Secretary of Transportation considers adequate to cover administrative costs and probable losses.

(h) A grant agreement for a capital project may forgive repaying the loan and interest in place of a cash grant for the amount forgiven. The amount is part of the grant and part of the contribution of the Government to the cost of the project.

(i) The Secretary of Transportation may not make a loan under this section for a project for which a grant (except a relocation payment grant) is made under this section. However, the Secretary may make a project grant even though real property for the project has been or will be acquired through a loan under subsection (b) of this section.

(j)(1) Of the amounts available for grants and loans under this section for each of the fiscal years ending September 30, 1990, and September 30, 1991—

(A) 40 percent is available for rail modernization;

(B) 40 percent is available for capital projects for new fixed guideway systems and extensions to existing fixed guideway systems;

(C) 10 percent is available to replace, rehabilitate, and buy buses and related equipment and to construct bus-related facilities; and

(D) 10 percent is available for purposes described in clauses (A)-(C) of this subsection, as the Secretary of Transportation decides.

(2) Not later than January 20 of each year, the Secretary of Transportation shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate—

(A) a proposal on the total amount that should be made available under paragraph (1)(D) of this subsection in the next fiscal year for each of the purposes described in paragraph (1)(A)-(C) of this subsection; and

(B) a proposal on the allocation of amounts to be made available to finance grants and loans for capital projects for new fixed guideway systems and extensions to existing fixed guideway systems among applicants for those amounts.

(3) A person applying for, or receiving, assistance for a project described in clause (A), (B), or (C) of paragraph (1) of this subsection may receive assistance for a project described in another of those clauses.

(k)(1) The Secretary of Transportation may pay the Government's share of the net project costs to a State or local governmental authority that carries out any part of a project described in this section or a substitute transit project described in section 103(e)(4) of title 23 without the aid of amounts of the Government and according to all applicable procedures and requirements if—

(A) the State or local governmental authority applies for the payment;

(B) the Secretary approves the payment; and

(C) before carrying out the part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section or section 103(e)(4) of title 23.

(2) The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part. However, the amount of interest under this paragraph may not be more than the amount by which the estimated cost of carrying out the part (if it would be carried out at the time the part is converted to a regularly financed project) exceeds the actual cost (except interest) of carrying out the part.

(3) The Secretary of Transportation shall consider changes in capital project cost indices when determining the estimated cost under paragraph (2) of this subsection.

§ 5307. Grants and loans for special needs of the elderly and handicapped

(a) The Secretary of Transportation may make grants and loans to—

(1) State and local governmental authorities to help them provide mass transportation service planned, designed, and carried out to meet the special needs of elderly and handicapped individuals; and

(2) private nonprofit corporations and associations to help them provide that transportation service when the transportation service provided under clause (1) of this subsection is unavailable, insufficient, or inappropriate.

(b)(1) A grant or loan under subsection (a)(1) of this section is subject to all requirements of a grant or loan under section 5306 of this title, and is deemed to have been made under section 5306.

(2) A grant or loan under subsection (a)(2) of this section is subject to requirements similar to those under paragraph (1) of this subsection to the extent the Secretary considers appropriate.

(c) In carrying out section 5301(d) of this title, section 165(b) of the Federal-Aid Highway Act of 1973 (Public Law 93-87, 87 Stat. 282), and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (consistent with United States Government-wide standards to carry out section 504), the Secretary shall prescribe regulations establishing minimum criteria a recipient of Government financial assistance under this chapter or a law referred to in section 165(b) shall comply with in providing mass transportation service to elderly and handicapped individuals and procedures for the Secretary to monitor compliance with the criteria. The regulations shall include provisions for ensuring that organizations and groups representing elderly and handicapped individuals are given adequate notice of, and an opportunity to comment on, the proposed activity of a recipient to achieve compliance with the regulations.

(d) A grant of the Government under section 5304, 5306, or 5308 of this title for a capital improvement project that enhances the accessibility for elderly and handicapped individuals to mass transportation service and that is not required by a law of the United States is for 95 percent of the cost of the project.

(e) This chapter does not require that elderly and handicapped individuals be charged a fare.

§ 5308. Financial assistance for other than urbanized areas

(a) In this section, "recipient" includes a State authority, a local governmental authority, a nonprofit organization, and an operator of mass transportation service.

(b)(1) The Secretary of Transportation may make grants for transportation projects that are included in a State program of mass transportation service projects (including service agreements with private providers of mass transportation service) for areas other than urbanized areas. The program shall be submitted annually to the Secretary. The Secretary may approve the program only if the Secretary finds that the program provides a fair distribution of amounts in the State, including Indian reservations, and the maximum feasible coordination of mass transportation service assisted under this section with transportation service assisted by other United States Government sources.

(2) The Secretary of Transportation shall carry out a rural transportation assistance program in nonurbanized areas. In carrying out this paragraph, the Secretary may make grants and contracts for transportation research, technical assistance, training, and related support services in nonurbanized areas.

(c) The Secretary of Transportation shall apportion amounts made available under section 5325(b)(1) of this title so that the chief executive officer of each State receives an amount equal to the total amount apportioned multiplied by a ratio equal to the population of areas other than urbanized areas in a State divided by the population of all areas other than urbanized areas in the United States, as shown by the latest Government census. The amount may be obligated by the chief executive officer for 2 years after the fiscal year in which the amount is apportioned. An amount that is not obligated at the end of that period shall be reapportioned among the States for the next fiscal year.

(d) A State may use an amount apportioned under this section for a project included in a program under subsection (b) of this section and eligible for assistance under this chapter if the project will provide local transportation service, as defined by the Secretary of Transportation, in an area other than an urbanized area.

(e)(1) The Secretary of Transportation may allow a State to use not more than 15 percent of the amount apportioned under this section to administer this section and provide technical assistance to a recipient, including project planning, program and management development, coordination of mass transportation programs, and research the State considers appropriate to promote effective delivery of mass transportation to an area other than an urbanized area.

(2) Except as provided in this section, a State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

(f)(1) In this subsection, "amounts of the Government or revenues" do not include amounts received under a service agreement with a State or local social service agency or a private social service organization.

(2) A grant of the Government for a capital project under this section may not be more than 80 percent of the net cost of the project, as determined by the Secretary of Transportation. A grant to pay a subsidy for operating expenses may not be more than 50 percent of the net cost of the operating expense project. At least 50 percent of the remainder shall be provided in cash from sources other than amounts of the Government or revenues from providing mass transportation. Transit system amounts that make up the remainder shall be from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

(g)(1) Sections 5315(a)(1)(D) and 5321(b) of this title apply to this section but the Secretary of Labor may waive the application of section 5321(b).

(2) This subsection does not affect or discharge a responsibility of the Secretary of Transportation under a law of the United States.

§ 5309. Research, development, training, and demonstration projects

(a) The Secretary of Transportation (or the Secretary of Housing and Urban Development when required by section 5322(h) of this title) may undertake, or make grants or contracts (including agreements with departments, agencies, and instrumentalities of the United States Government) for, research, development, and demonstration projects related to urban mass transportation that the Secretary decides will help reduce urban transportation needs, improve mass transportation service, or help mass transportation service meet the total urban transportation needs at a minimum cost. The Secretary may request and receive appropriate information from any source. This subsection does not limit the authority of the Secretary under another law.

(b)(1) The Secretary of Transportation (or the Secretary of Housing and Urban Development when required by section 5322(h) of this title) may make grants to nonprofit institutions of higher learning—

(A) to conduct competent research and investigations into the theoretical or practical problems of urban transportation; and

(B) to train individuals to conduct further research or obtain employment in an organization that plans, builds, operates, or manages an urban transportation system.

(2) Research and investigations under this subsection include—

(A) the design and use of urban mass transportation systems and urban roads and highways;

(B) the interrelationship between various modes of urban and interurban transportation;

(C) the role of transportation planning in overall urban planning;

(D) public preferences in transportation;

(E) the economic allocation of transportation resources; and

(F) the legal, financial, engineering, and esthestic aspects of urban transportation.

(3) When making a grant under this subsection, the appropriate Secretary shall give preference to an institution that brings together knowledge and expertise in the various social science and technical disciplines related to urban transportation problems.

(c)(1) The Secretary of Transportation may make grants to States, local governmental authorities, and operators of mass transportation systems to provide fellowships to train personnel employed in managerial, technical, and professional positions in the mass transportation field.

(2) The Secretary of Transportation may make grants to State and local governmental authorities for projects that will use innovative techniques and methods in managing and providing mass transportation.

(3) A fellowship under this subsection may be for not more than one year of training in an institution that offers a program applicable to the mass transportation industry. The recipient of the grant shall select an individual on the basis of demonstrated ability and for the contribution the individual reasonably can be expected to make to an efficient mass transportation operation. A grant for a fellowship may not be more than the lesser of $24,000 or 75 percent of—

(A) tuition and other charges to the fellowship recipient;

(B) additional costs incurred by the training institution and billed to the grant recipient; and

(C) the regular salary of the fellowship recipient for the period of the fellowship to the extent the salary is actually paid or reimbursed by the grant recipient.

§ 5310. National advisory council and university transportation centers

(a)(1) The Department of Transportation has a national advisory council. The council shall—

(A) coordinate the research and training to be carried out by grant recipients under this section;

(B) disseminate the results of the research;

(C) act as a clearinghouse between university transportation centers and the transportation industry; and

(D) review and evaluate programs the centers carry out.

(2) The council is composed of the following individuals:

(A) the directors of the regional transportation centers established under subsection (b) of this section.

(B) 19 individuals appointed by the Secretary of Transportation as follows:

(i) 6 officers of the Department, one representing each of the Office of the Secretary, the Federal Highway Administration, the Urban Mass Transportation Administration, the National Highway Traffic Safety Administration, the Research and Special Programs Administration, and the Federal Railroad Administration.

(ii) 5 representatives of State and local governments.

(iii) 8 representatives of the transportation industry, including private providers of mass transportation services, and organizations of employees in the transportation industry.

(3) A vacancy on the council is filled in the same way as the original selection.

(4)(A) The Secretary of Transportation shall designate the chairman of the council.

(B) The members of the council appointed by the Secretary of Transportation serve without pay.

(5) The council shall meet at least once each year and at other times the chairman designates.

(6) The council may obtain information necessary to carry out this section directly from a department, agency, or instrumentality of the United States Government. On request of the chairman of the council, the head of the department, agency, or instrumentality shall give the council the information.

(7) Section 14 of the Federal Advisory Committee Act (5 App. U.S.C.) does not apply to the council.

(b) The Secretary of Transportation (or the Secretary of Housing and Urban Development when required by section 5322(h) of this title) shall make grants to nonprofit institutions of higher learning to establish and operate regional transportation centers in each of the 10 Government regions that comprise the Standard Federal Regional Boundary System.

(c) A nonprofit institution of higher learning interested in receiving a grant under this section shall submit an application to the appropriate Secretary in the way and containing the information the Secretary prescribes. The Secretary shall select each recipient on the basis of the following:

(1) the regional transportation center is located in a State that is representative of the needs of the Government region for improved transportation and facilities.

(2) the demonstrated research and extension resources available to the recipient to carry out this section.

(3) the capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-range transportation problems.

(4) the recipient has an established transportation program encompassing several modes of transportation.

(5) the recipient has a demonstrated commitment of at least $200,000 in regularly budgeted institutional amounts each year to support ongoing transportation research programs.

(6) the recipient has a demonstrated ability to disseminate results of transportation research and educational programs through a statewide or regionwide continuing educational program.

(7) the projects the recipient proposes to carry out under the grant.

(d)(1) At each regional transportation center, the following shall be carried out:

(A) infrastructure research on transportation.

(B) research and training on the transportation of passengers and property and the interpretation, publication, and dissemination of the results of the research.

(2) Each transportation center—

(A) should carry out research on more than one mode of transportation; and

(B) should consider the proportion of amounts for this section from amounts available to carry out urban mass transportation projects under this chapter and from the Highway Trust Fund.

(3) At one of the transportation centers, research may be carried out on the testing of new bus models.

(e) Before making a grant under this section, the appropriate Secretary may require the recipient to make an agreement with the Secretary to ensure that the recipient will maintain total expenditures from all other sources to establish and operate a regional transportation center and related research activities at a level at least equal to the average level of those expenditures in its 2 fiscal years prior to April 2, 1987.

(f)(1) A grant under this section is for 50 percent of the cost of establishing and operating the regional transportation center and related research activities the recipient carries out.

(2) At least 5 percent of the amounts made available to carry out this section in a fiscal year are available to carry out technology transfer activities.

(3) The appropriate Secretary shall allocate amounts available to carry out this section equitably among the Government regions.

(g) The appropriate Secretary shall carry out this section through the Office of that Secretary.

§ 5311. Bus testing facility

(a) The Secretary of Transportation shall establish one facility for testing a new bus model for maintainability, reliability, safety, performance, structural integrity, fuel economy, and noise. The facility shall be established by renovating a facility built with assistance of the United States Government to train rail personnel.

(b) The Secretary shall make a contract with a qualified person to operate and maintain the facility. The contract may provide for the testing of rail cars and other vehicles at the facility.

(c) The person operating and maintaining the facility shall establish and collect fees for the testing of vehicles at the facility. The Secretary must approve the fees.

§ 5312. Bicycle facilities

A project to provide access for bicycles to mass transportation facilities, to provide shelters and parking facilities for bicycles in or around mass transportation facilities, or to install equipment for transporting bicycles on mass transportation vehicles is a capital project eligible for assistance under sections 5304, 5306, and 5308 of this title. Notwithstanding sections 5304(e), 5306(f)(1), and 5308(f) of this title, a grant of the United States Government under this chapter for a project under this section is for 90 percent of the cost of the project.

§ 5313. Crime prevention and security

The Secretary of Transportation may make capital grants from amounts available under section 5325 of this title to mass transportation systems for crime prevention and security. This chapter does not prevent the financing of a project under this section when a local governmental authority other than the grant applicant has law enforcement responsibilities.

§ 5314. Human resource programs

The Secretary of Transportation may undertake, or make grants and contracts for, programs that address human resource needs as they apply to mass transportation activities. A program may include—

(1) an employment training program;

(2) an outreach program to increase minority and female employment in mass transportation activities;

(3) research on mass transportation personnel and training needs; and

(4) training and assistance for minority business opportunities.

§ 5315. General limitations on assistance

(a)(1) Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or buy property of, a private mass transportation company, for a capital project for property acquired from a private mass transporation company after July 9, 1964, or to operate mass transportation equipment or a mass transportation facility in competition with, or in addition to, transportation service provided by an existing mass transportation company, only if—

(A) the Secretary of Transportation finds the assistance is essential to a program of projects required under section 5303 of this title;

(B) the Secretary of Transportation finds that the program, to the maximum extent feasible, provides for the participation of private mass transportation companies;

(C) just compensation under State or local law will be paid to the company for its franchise or property; and

(D) the Secretary of Labor certifies that the assistance complies with section 5321(b) of this title.

(2) A governmental authority may not use financial assistance of the United States Government to acquire land, equipment, or a facility used in mass transportation from another governmental authority in the same geographic area.

(b)(1) An application for a grant or loan under this chapter (except section 5304) for a capital project that will affect substantially a community, or the mass transportation service of a community, must include a certificate of the applicant that the applicant has—

(A) provided an adequate opportunity for a public hearing with adequate prior notice;

(B) held that hearing unless no one with a significant economic, social, or environmental interest requested one;

(C) considered the economic, social, and environmental effects of the project; and

(D) found that the project is consistent with official plans for developing the urban area.

(2) Notice of a hearing under this subsection shall include a concise description of the proposed project and shall be published in a newspaper of general circulation in the geographic area the project will serve. If a hearing is held, a copy of the transcript of the hearing shall be submitted with the application.

(c) Amounts appropriated or made available under this chapter (except section 5304) after September 30, 1989, may be obligated or expended to acquire a new bus model only if a bus of the model has been tested at the facility established under section 5311 of this title.

(d)(1) Financial assistance under this chapter may be used to buy or operate a bus only if the applicant, governmental authority, or publicly owned operator that receives the assistance agrees that, except as provided in the agreement, the governmental authority or an operator of mass transportation for the governmental authority will not provide charter bus transportation service outside the urban area in which it provides regularly scheduled mass transportation service. An agreement shall provide for a fair arrangement the Secretary of Transportation considers appropriate to ensure that the assistance will not enable a governmental authority or an operator for a governmental authority to foreclose a private operator from providing intercity charter bus service if the private operator can provide the service.

(2) On receiving a complaint about a violation of an agreement, the Secretary of Transportation shall investigate and decide whether a violation has occurred. If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement. In addition to a remedy specified in the agreement, the Secretary may bar a recipient under this subsection or an operator from receiving further assistance when the Secretary finds a continuing pattern of violations of the agreement.

(e) The initial advertising by a State or local governmental authority for bids to acquire buses using financial assistance under this chapter (except section 5304) may include passenger seat functional specifications that are at least equal to performance specifications the Secretary of Transportation prescribes. The specifications shall be based on a finding by the State or local governmental authority of local requirements for safety, comfort, maintenance, and life cycle costs.

(f)(1) Financial assistance under this chapter may be used for a capital project, or to operate mass transportation equipment or a mass transportation facility, only if the applicant agrees not to provide schoolbus transportation that exclusively transports students and school personnel in competition with a private schoolbus operator. This subsection does not apply—

(A) to an applicant that operates a school system in the area to be served and a separate and exclusive schoolbus program for the school system;

(B) unless a private schoolbus operator can provide adequate transportation that complies with applicable safety standards at reasonable rates; and

(C) to a State or local governmental authority if it or a direct predecessor in interest from which it acquired the duty of transporting school children and personnel, and facilities to transport them, provided schoolbus transportation at any time after November 25, 1973, but before November 26, 1974.

(2) An applicant violating an agreement under this subsection may not receive other financial assistance under this chapter.

(g) Subsections (d) and (f) of this section apply to financial assistance to buy a bus under sections 103(e)(4) and 142(a) or (c) of title 23. However, subsection (f)(1)(C) of this section applies to sections 103(e)(4) and 142(a) or (c) only if schoolbus transportation was provided at any time after August 12, 1972, but before August 13, 1973.

(h) A grant or loan may not be used to—

(1) pay ordinary governmental or nonproject operating expenses; or

(2) support a procurement that uses an exclusionary or discriminatory specification.

§ 5316. Limitations on discretionary and special needs grants and loans

(a) Financial assistance may be provided under section 5306 of this title only if the Secretary of Transportation decides that—

(1) an adequate relocation program is being carried out for families displaced by a project; and

(2) an equal number of decent, safe, and sanitary dwellings are being, or will be, provided to those families in the same area or in another area generally not less desirable for public utilities and public and commercial facilities, at rents or prices within the financial means of those families, and with reasonable access to their places of employment.

(b)(1) In carrying out section 5301(e) of this title, the Secretary of Transportation shall cooperate and consult with the Secretaries of Agriculture, Health and Human Services, Housing and Urban Development, and the Interior and the Council on Environmental Quality on each project that may have a substantial impact on the environment.

(2) In carrying out section 5306 of this title, the Secretary of Transportation shall review each transcript of a hearing submitted under section 5315(b) of this title to establish that an adequate opportunity to present views was given to all parties with a significant economic, social, or environmental interest and that the project application includes a statement on—

(A) the environmental impact of the proposal;

(B) adverse environmental effects that cannot be avoided;

(C) alternatives to the proposal; and

(D) irreversible and irretrievable impacts on the environment.

(3)(A) The Secretary of Transportation may approve an application for financial assistance under section 5306 of this title only if the Secretary makes written findings, after reviewing the application and any hearings held before a State or local governmental authority under section 5315(b) of this title, that—

(i) an adequate opportunity to present views was given to all parties with a significant economic, social, or environmental interest;

(ii) the preservation and enhancement of the environment, and the interest of the community in which a project is located, were considered; and

(iii) no adverse environmental effect is likely to result from the project, or no feasible and prudent alternative to the effect exists and all reasonable steps have been taken to minimize the effect.

(B) If a hearing has not been conducted or the Secretary of Transportation decides that the record of the hearing is inadequate for making the findings required by this subsection, the Secretary shall conduct a proceeding on an environmental issue raised by the application after giving adequate notice to interested persons.

(C) A finding of the Secretary of Transportation under subparagraph (A) of this paragraph shall be made a matter of public record.

(c) The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under section 5306 of this title and, after a grant is made, may not regulate any charge for the system. However, the Secretary may require the local governmental authority corporation, or association to comply with any undertaking provided by it related to it grant application.

§ 5317. Contract requirements

(a) A capital project or improvement contract for which a grant or loan is mad under this chapter, if the contract is no made through competitive bidding, shal provide that records related to the contrac shall be made available to the Secretary o Transportation and the Comptroller General, or an officer or employee of the Secretar or Comptroller General, when conductin an audit and inspection.

(b) A recipient of financial assistance o the United States Government under thi chapter may make a contract to expend tha assistance to acquire rolling stock—

(1) based on—

(A) initial capital costs; or

(B) performance, standardization, lif cycle costs, and other factors; or

(2) with a party selected through a competitive procurement process.

(c) A recipient of a grant under sectio 5304 of this title procuring an associate capital maintenance item under sectio 5304(b) may make a contract directly wit the original manufacturer or supplier of th item to be replaced, without receiving prio approval of the Secretary, if the recipien first certifies in writing to the Secretar that—

(1) the manufacturer or supplier is th only source for the item; and

(2) the price of the item is no more tha the price similar customers pay for the item

(d) A contract for program managemen construction management, a feasibilit study, and preliminary engineering, desig

architectural, engineering, surveying, mapping, or related services for a project for which a grant or loan is made under this chapter shall be awarded in the same way as a contract for architectural and engineering services is negotiated under title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.) or an equivalent qualifications-based requirement of a State. This subsection does not apply to the extent a State has adopted or adopts by law a formal procedure for procuring those services.

§ 5318. Project management oversight

(a) To receive United States Government financial assistance for a major capital project under this chapter or the National Capital Transportation Act of 1969 (Public Law 91-143, 83 Stat. 320), a recipient must prepare and carry out a project management plan approved by the Secretary of Transportation. The plan shall provide for—

(1) adequate recipient staff organization with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;

(2) a budget covering the project management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits, and miscellaneous payments the recipient may be prepared to justify;

(3) a construction schedule for the project;

(4) a document control procedure and recordkeeping system;

(5) a change order procedure that includes a documented, systematic approach to the handling of construction change orders;

(6) organizational structures, management skills, and staffing levels required throughout the construction phase;

(7) quality control and quality assurance functions, procedures, and responsibilities for construction, system installation, and integration of system components;

(8) material testing policies and procedures;

(9) internal plan implementation and reporting requirements;

(10) criteria and procedures to be used for testing the operational system or its major components;

(11) periodic updates of the plan, especially related to project budget and project schedule, financing, ridership estimates, and the status of local efforts to enhance ridership where ridership estimates partly depend on the success of those efforts; and

(12) the recipient's commitment to submit a project budget and project schedule to the Secretary each month.

(b)(1) The Secretary shall approve a plan not later than 60 days after it is submitted. If the approval cannot be completed within 60 days, the Secretary shall notify the recipient, explain the reasons for the delay, and estimate the additional time that will be required.

(2) The Secretary shall inform the recipient of the reasons when a plan is disapproved.

(c)(1) The Secretary may use not more than .5 percent of amounts made available for a fiscal year under—

(A) section 5325(b)(1) of this title to make a contract to oversee the construction of a major project under section 5304 or 5308 of this title;

(B) section 5325(c)(2) of this title to carry out section 5306 of this title to make a contract to oversee the construction of a major project under section 5306;

(C) section 4(g) of the Urban Mass Transportation Act of 1964 to make a contract to oversee the construction of a major mass transportation project substituted for an Interstate segment withdrawn under section 103(e)(4) of title 23; and

(D) section 14(b) of the National Capital Transportation Act of 1969 (Public Law 91-143, 83 Stat. 320), as added by section 2 of the National Capital Transportation Amendments of 1979 (Public Law 96-184, 93 Stat. 1320), to make a contract to oversee the construction of a major project under the Act.

(2) The Secretary may use amounts available under paragraph (1) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under paragraph (1). Subsections (a), (b), and (e) of this section do not apply to contracts under this paragraph.

(3) The Government shall pay the entire cost of carrying out a contract under this subsection.

(d) Each recipient of assistance under this chapter or section 14(b) of the National Capital Transportation Act of 1969 (Public Law 91-143, 83 Stat. 320), as added by section 2 of the National Capital Transportation Amendments of 1979 (Public Law 96-184, 93 Stat. 1320), shall provide the Secretary and a contractor the Secretary chooses under subsection (c) of this section with access to the construction sites and records of the recipient when reasonably necessary.

(e) The Secretary shall prescribe regulations necessary to carry out this section. The regulations must include—

(1) a definition of "major capital project" for subsection (c) of this section that excludes a project to acquire rolling stock or to maintain or rehabilitate a vehicle; and

(2) a requirement that oversight begin during the preliminary engineering stage of a project, unless the Secretary finds it more appropriate to begin the oversight during another stage of the project, to maximize the transportation benefits and cost savings associated with project management oversight.

§ 5319. Investigation of safety hazards

The Secretary of Transportation may investigate a condition in equipment, a facility, or an operation financed under this chapter that the Secretary believes causes a serious hazard of death or injury to establish the nature and extent of the condition and how to eliminate or correct it. If the Secretary establishes that a condition causes a hazard, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for correcting it. The Secretary may withhold further financial assistance under this chapter until a plan is approved and carried out.

§ 5320. Nondiscrimination

(a) In this section, "person" includes a governmental authority, political subdivision, authority, legal representative, trust, unincorporated organization, trustee, trustee in bankruptcy, and receiver.

(b) A person may not be excluded from participating in, denied a benefit of, or discriminated against under, a project, program, or activity receiving financial assistance under this chapter because of race, color, creed, national origin, sex, or age.

(c)(1) The Secretary of Transportation shall take affirmative action to ensure compliance with subsection (b) of this section.

(2) When the Secretary decides that a person receiving financial assistance under this chapter is not complying with subsection (b) of this section, a civil rights law of the United States, or a regulation or order under that law, the Secretary shall notify the person of the decision and require action be taken to ensure compliance with subsection (b).

(d) If a person does not comply with subsection (b) of this section within a reasonable time after receiving notice, the Secretary shall—

(1) direct that no further financial assistance of the United States Government under this chapter be provided to the person;

(2) refer the matter to the Attorney General with a recommendation that a civil action be brought;

(3) proceed under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); and

(4) take any other action provided by law.

(e) The Attorney General may bring a civil action for appropriate relief when—

(1) a matter is referred to the Attorney General under subsection (d)(2) of this section; or

(2) the Attorney General believes a person is engaged in a pattern or practice in violation of this section.

(f) This section applies to an employment or business opportunity and is in addition to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

§ 5321. Labor standards

(a) The Secretary of Transportation shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed with a grant or loan under this chapter be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a-5). The Secretary of Transportation may approve a grant or loan only after being assured that required labor standards will be maintained on the construction work. For a labor standard under this subsection, the Secretary of Labor has the same duties and powers stated in Reorganization Plan No. 14 of 1950 (eff. May 24, 1950, 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

(b)(1) As a condition of financial assistance under sections 5304-5309 of this title, the interests of employees affected by the assistance shall be protected under arrangements the Secretary of Labor concludes are fair and equitable. The agreement granting the assistance under sections 5304-5309 shall specify the arrangements.

(2) Arrangements under this subsection shall include—

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;

(B) the continuation of collective bargaining rights;

(C) the protection of employees against a worsening of their positions related to employment;

(D) assurances of employment to employees of acquired mass transportation systems;

(E) assurances of priority of reemployment of employees whose employment is ended or who are laid off; and

(F) paid training or retraining programs.

(3) Arrangements under this subsection shall provide benefits at least equal to benefits established under section 11347 of this title.

§ 5322. Administrative

(a) In carrying out this chapter, the Secretary of Transportation may—

(1) prescribe terms for a project under sections 5304 and 5306-5308 of this title (except terms the Secretary of Labor prescribes under section 5321(b) of this title);

(2) sue and be sued;

(3) foreclose on property or bring a civil action to protect or enforce a right conferred on the Secretary of Transportation by law or agreement;

(4) buy property related to a loan under this chapter;

(5) agree to pay an annual amount in place of a State or local tax on real property acquired or owned under this chapter;

(6) sell, exchange, or lease property, a security, or an obligation;

(7) obtain loss insurance for property and assets the Secretary of Transportation holds;

(8) consent to a change in an agreement under this chapter; and

(9) include in an agreement or instrument under this chapter a covenant or term the Secretary of Transportation considers necessary to carry out this chapter.

(b)(1) The Secretary of Transportation shall prepare an agenda listing all areas in which the Secretary intends to propose regulations governing activities under this chapter within the following 12 months. The Secretary shall publish the proposed agenda in the Federal Register as part of the Secretary's semiannual rulemaking agenda that lists rulemaking activities of the Urban Mass Transportation Administration. The Secretary shall submit the agenda to the Committees on Public Works and Transportation and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate on the day the agenda is published.

(2) Except for emergency regulations, the Secretary of Transportation shall give interested parties at least 60 days to participate in a rulemaking under this chapter by submitting written information, views, or arguments, with or without an oral presentation, except when the Secretary for good cause finds that public notice and comment are unnecessary because of the routine nature or insignificant impact of the regulation or that an emergency regulation should be issued. The Secretary may extend the 60-day period if the Secretary decides the period is insufficient to allow diligent individuals to prepare comments or that other circumstances justify an extension.

(3) An emergency regulation ends 120 days after it is issued.

(c) The Secretary of Transportation shall—

(1) submit each year a budget program as provided in section 9103 of title 31; and

(2) maintain a set of accounts the Comptroller General shall audit under chapter 35 of title 31.

(d) The Secretary of Transportation shall deposit amounts made available to the Secretary under this chapter in a checking account in the Treasury. Receipts, assets, and amounts obtained or held by the Secretary to carry out this chapter are available for administrative expenses to carry out this chapter.

(e) Notwithstanding section 3324 (a) and (b) of title 31, the Secretary of Transportation may make an advance or progress payment on a grant or contract made under this chapter.

(f) A financial transaction of the Secretary of Transportation under this chapter and a related voucher is binding on all officers and employees of the United States Government.

(g) Notwithstanding another law related to the Government acquiring, using, or disposing of real property, the Secretary of Transportation may deal with property acquired under subsection (a)(3) or (4) of this section in any way. However, this subsection does not—

(1) deprive a State or political subdivision of a State of jurisdiction of the property; or

(2) impair the civil rights, under the laws of a State or political subdivision of a State, of an inhabitant of the property.

(h) The Secretary of Housing and Urban Development shall—

(1) carry out sections 5309(a) and (b)(1) and 5310 of this title related to—

(A) urban transportation systems and planned development of urban areas; and

(B) the role of transportation planning in overall urban planning; and

(2) advise and assist the Secretary of Transportation in making findings under section 5315(a)(1)(A) of this title.

(i)(1) Section 9107(a) of title 31 applies to the Secretary of Transportation under this chapter.

(2) Section 3709 of the Revised Statutes (41 U.S.C. 5) applies to a contract for more than $1,000 for services or supplies related to property acquired under this chapter.

§ 5323. Reports and audits

(a)(1) To help meet the needs of individual mass transportation systems, the United States Government, States, political subdivisions of States, and the public for information on which to base mass transportation service planning, the Secretary of Transportation shall maintain a reporting system, by uniform categories, to accumulate mass transportation financial and operating information and a uniform system of accounts and records. The reporting and uniform systems shall contain appropriate information to help any level of government make a public sector investment decision. The Secretary may request and receive appropriate information from any source.

(2) The Secretary may make a grant under section 5304 of this title only if the applicant, and any person that will receive benefits directly from the grant, are subject to the reporting and uniform systems.

(b) Not later than 30 days after the last day of each calendar quarter, the Secretary shall submit to the Committees on Public Works and Transportation and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate a report on—

(1) obligations by State, designated recipient, and applicant made under this chapter during the quarter;

(2) the balance of unobligated apportionments under this chapter on the last day of the quarter;

(3) the balance of unobligated amounts under this chapter on the last day of the quarter that the Secretary may expend;

(4) letters of intent issued during the quarter;

(5) letters of intent outstanding on the last day of the quarter; and

(6) grant contracts executed and reimbursement authority established for amounts obligated for each State, designated recipient, and applicant.

§ 5324. Apportionment of appropriations for block grants

(a) Of the amount appropriated under section 5325(b)(1) of this title—

*(1) 8.64 percent shall be apportioned eac
fiscal year only in urbanized areas with
population of less than 200,000 so that eac
of those areas is entitled to receive a
amount equal to—*

*(A) 50 percent of the total amount appor
tioned multiplied by a ratio equal to th
population of the area divided by the tota
population of all urbanized areas with pop
ulations of less than 200,000 as shown in th
latest United States Government censu
and*

*(B) 50 percent of the total amount appor
tioned multiplied by a ratio for the are
based on population weighted by a facto
established by the Secretary of Transporta
tion, of the number of inhabitants in eac
square mile; and*

*(2) 88.43 percent shall be apportioned eac
fiscal year only in urbanized areas wit
populations of at least 200,000 as provide
in subsections (b) and (c) of this section.*

*(b)(1) In this subsection, "fixed guidewa
revenue vehicle-miles" and "fixed guidewa
route-miles" include ferry boat operation
directly or under contract by the designate
recipient.*

*(2) Of the amount apportioned under sub
section (a)(2) of this section, 33.29 percen
shall be apportioned as follows:*

*(A) 95.61 percent of the total amount ap
portioned under this subsection shall be ap
portioned so that each urbanized area wit
a population of at least 200,000 is entitled t
receive an amount equal to—*

*(i) 60 percent of the 95.61 percent appo
tioned under this subparagraph multiplie
by a ratio equal to the number of fixe
guideway revenue vehicle-miles attributab
to the area, as established by the Secretar
of Transportation, divided by the tot
number of all fixed guideway revenue veh
cle-miles attributable to all areas; and*

*(ii) 40 percent of the 95.61 percent appo
tioned under this subparagraph multiplie
by a ratio equal to the number of fixe
guideway route-miles attributable to th
area, established by the Secretary of Tran
portation, divided by the total number of a
fixed guideway route-miles attributable
all areas.*

*(B) 4.39 percent of the total amount a
portioned under this subsection shall be a
portioned so that each urbanized area wi
a population of at least 200,000 is entitled
receive an amount equal to—*

*(i) the number of fixed guideway vehic
passenger-miles traveled multiplied by th
number of fixed guideway vehicle passenge
miles traveled for each dollar of operatin
cost in an area; divided by*

*(ii) the total number of fixed guideway v
hicle passenger-miles traveled multiplied b
the total number of fixed guideway vehic
passenger-miles traveled for each dollar
operating cost in all areas.*

*(C) An urbanized area with a populatio
of at least 750,000 in which commuter ra
transportation is provided shall receive
least .75 percent of the total amount appo
tioned under this subsection.*

*(D) Under subparagraph (A) of this par
graph, fixed guideway revenue vehicle-
route-miles, and passengers served on tho
miles, in an urbanized area with a popul
tion of less than 200,000, where the mil
and passengers served otherwise would
attributable to an urbanized area with
population of at least 1,000,000 in an adj
cent State, are attributable to the gover
mental authority in the State in which t
urbanized area with a population of le
than 200,000 is located. The authority
deemed an urbanized area with a popul*

tion of at least 200,000 if the authority makes a contract for the service.

(c) Of the amount apportioned under subsection (a)(2) of this section, 66.71 percent shall be apportioned as follows:

(1) 90.8 percent of the total amount apportioned under this subsection shall be apportioned as follows:

(A) 73.39 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 1,000,000 is entitled to receive an amount equal to—

(i) 50 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus revenue vehicle-miles operated in or directly serving the urbanized area divided by the total bus revenue vehicle-miles attributable to all areas;

(ii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown by the latest Government census; and

(iii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary of Transportation, of the number of inhabitants in each square mile.

(B) 26.61 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 200,000 but not more than 999,999 is entitled to receive an amount equal to—

(i) 50 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus revenue vehicle-miles operated in or directly serving the urbanized area divided by the total bus revenue vehicle-miles attributable to all areas;

(ii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown by the latest Government census; and

(iii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary of Transportation, of the number of inhabitants in each square mile.

(2) 9.2 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

(A) the number of bus passenger-miles traveled multiplied by the number of bus passenger-miles traveled for each dollar of operating cost in an area; divided by

(B) the total number of bus passenger-miles traveled multiplied by the total number of bus passenger-miles traveled for each dollar of operating cost in all areas.

(d)(1) The total amount apportioned under this section that may be used for operating assistance may not be more than—

(A) 80 percent of the total amount apportioned in the fiscal year ending September 30, 1982, under section 5(a)(1)(A), (2)(A), and (3)(A) of the Urban Mass Transportation Act of 1964 to urbanized areas with populations of at least 1,000,000;

(B) 90 percent of the total amount apportioned in that year under section 5(a)(1)(A), (2)(A), and (3)(A) to urbanized areas with populations of at least 200,000 but not more than 999,999;

(C) 95 percent of the total amount apportioned in that year under section 5(a)(1)(A), (2)(A), and (3)(A) to urbanized areas with populations of less than 200,000; or

(D) two-thirds of the total amount apportioned under this section during the first complete year an urbanized area received amounts under this section if the area first became an urbanized area under the 1980 Government census or later.

(2) Amounts apportioned under paragraph (1)(C) of this subsection shall be increased on October 1 of each year by an amount equal to the amount applicable to each urbanized area under paragraph (1)(C) (except increases under this paragraph), multiplied by the percentage increase in the Consumer Price Index for all-urban consumers published by the Secretary of Labor during the most recent calendar year.

(e) The Secretary of Transportation shall—

(1) apportion amounts appropriated under section 5325(b)(1) of this title to carry out section 5304 of this title not later than the 10th day after the date the amounts are appropriated or October 1 of the fiscal year for which the amounts are appropriated, whichever is later; and

(2) publish apportionments of the amounts, including amounts attributable to each urbanized area with a population of more than 50,000 and amounts attributable to each State of a multistate urbanized area, on the apportionment date.

(f) The chief executive officer of a State may expend in an urbanized area with a population of less than 200,000 an amount apportioned under this section that is not apportioned to a designated recipient as defined in section 5304(a) of this title.

(g)(1) The chief executive officer of a State may transfer any part of the State's apportionment under subsection (a)(1) of this section to supplement amounts apportioned to the State under section 5308(c) of this title or amounts apportioned to urbanized areas under this subsection. The chief executive officer may make a transfer only after consulting with responsible local officials and publicly owned operators of mass transportation in each area for which the amount originally was apportioned under this section.

(2) The chief executive officer of a State may transfer any part of the State's apportionment under section 5308(c) of this title to supplement amounts apportioned to the State under subsection (a)(1) of this section.

(3) The chief executive officer of a State may use throughout the State amounts of a State's apportionment remaining available for obligation at the beginning of the 90-day period before the period of the availability of the amounts expires.

(4) A designated recipient for an urbanized area with a population of at least 200,000 may transfer a part of its apportionment under this section to the chief executive officer of a State. The chief executive officer shall distribute the transferred amounts to urbanized areas under this section.

(5) Capital and operating assistance limitations applicable to the original apportionment apply to amounts transferred under this subsection.

(h) An amount apportioned under this section may be obligated by the recipient for 3 years after the fiscal year in which the amount is apportioned. Not later than 30 days after the end of the 3-year period, an amount that is not obligated at the end of that period shall be added to the amount that may be apportioned under this section in the next fiscal year.

(i) Sections 5302, 5311, 5315(a)(1), (d), and (f), 5320, 5321, and 5322(e) of this title apply to this section and to a grant made under this section. Except as provided in this section, no other provision of this chapter applies to this section or to a grant made under this section.

§ 5325. Authorizations

(a)(1)(A) Not more than $1,000,000,000 is available from the Mass Transit Account of the Highway Trust Fund for the Secretary of Transportation for each of the fiscal years ending September 30, 1990, and September 30, 1991, to carry out sections 5303, 5306, 5307, 5309(c)(2), and 5310 of this title.

(B) Of the amount available under subparagraph (A) of this paragraph, not more than $35,000,000 is available for each fiscal year to carry out sections 5307 and 5309(c)(2) of this title.

(C)(i) Of the amount available under subparagraph (A) of this paragraph, not more than $5,000,000 is available for each fiscal year to carry out section 5310 of this title.

(ii) Not more than $5,000,000 is available from the Fund (except the Account) for the Secretary for each of the fiscal years ending September 30, 1990, and September 30, 1991, to carry out section 5310 of this title.

(2) In addition to amounts available under paragraph (1)(A) of this subsection, the following amounts are available from the Account for the Secretary to carry out sections 5305 and 5306 of this title:

(A) not more than $300,000,000 for the fiscal year ending September 30, 1990.

(B) not more than $400,000,000 for the fiscal year ending September 30, 1991.

(b)(1) Not more than $2,100,000,000 may be appropriated to the Secretary for each of the fiscal years ending September 30, 1990, and September 30, 1991, to carry out sections 5304 and 5308 of this title.

(2)(A) Not more than $50,000,000 may be appropriated to the Secretary for each of the fiscal years ending September 30, 1990, and September 30, 1991, to carry out sections 5308(b)(2), 5309(a)-(c)(1), 5314, and 5322(a), (c), (d), (f), (g), and (i) of this title.

(B) Ten percent of the amount appropriated under subparagraph (A) of this paragraph is available only to carry out section 5308(b)(2) of this title.

(3) Not more than $200,000,000 may be appropriated to the Secretary for each of the fiscal years ending September 30, 1990, and September 30, 1991, to carry out mass transportation projects substituted for Interstate segments withdrawn under section 103(e)(4) of title 23.

(c) Of the amounts available for each fiscal year—

(1) under subsection (a)(1)(A) of this section—

(A) not more than $45,000,000 may be used to carry out section 5303 of this title; and

(B) 3.5 percent is available to finance programs and activities, including administrative costs, under section 5307 of this title;

(2) under subsection (a)(2) of this section, 50 percent is available for grants under section 5305 of this title and 50 percent is available for capital grants under section 5306 of this title;

(3) 1.5 percent of the amounts available to finance research, development, and demonstration projects under section 5309(a) of this title is available to increase the information and technology available to provide mass transportation service and facilities planned and designed to meet the special needs of elderly and handicapped individuals;

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(4) 12.5 percent is available for grants to a State under section 5309(c)(2) of this title; and

(5) 2.93 percent of the total amount available to carry out sections 5304, 5305, and 5308 of this title under subsections (a)(2) and (b)(1) of this section is available from amounts appropriated under subsection (b)(1) of this section to carry out section 5308 of this title.

(d) Additional amounts available under subsection (c)(1) of this section may be used for planning purposes.

(e) A grant of amounts available under subsection (a) of this section that is approved by the Secretary is deemed to be a contractual obligation of the United States Government to pay the Government's share of the cost of the project.

(f)(1) Amounts appropriated under subsection (b) of this section to carry out section 5308 of this title may be appropriated in the fiscal year before the fiscal year in which the appropriation is available for obligation.

(2) Amounts appropriated under subsections (a) and (b)(1) of this section, and subsection (b)(2) of this section to finance a project under section 5309(a) of this title, remain available until expended.

(3) An obligation ceiling for a fiscal year that is less than the total new budget authority authorized under subsection (a)(1)(A) and (2) of this section first shall be applied to the budget authority authorized under subsection (a)(2).

(4) Amounts appropriated under subsection (a)(2) of this section to carry out section 5305 of this title—

(A) remain available for 3 years after the fiscal year in which the amount is appropriated; and

(B) that are unobligated at the end of the 3-year period shall be added to the amount available for apportionment for the next fiscal year not later than 30 days after the end of the 3-year period.

CHAPTER 55—INTERMODAL TRANSPORTATION TERMINALS

Sec.
5501. Definition.
5502. Assistance projects.
5503. Conversion of certain rail passenger terminals.
5504. Interim preservation of certain rail passenger terminals.
5505. Encouraging the development of plans for converting rail passenger terminals.
5506. Records and audits.
5507. Preference for preserving buildings of historic or architectural significance.
5508. Authorization of appropriations.

§ 5501. Definition

In this chapter, "civic and cultural activities" includes libraries, musical and dramatic presentations, art exhibits, adult education programs, public meeting places, and other facilities for carrying on an activity any part of which is supported under a law of the United States.

§ 5502. Assistance projects

(a) The Secretary of Transportation shall provide financial, technical, and advisory assistance under this chapter to—

(1) promote, on a feasibility demonstration basis, the conversion of at least 3 rail passenger terminals into intermodal transportation terminals;

(2) preserve rail passenger terminals that reasonably are likely to be converted or maintained pending preparation of plans for their reuse;

(3) acquire and use space in suitable buildings of historic or architectural significance but only if use of the space is feasible and prudent when compared to available alternatives; and

(4) encourage State and local governments, local and regional transportation authorities, common carriers, philanthropic organizations, and other responsible persons to develop plans to convert rail passenger terminals into intermodal transportation terminals and civic and cultural activity centers.

(b) This chapter does not affect the eligibility of any rail passenger terminal for preservation or reuse assistance under another program or law.

(c) The Secretary may acquire space under subsection (a)(3) of this section only after consulting with the Advisory Council on Historic Preservation and the Chairman of the National Endowment for the Arts.

§ 5503. Conversion of certain rail passenger terminals

(a) The Secretary of Transportation may provide financial assistance to convert a rail passenger terminal to an intermodal transportation terminal under section 5502(a)(1) of this title only if—

(1) the terminal can be converted to accommodate other modes of transportation the Secretary of Transportation decides are appropriate, including—

(A) motorbus transportation;

(B) mass transit (rail or rubber tire); and

(C) airline ticket offices and passenger terminals providing direct transportation to area airports;

(2) the terminal is listed on the National Register of Historic Places maintained by the Secretary of the Interior;

(3) the architectural integrity of the terminal will be preserved;

(4) to the extent practicable, the use of the terminal facilities for transportation may be combined with use of those facilities for other civic and cultural activities, especially when another activity is recommended by—

(A) the Advisory Council on Historic Preservation;

(B) the Chairman of the National Endowment for the Arts; or

(C) consultants retained under subsection (b) of this section; and

(5) the terminal and the conversion project meet other criteria prescribed by the Secretary of Transportation after consultation with—

(A) the Advisory Council on Historic Preservation; and

(B) the Chairman of the National Endowment for the Arts.

(b) The Secretary of Transportation must employ consultants on whether the architectural integrity of the rail passenger terminal will be preserved under subsection (a)(3) of this section. The Secretary may decide that the architectural integrity will be preserved only if the consultants concur. The Advisory Council on Historic Preservation and the Chairman of the National Endowment for the Arts shall recommend consultants to be employed by the Secretary. The consultants also may make recommendations referred to in subsection (a)(4) of this section.

(c) The Secretary of Transportation may not make a grant under this section for more than 80 percent of the total cost of converting a rail passenger terminal into an intermodal transportation terminal.

**§ 5504. Interim preservation of certain rail pass
ger terminals**

(a) Subject to subsection (b) of this se
tion, the Secretary of Transportation m
make a grant of financial assistance to a
sponsible person (including a governmen
authority) to preserve a rail passenger t
minal under section 5502(a)(2) of this tit
To receive assistance under this section, t
person must be qualified, prepared, comm
ted, and authorized by law to maintain (a
prevent the demolition, dismantling, or f
ther deterioration of) the terminal un
plans for its reuse are prepared.

(b) The Secretary of Transportation m
make a grant of financial assistance und
this section only if—

(1) the Secretary decides the rail passeng
terminal has a reasonable likelihood
being converted to, or conditioned for re
as, an intermodal transportation termin
a civic or cultural activities center, or bo
and

(2) planning activity directed toward c
version or reuse has begun and is proceed
in a competent way.

(c)(1) Amounts appropriated to carry
this section and section 5502(a)(2) of t
title shall be expended in the way most lik
to maximize the preservation of rail pass
ger terminals that are—

(A) reasonably capable of conversion
intermodal transportation terminals;

(B) listed in the National Register of H
toric Places maintained by the Secretary
the Interior; or

(C) recommended (on the basis of archit
tural integrity and quality) by the Advis
Council on Historic Preservation or
Chairman of the National Endowment
the Arts.

(2) The Secretary of Transportation m
not make a grant under this section
more than 80 percent of the total cost
maintaining the terminal for an inter
period of not more than 5 years.

**§ 5505. Encouraging the development of plans
converting rail passenger terminals**

(a) The Secretary of Transportation m
make a grant of financial assistance t
qualified person (including a governmen
authority) to encourage the development
plans for converting a rail passenger ter
nal under section 5502(a)(4) of this title.
receive assistance under this section,
person must—

(1) be prepared to develop practic
plans that meet zoning, land use, and ot
requirements of the applicable State
local jurisdictions in which the termina
located;

(2) incorporate into the designs and pl
proposed for converting the terminal,
tures that reasonably appear likely to
tract private investors willing to carry
the planned conversion and its subsequ
maintenance and operation; and

(3) complete the designs and plans for
conversion within the period of time
scribed by the Secretary.

(b) In making a grant under this secti
the Secretary shall give preferential con
eration to an applicant whose completed
signs and plans will be carried out witho
years after their completion.

(c)(1) Amounts appropriated to carry
this section and section 5502(a)(4) of
title shall be expended in the way most li
to maximize the conversion and contin
public use of rail passenger terminals
are—

(A) listed in the National Register of Historic Places maintained by the Secretary of the Interior; or

(B) recommended (on the basis of architectural integrity and quality) by the Advisory Council on Historic Preservation or the Chairman of the National Endowment for the Arts.

(2) The Secretary of Transportation may not make a grant under this section for more than 80 percent of the total cost of the project for which the financial assistance is provided.

§ 5506. Records and audits

(a) Each recipient of financial assistance under this chapter shall keep records required by the Secretary of Transportation. The records shall disclose—

(1) the amount, and disposition by the recipient, of the proceeds of the assistance;

(2) the total cost of the project for which the assistance was given or used;

(3) the amount of that part of the cost of the project supplied by other sources; and

(4) any other records that will make an effective audit easier.

(b) For 3 years after a project is completed, the Secretary and the Comptroller General may audit and inspect records of a recipient that the Secretary or Comptroller General decides may be related or pertinent to the financial assistance.

§ 5507. Preference for preserving buildings of historic or architectural significance

Amtrak shall give preference to the use of rail passenger terminal facilities that will preserve buildings of historic or architectural significance.

§ 5508. Authorization of appropriations

(a) The following amounts may be appropriated to the Secretary of Transportation:

(1) not more than $15,000,000 to carry out section 5502 (a)(1) and (3) of this title.

(2) not more than $2,500,000 to carry out section 5502(a)(2) of this title.

(3) not more than $2,500,000 to carry out section 5502(a)(4) of this title.

(b) Amounts appropriated to carry out this chapter remain available until expended.

(e) Title 49, United States Code, is amended by adding the following immediately after subtitle IV:

SUBTITLE V—RAIL PROGRAMS

PART A—SAFETY

CHAPTER	*Sec.*
201. GENERAL	*20101*
203. SAFETY APPLIANCES	*20301*
205. SIGNAL SYSTEMS	*20501*
207. LOCOMOTIVES	*20701*
209. ACCIDENTS AND INCIDENTS	*20901*
211. HOURS OF SERVICE	*21101*

PART B—ASSISTANCE

221. LOCAL RAIL FREIGHT ASSISTANCE	*22101*

PART C—PASSENGER TRANSPORTATION

241. GENERAL	*24101*
243. AMTRAK	*24301*
245. AMTRAK COMMUTER	*24501*
247. AMTRAK ROUTE SYSTEM	*24701*
249. NORTHEAST CORRIDOR IMPROVEMENT PROGRAM	*24901*

PART A—SAFETY

CHAPTER 201—GENERAL

SUBCHAPTER I—GENERAL

Sec.
20101. Purpose.
20102. Definitions.
20103. General authority.
20104. Emergency authority.
20105. State participation.
20106. National uniformity of regulation.
20107. Inspection and investigation.
20108. Research, development, and testing.
20109. Employee protections.
20110. Effect on employee qualifications and collective bargaining.
20111. Enforcement by the Secretary of Transportation.
20112. Enforcement by the Attorney General.
20113. Enforcement by the States.
20114. Penalties and judicial procedures.
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SUBCHAPTER II—PARTICULAR ASPECTS OF SAFETY

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SUBCHAPTER I—GENERAL

§ 20101. Purpose

The purpose of this chapter is to promote safety in every area of railroad operations and reduce railroad-related accidents and incidents.

§ 20102. Definitions

In this part—

(1) "railroad"—

(A) means any form of non-highway ground transportation that runs on rails or electromagnetic guideways, including—

(i) commuter or other short-haul railroad passenger service in a metropolitan or suburban area and commuter railroad service that was operated by the Consolidated Rail Corporation on January 1, 1979; and

(ii) high speed ground transportation systems that connect metropolitan areas, without regard to whether those systems use new technologies not associated with traditional railroads; but

(B) does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

(2) "railroad carrier" means a person providing railroad transportation.

§ 20103. General authority

(a) As necessary, the Secretary of Transportation shall prescribe regulations and issue orders for every area of railroad safety supplementing laws and regulations in effect on October 16, 1970.

(b) The Secretary shall prescribe regulations of practice applicable to each proceeding under this chapter. The regulations shall reflect the varying nature of the proceedings and include time limits for disposition of the proceedings. The time limit for disposition of a proceeding may not be more than 12 months after the date it begins.

(c) In prescribing regulations and issuing orders under this section, the Secretary shall consider existing relevant safety information and standards.

(d) The Secretary may waive compliance with any part of a regulation prescribed or order issued under this chapter if the waiver is in the public interest and consistent with railroad safety. The Secretary shall make public the reasons for granting the waiver.

(e) The Secretary shall conduct a proceeding as provided by section 553 of title 5 when prescribing a regulation or issuing an order under this chapter, including a regulation or order prescribing, changing, or waiving compliance with a railroad safety regulation prescribed or order issued under this chapter. An opportunity for an oral presentation shall be provided.

§ 20104. Emergency authority

(a)(1) If, through testing, inspection, investigation, or research carried out under this chapter, the Secretary of Transportation decides that an unsafe condition or practice, or a combination of unsafe conditions and practices, causes an emergency situation involving a hazard of death or personal injury, the Secretary immediately may order restrictions and prohibitions, without regard to section 20103(e) of this title, that may be necessary to abate the situation.

(2) The order shall describe the condition or practice that causes the emergency situation and prescribe standards and procedures for obtaining relief from the order. This paragraph does not affect the Secretary's discretion under this section to maintain the order in effect for as long as the emergency situation exists.

(b) After issuing an order under this section, the Secretary shall provide an opportunity for review of the order under section 554 of title 5. If a petition for review is filed and the review is not completed by the end of the 30-day period beginning on the date the order was issued, the order stops being effective at the end of that period unless the Secretary decides in writing that the emergency situation still exists.

(c) An employee of a railroad carrier engaged in interstate or foreign commerce who may be exposed to imminent physical injury during that employment because of the Secretary's failure, without any reasonable basis, to issue an order under subsection (a) of this section, or the employee's authorized representative, may bring a civil action against the Secretary in a district court of the United States to compel the Secretary to issue an order. The action must be brought in the judicial district in which the emergency situation is alleged to exist, in which the carrier has its principal executive office, or for the District of Columbia. The Secretary's failure to issue an order under subsection (a) of this section may be reviewed only under section 706 of title 5.

§ 20105. State participation

(a) The Secretary of Transportation may prescribe investigative and surveillance activities necessary to enforce the safety regulations prescribed and orders issued under this chapter that apply to railroad equipment, facilities, rolling stock, and operations in a State. The State may participate in those activities when the safety practices for railroad equipment, facilities, rolling stock, and operations in the State are regulated by a State authority and the authority submits to the Secretary an annual certification as provided in subsection (b) of this section.

(b)(1) A State authority's annual certification must include—

(A) a certification that the authority—

(i) has regulatory jurisdiction over the safety practices for railroad equipment, facilities, rolling stock, and operations in the State;

(ii) was given a copy of each safety regulation prescribed and order issued under this chapter that applies as of the date of certification to the equipment, facilities, rolling stock, or operations; and

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(iii) is conducting the investigative and surveillance activities prescribed by the Secretary under subsection (a) of this section; and

(B) a report, in the form the Secretary prescribes by regulation, that includes—

(i) the name and address of each railroad carrier subject to the safety jurisdiction of the authority;

(ii) each accident or incident reported during the prior 12 months by a railroad carrier involving a fatality, personal injury requiring hospitalization, or property damage of more than $750 (or a higher amount prescribed by the Secretary), and a summary of the authority's investigation of the cause and circumstances surrounding the accident or incident;

(iii) the record maintenance, reporting, and inspection practices conducted by the authority to aid the Secretary in enforcing regulations prescribed and orders issued under section 20103(a) of this title, including the number of inspections made of railroad equipment, facilities, rolling stock, and operations by the authority during the prior 12 months; and

(iv) other information the Secretary requires.

(2) An annual certification in effect under subsection (a) of this section applies to a safety regulation prescribed or order issued under this chapter after the date of the certification only if the State authority submits an appropriate certification under subsection (a) to provide the necessary investigative and surveillance activities.

(3) If, after receipt of an annual certification, the Secretary decides the State authority is not complying satisfactorily with the investigative and surveillance activities prescribed under subsection (a) of this section, the Secretary may reject any part of the certification or take other appropriate action to achieve adequate enforcement. The Secretary must give the authority notice and an opportunity for a proceeding before taking action under this paragraph. When the Secretary gives notice, the burden of proof is on the authority to show that it is complying satisfactorily with the investigative and surveillance activities prescribed by the Secretary.

(c)(1) If the Secretary does not receive an annual certification under subsection (a) of this section related to any railroad equipment, facility, rolling stock, or operation, the Secretary may make an agreement with a State authority for the authority to provide any part of the investigative and surveillance activities prescribed by the Secretary as necessary to enforce the safety regulations and orders applicable to the equipment, facility, rolling stock, or operation.

(2) The Secretary may terminate any part of an agreement made under this subsection on finding that the authority has not provided every part of the investigative and surveillance activities to which the agreement relates. The Secretary must give the authority notice and an opportunity for a proceeding before making such a finding. The finding and termination shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication.

(d) In addition to providing for State participation under this section, the Secretary may make an agreement with a State to provide investigative and surveillance activities related to the Secretary's duties under chapters 203–211 of this title.

(e) On application by a State authority that has submitted a certification under subsection (a) of this section or made an agreement under subsection (c) or (d) of this section, the Secretary shall pay not more than 50 percent of the cost of the personnel, equipment, and activities of the authority needed, during the next fiscal year, to carry out a safety program under the certification or agreement. However, the Secretary may pay an authority only when the authority assures the Secretary that it will provide the remaining cost of the safety program and that the total State money expended for the safety program, excluding grants of the United States Government, will be at least as much as the average amount expended for the fiscal years that ended June 30, 1969, and June 30, 1970.

(f) The Secretary may monitor State investigative and surveillance practices and carry out other inspections and investigations necessary to help enforce this chapter.

§ 20106. National uniformity of regulation

Laws, regulations, and orders related to railroad safety shall be nationally uniform to the extent practicable. A State may adopt or continue in force a law, regulation, or order related to railroad safety until the Secretary of Transportation prescribes a regulation or issues an order covering the subject matter of the State requirement. A State may adopt or continue in force an additional or more stringent law, regulation, or order related to railroad safety when the law, regulation, or order—

(1) is necessary to eliminate or reduce an essentially local safety hazard;

(2) is not incompatible with a law, regulation, or order of the United States Government; and

(3) does not unreasonably burden interstate commerce.

§ 20107. Inspection and investigation

(a) To carry out this part, the Secretary of Transportation may take actions the Secretary considers necessary, including—

(1) conduct investigations, make reports, issue subpoenas, require the production of documents, take depositions, and prescribe recordkeeping and reporting requirements; and

(2) delegate to a public entity or qualified person the inspection, examination, and testing of railroad equipment, facilities, rolling stock, operations, and persons.

(b) In carrying out this part, an officer, employee, or agent of the Secretary, at reasonable times and in a reasonable way, may enter and inspect railroad equipment, facilities, rolling stock, operations, and relevant records. When requested, the officer, employee, or agent shall display proper credentials. During an inspection, the officer, employee, or agent is an employee of the United States Government under chapter 171 of title 28.

§ 20108. Research, development, and testing

(a) The Secretary of Transportation shall carry out necessary research, development, testing, evaluation, and training for every area of railroad safety.

(b) To carry out this part, the Secretary may make contracts for, and carry out, research, development, testing, evaluation, and training (particularly for those areas of railroad safety found to need prompt action).

§ 20109. Employee protections

(a) A railroad carrier engaged in interstate or foreign commerce may not discharge or in any way discriminate against an employee because the employee, whether
acting for the employee or as a represent
tive, has—

(1) filed a complaint or brought or cause
to be brought a proceeding related to the e
forcement of this part or chapter 51 of th
title; or

(2) testified or will testify in that procee
ing.

(b)(1) A railroad carrier engaged in inte
state or foreign commerce may not di
charge or in any way discriminate again
an employee for refusing to work when co
fronted by a hazardous condition related
the performance of the employee's dutie
if—

(A) the refusal is made in good faith a
no reasonable alternative to the refusal
available to the employee;

(B) a reasonable individual in the circu
stances then confronting the employ
would conclude that—

(i) the hazardous condition presents
imminent danger of death or serious inju
and

(ii) the urgency of the situation does n
allow sufficient time to eliminate the dang
through regular statutory means; and

(C) the employee, where possible, has no
fied the carrier of the hazardous conditi
and the intention not to perform furth
work unless the condition is corrected i
mediately.

(2) This subsection does not apply to sec
rity personnel employed by a carrier to p
tect individuals and property transport
by railroad.

(c) A dispute, grievance, or claim arist
under this section is subject to resoluti
under section 3 of the Railway Labor Act
U.S.C. 153). In a proceeding to resolve
dispute, grievance, or claim by the Natio
Railroad Adjustment Board, a division
delegate of the Board, or another board
adjustment established under section 3,
dispute, grievance, or claim shall be exped
ed and resolved not later than 180 days a
it is filed. If the violation is a form of d
crimination that does not involve dischar
suspension, or another action affecting p
and no other remedy is available under t
subsection, the Board, division, delegate,
other board of adjustment may award
employee reasonable damages, including
nitive damages, of not more than $20,000.

(d) An employee of a railroad carrier m
not seek protection under both this secti
and another provision of law for the sa
allegedly unlawful act of the carrier.

(e)(1) Except as provided in paragraph
of this subsection, or with the written c
sent of the employee, the Secretary of Tra
portation may not disclose the name of
employee of a railroad carrier who has p
vided information about an alleged vi
tion of this part, chapter 51 of this title, o
regulation prescribed or order issued un
this part or chapter 51.

(2) The Secretary shall disclose to the
torney General the name of an employee
scribed in paragrah (1) of this subsectio
the matter is referred to the Attorney Ge
al for enforcement.

§ 20110. Effect on employee qualifications and
lective bargaining

This chapter does not—

(1) authorize the Secretary of Transpo
tion to prescribe regulations and is
orders related to qualifications of emp
ees, except qualifications specifically rel
to safety; and

(2) prohibit the bargaining representat
of railroad carriers and their emplo
from making collective bargaining ag

ments under the Railway Labor Act (45 U.S.C. 151 et seq.), including agreements related to qualifications of employees, that are not inconsistent with regulations prescribed and orders issued under this chapter.

§ 20111. Enforcement by the Secretary of Transportation

(a) The Secretary of Transportation has exclusive authority—

(1) to impose and compromise a civil penalty for a violation of a regulation prescribed or order issued under section 20103(a) of this title;

(2) except as provided in section 20113 of this title, to request an injunction for a violation of a regulation prescribed or order issued under section 20103(a) of this title; and

(3) to recommend appropriate action be taken under section 20112(a) of this title.

(b) The Secretary may issue an order directing compliance with this part or with a railroad safety regulation prescribed or order issued under this part.

(c) If an individual's violation of a regulation prescribed or order issued by the Secretary under this chapter is shown to make that individual unfit for the performance of safety-sensitive functions, the Secretary, after notice and opportunity for a proceeding, may issue an order prohibiting the individual from performing safety-sensitive functions in the railroad industry for a specified period of time or until specified conditions are met. This subsection does not affect the Secretary's authority under section 20104 of this title to act on an emergency basis.

§ 20112. Enforcement by the Attorney General

(a) At the request of the Secretary of Transportation, the Attorney General may bring a civil action in a district court of the United States—

(1) to enjoin a violation of this part or to enforce a regulation prescribed or order issued under this part;

(2) to collect a civil penalty imposed or an amount agreed on in compromise under section 20114(a) of this title; or

(3) to enforce a subpena issued by the Secretary under this chapter.

(b)(1) Except as provided in paragraph (2) of this subsection, a civil action under this section may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If an action to collect a penalty is against an individual, the action also may be brought in the judicial district in which the individual resides.

(2) A civil action to enforce a subpena issued by the Secretary or a compliance order issued under section 20111(b) of this title may be brought in the judicial district in which the defendant resides, does business, or is found.

§ 20113. Enforcement by the States

(a) If the Secretary of Transportation does not begin a civil action under section 20112 of this title to enjoin the violation of a railroad safety regulation prescribed or order issued under this part not later than 15 days after the date the Secretary receives notice of the violation and a request from a State authority participating in investigative and surveillance activities under section 20105 of this title that the action be brought, the authority may bring a civil action in the district court to enjoin the violation. This subsection does not apply if the Secretary makes an affirmative written finding that the violation did not occur or that the action is not necessary because of other enforcement action taken by the Secretary related to the violation.

(b) If the Secretary does not impose the civil penalty applicable under section 20114(a) of this title for a violation of a railroad safety regulation prescribed or order issued under this part not later than 60 days after the date of receiving notice from a State authority participating in investigative and surveillance activities under section 20105 of this title, the authority may bring a civil action in a district court to impose and collect the penalty. This paragraph does not apply if the Secretary makes an affirmative written finding that the violation did not occur.

(c) A civil action under this section may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. However, a State authority may not bring an action under this section outside the State.

§ 20114. Penalties and judicial procedures

(a)(1) A person violating a regulation prescribed or order issued by the Secretary of Transportation under this chapter is liable to the United States Government for a civil penalty. The Secretary shall impose the penalty applicable under paragraph (2) of this subsection. A separate violation occurs for each day the violation continues.

(2) The Secretary shall include in, or make applicable to, each regulation prescribed and order issued under this chapter a civil penalty for a violation. The amount of the penalty shall be at least $250 but not more than $10,000. However, when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury, the amounnt may be not more than $20,000.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, a penalty may be imposed against an individual only for a willful violation. An individual is deemed not to have committed a willful violation if the individual was following the direct order of a railroad carrier official or supervisor under protest communicated to the official or supervisor. The individual is entitled to document the protest.

(4) The Secretary may compromise the amount of the penalty to not less than $250 before referral to the Attorney General.

(b) A person shall be fined under title 18, imprisoned for not more than 2 years, or both, if the person knowingly and willfully—

(1) makes a false entry in a record or report required to be made or preserved under this chapter;

(2) destroys, mutilates, changes, or by another means falsifies such a record or report;

(3) does not enter required specified facts and transactions in such a record or report;

(4) makes or preserves such a record or report in violation of a regulation prescribed or order issued under this chapter; or

(5) files a false record or report with the Secretary.

(c) The United States Government may deduct the amount of the penalty from money it owes the person. A penalty collected under this chapter shall be deposited in the Treasury as miscellaneous receipts.

(d) In a trial for criminal contempt for violating an injunction or restraining order issued under this chapter, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(e) A subpena for a witness required to attend a district court in an action brought under this chapter may be served in any judicial district.

§ 20115. Annual report

The Secretary of Transportation shall submit to the President for submission to Congress not later than July 1 of each year a report on carrying out this chapter for the prior calendar year. The report shall include the following information about the prior year:

(1) a thorough statistical compilation of railroad accidents, incidents, and casualties by cause.

(2) a list of railroad safety regulations and orders prescribed, issued, or in effect under this chapter.

(3) a summary of the reasons for each waiver granted under section 20103(d) of this title.

(4) an evaluation of the degree of compliance with railroad safety regulations prescribed and orders issued under this chapter.

(5) a summary of outstanding problems in carrying out railroad safety regulations prescribed and orders issued under this chapter, in order of priority.

(6) an analysis and evaluation of research and related activities completed, including their policy implications, and technological progress achieved.

(7) a list, with a brief statement of the issues, of completed or pending civil actions to enforce railroad safety regulations prescribed and orders issued under this chapter.

(8) the extent to which technical information was distributed to the scientific community and consumer-oriented information was made available to the public.

(9) a compilation of certifications filed under section 20105(a) of this title that were—

(A) in effect; or

(B) rejected in any part by the Secretary, and a summary of the reasons for each rejection.

(10) a compilation of agreements made under section 20105(c) of this title that were—

(A) in effect; or

(B) terminated in any part by the Secretary, and a summary of the reasons for each termination.

(11) recommendations for legislation the Secretary considers necessary to strengthen the national railroad safety program.

§ 20116. Authorization of appropriations

(a) Not more than $44,381,000 may be appropriated to the Secretary of Transportation for the fiscal year ending September 30, 1990, to carry out this chapter.

(b) Not more than $1,000,000 may be appropriated to the Secretary for improvements in grade crossing safety, except demonstration projects under section 20124(c) of this title. Amounts appropriated under this subsection remain available until expended.

(c) Amounts appropriated under this section for research and development, automated track inspection, and grants under section 20105(e) of this title remain available until expended.

(d) At least 50 percent of the amounts appropriated to the Secretary for a fiscal year to carry out railroad research and development programs under this chapter or another law shall be available for safety research, improved track inspection and information acquisition technology, improved railroad freight transportation, and improved railroad passenger systems.

SUBCHAPTER II—PARTICULAR ASPECTS OF SAFETY

§ 20121. Restricted access to rolling equipment

The Secretary of Transportation shall prescribe regulations and issue orders that may be necessary to require that when railroad carrier employees (except train or yard crews) assigned to inspect, test, repair, or service rolling equipment have to work on, under, or between that equipment, every manually operated switch, including each crossover switch, providing access to the track on which the equipment is located is lined against movement to that track and secured by an effective locking device that can be removed only by the class or craft of employees performing the inspection, testing, repair, or service.

§ 20122. Visible markers for rear cars

(a) The Secretary of Transportation shall prescribe regulations and issue orders that may be necessary to require that—

(1) the rear car of each passenger and commuter train has at least one highly visible marker that is lighted during darkness and when weather conditions restrict clear visibility; and

(2) the rear car of each freight train has highly visible markers during darkness and when weather conditions restrict clear visibility.

(b) Notwithstanding section 20106 of this title, subsection (a) of this section does not prohibit a State from continuing in force a law, regulation, or order in effect on July 8, 1976, related to lighted markers on the rear car of a freight train except to the extent it would cause the car to be in violation of this section.

§ 20123. Passenger equipment

(a) The Secretary of Transportation shall prescribe regulations and issue orders that may be necessary to ensure that the construction, maintenance, and operation of railroad equipment used to transport railroad passengers, whether in commuter or intercity service, maximize the safety of those passengers. In prescribing the regulations and issuing the orders, the Secretary shall—

(1) consider comparable regulations and procedures of the United States Government that apply to other modes of transportation, especially those regulations and procedures carried out by the Administrator of the Federal Aviation Administration;

(2) consider relevant differences between commuter and intercity passenger service;

(3) concentrate on those areas that the Secretary believes present the greatest opportunity for enhancing the safety of the equipment; and

(4) give significant weight to the expenditures that would be necessary to retrofit existing equipment and to change specifications for equipment on order.

(b) In prescribing regulations and issuing orders under this section, the Secretary may consult with Amtrak, public authorities operating railroad passenger service, other railroad carriers transporting passengers, organizations of passengers, and organizations of employees. A consultation is not subject to the Federal Advisory Committee Act (5 App. U.S.C.), but minutes of the consultation shall be placed in the public docket of the rulemaking proceeding.

(c) The Secretary periodically shall review regulations prescribed and orders issued under this section and make changes that may be necessary.

§ 20124. Grade crossings and railroad rights of way

(a) To the extent practicable, the Secretary of Transportation shall maintain a coordinated effort to develop and carry out solutions to the railroad grade crossing problem and measures to protect pedestrians in densely populated areas along railroad rights of way. To carry out this subsection, the Secretary may use the authority of the Secretary under this chapter and over highway, traffic, and motor vehicle safety and over highway construction.

(b) Not later than June 22, 1989, the Secretary shall prescribe regulations and issue orders that may be necessary to ensure the safe maintenance, inspection, and testing of signal systems and devices at railroad highway grade crossings.

(c)(1) The Secretary shall establish demonstration projects to evaluate whether accidents and incidents involving trains would be reduced by—

(A) reflective markers installed on the road surface or on a signal post at railroad grade crossings;

(B) stop signs or yield signs installed at grade crossings; and

(C) speed bumps or rumble strips installed on the road surfaces at the approaches to grade crossings.

(2) Not later than June 22, 1990, the Secretary shall submit a report on the results of the demonstration projects to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

§ 20125. Licensing or certification of locomotive operators

(a) Not later than June 22, 1989, the Secretary of Transportation shall prescribe regulations and issue orders that may be necessary to establish a program requiring the licensing or certification, after one year after the program is established, of any operator of a locomotive.

(b) The program established under subsection (a) of this section—

(1) shall be carried out through review and approval of each railroad carrier's operator qualification standards;

(2) shall provide minimum training requirements;

(3) shall require comprehensive knowledge of applicable railroad carrier operating practices and rules;

(4) except as provided in subsection (c)(1) of this section, shall require consideration, to the extent the information is available, of the motor vehicle driving record of each individual seeking licensing or certification, including—

(A) any denial, cancellation, revocation, or suspension of a motor vehicle operator's license by a State for cause within the prior 5 years; and

(B) any conviction within the prior 5 years of an offense described in section 30304(a)(3)(A) or (B) of this title;

(5) may require, based on the individual's driving record, disqualification or the granting of a license or certification conditioned on requirements the Secretary prescribes; and

(6) shall require an individual seeking a license or certification—

(A) to request the chief driver licensing official of each State in which the individual has held a motor vehicle operator's license within the prior 5 years to provide information about the individual's driving record to the individual's employer, prospective employer, or the Secretary, as the Secretary requires; and

(B) to make the request provided for in section 30305(b)(4) of this title for information to be sent to the individual's employer, prospective employer, or the Secretary, as the Secretary requires.

(c)(1) The Secretary shall prescribe standards and establish procedures for waiving subsection (b)(4) of this section for an individual or class of individuals who the Secretary decides are not currently unfit to operate a locomotive. However, the Secretary may waive subsection (b)(4) for an individual or class of individuals with a conviction, cancellation, revocation, or suspension described in paragraph (2)(A) or (B) of this section only if the individual or class has successfully completed a rehabilitation program established by a railroad carrier or approved by the Secretary.

(2) If an individual successfully completes a rehabilitation program established by a railroad carrier or approved by the Secretary, the individual may not be denied a license or certification under subsection (b)(4) of this section because of—

(A) a conviction for operating a motor vehicle when under the influence of, or impaired by, alcohol or a controlled substance; or

(B) the cancellation, revocation, or suspension of the individual's motor vehicle operator's license for operating a motor vehicle when under the influence of, or impaired by, alcohol or a controlled substance.

(d) An individual denied a license or certification or whose license or certification is conditioned on requirements prescribed under subsection (b)(4) of this section shall be entitled to a proceeding under section 20103(e) of this title to decide whether the license has been properly denied or conditioned.

(e) The Secretary, employer, or prospective employer, as appropriate, shall make information obtained under subsection (b)(6) of this section available to the individual. The individual shall be given an opportunity to comment in writing about the information. Any comment shall be included in any record or file maintained by the Secretary, employer, or prospective employer that contains information to which the comment is related.

§ 20126. Automatic train control and related systems

(a) The Secretary of Transportation shall prescribe regulations and issue orders that may be necessary to require that—

(1) an individual performing a test of an automatic train stop, train control, or cab signal apparatus required by the Secretary to be performed before entering territory where the apparatus will be used shall certify in writing that the test was performed properly; and

(2) the certification required under clause (1) of this subsection shall be maintained in the same way and place as the daily inspection report for the locomotive.

(b)(1) In consultation with Amtrak, freight carriers, commuter agencies, employee representatives, railroad passengers, and railroad equipment manufacturers, the Secretary shall study the advisability and feasibility of requiring automatic train control systems, including systems using advanced technology, such as transponder and satellite relay systems, on each railroad corridor on which passengers or hazardous materials are carried. The study shall include—

(A) a specific assessment of the dangers of not requiring automatic train control systems on each corridor, based on analysis of *the number of passenger trains, individuals, and freight trains traveling on the corridor daily, the frequency of train movements, mileage traveled, and the accident and incident history on the corridor;*

(B) an analysis of the cost of requiring the systems to be installed on each corridor; and

(C) an investigation of alternative means of achieving the same safety objectives that would be achieved by requiring automatic train control systems to be installed.

(2) The Secretary shall submit to Congress not later than April 1, 1990, a report detailing the results of the study.

§ 20127. Event recorders

(a) In this section, "event recorder" means a device that—

(1) records train speed, hot box detection, throttle position, brake application, brake operations, and any other function the Secretary of Transportation considers necessary to record to assist in monitoring the safety of train operation, such as time and signal indication; and

(2) is designed to resist tampering.

(b) Not later than December 22, 1989, the Secretary shall prescribe regulations and issue orders that may be necessary to enhance safety by requiring that a train be equipped with an event recorder not later than one year after the regulations are prescribed and the orders are issued. However, if the Secretary finds it is impracticable to equip trains within that one-year period, the Secretary may extend the period to a date that is not later than 18 months after the regulations are prescribed and the orders are issued.

§ 20128. Tampering with safety and operational monitoring devices

(a) The Secretary of Transportation shall prescribe regulations and issue orders that may be necessary to prohibit the willful tampering with, or disabling of, any specified railroad safety or operational monitoring device.

(b)(1) A railroad carrier operating a train on which a safety or operational monitoring device is tampered with or disabled in violation of a regulation prescribed or order issued under subsection (a) of this section is liable to the United States Government for a civil penalty under section 20114(a) of this title.

(2) An individual tampering with or disabling a safety or operational monitoring device in violation of a regulation prescribed or order issued under subsection (a) of this section, or knowingly operating or allowing to be operated a train on which such a device has been tampered with or disabled, is liable for penalties established by the Secretary. The penalties may include—

(A) a civil penalty under section 20114(a) of this title;

(B) suspension from work; and

(C) suspension or loss of a license or certification issued under section 20125 of this title.

§ 20129. Maintenance-of-way operations

(a) Not later than June 22, 1989, the Secretary of Transportation shall prescribe regulations and issue orders that may be necessary for the safety of maintenance-of-way employees, including standards for bridge safety equipment, such as nets, walkways, handrails, and safety lines, and requirements related to instances when vessels shall be used.

(b) The Secretary shall prescribe regulations applying blue signal protection to on-track vehicles where rest is provided.

CHAPTER 203—SAFETY APPLIANCES

Sec.
20301. Definition and application.
20302. General requirements.
20303. Exemption for moving defective and insecure vehicles needing repairs.
20304. Assumption of risk by employees.
20305. Inspection of mail cars.
20306. Civil penalties.

§ 20301. Definition and application

(a) In this chapter, "vehicle" means a car, locomotive, tender, or similar vehicle.

(b) This chapter does not apply to the following:

(1) a train of 4-wheel coal cars.

(2) a train of 8-wheel standard logging cars if the height of each car from the top of the rail to the center of the coupling is not more than 25 inches.

(3) a locomotive used in hauling a train referred to in clause (2) of this subsection when the locomotive and cars of the train are used only to transport logs.

§ 20302. General requirements

(a) Except as provided in subsection (c) of this section and section 20303 of this title, a railroad carrier may use or allow to be used on any of its railroad lines—

(1) a vehicle only if it is equipped with—

(A) couplers coupling automatically by impact, and capable of being uncoupled, without the necessity of individuals going between the ends of the vehicles;

(B) secure sill steps and efficient hand brakes; and

(C) secure ladders and running boards when required by the Secretary of Transportation, and, if ladders are required, secure handholds or grab irons on its roof at the top of each ladder;

(2) except as otherwise ordered by the Secretary, a vehicle only if it is equipped with secure grab irons or handholds on its ends and sides for greater security to individuals in coupling and uncoupling vehicles;

(3) a vehicle only if it complies with the standard height of drawbars required by regulations prescribed by the Secretary;

(4) a locomotive only if it is equipped with a power-driving wheel brake and appliances for operating the train-brake system; and

(5) a train only if—

(A) enough of the vehicles in the train are equipped with power or train brakes so that the engineer on the locomotive hauling the train can control the train's speed without the necessity of brake operators using the common hand brakes for that purpose; and

(B) at least 50 percent of the vehicles in the train are equipped with power or train brakes and the engineer is using the power or train brakes on those vehicles and on all other vehicles equipped with them that are associated with those vehicles in the train.

(b) A railroad carrier complying with subsection (a)(5)(A) of this section may refuse to receive from a railroad line of a connecting railroad carrier or a shipper a vehicle that is not equipped with power or train brakes that will work and readily interchange with the power or train brakes in use on the vehicles of the complying railroad carrier.

(c) Notwithstanding subsection (a)(1)(B) of this section, when vehicles are combined to load and haul long commodities, only one of the vehicles must have hand brakes during the loading and hauling.

(d) The Secretary may—

(1) change the number, dimensions, locations, and manner of application prescribed by the Secretary for safety appliances required by subsection (a)(1)(B) and (C) and (2) of this section only for good cause and after providing an opportunity for a full hearing;

(2) change regulations for installing, inspecting, maintaining, and repairing power and train brakes only for the purpose of achieving safety; and

(3) increase, after an opportunity for a full hearing, the minimum percentage of vehicles in a train that are required by subsection (a)(5)(B) of this section to be equipped and used with power or train brakes.

(e) In carrying out subsection (d)(2) and (3) of this section, the Secretary may use the services of the Association of American Railroads.

§ 20303. Exemption for moving defective and insecure vehicles needing repairs

(a) A vehicle that is equipped in compliance with this chapter whose equipment becomes defective or insecure, nevertheless may be moved when necessary to make repairs, without a penalty being imposed under section 20306 of this title, from the place at which the defect or insecurity was first discovered to the nearest available place at which the repairs can be made—

(1) on the railroad line on which the defect or insecurity was discovered; or

(2) at the option of a connecting railroad carrier, on the railroad line of the connecting carrier, if not farther than the place of repair described in clause (1) of this subsection.

(b) A vehicle in a revenue train or in association with commercially-used vehicles may be moved under this section with chains instead of drawbars only when the vehicle contains livestock or perishable freight.

(c) The movement of a vehicle under this section is at the risk only of the railroad carrier doing the moving. This section does not relieve a carrier from liability in a proceeding to recover damages for death or injury of a railroad employee arising from the movement of a vehicle with equipment that is defective, insecure, or not maintained in compliance with this chapter.

§ 20304. Assumption of risk by employees

An employee of a railroad carrier injured by a vehicle or train used in violation of section 20302(a)(1)(A), (2), (4), or (5)(A) of this title does not assume the risk of injury resulting from the violation, even if the employee continues to be employed by the carrier after learning of the violation.

§ 20305. Inspection of mail cars

The Secretary of Transportation shall inspect the construction, adaptability, design, and condition of mail cars used on railroads in the United States. The Secretary shall make a report on the inspection and submit a copy of the report to the United States Postal Service.

§ 20306. Civil penalties

(a)(1) A person violating this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty. An act by an individual that causes a railroad carrier to be in violation is a violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation imposes the penalty. The amount of the penalty shall be at least $250 but not more than $10,000. However, when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or

injury, the amount may be not more than $20,000.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, a penalty may be imposed against an individual only for a willful violation. An individual is deemed not to have committed a willful violation if the individual was following the direct order of a railroad carrier official or supervisor under protest communicated to the official or supervisor. The individual is entitled to document the protest.

(4) If the Secretary does not compromise the penalty under section 3711 of title 31, the Secretary shall refer the matter to the Attorney General for collection.

(b) The Attorney General shall bring a civil action to collect a penalty that is referred to the Attorney General for collection under subsection (a) of this section. The action may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If the action is against an individual, the action also may be brought in the judicial district in which the individual resides.

CHAPTER 205—SIGNAL SYSTEMS

Sec.
20501. Definition.
20502. Requirements for installation and use.
20503. Changing regulations and requirements.
20504. Inspection, testing, and investigation.
20505. Reports of malfunctions and accidents.
20506. Civil penalties.

§ 20501. Definition

In this chapter, "signal system" means a block signal system, an interlocking, automatic train stop, train control, or cab-signal device, or a similar appliance, method, device, or system intended to promote safety in railroad operations.

§ 20502. Requirements for installation and use

(a)(1) When the Secretary of Transportation decides after an investigation that it is necessary in the public interest, the Secretary may order a railroad carrier to install, on any part of its railroad line, a signal system that complies with requirements of the Secretary. The order must allow the carrier a reasonable time to complete the installation. A carrier may discontinue or materially change a signal system required under this paragraph only with the approval of the Secretary.

(2) A railroad carrier ordered under paragraph (1) of this subsection to install a signal system on one part of its railroad line may not be held negligent for not installing the system on any part of its line that was not included in the order. If an accident or incident occurs on a part of the line on which the signal system was not required to be installed and was not installed, the use of the system on another part of the line may not be considered in a civil action brought because of the accident or incident.

(b) A railroad carrier may allow a signal system to be used on its railroad line only when the system, including its controlling and operating appurtenances—

(1) may be operated safely without unnecessary risk of personal injury; and

(2) has been inspected and can meet any test prescribed under this chapter.

§ 20503. Changing regulations and requirements

The Secretary of Transportation may change a regulation or requirement applicable to a railroad carrier for installing, maintaining, inspecting, or repairing a signal system under this chapter—

(1) when the carrier files with the Secretary a request for the change; or

(2) on the Secretary's own initiative for good cause shown.

§ 20504. Inspection, testing, and investigation

(a)(1) The Secretary of Transportation may—

(A) inspect and test a signal system used by a railroad carrier; and

(B) decide whether the system is in safe operating condition.

(2) In carrying out this subsection, the Secretary may employ only an individual who—

(A) has no interest in a patented article required to be used on or with a signal system; and

(B) has no financial interest in a railroad carrier or in a concern dealing in railroad supplies.

(b) The Secretary may investigate, test, and report on the use of and need for a signal system, without cost to the United States Government, when the system is submitted in completed shape for investigation and testing.

§ 20505. Reports of malfunctions and accidents

In the way and to the extent required by the Secretary of Transportation, a railroad carrier shall report to the Secretary a failure of a signal system to function as intended. If the failure results in an accident or incident causing injury to an individual or property that is required to be reported under regulations prescribed by the Secretary, the carrier owning or maintaining the signal system shall report to the Secretary immediately in writing the fact of the accident or incident.

§ 20506. Civil penalties

(a)(1) A person violating this chapter or a regulation or requirement prescribed or order issued under this chapter is liable to the United States Government for a civil penalty. An act by an individual that causes a railroad carrier to be in violation is a violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation imposes the penalty. The amount of the penalty shall be at least $250 but not more than $10,000. However when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury, the amount may be not more than $20,000.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, a penalty may be imposed against an individual only for a willful violation. An individual is deemed not to have committed a willful violation if the individual was following the direct order of a railroad carrier official or supervisor under protest communicated to the official or supervisor. The individual is entitled to document the protest.

(4) If the Secretary does not compromise the penalty under section 3711 of title 31, the Secretary shall refer the matter to the Attorney General for collection.

(b) The Attorney General shall bring a civil action to collect a penalty that is referred to the Attorney General for collection under subsection (a) of this section. The action may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If the action is against an individual, the action also may be brought in the judicial district in which the individual resides.

CHAPTER 207—LOCOMOTIVES

Sec.
20701. Requirements for use.
20702. Inspections, repairs, and inspection and repair reports.
20703. Accident reports and investigations.
20704. Civil penalties.

§ 20701. Requirements for use

A railroad carrier may use or allow to be used a locomotive or tender on its railroad line only when the locomotive or tender and its parts and appurtenances—

(1) are in proper condition and safe to operate without unnecessary danger of personal injury;

(2) have been inspected as required under this chapter and regulations prescribed by the Secretary of Transportation under this chapter; and

(3) can withstand every test prescribed by the Secretary under this chapter.

§ 20702. Inspections, repairs, and inspection and repair reports

(a) The Secretary of Transportation shall—

(1) become familiar, so far as practicable, with the condition of every locomotive and tender and its parts and appurtenances;

(2) inspect every locomotive and tender and its parts and appurtenances as necessary to carry out this chapter, but not necessarily at stated times or at regular intervals, and

(3) ensure that every railroad carrier makes inspections of locomotives and tenders and their parts and appurtenances as required by regulations prescribed by the Secretary and repairs every defect that is disclosed by an inspection before a defective locomotive, tender, part, or appurtenance is used again.

(b)(1) When the Secretary finds that a locomotive, tender, or locomotive or tender part or appurtenance owned or operated by a railroad carrier does not comply with this chapter or a regulation prescribed under this chapter, the Secretary shall give the carrier written notice describing any defect resulting in noncompliance. Not later than 5 days after receiving the notice of noncompliance, the carrier may submit a written request for a reinspection. On receiving the request, the Secretary shall provide for the reinspection by an officer or employee of the Department of Transportation who did not make the original inspection. The reinspection shall be made not later than 15 days after the date the Secretary gives the notice of noncompliance.

(2) Immediately after the reinspection is completed, the Secretary shall give written notice to the railroad carrier stating whether the locomotive, tender, part, or appurtenance is in compliance. If the original finding of noncompliance is sustained, the carrier has 30 days after receipt of the notice to file an appeal with the Secretary. If the carrier files an appeal, the Secretary, after providing an opportunity for a proceeding, may change the finding of noncompliance.

(3) A locomotive, tender, part, or appurtenance found not in compliance under this subsection may be used only after it is—

(A) repaired to comply with this chapter and regulations prescribed under this chapter; or

(B) found on reinspection or appeal to be in compliance.

(c) A railroad carrier shall make and keep in the way the Secretary prescribes by regulation, a report of every—

(1) inspection made under regulations prescribed by the Secretary; and

(2) repair made of a defect disclosed by such an inspection.

(d) A railroad carrier may change a rule or instruction of the carrier governing the inspection by the carrier of the locomotives and tenders and locomotive and tender parts and appurtenances of the carrier when the Secretary approves a request filed by the carrier to make the change.

§ 20703. Accident reports and investigations

(a) When the failure of a locomotive, tender, or locomotive or tender part or appurtenance results in an accident or incident causing serious personal injury or death, the railroad carrier owning or operating the locomotive or tender—

(1) immediately shall file with the Secretary of Transportation a written statement of the fact of the accident or incident; and

(2) when the locomotive is disabled to the extent it cannot be operated under its own power, shall preserve intact all parts affected by the accident or incident, if possible without interfering with traffic, until an investigation of the accident or incident is completed.

(b) The Secretary shall—

(1) investigate each accident and incident reported under subsection (a) of this section;

(2) inspect each part affected by the accident or incident; and

(3) make a complete and detailed report on the cause of the accident or incident.

(c) When the Secretary considers publication to be in the public interest, the Secretary may publish a report of an investigation made under this section, stating the cause of the accident or incident and making appropriate recommendations. No part of a report may be admitted into evidence or used in a civil action for damages resulting from a matter mentioned in the report.

§ 20704. Civil penalties

(a)(1) A person violating this chapter or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty. An act by an individual that causes a railroad carrier to be in violation is a violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation imposes the penalty. The amount of the penalty shall be at least $250 but not more than $10,000. However when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury, the amount may be not more than $20,000.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, a penalty may be imposed against an individual only for a willful violation. An individual is deemed not to have committed a willful violation if the individual was following the direct order of a railroad carrier official or supervisor under protest communicated to the official or supervisor. The individual is entitled to document the protest.

(4) If the Secretary does not compromise the penalty under section 3711 of title 31, the Secretary shall refer the matter to the Attorney General for collection.

(b) The Attorney General shall bring a civil action to collect a penalty that is referred to the Attorney General for collection under subsection (a) of this section. The action may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If the action is against an individual, the action also may be brought in the judicial district in which the individual resides.

CHAPTER 209—ACCIDENTS AND INCIDENTS

Sec.
20901. Reports.
20902. Investigations.
20903. Reports not evidence in civil actions for damages.
20904. Penalties.

§ 20901. Reports

Not later than 30 days after the end of each month, a railroad carrier shall file a report with the Secretary of Transportation on the accidents and incidents resulting in injury or death to an individual or damage to equipment or a roadbed arising from the carrier's operations during the month. The report shall be under oath and shall state the nature, cause, and circumstances of each reported accident or incident. If a railroad carrier assigns human error as a cause, the report shall include, at the option of each employee whose error is alleged, a statement by the employee explaining any factors the employee alleges contributed to the accident or incident.

§ 20902. Investigations

(a) The Secretary of Transportation, or an impartial investigator authorized by the Secretary, may investigate—

(1) an accident or incident resulting in serious injury to an individual or to railroad property, occurring on the railroad line of a railroad carrier; and

(2) an accident or incident reported under section 20505 of this title.

(b) In carrying out an investigation, the Secretary or authorized investigator may subpena witnesses, require the production of records, exhibits, and other evidence, administer oaths, and take testimony. If the accident or incident is investigated by a commission of the State in which it occurred, the Secretary, if convenient, shall carry out the investigation at the same time as, and in coordination with, the commission's investigation. The railroad carrier on whose railroad line the accident or incident occurred shall provide reasonable facilities to the Secretary for the investigation.

(c) When in the public interest, the Secretary shall make a report of the investigation, stating the cause of the accident or incident and making recommendations the Secretary considers appropriate. The Secretary shall publish the report in a way the Secretary considers appropriate.

§ 20903. Reports not evidence in civil actions for damages

No part of an accident or incident report filed by a railroad carrier under section 20901 of this title or made by the Secretary of Transportation under section 20902 of this title may be used in a civil action for damages resulting from a matter mentioned in the report.

§ 20904. Penalties

(a) A railroad carrier not filing the report required by section 20901 of this title shall be fined not more than $100 for each violation and not more than $100 for each day during which the report is overdue.

(b)(1) A person violating this chapter or a regulation or requirement prescribed or order issued under this chapter, or a regulation prescribed or order issued under chapter 201 of this title related to accident and incident reporting or investigation, is liable to the United States Government for a civil penalty. An act by an individual that causes a railroad carrier to be in violation is a violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation imposes the penalty. The amount of the penalty shall be at least $250 but not more than $10,000. However when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury, the amount may be not more than $20,000.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, a penalty may be imposed against an individual only for a willful violation. An individual is deemed not to have committed a willful violation if the individual was following the direct order of a railroad carrier official or supervisor under protest communicated to the official or supervisor. The individual is entitled to document the protest.

(4) If the Secretary does not compromise the penalty under section 3711 of title 31, the Secretary shall refer the matter to the Attorney General for collection.

(c) The Attorney General shall bring a civil action to collect a penalty that is referred to the Attorney General for collection under subsection (b) of this section. The action may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If the action is against an individual, the action also may be brought in the judicial district in which the individual resides.

CHAPTER 211—HOURS OF SERVICE

Sec.
21101. Definitions.
21102. Application.
21103. Limitations on duty hours of train employees.
21104. Limitations on duty hours of signal employees.
21105. Limitations on duty hours of dispatching service employees.
21106. Limitations on employee sleeping quarters.
21107. Maximum duty hours and subjects of collective bargaining.
21108. Civil penalties.

§ 21101. Definitions

In this chapter—

(1) "designated terminal" means the home or away-from-home terminal for the assignment of a particular crew.

(2) "dispatching service employee" means an operator, train dispatcher, or other train employee who by the use of an electrical or mechanical device dispatches, reports, transmits, receives, or delivers orders related to or affecting train movements.

(3) "employee" means a dispatching service employee, a signal employee, or a train employee.

(4) "signal employee" means an individual employed by a railroad carrier who is engaged in installing, repairing, or maintaining signal systems.

(5) "train employee" means an individual engaged in or connected with the movement of a train, including a hostler.

§ 21102. Application

(a) This chapter does not apply to a situation involving any of the following:

(1) a casualty.

(2) an unavoidable accident.

(3) an act of God.

(4) a delay resulting from a cause unknown and unforeseeable to a railroad carrier or its officer or agent in charge of the employee when the employee left a terminal.

(b) The Secretary of Transportation may exempt a railroad carrier having not more than 15 employees covered by this chapter from the limitations imposed by this chapter. The Secretary may allow the exemption after a full hearing, for good cause shown, and on deciding that the exemption is in the public interest and will not affect safety adversely. The exemption shall be for a specific period of time and is subject to review at least annually. The exemption may not authorize a carrier to require or allow its employees to be on duty more than a total of 16 hours in a 24-hour period.

§ 21103. Limitations on duty hours of train employees

(a) Except as provided in subsection (c) of this section, a railroad carrier and its officers and agents may not require or allow a train employee to remain or go on duty—

(1) unless that employee has had at least 8 consecutive hours off duty during the prior 24 hours; or

(2) after that employee has been on duty for 12 consecutive hours, until that employee has had at least 10 consecutive hours off duty.

(b) In determining under subsection (a) of this section the time a train employee is on or off duty, the following rules apply:

(1) Time on duty begins when the employee reports for duty and ends when the employee is finally released from duty.

(2) Time the employee is engaged in or connected with the movement of a train is time on duty.

(3) Time spent during a 24-hour period performing any service for the railroad carrier in addition to time spent performing the duties of a train employee is time on duty.

(4) Time spent in deadhead transportation to a duty assignment is time on duty, but time spent in deadhead transportation from a duty assignment to the place of final release is neither time on duty nor time off duty.

(5) An interim period available for rest at a place other than a designated terminal is time on duty.

(6) An interim period available for less than 4 hours rest at a designated terminal is time on duty.

(7) An interim period available for at least 4 hours rest at a place with suitable facilities for food and lodging is not time on duty when the employee is prevented from getting to the employee's designated terminal by any of the following:

(A) a casualty.

(B) a track obstruction.

(C) an act of God.

(D) a derailment or major equipment failure resulting from a cause that was unknown and unforeseeable to the railroad carrier or its officer or agent in charge of that employee when that employee left the designated terminal.

(c) A train employee on the crew of a wreck or relief train may be allowed to remain or go on duty for not more than 4 additional hours in any period of 24 consecutive hours when an emergency exists and the work of the crew is related to the emergency. In this subsection, an emergency ends when the track is cleared and the railroad line is open for traffic.

§ 21104. Limitations on duty hours of signal employees

(a)(1) In paragraph (2)(C) of this subsection, "24-hour period" means the period beginning when a signal employee reports for duty immediately after 8 consecutive hours off duty or, when required under paragraph (2)(B) of this subsection, after 10 consecutive hours off duty.

(2) Except as provided in subsection (c) of this section, a railroad carrier and its officers and agents may not require or allow a signal employee to remain or go on duty—

(A) unless that employee has had at least 8 consecutive hours off duty during the prior 24 hours;

(B) after that employee has been on duty for 12 consecutive hours, until that employee has had at least 10 consecutive hours off duty; or

(C) after that employee has been on duty a total of 12 hours during a 24-hour period, or after the end of that 24-hour period, whichever occurs first, until that employee has had at least 8 consecutive hours off duty.

(b) In determining under subsection (a) of this section the time a signal employee is on duty or off duty, the following rules apply:

(1) Time on duty begins when the employee reports for duty and ends when the employee is finally released from duty.

(2) Time spent during a 24-hour period performing any service for the railroad carrier in addition to performing the duties of a signal employee is time on duty.

(3) Time spent returning from a trouble call, whether the employee goes directly to the employee's residence or by way of the employee's headquarters, is neither time on duty nor time off duty, except that up to one hour of that time spent returning from the final trouble call of a period of continuous or broken service is time off duty.

(4) If, at the end of scheduled duty hours, an employee has not completed the trip from the final outlying worksite of the duty period to the employee's headquarters or directly to the employee's residence, the time after the scheduled duty hours necessarily spent in completing the trip to the residence or headquarters is neither time on duty nor time off duty.

(5) If an employee is released from duty at an outlying worksite before the end of the employee's scheduled duty hours to comply with this section, the time necessary for the trip from the worksite to the employee's headquarters or directly to the employee's residence is neither time on duty nor time off duty.

(6) Time spent in transportation on an ontrack vehicle, including time referred to in paragraphs (3)-(5) of this subsection, is time on duty.

(7) A regularly scheduled meal period or another release period of at least 30 minutes but not more than one hour is time off duty and does not break the continuity of service of the employee under this section, but a release period of more than one hour is time off duty and does break the continuity of service.

(c) A signal employee may be allowed to remain or go on duty for not more than 4 additional hours in any period of 24 consecutive hours when an emergency exists and the work of that employee is related to the emergency. In this subsection, an emergency ends when the signal system is restored to service.

§ 21105. Limitations on duty hours of dispatching service employees

(a) This section applies, rather than section 21103 or 21104 of this title, to a train employee or signal employee during any period of time the employee is performing duties of a dispatching service employee.

(b) Except as provided in subsection (d) of this section, a dispatching service employee may not be required or allowed to remain or go on duty for more than a total of—

(1) 9 hours during a 24-hour period in a tower, office, station, or place at which at least 2 shifts are employed; and

(2) 12 hours during a 24-hour period in a tower, office, station, or place at which only one shift is employed.

(c) In determining time on duty under subsection (b) of this section for a dispatching service employee in a tower, office, station, or other place, time spent during a 24-hour period performing any service for the railroad carrier in addition to performing the duties of a dispatching service employee is time on duty in the tower, office, station, or other place during that period.

(d) When an emergency exists, a dispatching service employee may be allowed to remain or go on duty for not more than 4 additional hours during a period of 24 consecutive hours for not more than 3 days during a period of 7 consecutive days.

§ 21106. Limitations on employee sleeping quarters

A railroad carrier and its officers and agents—

(1) may provide sleeping quarters (including crew quarters, camp or bunk cars, and trailers) for employees, and any individuals employed to maintain the right of way of a railroad carrier, only if the sleeping quarters are clean, safe, and sanitary and give those employees and individuals an opportunity for rest free from the interruptions caused by noise under the control of the carrier, and

(2) may not begin, after July 7, 1976, construction or reconstruction of sleeping quarters referred to in clause (1) of this section in the immediate vicinity, as determined under regulations prescribed by the Secretary of Transportation, of an area in which railroad switching or humping operations are performed.

§ 21107. Maximum duty hours and subjects of collective bargaining

The number of hours established by this chapter that an employee may be required or allowed to be on duty is the maximum number of hours consistent with safety. Shorter hours of service and time on duty of an employee are proper subjects for collective bargaining between a railroad carrier and its employees.

§ 21108. Civil penalties

(a)(1) A person violating this chapter is liable to the United States Government for a civil penalty. An act by an individual that causes a railroad carrier to be in violation is a violation. For a violation of section 21106 of this title, a separate violation occurs for each day a facility is not in compliance.

(2) The Secretary of Transportation imposes the penalty. The amount of the penalty may be not more than $1,000.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, a penalty may be imposed against an individual only for a willful violation. An individual is deemed not to have committed a willful violation if the individual was following the direct order of a railroad carrier official or supervisor under protest communicated to the official or supervisor. The individual is entitled to document the protest.

(4) If the Secretary does not compromise the penalty under section 3711 of title 31, the Secretary shall refer the matter to the Attorney General for collection.

(b)(1) The Attorney General shall bring a civil action to collect a penalty that is referred to the Attorney General for collection under subsection (a) of this section. The action may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If the action is against an individual, the action also may be brought in the judicial district in which the individual resides.

(2) A civil action under this subsection must be brought not later than 2 years after the date of the violation unless administrative notification under section 3716(a)(1) of title 31 is given within that 2-year period to the person committing the violation. However, even if notification is given, the action must be brought within the period specified in section 2462 of title 28.

(c) In any proceeding under this section, a railroad carrier is deemed to know the acts of its officers and agents.

PART B—ASSISTANCE

CHAPTER 221—LOCAL RAIL FREIGHT ASSISTANCE

Sec.
22101. Financial assistance for State projects.
22102. Eligibility.
22103. Applications.
22104. State rail plan financing.
22105. Sharing project costs.
22106. Limitations on financial assistance.
22107. Records, audits, and information.
22108. Authorization of appropriations.

§ 22101. Financial assistance for State projects

(a) The Secretary of Transportation shall provide financial assistance to a State, as provided under this chapter, for a rail freight assistance project of the State when a rail carrier subject to subchapter I of chapter 105 of this title maintains a rail line in the State. The assistance is for the cost of—

(1) acquiring, in any way the State considers appropriate, an interest in a rail line or rail property to maintain existing, or to provide future, rail freight transportation, but only if the Interstate Commerce Commission has authorized, or exempted from the requirements of that authorization, the abandonment of, or the discontinuance of rail transportation on, the rail line related to the project;

(2) improving and rehabilitating rail property on a rail line to the extent necessary to allow adequate and efficient rail freight transportation on the line, but only if the rail carrier certifies that the rail line related to the project carried not more than 5,000,000 gross ton-miles of freight a mile in the prior year; and

(3) building rail or rail-related facilities (including new connections between at least 2 existing rail lines, intermodal freight terminals, sidings, bridges, and relocation of existing lines) to improve the quality and efficiency of the rail freight transportation, but only if the rail carrier certifies that the rail line related to the project carried not more than 5,000,000 gross ton-miles of freight a mile in the prior year.

(b) The Secretary shall establish a methodology for calculating the ratio of benefits to costs of projects proposed under this chapter. In establishing the methodology, the Secretary shall consider the need for equitable treatment of different regions of the United States and different commodities transported by rail. The establishment of the methodology is committed to the discretion of the Secretary.

(c)(1) Assistance for a project shall be provided under this chapter only if—

(A) a rail carrier certifies that the rail line related to the project carried more than 20 carloads a mile during the most recent year during which transportation was provided by the carrier on the line; and

(B) the ratio of benefits to costs for the project, as calculated using the methodology established under subsection (b) of this section, is more than 1.0.

(2) If the rail carrier that provided the transportation on the rail line is no longer is existence, the applicant for the project shall provide the information required by the certification under paragraph (1)(A) of this subsection in the way the Secretary prescribes.

(3) The Secretary may waive the requirement of paragraph (1)(A) or (2) of this subsection if the Secretary—

(A) decides that the rail line has contractual guarantees of at least 40 carloads a mile for each of the first 2 years of operation of the proposed project; and

(B) finds that there is a reasonable expectation that the contractual guarantees will be fulfilled.

(d) A State may not receive more than 15 percent of the amounts provided in a fiscal year under this chapter. Not more than 20 percent of the amounts available under this chapter may be provided in a fiscal year for any one project.

§ 22102. Eligibility

A State is eligible to receive financial assistance under this chapter only when the State complies with regulations the Secretary of Transportation prescribes under this chapter and the Secretary decides that—

(1) the State has an adequate plan for rail transportation in the State and a suitable process for up-dating and changing the plan;

(2) the State plan is administered or coordinated by a designated State authority and provides for a fair distribution of resources;

(3) the State authority—

(A) is authorized to develop, promote, supervise, and support safe, adequate, and efficient rail transportation;

(B) employs or will employ sufficient qualified and trained personnel;

(C) maintains or will maintain adequate programs of investigation, research, promotion, and development with opportunity for public participation; and

(D) is designated and directed to take all practicable steps (by itself or with other State authorities) to improve rail transportation safety and reduce energy use and pollution related to transportation; and

(4) the State has ensured that it maintains or will maintain adequate procedures for financial control, accounting, and performance evaluation for the proper use of assistance provided by the United States Government.

§ 22103. Applications

(a) A State must file an application with the Secretary of Transportation for financial assistance for a project described under section 22101(a) of this title not later than January 1 of the fiscal year for which amounts have been appropriated. However, for a fiscal year for which the authorization of appropriations for assistance under this chapter has not been enacted by the first day of the fiscal year, the State must file the application not later than 90 days after the date of enactment of a law authorizing the appropriations for that fiscal year. The Secretary shall prescribe the form of the application.

(b) In considering an application under this subsection, the Secretary shall consider the following:

(1) the percentage of rail lines that rail carriers have identified to the Interstate Commerce Commission for abandonment or potential abandonment in the State.

(2) the likelihood of future abandonments in the State.

(3) the ratio of benefits to costs for a proposed project calculated using the methodology established under section 22101(b) of this title.

(4) the likelihood that the rail line will continue operating with assistance.

(5) the impact of rail bankruptcies, rail restructuring, and rail mergers on the State.

§ 22104. State rail plan financing

(a) On the first day of each fiscal year, each State is entitled to $36,000 of the amounts made available under section 22108 of this title during that fiscal year to be used—

(1) to establish and change the State plan required by section 22102 of this title; or

(2) to carry out projects described in section 22101(a)(1), (2), or (3) of this title, as designated by the State, if those projects meet the requirements of section 22101(c)(1)(B) of this title.

(b) Each State must apply for amounts under this section not later than the first day of the fiscal year for which the amounts are available. However, for any fiscal year for which the authorization of appropriations for financial assistance under this chapter has not been enacted by the first day of the fiscal year, the State must apply for amounts under this section not later than 60 days after the date of enactment of a law authorizing the appropriations for that fiscal year. Not later than 60 days after receiving an application, the Secretary of Transportation shall consider the application and notify the State of the approval or disapproval of the application.

(c) Amounts provided under this section remain available to a State for obligation for the first 3 months after the end of the fiscal year for the which the amounts were made available. Amounts not applied for under this section or that remain unobligated after the first 3 months after the end of the fiscal year for which the amounts were made available are available to the Secretary for projects meeting the requirements of this chapter.

§ 22105. Sharing project costs

(a)(1) The United States Government share of the costs of financial assistance for a project under this chapter is 50 percent, except that for assistance provided under section 22101(a)(2) of this title, the Government share is 70 percent. The State may pay its share of the costs in cash or through the following benefits, to the extent that the benefits otherwise would not be provided:

(A) forgiveness of taxes imposed on a rail carrier or its property.

(B) real and tangible personal property (provided by the State or a person for the State) necessary for the safe and efficient operation of rail freight transportation.

(C) track rights secured by the State for a rail carrier.

(D) the cash equivalent of State salaries for State employees working on the State project, except overhead and general administrative costs.

(2) A State may pay more than its required percentage share of the costs of a project under this chapter. When a State, or a person acting for a State, pays more than the State share of the costs of its projects during a fiscal year, the excess amount shall be applied to the State share for the costs of the State projects for later fiscal years.

(b) States may agree to combine any part of the amounts made available under this chapter to carry out a project that is eligible for assistance under this chapter when—

(1) the project will benefit each State making the agreement; and

(2) the agreement is not a violation of State law.

§ 22106. Limitations on financial assistance

(a) A State shall use financial assistance for projects under this chapter to make a grant or lend money to the owner of rail property, or a rail carrier providing rail transportation, related to a project being assisted. The State shall decide on the financial terms of the grant or loan, except that the time for making grant advances shall comply with regulations of the Secretary of the Treasury.

(b) The State shall place the United States Government share of money that is repaid in an interest-bearing account. However, the Secretary of Transportation may allow a borrower to place that money, for the benefit of the State, in a bank designated by the Secretary of the Treasury under section 10 of the Act of June 11, 1942 (12 U.S.C. 265). The State shall use the money and accumulated interest to make other grants and loans under this chapter.

(c) The State may pay the Secretary of Transportation the Government share of unused money and accumulated interest at any time. However, the State must pay the unused money and accumulated interest to the Secretary when the State ends its participation under this chapter.

(d) To the maximum extent possible, the State shall encourage the participation of shippers, rail carriers, and local communities in paying the State share of assistance costs.

(e) Each State shall retain a contingent interest (redeemable preference shares) for the Government share of amounts in a rail line receiving assistance under this chapter. The State may collect its share of the amounts used for the rail line if—

(1) an application for abandonment of the rail line is filed under chapter 109 of this title; or

(2) the rail line is sold or disposed of after it has received assistance under this chapter.

§ 22107. Records, audits, and information

(a) Each recipient of financial assistance through an arrangement under this chapter shall keep records required by the Secretary of Transportation. The records shall be kept for 3 years after a project is completed and shall disclose—

(1) the amount of, and disposition by the recipient, of the assistance;

(2) the total costs of the project for which the assistance was given or used;

(3) the amount of that part of the costs of the project paid by other sources; and

(4) any other records that will make an effective audit easier.

(b) The Secretary and the Comptroller General shall make regular financial and performance audits, as provided under chapter 75 of title 31, of activities and transactions assisted under this chapter.

(c) The Interstate Commerce Commission shall provide the Secretary with information the Secretary requests to assist in carrying out this chapter. The Commission shall provide the information not later than 30 days after receiving a request from the Secretary.

(d) Not later than August 1 of each year, each rail carrier subject to subchapter I of chapter 105 of this title shall submit to the Secretary a list of the rail lines of the carrier that carried not more than 5,000,000 gross ton-miles of freight a mile in the prior year.

§ 22108. Authorization of appropriations

(a) Not more than $15,000,000 may be appropriated to the Secretary of Transportation for the fiscal year ending September 30, 1991, to carry out this chapter. No amount may be appropriated for any period after September 30, 1991, to carry out this chapter.

(b) The Secretary shall establish procedures necessary to ensure that amounts available to the Secretary for projects under this chapter are distributed not later than April 1 of the fiscal year for which the amounts are appropriated. If any amounts are not distributed not later than April 1, the Secretary shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the status of those amounts and the reasons for the delay in distribution.

(c) Amounts appropriated to carry out section 5(i) of the Department of Transportation Act for fiscal year 1990 that are not applied for or that remain unobligated on January 1, 1991, are available to the Secretary for projects under this chapter.

PART C—PASSENGER TRANSPORTATION

CHAPTER 241—GENERAL

Sec.
24101. Purposes and goals.
24102. Definitions.
24103. Loan guarantees.
24104. Enforcement.
24105. Authorization of appropriations.

§ 24101. Purposes and goals

(a)(1) Public convenience and necessity require that Amtrak, to the extent its budget allows, provide modern, cost-efficient, and energy-efficient intercity rail passenger transportation between crowded urban areas and in other areas of the United States.

(2) Rail passenger transportation can help alleviate overcrowding of airways and airports and on highways.

(3) A traveler in the United States should have the greatest possible choice of transportation most convenient to the needs of the traveler.

(4) A greater degree of cooperation is necessary among Amtrak, other rail carriers, State, regional, and local governments, the private sector, labor organizations, and suppliers of services and equipment to Amtrak to achieve a performance level sufficient to justify expending public money.

(5) Modern and efficient commuter rail passenger transportation is important to the viability and well-being of major urban areas and to the energy conservation and self-sufficiency goals of the United States.

(6) As a rail passenger transportation entity, Amtrak should be available to operate commuter rail passenger transportation through its subsidiary, Amtrak Commuter, under contract with commuter authorities that do not provide the transportation themselves as part of the governmental function of the State.

(7) The Northeast Corridor is a valuable resource of the United States used by intercity and commuter rail passenger transportation and freight transportation.

(8) Greater coordination between intercity and commuter rail passenger transporation is required.

(b) By using innovative operating and marketing concepts, Amtrak shall provide intercity and commuter rail passenger transportation that completely develops the potential of modern rail transportation to meet the intercity and commuter passenger transportation needs of the United States.

(c) Amtrak shall—

(1) use its best business judgment in acting to minimize United States Government subsidies, including—

(A) increasing fares;

(B) increasing revenue from the transportation of mail and express;

(C) reducing losses on food service;

(D) improving its contracts with operating rail carriers;

(E) reducing management costs; and

(F) increasing employee productivity;

(2) minimize Government subsidies by encouraging State, regional, and local governments and the private sector to share the cost of providing rail passenger transportation, including the cost of operating facilities;

(3) carry out strategies to achieve immediately maximum productivity and efficiency consistent with safe and efficient transportation;

(4) operate Amtrak trains, to the maximum extent feasible, to all station stops within 15 minutes of the time established in public timetables;

(5) develop transportation on rail corridors subsidized by States and private parties;

(6) implement schedules based on a systemwide average speed of at least 60 miles an hour that can be achieved with a degree of reliability and passenger comfort;

(7) improve the feasibility of State-subsidized transportation through the use of technical assistance panels to coordinate, plan, and provide the transportation;

(8) encourage rail carriers to assist in improving intercity rail passenger transportation;

(9) improve generally the performance of Amtrak through comprehensive and systematic operational programs and employee incentives;

(10) carry out policies that ensure equitable access to the Northeast Corridor by intercity and commuter rail passenger transportation;

(11) coordinate the uses of the Northeast Corridor, particularly intercity and commuter rail passenger transportation; and

(12) maximize the use of its resources, including the most cost-effective use of employees, facilities, and real property.

(d) To carry out subsection (c)(12) of this section, Amtrak is encouraged to make agreements with the private sector and undertake initiatives that are consistent with good business judgment and designed to maximize its revenues and minimize Government subsidies.

§ 24102. Definitions

In this part—

(1) "auto-ferry transportation" means intercity rail passenger transportation—

(A) of automobiles or recreational vehicles and their occupants; and

(B) when space is available, of used unoccupied vehicles.

(2) "avoidable loss" means the avoidable costs of providing rail passenger transportation, less revenue attributable to the transportation, as determined by the Interstate Commerce Commission under section 553 of title 5.

(3) "basic system" means the system of intercity rail passenger transportation designated by the Secretary of Transportation

under section 4 of the Amtrak Improvement Act of 1978 and approved by Congress, and transportation required to be provided under section 24705(a) of this title and section 4(g) of the Amtrak Improvement Act of 1978, including changes in the system or transportation that Amtrak makes using the route and service criteria.

(4) "commuter authority" means a State, local, or regional entity established to provide, or make a contract providing for, commuter rail passenger transportation.

(5) "commuter rail passenger transportation" means short-haul rail passenger transportation in metropolitan and suburban areas usually having reduced fare, multiple-ride, and commuter tickets and morning and evening peak period operations.

(6) "intercity rail passenger transportation" means rail passenger transportation, except commuter rail passenger transportation.

(7) "rail carrier" means a person providing rail transportation for compensation.

(8) "rate" means a rate, fare, or charge for rail transportation.

(9) "regional transportation authority" means an entity established to provide passenger transportation in a region.

(10) "route and service criteria" means the criteria and procedures for making route and service decisions established under section 404(c)(1)-(3)(A) of the Rail Passenger Service Act.

§ 24103. Loan guarantees

(a) With the approval of the Secretary of the Treasury and on terms the Secretary of Transportation may prescribe, the Secretary of Transportation may guarantee a lender or lessor against loss of principal and interest or other contractual commitments on securities, obligations, leases, loans (or the refinancing of loans) issued to finance—

(1) the upgrading of roadbeds; and

(2) the purchase or lease by Amtrak or a regional transportation authority of capital equipment and facilities necessary to improve rail passenger transportation.

(b) The maturity date or term of securities, obligations, leases, or loans, including extensions and renewals, guaranteed under this section may not be more than 20 years from the date of issuance.

(c) A guarantee under this section—

(1) is a general obligation of the United States Government;

(2) is backed by the full faith and credit of the Government;

(3) may not be revoked;

(4) is conclusive evidence—

(A) that the guarantee complies fully with this part; and

(B) of the approval and legality of all terms of the security, obligation, lease, or loan and of the guarantee; and

(5) is valid and incontestable in the hands of a holder of a guaranteed security, obligation, lease, or loan, except for fraud or material misrepresentation by the holder.

(d) The total amount of the unpaid principal of the securities, obligations, leases, and loans outstanding at one time and guaranteed under this section may not be more than $930,000,000. That amount is reduced by the amount of securities, obligations, and loans paid by Amtrak under section 601(a)(3) or (b)(1)(E) of the Rail Passenger Service Act.

(e)(1) If the money available to the Secretary of Transportation is insufficient to enable the Secretary of Transportation to discharge the Secretary of Transportation's responsibilities under guarantees issued under subsection (a) of this section, the Secretary of Transportation shall issue obligations to the Secretary of the Treasury. The Secretary of the Treasury shall prescribe the terms of the obligations. When determining the interest rate for the obligations, the Secretary of the Treasury shall consider the current average market yield on outstanding marketable obligations of the Government of comparable maturities during the month before obligations are issued.

(2) The Secretary of the Treasury shall buy obligations issued under this subsection. To buy the obligations, the Secretary may use as a public debt transaction proceeds from the sale of securities issued under chapter 31 of title 31. Securities may be issued under chapter 31 to buy the obligations.

(3) The Secretary of the Treasury may sell obligations bought under this subsection. A redemption, purchase, or sale by the Secretary is a public debt transaction of the Government.

(4) The Secretary of Transportation shall redeem obligations referred to in this subsection from appropriations available under subsection (g) of this section.

(f) A security, obligation, lease, or loan may not be guaranteed if the income from the security, obligation, lease, or loan is not gross income under chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1).

(g) Amounts necessary for the Secretary of Transportation to carry out this section may be appropriated to the Secretary. The amounts remain available until expended.

§ 24104. Enforcement

(a)(1) Except as provided in paragraph (2) of this subsection, only the Attorney General may bring a civil action when Amtrak or a rail carrier—

(A) engages in or adheres to an action, practice, or policy inconsistent with this part;

(B) obstructs or interferes with an activity authorized under this part;

(C) refuses, fails, or neglects to discharge its duties and responsibilities under this part; or

(D) threatens—

(i) to engage in or adhere to an action, practice, or policy inconsistent with this part;

(ii) to obstruct or interfere with an activity authorized by this part; or

(iii) to refuse, fail, or neglect to discharge its duties and responsibilities under this part.

(2) An employee affected by any conduct or threat referred to in paragraph (1) of this subsection, or an authorized employee representative, may bring the civil action if the conduct or threat involves a labor agreement.

(b) A discontinuance of a route, a train, or transportation, or a reduction in the frequency of transportation, by Amtrak is reviewable only in a civil action brought by the Attorney General.

(c) Except as otherwise prohibited by law, a civil action under this section may be brought in the district court of the United States for a judicial district in which Amtrak or the rail carrier resides or is found.

§ 24105. Authorization of appropriations

(a) Not more than the following amounts may be appropriated to the Secretary of Transportation for the benefit of Amtrak:

(1) $656,000,000 for the fiscal year ending September 30, 1990.

(2) $684,000,000 for the fiscal year ending September 30, 1991.

(3) $712,000,000 for the fiscal year ending September 30, 1992.

(b) Amounts appropriated under this section shall be paid to Amtrak under the budget request of the Secretary approved or changed by Congress when the amounts are appropriated. A payment may not be made more frequently than once every 90 days, unless Amtrak, for good cause, requests more frequent payment before a 90-day period ends.

(c)(1) Amounts appropriated under this section remain available until expended.

(2) Amounts for capital acquisitions and improvements may be appropriated in the fiscal year before the fiscal year in which the amounts will be obligated.

(d) Amounts appropriated under this section—

(1) for operating and capital expenses of intercity rail passenger transportation may not be used for commuter rail passenger transportation provided by Amtrak Commuter; and

(2) may not be used to subsidize operating losses of commuter rail passenger or rail freight transportation.

CHAPTER 243—AMTRAK

Sec.

24301. Status and applicable laws.
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24304. Capitalization.
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§ 24301. Status and applicable laws

(a)(1) Amtrak—

(A) is a rail carrier under section 10102 of this title;

(B) shall be operated and managed as a for-profit corporation; and

(C) is not a department, agency, or instrumentality of the United States Government.

(2) The principal office and place of business of Amtrak are in the District of Columbia.

(b)(1) Subtitle IV of this title applies to Amtrak, except for provisions related to the—

(A) regulation of rates;

(B) abandonment or extension of rail lines used only for passenger transportation and the abandonment or extension of operations over those lines;

(C) regulation of routes and service;

(D) discontinuance or change of rail passenger transportation operations; and

(E) issuance of securities or the assumption of an obligation or liability related to the securities of others.

(2) Notwithstanding this subsection—

(A) sections 10721-10724 of this title apply to Amtrak;

(B) in markets in which transportation provided by Amtrak is competitive with other carriers on fares and total trip times, the Administrator of General Services shall include Amtrak in the contract air program of the Administrator; and

(C) on application of an adversely affected motor carrier, the Interstate Commerce Commission under any provision of subtitle IV of this title applicable to a carrier subject to subchapter I of chapter 105 of this title

may hear a complaint about an unfair or predatory rate or marketing practice of Amtrak for a route or service operating at a loss.

(c) Laws and regulations governing safety, employee representation for collective bargaining purposes, the handling of disputes between carriers and employees, employee retirement, annuity, and unemployment systems, and other dealings with employees that apply to a common carrier subject to subchapter I of chapter 105 of this title apply to Amtrak.

(d) Section 552 of title 5, this part, and, to the extent consistent with this part, the District of Columbia Business Corporation Act (ch. 269, 68 Stat. 177) apply to Amtrak.

(e) The laws of the District of Columbia govern leases and contracts of Amtrak, regardless of where they are executed.

(f) A State or other law related to rates, routes, or service does not apply to Amtrak in connection with rail passenger transportation.

(g) A State or local law related to pay periods or days for payment of employees does not apply to Amtrak. Except when otherwise provided under a collective bargaining agreement, an employee of Amtrak shall be paid at least as frequently as the employee was paid on October 1, 1979.

(h) Prohibitions of law applicable to an agreement for the joint use or operation of facilities and equipment necessary to provide quick and efficient rail passenger transportation do not apply to a person making an agreement with Amtrak to the extent necessary to allow the person to make and carry out obligations under the agreement.

(i) Amtrak is qualified to do business in each State in which Amtrak carries out an activity authorized under this part. Amtrak shall accept service of process by certified mail addressed to the secretary of Amtrak at its principal office and place of business. Amtrak is a citizen only of the District of Columbia when deciding original jurisdiction of the district courts of the United States in a civil action.

(j)(1) In this subsection, "additional tax" means a tax or fee—

(A) on the acquisition, improvement, or ownership of personal property by Amtrak; and

(B) on real property, except a tax or fee on the acquisition of real property or on the value of real property not attributable to improvements made by Amtrak.

(2) Amtrak is not required to pay an additional tax because of an expenditure to acquire or improve real property, equipment, a facility, or right-of-way materials or structures used to provide rail passenger transportation.

(k)(1) Amtrak or a rail carrier subsidiary of Amtrak is exempt from a tax or fee imposed by a State, a political subdivision of a State, or a local taxing authority and levied on it after September 30, 1981. However, Amtrak is not exempt from a tax or fee that it was required to pay as of September 10, 1982.

(2) The district courts of the United States have original jurisdiction over a civil action Amtrak brings to enforce this subsection and may grant any equitable or declaratory relief Amtrak requests.

(l) Section 361 of the Public Health Service Act (42 U.S.C. 264) does not apply to waste disposal from rail carrier vehicles operated in intercity rail passenger transportation.

§ 24302. Board of directors

(a)(1) The board of directors of Amtrak is composed of the following 9 directors, each of whom must be a citizen of the United States:

(A) the Secretary of Transportation.

(B) the President of Amtrak.

(C) 3 individuals appointed by the President of the United States, by and with the advice and consent of the Senate, as follows:

(i) one individual selected from a list of 3 qualified individuals submitted by the Railway Labor Executives Association.

(ii) one chief executive officer of a State selected from among the chief executive officers of States with an interest in rail transportation. The chief executive officer may select an individual to act as the officer's representative at board meetings.

(iii) one individual selected as a representative of business with an interest in rail transportation.

(D) 2 individuals selected by the President of the United States from a list of names consisting of one individual nominated by each commuter authority for which Amtrak Commuter provides commuter rail passenger transportation under section 24505 of this title and one individual nominated by each commuter authority in the region (as defined in section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702)) that provides its own commuter rail passenger transportation or makes a contract with an operator (except Amtrak Commuter), except that—

(i) one of the individuals selected must have been nominated by a commuter authority for which Amtrak Commuter provides commuter rail transportation; or

(ii) if Amtrak Commuter does not provide commuter rail passenger transportation for any authority, the 2 individuals shall be selected from a list of 5 individuals submitted by commuter authorities providing transportation over rail property of Amtrak.

(E) 2 individuals selected by the holders of the preferred stock of Amtrak.

(2) An individual appointed under paragraph (1)(C) of this subsection serves for 4 years or until the individual's successor is appointed and qualified. Not more than 2 individuals appointed under paragraph (1)(C) may be members of the same political party.

(3) An individual selected under paragraph (1)(D) of this subsection serves for 2 years or until the individual's successor is selected.

(4) An individual selected under paragraph (1)(E) of this subsection serves for one year or until the individual's successor is selected.

(5) The President of Amtrak serves as Chairman of the board.

(6) The Secretary may be represented at a meeting of the board only by the Deputy Secretary of Transportation, the Administrator of the Federal Railroad Administration, or the General Counsel of the Department of Transportation.

(b) The articles of incorporation of Amtrak shall provide for cumulative voting for all stockholders.

(c) When serving on the board, a director appointed by the President of the United States may not have—

(1) a financial or employment relationship with a rail carrier; and

(2) a significant financial relationship or an employment relationship with a person competing with Amtrak in providing passenger transportation.

(d) Each director not employed by the United States Government is entitled to $300 a day when performing board duties and powers. Each director is entitled to reimbursement for necessary travel, reasonable secretarial and professional staff support, and subsistence expenses incurred in attending board meetings.

(e) A vacancy on the board is filled in the same way as the original selection, except that an individual appointed by the President of the United States under subsection (a)(1)(C) of this section to fill a vacancy occurring before the end of the term for which the predecessor of that individual was appointed is appointed for the remainder of that term. A vacancy required to be filled by appointment under subsection (a)(1)(C) must be filled not later than 120 days after the vacancy occurs.

(f) The board may adopt and change bylaws governing the operation of Amtrak. The bylaws shall be consistent with this part and the articles of incorporation.

§ 24303. Officers

(a) Amtrak has a President and other officers that are named and appointed by the board of directors of Amtrak. An officer of Amtrak must be a citizen of the United States. Officers of Amtrak serve at the pleasure of the board.

(b) The board may fix the pay of the officers of Amtrak. An officer may not be paid more than the general level of pay for officers of rail carriers with comparable responsibility.

(c) When employed by Amtrak, an officer may not have a financial or employment relationship with another rail carrier, except that holding securities issued by a rail carrier is not deemed to be a violation of this subsection if the officer holding the securities makes a complete public disclosure of the holdings and does not participate in any decision directly affecting the rail carrier.

§ 24304. Capitalization

(a) Amtrak may have outstanding one issue of common stock and one issue of preferred stock. Each type of stock is eligible for a dividend. The articles of incorporation of Amtrak shall provide that—

(1) each type of stock must be fully paid and nonassessable;

(2) common stock has a par value of $10 a share; and

(3) preferred stock has a par value of $100 a share.

(b)(1) A rail carrier or person controlling a rail carrier—

(A) may not hold preferred stock of Amtrak; and

(B) may vote not more than one-third of the total number of shares of outstanding common stock of Amtrak.

(2) Additional common stock owned by a rail carrier or person controlling a rail carrier is deemed to be not outstanding for voting and quorum purposes.

(c) The articles of incorporation of Amtrak shall provide that—

(1) its preferred stock has a cumulative dividend of at least 6 percent a year;

(2) if a dividend on the preferred stock is not declared and paid or set aside for payment, the deficiency shall be declared and paid or set aside for payment before a dividend or other distribution is made on its common stock;

(3) the preferred stock has a liquidation preference over the common stock entitling holders of preferred stock to receive a liquidation payment of at least par value plus all accrued unpaid dividends before a liquidation payment is made to holders of common stock; and

(4) the preferred stock may be converted to common stock.

(d)(1) Not later than 30 days after the close of each fiscal quarter, Amtrak shall issue to the Secretary of Transportation preferred stock equal, to the nearest whole share, to the amount paid to Amtrak under section 24105 of this title during the quarter.

(2) Preferred stock issued under this subsection or section 304(c)(1) of the Rail Passenger Service Act is deemed to be issued on the date Amtrak receives the amounts for which the stock is issued.

(e) A tax or fee applies to preferred stock issued under this section only if specifically prescribed by Congress.

(f) Amtrak may issue nonvoting certificates of indebtedness, except that an obligation with a liquidation interest superior to preferred stock issued to the Secretary or secured by a lien on property of Amtrak may be incurred when preferred stock issued to the Secretary is outstanding only if the Secretary consents.

(g) Stockholders of Amtrak have the rights of inspecting and copying set forth in section 45(b) of the District of Columbia Business Corporation Act (ch. 269, 68 Stat. 197) regardless of the amount of stock they hold.

§ 24305. General authority

(a)(1) Amtrak may acquire, operate, maintain, and make contracts for the operation of equipment and facilities necessary for intercity and commuter rail passenger transportation, the transportation of mail and express, and auto-ferry transportation.

(2) Amtrak shall operate and control directly, to the extent practicable, all aspects of the rail passenger transportation it provides.

(b) Amtrak may maintain and rehabilitate rail passenger equipment and shall maintain a regional maintenance plan that includes—

(1) a review panel at the principal office of Amtrak consisting of members the President of Amtrak designates;

(2) a systemwide inventory of spare equipment parts in each operational region;

(3) enough maintenance employees for cars and locomotives in each region;

(4) a systematic preventive maintenance program;

(5) periodic evaluations of maintenance costs, time lags, and parts shortages and corrective actions; and

(6) other elements or activities Amtrak considers appropriate.

(c) Amtrak may—

(1) make and carry out appropriate agreements;

(2) transport mail and express and shall use all feasible methods to obtain the bulk mail business of the United States Postal Service;

(3) improve its reservation system and advertising;

(4) provide food and beverage services on its trains only if revenues from the services each year at least equal the cost of providing the services;

(5) conduct research, development, and demonstration programs related to the mission of Amtrak; and

(6) buy or lease rail rolling stock and develop and demonstrate improved rolling stock.

(d)(1) Establishing through routes and joint fares between Amtrak and other intercity rail passenger carriers and motor carriers of passengers is consistent with the public interest and the transportation policy of the United States. Congress encourages establishing those routes and fares.

(2) Amtrak may establish through routes and joint fares with any domestic or international motor carrier, air carrier, or water carrier.

(e) Amtrak may employ rail police to provide security for rail passengers and property of Amtrak. Rail police employed by Amtrak who have complied with a State law establishing requirements applicable to rail police or individuals employed in a similar position may be employed without regard to the law of another State about those requirements.

(f)(1) In this subsection, "United States" means the States, territories, and possessions of the United States and the District of Columbia.

(2) Amtrak shall buy only—

(A) unmanufactured articles, materials, and supplies mined or produced in the United States; or

(B) manufactured articles, materials, and supplies manufactured in the United States substantially from articles, materials, and supplies mined, produced, or manufactured in the United States.

(3) Paragraph (2) of this subsection applies only when the cost of those articles, materials, or supplies bought is at least $1,000,000.

(4) On application of Amtrak, the Secretary of Transportation may exempt Amtrak from this subsection if the Secretary decides that—

(A) for particular articles, materials, or supplies—

(i) the requirements of paragraph (2) of this subsection are inconsistent with the public interest;

(ii) the cost of imposing those requirements is unreasonable; or

(iii) the articles, materials, or supplies, or the articles, materials, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and are not of a satisfactory quality; or

(B) rolling stock or power train equipment cannot be bought and delivered in the United States within a reasonable time.

§ 24306. Mail, express, and auto-ferry transportation

(a) Amtrak shall take necessary action to increase its revenues from the transportation of mail and express, and by providing auto-ferry transportation as part of the basic passenger transportation authorized by this part. When requested by Amtrak, a department, agency, or instrumentality of the United States Government shall assist in carrying out this section.

(b)(1) A person primarily providing auto-ferry transportation and any other person not a rail carrier also may provide auto-ferry transportation over any route under a certificate issued by the Interstate Commerce Commission if the Commission finds that the auto-ferry transportation—

(A) will not impair the ability of Amtrak to reduce its losses or increase its revenues; and

(B) is required to meet the public demand.

(2) A rail carrier that has not made a contract with Amtrak to provide rail passenger transportation may provide auto-ferry transportation over its own rail lines.

(3) State and local laws and regulations that impair the provision of auto-ferry transportation do not apply to Amtrak or a rail carrier providing auto-ferry transportation. A rail carrier may not refuse to participate with Amtrak in providing auto-ferry transportation because a State or local law or regulation makes the transportation unlawful.

§ 24307. Special transportation

(a) Amtrak shall maintain a reduced fare program for the following:

(1) individuals at least 65 years of age.

(2) individuals (except alcoholics and drug abusers) who—

(A) have a physical or mental impairment that substantially limits a major life activity of the individual;

(B) have a record of an impairment; or

(C) are regarded as having an impairment.

(b) Amtrak may act to ensure access to intercity transportation for elderly or handicapped individuals on passenger trains operated by or for Amtrak. That action may include—

(1) acquiring special equipment;

(2) conducting special training for employees;

(3) designing and acquiring new equipment and facilities;

(4) eliminating barriers in existing equipment and facilities to comply with the highest standards of design, construction, and alteration of property to accommodate elderly and handicapped individuals; and

(5) providing special assistance to elderly and handicapped individuals when getting on and off trains and in terminal areas.

(c)(1) In this subsection, "rail carrier employee" means—

(A) an active full-time employee of a rail carrier or terminal company and includes an employee on furlough or leave of absence;

(B) a retired employee of a rail carrier or terminal company; and

(C) a dependent of an employee referred to in clause (A) or (B) of this paragraph.

(2) Amtrak shall ensure that a rail carrier employee eligible for free or reduced-rate rail transportation on April 30, 1971, under an agreement in effect on that date is eligible, to the greatest extent practicable, for free or reduced-rate intercity rail passenger transportation provided by Amtrak under this part, if space is available, on terms similar to those available on that date under the agreement. However, Amtrak may apply to all rail carrier employees eligible to receive free or reduced-rate transportation under any agreement a single systemwide schedule of terms that Amtrak decides applied to a majority of employees on that date under all those agreements. Unless Amtrak and a rail carrier make a different agreement, the carrier shall reimburse Amtrak at the rate of 25 percent of the systemwide average monthly yield of each revenue passenger-mile. The reimbursement is in place of costs Amtrak incurs related to free or reduced-rate transportation, including liability related to travel of a rail carrier employee eligible for free or reduced-rate transportation.

(3) This subsection does not prohibit the Interstate Commerce Commission from ordering retroactive relief in a proceeding begun or reopened after October 1, 1981.

§ 24308. Facilities and service agreements

(a)(1) Amtrak may make an agreement with a rail carrier or regional transportation authority to use facilities of, and have services provided by, the carrier or authority under terms on which the parties agree. The terms shall include a penalty for untimely performance.

(2)(A) If the parties cannot agree, the Interstate Commerce Commission shall decide the dispute not later than 90 days after the dispute is submitted by Amtrak. If the Commission finds it necessary to carry out this part, the Commission shall—

(i) order that the facilities be made available and the services provided to Amtrak; and

(ii) prescribe reasonable terms and compensation for using the facilities and providing the services.

(B) When prescribing reasonable compensation under subparagraph (A) of this paragraph, the Commission shall consider quality of service as a major factor when determining whether, and the extent to which, the amount of compensation shall be greater than the incremental costs of using the facilities and providing the services.

(3) Amtrak's right to use the facilities or have the services provided is conditioned on payment of the compensation. If the compensation is not paid promptly, the rail carrier or authority entitled to it may bring an action against Amtrak to recover the amount owed.

(4) Amtrak shall seek immediate and appropriate legal remedies to enforce its contract rights when track maintenance on a route over which Amtrak operates falls below the contractual standard.

(b) To facilitate operation by Amtrak during an emergency, the Commission, on application by Amtrak, shall require a rail carrier to provide facilities immediately during the emergency. The Commission then shall promptly prescribe reasonable terms, including indemnification of the carrier by Amtrak against personal injury risk to which the carrier may be exposed. The rail carrier shall provide the facilities for the duration of the emergency.

(c) Except in an emergency, intercity and commuter rail passenger transportation provided by or for Amtrak has preference over freight transportation in using a rail line, junction, or crossing unless the Secretary of Transportation orders otherwise under this subsection. A rail carrier affected by this subsection may apply to the Secretary for relief. If the Secretary, after an opportunity for a proceeding under section 553 of title 5, decides that preference for intercity and commuter rail passenger transportation materially will lessen the quality of freight transportation provided to shippers, the Secretary shall establish the rights of the carrier and Amtrak on reasonable terms.

(d) If a rail carrier refuses to allow accelerated speeds on trains operated by or for Amtrak, Amtrak may apply to the Secretary for an order requiring the carrier to allow the accelerated speeds. The Secretary shall decide whether accelerated speeds are unsafe or impracticable and which improvements would be required to make accelerated speeds safe and practicable. After an opportunity for a proceeding, the Secretary shall establish the maximum allowable speeds of Amtrak trains on terms the Secretary decides are reasonable.

(e)(1) When a rail carrier does not agree to provide, or allow Amtrak to provide, for the operation of additional trains over a rail line of the carrier, Amtrak may apply to the Secretary for an order requiring the carrier to provide or allow for the operation of the requested trains. After an opportunity for a hearing on the record, the Secretary may order the carrier to provide or allow for the operation of the requested trains, not later than 60 days, on a schedule based on legally permissible operating times. However, if the Secretary decides not to hold a hearing, the Secretary, not later than 30 days after receiving the application, shall publish in the Federal Register the reasons for the decision not to hold the hearing.

(2) The Secertary shall consider—

(A) when making a decision under this subsection, whether the order will impair unreasonably freight transportation of the rail carrier, with the carrier having the burden of demonstrating that the additional trains will impair the freight transportation; and

(B) the statutory goal of Amtrak to implement schedules that attain a system-wide average speed of at least 60 miles an hour that can be adhered to with a high degree of reliability and passenger comfort when establishing a schedule under this subsection.

(3) Unless the parties have an agreement that establishes the compensation Amtrak will pay the carrier for additional trains provided under an order under this subsection, the Commission shall decide the dispute under subsection (a) of this section.

§ 24309. Retaining and maintaining facilities

(a) In this section—

(1) "facility" means a rail line, right of way, fixed equipment, facility, or real property related to a rail line, right of way, fixed equipment, or facility, including a signal system, passenger station and repair track, station building, platform, and related facility, including a water, fuel, steam, electric, and air line.

(2) downgrading a facility means reducing a track classification as specified in the Federal Railroad Administration track safety standards or changing a facility so that the time required for rail passenger transportation to be provided over the route on which a facility is located may be increased.

(b) A facility of a rail carrier or regional transportation authority that Amtrak used to provide rail passenger transportation on February 1, 1979, may be downgraded or disposed of only after approval by the Secretary of Transportation under this section.

(c)(1) A rail carrier intending to downgrade or dispose of a facility Amtrak currently is not using to provide transportation shall notify Amtrak of its intention. If, not later than 60 days after Amtrak receives the notice, Amtrak and the carrier do not agree to retain or maintain the facility or to convey an interest in the facility to Amtrak, the carrier may apply to the Secretary for approval to downgrade or dispose of the facility.

(2) After a rail carrier notifies Amtrak of its intention to downgrade or dispose of a facility, Amtrak shall survey population centers with rail passenger transportation facilities to assist in preparing a valid and timely analysis of the need for the facility and shall update the survey as appropriate. Amtrak also shall maintain a system for collecting information gathered in the survey. The system shall collect the information based on geographic regions and on whether the facility would be part of a short haul or long haul route. The survey should facilitate an analysis of—

(A) ridership potential by ascertaining existing and changing travel patterns that would provide maximum efficient rail passenger transportation;

(B) the quality of transportation of competitors or likely competitors;

(C) the likelihood of Amtrak offering transportation at a competitive fare;

(D) opportunities to target advertising and fares to potential classes of riders;

(E) economic characteristics of rail passenger transportation related to the facility and the extent to which the characteristics are consistent with sound economic principles of short haul or long haul rail transportation; and

(F) the feasibility of applying effective internal cost controls to the facility and route served by the facility to improve the ratio of passenger revenue to transportation expenses (excluding maintainance of tracks, structures, and equipment and depreciation).

(d)(1) If Amtrak does not object to an application not later than 30 days after it is submitted, the Secretary shall approve the application promptly.

(2) If Amtrak objects to an application, the Secretary shall decide by not later than 180 days after the objection those costs the rail carrier may avoid if it does not have to retain or maintain a facility in the condition Amtrak requests. If Amtrak does not agree by not later than 60 days after the decision to pay the carrier these avoidable costs, the Secretary shall approve the application. When deciding whether to pay a carrier the avoidable costs of retaining or maintaining a facility, Amtrak shall consider—

(A) the potential importance of restoring rail passenger transportation on the route on which the facility is located;

(B) the market potential of the route;

(C) the availability, adequacy, and energy efficiency of an alternate rail line or alternate mode of transportation to provide passenger transportation to or near the places that would be served by the route;

(D) the extent to which the major population centers would be served by the route;

(E) the extent to which providing transportation over the route would encourage the expansion of an intercity rail passenger system in the United States; and

(F) the possibility of increased ridership on a rail line that connects with the route.

(e) Downgrading or disposing of a facility under this section does not relieve a rail carrier from complying with its other common carrier or legal obligations related to the facility.

§ 24310. Assistance for upgrading facilities

(a)(1) Amtrak or the owner of a facility presenting a danger to the employees, passengers, or property of Amtrak may petition the Secretary of Transportation for assistance to the owner for relocation or other measures undertaken after December 31, 1977, to minimize or eliminate the danger.

(2) The Secretary shall recommend to Congress that Congress authorize amounts for the relocation or other measures if the Secretary decides that—

(A) the facility presents a danger of death or serious injury to an employee or passenger or of serious damage to that property; and

(B) the owner should not be expected to bear the cost of that relocation or other measures.

(b)(1) Amtrak, by itself or jointly with an owner or operator of a rail station Amtrak uses to provide rail passenger transportation, may apply to the Secretary for amounts that may be appropriated under paragraph (2) of this subsection to pay or reimburse expenses incurred after October 1, 1987, related to the station complying with an official notice received before October 1, 1987, from a State or local authority stating that the station violates or allegedly violates the building, construction, fire, electric, sanitation, mechanical, or plumbing code.

(2) Not more than $1,000,000, may be appropriated to the Secretary to carry out paragraph (1) of this subsection. Amounts

appropriated under this paragraph remain available until expended.

§ 24311. Acquiring interests in property by eminent domain

(a)(1) To the extent financial resources are available, Amtrak may acquire by eminent domain under subsection (b) of this section interests in property—

(A) necessary for intercity rail passenger transportation, except property of a rail carrier, a State, a political subdivision of a State, or a governmental authority; or

(B) requested by the Secretary of Transportation in carrying out the Secretary's duty to design and build an intermodal transportation terminal at Union Station in the District of Columbia if the Secretary assures Amtrak that the Secretary will reimburse Amtrak.

(2) Amtrak may exercise the power of eminent domain only if it cannot—

(A) acquire the interest in the property by contract; or

(B) agree with the owner on the purchase price for the interest.

(b)(1) A civil action to acquire an interest in property by eminent domain under subsection (a) of this section must be brought in the district court of the United States for the judicial district in which the property is located or, if a single piece of property is located in more than one judicial district, in any judicial district in which any piece of the property is located. An interest is condemned and taken by Amtrak for its use when a declaration of taking is filed under this subsection and an amount of money estimated in the declaration to be just compensation for the interest is deposited in the court. The declaration may be filed with the complaint in the action or at any time before judgment. The declaration must contain or be accompanied by—

(A) a statement of the public use for which the interest is taken;

(B) a description of the interest sufficient to identify it;

(C) a statement of the estate or interest in the property taken;

(D) a plan showing the interest taken; and

(E) a statement of the amount of money Amtrak estimates is just compensation for the interest.

(2) When the declaration is filed and the deposit is made under paragraph (1) of this subsection, title to the property vests in Amtrak in fee simple absolute or in the lesser estate or interest shown in the declaration, and the right to the money vests in the person entitled to the money. When the declaration is filed, the court may decide—

(A) the time by which, and the terms under which, possession of the property is given to Amtrak; and

(B) the disposition of outstanding charges related to the property.

(3) After a hearing, the court shall make a finding on the amount that is just compensation for the interest in the property and enter judgment awarding that amount and interest on it. The rate of interest is 6 percent a year and is computed on the amount of the award less the amount deposited in the court from the date of taking to the date of payment.

(4) On application of a party, the court may order immediate payment of any part of the amount deposited in the court for the compensation to be awarded. If the award is more than the amount received, the court shall enter judgment against Amtrak for the deficiency.

(c)(1) If Amtrak and a rail carrier cannot agree on a sale to Amtrak of an interest in property of a rail carrier necessary for intercity rail passenger transportation, Amtrak may apply to the Interstate Commerce Commission for an order establishing the need of Amtrak for the interest and requiring the carrier to convey the interest on reasonable terms, including just compensation. The need of Amtrak is deemed to be established, and the Commission, after holding an expedited proceeding and not later than 120 days after receiving the application, shall order the interest conveyed unless the Commission decides that—

(A) conveyance would impair significantly the ability of the carrier to carry out its obligations as a common carrier; and

(B) the obligations of Amtrak to provide modern, efficient, and economical rail passenger transportation can be met adequately by acquiring an interest in other property, either by sale or by exercising its right of eminent domain under subsection (a) of this section.

(2) If the amount of compensation is not determined by the date of the Commission's order, the order shall require, as part of the compensation, interest at 6 percent a year from the date prescribed for the conveyance until the compensation is paid.

§ 24312. Labor standards

(a)(1) Amtrak shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed under an agreement made under section 24308(a), 24701(a), or 24704(c)(2) of this title will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a-5). Amtrak may make such an agreement only after being assured that required labor standards will be maintained on the construction work. Health and safety standards prescribed by the Secretary under section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) apply to all construction work performed under such an agreement, except for construction work performed by a rail carrier.

(2) Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed to comply with the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a-5).

(b)(1) Amtrak may not contract out work normally performed by an employee in a bargaining unit covered by a contract between a labor organization and Amtrak or a rail carrier that provided intercity rail passenger transportation on October 30, 1970, if contracting out results in the layoff of an employee in the bargaining unit.

(2) This subsection does not apply to food and beverage services on trains of Amtrak.

§ 24313. Rail safety system program

In consultation with rail labor organizations, Amtrak shall maintain a rail safety system program for employees working on property owned by Amtrak. The program shall be a model for other rail carriers to use in developing safety programs. The program shall include—

(1) periodic analyses of accident information, including primary and secondary causes;

(2) periodic evaluations of the activities of the program, particularly specific steps taken in response to an accident;

(3) periodic reports on amounts spent for occupational health and safety activities of the program;

(4) periodic reports on reduced costs and personal injuries because of accident prevention activities of the program;

(5) periodic reports on direct accident costs, including claims related to accidents; and

(6) reports and evaluations of other information Amtrak considers appropriate.

§ 24314. Reports and audits

(a) Not later than February 15 of each year, Amtrak shall submit to Congress a report that—

(1) for each route on which Amtrak provided intercity rail passenger transportation during the prior fiscal year, includes information on—

(A) ridership;

(B) passenger-miles;

(C) the short-term avoidable profit or loss for each passenger-mile;

(D) the revenue-to-cost ratio;

(E) revenues;

(F) the United States Government subsidy;

(G) the non-Government subsidy; and

(H) on-time performance;

(2) provides relevant information about a decision to pay an officer of Amtrak more than the rate for level I of the Executive Schedule under section 5312 of title 5; and

(3) specifies—

(A) significant operational problems Amtrak identifies; and

(B) proposals by Amtrak to solve those problems.

(b)(1) Not later than February 15 of each year, Amtrak shall submit to the President and Congress a complete report of its operations, activities, and accomplishments, including a statement of revenues and expenditures for the prior fiscal year. The report—

(A) shall include a discussion and accounting of Amtrak's success in meeting the goal of section 24902(b) of this title; and

(B) may include recommendations for legislation, including the amount of financial assistance needed for operations and capital improvements, the method of computing the assistance, and the sources of the assistance.

(2) Amtrak may submit reports to the President and Congress at other times Amtrak considers desirable.

(c) The Secretary of Transportation shall prepare a report on the effectiveness of this part in meeting the requirements for a balanced transportation system in the United States. The report may include recommendations for legislation. The Secretary shall include this report as part of the annual report the Secretary submits under section 308(a) of this title.

(d) An independent certified or licensed public accountant shall audit the accounts of Amtrak each year. The audit shall be carried out at the place at which the accounts normally are kept and under generally accepted auditing standards. A report of the audit shall be included in the report required by subsection (a) of this section. The report of the audit shall state the scope of the audit and include—

(1) statements necessary to present fairly Amtrak's assets and liabilities and surplus or deficit;

(2) an analysis of the changes in the assets and liabilities and surplus or deficit during the year;

(3) a reasonably detailed statement of Amtrak's revenues and expenditures during the year;

(4) a statement of the sources and uses of money by Amtrak; and

(5) the auditor's opinion of those statements.

(e) The Comptroller General may conduct performance audits of the activities and transactions of Amtrak. Each audit shall be conducted at the place at which the Comptroller General decides and under generally accepted management principles. The Comptroller General may prescribe regulations governing the audit.

(f) Amtrak and, if required by the Comptroller General, a rail carrier with which Amtrak has made a contract for intercity rail passenger transportation shall make available for an audit under subsection (d) or (e) of this section all records and property of, or used by, Amtrak or the carrier that are necessary for the audit. Amtrak and the carrier shall provide facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. Amtrak and the carrier may keep all reports and property.

(g) The Comptroller General shall submit to Congress a report on each audit, giving comments and information necessary to inform Congress on the financial operations and condition of Amtrak and recommendations related to those operations and conditions. The report also shall specify any financial transaction or undertaking the Comptroller General considers is carried out without authority of law. When the Comptroller General submits a report to Congress, the Comptroller General shall submit a copy of it to the President, the Secretary, and Amtrak at the same time.

CHAPTER 245—AMTRAK COMMUTER

Sec.
24501. Status.
24502. Board of directors.
24503. Officers.
24504. General authority.
24505. Commuter rail passenger transportation.
24506. Certain duties and powers unaffected.

§ 24501. Status

(a) Amtrak Commuter—

(1) is a wholly-owned subsidiary of Amtrak;

(2) provides by contract commuter rail passenger transportation for a commuter authority with which Amtrak Commuter makes a contract to provide the transportation under this chapter;

(3) has no common carrier obligations to provide rail passenger or rail freight transportation; and

(4) is not a department, agency, or instrumentality of the United States Government.

(b) Chapter 105 of this title does not apply to Amtrak Commuter. However, laws and regulations governing safety, employee representation for collective bargaining purposes, the handling of disputes between carriers and employees, employee retirement, annuity, and unemployment systems, and other dealings with employees that apply to a rail carrier providing transportation subject to subchapter I of chapter 105 apply to Amtrak Commuter.

(c) This part and, to the extent consistent with this part, the District of Columbia Business Corporation Act (ch. 269, 68 Stat. 177) apply to Amtrak Commuter.

(d) A State or other law related to rates, routes, or service in connection with rail passenger transportation does not apply to Amtrak Commuter.

(e)(1) In this subsection, "additional tax" means a tax or fee—

(A) on the acquisition, improvement, or ownership of personal property by Amtrak Commuter; and

(B) on real property, except a tax or fee on the acquisition of real property or on the value of real property not attributable to improvements made by Amtrak Commuter.

(2) Amtrak Commuter is not required to pay an additional tax because of an expenditure to acquire or improve real property, equipment, a facility, or right-of-way materials or structures used to provide rail passenger transportation.

(f) A commuter authority with which Amtrak Commuter could have made a contract to provide commuter rail passenger transportation under this chapter but which decided to provide its own rail passenger transportation beginning on January 1, 1983, is exempt, effective October 1, 1981, from paying a tax or fee to the same extent Amtrak is exempt.

(g) An agreement under which financial support was provided on January 2, 1974, to a commuter authority to continue rail passenger transportation does not apply to Amtrak Commuter. However, Amtrak and the Consolidated Rail Corporation retain appropriate trackage rights over rail property owned or leased by the authority. Compensation for the rights shall be reasonable.

(h) Section 10 of the Clayton Act (15 U.S.C. 20) does not apply to a transaction between Amtrak Commuter and Amtrak.

§ 24502. Board of directors

(a) The board of directors of Amtrak Commuter is composed of the following directors:

(1) the President of Amtrak Commuter.

(2) one individual from the board of directors of Amtrak selected as a representative of commuter authorities that make contracts with Amtrak Commuter for the operation of commuter rail passenger transportation.

(3) 2 individuals selected by the board of directors of Amtrak.

(4) 2 individuals selected by commuter authorities for which Amtrak Commuter provides commuter rail transportation under this chapter. However, only one individual shall be selected under this clause if Amtrak Commuter provides the transportation for only one authority.

(b) Except as otherwise provided in this section, individuals shall serve for 2 years.

(c) The board shall select annually one of its members to serve as Chairman.

(d) Each director not employed by the United States Government is entitled to $300 a day when performing board duties and powers. Each director is entitled to reimbursement for necessary travel, reasonable secretarial and professional staff support, and subsistence expenses incurred in attending board meetings.

(e) A vacancy on the board is filled in the same way as the original selection.

(f) The board may adopt and change bylaws governing the operation of Amtrak Commuter. The bylaws shall be consistent with this part and the articles of incorporation.

§ 24503. Officers

(a) Amtrak Commuter has a President and other officers that are named and appointed by the board of directors of Amtrak Commuter. An officer of Amtrak Commuter must be a citizen of the United States. Officers of Amtrak Commuter serve at the pleasure of the board.

(b) The board may fix the pay of the officers of Amtrak Commuter. An officer may be paid not more than the general level of pay for officers of rail carriers with comparable responsibility.

(c) When employed by Amtrak Commuter, an officer may not have a financial or employment relationship with a rail carrier, except that holding securities issued by a rail carrier is not deemed to be a violation of this subsection if the officer holding the securities makes a complete public disclosure of the holdings and does not participate in any decision directly affecting the rail carrier.

§ 24504. General authority

(a) Amtrak Commuter may—

(1) acquire, operate, maintain, and make contracts for the operation of equipment and facilities necessary for commuter rail passenger transportation;

(2) conduct research and development related to the mission of Amtrak Commuter; and

(3) issue common stock to Amtrak.

(b) To the extent consistent with this part and with an agreement with a commuter authority, Amtrak Commuter shall operate and control all aspects of the commuter rail passenger transportation it provides.

(c) To the maximum extent practicable, Amtrak Commuter and Amtrak shall make an agreement that avoids duplicating employee functions and voluntarily establishes a consolidated work force.

§ 24505. Commuter rail passenger transportation

(a) Amtrak Commuter—

(1) shall provide commuter rail passenger transportation that the Consolidated Rail Corporation was obligated to provide on August 13, 1981, under section 303(b)(2) or 304(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(2), 744(e)); and

(2) may provide other commuter rail passenger transportation if the commuter authority for which the transportation will be provided offers to provide a commuter rail passenger transportation payment equal to the—

(A) avoidable costs of providing the transportation (including the avoidable cost of necessary capital improvements) and a reasonable return on the value; less

(B) revenue attributable to the transportation.

(b)(1) A commuter authority making an offer under subsection (a)(2) of this section shall—

(A) show that it has obtained access to all rail property necessary to provide the additional commuter rail passenger transportation; and

(B) make the offer according to regulations the Rail Services Planning Office prescribes under section 10362(b)(5)(A) and (6) of this title.

(2) The Office may revise the regulations when necessary to carry out this section.

(c) Additional employee requirements shall be met through existing seniority arrangements agreed to in the implementing agreement negotiated under section 508 of the Rail Passenger Service Act.

(d) Amtrak Commuter is not obligated to provide commuter rail passenger transportation if a commuter authority provides the transportation or makes a contract under which a person, except Amtrak Commuter, will provide the transportation. When appropriate, Amtrak Commuter shall give the authority or person access to the rail property needed to provide the transportation.

(e)(1) Amtrak Commuter may discontinue commuter rail passenger transportation provided under this section on 60 days' notice if—

(A) a commuter authority does not offer a commuter rail passenger transportation *payment under subsection (a)(2) of this section; or*

(B) a payment is not paid when due.

(2) The Office shall prescribe regulations on the necessary contents of the notice required under this subsection.

(f) Compensation by a commuter authority to Amtrak or Amtrak Commuter for rights-of-way related costs for transportation over property Amtrak owns shall be determined under a method the Interstate Commerce Commission establishes under section 1163 of the Omnibus Budget Reconciliation Act of 1981 (45 U.S.C. 1111) or to which the parties agree.

(g) All laws related to commuter rail passenger transportation apply to a commuter authority providing commuter rail passenger transportation under this section.

§ 24506. Certain duties and powers unaffected

This chapter does not affect a duty or power of the Consolidated Rail Corporation or its successor and any bi-state commuter authority under an agreement, lease, or contract under which property was conveyed to the Corporation under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.).

CHAPTER 247—AMTRAK ROUTE SYSTEM

Sec.
24701. Operation of basic system.
24702. Improving rail passenger transportation.
24703. Route and service criteria.
24704. Authority to expand the route system.
24705. Additional qualifying routes.
24706. Discontinuance of transportation.
24707. Cost and performance review.
24708. Special commuter transportation.
24709. International transportation.

§ 24701. Operation of basic system

(a) Amtrak shall provide intercity rail passenger transportation within the basic system unless the transportation is provided by—

(1) a rail carrier with which Amtrak did not make a contract under section 401(a) of the Rail Passenger Service Act; or

(2) a regional transportation authority under contract with Amtrak.

(b) Except as provided in section 24306 of this title, a person may provide intercity rail passenger transportation over a route over which Amtrak provides scheduled intercity rail passenger transportation under a contract under this section or section 401(a) of the Rail Passenger Service Act only with the consent of Amtrak.

§ 24702. Improving rail passenger transportation

(a) Amtrak shall continue to carry out its plan, submitted under section 305(f) of the Rail Passenger Service Act, to improve intercity rail passenger transportation provided in the basic system. The plan shall include—

(1) a zero-based assessment of all operating practices;

(2) changes to achieve the minimum use of employees consistent with safe operations and adequate tranbportation;

(3) a systematic program for achieving the greatest ratio of train size to passenger demand;

(4) a systematic program to reduce trip time in the basic system;

(5) establishing training programs to achieve on-time departures;

(6) establishing priorities for passenger trains over freight trains;

(7) adjusting the buying and pricing of food and beverages so that food and beverage services ultimately will be profitable;

(8) cooperative marketing opportunities between Amtrak and governmental authorities that have intercity rail passenger transportation; and

(9) cooperative marketing campaigns sponsored by Amtrak and the Secretary of Energy, the Administrator of the Federal Highway Administration, and the Administrator of the Environmental Protection Agency.

(b) Amtrak shall—

(1) identify any speed restriction a State or local government imposes on a train of Amtrak that Amtrak decides impedes Amtrak from achieving high-speed intercity rail passenger transportation; and

(2) consult with that State or local government—

(A) to evaluate alternatives to the speed restriction, considering the local safety hazard that is the basis for the restriction; and

(B) to consider changing or eliminating the restriction to allow safe operation at higher speeds.

(c) Amtrak shall begin or improve appropriate rail passenger transportation on a route between corridors that Amtrak decides is justified because it will increase ridership on trains of Amtrak on the route and in the connecting corridors.

§ 24703. Route and service criteria

(a) Route discontinuances and, except as provided in this part, route additions, shall comply with the route and service criteria.

(b)(1) Amtrak shall submit to Congress a draft of a change to the route and service criteria when Amtrak decides a change is appropriate. The change is effective at the end of the first period of 120 calendar days of continuous session of Congress after it is submitted unless there is enacted into law during the period a joint resolution stating Congress does not approve the change.

(2) In this subsection—

(A) a continuous session of Congress is broken only by an adjournment sine die; and

(B) the 120-day period does not include days on which either House is not in session because of adjournment of more than 3 days to a day certain.

(c) The route and service criteria do not apply to—

(1) increasing or, because of construction schedules or other temporary disruptive facts or seasonal fluctuations in ridership, decreasing the number of trains on an existing route or a part of an existing route or on a route on which additional trains are being tested;

(2) carrying out the recommendations developed under section 4 of the Amtrak Improvement Act of 1978;

(3) rerouting transportation between major population centers on an existing route; or

(4)(A) changing transportation under section 24707(a) of this title; and

(B) changing or discontinuing transportation under section 24707(b) of this title.

§ 24704. Authority to expand the route system

(a) Amtrak may undertake to provide rail passenger transportation between places served by a rail carrier filing a notice of discontinuance under section 10908 or 10909 of this title.

(b)(1) A State, a regional or local authority, or another person may apply to Amtrak and request Amtrak to provide rail passenger transportation or keep any part of a route, a train, or transportation that Amtrak intends to discontinue under section 24706(a) or (b) or 24707(a) or (b) of this title. An application shall—

(A) assure Amtrak that the State, authority, or person has sufficient resources to meet its share of the cost of the transportation for the time the transportation will be provided;

(B) contain a market analysis acceptable to Amtrak to ensure that there is adequate demand for the transportation; and

(C) commit the State, authority, or person to provide at least 45 percent of the short term avoidable loss of providing the transportation the first year the transportation is provided and at least 65 percent of the short term avoidable loss each of the following years, and 50 percent of associated capital costs each year the transportation is provided.

(2) An application submitted by more than one State shall be considered in the same way as an application submitted by one State, without it being necessary for each State to comply with paragraph (1) of this subsection.

(c)(1) Amtrak shall review each application submitted under subsection (b) of this section to decide whether—

(A) the application complies with subsection (b); and

(B) there is a reasonable probability that Amtrak can provide the transportation from available resources.

(2) Amtrak may make an agreement with the applicant under this section to begin or keep the transportation if Amtrak decides that the transportation can be provided with resources available to Amtrak. An agreement may be renewed for additional periods of not more than 2 years each.

(d) If more than one application is made for transportation consistent with the requirements of subsection (b) of this section, but all the transportation applied for cannot be provided with the available resources of Amtrak, the board of directors of Amtrak shall select the transportation that best serves the public interest and can be provided with the available resources of Amtrak.

(e)(1) Before increasing a fare applicable to transportation provided under subsection (c)(2) of this section by more than 5 percent during a 6-month period, Amtrak shall consult with officials of each State affected by the increase and explain why the increase is necessary.

(2) Except as provided in paragraph (3) of this subsection, a fare increase described in paragraph (1) of this subsection takes effect 90 days after Amtrak first consults with the affected States. However, not later than 30 days after the first consultation, a State may submit proposals to Amtrak for reducing costs and increasing revenues of the transportation. Amtrak shall consider the proposals in deciding how much of the proposed increase shall go into effect.

(3)(A) Amtrak may increase a fare without regard to the restrictions of this subsection during—

(i) the first month of a fiscal year if the authorization of appropriations and the appropriations for Amtrak are not enacted at least 90 days before the beginning of the fiscal year; or

(ii) the 30 days following enactment of an appropriation for Amtrak or a rescission of an appropriation.

(B) Amtrak shall notify each affected State of an increase under subparagraph (A) of this paragraph as soon as possible after Amtrak decides to increase a fare.

(f) After consulting with officials of each State contributing to providing transportation under subsection (c)(2) of this section, the board shall establish the basis for determining short term avoidable loss and associated capital costs of, and revenues from, the transportation. Amtrak shall give State officials the basis for determining the loss, cost, and revenue for each route on which transportation is provided under subsection (c)(2).

(g) Amounts provided by Amtrak under an agreement with an applicant under subsection (c)(2) of this section that are allocated for associated capital costs remain available until expended.

(h) At least 2 percent but not more than 5 percent of the revenue generated by transportation provided under subsection (c)(2) of this section shall be used for advertising and promotion at the local level.

§ 24705. Additional qualifying routes

(a)(1) To maintain a national intercity rail passenger system in the United States and if a reduction in operating expenses can be achieved, Amtrak shall provide rail passenger transportation over each route the Secretary of Transportation recommended be discontinued under section 4 of the Amtrak Improvement Act of 1978 and may restructure a route to serve a major population center as an ending place or principal intermediate place. Transportation over a long distance route shall be maintained if the Amtrak estimate for the fiscal year ending September 30, 1980, was that the short term avoidable loss for each passenger-mile on the route was not more than 7 cents. Transportation over a short distance route shall be maintained if the Amtrak estimate for the fiscal year ending September 30, 1980, was that the short term avoidable loss for each passenger-mile on the route was not more than 9 cents.

(2) For all routes, Amtrak shall calculate short term avoidable loss for each passenger-mile based on consistently defined factors. Calculations shall be based on the most recent available statistics for a 90-day period, except that Amtrak may use historical information adjusted to reflect the most recent available statistics.

(b) Notwithstanding this part, Amtrak may provide short haul trains on additional routes totaling not more than 200 miles that link at least 2 major metropolitan areas—

(1) on a demonstration basis to establish the feasibility and benefits of the transportation; and

(2) to the extent available resources allow.

(c)(1) To provide equivalent or improved transportation consistent with the goals of section 4(a) of the Amtrak Improvement Act of 1978, Amtrak may defer carrying out a recommendation of the Secretary under section 4 of the Act that requires providing transportation over a rail line not used in intercity rail passenger transportation on May 24, 1979, requires using a new facility, or requires making a new labor agreement, until any necessary capital improvements are made in the line or facility or the agreement is made.

(2) Notwithstanding another law and the route and service criteria, during the period a decision of the Secretary under section 4 of the Amtrak Improvement Act of 1978 is deferred, Amtrak shall provide substitute transportation over existing routes recommended for restructuring and over other existing feasible routes. Except for transportation concentrating on commuter ridership over a short haul route, transportation provided under this paragraph may be provided only if the route complies with subsection (a) of this section, adjusted to reflect constant 1979 dollars.

§ 24706. Discontinuance of transportation

(a)(1) Except as provided in subsection (b) of this section, at least 90 days before transportation is discontinued under section 24704(c) or 24707(a) or (b) of this title, Amtrak shall give notice of the discontinuance in the way Amtrak decides will give a State, a regional or local authority, or another person the opportunity to agree to share the cost of any part of the train, route, or transportation to be discontinued.

(2) Notice of the discontinuance of transportation under section 24704(c) or 24707(a) or (b) of this title shall be posted in all stations served by the train to be discontinued at least 14 days before the discontinuance.

(b)(1) Amtrak may discontinue transportation under section 24704(c) or 24707(a) or (b) of this title during—

(A) the first month of a fiscal year if the authorization of appropriations and the appropriations for Amtrak are not enacted at least 90 days before the beginning of the fiscal year; and

(B) the 30 days following enactment of an appropriation for Amtrak or a rescission of an appropriation.

(2) Amtrak shall notify each affected State or regional or local transportation authority of a discontinuance under this subsection as soon as possible after Amtrak decides to discontinue the transportation.

(c)(1) In this subsection, "discontinuance of intercity rail passenger transportation" includes—

(A) a discontinuance of services provided by a rail carrier under a facility or service agreement under section 24308(a) of this title because of a change in or ending of the agreement or because Amtrak begins providing the services; and

(B) an adjustment in frequency, or seasonal suspension of intercity rail passenger trains that causes a temporary suspension of transportation, only if the adjustment or suspension reduces passenger train operations on a particular route to fewer than 3 round trips a week at any time during a calendar year.

(2) Amtrak or a rail carrier shall provide fair and equitable arrangements to protect the interests of employees, including employees of a terminal company, affected by a discontinuance of intercity rail passenger transportation. Arrangements shall include—

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;

(B) the continuation of collective bargaining rights;

(C) the protection of employees against a worsening of their positions related to employment;

(D) assurances of priority of reemployment of employees whose employment is ended or who are laid off; and

(E) paid training and retraining programs.

(3) Arrangements under this subsection shall provide benefits at least equal to benefits established under section 11347 of this title.

(4) A contract under this chapter shall specify the terms of protective arrangements.

(5) This subsection does not impose on Amtrak an obligation of a rail carrier related to a right, privilege, or benefit earned by an employee because of previous service performed for the carrier.

(6) This subsection does not apply to Amtrak Commuter.

§ 24707. Cost and performance review

(a) Amtrak shall review annually each route in the basic system to decide if the route meets the long distance or short distance route criterion, as appropriate, under section 24705(a)(1) of this title, adjusted to reflect constant 1979 dollars. The review shall include an evaluation of the potential market demand for, and the cost of providing transportation on, a part of the route and an alternative route. Amtrak shall submit the results of the review to the House of Representatives, the Senate, and the Secretary of Transportation. If Amtrak decides that a route will not meet the criterion under section 24705(a)(1), as adjusted, Amtrak shall change or discontinue rail passenger transportation on the route so that it will meet the criterion.

(b) Not later than 30 days after the beginning of each fiscal year, Amtrak shall evaluate the financial requirements for operating the basic system and the progress in achieving the system-wide performance standards prescribed under this part during the fiscal year. If Amtrak decides amounts available for the fiscal year are not enough to meet estimated operating costs, or if Amtrak estimates it cannot meet the performance standards, Amtrak shall act to reduce costs and improve performance. Action under this subsection shall be designed to continue the maximum level of transportation practicable, including—

(1) changing the frequency of transportation;

(2) increasing fares;

(3) reducing the cost of sleeper car and dining car service on certain routes;

(4) increasing the passenger capacity of cars used on certain routes; and

(5) adjusting the route system or discontinuing transportation over routes, considering short term avoidable loss and the number of passengers served on those routes.

(c) Annual costs of Amtrak may not be more than amounts, including grants made under section 24105 of this title, contributions of States, regional and local authorities, and other persons, and revenues, available to Amtrak in the fiscal year. Amtrak annually shall set a goal of recovering an amount so that its revenues, including contributions, is at least 61 percent of its costs, except capital costs.

(d) To assess the operational performance of trains, the President of Amtrak may direct the conductor on any train of Amtrak to report to Amtrak any inadequacy of train operation. The report shall be signed by the conductor, contain sufficient information to locate equipment or personnel failures, and be submitted promptly to Amtrak.

§ 24708. Special commuter transportation

Amtrak shall continue to provide rail passenger transportation provided under section 403(d) of the Rail Passenger Service Act before October 1, 1981, if, after considering estimated fare increases and State and local contributions to the transportation, the transportation meets the short distance route criterion under section 24705(a)(1) of this title, as adjusted. Transportation continued under this section shall be financed consistent with the method of financing in effect on September 30, 1981. If the transportation is not estimated to meet the criterion, as adjusted, Amtrak may change or discontinue the transportation so that the criterion is met.

§ 24709. International transportation

Amtrak may develop and operate international intercity rail passenger transportation between the United States and Canada and between the United States and Mexico. The Secretary of the Treasury and the Attorney General, in cooperation with Amtrak, shall maintain, consistent with the effective enforcement of the immigration and customs laws, en route customs inspection and immigration procedures for international intercity rail passenger transportation that will—

(1) be convenient for passengers; and

(2) result in the quickest possible international intercity rail passenger transportation.

CHAPTER 249—NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

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§ 24901. Definitions

In this chapter—

(1) "final system plan" means the final system plan (including additions) adopted by the United States Railway Association under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.).

(2) "Northeast Corridor" means Connecticut, Delaware, the District of Columbia, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island.

(3) "rail carrier" means an express carrier and a rail carrier as defined in section 10102 of this title, including Amtrak.

§ 24902. Goals and requirements

(a) To the extent of amounts appropriated under section 24907 of this title, Amtrak shall carry out a Northeast Corridor improvement program to achieve the following goals:

(1) establish not later than September 30, 1985, regularly scheduled and dependable intercity rail passenger transportation between—

(A) Boston, Massachusetts, and New York, New York, in not more than 3 hours and 40 minutes, including intermediate stops; and

(B) New York, New York, and the District of Columbia, in not more than 2 hours and 40 minutes, including intermediate stops;

(2) improve facilities, under route criteria approved by Congress, on routes to Harrisburg, Pennsylvania, Albany, New York, and Atlantic City, New Jersey, from the Northeast Corridor main line, and to Boston, Massachusetts, and New Haven, Connecticut, from Springfield, Massachusetts, to make those facilities more compatible with improved high-speed transportation provided on the Northeast Corridor main line;

(3) improve nonoperational parts of stations, related facilities, and fencing used in intercity rail passenger transportation;

(4) facilitate improvements in, and usage of, commuter rail passenger, rail rapid transit, and local public transportation, to the extent compatible with clauses (1)-(3) of this subsection and subsections (f) and (h) of this section;

(5) maintain and improve rail freight transportation in or adjacent to the Northeast Corridor and through-freight transportation in the Northeast Corridor, to the extent compatible with clauses (1)-(4) of this subsection and subsections (f) and (h) of this section;

(6) continue and improve passenger radio mobile telephone service on high-speed rail passenger transportation between Boston, Massachusetts, and the District of Columbia, to the extent compatible with clauses (1)-(3) of this subsection and subsections (f) and (h) of this section; and

(7) eliminate to the maximum extent practicable congestion in rail freight and rail passenger transportation at the Baltimore and Potomac Tunnel in Baltimore, Maryland, by rehabilitating and improving the tunnel and the rail lines approaching the tunnel.

(b) Amtrak shall manage its operating costs, pricing policies, and other factors with the goal of having revenues derived each fiscal year from providing intercity rail passenger transportation over the Northeast Corridor route between the District of Columbia and Boston, Massachusetts, equal at least the operating costs of providing that transportation in that fiscal year.

(c)(1) Fifty percent of the cost of improvements under subsection (a)(3) of this section shall be paid by a State, local or regional transportation authority, or other responsible party. However, Amtrak may finance entirely a safety-related improvement.

(2) When a part of the cost of improvements under subsection (a)(3) of this section will be paid by a responsible party under paragraph (1) of this subsection, Amtrak may make an agreement with the party under which Amtrak—

(A) shall carry out the improvements with amounts appropriated under section 24907 of this title and the party shall reimburse Amtrak; and

(B) to the extent provided in an appropriation law, may incur obligations for contracts to carry out the improvements in anticipation of reimbursement.

(3) Amounts reimbursed to Amtrak under paragraph (2) of this subsection shall be credited to the appropriation originally charged for the cost of the improvements and are available for further obligation.

(d) The President and departments, agencies, and instrumentalities of the United States Government shall assist Amtrak under subsection (a)(6) of this section, subject to the Communications Act of 1934 (47 U.S.C. 151 et seq.), and radio services standards, when the Federal Communications Commission decides the assistance is in the public interest, convenience, and necessity.

(e) When selecting and scheduling specific projects, Amtrak shall apply the following considerations, in the following order of priority:

(1) Safety-related items should be completed before other items because the safety of the passengers and users of the Northeast Corridor is paramount.

(2) Activities that benefit the greatest number of passengers should be completed before activities involving fewer passengers.

(3) Reliability of intercity rail passenger transportation must be emphasized.

(4) Trip-time requirements of this section must be achieved to the extent compatible with the priorities referred to in paragraphs (1)-(3) of this subsection.

(5) Improvements that will pay for the investment by achieving lower operating or maintenance costs should be carried out before other improvements.

(6) Construction operations should be scheduled so that the fewest possible passengers are inconvenienced, transportation is maintained, and the on-time performance of Northeast Corridor commuter rail passenger and rail freight transportation is optimized.

(7) Planning should focus on completing activities that will provide immediate benefits to users of the Northeast Corridor.

(f) Improvements under this section shall be compatible with future improvements in transportation and shall produce the maximum labor benefit from hiring individuals presently unemployed.

(g) A train operating on the Northeast Corridor main line or between the main line and Atlantic City shall be equipped with an automatic train control system designed to slow or stop the train in response to an external signal.

(h) If practicable, Amtrak shall establish intercity rail passenger transportation in the Northeast Corridor that carries out section 703(1)(E) of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210, 90 Stat. 121).

(i) Amtrak shall develop economical and reliable equipment compatible with track, operating, and marketing characteristics of the Northeast Corridor, including the capability to meet reliable trip times under section 703(1)(E) of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210, 90 Stat. 121) in regularly scheduled revenue transportation in the Corridor, when the Northeast Corridor improvement program is completed. Amtrak must decide that equipment complies with this subsection before buying equipment with financial assistance of the Government. Amtrak shall submit a request for an authorization of appropriations for production of the equipment.

(j)(1) Amtrak may make an agreement with a rail freight carrier or a regional transportation authority under which the carrier will carry out an alternate off-corridor routing of rail freight transportation over rail lines in the Northeast Corridor between the District of Columbia and New York metropolitan areas, including intermediate points. The agreement shall be for at least 5 years.

(2) Amtrak shall apply to the Interstate Commerce Commission for approval of the agreement and all related agreements accompanying the application as soon as the agreement is made. If the Commission finds that approval is necessary to carry out this chapter, the Commission shall approve the application and related agreements not later than 90 days after receiving the application.

(3) If an agreement is not made under paragraph (1) of this subsection, Amtrak, with the consent of the other parties, may apply to the Interstate Commerce Commission. Not later than 90 days after the application, the Commission shall decide on the terms of an agreement if it decides that doing so is necessary to carry out this chapter. The decision of the Commission is binding on the other parties.

(k) Amtrak shall give the highest priority to completing the program.

§ 24903. General authority

(a) To carry out this part and the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.), Amtrak may—

(1) acquire, maintain, and dispose of any interest in property used to provide improved high-speed rail transportation under section 24902 of this title;

(2) provide for rail freight, intercity rail passenger, and commuter rail passenger transportation over property acquired under this section;

(3) improve rail rights of way between Boston, Massachusetts, and the District of Columbia (including the route through Springfield, Massachusetts, and routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor main line) to achieve the goals of section 24902 of this title of providing improved high-speed rail passenger transportation between Boston, Massachusetts, and the District of Columbia, and intermediate intercity markets;

(4) acquire, build, improve, and install passenger stations, communications and electric power facilities and equipment, public and private highway and pedestrian crossings, and other facilities and equipment necessary to provide improved high-speed rail passenger transportation over rights of way improved under clause (3) of this subsection;

(5) make agreements with other carriers and commuter authorities to grant, acquire, or make arrangements for rail freight or commuter rail passenger transportation over rights of way and facilities acquired under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.);

(6) appoint a general manager of the Northeast Corridor improvement program; and

(7) make agreements with telecommunications common carriers, subject to the Communications Act of 1934 (47 U.S.C. 151 et seq.), to continue existing, and establish new and improved, passenger radio mobile telephone service in the high-speed rail passenger transportation area specified in section 24902(a)(1) and (2) of this title.

(b) Rail freight and commuter rail passenger transportation provided under subsection (a)(2) of this section shall be provided under compensatory agreements with the responsible carriers.

(c)(1) An agreement under subsection (a)(5) of this section shall provide for reasonable reimbursement of costs but may not cross-subsidize intercity rail passenger, commuter rail passenger, and rail freight transportation.

(2) If the parties do not agree, the Interstate Commerce Commission shall order that the transportation continue over facilities acquired under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.) and shall determine compensation (without allowing cross-subsidization between intercity rail passenger and rail freight transportation) for the transportation not later than 120 days after the dispute is submitted. The Commission shall assign to a rail freight carrier obtaining transportation under this subsection the costs Amtrak incurs only for the benefit of the carrier, plus a proportionate share of all other costs of providing transportation under this paragraph incurred for the common benefit of Amtrak and the carrier. The proportionate share shall be based on relative measures of volume of car operations, tonnage, or other factors that reasonably reflect the relative use of rail property covered by this subsection.

(3) This subsection does not prevent the parties from making an agreement under subsection (a)(5) of this section after the Commission makes a decision under this subsection.

§ 24904. Northeast Corridor Coordination Board

(a) The Northeast Corridor Coordination Board consists of the following members:

(1) one individual from each commuter authority (as defined in section 1135(a)(3) of the Omnibus Budget Reconciliation Act of 1981 (45 U.S.C. 1104(3))) that provides or makes a contract to provide commuter rail passenger transportation over the main line of the Northeast Corridor.

(2) 2 individuals selected by Amtrak.

(3) one individual selected by the Consolidated Rail Corporation.

(b) The Board shall recommend to Amtrak—

(1) policies that ensure equitable access to the Northeast Corridor, considering the need for equitable access by commuter and intercity rail passenger transportation and the requirements of section 24308(c) of this title; and

(2) equitable policies for the Northeast Corridor related to—

(A) dispatching;

(B) public information;

(C) maintaining equipment and facilities;

(D) major capital facility investments; and

(E) harmonizing equipment acquisitions, rates, and schedules.

(c) The Board may recommend to the board of directors and President of Amtrak action necessary to resolve differences on providing transportation, except for facilities and transportation matters under section 24308(a) or 24903(a)(5) and (c) of this title.

§ 24905. Note and mortgage

(a) To secure amounts expended by the United States Government to acquire and improve rail property designated under section 206(c)(1)(C) and (D) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(C) and (D)), the Secretary of Transportation may obtain a note of indebtedness from, and make a mortgage agreement with, Amtrak to establish a mortgage lien on the property for the Government. The note and mortgage may not supersede section 24903 of this title.

(b) The note and agreement under subsection (a) of this section, and a transaction related to the note or agreement, are exempt from any United States, State, or local law or regulation that regulates securities or the issuance of securities. The note, agreement, or transaction under this section has the same immunities from other laws that section 601 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791) gives to transactions that comply with or carry out the final system plan. The transfer of rail property because of the note, agreement, or transaction has the same exemptions, privileges, and immunities that the Act (45 U.S.C. 701 et seq.) gives to a transfer ordered or approved by the special court under section 303(b) of the Act (45 U.S.C. 743(b)).

(c) Amtrak, its board of directors, and its individual directors are not liable because Amtrak has given or issued the note or agreement to the Government under subsection (a) of this section. Immunity granted under this subsection also applies to a transaction related to the note or agreement. The Government shall indemnify Amtrak, its board, and individual directors against costs and expenses actually and reasonably incurred in defending a civil action testing the validity of the note, agreement, or transaction.

§ 24906. Taxation

A transfer of an interest in rail property under this chapter is exempt from a tax or levy related to the transfer that is imposed by the United States Government, a State, or a political subdivision of a State. On payment of the appropriate and generally applicable charge for the service performed, a transferee or transferor may record an instrument and, consistent with the final system plan, the release or removal of a preexisting lien or encumbrance of record related to the interest transferred.

§ 24907. Authorization of appropriations

(a)(1) Not more than $2,313,000,000 may be appropriated to the Secretary of Transportation to achieve the goals of section 24902(a)(1) of this title. From this amount, the following amounts shall be expended by Amtrak:

(A) at least $27,000,000 for equipment modification and replacement that a State or a local or regional transportation authority must bear because of the electrification conversion system of the Northeast Corridor under this chapter.

(B) $30,000,000—

(i) to improve the main line track between the main line and Atlantic City to ensure that the track, consistent with a plan New Jersey developed in consultation with Amtrak to provide rail passenger transportation between the Northeast Corridor main line and Atlantic City, New Jersey, would be of sufficient quality to allow safe rail passenger transportation at a minimum of 79 miles an hour not later than September 30, 1985; and

(ii) to promote rail pasenger use of the track.

(C) necessary amounts to—

(i) develop Union Station in the District of Columbia;

(ii) install 189 track-miles, and renew 133 track-miles, of concrete ties with continuously welded rail between the District of Columbia and New York, New York;

(iii) install reverse signaling between Philadelphia, Pennsylvania, and Morrisville, Pennsylvania, on numbers 2 and 3 track;

(iv) restore ditch drainage in concrete tie locations between the District of Columbia and New York, New York;

(v) undercut 83 track-miles between the District of Columbia and New York, New York;

(vi) rehabilitate bridges between the District of Columbia and New York, New York (including Hi line);

(vii) develop a maintenance of way equipment repair facility between the District of Columbia and New York, New York, and build maintenance of way bases at Philadelphia, Pennsylvania, Sunnyside, New York, and Cedar Hill, Connecticut;

(viii) stabilize the roadbed between the District of Columbia and New York, New York;

(ix) automate the Bush River Drawbridge at milepost 72.14;

(x) improve the New York Service Facility to develop rolling stock repair capability;

(xi) install a rail car washer facility at Philadelphia, Pennsylvania;

(xii) restore storage tracks and buildings at the Washington Service Facility;

(xiii) install centralized traffic control from Landlith, Delaware, to Philadelphia, Pennsylvania;

(xiv) improve track, including high speed surfacing, ballast cleaning, and associated equipment repair and material distribution;

(xv) rehabilitate interlockings between the District of Columbia and New York, New York;

(xvi) paint the Connecticut River, Groton, and Pelham Bay bridges;

(xvii) provide additional catenary renewal and power supply upgrading between the District of Columbia and New York, New York;

(xviii) rehabilitate structural, electrical, and mechanical systems at the 30th Street Station in Philadelphia, Pennsylvania;

(xix) install evacuation and fire protection facilities in tunnels in New York, New York;

(xx) improve the communication and signal systems between Wilmington, Delaware, and Boston, Massachuesetts, on the Northeast Corridor main line, and between Philadelphia, Pennsylvania, and Harrisburg, Pennsylvania, on the Harrisburg Line;

(xxi) improve the electric traction systems between Wilmington, Delaware, and Newark, New Jersey;

(xxii) install baggage rack restraints, seat back guards, and seat lock devices on 348 passenger cars operating in the Northeast Corridor;

(xxiii) install 44 event recorders and 10 electronic warning devices on locomotives operating within the Northeast Corridor; and

(xxiv) acquire cab signal test boxes and install 9 wayside loop code transmitters for use within the Northeast Corridor.

(2) The following additional amounts may be appropriated to the Secretary for expenditure by Amtrak:

(A) not more than $150,000,000 to achieve the goal of section 24902(a)(3) of this title.

(B) not more than $120,000,000 to acquire interests in property in the Northeast Corridor.

(C) not more than $650,000 to develop and use mobile radio frequencies for passenger radio mobile telephone service on high-speed rail passenger transportation.

(D) not more than $20,000,000 to acquire and improve interests in rail property designated under section 206(c)(1)(D) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(D)).

(E) not more than $37,000,000 to carry out section 24902(a)(7) and (j) of this title.

(b) Not more than $25,000,000 of the amount appropriated under the Act of February 28, 1975 (Public Law 94-6, 89 Stat. 11), may be used by Amtrak for emergency maintenance on rail property designated under section 206(c)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716 (c)(1)(C)).

(c)(1) The Secretary shall coordinate—

(A) transportation programs related to the Northeast Corridor to ensure that the programs are integrated and consistent with the Northeast Corridor improvement program; and

(B) amounts from departments, agencies, and instrumentalities of the United States Government to achieve urban redevelopment and revitalization in the vicinity of urban rail stations in the Northeast Corridor served by intercity and commuter rail passenger transportation.

(2) If the Secretary finds significant noncompliance with section 24902 of this title, the Secretary may deny financing to a noncomplying program until the noncompliance is corrected.

(d) Amounts appropriated under subsection (a)(2)(B) and (D) of this section shall be used first to repay, with interest, obligations guaranteed under section 24103 of this title, if the proceeds of those obligations were used to pay the expenses of acquiring interests in property referred to in subsection (a)(2)(B) and (D).

(e) Amounts appropriated under this section may not be used to subsidize operating losses of commuter rail or rail freight transportation.

(f)(1) A project for which amounts are authorized under subsection (a)(1)(C) of this section is a part of the Northeast Corridor improvement program and is not a substitute for improvements specified in the document "Corridor Master Plan II, NECIP Restructured Program" of January, 1982. However, Amtrak may defer the project to carry out the improvement and rehabilitation for which amounts are authorized under subsection (a)(1)(B) of this section. The total cost of the project that Amtrak defers may not be substantially more than the amount Amtrak is required to expend or reserve under subsection (a)(1)(B).

(2) Section 24902 of this title is deemed not to be fulfilled until the projects under subsection (a)(1)(C) of this section are completed.

(g) Amounts appropriated under subsection (a)(1) and (2)(A) and (C)-(E) of this section remain available until expended.

(h) An amount greater than that authorized for a fiscal year may be appropriated to the extent that the amount appropriated for any prior fiscal year is less than the amount authorized for that year.

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PART A—GENERAL

CHAPTER 301—MOTOR VEHICLE SAFETY

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SUBCHAPTER I—GENERAL

§ 30101. Purpose and policy

The purpose of this chapter is to reduce traffic accidents and deaths and injuries resulting from traffic accidents. Therefore it is necessary to—

(1) prescribe motor vehicle safety standards for motor vehicles and motor vehicle equipment in interstate commerce; and

(2) carry out needed safety research and development.

§ 30102. Definitions

(a) In this chapter—

(1) "dealer" means a person selling and distributing new motor vehicles or motor vehicle equipment primarily to purchasers that in good faith purchase the vehicles or equipment other than for resale.

(2) "defect" includes any defect in performance, construction, a component, or material of a motor vehicle or motor vehicle equipment.

(3) "distributor" means a person primarily selling and distributing motor vehicles or motor vehicle equipment for resale.

(4) "interstate commerce" means commerce between a place in a State and a place in another State or between places in the same State through another State.

(5) "manufacturer" means a person—

(A) manufacturing or assembling motor vehicles or motor vehicle equipment; or

(B) importing motor vehicles or motor vehicle equipment for resale.

(6) "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

(7) "motor vehicle equipment" means—

(A) any system, part, or component of a motor vehicle as originally manufactured;

(B) any similar part or component manufactured or sold for replacement or improvement of a system, part, or component, or as an accessory or addition to a motor vehicle; or

(C) any device or an article or apparel (except medicine or eyeglasses prescribed by

a licensed practitioner) that is not a system, part, or component of a motor vehicle and is manufactured, sold, delivered, offered, or intended to be used only to safeguard motor vehicles and highway users against risk of accident, injury, or death.

(8) "motor vehicle safety" means the performance of a motor vehicle or motor vehicle equipment in a way that protects the public against unreasonable risk of accidents occurring because of the design, construction, or performance of a motor vehicle, and against unreasonable risk of death or injury in an accident, and includes nonoperational safety of a motor vehicle.

(9) "motor vehicle safety standard" means a minimum standard for motor vehicle or motor vehicle equipment performance.

(10) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

(11) "United States district court" means a district court of the United States, a United States court for Guam, the Virgin Islands, and American Samoa, and the district court for the Northern Mariana Islands.

(b)(1) In sections 30116(b), 30117-30120, 30166(f), and 30167(a) and (b) of this title—

(A) "adequate repair" does not include repair resulting in substantially impaired operation of a motor vehicle or motor vehicle equipment;

(B) "first purchaser" means the first purchaser of a motor vehicle or motor vehicle equipment other than for resale;

(C) "original equipment" means motor vehicle equipment (including a tire) installed in or on a motor vehicle at the time of delivery to the first purchaser;

(D) "replacement equipment" means motor vehicle equipment (including a tire) that is not original equipment;

(E) a brand name owner of a tire marketed under a brand name not owned by the manufacturer of the tire is deemed to be the manufacturer of the tire;

(F) a defect in original equipment, or noncompliance of original equipment with a motor vehicle safety standard prescribed under this chapter, is deemed to be a defect or noncompliance of the motor vehicle in or on which the equipment was installed at the time of delivery to the first purchaser;

(G) a manufacturer of a motor vehicle in or on which original equipment was installed when delivered to the first purchaser is deemed to be the manufacturer of the equipment; and

(H) a retreader of a tire is deemed to be the manufacturer of the tire.

(2) The Secretary of Transportation may prescribe regulations changing paragraph (1)(C), (D), (F), or (G) of this subsection.

§ 30103. Relationship to other laws

(a) The Secretary of Transportation may not prescribe a safety regulation related to a motor vehicle subject to subchapter II of chapter 105 of this title that differs from a motor vehicle safety standard prescribed under this chapter. However, the Secretary may prescribe, for a motor vehicle operated by a carrier subject to subchapter II of chapter 105, a safety regulation that imposes a higher standard of performance after manufacture than that required by an applicable standard in effect at the time of manufacture.

(b)(1) When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter. However, the United States Government, a State, or a political subdivision of a State may prescribe a standard for a motor vehicle or motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the otherwise applicable standard under this chapter.

(2) A State may enforce a standard that is identical to a standard prescribed under this chapter.

(c) This chapter does not—

(1) exempt from the antitrust laws conduct that is unlawful under those laws; or

(2) prohibit under the antitrust laws conduct that is lawful under those laws.

(d) Sections 30116(b), 30117-30120, 30166(f), and 30167(a) and (b) of this title do not establish or affect a warranty obligation under a law of the United States or a State. A remedy under those sections and sections 30161 and 30162 of this title is in addition to other rights and remedies under other laws of the United States or a State.

(e) Compliance with a motor vehicle safety standard prescribed under this chapter does not exempt a person from liability at common law.

SUBCHAPTER II—STANDARDS AND COMPLIANCE

§ 30111. Standards

(a) The Secretary of Transportation shall prescribe motor vehicle safety standards. Each standard shall be practicable, meet the need for motor vehicle safety, and be stated in objective terms.

(b) When prescribing a motor vehicle safety standard under this chapter, the Secretary shall—

(1) consider relevant available motor vehicle safety information;

(2) consult with the agency established under the Act of August 20, 1958 (Public Law 85-684, 72 Stat. 635), and other appropriate State or interstate authorities (including legislative committees);

(3) consider whether a proposed standard is reasonable, practicable, and appropriate for the particular type of motor vehicle or motor vehicle equipment for which it is prescribed; and

(4) consider the extent to which the standard will carry out section 30101 of this title.

(c) The Secretary may advise, assist, and cooperate with departments, agencies, and instrumentalities of the United States Government, States, and other public and private agencies in developing motor vehicle safety standards.

(d) The Secretary shall specify the effective date of a motor vehicle safety standard prescribed under this chapter in the order prescribing the standard. A standard may not become effective before the 180th day after the standard is prescribed or later than one year after it is prescribed. However, the Secretary may prescribe a different effective date after finding, for good cause shown, that a different effective date is in the public interest and publishing the reasons for the finding.

§ 30112. Prohibitions on manufacturing, selling, or importing noncomplying motor vehicles or equipment

(a) Except as provided in this section, section 30113 of this title, and subchapter III of this chapter, a person may not manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States, any motor vehicle or motor vehicle equipment manufactured on or after the date an applicable motor vehicle safety standard prescribed under this chapter takes effect unless the vehicle or equipment complies with the standard and is covered by a certification issued under section 30114 of this title.

(b) This section does not apply to—

(1) the sale, offer for sale, or introduction or delivery for introduction in interstate commerce of a motor vehicle or motor vehicle equipment after the first purchase of the vehicle or equipment in good faith other than for resale;

(2) a person—

(A) establishing that the person had no reason to know, despite exercising reasonable care, that a motor vehicle or motor vehicle equipment does not comply with an applicable motor vehicle safety standard prescribed under this chapter; or

(B) holding, without knowing about the noncompliance and before the vehicle or equipment is first purchased in good faith other than for resale, a certificate issued by a manufacturer or importer stating the vehicle or equipment complies with applicable standards prescribed under this chapter;

(3) a motor vehicle or motor vehicle equipment intended only for export, labeled for export on the vehicle or equipment and on the outside of any container of the vehicle or equipment, and exported;

(4) a motor vehicle the Secretary of Transportation decides under section 30141 of this title is capable of complying with applicable standards prescribed under this chapter;

(5) a motor vehicle imported for personal use by an individual who receives an exemption under section 30142 of this title;

(6) a motor vehicle under section 30143 of this title imported by an individual employed outside the United States;

(7) a motor vehicle under section 30144 of this title imported on a temporary basis;

(8) a motor vehicle or item of motor vehicle equipment under section 30145 of this title requiring further manufacturing;

(9) a motor vehicle that is at least 25 years old; or

(10) a motor vehicle or item of motor vehicle equipment the Secretary exempts on terms the Secretary decides are necessary fo research, investigations, demonstrations training, or competitive racing events.

§ 30113. Exemptions

(a) In this section, "low-emission moto vehicle" means a motor vehicle meeting th standards for new motor vehicles applicabl to the vehicle under section 202 of the Clea Air Act (42 U.S.C. 7521) when the vehicle i manufactured and emitting an air pollutan in an amount significantly below one o those standards.

(b)(1) The Secretary of Transportatio may exempt, on a temporary basis, moto vehicles from a motor vehicle safety standard prescribed under this chapter on term the Secretary considers appropriate. An exemption may be renewed. A renewal may b granted only on reapplication and mus conform to the requirements of this subsection.

(2) The Secretary may begin a proceedin under this subsection when a manufacture applies for an exemption or a renewal of a exemption. The Secretary shall publis notice of the application and provide an opportunity to comment. An application fo an exemption or for a renewal of an exemption shall be filed at a time and in the wa and contain information, this section an the Secretary require.

(3) The Secretary may act under this subsection on finding that—

(A) an exemption is consistent with the public interest and this chapter; and

(B)(i) compliance with the standard would cause substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith;

(ii) the exemption would make easier the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to the safety level of the standard;

(iii) the exemption would make the development or field evaluation of a low-emission motor vehicle easier and would not unreasonably lower the safety level of that vehicle; or

(iv) compliance with the standard would prevent the manufacturer from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles.

(c) A manufacturer applying for an exemption under subsection (b) of this section shall include the following information in the application:

(1) if the application is made under subsection (b)(3)(B)(i) of this section, a complete financial statement describing the economic hardship and a complete description of the manufacturer's good faith effort to comply with each motor vehicle safety standard prescribed under this chapter from which the manufacturer is requesting an exemption.

(2) if the application is made under subsection (b)(3)(B)(ii) of this section, a record of the research, development, and testing establishing the innovative nature of the safety feature and a detailed analysis establishing that the safety level of the feature at least equals the safety level of the standard.

(3) if the application is made under subsection (b)(3)(B)(iii) of this section, a record of the research, development, and testing establishing that the motor vehicle is a low-emission motor vehicle and that the safety level of the vehicle is not lowered unreasonably by exemption from the standard.

(4) if the application is made under subsection (b)(3)(B)(iv) of this section, a detailed analysis showing how the vehicle provides an overall safety level at least equal to the overall safety level of nonexempt vehicles.

(d) A manufacturer is eligible for an exemption under subsection (b)(3)(B)(i) of this section only if the Secretary determines that the manufacturer's total motor vehicle production in the most recent year of production is not more than 10,000. A manufacturer is eligible for an exemption under subsection (b)(3)(B)(ii), (iii), or (iv) of this section only if the Secretary determines the exemption is for not more than 2,500 vehicles to be sold in the United States in any 12-month period.

(e) An exemption or renewal under subsection (b)(3)(B)(i) of this section may be granted for not more than 3 years. An exemption or renewal under subsection (b)(3)(B)(ii), (iii), or (iv) of this section may be granted for not more than 2 years.

(f) Not later than 10 days after an application is filed, the Secretary may make public information contained in the application or relevant to the application unless the information concerns or is related to a trade secret or other confidential information not relevant to the application.

(g) The Secretary shall publish in the Federal Register a notice of each decision granting an exemption under this section and the reasons for granting it.

(h) The Secretary shall require a permanent label to be fixed to a motor vehicle granted an exemption under this section. The label shall either name or describe each motor vehicle safety standard prescribed under this chapter from which the vehicle is exempt. The Secretary may require that written notice of an exemption be delivered by appropriate means to the dealer and the first purchaser of the vehicle other than for resale.

§ 30114. Certification of compliance

A manufacturer or distributor of a motor vehicle or motor vehicle equipment shall certify to the distributor or dealer at delivery that the vehicle or equipment complies with applicable motor vehicle safety standards prescribed under this chapter. A person may not issue the certificate if, in exercising reasonable care, the person has reason to know the certificate is false or misleading in a material respect. Certification of a vehicle must be shown by a label or tag permanently fixed to the vehicle. Certification of equipment may be shown by a label or tag on the equipment or on the outside of the container in which the equipment is delivered.

§ 30115. Defects and noncompliance found before sale to purchaser

(a) If, after a manufacturer or distributor sells a motor vehicle or motor vehicle equipment to a distributor or dealer and before the distributor or dealer sells the vehicle or equipment, it is decided that the vehicle or equipment contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard prescribed under this chapter—

(1) the manufacturer or distributor immediately shall repurchase the vehicle or equipment at the price paid by the distributor or dealer, plus transportation charges and reasonable reimbursement of at least one percent a month of the price paid prorated from the date of notice of noncompliance or defect to the date of repurchase; or

(2) if a vehicle, the manufacturer or distributor immediately shall give to the distributor or dealer at the manufacturer's or distributor's own expense, the part or equipment needed to make the vehicle comply with the standard or correct the defect.

(b) The distributor or dealer shall install the part or equipment referred to in subsection (a)(2) of this section. If the distributor or dealer installs the part or equipment with reasonable diligence after it is received, the manufacturer shall reimburse the distributor or dealer for the reasonable value of the installation and a reasonable reimbursement of at least one percent a month of the manufacturer's or distributor's selling price prorated from the date of notice of noncompliance or defect to the date the motor vehicle complies with the applicable motor vehicle safety standard prescribed under this chapter or the defect is corrected.

(c) The parties shall establish the value of installation and the amount of reimbursement under this section. If the parties do not agree, or if a manufacturer or distributor refuses to comply with subsection (a) or (b) of this section, the distributor or dealer purchasing the motor vehicle or motor vehicle equipment may bring a civil action. The action may be brought in the United States district court for the judicial district in which the manufacturer or distributor resides, is found, or has an agent, to recover damages, court costs, and a reasonable attorney's fee. An action under this section must be brought not later than 3 years after the claim accrues.

§ 30116. Providing information to, and maintaining records on, purchasers

(a) The Secretary of Transportation may require that each manufacturer of a motor vehicle or motor vehicle equipment provide technical information related to performance and safety required to carry out this chapter. The Secretary may require the manufacturer to give the following notice of that information when the Secretary decides it is necessary:

(1) to each prospective purchaser of a vehicle or equipment before the first sale other than for resale at each location at which the vehicle or equipment is offered for sale by a person having a legal relationship with the manufacturer, in a way the Secretary decides is appropriate.

(2) to the first purchaser of a vehicle or equipment other than for resale when the vehicle or equipment is bought, in printed matter placed in the vehicle or attached to or accompanying the equipment.

(b)(1) A manufacturer of a motor vehicle or tire (except a retreaded tire) shall maintain a record of the name and address of the first purchaser of each vehicle or tire it produces and, to the extent prescribed by the Secretary, shall maintain a record of the name and address of the first purchaser of replacement equipment (except a tire) that the manufacturer produces. The Secretary may prescribe the records to be maintained and reasonable procedures for maintaining the records under this subsection, including procedures to be followed by distributors and dealers to assist the manufacturer. A procedure shall be reasonable for the type of vehicle or tire involved, and shall provide reasonable assurance that a customer list of a distributor or dealer, or similar information, will be made available to a person (except the distributor or dealer) only when necessary to carry out this subsection and sections 30117–30120, 30166(f), and 30167(a) and (b) of this title. Availability of assistance from a distributor or dealer does not affect an obligation of a manufacturer under this subsection.

(2)(A) Except as provided in paragraph (3) of this subsection, the Secretary may require a distributor or dealer to maintain a record under paragraph (1) of this subsection only if the business of the distributor or dealer is owned or controlled by a manufacturer of tires.

(B) The Secretary shall require each distributor and dealer whose business is not owned or controlled by a manufacturer of tires to give a registration form (containing the tire identification number) to the first purchaser of a tire. The Secretary shall prescribe the form, which shall be standardized for all tires and designed to allow the purchaser to complete and return it directly to the manufacturer of the tire. The manufacturer shall give sufficient copies of forms to distributors and dealers.

(3)(A) The Secretary shall evaluate from time to time how successful the procedures in paragraph (2) of this subsection have been in helping to maintain records about first purchasers of tires. After each evaluation, the Secretary shall decide—

(i) the extent to which distributors and dealers have complied with the procedures;

(ii) the extent to which distributors and dealers have encouraged first purchasers of tires to register the tires; and

(iii) whether to prescribe for manufacturers, distributors, or dealers other requirements that the Secretary decides will increase significantly the percentage of first

purchasers of tires about whom records are maintained.

(B) The Secretary may prescribe a requirement under subparagraph (A) of this paragraph only if the Secretary decides it is necessary to reduce the risk to motor vehicle safety, after considering—

(i) the cost of the requirement to manufacturers and the burden of the requirement on distributors and dealers, compared to the increase in the percentage of first purchasers of tires about whom records would be maintained as a result of the requirement;

(ii) the extent to which distributors and dealers have complied with the procedures in paragraph (2) of this subsection; and

(iii) the extent to which distributors and dealers have encouraged first purchasers of tires to register the tires.

(C) A manufacturer of tires shall reimburse distributors and dealers of that manufacturer's tires for all reasonable costs incurred by the distributors and dealers in complying with a requirement prescribed by the Secretary under subparagraph (A) of this paragraph.

(D) After making a decision under subparagraph (A) of this paragraph, the Secretary shall submit to each House of Congress a report containing a detailed statement of the decision and an explanation of the reasons for the decision.

§ 30117. Notification of defects and noncompliance

(a) The Secretary of Transportation shall notify the manufacturer of a motor vehicle or replacement equipment immediately after making an initial decision that the vehicle or equipment contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard prescribed under this chapter. The notice shall include the information on which the decision is based. The Secretary shall publish a notice of each decision under this subsection in the Federal Register. Subject to section 30167(a) of this title, the notice and information are available to an interested person.

(b)(1) The Secretary may make a final decision that a motor vehicle or replacement equipment contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard prescribed under this chapter only after giving the manufacturer an opportunity to present information, views, and arguments showing that there is no defect or noncompliance or that the defect does not affect motor vehicle safety. Any interested person also shall be given an opportunity to present information, views, and arguments.

(2) If the Secretary decides under paragraph (1) of this subsection the vehicle or equipment contains the defect or does not comply, the Secretary shall order the manufacturer to—

(A) give notice under section 30118 of this title to the owner, purchaser, and dealer of the vehicle or equipment of the defect or noncompliance; and

(B) remedy the defect or noncompliance under section 30119 of this title.

(c) A manufacturer of a motor vehicle or replacement equipment shall notify the Secretary by certified mail, and the owner, purchaser, and dealer of the vehicle or equipment as provided in section 30118(d) of this section, if the manufacturer—

(1) learns the vehicle or equipment contains a defect and decides in good faith that the defect is related to motor vehicle safety; or

(2) decides in good faith the vehicle or equipment does not comply with an applicable motor vehicle safety standard prescribed under this chapter.

(d) The Secretary shall exempt a manufacturer from this section and section 30119 of this title if the Secretary decides a defect or noncompliance is inconsequential to motor vehicle safety. The Secretary may take action under this subsection on application of the manufacturer after notice in the Federal Register and an opportunity for any interested person to present information, views, and arguments.

(e) On the motion of the Secretary or on petition of an interested person, the Secretary may conduct a proceeding to decide whether the manufacturer has reasonably met the notice requirements under this section. Any interested person may make written and oral presentations of information, views, and arguments on whether the manufacturer has reasonably met the notice requirements. If the Secretary decides that the manufacturer has not reasonably met the notice requirements, the Secretary shall order the manufacturer to take specified action to meet those requirements and may take any other action authorized under this chapter.

§ 30118. Notification procedures

(a) Notice by a manufacturer required under section 30117 of this title of a defect or noncompliance shall contain—

(1) a clear description of the defect or noncompliance;

(2) an evaluation of the risk to motor vehicle safety reasonably related to the defect or noncompliance;

(3) the measures to be taken to remedy the defect or noncompliance;

(4) a statement that the manufacturer giving notice will remedy the defect or noncompliance without charge under section 30119 of this title;

(5) the earliest date on which the defect or noncompliance will be remedied without charge, and for tires, the period during which the defect or noncompliance will be remedied without charge under section 30119 of this title;

(6) the procedure the recipient of a notice is to follow to inform the Secretary of Transportation when a manufacturer, distributor, or dealer does not remedy the defect or noncompliance without charge under section 30119 of this title; and

(7) other information the Secretary prescribes by regulation.

(b) The date specified by a manufacturer in a notice under subsection (a)(5) of this section or section 30120(c) of this title is the earliest date that parts and facilities reasonably can be expected to be available to remedy the defect or noncompliance. The Secretary may disapprove the date.

(c) Notice required under section 30117 of this title shall be given within a reasonable time—

(1) prescribed by the Secretary, after the manufacturer receives notice of a final decision under section 30117(b) of this title; or

(2) after the manufacturer first decides that a safety-related defect or noncompliance exists under section 30117(c) of this title.

(d)(1) Notice required under section 30117 of this title about a motor vehicle shall be sent by first class mail—

(A) to each person registered under State law as the owner and whose name and address are reasonably ascertainable by the manufacturer; or

(B) if a registered owner is not notified under clause (A) of this paragraph, to the most recent purchaser known to the manufacturer.

(2) Notice required under section 30117 of this title about replacement equipment (except a tire) shall be sent by first class mail to the most recent purchaser known to the manufacturer. In addition, if the Secretary decides that public notice is required for motor vehicle safety, public notice shall be given in the way required by the Secretary after consulting with the manufacturer.

(3) Notice required under section 30117 of this title about a tire shall be sent by first class mail (or, if the manufacturer prefers, by certified mail) to the most recent purchaser known to the manufacturer. In addition, if the Secretary decides that public notice is required for motor vehicle safety, public notice shall be given in the way required by the Secretary after consulting with the manufacturer. In deciding whether public notice is required, the Secretary shall consider—

(A) the magnitude of the risk to motor vehicle safety caused by the defect or noncompliance; and

(B) the cost of public notice compared to the additional number of owners the notice may reach.

(4) A dealer to whom a motor vehicle or replacement equipment was delivered shall be notified by certified mail or quicker means if available.

§ 30119. Remedies for defects and noncompliance

(a)(1) Subject to subsection (f) of this section, when notice of a defect or noncompliance is required under section 30117(b) or (c) of this title, the manufacturer of the defective or noncomplying motor vehicle or replacement equipment shall remedy the defect or noncompliance without charge when the vehicle or equipment is presented for remedy. Subject to subsections (b) and (c) of this section, the manufacturer shall remedy the defect or noncompliance in any of the following ways the manufacturer chooses:

(A) if a vehicle—

(i) by repairing the vehicle;

(ii) by replacing the vehicle with an identical or reasonably equivalent vehicle; or

(iii) by refunding the purchase price, less a reasonable allowance for depreciation.

(B) if replacement equipment, by repairing the equipment or replacing the equipment with identical or reasonably equivalent equipment.

(2) The Secretary of Transportation may prescribe regulations to allow the manufacturer to impose conditions on the replacement or refund of a motor vehicle.

(b)(1) A manufacturer of a tire, including an original equipment tire, shall remedy a defective or noncomplying tire if the owner or purchaser presents the tire for remedy not later than 60 days after the later of—

(A) the day the owner or purchaser receives notice under section 30118 of this title; or

(B) if the manufacturer decides to replace the tire, the day the owner or purchaser receives notice that a replacement is available.

(2) If the manufacturer decides to replace the tire and the replacement is not available during the 60-day period, the owner or purchaser must present the tire for remedy during a subsequent 60-day period only after receiving notice of availability during the subsequent period. If tires are available during the subsequent period, only a tire presented for remedy during that period must be remedied.

(c)(1) If a manufacturer decides to repair a motor vehicle or replacement equipment

and the repair is not done adequately within a reasonable time, the manufacturer shall—

(A) replace the vehicle or equipment with an identical or reasonably equivalent vehicle or equipment; or

(B) for a vehicle, refund the purchase price, less a reasonable allowance for depreciation.

(2) Failure to repair a motor vehicle or replacement equipment adequately not later than 60 days after its presentation is prima facie evidence of failure to repair within a reasonable time. However, the Secretary may extend, by order, the 60-day period if good cause for an extension is shown and the reason is published in the Federal Register before the period ends. Presentation of a vehicle or equipment for repair before the date specified by a manufacturer in a notice under section 30118(a)(5) or 30120(c) of this title is not a presentation under this subsection.

(d)(1) A manufacturer shall file with the Secretary a copy of the manufacturer's program under this section for remedying a defect or noncompliance. The Secretary shall make the program available to the public and publish a notice of availability in the Federal Register.

(2) On the motion of the Secretary or on application by an interested person, the Secretary may conduct a proceeding to decide whether the manufacturer has reasonably met the remedy requirements under this section. Any interested person may make written and oral presentations of information, views, and arguments on whether the manufacturer has reasonably met the remedy requirements. If the Secretary decides a manufacturer has not reasonably met the remedy requirements, the Secretary shall order the manufacturer to take specified action to meet those requirements and may take any other action authorized under this chapter.

(e) A manufacturer shall pay fair reimbursement to a dealer providing a remedy without charge under this section.

(f)(1) The requirement that a remedy be provided without charge does not apply if the motor vehicle or replacement equipment was bought by the first purchaser more than 8 calendar years, or the tire, including an original equipment tire, was bought by the first purchaser more than 3 calendar years, before notice is given under section 30117(c) of this title or an order is issued under section 30117(b) of this title, whichever is earlier.

(2) This section does not apply when enforcement of an order under section 30117(b) of this title is restrained or is set aside in a civil action under section 30120(d) of this title.

§ 30120. Enforcement of notice and remedy orders

(a)(1) The Secretary of Transportation may order a manufacturer to issue a provisional notice if a civil action about an order issued under section 30117(b) of this title has been brought under section 30163 of this title. The provisional notice shall contain—

(A) a statement that the Secretary has decided that a defect related to motor vehicle safety or noncompliance with a motor vehicle safety standard prescribed under this chapter exists and that the manufacturer is contesting the decision in a civil action in a United States district court;

(B) a clear description of the Secretary's stated basis for the decision;

(C) the Secretary's evaluation of the risk to motor vehicle safety reasonably related to the defect or noncompliance;

(D) measures the Secretary considers necessary to avoid an unreasonable risk to motor vehicle safety resulting from the defect or noncompliance;

(E) a statement that the manufacturer will remedy the defect or noncompliance without charge under section 30119 of this title, but that the requirement to remedy is conditioned on the outcome of the civil action; and

(F) other information the Secretary prescribes by regulation or includes in the order requiring the notice.

(2) A notice under this subsection does not relieve a manufacturer of liability for not giving notice required by an order under section 30117(b) of this title.

(b)(1) A manufacturer that does not notify an owner or purchaser under section 30118(c) and (d) of this title is liable to the United States Government for a civil penalty, unless the manufacturer prevails in a civil action described in subsection (a) of this section or the court enjoins enforcement of the order. Enforcement may be enjoined only if a court decides that the failure to notify was reasonable and that the manufacturer has demonstrated the likelihood of prevailing on the merits. If enforcement is enjoined, the manufacturer is not liable during the time the order is stayed.

(2) A manufacturer that does not notify an owner or purchaser as required under subsection (a) of this section is liable for a civil penalty regardless of whether the manufacturer prevails in an action on the validity of an order issued under section 30117(b) of this title.

(c) If the Secretary prevails in a civil action described in subsection (a) of this section, the Secretary shall order the manufacturer—

(1) to notify each owner, purchaser, and dealer described in section 30118(d) of this title of the outcome of the action and other information the Secretary requires, and notice under this clause may be combined with notice required under section 30117(b) of this title;

(2) to specify the earliest date under section 30118(b) of this title on which the defect or noncompliance will be remedied without charge under section 30119 of this title; and

(3) if notice was required under subsection (a) of this section, to reimburse an owner or purchaser for reasonable and necessary expenses (in an amount that is not more than the amount specified in the order of the Secretary under section 30117(b) of this title) incurred for repairing the defect or noncompliance during the period beginning on the date notice was required to be issued and ending on the date the owner or purchaser receives the notice under this subsection.

(d) Notwithstanding section 30163(c) of this title, a civil action about an order issued under section 30117(b) of this title must be brought in the United States district court for a judicial district in the State in which the manufacturer is incorporated or the District of Columbia. On motion of a party, the court may order a change of the place of trial to another district court if good cause is shown. All actions related to the same order under section 30117(b) of this title shall be consolidated in an action in one judicial district under an order of the court in which the first action was brought. If the first action is transferred to another court, that court shall issue the consolidation order.

§ 30121. Making safety devices and elements inoperative

(a) In this section, "motor vehicle repair business" means a person holding itself out to the public to repair for compensation a motor vehicle or motor vehicle equipment.

(b) A manufacturer, distributor, dealer, or motor vehicle repair business may not knowingly make inoperative any part of a device or element of design installed on or in a motor vehicle or motor vehicle equipment in compliance with an applicable motor vehicle safety standard prescribed under this chapter unless the manufacturer, distributor, dealer, or business reasonably believes the vehicle or equipment will not be used (except for testing or a similar purpose during maintenance or repair) when the device or element is inoperative.

(c) The Secretary of Transportation may prescribe regulations—

(1) to exempt a person from this section if the Secretary decides the exemption is consistent with motor vehicle safety and section 30101 of this title; and

(2) to define "make inoperative".

(d) This section does not apply to a safety belt interlock or buzzer designed to indicate a safety belt is not in use as described in section 30123 of this title.

§ 30122. Tires

(a) The Secretary of Transportation shall require that a pneumatic tire subject to a motor vehicle safety standard prescribed under this chapter be labeled permanently and conspicuously with safety information the Secretary decides is necessary to carry out section 30101 of this title.

(b) Labeling required on a tire under subsection (a) of this section shall include—

(1)(A) identification of the manufacturer;

(B) for a retreaded tire, identification of the retreader; or

(C) for a tire containing a brand name (except the name of the manufacturer), a code mark allowing a seller to identify the manufacturer to the purchaser;

(2) the composition of material used in the ply of the tire;

(3) the number of plies in the tire;

(4) the maximum allowable load for the tire; and

(5)(A) a statement that the tire complies with minimum safe performance standards prescribed under this chapter; or

(B) a mark or symbol the Secretary prescribes for use by a manufacturer or retreader complying with those standards.

(c) The Secretary may require that additional safety information be disclosed to a purchaser when a tire is sold.

(d)(1) In this subsection, "regrooved tire" means a tire with a new tread produced by cutting into the tread of a worn tire.

(2) The Secretary may authorize the sale, offer for sale, introduction for sale, or delivery for introduction in interstate commerce, of a regrooved tire or a motor vehicle equipped with regrooved tires if the Secretary decides the tires are designed and made in a way consistent with section 30101 of this title. A person may not sell, offer for sale, introduce for sale, or deliver for introduction in interstate commerce, a regrooved tire or a vehicle equipped with regrooved tires unless authorized by the Secretary.

(e) The Secretary shall prescribe through standards a uniform quality grading system for motor vehicle tires to help consumers make an informed choice when purchasing tires. The Secretary also shall cooperate with industry and the Federal Trade Commission to the greatest extent practicable to eliminate deceptive and confusing tire nomenclature and marketing practices. A tire standard or regulation prescribed under this chapter supersedes an order or administrative interpretation of the Commission.

(f) The Secretary shall require a motor vehicle to be equipped with tires that meet maximum load standards when the vehicle is loaded with a reasonable amount of luggage and the total number of passengers the vehicle is designed to carry. The vehicle shall be equipped with those tires by the manufacturer or by the first purchaser when the vehicle is first bought in good faith other than for resale.

§ 30123. Occupant restraint systems

A motor vehicle safety standard prescribed under this chapter may not require or allow a manufacturer to comply with the standard by using a safety belt interlock designed to prevent starting or operating a motor vehicle if an occupant is not using a safety belt or a buzzer designed to indicate a safety belt is not in use, except a buzzer that operates only during the 8-second period after the ignition is turned to the "start" or "on" position.

§ 30124. Schoolbuses and schoolbus equipment

(a) In this section—

(1) "schoolbus" means a passenger motor vehicle designed to carry a driver and more than 10 passengers, that the Secretary of Transportation decides is likely to be used significantly to transport preprimary, primary, and secondary school students to or from school or an event related to school.

(2) "schoolbus equipment" means equipment designed primarily for a schoolbus or manufactured or sold to replace or improve a system, part, or component of a schoolbus or as an accessory or addition to a schoolbus.

(b) The Secretary shall prescribe motor vehicle safety standards for schoolbuses and schoolbus equipment manufactured in, or imported into, the United States. Standards shall include minimum performance requirements for—

(1) emergency exits;

(2) interior protection for occupants;

(3) floor strength;

(4) seating systems;

(5) crashworthiness of body and frame (including protection against rollover hazards);

(6) vehicle operating systems;

(7) windows and windshields; and

(8) fuel systems.

(c) The Secretary may require, by regulation, a schoolbus to be test-driven by a manufacturer before introduction in commerce.

§ 30125. Used motor vehicles

To ensure a continuing and effective national safety program, it is the policy of the United States Government to encourage and strengthen State inspection of used motor vehicles. Therefore, the Secretary of Transportation shall prescribe motor vehicle safety standards for used motor vehicles. The standards shall be stated in terms of motor vehicle safety performance.

SUBCHAPTER III—IMPORTING NONCOMPLYING MOTOR VEHICLES AND EQUIPMENT

§ 30141. Importing motor vehicles capable of complying with standards

(a) Section 30112(a) of this title does not apply to a motor vehicle if—

(1) on the initiative of the Secretary of Transportation or on petition of a manufacturer or importer registered under subsection (c) of this section, the Secretary decides—

(A) the vehicle is—

(i) substantially similar to a motor vehicle orginally manufactured for import into and sale in the United States;

(ii) certified under section 30114 of this title;

(iii) the same model year (as defined under regulations of the Secretary of Transportation) as the model of the motor vehicle it is being compared to; and

(iv) capable of being readily changed to comply with applicable motor vehicle safety standards prescribed under this chapter; or

(B) if there is no substantially similar United States motor vehicle, the safety features of the vehicle comply with or are capable of being changed to comply with those standards based on destructive test information or other evidence the Secretary of Transportation decides is adequate;

(2) the vehicle is imported by a registered importer; and

(3) the registered importer pays the annual fee the Secretary of Transportation establishes under subsection (e) of this section to pay for the costs of carrying out the registration program for importers under subsection (c) of this section and any other fees the Secretary of Transportation establishes to pay for the costs of—

(A) processing bonds provided to the Secretary of the Treasury under subsection (d) of this section; and

(B) making the decisions under this subchapter.

(b)(1) The Secretary of Transportation shall establish by regulation procedures for making a decision under subsection (a)(1) of this section and the information a petitioner must provide to show clearly that the motor vehicle is capable of being brought into compliance with applicable motor vehicle safety standards prescribed under this chapter. In establishing the procedures, the Secretary shall provide for a minimum period of public notice and written comment consistent with ensuring expeditious, but complete, consideration and avoiding delay by any person. In making a decision under those procedures, the Secretary shall consider test information and other information available to the Secretary, including any information provided by the manufacturer. If the Secretary makes a negative decision, the Secretary may not make another decision for the same model until at least 3 calendar months have elapsed after the negative decision.

(2) The Secretary of Transportation shall publish each year in the Federal Register a list of all decisions made under subsection (a)(1) of this section. Each published decision applies to the model of the motor vehicle for which the decision was made. A positive decision permits another importer registered under subsection (c) of this section to import a vehicle of the same model under this section if the importer complies with all the terms of the decision.

(c)(1) The Secretary of Transportation shall establish procedures for registering a person who complies with requirements prescribed by the Secretary by regulation, including—

(A) recordkeeping requirements;

(B) inspection of records and facilities related to motor vehicles the person has imported, changed, or both; and

(C) requirements that ensure that the importer (or a successor in interest) will be able technically and financially to carry out responsibilities under sections 30116(b), 30117–30120, and 30166(f) of this title.

(2) The Secretary of Transportation shall deny registration to a person whose registration is revoked under paragraph (4) of this subsection.

(3) The Secretary of Transportation may deny registration to a person that is or was owned or controlled by, or under common ownership or control with, a person whose registration was revoked under paragraph (4) of this subsection.

(4) The Secretary of Transportation shall establish procedures for—

(A) revoking or suspending a registration issued under paragraph (1) of this subsection for not complying with a requirement of this subchapter or section 30112, 30114, 30116–30121, 30124(c), or 30166 of this title or regulations prescribed under this subchapter or those sections;

(B) automatically suspending a registration for not paying a fee under subsection (a)(3) of this section in a timely manner or for knowingly filing a false or misleading certification under section 30146 of this title; and

(C) reinstating suspended registrations.

(d)(1) A person importing a motor vehicle under this section shall provide a bond to the Secretary of the Treasury (acting for the Secretary of Transportation) and comply with the terms the Secretary of Transportation decides are appropriate to ensure that the vehicle—

(A) will comply with applicable motor vehicle safety standards prescribed under this chapter within a reasonable time (specified by the Secretary of Transportation) after the vehicle is imported; or

(B) will be exported (at no cost to the United States Government) by the Secretary of the Treasury or abandoned to the Government.

(2) The amount of the bond provided under this subsection shall be at least equal to the dutiable value of the motor vehicle (as determined by the Secretary of the Treasury) but not more than 150 percent of that value.

(e) The Secretary of Transportation shall review and make appropriate adjustments at least every 2 years in the amounts of the fees required to be paid under subsection (a)(3) of this section. The Secretary of Transportation shall establish the fees for each fiscal year before the beginning of that year. All fees collected remain available until expended without fiscal year limit to the extent provided in advance by appropriation laws. The amounts are only for use by the Secretary of Transportation—

(1) in carrying out this section and sections 30146(a)–(c)(1), (d), and (e) and 30147(b) of this title; and

(2) in advancing to the Secretary of the Treasury amounts for costs incurred under this section and section 30146 of this title to reimburse the Secretary of the Treasury for those costs.

§ 30142. Importing motor vehicles for personal use

(a) Section 30112(a) of this title does not apply to an imported motor vehicle if—

(1) the vehicle is imported for personal use, and not for resale, by an individual (except an individual described in sections 30143 and 30144 of this title);

(2) the vehicle is imported after the effective date that regulations are first prescribed under section 2(e)(1)(B) of the Imported Vehicle Safety Compliance Act of 1988; and

(3) the individual takes the actions required under subsection (b) of this section.

(b)(1) To receive an exemption under subsection (a) of this section, an individual must—

(A) provide the Secretary of the Treasury (acting for the Secretary of Transportation) with—

(i) an appropriate bond in an amount determined under section 30141(d) of this title, *(ii) a copy of an agreement with an importer registered under section 30141(c) of this title for bringing the motor vehicle into compliance with applicable motor vehicle safety standards prescribed under this chapter; and*

(iii) a certification that the vehicle meets the requirement of section 30141(a)(1)(A) or (B) of this title; and

(B) comply with appropriate terms the Secretary of Transportation imposes to ensure that the vehicle—

(i) will be brought into compliance with those standards within a reasonable time (specified by the Secretary of Transportation) after the vehicle is imported; or

(ii) will be exported (at no cost to the United States Government) by the Secretary of the Treasury or abandoned to the Government.

(2) For good cause shown, the Secretary of Transportation may allow an individual additional time, but not more than 30 days after the day on which the motor vehicle is offered for import, to comply with paragraph (1)(A)(ii) of this subsection.

§ 30143. Motor vehicles imported by individuals employed outside the United States

(a) In this section, "assigned place of employment" means—

(1) the principal location at which an individual is permanently or indefinitely assigned to work; and

(2) for a member of the uniformed services, the individual's permanent duty station.

(b) Section 30112(a) of this title does not apply to a motor vehicle imported for personal use, and not for resale, by an individual—

(1) whose assigned place of employment was outside the United States as of October 31, 1988, and who has not had an assigned place of employment in the United States from that date through the date the vehicle is imported into the United States;

(2) who previously had not imported a motor vehicle into the United States under this section or section 108(g)(2) of the National Traffic and Motor Vehicle Safety Act of 1966 or, before October 31, 1988, under section 108(b)(3) of that Act;

(3) who acquired, or made a binding contract to acquire, the vehicle before October 31, 1988;

(4) who imports the vehicle into the United States not later than October 31, 1992; and

(5) who satisfies section 108(b)(3) of the National Traffic and Motor Vehicle Safety Act of 1966 in effect on October 30, 1988.

(c) Subsection (b) of this section is carried out by certification in the form the Secretary of Transportation or the Secretary of the Treasury may prescribe.

§ 30144. Importing motor vehicles on a temporary basis

(a) Section 30112(a) of this title does not apply to a motor vehicle imported on a temporary basis for personal use by an individual who is a member of—

(1)(A) the personnel of the government of a foreign country on assignment in the United States or a member of the Secretariat of a public international organization designated under the International Organization Immunities Act (22 U.S.C. 288 et seq.); and

(B) the class of individuals for whom the Secretary of State has authorized free importation of motor vehicles; or

(2) the armed forces of a foreign country on assignment in the United States.

(b) The Secretary of Transportation or the Secretary of the Treasury may require verification, that the Secretary of Transportation considers appropriate, that an individual is a member described under subsection (a) of this section. The Secretary of Transportation shall ensure that a motor vehicle imported under this section will be exported (at no cost to the United States Government) or abandoned to the Government when the individual no longer—

(1) resides in the United States; and

(2) is a member described under subsection (a) of this section.

(c) A motor vehicle imported under this section may not be sold when in the United States.

§ 30145. Importing motor vehicles or equipment requiring further manufacturing

Section 30112(a) of this title does not apply to a motor vehicle or motor vehicle equipment if the vehicle or equipment—

(1) requires further manufacturing to perform its intended function as decided under regulations prescribed by the Secretary of Transportation; and

(2) is accompanied at the time of importation by a written statement issued by the manufacturer indicating the applicable motor vehicle safety standard prescribed under this chapter with which it does not comply.

§ 30146. Release of motor vehicles and bonds

(a)(1) Except as provided in subsections (c) and (d) of this section, an importer registered under section 30141(c) of this title may license or register an imported motor vehicle for use on public streets, roads, or highways, or release custody of a motor vehicle imported by the registered importer or imported by an individual under section 30142 of this title and changed by the registered importer to meet applicable motor vehicle safety standards prescribed under this chapter to a person for license or registration for use on public streets, roads, or highways, only after 30 days after the registered importer certifies to the Secretary of Transportation, in the way the Secretary prescribes, that the motor vehicle complies with each standard prescribed in the year the vehicle was manufactured. A vehicle may not be released if the Secretary gives written notice before the end of the 30-day period that the Secretary will inspect the vehicle under subsection (c) of this section.

(2) The Secretaries of Transportation and the Treasury shall prescribe regulations—

(A) ensuring the release of a motor vehicle and bond required under section 30141(d) of this title at the end of the 30-day period, unless the Secretary of Transportation issues a notice of an inspection under subsection (c) of this section; and

(B) providing that the Secretary of Transportation shall release the vehicle and bond promptly after an inspection under subsection (c) showing compliance with the standards applicable to the vehicle.

(3) Each registered importer shall include on each motor vehicle released under this subsection a label prescribed by the Secretary of Transportation identifying the importer and stating that the vehicle has been changed by the importer to comply with the standards applicable to the vehicle.

(b) In making a certification under subsection (a)(1) of this section, the registered importer may rely on the manufacturer's certification for the model to which the motor vehicle involved is substantially similar if the importer certifies that any change made by the importer did not affect the compliance of the safety features of the vehicle and the importer keeps records verifying the certification for the period the Secretary of Transportation prescribes.

(c)(1) The Secretary of Transportation may require that the certification under subsection (a)(1) of this section be accompanied by evidence of compliance the Secretary considers appropriate or may inspect the certified motor vehicle, or both. If the Secretary gives notice of an inspection, an importer may release the vehicle only after an inspection showing the motor vehicle complies with applicable vehicle safety standards prescribed under this chapter for which the inspection was made and release of the vehicle by the Secretary.

(2) The Secretary of Transportation shall inspect periodically a representative number of motor vehicles for which certifications have been filed under subsection (a)(1) of this section. In carrying out a motor vehicle testing program under this chapter, the Secretary shall include a representative number of motor vehicles for which certifications have been filed under subsection (a)(1).

(d) A motor vehicle or bond may not be released under subsection (a) of this section if the Secretary of Transportation, not later than 30 days after receiving a certification under subsection (a)(1) of this section, gives written notice that the Secretary believes or has reason to believe that the certification is false or contains a misrepresentation. The vehicle and bond may be released only after the Secretary is satisfied with the certification and any change to the certification.

(e) A release of a bond required under section 30141(d) of this title is deemed an acceptance of a certification or completion of an inspection under this section but is not a decision by the Secretary of Transportation under section 30117(a) or (b) of this title of compliance with applicable motor vehicle safety standards prescribed under this chapter.

§ 30147. Responsibility for defects and noncompliance

(a)(1) In carrying out sections 30116(b), 30117–30120, and 30166(f) of this title—

(A) for a defect or noncompliance with an applicable motor vehicle safety standard prescribed under this chapter for a motor vehicle originally manufactured for import into the United States, an imported motor vehicle having a valid certification under section 30146(a)(1) of this title and decided to be substantially similar to that motor vehicle shall be deemed as having the same defect or as not complying with the same standard unless the manufacturer or importer registered under section 30141(c) of this title demonstrates otherwise to the Secretary of Transportation; and

(B) the registered importer shall be deemed to be the manufacturer of any motor vehicle that the importer imports or brings into compliance with the standards for an individual under section 30142 of this title.

(2) The Secretary shall publish in the Federal Register notice of any defect or noncompliance under paragraph (1)(A) of this subsection.

(b) The Secretary shall require by regulation each registered importer (including any successor in interest) to provide and maintain evidence, satisfactory to the Secretary, of sufficient financial responsibility to meet its obligations under sections 30116(b), 30117–30120, and 30166(f) of this title.

SUBCHAPTER IV—ENFORCEMENT AND ADMINISTRATIVE

§ 30161. Judicial review of standards

(a) A person adversely affected by an order prescribing a motor vehicle safety standard under this chapter may apply for review of the order by filing a petition for review in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 59 days after the order is issued.

(b) The clerk of the court shall send immediately a copy of the petition to the Secretary of Transportation. The Secretary shall file with the court a record of the proceeding in which the order was prescribed.

(c)(1) On request of the petitioner, the court may order the Secretary to receive additional evidence and evidence in rebuttal if the court is satisfied that the additional evidence is material and there were reasonable grounds for not presenting the evidence in the proceeding before the Secretary.

(2) The Secretary may change findings of fact or make new findings because of the additional evidence presented. The Secretary shall file a changed or new finding, a recommendation to change or set aside the order, and the additional evidence with the court.

(d) The Secretary shall give any interested person a certified copy of the transcript of the record in a proceeding under this section on request and payment of costs. A certified copy of the record of the proceeding is admissible in a proceeding arising out of a matter under this chapter, regardless of whether the proceeding under this section has begun or becomes final.

(e) A judgment of a court under this section is final and may be reviewed only by the Supreme Court under section 1254 of title 28.

§ 30162. Petitions by interested persons for standards and enforcement

(a) Any interested person may file a petition with the Secretary of Transportation requesting the Secretary to begin a proceeding—

(1) to prescribe a motor vehicle safety standard under this chapter; or

(2) to decide whether to issue an order under section 30117(b) of this title.

(b) The petition must state facts that the person claims establish that a motor vehicle safety standard or order referred to in subsection (a) of this section is necessary and briefly describe the order the Secretary should issue.

(c) The Secretary may hold a public hearing or conduct an investigation or proceeding to decide whether to grant the petition.

(d) The Secretary shall grant or deny a petition not later than 120 days after the petition is filed. If a petition is granted, the Secretary shall begin the proceeding promptly. If a petition is denied, the Secretary shall publish the reasons for the denial in the Federal Register.

§ 30163. Action by the Attorney General

(a) The Attorney General may bring a civil action to enjoin—

(1) a violation of this chapter or a regulation prescribed or order issued under this chapter; and

(2) the sale, offer for sale, or introduction or delivery for introduction, in interstate commerce, or the importation into the United States, of a motor vehicle or motor vehicle equipment for which it is decided, before the first purchase in good faith other than for resale, that the vehicle or equipment—

(A) contains a defect related to motor vehicle safety about which notice was given under section 30117(c) of this title or an order was issued under section 30117(b) of this title; or

(B) does not comply with an applicable motor vehicle safety standard prescribed under this chapter.

(b) When practicable, the Secretary of Transportation shall notify a person against whom a civil action under subsection (a) of this section is planned, give the person an opportunity to present that person's views, and, except for a knowing and willful violation of this chapter, give the person a reasonable opportunity to remedy the defect or comply with the applicable motor vehicle safety standard prescribed under this chapter. Failure to give notice and an opportunity to remedy the defect or comply with the applicable motor vehicle safety standard prescribed under this chapter does not prevent a court from granting appropriate relief.

(c) Except as provided in section 30120(d) of this title, a civil action under this section or section 30165(a) of this title may be brought in the United States district court for the judicial district in which the violation occurred or the defendant is found, resides, or does business. Process in the action may be served in any other judicial district in which the defendant resides or is found.

(d) In a trial for criminal contempt for violating an injunction or restraining order issued under subsection (a) of this section, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(e) In a civil action brought under this section, a subpena for a witness may be served in any judicial district.

§ 30164. Service of process

(a) A manufacturer offering a motor vehicle or motor vehicle equipment for import shall designate an agent on whom service of notices and process in administrative and judicial proceedings may be made. The designation shall be in writing and filed with the Secretary of Transportation. The designation may be changed in the same way as originally made.

(b) An agent may be served at the agent's office or usual place of residence. Service on the agent is deemed to be service on the manufacturer. If a manufacturer does not designate an agent, service may be made by posting the notice or process in the office of the Secretary.

§ 30165. Civil penalties

(a) A person that violates section 30112, 30114, 30116–30121, 30122(d), 30124(c), 30141–30147, or 30166 of this title or a regulation prescribed under those sections is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by those sections. A person is liable for a civil penalty of not more than $800,000 for a related series of violations.

(b) The Secretary of Transportation may compromise a civil penalty. The Secretary shall consider the size of the business of the person charged and the gravity of a violation when deciding on the amount of a penalty or compromise. A penalty or compromise may be deducted from amounts the Government owes the person charged.

(c) In a civil action brought under thi
section, a subpena for a witness may be
served in any judicial district.

§ 30166. Inspections, investigations, and records

(a) In this section, "motor vehicle acci
dent" means an occurrence associated with
the maintenance or operation of a motor ve
hicle or motor vehicle equipment resultin
in personal injury, death, or propert
damage.

(b)(1) The Secretary of Transportatio
may conduct an inspection or investiga
tion—

(A) that may be necessary to enforce thi
chapter or a regulation prescribed or orde
issued under this chapter; or

(B) related to a motor vehicle acciden
and designed to carry out this chapter.

(2) The Secretary of Transportation shal
cooperate with State and local officials t
the greatest extent possible in an inspectio
or investigation under paragraph (1)(B) o
this subsection.

(c) In carrying out this chapter, an office
or employee designated by the Secretary o
Transportation—

(1) at reasonable times, may inspect an
copy any record related to this chapter;

(2) on request, may inspect records of
manufacturer, distributor, or dealer t
decide whether the manufacturer, distribu
tor, or dealer has complied or is complyin
with this chapter or a regulation prescribe
or order issued under this chapter; and

(3) at reasonable times, in a reasonabl
way, and on display of proper credential
and written notice to an owner, operator, o
agent in charge, may—

(A) enter and inspect with reasonabl
promptness premises in which a motor veh
cle or motor vehicle equipment is manufac
tured, held for introduction in interstat
commerce, or held for sale after introduc
tion in interstate commerce;

(B) enter and inspect with reasonabl
promptness premises at which a vehicle o
equipment involved in a motor vehicle acc
dent is located;

(C) inspect with reasonable promptnes
that vehicle or equipment; and

(D) impound for not more than 72 hours
vehicle or equipment involved in a moto
vehicle accident.

(d) When a motor vehicle (except a vehic
subject to subchapter II of chapter 105 o
this title) or motor vehicle equipment is in
spected or temporarily impounded unde
subsection (c)(3) of this section, the Secr
tary of Transportation shall pay reasonab
compensation to the owner of the vehicle
the inspection or impoundment results i
denial of use, or reduction in value, of th
vehicle.

(e) The Secretary of Transportation re
sonably may require a manufacturer of
motor vehicle or motor vehicle equipment
maintain records, and a manufacturer, di
tributor, or dealer to make reports, to enab
the Secretary to decide whether the man
facturer, distributor, or dealer has complie
or is complying with this chapter or a reg
lation prescribed or order issued under th
chapter. This subsection does not impose
recordkeeping requirement on a distribut
or dealer in addition to those imposed und
subsection (f) of this section and sectio
30116(b) of this title or a regulation pr
scribed or order issued under subsection
or section 30116(b).

(f) A manufacturer shall give the Secreta
of Transportation a true or representati
copy of each communication to the man
facturer's dealers or to owners or purchase

of a motor vehicle or replacement equipment produced by the manufacturer about a defect or noncompliance with a motor vehicle safety standard prescribed under this chapter in a vehicle or equipment that is sold or serviced.

(g)(1) In carrying out this chapter, the Secretary of Transportation may—

(A) require, by general or special order, any person to file reports or answers to specific questions, including reports or answers under oath; and

(B) conduct proceedings, administer oaths, take testimony, and require (by subpena or otherwise) the appearance and testimony of witnesses and the production of records the Secretary considers advisable.

(2) A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(h) A civil action to enforce a subpena or order of the Secretary of Transportation under subsection (g) of this section may be brought in the United States district court for the judicial district in which the proceeding is conducted. The court may punish a failure to obey an order of the court to comply with a subpena or order of the Secretary as a contempt of court.

(i) The Secretary of Transportation may request a department, agency, or instrumentality of the United States Government to provide records the Secretary considers necessary to carry out this chapter. The head of the department, agency, or instrumentality shall provide the record on request, may detail personnel on a reimbursable basis, and otherwise shall cooperate with the Secretary. This subsection does not affect a law limiting the authority of a department, agency, or instrumentality to provide information to another department, agency, or instrumentality.

(j) The Secretary of Transportation may advise, assist, and cooperate with departments, agencies, and instrumentalities of the Government, States, and other public and private agencies in developing a method for inspecting and testing to determine compliance with a motor vehicle safety standard.

(k) The Secretary of Transportation shall give the Attorney General and, when appropriate, the Secretary of the Treasury, information obtained that indicates a violation of this chapter or a regulation prescribed or order issued under this chapter.

§ 30167. Disclosure of information by the Secretary of Transportation

(a) Information obtained under this chapter related to a confidential matter referred to in section 1905 of title 18 may be disclosed only in the following ways:

(1) to other officers and employees carrying out this chapter.

(2) when relevant to a proceeding under this chapter.

(3) to the public if the confidentiality of the information is preserved.

(4) to the public when the Secretary of Transportation decides that disclosure is necessary to carry out section 30101 of this title.

(b) Subject to subsection (a) of this section, the Secretary shall disclose information obtained under this chapter related to a defect or noncompliance that the Secretary decides will assist in carrying out sections 30116(b) and 30117–30120 of this title or that is required to be disclosed under section 30117(a) of this title. A requirement to disclose information under this subsection is in addition to the requirements of section 552 of title 5.

(c) A manufacturer opposing an action of the Secretary under this chapter because of increased cost shall submit to the Secretary information about the increased cost, including the manufacturer's cost and the cost to retail purchasers, that allows the public and the Secretary to evaluate the manufacturer's statement. The Secretary shall evaluate the information promptly and, subject to subsection (a) of this section, shall make the information and evaluation available to the public. The Secretary shall publish a notice in the Federal Register that the information is available.

(d) This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

§ 30168. Research, testing, development, and training

(a)(1) The Secretary of Transportation shall conduct research, testing, development, and training necessary to carry out this chapter. The research, development, testing, and training shall include—

(A) collecting information to determine the relationship between motor vehicle or motor vehicle equipment performance characteristics and—

(i) accidents involving motor vehicles; and

(ii) the occurrence of death or personal injury resulting from those accidents;

(B) obtaining experimental and other motor vehicles and motor vehicle equipment for research or testing; and

(C) disposing of test motor vehicles and motor vehicle equipment and crediting the proceeds to current appropriations available to carry out this chapter.

(2) The Secretary may carry out this subsection through grants to States, interstate authorities, and nonprofit institutions.

(b) In carrying out this chapter, the Secretary shall use the services, research, and testing facilities of public agencies to the maximum extent practicable to avoid duplication.

(c) The Secretary may plan, design, and build a new facility or modify an existing facility to conduct research, development, and testing in traffic safety, highway safety, and motor vehicle safety. An expenditure of more than $100,000 for planning, design, or construction may be made only if the planning, design, or construction is approved by substantially similar resolutions by the Committees on Energy and Commerce and Public Works and Transportation of the House of Representatives and the Committees on Commerce, Science, and Transportation and Environment and Public Works of the Senate. To obtain that approval, the Secretary shall submit to Congress a prospectus on the proposed facility. The prospectus shall include—

(1) a brief description of the facility being planned, designed, or built;

(2) the location of the facility;

(3) an estimate of the maximum cost of the facility;

(4) a statement identifying private and public agencies that will use the facility and the contribution each agency will make to the cost of the facility; and

(5) a justification of the need for the facility.

(d) The estimated maximum cost of a facility approved under subsection (c) of this section may be increased by an amount equal to the percentage increase in construction costs from the date the prospectus is submitted to Congress. However, the increase in the cost of the facility may not be more than 10 percent of the estimated maximum cost included in the prospectus. The Secretary shall decide what increase in construction costs has occurred.

(e) When the United States Government makes more than a minimal contribution to a research or development activity under this chapter, the Secretary shall include in the arrangement for the activity a provision to ensure that all information, patents, and developments related to the activity are available to the public. However, the owner of a background patent may not be deprived of a right under the patent.

§ 30169. Annual report

(a) The Secretary of Transportation shall submit to the President to submit to Congress on July 1 of each year a report on the administration of this chapter for the prior calendar year. The report shall include—

(1) a thorough statistical compilation of accidents and injuries;

(2) motor vehicle safety standards in effect or prescribed under this chapter;

(3) the degree of observance of the standards;

(4) a summary of current research grants and contracts and a description of the problems to be considered under those grants and contracts;

(5) an analysis and evaluation of research activities completed and technological progress achieved;

(6) enforcement actions;

(7) the extent to which technical information was given the scientific community and consumer-oriented information was made available to the public; and

(8) recommendations for legislation needed to promote cooperation among the States in improving traffic safety and strengthening the national traffic safety program.

(b) Not later than 18 months after regulations are first prescribed under section 2(e)(1)(B) of the Imported Vehicle Safety Compliance Act of 1988, the Secretary shall submit to Congress a report of the actions taken to carry out subchapter III of this chapter and the effectiveness of those actions, including any testing by the Secretary under section 30146(c)(2) of this title. After the first report, the Secretary shall submit a report to Congress under this subsection not later than July 31 of each year.

CHAPTER 303—NATIONAL DRIVER REGISTER

Sec.
30301. Definitions.
30302. National Driver Register.
30303. State participation.
30304. Reports by chief driver licensing officials.
30305. Access to Register information.
30306. National Driver Register Advisory Committee.
30307. Criminal penalties.
30308. Authorization of appropriations.

§ 30301. Definitions

In this chapter—

(1) "alcohol" has the same meaning given that term in regulations prescribed by the Secretary of Transportation.

(2) "chief driver licensing official" means the official in a State who is authorized to—

(A) maintain a record about a motor vehicle operator's license issued by the State; and

(B) issue, deny, revoke, suspend, or cancel a motor vehicle operator's license issued by the State.

(3) "controlled substance" has the same meaning given that term in section 102(6) of

the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802(6)).

(4) "motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on public streets, roads, or highways, but does not include a vehicle operated only on a rail line.

(5) "motor vehicle operator's license" means a license issued by a State authorizing an individual to operate a motor vehicle on public streets, roads, or highways.

(6) "participating State" means a State that has notified the Secretary under section 30303 of this title of its participation in the National Driver Register.

(7) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(8) "State of record" means a State that has given the Secretary a report under section 30304 of this title about an individual who is the subject of a request for information made under section 30305 of this title.

§ 30302. National Driver Register

(a) The Secretary of Transportation shall establish as soon as practicable and maintain a National Driver Register to assist chief driver licensing officials of participating States in exchanging information about the motor vehicle driving records of individuals. The Register shall contain an index of the information reported to the Secretary under section 30304 of this title. The Register shall enable the Secretary (electronically or, until all States can participate electronically, by United States mail)—

(1) to receive information submitted under section 30304 of this title by the chief driver licensing official of a State of record;

(2) to receive a request for information made by the chief driver licensing official of a participating State under section 30305 of this title;

(3) to refer the request to the chief driver licensing official of a State of record; and

(4) in response to the request, to relay information provided by a chief driver licensing official of a State of record to the chief driver licensing official of a participating State, without interception of the information.

(b) The Secretary is not responsible for the accuracy of information relayed to the chief driver licensing official of a participating State. However, the Secretary shall maintain the Register in a way that ensures against inadvertent alteration of information during a relay.

(c)(1) The Secretary shall provide by regulation for the orderly transition from the register maintained under the Act of July 14, 1960, as restated by section 401 of the National Traffic and Motor Vehicle Safety Act of 1966 (Public Law 89–563, 80 Stat. 730), to the Register maintained under this chapter.

(2)(A) The Secretary shall delete from the Register a report or information that was compiled under the Act of July 14, 1960, as restated by section 401 of the National Traffic and Motor Vehicle Safety Act of 1966 (Public Law 89–563, 80 Stat. 730), and transferred to the Register, after the earlier of—

(i) the date the State of record removes it from the State's file;

(ii) 7 years after the date the report or information is entered in the Register; or

(iii) the date a fully electronic Register system is established.

(B) The report or information shall be disposed of under chapter 33 of title 44.

(3) If the chief driver licensing official of a participating State finds that information provided for inclusion in the Register is erroneous or is related to a conviction of a traffic offense that subsequently is reversed, the official immediately shall notify the Secretary. The Secretary shall provide for the immediate deletion of the information from the Register.

(d) In carrying out this chapter, the Secretary shall assign personnel necessary to ensure the effective operation of the Register.

§ 30303. State participation

(a) A State may become a participating State under this chapter by notifying the Secretary of Transportation of its intention to be bound by section 30304 of this title.

(b) A participating State may end its status as a participating State by notifying the Secretary of its withdrawal from participation in the National Driver Register.

(c) Notification by a State under this section shall be made in the form and way the Secretary prescribes by regulation.

§ 30304. Reports by chief driver licensing officials

(a) As soon as practicable, the chief driver licensing official of each participating State shall submit to the Secretary of Transportation a report containing the information specified by subsection (b) of this section for each individual—

(1) who is denied a motor vehicle operator's license by that State for cause;

(2) whose motor vehicle operator's license is revoked, suspended, or cancelled by that State for cause; or

(3) who is convicted under the laws of that State of any of the following motor vehicle-related offenses or comparable offenses:

(A) operating a motor vehicle when under the influence of, or impaired by, alcohol or a controlled substance.

(B) a traffic violation arising in connection with a fatal traffic accident, reckless driving, or racing on the highways.

(C) failing to give aid or provide identification when involved in an accident resulting in death or personal injury.

(D) perjury or knowingly making a false affidavit or statement to officials about activities governed by a law or regulation on the operation of a motor vehicle.

(b)(1) Except as provided in paragraph (2) of this subsection, a report under subsection (a) of this section shall contain—

(A) the individual's legal name, date of birth, sex, and, at the Secretary's discretion, height, weight, and eye and hair color;

(B) the name of the State providing the information; and

(C) the social security account number if used by the State for driver record or motor vehicle license purposes, and the motor vehicle operator's license number if different from the social security account number.

(2) A report under subsection (a) of this section about an event that occurs during the 2-year period before the State becomes a participating State is sufficient if the report contains all of the information that is available to the chief driver licensing official when the State becomes a participating State.

(c) If a report under subsection (a) of this section is about an event that occurs—

(1) during the 2-year period before the State becomes a participating State, the report shall be submitted not later than 6 months after the State becomes a participating State; or

(2) after the State becomes a participating State, the report shall be submitted not later than 31 days after the motor vehicle department of the State receives any information specified in subsection (b)(1) of this section that is the subject of the report.

(d) This section does not require a State to report information about an event that occurs before the 2-year period before the State becomes a participating State.

§ 30305. Access to Register information

(a)(1) To carry out duties related to driver licensing, driver improvement, or transportation safety, the chief driver licensing official of a participating State may request the Secretary of Transportation to refer, electronically or by United States mail, a request for information about the motor vehicle driving record of an individual to the chief driver licensing official of a State of record.

(2) The Secretary of Transportation shal relay, electronically or by United States mail, information received from the chie driver licensing official of a State of recor in response to a request under paragraph (1 of this subsection to the chief driver licensing official of the participating State requesting the information. However, the Secretary may refuse to relay information to the chief driver licensing official of a participating State that does not comply with section 30304 of this title.

(b)(1) The Chairman of the Nationa Transportation Safety Board and the Administrator of the Federal Highway Administration may request the chief driver licensing official of a State to obtain informatio under subsection (a) of this section about an individual who is the subject of an acciden investigation conducted by the Board or th Administrator. The Chairman and the Administrator may receive the information.

(2) An individual who is employed, or i seeking employment, as a driver of a moto vehicle may request the chief driver licensing official of the State in which the individual is employed or seeks employment t provide information under subsection (a) o this section to the individual's employer o prospective employer. An employer or prospective employer may receive the information and shall make the information available to the individual. Information may no be obtained from the National Driver Register under this paragraph if the informatio was entered in the Register more than years before the request.

(3) An individual who has received, or applying for, an airman's certificate may request the chief driver licensing official of State to provide information under subsection (a) of this section about the individua to the Administrator of the Federal Aviatio Administration. The Administrator may receive the information and shall make the information available to the individual fo review and written comment. The Administrator may use the information to verify information required to be reported to the Administrator by an airman applying for a airman medical certificate and to evalua whether the airman meets the minimu standards prescribed by the Administrato to be issued an airman medical certificat The Administrator may not otherwise divulge or use the information. Informatio may not be obtained from the Register und this paragraph if the information was entered in the Register more than 3 yea before the request, unless the information about a revocation or suspension still effect on the date of the request.

(4) An individual who is employed, or seeking employment, by a rail carrier as

operator of a locomotive may request the chief driver licensing official of a State to provide information under subsection (a) of this section to the individual's employer or prospective employer or to the Secretary of Transportation. Information may not be obtained from the Register under this paragraph if the information was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request.

(5) An individual who holds, or is applying for, a license or certificate of registry under section 7101 of title 46, or a merchant mariner's document under section 7302 of title 46, may request the chief driver licensing official of a State to provide information under subsection (a) of this section about the individual to the Secretary of the department in which the Coast Guard is operating. The Secretary may receive the information and shall make the information available to the individual for review and written comment before denying, suspending, or revoking the license, certificate, or document of the individual based on the information and before using the information in an action taken under chapter 77 of title 46. The Secretary may not otherwise divulge or use the information, except for purposes of section 7101, 7302, or 7703 of title 46. Information may not be obtained from the Register under this paragraph if the information was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request.

(6) An individual may request the chief driver licensing official of a State to obtain information about the individual under subsection (a) of this section—

(A) to learn whether information about the individual is being provided;

(B) to verify the accuracy of the information; or

(C) to obtain a certified copy of the information.

(7) A request under this subsection shall be made in the form and way the Secretary of Transportation prescribes by regulation.

(c) A request for, or receipt of, information from the Register is subject to sections 552 and 552a of title 5, and other applicable laws of the United States or a State, except that—

(1) the Secretary of Transportation may not relay or otherwise provide information specified in section 30304(b)(1)(A) or (C) of this title to a person not authorized by this section to receive the information;

(2) a request for, or receipt of, information by a chief driver licensing official, or by a person authorized by subsection (b) of this section to request and receive the information, is deemed to be a routine use under section 552a(b) of title 5; and

(3) receipt of information by a person authorized by this section to receive the information is deemed to be a disclosure under section 552a(c) of title 5, except that the Secretary of Transportation is not required to retain the accounting made under section 552a(c)(1) for more than 7 years after the disclosure.

(d) Information provided by a State under the Act of July 14, 1960, as restated by section 401 of the National Traffic and Motor Vehicle Safety Act of 1966 (Public Law 89-563, 80 Stat. 730), and under this chapter, shall be available under this section during the transition from the register maintained under that Act to the Register maintained under this chapter.

§ 30306. National Driver Register Advisory Committee

(a) There is a National Driver Register Advisory Committee.

(b) The Committee shall advise the Secretary of Transportation on—

(1) the efficiency of the maintenance and operation of the National Driver Register; and

(2) the effectiveness of the Register in assisting States in exchanging information about motor vehicle driving records.

(c) The Committee consists of 15 members appointed by the Secretary as follows:

(1) 3 members appointed from among individuals who are specially qualified to serve on the Committee because of their education, training, or experience, and who are not officers or employees of the United States Government or a State.

(2) 3 members appointed from among groups outside the Government that represent the interests of bus and trucking organizations, enforcement officials, labor, or safety organizations.

(3) 9 members, geographically representative of the participating States, appointed from among individuals who are chief driver licensing officials of participating States.

(d)(1) Except as provided in paragraph (2) of this subsection, the term of each member is 3 years.

(2) A vacancy on the Committee shall be filled in the same way as an original appointment. A member appointed to fill a vacancy serves for the remainder of the term of that member's predecessor. After a member's term ends, the member may continue to serve until the successor takes office.

(e) Members of the Committee serve without compensation. However, the Secretary may reimburse a member for reasonable travel expenses incurred by the member in attending meetings of the Committee.

(f)(1) The Committee shall meet at least once a year.

(2) The Committee shall elect a Chairman and a Vice Chairman from among its members.

(3) Eight members are a quorum.

(4) The Committee shall meet at the call of the Chairman or a majority of the members.

(g) The Secretary may provide the Committee with personnel, penalty mail privileges, and similar services the Secretary considers necessary to assist the Committee in carrying out its duties and powers under this section.

(h) At least once a year, the Committee shall submit to the Secretary a report on the matters specified in subsection (b) of this section. The report shall include any recommendations of the Committee for changes in the Register.

(i) The Committee is exempt from sections 10(e) and (f) and 14 of the Federal Advisory Committee Act (5 App. U.S.C.).

§ 30307. Criminal penalties

(a) A person (except an individual described in section 30305(b)(6) of this title) shall be fined under title 18, imprisoned for not more than one year, or both, if—

(1) the person receives under section 30305 of this title information specified in section 30304(b)(1)(A) or (C) of this title;

(2) disclosure of the information is not authorized by section 30305 of this title; and

(3) the person willfully discloses the information knowing that disclosure is not authorized.

(b) A person knowingly and willfully requesting, or under false pretenses obtaining, information specified in section 30304(b)(1)(A) or (C) of this title from a person receiving the information under section 30305 of this title shall be fined under title 18, imprisoned for not more than one year, or both.

§ 30308. Authorization of appropriations

(a) Not more than $——— may be appropriated to the Secretary of Transportation for the fiscal year ending September 30, 19—, to carry out this chapter.

(b) Amounts appropriated under this section remain available until expended.

PART B—COMMERCIAL

CHAPTER 311—MOTOR VEHICLE SAFETY

SUBCHAPTER I—STATE GRANTS

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SUBCHAPTER I—STATE GRANTS

§ 31101. Definitions

In this subchapter—

(1) "commercial motor vehicle" means a self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or property, if the vehicle—

(A) has a gross vehicle weight rating of at least 10,000 pounds;

(B) is designed to transport more than 10 passengers including the driver; or

(C) is used in transporting materials found by the Secretary of Transportation to be hazardous under section 5103 of this title.

(2) "employee" means a driver of a commercial motor vehicle (including an independent contractor when personally operating a commercial motor vehicle), a mechanic, a freight handler, or an individual not an employer, who—

(A) directly affects commercial motor vehicle safety in the course of employment by a commercial motor carrier; and

(B) is not an employee of the United States Government, a State, or a political subdivision of a State acting in the course of employment.

(3) "employer"—

(A) means a person engaged in a business affecting commerce that owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate the vehicle in commerce; but

(B) does not include the Government, a State, or a political subdivision of a State.

(4) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

§ 31102. Grants to States

(a) Subject to this section and the availability of amounts, the Secretary of Transportation may make grants to States for the development or implementation of programs for the enforcement of regulations, standards, and orders of the United States Government on commercial motor vehicle safety and compatible State regulations, standards, and orders.

(b)(1) The Secretary shall prescribe procedures for a State to submit a plan under which the State agrees to adopt and assume responsibility for enforcing regulations, standards, and orders of the Government on commercial motor vehicle safety or compatible State regulations, standards, and orders. The Secretary shall approve the plan if the Secretary decides the plan is adequate to promote the objectives of this section and the plan—

(A) designates the State motor vehicle safety agency responsible for administering the plan throughout the State;

(B) contains satisfactory assurances the agency has or will have the legal authority, resources, and qualified personnel necessary to enforce the regulations, standards, and orders;

(C) contains satisfactory assurances the State will devote adequate amounts to the administration of the plan and enforcement of the regulations, standards, and orders;

(D) provides that the total expenditure of amounts of the State and its political subdivisions (not including amounts of the Government) for commercial motor vehicle safety programs will be maintained at a level at least equal to the average level of that expenditure for its last 2 full fiscal years before January 6, 1983;

(E) provides a right of entry and inspection sufficient to enforce the regulations, standards, and orders;

(F) provides that all reports required under this section be submitted to the agency and that the agency will make the reports available to the Secretary on request;

(G) provides that the agency will adopt the reporting requirements and use the forms for recordkeeping, inspections, and investigations the Secretary prescribes; and

(H) requires registrants of commercial motor vehicles to make a declaration of knowledge of applicable safety regulations, standards, and orders of the Government and the State.

(2) If the Secretary disapproves a plan under this subsection, the Secretary shall give the State a written explanation and allow the State to change and resubmit the plan for approval.

(c) On the basis of reports submitted by a State motor vehicle safety agency of a State with a plan approved under this section and the Secretary's own investigations, the Secretary shall make a continuing evaluation of the way the State is carrying out the plan. If the Secretary finds, after notice and opportunity for comment, the State plan previously approved is not being followed or has become inadequate to ensure enforcement of the regulations, standards, or orders, the Secretary shall withdraw approval of the plan and notify the State. The plan stops being effective when the notice is received. A State adversely affected by the withdrawal may seek judicial review under chapter 7 of title 5. Notwithstanding the withdrawal, the State may retain jurisdiction in administrative or judicial proceedings begun before the withdrawal if the issues involved are not related directly to the reasons for the withdrawal.

§ 31103. United States Government share of costs

The Secretary of Transportation shall reimburse a State, from a grant made under this subchapter, an amount that is not more than 80 percent of the costs incurred by the State in a fiscal year in developing and implementing programs to enforce commercial motor vehicle regulations, standards, or orders adopted under this subchapter or subchapter II of this chapter. Amounts of the State and its political subdivisions required to be expended under section 31102(b)(1)(D) of this title may not be included as part of the share not provided by the United States Government. The Secretary may allocate among the States whose applications for grants have been approved those amounts appropriated for grants to support those programs, under criteria that may be established.

§ 31104. Availability of amounts

(a) Subject to section 9503(c)(1) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(c)(1)), not more than $60,000,000 is available from the Highway Trust Fund (except the Mass Transit Account) for each of the fiscal years ending September 30, 1990, and September 30, 1991, for the Secretary of Transportation to incur obligations to carry out section 31102 of this title.

(b) A grant made under this subchapter shall be for not more than one fiscal year.

(c) Amounts made available under this section shall be used to reimburse States pro rata for the United States Government share of costs incurred.

(d) Approval by the Secretary of a grant to a State under section 31102 of this title is a contractual obligation of the Government for payment of the Government share of costs incurred by the State in developing, implementing, or developing and implementing programs to enforce commercial motor vehicle regulations, standards, and orders.

(e) Amounts made available under this section for a fiscal year remain available for obligation by the Secretary for that fiscal year and for the next 3 fiscal years.

(f) On October 1 of each fiscal year, the Secretary may deduct, from amounts made available under this section for that fiscal year, not more than .5 percent of those amounts for administrative expenses in carrying out section 31102 of this title in that fiscal year.

§ 31105. Protection of employees

(a)(1) A person may not discharge an employee, or discipline or discriminate against an employee regarding pay, terms; or privileges of employment, because—

(A) the employee, or another person at the employee's request, has filed a complaint or begun a proceeding related to a violation of
a commercial motor vehicle safety regula
tion, standard, or order, or has testified o
will testify in such a proceeding; or

(B) the employee refuses to operate a vehi
cle because—

(i) the operation violates a regulation
standard, or order of the United States relat
ed to commercial motor vehicle safety o
health; or

(ii) the employee has a reasonable appre
hension of serious injury to the employee o
the public because of the vehicle's unsaf
condition.

(2) Under paragraph (1)(B)(ii) of this sub
section, an employee's apprehension of seri
ous injury is reasonable only if a reasonabl
individual in the circumstances then con
fronting the employee would conclude tha
the unsafe condition establishes a rea
danger of accident, injury, or serious im
pairment to health. To qualify for protec
tion, the employee must have sought fron
the employer, and been unable to obtai
correction of the unsafe condition.

(b)(1) An employee alleging discharge, di
cipline, or discrimination in violation
subsection (a) of this section, or anothe
person at the employee's request, may file
complaint with the Secretary of Labor n
later than 180 days after the alleged viol
tion occurred. On receiving the complain
the Secretary shall notify the person allege
to have committed the violation of the filin
of the complaint.

(2)(A) Not later than 60 days after recei
ing a complaint, the Secretary shall condu
an investigation, decide whether it is re
sonable to believe the complaint has meri
and notify the complainant and the pers
alleged to have committed the violation
the findings. If the Secretary decides it
reasonable to believe a violation occurre
the Secretary shall include with the decisi
findings and a preliminary order for t
relief provided under paragraph (3) of th
subsection.

(B) Not later than 30 days after the noti
under subparagraph (A) of this paragrap
the complainant and the person alleged
have committed the violation may file obje
tions to the findings or preliminary ord
or both, and request a hearing on the reco
The filing of objections does not stay a rei
statement ordered in the preliminary ord
If a hearing is not requested within the
days, the preliminary order is final and n
subject to judicial review.

(C) A hearing shall be conducted expe
tiously. Not later than 120 days after the e
of the hearing, the Secretary shall issue
final order. Before the final order is issue
the proceeding may be ended by a settleme
agreement made by the Secretary, the co
plainant, and the person alleged to ha
committed the violation.

(3)(A) If the Secretary decides, on the ba
of a complaint, a person violated subsecti
(a) of this section, the Secretary shall or
the person to—

(i) take affirmative action to abate
violation;

(ii) reinstate the complainant to
former position with the same pay a
terms and privileges of employment; and

(iii) pay compensatory damages, incl
ing back pay.

(B) If the Secretary issues an order un
subparagraph (A) of this paragraph and
complainant requests, the Secretary m
assess against the person against whom
order is issued the costs (including at
ney's fees) reasonably incurred by the c
plainant in bringing the complaint.

Secretary shall determine the costs that reasonably were incurred.

(c) A person adversely affected by an order issued after a hearing under subsection (b) of this section may file a petition for review, not later than 60 days after the order is issued, in the court of appeals of the United States for the circuit in which the violation occurred or the person resided on the date of the violation. The review shall be heard and decided expeditiously. An order of the Secretary subject to review under this subsection is not subject to judicial review in a criminal or other civil proceeding.

(d) If a person fails to comply with an order issued under subsection (b) of this section, the Secretary shall bring a civil action to enforce the order in the district court of the United States for the judicial district in which the violation occurred.

SUBCHAPTER II—LENGTH AND WIDTH LIMITATIONS

§ 31111. Length limitations

(a) In this section—

(1) "maxi-cube vehicle" means a truck tractor combined with a semitrailer and a separable property-carrying unit designed to be loaded and unloaded through the semitrailer, with the length of the separable property-carrying unit being not more than 34 feet and the length of the vehicle combination being not more than 65 feet.

(2) "truck tractor" means—

(A) a nonproperty-carrying power unit that operates in combination with a semitrailer or trailer; or

(B) a power unit that carries as property only motor vehicles when operating in combination with a semitrailer in transporting motor vehicles.

(b)(1) Except as provided in this section, a State may not prescribe or enforce a regulation of commerce that—

(A) imposes a vehicle length limitation of less than 48 feet on a semitrailer operating in a truck tractor-semitrailer combination, or of less than 28 feet on a semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination, on any segment of the National System of Interstate and Defense Highways (except a segment exempted under subsection (f) of this section) and those classes of qualifying Federal-aid Primary System highways designated by the Secretary of Transportation under subsection (e) of this section;

(B) imposes an overall length limitation on a commercial motor vehicle operating in a truck tractor-semitrailer or truck tractor-semitrailer-trailer combination;

(C) has the effect of prohibiting the use of a semitrailer or trailer of the same dimensions as those that were in actual and lawful use in that State on December 1, 1982; or

(D) has the effect of prohibiting the use of an existing semitrailer or trailer, of not more than 28.5 feet in length, in a truck tractor-semitrailer-trailer combination if the semitrailer or trailer was operating lawfully on December 1, 1982, within a 65-foot overall length limit in any State.

(2) A length limitation prescribed or enforced by a State under paragraph (1)(A) of this subsection applies only to a semitrailer or trailer and not to a truck tractor.

(c) A State may not prohibit a maxi-cube vehicle or a commercial motor vehicle combination consisting of a truck tractor and 2 trailing units on any segment of the National System of Interstate and Defense Highways (except a segment exempted under subsection (f) of this section) and those classes of qualifying Federal-aid Primary System highways designated by the Secretary under subsection (e) of this section.

(d) Length calculated under this section does not include a safety or energy conservation device the Secretary decides is necessary for safe and efficient operation of a commercial motor vehicle. However, such a device may not have by its design or use the ability to carry property.

(e) The Secretary by regulation shall designate as qualifying Federal-aid Primary System highways those Primary System highways that can accommodate safely the applicable vehicle lengths provided in this section.

(f)(1) If the chief executive officer of a State, after consulting under paragraph (2) of this subsection, decides a segment of the National System of Interstate and Defense Highways is not capable of safely accommodating a commercial motor vehicle having a length described in subsection (b)(1)(A) of this section or the motor vehicle combination described in subsection (c) of this section, the chief executive officer may notify the Secretary of that decision and request the Secretary to exempt that segment from either or both provisions.

(2) Before making a decision under paragraph (1) of this subsection, the chief executive officer shall consult with units of local government in the State in which the segment of the National System of Interstate and Defense Highways is located and with the chief executive officer of any adjacent State that may be directly affected by the exemption. As part of the consultations, consideration shall be given to any potential alternative route that serves the area in which the segment is located and can safely accommodate a commercial motor vehicle having a length described in subsection (b)(1)(A) of this section or the motor vehicle combination described in subsection (c) of this section.

(3) A chief executive officer's notification under this subsection must include specific evidence of safety problems supporting the officer's decision and the results of consultations about alternative routes.

(4)(A) If the Secretary decides, on request of a chief executive officer or on the Secretary's own initiative, a segment of the National System of Interstate and Defense Highways is not capable of safely accommodating a commercial motor vehicle having a length described in subsection (b)(1)(A) of this section or the motor vehicle combination described in subsection (c) of this section, the Secretary shall exempt the segment from either or both of those provisions. Before making a decision under this paragraph, the Secretary shall consider any possible alternative route that serves the area in which the segment is located.

(B) The Secretary shall make a decision about a specific segment not later than 120 days after the date of receipt of notification from a chief executive officer under paragraph (1) of this subsection or the date on which the Secretary initiates action under subparagraph (A) of this paragraph, whichever is applicable. If the Secretary finds the decision will not be made in time, the Secretary immediately shall notify Congress, giving the reasons for the delay, information about the resources assigned, and the projected date for the decision.

(C) Before making a decision, the Secretary shall give an interested person notice and an opportunity for comment. If the Secretary exempts a segment under this subsection before the final regulations under subsection (e) of this section are prescribed, the Secretary shall include the exemption as part of the final regulations. If the Secretary exempts the segment after the final regulations are prescribed, the Secretary shall publish the exemption as a change to the final regulations.

(g) In prescribing regulations to carry out this section, the Secretary may make decisions necessary to accommodate specialized equipment, including automobile and vessel transporters.

§ 31112. Width limitations

(a)(1) Except as provided in subsection (e) of this section, a State (except Hawaii) may not prescribe or enforce a regulation of commerce that imposes a vehicle width limitation of more or less than 102 inches on a commercial motor vehicle operating on—

(A) a segment of the National System of Interstate and Defense Highways (except a segment exempted under subsection (e) of this section);

(B) a qualifying Federal-aid highway designated by the Secretary of Transportation, with traffic lanes designed to be at least 12 feet wide; or

(C) a qualifying Federal-aid Primary System highway designated by the Secretary if the Secretary decides the designation is consistent with highway safety.

(2) Notwithstanding paragraph (1) of this subsection, a State may continue to enforce a regulation of commerce in effect on April 6, 1983, that applies to a commercial motor vehicle of more than 102 inches in width, until the date on which the State prescribes a regulation of commerce that complies with this subsection.

(3) A Federal-aid highway (except an interstate highway) not designated under this subsection on June 5, 1984, may be designated under this subsection only with the agreement of the chief executive officer of the State in which the highway is located.

(b) Width calculated under this section does not include a safety or energy conservation device the Secretary decides is necessary for safe and efficient operation of a commercial motor vehicle.

(c) A State may grant a special use permit to a commercial motor vehicle that is more than 102 inches in width.

(d) Consistent with this section, a State may enforce a commercial motor vehicle width limitation of 102 inches on a segment of the National System of Interstate and Defense Highways (except a segment exempted under subsection (e) of this section) or other qualifying Federal-aid highway designated by the Secretary.

(e)(1) If the chief executive officer of a State, after consulting under paragraph (2) of this subsection, decides a segment of the National System of Interstate and Defense Highways is not capable of safely accommodating a commercial motor vehicle having the width provided in subsection (a) of this section, the chief executive officer may notify the Secretary of that decision and request the Secretary to exempt that segment from subsection (a) to allow the State to impose a width limitation of less than 102 inches for a vehicle (except a bus) on that segment.

(2) Before making a decision under paragraph (1) of this subsection, the chief executive officer shall consult with units of local government in the State in which the segment of the National System of Interstate and Defense Highways is located and with the chief executive officer of any adjacent State that may be directly affected by the exemption. As part of the consultations, consideration shall be given to any potential alternative route that serves the area in which the segment is located and can safely accommodate a commercial motor vehicle having the width provided for in subsection (a) of this section.

(3) A chief executive officer's notification under this subsection must include specific evidence of safety problems supporting the officer's decision and the results of consultations about alternative routes.

(4)(A) If the Secretary decides, on request of a chief executive officer or on the Secretary's own initiative, a segment of the National System of Interstate and Defense Highways is not capable of safely accommodating a commercial motor vehicle having a width provided in subsection (a) of this section, the Secretary shall exempt the segment from subsection (a) to allow the State to impose a width limitation of less than 102 inches for a vehicle (except a bus) on that segment. Before making a decision under this paragraph, the Secretary shall consider any possible alternative route that serves the area in which the segment is located.

(B) The Secretary shall make a decision about a specific segment not later than 120 days after the date of receipt of notification from a chief executive officer under paragraph (1) of this subsection or the date on which the Secretary initiates action under subparagraph (A) of this paragraph, whichever is applicable. If the Secretary finds the decision will not be made in time, the Secretary immediately shall notify Congress, giving the reasons for the delay, information about the resources assigned, and the projected date for the decision.

(C) Before making a decision, the Secretary shall give an interested person notice and an opportunity for comment. If the Secretary exempts a segment under this subsection before the final regulations under subsection (a) of this section are prescribed, the Secretary shall include the exemption as part of the final regulations. If the Secretary exempts the segment after the final regulations are prescribed, the Secretary shall publish the exemption as a change to the final regulations.

§ 31113. Access to Interstate System

(a) A State may not enact or enforce a law denying to a commercial motor vehicle subject to this subchapter or subchapter I of this chapter reasonable access between—

(1) the National System of Interstate and Defense Highways (except a segment exempted under section 31111(f) or 31112(e) of this title) and other qualifying Federal-aid Primary System highways designated by the Secretary of Transportation; and

(2) terminals, facilities for food, fuel, repairs, and rest, and points of loading and unloading for household goods carriers or any truck tractor-semitrailer combination in which the semitrailer has a length of not more than 28.5 feet and that generally operates as part of a vehicle combination described in section 31111(c) of this title.

(b) This section does not prevent a State or local government from imposing reasonable restrictions, based on safety considerations, on a truck tractor-semitrailer combination in which the semitrailer has a length of not more than 28.5 feet and that generally operates as part of a vehicle combination described in section 31111(c) of this title.

§ 31114. Enforcement

On the request of the Secretary of Transportation, the Attorney General shall bring a civil action for appropriate injunctive relief to ensure compliance with this subchapter or subchapter I of this chapter. The action may be brought in a district court of the United States in any State in which the relief is required. On a proper showing, the court shall issue a temporary restraining order or preliminary or permanent injunction. An injunction under this section may order a State or person to comply with this subchapter or subchapter I of this chapter or a regulation prescribed under this subchapter or subchapter I.

SUBCHAPTER III—SAFETY REGULATION

§ 31131. Purposes and findings

(a) The purposes of this subchapter are—

(1) to promote the safe operation of commercial motor vehicles;

(2) to minimize dangers to the health of operators of commercial motor vehicles and other employees whose employment directly affects motor carrier safety; and

(3) to ensure increased compliance with traffic laws and with the commercial motor vehicle safety and health regulations and standards prescribed and orders issued under this chapter.

(b) Congress finds—

(1) it is in the public interest to enhance commercial motor vehicle safety and thereby reduce highway fatalities, injuries, and property damage;

(2) improved, more uniform commercial motor vehicle safety measures and strengthened enforcement would reduce the number of fatalities and injuries and the level of property damage related to commercial motor vehicle operations;

(3) enhanced protection of the health of commercial motor vehicle operators is in the public interest; and

(4) interested State governments can provide valuable assistance to the United States Government in ensuring that commercial motor vehicle operations are conducted safely and healthfully.

§ 31132. Definitions

In this subchapter—

(1) "commercial motor vehicle" means a self-propelled or towed vehicle used on the highways in interstate commerce to transport passengers or property, if the vehicle—

(A) has a gross vehicle weight rating of at least 10,001 pounds;

(B) is designed to transport more than 15 passengers including the driver; or

(C) is used in transporting materials found by the Secretary of Transportation to be hazardous under section 5103 of this title and transported in a quantity requiring placarding under regulations prescribed, by the Secretary under section 5103.

(2) "employee" means an operator of a commercial motor vehicle (including an independent contractor when operating a commercial motor vehicle), a mechanic, a freight handler, or an individual not an employer, who—

(A) directly affects commercial motor vehicle safety in the course of employment; and

(B) is not an employee of the United States Government, a State, or a political subdivision of a State acting in the course of the employment by the Government, a State, or a political subdivision of a State.

(3) "employer"—

(A) means a person engaged in a business affecting interstate commerce that owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate it; but

(B) does not include the Government, a State, or a political subdivision of a State.

(4) "interstate commerce" means trade, traffic, or transportation in the United States between a place in a State and—

(A) a place outside that State (including a place outside the United States); or

(B) another place in the same State through another State or through a place outside the United States.

(5) "intrastate commerce" means trade, traffic, or transportation in a State that is not interstate commerce.

(6) "regulation" includes a standard or order.

(7) "State" means a State of the United States, the District of Columbia, and, in sections 31136 and 31140-31142 of this title, a political subdivision of a State.

(8) "State law" includes a law enacted by a political subdivision of a State.

(9) "State regulation" includes a regulation prescribed by a political subdivision o a State.

(10) "United States" means the States o the United States and the District of Columbia.

§ 31133. General powers of the Secretary of Transportation

(a) In carrying out this subchapter an regulations prescribed under section 3110 of this title, the Secretary of Transportatio may—

(1) conduct inspections and investigations;

(2) compile statistics;

(3) make reports;

(4) issue subpenas;

(5) require production of records an property;

(6) take depositions;

(7) hold hearings;

(8) prescribe recordkeeping and reportin requirements;

(9) conduct or make contracts for studies development, testing, evaluation, and training; and

(10) perform other acts the Secretary considers appropriate.

(b) In conducting inspections and investigations under subsection (a) of this sectio the Secretary shall consult, as appropriat with employers and employees and their authorized representatives and offer them right of accompaniment.

(c) The Secretary may delegate to a Stat receiving a grant under section 31102 of th title those duties and powers related to enforcement (including conducting investig tions) of this subchapter and regulation prescribed under this subchapter that th Secretary considers appropriate.

§ 31134. Commercial Motor Vehicle Safety Regul tory Review Panel

(a) The Secretary of Transportation sha establish the Commercial Motor Vehic Safety Regulatory Review Panel. The Pan shall analyze and review State laws and re ulations under sections 31140 and 31141 this title.

(b) The Panel shall—

(1) carry out those duties and powers de ignated to be carried out by the Panel und sections 31140 and 31141 of this title;

(2) conduct a study to—

(A) evaluate the need, if any, for additio al assistance from the United States Gover ment to the States to enable them to enfor the regulations prescribed by the Secreta under section 31136 of this title; and

(B) decide on other methods of furtheri the purposes of this subchapter; and

(3) make recommendations to the Sec tary based on the results of the study co ducted under clause (2) of this subsection.

(c)(1) The Panel shall be composed of 15 members as follows:

(A) the Secretary or the Secretary's delegate.

(B) 7 individuals appointed by the Secretary from among individuals who represent the interests of States and political subdivisions of States and whose names have been submitted to the Secretary by the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Public Works and Transportation of the House of Representatives.

(C) 7 individuals appointed by the Secretary from among individuals who represent the interests of business, consumer, labor, and safety groups and whose names have been submitted to the Secretary by the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Public Works and Transportation of the House of Representatives.

(2) The Secretary shall select the individuals to be appointed under this subsection on the basis of their knowledge, expertise, or experience related to commercial motor vehicle safety. Half of the appointments shall be made from names submitted by the Committee on Commerce, Science, and Transportation of the Senate, and the other half from names submitted by the Committee on Public Works and Transportation of the House of Representatives. Each of these committees shall submit to the Secretary the names of 20 individuals qualified to serve on the Panel.

(3) The term of each member of the Panel appointed under paragraph (1)(B) and (C) of this subsection is 7 years.

(4) A vacancy on the Panel shall be filled in the way the original appointment was made. The vacancy does not affect the Panel's powers.

(d)(1) The Secretary is the Chairman of the Panel.

(2) Eight members of the Panel are a quorum, but the Panel may establish a lesser number as a quorum to hold hearings, take testimony, and receive evidence.

(3) The Panel shall meet at the call of the Chairman or a majority of its members.

(4) Members of the Panel shall serve without pay, except that they shall receive per diem and travel expenses under section 5703 of title 5.

(e) On request of the Panel, the Secretary shall—

(1) detail personnel of the Department of Transportation to the Panel as necessary to assist the Panel in carrying out its duties and powers; and

(2) provide office space, supplies, equipment, and other support services to the Panel as necessary for the Panel to carry out its duties and powers.

(f) To carry out the duties and powers of the Panel under this subchapter, the Panel or any member authorized by the Panel may hold hearings, sit and act at times and places, take testimony, and take other actions the Panel or the member considers advisable. A member of the Panel may administer oaths to witnesses appearing before the Panel or the member.

(g) Subject to regulations the Panel may prescribe, the Chairman of the Panel may procure the temporary or intermittent services of experts or consultants under section 3109 of title 5.

§ 31135. Duties of employers and employees

Each employer and employee shall comply with regulations on commercial motor vehicle safety prescribed by the Secretary of Transportation under this subchapter that apply to the employer's or employee's conduct.

§ 31136. United States Government regulations

(a) Subject to section 30103(a) of this title, the Secretary of Transportation shall prescribe regulations on commercial motor vehicle safety. The regulations shall prescribe minimum safety standards for commercial motor vehicles. At a minimum, the regulations shall ensure that—

(1) commercial motor vehicles are maintained, equipped, loaded, and operated safely;

(2) the responsibilities imposed on operators of commercial motor vehicles do not impair their ability to operate the vehicles safely;

(3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely; and

(4) the operation of commercial motor vehicles does not have a deleterious effect on the physical condition of the operators.

(b) The Secretary may not eliminate or change an existing motor carrier safety regulation related only to the maintenance, equipment, loading, or operation (including routing) of vehicles carrying materials found to be hazardous under section 5103 of this title until an equivalent or more stringent regulation has been prescribed under section 5103.

(c)(1) A regulation under this section shall be prescribed under section 553 of title 5 (without regard to sections 556 and 557 of title 5).

(2) Before prescribing regulations under this section, the Secretary shall consider, to the extent practicable and consistent with the purposes of this chapter—

(A) costs and benefits; and

(B) State laws and regulations on commercial motor vehicle safety, to minimize their unnecessary preemption.

(d) If the Secretary does not prescribe regulations on commercial motor vehicle safety under this section, regulations on commercial motor vehicle safety prescribed by the Secretary before October 30, 1984, and in effect on October 30, 1984, shall be deemed in this subchapter to be regulations prescribed by the Secretary under this section.

(e) After notice and an opportunity for comment, the Secretary may waive any part of a regulation prescribed under this section as it applies to a person or class of persons, if the Secretary decides that the waiver is consistent with the public interest and the safe operation of commercial motor vehicles. Under this subsection, the Secretary shall waive the regulations prescribed under this section as they apply to schoolbuses (as defined in section 30124(a) of this title) unless the Secretary decides that making the regulations applicable to schoolbuses is necessary for public safety, considering all laws of the United States and States applicable to schoolbuses. A waiver under this subsection shall be published in the Federal Register, with the reasons for the waiver.

(f)(1) The Secretary may not—

(A) exempt a person or commercial motor vehicle from a regulation related to commercial motor vehicle safety only because the operations of the person or vehicle are entirely in a municipality or commercial zone of a municipality; or

(B) waive application to a person or commercial motor vehicle of a regulation related to commercial motor vehicle safety only because the operations of the person or vehicle are entirely in a municipality or commercial zone of a municipality.

(2) If a person was authorized to operate a commercial motor vehicle in a municipality or commercial zone of a municipality in the United States for the entire period from November 19, 1987, through November 18, 1988, and if the person is otherwise qualified to operate a commercial motor vehicle, the person may operate a commercial motor vehicle entirely in a municipality or commercial zone of a municipality notwithstanding—

(A) paragraph (1) of this subsection;

(B) a minimum age requirement of the United States Government for operation of the vehicle; and

(C) a medical or physical condition that—

(i) would prevent an operator from operating a commercial motor vehicle under the commercial motor vehicle safety regulations in title 49 of the Code of Federal Regulations;

(ii) existed on July 1, 1988;

(iii) has not substantially worsened; and

(iv) does not involve alcohol or drug abuse.

(3) This subsection does not affect a State commercial motor vehicle safety law applicable to intrastate commerce.

§ 31137. Monitoring device and brake maintenance regulations

(a) If the Secretary of Transportation prescribes a regulation about the use of monitoring devices on commercial motor vehicles to increase compliance by operators of the vehicles with hours of service regulations of the Secretary, the regulation shall ensure that the devices are not used to harass vehicle operators. However, the devices may be used to monitor productivity of the operators.

(b) Not later than December 31, 1990, the Secretary shall prescribe regulations on improved standards or methods to ensure that brakes and brake systems of commercial motor vehicles are maintained properly and inspected by appropriate employees. At a minimum, the regulations shall establish minimum training requirements and qualifications for employees responsible for maintaining and inspecting the brakes and brake systems.

§ 31138. Minimum financial responsibility for transportation of passengers

(a) The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability and property damage for the transportation of passengers for compensation by motor vehicle in the United States between a place in a State and—

(1) a place in another State;

(2) another place in the same State through a place outside of that State; or

(3) a place outside the United States.

(b) The level of financial responsibility established under subsection (a) of this section for a motor vehicle with a seating capacity of—

(1) at least 16 passengers shall be at least $5,000,000; and

(2) not more than 15 passengers shall be at least $1,500,000.

(c)(1) Subject to paragraph (2) of this subsection, financial responsibility may be established by evidence of one or a combination of the following if acceptable to the Secretary of Transportation:

(A) insurance, including high self-retention.

(B) guarantee.

(C) surety bond issued by a bonding company authorized to do business in the United States.

(2) A person domiciled in a country contiguous to the United States and providing transportation to which a minimum level of financial responsibility under this section applies shall have evidence of financial responsibility in the motor vehicle when the person is providing the transportation. If evidence of financial responsibility is not in the vehicle, the Secretary of Transportation and the Secretary of the Treasury shall deny entry of the vehicle into the United States.

(d)(1) If, after notice and an opportunity for a proceeding, the Secretary of Transportation finds that a person (except an employee acting without knowledge) has knowingly violated this section or a regulation prescribed under this section, the person is liable to the United States Government for a civil penalty of not more than $10,000 for each violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation shall impose the penalty by written notice. In determining the amount of the penalty, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(C) other matters that justice requires.

(3) The Secretary of Transportation may compromise the penalty before referring the matter to the Attorney General for collection.

(4) The Attorney General shall bring a civil action in the appropriate district court of the United States to collect a penalty referred to the Attorney General for collection under this subsection.

(5) The amount of the penalty may be deducted from amounts the Government owes the person. An amount collected under this section shall be deposited in the Treasury as miscellaneous receipts.

(e) This section does not apply to a motor vehicle—

(1) transporting only school children and teachers to or from school;

(2) providing taxicab service, having a seating capacity of not more than 6 passengers, and not being operated on a regular route or between specified places; or

(3) carrying not more than 15 individuals in a single, daily round trip to and from work.

§ 31139. Minimum financial responsibility for transportation of property

(a) In this section—

(1) "farm vehicle" means a vehicle—

(A) designed or adapted and used only for agriculture;

(B) operated by a motor private carrier (as defined in section 10102 of this title); and

(C) operated only incidentally on highways.

(2) "interstate commerce" includes transportation between a place in a State and a place outside the United States, to the extent the transportation is in the United States.

(3) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(b)(1) The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability, property damage, and environmental restoration for the transportation of property for compensation by motor vehicle in the United States between a place in a State and—

(A) a place in another State;

(B) another place in the same State through a place outside of that State; or

(C) a place outside the United States.

(2) The level of financial responsibility established under paragraph (1) of this subsection shall be at least $750,000.

(c)(1) The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability, property damage, and environmental restoration for the transportation by motor vehicle in interstate or intrastate commerce of—

(A) hazardous materials (as defined by the Secretary);

(B) oil or hazardous substances (as defined by the Administrator of the Environmental Protection Agency); or

(C) hazardous wastes (as defined by the Administrator).

(2) The level of financial responsibility established under paragraph (1) of this subsection shall be at least $5,000,000 for the transportation—

(A) of hazardous substances (as defined by the Administrator) in cargo tanks, portable tanks, or hopper-type vehicles, with capacities of more than 3,500 water gallons;

(B) in bulk of class A explosives, poison gas, liquified gas, or compressed gas; or

(C) of large quantities of radioactive materials.

(3) The level of financial responsibility established under paragraph (1) of this subsection for the transportation of a material, oil, substance, or waste not subject to paragraph (2) of this subsection shall be at least $1,000,000. However, if the Secretary of Transportation finds it will not adversely affect public safety, the Secretary by regulation may reduce the amount for—

(A) a class of vehicles transporting such a material, oil, substance, or waste in intrastate commerce (except in bulk); and

(B) a farm vehicle transporting such a material or substance in interstate commerce (except in bulk).

(d) Regulations prescribed under this section may allow foreign motor carriers and foreign motor private carriers (as those terms are defined in section 10530 of this title) providing transportation of property under a certificate of registration issued under section 10530 to meet the minimum levels of financial responsibility under this section only when those carriers are providing transportation for property in the United States.

(e)(1) Subject to paragraph (2) of this subsection, financial responsibility may be established by evidence of one or a combination of the following if acceptable to the Secretary of Transportation:

(A) insurance.

(B) guarantee.

(C) surety bond issued by a bonding company authorized to do business in the United States.

(D) qualification as a self-insurer.

(2) A person domiciled in a country contiguous to the United States and providing transportation to which a minimum level of financial responsibility under this section applies shall have evidence of financial responsibility in the motor vehicle when the person is providing the transportation. If evidence of financial responsibility is not in the vehicle, the Secretary of Transportation and the Secretary of the Treasury shall deny entry of the vehicle into the United States.

(f)(1) If, after notice and an opportunity for a proceeding, the Secretary of Transportation finds that a person (except an employee acting without knowledge) has knowingly violated this section or a regulation prescribed under this section, the person is liable to the United States Government for a civil penalty of not more than $10,000 for each violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation shall impose the penalty by written notice. In determining the amount of the penalty, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(C) other matters that justice requires.

(3) The Secretary of Transportation may compromise the penalty before referring the matter to the Attorney General for collection.

(4) The Attorney General shall bring a civil action in the appropriate district court of the United States to collect a penalty referred to the Attorney General for collection under this subsection.

(5) The amount of the penalty may be deducted from amounts the Government owes the person. An amount collected under this section shall be deposited in the Treasury as miscellaneous receipts.

(g) This section does not apply to a motor vehicle having a gross vehicle weight rating of less than 10,000 pounds if the vehicle is not used to transport in interstate or foreign commerce—

(1) class A or B explosives;

(2) poison gas; or

(3) a large quantity of radioactive materials.

§ 31140. Submission of State laws and regulation for review

(a) A State that had in effect a State law or regulation on commercial motor vehicle safety before April 29, 1986, and wants to enforce the law or regulation after October 29 1989, shall submit a copy of the law or regulation to the Secretary of Transportation and the Commercial Motor Vehicle Safety Regulatory Review Panel.

(b) A State that enacts or issues a Stat law or regulation on commercial motor vehicle safety after April 29, 1986, shall submi a copy of the law or regulation to the Secretary and the Panel immediately after the enactment or issuance.

(c) The Secretary shall prescribe initia guidelines to assist the States in compilin and submitting State laws and regulation and other information under this section.

(d) As soon as practicable but not late than a date the Panel may establish, a Stat that submits a State law or regulation unde this section to the Panel shall—

(1) indicate in writing to the Panel whether the law or regulation—

(A) has the same effect as a regulation prescribed by the Secretary under section 3113 of this title;

(B) is less stringent than that regulation or

(C) is additional to or more stringent tha that regulation; and

(2) submit to the Panel other informatio the Panel or the Secretary may require t carry out this subchapter.

§ 31141. Review and preemption of State regulations

(a) After October 29, 1989, a State may not enforce a State law or regulation on commercial motor vehicle safety that the Secretary of Transportation decides under this section may not be enforced.

(b)(1) The Commercial Motor Vehicle Safety Regulatory Review Panel annually shall analyze State laws and regulations and decide which of those laws and regulations are related to commercial motor vehicle safety.

(2) Not later than one year after the date the Secretary prescribes a regulation under section 31136 of this title or one year after the date the Panel decides under paragraph (1) of this subsection that a State law or regulation is related to commercial motor vehicle safety, whichever is later, the Panel shall—

(A) decide whether the State law or regulation—

(i) has the same effect as the regulation prescribed by the Secretary;

(ii) is less stringent than that regulation; or

(iii) is additional to or more stringent than that regulation;

(B) decide, for each State law or regulation that the Panel decides is additional to or more stringent than the regulation prescribed by the Secretary, whether—

(i) the State law or regulation has no safety benefit;

(ii) the State law or regulation is incompatible with the regulation prescribed by the Secretary; or

(iii) enforcement of the State law or regulation would cause an unreasonable burden on interstate commerce; and

(C) notify the Secretary of the Panel's decisions under this subsection.

(c)(1) The Secretary shall review each State law and regulation on commercial motor vehicle safety. Not later than 18 months after the date the Panel notifies the Secretary of a decision under subsection (b) of this section, the Secretary shall—

(A) conduct a proceeding to prescribe regulations to decide under this subsection whether the State law or regulation may be enforced; and

(B) prescribe a final regulation.

(2) If the Secretary decides a State law or regulation has the same effect as a regulation prescribed by the Secretary under section 31136 of this title, the State law or regulation may be enforced after October 29, 1989.

(3) If the Secretary decides a State law or regulation is less stringent than a regulation prescribed by the Secretary under section 31136 of this title, the State law or regulation may not be enforced after October 29, 1989.

(4) If the Secretary decides a State law or regulation is additional to or more stringent than a regulation prescribed by the Secretary under section 31136 of this title, the State law or regulation may be enforced after October 29, 1989, unless the Secretary also decides that—

(A) the State law or regulation has no safety benefit;

(B) the State law or regulation is incompatible with the regulation prescribed by the Secretary; or

(C) enforcement of the State law or regulation would cause an unreasonable burden on interstate commerce.

(5)(A) In deciding about a State law or regulation under this subsection, the Secretary shall give great weight to the corresponding decision made by the Panel about that law or regulation under subsection (b) of this section.

(B) In deciding under paragraph (4) of this subsection whether a State law or regulation will cause an unreasonable burden on interstate commerce, the Secretary may consider the effect on interstate commerce of implementation of that law or regulation with the implementation of all similar laws and regulations of other States.

(d)(1) A person (including a State) may petition the Secretary for a waiver of a decision of the Secretary that a State law or regulation may not be enforced under this section. The Secretary shall grant the waiver, as expeditiously as possible, if the person demonstrates to the satisfaction of the Secretary that the waiver is consistent with the public interest and the safe operation of commercial motor vehicles.

(2) Before deciding whether to grant or deny a petition for a waiver under this subsection, the Secretary shall give the petitioner an opportunity for a hearing on the record.

(e) The Secretary may consolidate proceedings for prescribing regulations under this section if the Secretary decides that the consolidation will not adversely affect a party to a proceeding.

(f) Not later than 10 days after making a decision under subsection (c) of this section that a State law or regulation may not be enforced, the Secretary shall give written notice to the State of that decision.

(g)(1) Not later than 60 days after the Secretary makes a decision under subsection (c) of this section, or grants or denies a petition for a waiver under subsection (d) of this section, a person (including a State) adversely affected by the decision, grant, or denial may file a petition for judicial review. The petition may be filed in the court of appeals of the United States for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business.

(2) The court has jurisdiction to review the decision, grant, or denial and to grant appropriate relief, including interim relief, as provided in chapter 7 of title 5.

(3) A judgment of a court under this subsection may be reviewed only by the Supreme Court under section 1254 of title 28.

(4) The remedies provided for in this subsection are in addition to other remedies provided by law.

(h)(1) The Secretary may extend, for a period of not more than 12 months, the deadline of October 29, 1989, referred to in subsections (a) and (c) of this section and section 31140(a) of this title. On request of a State that is considering enacting a State law or prescribing a State regulation that may be enforced under this section, the Secretary—

(A) shall extend the deadline for that State for the period the State requests (but not more than 12 months); and

(B) may extend the deadline for that State, in addition to the extension under clause (A) of this paragraph, for a period of not more than 12 more months if the additional extension is not contrary to the public interest and does not diminish the safe operation of commercial motor vehicles.

(2) The total periods of extensions under this subsection for a State may not be more than 24 months.

(i) To review a State law or regulation on commercial motor vehicle safety under this section, the Secretary may initiate a proceeding to prescribe regulations on the Secretary's own initiative or on petition of an interested person (including a State).

§ 31142. Inspection of vehicles

(a) On the instruction of an authorized enforcement official of a State or of the United States Government, a commercial motor vehicle is required to pass an inspection of all safety equipment required under part 393 of title 49 of the Code of Federal Regulations.

(b) The Secretary of Transportation shall prescribe regulations on Government standards for inspection of commercial motor vehicles and retention by employers of records of an inspection. The standards shall provide for annual or more frequent inspections of a commercial motor vehicle unless the Secretary finds that another inspection system is as effective as an annual or more frequent inspection system. Regulations prescribed under this subsection are deemed to be regulations prescribed under section 31136 of this title.

(c)(1) Except as provided in paragraph (2) of this subsection, this subchapter and section 31102 of this title do not—

(A) prevent a State or voluntary group of States from imposing more stringent standards for use in their own periodic roadside inspection programs of commercial motor vehicles;

(B) prevent a State from enforcing a program for inspection of commercial motor vehicles that the Secretary decides is as effective as the Government standards prescribed under subsection (b) of this section;

(C) prevent a State from enforcing a program for inspection of commercial motor vehicles that meets the requirements for membership in the Commercial Vehicle Safety Alliance, as those requirements were in effect on October 30, 1984; or

(D) require a State that is enforcing a program described in clause (B) or (C) of this paragraph to enforce a Government standard prescribed under subsection (b) of this section or to adopt a provision on inspection of commercial motor vehicles in addition to that program to comply with the Government standards.

(2) The Government standards prescribed under subsection (b) of this section shall preempt a program of a State described in paragraph (1)(C) of this subsection as it applies to the inspection of commercial motor vehicles in that State. The State may not enforce the program if the Secretary—

(A) decides, after notice and an opportunity for a proceeding, that the State is not enforcing the program in a way that achieves the objectives of this section; and

(B) after making a decision under clause (A) of this paragraph, provides the State with a 6-month period to improve the enforcement of the program to achieve the objectives of this section.

(d) A periodic inspection of a commercial motor vehicle under the Government standards prescribed under subsection (b) of this section or a program described in subsection (c)(1)(B) or (C) of this section that is being enforced shall be recognized as adequate in every State for the period of the inspection. This subsection does not prohibit a State from making random inspections of commercial motor vehicles.

(e) The Government standards prescribed under subsection (b) of this section may not be enforced as they apply to the inspection of commercial motor vehicles in a State enforcing a program described in subsection (c)(1)(B) or (C) of this section if the Secretary decides that it is in the public interest and consistent with public safety for the Government standards not to be enforced as they apply to that inspection.

§ 31143. Investigating complaints and protecting complainants

(a) The Secretary of Transportation shall conduct a timely investigation of a nonfrivolous written complaint alleging that a substantial violation of a regulation prescribed under this subchapter is occurring or has occurred within the prior 60 days. The Secretary shall give the complainant timely notice of the findings of the investigation. The Secretary is not required to conduct separate investigations of duplicative complaints.

(b) Notwithstanding section 552 of title 5, the Secretary may disclose the identity of a complainant only if disclosure is necessary to prosecute a violation. If disclosure becomes necessary, the Secretary shall take every practical means within the Secretary's authority to ensure that the complainant is not subject to harassment, intimidation, disciplinary action, discrimination, or financial loss because of the disclosure.

§ 31144. Safety fitness of owners and operators

(a)(1) In cooperation with the Interstate Commerce Commission, the Secretary of Transportation shall prescribe regulations establishing a procedure to decide on the safety fitness of owners and operators of commercial motor vehicles, including persons seeking new or additional operating authority as motor carriers under sections 10922 and 10923 of this title. The procedure shall include—

(A) specific initial and continuing requirements to be met by the owners, operators, and persons to prove safety fitness;

(B) a means of deciding whether the owners, operators, and persons meet the safety fitness requirements under clause (A) of this paragraph; and

(C) specific time deadlines for action by the Secretary and the Commission in making fitness decisions.

(2) Regulations prescribed under this subsection supersede all regulations of the United States Government on safety fitness and safety rating of motor carriers in effect on October 30, 1984.

(b) The Commission shall—

(1) find an applicant for authority to operate as a motor carrier unfit if the applicant does not meet the safety fitness requirements established under subsection (a) of this section; and

(2) deny the application.

§ 31145. Coordination of agency activities and paperwork

The Secretary of Transportation shall coordinate the activities of departments, agencies, and instrumentalities of the United States Government to ensure adequate protection of the safety and health of operators of commercial motor vehicles. The Secretary shall attempt to minimize paperwork burdens to ensure maximum coordination and to avoid overlap and the imposition of unreasonable burdens on persons subject to regulations under this subchapter.

§ 31146. Relationship to other laws

Except as provided in section 31136(b) of this title, this subchapter and the regulations prescribed under this subchapter do not affect chapter 51 of this title or a regulation prescribed under chapter 51.

§ 31147. Limitation on authority

(a) This subchapter does not authorize the Secretary of Transportation to prescribe traffic safety regulations or preempt State traffic regulations. However, the Secretary may prescribe traffic regulations to the extent their subject matter was regulated under parts 390-399 of title 49 of the Code of Federal Regulations on October 30, 1984.

(b) This subchapter does not authorize the Secretary to regulate the manufacture of commercial motor vehicles for any purpose, including fuel economy, safety, or emission control.

CHAPTER 313—MOTOR VEHICLE OPERATORS

Sec.
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§ 31301. Definitions

In this chapter—

(1) "alcohol" has the same meaning given the term "alcoholic beverage" in section 158(c) of title 23.

(2) "commerce" means trade, traffic, and transportation—

(A) in the jurisdiction of the United States between a place in a State and a place outside that State (including a place outside the United States); or

(B) in the United States that affects trade, traffic, and transportation described in subclause (A) of this clause.

(3) "commercial driver's license" means a license issued by a State to an individual authorizing the individual to operate a class of commercial motor vehicles.

(4) "commercial motor vehicle" means a motor vehicle used in commerce to transport passengers or property that—

(A) has a gross vehicle weight rating of at least 26,001 pounds or a lesser gross vehicle weight rating the Secretary of Transportation prescribes by regulation, but not less than a gross vehicle weight rating of 10,001 pounds;

(B) is designed to transport at least 16 passengers including the driver; or

(C) is used to transport materials found by the Secretary to be hazardous under section 5103 of this title, except a vehicle—

(i) not satisfying the weight requirements of subclause (A) of this clause;

(ii) transporting material listed as hazardous under section 306(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9656(a)) and not otherwise regulated by the Secretary or transporting a consumer commodity or limited quantity of hazardous material as defined in section 171.8 of title 49 of the Code of Federal Regulations; and

(iii) not given a waiver of this exception (individually or as part of a class of motor vehicles) by the Secretary in the interest of safety.

(5) "controlled substance" has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(6) "driver's license" means a license issued by a State to an individual authorizing the individual to operate a motor vehicle on highways.

(7) "employee" means an operator of a commercial motor vehicle (including an independent contractor when operating a commercial motor vehicle) who is employed by an employer.

(8) "employer" means a person (including the United States Government, a State, or a political subdivision of a State) that owns or leases a commercial motor vehicle or assigns employees to operate a commercia motor vehicle.

(9) "felony" means an offense under a law of the United States or a State that is punishable by death or imprisonment for more than one year.

(10) "hazardous material" has the same meaning given that term in section 5102 of this title.

(11) "motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on public streets, roads, or highways but does not include a vehicle, machine tractor, trailer, or semitrailer operated only on a rail line.

(12) "serious traffic violation" means—

(A) excessive speeding, as defined by the Secretary by regulation;

(B) reckless driving, as defined unde State or local law;

(C) a violation of a State or local law on motor vehicle traffic control (except a parking violation) and involving a fatality; and

(D) any other similar violation of a State or local law on motor vehicle traffic control (except a parking violation) that the Secretary designates by regulation as serious.

(13) "State" means a State of the United States and the District of Columbia.

(14) "United States" means the States of the United States and the District of Columbia.

§ 31302. Limitation on number of driver's license

An individual operating a commercia motor vehicle may have only one driver's license at any time, except during the 10-day period beginning on the date the individual is issued a driver's license.

§ 31303. Notification requirements

(a) An individual operating a commercia motor vehicle, having a driver's licens issued by a State, and violating a State o local law on motor vehicle traffic contro (except a parking violation) shall notify th individual's employer of the violation. If th violation occurred in a State other than th issuing State, the individual also sha notify a State official designated by the issuing State. The notifications required by th subsection shall be made not later than 3 days after the date the individual is foun to have committed the violation.

(b) An employee who has a driver's licens revoked, suspended, or cancelled by a Stat who loses the right to operate a commercia motor vehicle in a State for any period, o who is disqualified from operating a commercial motor vehicle for any period, sha notify the employee's employer of the actio not later than 30 days after the date of th action.

(c)(1) Subject to paragraph (2) of this su section, an individual applying for emplo

ment as an operator of a commercial motor vehicle shall notify the prospective employer, at the time of the application, of any previous employment as an operator of a commercial motor vehicle.

(2) The Secretary of Transportation shall prescribe by regulation the period for which notice of previous employment must be given under paragraph (1) of this subsection. However, the period may not be less than the 10-year period ending on the date of the application.

§ 31304. Employer responsibilities

An employer may not knowingly allow an employee to operate a commercial motor vehicle in the United States during a period in which the employee—

(1) has a driver's license revoked, suspended, or cancelled by a State, has lost the right to operate a commercial motor vehicle in a State, or has been disqualified from operating a commercial motor vehicle; or

(2) has more than one driver's license (except as allowed under section 31302 of this title).

§ 31305. Testing of operators

(a) The Secretary of Transportation shall prescribe regulations on minimum standards for testing and ensuring the fitness of an individual operating a commercial motor vehicle. The regulations—

(1) shall prescribe minimum standards for written and driving tests of an individual operating a commercial motor vehicle;

(2) shall require an individual who operates or will operate a commercial motor vehicle to take a driving test in a vehicle representative of the type of vehicle the individual operates or will operate;

(3) shall prescribe minimum testing standards for the operation of a commercial motor vehicle and may prescribe different minimum testing standards for different classes of commercial motor vehicles;

(4) shall ensure that an individual taking the tests has a working knowledge of—

(A) regulations on the safe operation of a commercial motor vehicle prescribed by the Secretary and contained in title 49 of the Code of Federal Regulations; and

(B) safety systems of the vehicle;

(5) shall ensure that an individual who operates or will operate a commercial motor vehicle carrying a hazardous material—

(A) is qualified to operate the vehicle under regulations on motor vehicle transportation of hazardous materials prescribed under chapter 51 of this title; and

(B) has a working knowledge of—

(i) those regulations;

(ii) the handling of hazardous material;

(iii) the operation of emergency equipment used in response to emergencies arising out of the transportation of hazardous material; and

(iv) appropriate response procedures to follow in those emergencies;

(6) shall establish minimum scores for passing the tests;

(7) shall ensure that an individual taking the tests is qualified to operate a commercial motor vehicle under regulations prescribed by the Secretary and contained in title 49 of the Code of Federal Regulations to the extent the regulations apply to the individual; and

(8) may require—

(A) issuance of a certification of fitness to operate a commercial motor vehicle to an individual passing the tests; and

(B) the individual to have a copy of the certification in the individual's possession when the individual is operating a commercial motor vehicle.

(b)(1) Except as provided in paragraph (2) of this subsection, an individual may operate a commercial motor vehicle only if the individual has passed written and driving tests to operate the vehicle that meet the minimum standards prescribed by the Secretary under subsection (a) of this section.

(2) The Secretary may prescribe regulations providing that an individual may operate a commercial motor vehicle for not more than 90 days if the individual—

(A) passes a driving test for operating a commercial motor vehicle that meets the minimum standards prescribed under subsection (a) of this section; and

(B) has a driver's license that is not suspended, revoked, or cancelled.

(3) Paragraph (1) of this subsection becomes effective on the date the Secretary shall establish by regulation. The date shall be as soon as practicable but not later than April 1, 1992.

§ 31306. Commercial driver's license

After consultation with the States, the Secretary of Transportation shall prescribe regulations on minimum uniform standards for the issuance of commercial drivers' licenses by the States and for information to be contained on each of the licenses. The standards shall require at a minimum that—

(1) an individual issued a commercial driver's license pass written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards prescribed by the Secretary under section 31305(a) of this title;

(2) the license be tamperproof to the maximum extent practicable; and

(3) the license contain—

(A) the name and address of the individual issued the license and a physical description of the individual;

(B) the social security account number or other number or information the Secretary decides is appropriate to identify the individual;

(C) the class or type of commercial motor vehicle the individual is authorized to operate under the license;

(D) the name of the State that issued the license; and

(E) the dates between which the license is valid.

§ 31307. Commercial driver's license information system

(a) The Secretary of Transportation shall make an agreement under subsection (b) of this section for the operation of, or establish under subsection (c) of this section, an information system that will serve as a clearinghouse and depository of information about the licensing, identification, and disqualification of operators of commercial motor vehicles. The Secretary shall consult with the States in carrying out this section.

(b) If the Secretary decides that an information system used by a State or States about the driving status of operators of motor vehicles or another State-operated information system could be used to carry out this section, and the State or States agree to the use of the system for carrying out this section, the Secretary may make an agreement with the State or States to use the system as provided in this section and section 31309(c) of this title. An agreement made under this subsection shall contain terms the Secretary considers necessary to carry out this chapter.

(c) If the Secretary does not make an agreement under subsection (b) of this section, the Secretary shall establish an information system about the driving status and licensing of operators of commercial motor vehicles as provided in this section.

(d)(1) At a minimum, the information system under this section shall include for each operator of a commercial motor vehicle—

(A) information the Secretary considers appropriate to ensure identification of the operator;

(B) the name, address, and physical description of the operator;

(C) the social security account number of the operator or other number or information the Secretary considers appropriate to identify the operator;

(D) the name of the State that issued the license to the operator;

(E) the dates between which the license is valid; and

(F) whether the operator had a commercial motor vehicle driver's license revoked, suspended, or cancelled by a State, lost the right to operate a commercial motor vehicle in a State for any period, or has been disqualified from operating a commercial motor vehicle.

(2) Not later than December 31, 1990, the Secretary shall prescribe regulations on minimum uniform standards for a biometric identification system to ensure the identification of operators of commercial motor vehicles.

(e)(1) On request of a State, the Secretary or the operator of the information system, as the case may be, may make available to the State information in the information system under this section.

(2) On request of an employee, the Secretary or the operator of the information system, as the case may be, may make available to the employee information in the information system about the employee.

(3) On request of an employer or prospective employer of an employee and after notification to the employee, the Secretary or the operator of the information system, as the case may be, may make available to the employer or prospective employer information in the information system about the employee.

(4) On the request of the Secretary, the operator of the information system shall make available to the Secretary information about the driving status and licensing of operators of commercial motor vehicles (including information required by subsection (d)(1) of this section).

(f) If the Secretary establishes an information system under this section, the Secretary shall establish a fee system for using the information system. Fees collected under this subsection in a fiscal year shall equal as nearly as possible the costs of operating the information system in that fiscal year. The Secretary shall deposit fees collected under this subsection in the Highway Trust Fund (except the Mass Transit Account).

(g) To carry out a pilot project to demonstrate the use of biometric identification systems to ensure identification of operators of commercial motor vehicles, the Secretary may use in the fiscal year ending September 30, 1990, not more than—

(1) $500,000 from amounts made available to carry out section 31102 of this title; and

(2) $1,000,000 from amounts made available to carry out section 31311 of this title.

§ 31308. Disqualifications

(a) In this section, the blood alcohol concentration level at or above which an individual when operating a commercial motor

vehicle is deemed to be driving under the influence of alcohol is .04 percent.

(b)(1) Except as provided in paragraph (2) of this subsection and subsection (c) of this section, the Secretary of Transportation shall disqualify from operating a commercial motor vehicle for at least one year an individual—

(A) committing a first violation of driving a commercial motor vehicle under the influence of alcohol or a controlled substance;

(B) committing a first violation of leaving the scene of an accident involving a commercial motor vehicle operated by the individual; or

(C) using a commercial motor vehicle in committing a felony (except a felony described in subsection (d) of this section).

(2) If the vehicle involved in a violation referred to in paragraph (1) of this subsection is transporting hazardous material required to be placarded under section 5103 of this title, the Secretary shall disqualify the individual for at least 3 years.

(c)(1) Subject to paragraph (2) of this subsection, the Secretary shall disqualify from operating a commercial motor vehicle for life an individual—

(A) committing more than one violation of driving a commercial motor vehicle under the influence of alcohol or a controlled substance;

(B) committing more than one violation of leaving the scene of an accident involving a commercial motor vehicle operated by the individual;

(C) using a commercial motor vehicle in committing more than one felony arising out of different criminal episodes; or

(D) committing any combination of single violations or use described in clauses (A)-(C) of this paragraph.

(2) The Secretary may prescribe regulations establishing guidelines (including conditions) under which a disqualification for life under paragraph (1) of this subsection may be reduced to a period of not less than 10 years.

(d) The Secretary shall disqualify from operating a commercial motor vehicle for life an individual who uses a commercial motor vehicle in committing a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.

(e)(1) The Secretary shall disqualify from operating a commercial motor vehicle for at least 60 days an individual who, in a 3-year period, commits 2 serious traffic violations involving a commercial motor vehicle operated by the individual.

(2) The Secretary shall disqualify from operating a commercial motor vehicle for at least 120 days an individual who, in a 3-year period, commits 3 serious traffic violations involving a commercial motor vehicle operated by the individual.

(f) Notwithstanding subsections (b)-(e) of this section, the Secretary does not have to disqualify an individual from operating a commercial motor vehicle if the State that issued the individual a license authorizing the operation has disqualified the individual from operating a commercial motor vehicle under subsections (b)-(e). Revocation, suspension, or cancellation of the license is deemed to be disqualification under this subsection.

(g)(1) To enforce section 392.5 of title 49 of the Code of Federal Regulations, the Secretary shall prescribe regulations establishing and enforcing an out-of-service period of 24 hours for an individual who violates section 392.5. An individual may not violate an out-of-service order issued under this paragraph.

(2) The Secretary shall prescribe regulations establishing and enforcing requirements for reporting out-of-service orders issued under regulations prescribed under paragraph (1) of this subsection. Regulations prescribed under this paragraph shall require, at a minimum, an operator of a commercial motor vehicle who is issued an out-of-service order to report the issuance to the individual's employer and to the State that issued the operator a driver's license.

§ 31309. Requirements for State participation

(a) To avoid having amounts withheld from apportionment under section 31312 of this title, a State shall comply with the following requirements:

(1) The State shall adopt and carry out a program for testing and ensuring the fitness of individuals to operate commercial motor vehicles consistent with the minimum standards prescribed by the Secretary of Transportation under section 31305(a) of this title.

(2) The State may issue a commercial driver's license to an individual only if the individual passes written and driving tests for the operation of a commercial motor vehicle that complies with the minimum standards.

(3) The State shall have in effect and enforce a law providing that an individual with a blood alcohol concentration level at or above the level established by section 31308(a) of this title when operating a commercial motor vehicle is deemed to be driving under the influence of alcohol.

(4) The State shall authorize an individual to operate a commercial motor vehicle only by issuing a commercial driver's license containing the information described in section 31306(3) of this title.

(5) At least 60 days before issuing a commercial driver's license (or a shorter period the Secretary prescribes by regulation), the State shall notify the Secretary or the operator of the information system under section 31307 of this title, as the case may be, of the proposed issuance of the license and other information the Secretary may require to ensure identification of the individual applying for the license.

(6) Before issuing a commercial driver's license to an individual, the State shall request from any other State that has issued a commercial driver's license to the individual all information about the driving record of the individual.

(7) Not later than 30 days after issuing a commercial driver's license, the State shall notify the Secretary or the operator of the information system under section 31307 of this title, as the case may be, of the issuance.

(8) Not later than 10 days after disqualifying the holder of a commercial driver's license from operating a commercial motor vehicle (or after revoking, suspending, or cancelling the license) for at least 60 days, the State shall notify the Secretary or the operator of the information system under section 31307 of this title, as the case may be, and the State that issued the license, of the disqualification, revocation, suspension, or cancellation.

(9) If an individual operating a commercial motor vehicle violates a State or local law on motor vehicle traffic control (except a parking violation) and the individual has a driver's license issued by another State, the State in which the violation occurred shall notify a State official designated by the issuing State of the violation not later than 10 days after the date the individual is found to have committed the violation.

(10) The State may not issue a commercial driver's license to an individual during a period in which the individual is disqualified from operating a commercial motor vehicle or the individual's driver's license is revoked, suspended, or cancelled.

(11) The State may issue a commercial driver's license to an individual who has a commercial driver's license issued by another State only if the individual first returns the driver's license issued by the other State.

(12) The State may issue a commercial driver's license only to an individual who operates or will operate a commercial motor vehicle and is domiciled in the State, except that, under regulations the Secretary shall prescribe, the State may issue a commercial driver's license to an individual who operates or will operate a commercial motor vehicle and is not domiciled in a State that issues commercial drivers' licenses.

(13) The State shall impose penalties the State considers appropriate and the Secretary approves for an individual operating a commercial motor vehicle when the individual—

(A) does not have a commercial driver's license;

(B) has a driver's license revoked, suspended, or cancelled; or

(C) is disqualified from operating a commercial motor vehicle.

(14) The State shall allow an individual to operate a commercial motor vehicle in the State if—

(A) the individual has a commercial driver's license issued by another State under the minimum standards prescribed by the Secretary under section 31305(a) of this title;

(B) the license is not revoked, suspended, or cancelled; and

(C) the individual is not disqualified from operating a commercial motor vehicle.

(15) The State shall disqualify an individual from operating a commercial motor vehicle for the same reasons and time periods for which the Secretary shall disqualify the individual under section 31308(b)-(e) of this title.

(16)(A) Before issuing a commercial driver's license to an individual, the State shall request the Secretary for information from the National Driver Register maintained under chapter 303 of this title (after the Secretary decides the Register is operational) on whether the individual—

(i) has been disqualified from operating a motor vehicle (except a commercial motor vehicle);

(ii) has had a license (except a license authorizing the individual to operate a commercial motor vehicle) revoked, suspended, or cancelled for cause in the 3-year period ending on the date of application for the commercial driver's license; or

(iii) has been convicted of an offense specified in section 30304(a)(3) of this title.

(B) The State shall give full weight and consideration to that information in deciding whether to issue the individual a commercial driver's license.

(17) The State shall adopt and enforce regulations prescribed by the Secretary under section 31308(g)(1) of this title.

(b) A State may satisfy the requirements of subsection (a) of this section that the State disqualify an individual from operating a commercial motor vehicle by revoking, suspending, or cancelling the driver's license issued to the individual.

(c) Not later than 30 days after being notified by a State of the proposed issuance of a

commercial driver's license to an individual, the Secretary or the operator of the information system under section 31307 of this title, as the case may be, shall notify the State whether the individual has a commercial driver's license issued by another State or has been disqualified from operating a commercial motor vehicle by another State or the Secretary.

§ 31310. Grants for testing and ensuring the fitness of operators of commercial motor vehicles

(a)(1) The Secretary of Transportation may make a grant to a State under this subsection if the State—

(A) makes an agreement with the Secretary—

(i) to adopt and carry out in the fiscal year in which the grant is made a program for testing and ensuring the fitness of individuals who operate commercial motor vehicles under the minimum standards prescribed by the Secretary under section 31305(a) of this title; and

(ii) to require that operators of commercial motor vehicles have passed written and driving tests that meet the minimum standards; and

(B) has in effect and enforces in that fiscal year a law providing that an individual with a blood alcohol concentration of at least .10 percent when operating a commercial motor vehicle is deemed to be driving under the influence of alcohol.

(2) A State may—

(A) administer driving tests referred to in paragraph (1) of this subsection and section 31309(a) of this title; or

(B) make an agreement, approved by the Secretary, for the tests to be administered by a person (including a department, agency, or instrumentality of a local government) that meets minimum standards the Secretary prescribes by regulation if—

(i) the agreement allows the Secretary and the State each to conduct random examinations, inspections, and audits of the testing without prior notification; and

(ii) the State annually conducts at least one onsite inspection of the testing.

(3) The Secretary shall decide on the amount of a grant in a fiscal year to be made under this subsection to a State eligible to receive the grant in the fiscal year. However—

(A) a grant to a State under this subsection shall be at least $100,000 in a fiscal year; and

(B) to the extent each State grant under this subsection is more than $100,000 in a fiscal year, the Secretary shall ensure that those States are treated equitably.

(4) A State receiving a grant under this subsection may use the amounts provided under the grant only to test operators of commercial motor vehicles.

(5) To carry out this subsection, $5,000,000 from amounts made available under section 31104 of this title is available to the Secretary for each of the fiscal years ending September 30, 1990, and September 30, 1991.

(b)(1) The Secretary may make a grant under this subsection in a fiscal year to a State eligible to receive a grant under subsection (a) of this section in that fiscal year. A grant made under this subsection shall be used for testing operators of commercial motor vehicles.

(2) Amounts of grants under this subsection shall be distributed among the States eligible to receive grants under subsection (a) of this section in the fiscal year on the basis of the number of written and driving tests administered, and the number of drivers' licenses for the operation of commercial motor vehicles issued, in the prior fiscal year.

(3) There is available to the Secretary to carry out this subsection $3,000,000 from amounts made available under section 31104 of this title for each of the fiscal years ending September 30, 1990, and September 30, 1991.

(c) The Secretary may make a grant to a State under this section only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of United States Government amounts, for testing operators of commercial motor vehicles will be maintained at a level at least equal to the average level of that expenditure for its last 2 fiscal years before October 27, 1986.

(d)(1) Amounts made available to a State under this section remain available for obligation by the State for the fiscal year for which the amounts are made available. Any of those amounts not obligated before the last day of that fiscal year are no longer available for obligation by the State and are available to the Secretary to carry out this chapter.

(2) Amounts made available to the Secretary under this section remain available until expended.

(e) Approval by the Secretary of a grant to a State under this section is deemed to be a contractual obligation of the Government for payment of the amount of the grant.

(f) In this section, development of a program for testing and ensuring the fitness of individuals who operate commercial motor vehicles includes studies of—

(1) the number of vehicles that will need to be tested under the program in a calendar year;

(2) facilities at which testing of those individuals could be conducted; and

(3) additional resources (including personnel) that will be necessary to conduct the testing.

§ 31311. Grants for issuing commercial drivers' licenses and complying with State participation requirements

(a) The Secretary of Transportation may make a grant under this section to a State in a fiscal year if the State makes an agreement with the Secretary to participate in that fiscal year in the commercial driver's license program established by this chapter and the information system required by this chapter and to comply with the requirements of section 31309(a) of this title.

(b) The Secretary shall decide on the amount of a grant in a fiscal year to be made under this section to a State eligible to receive the grant in the fiscal year. However—

(1) a grant to a State under this section shall be at least $100,000 in a fiscal year; and

(2) to the extent each State grant under this section is more than $100,000 in a fiscal year, the Secretary shall ensure that those States are treated equitably.

(c) A State receiving a grant under this section may use the amounts provided under the grant only for issuing commercial drivers' licenses and complying with the requirements of section 31309(a) of this title.

(d)(1) Amounts made available to a State under this section remain available for obligation by the State for the fiscal year for which the amounts are made available. Any of those amounts not obligated before the last day of that fiscal year are no longer available for obligation by the State and are available to the Secretary to carry out this chapter.

(2) Amounts made available to the Secretary under this section remain available until expended.

(e) Approval by the Secretary of a grant to a State under this section is deemed to be a contractual obligation of the United States Government for payment of the amount of the grant.

(f) To carry out this section, $5,000,000 from amounts made available under section 31104 of this title is available to the Secretary for each of the fiscal years ending September 30, 1990, and September 30, 1991.

§ 31312. Withholding amounts for State noncompliance

(a) The Secretary of Transportation shall withhold 5 percent of the amount required to be apportioned to a State under section 104(b)(1), (2), (5), and (6) of title 23 on the first day of the fiscal year after the first fiscal year beginning after September 30, 1992, throughout which the State does not comply substantially with a requirement of section 31309(a) of this title.

(b) The Secretary shall withhold 10 percent of the amount required to be apportioned to a State under section 104(b)(1), (2), (5), and (6) of title 23 on the first day of each fiscal year after the 2d fiscal year beginning after September 30, 1992, throughout which the State does not comply substantially with a requirement of section 31309(a) of this title.

(c)(1) Amounts withheld under this section from apportionment to a State before October 1, 1995, remain available for apportionment to the State as follows:

(A) If the amounts would have been apportioned under section 104(b)(5)(B) of title 23 but for this section, the amounts remain available until the end of the 2d fiscal year following the fiscal year for which the amounts are authorized to be appropriated.

(B) If the amounts would have been apportioned under section 104(b)(1), (2), or (6) of title 23 but for this section, the amounts remain available until the end of the 3d fiscal year following the fiscal year for which the amounts are authorized to be appropriated.

(2) Amounts withheld under this section from apportionment to a State after September 30, 1995, are not available for apportionment to the State.

(d)(1) If, before the last day of the period for which amounts withheld under this section from apportionment are to remain available for apportionment to a State under subsection (c)(1) of this section, the State substantially complies with all of the requirements of section 31309(a) of this title for a period of 365 days, the Secretary, on the day following the last day of that period, shall apportion to the State the withheld amounts remaining available for apportionment to that State.

(2) Amounts apportioned under paragraph (1) of this subsection remain available for expenditure until the end of the 3d fiscal year following the fiscal year in which the amounts are apportioned. Amounts not obligated at the end of that period lapse or, for amounts apportioned under section 104(b)(5) of title 23, lapse and are available for projects under section 118(b) of title 23.

(e) If, at the end of the period for which amounts withheld under this section from apportionment are available for apportionment to a State under subsection (c)(1) of this section, the State has not substantially complied with all of the requirements of section 31309(a) of this title for a 365-day period, the amounts lapse or, for amounts withheld from apportionment under section

104(b)(5) of title 23, the amounts lapse and are available for projects under section 118(b) of title 23.

§ 31313. Waiver authority

After notice and an opportunity for comment, the Secretary of Transportation may waive any part of this chapter or a regulation prescribed under this chapter as it applies to a class of individuals or commercial motor vehicles if the Secretary decides the waiver is not contrary to the public interest and does not diminish the safe operation of commercial motor vehicles. A waiver under this section shall be published in the Federal Register with reasons for the waiver.

§ 31314. Limitation on statutory construction

This chapter does not affect the authority of the Secretary of Transportation to regulate commercial motor vehicle safety involving motor vehicles with a gross vehicle weight rating of less than 26,001 pounds or a lesser gross vehicle weight rating the Secretary decides is appropriate under section 31301(4)(A) of this title.

§ 31315. Procedure for prescribing regulations

Regulations prescribed by the Secretary of Transportation to carry out this chapter shall be prescribed under section 553 of title 5 without regard to sections 556 and 557 of title 5.

CHAPTER 315—MOTOR CARRIER SAFETY

Sec.
31501. Definitions.
31502. Requirements for qualifications, hours of service, safety, and equipment standards.
31503. Research, investigation, and testing.
31504. Identification of motor vehicles.

§ 31501. Definitions

In this chapter—

(1) "migrant worker" means an individual going to or from employment in agriculture as provided under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)) or section 203(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)).

(2) "motor carrier", "motor common carrier", "motor private carrier", "motor vehicle", and "United States" have the same meanings given those terms in section 10102 of this title.

(3) "motor carrier of migrant workers"—

(A) means a person (except a motor common carrier) providing transportation referred to in section 10521(a) of this title by a motor vehicle (except a passenger automobile or station wagon) for at least 3 migrant workers at a time to or from their employment; but

(B) does not include a migrant worker providing transportation for migrant workers and their immediate families.

§ 31502. Requirements for qualifications, hours of service, safety, and equipment standards

(a) This section applies to transportation—

(1) described in sections 10521 and 10522 of this title; and

(2) to the extent the transportation is in the United States and is between places in a foreign country, or between a place in a foreign country and a place in another foreign country.

(b) The Secretary of Transportation may prescribe requirements for—

(1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and

(2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation.

(c) The Secretary may prescribe requirements for the comfort of passengers, qualifications and maximum hours of service of operators, and safety of operation and equipment of a motor carrier of migrant workers. The requirements only apply to a carrier transporting a migrant worker—

(1) at least 75 miles; and

(2) across the boundary of a State, territory, or possession of the United States.

(d) Before prescribing or revising any requirement under this section, the Secretary shall consider the costs and benefits of the requirement.

§ 31503. Research, investigation, and testing

(a) The Secretary of Transportation may investigate and report on the need for regulation by the United States Government of sizes, weight, and combinations of motor vehicles and qualifications and maximum hours of service of employees of a motor carrier subject to subchapter II of chapter 105 of this title and a motor private carrier. The Secretary shall use the services of each department, agency, or instrumentality of the Government and each organization of motor carriers having special knowledge of a matter being investigated.

(b) In carrying out this chapter, the Secretary may use the services of a department, agency, or instrumentality of the Government having special knowledge about safety, to conduct scientific and technical research, investigation, and testing when necessary to promote safety of operation and equipment of motor vehicles. The Secretary may reimburse the department, agency, or instrumentality for the services provided.

§ 31504. Identification of motor vehicles

(a) The Secretary of Transportation may—

(1) issue and require the display of an identification plate on a motor vehicle used in transportation provided by a motor private carrier and a motor carrier of migrant workers subject to section 31502(c) of this title, except a motor contract carrier; and

(2) require each of those motor private carriers and motor carriers of migrant workers to pay the reasonable cost of the plate.

(b) A motor private carrier or a motor carrier of migrant workers may use an identification plate only as authorized by the Secretary.

PART C—INFORMATION, STANDARDS, AND REQUIREMENTS

CHAPTER 321—GENERAL

Sec.
32101. Definitions.

§ 32101. Definitions

In this part (except chapter 329)—

(1) "bumper standard" means a minimum performance standard that substantially reduces—

(A) the damage to the front or rear end of a passenger motor vehicle from a low-speed collision (including a collision with a fixed barrier) or from towing the vehicle; or

(B) the cost of repairing the damage.

(2) "insurer" means a person in the business of issuing, or reinsuring any part of, a passenger motor vehicle insurance policy.

(3) "interstate commerce" means commerce between a place in a State and—

(A) a place in another State; or

(B) another place in the same State through another State.

(4) "make", when describing a passenger motor vehicle, means the trade name of the manufacturer of the vehicle.

(5) "manufacturer" means a person—

(A) manufacturing or assembling passenger motor vehicles or passenger motor vehicle equipment; or

(B) importing motor vehicles or motor vehicle equipment for resale.

(6) "model", when describing a passenger motor vehicle, means a category of passenger motor vehicles based on the size, style, and type of a make of vehicle.

(7) "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

(8) "motor vehicle accident" means an accident resulting from the maintenance or operation of a passenger motor vehicle or passenger motor vehicle equipment.

(9) "multipurpose passenger vehicle" means a passenger motor vehicle constructed on a truck chassis or with special features for occasional off-road operation.

(10) "passenger motor vehicle" means a motor vehicle designed to carry not more than 12 individuals, but does not include—

(A) a motorcycle; or

(B) a truck not designed primarily to carry its operator or passengers.

(11) "passenger motor vehicle equipment" means—

(A) a system, part, or component of a passenger motor vehicle as originally made;

(B) a similar part or component made or sold for replacement or improvement of a system, part, or component, or as an accessory or addition to a passenger motor vehicle; or

(C) a device made or sold for use in towing a passenger motor vehicle.

(12) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

(13) "United States district court" means a district court of the United States, a United States court for Guam, the Virgin Islands, and American Samoa, and the district court for the Northern Mariana Islands.

CHAPTER 323—CONSUMER INFORMATION

Sec.
32301. Definitions.
32302. Passenger motor vehicle information.
32303. Insurance information.
32304. Information and assistance from other agencies.
32305. Personnel.
32306. Investigative powers.
32307. Enforcement and penalties.

§ 32301. Definitions

In this chapter—

(1) "crashworthiness" means the protection a passenger motor vehicle gives its passengers against personal injury or death from a motor vehicle accident.

(2) "damage susceptibility" means the susceptibility of a passenger motor vehicle t damage in a motor vehicle accident.

§ 32302. Passenger motor vehicle information

(a) The Secretary of Transportation shal maintain a program for developing the following information on passenger motor vehicles:

(1) crashworthiness.

(2) damage susceptibility.

(3) the degree of difficulty of diagnost and repair of damage to, or failure of, mechanical and electrical systems.

(4) vehicle operating costs dependent o the characteristics referred to in clauses (1)

(3) of this subsection, including insurance information obtained under section 32303 of this title.

(b) To assist a consumer in buying a passenger motor vehicle, the Secretary shall distribute to the public information developed under subsection (a) of this section. The information shall be in a simple and understandable form that allows comparison of the characteristics referred to in subsection (a)(1)–(3) of this section among the makes and models of passenger motor vehicles. The Secretary may require passenger motor vehicle dealers to distribute the information to prospective buyers.

(c) The Secretary shall prescribe regulations that require dealers to distribute to prospective buyers information the Secretary develops and provides to the dealers that compares insurance costs for different makes and models of passenger motor vehicles based on crashworthiness and damage susceptibility.

§ 32303. Insurance information

(a)(1) In carrying out this chapter, the Secretary of Transportation may require an insurer, or a designated agent of the insurer, to make reports and provide the Secretary with information. The reports and information may include accident claim information by make, model, and model year of passenger motor vehicle about the kind and extent of—

(A) physical damage and repair costs; and

(B) personal injury.

(2) In deciding which reports and information are to be provided under this subsection, the Secretary shall—

(A) consider the cost of preparing and providing the reports and information;

(B) consider the extent to which the reports and information will contribute to carrying out this chapter; and

(C) consult with State authorities and public and private agencies the Secretary considers appropriate.

(3) To the extent possible, the Secretary shall obtain reports and information under this subsection on a voluntary basis.

(b) When requested by the Secretary, an insurer shall give the Secretary information—

(1) about the extent to which the insurance premiums charged by the insurer are affected by crashworthiness, damage susceptibility, and the cost of repair and personal injury, for each make and model of passenger motor vehicle; and

(2) available to the insurer about the effect of crashworthiness, damage susceptibility, and the cost of repair and personal injury for each make and model of passenger motor vehicle on the risk incurred by the insurer in insuring that make and model.

(c) In distributing information received under this section, the Secretary may disclose identifying information about a person that may be an insured, a claimant, a passenger, an owner, a witness, or an individual involved in a motor vehicle accident, only with the consent of the person.

§ 32304. Information and assistance from other agencies

(a) The Secretary of Transportation may request information necessary to carry out this chapter from a department, agency, or instrumentality of the United States Government. The head of the department, agency, or instrumentality shall provide the information.

(b) The head of a department, agency, or instrumentality may detail, on a reimbursable basis, personnel to assist the Secretary in carrying out this chapter.

§ 32305. Personnel

(a) In carrying out this chapter, the Secretary of Transportation may—

(1) appoint and fix the pay of employees without regard to the provisions of title 5 governing appointment in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5; and

(2) make contracts with persons for research and preparation of reports.

(b) A member of an advisory committee appointed under section 325 of this title to carry out this chapter is a special United States Government employee under chapter 11 of title 18.

§ 32306. Investigative powers

(a) In carrying out this chapter, the Secretary of Transportation may—

(1) inspect and copy records of any person at reasonable times;

(2) order a person to file written reports or answers to specific questions, including reports or answers under oath; and

(3) conduct proceedings, administer oaths, take testimony, and require (by subpena or otherwise) the appearance and testimony of witnesses and the production of records the Secretary considers advisable.

(b) A witness summoned under subsection (a) of this section is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(c) A civil action to enforce a subpena or order of the Secretary under subsection (a) of this section may be brought in the United States district court for the judicial district in which the proceeding by the Secretary is conducted. The court may punish a refusal to obey an order of the court to comply with a subpena or order of the Secretary as a contempt of court.

(d) Information obtained by the Secretary under this section related to a confidential matter referred to in section 1905 of title 18 may be disclosed only to another officer or employee of the United States Government for use in carrying out this chapter. This subsection does not authorize information to be withheld from a committee of Congress authorized to have the information.

§ 32307. Enforcement and penalties

(a) A person may not—

(1) fail to provide the Secretary of Transportation with information requested by the Secretary in carrying out this chapter; or

(2) fail to comply with applicable regulations prescribed by the Secretary in carrying out this chapter.

(b)(1) A person that violates subsection (a) of this section is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. Each failure to provide information or comply with a regulation in violation of subsection (a) is a separate violation. A person is liable for a penalty under this paragraph of not more than $400,000 for a related series of violations.

(2) The Secretary may compromise a civil penalty. In deciding on a penalty or compromise, the Secretary shall consider the size of the person's business and the gravity of the violation. A penalty or compromise may be deducted from amounts owed the person by the Government.

(c)(1) The Attorney General may bring a civil action to enjoin a violation of subsection (a) of this section.

(2) When practicable, the Secretary shall—

(A) notify a person against whom an action under this subsection is planned;

(B) give the person an opportunity to present that person's views; and

(C) give the person a reasonable opportunity to comply.

(3) The failure of the Secretary to comply with paragraph (2) of this subsection does not prevent a court from granting appropriate relief.

(d) A civil action under this section may be brought in the United States district court for the judicial district in which the violation occurred or the defendant is found, resides, or does business. Process in the action may be served in any other judicial district in which the defendant resides or is found. A subpena for a witness in the action may be served in any judicial district.

CHAPTER 325—BUMPER STANDARDS

Sec.
32501. Purpose.
32502. Bumper standards.
32503. Judicial review of bumper standards.
32504. Certificate of compliance.
32505. Information and compliance requirements.
32506. Prohibited acts.
32507. Enforcement and penalties.
32508. Civil action by an owner of a passenger motor vehicle.
32509. Information and assistance from other agencies.
32510. Annual report.
32511. Relationship to other motor vehicle standards.

§ 32501. Purpose

The purpose of this chapter is to reduce economic loss resulting from damage to passenger motor vehicles involved in motor vehicle accidents by providing for the maintenance and enforcement of bumper standards.

§ 32502. Bumper standards

(a) The Secretary of Transportation shall prescribe bumper standards for passenger motor vehicles and may prescribe bumper standards for passenger motor vehicle equipment manufactured in, or imported into, the United States. A standard does not apply to a passenger motor vehicle or passenger motor vehicle equipment—

(1) intended only for export;

(2) labeled for export on the vehicle or equipment and the outside of any container of the vehicle or equipment; and

(3) exported.

(b) A standard under this section—

(1) may not conflict with a motor vehicle safety standard prescribed under chapter 301 of this title;

(2) may not specify a dollar amount for the cost of repairing damage to a passenger motor vehicle; and

(3) to the greatest practicable extent, may not preclude the attachment of a detachable hitch.

(c) For good cause, the Secretary may exempt from any part of a standard—

(1) a multipurpose passenger vehicle; or

(2) a make, model, or class of a passenger motor vehicle manufactured for a special use, if the standard would interfere unreasonably with the special use of the vehicle.

(d) When prescribing a standard under this section, the Secretary shall design the standard to obtain the maximum feasible reduction of costs to the public, considering—

(1) the costs and benefits of carrying out the standard;

(2) the effect of the standard on insurance costs and legal fees and costs;

(3) savings in consumer time and inconvenience; and

(4) health and safety, including emission standards.

(e) Section 553 of title 5 applies to a standard prescribed under this section. However, the Secretary shall give an interested person an opportunity to make oral and written presentations of information, views, and arguments. A transcript of each oral presentation shall be kept. Under conditions prescribed by the Secretary, the Secretary may conduct a hearing to resolve an issue of fact material to a standard.

(f) The Secretary shall prescribe an effective date for a standard under this section. That date may not be earlier than the date the standard is prescribed nor later than 18 months after the date the standard is prescribed. However, the Secretary may prescribe a later date when the Secretary submits to Congress and publishes the reasons for the later date. A standard only applies to a passenger motor vehicle or passenger motor vehicle equipment manufactured on or after the effective date.

(g) The Secretary shall conduct research necessary to carry out this chapter.

§ 32503. Judicial review of bumper standards

(a) A person that may be adversely affected by a standard prescribed under section 32502 of this title may apply for review of the standard by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 59 days after the standard is prescribed.

(b) The clerk of the court shall send immediately a copy of the petition to the Secretary of Transportation. The Secretary shall file with the court a record of the proceeding in which the standard was prescribed.

(c)(1) On request of the petitioner, the court may order the Secretary to receive additional evidence and evidence in rebuttal if the court is satisfied the additional evidence is material and there were reasonable grounds for not presenting the evidence in the proceeding before the Secretary.

(2) The Secretary may change findings of fact or make new findings because of the additional evidence presented. The Secretary shall file a changed or new finding, a recommendation to change or set aside a standard, and the additional evidence with the court.

(d) A judgment of a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28. A remedy under this section is in addition to any other remedies provided by law.

§ 32504. Certificate of compliance

Under regulations prescribed by the Secretary of Transportation, a manufacturer or distributor of a passenger motor vehicle or passenger motor vehicle equipment subject to a standard prescribed under section 32502 this title shall give the distributor or dealer at the time of delivery a certificate that the vehicle or equipment complies with the standard.

§ 32505. Information and compliance requirements

(a)(1) To enable the Secretary of Transportation to decide whether a manufacturer of passenger motor vehicles or passenger motor vehicle equipment is complying with this chapter and standards prescribed under this chapter, the Secretary may require the manufacturer to—

(A) keep records;

(B) make reports;

(C) provide items and information, including vehicles and equipment for testing at a negotiated price not more than the manufacturer's cost; and

(D) allow an officer or employee designated by the Secretary to inspect vehicles and relevant records of the manufacturer.

(2) To enforce this chapter, an officer or employee designated by the Secretary, on presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, may inspect a facility in which passenger motor vehicles or passenger motor vehicle equipment is manufactured, held for introduction in interstate commerce, or held for sale after introduction in interstate commerce. An inspection shall be conducted at a reasonable time, in a reasonable way, and with reasonable promptness.

(b)(1) In carrying out this chapter, the Secretary may—

(A) inspect and copy records of any person at reasonable times;

(B) order a person to file written reports or answers to specific questions, including reports or answers under oath; and

(C) conduct proceedings, administer oaths, take testimony, and require (by subpena or otherwise) the appearance and testimony of witnesses and the production of records the Secretary considers advisable.

(2) A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(3) A civil action to enforce a subpena or order of the Secretary under this subsection may be brought in the United States district court for the judicial district in which the proceeding by the Secretary was conducted. The court may punish a refusal to obey an order of the court to comply with a subpena or order of the Secretary as a contempt of court.

(c)(1) Information obtained by the Secretary under this chapter related to a confidential matter referred to in section 1905 of title 18 may be disclosed only—

(A) to another officer or employee of the United States Government for use in carrying out this chapter; or

(B) in a proceeding under this chapter.

(2) This subsection does not authorize information to be withheld from a committee of Congress authorized to have the information.

(3) Subject to paragraph (1) of this subsection, the Secretary, on request, shall make available to the public at cost information the Secretary submits or receives in carrying out this chapter.

§ 32506. Prohibited acts

(a) Except as provided in this section, a person may not—

(1) manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States, a passenger motor vehicle or passenger motor vehicle equipment manufactured on or after the date an applicable standard under section 32502 of this title takes effect, unless it conforms to the standard;

(2) fail to comply with an applicable regulation prescribed by the Secretary of Transportation under this chapter;

(3) fail to keep records, refuse access to or copying of records, fail to make reports or provide items or information, or fail or refuse to allow entry or inspection, as required by this chapter or a regulation prescribed under this chapter; or

(4) fail to provide the certificate required by section 32504 of this title, or provide a certificate that the person knows, or in the exercise of reasonable care has reason to know, is false or misleading in a material respect.

(b) Subsection (a)(1) of this section does not apply to—

(1) the sale, offer for sale, or introduction or delivery for introduction in interstate commerce of a passenger motor vehicle or passenger motor vehicle equipment after the first purchase of the vehicle or equipment in good faith other than for resale (but this clause does not prohibit a standard from requiring that a vehicle or equipment be manufactured to comply with the standard over a specified period of operation or use); or

(2) a person—

(A) establishing that the person had no reason to know, by exercising reasonable care, that the vehicle or equipment does not comply with the standard; or

(B) holding, without knowing about a noncompliance and before that first purchase, a certificate issued under section 32504 of this title stating that the vehicle or equipment complies with the standard.

(c)(1) The Secretaries of Transportation and the Treasury may prescribe joint regulations authorizing a passenger motor vehicle or passenger motor vehicle equipment not complying with a standard prescribed under section 32502 of this title to be imported into the United States subject to conditions (including providing a bond) the Secretaries consider appropriate to ensure that the vehicle or equipment will—

(A) comply, after importation, with the standards prescribed under section 32502 of this title;

(B) be exported; or

(C) be abandoned to the United States Government.

(2) The Secretaries may prescribe joint regulations that allow a passenger motor vehicle or passenger motor vehicle equipment to be imported into the United States after the first purchase in good faith other than for resale.

(d) Compliance with a standard under this chapter does not exempt a person from liability provided by law.

§ 32507. Enforcement and penalties

(a)(1) A person that violates section 32506(a) of this title is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. A separate violation occurs for each passenger motor vehicle or item of passenger motor vehicle equipment involved in a violation of section 32506(a)(1) or (4) of this title—

(A) that does not comply with a standard prescribed under section 32502 of this title; or

(B) for which a certificate is not provided, or for which a false or misleading certificate is provided, under section 32504 of this title.

(2) A person is liable for a civil penalty under this subsection of not more than $800,000 for a related series of violations.

(3) The Secretary of Transportation shall impose a civil penalty under this subsection. The Attorney General or the Secretary, with the concurrence of the Attorney General, shall bring a civil action to collect the penalty.

(b) A person knowingly and willfully violating section 32506(a)(1) of this title after receiving a notice of noncompliance from the Secretary shall be fined under title 18, imprisoned for not more than one year, or both. If the person is a corporation, the penalties of this subsection also apply to a director, officer, or individual agent of the corporation who, with knowledge of the Secretary's notice, knowingly and willfully au-

thorizes, orders, or performs an act that is any part of the violation.

(c)(1) The Secretary or the Attorney General may bring a civil action to enjoin a violation of this chapter or the sale, offer for sale, introduction or delivery for introduction in interstate commerce, or importation into the United States, of a passenger motor vehicle or passenger motor vehicle equipment that is found, before the first purchase in good faith other than for resale, not to comply with a standard prescribed under section 32502 of this title.

(2) When practicable, the Secretary shall—

(A) notify a person against whom an action under this subsection is planned;

(B) give the person an opportunity to present that person's views; and

(C) except for a knowing and willful violation, give the person a reasonable opportunity to comply.

(3) The failure of the Secretary to comply with paragraph (2) of this subsection does not prevent a court from granting appropriate relief.

(d) In a trial for criminal contempt for violating an injunction or restraining order issued under subsection (c) of this section, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(e) A civil action under subsection (a) or (c) of this section may be brought in the United States district court for the judicial district in which the violation occurred or the defendant is found, resides, or does business. Process in the action may be served in any other judicial district in which the defendant resides or is found. A subpoena for a witness in the action may be served in any judicial district.

§ 32508. Civil action by an owner of a passenger motor vehicle

When an owner of a passenger motor vehicle sustains damages as a result of a motor vehicle accident because the vehicle did not comply with a standard prescribed under section 32502 of this title, the owner may bring a civil action against the manufacturer to recover the damages. The action may be brought in the United States District Court for the District of Columbia or in the district court for the judicial district in which the owner resides. The action must be brought not later than 3 years after the date of the accident. The court shall award costs and a reasonable attorney's fee to the owner when a judgment is entered for the owner.

§ 32509. Information and assistance from other agencies

(a) The Secretary of Transportation may request information necessary to carry out this chapter from a department, agency, or instrumentality of the United States Government. The head of the department, agency, or instrumentality shall provide the information.

(b) The head of a department, agency, or instrumentality may detail, on a reimbursable basis, personnel to assist the Secretary in carrying out this chapter.

§ 32510. Annual report

Not later than March 31 of each year, the Secretary of Transportation shall submit to Congress and the President a report on the progress in carrying out section 32501 of this title. The report shall include—

(1) a statement of the cost savings resulting from carrying out this chapter; and

(2) recommendations for legislative or other action the Secretary decides may be appropriate.

§ 32511. Relationship to other motor vehicle standards

(a) Except as provided in this section, a State or a political subdivision of a State may prescribe or enforce a bumper standard for a passenger motor vehicle or passenger motor vehicle equipment only if the standard is identical to a standard prescribed under section 32502 of this title.

(b) This chapter and chapter 301 of this title do not affect the authority of a State to enforce a bumper standard about an aspect of performance of a passenger motor vehicle or passenger motor vehicle equipment not covered by a standard prescribed under section 32502 of this title if the State bumper standard—

(1) does not conflict with a standard prescribed under chapter 301 of this title; and

(2) was in effect or prescribed by the State on October 20, 1972.

(c) The United States Government, a State, or a political subdivision of a State may prescribe a bumper standard for a passenger motor vehicle or passenger motor vehicle equipment obtained for its own use that imposes additional or higher standards of performance than a standard prescribed under section 32502 of this title.

CHAPTER 327—ODOMETERS

Sec.
32701. Findings and purposes.
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§ 32701. Findings and purposes

(a) Congress finds that—

(1) buyers of motor vehicles rely heavily on the odometer reading as an index of the condition and value of a vehicle;

(2) buyers are entitled to rely on the odometer reading as an accurate indication of the mileage of the vehicle;

(3) an accurate indication of the mileage assists a buyer in deciding on the safety and reliability of the vehicle; and

(4) motor vehicles move in, or affect, interstate and foreign commerce.

(b) The purposes of this chapter are—

(1) to prohibit tampering with motor vehicle odometers; and

(2) to provide safeguards to protect purchasers in the sale of motor vehicles with altered or reset odometers.

§ 32702. Definitions

In this chapter—

(1) "auction company" means a person taking possession of a motor vehicle owned by another to sell at an auction.

(2) "dealer" means a person that sold at least 5 motor vehicles during the prior 12 months to buyers that in good faith bought the vehicles other than for resale.

(3) "distributor" means a person that sold at least 5 motor vehicles during the prior 12 months for resale.

(4) "leased motor vehicle" means a motor vehicle leased to a person for at least 4 months by a lessor that leased at least 5 vehicles during the prior 12 months.

(5) "odometer" means an instrument for measuring and recording the distance a motor vehicle is driven, but does not include an auxiliary instrument designed to be reset by the operator of the vehicle to record mileage of a trip.

(6) "repair" and "replace" mean to restore to a sound working condition by replacing any part of an odometer or by correcting any inoperative part of an odometer.

(7) "title" means the certificate of title or other document issued by the State indicating ownership.

(8) "transfer" means to change ownership by sale, gift, or other means.

§ 32703. Preventing tampering

A person may not—

(1) advertise for sale, sell, use, install, or have installed, a device that makes an odometer of a motor vehicle register a mileage different from the mileage the vehicle was driven, as registered by the odometer within the designed tolerance of the manufacturer of the odometer;

(2) disconnect, reset, change, or have disconnected, reset, or changed, an odometer of a motor vehicle intending to change the mileage registered by the odometer;

(3) with intent to defraud, operate a motor vehicle on a public street, road, or highway if the person knows that the odometer of the vehicle is disconnected or not operating; or

(4) conspire to violate this section or section 32704 or 32705 of this title.

§ 32704. Repair or replacement

(a) A person may service, repair, or replace an odometer of a motor vehicle if the mileage registered by the odometer remains the same as before the service, repair, or replacement. If the mileage cannot remain the same—

(1) the person shall adjust the odometer to read zero; and

(2) the owner of the vehicle or agent of the owner shall attach a written notice to the left door frame of the vehicle specifying the mileage before the service, repair, or replacement and the date of the service, repair, or replacement.

(b) A person may not, with intent to defraud, remove or change a notice attached to a motor vehicle as required by this section.

§ 32705. Disclosure requirements on transfer of vehicle

(a)(1) Under regulations prescribed by the Secretary of Transportation, a person transferring ownership of a motor vehicle shall give the transferee a written disclosure—

(A) of the cumulative mileage registered by the odometer; or

(B) that the mileage is unknown if the transferor knows that the mileage registered by the odometer is incorrect.

(2) A person making a written disclosure required by a regulation prescribed under paragraph (1) of this subsection may not make a false statement in the disclosure.

(3) A person acquiring a motor vehicle for resale may accept a disclosure under this section only if it is complete.

(4) The regulations prescribed by the Secretary shall provide the way in which information is disclosed and retained under this section.

(b)(1) A motor vehicle the ownership of which is transferred may not be licensed for use in a State unless the transferee, in submitting an application to a State for the title on which the license will be issued, includes with the application the transferor's title and, if that title contains the space referred to in paragraph (3)(A)(iii) of this subsection, a statement, signed and dated by the transferor, of the mileage disclosure required under subsection (a) of this section. This paragraph does not apply to a transfer

of ownership of a motor vehicle that has not been licensed before the transfer.

(2)(A) Under regulations prescribed by the Secretary, if the title to a motor vehicle issued to a transferor by a State is in the possession of a lienholder when the transferor transfers ownership of the vehicle, the transferor may use a written power of attorney (if allowed by State law) in making the mileage disclosure required under subsection (a) of this section. Regulations prescribed under this paragraph shall—

(i) prescribe the form of the power of attorney;

(ii) provide that the form be printed by means of a secure printing process (or other secure process);

(iii) provide that the State issue the form to the transferee;

(iv) provide that the person exercising the power of attorney retain a copy and submit the original to the State;

(v) ensure that the mileage at the time of transfer be disclosed on the power of attorney document;

(vi) ensure that the mileage be restated exactly by the person exercising the power of attorney in the space referred to in paragraph (3)(A)(iii) of this subsection; and

(vii) provide other conditions the Secretary considers appropriate.

(B) Section 32709(a) and (b) applies to a person granting or granted a power of attorney under this paragraph.

(3)(A) A motor vehicle the ownership of which is transferred may be licensed for use in a State only if the title issued by the State to the transferee—

(i) is produced by means of a secure printing process (or other secure process);

(ii) indicates the mileage disclosure required to be made under subsection (a) of this section; and

(iii) contains a space for the transferee to disclose the mileage at the time of a future transfer and to sign and date the disclosure.

(B) Subparagraph (A) of this paragraph does not require a State to verify, or preclude a State from verifying, the mileage information contained in the title.

(c)(1) For a leased vehicle, the regulations prescribed under subsection (a) of this section shall require written disclosure about mileage to be made by the lessee to the lessor when the lessor transfers ownership of the leased vehicle.

(2) Under those regulations, the lessor shall provide written notice to the lessee of—

(A) the mileage disclosure requirements of subsection (a) of this section; and

(B) the penalties for failure to comply with those requirements.

(3) The lessor shall retain the disclosures made by a lessee under paragraph (1) of this subsection for at least 4 years following the date the lessor transfers the vehicle.

(4) If the lessor transfers ownership of a leased vehicle without obtaining possession of the vehicle, the lessor, in making the disclosure required by subsection (a) of this section, may indicate on the title the mileage disclosed by the lessee under paragraph (1) of this subsection unless the lessor has reason to believe that the disclosure by the lessee does not reflect the actual mileage of the vehicle.

(d) The requirements of subsections (b) and (c)(1) of this section on the disclosure of motor vehicle mileage when motor vehicles are transferred or leased apply in a State unless the State has in effect alternate motor vehicle mileage disclosure requirements approved by the Secretary. The Secretary shall approve alternate motor vehicle mileage disclosure requirements submitted by a State unless the Secretary decides that the requirements are not consistent with the purpose of the disclosure required by subsection (b) or (c), as the case may be.

(e) If a motor vehicle is sold at an auction, the auction company conducting the auction shall maintain the following records for at least 4 years after the date of the sale:

(1) the name of the most recent owner of the motor vehicle (except the auction company) and the name of the buyer of the motor vehicle.

(2) the vehicle identification number required under chapter 301 or 331 of this title.

(3) the odometer reading on the date the auction company took possession of the motor vehicle.

(f)(1) Except as provided in paragraph (2) of this subsection, subsections (b)-(e) of this section apply to the transfer of a motor vehicle after April 28, 1989.

(2) If a State requests, the Secretary shall assist the State in revising its laws to comply with subsection (b) of this section. If a State requires time beyond April 28, 1989, to revise its laws to achieve compliance, the Secretary, on request of the State, may grant additional time that the Secretary considers reasonable by publishing a notice in the Federal Register. The notice shall include the reasons for granting the additional time. In granting additional time, the Secretary shall ensure that the State is making reasonable efforts to achieve compliance.

§ 32706. Inspections, investigations, and records

(a) Subject to section 32707 of this title, the Secretary of Transportation may conduct an inspection or investigation necessary to carry out this chapter or a regulation prescribed or order issued under this chapter. The Secretary shall cooperate with State and local officials to the greatest extent possible in conducting an inspection or investigation. The Secretary may give the Attorney General information about a violation of this chapter or a regulation prescribed or order issued under this chapter.

(b)(1) In carrying out subsection (a) of this section, an officer or employee designated by the Secretary, on display of proper credentials and written notice to the owner, operator, or agent in charge, may—

(A) enter and inspect commercial premises in which a motor vehicle or motor vehicle equipment is manufactured, held for shipment or sale, maintained, or repaired;

(B) enter and inspect noncommercial premises in which the Secretary reasonably believes there is a vehicle or equipment involved in a violation of this chapter;

(C) inspect that vehicle or equipment; and

(D) impound for not more than 72 hours for inspection a vehicle or equipment that the Secretary reasonably believes is involved in a violation of this chapter.

(2) An inspection or impoundment under this subsection shall be conducted at a reasonable time, in a reasonable way, and with reasonable promptness. The written notice may consist of a warrant issued under section 32707 of this title.

(c) When the Secretary impounds for inspection a motor vehicle (except a vehicle subject to subchapter II of chapter 105 of this title) or motor vehicle equipment under subsection (b)(1)(D) of this section, the Secretary shall pay reasonable compensation to the owner of the vehicle or equipment if the inspection or impoundment results in denial of use, or reduction in value, of the vehicle or equipment.

(d)(1) To enable the Secretary to decide whether a dealer or distributor is complying with this chapter and regulations prescribed and orders issued under this chapter, the Secretary may require the dealer or distributor—

(A) to keep records;

(B) to provide information from those records if the Secretary states the purpose for requiring the information and identifies the information to the fullest extent practicable; and

(C) to allow an officer or employee designated by the Secretary to inspect relevant records of the dealer or distributor.

(2) This subsection and subsection (e)(1)(B) of this section do not authorize the Secretary to require a dealer or distributor to provide information on a regular periodic basis.

(e)(1) In carrying out this chapter, the Secretary may—

(A) inspect and copy records of any person at reasonable times;

(B) order a person to file written reports or answers to specific questions, including reports or answers under oath; and

(C) conduct proceedings, administer oaths, take testimony, and require (by subpena or otherwise) the appearance and testimony of witnesses and the production of records the Secretary considers advisable.

(2) A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(3) A civil action to enforce a subpena or order of the Secretary under this subsection may be brought in the United States district court for the judicial district in which the proceeding by the Secretary was conducted. The court may punish a refusal to obey an order of the court to comply with a subpena or order of the Secretary as a contempt of court.

(f) A person may not fail to keep records, refuse access to or copying of records, fail to make reports or provide information, fail to allow entry or inspection, or fail to permit impoundment, as required under this section.

§ 32707. Administrative warrants

(a) In this section, "probable cause" means a valid public interest in the effective enforcement of this chapter or a regulation prescribed under this chapter sufficient to justify the inspection or impoundment in the circumstances stated in an application for a warrant under this section.

(b)(1) Except as provided in paragraph (4) of this subsection, an inspection or impoundment under section 32706 of this title may be carried out only after a warrant is obtained.

(2) A judge of a court of the United States or a State court of record or a United States magistrate may issue a warrant for an inspection or impoundment under section 32706 of this title within the territorial jurisdiction of the court or magistrate. The warrant must be based on an affidavit that—

(A) establishes probable cause to issue the warrant; and

(B) is sworn to before the judge or magistrate by an officer or employee who knows the facts alleged in the affidavit.

(3) The judge or magistrate shall issue the warrant when the judge or magistrate decides there is a reasonable basis for believing that probable cause exists to issue the warrant. The warrant must—

(A) identify the premises, property, or motor vehicle to be inspected and the items or type of property to be impounded;

(B) state the purpose of the inspection, the basis for issuing the warrant, and the name of the affiant;

(C) direct an individual authorized under section 32706 of this title to inspect the premises, property, or vehicle for the purpose stated in the warrant and, when appropriate, to impound the property specified in the warrant;

(D) direct that the warrant be served during the hours specified in the warrant; and

(E) name the judge or magistrate with whom proof of service is to be filed.

(4) A warrant under this section is not required when—

(A) the owner, operator, or agent in charge of the premises consents;

(B) it is reasonable to believe that the mobility of the motor vehicle to be inspected makes it impractical to obtain a warrant;

(C) an application for a warrant cannot be made because of an emergency;

(D) records are to be inspected and copied under section 32706(e)(1)(A) of this title; or

(E) a warrant is not constitutionally required.

(c)(1) A warrant issued under this section must be served and proof of service filed not later than 10 days after its issuance date. The judge or magistrate may allow additional time in the warrant if the Secretary of Transportation demonstrates a need for additional time. Proof of service must be filed promptly with a written inventory of the property impounded under the warrant. The inventory shall be made in the presence of the individual serving the warrant and the individual from whose possession or premises the property was impounded, or if that individual is not present, a credible individual except the individual making the inventory. The individual serving the warrant shall verify the inventory. On request, the judge or magistrate shall send a copy of the inventory to the individual from whose possession or premises the property was impounded and to the applicant for the warrant.

(2) When property is impounded under a warrant, the individual serving the warrant shall—

(A) give the person from whose possession or premises the property was impounded a copy of the warrant and a receipt for the property; or

(B) leave the copy and receipt at the place from which the property was impounded.

(3) The judge or magistrate shall file the warrant, proof of service, and all documents filed about the warrant with the clerk of the district court of the United States for the judicial district in which the inspection is made.

§ 32708. Confidentiality of information

(a) Information obtained by the Secretary of Transportation under this chapter related to a confidential matter referred to in section 1905 of title 18 may be disclosed only—

(1) to another officer or employee of the United States Government for use in carrying out this chapter; or

(2) in a proceeding under this chapter.

(b) This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

§ 32709. Enforcement and penalties

(a)(1) A person that violates this chapter or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than $2,000 for each violation. A separate violation occurs for each motor vehicle or device involved in the violation. A person is liable for a penalty under this paragraph of not more than $100,000 for a related series of violations.

(2) The Secretary of Transportation shall impose a civil penalty under this subsection. The Attorney General shall bring a civil action to collect the penalty. Before referring a penalty claim to the Attorney General, the Secretary may compromise the penalty. Before compromising a penalty, the Secretary shall give the person charged with a violation an opportunity to establish that the violation did not occur. In determining the amount of a penalty under this subsection, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(C) other matters that justice requires.

(b) A person that knowingly and willfully violates this chapter or a regulation prescribed or order issued under this chapter shall be fined under title 18, imprisoned for not more than 3 years, or both. If the person is a corporation, the penalties of this subsection also apply to a director, officer, or individual agent of a corporation who knowingly and willfully authorizes, orders, or performs an act in violation of this chapter or a regulation prescribed or order issued under this chapter.

(c) The Attorney General may bring a civil action to enjoin a violation of this chapter or a regulation prescribed or order issued under this chapter. The action may be brought in the United States district court for the judicial district in which the violation occurred or the defendant is found, resides, or does business. Process in the action may be served in any other judicial district in which the defendant resides or is found. A subpena for a witness in the action may be served in any judicial district.

(d)(1) When a person violates this chapter or a regulation prescribed or order issued under this chapter, the chief law enforcement officer of the State in which the violation occurs may bring a civil action—

(A) to enjoin the violation; or

(B) to recover amounts for which the person is liable under section 32710 of this title for each person on whose behalf the action is brought.

(2) An action under this subsection may be brought in an appropriate district court of the United States or in a State court of competent jurisdiction. The action must be brought not later than 2 years after the claim accrues.

§ 32710. Action by a private person

(a) A person that violates this chapter or a regulation prescribed or order issued under this chapter, with intent to defraud, is liable for 3 times the actual damages or $1,500, whichever is greater.

(b) A person may bring a civil action to enforce a claim under this section in an appropriate district court of the United States or in another court of competent jurisdiction. The action must be brought not later than 2 years after the claim accrues. The court shall award costs and a reasonable attorney's fee to the person when a judgment is entered for that person.

§ 32711. Relationship to State law

Except to the extent that State law is inconsistent with this chapter, this chapter does not—

(1) affect a State law on disconnecting, changing, or tampering with an odometer with intent to defraud; or

(2) exempt a person from complying with that law.

CHAPTER 329—AUTOMOBILE FUEL ECONOMY

Sec.
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32903. Credits for exceeding average fuel economy standards.
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32905. Manufacturing incentives for alternative fuel automobiles.
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32913. Compromising penalties.
32914. Enforcement.
32915. Appeal of a civil penalty.
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§ 32901. Definitions and application

(a) In this chapter—

(1) except as provided in section 32908 of this title, "automobile" means a 4-wheeled vehicle that is propelled by fuel, or by alcohol or natural gas, manufactured primarily for use on public streets, roads, and highways (except a vehicle operated only on a rail line), and rated at—

(A) not more than 6,000 pounds gross vehicle weight; or

(B) more than 6,000, but less than 10,000, pounds gross vehicle weight, if the Secretary of Transportation decides by regulation that—

(i) an average fuel economy standard under this chapter for the vehicle is feasible; and

(ii) an average fuel economy standard under this chapter for the vehicle will result in significant energy conservation or the vehicle is substantially used for the same purposes as a vehicle rated at not more than 6,000 pounds gross vehicle weight.

(2) "automobile manufactured by a manufacturer" includes an automobile manufactured by a person that controls, is controlled by, or is under common control with the manufacturer, but does not include an automobile manufactured by the person in a model year that is exported not later than 30 days after the end of that model year.

(3) "alcohol" means a mixture containing 85 percent or more methanol, ethanol, or other alcohols by volume, in any combination;

(4) "alcohol powered automobile" means an automobile designed to operate only on alcohol.

(5) "average fuel economy" means average fuel economy determined under section 32904 of this title.

(6) "average fuel economy standard" means a performance standard specifying a minimum level of average fuel economy applicable to a manufacturer in a model year.

(7) "dual energy automobile" means an automobile that—

(A) is capable of operating on alcohol and gasoline or diesel fuel;

(B) provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the United States Government, when operating on alcohol as when operating on gasoline or diesel fuel;

(C) for model years 1993-1995, and if the Administrator of the Environmental Protection Agency decides to extend the application of this clause (C), for an additional period ending not later than the end of the last model year to which section 32905(b) and (d) of this title applies, provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the Government, when operating on a mixture of alcohol and gasoline or diesel fuel containing exactly 50 percent gasoline or diesel fuel as when operating on gasoline or diesel fuel; and

(D) for a passenger automobile, meets the minimum driving range prescribed under subsection (b) of this section.

(8) "fuel" means—

(A) gasoline;

(B) diesel oil; or

(C) other liquid or gaseous fuel that the Secretary decides by regulation to include in this definition as consistent with the need of the United States to conserve energy.

(9) "fuel economy" means the average number of miles traveled by an automobile for each gallon of gasoline (or equivalent amount of other fuel) used, as determined by the Administrator under section 32904(c) of this title.

(10) "import" means to import into the customs territory of the United States.

(11) "manufacture" (except under section 32902(d) of this title) means to produce or assemble in the customs territory of the United States or to import.

(12) "manufacturer" means—

(A) a person engaged in the business of manufacturing automobiles, including a predecessor or successor of the person to the extent provided under regulations prescribed by the Secretary; and

(B) if more than one person is the manufacturer of an automobile, the person specified under regulations prescribed by the Secretary.

(13) "model" means a class of automobiles as decided by regulation by the Administrator after consulting and coordinating with the Secretary.

(14) "model year", when referring to a specific calendar year, means—

(A) the annual production period of a manufacturer as decided by the Administrator, including January 1 of that calendar year; or

(B) that calendar year if the manufacturer does not have an annual production period.

(15) "natural gas dual energy automobile" means an automobile that—

(A) is capable of operating on natural gas and on gasoline or diesel fuel;

(B) provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the Government, when operating on natural gas as when operating on gasoline or diesel fuel; and

(C) for a passenger automobile, meets the minimum driving range prescribed under subsection (b) of this section.

(16) "natural gas powered automobile" means an automobile designed to operate only on natural gas.

(17) "passenger automobile" means an automobile that the Secretary decides by regulation is manufactured primarily for transporting not more than 10 individuals, but does not include an automobile capable of off-highway operation that the Secretary decides by regulation—

(A) has a significant feature (except 4-wheel drive) designed for off-highway operation; and

(B) is a 4-wheel drive automobile or is rated at more than 6,000 pounds gross vehicle weight.

(b)(1) Not later than April 14, 1990, the Secretary shall prescribe the minimum driving range that dual energy automobiles that are passenger automobiles must meet when operating on alcohol, and that natural gas dual energy automobiles that are passenger automobiles must meet when operating on natural gas, to be dual energy automobiles or natural gas dual energy automobiles under sections 32905 and 32906 of this title. A determination whether a dual energy automobile or natural gas dual energy automobile meets the minimum driving range requirement under this paragraph shall be based on the combined Environmental Protection Agency city/highway fuel economy as determined for average fuel economy purposes for those automobiles.

(2)(A) The Secretary may prescribe a lower range for a specific model than that prescribed under paragraph (1) of this subsection. A manufacturer may petition for a lower range than that prescribed under paragraph (1) for a specific model.

(B) If the Secretary prescribes a minimum driving range of 200 miles for dual energy automobiles under paragraph (1) of this subsection, subparagraph (A) of this paragraph does not apply to dual energy automobiles.

(C) The minimum driving range prescribed for dual energy automobiles under subparagraph (A) of this paragraph or paragraph (1) of this subsection must be at least 200 miles.

(3) In prescribing a minimum driving range under paragraph (1) of this subsection and in taking an action under paragraph (2) of this subsection, the Secretary shall consider the purpose of section 3 of the Alternative Motor Fuels Act of 1988 (Public Law 100–494, 102 Stat. 2442), consumer acceptability, economic practicability, technology, environmental impact, safety, driveability, performance, and other factors the Secretary considers relevant.

§ 32902. Average fuel economy standards

(a) At least 18 months before the beginning of each model year, the Secretary of Transportation shall prescribe by regulation average fuel economy standards for automobiles (except passenger automobiles) manufactured by a manufacturer in that model year. Each standard shall be the maximum feasible average fuel economy level that the Secretary decides the manufacturers can achieve in that model year. The Secretary may prescribe separate standards for different classes of automobiles.

(b) Except as provided in this section, the average fuel economy standard for passenger automobiles manufactured by a manufacturer in a model year after model year 1984 shall be 27.5 miles a gallon.

(c)(1) Subject to paragraph (2) of this subsection, the Secretary of Transportation may prescribe regulations changing the standard under subsection (b) of this section for a model year to a level that the Secretary decides is the maximum feasible average fuel economy level for that model year. Section 553 of title 5 applies to a proceeding to change the standard. However, an interested person may make an oral presentation and a transcript shall be taken of that presentation.

(2) If the Secretary of Transportation increases the standard above 27.5 miles a gallon or decreases the standard below 26.0 miles a gallon, the Secretary shall submit the change to Congress. The procedures of section 551 of the Energy Policy and Conservation Act (42 U.S.C. 6421) apply to a change, except that the 15 calendar days referred to in section 551(c) and (d) of that Act (42 U.S.C. 6421(c), (d)) are deemed to be 60 calendar days, and the 5 calendar days referred to in section 551(f)(4)(A) of that Act (42 U.S.C. 6421(f)(4)(A)) are deemed to be 20 calendar days. If either House of Congress disapproves the change under those procedures, the change does not take effect.

(d)(1) Except as provided in paragraph (2) of this subsection, on application of a manufacturer that manufactured (whether in the United States or not) fewer than 10,000 passenger automobiles in the model year 2 years before the model year for which the application is made, the Secretary of Transportation may exempt by regulation the manufacturer from a standard under subsection (b) or (c) of this section. An exemption for a model year applies only if the manufacturer manufactures (whether in the United States or not) fewer than 10,000 passenger automobiles in the model year. The Secretary may exempt a manufacturer only if the Secretary—

(A) finds that the applicable standard under those subsections is more stringent than the maximum feasible average fuel economy level that the manufacturer can achieve; and

(B) prescribes by regulation an alternative average fuel economy standard for the passenger automobiles manufactured by the exempted manufacturer that the Secretary decides is the maximum feasible average fuel economy level for the manufacturers to which the standard applies.

(2) Notwithstanding paragraph (1) of this subsection, an importer registered under section 30141(c) of this title may not be exempted as a manufacturer under paragraph (1) for a motor vehicle that the importer—

(A) imports; or

(B) brings into compliance with applicable motor vehicle safety standards prescribed under chapter 301 of this title for an individual under section 30142 of this title.

(3) The Secretary of Transportation may prescribe an alternative average fuel economy standard applicable to an individually exempted manufacturer, to all automobiles to which this subsection applies, or to classes of passenger automobiles, as defined under regulations of the Secretary, manufactured by exempted manufacturers.

(4) The Secretary of Transportation may prescribe the contents of an application for an exemption.

(e)(1) In this subsection, "emergency vehicle" means an automobile manufactured primarily for use—

(A) as an ambulance or combination ambulance-hearse;

(B) by the United States Government or a State or local government for law enforcement; or

(C) for other emergency uses prescribed by regulation by the Secretary of Transportation.

(2) A manufacturer may elect to have the fuel economy of an emergency vehicle excluded in applying a fuel economy standard under subsection (a), (b), (c), or (d) of this section. The election is made by providing written notice to the Secretary of Transportation and to the Administrator of the Environmental Protection Agency.

(f) When deciding maximum feasible average fuel economy under this section, the Secretary of Transportation shall consider tech-

nological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy.

(g) When the Secretary of Transportation prescribes a change under this section that makes an average fuel economy standard more stringent, the Secretary shall prescribe the change (and submit the change to Congress when required under subsection (c)(2) of this section) at least 18 months before the beginning of the model year to which the change applies.

(h) In carrying out subsections (c), (f), and (g) of this section, the Secretary of Transportation—

(1) may not consider the fuel economy of alcohol powered automobiles or natural gas powered automobiles; and

(2) shall consider dual energy automobiles and natural gas dual energy automobiles to be operated only on gasoline or diesel fuel.

(i)(1) Before issuing a notice proposing to prescribe or change an average fuel economy standard under subsection (a) or (c) of this section, the Secretary of Transportation shall give the Secretary of Energy at least 10 days from the receipt of the notice during which the Secretary of Energy may, if the Secretary of Energy concludes that the proposed standard would adversely affect the conservation goals of the Secretary of Energy, provide written comments to the Secretary of Transportation about the impact of the standard on those goals. To the extent the Secretary of Transportation does not revise a proposed standard to take into account comments of the Secretary of Energy on any adverse impact of the standard, the Secretary of Transportation shall include those comments in the notice.

(2) Before taking final action on a standard or an exemption from a standard under this section, the Secretary of Transportation shall notify the Secretary of Energy and provide the Secretary of Energy a reasonable time to comment.

(j) The Secretary of Transportation shall consult with the Secretary of Energy in carrying out this section and section 32903 of this title.

§ 32903. Credits for exceeding average fuel economy standards

(a) When the average fuel economy of passenger automobiles manufactured by a manufacturer in a particular model year exceeds an applicable average fuel economy standard under section 32902(b)-(d) of this title (determined by the Secretary of Transportation without regard to credits under this section), the manufacturer earns credits. The credits may be applied to—

(1) any of the 3 consecutive model years immediately before the model year for which the credits are earned; and

(2) to the extent not used under clause (1) of this subsection, any of the 3 consecutive model years immediately after the model year for which the credits are earned.

(b)(1) Except as provided in paragraph (2) of this subsection, credits under this section are available to a manufacturer at the end of the model year in which earned.

(2)(A) Before the end of a model year, if a manufacturer has reason to believe that its average fuel economy for passenger automobiles will be less than the applicable standard for that model year, the manufacturer may submit a plan to the Secretary of Transportation demonstrating that the manufacturer will earn sufficient credits under this section within the next 3 model years to allow the manufacturer to meet that standard for the model year involved. Unless the Secretary finds that the manufacturer is unlikely to earn sufficient credits under the plan, the Secretary shall approve the plan. Those credits are available for the model year involved if—

(i) the Secretary approves the plan; and

(ii) the manufacturer earns those credits as provided by the plan.

(B) If the average fuel economy of a manufacturer is less than the applicable standard under section 32902(b)-(d) of this title after applying credits under subsection (a)(1) of this section, the Secretary of Transportation shall notify the manufacturer and give the manufacturer a reasonable time (of at least 60 days) to submit a plan.

(c) The number of credits a manufacturer earns under this section equals the product of—

(1) the number of tenths of a mile a gallon by which the average fuel economy of the passenger automobiles manufactured by the manufacturer in the model year in which the credits are earned exceeds the applicable average fuel economy standard under section 32902(b)-(d) of this title; times

(2) the number of passenger automobiles manufactured by the manufacturer during that model year.

(d) The Secretary of Transportation shall apply credits to a model year on the basis of the number of tenths of a mile a gallon by which the manufacturer involved was below the applicable average fuel economy standard for that model year and the number of passenger automobiles manufactured that model year by the manufacturer. Credits applied to a model year are no longer available for another model year. Before applying credits, the Secretary shall give the manufacturer written notice and reasonable opportunity to comment.

(e) Credits for a manufacturer of automobiles that are not passenger automobiles are earned and applied to a model year in which the average fuel economy of that class of automobiles is below the applicable average fuel economy standard under section 32902(a) of this title, to the same extent and in the same way as provided in this section for passenger automobiles.

(f) When a civil penalty has been collected under this chapter from a manufacturer that has earned credits under this section, the Secretary of the Treasury shall refund to the manufacturer the amount of the penalty to the extent the penalty is attributable to credits available under this section.

§ 32904. Calculation of average fuel economy

(a)(1) The Administrator of the Environmental Protection Agency shall calculate the average fuel economy of a manufacturer subject to—

(A) section 32902(a) of this title in a way prescribed by the Administrator; and

(B) section 32902(b)-(d) of this title by dividing—

(i) the number of passenger automobiles manufactured by the manufacturer in a model year; by

(ii) the sum of the fractions obtained by dividing the number of passenger automobiles of each model manufactured by the manufacturer in that model year by the fuel economy measured for that model.

(2)(A) In this paragraph, "electric vehicle" means a vehicle powered primarily by an electric motor drawing electrical current from a portable source.

(B) If a manufacturer manufactures an electric vehicle, the Administrator shall include in the calculation of average fuel economy under paragraph (1) of this subsection equivalent petroleum based fuel economy values determined by the Secretary of Energy for various classes of electric vehicles. The Secretary shall review those values each year and propose and determine necessary changes based on the following factors:

(i) the approximate electrical energy efficiency of the vehicle, considering the kind of vehicle and the mission and weight of the vehicle.

(ii) the national average electrical generation and transmission efficiencies.

(iii) the need of the United States to conserve all forms of energy and the relative scarcity and value to the United States of all fuel used to generate electricity.

(iv) the specific patterns of use of electric vehicles compared to petroleum-fueled vehicles.

(b)(1) In this subsection—

(A) a passenger automobile is deemed to be manufactured domestically in a model year if at least 75 percent of the cost to the manufacturer is attributable to value added in the United States or Canada, unless the assembly of the automobile is completed in Canada and the automobile is imported into the United States more than 30 days after the end of the model year; and

(B) the fuel economy of a passenger automobile that is not manufactured domestically is deemed to be equal to the average fuel economy of all passenger automobiles that are not manufactured domestically.

(2)(A) Except as provided in paragraphs (4) and (5) of this subsection, the Administrator shall make separate calculations under subsection (a)(1)(B) of this section for—

(i) passenger automobiles manufactured domestically by a manufacturer (or included in this category under paragraph (3) of this subsection); and

(ii) passenger automobiles not manufactured domestically by that manufacturer (or excluded from this category under paragraph (3) of this subsection).

(B) Passenger automobiles described in subparagraph (A)(i) and (ii) of this paragraph are deemed to be manufactured by separate manufacturers under this chapter.

(3)(A) A manufacturer may submit to the Secretary of Transportation for approval a plan, including supporting material, stating the actions and the dates when the actions will be taken, that will ensure that the automobile type or types referred to in subparagraph (B) of this paragraph will be manufactured domestically before the end of the 4th model year covered by the plan. The Secretary promptly shall consider and act on the plan. The Secretary shall approve the plan unless—

(i) the Secretary finds that the plan is inadequate to meet the requirements of this paragraph; or

(ii) the manufacturer previously has submitted a plan approved by the Secretary under this paragraph.

(B) If the plan is approved, the Administrator shall include under paragraph (2)(A)(i) and exclude under paragraph (2)(A)(ii) of this subsection, for each of the 4 model years covered by the plan, not more than 150,000 passenger automobiles manufactured by that manufacturer but not qualifying as domestically manufactured if—

(i) the model type or types involved previously have not been manufactured domestically;

(ii) at least 50 percent of the cost to the manufacturer of each of the automobiles is

attributable to value added in the United States or Canada;

(iii) the automobiles, if their assembly was completed in Canada, are imported into the United States not later than 30 days after the end of the model year; and

(iv) the automobile model type or types are manufactured domestically before the end of the 4th model year covered by the plan.

(4)(A) A manufacturer may file with the Secretary of Transportation a petition for an exemption from the requirement of separate calculations under paragraph (2)(A) of this subsection if the manufacturer began automobile production or assembly in the United States—

(i) after December 22, 1975, and before May 1, 1980; or

(ii) after April 30, 1980, if the manufacturer has engaged in the production or assembly in the United States for at least one model year ending before January 1, 1986.

(B) The Secretary of Transportation shall grant the exemption unless the Secretary finds that the exemption would result in reduced employment in the United States related to motor vehicle manufacturing during the period of the exemption. An exemption under this paragraph is effective for 5 model years or, if requested by the manufacturer, a longer period provided by the Secretary in the order granting the exemption. The exemption applies to passenger automobiles manufactured by that manufacturer during the period of the exemption.

(C) Before granting an exemption, the Secretary of Transportation shall provide notice of, and reasonable opportunity for, written or oral comment about the petition. The period for comment shall end not later than 60 days after the petition is filed, except that the Secretary may extend the period for not more than another 30 days. The Secretary shall decide whether to grant or deny the exemption, and publish notice of the decision in the Federal Register, not later than 90 days after the petition is filed, except that the Secretary may extend the time for decision to a later date (not later than 150 days after the petition is filed) if the Secretary publishes notice of, and reasons for, the extension in the Federal Register. If the Secretary does not make a decision within the time provided in this subparagraph, the petition is deemed to have been granted. Not later than 30 days after the end of the decision period, the Secretary shall submit a written statement of the reasons for not making a decision to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

(5)(A) A person adversely affected by a decision of the Secretary of Transportation granting or denying an exemption may file, not later than 30 days after publication of the notice of the decision, a petition for review in the United States Court of Appeals for the District of Columbia Circuit. That court has exclusive jurisdiction to review the decision and to affirm, remand, or set aside the decision under section 706(2)(A)-(D) of title 5.

(B) A judgment of the court under this subparagraph may be reviewed by the Supreme Court under section 1254 of title 28. Application for review by the Supreme Court must be made not later than 30 days after entry of the court's judgment.

(C) A decision of the Secretary of Transportation on a petition for an exemption under this paragraph may be reviewed administratively or judicially only as provided in this paragraph.

(6) Notwithstanding section 32903 of this title, during a model year when an exemption under this paragraph is effective for a manufacturer—

(A) credit may not be earned under section 32903(a) of this title by the manufacturer; and

(B) credit may not be made available under section 32903(b)(2) of this title for the manufacturer.

(c) The Administrator shall measure fuel economy for each model and calculate average fuel economy for a manufacturer under testing and calculation procedures prescribed by the Administrator. However, except under section 32908 of this title, the Administrator shall use the same procedures for passenger automobiles the Administrator used for model year 1975 (weighted 55 percent urban cycle and 45 percent highway cycle), or procedures that give comparable results. A measurement of fuel economy or a calculation of average fuel economy (except under section 32908) shall be rounded off to the nearest .1 of a mile a gallon. The Administrator shall decide on the quantity of other fuel that is equivalent to one gallon of gasoline. To the extent practicable, a fuel economy test shall be carried out with emissions tests under section 206 of the Clean Air Act (42 U.S.C. 7525).

(d) The Administrator shall prescribe a procedure under this section, or a change (except a technical or clerical change) in a procedure, at least 12 months before the beginning of the model year to which the procedure or change applies.

(e) The Administrator shall report measurements and calculations under this section to the Secretary of Transportation and shall consult and coordinate with the Secretary in carrying out this section.

§ 32905. Manufacturing incentives for alternative fuel automobiles

(a) For any model of alcohol powered automobile manufactured by a manufacturer after model year 1992, the fuel economy measured for that model shall be based on the fuel content of the alcohol used to operate the automobile. A gallon of alcohol used to operate an alcohol powered automobile is deemed to contain .15 gallon of fuel.

(b) For any model of dual energy automobile manufactured by a manufacturer in model years 1993-2004, the Administrator of the Environmental Protection Agency shall measure the fuel economy for that model by dividing 1.0 by the sum of—

(1) .5 divided by the fuel economy measured under section 32904(c) of this title when operating the model on gasoline or diesel fuel; and

(2) .5 divided by the fuel economy measured under subsection (a) of this section when operating the model on alcohol.

(c) For any model of natural gas powered automobile manufactured by a manufacturer after model year 1992, the Administrator shall measure the fuel economy for that model based on the fuel content of the natural gas used to operate the automobile. One hundred cubic feet of natural gas is deemed to contain .823 gallon equivalent of natural gas. A gallon equivalent of natural gas is deemed to have a fuel content of .15 gallon of fuel.

(d) For any model of natural gas dual energy automobile manufactured by a manufacturer in model years 1993-2004, the Administrator shall measure the fuel economy for that model by dividing 1.0 by the sum of—

(1) .5 divided by the fuel economy measured under section 32904(c) of this title when operating the model on gasoline or diesel fuel; and

(2) .5 divided by the fuel economy measured under subsection (c) of this section when operating the model on natural gas.

(e) The Administrator shall calculate the manufacturer's average fuel economy under section 32904(a)(1) of this title for each model described under subsections (a)-(d) of this section by using as the denominator the fuel economy measured for each model under subsections (a)-(d).

(f) Not later than December 31, 2001, the Secretary of Transportation shall—

(1) extend by regulation the application of subsections (b) and (d) of this section for not more than 4 consecutive model years immediately after model year 2004 and explain the basis on which the extension is granted; or

(2) publish a notice explaining the reasons for not extending the application of subsections (b) and (d) of this section.

(g) Not later than September 30, 2000, the Secretary of Transportation, in consultation with the Secretary of Energy and the Administrator, shall complete a study of the success of the policy of subsections (b) and (d) of this title, and submit to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the results of the study, including preliminary conclusions on whether the application of subsections (b) and (d) should be extended for up to 4 more model years. The study and conclusions shall consider—

(1) the availability to the public of alcohol powered automobiles, natural gas powered automobiles, and alternative fuels;

(2) energy conservation and security;

(3) environmental considerations; and

(4) other relevant factors.

§ 32906. Maximum fuel economy increase for alternative fuel automobiles

(a)(1)(A) For each of the model years 1993-2004 for each category of automobile, the maximum increase in average fuel economy for a manufacturer attributable to dual energy automobiles and natural gas dual energy automobiles is 1.2 miles a gallon.

(B) If the application of section 32905(b) and (d) of this title is extended under section 32905(f) of this title, for each category of automobile the maximum increase in average fuel economy for a manufacturer for each of the model years 2005-2008 attributable to dual energy automobiles and natural gas dual energy automobiles is .9 mile a gallon.

(2) In applying paragraph (1) of this subsection, the Administrator of the Environmental Protection Agency shall determine the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under section 32905(e) of this title the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 32904(a)(1) of this title by including as the denominator for each model of dual energy automobile or natural gas dual energy automobile the fuel economy when the automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described—

(A) in paragraph (1)(A) of this subsection is more than 1.2 miles a gallon, the limitation in paragraph (1)(A) applies; and

(B) in paragraph (1)(B) of this subsection is more than .9 mile a gallon, the limitation in paragraph (1)(B) applies.

(b) Nothwithstanding this section and sections 32901(b) and 32905 of this title, if the Secretary of Transportation reduces the average fuel economy standard for passenger automobiles for any model year below 27.5 miles a gallon, an increase in average fuel economy for passenger automobiles of more than .7 mile a gallon to which a manufacturer of dual energy automobiles or natural gas dual energy automobiles would otherwise be entitled is reduced by an amount equal to the amount of the reduction in the standard. However, the increase may not be reduced to less than .7 mile a gallon.

§ 32907. Reports and tests of manufacturers

(a)(1) A manufacturer shall report to the Secretary of Transportation on—

(A) whether the manufacturer will comply with an applicable average fuel economy standard under section 32902 of this title for the model year for which the report is made;

(B) the actions the manufacturer has taken or intends to take to comply with the standard; and

(C) other information the Secretary requires by regulation.

(2) A manufacturer shall submit a report under paragraph (1) of this subsection during the 30 days—

(A) before the beginning of each model year; and

(B) beginning on the 180th day of the model year.

(3) When a manufacturer decides that actions reported under paragraph (1)(B) of this subsection are not sufficient to ensure compliance with that standard, the manufacturer shall report to the Secretary additional actions the manufacturer intends to take to comply with the standard and include a statement that those actions are sufficient to ensure compliance.

(4) This subsection does not apply to a manufacturer for a model year for which the manufacturer is subject to an alternative average fuel economy standard under section 32902(d) of this title.

(b)(1) Under regulations prescribed by the Secretary or the Administrator of the Environmental Protection Agency to carry out this chapter, a manufacturer shall maintain records, make reports, conduct tests, and provide items and information. On request and display of proper credentials, an officer or employee designated by the Secretary or Administrator may inspect automobiles and records of the manufacturer. An inspection shall be made at a reasonable time and in a reasonable way.

(2) The district courts of the United States may—

(A) issue an order enforcing a requirement or request under paragraph (1) of this subsection; and

(B) punish a failure to obey the order as a contempt of court.

§ 32908. Fuel economy information

(a) In this section—

(1) "automobile" includes an automobile rated at not more than 8,500 pounds gross vehicle weight regardless of whether the Secretary of Transportation has applied this chapter to the automobile under section 32901(a)(1)(B) of this title.

(2) "dealer" means a person residing or located in a State, the District of Columbia, or a territory or possession of the United States, and engaged in the sale or distribution of new automobiles to the first person (except a dealer buying as a dealer) that buys the automobile in good faith other than for resale.

(b)(1) Under regulations of the Administrator of the Environmental Protection Agency, a manufacturer of automobiles shall attach a label to a prominent place on each automobile manufactured in a model year. The dealer shall maintain the label. The label shall contain the following information:

(A) the fuel economy of the automobile.

(B) the estimated annual fuel cost of operating the automobile.

(C) the range of fuel economy of comparable automobiles of all manufacturers.

(D) a statement that a booklet is available from the dealer to assist in making a comparison of fuel economy of other automobiles manufactured by all manufacturers in that model year.

(E) the amount of the automobile fuel efficiency tax imposed on the sale of the automobile under section 4064 of the Internal Revenue Code of 1986 (26 U.S.C. 4064).

(F) other information required or authorized by the Administrator that is related to the information required by clauses (A)-(D) of this paragraph.

(2) The Administrator may allow a manufacturer to comply with this subsection by—

(A) disclosing the information on the label required under section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232); and

(B) including the statement required by paragraph (1)(E) of this subsection at a time and in a way that takes into account special circumstances or characteristics.

(3) For alcohol powered automobiles and natural gas powered automobiles manufactured after model year 1992, the fuel economy of those automobiles under paragraph (1)(A) of this subsection is the fuel economy for those automobiles when operated on alcohol or natural gas, as the case may be, measured under section 32905(a) or (c) of this title, multiplied by .15. Each label required under paragraph (1) of this subsection for those dual energy automobiles or natural gas dual energy automobiles shall—

(A) indicate the fuel economy of the automobile when operated on gasoline or diesel fuel;

(B) clearly identify the automobile as a dual energy automobile or natural gas dual energy automobile;

(C) cleary identify the fuels on which the automobile may be operated; and

(D) contain a statement informing the consumer that the additional information required by subsection (c)(2) of this section is published and distributed by the Secretary of Energy.

(c)(1) The Administrator shall prepare the booklet referred to in subsection (b)(1)(D) of this section. The booklet—

(A) shall be simple and readily understandable;

(B) shall contain information on fuel economy and estimated annual fuel costs of operating automobiles manufactured in each model year; and

(C) may contain information on geographical or other differences in estimated annual fuel costs.

(2)(A) For dual energy automobiles and natural gas dual energy automobiles manufactured after model year 1992, the booklet published under paragraph (1) shall contain additional information on—

(i) the energy efficiency and cost of operation of those automobiles when operated on gasoline or diesel fuel as compared to those automobiles when operated on alcohol or natural gas, as the case may be; and

(ii) the driving range of those automobiles when operated on gasoline or diesel fuel as compared to those automobiles when operaid on alcohol or natural gas, as the case may be.

(B) For dual energy automobiles, the booklet published under paragraph (1) also shall contain—

(i) information on the miles a gallon achieved by the automobiles when operated on alcohol; and

(ii) a statement explaining how the information made available under this paragraph can be expected to change when the automobile is operated on mixtures of alcohol and gasoline or diesel fuel.

(3) The Secretary of Energy shall publish and distribute the booklet. The Administrator shall prescribe regulations requiring dealers to make the booklet available to prospective buyers.

(d) A disclosure about fuel economy or estimated annual fuel costs under this section does not establish a warranty under a law of the United States or a State.

(e) A violation of subsection (b) of this section is—

(1) a violation of section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232); and

(2) an unfair or deceptive act or practice in or affecting commerce under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), except sections 5(m) and 18 (15 U.S.C. 45(m), 57a).

(f) The Administrator shall consult with the Federal Trade Commission and the Secretaries of Transportation and Energy in carrying out this section.

§ 32909. Judicial review of regulations

(a)(1) A person that may be adversely affected by a regulation prescribed in carrying out section 32901-32904 or 32908 of this title may apply for review of the regulation by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business.

(2) A person adversely affected by a regulation prescribed under section 32912(c)(1) of this title may apply for review of the regulation by filing a petition for review in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business.

(b) The petition must be filed not later than 59 days after the regulation is prescribed, except that a petition for review of a regulation prescribing a change of a standard submitted to Congress under section 32902(c)(2) of this title must be filed not later than 59 days after the end of the 60-day period referred to in section 32902(c)(2). The clerk of the court shall send immediately a copy of the petition to the Secretary of Transportation or the Administrator of the Environmental Protection Agency, whoever prescribed the regulation. The Secretary or the Administrator shall file with the court a record of the proceeding in which the regulation was prescribed.

(c)(1) When reviewing a regulation under subsection (a)(1) of this section, the court, on request of the petitioner, may order the Secretary or the Administrator to receive additional evidence if the court is satisfied the additional evidence is material and there were reasonable grounds for not presenting

the evidence in the proceeding before the Secretary or Administrator.

(2) The Secretary or the Administrator may change or set aside the regulation, or prescribe a new regulation because of the additional evidence presented. The Secretary or Administrator shall file a changed or new regulation and the additional evidence with the court. The court shall review a changed or new regulation.

(d) A judgment of a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28. A remedy under subsections (a)(1) and (c) of this section is in addition to any other remedies provided by law.

§ 32910. Administrative

(a)(1) In carrying out this chapter, the Secretary of Transportation or the Administrator of the Environmental Protection Agency may—

(A) inspect and copy records of any person at reasonable times;

(B) order a person to file written reports or answers to specific questions, including reports or answers under oath; and

(C) conduct proceedings, administer oaths, take testimony, and subpena witnesses and records the Secretary or Administrator considers advisable.

(2) A witness summoned under paragraph (1)(C) of this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(b) A civil action to enforce a subpena or order of the Secretary or Administrator under subsection (a) of this section may be brought in the United States district court for the judicial district in which the proceeding by the Secretary or Administrator was conducted. The court may punish a refusal to obey an order of the court to comply with a subpena or order of the Secretary or Administrator as a contempt of court.

(c) The Secretary and the Administrator shall disclose information obtained under this chapter (except information obtained under section 32904(c) of this title) under section 552 of title 5. However, the Secretary or Administrator may withhold information under section 552(b)(4) only if the Secretary or Administrator decides that disclosure of the information would cause significant competitive damage. A matter referred to in section 552(b)(4) and relevant to an administrative or judicial proceeding under this chapter may be disclosed in that proceeding. A measurement or calculation under section 32904(c) of this title shall be disclosed under section 552 of title 5 without regard to section 552(b).

(d) The Administrator may prescribe regulations to carry out duties of the Administrator under this chapter.

§ 32911. Compliance

(a) A person may not fail to comply with this chapter and regulations and standards prescribed and orders issued under this chapter (except sections 32902, 32903, 32908(b), and 32917(b) and regulations and standards prescribed and orders issued under those sections). The Secretary of Transportation shall conduct a proceeding, with an opportunity for a hearing on the record, to decide whether a person has violated this subsection. An interested person may participate in a proceeding under this subsection.

(b) A manufacturer of automobiles may not fail to comply with an applicable average fuel economy standard under section 32902 of this title. Compliance is determined after considering credits available to the manufacturer under section 32903 of this title. If average fuel economy calculations under section 32904(c) of this title indicate that a manufacturer has violated this subsection, the Secretary shall conduct a proceeding, with an opportunity for a hearing on the record, to decide whether this subsection has been violated. The Secretary may not conduct the proceeding if further measurements of fuel economy, further calculations of average fuel economy, or other information indicates this subsection has not been violated. The results of the measurements and calculations and the information shall be published in the Federal Register. An interested person may participate in a proceeding under this subsection.

§ 32912. Penalties

(a) A person that violates section 32911(a) of this title is liable to the United States Government for a civil penalty of not more than $10,000 for each violation. A separate violation occurs for each day the violation continues.

(b) Except as provided in subsection (c) of this section, a manufacturer that violates a standard prescribed for a model year under section 32902 of this title is liable to the Government for a civil penalty of $5 multiplied by each .1 of a mile a gallon by which the applicable average fuel economy standard under that section exceeds the average fuel economy—

(1)(A) calculated under section 32904(a)(1)(A) of this title for automobiles to which the standard applies manufactured by the manufacturer during the model year;

(B) multiplied by the number of those automobiles; and

(C) reduced by the credits available to the manufacturer under section 32903 of this title for the model year; and

(2)(A) calculated under section 32904(a)(1)(B) of this title for passenger automobiles manufactured by the manufacturer during the model year;

(B) multiplied by the number of those automobiles; and

(C) reduced by the credits available to the manufacturer under section 32903 of this title for the model year.

(c)(1)(A) The Secretary of Transportation shall prescribe by regulation a higher amount for each .1 of a mile a gallon to be used in calculating a civil penalty under subsection (b) of this section, if the Secretary decides that the increase in the penalty—

(i) will result in, or substantially further, substantial energy conservation for automobiles in model years in which the increased penalty may be imposed; and

(ii) will not have a substantial deleterious impact on the economy of the United States, a State, or a region of a State.

(B) The amount prescribed under subparagraph (A) of this paragraph may not be more than $10 for each .1 of a mile a gallon.

(C) The Secretary may make a decision under subparagraph (A)(ii) of this paragraph only when the Secretary decides that it is likely that the increase in the penalty will not—

(i) cause a significant increase in unemployment in a State or a region of a State;

(ii) adversely affect competition; or

(iii) cause a significant increase in automobile imports.

(D) A higher amount prescribed under subparagraph (A) of this paragraph is effective for the model year beginning at least 18 months after the regulation stating the higher amount becomes final.

(2) The Secretary shall publish in the Federal Register a proposed regulation under this subsection and a statement of the basis for the regulation and provide each manufacturer of automobiles a copy of the proposed regulation and the statement. The Secretary shall provide a period of at least 45 days for written public comments on the proposed regulation. The Secretary shall submit a copy of the proposed regulation to the Federal Trade Commission and request the Commission to comment on the proposed regulation within that period. After that period, the Secretary shall give interested persons and the Commission an opportunity at a public hearing to present oral information, views, and arguments and to direct questions about disputed issues of material fact to—

(A) other interested persons making oral presentations;

(B) employees and contractors of the Government that made written comments or an oral presentation or participated in the development or consideration of the proposed regulation; and

(C) experts and consultants that provided information to a person that the person includes, or refers to, in an oral presentation.

(3) The Secretary may restrict the questions of an interested person and the Commission when the Secretary decides that the questions are duplicative or not likely to result in a timely and effective resolution of the issues. A transcript shall be kept of a public hearing under this subsection. A copy of the transcript and written comments shall be available to the public at the cost of reproduction.

(4) The Secretary shall publish a regulation prescribed under this subsection in the Federal Register with the decisions required under paragraph (1) of this subsection.

(5) An officer or employee of a department, agency, or instrumentality of the Government violates section 1905 of title 18 by disclosing, except in an in camera proceeding by the Secretary or a court, information—

(A) provided to the Secretary or the court during consideration or review of a regulation prescribed under this subsection; and

(B) decided by the Secretary to be confidential under section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796(d)).

(d) The Secretary shall impose a penalty under this section by written notice.

§ 32913. Compromising penalties

(a) The Secretary of Transportation may compromise or remit a civil penalty imposed under section 32912(a) or (b) of this title. However, a penalty imposed under section 32912(b) may be compromised or remitted only to the extent—

(1) necessary to prevent the insolvency or bankruptcy of the manufacturer of automobiles;

(2) the manufacturer shows that the violation was caused by an act of God, a strike, or a fire; or

(3) the Federal Trade Commission certifies under subsection (b)(1) of this section that a reduction in the penalty is necessary to prevent a substantial lessening of competition.

(b)(1) A manufacturer liable for a civil penalty under section 32912(b) of this title may apply to the Commission for a certification that the penalty should be reduced to prevent a substantial lessening of competition in the segment of the motor vehicle industry subject to the standard that was violated. The Commission shall make the certification when if finds that reduction is necessary to prevent the lessening. The Commission shall state in the certification the maximum amount by which the penalty may be reduced.

(2) An application under this subsection must be made not later than 30 days after the Secretary decides that the manufacturer has violated section 32911(b) of this title. To the maximum extent practicable, the Commission shall make a decision on an application by the 90th day after the application is filed. A proceeding under this subsection may not delay the manufacturer's liability for the penalty for more than 90 days after the application is filed.

(3) When a penalty is collected in a civil action under this chapter before a decision of the Commission under this subsection is final, the payment shall be paid to the court in which the action was brought. The court shall deposit the payment in the general fund of the Treasury on the 90th day after the decision of the Commission becomes final. When the court is holding payment of a penalty reduced under subsection (a)(3) of this section, the Secretary shall direct the court to remit the appropriate amount of the penalty to the manufacturer.

§ 32914. Enforcement

(a) If a person does not pay a civil penalty after it becomes a final order of the Secretary of Transportation or a judgment of a court of appeals of the United States for a circuit, the Attorney General shall bring a civil action in the appropriate district court of the United States to collect the penalty. The validity and appropriateness of the final order imposing the penalty is not reviewable in the action.

(b) A claim of a creditor against a bankrupt or insolvent manufacturer of automobiles has priority over a claim of the United States Government against the manufacturer for a civil penalty under section 32912(b) of this title when the creditor's claim is for credit extended before a final judgment (without regard to section 32913(b)(1) and (2) of this title) in an action to collect under subsection (a) of this section.

§ 32915. Appeal of a civil penalty

An interested person may appeal a decision of the Secretary of Transportation to impose a civil penalty under section 32912(a) or (b) of this title, or of the Federal Trade Commission under section 32913(b)(1) of this title, in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. A person appealing a decision must file a notice of appeal with the court not later than 30 days after the decision and, at the same time, send a copy of the notice by certified mail to the Secretary or the Commission. The Secretary or the Commission immediately shall file with the court a certified copy of the record of the proceeding in which the decision was made.

§ 32916. Reports to Congress

(a) Not later than January 15 of each year, the Secretary of Transportation shall submit to each House of Congress, and publish in the Federal Register, a report on the review by the Secretary of average fuel economy standards prescribed under this chapter.

(b)(1) After an exemption has been granted under section 32904(b)(4) of this title, the Secretary of Transportation and the Secretary of Labor annually shall conduct a joint examination of the extent to which section 32904(b)(4)—

(A) achieves the purposes of this chapter;

(B) improves fuel efficiency (thereby facilitating conservation of petroleum and reducing petroleum imports);

(C) has promoted employment in the United States related to automobile manufacturing;

(D) has not caused unreasonable harm to the automobile manufacturing sector in the United States; and

(E) has permitted manufacturers that have assembled passenger automobiles deemed domestically manufactured under section 32904(b)(1)(A) of this title thereafter to assemble in the United States passenger automobiles of the same model that have less than 75 percent of their value added in the United States or Canada, together with the reasons.

(2) The Secretary of Transportation shall include the results of the examination under paragraph (1) of this subsection in each report submitted under subsection (a) of this section more than 180 days after an exemption has been granted under section 32904(b)(4) of this title, or submit the results of the examination directly to Congress before the report is submitted when circumstances warrant.

§ 32917. Relationship to other automobile standards

(a)(1) When an average fuel economy standard prescribed under this chapter is in effect, a State or a political subdivision of a State may not adopt or enforce a law or regulation on fuel economy standards or average fuel economy standards for automobiles covered by an average fuel economy standard under this chapter.

(2) When a requirement under section 32908 of this title is in effect, a State or a political subdivision of a State may adopt or enforce a law or regulation on disclosure of fuel economy or fuel operating costs for an automobile covered by section 32908 only if the law or regulation is identical to that requirement. However, a State or a political subdivision of a State may prescribe a standard for fuel economy for automobiles obtained for its own use.

(b)(1) The President shall prescribe regulations that require passenger automobiles leased for at least 60 consecutive days or bought by an executive agency (as defined in section 105 of title 5) in a fiscal year to achieve a fleet average fuel economy (determined under paragraph (2) of this subsection) for that year of at least the greater of—

(A) 18 miles a gallon; or

(B) the applicable average fuel economy standard under section 32902(b) or (c) of this title for the model year that includes January 1 of that fiscal year.

(2) Fleet average fuel economy is—

(A) the number of passenger automobiles leased for at least 60 consecutive days or bought by an executive agency in a fiscal year (except automobiles designed for combat-related missions, law enforcement work, or emergency rescue work); divided by

(B) the sum of the fractions obtained by dividing the number of automobiles of each model leased or bought by the fuel economy of that model.

CHAPTER 331—THEFT PREVENTION

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§ 33101. Definitions

In this chapter—

(1) "covered major part" means a major part selected under sections 33102(d)(1)(B) and 33103 of this title for coverage by the vehicle theft prevention standard prescribed under section 33102.

(2) "existing line" means a line introduced into commerce before January 1, 1983.

(3) "first purchaser" means the person making the first purchase other than for resale.

(4) "line" means a name that a manufacturer of motor vehicles applies to a group of motor vehicle models of the same make that have the same body or chassis, or otherwise are similar in construction or design.

(5) "major part" means—

(A) the engine;

(B) the transmission;

(C) each door to the passenger compartment;

(D) the hood;

(E) the grille;

(F) each bumper;

(G) each front fender;

(H) the deck lid, tailgate, or hatchback;

(I) each rear quarter panel;

(J) the trunk floor pan;

(K) the frame or, for a unitized body, the supporting structure serving as the frame; and

(L) any other part of a passenger motor vehicle that the Secretary of Transportation by regulation specifies as comparable in design or function to any of the parts listed in subclauses (A)-(K) of this clause.

(6) "major replacement part" means a major part—

(A) not installed in or on a motor vehicle at the time of its delivery to the first purchaser; and

(B) the equitable or legal title to which has not been transferred to a first purchaser.

(7) "model year" has the same meaning given that term in section 32901(a)(14) of this title.

(8) "new line" means a line introduced into commerce after December 31, 1982.

(9) "passenger motor vehicle" does not include a multipurpose passenger vehicle (including a vehicle commonly known as a "passenger van").

(10) "vehicle theft prevention standard" means a minimum performance standard for identifying major parts of new motor vehicles and major replacement parts by inscribing or affixing numbers or symbols on those parts.

§ 33102. Theft prevention standard

(a). The Secretary of Transportation by regulation shall prescribe a vehicle theft prevention standard that conforms to the requirements of this chapter.

(b)(1) The standard shall apply to—

(A) the covered major parts that manufacturers install in passenger motor vehicles in lines designated under section 33103 of this title as high theft lines; and

(B) the major replacement parts for the major parts described in clause (A) of this paragraph.

(2) The standard may apply only to—

(A) major parts that manufacturers install in passenger motor vehicles having a model year designation later than the calendar year in which the standard takes effect; and

(B) major replacement parts manufactured after the standard takes effect.

(c) The standard shall be practicable and provide relevant objective criteria.

(d)(1) For a major part installed by the manufacturer of the motor vehicle, the standard may not require—

(A) a part to have more than one identification; or

(B) a motor vehicle to have identification of more than 14 of its major parts.

(2) For a major replacement part, the standard may not require—

(A) identification of a part not designed as a replacement for a major part required to be identified under the standard; or

(B) the inscribing or affixing of identification except a symbol identifying the manufacturer and a common symbol identifying the part as a major replacement part.

(e) This chapter does not authorize the Secretary to require a person to keep records or make reports, except as provided in sections 33103(c), 33105(c), 33106(a), and 33112 of this title.

§ 33103. Designation of high theft vehicle lines and parts

(a)(1) For purposes of the standard under section 33102 of this title, the following are high theft lines:

(A) a passenger motor vehicle line determined under subsection (b) of this section to have had a new passenger motor vehicle theft rate in the 2-year period covering calendar years 1983 and 1984 greater than the median theft rate for all new passenger motor vehicles in that 2-year period.

(B) a passenger motor vehicle line initially introduced into commerce in the United States after December 31, 1982, that is selected under paragraph (3) of this subsection as likely to have a theft rate greater than the median theft rate referred to in clause (A) of this paragraph.

(C) subject to paragraph (2) of this subsection, a passenger motor vehicle line having (for existing lines) or likely to have (for new lines) a theft rate below the median theft rate referred to in clause (A) of this paragraph, if the major parts in the vehicles are selected under paragraph (3) of this subsection as interchangeable with the majority of the major parts that are subject to the standard and are contained in the motor vehicles of a line described in clause (A) or (B) of this paragraph.

(2) The standard may not apply to any major part of a line described in paragraph (1)(C) of this subsection if all the passenger motor vehicles of lines that are, or are likely to be, below the median theft rate, and that contain parts interchangeable with the major parts of the line involved, account (for existing lines), or the Secretary of Transportation determines they are likely to account (for new lines), for more than 90 percent of the total annual production of all lines of that manufacturer containing those interchangeable parts.

(3) The lines, and the major parts of the passenger motor vehicles in those lines, that are to be subject to the standard may be selected by agreement between the manufacturer and the Secretary. If the manufacturer and the Secretary disagree on the selection, the Secretary shall select the lines and parts, after notice to the manufacturer and opportunity for written comment, and subject to the confidentiality requirements of this chapter.

(4) To the maximum extent practicable, the Secretary shall prescribe reasonable procedures designed to ensure that a selection under paragraph (3) of this subsection is made at least 6 months before the first applicable model year beginning after the selection.

(5) A manufacturer may not be required to comply with the standard under a selection under paragraph (3) of this subsection for a model year beginning earlier than 6 months after the date of the selection.

(b)(1) In this subsection, "new passenger motor vehicle thefts", when used in reference to a calendar year, means thefts in the United States in that year of passenger motor vehicles with the same model-year designation as that calendar year.

(2) Under subsection (a) of this section, the theft rate for passenger motor vehicles of a line shall be determined by a fraction—

(A) the numerator of which is the number of new passenger motor vehicle thefts for that line during the 2-year period referred to in subsection (a)(1)(A) of this section; and

(B) the denominator of which is the sum of the respective production volumes of all passenger motor vehicles of that line (as reported to the Administrator of the Environmental Protection Agency under chapter 329 of this title) that are of model years 1983 and 1984 and are distributed for sale in commerce in the United States.

(3) Under subsection (a) of this section, the median theft rate for all new passenger motor vehicle thefts during that 2-year period is the theft rate midway between the highest and the lowest theft rates determined under paragraph (2) of this subsection. If there is an even number of theft rates determined under paragraph (2), the median theft rate is the arithmetic average of the 2 adjoining theft rates midway between the highest and the lowest of those theft rates.

(4) In consultation with the Director of the Federal Bureau of Investigation, the Secretary periodically shall obtain from the most reliable source accurate and timely theft and recovery information and publish the information for review and comment. To the greatest extent possible, the Secretary shall use theft information reported by United States Government, State, and local police. After publication and opportunity for comment, the Secretary shall use the theft information to determine the median theft rate under this subsection. The Secretary and the Director shall take any necessary actions to improve the accuracy, reliability, and timeliness of the information, including ensuring that vehicles represented as stolen are really stolen.

(5) In calculating the median theft rate, the Secretary shall include the theft rates of lines exempted from the initial selection of high theft lines required to have been made not later than October 25, 1985, under section 603(a)(3) of the Motor Vehicle Information and Cost Savings Act (Public Law 92-513, 86 Stat. 947), as added by section 101(a) of the Motor Vehicle Theft Law Enforcement Act of 1984 (Public Law 98-547, 98 Stat. 2757).

(c) The Secretary by regulation shall require each manufacturer to provide information necessary to select under subsection (a)(3) of this section the high theft lines and the major parts to be subject to the standard.

(d) Except as provided in section 33105 of this title, the Secretary may not make the standard inapplicable to a line that has been subject to the standard.

§ 33104. Cost limitation

(a) The standard under section 33102 of this title may not impose—

(1) on a manufacturer of motor vehicles, compliance costs of more than $15 a motor vehicle; or

(2) on a manufacturer of major replacement parts, compliance costs for each part of more than the reasonable amount (but less than $15) that the Secretary of Transportation specifies in the standard.

(b) For a manufacturer engaged in identifying engines or transmissions on October 25, 1984, in a way that substantially complies with the standard—

(1) the costs of identifying engines and transmissions may not be considered in calculating the manufacturer's costs under subsection (a) of this section; and

(2) the manufacturer may not be required under the standard to conform to any identification system for engines and transmissions that imposes greater costs on the manufacturer than are incurred under the identification system used by the manufacturer on October 25, 1984.

(c)(1) In this subsection—

(A) "base period" means calendar year 1984.

(B) "price index" means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Secretary of Labor.

(2) At the beginning of each calendar year, as necessary data become available from the Bureau of Labor Statistics, the Secretary of Labor shall certify to the Secretary of Transportation and publish in the Federal Register the percentage difference between the price index for the 12 months before the beginning of the calendar year and the price index for the base period. For model years beginning in that calendar year, the amounts specified in subsection (a) of this section shall be adjusted by the percentage difference.

§ 33105. Exemption for passenger motor vehicles equipped with anti-theft devices

(a) In this section—

(1) "anti-theft device" means a device t reduce or deter theft that—

(A) is in addition to the theft-deterrent devices required by motor vehicle safety standard numbered 114 (49 C.F.R. 571.114);

(B) the manufacturer believes will be effective in reducing or deterring theft of motor vehicles; and

(C) does not use a signaling device reserved by State law for use on police, emergency, or official vehicles, or on schoolbuses

(2) "standard equipment" means equipment already installed in a motor vehicle when it is delivered from the manufacturer and not an accessory or other item that the first purchaser customarily has the option to have installed.

(b)(1) A manufacturer may petition the Secretary of Transportation for an exemption from a requirement of a standard prescribed under section 33102 of this title for a line of passenger motor vehicles equipped a standard equipment with an anti-thef device that the Secretary decides is likely t be as effective in reducing and deterrin motor vehicle theft as a device required b the standard.

(2) For model year 1987, the Secretary ma grant an exemption for not more than lines of a manufacturer. For each subsequent model year, the Secretary may gran an exemption for not more than 2 additional lines of a manufacturer. An additional ex

emption does not affect an exemption previously granted.

(c) A petition must be filed not later than 8 months before the start of production for the first model year covered by the petition. The petition must include—

(1) a detailed description of the device;

(2) the reasons for the manufacturer's conclusion that the device will be effective in reducing and deterring theft of motor vehicles; and

(3) additional information the Secretary reasonably may require to make the decision described in subsection (b)(1) of this section.

(d) The Secretary shall make a decision about a petition filed under this section not later than 120 days after the date the petition is filed. A decision approving a petition must be based on substantial evidence. The Secretary may approve a petition in whole or in part. If the Secretary does not make a decision within the 120-day period, the petition shall be deemed to be approved and the manufacturer shall be exempt from the standard for the line covered by the petition for the subsequent model year.

(e) The Secretary may rescind an exemption if the Secretary decides that the antitheft device has not been as effective in reducing and deterring motor vehicle theft as compliance with the standard. A rescission may be effective only—

(1) for a model year after the model year in which the rescission occurs; and

(2) at least 6 months after the manufacturer receives written notice of the rescission from the Secretary.

§ 33106. Monitoring compliance of manufacturer

(a) To enable the Secretary of Transportation to decide whether a manufacturer of motor vehicles containing a part subject to a standard prescribed under section 33102 of this title, or a manufacturer of major replacement parts subject to the standard, is complying with this chapter and the standard, the Secretary may require the manufacturer to—

(1) keep records;

(2) make reports;

(3) provide items and information; and

(4) allow an officer or employee designated by the Secretary to inspect the vehicles and parts and relevant records of the manufacturer.

(b) To enforce this chapter, an officer or employee designated by the Secretary, on presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, may inspect a facility in which motor vehicles containing major parts subject to the standard, or major replacement parts subject to the standard, are manufactured, held for introduction into interstate commerce, or held for sale after introduction into interstate commerce. An inspection shall be conducted at a reasonable time, in a reasonable way, and with reasonable promptness.

(c)(1) A manufacturer of a motor vehicle subject to the standard, and a manufacturer of a major replacement part subject to the standard, shall provide at the time of delivery of the vehicle or part a certification that the vehicle or part conforms to the applicable motor vehicle theft prevention standard. The certification shall accompany the vehicle or part until its delivery to the first purchaser. The Secretary by regulation may prescribe the type and form of the certification.

(2) This subsection does not apply to a motor vehicle or major replacement part that is—

(A) intended only for export;

(B) labeled only for export on the vehicle or replacement part and the outside of any container until exported; and

(C) exported.

(d) A manufacturer shall notify the Secretary if the manufacturer discovers that—

(1) there is an error in the identification (required by the standard) applied to a major part installed by the manufacturer in a motor vehicle during its assembly, or to a major replacement part manufactured by the manufacturer; and

(2) the motor vehicle or major replacement part has entered interstate commerce.

§ 33107. Prohibited acts

(a) A person may not—

(1) manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States, a motor vehicle or major replacement part subject to a standard prescribed under section 33102 of this title, unless it conforms to the standard;

(2) fail to comply with a regulation prescribed by the Secretary of Transportation under this chapter;

(3) fail to keep specified records, refuse access to or copying of records, fail to make reports or provide items or information, or fail or refuse to allow entry or inspection, as required by this chapter; or

(4) fail to provide the certification required by section 33106(c) of this title, or provide a certification that the person knows, or in the exercise of reasonable care has reason to know, is false or misleading in a material respect.

(b) Subsection (a)(1) of this section does not apply to a person establishing that in the exercise of reasonable care the person did not have reason to know that the motor vehicle or major replacement part was not in conformity with the standard.

§ 33108. Enforcement and penalties

(a)(1) A person that violates section 33107 of this title is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. The failure of more than one part of a single motor vehicle to conform to an applicable standard under section 33102 of this title is only a single violation. A person is liable for a civil penalty under this subsection of not more than $250,000 for a related series of violations.

(2) The Secretary of Transportation may impose a penalty under this section. The Secretary may compromise a penalty. In deciding on a penalty or compromise, the Secretary shall consider the size of the person's business and the gravity of the violation.

(3) The Attorney General shall bring a civil action to collect a penalty imposed under this section.

(4) A penalty or amount compromised may be deducted from amounts owed the person by the Government.

(b)(1) The Attorney General may bring a civil action to enjoin a violation of this chapter or the sale, offer for sale, introduction or delivery for introduction in interstate commerce, or importation into the United States, of a passenger motor vehicle containing a major part, or of a major replacement part, that is subject to the standard and is determined before the sale of the vehicle or part to a first purchaser not to conform to the standard.

(2)(A) When practicable, the Secretary—

(i) shall notify a person against whom an action under this subsection is planned;

(ii) shall give the person an opportunity to present that person's views; and

(iii) except for a knowing and willful violation, shall give the person a reasonable opportunity to comply.

(B) The failure of the Secretary to comply with subparagraph (A) of this paragraph does not prevent a court from granting appropriate relief.

(c) In a trial for criminal contempt for violating an injunction or restraining order issued under subsection (b) of this section, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(d) A civil action under subsection (a) or (b) of this section may be brought in the United States district court for the judicial district in which the violation occurred or the defendant resides, is found, or transacts business. Process in the action may be served in any other judicial district in which the defendant resides or is found. A subpena for a witness in the action may be served in any judicial district.

§ 33109. Confidentiality of information

(a) Information obtained by the Secretary of Transportation under this chapter related to a confidential matter referred to in section 1905 of title 18 may be disclosed only—

(1) to another officer or employee of the United States Government for use in carrying out this chapter; or

(2) in a proceeding under this chapter (except a proceeding under section 33103(a)(3)).

(b) This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

§ 33110. Judicial review

A person that may be adversely affected by a regulation prescribed under this chapter may obtain judicial review of the regulation under section 32909 of this title. A remedy under this section is in addition to any other remedies provided by law.

§ 33111. Preemption of State and local law

When a motor vehicle theft prevention standard prescribed under section 33102 of this title is in effect, a State or political subdivision of a State may not have a different motor vehicle theft prevention standard for a motor vehicle or major replacement part.

§ 33112. Insurance reports and information

(a) The purposes of this section are—

(1) to prevent or discourage the theft of motor vehicles, particularly those stolen for the removal of certain parts;

(2) to prevent or discourage the sale and distribution in interstate commerce of used parts that are removed from those vehicles; and

(3) to help reduce the cost to consumers of comprehensive insurance coverage for motor vehicles.

(b) In this section—

(1) "insurer" includes a person (except a governmental authority) having a fleet of at least 20 motor vehicles that are used primarily for rental and are not covered by a theft insurance policy issued by an insurer of passenger motor vehicles.

(2) "motor vehicle" includes a truck, a multipurpose passenger vehicle, and a motorcycle.

(c)(1) An insurer providing comprehensive coverage for motor vehicles shall provide annually to the Secretary of Transportation information on—

(A) the thefts and recoveries (in any part) of motor vehicles;

(B) the number of vehicles that have been recovered intact;

(C) the rating rules and plans, such as loss information and rating characteristics, used by the insurer to establish premiums for comprehensive coverage, including the basis for the premiums, and premium penalties for motor vehicles considered by the insurer as more likely to be stolen;

(D) the actions taken by the insurer to reduce the premiums, including changing rate levels for comprehensive coverage because of a reduction in thefts of motor vehicles;

(E) the actions taken by the insurer to assist in deterring or reducing thefts of motor vehicles; and

(F) other information the Secretary requires to carry out this chapter and to make the report and findings required by this chapter.

(2) The information on thefts and recoveries shall include an explanation on how the information is obtained, the accuracy and timeliness of the information, and the use made of the information, including the extent and frequency of reporting the information to national, public, and private entities such as the Federal Bureau of Investigation and State and local police.

(d) An insurer shall report promptly in writing to the Secretary if the insurer, in paying a claim under an adjustment or negotiation between the insurer and the insured for a stolen motor vehicle—

(1) reduces the payment to the insured by the amount of the value, salvage or otherwise, of a recovered part subject to a standard prescribed under section 33102 of this title; and

(2) the reduction is not made at the express election of the insured.

(e) The Secretary shall exempt from this section, for one or more years, an insurer that the Secretary decides should be exempted because—

(1) the cost of preparing and providing the information is excessive in relation to the size of the insurer's business; and

(2) the information from that insurer will not contribute significantly to carrying out this chapter.

(f)(1) In this subsection, "small insurer" means an insurer whose premiums for motor vehicle insurance issued directly or through an affiliate, including a pooling arrangement established under State law or regulation for the issuance of motor vehicle insurance, account for—

(A) less than one percent of the total premiums for all forms of motor vehicle insurance issued by insurers in the United States; and

(B) less than 10 percent of the total premiums for all forms of motor vehicle insurance issued by insurers in any State.

(2) The Secretary by regulation shall exempt a small insurer from this section if the Secretary finds that the exemption will not significantly affect the validity or usefulness of the information collected and compiled under this section, nationally or State-by-State. However, the Secretary may not exempt an insurer under this paragraph that is considered an insurer only because of subsection (b)(1) of this section.

(3) Regulations under this subsection shall provide that eligibility as a small insurer shall be based on the most recent calendar year for which adequate information is available, and that, once attained, the eligibility shall continue without further demonstration of eligibility for one or more years, as the Secretary considers appropriate.

(g) Information required by this section shall be provided in the form the Secretary requires.

(h) Subject to section 552 of title 5, the Secretary periodically shall compile and publish information obtained by the Secretary under this section, in a form that will be helpful to the public, the police, and Congress.

(i) In carrying out this section, the Secretary shall consult with public and private agencies and associations the Secretary considers appropriate.

§ 33113. Voluntary vehicle identification standards

(a) The Secretary of Transportation by regulation may prescribe a vehicle theft prevention standard under which a person may elect to inscribe or affix an identifying number or symbol on major parts of a motor vehicle manufactured or owned by the person for purposes of section 511 of title 18 and related provisions. The standard may include provisions for registration of the identification with the Secretary or a person designated by the Secretary.

(b) The standard under this section shall be practicable and provide relevant objective criteria.

(c) Compliance with the standard under this section is voluntary. Failure to comply does not subject a person to a penalty or enforcement under this chapter.

(d) Compliance with the standard under this section does not relieve a manufacturer from a requirement of a standard prescribed under section 33102 of this title.

SUBTITLE VII—AVIATION PROGRAMS

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PART A—AIR COMMERCE AND SAFETY

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§ 40101. Policy

(a) In carrying out subpart II of this part, the Secretary of Transportation shall consider the following matters, among others, as being in the public interest and consistent with public convenience and necessity:

(1) the assignment and maintenance of safety as the highest priority in air commerce.

(2) before authorizing new air transportation services, the complete evaluation of—

(A) each recommendation of the Secretary on the safety implications of those services; and

(B) each report and recommendation submitted under section 44721 of this title.

(3) the prevention of deterioration in established safety procedures in air transportation and air commerce.

(4) the availability of a variety of adequate, economic, efficient, and low-priced services without unreasonable discrimination or unfair or deceptive practices.

(5) the coordination of transportation and improvement of relations among air carriers and the encouragement of fair wages and working conditions.

(6) the placement of maximum reliance on competitive market forces and on actual and potential competition—

(A) to provide the needed air transportation system; and

(B) to encourage efficient and well-managed air carriers to earn adequate profits and attract capital, considering material differences between interstate air transportation and foreign air transportation.

(7) the development and maintenance of a sound regulatory system that is responsive to the needs of the public and in which decisions are reached promptly to make it easier to adapt the air transportation system to the present and future needs of—

(A) the commerce of the United States;

(B) the United States Postal Service; and

(C) national defense.

(8) the encouragement of air transportation at major urban areas through secondary or satellite airports if consistent with regional airport plans of regional and local authorities and endorsed by appropriate State authorities—

(A) encouraging the transportation by air carriers that provide transportation exclusively at those airports; and

(B) fostering an environment that allows those carriers to establish themselves and develop secondary or satellite airport services.

(9) the prevention of unfair, deceptive, predatory, or anticompetitive practices in air transportation.

(10) the avoidance of unreasonable industry concentration, excessive market domination, monopoly powers, and other conditions that may allow at least one air carrier or foreign air carrier unreasonably to increase rates, reduce services, or exclude competition in air transportation.

(11) the maintenance of a complete and convenient system of continuous scheduled interstate air transportation for small com-

munities and isolated areas with direct financial assistance from the United States Government when appropriate.

(12) the encouragement, development, and maintenance of an air transportation system relying on actual and potential competition—

(A) to provide efficiency, innovation, and low rates; and

(B) to establish the variety of, quality of, and rates for, air transportation services.

(13) the encouragement of entry into air transportation markets by new and existing air carriers and the continued strengthening of small air carriers to ensure a more effective and competitive airline industry.

(14) the promotion, encouragement, and development of civil aeronautics and a viable, privately-owned United States air transport industry.

(15) the strengthening of the competitive position of air carriers to at least ensure equality with foreign air carriers, including giving air carriers the opportunity to maintain and increase their profitability in foreign air transportation.

(b) In carrying out subpart II of this part, the Secretary of Transportation shall consider the following matters, among others and in addition to the matters referred to in subsection (a) of this section, as being in the public interest for all-cargo air transportation:

(1) the encouragement and development of an expedited all-cargo air transportation system provided by private enterprise and responsive to—

(A) the present and future needs of shippers;

(B) the commerce of the United States; and

(C) national defense.

(2) the encouragement and development of an integrated transportation system relying on competitive market forces to decide the extent, variety, quality, and price of services provided.

(3) providing services without unreasonable discrimination, unfair or deceptive practices, or predatory pricing.

(c) In carrying out subpart III of this part, the Administrator of the Federal Aviation Administration shall consider the following matters:

(1) the requirements of national defense and commercial and general aviation.

(2) the public right of freedom of transit through the navigable airspace.

(d) In carrying out subpart III of this part, the Administrator shall consider the following matters, among others, as being in the public interest:

(1) the regulation of air commerce in a way that best promotes its development and safety and fulfills national defense requirements.

(2) the promotion, encouragement, and development of civil aeronautics.

(3) the control of the use of the navigable airspace and the regulation of civil and military operations in that airspace in the interest of the safety and efficiency of both of those operations.

(4) the consolidation of research and development of air navigation facilities and the installation and operation of those facilities.

(5) the development and operation of a common system of air traffic control and navigation for military and civil aircraft.

(6) the provision of assistance to law enforcement agencies in the enforcement of laws related to regulation of controlled substances, to the extent consistent with aviation safety.

(e) In formulating United States international air transportation policy, the Secretaries of State and Transportation shall develop a negotiating policy emphasizing the greatest degree of competition compatible with a well-functioning international air transportation system, including the following:

(1) the strengthening of the competitive position of air carriers to ensure at least equality with foreign air carriers, including giving air carriers the opportunity to maintain and increase their profitability in foreign air transportation.

(2) freedom of air carriers and foreign air carriers to offer rates that correspond to consumer demand.

(3) the fewest possible restrictions on charter air transportation.

(4) the maximum degree of multiple and permissive international authority for air carriers so that they will be able to respond quickly to a shift in market demand.

(5) the elimination of operational and marketing restrictions to the greatest extent possible.

(6) the integration of domestic and international air transportation.

(7) an increase in the number of nonstop United States gateway cities.

(8) opportunities for carriers of foreign countries to increase their access to places in the United States if exchanged for benefits of similar magnitude for air carriers or the traveling public with permanent linkage between rights granted and rights given away.

(9) the elimination of discrimination and unfair competitive practices faced by United States airlines in foreign air transportation, including—

(A) excessive landing and user fees;

(B) unreasonable ground handling requirements;

(C) unreasonable restrictions on operations;

(D) prohibitions against change of gauge; and

(E) similar restrictive practices.

(10) the promotion, encouragement, and development of civil aeronautics and a viable, privately-owned United States air transport industry.

§ 40102. Definitions

(a) In this part—

(1) "aeronautics" means the science and art of flight.

(2) "air carrier" means a citizen of the United States undertaking, directly or indirectly, to provide air transportation by any means.

(3) "air commerce" means foreign air commerce, interstate air commerce, the transportation of mail by aircraft, the operation of aircraft within the limits of a Federal airway, or the operation of aircraft that directly affects, or may endanger safety in, foreign or interstate air commerce.

(4) "air navigation facility" means a facility used, available for use, or designed for use, in aid of air navigation, including—

(A) a landing area;

(B) a light;

(C) apparatus or equipment for distributing weather information, signaling, radio-directional finding, or radio or other electrical communication; and

(D) another structure or mechanism for guiding or controlling flight in the air or the landing and takeoff of aircraft.

(5) "air transportation" means foreign air transportation, interstate air transportation, or the transportation of mail by aircraft.

(6) "aircraft" means any contrivance invented, used, or designed to navigate, or fly in, the air.

(7) "aircraft engine" means an engine used, or intended to be used, to propel an aircraft, including a part, appurtenance, and accessory of the engine, except a propeller.

(8) "airman" means an individual who—

(A) when in command or as pilot, mechanic, or member of the crew, navigates aircraft when under way;

(B) except to the extent the Administrator of the Federal Aviation Administration may provide otherwise for individuals employed outside the United States, is directly in charge of inspecting, maintaining, overhauling, or repairing aircraft, aircraft engines, propellers, or appliances; or

(C) serves as an aircraft dispatcher or air traffic control-tower operator.

(9) "airport" means a landing area used regularly by aircraft for receiving or discharging passengers or property.

(10) "all-cargo air transportation" means the transportation by aircraft in interstate air transportation of only property or only mail, or both.

(11) "appliance" means an instrument, equipment, apparatus, a part, an appurtenance, or an accessory used, capable of being used, or intended to be used, in operating or controlling aircraft in flight, including a parachute, communication equipment, and another mechanism installed in or attached to aircraft during flight, and not a part of an aircraft, aircraft engine, or propeller.

(12) "charter air carrier" means an air carrier that holds a certificate of public convenience and necessity that authorizes it to provide charter air transportation.

(13) "charter air transportation" means charter trips in air transportation authorized under this part.

(14) "citizen of the United States" means—

(A) an individual who is a citizen of the United States;

(B) a partnership each of whose partners is a citizen of the United States; or

(C) a corporation or association organized under the laws of the United States or a State, the District of Columbia, or a territory or possession of the United States, of which the president and at least two-thirds of the board of directors and other managing officers are citizens of the United States, and in which at least 75 percent of the voting interest is owned or controlled by persons that are citizens of the United States.

(15) "civil aircraft" means an aircraft except a public aircraft.

(16) "civil aircraft of the United States" means an aircraft registered under subchapter I of chapter 441 of this title.

(17) "conditional sale" means—

(A) a contract for the sale of an aircraft, aircraft engine, propeller, appliance, or spare part, under which the person making the contract to buy the property takes possession of the property but title to the property vests in that person at a later time on—

(i) paying any part of the purchase price;

(ii) performing another condition; or

(iii) the happening of a contingency; or

(B) a contract to bail or lease an aircraft, aircraft engine, propeller, appliance, or spare part, under which the person making the bailment or lease for the property—

(i) agrees to pay an amount substantially equal to the value of the property; and

(ii) is to become, or has the option of becoming, the owner of the property on complying with the contract.

(18) "conveyance" means an instrument affecting title to, or an interest in, property.

(19) "Federal airway" means a part of the navigable airspace designated by the Administrator as a Federal airway.

(20) "foreign air carrier" means a person, not a citizen of the United States, that undertakes, directly or indirectly, to provide foreign air transportation by any means.

(21) "foreign air commerce" means the transportation of passengers or property by aircraft for compensation, the transportation of mail by aircraft, or the operation of aircraft in furthering a business or vocation, between a place in the United States and a place outside the United States when any part of the transportation or operation is by aircraft.

(22) "foreign air transportation" means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft, between a place in the United States and a place outside the United States when any part of the transportation is by aircraft.

(23) "interstate air commerce" means the transportation of passengers or property by aircraft for compensation, the transportation of mail by aircraft, or the operation of aircraft in furthering a business or vocation—

(A) between a place in—

(i) a State, territory, or possession of the United States and a place in the District of Columbia or another State, territory, or possession of the United States;

(ii) a State and another place in the same State through the airspace over a place outside the State;

(iii) the District of Columbia and another place in the District of Columbia; or

(iv) a territory or possession of the United States and another place in the same territory or possession; and

(B) when any part of the transportation or operation is by aircraft.

(24) "interstate air transportation" means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft—

(A) between a place in—

(i) a State, territory, or possession of the United States and a place in the District of Columbia or another State, territory, or possession of the United States;

(ii) Hawaii and another place in Hawaii through the airspace over a place outside Hawaii;

(iii) the District of Columbia and another place in the District of Columbia; or

(iv) a territory or possession of the United States and another place in the same territory or possession; and

(B) when any part of the transportation is by aircraft.

(25) "intrastate air carrier" means a citizen of the United States undertaking to provide only intrastate air transportation by any means.

(26) "intrastate air transportation" means the transportation by a common carrier of passengers or property for compensation, entirely in the same State, by turbojet-powered aircraft capable of carrying at least 30 passengers.

(27) "landing area" means a place on land or water, including an airport or intermediate landing field, used, or intended to be used, for the takeoff and landing of aircraft, even when facilities are not provided for sheltering, servicing, or repairing aircraft, or for receiving or discharging passengers or property.

(28) "mail" means United States mail and foreign transit mail.

(29) "navigable airspace" means airspace above the minimum altitudes of flight prescribed by regulations under subpart III of this part, including airspace needed to ensure safety in the takeoff and landing of aircraft.

(30) "navigate aircraft" and "navigation of aircraft" include the piloting of aircraft.

(31) "operate aircraft" and "operation of aircraft" mean using aircraft for air navigation, including—

(A) the navigation of aircraft; and

(B) causing or authorizing the operation of aircraft (with or without the right of legal control) as an owner, lessee, or otherwise of the aircraft.

(32) "person", in addition to its meaning under section 1 of title 1, includes a governmental authority, trustee, receiver, assignee, or personal representative of a person.

(33) "predatory" means a practice that violates the antitrust laws as defined in the first section of the Clayton Act (15 U.S.C. 12).

(34) "propeller" includes a part, appurtenance, or accessory of a propeller.

(35) "public aircraft"—

(A) means an aircraft—

(i) used only for the United States Government; or

(ii) owned and operated, or exclusively leased for at least 90 continuous days, by a government (except the United States Government) or political subdivision of that government, including a State, the District of Columbia, or a territory or possession of the United States; but

(B) does not include a government-owned aircraft transporting passengers or property for commercial purposes.

(36) "rate" means a rate, fare, or charge for air transportation.

(37) "spare part" means a part, appurtenance, or accessory of an aircraft (except an aircraft engine or propeller), aircraft engine (except a propeller), propeller, or appliance, that is to be installed at a later time in an aircraft, aircraft engine, propeller, or appliance.

(38) "State authority" means an authority of a State designated under State law—

(A) to receive notice required to be given a State authority under subpart II of this part; or

(B) as the representative of the State before the Secretary of Transportation in any matter about which the Secretary is required to consult with or consider the views of a State authority under subpart II of this part.

(39) "territory or possession of the United States" means—

(A) the Canal Zone, but this definition does not affect the jurisdiction of the President over air navigation in the Canal Zone; and

(B) any other territory or possession of the United States.

(40) "ticket agent" means a person (except an air carrier, a foreign air carrier, or an employee of an air carrier or foreign air carrier) that as a principal or agent sells, offers for sale, negotiates for, or holds itself out as selling, providing, or arranging for, air transportation.

(41) "United States" means the States of the United States, the District of Columbia, and the territories and possessions of the United States, including territorial waters and airspace.

(b) In subpart II of this part, "control" means control by any means.

§ 40103. Sovereignty and use of airspace

(a)(1) The United States Government has exclusive sovereignty of its airspace, including the airspace above—

(A) its inland waters; and

(B) those parts of adjacent marginal high seas, bays, and lakes over which, by international law or international agreement, the Government exercises jurisdiction.

(2) A citizen of the United States has a public right of transit through the navigable airspace. To further that right, the Secretary of Transportation shall consult with the Architectural and Transportation Barriers Compliance Board established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792) before prescribing a regulation or issuing an order or procedure that will have a significant impact on the accessibility of commercial airports or commercial air transportation for handicapped individuals.

(b)(1) The Administrator of the Federa Aviation Administration shall develop plan and policy for the use of the navigable airspace and assign by regulation or order th use of the airspace necessary to ensure th safety of aircraft and the efficient use of airspace. The Administrator may change o revoke an assignment when required in th public interest.

(2) The Administrator shall prescribe ai traffic regulations on the flight of aircraf (including regulations on safe altitudes for—

(A) the navigation, protection, and identification of aircraft;

(B) the protection of individuals an property on the ground;

(C) the efficient use of the navigable airspace; and

(D) the prevention of collision betwee aircraft, between aircraft and land or wate vehicles, and between aircraft and airborn objects.

(3) To establish security provisions tha will encourage and allow maximum use o the airspace by civil aircraft consistent wit national security, the Administrator, in consultation with the Secretary of Defens shall—

(A) establish areas in the airspace the Administrator decides are necessary in the interest of national defense; and

(B) by regulation or order, restrict or prohibit flight of civil aircraft in those area that the Administrator cannot identif locate, and control.

(4) Notwithstanding the military exception in section 553(a)(1) of title 5, subchapter II of chapter 5 of title 5 applies to a regulation prescribed under this subsection.

(c) A foreign aircraft, not part of th armed forces of a foreign country, may b navigated in the United States as provide in section 41703 of this title.

(d) Aircraft of the armed forces of a foreign country may be navigated in th United States, including the Canal Zon only when authorized by the Secretary o State.

(e) A person does not have an exclusiv right to use an air navigation facility o which amounts of the Government hav been expended. However, providing servic at an airport by only one fixed-based operator is not an exclusive right if—

(1) it is unreasonably costly, burdensom or impractical for more than one fixed-bas operator to provide the services; and

(2) allowing more than one fixed-based operator to provide the services requires a reduction in space leased under an existing agreement between the operator and the airport.

§ 40104. Promotion of civil aeronautics and air commerce

The Administrator of the Federal Aviation Administration shall encourage the development of civil aeronautics and air commerce in the United States and outside the United States. In carrying out this section, the Administrator shall establish, within available resources, a program to distribute civil aviation information in each region served by the Administration. The program shall provide, on request, information and expertise on civil aviation to State and local school administrators, college and university officials, and officers of other interested organizations.

§ 40105. International negotiations, agreements, and obligations

(a) The Secretary of State shall advise the Administrator of the Federal Aviation Administration and the Secretaries of Transportation and Commerce, and consult with them as appropriate, about negotiations for an agreement with a government of a foreign country to establish or develop air navigation, including air routes and services. The Secretary of Transportation shall consult with the Secretary of State in carrying out this part to the extent this part is related to foreign air transportation.

(b)(1) In carrying out this part, the Secretary of Transportation and the Administrator—

(A) shall act consistently with obligations of the United States Government under a treaty or agreement with the government of a foreign country;

(B) shall consider applicable laws and requirements of a foreign country; and

(C) may not limit compliance by an air carrier with obligations or liabilities imposed by the government of a foreign country when the Secretary takes any action related to a certificate of public convenience and necessity issued under chapter 411 of this title.

(2) This subsection does not apply to an agreement made between an air carrier or an officer or representative of an air carrier and the government of a foreign country, if the Secretary of Transportation disapproves the agreement because it is not in the public interest. Section 40106(b)(2) of this title applies to this subsection.

(c) In carrying out section 40101(e) of this title, the Secretaries of State and Transportation, to the maximum extent practicable, shall consult on broad policy goals and individual negotiations with—

(1) the Secretaries of Commerce and Defense;

(2) airport operators;

(3) scheduled air carriers;

(4) charter air carriers;

(5) airline labor;

(6) consumer interest groups;

(7) travel agents and tour organizers; and

(8) other groups, institutions, and governmental authorities affected by international aviation policy.

(d) The President shall grant to at least one representative of each House of Congress the privilege of attending international aviation negotiations as an observer if the privilege is requested in advance in writing.

§ 40106. Emergency powers

(a) Appropriate military authority may authorize aircraft of the armed forces to deviate from air traffic regulations prescribed under section 40103(b)(2) of this title when the authority decides the deviation is essential to the national defense because of a military emergency or urgent military necessity. The authority shall—

(1) give the Administrator of the Federal Aviation Administration prior notice of the deviation at the earliest practicable time; and

(2) to the extent time and circumstances allow, make every reasonable effort to consult with the Administrator and arrange for the deviation in advance on a mutually agreeable basis.

(b)(1) When the President decides that the government of a foreign country is acting inconsistently with the Convention for the Suppression of Unlawful Seizure of Aircraft or that the government of a foreign country allows territory under its jurisdiction to be used as a base of operations or training of, or as a sanctuary for, or arms, aids, or abets, a terrorist organization that knowingly uses the unlawful seizure, or the threat of an unlawful seizure, of an aircraft as an instrument of policy, the President may suspend the authority of—

(A) an air carrier or foreign air carrier to provide foreign air transportation to and from that foreign country;

(B) a person to operate aircraft in foreign air commerce to and from that foreign country;

(C) a foreign air carrier to provide foreign air transportation between the United States and another country that maintains air service with the foreign country; and

(D) a foreign person to operate aircraft in foreign air commerce between the United States and another country that maintains air service with the foreign country.

(2) The President may act under this subsection without notice and without an opportunity for a proceeding. The suspension remains in effect for as long as the President decides is necessary to ensure the security of aircraft against unlawful seizure. Notwithstanding section 40105(b) of this title, the authority of the President to suspend rights under this subsection is a condition to a certificate of public convenience and necessity, air carrier operating certificate, foreign air carrier or foreign aircraft permit, or foreign air carrier operating specification issued by the Secretary of Transportation under this part.

(3) An air carrier or foreign air carrier may not provide foreign air transportation, and a person may not operate aircraft in foreign air commerce, in violation of this subsection.

§ 40107. Presidential transfers

(a) The President may transfer to the Administrator of the Federal Aviation Administration a duty, power, activity, or facility of a department, agency, or instrumentality of the executive branch of the United States Government, or an officer or unit of a department, agency, or instrumentality of the executive branch, related primarily to selecting, developing, testing, evaluating, establishing, operating, or maintaining a system, procedure, facility, or device for safe and efficient air navigation and air traffic control. In making a transfer, the President may transfer records and property and make officers and employees from the department, agency, instrumentality, or unit available to the Administrator.

(b) If war occurs, the President by executive order may transfer to the Secretary of Defense a duty, power, activity, or facility of the Administrator. In making the transfer, the President may transfer records, property, officers, and employees of the Administration to the Department of Defense.

§ 40108. Aviation training schools

(a) The Administrator of the Federal Aviation Administration may operate a school to train officers and employees of the Administration in carrying out duties and powers carried out by the Administrator.

(b) The Administrator may authorize other officers and employees of the United States Government, officers and employees of governments of foreign countries, and individuals from the aeronautics industry to attend those schools. However, if the attendance of any of those officers, employees, and individuals increases the cost of operating the schools, the Administrator may require the payment or transfer of amounts or other consideration to offset the additional cost. The amount received may be credited to the appropriation current when the expenditures are or were paid, the appropriation current when the amount is received, or both.

§ 40109. Authority to exempt

(a)(1) The Secretary of Transportation may exempt from this part—

(A) an air carrier not engaged directly in operating aircraft in air transportation; or

(B) a foreign air carrier not engaged directly in operating aircraft in foreign air transportation.

(2) The exemption is effective to the extent and for periods the Secretary decides are in the public interest.

(b) The Administrator of the Federal Aviation Administration may grant an exemption from a regulation prescribed in carrying out sections 40103(b)(1) and (2), 44901, and 44903 of this title when the Administrator decides the exemption is in the public interest.

(c) Except as provided in this section, the Secretary may exempt to the extent the Secretary considers necessary a person or class of persons from a provision of chapter 411, sections 41301–41306, 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, and 41731–41742, chapter 419, subchapter II of chapter 421, and section 46301(b) of this title, or a regulation or term prescribed under any of those provisions, when the Secretary decides that the exemption is consistent with the public interest.

(d) The Secretary may not exempt an air carrier from section 42112 of this title. However, the Secretary may exempt from section 42112(b)(1) and (2) an air carrier not providing scheduled air transportation, and the operations conducted during daylight hours by an air carrier providing scheduled air transportation, when the Secretary decides that—

(1) because of the limited extent of, or unusual circumstances affecting, the operation of the air carrier, the enforcement of section 42112(b)(1) and (2) of this title is or would be an unreasonable burden on the air carrier that would obstruct its development and prevent it from beginning or continuing operations; and

(2) the exemption would not affect adversely the public interest.

(e) The Secretary may not exempt an air carrier under this section from a provision referred to in subsection (c) of this section, or a regulation or term prescribed under any of those provisions, that sets maximum flying hours for pilots or copilots.

(f)(1) An air carrier is exempt from section 41101(a)(1) of this title, and the Secretary may exempt an air carrier from another provision of subpart II of this part, if the air carrier—

(A)(i) provides passenger transportation only with aircraft having a maximum capacity of 55 passengers; or

(ii) provides the transportation of property only with aircraft having a maximum payload of less than 18,000 pounds; and

(B) complies with liability insurance requirements and other regulations the Secretary prescribes.

(2) The Secretary may increase the passenger or payload capacities when the public interest requires.

(3)(A) An exemption under this subsection applies to an air carrier providing air transportation between 2 places in Alaska, or between Alaska and Canada, only if the carrier is authorized by Alaska to provide the transportation.

(B) The Secretary may limit the number or location of places that may be served by an air carrier providing transportation only in Alaska under an exemption from section 41101(a)(1) of this title, or the frequency with which the transportation may be provided, only when the Secretary decides that providing the transportation substantially impairs the ability of an air carrier holding a certificate issued by the Secretary to provide its authorized transportation, including the minimum transportation requirement for Alaska specified under section 41732(b)(1)(B) of this title.

(g)(1) To the extent the Secretary decides an exemption is in the public interest, the Secretary may exempt by order a foreign air carrier from the requirements and limitations of this part for not more than 30 days to allow the foreign air carrier to carry passengers, property, or mail in interstate air transportation in certain markets if the Secretary finds that—

(A) because of an emergency created by unusual circumstances not arising in the normal course of business, air carriers holding certificates under section 41102 of this title cannot accommodate traffic in those markets;

(B) all possible efforts have been made to accommodate the traffic by using the resources of the air carriers, including the use of—

(i) foreign aircraft, or sections of foreign aircraft, under lease or charter to the air carriers; and

(ii) the air carriers' reservations systems to the extent practicable;

(C) the exemption is necessary to avoid unreasonable hardship for the traffic in the markets that cannot be accommodated by the air carriers; and

(D) granting the exemption will not result in an unreasonable advantage to any party in a labor dispute where the inability to accommodate traffic in a market is a result of the dispute.

(2) When the Secretary grants an exemption to a foreign air carrier under this subsection, the Secretary shall—

(A) ensure that air transportation the foreign air carrier provides under the exemption is made available on reasonable terms;

(B) monitor continuously the passenger load factor of air carriers in the market that hold certificates under section 41102 of this title; and

(C) review the exemption at least every 30 days to ensure that the unusual circumstances that established the need for the exemption still exist.

(3) The Secretary may renew an exemption (including renewals) under this subsection for not more than 30 days. An exemption may continue for not more than 5 days after the unusual circumstances that established the need for the exemption cease.

(h) The Secretary may act under subsections (d) and (f)(3)(B) of this section only after giving the air carrier notice and an opportunity for a proceeding.

§ 40110. Administrative

(a) The Secretary of Transportation (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may take action the Secretary or Administrator, as appropriate, considers necessary to carry out this part, including conducting investigations, prescribing regulations, standards, and procedures, and issuing orders.

(b) In carrying out this part, the Administrator of the Federal Aviation Administration may acquire an interest in real property, including an interest in airspace immediately adjacent to and needed for airports and other air navigation facilities owned by the United States Government and operated by the Administrator of the Federal Aviation Administration. However, the Administrator of the Federal Aviation Administration may acquire space in buildings only when the Administrator of General Services decides, under section 1(d) of Reorganization Plan No. 18 of 1950 (eff. July 1, 1950, 64 Stat. 1270), that the space to be acquired is to be used for the special purposes of the Federal Aviation Administration and generally is not suitable for the use of other departments, agencies, and instrumentalities of the Government. The Administrator of the Federal Aviation Administration may consider the reasonable probable future use of the underlying land in making an award for a condemnation of an interest in airspace.

(c)(1) In carrying out this part, the Administrator of the Federal Aviation Administration may—

(A) construct and improve laboratories and other test facilities; and

(B) dispose of an interest in property for adequate compensation.

(2) Except for airport and airway property and technical equipment used for special aviation purposes, the Administrator of the Federal Aviation Administration shall dispose of the property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(d) In carrying out this part, the Secretary has the same authority to regulate the transportation of hazardous materials by air that the Secretary has under section 5103 of this title. However, this subsection does not prohibit or regulate the transportation of a firearm (as defined in section 232 of title 18) or ammunition for a firearm, when transported by an individual for personal use.

(e) The Secretary (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may use the assistance of the Administrator of the National Aeronautics and Space Administration and any research or technical department, agency, or instrumentality of the Government on matters related to aircraft fuel and oil, and to the design, materials, workmanship, construction, performance, maintenance, and operation of aircraft, aircraft engines, propellers, appliances, and air navigation facilities. Each department, agency, and instrumentality may conduct scientific and technical research, investigations, and tests necessary to assist the Secretary or Administrator of the Federal Aviation Administration in carrying out this part. This part does not authorize duplicating laboratory research activities of a department, agency, or instrumentality.

(f) The Administrator of the Federal Aviation Administration may indemnify an officer or employee of the Administration against a claim or judgment arising out of an act that the Administrator decides was committed within the scope of the official duties of the officer or employee.

§ 40111. Reports and records

(a)(1) Except as provided in this part, the Secretary of Transportation (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) shall make a written report of each proceeding and investigation under this part in which a formal hearing was held and shall provide a copy to each party to the proceeding or investigation. The report shall include the decision conclusions, order, and requirements of the Secretary or Administrator as appropriate.

(2) The Secretary (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) shall have all reports, orders, decisions, and regulations the Secretary or Administrator, as appropriate, issues or prescribes published in the form and way best adapted for public use. A publication of the Secretary or Administrator is competent evidence of its contents.

(b) Except as provided in subpart II of this part, copies of tariffs and arrangements filed with the Secretary under subpart II and the statistics, tables, and figures contained in reports made to the Secretary under subpart II, are public records. The Secretary is the custodian of those records. A public record, or a copy or extract of it, certified by the Secretary under the seal of the Department of Transportation is competent evidence in a proceeding of the Secretary and in a judicial proceeding.

§ 40112. Withholding information

(a)(1) A person may object to the public disclosure of information—

(A) in a record filed under this part; or

(B) obtained under this part by the Secr tary of Transportation, the Secretary of State, or the United States Postal Service.

(2) An objection must be in writing and must state the reasons for the objection. The Secretary of Transportation or State or the Postal Service shall order the information withheld from public disclosure when the appropriate Secretary or the Postal Service decides that disclosure of the information would—

(A) prejudice the United States Government in preparing and presenting its position in international negotiations; or

(B) have an adverse effect on the competitive position of an air carrier in foreign a transportation.

(b) This section does not authorize info mation to be withheld from a committee Congress authorized to have the inform tion.

§ 40113. State taxation

(a)(1) In this subsection—

(A) "air carrier transportation property means property (as defined by the Secreta of Transportation) owned or used by an a carrier providing air transportation.

(B) "assessment" means valuation for property tax levied by a taxing district.

(C) "assessment jurisdiction" means a geographical area in a State used in determining the assessed value of property for ad valorem taxation.

(D) "commercial and industrial property" means property (except transportation property and land used primarily for agriculture or timber growing) devoted to a commercial or industrial use and subject to a property tax levy.

(E) "State" includes the District of Columbia, a territory or possession of the United States, and a political authority of at least 2 States.

(2) A State or political subdivision of a State may not levy or collect a tax, fee, head charge, or other charge on—

(A) an individual traveling in air commerce;

(B) the transportation of an individual traveling in air commerce;

(C) the sale of air transportation; or

(D) the gross receipts from that air commerce or transportation.

(3)(A) A State, political subdivision of a State, or authority acting for a State or political subdivision may not do any of the following acts because those acts unreasonably burden and discriminate against interstate commerce:

(i) assessing air carrier transportation property at a value that has a higher ratio to the true market value of the property than the ratio that the assessed value of other commercial and industrial property of the same type in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

(ii) levying or collecting a tax on an assessment that may not be made under clause (i) of this subparagraph.

(iii) levying or collecting an ad valorem property tax on air carrier transportation property at a tax rate greater than the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(B) Subparagraph (A) of this paragraph does not apply to an in lieu tax completely used for airport and aeronautical purposes.

(4) Except as provided in paragraph (3) of this subsection, a State or political subdivision of a State may levy or collect—

(A) other taxes, including property taxes, net income taxes, franchise taxes, and sales or use taxes on the sale of goods or services; and

(B) reasonable rental charges, landing fees, and other service charges from aircraft operators for using airport facilities of an airport owned or operated by that State or subdivision.

(b)(1) In this subsection—

(A) "pay" means money received by an employee for services.

(B) "State" includes the District of Columbia and a territory or possession of the United States.

(C) an employee is deemed to have earned 50 percent of the employee's pay in a State or political subdivision of a State in which the scheduled flight time of the employee in the State or subdivision is more than 50 percent of the total scheduled flight time of the employee when employed during the calendar year.

(2) The pay of an employee of an air carrier having regularly assigned duties on aircraft in at least 2 States is subject to the income tax laws of only the following:

(A) the State or political subdivision of the State that is the residence of the employee.

(B) the State or political subdivision of the State in which the employee earns more than 50 percent of the pay received by the employee from the carrier.

§ 40114. Government-financed air transportation

(a) A department, agency, or instrumentality of the United States Government shall take necessary steps to ensure that the transportation of passengers and property by air is provided by an air carrier holding a certificate under section 41102 of this title if—

(1) the department, agency, or instrumentality—

(A) obtains the transportation for itself or in carrying out an arrangement under which payment is made by the Government or payment is made from amounts provided for the use of the Government; or

(B) provides the transportation to or for a foreign country or international or other organization without reimbursement;

(2) the transportation is authorized by the certificate or by regulation or exemption of the Secretary of Transportation; and

(3) the air carrier is—

(A) available, if the transportation is between a place in the United States and a place outside the United States; or

(B) reasonably available, if the transportation is between 2 places outside the United States.

(b) This section does not preclude the transportation of passengers and property by a foreign air carrier if the transportation is provided under a bilateral or multilateral air transportation agreement to which the Government and the government of a foreign country are parties if the agreement—

(1) is consistent with the goals for international aviation policy of section 40101(e) of this title; and

(2) provides for the exchange of rights or benefits of similar magnitude.

(c) The Comptroller General shall allow the expenditure of an appropriation for transportation in violation of this section only when satisfactory proof is presented showing the necessity for the transportation.

(d) Notwithstanding subsections (a) and (c) of this section, an amount appropriated to the Secretary of State, the Director of the United States Information Agency, the Director of the United States International Development Cooperation Agency, or the Director of the Arms Control and Disarmament Agency may be used to pay for the transportation of an officer or employee of the Department of State or one of those agencies, a dependent of the officer or employee, and accompanying baggage, by an air carrier not holding a certificate under section 41102 of this title when the transportation is between 2 places outside the United States.

(e) This section does not affect the application of the antidiscrimination provisions of this part.

§ 40115. Remedies as cumulative

A remedy under this part is in addition to any other remedies provided by law.

§ 40116. Relationship to other laws

(a) Except as provided in the International Navigational Rules Act of 1977 (33 U.S.C. 1601 et seq.), the navigation and shipping laws of the United States and the rules for the prevention of collisions do not apply to aircraft or to the navigation of vessels related to those aircraft.

(b) The President may extend (in the way and for periods the President considers necessary) the application of this part to outside the United States when—

(1) an international arrangement gives the United States Government authority to make the extension; and

(2) the President decides the extension is in the national interest.

SUBPART II—ECONOMIC REGULATION

CHAPTER 411—AIR CARRIER CERTIFICATES

Sec.
41101. Requirement for a certificate.
41102. General, temporary, and charter air transportation certificates of air carriers.
41103. All-cargo air transportation certificates of air carriers.
41104. Additional limitations and requirements of charter air carriers.
41105. Transfers of certificates.
41106. Airlift service.
41107. Transportation of mail.
41108. Applications for certificates.
41109. Terms of certificates.
41110. Effective periods and changes, suspensions, and revocations of certificates.
41111. Simplified procedure for applications for, and changes, suspensions, and transfers of, certificates.
41112. Liability insurance and financial responsibility.

§ 41101. Requirement for a certificate

(a) Except as provided in this chapter or another law—

(1) an air carrier may provide air transportation only if the air carrier holds a certificate issued under this chapter authorizing the air transportation;

(2) a charter air carrier may provide charter air transportation only if the charter air carrier holds a certificate issued under this chapter authorizing the charter air transportation; and

(3) an air carrier may provide all-cargo air transportation only if the air carrier holds a certificate issued under this chapter authorizing the all-cargo air transportation.

(b) A citizen of the United States providing transportation in a State of passengers or property as a common carrier for compensation with aircraft capable of carrying at least 30 passengers, under authority granted by the appropriate State authority—

(1) may provide transportation for passengers and property that includes through service by the citizen over its routes in the State and in air transportation by an air carrier or foreign air carrier; and

(2) subject to sections 41309 and 42111 of this title, may make an agreement with an air carrier or foreign air carrier to provide the joint transportation.

(c) A certificate issued under this chapter does not confer a proprietary or exclusive right to use airspace, an airway of the United States, or an air navigation facility.

§ 41102. General, temporary, and charter air transportation certificates of air carriers

(a) The Secretary of Transportation may issue a certificate of public convenience and necessity to a citizen of the United States authorizing the citizen to provide any part of the following air transportation the citizen has applied for under section 41108 of this title:

(1) air transportation as an air carrier.

(2) temporary air transportation as an air carrier for a limited period.

(3) charter air transportation as a charter air carrier.

(b)(1) Before issuing a certificate under subsection (a) of this section, the Secretary must find that the citizen is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this part and regulations of the Secretary.

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(2) In addition to the findings under paragraph (1) of this subsection, the Secretary, before issuing a certificate under subsection (a) of this section for foreign air transportation, must find that the transportation is consistent with the public convenience and necessity.

(c) The Secretary may issue a certificate under subsection (a) of this section for interstate air transportation (except the transportation of passengers) or foreign air transportation for a temporary period of time (whether the application is for permanent or temporary authority) when the Secretary decides that a test period is desirable—

(1) to decide if the projected services, efficiencies, methods, and rates and the projected results will materialize and remain for a sustained period of time; or

(2) to evaluate the new transportation.

(d) The Secretary shall submit each decision authorizing the provision of foreign air transportation to the President under section 41307 of this title.

§ 41103. All-cargo air transportation certificates of air carriers

(a) A citizen of the United States may apply to the Secretary of Transportation for a certificate authorizing the citizen to provide all-cargo air transportation. The application must contain information and be in the form the Secretary by regulation requires.

(b) Not later than 180 days after an application for a certificate is filed under this section, the Secretary shall issue the certificate to a citizen of the United States authorizing the citizen, as an air carrier, to provide any part of the all-cargo air transportation applied for unless the Secretary finds that the citizen is not fit, willing, and able to provide the all-cargo air transportation to be authorized by the certificate and to comply with regulations of the Secretary.

(c) The Secretary may impose terms the Secretary considers necessary when issuing a certificate under this section. However, the Secretary may not impose terms that restrict the places served or rates charged by the holder of the certificate.

(d) A citizen issued a certificate under this section—

(1) is exempt in providing the transportation under the certificate from the requirements of—

(A) section 41101(a)(1) of this title and regulations or procedures prescribed under section 41101(a)(1); and

(B) other provisions of this part and regulations or procedures prescribed under those provisions when the Secretary finds under regulations of the Secretary that the exemption is appropriate; and

(2) is an air carrier under this part except to the extent the carrier is exempt under this section from a requirement of this part.

§ 41104. Additional limitations and requirements of charter air carriers

(a) The Secretary of Transportation may prescribe a regulation or issue an order restricting the marketability, flexibility, accessibility, or variety of charter air transportation provided under a certificate issued under section 41102 of this title only to the extent required by the public interest. A regulation prescribed or order issued under this subsection may not be more restrictive than a regulation related to charter air transportation that was in effect on October 1, 1978.

(b) An air carrier holding a certificate issued under section 41102 of this title may provide charter air transportation between places in Alaska only to the extent the Secretary decides the transportation is required by public convenience and necessity. The Secretary may make that decision when issuing or changing the certificate. This subsection does not apply to a certificate issued under section 41102 to a citizen of the United States who, before July 1, 1977—

(1) maintained a principal place of business in Alaska; and

(2) conducted air transport operations between places in Alaska with aircraft with a certificate for gross takeoff weight of more than 40,000 pounds.

(c)(1) The Secretary shall suspend for not more than 30 days any part of the certificate of a charter air carrier if the Secretary decides that the failure of the carrier to comply with the requirements described in sections 41110(e) and 41112 of this title, or a regulation or order of the Secretary under section 41110(e) or 41112, requires immediate suspension in the interest of the rights, welfare, or safety of the public. The Secretary may act under this paragraph without notice or an opportunity for a proceeding.

(2) The Secretary shall begin immediately a proceeding to decide if the certificate referred to in paragraph (1) of this subsection should be changed, suspended, or revoked. Until the proceeding is completed, the Secretary may suspend the certificate for additional periods totaling not more than 60 days. If the Secretary decides that the carrier is complying with the requirements described in sections 41110(e) and 41112 of this title and regulations and orders under sections 41110(e) and 41112, the Secretary immediately may end the suspension period and proceeding begun under this subsection. However, the Secretary is not prevented from imposing a civil penalty on the carrier for violating the requirements described in section 41110(e) or 41112 or a regulation or order under section 41110(e) or 41112.

§ 41105. Transfers of certificates

A certificate issued under section 41102 of this title may be transferred only when the Secretary of Transportation approves the transfer as consistent with the public interest.

§ 41106. Airlift service

(a) Except as provided in subsection (b) of this section, the transportation of passengers or property by transport category aircraft in interstate air transportation obtained by the Secretary of Defense or the Secretary of a military department through a contract of at least 31 days for airlift service in the United States may be provided only by an air carrier that—

(1) has aircraft in the civil reserve air fleet or offers to place the aircraft in that fleet; and

(2) holds a certificate issued under section 41102 of this title.

(b) The Secretary of Transportation shall act as expeditiously as possible on an application for a certificate under section 41102 of this title to provide airlift service. When the Secretary of Defense decides that no air carrier holding a certificate under section 41102 is capable of providing, and willing to provide, the airlift service, the Secretary of Defense may make a contract to provide the service with an air carrier not having a certificate.

§ 41107. Transportation of mail

When the United States Postal Service finds that the needs of the Postal Service require the transportation of mail by aircraft in foreign air transportation or between places in Alaska, in addition to the transportation of mail authorized under certifi
cates in effect, the Postal Service shall certi
fy that finding to the Secretary of Transpor
tation with a statement about the addition
al transportation and facilities necessary t
provide the additional transportation.
copy of each certification and statemen
shall be posted for at least 20 days in th
office of the Secretary. After notice and a
opportunity for a proceeding, the Secretar
shall issue a new certificate under sectio
41102 of this title, or change an existing ce
tificate under section 41110(a)(2)(A) of thi
title, to provide the additional transporta
tion and facilities if the Secretary finds th
additional transportation is required by th
public convenience and necessity.

§ 41108. Applications for certificates

(a) To be issued a certificate of public co
venience and necessity under section 4110
of this title, a citizen of the United State
must apply to the Secretary of Transporta
tion. The application must—

(1) be in the form and contain inform
tion required by regulations of the Secretar
and

(2) be accompanied by proof of service o
interested persons as required by regulatio
of the Secretary and on each communi
that may be affected by the issuance of th
certificate.

(b)(1) When an application is filed, th
Secretary shall post a notice of the applic
tion in the office of the Secretary and gi
notice of the application to other persons
required by regulations of the Secretary.
interested person may file a response wi
the Secretary opposing or supporting the
suance of the certificate. Not later than
days after the application is filed, the Sec
tary shall—

(A) provide an opportunity for a publ
hearing on the application;

(B) begin the procedure under secti
41111 of this title; or

(C) dismiss the application on its meri

(2) An order of dismissal issued by the S
retary under paragraph (1)(C) of this subs
tion is a final order and may be reviewed
dicially under section 46110 of this title.

(3) If the Secretary provides an opportu
ty for a hearing under paragraph (1)(A)
this subsection, an initial or recommend
decision shall be issued not later than 1
days after the date the Secretary provi
the opportunity. The Secretary shall issue
final order on the application not later th
90 days after the decision is issued. How
er, if the Secretary does not act within
90-day period, the initial or recommend
decision on an application to provide—

(A) interstate air transportation is a fi
order and may be reviewed judicially un
section 46110 of this title; and

(B) foreign air transportation shall be s
mitted to the President under section 41
of this title.

(4) If the Secretary acts under paragra
(1)(B) of this subsection, the Secretary sh
issue a final order on the application
later than 180 days after beginning the p
cedure on the application.

(5) If a citizen applying for a certific
does not meet the procedural sched
adopted by the Secretary in a proceedi
the Secretary may extend the period
acting under paragraphs (3) and (4) of t
subsection by a period equal to the amo
of delay caused by the citizen. In addition
an extension under this paragraph, an
tial or recommended decision under pa
graph (3) of this subsection may be dela

for not more than 30 days in extraordinary circumstances.

(c)(1) A citizen applying for a certificate must prove that the citizen is fit, willing, and able to provide the transportation referred to in section 41102 of this title and to comply with this part.

(2) A person opposing a citizen applying for a certificate must prove that the transportation referred to in section 41102(b)(2) of this title is not consistent with the public convenience and necessity. The transportation is deemed to be consistent with the public convenience and necessity unless the Secretary finds, by a preponderance of the evidence, that the transportation is not consistent with the public convenience and necessity.

§ 41109. Terms of certificates

(a)(1) Each certificate issued under section 41102 of this title shall specify the type of transportation to be provided.

(2) The Secretary of Transportation—

(A) may prescribe terms for providing air transportation under the certificate that the Secretary finds may be required in the public interest; but

(B) may not prescribe a term preventing an air carrier from adding or changing schedules, equipment, accommodations, and facilities for providing the authorized transportation to satisfy business development and public demand.

(3) A certificate issued under section 41102 of this title to provide foreign air transportation shall specify the places between which the air carrier is authorized to provide the transportation only to the extent the Secretary considers practicable and otherwise only shall specify each general route to be followed. The Secretary shall authorize an air carrier holding a certificate to provide foreign air transportation to handle and transport mail of countries other than the United States.

(4) A certificate issued under section 41102 of this title to provide foreign charter air transportation shall specify the places between which the air carrier is authorized to provide the transportation only to the extent the Secretary considers practicable and otherwise only shall specify each geographical area in which, or between which, the transportation may be provided.

(b)(1) An air carrier may file with the Secretary an application to change any term of its certificate issued under section 41102 of this title to provide interstate or foreign air transportation. Not later than 60 days after an application is filed, the Secretary shall—

(A) provide the carrier an opportunity for an oral evidentiary hearing on the record; or

(B) begin to consider the application under section 41111 of this title.

(2) The Secretary shall change each term the Secretary finds to be inconsistent with the criteria under section 40101(a) and (b) of this title.

(3) An application under this subsection may not be dismissed under section 41108(b)(1)(C) of this title.

§ 41110. Effective periods and changes, suspensions, and revocations of certificates

(a)(1) Each certificate issued under section 41102 of this title is effective from the date specified in it and remains in effect until—

(A) the Secretary of Transportation suspends or revokes the certificate under this section;

(B) the end of the period the Secretary specifies for an air carrier having a certificate of temporary authority issued under section 41102(a)(2) of this title; or

(C) the Secretary certifies that transportation is no longer being provided under a certificate.

(2) On application or on the initiative of the Secretary and after notice and an opportunity for a proceeding or, except as provided in paragraph (4) of this subsection, under section 41111 of this title, the Secretary may—

(A) change or suspend any part of a certificate if the Secretary finds the public convenience and necessity require change or suspension; and

(B) revoke any part of a certificate if the Secretary finds that the holder of the certificate intentionally does not comply with this chapter, sections 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, and 41731–41742, chapter 419, subchapter II of chapter 421, and section 46301(b) of this title, a regulation or order of the Secretary under any of those provisions, or a term of its certificate.

(3) The Secretary may revoke a certificate under paragraph (2)(B) of this subsection only if the holder of the certificate does not comply, within a reasonable time the Secretary specifies, with an order to the holder requiring compliance.

(4) A certificate to provide foreign air transportation may not be changed, suspended, or revoked under section 41111 of this title if the holder of the certificate requests an oral evidentiary hearing or the Secretary finds, under all the facts and circumstances, that the hearing is required in the public interest.

(b) The Secretary may order that a certificate issued under section 41103 of this title authorizing all-cargo air transportation is ineffective if, after notice and an opportunity for a proceeding, the Secretary finds that the transportation is not provided to the minimum extent specified by the Secretary.

(c)(1) Notwithstanding subsection (a)(2)–(4) of this section, after notice and a reasonable opportunity for the affected air carrier to present its views, but without a proceeding, the Secretary may suspend or revoke the authority of an air carrier to provide foreign air transportation to a place under a certificate issued under section 41102 of this title if the carrier—

(A) notifies the Secretary, under section 41734(a) of this title or a regulation of the Secretary, that it intends to suspend all transportation to that place; or

(B) does not provide regularly scheduled transportation to the place for 90 days immediately before the date the Secretary notifies the carrier of the action the Secretary proposes.

(2) Paragraph (1)(B) of this subsection does not apply to a place provided seasonal transportation comparable to the transportation provided during the prior year.

(d) On application or on the initiative of the Secretary, the Secretary may—

(1) review the performance of an air carrier issued a certificate under section 41102(c) of this title on the basis that the air carrier will provide innovative or low-priced air transportation under the certificate; and

(2) change, suspend, or revoke the certificate or authority under subsection (a)(2) or (c) of this section if the air carrier has not provided, or is not providing, the transportation.

(e) After notice and an opportunity for a proceeding, the Secretary shall change, suspend, or revoke any part of a certificate issued under section 41102 of this title if the Secretary finds that the air carrier—

(1) is not fit, willing, and able to continue to provide the transportation authorized by the certificate and to comply with this part and regulations of the Secretary; or

(2) does not file reports necessary for the Secretary to decide if the carrier is complying with the requirements of clause (1) of this subsection.

(f) The Secretary—

(1) in consultation with appropriate departments, agencies, and instrumentalities of the United States Government, shall reexamine immediately the fitness of an air carrier that—

(A) violates the laws and regulations of the United States related to the illegal importation of a controlled substance; or

(B) does not adopt available measures to prevent the illegal importation of a controlled substance into the United States on its aircraft; and

(2) when appropriate, shall change, suspend, or revoke the certificate of the carrier issued under this chapter.

(g) An interested person may file a response with the Secretary opposing or supporting the change, suspension, or revocation of a certificate under subsection (a) of this section.

§ 41111. Simplified procedure for applications for, and changes, suspensions, and transfers of, certificates

(a)(1) The Secretary of Transportation shall prescribe regulations that simplify the procedure for—

(A) acting on an application for a certificate to provide air transportation under section 41102 of this title; and

(B) changing, suspending, or transferring any part of that certificate under section 41105 or 41110(a) or (c) of this title.

(2) Regulations under this section shall provide for notice and an opportunity for each interested person to file appropriate written evidence and argument. An oral evidentiary hearing is not required to be provided under this section.

(b) The Secretary may use the simplified procedure to act on an application for a certificate to provide air transportation under section 41102 of this title, or to change, suspend, or transfer any part of that certificate under section 41105 or 41110(a) or (c) of this title, when the Secretary decides the use of the procedure is in the public interest.

(c)(1) To the extent the Secretary finds practicable, regulations under this section shall include each standard the Secretary will apply when—

(A) deciding whether to use the simplified procedure; and

(B) making a decision on an action in which the procedure is used.

(2) The regulations may provide that written evidence and argument may be filed under section 41108(b) of this title as a part of a response opposing or supporting the issuance of a certificate.

§ 41112. Liability insurance and financial responsibility

(a) The Secretary of Transportation may issue a certificate to a citizen of the United States to provide air transportation as an air carrier under section 41102 of this title only if the citizen complies with regulations and orders of the Secretary governing the filing of an insurance policy or self-insurance plan approved by the Secretary. The policy or plan must be sufficient to pay, not more than the amount of the insurance, for bodily injury to, or death of, an individual or for loss of, or damage to, property of others, resulting from the operation or

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maintenance of the aircraft under the certificate. A certificate does not remain in effect unless the carrier complies with this subsection.

(b) To protect passengers and shippers using an aircraft operated by an air carrier issued a certificate under section 41102 of this title, the Secretary may require the carrier to file a performance bond or equivalent security in the amount and on terms the Secretary prescribes. The bond or security must be sufficient to ensure the carrier adequately will pay the passengers and shippers when the transportation the carrier agrees to provide is not provided. The Secretary shall prescribe the amounts to be paid under this subsection.

CHAPTER 413—FOREIGN AIR TRANSPORTATION

Sec.
41301. Requirement for a permit.
41302. Permits of foreign air carriers.
41303. Transfer of permits.
41304. Effective periods and changes, suspensions, and revocations of permits.
41305. Applications for permits.
41306. Simplified procedure for applications for, and changes and suspensions of, permits.
41307. Presidential review of actions about foreign air transportation.
41308. Exemption from the antitrust laws.
41309. Cooperative agreements and requests.
41310. Discriminatory practices.

§ 41301. Requirement for a permit

A foreign air carrier may provide foreign air transportation only if the foreign air carier holds a permit issued under this chapter authorizing the foreign air transportation.

§ 41302. Permits of foreign air carriers

The Secretary of Transportation may issue a permit to a person (except a citizen of the United States) authorizing the person to provide foreign air transportation as a foreign air carrier if the Secretary finds that—

(1) the person is fit, willing, and able to provide the foreign air transportation to be authorized by the permit and to comply with this part and regulations of the Secretary; and

(2)(A) the person is qualified, and has been designated by the government of its country, to provide the foreign air transportation under an agreement with the United States Government; or

(B) the foreign air transportation to be provided under the permit will be in the public interest.

§ 41303. Transfer of permits

A permit issued under section 41302 of this title may be transferred only when the Secretary of Transportation approves the transfer because the transfer is in the public interest.

§ 41304. Effective periods and changes, suspensions, and revocations of permits

(a) The Secretary of Transportation may prescribe the period during which a permit issued under section 41302 of this title is in effect. After notice and an opportunity for a proceeding, the Secretary may change, suspend, or revoke the permit if the Secretary finds that action to be in the public interest.

(b) Without an opportunity for a proceeding, but subject to the approval of the President, the Secretary—

(1) may suspend summarily the permits of foreign air carriers of a foreign country, or change or limit the operations of the foreign air carriers under the permits, when the Secretary finds—

(A) the action is in the public interest; and

(B) the government, an aeronautical authority, or a foreign air carrier of the foreign country, over the objection of the United States Government, has—

(i) limited or denied the operating rights of an air carrier; or

(ii) engaged in unfair, discriminatory, or restrictive practices that have a substantial adverse competitive impact on an air carrier related to air transportation to, from, through, or over the territory of the foreign country; and

(2) to make this subsection effective, may restrict operations between the United States and the foreign country by a foreign air carrier of a third country.

(c) The Secretary—

(1) in consultation with appropriate departments, agencies, and instrumentalities of the Government, shall reexamine immediately the fitness of a foreign air carrier that—

(A) violates the laws and regulations of the United States related to the illegal importation of a controlled substance; or

(B) does not adopt available measures to prevent the illegal importation of a controlled substance into the United States on its aircraft; and

(2) when appropriate, shall change, suspend, or revoke the permit of the carrier issued under this chapter.

(d) An interested person may file a response with the Secretary opposing or supporting the change, suspension, or revocation of a permit under subsection (a) of this section.

§ 41305. Applications for permits

(a)(1) A person must apply in writing to the Secretary of Transportation to be issued a permit under section 41302 of this title. The Secretary shall prescribe regulations to require that the application be—

(A) verified;

(B) in a certain form and contain certain information;

(C) served on interested persons; and

(D) accompanied by proof of service on those persons.

(2) When an application is filed, the Secretary shall post a notice of the application in the office of the Secretary and give notice of the application to other persons as required by regulations of the Secretary. An interested person may file a response with the Secretary opposing or supporting the issuance of the permit. The Secretary shall act on an application as expeditiously as possible.

(b) The Secretary may impose terms for providing foreign air transportation under the permit that the Secretary finds may be required in the public interest.

§ 41306. Simplified procedure for applications for, and changes and suspensions of, permits

(a) The Secretary of Transportation shall prescribe regulations that simplify the procedure for—

(1) acting on an application for a permit to provide foreign air transportation under section 41302 of this title; and

(2) changing or suspending any part of that permit under section 41304(a) or (b) of this title.

(b) Regulations under this section shall provide for notice and an opportunity for each interested person to file appropriate written evidence and argument. An oral evidentiary hearing is not required to be provided under this section.

§ 41307. Presidential review of actions about foreign air transportation

The Secretary of Transportation shall submit to the President for review each deci-
sion of the Secretary to issue, deny, chang
suspend, revoke, or transfer a certificat
issued under section 41102 of this title a
thorizing an air carrier, or a permit issue
under section 41302 of this title authorizin
a foreign air carrier, to provide foreign a
transportation. The President may disa
prove the decision of the Secretary only
the reason for disapproval is based on fo
eign relations or national defense conside
ations that are under the jurisdiction of th
President. The President may not disa
prove a decision of the Secretary if th
reason is economic or related to carrier s
lection. A decision of the Secretary—

(1) is void if the President disapproves th
decision and publishes the reasons (to th
extent allowed by national security) for di
approval not later than 60 days after it
submitted to the President; or

(2)(A) takes effect as a decision of the Se
retary if the President does not disappro
the decision not later than 60 days after th
decision is submitted to the President; and

(B) when effective, may be reviewed jud
cially under section 46110 of this title.

§ 41308. Exemption from the antitrust laws

(a) In this section, "antitrust laws" h
the same meaning given that term in t
first section of the Clayton Act (15 U.S.
12).

(b) When the Secretary of Transportatio
decides it is required by the public intere
the Secretary, as part of an order under se
tion 41309 or 42111 of this title, may exem
a person affected by the order from the an
trust laws to the extent necessary to allo
the person to proceed with the transacti
specifically approved by the order and wi
any transaction necessarily contemplat
by the order.

(c) In an order under section 41309 of th
title approving an agreement, reque
change, or cancellation, the Secretary,
the basis of the findings required under s
tion 41309(b)(1), shall exempt a person
fected by the order from the antitrust laws
the extent necessary to allow the person
proceed with the transaction specifically
proved by the order and with any trans
tion necessarily contemplated by the order

§ 41309. Cooperative agreements and requests

(a) An air carrier or foreign air carr
may file with the Secretary of Transpor
tion a true copy of or, if oral, a true a
complete memorandum of, an agreeme
(except an agreement related to interst
air transportation), or a request for auth
ity to discuss cooperative arrangeme
(except arrangements related to interst
air transportation), and any change or c
cellation of an agreement, between the
carrier or foreign air carrier and anoth
air carrier, a foreign carrier, or another c
rier.

(b) The Secretary of Transportation sh
approve an agreement, request, change,
cancellation referred to in subsection (a)
this section when the Secretary finds it
not adverse to the public interest and is
in violation of this part. However, the Sec
tary shall disapprove—

(1) or, after periodic review, end appro
of, an agreement, request, change, or can
lation, that substantially reduces or eli
nates competition unless the Secretary fi
that—

(A) the agreement, request, change, or c
cellation is necessary to meet a seri
transportation need or to achieve import
public benefits (including internatio
comity and foreign policy consideratio
and

(B) the transportation need cannot be met or those benefits cannot be achieved by reasonably available alternatives that are materially less anticompetitive; or

(2) an agreement that—

(A) is between an air carrier not directly operating aircraft in foreign air transportation and a common carrier subject to subtitle IV of this title; and

(B) governs the compensation the common carrier may receive for the transportation.

(c)(1) When an agreement, request, change, or cancellation is filed, the Secretary of Transportation shall give the Attorney General and the Secretary of State written notice of, and an opportunity to submit written comments about, the filing. On the initiative of the Secretary of Transportation or on request of the Attorney General or Secretary of State, the Secretary of Transportation may provide an opportunity for a proceeding to decide whether an agreement, request, change, or cancellation is consistent with this part whether or not it was approved previously.

(2) In a proceeding before the Secretary of Transportation applying standards under subsection (b)(1) of this section, a party opposing an agreement, request, change, or cancellation has the burden of proving that it substantially reduces or eliminates competition and that less anticompetitive alternatives are available. The party defending the agreement, request, change, or cancellation has the burden of proving the transportation need or public benefits.

(3) The Secretary of Transportation shall include the findings required by subsection (b)(1) of this section in an order of the Secretary approving or disapproving an agreement, request, change, or cancellation.

§ 41310. Discriminatory practices

(a) An air carrier or foreign air carrier may not subject a person, place, port, or type of traffic in foreign air transportation to unreasonable discrimination.

(b)(1) The Secretary of Transportation shall survey charges imposed on an air carrier by the government of a foreign country or another foreign entity for the use of airport property or airway property in foreign air transportation. If the Secretary of Transportation decides that a charge is discriminatory, the Secretary promptly shall report the decision to the Secretary of State. The Secretaries of State and Transportation promptly shall begin negotiations with the appropriate government to end the discrimination. If the discrimination is not ended in a reasonable time through negotiation, the Secretary of Transportation shall establish a compensating charge equal to the discriminatory charge. With the approval of the Secretary of State, the Secretary of the Treasury shall impose the compensating charge on a foreign air carrier of that country as a condition to accepting the general declaration of the aircraft of the foreign air carrier when it lands or takes off.

(2) The Secretary of the Treasury shall maintain an account to credit amounts collected under paragraph (1) of this subsection. An air carrier shall be paid from the account an amount certified by the Secretary of Transportation to compensate the air carrier for the discriminatory charge paid to the government.

(c)(1) The Secretary of Transportation may take actions the Secretary considers are in the public interest to eliminate an activity of a government of a foreign country or another foreign entity, including a foreign air carrier, when the Secretary, on the initiative of the Secretary or on complaint, decides that the activity—

(A) is an unjustifiable or unreasonable discriminatory, predatory, or anticompetitive practice against an air carrier; or

(B) imposes an unjustifiable or unreasonable restriction on access of an air carrier to a foreign market.

(2) The Secretary of Transportation may deny, change, suspend, revoke, or transfer under paragraph (1) of this subsection a foreign air carrier permit or tariff under section 41302, 41303, 41304(a), 41504(c), 41507, or 41509 of this title.

(d)(1) An air carrier or a department, agency, or instrumentality of the United States Government may file a complaint under subsection (c) of this section with the Secretary of Transportation. The Secretary shall approve, deny, or dismiss the complaint, set the complaint for a proceeding or investigation, or begin another proceeding proposing remedial action not later than 60 days after receiving the complaint. The Secretary may extend the period for acting for additional periods totaling not more than 30 days if the Secretary decides that with additional time it is likely that a complaint can be resolved satisfactorily through negotiations with the government of the foreign country or foreign entity. The Secretary must act not later than 90 days after receiving the complaint. However, the Secretary may extend this 90-day period for not more than an additional 90 days if, on the last day of the initial 90-day period, the Secretary finds that—

(A) negotiations with the government have progressed to a point that a satisfactory resolution of the complaint appears imminent;

(B) an air carrier has not been subjected to economic injury by the government or entity as a result of filing the complaint; and

(C) the public interest requires additional time before the Secretary acts on the complaint.

(2) In carrying out paragraph (1) of this subsection and subsection (c) of this section, the Secretary of Transportation shall—

(A) solicit the views of the Secretaries of Commerce and State and the United States Trade Representative;

(B) give an affected air carrier or foreign air carrier reasonable notice and an opportunity to submit written evidence and arguments within the time limits of this subsection; and

(C) submit to the President under section 41307 or 41509(f) of this title actions proposed by the Secretary of Transportation.

(e)(1) The Secretaries of State, the Treasury, and Transportation and the heads of other departments, agencies, and instrumentalities of the Government shall keep under review, to the extent of each of their jurisdictions, each form of discrimination or unfair competitive practice to which an air carrier is subject when providing foreign air transportation. Each Secretary and head shall—

(A) take appropriate action to eliminate any discrimination or unfair competitive practice found to exist; and

(B) request Congress to enact legislation when the authority to eliminate the discrimination or unfair practice is inadequate.

(2) The Secretary of Transportation shall report to Congress annually on each action taken under paragraph (1) of this subsection and on the continuing program to eliminate discrimination and unfair competitive practices. The Secretaries of State and the Treasury each shall give the Secretary of Transportation information necessary to prepare the report.

(f) Not later than 30 days after acting on a complaint under this section, the Secretary of Transportation shall report to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on action taken under this section on the complaint.

CHAPTER 415—RATES

Sec.
41501. Establishing reasonable rates, classifications, rules, practices, and divisions of joint rates for foreign air transportation.
41502. Establishing joint rates for through routes with other common carriers.
41503. Establishing joint rates for through routes provided by State authorized carriers.
41504. Tariffs for foreign air transportation.
41505. Uniform methods for establishing joint rates, and divisions of joint rates, applicable to commuter air carriers.
41506. Rate division filing requirements for foreign air transportation.
41507. Authority of the Secretary of Transportation to change rates, classifications, rules, and practices for foreign air transportation.
41508. Authority of the Secretary of Transportation to change divisions of joint rates for foreign air transportation.
41509. Authority of the Secretary of Transportation to suspend, cancel, and reject tariffs for foreign air transportation.
41510. Required adherence to foreign air transportation tariffs.
41511. Special fares for foreign air transportation.

§ 41501. Establishing reasonable rates, classifications, rules, practices, and divisions of joint rates for foreign air transportation

Every air carrier and foreign air carrier shall establish, comply with, and enforce—

(1) reasonable rates, classifications, rules, and practices related to foreign air transportation; and

(2) for joint rates established for foreign air transportation, reasonable divisions of those rates among the participating air carriers or foreign air carriers without unreasonably discriminating against any of those carriers.

§ 41502. Establishing joint rates for through routes with other common carriers

(a) An air carrier may establish reasonable joint rates with another common carrier for through service provided under section 41101(b) of this title. However, an air carrier not directly operating aircraft in air transportation (except an air express company) may not establish under this section a joint rate for the transportation of property with a common carrier subject to subtitle IV of this title.

(b) For through service by an air carrier and a common carrier subject to subtitle IV of this title, the participating carriers shall establish—

(1) reasonable rates and reasonable classifications, rules, and practices affecting those rates or the value of the transportation provided under those rates; and

(2) for joint rates established for the through service, reasonable divisions of those joint rates among the participating carriers.

(c) An air carrier and a common carrier subject to subtitle IV of this title that are participating in through service and joint rates shall include in their tariffs, filed with the Secretary of Transportation, a statement showing the through service and joint rates.

§ 41503. Establishing joint rates for through routes provided by State authorized carriers

Subject to sections 41309 and 42111 of this title, a citizen of the United States providing transportation under section 41101(b) of this title may make an agreement with an air carrier or foreign air carrier for joint rates for that transportation. The joint rates agreed to must be the lowest of—

(1) the sum of the applicable rates for—

(A) the part of the transportation provided in the State and approved by the appropriate State authority; and

(B) the part of the transportation provided by the air carrier or foreign air carrier;

(2) a joint rate established and filed under section 41504 of this title; or

(3) a joint rate prescribed by the Secretary of Transportation under section 41507 of this title.

§ 41504. Tariffs for foreign air transportation

(a) In the way prescribed by regulation by the Secretary of Transportation, every air carrier and foreign air carrier shall file with the Secretary, publish, and keep open to public inspection, tariffs showing the rates for the foreign air transportation provided between places served by the carrier and provided between places served by the carrier and places served by another air carrier or foreign air carrier with which through service and joint rates have been established. A tariff—

(1) shall contain—

(A) to the extent the Secretary requires by regulation, a description of the classifications, rules, and practices related to the foreign air transportation;

(B) a statement of the rates in money of the United States; and

(C) other information the Secretary requires by regulation; and

(2) may contain—

(A) a statement of the rates in money that is not money of the United States; and

(B) information that is required under the laws of a foreign country in or to which the air carrier or foreign air carrier is authorized to operate.

(b)(1) Except as provided in paragraph (2) of this subsection, an air carrier or foreign air carrier may change a rate or a classification, rule, or practice affecting that rate or the value of the transportation provided under that rate, specified in a tariff of the carrier for foreign air transportation only after 30 days after the carrier has filed, published, and posted notice of the proposed change in the same way as required for a tariff under subsection (a) of this section. However, the Secretary may prescribe an alternative notice requirement, of at least 25 days, to allow an air carrier or foreign air carrier to match a proposed change in a passenger rate or a charge of another air carrier or foreign air carrier. A notice under this paragraph must state plainly the change proposed and when the change will take effect.

(2) If the effect of a proposed change would be to begin a passenger rate that is outside of, or not covered by, the range of passenger rates specified under section 41509(e)(2)-(4) of this title, the proposed change may be put into effect only after 60 days' after the notice is filed under regulations prescribed by the Secretary.

(c) The Secretary may reject a tariff or tariff change that is not consistent with this section and regulations prescribed by the Secretary. A tariff or change that is rejected is void.

§ 41505. Uniform methods for establishing joint rates, and divisions of joint rates, applicable to commuter air carriers

(a) In this section, "commuter air carrier" means an air carrier providing transportation under section 40109(f) of this title that provides at least 5 scheduled roundtrips a week between the same 2 places.

(b) Except as provided in subsection (c) of this section, when the Secretary of Transportation prescribes under section 41508 or 41509 of this title a uniform method generally applicable to establishing joint rates and divisions of joint rates for and between air carriers holding certificates issued under section 41102 of this title, the Secretary shall make that uniform method apply to establishing joint rates and divisions of joint rates for and between air carriers and commuter air carriers.

(c) A commuter air carrier that has an agreement with an air carrier to provide transportation for passengers and property that includes through service by the commuter air carrier over the commuter air carrier's routes and air transportation provided by the air carrier shall give the air carrier and the Secretary at least 90 days' notice before changing, suspending, or ending the transportation. If the commuter air carrier does not give that notice, the uniform method of establishing joint rates and divisions of joint rates referred to in subsection (b) of this section does not apply to the commuter air carrier.

§ 41506. Rate division filing requirements for foreign air transportation

Every air carrier and foreign air carrier shall keep currently on file with the Secretary of Transportation, if the Secretary requires, the established divisions of all joint rates for foreign air transportation in which the carrier participates.

§ 41507. Authority of the Secretary of Transportation to change rates, classifications, rules, and practices for foreign air transportation

(a) When the Secretary of Transportation decides that a rate charged or received by an air carrier or foreign air carrier for foreign air transportation, or a classification, rule, or practice affecting that rate or the value of the transportation provided under that rate, is or will be unreasonably discriminatory, the Secretary may—

(1) change the rate, classification, rule, or practice as necessary to correct the discrimination; and

(2) order the air carrier or foreign air carrier to stop charging or collecting the discriminatory rate or carrying out the discriminatory classification, rule, or practice.

(b) The Secretary may act under this section on the Secretary's own initiative or on a complaint filed with the Secretary and only after notice and an opportunity for a proceeding.

§ 41508. Authority of the Secretary of Transportation to change divisions of joint rates for foreign air transportation

(a) When the Secretary of Transportation decides that a division between air carriers, foreign air carriers, or both, of a joint rate for foreign air transportation is or will be unreasonable or unreasonably discriminatory against any of those carriers, the Secretary shall prescribe a reasonable division of the joint rate among those carriers. The Sec-
retary may order the change in the divisio
of the joint rate to be made retroactively t
the date the complaint was filed, the dat
the order for an investigation was made, o
a later date the Secretary decides is reasona
ble.

(b) The Secretary may act under this sec
tion on the Secretary's own initiative or o
a complaint filed with the Secretary an
only after notice and an opportunity for
proceeding.

§ 41509. Authority of the Secretary of Transporta tion to suspend, cancel, and reject tariffs for for eign air transportation

(a)(1) On the initiative of the Secretary o
Transportation or on a complaint filed wit
the Secretary, the Secretary may conduct
proceeding to decide whether a rate for for
eign air transportation contained in an ex
isting or newly filed tariff of an air carrie
or foreign air carrier, a classification, rul
or practice affecting that rate, or the valu
of the transportation provided under tha
rate, is lawful. The Secretary may begin th
proceeding at once and without an answe
or another formal pleading by the air carr
er or foreign air carrier, but only after rea
sonable notice. If, after the proceeding, th
Secretary decides that the rate, classifica
tion, rule, or practice is or will be unreaso
able or unreasonably discriminatory, th
Secretary may cancel or reject the tariff an
prevent the use of the rate, classificatio
rule, or practice.

(2) With or without a proceeding, the Se
retary may cancel or reject an existing
newly filed tariff of a foreign air carrier an
prevent the use of a rate, classification, rul
or practice when the Secretary decides th
the cancellation or rejection is in the publ
interest.

(3) In deciding whether to cancel or reje
a tariff of an air carrier or foreign air carr
er under this subsection, the Secretary sho
consider—

(A) the effect of the rate on the moveme
of traffic;

(B) the need in the public interest of ad
quate and efficient transportation by a
carriers and foreign air carriers at th
lowest cost consistent with providing th
transportation;

(C) the standards prescribed under law r
lated to the character and quality of tran
portation to be provided by air carriers an
foreign air carriers;

(D) the inherent advantages of transport
tion by aircraft;

(E) the need of the air carrier and forei
air carrier for revenue sufficient to enab
the air carrier and foreign air carrier, und
honest, economical, and efficient manag
ment, to provide adequate and efficient a
carrier and foreign air carrier transport
tion;

(F) whether the rate will be predatory
tend to monopolize competition among a
carriers and foreign air carriers in forei
air transportation;

(G) reasonably estimated or foreseeal
future costs and revenues for the air carr
or foreign air carrier for a reasonably lim
ed future period during which the r
would be in effect; and

(H) other factors.

(b)(1)(A) Pending a decision under subs
tion (a)(1) of this section, the Secretary m
suspend a tariff and the use of a rate c
tained in the tariff or a classification, ru
or practice affecting that rate.

(B) The Secretary may suspend a tariff
a foreign air carrier and the use of a ra

classification, rule, or practice when the suspension is in the public interest.

(2) A suspension becomes effective when the Secretary files with the tariff and delivers to the air carrier or foreign air carrier affected by the suspension a written statement of the reasons for the suspension. To suspend a tariff, reasonable notice of the suspension must be given to the affected carrier.

(3) The suspension of a newly filed tariff may be for periods totaling not more than 365 days after the date the tariff otherwise would go into effect. The suspension of an existing tariff may be for periods totaling not more than 365 days after the effective date of the suspension. The Secretary may rescind at any time the suspension of a newly filed tariff and allow the rate, classification, rule, or practice to go into effect.

(c)(1) If a tariff is suspended pending the outcome of a proceeding under subsection (a) of this section and the Secretary does not take final action in the proceeding during the suspension period, the tariff goes into effect at the end of that period subject to cancellation when the proceeding is concluded.

(2)(A) During the period of suspension, or after the cancellation or rejection, of a newly filed tariff (including a tariff that has gone into effect provisionally), the affected air carrier or foreign air carrier shall maintain in effect and use—

(i) the corresponding seasonal rates, or the classifications, rules, and practices affecting those rates or the value of transportation provided under those rates, that were in effect for the carrier immediately before the new tariff was filed; or

(ii) another rate provided for under an applicable intergovernmental agreement or understanding.

(B) If the suspended, cancelled, or rejected tariff is the first tariff of the carrier for the covered transportation, the carrier, for the purpose of operations during the period of suspension or pending effectiveness of a new tariff, may file another tariff containing a rate or another classification, rule, or practice affecting the rate, or the value of the transportation provided under the rate, that is in effect (and not subject to a suspension order) for any air carrier providing the same transportation.

(3) If an existing tariff is suspended or cancelled, the affected air carrier or foreign air carrier, for the purpose of operations during the period of suspension or pending effectiveness of a new tariff, may file another tariff containing a rate or another classification, rule, or practice affecting the rate, or the value of the transportation provided under the rate, that is in effect (and not subject to a suspension order) for any air carrier providing the same transportation.

(d) When the Secretary finds that the government or an aeronautical authority of a foreign country has refused to allow an air carrier to charge a rate contained in a tariff filed and published under section 41504 of this title for foreign air transportation to the foreign country—

(1) the Secretary, without providing an opportunity for a proceeding—

(A) may suspend any existing tariff of a foreign air carrier providing transportation between the United States and the foreign country for periods totaling not more than 365 days after the date of the suspension; and

(B) may order the foreign air carrier to charge, during the suspension periods, rates that are the same as those contained in a tariff (designated by the Secretary) of an air carrier filed and published under section 41504 of this title for foreign air transportation to the foreign country; and

(2) a foreign air carrier may continue to provide foreign air transportation to the foreign country only if the government or aeronautical authority of the foreign country allows an air carrier to start or continue foreign air transportation to the foreign country at the rates designated by the Secretary.

(e)(1)(A) In this subsection, "standard foreign fare level" means—

(i) for a class of fares existing on October 1, 1979, the fare between 2 places (as changed under subparagraph (B) of this paragraph) filed for and allowed by the Civil Aeronautics Board to go into effect after September 30, 1979, and before August 13, 1980 (with seasonal fares changed by the percentage difference that prevailed between seasons in 1978), or the fare established under section 1002(j)(8) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 731), as added by section 24(a) of the International Air Transportation Competition Act of 1979 (Public Law 96-192, 94 Stat. 46); or

(ii) for a class of fares established after October 1, 1979, the fare between 2 places in effect on the effective date of the establishment of the new class.

(B) At least once every 60 days for fuel costs, and at least once every 180 days for other costs, the Secretary shall change the standard foreign fare level for the particular foreign air transportation to which the standard foreign fare level applies by increasing or decreasing that level by the percentage change from the last previous period in the actual operating cost for each available seat-mile. In changing a standard foreign fare level, the Secretary may not make a change to costs actually incurred. In establishing a standard foreign fare level and making changes in the level under this paragraph, the Secretary may use all relevant or appropriate information reasonably available to the Secretary.

(2) The Secretary may not decide that a proposed fare for foreign air transportation is unreasonable on the basis that the fare is too low or too high if the proposed fare is neither more than 5 percent higher nor 50 percent lower than the standard foreign fare level for the same or essentially similar class of transportation. The Secretary by regulation may increase the 50 percent specified in this paragraph.

(3) Paragraph (2) of this subsection does not apply to a proposed fare that is not more than—

(A) 5 percent higher than the standard foreign fare level when the Secretary decides that the proposed fare may be unreasonably discriminatory or that suspension of the fare is in the public interest because of an unreasonable regulatory action by the government of a foreign country that is related to a fare proposal of an air carrier; or

(B) 50 percent lower than the standard foreign fare level when the Secretary decides that the proposed fare may be predatory or discriminatory or that suspension of the fare is required because of an unreasonable regulatory action by the government of a foreign country that is related to a fare proposal of an air carrier.

(f) The Secretary shall submit to the President an order made under this section suspending, cancelling, or rejecting a rate for foreign air transportation, and an order rescinding the effectiveness of such an order, before publishing the order. Not later than 10 days after its submission, the President may disapprove the order on finding disapproval is necessary for United States foreign policy or national defense reasons.

(g) This section and compliance with an order of the Secretary under this section are conditions to any certificate or permit held by an air carrier or foreign air carrier. An air carrier or foreign air carrier may provide foreign air transportation only as long as the carrier maintains rates for that transportation that comply with this section and orders of the Secretary under this section.

§ 41510. Required adherence to foreign air transportation tariffs

(a) An air carrier, foreign air carrier, or ticket agent may not do the following:

(1) charge or receive compensation for foreign air transportation that is different from the rate specified in the tariff of the carrier that is in effect for that transportation.

(2) refund or remit any part of the rate specified in the tariff.

(3) extend to any person a privilege or facility, related to a matter required by the Secretary of Transportation to be specified in a tariff for foreign air transportation, except as specified in the tariff.

(b) A person may not knowingly do the following:

(1) pay compensation for foreign air transportation of property that is different from the rate specified in the tariff in effect for that transportation.

(2) solicit, accept, or receive—

(A) a refund or remittance of any part of the rate specified in the tariff; or

(B) a privilege or facility, related to a matter required by the Secretary to be specified in a tariff for foreign air transportation of property, except as specified in the tariff.

§ 41511. Special fares for foreign air transportation

(a) This chapter does not prohibit an air carrier or foreign air carrier, under terms the Secretary of Transportation prescribes, from issuing or interchanging tickets or passes for free or reduced-fare foreign air transportation to or for the following:

(1) a director, officer, or employee of the carrier (including a retired director, officer, or employee who is receiving retirement benefits from an air carrier or foreign air carrier).

(2) a parent or the immediate family of such an officer or employee or the immediate family of such a director.

(3) a widow, widower, or minor child of an employee of the carrier who died as a direct result of a personal injury sustained when performing a duty in the service of the carrier.

(4) a witness or attorney attending a legal investigation in which the air carrier is interested.

(5) an individual injured in an aircraft accident and a physician or nurse attending the individual.

(6) a parent or the immediate family of an individual injured or killed in an aircraft accident when the transportation is related to the accident.

(7) an individual or property to provide relief in a general epidemic, pestilence, or other emergency.

(8) other individuals under other circumstances the Secretary prescribes by regulation.

(b) Under terms the Secretary prescribes, an air carrier or foreign air carrier may grant reduced-fare foreign air transportation on a space-available basis to the following:

(1) a minister of religion.

(2) an individual who is at least 60 years of age and no longer gainfully employed.

(3) an individual who is at least 65 years of age.

(4) an individual who has severely impaired vision or hearing or another physical or mental handicap and an accompanying attendant needed by that individual.

CHAPTER 417—OPERATIONS OF CARRIERS

SUBCHAPTER I—REQUIREMENTS

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SUBCHAPTER I—REQUIREMENTS

§ 41701. Classification of air carriers

The Secretary of Transportation may establish—

(1) reasonable classifications for air carriers when required because of the nature of the transportation provided by them; and

(2) reasonable requirements for each class when the Secretary decides those requirements are necessary in the public interest.

§ 41702. Interstate air transportation

An air carrier shall provide safe and adequate interstate air transportation.

§ 41703. Navigation of foreign civil aircraft

(a) A foreign aircraft, not part of the armed forces of a foreign country, may be navigated in the United States only—

(1) if the country of registry grants a similar privilege to aircraft of the United States;

(2) by an airman holding a certificate or license issued or made valid by the United States Government or the country of registry;

(3) if the Secretary of Transportation authorizes the navigation; and

(4) if the navigation is consistent with terms the Secretary may prescribe.

(b) The Secretary may authorize navigation under this section only if the Secretary decides the authorization is—

(1) in the public interest; and

(2) consistent with any agreement between the Government and the government of a foreign country.

(c) The Secretary may authorize an aircraft permitted to navigate in the United States under this section to provide air commerce in the United States. However, the aircraft may take on for compensation, at a place in the United States, passengers, property, or mail destined for another place in the United States only if—

(1) specifically authorized under section 40109(g) of this title; or

(2) under regulations the Secretary prescribes authorizing air carriers to provide otherwise authorized air transportation with foreign registered aircraft under lease or charter to them without crew.

(d) This section does not affect section 41301 or 41302 of this title. However, a foreign air carrier holding a permit under section 41302 does not need to obtain additional authorization under this section for an operation authorized by the permit.

§ 41704. Transporting property not to be transported in an aircraft cabin

Under regulations or orders of the Secretary of Transportation, an air carrier shall transport as baggage the property of a passenger traveling in air transportation that may not be carried in an aircraft cabin because of a law or regulation of the United States. The carrier is liable to pay an amount not more than the amount declared to the carrier by that passenger for actual loss of, or damage to, the property caused by the carrier. The carrier may impose reasonable charges and conditions for its liability.

§ 41705. Discrimination against handicapped individuals

In providing air transportation, an air carrier may not discriminate against an otherwise qualified individual on the following grounds:

(1) the individual has a physical or mental impairment that substantially limits one or more major life activities.

(2) the individual has a record of such an impairment.

(3) the individual is regarded as having such an impairment.

§ 41706. Prohibitions against smoking on scheduled flights

(a) An individual may not smoke in the passenger cabin or lavatory of an aircraft on a scheduled airline flight segment in air transportation or intrastate air transportation that is—

(1) between places in a State of the United States, the District of Columbia, Puerto Rico, or the Virgin Islands;

(2) between a place in any jurisdiction referred to in clause (1) of this subsection (except Alaska and Hawaii) and a place in any other of those jurisdictions; or

(3)(A) scheduled for not more than 6 hours duration; and

(B)(i) between a place referred to in clause (1) of this subsection (except Alaska and Hawaii) and Alaska or Hawaii; or

(ii) between Alaska and Hawaii.

(b) The Secretary of Transportation shall prescribe regulations necessary to carry out this section.

§ 41707. Incorporating contract terms into written instrument

To the extent the Secretary of Transportation prescribes by regulation, an air carrier may incorporate by reference in a ticket or written instrument any term of the contract for providing interstate air transportation.

§ 41708. Reports by air carriers

(a) To the extent the Secretary of Transportation finds necessary to carry out this subpart, this section and section 41709 of this title apply to a person controlling an air carrier or affiliated (within the meaning of section 11343(c) of this title) with a carrier.

(b) The Secretary may require an air carrier or foreign air carrier—

(1)(A) to file annual, monthly, periodical, and special reports with the Secretary in the form and way prescribed by the Secretary, and

(B) to file the reports under oath;

(2) to provide specific answers to questions on which the Secretary considers information to be necessary; and

(3) to file with the Secretary a copy of each agreement, arrangement, contract, or understanding between the carrier and anothe carrier or person related to transportation affected by this subpart.

§ 41709. Records of air carriers

(a) The Secretary of Transportation shal prescribe the form of records to be kept b an air carrier, including records on th movement of traffic; receipts and expenditures of money, and the time period durin which the records shall be kept. A carrie may keep only records prescribed or approved by the Secretary. However, a carrie may keep additional records if the additional records do not impair the integrity of th records prescribed or approved by the Secretary and are not an unreasonable financia burden on the carrier.

(b)(1) The Secretary at any time may—

(A) inspect the land, buildings, and equipment of an air carrier or foreign air carrie when necessary to decide under subchapte II of this chapter or section 41102, 41103, o 41302 of this title whether a carrier is fi willing, and able; and

(B) inspect records kept or required to b kept by an air carrier, foreign air carrier, o ticket agent.

(2) The Secretary may employ specia agents or auditors to carry out this subsection.

§ 41710. Time requirements

When a matter requiring action of the Secretary of Transportation is submitted unde section 40109(a) or (c)-(h), 41309, or 4211 of this title and an evidentiary hearing—

(1) is ordered, the Secretary shall make final decision on the matter not later tha the last day of the 12th month that begin after the date the matter is submitted; or

(2) is not ordered, the Secretary shall mak a final decision on the matter not later tha the last day of the 6th month that begin after the date the matter is submitted.

§ 41711. Air carrier management inquiry and coo eration with other authorities

In carrying out this subpart, the Secretar of Transportation may—

(1) inquire into the management of th business of an air carrier and obtain fro the air carrier, and a person controllin controlled by, or under common contr with the carrier, information the Secretar decides reasonably is necessary to carry o the inquiry;

(2) confer and hold a joint proceedin with a State authority; and

(3) exchange information related to aer nautics with a government of a foreig country through appropriate department agencies, and instrumentalities of th United States Government.

§ 41712. Unfair or deceptive practices and unfair methods of competition

On the initiative of the Secretary of Transportation or the complaint of an air carrier, foreign air carrier, or ticket agent, and if the Secretary considers it is in the public interest, the Secretary may investigate and decide whether an air carrier, foreign air carrier, or ticket agent has been or is engaged in an unfair or deceptive practice or an unfair method of competition in air transportation or the sale of air transportation. If the Secretary, after notice and an opportunity for a proceeding, finds that an air carrier, foreign air carrier, or ticket agent is engaged in an unfair or deceptive practice or unfair method of competition, the Secretary shall order the air carrier, foreign air carrier, or ticket agent to stop the practice or method.

§ 41713. Preemption of authority over rates, routes, and service

(a) In this section, "State" means a State, the District of Columbia, and a territory or possession of the United States.

(b)(1) Except as provided in this subsection, a State, political subdivision of a State, or political authority of at least 2 States may not enact or enforce a law or regulation related to a rate, route, or service of an air carrier that may provide air transportation under this subpart.

(2) Paragraph (1) of this subsection does not apply to air transportation provided entirely in Alaska unless the transportation is air transportation (except charter air transportation) provided under a certificate issued under section 41102 of this title.

(3) This subsection does not limit a State, political subdivision of a State, or political authority of at least 2 States that owns or operates an airport served by an air carrier holding a certificate issued by the Secretary of Transportation from carrying out its proprietary powers and rights.

SUBCHAPTER II—SMALL COMMUNITY AIR SERVICE

§ 41731. Definitions

In this subchapter—

(1) "eligible place" means a place in the United States that—

(A) was an eligible point under section 419 of the Federal Aviation Act of 1958 before October 1, 1988;

(B) received scheduled air transportation at any time during the 12-month period ending on October 1, 1988; and

(C) the Secretary of Transportation determines is at least 45 highway miles from the nearest hub airport.

(2) "enhanced essential air service" means scheduled air transportation to an eligible place of a higher level or quality than basic essential air service described in section 41732 of this title.

(3) "hub airport" means an airport that each year has at least .25 percent of the total annual boardings in the United States.

(4) "nonhub airport" means an airport that each year has less than .05 percent of the total annual boardings in the United States.

(5) "small hub airport" means an airport that each year has at least .05 percent, but less than .25 percent, of the total annual boardings in the United States.

§ 41732. Basic essential air service

(a) Basic essential air service provided under section 41733 of this title is scheduled air transportation of passengers and property—

(1) to a hub airport that has convenient connecting or single-plane air service to a substantial number of destinations beyond that airport; or

(2) to a small hub or nonhub airport, when in Alaska or when the nearest hub airport is more than 400 miles from an eligible place.

(b) Basic essential air service shall include at least the following:

(1)(A) for a place not in Alaska, 2 daily round trips 6 days a week, with not more than one intermediate stop on each flight; or

(B) for a place in Alaska, a level of service at least equal to that provided in 1976 or 2 round trips a week, whichever is greater, except that the Secretary of Transportation and the appropriate State authority of Alaska may agree to a different level of service after consulting with the affected community.

(2) flights at reasonable times considering the needs of passengers with connecting flights at the airport and at rates that are not excessive compared to the generally prevailing rates of other air carriers for like service between similar places.

(3) for a place not in Alaska, service provided in an aircraft with an effective capacity of at least 15 passengers if the average daily boardings at the place in any calendar year from 1976-1986 were more than 11 passengers unless—

(A) that level-of-service requirement would require paying compensation in a fiscal year under section 41733(d) or 41734(d) or (e) of this title for the place when compensation otherwise would not have been paid for that place in that year; or

(B) the affected community agrees with the Secretary in writing to the use of smaller aircraft to provide service to the place.

(4) service accommodating the estimated passenger and property traffic at an average load factor, for each class of traffic considering seasonal demands for the service, of not more than—

(A) 50 percent; or

(B) 60 percent when service is provided by aircraft with more than 14 passenger seats.

(5) service provided in aircraft with at least 2 engines and using 2 pilots, unless scheduled air transportation has not been provided to the place in aircraft with at least 2 engines and using 2 pilots for at least 60 consecutive operating days at any time since October 31, 1978.

(6) service provided by pressurized aircraft when the service is provided by aircraft that regularly fly above 8,000 feet in altitude.

§ 41733. Level of basic essential air service

(a) For each eligible place for which a decision was made before October 1, 1988, under section 419 of the Federal Aviation Act of 1958, establishing the level of essential air transportation, the level of basic essential air service for that place shall be the level established by the Secretary of Transportation for that place by not later than December 29, 1988.

(b)(1) The Secretary shall decide on the level of basic essential air service for each eligible place for which a decision was not made before October 1, 1988, establishing the level of essential air transportation, when the Secretary receives notice that service to that place will be provided by only one air carrier. The Secretary shall make the decision by the last day of the 6-month period beginning on the date the Secretary receives the notice. The Secretary may impose notice requirements necessary to carry out this subsection. Before making a decision, the Secretary shall consider the views of any interested community and the appropriate State authority of the State in which the community is located.

(2) Until the Secretary has made a decision on a level of basic essential air service for an eligible place under this subsection, the Secretary, on petition by an appropriate representative of the place, shall prohibit an air carrier from ending, suspending, or reducing air transportation to that place that appears to deprive the place of basic essential air service.

(c)(1) If the Secretary decides that basic essential air service will not be provided to an eligible place without compensation, the Secretary shall provide notice that an air carrier may apply to provide basic essential air service to the place for compensation under this section. In selecting an applicant, the Secretary shall consider, among other factors—

(A) the demonstrated reliability of the applicant in providing scheduled air service;

(B) the contractual and marketing arrangements the applicant has made with a larger carrier to ensure service beyond the hub airport;

(C) the interline arrangements that the applicant has made with a larger carrier to allow passengers and property of the applicant at the hub airport to be transported by the larger carrier through one reservation, ticket, and baggage check-in;

(D) the preferences of the actual and potential users of air transportation at the eligible place, giving substantial weight to the views of the elected officials representing the users; and

(E) for an eligible place in Alaska, the experience of the applicant in providing, in Alaska, scheduled air service, or significant patterns of non-scheduled air service under an exemption granted under section 40109(a) and (c)-(h) of this title.

(2) Under guidelines prescribed under section 41737(a) of this title, the Secretary shall pay the rate of compensation for providing basic essential air service under this section and section 41734 of this title.

(d) The Secretary shall pay compensation under this section at times and in the way the Secretary decides is appropriate. The Secretary shall end payment of compensation to an air carrier for providing basic essential air service to an eligible place when the Secretary decides the compensation is no longer necessary to maintain basic essential air service to the place.

(e) The Secretary shall review periodically the level of basic essential air service for each eligible place. Based on the review and consultations with an interested community and the appropriate State authority of the State in which the community is located, the Secretary may make appropriate changes in the level of service.

§ 41734. Ending, suspending, and reducing basic essential air service

(a) An air carrier may end, suspend, or reduce air transportation to an eligible place below the level of basic essential air service established for that place under section 41733 of this title only after giving the Secretary of Transportation, the appropriate State authority, and the affected communities at least 90 days' notice before ending, suspending, or reducing that transportation.

(b) If at the end of the notice period under subsection (a) of this section the Secretary has not found another air carrier to provide basic essential air service to the eligible place, the Secretary shall require the carrier providing notice to continue to provide basic essential air service to the place for an additional 30-day period or until another

carrier begins to provide basic essential air service to the place, whichever occurs first.

(c) If at the end of the 30-day period under subsection (b) of this section the Secretary decides another air carrier will not provide basic essential air service to the place on a continuing basis, the Secretary shall require the carrier providing service to continue to provide service for additional 30-day periods until another carrier begins providing service on a continuing basis. At the end of each 30-day period, the Secretary shall decide if another carrier will provide service on a continuing basis.

(d) If an air carrier receiving compensation under section 41733 of this title for providing basic essential air service to an eligible place is required to continue to provide service to the place under this section after the 90-day notice period under subsection (a) of this section, the Secretary shall continue to pay that compensation after the last day of that period. The Secretary shall pay the compensation until the Secretary finds another carrier to provide the service to the place or the 90th day after the end of that notice period, whichever is earlier. If, after the 90th day after the end of the 90-day notice period, the Secretary has not found another carrier to provide the service, the carrier required to continue to provide that service shall receive compensation sufficient—

(1) to pay for the fully allocated actual cost to the carrier of performing the basic essential air service that was being provided when the 90-day notice was given under subsection (a) of this section plus a reasonable return on investment that is at least 5 percent of operating costs; and

(2) to provide the carrier an additional return that recognizes the demonstrated additional lost profits from opportunities foregone and the likelihood that those lost profits increase as the period during which the carrier is required to provide the service continues.

(e) If the Secretary requires an air carrier providing basic essential air service to an eligible place without compensation under section 41733 of this title to continue providing that service after the 90-day notice period required by subsection (a) of this section, the Secretary shall provide the carrier with compensation after the end of the 90-day notice period that is sufficient—

(1) to pay for the fully allocated actual cost to the carrier of performing the basic essential air service that was being provided when the 90-day notice was given under subsection (a) of this section plus a reasonable return on investment that is at least 5 percent of operating costs; and

(2) to provide the carrier an additional return that recognizes the demonstrated additional lost profits from opportunities foregone and the likelihood that those lost profits increase as the period during which the carrier is required to provide the service continues.

(f) When the Secretary requires an air carrier to continue to provide basic essential air service to an eligible place, the Secretary shall continue to make every effort to find another carrier to provide at least that basic essential air service to the place on a continuing basis.

(g) If an air carrier, providing basic essential air service under section 41733 of this title between an eligible place and an airport at which the Administrator of the Federal Aviation Administration limits the number of instrument flight rule takeoffs and landings of aircraft, provides notice under subsection (a) of this section of an intention to end, suspend, or reduce that service and another carrier is found to provide the service, the Secretary shall require the carrier providing notice to transfer any operational authority the carrier has to land or take off at that airport related to the service to the eligible place to the carrier that will provide the service, if—

(1) the carrier that will provide the service needs the authority; and

(2) the authority to be transferred is being used only to provide air service to the eligible place.

§ 41735. Enhanced essential air service

(a)(1) A State or local government may submit a proposal to the Secretary of Transportation for enhanced essential air service to an eligible place for which basic essential air service is being provided under section 41733 of this title. The proposal shall—

(A) specify the level and type of enhanced essential air service the State or local government considers appropriate; and

(B) include an agreement related to compensation required for the proposed service.

(2) The agreement submitted under paragraph (1)(B) of this subsection shall provide that—

(A) the State or local government or a person pay 50 percent of the compensation required for the proposed service and the United States Government pay the remaining 50 percent; or

(B)(i) the Government pay 100 percent of the compensation; and

(ii) if the proposed service is not successful for at least a 2-year period under the criteria prescribed by the Secretary under paragraph (3) of this subsection, the eligible place is not eligible for air service or air transportation for which compensation is paid by the Secretary under this subchapter.

(3) The Secretary shall prescribe by regulation objective criteria for deciding whether enhanced essential air service to an eligible place under this section is successful in terms of—

(A) increasing passenger usage of the airport facilities at the place; and

(B) reducing the amount of compensation provided by the Secretary under this subchapter for that service.

(b) Not later than 90 days after receiving a proposal under subsection (a) of this section, the Secretary shall—

(1) approve the proposal if the Secretary decides the proposal is reasonable; or

(2) if the Secretary decides the proposal is not reasonable, disapprove the proposal and notify the State or local government of the disapproval and the reasons for the disapproval.

(c)(1) The Secretary shall pay compensation under this section when and in the way the Secretary decides is appropriate. Compensation for enhanced essential air service under this section may be paid only for the costs incurred in providing air service to an eligible place that are in addition to the costs incurred in providing basic essential air service to the place under section 41733 of this title. The Secretary shall continue to pay compensation under this section only as long as—

(A) the air carrier maintains the level of enhanced essential air service;

(B) the State or local government or person agreeing to pay compensation under this section continues to pay the compensation; and

(C) the Secretary decides the compensation is necessary to maintain the service to the place.

(2) The Secretary may require the State o local government or person agreeing to pa compensation under this section to mak advance payments or provide other securit to ensure that timely payments are made.

(d)(1) The Secretary shall review periodically the enhanced essential air service provided to each eligible place under this section.

(2) For service for which the Governmen pays 50 percent of the compensation, base on the review and consultation with the affected community and the State or local government or person paying the remaining 5 percent of the compensation, the Secretar shall make appropriate adjustments in th type and level of service to the place.

(3) For service for which the Governmen pays 100 percent of the compensation, base on the review and consultation with th State or local government submitting th proposal, the Secretary shall decide whethe the service has succeeded for at least a 2 year period under the criteria prescribe under subsection (a)(3) of this section. If unsuccessful, the place is not eligible for ai service or air transportation for which compensation is paid by the Secretary unde this subchapter.

(e) An air carrier may end, suspend, o reduce air transportation to an eligibl place below the level of enhanced essentia air service established for that place by th Secretary under this section only afte giving the Secretary, the affected commun ty, and the State or local government o person paying compensation for that servic at least 30 days' notice before ending, su pending, or reducing the service. This su section does not relieve the carrier of an o ligation under section 41734 of this title.

§ 41736. Air transportation to non-eligible places

(a)(1) A State or local government ma propose to the Secretary of Transportatio that the Secretary provide compensation t an air carrier to provide air transportatio to a place that is not an eligible place unde this subchapter. Not later than 90 days afte receiving a proposal under this section, th Secretary shall—

(A) decide whether to designate the pla as eligible to receive compensation unde this section; and

(B)(i) approve the proposal if the State o local government or a person is willing an able to pay 50 percent of the compensatio for providing the transportation, and noti the State or local government of the appro al; or

(ii) disapprove the proposal if the Secr tary decides the proposal is not reasonab under paragraph (2) of this subsection, an notify the State or local government of th disapproval and the reasons for the disa proval.

(2) In deciding whether a proposal is re sonable, the Secretary shall consider, amon other factors—

(A) the traffic-generating potential of t place;

(B) the cost to the United States Gover ment of providing the proposed transport tion; and

(C) the distance of the place from the cl est hub airport.

(b) Notwithstanding subsection (a)(1)(of this section, the Secretary shall approve proposal under this section to compens an air carrier for providing air transpor tion to a place in the 48 contiguous Sta or the District of Columbia and design the place as eligible for compensation und this section if—

(1) at any time before October 23, 1978, the place was served by a carrier holding a certificate under section 401 of the Federal Aviation Act of 1958;

(2) the place is more than 50 miles from the nearest small hub airport or an eligible place;

(3) the place is more than 150 miles from the nearest hub airport; and

(4) the State or local government submitting the proposal or a person is willing and able to pay 25 percent of the cost of providing the compensated transportation.

(c)(1) If the Secretary designates a place under subsection (a)(1) of this section as eligible for compensation under this section, the Secretary shall decide, not later than 6 months after the date of the designation, on the level of air transportation to be provided under this section. Before making a decision, the Secretary shall consider the views of any interested community, the appropriate State authority of the State in which the place is located, and the State or local government or person agreeing to pay compensation for the transportation under subsection (b)(4) of this section.

(2) After making the decision under paragraph (1) of this subsection, the Secretary shall provide notice that any air carrier that is willing to provide the level of air transportation established under paragraph (1) for a place may submit an application to provide the transportation. In selecting an applicant, the Secretary shall consider, among other factors—

(A) the factors listed in section 41733(c)(1) of this title; and

(B) the views of the State or local government or person agreeing to pay compensation for the transportation.

(d)(1) The Secretary shall pay compensation under this section when and in the way the Secretary decides is appropriate. The Secretary shall continue to pay compensation under this section only as long as—

(A) the air carrier maintains the level of air transportation established by the Secretary under subsection (c)(1) of this section;

(B) the State or local government or person agreeing to pay compensation for transportation under this section continues to pay that compensation; and

(C) the Secretary decides the compensation is necessary to maintain the transportation to the place.

(2) The Secretary may require the State or local government or person agreeing to pay compensation under this section to make advance payments or provide other security to ensure that timely payments are made.

(e) The Secretary shall review periodically the level of air transportation provided under this section. Based on the review and consultation with any interested community, the appropriate State authority of the State in which the community is located, and the State or local government or person paying compensation under this section, the Secretary may make appropriate adjustments in the level of transportation.

(f) After providing notice and an opportunity for interested persons to comment, the Secretary may withdraw the designation of a place under subsection (a)(1) of this section as eligible to receive compensation under this section if the place has received air transportation under this section for at least 2 years and the Secretary decides the withdrawal would be in the public interest. The Secretary by regulation shall prescribe standards for deciding whether the withdrawal of a designation under this subsection is in the public interest. The standards shall include the factors listed in subsection (a)(2) of this section.

(g) An air carrier providing air transportation for compensation under this section may end, suspend, or reduce that transportation below the level of transportation established by the Secretary under this section only after giving the Secretary, the affected community, and the State or local government or person paying compensation under this section at least 30 days' notice before ending, suspending, or reducing the transportation.

§ 41737. Compensation guidelines, limitations, and claims

(a)(1) The Secretary of Transportation shall prescribe guidelines governing the rate of compensation payable under this subchapter. The guidelines shall be used to determine the reasonable amount of compensation required to ensure the continuation of air service or air transportation under this subchapter. The guidelines shall—

(A) provide for a reduction in compensation when an air carrier does not provide service or transportation agreed to be provided;

(B) consider amounts needed by an air carrier to promote public use of the service or transportation for which compensation is being paid; and

(C) include expense elements based on representative costs of air carriers providing scheduled air transportation of passengers, property, and mail on aircraft of the type the Secretary decides is appropriate for providing the service or transportation for which compensation is being provided.

(2) Promotional amounts described in paragraph (1)(B) of this subsection shall be a special, segregated element of the compensation provided to a carrier under this subchapter.

(b) The Secretary may pay compensation to an air carrier for providing air service or air transportation under this subchapter only if the Secretary finds the carrier is able to provide the service or transportation in a reliable way.

(c) Compensation paid under this subchapter for air service or air transportation to or from an eligible place in the 48 contiguous States or the District of Columbia may be not more than $300 for each passenger.

(d) Not later than 15 days after receiving a written claim from an air carrier for compensation under this subchapter, the Secretary shall—

(1) pay or deny the United States Government share of a claim; and

(2) if denying the claim, notify the carrier of the denial and the reasons for the denial.

§ 41738. Fitness of air carriers

Notwithstanding section 40109(a) and (c)-(h) of this title, an air carrier may provide air service to an eligible place or air transportation to a place designated under section 41736 of this title only when the Secretary of Transportation decides that—

(1) the carrier is fit, willing, and able to perform the service or transportation; and

(2) aircraft used to provide the service or transportation, and operations related to the service or transportation, conform to the safety standards prescribed by the Administrator of the Federal Aviation Administration.

§ 41739. Air carrier obligations

If at least 2 air carriers make an agreement to operate under or use a single carrier designator code to provide air transportation, the carrier whose code is being used shares responsibility with the other carriers for the quality of transportation provided the public under the code by the other carriers.

§ 41740. Joint proposals

The Secretary of Transportation shall encourage the submission of joint proposals by 2 or more air carriers for providing air service or air transportation under this subchapter through arrangements that maximize the service or transportation to and from major destinations beyond the hub.

§ 41741. Insurance

The Secretary of Transportation may pay an air carrier compensation under this subchapter only when the carrier files with the Secretary an insurance policy or self-insurance plan approved by the Secretary. The policy or plan must be sufficient to pay for bodily injury to, or death of, an individual, or for loss of or damage to property of others, resulting from the operation of aircraft, but not more than the amount of the policy or plan limits.

§ 41742. Ending effective date

This subchapter is not effective after September 30, 1998.

CHAPTER 419—TRANSPORTATION OF MAIL

Sec.
41901. General authority.
41902. Schedules for certain transportation of mail.
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§ 41901. General authority

(a) The United States Postal Service may provide for the transportation of mail by aircraft in interstate air transportation under section 5402(d) and (f) of title 39.

(b) Except as provided in section 5402 of title 39, on the initiative of the Secretary of Transportation or on petition by the Postal Service or an air carrier, the Secretary shall prescribe and publish—

(1) after notice and an opportunity for a hearing on the record, reasonable rates of compensation to be paid by the Postal Service for the transportation of mail by aircraft in foreign air transportation or between places in Alaska, the facilities used in and useful for the transportation of mail, and the services related to the transportation of mail for each carrier holding a certificate that authorizes that transportation;

(2) the methods used, whether by aircraft-mile, pound-mile, weight, space, or a combination of those or other methods, to determine the rates of compensation for each air carrier or class of air carriers; and

(3) the effective date of the rates.

(c) In prescribing services under subsection (b) of this section, the Secretary may include transportation other than by aircraft that is incidental to transportation of mail by aircraft or necessary because of emergency conditions related to aircraft operations.

(d) Considering conditions peculiar to transportation by aircraft and to particular air carriers or classes of air carriers, the Secretary may prescribe different rates under this section for different air carriers or classes of air carriers and for different classes of service. In prescribing a rate for a carrier under this section, the Secretary shall consider, among other factors, the following:

(1) the condition that the carrier may hold and operate under a certificate authorizing the transportation of mail only by providing necessary and adequate facilities and service for the transportation of mail.

(2) standards related to the character and quality of service to be provided that are prescribed by or under law.

(e) A petition for prescribing a reasonable rate of compensation under this section must include a statement of the rate the petitioner believes is reasonable.

(f) The Postal Service shall introduce as part of the record in every proceeding under this section a comprehensive statement of the services to be required of the air carrier and other information the Postal Service has that the Secretary considers material to a proceeding under this section.

(g) The authority of the Secretary under this part and section 5402 of title 39 providing for the transportation of mail by aircraft between places in Alaska expires on the date specified in section 5402(f) of title 39.

§ 41902. Schedules for certain transportation of mail

(a) Except as provided in section 41906 of this title and section 5402 of title 39, an air carrier may transport mail by aircraft in foreign air transportation or between places in Alaska only under a schedule designated or required to be established under subsection (c) of this section for the transportation of mail.

(b) Every air carrier shall file with the Secretary of Transportation and the United States Postal Service a statement showing—

(1) the places between which the air carrier is authorized to provide foreign air transportation;

(2) the places between which the air carrier is authorized to transport mail entirely in one State;

(3) the places between which the air carrier is authorized to transport mail in Alaska;

(4) every schedule of aircraft regularly operated by the air carrier between places described in clauses (1)-(3) of this subsection and every change in each schedule; and

(5) for each schedule, the places served by the air carrier and the time of arrival at, and departure from, each place.

(c) The Postal Service may—

(1) designate any schedule of an air carrier filed under subsection (b)(4) of this section for the transportation of mail between the places between which the air carrier is authorized by its certificate to transport mail; and

(2) require the air carrier to establish additional schedules for the transportation of mail between those places.

(d) A schedule designated or required to be established for the transportation of mail under subsection (c) of this section may be changed only after 10 days' notice of the change is filed as provided in subsection (b)(4) of this section. The Postal Service may disapprove a proposed change in a schedule, may change the schedule, or may change the proposed change.

(e) An order of the Postal Service under this section may become effective only after 10 days after the order is issued. A person adversely affected by the order may appeal the order to the Secretary before the end of the 10-day period under regulations the Secretary prescribes. If the public convenience and necessity require, the Secretary may change, suspend, or cancel the order. Pending a decision about the order, the Secretary may postpone the effective date of the order.

(f) The Secretary shall give preference to a proceeding under this section over all other proceedings before the Secretary under this subpart.

§ 41903. Duty to provide certain transportation of mail

(a) Subject to subsection (b) of this section, an air carrier authorized by its certificate to transport mail by aircraft in foreign air transportation or between places in Alaska shall—

(1) provide facilities and services necessary and adequate to provide that transportation; and

(2) transport mail between the places authorized in the certificate for transportation of mail when required, and under regulations prescribed, by the United States Postal Service.

(b) The Secretary of Transportation may prescribe the maximum mail load for a schedule or for an aircraft or type of aircraft for the transportation of mail by aircraft in foreign air transportation or between places in Alaska. If the Postal Service tenders to an air carrier mail exceeding the maximum load for transportation by the carrier under a schedule designated or required to be established for the transportation of mail under section 41902(c) of this title, the carrier, as nearly in accordance with the schedule as the Secretary decides is possible, shall—

(1) provide facilities sufficient to transport the mail to the extent the Secretary decides the carrier reasonably is able to do so; and

(2) transport that mail.

§ 41904. Noncitizens transporting mail to or in foreign countries

When the United States Postal Service decides that it may be necessary to have a person not a citizen of the United States transport mail by aircraft to or in a foreign country, the Postal Service may make an arrangement with the person, without advertising, to provide the transportation.

§ 41905. Regulating air carrier transportation of foreign mail

An air carrier holding a certificate that authorizes foreign air transportation and transporting mail of a foreign country shall transport that mail under the control of, and subject to regulation by, the United States Government.

§ 41906. Emergency mail transportation

(a) In an emergency caused by a flood, fire, or other disaster, the United States Postal Service may make a contract without advertising to transport mail by aircraft to or from a locality affected by the emergency when the available facilities of persons authorized to transport mail to or from the locality are inadequate to meet the requirements of the Postal Service during the emergency. The contract may be only for periods necessary to maintain mail service because of the inadequacy of the facilities. Payment for transportation provided under the contract shall be made at rates provided in the contract.

(b) Transportation provided under a contract made under subsection (a) of this section is not air transportation within the meaning of this part.

§ 41907. Rates for foreign transportation of mail

(a) When air transportation is provided between the United States and a foreign country both by aircraft owned or operated by an air carrier holding a certificate under chapter 411 of this title and by aircraft owned or operated by a foreign air carrier, the United States Postal Service may not pay to or for the account of the foreign air carrier a rate of compensation for transporting mail by aircraft between the United States and the foreign country that the Postal Service believes will result (over a reasonable period determined by the Postal Service considering exchange fluctuations and other factors) in the foreign air carrier receiving a rate of compensation for transporting the mail that is higher than the rate—

(1) the foreign country pays to air carriers for transporting mail of the foreign country by aircraft between the foreign country and the United States; or

(2) determined by the Postal Service to be comparable to the rate the foreign country pays to air carriers for transporting mail of the foreign country by aircraft between the foreign country and an intermediate country on the route of the air carrier between the foreign country and the United States.

(b) The Secretary of Transportation shall act expeditiously on proposed changes in rates for transporting mail by aircraft in foreign air transportation. When prescribing those rates, the Secretary shall consider—

(1) the rates paid for transportation of mail under the Universal Postal Union Convention as ratified by the United States Government;

(2) the rate-making elements used by the Universal Postal Union in prescribing its airmail rates; and

(3) the competitive disadvantage to United States flag air carriers resulting from foreign air carriers receiving Universal Postal Union rates for transporting United States mail and national origin mail of their own countries.

§ 41908. Rates for transporting mail of foreign countries

(a) The United States Postal Service shall determine the rates that an air carrier holding a certificate that authorizes foreign air transportation must charge a foreign country for transporting mail of the foreign country. The Postal Service shall put those rates into effect under the postal convention regulating postal relations between the United States and the foreign country or as provided under this section.

(b) The Postal Service may authorize an air carrier holding a certificate that authorizes foreign air transportation, under limitations the Postal Service prescribes, to change the rates the air carrier charges a foreign country for transporting mail of the foreign country in the foreign country or between the foreign country and another foreign country.

(c)(1) When an air carrier holding a certificate that authorizes foreign air transportation transports mail of a foreign country—

(A) under an arrangement with the foreign country made or approved under this section, the carrier must collect its compensation for the transportation from the foreign country under the arrangement; and

(B) without having an arrangement with the foreign country consistent with this section, the compensation collected by the United States Government for the transpor-

tation shall be for the account of the air carrier.

(2) An air carrier holding a certificate that authorizes foreign air transportation is not entitled to receive compensation from both a foreign country and the Government for transporting the same mail of the foreign country.

§ 41909. Duty to oppose unreasonable Universal Postal Union rates

The Secretary of State and the United States Postal Service shall—

(1) take appropriate action to ensure that the rates paid for transporting mail under the Universal Postal Union Convention are not higher than reasonable rates for transporting mail; and

(2) oppose any existing or proposed Universal Postal Union rate that is higher than a reasonable rate for transporting mail.

§ 41910. Weighing mail

The United States Postal Service may weigh mail transported by aircraft and make statistical and administrative computations necessary in the interest of mail service. When the Secretary of Transportation decides that additional or more frequent weighings of mail are advisable or necessary to carry out this part, the Postal Service shall provide the weighings, but it is not required to provide them for continuous periods of more than 30 days.

§ 41911. Evidence of providing mail service

When and in the form required by the United States Postal Service, an air carrier transporting or handling—

(1) United States mail shall submit evidence, signed by an authorized official, that the transportation or handling has been provided; and

(2) mail of a foreign country shall submit evidence, signed by an authorized official, of the amount of mail transported or handled and the compensation payable and received for that transportation or handling.

§ 41912. Effect on foreign postal arrangements

This part does not—

(1) affect an arrangement made by the United States Government with the postal administration of a foreign country related to the transportation of mail by aircraft; or

(2) impair the authority of the United States Postal Service to make such an arrangement.

CHAPTER 421—LABOR-MANAGEMENT PROVISIONS

SUBCHAPTER I—EMPLOYEE PROTECTION PROGRAM

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SUBCHAPTER II—MUTUAL AID AGREEMENTS AND LABOR REQUIREMENTS OF AIR CARRIERS

42111. Mutual aid agreements.
42112. Labor requirements of air carriers.

SUBCHAPTER I—EMPLOYEE PROTECTION PROGRAM

§ 42101. Definitions

(a) In this subchapter—

(1) "eligible protected employee" means a protected employee who is deprived of employment, or whose compensation is reduced, because of a qualifying dislocation.

(2) "major contraction" means a reduction (except as provided in subsection (b) of this section) of at least 7.5 percent in the number of full-time employees of an air carrier within a 12-month period, except for employees deprived of employment because of a strike or whose employment is ended for cause.

(3) "protected employee" means an individual who on October 24, 1978, was employed for at least 4 years by an air carrier holding a certificate under section 41102 of this title, but does not include a director or officer of a corporation.

(4) "qualifying dislocation" means a bankruptcy or major contraction of an air carrier holding a certificate under section 41102 of this title when the Secretary of Transportation finds the bankruptcy or contraction occurred after December 31, 1978, and before January 1, 1989, the major cause of which was the change in regulatory structure provided by the Airline Deregulation Act of 1978.

(b) The Secretary may find a reduction of less than 7.5 percent of the number of full-time employees is part of a major contraction if the Secretary decides another reduction is likely to occur within a 12-month period that, when included with the first reduction, will result in a total reduction of more than 7.5 percent.

§ 42102. Payments to eligible protected employees

(a) Subject to amounts provided in an appropriation law, the Secretary of Labor shall make monthly assistance payments, moving expense payments, and reimbursement payments as provided under this section to an eligible protected employee whose employment is not ended for cause. The employee must apply to receive the payments and cooperate with the Secretary in finding other employment.

(b)(1) Subject to amounts provided in an appropriation law, an eligible protected employee shall receive 72 monthly assistance payments. However, an eligible protected employee deprived of employment may not receive a payment after obtaining other employment. For each class or craft of protected employees, the Secretary of Labor, after consulting with the Secretary of Transportation, shall prescribe guidelines for computing the amount of each monthly assistance payment to be made to a member of the class or craft and what percentage of salary that payment represents.

(2) The amount of a monthly payment payable under paragraph (1) of this subsection to an eligible protected employee shall be reduced—

(A) by unemployment compensation the employee receives; or

(B) if the employee does not accept reasonably comparable employment, to an amount the employee would be entitled to receive if the employee had accepted the employment.

(3) If accepting comparable employment to avoid a reduction in the monthly assistance payment under paragraph (2) of this subsection would force an eligible protected employee to relocate, the employee may decide not to relocate. Instead of the payments provided under this section, the employee may receive the lesser of 3 payments or the maximum number of payments that remain to be paid under paragraph (1) of this subsection.

(c)(1) Subject to amounts provided in an appropriation law, an eligible protected employee who relocates shall receive—

(A) reasonable moving expense payments to move the employee and the employee's immediate family; and

(B) reimbursement payments for a loss incurred in selling the employee's principal place of residence for less than fair market value or in cancelling a lease on, or contract to buy, the residence.

(2) The Secretary of Labor shall decide on the amount of the moving expenses and the fair market value of the residence.

§ 42103. Duty to hire protected employees

(a) A protected employee of an air carrier regulated by the Secretary of Transportation who was furloughed or whose employment was ended by the carrier (except for cause) before October 23, 1988, is entitled to be the first employed in the occupational specialty of the employee, regardless of the employee's age, by any other air carrier holding a certificate under section 41102 of this title before October 24, 1978. However, the air carrier may recall its furloughed employees before hiring a protected employee of another air carrier regulated by the Secretary who was furloughed or whose employment was ended by the other carrier (except for cause) before October 23, 1988. An employee hired by an air carrier under this section retains seniority and recall rights with the air carrier that furloughed or ended the employment of the employee.

(b) The Secretary of Labor—

(1) shall establish and publish periodically a list of jobs available with an air carrier holding a certificate under section 41102 of this title that includes necessary information and detail;

(2) shall assist eligible protected employees to find other employment;

(3) shall encourage negotiations between air carriers and representatives of employees on rehiring practices and seniority; and

(4) may require an air carrier to file with the Secretary information necessary to carry out this section.

§ 42104. Congressional review of regulations

(a) In this section, "legislative day" means a calendar day on which both Houses of Congress are in session.

(b) The Secretary of Labor may not prescribe a final regulation under this subchapter until 30 legislative days after the regulation is submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(c) A regulation prescribed as final under this subchapter shall be submitted to Congress and becomes effective only if, during the period of 60 legislative days after the regulation is submitted to Congress, either House does not pass a resolution disapproving the regulation. However, if Congress adopts a resolution approving the regulation during the 60-day period, the regulation is effective on that date.

§ 42105. Airline Employees Protective Account

The Department of Labor has an Airline Employees Protective Account consisting of amounts appropriated to it. An amount necessary to carry out this subchapter, including administrative expenses, may be appropriated to the Account annually.

§ 42106. Ending effective date

This subchapter is not effective after the last day the Secretary of Labor must make a payment under this subchapter.

SUBCHAPTER II—MUTUAL AID AGREEMENTS AND LABOR REQUIREMENTS OF AIR CARRIERS

§ 42111. Mutual aid agreements

An air carrier that will receive payments from another air carrier under an agreement between the air carriers for the time the one air carrier is not providing foreign air transportation, or is providing reduced levels of foreign air transportation, because of a labor strike must file a true copy of the agreement with the Secretary of Transportation and have it approved by the Secretary under section 41309 of this title. Notwithstanding section 41309, the Secretary shall approve the agreement only if it provides that—

(1) the air carrier will receive payments of not more than 60 percent of direct operating expenses, including interest expenses, but not depreciation or amortization expenses;

(2) benefits may be paid for not more than 8 weeks, and may not be for losses incurred during the first 30 days of a strike; and

(3) on request of the striking employees, the dispute will be submitted to binding arbitration under the Railway Labor Act (45 U.S.C. 151 et seq.).

§ 42112. Labor requirements of air carriers

(a) In this section—

(1) "copilot" means an employee whose duties include assisting or relieving the pilot in manipulating an aircraft and who is qualified to serve as, and has in effect an airman certificate authorizing the employee to serve as, a copilot.

(2) "pilot" means an employee who is—

(A) responsible for manipulating or who manipulates the flight controls of an aircraft when under way, including the landing and takeoff of an aircraft; and

(B) qualified to serve as, and has in effect an airman certificate authorizing the employee to serve as, a pilot.

(b) An air carrier shall—

(1) maintain rates of compensation, maximum hours, and other working conditions and relations for its pilots and copilots who are providing interstate air transportation in the 48 contiguous States and the District of Columbia to conform with decision number 83, May 10, 1934, National Labor Board, notwithstanding any limitation in that decision on the period of its effectiveness;

(2) maintain rates of compensation for its pilots and copilots who are providing foreign air transportation or air transportation only in one territory or possession of the United States; and

(3) comply with title II of the Railway Labor Act (45 U.S.C. 181 et seq.) as long as it holds its certificate.

(c) A minimum annual rate under subsection (b)(2) of this section may not be less than the annual rate required to be paid for comparable service to a pilot or copilot under subsection (b)(1) of this section.

(d) This section does not prevent pilots or copilots of an air carrier from obtaining by collective bargaining higher rates of compensation or more favorable working conditions or relations.

SUBPART III—SAFETY

CHAPTER 441—REGISTRATION AND RECORDATION OF AIRCRAFT

Sec.
44101. Operation of aircraft.
44102. Registration requirements.
44103. Registration of aircraft.
44104. Registration of aircraft components and dealers' certificates of registration.
44105. Suspension and revocation of aircraft certificates.
44106. Revocation of aircraft certificates for controlled substance violations.
44107. Recordation of conveyances and instruments.
44108. Validity of conveyances and instruments.
44109. Reporting transfer of ownership.
44110. Information about aircraft ownership and rights.
44111. Changes in registration and recordation system for aircraft not providing air transportation.
44112. Limitation of liability.

§ 44101. Operation of aircraft

(a) Except as provided in subsection (b) of this section, a person may operate an aircraft only when the aircraft is registered under section 44103 of this title.

(b) A person may operate an aircraft in the United States that is not registered—

(1) when authorized under section 40103(d) or 41703 of this title;

(2) when it is an aircraft of the armed forces and is identified in the way prescribed by the Administrator of the Federal Aviation Administration; and

(3) for a reasonable period of time after a transfer of ownership, under regulations prescribed by the Administrator.

§ 44102. Registration requirements

(a) An aircraft may be registered under section 44103 of this title only when the aircraft is—

(1) not registered under the laws of a foreign country and is owned by—

(A) a citizen of the United States;

(B) an individual citizen of a foreign country lawfully admitted for permanent residence in the United States; or

(C) a corporation not a citizen of the United States when the corporation is organized and doing business under the laws of the United States or a State, and the aircraft is based and primarily used in the United States; or

(2) an aircraft of—

(A) the United States Government; or

(B) a State, the District of Columbia, a territory or possession of the United States, or a political subdivision of a State, territory, or possession.

(b) In carrying out subsection (a)(1)(C) of this section, the Secretary of Transportation shall define "based and primarily used in the United States".

§ 44103. Registration of aircraft

(a)(1) On application of the owner of an aircraft that meets the requirements of section 44102 of this title, the Administrator of the Federal Aviation Administration shall—

(A) register the aircraft; and

(B) issue a certificate of registration to its owner.

(2) The Administrator may prescribe the extent to which an aircraft owned by the holder of a dealer's certificate of registration issued under section 44104(2) of this title also is registered under this section.

(b)(1) Except as provided in section 44106(e)(2) of this title, the Administrator may not issue an owner's certificate of registration under subsection (a)(1) of this section to a person whose certificate is revoked under section 44106 during the 5-year period beginning on the date of the revocation. However, the Administrator may issue the certificate to the person after the one-year period beginning on the date of the revocation if the Administrator decides that the aircraft otherwise meets the requirements of section 44102 of this title and that denial of a certificate for the 5-year period—

(A) would be excessive considering the nature of the offense or the act committed and the burden the denial places on the person; or

(B) would not be in the public interest.

(2) A decision of the Administrator under paragraph (1) (A) or (B) of this subsection is within the discretion of the Administrator. That decision or failure to make a decision is not subject to administrative or judicial review.

(c) A certificate of registration issued under this section is—

(1) conclusive evidence of the nationality of an aircraft for international purposes, but not conclusive evidence in a proceeding under the laws of the United States; and

(2) not evidence of ownership of an aircraft in a proceeding in which ownership is or may be in issue.

(d) An operator of an aircraft shall make available for inspection a certificate of registration for the aircraft when requested by a United States Government, State, or local law enforcement officer.

§ 44104. Registration of aircraft components and dealers' certificates of registration

The Administrator of the Federal Aviation Administration may provide—

(1) in the interest of safety, for registering and identifying an aircraft engine, propeller, or appliance; and

(2) in the public interest, for issuing, suspending, and revoking a dealer's certificate of registration under this chapter and for its use by a person manufacturing, distributing, or selling aircraft.

§ 44105. Suspension and revocation of aircraft certificates

The Administrator of the Federal Aviation Administration may suspend or revoke a certificate of registration issued under section 44103 of this title when the aircraft no longer meets the requirements of section 44102 of this title.

§ 44106. Revocation of aircraft certificates for controlled substance violations

(a) In this section, "controlled substance" has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(b)(1) The Administrator of the Federal Aviation Administration shall issue an order revoking the certificate of registration for an aircraft issued to an owner under section 44103 of this title and any other certificate of registration that the owner of the aircraft holds under section 44103, if the Administrator finds that—

(A) the aircraft was used to carry out, o facilitate, an activity that is punishable b death or imprisonment for more than on year under a law of the United States or State related to a controlled substanc (except a law related to simple possession o a controlled substance); and

(B) the owner of the aircraft permitted th use of the aircraft knowing that the aircra was to be used for the activity described i clause (A) of this paragraph.

(2) An aircraft owner that is not an individual is deemed to have permitted the us of the aircraft knowing that the aircraft wa to be used for the activity described in paragraph (1)(A) of this subsection only if a majority of the individuals who control th owner of the aircraft or who are involved i forming the major policy of the owner permitted the use of the aircraft knowing tha

the aircraft was to be used for the activity described in paragraph (1)(A).

(c) Before the Administrator revokes a certificate under subsection (b) of this section, the Administrator shall—

(1) advise the holder of the certificate of the charges or reasons on which the Administrator bases the proposed action; and

(2) provide the holder of the certificate an opportunity to answer the charges and state why the certificate should not be revoked.

(d)(1) A person whose certificate is revoked by the Administrator under subsection (b) of this section may appeal the revocation order to the National Transportation Safety Board. The Board shall affirm or reverse the order after providing notice and a hearing on the record. In conducting the hearing, the Board is not bound by the findings of fact of the Administrator.

(2) When a person files an appeal with the Board under this subsection, the order of the Administrator revoking the certificate is stayed. However, if the Administrator advises the Board that safety in air transportation or air commerce requires the immediate effectiveness of the order—

(A) the order remains effective; and

(B) the Board shall dispose of the appeal not later than 60 days after notification by the Administrator under this paragraph.

(3) A person substantially affected by an order of the Board under this subsection may seek judicial review of the order under section 46110 of this title. The Administrator shall be made a party to that judicial proceeding.

(e)(1) The Administrator may not revoke, and the Board may not affirm a revocation of, a certificate of registration under this section on the basis of an activity described in subsection (b)(1)(A) of this section if the holder of the certificate is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity.

(2) If the Administrator has revoked a certificate of registration of a person under this section because of an activity described in subsection (b)(1)(A) of this section, the Administrator shall reissue a certificate to the person if the person—

(A) subsequently is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity; and

(B) otherwise meets the requirements of section 44102 of this title.

§ 44107. Recordation of conveyances and instruments

(a) The Administrator of the Federal Aviation Administration shall establish a system for recording—

(1) conveyances that affect an interest in civil aircraft of the United States;

(2) leases and instruments executed for security purposes, including assignments and changes, that affect an interest in—

(A) a specifically identified aircraft engine having at least 750 rated takeoff horsepower or its equivalent;

(B) a specifically identified aircraft propeller capable of absorbing at least 750 rated takeoff shaft horsepower;

(C) an aircraft engine, propeller, or appliance maintained for installation or use in an aircraft, aircraft engine, or propeller, by or for an air carrier holding a certificate issued under section 44705 of this title; and

(D) spare parts maintained by or for an air carrier holding a certificate issued under section 44705 of this title; and

(3) releases, cancellations, discharges, and satisfactions related to a conveyance, instrument, or lease recorded under clause (1) or (2) of this subsection.

(b) An instrument or lease recorded under subsection (a)(2)(C) or (D) of this section only has to describe generally the engine, propeller, appliance, or spare part by type and designate its location.

(c) Except as the Administrator otherwise may provide, a conveyance or instrument may be recorded under subsection (a) of this section only after it has been acknowledged before—

(1) a notary public; or

(2) another officer authorized to acknowledge deeds under the laws of the United States, a State, the District of Columbia, or a territory or possession of the United States.

(d) The Administrator shall—

(1) keep a record of the time and date that each conveyance and instrument is filed and recorded with the Administrator; and

(2) record each conveyance and instrument filed with the Administrator, in the order of their receipt, and index them by—

(A) the specifically identified aircraft, aircraft engine, or propeller, or its location if recorded under subsection (a)(2)(C) or (D) of this section; and

(B) the names of the parties to each conveyance and instrument.

§ 44108. Validity of conveyances and instruments

(a) Until a conveyance or instrument that may be recorded under section 44107(a)(1) or (2) of this title is filed for recording, the conveyance or instrument is valid only against—

(1) the person making the conveyance or instrument;

(2) that person's heirs and devisees; and

(3) a person having actual notice of the conveyance or instrument.

(b) When a conveyance or instrument is recorded under section 44107 of this title, the conveyance or instrument is valid from the date of filing against all persons, without other recordation, except that—

(1) an instrument recorded under section 44107(a)(2)(A) or (B) of this title is valid for a specifically identified engine or propeller without regard to an instrument previously or subsequently recorded under section 44107(a)(2)(C) or (D); and

(2) an instrument recorded under section 44107(a)(2)(C) or (D) of this title is valid only for items at the location designated in the instrument.

(c)(1) The validity of a conveyance or instrument that may be recorded under section 44107 of this title is subject to the laws of the State, the District of Columbia, or the territory or possession of the United States at which the conveyance or instrument is delivered, regardless of the place at which the subject of the conveyance or instrument is located or delivered. If the conveyance or instrument specifies the place at which delivery is intended, it is presumed that the conveyance or instrument was delivered at the specified place.

(2) This subsection does not take precedence over the Convention on the International Recognition of Rights in Aircraft (4 U.S.T. 1830).

(d) This section does not apply to—

(1) a conveyance described in section 44107(a)(1) of this title that was made before August 22, 1938; or

(2) an instrument described in section 44107(a)(2) of this title that was made before June 20, 1948.

§ 44109. Reporting transfer of ownership

(a) A person having an ownership interest in an aircraft for which a certificate of registration was issued under section 44103 of this title shall file a notice with the Secretary of the Treasury that the Secretary requires by regulation, not later than 15 days after a sale, conditional sale, transfer, or conveyance of the interest.

(b) The Secretary—

(1) shall prescribe regulations that establish guidelines for exempting a person or class from subsection (a) of this section; and

(2) may exempt a person or class under the regulations.

§ 44110. Information about aircraft ownership and rights

The Administrator of the Federal Aviation Administration may provide by regulation for—

(1) endorsing information on each certificate of registration issued under section 44103 of this title and each certificate issued under section 44704 of this title about ownership of the aircraft for which each certificate is issued; and

(2) recording transactions affecting an interest in, and for other records, proceedings, and details necessary to decide the rights of a party related to, a civil aircraft of the United States, aircraft engine, propeller, appliance, or spare part.

§ 44111. Changes in registration and recordation system for aircraft not providing air transportation

(a) This section applies only to aircraft not used to provide air transportation.

(b) The Administrator of the Federal Aviation Administration shall make changes in the system for registering and recording aircraft necessary to make the system more effective in serving the needs of—

(1) buyers and sellers of aircraft;

(2) officials responsible for enforcing laws related to the regulation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)); and

(3) other users of the system.

(c) Changes made under subsection (b) of this section—

(1) may include a system of titling aircraft or registering all aircraft, even aircraft not operated;

(2) shall ensure positive, verifiable, and timely identification of the true owner; and

(3) shall address at least each of the following deficiencies in and abuses of the existing system:

(A) the registration of aircraft to fictitious persons.

(B) the use of false or nonexistent addresses by persons registering aircraft.

(C) the use by a person registering an aircraft of a post office box or "mail drop" as a return address to evade identification of the person's address.

(D) the registration of aircraft to entities established to facilitate unlawful activities.

(E) the submission of names of individuals on applications for registration of aircraft that are not identifiable.

(F) the ability to make frequent legal changes in the registration markings assigned to aircraft.

(G) the use of false registration markings on aircraft.

(H) the illegal use of "reserved" registration markings on aircraft.

(I) the large number of aircraft classified as being in "self-reported status".

(J) the lack of a system to ensure timely and adequate notice of the transfer of ownership of aircraft.

(K) the practice of allowing temporary operation and navigation of aircraft without the issuance of a certificate of registration.

(d)(1) The Administrator of the Federal Aviation Administration shall prescribe regulations to carry out this section and provide a written explanation of how the regulations address each of the deficiencies and abuses described in subsection (c) of this section. In prescribing the regulations, the Administrator of the Federal Aviation Administration shall consult with the Administrator of Drug Enforcement, the Secretary of the Treasury, other law enforcement officials of the United States Government, representatives of State and local law enforcement officials, representatives of the general aviation aircraft industry, representatives of users of general aviation aircraft, and other interested persons.

(2) Regulations prescribed under this subsection shall require that—

(A) each individual listed in an application for registration of an aircraft provide with the application the individual's driver's license number; and

(B) each person (not an individual) listed in an application for registration of an aircraft provide with the application the person's taxpayer identifying number.

§ 44112. Limitation of liability

(a) In this section—

(1) "lessor" means a person leasing for at least 30 days a civil aircraft, aircraft engine, or propeller.

(2) "owner" means a person that owns a civil aircraft, aircraft engine, or propeller.

(3) "secured party" means a person having a security interest in, or security title to, a civil aircraft, aircraft engine, or propeller under a conditional sale or equipment trust contract, chattel or corporate mortgage, or similar instrument.

(b) A lessor, owner, or secured party is liable for personal injury, death, or property loss or damage on land or water only when a civil aircraft, aircraft engine, or propeller is in the actual possession or control of the lessor, owner, or secured party, and the personal injury, death, or property loss or damage occurs because of—

(1) the aircraft, engine, or propeller; or

(2) the flight of, or an object falling from, the aircraft, engine, or propeller.

CHAPTER 443—INSURANCE

Sec.
44301. Definitions.
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44306. Premiums and limitations on coverage and claims.
44307. Revolving fund.
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§ 44301. Definitions

In this chapter—

(1) "American aircraft" means—

(A) a civil aircraft of the United States; and

(B) an aircraft owned or chartered by, or made available to—

(i) the United States Government; or

(ii) a State, the District of Columbia, a territory or possession of the United States, or a political subdivision of the State, territory, or possession.

(2) "insurance carrier" means a person authorized to do aviation insurance business in a State, including a mutual or stock insurance company and a reciprocal insurance association.

§ 44302. General authority

(a)(1) Subject to subsection (b) of this section, the Secretary of Transportation may provide insurance and reinsurance against loss or damage arising out of any risk from the operation of an American aircraft or foreign-flag aircraft—

(A) in foreign air commerce; or

(B) between at least 2 places, all of which are outside the United States.

(2) An aircraft may be insured or reinsured for not more than its reasonable value as determined by the Secretary. Insurance or reinsurance may be provided only when the Secretary decides that the insurance cannot be obtained on reasonable terms from an insurance carrier.

(b) The Secretary may provide insurance or reinsurance under subsection (a) of this section only with the approval of the President. The President may approve the insurance or reinsurance only after deciding that the continued operation of the American aircraft or foreign-flag aircraft to be insured or reinsured is necessary to carry out the foreign policy of the United States Government.

(c) The President may require the Secretary to consult with interested departments, agencies, and instrumentalities of the Government before providing insurance or reinsurance under this chapter.

(d) With the approval of the Secretary, a person having an insurable interest in an aircraft may insure with other underwriters in an amount exceeding the amount insured with the Secretary. However, the Secretary may not benefit from the additional insurance. This subsection does not prevent the Secretary from making contracts of coinsurance.

§ 44303. Coverage

The Secretary of Transportation may provide insurance and reinsurance authorized under section 44302 of this title for the following:

(1) an American aircraft or foreign-flag aircraft engaged in aircraft operations the President decides are necessary to carry out the foreign policy of the United States Government.

(2) property transported or to be transported on aircraft referred to in clause (1) of this section, including—

(A) shipments by express or registered mail;

(B) property owned by citizens or residents of the United States;

(C) property—

(i) imported to, or exported from, the United States; and

(ii) bought or sold by a citizen or resident of the United States under a contract putting the risk of loss or obligation to provide insurance against risk of loss on the citizen or resident; and

(D) property transported between—

(i) a place in a State or the District of Columbia and a place in a territory or possession of the United States;

(ii) a place in a territory or possession of the United States and a place in another territory or possession of the United States; or

(iii) 2 places in the same territory or possession of the United States.

(3) the personal effects and baggage of officers and members of the crew of an aircraft referred to in clause (1) of this section and of other individuals employed or transported on that aircraft.

(4) officers and members of the crew of an aircraft referred to in clause (1) of this section and other individuals employed or transported on that aircraft against loss of life, injury, or detention.

(5) statutory or contractual obligations or other liabilities, customarily covered by insurance, of an aircraft referred to in clause (1) of this section or of the owner or operator of that aircraft.

§ 44304. Reinsurance

(a) To the extent the Secretary of Transportation is authorized to provide insurance under this chapter, the Secretary may reinsure any part of the insurance provided by an insurance carrier. The Secretary may reinsure with, transfer to, or transfer back to, the carrier any insurance or reinsurance provided by the Secretary under this chapter.

(b) The Secretary may provide reinsurance at premiums not less than, or obtain reinsurance at premiums not higher than, the premiums the Secretary establishes on similar risks or the premiums the insurance carrier charges for the insurance to be reinsured by the Secretary, whichever is most advantageous to the Secretary. However, the Secretary may make allowances to the insurance carrier for expenses incurred in providing services and facilities that the Secretary considers good business practice, except for payments by the carrier for the stimulation or solicitation of insurance business.

§ 44305. Insuring United States Government property

With the approval of the President, a department, agency, or instrumentality of the United States Government may obtain insurance under this chapter, except for insurance on valuables subject to sections 1 and 2 of the Government Losses in Shipment Act (40 U.S.C. 721, 722). With that approval, the Secretary of Transportation may provide the insurance without premium at the request of the Secretary of Defense or the head of a department, agency, or instrumentality designated by the President when the Secretary of Defense or the designated head agrees to indemnify the Secretary of Transportation against all losses covered by the insurance. The Secretary of Defense and any designated head may make indemnity agreements with the Secretary of Transportation under this section.

§ 44306. Premiums and limitations on coverage and claims

(a) To the extent practical, the premium charged for insurance or reinsurance under this chapter shall be based on consideration of the risk involved.

(b) The Secretary of Transportation may provide insurance and reinsurance under this chapter for a period of not more than 60 days. The period may be extended for additional periods of not more than 60 days each only if the President decides, before each additional period, that the continued operation of the aircraft to be insured or reinsured is necessary to carry out the foreign policy of the United States Government.

(c) The insurance policy on an aircraft insured or reinsured under this chapter shall specify a stated amount that is not more than the value of the aircraft, as determined by the Secretary. A claim under the policy may not be paid for more than that stated amount.

§ 44307. Revolving fund

(a)(1) There is a revolving fund in the Treasury. The Secretary of the Treasury shall disburse from the fund payments to carry out this chapter.

(2) Necessary amounts to carry out this chapter may be appropriated to the fund. The amounts appropriated and other amounts received in carrying out this chapter shall be deposited in the fund.

(b) On request of the Secretary of Transportation, the Secretary of the Treasury may invest any part of the amounts in the revolving fund in interest-bearing securities of the United States Government. The interest on, and the proceeds from the sale or redemption of, the securities shall be deposited in the fund.

(c) The balance in the revolving fund in excess of an amount the Secretary of Transportation determines is necessary for the requirements of the fund and for reasonable reserves to maintain the solvency of the fund shall be deposited at least annually in the Treasury as miscellaneous receipts.

(d) The Secretary of Transportation shall deposit annually an amount in the Treasury as miscellaneous receipts to cover the expenses the Government incurs when the Secretary of Transportation uses appropriated amounts in carrying out this chapter. The deposited amount shall equal an amount determined by multiplying the average monthly balance of appropriated amounts retained in the revolving fund by a percentage that is at least the current average rate payable on marketable obligations of the Government. The Secretary of the Treasury shall determine annually in advance the percentage applied.

§ 44308. Administrative

(a) The Secretary of Transportation may carry out this chapter consistent with commercial practices of the aviation insurance business.

(b)(1) The Secretary may issue insurance policies to carry out this chapter. The Secretary may prescribe the forms, amounts insured under the policies, and premiums charged. The Secretary may change an amount of insurance or a premium for an existing policy only with the consent of the insured.

(2) For a claim under insurance authorized by this chapter, the Secretary may—

(A) settle and pay the claim made for or against the United States Government; and

(B) pay the amount of a judgment entered against the Government.

(c)(1) The Secretary may, and when practical shall, employ an insurance carrier or group of insurance carriers to act as an underwriting agent. The Secretary may use the agent to adjust claims under this chapter, but claims may be paid only when approved by the Secretary.

(2) The Secretary may pay reasonable compensation to an underwriting agent for servicing insurance the agent writes for the Secretary. Compensation may include payment for reasonable expenses incurred by the agent but may not include a payment by the agent for stimulation or solicitation of insurance business.

(3) Except as provided by this subsection, the Secretary may not pay an insurance broker or other person acting in a similar capacity any consideration for arranging insurance when the Secretary directly insures any part of the risk.

(d) The Secretary shall submit annually a budget program for carrying out this chapter as provided for wholly owned Government corporations under chapter 91 of title 31.

(e) The Secretary shall maintain a set of accounts. The Comptroller General shall audit those accounts under chapter 35 of title 31. Notwithstanding chapter 35, the Comptroller General shall allow credit for expenditures under this chapter made consistent with commercial practices in the aviation insurance business when shown to be necessary because of the business activities authorized by this chapter.

§ 44309. Civil actions

(a) A person may bring a civil action against the United States Government when a loss insured under this chapter is in dispute. A civil action involving the same matter (except the action authorized by this subsection) may not be brought against an agent, officer, or employee of the Government carrying out this chapter. To the extent applicable, the procedure in an action brought under section 1346(a)(2) of title 28 applies to an action under this subsection.

(b)(1) A civil action under subsection (a) of this section may be brought in the United States District Court for the District of Columbia or in the district court of the United States for the judicial district in which the plaintiff or the agent of the plaintiff resides if the plaintiff resides in the United States. If the plaintiff does not reside in the United States, the action may be brought in the United States District Court for the District of Columbia or in the district court of the United States for the judicial district in which the Attorney General agrees to accept service.

(2) An interested person may be joined as a party to a civil action brought under subsection (a) of this section initially or on motion of either party to the action.

(c) When an insurance claim is made under this chapter, the period during which, under section 2401 of title 28, a civil action must be brought under subsection (a) of this section is suspended until 60 days after the Secretary of Transportation denies the claim. The claim is deemed to be administratively denied if the Secretary does not act on the claim not later than 6 months after filing, unless the Secretary makes a different agreement with the claimant when there is good cause for an agreement.

(d)(1) If the Secretary admits the Government owes money under an insurance claim under this chapter and there is a dispute about the person that is entitled to payment, the Government may bring a civil action of interpleader against the persons that may be entitled to payment. The action may be brought in the United States District Court for the District of Columbia or in the district court of the United States for the judicial district in which any party resides.

(2) The district court may order a party not residing or found in the judicial district in which the action is brought to appear in a civil action under this subsection. The order shall be served in a reasonable manner decided by the district court. If the court decides an unknown person might assert a claim under the insurance that is the subject of the action, the court may order service on that person by publication in the Federal Register.

(3) Judgment in a civil action under this subsection discharges the Government from further liability to the parties to the action and to all other persons served by publication under paragraph (2) of this subsection.

§ 44310. End of authority

The authority of the Secretary of Transportation to provide insurance and reinsurance under this chapter is not effective after September 30, 1992.

CHAPTER 445—AVIATION FACILITIES AND RESEARCH

Sec.

44501. Plans and policy.
44502. Air navigation facilities.
44503. Reducing nonessential expenditures.
44504. Improved aircraft, aircraft engines, propellers, and appliances.
44505. Systems, procedures, facilities, and devices.
44506. Air traffic controller performance research.
44507. Civil aeromedical research.
44508. Research advisory committee.
44509. Demonstration projects.

§ 44501. Plans and policy

(a) The Administrator of the Federal Aviation Administration shall make long range plans and policy for the orderly development and use of the navigable airspace, and the orderly development and location of aids and facilities for air navigation, that will best meet the needs of, and serve the interests of, civil aeronautics and the national defense, except for needs of the armed forces that are peculiar to air warfare and primarily of military concern.

(b) The Administrator shall publish a national airways system plan before the beginning of each fiscal year. The plan shall set forth—

(1) for a 10-year period, the research, engineering, and development programs and the facilities and equipment the Administrator considers necessary for a system of airways, air traffic services, and navigation aids that will—

(A) meet the forecasted needs of civil aeronautics;

(B) meet the requirements the Secretary of Defense establishes for the support of the national defense; and

(C) provide the highest degree of safety in air commerce;

(2) for the first and 2d years of the plan, detailed annual estimates of—

(A) the number, type, location, and cost of acquiring, operating, and maintaining required facilities and services;

(B) the cost of research, engineering, and development required to improve safety, system capacity, and efficiency; and

(C) personnel levels required for the activities described in subclauses (A) and (B) of this clause;

(3) for the 3d, 4th, and 5th years of the plan, estimates of the total cost of each major program for the 3-year period, and additional major research programs, acquisition of systems and facilities, and changes in personnel levels that may be required to meet long range objectives and that may have significant impact on future funding requirements; and

(4) a 10-year investment plan that considers long range objectives the Administrator considers necessary to—

(A) ensure that safety is given the highest priority in providing for a safe and efficient airway system; and

(B) meet the current and projected growth of aviation and the requirements of interstate commerce, the United States Postal Service, and the national defense.

(c) Not later than April 1 of each year, the Secretary of Transportation shall report to Congress on the operations of the national airways system during the prior fiscal year. The report shall include a review of the operations of the Federal Aviation Administration, including—

(1) a detailed report on programs intended to improve the safety of flight operations and the capacity and efficiency of the national airways system;

(2) significant problems encountered in the programs;

(3) a summary of amounts committed in each major program area; and

(4) a report on amounts appropriated but not expended for the programs.

(d)(1) The Administrator shall prepare and publish annually a national aviation research plan and submit the plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives. The plan shall be submitted not later than the date of submission of the President's budget to Congress.

(2)(A) The plan shall describe, for a 15-year period, the research, engineering, and development the Administrator considers necessary—

(i) to ensure the continued capacity, safety, and efficiency of aviation in the United States, considering emerging technologies and forecasted needs of civil aeronautics; and

(ii) to provide the highest degree of safety in air travel.

(B) The plan shall cover all research conducted under sections 44504, 44505, 44507, and 44903 of this title and shall identify complementary and coordinated research efforts conducted by the National Aeronautics and Space Administration with amounts specifically appropriated to the Administration. For projects for which the Administrator of the Federal Aviation Administration anticipates requesting an appropriation, the plan shall include—

(i) for the first 2 years of the plan, detailed annual estimates of the schedule, cost, and work-force levels for each research project, including a description of the scope and content of each major contract, grant, or interagency agreement;

(ii) for the 3d, 4th, and 5th years of the plan, estimates of the total cost of each major project and any additional major research projects that may be required to meet long-term objectives and that may have significant impact on future appropriations requirements;

(iii) for the 6th and subsequent years of the plan, the long-term objectives the Administrator considers necessary to ensure that aviation safety will be given the highest priority; and

(iv) details of a program to disseminate to the private sector the results of aviation research conducted by the Administrator, including any new technologies developed.

(3) Subject to section 44903(f)(2) and (3) of this title and regulations prescribed under section 44903(f)(2), the Administrator shall submit to the committees named in paragraph (1) of this subsection an annual report on the accomplishments of the research completed during the prior fiscal year. The report shall be submitted with the plan required under paragraph (1) and be organized to allow comparison with the plan in effect for the prior fiscal year.

§ 44502. Air navigation facilities

(a)(1) The Administrator of the Federal Aviation Administration may—

(A) acquire, establish, improve, operate, and maintain air navigation facilities; and

(B) provide facilities and personnel to regulate and protect air traffic.

(2) The cost of site preparation work associated with acquiring, establishing, or improving an air navigation facility under paragraph (1)(A) of this subsection shall be charged to amounts available for that purpose appropriated under section 47701(a) of this title. The Secretary of Transportation may make an agreement with an airport owner or sponsor (as defined in section 47102 of this title) so that the owner or sponsor will provide the work and be paid or reimbursed by the Secretary from the appropriated amounts.

(3) The Secretary may authorize a department, agency, or instrumentality of the United States Government to carry out any duty or power under this subsection with the consent of the head of the department, agency, or instrumentality.

(b) Except for amounts of the Government expended under this part or for a military purpose, amounts may be expended to acquire, establish, build, operate, or maintain an air navigation facility only if the Administrator of the Federal Aviation Administration certifies in writing that the facility is reasonably necessary for use in air commerce or for the national defense. An interested person may apply for a certificate for a facility to be acquired, established, built, operated, or maintained by or for the person.

(c)(1) To ensure conformity with plans and policies for, and allocation of, airspace by the Administrator of the Federal Aviation Administration under section 40103(b)(1) of this title, a military airport, military landing area, or missile or rocket site may be acquired, established, or built, or a runway may be changed substantially, only if the Administrator of the Federal Aviation Administration is given reasonable prior notice so that the Administrator may advise the appropriate committees of Congress and interested departments, agencies, and instrumentalities of the Government on the effect of the acquisition, establishment, building, or change on the use of airspace by aircraft. A disagreement between the Administrator of the Federal Aviation Administration and the Secretary of Defense or the Administrator of the National Aeronautics and Space Administration may be appealed to the President for a final decision.

(2) To ensure that conformity, an airport or landing area not involving the expenditure of amounts of the Government may be established or built, or a runway may be changed substantially, only if the Administrator of the Federal Aviation Administration is given reasonable prior notice so that the Administrator may provide advice on the effects of the establishment, building, or change on the use of airspace by aircraft.

(d)(1) The head of a department, agency, or instrumentality of the Government having jurisdiction over an air navigation facility owned or operated by the Government may provide, under regulations the head of the department, agency, or instrumentality prescribes, for public use of the facility.

(2) The head of a department, agency, or instrumentality of the Government having jurisdiction over an airport or emergency landing field owned or operated by the Government may provide, under regulations the head of the department, agency, or instrumentality prescribes, for assistance, and the sale of fuel, oil, equipment, and supplies, to an aircraft, but only when necessary, because of an emergency, to allow the aircraft to continue to the nearest airport operated by private enterprise. The head of the department, agency, or instrumentality shall provide for the assistance and sale at the prevailing local fair market value as determined by the head of the department, agency, or instrumentality. The part of the amount that the head decides is equal to the cost of the assistance provided and the fuel, oil, equipment, and supplies sold shall be credited to the appropriation from which the cost was paid. The balance shall be credited to miscellaneous receipts.

(e) Congress consents to a State making an agreement, not in conflict with a law of the United States, with another State to develop or operate an airport facility.

(f) An airport may transfer, without consideration, to the Administrator of the Federal Aviation Administration an instrument landing system (and associated approach lighting equipment and runway visual range equipment) if an airport improvement project grant was used to help purchase the system. The Administrator shall accept the system and operate and maintain it under criteria of the Administrator.

§ 44503. Reducing nonessential expenditures

The Secretary of Transportation shall attempt to reduce the capital, operating, maintenance, and administrative costs of the national airport and airway system to the maximum extent practicable consistent with the highest degree of aviation safety. At least annually, the Secretary shall consult with and consider the recommendations of users of the system on ways to reduce nonessential expenditures of the United States Government for aviation. The Secretary shall give particular attention to a recommendation that may reduce, with no adverse effect on safety, future personnel requirements and costs to the Government required to be recovered from user charges.

§ 44504. Improved aircraft, aircraft engines, propellers, and appliances

(a) The Administrator of the Federal Aviation Administration may begin or supervise developmental work and service testing to improve aircraft, aircraft engines, propellers, and appliances.

(b) The Administrator shall conduct or supervise research—

(1) to develop technologies and analyze information to predict the effects of aircraft design, maintenance, testing, wear, and fatigue on the life of aircraft and air safety;

(2) to develop methods of analyzing and improving aircraft maintenance technology and practices, including nondestructive evaluation of aircraft structures;

(3) to assess the fire and smoke resistance of aircraft materials;

(4) to develop improved fire and smoke resistant materials for aircraft interiors;

(5) to develop and improve fire and smoke containment systems for inflight aircraft fires; and

(6) to develop advanced aircraft fuels with low flammability and technologies that will contain aircraft fuels to minimize post-crash fire hazards.

(c) In carrying out this section, the Administrator may buy experimental aircraft, aircraft engines, propellers, and appliances that the Administrator decides may offer special advantages to aeronautics.

§ 44505. Systems, procedures, facilities, and devices

(a)(1) The Administrator of the Federal Aviation Administration shall—

(A) develop, change, test, and evaluate systems, procedures, facilities, and devices, and define their performance characteristics, to meet the needs for safe and efficient navigation and traffic control of civil and military aviation, except for needs of the armed forces that are peculiar to air warfare and primarily of military concern; and

(B) select systems, procedures, facilities, and devices that will best serve those needs

and promote maximum coordination of air traffic control and air defense systems.

(2) The Administrator may make contracts to carry out this subsection without regard to section 3324(a) and (b) of title 31.

(3) When a substantial question exists under paragraph (1) of this subsection about whether a matter is of primary concern to the armed forces, the Administrator shall decide whether the Administrator or the Secretary of the appropriate military department has responsibility. The Administrator shall be given technical information related to each research and development project of the armed forces that potentially applies to, or potentially conflicts with, the common system to ensure that potential application to the common system is considered properly and that potential conflicts with the system are eliminated.

(b) The Administrator shall conduct or supervise research—

(1) to develop a better understanding of the relationship between human factors and aviation accidents and between human factors and air safety;

(2) to enhance air traffic controller, mechanic, and flight crew performance;

(3) to develop a human-factor analysis of the hazards associated with new technologies to be used by air traffic controllers, mechanics, and flight crews;

(4) to identify innovative and effective corrective measures for human errors that adversely affect air safety; and

(5) to develop dynamic simulation models of the air traffic control system and airport design and operating procedures that will provide analytical technology—

(A) to predict airport and air traffic control safety and capacity problems;

(B) to evaluate planned research projects; and

(C) to test proposed revisions in airport and air traffic control operations programs.

§ 44506. Air traffic controller performance research

(a) To develop the means necessary to establish appropriate selection criteria and training methodologies for the next generation of air traffic controllers, the Administrator of the Federal Aviation Administration shall conduct research to study the effect of automation on the performance of the next generation of air traffic controllers and the air traffic control system. The research shall include investigating—

(1) methods for improving and accelerating future air traffic controller training through the application of advanced training techniques, including the use of simulation technology;

(2) the role of automation in the air traffic control system and its physical and psychological effects on air traffic controllers;

(3) the attributes and aptitudes needed to function well in a highly automated air traffic control system and the development of appropriate testing methods for identifying individuals with those attributes and aptitudes;

(4) innovative methods for training potential air traffic controllers to enhance the benefits of automation and maximize the effectiveness of the air traffic control system; and

(5) new technologies and procedures for exploiting automated communication systems, including Mode S Transponders, to improve information transfers between air traffic controllers and aircraft pilots.

(b) The Administrators of the Federal Aviation Administration and National Aeronautics and Space Administration may make an agreement for the use of the National Aeronautics and Space Administration's unique human factor facilities and expertise in conducting research activities to study the human factor aspects of the highly automated environment for the next generation of air traffic controllers. The research activities shall include investigating—

(1) human perceptual capabilities and the effect of computer-aided decision making on the workload and performance of air traffic controllers;

(2) information management techniques for advanced air traffic control display systems; and

(3) air traffic controller workload and performance measures, including the development of predictive models.

§ 44507. Civil aeromedical research

The Civil Aeromedical Institute established by section 106(j) of this title may—

(1) conduct civil aeromedical research, including research related to—

(A) the protection and survival of aircraft occupants;

(B) medical accident investigation and airman medical certification;

(C) toxicology and the effects of drugs on human performance;

(D) the impact of disease and disability on human performance;

(E) vision and its relationship to human performance and equipment design;

(F) human factors of flight crews, air traffic controllers, mechanics, inspectors, airway facility technicians, and other individuals involved in operating and maintaining aircraft and air traffic control equipment; and

(G) agency work force optimization, including training, equipment design, reduction of errors, and identification of candidate tasks for automation;

(2) make comments to the Administrator of the Federal Aviation Administration on human factors aspects of proposed air safety regulations;

(3) make comments to the Administrator on human factors aspects of proposed training programs, equipment requirements, standards, and procedures for aviation personnel;

(4) advise, assist, and represent the Federal Aviation Administration in the human factors aspects of joint projects between the Administration and the National Aeronautics and Space Administration, other departments, agencies, and instrumentalities of the United States Government, industry, and governments of foreign countries; and

(5) provide medical consultation services to the Administrator about medical certification of airmen.

§ 44508. Research advisory committee

(a)(1) The Administrator of the Federal Aviation Administration shall establish a research advisory committee in the Administration. The committee shall—

(A) provide advice and recommendations to the Administrator about needs, objectives, plans, approaches, content, and accomplishments of the aviation research program carried out under sections 44504, 44505, 44507, and 44903 of this title; and

(B) assist in ensuring that the research is coordinated with similar research being conducted outside the Administration.

(2) The Administrator may establish subordinate committees to provide advice on specific areas of research conducted under sections 44504, 44505, 44507, and 44903 of this title.

(b)(1) The committee is composed of not more than 20 members appointed by the Administrator from among individuals who are not employees of the Administration and who are specially qualified to serve on the committee because of their education, training, or experience. In appointing members of the committee, the Administrator shall ensure that universities, corporations, associations, consumers, and other government departments, agencies, and instrumentalities are represented.

(2) The Administrator shall designate the chairman of the committee.

(3) A member of the committee serves without pay. However, the Administrator may allow a member, when attending meetings of the committee or a subordinate committee, travel or transportation expenses as authorized under section 5703 of title 5.

(c) The Administrator shall provide support staff for the committee. On request of the committee, the Administrator shall provide information, administrative services, and supplies the Administrator considers necessary for the committee to carry out its duties and powers.

(d) Section 14 of the Federal Advisory Committee Act (5 App. U.S.C) does not apply to the committee.

(e)(1) Not more than .1 percent of the amounts made available to conduct research under sections 44504, 44505, 44507, and 44903 of this title for fiscal years beginning after September 30, 1988, may be used by the Administrator to carry out this section.

(2) A limitation on amounts available for obligation by or for the committee does not apply to amounts made available to carry out this section.

§ 44509. Demonstration projects

The Secretary of Transportation may carry out under this chapter demonstration projects the Secretary considers necessary for research and development activities under this chapter.

CHAPTER 447—SAFETY REGULATION

Sec.
44701. General requirements.
44702. Issuance of certificates.
44703. Airman certificates.
44704. Type certificates, production certificates, and airworthiness certificates.
44705. Air carrier operating certificates.
44706. Airport operating certificates.
44707. Examining and rating air agencies.
44708. Inspecting and rating air navigation facilities.
44709. Changes, suspensions, and revocations of certificates.
44710. Revocations of airman certificates for controlled substance violations.
44711. Prohibitions and exemption.
44712. Emergency locator transmitters.
44713. Inspection and maintenance.
44714. Aviation fuel standards.
44715. Controlling aircraft noise and sonic boom.
44716. Collision avoidance systems.
44717. Structures interfering with air commerce.
44718. Standards for navigational aids.
44719. Meteorological services.
44720. Aeronautical maps and charts.
44721. Reports.

§ 44701. General requirements

(a) The Administrator of the Federal Aviation Administration shall promote safe flight of civil aircraft in air commerce by prescribing—

(1) minimum standards for design, material, construction, quality of work, and performance of aircraft, aircraft engines, propellers, and appliances;

(2) regulations and minimum standards for inspecting, servicing, and overhauling aircraft, aircraft engines, propellers, and appliances;

(3) regulations for the reserve supply of aircraft, aircraft engines, propellers, appliances, and aircraft fuel and oil, including the reserve supply of fuel and oil carried in flight;

(4) regulations for the maximum hours or periods of service of employees of air carriers; and

(5) other regulations and minimum standards the Administrator finds necessary for safety in air commerce and the security of the United States.

(b) The Administrator may prescribe minimum safety standards for—

(1) an air carrier to whom a certificate is issued under section 44705 of this title; and

(2) an airport serving air carriers operating aircraft designed for at least 31 passenger seats.

(c) The Administrator shall prescribe safety regulations and establish procedures the Administrator considers necessary to maintain the highest standard of safe and reliable air transportation in the United States.

(d) The Administrator shall carry out this chapter in a way that best tends to reduce or eliminate the possibility or recurrence of accidents in air transportation. However, the Administrator is not required to give preference to either air transportation or air commerce in carrying out this chapter.

(e) When prescribing a regulation or standard under subsection (a) or (b) of this section or section 44702–44716 of this title, the Administrator shall—

(1) consider—

(A) the duty of an air carrier to provide service with the highest possible degree of safety in the public interest; and

(B) differences between air transportation and air commerce; and

(2) classify a regulation or standard according to the differences between air transportation and air commerce.

(f) The Administrator periodically may grant an exemption from a regulation prescribed under subsection (a) or (b) of this section or section 44702–44716 of this title if the Administrator finds the exemption is in the public interest.

§ 44702. Issuance of certificates

(a) The Administrator of the Federal Aviation Administration may issue airman certificates, type certificates, production certificates, airworthiness certificates, air carrier operating certificates, airport operating certificates, air agency certificates, and air navigation facility certificates under this chapter. An application for a certificate must—

(1) be under oath when the Administrator requires; and

(2) be in the form, contain information, and be filed and served in the way the Administrator prescribes.

(b) When issuing a certificate under this chapter, the Administrator shall—

(1) consider—

(A) the duty of an air carrier to provide service with the highest possible degree of safety in the public interest; and

(B) differences between air transportation and air commerce; and

(2) classify a certificate according to the differences between air transportation and air commerce.

(c)(1) Subject to regulations, supervision, and review the Administrator prescribes, the Administrator may delegate to a qualified private person, or to an employee under the supervision of that person, a matter related to—

(A) the examination, testing, and inspection necessary to issue a certificate under this chapter; and

(B) issuing the certificate.

(2) The Administrator may establish the maximum fee a private person may charge under this subsection and may rescind a delegation under this subsection at any time for any reason the Administrator considers appropriate.

(3) A person affected by an action of a private person under this subsection may apply for reconsideration of the action by the Administrator. The Administrator may reconsider the action at any time. If the Administrator decides the action is unwarranted, the Administrator shall change or reverse the action. If the Administrator decides the action is warranted, the Administrator shall affirm the action.

§ 44703. Airman certificates

(a) The Administrator of the Federal Aviation Administration shall issue an airman certificate to an individual when the Administrator finds that the individual is qualified for, and able to perform the duties related to, the position to be authorized by the certificate.

(b)(1) An airman certificate shall—

(A) be numbered and recorded by the Administrator of the Federal Aviation Administration;

(B) contain the name, address, and description of the individual to whom the certificate is issued;

(C) contain terms the Administrator decides are necessary to ensure safety in air commerce;

(D) specify the capacity in which the holder of the certificate may serve as an airman of an aircraft; and

(E) designate the class the certificate covers.

(2) A certificate issued to a pilot serving in scheduled air transportation shall have the designation "airline transport pilot" of the appropriate class.

(c) The Administrator of the Federal Aviation Administration may—

(1) restrict or prohibit the issuance of an airman certificate to an alien; or

(2) make the issuance of the certificate to an alien dependent on a reciprocal agreement with the government of a foreign country.

(d)(1) An individual whose application for the issuance or renewal of an airman certificate has been denied may appeal the denial to the National Transportation Safety Board, except if—

(A) the certificate is suspended at the time of denial; or

(B) the certificate was revoked within one year from the date of the denial.

(2) The Board shall conduct a proceeding on the appeal at a place convenient to the place of residence or employment of the applicant. The Board is not bound by findings of fact of the Administrator of the Federal Aviation Administration. At the end of the proceeding, the Board shall decide whether the individual meets the applicable regulations and standards. The Administrator is bound by that decision.

(e) Except as provided in section 44710(e)(2) of this title, the Administrator of the Federal Aviation Administration may not issue an airman certificate to an individual whose certificate is revoked under section 44710 of this title. However, the Administrator may issue a certificate to the individual if the Administrator decides that issuance of the certificate will facilitate law enforcement efforts.

(f)(1) The Administrator of the Federal Aviation Administration shall make changes in the system for issuing airman certificates necessary to make the system more effective in serving the needs of pilots and officials responsible for enforcing laws related to the regulation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)). The changes shall ensure positive and verifiable identification of each individual applying for or holding a certificate and shall address at least each of the following deficiencies in and abuses of the existing system:

(A) the use of fictitious names and addresses by applicants for those certificates.

(B) the use of stolen or fraudulent identification in applying for those certificate.

(C) the use by an applicant of a post office box or "mail drop" as a return address to evade identification of the applicant's address.

(D) the use of counterfeit and stolen airman certificates by pilots.

(E) the absence of information about physical characteristics of holders of those certificates.

(2) The Administrator of the Federal Aviation Administration shall prescribe regulations to carry out paragraph (1) of this subsection and provide a written explanation of how the regulations address each of the deficiencies and abuses described in paragraph (1). In prescribing the regulations, the Administrator of the Federal Aviation Administration shall consult with the Administrator of Drug Enforcement, the Secretary of the Treasury, other law enforcement officials of the United States Government, representatives of State and local law enforcement officials, representatives of the general aviation aircraft industry, representatives of users of general aviation aircraft, and other interested persons.

§ 44704. Type certificates, production certificates, and airworthiness certificates

(a) The Administrator of the Federal Aviation Administration shall issue a type certificate for an aircraft, aircraft engine, or propeller, or for an appliance specified under subsection (b)(1) of this section when the Administrator finds that the aircraft, aircraft engine, propeller, or appliance is properly designed and manufactured and meets the regulations and minimum standards prescribed under section 44701(a) of this title. On receiving an application for a type certificate, the Administrator shall investigate the application and may provide an opportunity for a proceeding. The Administrator or applicant shall make tests, during manufacture and on completion, the Administrator considers reasonably necessary in the interests of safety.

(b) The Administrator may—

(1) specify in regulations those appliances that reasonably require a type certificate in the interest of safety;

(2) include in a type certificate terms required in the interests of safety;

(3) record on the certificate a numerical determination of the essential factors related to the performance of the aircraft, aircraft engine, or propeller for which the certificate is issued; and

(4) authorize an aircraft, aircraft engine, propeller, or appliance for which a certificate has been issued authorizing the use of the aircraft, aircraft engine, propeller, or appliance in air transportation to be used in air commerce without another certificate being issued.

(c) The Administrator shall issue a production certificate authorizing the production of a duplicate of an aircraft, aircraft engine, propeller, or appliance for which a type certificate has been issued when the Administrator decides the duplicate will comply with the certificate. On receiving an application, the Administrator shall inspect, and may test, a duplicate to ensure that it complies with the requirements of the certificate. The Administrator may include in a production certificate terms required in the interest of safety.

(d)(1) The registered owner of an aircraft may apply to the Administrator for an airworthiness certificate for the aircraft. The Administrator shall issue an airworthiness certificate when the Administrator decides that the aircraft complies with its type certificate and is in condition for safe operation. The Administrator shall register each airworthiness certificate and may include appropriate information in the certificate. An aircraft shall display the certificate number or other individual designation the Administrator requires. The Administrator may include in an airworthiness certificate terms required in the interest of safety.

(2) A person applying for the issuance or renewal of an airworthiness certificate for an aircraft for which ownership has not been recorded under section 44107 or 44110 of this title must submit with the application information related to the ownership of the aircraft the Administrator decides is necessary to identify each person having an interest in the aircraft and the kind and extent of the interest.

§ 44705. Air carrier operating certificates

The Administrator of the Federal Aviation Administration shall issue an air carrier operating certificate to a person desiring to operate as an air carrier when the Administrator decides that the person is equipped and able to operate safely under this part and regulations and standards prescribed under this part. An air carrier operating certificate shall—

(1) contain terms necessary to ensure safety in air transportation; and

(2) specify the places between which, and the airways of the United States over which, a person may operate as an air carrier.

§ 44706. Airport operating certificates

(a) The Administrator of the Federal Aviation Administration shall issue an airport operating certificate to a person desiring to operate an airport—

(1) that serves an air carrier operating aircraft designed for at least 31 passenger seats;

(2) that the Administrator requires to have a certificate; and

(3) when the Administrator decides that the person is equipped and able to operate safely under this part and regulations and standards prescribed under this part.

(b) An airport operating certificate issued under this section shall contain terms necessary to ensure safety in air transportation. Unless the Administrator decides that it is not in the public interest, the terms shall include conditions related to—

(1) operating and maintaining adequate safety equipment, including firefighting and rescue equipment capable of rapid access to any part of the airport used for landing, takeoff, or surface maneuvering of an aircraft; and

(2) friction treatment for primary and secondary runways that the Secretary of Transportation decides is necessary.

(c) The Administrator may exempt from the requirements of this section, related to firefighting and rescue equipment, an operator of an airport described in subsection (a) of this section boarding each year less than .25 percent of the total number of passengers boarded at all airports described in subsection (a) when the Administrator decides that the requirements are or would be unreasonably costly, burdensome, or impractical.

§ 44707. Examining and rating air agencies

The Administrator of the Federal Aviation Administration may examine and rate the following air agencies:

(1) civilian schools giving instruction in flying or repairing and overhauling aircraft, aircraft engines, propellers, and appliances, on the adequacy of instruction, the suitability and airworthiness of equipment, and the competency of instructors.

(2) repair stations and shops that repair and overhaul aircraft, aircraft engines, propellers, and appliances, on the adequacy and suitability of the equipment, facilities, and materials for, and methods of, repair and overhaul, and the competency of the individuals doing the work or giving instruction in the work.

(3) other air agencies the Administrator decides are necessary in the public interest.

§ 44708. Inspecting and rating air navigation facilities

The Administrator of the Federal Aviation Administration may inspect, classify, and rate an air navigation facility on the suitability of the facility for civil aircraft use.

§ 44709. Changes, suspensions, and revocations of certificates

(a) The Administrator of the Federal Aviation Administration may reinspect at any time a civil aircraft, aircraft engine, propeller, appliance, air navigation facility, or air agency, or reexamine a civil airman. The Administrator—

(1) after a reinspection, reexamination, or other investigation by the Administrator, may issue an order changing, suspending, or revoking, any part of a certificate issued under this chapter if—

(A) the Administrator decides that safety in air commerce or air transportation and the public interest require that action; or

(B) the holder of the certificate has violated an aircraft noise or sonic boom standard or regulation prescribed under section 44715(a) of this title; and

(2) may issue an order changing, suspending, or revoking an airman certificate when the holder of the certificate is convicted of violating section 13(a) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742j-1(a)).

(b) Before acting under subsection (a) of this section, the Administrator shall advise the holder of the certificate of the charges or other reasons on which the Administrator is relying for the proposed action. Except in an emergency, the Administrator shall give the holder an opportunity to answer the charges.

(c)(1) A person whose certificate is affected by an order of the Administrator under this section may appeal the order to the National Transportation Safety Board. After notice and an opportunity for a proceeding, the Board may change or reverse the order when the Board finds that—

(A) safety in air transportation or air commerce and the public interest do not require affirmation of the order;

(B) control or abatement of aircraft noise or sonic boom and the public health and welfare do not require affirmation of the order; or

(C) the order, as it is related to a violation of aircraft noise or sonic boom standards and regulations, is not consistent with safety in air commerce or air transportation.

(2) In conducting the proceeding, the Board is not bound by findings of fact of the Administrator.

(d) When a person files an appeal with the Board under subsection (c) of the section, the order of the Administrator is stayed. However, if the Administrator advises the Board that an emergency exists and safety in air transportation or air commerce requires the order to be effective immediately—

(1) the order is effective; and

(2) the Board shall dispose of the appeal not later than 60 days after the Administrator advises the Board of the emergency.

(e) An order of the Board under this section may be reviewed judicially under section 46110 of this title. The Administrator shall be made a party to that judicial proceeding.

§ 44710. Revocations of airman certificates for controlled substance violations

(a) In this section, "controlled substance" has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(b)(1) The Administrator of the Federal Aviation Administration shall issue an order revoking an airman certificate issued an individual under section 44703 of this title after the individual is convicted, under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance), of an offense punishable by death or imprisonment for more than one year if the Administrator finds that—

(A) an aircraft was used to commit, or facilitate the commission of, the offense; and

(B) the individual served as an airman, or was on the aircraft, in connection with committing, or facilitating the commission of, the offense.

(2) The Administrator shall issue an order revoking an airman certificate issued an individual under section 44703 of this title if the Administrator finds that—

(A) the individual knowingly carried out an activity punishable, under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance), by death or imprisonment for more than one year;

(B) an aircraft was used to carry out or facilitate the activity; and

(C) the individual served as an airman, or was on the aircraft, in connection with carrying out, or facilitating the carrying out of, the activity.

(3) The Administrator has no authority under paragraph (1) of this subsection to review whether an airman violated a law of the United States or a State related to a controlled substance.

(c) Before the Administrator revokes a certificate under subsection (b) of this section, the Administrator must—

(1) advise the holder of the certificate of the charges or reasons on which the Administrator bases the proposed revocation; and

(2) provide the holder of the certificate an opportunity to answer the charges and state why the certificate should not be revoked.

(d)(1) An individual whose certificate is revoked by the Administrator under subsection (b) of this section may appeal the revocation order to the National Transportation Safety Board. The Board shall affirm or reverse the order after providing notice and an opportunity for a hearing on the record. In conducting the hearing, the Board is not bound by findings of fact of the Administrator.

(2) When an individual files an appeal with the Board under this subsection, the order of the Administrator revoking the certificate is stayed. However, if the Administrator advises the Board that safety in air transportation or air commerce requires the immediate effectiveness of the order—

(A) the order remains effective; and

(B) the Board shall dispose of the appeal not later than 60 days after notification by the Administrator under this paragraph.

(3) An individual substantially affected by an order of the Board under this subsection may seek judicial review of the order under section 46110 of this title. The Administrator shall be made a party to that judicial proceeding.

(e)(1) The Administrator may not revoke, and the Board may not affirm a revocation of, an airman certificate under subsection (b)(2) of this section on the basis of an activity described in subsection (b)(2)(A) if the holder of the certificate is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity.

(2) If the Administrator has revoked an airman certificate under this section because of an activity described in subsection (b)(2)(A) of this section, the Administrator shall reissue a certificate to the individual if—

(A) the individual otherwise satisfies the requirements for a certificate under section 44703 of this title; and

(B)(i) the individual subsequently is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity; or

(ii) the judgment on which a revocation under subsection (b)(1) of this section is based is reversed.

(f) The Administrator may waive the requirement of subsection (b) of this section that an airman certificate of an individual be revoked if—

(1) a law enforcement official of the United States Government or of a State requests a waiver; and

(2) the Administrator decides that the waiver will facilitate law enforcement efforts.

§ 44711. Prohibitions and exemption

(a) A person may not—

(1) violate a term of an airman certificate, production certificate, airworthiness certificate, air carrier operating certificate, airport operating certificate, or air agency certificate;

(2) operate a civil aircraft in air commerce without an airworthiness certificate in effect;

(3) serve as an airman without an airman certificate authorizing the airman to serve in that capacity or in violation of a regulation prescribed or order issued under section 44701(a) or (b) or 44702–44716 of this title;

(4) employ an airman who does not have an airman certificate authorizing the airman to serve in the capacity for which the airman is employed;

(5) operate an air carrier without an air carrier operating certificate;

(6) operate aircraft in air commerce in violation of a regulation prescribed or certificate issued under section 44701(a) or (b) or 44702–44716 of this title;

(7) operate a seaplane or other aircraft of United States registry on the high seas in violation of a regulation under section 3 of the International Navigational Rules Act of 1977 (33 U.S.C. 1602);

(8) violate a regulation prescribed or order issued under section 44701(a) or (b) or 44702–44716 of this title related to the holder of an air agency or production certificate;

(9) operate an airport without an airport operating certificate required under section 44706 of this title; or

(10) violate a regulation prescribed under section 44714 of this title.

(b) On terms the Administrator of the Federal Aviation Administration prescribes as being in the public interest, the Administrator may exempt a foreign aircraft and airmen serving on the aircraft from subsection (a) of this section. However, an exemption from observing air traffic regulations may not be granted.

§ 44712. Emergency locator transmitters

(a) An emergency locator transmitter must be installed on a fixed-wing powered civil aircraft for use in air commerce when the aircraft is completed in, or imported into, the United States after January 2, 1975, or used in air commerce.

(b) Subsection (a) of this section does not apply to—

(1) turbojet-powered aircraft;

(2) aircraft when being used in scheduled flights by scheduled air carriers holding certificates issued by the Secretary of Transportation;

(3) aircraft when being used in training operations conducted entirely within a 50 mile radius of the airport from which the local flight operations begin;

(4) aircraft when being used in design and test flight operations;

(5) new aircraft when being used in manufacture, preparatory, and delivery flight operations;

(6) aircraft when being used in flight operations related to the aerial application of a substance for an agricultural purpose;

(7) aircraft holding certificates from the Administrator of the Federal Aviation Administration for research and development;

(8) aircraft when being used for showing compliance with regulations, crew training, exhibition, air racing, or market surveys; and

(9) aircraft equipped to carry only one individual.

(c) Subject to terms prescribed in regulations of the Administrator, subsection (a) of this section does not apply to an aircraft operated when its emergency locator transmitter is removed for inspection, repair, change, or replacement.

§ 44713. Inspection and maintenance

(a) An air carrier shall make, or have made, an inspection or overhaul of, or maintain, equipment used in air transportation as required by this part or regulations prescribed or orders issued by the Administrator of the Federal Aviation Administration under this part. A person operating, inspecting, overhauling, or maintaining the equipment shall comply with those requirements, regulations, and orders.

(b) An inspector employed by the Administrator of the Federal Aviation Administration shall—

(1) inspect aircraft, aircraft engines, propellers, and appliances designed for use in air transportation, during manufacture and when in use by an air carrier in air transportation, to enable the Administrator to decide whether the aircraft, aircraft engines, propellers, or appliances are safe and maintained properly; and

(2) advise and cooperate with the air carrier during inspection and maintenance of the aircraft, engines, propellers, and appliances by the carrier.

(c) When an inspector decides that an aircraft, aircraft engine, propeller, or appliance is not safe, the inspector shall notify the air carrier in the form and way prescribed by the Administrator of the Federal Aviation Administration. For 5 days after the carrier is notified, the aircraft, engine, propeller, or appliance may not be used in air transportation or in a way that endangers air transportation unless the Administrator or the inspector decides the aircraft, engine, propeller, or appliance is safe.

(d)(1) The Administrator of the Federal Aviation Administration shall make changes in the system for processing forms for major repairs or changes to fuel tanks and fuel systems of aircraft not used to provide air transportation that are necessary to make the system more effective in serving the needs of users of the system, including officials responsible for enforcing laws related to the regulation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)). The changes shall address at least each of the following deficiencies in and abuses of the existing system:

(A) the lack of a special identification feature to allow the forms to be distinguished easily from other major repair and change forms.

(B) the excessive amount of time required to receive the forms at the Airmen and Aircraft Registry of the Administration.

(C) the backlog of forms waiting for processing at the Registry.

(D) the lack of ready access by law enforcement officials to information contained on the forms.

(2) The Administrator of the Federal Aviation Administration shall prescribe regulations to carry out paragraph (1) of this subsection and provide a written explanation of how the regulations address each of the deficiencies and abuses described in paragraph (1). In prescribing the regulations, the Administrator of the Federal Aviation Administration shall consult with the Administrator of Drug Enforcement, the Secretary of the Treasury, other law enforcement officials of the United States Government, representatives of State and local law enforcement officials, representatives of the general aviation aircraft industry, representatives of users of general aviation aircraft, and other interested persons.

§ 44714. Aviation fuel standards

The Administrator of the Federal Aviation Administration—

(1) from time to time shall prescribe standards for the composition or chemical or physical properties of an aircraft fuel or fuel additive to control or eliminate aircraft emissions the Administrator of the Environmental Protection Agency decides under section 231 of the Clean Air Act (42 U.S.C. 7571)

are a danger to the public health or welfare; and

(2) shall enforce those standards.

§ 44715. Controlling aircraft noise and sonic boom

(a)(1) To relieve and protect the public health and welfare from aircraft noise and sonic boom, the Administrator of the Federal Aviation Administration shall prescribe—

(A) standards to measure aircraft noise and sonic boom; and

(B) regulations to control and abate aircraft noise and sonic boom.

(2) The Administrator of the Federal Aviation Administration may prescribe standards and regulations under this subsection only after consulting with the Administrator of the Environmental Protection Agency. The standards and regulations shall be applied when issuing, changing, suspending, or revoking a certificate authorized under this chapter.

(3) A type certificate may be issued under section 44704(a) of this title for an aircraft for which substantial noise abatement can be achieved only after the Administrator of the Federal Aviation Administration prescribes standards and regulations under this section that apply to that aircraft.

(b) When prescribing a standard or regulation under this section, the Administrator of the Federal Aviation Administration shall—

(1) consider information related to aircraft noise and sonic boom;

(2) consult with departments, agencies, and instrumentalities of the United States Government and State and interstate authorities;

(3) consider whether the standard or regulation is consistent with the highest degree of safety in air transportation or air commerce in the public interest;

(4) consider whether the standard or regulation is economically reasonable, technologically practicable, and appropriate for the applicable aircraft, aircraft engine, appliance, or certificate; and

(5) consider the extent to which the standard or regulation will carry out this section.

(c) The Administrator of the Environmental Protection Agency shall submit to the Administrator of the Federal Aviation Administration proposed regulations to control and abate aircraft noise and sonic boom (including control and abatement through the use of the authority of the Administrator of the Federal Aviation Administration) that the Administrator of the Environmental Protection Agency considers necessary to protect the public health and welfare. The Administrator of the Federal Aviation Administration shall consider those proposed regulations and shall publish them in a notice of proposed rulemaking not later than 30 days after they are received. Not later than 60 days after publication, the Administrator of the Federal Aviation Administration shall begin a proceeding at which interested persons are given an opportunity for oral and written presentations. Not later than 90 days after the proceeding is completed and after consulting with the Administrator of the Environmental Protection Agency, the Administrator of the Federal Aviation Administration shall—

(1) prescribe regulations as provided by this section—

(A) substantially the same as the proposed regulations submitted by the Administrator of the Environmental Protection Agency; or

(B) that change the proposed regulations; or

(2) publish in the Federal Register—

(A) a notice that no regulation is being prescribed in response to the proposed regulations of the Administrator of the Environmental Protection Agency;

(B) a detailed analysis of, and response to, all information the Administrator of the Environmental Protection Agency submitted with the proposed regulations; and

(C) a detailed explanation of why no regulation is being prescribed.

(d)(1) If the Administrator of the Environmental Protection Agency decides that the action of the Administrator of the Federal Aviation Administration under subsection (c)(1)(B) or (2) of this section does not protect the public health and welfare from aircraft noise or sonic boom, the Administrator of the Environmental Protection Agency shall consult with the Administrator of the Federal Aviation Administration and may request a report on the advisability of prescribing the regulation as originally proposed. The request, including a detailed statement of the information on which the request is based, shall be published in the Federal Register.

(2) The Administrator of the Federal Aviation Administration shall report to the Administrator of the Environmental Protection Agency within the time specified in the request. However, the time specified must be at least 90 days after the date of the request. The report shall—

(A) be accompanied by a detailed statement of the findings of the Administrator of the Federal Aviation Administration and the reasons for the findings;

(B) identify any statement related to an action under subsection (c) of this section filed under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C));

(C) specify where that statement is available for public inspection; and

(D) be published in the Federal Register unless the request proposes specific action by the Administrator of the Federal Aviation Administration and the report indicates that action will be taken.

(e) The Administrator of the Environmental Protection Agency may request the Administrator of the Federal Aviation Administration to file a supplemental report if the report under subsection (d) of this section indicates that the proposed regulations under subsection (c) of this section, for which a statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required, should not be prescribed. The supplemental report shall be published in the Federal Register within the time the Administrator of the Environmental Protection Agency specifies. However, the time specified must be at least 90 days after the date of the request. The supplemental report shall contain a comparison of the environmental effects, including those that cannot be avoided, of the action of the Administrator of the Federal Aviation Administration and the proposed regulations of the Administrator of the Environmental Protection Agency.

(f) An exemption from a standard or regulation prescribed under this section may be granted only if, before granting the exemption, the Administrator of the Federal Aviation Administration consults with the Administrator of the Environmental Protection Agency. However, if the Administrator of the Federal Aviation Administration decides that safety in air transportation or air commerce requires an exemption before the Administrator of the Environmental Protection Agency can be consulted, the exemption may be granted. The Administrator of the Federal Aviation Administration shall consult with the Administrator of the Environmental Protection Agency as soon as practicable after the exemption is granted.

§ 44716. Collision avoidance systems

(a) The Administrator of the Federal Aviation Administration shall—

(1) complete the development of the collision avoidance system known as TCAS-II so that TCAS-II can operate under visual and instrument flight rules and can be upgraded to the performance standards applicable to the collision avoidance system known as TCAS-III;

(2) develop and carry out a schedule for developing and certifying TCAS-II that will result in certification not later than June 30, 1989; and

(3) submit to Congress monthly reports on the progress being made in developing and certifying TCAS-II.

(b) The Administrator shall require by regulation that, not later than 30 months after the date certification is made under subsection (a)(2) of this section, TCAS-II be installed and operated on each civil aircraft that has a maximum passenger capacity of at least 31 seats and is used to provide air transportation of passengers, including intrastate air transportation of passengers. The Administrator may extend the deadline in this subsection for not more than 2 years if the Administrator decides the extension is necessary to promote—

(A) a safe and orderly transition to the operation of a fleet of civil aircraft described in this subsection equipped with TCAS-II; or

(B) other safety objectives.

(c) Not later than December 30, 1990, the Administrator shall begin a one-year program for the operational evaluation of TCAS-II by collecting and assessing safety and operational information from the civil aircraft equipped with TCAS-II. The Administrator shall encourage foreign air carriers that operate civil aircraft equipped with TCAS-II to participate in the program.

(d) The Administrator shall consider the feasibility and desirability of changing the schedule for installing airborne low-altitude windshear equipment to make the schedule compatible with the schedule for installing TCAS-II.

(e)(1) The Administrator shall complete developing and certifying TCAS-III as soon as possible.

(2) Necessary amounts may be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to carry out this subsection.

(f) Not later than December 30, 1990, operating transponders with automatic altitude reporting capability must be installed and used in aircraft operating in designated terminal airspace for which radar service is provided for separation of aircraft. For that terminal airspace (except terminal control areas and airport radar service areas), the Administrator may provide for access to the airspace by nonequipped aircraft if the Administrator decides the access will not interfere with the normal traffic flow.

§ 44717. Structures interfering with air commerce

(a) By regulation or by order when necessary, the Secretary of Transportation shall require a person to give adequate public notice, in the form and way the Secretary prescribes, about building or changing a structure, or proposing to build or change a structure, when the notice will promote—

(1) safety in air commerce; and

(2) the efficient use and preservation of the navigable airspace and of airport traffic capacity at public-use airports.

(b)(1) Under regulations prescribed by the Secretary, if the Secretary decides that building or changing a structure may result in an obstruction of the navigable airspace or an interference with air navigation facilities and equipment or the navigable airspace, the Secretary shall conduct an aeronautical study to decide on the extent of any adverse impact on the safe and efficient use of the airspace, facilities, or equipment. In conducting the study, the Secretary shall consider factors relevant to the efficient and effective use of the navigable airspace, including—

(A) the impact on arrival, departure, and en route procedures for aircraft operating under visual flight rules;

(B) the impact on arrival, departure, and en route procedures for aircraft operating under instrument flight rules;

(C) the impact on existing public-use airports and aeronautical facilities;

(D) the impact on planned public-use airports and aeronautical facilities; and

(E) the cumulative impact resulting from the proposed building or change of a structure when combined with the impact of other existing or proposed structures.

(2) On completing the study, the Secretary shall issue a report disclosing completely the extent of the adverse impact on the safe and efficient use of the navigable airspace that the Secretary finds will result from building or changing the structure.

(c) In carrying out laws related to a broadcast application and conducting an aeronautical study related to broadcast towers, the Administrator of the Federal Aviation Administration and the Federal Communications Commission shall take action necessary to coordinate efficiently—

(1) the receipt and consideration of, and action on, the application; and

(2) the completion of any associated aeronautical study.

§ 44718. Standards for navigational aids

The Secretary of Transportation shall prescribe regulations on standards for installing navigational aids, including airport control towers. For each type of facility, the regulations shall consider at a minimum traffic density (number of aircraft operations without consideration of aircraft size), terrain and other obstacles to navigation, weather characteristics, passengers served, and potential aircraft operating efficiencies.

§ 44719. Meteorological services

(a) The Administrator of the Federal Aviation Administration shall make recommendations to the Secretary of Commerce on providing meteorological services necessary for the safe and efficient movement of aircraft in air commerce. In providing the services, the Secretary shall cooperate with the Administrator and give complete consideration to those recommendations.

(b) To promote safety and efficiency in air navigation to the highest possible degree, the Secretary of Commerce shall—

(1) observe, measure, investigate, and study atmospheric phenomena, and maintain meteorological stations and offices, that are necessary or best suited for finding out in advance information about probable weather conditions;

(2) provide reports to the Administrator to persons engaged in civil aeronautics that are designated by the Administrator and to other persons designated by the Secretary in a way and with a frequency that best will result in safety in, and facilitating, air navigation;

(3) cooperate with persons engaged in air commerce in meteorological services, maintain reciprocal arrangements with those persons in carrying out this clause, and collect and distribute weather reports available from aircraft in flight;

(4) maintain and coordinate international exchanges of meteorological information required for the safety and efficiency of air navigation;

(5) in cooperation with other departments, agencies, and instrumentalities of the United States Government, meteorological services of foreign countries, and persons engaged in air commerce, participate in developing an international basic meteorological reporting network, including the establishment, operation, and maintenance of reporting stations on the high seas, in polar regions, and in foreign countries;

(6) coordinate meteorological requirements in the United States to maintain standard observations, to promote efficient use of facilities, and to avoid duplication of services unless the duplication tends to promote the safety and efficiency of air navigation; and

(7) promote and develop meteorological science and foster and support research projects in meteorology through the use of private and governmental research facilities and provide for publishing the results of the projects unless publication would not be in the public interest.

(c)(1) The Secretary of Transportation may close, or reduce the hours of operation of, a flight service station in an area only if the service provided in the area after the closing or during the hours the station is not in operation is provided by an automated flight service station with at least model 1 equipment.

(2) The Secretary of Transportation shall reopen a flight service station closed after March 24, 1987, but before July 15, 1987, as soon as practicable if the service in the area in which the station is located has not been provided since the closing by an automatic flight service station with at least model 1 equipment. The hours of operation for the reopened station shall be the same as were the hours of operation for the station on March 25, 1987. After reopening the station, the Secretary may close, or reduce the hours of operation of, the station only as provided in paragraph (1) of this subsection.

§ 44720. Aeronautical maps and charts

(a) The Administrator of the Federal Aviation Administration shall arrange for the publication of aeronautical maps and charts necessary for the safe and efficient movement of aircraft in air navigation, using the facilities and assistance of departments, agencies, and instrumentalities of the United States Government as far as practicable.

(b) The Government shall indemnify any person that publishes an aeronautical map or chart from any part of a claim arising out of the depiction by the person on the map or chart of a defective or deficient flight procedure or airway if the flight procedure or airway was—

(1) prescribed by the Administrator;

(2) depicted accurately on the map or chart; and

(3) not obviously defective or deficient.

§ 44721. Reports

(a)(1) Not later than April 1 of each year, the Secretary of Transportation shall submit to Congress a report on the extent to which the implementation of the Airline Deregulation Act of 1978 has affected, during the prior calendar year, or will affect, in the next calendar year, the level of air safety. The report shall contain an analysis of—

(A) relevant information on accidents and incidents in air transportation, and on violations of safety regulations prescribed by the Secretary, that occurred during the year covered by the report;

(B) current and anticipated personnel requirements of the Federal Aviation Administration with respect to aviation in enforcing air safety regulations;

(C) the effect that a change or proposed change in air carrier operating practices and procedures that occurred during the year had, or will have, on current levels of air safety; and

(D) the adequacy of air safety regulations based on those changes.

(2) Based on the report, the Secretary shall act to ensure that the high standard of safety in air transportation attained in the United States on October 24, 1978, is maintained in all aspects of that transportation.

(b) Not later than January 1 of each year, the Secretary shall submit to Congress a comprehensive report on the safety enforcement activities of the Administration during the fiscal year ending the prior September 30th. The report shall include—

(1) a comparison of end-of-year staffing levels by operations, maintenance, and avionics inspector categories to staffing goals and a statement on how staffing standards were applied to make allocations between air carrier and general aviation operations, maintenance, and avionics inspectors;

(2) schedules showing the range of inspector experience by various inspector work force categories, and the number of inspectors in each of the categories who are considered fully qualified;

(3) schedules showing the number and percentage of inspectors who have received mandatory training by individual course, and the number of inspectors by work force categories, who have received all mandatory training;

(4) a description of the criteria used to set annual work programs, an explanation of how these criteria differ from criteria used in the prior fiscal year and how the annual work programs ensure compliance with appropriate regulations and safe operating practices;

(5) a comparison of actual inspections performed during the fiscal year to the annual work programs by field location and, for any field location completing less than 80 percent of its planned number of inspections, an explanation of why annual work program plans were not met;

(6) a statement of the adequacy of Administration internal management controls available to ensure that field managers comply with Administration policies and procedures, including those on inspector priorities, district office coordination, minimum inspection standards, and inspection followup;

(7) the status of efforts made by the Administration to update inspector guidance documents and regulations to include technological, management, and structural changes taking place in the aviation industry, including a listing of the backlog of all proposed regulatory changes;

(8) a list of the specific operational measures of effectiveness used to evaluate—

(A) the progress in meeting program objectives;

(B) the quality of program delivery; and

(C) the nature of emerging safety problems;

(9) a schedule showing the number of civil penalty cases closed during the 2 prior fiscal years, including the total initial and final penalties imposed, the total number of dollars collected, the range of dollar amounts collected, the average case processing time, and the range of case processing time;

(10) a schedule showing the number of enforcement actions taken (except civil penalties) during the 2 prior fiscal years, including the total number of violations cited, and the number of cited violation cases closed by certificate suspensions, certificate revocations, warnings, and no action taken; and

(11) schedules showing the safety record of the aviation industry during the fiscal year for air carriers and general aviation, including—

(A) the number of inspections performed when deficiencies were identified compared with inspections when no deficiencies were found;

(B) the frequency of safety deficiencies for each air carrier; and

(C) an analysis based on data of the general status of air carrier and general aviation compliance with aviation regulations.

(c) Not later than April 1 of each year, the Secretary shall submit to Congress recommendations on the level of surveillance necessary to enforce air safety regulations, the personnel needed to carry out the surveillance, and legislation necessary to carry out the recommendations.

CHAPTER 449—SECURITY

Sec.
44901. Screening passengers and property.
44902. Refusal to transport passengers or property.
44903. Air transportation security.
44904. Security standards in foreign air transportation.
44905. Travel advisory and suspension of foreign assistance.
44906. Agreements on aircraft sabotage, aircraft hijacking, and airport security.
44907. Explosive Detection K-9 Team Training Program.
44908. Exemptions.

§ 44901. Screening passengers and property

(a) The Administrator of the Federal Aviation Administration shall prescribe regulations requiring screening of all passengers and property that will be carried in a cabin of an aircraft in air transportation or intrastate air transportation. The screening must take place before boarding and be carried out by a weapon-detecting facility or procedure used or operated by an employee or agent of an air carrier, intrastate air carrier, or foreign air carrier.

(b) Notwithstanding subsection (a) of this section, the Administrator may change a regulation prescribed under subsection (a) to require screening only to ensure security against criminal violence and aircraft piracy in air transportation and intrastate air transportation.

(c) The Administrator—

(1) may exempt from this section air transportation operations, except scheduled passenger operations of an air carrier providing air transportation under a certificate issued under section 41102 of this title or a permit issued under section 41302 of this title;

(2) every 6 months shall submit to Congress a report—

(A) on the effectiveness of procedures under this section; and

(B) that includes a summary of the assessments conducted under section 44904(a) of this title; and

(3) shall advise Congress of a regulation to be prescribed under this section at least 30 days before the effective date of the regulation, unless the Administrator decides an emergency exists requiring the regulation to become effective in fewer than 30 days and notifies Congress of that decision.

§ 44902. Refusal to transport passengers or property

(a) The Administrator of the Federal Aviation Administration shall prescribe regulations requiring an air carrier, intrastate air carrier, or foreign air carrier to refuse to transport—

(1) a passenger who does not consent to a search under section 44901(a) of this title establishing whether the passenger is carrying unlawfully a dangerous weapon, explosive, or other destructive substance; or

(2) property of a passenger who does not consent to a search of the property establishing whether the property unlawfully contains a dangerous weapon, explosive, or other destructive substance.

(b) Subject to regulations of the Administrator, an air carrier, intrastate air carrier, or foreign air carrier may refuse to transport a passenger or property the carrier decides is, or might be, inimical to safety.

(c) An agreement to carry passengers or property in air transportation or intrastate air transportation by an air carrier, intrastate air carrier, or foreign air carrier is deemed to include an agreement that the passenger or property will not be carried if consent to search the passenger or property for a purpose referred to in this section is not given.

§ 44903. Air transportation security

(a) In this section, 'law enforcement personnel" means individuals—

(1) authorized to carry and use firearms;

(2) vested with the degree of the police power of arrest the Administrator of the Federal Aviation Administration considers necessary to carry out this section; and

(3) identifiable by appropriate indicia of authority.

(b) The Administrator shall prescribe regulations to protect passengers and property on an aircraft operating in air transportation or intrastate air transportation against an act of criminal violence or aircraft piracy. When prescribing a regulation under this subsection, the Administrator shall—

(1) consult with the Secretary of Transportation, the Attorney General, the heads of other departments, agencies, and instrumentalities of the United States Government, and State and local authorities;

(2) consider whether a proposed regulation is consistent with—

(A) protecting passengers; and

(B) the public interest in promoting air transportation and intrastate air transportation;

(3) to the maximum extent practicable, require a uniform procedure for searching and detaining passengers and property to ensure—

(A) their safety; and

(B) courteous and efficient treatment by an air carrier, an agent or employee of an air carrier, and Government, State, and local law enforcement personnel carrying out this section; and

(4) consider the extent to which a proposed regulation will carry out this section.

(c)(1) The Administrator shall prescribe regulations under subsection (b) of this section that require each operator of an airport regularly serving an air carrier holding a certificate issued by the Secretary to establish an air transportation security program that provides a law enforcement presence and capability at each of those airports that is adequate to ensure the safety of passengers. The regulations shall authorize the operator to use the services of qualified State, local, and private law enforcement personnel. When the Administrator decides, after being notified by an operator in the form the Administrator prescribes, that not enough qualified State, local, and private law enforcement personnel are available to carry out subsection (b), the Administrator may authorize the operator to use, on a reimbursable basis, personnel employed by the Administrator, or by another department, agency, or instrumentality of the Government with the consent of the head of the department, agency, or instrumentality, to supplement State, local, and private law enforcement personnel. When deciding whether additional personnel are needed, the Administrator shall consider the number of passengers boarded at the airport, the extent of anticipated risk of criminal violence or aircraft piracy at the airport or to the air carrier aircraft operations at the airport, and the availability of qualified State or local law enforcement personnel at the airport.

(2)(A) The Administrator may approve a security program of an airport operator, or a change in an existing program, that incorporates a security program of an airport tenant (except an air carrier separately complying with part 108 or 129 of title 14 of the Code of Federal Regulations) having access to a secured area of the airport, if the program or change—

(i) incorporates the measures the tenant will use, within the tenant's leased areas or areas designated for the tenant's exclusive use under an agreement with the airport operator, to carry out the security requirements imposed by the Administrator on the airport operator under the access control system requirements of section 107.14 of title 14 of the Code of Federal Regulations or under other requirements of part 107 of title 14; and

(ii) incorporates the methods the airport operator will use to monitor and audit the tenant's compliance with the security requirements and provides that the tenant will be required to pay monetary penalties to the airport operator if the tenant fails to carry out a security requirement under a contractual provision or requirement imposed by the airport operator.

(B) If the Administrator approves a program or change described in subparagraph (A) of this paragraph, the airport operator may not be found to be in violation of a requirement of this subsection or subsection (b) of this section when the airport operator demonstrates that the tenant or an employee, permittee, or invitee of the tenant is responsible for the violation and that the airport operator has complied with all measures in its security program for securing compliance with its security program by the tenant.

(d) With the approval of the Attorney General and the Secretary of State, the Secretary of Transportation may authorize an individual who carries out air transportation security duties—

(1) to carry firearms; and

(2) to make arrests without warrant for an offense against the United States committed in the presence of the individual or for a

felony under the laws of the United States, if the individual reasonably believes the individual to be arrested has committed or is committing a felony.

(e) The Administrator—

(1) may train individuals employed to carry out an air transportation security program under this section; and

(2) shall prescribe uniform training standards and uniform minimum qualifications for individuals eligible for that training.

(f)(1) The Administrator shall conduct research (including behavioral research) and development appropriate to develop, change, test, and evaluate a system, procedure, facility, or device to protect passengers and property.

(2) Notwithstanding section 552 of title 5, the Administrator shall prescribe regulations prohibiting disclosure of information obtained or developed under this subsection if the Administrator decides disclosing the information would—

(A) be an unwarranted invasion of personal privacy;

(B) reveal a trade secret or privileged or confidential commercial or financial information; or

(C) be detrimental to the safety of passengers in air transportation.

(3) Paragraph (2) of this subsection does not authorize information to be withheld from a committee of Congress authorized to have the information.

(g)(1) The Administrator has the exclusive responsibility to direct law enforcement activity related to the safety of passengers on an aircraft involved in an offense under section 46502 of this title from the moment all external doors of the aircraft are closed following boarding until those doors are opened to allow passengers to leave the aircraft. When requested by the Administrator, other departments, agencies, and instrumentalities of the Government shall provide assistance necessary to carry out this subsection.

(2) Except as otherwise provided by law, the Administrator may not transfer a duty or power under this section to another department, agency, or instrumentality of the Government.

§ 44904. Security standards in foreign air transportation

(a)(1) At intervals the Secretary of Transportation considers necessary, the Secretary shall assess the effectiveness of the security measures maintained at—

(A) a foreign airport—

(i) served by an air carrier;

(ii) from which a foreign air carrier serves the United States; or

(iii) that poses a high risk of introducing danger to international air travel; and

(B) other foreign airports the Secretary considers appropriate.

(2) The Secretary of Transportation shall conduct an assessment under paragraph (1) of this subsection—

(A) in consultation with appropriate aeronautic authorities of the foreign country concerned and each air carrier serving the foreign airport for which the Secretary is conducting the assessment;

(B) to establish the extent to which a foreign airport effectively maintains and carries out security measures; and

(C) by using a standard that will result in an analysis of the security measures at the airport based at least on the standards and appropriate recommended practices contained in Annex 17 to the Convention on International Civil Aviation in effect on the date of the assessment.

(3) Each report to Congress required under section 44901(c)(2) of this title shall contain a summary of the assessments conducted under this subsection.

(b) In carrying out subsection (a) of this section, the Secretary of Transportation shall consult with the Secretary of State—

(1) on the terrorist threat that exists in each country; and

(2) to establish which foreign airports are not under the de facto control of the government of the foreign country in which they are located and pose a high risk of introducing danger to international air travel.

(c) When the Secretary of Transportation, after conducting an assessment under subsection (a) of this section, decides that an airport does not maintain and carry out effective security measures, the Secretary of Transportation, after advising the Secretary of State, shall notify the appropriate authorities of the foreign country of the decision and recommend the steps necessary to bring the security measures in use at the airport up to the standard used by the Secretary of Transportation in making the assessment.

(d)(1) When the Secretary of Transportation decides under this section that an airport does not maintain and carry out effective security measures—

(A) the Secretary of Transportation shall—

(i) publish the identity of the airport in the Federal Register;

(ii) have the identity of the airport posted and displayed prominently at all United States airports at which scheduled air carrier operations are provided regularly; and

(iii) notify the news media of the identity of the airport;

(B) each air carrier and foreign air carrier providing transportation between the United States and the airport shall provide written notice of the decision, on or with the ticket, to each passenger buying a ticket for transportation between the United States and the airport;

(C) notwithstanding section 40105(b) of this title, the Secretary of Transportation, after consulting with the appropriate aeronautic authorities of the foreign country concerned and each air carrier serving the airport and with the approval of the Secretary of State, may withhold, revoke, or prescribe conditions on the operating authority of an air carrier or foreign air carrier that uses that airport to provide foreign air transportation; and

(D) the President may prohibit an air carrier or foreign air carrier from providing transportation between the United States and any other foreign airport that is served by aircraft flying to or from the airport with respect to which a decision is made under this section.

(2)(A) Paragraph (1) of this subsection becomes effective—

(i) 90 days after the government of a foreign country is notified under subsection (c) of this section if the Secretary of Transportation finds that the government has not brought the security measures at the airport up to the standard the Secretary used in making an assessment under subsection (a) of this section; or

(ii) immediately on the decision of the Secretary of Transportation under subsection (c) of this section if the Secretary of Transportation decides, after consulting with the Secretary of State, that a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from the airport.

(B) The Secretary of Transportation immediately shall notify the Secretary of State of a decision under subparagraph (A)(ii) of this paragraph so that the Secretary of State may issue a travel advisory required under section 44905(a) of this title.

(3) The Secretary of Transportation promptly shall submit to Congress a report (and classified annex if necessary) on action taken under paragraph (1) or (2) of this subsection, including information on attempts made to obtain the cooperation of the government of a foreign country in meeting the standard the Secretary used in assessing the airport under subsection (a) of this section.

(4) An action required under paragraph (1)(A) and (B) of this subsection is no longer required only if the Secretary of Transportation, in consultation with the Secretary of State, decides that effective security measures are maintained and carried out at the airport. The Secretary of Transportation shall notify Congress when the action is no longer required to be taken.

(e) Notwithstanding sections 40105(b) and 40106(b) of this title, the Secretary of Transportation, with the approval of the Secretary of State and without notice or an opportunity for a proceeding, shall suspend the right of an air carrier or foreign air carrier to provide foreign air transportation, and the right of a person to operate aircraft in foreign air commerce, to or from a foreign airport when the Secretary of Transportation decides that—

(1) a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from that airport; and

(2) the public interest requires an immediate suspension of transportation between the United States and that airport.

(f) This section is a condition to authority the Secretary of Transportation grants under this part to an air carrier or foreign air carrier.

§ 44905. Travel advisory and suspension of foreign assistance

(a) On being notified by the Secretary of Transportation that the Secretary of Transportation has decided under section 44904(d)(2)(A)(ii) of this title that a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from a foreign airport that the Secretary of Transportation has decided under section 44904 of this title does not maintain and carry out effective security measures, the Secretary of State—

(1) immediately shall issue a travel advisory for that airport;

(2) shall publish the advisory in the Federal Register; and

(3) shall publicize the advisory widely.

(b) The President shall suspend assistance provided under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) or the Arms Export Control Act (22 U.S.C. 2751 et seq.) to a country in which is located an airport with respect to which section 44904(d)(1) of this title becomes effective if the Secretary of State decides the country is a high terrorist threat country. The President may waive this subsection if the President decides, and reports to Congress, that the waiver is required because of national security interests or a humanitarian emergency.

(c) An action required under this section is no longer required only if the Secretary of Transportation has made a decision as provided under section 44904(d)(4) of this title. The Secretary shall notify Congress when the action is no longer required to be taken.

§ 44906. Agreements on aircraft sabotage, aircraft hijacking, and airport security

The Secretary of State shall seek multilateral and bilateral agreement on strengthening enforcement measures and standards for compliance related to aircraft sabotage, aircraft hijacking, and airport security.

§ 44907. Explosive Detection K-9 Team Training Program

The Secretary of Transportation may provide grants to continue the Explosive Detection K-9 Team Training Program to detect explosives at airports and on aircraft.

§ 44908. Exemptions

The Administrator of the Federal Aviation Administration may exempt from sections 44901 and 44903(a)-(c) and (e)-(g) of this title airports in Alaska served only by air carriers that—

(1) hold certificates issued under section 41102 of this title;

(2) operate aircraft with certificates for a maximum gross takeoff weight of less than 12,500 pounds; and

(3) board passengers, or load property intended to be carried in an aircraft cabin, that will be screened under section 44901 of this title at another airport in Alaska before the passengers board, or the property is loaded on, an aircraft for a place outside Alaska.

CHAPTER 451—FEES

Sec.
45101. Authority to impose fees.
45102. Fees involving aircraft not providing air transportation.

§ 45101. Authority to impose fees

(a) The Secretary of Transportation may impose a fee for an approval, test, authorization, certificate, permit, registration, transfer, or rating related to aviation that has not been approved by Congress only when the fee—

(1)(A) was in effect on January 1, 1973; and

(B) is not more than the fee in effect on January 1, 1973, adjusted in proportion to changes in the Consumer Price Index of All Urban Consumers published by the Secretary of Labor between January 1, 1973, and the date the fee is imposed; or

(2) is imposed under section 45102 of this title.

(b) This section does not apply to a fee for a test, authorization, certificate, permit, or rating related to an airman or repair station administered or issued outside the United States.

§ 45102. Fees involving aircraft not providing air transportation

(a) This section applies only to aircraft not used to provide air transportation.

(b) The Administrator of the Federal Aviation Administration may impose fees to pay for the costs of issuing airman certificates and certificates of registration of aircraft and processing forms for major repairs and changes to fuel tanks and fuel systems of aircraft. The following fees may not be more than the amounts specified:

(1) $12 for issuing an airman's certificate.

(2) $25 for registering an aircraft after the transfer of ownership.

(3) $15 for renewing an aircraft registration.

(4) $7.50 for processing a form for a major repair or change to a fuel tank or fuel system of an aircraft.

(c) The Administrator shall adjust the maximum fees established by subsection (b) of this section for changes in the Consumer Price Index of All Urban Consumers published by the Secretary of Labor.

(d) Amounts collected from fees imposed under this section shall be credited to the account in the Treasury from which the Administrator incurs expenses in carrying out chapter 441 and sections 44701-44716 of this title (except sections 44701(c), 44703(f)(2), and 44713(d)(2)). The amounts are available to the Administrator to pay expenses for which the fees are collected.

SUBPART IV—ENFORCEMENT AND PENALTIES

CHAPTER 461—INVESTIGATIONS AND PROCEEDINGS

Sec.
46101. General authority.
46102. Conduct of proceedings.
46103. Service of notice, process, and actions.
46104. Subpenas and depositions.
46105. Regulations and orders.
46106. Enforcement by the Secretary of Transportation and Administrator of the Federal Aviation Administration.
46107. Enforcement by the Attorney General.
46108. Enforcement of certificate requirements by interested persons.
46109. Joinder and intervention.
46110. Judicial review.

§ 46101. General authority

(a) Except as provided in subsection (b) of this section, the Secretary of Transportation (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) shall conduct an investigation about a person violating this part, on the initiative of the Secretary or Administrator or on complaint, when the Secretary or Administrator finds that a reason exists for investigation. After notice and an opportunity for a proceeding and subject to section 40105(b) of this title, the Secretary or Administrator shall take appropriate action to compel compliance with this part if the Secretary or Administrator finds that a person is violating this part. The Secretary or Administrator may dismiss a complaint without an opportunity for a proceeding when the Secretary or Administrator decides the complaint does not state information that warrants an investigation or action.

(b) The Secretary of Transportation or Administrator shall refer a complaint against a member of the armed forces acting in the line of duty to the Secretary of the military department concerned for action. Not later than 90 days after receiving the complaint, the Secretary of that department shall inform the Secretary of Transportation or Administrator of the action taken on the complaint, including any corrective or disciplinary action taken.

§ 46102. Conduct of proceedings

(a) A person may appear and be heard before the Secretary of Transportation (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) in person or by an attorney. The Secretary may appear and participate as an interested party in a proceeding the Administrator conducts under section 40103(b)(1), (2), or (4), 40109(b), 40110(a), (b), or (e), 44502(a)(1) or (3), (b), (c), or (e), 44504, 44505, 44702(c), 44719(a), 44901, 44903(a), (b), (c), (e), (f), or (g), 44908, or 46104(d) of this title.

(b) Official action taken by the Secretary and Administrator under this part shall be recorded. Proceedings before the Secretary and Administrator shall be open to the public on the request of an interested person unless the Secretary or Administrator decides that secrecy is required because of national defense.

(c) The Secretary or Administrator may not participate in a proceeding in which the Secretary or Administrator has a pecuniary interest.

§ 46103. Service of notice, process, and actions

(a)(1) Each air carrier and foreign air carrier shall designate an agent on whom service of notice and process in a proceeding before, and an action of, the Secretary of Transportation (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may be made.

(2) The designation—

(A) shall be in writing and filed with the Secretary or Administrator; and

(B) may be changed at any time in the same way as originally made.

(b)(1) Service may be made—

(A) by personal service;

(B) on a designated agent; or

(C) by certified mail to the person to be served or the designated agent of the person.

(2) The date of mailing is the date service is made by certified mail.

(c) Service on an agent designated under this section shall be made at the office or usual place of residence of the agent. If an air carrier or foreign air carrier does not have a designated agent, service may be made by posting the notice, process, or action in the office of the Secretary or Administrator.

§ 46104. Subpenas and depositions

(a)(1) To carry out this part, the Secretary of Transportation (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may subpena witnesses and records related to a matter under investigation from any place in the United States to the designated place of the proceeding. If a witness disobeys a subpena, the Secretary, the Administrator, or a party to the proceeding before the Secretary or Administrator may petition a court of the United States to enforce the subpena.

(2) A judicial proceeding to enforce a subpena under this section may be brought in the jurisdiction in which the proceeding is conducted. The court may punish a refusal to obey a subpena as a contempt of court.

(b)(1) In a proceeding or investigation, the Secretary or Administrator may take the testimony of a witness by deposition and may order the witness to produce records. If a witness fails to be deposed or to produce records, the Secretary or Administrator may subpena the witness to take a deposition, produce the records, or both.

(2) A deposition may be taken before an individual designated by the Secretary or Administrator and having the power to administer oaths.

(3) Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of the party proposing to take a deposition to the opposing party or the attorney of record of that party. The notice shall state the name of the witness and the time and place of taking the deposition.

(4) The testimony of a person deposed under this subsection shall be under oath. The person taking the deposition shall prepare, or have prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent. Each deposition shall be filed promptly with the Secretary or Administrator.

(5) If the laws of a foreign country allow, the testimony of a witness in that country may be taken—

(A) by deposition by a consular officer or an individual commissioned by the Secretary or Administrator or agreed on by the parties by written stipulation filed with the Secretary or Administrator; or

(B) under letters rogatory issued by a court of competent jurisdiction at the request of the Secretary or Administrator.

(c) A witness summoned before the Secretary or Administrator or whose deposition is taken under this section and the individual taking the deposition are each entitled to the same fee and mileage that the witness and individual would have been paid for those services in a court of the United States. Under regulations of the Secretary or Administrator, the Secretary or Administrator shall pay the necessary expenses incident to executing, in another country, a commission or letter rogatory issued at the initiative of the Secretary or Administrator.

(d) When designated by the Secretary or Administrator, an employee appointed under section 3105 of title 5 may conduct a proceeding, sign and issue subpenas, administer oaths, examine witnesses, and receive evidence at a place in the United States the Secretary or Administrator designates. On request of a party to the proceeding, the Secretary or Administrator may hear or receive argument.

§ 46105. Regulations and orders

(a) Except as provided in this part, a regulation prescribed or order issued by the Secretary of Transportation (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) takes effect within a reasonable time prescribed by the Secretary or Administrator. The regulation or order remains in effect under its own terms or until superseded. Except as provided in this part, the Secretary or Administrator may change or suspend an order in the way, and by giving the notice, the Secretary or Administrator decides.

(b) An order of the Secretary or Administrator shall include the findings of fact on which the order is based and shall be served on the parties to the proceeding and the persons affected by the order.

(c) When an emergency exists related to safety in air commerce and requires immediate action, the Administrator, on the initiative of the Administrator or on complaint, may prescribe regulations and issue orders immediately to meet the emergency without regard to this part and subchapter II of chapter 5 of title 5. The Administrator shall begin a proceeding immediately about an emergency under this subsection and give preference, when practicable, to the proceeding.

§ 46106. Enforcement by the Secretary of Transportation and Administrator of the Federal Aviation Administration

The Secretary of Transportation (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may bring a civil action against a person to enforce this part or a requirement, regulation prescribed, or order, certificate, or permit issued under this part. The action may be brought in the district court of the United States for the judicial district in which the person does business or the violation occurred.

§ 46107. Enforcement by the Attorney General

(a) The Attorney General may bring a civil action against a person to enforce section 40106(b) of this title. The action may be brought in the district court of the United States for the judicial district in which the person does business or the violation occurred.

(b)(1) On request of the Secretary of Transportation (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator), the Attorney General may bring a civil action—

(A) to enforce this part or a requirement or regulation prescribed, or an order, certificate, or permit issued, under this part; and

(B) to prosecute a person violating this part or a requirement or regulation prescribed, or an order, certificate, or permit issued, under this part.

(2) The costs and expenses of a civil action shall be paid out of the appropriations for the expenses of the courts of the United States.

(c) On request of the Attorney General, the Secretary or Administrator may participate in a civil action under this part.

§ 46108. Enforcement of certificate requirements by interested persons

An interested person may bring a civil action against a person to enforce section 41101(a)(1) of this title. The action may be brought in the district court of the United States for the judicial district in which the defendant does business or the violation occurred.

§ 46109. Joinder and intervention

A person interested in or affected by a matter under consideration in a proceeding before the Secretary of Transportation or civil action to enforce this part or a requirement or regulation prescribed, or an order, certificate, or permit issued, under this part may be joined as a party or permitted to intervene in the proceeding or civil action.

§ 46110. Judicial review

(a) Except for an order related to a foreign air carrier subject to disapproval by the President under section 41307 or 41509(f) of this title, a person disclosing a substantial interest in an order issued by the Secretary of Transportation (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) under this part may apply for review of the order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 60 days after the order is issued. The court may allow the petition to be filed after the 60th day only if there was a reasonable ground for not filing by the 60th day.

(b) When a petition is filed under subsection (a) of this section, the clerk of the court immediately shall submit a copy of the petition to the Secretary or Administrator. The Secretary or Administrator shall file with the court a record of any proceeding in which the order was issued, as provided in section 2112 of title 28.

(c) When the petition is submitted to the Secretary or Administrator, the court has exclusive jurisdiction to affirm, change, or set aside any part of the order and may order the Secretary or Administrator to conduct further proceedings. After reasonable notice to the Secretary or Administrator, the court may grant interim relief by staying the order or taking other appropriate action when good cause for its action exists.

(d) In reviewing an order under this section, the court may consider an objection to an order of the Secretary or Administrator only if the objection was made in the proceeding conducted by the Secretary or Administrator or if there was a reasonable ground for not making the objection in the proceeding.

(e) A decision by a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28.

CHAPTER 463—PENALTIES

Sec.
46301. Civil penalties.
46302. False information.
46303. Carrying a weapon.
46304. Liens on aircraft.
46305. Actions to recover civil penalties.
46306. Registration violations involving aircraft not providing air transportation.
46307. Violation of national defense airspace.
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46309. Rate and concession violations.
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46311. Unlawful disclosure of information.
46312. Transporting hazardous material.
46313. Refusing to appear or produce records.
46314. Entering aircraft or airport area in violation of security requirements.
46315. Lighting violations involving transporting controlled substances by aircraft not providing air transportation.
46316. General criminal penalty when specific penalty not provided.
46317. Civil penalty assessment demonstration project.

§ 46301. Civil penalties

(a) (1) A person is liable to the United States Government for a civil penalty of not more than $1,000 for violating—

(A) chapter 401 (except sections 40103(a) and (d), 40105, and 40113) or chapter 411, section 41301-41306, 41308-41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705-41709, 41711, 41712, or 41731-41742, chapter 419, subchapter II of chapter 421, chapter 441 (except section 44109) or chapter 445 (except section 44506), or section 44701 (a) or (b), 44702-44716, 44901, 44903 (a), (b), (c), (e), (f), or (g), or 44904(d)(1)(B) of this title;

(B) a regulation prescribed or order issued under any provision to which clause (A) of this paragraph applies;

(C) any term of a certificate or permit issued under section 41102, 41103, 41302, or 44104(2) of this title; or

(D) a regulation of the United States Postal Service under this part.

(2) A person operating an aircraft for the transportation of passengers or property for compensation (except an airman serving as an airman) is liable to the Government for a civil penalty of not more than $10,000 for violating—

(A) chapter 401 (except sections 40103(a) and (d), 40105, 40106(b), and 40113), chapter 445 (except section 44506), or section 44701(a) or (b), 44702-44716, 44901, or

44903(a), (b), (c), (e), (f), or (g) of this title; or

(B) a regulation prescribed or order issued under any provision to which clause (A) of this paragraph applies.

(3) A civil penalty of not more than $10,000 may be imposed for each violation under paragraph (1) of this subsection related to—

(A) the transportation of hazardous material; or

(B) registration or recordation under chapter 441 of this title of an aircraft not used to provide air transportation.

(4) A separate violation occurs under this subsection for each day the violation continues or, if applicable, for each flight involving the violation.

(b)(1) A passenger may not tamper with, disable, or destroy a smoke alarm device located in a lavatory on an aircraft providing air transportation or intrastate air transportation.

(2) An individual violating this subsection is liable to the Government for a civil penalty of not more than $2,000.

(c) After notice and an opportunity for a proceeding, the Secretary of Transportation may impose a civil penalty for a violation of subsection (b) of this section or chapter 411, section 41301–41306, 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, or 41731–41742, chapter 419, subchapter II of chapter 421, or section 46301(b) of this title, a regulation prescribed or order issued under any of those provisions, or any term of a certificate or permit issued under section 41102, 41103, or 41302 of this title, or for a violation related to transporting hazardous material. The Secretary shall give written notice of the finding of a violation and the penalty.

(d)(1) After notice and an opportunity for a hearing on the record under section 554 of title 5, the Administrator of the Federal Aviation Administration may impose a civil penalty for a violation of chapter 441 of this title (except section 44109), or a regulation prescribed or order issued under chapter 441 (except section 44109), if the violation is related to the registration or recordation of an aircraft not used to provide air transportation. The Administrator shall give written notice of the finding of a violation and the penalty.

(2) The maximum penalty the Administrator may impose under this subsection in any case is $50,000.

(3) In a civil action to collect a penalty imposed under this subsection, the issues of liability and amount of the penalty may not be reexamined.

(4) Notwithstanding paragraph (1) of this subsection, the district courts of the United States have exclusive jurisdiction of a civil action the Administrator brings for a civil penalty if—

(A) the amount in controversy is more than $50,000;

(B) the action is in rem or another action in rem based on the same violation has been brought;

(C) the action involves an aircraft subject to a lien that has been seized by the Government; or

(D) another action has been brought for an injunction based on the same violation.

(5) This subsection applies only to a civil penalty initiated after November 18, 1988.

(e) In determining the amount of a civil penalty under this section, the Secretary shall consider—

(1) the nature, circumstances, extent, and gravity of the violation;

(2) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(3) other matters that justice requires.

(f)(1)(A) The Secretary may compromise a civil penalty imposed under chapter 401 (except sections 40103(a) and (d), 40105, and 40113), chapter 441 (except section 44109), chapter 445 (except section 44506), or section 44701(a) or (b), 44702–44716, 44901, 44903(a), (b), (c), (e), (f), or (g), or 44904(d)(1)(B) of this title or a regulation prescribed or order issued under any of those provisions (except sections 40103(a) and (d), 40105, 40113, 44109, and 44506).

(B) The Postal Service may compromise a civil penalty imposed under subsection (a)(1)(D) of this section.

(2) The Government may deduct the amount imposed or agreed on under this subsection from amounts it owes the person liable for the penalty.

(g) An order of the Secretary imposing a civil penalty may be reviewed judicially only under section 46110 of this title.

(h)(1) This section does not apply to the following when performing official duties:

(A) a member of the armed forces.

(B) a civilian employee of the Department of Defense subject to the Uniform Code of Military Justice.

(2) The appropriate military authority is responsible for taking necessary disciplinary action and submitting to the Secretary (or the Administrator with respect to aviation safety duties and powers designated to be carried out by the Administrator) a timely report on action taken.

§ 46302. False information

(a) A person that, knowing the information to be false, gives, or causes to be given, under circumstances in which the information reasonably may be believed, false information about an alleged attempt being made or to be made to do an act that would violate section 46502(a), 46504, 46505, or 46506 of this title, is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

(b) The Secretary of Transportation may compromise a civil penalty imposed under subsection (a) of this section. The Government may deduct the amount imposed or agreed on from amounts it owes the individual liable for the penalty.

§ 46303. Carrying a weapon

(a) An individual who, when on, or attempting to board, an aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about the individual or the property of the individual a concealed dangerous weapon that is or would be accessible to the individual in flight is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

(b) The Secretary of Transportation may compromise a civil penalty imposed under subsection (a) of this section. The Government may deduct the amount imposed or agreed on from amounts it owes the person liable for the penalty.

(c) This section does not apply to—

(1) a law enforcement officer of a State or political subdivision of a State, or an officer or employee of the Government, authorized to carry arms in an official capacity; or

(2) another individual the Administrator of the Federal Aviation Administration by regulation authorizes to carry arms in an official capacity.

§ 46304. Liens on aircraft

(a) When an aircraft is involved in a violation referred to in section 46301(a)(1)(A)–(C), (2), or (3) of this title and the violation is by the owner of, or individual commanding, the aircraft, the aircraft is subject to a lien for the civil penalty.

(b) An aircraft subject to a lien under this section may be seized summarily and placed in the custody of a person authorized to take custody of it under regulations of the Secretary of Transportation (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator). A report on the seizure shall be submitted to the Attorney General. The Attorney General promptly shall bring a civil action in rem to enforce the lien or notify the Secretary or Administrator that the action will not be brought.

(c) An aircraft seized under subsection (b) of this section shall be released from custody when—

(1) the civil penalty is paid;

(2) a compromise amount agreed on is paid;

(3) the aircraft is seized under a civil action in rem to enforce the lien;

(4) the Attorney General gives notice that a civil action will not be brought under subsection (b) of this section; or

(5) a bond (in an amount and with a surety the Secretary or Administrator prescribes) conditioned on payment of the penalty or compromise is deposited with the Secretary.

§ 46305. Actions to recover civil penalties

A civil penalty under this chapter may be collected by bringing a civil action against the person subject to the penalty, a civil action in rem against an aircraft subject to a lien for a penalty, or both. The action shall conform as nearly as practicable to a civil action in admiralty, regardless of the place an aircraft in a civil action in rem is seized. However, a party may demand a jury trial of an issue of fact in an action involving a civil penalty under this subchapter (except a penalty imposed by the Secretary of Transportation that formerly was imposed by the Civil Aeronautics Board) if the value of the matter in controversy is more than $20. Issues of fact tried by a jury may be reexamined only under common law rules.

§ 46306. Registration violations involving aircraft not providing air transportation

(a) This section applies only to aircraft not used to provide air transportation.

(b) Except as provided by subsection (c) of this section, a person shall be fined under title 18, imprisoned for not more than 3 years, or both, if the person—

(1) knowingly and willfully forges or changes a certificate authorized to be issued under this part;

(2) knowingly sells, uses, attempts to use, or possesses with the intent to use, such a certificate;

(3) knowingly and willfully displays or has displayed on an aircraft a mark that is false or misleading about the nationality or registration of the aircraft;

(4) obtains a certificate authorized to be issued under this part by knowingly and willfully falsifying or concealing a material fact, making a false, fictitious, or fraudulent statement, or making or using a false document knowing it contains a false, fictitious, or fraudulent statement or entry;

(5) owns an aircraft eligible for registration under section 44102 this title and

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knowingly and willfully operates, attempts to operate, or allows another person to operate the aircraft when—

(A) the aircraft is not registered under section 44103 of this title or the certificate of registration is suspended or revoked; or

(B) the owner knows or has reason to know that the other person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

(6) knowingly and willfully operates or attempts to operate an aircraft eligible for registration under section 44102 this title knowing that—

(A) the aircraft is not registered under section 44103 of this title;

(B) the certificate of registration is suspended or revoked; or

(C) the person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

(7) knowingly and willfully serves or attempts to serve in any capacity as an airman without an airman's certificate authorizing the individual to serve as an airman;

(8) knowingly and willfully employs for service or uses an airman who does not have an airman's certificate authorizing the individual to serve as an airman; or

(9) operates an aircraft with a fuel tank or fuel system that has been installed or modified knowing that the tank, system, installation, or modification does not comply with regulations and requirements of the Administrator of the Federal Aviation Administration.

(c)(1) In this subsection, "controlled substance" has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(2) A person violating subsection (b) of this section shall be fined under title 18, imprisoned for not more than 5 years, or both, if the violation is related to transporting a controlled substance by aircraft or aiding or facilitating a controlled substance violation and the transporting, aiding, or facilitating—

(A) is punishable by death or imprisonment of more than one year under a law of the United States or a State; or

(B) provided is related to an act punishable by death or imprisonment for more than one year under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance).

(3) A term of imprisonment imposed under paragraph (2) of this subsection shall be served in addition to, and not concurrently with, any other term of imprisonment imposed on the individual.

(d)(1) The Administrator of Drug Enforcement or the Secretary of the Treasury may seize and forfeit under the customs laws an aircraft whose use is related to a violation of subsection (b) of this section, or to aid or facilitate a violation, regardless of whether a person is charged with the violation.

(2) An aircraft's use is presumed to have been related to a violation of, or to aid or facilitate a violation of—

(A) subsection (b)(1) of this section if the registration for the aircraft has been forged or changed;

(B) subsection (b)(3) of this section if there is an external display of false or misleading registration numbers or country of registration;

(C) subsection (b)(4) of this section if—

(i) the aircraft is registered to a false or fictitious person; or

(ii) the application form used to obtain the aircraft registration certificate contains a material false statement;

(D) subsection (b)(5) of this section if the aircraft was operated when it was not registered under section 44103 of this title; or

(E) subsection (b)(9) of this section if the aircraft has a fuel tank or fuel system that was installed or changed—

(i) in violation of a regulation or requirement of the Administrator of the Federal Aviation Administration; or

(ii) if a certificate required to be issued for the installation or change is not carried on the aircraft.

(3) The Administrator of the Federal Aviation Administration, the Administrator of Drug Enforcement, and the Secretary shall agree to a memorandum of understanding to establish procedures to carry out this subsection.

(e) This part does not prevent a State from establishing a criminal penalty, including providing for forfeiture and seizure of aircraft, for a person that—

(1) knowingly and willfully forges or changes an aircraft registration certificate;

(2) knowingly sells, uses, attempts to use, or possesses with the intent to use, a fraudulent aircraft registration certificate;

(3) knowingly and willfully displays or has displayed on an aircraft a mark that is false or misleading about the nationality or registration of the aircraft; or

(4) obtains an aircraft registration certificate from the Administrator of the Federal Aviation Administration by—

(A) knowingly and willfully falsifying or concealing a material fact;

(B) making a false, fictitious, or fraudulent statement; or

(C) making or using a false document knowing it contains a false, fictitious, or fraudulent statement or entry.

§ 46307. Violation of national defense airspace

A person that knowingly or willfully violates section 40103(b)(3) of this title or a regulation prescribed or order issued under section 40103(b)(3) shall be fined under title 18, imprisoned for not more than one year, or both.

§ 46308. Interference with air navigation

A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person—

(1) with intent to interfere with air navigation in the United States, exhibits in the United States a light or signal at a place or in a way likely to be mistaken for a true light or signal established under this part or for a true light or signal used at an air navigation facility;

(2) after a warning from the Administrator of the Federal Aviation Administration, continues to maintain a misleading light or signal; or

(3) knowingly interferes with the operation of a true light or signal.

§ 46309. Rate and concession violations

(a) An air carrier, foreign air carrier, ticket agent, or officer, agent, or employee of an air carrier, foreign air carrier, or ticket agent shall be fined under title 18 if the air carrier, foreign air carrier, ticket agent, officer, agent, or employee—

(1) knowingly and willfully offers, grants, or gives, or has offered, granted, or given, a rebate or other concession in violation of this part; or

(2) by any means knowingly and willfully assists, or willingly allows, a person to obtain transportation or services subject to this part at less than the rate lawfully in effect.

(b) A person shall be fined under title 18 if the person by any means—

(1) knowingly and willfully solicits, accepts, or receives a rebate of a part of a rate lawfully in effect for the foreign air transportation of property, or a service related to the foreign air transportation; or

(2) knowingly solicits, accepts, or receives a privilege or facility related to a matter the Secretary of Transportation requires be specified in a currently effective tariff applicable to the foreign air transportation of property.

§ 46310. Reporting and record keeping violations

(a) An air carrier or an officer, agent, or employee of an air carrier shall be fined under title 18 for intentionally—

(1) failing to make a report or keep a record under this part;

(2) falsifying, mutilating, or changing a report or record under this part; or

(3) filing a false report or record under this part.

(b) An air carrier or an officer, agent, or employee of an air carrier shall be fined under title 18, imprisoned for not more than 5 years, or both, for intentionally falsifying or concealing a material fact, or inducing reliance on a false statement of material fact, in a report or record under section 44701(a) or (b) or 44702–44716 of this title.

§ 46311. Unlawful disclosure of information

(a) The Secretary of Transportation, the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator, or an officer or employee of the Secretary or Administrator shall be fined under title 18, imprisoned for not more than 2 years, or both, if the Secretary, Administrator, officer, or employee knowingly and willfully discloses information that—

(1) the Secretary, Administrator, officer, or employee acquires when inspecting the records of an air carrier; or

(2) is withheld from public disclosure under section 40112 of this title.

(b) Subsection (a) of this section does not apply if—

(1) the officer or employee is directed by the Secretary or Administrator to disclose information that the Secretary or Administrator had ordered withheld; or

(2) the Secretary, Administrator, officer, or employee is directed by a court to disclose the information.

(c) This section does not authorize the Secretary or Administrator to withhold information from a committee of Congress authorized to have the information.

§ 46312. Transporting hazardous material

A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person, in violation of a regulation o requirement related to the transportation o hazardous material prescribed by the Secretary of Transportation under this part—

(1) willfully delivers, or has delivered, property containing hazardous material t an air carrier or to an operator of a civi aircraft for transportation in air commerce or

(2) recklessly causes the transportation i air commerce of the property.

§ 46313. Refusing to appear or produce records

A person not obeying a subpena or requirement of the Secretary of Transportatio (and the Administrator of the Federal Avia tion Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) to appear and testify or produce records shall be fined under title 18, imprisoned for not more than one year, or both.

§ 46314. Entering aircraft or airport area in violation of security requirements

(a) A person may not knowingly and willfully enter, in violation of security requirements prescribed under section 44901 or 44903(a), (b), (c), (e), (f), or (g) of this title, an aircraft or an airport area that serves an air carrier or foreign air carrier.

(b)(1) A person violating subsection (a) of this section shall be fined under title 18, imprisoned for not more than one year, or both.

(2) A person violating subsection (a) of this section with intent to commit, in the aircraft or airport area, a felony under a law of the United States or a State shall be fined under title 18, imprisoned for not more than 10 years, or both.

§ 46315. Lighting violations involving transporting controlled substances by aircraft not providing air transportation

(a) This section applies only to aircraft not used to provide air transportation.

(b) A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if—

(1) the person knowingly and willfully operates an aircraft in violation of a regulation or requirement of the Administrator of the Federal Aviation Administration related to the display of navigation or anticollision lights;

(2) the person is knowingly transporting a controlled substance by aircraft or aiding or facilitating a controlled substance offense; and

(3) the transporting, aiding, or facilitating—

(A) is punishable by death or imprisonment for more than one year under a law of the United States or a State; or

(B) is provided in connection with an act punishable by death or imprisonment for more than one year under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance).

§ 46316. General criminal penalty when specific penalty not provided

(a) Except as provided by subsection (b) of this section, when another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates this part, a regulation prescribed or order issued by the Secretary of Transportation (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) under this part, or any term of a certificate or permit issued under section 41102, 41103, or 41302 of this title shall be fined under title 18. A separate violation occurs for each day the violation continues.

(b) Subsection (a) of this section does not apply to chapter 401 (except sections 40103(a) and (d), 40105, and 40113), chapter 441 (except section 44109), and chapter 445 (except section 44506), and sections 44701(a) and (b), 44702–44716, 44901, and 44903(a)–(c) and (e)–(g) of this title.

§ 46317. Civil penalty assessment demonstration project

(a)(1) After notice and an opportunity for a hearing on the record under section 554 of title 5, the Administrator of the Federal Aviation Administration may impose a civil penalty for a violation of subpart III of this part or a regulation prescribed or order issued under subpart III. The Administrator shall give written notice of the finding of a violation and the penalty.

(2) The maximum penalty the Administrator may impose under this subsection in any case is $50,000.

(b) In a civil action to collect a penalty imposed under subsection (a) of this section, the issues of liability and amount of the penalty may not be reexamined.

(c) Notwithstanding subsection (a)(1) of this section, the district courts of the United States have exclusive jurisdiction of a civil action the Administrator brings for a civil penalty if—

(1) the amount in controversy is more than $50,000;

(2) the action is in rem or another action in rem based on the same violation has been brought;

(3) the action involves an aircraft subject to a lien that has been seized by the United States Government; or

(4) another action has been brought for an injunction based on the same violation.

(d) This section—

(1) applies only to a civil penalty initiated after December 30, 1987; and

(2) is effective only through August 1, 1992.

CHAPTER 465—SPECIAL AIRCRAFT JURISDICTION OF THE UNITED STATES

Sec.
46501. Definitions.
46502. Aircraft piracy.
46503. Death penalty sentencing procedure for aircraft piracy.
46504. Interference with flight crew members and attendants.
46505. Carrying a weapon or explosive on an aircraft.
46506. Application of certain criminal laws to acts on aircraft.
46507. False information and threats.

§ 46501. Definitions

In this chapter—

(1) "aircraft in flight" means an aircraft from the moment all external doors are closed following boarding—

(A) through the moment when one external door is opened to allow passengers to leave the aircraft; or

(B) until, if a forced landing, appropriate authorities take over responsibility for the aircraft and individuals and property on the aircraft.

(2) "special aircraft jurisdiction of the United States" includes any of the following aircraft in flight:

(A) a civil aircraft of the United States.

(B) an aircraft of the armed forces.

(C) another aircraft in the United States.

(D) another aircraft outside the United States—

(i) that has its next scheduled destination or last place of departure in the United States, if the aircraft next lands in the United States;

(ii) on which an individual commits an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) if the aircraft lands in the United States with the individual still on the aircraft; or

(iii) against which an individual commits an offense (as defined in subsection (d) or (e) of article I, section I of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation) if the aircraft lands in the United States with the individual still on the aircraft.

(E) any other aircraft leased without crew to a lessee whose principal place of business is in the United States or, if the lessee does not have a principal place of business, whose permanent residence is in the United States.

(3) an individual commits an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) when the individual, when on an aircraft in flight—

(A) by any form of intimidation, unlawfully seizes, exercises control of, or attempts to seize or exercise control of, the aircraft; or

(B) is an accomplice of an individual referred to in subclause (A) of this clause.

§ 46502. Aircraft piracy

(a)(1) In this subsection—

(A) "aircraft piracy" means seizing or exercising control of an aircraft in the special aircraft jurisdiction of the United States by force, violence, threat of force or violence, or any form of intimidation, and with wrongful intent.

(B) an attempt to commit aircraft piracy is in the special aircraft jurisdiction of the United States although the aircraft is not in flight at the time of the attempt if the aircraft would have been in the special aircraft jurisdiction of the United States had the aircraft piracy been completed.

(2) An individual committing or attempting to commit aircraft piracy—

(A) shall be imprisoned for at least 20 years; or

(B) if the death of another individual results from the commission or attempt, shall be put to death or imprisoned for life.

(b)(1) An individual committing an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) on an aircraft in flight outside the special aircraft jurisdiction of the United States and later found in the United States—

(A) shall be imprisoned for at least 20 years; or

(B) if the death of another individual results from the commission or attempt, shall be put to death or imprisoned for life.

(2) This subsection applies only if the place of takeoff or landing of the aircraft on which the individual commits the offense is located outside the territory of the country of registration of the aircraft.

§ 46503. Death penalty sentencing procedure for aircraft piracy

(a) An individual convicted of violating section 46502 of this title may not be sentenced to death if the United States Government stipulates that at least one of the mitigating factors specified in subsection (c)(1) of this section exists or none of the aggravating factors specified in subsection (c)(2) of this section exists. If the Government does not stipulate, the judge presiding at the trial or accepting the guilty plea of the individual shall hold a separate hearing to decide on the punishment to be imposed.

(b)(1) The hearing under this section shall be conducted—

(A) before the jury that found the defendant guilty;

(B) before a jury impaneled for the hearing when—

(i) the defendant was convicted by a guilty plea;

(ii) the defendant was convicted by a judge without a jury; or

(iii) the jury finding the defendant guilty was discharged by the judge for good cause; or

(C) before the judge, on motion of the defendant and with the approval of the judge and the Government.

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(2) At the hearing, the judge shall disclose to the defendant or counsel for the defendant all material contained in any presentence report, except material the judge decides is required to be withheld to protect human life or national security. Presentence information withheld from the defendant may not be considered in deciding whether the factors specified in subsection (c) of this section exist.

(3) Information relevant to the mitigating factors specified in subsection (c)(1) of this section may be presented by the Government or the defendant without regard to the rules governing the admissibility of evidence at criminal trials. The burden of establishing the existence of a mitigating factor specified in subsection (c)(1) is on the defendant.

(4) Information relevant to the aggravating factors specified in subsection (c)(2) of this section is admissible only under rules governing the admissibility of evidence at criminal trials. The burden of establishing the existence of an aggravating factor specified in subsection (c)(2) is on the Government.

(5) The Government and the defendant may rebut information presented at the hearing. They shall be given an opportunity to present arguments on the adequacy of the information to establish the existence of the factors specified in subsection (c) of this section.

(c)(1) The judge may not impose the death penalty on a defendant if the jury or, if there is no jury, the judge finds under this section that at the time of the violation of section 46502 of this title—

(A) the defendant was not yet 18 years of age;

(B) the capacity of the defendant to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was impaired significantly, but the capacity was not impaired sufficiently to be a defense to prosecution;

(C) the defendant was under unusual and substantial duress, but the duress was not sufficient to be a defense to prosecution;

(D) the defendant was a principal (as defined in section 2(a) of title 18) in a violation committed by another individual, but the participation of the defendant was relatively minor, although not sufficiently minor to be a defense to prosecution; or

(E) the defendant reasonably could not have foreseen that the conduct of the defendant in the violation would cause or create a grave risk of causing death to another individual.

(2) If none of the factors specified in paragraph (1) of this subsection exists, the judge may impose the death penalty on the defendant only if the jury or, if there is no jury, the judge finds under this section that—

(A) the death of another individual resulted from the violation after the defendant had seized or exercised control of the aircraft; or

(B) the death of another individual resulted from the violation and—

(i) the defendant has been convicted of another United States or State offense (committed before or at the time of the violation) for which punishment of life imprisonment or death could be imposed;

(ii) the defendant has been convicted of at least 2 United States or State offenses with a penalty of more than one year of imprisonment (committed on different occasions before the time of the violation) that involved inflicting serious bodily injury on another individual;

(iii) in committing the violation, the defendant knowingly created a grave risk of death to an individual in addition to the individual whose death resulted from the violation; or

(iv) the defendant committed the violation in an especially heinous, cruel, or depraved manner.

(d)(1) If the jury or, if there is no jury, the judge finds by a preponderance of the information that none of the mitigating factors specified in subsection (c)(1) of this section exists and that at least one of the aggravating factors specified in subsection (c)(2) of this section exists, the judge shall impose the death penalty on the defendant. If the jury or judge finds that at least one of the mitigating factors specified in subsection (c)(1) exists, or that none of the aggravating factors specified in subsection (c)(2) exists, the judge may not impose the death penalty on the defendant but shall impose another penalty provided for the defendant's violation of section 46502 of this title.

(2) The jury or, if there is no jury, the judge shall return a special verdict containing findings on whether each of the factors specified in subsection (c) of this section exists.

§ 46504. Interference with flight crew members and attendants

An individual on an aircraft in the special aircraft jurisdiction of the United States who, by assaulting or intimidating a flight crew member or flight attendant of the aircraft, interferes with the performance of the duties of the member or attendant or lessens the ability of the member or attendant to perform those duties, shall be fined under title 18, imprisoned for not more than 20 years, or both. However, if a dangerous weapon is used in assaulting or intimidating the member or attendant, the individual shall be imprisoned for any term of years or for life.

§ 46505. Carrying a weapon or explosive on an aircraft

(a) In this section, "loaded firearm" means a starter gun or a weapon designed or converted to expel a projectile through an explosive, that has a cartridge, a detonator, or powder in the chamber, magazine, cylinder, or clip.

(b) An individual shall be fined under title 18, imprisoned for not more than one year, or both, if the individual—

(1) when on, or attempting to board, an aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about the individual or the property of the individual a concealed dangerous weapon that is or would be accessible to the individual in flight;

(2) has placed, attempted to place, or attempted to have placed a loaded firearm on that aircraft in property not accessible to passengers in flight; or

(3) has on or about the individual, or has placed, attempted to place, or attempted to have placed on that aircraft, an explosive or incendiary device.

(c) An individual who willfully and without regard for the safety of human life, or with reckless disregard for the safety of human life, violates subsection (b) of this section, shall be fined under title 18, imprisoned for not more than 5 years, or both.

(d) Subsection (b)(1) of this section does not apply to—

(1) a law enforcement officer of a State or political subdivision of a State, or an officer or employee of the United States Government, authorized to carry arms in an official capacity;

(2) another individual the Administrator of the Federal Aviation Administration by regulation authorizes to carry a dangerous weapon in air transportation or intrastate air transportation; or

(3) an individual transporting a weapon (except a loaded firearm) in baggage not accessible to a passenger in flight if the air carrier was informed of the presence of the weapon.

§ 46506. Application of certain criminal laws to acts on aircraft

An individual on an aircraft in the special aircraft jurisdiction of the United States who commits an act that—

(1) if committed in the special maritime and territorial jurisdiction of the United States (as defined in section 7 of title 18 would violate section 113, 114, 661, 662, 1111, 1112, 1113, or 2111 or chapter 109A o title 18, shall be fined under title 18, imprisoned under that section or chapter, or both or

(2) if committed in the District of Columbia would violate section 9 of the Act of July 29, 1892 (D.C. Code § 22-1112), shall be fined under title 18, imprisoned under section 9 o that Act, or both.

§ 46507. False information and threats

An individual shall be fined under title 18 imprisoned for not more than 5 years, o both, if the individual—

(1) knowing the information to be false willfully and maliciously or with reckles disregard for the safety of human life, gives or causes to be given, under circumstance in which the information reasonably may b believed, false information about an allege attempt being made or to be made to do a act that would violate section 46502(a 46504, 46505, or 46506 of this title; or

(2)(A) threatens to violate sectio 46502(a), 46504, 46505, or 46506 of this title or causes a threat to violate any of those sections to be made; and

(B) appears ready and willing to carry ou the threat.

PART B—AIRPORT DEVELOPMENT AND NOISE ABATEMENT

CHAPTER 471—AIRPORT DEVELOPMENT

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SUBCHAPTER I—AIRPORT IMPROVEMENT

§ 47101. Policies

(a) It is the policy of the United States Government—

(1) that the safe operation of the airport and airway system is the highest aviation priority;

(2) that aviation facilities be constructed and operated to minimize current and projected noise impact on nearby communities;

(3) to give special emphasis to developing reliever airports;

(4) that appropriate provisions should be made to make the development and enhancement of cargo hub airports easier;

(5) to encourage the development of transportation systems that use various modes of transportation in a way that will serve the States and local communities efficiently and effectively;

(6) that airport development projects under this subchapter provide for the protection and enhancement of natural resources and the quality of the environment of the United States;

(7) that airport construction and improvement projects that increase the capacity of facilities to accommodate passenger and property traffic, so that safety and efficiency increase and delays decrease, be undertaken to the maximum feasible extent;

(8) to ensure that nonaviation usage of the navigable airspace be accommodated but not allowed to decrease the safety and capacity of the airspace and airport system; and

(9) that artificial restrictions on airport capacity should be imposed to alleviate air traffic delays only after other reasonably available and less burdensome alternatives have been tried.

(b) Each airport and airway program should be carried out consistently with section 40101(a), (b), and (d) of this title to foster competition, prevent unfair methods of competition in air transportation, maintain essential air transportation, and prevent unjust and discriminatory practices.

(c) This subchapter should be carried out to provide adequate navigation aids and airport facilities for places at which scheduled commercial air service is provided. The facilities provided may include—

(1) reliever airports; and

(2) heliports designated by the Secretary of Transportation to relieve congestion at commercial service airports by diverting aircraft passengers from fixed-wing aircraft to helicopter carriers.

(d) This subchapter should be carried out consistently with a comprehensive airspace system plan, giving highest priority to commercial service airports, to maximize the use of safety facilities with the objective of installing, operating, and maintaining, to the extent possible with available money and considering other safety needs—

(1) electronic or visual vertical guidance on each runway;

(2) grooving or friction treatment of each primary and secondary runway;

(3) a precision approach system, a vertical visual guidance system, and a full approach light system for each primary runway;

(4) a nonprecision instrument approach for each secondary runway;

(5) runway end identifier lights on each runway that does not have an approach light system;

(6) distance-to-go signs for each primary and secondary runway;

(7) a surface movement radar system at each category III airport;

(8) a taxiway lighting and sign system; and

(9) runway edge lighting and marking and radar approach coverage for each airport terminal area.

(e) To carry out the policy of subsection (a)(5) of this section, the Secretary of Transportation shall cooperate with State and local officials in developing airport plans and programs that are based on overall transportation needs. The airport plans and programs shall be developed in coordination with other transportation planning and with consideration given to comprehensive long-range land-use plans and overall social, economic, environmental, system performance, and energy conservation objectives. The process of developing airport plans and programs shall be continuing, cooperative, and comprehensive to the degree appropriate considering the complexity of the transportation problems.

(f) To carry out the policy of subsection (a)(6) of this section, the Secretary of Transportation shall consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency about any project included in a project grant application involving a major runway extension or the location of an airport or runway that may have a significant effect on—

(1) natural resources, including fish and wildlife;

(2) natural, scenic, and recreation assets;

(3) water and air quality; or

(4) another factor affecting the environment.

§ 47102. Definitions

In this subchapter—

(1) "air carrier airport" means a public airport regularly served by—

(A) an air carrier certificated by the Secretary of Transportation under section 41102 of this title (except a charter air carrier); or

(B) at least one air carrier—

(i) operating under an exemption from section 41101(a)(1) of this title granted by the Secretary; and

(ii) having at least 2,500 passenger boardings at the airport during the prior calendar year.

(2) "airport"—

(A) means—

(i) an area of land or water used or intended to be used for the landing and taking off of aircraft;

(ii) an appurtenant area used or intended to be used for airport buildings or other airport facilities or rights of way; and

(iii) airport buildings and facilities located in any of those areas; and

(B) includes a heliport.

(3) "airport development" means the following activities, if undertaken by the sponsor, owner, or operator of a public-use airport:

(A) constructing, repairing, or improving a public-use airport, including—

(i) removing, relocating, marking, lighting, and otherwise mitigating an airport hazard; and

(ii) preparing a plan or specification, including carrying out a field investigation.

(B) acquiring for, or installing at, a public-use airport—

(i) a navigation aid or another aid (including a precision approach system) used by aircraft for landing at or taking off from the airport, including preparing the site as required by the acquisition or installation;

(ii) safety or security equipment the Secretary requires by regulation for, or approves as contributing significantly to, the safety or security of individuals and property at the airport;

(iii) equipment to remove snow, to measure runway surface friction, or for aviation-related weather reporting; and

(iv) fire fighting and rescue equipment at an airport that serves scheduled passenger operations of air carrier aircraft designed for more than 20 passenger seats.

(C) acquiring a property interest in land or airspace, including land for future airport development, that is needed—

(i) to carry out airport development described in subclause (A) or (B) of this clause; or

(ii) to remove or mitigate an existing airport hazard or prevent or limit the creation of a new airport hazard.

(4) "airport hazard" means a structure or object of natural growth located on or near a public-use airport, or a use of land near the airport, that obstructs or is hazardous to the landing or taking off of aircraft at or from the airport.

(5) "airport planning" means planning as defined by regulations the Secretary prescribes and includes integrated airport system planning.

(6) "amount made available under section 47703 of this title" means the amount authorized for grants under section 47703 of this title as reduced by any law enacted after September 3, 1982.

(7) "commercial service airport" means a public airport in a State that, as determined by the Secretary, has at least 2,500 passenger boardings each year and is receiving scheduled passenger aircraft service.

(8) "integrated airport system planning" means developing for planning purposes information and guidance to decide the extent, kind, location, and timing of airport development needed in a specific area to establish a viable, balanced, and integrated system of public-use airports, including—

(A) identifying system needs;

(B) developing an estimate of systemwide development costs;

(C) conducting studies, surveys, and other planning actions, including those related to airport access, needed to decide which aeronautical needs should be met by a system of airports; and

(D) prescribing State standards, except standards for safety of approaches, for airport development at nonprimary public-use airports.

(9) "landed weight" means the weight of aircraft transporting only property (including mail) in intrastate, interstate, and foreign air transportation, as determined by the Secretary under regulations the Secretary prescribes.

(10) "passenger boardings"—

(A) means revenue passenger boardings on an aircraft in service in air commerce as determined by the Secretary under regulations the Secretary prescribes; and

(B) includes passengers who continue on an aircraft in international flight stopping at an airport in the 48 contiguous States for a nontraffic purpose.

(11) "primary airport" means a commercial service airport determined by the Secretary to have more than 10,000 passenger boardings each year.

(12) "project" means a project (or separate projects included in one project grant application or all projects to be undertaken at an airport in a fiscal year) to achieve airport development or airport planning.

(13) "project cost" means a cost involved in carrying out a project.

(14) "project grant" means a grant of money by the Secretary to a grant applicant to carry out at least one project.

(15) "public agency" means—

(A) a State or political subdivision of a State;

(B) a tax-supported organization; or

(C) an Indian tribe or pueblo.

(16) "public airport" means an airport—

(A) used or intended to be used for public purposes;

(B) under the control of a public agency; and

(C) for which the area used or intended to be used for the landing, taking off, or surface maneuvering of aircraft is publicly owned.

(17) "public-use airport" means an airport used or to be used for public purposes that is—

(A) a public airport;

(B) a privately-owned reliever airport; or

(C) a privately-owned airport in a State that, as determined by the Secretary, has at least 2,500 passenger boardings each year and is receiving scheduled passenger aircraft service.

(18) "reliever airport" means an airport designated by the Secretary to relieve congestion at a commercial service airport and to provide more general aviation access to the overall community.

(19) "sponsor" means—

(A) a public agency that submits to the Secretary under this subchapter an application for financial assistance; and

(B) a private owner of a public-use airport that submits to the Secretary under this subchapter an application for financial assistance for the airport.

(20) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and Guam.

§ 47103. National plan of integrated airport systems

(a) The Secretary of Transportation shall maintain the plan for developing public-use airports in the United States named "the national plan of integrated airport systems". The plan shall include the kind and estimated cost of eligible airport development the Secretary of Transportation considers necessary to provide a safe, efficient, and integrated system of public-use airports adequate to anticipate and meet the needs of civil aeronautics, to meet the national defense requirements of the Secretary of Defense, and to meet identified needs of the United States Postal Service. Airport development included in the plan may not be limited to meeting the needs of any particular classes or categories of public-use airports. In maintaining the plan, the Secretary of Transportation shall consider the needs of each segment of civil aviation and the relationship of each airport to—

(1) the rest of the transportation system in the particular area;

(2) forecasted technological developments in aeronautics; and

(3) forecasted developments in other modes of intercity transportation.

(b) In maintaining the plan, the Secretary of Transportation shall—

(1) to the extent possible and as appropriate, consult with departments, agencies, and instrumentalities of the United States Government, with public agencies, and with the aviation community;

(2) consider tall structures that reduce safety or airport capacity; and

(3) make every reasonable effort to address the needs of air cargo operations, STOL/VSTOL aircraft operations, and rotary wing aircraft operations.

(c) To the extent possible, the Secretary of Defense shall make domestic military airports available for civil use. In advising the Secretary of Transportation under subsection (a) of this section, the Secretary of Defense shall indicate the extent to which domestic military airports are available for civil use.

(d) The Secretary of Transportation shall publish the status of the plan every 2 years.

§ 47104. Project grants authorized

(a) To maintain a safe and efficient nationwide system of public-use airports that meets the present and future needs of civil aeronautics, the Secretary of Transportation may make project grants under this subchapter from the Airport and Airway Trust Fund.

(b) The Secretary may incur obligations to make grants from amounts made available under section 47703 of this title as soon as the amounts are apportioned under section 47114(c) and (d)(2) of this title.

(c) After September 30, 1987, the Secretary may not incur obligations under subsection (b) of this section, except for obligations of amounts remaining available after that date under section 47116(b) of this title.

§ 47105. Applying for project grants

(a)(1) An application for a project grant under this subchapter may be submitted to the Secretary of Transportation by—

(A) a public agency or at least 2 public agencies acting jointly;

(B) a private owner of a public-use airport or at least 2 private owners of a public-use airport acting jointly;

(C) a private owner of a public-use airport and a public agency sponsoring the airport acting jointly; or

(D) a State, as the only applicant, for a project benefitting at least 2 airports in the State or for airport planning for similar projects at at least 2 airports in the State if—

(i) each airport owner and operator gives written consent that the State be the applicant;

(ii) the Secretary is satisfied there is administrative merit and aeronautical benefit in the State being the applicant; and

(iii) an acceptable agreement exists that ensures the State will comply with appropriate grant conditions and other assurances the Secretary requires.

(2) Before deciding to undertake an airport development project at an airport under this subchapter, a public agency or a private owner of a public-use airport shall
consult with the airport users that will b
affected by the project.

(3) This subsection does not authorize
public agency that is subject to the laws of
State to apply for a project grant in viola
tion of a law of the State.

(b) An application for a project gran
under this subchapter—

(1) shall describe the project proposed t
be undertaken;

(2) may propose a project only for
public-use airport included in the curren
national plan of integrated airport system

(3) may propose airport development onl
if the development complies with standard
prescribed or approved by the Secretary, in
cluding standards for site location, airpor
layout, site preparation, paving, lighting
and safety of approaches; and

(4) shall be in the form and contain othe
information the Secretary prescribes.

(c) The Secretary may approve standard
(except standards for safety of approaches
prescribed by a State for airport develop
ment at nonprimary public-use airports i
the State. On approval under this subsec
tion, a State's standards apply to the non
primary public-use airports in the State in
stead of the comparable standards pr
scribed by the Secretary under subsectio
(b)(3) of this section. The Secretary or th
State (with the approval of the Secretary
may revise standards approved under thi
subsection.

(d) The Secretary may require an appl
cant for a project grant to certify that th
applicant will comply with this subchapte
in carrying out the project. If the Secretar
accepts the certification, the Secretary ma
rescind the acceptance at any time. Th
subsection does not affect an obligation o
responsibility of the Secretary under a
other law of the United States.

(e) The sponsor of an airport for which a
amount is apportioned under sectio
47114(c) of this title shall give notice to th
Secretary of the fiscal year in which, b
project grant application, the sponsor in
tends to apply for the amount. The notic
shall be given by the time and contain th
information the Secretary prescribes.

§ 47106. Project grant application approval cond
tioned on satisfaction of project requirements

(a) The Secretary of Transportation ma
approve an application under this subcha
ter for a project grant for an airport only
the Secretary is satisfied that—

(1) the project is consistent with plans (e
isting at the time the project is approved)
public agencies authorized by the State
which the airport is located to plan for t
development of the area surrounding t
airport;

(2) the project will contribute to carryin
out this subchapter;

(3) enough money is available to pay t
share of the project costs that will not
paid by the United States Governme
under this subchapter;

(4) the project will be completed witho
unreasonable delay; and

(5) the applicant has authority to car
out the project as proposed.

(b) The Secretary may approve an applic
tion under this subchapter for an airport d
velopment project grant for an airport on
if the Secretary is satisfied that—

(1) the applicant, a public agency, or t
Government holds good title to the areas
the airport used or intended to be used
the landing, taking off, or surface maneuv
ing of aircraft, or that good title will be
quired;

(2) the interests of the community in or near which the project may be located have been given fair consideration; and

(3) the application provides touchdown zone and centerline runway lighting, high intensity runway lighting, or land necessary for installing approach light systems that the Secretary, considering the category of the airport and the kind and volume of traffic using it, decides is necessary for safe and efficient use of the airport by aircraft.

(c) The Secretary may approve an application under this subchapter for a grant for an airport development project involving a major runway extension or the location of an airport or runway, found to have a significant adverse effect on natural resources, including fish and wildlife, natural, scenic, and recreation assets, water and air quality, or another factor affecting the environment, only after deciding that a possible and prudent alternative to the project does not exist and that every reasonable step has been taken to minimize the adverse effect. The Secretary may make that decision only after completely reviewing the matter. The review and decision must be made a matter of public record.

(d) The Secretary may approve an application under this subchapter for a grant for an airport development project involving the location of an airport, airport runway, or major runway extension only if the applicant certifies to the Secretary that an opportunity for a public hearing was given to consider the economic, social, and environmental effects of the location and its consistency with the objectives of any planning that has been carried out by the community. At the Secretary's request, the applicant shall give the Secretary a copy of the transcript of any hearing held.

(e)(1) The Secretary may approve an application under this subchapter for an airport development project involving a major runway extension or the location of an airport or runway only if the chief executive officer of the State in which the project will be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated in compliance with applicable air and water quality standards. However, the Administrator of the Environmental Protection Agency shall make the certification instead of the chief executive officer if—

(A) the State has not approved any applicable standards; and

(B) the Administrator has prescribed applicable standards.

(2) Notice of certification or of refusal to certify shall be provided to the Secretary not later than 60 days after the Secretary receives the application.

(3) The Secretary shall condition approval of the application on compliance with the applicable standards during construction and operation.

(f) The Secretary may approve an application under this subchapter for an airport development project (except a project involving a major runway extension or the location of an airport or runway) at an existing airport without requiring an environmental impact statement related to noise for the project if—

(1) completing the project would allow an aircraft complying with the noise standards prescribed for "stage 2" aircraft in section 36.1 of title 14, Code of Federal Regulations, to replace an aircraft that does not comply with those standards in operations at the airport; and

(2) the project meets the other requirements under this subchapter.

(g)(1) In this subsection, "general aviation airport" means a public airport that is not an air carrier airport.

(2) The Secretary may approve an application under this subchapter for a grant for an airport development project involving the construction or extension of a runway at a general aviation airport located on both sides of a boundary line separating 2 counties within a State only if, before the application is submitted to the Secretary, the project is approved by the governing body of each village incorporated under the laws of the State and located entirely within 5 miles of the airport.

(h)(1) The Secretary may withhold approval of an application under this subchapter for amounts apportioned under section 47114(c) and (e) of this title for violating an assurance or requirement of this subchapter only if—

(A) the Secretary provides the applicant an opportunity for a proceeding; and

(B) not later than 180 days after the later of the date of the application or the date the Secretary discovers the noncompliance, the Secretary decides a violation has occurred.

(2) The 180-day period may be extended by—

(A) agreement between the Secretary and the applicant; or

(B) the hearing officer if the officer decides an extension is necessary because the applicant did not follow the schedule the officer established.

(3) A person adversely affected by an order of the Secretary withholding approval may apply for review of the order by filing a petition in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the project is located. The action must be brought not later than 60 days after the order is served on the petitioner.

§ 47107. Project grant application approval conditioned on assurances about airport operations

(a) The Secretary of Transportation may approve an application under this subchapter for an airport development project grant for an airport only if the Secretary receives written assurances, satisfactory to the Secretary, that—

(1) the airport will be available for public use on reasonable conditions and without unreasonable discrimination;

(2) air carriers making similar use of the airport will be subject to substantially similar charges for facilities directly and substantially related to providing air transportation, regulations, and conditions, except for differences based on reasonable classifications such as—

(A) tenants or nontenants; and

(B) signatory and nonsignatory carriers;

(3) the airport operator will not withhold unreasonably the classification or status of tenant or signatory from an air carrier that assumes obligations substantially similar to those already imposed on air carriers of that classification or status;

(4) fixed-base operators similarly using the airport will be subject to the same charges;

(5) an air carrier using the airport may service itself or use any fixed-base operator allowed by the airport operator to service air carriers at the airport;

(6) a person providing, or intending to provide, aeronautical services to the public will not be given an exclusive right to use the airport, except as provided in subsection (f) of this section;

(7) the airport will be operated and maintained suitably, with consideration given to climatic and flood conditions;

(8) a proposal to close the airport temporarily for a nonaeronautical purpose must first be approved by the Secretary;

(9) appropriate action will be taken to ensure that terminal airspace required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be cleared and protected by mitigating existing airport hazards and by preventing the establishment of new airport hazards;

(10) appropriate action, including the adoption of zoning laws, has been or will be taken to restrict the use of land next to or near the airport to uses that are compatible with normal airport operations;

(11) each of the airport's facilities developed with financial assistance from the United States Government and each of the airport's facilities usable for the landing and taking off of aircraft always will be available without charge for use by Government aircraft, except that if the use is substantial, the Government may be charged a reasonable share, proportionate to the use, of the cost of operating and maintaining the facility;

(12) the airport owner or operator will provide, without charge to the Government, property interests of the applicant in land or water areas or buildings that the Secretary decides are desirable for, and that will be used for, constructing at Government expense, facilities for carrying out activities related to air traffic control and navigation;

(13) the airport owner or operator will maintain a schedule of charges for use of facilities and services at the airport—

(A) that will make the airport as self-sustaining as possible under the circumstances existing at the airport, including volume of traffic and economy of collection; and

(B) without including in the rate base used for the charges the Government's share of costs for any project for which a grant is made under this subchapter;

(14) the project accounts and records will be kept using a standard system of accounting that the Secretary, after consulting with appropriate public agencies, prescribes;

(15) the airport owner or operator will submit any annual and special airport financial and operations reports to the Secretary that the Secretary reasonably requests;

(16) the airport owner or operator will maintain a layout plan of the airport that meets the following requirements:

(A) the plan will be in a form the Secretary prescribes;

(B) the Secretary will approve the plan and any change before the plan or change takes effect;

(C) the owner or operator will not make or allow any change in the airport or any of its facilities if the change does not comply with the plan as approved by the Secretary, and the Secretary believes the change may affect adversely the safety, use, or efficiency of the airport; and

(D) when a change in the airport or facility is made that the Secretary decides does not comply with the plan and adversely affects the safety, use, or efficiency of any property on or off the airport and owned, leased, or financed by the Government, the owner or operator, if requested by the Secretary, will—

(i) eliminate the adverse effect in a way the Secretary approves; or

(ii) bear all cost of relocating the property (or its replacement) to a site acceptable to

the Secretary and of restoring the property (or its replacement) to the level of safety, use, efficiency, and cost of operation that existed before the change was made;

(17) each contract and subcontract for program manangement, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, and related services will be awarded in the same way that a contract for architectural and engineering services is negotiated under title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.) or an equivalent qualifications-based requirement prescribed for or by the applicant; and

(18) the airport and each airport record will be available for inspection by the Secretary on reasonable request.

(b)(1) The Secretary of Transportation may approve an application under this subchapter for an airport development project grant for a public airport only if the Secretary receives written assurances, satisfactory to the Secretary, that the revenues generated by the airport and local taxes on aviation fuel (except taxes in effect on December 30, 1987) will be expended for the capital or operating costs of—

(A) the airport;

(B) the local airport system; or

(C) other local facilities owned or operated by the airport owner or operator and directly and substantially related to transporting passengers or property by air.

(2) Paragraph (1) of this subsection does not apply if a provision enacted not later than September 2, 1982, in a law controlling the financing of the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

(3) This subsection does not prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.

(c)(1) In this subsection, land is needed for an airport purpose (except a noise compatibility purpose) if—

(A)(i) the land may be needed for an aeronautical purpose (including runway protection zone) or serves as noise buffer land; and

(ii) revenue from interim uses of the land contributes to the financial self-sufficiency of the airport; and

(B) for land purchased with a grant the owner or operator received not later than December 30, 1987, the Secretary of Transportation or the department, agency, or instrumentality of the Government that made the grant was notified by the owner or operator of the use of the land and did not object to the use and the land is still being used for that purpose.

(2) The Secretary of Transportation may approve an application under this subchapter for an airport development project grant only if the Secretary receives written assurances, satisfactory to the Secretary, that if an airport owner or operator has received or will receive a grant for acquiring land and—

(A) if the land was or is acquired for a noise compatibility purpose—

(i) the owner or operator will dispose of the land at fair market value at the earliest practicable time after the land no longer is needed for a noise compatibility purpose;

(ii) the disposition will be subject to retaining or reserving an interest in the land necessary to ensure that the land will be used in a way that is compatible with noise levels associated with operating the airport; and

(iii) the part of the proceeds from disposing of the land that is proportionate to the Government share of the cost of acquiring the land will be paid to the Secretary for deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) or, as the Secretary prescribes, reinvested in an approved noise compatibility project; or

(B) if the land was or is acquired for an airport purpose (except a noise compatibility purpose)—

(i) the owner or operator, when the land no longer is needed for an airport purpose, will dispose of the land at fair market value or make available to the Secretary an amount equal to the Government's proportionate share of the fair market value;

(ii) the disposition will be subject to retaining or reserving an interest in the land necessary to ensure that the land will be used in a way that is compatible with noise levels associated with operating the airport; and

(iii) the part of the proceeds from disposing of the land that is proportionate to the Government share of the cost of acquiring the land will be reinvested, on application to the Secretary, in another eligible airport development project the Secretary approves under this subchapter or paid to the Secretary for deposit in the Fund if another eligible project does not exist.

(d) The Secretary of Transportation may approve an application under this subchapter for an airport development project grant for a privately owned public-use airport only if the Secretary receives appropriate assurances that the airport will continue to function as a public-use airport during the economic life (that must be at least 10 years) of any facility at the airport that was developed with Government financial assistance under this subchapter.

(e) The Secretary of Transportation may approve an application under this subchapter for an airport development project grant for an airport only if the Secretary receives written assurances, satisfactory to the Secretary, that the airport owner or operator will take necessary action to ensure, to the maximum extent practicable, that at least 10 percent of all businesses at the airport selling consumer products to the public are small business concerns (as defined by the Secretary by regulation) owned and controlled by a socially and economically disadvantaged individual (as defined in section 47113(a) of this title).

(f) In subsection (a)(6) of this section, a right given to only one fixed-base operator to provide services at an airport is deemed not to be an exclusive right if—

(1) the right would be unreasonably costly, burdensome, or impractical for more than one fixed-base operator to provide the services; and

(2) allowing more than one fixed-base operator to provide the services would require reducing the space leased under an existing agreement between the one fixed-base operator and the airport owner or operator.

(g) An amount deposited in the Fund under—

(1) subsection (c)(2)(C)(i) of this section is available to the Secretary of Transportation to make a grant for airport development and airport planning under section 47104 of this title;

(2) subsection (c)(2)(C)(ii) of this sectio
is available to the Secretary of Transporta
tion—
(A) to make a grant for a purpose de
scribed in section 47115(b) of this title; an
(B) for use under section 47114(d)(2) o
this title at another airport in the State i
which the land was disposed of under sul
section (c)(2)(A)(ii) of this section; and
(3) subsection (c)(3)(C) of this section is i
addition to an amount made available t
the Secretary of Transportation under se
tion 47703 of this title and not subject to a
portionment under section 47114 of th
title.
(h)(1) To ensure compliance with this se
tion, the Secretary of Transportation—
(A) shall prescribe requirements for proje
grant applicants that the Secretary consi
ers necessary; and
(B) may make a contract with a publ
agency.
(2) The Secretary of Transportation ma
approve an application for a project gra
only if the Secretary is satisfied that the r
quirements prescribed under paragrap
(1)(A) of this subsection will be met.
(i) Before proposing to change an assu
ance required of a person receiving a gra
under this subchapter and in effect after D
cember 29, 1987, or to require complian
with an additional assurance from t
person, the Secretary of Transportatio
must—
(1) publish notice of the proposal in t
Federal Register; and
(2) provide an opportunity for comme
on the proposal.
(j) When an applicant provides a proper
interest in a land or water area or a buil
ing that the Secretary of Transportati
uses to construct a facility at Governme
expense, the Secretary may relieve the app
cant from an obligation in a contract ma
under this chapter, the Airport and Airw
Development Act of 1970, or the Federal A
port Act to provide free space to the Gover
ment in an airport building. The Secreta
may relieve the applicant from the oblig
tion to the extent the Secretary decides th
the free space no longer is needed to car
out activities related to air traffic cont
and navigation.
(k)(1) In this subsection—
(A) "duty-free merchandise" and "du
free sales enterprise" have the same mea
ings given those terms in section 555(b)(8)
the Tariff Act of 1930 (19 U.S.C. 1555(b)(8
(B) "highway" and "Federal-aid syste
have the same meanings given those ter
in section 101(a) of title 23.
(2) Notwithstanding subsection (b)(1)
this section, Hawaii may use, for a proj
for construction or reconstruction of a hi
way on a Federal-aid system that is
more than 10 miles by road from an airp
and that will facilitate access to the airp
revenue from the sales at off-airport lo
tions in Hawaii of duty-free merchand
under a contract between Hawaii and
duty-free sales enterprise. However, the re
nue resulting during a Hawaiian fiscal y
may be used only if the amount of the re
nue, plus amounts Hawaii receives in
fiscal year from all other sources for co
Hawaii incurs for operating all airports
operates and for debt service related to c
ital projects for the airports (including
terest and amortization of principal cos
is more than 150 percent of the projec
costs for the fiscal year.
(3)(A) Revenue from sales referred to
paragraph (2) of this subsection in a Hau
ian fiscal year that Hawaii may use n

not be more than the amount that is greater than 150 percent as determined under paragraph (2).

(B) The maximum amount of revenue Hawaii may use under paragraph (2) of this subsection is $250,000,000.

(4) If a fee imposed or collected for rent, landing, or service from an aircraft operator by an airport Hawaii operates is increased during the period from May 4, 1990, through December 31, 1994, by more than the percentage change in the Consumer Price Index of All Urban Consumers for Honolulu, Hawaii, that the Secretary of Labor publishes during that period and if revenue derived from the fee increases because the fee increased, the amount under paragraph (3)(B) of this subsection shall be reduced by the amount of the projected revenue increase in the period less the part of the increase attributable to changes in the Index in the period.

(5) Hawaii shall determine costs, revenue, and projected revenue increases referred to in this subsection and shall submit the determinations to the Secretary of Transportation. A determination is approved unless the Secretary disapproves it not later than 30 days after it is submitted.

(6) Hawaii is not eligible for a grant under section 47115 of this title in a fiscal year in which Hawaii uses under paragraph (2) of this subsection revenue from sales referred to in paragraph (2). Hawaii shall repay amounts it receives in a fiscal year under a grant it is not eligible to receive because of this paragraph to the Secretary of Transportation for deposit in the discretionary fund established under section 47115.

(7)(A) This subsection applies only to revenue from sales referred to in paragraph (2) of this subsection from May 5, 1990, through December 30, 1994, and to amounts in the Airport Revenue Fund of Hawaii that are attributable to revenue before May 4, 1990, on sales referred to in paragraph (2).

(B) Revenue from sales referred to in paragraph (2) of this subsection from May 5, 1990, through December 30, 1994, may be used under paragraph (2) in any Hawaiian fiscal year, including a Hawaiian fiscal year beginning after December 31, 1994.

§ 47108. Project grant agreements

(a) On approving a project grant application under this subchapter, the Secretary of Transportation shall offer the applicant a grant to pay the United States Government's share of the project costs allowable under section 47109 of this title. The Secretary may impose terms on the offer that the Secretary considers necessary to carry out this subchapter and regulations prescribed under this subchapter. An offer shall state the obligations to be assumed by the applicant and the maximum amount the Government will pay for the project from the amounts authorized under chapter 477 of this title (except section 47706). At the request of the applicant, an offer of a grant for an airport project that will not be completed in one fiscal year shall obligate amounts apportioned or to be apportioned to a sponsor under section 47114(c) of this title for the fiscal years necessary to pay the Government share of the cost of the project. An offer that is accepted in writing by the applicant is a binding agreement between the Government and the applicant. The Government may pay or be obligated to pay a project cost only after a grant agreement for the project is signed.

(b)(1) Except as provided in paragraph (2) of this subsection, when an offer has been accepted, the amount stated in the offer as the maximum amount the Government will pay for an airport development project receiving assistance under a grant approved under this subchapter or chapter 475 of this title may be increased by not more than 15 percent.

(2)(A) For a project receiving assistance under a grant approved under this subchapter before October 1, 1987, the amount may be increased—

(i) by not more than 10 percent for an airport development project, except a project for acquiring land; and

(ii) by not more than 50 percent of the total increase in allowable project costs attributable to acquiring an interest in land, based on current creditable appraisals.

(B) An increase under subparagraph (A) of this paragraph may be paid only from amounts the Government recovers from other grants made under this subchapter.

(c) For a project receiving assistance under a grant made under the Airport and Airway Development Act of 1970, the maximum amount the Government will pay may be increased by not more than 10 percent. An increase under this subsection may be paid only from amounts the Government recovers from other grants made under that Act.

(d) With the consent of the grant recipient, the Secretary may change the workscope of a project financed under a grant approved under this subchapter if the change does not result in an increase in the maximum amount the Government may pay under subsection (b) of this section.

§ 47109. Allowable project costs

(a) Except as provided in section 47111 of this title, the United States Government may pay or be obligated to pay, from amounts appropriated to carry out this subchapter, a cost incurred in carrying out a project under this subchapter only if the Secretary of Transportation decides the cost is allowable.

(b)(1) The Secretary shall decide that a project cost is allowable—

(A) if the cost necessarily is incurred in carrying out the project in compliance with the grant agreement made for the project under this subchapter;

(B) if the cost is incurred—

(i) after the grant agreement is executed and is for airport development or airport planning carried out after the grant agreement is executed; or

(ii) after June 1, 1989, by the airport operator (regardless of when the grant agreement is executed) as part of a Government-approved noise compatibility program (including project formulation costs) and consistent with all applicable statutory and administrative requirements;

(C) to the extent the cost is reasonable in amount;

(D) if the cost is not incurred in a project for airport development or airport planning for which other Government assistance has been granted; and

(E) if the total costs allowed for the project are not more than the amount stated in the grant agreement as the maximum the Government will pay (except as provided in section 47108(b) of this title).

(2) A cost incurred by a grant recipient related to an audit required by the Secretary under section 47119(b) or (d) of this title may be considered under paragraph (1)(A) of this subsection a cost necessarily incurred in carrying out a project.

(c) The Secretary may decide that a project cost under section (b)(1)(B)(i) of this section incurred after May 13, 1946, and before the date the grant agreement is executed is allowable if it is—

(1) necessarily incurred in formulating an airport development project, including a cost incurred for field surveys, plans and specifications, property interests in land or airspace, or administration or other incidental items that would not have been incurred except for the project; or

(2) necessarily and directly incurred in developing the work scope of an airport planning project.

(d) The Secretary may decide that the cost of terminal development (including multimodal terminal development) in a nonrevenue-producing public-use area of a commercial service airport is allowable for an airport development project at the airport—

(1) if the applicant for a grant for the project certifies that the airport, on the date the grant application is submitted to the Secretary, has—

(A) all the safety equipment required for certification of the airport under section 44706 of this title;

(B) all the security equipment required by regulation; and

(C) provided access for passengers getting on and off aircraft, except air carrier aircraft, to the area of the airport for passengers to get on and off aircraft;

(2) if the cost is directly related to moving passengers and baggage in air commerce within the airport, including vehicles for moving passengers between terminal facilities and between terminal facilities and aircraft; and

(3) under terms necessary to protect the interests of the Government.

(e)(1) The Secretary may issue a letter of intent to an applicant stating an intention to obligate from future budget authority an amount, not more than the Government share of allowable project costs, for an airport development project (including costs of formulating the project) at a primary or reliever airport. The letter shall establish a schedule under which the Secretary, as amounts become available, will reimburse the applicant for the Government share of allowable project costs if the applicant, after the Secretary issues the letter, carries out the project without receiving amounts under this subchapter.

(2) Paragraph (1) of this subsection applies to a project—

(A) about which the applicant, before the project begins, notifies the Secretary of the applicant's intent to carry out the project;

(B) that will comply with all statutory and administrative requirements that would apply to the project if it were carried out with amounts made available under this subchapter; and

(C) the Secretary decides will enhance system-wide airport capacity significantly and meets the criteria of section 47115(c) of this title.

(3) Issuance of a letter under paragraph (1) of this subsection is not an obligation of the Government under section 1501 of title 31, and the letter is not deemed to be an administrative commitment for financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriation laws.

(4) The total estimated amount of future Government obligations covered by all outstanding letters of intent under paragraph (1) of this subsection may not be more than the amount authorized to carry out section 47703 of this title, less an amount reasonably estimated by the Secretary to be needed

for grants under section 47703 that are not covered by a letter.

(f) Except as provided in subsection (d) of this section, a cost is not an allowable airport development project cost if it is for—

(1) constructing a public parking facility for passenger automobiles;

(2) constructing, altering, or repairing part of an airport building, except to the extent the building will be used for facilities or activities directly related to the safety of individuals at the airport;

(3) decorative landscaping; or

(4) providing or installing sculpture or art works.

§ 47110. United States Government share of project costs

(a) Except as provided in subsections (b) and (c) of this section, the United States Government share of allowable project costs is—

(1) 75 percent for a project at a primary airport having at least .25 percent of the total number of passenger boardings each year at all commercial service airports; and

(2) 90 percent for a project at any other airport.

(b) If, under subsection (a) of this section, the Government share of allowable costs of a project in a State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) of more than 5 percent of the total area of all lands in the State, is less than the share applied on June 30, 1975, under section 17(b) of the Airport and Airway Development Act of 1970, the Government share under subsection (a) of this section shall be increased by the lesser of—

(1) 25 percent;

(2) one-half of the percentage that the area of unappropriated and unreserved public lands and nontaxable Indian lands in the State is of the total area of the State; or

(3) the percentage necessary to increase the Government share to the percentage that applied on June 30, 1975, under section 17(b) of the Airport and Airway Development Act of 1970.

(c) Notwithstanding subsections (a) and (b) of this section, the Government share of project costs allowable under section 47109(d) of this title may not be more than 75 percent.

§ 47111. Payments under project grant agreements

(a) After making a project grant agreement under this subchapter, the Secretary of Transportation, in consultation with the grant recipient, may decide when and in what amounts payments under the agreement will be made. Payments totaling not more than 90 percent of the United States Government share of the project's estimated allowable costs may be made before the project is completed if the grant recipient certifies to the Secretary that the total amount expended from the advance payments at any time will not be more than the cost of the airport development work completed on the project at that time.

(b) If the Secretary decides that the total amount of payments made under a grant agreement under this subchapter is more than the Government share of the total allowable project costs, the Government may recover the excess amount. If the Secretary decides that a project for which an advance payment was made has not been completed within a reasonable time, the Government may recover any part of the advance payment for which the Government received no benefit.

(c) A payment under a project grant agreement under this subchapter may be made only to an officer or depository designated by the grant recipient and authorized by law to receive public money.

(d)(1) The Secretary may withhold a payment under a grant agreement under this subchapter for more than 180 days after the payment is due only if the Secretary—

(A) decides the recipient has violated the agreement; and

(B) notifies the recipient and provides an opportunity for a proceeding.

(2) The 180-day period may be extended by—

(A) agreement of the Secretary and the recipient; or

(B) the hearing officer if the officer decides an extension is necessary because the recipient did not follow the schedule the officer established.

(3) A person adversely affected by an order of the Secretary withholding a payment may apply for review of the order by filing a petition in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the project is located. The petition must be filed not later than 60 days after the order is served on the petitioner.

§ 47112. Carrying out airport development projects

(a) Construction work for an airport development project carried out under a grant agreement under this subchapter is subject to inspection and approval by the Secretary of Transportation. The construction work must be carried out in compliance with regulations prescribed by the Secretary. The regulations shall require the project grant recipient to make necessary cost and progress reports on the project. The regulations may change a contract related to the project only if the contract was made with actual notice of the regulations.

(b) A contract for more than $2,000 involving labor for an airport development project carried out under a grant agreement under this subchapter must require contractors to pay labor minimum wage rates as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a-5). The minimum rates must be included in the bids for the work and in the invitation for those bids.

(c)(1) In this subsection—

(A) "disabled veteran" has the same meaning given that term in section 2108 of title 5.

(B) "Vietnam-era veteran" means an individual who served on active duty (as defined in section 101 of title 38) in the armed forces for more than 180 consecutive days any part of which occurred after August 4, 1964, and before May 8, 1975, and who was separated from the armed forces under honorable conditions.

(2) A contract involving labor for carrying out an airport development project under a grant agreement under this subchapter must require that preference in the employment of labor (except in executive, administrative, and supervisory positions) be given to Vietnam-era veterans and disabled veterans when they are available and qualified for the employment.

§ 47113. Minority and disadvantaged business participation

(a) In this section—

(1) "small business concern"—

(A) has the same meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632); but

(B) does not include a concern, or group of concerns controlled by the same socially and
economically disadvantaged individual
that has average annual gross receipts ove
the prior 3 fiscal years of more tha
$14,000,000, as adjusted by the Secretary o
Transportation for inflation.

(2) "socially and economically disadvan
taged individual" has the same meanin
given that term in section 8(d) of the Act (1
U.S.C. 637(d)) and relevant subcontractin
regulations prescribed under section 8(d).

(3) women are presumed to be socially an
economically disadvantaged.

(b) Except to the extent the Secretary de
cides otherwise, at least 10 percent o
amounts available in a fiscal year unde
section 47703 of this title shall be expende
with small business concerns owned an
controlled by socially and economically dis
advantaged individuals.

(c) The Secretary shall establish minimu
uniform criteria for State governments an
airport sponsors to use in certifying whethe
a small business concern qualifies unde
this section. The criteria shall include o
site visits, personal interviews, license
analyses of stock ownership and bonding c
pacity, listings of equipment and work com
pleted, resumes of principal owners, fina
cial capacity, and type of work preferred.

(d) Each State or airport sponsor annuall
shall survey and compile a list of small bus
ness concerns referred to in subsection (b)
this section and the location of each co
cern.

§ 47114. Apportionments

(a) In this section, "amount subject to a
portionment" means the amount ma
available under section 47703 of this title f
a fiscal year and not previously appo
tioned.

(b) On the first day of each fiscal year, t
Secretary of Transportation shall apporti
the amount subject to apportionment f
that fiscal year as provided in this sectio

(c)(1)(A) The Secretary shall apportion
the sponsor of each primary airport for ea
fiscal year an amount equal to—

(i) $7.80 for each of the first 50,000 passe
ger boardings at the airport during the pri
calendar year;

(ii) $5.20 for each of the next 50,000 pa
senger boardings at the airport during t
prior calendar year;

(iii) $2.60 for each of the next 400,000 pa
senger boardings at the airport during t
prior calendar year; and

(iv) $.65 for each additional passeng
boarding at the airport during the prior c
endar year.

(B) Not less than $300,000 nor more th
$16,000,000 may be apportioned under su
paragraph (A) of this paragraph to an a
port sponsor for a primary airport for ea
fiscal year.

(2)(A) The Secretary shall apportion to t
sponsors of airports served by aircraft p
viding air transportation of only prope
(including mail) with a total annual land
weight of more than 100,000,000 pounds
each fiscal year an amount equal to 3 p
cent of the amount subject to apportionme
each year (but not more than $50,000,000)
follows: among those airports, in the prop
tion that the total annual landed weight
those aircraft landing at each of those a
ports bears to the total annual lan
weight of those aircraft landing at all th
airports. However, not more than 8 perc
of the amount apportioned under this pa
graph may be apportioned for any one a
port.

(B) Landed weight under subparagra
(A) of this paragraph is the landed weigh

aircraft landing at each of those airports and all those airports during the prior calendar year.

(3) The total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 49.5 percent of the amount subject to apportionment for a fiscal year. If this paragraph requires reduction of an amount that otherwise would be apportioned under this subsection, the Secretary shall ratably reduce the amount apportioned to each sponsor of an airport under paragraphs (1) and (2) until the 49.5 percent limit is achieved.

(d)(1) In this subsection—

(A) "area" includes land and water.

(B) "population" means the population stated in the latest decennial census of the United States.

(2) The Secretary shall apportion to the States 12 percent of the amount subject to apportionment for each fiscal year as follows:

(A) one percent of the apportioned amount to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(B) except as provided in paragraph (3) of this subsection, 49.5 percent of the apportioned amount among airports, except primary airports and airports described in section 47116(e)(1)(C) of this title, in States not included in clause (A) of this paragraph in the proportion that the population of each of those States bears to the total population of all of those States.

(C) except as provided in paragraph (3) of this subsection, 49.5 percent of the apportioned amount among airports, except primary airports and airports described in section 47116(e)(1)(C) of this title, in States not included in clause (A) of this paragraph in the proportion that the area of each of those States bears to the total area of all of those States.

(3) An amount apportioned under paragraph (2) of this subsection for an airport in—

(A) Alaska may be made available by the Secretary for a public airport described in section 47116(e)(1)(C)(ii) of this title to which section 15(a)(3)(A)(II) of the Airport and Airway Development Act of 1970 applied during the fiscal year that ended September 30, 1981; and

(B) Puerto Rico may be made available by the Secretary for a primary airport and an airport described in section 47116(e)(1)(C) of this title.

(e)(1) Instead of apportioning amounts for airports in Alaska under subsections (c) and (d) of this section, the Secretary may apportion amounts for those airports in the way in which amounts were apportioned in fiscal year 1980 under section 15(a) of the Airport and Airway Development Act of 1970. However, in apportioning amounts for a fiscal year under this subsection, the Secretary shall apportion—

(A) for each primary airport at least as much as would be apportioned for the airport under subsection (c)(1) of this section; and

(B) a total amount at least equal to the minimum amount required to be apportioned to airports in Alaska in fiscal year 1980 under section 15(a)(3)(A) of that Act.

(2) This subsection does not prohibit the Secretary from making project grants for airports in Alaska from the discretionary fund under section 47115 of this title.

§ 47115. Discretionary fund

(a) The Secretary of Transportation has a discretionary fund. The fund consists of amounts subject to apportionment for a fiscal year that are not apportioned under section 47114 of this title. Subject to subsection (b) of this section and section 47116(e) of this title, the fund is available for making grants for any purpose for which amounts are made available under section 47703 of this title that the Secretary considers most appropriate to carry out this subchapter.

(b) At least 75 percent of the amount in the fund and distributed by the Secretary in a fiscal year shall be used for making grants—

(1) to preserve and enhance capacity, safety, and security at primary and reliever airports; and

(2) to carry out airport noise compatibility planning and programs at primary and reliever airports.

(c) In selecting a project for a grant to preserve and enhance capacity as described in subsection (b)(1) of this section, the Secretary shall consider—

(1) the effect the project will have on the overall national air transportation system capacity;

(2) the benefit and cost of the project; and

(3) the financial commitment from non-United States Government sources to preserve or enhance airport capacity.

(d) If the Secretary decides the Secretary cannot comply with the percentage requirements of subsection (b) of this section in a fiscal year because the number of qualified applicants is not enough to meet the percentage, the amount the Secretary determines will not be distributed as required by subsection (b) is available for obligation during the fiscal year without regard to the requirement.

§ 47116. Use of apportioned amounts

(a) Except as provided in this section, an amount apportioned under section 47114(c)(1) or (d)(2) of this title is available for making grants for any purpose for which amounts are made available under section 47703 of this title.

(b) An amount apportioned under section 47114 of this title is available to be obligated for grants under the apportionment only during the fiscal year for which the amount was first authorized to be obligated for grants and the 2 fiscal years immediately after that year. If the amount is not obligated under the apportionment within that time, it is added to the discretionary fund.

(c)(1) An amount apportioned to a sponsor of a primary airport under section 47114(c)(1) of this title is available for grants for any public-use airport of the sponsor included in the national plan of integrated airport systems.

(2) A sponsor of a primary airport may make an agreement with the Secretary of Transportation waiving a part of the amount apportioned for the airport under section 47114(c)(1) of this title if the Secretary makes the waived amount available for grants for another public-use airport in the same State or geographical area as the primary airport.

(d) An amount apportioned for a State under—

(1) section 47114(d)(2)(A) of this title is available for grants for airports located in the State; and

(2) section 47114(d)(2)(B) or (C) of this title is available for grants for airports located in the State, except—

(A) primary airports;

(B) commercial service airports; or

(C) public airports that were eligible for United States Government assistance from amounts apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970 and to which section 15(a)(3)(A)(I) or (II) of that Act applied during the fiscal year that ended September 30, 1981.

(e)(1) During each fiscal year, the Secretary shall use—

(A) at least 10 percent of the amount made available under section 47703 of this title for grants for reliever airports;

(B) at least 10 percent of that amount for grants for airport noise compatibility planning under section 47505(a)(2) of this title and for carrying out noise compatibility programs under section 47504(c)(1) of this title;

(C) at least 2.5 percent of that amount for grants for—

(i) nonprimary commercial service airports; and

(ii) public airports (except commercial service airports) that were eligible for Government assistance from amounts apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970, and to which section 15(a)(3)(A)(I) or (II) of that Act applied during the fiscal year that ended September 30, 1981; and

(D) at least .5 percent of that amount for integrated airport system planning grants to planning agencies designated by the Secretary and authorized by the laws of a State or political subdivision of a State to do planning for an area of the State or subdivision in which a grant under this chapter is to be used.

(2) A grant from the amount apportioned under section 47114(e) of this title may not be included as part of the 2.5 percent required to be used for grants under paragraph (1)(C) of this subsection.

(3) If the Secretary decides that an amount required to be used for grants under paragraph (1) of this subsection cannot be used for a fiscal year because there are not enough qualified grant applications submitted under this subchapter, the amount the Secretary determines cannot be used is available during the fiscal year for grants for other airports or for other purposes for which amounts are authorized for grants under section 47703 of this title.

(f) The Secretary may not make a grant for a commercial service airport in Alaska of more than 110 percent of the amount apportioned for the airport for a fiscal year under section 47114(e) of this title.

(g)(1) Subject to paragraph (2) of this subsection, if the Secretary decides, based on the notices provided under section 47105(e) of this title or otherwise, that an amount apportioned under section 47114 of this title will not be used for grants during a fiscal year, the Secretary may use an equal amount for grants during the fiscal year for any of the purposes for which amounts are authorized for grants under section 47703 of this title.

(2) The Secretary may make a grant under paragraph (1) of this subsection only if the Secretary decides that—

(A) the total amount used for grants for the fiscal year under section 47703 of this title will not be more than the amount authorized for grants under section 47703 for that fiscal year; and

(B) the amounts authorized for grants under section 47703 of this title for later fiscal years are sufficient for grants of the apportioned amounts that were not used for grants during the fiscal year and that remain available under subsection (b) of this section.

(h) The authority of the Secretary to make grants during a fiscal year from amounts that were apportioned for a prior fiscal year and remain available for approved airport development project grants under subsection (b) of this section may be impaired only by a law enacted after September 3, 1982, that expressly limits that authority.

§ 47117. Terminal development costs

(a) An amount apportioned under section 47114 of this title and made available to the sponsor of an air carrier airport at which terminal development was carried out after June 30, 1970, and before July 12, 1976, is available to repay immediately money borrowed and used to pay the costs for terminal development at the airport, if those costs would be allowable project costs under section 47109(d) of this title if they had been incurred after September 3, 1982. An amount is available for a grant under this subsection—

(1) only if—

(A) the grant applicant submits the certification required under section 47109(d) of this title;

(B) the Secretary of Transportation decides that using the amount to repay the borrowed money will not defer a project of airport development at the airport outside the terminal area; and

(C) amounts available for airport development under this subchapter will not be used for additional terminal development projects at the airport for at least 3 years beginning on the date the grant is used to repay the borrowed money; and

(2) subject to the limitations in subsection (b)(1) and (2) of this section.

(b) In a fiscal year, the Secretary may make available—

(1) to a sponsor of a primary airport, any part of amounts apportioned to the sponsor for the fiscal year under section 47114(c)(1) of this title to pay project costs allowable under section 47109(d) of this title;

(2) to a sponsor of a nonprimary commercial service airport, not more than $200,000 of the amount that may be distributed for the fiscal year from the discretionary fund to pay project costs allowable under section 47109(d) of this title; or

(3) not more than $25,000,000 to pay project costs allowable for the fiscal year under section 47109(d) of this title for projects at commercial service airports that were not eligible for assistance for terminal development during the fiscal year ending September 30, 1980, under section 20(b) of the Airport and Airway Development Act of 1970.

§ 47118. Grant priority

In making a grant under this subchapter, the Secretary of Transportation may give priority to a project that is consistent with an integrated airport system plan.

§ 47119. Records and audits

(a) The recipient of a grant under this subchapter shall keep the records the Secretary of Transportation requires. The Secretary may require records—

(1) that disclose—

(A) the amount and disposition by the recipient of the proceeds of the grant;

(B) the total cost of the plan or program for which the grant is given or used; and

(C) the amounts and kinds of costs of the plan or program provided by other sources; and

(2) that make it easier to carry out an audit.

(b) The Secretary and the Comptroller General may audit and examine records of a recipient of a grant under this subchapter related to the grant.

(c) When an independent audit is made of the accounts of a recipient of a grant under this subchapter related to the disposition of the proceeds of the grant or related to the plan or program for which the grant was given or used, the recipient shall submit a certified copy of the audit to the Comptroller General not more than 6 months after the end of the fiscal year for which the audit was made. Not later than April 15 of each year, the Comptroller General shall report to Congress describing the results of each audit conducted or reviewed by the Comptroller General under this section during the prior fiscal year. The Comptroller General shall prescribe regulations necessary to carry out this subsection.

(d) The Secretary may require a person to conduct an appropriate audit as a condition for receiving a grant under this subchapter.

(e) The Secretary shall review annually the reporting and recordkeeping requirements under this subchapter to ensure that they are the minimum necessary to carry out this chapter.

(f) This section does not authorize the Secretary or the Comptroller General to withhold information from a committee of Congress authorized to have the information.

§ 47120. Investigations and hearings

The Secretary of Transportation may take action the Secretary considers necessary to carry out this subchapter, including conducting investigations and public hearings, prescribing regulations and procedures, and issuing orders.

§ 47121. Nondiscrimination

The Secretary of Transportation shall take affirmative action to ensure that an individual is not excluded because of race, creed, color, national origin, or sex from participating in an activity carried out with money received from a grant under this subchapter. The Secretary shall prescribe regulations necessary to carry out this section. The regulations shall be similar to those in effect under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.). This section is in addition to title VI of the Civil Rights Act of 1964.

§ 47122. Agreements for State and local operation of airport facilities

(a) When the Secretary of Transportation makes an agreement under this subchapter with a State or a political subdivision of a State to allow the State or subdivision to operate an airport facility in the State or subdivision, the Secretary shall ensure that the agreement relieves the United States Government from any liability arising out of, or related to, acts or omissions of employees of the State or subdivision in operating the airport facility.

(b) The Secretary shall—

(1) continue, for contract towers existing on December 30, 1987, the low activity (VFR) level I air traffic control contract program established under subsection (a) of this section; and

(2) extend the program to other towers as practicable.

§ 47123. Conveyance of United States Government land

(a) Except as provided in subsection (b) of this section, when necessary to carry out a project under this subchapter at a public airport, to operate a public airport, or for the future development of an airport under the national plan of integrated airport systems, the Secretary of Transportation shall request the head of the department, agency, or instrumentality of the United States Government owning or controlling land or airspace to convey property interests in the land or airspace to the public agency sponsoring the project or owning or controlling the airport. Not later than 4 months after receiving the request, the head of the department, agency, or instrumentality shall decide whether the requested conveyance is consistent with the needs of the department, agency, or instrumentality and shall notify the Secretary of that decision. If the head of the department, agency, or instrumentality decides that the requested conveyance is consistent with its needs, the head of the department, agency, or instrumentality, with the approval of the Attorney General and without cost to the Government, shall make the conveyance. A conveyance may be made only on the condition that the property interests conveyed revert to the Government, at the option of the Secretary, to the extent they are not developed for an airport purpose or used consistently with the conveyance.

(b) Except as specifically provided by law, subsection (a) of this section does not apply to land or airspace owned or controlled by the Government within—

(1) a national park, national monument, national recreation area, or similar area under the administration of the National Park Service;

(2) a unit of the National Wildlife Refuge System or similar area under the jurisdiction of the United States Fish and Wildlife Service; or

(3) a national forest or Indian reservation.

§ 47124. Annual report

Not later than April 1 of each year, the Secretary of Transportation shall submit t Congress a report on activities carried ou under this subchapter during the prior fisca year. The report shall include—

(1) a detailed statement of airport develop ment completed;

(2) the status of each project undertaken;

(3) the allocation of appropriations; and

(4) an itemized statement of expenditure and receipts.

§ 47125. Criminal penalties for false statements

A person shall be fined under title 18, im prisoned for not more than 5 years, or both if the person, with intent to defraud th United States Government, knowingl makes—

(1) a false statement about the kind, quan tity, quality, or cost of the material used o to be used, or the quantity, quality, or cos of work performed or to be performed, i connection with the submission of a pla map, specification, contract, or estimate c project cost for a project included in a gran application submitted to the Secretary c Transportation for approval under this su chapter;

(2) a false statement or claim for work c materials for a project included in a gran application approved by the Secretary unde this subchapter; or

(3) a false statement in a report or certif cation required under this subchapter.

§ 47126. Ground transportation demonstratic projects

(a) To improve the airport and airwa system of the United States consistent wit regional airport system plans finance under section 13(b) of the Airport an Airway Development Act of 1970, the Secr tary of Transportation may carry o ground transportation demonstratic projects to improve ground access to air ca rier airport terminals. The Secretary ma

carry out a demonstration project independently or by grant or contract, including a contract with another department, agency, or instrumentality of the United States Government.

(b) In carrying out this section, the Secretary shall give priority to a demonstration project that—

(1) affects an airport in an area with an operating regional rapid transit system with existing facilities reasonably near the airport;

(2) includes connection of the airport terminal to that system;

(3) is consistent with and supports a regional airport system plan adopted by the planning agency for the region and submitted to the Secretary; and

(4) improves access to air transportation for individuals residing or working in the region by encouraging the optimal balance of use of airports in the region.

§ 47127. Restriction on projects using products or services of foreign countries denying fair market opportunities

(a) In this section—

(1) each foreign instrumentality and each territory and possession of a foreign country administered separately for customs purposes is a separate foreign country.

(2) an article substantially produced or manufactured in a foreign country is a product of the country.

(3) a service provided by a person that is a national of a foreign country or that is controlled by a national of a foreign country is a service of the country.

(b)(1) An amount made available under this subchapter may not be used for a project that uses a product or service of a foreign country during any period the country is on the list maintained by the United States Trade Representative under subsection (d)(1) of this section.

(2) Paragraph (1) of this subsection does not apply when the Secretary of Transportation decides that—

(A) applying paragraph (1) to the product, service, or project is not in the public interest;

(B) a product or service of the same class or type and of a satisfactory quality is not produced or offered in the United States, or in a foreign country not listed under subsection (d)(1) of this section, in a sufficient and reasonably available amount; and

(C) the cost of the project will increase by more than 20 percent if the product or service is excluded.

(c) Not later than 30 days after a report is submitted to Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)), the Trade Representative, for a construction project of more than $500,000 for which the government of a foreign country supplies any part of the amount, shall decide whether the foreign country denies fair market opportunities for products and suppliers of the United States in procurement or for United States bidders. In making the decision, the Trade Representative shall consider information obtained in preparing the report and other information the Trade Representative considers relevant.

(d)(1) The Trade Representative shall maintain a list of each foreign country the Trade Representative finds under subsection (c) of this section is denying fair market opportunities. The country shall remain on the list until the Trade Representative decides the country provides fair market opportunities.

(2) The Trade Representative shall publish in the Federal Register—

(A) annually the list required under paragraph (1) of this subsection; and

(B) any change made before the next list is published.

§ 47128. State block grant pilot program

(a) The Secretary of Transportation shall prescribe regulations to carry out a State block grant pilot program. The regulations shall provide that the Secretary may designate not more than 3 qualified States to assume administrative responsibility for all airport grant amounts available under this subchapter, except for amounts designated for use at primary airports.

(b) A State wishing to participate in the program must submit an application to the Secretary. The Secretary shall select a State only after deciding the State—

(1) has an authority or organization capable of effectively administering a block grant made under this section;

(2) uses a satisfactory airport system planning process;

(3) uses a programming process acceptable to the Secretary;

(4) has agreed to comply with United States Government standard requirements for administering the block grant; and

(5) has agreed to provide the Secretary with program information the Secretary requires.

(c) Before deciding a planning process is satisfactory or a programming process is acceptable under subsection (b)(2) or (3) of this section, the Secretary shall ensure that the process provides for meeting critical safety and security needs and that the programming process ensures that the needs of the national airport system will be addressed in deciding which projects will receive money from the Government.

(d)(1) This section is effective only through September 30, 1991.

(2) The Secretary shall conduct an ongoing review of the program and not later than 90 days before the program ends shall submit to Congress a report on the results of the review and recommendations for further action.

SUBCHAPTER II—SURPLUS PROPERTY FOR PUBLIC AIRPORTS

§ 47141. Authority to transfer an interest in surplus property

(a) Subject to sections 47142 and 47143 of this title, a department, agency, or instrumentality of the executive branch of the United States Government or a wholly owned Government corporation may give a State, political subdivision of a State, or tax-supported organization any interest in surplus property—

(1) that the Secretary of Transportation decides is—

(A) desirable for developing, improving, operating, or maintaining a public airport (as defined in section 47102 of this title);

(B) reasonably necessary to fulfill the immediate and foreseeable future requirements for developing, improving, operating, or maintaining a public airport; or

(C) needed for developing sources of revenue from nonaviation businesses at a public airport; and

(2) if the Administrator of General Services approves the gift and decides the interest is not best suited for industrial use.

(b) Only the Secretary may ensure compliance with an instrument giving an interest in surplus property under this subchapter. The Secretary may change the instrument to correct the instrument or to make the gift comply with law.

(c) The giving of surplus property under this subchapter that the Secretary decides is available for the purposes described in subsection (a) of this section has priority.

(d) An interest in surplus property that could be used at a public airport but that is not given under this subchapter shall be disposed of under other applicable law.

§ 47142. Terms of gifts

Except as provided in section 47143 of this title, the following terms apply to a gift of an interest in surplus property under this subchapter:

(1) A State, political subdivision of a State, or tax-supported organization receiving the interest may use, lease, salvage, or dispose of the interest for other than airport purposes only after the Secretary of Transportation gives written consent that the interest can be used, leased, salvaged, or disposed of without materially and adversely affecting the development, improvement, operation, or maintenance of the airport at which the property is located.

(2) The interest shall be used and maintained for the use and benefit of the public without unreasonable discrimination.

(3) A right may not be vested in a person excluding others in the same class from using the airport—

(A) to conduct an aeronautical activity requiring the operation of aircraft; or

(B) to sell or supply aircraft, aircraft accessories, equipment, or supplies (except gasoline and oil), or aircraft services necessary to operate aircraft (including maintaining and repairing aircraft, aircraft engines, propellers, and appliances).

(4) The State, political subdivision, or tax-supported organization shall clear and protect the aerial approaches to the airport by mitigating existing, and preventing future, airport hazards.

(5) During a national emergency declared by the President or Congress, the United States Government is entitled to use, control, or possess, without charge, any part of the public airport at which the property is located or used. However, the Government shall—

(A) pay the entire cost of maintaining the part of the airport it exclusively uses, controls, or possesses during the national emergency;

(B) contribute a share, equal to the use made by the Government, of the cost of maintaining the property over which the Government has nonexclusive use, control, or possession during the national emergency; and

(C) pay a fair rental for use, control, or possession of improvements to the airport made without assistance from the Government.

(6) The Government is entitled to the nonexclusive use, without charge, of the landing area of an airport at which the property is located or used. The Secretary may limit the use of the landing area if necessary to prevent unreasonable interference with use by other authorized aircraft. However, the Government—

(A) shall pay for damages caused by its use of the landing area; and

(B) if its use of the landing area is substantial, shall contribute a share, equal to the use made by the Government, of the cost of maintaining and operating the landing area.

(7) The State, political subdivision, or tax-supported organization accepting the interest shall release the Government from all liability for damages arising under an agreement that provides for Government use of a part of the airport owned, controlled, or operated by the State, political subdivision, or tax-supported organization on which, adjacent to which, or in connection with which, the property is located or used.

(8) Any part of the interest in the property reverts to the Government, at the option of the Government, as the property exists when a term under this section is not satisfied.

§ 47143. Waiving and adding terms

(a) The Secretary of Transportation may waive, without charge, a term required by section 47142 of this title of a gift of an interest in property under this subchapter—

(1) if the Secretary decides that the property no longer serves the purpose for which it was given; or

(2) under terms the Secretary considers necessary to advance the interests of the United States in civil aviation if the Secretary decides that the waiver will not prevent carrying out the purpose for which the property was given and is necessary to protect or advance those interests.

(b) On request of the Secretary of Transportation or the Secretary of a military department, a department, agency, or instrumentality of the executive branch of the United States Government or a wholly owned Government agency may waive a term required by section 47142 of this title or include an additional term if the appropriate Secretary decides it is necessary to protect or advance the interests of the United States in civil aviation or for national defense.

CHAPTER 473—INTERNATIONAL AIRPORT FACILITIES

Sec.
47301. Definitions.
47302. Providing airport and airway property in foreign territories.
47303. Training foreign citizens.
47304. Transfer of airport and airway property.
47305. Administrative.
47306. Criminal penalty.

§ 47301. Definitions

In this chapter—

(1) "airport property" means an interest in property used or useful in operating and maintaining an airport.

(2) "airway property" means an interest in property used or useful in operating and maintaining a ground installation, facility, or equipment desirable for the orderly and safe operation of air traffic, including air navigation, air traffic control, airway communication, and meteorological facilities.

(3) "foreign territory" means an area—

(A) over which no government or a government of a foreign country has sovereignty;

(B) temporarily under military occupation by the United States Government; or

(C) occupied or administered by the United States Government or a government of a foreign country under an international agreement.

(4) "territory outside the continental United States" means territory outside the 48 contiguous States and the District of Columbia.

§ 47302. Providing airport and airway property in foreign territories

(a) Subject to the concurrence of the Secretary of State and the consideration of objectives of the International Civil Aviation Organization—

(1) the Secretary of Transportation may acquire, establish, and construct airport property and airway property (except meteorological facilities) in foreign territory; and

(2) the Secretary of Commerce may acquire, establish, and construct meteorological facilities in foreign territory.

(b) Except for airport property transferred under section 47304(b) of this title, an airport (as defined in section 40102(a) of this title) may be acquired, established, or constructed under subsection (a) of this section only if amounts have been appropriated specifically for the airport.

(c) The Secretary of Transportation or Commerce, as appropriate, may accept payment from a government of a foreign country or international organization for facilities or services sold or provided the government or organization under this chapter. The amount received may be credited to the appropriation current when the expenditures are or were paid, the appropriation current when the amount is received, or both.

§ 47303. Training foreign citizens

Subject to the concurrence of the Secretary of State, the Secretary of Transportation or Commerce, as appropriate, may train a foreign citizen in a subject related to aeronautics and essential to the orderly and safe operation of civil aircraft. The training may be provided—

(1) directly by the appropriate Secretary or jointly with another department, agency, or instrumentality of the United States Government;

(2) through a public or private agency of the United States (including a State or municipal educational institution); or

(3) through an international organization.

§ 47304. Transfer of airport and airway property

(a) When requested by the government of a foreign country or an international organization, the Secretary of Transportation or Commerce, as appropriate, may transfer to the government or organization airport property and airway property operated and maintained under this chapter by the Secretary in foreign territory. The transfer shall be on terms the Secretary considers proper, including consideration agreed on through negotiations with the government or organization.

(b) Subject to terms to which the parties agree, the Secretary of a military department may transfer without charge to the Secretary of Transportation airport property and airway property (except meteorological facilities), and to the Secretary of Commerce meteorological facilities, that the Secretary of the military department installed or controls in territory outside the continental United States. The transfer may be made if consistent with the needs of national defense and—

(1) the Secretary of the military department finds that the property or facility is no longer required exclusively for military purposes; and

(2) the Secretary of Transportation or Commerce, as appropriate, decides that the transfer is or may be necessary to carry out this chapter.

(c)(1) The Secretary of Transportation may provide, operate, and maintain facilities and services for air navigation, airway communications, and air traffic control in the Canal Zone and the Republic of Panama subject to—

(A) the approval of the Secretary of Defense; and

(B) each obligation assumed by the United States Government under an agreement between the Government and the Republic of Panama.

(2) The Secretary of a military department may transfer without charge to the Secretary of Transportation property located in the Canal Zone or the Republic of Panama when the Secretary of Transportation decides that the transfer may be useful in carrying out this chapter.

(3) Subsection (b) of this section (related to the Secretary of Transportation) and section 47302(a) and (b) of this title do not apply in carrying out this subsection.

(d)(1) When necessary for a military requirement, the Secretary of a military department immediately may retake property (with any improvements to it) transferred by the Secretary under subsection (b) or (c) of this section. The Secretary shall pay reasonable compensation to each person (or its successor in interest) that made an improvement to the property that was not made at the expense of the Government. The Secretary or a delegate of the Secretary shall decide on the amount of compensation.

(2) On the recommendation of the Secretary of Transportation or Commerce, as appropriate, the Secretary of a military department may decide not to act under paragraph (1) of this subsection.

§ 47305. Administrative

(a) The Secretary of Transportation shall consolidate, operate, protect, maintain, and improve airport property and airway property (except meteorological facilities), and the Secretary of Commerce may consolidate, operate, protect, maintain, and improve meteorological facilities, that the appropriate Secretary has acquired and that are located in territory outside the continental United States. In carrying out this section, the appropriate Secretary may—

(1) adapt the property or facility to the needs of civil aeronautics;

(2) lease the property or facility for not more than 20 years;

(3) make a contract, or provide directly, for facilities and services;

(4) make reasonable charges for aeronautical services; and

(5) acquire an interest in property.

(b) The amount received from the direc sale or charge that the Secretary of Transportation or Commerce, as appropriate, decides is equivalent to the cost of facilitie and services sold or provided under subsection (a)(3) and (4) of this section is credite to the appropriation from which the cos was paid. The balance shall be deposited i the Treasury as miscellaneous receipts.

(c) To carry out this chapter and to us personnel and facilities of the United State Government most advantageously and without unnecessary duplication, the Secretar of Transportation or Commerce, as appropriate, shall request, when practicable, t use a facility or service of an appropriat department, agency, or instrumentality o the Government on a reimbursable basis. department, agency, or instrumentality receiving a request under this section ma provide the facility or service.

(d) Section 3709 of the Revised Statute (41 U.S.C. 5) does not apply to a lease o contract made by the Secretary of Transpo tation or Commerce under this chapter.

§ 47306. Criminal penalty

A person that knowingly and willfully violates a regulation prescribed by the Secr tary of Transportation to carry out th chapter shall be fined under title 18, impri oned for not more than 6 months, or both.

CHAPTER 475—NOISE ABATEMENT

Sec.
47501. Definitions.

47502. Noise measurement and exposure systems and identifying land use compatible with noise exposure.
47503. Submission, legal effect, and use of a noise exposure map.
47504. Noise compatibility program.
47505. Airport noise compatibility planning grants.
47506. Noise standards for air carriers and foreign air carriers providing foreign air transportation.

§ 47501. Definitions

In this chapter—

(1) "airport" means a public-use airport as defined in section 47102 of this title.

(2) "airport operator" means—

(A) for an airport serving air carriers that have certificates from the Secretary of Transportation, the person holding an airport operating certificate issued under section 44706 of this title; and

(B) for any other airport, the person operating the airport.

§ 47502. Noise measurement and exposure systems and identifying land use compatible with noise exposure

The Secretary of Transportation shall establish by regulation—

(1) a single system of measuring noise that—

(A) has a highly reliable relationship between projected noise exposure and surveyed reactions of individuals to noise; and

(B) is applied uniformly in measuring noise at airports and the surrounding area;

(2) a single system for establishing the exposure of individuals to noise resulting from airport operations, including noise intensity, duration, frequency, and time of occurrence; and

(3) a way to identify land use normally compatible with various exposures of individuals to noise.

§ 47503. Submission, legal effect, and use of a noise exposure map

(a) An airport operator may submit to the Secretary of Transportation a noise exposure map showing the noncompatible uses in each area of the map on the date the map is submitted, a description of estimated aircraft operations during 1985, and how those operations will affect the map. The map shall—

(1) be prepared in consultation with public agencies and planning authorities in the area surrounding the airport; and

(2) comply with regulations prescribed under section 47502 of this title.

(b) An airport operator shall submit a revised noise exposure map to the Secretary if a change in the operation of the airport will establish a substantial new noncompatible use in an area surrounding the airport.

(c)(1) A person acquiring an interest in property in an area surrounding an airport for which a noise exposure map has been submitted and having actual or constructive knowledge of the existence of the map may recover damages for noise attributable to the airport only if the person shows that—

(A) after acquiring the interest, there was a significant—

(i) change in the type or frequency of aircraft operations at the airport;

(ii) change in the airport layout;

(iii) change in flight patterns; or

(iv) increase in nighttime operations; and

(B) the damages resulted from the change or increase.

(2)(A) A person has constructive knowledge of the existence of a map under paragraph (1) of this subsection if—

(i) before acquiring the interest, notice of the existence of the map was published at least 3 times in a newspaper of general circulation in the county in which the property is located; or

(ii) the person is given a copy of the map when acquiring the interest.

(B) A person may have constructive knowledge of the existence of the map by other means.

(d) No part of a noise exposure map or related information described in subsection (a) or (b) of this section that is submitted to, or prepared by, the Secretary and no part of a list of land use the Secretary identifies as normally compatible with various exposures of individuals to noise may be admitted into evidence or used in a civil action asking for relief for noise resulting from the operation of an airport.

§ 47504. Noise compatibility program

(a)(1) An airport operator that submitted a noise exposure map and related information under section 47503(a) of this title may submit a noise compatibility program to the Secretary of Transportation after—

(A) consulting with public agencies and planning authorities in the area surrounding an airport, United States Government officials having local responsibility for the airport, and air carriers using the airport; and

(B) notice and an opportunity for a public hearing.

(2) A program submitted under pararaph (1) of this subsection shall state the measures the operator has taken or proposes to take to reduce existing noncompatible uses and prevent introducing additional noncompatible uses in the area covered by the map, including—

(A) establishing a preferential runway system;

(B) restricting the use of the airport by a type or class of aircraft because of the noise characteristics of the aircraft;

(C) constructing barriers and acoustical shielding and soundproofing public buildings;

(D) using flight procedures to control the operation of aircraft to reduce exposure of individuals to noise in the area surrounding the airport; and

(E) acquiring land, air rights, easements, development rights, and other interests to ensure that the property will be used in ways compatible with airport operations.

(b)(1) The Secretary shall approve a program submitted under subsection (a) of this section (except for flight procedures) not later than 180 days after receiving it if the program—

(A) does not place an unreasonable burden on interstate or foreign commerce;

(B) is reasonably consistent with achieving the goal of reducing noncompatible uses and preventing the introduction of additional noncompatible uses; and

(C) provides for necessary revisions because of a revised map submitted under section 47503(b) of this title.

(2) A program is deemed to be approved if the Secretary does not act within the 180-day period.

(c)(1) The Secretary may make grants from amounts available under section 47703 of this title to carry out a project under a part of a noise compatibility program approved under subsection (b) of this section. A grant may be made to—

(A) an airport operator submitting the program;

(B) a unit of general local government in the area surrounding the airport, if the Secretary decides the unit is able to carry out the project;

(C) an airport operator or unit of general local government referred to in clause (A) or (B) of this paragraph to carry out any part of a program developed before February 18, 1980, or regulations prescribed to carry out the program, if the Secretary decides the program is substantially consistent with reducing existing noncompatible uses and preventing the introduction of additional noncompatible uses and the purposes of this chapter will be furthered by promptly carrying out the program; and

(D) an airport operator or unit of general local government referred to in clause (A) or (B) of this paragraph to soundproof a public building in the noise impact area surrounding the airport that is used primarily for educational or medical purposes and that the Secretary decides is adversely affected by airport noise.

(2) An airport operator may agree to make a grant made under paragraph (1)(A) of this subsection available to a public agency in the area surrounding the airport if the Secretary decides the agency is able to carry out the project.

(3) The Government share of a project for which a grant is made under paragraph (1) of this subsection is the greater of—

(A) 80 percent of the cost of the project; or

(B) the Government share that would apply if the amounts available for the project were made available under subchapter I of chapter 471 of this title for a project at the airport.

(4) The provisions of subchapter I of chapter 471 of this title related to grants apply to a grant made under this chapter, except—

(A) section 47110(a) and (b) of this title; and

(B) any provision that the Secretary decides is inconsistent with, or unnecessary to carry out, this chapter.

(d) The Government is not liable for damages from aviation noise because of action taken under this section.

§ 47505. Airport noise compatibility planning grants

(a) The Secretary of Transportation may make a grant to a sponsor of an airport to develop, for planning purposes, information necessary to prepare and submit—

(1) a noise exposure map and related information under section 47503(a) of this title, including the cost of obtaining the information; or

(2) a noise compatibility program under section 47504 of this title.

(b) A grant under subsection (a) of this section may be made from amounts available under section 47703 of this title. The United States Government share for the grant is the percent for which a project for airport development at an airport is eligible under section 47110(a) and (b) of this title.

§ 47506. Noise standards for air carriers and foreign air carriers providing foreign air transportation

(a)(1) The Secretary of Transportation shall require each air carrier and foreign air carrier providing foreign air transportation to comply with noise standards—

(A) the Secretary prescribes for new subsonic aircraft under regulations of the Secretary in effect on January 1, 1977; or

(B) of the International Civil Aviation Organization that are substantially compatible with standards of the Secretary for new subsonic aircraft under regulations of the Secretary prescribed between January 2, 1977, and January 1, 1982.

(2) Each carrier shall comply with the standards at a phased rate similar to the rate for aircraft registered in the United States.

(b) The requirement for air carriers providing foreign air transportation may not be more stringent than the requirement for foreign air carriers.

CHAPTER 477—AIRPORT AND AIRWAY TRUST FUND AUTHORIZATIONS

Sec.
47701. Air navigation facilities.
47702. Research and development.
47703. Airport planning and development and noise compatibility planning and programs.
47704. Certain direct costs and joint air navigation services.
47705. Weather reporting services.
47706. Availability and uses of amounts.
47707. Submission of budget information and legislative recommendations and comments.

§ 47701. Air navigation facilities

(a) For the fiscal years ending September 30, 1982–1990, not more than $11,625,200,000 may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to acquire, establish, and improve air navigation facilities under section 44502(a)(1)(A) of this title.

(b) Of amounts available under subsection (a) of this section, the Secretary shall obligate not less than $35,000,000 in the fiscal year ending September 30, 1990, to buy and install instrument landing systems at airports under section 44502(a)(1)(A) of this title. Of the amounts obligated under this subsection in a fiscal year—

(1) 75 percent is available for primary and reliever airports; and

(2) 25 percent is available for other airports.

(c) Amounts appropriated under this section remain available until expended.

§ 47702. Research and development

(a) For the fiscal year ending September 30, 1990, the following amounts may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to carry out sections 44504, 44505, and 44507 of this title:

(1) $25,000,000 for human factors research projects and activities.

(2) $221,530,000 for all other research projects and activities.

(b) At least 15 percent of the amount appropriated under subsection (a) of this section is for long-term research projects, each of which is—

(1) identified as a discrete project in the aviation research plan required under section 44501(d) of this title; and

(2) unlikely to result in a final rulemaking action within 5 years, or in initial installation of operational equipment within 10 years, after the project begins.

(c)(1) Not more than 10 percent of the amount authorized for a category of projects and activities in a fiscal year under subsection (a) of this section may be transferred to or from that category in that fiscal year.

(2) The Secretary may transfer more than 10 percent of an authorized amount to or from a category only after—

(A) submitting a written explanation of the transfer to the Committees on Science, Space, and Technology and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate; and

(B) 30 days have passed after the explanation is submitted or each Committee notifies the Secretary in writing that it does not object to the transfer.

(d)(1) Of the amounts made available under subsection (a) of this section, at least $25,000,000 may be appropriated each fiscal year for research and development under sections 44504 and 44505(a) of this title on preserving and enhancing airport capacity, including research and development on improvements to airport design standards, maintenance, safety, operations, and environmental concerns.

(2) The Secretary shall submit to the Committees on Science, Space, and Technology and Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report for the fiscal year ending September 30, 1990, on expenditures made under paragraph (1) of this subsection for the fiscal year. The report shall be submitted not later than 60 days after the end of the fiscal year.

(e) Necessary amounts may be appropriated to the Secretary out of amounts in the Fund available for research and development to conduct research under section 44506 of this title.

(f) Amounts appropriated under subsection (a) of this section remain available until expended.

§ 47703. Airport planning and development and noise compatibility planning and programs

Not more than the following amounts are available to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to make grants for airport planning and airport development under section 47104 of this title, airport noise compatibility planning under section 47505(a)(2) of this title, and carrying out noise compatibility programs under section 47504(c)(1) of this title:

(1) $10,216,700,000 for the fiscal years ending September 30, 1982–1990.

(2) $12,016,700,000 for the fiscal years ending September 30, 1982–1991.

(3) $13,816,700,000 for the fiscal years ending September 30, 1982–1992.

§ 47704. Certain direct costs and joint air navigation services

(a) Except as provided in this section, the balance of the money available in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) may be appropriated out of the Fund for—

(1) direct costs the Secretary of Transportation incurs to flight check, operate, and maintain air navigation facilities referred to in section 44502(a)(1)(A) of this title safely and efficiently; and

(2) the costs of services provided under international agreements related to the joint financing of air navigation services assessed against the United States Government.

(b) Subject to subsections (c)–(e) of this section, the maximum amount that may be appropriated out of the Fund for the fiscal year ending September 30, 1990, may not be more than an amount equal to 50 percent of the amount made available under sections 47701–47703 of this title for that fiscal year.

(c) The maximum amount that may be appropriated under subsection (a) of this section, as limited by subsection (b) of this section, shall be reduced by an amount equal to 2 times any excess of—

(1) $3,863,000,000 for the fiscal year ending September 30, 1990, $3,770,000,000 for the fiscal year ending September 30, 1991, and $3,778,000,000 for the fiscal year ending September 30, 1992; over

(2) the amount made available under sections 47701–47703 of this title for the fiscal year.

(d) The amount that may be appropriated under subsection (a) of this section, as limited and reduced by subsections (b) and (c) of this section, shall be increased by an amount equal to 2 times any excess of—

(1) the amount made available under sections 47701–47703 of this title for the fiscal year; over

(2) the part of the amount authorized under sections 47701–47703 of this title for the fiscal year that was not authorized for a prior fiscal year.

(e) The total amount of the increase under subsection (d) of this section may not be more than the total amount of the reduction under subsection (c) of this section.

§ 47705. Weather reporting services

The Secretary of Transportation may expend from amounts available under section 47704 of this title in the fiscal year ending September 30, 1990, not more than $30,000,000 to reimburse the Secretary of Commerce for the cost of providing weather reporting services.

§ 47706. Availability and uses of amounts

(a) Amounts equal to the amounts authorized under sections 47701–47705 of this title remain in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) until appropriated.

(b)(1) Amounts in the Fund may not be appropriated to carry out a program or activity under part A of subtitle VII of this title, except a program or activity referred to in sections 47701–47705 of this title.

(2) Except to the extent authorized by section 47704 of this title, amounts in the Fund may not be appropriated for administrative expenses of the Department of Transportation.

(c) In a fiscal year beginning after September 30, 1992, the Secretary of Transportation may obligate or expend an amount appropriated out of the Fund under section 47704 of this title only if a law expressly changes the provisions of, and formula in, section 47704.

§ 47707. Submission of budget information and legislative recommendations and comments

When the Administrator of the Federal Aviation Administration submits to the Secretary of Transportation, the President, or the Director of the Office of Management and Budget any budget information, legislative recommendation, or comment on legislation about amounts authorized in section 47701 or 47702 of this title, the Administrator concurrently shall submit a copy of the information, recommendation, or comment to the Speaker of the House of Representatives, the Committees on Public Works and Transportation and Appropriations of the House, the President of the Senate, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate.

SUBTITLE VIII—PIPELINES

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CHAPTER 501—SAFETY

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§ 50101. Definitions

In this chapter—

(1) "existing liquefied natural gas facility"—

(A) means a liquefied natural gas facility for which an application to approve the site, construction, or operation of the facility was filed before March 1, 1978, with—

(i) the Federal Energy Regulatory Commission (or any predecessor); or

(ii) the appropriate State or local authority, if the facility is not subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.); but

(B) does not include a facility on which construction is begun after November 29, 1979, without the approval.

(2) "gas" means natural gas, flammable gas, or toxic or corrosive gas.

(3) "gas pipeline facility" includes a pipeline, a right of way, a facility, a building, or equipment used in transporting gas or treating gas during its transportation.

(4) "hazardous liquid" means—

(A) petroleum or a petroleum product; and

(B) a substance the Secretary of Transportation decides may pose an unreasonable risk to life or property when transported by a hazardous liquid pipeline facility in a liquid state (except for liquefied natural gas).

(5) "hazardous liquid pipeline facility" includes a pipeline, a right of way, a facility, a building, or equipment used or intended to be used in transporting hazardous liquid.

(6) "interstate gas pipeline facility"—

(A) means a gas pipeline facility—

(i) used to transport gas; and

(ii) subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.); but

(B) does not include a gas pipeline facility transporting gas from an interstate gas pipeline in a State to a direct sales customer in that State buying gas for its own consumption.

(7) "interstate hazardous liquid pipeline facility" means a hazardous liquid pipeline facility used to transport hazardous liquid in interstate or foreign commerce.

(8) "interstate or foreign commerce"—

(A) related to gas, means commerce—

(i) between a place in a State and a place outside that State; or

(ii) that affects any commerce described in subclause (A)(i) of this clause; and

(B) related to hazardous liquid, means commerce between—

(i) a place in a State and a place outside that State; or

(ii) places in the same State through a place outside the State.

(9) "intrastate gas pipeline facility" means—

(A) a gas pipeline facility and transportation of gas within a State not subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.); and

(B) a gas pipeline facility transporting gas from an interstate gas pipeline in a State to a direct sales customer in that State buying gas for its own consumption.

(10) "intrastate hazardous liquid pipeline facility" means a hazardous liquid pipeline facility that is not an interstate hazardous liquid pipeline facility.

(11) "liquefied natural gas" means natural gas in a liquid or semisolid state.

(12) "liquefied natural gas accident" means a release, burning, or explosion of liquefied natural gas from any cause, except a release, burning, or explosion that, under regulations prescribed by the Secretary, does not pose a threat to public health or safety, property, or the environment.

(13) "liquefied natural gas conversion" means changing natural gas into liquefied natural gas or changing liquefied natural gas into natural gas.

(14) "liquefied natural gas pipeline facility"—

(A) means a gas pipeline facility used for transporting or storing liquefied natural gas, or for liquefied natural gas conversion, in interstate or foreign commerce; but

(B) does not include any part of a structure or equipment located in navigable waters (as defined in section 3 of the Federal Power Act (16 U.S.C. 796)).

(15) "municipality" means a political subdivision of a State.

(16) "new liquefied natural gas pipeline facility" means a liquefied natural gas pipeline facility except an existing liquefied natural gas pipeline facility.

(17) "person", in addition to its meaning under section 1 of title 1 (except as to societies), includes a State, a municipality, and a trustee, receiver, assignee, or personal representative of a person.

(18) "pipeline facility" means a gas pipeline facility and a hazardous liquid pipeline facility.

(19) "pipeline transportation" means transporting gas and transporting hazardous liquid.

(20) "State" means a State of the United States, the District of Columbia, and Puerto Rico.

(21) "transporting gas"—

(A) means the gathering, transmission, or distribution of gas by pipeline, or the storage of gas, in interstate or foreign commerce; but

(B) does not include gathering gas in a rural area outside a populated area designated by the Secretary as a nonrural area.

(22) "transporting hazardous liquid"—

(A) means the movement of hazardous liquid by pipeline, or the storage of hazardous liquid incidental to the movement of hazardous liquid by pipeline, in or affecting interstate or foreign commerce; but

(B) does not include moving hazardous liquid through—

(i) gathering lines in a rural area;

(ii) onshore production, refining, or manufacturing facilities; or

(iii) storage or in-plant piping systems associated with onshore production, refining, or manufacturing facilities.

§ 50102. General authority

(a) The Secretary of Transportation shall prescribe minimum safety standards for pipeline transportation and for pipeline facilities. The standards—

(1) apply to transporters of gas and hazardous liquid and to owners and operators of pipeline facilities;

(2) may apply to the design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities; and

(3) may include a requirement that all individuals responsible for the operation and maintenance of pipeline facilities be tested for qualifications and certified to operate and maintain those facilities.

(b) A standard prescribed under subsection (a) of this section shall be practicable and designed to meet the need for gas pipeline safety and for safely transporting hazardous liquid. Except as provided in section 50103 of this title, when prescribing the standard the Secretary shall consider—

(1) relevant available—

(A) gas pipeline safety information; or

(B) hazardous liquid pipeline information;

(2) the appropriateness of the standard for the particular type of pipeline transportation or facility;

(3) the reasonableness of the standard; and

(4) the extent to which the standard will contribute to public safety.

(c)(1) The Secretary shall include in the standards prescribed under subsection (a) of this section a requirement that an operator of a gas pipeline facility participate in a public safety program that—

(A) notifies an operator of proposed demolition, excavation, tunneling, or construction near or affecting the facility;

(B) requires an operator to identify a pipeline facility that may be affected by the proposed demolition, excavation, tunneling, or construction, to prevent damaging the facility; and

(C) the Secretary decides will protect a facility adequately against a hazard caused by demolition, excavation, tunneling, or construction.

(2) To the extent a public safety program referred to in paragraph (1) of this subsection is not available, the Secretary shall prescribe standards requiring an operator to take action the Secretary prescribes to provide services comparable to services that would be available under a public safety program.

(3) The Secretary may include in the standards prescribed under subsection (a) of this section a requirement that an operator of a hazardous liquid pipeline facility participate in a public safety program meeting the requirements of paragraph (1) of this subsection or maintain and carry out a damage prevention program that provides services comparable to services that would be available under a public safety program.

(d) The Secretary shall prescribe minimum standards requiring an operator of a pipeline facility to which this chapter applies to maintain, to the extent practicable, information related to operating the facility and, when requested, to provide the information to the Secretary and an appropriate State official. The information shall include—

(1) the business name, address, and telephone number, including an operations emergency telephone number, of the operator;

(2) an accurate map and a supplementary geographic description that show the location in the State of—

(A) major gas pipeline facilities of the operator, including transmission lines and significant distribution lines; and

(B) major hazardous liquid pipeline facilities of the operator;

(3) a description of—

(A) the characteristics of the operator's pipelines in the State; and

(B) products transported through the operator's pipelines in the State;

(4) the manual that governs operating and maintaining pipeline facilities in the State;

(5) an emergency response plan describing the operator's procedures for responding to and containing releases, including—

(A) identifying specific action the operator will take on discovering a release;

(B) liaison procedures with State and local authorities for emergency response; and

(C) communication and alert procedures for immediately notifying State and local officials at the time of a release; and

(6) other information the Secretary considers useful to inform a State of the presence of pipeline facilities and operations in the State.

(e) The Secretary shall prescribe minimum standards requiring an operator of a pipeline facility to which this chapter applies to maintain for the Secretary, to the extent practicable, an inventory with appropriate information about the types of pipe used for the transmission of gas or hazardous liquid, as appropriate, in the operator's system and additional information, including the material's history and the leak history of the pipe. The inventory—

(1) for a gas pipeline facility, shall exclude equipment used with the compression of gas; and

(2) for a hazardous liquid pipeline facility, shall exclude equipment associated only with the pipeline pumps or storage facilities.

(f) The Secretary shall prescribe minimum safety standards requiring that the design and construction of a new gas pipeline transmission facility or hazardous liquid pipeline facility, and the required replacement of an existing gas pipeline transmission facility, hazardous liquid pipeline facility, or equipment, be carried out, to the extent practicable, in a way that accommodates the passage through the facility of an instrumented internal inspection device (commonly referred to as a "smart pig").

(g) A standard prescribed under this section is effective on the 30th day after the Secretary prescribes the standard. However, the Secretary for good cause may prescribe a different effective date when required because of the time reasonably necessary to comply with the standard. The different date must be specified in the regulation prescribing the standard.

(h)(1) The Secretary shall prescribe regulations requiring each operator of a pipeline facility (except a master meter) to submit to the Secretary a written report on any—

(A) condition that is a hazard to life or property; and

(B) safety-related condition that causes or has caused a significant change or restriction in the operation of a pipeline facility.

(2) The Secretary must receive the report not later than 5 working days after a representative of a person to which this section applies first establishes that the condition exists. Notice of the condition shall be given concurrently to appropriate State authorities.

(i) The Secretary shall regulate carbon dioxide transported by a hazardous liquid pipeline facility. The Secretary shall prescribe regulations related to hazardous liquid to ensure the safe transportation of carbon dioxide by such a facility.

§ 50103. Standards for liquefied natural gas pipeline facilities

(a) The Secretary of Transportation shall prescribe minimum safety standards for deciding on the location of a new liquefied natural gas pipeline facility. In prescribing a standard, the Secretary shall consider the—

(1) kind and use of the facility;

(2) existing and projected population and demographic characteristics of the location;

(3) existing and proposed land use near the location;

(4) natural physical aspects of the location;

(5) medical, law enforcement, and fire prevention capabilities near the location that can cope with a risk caused by the facility; and

(6) need to encourage remote siting.

(b) The Secretary of Transportation shall prescribe minimum safety standards for designing, installing, constructing, initially inspecting, and initially testing a new liquefied natural gas pipeline facility. When prescribing a standard, the Secretary shall consider—

(1) the characteristics of materials to be used in constructing the facility and of alternative materials;

(2) design factors;

(3) the characteristics of the liquefied natural gas to be stored or converted at, or transported by, the facility; and

(4) the public safety factors of the design and of alternative designs, particularly the ability to prevent and contain a liquefied natural gas spill.

(c)(1) Except as provided in paragraph (2) of this subsection, a design, location, installation, construction, initial inspection, or initial testing standard prescribed under this chapter after March 1, 1978, does not apply to an existing liquefied natural gas pipeline facility if the standard is to be applied because of authority given—

(A) under this chapter; or

(B) under another law, and the standard is not prescribed at the time the authority is applied.

(2)(A) Any design, installation, construction, initial inspection, or initial testing standard prescribed under this chapter after March 1, 1978, may provide that the standard applies to any part of a replacement component of a liquefied natural gas pipeline facility if the component or part is placed in service after the standard is prescribed and application of the standard—

(i) does not make the component or part incompatible with other components or parts; or

(ii) is not impracticable otherwise.

(B) Any location standard prescribed under this chapter after March 1, 1978, does not apply to any part of a replacement component of an existing liquefied natural gas pipeline facility.

(3) A design, installation, construction, initial inspection, or initial testing standard does not apply to a liquefied natural gas pipeline facility existing when the standard is adopted.

(d) The Secretary of Transportation shall prescribe minimum operating and maintenance standards for a liquefied natural gas pipeline facility. In prescribing a standard, the Secretary shall consider—

(1) the conditions, features, and type of equipment and structures that make up or are used in connection with the facility;

(2) the fire prevention and containment equipment at the facility;

(3) security measures to prevent an intentional act that could cause a liquefied natural gas accident;

(4) maintenance procedures and equipment;

(5) the training of personnel in matters specified by this subsection; and

(6) other factors and conditions related to the safe handling of liquefied natural gas.

(e) A standard prescribed under this section is effective on the 30th day after the Secretary of Transportation prescribes the standard. However, the Secretary for good cause may prescribe a different effective date when required because of the time reasonably necessary to comply with the standard. The different date must be specified in the regulation prescribing the standard.

(f) A new liquefied natural gas pipeline facility may be operated only after the operator submits an adequate contingency plan that states the action to be taken if a liquefied natural gas accident occurs. The Secretary of Energy or appropriate State or local authority shall decide if the plan is adequate.

(g) This section does not preclude applying a standard prescribed under section 50102 of this title to a gas pipeline facility (except a liquefied natural gas pipeline facility) associated with a liquefied natural gas pipeline facility.

§ 50104. Requirements and limitations

(a) The Secretary of Transportation shall give an interested person an opportunity to make oral and written presentations of information, views, and arguments when prescribing a standard under this chapter.

(b) A design, installation, construction, initial inspection, or initial testing standard does not apply to a pipeline facility existing when the standard is adopted.

(c) A State authority may adopt additional or more stringent safety standards for intrastate pipeline facilities and intrastate pipeline transportation only if those standards are compatible with the minimum standards prescribed under this chapter. A State authority may not adopt or continue in force safety standards for interstate pipeline facilities or interstate pipeline transportation.

(d)(1) When continuity of gas service is affected by prescribing a standard or waiving compliance with standards under this chapter, the Secretary of Transportation shall consult with and advise the Federal Energy Regulatory Commission or a State authority having jurisdiction over the affected gas pipeline facility before prescribing the standard or waiving compliance. The Secretary shall delay the effective date of the standard or waiver until the Commission or State authority has a reasonable opportunity to grant an authorization it considers necessary.

(2) In a proceeding under section 3 or 7 of the Natural Gas Act (15 U.S.C. 717b or 717f), each applicant for authority to import natural gas or to establish, construct, operate, or extend a gas pipeline facility subject to an applicable safety standard shall certify that it will design, install, inspect, test, construct, operate, replace, and maintain a gas pipeline facility under those standards and

plans for inspection and maintenance under section 50108 of this title. The certification is binding on the Secretary of Energy and the Commission except when an appropriate enforcement agency has given timely written notice to the Commission that the applicant has violated a standard prescribed under this chapter.

(e) This chapter does not authorize the Secretary of Transportation to prescribe the location or routing of a pipeline facility.

§ 50105. State certifications

(a) Except as provided in this section and sections 50111 and 50118 of this title, the Secretary of Transportation may not prescribe or enforce safety standards and practices for an intrastate pipeline facility or intrastate pipeline transportation if the safety standards and practices are regulated by a State authority (including a municipality if the standards and practices apply to intrastate gas pipeline transportation), and the authority submits to the Secretary annually a certification for the facilities and transportation that complies with subsections (b) and (c) of this section.

(b) Each certification submitted under subsection (a) of this section shall state that the State authority—

(1) has regulatory jurisdiction over the standards and practices to which the certification applies;

(2) has adopted, by the date of certification, each applicable standard prescribed under this chapter or, if a standard under this chapter was prescribed not later than 120 days before certification, is taking steps to adopt that standard;

(3) is enforcing each adopted standard through ways that include inspections conducted by State employees meeting the qualifications the Secretary prescribes under section 50107(d)(1)(C) of this title;

(4) is encouraging and promoting programs designed to prevent damage by demolition, excavation, tunneling, or construction activity to the pipeline facilities to which the certification applies;

(5) may require record maintenance, reporting, and inspection substantially the same as provided under section 50114 of this title;

(6) may require that plans for inspection and maintenance under section 50108 of this title be filed for approval; and

(7) may enforce safety standards of the authority under a law of the State by injunctive relief and civil penalties substantially the same as provided under sections 50117 and 50119(a)(1) and (b)-(f) of this title.

(c)(1) Each certification submitted under subsection (a) of this section shall include a report that contains—

(A) the name and address of each person to whom the certification applies that is subject to the safety jurisdiction of the State authority;

(B) each accident or incident reported during the prior 12 months by that person involving a fatality, personal injury requiring hospitalization, or property damage or loss of more than $5,000 (even if the person sustaining the fatality, personal injury, or property damage or loss is not subject to the safety jurisdiction of the authority), any other accident the authority considers significant, and a summary of the investigation by the authority of the cause and circumstances surrounding the accident or incident;

(C) the record maintenance, reporting, and inspection practices conducted by the authority to enforce compliance with safety standards prescribed under this chapter to which the certification applies, including the number of inspections of pipeline facilities the authority made during the prior 12 months; and

(D) any other information the Secretary requires.

(2) The report included in the first certification submitted under subsection (a) of this section is only required to state information available at the time of certification.

(d) A certification in effect under this section does not apply to safety standards prescribed under this chapter after the date of certification. This chapter applies to each applicable safety standard prescribed after the date of certification until the State authority adopts the standard and submits the appropriate certification to the Secretary under subsection (a) of this section.

(e) The Secretary may monitor a safety program established under this section to ensure that the program complies with the certification. A State authority shall cooperate with the Secretary under this subsection.

(f) If after receiving a certification the Secretary decides the State authority is not enforcing satisfactorily compliance with applicable safety standards prescribed under this chapter, the Secretary may reject the certification, assert United States Government jurisdiction, or take other appropriate action to achieve adequate enforcement. The Secretary shall give the authority notice and an opportunity for a proceeding before taking final action under this subsection. When notice is given, the burden of proof is on the authority to demonstrate that it is enforcing satisfactorily compliance with the prescribed standards.

§ 50106. State agreements

(a) If the Secretary of Transportation does not receive a certification under section 50105 of this title, the Secretary may make an agreement with a State authority (including a municipality if the agreement applies to intrastate gas pipeline transportation) authorizing it to take necessary action. Each agreement shall—

(1) establish an adequate program for record maintenance, reporting, and inspection designed to assist compliance with applicable safety standards prescribed under this chapter; and

(2) prescribe procedures for approval of plans of inspection and maintenance substantially the same as required under section 50108 of this title.

(b) Each agreement shall require the State authority to notify the Secretary promptly of a violation or probable violation of an applicable safety standard discovered as a result of action taken in carrying out an agreement under this section.

(c) The Secretary may monitor a safety program established under this section to ensure that the program complies with the agreement. A State authority shall cooperate with the Secretary under this subsection.

(d) The Secretary may end an agreement made under this section when the Secretary finds that the State authority has not complied with any provision of the agreement. The Secretary shall give the authority notice and an opportunity for a proceeding before ending an agreement. The finding and decision to end the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication.

§ 50107. State grants

(a) If a State authority files an application not later than September 30 of a calendar year, the Secretary of Transportation shall pay not more than 50 percent of the cost of the personnel, equipment, and activities the authority reasonably requires during the next calendar year—

(1) to carry out a safety program under a certification under section 50105 of this title or an agreement under section 50106 of this title; or

(2) to act as an agent of the Secretary on interstate gas pipeline transmission facilities or interstate hazardous liquid pipeline facilities.

(b) After notifying and consulting with a State authority, the Secretary may withhold any part of a payment when the Secretary decides that the authority is not carrying out satisfactorily a safety program or not acting satisfactorily as an agent. The Secretary may pay an authority under this section only when the authority ensures the Secretary that it will provide the remaining costs of a safety program and that the total State amount spent for a safety program (excluding grants of the United States Government) will at least equal the average amount spent—

(1) for a gas safety program, for the fiscal years that ended June 30, 1967, and June 30, 1968; and

(2) for a hazardous liquid safety program, for the fiscal years that ended September 30, 1978, and September 30, 1979.

(c) The Secretary shall apportion the amount appropriated to carry out this section among the States. A payment may be made under this section in installments, in advance, or on a reimbursable basis.

(d)(1) The Secretary may prescribe—

(A) the form of, and way of filing, an application under this section;

(B) reporting and fiscal procedures the Secretary considers necessary to ensure the proper accounting of money of the Government; and

(C) qualifications for a State to meet to receive a payment under this section, including qualifications for State employees who perform inspection activities under section 50105 or 50106 of this title.

(2) The qualifications prescribed under paragraph (1)(C) of this subsection may—

(A) consider the experience and training of the employee;

(B) order training or other requirements; and

(C) provide for approval of qualifications on a conditional basis until specified requirements are met.

§ 50108. Inspection and maintenance plans

(a)(1) Each person transporting gas or hazardous liquid or owning or operating an intrastate gas pipeline facility or hazardous liquid pipeline facility shall carry out a current written plan (including any changes) for inspection and maintenance of each facility used in the transportation and owned or operated by the person. A copy of the plan shall be kept at any office of the person the Secretary of Transportation considers appropriate. The Secretary also may require a person transporting gas or hazardous liquid or owning or operating a pipeline facility to which this chapter applies to file a plan for inspection and maintenance for approval.

(2) If the Secretary or a State authority responsible for enforcing standards prescribed under this chapter decides that a plan required under paragraph (1) of this subsection is inadequate for safe operation, the Secretary or authority shall require the person to revise the plan. Revision may be required only after giving notice and an opportunity for a proceeding. A plan required under paragraph (1) must be practicable and designed to meet the need for pipeline safety and must include terms designed to enhance the ability to discover safety-related conditions described in section 50102(h)(1) of this title. In deciding on the adequacy of a plan, the Secretary or authority shall consider—

(A) relevant available pipeline safety information;

(B) the appropriateness of the plan for the particular kind of pipeline transportation or facility;

(C) the reasonableness of the plan; and

(D) the extent to which the plan will contribute to public safety.

(3) A plan required under this subsection shall be made available to the Secretary or State authority on request under section 50114 of this title.

(b)(1) The Secretary shall inspect and require appropriate testing of a pipeline facility to which this chapter applies that is not covered by a certification under section 50105 of this title or an agreement under section 50106 of this title. The Secretary shall decide on the frequency and type of inspection and testing under this subsection on a case-by-case basis after considering the following:

(A) the location of the pipeline facility.

(B) the type, size, age, manufacturer, method of construction, and condition of the facility.

(C) the nature and volume of material transported through the facility.

(D) the pressure at which that material is transported.

(E) climatic, geologic, and seismic characteristics (including soil characteristics) and conditions of the area in which the facility is located.

(F) existing and projected population and demographic characteristics of the area in which the facility is located.

(G) the frequency of leaks.

(H) other factors the Secretary decides are relevant to the safety of pipeline facilities.

(2) To the extent and in amounts provided in advance in an appropriation law, the Secretary shall decide on the frequency of inspection under paragraph (1) of this subsection. However, an inspection must occur at least once every 2 years. The Secretary may reduce the frequency of an inspection of a master meter system.

(3) Testing under this subsection shall use the most appropriate technology practicable.

§ 50109. Financial responsibility for liquefied natural gas facilities

(a) When the Secretary of Transportation believes that an operator of a liquefied natural gas facility does not have adequate financial responsibility for the facility, the Secretary may issue a notice to the operator about the inadequacy and the amount of financial responsibility the Secretary considers adequate.

(b) An operator receiving a notice under subsection (a) of this section may have a hearing on the record under section 554 of title 5 not later than 30 days after receiving the notice. The operator may show why the Secretary should not issue an order requiring the operator to demonstrate and maintain financial responsibility in at least the amount the Secretary considers adequate.

(c) After an opportunity for a hearing on the record, the Secretary may issue the order if the Secretary decides it is justified in the public interest.

§ 50110. Pipeline facilities hazardous to life or property

(a) After notice and an opportunity for a proceeding, the Secretary of Transportation may decide a pipeline facility is hazardous if the Secretary decides the facility is—

(1) hazardous to life or property; or

(2) constructed or operated, or a component of the facility is constructed or operated, with equipment, material, or a technique the Secretary decides is hazardous to life or property.

(b) In making a decision under subsection (a) of this section, the Secretary shall consider, if relevant—

(1) the characteristics of equipment used in the facility, including the age, manufacture, physical properties, and method of manufacturing, constructing, or assembling the equipment;

(2) the nature of the materials the facility transports, the corrosive and deteriorative qualities of the materials, the sequence in which the materials are transported, and the pressure required for transporting the materials;

(3) the aspects of the area in which the facility is located, including climatic and geologic conditions and soil characteristics;

(4) the population density and population and growth patterns of the area;

(5) any recommendation of the National Transportation Safety Board made under another law; and

(6) other factors the Secretary considers appropriate.

(c) If the Secretary decides under subsection (a) of this section that a pipeline facility is hazardous, the Secretary shall order the operator of the facility to take necessary corrective action.

(d) The Secretary may waive the requirements for notice and an opportunity for a proceeding under this section and issue expeditiously an order under this section if the Secretary decides failure to issue the order expeditiously will result in likely serious harm to life or property. An order under this subsection shall provide an opportunity for a proceeding as soon as practicable after the order is issued.

§ 50111. One-call notification systems

(a) The Secretary of Transportation shall prescribe regulations providing minimum requirements for establishing and operating a one-call notification system for a State to adopt that will notify an operator of a pipeline facility of activity in the vicinity of the facility that could threaten the safety of the facility. The regulations shall include the following:

(1) a requirement that the system apply to all areas of the State containing underground pipeline facilities.

(2) a requirement that a person intending to engage in an activity the Secretary decides could cause physical damage to an underground facility must contact the appropriate system to establish if there are underground facilities present in the area of the intended activity.

(3) a requirement that all operators of underground pipeline facilities participate in an appropriate one-call notification system.

(4) qualifications for an operator of a facility, a private contractor, or a State or local authority to operate a system.

(5) procedures for advertisement and notice of the availability of a system.

(6) a requirement about the information to be provided by a person contacting the system under clause (2) of this subsection.

(7) a requirement for the response of the operator of the system and of the facility after they are contacted by an individual under this subsection.

(8) a requirement that each State decide whether the system will be toll free.

(9) a requirement for sanctions substantially the same as provided under sections 50117, 50119, and 50120 of this title.

(b) The Secretary may make a grant to a State under this section to develop and establish a one-call notification system consistent with subsection (a) of this section.

(c) When apportioning the amount appropriated to carry out section 50107 of this title among the States, the Secretary—

(1) shall consider whether a State has adopted or is seeking adoption of a one-call notification system under this section; and

(2) shall withhold part of a payment under section 50107 of this title when the Secretary decides a State has not adopted, or is not seeking adoption of, a one-call notification system.

(d) This section and regulations prescribed under this section do not affect the liability established under a law of the United States or a State for damage caused by an activity described in subsection (a)(2) of this section.

§ 50112. Technical safety standards committees

(a) The Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee are committees in the Department of Transportation.

(b)(1) The Technical Pipeline Safety Standards Committee is composed of 15 members appointed by the Secretary of Transportation after consulting with public and private agencies concerned with the technical aspect of transporting gas or operating a gas pipeline facility. Each member must be experienced in the safety regulation of transporting gas and of gas pipeline facilities or technically qualified, by training, experience, or knowledge in at least one field of engineering applicable to transporting gas or operating a gas pipeline facility, to evaluate gas pipeline safety standards.

(2) The Technical Hazardous Liquid Pipeline Safety Standards Committee is composed of 15 members appointed by the Secretary after consulting with public and private agencies concerned with the technical aspect of transporting hazardous liquid or operating a hazardous liquid pipeline facility. Each member must be experienced in the safety regulation of transporting hazardous liquid and of hazardous liquid pipeline facilities or technically qualified, by training, experience, or knowledge in at least one field of engineering applicable to transporting hazardous liquid or operating a hazardous liquid pipeline facility, to evaluate hazardous liquid pipeline safety standards.

(c)(1) The members of each committee are appointed as follows:

(A) 5 individuals selected from departments, agencies, and instrumentalities of the United States Government and of the States.

(B) 4 individuals selected from the natural gas or hazardous liquid industry, as appropriate, after consulting with industry representatives, at least 3 of whom must be currently in the active operation of natural gas pipelines or hazardous liquid pipeline facilities, as appropriate.

(C) 6 individuals selected from the general public.

(2) Two of the individuals selected for each committee under paragraph (1)(A) of this subsection must be State commissioners. The Secretary shall consult with the na-

tional organization of State commissions (referred to in section 10344(f) of this title) before selecting those 2 individuals.

(d)(1) The Secretary shall give to—

(A) the Technical Pipeline Safety Standards Committee each standard proposed under this chapter for transporting gas and for gas pipeline facilities; and

(B) the Technical Hazardous Liquid Pipeline Safety Standards Committee each standard proposed under this chapter for transporting hazardous liquid and for hazardous liquid pipeline facilities.

(2) Not later than 90 days after receiving the proposed standard, the appropriate committee shall prepare a report on the technical feasibility, reasonableness, and practicability of the proposed standard. The Secretary shall publish each report, including minority views. The report if timely made is part of the proceeding for prescribing the standard. The Secretary is not bound by the conclusions of the committee. However, if the Secretary rejects the conclusions of the committee, the Secretary shall publish the reasons.

(3) The Secretary may prescribe a standard after the end of the 90-day period.

(e) The Technical Pipeline Safety Standards Committee may propose to the Secretary a safety standard for transporting gas and for gas pipeline facilities. The Technical Hazardous Liquid Pipeline Safety Standards Committee may propose to the Secretary a safety standard for transporting hazardous liquid and for hazardous liquid pipeline facilities.

(f) Each committee shall meet with the Secretary at least twice annually. Each committee proceeding shall be recorded. The record of the proceeding shall be available to the public.

(g) The Secretary may establish the pay for each member of a committee when performing duties of the committee. However, a member may not be paid more than the daily equivalent of the rate for GS-18. A member is entitled to reimbursement for expenses under section 5703 of title 5. This subsection does not apply to members regularly employed by the Government. A payment under this subsection does not make a member an officer or employee of the Government.

§ 50113. Public education programs

Under regulations the Secretary of Transportation prescribes, each person transporting gas shall carry out a program to educate the public on the possible hazards associated with gas leaks and the importance of reporting gas odors and leaks to the appropriate authority. The Secretary may develop materials suitable for use in the program.

§ 50114. Administrative

(a) To carry out this chapter, the Secretary of Transportation may conduct investigations, make reports, issue subpenas, conduct proceedings, require the production of records, take depositions, and conduct research, testing, development, demonstration, and training activities. The Secretary may not charge a tuition-type fee for training State or local government personnel in the enforcement of regulations prescribed under this chapter.

(b) To enable the Secretary to decide whether a person transporting gas or hazardous liquid or operating a pipeline facility is complying with this chapter and standards prescribed or orders issued under this chapter, the person shall—

(1) maintain records, make reports, and provide information the Secretary requires; and

(2) make the records, reports, and information available when the Secretary requests.

(c) An officer, employee, or agent of the Secretary, on display of proper credentials to the individual in charge, may enter premises to inspect the records and property of a person at a reasonable time and in a reasonable way to decide whether a person is complying with this chapter and standards prescribed or orders issued under this chapter.

(d) Information related to a confidential matter referred to in section 1905 of title 18 that is obtained by the Secretary or an officer, employee, or agent of the Secretary in carrying out this section may be disclosed only to another officer or employee concerned with carrying out this chapter or in a proceeding under this chapter.

(e)(1) Each accident report made by an officer, employee, or agent of the Secretary may be used in a judicial proceeding resulting from the accident. The officer, employee, or agent may be required to testify in the proceeding about the facts developed in investigating the accident. The report shall be made available to the public in a way that does not identify an individual.

(2) Each report related to research and demonstration projects and related activities is public information.

(f) The Secretary may require testing of a part of a pipeline facility subject to this chapter that has been involved in or affected by an accident only after—

(1) notifying the appropriate State official in the State in which the facility is located; and

(2) attempting to negotiate a mutually acceptable plan for testing with the owner of the facility and, when the Secretary considers appropriate, the National Transportation Safety Board.

(g) On request, the Secretary shall provide the Federal Energy Regulatory Commission or appropriate State authority with information the Secretary has on the safety of materials, operations, devices, or processes related to pipeline transportation or operating a pipeline facility.

(h) The Secretary may—

(1) advise, assist, and cooperate with other departments, agencies, and instrumentalities of the United States Government, the States, and public and private agencies and persons in planning and developing safety standards and ways to inspect and test to decide whether those standards have been complied with;

(2) consult with and make recommendations to other departments, agencies, and instrumentalities of the Government, State and local governments, and public and private agencies and persons to develop and encourage activities, including the enactment of legislation, that will assist in carrying out this chapter and improve State and local pipeline safety programs; and

(3) participate in a proceeding involving safety requirements related to a liquefied natural gas facility before the Commission or a State authority.

(i) After consulting with appropriate State officials, the Secretary shall establish procedures to promote more effective coordination between departments, agencies, and instrumentalities of the Government and State authorities with regulatory authority over pipeline facilities about responses to a pipeline accident.

(j) This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

§ 50115. Compliance and waivers

(a) A person transporting gas or hazardous liquid or owning or operating a pipeline facility shall—

(1) comply with applicable safety standards prescribed under this chapter, except as provided in this section;

(2) prepare and carry out a plan for inspection and maintenance required under section 50108 of this title; and

(3) allow access to or copying of records, make reports and provide information, and allow entry or inspection required under section 50114(a)-(d) of this title.

(b) The Secretary of Transportation may issue orders directing compliance with this chapter or a regulation prescribed under this chapter. An order shall state clearly the action a person must take to comply.

(c) On application of a person transporting gas or hazardous liquid or operating a pipeline facility, the Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter on terms the Secretary considers appropriate, if the waiver is not inconsistent with pipeline safety. The Secretary shall state the reasons for granting a waiver under this subsection. The Secretary may act on a waiver only after notice and an opportunity for a proceeding.

(d) If a certification under section 50105 of this title or an agreement under section 50106 of this title is in effect, the State authority may waive compliance with a safety standard to which the certification or agreement applies in the same way and to the same extent the Secretary may waive compliance under subsection (c) of this section. However, the authority must give the Secretary written notice of the waiver at least 60 days before its effective date. If the Secretary makes a written objection before the effective date of the waiver, the waiver is stayed. After notifying the authority of the objection, the Secretary shall provide a prompt opportunity for a proceeding. The Secretary shall make the final decision on granting the waiver.

§ 50116. Judicial review

(a)(1) Except as provided in subsection (b) of this section, a person adversely affected by a regulation prescribed under this chapter or an order issued about an application for a waiver under section 50115(c) or (d) of this title may apply for review of the regulation or order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 89 days after the regulation is prescribed or order is issued. The clerk of the court immediately shall send a copy of the petition to the Secretary of Transportation.

(2) A judgment of a court under paragraph (1) of this subsection may be reviewed only by the Supreme Court under section 1254 of title 28. A remedy under paragraph (1) is in addition to any other remedies provided by law.

(b)(1) A person adversely affected by an order issued under section 50109 of this title may apply for review of the order by filing a petition for review in the appropriate court of appeals of the United States. The petition must be filed not later than 60 days after the order is issued. Findings of fact the Secretary makes are conclusive if supported by substantial evidence.

(2) A judgment of a court under paragraph (1) of this subsection may be reviewed only by the Supreme Court under section 1254(1) of title 28.

§ 50117. Enforcement

(a) On the request of the Secretary of Transportation, the Attorney General may bring a civil action to enforce this chapter or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including punitive damages.

(b) In a trial for criminal contempt for violating an injunction issued under this section, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(c) This chapter does not affect the tort liability of any person.

§ 50118. Actions by private persons

(a)(1) A person may bring a civil action for an injunction against another person (including the United States Government and other governmental authorities to the extent permitted under the 11th amendment to the Constitution) for a violation of this chapter or a regulation prescribed or order issued under this chapter. However, the person—

(A) may bring the action only after 60 days after the person has given notice of the violation to the Secretary of Transportation or to the appropriate State authority (when the violation is alleged to have occurred in a State certified under section 50105 of this title) and to the person alleged to have committed the violation;

(B) may not bring the action if the Secretary or authority has begun and diligently is pursuing an administrative proceeding for the violation; and

(C) may not bring the action if the Attorney General of the United States, or the chief law enforcement officer of a State, has begun and diligently is pursuing a judicial proceeding for the violation.

(2) The Secretary shall prescribe the way in which notice is given under this subsection.

(3) The Secretary, with the approval of the Attorney General, or the Attorney General may intervene in an action under paragraph (1) of this subsection.

(b) The court may award costs, reasonable expert witness fees, and a reasonable attorney's fee to a prevailing plaintiff in a civil action under this section. The court may award costs to a prevailing defendant when the action is unreasonable, frivolous, or meritless. In this subsection, a reasonable attorney's fee is a fee—

(1) based on the actual time spent and the reasonable expenses of the attorney for legal services provided to a person under this section; and

(2) computed at the rate prevailing for providing similar services for actions brought in the court awarding the fee.

(c) In this section, a violation of a safety standard or practice of a State is deemed to be a violation of this chapter or a regulation prescribed or order issued under this chapter only to the extent the standard or practice is not more stringent than a comparable minimum safety standard prescribed under this chapter.

(d) A remedy under this section is in addition to any other remedies provided by law. This section does not restrict a right to relief that a person or a class of persons may have under another law or at common law.

§ 50119. Civil penalties

(a)(1) A person that the Secretary of Transportation decides, after written notice and an opportunity for a proceeding, has violated section 50115(a) of this title or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than $10,000 for each violation. A separate violation occurs for each day the violation continues. A person is liable for a penalty under this paragraph of not more than $500,000 for a related series of violations.

(2) A person violating a standard or order under section 50103 or 50109 of this title is liable to the Government for a civil penalty of not more than $50,000 for each violation. A penalty under this paragraph may be imposed in addition to penalties imposed under paragraph (1) of this subsection.

(b) In deciding on a civil penalty under this section, the Secretary shall consider—

(1) the nature, circumstances, and gravity of the violation;

(2) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on ability to continue doing business;

(3) good faith in attempting to comply; and

(4) other matters that justice requires.

(c)(1) The Secretary may request the Attorney General to bring a civil action to collect a civil penalty imposed under this section.

(2) The Secretary may compromise a civil penalty imposed under this section. A compromise may be made only before the Secretary requests the Attorney General to bring a civil action to collect the penalty.

(d) The Government may deduct the amount imposed or agreed on under this section from amounts it owes the person liable for the penalty.

(e) Amounts collected under this section shall be deposited in the Treasury as miscellaneous receipts.

(f) Separate penalties for violating a regulation prescribed under this chapter and for violating an order under section 50110 or 50115(b) of this title may not be imposed under this chapter if both violations are based on the same act.

§ 50120. Criminal penalties

(a) A person willfully and knowingly violating section 50115(a) of this title or a regulation prescribed or order issued under this chapter shall be fined under title 18, imprisoned for not more than 5 years, or both.

(b) A person willfully and knowingly damaging or destroying, or attempting to damage or destroy, an interstate transmission facility or interstate hazardous liquid pipeline facility shall be fined under title 18, imprisoned for not more than 15 years, or both.

(c) A person willfully and knowingly defacing, damaging, removing, or destroying a pipeline sign or right-of-way marker required by a law or regulation of the United States shall be fined under title 18, imprisoned for not more than one year, or both.

§ 50121. Annual reports

(a) The Secretary of Transportation shall submit to Congress not later than April 15 of each year a report on carrying out this chapter for the prior calendar year for gas and a report on carrying out this chapter for the prior calendar year for hazardous liquid. Each report shall include the following information about the prior year for gas or hazardous liquid, as appropriate:

(1) a thorough compilation of the leak repairs, accidents, and casualties and a statement of cause when investigated and established by the National Transportation Safety Board.

(2) a list of applicable pipeline safety standards prescribed under this chapter including identification of standards prescribed during the year.

(3) a summary of the reasons for each waiver granted under section 50115(c) and (d) of this title.

(4) an evaluation of the degree of compliance with applicable safety standards, including a list of enforcement actions and compromises of alleged violations by location and company name.

(5) a summary of outstanding problems in carrying out this chapter, in order of priority.

(6) an analysis and evaluation of—

(A) research activities, including their policy implications, completed as a result of the United States Government and private sponsorship; and

(B) technological progress in safety achieved.

(7) a list, with a brief statement of the issues, of completed or pending judicial actions under this chapter.

(8) the extent to which technical information was distributed to the scientific community and consumer-oriented information was made available to the public.

(9) a compilation of certifications filed under section 50105 of this title that were—

(A) in effect; or

(B) rejected in any part by the Secretary and a summary of the reasons for each rejection.

(10) a compilation of agreements made under section 50106 of this title that were—

(A) in effect; or

(B) ended in any part by the Secretary and a summary of the reasons for ending each agreement.

(11) a description of the number and qualifications of State pipeline safety inspectors in each State for which a certification under section 50105 of this title or an agreement under section 50106 of this title is in effect and the number and qualifications of inspectors the Secretary recommends for that State.

(12) recommendations for legislation the Secretary considers necessary—

(A) to promote cooperation among the States in improving—

(i) gas pipeline safety; or

(ii) hazardous liquid pipeline safety programs; and

(B) to strengthen the national gas pipeline safety program.

(b) The Secretary may submit one report to carry out subsection (a) of this section.

§ 50122. Authorization of appropriations

(a) Not more than the following amounts may be appropriated to the Secretary of Transportation to carry out this chapter (except sections 50107, 50108(b), and 50111(b)) related to gas:

(1) $4,086,000 for the fiscal year ending September 30, 1990.

(2) $4,270,000 for the fiscal year ending September 30, 1991.

(b) Not more than the following amounts may be appropriated to the Secretary to carry out this chapter (except sections 50107, 50108(b), and 50111(b)) related to hazardous liquid:

(1) $1,021,000 for the fiscal year ending September 30, 1990.

(2) $1,067,000 for the fiscal year ending September 30, 1991.

(c)(1) Not more than $5,500,000 may be appropriated to the Secretary for each of the fiscal years ending September 30, 1990, and 1991, to carry out section 50107 of this title.

(2) At least 5 percent of amounts appropriated to carry out United States Government grants-in-aid programs for a fiscal year are available only to carry out section 50107 of this title related to hazardous liquid.

(3) Not more than 20 percent of a pipeline safety program grant under section 50107 of this title may be allocated to indirect expenses.

(d) Not more than the following amounts may be appropriated to the Secretary:

(1) $1,000,000 for the fiscal year ending September 30, 1990, to retain the 8 additional inspectors hired in the prior fiscal year and to hire 8 additional inspectors to carry out inspections under section 50108(b) of this title and necessary support staff.

(2) $1,000,000 for the fiscal year ending September 30, 1991, to retain the 16 inspectors referred to in clause (1) of this paragraph.

(e) Not more than $1,000,000 may be appropriated to the Secretary for each of the fiscal years ending September 30, 1990, and 1991, to carry out section 50111(b) of this title. Amounts under this paragraph remain available until expended.

(f)(1) The Secretary may credit to an appropriation authorized under subsection (a) or (b) of this section amounts received from sources other than the Government for reimbursement for expenses incurred by the Secretary in providing training.

(2) The Secretary may expend in the fiscal year ending September 30, 1990, not more than $50,000 appropriated under subsection (a) of this section for that fiscal year to establish a training program for persons that install, operate, and maintain a system of providing natural gas for more than one unit in a definable area (including a building, a mobile home park, a housing project, or an apartment complex) through a master metering system instead of separate meters.

(g)(1) The Secretary shall make available for grants to States amounts appropriated for each of the fiscal years that ended September 30, 1986, and 1987, that have not been expended in making grants under section 50107 of this title.

(2) A grant under this subsection is available to a State that after December 31, 1987—

(A) undertakes a new responsibility under section 50105 of this title; or

(B) implements a one-call damage prevention program established under State law.

(3) This subsection does not authorize a State to receive more than 50 percent of its allowable pipeline safety costs from a grant under this chapter.

(4) A State may receive not more than $75,000 under this subsection.

(5) Amounts under this subsection remain available until expended.

CHAPTER 503—USER FEES

Sec.
50301. User fees.

§ 50301. User fees

(a) The Secretary of Transportation shall establish a schedule of fees for all natural gas and hazardous liquids transported by pipelines subject to chapter 501 of this title. The fees shall be based on usage (in reasonable relationship to volume-miles, miles, revenues, or a combination of volume-miles, miles, and revenues) of the pipelines. The Secretary shall consider the allocation of resources of the Department of Transportation when establishing the schedule.

(b) A fee shall be imposed on each person operating a gas pipeline transmission facility, a liquefied natural gas pipeline facility, or a hazardous liquid pipeline facility to which chapter 501 of this title applies. The fee shall be collected before the end of the fiscal year to which it applies.

(c) The Secretary shall establish procedures to collect fees under this section. The Secretary may use a department, agency, or instrumentality of the United States Government or of a State or local government to collect the fee and may reimburse the department, agency, or instrumentality a reasonable amount for its services.

(d) To the extent provided for in advance in an appropriation law, a fee collected under this section—

(1) related to a gas pipeline facility may be used only for an activity related to gas under chapter 501 of this title; and

(2) related to a hazardous liquid pipeline facility may be used only for an activity related to hazardous liquid under chapter 501 of this title.

(e) Fees established under subsection (a) of this section shall be sufficient to pay for the costs of activities described in subsection (d) of this section. However, the total amount collected for a fiscal year may not be more than 105 percent of the total amount of the appropriations made for the fiscal year for activities to be financed by the fees.

CHAPTER 505—INTERSTATE COMMERCE REGULATION

Sec.
50501. Secretary of Energy.
50502. Federal Energy Regulatory Commission.
50503. Effect of enactment.

§ 50501. Secretary of Energy

Except as provided in section 50502 of this title, the Secretary of Energy has the duties and powers related to the transportation of oil by pipeline that were vested on October 1, 1977, in the Interstate Commerce Commission or the chairman or a member of the Commission.

§ 50502. Federal Energy Regulatory Commission

The Federal Energy Regulatory Commission has the duties and powers related to the establishment of a rate for the transportation of oil by pipeline or the valuation of that pipeline that were vested on October 1, 1977, in the Interstate Commerce Commission or an officer or component of the Commission.

§ 50503. Effect of enactment

The enactment of the Act of October 17, 1978 (Public Law 95-473, 92 Stat. 1337), the Act of January 12, 1983 (Public Law 97-449, 96 Stat. 2413), and the Act enacting this section does not repeal, and has no substantive effect on, any right, obligation, liability, or remedy of an oil pipeline, including a right, obligation, liability, or remedy arising under the Interstate Commerce Act or the Act of August 29, 1916 (known as the Pomerene Bills of Lading Act), before any department, agency, or instrumentality of the United States Government, an officer or employee of the Government, or a court of competent jurisdiction.

SUBTITLE IX—COMMERCIAL SPACE TRANSPORTATION

Chapter	Sec.
601. COMMERCIAL SPACE LAUNCH ACTIVITIES	60101

CHAPTER 601—COMMERCIAL SPACE LAUNCH ACTIVITIES

Sec.
60101. Purposes.
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60105. License application and requirements.
60106. Monitoring activities.
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60109. Preemption of scheduled launch.
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60114. Disclosing information.
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60116. Consultation.
60117. Relationship to other executive agencies, laws, and international obligations.
60118. Authorization of appropriations.

§ 60101. Purposes

It is the purpose of this chapter—

(1) to promote economic growth and entrepreneurial activity through use of the space environment for peaceful purposes; and

(2) to encourage the United States private sector to provide launch vehicles and associated launch services by—

(A) simplifying and expediting the issuance and transfer of commercial launch licenses; and

(B) facilitating and encouraging the use of United States Government-developed space technology.

§ 60102. Definitions

In this chapter—

(1) "citizen of the United States" means—

(A) an individual who is a citizen of the United States;

(B) an entity organized or existing under the laws of the United States or a State; or

(C) an entity organized or existing under the laws of a foreign country if the controlling interest (as defined by the Secretary of Transportation) is held by an individual or entity described in subclause (A) or (B) of this clause.

(2) "executive agency" has the same meaning given that term in section 105 of title 5.

(3) "launch" means to place or try to place a launch vehicle and any payload—

(A) in a suborbital trajectory;

(B) in Earth orbit in outer space; or

(C) otherwise in outer space.

(4) "launch property" means an item built for, or used in, the launch preparation or launch of a launch vehicle.

(5) "launch services" means—

(A) activities involved in the preparation of a launch vehicle and payload for launch; and

(B) the conduct of a launch.

(6) "launch site" means the location on Earth from which a launch takes place (as defined in a license the Secretary issues or transfers under this chapter) and necessary facilities.

(7) "launch vehicle" means—

(A) a vehicle built to operate in, or place a payload in, outer space; and

(B) a suborbital rocket.

(8) "payload" means an object that a person undertakes to place in outer space by

means of a launch vehicle, including components of the vehicle specifically designed or adapted for that object.

(9) "person" means an individual and an entity organized or existing under the laws of a State or country.

(10) "State" means a State of the United States, the District of Columbia, and a territory or possession of the United States.

(11) "third party" means a person except—

(A) the United States Government or the Government's contractors or subcontractors involved in launch services;

(B) a licensee or transferee under this chapter;

(C) a licensee's or transferee's contractors, subcontractors, or customers involved in launch services; or

(D) the customer's contractors or subcontractors involved in launch services.

(12) "United States" means the States of the United States, the District of Columbia, and the territories and possessions of the United States.

§ 60103. General authority

The Secretary of Transportation shall carry out this chapter. In carrying out this chapter, the Secretary shall encourage, facilitate, and promote commercial space launches by the private sector. When necessary, the head of an executive agency shall assist the Secretary in carrying out this chapter.

§ 60104. Restrictions on launches and operations

(a) A license issued or transferred under this chapter is required for the following:

(1) for a person to launch a launch vehicle or to operate a launch site in the United States.

(2) for a citizen of the United States (as defined in section 60102(1)(A) or (B) of this title) to launch a launch vehicle or to operate a launch site outside the United States.

(3) for a citizen of the United States (as defined in section 60102(1)(C) of this title) to launch a launch vehicle or to operate a launch site outside the United States and outside the territory of a foreign country unless there is an agreement between the United States Government and the government of the foreign country providing that the government of the foreign country has jurisdiction over the launch or operation.

(4) for a citizen of the United States (as defined in section 60102(1)(C) of this title) to launch a launch vehicle or to operate a launch site in the territory of a foreign country if there is an agreement between the United States Government and the government of the foreign country providing that the United States Government has jurisdiction over the launch or operation.

(b) The holder of a launch license under this chapter may launch a payload only if the payload complies with all requirements of the laws of the United States related to launching a payload.

(c) The Secretary of Transportation shall establish whether all required licenses, authorizations, and permits required for a payload have been obtained. If no license, authorization, or permit is required, the Secretary may prevent the launch if the Secretary decides the launch would jeopardize the public health and safety, safety of property, or national security or foreign policy interest of the United States.

§ 60105. License application and requirements

(a) A person may apply to the Secretary of Transportation for a license or transfer of a license under this chapter in the form and way the Secretary prescribes. Consistent with the public health and safety, safety of property, and national security and foreign policy interests of the United States, the Secretary, not later than 180 days after receiving an application, shall issue or transfer a license if the Secretary decides in writing that the applicant complies, and will continue to comply, with this chapter and regulations prescribed under this chapter. The Secretary shall inform the applicant of any pending issue and action required to resolve the issue if the Secretary has not made a decision not later than 120 days after receiving an application.

(b)(1) Except as provided in this subsection, all requirements of the laws of the United States applicable to the launch of a launch vehicle or the operation of a launch site are requirements for a license under this chapter.

(2) The Secretary may prescribe—

(A) any term necessary to ensure compliance with this chapter, including on-site verification that a launch or operation complies with representations stated in the application;

(B) an additional requirement necessary to protect the public health and safety, safety of property, national security interests, and foreign policy interests of the United States; and

(C) by regulation that a requirement of a law of the United States not be a requirement for a license if the Secretary, after consulting with the head of the appropriate executive agency, decides that the requirement is not necessary to protect the public health and safety, safety of property, and national security and foreign policy interests of the United States.

(3) The Secretary may waive a requirement for an individual applicant if the Secretary decides that the waiver is in the public interest and will not jeopardize the public health and safety, safety of property, and national security and foreign policy interests of the United States.

(c) The Secretary shall establish procedures and timetables that expedite review of a license application and reduce the regulatory burden for an applicant.

§ 60106. Monitoring activities

(a) A licensee under this chapter must allow the Secretary of Transportation to place an officer or employee of the United States Government or another individual as an observer at a launch site the licensee uses, at a production facility or assembly site a contractor of the licensee uses to produce or assemble a launch vehicle, or at a site at which a payload is integrated with a launch vehicle. The observer will monitor the activity of the licensee or contractor at the time and to the extent the Secretary considers reasonable to ensure compliance with the license or to carry out the duties of the Secretary under section 60104(c) of this title. A licensee must cooperate with an observer carrying out this subsection.

(b) To the extent provided in advance in an appropriation law, the Secretary may make a contract with a person to carry out subsection (a) of this section.

§ 60107. Effective periods, and changes, suspensions, and revocations, of licenses

(a) The Secretary of Transportation shall specify the period for which a license issued or transferred under this chapter is in effect.

(b) On the initiative of the Secretary or on application of the licensee, the Secretary may change a license issued or transferred under this chapter if the Secretary decides the change will comply with this chapter.

(c) The Secretary may suspend or revoke a license if the Secretary decides that—

(1) the licensee has not complied substantially with a requirement of this chapter or a regulation prescribed under this chapter; or

(2) the suspension or revocation is necessary to protect the public health and safety, the safety of property, or a national security or foreign policy interest of the United States.

(d) Unless the Secretary specifies otherwise, a change, suspension, or revocation under this section takes effect immediately and remains in effect during a review under section 60110 of this title.

(e) The Secretary shall notify the licensee in writing of the decision of the Secretary under this section and any action the Secretary takes or proposes to take based on the decision.

§ 60108. Prohibition, suspension, and end of launch or operation of launch site

(a) The Secretary of Transportation may prohibit, suspend, or end immediately the launch of a launch vehicle or the operation of a launch site licensed under this chapter if the Secretary decides the launch or operation is detrimental to the public health and safety, the safety of property, or a national security or foreign policy interest of the United States.

(b) An order under this section takes effect immediately and remains in effect during a review under section 60110 of this title.

§ 60109. Preemption of scheduled launch

(a) With the cooperation of the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation shall act to ensure that a launch of a payload is not preempted from access to a United States Government launch site or launch property, except for imperative national need, when a launch date commitment from the Government has been obtained for a launch licensed under this chapter. A licensee or transferee preempted from access to a launch site or launch property does not have to pay the Government any amount for launch services attributable only to the scheduled launch prevented by the preemption.

(b) In consultation with the Secretary of Transportation, the Secretary of Defense or the Administrator shall decide when an imperative national need requires preemption under subsection (a) of this section. That decision may not be delegated.

(c) In cooperation with the Secretary of Transportation, the Secretary of Defense or the Administrator, as appropriate, shall submit to Congress not later than 7 days after a decision to preempt under subsection (a) of this section, a report that includes an explanation of the circumstances justifying the decision and a schedule for ensuring the prompt launching of a preempted payload.

§ 60110. Administrative and judicial review

(a) After an opportunity for a proceeding under section 554 of title 5—

(1) an applicant under this chapter is entitled to a decision on the record of a decision of the Secretary of Transportation under section 60105(a) of this title to issue or transfer a license with terms or deny the issuance or transfer of a license;

(2) an owner or operator of a payload under this chapter is entitled to a decision on the record of a decision of the Secretary under section 60104(c) of this title to prevent the launch of the payload; and

(3) a licensee under this chapter is entitled to a decision on the record of a decision of the Secretary under—

(A) section 60107(b) or (c) of this title to change, suspend, or revoke a license; or

(B) section 60108(a) of this title to prohibit, suspend, or end a launch or operation of a launch site licensed by the Secretary.

(b) A final action of the Secretary under this chapter is subject to judicial review as provided in chapter 7 of title 5.

§ 60111. Acquiring United States Government property and services

(a)(1) The Secretary of Transportation shall facilitate and encourage the acquisition by the private sector of—

(A) launch property of the United States Government that is excess or otherwise is not needed for public use; and

(B) launch services, including utilities, of the Government otherwise not needed for public use.

(2) In acting under paragraph (1) of this subsection, the Secretary shall consider the commercial availability on reasonable terms of substantially equivalent launch property or launch services from a domestic source.

(b)(1) In this subsection, "direct costs" means the actual costs that—

(A) can be associated unambiguously with a commercial launch effort; and

(B) the Government would not incur if there were no commercial launch effort.

(2) In consultation with the Secretary, the head of the executive agency providing the property or service under subsection (a) of this section shall establish the price for the property or service. The price for—

(A) acquiring launch property by sale or transaction instead of sale is the fair market value;

(B) acquiring launch property (except by sale or transaction instead of sale) is an amount equal to the direct costs, including specific wear and tear and property damage, the Government incurred because of acquisition of the property; and

(C) launch services is an amount equal to the direct costs, including the basic pay of Government civilian and contractor personnel, the Government incurred because of acquisition of the services.

(c) The Secretary may collect a payment under this section with the consent of the head of the executive agency establishing the price. Amounts collected under this subsection shall be deposited in the Treasury. Amounts (except for excess launch property) shall be credited to the appropriation from which the cost of providing the property or services was paid.

(d) The head of a department, agency, or instrumentality of the Government may collect a payment for an activity involved in producing a launch vehicle or its payload for launch if the activity was agreed to by the owner or manufacturer of the launch vehicle or payload.

§ 60112. Liability insurance and financial responsibility requirements

(a)(1) When a license is issued or transferred under this chapter, the licensee or transferee shall obtain liability insurance or demonstrate financial responsibility in amounts to compensate for the maximum probable loss from claims by—

(A) a third party for death, bodily injury, or property damage or loss resulting from an activity carried out under the license; and

(B) the United States Government against a person for damage or loss to Government property resulting from that activity.

(2) The Secretary of Transportation shall determine the amounts required under paragraph (1)(A) and (B) of this subsection, after consulting with the Administrator of the National Aeronautics and Space Administration, the Secretary of the Air Force, and the heads of other appropriate executive agencies.

(3) For the total claims related to one launch, a licensee or transferee is not required to obtain insurance or demonstrate financial responsibility of more than—

(A)(i) $500,000,000 under paragraph (1)(A) of this subsection; or

(ii) $100,000,000 under paragraph (1)(B) of this subsection; or

(B) the maximum liability insurance available on the world market at reasonable cost if the amount is less than the applicable amount in clause (A) of this paragraph.

(4) An insurance policy or demonstration of financial responsibility under this subsection shall protect the following, to the extent of their potential liability for involvement in launch services, at no cost to the Government:

(A) the Government.

(B) executive agencies and personnel, contractors, and subcontractors of the Government.

(C) contractors, subcontractors, and customers of the licensee or transferee.

(D) contractors and subcontractors of the customer.

(b)(1) A license issued or transferred under this chapter shall contain a provision requiring the licensee or transferee to make a reciprocal waiver of claims with its contractors, subcontractors, and customers, and contractors and subcontractors of the customers, involved in launch services under which each party to the waiver agrees to be responsible for property damage or loss it sustains, or for personal injury to, death of, or property damage or loss sustained by its own employees resulting from an activity carried out under the license.

(2) The Secretary of Transportation shall make, for the Government, executive agencies of the Government involved in launch services, and contractors and subcontractors involved in launch services, a reciprocal waiver of claims with the licensee or transferee, contractors, subcontractors, and customers of the licensee or transferee, and contractors and subcontractors of the customers, involved in launch services under which each party to the waiver agrees to be responsible for property damage or loss it sustains, or for personal injury to, death of, or property damage or loss sustained by its own employees resulting from an activity carried out under the license. The waiver applies only to the extent that claims are more than the amount of insurance or demonstration of financial responsibility required under subsection (a)(1)(B) of this section. After consulting with the Administrator of the National Aeronautics and Space Administration and the Secretary of the Air Force, the Secretary of Transportation may waive, for the Government and a department, agency, and instrumentality of the Government, the right to recover damages for damage or loss to Government property to the extent insurance is not available because of a policy exclusion the Secretary of Transportation decides is usual for the type of insurance involved.

(c) The Secretary of Transportation shall determine the maximum probable losses under subsection (a)(1)(A) and (B) of this section associated with an activity under a license not later than 90 days after a licensee or transferee requires a determination and submits all information the Secretary requires. The Secretary shall change the determination as warranted by new information.

(d)(1) Not later than November 15 of each year, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report on current determinations made under subsection (c) of this section related to all issued licenses and the reasons for the determinations.

(2) Not later than May 15 of each year, the Secretary of Transportation shall review the amounts specified in subsection (a)(3)(A) of this section and submit a report to Congress that contains proposed changes in the amounts to conform with changed liability expectations and availability of insurance on the world market. The proposed change takes effect 30 days after a report is submitted.

(e) The Secretary of Transportation shall establish requirements consistent with this chapter for proof of financial responsibility and other assurances necessary to protect the Government and its executive agencies and personnel from liability, death, bodily injury, or property damage or loss as a result of a launch or operation of a launch site involving a facility or personnel of the Government. The Secretary may not relieve the Government of liability under this subsection for death, bodily injury, or property damage or loss resulting from the willful misconduct of the Government or its agents.

(f) The head of a department, agency, or instrumentality of the Government shall collect a payment owed for damage or loss to Government property under its jurisdiction or control resulting from an activity carried out under a license issued or transferred under this chapter. The payment shall be credited to the current applicable appropriation, fund, or account of the department, agency, or instrumentality.

§ 60113. Paying claims exceeding liability insurance and financial responsibility requirements

(a)(1) To the extent provided in advance in an appropriation law or to the extent additional legislative authority is enacted providing for paying claims in a compensation plan submitted under subsection (d) of this section, the Secretary of Transportation shall provide for the payment by the United States Government of a successful claim (including reasonable litigation or settlement expenses) of a third party against a licensee or transferee under this chapter, a contractor, subcontractor, or customer of the licensee or transferee, or a contractor or subcontractor of a customer, resulting from an activity carried out under the license issued or transferred under this chapter for death, bodily injury, or property damage or loss resulting from an activity carried out under the license. However, claims may be paid under this section only to the extent the total amount of successful claims related to one launch—

(A) is more than the amount of insurance or demonstration of financial responsibility required under section 60112(a)(1)(A) of this title; and

(B) is not more than $1,500,000,000 (plus additional amounts necessary to reflect inflation occurring after Jaunuary 1, 1989) above that insurance or financial responsibility amount.

(2) The Secretary may not provide for paying a part of a claim for which death, bodily injury, or property damage or loss results from willful misconduct by the licensee or transferee. To the extent insurance required under section 60112(a)(1)(A) of this title is not available to cover a successful third party liability claim because of an insurance policy exclusion the Secretary decides is usual for the type of insurance involved, the Secretary may provide for paying the excluded claims without regard to the limitation contained in section 60112(a)(1).

(b) Before a payment under subsection (a) of this section is made—

(1) notice must be given to the Government of a claim, or a civil action related to the claim, against a party described in subsection (a)(1) of this section for death, bodily injury, or property damage or loss;

(2) the Government must be given an opportunity to participate or assist in the defense of the claim or action; and

(3) the Secretary must approve any part of a settlement to be paid out of appropriations of the Government.

(c) The Secretary may withhold a payment under subsection (a) of this section if the Secretary certifies that the amount is not reasonable. However, the Secretary shall deem to be reasonable the amount of a claim finally decided by a court of competent jurisdiction.

(d)(1) If as a result of an activity carried out under a license issued or transferred under this chapter the total of claims related to one launch is likely to be more than the amount of required insurance or demonstration of financial responsibility, the Secretary shall—

(A) survey the causes and extent of damage; and

(B) submit expeditiously to Congress a report on the results of the survey.

(2) Not later than 90 days after a court determination indicates that the liability for the total of claims related to one launch may be more than the required amount of insurance or demonstration of financial responsibility, the President, on the recommendation of the Secretary, shall submit to Congress a compensation plan that—

(A) outlines the total dollar value of the claims;

(B) recommends sources of amounts to pay for the claims;

(C) includes legislative language required to carry out the plan if additional legislative authority is required; and

(D) for a single event or incident, may not be for more than $1,500,000,000.

(3) A compensation plan submitted to Congress under paragraph (2) of this subsection shall—

(A) have an identification number; and

(B) be submitted to the Senate and the House of Representatives on the same day and when the Senate and House are in session.

(e)(1) In this subsection, "resolution"—

(A) means a joint resolution of Congress the matter after the resolving clause of which is as follows: "That the Congress approves the compensation plan numbered —— submitted to the Congress on —— —, 19—.", with the blank spaces being filled appropriately; but

(B) does not include a resolution that includes more than one compensation plan.

(2) The Senate shall consider under this subsection a compensation plan requiring additional appropriations or legislative authority not later than 60 calendar days of continuous session of Congress after the date on which the plan is submitted to Congress.

(3) A resolution introduced in the Senate shall be referred immediately to a committee by the President of the Senate. All resolutions related to the same plan shall be referred to the same committee.

(4)(A) If the committee of the Senate to which a resolution has been referred does not report the resolution within 20 calendar days after it is referred, a motion is in order to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of the plan.

(B) A motion to discharge may be made only by an individual favoring the resolution and is highly privileged (except that the motion may not be made after the committee has reported a resolution on the plan). Debate on the motion is limited to one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order. A motion to reconsider the vote by which the motion is agreed to or disagreed to is not in order.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed and another motion to discharge the committee from another resolution on the same plan may not be made.

(5)(A) After a committee of the Senate reports, or is discharged from further consideration of, a resolution, a motion to proceed to the consideration of the resolution is in order at any time, even though a similar previous motion has been disagreed to. The motion is highly privileged and is not debatable. An amendment to the motion is not in order. A motion to reconsider the vote by which the motion is agreed to or disagreed to is not in order.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph is limited to not more than 10 hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(6) The following shall be decided in the Senate without debate:

(A) a motion to postpone related to the discharge from committee.

(B) a motion to postpone consideration of a resolution.

(C) a motion to proceed to the consideration of other business.

(D) an appeal from a decision of the chair related to the application of the rules of the Senate to the procedures related to resolution.

(f) This section applies to a license issued or transferred under this chapter for which the Secretary receives a complete and valid application not later than November 15, 1993.

§ 60114. Disclosing information

The Secretary of Transportation, an officer or employee of the United States Government, or a person making a contract with the Secretary under section 60106(b) of this title may disclose information under this chapter that qualifies for an exemption under section 552(b)(4) of title 5 or is designated as confidential by the person or head of the executive agency providing the information only if the Secretary decides withholding the information is contrary to the public or national interest.

§ 60115. Enforcement and penalty

(a) A person may not violate this chapter, a regulation prescribed under this chapter, or any term of a license issued or transferred under this chapter.

(b)(1) In carrying out this chapter, the Secretary of Transportation may—

(A) conduct investigations and inquiries;

(B) administer oaths;

(C) take affidavits; and

(D) under lawful process—

(i) enter at a reasonable time a launch site, production facility, assembly site of a launch vehicle, or site at which a payload is integrated with a launch vehicle to inspect an object to which this chapter applies or a record or report the Secretary requires be made or kept under this chapter; and

(ii) seize the object, record, or report when there is probable cause to believe the object, record, or report was used, is being used, or likely will be used in violation of this chapter.

(2) The Secretary may delegate a duty or power under this chapter related to enforcement to an officer or employee of another executive agency with the consent of the head of the agency.

(c)(1) After notice and an opportunity for a hearing on the record under section 554 of title 5, a person the Secretary finds to have violated subsection (a) of this section is liable to the United States Government for a civil penalty of not more than $100,000. A separate violation occurs for each day the violation continues.

(2) In conducting a hearing under paragraph (1) of this subsection, the Secretary may—

(A) subpena witnesses and records; and

(B) enforce a subpena in the appropriate district court of the United States.

(3) The Secretary shall impose the civil penalty by written notice. The Secretary may compromise or remit a penalty imposed, or that may be imposed, under this section.

(4) The Secretary shall recover a civil penalty not paid after the penalty is final or after a court enters a final judgment for the Secretary.

§ 60116. Consultation

(a) The Secretary of Transportation shall consult with the Secretary of Defense on a matter under this chapter affecting national security. The Secretary of Defense shall identify and notify the Secretary of Transportation of a national security interest relevant to an activity under this chapter.

(b) The Secretary of Transportation shall consult with the Secretary of State on a matter under this chapter affecting foreign policy. The Secretary of State shall identify and notify the Secretary of Transportation of a foreign policy interest or obligation relevant to an activity under this chapter.

(c) In carrying out this chapter, the Secretary of Transportation shall consult with the head of another executive agency—

(1) to provide consistent application of licensing requirements under this chapter;

(2) to ensure fair treatment for all license applicants; and

(3) when appropriate.

§ 60117. Relationship to other executive agencies, laws, and international obligations

(a) Except as provided in this chapter, a person is not required to obtain from an executive agency a license, approval, waiver, or exemption to launch a launch vehicle or operate a launch site.

(b) This chapter does not affect the authority of—

(1) the Federal Communications Commission under the Communications Act of 1934 (47 U.S.C. 151 et seq.); or

(2) the Secretary of Commerce under the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.).

(c) A State or political subdivision of a State—

(1) may not adopt or have in effect a law, regulation, standard, or order inconsistent with this chapter; but

(2) may adopt or have in effect a law, regulation, standard, or order consistent with this chapter that is in addition to or more stringent than a requirement of, or regulation prescribed under, this chapter.

(d) The Secretary of Transportation is encouraged to consult with a State to simplify and expedite the approval of a space launch activity.

(e) The Secretary of Transportation shall—

(1) carry out this chapter consistent with an obligation the United States Government assumes in a treaty, convention, or agreement in force between the Government and the government of a foreign country; and

(2) consider applicable laws and requirements of a foreign country when carrying out this chapter.

(f) A launch vehicle or payload that is launched is not, because of the launch, an export for purposes of a law controlling exports.

(g) This chapter does not apply to—

(1) a launch, operation of a launch vehicle or launch site, or other space activity the Government carries out for the Government; and

(2) planning and policies related to the launch, operation, or activity.

§ 60118. Authorization of appropriations

Not more than $———— may be appropriated to the Secretary of Transportation for the fiscal year ending September 30, 19—, to carry out this chapter.

SUBTITLE X—MISCELLANEOUS

Chapter		*Sec.*
701.	*BILLS OF LADING*	*70101*
703.	*CONTRABAND*	*70301*
705.	*MISCELLANEOUS*	*70501*

CHAPTER 701—BILLS OF LADING

Sec.

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70115. Limitation on use of judicial process to obtain possession of goods from common carriers.
70116. Criminal penalty.

§ 70101. Definitions

In this chapter—

(1) "consignee" means the person named in a bill of lading as the person to whom the goods are to be delivered.

(2) "consignor" means the person named in a bill of lading as the person from whom the goods have been received for shipment.

(3) "goods" means merchandise or personal property that has been, is being, or will be transported.

(4) "holder" means a person in possession of a bill of lading and having a property right in it.

(5) "order" means an order by indorsement on a bill of lading.

(6) "purchase" includes taking by mortgage or pledge.

(7) "State" means a State of the United States, the District of Columbia, and a territory or possession of the United States.

§ 70102. Application

This chapter applies to a bill of lading when the bill is issued by a common carrier for the transportation of goods—

(1) between a place in the District of Columbia and another place in the District of Columbia;

(2) between a place in a territory or possession of the United States and another place in the same territory or possession;

(3) between a place in a State and a place in another State;

(4) between a place in a State and a place in the same State through another State or a foreign country; or

(5) from a place in a State to a place in a foreign country.

§ 70103. Negotiable and non-negotiable bills

(a)(1) A bill of lading is negotiable if the bill—

(A) states that the goods are to be delivered to the order of a consignee; and

(B) does not contain on its face an agreement with the shipper that the bill is not negotiable.

(2) Inserting in a negotiable bill of lading the name of a person to be notified of the arrival of the goods—

(A) does not limit its negotiability; and

(B) is not notice to the purchaser of the goods of a right the named person has to the goods.

(b)(1) A bill of lading is non-negotiable if the bill states that the goods are to be delivered to a consignee. The indorsement of a non-negotiable bill does not—

(A) make the bill negotiable; and

(B) give the transferee any additional right.

(2) A common carrier issuing a non-negotiable bill of lading must put "non-negotiable" or "not negotiable" on the bill. This paragraph does not apply to an informal memorandum or acknowledgment.

§ 70104. Form and requirements for negotiation

(a)(1) A negotiable bill of lading may be negotiated by indorsement. The indorsement may be made in blank or to a specified person. If the goods are deliverable to the order of a specified person, then the bill must be indorsed by that person.

(2) A negotiable bill of lading may be negotiated by delivery when the common carrier, under the terms of the bill, starts to deliver the goods to a person that has indorsed the bill in blank.

(3) A negotiable bill of lading may be negotiated by a person possessing the bill, regardless of the way in which the person got possession, if—

(A) a common carrier, under the terms of the bill, starts to deliver the goods to that person; or

(B) when the bill is negotiated, it is in a form that allows it to be negotiated by delivery.

(b) The validity of the negotiation of a negotiable bill of lading is not affected when the transferee receives the bill for value, in good faith, and without notice—

(1) that the negotiation of the bill by the transferor is a breach of duty;

(2) of the loss of possession of the bill by its owner; or

(3) of a prior sale, mortgage, or pledge of the bill or of the goods in the possession of a common carrrier and for which the bill was issued.

§ 70105. Title and rights affected by negotiation

(a) When a negotiable bill of lading is negotiated—

(1) the person to whom it is negotiated acquires the title to the goods that—

(A) the person negotiating the bill had the ability to convey to a purchaser in good faith for value; and

(B) the consignor and consignee had the ability to convey to that purchaser; and

(2) the common carrier issuing the bill remains obligated to keep the goods in its possession under the terms of the bill.

(b) When a negotiable bill of lading is negotiated to a person for value in good faith, that person's right to the goods for which the bill was issued is superior to a seller's lien or to a right to stop the transportation of the goods. This subsection applies whether the negotiation is made before or after the common carrier issuing the bill receives notice of the seller's claim. The carrier may deliver the goods to an unpaid seller only if the bill first is surrendered for cancellation.

(c) Except as provided in subsection (b) of this section, this chapter does not limit a right of a mortgagee or lien holder having a mortgage or lien on goods against a person that purchased for value in good faith from the owner, and got possession of the goods immediately before delivery to the common carrier.

§ 70106. Transfer without negotiation

(a) The holder of a bill of lading may transfer the bill without negotiating it by delivery and agreement to transfer title to the bill or to the goods represented by it. Subject to the agreement, the person to whom the bill is transferred has title to the goods against the transferor.

(b) When a negotiable bill of lading is transferred for value by delivery without being negotiated, the transferee may compel the transferor to indorse the bill if indorsement is essential for negotiation unless a different agreement exists between them. The negotiation is effective when the indorsement is made.

(c)(1) When a transferee notifies the common carrier that a non-negotiable bill of lading has been transferred under subsection (a) of this section, the carrier is obligated directly to the transferee for any obligations the carrier owed to the transferor immediately before the notification. However, before the carrier is notified, the transferee's title to the goods and right to acquire the obligations of the carrier may be defeated by—

(A) garnishment, attachment, or execution on the goods by a creditor of the transferor; or

(B) notice to the carrier by the transferor or a purchaser from the transferor of a later purchase of the goods from the transferor.

(2) A common carrier receives notice under this subsection when its officer or agent (whose duties include acting on the notification) is notified. Notification is effective only when the officer or agent receiving it has had time to communicate with the agent having control or possession of the goods.

§ 70107. Warranties

(a) Unless otherwise agreed, a person negotiating or transferring a bill of lading for value warrants that—

(1) the bill is genuine;

(2) the person has the right to transfer the bill and the title to the goods described in the bill;

(3) the person does not know of a fact that would affect the validity or worth of the bill; and

(4) the goods are merchantable or fit for a particular purpose when merchantability or fitness would have been implied if the agreement of the parties had been to transfer the goods without a bill of lading.

(b) A person holding a bill of lading as security for a debt that in good faith demands or receives payment of the debt from another person does not warrant by the demand or receipt—

(1) the genuineness of the bill; or

(2) the quantity or quality of the goods described in the bill.

(c) A common carrier issuing a bill of lading containing the word "duplicate" or another word indicating the bill is not an orginal bill warrants only that it is an accurate copy of the original bill.

(d) Indorsement of a bill of lading does not make the indorser liable for failure of the common carrier or a previous indorser to fulfill its obligations.

§ 70108. Alteration

The alteration of a bill of lading without authorization from the common carrier issuing the bill does not affect the enforceability of the bill consistent with its original terms.

§ 70109. Liens of common carriers

A common carrier issuing a negotiable bill of lading has a lien on the goods covered by the bill for—

(1) charges incurred after the date of the bill for storage, transportation, and delivery (including demurrage and terminal charges) and expenses necessary to preserve the goods or incidental to transporting them; and

(2) other charges for which the bill expressly specifies a lien is claimed to the extent the charges are allowed by law and the agreement between the consignor and carrier.

§ 70110. Duty to deliver goods

(a) Except to the extent a common carrier establishes an excuse provided by law, the carrier must deliver goods covered by a bill of lading on demand of the consignee named in a non-negotiable bill or the holder of a negotiable bill for the goods when the consignee or holder—

(1) offers in good faith to satisfy the lien of the carrier on the goods;

(2) has possession of the bill and, if a negotiable bill, offers to indorse and give the bill to the carrier; and

(3) agrees to sign, on delivery of the goods, a receipt for delivery if requested by the carrier.

(b) Subject to section 70111 of this title, a common carrier may deliver the goods covered by a bill of lading to—

(1) a person entitled to their possession;

(2) the consignee named in a non-negotiable bill; or

(3) a person in possession of a negotiable bill if—

(A) the goods are deliverable to the order of that person; or

(B) the bill has been indorsed to that person or in blank by the consignee or another indorsee.

(c) A claim by a common carrier that the carrier has title to goods or right to their possession is an excuse for nondelivery of the goods only if the title or right is derived from—

(1) a transfer made by the consignor or consignee after the shipment; or

(2) the carrier's lien.

(d) If a person (except the consignee or the person in possession of a bill of lading) claims title to or possession of goods and the common carrier knows of the claim, the carrier is not required to deliver the goods to any claimant until the carrier has had a reasonable time to decide the validity of the adverse claim or to bring a civil action to require all claimants to interplead.

(e) If at least 2 persons claim title to or possession of the goods, the common carrier may—

(1) bring a civil action to interplead all known claimants to the goods; or

(2) require those claimants to interplead as a defense in an action brought against the carrier for nondelivery.

(f) Except as provided in subsections (b), (d), and (e) of this section, title or a right of a third person is not a defense to an action brought by the consignee of a non-negotiable bill of lading or by the holder of a negotiable bill against the common carrier for failure to deliver the goods on demand unless enforced by legal process.

§ 70111. Liability for delivery of goods

(a) A common carrier is liable for damages to a person having title to or possession of goods when—

(1) the carrier delivers the goods to a person not entitled to their possession unless the delivery is authorized under section 70110(b) (2) or (3) of this title;

(2) the carrier makes a delivery under section 70110 (b)(2) or (3) of this title after being requested by or for a person having title to or possession of the goods not to make the delivery; or

(3) at the time of delivery under section 70110(b) (2) or (3) of this title, the carrier knows it is delivering the goods to a person not entitled to their possession.

(b) A request is effective and a common carrier is deemed to have knowledge under subsection (a) (2) or (3) of this section when a request is made or information is given to an officer or agent of the carrier (whose duties include acting on the request or information) in time to let the officer or agent stop delivery of the goods.

(c)(1) Except as provided in paragraph (2) of this subsection, if a common carrier delivers goods for which a negotiable bill of lading has been issued without taking and cancelling the bill, the carrier is liable for damages for failure to deliver the goods to a person purchasing the bill for value in good faith whether the purchase was before or after delivery and even when delivery was made to the person entitled to the goods. The carrier also is liable under this paragraph if part of the goods are delivered without taking and cancelling the bill or plainly noting on the bill that a partial delivery was made and generally describing the goods or the remaining goods kept by the carrier.

(2) A common carrier is not liable under paragraph (1) of this subsection—

(A) when delivery is compelled by legal process; or

(B) after the goods are sold lawfully to satisfy a carrier's lien because they have not been claimed or because they are perishable or hazardous.

§ 70112. Liability under negotiable bills issued in parts, sets, or duplicate

(a) A negotiable bill of lading issued in a State for the transportation of goods to a place in the 48 contiguous States or the District of Columbia may not be issued in parts or sets. A common carrier issuing a bill in violation of this subsection is liable for damages for failure to deliver the goods to a purchaser of one part for value in good faith even though the purchase occurred after the carrier delivered the goods to a holder of one of the other parts.

(b) When at least 2 negotiable bills of lading are issued in a State for the same goods to be transported to a place in the 48 contiguous States or the District of Columbia, the word "duplicate" or another word indicating that the bill is not an original must be put plainly on the face of each bill except the original. A common carrier violating this subsection is liable for damages caused by the violation to a purchaser of the bill for value in good faith as an original bill even though the purchase occurred after the carrier delivered the goods to the holder of the original bill.

§ 70113. Liability for non-receipt, misdescription, and improper loading

(a) Except as provided in this section, a common carrier issuing a bill of lading is liable for damages caused by non-receipt by the carrier of any part of the goods by the date shown in the bill and for failure of the goods to correspond with the description contained in the bill. The carrier is liable to the owner of goods transported under a non-negotiable bill (subject to the right of stoppage in transit) or to the holder of a negotiable bill if the owner or holder gave value in good faith relying on the description of the goods in the bill or on the shipment being made on the date shown in the bill.

(b) A common carrier issuing a bill of lading is not liable under subsection (a) of this section—

(1) when the goods are loaded by the shipper;

(2) when the bill—

(A) describes the goods in terms of marks or labels, or in a statement about kind, quantity, or condition; or

(B) is qualified by "contents or condition of contents of packages unknown", "said to contain", "shipper's weight, load, and count", or words of the same meaning; and

(3) to the extent the carrier does not know whether any part of the goods were received or conform to the description.

(c) A common carrier issuing a bill of lading is liable for damages caused by improper loading except when—

(1) the shipper loads the goods; and

(2) the bill contains the words "shipper's weight, load, and count", or words of the same meaning indicating the shipper loaded the goods.

(d)(1) When bulk freight is loaded by a shipper that makes available to the common carrier adequate facilities for weighing the freight, the carrier must determine the kind and quantity of the freight within a reasonable time after receiving the written request of the shipper to make the determination. In that situation, inserting the words "shipper's weight" or words of the same meaning in the bill of lading has no effect.

(2) When goods are loaded by a common carrier, the carrier must count the packages of goods, if package freight, and determine the kind and quantity, if bulk freight. In that situation, inserting in the bill of lading or in a notice, receipt, contract, rule, or tariff, the words "shipper's weight, load, and count" or words indicating that the shipper described and loaded the goods, has no effect except for freight concealed by packages.

§ 70114. Lost, stolen, or destroyed negotiable bills

(a) If a negotiable bill of lading is lost, stolen, or destroyed, a court may order the common carrier to deliver the goods if the person claiming the goods gives a surety bond, in an amount approved by the court, to indemnify the carrier or a person injured by delivery against liability under the outstanding original bill. The court also may order payment of reasonable costs and attorney's fees to the carrier. A voluntary surety bond, without court order, is binding on the parties to the bond.

(b) Delivery of goods under a court order under subsection (a) of this section does not relieve a common carrier from liability to a person to whom the negotiable bill has been or is negotiated for value without notice of the court proceeding or of the delivery of the goods.

§ 70115. Limitation on use of judicial process to obtain possession of goods from common carriers

(a) Except when a negotiable bill of lading was issued originally on delivery of goods by a person that did not have the power to dispose of the goods, goods in the possession of a common carrier for which a negotiable bill has been issued may be attached through judicial process or levied on in execution of a judgment only if the bill is surrendered to the carrier or its negotiation is enjoined.

(b) A common carrier may be compelled by judicial process to deliver goods under subsection (a) of this section only when the bill is surrendered to the carrier or impounded by the court.

§ 70116. Criminal penalty

A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person—

(1) violates this chapter with intent to defraud; or

(2) knowingly or with intent to defraud—

(A) falsely makes, alters, or copies a bill of lading subject to this chapter;

(B) utters, publishes, or issues a falsely made, altered, or copied bill subject to this chapter; or

(C) negotiates or transfers for value a bill containing a false statement.

CHAPTER 703—CONTRABAND

Sec.
70301. Definitions.
70302. Prohibitions.
70303. Seizure and forfeiture.
70304. Administrative.
70305. Availability of certain appropriations.
70306. Relationship to other laws.

§ 70301. Definitions

In this chapter—

(1) "aircraft" means a contrivance used, or capable of being used, for transportation in the air.

(2) "vehicle" means a contrivance used, or capable of being used, for transportation on, below, or above land, but does not include aircraft.

(3) "vessel" means a contrivance used, or capable of being used, for transportation in water, but does not include aircraft.

§ 70302. Prohibitions

(a) In this section, "contraband" means—

(1) a narcotic drug (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)), including marihuana (as defined in section 102 of that Act (21 U.S.C. 802)), that—

(A) is possessed with intent to sell or offer for sale in violation of the laws and regulations of the United States;

(B) is acquired, possessed, sold, transferred, or offered for sale in violation of those laws;

(C) is acquired by theft, robbery, or burglary and transported—

(i) in the District of Columbia or a territory or possession of the United States; or

(ii) from a place in a State, the District of Columbia, a territory or possession of the United States, or the Canal Zone, to a place in another State, the District of Columbia, a territory or possession, or the Canal Zone; or

(D) does not bear tax-paid internal revenue stamps required by those laws or regulations;

(2) a firearm involved in a violation of chapter 53 of the Internal Revenue Code of 1986 (26 U.S.C. 5801 et seq.);

(3) a forged, altered, or counterfeit—

(A) coin or an obligation or other security of the United States Government (as defined in section 8 of title 18); or

(B) coin, obligation, or other security of the government of a foreign country;

(4) material or equipment used, or intended to be used, in making a coin, obligation, or other security referred to in clause (3) of this subsection; or

(5) a cigarette involved in a violation of chapter 114 of title 18 or a regulation prescribed under chapter 114.

(b) A person may not—

(1) transport contraband in an aircraft, vehicle, or vessel;

(2) conceal or possess contraband on an aircraft, vehicle, or vessel; or

(3) use an aircraft, vehicle, or vessel to facilitate the transportation, concealment, receipt, possession, purchase, sale, exchange, or giving away of contraband.

§ 70303. Seizure and forfeiture

The Secretary of the Treasury or the Governor of Guam or of the Northern Mariana Islands as provided in section 70304 of this title, or a person authorized by another law to enforce section 70302 of this title, shall seize an aircraft, vehicle, or vessel involved in a violation of section 70302 and place it in the custody of a person designated by the Secretary or appropriate Governor, as the case may be. The seized aircraft, vehicle, or vessel shall be forfeited, except when the owner establishes that a person except the owner committed the violation when the aircraft, vehicle, or vessel was in the possession of a person who got possession by violating a criminal law of the United States or a State. However, an aircraft, vehicle, or vessel used by a common carrier to provide transportation for compensation may be forfeited only when—

(1) the owner, conductor, driver, pilot, or other individual in charge of the aircraft or vehicle (except a rail car or engine) consents to, or knows of, the alleged violation when the violation occurs;

(2) the owner of the rail car or engine consents to, or knows of, the alleged violation when the violation occurs; or

(3) the master or owner of the vessel consents to, or knows of, the alleged violation when the violation occurs.

§ 70304. Administrative

(a) Except as provided in subsections (b) and (c) of this section, the Secretary of the Treasury—

(1) may designate officers, employees, agents, or other persons to carry out this chapter; and

(2) shall prescribe regulations to carry out this chapter.

(b) The Governor of Guam—

(1) or officers of the government of Guam designated by the Governor shall carry out this chapter in Guam;

(2) may carry out laws referred to in section 70306(b) of this title with changes the Governor decides are necessary to meet conditions in Guam; and

(3) may prescribe regulations to carry out this chapter in Guam.

(c) The Governor of the Northern Mariana Islands—

(1) or officers of the government of the Northern Mariana Islands designated by the Governor shall carry out this chapter in the Northern Mariana Islands;

(2) may carry out laws referred to in section 70306(b) of this title with changes the Governor decides are necessary to meet conditions in the Northern Mariana Islands; and

(3) may prescribe regulations to carry out this chapter in the Northern Mariana Islands.

(d) The Secretary of the Treasury, or the Governor of Guam or of the Northern Mariana Islands as provided in subsections (b) and (c) of this section, shall carry out the customs laws on the seizure and forfeiture of aircraft, vehicles, and vessels under this chapter.

§ 70305. Availability of certain appropriations

Appropriations for enforcing customs, narcotics, counterfeiting, or internal revenue laws are available to carry out this chapter.

§ 70306. Relationship to other laws

(a) This chapter is in addition to another law—

(1) imposing, or authorizing the compromise of, fines, penalties, or forfeitures; or

(2) providing for seizure, condemnation, or disposition of forfeited property, or the proceeds from the property.

(b) To the extent applicable and consistent with this chapter, the following apply to a seizure or forfeiture under this chapter:

(1) provisions of law related to the seizure, forfeiture, and condemnation of vehicles and vessels violating the customs laws.

(2) provisions of law related to the disposition of those vehicles or vessels or the proceeds from the sale of those vehicles or vessels.

(3) provisions of law related to the compromise of those forfeitures or claims related to those forfeitures.

(4) provisions of law related to the award of compensation to an informer about those forfeitures.

CHAPTER 705—MISCELLANEOUS

Sec.
70501. Damage to transported property.
70502. Transportation of animals.
70503. Payments for inspection and quarantine services.
70504. Medals of honor.

§ 70501. Damage to transported property

(a) A person willfully damaging, or attempting to damage, property in the possession of an air carrier, motor carrier, or rail carrier and being transported in interstate or foreign commerce, shall be fined under title 18, imprisoned for not more than 10 years, or both. In a proceeding under this section, a shipping document for the property is prima facie evidence of the places to which and from which the property was being transported.

(b) A person may not be prosecuted for an act under this section when the person has been convicted or acquitted on the merits for the same act under the laws of a State,

the District of Columbia, or a territory or possession of the United States.

§ 70502. Transportation of animals

(a)(1) Except as provided in this section, a rail carrier, express carrier, or common carrier (except by air or water), a receiver, trustee, or lessee of one of those carriers, or an owner or master of a vessel transporting animals from a place in a State, the District of Columbia, or a territory or possession of the United States through or to a place in another State, the District of Columbia, or a territory or possession, may not confine animals in a vehicle or vessel for more than 28 consecutive hours without unloading the animals for feeding, water, and rest.

(2) Sheep may be confined for an additional 8 consecutive hours without being unloaded when the 28-hour period of confinement ends at night. Animals may be confined for—

(A) more than 28 hours when the animals cannot be unloaded because of accidental or unavoidable causes that could not have been anticipated or avoided when being careful; and

(B) 36 consecutive hours when the owner or person having custody of animals being transported requests, in writing and separate from a bill of lading or other rail form, that the 28-hour period be extended to 36 hours.

(3) Time spent in loading and unloading animals is not included as part of a period of confinement under this subsection.

(b) Animals being transported shall be unloaded in a humane way into pens equipped for feeding, water, and rest for at least 5 consecutive hours. The owner or person having custody of the animals shall feed and water the animals. When the animals are not fed and watered by the owner or person having custody, the rail carrier, express carrier, or common carrier (except by air or water), the receiver, trustee, or lessee of one of those carriers, or the owner or master of a vessel transporting the animals—

(1) shall feed and water the animals at the reasonable expense of the owner or person having custody, except that the owner or shipper may provide food;

(2) has a lien on the animals for providing food, care, and custody that may be collected at the destination in the same way that a transportation charge is collected; and

(3) is not liable for detaining the animals for a reasonable period to comply with subsection (a) of this section.

(c) This section does not apply when animals are transported in a vehicle or vessel in which the animals have food, water, space, and an opportunity for rest.

(d) A rail carrier, express carrier, or common carrier (except by air or water), a receiver, trustee, or lessee of one of those carriers, or an owner or master of a vessel that knowingly and willfully violates this section is liable to the United States Government for a civil penalty of at least $100 but not more than $500 for each violation. On learning of a violation, the Attorney General shall bring a civil action to collect the penalty in the district court for the judicial district in which the violation occurred or the defendant resides or does business.

§ 70503. Payments for inspection and quarantine services

(a)(1) In this subsection—

(A) "private aircraft" means a civilian aircraft not being used to transport passengers or property for compensation.

(B) "private vessel" means a civilian vessel not being used—

(i) to transport passengers or property for compensation; or

(ii) in fishing or fish processing operations.

(2) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451), the owner, operator, or agent of a private aircraft or private vessel may pay not more than $25 for the services of an officer or employee of the Department of Agriculture, the Customs Service, the Immigration and Naturalization Service, or the Public Health Service (including an independent contractor performing an inspection service for the Public Health Service) when the services are performed on a Sunday, holiday, or from 5 p.m. through 8 a.m. on a weekday, and are related to the aircraft's or vessel's arrival in, or departure from, the United States. However, the owner, operator, or agent does not have to pay for the services from 5 p.m. through 8 a.m. on a weekday when an officer or employee on regular duty is available at the place of arrival or departure to perform services.

(3) The head of a department, agency, or instrumentality of the United States Government providing services under paragraph (2) of this subsection shall collect the amount paid for the services and deposit the amount in the Treasury. The amount shall be credited to the appropriation of the department, agency, or instrumentality against which the expense of those services was charged.

(b)(1) An owner or operator of an aircraft is required to reimburse the head of a department, agency, or instrumentality of the Government for the expenses of performing an inspection or quarantine service related to the aircraft at a place of inspection during regular service hours on a Sunday or holiday only to the same extent that an owner or operator makes reimbursement for the service during regular service hours on a weekday. The head of the department, agency, or instrumentality may not assess an owner or operator of an aircraft for administrative overhead expenses for inspection or quarantine service provided by the department, agency, or instrumentality at an entry airport.

(2) This subsection does not require reimbursement for costs incurred by the Secretary of the Treasury in providing customs services described in section 13031(e)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(1)).

§ 70504. Medals of honor

(a) The President may prepare and give a bronze medal of honor with emblematic devices to an individual who by extreme daring endangers that individual's life in trying to prevent, or save the life of another in, a grave accident in the United States involving a rail carrier providing transportation in interstate commerce or involving a motor vehicle on the public streets, roads, or highways. The President may give a medal only when sufficient evidence that the individual deserves the medal has been filed under regulations prescribed by the President.

(b) The President may give an individual who receives a medal a ribbon to be worn with the medal and a knot or rosette to be worn in place of the medal. The President shall prescribe the design for the ribbon, knot, and rosette. If the ribbon is lost, destroyed, or made unfit for use and the individual receiving the medal is not negligent, the President shall issue a new ribbon without charge to the individual.

(c) Appropriations made to the Secretary of Transportation are available to carry out this section.

PORTS OF ENTRY

Sec. 2. (a) The definitions in section 40102(a) of title 49, United States Code, apply to this section.

(b)(1) The Secretary of the Treasury may—

(A) designate ports of entry in the United States for civil aircraft arriving in the United States from a place outside the United States and property transported on that aircraft;

(B) detail to ports of entry officers and employees of the United States Customs Service the Secretary considers necessary;

(C) give an officer or employee of the United States Government stationed at a port of entry (with the consent of the head of the department, agency, or instrumentality of the Government with jurisdiction over the officer or employee) duties and powers of officers or employees of the Customs Service;

(D) by regulation, apply to civil air navigation the laws and regulations on carrying out the customs laws, to the extent and under conditions the Secretary considers necessary; and

(E) by regulation, apply to civil aircraft the laws and regulations on entry and clearance of vessels, to the extent and under conditions the Secretary considers necessary.

(2) A person violating a customs regulation prescribed under paragraph (1)(A)–(D) of this subsection or a public health or customs law or regulation made applicable to aircraft by a regulation under paragraph (1)(A)–(D) is liable to the Government for a civil penalty of $5,000 for each violation. An aircraft involved in the violation may be seized and forfeited under the customs laws. The Secretary of the Treasury may remit or mitigate a penalty and forfeiture under this paragraph.

(3) A person violating a regulation made applicable under paragraph (1)(E) of this subsection or an immigration regulation prescribed under paragraph (1)(E) is liable to the Government for a civil penalty of $5,000 for each violation. The Secretary of the Treasury or the Attorney General may remit or mitigate a penalty under this paragraph.

(4) In addition to any other penalty, when a controlled substance described in section 584 of the Tariff Act of 1930 (19 U.S.C. 1584) is found on, or to have been unloaded from, an aircraft to which this subsection applies, the owner of, or individual commanding, the aircraft is liable to the Government for the penalties provided in section 584 for each violation unless the owner or individual, by a preponderance of the evidence, demonstrates that the owner or individual did not know, and by exercising the highest degree of care and diligence, could not have known, that a controlled substance was on the aircraft.

(5) If a violation under this subsection is by the owner or operator of, or individual commanding, the aircraft, the aircraft is subject to a lien for the penalty.

(c)(1) The Secretary of Agriculture by regulation may apply laws and regulations on animal and plant quarantine (including laws and regulations on importing, exporting, transporting, and quarantining animals, plants, animal and plant products, insects, bacterial and fungus cultures, viruses, and serums) to civil air navigation to the extent and under conditions the Secretary considers necessary.

(2) A person violating a law or regulation made applicable under paragraph (1) of this subsection is liable for the penalties provided under that law or regulation.

(d) A decision to remit or mitigate a civil penalty under this section is final. When libel proceedings are pending during a proceeding to remit or mitigate a penalty, the appropriate Secretary shall notify the Attorney General of the remission or mitigation proceeding.

(e)(1) An aircraft subject to a lien under this section may be seized summarily by and placed in the custody of a person authorized by regulations of the appropriate Secretary or the Attorney General. A report of the case shall be sent to the Attorney General. The Attorney General shall bring promptly a civil action in rem to enforce the lien or notify the appropriate Secretary that the action will not be brought.

(2) An aircraft seized under this section shall be released from custody when—

(A) the civil penalty or amount not remitted or mitigated is paid;

(B) the aircraft is seized under process of a court in a civil action in rem to enforce the lien;

(C) the Attorney General gives notice that a civil action will not be brought under paragraph (1) of this subsection; or

(D) a bond is deposited with the appropriate Secretary or the Attorney General in an amount and with a surety the appropriate Secretary or the Attorney General prescribes, conditioned on payment of the penalty or amount not remitted or mitigated.

(f) A civil penalty under this section may be collected by bringing a civil action against the person subject to the penalty, a civil action in rem against an aircraft subject to a lien for a penalty, or both. The action shall conform as nearly as practicable to a civil action in admiralty, regardless of the place an aircraft in a civil action in rem is seized. However, a party may demand a trial by jury of an issue of fact if the value of the matter in controversy is more than $20. An issue of fact tried by jury may be reexamined only under common law rules.

(g) Necessary amounts may be appropriated to allow the head of a department, agency, or instrumentality of the Government to acquire space at a public airport (as defined in section 47102 of title 49) when the head decides the space is necessary to carry out inspections, clearance, collection of taxes or duties, or a similar responsibility of the head, related to transporting passengers or property in air commerce. The head must consult with the Secretary of Transportation before making a decision on space.

MASS TRANSPORTATION EXEMPTION

Sec. 3. Chapter 105 of title 49, United States Code, is amended as follows:

(1) Insert immediately after section 10530 the following new section:

"§ 10531. Mass transportation exemption

"(a) The definitions in section 5302 of this title apply to this section.

"(b) A State or local governmental authority may petition the Interstate Commerce Commission for an exemption from the jurisdiction of the Commission under this subchapter for mass transportation the authority provides or has provided to it by contract. Not later than 180 days after the Commission receives a petition and after notice and a reasonable opportunity for a proceeding, the Commission shall exempt the State, local governmental authority, or contractor unless the Commission finds that—

"(1) the public interest would not be served by an exemption;

"(2) the exemption would result in an unreasonable burden on interstate or foreign commerce; or

"(3) a State or local governmental authority may not regulate the mass transportation to be exempt under this section.

"(c) All applicable laws of the United States related to safety and to representation of employees for collective bargaining purposes, retirement, annuities, and unemployment systems, and all other laws related to employee-employer relations, apply to a State or local governmental authority that was granted, or whose contractor was granted, an exemption under this section.

"(d) The Commission may change or revoke an exemption if it finds that new evidence, material error, or changed circumstances exist that materially affect the original order. The Commission may act on its own initiative or on application of an interested party.".

(2) Insert immediately below item 10530 in the analysis of the chapter the following new item:

"10531. Mass transportation exemption.".

CONFORMING PROVISIONS

Sec. 4. (a) The Union Pacific Railroad Company may make a dividend only from its net earnings.

(b) Section 401 of the Federal Election Campaign Act of 1971 (2 U.S.C. 451) is amended by striking "Civil Aeronautics Board" and "Board or Commission" and substituting "Secretary of Transportation" and "Secretary under subpart II of part A of subtitle VII of title 49, United States Code, or such Commission,", respectively.

(c) Title 5, United States Code, is amended as follows:

(1) In section 5109, add at the end of the section the following new subsection:

"(c)(1) The position held by a fully experienced and qualified railroad safety inspector of the Department of Transportation shall be classified in accordance with this chapter, but not lower than GS-12.

"(2) The position held by a railroad safety specialist of the Department shall be classified in accordance with this chapter, but not lower than GS-13.".

(2) In section 8172, strike "Secretary of the Treasury" and substitute "Secretary of Transportation".

(d) Section 6001(1) of title 18, United States Code, is amended by striking "the Civil Aeronautics Board,".

(e) Chapter 33 of title 28, United States Code, is amended as follows:

(1) In the analysis, insert immediately after item 537 the following new item:

"538. Investigation of aircraft piracy and related violations.".

(2) Insert immediately after section 537 the following new section:

"§ 538. Investigation of aircraft piracy and related violations

"The Federal Bureau of Investigation shall investigate any violation of section 46314 or chapter 465 of title 49.".

(f) Title 31, United States Code, is amended as follows:

(1) The analysis of subtitle V is amended by adding immediately after item 75 the following new item:

"77. Loan Requirements .... 7701".

(2) Subtitle V is amended by adding at the end of the subtitle the following new chapter:

"CHAPTER 77—LOAN REQUIREMENTS

"Sec.
"7701. Taxpayer identifying number.

"§ 7701. Taxpayer identifying number

"(a) In this section—

"(1) 'included Federal loan program' has the same meaning given that term in section 6103(l)(3)(C) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(l)(3)(C)).

"(2) 'taxpayer identifying number' means the identifying number required under section 6109 of the Internal Revenue Code of 1986 (26 U.S.C. 6109).

"(b) The head of an agency administering an included Federal loan program shall require a person applying for a loan under the program to provide that person's taxpayer identifying number.".

(g) Title 39, United States Code, is amended as follows:

(1) In section 5007—

(A) insert the subsection designation "(a)" at the beginning of the text of the section; and

(B) add at the end of the section the following new subsection:

"(b)(1) In this subsection, 'air carrier' and 'aircraft' have the same meanings given those terms in section 40102(a) of title 49.

"(2) An air carrier engaged in transporting mail shall carry without charge on any plane it operates those agents and officers of the Postal Service traveling on official business related to transporting mail by aircraft, as prescribed by regulations of the Secretary of Transportation, on exhibiting credentials.".

(2) Amend section 5402 as follows:

(A) In subsection (a), strike "section 1302" and substitute "section 40101(a)".

(B) In subsection (b), strike "sections 1371(k) and 1386(b)", "sections 1301-1542", and "sections 1371-1386" and substitute "sections 40109(a) and (c)-(h) and 42112", "part A of subtitle VII", and "chapters 411 and 413", respectively.

(C) In subsection (d)—

(i) insert "determine rates and" after "may"; and

(ii) strike "and overseas".

(D) In subsection (e)—

(i) strike "'overseas air transportation',"; and

(ii) strike "section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301)" and substitute "section 40102 of title 49".

(h) Section 382 of the Energy Policy and Conservation Act (42 U.S.C. 6362) is amended as follows:

(1) Strike subsection (a) and substitute the following:

"(a) In this section, 'agency' means—

"(1) the Department of Transportation with respect to part A of subtitle VII of title 49, United States Code;

"(2) the Interstate Commerce Commission;

"(3) the Federal Maritime Commission; and

"(4) the Federal Power Commission.".

(2) In subsection (b), strike "subsection (a)(1)" and substitute "subsection (a)".

(i) The Act of April 22, 1908 (45 U.S.C. 51 et seq.), is amended by inserting immediately after section 4 the following new section:

"Sec. 4A. A regulation, standard, or requirement in force, or prescribed by the Secretary of Transportation under chapter 201 of title 49, United States Code, or by a State agency that is participating in investigative and surveillance activities under section 20105 of title 49, is deemed to be a statute under sections 3 and 4 of this Act.".

(j) Title 49, United States Code, is amended as follows:

(1) In section 102, redesignate subsection (e), as enacted by section 1(b) of the Act of

January 12, 1983 (Public Law 97-449, 96 Stat. 2414), as subsection (f).

(2) Section 106(g)(1) is amended to read as follows:

"(1) duties and powers of the Secretary under subsection (f) of this section related to aviation safety (except those related to transportation, packaging, marking, or description of hazardous materials) and vested in the Secretary by section 308(b) of this title or stated in sections 1104(c) and (d), 40101(c), 40103(b), 40106(a), 40108, 40109(b), 40110(a), (c), (e), and (f), 40111(a), 44501(a), (b), and (d), 44502(a)(1), (b), and (c), 44504-44508, 44701(a), (b), and (d)-(f), 44702-44716, 44717(c), 44720(a), 44901, 44902, 44903(a)-(c) and (e)-(g), 44908, 45102, 46104, 46301, 46303(c), 46304-46308, 46310, 46311, and 46313-46317, chapter 465, and sections 47504(b)(1)(related to flight procedures), 47506(a), and 47702(d)(2) of this title; and".

(3) In section 108(a)—

(A) strike—

"(a) Except when operating as a service in the Navy, the"

and substitute—

"(a)(1) The"; and

(B) add at the end of subsection (a) the following new paragraph:

"(2) Notwithstanding paragraph (1) of this subsection, the Coast Guard, together with the duties and powers of the Coast Guard, shall operate as a service in the Navy as provided under section 3 of title 14.".

(4)(A) The analysis of chapter 3 is amended by inserting immediately after item 303 the following new item:

"303a. Development of water transportation.".

(B) Chapter 3 is amended by inserting immediately after section 303 the following new section:

"§ 303a. Development of water transportation

"(a) It is the policy of Congress—

"(1) to promote, encourage, and develop water transportation, service, and facilities for the commerce of the United States; and

"(2) to foster and preserve rail and water transportation.

"(b) In this section, 'inland waterway' includes the Great Lakes.

"(c) The Secretary of Transportation shall—

"(1) investigate the types of vessels suitable for different classes of inland waterways to promote, encourage, and develop inland waterway transportation facilities for the commerce of the United States;

"(2) investigate water terminals, both for inland waterway traffic and for through traffic by water and rail, including the necessary docks, warehouses, and equipment, and investigate railroad spurs and switches connecting with those water terminals, to develop the types most appropriate for different locations and for transferring passengers or property between water carriers and rail carriers more expeditiously and economically;

"(3) consult with communities, cities, and towns about the location of water terminals, and cooperate with them in preparing plans for terminal facilities;

"(4) investigate the existing status of water transportation on the different inland waterways of the United States to learn the extent to which—

"(A) the waterways are being used to their capacity and are meeting the demands of traffic; and

"(B) water carriers using those waterways are interchanging traffic with rail carriers;

"(5) investigate other matters that may promote and encourage inland water transportation; and

"(6) compile, publish, and distribute information about transportation on inland waterways that the Secretary considers useful to the commercial interests of the United States.".

(5) Amend section 329 as follows:

(A) In subsection (b)(1)—

(i) strike "title VII of the Federal Aviation Act of 1958 (49 U.S.C. 1441 et seq.)" and substitute "chapter 11 of this title";

(ii) strike "and overseas" and "or overseas" wherever it appears; and

(iii) strike "section 419 of the Federal Aviation Act of 1958" and substitute "subchapter II of chapter 417 of this title".

(B) In subsection (d), strike "the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.)" and substitute "part A of subtitle VII of this title".

(6)(A) The analysis of chapter 3 is further amended by inserting immediately after item 335 the following:

"SUBCHAPTER III—MISCELLANEOUS

"351. Judicial review of actions in carrying out certain transferred duties and powers.
"352. Authority to carry out certain transferred duties and powers.".

(B) Chapter 3 is further amended by inserting immediately after section 335 the following new subchapter:

"SUBCHAPTER III—MISCELLANEOUS

"§ 351. Judicial review of actions in carrying out certain transferred duties and powers

"(a) An action of the Secretary of Transportation in carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89-670, 80 Stat. 931), or an action of the Administrator of the Federal Railroad Administration, the Federal Highway Administration, or the Federal Aviation Administration in carrying out a duty or power specifically assigned to the Administrator by that Act, may be reviewed judicially to the same extent and in the same way as if the action had been an action by the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer or assignment.

"(b) A statutory requirement related to notice, an opportunity for a proceeding, action on the record, or administrative review that applied to a duty or power transferred by the Act applies to the Secretary or Administrator when carrying out the duty or power.

"(c) This section does not apply to a duty or power transferred from the Interstate Commerce Commission to the Secretary under section 6(e)(1)-(4) and (6)(A) of the Act.

"§ 352. Authority to carry out certain transferred duties and powers

"In carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89-670, 80 Stat. 931), the Secretary of Transportation and the Administrators of the Federal Railroad Administration, the Federal Highway Administration, and the Federal Aviation Administration have the same authority that was vested in the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer. An action of the Secretary or Administrator in carrying out the duty or power has the same effect as when carried out by the department, agency, or instrumentality.".

(7) Section 10362(b)(5) is amended to read as follows:

"(5) prescribe regulations that contain standards for the computation of subsidies for rail passenger transportation (except passenger transportation compensation disputes subject to the jurisdiction of the Commission under sections 24308(a) and 24903(c)(2) of this title) that are consistent with the compensation principles described in the final system plan established under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and that avoid cross-subsidization among commuter, intercity, and freight rail transportation;".

(8) In section 10501(d)—

(A) strike "procedures of this title" and substitute "procedures of this subtitle"; and

(B) strike "provided in this title" and substitute "provided in this subtitle".

(9) In section 10504—

(A) strike "local public body" wherever it appears and substitute "local governmental authority";

(B) strike "rail mass transportation" wherever it appears and substitute "mass transportation";

(C) in subsection (a)(1)(A), strike "section 1608(c)(2)" and substitute "section 5302(a)(6)"; and

(D) in subsection (a)(2), strike "section 1608(c)(5)" and substitute "section 5302(a)(7)".

(10) In section 10526(a)—

(A) in clause (8)(B), strike "Civil Aeronautics Board or its successor agency" and substitute "Secretary of Transportation";

(B) in clause (10), strike "work." and substitute "work;";

(C) in clause (13), strike "or"; and

(D) in clause (14), strike "title." and substitute "title; or".

(11) In section 10701a(b)(3), strike "policy of this title" and substitute "policy of this subtitle".

(12) In section 10705a(g)(3)—

(A) before clause (A), strike "provision of this title" and substitute "provision of this subtitle"; and

(B) in clause (A), strike "service over any rate" and substitute "service over any route".

(13) In section 10707(d)—

(A) in paragraph (2), strike "under this title" and substitute "under this subtitle"; and

(B) in paragraph (3), strike "title" wherever it appears and substitute "subtitle".

(14) In section 10707a(b)(1), strike "paragraph (2)" and substitute "paragraph (3)".

(15) In section 10731(e), strike "provision of this title" and substitute "provision of this subtitle".

(16) In section 10749(b)(2), strike "Civil Aeronautics Board under the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.)" and substitute "Secretary of Transportation under part A of subtitle VII of this title".

(17) In section 10751(b), strike "purposes of this title" and substitute "purposes of this subtitle".

(18) In section 10905(d)(1) and (e), strike "government authority" and substitute "governmental authority".

(19) In section 10910—

(A) in subsection (a)(1), strike "government authority" and substitute "governmental authority"; and

(B) in subsection (g)(1), strike "provisions of this title" and substitute "provisions of this subtitle".

(20) In section 10924(e), insert "of" after "protection".

(21) In the analysis of chapter 111—

(A) in item 11128, strike "Water" and substitute "War"; and

(B) in item 11142, strike "systems" and substitute "system".

(22) In section 11162(a), strike "proceedings under this title" and substitute "proceedings under this subtitle".

(23) In section 11163, strike "purposes of this title" and substitute "purposes of this subtitle".

(24) In section 11166(a), strike "pursuant to this title" and substitute "under this subtitle".

(25) In section 11167, strike "under this title" and substitute "under this subtitle".

(26) In section 11501(b)(3)(A), strike "title" and substitute "subtitle".

(27) In section 11909(b), strike "1966,," and substitute "1966,".

(k) Effective January 1, 1999, part A of subtitle VII of title 49, United States Code, as enacted by section 1 of this Act, is amended as follows:

(1) In sections 41107, 41901(b)(1), 41902(a), and 41903, strike "transportation or between places in Alaska" wherever it appears and substitute "transportation".

(2) Strike section 41901(g).

(3) In section 41902(b)—

(A) strike clause (3); and

(B) in clause (4), strike "clauses (1)-(3)" and substitute "clauses (1) and (2)".

(l) The Act of June 29, 1940 (ch. 444, 54 Stat. 686), is amended as follows:

(1) Except as provided in paragraphs (2) and (3) of this subsection, strike "Administrator" wherever it appears and substitute "Secretary".

(2) In subsection (a) of the first section, strike "'Administrator' means the Administrator of the Federal Aviation Agency" and substitute "'Secretary' means the Secretary of Transportation".

(3) In section 4(a), strike "Administrator, and any Federal Aviation Agency" and substitute "Secretary, and any Department of Transportation".

(m) The Act of September 7, 1950 (ch. 905, 64 Stat. 770), is amended as follows:

(1) Except as provided in paragraph (2) of this subsection, strike "Administrator" wherever it appears and substitute "Secretary".

(2) In the first section, strike "Administrator of the Federal Aviation Agency" and "'Administrator'" and substitute "Secretary of Transportation" and "'Secretary'", respectively.

(3) In sections 4 and 8(a), strike "Federal Aviation Agency" and substitute "Department of Transportation".

(n) Section 101(1st complete par. on p. 646) of the Act of August 30, 1964 (Public Law 88-507, 78 Stat. 646), is amended by striking "Administrator of the Federal Aviation Agency" and substituting "Secretary of Transportation".

(o) Section 9111 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690, 102 Stat. 4531) is amended as follows:

(1) In the introductory language of subsection (b)(1), strike "Subsection (b) of section 10530 of such title is amended by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:" and substitute "Subsection (b)(1) of section 10530 of title 49 is amended to read as follows:".

(2) In subsection (b)(2), strike "Such subsection" and substitute "Subsection (b) of section 10530".

(3) In the introductory language of subsection (f)(1), strike "Subsection (g) of such section is amended by striking out paragraph (1) and inserting in lieu thereof the following:" and substitute "Subsection (g)(1) of section 10530 of title 49 is amended to read as follows:".

(4) In subsection (f)(2), strike "Such subsection" and substitute "Subsection (g) of section 10530".

CONFORMING CROSS-REFERENCES

Sec. 5. (a) Sections 551(1)(H) and 701(b)(1)(H) of title 5, United States Code, are amended by striking "or sections 1622," and substituting "subchapter II of chapter 471 of title 49; or sections".

(b) Title 10, United States Code, is amended as follows:

(1) In section 2640—

(A) in subsections (a)(1)(A) and (d)(1)(B)(i), strike "title VI of the Federal Aviation Act of 1958 (49 U.S.C. App. 1421 et seq.)" and substitute "chapter 447 of title 49"; and

(B) in subsection (i), strike "sections 101(3), 101(5), 101(10), and 101(15), respectively, of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(3), 1301(5), 1301(10), and 1301(15))" and substitute "section 40102 of title 49".

(2) In section 9511(1), strike "section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301)" and substitute "section 40102 of title 49".

(3) In section 9512(b)(4), strike "section 501 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401)" and substitute "section 44103 of title 49".

(c) Section 1110(a) of title 11, United States Code, is amended by striking "section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301)", "subsection B(4) of the Ship Mortgage Act, 1920 (46 U.S.C. 911(4))", and "Civil Aeronautics Board" and substituting "section 40102 of title 49", "section 30101 of title 46", and "Secretary of Transportation", respectively.

(d) The last sentence of section 82 of title 14, United States Code, is amended to read as follows: "Nothing in this title shall be deemed to limit the authority granted by chapter 167 of title 10 or part A of subtitle VII of title 49.".

(e) Title 18, United States Code, is amended as follows:

(1) In section 31, strike "the Federal Aviation Act of 1958, as amended" and substitute "sections 40102 and 46501 of title 49".

(2) In the last sentence of sections 112(e), 878(d), 1116(c), and 1201(e), strike "section" and all that follows and substitute "section 46501(2) of title 49.".

(3) In section 511(c)—

(A) in clause (1), strike "the National Traffic and Motor Vehicle Safety Act of 1966, or the Motor Vehicle Information and Cost Savings Act" and substitute "chapter 301 and part C of subtitle VI of title 49"; and

(B) in clause (2), strike "section 2 of the Motor Vehicle Information and Cost Savings Act" and substitute "section 32101 of title 49".

(4) In section 512(a)(2)(A), strike "the National Traffic and Motor Vehicle Safety Act of 1966" and substitute "chapter 301 of title 49".

(5) In section 553(c)—

(A) in clause (1), strike "section 2 of the Motor Vehicle Information and Cost Savings Act" and substitute "section 32101 of title 49"; and

(B) in clause (4), strike "section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301)" and substitute "section 40102 of title 49".

(6) In section 831(c)(1), strike "section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301)" and substitute "section 46501 of title 49".

(7) In section 1201(a)(3), strike "section" and all that follows and substitute "section 46501 of title 49;".

(8) In section 1366(c), strike "interstate transmission facilities, as defined in 49 U.S.C. 1671" and substitute "an interstate gas pipeline facility as defined in section 50101 of title 49".

(9) In section 2318(c)(1), strike "section 101 of the Federal Aviation Act of 1958" and substitute "section 46501 of title 49".

(10) In section 2516(1)(j), strike "section 1679a(c)(2)" and "subsection (i) or (n) of section 1472" and substitute "section 50120(b)" and "46502", respectively.

(11) In section 3663(a), strike "under subsection (h), (i), (j), or (n) of section 902 of the Federal Aviation Act of 1958 (49 U.S.C. 1472)" and substitute "section 46312, 46502, or 46504 of title 49".

(f) Title 23, United State Code, is amended as follows:

(1) In section 103(e)(4)(L)—

(A) in clause (i), strike "the Urban Mass Transportation Act of 1964" and substitute "chapter 53 of title 49"; and

(B) in clause (ii), strike "section 3(e)(4) of the Urban Mass Transportation Act of 1964" and substitute "section 5315(a)(1)(D) of title 49".

(2) In section 142—

(A) in subsection (i), strike "the Urban Mass Transportation Act of 1964, as amended" and substitute "chapter 53 of title 49"; and

(B) in subsection (j), strike "section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended," and substitute "section 5315(a)(1)(D) of title 49".

(3) In section 157(a)(2) and (3)(A), strike "section 404 of the Surface Transportation Assistance Act of 1982" and substitute "section 31104 of title 49".

(g) The Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.) is amended as follows:

(1) In section 47(a)(7)(C), strike "section 101 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301)" and "the Federal Aviation Act of 1958, as amended," and substitute "section 40102 of title 49, United States Code" and "part A of subtitle VII of title 49", respectively.

(2) In section 4064(b)(1)(B), strike "section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001)" and substitute "section 32901 of title 49, United States Code,".

(3) In section 4261(e) and (f)(2), strike "the Airport and Airway Improvement Act of 1982" and substitute "section 44504(d) or 44505(c) or subchapter I of chapter 471 of title 49, United States Code,".

(4) In section 4283(b)(1)—

(A) in clause (A)(i), strike "section 505 of the Airport and Airway Improvement Act of 1982" and substitute "section 47104 of title 49, United States Code,";

(B) in clause (A)(ii), strike "subsections (a) and (b) of section 506 of such Act" and substitute "sections 47701 and 47702 of title 49";

(C) in clause (B)(i), strike "section 505" and substitute "section 47104"; and

(D) in clause (B)(ii), strike "subsections (a) and (b) of such section 506" and substitute "such sections 47701 and 47702".

(5) The text of section 6362(f)(9) is amended to read as follows:

"There is no contravention of the provisions of section 11504 or 40113(b) of title 49, United States Code, with respect to the withholding of compensation to which such sections apply for purposes of the nonresident tax.".

(6) In section 6427(e)(2)(C), strike "section 502(a) of the Motor Vehicle Information and Cost Savings Act", "section 502(c) of the Motor Vehicle Information and Cost Savings Act", and "title V of the Motor Vehicle Information and Cost Savings Act" and substitute "section 32902(b) or (c) of title 49, United States Code,", "section 32902(d) of title 49", and "chapter 329 of title 49", respectively.

(7) In section 9502(d)(1)(B), strike "the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 et seq.)," and substitute "part A of subtitle VII of title 49, United States Code,".

(8) In section 9503(e)(3), strike "section 21(a)(2) of the Urban Mass Transportation Act of 1964" and substitute "section 5325(a)(1)(A) of title 49, United States Code".

(h) Title 31, United States Code, is amended as follows:

(1) In section 3711(c)(2), strike "section 6 of the Act of March 2, 1893 (45 U.S.C. 6), section 4 of the Act of April 14, 1910 (45 U.S.C. 13), section 9 of the Act of February 17, 1911 (45 U.S.C. 34), and section 25(h) of the Interstate Commerce Act (49 App. U.S.C. 26(h))" and substitute "sections 20306, 20506, and 20704 of title 49".

(2) In section 3726(b)(1), strike "the Federal Aviation Act of 1958" and substitute "section 40102 of title 49".

(i) Section 210(a)(4) of title 35, United States Code, is amended by striking "section 106(c) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1395(c); 80 Stat. 721)" and substituting "section 30168(e) of title 49".

(j) Title 39, United States Code, is amended as follows:

(1) In section 3401(b) and (c), strike "section 1376" and substitute "section 41901".

(2) In section 5005(b)(3), strike "section 101 of the Federal Aviation Act of 1958" and substitute "section 40102 of title 49".

(3) In section 5401(b), strike "sections 1301-1542" and substitute "part A of subtitle VII".

(k) Section 2101(14)(C) of title 46, United States Code, is amended by striking "section 104 of the Hazardous Materials Transportation Act (49 U.S.C. 1803)" and substituting "section 5103(a) of title 49".

(l) Title 49, United States Code, is amended as follows:

(1) In section 103(c)(1), strike "section 6(e)(1), (2), and (6)(A) of the Department of Transportation Act (49 App. U.S.C. 1655(e)(1), (2), and (6)(A))" and substitute "section 20124(c) and chapters 203-211 of this title".

(2) In section 104(c)(2), strike "31" and substitute "315".

(3) In section 105(d), strike "the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.)" and substitute "chapter 301 of this title".

(4) In section 106—

(A) in subsection (h), strike "Section 103 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1303)" and substitute "Section 40101(d) of this title"; and

(B) in subsection (j), strike "section 312(e) of the Federal Aviation Act of 1958" and substitute "section 44507 of this title".

(5) In section 109(a) and (b), insert "App." immediately after "(46".

(6) In section 302(b), strike "Subtitle I and chapter 31 of subtitle II of this title and the Department of Transportation Act (49 App. U.S.C. 1651 et seq.)" and substitute "This subtitle and chapters 221 and 315 of this title".

(7) In section 306(b), strike "section 332 or 333 of this title, section 211 or 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721, 726), title V or VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq., 851 et seq.), or section 4(i) or 5 of the Department of Transportation Act (49 App. U.S.C. 1653(i), 1654)" and substitute "section 332 or 333 or chapter 221 or 249 of this title, section 211 or 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721, 726), or title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.)".

(8) In section 321, strike "section 101(2), (4), and (8) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301(2), (4), (8))" and substitute "section 40102(a) of this title".

(9) In section 334—

(A) in the first sentence—

(i) insert the subsection designation "(a)" at the beginning; and

(ii) strike "section 313(f) of the Federal Aviation Act of 1958" and substitute "section 45102 of this title"; and

(B) in the last sentence—

(i) strike "However," and substitute—

"(b) Subsection (a) of"; and

(ii) strike "as defined in" and all that follows and substitute "as defined in section 40102(a) of this title.".

(10) In section 501—

(A) in subsection (a)(2), strike "section 3101" and substitute "section 31501";

(B) in subsection (a)(3), strike "section 3102(c)" and substitute "section 31502(c)"; and

(C) strike subsection (b) and substitute the following:

"(b) This chapter only applies in carrying out sections 20302(a)(1)(B) and (C), (2), and (3), (c), and (d)(1), 20303, and 20306 (in carrying out sections 20302(a)(1)(B) and (C), (2), and (3), (c), and (d)(1), and 20303) and chapters 205 (except section 20504(b)), 211, and 315 of this title.".

(11) In section 507(c), strike "section 3102 of this title or the Motor Carrier Safety Act of 1984" and "such section or Act" and substitute "subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title" and "any of those provisions", respectively.

(12) In section 521(b)—

(A) in paragraph (1), strike "section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986" and "such sections or Act" and substitute "a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31308(g)(1), or 31502 of this title" and "any of those provisions", respectively;

(B) in paragraph (2)(A), strike "pursuant to section 3102 of this title or the Motor Carrier Safety Act of 1984" and substitute "under subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title";

(C) in paragraph (2)(B), strike "section 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986" and substitute "section 31302, 31303, 31304, 31305(b), or 31308(g)(1) of this title";

(D) in paragraph (3), strike "section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986" and substitute "subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title";

(E) in paragraph (5)(A), strike "section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986" and "such sections or Act" and substitute "a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title" and "any of those provisions", respectively;

(F) in paragraph (6)(A), strike "section 3102 of this title, the Motor Carrier Safety Act of 1984", "such section or Act", and "liable" and substitute "subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title", "any of those provisions", and "subject", respectively;

(G) in paragraph (6)(B)(i), strike "section 12002, 12003(b), 12003(c), 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986" and substitute "section 31302, 31303(b) or (c), 31304, 31305(b), or 31308(g)(1) of this title";

(H) in paragraph (6)(B)(ii), strike "section 12019 of such Act", "section 12003(a) of such Act", and "such section 12003(a)" and substitute "section 31301 of this title", "section 31303(a) of this title", and "section 31303(a)", respectively;

(I) in paragraph (12), strike "any provision of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801-1812)" and "such Act" and substitute "chapter 51 of this title" and "chapter 51", respectively; and

(J) in paragraph (13), strike "section 204 of the Motor Carrier Safety Act of 1984" and substitute "section 31132 of this title".

(13) In section 526, strike "this chapter, section 3102 of this title, or the Motor Carrier Safety Act of 1984, a person that knowingly and willfully violates a provision of this chapter or such section or Act, or a regulation or order of the Secretary of Transportation under this chapter or such section or Act" and substitute "a provision of this chapter, subchapter III of chapter 311 (except sections 31138 and 31139), or section 31502 of this title, a person that knowingly and willfully violates any of those provisions or a regulation or order of the Secretary of Transportation under any of those provisions".

(14) In section 10102(9), strike "the Federal Aviation Act of 1958" and substitute "part A of subtitle VII of this title".

(15) In section 10322(a), strike "subtitle" wherever it appears and substitute "title".

(16) In sections 10364(a) and 10385(a), strike "section 5 of title 41" and substitute "section 3709 of the Revised Statutes (41 U.S.C. 5)".

(17) In sections 10527(a), strike "subchapter" and substitute "title".

(18) In section 10528, strike "subchapter" and "subtitle" wherever either word appears and substitute "title".

(19) In section 10529(a), strike "(12 U.S.C. 1141j(a))" and substitute "(12 U.S.C. 1141j(a)))".

(20) In sections 10542(a)(2) and 10544(d)(1)(B), insert "App." immediately after "(46" wherever it appears.

(21) In section 10561(b)(1), strike "chapter 20" and substitute "part A of subtitle VII".

(22) In section 10703(a)(4)—

(A) in paragraph (D)(ii), insert "App." immediately after "(46" wherever it appears; and

(B) in paragraph (E), strike "(46 U.S.C. 801 et seq.)" and "(46 U.S.C. 843-848)" and substitute "(46 App. U.S.C. 801 et seq.)" and "(46 App. U.S.C. 843 et seq.)", respectively.

(23) In section 10721(a)(1), strike "Section 5 of title 41" and substitute "Section 3709 of the Revised Statutes (41 U.S.C. 5)".

(24) In section 10735(b)(1), strike "under this title" and substitute "under this subtitle".

(25) In section 10903(b)(2), strike "section 11347 of this title and section 405(b) of the Rail Passenger Service Act (45 U.S.C. 565(b))" and substitute "sections 11347 and 24706(c) of this title".

(26) In section 10922—

(A) in subsection (c)(1)(E), strike "provisions of section 12(f) of the Urban Mass Transportation Act of 1964" and substitute "section 10531 of this title";

(B) in subsection (c)(2)(D), strike "subtitle" wherever it appears and substitute "title";

(C) in subsection (c)(4)(C) and (j)(1), strike "subchapter" wherever it appears and substitute "title"; and

(D) in subsection (j)(2)(C), strike "subtitle" and substitute "title".

(27) In section 10927(a)(1), insert "section" before "10923".

(28) In section 10935(a) and (e)(3), strike "subchapter" and substitute "title".

(29) In section 11125(b)(2)(A), strike "the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.)" and substitute "chapter 201 of this title".

(30) In section 11126(a), strike "11501(c)" and substitute "11501(f)".

(31) In section 11303(a), strike "the Ship Mortgage Act, 1920" wherever it appears and substitute "chapter 313 of title 46".

(32) In section 11347, strike "section 405 of the Rail Passenger Service Act (45 U.S.C. 565)" and substitute "sections 24307(c), 24312, and 24706(c) of this title".

(33) In section 11348(a), strike "section 504(f)," and substitute "sections 504(f) and".

(34) In section 11504(b)(2), strike "204 of the Motor Carrier Safety Act of 1984 (49 App. U.S.C. 2503)" and substitute "31132(2) of this title".

(35) In section 11701(a), strike "section 10530 of this subtitle" and substitute "section 10530 of this title".

LEGISLATIVE PURPOSE AND CONSTRUCTION

Sec. 6. (a) Sections 1–4 of this Act restate, without substantive change, laws enacted before October 1, 1990, that were replaced by those sections. Those sections may not be construed as making a substantive change in the laws replaced. Laws enacted after September 30, 1990, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

(b) A reference to a law replaced by sections 1–4 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) An order, rule, or regulation in effect under a law replaced by sections 1–4 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) An action taken or an offense committed under a law replaced by sections 1–4 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(e) An inference of legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of a caption or catch line of the provision.

(f) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision enacted by this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

REPEALS

Sec. 7. (a) The repeal of a law by this Act may not be construed as a legislative implication that the provision was or was not in effect before its repeal.

(b) The laws specified in the following schedule are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act:

Schedule of Laws Repealed

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code	
			Volume	Page	Title	Section
1864						
July 2	216	15	13	362	45	83
1873						
Mar. 3	226	2(words after 2d semicolon).	17	508		
1874						
June 20	331		18	111	45	83
June 22	414		18	200	45	89
1879						
Mar. 3	183	1(4th par. on p. 420).	20	420	45	90
1887						
Feb. 4	104		24	379	49 App.	1-25(as 1-25 relate to oil pipelines), 26, 26a-27(as 26a-27 relate to oil pipelines), 901-923(as 901-923 relate to oil pipelines)
Mar. 3	345		24	488	45	94, 95
1893						
Feb. 11	83		27	443	49 App.	46(related to oil pipelines)
Mar. 2	196		27	531	45	1-7
1896						
Apr. 1	87		29	85	45	6
1897						
Mar. 3	386	(proviso under heading "Transportation and Recruiting, Marine Corps").	29	663	45	91

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code	
			Volume	Page	Title	Section
1901						
Mar. 3	831	(last proviso of last par. under heading "Pay Department").	31	1023	45	92
1903						
Feb. 19	708		32	847	49 App.	41-43(as 41-43 relate to oil pipelines)
Mar. 2	976		32	943	45	10
1905						
Feb. 23	744		33	743	49 App.	1201-1203
1906						
June 29	3594		34	607	45	71-74
June 30	P.R. 46		34	838	45	35
1907						
Mar. 4	2939		34	1415	45	61-64b
1908						
May 27	200	1(6th par. last sentence under heading "Interstate Commerce Commission", 1st complete par. on p. 325).	35	325	45	36, 37
1909						
Mar. 4	299	1(6th par. last sentence under heading "Interstate Commerce Commission").	35	965	45	37
1910						
Apr. 14	160		36	298	45	11-16
May 6	208		36	350	45	38-43
June 18	309		36	544	49 App.	50(related to oil pipelines)
1911						
Feb. 17	103		36	913	45	22-29, 31-34
1912						
Aug. 24	390	11(last par.).	37	568	49 App.	51(related to oil pipelines)
1914						
Aug. 1	223	1(5th complete par. on p. 627).	38	627	49 App.	52(related to oil pipelines)
1915						
Mar. 4	169		38	1192	45	23, 30
1916						
May 4	109		39	61	45	63
Aug. 29	415		39	538	49 App.	81-124
1920						
Feb. 28	91	441, 500	41	498, 499	49 App.	26, 142

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Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code	
			Volume	Page	Title	Section
1921 Mar. 4	161	1(last proviso in par. under heading "Transportation Facilities on Inland and Coastal Waterways").	41	1392	49 App.	141
Dec. 15	1	1(last par. under heading "Board of Mediation and Conciliation").	42	328	45	126
1924 June 7	355		43	659	45	22, 23, 25, 27
1927 Mar. 4	510		44	1446	49 App.	102
1929 Feb. 28	369		45	1404	49 App.	173
1931 Feb. 14	189		46	1162	49 App.	231
1934 June 13	498		48	954	49 App.	264
June 19	654		48	1113	49 App.	171-173a, 175, 179-184
	656	2	48	1116	49 App.	181
1935 Aug. 7	455		49	540	49 App.	231
1937 Aug. 26	818		50	835	49 App.	26
1939 June 27	244		53	855	49 App.	751-757
Aug. 9	618		53	1291	49 App.	781-789
	633	1(1st. par. under heading "Civil Aeronautics Authority.").	53	1302	49 App.	682
1940 Apr. 22	124		54	148	45	24-34
July 2	526		54	735	49 App.	485
Sept. 18	722	14(b), 321	54	919, 954	49 App.	26, 65(related to oil pipelines)
1941 June 28	258	201(last par. under heading "Civil Aeronautics Board").	55	282	49 App.	422a
1942 July 24	522		56	704	49 App.	752

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Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code	
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1943 May 7	94	(par. under heading "Office of Administrator of Civil Aeronautics").	57	80	49 App.	758
June 10	121		57	150	49 App.	75
1944 June 30	333		58	648	49 App.	75
July 1	373	813(5th, 6th complete pars. on p. 718).	58	718	49 App.	177, 18
Oct. 3	479	13(g)	58	765	50 App.	162
1945 Dec. 12	573		59	606	49 App.	65, 65a(as 65, 65a relate to oil pipelines
1946 Aug. 8	911		60	944	49 App.	60
1947 May 27	85		61	120	45	24-2
July 30	404	2	61	678	50 App.	162
Aug. 4	471		61	743	49 App.	64
1948 Apr. 17	192		62	173	49 App.	1101, 1102, 1106, 1108, 110
June 16	473		62	450	49 App.	1151, 1151(note), 1152-1159a, 116
	482		62	470	49 App.	52
June 19	523		62	493	49 App.	401, 52
June 25	646	4	62	986	45	8
June 29	713		62	1093	49 App.	45
	738		62	1111	49 App.	111
July 1	792		62	1216	49 App.	452, 459, 55
1949 July 25	359		63	478	49 App.	111
July 26	362		63	480	49 App.	62
	363		63	480	49 App.	111
Aug. 12	423		63	603	49 App.	111
Aug. 15	426		63	605	49 App.	110
Aug. 30	520		63	678	49 App.	42
Oct. 1	589		63	700	50 App.	1622-1622
Oct. 25	724		63	903	49 App.	110
Oct. 26	751		63	925	49 App.	11
1950 Feb. 9	5		64	4	49 App.	110
Mar. 18	72	6, 7	64	28	49 App.	1102, 110
Aug. 3	517		64	395	49 App.	62
Aug. 5	591		64	414	49 App.	177, 18
Aug. 8	643		64	417	49 App.	45
Aug. 9	655		64	427	49 App.	78
Sept. 9	938		64	825	49 App.	701-70
Sept. 27	1055		64	1071	49 App.	110
Sept. 29	1107		64	1079	49 App.	40
Sept. 30	1117		64	1090	49 App.	1181-118
1951 Jan. 9	1214		64	1237	49 App.	110
June 14	123		65	65	49 App.	401, 711-72
Oct. 11	495	3, 4	65	407	49 App.	177, 56
Oct. 31	655	55(b)	65	729	49 App.	78
1952 June 28	485	1(5)	66	286	49 App.	48
July 14	740		66	628	49 App.	401, 491, 62
1953 July 8	181		67	140	49 App.	111
Aug. 8	379		67	489	49 App.	17
1955 May 19	41		69	49	49 App.	48
Aug. 3	494		69	441	49 App.	1101-1103, 1104, 1105, 1107, 1108, 111
1956 July 20	650		70	591	49 App.	48

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Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code	
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	655		70	594	49 App.	722
Aug. 1	816		70	784	49 App.	483
	852	22	70	911	49 App.	789
1957						
June 13	85-50		71	69	49 App.	1201-1203
Aug. 14	85-135		71	352	45	6, 13, 34, 63
Aug. 26	85-166		71	415	49 App.	481
Sept. 7	85-307		71	629	49 App.	1324(note)
1958						
Apr. 9	85-373		72	84	49 App.	486
Apr. 11	85-375		72	86	45	9
July 7	85-507	21(b)(3), (c).	72	337, 338	49 App.	457, 603
Aug. 23	85-726	(less 1402(a), (e)-(g), 1404, 1406, 1411).	72	731	49 App.	1301-1308, 1321-1325, 1341-1346, 1347-1356, 1357-1359, 1371, 1372-1376, 1377-1389, 1401-1406, 1421-1432, 1441-1443, 1461-1463, 1471-1474, 1481, 1482, 1483-1490, 1501-1515, 1516-1518, 1531-1542, 1551
1959						
Mar. 18	86-3	21	73	13	49 App.	1324(note)
June 25	86-70	39	73	150	49 App.	1324(note)
June 29	86-72		73	155	49 App.	1101, 1102, 1104, 1106, 1108, 1109, 1112
July 8	86-81		73	180	49 App.	1403, 1404
Aug. 11	86-154		73	333	49 App.	1743
Aug. 25	86-199		73	427	49 App.	1485
Sept. 21	86-295		73	572	49 App.	1105
1960						
June 29	86-546	1	74	255	49 App.	1486
July 12	86-624	37	74	421	49 App.	1324(note)
	86-627		74	445	49 App.	1373
July 14	86-661		74	527		
Sept. 13	86-758		74	901	49 App.	1378, 1378(note)
	86-762		74	903	45	38, 42, 43
1961						
July 20	87-89		75	210	49 App.	1542
Sept. 5	87-197		75	466	49 App.	1301, 1472, 1511
Sept. 13	87-221		75	494	15	1281, 1282
	87-225		75	497	49 App.	1486
Sept. 20	87-255		75	523	49 App.	1101-1106, 1108-1110, 1112, 1509
Oct. 4	87-367	103(2), (6), (15), 205.	75	787, 788, 791	49 App.	1322, 1343, 1343(note)
1962						
July 10	87-528		76	143	49 App.	1301, 1371, 1371(note), 1376, 1387, 1471, 1472
Oct. 15	87-810		76	921	49 App.	1323, 1441, 1472, 1505
	87-820		76	936	49 App.	1324(note), 1380
1964						
Mar. 11	88-280		78	158	49 App.	1101-1106, 1107a, 1108-1111, 1113, 1120
June 30	88-346		78	236	49 App.	1403, 1406, 1406(note)
July 2	88-349	2	78	239	49 App.	1114
July 9	88-365		78	302	49 App.	1601, 1601(note), 1602, 1603, 1604, 1605-1621
Aug. 14	88-426	305(16)	78	424	49 App.	1321, 1341, 1342
1965						
Aug. 10	89-117	304(b), 1109.	79	475, 507	49 App.	1605, 1608
Sept. 30	89-220	13			49 App.	1643
Nov. 8	89-348	1(6)	79	1310	49 App.	1539
1966						
June 13	89-447		80	199	49 App.	1542
Sept. 8	89-562		80	715	49 App.	1602, 1603, 1605, 1607a(note), 1607b, 1607c, 1608-1611
Sept. 9	89-563	(less 401)	80	718	15	1301-1303, 1321-1323, 1381, 1381(note), 1391-1403, 1403(note), 1404-1431
Oct. 13	89-647		80	894	49 App.	1104, 1105
Oct. 15	89-670	1-8(a), (f), (i), 9, 10(e), 13-16.	80	931, 943, 944, 948, 950	15	1404
					49 App.	1376, 1651, 1651(note), 1652, 1653, 1654, 1655-1657, 1659
					50	123
1967						
May 25	90-19	20	81	25	49 App.	1602, 1603, 1605, 1606, 1608-1610

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Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code	
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June 28	90-34		81	81	49 App.	1604
Dec. 1	90-169		81	526	49 App.	1604
1968						
Apr. 10	90-283		82	72	15	1410
July 21	90-411		82	395	49 App.	1431
July 24	90-423	1(f)	82	424	49 App.	1642
Aug. 1	90-448	701-704	82	534	49 App.	1603, 1604, 1605, 1608
Aug. 12	90-481		82	720	49 App.	1671, 1671(note), 1672-1686
Sept. 26	90-514		82	867	49 App.	1301, 1371, 1371(note)
Oct. 12	90-568		82	1003	49 App.	1324(note)
1969						
Aug. 20	91-62		83	103	49 App.	1377, 1377(note), 1378
Dec. 24	91-152	306	83	392	49 App.	1603, 1604
Dec. 26	91-169		83	463	45	61, 61(note), 62-64b
1970						
May 21	91-258	31, 51, 52(a), (b)(4), (6), (c), (d), 53, 209.	84	219, 234, 235, 236, 252	49 App.	1101-1103, 1104-1106, 1107a-1120, 1354, 1430, 1430(note), 1432, 1509, 1622, 1701(note), 1731, 1741, 1742(note)
May 22	91-265		84	262	15	1381(note), 1391, 1401, 1408, 1409, 1426, 1431
Sept. 8	91-399		84	837	49 App.	1542
Oct. 13	91-444	1(b)	84	915	49 App.	1642
Oct. 14	91-449		84	921	49 App.	1301, 1472
Oct. 15	91-453	1-9, 13, 14	84	962, 969	49 App.	1601(note), 1601a, 1602, 1602(note), 1603-1605, 1610-1612
Oct. 16	91-458		84	971	45	421, 421(note), 431-441, 443, 444
Oct. 27	91-513	1102(r)	84	1294	49 App.	787
Oct. 30	91-518	(less 404(f), 810, 901).	84	1327	45	501, 501(note), 501a, 502, 521, 522, 541-545, 546, 547, 548, 561-566, 581-591, 601, 602, 642-644, 646-648, 651-658
Dec. 23	91-569		84	1499	49 App.	1512, 1512(notes)
Dec. 29	91-596	31	84	1619	49 App.	1421
Dec. 31	91-604	11(b)	84	1705	49 App.	1421, 1430
1971						
Nov. 18	92-159	2	85	481	49 App.	1429
Nov. 27	92-174		85	491	49 App.	1429, 1430(note), 1432, 1711-1713, 1714, 1715, 1717
1972						
Mar. 22	92-259		86	95	49 App.	1374, 1461, 1482, 1482(note)
June 22	92-316		86	227	45	543, 543(note), 545, 546, 548, 562, 563, 565, 601, 602, 602(note), 644, 645
Aug. 22	92-401		86	616	49 App.	1674, 1674(note), 1682, 1684
Oct. 20	92-513	(less 501(related to § 511), 511, 614).	86	947	15	1901, 1901(note), 1911-1922, 1941-1949, 1961-1964, 1981, 1981(note), 1982-1991, 2001-2010, 2012, 2021-2033
Oct. 25	92-548		86	1159	15	1381(note), 1409, 1410
	92-556		86	1170	49 App.	1324(note)
Oct. 27	92-574	7(b)	86	1239	49 App.	1431
1973						
June 18	93-44		87	88	49 App.	1513, 1701(note), 1711, 1712, 1714, 1716, 1717
Aug. 13	93-87	138, 164, 301.	87	270, 281, 295	49 App.	1602a, 1603, 1603(note), 1607d(note), 1608(note), 1612
Aug. 14	93-90		87	305	45	421(note), 441(note)
					49 App.	1762
Nov. 3	93-146		87	548	45	501(note), 502, 543, 543(note), 545, 546, 548, 561-564, 601, 602, 641
1974						
Jan. 2	93-236	303(e)(words "title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 or of").	87	1010	45	743
	93-239	4	87	1048	49 App.	1421
Aug. 5	93-366		88	409	49 App.	1301(note), 1301, 1356, 1357, 1471, 1472, 1473, 1487, 1511, 1514-1516

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Aug. 22	93-383	813	88	737	49 App.	1602, 1602a, 1602a(note)
Aug. 30	93-403		88	802	49 App.	1671(note), 1674, 1684
Oct. 27	93-492	(less 108)	88	1470	15	1381(note), 1391, 1392, 1393, 1397-1399, 1401, 1402, 1408, 1409, 1409(note), 1410-1411, 1411(note), 1412-1420, 1424, 1961-1964
Oct. 28	93-496		88	1526	45	501(note), 544, 545, 563, 564, 601, 602, 641, 644, 645(note)
					49 App.	302, 1643, 1653
Nov. 26	93-503	(less 105)	88	1565	49 App.	1601b, 1601b(note), 1602-1604b, 1605(note), 1611
1975 Jan. 2	93-604	702	88	1964	49 App.	1537
	93-608	1(20), (21)	88	1970	49 App.	1343, 1603
Jan. 3	93-623	(less 6)	88	2102	49 App.	1151(note), 1159a, 1159b, 1373, 1376, 1377, 1472, 1517
	93-633		88	2156	45	39, 421(note), 437, 438, 440, 440(note)
					49 App.	1471, 1472, 1653, 1761, 1762, 1801, 1801(note), 1802-1813, 1901, 1901(note), 1902-1907
1974 Jan. 4	93-650		89	2-1	49 App.	1602, 1602a, 1602a(note)
1975 May 26	94-25		89	90	45	501(note), 543, 545, 548, 563, 564, 601, 602, 621
					49 App.	1653
July 19	94-56		89	263	45	421(note), 440
					49 App.	1812
Aug. 9	94-90		89	439	49 App.	1531(note), 1536, 1542
Dec. 22	94-163	301(less "Secs. 501(related to § 511), 511").	89	901	15	2001-2010, 2012
1976 Feb. 5	94-210	701-706(a), (c)-(i), 707, 803, 808, 901-904.	90	119, 124, 130, 143, 147	45	543, 545, 546, 562-564, 743, 745(note), 851-855
					49 App.	1613, 1653, 1654, 1654(note)
July 8	94-346		90	815	15	1392, 1409
	94-348		90	817	45	6, 13, 34, 61-63a, 64a, 421(note), 431, 431(note)
					49 App.	26, 1653
July 12	94-353		90	871	49 App.	1346a, 1348(note), 1356a, 1358, 1371, 1432, 1701, 1701(note), 1702(note), 1704, 1711-1715, 1715(note), 1716-1720, 1724(note), 1728-1730, 1742
July 14	94-364		90	981	15	1901(note), 1921, 1941, 1949, 1963, 1982-1985, 1987, 1988, 1990-1991
July 31	94-374		90	1065	49 App.	1542
Sept. 30	94-436	5(related to title VII).	90	1399	45	743
Oct. 11	94-474		90	2068	49 App.	1801(note), 1805, 1812
	94-477		90	2073	49 App.	1671, 1671(note), 1672, 1674, 1680, 1683-1686
	94-481		90	2080	49 App.	1907
Oct. 19	94-555	101-108, 216(e), 217, 219(a), 220(h), 301.	90	2613, 2627, 2629, 2630	45	501(note), 543, 545, 546, 563, 601, 602, 641, 641(note), 854
					49 App.	1653, 1654(note)
1977 Aug. 4	95-91	305, 306, 402(b).	91	580, 584	15	2002
					42	7155, 7172
Nov. 9	95-163	(less 19)	91	1278	49 App.	1301, 1302, 1371, 1373, 1373(note), 1376(note), 1388, 1401, 1421, 1421(note), 1430, 1482, 1531-1533, 1535, 1537, 1542
Nov. 16	95-187		91	1385	49 App.	1613
1978 Mar. 8	95-241		92	119	49 App.	1401
Mar. 14	95-245		92	156	49 App.	1388, 1388(note)
Mar. 27	95-251	2(a)(12)	92	183	49 App.	1655
Sept. 11	95-363		92	597	49 App.	1901(note), 1907

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Sept. 30	95-403		92	863	49 App.	181
Oct. 5	95-421		92	923	45	501(note), 521(note), 541, 541(note), 54 545a, 546a, 562, 563, 601, 602, 646, 85 85
					49 App.	165
Oct. 7	95-426	706	92	992	49 App.	15
Oct. 17	95-473	4(c)	92	1470	49	101(note prec
Oct. 24	95-504	(less 46)	92	1705	49 App.	1301, 1301(note), 1302, 1305-130 1324(note), 1371, 1371(note), 1372-137 1376, 1376(note), 1378, 1379, 1382, 138 1386, 1389, 1461, 1471, 1473, 148 1482a, 1490, 1504, 1551, 1552, 1711, 17
Nov. 2	95-574		92	2459	45	6, 13, 34, 61, 63a, 63a(note), 421(not 436, 437, 440(note), 4
					49 App.	
	95-575	3(a), (b)	92	2465	49 App.	781, 7
	95-580		92	2475	49 App.	1653(not
Nov. 6	95-598	322(g)	92	2679	45	
	95-599	134(d), 160, 301-315, 317-323.	92	2709, 2719, 2735, 2752	15	14
					49 App.	1601(note), 1602, 1603, 1604, 1604(not 1605(note), 1607, 1607(not 1607a(note), 1607b-1608, 1611, 161 1612(note), 1613-1616, 1653(not
Nov. 8	95-607	101-110	92	3059	49 App.	1651(note), 1653a, 1654, 1654(not
	95-609	3, 8	92	3080, 3084	49 App.	1431, 1431(not
Nov. 9	95-619	401-404	92	3254	15	2006, 20
1979 Sept. 29	96-73	101-119 "Sec. 404(e)", 119 "Sec. 404(g)"-132, 501(a).	93	537, 547, 558	45	501, 501(note), 501a, 502, 521(note), 5 545(note), 545a(note), 546, 5 562(note), 563, 564, 564(note), 5 565(note), 566, 601, 602, 602(note), 6 647-6
					49 App.	16
Oct. 12	96-86	115(b)	93	662	49 App.	16
Nov. 9	96-106	17	93	799	49 App.	16
Nov. 30	96-129		93	989	18	831, 831(note), 832-8
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Dec. 29	96-171		93	1285	49 App.	1421(no
1980 Jan. 7	96-185	18(related to § 503(a)(3) of Motor Vehicle Information and Cost Savings Act).	93	1336	15	20
Feb. 15	96-192	(less 29)	94	35	49 App.	1159b, 1301(note), 1302, 1371-1373, 13 1382, 1384, 1386, 1482, 1502, 1504, 15 15
Feb. 18	96-193	(less 305)	94	50	49 App.	1348(note), 1359, 1472, 1512, 1711, 17 1714-1717, 1731, 1742, 2101, 2101(no 2102-2108, 2121-2
May 30	96-254	201-213, 215, 216.	94	410, 418	45	501(note), 543, 545, 546, 562-564, 6 651-658, 851, 853, 854, 854(note),
					49 App.	1
July 1	96-296	30	94	820	49	10927(no
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					45	6, 26, 29, 34, 64a, 421(note), 4 431(note), 432, 435-439, 441, 443,
	96-425		94	1821	15	1901, 1901(note), 2001, 2001(note), 20 2002(note), 2003, 2005, 2007, 2008, 2
Oct. 14	96-448	508(f)	94	1958	45	
Oct. 19	96-470	112(a), (f), (h), 209(a).	94	2239, 2240, 2245	45	440,
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					49 App.	1603, 1604, 1608(note), 1654, 1660, 1701(note), 1714, 1714(note), 1715, 1716(note), 1717, 1742
Nov. 3	97-74		95	1065	49 App.	1901(note), 1903, 1906, 1907
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Sept 10	97-257	107(par. under heading "Grants to the National Railroad Passenger Corporation").	96	852	45	546b
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Oct. 2	97-276	130, 167	96	1196, 1204	49 App.	1376a(note), 2207
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Dec. 18	97-369	201(provisos under heading "Payments to Air Carriers"), 322.	96	1778, 1784	49 App.	1376a, 1376b
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Jan. 6	97-424	138, 301-309, 313, 315-318, 401-406, 411-416, 426(a)-(d).	96	2126, 2140, 2152, 2153, 2167.	49	10927(note)
					49 App.	1601(note), 1601c, 1602, 1603-1604a, 1607a, 1607a-1, 1607c, 1608, 1611, 1612, 1612(note), 1614, 1617, 1618, 2204-2206, 2301-2305, 2311-2315, 2316
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Aug. 22	98-396	101(par. under heading "Urban Mass Transportation Administration").	98	1400	49 App.	160
Oct. 4	98-443	3, 4, 6, 7, 9(a)-(d), (r)-(u), 10-16.	98	1703, 1705, 1706, 1708, 1709.	49 App.	1159a, 1159b, 1301, 1304, 1305, 137 1381, 1382, 1388, 1389, 1389(note), 153 1551, 1551(note), 1553-1557, 2423(no
Oct. 11	98-464		98	1821	49 App.	1681, 1682(note), 1683, 1684, 2009, 201 2012, 20
Oct. 12	98-473	2013(c), 2014.	98	2189	49 App.	1301, 1471, 14
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Aug. 8	99-83	551(a), (b), 552, 553, 556.	99	222, 226, 227	49 App.	1356, 1356b, 1471, 1515, 1515(not 1515a, 15
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					49 App.	1654, 1674, 1682a, 1684, 2004, 20
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1968	*2*	*1(a)(1), (2)*	*82*	*1369*

The **SPEAKER** pro tempore. Is a second demanded?

Mr. JAMES. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Massachusetts [Mr. Frank] will be recognized for 20 minutes, and the gentleman from Florida [Mr. James] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. Frank].

Mr. FRANK. Mr. Speaker, there is a procedure where a revision commission works on revising and redrafting and recodifying statutes making no substantive change.

We have before us, as Members will notice, a very thick recodification of Federal laws regarding transportation. No substantive change is made. This is a recodification for ease of reference.

It was shepherded through the full committee by the full committee chairman as is his responsibility under the rules for this particular procedure.

No one has any objection to it. We recommend its adoption as simply a recodification with no substantive change.

Mr. Speaker, I reserve the balance of my time.

Mr. JAMES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4956, a bill prepared by the office of the Law Revision Counsel to codify into positive law the balance of title 49 of the United States Code. This title relates to "Transportation". The various departments and agencies concerned have all signed off on this measure, and the Law Revision Counsel, Mr. Edward Willett, has advised the Judiciary Committee that he is satisfied that H.R. 4956 is an accurate restatement of existing law without substantive change.

Mr. Speaker, I urge the passage of this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FRANK. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. Frank] that the House suspend the rules and pass the bill, H.R. 4956.

The question was taken; and (two thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the measure just enacted.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

GRANTING THE CONSENT OF CONGRESS TO AMENDMENTS TO THE WASHINGTON METROPOLITAN AREA TRANSIT REGULATION COMPACT

Mr. FRANK. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the joint resolution (H.J. Res. 520), granting the consent of Congress to amendments to the Washington Metropolitan Area Transit Regulation Compact.

The Clerk read as follows:

Senate amendments:

Page 2, line 3, strike out "That the" and insert:

Section 1. Congressional Consent.—The

Page 33, after line 10, insert:

Sec. 2. Notwithstanding the first section of this joint resolution, the consent and approval of Congress set forth in such first section is given on the express condition that section 1 of article VIII shall not be exercised, and no amendment to the compact following the date this joint resolution becomes law shall be effective, unless Congress has first consented to and approved such amendment by a law or resolution adopted or enacted after such date.

Sec. 3. The right to alter, amend or repeal this resolution is hereby expressly reserved.

The **SPEAKER** pro tempore. Is a second demanded?

Mr. JAMES. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Massachusetts [Mr. Frank] will be recognized for 20 minutes, and the gentleman from Florida [Mr. James] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. Frank].

□ 0030

Mr. FRANK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, one of our constitutional duties as the Congress is to ratify compacts between or among the several States. The Subcommittee on Administrative Law, which I chair, and which the gentleman from Florida [Mr. James] is the ranking member, has the legislative jurisdiction over these compacts, and it has been our practice, where the sovereign States or the District of Columbia use their lawful authority, to conclude a compact not to try to substitute our judgment on the policy questions for theirs, absent any claim from individuals in the affected jurisdictions, if their rights have been prejudiced. It has been our practice to give full force and effect to these compacts which have been freely negotiated, and we recommend that we do so in this case.

Mr. Speaker, I reserve the balance of my time.

Mr. JAMES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Joint Resolution 520, giving the consent of Congress to amendments to the Washington metropolitan area transit regulation compact, which was originally entered into in 1960. This interstate compact regulates the business of certain public transportation within the District of Columbia, the State of Maryland and the Commonwealth of Virginia. The agreement ratified by House Joint Resolution 520 amends certain sections of the original compact relating to the assessment of fees, ease of market entry, and enforcement procedures. The House passed this measure on June 5, 1990. The amendment made by the Senate makes it clear that amendments to the compact must be given congressional approval and reserves the right of the Congress to alter, amend or repeal this resolution of consent in the future.

Mr. Speaker, I urge my colleagues to support passage of this measure.

Mr. Speaker, I yield back the balance of my time.

Mr. FRANK. Mr. Speaker, I yield back the balance of my time.

The **SPEAKER** pro tempore (Mr. Mazzoli). The question is on the motion offered by the gentleman from Massachusetts [Mr. Frank] that the House suspend the rules and concur in the Senate amendments to the joint resolution House Joint Resolution 520.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendments to House Joint Resolution 520 just concurred in.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION ACT

Mr. RICHARDSON. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1783) to regulate Indian child protection and prevent child abuse on Indian reservations, as amended.

The Clerk read as follows:

S. 1783

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Child Protection and Family Violence Prevention Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.—The Congress, after careful review of the problem of child abuse on Indian reservations and the historical and special relationship of the Federal Government with Indian people,

(1) finds that—

(A) incidents of abuse of children on Indian reservations are grossly underreported;

(B) such underreporting is often a result of the lack of a mandatory Federal reporting law;

(C) multiple incidents of sexual abuse of children on Indian reservations have been perpetrated by persons employed or funded by the Federal Government;

(D) Federal Government investigations of the background of Federal employees who care for, or teach, Indian children are often deficient;

(E) funds spent by the United States on Indian reservations or otherwise spent for the benefit of Indians who are victims of child abuse or family violence are inadequate to meet the growing needs for mental health treatment and counseling for victims of child abuse or family violence and their families; and

(F) there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and the United States has a direct interest, as trustee, in protecting Indian children who are members of, or are eligible for membership in, an Indian tribe; and

(2) declares that two major goals of the United States are to—

(A) identify the scope of incidents of abuse of children and family violence in Indian country and to reduce such incidents; and

(B) provide funds for mental health treatment for Indian victims of child abuse and family violence on Indian reservations.

(b) Purpose.—The purposes of this Act are to—

(1) require that reports of abused Indian children are made to the appropriate authorities in an effort to prevent further abuse;

(2) establish a reliable data base for statistical purposes and to authorize a study to determine the need for a central registry for reported incidents of abuse;

(3) authorize such other actions as are necessary to ensure effective child protection in Indian country;

(4) establish the Indian Child Abuse Prevention and Treatment Grant Program to provide funds for the establishment on Indian reservations of treatment programs for victims of child sexual abuse;

(5) provide for technical assistance and training related to the investigation and treatment of cases of child abuse and neglect;

(6) establish Indian Child Resource and Family Services Centers in each Bureau of Indian Affairs Area Office which will consist of a multi-disciplinary team of personnel with experience and training in the prevention, identification, investigation, and treatment of child abuse and neglect;

(7) provide for the treatment and prevention of incidents of family violence;

(8) establish tribally operated programs to protect Indian children and reduce the incidents of family violence in Indian country; and

(9) authorize other actions necessary to ensure effective child protection on Indian reservations.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the term—

(1) "Bureau" means the Bureau of Indian Affairs of the Department of the Interior;

(2) "child" means an individual who—

(A) is not married, and

(B) has not attained 18 years of age;

(3) "child abuse" includes—

(A) any case in which—

(i) a child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, and

(ii) such condition is not justifiably explained or may not be the product of an accidental occurrence; and

(B) any case in which a child is subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact, or prostitution;

(4) "child neglect" means negligent treatment or maltreatment of a child by a person, including a person responsible for the child's welfare, under circumstances which indicate that the child's health or welfare is harmed or threatened thereby;

(5) "family violence" means any act, or threatened act, of violence, including any forceful detention of an individual, which—

(A) results, or threatens to result, in physical or mental injury, and

(B) is committed by an individual against another individual—

(i) to whom such person is, or was, related by blood or marriage or otherwise legally related, or

(ii) with whom such person is, or was, residing;

(6) "Indian" means any individual who is a member of an Indian tribe;

(7) "Indian child" has the meaning given to such term by section 4(4) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(4));

(8) "Indian country" has the meaning given to such term by section 1151 of title 18, United States Code;

(9) "Indian reservation" means any Indian reservation, public domain Indian allotment, former Indian reservation in Oklahoma, or lands held by incorporated Native groups, regional corporations, or village corporations under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*);

(10) "Indian tribe" and "tribal organization" have the respective meanings given to each of such terms under section 4 of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b);

(11) "inter-tribal consortium" means a partnership between—

(A) an Indian tribe or tribal organization of an Indian tribe, and

(B) one or more Indian tribes or tribal organizations of one or more other Indian tribes;

(12) "local child protective services agency" means that agency of the Federal Government, of a State, or of an Indian tribe that has the primary responsibility for child protection on any Indian reservation or within any community in Indian country;

(13) "local law enforcement agency" means that Federal, tribal, or State law enforcement agency that has the primary responsibility for the investigation of an instance of alleged child abuse within the portion of Indian country involved;

(14) "persons responsible for a child's welfare" means any person who has legal or other recognized duty for the care and safety of a child, including—

(A) any employee or volunteer of a children's residential facility, and

(B) any person providing out-of-home care, education, or services to children;

(15) "related assistance"—

(A) includes counseling and self-help services to abusers, victims, and dependents in family violence situations (which shall include counseling of all family members to the extent feasible) and referrals for appropriate health-care services (including alcohol and drug abuse treatment), and

(B) may include food, clothing, child care, transportation, and emergency services for victims of family violence and their dependents;

(16) "Secretary" means the Secretary of the Interior;

(17) "shelter" means the provision of temporary refuge and related assistance in compliance with applicable Federal and tribal laws and regulations governing the provision, on a regular basis, of shelter, safe homes, meals, and related assistance to victims of family violence or their dependents; and

(18) "Service" means the Indian Health Service of the Department of Health and Human Services.

SEC. 4. REPORTING PROCEDURES.

(a) Report to Local Law Enforcement Agency.—(1) Chapter 53 of title 18, United

States Code, is amended by adding at the end thereof the following new section:

"Sec. ——. Reporting of child abuse.

"(a) Any person who—

"(1) is a—

"(A) physician, surgeon, dentist, podiatrist, chiropractor, nurse, dental hygienist, optometrist, medical examiner, emergency medical technician, paramedic, or health care provider,

"(B) teacher, school counselor, instructional aide, teacher's aide, teacher's assistant, or bus driver employed by any tribal, Federal, public or private school,

"(C) administrative officer, supervisor of child welfare and attendance, or truancy officer of any tribal, Federal, public or private school,

"(D) child day care worker, headstart teacher, public assistance worker, worker in a group home or residential day care facility, or social worker,

"(E) pscychiatrist, psychologist, or psychological assistant,

"(F) licensed or unlicensed marriage, family, or child counselor,

"(G) person employed in the mental health profession, or

"(H) law enforcement officer, probation officer, worker in a juvenile rehabilitation or detention facility, or person employed in a public agency who is responsible for enforcing statutes and judicial orders;

"(2) knows, or has reasonable suspicion, that—

"(A) a child was abused in Indian country, or

"(B) actions are being taken, or are going to be taken, that would reasonably be expected to result in abuse of a child in Indian country; and

"(3) fails to immediately report such abuse or actions described in paragraph (2) to the local child protective services agency or local law enforcement agency,

shall be fined not more than $5,000 or imprisoned for not more than 6 months or both,

"(b) Any person who—

"(1) supervises, or has authority over, a person described in subsection (a)(1), and

"(2) inhibits or prevents that person from making the report described in subsection (a),

shall be fined not more than $5,000 or imprisoned for not more than 6 months or both.

"(c) For purposes of this section, the term—

"(1) 'abuse' includes—

"(A) any case in which—

"(i) a child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, and

"(ii) such condition is not justifiably explained or may not be the product of an accidental occurrence; and

"(B) any case in which a child is subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact, or prostitution;

"(2) 'child' means an individual who—

"(A) is not married, and

"(B) has not attained 18 years of age;

"(3) 'local child protective services agency' means that agency of the Federal Government, of a State, or of an Indian tribe that has the primary responsibility for child protection on any Indian reservation or within any community in Indian country; and

"(4) 'local law enforcement agency' means that Federal, tribal, or State law enforcement agency that has the primary responsibility for the investigation of an instance of alleged child abuse within the portion of Indian country involved.

"(d) Any person making a report described in subsection (a) which is based upon their reasonable belief and which is made in good faith shall be immune from civil or criminal liability for making that report.".

(2) The table of contents for chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"————. Reporting of child abuse.".

(b) Notification of Child Abuse Reports.—(1) When a local law enforcement agency or local child protective services agency receives an initial report from any person of——

(A) the abuse of a child in Indian country, or

(B) actions which would reasonably be expected to result in abuse of a child in Indian country,

the receiving agency shall immediately notify appropriate officials of the other agency of such report and shall also submit, when prepared, a copy of the written report required under subsection (c) to such agency.

(2) Where a report of abuse involves an Indian child or where the alleged abuser is an Indian and where a preliminary inquiry indicates a criminal violation has occurred, the local law enforcement agency, if other than the Federal Bureau of Investigation, shall immediately report such occurrence to the Federal Bureau of Investigation.

(c) Written Report of Child Abuse.—(1) Within 36 hours after receiving a initial report described in subsection (b), the receiving agency shall prepare a written report which shall include, if available—

(A) the name, address, age, and sex of the child that is the subject of the report;

(B) the grade and the school in which the child is currently enrolled;

(C) the name and address of the child's parents or other person responsible for the child's care;

(D) the name and address of the alleged offender;

(E) the name and address of the person who made the report to the agency;

(F) a brief narrative as to the nature and extent of the child's injuries, including any previously known or suspected abuse of the child or the child's siblings and the suspected date of the abuse; and

(G) any other information the agency or the person who made the report to the agency believes to be important to the investigation and disposition of the alleged abuse.

(2)(A) Any local law enforcement agency or local child protective services agency that receives a report alleging abuse described in section 3(3) shall immediately initiate an investigation of such allegation and shall take immediate, appropriate steps to secure the safety an well-being of the child or children involved.

(B) Upon completion of the investigation of any report of alleged abuse that is made to a local law enforcement agency or local child protective services agency, such agency shall prepare a final written report on such allegation.

(d) Confidentiality of Informant.—The identity of any person making a report described in subsection (b)(1) shall not be disclosed, without the consent of the individual, to any person other than a court of competent jurisdiction or an employee of an Indian tribe, a State or the Federal Government who needs to know the information in the performance of such employee's duties.

SEC. 5. CENTRAL REGISTRY.

(a) Preparation of Study.—The Secretary, in consultation with the Secretary of Health and Human Services and the Attorney General of the United States, is hereby authorized and directed to prepare a written study on the feasibility of, and need for, the establishment of a Central Register for reports or information on the abuse of Children in Indian country.

(b) Content of Study.—The study conducted pursuant to subsection (a) shall include, but shall not be limited to,—

(1) the need for, and purpose of, a Central Register;

(2) the examination of due process implication of the maintenance of such a register;

(3) the extension of access of information contained in the register;

(4) the need and process for expunging information from the register;

(5) the types, and duration of maintenance, of information in the register; and

(6) the classes of persons who should be covered by such register.

(c) The Secretary shall complete the study conducted pursuant to this section and shall submit such study, together with recommendations and draft legislation to implement such recommendations, to the Congress within 180 days after-the date of enactment of this Act.

SEC. 6. CONFIDENTIALITY.

Pursuant to section 552a of title 5, United States Code, the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g), or any other provision of law, agencies of any Indian tribe, of any State, or of the Federal Government that investigate and treat incidents of abuse of children may provide information and records to those agencies of any Indian tribe, any State, or the Federal Government that need to know the information in performance of their duties. For purposes of this section, Indian tribal governments shall be treated the same as other Federal Government entities.

SEC. 7. WAIVER OF PARENTAL CONSENT.

(a) Examinations and Interviews.—Photographs, x-rays, medical examinations, psychological examinations, and interviews of an Indian child alleged to have been subject to abuse in Indian country shall be allowed without parental consent if local child protective services or local law enforcement officials have reason to believe the child has been subject to abuse.

(b) Interviews by Law Enforcement and Child Protective Services Officials.—In any case in which officials of the local law enforcement agency or local child protective services agency have reason to believe that an Indian child has been subject to abuse in Indian country, the officials of those agencies shall be allowed to interview the child without first obtaining the consent of the parent, guardian, or legal custodian.

(c) Protection of Child.—Examinations and interviews of a child who may have been the subject of abuse shall be conducted under such circumstances and with such safeguards as are designed to minimize additional trauma to the child and, where time permits, shall be conducted with the advise, or under the guidance, of a local multidisciplinary team established pursuant to section 11 or, in the absence of a local team, a multidisciplinary team established pursuant to section 10.

(d) Court Orders.—Upon a finding of reasonable suspicion that an Indian child has been the subject of abuse in Indian country, a Federal magistrate or United States District Court may issue an order enforcing any provision of this section.

SEC. 8. CHARACTER INVESTIGATIONS.

(a) By Secretary of the Interior and the Secretary of Health and Human Services.—The Secretary and the Secretary of Health and Human Services shall—

(1) compile a list of all authorized positions within their respective departments the duties and responsibilities of which involve regular contact with, or control over, Indian children,

(2) conduct an investigation of the character of each individual who is employed, or is being considered for employment, by the respective Secretary in a position listed pursuant to paragraph (1), and

(3) prescribe by regulations minimum standards of character that each of such individuals must meet to be appointed to such positions.

(b) Criminal Records.—The minimum standards of character that are to be prescribed under this section shall ensure that none of the individuals appointed to positions described in subsection (a) have been found guilty of, or entered a plea of *nolo contendere* or guilty to, any offense under Federal, state, or tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact or prostitution; or crimes against persons.

(d) Investigations by Indian Tribes and Tribal Organizations.—Each Indian tribe or tribal organization that receives funds under the Indian Self-Determination and Education Assistance Act or the Tribally Controlled Schools Act of 1988 shall—

(1) conduct an investigation of the character of each individual who is employed, or is being considered for employment, by such tribe or tribal organization in a position that involves regular contact with, or control over, Indian children, and

(2) employ individuals in those positions only if the individuals meet standards of character, no less stringent than those prescribed under subsection (a), as the Indian tribe or tribal organization shall establish.

SEC. 9. INDIAN CHILD ABUSE TREATMENT GRANT PROGRAM.

(a) Establishment of Grant Program.—The Secretary of Health and Human Services, acting through the Service and in cooperation with the Bureau, shall establish an Indian Child Abuse Treatment Grant Program that provides grants to any Indian tribe or inter-tribal consortium for the establishment on Indian reservations of treatment programs for Indians who have been victims of child sexual abuse.

(b) Grant Applications.—(1) Any Indian tribe or inter-tribal consortium may submit to the Secretary of Health and Human Services an application for a grant under subsection (a).

(2) Any application submitted under paragraph (1)—

(A) shall be in such form as the Secretary of Health and Human Services may prescribe;

(B) shall be submitted to such Secretary on or before the date designated by such Secretary; and

(C) shall specify—

(i) the nature of the program proposed by the applicant,

(ii) the data and information on which the program is based,

(iii) the extent to which the program plans to use or incorporate existing services available on the reservation, and

(iv) the specific treatment concepts to be used under the program.

(c) Maximum Grant Amount.—The maximum amount of any grant awarded under subsection (a) shall not exceed $500,000.

(d) Grant Administration and Final Report.—Each recipient of a grant awarded under subsection (a) shall—

(1) furnish the Secretary of Health and Human Services with such information as such Secretary may require to—

(A) evaluate the program for which the grant is made, and

(B) ensure that the grant funds are expended for the purposes for which the grant was made, and

(2) submit to such Secretary at the close of the term of the grant a final report which shall include such information as the Secretary may require.

(e) There is hereby authorized to be appropriated to carry out the provisions of this section $10,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

SEC. 10. INDIAN CHILD RESOURCE AND FAMILY SERVICES CENTERS.

(a) Establishment.—The Secretary shall establish within each area office of the Bureau an Indian Child Resource and Family Services Center.

(b) Memorandum of Agreement.—The Secretary and the Secretary of Health and Human Services shall enter into a Memorandum of Agreement which provides for the staffing of the Centers established under this section.

(c) Center Staffing.—Each Center established under subsection (a) shall be staffed by a multidisciplinary-term of personnel with experience and training in prevention, identification, investigation, and treatment of incidents of family violence, child abuse, and child neglect.

(d) Center Responsibilities and Functions.—Each Center established under subsection (a) shall—

(1) provide advice, technical assistance, and consultation to Indian tribes, tribal organizations, and inter-tribal consortia upon request;

(2) provide training to appropriate personnel of Indian tribes, tribal organizations, the Bureau and the Service on the identification and investigation of cases of family violence, child abuse, and child neglect and, to the extent practicable, coordinate with institutions of higher education, including tribally controlled community colleges, to offer college-level credit to interested trainees;

(3) develop training materials on the prevention, identification, investigation, and treatment of incidents of family violence, child abuse, and child neglect for distribution to Indian tribes and to tribal organizations;

(4) develop recommendations to assist Federal and tribal personnel to respond to cases of family violence, child abuse, and child neglect; and

(5) develop policies and procedures for each agency office of the Bureau and service unit of the Service within the area which, to the extent feasible, comply with tribal laws pertaining to cases of family violence, child abuse, and child neglect, including any criminal laws, and which provide for maximum cooperation with the enforcement of such laws.

(e) Multidisciplinary Team Personnel.—Each multidisciplinary team established under this section shall include, but is not limited to, personnel with a background in—

(1) law enforcement,

(2) child protective services,

(3) juvenile counseling and adolescent mental health, and

(4) domestic violence.

(f) Center Advisory Board.—The Secretary, in consultation with the Secretary of Health and Human Services, shall establish, for each Indian Child Resource and Family Services Center, an advisory board to advise and assist such Center in carrying out its activities under this Act. Each advisory board shall consist of 7 members appointed by the Secretary from Indian tribes and human service providers served by an area office of the Bureau. Members shall serve without compensation, but may be reimbursed for travel and other expenses while carrying out the duties of the board. The advisory board shall assist the Center in coordinating programs, identifying training materials, and developing policies and procedures relating to family violence, child abuse, and child neglect.

(g) Application of the Indian Self-Determination Act to Centers.—Indian Child Resource and Family Services Centers established under subsection (a) shall be subject to the provisions of the Indian Self-Determination Act. If a Center is located in an area office of the Bureau which serves more than one Indian tribe, any application to enter into a contract to operate the Center pursuant to such Act must have the consent of each of the other tribes to be served under the contract, except that, in the Juneau Area, only the consent of such tribes or tribal consortia that are engaged in contracting of Indian Child Protection and Family Violence Prevention programs pursuant to such Act shall be required. This section shall not preclude the designation of an existing child resource and family services center operated by a tribe or tribal organization as a Center if all of the tribes to be served by the Center agree to such designation.

(h) Appropriations.—There are authorized to be appropriated to carry out the provisions of this section $3,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

SEC. 11. INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION PROGRAM.

(a) Establishment.—The Secretary shall establish within the Bureau an Indian Child Protection and Family Violence Prevention Program to provide financial assistance to any Indian tribe, tribal organization, or inter-tribal consortium for the development of an Indian Child Protection and Family Violence Prevention program.

(b) Indian Self-Determination Act Agreements.—The Secretary is authorized to enter into agreements with Indian tribes, tribal organizations, or inter-tribal consortia pursuant to the Indian Self-Determination Act for the establishment of Indian Child Protection and Family Violence Prevention programs on Indian reservations.

(c) Investigation and Treatment and Prevention of Child Abuse and Family Violence.—An Indian tribe operating an Indian Child Protection and Family Violence Prevention program established under this section shall designate the agency or officials which shall be responsible—

(1) for the investigation of reported cases of child abuse and child neglect; and

(2) for the treatment and prevention of incidents of family violence; and

(3) for the provision of immediate shelter and related assistance for victims of family violence and their dependents.

(d) Program Responsibilities and Functions.—Funds provided pursuant to this section may be used for—

(1) the establishment of a child protective services program which may include—

(A) the employment of child protective services staff to investigate cases of child abuse and child neglect,

(b) training programs for child protective services personnel, law enforcement personnel, and judicial personnel in the investigation, prevention, and treatment of cases of child abuse and child neglect, and

(C) purchase of equipment to assist in the investigation of cases of child abuse and child neglect;

(2) the establishment of a family violence prevention and treatment program which may include—

(A) the employment of family violence prevention and treatment staff to respond to incidents of family violence,

(B) the provision of immediate shelter and related assistance for victims of family violence and their dependents,

(C) training programs for family violence prevention and treatment personnel, law enforcement personnel, and judicial personnel in the investigation, prevention, and treatment of cases of family violence; and

(D) construction or renovation of facilities for the establishment of family violence shelters;

(3) the development and implementation of a multidisciplinary child abuse investigation and prosecution program which may—

(A) coordinate child abuse prevention, investigation, prosecution, treatment, and counseling services,

(B) develop protocols among related agencies to ensure that investigations of child abuse cases, to the extent practicable, minimize the trauma to the child victim, and

(C) provide for the coordination and cooperation of law enforcement agencies, courts of competent jurisdiction, and other tribal, Federal, and State agencies through intergovernmental or interagency agreements that define and specify each party's responsibilities;

(4) the development of tribal child protection codes and regulations;

(5) the establishment of training programs for—

(A) professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, investigation, and treatment of family violence, child abuse, and child neglect,

(B) instruction in methods of protecting children from abuse and neglect for persons responsible for the welfare of Indian children, including parents of, and persons who work with, Indian children, or

(C) educational identification, prevention and treatment services for child abuse and child neglect in cooperation with preschool, elementary and secondary schools, or tribally controlled community colleges (within the meaning of section 2 of the Tribally Controlled Community College Act of 1978 (25 U.S.C. 1801));

(6) other community education efforts for tribal members (including school children) regarding issues of family violence, child abuse, and child neglect; and

(7) such other innovative and culturally relevant programs and projects as the Secretary may approve, including programs and projects for—

(A) parental awareness and self-help.

(B) prevention and treatment of alcohol and drug-related family violence, child abuse, and child neglect, or

(C) home health visitor programs,

that show promise of successfully preventing and treating cases of family violence, child abuse, and child neglect.

(f) Secretarial Regulations; Base Support Funding.—(1) The Secretary, with the participation of Indian tribes, shall establish, and promulgate by regulations, a formula which establishes base support funding for Indian Child Protection and Family Violence Prevention programs.

(2) In the development of regulations for base support funding for such programs, the Secretary shall develop, in consultation with Indian tribes, appropriate caseload standards and staffing requirements which are comparable to standards developed by the National Association of Social Work, the Child Welfare League of America and other professional associations in the field of social work and child welfare. Each level of funding assistance shall correspond to the staffing requirements established by the Secretary pursuant to this section.

(3) Factors to be considered in the development of the base support funding formula shall include, but are not limited to—

(A) projected service population of the program;

(B) projected service area of the program;

(C) projected number of cases per month; and

(D) special circumstances warranting additional program resources, such as high incidence of child sexual abuse, high incidence of violent crimes against women, or the existence of a significant victim population within the community.

(4) The formula established pursuant to this subsection shall provide funding necessary to support—

(A) one child protective services or family violence caseworker, including fringe benefits and support costs, for each tribe; and

(B) an additional child protective services and family violence caseworker, including fringe benefits and support costs, for each level of assistance for which an Indian tribe qualifies.

(5) In any fiscal year that appropriations are not sufficient to fully fund Indian Child Protection and Family Violence Prevention programs at each level of assistance under the formula required to be established in this subsection, available funds for each level of assistance shall be evenly divided among the tribes qualifying for that level of assistance.

(g) Maintenance of Effort.—Services provided, under contracts made under this section shall supplement, not supplant, services from any other funds available for the same general purposes, including, but not limited to—

(1) treatment, including, but not limited to—

(A) individual counseling,

(B) group counseling, and

(C) family counseling;

(2) social services and case management;

(3) training available to Indian tribes, tribal agencies, and Indian organizations regarding the identification, investigation, prevention, and treatment of family violence, child abuse, and child neglect; and

(4) law enforcement services, including investigations and prosecutions.

(h) Contract Evaluation and Annual Report.—Each recipient of funds awarded pursuant to subsection (a) shall—

(1) furnish the Secretary with such information as the Secretary may require to—

(A) evaluate the program for which the award is made, and

(B) ensure that funds are expended for the purposes for which the award was made; and

(2) submit to the Secretary at the end of each fiscal year an annual report which shall include such information as the Secretary may require.

(i) Appropriations.—There are authorized to be appropriated to carry out the provisions of this section $30,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

SEC. 12. REPORT.

On or before March 1, 1991, and March 1 of each calendar year thereafter, the Secretary shall submit to the Congress a report involving the administration of this Act during the calendar year preceding the calendar year in which such report is submitted.

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Mexico [Mr. Richardson] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. Rhodes] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. Richardson].

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased to bring before the House for its consideration S. 1783, the Indian Child Protection and Family Violence Prevention Act. This legislation is a product of numerous hearings conducted by both the House and Senate which focused on the growing problems of child abuse and neglect in Indian country.

This issue first came to the attention of Congress in 1989, when the Special Senate Committee on Investigations focused on the problems of sexual molestation of nearly 200 Navajo, Hopi, and Cherokee children by Federal teachers and employees of the Bureau of Indian Affairs.

The facts were shocking. On the Cherokee Reservation, a BIA teacher molested young boys over a period of 14 years, despite reports from parents and teachers. In the case of the Hopi Reservation, over 142 children were victimized over an 8-year period by a BIA teacher. Prior to this teacher's arrest by Federal authorities, a Navajo County deputy sheriff reported to BIA school officials that there were allegations of child sexual abuse against this teacher and that a criminal investigation was being conducted. The BIA took no administrative action and no BIA officials were reprimanded for their inaction on these cases.

It seems unconscionable to me that each of the 50 States has enacted a mandatory reporting law for child abuse and neglect, yet, Congress has never developed similar mandatory reporting laws for Indian country. During the hearings conducted by the House Interior Committee on Indian child abuse, it became apparent that there were serious inadequacies in the current system. The committee found that incidents of child abuse on Indian reservations were grossly underreported, background checks on BIA and Indian Health Service employees who work with children are inadequate, investigation and enforcement efforts are often ineffective, and treatment of victims is almost nonexistent.

S. 1783, among other things, imposes new mandatory reporting requirements for cases of child abuse in Indian country, imposes clear requirements for character and background checks on persons being considered for Federal employment, establishes a child sexual abuse treatment grant program, and establishes comprehensive education, prevention and treatment programs for Indian reservations.

Mr. Speaker, I think that it is clear that we need to improve the current system so that Indian children are protected. In addition, for the numerous children who are or were victims of sexual abuse, we need to provide adequate counseling and treatment and provide the basic infrastructure at the local level to ensure that treatment and prevention efforts are available. S. 1783 addresses these issues.

Mr. Speaker, the committee amended S. 1783 to incorporate the revised text of two Senate bills which were pending before the committee, S. 1783 and S. 2340.

S. 1783, as passed by the Senate, established new Federal requirements for the mandatory reporting of child abuse in Indian country, required the establishment of a central register for reports of child abuse, imposed new requirements on the BIA and the IHS to do background checks on employees working with Indian children, and provided for an Indian child sexual abuse treatment grant program.

Testimony of Indian tribes before our committee and the Senate committee made clear their discontent that the bill did not go far enough in the area of education, prevention, and treatment of child abuse. In addition, the tribes wanted legislation which more directly recognized their role in dealing with the problem of child abuse.

As a consequence, the Senate considered and passed S. 2340 which establishes a more comprehensive program for dealing with child abuse and family violence on Indian reservations.

S. 1783, as amended by the committee, combines and melds these two bills into one bill. In merging the two bills, duplicative and unnecessary matter is eliminated. In addition, it makes numerous technical and clarifying changes in the Senate language.

The first major substantive change was to eliminate the provision which requires the establishment of a central register of child abuse reports. While I believe that such a mechanism may well be needed, the administration and others were concerned about the ability of the BIA to protect the confidentiality of such information and the implications for the abuse of the due process rights of persons who are alleged to be abusers. As a consequence, the committee deleted that requirement and inserted, instead, a requirement for a study of the need for such a register.

The second major change made by the committee is to strike all of section 9 of S. 1783 as passed by the Senate. This provision amended the Victims of Crimes Act to provide for the funding of Indian child abuse treatment grants. This act falls within the jurisdiction of the Judiciary Committee. Our committee was advised that the Judiciary Committee objected to any amendment of that act. As a consequence, the committee deleted that section, but did add an appropriation authorization to the grant section of the bill for the same amount which would have been derived from the VOCA program.

Mr. Speaker, S. 1783, as amended by the committee, goes a long way toward addressing the growing crisis in Indian country of child abuse, child neglect, and family violence. I urge the House to act favorably on this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1783, the Indian Child Abuse Prevention and Treatment Act. This bill is the product of extensive hearings in both the Senate and the House, and has the potential for being one of the most important pieces of legislation the committee has considered in recent times.

Child abuse reporting and prevention has been largely a responsibility of State social services and law enforcement programs, and as a result, Indian reservations have lagged behind the rest of the country with regard to such services. The hearings we have had on this matter have brought to our attention the need for Federal legislation to remedy this situation.

I believe this legislation is important for several reasons.

It establishes the framework for a comprehensive Indian child welfare program on Indian reservations.

It establishes legal requirements similar to those that exist in the 50 States, for reporting instances of child abuse, so that persons who abuse children can be identified and prosecuted.

It contains treatment and prevention programs for the child victims—a necessary safety net once the reporting requirements kick in and begin to identify victims more effectively. Many of the witnesses at our hearings were social workers and mental health care professionals who pointed out quite correctly that reporting of abuses and identification of child victims are meaningless without the followup support services for the child victims.

It promotes interagency cooperation between tribes, the Interior Department, the Justice Department, and Indian Health Services in the identification, investigation, prosecution, treatment, and prevention of child abuse and neglect on Indian reservations.

Although this bill envisions an annual budgetary outlay of $43 million in order to be fully effective, I believe it is a small price to pay in order to halt and prevent the cycles of child abuse that appear to be occurring on Indian reservations.

For all of these reasons I support passage of S. 1783 and urge my colleagues to do the same.

Mr. Speaker, I yield back the balance of my time.

Mr. DORGAN of North Dakota. Mr. Speaker, I rise in support of the Native American Child Protection and Family Violence Prevention Act. And I do so with a keen awareness of the need for this, and related legislation. I want to sketch out why I feel the House should pass this bill forthwith.

As a resident of North Dakota, I have long been troubled by the mind-boggling problem of poverty on our Indian reservations. Since beginning my service in Congress 10 years ago, I have become even more acutely aware of other problems arising from poverty, including malnutrition and diabetes, alcoholism and child abuse, and joblessness, and inadequate educational opportunities.

During the past few years, I have conducted several hearings on North Dakota reservations to get at the roots of these various problems. On the Fort Berthold Reservation, for example, I learned during a Hunger Committee hearing that tribal members were suffering from diabetes rates 12 times as high as the national average. Many of these people were obliged travel over 100 miles several times per week for dialysis treatment arising from complications of diabetes.

In response, I worked with the late Chairman Mickey Leland, Chairman MORRIS UDALL of the Interior Committee, and Chairman SIDNEY YATES to designate the three affiliated tribes at Fort Berthold as a tribe eligible to obtain a model diabetes center. That center was named the Mickey Leland Model Diabetes Center in honor of Mickey's work on this issue. We now have some additional resources in place to stem the alarming diabetes rate at Fort Berthold through programs of treatment, prevention, and education.

I subsequently discovered at a fact-finding hearing at the Turtle Mountain Reservation that tribal members were being shortchanged on such services as higher education, child welfare, and law enforcement. Again, Chairman YATES of the Interior Appropriations Subcommittee cooperated with me in shifting resources to meet these critical needs in order that motivated students could get a higher education and that child abuse cases would be promptly investigated and prosecuted.

CHILD ABUSE HEARING NEED FOR ACTION

Most recently, I conducted hearings about the daunting problems of malnutrition and child abuse on the Standing Rock Sioux Reservation. Working with Chairman TONY HALL of the Hunger Committee, I have pressed the U.S. Department of Agriculture to ensure that the food assistance program on Indian reservations provides wholesome and healthful food and to insist that the program responds to the specific nutritional needs of native Americans. We have also requested private studies and a GAO review of this program. This should help curb such practices as sending very fatty foods to recipients who are very vulnerable to diabetes and heart disease.

In the meantime, we have worked with tribal officials in North Dakota to improve the availability, delivery, and suitability of foods used in commodity and senior feeding programs. We also have encouraged more cooperation between the tribe and the State agencies.

In one sense, malnutrition and unsuitable feeding programs result in child neglect. But perhaps the most perplexing and disturbing problem of any that I have encountered on the reservations is physical abuse of children. Recent reports and testimony which I have received have prompted me to request an investigation by the Inspector General of the Interior Department about the breakdown of child protection in the particular case of a young girl who was savagely beaten while under tribally approved foster care. It also prompted me to seek the Interior Committee's support of increased resources for child protection teams, tougher standards for foster care homes, and increased efforts by the Bureau of Indian Affairs to prevent child abuse.

Interior Investigations Subcommittee Chairman PETER KOSTMAYER and I heard heart-rending stories about widespread abuse of Indian children. We heard one tribal chairperson report that three-fourths of child abuse cases are not investigated. In such a limited and emotionally charged situation it was not possible to confirm every allegation. And our purpose was not to suggest no one at the BIA cares about child abuse. But it was clear that the system is not working effectively. So we immediately urged the BIA officials at the hearing to realign their priorities and to initiate positive programs to eliminate this social cancer. I am including for the RECORD an article from the Bismarck Tribune about this hearing in order that my colleagues might better appreciate the nature of this problem.

LEGISLATION PROVIDES PART OF THE SOLUTION

The bill before us will address several of the problems to which I alluded before. It establishes strict and prompt reporting requirements for government personnel who might become aware of suspected child abuse or neglect. It further mandates immediate investigation of such reports by local law enforcement agencies or the FBI. The bill also directs tribes to do character checks on individuals employed in positions with regular contact with children. It further provides grants for child abuse treatment, establishes a central registry on child abuse, sets up Indian child resource and child protection centers.

While I support these initiatives, they will only bear fruit if Federal Indian agencies—the BIA and Indian Health Service, tribal governments, and law enforcement agencies vigorously carry out these new programs and assiduously enforce the law. Congress, too, must maintain rigorous oversight as part of its trust responsibility for the welfare of Indian children. We must do a better job of protecting these innocent victims of abuse. I might also observe that we can expect no significant reduction in child abuse without increasing Indian job opportunities and curtailing the overwhelming incidence of alcoholism on reservations.

In conclusion, I would reflect that child abuse on reservations requires the same kind of attention as child abuse in the wider population. Families, churches, civic groups, and all citizens have a responsibility to end child abuse. Without stronger families, Federal programs can only hope to keep things from getting worse. Unless hard work and personal respect are revered as values, tribal officials will fight a losing battle. We must marshall all available resources to stop child abuse and neglect wherever they occur.

[From the Bismarck Tribune, Aug. 24, 1990]

HUNDREDS OF CHILDREN ABUSED—INDIANS TELL CONGRESSMEN CRUELTY GOES UNCHECKED

(By Deneen Gilmour)

One case of child abuse was reported every day last year on the Turtle Mountain Indian Reservation. Forty-nine cases of child sexual abuse were reported in the same time period.

Even more tragic, said Tribal Chairwoman Twila Martin-Kekahbah, was that only the most gruesome cases were investigated. The rest, about 75 percent, were left to linger on the desks of the reservation's two-person criminal investigation staff.

"Meanwhile children suffer at the hands of abusers," Martin-Kekahbah told Rep. Byron Dorgan, D-N.D., and Rep. Peter Kostmayer, D-Pa. The congressmen were in Bismarck on Thursday to conduct a hearing on Native American child abuse at United Tribes Technical College.

The congressmen will report their findings to the Oversight and Investigative Subcommittee of the House Interior and Insular Affairs Committee. The Bismarck hearing is one of a nationwide series at which congressmen will assess the role and effectiveness of the Bureau of Indian Affairs regarding child abuse.

Like other tribal leaders at the hearing, Martin-Kekahbah begged the congressmen for more money to address the problem. And like about 20 reservation residents who streamed forward during a 45-minute open microphone period, she described atrocities perpetrated against children.

"One case goes beyond human endurance in which a child's genitals were burned with cigarettes," Martin-Kekahbah said. "Another boy asked social services to take him out of his home. Nobody did. He later killed himself. Afterwards an investigation showed he was regularly abused by his father. Last month an 8-month-old infant starved to death because of parental neglect."

After decades of rampant alcoholism and more than 60 percent unemployment rates, the social fiber of reservations is unraveling. Depending upon local tribal and Bureau of Indian Affairs leadership, most reservations lack the money or initiative to address the horrors of child abuse.

The situation Martin-Kekahbah described is similar to the sad state of affairs on North Dakota's other three reservations.

Tribal courts are short of staff and money. At Turtle Mountain, 40 percent of pending court cases could not be heard last year. Child welfare workers handle caseloads five or six times greater than the national average.

Law officers handle immediate crises like burglary and assault while child abuse is shuffled to the back burner. "The longer a case sits the harder it is to prosecute," Martin-Kekahbah said. She said an abuse case requires two to three times as much time to investigate as a burglary.

Martin-Kekahbah came armed with more meaningful statistics than the other tribal chairmen. But all tribal leaders echoed this request: we need at least twice as much money and staff.

"Our very future as a tribe rests on our children being brought up in a healthy environment," said Standing Rock councilman Tom Irons, speaking on behalf of Tribal Chairman Charles Murphy.

Irons, who carries the tribe's Health, Education and Welfare portfolio, requested tribal funding nearly equal to Fort Yates BIA Social Services budget of $393,000. He said the money would fund eight full-time workers in child psychology, investigations, foster care and quality assurance.

Austin Gillette of the Fort Berthold Tribal Council told the congressmen $870,000 would help the Three Affiliated Tribes eradicate child abuse. Gillette also said economic development would help dysfunctional families since "95 percent of the abuse happens in unemployed families."

After listening to pleas for money, Kostmayer asked the tribal representatives how Congress could be assured tribes would take the lead in curbing child abuse when they hadn't in the past.

Irons replied that given enough funding, the tribal council would do a better job of hiring qualified people than BIA has.

In answer to a question from Dorgan, Irons and Gillette admitted their reservations have mandatory child abuse reporting laws but couldn't think of a single person prosecuted for knowing about abuse and failing to report it.

"Peter Kostmayer and I have toured refugee camps worldwide and it breaks my heart to hear testimony like this so close to

home," Dorgan said. "These things shouldn't happen in this country. We've got to do something about it quickly. The children rely on us. Child abuse is a problem nationwide but Congress has a special trust responsibility to Indian children. We're their protectors. But we can't solve this problem only with dollars. BIA and tribes must apply themselves and work together."

The two-hour hearing was punctuated by a stream of "grassroots people" who approached the microphone, sometimes tearfully, to relate instances of violence inflicted on children.

Most of the grassroots people said money alone wouldn't prevent child abuse.

"Pouring more money into the existing machine won't help," said Mary Louise Defender Wilson, a human and civil rights activist from Standing Rock. "More money only means the oppressors get stronger. What we need to do is employ people who respect human rights."

After the Tribune began in January to write stories about child abuse on Standing Rock Reservation, BIA gave the Fort Yates social services office almost $100,000 extra funding to reduce staggering social worker case loads.

"We've seen no improvement from that money," said Phyllis Wilcox of Fort Yates. "The only people on the child protection team are from BIA or the tribal office. They're in collusion and protect each other. Interested citizens should be on the team."

Said Reginald Bird House of Wakpala, S.D.: "In 1987 the Standing Rock Tribal Council reported no incidents of child abuse. That's the year my grandchildren were abused (in a BIA-approved foster home). The system stinks and it doesn't work for some Indian people."

Bird House said BIA and the tribal council purposely cover up child abuse and use money intended for the children to fund out-of-state junkets. He also said tribal council judges are afraid to take a stand on child abuse because they fear tribal councilmen will fire them.

Carole Defender, Fort Yates, said social workers did nothing when she reported her eighth-grade daughter suffered a concussion from a beating by class mates at school.

Lawrence St. John, Selfridge, wept as he told of the June 30 death of his 1-year-old son, who had been placed in foster care. The boy was left in an air-conditioned room and apparently caught pneumonia.

"We need mandatory abuse reporting guidelines," said Tribal Judge Peter Belgarde of Fort Totten Reservation. "We also have a total lack of background checks. Anybody who knows how to fill out a form could become a foster parent—even the worst criminal," the judge said.

Mr. RICHARDSON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] that the House suspend the rules and pass the Senate bill, S. 1783, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

REDEFINING ELIGIBILITY FOR MEMBERSHIP IN THE AMERICAN LEGION

Mr. FRANK. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 3091) to amend the act incorporating the American Legion so as to redefine eligibility for membership therein.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3091

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act entitled "An Act to incorporate The American Legion", approved September 16, 1919 (41 Stat. 285; 36 U.S.C. 45), is hereby amended to read as follows:

"SEC. 5. No person shall be a member of this corporation unless he has served in the naval or military services of the United States at some time during any of the following periods; April 6, 1917, to November 11, 1918; December 7, 1941, to December 31, 1946; June 25, 1950, to January 31, 1955; December 22, 1961, to May 7, 1975; August 24, 1982, to July 31, 1984; December 20, 1989, to January 31, 1990; all dates inclusive, or who, being a citizen of the United States at the time of entry therein, served in the military or naval service of any governments associated with the United States during said wars or hostilities: *Provided, however,* That such person shall have an honorable discharge or separation from such service or continues to serve honorably after any of the aforesaid terminal dates.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 3386, SANITARY FOOD TRANSPORTATION ACT OF 1990

Mr. ANDERSON. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 508) to provide for consideration of the Senate amendment to H.R. 3386.

The Clerk read as follows:

H. RES. 508

Resolved, That, upon the adoption of this resolution, the bill (H.R. 3386) to prohibit the use of refrigerated motor vehicles for the transportation of solid waste, to prohibit the use of cargo tanks in providing motor vehicle transportation of food and nonfood products, and for other purposes, be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendment to the text of the bill be, and the same is hereby, agreed to with the following amendments:

In lieu of the matter proposed to be inserted by the Senate, insert as an amendment in the nature of a substitute the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sanitary Food Transportation Act of 1990".

SEC. 2. FINDINGS.

Congress finds that—

(1) Americans are entitled to receive food and other consumer products that are not made unsafe as a result of certain transportation practices;

(2) the American public is threatened by the transportation of products potentially harmful to consumers in motor vehicles and rail vehicles which are used to transport food and other consumer products; and

(3) the risks posed to consumers by such transportation practices are unnecessary, and such practices must be terminated.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) FOOD, FOOD ADDITIVES, DRUGS, DEVICES, OR COSMETICS.—The terms "food", "food additives", "drugs", "devices", and "cosmetics" have the meanings given to them by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(2) NONFOOD PRODUCT.—The term "nonfood product" means any material, substance, or product (including refuse, and solid waste, as such term is defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)) which (except as provided under section 4(a)(2)) is not a food, food additive, drug, device, or cosmetic. Such term includes any class of such materials, substances, or products.

(3) REFUSE.—The term "refuse" means any discarded material to be transported to or disposed of in a landfill or incinerator, or required by law to be transported to or disposed of in a landfill or incinerator.

(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(5) STATE.—The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, American Samoa, Guam, and any other territory or possession of the United States.

(6) TRANSPORTS OR TRANSPORTATION.—The term "transports" or "transportation" means any movement of property in commerce (including intrastate commerce) by motor vehicle or rail vehicle.

(7) UNITED STATES.—The term "United States" means all of the States.

SEC. 4. REGULATIONS.

(a) IN GENERAL.—

(1) RESPONSIBILITY OF SECRETARY.—In accordance with this Act, the Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, shall issue regulations, pursuant to a rulemaking proceeding, with respect to the transportation of food, food additives, drugs, devices, and cosmetics in motor vehicles and rail vehicles which are used to transport either refuse or other nonfood products which, when so transported, would make such food, food additives, drugs, devices, or cosmetics unsafe to the health of humans or animals.

(2) TREATMENT AS NONFOOD PRODUCTS.—If a drug, device, or cosmetic is transported in a motor or rail vehicle at the same time or before a food or food additive is transported in such vehicle, the Secretary shall treat such drug, device, or cosmetic as a nonfood product if such transportation would make such food or food additive unsafe to the health of humans or animals.

(b) Special Requirements.—In issuing regulations under subsection (a)(1), the Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, shall establish standards, requirements, and other provisions relating to—

(1) appropriate recordkeeping, identification, marking, certification, or other means of verification required to promote compliance with the requirements of sections 5, 6, and 7;

(2) appropriate determination, removal, disposal, and isolation standards with respect to regulations implementing sections 5 and 6;

(3) appropriate materials for construction of tank trucks, rail tank cars, cargo tanks, and accessory equipment to comply with regulations implementing section 5.

(c) Considerations.—In issuing regulations under subsection (a)(1), the Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, shall consider each of the following and may establish standards, requirements, or other provisions relating to any or all of the following:

(1) The extent to which packaging or similar means of protecting and isolating commodities are adequate to ameliorate or eliminate the potential risks of transporting food, food additives, drugs, devices, or cosmetics in motor vehicles or rail vehicles used to transport nonfood products. If packaging standards are found to be adequate by the Secretary, regulations issued under subsection (a)(1) shall not apply to food, food additives, drugs, devices, or cosmetics or nonfood products which are packaged in packages which meet such standards.

(2) Appropriate compliance and enforcement measures for carrying out this Act.

(3) Appropriate minimum insurance or other liability requirements for any person covered by this Act.

(d) Deadlines.—The rulemaking proceeding referred to in subsection (a)(1) shall be initiated within 30 days after the date of enactment of this Act. The regulations referred to in subsection (a)(1) shall be issued within 270 days after such date of enactment.

SEC. 5. TANK TRUCKS, RAIL TANK CARS, AND CARGO TANKS.

(a) Prohibition.—At a minimum, the regulations issued under section 4(a)(1) shall prohibit any person from using, offering for use, or arranging for the use of tank truck, rail tank car, or cargo tank used in motor vehicle transportation or rail transportation for food, food additives, drugs, devices, or cosmetics, if such tank truck, rail tank car, or cargo tank is used to transport a nonfood product (other than any nonfood product which is included on a list published under subsection (b)).

(b) List of Acceptable Nonfood Products.—The Secretary, in consultation with the Secretary, and the Administrator of the Environmental Protection Agency, shall publish in the Federal Register a list of nonfood products which the Secretary has determined do not make food, food additives, drugs devices, or cosmetics unsafe to the health of humans or animals as a result of transportation in a tank truck, rail tank car, or cargo tank which is used to transport food, food additives, drugs, devices, or cosmetics. The Secretary may periodically amend such list by publication in the Federal Register.

(c) Identification.—The regulations issued under section 4(a)(1) shall, at a minimum, provide that—

(1) no person shall use, offer for use, or arrange for the use of a tank truck or a cargo tank to provide motor vehicle transportation of only food, food additives, drugs, devices, or cosmetics or nonfood products which are included on the list published under subsection (b) unless such tank truck or cargo tank is identified, by a permanent marking on such tank truck or cargo tank, as transporting such food, food additives, drugs, devices, or cosmetics or nonfood products;

(2) no person shall use, offer to use, or arrange for the use of a tank truck or a cargo tank to provide motor vehicle transportation of a nonfood product which is not included on the list published under subsection (b) if such tank truck or cargo tank is identified pursuant to paragraph (1) as a tank truck or cargo tank transporting only food, food additives, drugs, devices, or cosmetics and nonfood products included on such a list; and

(3) no person shall receive, except for lawful disposal purposes, any food, food additive, drug, device, or cosmetic or nonfood product which has been transported in a tank truck or cargo tank in violation of paragraph (1) or (2).

(d) Disclosure.—Any person who arranges for the use of a tank truck or a cargo tank used in motor vehicle transportation for the transportation of a food, food additive, drug, device, or cosmetic or nonfood product shall in making such arrangement disclose to the motor carrier or other appropriate person if the food, food additive, drug, device, or cosmetic or nonfood product being transported is to be used—

(1) as, or in the preparation of, a food or food additive, or

(2) as a nonfood product which is included in the list published under subsection (b).

SEC. 6. MOTOR AND RAIL TRANSPORTATION OF NONFOOD PRODUCTS.

(a) Prohibition.—At a minimum, the regulations issued under section 4(a)(1) shall prohibit any person from using, offering for use, or arranging for the use of a motor vehicle or a rail vehicle, other than a tank truck, rail tank car, or cargo tank described in section 5, to provide transportation of food, food additives, drugs, devices, or cosmetics, if such vehicle is used to transport nonfood products included on a list published under subsection (b).

(b) List of Unacceptable Nonfood Products.—

(1) Publication.—The Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, shall publish in the Federal Register a list of nonfood products which the Secretary has determined would make food, food additives, drugs, devices, or cosmetics unsafe to the health of humans or animals as a result of transportation in a motor vehicle or rail vehicle which is used to transport food, food additives, drugs, devices, or cosmetics. The Secretary may periodically amend the list by publication in the Federal Register.

(2) Cardboard, pallets, beverage containers, and other food packaging.—The list published under paragraph (1) shall not include cardboard, pallets, beverage containers, and other food packaging except to the extent the Secretary determines that the transportation of cardboard, pallets, beverage containers, or other food packaging in a motor vehicle or rail vehicle which is used to transport food, food additives, drugs, devices, or cosmetics would make the food, food additives, drugs, devices, or cosmetics unsafe to the health of humans or animals.

SEC. 7. DEDICATED VEHICLES.

At a minimum, the regulations issued under section 4(a)(1) shall prohibit any person from using, offering for use, or arranging for the use of a motor vehicle or rail vehicle to provide transportation of asbestos, in forms or quantities determined by the Secretary to be necessary, or of products which present an extreme danger to human or animal health, despite any decontamination, removal, disposal, packaging, or other isolation procedures, unless such motor vehicle or rail vehicle is used only to provide transportation of one or more of the following: asbestos, such extremely dangerous products, refuse. The Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, shall publish in the Federal Register a list of the products covered by this section. The Secretary may periodically amend such list by publication in the Federal Register.

SEC. 8. WAIVER AUTHORITY.

The Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, may waive, in whole or in part, application of any provision of this Act or any regulations issued under this Act with respect to any class of persons, class of motor vehicles, class of rail vehicles, class of food, food additives, drugs, devices, or cosmetics, class of refuse, or class or nonfood products, if the Secretary determines that such waiver would not result in transportation of food, food additives, drugs, devices, or cosmetics that would be unsafe to human or animal health and otherwise is not contrary to the public interest and this Act. Any waiver under this section shall be published in the Federal Register, together with the reasons for such waiver.

SEC. 9. FOOD TRANSPORTATION INSPECTIONS.

(a) Inspection Authority.—With respect to commercial motor vehicles, the Secretary may carry out the requirements of this Act and assist in carrying out compatible State laws and regulations through means that include inspections conducted by State employees which are funded with money authorized under sections 402 through 404 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2302-2304) to carry out the motor carrier safety assistance program, if the recipient States agree to assist in the enforcement of this Act or are enforcing compatible State laws and regulations.

(b) Assistance of Other Agencies.—Upon request by the Secretary, the Secretary of Agriculture, the Secretary of Health and Human Services, the Administrator of the Environmental Protection Agency, and the heads of other appropriate Federal agencies shall provide assistance, to the extent such assistance is available, to the Secretary for the purpose of carrying out this Act, including assistance in the training of personnel under a program established under subsection (c).

(c) Training Program.—The Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, the Administrator of the Environmental Protection Agency, and the heads of appropriate State transportation and food

safety agencies, shall develop and carry out a training program for inspectors to conduct vigorous enforcement of this Act and regulations issued under this Act or compatible State laws and regulations. As part of such training program, the inspectors, including State inspectors or personnel paid with funds under the motor carrier safety assistance program, shall be trained in the recognition of adulteration problems associated with the transportation of food, food additives, drugs, devices, and cosmetics and in the procedures for securing the assistance of the appropriate Federal and State agencies to support such enforcement.

SEC. 10. POWERS AND DUTIES OF THE SECRETARY.

The Secretary shall have the same powers, duties, and authorities under this Act with respect to transportation regulated under this Act as the Secretary has under section 109 (other than subsections (c)(1), (d), and (e) of such section) of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801 et seq.) with respect to transportation regulated under such Act.

SEC. 11. VIOLATIONS, PENALTIES, AND SPECIFIC RELIEF.

(a) Violations, Penalties.—Civil and criminal violations of regulations or orders issued under this Act shall be determined, and civil and criminal penalties for such violations shall be imposed, in the same manner and to the same extent that violations are determined and penalties are imposed under section 110 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1809).

(b) Equitable Relief.—The Secretary shall request equitable relief and take action to eliminate or ameliorate an imminent hazard with respect to any violation of regulations issued under this Act, or of an order issued under this Act, in the same manner and to the same extent that the Secretary is authorized to take under section 111 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1810).

SEC. 12. RELATIONSHIP TO OTHER LAWS.

The provisions of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801 et seq.) relating to the relationship of the Act to a law, regulation, order, ruling, provision, or other requirement of a State or political subdivision thereof or of an Indian tribe shall apply with respect to the relationship of this Act to a law, regulation, order, ruling, provision, or other requirement of a State or political subdivision thereof or of an Indian tribe which concerns a subject covered under this Act.

SEC. 13. COORDINATION PROCEDURES.

Not later than 1 year after the date of enactment of this Act, the Secretary, after consultation with appropriate State officials, shall establish procedures to promote more effective coordination between the agencies of the United States and agencies of the States with regulatory authority over motor carrier safety and railroad safety with respect to implementation and enforcement of this Act.

SEC. 14. APPLICABILITY.

This Act shall take effect on the date of enactment of this Act, except that sections 11 and 12 shall only apply to transportation occurring on or after the date that regulations issued under section 4(a)(1) take effect.

SEC. 15. MOTOR CARRIER SAFETY.

(a) Short Title.—This section may be cited as the "Motor Carrier Safety Act of 1990".

(b) Motor Carrier Safety Ratings.—

(1) Amendment.—The Hazardous Materials Transportation Act (49 U.S.C. App. 1801 et seq.) is amended by adding at the end the following new section:

"SEC. 117. UNSATISFACTORY SAFETY RATINGS.

"(a) Prohibition on Transportation.—Effective January 1, 1991, if a motor carrier receives a safety rating from the Secretary which is unsatisfactory, such motor carrier shall have 45 days to take such action as may be necessary to improve such safety rating to conditional or satisfactory. After the last day of such 45-day period, if such motor carrier has not received a safety rating from the Secretary which is conditional or satisfactory, such motor carrier shall not operate a commercial motor vehicle (as defined in section 203(1) of the Motor Carrier Safety Act of 1984)—

"(1) to provide transportation of hazardous materials for which placarding of motor vehicles is required in accordance with the regulations issued under this title, or

"(2) to transport more than 15 passengers, including the driver.

until such motor carrier has received such a safety rating from the Secretary.

"(b) Review of Rating.—If a motor carrier who has received an unsatisfactory safety rating from the Secretary requests the Secretary to review the conditions and other factors which resulted in such motor carrier receiving the unsatisfactory safety rating, the Secretary shall conduct such review within 30 days after the date of such request.

"(c) Prohibition on Federal Agency Use.—No Federal agency may use a motor carrier who has an unsatisfactory safety rating from the Secretary—

"(1) to provide transportation of hazardous materials for which placarding of motor vehicles is required in accordance with the regulations issued under this title, or

"(2) to transport more than 15 passengers, including the driver.".

(2) Public availability of safety ratings.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Interstate Commerce Commission, shall issue a final rule amending the Federal motor carrier safety regulations contained in subchapter B of chapter III of title 49, Code of Federal Regulations, to establish a system to make readily available to the public, and to periodically update, the safety ratings of motor carriers which have been assigned unsatisfactory safety ratings by the Secretary.

(c) Imminent Hazards to Safety.—Not later than January 1 of 1992 and 1993, the Secretary shall submit to Congress a report describing the actions taken under section 521(b)(5) of title 49, United States Code, with respect to any violation, or combination of violations, that poses an imminent hazard to safety.

(d) Procedures To Ensure Timely Correction of Safety Violations.—

(1) Issuance of final rule.—The Secretary shall, within 9 months after the date of enactment of this Act, issue a final rule establishing procedures to ensure the proper and timely correction of commercial motor vehicle safety violations noted during inspections funded with moneys authorized under section 404 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2304) to carry out the motor carrier safety assistance program.

(2) Verification program.—Such final rule shall establish a verification program for Federal inspectors and States which are participating in the motor carrier safety assistance program to ensure that commercial motor vehicles and operators thereof found in violation of safety requirements have subsequently been brought into compliance with safety requirements. The final rule shall, among other things, institute—

(A) a nationwide system for random reinspection of the commercial motor vehicles and operators thereof that have been declared out-of-service as a result of such safety violations, the main purpose of which system shall be to verify that the violations have been corrected on a timely basis;

(B) a program of accountability for correcting all safety violations, which shall provide that—

(i) the operator of a commercial motor vehicle for which a safety violation has been noted shall be issued a form prescribed by the Secretary;

(ii) the making of the repairs necessary to correct such violation and the date, location, and time of such repairs shall be certified on such form by the person making such repairs;

(iii) the motor carrier responsible for such commercial motor vehicle or operator shall certify on such form that, based on the knowledge of the carrier, the repairs necessary to correct such violation have been made; and

(iv) appropriate State penalties shall be assessed for false statements on such forms or for failure to return such forms to the appropriate State entity; and

(C) a system for ensuring that appropriate State penalties are assessed for failure to correct any such safety violation.

(e) Serious Safety Violations.—

(1) Findings.—Congress finds that:

(A) the present system for ensuring compliance with Federal motor carrier safety laws and regulations needs improvement;

(B) relying primarily upon voluntary compliance methods has not resulted in an acceptable level of commercial motor vehicle safety; and

(C) improvements in the existing enforcement authorities are required to bring about greater safety.

(2) Operation procedures.—In light of the findings in paragraph (1), section 521(b)(1) of title 49, United States Code, is amended—

(A) by redesignating the existing text as subparagraph (A); and

(B) by adding at the end the following new subparagraph:

"(B) The Secretary shall, not later than 80 days after the date of enactment of this subparagraph, establish operational procedures to require a highway safety specialist or other appropriate representative of the Secretary to initiate, at the time of a safety review, compliance review, or other inspection or audit activity, or within a reasonable time thereafter, an enforcement action whenever any of the offenses referred to in paragraph (2) (A) and (B) can be documented, except recordkeeping violations not specified by the Secretary as serious. The procedures shall—

"(i) specify those serious recordkeeping violations for which an enforcement action shall be initiated, including instances in which the falsification of records of duty status or drivers' medical certificates is required or permitted, and such other recordkeeping violations as the Secretary determines to be serious; and

"(ii) authorize, but not require, initiation of an enforcement action for recordkeeping violations not specified by the Secretary as serious.".

(f) Truck Visibility.—

(1) Initiation of rulemaking proceeding.—Not later than 90 days after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding on the need to adopt methods for making trucks or any category of trucks more visible to motorists so as to reduce accidents, particularly at night, taking into consideration such factors as truck illumination and truck color.

(2) Completion of proceeding.—The proceeding under this subsection shall be completed not later than 2 years after the date of enactment of this Act, or if the Secretary determines that it is not feasible to complete the proceeding within such 2-year period, such proceeding may be extended by the Secretary for up to 1 additional year.

(g) Definitions.—As used in this section—

(1) Commercial motor vehicle.—The term "commercial motor vehicle" has the meaning given such term in section 204(1) of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2503(1)).

(2) Truck.—The term "truck" means a commercial motor vehicle that meets the description set forth in section 204(1) (A) or (C) of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2503(1) (A) or (C)).

Amend the title so as to read: "A bill to prohibit certain food transportation practices and to provide for regulation by the Secretary of Transportation that will safeguard food and other food products from contamination during motor or rail transportation.".

The SPEAKER pro tempore. Is a second demanded?

Mr. CLINGER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. Anderson] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. Clinger] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Anderson].

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3386, which was first passed by the House on March 27, 1990. The Senate amended the bill and passed its version on September 20, 1990. The bill before you today is a compromise between the House and Senate versions.

I wish to thank the members of the Public Works and Transportation Committee and the Energy and Commerce Committee of the House and the Committee on Commerce, Science and Transportation in the Senate for their diligence in working to put an end to the potential problems that can result from backhauling garbage in vehicles that transport food.

The Committee on Public Works and Transportation became aware of some members in the transportation industry moving waste in vehicles that were also used to transport food. The Subcommittee on Investigations and Oversight, which I chair, held hearings on this matter. On August 2, the owner of a fleet of refrigerated motor vehicles testified that he regularly hauled garbage and anything else after hauling meat, poultry, and other food items.

A professor of food science said it simply when he stated, "It should not be allowed." I agree. I find it personally revolting and an outrage to public health and safety to permit this practice to go unabated.

Similarly, we were told that products such as formaldehyde were being transported in tank vehicles used to transport fruit juices without proper cleaning or decontamination being carried out. Again, this practice can not continue.

Although there were no documented cases of food contamination as a result of these practices that caused any harm to the public, there exists a threat of such harm. This bill will go a long way to nullify that threat.

The overriding goal of H.R. 3386 is to maintain conditions in this country that prevent contamination of food in the distribution process. Thus far, the record is good. This bill is designed to keep it that way by controlling emerging practices that might threaten that record. The citizens of this country deserve and should have regulatory safeguards to assure the sanitary transportation of food. H.R. 3386 does that, both with respect to existing practices and potential practices.

The bill also contains several provisions that deal with safety issues in the truck and intercity bus industries. They require reports from the Department of Transportation on several new safety improvements and on some safety initiatives that are currently under way. Included in the bill is a provision that provides new authority to the Secretary for enforcement at the Federal and State levels of safety regulations aimed at removing unsafe carriers from the highways.

Mr. Speaker, I urge my colleagues in the House to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. CLINGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, during the summer of 1989, the largest newspaper in my district, the Centre Daily Times, ran a series of stories on the growing practice of backhauling garbage in the same trucks used to haul food products. The impact of the story was shocking. Pictures accompanying the articles showed refrigerated trucks discharging baled garbage into landfills. Truckers interviewed readily admitted to alternating loads of food and garbage.

Coincidentally, shortly after the articles appeared, a refrigerated truck overturned on a section of Interstate 80 that runs through my district. When rescuers arrived and attempted to right the truck, they were repelled by noxious odors emanating from the back. The truck was loaded with rotting trash.

As a result of these episodes, Chairman Anderson directed the Investigations and Oversight Subcommittee to undertake an investigation and hearing on this disgusting practice. The hearings produced significant evidence that the practice of backhauling was widespread, that refrigerated trucks as well as a larger number of dry vans were regularly used by a few unscrupulous operators to haul alternate loads of food products with trash, and that tank trucks were alternating loads of liquid food products with hazardous and toxic chemicals.

The most surprising aspect of the investigation, however, was the dearth of Federal regulations prohibiting this disgusting and immoral practice.

As a result of these findings, I introduced H.R. 3386. My good friend and colleague, Representative Bob Borski, was an original cosponsor of the bill and has played an instrumental role in improving the bill and assuring its passage through the House.

Mr. Speaker, the Committee on Public Works and Transportation, together with the Energy and Commerce Committee, reported the bill earlier this year. On March 27, 1990, the House passed H.R. 3386 by a vote of 415 to 10.

Companion legislation was introduced in the Senate and passed that body by voice vote on September 20.

You have heard the chairman outline the features of the bill. The key to this legislation is a prohibition against the use of refrigerated trailers, tank trucks, rail tank cars, and cargo tanks from hauling food products if they are also used to haul hazardous chemicals or other products that pose a risk to human health. Through rulemaking, the Secretary of Transportation is required to establish requirements or standards to ensure the safety of food and other consumable products hauled in highway and rail vehicles.

The bill also amends the Hazardous Materials Transportation Act to prohibit motor carriers with unsatisfactory safety ratings from transporting hazardous materials. In addition, the bill prohibits Federal agencies from using motor carriers with unsatisfactory safety ratings to transport hazardous materials.

I want to thank Chairman Anderson, ranking Republican John Paul Hammerschmidt, Subcommittee Chairman Norman Mineta, and ranking Republican Bud Shuster for their invaluable assistance during the hearings and markup. I also wish to recognize the staffs of the Public Works and Transportation Committee and the

Energy and Commerce Committee for their diligence and hard labor.

Mr. Speaker, I support H.R. 3386 and encourage all Members to support it as well. This is a vitally needed piece of legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. Whittaker], the ranking member of the subcommittee of jurisdiction of the Committee on Energy and Commerce.

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Mr. WHITTAKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to commend the leadership of both House committees with jurisdiction over this legislation—Public Works and Energy and Commerce—for an outstanding job of cooperation. First, both committees worked together to fashion the original House version of this bill last spring. And now, both committees, along with the Senate Commerce Committee, have again made the final version of this legislation an outstanding example of bipartisan cooperation. I particularly want to commend our Transportation Subcommittee chairman, Mr. Luken, for his diligent efforts and untiring cooperation in fashioning this bipartisan legislation. It has been my good fortune to spend the closing phase of my congressional career working on transportation issues with such a conscientious legislator as Mr. Luken.

The evil addressed by this bill is, of course, the recently documented practice of shipping food products and noxious or dangerous items in the same vehicle or railcar on alternate trips, with little or no decontamination in between. This has to stop, and the Safe Food Transportation Act places the appropriate regulatory and enforcement tools in the hands of the relevant Federal agencies, led by the Department of Transportation.

The approach taken in the bill is a sensible and flexible one, where outright prohibitions of interchangeable use are reserved for only the truly dangerous situations, while appropriate decontamination is required where the degree of danger is less. And routine, combined shipments of food-related products and other properly packaged goods is not threatened by any regulatory overkill. On all counts, Mr. Speaker, this is legislation precisely targeted on the real problem, with a view to correcting that known deficiency, but without undue expense or regulatory interference.

I urge the prompt approval of the resolution that will finally approve this legislation without the need for a formal conference.

Mr. ANDERSON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. Mineta].

Mr. MINETA. Mr. Speaker, I rise in support of H.R. 3386, the Sanitary Food Transportation Act. The House passed this bill on March 27, 1990. Since that time, the House and Senate have worked out the compromise legislation that is now before the House.

The bill addresses the garbage backhaul problem that was subjected to much public scrutiny approximately 1 year ago. Simply put, it directs the responsible Federal agencies to consult with the Department of Transportation for the purpose of issuing rules that will maintain the integrity of food while it is being transported. The regulations will specify when, if, and under what conditions food shipments may be made in vehicles that are used for transporting nonfood products.

The legislative scheme envisions that vehicles used to transport certain nonfood products will not be permitted to transport food or allied products. Moreover, the same prohibition might be imposed on other vehicles unless specific decontamination or other cleaning procedures are implemented.

The new regulatory scheme is devised to remove the obnoxious practices that were occurring in a limited area of the transportation industry where food was being transported one way and garbage was transported on the return trip.

The legislation represents an additional enforcement tool to maintain food in a condition that is safe for humans. Specifically, it is molded to maintain safe transportation conditions. As such, the Department of Transportation is the lead agency for carrying out the new requirements.

However, the bill does not diminish the roles that other Federal agencies have previously played in the regulation of food.

The remaining provisions are directed at a number of safety issues in the trucking and intercity bus industry. Generally, they provide for reports on various safety improvements and some safety initiatives that are already underway. It also provides new authority to rid the highways of unsafe carriers through new and improved enforcement mechanisms at the Federal and State level.

Mr. Speaker, I urge members to support enactment of this safety legislation.

Mr. ANDERSON. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. Borski].

Mr. BORSKI. Mr. Speaker, I rise in strong support of H.R. 3386, the Safe Food Transportation Act of 1990.

This legislation is a giant step forward in protecting the public from unnecessary hazards resulting from the transportation of food and other consumer items.

I want to commend my good friend and colleague from Pennsylvania, Congressman Bill Clinger, for his hard work in helping to craft this legislation.

Congressman Clinger has been one of the strongest voices in this House for tougher laws to protect Americans from the the dangers associated with the transportation of food.

The origins of this legislation date back to the summer of 1989, when the American people were shocked and outraged by news reports describing how the same trucks which haul food to our family tables were also hauling garbage and other solid wastes.

As part of its investigation, the Public Works' Subcommittee on Investigations and Oversight, where I serve as ranking member, held public hearings on backhauling practices in the trucking industry.

What we found did not inspire public confidence in the safety of the Nation's food supply.

The subcommittee heard extensive testimony which established that municipal solid waste is being backhauled in the same refrigerated trucks and dry vans that carry food products, and that hazardous chemicals, such as formaldehyde and marine oil, are being backhauled in the same cargo tankers which transport liquid foods such as fruit juices or cooking oils.

After public hearings, the subcommittee uncovered evidence that removed asbestos is being moved in trucks which later carry children's toys and vegetables.

Clearly, the time has arrived to put an end to these dangerous practices. The bill which is before us will do just that.

H.R. 3386 contains strong measures to protect consumers from unsafe transportation of food.

I am pleased that that it contains a number of important items which were included in a substitute amendment that I offered, and which was approved during full committee markup.

The bill specifically directs the Secretary of Transportation to prohibit the hauling of food in trucks which transport garbage or other products which make food unsafe.

It also requires the Secretary to prohibit the hauling of dangerous chemicals and food products in the same cargo tankers, and, the legislation mandates that certain dangerous commodities, such as asbestos, be hauled only in dedicated vehicles.

To ensure compliance, the bill requires that cargo tanks must be permanently marked for "food use." It makes all parties—the shipper, the broker, the transporter, and the receiver—responsible for violations.

Mr. Speaker, I believe that we owe a great debt of gratitude to Jim and Rikki Pomerenke, Dave Helzer, and Sharon Sonner. These courageous individuals from Yakima, WA, stood up and risked everything to blow the whistle on dangerous backhauling practices.

Passage of this legislation clearly demonstrates that individual citizens, willing to become involved, can make a difference. Passage of this legislation reaffirms the importance of the congressional oversight process in protecting the health and safety of the American people.

The unfortunate fact is, that despite numerous laws and Government regulations, most of the dangerous backhauling practices addressed in this bill are currently not prohibited. They have simply fallen through the legislative and regulatory cracks.

Now, after months of investigation, hearings and thorough review, we are ready to take action on legislation which provides protection where none existed before. I believe that H.R. 3386 will go a long way toward restoring public confidence in the safe transportation of food and consumer items. I strongly urge my colleagues join me and to support this very important legislation.

Mr. LENT. Mr. Speaker, I want to declare my support for this final, agreed version of H.R. 3386. The House version, which we passed this spring, represented an extraordinarily successful combination of ideas from the members of the two committees who share jurisdiction over this legislation—the Public Works and Transportation Committee, and the Energy and Commerce Committee. I am most gratified that we can now add to that successful cooperative effort an equally successful negotiation with the Senate to arrive at a final, agreed version of this bill and thus avoid a formal conference. The resolution before us would do just that.

In recent months, Mr. Speaker, the American public has been literally revolted by the prospect of noxious and unsanitary materials being carried in trucks or rail cars that are used interchangeably for food-related products as well. This has to stop. And the Safe Food Transportation Act gives the various Federal agencies concerned—led by the Department of Transportation—the tools they need to stop it.

The bill establishes a regime of safe transportation regulations, under which certain interchangeable uses of a vehicle or railcar for dangerous products and food would simply be prohibited. In other instances, interchange would be permissible, but only if proper decontamination procedures are followed. And in still other categories, where no substantial risk is involved, food and nonfood products would continue to be allowed to be transported together. This is a commonsense, targeted solution to a demonstrated problem. But it gives the Department of Transportation wide latitude in administering these regulations to protect the integrity of the Nation's food shipments. And in that respect, it avoids any overly restrictive or burdensome regulation.

I urge the prompt approval of the resolution.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of H.R. 3386, a bill which will go far to ensure that the food set out on American tables has not been contaminated by exposure to harmful bacteria, filth, or chemicals while being transported by truck or by rail.

I particularly want to congratulate Mr. CLINGER of Pennsylvania for his aggressive efforts to promote this legislation. Mr. CLINGER quickly responded to reports of raw garbage being carried in refrigerated trucks from the Northeast to landfills in the Midwest—trucks that would later carry meat and produce eastbound. Introducing the legislation before us today, Mr. CLINGER sought to fill a gap in Federal law by banning such practices.

Mr. BORSKI is also to be commended for investigating tank truck practices of hauling fruit juices and other edible liquids back-to-back with dangerous chemicals.

Chairman ANDERSON, Mr. MINETA, and Mr. SHUSTER should be recognized for moving this legislation swiftly through the Public Works and Transportation Committee.

All of these Members, as well as members of the House Energy and Commerce Committee and the Senate Commerce Committee, are to be commended for taking steps to safeguard food transportation.

The General Accounting Office reports that in eight Eastern States landfill capacity will be depleted within 5 years, with the effect that the long-haul transport of garbage will become increasingly common. In fact, New York, and New Jersey already export 395,000 truckloads of garbage—over 9 million tons—each year.

Without this legislation, there will be no marking or recordkeeping requirements, no cleaning procedures, not even a basic prohibition on shipping food in garbage trucks. I urge my colleagues to join me in support of this much-needed legislation.

Mr. THOMAS A. LUKEN. Mr. Speaker, I rise in support of this important legislation.

One year ago, many Members of this body joined me and Mr. WHITTAKER in introducing comprehensive legislation which will revamp, reform, and revitalize the outdated Hazardous Materials Transportation Act.

One of the provisions of our hazardous materials bill outlaws the practice of hauling food and other consumer products in trucks and railroad cars which have been used to carry poisonous chemicals, garbage, and other dangerous commodities. The need for this provision was starkly confirmed to us at our subcommittee's hearings last November. We heard shocking testimony from witnesses who have personally investigated numerous instances where trucks and trains have carried food after they have transported deadly chemicals, toxic waste, and other dangerous contaminants.

Mr. Alden Fitch, an inspector with the Washington State Department of Agriculture, testified he has witnessed these atrocious practices repeatedly during his 29-year tenure. For example, he personally investigated a case where feed grain was transported in a rail car after it had hauled an arsenic compound—1 million dollars' worth of cattle died after eating the contaminated grain. Milk from other cattle was poisoned and had to be dumped for over 4 weeks until it tested clean. We can only conjecture what would have happened if the poisoned grain had been used for human consumption.

Mrs. Terri Moore also testified at our hearing. She heads a citizen watchdog group which monitors a landfill in Centerpoint, IN. Mrs Moore brought photographs and videotapes depicting graphic scenes of products which were contaminated, including pictures of maggots swimming in disinfectant in a truck trailer. Mrs. Moore's group has documented case after case where food, soft drinks, and packaged foods have been backhauled in garbage trucks, refrigerated trucks, and other motor vehicles which have previously carried hazardous waste, chemicals, and other dangerous commodities.

These hideous practices have not ceased. Just 6 weeks ago, a truck that had just dumped a load of garbage at the Indiana landfill was caught hauling corn meal to New York. To say the least, the time for enacting comprehensive Federal legislation is long overdue.

The administration has not seen fit to correct these hideous practices which endanger our food supply. Evidently, the Department of Transportation thinks it's a problem for the Food and Drug Administration. The FDA thinks it's a transportation problem. And EPA, who has justification over solid waste, doesn't know what to think. The bottom line is that Congress is going to have to direct these agencies to work together to stop these life-threatening practices.

At the same time of our subcommittee's investigation, our colleagues from the Committee on Public Works and Transportation had been examining these dangerous practices. They held hearings which focused on the backhauling of food in trucks which are also used to carry garbage and dangerous chemicals. In March, our committees presented H.R. 3386 for floor consideration. The bill passed overwhelmingly by a vote of 410 to 15. The Senate later approved a similar bill and we have been working with Public Works and the Senate to finalize this critically needed legislation. Today, I am pleased to announce that all differences have been resolved by the committees of jurisdiction of both Houses.

This bill will shut down those unscrupulous transporters who don't care whether they are hauling trash or tomatoes. The bill covers both trucks and railroads. The bill also requires dedicated vehicles for transporting asbestos and other extremely dangerous products. The bill requires the Secretary of Transportation, along with other Federal agencies, to enact and aggressively enforce regulations governing safe transportation practices. The bill also directs the Secretary to consider and address a number of subjects in issuing the regulations. These subjects include: The extent to which packaging is adequate to eliminate any risks involved; appropriate recordkeeping, marking, and identification requirements; appropriate cleaning standards; and appropriate compliance and enforcement measures.

I wish to express my appreciation to Chairman DINGELL, Mr. LENT, Mr. WHITTAKER, Mr. SWIFT, Mr. RINALDO, and all the members of our subcommittee who helped to craft this important legislation. I also commend our colleagues from the Public Works Committee, Chairman ANDERSON, Chairman MINETA, Mr. HAMMERSCHMIDT, Mr. SHUSTER, Mr. BORSKI,

Mr. CLINGER, and others, who have worked hand in hand with us to produce a bill that we all support. I also want to commend the efforts of our colleagues from the other body, including Chairmen HOLLINGS and EXON, and Senators DANFORTH, KASTEN, GORE, and GORTON, who have worked with the House to reach a final settlement. Finally, I wish to commend the efforts of the gentleman from New Jersey, Mr. CHRIS SMITH, who has worked tirelessly in educating the public about these issues.

We need to get this bill to the President's desk as soon as possible. I urge my colleagues to support adoption of the resolution and reserve the balance of my time.

Mr. CLINGER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANDERSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from California [Mr. ANDERSON] that the House suspend the rules and agree to the resolution (H. Res. 508).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on House Resolution 508, the resolution just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING STUDY OF FEASIBILITY TO ESTABLISH NATIONAL PARK SYSTEM UNIT TO INTERPRET AND COMMEMORATE JAZZ

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2846) to authorize and direct the Secretary of the Interior to conduct a study of the feasibility of establishing a unit of the National Park System to interpret and commemorate the origins, development, and progression of jazz in the United States, and for other purposes, as amended.

The Clerk read as follows:

S. 2846

Be in enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SUITABILITY AND FEASIBILITY STUDY.

(a) IN GENERAL.—In order to determine an appropriate means of preserving and interpreting the origins, development and progression of the music known as jazz, a music that has gained worldwide influence and respect and represents this Nation's unique contribution to the musical arts, the Secretary of the Interior (hereinafter referred to as the "Secretary"), in consultation with the Secretary of the Smithsonian Institution, shall conduct a study of the suitability and feasibility of preserving and interpreting the origins of jazz in New Orleans, including establishing, or adding to, a unit of the National Park System, or providing technical and financial assistance. Such study shall recognize the origins of jazz in New Orleans, the city in which the cultural strains that became jazz were fused to form this unique American music, and the birthplace of such major jazz artists as Jelly Roll Morton, Sidney Bechet, and Louis Armstrong.

(b) SITES OR STRUCTURES.—(1) The study shall include a determination as to which sites or structures in New Orleans associated with the origin and early history of jazz exhibit the necessary historical and physical integrity to make them suitable and feasible for administration, protection, and preservation by the National Park System for the use and benefit of the public. Prior to making any such determination, the Secretary shall consult with and carefully consider the views of affected local citizens and neighborhood groups.

(2) With respect to any such site or structure determined to be suitable and feasible, the study shall include an analysis of potential management alternatives that involve the participation of public and private entities in the preservation of jazz as an American art form, including interpretive performances pursuant to cooperative agreements with the Secretary.

(3) In the event appropriate sites or structures cannot be identified, the study shall also consider and make recommendations concerning sites which would serve as an appropriate location to commemorate the origins and early history of jazz in New Orleans.

(c) ADDITIONAL RECOMMENDATIONS.—The study shall also include recommendations for—

(1) public outreach programs;

(2) the establishment of a jazz education center;

(3) the appropriate Federal role, including through cooperative agreements, in supporting second line bands and in preserving the unique contributions to the development of jazz made by neighborhood social and pleasure clubs, including recommendations for interpretive performances by such clubs and other programs to assure that the contributions of such clubs are preserved; and

(4) the need for the preservation and dissemination of information about existing public and private archival collections (with potential alternatives for an appropriate Federal role) and possible management alternatives including cooperative agreements with existing public and private facilities and institutions.

SEC. 2. JEAN LAFITTE NATIONAL HISTORICAL PARK.

The study shall also assess and include a recommendation concerning the desirability and feasibility of including any site or structure identified pursuant to section 1(b) to be managed as a unit of the Jean Lafitte National Historical Park.

SEC. 3. SUBMISSION OF STUDY.

The Secretary shall submit the study referred to in section 1 to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives no later than one year after the date funds are made available for such study, together with any recommendations for further legislation.

SEC. 4. PRESERVATION OF JAZZ ADVISORY COMMISSION.

(a) ESTABLISHMENT OF THE COMMISSION.—There is hereby established the Preservation of Jazz Advisory Commission (hereinafter referred to as the "Commission"). The Commission shall consist of fifteen members who shall be appointed within ninety days after enactment of this Act as follows:

(1) one member to be appointed jointly by the Speaker of the United States House of Representatives and the President Pro Tempore of the United States Senate;

(2) the Mayor of the city of New Orleans or the Mayor's designee;

(3) one member who shall have experience in music education programs emphasizing jazz, to be appointed by the Secretary from among recommendations submitted by the Mayor of New Orleans;

(4) one member who is knowledgeable about tourism, to be appointed by the Secretary from among recommendations submitted by local business and economic development groups;

(5) one member to be appointed by the Secretary from among recommendations submitted by the producers of the New Orleans Jazz and Heritage Festival who shall have experience in the production of such Festival;

(6) one member to be appointed by the Secretary from among recommendations submitted by representatives of local historic preservation groups;

(7) one member who is a recognized musician with knowledge and experience in the development of jazz in New Orleans, to be appointed by the Chairman of the National Endowment of the Arts;

(8) one member who is a recognized local expert on the history and development of jazz in New Orleans and is familiar with existing local archival materials, to be appointed jointly by the Chairman of the National Endowment on the Humanities and the Librarian of Congress;

(9) three members with recognized expertise in jazz, cultural or folklife preservation and interpretation, to be appointed by the Secretary of the Smithsonian Institution;

(10) one member to be appointed by the Secretary who shall be a resident of the Treme neighborhood of New Orleans;

(11) one member to be selected from recommendations submitted by local social and pleasure clubs, to be appointed by the Chairman of the National Endowment of the Arts;

(12) one member to be appointed by the Governor of Louisiana who shall be a member of the Louisiana State Music Commission; and

(13) the Chairman of the Delta Region Preservation Commission who shall serve as an ex officio member of the Commission.

(b) DUTIES OF THE COMMISSION.—The Commission shall advise the Secretary in the preparation of the suitability and feasibility study required by section 1, and the views of the Commission members shall be included in the study transmitted to the Congress as provided in section 3.

(c) MEMBERSHIP.—No person who is an employee of the Department of the Interior shall be appointed to serve as a member of the Commission.

(d) COMPENSATION.—Members of the Commission shall serve without compensation.

Member of the Commission shall be entitled to travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in government service under section 5703 of title 5, United States Code.

(e) Chairperson.—The Commission shall elect a chairperson from among its members.

(f) Quorum.—A simple majority of the members of the Commission shall constitute a quorum.

(g) Meetings.—The Commission shall meet at least quarterly or upon the call of the Chairperson or a majority of its members.

(h) Public Hearings.—The Commission shall hold no less than three public hearings in New Orelans to consider the views of the public concerning the most appropriate means to commemorate jazz in the United States. At least one such hearing shall be held in the Teme neighborhood of New Orleans.

(i) Staff.—The National Park Service shall provide staff support and technical assistance as may be necessary to carry out the functions of the Commission.

(j) Termination of Commission.—The Commission shall terminate 60 days after the transmittal of the report to Congress.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes, and the gentleman from California [Mr. Lagomarsino] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on S. 2846, the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, jazz is a key American musical form whose birthplace was New Orleans. S. 2846 directs the Secretary of the Interior to conduct a study of the feasibility of establishing a unit of the National Park System to interpret and commemorate the history of jazz, especially in New Orleans. It is quite similar to H.R. 5650, introduced by our colleague, Lindy Boggs, whose service will be missed in this House as she concludes her services this term.

The Committee on Interior and Insular Affairs amended S. 2846 by adding consultation with the Secretary of the Smithsonian in order to access their expertise in jazz, by deleting the consideration of construction or reconstruction of a facility to commemorate the origins of jazz, and by making several minor changes to the preservation of jazz advisory commission. Any such study needs to consider whether the preservation and interpretation of this part of American history can best be achieved through the adding to Jean Lafitte National Historical Park, creating a new separate unit or providing technical and financial assistance.

Mr. Speaker, I believe that these changes strengthen this bill, and endorse its passage.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to be recognized on H.R. 5650. This bill, as amended by a substitute in full committee, would direct the Secretary of the Interior, in consultation with the Smithsonian, to conduct a study to recommend ways of preserving and interpreting the origins of jazz in New Orleans, including establishing or adding to a unit of the National Park System, or by providing technical and financial assistance through cooperative agreements.

A 15-member Commission is also established by this legislation, made up of mostly local members of the community with an expertise on jazz history, to advise the Secretary in the preparation of the study. The make-up of the commission further emphasizes the purpose of the bill to focus specifically on the birth of jazz in New Orleans.

Unfortunately, employees of the Department of the Interior are specifically prohibited by this bill from serving on the commission, even though the department would most likely be involved in any preservation or interpretation efforts at a New Orleans site.

Mr. Speaker, the bill as amended in full committee reflects a substantial improvement over the original bill. The bill emphasizes that the existing Jean Lafitte National Historical Park, as a unit of the National Park System, may be the most appropriate management option to commemorate the birth of this distinctive and world-famous Afro-American contribution to western music history. In fact, I understand that the staff at Jean Lafitte have already completed a study of the appropriate sites around New Orleans and how to best commemorate the history of jazz. They should continue to be the lead in any future management options in New Orleans, and in the interpretation of jazz history.

However, Mr. Speaker, I do have concerns on the precedence that this bill could set.

Jazz is not the only important musical form that has originated with America. In the Mississippi Delta region alone, the blues, gospel music, and other musical forms were not only powerful precursors to the evolution of jazz, but continue to be important musical forms in their own right. Will this legislation lead us in the future to be establishing parks or other management structures to commemorate these and other forms of music?

Mr. Speaker, with this bill, and the establishment of the Maine Acadian Culture Center which passed the House last week, I believe we are significantly expanding the role of the National Park System in the preservation of a wide variety of forms of American culture. I wonder if it is appropriate for the National Park Service to take on such an expanded role?

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and pass the Senate bill, S. 2846, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONDUCTING CERTAIN STUDIES IN NEW MEXICO

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5796) to conduct certain studies in the State of New Mexico, as amended.

The Clerk read as follows:

H.R. 5796

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ENCHANTED NATIONAL FOREST INFORMATION AND EDUCATION STUDY

SEC. 101. FINDINGS.

The Congress finds that—

(1) environmental education is fundamental to expanding our understanding of the environment;

(2) the natural resources found on national forests in New Mexico, the Land of Enchantment, can contribute to environmental education programs;

(3) the Forest Service plays a vital role in the environmental education of all Americans;

(4) a center to provide information on the national forests in New Mexico would increase public awareness of their national forests, increase participation in manage-

ment decisions, and improve the public's appreciation of their national forests;

(5) there is not a central facility dedicated to providing information on the national forests in New Mexico to residents and out-of-State visitors; and

(6) in light of the opportunities provided by national forests and the importance of environmental education, it is necessary to identify, through a comprehensive study, the opportunities that are available to provide information to the public on the national forests of New Mexico and to expand the environmental education program for those forests.

SEC. 102. STUDY AND REPORT BY THE FOREST SERVICE.

(a) Study.—The Secretary of Agriculture, acting through the Chief of the Forest Service, shall conduct a study of the opportunities to establish a center to provide information on the national forests in New Mexico and to expand the environmental education program for those forests.

(b) Report.—Not later than 1 year after the date that funds are made available for the study referred to in subsection (a), the Secretary of Agriculture shall transmit the Study to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(c) Contents of Study.—The study referred to in subsection (a) shall develop alternative means for the national forests in New Mexico to provide information that improves public awareness and participation in management of their national forests and to expand the environmental education program for those forests. Alternatives shall include an information and education center located in or near Albuquerque, New Mexico, and an expanded education outreach program.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

TITLE II—CAVE RESEARCH INSTITUTE

SEC. 201. FINDINGS.

The Congress makes the following findings:

(1) The world's most exposed fossil reef, Capitan Reef, in southern New Mexico that includes Carlsbad Caverns, contains over 300 caves, including 75 identified caves in Carlsbad Caverns National Park and 22 caves in Guadalupe Mountains National Park.

(2) Recent explorations of Lechuguilla Cave at Carlsbad Caverns National Park have provided much new information about the wonders of this cave including the fact that it is the second deepest cave in the United States and contains outstanding world-class cave features such as gypsum crystal chandeliers and gypsum flowers.

(3) The Lechuguilla Cave has been described by cave researchers as possibly the finest cave researchers as possibly the finest cave in America.

(4) The interest and excitement of cave researchers throughout the world have been focused on Carlsbad Caverns National Park.

(5) Cave researchers could use this research institute as an operational base for study of caves in other regions and as a focal point for storage of data on cave geology and speleology.

(6) The Congress, with the passage of Public Law 100–691, the Federal Cave Resources Protection Act of 1988, recognized the significance of cave resources on Federal lands and established the policy that Federal lands be managed in a manner which protects and maintains, to the extent practicable, significant cave resources.

SEC. 202. ESTABLISHMENT OF CAVE RESEARCH PROGRAM.

(a) Establishment.—In order to provide for needed research relating to cave resources on certain lands in the United States, the Secretary of the Interior, acting through the Director of the National Park Service shall establish and administer a Cave Research Program (hereinafter in this title referred to as the "Program"). The Program shall include the orderly and scholarly collection, analysis, and dissemination of research material related to caves in lands managed by the National Park Service including, but not limited to, Carlsbad Caverns National Park and the Capitan Reef area.

(b) Functions.—The Program shall produce educational and interpretive information and materials vital to public understanding of cave geology, assist students and researchers, and provide for a comprehensive evaluation of cave resources and measures needed for their protection.

(c) Emphasis.—The Program shall be directed primarily toward lands managed by the National Park Service, but the Secretary of the Interior may enter into cooperative agreements with other agencies or entities as may be appropriate to carry out the purposes of this title.

SEC. 203. CAVE RESEARCH INSTITUTE STUDY.

Not later than one year after enactment of this Act, the Secretary of the Interior shall prepare and transmit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives a study on the feasibility of establishing a Cave Research Institute. The Study shall include the need for such a facility, its costs, its purposes, what the facility should include and where it should be located. An analysis of potential sites for the Institute should include, but not be limited to, Carlsbad Caverns National Park.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE III—PREHISTORIC TRACKWAY STUDY

SEC. 301. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds that—

(1) fossils are important for scientific studies of prehistoric life on earth;

(2) lands administered by the Bureau of Land Management in the Robledo Mountains in New Mexico contain one of the most important fossil discoveries of the 20th century;

(3) discoveries have included prehistoric tracks of amphibians, reptiles, arthropods and insects, extensive plant fossils, and clues to the weather and climate of the period;

(4) fossil footprints that form trackways help scientists recreate the environment and habitat that supported prehistoric life;

(5) nearly one hundred trackways from the Permian Age have been uncovered in the Robledo Mountains;

(6) the trackways are over 280 million years old and they document the emergency of life from water to land;

(7) the trackways are unique in length and represent most taxonomic groups, including many prints of previously unknown animals;

(8) the trackways and other fossils are being lost for scientific study through unsupervised collecting, and commercial quarrying; and

(9) the trackways and fossils found in the Robledo Mountains and surrounding areas should be evaluated for their potential protection and value for scientific interpretation and education.

(b) Purposes.—The purposes of this title are to—

(1) require the Secretary of the Interior to conduct a study to consider appropriate means to protect the discoveries and identify the scientific, interpretive, and public education values associated with the trackways and fossils located in the Robledo Mountains in southeastern New Mexico; and

(2) provide for interim protection of such trackways and fossils.

SEC. 302. INTERIM WITHDRAWAL.

(a) In General.—The area consisting of approximately 736 acres, as generally depicted on the map entitled "Prehistoric Trackways Study Area", numbered NM 030-01 and dated September, 1990 (hereafter referred to as the "study area"), is hereby withdrawn, subject to valid existing rights, from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, or patent under the mining laws, but not from operation under the mineral leasing laws. Such withdrawal shall terminate on the date 2 years after the date the study referred to in section 303 is transmitted to Congress.

(b) Map.—The map referred to in subsection (a) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management, Department of the Interior.

SEC. 303. STUDY.

(a) Study.—(1) The Secretary of the Interior, in cooperation with State and local governments, and institutions of higher education, shall conduct a study of the alternatives for the protection and interpretation of the fossil resources within the study area.

(2) The study shall include analysis of the importance of the discoveries at the site and an evaluation of the feasibility of developing a facility in New Mexico to evaluate, curate, display, and interpret the fossil resources located within the study area.

(3) The study shall recommend the preferred administrative designation for the area, including but not limited to potential designation as a unit of the National Park System, and the appropriate management agency.

(b) Transmittal to Congress.—Not later than 1 year after the date that funds are made available for the study required in subsection (a), the Secretary shall transmit such study to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular affairs of the United States House of Representatives.

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes, and the gentleman from California [Mr. Lagomarsino] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5796, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5796, introduced by my colleague from New Mexico [Mr. Richardson] would direct the Federal Land Management agencies to do a series of studies that will enhance the management of our Federal lands. It directs the Forest Service to study ways to improve its environmental education and visitor information efforts for the five national forests in New Mexico. It directs the National Park Service to implement immediately a National Cave Research Program to study the many caves found within the National Park System and to evaluate the need for a Cave Research Institute. It directs the Bureau of Land Management to study how best to protect and interpret the fossilized trackways found in the Robledo Mountains of New Mexico. These mountains contain tracks of amphibians, reptiles, anthropods, and insects made 280 millions years ago including the prints of animals previously unknown. The bill would give 736 acres of the area interim protection.

The studies in this bill will help both the agencies and Congress better develop policies to protect and manage our natural resources.

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Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5796, which was introduced by Mr. Richardson and is supported by the entire New Mexico congressional delegation.

Title I, of this legislation requires the Forest Service to conduct a 1-year study of the feasibility of establishing an environmental education center in New Mexico and to expand environmental education programs on New Mexico's five national forests which total 9 million acres.

Title II originally directed the Secretary of the Interior to establish a cave research institute at Carlsbad Caverns. This title was opposed by the administration and myself for several reasons. First, such a facility would overemphasize cave studies there at the expense of the cave research at other units of the National Park Service. Second, because the Park Service's Research Program is undergoing a review by the National Academy of Science, creating a cave research institute before the Academy's final report is complete would be premature.

Because of these concerns, Chairman Vento and the New Mexico congressional delegation agreed to change title II to conform with the rest of the bill. As a result, it now directs the National Park Service to study the feasibility of establishing a cave research institute. I commend Chairman Vento and Mr. Richardson for agreeing to this more prudent approach.

The last title of this bill deals with protection of prehistoric trackways in the Robledo Mountains outside of Las Cruces, NM. I was amazed to learn that fossil trackways, which include prints of primitive scorpions, flying insects and reptiles, found in the area date back as much as 280 million years. These fossils are located on lands managed by the Bureau of Land Management.

Title III would direct the Secretary of the Interior to conduct a study of the alternatives for protecting and interpreting these fossil resources. The study would be conducted jointly with State and local governments and institutions of higher learning. Seven hundred and thirty-six acres of BLM would be withdrawn from the public lands and mining lands—but not from mineral leasing laws—upon enactment of this bill. The withdrawal would terminate 2 years after this study is submitted to Congress.

Mr. Speaker, with the changes made in title II, this legislation has been significantly improved. I urge my colleagues to support H.R. 5796.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. Richardson], our resident expert on paleontology.

Mr. RICHARDSON. Mr. Speaker, I thank the committee chairman for bringing H.R. 5796, a bill to conduct certain studies in New Mexico, to the House floor for consideration.

New Mexico, known as the Land of Enchantment, contains many natural resources that are nationally significant. H.R. 5796 would provide for three studies to see how these resources can best be protected.

First, the legislation would direct the Secretary of Agriculture to conduct a study to determine the need for a National Forest Information Center and an expanded environmental education program in New Mexico. There are over 9 million acres of spectacular national forests which are used for recreational and economic purposes. A National Forest Information Center in New Mexico would help the public determine how its natural resources should be managed as well as providing general tourist information.

Second, the bill would direct the Secretary of the Interior to take two steps concerning cave research; First, establish a Cave Research Program within the Department of Interior; and second, conduct a study on the feasibility of establishing a Cave Research Institute.

The Cave Research Program shall include collection of data, analysis, and dissemination of research material related to caves managed by the National Park Service, including Carlsbad Caverns National Park and the Capitan Reef area. The program shall be directed primarily toward lands managed by the National Park Service, but the Secretary may enter into cooperative agreements with other agencies or entities. The feasibility study shall be submitted to this committee within 1 year after enactment of this act and include the need for a Cave Research Institute, its costs, its purposes, what the facility should include, and where it should be located. An analysis of potential sites for the Institute shall include the Carlsbad Caverns National Park.

Third, the bill would direct the Secretary of the Interior to conduct a study of the fossil trackways recently discovered at the Robledo Mountains near Las Cruces, NM. The find at Robledo contains spectacular fossilized trackways of amphibians, reptiles, arthropods, and insects made 280 million years ago. The study would determine the importance of the discovery; evaluate how to curate, display, and interpret the fossils found in the area; and, recommend the proper administrative designation and agency for management of the site. The bill would also provide for an interim withdrawal of the area from operation of public laws which would extend for 2 years after the conclusion of the study.

Mr. Speaker, this legislation provides for studies that would enhance public knowledge about these unique natural resources in New Mexico. This legislation has the support of the entire New Mexico delegation and I urge my colleagues support.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Mazzoli). The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the

House suspend the rules and pass the bill, H.R. 5796, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5835, PROVIDING FOR RECONCILIATION PURSUANT TO SECTION 4 OF CONCURRENT RESOLUTION ON THE BUDGET FISCAL YEAR 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-882) on the resolution (H. Res. 509) providing for the consideration of the bill (H.R. 5835) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1991, which was referred to the House Calendar and ordered to be printed.

AUTHORIZING CONVEYANCE OF CERTAIN LANDS IN IDAHO BY SECRETARY OF THE INTERIOR

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 267) to authorize the Secretary of the Interior to convey certain lands in Idaho to Mr. and Mrs. Kenneth Blevins of Kuna, ID, as amended.

The Clerk read as follows:

S. 267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—CONVEYANCE OF IDAHO LANDS

SEC. 101. CONVEYANCE.

Notwithstanding any other provision of law, the Secretary of the Interior shall convey to Mr. and Mrs. Kenneth Blevins of Kuna, Idaho, by quitclaim deed or other appropriate instrument and without consideration, all right, title, and interest of the United States, excluding oil, gas, and other mineral deposits, in and to a parcel of public land described as the East half, Southeast Quarter (E ½ SL ¼) of Section 33, Township 2 North, Range 1 East, of the Boise Meridian in Ada County, Idaho.

TITLE II—CENTRAL CALIFORNIA

SEC. 201. FINDINGS AND POLICY.

The Congress finds that—

(1) areas of undeveloped National Forest System land on Los Padres National Forest have outstanding natural characteristics giving them high value as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) it is in the national interest that certain of these areas be promptly designated as components of the National Wilderness Preservation System in order to preserve such areas as an enduring resource of wilderness which shall be managed to promote and perpetuate the wilderness character of the land and its specific multiple values for watershed preservation, wildlife habitat protection, scenic and historic preservation, scientific research and educational use, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all of the American people of present and future generations; and

(3) geologic evidence and production data suggest that a producing oil and gas field adjacent to the proposed Sespe Wilderness extends into such area.

SEC. 202. DESIGNATION OF WILDERNESS AREAS.

In furtherance of the purposes of the Wilderness Act, the following National Forest System lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System—

(1) certain lands in Los Padres National Forest and the Angeles National Forest, California, which comprise approximately 209,000 acres, which are generally depicted on a map entitled "Sespe Wilderness Area—Proposed" and dated June 1990, which shall be known as the Sespe Wilderness;

(2) certain lands in Los Padres National Forest, California, which comprise approximately 30,000 acres, which are generally depicted on a map entitled "Matilija Wilderness Area—Proposed" and dated June 1990, which shall be known as the Matilija Wilderness;

(3) certain lands in Los Padres National Forest, California, which comprise approximately 43,000 acres, which are generally depicted on a map entitled "San Rafael Wilderness Addition—Proposed" and dated June 1990, and which lands are hereby incorporated in, and shall be managed as a part of, the San Rafael Wilderness;

(4) certain lands in Los Padres National Forest, California, which comprise approximately 11,600 acres, which are generally depicted on a map entitled "Garcia Wilderness Area—Proposed" and dated June 1990, and shall be known as the Garcia Wilderness;

(5) certain lands in Los Padres National Forest, California, which comprise approximately 36,200 acres, which are generally depicted on a map entitled "Chumash Wilderness—Proposed" and dated June 1990, and shall be known as the Chumash Wilderness; and

(6) certain lands in Los Padres National Forest, California, which comprise approximately 38,000 acres, which are generally depicted on a map entitled "Ventana Wilderness Addition—Proposed" and dated June 1990, and which lands are hereby incorporated in, and shall be managed as a part of, the Ventana Wilderness.

SEC. 203. ADMINISTRATION OF WILDERNESS AREAS.

(a) In General.—Subject to valid existing rights, each wilderness area designated by this title shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act. Any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

(b) Fire Prevention and Watershed Protection.—Notwithstanding any provision of the Wilderness Act, in order to provide for the continued viability of the watershed affected by the wilderness designations made by this title, and to provide for the continued health and safety of the communities serviced by such watersheds, the Secretary of Agriculture is authorized to take such actions in the Sespe, Matilija, Garcia, Chumash, Ventana, and San Rafael Wilderness areas as are necessary for fire prevention and watershed protection including, but not limited to, fire presuppression and fire suppression measures and techniques utilized elsewhere on the National Forest System.

(c) Sespe Condor Sanctuary.—Notwithstanding any provision of the Wilderness Act (16 U.S.C. 1131 et seq.), the Secretary of Agriculture may take such measures and utilize such facilities as are necessary for the management of the Sespe Condor Sanctuary, including (but not limited to) road, vehicular, and helicopter access, and related facilities. Such measures are to be taken only for the preservation and protection of the California Condor and related habitat as part of the recovery program for the condor.

(d) Special Management Restriction.—Notwithstanding any provision of the Wilderness Act (16 U.S.C. 1131 et seq.) and section 5112 of the Federal Onshore Oil and Gas Leasing Reform Act of 1987 (30 U.S.C. 226-3), the Secretary of the Interior may, under existing authority, issue oil and gas leases for the subsurface of the Sespe Wilderness. Such leases shall not allow surface occupancy and may be entered only by directional drilling from outside the Sespe Wilderness.

(e) Adjacent Management.—The Congress does not intend that wilderness areas designated under this title lead to the creation of protective perimeters or buffer zones around such wilderness areas. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

SEC. 204. FILING OF MAPS AND DESCRIPTIONS.

As soon as practicable after enactment of this Act, a map and a legal description of such wilderness area designated in section 202 shall be filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and description shall have the same force and effect as if included in this Act. Correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture, Washington, District of Columbia.

SEC. 205. RELEASE TO NONWILDERNESS USES.

The table contained in section 111(e) of the California Wilderness Act of 1984 (98 Stat. 1631) is amended by striking all lines pertaining to further planning areas on the Los Padres National Forest. These areas shall be released to nonwilderness uses in accordance with section 111 (except for subsection (e)) of such Act.

SEC. 206. DESIGNATION OF WILD AND SCENIC RIVERS.

In order to preserve and protect for present and future generations the outstandingly remarkable values of Sespe Creek, the Big Sur River, and the Sisquoc River, all in California, section 3(a) of the Wild and Scenic River Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraphs at the end:

"( ) Sespe Creek, California.—The 4-mile segment of the main stem of the creek from its confluence with Rock Creek and Howard Creek downstream to its confluence with Trout Creek, to be administered by the Secretary of Agriculture as a scenic river; and the 27.5-mile segment of the main stem of the creek extending from its confluence with Trout Creek downstream to where it leaves section 26, township 5 north, range 20 west, to be administered by the Secretary of Agriculture as a wild river.

"( ) Sisquoc River, California.—The 31-mile segment of the main stem of the river extending from its origin downstream to its confluence with Burro Creek, to be administered by the Secretary of Agriculture as a wild river.

"( ) Big Sur River, California.—The main stems of the South Fork and North Fork of the Big Sur River from their headwaters to their confluence and the main stem of the river from the confluence of the South and North Forks downstream to the boundary of the Ventana Wilderness in Los Padres National Forest, for a total distance of approximately 14.4 miles, to be administered by the Secretary of Agriculture as a wild river.".

SEC. 207. STUDY RIVERS.

(a) Designation.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287) is amended by adding the following new paragraphs at the end thereof:

"( ) Piru Creek, California.—The segment of the main stem of the creek from its source downstream to the maximum pool of Pyramid Lake and the segment of the main stem of the creek beginning 300 feet below the dam at Pyramid Lake downstream to the maximum pool at Lake Piru, for a total distance of approximately 49 miles.

"( ) Little Sur River, California.—The segment of the main stem of the river from its headwaters downstream to the Pacific Ocean, a distance of approximately 23 miles. The Secretary of Agriculture shall consult with the Big Sur Multiagency Advisory Council during the study of the river.

"( ) Upper Sespe Creek, California.—The Main stem from its headwaters downstream to its confluence with Rock Creek and Howard Creek, a distance of approximately 18.5 miles.

"( ) Matilua Creek, California.—The segment from its headwaters to its junction with Murietta Canyon, a distance of approximately 16 miles.

"( ) Lopez Creek, California.—The segment from its headwaters to Lopez Reservoir, a distance of approximately 11 miles.

"( ) Arroyo Seco River, California.—The segment from its headwaters to the forest boundary, a distance of approximately 16 miles.".

(b) Consultation.—The studies of the rivers and creeks named in subsection (a) shall be made in consultation with local government authorities and appropriate local agencies.

SEC. 208. VENTANA LAND EXCHANGE.

(a) Map.—The map entitled "New Los Padres Reservoir Enlargement Project—Forest and Wilderness Boundary Adjustment—Los Padres National Forest" dated September, 1989 (hereafter in this section referred to as the "map") shall describe the lands for which exchanges and other actions are authorized by this section. The map shall be on file and available for public inspection in the Office of the Chief, Forest Service, Washington, District of Columbia.

(b) Boundaries.—Upon completion of the exchange, the boundaries of the Ventana Wilderness and Los Padres National Forest are hereby modified as necessary to accommodate the land exchange authorized by this section.

(c) General Authority.—Subject to valid existing rights, the Secretary of Agriculture is authorized and directed to offer for exchange to the California-American Water Company the lands comprising Parcel A and to receive, in exchange for Parcel A, all right, title and interest in Parcel B, as generally depicted on the map. The title to Parcel B shall be in California-American Water Company and the title conveyed in the exchange shall be by general warranty deed and shall be otherwise acceptable to the Secretary. Such exchange is deemed to be an equal value exchange. Nothing in this section shall preclude the Secretary from exchanging Parcel A to the California-American Water Company in exchange for other lands utilizing existing exchange authorities in the event that the California-American Water Company does not acquire title to Parcel B.

(d) Management.—Upon acquisition by the United States, Parcel B shall be thereafter managed as National Forest Wilderness and shall be withdrawn from all forms of location and entry under the mining and mineral leasing laws and from the geothermal leasing laws.

SEC. 209. OFF ROAD VEHICLE TRAILS.

(a) Construction of Trails.—The Secretary of Agriculture shall construct in the area adjacent to the Chumash Wilderness Area interconnecting trails for off road vehicles connecting—

(1) Long Canyon and Sulphur Springs Trails, a distance of approximately 10 miles; and

(2) Lockwood Creek and the Dry Canyon Off Road Vehicle Trail, a distance of approximately 12 miles,

as generally depicted on a map entitled "Proposed Off Road Vehicle Connector Trails" and dated June 1990.

(b) Closure of Trail.—The Toad Springs Off Road Vehicle Trail in the Chumash Wilderness Area shall not be closed until the construction of the trails described in subsection (a) has been completed and the trails are open for use by the public.

SEC. 210. MINERAL WITHDRAWAL.

(a) In General.—Subject to valid existing rights, federally owned lands and interests therein that are within and immediately adjacent to the California Coastal Zone depicted on a map entitled "Mineral Withdrawal Area, California Coastal Zone, Big Sur—Proposed" and dated June 1990 are withdrawn from entry or appropriation under mining laws of the United States, and from the operation of mineral leasing laws of the United States. On a case-by-case determination, the lands will remain open to the disposal of mineral materials under the Act entitled "An Act to provide for the disposal of materials on the public lands of the United States", approved July 31, 1947 (30 U.S.C. 601 et seq.) (commonly known as the "Materials Act of 1947").

(b) Mining Claims.—Subject to valid existing rights, all mining claims located within the withdrawal area depicted in the map described in subsection (a) shall be subject to such regulations as the Secretary of the Interior may prescribe to ensure that mining will, to the greatest practicable extent, be consistent with protection of scenic, scientific, cultural, and other resources of the area. The Secretary shall not approve any plan of operation prior to determining the validity of any unpatented mining claims. A patent for land within the withdrawal area that is issued after the date of enactment of this Act shall convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such regulations.

SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act and amendments made by this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes, and the gentleman from California [Mr. Lagomarsino] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 267, the Senate bill now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill as passed by the Senate provides for the conveyance of about 80 acres of Federal lands near Kuna, ID, to Mr. and Mrs. Kenneth Blevins. This conveyance would be by quitclaim deed, and any oil, gas, and other minerals would be reserved to the United States.

According to the Bureau of Land Management, in testimony before the Subcommittee on National Parks and Public Lands, the 80 acres involved here were part of a 160-acre tract for which a homestead entry was filed in 1904.

The westerly 80 acres of the tract was patented in 1919. However, the easterly 80 acres, now occupied by the Blevins, was never patented and is still under a Bureau of Reclamation withdrawal. In November 1929, that 80-acre tract was quitclaimed to a private party by the Ada County probate judge. Apparently the tract's status as a reclamation homestead was overlooked and the tract was assumed to be in private ownership. In 1961, the unpatented 80-acre tract was transferred to Kenneth Blevins' father, and in 1973, Kenneth Blevins received a warranty deed to this tract from his father. The Blevins family has occupied that 80-acre parcel since 1961 and has paid property taxes.

The administration has testified that no administrative remedies are available to remove the clouds on the title to these lands, and so legislation is necessary to accomplish this purpose.

Mr. Speaker, the bill as we bring it before the House also includes an additional title, title II, that consists of

the text of H.R. 1473 as passed by the House nearly a year ago, on October 16, 1989. That bill, introduced by Representatives Lagomarsino and Gallegly, designates as wilderness certain lands in the Los Padres National Forest in California, designates several streams within the national forest for inclusion in the Wild and Scenic River System, and provides for wild and scenic river studies of certain other river segments in the area. These provisions are discussed in detail in House Report No. 101-286, the Interior Committee report to accompany H.R. 1473. We are including these provisions in this bill so as to facilitate their prompt consideration by the Senate.

I urge approval of this bill.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 267. This bill would accomplish two very important purposes. First, it would resolve a private land ownership problem resulting from a bureau of reclamation land withdrawal. Second, this bill will designate approximately 340,000 acres of wilderness in California and designate approximately 210 miles in nine river segments as components or study rivers of the National Wild and Scenic River System.

As my colleagues may recall, the House passed a bill very similar to this second title almost 1 year ago. Since that time, I have continued to work with the various interest groups and Members of the other body to perfect and improve this bill. This a measure I originally introduced in the 100th Congress and I feel the final product we have before us today reflects a lot of hard work by a variety of individuals.

This bill is based on a thorough wilderness study conducted by the Forest Service. The public actively participated in that process which included 11 public hearings and over 1,800 written public comments. The current bill reflects a significant expansion of the wilderness proposal developed by the Forest Service. In fact, with the passage of this bill, approximately 45 percent of the Los Padres National Forest will be designated as wilderness. None the less, the final bill is supported by the administration.

Because this bill is a balanced and reasonable approach, it has a broad base of support. Although I certainly could not say that it has unanimous support from all interest groups, it does address the core concerns of a diverse range of interest groups from water interests to environmentalists. The final product we are passing today is a forestwide effort, far beyond the simple wilderness designation bill introduced several years ago.

I must convey to my colleagues a certain sense of urgency with respect to this bill. As you know, southern California is facing a serious water shortage. It is my belief that the current bill reflects a balanced approach to the water resource protection and development situation as we know it today. As this water shortage situation evolves over time, that balance may have to be shifted to accommodate new concerns and demands.

Therefore, I want to extend my appreciation to the chairman of the National Parks and Public Lands Subcommittee for providing this opportunity to reconsider this measure. I plan to continue to attempt to resolve any outstanding concerns with this measure and I urge my colleagues to join me in supporting it.

Mr. Speaker, I yield 10 minutes to the gentleman from Idaho [Mr. Craig].

Mr. CRAIG. Mr. Speaker, I thank my colleague from California for yielding me the time.

Mr. Speaker, I rise in support of S. 267, a bill to authorize the Secretary of the Interior to convey certain lands in Idaho to Mr. and Mrs. Kenneth Blevins of Kuna, ID. S. 267 rectifies a land conveyance problem that affects two of my constituents, Mr. and Mrs. Kenneth Blevins of Kuna, ID. Through no fault of their own 80 acres of land that the Blevins thought had been in private ownership since 1929 was indeed never patented and remained Federal land. To correct this error, S. 267 would authorize that ownership to the tract be conveyed to the Blevins.

The 80 acres of dry sagebrush land addressed in this bill were thought to have been in private ownership since the early part of this century. Indeed, the tract was quitclaimed to a predecessor in ownership to the Blevins by the ADA county probate judge in 1929. The land was then conveyed to Mr. Kenneth Blevin's father in 1961, and in 1973 the land was conveyed to Mr. Blevins. The Blevins family has occupied the 80 acre tract in question since 1961 and paid property taxes on the property since that time.

Equity in this matter calls for this land to be conveyed to the Blevins. The Department of the Interior testified during hearings that they have no objection to such a settlement.

I encourage support of S. 267.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and pass the Senate bill, S. 267, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "A bill to authorize the Secretary of the Interior to convey certain lands in Idaho to Mr. and Mrs. Kenneth Blevins of Kuna, Idaho, to provide for specified management of certain lands in California, and for other purposes.".

A motion to reconsider was laid on the table.

BUDGET CONCERNS

(Mr. NEAL of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. NEAL of Massachusetts. Mr Speaker, I rise to join in the ongoing debate on the shape of the budge that is currently being crafted by congressional leaders and in the variou committees. We in New England have been concerned about additiona energy taxes and in my area, there is concern about changes in the taxation of life insurance companies. Curren proposals seek to raise approximately $8 billion through a deferred acquisition cost tax. It is my belief that thi proposal has not received enough study. The impact on the life insurance industry has not been assessed.

Mr. Speaker, I will include for th Record a copy of an article from las Thursday's New York Times. Thi front-page article examines the current health of the life insurance industry. I urge all of my colleagues to rea this article before deciding on th DAC proposal. There has been th belief that the insurance industry ha the resources to absorb a new tax. Unfortunately, like many of the financia industries, the insurance companie are also suffering through an uncertain period. The downturn in rea estate and other investments has ha a huge impact on the insurance companies. If we hit this industry with new tax, we run the risk of pushin their investment funds out of th market and sliding the entire econom toward deep recession. As a member o the Banking Committee, I am als deeply concerned about the variou Government guarantees on investments, deposits, and pension fund This is a major tax—let's look befor we leap.

[From the New York Times, Oct. 11, 1990]

Life Insurers Jolted by Sharp Downturn in Real Estate Value

(By Peter Passell)

With real estate values going downhill an banks nationwide struggling to avoid bein buried in the slide, anxieties are focusing o yet another group of lenders: life insuranc companies.

Last week, the Travelers Corporation acknowledged large losses on its real estate investments and chopped its dividend. Th news prompted worried investors to se Travelers shares as well as those of othe major life insurers with sizable holdings of real estate and "junk bonds," sending their stock prices sharply lower.

Some analysts warn that troubled assets have grown so large at dozens of insurance companies that they could face the prospect of bankruptcy—especially if the economy weakens further. But most experts believe that a wave of bankruptcies putting large numbers of policyholders at risk remains unlikely. Even a lesser crisis of confidence in the life insurance industry, however, could tighten the credit noose on many business borrowers, deepening and lengthening the nowlikely recession.

"It would be disaster to lose a major source of capital," concludes Eden Sarfaty, the head of the National Organization of Health and Life Insurance Guarantee Associations.

Until the last decade, life insurance was the most predictable of financial industries. Much premium income was invested in bonds, mortgages and real estate, all of which were susceptible to fluctuations in value. But the death benefits and minimum investment returns promised to policyholders were based on such conservative assumptions that honestly managed insurance companies ran little risk of being unable to pay their obligations.

But since the early 1980's, said Terry Lennon a senior official in New York State's Department of Insurance, "life insurers have been forced to change because other financial institutions changed." Banks and savings and loans were freed to pay depositors any interest rate they chose, and the competition for savers' dollars grew hotter.

Companies guaranteed higher returns to policyholders, cutting margins for investment error. Yet in an effort to maintain profits, they sank more money in riskier assets, notably bonds from less-than-blue-chip borrowers. IDS Financial Services in Minneapolis estimates that "junk bond" holdings now represent 6.5 percent of life insurers' assets—a sum roughly equal to the industry's net worth.

As important, life insurers spread their nets wider in search of cash. Fixed annuities, effectively tax-deferred certificates of deposit, were marketed to tax-conscious investors. And guaranteed investment contracts—promises to pay fixed returns over periods as long as 10 years—were sold by the billions to pension funds.

VULNERABILITY STUDIED

Much of this new business was profitable. But it increased the probability that insurers would end up owing a lot of money at high interest rates, even as the income on their investments was falling. The savings and loan industry was trapped in just such a predicament in the early 1980's. Without the sense of security conferred by Federal insurance, many would have lost the confidence of depositers and been unable to attract new cash to meet old obligations.

IDS concludes that life insurers are how highly vulnerable to economy-wide shocks that raise interest rates, or force corporate borrowers into bankruptcy or undermine the value of commercial real estate. To test the degree of vulnerability, they estimated the likely losses of each of the 100 largest companies in the event of a moderate or a severe economic downturn.

In the "moderate loss" scenario, 18 would be at risk of insolvency, leaving state guarantee funds to pay policyholders about $3.1 billion. The "severe loss" scenario predicts that 34 companies might fail, with a total loss as high as $11.5 billion.

In a memo written at the request of John D. Dingell, chairman of a House committee that oversees financial industries, the American Council of Life Insurers disputes the assumptions behind the IDS analysis. Many of the junk bonds owned by insurers, the memo argues, are junk in name only; the corporations that borrowed the money are unlikely to default. And while the industry does indeed hold a lot of mortgages backed by sagging commercial real estate, much of its asset base is worth far more than book value.

WHOLESALE BANKRUPTCIES DOUBTED

"We're not saying everything is rosy," said Henri Bersoux, a spokesman for the association. "But it looks like it would require an unbelievably bad downturn" to lead to wholesale bankruptcies.

Mr. Lennon largely concurs: "You can't look at life insurers' assets without looking at their liabilities, too." In most cases, he points out, companies have years or even decades to pay claims. It is true that insurers' ultimate ability to pay depends on the recovery of real estate values. But a permanent slide in real estate, he argues, "is almost an Armageddon scenario."

If some big life insurance companies were to fail, would consumers' savings fall with them? Most policyholders are protected by state guarantees: State insurance commissions would levy taxes on solvent insurance companies to make good the losses. But Mr. Sarfaty of the insurance guarantee group notes that there are significant holes in the safety net.

Some 45 states have guarantee funds. Two, California and Alaska, will have guarantee systems by January. But three other states—New Jersey, Colorado and Louisiana—and the District of Columbia have no guarantee funds. Residents of these states would have to depend on the guarantee funds in the failed insurers' home states. And in 27 of these states, the funds are not obliged to compensate nonresidents.

INSOLVENCIES IN THE 80'S

From January 1985 through September 1989, 62 life insurance companies were declared insolvent by state regulators, according to the American Council of Life Insurance. Compensation for policyholders depends on state regulations. "The rules vary widely in terms of who is covered and to what extent," said Joseph M. Belth, a professor of insurance at the University of Indiana.

Guarantees in most states are limited to $300,000 in death benefits and $100,000 in cash value. And the prospects for pensioners whose security is based on guaranteed insurance contracts is even more problematic. Most state laws, Mr. Sarfaty points out, do not address the question of whether the pooled assets of individual pensioners are covered.

Ordinary "defined benefit" pensions, the kind in which a specific monthly check is guaranteed by the pension fund, are also protected by the Pension Benefit Guaranty Corporation, a Federal agency. But those with insurance company-backed assets locked up in other sorts of retirement plans, notably "401(k) salary reduction plans," would be left to make the case to state insurance commissioners.

To Mr. Sarfaty, this is all a reason for caution: "Choose an insurance company, whether large or small, with a good reputation and exprience in the type of policy you're buying."

Even the most pessimistic numbers on insurers' losses suggest, however, that most policyholders would eventually get their money back. State funds typically have the right to assess up to 2 percent of insurers' revenues. In a pinch, IDS estimates, the states could raise about $4 billion annually—enough to cover the most severe projected losses in about three years.

But other damage related to a solvency crisis in the life insurance industry could not be so easily undone. A loss of confidence in the industry could lead to a flurry of policy redemptions, the insurance industry equivalent of a run on banks.

It is not as easy to withdraw money from an insurance policy or an annuity as it is to withdraw deposits from a bank; substantial penalties would give policyholders good reason to think twice. But Robert Litan, an economist at the Brookings Institution, argues that "if you are really worried about solvency, you'd take the money out."

Fiduciaries responsible for managing the guaranteed insurance contracts held by pension plans are more sophisticated investors, and presumably less likely to panic. But there are only modest rewards to pension managers who take a chance and win, while the penalty for guessing wrong with other peoples' money is often a flood of lawsuits.

The consequences of even a minor run on the liabilities of the life insurers could be devastating to the economy. The industry channels tens of billions annually into corporate bonds and real estate. Without policy income, the flow would stop—or reverse.

The money previously going into insurance policies, Mr. Litan acknowledges, would not disappear unless total savings fell by the same amount. And eventually, one presumes, those corporations and builders would find alternate sources of capital.

But "eventually" could be a long time, Mr. Litan said.

HATS OFF TO CONGRESSMAN JERRY BRUCE

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ALEXANDER. Mr. Speaker, when I returned from Arkansas on Saturday evening around 11 o'clock and picked up the Washington Post, I was pleased to read on the front page an article that applauds the leadership and initiative of our colleague, the gentleman from Illinois, TERRY BRUCE, noting his work to insist upon clean fuels as a part of the clean air bill.

As a member of the U.S. Alternative Fuels Council, I feel a special need to applaud those leaders who rise out of the clamor and confusion of the current budgetary chaos gripping Washington to provide lasting and permanent leadership in addressing a preeminent issue which faces our Nation today—clean fuels and clean air.

My hat is off to the gentleman from Illinois [Mr. BRUCE].

[From the Washington Post]

POWER CHECK ON AIR BILL CRUSADER: SERVING HOME DISTRICT, REPRESENTATIVE BRUCE CROSSES HIS MENTOR

(By Michael Weisskopf)

On the wall of Rep. Terry L. Bruce's (D-Ill.) congressional office is a photograph of Rep. John D. Dingell (D-Mich.) peering over a chessboard Bruce hung the picture out of gratitude to Dingell for getting him on his Energy and Commerce Committee and as a tribute to a politician who knows how to exercise power.

If there is one lesson that Dingell has pounded home to his protege, it is the importance of building political coalitions to get what he wants. In his three terms in Congress, Bruce has applied the dictum to his advantage in many legislative fights, but never more effectively than last spring when, as the committee was drafting a new clean air bill, Bruce challenged the master himself.

In need of allies to accommodate the diverse interests of his downstate Illinois district, Bruce initially sided with Dingell's pro-industry coalition. But when their objectives parted, so did Bruce, defecting with farm bloc allies to the environmentalists after Dingell refused to carve out a big role for gasoline substitutes made from corn. Having outflanked Dingell, he went on to forge alliances wherever the needs of the 19th district took him, joining Texas lawmakers to shield low-producing oil wells from regulation, labor unions to save coal mining jobs from acid rain controls and conservative Republicans to protect small business from smog controls.

His coalition building not only benefited his own constituents, but helped bridge the deep divisions that have kept Congress from passing clean air bills for a decade. In the process, however, he forgot another fundamental Dingell lesson; No deals are final without the power to sustain them. And so when it came time for the chairman and chess master to select members of the conference committee that can change the product of months of painstaking negotiation in a few minutes, Dingell made sure that Bruce was not on it.

The education of Terry Bruce is not simply the story of a congressman's disappointment. It illustrates the difficulty of putting together lasting coalitions to pass complex legislation affecting a broad range of conflicting political and economic interests. It also suggests why final congressional passage of new clean air laws, after nearly 14 months of debate and approval by both the Senate and House, is far from certain by adjournment next week.

The first sign of progress in weeks in the conference committee occurred Wednesday when staff members reached a tentative agreement on auto pollution controls. The accord, if ratified by members, would remove a major obstacle. But since then talks bogged down over controls of industrial toxics, one of several thorny issues left for conferees as they struggle to finish work by the Monday deadline set by congressional leaders.

Passing the first new clean air bill since 1977 did not seem so forbidding a task in July 1989 when president Bush introduced the administration bill that would become the framework for the ensuring debate. The bill had three main objectives—curbing urban smog, imposing a nationwide cap on the ingredients of acid rain and limiting cancer-causing industrial emissions—that it is estimated would cost industry $25 billion to achieve through the installation of new technology and changes in manufacturing processes.

No one knows the political costs of clean air better than Bruce, 46, an ambitious, three-term congressman from the expansive farms and small, old-fashioned towns of south-eastern Illinois. Nearly every polluter targeted for controls in the bill—oil, auto, petrochemical, coal, utility, chlorofluorocarbons (DFCs) and consumer solvents—has plants and workers in his economically strapped district. But Bruce cannot survive politically by catering to industry. A Democrat in traditionally Republican Territory, he could not have won his seat in 1985 with out the backing of environmentalists concentrated at the University of Illinois in Champaign-Urbana.

If he was in a tighter box than most lawmakers in the clean air fight, Bruce, as a member of Dingell's committee, was also in a better position to extricate himself.

In the past, the 43-member committee has been a bottleneck of clean air legislation because of the heavy concentration of lawmakers from industrial states. As a protege of "the chairman," as he is always known, Bruce traditionally backed Dingell on clean air issues and opposed efforts by Rep. Henry A. Waxman (D-Calif.), an environmentalist and long-time Dingell rival. But with passage of legislation likely this year and pressures from his district mounting, Bruce knew he would need help, particularly since the bill would contain the first measures designed to fight acid rain.

In a district of so many concerns, acid rain seemed to touch most of them: environmentalists who want it cleaned up, utilities whose emissions are its cause and the miners who supply them coal.

Along with other midwestern congressmen, Bruce's first priority was seeing that the utilities received some financial assistance in return for any antipollution efforts they might be required to make. The subsidies they hoped to obtain would be used to limit rate increases for local homeowners and businesses and save jobs. Technology made affordable by the aid could clean up the emissions from the burning of high-sulfur coal by the uilities.

In February, Bruce helped Rep. Philip R. Sharp (D-Ind.) draft a proposal to pay for the subsidies by taxing industrial, non-utility sources of acid rain nationwide. Sharp had hoped to get approval from the subcommittee he chairs, and was promised help by Dingell if the vote was close. The indication was that Rep. Ralph M. Hall (D. Tex.), Dingell's local ally and fly-fishing buddy, could be persuaded to help the midwesterners in a pinch.

Nearing a majority, Sharp and Bruce turned to Waxman, who agreed to release one of his allies in exchange for three midwestern votes on an anti-smog provision.

Figuring that they were within a single vote of victory on the subsidies, the time was ripe to call in Dingell's pledge. But when Bruce went to get it, Dingell had bad news. "He said that he met with Hall and couldn't get him," recalled Bruce. "He said, 'There's nothing I can do for you.' "

Fresh from his disappointment on acid rain, Bruce focused on another issue of critical importance to his district—Bush's proposal to encourage the use of alternative fuels. Ethanol the grain-based substitute for gasoline, was seen by Illinois farmers as a way to open up a new market for their corn. Bruce wanted Dingell to increase the number of polluted cities where motorists
would be required to use ethanol, and mad
his case with the chairman. But when a
aide came back with an answer, the new
was again bad—he offered just 21 cities i
stead of the 44 Bruce had pressed for.

Twice burned, Bruce and his allies met
discuss strategy. Acid rain would be u
again for consideration—this time by th
full committee, the last major provision
the bill on the agenda—and they feare
that the process was moving so quickl
with members cutting deals on other issu
to satisfy their interests, that the midwes
erners would have no leverage to get ar
help.

If they were ever going to be able com
back to the subsidy issue, they needed a ne
ally. If Dingell refused to play, Waxma
might, on clean fuels as well as acid rai
Bruce said: "We weren't going to be goo
soldiers and not get anything out of it. W
intended to jolt [Dingell]."

By siding with Waxman's environment
bloc on clean fuels, a motor vehicle issue i
portant to Dingell and his Detroit-area d
trict, they risked alienating the powerf
chairman. But Dingell posed a real danger
he felt betrayed on an issue so important
automakers. Bruce decided to go ahe
anyway, and joined with Waxman in su
port of "reformulated gasoline," a clean
burning fuel to be sold in 44 polluted cities
twice as many as Dingell's latest offer.

Dingell called the committee into sessi
an hour after the agreement. Apparent
sensing that the momentum was swinging
Waxman on clean fuels, Dingell call
Bruce to the podium. Leaning forward in h
chair, he angrily reminded Bruce how
got on the committee, how he had been
vited to accompany Dingell on official tri
to Europe and Central America and how h
prospects to move up the ranks were in Di
gell's hands.

With the opposition gaining, Ding
quickly called the roll and won by a sing
vote. But the victory was short-lived. Whe
a month later, the bill finally got to t
floor, where Dingell has less influence, t
same coalition of farmers and environme
talists was too powerful to stop and he w
forced to accept the basic terms of t
amendment.

When the committee turned to acid ra
Dingell was not in a much better positio
having committed himself to members wi
contradictory interests. The committee w
split between lawmakers from "dirt
states, such as Illinois and those fro
"clean" states, mostly in the West a
Southwest, whose utilities had switched
clean fuels or technology years ago at gre
expense and were not about to share t
cleanup costs of big polluters elsewhere.

Dingell declared his neutrality, but by l
ting negotiations go on, he gave the m
westerners time to overcome their large d
advantage in voting strength and eventua
wring key concessions from the clean stat

The very act of crossing Dingell on cle
fuels appeared to have gotten his atte
tion—as Bruce had predicted. Once vi
parts of Dingell's coalition, the midweste
ers' independence "showed they couldn't
taken advantage of," said Rep. Jim Coop
(D-Tenn.), a leader of the clean states.

Having abandoned any hope of outrig
subsidies for antipollution devices at m
western utilities, Bruce's group turned
attention to a mechanism in the administ
tion bill designed to partially reimburse t
dirtiest plants, the ones targeted for the b
gest cuts in emissions.

For every ton cut below emission limits, they would receive a credit to be banked for later use or sold to other utilities seeking to expand operations. There was no comparable mechanism that would allow plants that were already clean to expand unless they bought credits from polluters.

Committee members from the clean states wanted credits for their utilities without having to buy them. The midwestern contingent led by Bruce and Sharp wanted credits as a way for their utilities to cover their costs and didn't want their reward for cutting emissions given away.

The negotiations amounted more to a barter, and credits were on the block. Dirty states had them; clean states wanted them. So did a large number of relatively clean utilities in other states that claimed they were shortchanged in the amount of emissions they would be allowed every year.

As the talks began, Bruce instructed the staff: "Solve the problem, get the vote." The concessions—in the form of credits—were tucked into larger proposals sent to the Republican lounge, crafted in arcane legislative language intended to cover only the intended beneficiaries: 40,000 tons a year for Florida utilities to accommodate the state's spurt in population and appease Rep. Michael Bilirakis (R-Fla.); 8,900 tons a year to cover a Baltimore Gas & Eelctric plant under construction and win over Rep. Tom McMillen (D-Md.)

With the balance shifting in favor of the Midwest, Bruce decided to go after the vote of Rep. J. Alex McMillan (R-N.C.), who had lined up with the coalition of clean states. McMillan's utility, Duke Power, complained that the method for determining credits was unfair to the company and denied it a fair share. On the night of April 4, as dozens of lobbyists milled outside the committee room, Bruce's group floated a comprehensive proposal with a specific provision devised for Duke Power, offering what appeared to be 35,000 tons per year in credits.

"I went out to Duke Power's lobbyist and said, 'We've taken care of your problem. Make sure we get the vote,'" recalled Michael Bushman, a Bruce aide. "A half hour later, McMillan showed up in our room."

It turned out to be the final blow for the clean states—they had no choice but to compromise.

The negotiations ended with a package of concessions for midwestern utilities more generous than the Senate had approved. Plants would receive two credits for every ton of emissions they cut below the new limits by using technology—a major concession to high-sulfur coal—and another year in which to comply by using the devices. Governors would have the right to mandate use of coal mined in their states.

By playing Waxman against Dingell, Bruce ended up with more then he would have gained if he had lined up consistently with either. But he paid a high price for his independence when it came to the final and ultimately most critical-round in passing the bill, the conference.

In a heated meeting a few days before the team was announced in late June, Bruce got the news from his old mentor. According to Bruce, Dingell was blunt. If Bruce felt compelled to vote his district interests in committee, how could he be trusted to follow Dingell's lead through the thicket of conference issues?

Dingell, in an interview, said that loyalty was "one of the important tests" in his selection of conferees but that Bruce did not fit the geographic criteria or play a role in the kind of issues necessary to balance the House team.

All summer and now into the fall, Bruce has been relying on a network of supporters to protect his district's interests inside the conference. But that is no substitute for being at the negotiating table, where a quick decision to delete a line from the bill or add a phrase can cost a utility millions of dollars, close a coal mine or limit new markets for corn-based ethanol.

Dingell, of course, is at the head of the table.

"I played by one set of rules," Bruce said, "and he played by another. Good deeds do not get rewards unless they're his good deeds."

ANNUNZIO SAYS AIRPORT NOISE LEGISLATION WOULD ADD TO O'HARE'S PROBLEMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, there is, in the other body, legislation which would compound the noise pollution problems already in place at O'Hare International Airport in Chicago. It is speeding through the Senate faster than the Concorde. And, I fear, it may soon come before the House.

The basic legislation would allow airports to charge passengers a so-called head tax of up to $6 per round trip to go toward airport construction and improvements. However, the bill also would end the slot system, in which the number of flights is limited and allocated to airlines and private aircraft on an hour-by-hour basis, at several high-density airports, including O'Hare. Such a provision, if enacted into law, will make the already severe congestion and safety hazards at O'Hare even worse.

The lifting of the so-called high-density rule at O'Hare is a frightening prospect for those living near the airport. The skies over Chicago are already dangerously overcrowded and the number of near-misses grows annually. Lifting the rule will threaten the safety of those who fly through O'Hare and those who live beneath its flight patterns.

During my 26 years in Congress, I also have opposed increasing the number of takeoffs and landings at O'Hare because of the environmental problems caused to citizens living near or beneath the flight paths at the Nation's busiest airport. For the same reason, I have opposed the construction of additional runways at the airport.

Mr. Speaker, O'Hare contains only 7,000 acres which lie in the middle of a densely populated suburban area with flight patterns over an urban area. As a consequence, hundreds of thousands of citizens suffer from the noise and air pollution. The Federal Government has a role in insuring that the United States maintains a modern and safe national and international aviation system. But, the Government also must be required to have local residents play an important and much larger role in developing a noise policy for the airports, including O'Hare. We must not permit our established residential areas to be forced to change to commercial or industrial areas to become compatible with the airport.

I am also opposed to shifting liability for noise-damage lawsuits from airlines to the Federal Government and result in a taxpayer bailout for the industry. The Federal Government has enough money problems. It does not need to be saddled with those of the airline industry if liability for Federal and State personal injury and property loss damage claims are transferred from the airports and airlines to the Federal Government.

Finally, Mr. Speaker, the basic legislation passed by the House on August 2, has been changed into a package that would add to the noise pollution at O'Hare. And this has been done without any Senate hearings to give those affected by the noise and congestion to be heard. The legislation was then attached to the reconciliation bill which Congress must pass if the Government is to avoid another shutdown. These extras must be stripped from the legislation before the House acts.

INTRODUCTION OF TECHNICAL AND MISCELLANEOUS SOCIAL SECURITY ACT AMENDMENTS OF 1990

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, today I am introducing H.R. 5828, the Technical and Miscellaneous Social Security Act Amendments of 1990, to make noncontroversial, minor, and technical amendments to the Human Resource, Social Security and Medicare Programs within the jurisdiction of the Committee on Ways and Means. These changes are described in more detail below.

HUMAN RESOURCES

Title I of the bill contains 19 human resource amendments affecting the child support enforcement, unemployment compensation, supplemental security income [SSI], aid to families with dependent children [AFDC], child welfare, and foster care programs. Among these are several time-sensitive provisions, including a permanent extension of authority for the Internal Revenue Service to intercept, from tax refunds, overdue child support owed to non-AFDC families.

The bill also includes several low-cost amendments proposed by the administration, such as additional authority for the existing repatriaton program which permits the United States to bring home certain destitute Americans from overseas, optional monthly income reporting requirements for AFDC families, and more equitable treatment of foster care and adoption assistance payments in determining AFDC eligibility. The human resource provisions of the bill have a total direct spending cost over five years of $13 million.

SOCIAL SECURITY

Title II of the bill includes provisions which improve benefits for disabled widows, enhance Social Security Administration services and beneficiary protections, restore telephone access to the local offices of the Social Security Administration and reform the representative payee system. In addition, it streamlines the attorney fee payment process, eliminates certain retroactive benefits and makes permanent the continuation of disability benefits during appeal.

The package also includes several provisions to make technical corrections in the Social Security Act and Railroad Retirement Tax Act. This package of Social Security items is budget neutral.

MEDICARE

Title III of the bill includes provisions relating to the Medicare Program.

Subtitle A contains items to improve the administration and effectiveness of the Medicare Program with no cost. Provisions regarding patient-self determination and standards for Medigap insurance as well as a number of miscellaneous provisions are included in this substitle.

Subtitle B contains Medicare initatives. These items are supported on a pay-as-you-go basis by proposed reductions in Medicare spending in Subtitle C. Provisions of Subtitle B include revisions of payments for university nursing education programs, Community Health Centers and rural clinics and nurse anesthestists. The rates for ESRD dialysis facilities would be increased.

Subtitle C includes a number of provisions to reduce spending for Medicare services by a sufficient amount to exceed the estimated costs of the initiatives in Subtitle B. These items are generally similar to provisions of the Committee-reported reconciliation bill. Items in this Subpart include revisions to the hospital outpatient blend for ambulatory surgery and radiology, and payments for unsurveyed overpriced procedures. The secondary payer policy for ESRD beneficiaries would be extended to 18 months.

TRIBUTE TO SCOTT MATHESON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah [Mr. OWENS] is recognized for 30 minutes.

Mr. OWENS of Utah. Mr. Speaker, it is late and quiet in this Chamber, where a few of us have gathered to pay tribute to former Utah Gov. Scott Matheson, who died last week, by all accounts one of the Nation's finest governors over the last two decades—and our close personal friend.

Last Saturday, I attended a remarkable and moving memorial service for former Governor Matheson in Salt Lake City and heard 5 people close to him, 2 brothers, 1 son and 2 friends, speak movingly of their experiences with him.

Scott was a citizens' candidate and a citizens' Governor. He was a rare public servant, one who, despite his enormous popularity, voluntarily relinquished that role and returned to private life.

I will not recite the Governor's biography, although I will place several pieces from Salt Lake City's newspapers in the RECORD. I will also place statements from Senators GARN and HATCH and from Congressman MO UDALL, as well as a copy of the very moving eulogy given Saturday in Symphony Hall by the Governor's son, Scott Matheson, Jr.

After being active in democractic politics for many years—but generally unknown to the public—Scott Matheson ran for the governorship in 1976 and defied the odds and won in his first try for public office. His platform was broad and reasoned, including support for environmental protection, a commitment to vital social services, and a firm dedication to education. He followed through on these broad themes during his administration. Utah's protection and development always came first for him. Among other projects, he devoted a tremendous amount of energy to Project Bold, an effort to group the scattered Utah State land inholdings in Federal lands and make them economically productive. His influence extended to the national sphere, and he served from 1981 to 1983 as president of the National Governors' Association. Had the national political climate been a little warmer toward Democrats in the 1980's, he could well have been the Secretary of the Interior.

I knew Scott for 25 years. We were close friends as well as political allies. We both fought for compensation for victims in southern Utah of open-air nuclear testing, we both fought the MX rail-based system, we both fought against locating a nuclear waste repository near Canyonlands National Park, and we both fought for the survival of the Central Utah Project.

It is deeply ironic that the multiple myeloma to which the Governor succumbed may have been caused many years ago when he lived and worked as a young lawyer in southern Utah during the peak of the open-air atomic testing. Under the Radiation Exposure Compensation Act, which became law this morning, Governor Matheson would probably be covered under the bill he fought for over the years. I am committed to finishing the Governor's work on Project Bold by working through a piece of legislation next Congress that will fairly address the issue. The central Utah project, which the Governor rescued from near oblivion, was passed by the House just an hour ago.

Utah loves its Governor. He transcended party lines. He took outspoken stands, with only his integrity as a shield, and the Utah voters rewarded him for it. He had, as he would have said, what a politician most needs—"guts."

I wish I could eulogize him the way he deserves to be eulogized. He was committed and wise, and—perhaps the highest praise—a genuinely good man. He had "guts." I will miss him personally, the State will miss him, and the Nation will miss him as well. He had much more to give. His voice for moderation, good sense, and progress will not soon be replaced.

REMARKS OF REPRESENTATIVE MORRIS K. UDALL

Mr. Speaker, I want to thank our co league from Utah for taking out this speci order tonight on behalf of former Uta Governor Scott Matheson.

I consider it a great privilege to hav known Scott Matheson. I found him to bright and talented public servant wh could be counted on whenever called.

Recently, I made a call to Scott in which asked if he would serve as nuclear waste n gotiator for the President of the Unit States. I thought at the time, that there w no one more qualified or knowledgeable f the position. I regret that the Governor d clined, for personal reasons, to accept th post. I believe the country would have bee ably served by Scott Matheson.

I have been in public service for for years or so, and I take special notice of th stand outs in elected office. Scott Mathes was a stand out. He devoted all of h energy, character and great intellect to h home state. Utah is fortunate to have h his leadership.

I will not repeat Scott's numerous accor plishments here tonight. The Congre might never adjourn. Instead, I think it su ficient to note, that upon his retireme from public office, Scott held the highe popularity rating of any Utah Governor.

My most sincere condolences go out Scott's family.

REMARKS BY SENATOR GARN

The Nation and particularly the state Utah have lost a great leader with t recent passing of former Governor Sc Matheson. He was not only a dear lifeti friend, he was an esteemed colleague who I respected tremendously. To me, he w always be a symbol of a true statesman. was loved and honored by Utahns as one the state's finest governors. And, he was vered nationwide for his character, valu and unique leadership abilities. A man wi vision, courage, and integrity, he was t hallmark of a good public servant. It is wi sorrow and heartfelt fondness that we b him farewell. We are fortunate that his fluence and example will endure as a tribu to the outstanding life he led.

STATEMENT OF SCOTT MATHESON BY SENATO ORRIN G. HATCH

Scott Matheson was a man of great cap ity, wit, wisdom, and charm for whom I h great admiration. He leaves behind him career in politics and law marked by o standing achievement and compassion his fellow man. During his tenure as gov nor of the state of Utah, Matheson work through myriad problems ranging from t Great Salt Lake flooding in 1983 to battli the federal government over compensati for open-air nuclear testing victims. While is ironic that he died of the same bo cancer that he worked for so many years link to government nuclear testing in t Nevada desert, I am happy to say that efforts were not in vain, as the recen passed radiation victim compensation will attest. He was an outstanding govern and I personally am going to miss him. I thankful for the privilege of knowing him these later years. It was a wonderful expe ence.

SCOTT MILNE MATHESON, 1929-90

(Eulogy by Scott M. Matheson Jr.)

Thirty-two years ago my grandfather and I were walking on the grounds of East High School in Salt Lake City, across the street from where he lived. It was a warm Saturday in October, and he was my babysitter for the day. We were all alone, and then I was all alone. He suffered a fatal heart attack, and shortly afterward, I at age 5, had to tell my father of our profound loss. His father was 61. He was a great person. He was a good person.

Thirty years later, my father and I were walking on the streets of Parowan, Utah, and he spoke of his father, how intelligent he was, how wise, how caring, how decent, how wonderful. My father said he could only aspire to be the person his father was. He looked to his father for advice, for strength, for hope, and for love. He idolized his father.

A few days ago I asked Norma to describe the relationship between my father and his. She responded, "The same relationship you had with yours." The three of us were truly blessed.

How do you eulogize the person you loved and respected and admired as much as is possibly imaginable? His wisdom, compassion, and sincerity; his intelligence, wit, and humility; his leadership, statesmanship, and vision; his honesty and integrity; his absolute and total integrity—how can human communication, even with the assistance of poetry and the universal language of music, attempt to take full measure of this extraordinary person?

My father asked me to write many speeches for him. I was deeply honored to do so. I wanted to write this one, but I have never felt so inadequate for the task. Nonetheless, as he said last week when commenting on the painful, tragic circumstances he was facing, "No matter what it is, you just have to do the best you can." He always did. And so must we.

Over the last ten years or so, I have joined many others in affectionately referring to my father as "the Gov," and I will do so today as well. However, when we were together, I just called him "Dad." We had such a special relationship. We were very close.

My family is extremely fortunate that he was our husband, our father, our brother, our uncle, our cousin, our nephew, and, of course, our grandfather.

When he and his brothers were growing up, they slept in a basement room on three twin beds lined up side-by-side. His brother Steve decided he loved his brother Scott so much that he chained their beds together with a lock. No one was closer to his siblings than my father was to Bonnie, Alan, and Steve. Perhaps our friend Tom Greene, brother Greene (as we call him), had it right when he called Steve and Scott "the Matheson twins."

Steve's bed is at Aunt Carol's house in Parowan now along with the lock and chain. What Steve did is essentially what all of us did, doing everything we could to bind ourselves to him.

We have heard much this week of how the Gov received his renowned work ethic from his parents, who would send him to Parowan during his growing up years to herd sheep and do other chores. When he was ten years old and about to leave on the bus for Parowan, his father put a $1 bill in his pocket for spending money. As soon as the Gov came back to Salt Lake at the end of the summer, he pulled the same dollar out of his pocket and gave it back to his father—which should show once and for all that a Democrat can be a fiscal conservative.

Several years later when the Gov was a teenager, his parents departed on a vacation and left the Gov home to take care of his little brothers. They decided to remodel the kitchen and ripped out all the cabinets and the floor material. Then the Gov instructed Steve and Alan that they would have the rest of the week to finish the job while the Gov was busy dating Norma. This is an illustration of how at a young age he had mastered the art of delegating responsibility, and the "flounder principle," which Justice Zimmerman referred to, was born.

The Gov met Norma in high school, and they have lived a romance for over forty years. One memorable Christmas, the Gov presented Norma with a diamond engagement ring, while Norma's gift to him was a spare tire for his car. This simply goes to show that Norma was the more practical of the two, at least then.

Scott and Norma—it is hard to think of one without the other. They shared everything in their public and private lives together. Their enjoyment of each other was arresting, their respect for each other profound, their love for each other golden.

The Gov loved to tell the story about the speech he delivered in Cannonville, Utah on the Fourth of July a few years ago. Unbeknownst to an older couple in the audience, my brother Jim was sitting next to them. When the Gov completed his remarks, the husband turned to his wife and said, "That was a pretty good speech." To which his wife replied, "I guess so, but I've heard his wife speak, and she's much better."

The Gov also loved to point out that when he and my mother were married, Norma's parents put him on probation for the next 29 years, and he was taken off probation only when he was elected Governor—for the second time.

When he announced that he would not seek a third term as Govenor, my father said, "Norma's good judgment and advice, her tireless service to the people of this state (especially senior citizens), and, most of all, her love and support, have made me a better governor and this state a better place in ways that cannot be expressed adequately and that most will never know." I think most of us do know.

My mother meant everything to him, and he everything to her. Everyone knew that just by seeing them together. She will miss him much more than words can express because they achieved in their relationship the very best that life has to offer.

Lu, Jim, Tom, and I will take care of her because our father taught us well. He taught us so many things. Dad struck a delicate balance between supplying the guiding hand and letting us find our way. It seemed to work. He took pride in our accomplishments, large and small, but he was most pleased, regardless of outcome, when he knew we had done our best. He took an active role in our education, helping us get through algebra and trigonometry and chemistry even though we probably understood the subjects better at first than he did. Although he never taught in law school, he was the best law professor I ever had.

The one person who was always a step or two ahead of Dad was Tom. I think the Gov realized this when Tom was seven years old and ordered the complete Encyclopedia Britannica on his own and started reading it. Tom started a doctoral program in astrophysics at Berkeley this fall, and when the Gov received in the hospital a pint of blood that Tom had donated a few weeks ago, he joked he might begin to understand some of the things Tom was talking about.

My father adored his grandchildren and was one of our best babysitters, playing Barbie Dolls and Legos with the gusto you all would expect. He was thrilled in recent months teaching Heather how to play checkers, catching fish near Parowan with Scotty, watching Sarah Grace dance the boogie woogie, and seeing the irrepressible Briggs perform a rendition of one of the many songs he somehow has managed to memorize from the broadway musical "Cats." His grandchildren were his inspiration, his hope. They called him "Big Papa."

One of his favorite experiences occurred in Washington, D.C. in November 1982. He was there for a meeting on the MX missile issue. My daughter, his first grandchild, had been born there the day before. KSL-Television had asked him for an interview on MX, and he had agreed on the condition that KSL come to the hospital and videotape and broadcast pictures of the Governor and his granddaughter. He did it so Norma could see Heather Matheson on the six o'clock news. Heather was so beautiful, and the Gov and Norma were so proud.

The Gov would not allow anything to get in the way of his family life or of his friendships. He enjoyed a remarkable number of close, personal friends. One of them, of course, is John Rokich, or JR (as we call him), the Magna country lawyer turned judge, who on New Year's Day would offer the Gov and an entourage of friends his Catholic wardhouse, as John called it, for an annual volleyball game that stressed sportsmanship above all. I recall when the Gov introduced John Rokich to Vice President Mondale as the most famous hog farmer in Utah, because that's what friends are for.

My father's private life and his public life joined as one, I think, at a dinner with family and close friends at the Pagoda Restaurant in September of 1976. It was the night of the primary election for governor, and the public opinion polls predicted that Scott Matheson would lose. The dinner group was rather glum, so the Gov stood up and reminded us that we had fought the good fight, we had given it our best effort, and the important thing is that we would go on from here together. Soon thereafter we learned that Scott Matheson was the Democratic candidate for Governor, and there was no stopping him from there on.

On occasions like this that involve a public servant, it is customary to say that a person loved his country, and my father certainly loved his country. But, in his case, it is more appropriate to say that Governor Matheson loved his state; and, make no mistake about it, his love for the State of Utah was uncompromising.

He brought a lawyerlike duty of zealous representation and fearless dedication to the governorship. The citizens of the State of Utah were his client. He constantly asked himself the same question in making decisions: what is in the public interest of the State of Utah? Political popularity was never a consideration, although, as Steve mentioned, he achieved the highest job approval ratings of any elected official in the State of Utah.

On the day before his death, I told him of the federal system's inability to formulate a budget for this country. His response was

short, simple, and typically the Gov: "No guts," he said. "No guts."

Unlike many politicians, he loved to make tough decisions, and he was never afraid to make them. Indeed, he was prepared to take a risk if it served the public interest. Eleanor Roosevelt said that regret and indecision are two of the greatest thieves in life. But, when the Gov made a decision, he never looked back.

He would go on to the next problem, and the next one, and the one after that. His energy and enthusiasm would never abate regardless of the issue. The Gov would discuss state budget hearings or a municipal water project in a small rural county with the same passion and interest he would bring to the MX missile controversy or appointing state court judges.

He brought great self-confidence to everthing he did, along with his genuine humility. There was nothing pretentious about him, and he always remembered who he was. What a wonderful combination, what exceptional character.

One of his great qualities as a decision-maker was his ability to keep an open mind and be willing to consult and learn from others from throughout the community. In particular, he relied a great deal on his talented and hard-working staff, department heads, and numerous public servants throughout state and local government. He admired every public employee who approached work as a public trust.

Many of you are here today. He had great confidence in you. He demanded hard work and accountability, but he never criticized you for taking risks because that's what he wanted you to do. He expected great things from you then, and, were he here today, he would tell you that he expects even greater things from you in the future.

Special mention and tribute must be made concerning Governor Calvin L. Rampton, my father's great friend, mentor, and role model. Governor Rampton also was and is "The Gov," and he showed my father the way. Governor Matheson always had great admiration and respect for you, Governor, and, on his behalf and all of us, we are grateful for the important role you played in his life.

It seemed like Governor Matheson was born for the job, but there was more to it than that. Although he didn't know it, he had been preparing for the Utah governorship his entire life. When he announced his candidacy for governor in 1976 in Aunt Carol's living room in Parowan, he declared, "I know the difference between managing a government and leading a state. That difference is purpose."

He managed state government efficiently and creatively, but he also led the state with purpose and moral courage nurtured through hard work and diverse experience ranging from his work as a sheep herder in Parowan to a grocery store bagger for Safeway to a painter for Mountain Fuel to a surveyor for BLM to a prosecutor for Iron and Salt Lake Counties to a corporate lawyer for Anaconda and Union Pacific, all the while serving the legal profession and community in a variety of roles, including youngest president ever of the Utah State Bar.

No one, including himself, could have anticipated the perfect match between the person and the office, but that is exactly what happened between Scott Matheson and the Utah governorship. He brought to the job the right combination of background, training, temperament, judgment, intellect, toughness, and values. He loved the job.

In its report of his death, the New York Times said that Scott Matheson was Governor of Idaho from 1977 to 1985. I think he would have been amused, citing this as yet another example of East Coast provincialism about the West. The New York Times got it right ten years ago, however, when it reported, "Matheson is acquiring a reputation as possibly the best of all western governors."

Professor Larry Sabato of the University of Virginia and one of the foremost authorities on the American governorship wrote the following a few years ago: "Scott Matheson is universally considered by political observers to have been one of the most outstanding governors produced by any American state in modern times."

As my Uncle Alan remarked to me about a week ago, "Isn't it wonderful that so many people think he was the best at what he did?"

He knew full well that he benefitted from a stroke of good fortune to be elected in 1976. The story is familiar now: an unknown railroad lawyer threw his hat in the ring and the rest is history. That was a Cinderella campaign. Indeed, his experience in elective politics is a storybook in itself.

That may account for the fact that Governor Matheson was a pragmatist about public policy but an idealist about politics. He believed in the Jeffersonian ideal that politics should be only a chapter in a person's life, that public office is something to move in to, then out of. This principle guided his decision to leave the Governor's Office after two terms rather than seek a third.

In an interview, he said, "I feel so strongly on a personal basis about non-career politics that it would be unseemly for me not to practice what I preach."

Indeed, he was a "citizen candidate" and served as a "citizen governor."

His idealism also was reflected in his concern, as he put it in his second inaugural address, with the erosion of "the decency and civility of our political debate," and he urged "[t]hose who seek public office to set a tone consistent with the values they defend." He always did.

Governor Matheson believed in a strong two-party system for American and Utah government, and for the years during and after he left office offered a strong, credible voice and an important perspective on many important issues.

The portrait of him would be unforgivably incomplete if I did not mention the following: Like his father before him, he was proud to be a Democrat.

He said in 1976 that he was running for the next generation, not the next election. I think that is the reason he spent so much time during his governorship with children, especially at their schools.

One powerful example stands out. In 1981 he received a request to deliver the commencement address to the graduating seniors at Trout Creek, Utah, located towards the western border of the state. It turned out there were only going to be two graduates. Not only did he agree to deliver the speech, his doing so resulted in pictures and news stories in the *Boston Globe* and the *New York Times.*

I was practicing law in Washington, DC., at the time, and my boss, Edward Bennett Williams, approached me and said, "I saw your old man in the paper today. What the hell was he doing giving a speech to a couple of kids?" The Gov knew exactly what he was doing. He worked hard for education in the State of Utah, but he wished he could have done much more.

He wanted to do more about a lot of things. Which brings me to the point I leave you with about the Gov and the rest of us

Several individuals this week have pointed to a compelling quality. Larry Sabato and Kent Briggs said it about his governorship Jim Lee and Randy Dryer said it about his law firm, Joe Williams said it about his board of director position, and Norma said it about his approach to life generally: Scott Matheson was constantly moving forward full of ideas and energy, planning ahead never satisfied with the status quo, trying to make things better, looking to the future with enthusiasm, creativity, and hope. He made people believe in the future, and in themselves. He played a pivotal role in so many lives.

That is the reason no one can put a period at the end of Scott Matheson's life. It is reflected in one of the many notes and letters that Norma received this week. The Burtenshaws of Logan wrote: "Dear Norma and Family, . . . You and your children will have to finish his shortened life."

Governor Matheson left an extraordinary legacy, but, more than that, he left all of us with the mandate "to finish his shortened life."

My father said as much in his first inaugural address: "We stay only a moment, and then we're gone. While we're here, we should do what we can to protect the past and secure the future. It is now our time and there is much to do."

It is now our time, and there is much to do.

[From the Desert News, Oct. 8, 1990]

SCOTT M. MATHESON

As a Democratic governor in a heavily Republican state, Scott M. Matheson faced some heavy odds. Yet he managed to win elections handily, becoming one of Utah' few chief executives with national statur and one of the most popular governors in Utah history. Matheson, who died this pas weekend at the relatively early age of 61 made an enduring contribution to his stat and nation.

Matheson served as the state's chief executive from January 1977 to January 1985 Many believe he could have easily been elected to a third term as was Democrati Gov. Calvin Rampton before him.

There were several unsuccessful efforts to persuade him to be a candidate for the U.S Senate, and many times he was regarded a an exceptional nominee for the president' cabinet, especially the Department of Interior.

Matheson was general solicitor for the Union Pacific Railroad at the time he ran for governor of Utah in 1976. Few predicte that Matheson, a political novice, would b able to defeat both the more experience Democratic rival, John Preston Creer, o two-term Republican Attorney-Genera Vernon B. Romney. But he did—and convincingly.

He was a man of principle who was respected by people of both political parties— despite occasionally being on the opposit side of a majority of Utahns on some issues Somehow, that did not hurt his popularity

Immediately after his election, he tackle the state's problems with gusto and mad no effort to disguise his love for the governorship, which he found emotionally, an physically exhilarating.

Although he was known as a modest man with an abundance of good humor, he was also articulate in political debate and could be eloquent in defending the state and its citizens against what he regarded as unfair treatment by the federal government. He spoke out forcefully against proposed transfer of 888 Weteye nerve gas bombs to Tooele. He took the nuclear fallout issue to Washington, DC, where he used the force of his office and personality to secure a federal grant so that the University of Utah could study the link between nuclear fallout and cancer.

He also fought the federal government on everything from MX missile basing, to land reform, to water development. Locally, he worked hard to provide property tax relief and increased expenditures for education.

A devoted family man to his beloved wife, Norma, and his four children, Scott M. Matheson, one of Utah's greatest governors, will be remembered with fondness by his native state.

[From the Standard-Examiner, Oct. 8, 1990]

Scott Matheson—A Distinguished Life

Scott Matheson was the political phenomenon of 1976. He came from virtual obscurity to be the Democratic candidate for governor, a race that swept him across the political landscape through a tough primary battle and past an early polls favorite Republican contender and into the statehouse.

He soon became one of the state's most popular chief executives, his intelligence, sense of humor, sharp legal mind, compassion and political acumen serving him well.

As Utah's 12th governor, he managed the state during a time of vast industrial growth and prosperity. He quickly earned a reputation as a combatant with the federal government over state's rights.

He was respected for his passion as "the people's governor" and was held in high regard nationally with his peers.

Today, Utahns are stunned and saddened over the passing of former Gov. Scott Matheson. His courage battle with cancer for the past year only became public a month ago.

Matheson was unknown outside of the inner Democratic circles when asked by former three-term governor, Calvin Rampton, to seek the party's nomination as his successor.

He was adequately served by his credentials: Graduate of Stanford University Law School, Parowan city attorney, deputy Salt Lake County attorney, legal officer for Anaconda Co. and Union Pacific Railroad and a stalwart with the Democratic Party, although his only campaigns for public office were governor in 1976 and 1980.

He became an instant success on the campaign trail. His debating style and wit charmed audiences.

His homespun western style, friendly demeanor easily converted voters. He frequently appeared at rallies in plaid shirts, western cut suits and cowboy boots. This personal preference for western apparel and a casual atmosphere carried through into the governor's office along with a hospitable open door policy.

As governor, his battles with the federal government were legend. His most famous challenge and victory came when he lead the opposition over the establishment of MX missile rail garrisons that were proposed for the western Utah desert.

Other Matheson battles with the federal government were of equal significance: The Intermountain Power Project, funding for the Central Utah Water Project, battling for reimbursement for cancer victims of the Nevada nuclear fallout and a plan to trade state-owned land for large blocks of federal land.

He was a tough and resolute manager of state matters. He had a commitment to the education of Utah's young people and he fought valiantly with the Legislature in behalf of educational funding.

When Utah was inundated with flood waters in 1983, Matheson was on the front lines battling the raging streams. When the Great Salt Lake began its untainable rise, it was Matheson who proposed the pumps as a solution. His successor carried out the unpleasant and costly task.

Matheson was an astute politician who didn't necessarily abide partisan politics. He mastered a viable relationship with the GOP-controlled Legislature with appeals for nonpartisanship.

It was Scott Matheson's personal decision to remove himself from elected office, although the polls indicated he was clearly the frontrunner for a third term.

His political activism did not end when he left the governor's office. He was co-chairman of the National Democratic Policy Commission in 1985 and was chief strategist for the state Democratic Party Central committee.

His disdain for federal interference in state's rights prompted him to write a book "Out of Balance" after he left office.

Matheson was unyielding to a commitment for public service. Just a month ago and despite his worsening health conditions, he agreed to chair a committee in behalf of not-for-profit hospitals in their battle to avoid payment of property taxes.

Scott Matheson leaves innumerable legacies of achievement in public and private service to his state, his party, his profession and his family. He was a selfless public servant. He was a man of principle and deep abiding integrity. He was the quintessential governor. He did not betray the confidence given him by voters. His popularity with the people never diminished.

The Standard-Examiner joins in expressing condolences to the Matheson family and especially his wife Norma on their loss. The state has a void with the death of one of its most distinguished citizens.

[From the Salt Lake Tribune, Oct. 9, 1990]

Scott M. Matheson Leaves Utah Legacy of Political Excellence

Scott Milne Matheson's death Sunday is a profound loss to Utahns. Here was a man whose seemingly boundless energy, integrity, positive personal values, keen intellect and good humor bridged ideological divisions and set a new high standard of leadership for the state.

The former governor's untimely death to bone marrow cancer, at age 61, does not conclude his remarkable civic contributions.

Thanks largely to the work of the two-term chief executive, whose administration began in 1977, Utahns have been spared the dubious honors of hosting both the MX missile and a national nuclear waste dump. And, with sad irony, Utahns have just recently received a belated apology from the federal government for the open-air nuclear tests that apparently caused many fatal cancers, possibly including his own.

Gov. Matheson, a lawyer in Southern Utah while testing was going on in nearby Nevada in the early 1950s, died of multiple myeloma, one of the cancers covered by the victim compensation bill that passed Congress Sept. 27. As governor, he had demanded federal research into the effects of the nuclear fallout.

Although a Democratic governor working with a Republican Legislature, Scott Matheson managed to make headway on numerous political fronts. He sponsored—and won—the largest real budget increase for education in Utah history, for example.

His legacy lives on in local concern for environmental responsibility, better job opportunities for women and the elderly, state aggressiveness in assuring that federal programs respect local interests, tax relief for the poor, a more responsive state court system, a growing mass-transit system and the survival of the Central Utah Project, the last major water project financed by the federal government.

Utah may yet reap other benefits of Scott Matheson's vision as well. Gov. Norm Bangerter and Congressman Wayne Owens again have taken up his charge to consolidate and swap state and federal lands for more efficient management. State leaders continue to reach for his goal of achieving public education excellence.

The former governor's influence also can continue in the civic consciousness of his wife, Norma Warenski Matheson, and their four children. As he made movingly clear on more than one occasion, Norma was no silent partner but an outspoken, supportive adviser with good judgment. She undoubtedly still has much to offer her community.

The straight-talking governor didn't shy from such politically risky positions as supporting Planned Parenthood and the Equal Rights Amendment and opposing cable television censorship. His courage proved that a Utah statesman needn't sacrifice personal convictions for political expediency.

Utah voters, liberal and conservative, loved their 12th governor. Even while giving Republican Ronald Reagan the greatest plurality vote of any state in 1980, they gave their own Democratic incumbent an overwhelmng vote of confidence in his gubernatorial re-election. If he'd chosen to run for a third term or some other public office, opinion polls revealed, his wish would have been granted.

But Gov. Matheson said he preferred to be a "citizen" governor rather than a professional politician. He returned to his law practice, helped develop the national Democratic Party's policy platform and lent his support to a number of state issues.

Scott M. Matheson was one of the brightest and best public servants Utah has ever produced. The state was exceedingly fortunate to have enjoyed the benefits of this unassuming man's wit and wisdom for the all-too-brief time he walked this Earth—in cowboy boots, no less.

Mr. Speaker, I yield to my colleague and friend, the gentleman from Iowa [Mr. Stallings].

Mr. STALLINGS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I do appreciate him scheduling this special order to honor a good friend of mine, a good friend of the Rocky Mountain West, former Gov. Scott Matheson.

It is an honor for me to be part of this special order to pay tribute to this great friend and statesman. The southern part of my State is very close to Utah. It shares a lot of commonalities, common religious groups,

common news sources, common way of life, and Scott Matheson played a very significant role in the lives of the people of southern Idaho.

I remember in 1984, as a young man running for Congress, Governor Matheson, who at that time had relinquished the power of governorship of Utah, came to Pocatello and at that time commented on the number of experiences he had had in southern Idaho as a lawyer working for Union Pacific.

That evening as Scott spoke on my behalf, he gave people a very powerful lesson as to what public service was all about, that it is time for people not to just take from the system but to give something back, and I think he was an example of that.

Utah, Idaho, the entire West benefited from the leadership of Scott Matheson and, in fact, his legacy will live on. I was impressed with the way he fought for things he believed in. He sponsored one of the largest real budget increases for education in Utah history, and he battled for the central Utah water project, and I think that it is very fitting this evening, as we passed, this House passed, the central Utah water project, this is something that Scott fought for and would have liked to have seen during his life but knows how important it is to the people of Utah.

He showed great leadership in taking on some of the trends of the time when he fought against the placement of the MX missile silos in the State of Utah. There were not a lot of voices in opposition at that time, and Scott spoke out, spoke out very clearly, and in fact he was correct in that position.

He was one of the pioneers in advocating a strong partnership between State and Federal government to develop energy resources. In fact, when many people were critical of the role of the Federal Government when, in fact, many politicians won votes in running against and bashing the Federal Government, Scott recognized the importance of a partnership between the two agencies, the two entities of government and fought for cooperation. In fact, Utah became a leader in developing a number of energy resources.

He was also a leader in environmental issues and received special recognition for his management of the State's natural resources.

I also recognize and appreciate the efforts of Governor Matheson to build the Democratic Party both on a State and national level. The Democratic Party is growing stronger in States like Utah and Idaho because of the willingness to build and to work and to serve as exhibited by Governor Matheson.

Governor Matheson is remembered in an editorial published in Tuesday's Salt Lake Tribune as a man "whose seemingly boundless energy, integrity, positive personal values, keen intellect and good humor bridged the ideological divisions, and set a new high standard of leadership for the State."

I concur with this tribute. Mr. Speaker, on a personal level, I will miss Governor Matheson. The State of Utah, the intermountain West and the Nation have lost a distinguished principled leader.

I express my gratefullness to his family for sharing this great man with the Nation, and I certainly will miss him. The people have lost, in fact, a great public servant.

Mr. OWENS of Utah. I thank my colleague from Idaho for his moving remarks.

GENERAL LEAVE

Mr. OWENS of Utah. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order tonight.

The SPEAKER pro tempore (Mr. Mazzoli). Is there objection to the request of the gentleman from Utah?

There was no objection.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4037. A letter from the Secretary of Housing and Urban Development, transmitting a report on HUD'S denial of Fannie Mae's request for approval of a new program; to the Committee on Banking, Finance and Urban Affairs.

4038. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled, "Review of Non-Appropriated Funds Within the Department of Recreation and Parks", pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

4039. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting determination that it is in the national interest to grant assistance to the Republic of Guyana, pursuant to 22 U.S.C. 2370(q); to the Committee on Foreign Affairs.

4040. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112(a); to the Committee on Foreign Affairs.

4041. A letter from the Secretary of Health and Human Services, transmitting the annual report on Indian Health Service Tribal contract costs, pursuant to Public Law 100-472, section 205 (102 Stat. 2293); to the Committee on Interior and Insular Affairs.

4042. A letter from the Secretary of Health and Human Services, transmitting the first annual report on the State Legalization Impact Assistance Grant [SLIAG] Program for fiscal year 1988; to the Committee on the Judiciary.

4043. A letter from the Director, the Office of Management and Budget, transmitting the final OMB sequester report t the President and Congress for fiscal yea 1991, pursuant to 2 U.S.C. (H. Doc. No. 101-249); to the Committee on the State of the Union of the Whole House and ordered t be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on the Judiciary. H.R. 5652. A bill to amend the Act incorporating the American Legion so as to redefine eligibility for membership therei (Rept. 101-866). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy an Commerce. H.R. 5692. A bill to amend titl XX of the Public Health Service Act to authorize appropriations for the adolescen family life program (Rept. 101-867). Referred to the Committee of the Whol House on the State of the Union.

Mr. BROOKS: Committee on the Judic ary. H.R. 4956. A bill to revise, codify, an enact without substantive change certai general and permanent laws, related t transportation, as subtitles II, III, and V- of title 49, United States Code, "Transportation", and to make other technical improvements in the Code; with an amendmen (Rept. 101-868). Referred to the Committe of the Whole House on the State of th Union.

Mr. DINGELL: Committee on Energy an Commerce. H.R. 5661. A bill to amend th Public Health Service Act to revise an extend the programs of the National Inst tutes of Health, and for other purpose with an amendment (Rept. 101-869). Referred to the Committee of the Whol House on the State of the Union.

Mr. DINGELL: Committee on Energy an Commerce. H.R. 5693. A bill to amend th Public Health Service Act to extend the pr gram of voluntary family planning established in title X of such Act (Rept. 101-870 Referred to the Committee of the Whol House on the State of the Union.

Mr. DINGELL: Committee on Energy an Commerce. H.R. 5756. A bill to amend se tion 315 of the Communications Act of 193 with respect to the purchase of broadcas ing time by candidates for public offic (Rept. 101-871). Referred to the Committe of the Whole House on the State of th Union.

Mr. BROOKS. Committee on the Judic ary. H.R. 4407. A bill to require Federa State, and local law enforcement agencies t report all cases of missing persons under ag 18 to the National Crime Informatio Center of the Department of Justice; wit an amendment (Rept. 101-872). Referred t the Committee of the Whole House on th State of the Union.

Mr. WHITTEN: Committee on Appropri tions. Report on revised allocations of subd vision of budget totals for fiscal year 199 (Rep. 101-873). Referred to the Committe of the Whole House on the State of th Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1783. An act to regulate Indian child protection and prevent child abuse on Indian reservations; with an amendment (Rept. 101-876). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5237. A bill to provide for the protection of Native American graves, and for other purposes; with an amendment (Rept. 101-877). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5796. A bill to conduct certain studies in the State of New Mexico; with an amendment (Rept. 101-878). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 2846. An act to authorize and direct the Secretary of the Interior to conduct a study of the feasibility of establishing a unit of the National Park System to interpret and commemorate the origins, development, and progression of jazz in the United States, and for other purposes; with an amendment (Rept. 101-879). Referred to the Committee of the Whole House on the State of the Union.

Mr. ANDERSON: Committee on Public Works Committee and Transportation. H.R. 5071. A bill to amend the Federal Triangle Development Act relating to the financing, planning, construction, and operation of the international and cultural trade center, and for other purposes; with an amendment (Rept. 101-880, Pt. 1). Ordered to be printed.

Mr. PANETTA: Committee on the Budget. H.R. 5835. A bill to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1991 (Rept. 101-881). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 509. Resolution providing for the consideration of H.R. 5835, a bill to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1991 (Rept. 101-882). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on the Judiciary. S. 3043. An act for the relief of Nebraska Aluminum Castings, Inc (Rept. 101-863). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. S. 3016. An act for the relief of Janice and Leslie Sedore and Ruth Hillman (Rept. 101-864). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 1230. A bill for the relief of Jocelyne Carayannis and Marie Carayannis (Rept. 101-865). Referred to the Committee of the Whole House.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X the following actions were taken by the Speaker:

H.R. 2511. Referred to the Committee on Energy and Commerce for a period ending not later than October 16, 1990, for consideration of such provisions of the bill and amendment as fall within that committee's jurisdiction pursuant to clause 1(h), rule X.

H.R. 2647. Referred to the Committee on Ways and Means for a period ending not later than October 18, 1990, for consideration of such provisions of the bill and of the amendments recommended by the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation as fall within the jurisdiction of the Committee on Ways and Means pursuant to clause 1(v), Rule X.

H.R. 3155. Referred to the Committee on Merchant Marine and Fisheries for a period ending not later than October 16, 1990, for consideration of such provisions of the bill and amendment as fall within that committee's jurisdiction pursuant to clause 1(n), rule X.

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 2647. A bill to provide for the protection and preservation of coastal and Great Lakes environmental quality for present and future generations; with an amendment; referred to the Committee on Ways and Means for a period ending not later than October 18, 1990, for consideration of such provisions of the bill and of the amendments recommended by the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation as fall within the jurisdiction of the Committee on Ways and Means pursuant to clause 1(v), rule X (Rept. 101-605, Pt. 2). Ordered to be printed.

Mr. JONES of North Carolina. Committee on Merchant Marine and Fisheries. H.R. 2511. A bill to direct the President to develop a comprehensive safety program to ensure the quality and wholesomeness of all fish products intended for human consumption in the United States; with an amendment; referred to the Committee on Energy and Commerce for a period ending not later than October 16, 1990, for consideration of such provisions of the bill and amendment as fall within that committee's jurisdiction pursuant to clause 1(h), rule X (Rept. 101-874, Pt. 1). Ordered to be printed.

Mr. DINGELL. Committee on Energy and Commerce. H.R. 3155. A bill to amend the Federal Food, Drug, and Cosmetic Act to improve and expand the inspection and labeling of fish and fish products, and for other purposes; with an amendment; referred to the Committee on Merchant Marine and Fisheries for a period ending not later than October 16, 1990, for consideration of such provisions of the bill and amendments as fall within the committee's jurisdiction pursuant to clause 1(n), rule X (Rept. 101-875, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSTENKOWSKI:

H.R. 5828. A bill to make miscellaneous and technical amendments to the Social Security Act; jointly, to the Committee on Ways and Means and Energy and Commerce.

By Mr. COYNE:

H.R. 5829. A bill to amend the Internal Revenue Code of 1986 to extend for 5 years the treatment of qualified mortgage bonds and mortgage credit certificates; to the Committee on Ways and Means.

By Mrs. JOHNSON of Connecticut (for herself and Mr. Upton):

H.R. 5830. A bill to amend part B of title XI of the Social Security Act to provide immunity from malpractice liability to physicians who follow professional practice guidelines issued by the Agency for Health Care Policy and Research; jointly, to the Committee on Energy and Commerce and Ways and Means.

By Mr. COYNE:

H.R. 5831. A bill to amend the Internal Revenue Code of 1986 to extend for 5 years the treatment of qualified small issue bonds; to the Committee on Ways and Means.

By Mr. DORGAN of North Dakota:

H.R. 5832. A bill to establish the Missouri River Basin Governing Council, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. ESPY (for himself and Mr. Emerson):

H.R. 5833. A bill to transfer the personal property of the Lower Mississippi Delta Development Commission to the Lower Mississippi Delta Development Center and to authorize appropriations for the Center; to the Committee on Government Operations.

By Mr. MACHTLEY:

H.R. 5834. A bill to amend the Merchant Marine Act, 1936; to the Committee on Merchant Marine and Fisheries.

By Mr. ROE:

H. Res. 506. Resolution authorizing printing of the transcript of proceedings of the Committee on Public Works and Transportation incident to presentation of a portrait of the Honorable Glenn M. Anderson; to the Committee on House Administration.

By Mr. UDALL:

H. Res. 507. Resolution authorizing the printing of a history of the Committee on Interior and Insular Affairs of the House of Representatives (1805-1990); to the Committee on House Administration.

By Mr. ANDERSON:

H. Res. 508. Resolution to provide for consideration of the Senate amendment to H.R. 3386; considered and agreed to.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. SAXTON introduced a bill (H.R. 5836) to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States, which was referred to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1601: Mr. Shays.

H.R. 1729: Mrs. Johnson of Connecticut.

H.R. 2103: Mr. Packard.

H.R. 3344: Mr. Fish.

H.R. 3800: Mr. Condit.

H.R. 4345: Mr. Fazio, Mr. Espy, Mr. Crockett, and Mr. Rose.

H.R. 4483: Ms. Oakar, Mr. Browder, and Mr. Dickinson.

H.R. 4495: Mr. Weber, Mr. Fish, and Mr. Bateman.

H.R. 4755: Mr. Brown of California.

H.R. 5262: Mr. Dannemeyer, Mr. Henry, and Mr. Rohrabacher.

H.R. 5315: Mr. Grandy.

H.R. 5416: Mr. Robinson and Mr. Stump.

H.R. 5423: Mr. Oxley, Mr. Kyl, Mr. Flippo, Mrs. Lowey of New York, and Mrs. Johnson of Connecticut.

H.R. 5505: Mr. Studds.

H.R. 5544: Mr. Lewis of Georgia.

H.R. 5616: Mr. Hammerschmidt.

H.R. 5622: Mr. Evans.

H.R. 5690: Mr. Miller of Washington, Mr. Douglas, and Mr. Lantos.

H.R. 5756: Mr. Scheuer, Mr. Walgren, Mr. Bliley, Mr. Bereuter, Mr. Durbin, Mr. Stokes, Mr. Bateman, Mr. Engel, and Mr. Neal of Massachusetts.

H.R. 5766: Mr. Udall, Ms. Slaughter of New York, Mr. Hughes, Mr. Hoyer, Mr. Roe, Mr. Craig, Mr. Fauntroy, and Mr. Frost.

H.R. 5810: Mr. Coyne.

H.J. Res. 87: Mr. Nielson of Utah, Mr. Holloway, and Mr. Rohrabacher.

H.J. Res. 498: Mr. Vento and Mr. Tauzin.

H.J. Res. 513: Mr. Solomon, Mr. Hiler, Mr. Mfume, Mr. Ravenel, Mrs. Martin of Illinois, Mr. Dreier of California, Mr. Dannemeyer, Mr. Herger, Mr. Rohrabacher, Mr. Sharp, Mrs. Johnson of Connecticut, Mr. Goss, Mr. Hyde, Mr. Crane, Mrs. Smith of Nebraska, Ms. Molinari, Mr. Martin of New York, Mr. Ridge, Mr. DeLay, Mr. Stenholm, Mr. Parris, Mr. Ballenger, Mr. Craig, Mr. Roth, Mr. Serrano, Mr. Jontz, and Mr. McMillan of North Carolina.

H.J. Res. 574: Mr. Clinger, Mr. Alexander, Mr. Annunzio, Mr. Applegate, Mr. Bates, Mr. Bereuter, Mr. Bilbray, Mr. Boehlert, Mr. Brown of Colorado, Mr. Bruce, Mr. Bunning, Mr. Carr, Mr. Coble, Mr. Coleman of Missouri, Mr. Coughlin, Mr. Crane, Mr. Crockett, Mr. de la Garza, Mr. DeLay, Mr. DeWine, Mr. Dixon, Mr. Dornan of California, Mr. Douglas, Mr. Early, Mr. Edwards, of Oklahoma, Mr. English, Mr. Fazio, Mr. Frenzel, Mr. Gallo, Mr. Gillmor, Mr. Goodling, Mr. Grandy, Mr. Gunderson, Mr. Hall of Texas, Mr. Hansen, Mr. Hastert, Mr. Hopkins, Mr. Houghton, Mr. Hubbard, Mr. Jenkins, Mr. Lancaster, Mr. Lewis of California, Mr. Lewis of Florida, Mr. McCollum, Mr. McHugh, Mr. Matsui, Mrs. Meyers of Kansas, Mrs. Morella, Mr. Murtha, Mr. Packard, Mr. Parris, Mr. Pashayan, Mr. Perkins, Mr. Petri, Mr. Porter, Mr. Rahall, Mr. Rhodes, Mr. Roberts, Mrs. Saiki, Mr. Shumway, Mr. Slaughter of Virginia, Mr. Robert F. Smith, Mrs. Smith of Nebraska, Ms. Snowe, Mr. Solomon, Mr. Stangeland, Mr. Thomas of Wyoming, Mr. Thomas of California, Mrs. Vucanovich, Mr. Volkmer, Mr. Vander Jagt, Mr. Weldon, Mr. Whittaker, Mr. Whitten, Mr. Yates, and Mr. Young of Florida.

H.J. Res. 579: Mr. Applegate, Mr. Courter, Mrs. Morella, Mr. Henry, and Mr. Parker.

H.J. Res. 583: Mr. Hamilton, Mr. Hefner, Mr. Savage, Mr. Walsh, Mr. Rhodes, Mr. Douglas, Mr. Schuette, Mrs. Morella, Mr. Hutto, Mr. Nagle, Mr. Grandy, Mr. Derrick, Mr. Houghton, Mr. Davis, Mr. Broomfield, Mr. Lewis of Florida, Mr. Thomas of Georgia, Mr. Rowland of Georgia, Mr. Spence, Mr. Miller of California, Mr. Anderson, Mr. Washington, Mr. McCollum, Mr. Kanjorski, Mr. Jones of North Carolina, Mr. Dingell, Mr. Neal of Massachusetts, Mr. Hall of Texas, Mr. Crockett, Ms. Pelosi, Mrs. Patterson, Mr. Mavroules, Mr. Laughlin, Mr. Fascell, Mr. Darden, Mr. Synar, Mr. Murtha, and Mr. Brooks.

H.J. Res. 597: Mr. DeFazio, Mr. AuCoin, Mr. Dixon, and Mr. Denny Smith.

H.J. Res. 667: Mr. Rogers, Mr. Kastenmeier, Mrs. Collins, Mr. Craig, Mr. Bliley, Mr. Roe, Mr. Dicks, Mr. McNulty, Mr. Traficant, Mr. Payne of New Jersey, Mr. Thomas of Georgia, Mr. McCollum, Mr. Lancaster, Mr. Slattery, Mr. Roberts, Mr. Mazzoli, Mr. McEwen, Mr. Guarini, Mr. Tauzin, Mr. Ravenel, Mr. Conyers, Mr. Dymally, Mrs. Martin of Illinois, Mr. Ford of Tennessee, Mr. Fazio, Mr. Robert F. Smith, Mr. Kasich, and Mr. Kildee.

H. Con. Res. 62: Mr. Houghton and Mr. Anderson.

H. Con. Res. 293: Mr. Brown of California and Mr. Barnard.

H. Con. Res. 314: Mr. Brown of Colorado.

H. Con. Res. 371: Mr. Rangel, Mr. Gordon, and Mr. Evans.

H. Con. Res. 374: Mr. Boehlert and Mr. Lewis of Florida.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5422

By Mrs. BOXER:

—Page 25, after line 18, insert the following new title:

TITLE VI—OVERSIGHT OF INTELLIGENCE ACTIVITIES

SEC. 601. REPEAL.

Section 662 of the Foreign Assistance Act of 1981 (22 U.S.C. 2422) is hereby repealed.

SEC. 602. CONGRESSIONAL OVERSIGHT.

(a) In General.—Section 501 of the National Security Act of 1947 (50 U.S.C. 413) is amended to read as follows:

"CONGRESSIONAL OVERSIGHT

"Sec. 501. (a) The President shall ensure that the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives (hereinafter in this title referred to as the intelligence committees') are kept fully and currently informed of the intelligence activities of the United States, including any significant anticipated intelligence activities, as required by this title, except that—

"(1) nothing contained in this title shall be construed as requiring the approval of the intelligence committees as a condition precedent to the initiation of intelligence gathering activities. Initiation of covert actions shall require prior approval of the intelligence committees; and

"(2) nothing contained in this title shall be construed as conferring on the President any of the powers enumerated in the Constitution as reserved to the Congress, particularly the power to declare war, Const. Art. I, Sec. 8, Cl, 11; to raise and support military forces, Const. Art. I, Sec. 8., C1, 12; to appropriate funds, Const. Art. I, Sec. 9., Cl. 7; nor as limiting the foreign policy powers enumerated in the Constitution as reserved to the President, particularly the power to act as Commander in Chief of the armed forces once Congress has declared war, Const. Art. II, Sec. 2., Cl. 1; and the power to make treaties, by and with the advice and consent of the Senate, Const Art. II, Sec. 2., cl. 2.

"(b) The President, upon being made aware of any allegations of illegal intelligence activity, shall immediately report such allegations to the intelligence committees and keep the intelligence committees informed of the ongoing investigations into such activities, such reports to encompass any measures taken to prevent a recurrence of such illegal activity, including the reporting of such activity to the Department of Justice for prosecution.

"(c) The President and the intelligence committees shall each establish procedures as may be necessary to carry out the provisions of this title, including procedures to ensure that each is kept fully and currently informed of intelligence activities.

"(d) The House of Representatives and the Senate, in consultation with the Director of Central Intelligence, shall each establish, by rule or resolution of such House procedures to ensure that all members of the Congress are informed regarding intelligence activities to the extent consistent with the need to protect from unauthorized disclosure classified information and information relating to intelligence sources and methods furnished to the intelligence committees or to Members of Congress under this title. In accordance with such procedures, each of the intelligence committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities requiring the attention of such House or such committee or committees.

"(e) As used in this section, the term 'intelligence activities' includes 'covert actions', as defined in section 503(e)."

(b) Information Required To Be Disclosed; Findings.—The National Security Act of 1947 is amended—

(1) by redesignating sections 502 and 503 as sections 505 and 506, respectively; and

(2) by inserting after section 501 the following:

"REPORTING INTELLIGENCE ACTIVITIES

"Sec. 502. To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods, the President shall—

"(1) keep the intelligence committees fully and currently informed of all intelligence activities which are the responsibility of, are engaged in by, or are carried out for or on behalf of the United States Government, including any significant anticipated intelligence activity and significant failures; and

"(2) furnish the intelligence committees any information or material concerning intelligence activities which is within their custody or control and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities.

"APPROVAL AND REPORTING OF COVERT ACTIONS

"Sec. 503. (a) In setting forth the procedures regulating covert actions, this title shall not be construed as authorizing the use of convert operations as a routine means of conducting foreign policy or achieving foreign policy objectives.

"(b) The President may not conduct covert actions without prior approval by the intelligence committees, except as set forth in subsection (c)(6).

"(c) Approval of a covert action by the intelligence committees shall be predicated on the following:

"(1) The preparation of and delivery to the intelligence committees by the President of a written finding establishing that the convert action is necessary to meet an extraordinary threat to the national security of the United States and detailing the covert action proposed, the purposes of the action, the means by which the action is intended to be carried out, and the Federal agency, agencies, or personnel to be used in the convert action.

"(2) The convert action does not propose, intend, or otherwise include the use of any third party to fund or conduct the operation, be such third party a foreign country or any agent thereof, private contractor, or other entity which is not an element of the United States Government.

"(3) The convert action does not propose, intend, or otherwise include the use of any department, agency, or entity of the United States Government other than United States intelligence agencies, the Department of Defense, and Federal law enforcement agencies.

"(4) The covert action does not propose, intend, or otherwise result in the influencing of United States political processes, public opinion, policies, or media.

"(5) The convert action does not propose, intend, or otherwise include actions which violate the Constitution of the United States, any treaties, such as the United Nations Charter, which under the Constitution are the Supreme Law of the Land, Const. Art. VI, cl. 2, or any statutes of the United States.

"(6) The approval by the intelligence committees of each convert action must be obtained in writing before the covert action can commence, except that the President may under extraordinary and emergency conditions, when time is of the essence, initiate a covert action prior to receiving approval from the intelligence committees, but such covert action shall cease within 48 hours of initiation unless express written approval of the convert action is given by the intelligence committees pursuant to such procedures as the intelligence committees may adopt to ensure a prompt response in such circumstances. "(d) the President shall—

"(1) keep the intelligence committees fully and currently informed of the status of all convert actions which are carried out for or on behalf of the United States Government, including significant failures;

"(2) furnish to the intelligence committees any information or material concerning covert actions which is in the possession, custody, or control of the executive branch and which is requested by either of the intelligence committees; and

"(3) ensure that the intelligence committees are notified within 24 hours of any significant change in a previously approved covert action, including any change in the nature or scope of the threat which the covert action was designed to counter.

"(e) As used in this section, the term 'covert action' means an activity or activities conducted by the United States Government to meet an extraordinary threat to the national security of the United States so that the role of the United States Government is not intended to be apparent or acknowledged publicly, but does not include—

"(1) activities to protect United States citizens from imminent bodily harm or from being seized or held as a hostage;

"(2) activities the primary purpose of which is to acquire intelligence, traditional counterintelligence activities, traditional activities to improve or maintain the operational security of the United States Government programs, or administrative activities;

"(3) traditional diplomatic or military activities or routine support to such activities;

"(4) traditional law enforcement activities conducted by the United States Government law enforcement agencies or routine support to such activities; or

"(5) activities to provide routine support to the covert activities (other than activities described in paragraph (1), (2), (3), or (4) of other United States Government agencies abroad.

"PENALTIES FOR VIOLATION

"Sec. 504. Any person who knowingly initiates or participates in a covert action in violation of this title shall be guilty for a felony punishable by up to 20 years in Federal prison, a fine of $100,000, or both.".

(c) Availability of Funds Subject to Congressional Approval.—Section 505 of the National Security act of 1947, as redesignated by subjection (b)(1), is amended—

(1) by striking out "501" in subsection (a)(2) and inserting in lieu thereof "503"; and

(2) by adding at the end thereof the following new subsection:

"(d) No appropriated funds may be obligated or expended, or may be directed to be obligated or expended, for any covert actions, as defined in section 503(e), until such time as the intelligence committees have given express written approval of the covert action in accordance with section 503(c).".

H.R. 5835

By Mr. PURSELL:

—Amend subtitle A of title XII to read as follows:

Subtitle A—Provisions Relating to Medicare

Part A

SEC. 12001. REDUCTIONS IN PAYMENTS FOR CAPITAL-RELATED COSTS OF INPATIENT HOSPITAL SERVICES FOR FISCAL YEARS 1991 THROUGH 1995.

(a) In General.—Section 1886(g)(3)(A)(v) of the Social Security Act (42 U.S.C. 1395ww(g)(3)(A)(v)) is amended by striking "September 30, 1990" and inserting "September 30, 1995".

(b) Exemption for Rural Primary Care Hospitals.—Section 1886(g)(3)(B) of such Act is amended by striking "1886(d)(5)(D)(iii))." and inserting "1886(d)(5)(D)(iii) or a rural primary care hospital (as defined in section 1861(mm)(1))."

(c) Delay in Prospective Payment for Capital-Related Costs.—Section 1886(g)(1)(A) of such Act (42 U.S.C. 1395ww(g)(1)(A)) is amended by striking "October 1, 1991," and inserting "October 1, 1995,".

SEC. 12002. PROSPECTIVE PAYMENT HOSPITALS.

(a) Hospital Payment Adjustments.—

(1) Changes in update factors.—

(a) In general.—Section 1886(b)(3)(B)(i) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(i) by striking "and" at the end of subclause (V);

(ii) in subclause (VI)—

(I) by striking "1991" and inserting "1994", and

(II) by redesignating such subclause as subclause (IX); and

(iii) by inserting after subclause (V) the following new subclauses:

"(VI) for fiscal year 1991, the market basket percentage increase minus 2.0 percentage points for hospitals in all areas,

"(VII) for fiscal year 1992, the market basket percentage increase minus 1.1 percentage points for hospitals in all areas,

"(VIII) for fiscal year 1993, the market basket percentage increase minus 0.2 percentage points for hospitals in all areas, and".

(B) Effective date.—The amendments made by subparagraph (A) shall apply to payments for discharges occurring on or after January 1, 1991.

(2) Rural and inner-city hospitals.—

(A) Provisions relating to disproportionate share adjustment.—

(i) Repeal of sunset.—Section 1886(d) of such Act (42 U.S.C. 1395ww(d)) is amended by striking "and before October 1, 1995," each place it appears in paragraph (2)(C)(iv) and paragraph (5)(F)(i).

(ii) No restandardizing for adjustments under OBRA 1989.—Section 1886(d)(2)(C)(iv) of such Act (42 U.S.C. 1395ww(d)(2)(C)(iv)) is amended by striking the period at the end and inserting the following: ", except that the Secretary shall not exclude additional payments under such paragraph made as a result of the enactment of section 6003(c) of the Omnibus Budget Reconciliation Act of 1989.".

(iii) Effective date.—The amendment made by clause (i) shall take effect on the date of the enactment of this Act, and the amendment made by clause (ii) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

(B) Phase-out of separate average standardized amounts.—

(i) In general.—Section 1886(b)(3)(B)(i) of such Act (42 U.S.C. 1395ww(b)(3)(B)(i)), as amended by subsection (a)(1), is further amended—

(I) in subclause (VI), by striking "in all areas," and inserting "in a large urban or other urban area, and the market basket percentage increase minus 0.5 percentage points for hospitals located in a rural area,";

(II) in subclause (VII), by striking "in all areas," and inserting "in a large urban or other urban area, and the market basket percentage increase plus 0.3 percentage points for hospitals located in a rural area,";

(III) in subclause (VIII), by striking "in all areas, and" and inserting "in a large urban or other urban area, and the market basket percentage increase plus 1.5 percentage points for hospitals located in a rural area,";

(IV) in subclause (IX)—

(a) by striking "1994" and inserting "1966", and

(b) by redesignating such subclause as subclause (XI); and

(V) by inserting after subclause (VIII) the following new subclause:

"(IX) for fiscal year 1994, the market basket percentage increase for hospitals located in a large urban or other urban area, and the market basket percentage increase plus 1.5 percentage points for hospitals located in a rural area,

"(X) for fiscal year 1995, the market basket percentage increase for hospitals located in a large urban or other urban area, and the market basket percentage increase plus 1.5 percentage points for hospitals located in a rural area, and".

(ii) Conforming amendments.—Section 1886(d) of such Act (42 U.S.C. 1395ww(d)) is amended—

(I) in paragraph (1)(a)(iii), by striking "rural, large urban, or other urban area";

(II) in paragraph (3)(A)—

(a) in clause (ii), by striking "the Secretary" and inserting "and ending on or before September 30, 1995, the Secretary",

(b) by redesignating clause (iii) as clause (iv), and

(c) by inserting after clause (ii) the following new clause:

"(iii) For discharges occurring in a fiscal year beginning on or after October 1, 1995, the Secretary shall compute an average standardized amount for hospitals located in a large urban area and for hospitals located in other areas within the United States and within each region equal to the respective average standardized amount computed for the previous fiscal year under this subparagraph increased by the applicable percentage increase under subsection (b)(3)(B)(i) with respect to hospitals located in the respective areas for the fiscal year involved.";

(III) in paragraph (3)(B), by striking "in an urban area" and all that follows through "rural area" and inserting "in a large urban area and for hospitals located in an other urban area";

(IV) in paragraph (3)(D)(i)—

(a) in the matter preceding subclause (I), by striking "an urban area (or," and all that follows through "area)," and inserting "a large urban area, and 7

(b) in subclause (I), by striking "an urban area" and inserting "a large urban area"; and

(V) in paragraph (3)(D)(ii), by striking "a rural area" each place it appears and inserting "other areas".

(iii) Effective date.—The amendments made by clause (i) shall apply to payments for discharges occurring on or after January 1, 1991, and the amendments made by clause (ii) shall take effect October 1, 1995.

(3) Phase-in of area wage index update for fiscal year 1991.—Subject to the last sentence of section 1886(d)(3)(E) of the Social Security Act, for purposes of determining the amount of payment made to a hospital under part A of title XVIII of the Social Security Act for the operating costs of inpatient hospital services, the Secretary of Health and Human Services, in adjusting such amount under such section to reflect the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage index, shall—

(A) for discharges occurring during the period beginning January 1, 1991, and ending September 30, 1991, apply a combined area wage index consisting of—

(i) 75 percent of the area wage index determined using the survey of the 1988 wages and wage-related costs of hospitals in the United States conducted under such section, and

(ii) 25 percent of the area wage index applicable to the hospital for discharges occurring during fiscal year 1990, as determined using the survey of the 1984 wages and wage-related costs of hospitals in the United States conducted under such section; and

(B) for discharges occurring during fiscal year 1992 and fiscal year 1993, apply the area wage index otherwise applicable to the hospital under such section for discharges occurring during such fiscal year.

(4) Study of area wage index adjustments based on professional occupational component.—

(A) Collection of data.—The Secretary of Health and Human Services shall collect data on employee compensation and paid hours of employment for employees of subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act) in various occupational categories, and shall provide such data to the Prospective Payment Assessment Commission.

(B) Report to congress.—Not later than September 1, 1993, the Prospective Payment Assessment Commission shall, using the data provided by the Secretary under subparagraph (A), prepare and submit a report to Congress analyzing methods to adjust the area wage index applicable to a hospital under section 1886(d)(3)(E) of such Act to take into account variations in occupational categories included in such index.

(5) Permanent extension of regional floor on standardized amounts.—

(A) In general.—Section 1888(d)(1)(A)(iii) of such Act (42 U.S.C. 1395ww(d)(1)(A)(iii)) is amended by striking "during the period" and all that follows through "1990" and inserting "on or after April 1, 1988,".

(B) Extension made on budget-neutral basis.—The Secretary of Health and Human Services shall make any adjustments resulting from the amendment made by subparagraph (A) in the amount of the payments made to hospitals under section 1886(d) of the Social Security Act in a fiscal year for the operating costs of inpatient hospital services in a manner that ensures that the aggregate payments under such section are not greater or less than those that would have been made in the year without such adjustments.

(C) Effective date.—The amendment made by subparagraph (A) shall apply to discharges occurring on or after October 1, 1990.

(6) Elimination of hospital off-set for services of physician assistants.—

(A) In general.—Section 9338 of the Omnibus Budget Reconciliation Act of 1986 is amended by striking subsection (d).

(B) Effective date.—The amendment made by paragraph (1) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

(7) Determination of reasonable costs relating to swing beds.—(A) Section 1883(a)(2)(B)(ii)(II) of such Act (42 U.S.C. 1395tt(a)(2)(B)(ii)(II)) is amended by striking "the previous calendar year" and all that follows through the period and inserting "the most recent year for which cost reporting data are available with respect to such services (increased in a compounded manner by the applicable increase for payments for routine service costs of skilled nursing facilities under section 1888 for subsequent cost reporting periods and up to and including such calendar year) under this title to freestanding skilled nursing facilities in the region (as defined in section 1886(d)(2)(D)) in which the facility is located.".

(B) If, as a result of the amendment made by subparagraph (A), the reasonable cost of routine services furnished by a hospital during a calendar year (as determined under section 1883 of the Social Security Act) is less than the reasonable cost of such services determined under such section for the previous calendar year, the reasonable cost of such services furnished by the hospital during the calendar year under such section shall be equal to the reasonable cost determined under such section for the previous calendar year.

(C) The amendment made by subparagraph (A) shall apply to services furnished on or after October 1, 1990.

(b) Administration of Hospital Payment System.—

(1) Uniform reporting requirements for certain hospitals.—

(A) Requirements.—Each hospital described in subparagraph (B) shall, in accordance with the uniform system for reporting by medicare participating hospitals developed by the Secretary of Health and Human Services under section 4007(c) of the Omnibus Budget Reconciliation Act of 1987, report the information described in paragraph (2) of such section to the Secretary.

(B) Hospitals subject to requirement.—Each of the following hospitals is subject to the requirement of subparagraph (A):

(i) A hospital receiving an additional payment under section 1886(d)(5)(F) of the Social Security Act (relating to payments to disproportionate share hospitals).

(ii) A hospital classified by the Secretary of Health and Human Services as a sole community hospital under section 1886(d)(5)(D) of such Act.

(iii) A hospital classified by the Secretary as a regional referral center under section 1886(d)(5)(C) of such Act.

(iv) A hospital classified by the Secretary as a medicare-dependent, small rural hospital under section 1886(d)(5)(G) of such Act.

(v) A hospital designated by the Secretary as an essential access community hospital under section 1820(i)(1) of such Act.

(C) Effective date.—The requirement of subparagraph (A) shall apply to hospitals with respect to cost reporting periods beginning on or after October 1, 1990.

(2) Responsibilities and reporting requirements of prospective payment assessment commission.—

(A) Expansion of responsibilities.—Section 1886(e)(2) of the Social Security Act (42 U.S.C. 139ww(e)(2)) is amended—

(i) by striking "(2)"and inserting "(2)(A)", and

(ii) by adding at the end the following new subparagraphs:

"(B) In order to promote the efficient and effective delivery of high-quality health care services, the Commission shall, in addition to carrying out its functions under subparagraph (A), study and make recommendations for each fiscal year to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding changes in each existing reimbursement policy under this title under which payments to an institution are based upon prospectively determined rates and the development of new institutional reimbursement policies under this title, including recommendations relating to—

"(i) payments during each fiscal year under the prospective payment system established under this section for determining payments for the operating costs of inpatient hospital services, including changes in the number of diagnosis-related groups used to classify inpatient hospital discharges under subsection (d), adjustments to such groups to reflect severity of illness, and changes in the methods by which hospitals are reimbursed for capital-related costs, together with general recommendations on the effectiveness and quality of health care delivery systems in the United States and the effects on such systems of institutional reimbursements under this title;

"(ii) payments to hospitals located in large urban areas, including the appropriate treatment of bad debt and charity care and the relation between payments to hospitals under this section and payments under programs that reimburse hospitals for providing inpatient care to low-income individuals;

"(iii) payments to hospitals located in rural areas, including appropriate responses to problems relating to low hospital occupancy rates, the quality of care provided by such hospitals, and the access of individuals living in rural areas high-quality health care services; and

"(iv) changes in the insurance program established by this title that will constrain the costs to private employers of providing health care to employees.

"(C) By not later than June 1 before the beginning of each fiscal year, the Commission shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives containing a description of its activities during the preceding fiscal year.".

(B) REPORTING REQUIREMENTS FOR COMMISSION AND SECRETARY; ELIMINATION OF OTA REPORTING REQUIREMENTS.—Section 1886 of such Act (42 U.S.C. 1395ww) is amended—

(i) by striking subparagraph (D) of subsection (d)(4);

(ii) in the second sentence of subsection (e)(2)(A), as amended by paragraph (1)(A), by striking "In addition" and all that follows through "the Commission" and inserting "The Commission";

(iii) in subsection (e)(3)(A)—

(I) by striking "the Secretary" and inserting "the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives", and

(II) by striking the period at the end and inserting the following: ", together with its general recommendations under paragraph (2)(B)(i) regarding the effectiveness and quality of health care delivery systems in the United States.";

(iv) in subsection (e)(4)—

(I) by striking "(4)" and inserting "(4)(A)", and

(II) by adding at the end the following new subparagraph:

"(B) In addition to the recommendation made under subparagraph (A), the Secretary shall, taking into consideration the recommendations of the Commisssion under paragraph (2)(B), recommend for each fiscal year (beginning with fiscal year 1992) other appropriate changes in each existing reimbursement policy under this title under which payments to an institution are based upon prospectively determined rates.";

(v) in subsection (e)(5)—

(I) by striking "recommendation" each place it appears and inserting "recommendations", and

(II) by adding at the end the following new sentence: "To the extent that the Secretary's recommendations under paragraph (4) differ from the Commission's recommendations for that fiscal year, the Secretary shall include in the publication referred to in subparagraph (A) an explanation of the Secretary's grounds for not following the Commission's recommendations."; and

(vi) in subsection (e)(6)(G)—

(I) by striking clause (i), and

(II) by redesignating clauses (ii) and (iii) as clauses (i) and (ii).

(C) COMPOSITION OF COMMISSION.—Section 1886(e)(6)(B) of such Act (42 U.S.C. 1395ww(e)(6)(B)) is amended—

(i) by striking "professionals" and inserting "professions"; and

(ii) by striking "including physicians" and inserting "including (but not limited to) physicians".

(D) CONFORMING AMENDMENT.—Section 1845(c)(1)(D) of such Act (42 U.S.C. 1395w-1(c)(1)(D)) is amended by striking "reports and".

(E) EFFECTIVE DATE.—The amendments made by this paragraph shall take effect on the date of the enactment of this Act.

SEC. 12003. EXPANSION OF DRG PAYMENT WINDOW.

(a) IN GENERAL.—The first sentence of section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)) is amended by striking the period and inserting the following: "; and includes the costs of all services for which payment may be made under this title that are provided by the hospital to the patient during the 72-hour period ending on the date of the patient's admission.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1991.

SEC. 12004. PAYMENTS FOR DIRECT GRADUATE MEDICAL EDUCATION COSTS.

(a) DETERMINATION OF FULL-TIME-EQUIVALENT RESIDENTS.—

(1) TREATMENT OF PRIMARY CARE AND NON-PRIMARY CARE RESIDENTS IN INITIAL RESIDENCY PERIOD.—Section 1886(h)(4)(C)(ii) of the Social Security Act (42 U.S.C. 1395ww(h)(4)(C)(ii)) is amended by striking "is 1.00," and inserting the follwing: "is—

"(I) 1.1, in the case of a resident who is a primary care resident;

"(II) 1.0, in the case of a resident who is not a primary care resident and who specializes in internal medicine or pediatrics; or

"(III) .75, in the case of a resident not described in subclauses (I) or (II),".

(2) *Weighting factor after initial residency period.*—Section 1886(h)(4)(C)(iv) of such Act (42 U.S.C., 1395ww(h)(C)(iv)) is amended by striking ".50" and inserting ".80".

(3) DEFINITION.—Section 1886(h)(5) of such Act (42 U.S.C. 1395ww(h)((5)) is amended—

(A) by redesignating subparagraph (H) as subparagraph (I); and

(B) by inserting after subparagraph (G) the following new subparagraph:

"(H) PRIMARY CARE RESIDENT.—The term 'primary care resident' means (in accordance with criteria established by the Secretary) a resident being trained in a distinct program of family practice medicine, general internal medicine, or general pediatrics.".

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1), (2), and (3) shall apply to cost reporting periods beginning on or after October 1, 1990.

(b) CAP ON APPROVED FTE RESIDENT AMOUNTS.—Section 1886(h)(2)(D) is amended by striking the period at the end and inserting the following: ", except that the approved FTE resident amount for the hospital may not exceed—

"(i) for cost reporting periods beginning in fiscal year 1992, 200 percent of the median of all approved FTE amounts for hospitals under this paragraph for cost reporting periods beginning in such fiscal year, adjusted by the area wage index applicable to the hospital under subsection (d)(3)(E) during such cost reporting period;

"(ii) for cost reporting periods beginning in fiscal year 1993, 175 percent of the median of all approved FTE amounts for hospitals under this paragraph for cost reporting periods beginning in such fiscal year, adjusted by the area wage index applicable to the hospital under subsection (d)(3)(E) during such cost reporting period; and

"(iii) for cost reporting periods beginning in fiscal year 1994 or any subsequent fiscal year, 150 percent of the median of all approved FTE amounts for hospitals under this paragraph for cost reporting periods beginning in such fiscal year, adjusted by the area wage index applicable to the hospital under subsection (d)(3)(E) during such cost reporting period.".

SEC. 12005. PPS-EXEMPT HOSPITALS.

(a) REDUCTION IN PAYMENT FOR CAPITAL-RELATED COSTS.—Section 1886(g)(3) of the Social Security Act (42 U.S.C. 1395ww(g)(3)) is amended by adding at the end the following new subparagraph:

"(C) In determining the amount of the payments that may be made under this title with respect to the capital-related costs of inpatient hospital services of a hospital that is not described in subparagraph (A), the Secretary shall reduce the amount of such payments otherwise established under this title by 15 percent for payments attributable to portions of cost reporting periods or discharges (as the case may be) occurring during fiscal year 1991 or fiscal year 1992.".

(b) DEVELOPMENT OF NATIONAL PROSPECTIVE PAYMENT RATES FOR CURRENT NON-PPS HOSPITALS.—

(1) DEVELOPMENT OF PROPOSAL.—The Secretary of Health and Human Services shall develop a proposal to modify the current system under which hospitals that are not subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act) receive payment for the operating and capital-related costs of inpatient hospital services under part A of the medicare program or a proposal to replace such system with a system under which such payments would be made on the basis of nationally-determined average standardized amounts. In developing any proposal under this paragraph to replace the current system with a prospective payment system, the Secretary shall—

(A) take into consideration the need to provide for appropriate limits on increases in expenditures under the medicare program;

(B) provide for adjustments to prospectively determined rates to account for changes in a hospital's case mix, severity of illness of patients, volume of cases, and the development of new technologies and standards of medical practice;

(C) take into consideration the need to increase the payment otherwise made under such system in the case of services provided to patients whose length of stay or costs of treatment greatly exceed the length of stay or cost of treatment provided for under the applicable prospectively determined payment rate;

(D) take into consideration the need to increase payments under the system to hospitals that treat a disproportionate share of low-income patients, teaching hospitals, and hospitals located in geographic areas with high wages and wage-related costs; and

(E) provide for the appropriate allocation of operating and capital-related costs of hospitals not subject to the new prospective payment system and distinct units of such hospitals that would be paid under such system.

(2) REPORTS.—(A) By not later than February 1, 1991, the Secretary shall submit the proposal developed under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(B) By not later than May 1, 1991, the Prospective Payment Assessment Commission shall submit an analysis of and comments on the proposal developed under

paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(c) APPEALS OF TARGET AMOUNTS.—

(1) DEADLINES FOR REVIEW AND DECISION.—(A) Section 1816(f) of the Social Security Act (42 U.S.C. 1395h(f)) is amended—

(i) by striking "(1)" and "(2)" and inserting "(A)" and "(B)";

(ii) by striking "(f)" and inserting "(f)(1)"; and

(iii) by striking "Such standards and criteria" and all that follows and inserting the following:

"(2) The standards and criteria established under paragraph (1) shall include—

"(A) with respect to claims for services furnished under this part by any provider of services other than a hospital—

"(i) whether such agency or organization is able to process 75 percent of reconsiderations within 60 days (except in the case of fiscal year 1989, 66 percent of reconsiderations) and 90 percent of reconsiderations within 90 days, and

"(ii) the extent to which such agency or organization's determinations are reversed on appeal; and

"(B) with respect to applications for a reconsideration of the target amount applicable under section 1886(b) to a hospital that is not a subsection (d) hospital (as defined in section 1886(d)(1)(B))—

"(i) if such agency or organization receives a completed application, whether such agency or organization is able to process such application not later than 60 days after the application is filed, and

"(ii) if such agency or organization receives an incomplete application, whether such agency or organization is able to return the application with instructions on how to complete the application not later than 60 days after the application is filed.".

"(B) Section 1886(b)(4)(A) of such Act (42 U.S.C. 1395ww(b)(4)(A)) is amended by adding at the end the following new sentence: "The Secretary shall announce a decision on any request for an exemption, exception, or adjustment under this paragraph not later than 120 days after receiving a completed application for such exemption, exception, or adjustment, and shall include in such decision a detailed explanation of the grounds on which such request was approved or denied.".

"(2) STANDARDS FOR ASSIGNMENT OF NEW BASE PERIOD.—Section 1886(b)(4) of such Act (42 U.S.C. 1395ww(b)(4)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) In determining under subparagraph (A) whether to assign a new base period which is more representative of the reasonable and necessary cost to a hospital of providing inpatient services, the Secretary shall take into consideration—

"(i) changes in applicable technologies, medical practices, or case mix severity that increase the hospital's costs;

"(ii) whether increases in wages and wage-related costs in the geographic area in which the hospital is located exceed the average of the increases in such costs paid by hospitals in the United States; and

"(iii) such other factors as the Secretary considers appropriate in determining increases in the hospital's costs of providing inpatient services.".

"(3) GUIDANCE TO INTERMEDIARIES AND HOSPITALS.—The Administrator of the Health care financing Administration shall provide guidance to agencies and organizations performing functions pursuant to section 1816 of the Social Security Act and to hospitals that are not subsection (d) hospitals (as defined in section 1886(d)(1)(B) of such act) to assist such agencies, organizations, and hospitals in filing complete applications with the Administrator for exemptions, exceptions, and adjustments under section 1886(b)(4)(A) of such act.

(4) EFFECTIVE DATES.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act,. and the amendments made by paragraph (2) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

SEC. 12006. FREEZE IN PAYMENTS UNDER PART A THROUGH DECEMBER 31.

(a) IN GENERAL.—Notwithstanding any other provision of law, for purposes of determining the amount of payment for items or services under part A of title XVIII of the Social Security Act (including payments under section 1886 of such Act attributable to or allocated under such part) during the period described in subsection (b):

(1) The market basket percentage increase (described in section 1886(b)(3)(B)(iii) of the Social Security Act shall be deemed to be 0 for discharges occurring during such period.

(2) The percentage increase or decrease in the medical care expenditure category of the consumer price index applicable under section 1814(i)(2)(B) of such Act shall be deemed to be 0.

(3) The area wage index applicable to a subsection (d) hospital under section 1886(d)(3)(E) of such Act shall be deemed to be the area wage index applicable to such hospital as of September 30, 1990.

(4) The percentage change in the consumer price index applicable under section 1886(h)(2)(D) of such Act shall be deemed to be 0.

(b) DESCRIPTION OF PERIOD.—The period referred to in subsection (a) is the period beginning on November 1, 1990, and ending on December 31, 1990.

—Amend subtitle D of title XII to read as follows:

Subtitle D—Provisions Relating to Medicare Part B Premium and Deductible

SEC. 12301. PART B PREMIUM.

Section 1839(e) of the Social Security Act (42 U.S.C. 1395r(e)(1)) is amended by striking "1991" each place it appears and inserting "1996".

SEC. 12302. PART B DEDUCTIBLE.

Section 1833(b) of the Social Security Act (42 U.S.C. 13951) is amended by inserting after "$75" the following: "for calendar years before 1991 and $100 for 1991 and subsequent years".

—Strike section 12401 and insert the following (and conform the table of contents accordingly):

SEC. 12401. CUSTOMS USER FEES.

(a) EXTENSION OF EFFECTIVE PERIOD FOR FEES.—Paragraph (3) of section 13031(j) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "1991" and inserting "1995".

(b) ADJUSTMENT OF FEES.—Paragraph (9) of section 13031(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)) is amended to read as follows:

"(9)(A) For the processing of merchandise that is formally entered or released during any fiscal year, a fee in an amount equal to 0.17 percent ad valorem, unless adjusted under subparagraph (B).

"(B)(i) The Secretary of the Treasury may adjust the ad valorem rate specified in subparagraph (A) for merchandise that is formally entered or released during any fiscal year after September 30, 1991, to an ad valorem rate (but not to a rate of more than 0.19 percent nor less than 0.15 percent) that would, if charged, offset the salaries and expenses that will likely be incurred by the Customs Service in the processing of such entries and releases during that fiscal year.

"(ii) In determining the amount of any adjustment under clause (i), the Secretary of the Treasury shall take into account whether there is a surplus or deficit in the fund established under section 613A of the Tariff Act of 1930 with respect to the provision of customs services for the processing of formal entries and releases of merchandise.

"(iii) An adjustment may not be made under clause (i) with respect to the fee charged during any fiscal year unless the Secretary of the Treasury—

"(I) determines, not later than the 60th day after the date of the enactment of the Act providing regular appropriations for the Customs Service for that fiscal year, that such an adjustment should be made;

"(II) before making the determination referred to in subclause (I), consults with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the adjustment; and

"(III) publishes notice of the determination in the Federal Register.

"(iv) The 60-day period referred to in clause (iii)(I) shall be computed by excluding—

"(I) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

"(II) any Saturday and Sunday, not excluded under subclause (I), when either House is not in session.

"(v) An adjustment made under this subparagraph is effective with respect to formal entries and releases made on or after the 30th day after the date of publication of the notice required under clause (iii)(III) and before the first day of the next fiscal year.

"(vi) Any fee charged under this paragraph, whether or not adjusted under this subparagraph, is subject to the limitations in subsection (b)(8)(A).".

(c) AGGREGATION OF MERCHANDISE PROCESSING FEES.—Section 111(f)(1)(B) of the Customs and Trade Act of 1990 is amended by striking out "determined in" and inserting "currently in effect under".

(d) CUSTOMS SERVICE ADMINISTRATION.—Section 113 of the Customs and Trade Act of 1990 is amended—

(1) by inserting "and" after the semicolon at the end of subsection (a)(1);

(2) by striking out the semicolon at the end of subsection (a)(2) and inserting a period;

(3) by striking out paragraphs (3), (4), and (5) of subsection (a); and

(4) by striking out "Committees referred to in subsection (a)(5)" in subsection (b) and inserting "the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate".

—Strike title XIII and insert the following:

TITLE XIII—COMMITTEE ON WAYS AND MEANS: REVENUE PROVISIONS

SEC. 13001. SHORT TITLE; ETC.

(a) Short Title.—This title may be cited as the "Reconciliation Revenue Act of 1990".

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) Table of Contents.—

TITLE XIII—COMMITTEE ON WAYS AND MEANS: REVENUE PROVISIONS

Sec. 13001. Short title; etc.

Subtitle A—User-Related Taxes

Sec. 13101. Extension of aviation-related taxes and trust fund; repeal of trigger.
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Subtitle A—User—Related Taxes

SEC. 13101. EXTENSION OF AVIATION—RELATED TAXES AND TRUST FUND; REPEAL OF TRIGGER.

(a) Extension of Taxes and Trust Fund.—

(1) Transportation taxes.—Sections 4261(g) and 4271(d) are each amended by striking "January 1, 1991" and inserting "January 1, 1996".

(2) Fuel taxes.—

(A) Subparagraph (B) of section 4091(b)(6) (as redesignated by section 13211(b)) is amended by striking "January 1, 1991" and inserting "January 1, 1996".

(B) Paragraph (5) of section 4041(c) is amended by striking "December 31, 1990" and inserting "December 31, 1995".

(3) Deposits into trust fund.—Subsection (b) of section 9502 (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes) is amended by striking "January 1, 1991" each place it appears and inserting "January 1, 1986".

(b) Repeal of Trigger.—

(1) Section 4283 (relating to reduction in aviation related taxes in certain cases) is hereby repealed.

(2) The table of sections for part III of subchapter C of chapter 33 is amended by striking the item relating to section 4283.

(3) Subsection (c) of section 4041 is amended by striking paragraph (6).

SEC. 13102. EXTENSION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES.

(a) In General.—Paragraph (2) of section 4081(d) is amended to read as follows:

"(2) Leaking underground storage tank trust fund financing rate.—The Leaking Underground Storage Tank Trust Fund financing rate under subsection (a)(2) shall not apply after December 31, 1995."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 30th day after the date of the enactment of this Act.

SEC. 13103. EXTENSION AND MODIFICATION OF TELEPHONE EXCISE TAX.

(a) Extension.—Paragraph (2) of section 4251(b) is amended by striking "1990" and inserting "1995".

(b) Acceleration of Deposit Requirements.—

(1) In general.—Subsection (e) of section 8302 (relating to time for deposit of taxes of airline tickets) is amended—

(A) by inserting "Communications Services and" before "Airline", and

(b) By inserting "section 4251 or" before "subsection (a) or (b)".

(2) Effective date.—The amendment made by paragraph (1) shall apply to payments of taxes considered collected for semimonthly periods beginning after December 31, 1990.

Subtitle B—Compliance Provisions

SEC. 13201. SUSPENSION OF STATUTE OF LIMITATIONS DURING PROCEEDINGS TO ENFORCE CERTAIN SUMMONSES.

(a) General Rule.—Section 6503 (relating to suspension of running of period of limitation) is amended by redesignating subsection (k) as subsection (1) and by inserting after subsection (j) the following new subsection:

"(k) Extension in Case of Certain Summonses.—

"(1) In general.—If any designated summons is issued by the Secretary with respect to any return of tax by a corporation, the running of any period of limitations provided in section 6501 on the assessment of such tax shall be suspended—

"(A) during any judicial enforcement period—

"(i) with respect to such summons, or

"(ii) with respect to any other summons which is issued during the 30-day period which begins on the date on which such designated summons is issued and which relates to the same return as such designated summons, and

"(B) if the court in any proceeding referred to in paragraph (3) requires any compliance with a summons referred to in subparagraph (A), during the 120-day period beginning with the 1st day after the close of the suspension under subparagraph (A).

If subparagraph (B) does not apply, such period shall in no event expire before the 60th day after the close of the suspension under subparagraph (A).

"(2) Designated summons.—For purposes of this subsection—

"(A) In general.—The term 'designated summons' means any summons issued for purposes of determining the amount of any tax imposed by this title if—

"(i) such summons is issued at least 60 days before the day on which the period prescribed in section 6501 for the assessment of such tax expires (determined with regard to extensions), and

"(ii) such summons clearly states that it is a designated summons for purposes of this subsection.

"(B) Limitation.—A summons which relates to any return shall not be treated as a designated summons if a prior summons which relates to such return was treated as a designated summons for purposes of this subsection.

"(3) Judicial enforcement period.—For purposes of this subsection, the term 'judicial enforcement period' means, with respect to any summons, the period—

"(A) which begins on the day on which a court proceeding with respect to such summons is brought, and

"(B) which ends on the day on which there is a final resolution as to the summoned person's response to such summons."

(b) Effective Date.—The amendment made by subsection (a) shall apply to any tax (whether imposed before, on, or after the date of the enactment of this Act) if the period prescribed by section 6501 of the Internal Revenue Code of 1986 for the assessment of such tax (determined with regard to extensions) has not expired on such date of the enactment.

SEC. 13202. ACCURACY-RELATED PENALTY TO APPLY TO SECTION 482 ADJUSTMENTS.

(a) General Rule.—Subsection (e) of section 6662 (defining substantial valuation overstatement under chapter 1) is amended to read as follows:

"(e) Substantial Valuation Misstatement Under Chapter 1.—

"(1) In general.—For purposes of this section, there is a substantial valuation misstatement under chapter 1 if—

"(A) the value of any property (or the adjusted basis of any property) claimed on any return of tax imposed by chapter 1 is 200 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be), or

"(B)(i) the price for any property or services claimed on any such return in connection with any transaction between persons described in section 482 is 200 percent or more (or 50 percent or less) of the amount determined under section 482 to be the correct amount of such price, or

"(ii) the net section 482 transfer price adjustment for the taxable year exceeds $10,000,000.

"(2) Limitation.—No penalty shall be imposed by reason of subsection (b)(3) unless the portion of the underpayment for the taxable year attributable to substantial valuation misstatements under chapter 1 exceeds $5,000 ($10,000 in the case of a corporation other than an S corporation or a personal holding company (as defined in section 542)).

"(3) Net section 482 transfer price adjustment.—For purposes of this subsection, the term 'net section 482 transfer price adjustment' means, with respect to any taxable year, the net increase in taxable income for the taxable year (determined without regard to any amount carried to such taxable year from another taxable

year) resulting from adjustments under section 482 in the transfer price for any property or services. For purposes of the preceding sentence, rules similar to the rules of the last sentence of section 55(b)(2) shall apply."

(b) Conforming Amendments.—

(1) Paragraph (3) of section 6662(b) is amended to read as follows:

"(3) Any substantial valuation misstatement under chapter 1."

(2) Subparagraph (A) of section 6662(h)(2) is amended to read as follows:

"(A) any substantial valuation misstatement under chapter 1 as determined under subsection (e) by substituting—

"(i) '400 percent' for '200 percent' each place it appears,

"(ii) '25 percent' for '50 percent', and

"(iii) '$20,000,000' for '$10,000,000',".

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 13203. TREATMENT OF PERSONS PROVIDING SERVICES.

(a) General Rule.—Subsection (n) of section 6103 (relating to certain other persons) is amended—

(1) by striking "and the programming" and inserting "the programming", and

(2) by inserting after "of equipment," the following "and the providing of other services,".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 13204. APPLICATION OF AMENDMENTS MADE BY SECTION 7403 OF REVENUE RECONCILIATION ACT OF 1989 TO TAXABLE YEARS BEGINNING ON OR BEFORE JULY 10, 1989.

(a) General Rule.—The amendments made by section 7403 of the Revenue Reconciliation Act of 1989 shall apply to—

(1) any requirement to furnish information under section 6038A(a) of the Internal Revenue Code of 1986 (as amended by such section 7403) if the time for furnishing such information under such section is after the date of the enactment of this Act,

(2) any requirement under such section 6038A(a) to maintain records which were in existence on or after March 20, 1990,

(3) any requirement to authorize a corporation to act as a limited agent under section 6038A(e)(1) of such Code (as so amended) if the time for authorizing such action is after the date of the enactment of this Act, and

(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began. Such amendments shall also apply in any case to which they would apply without regard to this section.

(b) Continuation of Old Failures.—In the case of any failure with respect to a taxable year beginning on or before July 10, 1989, which first occurs on or before the date of the enactment of this Act but which continues after such date of enactment, section 6038A(d)(2) of the Internal Revenue Code of 1986 (as amended by subsection (c) of such section 7403) shall apply for purposes of determining the amount of the penalty imposed for 30-day periods referred to in such section 6038A(d)(2) which begin after the date of the enactment of this Act.

SEC. 13205. OTHER REPORTING REQUIREMENTS.

(a) General Rule.—Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6038B the following new section:

"SEC. 6038C. INFORMATION WITH RESPECT TO FOREIGN CORPORATIONS ENGAGED IN U.S. BUSINESS.

"(a) Requirement.—If a foreign corporation (hereinafter in this section referred to as the 'reporting corporation') is engaged in a trade or business within the United States at any time during a taxable year—

"(1) such corporation shall furnish (at such time and in such manner as the Secretary shall by regulations prescribe) the information described in subsection (b), and

"(2) such corporation shall maintain (at the location, in the manner, and to the extent prescribed in regulations) such records as may be appropriate to determine the liability of such corporation for tax under this title as the Secretary shall by regulations prescribe (or shall cause another person to so maintain such records).

"(b) Required Information.—For purposes of subsection (a), the information described in this subsection is—

"(1) the information described in section 6038A(b), and

"(2) such other information as the Secretary may prescribe by regulations relating to any item not directly connected with a transaction for which information is required under paragraph (1).

"(c) Penalty for Failure To Furnish Information or Maintain Records.—The provisions of subsection (d) of section 6038A shall apply to—

"(1) any failure to furnish (within the time prescribed by regulations) any information described in subsection (b), and

"(2) any failure to maintain (or cause another to maintain) records as required by subsection (a),

in the same manner as if such failure were a failure to comply with the provisions of section 6038A.

"(d) Enforcement of Requests for Certain Records.—

"(1) Agreement to treat corporation as agent.—The rules of paragraph (3) shall apply to any transaction between the reporting corporation and any related party who is a foreign person unless such related party agrees (in such manner and at such time as the Secretary shall prescribe) to authorize the reporting corporation to act as such related party's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to any request by the Secretary to examine records or produce testimony related to any such transaction or with respect to any summons by the Secretary for such records or testimony. The appearance of persons or production of records by reason of the reporting corporation being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of any transaction between the reporting corporation and such related party.

"(2) Rules where information not furnished.—If—

"(A) for purposes of determining the amount of the reporting corporation's liability for tax under this title, the Secretary issues a summons to such corporation to produce (either directly or as an agent for a related party who is a foreign person) any records or testimony,

"(B) such summons is not quashed in a proceeding begun under paragraph (4) of section 6038A(e) (as made applicable by paragraph (4) of this subsection) and is not determined to be invalid in a proceeding begun under section 7604(b) to enforce such summons, and

"(C) the reporting corporation does not substantially comply in a timely manner with such summons and the Secretary has sent by certified or registered mail a notice to such reporting corporation that such reporting corporation has not so substantially complied,

the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which such summons relates (whether or not the Secretary begins a proceeding to enforce such summons). If the reporting corporation fails to maintain (or cause another to maintain) records as required by subsection (a), and by reason of that failure, the summons is quashed in a proceeding described in subparagraph (B) or the reporting corporation is not able to provide the records requested in the summons, the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which the records relate.

"(3) Applicable rules.—If the rules of this paragraph apply to any transaction or item, the treatment of such transaction (or the amount and treatment of any such item) shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

"(4) Judicial proceedings.—The provisions of section 6038A(e)(4) shall apply with respect to any summons issued under paragraph (2)(A); except that subparagraph (D) of such section shall be applied by substituting 'transaction or item' for 'transaction'.

"(e) Definitions.—For purposes of this section, the terms 'related party', 'foreign person', and 'records' have the respective meanings given to such terms by section 6038A(c)."

(b) Conforming Amendments.—

(1) Paragraph (1) of section 6038A(a) is amended by striking "or is a foreign corporation engaged in trade or business within the United States".

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6038B the following new item:

"Sec. 6038C. Information with respect to foreign corporations engaged in U.S. business."

(c) Effective Date.—The amendments made by this section shall apply to—

(1) any requirement to furnish information under section 6038C(a) of the Internal Revenue Code of 1986 (as added by this section) if the time for furnishing such information under such section is after the date of the enactment of this Act,

(2) any requirement under such section 6038C(a) to maintain records which were in existence on or after March 20, 1990,

(3) any requirement to authorize a corporation to act as a limited agent under section 6038C(d)(1) of such Code (as so added) if the time for authorizing such action is after the date of the enactment of this Act, and

(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began.

SEC. 13206. STUDY OF SECTION 482.

(a) General Rule.—The Secretary of the Treasury or his delegate shall conduct a study of the application and administration of section 482 of the Internal Revenue Code of 1986. Such study shall include examination of—

(1) the effectiveness of the amendments made by this part in increasing levels of compliance with such section 482,

(2) use of advanced determination agreements with respect to issues under such section 482,

(3) possible legislative or administrative changes to assist the Internal Revenue Service in increasing compliance with such section 482, and

(4) coordination of the administration of such section 482 with similar provisions of foreign tax laws and with domestic nontax laws.

(b) Report.—Not later than March 1, 1992, the Secretary of the Treasury or his delegate shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

Subtitle C—Retiree Health Provisions

Part I—Treatment of Reversions of Qualified Plan Assets to Employers

SEC. 13301. INCREASE IN REVERSION TAX.

Section 4980(a) (relating to tax on reversion of qualified plan assets to employer) is amended by striking "15 percent" and inserting "20 percent".

SEC. 13302. REQUIREMENT OF REPLACEMENT PLAN FOR PORTION OF EXCESS ASSETS.

(a) In General.—Section 4980 is amended by adding at the end thereof the following new subsection:

"(d) Increase in Tax for Failure to Establish Replacement Plan or Increase Benefits.—

"(1) In General.—Subsection (a) shall be applied by substituting '40 percent' for '20 percent' with respect to any employer reversion from a qualified plan unless—

"(A) the employer establishes or maintains a qualified replacement plan, or

"(B) the plan provides benefit increases meeting the requirements of paragraph (3).

"(2) Qualified replacement plan.—For purposes of this subsection, the term 'qualified replacement plan' means a qualified plan established or maintained by the employer in connection with a qualified plan termination (hereinafter referred to as the 'replacement plan') with respect to which the following requirements are met:

"(A) Participation requirement.—Substantially all of the active participants in the terminated plan are active participants in the replacement plan.

"(B) Asset transfer requirement.—

"(i) 20 percent cushion.—A direct transfer from the terminated plan to the replacement plan is made before any employer reversion in an amount equal to the excess (if any) of—

"(I) 20 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, over

"(II) the amount determined under clause (ii).

"(ii) Reduction for increase in benefits.—The amount determined under this clause is an amount equal to the present value of the aggregate increases in the nonforfeitable accrued benefits under the terminated plan of any participants (including nonactive participants) pursuant to a plan amendment which)—

"(I) is adopted during the 60-day period ending on the date of termination of the qualified plan, and

"(II) takes effect immediately on the termination date.

(III) Treatment of amount transferred.—In the case of the transfer of any amount under clause (i)—

(I) such amount shall not be includable in the gross income of the employer,

"(II) no deduction shall be allowable with respect to such transfer, and

"(III) such transfer shall not be treated as an employer reversion for purposes of this section.

"(iv) Special rule for electing employers.—If an employer makes an election under paragraph (3)(A)(iii), the amount required to be transferred under this subparagraph shall be the amount determined under such paragraph (and no reduction shall be made in such amount under clause (i)(I)).

"(C) Allocation requirements.—

"(i) In general.—In the case of any defined contribution plan, the portion of the amount transferred to the replacement plan under subparagraph (B)(i) is—

"(I) allocated under the plan to the accounts of participants in the plan year in which the transfer occurs, or

"(II) credited to a suspense account and allocated from such account to accounts of participants no less rapidly than ratably over the 7-plan-year period beginning with the year of the transfer (or, if any limitation under section 415 applies, the period allowable under such section).

"(ii) Treatment of income.—Any income on any amount credited to a suspense account under clause (i)(II) shall be allocated to accounts of participants no less rapidly than ratably over the remainder of the period determined under such clause.

"'(iii) Unallocated amounts at termination.—If any amount credited to a suspense account under clause (i)(II) is not allocated as of the termination date of the plan—

"(I) such amount shall be allocated to the accounts of participants as of such date, except that any amount which may not be allocated by reason of any limitation under section 415 shall be allocated to the accounts of other participants, and

"(II) if any portion of such amount may not be allocated to other participants under subclause (I) by reason of such limitation, such portion shall be treated as an employer reversion to which this section applies.

"(3) Benefit increases.—The requirements of this paragraph are met if either of the following requirements are met:

"(A) Pro rata increase in benefits.—

"(i) In general.—A plan amendment to the terminated plan is adopted in connection with the termination of the plan which provides pro rata increases in the nonforfeitable accrued benefits of all participants (including nonactive participants) which—

"(I) have an aggregate present value not less than 25 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, and

"(II) take effect immediately on the termination date.

"(ii) Pro rata increase.—For purposes of clause (i), a pro rata increase is an increase in the nonforfeitable accrued benefit of each participant (including nonactive participants) in an amount which bears the same ratio to the aggregate amount determined under clause (i)(I) as—

"(I) the present value of such participant's a nonforfeitable accrued benefit (determined without regard to this subsection), bears to

"(II) the aggregate present value of nonforfeitable accrued benefits of the terminated plan (as so determined).

Notwithstanding the preceding sentence, the aggregate increases in the nonforfeitable accrued benefits of nonactive participants shall not exceed 40 percent of the aggregate amount determined under clause (i)(I).

"(iii) Election of replacement plan for active participants.—An employer may elect, in lieu of providing benefit increases under this subparagraph to active participants, to establish or maintain a qualified replacement plan with respect to active participants. For purposes of paragraph (2)(B), the amount required to be transferred to such qualified replacement plan shall be an amount equal to the aggregate present value of the increases in nonforfeitable accrued benefits of active participants which (but for this clause) would be required under this subparagraph.

"(B) Benefit increase of 30 percent or greater.—The aggregate present value of the increases in nonforfeitable accrued benefits described in paragraph (2)(B)(ii) is 30 percent or more of the maximum amount which the employer could receive as an employer reversion without regard to this subsection.

"(4) Coordination with other provisions.—

"(A) Limitations.—A benefit may not be increased under paragraph (2)(B)(ii) or (3)(A), and an amount may not be allocated to a participant under paragraph (2)(C), if such increase or allocation would result in a failure to meet any requirement under section 401(a)(4) or 415.

"(B) Treatment as employer contributions.—Any increase in benefits under paragraph (2)(B)(ii) or (3)(A), or any allocation of any amount (or income allocable thereto) to any account under paragraph (2)(C), shall be treated as an employer contribution for purposes of section 415.

"(C) 10-year participation requirement.—Except as provided by the Secretary, section 415(b)(5)(D) shall not apply to any increase in benefits by reason of this subsection to the extent that the application of this subparagraph does not discriminate in favor of highly compensated employees (as defined in section 414(q)).

"(5) Definitions and special rules.—For purposes of this subsection—

"(A) Nonactive participant.—The term 'nonactive participant' means an individual who—

"(i) is a participant in pay status as of the termination date,

"(ii) is a beneficiary who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, or

"(iii) is a participant not described in clause (i) or (ii)—

"(I) who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, and

"(II) whose service, which was creditable under the terminated plan, terminated during the period beginning 3 years before the termination date and ending with the date on which the final distribution of assets occurs.

"(B) Present value.—Present value shall be determined as of the termination date and on the same basis as liabilities of the plan are determined on termination.

"(C) Reallocation of increase.—Except as provided in paragraph (2)(C), if any benefit increase is reduced by reason of the last sentence of paragraph (3)(A)(ii) or paragraph (4), the amount of such reduction shall be allocated to the remaining participants on the same basis as other increases (and shall be treated as meeting any allocation requirement of this subsection).

"(D) Aggregation of plans.—The Secretary may provide that 2 or more plans may be treated as 1 plan for purposes of determining whether there is a qualified replacement plan under paragraph (2).

"(6) Subsection not to apply to employer in bankruptcy.—This subsection shall not apply to an employer who, as of the termination date of the qualified plan, is in bankruptcy liquidation under chapter 7 of title 11 of the United States Code."

(b) Amendments to Employee Retirement Income Security Act.—

(1) Fiduciary responsibility.—Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end thereof the following new subsection:

"(d)(1) If, in connection with the termination of a single-employer plan, an employer elects to establish or maintain a qualified replacement plan, or to increase benefits, as provided under section 4980(d) of the Internal Revenue Code of 1986, a fiduciary shall discharge the fiduciary's duties under this title and title IV in accordance with the following requirements:

"(A) In the case of a fiduciary of the terminated plan, any requirement—

"(i) under section 4980(d)(2)(B) of such Code with respect to the transfer of assets from the terminated plan to a qualified replacement plan, and

"(ii) under section 4980(d)(2)(B)(ii) or 4980(d)(3) of such Code with respect to any increase in benefits under the terminated plan.

"(B) In the case of a fiduciary of a qualified replacement plan, any requirement—

"(i) under section 4980(d)(2)(A) of such Code with respect to participation in the qualified replacement plan of active participants in the terminated plan,

"(ii) under section 4980(d)(2)(B) of such Code with respect to the receipt of assets from the terminated plan, and

"(iii) under section 4980(d)(2)(C) of such Code with respect to the allocation of assets to participants of the qualified replacement plan.

"(2) For purposes of this subsection—

"(A) any term used in this subsection which is also used in section 4980(d) of the Internal Revenue Code of 1986 shall have the same meaning as when used in such section, and

"(B) any reference in this subsection to the Internal Revenue Code of 1986 shall be a reference to such Code as in effect on January 1, 1991."

(2) Conforming amendments.—

(A) Section 404(a)(1)(D) of such Act (29 U.S.C. 1104(a)(1)(D)) is amended by striking "or title IV" and inserting "and title IV".

(B) Section 4044(d)(1) of such Act (29 U.S.C. 1344(d)(1)) is amended by inserting ", section 404(d) of this Act, and section 4980(d) of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "paragraph (3)".

SEC. 13303. EFFECTIVE DATE.

(a) In General.—Except as provided in subsection (b), the amendments made by this subpart shall apply to reversions occurring after September 30, 1990.

(b) Exception.—The amendments made by this subpart shall not apply to any reversion after September 30, 1990, if—

(1) in the case of plans subject to title IV of the Employee Retirement Income Security Act of 1974, a notice of intent to terminate under such title was provided to participants (or if no participants, to the Pension Benefit Guaranty Corporation) before October 1, 1990, or

(2) in the case of plans subject to title I (and not to title IV) of such Act, a notice of intent to reduce future accruals under section 204(h) of such Act was provided to participants in connection with the termination before October 1, 1990.

Part II—Transfers to Retiree Health Accounts

SEC. 13311. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) In General.—Part I of subchapter D of chapter 1 (relating to pension, profit-sharing, and stock bonus plans) is amended by adding at the end thereof the following new subpart:

"Subpart E—Treatment of Transfers to Retiree Health Accounts

"Sec. 420. Transfers of excess pension assets to retiree health accounts.

"SEC. 420. TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

"(a) General Rule.—If there is a qualified transfer of any excess pension assets of a defined benefit plan (other than a multiemployer plan) to a health benefits account which is part of such plan—

"(1) a trust which is part of such plan shall not be treated as failing to meet the requirements of subsection (a) or (h) of section 401 solely by reason of such transfer (or any other action authorized under this section),

"(2) no amount shall be includible in the gross income of the employer maintaining the plan solely by reason of such transfer,

"(3) such transfer shall not be treated—

"(A) as an employer reversion for purposes of section 4980, or

"(B) as a prohibited transaction for purposes of section 4975, and

"(4) the limitations of subsection (d) shall apply to such employer.

"(b) Qualified Transfer.—For purposes of this section—

"(1) In general.—The term 'qualified transfer' means a transfer—

"(A) of excess pension assets of a defined benefit plan to a health benefits account which is part of such plan in a taxable year beginning after December 31, 1990,

"(B) which does not contravene any other provision of law, and

"(C) with respect to which the plan meets—

"(i) the use requirements of subsection (c)(1),

"(ii) the vesting requirements of subsection (c)(2), and

"(iii) the minimum benefit requirements of subsection (c)(3).

"(2) Only 1 transfer per year.—

"(A) In general.—No more than 1 transfer with respect to any plan during a taxable year may be treated as a qualified transfer for purposes of this section.

"(B) Exception.—A transfer described in paragraph (4) shall not be taken into account for purposes of subparagraph (A).

"(3) Limitation on amount transferred.—The amount of excess pension assets which may be transferred in a qualified transfer shall not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the taxable year of the transfer for qualified current retiree health liabilities.

"(4) Special rule for 1990.—

"(A) In general.—Subject to the provisions of subsection (c), a transfer shall be treated as a qualified transfer if such transfer—

"(i) is made after the close of the taxable year preceding the employer's first taxable year beginning after December 31, 1990, and before the earlier of—

"(I) the due date (including extensions) for the filing of the return of tax for such preceding taxable year, or

"(II) the date such return is filed, and

"(ii) does not exceed the expenditures of the employer for qualified current retiree health liabilities for such preceding taxable year.

"(B) Reduction in deduction.—The amount of the deductions otherwise allowable under this chapter to an employer for the taxable year preceding the employer's first taxable year beginning after December 31, 1990, shall be reduced by the amount of any qualified transfer to which this paragraph applies.

"(C) Coordination with reduction rule.—Subsection (e)(1)(B) shall not apply to a transfer described in subparagraph (A).

"(5) Expiration.—No transfer in any taxable year beginning after December 31, 1995, shall be treated as a qualified transfer.

"(c) Requirements of Plans Transferring Assets.—

"(1) Use of transferred assets.—

"(A) In general.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) shall be used only to pay qualified current retiree health liabilities (other than liabilities of key employees not taken into account under subsection (e)(1)(D)) for the taxable year of the transfer (whether directly or through reimbursement).

"(B) Amounts not used to pay for health benefits.—

"(i) In general.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) which are not used as provided in subparagraph (A) shall be transferred out of the account to the transferor plan.

"(ii) Tax treatment of amounts.—Any amount transferred out of an account under clause (i)—

"(I) shall not be includible in the gross income of the employer for such taxable year, but

"(II) shall be treated as an employer reversion for purposes of section 4980.

"(C) Ordering rule.—For purposes of this section, any amount paid out of a health benefits account shall be treated as paid first out of the assets and income described in subparagrpah (A).

"(2) Requirements relating to pension benefits accruing before transfer.—

"(A) In general.—The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).

"(B) Special rule for 1990.—In the case of a qualified transfer described in subsection (b)(4), the requirements of this paragraph are met with respect to any participant who separated from service during the taxable year to which such transfer relates by recomputing such participant's benefits as if subparagraph (A) had applied immediately before such separation.

"(3) Minimum benefit requirement.—

"(A) In general.—The requirements of this paragraph are met if each health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the benefit maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the qualified transfer.

"(B) Applicable employer cost.—For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by dividing—

"(i) the qualified current retiree health liabilities of the employer for such taxable year determined—

"(I) without regard to any reduction under subsection (e)(1)(B), and

"(II) in the case of a taxable year in which there was no qualified transfer, in the same manner as if there had been such a transfer, by

"(ii) the number of individuals to whom coverage for applicable health benefits was provided during such taxable year.

"(C) Election to compute cost separately.—An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

"(D) Benefit maintenance period.—For purposes of this paragraph, the term 'benefit maintenance period' means the 5 taxable year period beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in 2 or more overlapping benefit maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year.

"(d) Limitations on Employer.—For purposes of this title—

"(1) Deduction limitations.—No deduction shall be allowed—

"(A) for the transfer of any amount to a health benefits account in a qualified transfer (or any retransfer to the plan under subsection (c)(1)(B)),

"(B) for qualified current retiree health liabilities paid out of the assets (and income) described in subsection (c)(1), or

"(C) for any amounts to which subparagraph (B) does not apply and which are paid for qualified current retiree health liabilities for the taxable year to the extent such amounts are not greater than the excess (if any) of—

"(i) the amount determined under subparagraph (A) (and income allocable thereto), over

"(ii) the amount determined under subparagraph (B).

"(2) No contributions allowed.—An employer may not contribute after December 31, 1990, any amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to qualified current retiree health liabilities for which transferred assets are required to be used under subsection (c)(1).

"(e) Definition and Special Rules.—For purposes of this section—

"(1) Qualified current retiree health liabilities.—For purposes of this section—

"(A) In general.—The term 'qualified current retiree health liabilities' means, with respect to any taxable year, the aggregate amounts (including administrative expenses) which would have been allowable as a deduction to the employer for such taxable year with respect to applicable health benefits provided during such taxable year if—

"(i) such benefits were provided directly by the employer, and

"(ii) the employer used the cash receipts and disbursements method of accounting.

For purposes of the preceding sentence, the rule of section 419(c)(3)(B) shall apply.

"(B) Reductions for amounts previously set aside.—The amount determined under subparagraph (A) shall be reduced by any amount previously contributed to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) to pay for the qualified current retiree health liabilities.

"(C) Applicable health benefits.—The term 'applicable health benefits' means health benefits which are provided to—

"(i) former employees who, immediately before the qualified transfer, are entitled to receive benefits through the account by reason of their participation under the plan, and

"(ii) their spouses and dependents.

"(D) Key employees excluded.—If an employee is a key employee (within the meaning of section 416(i)(1)) with respect to any plan year ending in a taxable year, such employee shall not be taken into account in computing qualified current retiree health liabilities for such taxable year.

"(2) Excess pension assets.—The term 'excess pension assets' means the excess (if any) of—

"(A) the amount determined under section 412(c)(7)(A)(ii), over

"(B) the greater of—

"(i) the amount determined under section 412(c)(7)(A)(i), or

"(ii) 125 percent of current liability (as defined in section 412(c)(7)(B)).

The determination under this paragraph shall be made as of the most recent valuation date of the plan preceding the qualified transfer.

"(3) Health benefits account.—The term "health benefits account" means an account established and maintained under section 401(h).

"(4) Coordination with section 412.—In the case of a qualified transfer to a health benefits account—

"(A) any assets transferred in a plan year after the valuation date for such year shall, for purposes of section 412(c)(7), be treated as assets in the plan as of the valuation date for the following year, and

"(B) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) for the plan year in which such transfer occurs in an amount equal to the amount of such transfer, except that such section shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(b) Conforming Amendment.—Section 401(h) is amended by inserting ", and subject to the provisions of section 420" after "Secretary".

(c) Effective Date.—The amendments made by this section shall apply to transfers in taxable years beginning after December 31, 1990.

SEC. 13312. APPLICATION OF ERISA TO TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) Exclusive Benefit Requirement.—Section 403(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1103(c)(1)) is amended by inserting ", or under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "insured plans)".

(b) Fiduciary Duties.—Section 404(a)(1) of such Act (29 U.S.C. 1104(a)(1)) is amended by inserting "and subject to section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)," after "4044,".

(c) Exemptions From Prohibited Transactions.—Section 408(b) of such Act (29 U.S.C. 1108(b)) is amended by adding at the end thereof the following new paragraph:

"(13) Any transfer in a taxable year beginning before January 1, 1996, of excess pension assets from a defined benefit plan to a retiree health account in a qualified transfer permitted under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)."

(d) Funding Limitations.—Section 302 of such Act (29 U.S.C. 1082) is amended by redesignating subsection (g) as subsection (h) and by adding at the end thereof the following new subsection:

"(g) Qualified Transfers to Health Benefit Accounts.—For purposes of this section, in the case of a qualified transfer (as defined in section 420 of the Internal Revenue Code of 1986)—

"(1) any assets transferred in a plan year after the valuation date for such year shall, for purposes of subsection (c)(7), be treated as assets in the plan as of the valuation date for the following year, and

"(2) the plan shall be treated as having a net experience loss under subsection (b)(2)(B)(iv) for the plan year in which such transfer occurs in an amount equal to the amount of such transfer, except that such subsection shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(e) Notice Requirements.—

(1) In general.—Section 101 of such Act (29 U.S.C. 1021) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Notice of Transfer of Excess Pension Assets to Health Benefits Accounts.—

"(1) Notice to participants.—Not later than 60 days before the date of a qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the administrator of the plan shall notify (in such manner as the Secretary may prescribe) each participant and beneficiary under the plan of such transfer. Such notice shall include information with respect to the amount of excess pension assets, the portion to be transferred, the amount of health benefits liabilities to be funded with the assets transferred, and the amount of pension benefits of the participant which will be vested immediately after the transfer.

"(2) Notice to secretaries, administrator, and employee organizations.—

"(A) In general.—Not later than 60 days before the date of any qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the employer maintaining the plan from which the transfer is made shall provide the Secretary, the Secretary of the Treasury, the administrator, and each employee organization representing participants in the plan a written notice of such transfer. A copy of any such notice shall be available for inspection in the principal office of the administrator.

"(B) Information relating to transfer.—Such notice shall identify the plan from which the transfer is made, the amount of the transfer, a detailed accounting of assets projected to be held by the plan immediately before and immediately after the transfer, and the current liabilities under the plan at the time of the transfer.

"(C) Authority for additional reporting requirements.—The Secretary may prescribe such additional reporting requirements as may be necessary to carry out the purposes of this section.

"(3) Definitions.—For purposes of paragraph (1), any term used in such paragraph which is also used in section 420 of the Internal Revenue Code of 1986 shall have the same meaning as when used in such section."

(2) Penalties.—

(A) Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by inserting "or section 101(e)(1)" after "section 606".

(B) Section 502(c)(3) of such Act (29 U.S.C. 1132(c)(3)) is amended—

(i) by inserting "or who fails to meet the requirements of section 101(e)(2) with respect to any person" after "beneficiary" the first place it appears, and

(ii) by inserting "or to such person" after "beneficiary" the second place it appears.

(f) Effective Date.—The amendments made by this section shall apply to qualified transfers under section 420 of the Internal Revenue Code of 1986 made after the date of the enactment of this Act.

Subtitle D—Employment Tax Provisions

SEC. 13401. DEPOSITS OF PAYROLL TAXES.

(a) In General.—Subsection (g) of section 6302 is amended to read as follows:

"(g) Deposits of Social Security Taxes and Withheld Income Taxes.—If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21 and 24 on the basis of eighth-month periods, such person shall make deposits of such taxes on the 1st banking day after any day on which such person has $100,000 or more of such taxes for deposit.".

(b) Technical Amendment.—Paragraph (2) of section 7632(b) of the Revenue Reconciliation Act of 1989 is hereby repealed.

(c) Effective Date.—The amendments made by this section shall apply to amounts required to be deposited after December 31, 1990.

SEC. 13402. IRS COMPLIANCE INITIATIVE.

There is authorized to be appropriated to carry out activities of the Internal Revenue Service to increase taxpayer compliance with the Internal Revenue Code of 1986—

(1) $191,000,000 for fiscal year 1991,
(2) $172,000,000 for fiscal year 1992,
(3) $183,000,000 for fiscal year 1993,
(4) $187,000,000 for fiscal year 1994, and
(5) $188,000,000 for fiscal year 1995.

—At the end of the bill, insert the following:

TITLE XIV—FIVE YEAR BUDGET ENFORCEMENT

Subtitle A—5 Year Budget Agreement

SEC. 14-101. BUDGET AGREEMENT AMOUNTS.

(a) The budget agreement category amounts are as follows:

Fiscal year	1991	1992	1993	1994	1995
National defense discretionary:					
Budget authority	289.1	291.6	290.9	296.8	297.6
Outlays	296.4	294.3	291.4	295.7	293.7
International discretionary:					
Budget authority	20.2	20.8	21.7	19.9	20.2
Outlays	18.5	19.4	19.8	17.3	17.0
Domestic discretionary:					
Budget authority	167.0	175.2	180.9	180.9	181.0
Outlays	189.0	197.7	205.2	210.5	214.4
Total discretionary:					
Budget authority	476.3	487.6	493.5	497.6	498.8
Outlays	503.9	511.4	516.4	523.5	525.1

(b) The committee on Appropriations in the House and Senate shall report new allocations pursuant to section 302 of the Congressional Budget Act of 1974 which are consistent with the budget agreement amounts in subsection (a). No appropriations bills, or any measure providing for appropriations for fiscal year 1991 shall be enrolled unless they comply with the allocations pursuant to this subsection.

(c) The economic assumptions that underlie the matters set forth in this section are:

Calendar year	1991	1992	1993	1994	1995
Nominal GNP:					
Level (in billions of dollars)	5,201	6,199	6,670	7,141	7,607
Percent change, 4th/5th	6.0	7.3	7.5	6.8	6.4
Real GNP, percent change, 4th/4th	1.3	3.8	4.1	3.7	3.5
GNP deflator, percent change, 4th/4th	4.6	3.4	3.2	3.0	2.8
Unemployment rate (percent)	6.1	6.4	5.6	5.3	5.1
Interest rates:					
91-day Treasury bills (percent)	7.2	5.7	4.9	4.4	4.2
10-year Treasury notes (percent)	8.3	7.1	6.1	5.6	5.3
Domestic oil prices (dollars per barrel)	24.15	21.10	21.79	22.41	23.02

(d) Section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding the following new subsections at the end thereof:

"(11) (A) For fiscal years 1991, 1992, 1993, 1994 and 1995, the term "budget agreement categories" means the categories of national defense discretionary, international discretionary, domestic discretionary:

(1) The term "national defense discretionary" means budgetary resources not required or provided by law other than appropriations Acts for national defense functions (050), as set forth in the Budget of the United States Government for Fiscal Year 1991, excluding budget authority and outlays resulting from gifts received into the Defense Cooperation Account and supplemental funding for Operation Desert Shield.

(2) The term "international discretionary" means budgetary resources not required or provided by law other than appropriations Acts for the international affairs function (150), as set forth in the Budget of the United States Government for Fiscal Year 1991, excluding the periodic assessment to the International Monetary Fund and the budgetary effect of forgiving of Egyptian debt incurred under the Arms Export Control Act.

(3) The term "domestic discretionary" means budgetary resources not required or provided by law other than appropriations Acts for domestic programs, which are discretionary programs not included in the national defense discretionary or international discretionary categories, as defined in paragraphs (1) and (2).

(B) The term "budget agreement category amount" means the exact amount set forth in section 101(a) of the Budget Process Act of 1990 for a budget agreement category.

"(12) The term "nondiscretionary spending" means any spending, excluding amounts included under budget agreement amounts as defined in paragraph (11) and amounts explicitly excluded by such paragraph, and including the following:

(A) The term "entitlement/mandatory spending category" means an amount, other than those identified in (B), (C), or (D) of this subsection, that is provided or required by law, including spending authority as defined in 401(c)(2) of this Act, and appropriated entitlements.

(B) The term "net interest" means the net interest function (900), as set forth in the Budget of the United States Government for Fiscal Year 1991.

(C) The term "RTC authority" means any new budget authority or spending authority provided under to the Financial Institutions Reform, Recovery and Enforcment Act of 1989, including funding for:

(1) RTC Revolving Fund (22-4055, 51-1100, 51-1400);

(2) FSLIC Resolution Fund (51-4065; 20-0176);

(3) Bank Insurance Fund (51-4064); and

(4) Savings Association Insurance Fund (51-4066).

(D) The term "undistributed offsetting receipts" means the employer share, employee retirement (on- and off-budget); rents and royalties on the Outer Continental Shelf; sale of major assets; and other offsetting receipts not distributed to specific functions.

(d) For the purposes of enforcing this budget agreement, no programs, projects, or activities shall be moved from one category to any other category. New activities shall be classified in accordance with the procedures specified in section 1104 of title 31 of the United States Code.

SEC. 14-102. AMENDMENTS TO TITLE III OF THE CONGRESSIONAL BUDGET ACT.

(a) Section 301(a) of the Congressional Budget Act of 1974 is amended—

(1) in the matter before paragraph (1) by striking "two" and inserting "four"; and

(2) at the end of paragraph (4), by deleting "; and", and by adding the following: "For fiscal years 1991 through 1993, the term 'major functional category' shall mean the categories set forth and defined in section 3(11) and (12) of this Act; and".

(b) Section 301(b)(3) is amended by striking "for such fiscal year" and inserting "for any fiscal year covered by the resolution".

(c) Section 301(e) is amended—

(1) in the first sentence by striking "for each fiscal year"; and

(2) in paragraph (6) by striking "such fiscal year" and inserting "the first fiscal year covered by the resolution".

(d) Section 301(f) (1) and (2) are amended by striking "for the fiscal year beginning after the date on which such Economic Report is received by the Congress" both places it appears.

(e) Section 301(i) is amended—

(1) by deleting the title and inserting, "NEITHER THE MAXIMUM DEFICIT AMOUNT NOR THE BUDGET AGREEMENT CATEGORY AMOUNTS MAY BE VIOLATED.—"; and

(2) in paragraph (1)(A) by—

(A) striking "for a fiscal year";

(B) striking "for such fiscal year" the first place it appears and inserting "for the first fiscal year";

(C) inserting after "section 3(7)" the first place it appears, "or if any amount set forth in such resolution or conference report exceeds the budget agreement category amount for such category set forth in section 101(a) of the Budget Process Reform Act of 1990"; and

(D) inserting before the period, ", or would result in amounts that exceed any budget agreement category amount set forth in section 101(a) of the Budget Process Reform Act of 1990".

(3) in paragraph (2) by—

(A) striking subparagraphs (B) and (C); and

(B) by striking "(A)".

(f) Section 302(a) is amended—

(1) in paragraph (1) and (2) by inserting "for each fiscal year caused by such resolution" after "estimated allocation" each place it appears;

(2) in paragraph (1) by—

(A) inserting "budget agreement category amounts" in the first sentence before the words, ", and total credit authority", and inserting "such budget agreement category amounts" before the words, "or such credit authority"; and

(B) inserting "budget agreement category amounts" in the second sentence before the words, ", and credit authority", and inserting before the period, "or such budget agreement category amounts".

(3) in paragraph (2) by inserting "budget agreement category amounts," before the words, "and new credit authority", and inserting before the period, "or such budget agreement category amounts".

(g) Section 302 (b)(1) is amended by—

(1) inserting "budget agreement category amounts," before the words, ", and new credit authority"; and

(2) inserting "for the fiscal year" after the words, "to it".

(h) Section 302(c) is amended by—

(1) inserting after "for a fiscal year" each place it appears "or fiscal years";

(2) inserting after "for such fiscal year" each place it appears "(or fiscal years)"; and

(3) deleting "or" at the end of paragraph (2), renumbering "(3)" to "(4)", and inserting the following after the existing paragraph (2): "(3) budget agreement category amounts for a fiscal year; or".

(i) Section 302(f) is amended—

(1) in paragraph (1) by—

(A) striking "for a fiscal year";

(B) striking "such fiscal year" each place it appears in the matter preceding subparagraph (A) and inserting "a fiscal year covered by the resolution"; and

(C) inserting before the period: "or would cause an excess of the appropriate allocation made pursuant to subsection (b) for such fiscal year of any budget agreement category amount"; and

(2) in paragraph (2) by—

(A) striking "for a fiscal year" ';

(B) striking "such fiscal year" and inserting "the appropriate fiscal year"; and

(C) adding before the period, "or exceeding the appropriate allocation of such outlays or budget authority in a budget agreement category amount reported under subsection (b) in connection with such resolution".

(j) Section 303(a) is amended in the matter following paragraph (5) by striking "budget for such fiscal year" and inserting "budget for which such fiscal year is the first fiscal year covered".

(k) Section 304(b) is amended by deleting the title and inserting "NEITHER MAXIMUM DEFICIT AMOUNT NOR THE BUDGET AGREEMENT CATEGORY AMOUNT MAY BE VIOLATED.—".

(l) Section 305 (a)(3) and (b)(3) are amended by striking "for a fiscal year" each place it appears.

(m) Section 308(a) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting "(or fiscal years)" after "fiscal year";

(B) in subparagraph (A) by inserting "(or fiscal years)" after "fiscal year"; and

(C) in subparagraph (C), by—

(i) deleting "and each of the four ensuing fiscal years"; and

(ii) inserting "(or fiscal years)" after "such fiscal year".

(2) in paragraph (2), by inserting "(or fiscal years)" after "fiscal year".

(n) Section 308(b)(1) is amended by—

(1) by striking "for a fiscal year" in the first sentence and inserting "for each fiscal year covered by a resolution on the budget"; and

(2) by striking "such fiscal year" in the second sentence and inserting "the first fiscal year covered by the appropriate resolution".

(o) Section 310(a) is amended—

(1) by inserting "(for at least five fiscal years)" after "shall" in the matter preceding paragraph (1);

(2) in paragraph (1) by striking "such fiscal year" each place it appears and inserting "such fiscal years"; and

(3) by adding at the end of subsection (a) the following: "To the extent that a resolution on the budget specifies and directs matters described in paragraph (1) or (2), the resolution shall specify and direct deficit reduction in years after the first year covered by the resolution".

(p) Section 311(a) is amended by—

(1) striking "for a fiscal year";

(2) striking "such fiscal year" the first place it appears and inserting "a fiscal year covered by the resolution";

(3) inserting "for such fiscal year" after "outlays";

(4) striking "budget for such fiscal year" and inserting "budget covering such fiscal year";

(5) inserting after "exceeded": ", or would cause budget agreement category amounts to be more than such amount set forth in such resolution";

(6) inserting "for such fiscal year" after "revenues" the first place it appears;

(7) inserting "for such fiscal year" after "set forth" the second place it appears; and

(8) inserting after the phrase, "would otherwise result in", the following: "total amounts of budget authority or outlays for such fiscal year that are not equal to the budget agreement category amounts set forth in section 101(a) of the Budget Process Reform Act of 1990 or in"; and

(9) striking "deficit for such fiscal year" and inserting "deficit for each fiscal year covered by the resolution".

(q) Section 311(b) is amended by inserting "(or fiscal years)" after "such fiscal year" both places it appears.

(r) Conforming amendments.—

(1) section 401(b)(2) of the Act is amended by inserting "(or fiscal years)" after "for such fiscal year" the second place it appears.

(2) section 2(2) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "each year".

Subtitle B—Treatment of Social Security and the Balanced Budget Act

SEC. 14-201. FINDINGS AND DECLARATION.

(a) Findings.—The Congress finds that—

(1) Social Security is the bedrock of America's retirement system;

(2) Social Security today provides security to nearly 40 million Americans, with benefits going to older Americans, as well as to those who are disabled and to families of the elderly and disabled;

(3) Social Security has enabled older Americans to escape the specter of poverty and to live their lives in a manner that is productive and beneficial to society;

(4) the Social Security system must be protected, not only for those currently receiving benefits, but for Americans now in and entering the labor force;

(5) the large cohort of today's workers known as the "baby boom" generation will be retiring starting in the second decade of the next century;

(6) these workers are now accumulating Social Security retirement credits and will be entitled to benefits upon retirement;

(7) the Congress in amending the Social Security Act in 1983, following the recommendations of the National Commission on Social Security Reform, provided for the accumulation of balances in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, in anticipation of the payments due in the next century;

(8) the balances in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund should be protected and used solely for the purpose of assuring future benefits; and

(9) the Balanced Budget and Emergency Deficit Control Act of 1985 (the Gramm-Rudman-Hollings law) has provided fiscal discipline and has resulted in a reduction in the Federal deficit since its enactment.

(b) Declaration.—The Congress declares that removing Social Security from Federal deficit calculations, protecting Social Security's reserves for the future of the Social Security's system, and balancing the Federal deficit exclusive of the Social Security trust funds will lead to a reduction of Federal debt and an increase in national savings, thereby providing long-term economic growth, the key to assuring that Social Security benefits will continue to be paid over the long-term.

SEC. 14-202. SOCIAL SECURITY'S BUDGETARY TREATMENT.

The Congress and the President hereby reaffirm that—

(1) the receipts, except receipts of interest earned on investments in U.S. securities, and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are off-budget; and

(2) the receipts, except receipts of interest earned on investments in U.S. securities, and disbursements of the Federal Old Age Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be included in the calculation of the Federal deficit for fiscal year 1991 and thereafter under the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 14-203. ESTABLISHMENT OF MAXIMUM DEFICIT TARGETS.

(a) Exclusion of Receipts and Disbursements of Social Security Trust Funds When Calculating Maximum Deficit Amounts.—

(1) Definition of deficit.—

(A) The second sentence of paragraph (6) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 is repealed.

(B) Section 275(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking out "and the

second sentence of section 3(6) of such Act (as added by section 201(a)(1) of this joint resolution)".

(2) Social Security Act.—Subsection (a) of section 710 of the Social Security Act is amended by striking "shall not be included in the totals of the budget" and inserting "shall not be included in the budget deficit or in the totals of the budget".

(3) Extension of treatment of social security trust funds.—

(A) Subsection (a) of section 261 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(i) by striking the caption for such subsection and inserting "Fiscal Years 1986 and Thereafter"; and

(ii) in paragraph (2) by striking ", and ending before October 1, 1992".

(B) Subsection (b) of section 261 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "as amended by section 346(b) of the Social Security Amendments of 1983 (to be effective with respect to fiscal years beginning after September 30, 1992)" and inserting "as amended by subsection (a) of this section (to be effective with respect to fiscal years beginning after September 30, 1990)".

(C) Section 346 of the Social Security Amendments of 1983 (Public Law 98-21) is amended by striking subsection (b).

(D) Paragraph (2) of subsection (a) of section 346 of the Social Security Amendments of 1983 is amended by striking "and ending on or before September 30, 1992".

(4) Effective dates.—The amendments made and repeals effected this subsection shall apply with respect to fiscal years beginning after September 30, 1990.

(b) Maximum Deficit.—Paragraph (7) of Section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended—

(1) by deleting "The" and substituting: "Subject to adjustments made pursuant to section 209 of the Budget Process Reform Act of 1990, the ";

(2) in subparagraph (F), by striking "$64,000,000,000" and inserting in lieu thereof "$207,300,000,000";

(3) in subparagraph (G), by striking "$28,000,000,000" and inserting in lieu thereof "$201,600,000,000";

(4) in subparagraph (H) by striking "zero" and inserting in lieu thereof "$171,000,000,000;" and

(5) by adding:

"(I) with respect to the fiscal year beginning October 1, 1993, $112,100,000,000;

"(J) with respect to the fiscal year beginning October 1, 1994, $63,300,000,000.".

(c) Conforming Changes.—

(1) Definition of margin.—

(A) Section 257(10) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows: "Subject to section 302 of the Budget Process Reform Act of 1990, the term margin means $15,000,000,000 with respect to each of the fiscal years 1992 through 1995."

(B) Section 251(a) is amended in paragraph (1)(B) and paragraph (2)(A) by deleting everything after $10,000,000,000 (zero in the case of fiscal year 1993)" and inserting "the margin for such fiscal year as specified in paragraph (10) of section 257".

(2) Determination of reductions.—(A) Section 251(a)(3)(A)(i)(III) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "or 1993" and inserting "1993, 1994, or 1995";

(B) Section 252(a)(6)(B) is amended by deleting "1993" in the title and inserting "1995"; and

(C) Section 252(a)(7) is amended by deleting "1993" in the title and inserting "1995".

(3) Extension of balanced budget and emergency deficit control act.—

(A) The Balanced Budget and Emergency Deficit Control Act of 1985, is amended, is continued and extended through fiscal year 1995.

(B) Section 275(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "1993" and inserting "1995".

SEC. 14-204. PROTECTING SOCIAL SECURITY.

(a) Social Security Soundness Point of Order.—

(1) In general.—Title IV of the Congressional Budget Act of 1974 is amended by— .

(A) redesignating section 407 as section 408; and

(B) inserting after section 406 the following: "Point of Order Against Spending the Social Security Reserves for Purposes Other Than Now Required by the Law".

"Sec. 407. (a) Legislation Subject to Point of Order.—Notwithstanding any other provision of law, it shall not be in order to consider any bill, resolution, amendment, or conference report if—

"(1) the enactment of such bill or resolution;

"(2) the adoption and enactment of such amendment; or

"(3) the enactement of such bill or resolution in the form recommended in such conference report, would cause a reduction in the present value actuarial balance of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, measured over the ensuing 5-year period (in the case of the Senate) or 5-year or 75-year period (in the case of the House of Representatives) as a result of changes to title II of the Social Security Act, or changes to sections 86, 1401(a), 3101(a), 3111(a), 3201(a), 3211(a), or 3221(a) of the Internal Revenue Code of 1986, or chapter 1 of such Code (to the extent attributable to changes in section 86 of such Code). In the Senate, the Committee on Finance shall issue a report indicating the effect on 75-year actuarial balances at the time such bill, resolution, amendment, or conference report is reported.

"(b) Present Value Actuarial Balance Defined.—For purposes of this section, the term 'present value actuarial balance' with respect to a period of years means the difference between—

"(1) the sum of the actuarial present value of expected future income to the Trust Funds during the period and the assets of the Trust Funds at the beginning of the period, expressed as a percentage of the present value of expected future taxable payroll over the same period; and

"(2) the actuarial present value of expected disbursements from the Trust Funds, expressed as a percentage of the present value of expected future taxable payroll over the same period. Interest or earnings income from instruments other than interest-bearing securities issued by the Federal Government shall not be included in the determination of the present value of expected future income.

"(c) Determination of Present Value Actuarial Balance.—For the purposes of this section, the determination of changes in the present value actuarial balance shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or of the Senate, in consultation with the Congressional Budget Office and the Chief Actuary of the Social Security Administration.".

(2) Table of contents.—The table of contents of the Congressional Budget and Impoundment Control Act of 1974 is amended in title IV by—

(A) redesignating section 407 as section 408; and

(B) inserting after the item for section 406 the following:

"Section 407. Point of order against spending the social security reserves for purposes other than now required by the law.".

(b) Waiver of Point of Order.—Section 904 of the Congressional Budget Act of 1974 is amended by—

(1) redesignating subsection (d) as subsection (e); and

(2) inserting after subsection (c) the following new subsection:

"(d)(1) Section 407 of this Act may be waived or suspended in the Senate only by the affirmative vote of 60 Senators, duly chosen and sworn."

"(2) Section 407 of this Act may be waived or suspended in the House of Representatives only by the affirmative vote of 261 House Members, duly chosen and sworn.".

(c) Appeals of Rulings.—Subsection (c) of section 271 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "or 311(a)" and inserting in lieu thereof "311(a), or 407".

(d) CBO Assistance to Congressional Committees.—Section 202(a) of the Congressional Budget Act of 1974 is amended by redesignating paragraph (3) as paragraph (4) and inserting after "revenue conditions," the following: "(3) projections of changes in the present value actuarial balance of the Social Security trust funds as described in section 407 of this Act,".

(E) Effective Date.—Subsections (a), (b), and (c) of this section are effective for fiscal years following fiscal year 1990.

SEC. 14-205. DEFICIT REDUCTION REQUIREMENTS TO PROTECT THE OASDI RESERVES.

(a) Budget Baseline.—Section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by—

(1) striking "and" after the semicolon in subparagraph (J);

(2) striking the period at the end of subparagraph (K) and inserting "; and"; and

(3) adding at the end thereof the following:

"(L) adding to the baseline (notwithstanding section 710(a) of the Social Security Act or section 3(6) of the Congressional Budget Act of 1974) the aggregate amount by which the Social Security annual reserve has been estimated (at the time of enactment of legislation that affects the Social Security annual reserve) to have been reduced for such fiscal year as a result of enactment of legislation enacted on or after October 18, 1992;

"(M) assuming, for purposes of this paragraph, paragraph (3)(A)(i), and the Congressional Budget Act of 1974, and notwithstanding section 710(a) of the Social Security Act, that receipts of interest by the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall be included in the totals of the budget;".

(b) Definition.—Section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end thereof the following:

"(15) The term 'Social Security annual reserve' means the combined expected receipts of the Federal Old-Age Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund less the combined expected disbursements of the Federal Old-Age Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for any given fiscal year.".

(c) Effective Date.—This section shall apply with respect to fiscal years beginning October 1, 1990 and thereafter.

SEC. 14-206. MODIFICATION OF THE PERSONAL EARNINGS AND BENEFITS STATEMENT.

Section 1142(a)(2) of the Social Security Act, as added by section 10308 of the Omnibus Budget Reconciliation Act of 1989, is amended—

(a) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (F), respectively;

(b) by inserting after subparagraph (B) the following new subparagraph (C):

"(C)(i) an estimate of the percentage of contributions described in subparagraph (B) needed for the payment of current old-age, survivors, and disability insurance benefits (determined by attributing interest and other income of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund to such current benefits), and

"(ii) an estimate of the percentage of such contributions that will be placed into reserve in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund;";

(c) by adding at the end of subparagraph (B) before the semicolon the following: "separately identifying the portion of contributions that are expected to be used to pay the benefits of current old-age, survivors, and disability insurance beneficiaries, and the portion being placed in reserve (under the percentages determined in subparagraph (C))"; and

(d) by inserting after subparagraph (D), as redesignated, the following new subparagraph:

"(E) a description of the old-age, survivors, and disability insurance reserve, including—

"(i) the reserve's current and near term expected accumulation;

"(ii) the reserve's importance to long-run actuarial soundness and future retirement benefits; and

"(iii) a summary of the effect recent legislation has had upon the anticipated building of the reserve and long-run actuarial soundness;".

Subtitle C—STRENGTHENING THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT

SEC. 14-301 DEFICIT TARGETS NOT AFFECTED BY SPECIFIED ACTIVITIES.

(a) Amendments to the Congressional Budget and Impoundment Control Act of 1974—After the second sentence of paragraph (6) of section 3 of the Congressional Budget and Impoundment Control Act of 1974, add the following:

"Section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall apply to calculations of budget authority, budget outlays, and budget totals and the deficit.".

(b) Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985—Section 251(a)(6) of the Balanced Budget and Emergency Deficit Act of 1985 is amended by adding after subsection (M) (as added by this Act) the following:

"(N) assuming, for purposes of this paragraph and paragraph 3(A)(i), and notwithstanding section 406(b) of the Congressional Budget Act of 1974, the transactions, under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, in the following accounts, shall not alter the deficit or produce any change in the budget baseline:

(1) RTC Revolving Fund (22-4055, 51-1100, 51-1400);

(2) FSLIC Resolution Fund (51-4065; 20-0176);

(3) Bank Insurance Fund (51-4064); and

(4) Savings Association Insurance Fund (51-4066).

"(O) assuming, for purposes of this pargraph and pargraph 3(A)(i), and notwithstanding section 406(b) of the Congressional Budget Act of 1974, the transactions for the following purposes shall not alter the deficit or produce any change in the budget baseline:

(1) supplemental funding for Operation Desert Shield; and

(2) forgiveness of Egpytian debt incurred under the Arms Export Control Act.

(3) amounts of appropriations requested by the President for emergencies declared by the President.

(c) The amendments made by subsections (a) and (b) shall apply with respect to fiscal years beginning after September 30, 1990.

SEC. 14-302 ADJUSTMENTS TO THE MAXIMUM DEFICIT AMOUNT AND BUDGET AGREEMENT CATEGORY AMOUNTS.

(a) March 1991 Update to Reflect Actual Performance of the Economy—

(1) The President shall report to the Congress on or before March 31, 1991 on the actual performance of the economy during calendar year 1990. The report shall indicate the extent to which projected outlays, revenues, and the resulting deficit for fiscal years 1991 through 1995 differ from the amounts that would have resulted if the economic assumptions specified in section 101(b) of this Act had been realized. The difference between the maximum deficit amount for each fiscal year, 1991 through 1995, specified in section 3(7) of the Congressional Budget and Impoundment Control Act of 1974, and the deficit amount calculated using the revised projections for each fiscal year, based on actual economic performance during calendar year 1990, will be identified as the economic deficit adjustment for such fiscal year.

(2) The maximum deficit amount for each fiscal year, 1991 through 1995, specified in section 3(7) of the Congressional Budget and Impoundment Control Act of 1974, shall be automatically adjusted by the corresponding economic deficit adjustment identified pursuant to paragraph (1). The adjusted maximum deficit amounts shall be included in the report required in paragraph (1).

(3) The budget agreement category amounts set forth in section 101(a) of this Act shall be automatically adjusted to be mathematically consistent with the economic deficit adjustment identified pursuant to paragraph (1). The amount of the adjustment and the adjusted category amounts for each category shall be included in the report required in paragraph (1).

(4) The assumptions used in the report required by this subsection also shall be used in the report issued in July 1991 pursuant to section 1106 of title 31, United States Code.

(b) Technical Assumptions for Fiscal Year 1993.—The technical assumptions to be used for calculating the budget baseline for fiscal year 1993 pursuant to section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be the assumptions used in the July 1991 report referred to in paragraph (a)(4).

(c) Changes in Economic and Technical Assumptions for Fiscal Years 1994 and 1995

(1) In January 1993, a committee consisting of the members identified in paragraph (2) shall meet to review, consider, and make recommendations to the Congress and the President concerning economic and technical assumptions to be used in reports issued pursuant to sections 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, for fiscal years 1994 and 1995. If the committee unanimously agrees upon changes in economic and technical assumptions for fiscal years 1994 and 1995 and such changes are enacted into law, then the maximum deficit amount set forth in section 3(7) of the Congressional Budget and Impoundment Control Act of 1974, and budget agreement category amounts set forth in section 101(a) of the Budget Process Reform Act of 1990 shall be adjusted accordingly.

(2) The membership of the committee referred to in paragraph (1) shall consist of: the Speaker of the House; the House and Senate Majority and Minority Leaders; the Chairman and Ranking Minority Member from the House and Senate Committees on the Budget, Appropriations, Ways and Means, and Finance; the Director of the Office of Management and Budget; the Secretary of the Treasury; and a member of the President's staff, as designated by the President.

(d) Exclusion of Offsetting Collections Resulting From This Act.—For purposes of calculating whether any bill, resolution, or amendment exceeds budget agreement category amounts, offsetting collections resulting from this Act shall not offset budget authority and outlays in such category in any year covered by this agreement. To the extent offsetting collections resulting from this Act are used to fund what would otherwise be funded by discretionary appropriations, such offsetting collections would be recorded as discretionary budget authority and outlays for the budget agreement category.

(e) Adjustments for Conversion to Credit Reform Budgeting.—

(1) The President shall specify, in his budget submitted pursuant to 31 USC 1105(a) for fiscal year 1992, adjustments to the maximum deficit amount as set forth in Section 3 of the Congressional Budget and Impoundment Control Act of 1974 and estimates of the adjustments necessary to the budget agreement categories set forth in section 101 of this Act to implement credit reform budgeting as provided in section 401 of this Act. These adjustments shall be identified as the credit reform budgeting adjustments. Such budget shall also specify the subsidy rates assumed in calculating the required adjustments.

(2) The maximum deficit amount and the budget agreement category amounts for fiscal years 1992, 1993, 1994, and 1995 shall be adjusted to reflect the credit reform budgeting adjustments reported under paragraph (1). The amount of the adjustments and the adjusted amounts also shall be included in the report required in paragraph (1) of section (b) of this Act.

(3) The President's budget for fiscal year 1993 shall specify subsidy rates revised to reflect additional data on loan performance, and shall indicate the extent to which the maximum deficit amount and budget agreement category amounts would be modified based on the revised subsidy rates. The revision to the estimates required to reflect revised subsidy rates will be identified as the subsidy rate adjustment.

(4) The maximum deficit amount and the budget agreement category amounts for fiscal years 1993, 1994, and 1995 shall be revised to reflect the subsidy rate adjustment reported under paragraph (3).

SEC. 14-303. CHANGE IN MEDICARE MAXIMUM PERCENTAGE REDUCTION.

The Balanced Budget and Deficit Reduction Act of 1985, as amended, is further amended by substituting "4" for "2" in section 252(a)(4)(B)(ii) and in 256(d)(1)(B).

SEC. 14-304 TECHNICAL AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985 AND OTHER CONFORMING CHANGES.

(a) Section 251 of The Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows—

(1) Section 251(a)(2)(B)(i)(II) is repealed, and (III) is renumbered (II).

(2) Section 251(a)(2)(B)(ii) is repealed.

(3) Section 25(a)(2)(B) (iii) and (iv) are repeated.

(4) Section 251(a)(6)(B) is amended by deleting "do expire" and inserting in lieu thereof, "are extended at the lesser of current levels or current rates (unless such provisions of law specifically indicate that they should not be assumed to be extended for purposes of this Act)".

(5) Section 251(a)(6)(C)(i) is amended by deleting the parenthetical and inserting, "(funding for such pay adjustments are assumed to be provided for in such Act unless indicated to the contrary in such Act)".

(6) Section 251(a)(6)(C)(ii) is amended by deleting "(without absorption)" and inserting before "II" the following, ", including adjustments to remove absorption explicitly indicated in such previous fiscal year appropriations,".

(7) Section 251(a)(6)(C)(ii)(III) is amended by deleting "increased to cover the increased" and inserting, "adjusted to cover the changed".

(8) Section 251(b) is amended by deleting "Federal Register" both times it occurs and inserting, "Government Printing Office".

(9) Section 251(d)(3)(C) is amended by deleting the phrase "October 10, 1987, in the case of fiscal year 1988," and substituting "25" for "15".

(b) Section 251 is further amended, and 252 is amended, to require program, project, and activity level of detail only in the final accompanying message and only to the extent full-year appropriations have been enacted and a sequester is required, as follows—

(1) Section 251(c)(1)(A) is amended by adding to the end thereof "and".

(2) Section 251(c)(1)(B) is amended by deleting ", and" and inserting in lieu thereof "."

(3) Section 251(c)(1)(C) is repealed.

(4) Section 251(c)(2) is amended by deleting the final sentence, which begins "In addition,".

(5) Section 252(a)(5) is amended by deleting "initial order" and inserting in lieu thereof, "final order indicating a sequester is required".

(6) Section 252(a)(5) is further amended by deleting "paragraph (2)" and inserting in lieu thereof, "Section 252(a)(2)".

(7) Section 252(a)(5)(A) is amended by inserting after "account" the first time it occurs, "for which annual appropriations or full-year continuing appropriations have been enacted".

(8) Section 252(a)(5) is renumbered to Section 252(b)(4).

(9) Section 252(b)(4) is repealed.

(10) Section 252(c)(1) is amending by deleting "(a)(5)" and inserting in lieu thereof, "(b)(4)".

(c) Title III of the Congressional Budget Act of 1974 is amended by adding the following new section:

"PROHIBITION OF COUNTING AS SAVINGS THE TRANSFER OF GOVERNMENT ACTIONS FROM ONE YEAR TO ANOTHER.

Sec. 312. Any law or regulation promulgated as final that has the effect of transferring an outlay, receipt, or revenue of the United States from one fiscal year to an adjacent fiscal year shall not be treated as reducing the deficit or producing net deficit reduction in any fiscal year for purposes of this Act."

(d) Section 306 of the Congressional Budget Act of 1974 is amended by adding, after "House" the first place it appears, the following: ", including matters that amend or have the effect of amending the Budget Process Reform Act of 1990, this Act, or the Balanced Budget and Emergency Deficit Control Act of 1985, as amended,".

Subtitle D—Enforcement Procedures

SEC. 14-401. ENFORCEMENT OF BUDGET AGREEMENT—AUTOMATIC OFFSETS TO ELIMINATE EXCESS AMOUNTS.

(a) Except as provided in subsections (d), (e), and (f)—

(1) Budget agreement caps—Whenever enactment of any Act or joint resolution results in the provision of budgetary resources for a budget agreement category, as defined in section 3(11) (A) or (B) of the Congressional Budget and Impoundment Control Act of 1974, that is in excess of the budget authority or outlays for such budget agreement category as set forth in section 101(a) of the Budget Process Reform Act of 1990, the President shall issue an order that automatically eliminates the excess amount that would occur in any fiscal year determined for such budget agreement category within that budget agreement category in that fiscal year.

(2) Entitlement/mandatory spending.—Whenever enactment of any Act or joint resolution providing entitlement/mandatory spending, as defined in section 3(12)(A) of the Congressional Budget and Impoundment Control Act of 1974, results in increases in the deficit in any year which are not offset fully by entitlement/mandatory spending reductions, revenue increases, or a combination of both in such Act or resolution for each such fiscal year, the President shall issue an order that automatically eliminates the increased spending for each year within the entitlement/mandatory spending category.

(b) Timing of Automatic Offsets.—

(1) For Acts and joint resolutions enacted during the period beginning on October 1 and ending on June 30 of that fiscal year, the order of the President shall be issued not later than 15 calendar days after enactment of such Act or resolution.

(2) For Acts and joint resolutions enacted during the period beginning July 1 and ending September 30 of that fiscal year, the order of the President shall be issued on October 1 of that calendar year.

(c) The required reductions shall be made on a uniform percentage basis so as to reduce all budgetary resources within the category that would be subject to sequester under the Balanced Budget and Emergency Deficit Control Act of 1985 to the extent necessary to eliminate the excess amount within such budget agreement category.

(d)(1) For fiscal years 1991, 1992, and 1993, any appropriations bill or conference report on such bill shall not be subject to section 302(f) or section 311(a) of the Congressional Budget Act of 1974 if such bill or report exceeds any budget agreement category amounts, or budget resolution consistent with the budget agreement category amounts, solely by reason of, and only to the extent that, such bill or conference report contains amounts identified under and in compliance with paragraph (2), where the outlay amounts resulting from such budget authority are identified as and are within the amounts set forth in subsection (e), taking into account other acts, bills, or conference reports which have identified amounts as within paragraph (2).

(2) aggregate budget authority for the budget agreement categories, as defined in section 3(11)(A) of the Congressional Budget and Impoundment Control Act of 1974, for fiscal years 1991, 1992, and 1993 (together) may exceed the three budget agreement category amounts set forth in section 101(a) of the Budget Process Act of 1990 for such budget agreement categories by not more than 0.4 percent for all three such budget agreement categories, provided that no such excess may at any time include an excess for any one budget agreement category of more than 0.2 percent of the amount of the aggregate of the three budget agreement category amounts.

(3) The outlay amounts set forth in subsection (e)(1) for a fiscal year shall be reduced by the amount of any outlays identified in a bill or conference report to which paragraph (1) has been applied.

(e)(1) For fiscal years 1992 and 1993, automatic reductions otherwise required by subsections (a) and (b) shall not be implemented solely due to outlays exceeding the amount of outlays set forth for in section 101(a) of the Budget Process Reform Act of 1990, resulting from changes between the outlays estimated for enacted budget authority and the spendout rate assumed in the relationship between budget authority and outlays set forth in section 101, for any of the budget agreement categories for such fiscal year, unless the outlays for any budget agreement category exceed the amounts specified by such section by $2,500,000,000 for the national defense discretionary category, $1,500,000,000, for the international discretionary category, or $2,500,000,000 for the domestic discretionary category.

(2) For fiscal years 1994 and 1995 automatic reductions otherwise required by subsections (a) and (b) shall not be implemented solely due to outlays exceeding the amount of outlays set forth for in section 101(a), resulting from changes between the outlays estimated for enacted budget authority and the spendout rate assumed in the relationship between budget authority and outlays set forth in section 101, for the budget agreement categories for such fiscal year unless such outlays exceed the amount specified by such section by $6,500,000,000.

(3) The margin set forth in section 257(10) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, shall be reduced to the exent that the outlay excess is offset under paragraphs (1) and (2) above.

(f) Exception for Presidentially-Declared Emergencies.—This section shall not apply to appropriations requested by the President for emergencies declared by the President.

(g) This section applies notwithstanding the Impoundment Control Act of 1974.

SEC. 14-402. BUDGET SUBMISSION BY THE PRESIDENT.

Section 1105(a) of title 31, United States Code, is amended by striking "the first Monday after January 3" and inserting in lieu thereof "February 1".

SEC. 14-403. REVIEW OF REPORTS AND ORDERS.

Subsections (e), (g), and (h) of section 274 of the Balanced Budget and Emergency Deficit Control Act of 1985 shall apply to the reports and orders of the President under this Act in the same manner and to the same extent as they apply to the reports and orders referred to in such subsections.

Subtitle E—Credit Reform

SEC. 14-501. COST OF LOANS AND LOAN GUARANTEES.

(a) As used in this subtitle—

(1) The term "direct loan" means a disbursement of funds by the Federal Government to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest. It includes purchase of or participation in a loan made by another lender. It excludes acquisition of a federally guaranteed loan in satisfaction of default claims, and the price support loans of the Commodity Credit Corporation.

(2) The term "loan guarantee" means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender in the event the borrower defaults. It excludes the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

(3) The term "cost", "cost of loans", or "cost of loan guarantees" means the cost to the Government of any direct loan or loan guarantee, including the cost of, and receipts from insurance purchased by the Government, except indirect costs such as administrative costs or any effect on revenues, and shall be calculated as follows:

(A) DIRECT LOANS.—For a direct loan to the public made by the Government, the difference between the face value of the loan and the net present value, of the repayments of principal and payments of interest and other payments to the Government by the borrower over the life of the loan, after adjusting for estimated defaults, prepayments, fees, penalties, and any other recoveries.

(B) LOAN GUARANTEES.—For a loan made by a non-Federal lender that is guaranteed as to principal or interest, in whole or in part, by the Government, the net present value, of (i) estimated payments by the Government to cover defaults or delinquencies, (ii) any interest payments made by the Government, and (iii) receipts (including origination and other fees, penalties, and other recoveries by the Government.

(C) ACTIONS THAT ALTER COSTS.—Any Government action that alters estimated loan or loan guarantee costs (except modifications within the terms of a loan contract that had already been included in calculating the cost), including reestimates of costs after direct and guaranteed loans have been made, shall be accounted as adjusting the cost to the Government of such loans or loan guarantees. In calculating the costs of altering loans, the calculation shall include the current estimated present value of the loan.

(D) DISCOUNT RATE.—The estimated average interest rate on new issues of marketable Treasury securities of similar maturity to the loans being made shall be used as the discount to present value.

SEC. 14-502. BUDGETARY ACCOUNTING.

(a) BUDGET AUTHORITY.—In the case of direct and guaranteed loans, budget authority, as defined in subsection 3(2) of the Congressional Budget and Impoundment Control Act of 1974, shall mean the cost, including alterations of cost, as defined in section 402 of this Act, of such direct or guaranteed loans.

(b) OUTLAYS.—Outlays resulting from new budget authority referred to in subsection (a) shall be recorded in the fiscal year in which a loan is disbursed or its cost altered.

(c) RESIDUAL CASH FLOW.—

(1) IN GENERAL.—All flows of cash deriving from new budget authority described in subsection (a), other than the outlays recorded pursuant to subsection (b), shall be a means of financing.

(2) IMPLEMENTATION.—This is authorized to establish such nonbudgetary accounts (which shall have the authority to borrow from or lend to the Treasury under terms and conditions to be prescribed by the Secretary of the Treasury provided that such lending shall be uninvested funds) as may be appropriate to implement the accounting required by the previous provisions of this section.

SEC. 14-503. CONGRESSIONAL CONTROL OF LOAN COSTS.

(a) APPROPRIATIONS REQUIRED.—Notwithstanding any other provision of law, new direct loan obligations may be incurred, new loan guarantee commitments may be made, and alterations to the cost of direct loans or loan guarantees may be made after September 30, 1991, only to the extent that appropriations of budget authority to cover their costs are made in appropriations Acts enacted after January 1, 1991. Exception shall be made for any new direct loan obligations or any new loan guarantee commitments made after September 30, 1991, by deposit insurance agencies and the agencies created by Financial Institutions Reform, Recovery and Enforcement Act of 1989 to dispose of insolvent savings institutions. However, the cost of any such direct loans and loan guarantees shall be estimated, reported in the Budget, and reestimated annually in accord with the other provisions of this subtitle.

(b) EXEMPTION FOR MANDATORY PROGRAMS.—Subsection (a) shall not apply to any loan or loan guarantee program that constitutes an entitlement/mandatory spending requirement.

SEC. 14-504. EXECUTIVE BRANCH COST ESTIMATES.

(a) IN GENERAL.—For the executive branch, all estimates required by this subtitle shall be made by the Director of the Office of Management and Budget after consultation with the agencies that administer loan or loan guarantee programs (or by the agencies, if such authority is delegated by the Director), and shall be based upon guidelines, regulations, or criteria (consistent with the definitions in this subtitle) established after consultation with the Director of the Congressional Budget Office.

(b) IMPROVING COST ESTIMATES.—The Office of Management and Budget and the Congressional Budget Office shall work together to develop accurate data on the historical performance of loan and loan guarantee programs. They shall annually review loan portfolios and guaranteed loans outstanding to improve estimates of loan costs.

(c) IMPROVING QUALITY OF DATA AVAILABLE.—The Secretary of the Tresaury, the Office of Management and Budget, and the Congressional Budget Office shall work together to improve the quality of financial information available for improving the cost estimates in support of the implementation of credit reform.

(d) ACCESS TO DATA.—The Office of Management and Budget, the Treasury, and the Congressional Budget Office shall have access to all agency data that may facilitate the development or improvement of loan and loan guarantee cost estimates and improved financial information on loan or loan guarantee programs.

SECTION. 14-505. BUDGET PRESENTATION OF COSTS.

(a) ADMINISTRATIVE EXPENSES.—All funding for an agency's administration of a loan or loan guarantee program shall be included in the same budget account as the program's loan or loan guarantee cost.

(b) LOAN AND LOAN GUARANTEE COSTS BEFORE FISCAL YEAR 1992.—The Office of Management and Budget shall, to the extent possible, make summary estimates of loan and loan guarantee costs incurred in years before fiscal year 1992 and shall make such information available to supplement historical data for such years.

SEC. 14-506. EFFECTIVE DATES.

(a) PRESIDENT'S BUDGET.—This subtitle shall apply to budget estimates for fiscal year 1992 and thereafter presented in the budget submitted by the President under section 1105 (a) of title 31, United States Code.

(b) CONGRESSIONAL BUDGET.—This subtitle shall apply to budget estimates contained in concurrent resolutions on the budget reported after the date of enactment of this title for fiscal years 1992 and thereafter.

SEC. 14-507. STUDY OF FEDERAL INSURANCE ACCOUNTING.

(a) The Director of the Office of Management and Budget and the Director of the Congressional Budget Office shall each study whether the accounting for Federal insurance programs, including deposit insurance programs, should be on a cash basis, on the same basis as loan guarantees, or on some other basis. Each Director shall report findings and recommendations to the President and the Congress by September 30, 1991.

(b) ACCESS TO DATA.—The Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate these studies.

Subtitle F—THE GOVERNMENT-SPONSORED ENTERPRISE REPORTS ACT

SEC. 14-601. SHORT TITLE.

This subtitle may be cited as the "Government-sponsored Enterprises Reports Act of 1990".

SEC. 14-602. REPEAL OF PROVISION REQUIRING STUDIES OF RELATIONSHIP BETWEEN PUBLIC DEBT AND ACTIVITIES OF GOVERNMENT-SPONSORED ENTERPRISES.

Section 1404 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. 1811, note) is hereby repealed.

SEC. 14-603. IN GENERAL.

In order to better manage the bonded indebtedness of the United States, the Secretary shall conduct annual studies, that shall include an objective assessment of the financial safety and soundness of the activities of all Government-sponsored enterprises, and an assessment of the adequacy of the existing regulatory structure for Government-sponsored enterprises and the risk

of financial exposure to the Federal Government posed by the Government-sponsored enterprise. There are authorized to be apportioned such sums as may be necessary to carry out this section.

SEC. 14-604. ACCESS TO INFORMATION.

(a) INFORMATION FROM GSE's—Each Government-sponsored enterprise shall provide full and prompt access to the Secretary to its books and records, and shall promptly provide any other information requested by the Secretary.

(b) INFORMATION FROM SUPERVISORY AGENCIES.—In conducting the studies under this section, the Secretary may request information from, or the assistance of, any Federal department or agency authorized by law to supervise the activities of any Government-sponsored enterprise.

(c) CONFIDENTIALITY OF INFORMATION.—

(1) IN GENERAL.—The Secretary shall determine and maintain the confidentiality of any book, record, or information made available under this section in a manner generally consistent with the level of confidentiality established for the material by the Government-sponsored enterprise involved.

(2) EXEMPTION FROM PUBLIC DISCLOSURE REQUIREMENTS.—The Department of the Treasury shall be exempt from section 552 of title 5, United States Code, with respect to any book, record, or information made available under this section and determined by the Secretary to be confidential. This exemption shall continue to apply to any such book, record, or information provided to a nationally recognized rating organization or another Federal agency pursuant to subsection (d).

(3) PENALTY FOR UNAUTHORIZED DISCLOSURE.—Any officer or employee of the Department of the Treasury shall be subject to the penalties set forth in section 1906 of title 18, United States Code, if:

(A) by virtue of this employment of official position, he has possession of or access to any book, record, or information made available under this section and determined by the Secretary to be confidential under paragraph (1); and

(B) he discloses the material in any manner other than;

(i) to an officer or employee of the Department of Treasury; or

(ii) pursuant to the exception set forth in such section 1906.

(C) Notwithstanding the provisions of any other provision of law, the Secretary is authorized to provide to any nationally recognized statistical rating organization for the purpose of obtaining a credit rating of any Government-sponsored enterprise, or to any other Federal agency in order to facilitate the preparation of any study or report by the Secretary pursuant to this section, any information made available under this subsection, including any information made available under this subsection, including any information determined by the Secretary to be confidential. Whenever information determined by the Secretary to be confidential is so provided, the nationally recognized statistical rating organization or Federal agency, and its respective officers and employees, shall be subject to the penalties set forth in section 190c of title 18, United States Code for unauthorized disclosure of the information provided,

SEC. 14-603. CBO REPORT.

The Congressional Budget Office shall prepare a report that will include the following: (1) the perspective of the Congressional Budget Office on the types of risks that each Government-sponsored enterprise assumes, ways in which the Congress can improve its understanding of such risks, and the risks to the budget posed by Government-sponsored enterprises; (2) an evaluation of the adequacy of the current Government-sponsored enterprise supervision and regulation with respect to risk management; and (3) proposed alternative models of oversight, with particular emphasis on the costs and benefits of each alternative on the Federal Government and to the Government-sponsored enterprise beneficiaries.

SEC. 14-604. REPORTS TO CONGRESS.

The following reports shall be submitted to Congress: (1) by April 30, 1991, the Secretary shall submit a report setting forth the results of any annual study conducted under this Act and shall submit on behalf of the Administration a legislative proposal with respect to Government-sponsored enterprise safety and soundness; (2) by April 30, 1992, and April 30 of each year thereafter, the Secretary shall submit a report setting forth the results of any annual study conducted under this Act; and (3) by April 30, 1991, the Congressional Budget Office shall submit the report required under this Act."

SEC. 14-605. LEGISLATION.

The Speaker of the House and Majority Leader of the Senate shall refer the reports required by paragraphs 1 and 3 of section 6 above to the appropriate Congressional committees and each such committee shall consider the reports, including the Administration's legislative proposal, and shall report no later than September 15, 1991, to the full House and Senate, respectively, legislation to ensure the financial soundness of the Government-sponsored enterprises and to minimize the possibility that any Government-sponsored enterprise might require future Federal assistance.

SEC. 14-606. DEFINITIONS.

For purposes of this section:

(a) GOVERNMENT-SPONSORED ENTERPRISE.—The term "Government-sponsored enterprise" means:

(1) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Home Loan Bank System, the Farm Credit Banks, the Banks for Cooperatives, the Federal Agricultural Mortgage Corporation, the Student Loan Marketing Association, the College Construction Loan Insurance Association, and any of their affiliated or member institutions; and

(2) any other government-sponsored enterprise, as designated by the Secretary.

(b) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

TITLE (XV)—ADDITIONAL BUDGET PROCESS REFORM

Subtitle—Statement of Congressional Purpose

SEC. 15-101. IMPROVEMENT IN DECISION-MAKING PROCESS.

Because the Federal budget process is the principal vehicle by which many of the most fundamental policy choices in Government are made, the purpose of this Act is to facilitate rational, informed, and timely decisions by the Congress in the course of that process.

SEC. 15-102. REFORM OF FISCAL MANAGEMENT.

It is the sense of the Congress that a properly functioning Federal budget process should focus the attention of policymakers and the public on the aggregate impact of Federal spending on the economy, and on the tradeoffs that must be made among priorities in order to control overall levels of spending. To this end, the Act is intended to establish a budget process that, in each fiscal period—

(1) requires the adoption of a budget before, not after, any spending begins;

(2) produces decisions on that budget early in the budgeting cycle;

(3) encourages cooperation between Congress and the President in adopting the budget;

(4) ties each subsequent spending decision to an overall, binding budget total;

(5) requires regular, periodic decisions on appropriate spending levels for all Federal programs, not just those arbitrarily deemed "controllable"; and

(6) produces a bias in favor of fiscal responsibility that can be overcome only if the Congress expressly determines to do so.

SEC. 103. SAFEGUARDS AGAINST DELAY AND INACTION.

The Congress further finds that a properly functioning budget process should contain safeguards against delay and inaction, so that temporary shut-downs of the Federal Government may be avoided when the President and the Congress fail to complete work on the budget prior to the beginning of a fiscal period. Accordingly, this Act is intended to provide an enforcement mechanism that gives meaning and importance to the timely adoption of a budget, and a sustaining mechanism that ensures a continuation of the Government should the political process produce deadlock or a failure to act in a timely fashion.

SUBTITLE B—BINDING BUDGET LAW

SEC. 15-201. JOINT RESOLUTION ESTABLISHING BINDING BUDGET LAW.

To encourage early consultation and cooperation between the Congress and the President on decisions concerning overall spending levels for all Federal programs, the Congress shall enact a binding budget law, in the form of a joint resolution, by April 15 of the calendar year before that in which the fiscal period commences. The technical amendments contained in title I and section 15-001 of this Act are intended to assist in the establishment of this requirement. The budget law itself shall fit on a single page, which sets forth specific budget ceilings in the following 19 major functional categories, which altogether comprise the entire Federal budget.

Function 050: National Defense
Function 150: International Affairs
Function 250: General Science, Space and Technology
Function 270: Energy
Function 300: Natural Resources and Environment
Function 350: Agriculture
Function 400: Transportation
Function 450: Community and Regional Development
Function 500: Education, Training, Employment and Social Services
Function 550: Health
Function 570: Medicare
Function 600: Income Security
Function 650: Social Security
Function 700: Veterans Benefits and Services
Function 750: Administration of Justice
Function 800: General Government
Function 900: Net Interest
Function 920: Allowances
Function 950: Undistributed Offsetting Receipts.

By thus requiring that the budget process begin with highly generalized macroeconomic decisions about spending in 19 overall categories, this section is intended to facilitate agreement within Congress itself, and between Congress and the President, on how much the Federal Government should spend in the ensuing fiscal period.

SEC. 15-202. BUDGET REQUIRED BEFORE SPENDING BILLS MAY BE CONSIDERED.

Unless and until a joint resolution on the budget is enacted with respect to any major functional category for a fiscal period, it shall not be in order in either the House of Representatives or the Senate, or any committee or subcommittee thereof, to consider any spending bill affecting spending in that category, except as provided in Title III of this Act. The purpose of this provision is to ensure that until the budget is signed into law, no authorization or appropriations bill shall be considered in the Congress.

SEC. 15-203. "BASELINE" BUDGETING PROHIBITED: UNADJUSTED YEAR-TO-YEAR COMPARISONS REQUIRED IN BUDGET LAW.

Section 301(e) of the Congressional Budget Act of 1974 is amended by—

(1) inserting after the second sentence the following: "The starting point for any deliberations in the Committee on the Budget of each House on the joint resolution on the budget for the next fiscal period shall be the estimated level of outlays for the current period in each function and subfuncation. Any increases or decreases in the Congressional budget for the next fiscal period shall be from such estimated levels.";

(2) striking paragraphs (2) and (3) and inserting the following:

"(2) a comparison of level for the current fiscal period with proposed spending for the subsequent fiscal periods along with the proposed increase or decrease of spending in percentage terms for each function and subfunction;

"(3) information, data, and comparisons indicating the manner in which, and the basis on which, the committee determined each of the matters set forth in the joint resolution, including information on outlays for the current fiscal period and the decisions reached to set funding for the subsequent fiscal years;";

(3) inserting "and" after the semicolon in paragraph (7);

(4) striking paragraph (8); and

(5) redesignating paragraph (9) as paragraph (8).

The technical amendments contained elsewhere in this Act are intended to apply the same prohibition against "baseline" budgeting to the budgets prepared by the President and the Congressional Budget Office reports to the Budget Commitees.

Subtitle C—Enforcement Mechanisms

SEC. 15-301. TWO-THIRDS REQUIREMENT FOR ALL SPENDING BILLS IN ABSENCE OF BUDGET LAW.

Unless and until a joint resolution on the budget is enacted with respect to any major functional category for a fiscal period, it shall not be in order in either the House of Representatives or the Senate or any committee or subcommittee thereof, to consider any spending bill affecting spending in that category unless it is approved by the affirmative vote of two-thirds of the Members voting, a quorum being present.

SEC. 15-302. TWO-THIRDS REQUIREMENT FOR OVER-BUDGET SPENDING BILLS.

(a) DETERMINATION OF BUDGET EFFECT OF ALL PROPOSED SPENDING BILLS.—The Congressional Budget Office shall provide to either House of Congress (or the appropriate committee, subcommittee, or conference thereof) as soon as practicable after the introduction of any spending bill, its estimate of the costs in each major functional category attributable to that bill during the fiscal period in which it is to become effective and in each of the next 4 fiscal years, together with the basis for such estimate. The Congressional Budget Office report shall not be required, however, if the Congressional Budget Office certifies that a spending bill will likely result in applicable costs of less than $10,000,000. For purposes of estimating the costs attributable to any spending bill that includes new credit authority, the report shall deem the market value of any loan (if it were sold by the Federal Government) or the assumption cost of any guarantee (if it were assumed at market rates) to be the costs attributable to such loan or guarantee in the fiscal period in which it is made.

(b) CBO REPORT REQUIRED BEFORE CONSIDERATION OF SPENDING BILLS.—It shall not be in order in either the House of Representatives or the Senate, or in any committee thereof, to consider any spending bill, unless and until the report referred to in subsection (a) has been made available to that House of Congress or the appropriate committee or subcommittee thereof.

(c) TWO-THIRDS REQUIREMENT FOR ALL OVER-BUDGET SPENDING BILLS.—It shall not be in order in either the House of Representatives or the Senate, or in any committee, subcommittee, or conference to consider any spending bill for a fiscal period that the report referred to in subsection (a) indicates would in such fiscal period exceed a budget ceiling, unless such bill is approved by the affirmative vote of two-thirds of the Members voting, a quorum being present.

(d) DETERMINATION OF SPENDING IN A CATEGORY.—A spending bill shall be deemed to break a budget ceiling if—

(1) its cost in any major functional category as estimated in the report referred to in subsection (a); and

(2) all other budget authority, budget outlays, and entitlement authority, if any, in that major functional category for the relevant fiscal period contained in any previously enacted legislation for the fiscal period; and

(3) to the extent that new budget authority or entitlement authority for the relevant fiscal period has not been granted (or modified from the level of the previous fiscal period) in any other enacted legislation for any program within such major functional category, the amounts of budget authority and entitlement authority for such major functional category (or part thereof) for the previous fiscal period; exceed the budget ceiling for such major functional category.

SEC. 15-303. TWO-THIRDS REQUIREMENT FOR WAIVER OF THIS ACT.

No waiver of any provision of this Act, including the calendar deadlines for completion of Congressional action and the provisions concerning over-budget spending, shall be effective unless approved by the affirmative vote of two-thirds of the Members of the House of Representatives or the Senate, as the case may be, a quorum being present. No committee of either the House of Representatives or the Senate shall have jurisdiction to report a rule governing procedures for consideration of spending bills covered by this Act, if such rule would violate the provisions of this section. Nothing in this provision shall be deemed to require a supermajority vote to amend this Act.

Subtitle D—Limited Enhanced Rescission Authority

SEC. 15-401. RESCISSION AUTHORITY LIMITED TO SPENDING ABOVE LIMITS OF CONGRESSIONAL BUDDGET LAW.

The Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.) is amended by redesignating sections 1013 through 1017 as sections 1014 through 1018, respectively, and inserting after section 1012 the following new section:

"RESCISSION OF SPENDING ABOVE LIMITS OF CONGRESSIONAL BUDGET LAW

"SEC. 1013. (a) TRANSMITTAL OF SPECIAL MESSAGE.—The President may transmit to both Houses of Congress for consideration in accordance with this section one or more special messages to rescind (in whole or in part) items of budget authority or entitlement authority sufficient to ensure that the levels of budget authority, entitlement authority, and outlays in a functional category do not exceed the levels stated in the budget law for the applicable fiscal period (or, in the absence of a budget law, do not exceed such levels in the previous fiscal period).

"(b) LIMITATIONS.—For purposes of this section—

"(1) continuing appropriations made pursuant to section 1311 of title 31, United States Code, shall be treated as continuing appropriations for an entire fiscal period; and

"(2) the levels of budget authority, entitlement authority, and outlays shall be determined on the basis of the reports made by the Congressional Budget Office pursuant to section 202 of the Budget Process Reform Act of 1990.

"(c) CONTENTS OF SPECIAL MESSAGE.—Each special message transmitted under subsection (a) shall specify, with respect to each item of budget authority to be rescinded, the matters referred to in paragraphs (1) through (5) of section 1012(a).

"(d) REQUIREMENT NOT TO MAKE AVAILABLE FOR OBLIGATION.—Any item of budget authority to be rescinded as set forth in such special message shall not be made available for obligation unless, within the prescribed 45-day period, Congress completes action on a rescission bill disapproving the rescission of the amount to be rescinded. Funds made available for obligation under this procedure may not be included in a special message again.

"(e) PROCEDURES.—

"(1)(A) Before the close of the third day beginning after the day on which a special message to rescind an item of budget authority is transmitted to the House of Representatives and the Senate under subsection (a), a bill may be introduced (by request) by the majority leader or minority leader of the House of the Congress in which the appropriation Act providing the budget authority originated to disapprove the rescission set forth in the special message. If such House is not in session on the day on which a special message is transmitted, the bill may be introduced in such House, as provided in the preceding sentence, on the first day thereafter on which such House is in session.

"(B) A bill introduced in the House of Representatives or the Senate pursuant to subparagraph (A) shall be referred to the Committee on Appropriations of such House. The committee shall report the bill without substantive revision (and with or without recommendation) not later than 15 calendar days of continuous session of the Congress after the date on which the bill is

introduced. A committee failing to report a bill within the 15-day period referred to in the preceding sentence shall be automatically discharged from consideration of the bill and the bill shall be placed on the appropriate calendar.

"(C) A vote on final passage of a bill introduced in a House of the Congress pursuant to subparagraph (A) shall be taken on or before the close of the 25th calendar day of continuous session of the Congress after the date of the introduction of the bill in such House. If the bill is agreed to, the Clerk of the House of Representatives (in the case of a bill agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill agreed to in the Senate) shall cause the bill to be engrossed, certified, and transmitted to the other House of the Congress on the same calendar day on which the bill is agreed to.

"(2)(A) A bill transmitted to the House of Representatives or the Senate pursuant to paragraph (1)(C) shall be referred to the Committee on Appropriations of such House. The committee shall report the bill without substantive revision (and with or without recommendation) not later than 10 calendar days of continuous session of the Congress after the bill is transmitted to such House. A committee failing to report the bill within the 10-day period referred to in the preceding sentence shall be automatically discharged from consideration of the bill and the bill shall be placed upon the appropriate calendar.

"(B) A vote on the final passage of a bill transmitted to a House of the Congress pursuant to paragraph (1)(C) shall be taken on or before the close of the 10th calendar day of continuous session of the Congress after the date on which the bill is transmitted to such House. If the bill is agreed to in such House, the Clerk of the House of Representatives (in the case of a bill agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill agreed to in the Senate) shall cause the engrossed bill to be returned to the House in which the bill originated, together with a statement of the action taken by the House acting under this paragraph.

"(3)(A) A motion in the House of Representatives to proceed to the consideration of a bill under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on a bill under this section shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable and shall require an affirmative vote of two-thirds of the Members voting, a quorum being present. It shall not be in order to move to recommit a bill under this section or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(C) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(D) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a bill under this section ahall be governed by the Rules of the House of Representatives applicable to other bills in similar circumstances.

"(4)(A) A motion in the Senate to proceed to the consideration of a bill under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate on a bill under this section, and all debatable motions and appeals in connection therewith, shall be limited to not more than 2 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designess.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a bill under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill except that in the event the manager of the bill is in favor of such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill under this section is not debatable. A motion to recommit a bill under this section is not in order.

"(f) AMENDMENTS PROHIBITED.—No amendment to a bill considered under this section shall be in order in either the House of Representatives or the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House for the presiding officer to entertain a request to suspend the application of this subsection by unanimous consent.".

SEC. 15-402. APPLICATION.

The amendments made by section 15-401 section shall apply to items of budget authority (as defined in subsection (g)(1) of section 1013, as added by section 103(b) of this Act) provided by appropriation acts (as defined in subsection (g)(3) of such section) that become law after the date of enactment of this Act.

Subtitle 5—"Blank Check" Appropriations Prohibited

SEC. 15-501. INTENT OF CONGRESS.

It is the intent of Congress, by this provision, to put an end to open-ended, "blank-check" appropriations, which typically authorize the spending of "such sums as may be necessary." By requiring explicit decisions concerning the desired level of spending for each federal program (except Social Security and interest on the debt), it is intended that currently uncontrolled programs will be brought within the discipline of an overall budget.

SEC. 15-502. FIXED-DOLLAR APPROPRIATIONS REQUIRED.

For every account except Social Security and interest on the debt, every appropriation for a fiscal period for any program, project, or activity shall be for a specific, fixed dollar amount. Any appropriations of "such sums as may be necessary" (except with respect to the automatic continuing resolution provided for by section 15-701 of this Act) are hereby prohibited.

SEC. 15-503. AGENCY-ADJUSTED BENEFITS.

The head of each Executive agency that administers any entitlement program is authorized to adjust benefit levels and eligibility requirements, or both, with respect to the program such that aggregate outlays for a fiscal period do not exceed the fixed-dollar appropriation proved pursuant to this title such fiscal period. Such adjustment shall b made by rule or, pending adoption of appr priate rules, informal guideline. The pu pose of any such rule or guideline shall b to ensure that the fixed-dollar appropri tions for the program authorized by Congress are not exceeded.

Subtitle F—"Pay As You Go" Requiremen for New Spending

SEC. 15-601. SPENDING OFFSETS REQUIRED.

It shall not be in order in either th House of Representatives or the Senate t consider any supplemental appropriatio measure, or any other bill, resolution, o amendment which authorizes, requires, o provides new entitlements/mandator spending as defined in section 3 (12)(A) o the Congressional Budget and Impoundment Control Act of 1974, or which autho izes spending for a fiscal period that th report referred to in section 15-302(a) o this Act indicates would in such fisca period exceed a budget ceiling, any such increased spending called for therein is offse fully in each such fiscal period in suc measure, bill, resolution or amendent by a equal amount of reductions in existin spending.

SEC. 15-602. TWO-THIRDS VOTE REQUIRE TO WAIV POINT OF ORDER.

The point of order established by this subtitle may be waived or suspended in th Senate or in the House of Representative and an appeal the ruling of the Chair on point of order raised under this section ma be sustained, only by the affirmative vote o two-thirds of the Members voting, a quorum being present.

Subtitle G—Sustaining Mechanism

SEC. 15-701. AUTOMATIC CONTINUING RESOLUTION

Chapter 13 of title 31, United States Code is amended by inserting after section 131 the following new section:

"S1311. Continuing appropriation

"(a) If for an account an appropriation fo a fiscal period does not become law befor the beginning of such fiscal period, ther are hereby appropriated, out of any money in the Treasury not otherwise appropriated and out of applicable corporate or other revenues, receipts, and funds, such sums a may be necessary to continue any program project, or activity provide for in the mos recent appropriation Act at a rate of operations not in excess of the rate of operation provided for such program, project, or activity in such Act. In no case shall the tota dollar amount of appropriations for an program, project or activity pursuant to thi section exceed the appropriation for such program, project, or activity in the mos recent appropriation Act, determined on fiscal-period basis.

"(b) Amounts appropriated pursuant to subsection (a) for a program, project, or activity shall be available during a fisca period until the earlier of—

"(1) the day on which the appropriation bill for such fiscal period which would include the program, project, or activity take effect; or

"(2) the last day of such fiscal period.

SEC. 15-702 CONTINGENCY REGULATIONS.

Chapter 13 of title 31, United States Code is amended by inserting after section 131 the following new section:

"S1312. Contingency regulations

"(a) Notwithstanding any other provision of law and except as provided by subsection (b), the head of each Executive agency tha administers any entitlement program shall by rule, (or informal guideline, pending adoption of appropriate rules), provide for the adjustments of benefit levels or eligibility requirements, or both, with respect to the program such that aggregate outlays for a fiscal period do not exceed the fixed-dollar appropriation provided pursuant to section 314 (requiring fixed-dollar appropriations) or section 401 (providing for an Automatic Continuing Resolution) of this Act for such fiscal period.

"(b) In the case of social safety net programs, the rules shall provide each State the option of receiving an aggregate amount for the fiscal period for such programs equal to the amount it received for the preceding fiscal period for such programs (in which case such State could, in its discretion, allocate the benefits among such programs to best meet the needs of recipients in its State) or the amounts it received for each such program for such preceding fiscal period.

"(c) as used in this section—

"(1) the term 'Executive agency' has the meaning given such term in section 105 of title 5, United States Code;

"(2) the term 'entitlement program' means any spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974; and

"(3) the term 'social safety net programs' means the following programs: family support payments, adoption assistance, child support enforcement, food stamps, foster care, medicaid, child nutrition programs, social services block grant, and Supplemental Security Income (SSI).'"

SEC. 15-703. UNAUTHORIZED APPROPRIATIONS PROHIBITED.

Section 401(b) is amended to read as follows:

"(b) CONTROLS ON LEGISLATION PROVIDING FUNDING.—(1) It shall not be in order in either the House of Representatives or the Senate to consider any bill, resolution, or conference report that provides budget authority or spending authority described in subsection (c)(2)(C) except a bill or resolution reported by the Committee on appropriations of that House or a conference report made by a committee or conference all of whose conferees are members of the Committee on Appropriations.

"(2) Paragraph (1) shall not apply to benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act."

Subtitle H—Protection of Social Security

SEC. 15-801. BENEFITS PROTECTED AGAINST DEFICIT REDUCTION.

Nothing in this Act shall be construed to require or permit reductions in Social Security benefits otherwise payable pursuant to applicable law or regulations.

SEC. 15-802. CONFORMING AMENDMENT.

Chapter 13 of title 31, United States Code, is amended by inserting after section 1313 the following new section:

"S1314. Protection of Social Security from budget deficit reduction measures

"No reductions in benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act shall be made as a consequence of the Budget Process Reform Act [of 1990.]".

Subtitle I—Budget Process Calendar

SEC. 15-901. REVISION OF TIMETABLE.

Section 300 (2 U.S.C. 631) is amended to read as follows:

"TIMETABLE

"SEC. 300. The timetable with respect to the Congressional budget process for any Congress (beginning with the One Hundred Second Congress) is as follows:

"On or before:	Action to be completed:
Fifteenth day after the session begins.	President submits budget recommendations.
February 15	Congressional Budget Office submits report to Budget Committees.
February 25	Committees submit views and estimates to Budget Committees.
March 31	Budget Committees report joint resolution on the budget.
April 15	Congress completes action on joint resolution on the budget and transmits it to the President for signature or veto.
President signs joint resolution, or Congress overrides veto.	Authorization and appropriations bills may be considered in the Congress.
June 10	Appropriations Committees report last of annual appropriation bills.
September 30	Congress completes action on reconciliation legislation and annual appropriation bills.
October 1	Fiscal period begins. Congress completes all necessary action on budget, authorizations and appropriations, or automatic continuing resolution takes effect.".

Subtitle J—Conforming Amendments

SEC. 15-1001 CONFORMING AND TECHNICAL AMENDMENTS CHANGING "CONCURRENT" TO "JOINT" RESOLUTIONS.

(a) Sections 300, 301, 302, 303, 304, 305, 308, 310, and 311 (2 U.S.C. 631 et seq.) are amended by striking "concurrent resolution" each place it appears and by inserting in its place "joint resolution".

(b) Section 301(i)(2) is amended by striking subparagraphs (B) and (C) and by striking "(A)".

(c) The table of contents set forth in section 1(b) is amended by striking "Concurrent" in the items relating to sections 301, 303, and 304 and inserting "Joint".

(d) Clauses 4(a)(2), 4(b)(2), 4(g), and 4(h) of rule X, clause 8 of rule XXIII, and rule XLIX of the Rules of the House of Representatives are amended by striking "concurrent" and by inserting in its place "joint".

(e) Section 254(b)(2)(A) and section 257(3) of the Deficit Control Act of 1985 (2 U.S.C. 904(b)(2)(A) and 907(3)) are amended by striking "concurrent" and by inserting in its place "joint".

SEC. 15-1002. FURTHER CONFORMING AND TECHNICAL AMENDMENTS.

(a) Section 302(f) (2 U.S.C. 633(f)) is amended—

(1) in paragraph (1) by striking "(1) IN THE HOUSE OF REPRESENTATIVES.—", by striking "new budget authority for such fiscal year, new entitlement authority effective during such fiscal year, or" and by striking "new discretionary budget authority, new entitlement authority, or"; and

(2) by striking paragraph (2).

(b) Section 303 is amended—

(1) in its heading by striking "NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY," and the comma before "OR CHANGES";

(2) in subsection (a) by striking paragraphs (1) and (4) and by redesignating paragraphs (2), (3), and (5) as paragraphs (1), (2), and (3), respectively; and

(3) in subsection (b) by striking paragraph (1), by striking "(2)", by striking the dash after "resolution", and by striking the last sentence.

(c) The table of contents set forth in section 9(b) is amended by striking "new budget authority, new spending authority," and the comma before "or changes" in the item relating to section 303.

(d) Section 311 is amended—

(1) in its heading by striking "NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, AND";

(2) in subsection (a) by striking "providing new budget authority for such fiscal year, providing new entitlement authority effective during such fiscal year, or"; by striking "the appropriate level of total new budget authority or total budget outlays set forth in the most recently agreed to concurrent resolution on the budget to be exceeded, or";

(3) by repealing subsection (b); and

(4) by redesignating subsection (c) as subsection (b), and by striking "new budget authority, budget outlays, new entitlement authority, and" in subsection

(c) (as redesignated).

(e) The table of contents set forth in section 1(b) is amended by striking "new budget authority, new spending authority, and" in the term relating to section 311.

(f) The last sentence of clause 4(b) of rule XI of the Rules of the House of Representatives is amended by inserting before the period at the end of the following: "; nor shall it report any rule or order which would waive the point of order set forth in title III of the Budget Process Reform Act of 1990".

(g) The first sentence of section 202(f)(1) of the Congressional Budget Act of 1974 is amended to read as follows: "On or before February 15 of each year, the Director shall submit to the Committees on the Budget of the House of Representatives and the Senate a report, for the fiscal year commencing on October 1 of that year, with respect to fiscal policy, including (A) estimated budget outlays in all functions and subfunctions for appropriated accounts for the current fiscal year and estimated budget outlays under current law for all entitlement programs for the next fiscal year, (B) alternative levels of total revenues, total new budget authority, and total outlays (including related surpluses and deficits), and (C) the levels of tax expenditures under existing law, taking into account projected economic factors and any changes in such levels based on proposals in the budget submitted by the President for such fiscal year.".

SEC. 15-1003. CONFORMING AMENDMENTS TO THE IMPOUNDMENT CONTROL ACT OF 1974.

(a) Section 1011(5) (2 U.S.C. 682(5)) is amended—

(1) by striking "1012, and" and inserting "1012, the 20-day periods referred to in paragraphs (1)(b) and (2)(A) of section 1013(c), the 45-day period referred to in section 1013(b), and";

(2) by striking "1012 during" and inserting "1012 or 1013 during";

(3) by striking "of 45" and inserting "of the applicable number of"; and

(4) by striking "45-day period referred to in paragraph (3) of this section and in section 1012" and inserting "period or periods of time applicable under such section".

(b) Section 1011 is further amended—

(1) in paragraph (4) by striking "1013" and inserting "1014"; and

(2) in paragraph (5)—

(A) by striking "1016" and inserting "1017"; and

(B) by striking "1017(b)(1)" and inserting "1018(b)(1)".

(c) Section 1015 (as redesignated) is amended—

(1) by striking "1012 or 1013" each place it appears and inserting "1012, 1013, or 1014";

(2) in subsection (b)(1) by striking "1012" and inserting "1012 or 1013";

(3) in subsection (b)(2) by striking "1013" and inserting "1014"; and

(4) in subsection (e)(1)—

(A) by striking "and" at the end of subparagraph (A),

(B) by redesignating subparagraph (B) as subparagraph (C),

(C) by striking "1013" in subparagraph (C) (as redesignated), and

(D) by inserting after subparagraph (A) the following new subparagraph:

"(B) he has transmitted a special message under section 1013 with respect to a proposed rescission; and".

(d) Section 1016 (as redesignated) is amended by striking "1012 or 1013" each place it appears and inserting "1012, 1013, or 1014".

(e) Section 1012(b) is amended by inserting before the last sentence the following new sentence: "The preceding sentence shall not apply to any item of budget authority proposed by the President to be rescinded under this section that the President has also proposed to rescind under section 1013 and with respect to which the 45-day period referred to in subsection (e) of such section has not expired.".

(f) The table of sections set forth in section 1(b) is amended—

(1) by redesignating the items relating to sections 1013 through 1017 as items relating to sections through 1018, respectively; and

(2) by inserting after the item relating to section 1012 the following new item:

"Sec. 1013. Rescission of spending outside of congressional budget.".

SEC. 15-1004. CONFORMING AMENDMENT TO TITLE 31, UNITED STATES CODE.

(a) The analysis of chapter 13 of title 31, United States Code, is amended by inserting after the item relating to section 1310 the following new items:

"Section 1311. Continuing appropriation.

"Section 1312. Contingency regulations.

"Section 1313. Appropriations must be biennial.

"Section 1314. Protection of social security from budget deficit reduction measures.".

(b) Paragraph (5) of section 1105(a) of title 31, United States Code, is amended to read as follows:

"(5) except as provided in subsection (b) of this section—

"(A) estimated expenditures and proposed appropriations for each function and subfunction in the current fiscal year;

"(B) estimated expenditures and proposed appropriations the President decides are necessary to support the Government for each function and subfunction in the fiscal year for which the budget is submitted; and

"(C) a comparison of levels of estimated expenditures and proposed appropriations for each function and subfunction in the current fiscal year and the fiscal year for which the budget is submitted, along with the proposed increase or decrease of spending in percentage terms for each function and subfunction;".

SEC. 15-1005. CONFORMING AMENDMENT TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.

Section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(a)(6)) is amended by adding at the end of the following "For purposes of subparagraph (B), continuing appropriations made pursuant to section 1311 of title 31, United States Code, shall be treated as continuing appropriations for an entire fiscal period.".

Subtitle K—Definition and Rules of Interpretation

SEC. 15-1101. DEFINITIONS.

(a) DEFINITION OF BUDGET LAW.—Section 3(4) (2 U.S.C. 622(4), containing general definitions under the Budget Act) is amended to read as follows:

"(4) The term 'budget law' or 'joint resolution on the budget' means—

"(A) a joint resolution setting forth the simplified budget for the United States Government for a fiscal period as provided in section 301; and

'(B) any other joint resolution revising the budget for the United States Government for a fiscal period as described in section 304.".

(b) OTHER DEFINITIONS.—Section 3 (2 U.S.C. 622) is further amended by adding at the end the following new paragraphs:

"(11) The term 'major functional category' refers to the groupings of budget authority, budget outlays, and credit authority (including continuing appropriations pursuant to section 1311 of title 31, United States Code) into any one of the following:

"Function 050: National Defense

"Function 150: International Affairs

"Function 250: General Science, Space and Technology

"Function 270: Energy

"Function 300: Natural Resources and Environment

"Function 350: Agriculture

"Function 400: Transportation

"Function 450: Community and Regional Development

"Function 500: Education, Training, Employment and Social Services

"Function 550: Health

"Function 570: Medicare

"Function 600: Income Security

"Function 650: Social Security

"Function 700: Veterans Benefits and Services

"Function 750: Administration of Justice

"Function 800: General Government

"Function 900: Net Interest

"Function 920: Allowances

"Function 950: Undistributed Offsetting Receipts.".

"(12) The term 'budget ceiling' means the dollar amount set forth in a budget law for a major functional category.

"(13) The term 'spending bill' means any bill or resolution, or amendment thereto or conference report thereon, which provides budget authority, spending authority, credit authority, or outlays.

"(14) the term 'fiscal period' means the twelve-month fiscal year beginning October 1 currently in use, or any other fiscal period (such as a biennial period) that may subsequently be adopted for the management of the budget of the United States."

SEC. 15-1102. AMENDMENTS TO CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.

Except as otherwise expressly provided, whenever any provision of this Act is ex-
pressed as an amendment to a section c
other provision, the reference shall b
deemed to be made to a section or othe
provision of the Congressional Budget an
Impoundment Control Act of 1974.

SEC. 15-1103. USE OF TERMS.

Whenever any term is used in this Ac
which is defined in section 3 of the Congre
sional Budget and Impoundment Contr
Act of 1974, the term shall have the mear
ing given to such term in that Act.

Subtitle L—Effective Date

SEC. 15-1201. GENERAL PROVISION.

Except as provided in section 15-1202 th
Act and the amendments made by it sha
become effective January 1, 1991, and sha
apply to fiscal periods beginning after Se
tember 30, 1991.

SEC. 15-1202. FISCAL YEAR 1991.

Notwithstanding subsection (a), the prov
sions of—

(1) the Congressional Budget and In
poundment Control Act of 1974,

(2) title 31, United States Code, and

(3) the Balanced Budget and Emergenc
Deficit Control Act of 1985, (as such prov
sions were in effect on the day before th
effective date of this Act) shall apply to th
fiscal year beginning on October 1, 1990.

SPECIAL ORDERS GRANTED

By unanimous consent, permissio
to address the House, following th
legislative program and any specia
orders heretofore entered, was grante
to:

(The following Member (at the re
quest of Mr. LAGOMARSINO) to revis
and extend his remarks and includ
extraneous material:)

Mr. FRENZEL, for 60 minutes, o
October 18, 19, 20, 21, and 22.

(The following Members (at the re
quest of Mr. OWENS of Utah) to revis
and extend their remarks and includ
extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today

Mr. ROSTENKOWSKI, for 5 minutes
today.

Mr. MFUME, for 60 minutes, today.

Mr. OWENS of Utah, for 30 minutes
today.

Mr. GAYDOS, for 60 minutes, toda
and on October 16 and 18.

Mr. OBEY, for 60 minutes, on Octobe
20, 21, 22, 23, 24, 25, 26, and 27.

EXTENSION OF REMARKS

By unanimous consent, permissio
to revise and extend remarks wa
granted to:

(The following Members (at the re
quest of Mr. LAGOMARSINO) and to in
clude extraneous matter:)

Mr. YOUNG of Florida.

Mr. MCMILLAN of North Carolina, i
nine instances.

Mr. SUNDQUIST, in two instances.

Mr. COX.

Ms. SCHNEIDER.

Mr. BEREUTER.

Mr. FRENZEL, in five instances.

Mr. GREEN of New York.

Ms. ROS-LEHTINEN.

(The following Members (at the request of Mr. OWENS of Utah) and to include extraneous matter:)

Mr. ANDERSON, in 10 instances.

Mr. GONZALEZ, in 10 instances.

Mr. BROWN of California, in 10 instances.

Mr. ANNUNZIO, in six instances.

Mr. LEVINE of California.

Mr. PANETTA.

Mr. MONTGOMERY.

Mr. CLEMENT.

Mr. ROE, in two instances.

Mr. YATRON.

Mr. MAZZOLI, in two instances.

Mr. HERTEL.

Mr. RANGEL.

Mr. MORRISON of Connecticut, in two instances.

Mr. MCMILLEN of Maryland, in two instances.

Mr. SOLARZ, in two instances.

Mr. STOKES, in two instances.

Mr. JACOBS.

Mr. BRYANT.

Mr. ESPY.

Mr. BOSCO.

Mr. ENGEL.

Mr. APPLEGATE.

Mr. TOWNS, in 12 instances.

Mr. WEISS.

Mr. DELLUMS.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 364. Joint resolution to designate the third week of February 1991 as "National Parents and Teachers Association Week"; to the Committee on Post Office and Civil Service.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 4279. An act to amend title 31, United States Code, to improve cash management of funds transferred between the Federal Government and the States, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 2540. An act to authorize the Board of Regents of the Smithsonian Institution to plan, design, construct, and equip space in the East Court of the National Museum of Natural History building, and for other purposes; and

S. 3046. An act to redesignate the Federal building located at 1 Bowling Green in New York, New York, as the "Alexander Hamilton United States Custom House."

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, a joint resolution of the House of the following title:

On October 12, 1990:

H.J. Res. 602. Joint resolution designating October 1990 as "National Domestic Violence Awareness Month."

ADJOURNMENT

Mr. OWENS of Utah. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 5 minutes a.m.), under its previous order, the House adjourned until tomorrow, Tuesday, October 16, 1990, at 10 a.m.

EXTENSIONS OF REMARKS

HOLDING KIDS TO A HIGHER STANDARD

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. STOKES. Mr. Speaker, much has been written and numerous studies have been conducted on the problems confronting our Nation's youth. Many have wondered how we can break the cycle of crime, peer pressure and lack of values and positive role models that confront a majority of our youth.

Recently, Washington Post columnist William Raspberry highlighted the efforts of Kent Amos, an exceptional individual who is reaching out to troubled youth and making a difference in many of their lives. For the past 9 years, this former Xerox executive has welcomed young people into the Amos "family," where they receive counseling, tutoring, and positive reinforcement in a family type setting.

Amos believes, however, that the key to success for young people is the enforcement of strong values. These values he said, will "protect you from the things that can destroy you, while miraculously letting through the things that are necessary for life." Putting this theory to work, he has successfully changed the lives of more than 57 members of the Amos "family."

Mr. Speaker, I read the article on Kent Amos and his family with great interest. Mr. Amos is to be commended for his dedication, commitment, and special efforts on behalf of our youth. I am pleased to share this article which is entitled, "Holding Kids to a Higher Standard" with my colleagues. It is certainly worthwhile reading.

HOLDING KIDS TO A HIGHER STANDARD

(By William Raspberry)

It started nine years ago when Kent Amos's son, newly enrolled at Coolidge High School, came home with a couple of new friends.

"The boys were OK," says Amos, who heads a Washington consulting firm, "but they just weren't the kind of kids I thought my son ought to be spending his time with. I mean they were rude and poorly spoken; they weren't interested in academics or anything else except sports and running around."

His first thought, he says, was to forbid Wesley to associate with these rough-cut youngsters lest they drag him down. Then he had a second thought: Why not lift them up to where they ought to be.

The upshot was the Amos "family," a group of high school students who meet nightly at Amos's Northwest Washington town house to study and talk. Since those early days, the "family" has embraced 57 young people, most of whom have cleaned up their language and attitudes, abandoned the path that was leading to wasted lives and prison, and, most important to Amos, embraced the values that produce decent behavior and success.

Values. The word crops up in virtually every serious conversation Amos has. Talk to this former Xerox executive about the problems young Washingtonians face and he'll tell you lack of constructive outlets for their energies, or the dearth of decently paid legitimate jobs, is only a minor part of the trouble. The main source, he says, is that the youngsters have not been taught the values that will help them withstand the temptation to trouble.

Talk to him about the trial of D.C. Mayor Marion Barry, and his comments are not about what the judge or the prosecutor or the jury did but what the failure of the decent blacks to hold public officials to a higher standard of decency has done to the values of our children, "Talk to him about his adopted "family," and he talks about values.

"I try to help these youngsters enjoy themselves in positive ways, but I also insist that they devote serious time to study," he said in a recent interview. "I insist that they work when they're not in school, and that they do something positive for their communities. . . .

"We try to make our children believe that we are in control, but it's not true. The children themselves have the ultimate decision on almost everything they do, starting at a very young age. All I am doing is trying to get them to internalize a set of values. . . ."

It doesn't always work. A few kinds yield to peer pressure and outside temptation and drop out of the Amos "family." Some get into trouble and have to start over again. And once or twice, parents have questioned Amos' intensive approach.

"One mother who didn't even live in the area called me disturbed about what I was doing with her child," he recalls. "That was during his second year in the program. I reassured her that I was only interested in letting the young man reach his potential. We later met—at his graduation, with honors.

Most parents, though, are pleased to have their boys and girls join the Amos family, once they learn how seriously Amos takes his self-appointed mission. (Not only has he spent an estimated $250,000 of his own money on the program, but he has also enlisted his wife, Carmen, as hostess and cook for the study sessions.)

"I really do take the position that these are my kids," he told me. "I'm available to them around the clock. Just last week, one of the older boys tore up his knee playing basketball, and he had no insurance. I called my friend Tony Rankin (an orthopedic surgeon) and Tony took care of him for me. I have cried at their family funerals, and I have gotten kids out of jail. Once I was called away from Constitution Hall, where I was attending graduation exercises for some of my kids, to come get another one out of jail. That kid has now graduated from college."

It was no surprise to Amos that the values he had taught finally kicked in.

"The best thing that serious concerned adults can do for our children is to give them a clear, unequivocal set of values," he says. "Values are like ozone. They prote you from the things that can destroy yo while miraculously letting through th things that are necessary for life."

CHARLES PRUDHOMME, M.D.

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. DYMALLY. Mr. Speaker, I am please to bring to the attention of Members an inte esting article about Dr. Charles Prudhomme, past vice president of the American Psychia ric Association, which appeared in the Psych atric News, October 5, 1990.

[From Psychiatric News, Oct. 5, 1990]

CHARLES PRUDHOMME OVERCAME MUCH TO A PSYCHIATRIST

(By Lucy Ozarin, M.D.)

The APA Archives contains two pieces autobiographical material on Dr. Charl Prudhomme (1908–88), one of the first bla physicians to enter psychiatry and probab the second black psychoanalyst in the U. He was also a vice president of APA in 197 71, the first black to hold elected office the Association.

One of the items is a taped talk he gave May 1972 at the Washington Psychoanaly ic Society, and the other is an oral histo taped in 1975 by Jean Jones, then APA brarian. Both are fragmented, and nam mentioned by Dr. Prudhomme are misspe in the transcript (and hence unidentifiabl but the difficulties and rebuffs suffered Dr. Prudhomme because of his color con through loud and clear.

Dr. Prudhomme was born in Opelous LA. His maternal grandfather was Puer Rican and his grandmother black. H grandfather had opened a country sto that his father later took over. Wh Charles was 3 years old, his father dev oped tuberculosis and the family began migration ostensibly destined for Denver.

One of the stops along the way w Kansas City, MO, where Charles and h mother remained while his father mov on. Charles became a fine baseball play and graduated from high school second his class.

Charles entered the University of Kans in 1925 but remained only a short time. B cause of segregation practices, he was n allowed to take certain courses, and could not use the college swimming pool. obtained a scholarship to Howard Univer ty with the aid of an interested alumn and for the next six years alternated b tween college and work. After graduating 1931, he entered Howard University Medic School. He was able to complete his studi there in 1935 with scholarship money fro the State of Missouri—Missouri did n allow blacks at the state university but d pay out-of-state tuition. Dr. Prudhomme r counts that he asked for help from his sen tor at the time, Harry S Truman, and r

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ceived it. He served an internship at Freedman's Hospital in 1936–37.

During his years at Howard, he had numerous contacts at St. Elizabeths Hospital, forging strong ties to several physicians there. One is identified as Dr. Kaufman. This is probably Dr. Ben Karpman, an analyst and prolific writer on forensic psychiatry and head of psychiatry at Howard from 1921 to 1941. He required seniors to write a paper on a psychiatric subject, and Dr. Prudhomme wrote on suicide in the American Negro, a paper later published in the Psychoanalytic Review (1938).

Dr. Prudhomme had hoped to intern and take residency at St. Elizabeths Hospital, but he was told that the legislation that had established the hospital in 1855 enforced segregation (the law remained in force until 1954). He talks of a Dr. Craven at St. Elizabeths who was interested in the dreams of black people. Under the guise of providing analysis, Dr. Craven obtained those dreams. Dr. Prudhomme says that he produced prepared dreams for Dr. Craven.

In 1937 Dr. Prudhomme obtained a fellowship at the University of Chicago, but he was dismayed to learn that he was slated to work at Providence Hospital for black people. He had contacts with analysts like Franz Alexander and determined that he, too, would be an analyst. He returned to Washington to try again to get into St. Elizabeths, "using my Senator, Harry S Truman, for all he was worth."

Truman arranged for him to go to Tuskegee in 1940, where Dr. Prudhomme met a number of black psychiatrists who had been trained in Boston by Dr. Solomon Carter Fuller, the first black psychiatrist in the U.S. Dr. Prudhomme remained at Tuskegee until the Army transferred him in 1943 to Howard University to head the Army Specialized Training Program. That year he registered at the Washington School of Psychiatry, where one of his teachers was Frieda Fromm-Reichman. She took him on for analysis, and later he received supervision from Edith Weigert.

It was not an easy road to be admitted to the Washington Psychoanalytic Society. He thought he had completed the requirements when he was told that since his supervised cases were women, he needed to work with a male patient. He was finally admitted in 1958.

Dr. Prudhomme practiced psychoanalysis in Washington for a number of years and continued his teaching at Howard. He recounts numerous incidents related to racism. He tells of having a confirmed reservation in a hotel in Cincinnati for an APA meeting in the early 1950's but was sent instead to a hotel for blacks. He dwells on his rejection for a position at St. Elizabeths Hospital.

One wishes that the material on Dr. Prudhomme in APA's Archives was less fragmented and relayed more of his philosophy and thoughts on being a black pioneer in psychiatry and psychoanalysis. He was truly a trailblazer for the education of black psychiatrists and often pointed out the importance of cultural patterns in the practice of psychiatry. The material strongly conveys, however, a sense of the many difficulties he encountered because of racism and the aggressiveness he needed to achieve his goals.

Dr. Jeanne Spurlock, deputy medical director for minority and national affairs at APA, supplied several additional notes. She said that Dr. Prudhomme had told her of his disappointment in not being allowed to play with white baseball teams in his youth. And when he was in Chicago, he had a bitter disagreement with a prominent neuropathologist who insisted that blacks do not contract multiple sclerosis after Dr. Prudhomme had correctly diagnosed the illness.

A SALUTE TO MARTIN PATRICK "PAT" CARTER

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. TOWNS. Mr. Speaker, today I rise to salute an entrepreneur who has employed his skills and talents to enrich his community, Martin Patrick "Pat" Carter.

After serving in the U.S. Army during World War II, "Pat" began his career in insurance by developing and installing group programs in worker's compensation, health, property, and specialized programs for individuals and trade associations. In 1953, Pat cofounded the Irving Weber Association, Inc. As president and chief executive officer, of this insurance firm, Pat earned a national reputation for his expertise in all phases of the insurance industry.

Since 1982, Pat specializes in the design and administration of risk management programs for small cities, incorporated villages, and other public entities.

Over the past 30 years, Pat has been involved in many civic organizations. As a founder of the United Democratic Club, his organization and persuasion skills have been used in a variety of community based efforts including voter registration drives, community organization projects, and charitable programs.

COMMUNITY GOAL BECOMING REALITY

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. SUNDQUIST. Mr. Speaker, the residents of a neighborhood in Germantown are coming together to rebuilt a small church that was destroyed by arsonists last year. This is not a common example of a community joining together for a cause. This is a community that has come together for a purpose: the purpose of rebuilding a small congregation's place of worship. It is not only the members of this church contributing money, time, and care; it is the whole community, and that is why I feel they need to be recognized. These citizens are defining the true meaning of community.

I ask this House to join me in offering this tribute to this neighborhood in Germantown, TN, and I request that the article from the Commercial Appeal, Thursday, April 12, 1990, be entered following my remarks in the CONGRESSIONAL RECORD.

[From the Commercial Appeal, Apr. 12, 1990]

RESIDENTS HELP CONGREGATION TO REBUILD CHURCH

(By Clay Bailey)

Residents of an affluent Germantown neighborhood are organizing efforts to rebuild a small church burned last year by teenage arsonists.

Insurance money—between $60,000 and $100,000—won't be enough to rebuild the Taylor Chapel CME Church at 2645 Forest Hill-Irene Road, much less replace pews, hymnals, choir robes and other furnishings destroyed in the Dec. 19 fire. Another $25,000 probably is needed, organizers of the rebuilding effort said.

The shortfall has led neighbors and other churches in Germantown to rally around the small, black congregation and help with the restoration. Professionals have donated their services, churches have raised money and neighbors have organized the effort.

"We just love it," said Rev. William Moore, pastor of Taylor Chapel. "Thank the Lord our neighbors are so kind towards us. Everything is going real well."

But more help is needed, said Betty Millar, who lives about a half-mile from the church and started the campaign. No exact figure was available, but Mrs. Millar believes about half of the estimated $25,000 needed to complete the church has been donated.

"Riding past there and seeing it was a shock the first time," Mrs. Millar said. "I just decided something had to be done. We were so embarrassed and distressed that it happened. It's one of the oldest churches in the area, and they are beautiful people."

All that remains on the property after the fire is the concrete parking lot. Two juveniles, one 14 and the other 15, have been charged with arson and burglary in the fire. Their case is pending in Juvenile Court, but some restitution could be involved in the outcome.

Actually, the church was part of the Forest Hill community before many of the residents. There is some disagreement over exactly how long the church had stood on the property. Mr. Moore, pastor of the church for the past three years, said the land was deeded to the congregation in 1903, but some documents state that the building was between 110 and 125 years old.

"There's a lot of historic interest in that church," said Frank Uhlhorn, a builder who will oversee rebuilding the church. "They've been a wealth of information for the neighborhood. A lot of parents of the people active in the church remember a lot about this area before people moved out here."

In addition to Mrs. Millar's efforts and Uhlhorn's offer to help rebuild the sanctuary at cost, others along Forest Hill-Irene have contributed to the cause. Former Germantown Mayor Warner Hodges III, an attorney, has represented the church's interest in the Juvenile Court hearings and in negotiations with the insurance company. Mrs. Millar has asked local garden clubs to help with the landscaping and Uhlhorn had an architect, whom he did not identify, draft the plans without charge. The city cleared the burned debris from the church lot.

Uhlhorn said it probably will cost about $120,000 to rebuild the church.

"The insurance will cover what it can, and we hope for donations and volunteers to finish it out," Uhlhorn said. "We'll be able to get the building back up and under cover,

but as far as any floor covering and curtains and things like that, it will take some more money or help."

Uhlhorn said it would take about four to five months to complete the reconstruction.

Mrs. Millar said a fund has been established at the Community Bank of Germantown, and donations to help with the church can be sent to the bank earmarked for the Taylor Chapel Rebuilding Fund.

A SALUTE TO DOUGLAS ALEXANDER

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. TOWNS. Mr. Speaker, Today I rise to pay honor to a man who has spent an enormous amount of time and effort in the development of our young people, Mr. Dougas X. Alexander, a native of Brooklyn, NY.

Mr. Alexander has put his belief in education and service to the community in action throughout his career. After receiving undergraduate training from New City Community College and Baruch College, Doug Alexander received his degree in marketing in 1975.

Douglas has served the community in a variety of efforts. His contributions have enriched the lives of many people. He is the immediate past president of the Bedford Stuyvesant Lions Club, having served two 1 year terms. He is currently serving his second year as a zone chairman in Lions District 20 K1. He serves on the board of directors of several community organizations including the Brooklyn Advisory Board of the New York Urban League and the East New York Local Development Corp.

Doug has used his talents to assist the growth of individuals and the community. He has employed his knowledge and expertise to assist prospective entrepreneurs in establishing business enterprises.

In his desire to contribute to the development of our youth, he has served as the sustaining membership enrollment chairman for the Boy Scouts of America and has consistently volunteered with Big Brothers of America. Over the years, he has served as a big brother to several students from P.S. 73. In an effort to provide guidance to a broad spectrum of young people, Doug regularly speaks to young people about career choice in annual Career Day presentations. Finally, he has served as a consultant to Junior Achievement by teaching a weekly junior high school class in business. In addition to participating in the community, Doug has also infused his workplace with the same spirit of active involvement. In his role as fundraising captain for the United Negro College Fund, he has obtained significant support for the fund from his colleagues at Manufacturers Hanover Trust Co.

Douglas X. Alexander is an assistant vice president and branch manager of Manufacturers Hanover Trust Co. He is married to Terry Kirkland and the father of two lovely daughters, Tiffany and Courtney.

SECOND BUDGET RESOLUTION FAIR AND EQUITABLE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. MAZZOLI. Mr. Speaker, last week the House had before it the proposed fiscal year 1991 budget and deficit reduction package developed in the White House-congressional budget summit.

Congratulations are in order for all the summiteers, but especially for Speaker FOLEY and Majority Leader GEPHARDT and Minority Leader MICHEL for the endless hours they spent over the past 5 months to develop a budget package.

However, while the summit package correctly sought to reduce sharply the deficit—by some $500 billion over 5 years—I did not believe that the package was as fair and equitable as it could have been nor that it spread the burdens of added revenues and spending cuts as evenly and broadly as required.

I was especially concerned about the increased Medicare costs, the growth-incentive package and the distribution of the taxes contemplated by the first budget and deficit reduction package.

Accordingly, but with sadness on my part because of all the time, energy, and good faith our leaders had invested in the package, I voted against the first budget resolution. It was, as we all know now, rejected by a broad vote.

However, Mr. Speaker, a few days later, we were presented with an alternative budget resolution which I could and did support.

This revised blueprint—unlike its predecessor—was modified in several important ways. It was made more equitable and more fair, and it gave House and Senate committees of jurisdiction the responsibility to decide how to meet these targets, and it gave them also the flexibility to meet the amended targets in ways which do not penalize any one group of citizens or taxpayers.

Specifically, and importantly, the revised budget and deficit reduction proposal for fiscal year 1991 reduces the burdens to be borne by Medicare beneficiaries and eliminates some of the more questionable elements in the earlier package, such as the 2-week delay in issuance of unemployment compensation checks and the growth provisions which, when analyzed were not so much growth incentives as tax loopholes.

Mr. Speaker, these have been difficult and tense times for us all. But, if from all the tension and tumult a more fair and equitable budget for America and its citizens emerges, then it will have richly been worth the effort.

A SALUTE TO WILLIAM F. GREEN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. TOWNS. Mr. Speaker, today I rise
pay tribute to a man who has devoted h
career to fostering partnerships between me
ical care providers and the health care co
sumer, Mr. William F. Green.

Mr. Green is the senior vice president f
external and governmental affairs, quality a
surance and St. John's Site Administration f
Interfaith Medical Center of Brooklyn. In th
capacity, he is responsible for the administr
tion and management oversight of the exte
nal affairs programs. With a staff of 17 e
ployees, he directly supervises the depa
ments of corporate communications, public r
lations, marketing, fund development, comm
nity affairs and government relations. As t
administrator for the St. John's Division he
responsible for St. John's 283 employees a
an operating budget of $9.4 million.

In his professional life, Mr. Green has de
onstrated a firm commitment to his commun
and has chosen extracurricular associations
support this commitment through a lifetime
involvement in grassroots and community a
tivities. He believes that community grou
should be more politically sensitive a
become involved in the management of ins
tutions in their communities.

Mr. Green received his elementary educ
tion in Brownsville and attended Thomas J
ferson High School in East New York.
former U.S. Marine, he attended Virgi
Union University in Richmond, and graduat
in 1961 with a bachelor of arts degree in so
ology. He earned a masters degree in soc
work in 1966 from New York University a
another masters degree in business science
1977 from Columbia University Busine
School.

Interfaith Medical Center is one of 14 d
tressed hospitals in the State of New Yo
Mr. Green played a significant role in helpi
to convince the State legislature to appro
an enhanced modernization plan for the ho
pital bringing about a $225 million bond iss

Mr. Green's professional memberships
clude: The American College of Hospital A
ministrators; the Royal College of Health A
ministrators; the Mayor's Task Force on Le
Poisoning Prevention; Bedford-Stuyves
Kiwanis, president; the National Association
Black Health Executives; the National As
ciation of Health Executives, president of lo
chapter; and the Lion's Club.

TRIBUTE TO REV. MSGR. ALOYSIUS J. WELSH ON THE GOLDEN JUBILEE OF HIS ORDINATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. ROE. Mr. Speaker, on Saturday, October 27, 1990, residents of my Eighth Congressional District and the State of New Jersey will join the friends of the Guild of Saint Joseph the Worker and the parish community of Saint Peter's Church in Belleville, NJ, and Rev. Msgr. Aloysius J. Welsh in celebration of the 50th anniversary of his consecreation into the sacrament of holy orders.

Mr. Speaker, the faith and devotion of our people in a full communion of understanding—ever caring and respecting the individual beliefs of our fellow man—has been the lifeline of the individual on to great achievements and purpose in pursuing the fulfillment of his or her dreams and ambitions. The exemplary leadership and outstanding efforts to our citizens so important to our quality of life are in the vanguard of the American dream and today we express our appreciation to Rev. Msgr. Aloysius J. Welsh, whose esteemed dedication and unselfish devotion in promulgating spiritual guidance, goodwill, fellowship, and brotherhood in service to God have truly enriched our community, State, and Nation.

Reverend Monsignor Welsh has maintained the highest standards of excellence throughout his lifetime and we are pleased to share the pride of his family, many friends, and parishioners in the distinguished achievements so unselfishly dedicated to the betterment of mankind. There is so much that can be said of the love, affection, and reverence with which Reverend Monsignor Welsh is held by all who have had the good fortune to know him.

Mr. Speaker, we are so proud to have Reverend Monsignor Welsh with us in Belleville, NJ. He was ordained on December 20, 1940, at the National Shrine of the Immaculate Conception in Washington. A native of Belleville, he studied at Seton Hall University, Immaculate Conception Seminary, and the Pontifical Gregorian University in Rome. He received his doctor of sacred theology degree from Catholic University of America in Washington in 1942.

At the seminary he founded the home study course, a catechism-by-mail program, through which hundreds have been introduced to the church. Monsignor Welsh founded the Guild of St. Joseph the Worker and the Pope Pius XII Institute of Social Education. Through the years his special apostalate has been the field of labor-management relations and social justice.

After 18 years of teaching at the seminary, he was named social action director with headquarters at Essex Catholic High School in 1964. Monsignor Welsh accepted the challenge of the pastorate of St. Joseph's Church on West Market Street, Newark—a poverty-stricken parish whose parishoners were moving out as fast as financial means permitted. The racial difficulties in Newark's inner city of 1967 and 1968 found Monsignor. Welsh in a position of spiritual leader and conciliator.

Mr. Speaker, his experiences and ability prompted the American Catholic Bishops to chose Monsignor Welsh as the executive director of the National Catholic Task Force on Urban Problems, which was a forerunner and catalyst of the present Campaign for Human Development.

On his return from 2 years of service at the Washington office of the U.S. Catholic Conference, Monsignor Welsh became the executive director of the New Jersey Catholic Confernce, Trenton-based coordinating office for contacts by five New Jersey dioceses with New Jersey legislature and executive branch; from March of 1972 to May of 1977, Msgr. Welsh was the pastor of St. Aloysius Parish, Caldwell, New Jersey. His most recent assignment was a executive director of the National Catholic Conference for Interracial Justice with headquarters in Washington, DC.

Mr. Speaker, as Rev. Monsignor Aloysius J. Welsh celebrates the 50th anniversary of his ordination to the priesthood, I know that you and all of our colleagues here in the Congress will want to join me in extending our warmest greetings and felicitations for the excellence of his service to his church, our Nation, and all mankind. We do indeed salute an esteemed pastor, exemplary clergyman, and great American—Rev. Msgr. Aloysius J. Welsh, of Belleville, NJ.

REALIZING THE PEACE DIVIDEND

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. STOKES. Mr. Speaker, in recent months, there has been much debate and much has been written about the proper focus of our Nation's budget priorities. In light of the dramatic changes taking place in Eastern Europe, the Soviet Union, and elsewhere around the globe, many believe that the time has come to shift our priorities from a huge Defense budget to a budget that reinforces our commitment to addressing pressing domestic demands. For many years the basic human needs of our citizens—education, employment, health care, and housing—have gone unmet while we have engaged in the largest peacetime military buildup in U.S. history.

Mr. Speaker, the National Association of Social Workers has taken a great interest in this important issue. Recently, the Cleveland chapter of the peace and welfare committee drafted a resolution concerning the peace dividend and economic conversion. I believe the resolution is very timely and makes a powerful statement. I am pleased to share the resolution with my colleagues and urge them to take a moment to read it. I also take this opportunity to commend Mr. Jack Emmer, a member of the peace and social justice committee, for the development of this document and the organization's longstanding commitment to economic and social justice.

REALIZING THE PEACE DIVIDEND

Whereas, the changing political climate, particularly in Eastern Europe, offers the United States an opportunity to end the "cold war" and adopt a policy of peaceful negotiation of differences; and

Whereas, our relationship with the Soviet Union is increasingly characterized by diplomacy, accommodation, and compromise; and

Whereas, the countries of Central America have clearly signaled their intent to manage their own affairs without military intervention by the United States; and

Whereas, the 46-year-old arms race has created a fragile and unbalanced economy, characterized by the growing affluence of the few and devastating poverty for an increasing underclass; and

Whereas, the enormous expenditures on military production and research have hurt the competitive position of the U.S. and kept investment in the civilian economy inordinately low; and

Whereas, after years of neglect, the nation's infrastructure is failing to support a modern industrial society; and

Whereas, our increasing international debt and trade imbalance are reducing our country to a second-rate economic power; and

Whereas, our society is threatened by growing crises in education, health, crime, substance abuse, racism, homelessness, hunger, inequality, and the environment; and

Whereas, the President's proposed budget perpetuates and exacerbates these problems by achieving its "debt reduction" mainly out of domestic programs; therefore, be it

Resolved, That the National Association of Social Workers adopt the following policies:

1. Reaffirm our commitment to the NASW National Social Agenda for American Families which alone can validate our mission as professional social workers;

2. Determine that our highest priority for the next triennium shall be to lobby for the transfer of a major share of our national resources from military to domestic programs; to work for a comprehensive national health plan, quality child care available to all families, decent affordable housing for all Americans, and an end to hunger and malnutrition;

3. Mobilize all social workers to ensure the realization of a PEACE DIVIDEND in the next three years.

RESOLUTION TO 1990 NASW DELEGATE ASSEMBLY ECONOMIC CONVERSION

Whereas: Economic Conversion Planning for a peace-time economy is needed to help repair decay in U.S. industry, infrastructure and human services, and to counter fears that peace means depression

Whereas: Military spending has helped create an enormous Federal Budget deficit

Whereas: The U.S. ranks first among industrial countries in military spending and research and development but only eleventh in economic growth

Whereas: Plans have already been made to greatly reduce the number of military bases; such reduction in bases or industries can have calamitous impact on communities affected, including the loss of thousands of military and civilian jobs, unless anticipated by planful conversion

Whereas: A lead-time of at least two-years will be needed to introduce conversion of defense-related industries in our country

Resolved: That NASW do the following:

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1. Accept a mandate to commit its resources to support, advocate and lobby for economic conversion from a military to a civilian peace-time economy.

2. (a) Support legislation sponsored by Ted Weiss, Democrat, New York City and 64 more House members, HR 101, "Defense Economic Adjustment Act."

(b) Urge NASW lobbyists to contract our Senators to sponsor a companion Bill in the Senate to match that of HR 101.

3. Take a leadership role in working with other organizations to assure that economic conversion include education, health, and human service jobs.

A SALUTE TO LILLIE COOPER MARTIN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. TOWNS. Mr. Speaker, today I rise to salute a woman who has dedicated her life to improving the quality of life for the poor, Lillie Cooper Martin.

Ms. Martin's devoted career in community service began early in her life. While a teenager, she learned the art of public service under the watchful eye of New York City's first African-American city marshal, Reginald Thorpe.

After graduating from Central Commercial High School, Ms. Martin realized that she would be better able to achieve her goal of public service by continuing her education. She subsequently completed courses at New York University and the New School for Social Research.

After marriage and children, Ms. Martin realized that the public school system needed the contribution of concerned parents. In response to that need, she served as the PTA Secretary at Public School 182 and PTA President at Intermediate School 292 in Brooklyn. Additionally, she has served the public school system as a paraprofessional at Public School 306.

However, Lillie's concern for the improvement of the lives of others expanded beyond the schoolhouse. She has played an integral part in the organization and operation of many community based groups, including the Council for a Better East New York and the Task Force at the Community Development Agency [CDA]. After leaving CDA, Lillie's interest in housing and community development grew. She has served as coordinator of East New York Housing Services, director of East New York Housing Services, and executive director of Multi-Service Center No. 3. Currently, she serves as the executive director of East New York Stop Deterioration Corp.

Lillie serves on many boards and committees. Among these are Christians United for Social Action, Leslie Freeman Day Care Center, Council for a Better East New York, Executive Committee of Kings County Hospital, East New York Neighborhood Family Care Center, and Alternative Health and Hospital Corp. of East New York.

Lillie Cooper Martin and Jesse Martin have been wed for almost 40 years. They are the proud parents of 6 children and grandparents of 10 grandchildren.

Lillie Cooper Martin is dedicated to freedom and providing for the less fortunate.

COMMEMORATING IND'S 20TH ANNIVERSARY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. SOLARZ. Mr. Speaker, I rise to commemorate a remarkable milestone in the history of Brooklyn. On October 26, the Independent Neighborhood Democrats will hold their 20th anniversary dinner dance.

As we deliberate on the budget, as this body contemplates critical questions of war and peace, it is important for us to remember that we are here as representatives of the people. Our system of government works best when the voters are informed, organized, active, and have the opportunity to choose their representatives in free and fair elections. For 20 years, the Independent Neighborhood Democracts have been at the forefront of the struggle to keep our political processes open, honest, and responsive to the needs of the average citizens.

IND was founded on Independence Day 1970. From this auspicious beginning, a ragtag band of youthful idealists, operating under the unlikely moniker of a subway line serving the neighborhood, soon grew into a well-organized army for political and social reform.

They were certainly "independent." They were independent from the country organization, independent from the local elected officials and from party leaders.

Although scorned as subversives, and dismissed as amateurs, IND's members fought for their ideals even when it seemed that victory was well beyond their grasp.

Often their causes only appeared impossible because they had the courage to take a stand before those in power did.

They fought against the war in Vietnam.

They fought against pollution in their community.

They fought to make processes of government honest, open, and accountable.

They fought to open the political process through voter registration drives.

Years before reformers across the State insisted that the legislature fund community offices in each assembly district, IND rented a storefront office for their local assemblyman.

They also supported candidates who shared their vision, sometimes against some of the most powerful figures on the local political scene.

They supported Al Lowenstein for Congress.

They supported Sal Ferraioli for district leader.

They supported Carol Bellamy and Marty Connor for State senate.

They supported Mike Pesce and Eileen Dugan for assembly.

They supported Mario Cuomo for mayor.

They supported Steve DiBrienza for city council.

They supported Al Tomei for judge.

They even supported my ill-fated race fo borough president of Brooklyn.

Some of the candidacies and causes the championed were successful while others ha to wait for another day to taste victory. I each case, however, IND was guided by prin ciple. Once committed they would neve waver. They were always skilled and energeti partisans.

Their work was often difficult. They fough powerful, entrenched interests that coul strike back—and hard. Oldtimers on Cou Street still recall that Memorial Day long ag when the club's headquarters was bombe Let history record, however, that IND st works out of that little storefront below stre level. It is an appropriate symbol of IND's pe sistence, vigor, and commitment.

Those who seek to reform our political pro esses often become the objects of scorn ar derision, especially from those in positions power. Tammany boss George Washingto Plunkitt dismissed them as "morning glories They are often referred to as "crackpots And who can forget the ultimate clubhous calumny that "a reformer is an out-of-wo politician."

The Independent Neighborhood Democra have given the lie to the conventional wisdo They have proven that you can fight city h and win. But they have proven somethi more important. IND has proven that you c win elections, and remain true to your refor roots.

Victory has never dampened IND's ind pendent spirit or its zeal for reform. It is tod what it was 20 years ago: a group of refor minded citizens who care most for their co munity and who recognize that vital, gras roots, democratic, community organizatio still offer the best hope for a just society.

Mr. Speaker, I have witnessed, firsthar the struggles of people around the world attain democratic institutions. In the Phil pines, the people braved the assaults of t Marcos gang. In Eastern Europe, common c zens tore down the Iron Curtain with their ba hands and threw off the Communist system a genuine expression of collective action. A who will ever forget the image of a solita student standing up to a tank in Tiananm Square?

As inspiring as these struggles for freedo have been, it often seems as though, here America, we take our democracy for grante

I am proud to report that, at least in c corner of Brooklyn, active and vital public p ticipation in the democratic system is v much alive. In the county of Kings, there is room for monarchs or those who seek to tablish political dynasties.

The Independent Neighborhood Democr have remained true to their roots: indepe ent, tough-minded reformers. It is a privile to represent them. I congratulate them on t important milestone, and I honor them their service to our borough.

GEORGE HARDY: UNION BUILDER, CHAMPION OF THE LOW-WAGE WORKER

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. DYMALLY. Mr. Speaker, this past September labor and friends witnessed the passing of a great union leader, George Hardy, president of the Service Employees International Union, AFL–CIO (1971–80).

Mr. Speaker, I first met George Hardy when I was a union organizer of the American Federation of Teachers, AFL–CIO. Then later I met him as a member of his union, local 41, when I worked for the California Disaster Office.

When I ran for the California assembly in 1962, he was one of my biggest supporters.

George was a union leader who never lost touch with his members. It was not at all unusual to see President Hardy licking stamps in the headquarters of candidates he supported.

I join with his many friends and colleagues in expressing our deep sympathy to his family.

[From Union, Fall 1990]

To George, With Gratitude

(By John J. Sweeney)

This past September, our union said goodbye with great sadness to one of its dearest family members. George Hardy, who revolutionized SEIU in the western United States, and who led the International union into a new and dominant role in the labor movement, passed away at the age of 78.

It is difficult to try to memorialize George. He had no stomach for ceremony and no patience for personal salutes. He had only one concern; to organize the unorganized.

The stories of George Hardy's diligence, his tirelessness, and, yes, his rough-and-tumble vocabulary have become legendary. But I wonder whether those who did not have the pleasure of knowing him really understand that the stories are true—for George it was always the union and his family. There was nothing else.

When George was young, he pushed a broom by day, like his father before him, and at night he worked to organize co-workers, many of whom were women, into SEIU Local 9 (theatre janitors) and Local 87 (office building janitors) in San Francisco. He often went without sleep, and as soon as his employer of the moment learned of his organizing activities, George would be fired and blacklisted. Yet without a break in his stride, he'd be on to a new job and on to new organizing. George was an optimist.

He was also a trendsetter, as one of my favorite George Hardy stories illustrates. In 1943, 30 years before most people had ever heard of pay equity, a group of women janitors from Local 87 approached George with a problem. They had discovered, to their horror, that their employer paid male workers a higher wage than he paid women—to perform identical tasks!

While this practice was common in the building service industry up through the 1960s, it offended George back during World War II. With the help of economist Ralph Eliaser, George took the women's case straight to the War Labor Board in Washington, D.C. and won the workers what was probably the first "equal pay for equal work" ruling in the history of the labor movement.

George's confrontation with President Gerald Ford stands out as another vivid memory. In 1975, several labor leaders had been invited to the White House as part of an economic summit. When George arrived, he quickly unleashed a flurry of his infamous "Hayes Valley language." He told Ford it was a "—— disgrace" that janitors were making two dollars an hour just a block away from the White House.

In an article on the summit meeting, the *Wall Street Journal* attributed George's outburst to "rank-and-file members not characteristic of Washington labor leaders." George responded, "I think they meant me," and he was right.

It's important to know that George wasn't grandstanding when he spoke out so fiercely. He was a man with one concern and one set of principles, and he had only one manner and one voice for expressing those principles—to presidents and workers alike.

I think AFL–CIO President Lane Kirkland captured the essence of George Hardy when he addressed SEIU's convention in 1980.

"George Hardy does not wear his social philosophy on his sleeve. He carries it in his heart," Kirkland observed. "Because he is so uncompromising in his beliefs, it would be impossible not to have been on the opposite side of an issue at least once. But win or lose, George knows that when the fight for idealism is over, the practical battle for the survival of the labor movement begins. This commitment is what turns a collection of unions into a movement."

And building a movement out of a collection of unions is what George Hardy did best. You need only look at the dynamic growth of SEIU during his career to know that.

I only hope that we, his successors, can always do his legacy justice.

God bless you, George.

George Hardy

(By Matt Simon)

For 50 years, he commanded attention throughout the labor movement as a unique blend of visionary and street fighter. He foresaw San Francisco as a town of union janitors and the U.S. public sector as an organized jurisdiction when both goals were considered farfetched dreams. And he tenaciously took on all adversaries, from California's ruthless employers' associations of the 1930s to U.S. President Gerald Ford, whom he surprised with an outburst of salty language at a 1975 economic summit.

He was George Hardy, founder of the Service Employees Western Conference, former SEIU International president (1971–1980), architect of SEIU's health-care organizing, pioneer of public sector organizing. A man who set out, in the Depression, to organize San Francisco's exploited, largely immigrant workforce of janitors; who understood the vital role of women in the labor movement as members, organizers, and officers; and who built a network of robust western locals that today provides union representation to more than 350,000 men and women.

On Sept. 13, 1990, George Hardy passed away at Childrens' Hospital in San Francisco after a lengthy illness. He was 78.

"He was one of the finest men I have ever met—and one of the truly great labor leaders," says former California Gov. Edmund G. "Pat" Brown, Hardy's long-time friend and political ally. "The world is a better place for his passing through it."

"Those of us who knew George have lost a very dear friend, and hundreds of thousands of workers—workers who might be blocked from organizing to this day were it not for George—have lost a true champion," says SEIU President John Sweeney.

Born in Vancouver, British Columbia, George Hardy grew up in the working-class Hayes Valley District of San Francisco at a time when the trade unionist was often dismissed as first cousin to the anarchist.

The son of Charles "Pop" Hardy, a janitor and early Service Employees organizer, young George received a crash course in unionism during the San Francisco General Strike of 1934, when he helped workers hatch a dramatic four-day shutdown of the entire city in support of embattled longshoremen.

The successful strike taught George that even the most powerful employers could be beaten. Hardy would spend his life putting them to the test.

In the next few years, he and the "Hayes Valley Gang," as Hardy's neighborhood friends were known, braved blacklisting and dangerous confrontations to successfully organize the majority of San Francisco's commerical building cleaners. With only the clothes on their backs, the Gang then traveled to Los Angeles, an anti-labor bastion, to organize a handful of fledgling locals.

By the time he left for combat duty in World War II, Hardy had established new Service Employee local unions from the Bay Area to San Diego, and had united them in the California State Council, the first statewide coordinated body in SEIU history.

When Hardy was elected SEIU International vice president in 1948, both the range and variety of his organizing efforts were already expanding. He had charted victories in several states, which he brought together in 1950 as the SEIU Western Conference, the first cooperative multi-state body formed by an American labor union. He had also widened his focus to include two groups nearly untouched by the labor movement: health-care workers and public employees.

By the time Hardy was elected SEIU International president in 1971, health-care and public workers had become SEIU's fastest-growing areas of membership groups because of his determined efforts.

When Hardy retired in 1980, SEIU was the second largest union of non-teaching public employees in North America. But before he left office, George laid the groundwork for the 1989 merger of SEIU and District 1199, the National Union of Hospital and Health Care Employees, which made SEIU the largest union of health-care workers on the continent.

On the occasion of his retirement, *Service Employees* newspaper asked Hardy to reflect on his career. In his editorial, Hardy did not boast. Instead, he wrote, "There is so much to be done."

Union Builder; Champion of the Low-Wage Worker; Organizer

"He was one of the finest men I ever met—and one of the truly great union leaders. The world is a better place for his passing through it."

The words belong to Edmund G. "Pat" Brown, former governor of California. He is speaking of George Hardy, his long-time friend and political ally.

The night before Governor Brown made these remarks, George Hardy left the world he made a better place. The man who always reminded us there was "so much to be done" had finally done enough for one lifetime.

George Hardy always wanted us to be prepared to carry on without him. In his earliest years as an organizer, cruising penniless down Interstate 5 with the Hayes Valley Gang he knew that his toughest challenge would be to keep his scattered unions running when the organizing was over, when "Pop" Hardy's car was returned to San Francisco and its rightful owner.

He succeeded by bringing his locals together in unified councils and conferences powerful enough collectively to ward off the enemy.

When he retired from SEIU, George similarly left the International union well-prepared to go on thriving and growing under a new generation of leaders.

Nothing George could do, however, would have prepared his friends and colleagues for his passing.

All we can do is pull together in the same spirit of solidarity George inspired among his western unions, and celebrate the man who did not, like others, dismiss downtrodden janitors as a class too poor to organize, who did not flinch at the notion of organizing the forbidden public sector and health-care industry, and who did not rest with the realization that there was "so much to be done." The truth is, George Hardy left us with much less to be done.

May eternity be his reward.

A SALUTE TO NORMAN D. LETOW

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. TOWNS. Mr. Speaker, today I rise to pay tribute to Norman Letow, a man who has spent his life educating the children of Brooklyn.

Mr. Letow's dedication to public education was firmly implanted by his parents. As poor immigrants, his parents were forced to rely upon the public schools for the education and training of their children. Norman Letow was born and raised in Brooklyn. He attended P.S. 247, P.S. 207, James Madison High School and Brooklyn College.

In October 1965, Mr. Letow began his work with the public schools of Brooklyn. He became a laboratory assistant in Halsey Junior High School. Planned initially as a temporary assignment, this contact with young people moved Mr. Letow to remain an educator. During his tenure as a classroom teacher, Mr. Letow taught classes in science and language arts.

In 1984, the community expressed their overwhelming confidence in his leadership ability by appointing him assistant principal of Halsey Junior High. While serving in the capacity of assistant principal, Mr. Letow played an integral role in strengthening the staff development program, revising curriculum models and initiating a school improvement planning committee.

After 3 years of invaluable service, Mr. Letow was appointed principal of Halsey Junior High School. Since Norman assumed the mantle at Halsey, there has been significant improvement in reading, math and writing scores of the students. Because of this demonstrable improvement in the performance of the students, the school has been removed from the list of schools under review. Norman is dedicated to further academic growth of the Halsey students.

CONDOLENCES TO THE FAMILY AND FRIENDS OF RICHARD SCHWARZ

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. WEISS. Mr. Speaker, I rise today to inform my colleagues of the death of Richard Schwarz, a noted film archivist from my congressional district and the former owner of the Thalia, an Upper West Side theater venerated by generations of classic movie lovers.

The Thalia Threater, on Broadway between 94th and 95th Streets, had long been a showplace for European classics. But by 1976, when Mr. Schwarz came to New York City, the Thalia had fallen on hard times. He bought and restored the theater in 1977, and it soon became a meeting place for some of the country's foremost film archivists and "buffs."

Mr. Schwarz discovered and gave the U.S. premiers to such celebrated foreign films as "Uncle Vanya" and "Stevie." He is also widely respected for his own "Hollywood Outtakes and Rare Footage." In recent years, he took his phenomenal understanding of classic and foreign films downtown, where he operated the Cinema Village and Thalia Soho Theaters.

Richard Schwarz had a keen sense of our Nation's great heritage in movies, and he gave his talents and artistry back to the American film community in so many ways. I know my colleagues in the House of Representatives join with me in expressing condolences to Richard's family and friends. Their loss will be shared by our entire community.

A SALUTE TO MICHAEL S. LIMB

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. TOWNS. Mr. Speaker, today I rise to pay tribute to a man who has sought to be a peacemaker, Mr. Michael S. Limb.

Mr. Limb has always been interested in fostering goodwill toward all men. He first displayed his deep commitment to understanding the global village by majoring in international law and politics at St. Paul's University, School of Law in Rikkyo, Tokyo. He continued his interest through his graduate and post-graduate studies where he attended Keio University Graduate School of Law (Tokyo), Duquesne University and Columbia University.

Mr. Limb is the founder of the Black-Asian Society of New York, and the Korean American Citizens Federation. He acquired the inspiration to develop these organizations from his deep belief that in order have success in life one must be comfortable with one's culture and environment while simultaneously respecting and accepting the diversity of other peoples. Mr. Limb has received numerous awards including the outstanding service award from the Korean American Chamber of Commerce, and the distinguished service award from the Commissioner of the New York City Police Department.

PRINCIPAL OF THE YEAR

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. SUNDQUIST. Mr. Speaker, there are always people to honor and appreciate, and this particular man should be acknowledged and thanked also. He is being honored for one of the most important jobs in our country: educating our children. Mr. Charles E. Peavyhouse of Hixson, TN, has been chosen as Principal of the Year by the Tennessee Association of Elementary School Principals.

Mr. Peavyhouse is an excellent example of a man who truly cares about the future of our country. He is a leader in the effort to achieve excellence in the education of our children, and he is a well respected man in his community. He has shaped the character and the minds of our future generations, and I would like this honor he has been given to be recognized.

I ask this House to join me in offering this tribute to this great educator, Charles E. Peavyhouse, and I request that the article from Chattanooga News-Free Press, Sunday, September 23, 1990, be entered following my remarks in the CONGRESSIONAL RECORD.

[From the Chattanooga News-Free Press, Sept. 23, 1990]

Former Educator Heading To Washington—Peavyhouse "Principal Of The Year"

Longtime Falling Water School Principal Charles Peavyhouse, who stepped down after the last school term, has been named "Principal of the Year" by the Tennessee Association of Elementary School Principals and will be among honorees from the 50 states recognized in Washington, D.C., next month.

Shirley Lincoln, president of the National Association of Elementary School Principals, said in a letter to Mr. Peavyhouse, "It is a distinct honor to be recognized by your colleagues as one who provides outstanding leadership at the elementary and middle school level and I applaud your accomplishments.

"The program's goal is to give recognition to those principals who set the character and quality of education in the early school years that shape children's future in the classroom and in life."

The Oct. 16–17 activities in Washington at which the principals will be honored include a welcoming reception at the U.S. Department of State, Diplomatic Suite, with Department of State and Department of Education officials, and a tour of the White House, as well as a black-tie dinner.

"I really appreciate the support I have received from Superintendent (Don) Loftis, the support of educators, supervisors and fellow principals in nominating me for this award," Mr. Peavyhouse said. "Of course

I've had an excellent staff and good support from the parents at Falling Water. Without them, I couldn't have accomplished the things that I did.

"Through the years, I've had excellent kids, outstanding students and superior support from the community, from parents and from the staff," he said.

Mr. Peavyhouse was nominated for the honor locally by Sandra Black, director of elementary education in the country schools, and longtime announced his retirement last spring.

Mr. Peavyhouse was selected as the nominee for the state award by the Hamilton County Principals Association.

A native of Rhea County, Mr. Peavyhouse was a teacher and principal at Midway Elementary School in Johnson City, Tenn., before joining the Hamilton County system in 1957 as a teacher and later as principal at Pineville Elementary School.

He was supervisor of attendance and special education in the system's central office from 1961 to 1972, then was at Bachman Elementary School for five years.

Educated at Tennessee Wesleyan and East Tennessee State University, he has a master's degree from George Peabody College at Vanderbilt.

A former Hamilton County Republican Party chairman and activist in party politics here, Mr. Peavyhouse serves as a member of the Tennessee Wildlife Resources Agency and has been in the Army and reserves for a total of 37 years.

He and his wife, Eula Mae, have two daughters, Mrs. Jane Jolley and Mrs. Carol Bieter, and four grandchildren.

CONGRESSIONAL SALUTE TO JERRY O. LANE, OF WAYNE, N.J. BOYS CLUB MAN OF THE YEAR

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. ROE. Mr. Speaker, it is with the greatest pride and admiration that I rise today to salute a truly outstanding individual from my Eighth Congressional District of New Jersey whose many professional and civic contributions have truly made his community and his State a better place to live.

I am speaking of Jerry O. Lane, of Wayne, NJ, whose deep involvement in his community for several years has earned him the honor of "Man of the Year" by the Boys Club of Paterson. For all he has done, Mr. Lane will be honored at a dinner-dance at the Wayne Manor in Wayne, NJ, on Wednesday, October 25, 1990.

Mr. Speaker, I know that this event will be a source of great pride, not only to Jerry Lane, but to his devoted wife, Johanna; to their two sons Lance and Scott; to his many friends and colleagues who will be on hand Wednesday to honor him; Eugene Babock, president of the Paterson Boys Club; and to Claire Salviano, chairwoman of the Paterson Boys Club Annual Man of the Year Dinner.

Mr. Speaker, Jerry O. Lane, began his career with State Farm Insurance back in 1961 as a claim adjuster. Working his way through the ranks as an employee of State Farm, he became an agent in 1973, and a year later was promoted to agency manager. In 1977, he was made the agency director for the State of Florida. No more than 5 years later, He was promoted again, this time as deputy regional vice president of southern California. Finally in 1986, he assumed his present post as vice president, in the northeast region of the United States.

Mr. Speaker, Mr. Lane has been vigorously active in a wide range of community groups besides the United Way and the Boys Club; including the advisory board of William Paterson College, and the board of the Chilton Hospital Parent Co.

Along with his many activities, Mr. Lane has been a vitally important in leading the United Way of Passaic Valley through a major reorganization which greatly enhanced the image of the agency and dramatically increased the moneys raised. During Mr. Lane's tenure the increased funds translated into new agencies being funded and thousands of additional residents receiving assistance through the United Way.

Mr. Speaker, Jerry Lane's dedication has not been restricted to large regional groups like the United Way. Mr. Lane has always been a major supporter of the Boys Club of Paterson, particularly through the Annual Golf and Tennis Tournament. While visiting the club on one occasion, Mr. Lane found himself deeply impressed by the Boy's Club nutrition program and the fact that they served over 25,000 hot meals annually to some of the needest boys and girls in Paterson. The computer program also attracted his attention because of the compensatory educational assistance provided to boys and girls. Through Mr. Lane's efforts State Farm Insurance donated 4 IBM computers and printers complementing the Apple computers which were already being used in the center.

Mr. Speaker. I appreciate this opportunity to present a brief profile of a man whose many vigorous and unselfish efforts have truly made his community, his State of New Jersey, and our Nation a better place to live. I invite you and our colleagues to join me in saluting an outstanding individual, Mr. Jerry O. Lane, of Wayne, NJ, the 1990 Boys Club of Paterson "Man of the Year."

A SALUTE TO BENNY MENDEZ

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. TOWNS. Mr. Speaker, today I rise to pay tribute to a man who has spent his career in an effort to prevention of drug abuse, Benny Mendez.

Benny Mendez was born in Moca, Puerto Rico. Married in 1965 to Isabel Navarro, Benny is the father of two children, Nancy (20) and Benjamin (19).

Following service in the United States military during the Vietnam era, Benny attended Fordham University. At Fordham, Benny earned a bachelor's degree and a master's degree. Soon after earning a B.S. degree, Benny began working for the Drug Service Agency Prison Project Program. In 1983, Mendez obtained a position in Community School District 23's Drug Prevention Program. He is currently a teacher of social studies and marketing at Thomas Jefferson High School.

The majority of his life, Benny Mendez has lived and worked in Brownsville. Active in local politics, he was an officer of the Brownsville Community Corporation and a member of the Democratic Political Club. Additionally, Benny serves on many boards, including the Federation of Puerto Rican Organizations of Brownsville, the East New York Community Corporation, PROUD, Inc. of East New York, the Lions Club of East New York and a member of the 54 the A.D. Regular Democratic Organization.

A DOOR OF HOPE IN BROOKLYN

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. SOLARZ. Mr. Speaker, on October 25, a new comprehensive services center for the developmentally and mentally disabled will be opened in Brooklyn. That occasion will mark yet another milestone for an extraordinary service organization: Pesach Tikvah.

Located in the Williamsburg section of Brooklyn, Pesach Tikvah, under the leadership of Rabbi Chaim M. Stauber, has dedicated itself to serving the mental health needs of New York's Hasidic community.

This has not been an easy task. Traditional attitudes toward mental illness greatly complicate the delivery of basic services. No community is immune from the strains of contemporary life. For example, a lack of affordable housing has struck New York's Jewish community just as it has afflicted other segments of the population. There are now an estimated 3,000 homeless Jews in New York alone.

The challenge facing Pesach Tikvah has been to offer care for the consequences of the modern world in a manner consistent with traditional attitudes. By melding a sensitivity and understanding of Hasidic values with an impressive degree of professionalism, Pesach Tikvah has managed to serve a previously underserved community with dedication and distinction.

In Hebrew Pesach Tikvah means "a door of hope." For countless individuals over the past 6 years Pesach Tikvah has offered real hope in the form of counseling, access to affordable housing, and assistance in obtaining Government services. Pesach Tikvah's services include a free-standing licensed mental health clinic and day hospital, a sheltered workshop, community residence, a respite-recreation program, and a summer day camp.

Rabbi Stauber, and the entire staff at Pesach Tikvah, are tireless workers and dedicated advocates for those who are most in need. Thanks in large measure to their efforts, a previously unmentionable problem is now a topic of great interest and concern in the community. More than that, real progress toward a solution is being made.

Throughout the many dark and difficult chapters in Jewish history, the tradition of caring for one's neighbor has been both a

practical and moral dictum. Nowhere has this noble tradition found a more full and genuine expression than in the work of Pesach Tikvah. Their example should serve as an inspiration to all Americans and should guide the deliberations of this body.

Mr. Speaker, in my 20 years of public service I have been privileged to work with many fine individuals and organizations who gave freely of their talents and energies. Pesach Tikvah ranks among the finest of this remarkable and select group. It is truly a privilege to be able to represent the Williamsburg community in Washington. I am indeed honored to be able to commemorate the dedication of the new Pesach Tikvah Center for the developmentally and mentally disabled.

NIGERIA MOVES TOWARD DEMOCRACY

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. DYMALLY. Mr. Speaker, I submit, for the record, the complete text of President Babangida's speech, delivered before the organization of African Unity [OAU], during the election of their new chairman in Addis Ababa, Ethiopia. Included in his message to the African Heads of State were calls for the security of human rights, economic stability, and the substitution of violence with dialog while solving Africa's problems.

President Babangida has embarked on a program to prepare Nigeria for democracy and free elections, by the recent appointment of professional civilian governors to work side by side with the military governors in the 21 States of Nigeria, in order to ensure a smooth transition to a complete civilian administration by 1992.

Additionally, the Office of the Vice President has also been established in place of the Office of Chief of General Staff. The Honorable Augustus A. Aikhomu has been appointed by the President to be his Vice President.

Finally, Mr. Speaker, President Babangida's entire 26 member cabinet consists of professional civilians. I submit the names of the civilian governors as well as the President's cabinet into the RECORD. They are as follows:

CIVILIAN STATE GOVERNORS

State and name

Akwa Ibom: Mr. U.J. Ekaete.
Anambra: Mr. V. Aniago.
Bauchi: Alhaji Shehu Wunti.
Bendel: Mr. John Edozien.
Borno: Mr. Mustapher Umar.
Benue: Mr. Ason Bur.
Cross River: Prof. Solomon O. Unoh.
Imo: Mr. F. Orji.
Gongola: Ambassador I. Jimeta.
Kaduna: Mrs. P. Sadauki.
Kano: Mr. Abba Abdullahi.
Katsina: Mr. Aminu Z.M. Rafindadi.
Kwara: Chief E.A.O. Oyeyipo.
Lagos: Mrs. L.M. Okunu.
Niger: Mr. Jibo Garba.
Ogun: Mr. M.A. Balogun.
Ondo: Mr. M.A. Ayeni.
Oyo: Mr. D. Abinusawa.
Plateau: Mr. Ibrahim R. Abubakar.
Rivers: Mr. Dagogo-Jack.
Sokoto: Mr. Isa Wasagu.

CIVILIAN CABINET MEMBERS

Dr. Shettima Mustapha, Agriculture and Natural Resources.
Mr. Tonye Graham-Douglas, Aviation.
Dr. S.P. Chu Okongwu, Budget and Planning.
Mr. A.O. Ige, Communication.
Maj. Gen. Y.Y. Kure (Rtd), Culture and Social Welfare.
Lt. Gen. Sani Abacha, Defense.
Prof. Babatunde Fafunwa, Education.
Mr. Bunu Sheriff Musa, Employment, Labour and Productivity.
Maj. Gen. Ike O.S. Nwachukwu (Rtd), External Affairs.
Maj. Gen. M.G. Nasko, Federal Capital Territory.
Alhaji Abubakar Alhaji, Finance and Economic Development.
Prof. O. Ransome-Kuti, Health.
Air Vice Marshall M. Yahaya (Rtd), Industries.
Chief Alex Akinyele, Information.
Maj. Gen. A.B. Mamman, Internal Affairs.
Prince Bola Ajibola, Justice.
Air Vice Marshall Nuru Iman, Mines Power & Steel.
Prof. Jibril Aminu, Petroleum.
Prof. Gordian Ezekwe, Science & Technology.
Alhaji Abubakar Hashidu, Water Resources.
Mr. Senas Ukpanah, Trade.
Navy Commander Gwonm (Ret), Works & Housing.
Air Commodore A.O. Ikazoboh (Ret), Youth & Sports.
Ambassador Zakari Ibraahim, Minister of State, Ministry External Affairs.
Alhaji Samalia Gwarzo, Minister of State in Charge of Police Affairs in the Presidency.

Mr. Speaker, as Nigeria celebrates the Anniversary of its 30th Year of Independence, I urge the members of this body to take note of the steps being taken by President Ibrahim Babangida toward the Democratization of Nigeria.

The President's speech follows:

SPEECH BY PRESIDENT BABANGIDA

Mr. Chairman, My Brother Heads of State and Government, Distinguished Secretary-General of the OAU, Your Excellencies, Ladies and Gentlemen, Let me congratulate you on your election as current Chairman of our Organization. By this decision, this Assembly has entrusted to you the responsibility of providing leadership in our determination to promote freedom, security and development in Africa. We are all persuaded by Your Excellency's efforts to bring about social stability and economic progress in Uganda. With Africa now at the cross-roads, your task will not be easy, I pledge the cooperation of Nigeria.

But your immediate predecessor, our Brother President Hosni Mubarak of Egypt has already begun the process of tackling the major issues which conspire to give Africa an unacceptable image. I salute him.

I also wish to thank the President of the People's Democratic Republic of Ethiopia, Comrade Mengistu Haile-Mariam for his inspiring statement, the wonderful reception he accorded us; and the fraternal hospitality he has put at our disposal since our arrival in Addis Ababa. Mr. Chairman, at last, after a long but heroic struggle, the people of Namibia have finally achieved their freedom. We acknowledge the presence in our midst, today, of our Brother Sam Nujoma, President of the Republic of Namibia, We salute the leaders and the people of Namibia and we wish them success in their efforts to consolidate their independence.

At the same time, I wish to recognise the contributions of Dr. Salim Ahmed Salim, our distinguished Secretary-General, who has brought freshness of ideas and efficiency of style to the conduct of the affairs of the OAU.

Also with us today is that veteran nationalist and symbol of Africa's struggle against racism in South Africa, Dr. Nelson Mandela, Deputy President of the African National Congress (ANC).

GLOBAL SITUATION

Mr. Chairman, today, the world is witnessing rapid and dramatic changes in fixed dogmas, Eastern Europe is breaking loose, from the fetters of ideology, from over-concentration of decision-making in a centralised monolith and from the chains thrown around all freedoms. The movement towards the democratisation of East European societies has begun. Already, there are indications that portend improvements in the quality of life in Eastern Europe and in the patterns of its relations with the rest of the world. In Western Europe, the march to economic and political integration, which began with the Treaty of Rome, will be crowned with a union in 1992. The dream of a united Europe, that is economically strong, politically stable and devoid of all divisive barriers is not now far away.

Countries of Asia and Latin America are forging new patterns of relations among themselves. These have been made possible by the emergence of stable policies to release the creative energies of their peoples. Like Europe, the objective force is to promote peace and security in order to assure national prosperity. The impressive economic achievements of South Korea, Taiwan, Singapore, and Malaysia have confounded all sceptics. Today, Japan is accepted as a dominant voice in all major decision-making in the field of development and international economic co-operation. True, there is no magic to success but hard work. It is well-known that the road to freedom and democracy has not been easy for these countries. But they persevered believing that, in peace and security, they cannot fail. This, then, is the picture of our world in 1990.

Thus, Mr. Chairman, I make bold to say that this should be an object lesson for us in Africa. I say this because, ever since the majority of our countries became independent in the 1960s, we have conducted our lives as though the world owes us a living. We have done very little to change the orientation of the economies designed for us by the colonial administrations to serve their own interests. Naturally, therefore, we are relentlessly exposed to all impulses from metropolitan Europe. As a result, we have become heavily dependent on Europe for our survival. In this unhappy situation, our liberty of action as free peoples, is compromised. With this, we force into the open all kinds of diversions, factionalism—even separatist agitations.

LEADERSHIP IN AFRICA

Mr. Chairman, of all the regions in the world, Africa is the most vulnerable to adversity; because of its relatively weak technological base, low level industrial capacity and the often self-inflicted fragility of its socio-political institutions.

In many parts of the continent, conflicts are raging, causing enormous destruction to lives and property, untold human misery-

and generating large-scale refugee problems. It is a matter of profound concern that, while we should be building, we are busy destroying. Instead of collaborating, we are engaged in meaningless and futile antagonisms. And, most unfortunately, we substitute violence for dialogue; discord for concord.

Although the Charter of our Organization provides for a Commission on Mediation, Conciliation and Arbitration, there appears to be lack of political will on the part of member-states to utilize this vital instrument for peace.

We have even tried ad hoc arrangements and regional solutions without success. Nigeria urges a more effective utilization of these mechanisms. And we are willing to support any new initiatives the OAU may evolve in this regard.

In the face of these problems, it may be asked: how are we, as leaders, gearing our peoples, harnessing our resources and strengthening our institutions for life in the next century that is fast approaching? For instance, will our children receive better education, our citizens be better fed and housed and our peoples more free? Will our nations be more stable and at peace? Will human rights be secured and freely enjoyed?

Mr. Chairman, we as leaders of this continent have the obligation to liberate our people from the scourges of hunger, fear and want. If we can achieve that goal, it becomes possible to change the image of Africa as a continent, famous for being perpetually dependent on external charity, with all its implications for our self-respect.

The challenge before us now is to resolve, as leaders, to take the bull by the horns, and assume the true role that destiny and history has imposed upon us. We should collectively gear our ideas and actions as dedicated Africans, prepare to give service to this continent on the basis of principles, without partnership. By perseverance, and genuine commitment, we can re-shape the destiny of our peoples and continent.

SITUATION IN SOUTH AFRICA

Mr. Chairman, just as we pursue, with determination, our efforts to build stable societies in Africa for development and security, we should also continue the struggle to bring to an end apartheid in South Africa. In spite of appearances of change, the racist regime is yet to knock down all the pillars of that obnoxious system. The fight against apartheid is, therefore, far from over. We cannot afford to be complacent. The struggle, therefore, demands our unflinching support.

Our Organization must continue to act with commitment on this issue. We must continue to insist that international pressure, in the form of sanctions against the racist regime, should not be relaxed in the absence of profound evidence of irreversible change. We must continue to insist that a conducive climate for negotiations be created and assured, as enjoined in both the Harare and UN Declarations. We must insist, through unremitting support and vigilance, that the dream of a united, nonracial and democratic South Africa is realised.

SITUATION IN MIDDLE EAST

Like Southern Africa, the Middle East needs peace which has eluded the region for a long time. Lebanon remains a theatre of fratricidal wars sustained by the meddlesome support given to the various factions to the conflict. The frustrations of the people of Palestine is understandable because of lack of progress towards the establishment of their homeland, in spite of the sacrifices made by the Palestine Liberation Organization. There should be no imposed solution. The PLO should be accepted as a principal actor in the United Nations sponsored international conference on the Middle East Question.

AFRICA'S CRITICAL ECONOMIC SITUATION

Mr. Chairman, the general unstable situations in member-states and other political problems of this continent indicate that our Organization has a responsibility to act, and act urgently and decisively. Indeed, it is expected that, with the possibility of the resolution, or at least reduction in the intensity, of some of these political issues, the focus of the OAU should, more and more, be shifted to the critical economic situation of the continent.

In this assembly, and other gatherings, like ECOWAS, we have discussed Africa's economic problems, such as poverty in Africa, unfair terms of trade; continuously declining commodity prices; harsh financial terms and so many more. At every turn, our best efforts have been marginalized by the negative effects of the workings of the world's trading and financial systems. All these external factors have been compounded by our own failures, mistakes and deficiencies. The truth, is that the gap between Africa and the rest of the world, even with other developing regions, is, increasing with every passing day, and every passing year.

None of our countries can survive on its own without effective regional co-operation. If the developed countries can see the need and wisdom for greater co-operation, should there not be infinitely greater reasons for the developing countries of our continent to come together in collaborative ventures? We must show the necessary political will which will facilitate the effective working of the enabling mechanisms and use them to build blocs for attaining the larger objective of an African Economic Community (AEC) as envisaged in the Lagos Plan of Action and the Final Act of Lagos.

Some progress has been made in preparing the treaty for the establishment of the AEC. Still, it is regrettable that ten years after the adoption of the Lagos Plan of Action, the record of its implementation has been unimpressive. There is now an urgent need to resolve all outstanding issues to make the treaty ready for signature and ratification as soon as possible. The treaty should be a key instrument for fostering unity among African states and for relating effectively with the other regions that have organized themselves into blocs. It is an illusion for African countries to hope that they can survive individually in an international environment, dominated by regional economic blocs.

AFRICA'S EXTERNAL DEBT

Mr. Chairman, let me now turn to Africa's debt problem which is a central element of the continent's critical economic situation. The servicing of Africa's external indebtedness, currently estimated at over U.S. dollars 250 billion, has become an intolerable burden, reducing virtually all possibilities of growth and development. This year alone, Africa will lose over U.S. dollars 5.5 billion from a combination of debt service payments, capital flight and unfavorable terms of trade. This massive transfer of resources to the developed countries and financial institutions far outweigh any private investments and concessional loans to the countries of Africa.

To date, in spite of our best efforts and enormous sacrifices to deal with the debt crisis, there has been little or no respite for our economies. Industries in our countries continue to produce well below installed capacities. Social expenditures have had to be curtailed, further intensifying social hardship. The response of the international community to our debt problem has clearly been less than adequate. If African countries are to overcome the debt crisis, any time soon, there will have to be far more vigorous measures to write-off or reduce their debt stock than is currently envisaged under any of the existing plans. In particular, the key provisions of Africa's common position on debt should be taken into account. This was why the Nigerian delegation, during the 25th Session of our Assembly, presented a three-part strategy for dealing with the continent's debt problems. That strategy, in our view, is still very valid, and we commend it, once again, to Africa's creditors and donors.

Furthermore, in view of the nature of the problem and urgency to find durable solution, we are ready to host the OAU international conference which should be adequately prepared with the support of a group of high-level technical experts in the field of money and finance.

CONCLUSION

Mr. Chairman, where do we go from here? Which is the way forward for Africa? When I was here in 1988, I spoke of my vision of Africa, full of vitality to better serve and defend the interests of our peoples. My hope is that human rights and democratic freedoms should triumph in Africa that is confident and full of promise.

RECOMMENDATIONS

Mr. Chairman, I commend the following recommendations for the consideration of this Assembly: Africa must pull together and work in concert; the conflicts which now plague our continent must end; the creative energies of our peoples must be released to promote social and economic progress; undignified notion of Africa as an unstable and corrupt region should not be carried into the next century; the protection of human rights and the liberalization of the political process should underpin our development efforts; Africa needs inspired leadership; the OAU must reform its structures and working methods; the OAU should contribute to development, stability and peace in Africa.

Mr. Chairman, My Brother Heads of State Government, Distinguished Secretary-General of the OAU, Your Excellencies, Ladies and Gentlemen, if all these can be achieved, there is a ray of hope for Africa in the 1990s and beyond. I thank you.

A SALUTE TO FREDERICK JORDAN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. TOWNS. Mr. Speaker, today I rise to salute a man who has rendered exemplary service to the people of New York, Mr. Frederick Jordan.

Mr. Jordan was one of the pioneers in the New York Police Department's Civilianization program. In an era of fiscal restraints, civilian employees render invaluable assistance to the

uniformed officers by performing clerical and administrative duties. This assistance permits uniformed officers to devote additional hours to law enforcement duties. In addition to serving as one of the trailblazers of this program, Mr. Jordan was the first African-American civilian to serve as an executive officer of the civilianization program. Today, Mr. Jordan continues his recordbreaking achievements by serving as the only civilian platoon commander/desk supervisor.

Fred Jordan's devotion to duty has led him to be the recipient of many awards including, a certificate by DC 37's Local 1549 for his dedication and the New York City Police Department's 20 Year Achievement Award. During his 20 years of service, Mr. Jordan has received two letters of commendation from detective squads for his outstanding service.

Additionally, as a sign of the respect and trust of his peers, Mr. Jordan serves as the labor representative to the Local 1180 C.W.A.

Mr. Jordan is the father of two daughters and a son, and grandfather to four lovely grandchildren.

CONTINUED FUNDING FOR HISTORIC PRESERVATION FUND IS VITAL TO LOUISVILLE AND JEFFERSON COUNTY AND THE NATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. MAZZOLI. Mr. Speaker, I rise today to commend our colleague from Illinois, Chairman SID YATES, who chairs the House Appropriations Subcommittee on the Interior for his work on the fiscal year 1991 appropriations bill which we will be voting on later today.

In particular, I am pleased that he and the other members of the subcommittee have included $34.6 million for the historic preservation fund in the appropriations bill.

The historic preservation fund has provided an important stimulus to the protection and preservation of historic properties in my home district of Louisville and Jefferson County, KY.

Indeed, the historic preservation fund has helped Kentucky accomplish an impressive record of achievement in identifying and developing our historic resources, and I am proud to say that Kentucky has become a leader in the national preservation program. Many individuals back home are responsible for these achievements—Ann Hassett, Leslee Keys, and Richard Jett just to name a few.

Many of these accomplishments would not have occurred were it not for the planning, technical assistance, and financial support made possible through the historic preservation fund. In fact, during the past 9 years, Kentucky has ranked in the top 10 State allocations from this fund.

The historic preservation fund has, in a variety of ways, helped to build partnerships between individuals and organizations, both private and public, and all levels of government, to encourage creative and successful historic preservation projects.

Mr. Speaker, I hope that my colleagues will join me in supporting the historic preservation fund later today.

SESAME STREET'S CHILD CARE PROJECT IN DALLAS

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. BRYANT. Mr. Speaker, an exciting new development in child care is the Sesame Street Preschool Educational Program—PEP—project now underway in Dallas, TX. Child care providers are being taught to replay program segments from Sesame Street telecasts and use them along with books and other materials to develop the learning abilities of preschoolers.

So far 375 preschoolers in 8 child-care centers and 7 day-care homes are participating in the pilot project, with training for new providers underway at 5 more centers and 8 more family homes. An estimated 40,000 children are now in day care in Dallas County. The project hopes that a majority of those children can be enrolled in the program within the next 2 years.

The project is the result of a 4-way partnership between the Childrens' Television Workshop of New York, producers of Sesame Street, now in its 21st year, Dallas public television station KERA, the Dallas Foundation for Health, Education and Research, led by Mr. Ralph Rogers, and the Child Care Partnership of Dallas.

The project provides each center with a set of Sesame Street Puppet Characters, including Big Bird, Oscar the Grouch, Elmo, Grover, and the Count, for the children to use when they're watching the program. The project's training is aimed at teaching care providers to reinforce the program's curriculum: premath, prereading, writing, child and his world, human diversity, and cognitive organization, plus social interaction and the environment. Especially important is training the care providers to be aware of the great power of storybook reading, and how it can be influential in the children's early development and ability to learn to read.

I hope that future child care legislation considered by Congress will provide Federal support to introduce this very exciting early childhood development Sesame Street PEP project to many other areas. I applaud the partners responsible for starting the PEP program in Dallas. I strongly recommend to those who will be responsible for administering our child care legislation that they encourage this kind of development throughout the Nation. Nothing could be more important than starting our youngest children on the right road to reading and the education they'll need for a better life.

TRIBUTE TO LEONARD BERNSTEIN

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. GREEN of New York. Mr. Speaker, I rise today to commemorate the memory of Leonard Bernstein, the talented conductor and musical director of the New York Philharmonic Orchestra, who passed away yesterday at the age of 72. Mr. Bernstein captivated audiences worldwide for more than four decades with his many shows such as "West Side Story," "On the Town," and "Candide," which have become American classics.

Leonard Bernstein was born in Lawrence, MA, on August 25, 1918. He had no formal music training until the age of 10, when he began piano lessons under the instruction of Helen Coates, who immediately recognized his musical talent. By the age of 16, Bernstein was a piano soloist with the Boston Public Schools Orchestra. Soon after, he began studying piano and composition at Harvard University, where he was encouraged to study the art of conducting at the insistence of Dimitri Mitropoulos, conductor of the Minneapolis Symphony.

While studying at Tanglewood Music Center, located in the Berkshire Mountains of Massachusetts, Mr. Bernstein became acquainted with Arthur Rodzinski of the New York Philharmonic Orchestra, who eventually hired him as an assistant conductor of the 1943–44 season. At the age of 25, Leonard Bernstein was catapulted to success on November 14, 1943, when he substituted for Bruno Walter as the conductor of the New York Philharmonic in a concert broadcast on national radio. During his tenure with the New York Philharmonic, Bernstein toured Asia, South America, and Europe. Mr. Bernstein also performed for audiences in the Soviet Union where he was greeted with a great deal of enthusiasm.

Not only was Leonard Bernstein a talented conductor and pianist, he was also a gifted author, educator, and composer. In 1959, his book, "The Joy of Music," was published and later became a best seller. Between the years 1951 and 1956, he taught music at Brandeis University in Massachusetts, and also gave lectures on the television program "Omnibus," sponsored by the Ford Foundation. It is common belief that the most popular and best of Bernstein's compositions was "West Side Story" which, in 1961, was converted into movie form, and won 10 Academy Awards including Best Picture, though I must confess, that "Candide" is my personal favorite.

As a Representative from New York City, I am proud to be a part of the city which nurtured all of Bernstein's most creative talents. His music truly emulated the city. As Tom Shales so aptly wrote in today's Washington Post, "What we hear in these scores is Bernstein's voice and his inventive brilliance, but also the voice of New York as it used to be, the electric symbol of American vitality, the bustling capital of world culture, Leonard Bernstein's city."

At this time, I should like to join my colleagues in wishing all the best to the family and friends whom Leonard Bernstein left behind. Bernstein's intense love of music was overt to all those he captured by his musical genius. He was quoted as saying, "I can't live one day without hearing music, playing it, studying it or thinking about it." Thank you, Mr. Bernstein, for contributing so much to the world of music.

WE THE PEOPLE . . . BICENTENNIAL COMPETITION OFFERS STUDENTS VALUABLE LESSONS IN CIVICS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to bring to the attention of my colleagues an excellent educational program which is teaching students how to reap the benefits of citizenship in our constitutional democracy by educating them about the principles of American Government.

Funded by an act of Congress and cosponsored by the Commission on the Bicentennial of the U.S. Constitution, the We the People . . . programs are administered nationwide through the 435 congressional districts, the 4 trust territories, and the District of Columbia. These educational programs are developed and administered by the Center for Civic Education.

The We the People . . . programs include:

The National Bicentennial Competition on the Constitution and Bill of Rights, a 6-week instructional program on constitutional democracy at the high school level. Following the course of instruction, a nationwide competition is conducted, in which entire classes compete as teams to determine congressional district, State, and national winners.

Congress and the Constitution, a noncompetitive companion program of the National Bicentennial Competition for upper elementary, middle school, and high school classes.

National Historical Pictorial Map Contest, an educational program designed to encourage the study of geography, especially within the context of early American history.

The We the People . . . programs have drawn widespread support from the educational, political, and business communities. In the first 3 years of the 5-year program, over 64,000 teachers and 4,500,000 students have been involved in this indepth study of the Constitution and Bill of Rights. The overwhelming majority of House and Senate Members are actively involved in the support of their programs in their States and congressional districts.

Mr. Speaker, the We the People . . . programs serve as an excellent educational tool to help motivate young people to learn more about the historical development of the Nation, and to gain a deep understanding of the fundamental principles and values of our constitutional democracy. What is particularly impressive about the instructional materials is that they are designed to be useful for students with different ability levels.

As a former teacher and school administrator I realize the importance of programs which successfully stimulate and motivate young minds. The teaching methods incorporated into the texts combine expository and inquiry methods. These methods requires the active participation of the students themselves through the course of instruction and stresses the development of analytic and evaluative skills.

Mr. Speaker, the We the People . . . programs work best when Members of Congress become actively involved by presenting awards, teaching a bicentennial lesson to participating schools, attending competitions, and serving as judges. It is a wonderful opportunity for Members to link up with their respective educational communities, and observe academic achievement on the front-lines of education. I urge every Member of Congress to participate to the extent possible in the implementation of this fine educational program.

RECOGNITION FOR REV. ARTHUR SIMON

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. BEREUTER. Mr. Speaker, tomorrow, October 16, is the 10th observance of World Food Day, an annual occasion for people worldwide to remind ourselves that millions of people are still hungry. The message of World Food Day is simple: Most hunger is unnecessary. Collectively we have the resources to end this scourge. The task before us is to strengthen our resolve to do so, then devote the necessary human and physical resources to carry out the resolve.

Tomorrow, World Food Day, President Bush will announce the annual Presidential End Hunger Awards. Arthur Simon will receive one of these awards for lifetime achievement. Rev. Arthur Simon, founder and president of Bread for the World, has devoted himself for nearly 20 years to helping Christians understand the opportunity and obligation to invest their citizenship in overcoming hunger, both in the United States and around the world. Nearly all of us in Congress can attest to the effective attention to hunger-related policy decisions by Bread for the World members in our districts. This Member and many of my colleagues join in congratulating Reverend Simon on this well-deserved honor.

Also, tomorrow, on World Food Day, Bread for the World Institute on Hunger and Development, will release its first annual survey of the state of world hunger. That survey "Hunger 1990: the State of the World's Hunger," details the reality of hunger in 45 countries, including the United States. In addition to highlighting the needless character of most hunger, Hunger 1990 addresses causes of hunger and suggests guidelines for public policies which will help overcome hunger.

Each Member's office will receive a copy of Hunger 1990 shortly. This Member comments this report to my colleagues and their staffs.

Mr. Speaker, a brief summary of the principal conclusions of Hunger 1990 is appended.

CONCLUSIONS OF HUNGER 1990

1. Militarization is a primary cause of hunger. Military spending should be reduced in developing and developed nations alike; most of the savings should be redirected to meet human and development needs. A reallocation of just one percent ($3 billion) from the U.S. military budget could more than double U.S. development assistance.

2. National and international development efforts have often overlooked women's needs and skills. Women are among hunger's greatest victims, even though they are the primary food producers in many developing nations. Women should be full participants in the design and execution of programs to reduce hunger and its structural causes.

3. Environmental destruction, rapid population growth, and hunger are closely related. Hungry people have few choices but to live from the resources of a fragile environment. They are often in a "catch-22" situation in having to do further damage to the environment in order to survive. Plans to protect fragile ecosystems must be integrated with plans to meet urgent social needs.

4. Economic growth is an important part of overcoming poverty, but is not enough. Economic growth often increases wealth for the rich without improving the lives of poor and hungry people. National programs for economic and human resource development must target poor people, and ensure their access to basic social services and other productivity-enhancing resources.

5. Progress against hunger and poverty depends mainly on the initiative of poor people and others in the developing countries. Many of the best development projects are initiatives that groups of poor people have undertaken with or without outside help. International assistance should support national programs which build on what people are doing for themselves.

6. Industrial country policies regarding trade, debt and development aid often contribute to poverty and hunger. The international economic policies of the United States and those of other industrialized countries should be reshaped to address the needs of developing nations. For example, U.S. private relief agencies provide almost $2 billion a year in aid to developing countries. Yet if U.S. economic policies cause world interest rates to go up by one percentage point, this adds about $13 billion a year to the debt burdens of developing countries.

The report concludes that the world has the capacity to meet all of its food needs. Those who are concerned about hunger can become involved in two ways: first, through supporting soup kitchens, food banks, and private agencies with well-established track records for relief and development; and second, by advocating changes in government policies that affect hunger in the United States and developing countries.

Hunger 1990 is the first in a series of annual reports on global hunger to monitor the progress of efforts against hunger. Christian Children's Fund and World Concern joined the Bread for the World Institute on Hunger & Development in co-sponsoring the report, with additional support from Catholic Relief Services, Church World Service, Heifer Project International, Lutheran World Relief, and World Vision.

THE RACIAL JUSTICE ACT

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. DELLUMS. Mr. Speaker, I would like to bring the attention of my colleagues to the recent editorial in the New York Times on the Racial Justice Act which was passed by the House as part of the crime bill.

I oppose the death penalty on the grounds that it is absolutely immoral and that it constitutes cruel and unusual punishment.

Until we are able to abolish the death penalty, it is important to recognize that this ultimate sanction is used as an instrument of punishment disproportionately against people of color. As the New York Times editorial points out, the Racial Justice Act is an important initiative designed to correct this outrageous injustice.

The House must be resolute in its conference with the Senate on this crucial provision of the crime bill.

A LITTLE RACIAL JUSTICE IN THE HOUSE

The House has taken a modest step to combat racism in the administration of the death penalty. It has enlarged its rabid election-year crime bill to include the Racial Justice Act, to allow judges in capital cases to consider whether death sentencing in their jurisdictions displays an unacceptable racial pattern.

Contrary to Bush Administration claims, the measure won't abolish executions; but it may slow them down while courts guard against racial discrimination. If Senate and House conferees adopt the provision, President Bush will have to accept it—or be forced to veto the whole huge crime bill. That will pit the rhetoric of his Justice Department, which unfairly labels the racial section "pro-criminal," against the bill's severe "tough on crime" features the President likes.

The racial justice proposal starts from the principle, always professed but often disregarded, that even guilty murderers should not be executed for racial reasons. The bill would let defense counsel offer proof, for example, that a community executes blacks out of proportion to the murder rate or imposes death for the killing of whites far more often than for the killing of blacks.

Prosecutors could overcome that inference in several ways. For example, if a black defendant faces death for killing a policeman, the state could show that all cop-killers in that county get the chair, irrespective of the race of victim or accused.

Representative James Sensenbrenner of Wisconsin and other opponents of this proposal are the Administration's allies in the effort to broaden the death penalty and narrow access to the Federal courts for condemned prisoners. They argued that considerations of race should not suddenly be injected into the penal law. Why not, considering all the evidence that race is a hidden element in capital sentencing, and not just in the South, where most death sentences are meted out?

Adoption of the Racial Justice Act was a moment of humanity in long House debate. In other respects, members, mindful of the election a month hence, competed shamelessly to endorse the toughest-sounding death laws and civil liberties restrictions.

Like the Senate, the House has produced a prosecutor's shopping list. Yet Republican representatives said the President would nevertheless veto the bill if it included the racial provision. It's hard to believe he would give up so much political red meat to block a little racial justice.

A SALUTE TO BENITO NIEVES

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. TOWNS. Mr. Speaker, today I rise to pay tribute to a man who personifies the American dream. Benito Nieves has overcome a language barrier and illness to become a leading community activist.

Benito Nieves was born on August 29, 1941, in the beautiful island town of Arecibo, PR. During his early adolescent year, his family migrated to New York City. Although this dramatic change in language and environment could have proven to be an impossible transition, Benito Nieves successfully graduated from Seward Park High School prior to the advent of bilingual education.

Due to his ability to communicate fluently in English and Spanish, Benito won his first job as a bilingual clerk at Beth Israel Hospital. His ambition and interest in community action motivated him to enlist his services in the first antipoverty programs in Brownsville and East New York. He quickly moved up the employment ladder to supervisory and administrative positions. In addition to fostering the economic development of others, Benito developed his entrepreneurial skills into several thriving business concerns including a restaurant, a grocery, and a construction business.

However, despite his commercial success, Benito developed an asthmatic condition which necessitated his relocation to a warmer climate in 1976. For the next 5 years, he lived in Florida, Arizona, California, Nevada, and Mexico before returning to New York City in 1981. He worked for the New York City Department of Transportation for a short period before turning to employment in the political arena. Again, Benito quickly rose through the ranks. Beginning as a campaign worker, he quickly became a community aide. Currently, Nieves serves as a special assistant and liaison for Hispanic affairs on the staff of Congressman EDOLPHUS TOWNS.

Benito is married and is the father of four children. Benito is grateful for this recognition of his longtime work in the communty and his efforts to bring people together in action to make things better for everyone.

A TRIBUTE TO LEONARD WOODWORTH

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. GEJDENSON. Mr. Speaker, today I rise to pay tribute to Leonard "Woody" Woodworth, a constituent in my district, and a resident of my hometown of Bozreh, CT.

This past July, Woody had the unique opportunity to be reunited with a face from the past. Woody Woodworth served as a platoon sergeant in the 191st Tank Battalion during World War II. On April 29, 1945, the 191st Tank Battalion entered and liberated the Dachau Concentration Camp. For some, the memory of 191st Tank Battalion will never be forgotten. One such person is Stephen Ross who now resides in Boston, MA. At this year's 50th year anniversary celebration of the 191st Tank Battalion, Woody and Steve were reunited again after 45 yerars. A boy of 14 at the time, Steve vividly recalled the day Woody and his fellow battalion members entered the Dachau Camp. This emotional reunion can best be summarized by the remarks Steve Ross made on this occasion. I commend to your attention these remarks which I believe eloquently express the emotions of those whose lives were touched by the men of the 191st Tank Battalion:

JULY 30, 1990.

DEAR BROTHER, WOODY: I would like to express appreciation and gratitude to you the 191st Tank Battalion for your valiant effort during the Liberation of the Dachau Concentration Camp, April 29, 1945.

Sharing your 1990 Reunion and being with all of you was the most joyous time I have ever experienced. You deserve so much praise and credit for all your sacrifices and dedication during W.W.II. As our liberators, you will always be remembered by the camp survivors for your gallantry and for the hope and compassion you provided to us.

I hate to think of what would have happened to us if you had not come at the time you did. You the G.I. Joes spoke the first kind words to us in years. You held in your arms our living skeletons, too weak to walk, to eat, or to live. You gave us our first bites of decent food. You provided medical help as best you could. You reached out to us with no reservations. To the camp survivors G.I. Joe came from Heaven. You left your homes and families and at times you were also hungry, cold and disillusioned. We owe you all our gratitude, recognition and our acknowledgement. It was an honor and a privilege to have been in the company of such faithful and true Americans.

When I first saw you in Louisville, I immediately envisioned in my mind the way you were 45 years ago. I could see your faces, your helmets, your uniforms, your boots and your weapons hanging on your body. You looked rough and tough and yet you showed so much empathy. You left an indelible mark on a fourteen year old boy that can never be erased. You were the pride of your nation, you preserved the Republic, your civilization, your religious freedom and you set free a suffering humanity. You fought bravely and defeated the most vicious and evil empire the world has ever known.

You and I, who saw it all, must forever be willing to bare witness to the authenticity of the Holocaust, which was perpetrated by a so called civilized nation. I will be forever grateful to each and everyone of you for saving my life, the life of my brother, and the lives of fellow camp victims.

You gave me an opportunity to become a productive human being in this great country of ours.

Faithfully yours,

BROTHER STEVE.

A SALUTE TO THE DELAWARE COUNTY WOMEN'S COMMISSION

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. WELDON. Mr. Speaker, I rise today to pay tribute to the Delaware County Women's Commission. This organization has played a vital role in the lives of thousands of Delaware County women in the past 5 years.

The Delaware County Women's Commission was established by resolution of the Delaware County Council on October 15, 1985. It had been preceded by a 15-month study conducted by the Delaware County Task Force on Women and Girls. This 35-member task force, which had met with relevant groups and individuals in the community to gather information, evaluated how the needs of women and girls were being met within the county, identified unmet needs, and drafted recommendations to the county council as to how those needs could be better met.

The task force selected six broad areas for its study: family issues; health, housing and social services; jobs, employment and education; crimes against women and girls; legal and legislative; and networking. Acknowledging that this study could not be all inclusive, the task force identified a prioritized subset of issues within each grouping for investigation. The findings were summarized in a report which included more than 100 recommendations. Most, if not all, of the recommendations could be implemented within current budgetary limits, were within the authority of county council to implement, and would significantly improve the lives of many women and girls through their implementations.

Recognizing that these recommendations were but a starting point, it was the unanimous recommendation of the task force members that a permanent women's commission be created to continue the work of the task force. The study report was presented formally to the Delaware County Council on September 30, 1985. The Delaware County Women's Commission was established 15 days later.

The commission is mandated by the county council to assess the needs of women and girls in Delaware County. Its charter states that the commission "will advise and counsel the county council on the issues of public policy and their impact on women; on ways to protect and promote the equal rights of women in Delaware County; on the elimination of gender based discrimination which may exist in the county government; on methods to ensure equal consideration for employment and policymaking opportunities within the government of Delaware County; and the need for policies and programs in Delaware County agencies and departments to improve the status of women."

The commission believes that its special strength lies in bringing together community members with diverse and often conflicting interests on issues of concern to women and girls in Delaware County. Where no one organization or individual can successfully tackle a problem, the commission stands in a unique position to invite all interested parties to share solutions.

The Delaware County Women's Commission selects a project to focus attention on each year. The first major area to which focus was directed was child support enforcement. Custodial parents were at best less than satisfied with the effectiveness of the support enforcement system; at worst there were thousands of cases with no activity, and many women and children dependent on the welfare system for survival. The public perception of the county and its committment to this constituency could not have been bleaker. County council, the county courts and the Domestic Relations Office received much negative attention in the media.

The county looked to the commission as a vehicle to tackle what appeared to be an insurmountable problem. The commission established a child support enforcement task force. After laying a strong foundation through discussions with key advisors and holding public and private hearings with consumers, the commission worked closely with the courts, the district attorney's office, the office of domestic relations, the family law committee of the county bar association, representatives of various women's organizations and members of the community to review and make recommendations for improvements to the local child support laws.

Seventy-two recommendations grew out of the task force findings and were the heart of its report which was presented to the county council in September 1987. Since that time, the commission has worked intensively with a team appointed by the President Judge to implement recommendations.

The commission has recently submitted its final report closing out this project. It cited the cooperative effort which led to the full implementation of nearly all of the report recommendations and the major improvements which have been achieved in the local system. A separate office of child support enforcement was established to provide legal representation of welfare and low income parents in the preparation of petitions to increase or modify child support orders and in enforcement of awards and collection of back payments. During its first year, OSE represented over 3,000 custodial parents in hearing before masters and judges. The greater portion of costs involved in this operation are IV–D reimbursable—State moneys, requiring very little infusion of county dollars. The domestic relation office if functioning at a higher level of productivity, providing a better quality of service, and generating much more money for the support of children in Delaware County. The increased level of compliance achieved has been both dramatic and certain. The Women's commission believes that the overall current quality of child support enforcement is exceeded nowhere else in the commonwealth. Clearly, child support enforcement in Delaware County is now a priority, and is seen by the public as such.

This local effort has been recognized across the country by the National Association of Commission of Women, Governing Magazine—a national publication of the Congressional Quarterly—and the nationally syndicated TV program, Inside Edition. Delaware County has been cited as a model for efforts in other States.

The commission is currently in the midst of an adolescent pregnancy prevention project, again bringing together groups holding diverse views but offering a platform from which they can work towards a common goal. This project has the support of people in the public and private sectors; health, education, social service, and community leaders; and those on each end of the pro-life/pro-choice spectrum.

A new project being developed at this time is child care. As one who has participated in child care debates in Congress, I am aware that this is an important topic across the country and the State, it is no less so in Delaware County.

In addition to its special projects, the commission facilitates activities such as the Women's Leadership Exchange, a quarterly social forum for women in various leadership positions to come together for support, to share common concerns, and to provide input into the commission processes; and the talent bank which is used to identify qualified female candidates for appointment to policy making bodies in the public and private sectors. The commission also plans special events, for example, Women's History Month, which includes an annual creative writing competition in the public and non-public schools, and which culminates in an annual Women of Achievement reception.

The commission holds seats on a number of other bodies, such as the Delaware County Human Services Partnership, the Private Industry Council, the Girls Coalition of Southeastern Pennsylvania, the Delaware County Community College's New Beginnings program, and many others.

The Delaware County Women's Commission is made up of a hard working and dedicated group of 11 volunteers. It makes good use of the wealth of interest and expertise in the community by working with the many people who serve on various committees and task groups of the commission. The commission is still in its early years, but already it has made its mark all across Delaware County.

In the 5 years since its founding, The Delaware County Women's Commission has been a positive force in the lives of many women in our area. I am pleased to recognize this fine organization on its fifth anniversary. Everyone in Delaware County should be proud to salute this outstanding group.

A SALUTE TO ASSEMBLYMAN CLARENCE NORMAN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. TOWNS. Mr. Speaker, today I rise to pay tribute to a man who has devoted his life in service to the people of Brooklyn, Assemblyman Clarence Norman.

A native of Brooklyn, NY, Clarence Norman, Jr., was born August 25, 1951. He received his high school diploma from Erasmus Hall High School in Brooklyn and graduated cum laude from Howard University in 1972 receiving a B.A. degree in political science. Norman later went on to attend St. John's University Law School where he was a recipient of a Martin Luther King, Jr., Scholarship for Academic Excellence and a 3-year grant from the Council of Legal Educational Opportunities. He graduated in 1975 with a juris doctor degree.

Mr. Norman began his professional career in 1976, as legal counsel to the New York State Assembly Subcommittee on Probation and Parole. Later going on to work with the Kings County district attorney's office, he served for a period of 5 years as a trial attorney in the felony bureau. Norman left the district attorney's in 1982 to run for the New York State Assembly. He was elected to the New York State Assembly in 1982.

An active member of the community, Assemblyman Norman is involved in numerous community activities and has served on the board of many community organizations including, the board of directors of the Bedford-Stuyvesant Lawyers Association; first vice president of the 77th Precinct Community Council in Brooklyn; chairman of the Housing Committee for Community Planning Board No. 8 and is founder and president of the Independent Democrats of Crown Heights.

Within his district, Norman has vigorously sought to secure funding for vitally needed economic development, housing rehabilitation, and commercial revitalization programs. A fervent advocate of community empowerment, Norman annually sponsors comprehensive senior citizen and youth festivals.

Clarence Norman serves on the assembly committees of codes, energy, election law, children and families, higher education, governmental operations and the chairman of the assembly subcommittee on the homeless.

THE NUCLEAR ENERGY WEAPON

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. MURPHY. Mr. Speaker, there is no question that recent events in the Middle East have exposed our energy security vulnerabilities and the lack of clear direction on the energy policy front.

The fact is that we have drifted dangerously away from achieving any kind of energy independence, both because of apathy and the inability to achieve a consensus behind a workable national energy strategy.

In the absence of strong national leadership in the energy area, in many quarters we have lost sight of the big picture. In light of these concerns, I was pleased that President Bush in his recent address to a joint session of Congress underscored the need to get America's energy house in order.

While there are a variety of solutions which many of us in the Congress are assessing, it is obvious that we must move away from dependence on foreign energy fuels and increase our reliance on secure domestic energy resources. As the President said, we "must take advantage of our energy sources across the board: coal, natural gas, hydro, and nuclear. Our failure to do these things has made us more dependent on foreign oil than ever before."

In assessing this mix of domestic energy resources, it is important that we not overlook the tremendous potential of nuclear energy to contribute more. This potential for nuclear energy as a strategic energy option is made very strongly in a recent opinion piece by John Sillin, an economist with the Management Analysis Co. I would like to commend this article to my colleagues as we survey the energy roadmap ahead.

Mr. Sillin's opinion piece from the Wall Street Journal follows:

[From the Wall Street Journal, Aug. 23, 1990]

THE NUCLEAR ENERGY WEAPON

(By John O. Sillin)

Iraq's invasion of Kuwait has brought into sharp focus the need by the U.S. to limit its dependence on Midwest oil. If the U.S. is to continue electrifying the nontransportation energy sector and insulating itself from the vagaries of politics in the Persian Gulf and other hot spots, rapid growth in applying nuclear energy, an economically and environmentally sound alternative threatened by domestic politics, must continue. This is particularly true if the Clean Air Act is signed into law.

Over the past 20 years, the increased use of nuclear energy and coal in the production of electricity has gradually weaned Americans from over-dependence on oil in the nontransportation sector. (Unfortunately, the transportation sector is liquid-fuel-dependent and has increased its petroleum consumption by more than 20% since the first oil embargo in 1973.) While total energy requirements have increased 13.6% since 1973, oil consumption has decreased 40% in homes and small businesses and 10% in factories—despite an increase in economic output of more than 50%.

While petroleum use was declining in these sectors, electricity usage increased by 67% and 33%, respectively. This improved life style, spurred economic growth, increased energy efficiency, and decreased exposure to the Saddam Husseins of the world.

And where was this electricity coming from? Between 1973 and 1989, electricity production from nuclear power increased 525% and from coal 84%. Though petroleum usage by utilities has recently turned up, it is still less than half its 1973 level.

THE CLEAN AIR ACT

With economic growth in the 1990s generally forecast to average between 2.5% and 3% a year, the Department of Energy, Edison Electric Institute and other recognized authorities are forecasting electricity demand to increase at similar rates. At 3% growth, approximately 180,000 megawatts of new generating capacity are required in addition to that which is under construction and for which firm planning commitments exist; if growth averages 2.5%, 140,000 megawatts are required. This is equivalent to 140 to 180 large power plants. These needs exclude the possibility that some 60,000 megawatts of aging fossil-fired plants may need to be retired. If we are not to increase the use of oil, this leaves coal, natural gas, and solar and nuclear power as alternatives.

The Clean Air bill (now in conference committee, versions having passed the Senate and the House) would sharply cut coal's ability to meet these increased power needs. According to the act, sulfur dioxide emissions must be reduced by more than half, to 8.9 million tons a year by the year 2001. Nitrogen oxides are also to be halved, to 2.5 million tons a year.

The Edison Electric Institute estimates the annual cost of compliance to be $5 billion to $7 billion. This will increase electricity rates by about 6%; but in regions that burn high sulfur coal, the increase could be as high as 20%. Some 250 existing power plants will be affected. Operating costs at some plants could increase by as much as 50%, leading to closure of the plants. Other plants will see degraded operations and lower efficiency. Also, new clean coal power production technologies may not be available until around the year 2000. Thus, maintaining electricity output from coal power plants will be a daunting task, much less increasing production to meet growth in electricity use.

Natural gas is the cleanest-burning fossil fuel, and except for modest imports from Canada, it is produced domestically. But, until now, natural gas has been used by electric utilities in power plants that operate only during periods of peak power demand. Only where natural gas could be reliably accessed in large quantities, such as on the Gulf Coast, is it used to meet day in, day out electricity needs. In the rest of the country, obtaining a natural gas contract that guarantees firm delivery at a stable price for periods of 10 years or more is difficult to nearly impossible. Thus, using natural gas to meet the bulk of the electricity needs identified earlier entails significant business risks.

These risks will probably increase, in part due to the Clean Air Act. First, the demand for natural gas among industrial customers will increase as they reduce their use of dirtier-burning oil and coal. Second, natural gas and oil prices are aligned because of their direct substitutability. If oil prices continue their recent rise, gas prices will follow. Third, there is a delivery problem because pipeline capacity needs to be expanded, to move gas farther and to deliver it to power plants.

Solar, biomass and other renewable forms of energy are not yet practical on the scale needed to satisfy the increased electricity needs the U.S. will experience in the 1990s. In 1989 these forms of energy satisfied less than 0.5% of total U.S. electricity requirements, and, according to Energy Department figures, no growth in output has occurred since 1985.

Therefore, by the process of elimination, the U.S. should be headed down the path of increased use of nuclear power. Last year, nuclear power plants generated 19.1% of U.S. electricity requirements. If these plants had not been operating, an additional 275 million tons of coal or 800 million barrels of oil would have been burned. Sulfur dioxide and nitrogen oxides emissions would have been five million tons and two million tons higher, respectively, and our oil import bill would have been some $5 billion higher.

The U.S. has realized significant benefits from its investment in nuclear energy. Cumulative cost savings from operating nuclear vs. fossil power plants exceed $40 billion since about 1970. Also, using cost assumptions contained in the proposed Clean Air Act, the cumulative value of reduced emissions resulting from nuclear plant operations is estimated to be more than $80 billion. In addition, according to the U.S. Council for Energy Awareness, since 1973 nuclear energy has displaced four billion barrels of oil, saving $115 billion on our import bill.

Other unquantified benefits include the fact that nuclear power plants emit no particulates. They do not produce noise. They do not require large numbers of wells or mines to produce fuel or barges, pipelines or trains to transport it. Also, nuclear fuel wastes can be stored at compact locations. Given concerns over oil spills, refinery explosions and despoiled lands, these are benefits worth acknowledging.

But perhaps the largest benefit is that a vibrant nuclear power program helps provide us with the will to deal with thugs like Saddam Hussein. The U.S. has taken the lead in organizing the world to thwart additional acts of aggression and butchery by him. The leadership might have been less forthcoming if our non-transportation sectors were dependent on Persian Gulf oil.

Unfortunately, just as a new wave of nuclear power plant construction should be starting, it is stagnant. As a result, oil consumption by the utilities, which had been declining for years, recently turned up—increasing by 32% since 1987.

THE SHOREHAM EXAMPLE

Much of the blame for this resides with short-sighted federal and state regulatory policies. Of greatest immediacy, state rate regulators must encourage, not thwart, utility investment in nuclear energy (the Shoreham plant's experience in New York state is perhaps the most egregious example); federal regulators must stop dawdling with regard to licensing new nuclear plant designs; and the Energy Department must effectively manage the nuclear fuel waste storage program, for which it is responsible (a program funded by the nuclear utility industry).

The Commercial nuclear industry must also take aggressive action, including improving the industry's spotty operating record. While all U.S. nuclear plants are safe and operations improved dramatically in the 1980s, there are still plants that under-perform, and they always make the headlines. The nuclear industry must also be more aggressive in stating the need for new plants and planning for their installation. In a word, leadership is required.

In the late 1970s, Carter administration policy called for nuclear power to be "the energy option of last resort." This unfortunate and inept policy still manifests itself in how the nuclear industry is regulated and perceived. It must be immediately reversed. Failure to do so risks undermining our most fundamental political values.

THE 50TH ANNIVERSARY OF WSTV-AM RADIO IN STEUBENVILLE, OH

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. APPLEGATE. Mr. Speaker, I rise today to ask my distinguished colleagues to join me in recognition of the 50th anniversary of WSTV–AM, Radio in Steubenville, OH.

Unlike many other radio stations, WSTV has been under the same ownership since its debut on the air in November of 1940. Furthermore, it has had only four general managers in its 50 year history. Current vice president and general manager, William B. Chesson, joined the station in late 1959 and has twice served as general manager. Mr. Chesson also served as group manager for WSTV's parent, Associated Communications Corp. for 1979 through 1984.

Because WSTV has always been dedicated to the community, it is marking its golden anniversary through significant investment in the Steubenville area. This effort includes a challenge posed to others in the business and industrial sectors to join in the quest to provide funding to worthwhile organizations.

WSTV has supplied resources for the painting of a mural on the Wall of the chamber of commerce building, as part of Steubenville's "City of Murals" project. WSTV met the need of the local urban mission in acquiring matching funds to upgrade a homeless facility. WSTV also provided moneys to both the local Retired Seniors Volunteer Program and Adult Literacy Council, so they could purchase new office equipment. The station is planning a playground facility in one of Steubenville's local parks, as well as the front wall of the reconstructed Fort Steuben on the banks of the Ohio River.

WSTV has contributed generously to the community of Steubenville as their way of saying thank you to the area residents for allowing the station to be a part of their lives for half a century.

Mr. Speaker, it is my privilege to honor WSTV–AM Radio on the celebration of 50 years of dedication to the Steubenville community.

A SALUTE TO SALLY B. HERNANDEZ-PINERO

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. TOWNS. Mr. Speaker, today I rise to pay tribute to a woman who is a model of achievement and commitment, Sally B. Hernandez-Pinero.

On December 8, 1989, Mayor David Dinkins appointed Sally B. Hernandez-Pinero to the post of deputy mayor for finance and economic development. Although this appointment is her most recent achievement, it is one in a series of outstanding accomplishments. Ms. Hernandez-Pinero had served as commissioner of the city of New York's Office of Financial Services and chairman of the Financial Services Corp. [FSC] since January 1988. The Financial Services Corp. of New York City is a not-for-profit organization which serves as the financing arm for all of the city's economic development efforts. Ms. Hernandez-Pinero also serves as chairman of the city's Industrial Development Agency, which is administered by FSC.

Ms. Hernandez-Pinero was appointed Manhattan deputy borough president in January 1986 and served in that position for 2 years. As deputy borough president, Ms. Hernandez-Pinero had primary responsibility for representing Manhattan at the board of estimates. Prior to that appointment, Ms. Hernandez-Pinero served as general counsel to the State of New York Mortgage Agency where she was responsible for bond issues. Before joining the staff of the New York State Mortgage Agency, she was associate counsel for the South Bronx Development Organization and a staff attorney for the Bedford Stuyvesant Community Legal Services Corp.

In addition to a distinguished career, Ms. Hernandez-Pinero has found time to become involved in community activities including service on the board of directors of the Council of Industrial Development Bond Issuers, the New York State Economic Development Council, and Marymount College's board of trustees. Ms. Hernandez-Pinero has also served on two New York State regents task force educational panels.

Ms. Hernandez-Pinero was born on February 12, 1953. She is a 1977 graduate of the New York University School of Law and a cum laude graduate of Wesleyan University. She resides in the Bronx with her husband, Hector, and two sons, Justin and Eric.

TRIBUTE TO THE "IN TOUCH" PROGRAM

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. RANGEL. Mr. Speaker, almost 4 million American service men and women served in Vietnam. More than 58,000 were killed, and more than 250,000 were seriously wounded. Many more are still missing today. Consequently, there are over 43 million Americans—families, friends, and coworkers—whose lives were directly and irrevocably touched by the Vietnam war.

The true cost of this war is staggering, but not just in terms of dollars and cents, or in terms of the lives lost. There are millions of Americans who continue to pay the tremendous price of this war, and must struggle daily to reconcile and to heal.

To assist in the healing process, the Friends of the Vietnam Veterans Memorial, a nonprofit educational group, have started a program called "In Touch." Utilizing a computerized data manaagement system, this group of volunteers assists people in their search for others who knew someone who served in Vietnam. This program was started in direct response to the many calls and letters the Friends received that said: "If I could only find * * *," "I need to find his family so I can keep my promise * * *," "I just want to talk to someone who was with him * * *." "Whatever happened to * * *?" As a result of the "In Touch" program, brothers and sisters, parents, and wives of the deceased or missing have had the opportunity to fully express their grief and share their experiences. Sons and daughters searching for information about the father they never knew well, if at all, have begun to share their special needs and put the puzzling pieces of their lives in place. The "In Touch" program was introduced to the public this year on Memorial Day at the Vietnam Veterans Memorial in Washington, DC.

I commend the Friends of the Vietnam Veterans Memorial and others for extending the

healing legacy of "In Touch" free of charge to the more than 7,000 participants of the 20th Annual Congressional Black Caucus Legislative Weekend held September 26–30, 1990, in Washington, DC. Thousands of African-Americans from around this Nation interacted with this program while it was on exhibit in Exhibit Hall at the Washington Hilton Hotel, and in the armed services hearing room in the Rayburn House Office Building. Hundreds of new names were entered into the "In Touch" data base, and scores of new contacts were initiated.

"In Touch" is an important part of the healing process for the millions of Americans affected by the Vietnam war. Mr. Speaker, I urge all of my colleagues to see "In Touch" at another national event planned for Veterans Day at the Vietnam Veterans Memorial. Thank you.

TRIBUTE TO WILLIAM "BILL" LUCIUS

HON. DOUGLAS H. BOSCO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. BOSCO. Mr. Speaker, I would like to take this opportunity to recognize Col. William R. "Bill" Lucius and to relate the numerous contributions made by him to the citizens of the first congressional district and the United States of America. As a tribute to his many years of community service, the California State Senate and Assembly have resolved that a portion of State Highway Route 101 in Northern Sonoma County be named in his honor.

William "Bill" Lucius served over 24 years in the U.S. Marine Corps. He attained the rank of colonel and holds numerous citations and medals. After his retirement from military life, he was elected councilman for the city of Healdsburg, CA, served numerous terms as a council-member and eventually became mayor. In fact, Bill was honored as Healdsburg's Mayor Emeritus in 1988, a telling reflection of the respect and love he commands throughout the community.

Bill has dedicated himself to improving mass transit ever since retiring from an already illustrious career. In 1971, he was appointed to represent Sonoma County on the then newly formed Metropolitan Transportation Commission, which oversees transportation planning and financing for the 9-county San Francisco Bay Area. He is its longest serving member, past chair of the commission and current chair of its legislation and public affairs committee.

Bill's cunning and his Marine's straightjawed approach to problem solving has become part of local legend. "I never lost a vote," he once remarked. That doesn't mean he's always had his way; it means he's never been surprised at the tally once he prepared to pound his gavel.

From 1969 to 1978, Bill served as a director of the Golden Gate Bridge, highway and transportation district, where he helped design a multi-model transportation system for the San Francisco-to-Marin County corridor that includes bus and ferry service. Former President and then-Gov. Ronald Reagan appointed Bill to the State transportation board in 1973, where he served as its chairman until 1977. In addition, Bill has held numerous other transportation-related positions over the years and in 1984 he was the recipient of an outstanding public service award from the Federal Urban Mass Transportation Administration.

Over the years, Bill developed an interest in fine wines. His reputation as a connoisseur means that dinner guests are assured of being served a selection of rare and pallet-pleasing vintages. Bill's collection is a result of his many world travels; coupled with persistence. Additionally, residing in Healdsburg means that the world-renowned Napa and Sonoma Valleys are within an hour's drive. This means that Bill and his lovely wife May, often have the opportunity to visit some of the world's finest wineries.

Mr. Speaker, the impact Bill Lucius has made in the area of mass transportation is far-reaching and well-deserving of public attention. The legislature of California has already expressed its gratitude toward Mr. Lucius for his unselfish devotion to the North Coast. It gives me great pleasure to add my voice to those who salute William Lucius for his outstanding achievements.

UNITED STATES BIG LOSER IF URUGUAY ROUND FAILS

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. FRENZEL. Mr. Speaker, the Journal of Commerce referenced today a study by the Stern Group, which estimates that the U.S. economy will lose $400 billion throughout the 1990's if the Uruguay round ends in failure. This enormous figure includes lost export opportunities in larger markets created by a successful trade agreement, and increased protectionist measures erected against the U.S., should our international trade disciplines not be expanded during the trade talks.

All of us have heard plenty from groups which would seek to oppose a Uruguay round agreement if it does not achieve certain results. It is rare when we hear someone reminding us of the consequences should an agreement not be achieved, or if the Congress chooses not to approve implementing legislation due to a less than desirable outcome in one particular area.

While all of us would like GATT rules that protect our own laws and interests, it is important to remember that this is a multilateral exercise. There will be winners and losers. We must look at the good of the overall agreement rather than committing ourselves to oppose the agreement, if one or two areas do not meet our expectations.

HUNGER STRIKE IN THE CITY OF KIEV

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. COX. Mr. Speaker, on October 2, in the Ukrainian city of Kiev, a group of some 100 students protesting continued Communist rule began a hunger strike in, of all places, the city's Plaza of the October Revolution. The students set up a tent city within a cordoned area on the plaza and promised to continue the hunger strike "to the end" unless the Ukrainian people's demands for genuine democratic reforms and political self-determination are met.

Mr. Speaker, let this hunger strike serve notice that the days of monolithic Communist rule are numbered.

These brave students are not about to back down. Their courage, inner strength, and determination are characteristic of a long-suffering people who—having endured decades of inhuman oppression at the hands of Lenin, Stalin, and those who followed them—have finally had enough.

The Ukrainian people's quiescence to Communist tyranny ended in 1988, when crowds of as many as 200,000 began to gather in unsanctioned and often brutally repressed rallies for freedom. Today, their perseverance sends yet another forceful message to those few remaining Communists rulers that the yearning for freedom and independence cannot be suppressed by armed force.

Throughout the darkest years of Communist oppression, we in the West have endeavored to help those behind the Iron Curtain keep alive the flame of freedom. The collapse of the Berlin Wall and the changes that have taken place over the last year have shown us that today this flame burns strongly and brightly. As President Reagan put it, "you cannot kill an idea." Through their peaceful, patient, yet determined and unyielding opposition to Marxist-Leninist tyranny, the Ukrainian people will soon attain their long-denied and long-deserved liberty. Mr. Speaker, looking forward to that day, the people of the United States of America will continue to stand shoulder to shoulder with them.

TRINITY EVANGELICAL LUTHERAN CHURCH OF SHAMOKIN, PA, CELEBRATES 150TH ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. KANJORSKI. Mr. Speaker, on October 20, the congregation of the Trinity Evangelical Lutheran Church in Shamokin, PA, will be celebrating its 150th anniversary.

Started in 1840 as a preaching point in the local schoolhouse, the Trinity Evangelical Lutheran Church was formally organized in 1845 by Rev. Monroe J. Alleman.

In 1854, the Trinity sponsored a college, the Shamokin Collegiate Institute. The college functioned for 4 years, but closed when it failed to receive the support of the Susquehanna Synod of the Lutheran Church.

Not deterred, a Sunday school was established in 1858 which enrolled 100 students. Soon after a ladies' aid society was formed and, I am pleased to add, still functions today making quilts for the support of the church.

Following the Civil War in the summer of 1865, ground was broken for the church building. The first service was held in the unfinished building on January 20, 1867, and the formal dedication was on August 11, 1867. Trinity Church is the oldest surviving church in Shamokin.

Rev. William E. Fischer was called to Trinity in 1893 and served for 42 years. During his tenure, he composed a hymn first published under the name "Shamokin," but is now known worldwide as "Laus Regis." During Reverend Fischer's pastorate many of the finishing touches were added to the church. A brass pulpit and lectern were secured, a brass cross was added, and a 550-pipe Moller organ was installed.

Currently under the direction of Rev. Alfred J. Bashore, the Trinity Evangelical Lutheran Church continues to serve the Shamokin community and provide spiritual leadership. Over its 150-year history more than 1,000 weddings and 1,800 baptisms have been performed there and I am sure there will be thousands more for many years to come.

HONORING JUDGE ROBERT J. MALANG

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. ENGEL. Mr. Speaker, on October 18, 1990, the Enrico Fermi Cultural Center will be honoring one of the Bronx's most outstanding civic leaders. On this date, Judge Robert J. Malang will be presented with the First Annual Fermi Award. This award is being given to him to acknowledge and thank him for his service to the community, both through his professional life and his personal endeavors.

Since the time of his graduation from Fordham Law School, Robert Malang has dedicated his life to the promotion of justice through various appointments. Among these include his service as the Confidential Assistant to the Board of Justices of the Bronx Supreme Court, Deputy Superintendent of Insurance of the State of New York, and Housing Court Judge of the Bronx Civil Court.

In receiving this award, Judge Malang is most notedly being recognized for his community service to the Belmont section of the Bronx. Judge Malang was dedicated to the enhancement of the Belmont area by providing better services and heightening the spirit and cultural vitality of the neighborhood. It was due to his efforts that the Belmont Community Center was founded in 1943 where he also served as president. Also, his expression of concern for the welfare of the family is seen through his effort to provide better services to the community as vice chairman of the Belmont Community Day Care Center.

Judge Malang strove to enhance the cultural pride and highlight the contributions Italian-Americans have given us through his Chairmanship of the Enrico Fermi Cultural Center in the Belmont Public Library. His dedication to the community was even noted by the Italian Government in September 1982 when he was decorated for his fine work in the Italian-American community activities and conferred the title of Cavalier. Judge Malang sought to instill a family identity in the Belmont community and we thank him for his tireless efforts to make the Bronx a better place to live.

THE 70TH ANNIVERSARY OF HARTNELL COLLEGE

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. PANETTA. Mr. Speaker, I rise today to pay tribute to Hartnell College on the occasion of the 70th anniversary of its 1920 founding.

I am a firm believer in the principle of equal educational opportunity for all Americans and feel that education is one of the best investments we can make in the future of our country. I am pleased to know that Hartnell College continues this tradition of excellence in collegiate educational services in Salinas, and has done so for 70 years.

Established in 1920, the Board of Trustees of Salinas Union High School District founded Salinas Junior College, which was renamed Hartnell College in 1948. Hartnell does indeed trace its name back to the first school in California in 1834, and is one of the oldest junior colleges in the State of California. The opening of such junior colleges was part of a movement begun in Chicago in the 1890's, and then led by California in the first three decades of this century. Junior colleges played a vital role in education. By 1930, California had 35 junior colleges enrolling 13,392 students, which was about half the total public higher education enrollment in California.

Hartnell College experienced many changes over the course of their exciting history which covers the post World War I depression, the first year of prohibition, and ratification of Woman's Suffrage. The survival of the college during these tumultuous times illustrates the strength and character of such a school designed and destined to provide equal opportunity for education to all. With the addition of sports programs, social clubs, student government, a separate building for the college, and an expanded student enrollment that included students from the Monterey Peninsula as well as King City and Watsonville, the educational organization was complete. Many of the accomplishments and developments of the school came under the exceptional leadership of John B. Lemos, who was president, registrar and teacher from 1943 until his death in 1954.

I would like to take this opportunity to commend all the teachers, administrators and staff that have helped make Hartnell College such a tremendous success over the years. Such success is represented by the many regional, State and national awards the college has garnered. Without the dedication of our teachers and our colleges, we cannot provide the sound education necessary to secure the leadership of tomorrow. Our youth are our future and we have an obligation and a responsibility to ensure that they are educated and skilled in order to face the great challenges ahead for this country.

As chairman of the House Budget Committee, you can be sure that I will continue to work for education funding in order to meet our schools' and students' needs. I know that I can depend on Hartnell College, as a leader of community colleges in the State of California, to continue to provide the critical and excellent education resources that has served this Salinas Valley community for 70 years.

Mr. Speaker, I ask my colleagues to join me now in congratulating Hartnell College for its seven decades of commitment to outstanding education achievement. It is with great pride and respect that I pay tribute to the truly outstanding Hartnell College on its 70th anniversary.

THE GLORIES OF JAZZ

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. ESPY. Mr. Speaker, Americans should be very proud of the music created by Duke Ellington, Count Basie, Louis Armstrong, Jimmie Lunceford, Dizzy Gillespie, Miles Davis and other brilliant artists.

I am particularly proud of the contributions of several of Mississippi's jazz artists such as Milt Hinton of Vicksburg, Al Fielder of Meridian, Malachi Savors of Lexington, Mose Allison of Tippo, Oliver Sain of Dundee, Mulgrew Miller of Greenwood, Teddy Edwards and Richard Brown of Jackson, and the Sweethearts of Rhythm of Piney Woods School.

This music, growing out of the African-American experience, is known around the world as one of America's greatest cultural exports.

I would like to see the Federal Government support the preservation and presentation of this great music more adequately than it has. Of the Federal agencies working in jazz, one that is working especially hard in this area is the Smithsonian Institution. They are working to preserve and catalog the enormous Duke Ellington Collection and make it available through exhibitions, public programs and other means.

Now is the time, I believe, for Congress to enable the Smithsonian to move beyond the Duke Ellington Collection. There are two specific moves we should, I believe, support.

The first involves publishing the great classics of jazz. How many Americans know that currently you cannot buy this music? Because of this lack, the music cannot be performed or studied. The Smithsonian's National Museum of American History is working on a project to get definitive editions of this music into the hands of high schools, colleges, and professional musicians. The sum of $86,000 in fiscal year 1991 would make an enormous difference for this important undertaking.

The second involves presenting masterful performances of this music for the American people. If Congress appropriates $242,000 in fiscal year 1991, a Smithsonian Jazz Masterworks Orchestra could be established. It would, I understand, present concerts of the great masters—those published in the Jazz Masterworks Editions series, and others.

I understand that the Government of France supports a French National Jazz Orchestra with about $1 million per year. The sum requested by the Smithsonian is, by comparison, a very modest figure. It is, further, a figure that pales by comparison with what a single piece of military equipment can cost.

Both of these projects will address not only the genius of men like Ellington and Gillespie, and the glories of jazz, but also the richness of African-American culture, and the cultural diversity of America. That's why I think it is important that we support these very positive steps toward recognizing this music in all its importance and value.

FAMILY SUPPORT NETWORK OF THE AMERICAN LEGION

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. MONTGOMERY. Mr. Speaker, I am pleased to inform my colleagues of a new national program initiated by the American Legion, the Nation's largest veterans' service organization, to augment Department of Defense support services for the families of our military personnel deployed to the Persian Gulf region as well as those called up to fill positions here in the United States.

The family support network of the American Legion provides a toll-free telephone number—1-800-786-0901—which serves as an emergency action line for military families to turn to for assistance. Using state-of-the-art technology, the confidential requests are categorized, prioritized and referred to local American Legion posts and units for appropriate follow-up by volunteers.

American Legion departments maintain close contact with National Guard family program coordinators in every State and work hand-in-hand with them to avoid duplication of services. Each American Legion State headquarters coordinates and customizes its efforts to meet the needs of the affected communities within its jurisdiction.

Mr. Speaker, I know my colleagues will join with me to once again applaud the American Legion for its continuing commitment to making certain that our defenders, both past and present, receive prompt and compassionate assistance.

DR. E. DONNALL THOMAS—PIONEER OF MARROW TRANSPLANTS—HONORED WITH NOBEL PRIZE FOR MEDICINE

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. YOUNG of Florida. Mr. Speaker, the Nobel Prize Committee has bestowed its highest honor in medicine this year to Dr. E. Donnall Thomas, the doctor who was a pioneer in discovering and perfecting the technique of marrow transplantation.

Over the past 5 years, I have risen many times to urge support for the National Marrow Donor Program, a modern medical miracle that gives the living gift of life to seriously ill children and adults who otherwise would have no hope.

Without the work of Dr. Thomas, his colleagues, and students he has worked with and inspired, there would be no National Marrow Donor Program and there would be no hope for thousands upon thousands of people who are alive today because a marrow transplant cured them of leukemia, cancer, immune deficiencies, or one of more than 60 other diseases treated today through marrow transplantation.

In making its award, the Nobel Prize Committee honored Dr. Thomas for "paving the way for transplantation in man" through his work of the past 40 years. Dr. Thomas began his research into marrow transplantation in the 1950's while at the Massachusetts Institute of Technology. In 1956, he was the first to show that marrow could be safely transplanted into a human patient. Soon after, he was the first to treat acute leukemia patients with marrow transplantation.

Much of his work in the field was done at the Fred Hutchinson Cancer Research Center at the University of Seattle in Washington. As the first director of the oncology program there, he established what is today the foremost marrow transplantation program anywhere in the world.

With the seed planted by Dr. Thomas 40 years ago, marrow transplantation is now on the threshold of becoming a treatment and cure for many illnesses that were thought incurable just a short time ago. Breast cancer, bone cancer, a variety of solid tumors, sickle cell anemia, and AIDs are just a few of other many diseases on the verge of being treated with a marrow infusion.

Dr. Thomas also was a founding board member of the National Marrow Donor Program. This program now is the key which will move the marrow transplant procedure forward to offer hope for so many seriously ill people throughout the world.

Mr. Speaker, the Nobel Prize is one of the highest honors awarded in the field of medicine and in the case of Dr. Thomas appropriately recognizes the magnitude and impact of his lifetime of research to help all of mankind. This recognition of his work will spur even greater interest, knowledge, and support throughout the world in marrow transplantation. Through the work begun by Dr. Thomas, researchers are now able to combat some of the most terrible diseases known to man. The Nobel Prize is a great honor for a dedicated man of medicine and science—one equalled only by the knowledge that hope abounds and lives are saved as the result of his work and research.

Congratulations and God bless Dr. Thomas and the many other dedicated doctors, researchers, and scientists like him who have contributed and are contributing so much for all of us.

TRIBUTE TO THE HONORABLE CHIEF JUDGE ROBINSON O. EVERETT

HON. J. ALEX McMILLAN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. McMILLAN. Mr. Speaker, it is my honor to bring to your attention the retirement of the Honorable Robinson O. Everett, who has served as the chief judge of the U.S. Court of Military Appeals for more than a decade. His innovative ideas, enthusiasm, and exceptional leadership–have proven to be a tremendous asset to our Nation. He deserves both recognition and praise from the Congress and the American people.

Judge Everett attended both the University of North Carolina and Harvard University, graduating from Harvard magna cum laude. He continued his education at Harvard Law School where he received a law degree and again graduated with high honors. He has served continuously on the Duke University law faculty for over 35 years and was tenured in 1967.

From 1961 to 1964, Judge Everett acted as special counsel to the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary. His active participation in extensive studies and hearings assisted in the enactment of the Military Justice Act of 1968.

He has written numerous essays and articles, some of which have broken new ground in some of the most difficult issues regarding military and constitutional law. Other literary contributions include his published text book entitled "Military Justice in the Armed Forces of the United States," and "Law and Contemporary Problems" for which he was associate editor.

Judge Everett's tremendous contribution during his 10-year term as chief judge has made the U.S. Military Court of Appeals one of the most respected and innovative courts in our Nation today. It is not surprising that his exemplary leadership and dedication has led it to become one of the most widely used courts in America as well.

Within 1 year of his arrival, he had revolutionized the court's docketing system by switching to an electronic computerized system. This not only reduced costs, but vastly improved accessibility and efficiency. Ultimately, the court's ability to serve the people was vastly improved.

Judge Everett played an active role in education throughout his career. Especially notable is his devotion to improving the professional skills of both military and civilian lawyers. He has reshaped, created, and participated in various educational activities intent on teaching the skills necessary for appellate court practice. He was responsible for the first videotaped training programs, documentaries, and conferences which proved to be a tremendous innovative accomplishment in education for law students as well as practitioners around the country.

Judge Everett extended his efforts beyond the law profession in order to educate the public in the fairness and progressiveness of military law. He frequently lent his time to speak to various groups, anxious to emphasize the importance and improve the public's understanding of military justice.

Perhaps his most extraordinary achievements, in education are those involving the youth of our Nation. Through various activities, Judge Everett was successful in promoting awareness and understanding among students all over the country. Under his direction, the national student law day project won a first-place award in the American Bar Association's 1987 Law Day USA Competition. Due to his further influence and enthusiasm, school students nationwide began to visit courthouses throughout the United States. Meeting with judges and court officials provided a valuable experience for young students, sparking interest and knowledge of a very important part of our Nation's government.

Judge Everett was married in 1966 to Linda McGregor; and they have three sons, Robinson, Jr., Greg, and Luke. They must be very proud of his tremendous achievements and contributions which have not gone unrewarded. He has been recognized and honored by numerous organizations around the country.

So I rise today to salute an outstanding citizen and model educator, the Honorable Chief Judge Robinson O. Everett.

HELMSLEY THEORY OF TAXATION EMBRACED BY ADMINISTRATION

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. JACOBS. Mr. Speaker, the following sentence was published in an Associated Press story by the Indianapolis Star on October 15, 1990. It fairly well delineates the Leona Helmsley theory of taxation embraced by the current national administration:

> WASHINGTON, D.C., October 14—* * * the Bush Administration is violently opposed to a Democratic plan for a large increase in the top tax rates paid by the wealthiest Americans.

Of course, the administration has had no trouble at all supporting a 10- or 12-cent increase in the gasoline tax, which ordinary workers have to pay. Nor does the national administration have any objections to diverting the new gasoline tax away from the place it belongs, the highway trust fund, to help pay for general government spending.

INTRODUCTION OF THE MISSOURI RIVER BASIN GOVERNING COUNCIL ESTABLISHMENT ACT OF 1990

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. DORGAN of North Dakota. Mr. Speaker, I am pleased today to introduce legislation that would improve the management of the waters of the Missouri River basin and the main stem dams on the Missouri River. The bill would establish a council to govern the operation of the Missouri River basin dams. It would affect only the Missouri River basin. The council would be composed of representatives from the basin States and would work with the U.S. Army Corps of Engineers to write operating plans for the dams on the Missouri River. This legislation establishes a procedure to resolve conflicts that have arisen over water use in the basin.

The Pick-Sloan Missouri River project was authorized over 40 years ago. At the time, Congress envisioned a single project-ultimate development system providing flood control, irrigation, navigation, and hydroelectric power for the basin. The Pick-Sloan plan promised economic development to the region, with plans for nearly 5,000,000 acres of irrigation development, cheap power, and a bustling navigation industry. Everyone would benefit. Montana, North Dakota, and South Dakota gladly donated over 1½ million acres of fertile cropland.

People changed, priorities changed, plans changed. The anticipated development never occurred. But other industries, also authorized under the project, did develop with the investment of thousands and thousands of dollars in State and private funds. In the upper basin, economic benefits from the growth of recreation and fishery industries replaced undelivered irrigation development.

But the Corps of Engineers has failed to review these changes and to recognize the economic importance of these industries in their management of the Missouri River. Drought during the last few years has brought to a head differences between the basin States needs and the corps' free-wheeling management of the dams.

Lack of runoff from the mountains in Montana and insufficient rain have caused water shortages in the main stem reservoirs and limited water flow in the region. Despite pleas from Governors, the corps has continued full service water flows to support a $14 million navigation industry at the expense of a $60 to $70 million recreation industry. At North Dakota's Lake Sakakawea, water levels have dropped 30 feet and water storage is down forty percent. Boat ramps extend into mud. Limits have been placed on fish catches.

This spring the Governors of Montana, North Dakota, and South Dakota were forced to sue the corps in Federal court to temporarily reduce water flows and protect their spawning fish. The corps argued that their activities were not subject to judicial review, not that their management decisions could be justified. The court did not address the central issue in this suit; it only declared the case moot months later. The fact is, the Federal courts are not equipped to resolve the conflicts that have arisen between the interests in the Missouri River basin. The courts are not the place to settle these disputes. A process that involves the States must be established.

It is time to draw rein on the corps. I propose to make the corps subject to review through a process which gives the States directly affected by its management of this resource a greater say.

We have already devised ways of doing this for other regions which have experienced similar problems. In the Pacific Northwest where competing interests vie for shares of the Columbia River water, Congress created the Northwest Power Planning Council [NPPC] to resolve these conflicts. State representatives comprise the Council. The NPPC develops management plans for the Columbia River dams in a public process. I have adapted this concept for use in the Missouri River basin.

This bill would establish a governing council, composed of representatives of the 40 basin States, the Native American tribes, and the Secretary of the Army, to oversee the operating plans for the dams on the Missouri River. The council will share responsibility for running the project with the corps and will be required to obtain public comments. Authorized purposes remain unchanged.

No longer will all the authority rest with the corps. The governing council will make the planning process public, with opportunities for participation by all interests. The corps will be forced to listen to the council, not merely pay lip service to those interests as they do today. The States will again have jurisdiction over their water.

The council I am proposing is not advisory—it will have real authority. An advisory council is clearly ineffective and would not add anything to the present situation. Advisory bodies have already been established by the Missouri River basin States. These existing advisory bodies have proven that the States can work together and develop a consensus, but current law provides no obligation to the corps to heed their advice.

Without action by Congress to create an avenue for airing and resolving conflicts over water use, the controversy will continue to end up in the courts—an arena not equipped to address the matter of water allocation. The establishment of a governing council provides an equitable process for deciding how to manage the river. I urge my colleagues to support this legislation.

A SALUTE TO PETER R. NORWOOD

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. TOWNS. Mr. Speaker, today I rise to pay tribute to Peter Norwood, a man who has expended his time and talent in an unceasing effort to help the young people of Brooklyn, NY.

Currently, Peter Norwood is the director of security at the Brooklyn Navy Yard Development Corp. After graduating from Boys High School he served in the U.S. Army, 82d Airborne Division. After his stint with the Armed Forces, he joined the New York City Police Department. While serving as a police officer, he continued his education, earning a bachelor's degree in human behavior and criminal justice from the New York Institute of Technology.

Norwood quickly rose to the rank of detective. While working in this capacity, he gained expertise in all facets of police work. After being promoted to the rank of sergeant, Norwood was assigned to the community affairs division, where he worked with and trained young adults under the auspices of the Model Cities Program.

Following his service with the CAD, Norwood was appointed to serve in the office of the mayor, where he managed the mayor's emergency unit. As the director of this prestigious unit, Norwood was instrumental in resolving community conflicts by bringing together diverse groups and serving as a liaison between the city's varied communities and the government.

After 24 years of dedicated service to the people of the city of New York, Norwood was appointed deputy commissioner. During his tenure he worked with senior citizens, young people, youths at risk, the homeless and many other groups.

In addition to his demanding and successful career, Peter has devoted time to many civic organizations including the Boy Scouts of America. He has held leadership positions in the community including president of the Mid Manhattan NAACP. Moreover, he has served on many boards including the New York State Division for Youth and the Navy Yard Boys and Girls Club.

Peter has been happily married to Marie for 33 years, is the father of two daughters, Sharon and Lori, and the proud grandfather of two.

HAPPY 65TH BIRTHDAY, GRAND OLE OPRY

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. CLEMENT. Mr. Speaker, this weekend, country music fans everywhere joined in celebrating the 65th birthday of the Grand Ole Opry.

From Philadelphia to Fiji, people know that the Grand Ole Opry is synonymous with country music. How it earned that reputation—indeed, how it became the longest running radio show in the world is quite a tale.

It began on the night of November 28, 1925, when a young announcer on Nashville Radio Station WSM—650 on the AM dial—introduced an 80-year-old fiddle player, Uncle Jimmy Thompson, as the first performer on a new show called "The WSM Barn Dance."

The announcer was George D. Hay, a former newspaperman who labeled himself "the solemn old judge" but in actuality he was neither old nor a judge. Somehow, Hay knew he had started a good thing, but just how good it was he had no way of knowing.

Now, 65 years later, the show Hay started is still going strong. Along the way, it became the foundation for a huge entertainment complex, Opryland U.S.A., and led the way for Nashville to become "Music City."

WSM was owned then by the National Life and Accident Insurance Co. and the studio where Hay and Uncle Jimmy Thompson started everything was on the fifth floor of the insurance company's building in downtown Nashville. Soon, the show's home and name were changed.

As Hay recalled it, the WSM Barn Dance followed an NBC network program on Saturday nights called "The Music Appreciation Hour." One night in 1927, Hay announced, "For the past hour, we have been listening to music taken from Grand opera, but now we will present 'The Grand Ole Opry.'" The name stuck.

Crowds of people came to the studio and stood in the corridors, just be where the show originated. WSM decided to move the Opry to its own home, studio C, so audience reaction could be added to the program. Studio C held 500 enthusiastic country music fans.

The crowds kept growing. The Opry moved again, this time to the Hillsboro Theatre in Southwest Nashville and then again to the Dixie Tabernacle in east Nashville.

In July 1939, it moved to the newly constructed War Memorial Auditorium in downtown Nashville. In an effort to curb the crowds, an admission fee of 25 cents was charged, but it failed to deter anyone. So, in 1943, the Opry moved again, this time to the Ryman Auditorium.

The Ryman Auditorium was built by a riverboat captain, Tom Ryman, in 1892 in gratitude to a preacher who had shown Ryman the light. Ryman first encountered the preacher when he attended a tent revival intent on disrupting it. As it turned out, it was the preacher who prevailed.

The auditorium left much to be desired in the way of comfort and convenience, but Opry fans didn't seem to mind. The Ryman seated 3,000 people and for three decades it was the Opry's home.

When the crowds grew too large for a single performance, a second Saturday night show was added. Still, long lines of fans braved all types of weather to see string bands like the Gully Jumpers, the Fruit Jar Drinkers, and the Crook Brothers.

Until 1938, the music was mostly instrumental. Then, a young man from east Tennessee named Roy Acuff stepped on stage with his Smoky Mountain Boys with songs such as "The Wabash Cannonball" and "The Great Speckled Bird." Singing found its place with the picking. Soon, singers like Ernest Tubbs, Cowboy Copas, and Hank Williams were regulars.

In 1939, NBC radio began carrying a portion of the Opry as a network show. During the 1940's and 1950's, performers like Lester Flatt and Earl Scruggs, Hank Snow, Ray Price, Marty Robbins, Kitty Wells, Johnny Cash, George Morgan, Grandpa Jones, Bill Anderson, and Porter Waggoner became Saturday night favorities across the country.

In the 1960's, such stars as Loretta Lynn, Dottie West, Connie Smith, Jack Greene, and Jim Ed Brown joined the Grand Ole Opry family.

While the Opry's popularity grew, the Ryman deteriorated. Once again, the solution was to move. This time the destination was the newly constructed Grand Ole Opry House, a 4,400-seat auditorium that was to become the centerpiece for an entertainment complex known as "Opryland U.S.A." Joining the Opry at Opryland are the Opryland Showpark, the Opryland Hotel, the General Jackson Showboat, the facilities of WSM–AM and WSM–FM, and the facilities of the Nashville Network, a cable television network reaching millions of viewers throughout the United States and Canada.

The Opry said goodbye to the Ryman Auditorium on Friday, March 15, 1974. The next night, President Richard Nixon joined Roy Acuff on stage at the Grand Ole Opry House. To keep touch with the traditions of the Ryman Auditorium, an 8-foot circle of hardwood was taken from the Ryman stage and placed center stage at the Opry House.

Today, there are as many as eight performances of the Opry during the peak summer tourist months—two shows each on Friday and Saturday nights, plus matinees on Tuesday, Thursday, Saturday, and Sunday.

Mr. Speaker, the magic continues. Approximately 60 performers are members of the Opry. Among them are Dolly Parton, Barbara Mandrell, Tom T. Hall, Ricky Skaggs, and Reba McEntire. Just last week, Garth Brooks was inducted as the newest member.

Each year, more than a million people make pilgrimages to Nashville to hear these and other artists perform in the "Mother Church" of country music. As the Representative of the Opry here in the Congress, when I have out-of-town guests visiting Nashville I try to assure that they see a performance at the Opry. It is a show like none other.

"I've thought many times that if you sat down to design a successful show, you probably would do everything just the opposite of the way we do," says Hal Durham, the Opry's general manager. "I can't conceive of anyone setting out to design a show that has no rehearsals. We don't even know more than 48 hours in advance who is going to appear. We have no advance promotion of the artists our audiences are going to see, and we continually interrupt the whole show for commercials."

Mr. Speaker, there is an excitement to live radio found nowhere else. The solemn old judge himself, George D. Hay, summed it up when he said. "The Grand Ole Opry is as simple as sunshine. It has a universal appeal because it is built upon good will, and with folk music it expresses the heartbeat of a large percentage of Americans who labor for a living."

Happy 65th birthday, Grand Ole Opry. I am proud to add my voice to the millions of Americans singing to your continued success.

Mr. Speaker, I am pleased to include the Grand Ole Opry program for this past weekend's 65th anniversary shows.

FRIDAY, OCTOBER 12, 1990

FIRST SHOW

6:30-7:00: Jimmy Dickens, Jean Shepard, Hank Locklin, Ralph Stanley.

7:00-7:30: Jim Ed Brown, the Osborne Brothers, Jimmy C. Newman, Alan Jackson.

7:30-8:00: Roy Acuff, Jeanne Pruett, Justin Tubbs, Riders in the Sky.

8:00-8:30: Jack Greene, Skeeter Davis, the Whites.

8:30-9:00: Hank Snow, Billy Walker, Ray Pillow, Jeannie Seely.

SECOND SHOW

9:30-10:00: Jimmy C. Newman, Jan Howard, T. Graham Brown, Wilma Lee Cooper.

10:00-10:30: Roy Acuff, Jean Shepard, Hank Locklin, Ralph Stanley.

10:30-11:00: Jimmy Dickens, the Osborne Brothers, Charlie Walker, Carlisles, Stonewall Jackson.

11:00-11:30: Hank Snow, Jeannie Seely, Jim Ed Brown, Riders in the Sky, the Whites.

11:30-12:00: Jack Greene, Skeeter Davis, Ray Pillow, Johnny Russell.

SATURDAY, OCTOBER 13, 1990

FIRST SHOW

6:30-6:45: Jimmy C. Newman, Skeeter Davis.

6:45-7:00: Jim Ed Brown, Wilma Lee Cooper.

7:00-7:30: Tom T. Hall, Stu Phillips, Hank Locklin, Steve Wariner.

7:30-8:00: Roy Acuff, Loretta Lynn, Minnie Pearl.

8:00-8:30: Jimmy Dickens, Jack Greene, Jean Shepard, the Whites, Opry Squaredance Band, the Stoney Mountain Cloggers.

8:30-9:00: Hank Snow, Billy Walker, Charlie Louvin, the Osborne Brothers, Carlisles.

SECOND SHOW

9:30-10:00: Jim Ed Brown, Jan Howard, Ray Pillow, Charlie Walker, Stonewall Jackson.

10:00-10:15: Tom T. Hall, Steve Wariner.

10:15-10:30: Roy Acuff, Loretta Lynn.

10:30-10:45: Jimmy C. Newman, Jeanne Pruett.

10:45-11:00: Jack Greene, Jean Shepard, Opry Squaredance Band, the Stoney Mountain Cloggers.

11:00-11:30: Hank Snow, the Osborne Brothers, Billy Walker, Jeannie Seely, the Whites.

11:30-12:00: Jimmy Dickens, Hank Locklin, Charlie Louvin, Johnny Russell.

FORTUNE MAGAZINE NAMES SALT LAKE CITY AMERICA'S BEST CITY FOR BUSINESS

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. OWENS of Utah. Mr. Speaker, around the Nation, many Americans believe Salt Lake City is still a desert cowtown lost between the 19th and 20th centuries.

Mr. Speaker, today folks will be interested to learn that Salt Lake City has arrived as the model American city to do business in. In its current edition, Fortune magazine, one of the premier barometers for the business community, has named Salt Lake City as the Nation's best city to move a business to. And it cites a wealth of reasons.

Salt Lake City affords new businesses with an outstanding pool of potential workers. The State symbol of Utah is the beehive because Utahns are endowed with strong work ethic. Utah spends heavily on education. The result is a well-prepared work force and one with the highest literacy rate in America. Salt Lake County is growing with a population of 1.1 million. Growth over the next 5 years is estimated at 6 percent. That translates into a ready supply of employees for any corporation contemplating expansion in Salt Lake.

Fortune magazine says Salt Lake City rates an A+ in all these critical areas. Corporate America has also recognized the benefits of Salt Lake. McDonnell Douglas, which is reducing its worldwide work force by 17,000, is increasing personnel by 900 in Salt Lake. Sear's Discover Card has located its largest operations facility there. American Express' Travelers Cheque Operations Center terms its Salt Lake facility as a model of high productivity.

Local government has played a part in this emergency by actively courting corporations to explore opportunities in Salt Lake. A $500 million redevelopment plan is scheduled to the city's downtown business district. And aside from a large pool of educated workers, the quality of Salt Lake City's lifestyle, with world class ski resorts and the Great Salt Lake short distances away, rivals that of any region nationwide. In fact, tourism is Utah's fastest growing industry.

Mr. Speaker, for America's corporate community the message from its most respected opinion leaders is clear. If you want to grow, improve or expand your business, come to Salt Lake.

IRAQ AND THE PLO

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. LEVINE of California. Mr. Speaker, at a time when international attention is focused on the unprovoked Iraqi aggression against Kuwait, it is important that the unholy alliance between Iraq and the PLO not be overlooked. Everyone who is concerned about moving the Middle East peace process forward should note this most unfavorable development. PLO officials have refused to condemn Saddam Hussein's aggression against Kuwait and have publicly expressed solidarity with the Iraqi dictator. This support raises questions as to the PLO's sincerity in seeking peace with Israel as it associates itself with the forces of violence and radicalism in the region. The Iraq-PLO alliance is an impediment to peace and underscores the need for a political solution to the Arab-Israeli conflict which includes reliable brokers for peace.

The PLO Watch, published by the Anti-Defamation League of B'nai B'rith, chronicles this unholy alliance in its most recent issue.

I enter it into the RECORD and I urge my colleagues to take a few moments to study this informative and insightful document:

[From the PLO Watch, October 1990]

IRAQ AND THE PLO: AN UNHOLY ALLIANCE

(As the international community unites in an unprecedented chorus of outrage against the naked aggression of Saddam Hussein, the PLO and many Palestinian residents of the territories have unabashedly supported the Iraqi tyrant, hailing him as a modern hero. Although some PLO officials have stated that they do not support Iraq's occupation and annexation of Kuwait, they have refused to condemn the Iraqi leader and the prevailing sentiment is one of fraternity with Saddam Hussein. Arafat, senior PLO officials and Palestinians in the territories have used the current crisis to unleash virulent hostility and threats of physical violence against the United States and Israel. The depth of this solidarity with Iraq underscores once again the PLO's unwillingness to disassociate itself from the forces of violence and radicalism in the Middle East and undergo substantive change.)

I. FATAH'S GENERAL SUPPORT FOR IRAQI RADICALISM

For some time now, PLO chairman Yasir Arafat has been leading the PLO closer and closer to Iraq and the forces of radicalism in the Arab world. In the months prior to the Iraqi invasion, Arafat greatly increased the PLO's political and military presence in Baghdad, expanded cooperation with the Iraqi leader and frequently appeared alongside him at major Arab meetings and demonstrations. Following Saddam's infamous threat to annihilate Israel with chemical weapons, Arafat stated:

"Saddam's speech brings forth the desire of the Arab nation not to be influenced by threats or provocations as well as its determination to stand by the challenges and to document history in letters of lights and fire. We say to the brother and leader Saddam Hussein—go forward with God's blessing. The heart of the Arab nations are with you and around you until Arab victory soars with the flags of the Arab victory march." (Iraqi News Agency, 4/3/90 in FBIS, 4/4/90)

II. FATAH'S RESPONSE TO IRAQ'S INVASION AND SEIZURE OF KUWAIT

According to sources in London, the PLO supplied Iraq with intelligence information about Kuwait to help in the logistical planning of the invasion. (Jerusalem Post, 8/8/90). Since the invasion and seizure of Kuwait, Arafat and senior PLO officials have met with Saddam and sent him messages of solidarity. On August 6, Iraqi television showed Yasir Arafat in an embrace with Saddam Hussein.

At the Arab League Foreign Ministers meeting immediately after the Iraqi invasion, senior PLO official Farouk Khaddoumi was reported to have sought to prevent a condemnation of Iraqi actions and disassociated the PLO from the condemnation issued. (Washington Post, 9/25/90). According to media reports on August 5, the PLO voted against the League's resolution. Later, however, the PLO denied having voted in the negative and claimed that it abstained.

At the August 10 meeting of the Arab League heads of state, Arafat was reported to have "moved from delegation to delegation, hand in hand with Tariq Aziz, the Iraqi foreign minister, who was openly threatening some gulf and other Arab delegates that Iraq would turn them upside down." (al-Ahram editor Ibrahim Nafei as reported in Near East Report, 8/20/90). The Arab League voted 12-3 to send troops to the Gulf to protect Saudi Arabia with the PLO, Iraq and Libya in opposition. The PLO representative in Amman, Al-Tayyib Abd-al Rahim, dispelled any confusion about how the PLO voted. The Jordanian News Agency reported that he said, "that statements attributed to an official Palestinian source, to the effect that the PLO abstained and did not vote against the resolutions of the recent summit in Cairo, are unfounded. The PLO's position is clear to everyone." (Amman, al-Ra'y, 8/13/90 in FBIS, 8/16/90)

The PLO has utilized Iraqi aggression as another vehicle with which to express its opposition to Israel and the United States. On the occasion of the 1000th day of the Palestinian uprising, Arafat clearly stated his position:

"We now ask this question to those who inquire about the Palestinian position. We ask: Where does Israel stand in this confrontation . . . We can only be in the trench hostile to Zionism and its imperialist allies who are today mobilizing their tanks, flares, and their advanced and sophisticated war machine against our Arab nation . . ." (Amman, Sawt al-Sha'b, 9/4/90 in FBIS, 9/5/90)

PLO Foreign Minister Farouk Khaddoumi took the opportunity to reaffirm the PLO's unswerving commitment to armed struggle:

PLO Foreign Minister Farouk Kaddoumi took the opportunity to reaffirm the PLO's unswerving commitment to armed struggle:

"The state of Palestine has stated most clearly that it firmly stands alongside Iraq against all possibilities of aggression against the Arab nation . . . Palestine and the Palestinian people, through their daily acts, affirm unwavering determination to continue armed struggle to liberate their land and holy places from Zionism, Israel, and U.S. imperialism." (Baghdad Domestic Service, 8/24/90 in FBIS, 8/27/90)

Muhammad Milhem, senior aide to Arafat, head of the PLO's Occupied Lands Department and member of the PLO Executive Committee stated:

". . . Saddam Hussein is our national hero . . . We will fight until the American ships sink in the waters of the Gulf, just as our Arab forefathers fought 1,000 years ago against the crusaders . . . This is a warning! . . . There is no space for Israel . . . Kuwait is an integral part of Iraq . . ." (Associated Press, 8/23/90 as reported by the Embassy of Israel, Washington, D.C., 9/10/90)

In a broadcast over PLO radio, the PLO expressed its readiness to fight the United States and Israel:

"The Palestinians, the Iraqis, the Jordanians, the Yemenis, and all the Arabs, have a history that qualifies them to say no in the face of this ugly American, this U.S. bestiality . . . it uses all its terrorism to bring down the price of oil . . . It has no deterrent whatsoever regarding the annihilation of the people of Iraq . . . We declare that we are against the U.S. bestiality . . . We and the people of Iraq and our Arab nation are ready to fight this fierce hyena and kill it, and kill its wanton Zionist ally." (Baghdad Voice of the PLO, 9/14/90 in FBIS, 9/17/90)

The PLO has also threatened fellow Arabs who waver from their commitment to the PLO. Following Quatar's expulsion of a number of PLO diplomats and an official statement which reaffirmed Qatar's commitment to the Palestinian cause without mention of the PLO, PLO radio broadcast the following report with the title "Rulers of Qatar, Stop at Your Limits":

"It seems that some people do not learn from all the lessons . . . It seems that those people in certain Gulf states, and specifically, in the superpower called the State of Qatar, do not know themselves . . . we know that only a few years ago there was nothing on the geographic map called the State of Qatar, Qataris know, even more than we do, that it was the Palestinians who built them an entity out of nothingness and from the dead desert and the salty sea. The Palestinians are not only something. They are the legend of the age; and, they are vultures when they choose to be vultures. They also know how to return a stronger blow for any blow dealt to them. They also know how to respond to their expulsion . . . we tell Qatar's rulers . . . the PLO cannot be punished and no one can infringe on the PLO . . . Beware. Do not harm the people of Palestine . . . Stop at your limits." (Baghdad Voice of the PLO, 9/13/90 in FBIS, 9/14/90)

III. OTHER VOICES IN THE PLO

Other constituent PLO factions have openly sided with Iraq and have called on their supporters to strike at the United States and Israel. George Habash, head of the Popular Front for the Liberation of Palestine (PFLP) defended Iraq's invasion of Kuwait on the grounds that "the Gulf countries were trying to smother it." (Paris, Agence France Presse, 9/3/90 in FBIS, 9/6/90). Habash, who urged Palestinians to fight on the side of Iraq, said:

"It is not enough to give verbal support . . . they must fight and struggle with all means at their disposal alongside Iraq." (Jerusalem Post, 9/15/90) And: "As the PFLP, we can only say to the Iraqi people and army that we stand in the same trench as their leaders to defend that country's freedom and the Arab nation's pride . . . The military operations against the enemy must continue, particularly now . . . [I call on] all Arab liberation movements to strike U.S. and western interests." (Paris, Le Monde, 9/5/90 in FBIS, 9/6/90)

At a meeting of Arab radicals convened in Amman to express solidarity with Saddam Hussein, Habash proclaimed:

"We are meeting here to tell the American Administration: Leave us alone, or the Arab world will be a graveyard for your soldiers. We are living in a world run by power. Anyone who wants to win his legitimate rights, he has to take them with power." (New York Times, 9/16/90)

Habash also took the opportunity at the meeting to restate his longstanding opposition to the existence of the state of Israel:

"Arab revolutionary legitimacy means that all Palestine is Arab and that the Israelis have no right to one inch of our land; Arab legitimacy means that the Arabs are one nation; Arab legitimacy means that the Arab oil is for the Arab people . . ." (Christian Science Monitor 9/17/90)

Palestine Liberation Front (PLF) head Abu Abbas, mastermind of the Achille Lauro hijacking in 1985 and the foiled seaborne massacre on Israeli beaches in May 1990, unequivocally stated his loyalties as well:

"We strongly support him in his pan-Arab battle and consequently, we will do our duty to support him in this battle. We believe that Saddam Hussein represents the pan-Arab national conscience in the confrontation against the enemy . . . we will stand on the side of Iraq and we'll support the front that is working for the liberation of the Arab individual . . . we are fighting for the liberation of Palestine from Zionist colonialism . . . On our part, we should escalate the struggle against Israel. And Arab forces in various places should intensify their struggle against their immediate enemies in order to achieve their direct objectives. Mubarak and the Arab governments which have cooperated with the United States should be overthrown." (CNN "Prime News" interview, 9/9/90) And: "I think Saddam will win, and we will win as Arabs. When we support Iraq, we support our case as Palestinians." (Wall Street Journal, 9/10/90)

Abbas has commanded his supporters to engage in violence in the current crisis:

"We have issued instructions and combat orders to PLF combatants, members, and supporters asking them to immediately embark on attacking and hitting U.S. and Western interests, as well as the interests of those allied with the United States and Western Powers inside and outside the Arab homeland . . . The accomplishments scored by militant leader Saddam Hussein and the Iraqi citizen who was instrumental in effecting this pan-Arab resurgence is a cause for real pride . . . The real battle against Zionism and its ally, the United States, as well as the traitors of this nation, has begun here in Baghdad. Thanks to the revolutionary action and pan-Arab atmosphere brought about by Iraq, the road to Palestine has been shortened . . . the Palestinian . . . must attack all forms of Zionist and U.S. occupation. He must attack all agents and brokers in our region." (Baghdad, al-Jumhuriya, 8/13/90 in FBIS, 8/16/90) And: "We, in performance of our national and pan-Arab role, declare to our Palestinian people and nation that we will strike at U.S. and colonial interests once a foreign soldier sets foot in Arab lands . . . O honest comrades and strugglers everywhere . . . Strike with your strong arms at all U.S. interests. Open fire at the enemies of our nation everywhere. Make the earth shake under the feet of the invaders and their henchmen." (Baghdad, Iraqi News Agency, 8/8/90. and 8/11/90 in FBIS, 8/9/90 and 8/13/90)

In Jerusalem, the Popular Struggle Front (PSF) issued a leaflet addressed to Saddam Hussein:

"Greeting from Palestine, the intifada and the stories of the children . . . We are very much concerned by the situation fabricated by the imperialists preparing aggression against our brother country Iraq to end its national policy and effective Arab solidarity against imperialism, Zionism and Zionist interests. Brother revolutionary, we in the Popular Struggle Front in the State of Palestine support you and back your unification policy based on Arab nationalism to protect the right of the Arab peoples. We condemn those who are serving as trumpets for the U.S." (Jerusalem Post, 8/10/90)

IV. PALESTINIAN SUPPORT IN THE TERRITORIES.

In the Israeli-administered territories, Palestinians of all walks of life have fervently rallied around the Iraqi despot. According to public opinion polls, more then 80 percent of Palestinians favor Saddam's actions. (Washington Times, 8/21/90). West Bank journalist Daoud Kuttab recently explained:

"On every level, on every side among the Palestinians, there is unprecedented support for Iraq and opposition to the Americans. Everyone is joining together—Islamic fundamentalist, leftists, nationalists, country people from the villages, Christians, regular Moslems. Every Palestinian is united." (Newsday, 8/27/90)

The intifada leadership sent a congratulatory telegram to Saddam after his troops occupied Kuwait. According to a report in the Egyptian daily al-Ahram, the telegram referred to the Iraqi invasion as "the first step toward the liberation of Palestine." (Washington Times, 8/20/90). An August leaflet of the uprising leadership expressed unequivocal support for Iraq and justified its invasion of Kuwait. It also attacked Egypt, Saudi Arabia, and the Gulf Emirates. (Yediot Aharonot, 8/17/90 in FBIS, 8/17/90). In a September leaflet, the uprising leadership called for a September 26 strike to express solidarity with Iraq. (Jerusalem Post, 9/15/90)

Palestinian residents of the territories have outspokenly expressed their support for Saddam Hussein through demonstrations. In the West Bank town of Jenin, 1000 Palestinians marched on August 12 shouting:

"Saddam, you hero, attack Israel with chemical weapons." (Associated Press as reported in Near East Report, 8/20/90)

At one particularly virulent pro-Saddam demonstration in the West Bank, demonstrators carried placards urging Hussein to "Gas the Zionists." (Time, 8/27/90)

V. EVALUATION OF THE STATUS OF THE PLO

In the wake of the Palestinian uprising in the territories and Arafat's December 1988 Geneva declarations, the PLO scored diplomatic gains in the international community. Despite an erosion of support following the foiled PLO terrorist attack on Israel's beaches this past May, Arafat continued to receive backing from many in the Arab world, the Israeli peace camp, and the European community. The PLO's alignment with Iraq in the current crisis appears to have delivered a near-fatal blow to this support.

Arafat and the PLO have been widely villified by Egyptian President Mubarak and the Egyptian press. Mr. Mubarak publicly stated that Arafat had lost his credibility and the semi-official government press in Cairo has characterized Arafat as a "traitor" with one columnist openly calling for his ouster. (Jerusalem Post, 9/3/90). One typical cartoon in the Egyptian daily al-Ahram depicted Arafat as a pair of Siamese twins with one head directed toward Kuwait carrying a sign saying "Vive taking territory by force" and the other head directed towards Jerusalem saying "Down with taking territory by force." (Newday, 9/9/90)

In the Gulf states, Arafat and the PLO have suffered great financial and diplomatic setbacks. Saudi Arabia is reported to have stopped the $72 million grants it was to have given to the PLO this year. (Washington Times, 8/30/90). Qatar is reported to have expelled 20 PLO officials since the Gulf crisis erupted. (Washington Times, 8/30/90)

Anti-PLO sentiment is particularly high in the United Arab Emirates, a major financial supporter of the PLO. As of the first week in September, the United Arab Emirates halted coverage of the Palestinian uprising in the media. (Christian Science Monitor, 9/10/90). One editorial in the UAE accused the PLO leadership of terrorizing "any one who tries to object to its policy . . . to criticize (its) practices . . . or serve the Palestinian cause by donating money independently of the PLO." (Pair, Agence France Presse in English, 9/15/90 in FBIS, 9/17/90). A group of Palestinian youths in the UAE issued a statement in a newspaper condemning Arafat because he has "led us from one setabck to another." (Christian Science Monitor, 9/10/90). Another editorial accused Arafat of sedition:

"Your problem is that you cannot distinguish between major historical junctures and minor tactics. Therefore, you have thought about the occupation of Kuwait in terms of customary tactics. Thus, we and the Palestinian people were forced to pay the price of this position . . . There is [sic] 400,000 Palestinians among us in Kuwait, whom, through your stand on the occupation of Kuwait, you have tried to incite and spur. You have also tried to incite and goad the Kuwaitis. You have tried to spread sedition, which is asleep. God damn him who stirs up seditions." (al-Shariqah, al-Khalij, 8/18/90 in FBIS, 8/24/90)

Disenchantment and disgust have taken root among longtime Israeli champions of the PLO in the Israeli academic, political and intellectual communities. Typical of the reaction of the Israeli peace camp is the following excerpt from an article written by Knesset member and outspoken PLO supporter Yossi Sarid:

"The PLO had dedicated the past two years to convincing Israelis and others that it has changed, that it has reconciled itself to the existence of the State of Israel and has abandoned terrorism. The PLO has kicked that bucket over . . . Pan-Arab slogans that glorify revolutionary regimes that treat human rights with contempt are immensely hypocritical. When such slogans are used by local Palestinian leaders one wonders to what extent they have internalized and assimilated the democratic values of Israel. . . . Until now I have sought out the Palestinian leadership, because I believed this was the only way to progress in the peace process. As far as I am concerned, they can now look for me." (Haaretz, 8/17/90 as reported in Wall Street Journal, 9/10/90)

Reassessment is taking place in Europe as well. Only a few days before the Iraqi invasion, Italian Foreign Minister Gianni de Michelis was in Israel reportedly pressuring Prime Minister Yitzhak Shamir on the issue of Palestinian representation. After the invasion Mr. de Michelis said that if Arafat does not renounce his support for Saddam, Italy will "revise its attitude toward the PLO." (Wall Street Journal, 8/17/90). The British have suspended ministerial contacts with the PLO because of its support for Iraq and Foreign Secretary Douglas Hurd has said that he would not authorize any further meetings with the PLO unless it dropped its support for Baghdad. (Jewish Telegraphic Agency, 9/7/90)

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, October 16, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 17

10:00 a.m.
Foreign Relations
To hold hearings to review U.S. policy in the Persian Gulf.
SD-419

OCTOBER 18

10:00 a.m.
Joint Economic
To resume hearings to examine Japan's economic challenge to the U.S., focusing on Japan's foreign trade policies and practices.
2359 Rayburn Building

FEBRUARY 26

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of the Disabled American Veterans.
345 Cannon Building

FEBRUARY 28

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Paralyzed Veterans of America, Blinded Veterans Association, Vietnam Veterans of America, Military Order of the Purple Heart, and Non-Commissioned Officers Association.
345 Cannon Building

MARCH 5

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of the Veterans of Foreign Wars.
345 Cannon Building

APRIL 17

9:00 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of AMVETS, Ex-Prisoners of War, Jewish War Veterans, and World War I Veterans.
345 Cannon Building

END